

Affordable Housing Pilot Project RAC Notes

10/12/2016

RAC Attendees	Bart Eberwein; Robin McArthur; Lisa Bates; Shawn Cleave; Erin Doyle; Bill Hall; Mary Kyle McCurdy; Jim Moorefield; Brian Rankin; Paige Townsend; Kim Travis; Steve Wheeler
Absent	Jason Elzy
DLCD & UO Staff	Dan Eisenbeis; Gordon Howard; Rebecca Lewis; Carrie MacLaren; Evan Manvel; Casaria Taylor
Note Taker	Casaria Taylor

Agenda Topics

9:00am – 9:50am	Authorization of Mixed Income Housing Developments
9:50am – 10:35am	Factors for Selection of Pilot Projects
10:35am – 10:55am	Manufactured Dwelling Parks
10:55am – 11:15am	Selection of Pilot Projects Providing Sites that Would Not Otherwise Be Provided
11:15am – 11:45am	Pilot Project Reporting Requirements
11:45am – 11:55am	Public Comment
11:55am – 12:00pm	Next Steps

Agenda item: Authorization of Mixed Income Housing Developments

Staff: Dan Eisenbeis

Discussion

- Dan Eisenbeis presented the revised staff recommendation memo for authorization for mixed-income housing developments. Shawn Cleave asked whether staff had considered a scoring process, as he suggested in his previous comment letter instead of a distinct numerical requirement.
 - Dan Eisenbeis said staff discussed that option and RAC members at the last meeting indicated support for providing preference to projects that include more affordable housing units.
- Dan Eisenbeis brought the RAC's attention to the Legislative Counsel opinion submitted by Rep. Stark and the comment letter from Mary Kyle McCurdy. He also said staff asked legal counsel, as suggested by RAC members, whether HB 4079 requires is a majority percentage of affordable housing units. Legal counsel advised staff the statute does not require a majority, but if the commission authorizes mixed-income housing developments, it must also specify a minimum percentage of affordable housing units.
 - Shawn Cleave thinks the statutory language is advisory by the use of "may."
- Jim Moorefield noted unclear language in the opinion from legislative counsel contrasting "does not specifically authorize... but broad enough to allow."
 - Carrie MacLaren said the advice staff received differs from the Legislative Counsel opinion on whether the commission is required to have a minimum percentage of affordable housing units. But both opinions agree the commission may set a minimum.
- Shawn Cleave said he is open to a minimum percentage and thinks the proposal now is better than it was. He'd like a preference point system.
- Steve Wheeler asked why staff is recommending a minimum percentage of 20%.
 - Dan stated that 20% is the maximum percentage of affordable housing units that may be required under the recent inclusionary zoning legislation. Though this legislation is a different model, staff felt the pilot nature of this program means there would still be lessons to be learned with a project including 20% affordable housing units, but that the commission should have the ability to select the projects that propose greater amounts of affordable housing.
- Shawn Cleave said 20% may be very low but it would depend on the acreage being developed. However, depending upon market conditions, 20% may still be too high.

- Lisa Bates said the 20% seems arbitrary and very low. She reiterated her argument that pilot project rules should be designed as to be broadly adopted if successful, and if the pilot is very different from how it should function when applied everywhere there isn't a good baseline or data on how well the program would function if broadly applied.
- Mary Kyle McCurdy said if projects do not qualify based on the standards of the bill, the pilot program is not necessarily a failure. It may tell us that obstacles to affordable housing may be non-land use.
- Jim Moorefield said 20% seems like a low goal, but can live with it as an experiment. The rules should have a minimum percentage, not just a competitive preference system. The pilot is trying to find out whether tweaking the system of growth has a beneficial outcome. In order to do that, it must define the beneficial outcome.
- Erin Doyle agreed that there should be a minimum percentage for mixed-income. She said 20% seems low; it was a negotiated percentage for the inclusionary zoning law, which attempted to consider development costs. If we have controls that are too tight we might not get the right data in return. Doesn't want this to be so tightly controlled that we guarantee failure. She appreciates the number of units being a factor for selection of projects.
- Steve Wheeler agrees this is an experiment and it is okay if we don't get project. He thinks 33% of units would be a better minimum percentage, with a provision in evaluating competing proposals "more is better," but could live with 20% if that is the consensus.
- Paige Townsend asked about the definition of "units." She suggested considering the type and makeup of units, and wanted to make sure affordable housing units weren't solely studio and one-bedroom units – but a mix of units.
 - Dan Eisenbeis responded that there is no definition of ORS 197 of a housing unit. There are other definitions, including "housing unit" in ORS 456 and "dwelling unit" in the residential building code, which are essentially a dwelling with a kitchen, bathroom, and sleeping area. We could consider including a definition for "housing unit" in the rule if it would be a helpful clarification.
- Lisa Bates said it is common to require affordable and market rate units be comparable, and the rule should require units have to same material quality and access to amenities as market-rate units.
- Rebecca Lewis noted 86% of affordable housing units in Oregon are two bedroom or smaller.
- Jim Moorefield does not think the rule should specify the number of bedrooms because there is demand for affordable housing across the population.
- Steve Wheeler suggested considering a minimum of 20 affordable housing units, rather than 30, for projects from cities with a population over 25,000.
- Jim Moorefield said 80% AMI as a floor is an acceptable number but the real housing need may be for the people at 60% of AMI and below. Staff should consider including a preference factor based on income levels served, such as those projects that provide deep affordability.
- Brian Rankin said Bend went through a similar exercise when going through their UGB expansion. Given Bend's experience, 20% of the units as a floor seems very low, especially when not differentiating between rental and owner occupied. He suggested considering preference for projects based on percentage of AMI served, rental vs. ownership, and provision of community amenities.
- Lisa Bates said she is curious about a clearer linkage between the percentage AMI and data on local needs.
- Kim Travis said some communities are looking for ways to provide incentives for market rate housing.

