



May 28, 2019

BY EMAIL

The Honorable Tina Kotek
Speaker of the House
900 Court St NE, Room 269
Salem, OR 97301

The Honorable Betsy Johnson
State Senator
900 Court St NE, Room S-209
Salem, OR 97301

The Honorable Elizabeth Steiner Hayward
State Senator
900 Court St NE, Room S-213
Salem, OR 97301

The Honorable Dan Rayfield
State Representative
900 Court St NE, Room H-275
Salem, OR 97301

Re: House Bill 2001

Dear Speaker Kotek, Senator Johnson, Senator Steiner Hayward, and Representative Rayfield,

Housing Land Advocates (HLA), a non-profit organization that works toward land use policies that support more equitable and affordable housing for all Oregonians, writes to express our strong support for House Bill 2001. HLA can be reached c/o Jennifer Bragar, 121 SW Morrison Street, Suite 1850, Portland, Oregon 97204.

HB 2001 is a critical and necessary addition to the state framework which guides local planning and zoning for housing. HB 2001 will play a role in making housing more affordable, neighborhoods more diverse and integrated, and equitable.

In this letter we provide more background on HLA's work and expertise, state the reasons why we support HB 2001, and respond to some common objections to the bill.

Who We Are

Housing Land Advocates is a 501(c)(3) charitable corporation, and pursue our work as an entirely volunteer-run and -operated organization. Our board of directors is comprised of land use planners, attorneys, researchers, students, and housing advocates and practitioners with a demonstrated commitment to affordable housing.

Since 2004, we have been dedicated to using land use planning, education, and law to ensure that Oregonians of all income levels can obtain adequate and affordable housing. We pursue our work through education on how land use planning can support affordable housing, advocacy for thoughtful land use planning that aligns with housing policy and, when necessary, litigation to ensure that federal, state and local laws are applied to ensure an equitable distribution of affordable housing.

HLA Supports HB 2001

1. Fair Housing and mixed income communities

HLA supports HB 2001 as a way to diversify housing stock in existing neighborhoods for people at many income levels. A half-century of restrictive zoning rules has reinforced neighborhoods that only allow one type of housing - detached houses on individual lots. Within these areas, duplexes, townhomes, and cottage clusters are prohibited, even if there is a strong market demand for them. In fact, the vast majority of residentially-zoned land in most Oregon cities is reserved for only detached, single unit housing, with legal prohibitions on building any other housing type. Detached, single-family housing is the most expensive kind of housing to build on a per-unit basis and results in higher overall housing costs, making it more difficult to have resilient mixed-income communities. To build the kind of future Oregon seeks, we need to share the advantages of existing neighborhoods with more people, with different backgrounds—nurses, mail carriers, students, retirees—and have new housing options that are flexible and respond to changing household demographics.

2. Housing affordability

HLA is founded on the principle that land availability and housing affordability are inextricably linked. The cost of urban land is the most expensive element of delivering a unit of housing. Therefore, to restrict a given plot of land to have only one housing unit, rather than multiple (as with a duplex or an ADU), drastically increases the cost of creating that housing and makes affordability more difficult to attain. In addition, cities have already invested public money in roads, schools, and utilities to serve existing neighborhoods, which makes them relatively easier places to build than in far-flung areas at the urban fringe that do not have any of these services. The result is a townhome or a duplex on a lot in an existing urban neighborhood can be delivered at a much lower price point than a single-dwelling house at the same location. Yet, that expensive single-dwelling house is the only thing that can be built on most of the residential land in Oregon cities.

3. Housing diversity and options

Historically, before restrictive single-dwelling zoning became dominant and the default option for residential areas, housing types were more varied. Pre-WWII neighborhoods are often mixed, with garden apartments, triplexes, backyard cottages, townhomes, and other housing options that can accommodate a wider range of families, even if these areas are still mostly comprised of single-dwelling housing. The important part of HB 2001 that is obscured by opponents is that it contains no mandate to remove existing housing and replace it with multi-unit buildings, nor does it “ban” detached houses. Rather, the bill lifts the ban on housing types like duplexes that already exist in many neighborhoods. These buildings were generally permitted in city neighborhoods prior to the rise of uniform, exclusionary, one-dwelling-per-lot zoning rules. Bringing additional housing diversity into neighborhoods strengthens them, broadens access to these neighborhoods by people of different income and age levels, and

enables residents to stay in neighborhoods even if the composition of their household changes over time.

