

February 21, 2019

Honorable Senator Courtney,

I am a resident of Eugene who has been active in promoting medium- to high-density residential and/or multiple-use development on key transit corridors. As a reference, I co-chaired the "Envision Eugene" Committee on Multiple-Use Development that produced the attached recommendations.

I have just become aware of the proposed Senate Bill 10. I have several questions and concerns that I would hope you or your staff can address.

The provisions in Section 2 Subsections (3)(a) and (b) would apply to Eugene, and would require a maximum allowable density of 50 or 25 residential units per acre if within one-quarter mile or one-half mile, respectively, of a priority transportation corridor. In Eugene, this would encompass the EmX bus rapid transit corridor along W. 6th and 7th Aves., as well as numerous main streets, such as Coburg Road, that have multiple bus routes. Both of these "corridors" are abutted by older, fully built-out, low- and/or medium-density residential areas within a half mile on both sides. There are hundreds of single-family homes, as well as plexes and medium-scale apartments.

First, there are a number of unclear and/or ambiguous terms and provisions in SECTION 2. Could you please clarify.

(1)(c) Bus routes with service every 15 minutes or less during peak commuting hours.

- Does this mean "at least one bus route with service every 15 minutes or less during peak commuting hours," or does it mean "any route segment" along which there is a bus every 15 minutes or less during peak commuting hours?
- How are peak commuting hours determined?
- Is this criterion met only if the bus route provides service every 15 minutes or less during the entirety of peak commuting hours? Or is the criterion met if the 15-minute-or-less service occurs during some portion of peak commuting hours? Is it met if the 15-minute-or-less service occurs only during morning or evening peak commuting hours, but not both?

(3) Within areas zoned to allow residential development ...

- Does "zoned to allow residential development" mean all zones that allow any form of dwelling, either "by right" or "conditionally"? Or is the scope more narrow; e.g., zones whose primary purpose is "residential"? (Note that SB 1051 and proposed HB 2001 use different language, i.e., "zoned for")

(3)(a) and (b) 50/25 residential units per acre if within one-quarter/one-half mile of a priority transportation corridor.

- Is the density dwellings per gross acre or dwellings per net acre?
- What are the endpoints for the two distances?
 - E.g., On the corridor, is it any part of the corridor right-of-way; any part of a bus stop/station; etc.

- E.g., On a lot, is it any point on the lot boundary; any point on a dwelling; on the front door of a dwelling; etc.
- How are cases, such as the West Eugene EmX alignment treated, when the two directions are at least a block apart. Thus, a lot that is within 1/4 mile of one direction's route may be more than 1/4 mile from the other direction's route.
- How is the distance measured? A direct, horizontal line; a line across grade (e.g., on a sloped area); the shortest walking distance; etc.

And then the most pivotal question. Is the intent of SB 10 to allow wholesale redevelopment to high-density apartments of those established neighborhoods that are zoned for low- or medium-density and are within a quarter-mile of a priority transportation corridor? That appears to be the case.

I will provide some further comments once I have a clear understanding of the bill's provisions.

Thank you for a prompt response.

Paul Conte
Eugene, OR 97402
541.344.2552
paul.t.conte@gmail.com

Copy to my State Senator Floyd Prozanski

Accredited Earth Advantage
Sustainable Homes Professional

February 22, 2019

Honorable Senator Fagan and Committee Members,

Please review the serious ambiguous and/or unclear provisions in the proposed Senate Bill 10, which are identified below.

Unless I'm misreading the provisions, if this bill were adopted, it would doom most of Eugene's older, close-in neighborhoods to high-density redevelopment.

I would welcome discussion with any of you or your staff to ensure committee members fully comprehend the scope and nature of the potential impacts were this bill to be adopted.

Thank you,

Paul Conte

February 22, 2019

Dear Senators,

This #1 in a series of comments and documents that support **Rational, Evidence-Based Transit-Oriented Development**.

Senate Bill 20 is neither rational nor evidence-based.

