

HOUSING RULEMAKING ADVISORY COMMITTEE MEETING PACKET #5



TO: Housing Rulemaking Advisory Committee Members
FROM: Ethan Stuckmayer, Senior Housing Planner
SUBJECT: RAC Meeting Packet #5

Housing Rulemaking Advisory Committee Members,

Thank you in advance for preparing for another important Rules Advisory Committee (RAC) meeting. The fifth Housing Rulemaking Advisory Committee (RAC) meeting scheduled for **April 2 from 11am-3pm**. *IMPORTANT NOTE: Due to public health concerns, this meeting will be held entirely over Zoom. Please do not plan to attend this meeting in person at the DLCD offices in Salem.* At the time of the event, please follow the Zoom link in the meeting calendar appointment. Zoom offers both a video conferencing option and a telephone option.

Please review the information provided in this packet thoroughly in advance of the meeting. As usual, we will have a full agenda and look forward to receiving your guidance on the Middle Housing Model Code structure and preliminary concepts.

Additionally, it may be helpful to keep a copy of this packet close by in the event technology does not cooperate as we intend. We will reference packet page numbers when we are discussing specific items.

Request for Review and Comment on Meeting Packet Materials

In the spirit of working quickly and efficiently to meet our deadlines, careful review of meeting packet materials is essential. It is expected that RAC members come to each meeting prepared having read the materials and ready to discuss each topic in detail.

As the most significant Rulemaking Advisory Committee meeting to date, the primary objectives for RAC5 are to:

1. Provide final review of the Medium Cities Middle Housing Model Code,
2. Review draft Oregon Administrative Rules related to Middle Housing in Medium Cities,
3. Review draft the Fiscal Impact Statement and Housing Impact Statement for Middle Housing in Medium Cities rules,
4. Review key parameters and draft transportation rules for the IBTER rulemaking effort, and
5. Hear an update Housing Production Strategy TAC progress.

RAC Meeting Packet #5 Materials List

Number	Packet Item	Page
1	Agenda	5
2	RAC4 Summary	7
3	Discussion Worksheet	28
4	Final Revised Draft of Medium Cities Model Code	34
5	Draft Oregon Administrative Rules related to Middle Housing in Medium Cities	46
6	Fiscal Impact Statement/Housing Impact Statement for Middle Housing in Medium Cities	50
7	Large and Metro Cities Key Concepts and Code Topics Memo	56
8	Draft Large and Metro Cities Model Code Part 1	65
9	Updated IBTER Key Parameters Memo	79
10	Draft IBTER Transportation Rule Outline Memo	81
11	Housing Production Strategy TAC Update Memo	83
12	MCTAC3 Summary	91
13	IBTERTAC3 Summary	101
14	HPSTAC2 Summary	107
15	Public Comments Received Since RAC4	118

IMPORTANT NOTE: We have provided a Discussion Worksheet as packet item #3. This worksheet will mirror the discussion anticipated at the meeting. Please use the worksheet to take down notes or formulate your questions for the project team as you review the packet materials. Also, RAC members will receive an email after the meeting with the link to a fillable discussion worksheet where they can submit comments and/or questions that we did not have time for or were otherwise missed.

Medium Cities Middle Housing Model Code

This meeting represents the last time the Rulemaking Advisory Committee will be able to provide comments or feedback on the Medium Cities Model Code. On March 30, three days prior to the RAC's meeting, the MCTAC will have met to have final discussions on the Medium Cities Model Code. DLCDC staff hopes to be able to provide a summary of the MCTAC meeting discussion to RAC members prior to their meeting on April 2.

The Medium Cities Model Code provided in this packet is the most refined model code yet. It includes specific model code language and consistent minimum compliance standards.

You may notice some changes in this draft – particularly to the definition of a duplex and to the parking standards. These two items are expected to again be major topics of discussion at the MCTAC meeting on March 30 and with the RAC on April 2.

A simplified definition of a duplex does away with the criteria that the units share a common wall and instead relies on the units being within a single detached structure on a lot or parcel. The project team recommends keeping the qualifying statement about developments that overlap between a duplex and a single family detached unit with an internal ADU. Under the model code, the property owner is allowed to, at the time of application, declare under which standards the project should be regulated. There could potentially be advantages in either scenario.

There has been much discussion about the parking standards in both the model code and the minimum compliance standard. This version of the model code, reflects the project team's recommended policy position. Based on robust parking and transportation research, the model code has been changed to require no off-street parking for duplexes. This change is also consistent with statewide climate change initiatives adopted by LCDC and Governor Brown's recent Executive Order 20-04 to take actions to reduce greenhouse gas emissions and to address climate change. Lastly, the project team expects that few jurisdictions will adopt the model code without adaptations that better meet their local context. In this case, the model code and minimum compliance standards

work together to bring the discussion of parking requirements to the local level, where community members will have an opportunity to come to a solution that works best for them.

To better reflect the intent and utility of the “Suggested Approaches” column, it has been retitled to “Alternative Approaches”.

The “Minimum Compliance” column has been updated to better match the language in the draft Oregon Administrative Rule Chapter 660 Division 046, Middle Housing in Medium Cities. In previous drafts, this column in places had placeholders such as “same as model code” which didn’t exactly meet the intent of the minimum compliance standards. This has been further clarified both in the Model Code (item #4) and the draft OAR 660-046 (item #5).

Fiscal Impact Statement and Housing Impact Statement

As part of the noticing requirement of new Oregon Administrative Rules, DLCD is required to analyze the expected fiscal and housing impacts of proposed rules on various stakeholders. Typically, DLCD analyzes these impacts in-house. However, due to the complexity of this rulemaking effort, the department has hired EcoNorthwest to conduct this analysis.

DLCD seeks feedback on these statements of impact which will help the department determine if there are additional impacts that should be included in the analysis that are not already covered in the draft provided as packet item #6.

Large and Metro Cities Model Code

The project team has found that it may be easier to work through the Large and Metro Cities Model Code in parts. Provided in this meeting packet is Part 1 of the Large and Metro Cities Model Code which includes the purpose, definitions, and applicability sections of the code as well as the duplex siting and design standards that were discussed for the Medium Cities.

IBTER Key Parameters and Water/Wastewater Rule Outline

The IBTERTAC has met three times so far and made significant progress. The memo provided as packet item #9 provides an update on draft key parameters and concepts that have been developed with the assistance of the IBTERTAC thus far. Most recently the IBTERTAC met, via Zoom, on March 16. At this meeting the TAC discussed transportation system requirements and what would constitute an eligible transportation system deficiency. You can review the memo provided to TAC members in packet item #10. The TAC is working their way through the list of infrastructure systems outline in HB 2001 and have so far completed a review of water, waste water, and transportation services. At their next meeting, the TAC will discuss storm drainage infrastructure deficiencies.

Housing Production Strategies TAC Update

The HPSTAC has met twice since the beginning of the rulemaking effort began in November 2019. The group is working to refine which community engagement and reporting requirements should be considered and what types of enforcement actions are appropriate to ensure cities are making adequate progress towards addressing their housing needs. Additionally, the group will soon begin to curate an exhaustive list of the specific housing production strategies available to cities. These strategies will be organized into “buckets” which will help cities distinguish and prioritize strategies. More discussion of the buckets and what is to be included in a Housing Production Strategy Report is included in packet item #11.

If you have any questions on the materials in this packet or about the legislation itself, please feel free to contact me via phone or email, my information is listed below. We are grateful for your participation in this important initiative and look forward to working with you!

Thank you,



Ethan Stuckmayer

Senior Planner of Housing Programs | Community Services Division
Oregon Department of Land Conservation and Development
635 Capitol Street NE, Suite 150 | Salem, OR 97301-2540
Direct: 503-934-0619 | Cell: 503-302-0937 | Main: 503-373-0050
ethan.stuckmayer@state.or.us | www.oregon.gov/LCD

Additional DLCD Staff Contacts for the Rulemaking Process:

Kevin Young, Senior Urban Planner and Point of Contact for Infrastructure TAC

Questions kevin.young@state.or.us

503-934-0030

Robert Mansolillo, Housing Planner and Point of Contact for Model Code TAC

Questions robert.mansolillo@state.or.us

503-934-0053

Samuel Garcia, Housing Planner and Point of Contact for Housing Production Strategy TAC

Questions samuel.d.garcia@state.or.us

503-934-0617

Casaria Taylor, Rules Coordinator and Point of Contact for All RAC Logistics

Casaria.taylor@state.or.us

503-934-0065

Please note: email correspondence should be sent directly to Casaria.taylor@state.or.us who will then distribute to staff or advisory committee members as needed.

Rulemaking Advisory Committee Charge:

Members of the Rules Advisory Committee (RAC) shall provide guidance to agency staff to implement the legislative intent of House Bills 2001 and 2003. While complying with legislative intent, RAC members are asked to work with agency staff to develop recommended rules that:

- *Acknowledge the importance of reasonable regulations such as mass, scale, and design in accordance with clear and objective standards.*
- *Provide for affordable living choices including access to employment and transportation choice.*
- *Allow for phased development consistent with infrastructure supply.*
- *Strive to result in equitable outcomes that benefit marginalized communities and/or people.*

Housing Rulemaking Advisory Committee Virtual Meeting (RAC #5)

April 2, 2020; 11:00 am – 3:00 pm

By Zoom Web Conference

This meeting will be recorded and posted to the housing rulemaking webpage: <https://www.oregon.gov/lcd/LAR/Pages/Rulemaking.aspx>



PROPOSED AGENDA

Housing Rulemaking Advisory Committee Meeting #3		
Time	Topic	Who
10:45 – 11:00 am	<i>Login to Webinar and Conference Line</i>	<ul style="list-style-type: none">• RAC members
11:00 – 11:15 am	Welcome, Introductions, Announcements, and Agenda Review	<ul style="list-style-type: none">• Commissioner Anyeley Hallova, LCDC, and RAC Co-Chair• Jerry Lidz, RAC Co-Chair• Sylvia Ciborowski, Facilitator, Kearns & West• DLCD Staff
11:15 am – 1:20 pm <i>(Includes lunch break from 12:30-12:45 pm)</i>	Medium Cities Model Code: Review and Provide Final Input on Draft Model Code <u>Desired Outcome:</u> Present and seek final RAC input on draft Medium Cities Model Code and draft Oregon Administrative Rules, as well as fiscal impact statement and housing impact statement.	<ul style="list-style-type: none">• Robert Mansolillo, DLCD• RAC members• Sylvia Ciborowski
1:20 – 1:50 pm	Large Cities Model Code: Discuss Preliminary Concepts and Structure for Model Code <u>Desired Outcome:</u> Discuss preliminary concepts and structure of the Large Cities Model Code and seek RAC's initial impressions and feedback.	<ul style="list-style-type: none">• Ethan Stuckmayer, DLCD• RAC Members• Sylvia Ciborowski

Housing Rulemaking Advisory Committee Meeting #3		
Time	Topic	Who
1:50 – 2:20 pm	<p>Update on Infrastructure Based Time Extension Request</p> <p><u>Desired Outcome:</u> Provide Infrastructure Based Time Extension Request updates and discuss key concepts.</p>	<ul style="list-style-type: none"> • Kevin Young, DLCD • RAC Members • Sylvia Ciborowski
2:20 – 2:50 pm	<p>Update on Housing Production Strategies</p> <p><u>Desired Outcome:</u> Provide RAC members with an update on the HPS and continue to discuss the “buckets” of specific actions, policies and tools future housing production strategies should consider.</p>	<ul style="list-style-type: none"> • Ethan Stuckmayer and Samuel Garcia • RAC members • Sylvia Ciborowski
2:50 – 3:00 pm	Next Steps and Wrap Up	<ul style="list-style-type: none"> • Sylvia Ciborowski • Ethan Stuckmayer • Commissioner Hallova • Jerry Lidz

Upcoming Rulemaking Advisory Committee (RAC) and Technical Advisory Committee (TAC) Meetings	
Date/Time	Meeting
April 8, 2020 – 1pm-4pm	Housing Production Strategy TAC Meeting #3
April 14, 2020 – 9am-12pm	Infrastructure Based Time Extension Request TAC Meeting #4
April 21, 2020 – 9am-12pm	Middle Housing Model Code TAC Meeting #5
May 6, 2020 – 9am-12pm	Infrastructure Based Time Extension Request TAC Meeting #5
May 7, 2020 – 11am-3pm	Housing Rulemaking Advisory Committee Meeting #6

Rulemaking Advisory Committee Meeting #4
February 27, 2020; 11am – 3pm
DLCD Basement Hearing Room
635 Capitol St NE, Salem, OR 97301

Key Insights

Medium City Middle Housing Model Code and Administrative Rules

Definitions: Distinction between a Duplex and ADU – There was significant discussion about the distinction between the definition between a duplex and an ADU in both the model code and minimum standards. In general, RAC members agreed that a distinction in the definition between a “duplex” as two primary dwellings and “single-family dwelling with an ADU” as one primary and one accessory dwelling should be clear. This should be balanced with the provision of flexibility for jurisdictions that wish to accommodate both duplexes and ADUs on the same lot and wish to accommodate detached duplexes.

Parking – Off-street – Discussion regarding off-street parking highlighted the need to balance the impact of off-street parking requirements on duplex development viability with ensuring standards meet the needs of communities where off-street parking is a greater concern. There was disagreement amongst RAC members as to whether Option “C”, which requires one parking space per unit, was an appropriate standard. Some believe that off-street parking requirements impose a significant barrier to middle housing development while others feel it is important in accommodating their community needs. The topic of off-street parking credits also came up, though there were mixed ideas around providing them. On one hand, jurisdictions could provide minimum to no parking requirements combined with off-street parking credits, but at the risk of inciting quarrels around “rights” to parking spaces, specifically for developments that choose into parking credits. It will be important for the minimum standard for compliance to have a rational basis supported by evidence.

Parking – On-street – In general, RAC members supported the provision of some type of on-street parking credit, but noted a few circumstances that could arise if not appropriately considered. Some communities have deficient street widths or frontage to accommodate on-street parking, and it will be important to consider how to retain on-street parking after development occurs. Additionally, it is important to consider that land use regulation is not the sole policy driving the availability and utilization of parking.

Additional Important Middle Housing Topics – The discussion window did not leave sufficient time to cover all topics important to RAC members. The following are important considerations for rulemaking and future meetings:

Clarifying the meaning of “unreasonable cost or delay” – Members expressed a variety of views as to what constitutes “unreasonable cost or delay” in relationship to specific development standards and processes. Clarifying this, especially in context of existing case law and administrative rules, will be important for the rulemaking process.

Discussion of maximum density, lot size, and other dimensional standards

Discussion of Code applicability in the context of Statewide Planning Goal protected areas

Infrastructure-Based Time Extension Request

Establishing a Reasonable Development/Redevelopment Rate – Preliminary information from jurisdictions that have implemented middle housing policy indicates that development and redevelopment would happen gradually. RAC members generally agreed and indicated that two distinguished rates for infill (1%) and greenfield (3%) development are appropriate in the context of an IBTER.

Timeline for Addressing an Infrastructure Constraint – In general, RAC members agreed that a five-year timeframe with the ability to request an additional five years is a reasonable time frame. One outstanding question indicated by RAC members is whether an IBTER determination is an appealable decision and what the process for resolving that would be. Additionally, interagency and service provider coordination was raised as a potential concern with addressing deficient infrastructure in the defined timeframe.

Outdated Utility Master Plans – In general, RAC members agreed that an outdated utility master plan alone was not a valid basis for an IBTER. If a jurisdiction is in a situation where they recognize in their daily operations that there are infrastructure issues they are facing, then demonstration of those issues will be important in the preparation of an IBTER.

Housing Production Strategy

Meaningful Community, Regional, and Stakeholder Engagement – RAC members expressed a variety of ideas to ensure that Housing Production Strategies meaningfully engage and meet the needs of community members and stakeholders. Ideas included incorporating the Citizen Involvement Advisory Committee during the HPS rulemaking process, convening affordable and rural housing developers to identify opportunities and barriers to housing production, and educating local jurisdictions on the financial side of housing development. Additionally, recognizing regional differences will be important in the development of an HPS.

Location of Housing and Deliberative Policy Choice – It is important to recognize that the strategies identified in the Housing Production Strategy are not alone sufficient to ensure housing is produced in locations with greatest access to opportunity, nor should the burden of achieving this solely fall to jurisdictions. Additionally, it is important to recognize that the current conditions of inequitable housing distribution were the result of historic and deliberative policy choices and a reactive or passive response is not appropriate to alleviate those conditions. Locational equity considerations will need to be addressed in HPS work, such as through scoring criteria for potential subsidized housing developments.

Rulemaking Advisory Committee Meeting #4
Meeting Minutes
February 27, 2020; 11am – 3pm

Attendees:

1. Anyeley Hallova
2. Jerry Lidz
3. Ethan Stuckmayer
4. Chris Pryor
5. Mary Kyle McCurdy
6. Allan Lazo
7. Theresa Cherniak
8. Mark Rust
9. Ed Sullivan
10. Jeff Blaine
11. Peggy Lynch
12. Colin Cooper
13. Nancy McDaniel
14. Ted Reid
15. Shannon Vilhauer
16. Chris Storey
17. Kimberli Fitzgerald
18. Sean Edging
19. Mike Boquist
20. Joel Madsen
21. Angel Falconer
22. Drew Farmer
23. Lynne McConnell
24. Damian Syrnyk
25. LaQuida Landford
26. Hope Beraka
27. Michelle Glass
28. Derrick Tokos
29. Brian Martin
30. Alison McIntosh

Agenda:

- Review the draft Model Code for Medium Cities.
- Questions up for group discussion.
- Review the key parameters and draft waste water rules for the infrastructure-based time extension request.
- Touch up on the housing production strategy element.

Meeting Summary:

- Introductions, opening statements, and meeting agendas.
- Ethan – updates.
 - Doing a lot of things in the background to prepare for these meetings and to prepare for the alternate rule adoptions.
 - We've had four committee conversations since the last meeting in January to collect input around the state from planners and other practitioners, and also from the general public and elected officials. Conversation at those meetings is really focusing on House Bill 2001.
 - Calendar updates and reminders.
 - We will be bringing back the medium cities model code to the technical advisory committee two more times. Then we'll bring it back to the RAC one more time at this body's April 2nd second meeting.
 - We'll also look at draft rules that will go to conservation and development commission, a fiscal impact statement that's associated with those draft rules at that meeting.
 - Much of that meeting will be focused on the model code technical advisory committee work and getting that prepped for commission adoption.
 - Will be updating the website as we're collecting information and collecting the questions that we hear from the RACs and TACs.
 - Also updated the website with a webinar that we've posted related to the planning assistance dollars that cities are eligible for.
 - DLCDC website navigation issues brought up.
- Middle Housing Model Code.
 - Introduction; first chance for the RAC to look at the Model Code.
 - Asking for some feedback on how we can make this implementable across various communities.
 - Had an initial version of this draft at our last meeting on February 4th.
 - Questions:
 - This isn't the actual code language that will be written?
 - The language and the Model Code column will be the actual language of the code.
 - Which of these columns will actually be adopted by rule?
 - The Model Code. In the actual OAR sections, it'll be the minimum compliance, then it will adopt by reference, the Model Code.
 - How would you like to receive editorial comments on each of the items and each of the boxes?
 - If providing comments on wordsmithing, maybe a better way to do that is through track changes option, but that seems difficult.
 - We'll be thinking about how to make it easy for you to provide additional edits to language going forward.
 - Columns:
 - One column is for the suggested approaches and is completely optional.

- Next one is the minimum compliance column. That is if a city wants to create their own code, this is the language that they have to meet to be in compliance with House Bill 2001.
 - Then, the commentary. This is some notes from the consultant on really how they reached the language in the Model Code or some examples of that.
 - Key concepts:
 - Duplex.
 - Quite a few discussions of the definition of what a duplex is. How that relates to an accessory to one unit whether the unit is attached or detached.
 - What we're proposing here is that "duplex" means a building that contains two units on one lot. That's the attached version. The units must share a common wall or common floor ceilings, either side by side or two floors.
 - In an instance where a building can meet this definition of the duplex and also meet the jurisdiction's definition of a primary dwelling unit with an attached or internal ADU, the property owner has the option of electing which way they want to go with that whether they want to classify it as a duplex or a primary with an internal ADU.
 - Some trade-offs with either approach. With ADU, there's no required off-street parking but some cities have limits on size for an ADU. Then, if a property owner wants to classify it as a duplex, they will have to meet some parking standards but there won't be any size limitation.
 - For minimum compliance, it's similar. The code defines a duplex as two attached units on one lot. The definition must distinguish duplex from combination of single family detached in an ADU for the purposes of specifying all street parking requirements.
 - Confusion on the ADU portion of the duplex definition.
 - Mary Kyle doesn't think it's legally supportable to allow an ADU with a primary unit to be included in definition of duplex. Cited that just for the history of signed bill 1051, which passed in 2017 and has the ADU component in it, the precursor to that bill used to include both ADUs and duplexes defined separately.
 - Sarah agrees, and said that it wouldn't be legally defensible to not allow the development of a duplex on a lot that has its primary purpose still being the use as a single-detached residential property. Said that we need to be very specific that we're talking about the development of two primary dwelling units.
 - Theresa agrees but also wonders how to address that because she's not sure if then we should allow a duplex as well as that, but doesn't know how that's addressed in this code.

- Jeff doesn't know enough to say that he disagrees with that, but some clarification on that would help.
- Kevin thinks the intent of this section was to address exactly this issue. Said that the plain language of SB 1051 was you have to allow ADUs with single family detached dwelling, so nothing here makes that a requirement. He thinks there's a language issue but that also everybody's on the same page.
- Suggested to Mary Kyle to rewriting the definition, or if there's anyone in the room that she thinks would make it clearer that might be helpful after the meeting, to try not to wordsmith.
- Jerry thinks that underlying some of the discussion is some confusion about whether you had two connected dwelling units.
- Lynn thinks that where we have landed is that our assumption and presumption is that the Model Code will apply to jurisdictions that do not already have existing permissible code in place by the deadline. Agrees with Mary Kyle that the definition of ADU is probably a bit beyond what we should be getting into today.
- Brian's recollection of the discussion was that it really was sort of a technical solution to this Model Code landing on top of cities' current code where they might already have a definition of an accessory dwelling unit. Thinks that it is okay as long there's always a duplex allowed and there's some mechanism to handle when something could qualify as an ADU or the creation of a duplex through a remodel.
- Sarah asked that assuming that that ADU could qualify as a duplex and meets the standards there too, does the owner have the option to choose to have it treated under the laws of duplex or an ADU? Second one is assuming you have this single family attached primary dwelling unit and you have an existing ADU, can you develop a duplex on that lot, either convert your single family into a duplex and in the other way, develop a duplex? She thinks that the model tries to address those two issues in a language that already exists. Disagrees with how it addresses the second issue but agrees with how it addresses the first issue.
- Mark's quick answer to Sarah's question is that from his and the City of Springfield's perspective, they want the most flexible possibility available, looking at the more flexible definition of any two units on one lot. He thinks a duplex and an ADU should be generally allowed, and is what it sounds like by legislation, echoing Mary Kyle's point.

- Drew doesn't have a strong legal opinion, but by his consideration, he would think that it should be declared a duplex, and that the option not be in place to pick and choose by the developer what's going to be an ADU and what's going to be a duplex, but that if it meets the definition of a duplex, it'd be considered that way.
- Colin thinks that we're talking about two different things and that everybody has their own ADU thing going on, and that that would differ. You've got your duplex code, and you've got ADU code, and that would differ in each jurisdiction. Keep them separate and don't try to blend them.
- Mike thinks that duplex and ADUs need to be clearly defined as something different and not overlap where somebody can switch and they could call something, something that it's not. Question that there is no clear opportunity under the Minimum Compliance to even allow a detached duplex where it looks like the TAC comments are clearly intended to allow that opportunity. Would like to see that section modified to meet the intent of two dwelling units on a property that could be primary dwelling units, could be considered a duplex whether they're attached or detached.
- Jeff supports the described distinction between ADUs and duplexes and the definition of that suggested strategy. Voiced a concern in relation to a situation that would yield three units on a lot versus two. He thinks that what's written in the Model Code was intended to not create a scenario where you ended up with it, not require people, allow a duplex plus an ADU but not prohibit people from having that flexibility if they so choose. He thinks it's pretty clear that the intent is to only have two units as the end result, the minimum required of an agency to allow, but if agency wanted to do more, they could.
- Allan noted that folks have mentioned parts of the Model Code but also made reference to the Minimum Compliance column. Was answered that the Model Code has to be written in a way that can be applied, so it can't be kind of, "Well, you can choose one or the other," where the Minimum Compliance could be one or the other, but the Model Code has to land at that one position.
- Peggy wanted to make sure that the Minimum Compliance ought to be clear, but the Model Code ought to reflect the Minimum Compliance. Was answered that each column is reflecting a slightly different approach. The Model Code is off the shelf, so it's got to be written in a way that a city could just grab the document and say, "That's ours." It's a little more than minimum standards. It's somewhere between the suggested approaches or the ideal, but it's

a little more than the bare minimum. Also, that Minimum Compliance are things that must be at least met when you write your own code.

- Ethan point out a dynamic that was talked about at the TAC and that Lynne from the City of Bend mentioned. They currently have what is called “compliant provisions” for the duplex and triplex, but they haven’t dealt with the fourplex issue related to House Bill 2001. If they failed to adopt a compliant House Bill 2001 code by the deadline for it to deal with the fourplex issue, the Model Code would apply wholesale that would now restrict what they currently allow for the more flexible duplex, triplex provisions.
 - Jeff asked about a small community with limited resources that it either doesn’t necessarily have the financial capacity or the staff capacity to take on writing their own code, are we penalizing them by making them adopt more stringent standards than the minimum because they don’t have the means to take on with us in a larger community for this? Was answered that there’s \$3.5 million planning assistance available for cities to adopt local middle housing codes but staff capacity is certainly a concern.
 - Ted wanted to flag that we didn’t get to a consensus. He noted the plain language of House Bill 1051 that said, “You shall allow an ADU for every single family home,” and also in line with House Bill 2001, “You shall allow a duplex,” and so he was in the mind that this is about housing production and contemplated allowing three units per lot.
 - Theresa commented that some jurisdictions like Washington County now allow an attached and a detached ADU. That right now, they are allowing three units on a lot, and so it just gets more and more complicated with this. But Sylvia just wanted to keep in mind that it’s not like one can do it just because it exists and that there are other things prohibiting it.
- Parking.
 - Anyeley stated that the Model Code only requires one parking space for the duplex and that the Minimum Compliance allows that it shall require no more than two parking spaces. Also commented that the cost of parking translates directly into the cost of a rental or buying the unit, especially when it’s in a garage.
 - Robert stated that the intent was to limit the required space to one, but a jurisdiction can allow more. So, that needs to be reworded there a little bit.
 - Getting to minimum compliance, we have a couple different options:
 - Option A, “Jurisdiction shall require no more than one additional off-street parking space for a duplex in addition to the minimum space required for detached single-family dwelling in same zone.”

- Option B, “Jurisdictions shall require no more than three minimum off-street parking spaces for duplex.”
- And then Option C, “Jurisdiction shall require no more than two,” and we actually want to take off that minimum, “Off-street parking spaces for a duplex, one per unit.”
- One thing to note here is that option C and the Model Code language, it limits the amount a city can require but not allow, so if you’re in a housing market that demands more parking, it’s allowable if a developer can justify and not impact the building footprint of the lot itself.
- On-street credit.
 - At the bottom of page 27 of the packet, the on-street credit, “On-street credit spaces meet all standards in subsection 5.b below. They shall count towards the minimum off-street parking requirements.”
 - Standards are:
 - On-street parking must be allowed on the same side of the street where the space is to be provided.
 - The space must be a minimum of 22 feet long.
 - The space must be abutting the subject property.
 - The space must not obscure a required sight distance area.
 - One thing to note on the parking credit is that it is for the purposes to meet the required parking amount.
- Jerry asked for a definition of an “off-street parking space.” Was answered that jurisdictions typically are just giving credit for one construct and that it’s a common definition, but that it also might be defined by each jurisdiction individually.
- Shannon asked if the HB 2001 is able to override HOAs and condos that are already plotted with parking requirements. Was answered that the only language in HB 2001 that speaks to CC&Rs is just the language that says, “From this point forward, thou shall not establish any provisions that preclude middle housing.”
- Mike commented that he wasn’t able to find anything in House Bill 2001 that even talked about parking requirements for duplexes. He think that there should be a maximum number of two parking spaces if that’s what both agree to, but doesn't know if there even should be a requirement for parking quantity in this section because the House Bill doesn’t seem to speak to that.
- Mike’s other comment is about the Model Code, since this is something that potentially could be forced on a community that doesn’t adopt a revision or adopt a standard. Really liked the idea of the getting credit for on-street parking, but that we also need to

consider that it is going to create a burden on the public works departments and our right-of-way infrastructure.

- Allan pointed out the potential differences of opinion among the types of folks that are seated around the table. He stated that parking becomes a real barrier to creating new housing in communities. He thought that these bills are aspirational to some degree, but we ought to not let that go as we're implementing.
- Jerry's thoughts:
 - Relying heavily on on-street parking credits seems to me to be a can of worms. A problem is if you live on a busy street or in a neighborhood where there's already a number of folks who'd want to park there, homeowners somehow tend to think that they own the space in front of their house. That this will encourage people to maintain or enhance that attitude that, "Well, I got credit for that space. That's my parking space because I don't have one attached to my house."
 - What are our goals? To him, it seems that in cities that have available transit, it is an aspiration to have fewer parking spaces and encourage transit. Doesn't think that true for cities under 25,000, most of whom do not have adequate transit, and it seems to him that it's a weird kind of aspiration to say, "We aspire to give these homes less access to parking." Understands their reasons for it, but for the smaller cities, it seems all incongruous, which makes him ask, do we need to be covering parking in this set of rules?
 - Worries that we will adopt either a model or minimum standard that doesn't work, because our smaller communities differ so much from one another.
- Peggy stated that the City of Corvallis is in a middle of dealing with this parking issue. Pointed out that she notice any place where there was a discussion about skinny streets and only having the ability to park on one side.

➤ Lunch Break.

