American Planning Association
Oregon Chapter

Creating Great Communities for All

February 11, 2026

To: House Committee on Housing and Homelessness

Re: **HB 4037**
Position: **OPPOSE**

Dear Chair Marsh, Vice-Chairs Andersen and Breese-Iverson, and members of the committee:

The Oregon Chapter of the American Planning Association (OAPA) appreciates the opportunity to provide testimony on **HB 4037**.

OAPA is a nonprofit professional membership organization of over 800 planners and those who work with planning in formulating and implementing development and conservation policies at the state and local level. OAPA works to create sustainable and vibrant Oregon communities through professional development, advocacy for sound planning, providing resources to meet the challenges of growth and change, and embracing and promoting diversity, inclusion and equity.

Changes in Sections 17-19, "Review of Housing Applications" as written dramatically alter the land use review process without offering a clear new structure set up for success. While we are in favor of efforts to support successful housing development, as written, these changes present what appear to be unintended consequences for more complex reviews related to Goal 5, Goal 6, and Goal 7 protected areas, and upend public expectations for our well-established land use program. Meanwhile, the changes won't get us to a place where builders have a reliable means to update their projects and iterate changes as needed toward successful approval. Changes of this magnitude, at minimum, do not belong hidden in a bill that largely covers other topics such as tenant rights following a natural disaster. **These sections should be removed from this bill.** *The **-10 amendments** walk back some of the more drastic aspects of the original bill language but still create more uneven*

processes and reduce accountability to a degree that deserves a more comprehensive approach.

Section 17(4)

The changes to this section appear to effectively apply to most housing land use reviews such as creation of a subdivision.

- This section as originally written deletes 4(b) and 4(c) that clarify that a City may apply conditions of approval and adopt appropriate approval procedures.
    - Procedures provide a predictable way for builders to obtain approval. This bill text does not even provide complete alternative procedures that would take the place of existing local procedures. The existing language should be retained.
    - Conditions of Approval regularly bridge the difference between a submitted application and what is needed to obtain approval. Without conditions, many applications would need to be outright denied, forcing an inefficient and less predictable cycle of new applications. The existing language should be retained.
    - *The **-10 amendment** no longer deletes this language and that would be more appropriate than the bill as originally proposed.*

- Local notice procedures are the cornerstone of Goal 1 (Citizen Involvement). Oregonians expect transparency and accountability. Large scale changes to the way land use applications are noticed should only be made as part of a holistic look at Goal 1.
    - *The **-10 amendment** is less dramatic than the original language but unnecessarily precludes local equity-focused efforts to include noticing to renters who live near the property, and creates administrative burden by designing new unique noticing radii that will be inconsistent with other practices. There is existing guidance for noticing in the ORS and no need to reinvent the wheel. Highly variable noticing practices add to community confusion and frustration, and increase the chances of interpretive errors that waste time for all parties.*

- While a public hearing is already typically not needed for a clear and objective review, it is not clear what procedures this bill prescribes for concurrent reviews that may otherwise incorporate a hearing or at least allow appeal, or if such

concurrent reviews would have to be disallowed (with the consequence of longer review timelines).

Examples of concurrent reviews with differing process requirements could include a mixed-use development opting in to discretionary elements for a unique design, or land division seeking to impact a regulated water resource beyond what can be allowed under clear and objective standards (e.g. filling an entire wetland). Many jurisdictions at present would limit the hearing body's input to the discretionary aspect, but language outright disallowing hearings may interfere with this practice. If the intent is just to disallow hearings for administrative reviews (which we believe is the common practice anyway and have not heard any examples to the contrary), that could be described in a more direct manner.

  - *Under the **-10 amendment,** these changes still create uncertain outcomes for concurrent reviews.*

- Clear and objective standards apply to housing projects such as land divisions that impact Goal 5 (Natural Resources, Scenic and Historic Areas, and Open Spaces), Goal 6 (Air, Water, and Land Resources) and Goal 7 (Areas Subject to Natural Hazards) resources within UGBs. The proposed changes would limit oversight of these important protections.