I have been active in supporting TOD for many years, including doing the analysis that led to the Eugene City Council and Lane Transit District (LTD) selecting an alignment for the West Eugene EmX Extension (WEEE) that would maximize the future benefit of bus rapid transit service for businesses, housing and multiple-use development. Please watch the following three-minute video, which presents the analysis that I did.

<https://youtu.be/jmO-bFGEs7g>

I'm pleased to report that WEEE is now in operation, and the W. 6th/7th Ave. corridor is "ripe" for appropriate redevelopment, including medium- and high-density housing.

Unfortunately, as you may be aware, the City of Eugene Planning and Development Department has stonewalled on moving ahead with the steps necessary to promote TOD development on this ideal corridor. I understand that the proponents of SB 10 have also lost their patience with cities, including Eugene, dragging their heels. But SB 10 is most definitely not the right solution. It would not achieve its goals, and it would punish decent homeowners living near the WEEE service, even though they were among the advocates who supported EmX on W. 6th/7th Aves.

More on the history ... Concurrently with the WEEE alignment analysis, I co-chaired the Envision Eugene "Multiple-Use Development" Committee that produced the attached recommendations. Please read these, as I believe you will see they are concrete, practical and set the right goals and principles for success. The recommendations were affirmed by the full Envision Eugene "Community Resource Group" and, in large part, were incorporated into the Envision Eugene "pillars" (policies) that the Eugene City Council approved in March, 2011.

Since that time, the Eugene Planning and Development Department has done *nothing* to follow through.

Even earlier than this focus on a BRT transit corridor, I collaborated in 2005 with past city councilor, Bonny Bettman, to develop the "Opportunity Siting" policy, which the City Council adopted as a "primary policy to guide development in and around multiple-use centers." The attached document explains the policy. Following up in 2008, I led a two-day "Opportunity Siting" workshop for forty or so residents of the **Jefferson Westside Neighbors (JWN)** city-chartered neighborhood organization. The attached document provides some notes and the "OS Map" that we produced. The JWN residents identified dozens of sites in our neighborhood, including close to the WEEE service, that have a high potential for higher-density residential development.

We urged the Eugene Planning and Development staff to initiate a process to implement "OS" and move forward on one or more sites. But the staff completely ignored our request, even after the Eugene Planning Commission supported our request.

I also collaborated in 2015 with my subsequent city councilor, George Brown, to write new provisions into the city ordinance authorizing the Multiple-Use Property Tax Exemption (MUPTE) program to include a requirement for "workforce housing." We also included a requirement that, before an area (including the WEEE corridor) was "opened" for MUPTE applications, the respective comprehensive plan policies addressing the area must be updated. The JWN has requested that the city initiate this public process to update our "refinement plan" (the relevant element of the comprehensive plan) so that MUPTE could be used as an incentive for residential development along the WEEE corridor; but staff has again refused.

And, during 2008 to 2011, while I was a member of the Eugene Comprehensive Lands Assessment and the Envision Eugene Community Resource Group, I (and others) "hammered" the Eugene Planning Division staff to do a *credible* assessment of housing "need" and potential "capacity" (i.e., buildable lands inventory) and then develop realistic policies and programs to address the need, particularly at the "workforce" and "low income" levels. The staff did nothing in that regard, and instead used a totally useless, "dumbed down" approach with patently bogus tactics to create "phantom density" so that Eugene could skate by statutory requirements. Sadly, DLCD not only didn't conduct a diligent review, DLCD actually *commended* the City on its process.

So ... I hope from this brief history, you understand that a) your assessment of some cities' bad faith and dysfunction in regards to housing needs is right on the mark, at least with respect to City of Eugene; and b) I and others have worked hard and intelligently to get the city to do the right things, but the staff has continually thwarted our best efforts.

As a consequence, we would welcome action to break the staff "blockade" and move ahead with the plans we've worked on. However, SB 10's extremely simplistic and Draconian approach would instead *crush* all the work we've done and expose our neighborhood to the worst sorts of predatory redevelopment, while accomplishing *nothing* in regards to housing affordability.

In testimony to follow, I'll provide more specific evidence of the great harm that SB 10 would do to good folks who are owner-occupants of modest houses in our beautiful, much-loved neighborhood. And we are not by any measure the only ones in the "crosshairs" of SB 10.

