



Home Builders Association
of Metropolitan Portland

June 2, 2021

Mayor Lyles-Smith
Oregon City Commission
625 Center Street
Oregon City, OR 97045

Subject: Ordinance No. 21-1009, Annexation Code Amendments Title 14, Chapter 14.04

Dear Mayor Lyles-Smith and Commissioners:

The Home Builders Association of Metropolitan Portland (“HBA”) represents over 850 companies and tens of thousands of women and men who work in the residential building and remodeling industries throughout the greater Portland area. We work to promote housing affordability and are dedicated to maximizing housing choice for all who reside in the region.

HBA is concerned that certain Oregon City (“City”) policies limit the City’s ability to accommodate housing. Voter-approved annexation remains the stated policy on the City’s annexation information webpage despite Oregon Senate Bill 1573 (“SB1573”), which requires cities to process qualifying annexations without sending them to a vote of the people. By adding time and uncertainty to a process essential to the City’s land supply, voter-approved annexation precludes new household formation on Oregon City Comprehensive Plan residentially-designated buildable land.

Passed in 2016, SB1573 provided a solution to voter-approved annexation conflicts, and is designed to ensure there is enough land for housing and employment needs throughout the region. Despite legal challenges to the bill, it was upheld by the Oregon Court of Appeals in 2020. As such, HBA calls on the City to follow state law and remove its voter-approved annexation policy from its website and any other public communications.

In addition to adhering to SB1573, the City’s annexation code must align with clear and objective standards for housing. However, the proposed annexation code violates clear and objective standards that regulate the development of housing pursuant to Oregon Revised Statute 197.307(4). Importantly, this housing statute applies to all land with a residential comprehensive plan designation inside an urban growth boundary, and does not include an exception for such land outside city limits.

Local code that regulates annexation of land containing a residential comprehensive plan designation regulates the development of housing. As such, an application for annexation of such land may only be subject to clear and objective standards. Unfortunately, the proposed annexation code contains subjective factors regulating the development of housing. Furthermore, since each housing-related annexation approval factor may be weighted discretionarily, the annexation code is not clear in its regulation of the development of housing.

The stated intent of the proposed Chapter 14.04 Annexation Code Amendments (“Amendments”) is to provide greater specificity and clarity to the factors in the City’s code by which annexations are

evaluated. Unfortunately, because of the subjective nature and capacity to apply more or less weight to each housing-related annexation factor, the proposed annexation code would add further uncertainty to the annexation process, which is a critical step in meeting the City's housing needs. In order to have a clear path to annexation approval, HBA suggests the City update the proposed Amendments to replace subjective annexation code factors with other objective standards, for example:

14.04.060.A.6.

~~The annexation is in the best interest of the City. Generally, the Commission may consider the annexation is in the best interest of the city if it meets two or more of the following criteria:~~

- a. ~~It~~ Provides a ~~needed~~ solution for existing problems, resulting from insufficient sanitation, water service, or other urban service-related problems; or
- b. ~~It~~ Provides land for development to meet urban needs including housing and/or jobs ~~in an orderly and logical growth pattern;~~ or
- c. ~~It~~ Provides ~~needed~~ routes for utility and transportation networks identified in the City's infrastructure master plans.

Lastly, HBA suggests the City reword the proposed Chapter 14.04.050.07(h) to remove subjective and potentially negative development references and replace them with neutral language. HBA's suggested revisions to this section include:

14.04.050.07(h)

~~The narrative statements described above, and the analyses contained therein should be based on the reasonably "worst case development scenario". This means that the required analysis of impacts on city services and utilities should assume the most reasonably intense development scenario given the anticipated city zoning for the annexation area using commonly accepted measures such as number of residential units, overall residents, commercial floor area, etc. or other objective units of development measurement.'~~

The City has the opportunity to welcome new households by adhering to state annexation law, and by clearly and objectively regulating future city territory that contains residential comprehensive plan designations. In a recent case involving The Dalles, the Land Use Board of Appeals (LUBA) ruled in favor of clear and objective standards to regulate the development of housing (LUBA No. 2020-099). Given annexation of future residential land is integral to buildable land supply and meeting future housing needs, and the City should comply with state laws pertaining to annexation approval.

Sincerely,



Roseann Johnson
Assistant Director of Government Affairs

Cc: Rocky Smith, Commissioner
Denyse McGriff, Commissioner
Frank O'Donnell, Commissioner
Adam Marl, Commissioner