

HOUSING RULEMAKING ADVISORY COMMITTEE MEETING PACKET #6



TO: Housing Rulemaking Advisory Committee Members
FROM: Ethan Stuckmayer, Senior Housing Planner
SUBJECT: RAC Meeting Packet #6

Housing Rulemaking Advisory Committee Members,

Thank you in advance for preparing for another important Rules Advisory Committee (RAC) meeting. The third Housing Rulemaking Advisory Committee (RAC) meeting scheduled for **May 7 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 these topics.

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.

The primary objectives for RAC6 are to:

1. Review draft IBTER Rule Concepts,
2. Identify Housing Production Strategy Report requirements and guidance, and
3. Review revised Large and Metro Cities Model Code and minimum compliance standards Parts 1 and 2.

RAC Meeting Packet #6 Materials List

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IMPORTANT NOTE: We have provided a Discussion Worksheet as packet item #6. 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.

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

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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 #6)
May 7, 2020; 11:00 am – 3:00 pm

By Zoom Web Conference

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

Public comment: Members of the public that wish to make a public comment should submit their written comment to housing.dlcd@state.or.us



PROPOSED AGENDA

Housing Rulemaking Advisory Committee Meeting #3		
Time	Topic	Who
10:45 – 11:00 am	<i>Login to Webinar and Conference Line</i>	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 • Sylvia Ciborowski, Facilitator, Kearns & West • DLCD Staff
11:15 am – 12:05 pm <i>(Includes 5-minute break)</i>	Update on Infrastructure Based Time Extension Request <u>Desired Outcome:</u> Review and discuss the draft housing rule concept and criteria to be used in IBTER review.	<ul style="list-style-type: none"> • Kevin Young, DLCD • RAC Members • Sylvia Ciborowski
12:05 – 12:50 pm	Update on Housing Production Strategies <u>Desired Outcome:</u> Provide RAC members with an update on the HPS report structure and discuss the minimum compliance of the HPS report and additional components the HPS report could include.	<ul style="list-style-type: none"> • Samuel Garcia and Robert Mansolillo, DLCD • RAC members • Sylvia Ciborowski

12:50 – 1:10 pm	Lunch Break	
1:10 – 2:45 pm <i>Includes 5-minute break</i>	<p>Large Cities Model Code: Review and Discuss Part 1 and 2 of Large Cities Model Code</p> <p><u>Desired Outcome:</u> Review and discuss Part 1 (purpose, definitions, and applicability) and Part 2 (triplexes and quadplexes) of Large Cities Model Code. Provide input on various options for Parts 1 and 2.</p>	<ul style="list-style-type: none"> • Robert Mansolillo, DLCD • RAC Members • Sylvia Ciborowski
2:45 – 3:00 pm	Next Steps and Wrap Up	<ul style="list-style-type: none"> • Sylvia Ciborowski • Ethan Stuckmayer • Jerry Lidz, RAC Co-Chair

Upcoming Rulemaking Advisory Committee (RAC) and Technical Advisory Committee (TAC) Meetings	
Date/Time	Meeting
May 18, 2020 – 1pm-4pm	Housing Production Strategy TAC Meeting #4
May 28, 2020 – 9am-12pm	Infrastructure Based Time Extension Request TAC Meeting #6
June 1, 2020 – 9am-12pm	Middle Housing Model Code TAC Meeting #6
June 9, 2020 – 11am-3pm	Housing Rulemaking Advisory Committee Meeting #7

Rulemaking Advisory Committee #5

Zoom-only Meeting

April 2, 2020

Key Insight Summary

Medium City Duplex Standards – Ensuring specific standards in the Model Code are consistent, legally robust, and useful for jurisdictions are a priority for RAC members. While current practice can inform the model code and minimum standards, it is important that they facilitate duplex development.

Protective Measures – Ensuring middle housing is developed in a manner that minimizes risk posed by natural hazards and minimizes impact to goal-protected areas, including historic, natural, and coastal resources.

Minimum Parking – There is significant debate among RAC members as to the appropriate amount of minimum parking specified in the medium city model code and minimum standards. While some RAC members feel that preserving flexibility for developers, minimizing barriers to housing development is critical, and reducing automobile mode share and greenhouse gas emissions, others feel that it is important to provide jurisdictions as much flexibility as possible to regulate middle housing development to respond to local conditions. Providing jurisdictions with tools to manage on-street parking issues will be important as part of the rulemaking process.

Large Cities Model Code – There is agreement among RAC members that definitions and standards for the development of various middle housing types will need to balance distinguishing each development type, maintaining consistency with building code and form, and maximizing flexibility for local jurisdictions and middle housing development.

Housing Production Strategies – RAC members agree that development of “buckets” and specific tools/strategies for Housing Production Strategies should be diverse and allow for a wide degree of different strategies from various sectors (private, local, state, and federal-based resources or strategies). Additionally, it will be important for Housing Production Strategies keep equity as a core consideration and ensure that strategies consider factors such as displacement and retention of naturally-occurring affordable housing.

Meeting Summary

RAC Members:

- Alexis Biddle
- Alison McIntosh
- Allan Lazo
- Amanda Ferguson
- Angel Falconer
- Brian Martin
- Brian Shelton-Kelley
- Chris Pryor
- Chris Storey
- Colin Cooper
- Kimberli Fitzgerald
- Lynne McConnell
- Mark Rust
- Michael Boquist
- Michelle Glass
- Nancy McDaniel
- Pauline Hardie
- Peggy Lynch
- Sarah Adams-Schoen
- Shannon Vilhauer

- Damian Syrnyk
- Debbie Aiona
- Derrick Tokos
- Drew Farmer
- Ed Sullivan
- Ellen Miller
- Heather Richards
- Hope Beraka
- Jeannine Rustad
- Jeff Blaine
- Jes Larson
- Jesse Sharpe
- Kol Peterson

- Stephanie Jennings
- Ted Reid
- Theresa Cherniak
- Tim Morris

Staff/LCDC:

- Ethan Stuckmayer
- Sean Edging
- Kevin Young
- Samuel Garcia
- Robert Mansolillo
- Sylvia Ciborowski
- Anyeley Hallova
- Jerry Lidz

Definitions.

The definition of common wall was taken out, that was also removed from the definition of duplex. Dwelling unit was also taken out. Local jurisdictions can use their own definition for dwelling unit and that should be fine. Unreasonable cost and delay is being added to the Administrative Rules. The definition of duplex is the same, the reference to the common wall was removed. It was recommended to keep the statement regarding developments where there's overlap between a duplex and a single-family detached with an internal ADU. Under the code, the property owner is allowed to declare which standards they would like to go with, either the duplex or the single-family with ADU. There are advantages to either one, so that is really up to the applicant at the time. For minimum compliance, it defines it as two; we added "detached." I believe the previous version had "attached" but we corrected that to say "detached" which was what we really intended and this will give more flexibility to cities who already have that in their code. The OAR, though, doesn't specify attached or detached, so that will give some leeway to cities who have either/or.

- Theresa Cherniak strongly suggested that the definition for duplex state that it's two primary dwellings. Then on the Minimum Compliance column for duplex, it says "the definition must distinguish a duplex from a combination of a single-family detached, etc." I'm wondering, does it have to be in this definition itself or could a jurisdiction just rely on its definitions for duplex and for accessory dwelling units to make the distinction?
 - Ethan answered that the intent behind the minimum compliance is the knowledge that cities already have their definition that they are currently using so they would wait and defer to the existing definition of an ADU that the city is using to distinguish between the two.
- Ellen hoped the Model Code would be more similar to the minimum compliance and would ask for the consideration of the duplex means a structure – or a duplex is considered comprised of two units rather than a detached structure with two units attached and would like it to be comprised of two dwelling units on the site.
- Mary Kyle recommended that there be not trying to blend the ADU and duplex in this language. She thought we all have the same shared outcome - that the applicant is the one who gets to choose, and I think the simplest way and most practical way is to have separate

codes for what is an ADU and what is a duplex. They're two separate things, and I think this confuses it and allows some potential misuse of it.

- Lynne McConnell agreed with Mary Kyle's suggestion to leave ADUs out of this definition. She asked if DLCD anticipates SDCs will be considered as part of the unreasonable cost and burden criteria or is that completely separate, in which case perhaps that should be stated in the commentary? She also asked if SDCs might be considered within the discussion of not subjecting any development to unreasonable cost burden, can we put out two different SDC amounts through single-family versus a duplex?
 - Ethan replied that the project team has tried to match the Model Code language with the existing definitions of a duplex that a city might already have or medium cities might already have. Typically, those are "one building or structure with two units within that one structure," so that's what we're trying to match there. So it's "one detached structure on a lot that is comprised of two dwelling units." We tried to match it there. In the Minimum Compliance, it opens up to just say "any two units on a lot", which would match – a city could go forward with that wide of a definition or they could say they should be detached or attached or any combination. Then in regard to the ADU, the kind of overlap in the definition, ultimately this language here in the Model Code gives the option to the property owner to elect which kind of code pack they will go down, the ADU path or the duplex path. Yes, the discussion of unreasonable cost and delay as it relates to siting and design of a middle housing type or housing type, SDCs would be outside of that conversation. There is language in the bill that would require a city to consider things like waiving SDCs or adjusting SDCs to increase the affordability of middle housing. So as a city is submitting their development codes and comprehensive plans to DLCD for review and comment to comply with House Bill 2001, that is one of the requirements in their findings is to kind of consider what that would look like or how they might adjust those to increase the affordability of middle housing. So it's not part of the Model Code itself, it's part of the review process and the finance process for our plan update.
- Michael commented on the choice between calling something a duplex and an ADU. The City of La Grande changed our code probably about two years ago now in relation to be more accommodating for the cottage home industry and we allowed two cottage homes on a lot that would then be defined as a duplex with detached structures and we have different setback standards for primary dwellings versus accessory dwellings. If a property owner chooses to place that second cottage home or that unit within the accessory building setback parameters, then they don't get a choice, it's automatically defined as an ADU. Whereas if they put it within the primary setback parameters, then it's automatically defined as another property dwelling and therefore a duplex. He didn't know whether the definition in the model code is in conflict with their current one.
- Drew agreed that they have codes related to ADUs. Some not as tight restrictions on parking as duplexes would because the expected or intended use of the ADU is different in content from what we would expect the usage of a duplex to be. I wouldn't want to leave the

determination if something is a duplex or an ADU up to the developer because I can see the move towards ADU just being a way to get out of putting in a parking space for a larger structure, and I wouldn't want to have to go back and change our ADU restrictions to now include parking spaces just because a developer may someday decide that they want to skip around parking spaces that are needed in a specific area. So I would be inclined to have a definition of duplex that is separate from ADU and not leave that determination up to the developer.