Thank you for your respect and consideration.

Paul Conte
Eugene, OR 97402
541.344.2552

Opportunity Siting

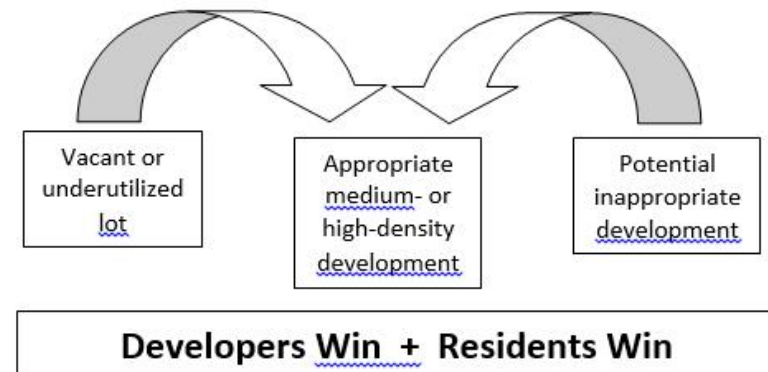
- ▶ Adopted by City Council as the primary strategy for mixed-use development in established areas.

An “opportunity site” is a particular parcel (one or more tax lots) that has the potential for medium- or high-density residential development in a way that protects the health and stability of established neighborhood(s) near the site.

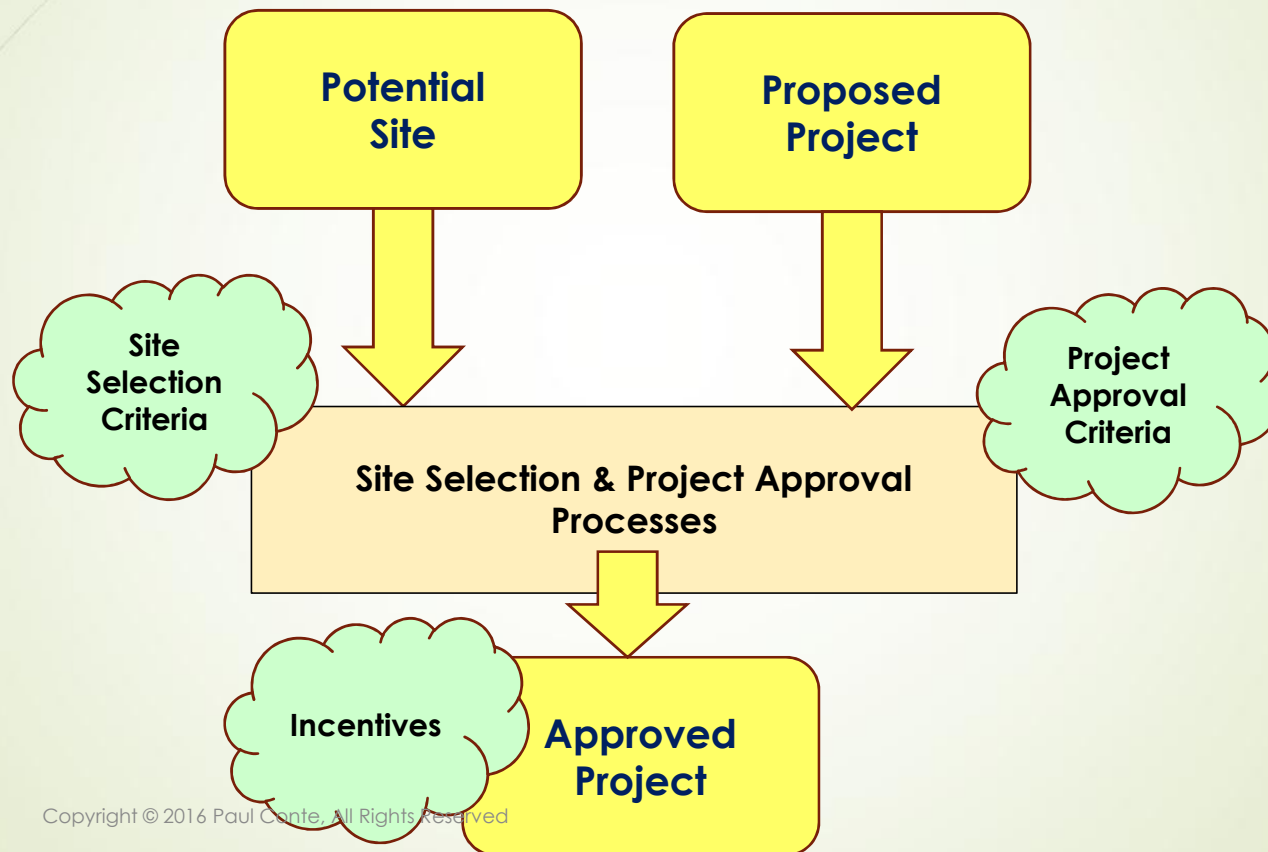
- ▶ Enhance the health and stability of existing neighborhoods
- ▶ Promote compact and livable residential development
- ▶ Provide a variety of housing types
- ▶ Establish residential populations that support neighborhood-scale, mixed-use development