4. Climate change

Multiple analyses of the environmental impacts of housing have shown that the vast majority of greenhouse gas emissions over the life of a housing unit are related to electricity and fuel consumption during occupancy. Smaller home sizes and common wall construction reduce energy needs and are the single best method for reducing the carbon impacts of housing (Oregon DEQ, 2011). HB 2001 allows more of these energy efficient housing units to be constructed in more locations, rather than preserving rules that result in building the most energy-consumptive housing. Given the urgency with which we need to address climate change, HB 2001 is a land use policy step that helps us reach desired objectives.

HLA's Responses to Common Objections to HB 2001

1. Loss of local control over land use and zoning

Some opponents of HB 2001 claim that the law represents a drastic change in the locus of land use planning and zoning for housing by adopting a state mandate that undermines the authority of local jurisdictions to plan for their communities. This claim ignores the reality that there is a long and successful track record of state action in Oregon to create a framework for local land use planning. HB 2001 is a logical and necessary addition to that framework.

The Statewide Planning Goals, and their implementing rules and statutes, establish the statewide interest in local land use planning. In many cases, these state requirements have been strengthened in order to better address an issue of statewide concern. Goal 3 and the state rules governing Exclusive Farm Use zoning, for example, set rigorous standards for the use of land with high quality soils and offer minimal discretion for local jurisdictions to vary from those standards. These rigorous standards are justified on the basis on a statewide interest in preserving high value farmland, and they are successful in achieving that aim.

Within UGBs, local governments are granted wide latitude in land use planning and decision-making. Goal 10 (Housing) requires governments to inventory residential land, assess housing needs, and ensure that residential zoning is sufficient to meet those needs. There are very few prescriptive state requirements that apply to the design of local residential zones. Jurisdictions are free to tailor residential zoning as they see fit, so long as they can demonstrate that it will allow for projected housing needs to be met.

This local discretion for residential zoning too often results in a zoning pattern that favors more affluent households who can afford single-family homes on large lots. The advantages granted to single-family detached housing relative to multi-family housing often include:

- A relatively higher surplus of land available (above projected needs) for single-family detached housing than for multi-family housing;
- More desirable, more accessible, and more marketable locations; and

- Fewer design standards and less onerous land use review procedure.

A local jurisdiction can design a residential zoning pattern that would lead to these inequitable outcomes and still comply with Goal 10 requirements because the requirements only address the basic obligation to project housing needs and ensure that zoning allows a sufficient number of acres or units to meet those needs. Some jurisdictions go beyond the requirements and facilitate important community conversations about how to design residential zones and neighborhoods that are more equitable and inclusive. Most do not.

Further, many jurisdictions do not uphold their obligation to review future land use decisions, after the initial Goal 10 process is considered and the zoning map has been adopted, to ensure that there remains a sufficient supply of lands zoned for all types of housing over time. HLA has reviewed hundreds of plan and code amendments (Post-Acknowledgement Plan Amendments) over the last several years, and have sent hundreds of comment letters to jurisdictions to remind them of their obligation to review land use decisions in light of Goal 10 obligations and write findings that demonstrate that the amendment will not result in an insufficient supply of land for housing. Only after several years of this work, are some jurisdictions providing a response. But, HLA continues to doggedly comment to the majority of local governments to make Goal 10 findings to track the availability of buildable land for needed housing.

Given this context, HB 2001 is an essential tool that will institute stronger guardrails on residential zoning in Oregon. Similar guardrails on residential zoning have been put in place in the past: ADUs must be allowed with single-family homes, manufactured housing must be treated equitably relative to other housing types, and residential care facilities must be allowed in residential zones. These efforts have worked to protect marginalized communities from being excluded by local zoning decisions.

Local jurisdictions should not be granted the latitude to design residential zones where the only housing type allowed is that which is affordable to affluent households. Intended or not, exclusive single-family zoning has that affect. The HB 2001 approach is clearly and directly linked to the goals of statewide interest articulated above. It is an appropriate and necessary extension of Goal 10 and the statewide framework for planning and zoning for housing.

