



American Planning Association
Oregon Chapter

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Making Great Communities Happen

March 27, 2017

Representative Brian Clem, Chair
House Committee on Agriculture and Natural Resources
Oregon State Legislature
900 Court Street
Salem, OR 97301

RE: Oregon Chapter of the American Planning Association testimony to the House Committee on Agriculture and Natural Resources regarding HB 3254.

Dear Chair Clem and Members of the Agriculture and Natural Resources Committee,

The Oregon Chapter of the American Planning Association (OAPA) is an independent, statewide, not-for-profit educational organization with 850 members that provides leadership in the development of vital communities by advocating excellence in community planning, promoting education and citizen empowerment, and providing the tools and support necessary to meet the challenges of growth and change.

Our organization has reviewed HB 3254 and oppose the bill as drafted. **We respectfully ask that the Committee reject this version and do not pass it out of committee.**

Current law requires governing body action on plan amendments and zone changes. ORS 227.180(1). As the “constitution” for land use on the local level, the comprehensive plan establishes long-range planning policy. Any amendments or changes to these policies, should be reviewed and determined by the same entity charged with its creation. Individuals serving as the governing body are elected officials and are therefore, politically accountable for their decisions.

However, this bill would not only allow hearings officers or planning commission to conduct hearings and make a recommendation to the governing body regarding a plan amendment, it would allow them to make the decision in the first instance. The result would create a multi-tiered appeal process where a planning commission or hearing office decision would have to be appealed to the governing body (either the City Council or the County Commission), in order to seek review of a decision of either a planning commission or hearings officer. Contrast the current typical approach where the planning commission makes a recommendation to the city council or county commission, who then adopts the amendment.

Under the current process, public participation is encouraged and open at the local level without cost. The creation of this multi-tiered appeal process would come with local appeal fees, which are often significant. These fees can range from a few hundred to thousands of dollars, plus the costs associated with city attorney review. These high fees discourage public participation, a central tenant of Goal 1.

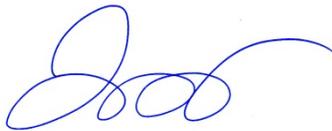
Local governments often use tiered decision-making when reviewing rezoning requests or for permits, where the land use policy is set and applied to the proposal at issue. By contrast, when a plan is amended, land use policy should be made through a public process that is open to all participants; an appeal of a hearings officer's or planning commission's decision should not be required to ensure a city council or board of commissioners makes a final decision on an amendment.

Related to the issues of an appeal being required to seek the governing body's review and decision is the issue of filing an appeal fee to make the appeal. Such fees will not only likely discourage individual participation in the comprehensive plan amendment process, they will impact state agency participants, who often lack the funds to pursue these remedies. This is particularly problematic given the elimination of periodic review, as a check to determine compliance with agency rules and the statewide planning goals. Similarly, local appeal fees can prevent participation by citizens and volunteer organizations if they are set so high as to not recover costs, but discourage participation.

If this committee feels strongly that local governments should be allowed to delegate the initial decision-making of comprehensive plan amendments to the planning commission or a hearings officer, it could mandate that these local appeals are processed either without fees or with the \$250 fee cap that is used for permit decisions made without hearing under ORS 227.180(10)(b).

HB 3245 as drafted would significantly interfere with public participation for actions where public participation is most critical; at the local level while the governing body weighs evidence and testimony on a plan amendment. We urge the committee not to pass this bill.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Jeannine Rustad', with a stylized flourish extending to the right.

Jeannine Rustad, JD, President
Oregon Chapter of the American Planning Association