Incentives (e.g., more dwellings and flexibility in design standards) stimulate appropriate development.

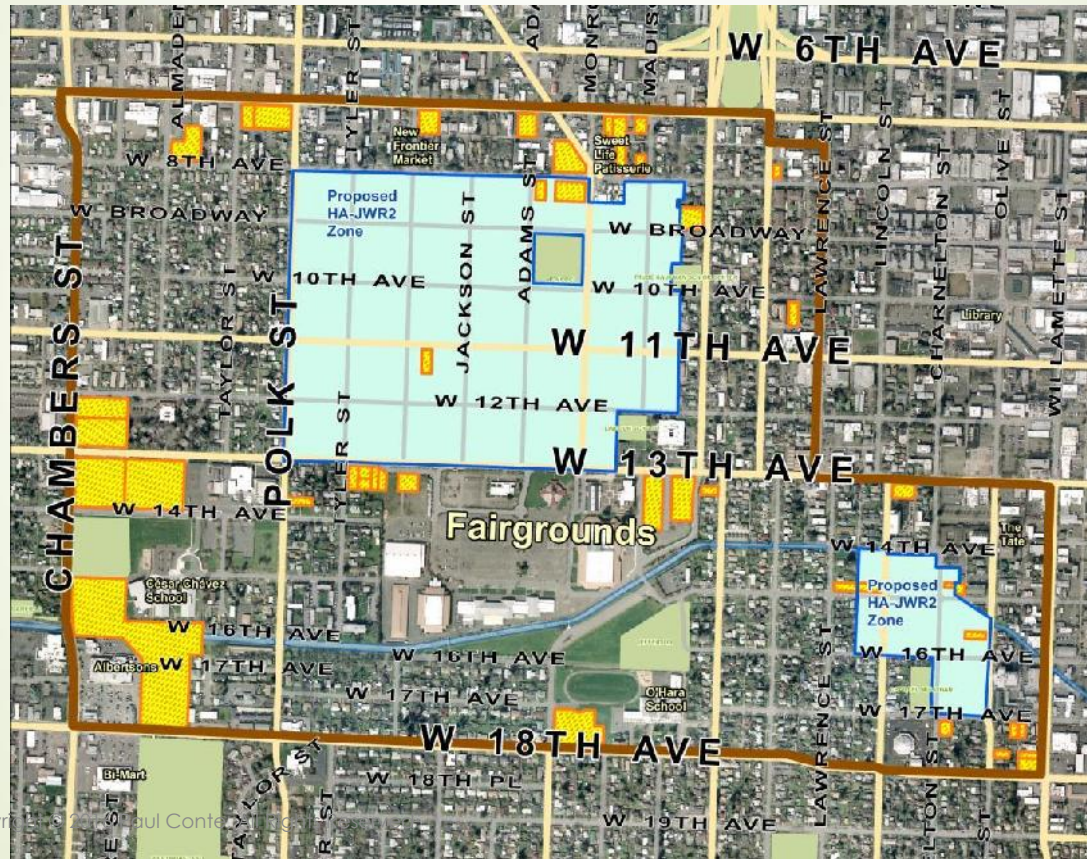
Siting and design standards and neighborhood involvement in the approval process ensure appropriate development.