- Middle Housing Model Code.
 - Parking (continuation)
 - Michelle wanted to weigh wanted to weigh in as someone who is a sitting planning commissioner in a town with a population under 10,000 that has currently conducted a parking study and is currently revising our parking standards.
 - Thinks that having a minimum has been something they've been looking at. Certainly, developers can exceed those if the development or the community or the market creates

- demand for that, but having a minimum is a helpful piece of the affordability puzzle because of the cost of parking spaces.
- Thought that there were a lot of assumptions built into what rural communities need.
 - Are in the process of reducing parking minimums for development across their city because they're seeing data showing that parking significantly increases rents.
 - Is in favor of having some minimums, and certainly those are minimums and can be exceeded as the community needs them to.
- Mike wanted to comment on the broad strokes purposes of what we're doing here. He hoped that we are implementing some rules that can be long-lasting. Thinks that the parking requirements with Option C are very well appropriately in there. Believe that it's going to be a requirement as cities continue to grow, to have parking requirements. Also pointed out that there are cities and advocates that are vehemently against the implementation of House Bill 2001 that will use parking and parking requirements as a method to prevent and deter the implementation of duplexes and more housing, generally.
 - Jeff pointed out comments that were made about specific differences between Portland, Eugene, and some of the smaller cities. Thinks that is a real distinction that we need to be mindful of. Thinks that it's important that we remember the parking need for addressing that flexibility as we go through this. Also mentioned the DLCDC staff tasked with implementing legislative intent and balancing all of our different perspectives that we bring to the table.
 - Hope opined that there shouldn't be any parking requirements. Whether covered or uncovered, requiring parking seems to me to create a barrier to housing production. I don't think, as a body, that we should be overly concerned about how the public might feel "entitled" or even delusional about what their rights are with regard to the street parking in front of their home.
 - Chris responded to the comment that parking is a barrier to housing production is true but it's non-unique. You require parking for single-family housing and businesses and everybody else. It's a barrier for everybody because it's also a necessity and part of what I'm hearing Jeff say is cities and public works have a responsibility to ensure what we're building in these neighborhoods to a certain extent, and it is very difficult to have the conversation and say we're requiring it for single-family homes but we're requiring less for more density than what we're going to do to duplexes, which I think is where you end up with some of these provisions. Whatever you require for a single-family home, you can require for a duplex. If you require less, you have to have a really good argument why.

- Allan commented that we understand jurisdictions in which there are parking requirements for singleplex residences and my understanding is there generally is. I think what I would also offer is that I actually think the legislative intent of HB 2001 and this conversation we're having about missing middle is that we're creating a different animal. That part of where we got ourselves in a situation now was created by exclusive singleplex resident zones and that we are talking about something different and so it might require us to think a little differently about how those requirements impact housing production strategy. Again, I recognize that that places a bigger burden on jurisdictions and how they react to that as well as homeowners. I'm a homeowner who feels entitled to the spot in front of my house. I look out every night and somebody parks there but I also understand that that's part of the solution. That utilizing that land and that is important and I recognize it as a problem.
- Chris from Eugene: With regard to parking, one of the challenges that we have, and maybe it's not true in medium-sized cities, but in a larger city like ours is if you provide a credit for the construction of a living unit, you assume that credit carries forward, but I can't assure that that credit carries forward because I can't assure that that parking place will be available forever. I think the idea to provide a credit is an interesting one but you have to have some sort of a mechanism to ensure that that credit carries forward in the future that it suddenly disappear after watching it three, four, or five years. If you're thinking about credits, perhaps the kind of credit you could offer would be for locating along a transit corridor. Because a transit corridor is something that hopefully will be there for the long-term and if you say I'm going to use public transit and that transit will be there, maybe that is a credit to give that a longer term to it.
- Theresa hoped that at some point in the next meeting we get to talk about and that would be the maximum density and minimum lot size.
- Shannon asked about unreasonable cost and delay. She shared that she has been talking to affiliates in Forest Grove and McMinnville who are building homes and they have seen their permit costs per home increase 100% in the last five to 10 years. Now it is considered reasonable to have SDCs for permits to build two homes that have increased 100% in the last five to 10 years. On top of that, there will be flood lots and you've got the setbacks to build a duplex. You're going to sell two attached homes separately but if you had one extra family to this block radius, now you need to have a hammerhead turnaround for a firetruck and a fire extinguisher.
- Hope added that Portland metro has this long-standing zoning that allows homeowners in residential zones on a corner to convert their home into a duplex. About only 4% of homeowners have opted to

take advantage of that. She also spoke to the question of how market forces impact an issue like parking. If a builder builds a property that does not have parking, whether it's for sale or for rent, and end users find it unpalatable to spend money on that product whether, again, for lease, rent, or purchase, then the market will determine – they'll determine that outcome for developers.

- The City of Portland has enough parking for everyone everywhere. They exist. They're just not being utilized in a way that allows for everyone to use them.
 - Also, for the next meeting, some clarity regarding goal-protected areas under the equitability section.
 - The Model Code TAC will meet on March 5 with a revised draft as well as March 30 before the RAC meets again on April 2 to review their final recommendations.
- Infrastructure-based time extension request update.
 - We had a discussion on key parameters. We talked about water and sewer. Preliminarily what types of information we would need for a local government to assert infrastructure constraints that might warrant a time extension based on water or sewer infrastructure constraints.
 - The idea is that there may be some areas within cities and local governments where infrastructure mechanics will not adequately support middle housing and so it may be necessary for those local governments to request additional time to address those infrastructure constraints before middle housing codes are applied in those areas.
 - Preliminarily, we talked about difference between what we're calling a redevelopment and new development. As you think about how cities may respond to middle housing, there are going to be two distinctly different areas where you might see a response. Within an existing developed single-family neighborhood, you're going to see a level of redevelopment and infill that may be including middle housing types but for "greenfield", which would be an undeveloped or underdeveloped area. Say it's immediately abutting a developed area but it's ripe for urban development. That is an area where if the option of middle housing is presented to the developer, what will the response be in terms of the amount of, say, duplexes, triplexes, fourplexes that might be applied in those areas.
 - One of the key questions here is redevelopment as rate of redevelopment or development that will occur. There's some direction in the bill, House Bill 2001, includes a stipulation that talks about an assumed 3% redevelopment rate. That is applied in the context of when a local government does housing needs analysis. That typically is something where they're looking at their land supply and they're looking at their housing needs over a 20-year span and assessing whether they have enough lands to meet their housing needs within that 20-

year span. The bill says within that framework, local governments may assume no more than a 3% increase resulting from the middle housing provisions. A scenario where that might come into play, for example, would be just a theoretical construct. If you have a city with let's say 10,000 single-family detached homes, all developed, it's all built out over 20 years. If that's all built, what level of redevelopment, we assume, the bill would say at the end of that 20-year period, you're looking at 3% increase, which should be 10,300 or 300 additional units within that realm. So that's a pretty small incremental bump. However, the bill does go on to say that if local governments can't demonstrate a higher rate based on codes that they have adopted or that an abutting local government has adopted, they may rely on a higher rate of redevelopment.

- The timelines are pretty cut and dry. The frame of reference for an infrastructure constraint is over a very short period of time so essentially, from the time of adoption of the middle housing code to December 31 of 2023. That's essentially for the medium cities that's at two-and-a-half year period. So it's a two-and-a-half year portion of that 20-year span. Given that, we did the math and calculated what's one-eighth of essentially of 3%. It is a very small percentage. I think the number is 0.00375 as a multiplier that we're looking at. Is that a reasonable number? I will say preliminarily, based on a few data points, we don't think it's necessarily inaccurate. I know previously, the City of Portland's duplex corner lot duplex allowance was discussed and we've seen the rate of redevelopment there within the city over at least the last two decades it's been in place - I think I heard 4%.
- Similarly with city of Portland's ADU changes that were recently made, they decided to entirely waive the SDCs for accessory dwelling units. The additional production there is quite small and I would say in line with the multiplier we're looking at here.
- Recently, in fact, a few days ago, the City of Vancouver, British Columbia released some data. They're one year into their duplex only allowance and what they found was that the number of homes that have redeveloped with duplex within established neighborhoods and Vancouver is quite small. It really is in line with the numbers that we're looking at here. I think it was 86 conversions out of a total of 67,000 detached single-family dwellings.
- Part of the question, too, is do we apply a different multiplier for redevelopment in a developed area than we would apply to a green field area. This memo asserts that maybe that makes sense. That's what this memo lines out is a suggested rate of 0.000375 for redevelopment rate with an existing neighborhood and a 3% rate within a green field area.
- A sample calculation quote within an existing neighborhood, 100-acre site, and 800 single-family homes, we apply that multiplier, we come up with three

additional units over that two-and-a-half year span. Again, this is all in the context of the infrastructure question. How much additional demand will be generated by how many new dwelling units can we anticipate under middle housing? So that would be the math for that type of redevelopment. On a green field site, we apply it at 3% to the same scenario: 100-acre site, 800 dwelling units. We're looking at 24 units produced in that two-and-a-half year span.

- What we're needing to do is to provide to local government's direction is how to apply for time extension and key part of that was what assumptions local governments make about what redevelopment they're going to see with middle housing over that two and a half years and we're suggesting these numbers as a good basis. We're also saying that if they can demonstrate that they've adopted similar provisions and have seen a higher rate, they can provide that in evidence and go with that number.
- The City of Corvallis has three different low density residential zones. Two of those zones allow for most types of middle housing outright already.
- We haven't necessarily arrived at or decided that we're going to tackle defining level of service for local governments. We understand most local governments have a level of service measures, particularly with more cut and dry water service. You might have a fire flow, a minimum fire flow requirement that sets your standard. Transportation has two issues, one is the level of service or the overseer or whatever your metric is, your performance standard for the transportation system. The other question that I think we're going to need to talk about is what level of minimum improvements to the transportation system that need to be in place abutting the site but accessing the site in order to allow movement.
- The most recent TAC talked about water and waste water and their next topic is transportation.
- So one of the things we've thought about is maybe we want to look at and ask DLCD for some money for looking at what areas might have some of these problems that we might want to get ahead of. What areas might we end up seeing a lot of redevelopment because it has a lot of capacity and then what areas then might have a problem that we should be planning better for the infrastructure since it does have the capacity.
- A question from Damian: Is there a process already in place where you can direct them to a staff at the department who can help a jurisdiction get public facility plans updated, maybe coach them a little bit and update their capital improvement program and actually get caught up on their infrastructure for their current land uses?

- Theoretically within DCLD’s purview although the agency doesn’t have resources to assist with brick and mortar or engineers with that level of expertise. We can certainly assist with planning efforts and consistency with statute and rule.
- A question from Kimberli regarding goal protected sites, particularly archeological sites and consultations with tribes.
- The response was, “We have I think the proposal that we brought to the TAC was a five-year advice with a five-year extension kind of process.”
- Questions:
 - One, reasonable development and redevelopment rates used for the IBTER analysis. Should there be one rate or separate rates, from new development to redevelopment?
 1. I think the rate of redevelopment numbers is pretty solid in them. You’re likely to see a relatively low adoption rate in them. We’re likely to see a relatively low adoption rate. I think it’s something that we should just go with. I don’t think we’re going to see the same this year, but I think if it’s far more likely that we see adoption a lot this year, frankly, to do a clean slate budget and raise that do in the redevelopment side, we should be able to make a distinction between the two in our application process.
 2. In a greenfield scenario, you’re thinking rates are going to be higher or what? Yes, higher than 3%. As the greenfield is built, that infrastructure will be sized to accommodate whatever it was planned to improve.
 - Reasonable timeline for addressing an infrastructure constraint.
 1. Our key parameters memo suggested an initial five-year extension with the ability to request additional five years based on certain circumstances.
 2. The multijurisdictional piece, especially when you’re dealing with say like we might not have - the priority across the statewide system might not match the same priority that you have for the partner, their system that’s in your community. I think they started their last stint in 2017, and that group of projects goes through 2024. So, when you start thinking about how do you navigate that process five to 10 years and beyond, that, a project of that type of complexity, a long window is potentially needed to reflect reality, and then just the funding component, depending on what a community comes up with last – so, treatment plans, it was a system-wide thing that \$85 million or something like that. That takes a while to generate your rate base even to cover, debt service covered. We have to uphold or whatever your challenge is, because

five years goes by like that, but I could give a number of examples that I think I don't need to, because it's all obvious to you of why you don't want to have an infinite timeline either. So, that was an example that's dealing on the public works' side.

3. A city should apply for that additional extension before the first one expired, and DLCDC then has 90 days to decide. It said they would just grant it an additional 90 days to the initial. So, they might require that you request for it and expire – second, it's to refile it 90 days before the first one expired.
4. Whether an outdated utility master plan on its own would be a valid basis for an extension request. I think we did generally get to consensus that a jurisdiction of assertion that their master plan is out of date in and of itself is probably not enough to warrant an infrastructure time extension request. What we would expect to see at a minimum would be a demonstration that, yes, we've got problems. So, we really don't know how big of a problem this is, and we would expect that the local government would build in that analysis in the timeline of first understanding what the problem is and then developing of plan to address the infrastructure constraint.
5. About infrastructure improvements that are typically provided in conjunction with residential developments, so the conditions of development and I think it's been brought up that it can end up being a problem for development, but it's also something that's needed in order for the development to happen. So, it kind of goes back to the reasonable citing and design regulations and extent. So, I think that is being kind of the overlap between these two things and if we just make sure that it is reasonable to still require infrastructure improvements that might be needed for the development to happen.
6. Yes, I think we necessarily need to allow local governments to continue to require the infrastructure to be built in conjunction with development. We certainly do not want to tackle rough proportionality, on behalf of local governments throughout Oregon. So, we'll defer to those local calls on that question.
7. SDCs typically do a fund what I'd call "extra-capacity improvements," and when I use that term, I mean beyond what a local government would require for the onsite, whatever that infrastructure requirements, build a sidewalk, widen street. On your

frontage, it's beyond that, the extra capacity. That's the piece that the SDC strictly leaves out.

8. Chris wanted to flag about parking and its relation to service water impacts as there is a direct correlation as the more parking you have, the harder it is to deal with the surface water on it.

- IBTER next agenda will be on March 16 about transportation and then April 2nd, draft rules with discussion of those draft rules during the May DCLD meeting and final adoption in July.

➤ Housing Committee update by Samuel Garcia.

- Some of the main points that we talked about in that meeting were housing production strategies, some data points that would be sufficient enough to kind of look over, contextualizing the ideas behind the city's housing need and the need for housing production, and some of those ideas were, in the bill, it talks about having market conditions collected, demographics collected, but other ideas came out were commute patterns, travel patterns, some employment trends, and even some BOI and inventory ideas, and the idea that we need to balance a lot of these question needs with the capacity of what many communities have to collect data, and to kind of already, I guess, concentrate that also around some of the data that's already been collected that there's some of the programs that we have already. Another topic that we talked about was buckets of information or categories for tools that we would have on or having put out some strategies, and how to put in strategies. There will be list of tools that jurisdictions can suggest, policies, strategies, but we want to think about what types of categories that we can build these into so that people can kind of like prove them up into broad categories. Some of the ideas that came up were pretty broad still, but we're working on refining them, that the creation of financial and regulatory incentives, one, reduction of financial and regulatory impediments, access to resources at the local, state, and federal level, and then creative and innovative solutions. So, we'll be continuing to work on that as time goes on, but those are some of the buckets, and then another topic that we talked about were equity considerations that we would need to take into account as seeing people in major cities to create their housing production strategies and where the equity considerations they need to take into mind as they are thinking about them, and some of the ideas that came out of that conversation were infrastructure for spreading for the communities and communities with limited capacity, the communities that have the sort of the marginalized residents It's saying not just the number of units but also where these units would be perhaps located at, close to transit, close to other mandates in the community that would widely support healthy and safe neighborhood, and then also providing housing for not just the low-income communities or sort of the marginalized to invest in that, probably even the aging communities and disabilities and what that would look like. Then another final topic that we got to was what meaningful engagement would look like. We want to be able to strike a balance between not just checking that between, checking the box kind of engagement and also just being overly prescriptive about who we target. So, we are thinking not just checking the box, but

also asking communities to really think about reporting to us about how they are reaching out to underserved communities and what kind of strategies they have used for that, but also thinking about how their engagement may affect their housing production strategies initially or how they're going to change the need described, how much more they need to build out for those communities, and then, yes, that was pretty much it. We were trying to also get into topics but we got a lot of survey feedback from progress talking about how are we going to track progress of the housing production strategies and how to know the needs and assess from jurisdictions and how soon that data should be collected, and then also what tiers in enforcement of the DLCDC should have that they're able to employ when communities are unable to create satisfactory progress towards their housing production strategy.

- Peggy questioned whether or not the Citizen Involvement Advisory Committee for LCDC might have annexes to that information and as these move forward cities actually begin to do this work, are there other things that we can learn from that then that they might be the place of learning about that information and being able to share it for a statewide?
- The bill sort of presumes that the barriers to additional housing production need to be solved at the city level and cities are the key movers, but I'm recalling some extensive dialogue in the Metro area around density assumptions and growth of the UGB. It very much impacted what people viewed as available lands for construction of new housing at the Metro level. So, I would commend this group that even if it's not necessarily a part of regulation but a recommendation that the state and the Metro undertake a similar exercise, because I think the more tools we could throw on the table to encourage housing development and implementation would be fantastic, and I can, in my spare time, I'm happy to chirp off some ideas about what Metro and the state could do, and I would also just observe that we had also talked about ensuring it's part of the engagement and outreach, that the cities are engaging with special district partners, because there are several instances, Washington County is certainly one of them, where the cities are not the service providers for some of those key services. So, they would need to partner with jurisdictions to make sure they're building strategies.
- The commissioner suggested that it's really important to have that rural lens that I feel like only developers in rural areas can give feedback specifically on tools that would cause someone to say, "Yes, I want to take the chance, and I'm going to this area that I even wouldn't have thought of before."
- Shannon offered to convene their Habitat for Humanity affiliates for such a feedback.
- A suggestion also concerning ULI which has market rate developers for such a feedback.
- Jerry asked whether this is joint agency effort and which is the other agency concerned?
- Yes. So, this, while housing production is under House Bill 2003, the housing production strategy's work is DLCDC's work, where we are partnering with OHCS and that is on the regional housing needs analysis, which is a separate item within House Bill 2003. In mid to long-term, that includes work on the housing production

strategy. DCLD is in consultation with Oregon Housing and Community Services. The department is headed for working on housing production strategies.

- So, the first housing needs analysis that DLCD that require, there's going to be a cycle schedule or the first housing needs analysis, they don't have a housing production strategy attached to them. So, we can't require the first housing needs analysis under that cycle until two years after we've adopted housing production strategy rules. So, the earliest we can require a housing needs analysis is 2022, and then it all require a housing production strategy in 2023. So, between now and 2022, the jurisdiction that it is in that first section or anywhere really in that cycle, completes and adopts the housing needs analysis will go to the end of 2028 or 2026 in the metro.
 - We talked about the equitable distribution housing as far as providing strategies that encourage affordable housing, which I think has to be addressed. It should be addressed, but everyone understands the length between where housing is located in a city in respect to transit options and 24-hour neighborhoods and all that kind of stuff, and how that affects affordability.
 - About the regional, there were consultations held in January, and the expectation is that in September or October, the results and recommendations of the project will be posted. They are going to survey local governments. I think they're going to select a region as an experiment, and that's where the OHCS process is launched.
 - "Here's we subsidize housing [unintelligible]," but consistent on both ends and the charge of House Bill 2003, I think that maybe this program has to deliver all the tools that they can deliver to make it more possible to build more affordable housing and not necessarily have the option, making it affordable is relative to affordable housing, which were shown could happen in 2021. So, for example, if you want to have higher density housing located in certain areas and in [Unintelligible] to deliver that zoning in certain places and close to transit or in walkable neighborhoods where there might not be transit, thus making more possible to live more affordably, don't have transportation costs.
 - Shannon hoped that we acknowledge the extreme culture of exclusion which underlies Oregon's current zoning, as well as in Charlotte, North Carolina and Minneapolis, Minnesota where she went to national conferences. She cited the example of Minneapolis where they did away with all of their single family, because it was just there like we save our politically legal and more Liberal and yet our communities are associated by racism.
 - When we come to strategies, then we have to think about location-based strategies and not just overall strategies but specific strategy recommendations that somehow affect location, because I feel like anything we've talked to date don't address the "Where is the housing?" except for the jury zoning.
- Wrap-up.
- Now is the time for these discussions, especially for House Bill 2001, the rulemaking timelines are much sooner than those of House Bill 2003. So really, over the course of the next 30 days, things will be coming to a close fairly quickly on the Middle Housing Model Code.
 - We're in the process of drafting rules now, and tidying up the Model Code language for medium cities. Like was mentioned during that portion of our agenda today in

the first two meetings of that TAC committees between now and the next RAC meeting on April 2nd, our next meeting on the 5th, working really deeply in the Model Code language and the minimum compliance standards and tightening those up, but we'll also begin talking about the large city's standards and key concepts and structure and what that looks like.

- So, that March 5th meeting of the Model Code TAC is a big one, and then the other important dates for the housing production strategies TAC, we'll be bringing in kind of like the commissioner has mentioned, two separate tracks where one discussion is what is that actual housing production strategy that a city might submit to the DCLD, or what does that kind of application look like, and then we'll start talking about what is the document and what's the guidance that fits.
- Again, what are those buckets? What are those strategies? Then we'll be doing that in a meeting-by-meeting basis, and not planning them together to kind of create a big separation from those two and then the infrastructure-based time extension request TAC, we've been talking about that earlier today.
- Transportation is next. We did that earlier for that technical advisory committee, and then their next meeting as homeowners, also kind of put in between or within those is the application process and what's required for an inter.
- And then we get into the April 2nd RAC meeting, which is our next one. That's a big one for being in cities' model codes. That's when we'll see the rules and the Model Code and that this one TAC has taken for your view.
- So, we're kind of shooting for the April 2nd as the last touch on medium cities and then that begins the LCDC process and rule-writing process. So, there is still an opportunity to submit comments through that LCDC process if you so choose.
- And then other meetings kind of happening beyond our 5th meeting, which we'll consider that as reference there, but again, the timelines are May, July for medium cities adoption or in review at LCDC for inter. That's July with the potential special meetings, and sometime in early August. For large cities, it's September and November doing an adoption schedule, and similar to large cities, the housing production strategies.

Next Meeting Date: April 2nd, 2020.

HOUSING RULEMAKING ADVISORY COMMITTEE

MEETING PACKET #5



TO: Housing Rulemaking Advisory Committee Members
FROM: Ethan Stuckmayer, Senior Housing Planner
SUBJECT: RAC Meeting #5 Discussion Worksheet

Housing Rulemaking Advisory Committee Members,

In order to meet our ambitious timeline and schedule, meetings of the RAC will need to be a space for robust conversation and discussion about agenda items. In order to facilitate this type of discussion, we have pulled specific topics, questions, and decision points from the meeting packet into this central discussion worksheet document. The intent of this document is to mirror the flow of the discussion and agenda items and should be used to collect your thoughts, comments, questions, and concerns on specific points.

As you review the meeting packet contents prior to our meeting, please use this worksheet to take down notes or to formulate your questions for the project team. Committee members will also be sent a link to a fillable version of this discussion worksheet as to collect additional questions or comments that may not have been expressed during the meeting.

Thank you,



Ethan Stuckmayer

Senior Planner of Housing Programs | Community Services Division
Oregon Department of Land Conservation and Development
635 Capitol Street NE, Suite 150 | Salem, OR 97301-2540
Direct: 503-934-0619 | Cell: 503-302-0937 | Main: 503-373-0050
estuckmayer@dlcd.state.or.us | www.oregon.gov/LCD

RAC Meeting Packet Item #4: Medium Cities Model Code

[#1] Is there anything in particular that you feel DLCD must address in the model code that has not been addressed? Are there any specific changes you would make to the draft model code before it is finalized for LCDC?

RAC Meeting Packet Item #5: Draft OAR 660-046 Middle Housing in Medium Cities

[#2] The draft OAR is intended to clearly outline the minimum standards a city may reasonably adopt to comply with HB2001, as discussed throughout the TAC and RAC process. Do you feel these standards provide enough guidance to local governments as they adopt their own code regulating middle housing? Are there any specific changes that you feel need to be made?

RAC Meeting Packet Item #6: Draft Medium Cities Middle Housing Rules FIS/HIS

[#3] Do you feel the Fiscal Impact Statement and the Housing Impact Statement adequately reflect the expected impacts of the draft rules? Are there specific impacts you feel are not discussed?

RAC Meeting Packet Item #8: Large and Metro Cities Preliminary Model Code Part 1

[#4] Alternative approaches will not be incorporated into the model code or administrative rules, but will be provided as guidance to local governments wishing to further facilitate middle housing development. Do you have any concerns with this approach?

[#5] Do you agree with the recommended organizational structure for the LMC model code? If you generally support this recommendation, do you recommend any minor refinements?

[#6] How will the model code relate to a city's existing density standard? Does middle housing count toward density? Does minimum or maximum density still apply?

[#7] Do you feel the model code adequately addresses the requirement for middle housing "in areas zoned for single-family homes" by exempting specific constrained lands?

[#8] Definitions – the definitions of triplexes and quadplexes generally match the definition of a duplex and are defined as detached structures containing either 3 or 4 units. Do you agree with this definition?

[#9] Applicability – Currently the approach is to allow middle housing in Large and Metro cities on all lots and parcels except for constrained lands (including resource, hazard, protected areas, and areas lacking sufficient infrastructure). We know that there is more nuance needed in the definition of constrained land. What specific areas should be defined as constrained?

[#10] Applicability – Should specific middle housing types be allowed in some areas but not all? For example, are there specific constraints that would allow for the development of a triplex but not a cottage cluster? If so, how might those criteria be organized in the model code or minimum compliance?

RAC Meeting Packet Item #9: IBTER Key Parameters Memo

[#11] Key Parameters – Do the key parameters identified for IBTER applications make sense? Are there additional parameters that should be identified? Do you have any comments or suggestions related to the key parameters?

RAC Meeting Packet Item #10: Draft IBTER Transportation Rule Outline Memo

[#12] Deficiency Framework – Does the framework for establishing a significant transportation infrastructure deficiency provide all necessary clarity? Do you have specific concerns with the general parameters identified? Please provide any specific suggestions for clarification of language relating to establishing a significant transportation infrastructure deficiency.

[#13] Minimum Requirements – What do you think the minimum required level of transportation improvements should be to accommodate middle housing? Do you think it would be appropriate to increase the minimum requirements for more intensive middle housing types, such as townhomes? For example, is the presence of an established sidewalk system in the neighborhood a necessary precursor to allowing townhomes? After reviewing the proposed “buckets” and some sample tools/policies/strategies, what are specific housing production strategies you would recommend?

RAC Meeting Packet Item #11: Draft IBTER Transportation Rule Outline Memo

[#14] HPS Buckets – After reviewing the proposed “buckets” and some sample tools/policies/strategies, what are specific housing production strategies you would recommend?

[#15] Additional Comments – Please provide any general or additional comments or feedback here.



MEMORANDUM

Duplex Model Code (REVISED DRAFT) DLCD Middle Housing Model Code

DATE March 23, 2020
TO MHMC Model Code Technical Advisory Committee
FROM Matt Hastie, Cathy Corliss and Kate Rogers, Angelo Planning Group
CC Ethan Stuckmayer and Robert Mansolillo, DLCD Project Team

Duplexes on Single-Family Lots (Model Code for Medium Cities)

User's Guide:

Oregon House Bill 2001 (HB2001) requires that “Medium Cities” (cities with a population of more than 10,000 and less than 25,000 that are not within Metro’s jurisdiction) allow a duplex on each lot or parcel zoned for residential use that allows for the development of detached single-family dwellings. The bill allows local governments to regulate siting and design of duplexes, provided that the regulations do not, individually or cumulatively, discourage duplex development through unreasonable costs or delay. Duplexes provide an opportunity to increase housing supply in developed neighborhoods and can blend in well with detached single-family dwellings. Concerns about neighborhood compatibility and other factors should be considered and balanced against the need to address Oregon’s housing shortage by removing barriers to development.

Ideally, Medium Cities will develop their own standards in compliance with the requirements of HB2001 and this document is intended to provide guidance toward that end (both in terms of alternative approaches and minimum standards for compliance). However, if cities do not adopt the required code amendments by HB2001’s June 30, 2021 deadline, they must directly apply the model code to any applicable proposals. Thus, the purpose of this document is threefold, and the following table includes provisions organized into three columns:

1. **Model Code** – The standards that will apply directly to proposals for duplex development if local governments do not adopt the required code amendments. These standards are intended to be straightforward and implementable by medium-

size cities throughout the state. They are consistent with the requirements and intent of HB 2001 and also are meant to achieve a middle ground between minimum requirements and some of the “alternative approaches” in the second column which go beyond allowing duplexes and ensuring that they are no more difficult to develop than a single-family detached home.

2. Alternative Approaches – Options for local governments to consider in developing their own standards, with the intent of improving outcomes for duplexes developed in single-family areas. Some of the alternative approaches include standards that could serve as an incentive for their development.

3. Minimum Compliance – The minimum standards that middle housing development codes must meet in order to comply with the intent of HB2001. These are the standards against which DLCD will compare amended development codes to ensure they comply with state law.

Ultimately, the Medium Cities Model Code provisions will be administered as follows:

- Minimum compliance standards will be adopted **directly** into administrative rules;
- The model code will be adopted **by reference** into administrative rules; and
- Alternative approaches will not be incorporated into administrative rules, but will be provided as guidance to local governments wishing to further facilitate middle housing development.

Commentary for MCTAC:

The rightmost column of the table also includes commentary explaining the rationale behind the model code, alternative approaches, and minimum compliance provisions and explains why they may be different. Some of this commentary could be incorporated into the final model code document to provide guidance for users.

The following draft code provisions will be further refined based on direction from the RAC and MCTAC. The commentary column indicates where the model code has been substantively revised from the last version of the draft reviewed at MCTAC meeting 3.

