



June 16, 2021

Senate Committee on Rules
Oregon State Capitol
900 Court Street NE
Salem, Oregon 97301

Testimony: HB 3318

Chair Wagner and Senate Rules Committee,

Central Oregon LandWatch (“LandWatch”) is a conservation organization which for more than 35 years has protected Central Oregon’s beautiful forests and high desert, rivers and springs, fish and wildlife, and our vibrant communities. We work to conserve the region’s ecosystems, wildlife habitat, and working rural lands balanced with a responsible, sustainable approach to planning and fostering thriving communities. We defend and plan for Central Oregon’s livable future.

LandWatch is opposed to HB 3318. The bill proposes requiring DLCD to approve an expansion to the City of Bend’s urban growth boundary (UGB) on specified lands and outside of the established process for UGB amendments.

I. Summary of concerns

HB 3318 proposes, frankly, the worst kind of land use planning. This bill seeks to exempt Bend from Oregon’s well-established, world-renowned system of statewide land use planning established by 1973’s SB 100. Instead, the bill would exclude the public from local decisionmaking about the future of Bend. It cherry-picks one area of land onto which the City would grow instead of following existing law governing UGB amendments which requires a comparison of various potential lands for expansion.

Perhaps most egregiously, and although the bill’s preamble cites needs for “affordable and workforce housing,” “subsidized affordable housing,” and “development focused primarily on providing affordable and workforce housing,” the bill proposes to dedicate only 7.6% of the land for affordable housing. The 261.6-acre Stevens Road tract that is the subject of this bill is public land and this bill proposes to dispose of 92.4% of that land to private development interests for unaffordable housing out of reach to the neediest Bendites. The declared aspiration of this bill is to provide affordable housing, but instead of meaningfully doing that, the bill squanders the opportunity to make a real dent in Bend’s housing affordability crisis that could be made on this public land.

Previous versions of the bill this session (HB 2282, HB 2272) justified the bill’s one-off expansion of the Bend UGB on a transfer of development opportunity supposedly owed to a landowner in the Metolius Area of Critical Statewide Concern, designated under sections 2-5,



chapter 636, Oregon Laws 2009. That justification is absent from HB 3318, leaving the bill a hollow attempt to exempt Bend from Oregon land use planning law and exclude the public from the comprehensive planning process.

The bill exempts the planning of its Stevens Road tract from the compliance with statewide land use planning goals that is normally required for any local government comprehensive plan amendment, including UGB amendments. HB 3318-6, Section 9. In place of review pursuant to the goals, the bill in Section 9 devises its own haphazard standards. It requires only “adequate consideration” of public and agency comments. HB 3318-6, Section 9(1)(j). It does not require the City or DLCDD to even adopt findings showing that the bill’s standards have been met. HB 3318-6, Section 9(4). And it requires DLCDD to approve the UGB expansion upon a determination the standards have been met, HB 3318-6, Section 7(1), and makes public comment and testimony before DLCDD optional. HB 3318-6, Section 7(3). If there were still doubts about how far this bill goes to exclude the public and circumvent Oregon land use law, it clarifies that final actions pursuant to the bill are not land use decision subject to appeal. HB 3318-6, Section 3(1).

II. Subversion of the Oregon land use planning process

A fundamental principle of existing Oregon land use law, found in statewide land use planning Goal 14, is that UGB amendments must be based on a demonstrated need for more urban land. For housing and employment lands, needs are demonstrated by completing a buildable lands inventory, housing needs analysis, and economic opportunity analysis. Combined, these planning exercises yield answers about how much land is needed to accommodate forecast housing and employment land needs. The City of Bend adopted its most recent UGB expansion in 2016, which added over 2,000 acres to the City and identified strategic areas inside the City where greater densities of housing and employment will be accommodated. In early 2021, the first home in a 2016 UGB expansion area was constructed.¹ The vast majority of those 2,000 acres added to the Bend UGB in 2016 are still vacant, waiting to accommodate the housing and employment needs identified by the City in 2016. Bend is indeed growing fast, but adding land to the Bend UGB in a legislative super-siting effort subverts the Goal 14 UGB amendment process that in 2016 provided Bend with adequate developable land that lies in wait.

2019’s HB 2003 requires Bend to update its housing needs analysis, and develop a housing production strategy, by the end of 2024. That work is underway and will result in a citywide, comprehensive picture of housing needs. Those needs, based on an adequate factual base, rigorous analysis, and public participation, might result in a demonstrated need for a UGB amendment. HB 3318 proposes to bypass that data-informed process and force its own vision of future growth, absent a sound showing of need.

Goal 1 of Oregon’s statewide land use planning goals is “Citizen Involvement.” The catchline/summary for HB 3318 says nothing about an expansion of Bend’s UGB:

¹ <https://ktvz.com/videos/2021/01/20/first-home-occupied-within-latest-bend-urban-growth-boundary-expansion-area/>



“Exempts dog training facilities from state structural specialty codes. Provides that lawful units of land whose property lines are relocated by certain judgments remain lawful units. Prohibits requiring additional validating procedures or denying permits because of judicial boundary changes. Declares emergency, effective on passage.”

How does this bill involve the residents of Bend when it cherry-picks one area of land onto which the City would grow and fails to inform the public of that intention by even using an accurate catchline/summary. This bill is hidden behind smoke and mirrors and is a disservice to public participation and the democratic legislative process.

III. Failure to account for existing Bend Comprehensive Plan provisions

The bill does not identify how many acres of the 261-acre tract will be designated for housing. The Bend Comprehensive Plan (BCP) requires new developments to be “complete communities” with housing located near employment opportunities, public facilities, and commercial services like grocery stores, restaurants, and retail. The other half of this DSL land, already inside the UGB, is planned in this manner, and is subject to several specific comprehensive plan policies guiding its development. Specifically, the BCP requires the following:

“This area shall provide for a mix of residential and commercial uses, including 163 gross acres of residential plan designations, 60 gross acres of residential and/or public facility plan designations, 46 gross acres of commercial plan designations, and 93 gross acres of industrial plan designations, including one large-lot industrial site.” (Policy 11-67)

“[T]he residential plan designations shall include 196 gross acres of RS, 9 gross acres of RM, and 19 gross acres of RH[.]” (Policy 11-68)

Will the proximity of the planned non-residential uses, and/or the planned mix of residential uses, affect the planning for the Stevens Road tract (this bill)?

IV. The percentage of land dedicated to affordable housing is far too low.

The bill at Section 9(2)(c) requires 18 acres be made affordable to households with incomes 60 percent or less of the area median income, and two acres where 80 percent of units are made affordable to households with incomes 80 percent or less of area median income.

This bill would need to provide significantly more affordable housing in order to meet its intent to result in “development focused on providing affordable and workforce housing.”

20 acres (or 7.6%) of land dedicated to affordable housing is not enough on this 261-acre tract. As the Stevens Road tract is public land and has a public purpose, significantly more land should be dedicated to affordable housing. If that is not done, some other public funding would be



necessary to ensure affordable housing on this property or elsewhere. Public land, especially on a tract of this size, is a rare and valuable tool that could make real progress in reducing Bend's affordable housing deficit. To meet its stated intent, at least half of the 261 acres would need to be dedicated to affordable housing.

V. Conclusion

HB 3318 is a bare attempt to exclude the people of Bend from decisions about the future of our City. It circumvents Oregon land use law and in exchange offers a mere 7.6% of a 261-acre tract for affordable housing. This bill has no place in an Oregon that values public participation, transparency in government, and comprehensive land use planning based on demonstrated needs and an adequate factual base.

Respectfully submitted,

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