Opportunity Siting (simplified)



JWN: Jefferson-Westside Special Area Zone and Potential Opportunity Sites



Hypothetical Example of Opportunity Site



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MUD subgroup report

December 10, 2010

Envision Eugene
Community Resource Group
Mixed-Use (Re)Development (MUD) subgroup

Members and affiliations (alphabetically):

- Larry Banks, Principal, PIVOT Architecture
- Jon Belcher, Planning Commissioner and former member of the ECLA Community Advisory Committee
- Rob Bennett, Downtown business person
- Paul Conte, Jefferson Westside Neighbors (JWN) and former member of the ECLA Community Advisory Committee
- Jerry Finigan, Santa Clara Community Organization (SCCO) and former member of the Infill Compatibility Standards Task Team's Steering Committee
- Carolyn Jacobs, South University Neighborhood Association (SUNA) and former member of the ECLA Community Advisory Committee
- Barbara Mitchell, Cal Young Neighborhood Association (CYNA)
- Carleen Reilly, River Road Community Organization (RRCO)
- Tom Schwetz, LTD -- EmX Project Manager
- Ann Vaughn, Santa Clara Community Organization (SCCO) and former member of the Opportunity Siting Task Team
- Pat Walsh, Consultant with Lane County Home Builders Association

CRG member Don Kahle also observed part of the second MUD subgroup meeting and was CC'd on e-mails from the facilitators.

Facilitators:

- Paul Conte, pconte@picante-soft.com, 541.344.2552
- Carolyn Jacobs, Carolyn.I.Jacobs@gmail.com, 541.683.8556

Adopted MUD subgroup objective

Provide to the CRG:

- The MUD subgroup's recommendation(s) regarding the "THEM 15 [sic] MIXED-USE REDEVELOPMENT ALONG TRANSIT CORRIDORS" statement provided by Chadwick.
- Individual members' comments related to the "theme".

Process summary

MUD subgroup members held three well-attended meetings totaling approximately six hours of face-to-face discussions. The second and third meetings were recorded, and the audio file was made available to all members, including those who had been unable to attend. (This practice proved valuable in enabling members who were not at a meeting to get a complete, direct understanding of what transpired at a meeting.)

Members also used e-mail for distribution of materials from the facilitators, scheduling meetings and for members to submit items for consideration at an upcoming meeting. Limited discussion of substantive issues also occurred in e-mail exchanges. When a member was unable to attend a meeting, he or she was invited to vote or weigh in on meeting topics via e-mail.

At the first meeting, members:

- Elected facilitators
- Produced a draft work plan
- Held a preliminary round of discussion on substantive issues related to the theme
- Agreed to use the “MUD” theme received from Bob Chadwick (Attachment A) as the starting point, rather than starting from scratch

At the second meeting, members:

- Adopted a final work plan, including the objective, work product and key elements of the decision process
- Discussed members’ proposals for revisions to the original version of the theme.
- Agreed to use a rewritten theme proposed by one member as the foundation for a recommendation, along with other members’ proposed revisions

At the third meeting, members:

- Deliberated section-by-section through a “consolidated” version of the theme, which included the version from the second meeting and additional sections proposed by other members. Votes were taken on proposed revisions to, or deletion of, each section. With the exception of section 18, all decisions on individual sections were unanimous or near unanimous.
- Voting was then opened on the revised recommendation for the “MUD” theme. Members could choose to vote at the meeting or vote later by e-mail. Eight members voted in support at the meeting.

Following the final meeting, two members voted to support and one member voted to not support the recommendation. Attachment B provides the recommended theme, and Attachment D provides a cross reference from sections of the original theme to sections of the recommended theme.

Members then had the opportunity to submit individual comments related to the theme. These comments are attached to this report. (See Attachment E.) Comments were not edited or discussed formally among members.