- Peggy reiterated that SDCs shouldn't be part of the meeting as it is inappropriate and it should not be an unreasonable cost to this code as a totally separate issue that needed its own separate discussion.
- Mark Rust commented that the definition of unreasonable cost and delay should include a reference to clear and objective standards.
- Nancy was confused that under the minimum code, "the definition must distinguish a duplex from a combination of a single-family detached in an ADU," whereas the model code says that the definition might include both.
 - Ethan explained the Model Code, the way it's written does distinguish what a duplex would be from an ADU for all intents and purposes, but there still may be some overlap between the two even with that distinction.
- Jeff commented on adding a reference to clear and objective standards is that we need to be very careful that for communities that implement two-track systems, both the clear and objective and discretionary track that the definition doesn't create a conflict for that second option of a discretionary track. Second is to provide them in written form. They have to be careful that in those references we are mindful of those other standards that might apply.
 - Ethan explained minimum compliance of a duplex might actually be more restrictive than we intended it to be written. The language in the OAR is a duplex is defined as any two units on a lot or a parcel. With the comments that we received at the TAC on Monday, I think that was a fair point saying that if a jurisdiction comes in and wants to do, define a duplex as two detached units, that that might not fully be in compliance with the minimum compliance standard. DLCD is still tweaking the language. With regards to how this might change or be different or look or feel differently for triplexes and above as we get to large cities. DLCD is still waiting through that and trying to figure out how that language should actually look and feel.

Section C, Applicability.

There weren't many changes here from the last version. The OAR has a section pertaining to goal-protected areas, and there is a little section here that mentions that, but the OAR section is still in development. It will have a little more detail than what is referenced here, that very last paragraph of Applicability. "Duplexes developed under this model shall comply with protective measures including plans, policies, and regulations adopted pursuant to statewide land use plan and goals." In the OAR, there'll be a different section that will have a little more detail, but that is still being developed.

Section D, Relationship to Other Regulations.

The biggest change was in number 3, the Public Works Standards. There was a statement in the Public Work Section individual utility service connection to each duplex unit maybe required, that was taken out for this version. I know there were some questions about that last time and so we decided to take that statement out.

Section E, Permitted Uses and Approval Process.

No major changes.

- Theresa commented in general that “should” should be used instead of “may” as should is a judgment and a bit more directive than may.
- Peggy added that the league is very interested in seeing the minimum compliance section related to the goal-protected areas. They’re very concerned to make sure that the places that shouldn’t be built shouldn’t be built versus places that should be built in. The League is very interested in seeing the minimum compliance around goal protected areas. Among their concerns is where and how wetlands fit.
 - Ethan replied that this is being shored up and agreed that that will work the way as it was intended.
- Hope followed up on Peggy’s comment that if land is appropriate to build on, it would be appropriate to apply the duplex rule.
 - Ethan added the way that it will operationally work is that any buffering or anything like that that would take place for a single-family detached dwelling or really any other building in the wetlands or resource-protected areas would work very similar in this Applicability Section as well.
- Mary Kyle asked on the DOJ’s opinion on the issue of an existing home that has an ADU, do they also get to add a duplex.
 - The preliminary opinion was that if a single-family detached home with an ADU hopes to convert into a duplex, we would, from the state level and the model code and things like the minimum compliance, it would be creating a nonconforming situation at the local level where an ADU is existing without a single-family detached home which is what Senate Bill 1051 intended to do is to link those single-family detached with an ADU would create a nonconforming situation. If the local level does not allow such a step, DLCD would not allow this also.
- Theresa followed up Peggy’s comment that they are also interested how it would work with other goals particularly with Oregon’s Flood Plain Regulations and protection of riparian areas where regulations allow at least one dwelling unit so that their economic use of the land and asked whether this would mean allowing a duplex once we get into the middle housing code or maybe more?
 - Ethan replied that they are still work through that issue on how to best manage those lands as well as in accordance to House Bill 2001.

Section F, Development Standards.

There weren’t any major changes to parts one through four, which is minimum lot size, maximum density, setbacks and height.

- Theresa asked about LUBA Case 2019-115, where it actually talked about minimum lot size not being a siting and design criteria. She thought that probably minimum lot size shouldn't be addressed at all in this section.
- Ethan will have their DOJ folks look at that particular LUBA case.
- Kol asked how 15 feet was established and commented that we should be careful not to rely on existing middle housing standards as these are terrible but on best practices. Also that the model code is the default code, kind of the default code, it should be something that would not prevent housing from being developed.
- Ethan explained the folks at Angelo Planning Group surveyed codes for medium cities, and this closely matches what they found in the existing codes for medium cities as it relates to single family. We need to make sure that we're understanding that we have to come down on a standard for the model code because it needs to be written in a way that can be applied directly if a city does not act. In a way to provide some additional guidance on those standards.
- The Commissioner agreed that they should rely on best practices.

Parking

- Sean presentation on parking data
 - The basis for the minimum parking research stems around trying to find out what is a reasonable basis for minimum parking standards in terms of what local jurisdictions are allowed to require in terms of minimum parking standards.
 - There were two key questions based on what we've heard from folks. One of them that we've heard is that a lot of people in different areas might have more reliance on the automobile to get around, and therefore, it's much more important that we provide parking for these folks. The follow-up question for that is then, "What is that actual demand? How can we get at that using data that is available to us to get a better understanding of what parking demand looks like in different cities?" Then the second piece of that is, all right, given this demand, what are the cost and impacts associated with requiring having a government requirement essentially for requiring parking spaces that are built and ultimately, who ends up paying those costs.
 - To get a better idea of what we could anticipate for demand in cities, we took a look at just all cities that were affected by HB 2001 and 2003. Unfortunately, because of the limitations of ACS data, I was not able to look at urban and incorporated say, Clackamas County, Washington County, but to look at their vehicle ownership rates and try to see, try to parse out based on what data is available to us, what could we expect to see in terms of vehicle ownership for just different jurisdictions based on household characteristics that is available to us?
 - They found that renters typically have fewer cars available to their household than owners and the vast majority of households are really one- or two-person households, which tend to have fewer vehicles available than larger households.
 - One criticism that arose last Monday was the presence of multi-family units being included in this vehicle analysis because people living in multi-family units would be much less likely to drive or have as many vehicles. For example in La Grande, when it came to multi-family units, generally, what we think of as a multi-family unit for the purpose of middle housing, five or more units attached, that only really comprises about 17% of the total households or about a third of all renters in that community.

- We need to recognize that ACS is far from a perfect data source, but at the same time it is the best available data source that we have to assess parking needs in jurisdictions throughout the state.
- Whatever we recommend has to be rooted in some kind of factual basis that is supported with data and analysis. We can't just rely on our own experiences as planners and managing parking in that framework.
- Also, he emphasized the impact of the governor's Executive Order 20-04 which directs state agencies to exercise any and all authority and discretion vested in them by law to help facilitate the reduction of greenhouse gases in Oregon as there is a very well-established correlation between minimum parking standards and automobile mode share.
- There's emerging evidence using epidemiological studies or epidemiological frameworks that correlate smoking with lung cancer that there's actually a pretty robust and compelling evidence that imposing minimum parking standards actually creates an increased automobile mode share.
- In short, based on everything that I've seen and data and literature is I am not seeing a demand that has been reported to me that is supported by the best available data and evidence that I have. Based on what I've studied about the cost of minimum parking requirements, they cost thousands of dollars per space. They really impact households with limited income, especially, those who don't drive, and they, by definition, result in fewer units, especially, the types of households that we're going for with middle housing, smaller and more affordable units. Then finally just on the Climate Change piece, we have pretty compelling evidence that this increases automobile mode share, which we have a legal obligation to reduce under Executive Order 20-04.
- The off-street parking requirement for the model code is to say no off-street parking is required and then, the jurisdiction to comply with the minimum compliance could require no more than two off-street parking spaces. This sets up conversations at the local level regarding how the community values parking.
 - Derrick Tokos - I am hoping you can share a couple of comments I have regarding the model on-street parking credit language. We implement this type of program in parts of Newport. You might change (b) to indicate that on-street spaces meet a City's dimensional standards (whatever they may be). The second change would be to (c). You might want to change "abutting" to "completely abutting." How spaces that partially abut a property are counted comes up quite frequently in our jurisdiction.
 - Peggy Lynch - Concern that, by saying "NO parking required" in model code, this element may force jurisdictions to do their own code and not use the Model Code. As to GHG Reduction, there is an emphasis on electric vehicles...those take parking spaces, too. So I don't accept this argument. There is a difference between duplex development and the other middle housing which really does focus on rental housing.
 - Lynne: lot coverage and FAR, this might be an opportunity to apply standards to duplexes that are not applied to single-family homes
 - Timothy: rideshare programs vs min. parking standards
 - These are requirements, not allowances.
 - Michael: a lot of the data was based on apartments 3+ apartment unit size. Hard to use data from apartments to justify single-family standard