- The scope of projects that fall under the clear and objective scope remains an area that is still being further understood through case law. Projects that are touched by this legislation go far beyond individual homes and into areas that include public utilities, roads, natural resources, and steep slope concerns. One example of the ongoing exploration of how far "clear and objective" reaches includes *Roberts v Cannon Beach* currently pending a ruling before the Oregon Supreme Court. This case considers whether a standard requiring an engineering evaluation of a residential driveway in a landslide-prone area can be applied. This is an example of the kinds of situations where the rights of adjacent landowners could be directly and severely impacted by construction if it further destabilizes this slope.

- Accountability through noticing and the guardrail of appeal better ensures that local governments consistently apply clear and objective standards without showing favoritism or allowing applications that do not meet standards to be approved. Removing opportunities for public comment and appeal presents additional challenges to public trust in local government at a time when this is already deeply strained.

- As planners, we understand frustrations with NIMBYism and that notices related to projects with limited criteria can be frustrating to receive. However, planners also regularly receive public comments that are constructive and actionable such as local knowledge related to drainage patterns, potential impacts to trees on adjacent owners' property, nesting behavior, and other community insights. A deeper effort would be needed to separate review categories that benefit from greater community oversight from administrative reviews if there are concerns about how some jurisdictions handle these limited reviews.

- At the February 5th session, the committee heard that there is "no state standard for the review process" for clear and objective reviews. This statement is misleading. Jurisdictions adopt local codes to clearly define applicable land use processes within the confines of Oregon Revised Statute provisions related to review timelines and procedures. For simple administrative procedures, jurisdictions typically already do not require noticing or hearings. However, the range of applications that are under the "clear and objective" banner is vast and will follow specific described processes based on specific thresholds for the given application.

- Hearings and public comment periods do not inherently extend a review timeline, and the lack of these elements does not shorten it. Comment periods overlap and may even be shorter than internal review processes. Setting a date for a hearing requires surrounding procedures that guard against delays that can otherwise impact staff reports. For all of the uncertainty created and accountability removed, the proposed changes have little promise of supporting more housing creation.

Section 18(1)(d) and 19(1)(c)

These sections as originally written in the bill would shorten a land use review timeline for land use applications related to housing from 120 days (typically requiring a decision before day 60 and time for appeal) to 90 days.

- The language as written, "where the developer and zoning designation are identical." gives large production home builders access to processes that are unlikely to be available to smaller developers.

- As written, eligible applications are described as "substantially similar" without defining a clear target to which an application should be similar.

- Even if the target were clearly defined, for example, “similar to applications approved within the last 365 days where the development and zoning designation are identical,” this would still not account for a large number of scenarios such as location of infrastructure, topography, or adjacent land use designations/types of development.

- Ultimately, as the legislature creates ever more numerous potential review paths, staff are forced to spend more time on parsing legislation and determining what requirements apply rather than following a standard review timeline. This overall direction means staff have less time to review applications or provide helpful information to builders and land owners before an application is submitted. Again, changes of this magnitude deserve a more collaborative and thoughtful approach than what is squeezed into this bill.

The ***-10 amendments*** remove these sections, which we find appropriate.

Sections 22-24

The availability of affordable land is critical to the ability of nonprofit organizations to increase the production of affordable homes. Prioritizing these mission-driven NGOs as recipients of surplus state properties will provide immediate opportunities for development in communities across the state.

Although the top end of eligibility for households to be served is high at 120% of AMI, nothing precludes targeting units at 60% AMI or below, and many community development corporations will address that population.

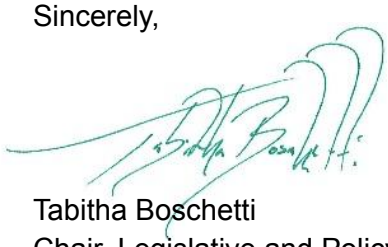
This provision follows on the recommendations made by the Governor's various policy advisory committees to stimulate production by offering up the State's portfolio of surplus property.

Technical Fixes

HB 2138 from last year’s session adopted DLCD Rulemaking requirements that set deadlines that hit a full year after local jurisdictions are required to adopt local code following those rules. This is likely to cause confusion, particularly for small builders and property owners, as code and process standards change multiple times leading up to an application. DLCD has made it clear to communities that they are legally limited in their ability to provide guidance prior to formal rulemaking. Technical fixes should include a

revision to these dates to place them in a chronological sequence, with rulemaking logically preceding requirements to follow said rules.

Sincerely,



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