Note: *DLCD has provided a companion memo that includes updates to the minimum compliance rules. Some of those updated rules will replace the text of the minimum compliance standards in the table below.*

Standard	Model Code (will apply directly)	Alternative Approaches (optional)	Minimum Compliance	Commentary
<p>A. Purpose</p>	<p>The purpose of this model code is to implement Oregon House Bill 2001 (2019) and ORS 197.758 by providing standards for duplexes developed on lots which allow detached single-family dwellings.</p>	<p><i>Jurisdictions are encouraged to develop their own purpose statements for duplex regulations. Following are examples of specific objectives that jurisdictions could consider including in a purpose statement if they are consistent with local policies and reasons for adopting new duplex requirements:</i></p> <ol style="list-style-type: none"> 1. Accommodate new housing in neighborhoods to allow for more housing choices with lower transportation and public service costs. 2. Provide for a wider variety of housing types that meet the needs of the jurisdiction’s diverse population at all stages of life. 3. Encourage housing that allows residents to remain in their communities and neighborhoods as their needs change. 4. Facilitate more efficient use of land through smaller housing units, thereby providing more affordable housing options to neighborhood residents. 	<p>Local governments are not required to include a purpose statement specific to provisions needed to implement and comply with HB2001.</p>	<p><i>Purpose statements provide guidance for applicants and reviewers to help them understand the intent of development code standards. They help with a code’s readability, providing insight into the jurisdiction’s rationale for applying specific standards.</i></p> <p><i>[Update: The draft model code purpose statement has been revised to specify the year of HB2001’s adoption and to include the ORS reference.</i></p> <p><i>The “Suggested Approaches” (formerly “Best Practices” column has been renamed as “Alternative Approaches,” per MCTAC suggestion.)</i></p>
<p>B. Definitions</p>	<p>The following definitions shall apply for the purposes of this model code, notwithstanding other definitions in the local jurisdiction’s development code:</p>	<p>--</p>	<p>“Unreasonable cost and delay” means any standard, approval criteria, or process that imposes additional burden upon middle housing development above the burden placed upon single-family detached development in the same zone.</p>	<p><i>[Update: A definition for “unreasonable cost and delay” has been added to the minimum compliance column.</i></p> <p><i>The definitions of “common wall” and “dwelling unit” have been removed in this revised draft. “Common wall” doesn’t need to be defined because it was deleted from the revised “duplex” definition. “Dwelling unit” is defined differently by different jurisdictions, but the meaning is generally consistent. In reviewing a duplex application, jurisdictions will use their own definitions for any terms not explicitly defined in the model code; therefore, the model code defers to the local definition of “dwelling unit.”]</i></p>
<p>1. “Detached single-family dwelling or structure”</p>	<p>“Detached single-family dwelling or structure” means a detached structure on a lot/parcel that is comprised of a single dwelling unit. Detached single-family dwellings or structures may be constructed off-site, e.g., manufactured dwellings or modular homes.</p>	<p><i>Same as model code.</i></p>	<p>No requirement, as long as definitions ensure consistent application of duplex standards.</p>	<p><i>[Update: The definition of “detached single-family dwelling or structure” has been updated to be consistent with the revised definition of duplex.]</i></p>

Standard	Model Code (will apply directly)	Alternative Approaches (optional)	Minimum Compliance	Commentary
<p>2. “Duplex”</p>	<p>“Duplex” means a detached structure on a lot or parcel that is comprised of two dwelling units. In instances where a structure can meet this definition of a duplex and also meets the jurisdiction’s definition of a primary dwelling unit with an attached or internal accessory dwelling unit (ADU), the property owner has the option of electing whether the entire structure is considered a duplex or a primary dwelling unit with an attached or internal ADU.</p>	<p><i>Jurisdictions are encouraged to allow duplexes to be either attached or detached. Following is an alternative to the model code’s definition:</i></p> <p>“Duplex” means two dwelling units on one lot or parcel. The units may be attached (sharing a common wall or common floor/ceiling) or detached. In instances where a development can meet this definition of a duplex and also meets the jurisdiction’s definition of a primary dwelling unit with a detached accessory dwelling unit (ADU), the property owner has the option of electing whether the development is considered a duplex or a primary dwelling unit with a detached ADU.</p>	<p>The definition may be the same as or similar to the model code, or may define a duplex as two detached units on one lot. The definition must distinguish a duplex from a combination of a single-family detached unit and an ADU for the purpose of specifying off-street parking mandates.</p>	<p><i>The draft model code defines duplex as a single structure with two units (i.e., two <u>attached</u> units) on a lot. This definition is consistent with the way most jurisdictions currently define duplex, and it reflects what most people think of as a duplex. [Update: the model code definition has been refined for clarity. The word “building” has been replaced by “structure,” since the building code considers attached duplex units separated by a firewall to be separate <u>buildings</u>, but a single <u>structure</u>.]</i></p> <p><i>The Alternative Approach is to provide additional flexibility by stating that the duplex units can be either attached or detached.</i></p> <p><i>For minimum compliance with HB2001, local governments would need only to define a duplex as two units on a lot, and may specify whether or not they must be attached.</i></p> <p><i>The model code’s definition of duplex is intended to address potential ambiguity with definitions of duplexes and ADUs. This distinction is important because the model code’s duplex parking requirements (per Section F.5) may be different than the local jurisdiction’s parking requirements for a single-family home with an ADU. The model code defers to the jurisdiction’s definition of ADU (including limits on maximum size). If a site meets the jurisdiction’s ADU definition, the property owner has the option of permitting it as a duplex or a single-family home with an ADU. There are trade-offs for both permitting paths, and this definition leaves flexibility for the property owner.</i></p>
<p>3. “Zoned for residential use”</p>	<p>“Zoned for residential use” means a zoning district in which residential dwellings are the primary use and which implements a residential Comprehensive Plan map designation.</p>	<p><i>Same as model code.</i></p>	<p><i>Same as model code.</i></p>	<p><i>This definition clarifies that the duplex requirement only applies in residential zones. This is further clarified in the Applicability section.</i></p>
<p>C. Applicability</p>	<p>Unless otherwise noted, the standards in this model code apply to duplexes, including those created through conversion of existing detached single-family dwellings, developed on lots or parcels</p>	<p><i>While local jurisdictions are only required to allow duplexes in areas zoned for residential use, they are encouraged to allow duplexes in any zone in which single-family dwellings are permitted.</i></p>	<p><i>(See companion memo from DLCD regarding minimum compliance.)</i></p>	<p><i>The draft applicability statement is intended to clearly state where and when the provisions of the model code apply. This clarifies that the provisions do not apply in any zones except for residential zones in</i></p>

Standard	Model Code (will apply directly)	Alternative Approaches (optional)	Minimum Compliance	Commentary
	<p>(including lots of record) zoned for residential use that allow for the development of detached single-family dwellings.</p> <p>The standards in this model code do not allow for the following, unless otherwise permitted by the jurisdiction:</p> <ul style="list-style-type: none"> Creation of duplexes on lots or parcels on lands that are not zoned for residential use, including lands zoned primarily for commercial, industrial, agricultural, public, or mixed uses, even if those zones allow for the development of detached single-family dwellings. Creation of more than two dwelling units on a lot. <p>Duplexes developed under this model code shall comply with protective measures (including plans, policies, and regulations) adopted pursuant to statewide land use planning goals (e.g., environmental and natural hazard protections).</p>	<p><i>Jurisdictions should also consider:</i></p> <ul style="list-style-type: none"> Allowing duplexes to have a detached ADU (or ADUs); Allowing detached single-family dwellings with an existing detached ADU to be internally converted into a duplex; and/or Allowing a lot with a duplex to have additional units of limited size. <p><i>These options would permit three (or four) units on a lot.</i></p>		<p><i>which detached single-family dwellings are permitted (although allowing duplexes in other zones is an alternative approach). It also establishes that duplexes are not required to be allowed via conversion of a single-family dwelling when there is already an ADU on-site (which would create three units on a lot). Allowing ADUs with duplexes is also suggested as an optional approach.</i></p> <p><i>The model code applicability statement further clarifies that requirements of HB2001 do not override local protections for natural resources, natural hazards, or other regulatory protections adopted pursuant to Statewide Land Use Planning Goals. This could mean, for example, limiting building footprints in wetland areas, ensuring duplexes are reviewed for historic compatibility in historic districts, or limiting building heights within the Willamette Greenway.</i></p> <p><i>[Update: DLCD is still working with the Department of Justice to clarify how the requirements of SB1051 and HB2001 interact—i.e., whether a single-family home with an existing ADU should be allowed to be converted to a duplex, thereby creating three units. The applicability section may be updated in a future draft if the DOJ advises that this should be allowed.]</i></p>
<p>D. Relationship to Other Regulations</p>	<p>--</p>	<p>--</p>	<p>--</p>	<p><i>[Update: This section was formally titled “Provisions Applicable to Duplexes” but has been retitled to make its purpose clearer.]</i></p>
<p>1. <u>Conflicts.</u></p>	<p>In the event of a conflict between this model code and the jurisdiction’s standards applicable to a proposed duplex, the standards of this model code control.</p>	<p><i>Local jurisdictions should review their development regulations to identify potential conflicts and barriers to duplexes and amend their codes to remove those conflicts and barriers.</i></p>	<p>N/A</p>	<p><i>This section of the draft model code is intended to address how these provisions relate to local jurisdictions’ existing code sections, especially related to conflicting standards. Subsection D.2 states that except for the model code standards, duplexes must meet all other provisions applicable to detached single-family dwellings. The purpose of stating that “other existing standards applicable only to duplexes shall not apply” is to prevent local governments from applying standards that make duplexes more difficult</i></p>
<p>2. <u>Development and Design Standards.</u></p>	<p>Duplexes developed under this model code are subject to the following standards:</p> <ul style="list-style-type: none"> Section F, Development Standards Section G, Design Standards Development and Design Standards of the local jurisdiction as follows: 	<p><i>See specific provisions under sections F and G below.</i></p>	<p>N/A</p>	<p><i>This section of the draft model code is intended to address how these provisions relate to local jurisdictions’ existing code sections, especially related to conflicting standards. Subsection D.2 states that except for the model code standards, duplexes must meet all other provisions applicable to detached single-family dwellings. The purpose of stating that “other existing standards applicable only to duplexes shall not apply” is to prevent local governments from applying standards that make duplexes more difficult</i></p>

Standard	Model Code (will apply directly)	Alternative Approaches (optional)	Minimum Compliance	Commentary
	<ul style="list-style-type: none"> ○ All clear and objective development and design standards that apply to detached single-family structures in the same zone, unless those standards conflict with the standards of this model code. ○ Other standards applicable only to duplexes shall not apply to duplexes developed under this model code. 			<p><i>or costly to develop than detached single-family homes.</i></p> <p><i>If local governments adopt their own code amendments, they may apply separate standards to duplexes (to a limited extent), as long as those standards do not discourage duplex development through “unreasonable costs or delay.”</i></p> <p><i>[Update: The statement in the Public Works subsection that “individual utility service connections to each duplex unit may be required” has been deleted. While this statement remains true, it is unnecessary to state in the model code.]</i></p>
<p>3. <u>Public Works Standards.</u></p>	<p>Clear and objective exceptions to public works standards granted to single-family dwellings shall also be granted to duplexes developed under this model code.</p>	<p><i>Local jurisdictions should review their public works standards to identify potential conflicts and barriers to duplexes and amend their codes to remove those conflicts and barriers.</i></p>	<p><i>Same as model code.</i></p>	<p><i>[Update: The statement in the Public Works subsection that “individual utility service connections to each duplex unit may be required” has been deleted. While this statement remains true, it is unnecessary to state in the model code.]</i></p>
<p>E. Permitted Uses and Approval Process</p>	<p>Duplexes shall be permitted outright on lots or parcels zoned for residential use that allow for the development of detached single-family dwellings. Duplexes shall be subject to the same approval process as the local jurisdiction applies to detached single-family dwellings in the same zone, and shall be subject to only clear and objective standards, approval criteria, conditions, and procedures. Alternatively, an applicant may choose to submit an application for a duplex subject to discretionary standards and criteria if such a process is available in the subject jurisdiction.</p>	<p><i>Same as model code.</i></p>	<p><i>(See the companion memo from DLCD regarding updates to minimum compliance rules.)</i></p>	<p><i>This section of the draft model code clarifies that duplexes shall be permitted outright on lots where detached single-family dwellings are permitted. It also states that duplexes are subject to the same type of approval process as detached single-family dwellings—but only using clear and objective criteria, as required by state law, unless the applicant chooses discretionary review. [Update: To make sure this section does not preclude a property owner’s ability to request a discretionary review path, a caveat to the statement about clear and objective standards, criteria, etc. has been added.]</i></p>
<p>F. Development Standards</p>		<p>--</p>	<p>--</p>	<p><i>(See the companion memo from DLCD regarding updates to minimum compliance rules for development standards.)</i></p>
<p>1. <u>Minimum lot size.</u></p>	<p>The minimum lot size for a duplex is the same as the minimum lot size for a detached single-family dwelling in the same zone.</p>	<p><i>Same as model code.</i></p>	<p><i>(See the companion memo from DLCD regarding updates to minimum compliance rules.)</i></p>	<p><i>HB2001 was intended to increase housing supply and housing options, and to provide opportunities for more affordable housing options in all residential neighborhoods. Allowing development of duplexes on the same size lot as a detached single-family home helps meet this intent by reducing the land cost per unit (thus making the development more affordable). Additionally, as duplexes are required to be permitted on any residentially-zoned lot that permits a detached single-family dwelling, subjecting duplexes to a larger minimum lot size would violate HB2001.</i></p>

Standard	Model Code (will apply directly)	Alternative Approaches (optional)	Minimum Compliance	Commentary
2. <u>Maximum Density.</u>	The jurisdiction’s pre-existing density maximums and minimum lot sizes for duplexes do not apply to duplexes permitted under this code.	<i>Same as model code.</i>	<i>(See the companion memo from DLCD regarding updates to minimum compliance rules.)</i>	<i>See comments under minimum lot size.</i>
3. <u>Setbacks.</u>	The setback standards for a duplex are the same as the setback standards for a detached single-family dwelling in the same zone, except that minimum front setbacks of more than 20 feet and minimum rear setbacks of more than 15 feet shall not apply. Minimum garage setbacks are not subject to these limitations.	<i>Setbacks can represent a barrier to duplex development. In order to encourage duplex development, jurisdictions should consider reducing setbacks and allowing increased lot coverage. If jurisdictions permit two detached units as a duplex, they should consider whether standards for minimum spacing between structures are needed, or whether the Building Code should control minimum spacing.</i>	Duplexes shall not be subject to larger setback standards than those applicable to detached single-family structures in the same zone.	<i>To promote compatibility with single-family neighborhoods, the draft model code requires duplexes to meet the same setback standards applicable to detached single-family dwellings, but also to establish maximum front and rear setbacks. This is intended to ensure that overly large setback standards do not discourage duplex development. Jurisdictions adopting their own standards are encouraged to examine existing setbacks and lot coverage standards for single-family development to identify potential barriers to duplex development. Setbacks should be amended for the whole zone, not only for duplexes. To comply with HB2001, jurisdictions must not apply larger setbacks for duplexes than for detached single-family, so as not to discourage duplex development. [Update: The model code language has been revised for clarity.]</i>
4. <u>Height.</u>	The height standards for a duplex are the same as the height standards for a detached single-family dwelling in the same zone.	<i>Jurisdictions could consider adopting a height bonus to encourage duplex development. Below is example code language for a height bonus: Height bonus. Duplexes shall be allowed a height bonus of 10 feet above the maximum height applicable to detached single-family structures in the same zone.</i>	Duplexes shall not be subject to lower maximum height standards than those applicable to detached single-family structures.	<i>Similar to setbacks, the draft model code’s height provision is intended to promote compatibility with single-family neighborhoods. Jurisdictions may consider adopting a height bonus to encourage duplex development and to promote this lower-cost housing option in single-family neighborhoods. [Update: The height bonus example standard (“_%” in previous drafts) was filled in as 10 feet. This is essentially equivalent to one story.] To comply with HB2001, jurisdictions must not apply lower height standards for duplexes, so as not to discourage duplex development.</i>
5. <u>Off-street Parking.</u>	No off-street parking is required for a duplex permitted under this model code.	<i>Jurisdictions adopting their own duplex standards may require anywhere between 0 and 2 off-street parking spaces, and are encouraged to have a public discussion regarding what is appropriate in their communities.</i>	Jurisdictions may not require more than two (2) off-street parking spaces for a duplex.	<i>[Update: the draft model code, alternative approaches, and minimum compliance rules for off-street parking have all been updated. Because the model code does not mandate off-street parking, the on-street credit is no longer applicable; however, it</i>

Standard	Model Code (will apply directly)	Alternative Approaches (optional)	Minimum Compliance	Commentary
		<p><i>If requiring off-street parking, jurisdictions could consider offering a credit for available on-street parking. Below is example code language that could be considered:</i></p> <p>On-Street Credit. If on-street parking spaces meet all the standards in Subsections a-d below, they shall be counted toward the minimum off-street parking requirement.</p> <ol style="list-style-type: none"> a. On-street parking must be allowed on the side of the street where the space is to be provided. b. The space must be a minimum of 22 feet long; c. The space must be abutting the subject site; and d. The space must not obstruct a required sight distance area. 	<p><i>(See the companion memo from DLCD regarding updates to minimum compliance rules.)</i></p>	<p><i>has been retained as an alternative approach that jurisdictions with off-street parking mandates are encouraged to consider.]</i></p> <p><i>Providing off-street parking adds to the cost of a development and reduces the area of a site that can be developed with dwelling units. As such, parking requirements constitute a potential barrier to housing development and housing affordability.</i></p> <p><i>While the draft model code requires no off-street parking, it does not speak to how much a jurisdiction can allow. Jurisdictions are encouraged to have the conversation about parking at the local level and determine what makes sense for their communities. DLCD also encourages allowing the market to determine how much parking should be developed; evidence shows that most builders aim to build parking to meet demand.</i></p> <p><i>To comply with HB2001, jurisdictions can require anywhere from 0 to 2 spaces, but per the minimum compliance rule, cannot require more than 2 spaces.</i></p>
--	--	--	<p>Lot Coverage and Floor Area Ratio: Local Governments are not required to apply lot coverage or floor area ratio standards to new duplexes. However, if the local government chooses to apply lot coverage or floor area ratio standards, it may not establish a cumulative lot coverage or floor area ratio for duplex that is less than established for single-family detached structures in the same zone.</p>	<p><i>[Update: Minimum compliance rules regarding lot coverage and floor area ratio have been added. There are no model code or alternative provisions for these topics so those columns are left blank.]</i></p>
<p>G. Design Standards</p>	<p>New duplexes shall meet all clear and objective design standards (e.g., entry orientation, window coverage, articulation, etc.) that the jurisdiction applies to detached single-family structures in the same zone, unless they conflict with the model code.</p>	<p><i>Jurisdictions could consider establishing pedestrian-friendly design standards for new duplexes and single-family dwellings, if not already in their development codes. Any design standards should apply to <u>both</u> housing types, so as not to discourage</i></p>	<p>Local governments are not required to apply design standards to new duplex development. However, if the local government chooses to</p>	<p><i>The intent of the draft model code is to apply the same design standards to duplexes that also apply to single-family development. Applying more restrictive design standards would discourage duplex development, and therefore would not comply with</i></p>

Standard	Model Code (will apply directly)	Alternative Approaches (optional)	Minimum Compliance	Commentary
	<p>Other design standards elsewhere in the jurisdiction’s code that the jurisdiction applies only to duplexes shall not apply to duplexes developed under this model code.</p>	<p><i>duplex development through unreasonable cost or delay. (Note: the intent of this suggestion is not to compel jurisdictions to regulate the design of single-family housing—it is simply to suggest equivalent standards for duplexes and single-family dwellings.)</i></p> <p><i>Jurisdictions are discouraged from adopting standards requiring off-street parking to be covered by a garage or carport. This requirement would add significant cost to a project.</i></p> <p><i>Following are alternative design standards to consider:</i></p> <ol style="list-style-type: none"> 1. <u>Entry Orientation</u>. At least one (1) main entrance must meet the following standards. <ol style="list-style-type: none"> a. The entrance must be no further than 8 ft behind the longest street-facing wall of the building. b. The entrance must: <ol style="list-style-type: none"> i. Face the street; or ii. Be at an angle of up to 45 degrees from the street; or iii. Open onto a porch. c. If the entrance opens onto a porch, the porch must: <ol style="list-style-type: none"> i. Be at least 20 sq ft in area with a minimum 4-ft depth. ii. Have at least 1 porch entry facing the street. iii. Be covered by a roof or living space that is a maximum of 12 feet above the floor of the porch. The roof or living space must cover at least 30% of the porch area. c. For properties with more than one frontage, the applicant may choose which frontage to meet the standards in subsections G.1.a and b. 	<p>apply design standards to new duplexes, they may only apply all clear and objective design standards that the local government applies to detached single-family structures in the same zone.</p>	<p><i>HB2001. Meanwhile, local governments that choose to regulate the design of single-family development should be able to apply the same or similar standards to duplexes as well.</i></p> <p><i>In the Alternative Approaches column are examples of design standards intended to promote attention to detail, pedestrian-friendly and human-scale design, and street visibility, and to discourage garages from dominating street-facing facades, while affording flexibility to use a variety of architectural styles. These are intended to help guide jurisdictions that currently lack—or would like to update—design standards for detached single-family dwellings and duplexes. The standards should be applied to both housing types.</i></p> <p><i>[Update: A reference to the jurisdiction’s existing duplex design standards was added to the model code for the sake of internal consistency.</i></p> <p><i>The intro and a few of the standards in the Alternative Approaches column have been cleaned up for additional clarity. The statement discouraging requirements for covered parking was also added.]</i></p> <p><i>[Note: The model code provisions in Section G are redundant to Section D, Relationship to Other Regulations, in that both sections of the code state that duplexes are subject to the jurisdiction’s design standards applicable to single-family development. This redundancy could be removed by deleting Section G or revising Section D. However, for the sake of simplicity, we retained the language in both sections for this draft and will resolve the redundancy in a subsequent draft.]</i></p>

Standard	Model Code (will apply directly)	Alternative Approaches (optional)	Minimum Compliance	Commentary
		<p>2. <u>Windows</u>. A minimum of 15% of the area of all street-facing facades, excluding alley-facing facades, must include windows or doors. Window area is the aggregate area of the glass within each window, including any interior grids, mullions, or transoms. Door area is the area of the portion of a door other than a garage door that moves and does not include the frame. Half of the window area in the door of an attached garage may count toward meeting this standard.</p> <p>3. <u>Garages and Carports</u>. An attached garage or carport must meet the following standards, except where vehicle access is taken from an alley.</p> <p>a. A garage door or carport entrance designed for vehicle access must be the same distance or a greater distance from the street property line as the widest street-facing wall along the same street frontage, except as follows:</p> <p>i. A garage door or carport entrance may extend up to 5 feet in front of the widest street-facing wall if there is a covered front porch and the garage door or carport entrance does not extend beyond the front of the porch.</p> <p>ii. A garage door or carport entrance may extend up to 5 feet in front of the widest street-facing wall where the garage or carport is part of a 2-story building and there is a window on the second story above the garage or carport that faces the street with a minimum area of 12 square feet.</p> <p>b. The total maximum width of all garage doors or carport entrances is 12 feet or 50 percent of the total width of the street-facing facade, whichever is greater. The width of a garage door is measured from inside the garage</p>		

Standard	Model Code (will apply directly)	Alternative Approaches (optional)	Minimum Compliance	Commentary
		<p>door frame. Where more than one garage door is proposed, the width of each garage door is measured separately.</p> <p>4. <u>Driveway Approach</u>. Duplexes may have a maximum of two driveway approaches in compliance with the following:</p> <ul style="list-style-type: none"> a. The total width of all driveway approaches must not exceed 32 feet per frontage. For lots or parcels with more than one frontage, see subsection G.4.c. b. Driveway approaches may be separated when located on a local street. If approaches are separated, they must be separated by a minimum of seven feet. c. In addition, lots or parcels with more than one frontage must comply with the following: <ul style="list-style-type: none"> i. Lots or parcels must access the street with the lowest classification. ii. Lots or parcels with frontages only on collectors and/or arterial streets may have one driveway approach. iii. Duplexes on lots or parcels with frontages only on local streets may have two driveway approaches not exceeding 32 feet in total width on one frontage or one maximum 16-foot-wide driveway approach per frontage. d. Clear vision standards do not apply between driveway approaches for duplexes on local streets. 		
<p>H. Duplex Conversions</p>	<p>Conversion of an existing detached single-family structure to a duplex is allowed, pursuant to Section C, provided that the conversion does not increase nonconformance with applicable clear and objective standards.</p>	<p><i>Local jurisdictions should review their development regulations regarding nonconforming development to identify potential conflicts and barriers to duplex conversions and amend their codes to remove those conflicts and barriers.</i></p>	<p><i>Same as model code.</i></p>	<p><i>This draft model code provision allows duplexes to be created from existing detached single-family structures. Though not explicitly stated, this would apply to <u>nonconforming</u> structures as well. The draft code does not require converted duplexes to become fully conforming to all development standards, instead</i></p>

Standard	Model Code (will apply directly)	Alternative Approaches (optional)	Minimum Compliance	Commentary
				<p><i>it requires that they not move further out of conformance.</i></p> <p><i>[Update: This section has been revised to apply to all duplex conversions, not just to nonconforming development. This section also replaces the statement that was deleted from Section G, Design Standards, which stated that converted duplexes did not need to meet the jurisdiction’s design standards. The proposed text in this section instead says that converted duplexes must not <u>increase nonconformance</u> with <u>either</u> development or design standards. E.g., if the house currently conforms to standards, the duplex conversion cannot move it out of conformance.]</i></p>

MIDDLE HOUSING MODEL CODE TECHNICAL ADVISORY COMMITTEE MEETING PACKET #4



TO: Middle Housing Model Code Technical Advisory Committee Members
FROM: Ethan Stuckmayer, Senior Housing Planner
SUBJECT: Draft Oregon Administrative Rule Chapter 660 Division 046

Model Code Technical Advisory Committee Members,

Below, please find the draft version of the Oregon Administrative Rules related to Middle Housing in Medium Cities. These rules collectively create the standards by which a local government subject to HB2001 must adhere to as it adopts land use regulations and comprehensive plans regulating the siting and design of duplexes in medium cities.

Division 46 Middle Housing in Medium Cities

660-046-0000 Purpose

1. The purpose of this division is to prescribe standards guiding the development of middle housing types as provisioned in Oregon Laws 2019, Chapter 639. OAR 660-046-0010 – 660-046-XXXX are intended to establish, by rule, standards related to the siting and design of middle housing types in urban growth boundaries. Additionally, this division establishes a process by which a local government may apply for an infrastructure based time extension in areas which the local government has identified a deficiency in water, wastewater, storm drainage, or transportation services.

660-046-0010 Applicability

1. A local government that meets the definition of a medium city pursuant to OAR 660-046-0020 must comply with the provisions of OAR 660-046-0100.
2. This section does not apply to:
 - a. Lands that are not zoned for residential use, including lands zoned primarily for commercial, industrial, agricultural or public uses; or
 - b. Lands that are not incorporated and are zoned under an interim zoning designation that maintains the land's potential for planned urban development.
 - c. Nothing in this subsection prohibits a local government from allowing middle housing types in areas not subject to this division.
3. Local governments may regulate middle housing to comply with protective measures (including plans, policies, and regulations) adopted and acknowledged pursuant to statewide land use planning goals.
 - a. Goal 5: Natural Resources
 - b. Goal 5: Historic Districts
 - c. Goal 7: Natural Hazards
 - d. Goal 17: Coastal Shorelands and Goal 18: Beaches and Dunes
4. This division does not prohibit local governments from permitting:
 - a. Single-family dwellings in areas zoned to allow for single-family dwellings; or
 - b. Middle housing in areas not required under this section.

660-046-0020 Definitions

1. "A local government that has not acted" means a local government that has not adopted land use regulations and amended its comprehensive plan determined to be in compliance with ORS 197.758 and this division.
2. "Detached single-family dwelling or structure" means a single dwelling or structure on a lot or parcel that does not share a wall with any other dwelling or structure other than an accessory dwelling unit. A detached single-family dwelling or structure may be either site built or a manufactured dwelling.
3. "Duplex" means two dwelling units on one lot or parcel.
4. "Lot or parcel" means all legally created units of land.
5. "Medium City" means each city with a certified Portland State University Population Research Center estimated population of between 10,000 and 25,000 and not within a metropolitan service district.
6. "Middle housing" means:
 - a. "Duplex" as defined in this section.
7. "Unreasonable Cost and Delay" means any standard, approval criteria, or process that imposes additional burden upon middle housing development above the burden placed upon single family detached development in the same zone.
8. "Zoned for residential use" means a zoning district in which residential dwellings are the primary use and which implements a residential Comprehensive Plan map designation.

660-046-0030 Implementation of Middle Housing Ordinances

1. Before a local government adopts a change to an acknowledged comprehensive plan or a land use regulation, the local government must submit the proposed change to DLCD and comply with the regulations in OAR 660-018.
2. In adopting regulations or amending a comprehensive plan under this division, a local government shall consider ways to increase the affordability of middle housing by considering ordinances and policies that include but are not limited to:
 - a. Waiving or deferring system development charges;
 - b. Adopting or amending criteria for property tax exemptions under ORS 307.515 to 307.523, 307.540 to 307.548 or 307.651 to 307.687 or property tax freezes under ORS 308.450 to 308.481; and
 - c. Assessing a construction tax under ORS 320.192 and 320.195.
3. When a local government makes a legislative decision to amend its comprehensive plan or land use regulations to allow middle housing in areas zoned for residential use that allow for detached single-family dwellings, the local government is not required to consider whether the amendments significantly affect an existing or planned transportation facility.

660-046-0040 Model Middle Housing Ordinance

1. The Land Conservation and Development Commission with the assistance of the Building Codes Division of the Department of Consumer and Business Services, shall adopt model middle housing ordinances no later than December 31, 2020.
 - a. The model middle housing ordinance for medium cities as defined in 660-046-0020 is adopted in OAR 660-046-0100.

660-046-0050 Compliance

1. Pursuant to Section 3, Oregon Laws 2019, Chapter 639 a local government shall adopt land use regulations or amend its comprehensive plan to implement the provisions of OAR 660-046-0030 no later than:
 - a. June 30, 2021 for medium cities as defined in 660-046-0020, or

2. A local government may request an extension of the time allowed to adopt land use regulations or amend its comprehensive plan to implement the provisions of OAR 660-046-0030 pursuant to Section 4, Oregon Laws 2019, Chapter 639.
3. Notwithstanding ORS 197.646, a local government that has not acted by the date provided under subsection (1) shall directly apply the model ordinance adopted under OAR 660-046-0103(4) to middle housing development until such time the local government has adopted land use regulations and amended its comprehensive plan determined to be in compliance with ORS 197.758 and this division. The model code completely replaces and pre-empts a local government's code provisions regulating the development of duplexes.

660-046-0060 Newly Eligible Local Governments

1. For purposes of applicability of this section, DLCD will rely upon certified Portland State University Population Research Center population estimates to determine cities compliance with portions of this division.
 - a. If a certified population estimate qualifies a city as a "medium" city pursuant to 660-046-0020, a city must comply with sections of this division within one year of its certified population estimate.

660-046-0100 Middle Housing in Medium Cities

660-046-0101 Purpose

1. OAR 660-046-0102 through OAR 660-046-0107 are intended to measure compliance with ORS 197.758 and Goal 10 Housing for medium cities as defined in 660-046-0020.

660-046-0102 Applicability

1. A medium city must allow the development of a duplex, including those created through conversion of existing detached single-family structures, on each lot or parcel zoned for residential use that allows for the development of detached single-family dwellings. Nothing in this section prohibits a local government from allowing middle housing types in addition to duplexes.
2. The standards in these rules do not require the following, unless otherwise permitted by the jurisdiction:
 - a. Creation of duplexes on lots or parcels that are not zoned for residential use, including lands zoned primarily for commercial, industrial, agricultural, public, or mixed uses, even if those zones allow for the development of detached single-family dwellings; or
 - b. Creation of more than two dwellings, units on a lot, including any accessory dwelling units.
3. Duplexes developed under the provisions of this section shall comply with protective measures, including plans, policies and regulations, adopted pursuant to statewide land use planning goals.