2. Lack of infrastructure capacity to support development of middle housing

Some opponents of HB 2001 claim that there is a lack of infrastructure capacity needed to support development of middle housing in areas zoned for single-family housing. Yet, HB 2001 provides jurisdictions the option to delay code amendments to allow middle housing while plans are developed to identify the improvements needed to sewer, water, streets, and storm water systems. Further, HB 2001 provides funding to local governments for technical assistance in completing this planning work. This will allow local governments to update infrastructure master plans and recalculate System Development Charges or other fees on new development to ensure they cover the anticipated costs of infrastructure improvements.

In the midst of a statewide affordable housing crisis, the appropriate response to a lack of infrastructure capacity to support more housing is to develop plans to expand capacity and support more housing. The inappropriate response is to limit housing development in order to preserve infrastructure capacity.

3. Concerns about neighborhood character and livability

Opponents of HB 2001 claim that allowing middle housing in single-family neighborhoods will dramatically change the aesthetic character and livability of these neighborhoods. This claim ignores the reality that there are neighborhoods all across this state that successfully integrate middle housing types with single-family homes. These same areas are some of the most livable and desirable neighborhoods in the state. Consider the early-twentieth century neighborhoods near the historic centers of Portland, Salem, Eugene, Bend, and smaller cities such as Redmond, Ashland, Corvallis, and Albany. These neighborhoods developed before middle housing types were banned and exclusive single-family zoning was instituted. There are more recent examples as well, including Fairview Village in Fairview, Orenco Station in Hillsboro, and Northwest Crossing in Bend.

Neighborhoods are livable and desirable places because of the characteristics related to their design and not the monoculture of single-family house development. Character and livability are a function of building height and bulk, setbacks, façade design, the location and design of off-street parking, landscaping, open space, buffering, and screening. These characteristics matter regardless of the type of structure – single-family house, duplex, triplex, or townhome.

HB 2001 gives wide latitude to local jurisdictions to codify these characteristics into the design and development standards that will apply to middle housing. The bill also provides funding for technical assistance to do the planning work necessary to draft the new standards. These new design standards may also apply to development of new single-family houses, bringing the benefits of enhanced design standards to all housing types.

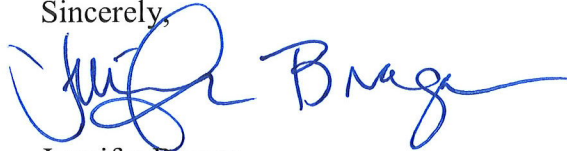
This planning work can be complex, and it calls for community engagement to help tailor standards to the preferences and needs of diverse neighborhoods. Yet, this is the appropriate response to the need for more housing – to work together as a community to find ways to integrate more homes.

For too long, local jurisdictions have used a shortcut to try to achieve character and livability – only allowing one type of housing seemed to be a way to ensure a consistent character. It is easier to design a residential zone this way, but it does not reliably result in neighborhoods that are livable and desirable. Too often, in the search for consistency and uniformity, zoning has resulted in neighborhoods that are monotonous and homogenous. The integration of middle housing types can bring diversity and character to these neighborhoods. Local jurisdictions should seize the opportunity to use HB 2001 as a means to re-envision how they can create neighborhoods with character and livability, and to draft new design and development standards to implement that vision.

HB 2001 is a critical step toward building the types of neighborhoods and cities that reflect Oregon's values as a place of inclusion, equity, and opportunity. It is a key part of a much broader strategy to ensure that housing is affordable for all Oregonians, a strategy to build a state where housing costs do not hold back our residents from moving to new cities, finding new jobs, or starting a new business. It is part of a strategy to help provide critical stability to communities that have been displaced or marginalized.

HB 2001 is a bold step, but it is a step that is commensurate with the depth of the housing supply and affordability crisis in this state. For the welfare of Oregon residents of today and tomorrow, we ask that you pass HB 2001.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jennifer Bragar", with a stylized flourish extending to the right.

Jennifer Bragar

President, Housing Land Advocates

cc: Board