



American Planning Association
Oregon Chapter

Creating Great Communities for All

February 18, 2021

House Committee On Economic Recovery and Prosperity
Representative John Lively, Chair,
Representative Jami Cate and Representative Jason Kropf, Vice-Chairs
900 Court Street NE
Salem, OR 97301

Re: Testimony from the Oregon Chapter of the American Planning Association Opposing HB 2282

Dear Chair Lively, Vice-Chairs Cate and Kropf, and Members of the Committee:

The Oregon Chapter of the American Planning Association (OAPA) strongly opposes HB 2282 in its present form, and believes that inappropriate legislative interference in local land-use decision-making sets a dangerous precedent. OAPA is an independent, statewide, not-for-profit educational organization of more than 800 planners from across the state who work for cities, counties, special districts, state agencies, tribes, community-based organizations, universities, and private firms. OAPA provides leadership in the development of vital communities by advocating excellence in community planning, promoting education and community empowerment, and providing the tools and support necessary to meet the challenges of growth and change. OAPA supports sustainable communities and works to enhance the quality of life for current and future generations by helping to create and stabilize places that are equitable, healthy, and resilient and provide ongoing economic, environmental, and social benefits.

HB 2282 requires the Department of Land Conservation and Development (DLCD) to approve the City of Bend's expansion of its urban growth boundary (UGB) to include approximately 262 acres southeast of Bend. These 262 acres (or the Stevens Road tract) are currently owned by the Oregon Department of State Lands (DSL). The bill would allow DLCD to approve city regulations (yet to be drafted) to permit a transfer of development opportunity (TDO) at the site from an owner of a proposed resort that the state prohibited in 2009 in the Metolius Area of Critical State Concern.

As OAPA understands it, this TDO was originally conceived as part of the 2009 legislative declaration of the headwaters of the Metolius River so as to provide a landowner with some benefits for a lost development opportunity. Twelve years have passed since then, as have other proposals -- proposals that could have been brought forward to the City of Bend on their merits under state and local rules. That effort was not attempted, and instead the developer proposes an end run around the system. Section 10 of HB 2282 catalogues the multiple failed attempts to undertake an override of state and local laws. This one should fare no better.

One of OAPA's adopted Legislative Priorities is: "Advocate for Oregon's planning program." As such, OAPA supports:

- Initiatives that set a high standard for good planning with authentic engagement; and
- Policies that maintain land use decision-making at the local level.

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OAPA opposes:

- Efforts to weaken Oregon's planning program; and
- 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.

OAPA strongly opposes this bill because it removes local land use authority over a decision that is now committed by law to the City of Bend. Moreover, the bill pre-empts Statewide Land Use Planning Goals, statutes, and rules, which is contrary to our longstanding statewide system. We believe that choosing a single land use decision for legislative override is entirely inappropriate and that such action invites additional legislative interference to override state and local rules. Our concerns include the following:

- 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.
- HB 2282 stands in stark opposition to Statewide Planning Goal 1 (Citizen Involvement) through inappropriate legislative interference with a long-standing decision-making system centered around local control. Likewise, the proposal upends Statewide Planning Goal 14 (Urbanization) by explicitly authorizing urban expansion without sufficient findings as to proposed uses, their impacts and 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 compliance with the process and regulations applicable to all other local governments around the state. We believe this to be a wholly inappropriate role for the legislature, which OAPA has opposed.
- Moreover, the proposal does not remotely deal with the affordable housing needs of the City. Only about 12.5 acres (less than 5% of the acreage) is designated for those needs, which is incongruent with current and prior legislative work to expand access to affordable housing in all areas of the state. This allocation leaves a huge part of the tract available for other uses to the profit of the landowner, who would take advantage of this state-mandated zone change for its profit and invite others to take this same road for their proposals. More disturbing is the displacement of state and local statutes, rules, goals, and local plans and land use regulations for a broad and unique set of standards, against which no public agency is required to make findings and which is virtually immune to appeal or review (Section 9(2)). OAPA strongly 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.
- Further, we believe it is inappropriate for the legislature to once again enact individual urban growth boundary changes that do not have factual support and are not the product of action by local governments that surround it. We fear this is another pattern of grand and not-so-grand bargains that undermine public confidence in Oregon's land use laws and significantly damage the integrity of local land use decision-making structures that have served Oregonians well for nearly 50 years.

If the City of Bend were to find this proposal approvable under its standards and procedures, that would be another matter and OAPA would not oppose that action. But we do oppose the attempt to provide special privileges for one developer on one tract in one city.

Thank you for the opportunity to provide this testimony on HB 2282. OAPA recommends the bill stay in committee pending redrafting to assure that any change be subject to the approval of the City of Bend and Deschutes County under the present planning system.

Sincerely,



Aaron Ray, AICP, President
Board of Directors



Eunice Kim, AICP, Chair
Legislative and Policy Affairs Committee