Conclusions

- RAC members can agree to a minimum percentage of affordable housing units; some think 20% is not aggressive or strong enough.
- RAC members agree total number of housing units should be considered by the commission as a positive when comparing proposals.
- RAC members expressed little concern about the 10 and 30 unit minimums for smaller and larger cities, respectively.

Action Items	Person responsible	Deadline
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Agenda item: Factors for Selection of Pilot Projects

Staff: Gordon Howard

Discussion

- Gordon Howard presented the staff recommendation memo on factors to be used by the Land Conservation and Development Commission to select pilot projects from among qualifying nominated projects. Commission would have flexibility based around the proposed five selection factors. He said based on the RAC discussion, the written recommendation could be amended to also consider income levels served and mix of unit sizes.
- Steve Wheeler asked if they are to be ranked or be equal.
 - Gordon Howard said they are equal factors
- Shawn Cleave likes the list and wondered whether workforce housing should also be considered.
 - Gordon Howard said the focus is on affordable housing, but the consideration of income levels served could be made a selection factor.
- Mary Kyle McCurdy is troubled by #5 of the list (strength of steps to ensure 50 years of affordability). It is mandatory per the legislation.
 - Gordon Howard clarified that staff also believes it is mandatory, but the proposed factor would allow giving preference based on the strength of proposals for meeting the mandate.
- Erin Doyle said she struggled with how the “strength” of a measure is defined under the factor #5. Guidance will be important. Regarding factor #1, a comparison based on number of housing units may be too narrowly focused, depending on differences in the number of acres.
- Robin McArthur asked if a two tier system could be put into place (some requirements, some bonus preferences). Perhaps there is room for consideration of the amenities of the area.
- Paige Townsend said about the reliability of public transit should be considered. A written commitment to future service should come from the transit provider. If there is going to be an application review committee, she highly recommends including a transit expert.
- Bart Eberwein asked if we are expecting many cities to apply for this use this program or if we need to encourage cities to apply.
 - Erin Doyle said she has heard some interest from cities but moving forward will depend on what the rules require
- Bart Eberwein said he is in the selling mode – we want cities to apply and give this thing a try. What is the minimum we can do to get this on the road and being used? He wants an open door and as much flexibility as possible. We want the maximum amount of affordable housing proposals and then evaluate them. The commission should also be able to say no to all of them.
- Jim Moorefield said #5 should be a requirement, but there are a variety of ways to do that and the commission should consider that capacity of applicants involved to ensure the affordable housing is protected for at least 50 years.
- Brian Rankin said we should consider AMI served and tenure mix. Do we need to discuss the level of housing need for each community? Should the city be able to make a case about meeting other Statewide Planning Goals and rules? Don't see anything about timing. There should be a requirement about phasing of units so that affordable units are not being delayed.
- Lisa Bates clarified she is less concerned about comparable size of units between affordable units and market rate units than comparable material quality, access to amenities and location.
- Mary Kyle would like to see a side by side comparison of the factors required by the law and rule and those which would get preferences

Agenda item: Factors for Selection of Pilot Projects**Staff: Gordon Howard**

- Steve Wheeler said will have a harder time selling to small towns rather than medium and bigger cities.
 - Bart Eberwein asked whether an honorarium could be provided to applicants. If the questions are properly phrased even the losers will learn a lot and their next application will be much better.
- Steve Wheeler staff assistance for small cities would be helpful. He suggested partnerships with the local housing authority. Phasing is critical; affordable units and market rate units should be developed concurrently.
- Erin Doyle reminded everyone of her request for a pre-application process or guidance document (with clarity on how to score high)
- Shawn Cleave likes the idea of a guidance document. The National Association of Realtors may be able to provide grant assistance to help DLCD create such guidance.

Conclusions

- RAC agreement that the law requires cities must keep housing affordable for 50 years
- RAC agreement in the general direction of the staff recommendation, with interest in details of the AMI served, phasing, detail type, etc. that the commission should consider when comparing proposals
- RAC agreement to look at amenities after proposals have met basic requirements and prefer plans that provide better public facilities and services
- RAC agreed on a desire for the department to provide details and guidance for cities on how to apply and be competitive.

