



July 11, 2018

City Council
City of Lebanon
925 Main Street
Lebanon, OR 97355

Re: Comprehensive Plan and Zone Map Amendment to Residential Mixed Density –
Case File No. 18-05-16

Dear Mayor and Council Members:

This letter is submitted jointly by Housing Land Advocates (HLA) and the Fair Housing Council of Oregon (FHCO). Both HLA and FHCO are non-profit organizations that advocate for land use policies and practices that ensure an adequate and appropriate supply of affordable housing for all Oregonians. FHCO's interests relate to a jurisdiction's obligation to affirmatively further fair housing. Please include these comments in the record for the above-referenced proposed amendment.

As you may know, all amendments to the Comprehensive Plan Map and Zoning Map must comply with the Statewide Planning Goals. ORS 197.175(2)(a). The staff report for the proposed amendment states that Goal 10 is achieved because the Residential Mixed zone “achieves the purpose of the [Residential Low] zone while simultaneously allowing higher densities.” The staff report also relies on the applicant's submittal that generally describes that additional housing density is a good thing. The report, however, does not refer to the City's Housing Needs Analysis (HNA) and Buildable Land Inventory (BLI) to show that an adequate number of needed housing units (both housing type and affordability level) will be supported by the residential land supply after enactment of the proposed change. The staff report's findings under Goal 10 are inadequate. Attached are guidance documents we developed for Goal 10 findings and we recommend you consider these documents prior to making a decision.

Even when a proposal "provides an opportunity for . . . more dwelling units," the City must show that it is adding needed residential zones. The City must demonstrate that its actions do not leave



it with less than adequate residential land supplies in the types, locations, and affordability ranges affected. See *Mulford v. Town of Lakeview*, 36 Or LUBA 715, 731 (1999) (rezoning residential land for industrial uses); *Gresham v. Fairview*, 3 Or LUBA 219 (same); see also, *Home Builders Assn. of Lane County v. City of Eugene*, 41 Or LUBA 370, 422 (2002) (subjecting Goal 10 inventories to tree and waterway protection zones of indefinite quantities and locations). Only with a complete analysis, showing any gain (or loss) in needed housing as compared to the BLI and HNA, can housing advocates and planners understand whether the City is achieving its goals through code amendments.

HLA and FHCO urge the Council to defer adoption of the proposed amendment until Goal 10 findings are made and include reference to the HNA and BLI. Thank you for your consideration. Please provide written notice of your decision to, FHCO, c/o Louise Dix, at 1221 SW Yamhill Street, #305, Portland, OR 97205 and HLA, c/o Jennifer Bragar, at 121 SW Morrison Street, Suite 1850, Portland, OR 97204. Please feel free to email Louise Dix at ldix@fhco.org or reach her by phone at (541) 951-0667.

Thank you for your consideration.

A handwritten signature in blue ink that reads "Louise Dix".

Louise Dix
AFFH Specialist
Fair Housing Council of Oregon

A handwritten signature in blue ink that reads "Jennifer Bragar".

Jennifer Bragar
President
Housing Land Advocates

cc: Kevin Young (by e-mail kevin.young@state.or.us)



[Date]

[Address Block]

Re: Statewide Planning Goal 10 (Housing) and the Obligations of Oregon Cities and Counties

Dear _____:

This letter is submitted jointly by Housing Land Advocates (HLA) and the Fair Housing Council of Oregon (FHCO). Both HLA and FHCO are non-profit organizations that advocate for land use policies and practices that ensure an adequate and appropriate supply of affordable housing for all Oregonians. FHCO's interests relate to a jurisdiction's obligation to affirmatively further fair housing.

Beginning in 2015, HLA and FHCO began a project to review post-acknowledgement plan amendments (PAPAs) across Oregon when those amendments either have insufficient Statewide Planning Goal 10 (Goal 10) findings or the Goal 10 findings do not support adoption of the amendment. Over the course of the project, FHCO and HLA have reviewed more than 800 PAPAs. There are three goals of the project: (1) to protect and promote affordable housing by reminding local governments of their Goal 10 obligations and, when necessary, preserving error in the record for appeal to the Land Use Board of Appeals; (2) to raise awareness of Goal 10 requirements; and (3) to determine whether a PAPA's adoption would violate the Fair Housing Act by discriminating against protected classes through disparate impact.

In line with our goal of raising awareness of Goal 10 requirements, we created a checklist of items to consider in reviewing land use decisions and creating staff reports. Every project and every PAPA is different, but hopefully what is listed below may serve as a general checklist when Goal 10 is at issue. Additionally, at the end of the letter are links to helpful resources.

Goal 10 Requirements

The creation or amendment of a comprehensive plan or land use regulation¹ must comply with the Statewide Planning Goals. ORS 197.175(2)(a).² Goal 10 requires: "Buildable lands for

¹ Zoning map amendments, for example, are land use regulations and subject to LUBA review under the PAPA process. *Northeast Neighborhood Coalition v. City of Medford*, 53 Or. LUBA 277 (2007).



residential use shall be inventoried and plans shall encourage the availability of adequate numbers of needed housing units at price ranges and rent levels which are commensurate with the financial capabilities of Oregon households and allow for flexibility of housing location, type and density.” OAR 660-015-0000(10).

