

These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks

report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes.

HOUSE COMMITTEE ON ENVIRONMENT AND ENERGY

March 15, 1991Hearing Room E 1:30 p.m.Tapes 80 - 81

MEMBERS PRESENT:Rep. Parkinson, Chair Rep. Whitty, Vice-Chair Rep. Burton Rep. Courtney Rep. Naito Rep. Norris Rep. Repine Rep. Van Leeuwen Rep. Watt

STAFF PRESENT: Kathryn Van Natta, Committee Administrator Karen Edwards, Committee Assistant

MEASURES CONSIDERED: HB 2150 - Changes periodic review procedures for land use planning PUBLIC HEARING/WORK SESSION HB 2261 - Changes land use appeal process - PUBLIC HEARING/WORK SESSION

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TAPE 80, SIDE A

005 CHAIR FRED PARKINSON calls the meeting to order at 2:05 p.m.

HB 2261 - PUBLIC HEARING Witnesses:Dennis Richey, East Portland Coalition of NeighB orhood Associations Dale Blanton, Department of Land Conservation and Development Greg Wolf, Department of Land Conservation and Development Fred Van Natta, Oregon State Homebuilders Association

KATHRYN VAN NATTA: Discusses HB 2261 (EXHIBIT A) and (EXHIBIT B).

031 DENNIS RICHEY, EAST PORTLAND DISTRICT COALITION OF NEIGHB ORHOOD ASSOCIATIONS: Testifies in opposition to HB 226 1: >Removes the right of neighB orhoods to input, notification and appeal.

REP. LISA NAITO: Could you explain what input the neighB orhoods now have in this type of process and how it would be different under HB 2261?

RICHEY: NeighB orhood associations are now given notification and the opportunity to provide input. According to HB 2261, we would not be given that opportunity.

095 REP. MIKE BURTON: You are an officially recognized neighborhood association of the city of Portland?

RICHEY: Yes.

REP. BURTON: Are you funded by the city of Portland?

RICHEY: Yes.

REP. BURTON: How do you presently receive notice on any kind of change?

RICHEY: We receive notice from the Planning Bureau about some types of changes.

REP. BURTON: Would HB 2261 eliminate that notice?

RICHEY: Yes.

REP. BURTON: HB 2261 specifically states that the city of Portland and its arrangement with the neighborhood associations will not be given notice?

RICHEY: The intent of administrative site review is to expedite the planning process. They will more than likely not want to notify the associations on their own since they went out of their way to omit it from HB 2261.

REP. BURTON: Who are they?

RICHEY: The Portland Planning Bureau and the Portland Development Commission.

108 REP. BURTON: Do you know where that is in HB 2261?

RICHEY: Section three.

DALE BLANTON, SENIOR POLICY ANALYST, DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT: Discusses HB 2261: >Does not eliminate any requirements or cause any changes to requirements relative to the relationship between the neighborhood associations and the Planning Bureau. >Mandates a minimum level of notice on limited land use decisions that involve adjacent property owners.

REP. BURTON: What section in HB 2261 refers to the limitation on notification?

RICHEY: Page three, section three, lines 30-34.

REP. PARKINSON: Could you briefly discuss the intent of HB 2261?

GREG WOLF, ASSISTANT DIRECTOR, DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT: HB 2261 came from the response of HB 2288 that was passed last Legislative session: >Major refinement in the land use appeals system. >Required the Land Conservation and Development Commission to evaluate the success of HB 2288 and report to the Joint Legislative Committee on Land Use. >An advisory committee was created and developed HB 2261. >Purpose of HB 2261 is to define the areas of land use decision making that do not deserve the same level of review, judicially.

179 REP. LIZ VANLEEUWEN: What does not deserve the same level of

review?

WOLF: Judicially, there are some decisions that do not require the same level of review as other land use decisions. The overall intent was to provide a more organized process for review.

REP. PARKINSON: HB 2261 affects a very narrow area of land use planning. It is limited to things like subdivision, partition, and site review. Do these issue involve where you can put a house or building on a lot?

WOLF: Site design review entails how a development occurs. It also depends on the jurisdiction.

REP. BURTON: Refers to section one, page three, subsections 18a and 18b. ORS chapter 92 deals with subdivisions and partitions. Does that imply that all those materials listed in ORS chapter 92 relate to questions within the urban growth matter? That is a pretty broad authority.

WOLF: Subdivisions and partitions are approved based on the requirements of ORS chapter 92, where they are inside an urban growth boundary. Any subdivision or partition would qualify. The subdivision standards that are in the acknowledged plan and in the subdivision ordinance are already regulated. Anything within those boundaries would be a limited land use decision.

