

Dear Chair Burdick & Members of the Senate Committee On Rules:

In advance of the June 5 committee hearing, I testify that I oppose [Senate Bill 10](#).

In short, the bill has a flawed premise that lack of supply drives the affordable housing crisis, conflates comprehensive planning with zoning, demands too much density, neuters density bonus programs, hastens demolition of historic landmarks and contributing structures, and provokes suburban and rural cities outside Metro and other metropolitan planning organization (MPO) jurisdictions to flout the bill and avoid instituting or upgrading to high-frequency bus transit in order to circumvent the bill.

Comments:

Lines 9-11: First, the section conflates comprehensive plan land use categories and zoning. Were the bill to proceed, clarify so it applies to comprehensive plan land use categories, not zoning districts. Second, "residential development" is too broad. As written, the bill would effectively eliminate zoning for detached houses and even many multiple-dwelling zoning districts across the approximately two dozen cities within Metro jurisdiction. Were the bill to proceed, clarify to apply to two comprehensive plan categories: multiple-dwelling residential category and mixed-use with multiple-dwelling category. Considering using known categories. Specifically, ask Metro for its "crosswalk", a standardized categorization of land uses across the Portland metro area. For example, if going by the Metro crosswalk, clarify the bill to apply to "medium high-density" and higher residential categories and to "mixed-use commercial & residential medium" and higher.

Lines 12 & 14: First, the density of 75 units per acre is too high. The ideal density before diminishing marginal returns is 40 units per acre, that is, 40 units is ideal for general public benefits, but anything more gains no public benefits. Were the bill to proceed, the lowest permissible maximum values instead of 75 and 45 should be 36 and 18 for comprehensive planning. Use 36 to allow for density bonus – see commentary further below – and 18 because it is ideal to attract high-frequency bus service, and the cities can always plan to allow higher density within a half mile of a transportation corridor if they wish.

Second, a high density minimum would interfere with cities that have instituted density bonus provisions by neutering them. By granting extreme density by right, it would eliminate interest by developers and practical ability by the City to offer bonuses without courting even more extreme densities, losing a tool of obtaining local public amenities and benefits. For example, for 36 units per acre within a quarter mile of a corridor, a 10% bonus to get to 40 remains possible.

Also, there is a conceptual problem: What happens to comprehensive plan and zoning designations when transit agencies alter bus routes? Rail is fixed in place, but busses are not. It would be unfair to subject metro cities' plans to whatever TriMet does or doesn't do or subject cities served by independent transit agencies. If a bus route moves away, does the density the bill would specify revert back to what it would have been? Automatically? Upon comprehensive plan periodic review? When a city council resolves so? What if new or changed bus routes go through or along zones of detached single-family houses? Is a change of bus routing or frequency now a "land use decision" per state law and with all the scrutiny that implies?

Lines 16-23: Were the bill to proceed, instead of 50 and 25, use the values of 36 and 18, the same as for the metro area.

Lines 24-30 On a related point, outside the metro area and other metropolitan planning organizations (MPOs), the bill would create a disincentive to institute good transit where none exists. Many cities would simply conclude, "Oh, so we can keep our zoning density as is by not improving transit? Ok!" Of course, given most city councilors are older white folk who drive everywhere, they would give even less of a rat's patootie about transit because as they imagine The Other (Hispanics, the poor, renters) rides transit. Bus service will remain non-existent or so infrequent as to be little-used. So much for the legislature having instituted a tax last session that provides transit funding statewide! The state would thereby squander and counteract its spending on transit.

Were the bill to proceed, instead of the values of 25 and 14, lower the quarter-mile one to make density more palatable to cities and not unduly suppress transit: 18 and 16.

Historic preservation: Especially in the metro area, the bill would exacerbate market pressure on historic landmarks and contributing structures within priority transportation corridors. A way to lessen pressure is to have zoning on property with a historic building that allows little interest in redevelopment for financial speculation (i.e. little or no density or by "downzoning"). Another is transfer of development rights (TDR). If the SB 10 were to pass setting a uniform lowest permissible density, it would guarantee faster demolition of historic buildings, typically older and smaller than new market-rate construction, and eliminate any incentive for sites within corridors to receive transferred density. Sites within corridors are presumed most hot for redevelopment, and so if high density is granted by right, what incentive do developers have to preserve historic buildings or participate in a TDR program? The answer is none. The state would thereby squander and counteract its spending on historic preservation. This could be a problem for Portland codified view corridors. How could TDR work also to preserve views if TDR is of no interest or practical effect for developers?

The bill as proposed will simply provoke cities outside the metro area and MPOs to ignore the state and go their own way. After all, if the Dept. of Land Conservation and Development doesn't police the wealthy enclaves of Lake Oswego or West Linn for proper post-acknowledgment plan amendments, due process of development review and zoning, and affordable housing, why should the mid-range and poorer cities make the effort to comply with the latest statewide mandate that's a bandage on the gaping wound of the affordable housing crisis?

Lines 31 to p. 2, Line 10: Again, above 40 units per acre is too high. 40 is sufficient, and again cities can allow more along light rail if they wish. The "25 percent greater ... effective date" is asking for trouble. What if jurisdictions don't have a simply clear value for an area. What about overlay districts or contextual situations ("if a, then a density value of x; if b, then a density value of y")? In fact, how do subsections (a) and (b) relate to each other? Subsection (6) about height limits is a direct assault on local governance and conflates height and density. Of many beautiful and dense neighborhoods across America that don't feel numerically dense, did you know that the French Quarter of New Orleans is about 30 units per acre, but that also you'd be hard-pressed to find a building taller than three stories (except along Canal Street)? And how would cities set "increased height limits to accommodate the density required"? Not by yet another state administrative rule, I hope. Subsection (6)(a) could be a problem for cities. What if landscaping minimums and density conflict? Would density trump landscaping code? For subsection 6(b), do not abolish minimum parking requirements, which is what it would do; instead, lower them. If the legislature wants a simple uniform approach for the metro area, then simply require that local minimum parking requirements not exceed 50.0% of ratios derived from the Institute of Transportation Engineers (ITE) *Trip Generation Manual*, i.e. the ratios virtually everyone

uses. (For example, the conventional ratio of 2.0 stalls for a two-bedroom apartment would fall to 1.0. By the way, Metro had already required for many years a 10% reduction for standard ratios.) Again, cities can choose to require less or no minimum parking along corridors as Portland already does.

Lastly, and most importantly, the bill is a giveaway to the real estate industry. The affordable housing crisis is a capitalist crisis, not a supply problem. What Oregon needs is even stronger rent control than enrolled SB 608, along the lines of New York City and San Francisco in years past, and massive investment in public housing – both purchasing and rehabilitating existing stock, buying land for community land trusts, and new construction. Of course, tax reform would ease this (read: higher corporate taxation, explaining to voters why it's in the public interest to repeal Measure 5, etc.).

Concluding with some specific measures in lieu of SB 10, the state should fund the MPOs and cities outside them to purchase and buy strip malls of which there are many and redevelopment them (and their parking lots) into retail with public housing above (4-6 stories total) at a spectrum of low rents from zero to 120% of area median income. Also develop “tiny house” trailer parks and require cities to allow them.

Thank you for your time.

Sincerely,

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