660-046-0103 Provisions Applicable to Duplexes in Medium Cities

1. Local governments may regulate siting and design of middle housing required to be permitted under this division, provided that the regulations do not, individually or cumulatively, discourage the development of all middle housing types permitted in the area through unreasonable costs or delay.
2. Siting and design standards that create unreasonable cost and delay include any clear and objective standards applied to duplex development that are more restrictive than those applicable to single family detached structures in the same zone.
3. Reasonable siting and design standards include:
 - a. Permitted uses and approval process outlined in OAR 660-046-0104;
 - b. Development standards outlined in OAR 660-046-0105;
 - c. Design standards outlined in OAR 660-046-0106; and
 - d. Duplex Conversions outlined in OAR 660-046-0107.
4. For the purposes of assisting local governments in adopting reasonable siting and design standards for duplexes, the Land Conservation and Development Commission adopts the following model middle housing ordinance for medium cities as defined in OAR 660-046-0020. The model code adopted in this

subsection may be applied to local governments who have not acted to comply with the provisions of ORS 197.758 or this division. The model code completely replaces and pre-empts a local government's code provisions regulating the development of duplexes: XXXXXXXXXXXXX

660-046-0104 Permitted Uses and Approval Process

1. Local governments must permit duplexes outright on each lot or parcel zoned for residential use that allows for the development of detached single-family structures. Local governments must apply the same approval process to duplexes as detached single-family dwellings in the same zone. Local governments may adopt and apply only clear and objective standards, conditions, and procedures regulating the development of duplexes pursuant to OAR 660-008-0015.

660-046-0105 Development Standards

1. Minimum Lot Size:
 - a. For duplexes, a local government may not require a minimum lot size that is greater than the minimum lot size required for a detached single-family structure in the same zone.
2. Density:
 - a. For the purposes of calculating density, a local government must count duplexes developed under this section as the equivalent of a single-family detached dwelling. If a local government applies density maximums in a zone, it may not apply those maximums to the development of duplexes
3. Setbacks:
 - a. For duplexes, a local government may not require setbacks to be greater than those applicable to detached single-family structures in the same zone.
4. Height:
 - a. Duplexes may not be subject to lower maximum height standards than those applicable to detached single-family structures in the same zone.
5. Parking:
 - a. For duplexes, a local government may not require more than a total of two (2) off-street parking spaces.
 - b. Nothing in this section precludes a local government from allowing on-street parking credits to satisfy off-street parking requirements.
6. Lot Coverage and Floor Area Ratio: Local governments are not required to apply lot coverage or floor area ratio standards to new duplexes. However, if the local government chooses to apply lot coverage or floor area ratio standards, it may not establish a cumulative lot coverage or floor area ratio for duplex that is less than established for single family detached structure in the same zone.
7. If a local government or other utility service provider grants clear and objective exceptions to public works standards to single-family detached development, those same exceptions must also be granted to duplexes permitted under this section.

660-046-0106 Design Standards

1. Local governments are not required to apply design standards to new duplexes. However, if the local government chooses to apply design standards to new duplexes, it may only apply all clear and objective design standards that the local government applies to detached single-family structures in the same zone.
2. A local government may not apply design standards to duplexes created through internal conversion of a single-family detached structure.

660-046-0107 Duplex Conversions

Conversion of an existing detached single-family structure to a duplex is allowed, pursuant to OAR 660-046-0102(2), provided that the conversion does not increase nonconformance with applicable clear and objective standards.

DATE: March 23, 2020
TO: Ethan Stuckmayer, Department of Land Conservation and Development
FROM: Tyler Bump and Becky Hewitt, ECONorthwest
SUBJECT: Fiscal and Housing Impact Statements for Middle Housing Model Code for Medium Cities
(DRAFT)

Introduction

Per the Oregon Administrative Procedures Act (APA) and ORS Chapter 183.335(2)(b)(E), the Department of Land Conservation and Development (DLCD), in preparation to adopt Oregon Administrative Rules implementing provisions of House Bill 2001, must provide a Statement of Fiscal Impact (FIS) as part of its noticing requirement. The purpose of the FIS is to give notice to anyone who the rule may have a fiscal impact on. The FIS should therefore describe the purpose of the rule, attempt to identify people or entities the rule will affect, and describe, as best as possible, what that effect will be.

This FIS must identify “state agencies, units of local government and the public that may be economically affected by the adoption, amendment or repeal of the rule”. ORS Chapter 183.335(2)(b)(E) also requires that, in determining economic impact, the agency shall “...project any significant economic effect of that action on businesses which shall include a cost of compliance effect on small businesses affected.”

Per the APA manual, DLCD is not required to conduct original research. DLCD is required to use available information to project any significant effect of the proposed rule, including a quantitative estimate of how the proposed rule affects these entities or an explanation of why DLCD cannot make the estimate. DLCD is required to identify any persons this proposed rule could affect economically including:

- Small and large businesses, as defined in ORS 183.310(10)
- State agencies (DLCD and any other State agency),
- Local governments, and
- The public.

Additionally, ORS Chapter 183.335(2)(b)(E), requires that rules adopted by the Land Conservation and Development Commission, also “estimate of the effect of a proposed rule or ordinance on the cost of development of a 6,000 square foot parcel and the construction of a 1,200 square foot detached single family dwelling on that parcel.” This Housing Impact Statement (HIS) is described in ORS 183.534.

Per direction from DLCD, the fiscal and housing impact statements are limited to direct impacts of the rule-making.

This memo describes the fiscal and housing impacts of draft of the Medium Cities Middle Housing Draft Administrative Rules.

Fiscal Impact Statement

The Medium Cities Middle Housing Draft Administrative rules may result in fiscal and economic impacts due to:

- Compliance costs to amend local development regulations for consistency with the draft rules and to review those amendments.
- Impacts to property values and/or property taxes as a result of increased development potential.
- Differences in system development charge revenue, property tax revenue, and/or cost of providing services due to a shift in the type and location of housing developed as a result of changes to local development regulations.

The anticipated fiscal and economic impacts in each of these categories are discussed below.

Code Amendments for Compliance

Local Government Costs

Medium Cities (population 10,000 to 25,000) are required to comply with the draft administrative rules. For nearly all, if not all, of these jurisdictions, this will require amending their development code. DLCD is developing model code language simultaneously with rule-making, so jurisdictions will have the option to simply adopt the model code language, or to develop their own conforming code amendments.

[placeholder: estimates of staff time / consultant costs associated with these efforts to come]

State Agency Costs

DLCD staff will be responsible for review of post-acknowledgement plan amendments resulting from changes to the local level. This represents a modest increase in staff effort relative to the norm.

Additionally, there is the potential for DLCD to incur Department of Justice legal fees in situations where the DLCD files an appeal of a local government's non-compliant development code to the Land Use Board of Appeals (LUBA) or is brought to intervene in a LUBA case between two other parties regarding an appeal. DLCD also maintains authority to enact an enforcement order, which would incur legal fees and demand a modest increase in staff effort in time to review and compile legal records relative to the norm.

Increased Development Potential

The rules require that Medium Cities allow duplexes on all lots in areas zoned for residential use where single family homes are allowed. This may increase the land value in areas where

duplex development is financially feasible and where it offers financial returns that exceed those of single family development. This could affect resale value of existing homes and potentially also property taxes. It also provides property owners with a greater range of options for how to use their property. In locations where duplex development is not financially feasible or does not offer financial returns that exceed those for single family homes, there will be no change to development potential or resale values.

There is no land use precedent for comparable rules in communities of comparable scale that would allow us to accurately measure the impact of the proposed rules.

Impacts to the Public: Resale Value of Existing Homes

For existing homes, lower cost homes, particularly those in poor condition, may be more likely to be redeveloped. Larger homes that are in need of major remodels may offer potential for conversion to a duplex. These types of homes are most likely to see an increase in resale value as a result of the proposed rules, if there is sufficient demand for duplex development or conversion. Desirable, well-maintained single family homes are unlikely to see a noticeable change in resale value since they would be unlikely targets for a developer or investor looking to create a duplex.

Impacts to the Public: Increased Options for Use of Property

The proposed rules also allow existing and future property owners a wider range of choices for how to use their property, including the potential to create a second unit on the property that is larger than allowed under Accessory Dwelling Unit (ADU) regulations. This can provide a source of rental income if both units are owned by one household. The financial impact will be limited to those who choose to take advantage of the development potential and will be only the incremental difference in rent between what would have been allowed under ADU rules and what will be allowed for duplexes under the proposed rules. This is likely to be limited (e.g. a 25% increase in rent if the second unit is 25% larger than would have been allowed under ADU rules).

Impacts to the Public: Increased Property Taxes

Due to constitutional limits imposed by Measure 50, a property's maximum assessed value (MAV) can increase by no more than 3% per year except under certain circumstances. These circumstances include:

- New construction
- Major improvement projects (e.g. additions, remodels, or rehabilitation)¹
- Land division
- Rezoning (where the property is used consistently with the new zoning)²

¹ Valued at more than \$10,000 in one year or \$25,000 over 5 years.

² Per OAR 150-308-0200, this includes a change in:

In these cases, the Assessor determines how much Real Market Value (RMV) was added by the change(s) to the property and uses the changed property ratio (CPR) for that property type to determine the additional taxable value.

The proposed rules will require Medium Cities to make changes to their development codes that will constitute rezoning under OAR 150-308-0200. However, in order to trigger the exception, property must be rezoned and used consistently with the rezoning. “Property is ‘used consistently with the rezoning’ when it’s put to a newly allowed use. This doesn’t include situations where the use of the property was an allowed use both before and after the rezoning.”³ In this case, the newly allowed use is a duplex. Improvements to existing single family homes that do not create a duplex (including adding an ADU⁴) may trigger an exception that increases the MAV, but only to the same degree that they would have without the change to zoning regulations. Therefore, the only situations in which the proposed rules will increase property taxes are for properties that are actually developed as, or converted to, duplexes.

For properties that are developed as, or converted to, duplexes, the increase in property value will depend on the RMV after the improvement or development and the CPR in the county where the property is located.

Impacts to Small and Large Businesses: Increased Opportunities for Small-Scale Development

In locations where duplex development enabled by the proposed rules is financially feasible, this may create additional opportunities for small development companies to engage in development activity at a scale that is appropriate for a small business. Greenfield development tends to be more concentrated among larger development companies that are better capitalized and able to obtain more financing. However, even larger development companies rarely have more than 50 employees, so the impacts (positive and any slight negative impact to demand for larger-scale greenfield construction) are likely to be concentrated among businesses with fewer than 50 employees.

Shifts in Type and Location of Housing Development

The increase in capacity in areas zoned for single family housing resulting from the proposed rules would impact the location and type of housing development as a result of duplex development in existing neighborhoods. Although this would result in an increase in zoned capacity, it may or may not change the pace of development. From a planning perspective, it

-
- (i) The number of dwelling units, other than accessory dwelling units, allowed per acre, or other legal limitation on the number of dwelling units, other than accessory dwelling units, in a given area;
 - (ii) The allowed floor area ratio; or
 - (iii) The allowed site coverage ratio

³ Oregon Department of Revenue, “Maximum Assessed Value Manual,” Rev. 05-18, Page 7-4.

https://www.oregon.gov/DOR/forms/FormsPubs/maximum-assessed-value-manual_303-438.pdf

⁴ Accessory dwelling units are specifically addressed in OAR 150-308-0200 and excluded from the definition of rezoning, along with other changes to accessory uses, for purposes of changing the MAV.

will not change the overall population forecast⁵ or total number of housing units jurisdictions will be planning for as part of a Housing Needs Analysis. As a result, the impact is primarily a shift of a small percentage of the community's housing development from single family detached housing and multifamily housing to duplex development. In some communities, there could be an increase in the pace of development if the lack of available land in desirable places with access to services has been a barrier to housing production. The increase in capacity in certain residential zones could also mean a shift of a small percentage of housing growth from greenfield development areas to infill development and/or slightly more efficient greenfield development. The legislation states that a local government's density expectations from measures adopted to implement the legislation may not project an increase in residential capacity of more than three percent over the 20-year planning horizon without quantifiable validation. While this increase in capacity will vary from one community to another, it suggests a modest shift.

It is difficult to say to what degree duplex development will substitute for single family development vs. multifamily development. This depends on a number of factors, including unit size and tenure. In many medium cities, financing larger multifamily buildings is very challenging, meaning that duplexes may be substituting for multifamily housing that was needed but not actually being delivered by the market.

Impacts to Local Governments: System Development Charge Revenue

Many cities have different system development charges (SDCs) for single family versus multifamily development, particularly for parks and transportation. Duplexes are handled differently in different jurisdictions—some treat them as single family for purposes of calculating SDCs, while others consider them multifamily. Few have specific fees for duplexes. The nature and extent of a change in SDC revenue would depend on several factors:

- The extent to which duplex development is substituting for single family development vs. multifamily development
- Whether duplex development increases the overall pace of development
- Whether duplex development is subject to multifamily SDC rates or single family SDC rates
- The difference in SDCs between multifamily and single family rates

Impacts to Local Governments: Property Tax Revenue

As noted above, property taxes will only be affected by the proposed rules to the extent that new duplex development or conversion occurs. This would produce a modest increase in property tax revenue from those properties relative to remaining as single family housing. However, since this duplex development is likely substituting (at least in part) for single family

⁵ This is true in the near-term, although population forecasting is influenced by historical rates of growth and also by capacity for future growth. If the increased capacity and opportunities for duplex development led to a higher rate of growth than in the past, this affect future population forecasts.

and/or multifamily development that would otherwise have occurred, and may have been more likely to occur on vacant land rather than infill, that increase in property value may be counterbalanced by a reduction in new property value from new development on vacant land.

Impacts to Local Governments: Cost to Provide Services

To the extent that the proposed rules increase infill development rather than greenfield development and lead to higher density new development as a result of duplex development, this could modestly reduce the cost to local governments of providing urban services, since more compact development is typically more efficient to serve.

Housing Impact Statement

In locations where duplex development is financially feasible and where the returns from developing a duplex on a 6,000 square foot lot exceed those of developing a 1,200 square foot single family home on that lot, the developer of the duplex will be able to pay more for the lot than the developer of the single family home. This will slightly increase the cost of land for the single family home. Because 1,200 square feet is small for a new single family home in the current market and it is possible that a duplex could have twice that much square footage in some jurisdictions (depending on restrictions on lot coverage and floor area ratio), it is relatively likely that a developer would be able to pay more for the land to build a duplex than to build a 1,200 square foot single family home. However, it is worth noting that most new homes are as much as twice that size, and builders of these larger single family homes are also likely to be able to pay more for the land than someone trying to build a 1,200 square foot home. A large single family home and a duplex may have a more comparable ability to pay for land. Because the specific increases to land cost will depend on local market conditions, it is not possible to estimate the cost increase based on available data.



MEMORANDUM

Model Code Topics – Large and Metro Cities DLCD Middle Housing Model Code (MHMC)

DATE February 21, 2020
TO MHMC Technical Advisory Committee
FROM Matt Hastie, Cathy Corliss and Kate Rogers, Angelo Planning Group
CC Ethan Stuckmayer and Kevin Young, DLCD
Project Team

This memo provides a list of code topics with concepts and ideas that could be included in the Large & Metro Cities Model Code. The memo also includes a list of questions that have been identified to date by DLCD staff and stakeholders, and initial responses to those questions from staff and from team discussion.

Housing Types to be Addressed

“Large cities,” as defined by HB2001, include all Oregon cities with a population of more than 25,000, all cities within the Portland Metro boundary with a population of more than 1,000, and unincorporated areas within the Portland Metro boundary that are served by sufficient urban services. For the purpose of the MHMC project, we will refer to these jurisdictions as “Large & Metro cities” (LMC).

Large & Metro Cities are required to:

- Allow “a duplex on each lot or parcel zoned for residential use that allows for the development of detached single-family dwellings.”
- Allow triplexes, fourplexes, cottage clusters, and townhouses “in areas zoned for residential use that allow for the development of detached single-family dwellings.”

Each of these housing types can be subject to siting and design standards as long as those standards are reasonable and don’t discourage development by causing “unreasonable costs or delay.”

Code Topics

Following is a list of the types of standards that could be incorporated in the LMC Model Code and identifies options or key issues associated with those standards, as applicable. All standards must be clear and objective.

Note: For duplexes, the list below is very similar to the comparable memo for Medium Cities; however, a additional topics have been added here that do not apply to duplexes (e.g., common open space). In addition to addressing the other middle housing types, the we're assuming that the LCMC Model Code will include the same duplex provisions that are included in the Medium Cities Model Code.

- Housing Definitions
 - Duplexes – This definition is assumed to be the same as for Medium Cities.
 - Triplexes and Fourplexes – Should the building form be specified in the model code (e.g., fourplexes could be defined as two units on the ground floor and two units above, four units (attached or detached) on a single lot, or something different)?
 - Cottage Cluster – This will likely be defined as multiple detached units on a single (undivided) lot. Standards for cottage cluster subdivisions are likely too complicated for the model code.
 - Townhomes – The model code will need to address the relationship to subdivision/partition requirements for townhomes.
- Location – Middle housing must be allowed in areas zoned for residential use, but there could be standards related to the location within those zones where the housing types are allowed.
- Lot size/density
 - Should there be minimum lot sizes for middle housing types (other than duplex)?
 - Should middle housing be exempt from density calculations as applied to an individual lot and/or to a plan designation in a City's Comprehensive Plan?
- Mass/bulk
 - How should the model code ensure that middle housing is appropriately scaled to the lot size?
 - Options: FAR, unit size, total structure size (square feet), height, and/or building envelope
 - Number of attached units in a townhouse development
- Setbacks, spacing of units if detached units are on the same site
- Parking requirements, including:
 - On- and off-street requirements or credits
 - Location of driveways and other parking areas
 - Whether requirements are by unit or bedroom
 - Notes:
 - Need to balance the use of parking requirements to restrict the feasibility of middle housing with legitimate concerns about impacts of lower off-street parking requirements on the supply of on-street parking.
 - As part of work on the rule-making "sideboards," we may want to consider a standard that says "a local government may require no more than X space(s) per dwelling unit."
 - A related issue is curb-cuts onto public streets and parking lot configuration. Should local governments allow multiple curb cuts, driveways, and vehicles backing out

onto public streets, or can they require a different parking configuration if the on-site requirement is greater than X vehicles?

- Landscaping/lot coverage – What is a reasonable percentage requirement?
- Common open space – Will likely apply to cottage cluster, but possibly others as well.
- Fencing?
- Goal-protected areas (Goals 5, 7, others?) – How will the model code address areas subject to natural resource or hazard protections?
- Entrance location and/or design
- Architectural design standards
 - Window coverage
 - Articulation
 - Garage location and design
 - Compatibility? (on the same site, adjacent properties, or surrounding neighborhoods?)
 - Visitability/accessibility
 - Others?
- Procedure type for review:
 - We assume the model code will only include clear and objective standards and will not include a second discretionary track.
 - Do we need to specify that middle housing will follow a Type 1 procedure?
- Conflicting standards – The model code should address how the middle housing standards relate to cities’ existing code sections, especially regarding conflicting standards.

Issues and Questions

The table on the next page includes a list of questions identified to date by DLCDC staff and stakeholders. The left column lists the question or issue and the right column lists initial responses (where provided) from staff and from the project team’s discussion at the kickoff meeting.

Note: Similar to the code topics list, this table is largely similar to the one provided in the Medium Cities memo, but includes additional issues that apply to other middle housing types besides duplexes.

Question/Issue	Initial Response/Discussion
<ul style="list-style-type: none"> • How will the model code relate to cities’ existing density standards? <ul style="list-style-type: none"> ○ Do duplexes count toward density? ○ Does minimum or maximum density still apply? 	<p><u>Initial DLCD staff response:</u></p> <ul style="list-style-type: none"> • The bill was intended to increase the variety of housing types in low density residential neighborhoods in order to increase housing supply and housing options, and to provide opportunities for more affordable housing options in all residential neighborhoods. For that reason, holding these housing types to the same density range and/or minimum lot size as that required for SFDs would run counter to the goals of the bill, because the land cost/unit would not change. Additionally, the duplex standard alone effectively doubles potential densities in these areas (though this is likely not a realistic expectation). • Given this, what are reasonable standards regarding density and lot size? Do cities have to allow a fourplex on a 5,000 sq. ft. lot? • One “middle ground” solution would be to work from the de facto density established by the duplex requirement within a zone. For example, if a low density zone currently requires a minimum lot size of 5,000 sq. ft. for a detached SFD, the minimum lot size would effectively be cut in half for a duplex – 2,500 sq. ft./dwelling. Scaling up from that number, minimum lots sizes within the same zone would follow the same calculation: <ul style="list-style-type: none"> ○ Triplex: 7,500 sq. ft. ○ Fourplex: 10,000 sq. ft. ○ Cottage Cluster: 2,500 sq. ft./unit ○ Townhome: 2,500 sq. ft./unit • This approach would reset densities within cities, but would establish some clear and enforceable limits.
<ul style="list-style-type: none"> • How will the model code address the requirement for middle housing “in areas zoned for single-family homes?” 	<p><u>Team discussion:</u></p> <p>Initial thought is that the requirement applies in <u>all residential zones that allow single-family detached dwellings</u>. Possible exceptions:</p>

Question/Issue	Initial Response/Discussion
<ul style="list-style-type: none"> a. Does this mean all middle housing types in all areas zoned to allow SFDs? or b. All middle housing types in (portions of?) each zone that allows SFDs? or c. All middle housing types in some of the areas zoned for residential use? or d. Something else? <p>If a, b, or c, how will those areas be defined?</p>	<ul style="list-style-type: none"> ○ Holding zones ○ Infrastructure-limited zones ○ Other zones established to limit impacts on natural resources or hazards <p>How will model code standards related to location be written?</p>
<ul style="list-style-type: none"> ● Is proximity to transit and/or active transportation infrastructure one way to define areas where middle housing would be allowed? Should this be mandated in the model code? 	<p><u>Initial staff response:</u></p> <ul style="list-style-type: none"> ● Perhaps guidance might include considerations, such as: <ul style="list-style-type: none"> ○ Access to transit and active transportation options ○ Locations on non-local streets ○ Corner lots ○ Infrastructure capacity ● For triplexes and above, they could be allowed anywhere in the zone subject to design review or similar discretionary process (in addition to allowing them outright in specified areas within the zone). This should meet the “clear and objective” test because the specified housing types would be allowed outright in some areas within the zone. ● On a related note, location within hazard areas, or other goal protected areas, might factor into decisions as to where “not to allow.” ●
<ul style="list-style-type: none"> ● Where is the policy definition coming from for definitional, locational issues or other standards? 	<p>Team discussion:</p> <p>It will be important to review the legislative history and discussion of HB2001 related to this issue. The model code should tread lightly with</p>

Question/Issue	Initial Response/Discussion
	interpretation. This will be an important topic discussion with the RAC.
<ul style="list-style-type: none"> • Can an ADU be added to a property with middle housing? 	<p><u>Initial staff response:</u> A local government might choose to allow this, but it isn't required per HB 2001 and SB 1051. SB 1051 only requires ADUs in conjunction with detached single family homes. This can be managed as an either/or: either a duplex or a SFD and ADU, but not both.</p>
<ul style="list-style-type: none"> • How will recent state requirements and standards for ADUs relate to and be reconciled with standards for duplexes? Related questions: <ul style="list-style-type: none"> ○ If someone has an existing single-family detached home and an existing ADU, would they be able to convert or redevelop the detached home into a duplex (must allow one duplex per lot)? ○ If someone has an existing duplex, would they be allowed to build an ADU (only have to allow one ADU per single-family detached home)? • When does an internal ADU become a duplex? 	<p><u>Initial staff response:</u> These can probably be addressed without need for rulemaking.</p>
<ul style="list-style-type: none"> • Will the model code allow flexibility for siting and design standards applied by local jurisdictions? If so, how will that flexibility be built into the code? 	
<ul style="list-style-type: none"> • Should the MCMC include regulations on the mass or bulk of duplexes and should the same standards apply to single-family detached homes in the same zones? Should local design standards for duplexes be the same as design standards for single-family detached houses? 	
<ul style="list-style-type: none"> • Does middle housing have to be compatible with surrounding housing/neighborhood character? 	<p><u>Initial staff response:</u></p>

Question/Issue	Initial Response/Discussion
<ul style="list-style-type: none"> A related question is what design standards can local governments apply? If they have different standards for duplexes, can those be applied, or are they limited only to design standards for SFDs? 	<ul style="list-style-type: none"> To address impacts to neighborhood character, and potential siting and design regulations that may be applied, a good place to start would be to retain existing building heights and setbacks within low density neighborhoods. If it is permissible to build a 3,000 sq. ft., 35-foot tall single-family dwelling in a zone, holding a duplex to the same limitation is reasonable, and would promote affordability since resultant 1,500 sq. ft. units would be likely to be more affordable. In cities with no or very limited design or compatibility standards for SFD housing, should the model code include standards for duplexes and other middle housing types that would not apply to SFD homes?
<ul style="list-style-type: none"> Are triplexes and fourplexes defined as attached structures? Related questions: <ul style="list-style-type: none"> If triplexes can be defined as detached units, would this overlap with cottage cluster definition? Does the Model Code need to somehow reconcile potentially differing definitions for various housing types among different jurisdictions? 	<p><u>Initial staff response:</u></p> <ul style="list-style-type: none"> These are not defined in HB 2001. Cottage clusters are defined as four or more units, so what about 2 or 3 detached units on a lot? This is an area where rulemaking would be helpful.
<ul style="list-style-type: none"> Parking requirements – parking for larger numbers of units (e.g., triplexes and fourplexes) can take up a lot of land and impact neighborhood character/appearance. 	<p><u>Initial staff response:</u></p> <p>This will be a significant topic of discussion. Parking provisions should not result in “unreasonable cost or delay” (per HB 2001). The financial analysis should help support this perspective. There are a lot of good reasons for minimizing on-site parking, but it also will be important to balance these considerations with a reasonable assessment of concerns related to neighborhood parking.</p> <p>One approach would be to provide credit for on-street parking but confine that to on-street parking on public streets abutting a subject property.</p>

Question/Issue	Initial Response/Discussion
<ul style="list-style-type: none"> How will the model code address future development/holding zones, including those intended for future commercial/industrial uses but which allow single family detached homes? 	<p><u>Team discussion:</u> The requirement applies to only to residential zones – “each lot or parcel zoned for residential use that allows for the development of detached single family dwellings.”</p>
<ul style="list-style-type: none"> What kind of financial analysis will be done to ensure that model code standards do not result in development that is not feasible due to unreasonable cost or delay? 	<p><u>Initial staff response:</u> There are two sides to this coin, and hopefully financial analysis can address both concerns: 1) that model codes and sideboards will result in financially feasible development, and 2) that middle housing code will not result in a development “gold rush” that will transform our neighborhoods overnight. Staff has heard both concerns and the financial analysis should show results in the middle of these two extremes.</p>
<ul style="list-style-type: none"> How will standards related to protection of natural resource or hazard areas be considered in implementing the model code? 	<p>Does this issue apply to duplexes given the legislative requirement that they must be allowed on any lot where a single-family detached home is allowed?</p>
<ul style="list-style-type: none"> How will solar access of neighboring properties be addressed? 	<p><u>Initial staff response:</u> It doesn’t appear that local governments with solar access regulations are precluded from applying them as regulations relating to “siting and design.”</p> <p><u>Team discussion:</u> Do certain standards preclude other standards in the development code? Could we identify the right to a certain minimum amount of housing that would supersede other standards for duplexes?</p>
<ul style="list-style-type: none"> How will requirements impact approved master plans or PUDs? 	<p><u>Initial staff response:</u> Preliminarily, we assume that the developer holding the entitlement would be obligated to build the specific development for which</p>

Question/Issue	Initial Response/Discussion
	<p>approval was sought. However, since clear and objective standards must be applied to development on individual lots subsequent to initial construction, a subsequent owner might successfully redevelop a SFD lot to a duplex.</p> <p><u>Team discussion:</u> We should review case law regarding what a new owner can do with a property.</p>
<ul style="list-style-type: none"> • Will there be specific model code provisions related to application in historic districts? 	<p><u>Initial staff response:</u> This likely isn't necessary because historic districts continue to be allowed to use discretionary criteria related to alterations, additions, and new development that are focused on historic character and compatibility.</p>
<ul style="list-style-type: none"> • How will the model code be written and structured to allow it to be directly applied to any city in the state? 	<p>This will be a significant topic of discussion and work in drafting the code.</p>
<ul style="list-style-type: none"> • How should "sideboards" be incorporated? Should they be part of the model code or a separate document? Should local jurisdictions craft sideboards to fit their own codes? 	



MEMORANDUM

Large & Metro Cities Model Code, part 1 (INITIAL DRAFT) DLCD Middle Housing Model Code

DATE March 23, 2020
TO MHMC Model Code Technical Advisory Committee
FROM Matt Hastie, Cathy Corliss and Kate Rogers, Angelo Planning Group
CC Ethan Stuckmayer and Robert Mansolillo, DLCD Project Team

Middle Housing Model Code for Large Cities

User's Guide:

Oregon House Bill 2001 (HB2001) defines “Large Cities” as all Oregon cities with a population of more than 25,000, all cities within the Portland Metro boundary with a population of more than 1,000, and unincorporated areas within the Portland Metro boundary that are served by sufficient urban services. HB2001 requires Large Cities to:

- Allow “a duplex on each lot or parcel zoned for residential use that allows for the development of detached single-family dwellings.”
- Allow triplexes, fourplexes, cottage clusters, and townhouses “in areas zoned for residential use that allow for the development of detached single-family dwellings.”

The bill allows local governments to regulate siting and design of these middle housing types, provided that the regulations do not, individually or cumulatively, discourage duplex development through unreasonable costs or delay. Middle housing provides an opportunity to increase housing supply in developed neighborhoods and can blend in well with detached single-family dwellings. Concerns about neighborhood compatibility and other factors should be considered and balanced against the need to address Oregon’s housing shortage by removing barriers to development.

Ideally, Large Cities will develop their own standards in compliance with the requirements of HB2001 and this document is intended to provide guidance toward that end (both in terms of model code and minimum standards). However, if jurisdictions do not adopt the required code amendments by HB2001’s June 30, 2022 deadline, they must directly apply the model code to any applicable proposals. Thus, this document

has a dual purpose, and the following tables include provisions organized into two columns:

1. **Model Code** – The standards that will apply directly to proposals for middle housing development if jurisdictions do not adopt the required code amendments. These standards are consistent with the requirements and intent of HB2001 and are intended to be straightforward and implementable by Large Cities throughout the state.

