Testimony in Support of House Bill 2007A
House Committee on Human Services and Housing

Speaker of the House Tina Kotek
May 25, 2017

Thank you for the opportunity to discuss House Bill 2007A and the -4 amendments this morning.

We have a serious housing shortage that is destabilizing Oregon families, contributing to rising rents, displacing low-income people and people of color, and worsening the homeless crisis across our state.

We have a shortage of both affordable and market rate housing. It is crucial to address common local barriers to both kinds of development.

One of the most common barriers to affordable housing development that we hear is the "not in my backyard" or "NIMBY" response from some community members. Unfortunately, much of the opposition that we are hearing to House Bill 2007A is also grounded in NIMBYism. I've heard concerns about preserving neighborhood character, or neighborhood control of development approval, but underlying some of these arguments is a desire to make sure that certain neighborhoods – often higher income neighborhoods – are treated differently than others. Certain neighborhoods, some argue, should be off-limits even though we're facing a housing crisis. That is not acceptable.

HB 2007 would get rid of some of the loopholes that allow NIMBYism to block development when wealthy neighborhoods simply want to self-segregate and prevent affordable housing development in their communities.

I would like to briefly summarize the bill, including the -4 amendments. There has been a great deal of misinformation about what the bill does, so I have also posted a summary on OLIS about what it will and will not do.

House Bill 2007A (including -4 amendments) will do eight things:

1. It requires cities and counties to fast-track affordable housing projects in their permitting processes. "Affordable housing" is defined as 50 percent of units affordable at 60

percent of Median Family Income (MFI) with an affordability covenant of at least 60 years. State law currently requires local jurisdictions to review and make a determination on an application within 120 days of receipt. House Bill 2007A changes this 120-day requirement to 100 days for affordable housing projects.

2. It directs the Department of Land Conservation and Development (DLCD) to study the average timeline between submission of a complete application and certificate of occupancy and identify barriers to shortening that timeline. Local jurisdictions also have to submit more information to DLCD about the number of affordable permits they receive, and approve, and what density is applied for compared to the density that is approved for these applications.

3. It will require cities and counties to approve applications that meet clear and objective standards as outlined in local zoning or planning codes within urban growth boundaries. This provision does not eliminate discretionary review. It simply requires that local jurisdictions provide a clear and objective path and if a developer chooses that path, their permit cannot be rejected if it meets the necessary requirements. This bill does not prevent local jurisdictions from updating their clear and objective standards to align with community design preferences. If a local jurisdiction wants to have 100 pages of clear and objective design standards, they can choose to do that. It is possible to have a permitting process that allows for local control regarding design and clear and objective standards related to those design preferences. This requirement simply clarifies that a local jurisdiction may not use a subjective reason to reject a permit application that meets all of their standards.

4. It updates the definition of "needed housing" to include all housing types and affordable housing. This is important because cities need a better handle on their inventory of affordable housing compared to the need and identifying affordable housing as "needed" in state statute moves us forward. Cities also must have clear and objective standards for "needed housing" so this provision ensures that developers have that option.

5. It requires local jurisdictions to let developers build housing with density that is permitted in the local zoning code unless doing so poses a risk to health, safety, or habitability or is not in compliance with a statewide land use planning goal.

6. It prohibits outright bans on the development of accessory dwelling units (ADUs) and duplexes on land zoned for single-family housing. This is implicit in the current bill, but due to confusion, we added explicit language to clarify that jurisdictions can regulate the development of these housing types as long as the regulations do not discourage their development in single-family zones.

7. It allows religious organizations with land located within urban growth boundaries to build affordable housing within the conditions of local zoning and planning requirements.

8. Finally, the bill addresses ways in which the National Historic Designation process can be used to prevent dense and affordable development in historic districts. The intent of the language in HB2007A was to prevent the automatic application of local land use protections when a primarily residential neighborhood is designated a National Historic Place. Under current law, the only protection that neighborhoods automatically get when they become a National Historic Place is demolition review. I was concerned that neighborhoods would pursue National Designation to leverage the demolition review process to avoid the development of dense or affordable housing in their neighborhoods.

I want to specifically address this change to the automatic protections granted by the National Historic Designation process, which has become one of the more controversial elements of the bill.

First, we must acknowledge that historic districts can create barriers to building housing. Some opponents of the bill have argued that historic districts should not be considered a "supply issue," but the reality is that any land use regulations that create barriers to infill development or more dense development are a supply issue.

Second, we must acknowledge that land use regulations at the local level have history, they are political, and they should be scrutinized to ensure that they do not perpetuate the racialized inequities that have been built into them. As a 2016 article in the Atlantic stated, "When local- and state-government bodies grant preservation status to historic districts—sometimes entire neighborhoods—they do not always simply protect culture, architecture, and history. Sometimes they also shore up wealth, status, and power… Historic preservation is a tool better used to safeguard the historical resources in which everyone can take pride—not the historical resources that were only ever allotted to winners by race-based housing policies."

Furthermore, research tells us that strict land use regulation at the local level drives urban income segregation. Research also tells us that income segregation is reduced when there is a higher level of involvement from state institutions in the planning process.[1]

That said, we have heard that some neighborhood groups have been concerned that single-family homes are being demolished and replaced with more expensive single-family homes. They were concerned that removing this automatic protection would encourage that trend, which of course is counter to the intent of this bill. To address those concerns, the -4 amendment maintains the automatic application of demolition review when single-family homes are being replaced with new single-family homes, but removes it if:

a. The house is being replaced with a more dense development.
b. The house is being replaced with a home affordable to a household making less than 120 percent of median family income (MFI).
c. The demolition is of an accessory structure (e.g. garage).
d. The "demolition" is an aesthetic change to the home because an aesthetic change is not a demolition.

The bill also reiterates that local jurisdictions may add protections to historic districts, including those that are exempted from the automatic application. They just must do so through a local decision-making process.

We are facing a housing shortage with dire consequences, and frankly I am disappointed that this bill has run into some of the same old NIMBYism that helped create this crisis by slowing development as our population skyrockets. Meanwhile, we just finished a winter that took the lives of people who are living on the streets. It's time for real solutions.

This bill is not a silver bullet solution to the housing crisis, but when paired with tenant protections, robust affordable housing preservation, and investments in affordable housing development, it is a huge step in the right direction.

Thank you.

[1] Michael C. Lens & Paavo Monkkonen (2016) Do Strict Land Use Regulations Make Metropolitan Areas More Segregated by Income?, Journal of the American Planning Association, 82:1, 6-21, DOI: 10.1080/01944363.2015.1111163