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Agenda item: Manufactured Dwelling Parks**Staff: Dan Eisenbeis**

Discussion

- Dan Eisenbeis presented the staff recommendation memo and summarized the recommendations from the public comment letter from John VanLandingham. He said the staff recommendation is intended to stay consistent with the target population of 80% or under AMI included in the definition of “affordable housing,” recognize the unique combined space lease and unit ownership model of manufactured dwelling parks, and remain neutral as to whether certain affordable housing types rise to the top or not in proposed projects.
- Erin Doyle asked if there is currently a model or structure where income verifications are being done and could be utilized as a partnership.
- Carrie MacLaren noted there are resources about how to do income verification and staff should guide applicants to those resources.
- Erin Doyle suggested clarifying that income verification is at the outset of a space being leased, not on an ongoing annual basis.

ConclusionsRAC agreement with the staff proposal.

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Agenda item: Selection of Pilot Projects Providing Sites that Would Not Otherwise Be Provided	Staff: Gordon Howard
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Discussion

- Gordon Howard presented the staff recommendation memo.
- Mary Kyle McCurdy was uncomfortable with the proposal, and cities may just say it's hard to provide housing for those below 80% income. Zoning restrictions could be an obstacle because a city is not meeting Goal 10.
- Shawn Cleave is concerned that proving a negative is a logical fallacy, which is what the language is asking us to do. If the development could have been built without this rule, it would have been.
 - Dan Eisenbeis asked if there was an alternative approach Shawn would suggest.
 - Shawn Cleave said did not have a specific proposal.
- Bart Eberwein suggested asking cities to demonstrate *how* (not *that*) current conditions make alternatives not work.
- Erin Doyle agrees with comments said so far.
- Carrie MacLaren says a solution might be to marry the provisions of Section 4(4)(a) and Section 4(4)(b).
- Mary Kyle likes what Carrie MacLaren said. She also suggest looking at Goal 10 actions in Section 4(4)(f).
- Brian Rankin noted the difficulty of writing findings for small cities in particular.
- Lisa Bates said cities should not be able to cite zoning as the reason; sometimes communities don't change zoning because it is politically difficult.
- Carrie MacLaren suggested staff might focus more on showing how, not proving whether.

Conclusions

RAC consensus concerns with the recommendation. Staff will look at how the provision fits with other parts of the rule, including implementing housing measures and Section 4(4)(b).

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Agenda item: Pilot Project Reporting Requirements	Staff: Gordon Howard
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Discussion

- Bart Eberwein wants to be sure lessons learned can be shared
- Erin Doyle suggested it might be easier to report vacancy rate for the whole city rather just the pilot project. She suggested asking cities to also report qualitative lessons learned, so that cities could report on how hard it has been to meet the pilot program requirements and how the pilot project is turning out.
- Steve Wheeler agrees with what Erin Doyle said. For smaller cities it will be difficult.
- Kim Travis wants to hear cities talk about any effect on their housing market, not just a look at the pilot site.

Conclusions

RAC likes the staff proposal, with the addition of some qualitative information and evaluation by the cities, including lessons learned, what worked and what didn't, how burdensome the reporting is, judgments of the overall program, and any noted effects on the city's housing market.

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Agenda item: Public Comment	Staff: Evan Manvel
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Discussion

- Peggy Lynch
 - Supports applying baseline criteria before factors for selection. Thinking about how soon the project will be built is important.
 - Space rents and HOA costs should be considered as part of manufactured dwelling site costs.
 - It is really important that cities look inside the UGB first.
 - Am concerned saying “just can’t get it done” violates the whole land use system.
 - Consider adding a survey of pilot project residents to the reporting requirements. Is the pilot project working for the people who are living there?
- John VanLandingham
 - Working on this concept since 2007.
 - His bias in his work is representing people at 30% AMI and below.
 - His fear is making this so complicated that no one applies, we learn nothing and get no new affordable housing.
 - No new manufactured dwelling parks have been built in Oregon since the early 1990’s.
 - Could live with 20% affordable housing and 80% AMI for rental, but there should be a different income level for owner-occupied units, including houses and manufactured dwellings.
 - Preferences are an important tool.
 - AMI is a blunt tool that varies region by region. Should have a split standard for homeownership vs rentals.
 - He will email additional comments regarding manufactured housing.
 - Small cities need assistance. Allow cities to partner with CDCs or the local housing authority.
 - Phasing will be necessary.
 - Fine with flexibility for LCDC with selection factors. LCDC is supposed to make those kinds of judgements.
 - He cannot see the Legislature allowing this everywhere.
 - Regarding the reporting requirements, he does not think there is vacancy rate data for every city available.

Agenda item: Next Steps	Staff: Evan Manvel
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Discussion

- Dan Eisenbeis announced this is his last RAC meeting, as he has accepted a position with the City of Portland
 - Gordon Howard will manage the project moving forward
 - Carrie MacLaren will be a regular presence
- Next meeting: October 24, 1-4pm
 - Reviewing draft language

- Last meeting: November 14