



Oregon

Tina Kotek, Governor

HPAC Work Group Recommendation Template

Work Group

- Availability of land
- Land development permit applications
- Codes and design
- Workforce shortages
- Financing

Recommendation

On a temporary basis, until we emerge from the housing production emergency, all housing development will be exempt from public discretionary review or Type III Design Review or the Review by the City Council, meanwhile providing a simplified Type II administrative process by the local jurisdiction to provide guaranteed approval of the design within the 120-day review period since the time of submittal.

While this exemption is in place the clear and objective pathways will be reviewed to reduce the number of requirements.

Related Work Plan Topics

Identify topics assigned to the work group that informed the development of this recommendation.

There were several recommendations presented to the work group around predictability and speed of the design approval such as

- 2 (b) Streamline development approvals.
- 6 (b) Increase flexibility
 - 9 (b) eliminating restrictive standards
 - 9 (c) flexibility when dealing with site hardships and pro forma hardships
- 6 (h) “by right” development, eliminating risk, and reducing time/expense.
- 9 (b) eliminating restrictive standards

Adoption Date

8/16/2023

Method of Adoption

Adoption via email consent. Adoption was unanimous.

Co-chairs Guidance: Standards for Analysis

1. Clearly describe the housing production issue that the recommended action(s) will address.

By exempting projects from public discretionary review process by design review commission, the timeline and administrative procedure will be made a lot more efficient leading to design approval.

Allowing for a local administrative process with simpler and guaranteed approval pathway will eliminate at the least 4-5weeks from the approval process.

Precedent: Starting January of 2023, City of Seattle adopted the temporary elimination of the public discretionary design review for affordable housing development. If Seattle can, there is no reason Oregon could not adopt such an exemption.

2. Provide a quantitative, if possible, and qualitative overview of the housing production issue.

Summarize the quantitative and qualitative information available, and reviewed by the work group, that informed the analysis of the barrier or solution and led to the recommendation included in this form.

After many robust discussions with Senior Planner from various City jurisdiction, and other analysis in the work group following issues are highlighted:

- Public Discretionary Review process requires scheduling time. For example, the Design Review Commission in Portland meets only at scheduled times in a month with a long list of projects to review by volunteer commission member. When the commission wants a second hearing, it is up to the developer to schedule the next hearing in the earliest possible time which is not always as easily available. To address this the City of Portland gives the option to the developer to waive the 120-day review timeline. That is not conducive to expediting.
- This public hearing process opens for a lot of potential appeal (as the fee for filing an appeal is very low) thereby encouraging biased “nimby” attitude – prolonging the entitlement process.

3. To assess the issue and potential action(s), include subject matter experts representing all sides of the issue in work group meetings, including major government, industry, and stakeholder associations.

List the observers and participating SMEs at the work group meetings as the recommendation was developed. Identify which participating SMEs provided information to the work group and how. Summarize the information and perspective provided by the participating SMEs. If the participating SMEs expressed disagreement or concern with the work group recommendation, describe the reason.

- SME correspondence: week of 06/26/23 – 07/10/23
 - Miranda Bateschell, City of Wilsonville
 - Dan Pauly, City of Wilsonville
 - Emelia Shoup, City of Sisters
 - Eunice Kim, City of Salem
 - Kerry Bell, City of Bend
 - Michael Anderson, Sightline
- SME discussion with the workgroup. Attended by Miranda Bateschell, Dan Pauly, Michael Anderson, Emelia Shoup 07/10/23
- Topic discussed by other planners on the Land Development and Permitting Group included Senior planners from:
 - Anna Slatinsky City of Beaverton, Kimberly Tallent, City of Portland

After robust discussion with the SMEs mentioned above, please also see all the attachments of the email discussions, following “tension” in the issue were highlighted:

