



American Planning Association
Oregon Chapter

Creating Great Communities for All

February 25, 2020

Senator Michael Dembrow, Chair, and Senate Minority Leader Herman Baertschiger Jr., Vice-Chair
Senate Committee On Environment and Natural Resources
senr.exhibits@oregonlegislature.gov

Re: Testimony from the Oregon Chapter of the American Planning Association Opposing HB 4012-A8

Dear Chair Dembrow, Vice-Chair Baertschiger, and Members of the Committee:

The Oregon Chapter of the American Planning Association (OAPA) strongly opposes HB 4012-A8.

OAPA is an independent, statewide, not-for-profit membership organization of over 950 planners from across the state working for cities, counties, special districts, state agencies, tribes, community-based organizations, and private firms. Our mission statement is: *Relevant Resources, Better Planners, Exceptional Communities*. OAPA provides leadership in the development of vital communities by advocating excellence in community planning, promoting education and community empowerment, and by providing the tools and support necessary to meet the challenges of growth and change.

OAPA opposes HB 4012-A8 because it would remove local land use appeal authority and pre-empt Statewide Land Use Planning Goals, statutes, and rules. This is not in alignment with OAPA's adopted legislative priorities to "promote and advocate for an Oregon planning program that works for all communities" (full copy available [here](#)), including:

- Oregon's planning program is a partnership between the state and local and regional governments. It is designed to ensure that all cities and counties plan comprehensively, informed by authentic community engagement, and consider the long-term consequences of the decisions and investments they make, for today and for future generations, in a manner consistent with statewide planning laws. Specifically:
 - OAPA is dedicated to opposing efforts that would weaken Oregon's statewide planning program and supports policies that strengthen it.
 - A key provision of this priority is to ensure that Oregon's residents can benefit from and can effectively participate in community and regional planning efforts in a meaningful way. In order for this to occur, OAPA supports policies that maintain land use decision-making and prioritization for planning and community development at the local level.
 - OAPA opposes legislation that fails to recognize local and regional differences and/or proposes unduly preemptive policies at the state level related to land use, housing, or community development.

Chapter Office
PO Box 28454
Portland, Oregon 97228
p: 503-626-8197

oregonapa.org

Oregon Chapter President
Aaron Ray, AICP



HB4012-A8 stands in stark opposition to Statewide Planning Goal 1 (Citizen Involvement) through inappropriate legislative interference with a long-standing decision-making system built around local control. Likewise, the draft legislation upends Statewide Planning Goal 14 (Urbanization) by explicitly authorizing urban expansion without making findings as to the uses proposed, their impacts, their costs, and future development that may result. Not only does this bill short-circuit local decision-making, it creates an unfair playing field by enabling a jurisdiction to expand without having to comply with the process and regulations faced by other jurisdictions around the state. This is an inappropriate role for the Legislature, and OAPA has consistently and strongly opposed such efforts.

HB 4012-A8 (Section 9) would allow for approval that pre-empts ORS 197.250 or 197.612 and any statewide land use planning goal and would not require the City of Bend to adopt any specific findings or evaluate of any specific criteria in exercising its discretion to approve or deny Stevens Road planning amendments. OAPA opposes special approval and appeal processes that do not include standards that apply all state laws, goals, rules, and local comprehensive plans, and give special advantages to a single developer in a single case. Another example is Section 3 (“Stevens Road planning generally”), which states: “(1) Actions taken under sections 2 to 9 of this 2020 Act: “(a) Are not land use decisions, as defined in ORS 197.015. “(b) If taken by the city, are not subject to any review except by the Department of Land Conservation and Development under sections 2 to 9 of this 2020 Act.” This provision is incongruous as the very actions that are described in the bill – planning amendments, zoning, and UGB expansions – are land use decisions as defined in ORS 197.015.

Moreover, this action sets a precedent for similar special interest requests made directly to the legislature and bypassing the standards and processes applicable to everyone else. These special advantages also include an urban growth boundary (UGB) amendment process that does not require conformity with rules applicable to other similar applications and makes it easy for this one developer to gain an unfair advantage to add to a boundary that was only recently acknowledged and does not need more land. Additionally, this is another pattern of grand and not-so-grand bargains that undermine public confidence in Oregon's land use laws.

Critically, while the draft legislation calls for a mix of housing, it does not deal with the problem of including affordable housing, the most needed kind of housing for the Bend area, despite state policies that require such housing to be part of any housing outcome. This outcome must be included in any UGB proposal and can be implemented through recent state legislation to allow for inclusionary zoning.

Even if the UGB amendment were justified, the Legislature must “walk its talk” about housing affordability by specifically directing the application of affordable housing principles. Regarding affordable housing, the -A8 amendment (Section 9) provision for conceptually setting aside 12.5 acres (together or dispersed) for low and moderate income housing, which must be acquired one way or another and “designated” by January 2029, provides no guarantee that such housing will occur and the delay makes it unlikely.

Lastly, we also understand that it has been more than ten years since the Metolious Area of Critical State Concern has been designated and that the landowner has been given multiple extensions and



enlargements in terms of time and geography. Circumventing local processes, bargaining for additional development opportunities, and pushing zone changes through the legislature is inappropriate and contrary to the land use system Oregon has worked so hard to achieve.

Thank you for your time and attention to our testimony.

Sincerely,

A handwritten signature in black ink, appearing to read 'Aaron Ray'.

Aaron Ray, AICP, President
Board of Directors