2. **Minimum Compliance** – The minimum standards that development codes must meet in order to comply with the text and intent of HB2001. These are the standards against which DLCD will compare amended development codes to ensure they comply with state law.

Ultimately, the Large Cities Model Code provisions will be administered as follows:

- Minimum compliance standards will be adopted **directly** into administrative rules;
- The model code will be adopted **by reference** into administrative rules; and
- Alternative approaches will not be incorporated into administrative rules, but will be provided as guidance to local governments wishing to further facilitate middle housing development.

Commentary for MCTAC:

This is part 1 of the draft Large Cities Model Code, and includes the following topics: Purpose, Applicability, and Definitions (Table 1—these are proposed to be combined for all middle housing types) and Duplex Standards (Table 2). The other middle housing types and model code topics will be included in subsequent drafts presented to the MCTAC.

For the purpose of this draft, the duplex standards have been copied directly from the latest draft of the Medium Cities Model Code. We invite the MCTAC to comment on whether and why the duplex standards should differ for Large and Metro Cities.

For the purpose of focusing the MCTAC’s efforts on the model code and minimum compliance standards, a “Suggested Approaches” column has not been included for the Large Cities Model Code draft. The project team will note any suggestions for potential best practices or alternative approaches from MCTAC meetings and written commentary, and will potentially include those in a guidance document to be developed by DLCD.

Similar to the draft Medium Cities Model Code document, the rightmost column of the table includes commentary explaining the rationale behind the model code and minimum compliance provisions. Some of this commentary could be incorporated into a guidance document that will assist users of the model code and jurisdictions updating their own development codes.

The following draft code provisions will be further refined based on direction from the RAC and MCTAC.

Note: *DLCD has provided a companion memo that includes updates to the minimum compliance rules for the Medium Cities Model Code. Some of those updated rules will replace the text of the duplex minimum compliance standards in Table 2.*

Table 1. Combined Standards for All Middle Housing

Standard	Model Code	Minimum Compliance	<i>Commentary</i>
A. Purpose	The purpose of this model code is to implement Oregon House Bill 2001 (2019) and ORS 197.758 by providing standards for middle housing developed in areas zoned for residential use that allow for the development of detached single-family dwellings.	Local governments are not required to include a purpose statement specific to provisions needed to implement and comply with HB2001.	<i>Consistent with the Medium Cities Model Code, the proposed purpose statement simply includes the stated intent of HB2001, and refers to the bill and state statute.</i>
B. Definitions	The following definitions shall apply for the purposes of this model code, notwithstanding other definitions in the local jurisdiction’s development code:	--	<i>“Unreasonable cost and delay” means any standard, approval criteria, or process that imposes additional burden upon middle housing development above the burden placed upon single family detached development in the same zone.</i>
1. “Common wall”	“Common wall” means a wall shared by two or more dwelling units. The common wall must be shared for at least 25 percent of the length of the side of the building of the dwelling units. The common wall may be any wall of the building, including the walls of attached garages.	No requirement, as long as definitions ensure consistent application of middle housing standards.	<i>Because HB2001’s definition of “townhouse” uses the term “common wall,” it is defined here. The proposed definition is consistent with those used by the Cities of Bend and Portland (and possibly others).</i>
2. “Constrained lands”	“Constrained lands” means lands protected or designated pursuant to the following statewide planning goals: <ul style="list-style-type: none"> • Goal 5 Natural Resources, Scenic and Historic Areas, and Open Spaces; • Goal 7 Areas Subject to Natural Hazards; • Goal 15 Willamette River Greenway. 		<i>This definition is proposed to establish where middle housing (besides duplexes) is <u>not</u> permitted by the model code. Additional work on the definition and provisions related to “constrained lands” (in the applicability section) is still needed to more clearly address the circumstances under which</i>

Standard	Model Code	Minimum Compliance	Commentary
			<p><i>local code provisions related to these goals can be used to limit middle housing in such areas.</i></p> <p><i>In addition, model code and/or minimum compliance provisions related to infrastructure constrained lands will need to be incorporated based on the work of the Infrastructure TAC.</i></p>
<p>2. “Cottage cluster”</p>	<p>“Cottage cluster” means a grouping of no fewer than four detached dwelling units per acre, each with a footprint of less than 900 square feet, located on a single lot or parcel that includes a common courtyard.</p>	<p><i>Same as model code, with the exception that the individual units could be located on separate lots.</i></p> <p>See additional information in commentary.</p>	<p><i>HB2001 provides the definition of “cottage cluster,” but the draft model code narrows the definition to mean detached units <u>on a single lot</u>. Some jurisdictions provide for cottage clusters on individual lots; however, this would be excessively complicated for the model code, as it requires land division, cross-access agreements, and other provisions that make a clear and objective review path that could work in any jurisdiction very challenging.</i></p> <p><i>However, for minimum compliance with HB2001, jurisdictions may provide greater flexibility as long as the minimum standards are met.</i></p>
<p>3. “Detached single-family dwelling or structure”</p>	<p>“Detached single-family dwelling or structure” means a detached structure on a lot/parcel that is comprised of a single dwelling unit. Detached single-family dwellings or structures may be constructed off-site, e.g., manufactured dwellings or modular homes.</p>	<p>No requirement, as long as definitions ensure consistent application of middle housing standards.</p>	<p><i>The draft model code’s definition of detached single-family dwelling is provided to remove any ambiguity about its meaning in the context of the model code.</i></p>
<p>4. “Duplex”</p>	<p>“Duplex” means a detached structure on a lot that is comprised of two dwelling units. In instances where a structure can meet this</p>	<p>The definition may be the same as or similar to the model code or may define a duplex as two detached</p>	<p><i>The recommended model code and minimum compliance provisions for the definition of</i></p>

Standard	Model Code	Minimum Compliance	Commentary
	<p>definition of a duplex and also meets the jurisdiction’s definition of a primary dwelling unit with an attached or internal accessory dwelling unit (ADU), the property owner has the option of electing whether the entire structure is considered a duplex or a primary dwelling unit with an attached or internal ADU.</p>	<p>units on one lot. The definition must distinguish a duplex from a combination of a single-family detached unit and an ADU for the purpose of specifying off-street parking requirements.</p>	<p><i>“duplex” are the same as for the Medium Cities Model Code.</i></p>
<p>5. “Middle housing”</p>	<p>“Middle housing” means duplexes, triplexes, fourplexes, cottage clusters, and townhouses.</p>	<p><i>Same as model code.</i></p>	<p><i>HB2001 provides the definition of “middle housing,” except that the bill uses the term “quadplex.”</i></p>
<p>6. “Quadplex”</p>	<p>“Quadplex” means a detached structure on a lot that is comprised of four dwelling units. A quadplex is also more commonly called a “fourplex.”</p>	<p>Jurisdictions must define “quadplex” as four dwelling units on a lot. They may choose to allow units to be attached or detached from other units on the lot. Jurisdictions may also choose to require a more specific configuration as long as the more specific definition does not result in “unreasonable cost or delay.”</p>	<p><i>The proposed definition of “quadplex” is consistent with the way “duplex” and “triplex” are defined in the draft model code. Jurisdictions adopting their own code amendments may provide either more or less flexibility in the definition as noted in the minimum compliance column as long as the more specific definition does not result in “unreasonable cost or delay.”</i></p>
<p>7. “Townhouse”</p>	<p>“Townhouse” means a dwelling unit constructed in a row of two or more attached units, where each dwelling unit is located on an individual lot or parcel and shares at least one common wall with an adjacent unit. A townhouse is also commonly called a “rowhouse,” “attached house,” or “common-wall house.”</p>	<p>Jurisdictions must have a definition of “townhouse” (or one of the alternative terms, such as rowhouse), that is the same as or similar to the model code definition. At minimum, this housing type must be defined as attached dwelling units on individual lots.</p>	<p><i>HB2001 provides the definition of “townhouse.”</i></p>

Standard	Model Code	Minimum Compliance	Commentary
8. "Triplex"	"Triplex" means a detached structure on a lot that is comprised of three dwelling units.	Jurisdictions must define "triplex" as three dwelling units on a lot. Jurisdictions may choose to allow units to be attached or detached from other units on the lot.	<i>The proposed definition of "triplex" is consistent with the way "duplex" and "fourplex" are defined in the draft model code. Jurisdictions adopting their own code amendments may provide more flexibility by allowing detached units.</i>
9. "Zoned for residential use"	"Zoned for residential use" means a zoning district in which residential dwellings are the primary use and which implements a residential Comprehensive Plan map designation.	Same as model code.	<i>This definition clarifies that the middle housing requirement only applies in residential zones. This is further clarified in the Applicability section.</i>
C. Applicability	--	--	--
1. <u>Applicability of Model Code Sections.</u>	<p>a. Model code sections applicable to all middle housing types are: A. Purpose, B. Definitions, C. Applicability, <i>[potentially others]</i>.</p> <p>b. Model code standards applicable to specific housing types are listed below:</p> <ul style="list-style-type: none"> • Duplexes: <i>[list sections here]</i>. • Triplexes: <i>[list sections here]</i>. • Fourplexes: <i>[list sections here]</i>. • Cottage clusters: <i>[list sections here]</i>. • Townhouses: <i>[list sections here]</i>. 	Not applicable.	<i>This subsection of Applicability states which sections of the model code are applicable to each type of housing.</i>
2. <u>Applicability by Development Type and Location.</u>	a. Unless otherwise noted, the standards of this model code allow for the following development on lots or parcels (including lots of record) zoned for residential use that allow for the	Same as model code.	<i>This subsection of Applicability establishes the following:</i> <ul style="list-style-type: none"> • <i>Identifies where within "areas zoned for residential use" middle housing must be allowed.</i>

Standard	Model Code	Minimum Compliance	Commentary
	<p>development of detached single-family dwellings:</p> <ul style="list-style-type: none"> • New duplexes and those created through conversion of existing detached single-family structures. • New triplexes, fourplexes, cottage clusters, and townhouses, and those created through conversion of existing detached single-family structures, except on constrained lands. <p>b. The standards in this model code do not require the following, unless otherwise permitted by the jurisdiction through clear and objective standards, criteria, and procedures:</p> <ul style="list-style-type: none"> • Creation of more than two dwelling units on a lot, including accessory dwelling units, on constrained lands. • Creation of middle housing on lots or parcels on lands that are not zoned for residential use, including lands zoned primarily for commercial, industrial, agricultural, public, or mixed uses, even if those zones allow for the development of detached single-family dwellings. 		<ul style="list-style-type: none"> ○ Clarifies that the provisions only apply in residential zones in which detached single-family dwellings are permitted. ○ Per HB2001, duplexes must be allowed on all residential lots that allow SFD. ○ The proposed standard for other middle housing types is that they also be allowed on all lots <u>except</u> in designated resource/hazard areas (“constrained lands”). The MCTAC did not support any other location criteria (e.g., proximity to transit, arterials, corner lots, etc.). The proposed approach is to allow development standards (e.g., minimum lot size) to determine where middle housing can be built. • Indicates that the standards apply to new construction as well as conversions of single-family detached homes. • For lots on constrained lands, which only allow a duplex, the model code does not allow for creation of more than two units, including ADUs (i.e., an SFD with an ADU cannot be converted into a duplex unless the jurisdiction allows it). This is consistent with the MCMC. • Additional model code and/or minimum compliance provisions related to infrastructure constrained lands will need to

Standard	Model Code	Minimum Compliance	<i>Commentary</i>
			<p><i>be incorporated based on the work of the Infrastructure TAC.</i></p> <ul style="list-style-type: none"> <i>Note: we propose limiting the number of units allowed on a lot outside of constrained areas in the development standards under each housing type (which are yet to be drafted).</i>
<p>3. <u>Protective Measures.</u></p>	<p>Middle housing developed under this model code shall comply with protective measures (including plans, policies, and regulations) adopted pursuant to statewide land use planning goals (e.g., environmental and natural hazard protections).</p>	<p><i>Same as model code.</i></p>	<p><i>This subsection of Applicability clarifies that requirements of HB2001 do not override local protections for natural resources, natural hazards, or other regulatory protections adopted pursuant to Statewide Land Use Planning Goals. This could mean, for example, limiting building footprints in wetland areas, ensuring duplexes are reviewed for historic compatibility in historic districts, or limiting building heights within the Willamette Greenway.</i></p> <p><i>Additional work on the definition and provisions related to “constrained lands” (in the applicability section) is still needed to more clearly address the circumstances under which local code provisions related to these goals can be used to limit middle housing in such areas.</i></p>

Table 2. Duplex Standards

(Note: For the purpose of this draft, the duplex standards have been copied directly from the latest draft of the Medium Cities Model Code.)

Standard	Model Code	Minimum Compliance	<i>Commentary</i>
D. Relationship to Other Regulations	--	--	--
1. <u>Conflicts.</u>	In the event of a conflict between this model code and the jurisdiction’s standards applicable to a proposed duplex, the standards of this model code control.	N/A	<i>This section of the draft model code is intended to address how these provisions relate to local jurisdictions’ existing code sections, especially related to conflicting standards. Subsection D.2 states that except for the model code standards, duplexes must meet all other provisions applicable to detached single-family dwellings. The purpose of stating that “other existing standards applicable only to duplexes shall not apply” is to prevent local governments from applying standards that make duplexes more difficult or costly to develop than detached single-family homes. If local governments adopt their own code amendments, they may apply separate standards to duplexes (to a limited extent), as long as those standards do not discourage duplex development through “unreasonable costs or delay.”</i>
2. <u>Development and Design Standards.</u>	Duplex units developed under this model code are subject to the following standards: <ul style="list-style-type: none"> • Section F, Development Standards • Section G, Design Standards • Development and Design Standards of the local jurisdiction as follows: <ul style="list-style-type: none"> ○ All clear and objective development and design standards that apply to detached single-family structures in the same zone, unless those standards conflict with the standards of this model code. ○ Other standards applicable only to duplexes shall not apply to duplexes developed under this model code. 	N/A	
3. <u>Public Works Standards.</u>	Clear and objective exceptions to public works standards granted to single-family dwellings shall also be granted to duplexes developed under this model code.	<i>Same as model code.</i>	

Standard	Model Code	Minimum Compliance	Commentary
<p>E. Permitted Uses and Approval Process</p>	<p>Duplexes shall be permitted outright on lots or parcels zoned for residential use that allow for the development of detached single-family dwellings. Duplexes shall be subject to the same approval process as the local jurisdiction applies to detached single-family dwellings in the same zone, and shall be subject to only clear and objective standards, approval criteria, conditions, and procedures. Alternatively, an applicant may choose to submit an application for a duplex subject to discretionary standards and criteria if such a process is available in the subject jurisdiction.</p>	<p><i>(See the companion memo from DLCDC regarding updates to minimum compliance rules.)</i></p>	<p><i>This section of the draft model code clarifies that duplexes shall be permitted <u>outright</u> on lots where detached single-family dwellings are permitted. It also states that duplexes are subject to the same type of approval process as detached single-family dwellings—but only using clear and objective criteria, as required by state law, unless the applicant chooses discretionary review.</i></p>
<p>F. Development Standards</p>	<p>--</p>	<p>--</p>	<p><i>(See the companion memo from DLCDC regarding updates to minimum compliance rules for development standards.)</i></p>
<p>1. <u>Minimum lot size.</u></p>	<p>The minimum lot size for a duplex is the same as the minimum lot size for a detached single-family dwelling in the same zone.</p>	<p><i>(See the companion memo from DLCDC regarding updates to minimum compliance rules.)</i></p>	<p><i>HB2001 was intended to increase housing supply and housing options, and to provide opportunities for more affordable housing options in all residential neighborhoods. Allowing development of duplexes on the same size lot as a detached single-family home helps meet this intent by reducing the land cost per unit (thus making the development more affordable). Additionally, as duplexes are required to be permitted on any lot that permits a detached single-family dwelling, subjecting duplexes to a larger minimum lot size would violate HB2001.</i></p>

Standard	Model Code	Minimum Compliance	Commentary
2. <u>Maximum Density.</u>	The jurisdiction’s pre-existing density maximums and minimum lot sizes for duplexes do not apply to duplexes permitted under this code.	<i>(See the companion memo from DLCDC regarding updates to minimum compliance rules.)</i>	<i>See comments under minimum lot size.</i>
3. <u>Setbacks.</u>	The setback standards for a duplex are the same as the setback standards for a detached single-family dwelling in the same zone, except that minimum front setbacks of more than 20 feet and minimum rear setbacks of more than 15 feet shall not apply. Minimum garage setbacks are not subject to these limitations.	Duplexes shall not be subject to larger setback standards than those applicable to detached single-family structures in the same zone.	<p><i>To promote compatibility with single-family neighborhoods, the draft model code requires duplexes to meet the same setback standards applicable to detached single-family dwellings, but also to establish maximum front and rear setbacks. This is intended to ensure that overly large setback standards do not discourage duplex development.</i></p> <p><i>To comply with HB2001, jurisdictions must not apply larger setbacks for duplexes than for detached single-family, so as not to discourage duplex development.</i></p>
4. <u>Height.</u>	The height standards for a duplex are the same as the height standards for a detached single-family dwelling in the same zone.	Duplexes shall not be subject to lower maximum height standards than those applicable to detached single-family structures.	<p><i>Similar to setbacks, the draft model code’s height provision is intended to promote compatibility with single-family neighborhoods.</i></p> <p><i>To comply with HB2001, jurisdictions must not apply lower height standards for duplexes, so as not to discourage duplex development.</i></p>
5. <u>Off-street Parking.</u>	No off-street parking is required for a duplex permitted under this model code.	Jurisdictions may not require more than two (2) off-street parking spaces for a duplex.	<i>Providing off-street parking adds to the cost of a development and reduces the area of a site that can be developed with dwelling units. As such, parking requirements constitute a potential barrier to housing development and housing affordability.</i>

Standard	Model Code	Minimum Compliance	Commentary
			<p><i>While, the draft model code requires no off-street parking, it does not speak to how much a jurisdiction can allow. Jurisdictions are encouraged to have the conversation about parking at the local level and determine what makes sense for their communities. DLCD also encourages allowing the market to determine how much parking should be developed; evidence shows that most builders aim to build parking to meet demand.</i></p> <p><i>To comply with HB2001, jurisdictions can require anywhere from 0 to 2 spaces, but per the minimum compliance rule, cannot require more than 2 spaces.</i></p>
--	--	<p>Lot Coverage and Floor Area Ratio: Local Governments are not required to apply lot coverage or floor area ratio standards to new duplexes. However, if the local government chooses to apply lot coverage or floor area ratio standards, it may not establish a cumulative lot coverage or floor area ratio for duplex that is less than established for single-family detached structures in the same zone.</p>	<p><i>While there are no model code standards related to lot coverage or floor area ratio (FAR), the minimum compliance rules limit the cumulative lot coverage or FAR standards for duplexes so they are no more restrictive than for single-family structures in the same zone.</i></p>
G. Design Standards	New duplexes shall meet all clear and objective design standards (e.g., entry orientation, window coverage, articulation, etc.) that the jurisdiction applies to	Local governments are not required to apply design standards to new duplex development. However, if the local government chooses to apply	<p><i>The intent of the draft model code is to apply the same design standards to duplexes that also apply to single-family development. Applying more restrictive design standards would</i></p>

Standard	Model Code	Minimum Compliance	Commentary
	<p>detached single-family structures in the same zone, unless they conflict with the model code.</p> <p>Other design standards elsewhere in the jurisdiction’s code that the jurisdiction applies only to duplexes shall not apply to duplexes developed under this model code.</p>	<p>design standards to new duplexes, they may only apply all clear and objective design standards that the local government applies to detached single-family structures in the same zone.</p>	<p><i>discourage duplex development, and therefore would not comply with HB2001. Meanwhile, local governments that choose to regulate the design of single-family development should be able to apply the same or similar standards to duplexes as well.</i></p>
<p>H. Duplex Conversions</p>	<p>Conversion of an existing detached single-family structure to a duplex is allowed, pursuant to Section C, provided that the conversion does not increase nonconformance with applicable clear and objective standards.</p>	<p><i>Same as model code.</i></p>	<p><i>This draft model code provision allows duplexes to be created from existing detached single-family structures. Though not explicitly stated, this would apply to <u>nonconforming</u> structures as well. The draft code does not require converted duplexes to become fully conforming to all development standards, instead it requires that they not move further out of conformance.</i></p>

HOUSING RULEMAKING ADVISORY COMMITTEE MEETING PACKET #5



TO: Housing Rulemaking Advisory Committee Members
FROM: Kevin Young, Senior Urban Planner; Ethan Stuckmayer, Senior Housing Planner
SUBJECT: IBTER Key Parameters

Housing Rulemaking Advisory Committee Members,

To date, the Infrastructure-Based Time Extension Request Technical Advisory Committee (IBTERTAC) has met three times and made significant progress. Included in this packet is also the most recent memo regarding transportation IBTER applications, with an associated set of discussion questions. This memorandum is to provide an update thus far on draft key parameters and concepts that have been developed with the assistance of the IBTERTAC. The first set of parameters are based on language within HB 2001, the second are additional parameters and concepts discussed by the TAC.

Parameters established by HB 2001:

1. The purpose of the IBTER application is for a local government to gain approval for a delay in the enactment of middle housing provisions that would otherwise be required by Section 3 of HB 2001, based on an identified infrastructure constraint within a defined area where additional dwelling units would exacerbate an existing or anticipated service deficiency that is occurring or may occur by December 31, 2023. Otherwise, required middle housing provisions must be applied in unconstrained areas within the local government's jurisdiction.
2. Types of infrastructure that may pose a constraint in relation to the provision of middle housing are limited to water, sewer, storm drainage, or transportation services.
3. IBTER applications must relate only to "specific areas where the local government has identified water, sewer, storm drainage, or transportation services that are either significantly deficient or are expected to be significantly deficient before December 31, 2023..."
4. IBTER applications must include a plan of actions that will remedy the deficiency in those services.
5. Time extensions for the application of middle housing allowances in these areas may not extend beyond the date that the local government intends to correct the deficiency.
6. IBTER applications from medium cities (10,000 – 25,000 population outside Portland Metro) are due December 31, 2020.
7. IBTER applications from large cities (cities greater than 25,000 population or cities within Portland Metro with population greater than 1,000 and urbanized portions of Portland Metro counties) are due June 30, 2021.

Draft Parameters Developed in Consultation with IBTERTAC:

1. The rate of assumed development and redevelopment resulting from the adoption of middle housing provisions will fundamentally inform anticipated service impacts from middle housing. Based on language in Section 5 of HB 2001, and on reported development and redevelopment rates following similar development code modifications (e.g. duplex allowances in Vancouver, B.C. and ADU production rates statewide) we do not anticipate an increase in the number of dwelling units produced by more than three percent by December 31, 2023. Specifically, draft rules anticipate a redevelopment rate increase of 1% for developed areas, and a development rate increase of 3% (above previously anticipated densities) for “greenfield” areas. However, a local government may be able to assume a higher rate if the local government is able to produce data showing a higher rate of development or redevelopment in their jurisdiction, or a similar jurisdiction within the region, following adoption of similar code allowances.
2. If a local government is currently unable to issue any new permits for residential development due to a citywide infrastructure constraint the situation is most appropriately handled through the moratorium process outlined in ORS Sections 197.505 through 197.540. It is very unlikely that an IBTER application would be able to successfully demonstrate an adequate basis for a city-wide time extension due to an anticipated small increase in anticipated dwelling units.
3. If the local government currently permits additional single detached dwellings within the constrained area despite the infrastructure constraint, and plans to continue to do so, the local government will need to demonstrate how allowance for middle housing in the area would produce an impact sufficient to exceed otherwise sufficient infrastructure capacity.
4. IBTER applications will need to identify the infrastructure-constrained area and provide documentation and analysis of the infrastructure constraint; they will need to include a plan to address the infrastructure constraint, thereby providing additional infrastructure capacity to serve middle housing; and they will need to include discussion of how the infrastructure improvements will be financed, along with a schedule for completion of the necessary improvements.

In addition to your feedback regarding the transportation memorandum, we would like your input regarding the draft parameters identified above, along with any comments or suggestions you’d like to offer. Please note that we do not have the ability to alter the first set of key parameters, which are those established within HB 2001. You will find a question soliciting your feedback on these key parameters on your Discussion Worksheet.

TECHNICAL MEMORANDUM

Date: March 27, 2020

Project #: 24665

To: Serah Breakstone, Otak
Kevin Young and Ethan Stuckmayer, DLCD
IBTER Technical Advisory Committee

From: Matt Hughart, AICP

Project: Infrastructure Based Time Extension Request (IBTER) Rule Outline

Subject: Draft - Transportation Infrastructure Rules

This memorandum presents an initial discussion framework for requesting a Transportation-based time extension request associated with HB2001. Based on our experience working with Oregon jurisdictions on transportation planning projects and within the private development community, we would anticipate local jurisdictions using the following as reasons for seeking a Transportation infrastructure-based time extension request (IBTER).

Existing Transportation System Constraint

Discussion/Assessment

Jurisdictions may seek a transportation related IBTER for specific areas where they have transportation constraints or a current lack of funds to implement identified transportation improvements. Transportation system constraints could mean roadways or intersections that are operating near or over capacity, not meeting currently acceptable operating standards or mobility targets (level of service, volume to capacity ratio, etc), or have existing geometric/safety limitations.

Submittal Requirements for a Transportation System Constraint IBTER

Any request based on a transportation system constraint should include the following transportation-related information:

- A vicinity map that defines the roadway segments or intersections with operational or geometric constraints.
- A summary of the deficient roadway segment(s) and/or intersection(s) that will be impacted by middle housing-related growth. Provide sufficient information including current

jurisdictional ownership of the roadway/intersection, existing operations (level of service, v/c ratio), geometric constraint, or safety problems (crash data, etc.).

- Provide a description of the identified or proposed improvements anticipated to mitigate the operational, geometric constraint, or safety problem. The description shall include, but is not limited to, project description, funding mechanism, schedule of anticipated completion.

Unimproved Infrastructure

Some jurisdictions may have unimproved roadway segments (streets that don't meet emergency access requirements, lack of paved roads, lack of sidewalks and/or bicycle infrastructure) that currently serve single family neighborhoods.

Discussion/Assessment

Jurisdictions may seek a transportation related IBTER for established single-family residential areas that are served by roadways that lack basic minimum service requirements. These service requirements may include insufficient width for emergency services, degraded or unpaved roadway surfaces, or roadway segments with no sidewalks. This is a common occurrence in older suburban neighborhoods that were constructed before modern multimodal roadway standards were adopted.

Submittal Requirements for Unimproved Infrastructure

An unimproved infrastructure request should include the following transportation-related information:

- A vicinity map that defines the boundary of areas in question.
- A summary of the deficient roadway segments that will be impacted during the period of extension. Provide sufficient information including current jurisdictional ownership of the roadway, description of the existing unimproved roadway infrastructure, and why it is insufficient to accommodate additional middle housing.
- Provide a description of proposed improvements anticipated to mitigate the unimproved roadway infrastructure. The description shall include, but is not limited to, project description, funding mechanism, schedule of anticipated completion.

HOUSING RULEMAKING ADVISORY COMMITTEE



MEETING PACKET #5

TO: Housing Rulemaking Advisory Committee Members

FROM: Ethan Stuckmayer, Senior Housing Planner; Samuel De Perio Garcia, Housing Planner

SUBJECT: Housing Production Strategy Report Structure Memo

Overview

The purpose of this memo is to provide an update for the Rulemaking Advisory Committee (RAC) on the progress of the Housing Production Strategy Technical Advisory Committee (HPSTAC), which is charged to further outline a proposed organizational structure for the Housing Production Strategy (HPS) as required by HB 2003 for cities with a population greater than 10,000. The goal is to have a standardized outline which jurisdictions can follow for Housing Production Strategy Reports going forward. This will ensure consistency of documents across jurisdictions for ease of comparison and evaluation. We have included some discussion questions, which highlight key concepts the Housing Production Strategy Technical Advisory Committee (HPSTAC) will need to consider throughout the rulemaking process. We are seeking RAC input on these questions at the April 2 meeting to help guide ongoing refinement of HPS concepts.

The goal for this memo is to 1) review discussion topics addressed at the March 11 HPSTAC meeting and 2) continue to identify an organizational structure and key elements of the Housing Production Strategies Report – the planning document that cities would ultimately create and submit to DLCD to fulfill the requirements of HB 2003.

HPSTAC #2 Review

At the last HPSTAC meeting, the committee continued discussion around community engagement, reporting requirements for HPSs, and enforcement measures to be carried out by DLCD in the event jurisdictions fail to supply “unmet housing needs”. The TAC concurred with a proposed requirement that subsequent Housing Production Strategies Reports submitted by jurisdictions reflect back on the work documented through the most recently adopted Housing Production Strategies Reports.

Across the HPSTAC there was general consensus that reporting should be consistent with other forms already mandated through other rules or statutes, so as not to duplicate efforts. This includes reporting requirements already put in place by HB 4006, which asks jurisdictions with significant housing cost-burdened populations to submit produced and permitted housing reports annually. The data points captured through HB 4006 reporting are as follows:

- Percentage of renter households that are rent-burdened
- Total # of units permitted and total # of units produced for:
 - Residential units
 - Regulated affordable residential units
 - Multifamily residential units
 - Regulated affordable multifamily residential units
 - Single-family units
 - Regulated affordable single-family units

While this information is useful in understanding the growth in housing capacity for a jurisdiction, there are other data points that may be helpful in the context of a HPS. Discussion at the last HPSTAC meeting suggested that there may be an opportunity for further reporting on:

- market and employment trends unique to the jurisdiction,
- Where housing supply was located, in proximity to access to transportation, resources, walkability, etc.
- demographic trends and patterns unique to the jurisdiction, and
- Specific policies that have resulted in housing production.

DLCD and the TAC understand that reporting is not always an easy task for jurisdictions. The TAC is sensitive to “reporting fatigue” and has suggested that the Department consider a two-pronged reporting strategy. First, knowing that it will be unlikely for a jurisdiction to see drastic changes in housing production on a year-to-year basis, DLCD should not require a jurisdiction to reflect on its HPS progress on an annual basis. It makes most sense to require this type of “progress update” at the HPS midway point (3 years for Metro Cities and 4 years for non-Metro cities) when there is more data available to report on. Second, if DLCD chooses to require some HPS-related data to be reported annually, it should incorporate those into the form DLCD already sends to jurisdictions to satisfy HB 4006 reporting requirements.

Engagement

As part of a city’s Housing Production Strategy Report, DLCD will require that the city describe its community engagement efforts throughout the HPS process, including engagement with traditionally under-served communities and service providers. Rather than employ a “box-checking” approach, one way to structure community engagement requirements would be to ask jurisdictions to reflect on the following:

- Housing consumers engaged throughout the HNA period, how engagement was conducted, and what was learned about housing needs of the community.
- Housing providers engaged throughout the HPS period, how engagement was conducted, and what was learned about strategies to employ in order to stimulate housing production in the community.