- Michael: parking costs thousands of dollars per space. Price of parking space depends on whether or not it's covered/not. Roughly \$1500 to pave/concrete space, \$500 for gravel space. Garage could be thousands of dollars, but not arguing that case.
- Michael: 2-space max, no discussion of accessibility of these spaces. By having a 2-space parking requirement
- Michael: even if household has less vehicles, they have visitors who will need to find place to park. We are creating an excessive standard not based on all sound facts and justification.
 - Ethan: we're trying to create a standard that works across all State jurisdictions, which is tricky.
- Colin Cooper: 2040 growth concept → we've had to regulate parking across Portland Metro. We have ACS data
 - As the economy has improved, more people have been buying cars. We've had flat transit ridership in the last decade, even in Orenco station. We've been trying to reduce parking everywhere. We're starting to see more conflict
 - Connect required duplex parking to local government. We need to give flexibility to local jurisdictions. We need flexibility for parking, not just a flat standard
 - I wanted to make it clear that Hillsboro agrees with the proposal and it is consistent with Hillsboro's now decades long policy direction to reduce parking. I just have a professional belief that we need to ensure that the local jurisdictions have flexibility. So it seems reasonable to limit jurisdictions from requiring any more than the number of parking spaces for a single-family.
- Hallova: support decision for no requirement on parking, and then put a maximum threshold on unreasonable cost and delay. Great to allow developer to decide parking, flexibility in affordability in unit is also good.
 - We shouldn't build to the status quo. That is what all of these comments are trying to do. Your requirement is simple and straight to the point. Not complicated. I think its great. People aren't getting that a City can change a requirement and implement more parking if they want.
- Jeff:
 - 1) Emphasize the need for data-driven decisions here. Maybe there could be a 2-ceiling approach. First ceiling is what we have proposed. Second ceiling to prevent abuse from jurisdiction, but needs to provide a study to justify additional parking need. Tie flexibility by giving credit to affordable housing projects.
 - 2) Vehicle ownership doesn't necessarily correlate well with multi-family complexes. Can we get a consultant who is a specialist on parking? Rely on their experience to help us create parking requirements for larger cities.
- Jerry: unreasonable cost and delay means unforeseen consequences. We are not telling cities they cannot keep off-street parking for homes.
- Theresa: jurisdictions would likely regulate parking scenarios. We also can't assume these will all be small units. We need to confirm in the rulemaking language whether this is above and beyond....(lost her)
 - Are these 2 spaces for a duplex unit or total duplex?
 - Ethan: no more than 2 for total duplex on the lot

- Heather: want to remind everyone this is a model code that's plug and play for communities between 10-25k. They do not have staff for public process. Sounds disingenuous. There's technical assistance on their end, but that's still time on their end. We're talking about duplexes, so ACS data concludes structures that have much larger units than duplexes. Multi-family units typically have less vehicles because we are deliberately trying to put them near transit lines, which are very limited in these medium sized cities. We can't pretend that a duplex is smaller than a single family unit because there's no data to support it. Really like Jeff's comment, hope we can hire someone/consultant with expertise on parking so that we can move something forward. Hope we can arm communities with tools to create more supply in housing
- Drew: each duplex unit needs to have more than 2 parking spaces. There is also a rule that mandates we alleviate poverty, and sometimes having a vehicle in a rural community brings access to employment due to transportation barriers already in place
 - Duplexes are generally set further back to make it look like a single-family home.
- Peggy: Regarding GHG Emissions bill: Electric vehicles also take up space.
 - If we make model code more restrictive than minimum compliance, people will be forced into minimum compliance. Let's give flexibility
- Ted Reid - Hi, rather than taking up more time. I'd just like to express support for the existing draft model code and OAR regarding parking. As Commissioner Hallova noted, this is about planning for a future we want (and we have an executive order regarding greenhouse gases). For this effort, it's about facilitating middle housing. This is not simply about providing all of the parking that may be in demand.

Design Standards

From the previous versions, there really weren't many changes here. There was a sentence pertaining to conversion of a single family detached to duplex being subject to design standards, but that was removed. For the minimum standard side, it states local governments are not required to apply the design standards but if they do, they may only apply clear objective standards that are also applied to single family structures. The last section which is H, was non-conforming development but it was changed to duplex conversions, and the update was really to clarify and to apply it to all duplex conversions and not just non-conforming ones.

- Peggy added that if we made the model code so much more restricted than the minimum compliance, people will be forced to use minimum compliance, and she will recognize Heather's comment related to that.
- Kimberli pointed out the applicability of the Goal 5 not having to comply with the clearing objective. It's been made before but she didn't want that to get lost in the shuffle.

OARs for Middle Housing, Division 46

- Meant to encompass medium and large cities, only has medium cities at this point
- Jeff noted that it looked like the duplex definition didn't appear to be updated to reflect the current language that was in the table for the minimum requirements and was wondering if that's intentional or an oversight. Also asked about the following sections for model code and his understanding was the intent was not to adopt the model code in rule, that the minimum standards

would be adopted in the rule, and that the model ordinance would only be by reference within the rule.

- In section 103, it would say for the purposes of assisting the local governments, the model code is adopted and the subsection may be applied to local governments. The model code completely replaces that language and it will be hyperlinked with an X placeholder. It will be a clickable link. That will pull up a separate document, the model code language itself.
- Lynne: definition for the word “consider” for certain policies. Public hearings? Agenda items? Etc.?
 - Ethan: “shall consider” means while cities are submitting to PAPA, they should include findings from A, B, C
 - Mary Kyle: agree about the use of the word “consider”. We should flush it out more.
 - Has other comments in the couple of sections related to demonstrating that standards are not unreasonable cause for delay both in the definition of that and in subsection 103 sub 2. That it says either don’t put any standards on duplexes that are beyond a single family standards and don’t put anything that’s beyond the clear in objective standards that apply to a single family, and that those are good starting points but they’re not enough.

Fiscal/Housing Impact Statement

- Jeff Blaine: Communities that don’t want to go through this effort can rely on model code
 - SDCs: talks about revenue impacts to agencies, but doesn’t talk about impacts to implementing bills on fees themselves. This will increase costs and SDCs across the board.
 - Impacts to single family homes being impacted by property being devalued by multifamily should be addressed here.
- Anyeley: if there was any analysis done on that, it would also need to include what people are doing currently because she thinks many of us know that a lot of people have garages and don’t use them to park their cars in them.
- Damian: I have a comment on -00010(3)b). Instead of Goal 5: Historic Districts, I suggest being broad to refer to Goal 5: Historic Resources, to capture historic structures in districts and on their own.

Large Cities Model Code

- Lynne: the duplex and detached need for a variety of reasons, including things like the cost of firewalls and how challenging that can be if you’re adding an additional unit to an existing home. She also feels very strongly that we should not be specifying building form when we had to use larger units. That that’s not the role of the state at this point.
- Hallova: cottage cluster could be the catch-all category for detached units.
- Lynne: cottage clusters typically require open space, which is not necessarily required for other types

IBTER

- Definitions are important and is a fairly complex issue.
- Parameters are broken down into the language that descends directly from the bill itself.

- What we're talking about with the infrastructure-based time extension request is "An identified infrastructure constraint within a defined area where additional dwelling units would exacerbate the existing or anticipated service deficiency that is occurring or may occur by December 31st of 2023." That essentially is what we get from the language in House Bill 2001, so either it's an existing or an anticipated infrastructure constraint in the near-term.
- The types of infrastructure that we are looking at are water, sewers, storm drainage, or transportation infrastructure. Then going from there, the bill itself requires the applications to have a plan of actions to remedy the deficiency in those services.
- Deadlines are pretty short on these applications which is part of what's driving this rule-making effort. For the medium cities, the deadline is embedded in House Bill 2001. For those applications, that would be December 31st of 2020. And then for the large cities, June 30th of 2021.
- We're wanting to do what we can to get these rules adopted as quickly as possible so that local governments actually have time to do the work and we have time to distribute funding to assist that work.
- Our schedule now is to have an initial review with the Land Conservation and Development Commission in July, with potentially a follow-up adoption in early August to allow as much time as we can to get that done.
- Moving on to the next pages of the memo in terms of parameters.
 - Where we've gone from the language in the bill is then looking at the very fundamental issue of redevelopment rates and what we would anticipate.
 - We've looked at some data. We've looked at the language in the bill related to the anticipated development over the 20-year planning horizon and arrived at number of redevelopment rate of 1% within an [in-fill] development context. That would be a currently developed area where redevelopment may occur.
 - We're looking at anticipated increase of 1% in terms of additional dwelling units produced by middle housing allowances by up to that period of December 31, 2023. That's in the developed areas.
 - In the greenfield areas, and those would be areas that are not currently developed, we're building new infrastructure to serve those areas.
 - Developers could avail themselves of these new allowances probably more readily than in a developed area. We're looking at a 3% assumption. Again, this is all up to that December 31, 2023 deadline. The reason those rates are important is that they help us to get to the anticipated additional impact on infrastructure.
 - Another key issue that we've discussed in the TAC are potential situations where a local government currently permits single-family detached dwellings within an infrastructure-constrained area.
 - We'll be putting these into rule language at some point very soon and they will come back to you in that form, and we are continuing to work through the different infrastructure type.
- Jeff: unimproved infrastructure discussion and Emergency access piece are important considerations. Developments wouldn't even be able to get their permits anyway with these conditions. Condition of Albany: 80 miles of road are unimproved or failing. Lack of sidewalks/bike lanes, managing that any differently.
- Mark: haven't been tracking this part of the rulemaking as closely, but he thinks that as was just said, a jurisdiction could continue to allow construction of single-family homes like one per lot while

not allowing middle housing to be built if they provide some kind of justification about the incremental impact.

