



Oregon

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TO: Land Conservation and Development Commission

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SUBJECT: **Agenda Item 7, January 23-24, 2020, LCDC Meeting**

UPDATE ON IMPLEMENTATION OF HOUSING LEGISLATION: HOUSE BILL 2001 AND PUBLIC PROCESS FOR BOTH HOUSE BILL 2001 AND HOUSE BILL 2003

I. AGENDA ITEM SUMMARY

This agenda item consists of a summary and update of implementation and public process actions the Department of Land Conservation and Development (DLCD, or department) has taken to date for HB 2001 and HB 2003. This staff report also includes a brief discussion of projected actions by department staff over the next two months until the next commission meeting in March 2020. Note: Agenda Item 8 is a report focusing on substantive matters involving HB 2003. Because the rules advisory committee and associated public process is guiding and informing implementation of both bills, this report covers key aspects related to implementation of both bills from a public process perspective. The commission is not being asked to take any action on either this agenda item (7) or agenda item (8) which delves deeper into the substance of House Bill 2003.

II. BACKGROUND

In 2019, the Oregon Legislature passed, and Governor Brown signed into law, House Bill 2001 (HB 2001) and House Bill 2003 (HB 2003). These bills address housing supply and affordability issues facing the state and its population.

HB 2001 aims to create more housing choices. The statute allows duplexes in single-family residential development for cities with population above 10,000 and, in the Portland Metropolitan Area, all cities (with population greater than 1,000) and urban portions of counties. Cities between 10,000 and 25,000 population must allow a duplex on all lots or parcels where single-family detached residences are currently allowed by city zoning. Cities greater than 25,000 population and the affected Portland Metropolitan Area jurisdictions must, in addition to the duplex requirement noted above, allow

triplexes, fourplexes, townhomes, and cottage clusters in areas zoned for single-family residential development. The bill has several other provisions that advance or are peripherally related to these basic requirements.

HB 2003 aims to increase housing supply. This bill has three key components, and several other provisions that are peripherally related to or refine these components. First, the bill directs Oregon Housing Community Services (OHCS) to develop a methodology and conduct a regional housing needs analysis (RHNA) for different regions of the state. DLCD is called to evaluate and report to the Oregon Legislature on the results, with an assessment of how to implement this new methodology if continued by the Legislature in its 2021 legislative session. Legislature (see discussion under Agenda Item #8). Second, the bill requires a city with a population of 10,000 or greater to update its housing needs analysis (HNA) once every eight years for cities outside of the Portland Metropolitan Area or once every six years for cities inside the Portland Metropolitan Area. Third, the bill requires these same cities to approve housing productions strategies (HPS) after completion of the housing needs analysis, proposing and implementing measures to ensure that needed and affordable housing gets built in the city.

The two bills authorize and require the department and commission to take a series of measures to implement statutory provisions, including enforcement.

III. **PROGRESS TO DATE**

A. **CONTRACT FOR MODEL CODE (HOUSE BILL 2001)**

The model code for HB 2001 will serve two purposes: 1) it will provide an example of “best practices” for implementing the legislation in a way that carries out its intent; and 2) it will apply directly to a city or county that does not adopt a code that is consistent with HB 2001’s provisions and the provisions of any administrative rule adopted by the commission to implement it by June 30, 2021 (smaller cities) or June 30, 2022 (larger cities and Metro cities/counties). Staff expect to bring this model code to LCDC for a first hearing for cities under 10,000 in May with the first hearing for cities over 25,000 in September. Both parts of the rule must be adopted by LCDC by December 31, 2020.

To help develop this model code, DLCD issued a Request for Proposals in XXX month. In response, the department received three bids. After review of each proposal, staff selected a consultant team comprised of Angelo Planning Group, SERA Architects, and EcoNorthwest. Angelo Planning Group will serve as the primary consultant to draft Middle Housing Model Code language. SERA Architects will support Angelo Planning Group to create graphics, charts, and other development code figures with an eye towards increasing the document’s readability and functionality. EcoNorthwest will study financial and development feasibility of draft model code language.

The consultant team has begun work on the model code, and will be working with department staff and a staff-led Model Code Technical Advisory Committee in upcoming months.