Enforcement

ORS 197.296 establishes the process through which cities assess the sufficiency of buildable lands within urban growth boundaries. ORS 197.296(6) provides a definition for “unmet housing need”. As outlined

in HB 2003, this definition is the criteria by which DLCD will review the effectiveness of a city's housing production strategies.

DLCD must develop rules for enforcement when jurisdictions have not sufficiently met this housing need (per Section 6 of HB 2003). With regards to enforcement, respondents of the HPSTAC discussion survey were wary of the realities that though jurisdictions could stimulate housing production via tools, policies, and strategies, ultimately, it is the private housing market that will be responsible for direct unit production, which will need to be carefully considered as enforcement measures are created. To be clear, jurisdictions will not be "penalized" for failing to meet the exact number of needed housing units identified in their Housing Needs Analysis. Instead, progress will be measured and evaluated holistically, taking into account efforts made and strategies employed to reach target units between reporting periods given resources available and socio-economic conditions. Ultimately, DLCD and LCDC will be looking to ensure that each jurisdiction is at least making a good faith effort to address its identified housing need, especially for those who are housing-insecure or who need access to publically supported housing options.

Subsequent Housing Production Strategy Reports

During the last HPSTAC meeting, there was general consensus surrounding subsequent HPS reports, indicating that with each new HPS Report, there will be opportunity to provide ongoing feedback to assess what strategies were utilized since HPS adoption, which ones produced results, and which ones did not over the given timeframe. This review could take into consideration demographic and market conditions that changed or are expected to change, as well as opportunities for new initiatives and to re-assess inadequate strategies for future Housing Production Strategy Reports.

Structure of Housing Production Strategy Report

Since the last HPSTAC meeting on March 11, comments garnered through the survey link and by reviewing individual Housing Implementation Plans from jurisdictions across the state, have informed the structure of what a city will need to produce as part of their **Housing Production Strategy Report**.

The following outline shows a sample outline of a Housing Production Strategy Report. This will be standardized across jurisdictions, in order to promote consistent analysis and review between communities:

Within one year of the date a city has adopted their 6 or 8 year Housing Needs Analysis (HNA), the city will produce and adopt a Housing Production Strategy Report that provides the following information and analysis:

Contextualized Housing Need

This section will include a short narrative, largely pulled from the jurisdiction’s adopted Housing Needs Analysis (HNA). This can include, but not be limited to the following topics (to the extent possible):

- Buildable lands inventory for residential zones;
- Overall housing tenure (owner vs. renter);
- Housing stock by income levels;
- Percentage of housing stock that is market rate vs. subsidized;
- Percentage of residents severely cost burdened;
- Anticipated population growth and demographic trends; and
- Socio-economic and demographic trends of jurisdiction’s population;

Engagement

This section describes engagement strategies employed, for which audience, and what purpose. Findings from engagement regarding effective strategies should also be included. In summary, this section should discuss:

- Brief summary of housing consumers engaged during HNA (i.e., communities facing housing insecurity, etc.)
- Brief summary of housing providers engaged during HPS (i.e., developers, social service providers)

This section should also include a discussion of how the jurisdiction is going to take or tweak actions to directly address issues or concerns raised throughout the engagement process.

Strategies to Accommodate Future Housing Need

This section will be organized into a matrix of all tools/policies/strategies that will be employed, provided within a combination of the proposed “buckets” described below.

- Creation of Financial & Regulatory Incentives for Development of Needed Housing
- Reduction of Financial & Regulatory Impediments to Development of Needed Housing
- Access to Local, State, and Federal Resources
- Innovative & Creative Solutions

In addition, each tool/policy/strategy will also include a brief:

- description
- Timeline for adoption
- Timeline for implementation
- Magnitude of impact
 - Housing need from HNA that will be fulfilled
 - Income levels that strategies will serve
 - Tenure (owner vs. renter) that strategies will serve
 - # of expected units that may be created (if possible)
 - Type of units that will be created
 - Tenure (Owner vs. renter) that will be served
 - Income levels that will be served

For prioritization purposes, tools/policies/strategies can also be organized in the following way:

- Jurisdiction priority (high to low)
- Cost (low cost, high cost)
- Timeframe (short-term, long-term)

Conclusion

This section will be a narrative illustrating next steps for jurisdictions and considerations for topics to reflect on for subsequent HPS

- Equity considerations
 - analysis of who will benefit/burden from strategies employed
 - Trade-offs between resourcing specific strategies and types of housing to be produced
 - Limitations to local funding, market/demographic conditions, and working capacity of local government that may affect housing production
- In addition, a HPS could also consider the following:
 - Any opportunities, constraints or negative externalities associated with adoption of the elements of the housing production strategy
 - Alternatives Analysis if the specific housing production strategy has options related to cost charges, regulatory standards, equity considerations, or other variables.
 - Actions necessary for the local government and other stakeholders to take in order to implement the housing production strategy
- If initial HPS, how will progress be measured going forward? If subsequent HPS, how have strategies documented in initial HPS been carried out? What were the results? What has worked? What hasn't? Why or why not?

Proposed Buckets for Housing Production Strategy (HPS) and Example Tools

Since our last HPSTAC meeting on February 6th, there was discussion around which “buckets”, or, types of tools within which jurisdictions will be asked to categorize their strategies for housing production. The main categories that were derived from that conversation were the following:

- Reduction of Financial & Regulatory Impediments to Development of Needed Housing
- Creation of Financial & Regulatory Incentives for Development of Needed Housing
- Access to Local, State, and Federal Resources
- Alternative Solutions

For each bucket, sample tools have been provided based on a review of Housing Implementation Plans and HNAs created as result of HB 4006. This list is not exhaustive and is only intended to give committee members a general sense of how each bucket could be filled:

Bucket A: Reduction of Financial and Regulatory Impediments to Development of Needed Housing

Tool	Description
Reduced or Exempted System Development Charges (SDCs)	This strategy describes the various means of reducing system development charges (SDCs) for affordable housing, or for smaller housing types, such as ADUs, with the goal of reducing the cost of development. This could involve reducing, waiving, exempting, deferring, financing, or subsidizing SDCs for certain types of housing, or reconfiguring how SDCs are calculated.
Streamline Permitting For New Housing	Modify procedures or protocols to reduce the time it takes for new or certain types of development to complete the permitting process

Bucket B: Creation of Financial & Regulatory Incentives for Development of Needed Housing

Tool	Description
Nonprofit Low-Income Rental Housing Exemption	This tool provides a simplified way for affordable housing owned and operated by a nonprofit (as well as land held by a nonprofit for future affordable housing development) to qualify for a property tax exemption.

Multiple Unit Property Tax Exemption (MUPTe)	This tool can be used to incentivize production of multifamily housing with particular features or at particular price points by offering qualifying developments a partial property tax exemption over the course of several years
Incentive Zoning	Some development regulations can present obstacles or add costs to housing development. In addition to or in lieu of financial incentives, the City can offer concessions on regulatory standards that provide meaningful economic value. The concessions should be offered in exchange for the development dedicating a minimum proportion of the units to be regulated as affordable to people with lower or moderate income. The incentives typically include relief from certain development standards such as parking, setbacks, or density.

Bucket C: Access to Local, State, and Federal Resources

Tool	Description
Tax Increment Financing (TIF) Set Aside	Tax increment financing (TIF) is the mechanism through which urban renewal areas (URA) grow revenue. At the time of adoption, the tax revenues flowing to each taxing jurisdiction from the URA is frozen at its current level. Any growth in tax revenues in future years, due to annual tax increase plus new development, is the "tax increment" that goes to the URA itself to fund projects in the area.
Construction Excise Tax (CET)	A construction excise tax (CET) is a tax on construction projects that can be used to fund affordable housing. According to state statutes, the tax may be imposed on improvements to real property that result in a new structure or additional square footage in an existing structure.

Bucket D: Alternative Solutions

Tool	Description
Community Land Trusts	A Community Land Trust (CLT) is a model wherein a community organization owns land and provides long-term ground leases to low-income households to purchase the homes on the land, agreeing to purchase prices, resale prices, equity capture, and other terms. This model allows low-income households to become homeowners and capture some equity as the home appreciates but ensures that the home remains affordable for future homebuyers. CLTs may also lease land to affordable housing developers for the development of rental housing or may develop and manage rental housing themselves.
Land Banking & Acquisition	Land acquisition is a tool to secure sites for affordable housing. Public agencies can identify locations where land prices are increasing and acquire land before the market becomes too competitive, with the intention to use the land for affordable housing. The ability to identify promising sites within these locations and act quickly and efficiently in acquiring them can tip the scales to make an affordable housing development financially feasible. Land banking is the acquisition and holding of properties for extended periods without immediate plans for development, but with the intent that properties will eventually be developed for affordable housing. Land banks are often quasi-governmental entities created by municipalities to effectively manage and repurpose an inventory of underused, abandoned, or foreclosed property. Public agencies or larger nonprofits may be better

	equipped than small community development corporations to do both land acquisition and land banking.
Public/Private Partnerships	public-private partnerships are arrangements between public and private entities to create more affordable housing. Public-private partnerships can promote a variety of affordable housing programs or projects and include partnerships from multiple entities (public, private, non-profits)
Retention & Rehabilitation of Existing Housing	Rather than use resources to build brand-new units, housing supply can also be increased and maintained by allocating funds towards retaining and rehabilitating naturally-occurring affordable housing (NOAH)

Finally, are the proposed buckets broad or specific enough? Are there other examples of HPS that you have seen work in the past?

Question For RAC: After reviewing the proposed “buckets” and some sample tools/policies/strategies, what are specific housing production strategies you would recommend?

Middle Housing Model Code Technical Advisory Committee (MCTAC) Meeting #3
March 5, 2020; 9am – 11am
DLCD Basement Hearing Room
635 Capitol St NE, Salem, OR 97301

Key Insights Summary

Clarity and consistency of the model code and minimum standards for compliance – Committee members had a variety of suggestions throughout the model code and minimum standards for compliance with HB 2001, including definitions and considerations associated with different terms, specific phrasing of language, and organizational structure of the document. Providing as much information and specificity as practical will be critical for the successful implementation of the model code.

Definition of “Duplex” – Committee members noted some considerations of specific provisions of the definition, including the word “family” and issues with defining a discrete dwelling based on the provision of kitchen facilities. To avoid overlap with ADUs, committee members recommended providing a specific definition for ADUs that can distinguish it from a duplex with minimal ambiguity.

Relationship between HB 2001 and SB 1051 – There is disagreement between TAC members about the legal interpretation of HB 2001 in conjunction with SB 1051. Some feel that the interpretation would not require jurisdictions to permit more than two units (i.e. SFD & ADU or a duplex) on a single-family lot, while others feel that a plain language interpretation of HB 2001 would require jurisdictions to permit three total units (i.e. a duplex & ADU). Legal clarification on this issue will be important in the development of administrative rules.

Ensuring flexibility in the model code and minimum standards – It will be important to ensure that provisions of the model code and minimum compliance do not preclude the opportunity for jurisdictions to adopt standards that better facilitate the development of middle housing. This includes allowing for the provision of “detached duplexes”, which would allow more flexible development options on constrained sites. In general, flexible development standards will allow for the development of duplexes, especially for small-scale developers such as multi-generational families, to meet their housing needs.

Identifying and addressing barriers to middle housing development – Individual utility hookups and small-scale condominiums were cited as significant potential barriers to the conversion of existing single-family dwellings and new development of middle housing. Addressing these types of barriers will be critical to ensure the successful implementation of HB 2001. For the latter, allowing middle housing types to be developed on fee simple lots will help increase feasibility of development.

Minimum off-street parking requirements – The committee did not reach consensus on the appropriate model code and administrative rule regulations for minimum off-street parking requirements. Some members note that a restriction on local jurisdictions to impose greater minimum parking standards (i.e. two spaces per dwelling unit) will impact their ability to meet parking needs for communities, which they argue are more reliant on automobiles as a primary mode of transportation. Other members note that imposing such requirements impose large direct and indirect costs that will significantly impact the feasibility of middle housing types. It will be important for DLCDC staff to justify the minimum standard for compliance with a clear and fact-based understanding of both the estimated need for off-street parking and the anticipated cost and impact on development.

Goal-protected and locational regulations – Clarification on the types of middle housing regulation that can be applied in goal protected areas and around specific locations such as transit corridors will be important for large city model code and administrative rules. Parameters around regulations should not restrict middle housing or concentrate it in an inequitable manner, nor should regulations that protect individuals from natural hazards be removed and reduced.

Attendees:

1. Ethan Stuckmayer, Senior Housing Planner, DLCD
2. Jerry Lidz, from Eugene, former LCDC Commissioner
3. Matt Hastie, Angelo Planning Group
4. Robert Mansolillo, housing planner at DLCD
5. Kate Rogers, Angelo Planning Group
6. Mary Kyle McCurdy, 1000 Friends of Oregon
7. Kelsey Zlevor, Cameron McCarthy Landscape Architecture and Planning, Eugene
8. Alexis Biddle, 1000 Friends of Oregon
9. Kol Peterson, Accessory Dwelling Strategies
10. Hope Beraka, Think Real Estate
11. Amanda Ferguson, City of Cottage Grove
12. Ted Reid, Metro Land Use Planning
13. Peter Keyes, University of Oregon Architecture
14. Mark Rust, City of Springfield Planning
15. Hugh Prichard, Prichard Partners, Eugene
16. Kaarin Knudson, Better Housing Together
17. Samuel Garcia, DCLD
18. [Unintelligible]
19. Ellen Miller, Oregon Home Builders
20. Theresa Cherniak, Washington County
21. Brian Martin, City of Beaverton
22. Mike Boquist, Community Development Director for the City of La Grande
23. Heather Richards, Planning Director for the City of McMinnville
24. Susan King, neighborhood representative from Portland
25. Jeremy Rogers, Oregon Association of Realtors
26. Ryan Jennings, Hayden Homes
27. Pauline Hardie, City of Bend
28. Sarah Adams-Schoen, University of Oregon
29. Sean Edging, Housing Policy Analyst at DLCD
30. Martha Fritzie, Clackamas County
31. [Janet]
32. Kevin Young, DLCD

Meeting Minutes

Jerry: Our purpose is to provide recommendations to staff. The purpose of this group is not to establish consensus.

- Suggested approaches: Implies that we would hope the city would implement. “Suggested approaches” is preferred over “possible” and indicates support from the MCTAC.
 - This will be DLCD staff making the decision
 - Perhaps “alternative approaches”

Definitions and Applicability

- Staff: Did not change the definition significantly – feel it’s important to distinguish with ADU due to implications of off-street parking
- Staff: Added a definition for “common wall”
- Doesn’t yet reflect having a clear distinction about having a code section about duplexes and a code section about ADUs. On the ground, individuals will be able to determine whether a development is an ADU or duplex, so two separate code sections will be required and made clear in this model code. i.e. define an ADU and detail how it is separate from a Duplex.
 - Making distinct definitions and processes are up to the city.
- Minimum compliance: Last portion of the sentence, if removed or broadened, it would address the concern above.
- “Unreasonable cost and delay” is blank. Will there still be something developed?
 - Staff: Yes
- Concern about definition for “common wall” – Sets up opportunity to create issues. Many situations where we couldn’t anticipate where these numbers wouldn’t fit for a lot of situations.
 - Perhaps talking about the foundation of the structure – i.e. shares a common foundation
 - Specifically comes up in conversion of existing SFD
 - “Building with more than one set of kitchen facilities” last part of definition could be dropped off – creates confusion, not “clear and objective”
 - Big houses with “wet bars” or outdoor kitchens
 - “Family” – more are moving away from using this word. “Occupancy by one or more person/people” suggested. “Household” would require definition.
- Unreasonable cost and delay – Need to talk about it and have separate definitions
 - Delay is about process
 - There will be other factors that significantly affect the cost (e.g. SDCs)
- Consider defining ADU under “X” number of square feet. Probably doesn’t work, but we do need a specific definition for an ADU.
- Definition of “dwelling unit” – would like to see a “separate entrance” or “secure entrance” to differentiate.
- “Common wall” – unintended consequence of having specific and clear definition; consider “connected at any width or height”
- Issues with kitchen in definition. These are separate units with a separate entrance. Also consider SROs which often don’t have cooking facilities.
- It’s an “ADU” if it’s under this part of the code. Allows ambiguity, but allows developer to choose track.
- Changing the definitions to something much simpler.
- Unclear on distinction between 2001 and 1051, all of these parcels have a path to developing a “duplex” and an “ADU”

- Staff: Trying to avoid having this code “de facto” allow for three units. Do not believe that is the intent of the bill.
- If we say duplex is “detached”, plots in the UGB today may become much more undesirable if “attached” is required. “Detached” definition allows much more flexibility.
- Considering citing “HB 2001” in the purpose. Consider referencing statute or year adopted.
- Duplex definition – Putting the word “primary” in there to distinguish from “secondary” units (i.e. ADUs)
- Common wall – WaCo has this in the code; could send as an example. Common building wall or common floor and/or ceiling.
- Don’t preclude option for cities to facilitate duplex development
 - Minimum compliance – several cases that haven’t been thought through. May not allow for liberal application of definition. Precludes a lot of options.
 - E Permitted uses and approval process – Can only have a clear and objective path, precludes option for discretionary option.
 - F.1. Minimum lot size – A city could choose to have a lower minimum lot size, might not be a problem.
- Common wall – a picture, drawing, or added figure would be helpful to explain definition
- Be cautious with using “kitchen facility” – what does that mean? Bend has issues with illegal cooking facilities.
- Respect religious reasons for having two kitchens – e.g. New York incorporated this
- Not being appropriate for “three units” – Want to make sure what that is referring to. If not allowing three units means a lot that currently contains an SFD and ADU can’t develop a duplex, does not believe HB 2001 says that – thinks it says the opposite. Feels the definition opens it up to legal challenge and delay of implementation.
 - Fixing this by adding “primary” – those terms are part of land use law and have a lot of meaning behind them. Don’t inadvertently treat something that is “accessory” as a primary use.
 - Don’t think it’s allowable for a local government to disallow three units
 - Staff: we will look into both of these. Hugely difficult to get these definitions agreeable to all local governments. We fully expect that medium cities with limited staff capacity, they have the option to pull these definitions in.
- Question for Pauline: Explain since ordinance allowing for detached duplexes, percentage of developers who have opted for that over an attached duplex.
 - Pauline: Can get that information. Implemented about one year ago. Have seen an increase in duplexes applied for. Not sure on amount. Reason for opting for detached is site constraints and meeting other standards like off-street parking and tree preservation. If detached must be 6 ft apart.
- Concern about cells under “minimum compliance” being “same as model code”. Do not lose focus on minimum compliance.
- Agree with Sarah’s analysis if you allow an ADU, you must also allow a duplex. Should be incorporated into the minimum standards.
- Preservation of existing house and trees is a good case for detached definition.
- Ted added that they consulted with their general counsel about this issue and a very literal interpretation of the law could be due to required not only existing single-family home and ADU

but also an additional duplex. It says it shall allow. It doesn't say, "Unless you already have these housing units." I'm not advocating to that but that is what the law says in very literal terms.

- Jerry: interpretation of the statute is something that the DCLD staff has to ask the attorney general's office about because you're going to have to defend in court if it's challenged.
- Multi-generational housing – You can see whole developments trying to produce this product for the community. Where you see size need changes for aging couples. Vast flexibility to allow for the production of this would allow for more production and housing types.

Subsection E – Provisions Applicable to Duplexes

- Use of the word "shall" – Under conflicts – "Shall control" – trying to remove shall from their code and is typically used incorrectly. Either remove or use "must" where appropriate.
- Sewer hookups and individual lines can present a huge barrier to internal conversions. This would actually kill duplexes in a lot of circumstances. Loathe to allow service provide to impose additional barriers. E.g. Eugene developer had to do this for a multi-unit development and skyrocketed the costs.
 - Staff: in recognition that many cities are not in control of their utilities. Not trying to encourage separate hook ups
 - Consider adding language "the jurisdiction may not impose this standard" but allows service providers to maintain their standards.
 - In Bend, trenching is currently a constraint they are dealing with. Get the experts in on this.
 - Jerry: I do not want to pay for my neighbor's excessive use of utility.

Subsection F – Development Standards: minimum lot size, maximum density, setbacks, height.

- Staff: Deliberately chose to not include lot coverage standards due to inability to not conflict with jurisdiction standards
- Minimum lot size – Could there be additional sentence allowing a duplex on an existing legal lot? Sometimes lot size is below minimum lot, should be allowed to place a duplex if it allows an SFD
 - Staff: Placed in the applicability.
- [LUBA Decision No. 2019-115](#) – banned minimum lot size requirements for ADUs. LUBA stated that they have a 45x45 square requirement, which was not in the standards. Dimensionality cannot be used to prohibit development of duplexes. Decision will be appealed to Court of Appeals.
- Need to define "front" and "rear"?
 - All jurisdictions define it. It may have some implication on irregular lots, but we are comfortable with deferring to jurisdictions.
- Recommend removing additional height for duplexes under suggested approaches. Potentially has a huge impact on neighborhoods.
 - Staff: Suggested approaches will not be "locked in" to OAR
 - Might be reacting to "should" – instead consider saying "could"

Subsection F – Minimum Parking Requirements

- HB 2001 does not have a call out for parking – the focus is on “Unreasonable Cost and Delay”
 - In La Grande, the creation of a parking space is not an unreasonable cost.
 - Received numbers from a contractor on gravel parking – \$300-600 dollars per parking space or \$1,100-1,500 per concrete parking space
 - Believes design standards are the real cost issue – e.g. a covered parking space – 5,000 to 15,000 dollars.
- McMinnville: Community of 34,000. Wanted to provide experiences. Heard a lot of discussion about parking standards. Concern about communities coming from areas that are larger with much more access to public transit. Concern about “skinny streets” standards where parking is only available on one side of the street. Limiting to 2 spaces with on-street credit, would not have enough to accommodate.
- 70% of my core ground, people who live and work in Cottage Grove commute. If you have 2-3 working individuals, you have 2-3 cars. Could result in legal challenges. Pleased that there isn’t a required on-street credit for minimum compliance.
- Impact parking has on the design and provision of housing and may actually cause a complete redesign or being a very different kind of lot usage, not necessarily just in terms of gravel and paving costs.
- Jerry: Minimum compliance wording issue – “Jurisdictions shall require no more than 2” is ambiguous. Want to ensure it’s not saying you can’t allow more than two. Concern of the larger city imposing on smaller cities. On-street parking credit – if incentivizing folks to park cars on the street, what happens in 10 years with electric cars? Similarly, often a situation where creating a bike path(s) on both sides of the street requires removing parking on one side of the street. If somebody has developed a duplex, based on the idea that the residents will park on the street, I don’t think we should be telling the city where they can and cannot create a bike path in essence. Consider making parking requirements for duplex rise or fall with the size of the duplex. Different impacts for different duplex sizes.
- Minimum compliance: Don’t limit amount of parking developer could develop.
- Fine to clarify difference between cities with different transportation options.
 - Staff: Difference between what you allow a local jurisdiction to allow and what you allow in the model code. Did not think it was appropriate to not require any off-street parking, given existing standards.
- Trying to apply a “one size fits all” to medium cities – In Portland, many areas poorly served by public transit and roads. Recommends option “A” requiring a minimum of one and leaving the upper ceiling to jurisdictions.
- La Grande – frequently have college students sharing a duplex with each having a car. Agree with a minimum requirement and not a maximum requirement.
 - Trying to eliminate covered parking as it adds a large cost. Makes a lot of sense to find an option to reduce that cost burden.
- Minimum compliance standard: Intended to prevent jurisdictions from requiring more than two. Perhaps “two” is too low for a jurisdiction. Does not mean a developer cannot add more parking spaces. Current standard allows flexibility for duplex development.
- The minimum of two or only requiring two is similar to most of these current parking requirements. Clearly going to be a change for every jurisdiction listed.

- More just an observation that that if we were to take a step into the future and ask whether or not those communities are succeeding in developing the duplexes that they hope to have and the community was asked to identify barriers, I'm guessing at the very top of the list of those barriers would be the geometric site requirements is parking. So, there's that just in looking into the future piece of all of this of how we make sure that the code sets up the ability to actually take these into consideration. Just to remind that these are not parking requirements that are associated with reduction.

Design Standards

- Staff: Didn't change much, but issue of covered parking is not something they have looked at.
- Suggested approaches: Say "unnecessary barriers" and minimum compliance "Unreasonable cost and delay" and next "unfairly discourage" – be consistent between.
- Formatting of b. could be worked on – break it into more of a list or outline format.
- Commentary column, it's at the end of the second paragraph, it says "local governments shall not create barriers to duplex development but said subjecting them to much more stringent standards." I just wonder, does that mean we can subject them to a little bit more stringent standard?
- What does "unreasonable cost and delay" mean; can we apply a slightly more limited standard?
- We run afoul based on discussions I've had for over two decades with affordable housing providers that when that is used as a requirement for a covered off-street parking place, it blows it out, the cost out. So, it never even occurred to me that that would end up in a model code or a meeting. Consider prohibiting in minimum compliance.
- Jerry: Wholeheartedly agree with Mary Kyle on last point. Advocated not giving on-street credit to a parking space, it doesn't need to be a garage. Not clear on why design standards are present in the suggested approaches.
- Last sentence: "Duplex created through internal conversion not subject to design standards" Seems very broad. What are we getting at? Do we need to be more specific about intent or which design standards apply.
- We shouldn't allow a requirement for parking. I don't think that's necessary for compliance. A minimum compliance set that a jurisdiction needs to wash out must not allow.
- There are communities without staff capacity to flush this out in the timeline. From planners: "we want as much information and specificity as possible".
- 4.C – Reference to the City Engineer is not clear and objective
- Nonconforming standard – We're only required to allow duplexes in areas zoned for SFD, not in nonconforming areas, this allows emergence of that.

Large City and Metro Area Code Concepts Memo

- Staff: Important to have code graphic for duplex, however that ends up defined. Front and rear setbacks. Maybe off-street parking credits.
- Staff: Proposing townhouses and cluster housing separately due to different development implications. There is more similarity between the two than with triplex/fourplexes
- Like one chapter with multiple sections than multiple chapters. Best to break out duplexes from triplex/fourplexes.

- Doesn't allow for development of townhouses on one lot - something that looks like a duplex, triplex, or quadplex could be built in a townhome configuration.
 - Staff: townhouses are developed typically on separate lots. Often townhouse code requirements are very specific, so it makes sense to have that in one section of the code. We need to be agnostic in the code about division/ownership.
 - Would townhome development have multiple units on a single property or each attached unit on individual properties?
 - Opposite of another planner's experiences with townhouses. They might be attached, but it could be a rowhouse. There are often condo townhouse models (i.e. on one lot).
 - One potential reason for putting these units on individual lots is to create a slightly more affordable option for homeownership. Otherwise, most of the other middle housing types will likely provide rental, but not ownership, opportunities.
- Did like Option 1 – One for each housing type to make for an easier “plug and play”, but for reducing some of the redundancy – Option 3 is the best route.

Applicability

- Staff: identified things that could be criteria. Missing “type of zone” because our interpretation of HB 2001 is it requires all middle housing types in all SFD residential zones (not every lot). In other words, the zone wouldn't determine where middle housing can and cannot be built.
 - Hazard zones and similar locational factors might be excluded from the provision of middle housing.
- When the question of “density” will come up? Wondering about the overall approach – Just says “all middle housing allowed in all residential zones”, but doesn't specify at which densities. Not about lot size but density.
- To exclude an area based on “duplex” or an already mapped area, there has to be some rationale connected to the purpose of the bill.
- With a goal to reduce restriction – Property within an NRA is not inherently unbuildable.
- Sentence in HB 2001 – “Protective measures”. How does this relate? E.g. if there's an existing natural resource not protected under a Goal. Differentiate between resources protected by goals vs those that are not.
- Staff: Transit Proximity – location and distance from transit service is challenging due to varying conditions, but have heard a lot of interest in this.
- Beaverton: Working on Middle Housing code and dealt with proximity. Depends on community, but these have the chance to maintain racial segregation and have units concentrated in parts of the city where poverty is concentrated.
- Getting too specific about feet from transit service doesn't account for a variety of situations. Recommend using proximity to transit in a general sense. Avoid one size fits all.
- New recreational marijuana – Defined where shops could go. Cities reverse engineered it to essentially not allow it (buffers from certain areas). Dangerous to go down this road. Clearest way to control density would be through minimum lot size.
- Minimum compliance should prohibit use of these methods that would attempt to preclude the provision of middle housing (except steep slopes, etc). Currently used now to block these development types. Many household sizes are 1-2, we shouldn't restrict their options and contribute to racial segregation.

- Basing types of uses on transit routes doesn't work for all cities – transit routes often change.

Minimum lot size

- Staff: Should allowed density be a criteria for whether or not a type can be allowed?
- Differentiation between types of housing should be a multiple. E.g. “a quad has two times the minimum lot size of an SFD”. Impacts will be less than equivalent units of SFD.
 - Staff: We will need to get into this discussion on triplex/quadplexes
- Lot Size/Density: Cottage cluster is the outlier. Trying to create the most flexible – exemption from density and based on form is best approach. Could be on one lot or separate fee-simple lots.
- Requiring jurisdictions to amend Comprehensive Plan to implement the legislation – Trying to implement without triggering a Comp Plan amendment. Considering doing this for duplexes and cottage clusters. Changing densities might trigger this.
- Could be issues with density and allowing a duplex on a single family lot that's large (i.e. minimum density). Not counting these housing types makes it difficult to meet minimum density standards.
- Minimum lot size vs density: County uses density more than minimum lot size. Our jurisdiction allows much smaller (average over a subdivision) individual lot sizes.
- Need to address implications on facilities and infrastructure if we don't know how many units will be produced.
- Concerned about perceived inconsistency with HB 2001 – Originally said “each lot” and revised to say “areas”, it would seem that this language is not consistent with the bill. Jurisdictions would have ability to decide what to limit within their areas.
 - Staff: The “where” is why we're having this discussion – to develop sideboards for what “area” means
- Jerry: Next time should preface with goal of the minimum and maximum density
 - Lot size isn't as important as lot coverage – e.g. structure of a quad has very different impacts based on form.
- A bit dicey putting in minimum lot sizes and frontages – e.g. Walla Walla with cottage clusters – recommend leaving it to the jurisdictions
- Another way of approaching: Not having a maximum

Lot Frontage

- Lot frontages – Doesn't consider all situations – e.g. flag lots
- Massing and lot coverage is going to determine the impacts on the neighborhood. Recommend removing lot frontage and lot location
- Minimum lot frontage shouldn't be a requirement – traditionally allow irregular lots with easements, current language creates issues.
- Corner lots – concern about triplex, fourplex – access will connect to those intersections and create problems.
- If you remove lot frontage and lot location – it should be prohibited. Language should be clear even if we remove it.