- It would be reversed to say if a jurisdiction is wishing to put forward an IBTER request to that effect to say, “We’ve got adequate capacity to serve continued single-family development, but we really think the middle housing is going to be the tipping point and it’s going to lead to infrastructure failure or what-have-you,” the owners would be on the local government to make that case.
- Kevin: As we move into more intensive housing types, does it make sense to look for other street infrastructure? Ex/unsafe intersection, plan to address that issue, maybe we shouldn’t put heavy development there.
- Jerry: is there a place where development shouldn’t occur (i.e., hillsides, hazards)?
 - There are defining areas where we’re allowing those more intensive housing types and what discretion a local government should have in making that determination. Is an infrastructure constraint a valid basis for that? Making that call. It’s a question for the group.
- Kimberli - Wanted to double check that the IBTER time extension also takes Goal 5 and other constrained areas into account - so for example if a jurisdiction is developing unimproved infrastructure - unimproved roadway segments for example and then run into an archaeological site; this could cause significant delays
- Allan: one of the frameworks we’ve used for single family housing. There should be some parallel with IBTER and single-occupancy environment. Is what is being developed here parallel to single occupancy dwellings?
 - Kevin: current practice would address that issue regardless of single family occupancy
 - Allan: Yes, thanks, Kevin. I think this might be an important framework to consider since that is how we are viewing middle housing in other contexts, comparable to single-occupancy dwellings vs. comparing it to multi-dwelling units. Again, one example might be how we view traffic analyses for these two different types of land uses. The framework of evaluating Middle Housing as comparable to single-occupancy dwelling from an infrastructure perspective fits with the objective of increasing housing choice and housing supply.

Housing Production Strategy

- Engagement – how we are requiring engagement to occur.
 - For the HNA – which is already required, engagement will be conducted to housing consumers so they can understand the needs of the community.
 - HPS Report – housing and public utility providers would be engaged
- Enforcement – Given best ability of communities to implement strategies, it is up to private market to bring private units on the ground. We will approach to analyze good faith effort from communities rather than results.
- Housing Production Strategy Report Structure
 - Broken into different income brackets
 - HPS will need to contextualize and detail needs of each category
 - Tools, actions, and policies to address housing needs
 - Currently developing a list organized into different “buckets”
 - Reduction of financial/development impediments
 - Creation of financial/development incentives

- Local, state, federal resources
 - Other strategies
- Jurisdictions will be able to choose multiple strategies and must identify
 - Timeline for adoption
 - Timeline for implementation
 - Magnitude of impact
 - Identified Housing Need fulfilled (tenure and income)
 - Number of housing units that may be created, if possible
 - Income and demographic needs strategy will serve
 - Time frame over which the strategy is expected to impact needed housing
- Jesse: How are we considering displacement factors and how they will impact low-income people. Has there been conversation about including that in HPS? Development carries a risk of displacement.
 - Ethan: This is important given the redevelopment pressure from HB 2001. Is woven into the process via engagement, reporting, and ultimately the Housing Strategy Report.
- Jerry: Keep in mind that redevelopment will often replace existing housing that is often less expensive. Keep in mind ORS 197.223 when considering reduction of SDCs, as this section outlines what jurisdictions are allowed to do.
- Jes Larson: Not clear about where a construction excise tax falls into one “bucket”. There is a lot of overlap between these buckets.
 - Ethan: Many of these strategies are too unique to prescriptively say that cities should consider all buckets; instead, approach is to provide a menu of options.
- Anyeley: Feedback from TAC – We could have a lot more buckets and we should. With more broken down buckets, there is more opportunity for people to fill that with strategies.
 - Ethan: The needs for each of these communities will be different, including the development community. Pulling from these communities will be important
- Michelle: Will the menu of options include supports that small/medium cities might need to assess whether they are feasible? If a non-Metro jurisdiction wanted to look to inclusionary zoning, there is no model code outside of Portland’s code. Will this be part of the scope of this document?
 - Ethan: There is need for more guidance on what an HPS is, what resources are available, what best practices are, etc. This support should come down the line, but may not be a part of the HPSTAC.

Next Steps

- We’ll be bringing the medium cities model code, the rules and the fiscal housing impact statement to the Lincoln Conservation Development Commission for public hearing at their May meeting and then hopefully, final adoption at their July meeting.
- For the infrastructure extension request, the timeline is shifted a month or two. Their first look at house rules and the associated fiscal impact statements would be at their July meeting for a public hearing, and then because the timeline is so quick for medium cities to submit an application for it in IBTER, we’re hoping to have a special commission meeting sometime in the beginning of August, early part of August to adopt those rules.

- For the housing production strategy, the timeline is there's no hard and fast deadline in the statutory requirements, so we're hoping to pair that with the large and metro cities timeline of adoption which is September, public hearing, and November, final adoption.
- Our next RAC meeting is on May 7th. At that meeting, we'll be focusing in on a further refinement of the large and metro cities; an in-depth look, I'll call it, at the infrastructure-based time extension request, rules, and finish out. On that, we'll finish out the storm water, the storm drainage infrastructure analysis and then we'll continue to bring back thoughts and revisions for the housing production strategy, rules on enforcement, engagement reporting, and the structure.

#1

COMPLETE

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Page 1: RAC Meeting #5 Discussion Worksheet

Q1 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?

Let's move on from the interminable debate over duplexes and parking.

Q2 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?

Generally, yes -- with the above suggestions.

Q3 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?

It's a stab in the dark. ECO NW is a good firm and we couldn't get a better guess at this time.

Q4 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?

No

Q5 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?

Not at this time

Q6 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?

It will make a positive, but small incremental approach. At this time, breaking the monopoly of the single-family detached home is more important.

Q7 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?

Generally, yes.

Q8 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?

Good enough at this time.

Q9 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?

Better use of Goals 5 and 7 in local plans.

Q10 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?

Allow these housing types in all areas. Otherwise, the Eugene, Happy Valleys and West Linns of the world will find new ways to evade their housing obligations.

Q11 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?

These parameters are now well defined yet. I worry that the prospect of adding another 1-3% of units will be used to justify putting off housing obligations for 5-10 years at a time. There must be a presumption that such efforts are invalid.

Q12 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.

Frankly, I don't know if they are adequate and look forward to moving beyond duplexes and parking to get to these issues more fully.

Q13 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?

Again, there is a very small increase in density proposed, so I would presume that existing facilities are sufficient and require a local government to prove otherwise.

Q14 HPS Buckets – After reviewing the proposed “buckets” and some sample tools/policies/strategies, what are specific housing production strategies you would recommend?

We haven't discussed this sufficiently, so I don't know.

Q15 Additional Comments – Please provide any general or additional comments or feedback here.

I think you can glean the gist of my comments from the above and hope they are helpful. I commend staff for their work.

#2

COMPLETE

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Page 1: RAC Meeting #5 Discussion Worksheet

Q1 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?

1. I think we need to keep working on the definition of “unreasonable cost or delay.” The concept is rightly intended as a safeguard against cities that are reluctant to implement the legislative policy. But we should keep in mind that “unreasonable” doesn’t necessarily mean that any difference between standards for single units and duplexes is necessarily unlawful. My underlying concern is that there may be some differences between single-family homes and duplexes (and even more so for triplexes, quads, etc.) that merit somewhat different regulations, (Though I admit I haven’t identified any...)

2. In the discussion yesterday about duplex-or-ADU v. duplex-and-ADU, someone (Mary Kyle, I think) noted that they are different things, in part because the ADU is “accessory.” I don’t know how “accessory” is defined and how that distinguishes a duplex from an ADU. Maybe we could clarify?

Q2 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?

I think we should try to define “area,” because that would set a framework for small sub-areas in which regulation is permissible to limit density more than would be allowed for the “area” generally. I think we (staff, I guess) would learn from brainstorming proposed definitions even if we can’t find one that works well. And maybe we can come up with a workable concept.

Q3 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?

I think they’re fine. Nice work.

Q4 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?

No,

Q5 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?

Yes.

Q6 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?

No opinion.

Q7 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?

See comments under #1 above. I'm thinking about narrow, substandard streets on hillsides where slopes and existing development would preclude bringing the streets up to standard, and a city could reasonably decide that fourplexes, etc. are not a good idea because of traffic and fire-safety concerns.

Q8 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?

OK

Q9 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?

Slopes greater than __%. Maybe some other factors as well? Plus the constrained lands mentioned in the question.

Q10 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?

Good question! Unfortunately, I don't have any suggestions.

Q11 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?

They make sense to me.

Q12 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.

—

Q13 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?

I think there should be minimum standards for neighborhoods where the rules require cities to allow the denser types of middle housing beyond. But I lack the expertise to say what those standards should be. I worry that requiring sidewalks will eliminate too many places.

Q14 HPS Buckets – After reviewing the proposed “buckets” and some sample tools/policies/strategies, what are specific housing production strategies you would recommend?

I think I missed something in the HPS rules, but it isn't clear to me what role the “buckets” serve other than convenient groupings of strategies/tools/policies. In other words, if we HPS contains a good variety of tools, etc., does it matter how they are allocated into buckets or how many buckets there are?

Q15 Additional Comments – Please provide any general or additional comments or feedback here.