- Eliminating the Discretionary Review process will allow for “free for all” attitudes and some developers are going to produce low quality products that will not meet the community needs.
- As a counterpoint to the point above, the design that has gone through such a discretionary process have not always yielded a “better” design.
- Community should have a say in what they want to see in their neighborhood.
- How to deal with the Historic Districts and historic building renovation or adaptive reuses
- There is a clear tension between wanting “clear and objective standards” and wanting “flexibility.”
- When housing projects choose a discretionary review because they can't meet every clear and objective standard, it often goes to public hearing. I think the State swung too hard on clear and objective standards and most cities took out all flexibility. I agree that more flexibility needs to be added back in that staff can approve without it triggering a full discretionary review / public hearing process.
- This should be about administrative process and work with the local jurisdiction to implement in a way that does not disrupt the current workflow of the city planners and reviewers, otherwise the new process could add more time than reduce it.
- Various cities have various needs, and one size does not fit all. The recommendation should take that into account.
- Discretionary review should never be decided by the public commission.
- Portland has a process for adjustment but there is no real criteria or guidance as to "if you do this the adjustment will be approved" We have heard from a lot of people who don't want to do the adjustment when there is no real guidance or commitment that it will be approved.
- Coding clear and objective flexibility adds significant code complexity. So that while it is a tantalizing idea, there is a natural need to balance certainty, flexibility, and simplicity. The three-legged stool. The more complicated the code, the more time is required for planners to work with customers to explain options or help them understand how to meet the code.
- Model code for administrative adjustments would be helpful. We need good approval criteria - these are difficult to draft.

4. Provide a quantitative, if possible, and qualitative overview of the outcome of the recommended action(s).

Outline the impact of the recommendation on housing production.

The timeline for the review process will be shortened impacting the overall development timeline. If a simple administrative process for discretionary approval is enacted, it will make the entitlement process efficient. How to do this would be something that can be worked with the SMEs:

- For example, as mentioned in other recommendation having a very robust Pre-application meeting where all the potential discretionary items are daylighted and pathways to approval are clearly instructed.
- In Portland's example at the least this recommendation will eliminate several weeks from the entitlement process timeline. Please refer to the attached Discretionary Design Review timeline process requiring special application packet preparation, completeness review timeline before any review starts, the added time for second and maybe even third hearing leading to several weeks.

5. Provide an estimate of the time frame (*immediate, short, medium, long-term*), feasibility (*low, medium, high*), and cost (*low, medium, high*) for implementation of the recommended action(s).

Outline the work group's estimate of the time for implementation of the recommendation and its impact on housing production once implemented. Describe the work group's assessment of the feasibility of the recommendation being implemented and feasibility of success. Provide any estimates on the cost for implementation.

With an administrative process in place along with many other recommendations that the Land development permit applications and the Codes and design, implementation of this recommendation can be immediate.

At this point, the recommendation is to "temporarily" halt the public discretionary review process very similar to the City of Seattle. Like the City of Seattle, during this temporary moratorium of this process, this can be further studies to see how improvement can be made to this process once the housing production crisis is lifted.

6. Provide a general overview of implementation, the who and how for the recommended action(s).

To the extent the work group knows, is this implemented in state statute or rule, by the state or local government, by a particular agency, etc.

This would be implemented by the local government and local agencies. However, if there is a state oversight mechanism to streamline this it may be worth considering.

This recommendation does not change the zoning or design codes yet, but only eliminates what can be a time consuming, additional and contentious process which will not increase the housing production by any means.

7. Outline the data and information needed for reporting to track the impact and implementation of the recommended action(s).

Identify the data the Governor's Office would need to track to determine if the recommendation is increasing housing production.

Assessing the current average timeline for entitlement process that goes through current commission led discretionary review with the new timeline without such process would reveal the effect of this recommendation.

8. Identify any major unknowns, tradeoffs, or potential unintended consequences.

Based on the work group's analysis and information provided by participating SMEs, outline what is unknown, the tradeoffs exist by implementing the recommendations, and any known potential unintended consequences.

Please refer to responses to question 3.

Please include any relevant reports, data analyses, presentations, or other documents that would be informative and useful for the full HPAC as the recommendation is discussed and considered.