- Reference to “area” is separate from “each lot” – Are folks in the meeting aware of what was discussed in the legislative history – assumption that it is some lots might not be big enough or shaped right to accommodate middle housing.
- Be careful to not restrict middle housing any more than necessary, with one exception – carefully consider disparate negative incomes from natural disasters, be careful about incentivizing permitting housing that puts low-income and people of color at risk. If there are flood overlay zones – it seems worthwhile to get these folks to the table.

Next Steps

Fourth meeting on March 30. Looking through a draft version of the Medium Cities Model Code. April 2 is fifth RAC meeting. Time to shore up any discussion about medium cities.

Infrastructure-Based Time Extension Request Technical Advisory Committee (IBTERTAC) Meeting #3
March 16, 2020; 9am – 11am
DLCD Basement Hearing Room
635 Capitol St NE, Salem, OR 97301

Key Insights

Transportation System Constraints and Unimproved Infrastructure – Staff solicited the input of committee members to better discern what types of scenarios would constitute a valid basis for an IBTER in the context of transportation. In general, committee members agreed that emergency access and roadway width in relationship to emergency access are valid constraints eligible for an IBTER request. There was not consensus as to whether paving and sidewalks are valid constraints, given equity implications from delaying middle housing development in under-invested communities.

Transportation Planning Rule – While HB 2001 provides relief from the Transportation Planning Rule (TPR) in adopting and implementing middle housing development codes in relationship to state facilities (e.g. highways), it will be important to allow jurisdictions to consider state transportation facilities in the context of an IBTER. Clarification of IBTER and TPR requirements will be important.

Measuring Equity – While there is a case for areas with underdeveloped roadways to permit an IBTER, it also presents a possibility to delay the provision of middle housing in historically under-invested communities and perpetuating patterns of inequity. This needs to be balanced with other improvements that do impact the safety of residents (such as arterial crossing), and in order to develop a clear framework for IBTER applications, it will be important to develop metrics that can better reduce discretion in the application process.

Attendees:

1. Ethan Stuckmayer, senior housing planner, DLCD.
2. Kevin Young, senior urban planner, DLCD.
3. Robert Mansolillo, housing planner at DLCD.
4. Cazmine Bonnot, support staff, DLCD.
5. Serah Breakstone, senior planner with Otak.
6. Matt Hugo, transportation engineer.
7. Laura Kelly, planner, City of Hillsboro.
8. Gareth Prior, policy analyst, City of Tualatin.
9. Jeannine Rustad, Tualatin Hills Parks & Rec Planning Manager.
10. Jeff Blaine, City of Albany.
11. Peggy Lynch, League of Women Voters of Oregon.
12. Alexis Biddle, 1000 Friends of Oregon, urban land advocate.
13. Ariel Nelson, League of Oregon Cities.
14. Eric Engstrom, City of Portland.
15. Ellen Miller, Oregon Homebuilders.
16. Derrick Tokos, City of Newport.
17. DeeDee Fraley, City of Bend.

Introduction/Context

- Serah: Brainstormed different scenarios likely to come up with IBTERs. Found two scenarios where an extension would be justified for transportation

- Matt: March 9 Technical Memo – Two scenarios for extensions:
 - Existing “transportation system constraint” – constraints of lack of funds to implement transportation improvements (e.g. intersections, street improvements, mobility targets/LOS constraints)
 - Known “geometric or safety limitations”
 - If you have a scenario that meets that criteria – this is what they would expect the city to provide: vicinity map, summary of constraints/limitations in relationship to middle housing, description of how they anticipate to mitigate those constraints, timeline for remedying the deficiency.

Question 1 – Transportation System Constraints

- Alexis: Consider adding description of what transit options are available within a quarter mile as a mitigating factor.
 - Jeanine: If there are sidewalks to that transit (can you walk to it safely?)
- Garet: Lacks some specificity. Water and sewer – how to discern whether it is the middle housing causing the deficiency. That is not present in this document. Consider adding this element to discern whether it is middle housing specifically that causes this deficiency.
 - Water and sewer – in vicinity map, develop criteria for equity in short and long term.
 - Matt (staff): We originally designated it as a moratorium based approach. If a moratorium, we could easily address whether it is middle housing impact.
 - Kevin (staff): This is separate from a moratorium process.
- Derrick: Submittal requirements – Consider making distinction between the as-traveled roadway versus right-of-way width/improvements that can be made. You will likely want both.
- Garet: Deficiency of transit as a limit of development. Whether a jurisdiction can or cannot actually improve determines whether can approve more dense development. Oregon City had to go through to get the Oregon Transportation Commission to approve amendments to the state highway plan to allow more urban development to proceed.
- Eric: Transit question – Some cities are reevaluating LOS or use of those systems in favor of multi-modal; is presence or absence of transit a deficiency?
 - Matt: I do not know of any but Metro is re-doing transportation measurement assessment – how they measure transportation system performance as part of the mobility framework (RFP just released; will be worked on through April 2021)
 - Jeff: Appreciate relationship between transit stops and middle housing, but from an intersection perspective: Intersections are likely going to be located on arterials/collectors – not sure if transit stop on intersection will be mitigating factor.
 - Matt: How do you measure whether a handful of middle housing units significantly affect a transit system? Likely doesn’t have a significant impact, but transportation to a transit stop will be important.

Question 2 – Transportation Planning Rule

- Garet: Not currently in Tualatin looking at deficiency of transit. We would like to look into mobility standards with Metro. Is going to limit whether city can or cannot approve more dense development. We are limited even if willing to accept an increased level of congestion due to

existing rules. Would be great to use transit to satisfy LOS, but given Transportation Planning Rule – not allowed to accept excess congestion.

- Kevin: explicit language in HB 2001. Local gov't not required to consider TPR for middle housing amendments for state facilities. A local gov't can essentially adopt middle housing – even if it triggered TPR, the local gov't would not be obligated to put in transportation system mitigation measures.
- Jeff: Do get a “get out of jail free” card for TPR, but the fact that we don't have to do it doesn't mean that we are not able to consider inadequacy of state facility for an IBTER.

Question 3 – Significant Transportation Infrastructure Deficiency

- Jeff: Consider that it might not be possible to describe the cost and timing of facility upgrade when it is under the control of another jurisdiction, similar to water/wastewater.
- Question missing from water and wastewater – description of how this is specific to middle housing.

Question 4 – Unimproved Infrastructure

- Matt: Identifying areas where there is unimproved infrastructure (e.g. emergency access, pavement, bicycle infrastructure, etc). For example, are there segments with insufficient width for emergency services? Degraded or unpaved roadway services?
 - Why is it insufficient to accommodate additional middle housing?
 - Kevin: Is there a standard measure for level of “degradation”?
 - ODOT tend to adopt same categories of roadway conditions – very judgement based (good, fair, poor), but you can get more in depth engineering studies about what that means
- Eric: Significant overlap of this issue with Stormwater – a major part of expense. In Portland, we could hypothetically itemize under-improved streets. Proposing a funding mechanism and plan is a political absurdity because the cost would be in the billions.
 - Jeff: Degraded and unpaved - similar situation in Albany to Portland. We are not denying other applications, there might be some additional improvements, but an extension isn't necessarily appropriate.
- Derrick: Going to run into fire code issues. Many SFD in low-density residential zones lacking secondary access. Problem is too many dwellings on a single point of access. Above 30 units – everything will need sprinklers. Unlikely to seek extension, probably would adopt zoning and acknowledge that there will be development conflicts. Will also be a problem for jurisdictions with terrain issues.
 - Jeff: municipal side likes the flexibility, but going through each one considering how appropriate it is, it seems like high volume. Emergency services is going to be a factor for every application, if we approve SFD, we should be able to consider duplexes through the same lens. If it's a bad location for other middle housing, we wouldn't select that area.
 - Garet: For rulemaking “in areas” – This is where a lot of this is going to get picked up. Local power to apply fire code, we are not going to permit dwellings with emergency service issues. Agree with not having an IBTER for quality of roadway, cost of improvements can be astronomical. More interested in roadway width/length.

- Garet: Sidewalks should not be a basis for IBTER: Because it can be conditioned, but also due to equity implication. In the past, there was an incentive to build housing without sidewalks because of “the type of people that sidewalks would attract”, i.e. a “dogwhistle” for lower income people.
 - Eric: Agree with conditioning point, struggle in Portland with safety of people walking in the neighborhood. Arterial crossing can also be a significant safety or political factor. For RIP, we did decide to allow duplexes without regard to sidewalk presence – it was a significant debate.
- Garet: Referencing a minimum fire width standard would help provide framework for justifying an IBTER. Will send link.
- Roadway width
 - Eric: Ties back to fire code question, because this typically is what governs width.
- Peggy: Concern for equity issue around where these units might be allowed because of lack of investment over the past in these areas. Not sure how to resolve it, because infrastructure provision is important, but it also may allow cities to take areas with most potential off their map for allowing middle housing.
- Kevin: What I’m hearing for valid constraints:
 - Emergency access
 - Roadway width (related to emergency access)
 - No consensus on paving – maybe not a valid constraint
 - No consensus on sidewalks – may have equity impacts, probably not a valid constraint.
- Matt: Safe crossing on major arterials resonated. Crossing the five-lane arterial without a safe crossing – may be a valid constraint.
- Eric: Dead end streets and number of houses that can be served resonated. We have a lot of center-strip paving with gravel and no curbs. Issue of where there are or are not curbs was a significant factor especially in tandem with the stormwater issue. We decided to move ahead, but stormwater will be an issue.
- Kevin: State fire code can provide bright line to draw.

Question 5 – Other categories/considerations

- Ethan: Equity and IBTER. Question for Garet and Ariel Nelson – OHCS has done mapping around opportunity areas and areas vulnerable to gentrification. Would these be good tools to include or an indicator for areas seeking an IBTER?
 - Garet: In Portland Metro, we have identified equity Census tracts with higher concentration of PoC, English as a second language, and lower income. Another reference you could provide as part of the application. Metro document, will find link and send.
 - Peggy: How are the equity census tracts used in the Portland Metro project?
 - Used as identified on application. E.g. last round of federal funding - in addition to determining whether project was in or out of equity census tract, could also identify whether transportation infrastructure would serve people in those tracts. Metro gov’t has done work on conceptual objective measures on whether it serves or doesn’t serve equity needs

- Goal isn't to determine whether a specific action is equitable, but it provides the data at hand to inform decision-making.
 - Peggy: Information that DEQ has related to wastewater/stormwater. As these standards become more aggressive, it will impact the ability for cities to accommodate the current requirements that will be needed.

Examples of IBTER scenarios

- Albany example: Portion across the Willamette River, there is one bridge (Hwy 20). Currently a bottleneck for traffic.
 - Jeff: Also have signaled intersections that are not at desired LOS. Significant congestion down Hwy 20. Signals aren't linked. Multiple issues along North Albany Road down to Hwy 99. Spurs a lot of public complaints and testimony during proposed developments in the area. Can't condition a development to fix the problem (proportionality), can't deny due to risk of a moratorium claim, no control over intersection, no ability to fund or approve them with ODOT concurrence and funding. Is this appropriate for an IBTER?
 - Kevin: Relatively higher-income part of Albany. Not great access to employment. Equity impacts: in an IBTER, it may be pointing us in the wrong direction in terms of trying to provide better housing opportunities for more people. While there's a constraint, permitting is continuing to happen, congestion is happening, and people are choosing to live there. Likely not a good candidate for an IBTER request.
 - Peggy: Gets to the discussion around what areas cities can or cannot include/exclude with regard to middle housing. Can think of a host of reasons why North Albany is not ideal for more units, but to diversify area, you need to provide the opportunity for more units. Huge conundrum.
 - Garet: Agree with intent, but for discernment for equity – it feels like a big subjective bucket. Thinking through technical component, consider laying out parameters to make decision less subjective.
 - Sarah: Has there been discussion of equity in model code and housing production strategies?
 - Ethan: There has not been significant discussion in the IBTER process but definitely in other conversations
 - Kevin: To make it a better process, we need to think about what these metrics would be.
 - Peggy: Some report that comes out of this work needs to ensure decision-makers (i.e. legislature) understand the deficiencies in variety of infrastructure we have that have been barriers to middle housing development.
 - Ethan: Consider including demographics of neighborhood and proportionality of need. We at least need information on hand.
 - Kevin: Limited data at fine-detail level due to privacy constraints and disaggregation of data. How do we get data of areas that don't line up with Census tracts?
- Albany example: sanitary sewer; old line near capacity, significant inflow and infiltration, could lead to an overflow event, legal liability, and Clean Water Act violation.
 - Jeff: Similar situation to transportation, but if upzoned for middle housing, we would risk further violations than if left the way things were. Different in that there are

potential Clean Water Act violations with an overflow event and right on the edge. Has capital plan to replace the line within the next ten years. One portion under construction, but funding takes time.

- Kevin: This seems like a scenario where an IBTER could be supportable. Feasible to complete improvement within an identified period of time plus a significant implication for the city.

Housing Production Strategy Technical Advisory Committee (HPSTAC) Meeting #2
March 11, 2020; 1pm – 4pm
DLCD Basement Hearing Room
635 Capitol St NE, Salem, OR 97301

Key Insight Summary

Reporting and Data - Committee members feel that a consistent statewide reporting structure for data collection that aligns with existing reporting requirements (both statewide and federal) and captures a more comprehensive understanding of housing needs – especially for the most vulnerable populations and in consideration of equity – is critical in determining the short- and long-term efficacy of Housing Production Strategies and other housing-related efforts. This is in recognition that the collection and analysis of comprehensive housing need and production data requires substantial resources and investment.

Community and Stakeholder Engagement - Members agreed that in regards to community engagement, there needs to be a clear purpose and strategy for engagement, because conducting that work costs monetary and community resources that can be utilized in other efforts. Additionally, the provision of assistance and resources to conduct this work will be necessary to ensure meaningful engagement is possible. Early engagement to community members and stakeholders that provides a clear message and analyzes alternatives and associated trade-offs will be important in the development of an effective and responsive HPS.

Enforcement - In general, committee members believe that enforcement will be an important tool to ensure that jurisdictions that do not employ a good faith effort to increase the provision of affordable and equitable distribution of housing. Simultaneously, because there are many factors affecting the success of various strategies outside of a jurisdictions' control, enforcement should not penalize jurisdictions that in good faith develop and implement an HPS that fails to achieve its goals.

Proposed "Buckets" for Housing Production Strategies - Committee members noted that there are a variety of tools available to address different elements of housing production, and more "buckets" would be appropriate to provide a useful framework of categories for cities. They also note that it is unlikely that one strategy alone will be sufficient, so ensuring that cities consider a variety of options for the production and preservation of housing stock will be important

Attendees:

1. Ethan Stuckmayer, senior housing planner, DLCD.
2. Kevin Young, senior urban planner, DLCD.
3. Robert Mansolillo, housing planner at DLCD.
4. Cazmine Bonnot, support staff, DLCD.

In-person attendees

5. Allison McIntosh, Neighborhood Partnerships.
6. Tom Armstrong, City of Portland.
7. Mary Kyle McCurdy, 1000 Friends of Oregon.
8. Angel Falconer, City of Milwaukie.
9. Sandy Belson, City of Springfield.
10. Dan Riordan, City of Forest Grove.

Zoom participants

11. Ellen Miller,
12. Maxine Fitzpatrick, Portland Community Reinvestment Initiative.
13. Alexis Biddle, 1000 Friends of Oregon.
14. Damian Syrnyk, City of Bend.
15. Lynne McConnell, City of Bend.
16. Brian Shelton-Kelley, NeighborWorks Umpqua.
17. Ben Doridy, City of Hermiston.
18. Brian Martin, City of Beaverton.
19. Chris Pryor, City of Eugene.
20. Carmin Ruiz.
21. Kim Travis, Oregon Housing Community Services.
22. Deb Meihoff, Communitas Planning.
23. Joel Madsen, Columbia Cascade Housing Corporation.
24. Miranda Bateshell, City of Wilsonville.
25. Shannon Vilhauer, Habitat for Humanity.
26. Marisa Zapata, Portland State University.
27. Jes Larson, Metro.
28. Diane Linn, Proud Ground.
29. Ariel Nelson, League of Oregon Cities.
30. Stephanie Jennings, City of Eugene.
31. Allen Lazo, Fair Housing Council of Oregon.

Meeting Minutes

1. Reporting: trying to create a reporting structure. Do not want to duplicate efforts with cities. Work done to support cost burden households. Try to report on market and employment shifts.
 - a. Damian wanted to recommend identifying any projects that the city completed out of its capital recruitment program that would help support the development of additional housing.
 - b. Joel thinks that generally, those bullet points are valuable in the reporting process. Also thinks about some of the policies that may be hung up in the legislative process at the local level, and that it's equally important to know and hear what cities may have attempted to do as it relates to moving forward adequate housing production.
 - c. Mary thinks that the four bullet points are good. Wanted to build a bit on the second one, equitable placement of housing supply with access to transportation resources and walkability. Thinks that we should be looking at the percentage of housing and the density of that housing within quarter mile and half mile of different transit-related stops and higher frequency transit. Definitely agrees with what Damian and Joel said about asking cities to identify what the road blocks are, whether it's infrastructure or other things, because it will be important to know that particularly, for example, funding from other sources is needed to address infrastructure issues.
 - d. Deb's question on the fourth bullet of specific policies that have resulted in housing production. Is it intentional to only limit that reporting to policies or are you looking for other actions they may have taken that aren't necessarily policy-based? Was answered that this is set up as the reports are in-between the six or eight-year adoption of a new housing production strategy report and so this would be maybe which policies have you set forth in your housing production strategy report that have actually produced units, and that could be larger than just policies.

- e. Marisa - Follows up with what people have been talking about with policies that have resulted in housing production. Said that we obscure the fact that particularly from zero to 30%, and in some places 30% to 60%, even up to a 100%, there are limitations on what any kind of market intervention is actually going to do to produce housing in that kind of framework. That the reality is that no one is ever going to produce housing at zero to 30 without government just doing that, and so just wanted to make sure that we don't lose sight of that and we don't end up in a situation that we're just only talking about how to get to market, how to incent the market to produce housing for very low income families. The other thing she sees is that they're not trying to be overlapped with other recording requirements, but she thinks making sure that we're not just talking about cost-burdened households or demographic trends; and that it's really about also making sure we're capturing racial equity in any given pattern or trend.
- f. Shannon knows that the DLCDC has an existing resource that's sort of like a scorecard or points for local jurisdictions for kinds of policies that can be adopted that have a proven track record of incentivizing or removing barriers to affordable housing production, and was just wondering if maybe that kind of scorecard could be included into this reporting process. Was answered that it will be in the buckets discussion, how we separate the policies within each of those buckets, how they're organized, whether that's by cost or time or anything like that.
- g. Angel comments about legislative policies that might have failed for some political reason. Thinks that there was some mention last time about permitting, but in addition to how many permits are pulled, how many projects end up being defeated at some point along the land use hearing continue on, so whether it's just an outright just denial and an appeal, and maybe some reporting on that information might point to problem areas in the code, whether it's zoning or a process both controlled by the jurisdiction themselves.
- h. Tom thinks that to the extent that people were getting hung up on the word "policies," using the word "strategy," policy, he thinks that's a policy in the comp plan and it sort of stays there. That it's different than a program for a tax incentive or an SDC waiver. A little concerned about this idea of the annual reporting.
- i. Shannon - Said that in terms of thinking about the amount of work that would be necessary by all of those jurisdictions to produce these reports, the amount of data that would be created and the ability of the DLCDC to analyze that data is something we should all keep in mind. Thinks that it would make sense for us to look at some of the data that's already been reported through 4006 and think about how that has been useful, and that it may help us think about framing these issues as well.
- j. Marisa - hears a lot of questions from people in community and people from different governments about what's going on with housing production, what's going on in homelessness. Wonders if it's not necessarily that there's new data that needs to be reported, but better understanding of what data sources are out there and how to share them out in a different way. Issues that jurisdictions are often reporting data or sharing data in ways that aren't consistent makes reporting quite difficult.
- k. Miranda - said that one of the things that we want to better understand is how we can report on a number of these things and the data sources that are available to us, and so maybe part of that is just having an understanding of what's there, but also thinks that oftentimes it's not available at that fine grain enough level for small cities, where like in Portland, that's a fairly large geographic area and there's a lot more information that can be drilled down to a neighborhood level. Thinks think that being able to easily connect with our

actual data sources for us to be able to report on this information is really important. Wants to make sure that we're setting up a system that can actually be tracked.

- l. Anyeley adds that that somebody at the main stakeholder meeting had a great suggestion for tracking where every project that goes in for housing has forms that they have to fill out when they submit for a permit, and that could be a good point of data collection.
 - m. Brian suggested that suggest that it makes a lot of sense for local jurisdictions to report local data, but if there are federal state or regional data sources, it's probably going to be a lot more efficient, both in reporting it and understanding it, if the state actually collects all that information for the 55 cities and reports it out instead. A city can always add to that or question it, or provide nuanced information that they have based on that, but you're going to get consistent reporting.
 - n. Ariel building off on some of the comments already in terms of what data is actually available statewide. Wondering if it would be possible for DLCDC for the next meeting to maybe identify that in terms of how it aligns with some of the questions we might be trying to answer, maybe in coordination with OHCS, so that we can kind of look at that and identify what are the questions you want to ask, as Stephanie made that point, and then what is the actual available data.
 - o. Dan thinks that the four bullet points are great starting points. Thinking in terms of detail in terms of the first bullet point, what market and employment shifts specifically would you like reporting at, and is there a linkage with the EOA that we should be keeping up-to-date and documenting the market and employment shifts through that process. In terms of the second bullet point, equitable placement of housing supply, thinks he knows what the intent is behind that, but it would be really helpful to define a little bit better about what the placements actually means so that we can report on things that are not fully defined.
 - p. Stephanie wanted to support the idea that if we're talking about demographic data, that if there's an analysis that's provided to the 55 jurisdictions, then jurisdictions are responsible for collecting locally available data and policies. Thinks that the question of equitable placement of housing supply is a pretty challenging thing to design, and so we would have to work quite a bit on that one.
2. Engagement: rather than a box checking method, cities could report on engagement processes, how they worked and how they were incorporated into a report. Is this a meaningful way to engage?
- a. Angel on the first bullet point. Made a suggestion that if jurisdictions aren't actually measuring who's showing up at community engagement, then they won't really be able to report whether or not engagement has been successful.
 - b. Sandy - her understanding was that the Housing Needs Analysis would have been done just prior to this, and that would have its own public engagement process and adoption process in terms of any policies into your comprehensive plan. Didn't see reflected in the notes from last meeting, some comments that Anyeley had mentioned in that it's really the property owners and the housing producers that are going to be the ones creating the housing, not the cities.
 - c. Dan thinks there are really two cases to engagement: community and producers. That there needs to be a way to link the two, so that producers know what the community needs are.
 - d. Marisa's question on the purpose of this engagement has been answered to some degree. Sounded like some of it is to understand how to actually make the housing that people want appear, and that's our set of conversations with producers and so forth. Thinks that there might be another conversation that we're having that's more about helping people weigh tradeoffs and saying if we're going to want to do X, Y, and Z, then we actually have to be

- willing to pay more into taxes. If we want to do Q, R, and S, then we have to potentially cut X thing.
- e. Ethan expands on Marisa's comment, saying that the hope with the engagement is that you have your Housing Needs Analysis that gives you a number of the type of housing that you need, but there's an additional way that maybe that doesn't capture, that would come out in this type of community engagement, and then you would adapt your housing production strategy to meet that need that maybe wasn't explicitly laid out in the Housing Needs Analysis.
 - f. Jes concurs with the importance of focusing on purpose of engagement to get at the heart of what are the goals to ensure we're protecting against engagement fatigue because we're giving people real meaningful opportunities to engage and the importance of setting clear guidance on what adequate engagement must include ahead of that engagement report-back.
 - g. Shannon thinks that in some ways, community engagement might surface more even capacity differences between communities than reporting. Said that equitable community engagement is an art and a science, and it would be optimal if there could be some resources around this to ensure consistency as well as guidelines.
 - h. Chris said that when he thinks about engagement, he thinks about the stakeholders. Said that we can develop the plans and we can come up with all the structures, but part of the engagement is to make sure that you create reception for whatever it is you want to do, and so he thinks we have to include stakeholders within that area.
 - i. Ariel definitely agrees with a lot of the comments so far on engagement. Just cautions from the state perspective, similar to the data reporting, that while there is an ideal way to conduct facilitated outreach at specific times of days just to be considered resources available for cities to do that.
 - j. Diane - that as people have indicated, there's the engagement with communities of color and people who've been left behind, and then there's also the very different kind of neighborhood engagement that was just referenced. Talked about how a conference coming up here in Portland could be a wonderful opportunity to talk about how to balance those things, engage people, and really get us thinking about new strategies for how to talk about the process of creating affordable housing of different kinds in the heart of neighborhoods across the state in different ways. Thought that maybe we can share information in the next couple of sessions, what came out of that conference.
 - k. Marisa thinks conversation uplifts how important it is to decide on a purpose. That these are two radically different purposes for engagement, and that we really have to be clear about what the role of engagement is in this particular activity, and what makes sense to try to take on, given limited resources
 - l. Anyeley feels like a lot of the comments she's heard had to do with the more this is good to engage neighbors and this is good to engage different stakeholders, but when thinking about this process, she thinks there are two components: One is the housing needs analysis, and the second one is housing production strategies. But both seemed very technical and data-driven to her. She feels like both of these need to be very specific about what is the thing you're trying to get out of engagement, not just we're informing everybody that these things are happening.
 - m. Stephanie says her comments are in the same vein as Anyeley's, but also feels like this is pretty amorphous for her right now. She thinks that we need to be kind of laying out a little bit clearer plan for engagement that it's easier for people to follow, and we also have to be

able to make it clear to jurisdictions what it is they need to do to fulfill their requirements and easy for DLCD staff to be able to make that judgment.

- n. Ethan agrees that more work needs to be done on the engagement piece.
3. Enforcement: cities and their efficiency of building housing in buildable lands. Market created units, cities create the policies How should DLCD intervene a city's housing production strategy?
- a. Sandy - Doesn't have the measurement part figured out, but in terms of the process, she would like to propose an interim step before enforcement whereby if a jurisdiction was found to not be meeting its housing need, that DLCD would come and actively share what the best strategies are. And then that if you're trying to get more on the enforcement side following that sort of level of sharing best practices, you could say that DLCD would only fund projects that would meet those needs rather than other projects that the jurisdiction may be looking for but to not just cut off money initially but to have it be focused on meeting those needs.
 - b. Mary Kyle - On the what should you measure, she assumes that the HNA would be pretty similar to what she's seen in HNAs already which is they're going to set forth even more specifically, what population's income levels, household, et cetera are being served and aren't being served by the current city's residential supply and zoning, and what steps should be taken for family housing, senior housing, et cetera, more affordability.
 - c. Alison agrees with Mary Kyle and Allan's point about needing to figure out how to enforce for cities that don't want affordable housing. Mentioned a comment in the surveys from last time that she really liked, about looking at permit denials and asking questions about why permits were denied, why projects were denied, that could be really illuminating.
 - d. Joel's comment is around prioritizing the enforcement, and understanding that the definition of unmet housing need may be pretty broad. Thinks that there's an opportunity for the rulemaking to really drive toward affordability in the marginalized populations. In his perspective, we should be working on whatever the enforcement looks like, more so in the unmet need for our lower-income community members versus if there's an identified unmet need for higher end or market housing.
 - e. Stephanie feels like we're missing a step in this as we went from engagement directly to enforcement. She thinks we need to have a much bigger conversation about thresholds.
 - f. Damian commented that with respect to thresholds, he thinks there's going to be some clear cases where if a city has not adopted housing production strategy or adopted one but they're not taking any action to implement any of their measures, those are the clear cases where you need to do some kind of enforcement to get them moving.
 - g. Brian doesn't have an answer necessarily, but he was reading what he believes was the correct section of HB 2003 that was talking about adopting criteria for reviewing, identifying cities that have not sufficiently achieved production of needed housing within their jurisdiction or to implement a housing production strategy under this act. He said that the interesting thing there is it doesn't say that they actually created housing; and beyond that, one of the things with needed housing is that it's a pretty challenging concept if you just look at a city boundary because we have regional housing markets. He was hoping that we can take those into account.
 - h. Ethan reiterates that it is important to note that we're talking about Section 6 of House Bill 2003 which leads this body into the department, and then this body to create and write rules around what that enforcement action looks like.
 - i. Dan thinks it's important to consider why a community may be deficient and not achieving their housing needs. Mentioned that a lot of cities that are subject to HB 2003 are not

- entitlement communities so they don't have dedicated amount of staff and resources. The other thing too is considering economic cycles and how that might impact housing permits.
- j. Shannon - thinks that this may not be as complex as to some degree as its founding potentially, and that there are certain things that are tried-and-true for increasing production of affordable homes. She also thinks that some of the measures might not be so complicated, like what is the rate of permits that indicate builders, whether they're for-profit or non-profit are accessing incentives. That it should just be measurable.
 - k. Ethan read a comment by Andre that if a jurisdiction is not doing a good-faith effort to do what it said it would do out into the plan, then enforcement is needed. That if a jurisdiction is doing what they said they would do but they are not achieving the outcomes expected for housing production outcomes, then a technical assistance intervention would make sense and a revision of the plan by the jurisdiction. A midcourse correction.
 - l. A couple of questions from Sandy. She was looking at Section 6, which is referenced earlier, and under Item 2, there is a list of criteria that may be adopted by the commission. She was wondering if staff is thinking that those would be criteria because these really are focused on housing production and that we've been hearing a theme that cities can't actually promise that we can set the stage for it. Also a question on number 3, are you seeing there will be rulemaking around that as well in terms of how funds would be prioritized for distribution?
 - i. Was answered that that's kind of just giving us a baseline here of some potential carrots here that she were just talking about that we could consider, but that we still need to know what the thresholds are to go to that level which is partly number 2 here where we're considering unmet housing need as described in ORS 197.296, and the list goes on.
 - m. Joel just wanted to emphasize from his perspective that he actually doesn't think enforcement should just be focused on the numbers, that there should be an emphasis on looking at good strategies and policies dedicated toward meeting the housing needs.
 - n. Jes concurs with many of the sentiments raised. Just in addition to being mindful that we won't be able to control for how the market responds to the production strategies offered or enabled by jurisdictions, and that we should also remain mindful that not every jurisdiction is in an equal starting place when it comes to meeting their unmet housing needs. Also thinks that there's both the market and also the disparity in starting places for jurisdictions that should cause us caution in using that as the measurement for outcomes in production strategies.
 - o. Marissa commented that some of the stuff has already been said so it's just somewhat different framing. She thinks that some of it was just saying we had to take into account some of the local context, and that it's very hard to imagine this in a hypothetical. Also really want to reemphasize that a conversation that's about zero to 30% of the median household income is categorically different than other income brackets, so she thinks that the more we try to talk about these in the same breath, the more confusing it is.
 - p. Dan, regarding Section 6 of HB 2003. A couple of references in here that might be worth getting more clarification about. One is the consultation within DLCDC and Oregon Housing and Community Services with respect to developing criteria and reviewing cities, and he was wondering if DLCDC has given any thoughts exactly what that relationship might be and how that might work with housing community services. The other question is a pretty open-ended provision in Section 6 under Section 1G which is basically other attributes that the

commission considers as relevant, and was wondering if DLCD has given any thoughts to what that might be.