None. Thank you

#3

COMPLETE

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Page 1: RAC Meeting #5 Discussion Worksheet

Q1 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?

Am very concerned that the more stringent requirements under the Model Code compared with the Minimum Requirements will mean the MC will not be used by these cities. That will mean they will need to spend more money trying to fold the Requirements into their codes.

I worked on the Simplified UGB process and believe that it has not been used although the idea was to try to help local jurisdictions. Let's not make that mistake with the MC.

Q2 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?

Respondent skipped this question

Q3 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?

Respondent skipped this question

Q4 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?

No. This is helpful for cities to use as they have conversations with their residents. These ideas also allow cities to "personalize" their codes and incorporate ideas that have local support.

Q5 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?

Respondent skipped this question

Q6 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?

Respondent skipped this question

Q7 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?

Am waiting to see more specifics related to constrained lands. It is important to recognize these CLs as having value to the community or as places unsafe to increase building.

The entire discussion around how cities designate "areas" in general has yet to occur. What did the legislation mean by allowing cities to select certain "areas" where middle housing does not have to be allowed? Is critical. Some legislators felt this section allowed them to support the legislation because local gov'ts would have some control over this development.

Q8 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?

Respondent skipped this question

Q9 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?

If land currently cannot be built upon....or only limited building is allowed, then that land is constrained. Certain hazard lands (steep slopes, landslide areas--possibly even WUI lands with fire danger), wetlands, possibly some riparian areas. Conversation should be had with other state agencies who are responsible for protecting these lands.

Q10 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?

Respondent skipped this question

Q11 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?

Respondent skipped this question

Q12 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.

Respondent skipped this question

Q13 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?

Somehow we need to find ways to get these transportation improvements or cars will continue to be the primary mode. But we also have to get housing built that people can afford. Is a conundrum. Need property tax changes. Until then, we need to find a balance. Perhaps one balance could be the guaranteed price/rent of these middle housing types. If part of the units are serving 80% or lower AMI, then the sidewalk upgrades are waived? Of course, those are the same people who often NEED the sidewalks.

Q14 HPS Buckets – After reviewing the proposed “buckets” and some sample tools/policies/strategies, what are specific housing production strategies you would recommend?

Of concern is selecting/requiring strategies that require local government \$\$\$. Voters of these jurisdictions and their locally elected leaders must have the ability to spend public dollars. Flexibility while working toward goals is important.

Q15 Additional Comments – Please provide any general or additional comments or feedback here. **Respondent skipped this question**

#4

COMPLETE

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Page 1: RAC Meeting #5 Discussion Worksheet

Q1 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?

- The way Clear and Objective Standards is referenced is problematic.
 - o Item D.3 – The language is not clear and I believe there is confusion of topics here. On one hand, you want to make clear that any secondary discretionary tracks available for SFR are also available for Duplexes. That is a standalone issue that includes everything, not just PW standards. On the other hand, we know that PW requirements are, and will remain, discretionary in many ways without conflict with legislative C&O requirements. So it seems this section should also make that clear.
 - o Item E – Says “...and shall be subject only to clear and objective standards”. This is misleading as we know PW won’t all be C&O nor will floodplain (state model code isn’t), historic preservation, and potentially Willamette Greenway. This should be clarified.
 - o Item H – says “...provided that the conversion does not increase nonconformance with applicable clear and objective standards”. Similar issue here, it needs to be clear that other non - clear and objective standards such as PW, Floodplain, historic districts, Greenway, etc. can still be applied.
 - Conflict between Item B Definitions and Item F.5 – The definition provided for unreasonable cost and delay does not fit with the off-street parking requirement. For parking, wouldn’t you need to say that a community cannot require any more for a duplex than they do for a SFR? If you put it at 2, you may be making it more restrictive for a community that has scenarios where more than 2 is required for some SFR’s. And you couldn’t put that limit in place under an unreasonable cost argument based on your selected definition.
-

Q2 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?

- 660-046-0020(3) – Duplex definition didn't appear to be updated to reflect current language in APG's table. However, it appears it just needs to be updated to make clear that a community can choose to have their definition include units as being attached or detached.
 - 660-046-0030 – This section is referenced in several places and the references don't really make sense. In order to make it all work, I would suggest adding a new subsection (1) and renumbering the existing subsections. The new subsection should provide a statement that agencies are required to either adopt their own code amendments that, at a minimum, are consistent with the requirements of the Division or adopt the model the code referenced in 660-046-103(4).
 - 660-046-0040 – Seems like there is a reference error for 1(a)? The model code is adopted by reference in OAR 660-046-103(4), not 0100?
 - 660-046-0050(1) and (2) – These are two of the locations with references to 660-046-0030 that would benefit from the suggested addition above.
 - 660-046-0104(1) – The problems discussed above in response to question #1 related to clear and objective standards are directly applicable to this section.
 - 660-046-0105(5) – The problem discussed above in response to question #1 related to conflicts between the definition of unreasonable cost and delay and the parking requirements is directly applicable to this section.
 - 660-046-0105(7) – The problems discussed above in response to question #1 related to clear and objective standards are directly applicable to this section.
 - 660-046-0106(1) – The problems discussed above in response to question #1 related to clear and objective standards are directly applicable to this section.
 - 660-046-0106(2) – I think the intent here is to prohibit additional design standard being applied specific to internal conversations of existing SFR structures? However, it reads more like no standards can be applied at all. Suggest clarifying. It's also a little confusing to have statements about conversations made outside of the section dedicated to discussing conversions. Perhaps cross references are appropriate if they must be kept separate?
 - 660-046-0107 - The problems discussed above in response to question #1 related to clear and objective standards are directly applicable to this section.
-

Q3 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?

- One of the statements made under Local Government Costs on page 2 is misleading. It implies that if cities don't want to incur much cost, they can just adopt the model code and move on. However, there was a decision made that the model code would go beyond minimum requirements. So such a characterization in the local government impacts sections compares apples and oranges to make an unfair statement.
- SDC Discuss – The SDC discussion is incomplete. The draft document focuses entirely on revenue impacts for local government. It does not address the impact HB2001 might have on the actual fees charged. And it's not just fees to housing projects but all businesses. HB2001 will impact the size the infrastructure required to serve a community. The increased infrastructure size will result in increased SDC fees for all new connections or increases in use. However, in the scenario where a community uses UGB buildout for their planning horizon, the fee may go down due to spreading the costs out over more customers (more total units). However, if communities are relying on a typical 20-year horizon that reduction would not be realized. The impact will be different in every community and it may be determined to be an insignificant impact. But I think the study will be more defensible if this issue is at least acknowledged.
- A common argument of people against HB2001 is one where they say that allowing middle housing in existing SFR neighborhoods will reduce property values. For example, if two duplex rentals were put on either side of a nice SFR home. Whether one agrees with that position or not, it seems like the report would be more creditable if it at least acknowledged and addressed those perceptions.
- Shifts in Type and Location of Housing Development Section – There was discussion about how implementation will not have significant impacts from a planning perspective for housing needs. The one scenario where that is not true is one where a community does not have an adequate supply and may be otherwise pursuing a UGB expansion. In that instance, implementation will result in some deferral of that need. That could be acknowledged.
- Impacts to Local Governments: Cost to Provide Services – The discussion focus on service delivery once infrastructure is in place. It completely leaves out the fact that larger infrastructure will be required to serve many areas where middle housing is allowed. That reality will increase development costs and costs to the City. The impact will vary by community, and It may be determined to not be a significant impact, but I think the study would be more defensible if this situation is addressed.
- If DLCD thinks that communities will need to consider formation of an on-street parking management district if the minimum parking requirements established by DLCD aren't adequate, then those costs should be considered in the report. Many communities will not be able to afford managing such a district....and if it is an assessment district then how do those increased costs impact property owners? As it has been explained to me by parking experts, the lower the minimums in the code, the higher the management burden to cities to ensure the lower minimum actually works. Not making a judgement on the standard itself, just saying we shouldn't ignore the fact that it has a financial impact on jurisdictions.

Q4 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?

No concerns.

Q5 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?

No concerns.

Q6 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?

- All housing counts toward density so the answer the second question would be yes.
 - In multifamily development, our community looks at density in two ways – number of units per acre, and the amount of land area needed based on the number of bedrooms per each unit. These would be applied to middle housing in our community, except for duplexes. It would be important to us to retain this ability to manage density/intensity of use.
-

Q7 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?

- Suggest using the same approach as for the smaller communities where it is limited to zones where residential dwelling are the “primary use”.
 - Are their communities that have relatively small niche residential zones such that it would be overly burdensome to require non-duplex middle housing in every zone as proposed?
 - How is the discussion influenced by the fact that many properties will be partially, but not fully, encumbered with these resources?
-

Q8 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?

No concerns.

Q9 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?

- I am not sure I understand the question. Are we considering constraints beyond what is allowed in a BLI or UGB expansion process, or is this question getting at something else?
-

Q10 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?

- There should be a clear distinction drawn here between model code and the minimum requirements. Flexibility to identify appropriate “areas” for each middle housing type should remain for communities that wish to adopt their own code.
 - Compatibility with existing SFR neighborhoods needs to be protected throughout this. Some of the best ways to provide measures of compatibility are to limit building height to that of what is allowed for SFR units for middle housing when adjacent to single family residential neighborhoods; another is to provide sufficient off-street parking.
-

Q11 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?

No additional comment.

Q12 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.