B. RULEMAKING ADVISORY COMMITTEE

At its July meeting, LCDC approved a list of key interests staff considered relevant to help advise on development of draft and final rules to implement the House Bills. Staff finalized a RAC roster with alternates in the fall. The first meeting of the Rules Advisory Committee (RAC) was in November 2019. Former LCDC Chair Jerry Lidz and current Commissioner Anyeley Hallova are LCDC liaisons to the RAC.

The Rulemaking Advisory Committee (RAC) met for its second meeting on Monday, December 16, 2019. The primary objective of this meeting was to gather RAC member feedback related to HB2001 - the Middle Housing Model Code and the Infrastructure Based Time Extension Request. Questions, comments, and concepts gathered as part of Community Conversations, Speaker's Bureau, public comment, and/or preliminary project team review of bill language were presented to RAC members as background.

In addition to the RAC, staff has convened subcommittees, or Technical Advisory Committees for each key rule called for by House Bill 2001 and House Bill 2003. The three rules are, for House Bill 2001 1) middle housing model code, 2) infrastructure based time extensions and for House Bill 2003, 3) housing production strategies. A description of the progress of each of these three programmatic areas follow.

Middle Housing Model Code (House Bill 2001)

Staff presented a series of 12 questions for RAC discussion related to the Middle Housing Model Code. These questions and concepts fall into four areas:

- 1) Model Code Structure, Layout, and Applicability;
- 2) Terms Needing Definition;
- 3) Middle Housing Development Standards; and
- 4) Measures to Ensure Development Feasibility of Middle Housing

Department staff has incorporated comments and feedback staff received from RAC members during the meeting and via email into a memorandum shared with the Middle Housing Model Code Consultant Team to assist in their efforts and preparations for the first Middle Housing Model Code Technical Advisory Committee Meeting on January 9, 2020. The primary objectives for the first meeting of this committee are to:

- 1) Provide an overview of the Committee's Role and Deliverables,
- 2) Discuss preliminary Model Code Structure concepts, and
- 3) Discuss draft Model Code Concepts as outlined by the project team and RAC.

Infrastructure Based Time Extension Request (House Bill 2001)

At the RAC meeting #2 in December, staff also sought RAC guidance on aspects of the process jurisdictions might undertake to request an extension of middle housing development code applicability in areas where infrastructure is, or is expected to be, severely deficient. The discussion primarily centered on how to quantify a deficiency, how or if system development charges should be factored into an analysis, and the appropriate length of a granted extension. The Infrastructure technical advisory committee will meet for the first time on January 29.

Housing Production Strategies (House Bill 2003)

This Technical Advisory Committee will meet for the first time on February 6.

RAC Meeting #3 January 22, 2020

The Rulemaking Advisory Committee will have its third meeting on January 22. This meeting will focus on efforts related to HB2003 including an update on the Regional Housing Needs Analysis methodology from Oregon Housing and Community Services. RAC members will also be asked to provide guidance on the outline of key elements for House Bill 2003 with respect to Housing Production Strategies. Staff will provide an initial discussion of the outcomes from this meeting to the commission in person on January 25.

C. TECHNICAL ADVISORY COMMITTEES

To meet deadlines and to bring in technical experts on specific matters, the rulemaking effort will rely on three Technical Advisory Committees in addition to the full Rulemaking Advisory Committee. The Technical Advisory Committees are an extension of the Rulemaking Advisory Committees and are advisory to staff. These committees are charged with exploring specific technical aspects of Oregon's housing legislation in order to develop a set of administrative rules to implement HB 2001 and HB 2003.

Technical advisory committees have been formed regarding the following topics:

- Middle Housing Model Code Technical Advisory Committee. This committee will help clarify requirements for “medium” and “large” local governments in the adoption of codes allowing the development of middle housing types as required by House Bill 2001. This includes drafting Model Development Code language and formulating a set of minimum standards that can be used as a basis for compliance with House Bill 2001. This committee will consider two distinct Model Codes for consideration by the RAC and LCDC, one for medium cities and one for large cities.
- Infrastructure Deficiency Time-Extension Technical Advisory Committee. This committee will help formulate applicable criteria and the process to be followed by local jurisdictions requesting an extension for middle housing development code adoption due to an infrastructure deficiency. This committee will serve to define how a city might formally request an extension, what qualifies as deficient

infrastructure, and in which areas a city may delay adoption of middle housing development code.