Respectfully submitted by the facilitators,

Paul Conte

Carolyn Jacobs

Attachment B

RECOMMENDED THEME

Mixed-Use, New- and Re-Development along Transit Corridors and in the Downtown Area

MUD subgroup member votes

Support (10): Banks, Belcher, Conte, Finigan, Jacobs, Mitchell, Reilley, Schwetz, Vaughn, Walsh

Do not support (1): Bennett

1. Plan a network of high-capacity, multi-modal transit corridors for Eugene. Create a list of the streets and their extents which are considered transit corridors desirable for mixed-use development. Include a process for adding or removing street segments from that list.
2. Plan for gradual development and redevelopment to create high-quality, economically-viable, multiple-use centers (including mixed-use buildings, where appropriate) within roughly one quarter to one half mile of identified transit corridors and within the downtown commercial area.
3. A primary purpose of this strategy is to achieve increased residential density while protecting and enhancing neighborhood livability. To that purpose, the development of multiple-use centers shall be consistent with the goals adopted by the Infill Compatibility Standards Task Team. (See Attachment C.)
4. These multiple-use centers should foster active, walkable community living by providing a mix of residential, commercial, retail, and public uses in close proximity to one another – in many cases within a single building. (This type of development is often referred to as “Transit-Oriented Development”.)
5. These multiple-use centers should be clustered in discrete locations along transit corridors to facilitate distinct neighborhood identity and to avoid creating long strip developments. Additionally, each corridor has unique characteristics and should be given localized consideration and treatment in planning and, as necessary, in the land use code.
6. Focus attention on areas where success is most likely.
7. Development should embrace the unique character of the encompassing area, and endeavor to enhance the quality and livability of existing and new neighborhoods. Where appropriate, create transition zones between mixed-use development areas and adjacent neighborhoods. Respect the character and scale of existing low-density neighborhoods.
8. These new multiple-use centers should provide ample, active open space and gathering areas for community interaction.
9. Develop with a texture of building types, sizes, and local character.

10. Mixed-use buildings can play a key role in adding vibrancy and density to multiple-use centers and in transitioning to lower-density residential areas.
11. Encourage a variety of housing types, sizes, configurations, and affordability to facilitate diverse ownership and rental options.
12. Expand and improve walking and bicycling infrastructure to fill gaps and provide safe and convenient connections within and between the transit corridor, the transit-oriented development, and the neighborhoods close to the corridor.
13. Consider parking and traffic implications of proposed development patterns.
14. Consider design standards to better define the public realm and promote quality. Development standards should allow for a range of development proposals, with density ranges set at reasonable levels to allow for flexible growth over the coming years without being overly prescriptive.
15. Mixed-use development projects are more likely to occur with public sector participation. One form of public sector participation is enhancing infrastructure to support mixed-use development (an example is to improve the pedestrian character of Willamette Street from 24th Avenue to 30th Avenue). Another form of public sector participation is to facilitate development via incentives for developers.
16. Educate, provide incentives, and reduce unnecessary obstacles, so developers will embrace this theme.
17. Continually evaluate previous multiple-use center efforts to inform us of lessons learned.
18. When adopting Metro Plan amendments, rely only on those assumptions for projected housing capacity that ensure this theme can be accomplished.

Attachment C

INFILL COMPATIBILITY STANDARDS TASK TEAM – PROJECT GOALS STATEMENT

Unanimously approved by the ICS Task Team

Create and adopt land use code standards and processes that:

- (a) Prevent residential infill that would significantly threaten or diminish the stability, quality, positive character, livability or natural resources of residential neighborhoods; and
- (b) Encourage residential infill that would enhance the stability, quality, positive character, livability or natural resources of residential neighborhoods; and
- (c) So long as the goal stated in (a) is met, allow for increased density, a variety of housing types, affordable housing, and mixed-use development; and
- (d) Improve the appearance of buildings and landscapes.

February 24, 2019

Dear Senators,

This #2 in a series of comments and documents that support **Rational, Evidence-Based Transit-Oriented Development**.

Senate Bill 20 is neither rational nor evidence-based.