- It may not be possible to describe the cost and timing of an anticipated mitigation measure if the facility in question is under the control of a different jurisdiction. In many cases, the mitigation measure may not yet be identified. Provisions to address this type of situation should be included.
- I think DLCD should be careful about opening the door too wide with the unimproved infrastructure discussion. Street improvements or conditions could really create a large volume. In our mid-size community, we have over 80 miles of roads rated in poor to failed condition.
 - o Also, is it even necessary to develop a process related emergency access? They couldn't get building permit approval without it, could they?
 - o Not sure how you will manage lack of sidewalks as an allowable item for an IBTER in established neighborhoods or areas adjacent to greenfield. Seems like you can condition a development if the need is proportional and lack of pedestrian ways that aren't proportional to the development seem like they might be difficult to justify for an IBTER. Perhaps this is different in larger cities relying on robust transit systems.

Q13 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?

- How are you envisioning minimum requirements being different from deficiencies discussed in the prior section or in the memo? Is this another way of asking if additional deficiencies should be considered?

Q14 HPS Buckets – After reviewing the proposed “buckets” and some sample tools/policies/strategies, what are specific housing production strategies you would recommend?

Nothing to add.

Q15 Additional Comments – Please provide any general or additional comments or feedback here.

- The provided parking evaluation doesn't appear to be complete on the demand side of it. I think providing additional analysis will make your evaluation more defensible, regardless of any one group's desired outcome on code requirements.
 - o I don't believe census data for vehicle ownership is adequate for estimating parking demand on developed sites. I'll provide an example of why below.
 - o There was no discussion about industry standards such as those that might be provided in the Institute of Transportation Engineer's (ITE) Parking Generation Manual.
 - o There are consulting firms that specialize in parking evaluations and demand of all scales. It would make sense to consult with one those firms as part of this process to evaluate demand just like you have consulted with other engineering firms on technical issues. Perhaps DLCD has this expertise in house, but our community doesn't and have used these consultants in the past with great success.
 - o In our community, we have hired a parking consultant to evaluate multi-family parking demand to "right-size" our code requirements. It showed an average demand across the City of ~1.3 spaces per unit. So real life parking demand doesn't appear to line up well with the census car ownership data provided in the evaluation.
 - o There has been much discussion about the variability of parking demand between communities. I think it will be difficult to develop a one-size fits all standard that works. Perhaps DLCD should consider allowing communities to either use the minimum standard identified through this process or base their parking requirements on an engineering analysis of actual average local demand. That value could require DLCD approval as part of the overall assessment of the code compliance with HB2001. If there are studies to back up the reduced parking demand for affordable housing, you could always require the minimum standard be used for all affordable housing projects and the study result number could be applied to all other projects.
 - Regulating agencies ability to regulate curb cuts in the public right-of-way for middle housing seems like an overreach. And traffic safety evaluations should be left to the agencies. (last bullet, page 57 of the packet)
 - Are you sure the proposed "unreasonable cost and delay" definition works with the other middle housing types besides duplexes? Especially for parking?
 - Proximity to transit should not be a trigger for mandating middle housing provisions. It is one evaluation tool to use as communities consider appropriate "areas" but it shouldn't be mandated. Perhaps there is a distinction here between minimum requirements and what is provided in the model code?
 - Communities should be allowed to identify different areas within zones where different middle housing types may be appropriate. It shouldn't be an all or nothing requirement.
-

#5

COMPLETE

Collector: Web Link 1 (Web Link)
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Last Modified: Tuesday, April 07, 2020 9:58:24 AM
Time Spent: 00:28:25
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Page 1: RAC Meeting #5 Discussion Worksheet

Q1 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?

I am supportive of the current draft related to parking (none required in model code and cap on what jurisdictions can require in OAR).

Q2 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?

Same comment as above. I am supportive of the current approach to parking.

Q3 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?

Respondent skipped this question

Q4 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?

No concerns. These will be useful to some cities.

Q5 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?

Respondent skipped this question

Q6 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?

Density standards must not restrict middle housing allowance.

Q7 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? **Respondent skipped this question**

Q8 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?

Please consider ways to allow for detached units to increase flexibility.

Q9 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?

I agree with the current approach. I do not think the model code or OAR should be more specific regarding applicability. Middle housing should be allowed to the greatest extent possible except in constrained areas. Generally, I suspect that constraints are the same for middle housing as they are for other housing types.

Q10 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?

Cottage clusters are the possible exception, but I need to have more discussion to have a clear view on this.

Q11 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?

This generally makes sense. Extensions should be rare.

Q12 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.

I am a bit concerned that too many areas may be able to qualify for extensions based on transportation conditions. A separate part of HB 2001 allows jurisdictions to amend their codes without addressing the Transportation Planning Rule, which indicates to me that the legislative intent is to not let transportation deficiencies derail middle housing provision.

Q13 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?

Won't SDCs collected from middle housing construction pay for these kinds of improvements? In other words, if you don't allow middle housing because of a transportation deficiency, there will likely never be funding for improvements.

Q14 HPS Buckets – After reviewing the proposed “buckets” and some sample tools/policies/strategies, what are specific housing production strategies you would recommend?

Respondent skipped this question

Q15 Additional Comments – Please provide any general or additional comments or feedback here.

Respondent skipped this question

#6

COMPLETE

Collector: Web Link 1 (Web Link)
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Page 1: RAC Meeting #5 Discussion Worksheet

Q1 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?

- The goal of the statute is to create the same process for duplexes that exist for single unit housing. This goal of simplifying construction should be the lens applied for evaluating code completion. Please include a provision for items that aren't addressed, such as landscaping, such as, "when not explicitly mentioned in the OARs, cities may be able to implement additional reasonable regulations if they are also required for single unit development." Additionally, a potential "conflict" in the jurisdiction's code should be defined clearly and should focus on the OARs, not the model code. The model code is just that—one way of interpreting the rules.

Q2 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?

Additional clarification should be provided for "conflict" and to explain what "consider" means as it pertains to jurisdictions' requirement to consider housing affordability policy. Ideally, this can happen in the framework of the HB 4006 public meeting. Also, please be clear in the rules that jurisdictions which have adopted all three of the suggested policies have no further requirements to consider. Finally, if there is a conflict between the OARs and a jurisdiction's code, the model code should apply ONLY to the section at issue, not to replace the entire code, unless there is no practicable alternative.

Q3 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?

We believe that additional consideration should be given to the implementation costs for small jurisdictions that may only have one planner on staff. In particular, consideration should be given to the fact that in these cities, in moving to implement the provisions of HB 2001, may need to slow down or stop work on other projects.

Q4 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?

No, provided it's clear that alternative approaches are intended to provide direction or guidance and are not required.

Q5 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?

Please clear up the density section requirements.

Q6 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?

Distinguish minimum and maximums: maximum density should not apply to duplexes, or the duplex as a whole should count as one unit. Otherwise, maximums could be used as a deterrent. Minimum density should be required—count a duplex as a unit each. Exemption from maximum density is best.

Q7 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?

Needs to be clear we don't have to allow in areas protected by goals 5 & 7, but we can allow pursuant to measures that have been adopted to address goal resources. Allow for discretionary review in these cases if it's allowed for single unit homes.

Q8 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?

No. Can be attached or detached, or some combination. Can be attached vertically or horizontally. The state should not be in the business of determining building form without acknowledgement that cities can take different approaches to attain the same goal—additional housing.

Q9 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?

Leave it to local government to make that determination. Cities should make this determination with findings. Use same conditions as a single unit house.

Q10 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?

Different types produce different densities. Our concern here is with minimum densities-- do not allow middle housing to reduce minimum density.

Q11 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?

Respondent skipped this question

Q12 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.

Respondent skipped this question

Q13 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?

Respondent skipped this question

Q14 HPS Buckets – After reviewing the proposed “buckets” and some sample tools/policies/strategies, what are specific housing production strategies you would recommend?

Respondent skipped this question

Q15 Additional Comments – Please provide any general or additional comments or feedback here.

Respondent skipped this question

HPSTAC3_audio
April 8, 2020

Attendees:

1. Ethan Stuckmayer.
2. Samuel Garcia.
3. Sean Edging.
4. Alexis Biddle.
5. Allan Lazo.
6. Andree Tremoulet.
7. Angel Falconer.
8. Ariel Nelson.
9. Ben Doherty.
10. Brian Martin.
11. Chris Pryor.
12. Damian Syrnyk.
13. Dan Riordan.
14. Deb Meihof.
15. Diane Lin.
16. Ellen Miller.
17. Jes Larson.
18. Joel Madsen.
19. Kim Travis.
20. Marisa Zapata.
21. Mary Kyle McCurdy.
22. Maxine Fitzpatrick.
23. Miranda Bateschell.
24. Miranda Mishan.
25. Nancy Donovan.
26. Stephanie Jennings.
27. Tom Armstrong.
28. Anyeley Hallova.
29. Sandy Belson.
30. Alison McIntosh.

Absent:

1. Brian Shelton-Key.
2. Gerardo Sandoval.
3. Jason Green.
4. Jesse Sharp.
5. Laquida Landford.

Agenda:

1. Progress report on the work done since the second Housing Production Strategy Meeting.
2. Updates on the housing production strategy report.
3. Discuss new items such as the prototype guidance document and the housing production strategy tools.
4. Presentation from Dr. Marisa Zapata from Portland State University.