Therefore, if a PAPA considers a change to the plan or zoning designation of land (as well as text amendments to a plan or land use regulation), then **Goal 10 is at issue and must be addressed** because the land in question could be zoned for a variety of purposes, including housing of various densities. If Goal 10 is at issue, then the staff report must support one of three alternatives: (1) the jurisdiction is already compliant with Goal 10 and will continue to be compliant regardless of how the land will be used, (2) the land was and is not designated for residential development and the proposed amendment is not contrary to Goal 10’s aim to provide needed housing, or (3) the proposed use is the use that meets the housing needs of present and future residents under Goal 10.

Satisfying Goal 10 Requirements

To satisfy Goal 10 requirements in a staff report, the jurisdiction must have already completed and adopted a Buildable Lands Inventory (BLI) and a Housing Needs Analysis (HNA)—see the links at the end of the letter for BLI and HNA examples.

The HNA and BLI need to be used in combination to show either that the jurisdiction presently has and will continue to have sufficient buildable lands for the types of housing needed to support the population according to the projection of the HNA, or the staff report needs to show that the proposed change is serving to bring the jurisdiction closer to meeting its Goal 10 obligations by addressing a need identified in the HNA that is not presently provided for in the BLI.

It is important to note that just because a proposal adds housing units, that proposal does not necessarily comply with Goal 10—the jurisdiction still must show that it is adding needed residential zones (i.e., multifamily vs. single family). The jurisdiction must demonstrate that its actions do not leave it with less than adequate residential land supplies in the types, locations, and affordability ranges affected. See *Mulford v. Town of Lakeview*, 36 Or LUBA 715, 731

² **Both** plan or land use regulatory amendments are subject to the “PAPA process.” ORS 197.610 states in relevant part:

Before a local government adopts a change, including additions or deletions, to an acknowledged comprehensive plan *or land use regulation*, the local government shall submit the proposed change to the Direction of the Department of Land Conservation and Development. * * *

This means that zoning ordinance text and map amendments are subject to the PAPA process.



(1999) (rezoning residential land for industrial uses); *Gresham v. Fairview*, 3 Or LUBA 219 (same); see also, *Home Builders Assn. of Lane County v. City of Eugene*, 41 Or LUBA 370, 422 (2002) (subjecting Goal 10 inventories to tree and waterway protection zones of indefinite quantities and locations).

Goal 10 Findings Checklist

- Does the amendment involve a land use designation or the permitted/conditional use of land?
- Has the jurisdiction adopted a Housing Needs Analysis (HNA)?
- Has the jurisdiction adopted a Buildable Lands Inventory (BLI)?
- Given the HNA and BLI, is there a shortage of certain housing types at present or a predicted shortage in the future?
- Does the PAPA zone the land at issue to meet that need and decrease the shortage?
 - If yes, how?
 - Is the shortage addressed the greatest shortage?
 - I.e., If the zone change is from multi-family to single-family and a city substantially lacks multifamily housing, but has a relatively minor predicted shortage of single-family housing, then even though single-family units are added, Goal 10 might not be satisfied if the PAPA adds more single-family housing instead of filling the greater need of multifamily housing.
 - Does the PAPA use the most efficient means to meet the need (i.e., if the PAPA is adding multifamily land, could it add multifamily zoned land at a higher density)?
 - If no, why not?
 - Is the land at issue suitable for development of the lacking housing type (i.e., slope, wetlands, etc.)?
 - Is there a competing requirement of a different Statewide Planning Goal (i.e., Goal 3 agricultural land requirements)?

Online Resources

LCDC Measures to Encourage Affordable and Needed Housing:

<http://www.oregon.gov/LCD/docs/Affordable%20and%20Needed%20Housing%20Measures.pdf>.

The Housing Element of the City of Central Point's comprehensive plan is well done and contains a good example of a BLI:

http://www.centralpointoregon.gov/documents?field_microsite_tid=21.



The City of Hood River adopted a thorough and complete HNA, which is available here:
<http://ci.hood-river.or.us/planning>.

The Housing Needs Analysis in Metro's 2014 Urban Growth Report is another example and shows the scale of the affordable housing shortage in the Portland-Metro Area:

<https://www.oregonmetro.gov/sites/default/files/2015/10/27/2014UGR-Appendix-4-Housing-Needs-Analysis-final.pdf>.

Examining PAPAs for Goal 10 issues at the first iteration of the staff review process will hopefully make for a smooth process that adequately considers the housing needs of Oregonians and addresses the present need for affordable housing across our state.

Sincerely,

A handwritten signature in blue ink that reads "Louise Dix".

Louise Dix
AFFH Specialist
Fair Housing Council of Oregon

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Jennifer Bragar
President
Housing Land Advocates