In the first of this series, I described the history of trying to get the City of Eugene to take effective action in support of TOD development, particularly along the ideal location of the West Eugene EmX Extension (WEEE) which runs on the W. 6th/7th Avenue corridor in Eugene. The evidence from Eugene's history confirms the frustration that appears to be a primary motivator for those who wish the Legislature to bring the "hammer" down on Eugene and other cities by means of SB 10, as well as HB 2001, HB 2003 and SB 8.

This installment provides evidence that the proponents of SB 10 have no idea of the scope or nature of its potential impacts, and that SB 10's crude approach to increasing density would not provide a meaningful measure of improvement in housing affordability. From my discussions with several legislators' policy directors, it seems clear that an underlying belief by these staff (and presumably the legislators they serve) is that the State *must* take control of zoning details because the local planners and elected officials have failed. And yet, there couldn't be better evidence than SB 10 (and SB 8) demonstrating that State-level planning would be worse.

As far as I can determine, the state's "planners" (I use quotes because SB 10 shows no evidence of any planning prior to its introduction) have not even produced maps showing the geographic scope of SB 10 and the existing zoning for the ten largest cities (Portland, Salem, Eugene, Gresham, Hillsboro, Beaverton, Bend, Medford, Springfield and Corvallis). There isn't even a single explanatory or supporting document listed under the "Analysis" tab on the SB 10 web page. Seriously?

In other words, proponents are proposing a radical upzoning on a massive, statewide scale and are asking senators to approve it without the slightest idea of its scope or impacts. *That's not wise planning or judicious legislative decision-making.*

This isn't an academic issue. Along Eugene's W. 6th/7th Aves. WEEE corridor, which runs generally east-west, there is a solid, two-block (north-south) wide extent of commercially-zoned property that allows multi-family development *with no density maximum and buildings up to 120 feet high*. (Yes, ten to twelve story apartments of *unlimited* density!) Off-street parking requirements are between 1/2 to 3/4 of a space per apartment, and this parking does not have to be located on the same lot or development site. And yet, there has been zero, zip, nada apartment development along this corridor since WEEE became fully operational. SB 10 won't change anything but the existing minimal parking requirement. The reasons for no residential development are easy to learn by just asking a few questions of brokers

in Eugene: The commercial property is expensive, the area isn't attractive to potential buyers of upper-end condos or renters of upper-end apartments, and Eugene's supply of profitable, market-rate condos and apartments already matches or exceeds demand.

So, SB 10 will do nothing to improve the supply of housing on land that is already zoned to allow dense, transit-oriented housing.

However, on either side of the corridor, well within the one-mile swath of SB 10, are two of Eugene's most affordable neighborhoods: The "Westside" neighborhood (the northern half of the Jefferson Westside Neighbors organization's area) and the "Whiteaker" neighborhood. Both neighborhoods have a full range of housing types including single-family detached, ADUs, duplexes, triplexes, fourplexes, cottage clusters, courtyard low-rise apartments, and larger multi-unit apartments. In addition there are a number of "transitional" housing facilities run by social service agencies. The housing in these neighborhoods still includes many very small, basic, "post-war" homes with no yard or just a very small yard. There's no "luxury" housing at all. These are neighborhoods that underwent substantial exodus and disinvestment during the 1950s and 1960s; and, at that time, a priority of the (much more competent) Eugene Planning Division was preventing these areas around the city center from degrading into slums. (More on this in the next installment of this series.)

So, where is the state "planners" analysis of the effects that SB 10 would have on these neighborhoods? Nowhere! Trust us!

The unsupported, even unexamined "belief" that SB 10 depends upon is that the radical upzoning it dictates will produce substantial new housing; and by the "law of supply-and-demand," this will lower housing costs. In contrast to the complete absence of any supporting evidence for this "belief," there's ample evidence that this upzoning won't produce much housing and will likely *increase* costs.

To start, consider the recent report on the experience of Portland area city, Vancouver:

<https://www.columbian.com/news/2018/nov/19/vancouver-reviews-status-of-affordable-housing/>

"But as the council pointed out, the city can't build its way out of the affordable housing crisis.' Councilor Bart Hansen said when the city first began really taking a look at affordable housing a few years ago, the party line was if you build more units, prices will go down. Essentially, Hansen said, supply and demand would fix the problem. 'What we're seeing now is the availability is going up and the price is not going down,' he said.