5. Hear comments from the attendees on the call about what specific housing production strategy tools they have heard.

Meeting Summary:

- The meeting was done through the Zoom platform. Ethan started the meeting with a brief tutorial of the useful functions in Zoom.
- Brief update on what was done last TAC meeting and other items
 - Reporting
 - There was general consensus about limiting engagement and reporting fatigue. Ended up coming to the agreement to align the housing production strategy report along with the HB 4006 requirements.
 - Have a progress update every three years for metro cities and then every four years for non-metro cities, since annual reporting may be a little heavy.
 - Engagement
 - Consensus that HNA and HPS reports would really have different focuses of engagement.
 - Housing needs analysis will focus more on reporting back housing consumers, how that engagement was conducted, and what was revealed about the needs of the community.
 - Documents for housing production strategies is to be submitted the year after the HNA is due.
 - Enforcement
 - There was a discussion around the understanding that although jurisdictions will be the ones implementing housing production strategies, ultimately it will be the private market that produces those direct units on the ground.
 - Looking for holding jurisdictions responsible for good faith effort of producing units.
 - Subsequent housing production strategy reports.
 - A schedule is set for the housing needs analysis every six to eight years. This will be a good opportunity to reflect upon the organization's current strategies and what opportunities there might be to employ or discontinue those strategies.
- Housing Production Strategy report
 - Income brackets of less than 30, 30 to 50, 50 to 80, 80 to 120, and greater than 120 will have to be identified by a housing need analysis according to HB 2003.
 - The organization has started to gather tools, policies and actions, and also sent out surveys. These will be put into what is called Prototype Guidance Document that will serve as a menu of options that will be used to fill in the levels of need for each income bracket.
 - For each proposed tool, policy, or action, the city is going to identify a timeline for adoption, a timeline for implementation of these action items, and then according to HB 2003, magnitude of impact.

- Request for jurisdictions to also have equity considerations, and that progress should be measured for each housing production strategy report going forward.
- Comments and clarifications on the Housing Production Strategy presentation
 - There should be a standard for the engagement strategy.
 - The housing production strategy is really just an additional step to housing needs analysis which is tied to the 20-year planning horizon, so that should be the timeframe over which a housing production strategy is viewed, through the 20-year lens. Ultimately, the goal is that you would have a housing production strategy that would meet all of your identified housing need over that 20-year planning period.
 - The strategy structure needs to include something that allows jurisdictions to share what things they already have in place.
 - Include homeowner cost burden because there is a significant percentage of homeowners that are also experiencing the cost burden.
 - Families may benefit from a combined mixed income rental development as well as affordable home ownership.
 - Equity considerations should be brought forward earlier in the conversation as part of the context section to really talk about what's going on in a community and where the housing needs are.
 - On the contextualized housing need, to look at units in the pipeline so that, as part of the housing production strategy, the department is getting a picture about what is already being built in the community.
 - Under Bucket A, to add, as a potential tool, the option to show that they are moving something up in time to complete as a public infrastructure project, and be able to demonstrate that that might remove a financial impediment to developing either in a certain area or a certain types of housing if there are property owners waiting for that improvement to be completed before they pursue a project.
 - To address how this housing strategy encourages access to opportunity or those who have the least and how does this reduce concentrated areas of poverty in the community.
 - Building equity for families is the way out of poverty and we want to encourage that. The more times we can move families out of subsidized rental or transitional housing into a stable space, the better.
 - Diane will work with Alison McIntosh on the strategies and models that they can share with Ethan and Commissioner Hallova.
 - To make a report on the concentration of poverty and how housing production is maybe alleviating that or at least not making that worse
 - Under the engagement report, recommend to jurisdictions or cities to do a little self-assessment, and report out how successful they have been in connecting with marginalized and under-represented communities specifically.
 - To add, for further analysis, what a city's housing need includes, especially the very low income population or extremely low income population.
 - To see that, in the equity considerations, there is actually specific discussion about analyses related to race.

- It is important to understand how many are experiencing houselessness in the community today and what kind of resources there are in terms of housing for them.
- Prototype Guidance Document
 - This document is going to be in assistance to the housing production strategy report and DLCD is preparing this prototype. This document is also going to contain the running list of housing production strategies that continually will be built upon as the rule-making continues.
 - A way for DLCD and folks on the project team to understand where they are going in the end of housing production strategy rule-making process, and how it actually looks on the ground as they begin to look forward into 2022 and 2023, the first housing production strategy.
 - The document would contain pages and pages of specific actions that have been brought to DLCD's attention by anybody on the committee or any kind of previous work that has been done in housing needs analysis or housing implementation plan or otherwise.
 - The goal is to be able to, on the backend, try to identify in a more visual way and maybe a data collection way so that they could categorize these in a lot of different ways.
 - Ethan suggested to identify housing need that meets across many different housing brackets or income brackets, and it's not just directly focused at one thing.
 - It was suggested to get a master list of all of these really great strategies so people don't have to think too much about it.
 - Thought should also be put in the role of local jurisdictions as it relates to housing production and not creating impediments to the development of housing and also recognizing that it is pretty far beyond their capacity and resources to actually fully subsidize housing for their population.
 - Suggestion was made for the top graph to be broken down into "owner-occupied" versus "rental" in terms of the strategies that might work best to promote home ownership in certain income levels and other strategies for owner-occupied units versus other strategies that might work better to promote rental units. As planning documents don't control the tenure of units, there might be some things that are more likely to help rental as there might be things that are more likely to help home ownership.
 - The document clearly needs to show the existing policies and actions that a jurisdiction's already taking, what their baseline strategies are, what they're working with currently and how those fit into the state's housing production strategy.
 - There have been lots of talk about those four buckets are not enough because there's not enough distinction between them but from DLCD's perspective, the working assumption is to create fewer buckets knowing that each city is unique in how it operates and the fewer the buckets the better because strategies don't get lost there.

- Commissioner Hallova suggested there should be more buckets but can only prove it by having the document circulate through people who have more strategies to add to it, for example, people who deal with taxes, those who deal with land strategies, those who deal with financial incentives, ones that deal with regulatory incentives, ones that deals with zoning changes or ideas. She also suggested to give a maximum number of pages to a report to make the information impactful and so that can respond at the same level.
- Stephanie also echoed the earlier comment of separating financial and regulatory as it makes it easier for her to separate these things versus incentive and barrier. She also clarified what she said at the last meeting regarding retention and rehabilitation of affordable housing which were interpreted as naturally occurring affordable housing instead of regulated affordable housing. In summary, they have thousands of units of existing regulated affordable housing and they're offering choosing between using their existing resources to sustain that existing housing or trying to put money into production of new housing.
- Dr. Marisa Zapata's presentation that addresses the unique needs of houses and housing vulnerable communities of Oregon. Dr. Zapata is the Executive Director of Portland State's Homeless Research and Action Collaborative. Dr. Zapata is an associate professor of land-use and planning at Portland State and she is committed to equity and the just and sustainable use of land across our state.
 - The presentation is about how do we know how many people are experiencing homelessness, how do we prevent homelessness, and how do we get people out of homelessness and emphasizing the importance of housing.
 - One of the challenges is separating a lot of our housing discussion up, thinking of things in long ranges, infrastructure, access, housing types and not all of these things overlap.
 - Housing as a solution to homelessness is actually a relatively new frame. For a long time, homelessness service providers and housers really saw homelessness as a social service need, but we know increasingly that homelessness is really related to our housing market and housing access. When we look at rates of homelessness particularly unsheltered homelessness that have gone up around the country, we see that very linear relationship between hot real estate market and homelessness.
 - There are also significant racial disparities in homelessness with African-Americans who are about 13% of the nation's population but 40% of those people are experiencing homelessness. One new phenomenon observed is homelessness occurring amongst the aging population.
 - Dr. Zapata believes we need all the housing at all the levels, so she is not advocating that they simply do zero to 30 in their planning and policy making.
 - Regarding people who are addicted to substances and who are mentally ill, they are not widely represented amongst the houseless population and their rates of severe mental illness or addiction are not that much different than the housed population. The only difference is, is that people have a house or do not have a house. They've also been able to prove that people who need more extensive supports (people who

- are severely mentally ill and don't have family who have the luxury of being able, it's not a luxury, but don't have the ability to take care of them, or people who are experiencing serious addictions) really do well with a model called "Housing First" which emphasizes permanent supportive housing. They give people a house, welcome people to it, and then offer support services that people need over time.
- One other thing is the competing definitions of homelessness and competing data resources.
 - HUD is what most think with regards to homeless but which also has the most restricted definition of homeless, people who are unsheltered, people who are living in emergency shelter or transitional housing. Therefore, relying on HUD numbers means to dramatically underplan and seeing not enough progress in a lot of urban areas in spite of significant expenditure with regard to people experiencing homelessness in Oregon.
 - The Department of Education under the McKinney-Vento Act which is an annual report, actually identifies youth that's actually pre-K through 12th grade who are experiencing homelessness, including what we often call the "doubled-up" population. This obviously only captures families or unaccompanied youth. It doesn't capture the number of adults who are doubled or tripled up.
 - "Doubled-up" is to be in a housing unit that was not designed to accommodate them. It could mean that people are living in garages, or sheds, or attics, but it means that they aren't supposed to be there.
 - Therefore they have no idea how many adults are homeless who aren't showing in unsheltered street counts or through McKinney-Vento.
 - In addition to competing definitions, we also have competing data collection styles and reporting. HUD has two ways of reporting and collecting data, the most well-known of which is the "Point-in-Time" count that's effectively a one-night count of people who are unsheltered, in emergency shelter and transitional housing. That's just what the schools have at that moment but that's not the official doubled-up reporting for the schools. HUD also have continuums, of which there are seven or eight across Oregon, to report over the year how many people they had in emergency shelter and transitional housing. This does not include an unsheltered street estimate. Another component of confusion is that sometimes the counts are for people and sometimes they're for households.
 - What they did at Portland State to get some better estimates of people experiencing homelessness in the tri-county area, is to really think about definitions and data that give us estimates for the greatest extent of the problem.
 - They looked at Clackamas, Multnomah County, and Washington County's 2017 Point-in-Time counts. Seen here are the unsheltered, sheltered, and then their doubled-up who's reported by schools. They also paid attention specifically to chronic homelessness because that starts to get us into the

population that might need the most extensive immediate supports, the 2017 annual assessment reports, and the 2016-2017 Oregon Department of Education homeless youth.