- Housing Production Strategy Technical Advisory Committee. This committee will help develop required components of housing production strategies that will be adopted by local governments; identifying the process, criteria, and other necessary elements required for department review of housing production strategies; and developing the process and criteria by which the department and commission will identify, in consultation with the Oregon Housing and Community Services Department, cities with a population greater than 10,000 that have not sufficiently achieved needed housing within their jurisdiction or have not sufficiently implemented a housing production strategy.

D. COMMUNITY CONVERSATIONS

In order to gather information to help scope the development of the rules for House Bills 2001 and House Bill 2003, staff are hosting six community conversations around the state from November 2019 to February 2020. These events serve two purposes: to share information regarding the bills' key provisions, and second, feedback in small group discussions focusing on participants' hopes and concerns regarding implementation of the bills. The first forum was held in McMinnville on November 6, 2019. The second was held in Medford on December 10, 2019. Summaries are provided as Attachment A.

The four remaining Community Conversations are planned for the Portland Metro area (Milwaukie - January 29 and Hillsboro - January 30), Hermiston (February 10), and Redmond (February 11). According to demographics in each area, flyers are being translated into up to four languages (Spanish, Russian, Chinese and Vietnamese). While the meetings are held in English, interpretation is available upon request. Refreshments and childcare also are available.

E. SPEAKER'S BUREAU

In addition to the public forums, the department is involved in outreach to local governments and other interested parties to discuss the new housing legislation and implementation plans upon request.

Recent events:

December 3: Presentation to Clackamas and Multnomah County Planners (Ethan Stuckmayer, Gordon Howard, Jennifer Donnelly)

December 5: Presentation to the Portland Metro Regional Solutions Team (Ethan Stuckmayer).

December 6: Presentation on HB 2001 and HB 2003 implementation at the Oregon APA Legal Issues Workshop in Portland (Gordon Howard).

December 11: Presentation on HB 2001 implementation to the Portland Metro Policy Advisory Committee (Gordon Howard).

Upcoming events include:

January 13: Washington County Coordinating Committee (Gordon Howard, Ethan Stuckmayer)

January 15: Portland Metro Technical Advisory Committee (Ethan Stuckmayer)

F. ADDITIONAL OUTREACH

Department staff is drafting a comprehensive Community Engagement Plan that will outline all Housing Team outreach efforts anticipated in relation to HB2001 and 2003 rulemaking. Part of this Plan will be to schedule additional targeted public outreach events with historically underrepresented communities and organizations throughout the state. These events will likely more closely resemble focus groups than presentations or roundtable discussions and will offer a chance to gather valuable guidance from individuals with unique perspectives and lived experiences who are not able to participate on an advisory committee.

G. INFRASTRUCTURE RULEMAKING CONTRACT

The department issued a Request for Proposals for consultant assistance with infrastructure rulemaking from HB2001. This contract will require technical expertise in infrastructure planning on water, sewer, storm drainage, and transportation issues. The bidder selected must be able inform rulemaking efforts on the types of infrastructure deficiencies that will qualify for a time extension, the methods local governments may use to cure the deficiencies, and the timeframe local governments will have to cure the deficiencies. As part of HB 2001's progress through the Legislature, local governments lobbied for such a process to address significant existing infrastructure deficiencies that the middle housing requirements might exacerbate. We anticipate there will be local government interest in this aspect of the HB 2001 implementation process.

The Request for Proposals closed on November 27, 2019. The department received one proposal and is currently in negotiations to enter into a signed contract with a consultant prior to the first Infrastructure Based Time Extension Request Technical Advisory Committee Meeting on January 29.

IV. RECOMMENDED ACTION/ CONCLUSION

This agenda item is an opportunity for commission to receive a briefing on the progress of House Bill 2001 implementation and the public process supporting the development of both bills. The recommended action is to ask DLCD staff questions about the work to date or forthcoming or to give guidance or suggestions on the work to date.

V. **ATTACHMENTS**

- A. **SUMMARY OF COMMENTS FROM MCMINNVILLE AND MEDFORD
COMMUNITY CONVERSATIONS**
- B. **DECEMBER 2019 RULES ADVISORY COMMITTEE MEETING OUTLINE**