It turns out, at least in Vancouver, supply and demand is not enough to remedy the housing crisis.

'People are struggling with paying their rent every day' said Peggy Sheehan, the city's community and economic development programs manager. **'There has been some trickle down that's rumored to happen, but we aren't seeing it.'**

Housing pricing is driven by complex factors, many of which are context-sensitive; and the "product" is not like corn or toilet paper. The "product" is extremely variable and the pricing has segments and tiers. A limited supply in the high-end condo segment doesn't necessarily shift the demand for that product permanently to a lower tier or a different housing type or area. For the most part, only supply in an "affordable" tier will affect prices in that tier.

And here's recent, very reliable research that puts the lie to the "beliefs" upon which SB 10 depends. As reported by density-lovers' favorite, CityLab, "Gold standard" research from MIT finds:

"[Yonah] Freemark reaches two startling conclusions that should at least temper our enthusiasm about the potential of zoning reform to solve the housing crisis—conclusions that, interestingly enough, he has said he did not set out to find. First, he finds no effect from zoning changes on housing supply—that is, on the construction of newly permitted units over five years. (As he acknowledges, the process of adding supply is arduous and may take longer than five years to register.) Caveats and all, this is an important finding that is very much at odds with the conventional wisdom. Second, instead of falling prices, as the conventional wisdom predicts, the study finds the opposite: Housing prices rose on the parcels and in projects that were upzoned, notably those where building sizes increased."

<https://www.citylab.com/life/2019/01/zoning-reform-house-costs-urban-development-gentrification/581677/>

Freemark cautions that his study doesn't necessarily "invalidate the basic laws of supply and demand." But he also emphasizes that "[w]e need to approach neighborhood rezoning carefully." That's exactly what SB 10 *does not* do!

Other solid research documents the substantial risk that blanket upzoning poses. In "Neighborhood Upzoning and Racial Displacement: A Potential Target for Disparate Impact Litigation?," published last year in *Journal of Law and Social Change*, researcher Bradley Pough not only raised substantial legal exposure that might arise from the overly-broad reach of SB 10, his research also found:

"In this way, upzoning changes are taking part in the same underlying activity as exclusionary zoning tactics: maximizing the value of land in the hopes of attracting or retaining mobile capital. The perhaps not so obvious corollary to this activity is that, by maximizing the value of land, residents and elected officials are gradually pricing out consumers who can no longer afford this product. In the case of exclusionary zoning, these consumers are the low-income minorities who, but for the cost, would move to the desirable suburb. In the case of upzoning, these consumers are often the low-income minority renters already living in the neighborhood who are gradually pushed out (i.e. displaced) due to higher rents and pricier surrounding amenities.

* * *

In each of these neighborhoods, conscious decisions by the city government and developers to upzone particular areas resulted in an increase in average rents, a reduction in affordable housing units, an increase in white residents, and a noticeable reduction in the neighborhood's minority populations."

Again, this isn't academic since the Whiteaker neighborhood, mentioned above, has a significant number of Hispanic households because it has some of Eugene's lowest-priced homes and apartments, as well as access to support services, such as Centro Latino Americano.

* * * * *

SUMMARY

There may, of course, be legitimate debate about the role of density in housing policies, and there are studies that at least partially support a positive role that higher density limits can play in addressing housing affordability.

But SB 10 proposes a sweeping and radical transformation of neighborhoods of all sorts and uprooting the lives of residents across the entire state *without a shred of analysis of the areas and impacts that would be affected*. SB 10 is an irredeemably simplistic bill with incalculable risks. No reasonable representative of Oregon citizens can in good conscience allow this bill to be adopted.

Please stick with the final installment in this series -- on-the-ground data and analysis from a decades-long experiment with a local version of density increases such as those proposed in SB 10.

Thank you for your consideration.

Respectfully,

Paul Conte

Eugene, OR 97402

541.344.2552

paul.t.conte@gmail.com

Accredited Earth Advantage

Sustainable Homes Professional