229 REP. BURTON: Does this not exempt subdivisions and partitions from that process? Is that not what you just told us?

WOLF: This does not exempt those partitions or subdivisions from anything.

REP. BURTON: Could you explain section one, subdivision 18b? Is this within ORS chapter 92?

WOLF: The working group was trying to describe, generically and specifically, what site review meant. Site review involves a procedure that includes how a development, project, structure or use is carried out.

REP. BURTON: At the current time, there is no definition of site review in the ORS statutes?

WOLF: That is correct.

REP. BURTON: Would this then be the definition?

WOLF: This would be the definition.

267 REP. CHUCK NORRIS: Is "limited land use decision" a new phrase or category of decision?

WOLF: Yes. It is.

REP. BOB REPINE: Is the involvement of citizen's groups statewide?

WOLF: Statewide, there is a citizen involvement committee in each city and county that is responsible for looking after the citizen involvement interests of that jurisdiction.

REP. VANLEEUEWEN: Refers to section three, page three, line 24. Are sections a to c telling me we are following the acknowledged comprehensive plan and land use regulations used by local governments instead of state laws?

WOLF: This section has local government follow this set of requirements as opposed to the requirements that are in ORS 197 .763.

REP. VANLEEUEWEN: The local jurisdictions use approved comprehensive plans in land use regulations which might be different from state law?

WOLF: This section is intended to establish a minimum that would have to be followed for limited land use decisions. If the local governments chose, they could replace their existing local requirements with these.

348 REP. PETER COURTNEY: Refers to page 19, section 20, lines 15- 18. Concerned about relying on a newspaper for notification of a legislative land use hearing.

WOLF: There is no current statute applicable to cities on a minimum amount of legislative notice. There is a statute for counties that only becomes effective if there is money in LCDC's budget to pay for that notice to individual property owners. This is a new statute that establishes some form of notice for these type of hearings.

REP. COURTNEY: If we are really sincere about notifying the public about a hearing, the bureaus should get together and devise other methods of getting the public's attention.

WOLF: The statewide program creates a citizen involvement advisory committee in each jurisdiction to develop the right program.

421 REP. PARKINSON: Refers to page three, section three, line 30. There has to be written notification to adjacent property owners in a limited land use decision?

WOLF: That is correct.

REP. PARKINSON: In these cases would notification also have to be in the newspaper?

WOLF: Yes.

REP. NAITO: The existing citizen involvement group that was involved with this process has withdrawn its support for HB 226 1.

WOLF: Our state citizen advisory committee reviewed HB 2261 and recommended that it not be pursued.

REP. NAITO: The memorandum (EXHIBIT B) you sent us refers to a technical committee. Do you have the support of all the members who participate on this committee?

WOLF: We have the support of all members with the exception of Ed Sullivan who is opposed to HB 2261 in its present form.

TAPE 81, SIDE A

014 REP. NAITO: How do the neigHB orhood groups get information at this

time? Is there a statutory requirement?

WOLF: There is not a current statutory requirement. Most cities have their own programs that establish how those organizations are involved.

REP. NAITO: We are not changing notification of neighborhood groups in this statute?

WOLF: That is correct.

REP. BURTON: Are we not saying the city would not be required to give notice to anyone except the adjacent property owners under this measure?

WOLF: That is correct.

REP. BURTON: Refers to page two, line 19. There is no way under this process you could change or affect a zone change, is that correct?

WOLF: A zone change would still be a full land use decision.

053 BLANTON: This is the interpretation of the zoning ordinance.

REP. BURTON: What would be a limited land use decision affecting an R-5 zone?

BLANTON: It depends on the size of the property in an R-5 zone. When you need to change the classification to accommodate a particular development proposal, that would be a full land use decision, under the law.

074 ED SULLIVAN, ATTORNEY: Reads written testimony in opposition to HB 2261 (EXHIBIT C)

163 REP. VANLEEUEWEN: Refers to page three, section two, lines 14- 18. How does section two remove the review of local governments?

SULLIVAN: The acknowledged comprehensive plan is left out.

REP. VANLEEUEWEN: Are we not inside of the city boundaries?

SULLIVAN: You are inside urban growth boundaries.

REP. BURTON: Section two, in its entirety, makes no sense.

195 SULLIVAN: Continues written testimony (EXHIBIT C).

REP. BURTON: Refers to section four, page six, lines 21-26. Is that authority granted only in limited land use decisions, or is there a broader authority?

SULLIVAN: There is a broader authority on page seven, section five, lines 28-40.

350 FRED VAN NATTA, OREGON STATE HOMEBUILDERS ASSOCIATION: Supports HB 2261. Takes the technical decisions and limits the notice that is given to try and expedite a decision.

REP. NAITO: Concerned about having a class of use and not assuring the neighborhood the opportunity to participate in any discussions. Do you think that could be worked in at all?