- i. Was answered that on his second portion, Section 6 sub-2 sub-G, that's what we're trying to work through at the moment, what are those other considerations? Is it economic conditions, are there other things at play that leads a city to not being able to accommodate its housing needs.
 - q. Anyeley wanted to provide a little bit of a counterargument to the focus on enforcement just for affordable housing. She started thinking about it with regard to the kind of a spectrum of housing affordability, but from the market rate sense and kind of market development sense, some measures like inclusionary zoning do create affordable housing either short term or long term but can have implications for the housing volume that's created in the market rate sector.
4. Subsequent Housing Production Strategy Reports - Are there any other factors that should be taken into consideration?
5. Structure of Housing Production Strategy Report - Any other ideas as far as buckets?
- a. Questions from Alison:
 - i. Under conceptualizing housing needs, the bullet that says prevent zoning and land uses across jurisdictions. She wanted to just clarify what is meant by that? Is this is the percent of mandates available for building, buildable land inventory, or what is zoned for what types of housing?
 - 1. Was answered that on page 49, in that first section, is the housing needs analysis data identifying housing needs, and then also that's supplemented with the engagement efforts that were talked about before. Part of that could be determining what percent of your land is zoned for residential uses and the type of land uses that you're allowing within your jurisdiction.
 - ii. Under the "strategies to accommodate future housing need," fourth bullet down, "access to local, state and federal resources." If that would be sharing what potential local, state, and federal resources you have.
 - 1. Was answered that it could be something along the lines of tweaking some of our city policies to align better to OHCS's qualified allocation plan to better facilitate the developer, or have affordable housing developers in our community to be more competitive in the developing process.
 - iii. Do you have a sense of what the department will be considering as within a city's control or ability and what if more falls under the developer's role? Is that something that you'd be looking for in the engagement process to maybe create a link with?
 - 1. The buckets are some of the ways that we have seen, and these are three that are outlined in the House Bill 2003, that we can foster the development of housing in our communities. We can either create incentives, we can reduce impediments or we can provide access to resources. Those are the ways that we see are the primary ways that seem to build or facilitate the production of housing at the local level.
 - b. Alison looking at the graph with the zero to 30% of medium family income, 30% to 80% and then above 80%, strongly suggested having at least one more category to match and align with state and federal funding tools. On Ariel's point of percent of zoning, it reduces across jurisdiction. If it's only looking at the snapshot, it's missing historical data that can really influence where changes happen negative for a community.

- c. Sandy commented on the section on “Contextual Housing Need,” not seeing that called out in the statute. What she sees in section 4.2 is, “A housing production strategy must include a list of specific actions including the adoption of measures and policies that the city shall undertake to promote development within the city to address a housing need identified under ORS 197.296, item six.” That it doesn’t say, “Adding in housing need as identified through community process after you’ve done your housing needs analysis.” She’s concerned that listing these things is basically expanding on the housing needs analysis so that we’ve done it once and then we continue to do it. And that makes her uncomfortable. She suggested leaving that out as a required component, knowing that we’re going to be referencing the housing needs analysis in the production strategy as the context for the work.
- d. Stephanie added on to what Sandy was saying, that in the strategies you could ask what need the strategy is going to address that was identified in the housing needs analysis just to make a better connection between those two documents. This really focuses on actions but it doesn’t create a baseline for what jurisdictions might already be doing.
- e. Brian - wondering if the state’s going to have a required structure that each document must follow or if it’s your report must have these components. Comment is under the strategies, “to accommodate future housing need”, the fourth bullet is “Innovative and creative solutions.” The examples have been around for 20-plus years so he wasn’t “innovative and creative” are the right words.
- f. Dan said that the framework looks great, overall. One observation in terms of categorizing the need, HB 2003-S definitions for what capacities, going and combining the median and higher income, the threshold cut-off points are 50% median income. And that perhaps aligning the categories to better reflect that ability is something worth considering. One other thing that caught his attention was a reference to cost burden for residents. The HB 4006 references households and renter households specifically. “Residents” is a little different measure than “households”. Maybe being consistent would be good. In terms of the bullet points for the strategies, he liked the timeline for adoption and limitation, and he thought that it might also be worthwhile to identify the lead agency and responsibility because, for some of the strategies, part of the process, it may not actually be the city who’s responsible.
- g. Shannon noted that cities who are all onboard and adopt multiple strategies are going to be taking on a heavier workload of implementation, tracking and reporting, and she was wondering if that has been given to supporting cities who step up in this way through maybe some automatic or additional technical assistance in capacity support.
- h. Andre - There might be some tools action strategies that might affect multiple income ranges.
- i. Brian asked a question that was not addressed which is, is this a required structure?
 - i. Every city has the same organization or a list of necessary components that allow cities to format the report based on their needs and ideas.
- j. Anyeley had a variety of comments based on everything everyone said. She liked the idea of maybe the department polling jurisdictions right now to find out what strategies and tools they’re already using so that we can populate this list really well, and we can see what the baseline is and then add to that. She also seconded the idea that we break down the line of affordability based on known quantities and would say to do an 80 to 120 and then have a completely different bucket for market rate, because saying 80 to 120 is a certain affordability and then market rate can just be astronomical if it wants. It wants to separate

itself out from unknown quantities of affordability. She would also advocate for the same structure for every jurisdiction with regards to the reporting.

- k. Deb commented that the way we're having to report on each strategy, there's a potential of penalizing communities that are trying really hard on multiple fronts to really get assistance and then, potentially, rewarding communities who don't really want to try that hard.
6. Proposed buckets for HPS and Example Tools:
- a. Shannon just wanted to make sure that access to land is explicitly part of the conversation and, particularly, in high opportunity areas. That could certainly fall under the heading of the "Local Resources" or "Community Resources," and it often involves collaboration with the county.
 - b. Anyeley said that she talked internally about this and that she feels like that at the end of the day, there are going to be a lot more buckets, and she hopes there are, because she feels like the more the strategies, the more specific they are and nuanced, the better. Also said that she'll write ideas for the buckets and send it to Ethan over email. Only other thing too was going to say that she agrees with the earlier comment with regards to how we show that spectrum of affordability, and that each strategy could place itself on multiple points of those areas.
 - c. Sandy wanted to underscore a point that Stephanie Jennings made last time, and that is retention and rehabilitation of our existing housing stock needs to be part of maintaining our total inventory.
 - d. Joel wanted to second the "more bucket" approach, and that he thinks that it is a good idea. One he specifically feels that is important is a bucket around compliance. Noted that there was significant work done around the affordable housing pilot project that was for the potential expansion of urban growth boundaries, and just wanted remind that there was a lot of work done in that venue to assess what those measures are to accommodate and encourage needed and affordable housing.
 - e. Mary noted that the thing Joel mentioned was table 5. It's 31 actions that local governments could take to increase the supply of housing and it also includes whether they would have a high or low impact on that production of housing, it's not separated by affordability but you could take the buckets and separating them out into those. Also agrees with Angel, and thinks there are some buckets or things that cities must do, and that removing or reducing regulatory impediments to development of needed housing would be something all cities must address but there may be others.
 - f. Stephanie commented on bucket A and bucket B. That it would be better to put financial impediments and incentives in one bucket, and then regulatory impediments and incentives in the other. And that it would be a lot easier for people to categorize that in that way. Also added on Sandy's comment about housing preservation. That it's a very real challenge, especially for communities that have a lot of affordable housing, whether or not you put your dollars into preserving the housing that you have or putting that money into producing new housing.
 - g. Marisa - Protecting what we have in terms of housing stock. She just wanted to make sure that maybe there's a way of distinguishing naturally-occurring affordable housing as being a very particular kind of target, and then really thinking through what that means and how that sets arguments for historic preservation. Also just being clear that we do see people, who want to see things preserved, try to use affordability arguments to advance that even if it doesn't make sense for an affordability component, but definitely trying to think about

how we're going to protect and preserve that naturally-occurring affordable housing is super important.

- h. Ariel liked a lot of the comments she had heard. Just making sure that we're able to incorporate cities with very different starting places and understanding how they're measured against that, that their outcomes would be different. Also, to her earlier point that available resources have to at least be able to include that under their narrative, why they may have chosen a certain option to meet a certain need versus another one, or a certain tool over another one.

Next HPSTAC meeting will be April 8th

March 23 PALLF speaking engagement

March 26 Eugene group

April 15th Habitat for Humanity meeting in Portland

Rulemaking Advisory Committee Meeting #5

April 2, 2020; 11:00am – 3:00 pm

Department of Land Conservation and Development (DLCD)

Zoom Virtual Meeting



Public Comment Summary February 27 – March 26, 2020

Date	Commenter	Commenter Type	Comments Summary	Comment Type
2/27/2020	Ed Sullivan	RAC	<p>Recommendations on standards and procedures that would result in "unreasonable cost or delay". They include reviewing case law related to ADUs or similar issues, incorporating a process as "best practice" where an applicant can challenge a discretionary standard or standard imposing unreasonable cost or delay, and setting a date in rules to consider unanticipated consequences as a part of rulemaking (6 month to two years).</p> <p>Additionally, recommendations on the IBTER process in which we distinguish IBTER from moratoria, clarify responsibility of jurisdictions to plan facilities under Goal 11, and adoption of the three percent density growth standard.</p> <p>The letter also supports Colin Cooper's letter to Kevin Young from Jan 28, 2020.</p>	Letter
3/2/2020	Kol Peterson	TAC	Support the elimination of off-street parking requirements for the Medium City Model Code. Suggest the following language: "No additional off-street parking is required for the addition of a duplex over the existing requirements for a single-family dwelling."	Letter
3/3/2020	Candace Ribera	Public	Concern about off-street parking requirements for ADUs. Additionally, supports elimination of minimum lot size requirement in model code.	Email
3/6/2020	Eli Spevak	Public	Concerns about jurisdictions not permitting the creation of fee-simple lots for middle housing developments. This will disincentivize builders from creating middle housing, as creation of condominiums for	Email

			small projects has significant barriers. Recommends adding language permitting the provision of fee simple lots for middle housing types.	
3/10/2020	Joel Madsen	TAC	Includes example housing strategies report from The Dalles to consider in rulemaking. Also suggests including "partnering with local housing authority" and "partnering with community development corporation" as strategies and referenced in OAR 660-039-0060.	Email
3/11/2020	Michael Andersen	TAC	In light of EO 20-04 directing DLCD "exercise any and all authority and discretion vested in them by law to help facilitate Oregon's achievement of the GHG emissions reduction goals" including rulemaking, this letter advocates removal of on-site parking requirements from the model code and restriction of jurisdictions from mandating more than a minimal amount of on-site parking.	Email
3/16/2020	Josh Smith	Staff	Concerns about the minimum standards of HB 2001 in relationship to off-street parking, street width, and SDC waivers. Recommends leaving decision-making to local jurisdictions.	Email

Housing Rulemaking Advisory Committee: Meeting Packet #4
Sullivan Comments

Draft Medium Cities Model Code – I defer to the work of staff and the advisory committee generally, as they have the expertise and the time to reflect on possible applications of the draft code.

My concerns here relate to barriers to allowance of duplexes through discretionary standards or through procedures and standards that result in “unreasonable” cost or delay. I do not think we can anticipate all possible applications of this code and want to avoid expensive and time-consuming challenges at LUBA or in the courts. Here’s what I recommend:

1. We review the cases involving challenges to ADUs on similar issues and determine whether we can avoid those challenges in framing the Middle Housing Model Code.
2. While I am fully aware of the need to avoid discretionary standards, I would suggest as a “best practice” a process wherein an applicant can challenge a discretionary standard (with the remedy of removal of that standard) or a standard or procedure causing unreasonable cost or delay at the local level. In either case, the burden would be on the local government to show the standard were not discretionary or the standard or procedure would not cause unreasonable cost or delay. That decision could be appealed to LUBA which, under current law, could award attorney fees under ORS 197.835(10)(b), given the very strong direction on these issues provided by HB 2001.

I make this suggestion as a “best practice,” rather than a requirement, because some jurisdictions may find the practice unnecessary in their circumstances. That may be, but the absence of this mechanism would not preclude a challenge – either at LUBA or a mandamus proceeding in circuit court – and local governments might want to have their own mechanisms to control the process and narrow possible appeals and the consequent risk of attorney fees.

3. Setting a date for rule review to consider unanticipated consequences as part of this rulemaking process. That date should be anywhere from six months to two years and should consider the comments of staff and consultants working on these duplex rules.

IBTER Discussion and Proposals – As with the Duplex proposals, I defer to the expertise and consideration of these matters given by staff and consultants. My overall approach here would be the following:

1. Survey the cases regarding moratoria for analogies and consider them in drafting these rules. Additionally, as suggested by the approach before the RAC, a responsible and binding remediation plan must accompany the request.
2. Local governments should have complied with the public facilities and services requirements of Goal 11 in their plans. A heavy burden should be imposed on that local government to justify why the proposed request was unanticipated in the light of the acknowledged plan.

3. HB 2003, section 6(b) sets the expected level of all density increases in a jurisdiction at three percent for the twenty-year planning period, unless otherwise specifically justified. That same expectation should be presumed for any proposal to seek an extension.

Comments Received Since RAC #3 – The only comment that I think needs a response (or perhaps amplification) is that of Colin Cooper’s letter to Kevin Young of January 28, 2020 that calls out inconsistencies in the application of HB 2003 to cities in the Portland Region. Those concerns are real; Metro should have control over both housing needs analyses, buildable lands inventories and the allocation of regional housing needs through amendment of the UGB.

I hope these comments are helpful.

Ethan Stuckmayer
Oregon Department of Land Conservation and Development
March 2nd, 2020

Re: HB 2001 MCMC off-street parking requirements

Thank you for the opportunity to provide feedback on the draft Medium City Model Code (MCMC). This is a complex topic and we appreciate that DLCD has many issues to take into account. The signatories of this letter believe that off-street parking requirements **should not** be the default model code option provided by the state for the MCMC.

We acknowledge that most developers will choose to add off-street parking without any mandate. We also acknowledge that many local planners and officials will choose to have off-street parking requirements for new housing through their own local zoning ordinances. Even if most cities will opt to include off-street parking requirements for duplexes, we do not concur that they should be the default standard in the DLCD model code.

Instead, we concur with the following statement:

Providing off-street parking adds to the cost of a development and reduces the area of a site that can be developed with dwelling units. As such, parking requirements constitute a potential barrier to housing development and housing affordability. Many local governments are revisiting their minimum parking standards to address this potential barrier.

-DLCD Middle Housing Model Code commentary (page 26 of 160 of Housing Rulemaking Advisory Committee Meeting Packet #4, February, 2020)

DLCD commentary above accurately reflects our understanding of the adverse impacts of off-street parking requirements for workforce and affordable housing production. HB 2001 states more than a dozen times that a legislative intent of the bill is to reduce the cost of housing.

SECTION 10. (1) It is the policy of the State of Oregon to reduce to the extent practicable administrative and permitting costs and barriers to the construction of middle housing

-Enrolled House Bill 2001 (HB 2001-B) Page 10

Furthermore, there is fairly broad support in the TAC and RAC for not having off-street parking requirements in the model code.

Given these several factors, it is unclear what rationale DLCD has for requiring any off-street parking in the MCMC.

This model code is an opportunity to make a statement prioritizing more affordable housing development options, while also proactively addressing the climate crisis by helping to shift legislative and regulatory norms around single occupancy vehicle transportation. To do otherwise would also be inconsistent with the Governor's directive of September 23, 2019, to DLCD (and three other state agencies) stating that DLCD is a climate change agency and planning should support achieving the state's GHG reduction goals.

The current suggested draft language states:

A minimum of one (1) off-street parking space shall be required per dwelling unit. A credit for on-street parking shall be granted for some or all the required off-street parking as provided in Subsection F.5.b. No additional parking spaces shall be required for conversion of a single-family detached home to a duplex.

Instead, the model code language should read:

No additional off-street parking is required for the addition of a duplex over the existing requirements for a single-family dwelling.

If DLCD opts to retain a parking requirement in the model code, we request that DLCD analyze the cost impacts of this additional housing development regulation, and provide a justification of why its model code should imply that on-site parking is essential to include, given that it appears contradictory to DLCD's policy analysis, the legislative intent of HB 2001, and the Governor's directive.

Thank you for considering our input.

Sincerely



Oregon
Environmental
Council

Oregon
Environmental
Council



1,000 Friends
of Oregon



Portlanders for
Parking
Reform



Metro
Planning and
Development
Department



Accessory
Dwelling
Strategies



Sightline
Institute



Think Real
Estate

From: [Candace](#)
To: [Edging, Sean](#)
Subject: Re: Hard Cost Estimates - Middle Housing Parking Requirements
Date: Tuesday, March 3, 2020 4:11:28 PM

Sure, you can pass my thoughts on. My other thought has been that there should be no minimum lot size (maybe a maximum size) in residential zones and that the only constraints should be required setbacks, lot coverage and required parking. That way people can come up with all kinds of creative housing types on small lots.

On 3/3/2020 3:38 PM, Edging, Sean wrote:

Great thank you for your thoughts! Would you like to submit your comments to the public record?

Let me know! Thank you.



Sean Edging

Housing Policy Analyst | Community Services Division
Oregon Department of Land Conservation and Development
635 Capitol Street NE, Suite 150 | Salem, OR 97301-2540
Direct: 503-934-0035 | Main: 503-373-0050
sean.edging@state.or.us | www.oregon.gov/LCD

From: Candace [<mailto:candace@slcompany.com>]
Sent: Tuesday, March 3, 2020 3:37 PM
To: Edging, Sean <sedging@dlcd.state.or.us>
Subject: Re: Hard Cost Estimates - Middle Housing Parking Requirements

Sean, I do have to say that I am concerned about not requiring off-street parking for ADU units especially. A lot of jurisdictions have gone with narrow residential streets which either provide for no on-street parking or parking on one side of the street only in order to meet Fire access requirements. I think that there needs to be consideration for that situation in order to keep the neighborhood in tack and to provide for the safety of the residents, especially children. I happen to own a home on a corner lot in Salem that has no parking on one street and on-street parking on the other. My lot is very deep so I actually have off-street parking for at least 6 vehicles. However, in the past couple of years, the apartment units located approximately a block and a half away did away with some of their parking for whatever reason and now tenants are parking on the single family residential street where most of the houses only have 2 parking spaces in front of their garages. Definitely has caused a lot of tension between those owners and the parking of people who live in the apartments. The property owners routinely called the police and have them tag the cars so that the car owners are fined if they park over 72 hours without moving their cars. I have been following the City of Albany's hearings about ADU's and parking seems to be a big concern. I am having my engineer help with the costs that you are asking for so they should be pretty accurate for Marion, Linn and Benton Counties.
Candace

From: Eli Spevak [mailto:elispevak@gmail.com]

Sent: Friday, March 6, 2020 5:55 AM

To: Stuckmayer, Ethan <estuckmayer@dlcd.state.or.us>

Cc: Kol Peterson <kolpeterson@gmail.com>; Ezra Hammer <ezrah@hbapdx.org>; jeff bachrach <jeffb@bachrachlaw.com>; Anyeley Hallova <anyeley@projectpdx.com>

Subject: HB2001 administrative rule question and suggestion

Hi Ethan,

Thanks for taking my call yesterday afternoon. Following is some context and an idea that I hope can be taken up as part of the HB2001 rule making process.

Context: If a local jurisdiction wants to allow attached homes within middle housing (e.g. duplex, triplex, quad) development to be sold fee simple rather than as condos, they'll need to allow the original lot to be partitioned into 2-4 much smaller lots, presumably with zero-lot-line configurations. However, they'll be reluctant to allow this if doing so would automatically entitle each of those new, very small, lots to a duplex. Using Portland's RIP as an example - if 2-4 homes are allowed on a lot, and the city wants to allow them to be sold separately as townhomes, they'd be forced to be open to the possibility of ultimately seeing 4-8 homes on that lot. This is already being used as justification to not allow for the creation of fee simple small lots in the first place.

Similar issue for cottage clusters: If a local jurisdiction wants to adopt a cottage cluster code that allows half-size homes on half-size lots that can be sold fee-simple, they run into a similar issue. If each of the new, smaller, lots immediately becomes entitled to host a duplex (per HB2001) or ADU (per SB1051), then the cottage cluster code would not just double the number of allowed homes, but quadruple it. As a result, I know at least a couple jurisdictions have decided not to allow fee simple cottage clusters at all.

Condos vs. Townhomes: Portland is already seeing a boom of 2-unit condominiums as a work-around to a zoning code that makes it hard to drop property lines between attached units on corner lots (where duplexes have been allowed for many years). This dynamic is poised to multiply with the passage of RIP, allowing 2-4 units on nearly every lot in the city. But builders, buyers and lenders prefer fee simple ownership. And it makes no long-term sense to create hundreds or thousands of tiny condo communities when all that's being shared is a party wall and fence - and then each of these HOAs must be maintained for the life of the building. Furthermore, the promise of middle housing is to create less expensive renting and home-buying opportunities, as articulated by local non-profits focused on affordable home ownership (see attached letter). We should ensure that the implementation of HB2001 allows

newly-created smaller homes to be sold fee-simple. And jurisdictions probably won't create this option if doing so would automatically quadruple (or more) the based zone density.

Suggestion: Adopt an administrative rule along the lines of the following:

If jurisdictions allow the creation of lots 50% or smaller than the zone's base lot standard in order to accommodate fee simple ownership of homes within a middle housing development (e.g. 2-4 plex or cottage cluster community), those newly-created small lots are not automatically entitled to host duplexes or ADUs. Local jurisdictions are allowed to restrict access to additional units through the use of their zoning code and/or recorded covenants.

Feel free to contact me with any questions.

Cheers,
- Eli

Eli Spevak
Orange Splot LLC
4751 NE Going St.
Portland, OR 97218
eli@orangesplot.net
(503) 422-2607



Date: February 3, 2020

To: Portland Housing Bureau leadership and members of the Portland City Council

From: Partners for Affordable Homeownership (PAH):

Directors: Cheryl Roberts, AAAH; Steve Messinetti, Habitat Portland Metro East; Ernesto Fonseca, Hacienda; Paul Lumley, NAYA; Kimberly Horner, PCRI; Peg Malloy, Portland Housing Center; Diane Linn, Proud Ground

Re: Allowing Fee-Simple Ownership As Part of Residential Infill Project (RIP)

We are writing to request modifications to the Residential Infill Project to make it work for a wider range of for-profit and non-profit builders. These housing types are ideal for first-time homebuyers, and RIP ensures that they will fit in well with existing neighborhoods. However, they will only be built if Portland's homebuilders can actually use these provisions. A few changes are in order for this to happen.

As currently proposed, RIP provisions do not support a fee simple ownership models. This is a major obstacle, since builders, buyers and lenders all prefer fee simple ownership. It is true that some builders have reluctantly started using condominium ownership as an end run to Portland's unwieldy and time-consuming subdivision processes. Even so, it is unlikely that for-sale versions of these alternative housing types will get much traction if condominium is the only possible option.

Habitat for Humanity has been predominately developing small condominium projects on current R1 and R2 sites, typically with 10-30 townhome style units. PCRI also has experience developing small condominiums, and Hacienda is planning to take on its first affordable homeownership development in the coming years.

While it is possible to develop smaller condo projects that RIP makes possible, affordability is more difficult (especially under 60% AMI). Condo expense issues include: condo process costs, small buildings raise buyer's monthly HOA fees, it's difficult for developers to get construction financing, more difficult for buyers to get mortgages, and condo management companies are reluctant to take on small projects.

We are confident a fee simple option would result in more nonprofit developers building and selling more units on infill lots priced for lower income buyers. Fortunately, code language to provide fee simple options has already been written. Portland's existing "corner duplex" code allows builders to insert property lines to create attached homes. This language can be adapted to other "alternative housing" situations.

It is beyond the scope of the RIP to reform Portland's subdivision process, but that's no reason to give up on the notion of small homes on their own small lots. In fact, this is *exactly* the kind of housing we should be supporting to meet the demands of low and moderate-income homebuyers who have been shut out from the new-home market.

Thank you for your consideration

From: Joel Madsen [mailto:joelm@columbiacascadehousingcorp.org]
Sent: Tuesday, March 10, 2020 5:31 PM
To: Taylor, Casaria <ctaylor@dlcd.state.or.us>
Cc: Stuckmayer, Ethan <estuckmayer@dlcd.state.or.us>; 'Brian Shelton-Kelley' <bskelley@nwumpqua.org>
Subject: HPSTAC - Mtg #2 Comments

Casaria,

I'm writing to provide comment specifically on the structure of housing production strategy report and proposed buckets for housing production strategy and tools. To follow is an example of what I'd consider to be a pretty comprehensive housing strategy and one that is rooted in good data. I'd suggest this as a good example housing production strategy. http://www.ci.the-dalles.or.us/sites/default/files/imported/public_docs/PDFs/the_dalles_housing_strategies_report_final.pdf

A summary can be found on page 38 at this link. This table summarizes priorities, estimates level of effort and impact associated with implementation.

In addition, I'd like to suggest that when DLCD lists example initiatives it should include 'partnering with local housing authority' and 'partnering with local community development corporation', as well as reference each measure to accommodate and encourage needed and affordable housing within existing urban growth boundaries (OAR [660-039-0060](#)).

Thank you,
Joel

Joel Madsen
Executive Director
Mid-Columbia Housing Authority *and*
Columbia Cascade Housing Corporation
500 E Second
The Dalles, OR 97058
P: 541.296.5462 Ext 116
C: 509.637.5345

From: Michael Andersen [mailto:Michael@sightline.org]
Sent: Wednesday, March 11, 2020 8:14 AM
To: Stuckmayer, Ethan <estuckmayer@dlcd.state.or.us>
Cc: Mary Kyle McCurdy <mkm@friends.org>; Kol <kol@accessorydwellingstrategies.com>; Sara Wright <saraw@oeconline.org>; Ted Reid <Ted.Reid@oregonmetro.gov>; Hope Beraka <hope@hopeberaka.com>; Tony Jordan <twjordan@gmail.com>
Subject: Re: HB 2001 MCMC off-street parking requirements

Thanks, Ethan.

In light of yesterday's executive order from Gov. Brown, I thought I'd add that it strongly reinforces the argument in this letter, directing that DLCD:

"shall exercise any and all authority and discretion vested in them by law to help facilitate Oregon's achievement of the GHG emissions reduction goals"

and

"shall prioritize and expedite any processes and procedures, including but not limited to rulemaking processes and agency dockets, that could accelerate reductions in GHG emissions."

and

"To the full extent allowed by law, agencies shall consider and integrate climate change, climate change impacts, and the state's GHG emissions reduction goals into their planning, budgets, investments, and policy making decisions."

Including any mandatory on-site parking spaces in the state's model code, or allowing jurisdictions to mandate more than a minimal amount of on-site parking, would drive up future GHG emissions by interfering with the state's ability to **transition, where possible, to less auto-dependent land uses**. Both transit ridership and walkable commercial options [depend heavily on residential proximity](#).

Bans on otherwise economically viable middle housing, simply because a lot may lack space for on-site parking, would also be an obstacle to **energy-efficient homebuilding**. As DEQ research has [demonstrated](#), small attached wood-frame homes have far lower life-cycle energy consumption than larger detached wood-frame homes. Any measures that increase the chance that lots redevelop as large one-unit homes rather than smaller attached homes, therefore, will tend to drive up per-household GHG consumption.

There is a separate question of the optimal rate of redevelopment. The United Nations Climate Program [recently argued](#) for **higher redevelopment rates in rich countries with strong building code standards**, citing [new findings from England](#) that increases in average building lifespan would increase net GHG emissions. The more energy-efficient Oregon's building code becomes, the larger the GHG benefits of a higher rate of redevelopment. Therefore, DLCD should be on the lookout for any indication that higher parking requirements (and other policies that may restrict infill of middle housing, such as setbacks, height limits, etc) might lead to a significantly lower redevelopment rate.

Thanks for the continued attention to this issue from you and your colleagues.

Michael

—

Michael Andersen | senior researcher, housing and transportation | Based in Portland | him or them
Sightline Institute | www.sightline.org | Find us on [Facebook](#) and [Twitter](#)
M 503.333.7824 | [@andersem](#)

From: Josh Smith [<mailto:jsmith@cityofprineville.com>]
Sent: Monday, March 16, 2020 4:55 PM
To: Taylor, Casaria <ctaylor@dlcd.state.or.us>
Cc: anelson@orcities.org
Subject: HB 2001

It has come to my attention that DLCD may be trying to go above and beyond what is required in HB 2001 with some required minimum standards for housing. It is my understanding that the forthcoming model code was only going to be a guide for those wanting to change their code and only a requirement for those who fail to do so.

If minimum standards are being developed, then DLCD should not take a one size fits all approach. What works in the valley does not necessarily work on the eastside. One specific area of concern is the reduction in required off-street parking. This is something each community needs to decide for themselves as communities have vastly different transportation needs. We have little public transportation on the eastside with multiple family members having multiple vehicles and needing to drive longer distances for work and play. Not having a vehicle is not an option in most cases and our streets cannot handle the number of vehicles without off-street parking requirements. We also have a large number of RVs, boats and toy trailers on the eastside due to the great weather and ample recreation opportunities. These all take up off street space and is a constant struggle even today, with people parking these vehicles on the street.

Another area of concern is street width. There has been a lot of conversations about narrow streets, but again this does not work for all the reasons stated above and without robust enforcement. We do not have the enforcement capability to manage parking nor are we going to prioritize such spending over other more serious issues.

I have also heard suggestion of waiving or delaying SDC payments and providing other financial assistance. This is also a non-starter for us, as we have minimal staff and enforcement capabilities to administer such rules. I hope DLCD will consider this information and include small and medium community representation in the decision process. I would recommend leaving small and medium City's out of any financial or transportation related rules.

Feel free to contact me with any questions. If you have clarifying information on the intent of DLCD that would also be helpful.

Josh Smith | Planning Director

387 NE 3rd St | Prineville, OR 97754
Tel: 541.447.2367 | Ext: 1124 | Mob: 541.460.2197
Email: jsmith@cityofprineville.com