



March 18, 2019

Representative Keny-Guyer, Chair  
House Committee on Human Services and Housing  
Oregon State Capitol  
900 Court St. NE, HR 50  
Salem, OR 97301

**RE: HB 2001 with -10 Amendment**

Dear Chair Keny-Guyer and Members of the Committee:

The City of Hillsboro continues to support Speaker Kotek's goal of increasing housing choice for households of different ages, sizes and incomes in single-family neighborhoods as this goal also aligns with our City Council housing priorities. In fact, under the common definition<sup>1</sup>, middle housing is the fastest growing housing type in Hillsboro and represents approximately 25 percent of our total housing stock. However, as we've discussed in previous [testimony](#), we have concerns about the mechanisms in the bill for achieving this goal, as they do not align with local planning processes, which could lead to significant unintended consequences.

We appreciate the effort to address some of the concerns in the recently released -10 amendment and are encouraged by the direction the bill is heading. Specifically, the added clarity around middle housing types, consideration of infrastructure capacity in planning for growth, and appropriating funds to provide technical assistance to local governments are welcome additions in the -10 amendment.

**-10 Amendment Improvements**

- Including townhomes in the definition of middle housing more accurately reflects the common definition of middle housing.
- Clarifying that a maximum of a duplex is required to be allowed by-right on each lot that allows detached single-family is a significant improvement. However, we continue to have concerns about a lot-by-lot approach for the reasons stated below.
- Making explicit that all middle housing types are not required to be allowed on each lot, but that they must be allowed in each zone that allows detached single family promotes a more flexible approach that allows cities to work with the community and plan in advance to accommodate additional units in these zones where possible.

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<sup>1</sup> The term "missing middle housing" was coined by Daniel Parolek of Opticos Design, Inc. to include a range of multi-unit or clustered housing types from attached single family (i.e. duplexes and townhouses) to small multiplexes (i.e. five to 10 units). <http://missingmiddlehousing.com/category/the-types/>

- Allowing local governments as eligible recipients for attorney fees as prevailing parties in LUBA appeals provides greater parity.
- The recognition that deficient infrastructure must be addressed and using it as a basis for requesting an extension on the implementation timeline is appreciated, although we have concerns about the overall timelines for implementation, as outlined below.
- Adding a provision for funding technical assistance for local government planning efforts required by the bill will provide needed support for local government implementation efforts.

## **Concerns With -10 Amendments**

### **1. Section 2 (2) and (3) – Lot-by-Lot Approach**

Although the -10 amendment clarifies that, at most, unit capacity may double on each lot that allows development of a single-family detached home; we are still concerned that we would need to update not only our comprehensive plan, but also all public facility plans incorporated therein. Given the extensive technical planning and public involvement process inherent with these updates, this would be a time and resource intensive endeavor. These processes are necessary to determine how to provide public facilities, infrastructure and services at the levels needed to serve the additional density and potential population increase. This is among the reasons we suggest modifying the bill to a “by zone”, rather than a lot-by-lot, approach. This would give jurisdictions the ability to determine how much additional housing can be accommodated in each zone, after taking into account factors such as school capacity, displacement risk, and availability of funding for needed infrastructure.

We also remain concerned with the legislature making local land use decisions in state law. Despite best efforts and good intentions, the legislative process cannot broadly engage each diverse Oregon community and involve them in the decision-making process. Oregon’s land use system recognizes this by delegating local decisions to local governments because of their expertise in engaging communities and raising awareness about policy discussions that could affect their individual property and the future of their neighborhoods.

### **2. Section 3 – Timelines for Implementation**

As we read the amendment, eighteen months, with a possible six-month extension, is not sufficient to update the land use regulations, comprehensive plan, and the public facility plans incorporated therein, which help plan for needed infrastructure and services to support the required capacity increases. In reviewing the Speaker’s testimony, it appears the intent may be for a 30-month timeline. If that is the case we appreciate the movement towards a more flexible implementation schedule, but would suggest a minimum of three years in order to allow for sufficient planning to implement.

### **3. Section 3a – 6-month Extension**

As mentioned above, we appreciate the recognition that deficient infrastructure needs to be addressed and using it as a basis for requesting an extension. However, as written, the process for requesting an extension is unnecessarily burdensome and does not include consideration of all infrastructure needed to accommodate development. At minimum, it should consider water, sewer, storm drainage *and transportation facilities* necessary to support the land uses in the Comprehensive Plan.

### **4. Section 6 – System Development Charges (SDCs)**

We remain concerned with the concept of deferring SDCs until a Certificate of Occupancy is issued for the reasons stated in our [testimony](#) on the base bill.

### **5. Section 9 – Governing Documents**

It is our assumption that Section 9 is intended to refer to Covenants, Conditions, and Restrictions (CC&R's) when referring to "Governing Documents." If that is a correct assumption, we appreciate the underlying intent of this section. However, as written, it could apply to a variety of governing documents beyond CC&Rs, including annexation agreements, development agreements and LID agreements. If the intent is to limit the reach of CC&Rs then this section should be amended to apply specifically to CC&Rs. We also recommend including language to specify where and how to seek review of the CC&Rs, as it is not clear who is responsible for enforcement.

In closing, it is worth reiterating that we share and support the Speaker's goals for increasing housing choice for households of different ages, sizes and incomes in single-family neighborhoods and we stand ready to assist the Speaker and this committee to realize this shared goal.

The -10 amendments make good improvements to the base bill and we are grateful for the efforts that have gone into addressing some of the concerns raised at the initial public hearing. However, significant concerns remain as identified above. We remain committed to being partners in assembling a finalized bill and stand ready to assist in that process.

Sincerely,

Andy Smith  
Government Relations Manager