VAN NATTA: Are retail establishments allowed under the zoning ordinance? That is where the level of decision is.

TAPE 80, SIDE B

013 REP. BURTON: Is every zone within an urban growth boundary in the state of Oregon a valid one?

WOLF: Every comprehensive plan has been acknowledged and all the zoning that is in place within those urban growth boundaries has been decided by LCDC at one point or another. That includes those county jurisdictions that may ultimately be annexed.

Tape 80, Side B HB 2261 - WORK SESSION

MOTION: Rep. Whitty moves HB 2261 to the floor with a "do pass" recommendation.

DISCUSSION TO THE MOTION:

REP. REPINE: There are 2261-1 amendments on our desk. Did we discuss these?

REP. PARKINSON: We discussed these amendments at a previous hearing. They were not accepted.

VOTE: In a roll call vote, the motion carries with Representatives Burton and Naito voting NAY.

Tape 80, Side B HB 2150 - PUBLIC HEARING

063 Kathryn VAN NATTA: Discusses HB 2150.

REP. PARKINSON: We will work from the HB 2150-1 amendments that incorporate the HB 2150-5 amendments (EXHIBIT D). Then we will discuss the HB 2150-3 amendments (EXHIBIT E).

MOTION: Rep. Burton moves to suspend the rules to allow Rep. Watt to vote on HB 2261

VOTE: Hearing no objection, Chair Parkinson so moves.

Tape 80, Side B HB 2261 - WORK SESSION

MOTION: Rep. Burton moves to suspend the rules to allow Rep. Watt to vote.

VOTE: Hearing no objection, Chair Parkinson so moves with Rep. Watt voting AYE.

Tape 80, Side B HB 2150 - PUBLIC HEARING

MOTION: Rep. Courtney moves to suspend the rules to go back into work session on HB 2261

VOTE: Hearing no objection, Chair Parkinson so moves.

Tape 80, Side B HB 2261 - WORK SESSION

147 REP. COURTNEY: My understanding is the motion to allow Rep. Watt to vote has to be made by someone who votes on the prevailing side.

MOTION: Rep. Courtney moves to suspend the rules to allow Rep. Watt to vote.

VOTE: Hearing no objection, Chair Parkinson so moves with Rep. Watt voting AYE.

Tape 80, Side B HB 2150 - WORK SESSION Witnesses:Dale Blanton, Department of Land Conservation and

Development Greg Wolf, Department of Land Conservation and Development Marvin Gloege, Linn County Planners and Builders Department

190 MOTION: Rep. Whitty moves HB 2150-5 amendments dated 2/6/91 (EXHIBIT D) to HB 2150.

DISCUSSION TO THE MOTION:

DALE BLANTON, SENIOR POLICY ANALYST, DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT: Discusses HB 2150-5 amendments (EXHIBIT D).

VOTE: Hearing no objection, Chair Parkinson so moves.

262 REP. PARKINSON: Discusses HB 2150-3 amendments (EXHIBIT E). These amendments address the concerns of the county governments.

GREG WOLF, ASSISTANT DIRECTOR, DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT: The intent of this amendment is to clarify that if a local government has completed a lot of their updated work, they should not be required to go through a periodic review (EXHIBIT F).

REP. COURTNEY: Is the phrase "work program" defined?

WOLF: Yes. It is defined in this particular proposal.

301 MARVIN GLOEGE, DIRECTOR, LINN COUNTY PLANNING AND BUILDING DEPARTMENT: Supports the HB 2150-3 amendments (EXHIBIT E). Contacted other county planners and reviewed the proposal.

REP. COURTNEY: What counties are these people in?

GLOEGE: Contacted the planning directors of Jackson, Union and Lincoln counties. The forth planner was myself

MOTION: Rep. Whitty moves the HB 2150-3 amendments (EXHIBIT E) dated 3/14/91 to HB 2150.

VOTE: Hearing no objection, Chair Parkinson so moves.

348 CHAIR PARKINSON closes the work session and adjourns the meeting at 3:42 p.m.

Submitted by: Reviewed by:

Karen Edwards Kathryn Van Natta Committee Assistant Committee  
Administrator

EXHIBIT LOG:

A - Fiscal Analysis of HB 2261 - Staff - 2 pages  
B - Memorandum from the Department of Land Conservation and  
Development on HB 2261 - Greg Wolf/Dale Blanton - 3 pages  
C - Testimony on HB 2261 - Ed Sullivan - 13 pages D - Amendments  
to HB 2150 - Staff - 6 pages E -Amendments to HB 2150 - Staff - 2 pages  
F -Memorandum from the Department of Land Conservation and Development  
on HB 2150 - Greg Wolf/Dale Blanton - 4 pages