- From there, they wanted to come up with overall estimated counts for the tri-county area. They used the emergency shelter and the transitional housing counts from each of the continuums which are annual counts. They then took the 2017 unsheltered count or the unsheltered Point-in-Time count which you remember is a one-night count, and they used an extrapolation factor to come up with an annualized count for each county. The annual extrapolation factors are not good. The extrapolation ranges go from 1% to 10% in the literature. We used one that's being used by the VET right now which is a 1.9% extrapolation for an annual rate. Then, 2017 doubled-up estimate. Again, remember this is just for school-aged children, not for adults without children. This gave us a total estimate in the homeless population of the tri-county area of being about 38,000. Now, even with just using an extrapolation factor for the unsheltered pit count, we are only at 53,000. So, you're trying to see magnitudes of differences based on which populations we're actually thinking about when we're planning for homelessness.
 - They did some estimates on costs that were based on some work that an Organization called CSH had done to see how much it would cost to provide permanent supportive housing and nonpermanent supportive housing for folks. They converted everything in to households versus individuals, and then cost related to construction, rent assistance, administration, systems support, employment services, administrative cost, PSH, and other services.
 - One thing is that they did not subtract anything that was already being spent or any federal assistance people were already getting. Based on reports from providers is that they did not believe people are actually receiving enough support to be able to meet their needs.
 - Oregon counts as well as a report from ECONorthwest indicate that African-Americans in Oregon are represented in the homelessness population three times more than the general population and Native Americans 3.5 times more, which is again consistent with national averages. Children from the Point-in-Time count came out to about 2,500 youth around the state, whereas the Department of Education for Oregon came up with 22,000. Oregon also has a disproportionately large homeless population,
 - Housing insecurity is also a really serious issue. They looked at that and they came up with, at the highest number, 107,000 households in the Tri-County area were, in some level, of housing insecurity and that, if they wanted to give everyone a rent voucher who was in that situation and be able to have a choice of geographies around the region, they would be looking at \$11 billion to \$21 billion to fund that.
- What can be done?

- Prevention. Public housing stock versus rent assistance. In an emergency situation, rent assistance is great because it gets you in places and keeps you there but I do think we are at a decision-making point on whether we want to be invested in a housing stock that is at least in part government-owned or government controlled versus using rent assistance to simply be able to fund things.
- We really also need to be thinking about and making sure that people have services such as sewer, plumbing, water, electricity, roads, schools and parks and, more recently, mass transit. But we also need to consider additional services such as income and accessibility to income, case management and social support services, healthcare and social support.
- Questions/Comments:
 - Public housing defined as 100% government owned and operated whereas affordable housing can be the mix of public and private partnership, nonprofit community development, corporations doing this, et cetera.
 - Research has shown permanent supportive housing works best when it is in integrated building types.
 - With regard to communities already doing this, Dr. Zapata has yet to find one in Oregon she can point to as an example.
 - Dr. Zapata thinks they should be considering rewarding jurisdictions that are in the position to raise revenue themselves to pay for 0% to 30% and that are choosing to do so while not penalizing communities that really aren't in the position to do so but really looking at jurisdictions that have a tax space that they could choose to actually raise that revenue for 0% to 30% production.
 - As for the housing need analysis, for Dr. Zapata, it's about making sure that they have the units for all of these people who do not have housing. She knows that a lot of the time our housing needs assessments are driven by the census data but really paying attention to these other counts creates an opportunity to think bigger about the number of units we might actually need. She also thinks it's about really linking this need for different kinds of services.
 - Dr. Zapata also notes that the West Coast has not gone big in a shelter system as compared to the East Coast, for example in New York City where you see fewer people who are unsheltered but you don't necessarily see a lot more people who are houseless because they've just put people into shelter. She didn't want them to think about shelter as a housing strategy. It should be in a continuum of housing needs because they want to shelter people in crisis but crisis housing is different than what she thinks every person is entitled to in this country, which is a housing unit. We do want to ask places to make sure they are planning for shelter.

- Dr. Zapata also notes most of the money that's coming through the legislature is going through Oregon housing and community services and to consider how they can use this process to connect those pieces so as to not create disparate plans that aren't necessarily connected to those other systems.
- Sandy Belson comments that traditionally local jurisdictions do not provide or produce the housing. It's either done through the market or through other levels of government and that now they're being expected as a local jurisdiction to fill that gap. We don't have the experience or even the tools available to do that. She also emphasized their production strategy should be responding to our housing needs analysis.
- Dr. Zapata thinks this is about framing on whether all jurisdictions are required to assess their housing need and yes, the jurisdiction has needs for people who are houseless, there is no housing for them; therefore, they are houseless. That is a need within the jurisdiction but whether it's the jurisdiction's responsibility to build that housing might be a different framing.
- Ethan emphasizes that DLCD is looking at jurisdictions to make good-faith efforts to adopt policies, measures and tools to address all of their housing need.
- Alison comments she expects cities to implement all tools that they have and all the things that they can control to make sure there's housing for people at every income level and that they're addressing their housing needs.
- Mary also comments it's also getting out of the way so that those who want to and can do that are able to, not the city itself producing their numbers.
- Samuel and Ethan on closing thoughts, date and agenda for next meeting.

Next Meeting Date: Monday, May 18.

Infrastructure-Based Time Extension Request Technical Advisory Committee (IBTERTAC) Meeting #4
April 14, 2020; 9am – 11am
Zoom Virtual meeting

Key Insights

Stormwater System Constraints – Criteria for stormwater-based deficiencies will need to consider differing situations local jurisdictions face with regard to stormwater management, including regulatory compliance in light of changing statewide legal frameworks, varying terrain conditions of different geographies, legal liability, compliance with federal laws such as the Endangered Species Act, and how provisions in the model code and minimum standards affect stormwater impacts (e.g. impervious surfaces, lot coverage, etc.)

Stormwater Management for Middle Housing – There are elements related to development that could result in a greater impact to stormwater systems in comparison to single-family detached dwellings. In circumstances where middle housing produces more impervious surface as a result of frontage improvements or additional parking requirements, or on sites with steep grade, low-infiltration, or unstable conditions, on-site mitigation becomes more challenging and expensive. Additionally, DLCD should take a greater role in identifying infrastructure challenges to facilitating middle housing development statewide.

Ensuring Reasonable Regulation – It is important to ensure that regulations with a clear relationship to protecting health and safety of a community, such as fire code provisions and minimization of flooding risk, are not compromised in order to facilitate the development of middle housing.

Equity Considerations – While IBTER has a strong technical focus, it will be important to ensure that it does not provide the opportunity for cities to either enforce exclusionary policy or fail to invest in historically underinvested communities. The OHCS methodology for determining Census tracts at risk of gentrification and displacement will be helpful in identifying parcels with potential equity considerations, but providing clear direction for jurisdictions to consider equity will be important. This is also an important topic for the RAC to discuss in context of middle housing rulemaking.

Attendees:

- | | |
|--|-------------------|
| 1. Ethan Stuckmayer, senior housing planner, DLCD. | 11. Alexis Biddle |
| 2. Kevin Young, senior urban planner, DLCD. | 12. Ariel Nelson |
| 3. Robert Mansolillo, housing planner, DLCD. | 13. Chris Storey |
| 4. Samuel Garcia, housing planner, DLCD. | 14. Deedee Fraley |
| 5. Sean Edging, housing policy analyst, DLCD. | 15. Derrick Tokos |
| 6. Casaria Taylor, rules coordinator, DLCD. | 16. Ellen Miller |
| 7. Cazmine Bonnot, support staff, DLCD. | 17. Eric Engstrom |
| 8. Serah Breakstone, senior planner with Otak. | 18. Gareth Prior |
| 9. Margot Walker, Otak. | 19. Jeff Blaine |
| 10. Kevin Timmins, Otak. | 20. John Williams |
| | 21. Laura Kelly |
| | 22. Peggy Lynch |
| | 23. Tracy Rutten |

Meeting Minutes

Stormwater Memo

- Three anticipated issues
 - Lack of stormwater infrastructure
 - Frequent flooding
 - Lack of “downstream” stormwater capacity
- Review of federal regulatory framework – Primarily Clean Water Act: “fishable/swimmable”
- MS4 Permit – regulates stormwater quality discharged into waterways. Requires a plan for municipalities/service districts to demonstrate how they will reduce pollutants. Most require separate storm sewer systems. Only a handful have combined systems, with sanitary sewer and stormwater combined and treated.
- Safe Drinking Water Act – have additional requirements to ensure groundwater isn’t contaminated. DEQ has program to decommission dry wells which can contaminate other wells through runoff.
- State law and local standards
 - Oregon Drainage Law (common/case law): If there is a natural drainage course flowing downhill, the water should be able to flow downhill and owners cannot drastically change water course or volume and damage downstream property.
 - Local codes and design standards – Water quality and quantity elements are managed to control stormwater.
 - Likely that any middle housing would be required to do stormwater management as part of development. Typically, thresholds of disturbance are very minimal (e.g. 1,000 SF for Clean Water Services)
- Criteria for demonstrating a deficiency
 - Incremental impact from middle housing would not be significant in comparison to other development
 - All new development activity could exacerbate existing stormwater infrastructure
 - To prove middle housing specific would be very difficult – unlikely a town would be able to demonstrate this given the way drainage functions.
 - Steps jurisdictions would need to take:
 - Infill - Local gov’t shall provide a description of how existing infrastructure can meet needs of other development while deficiency is being corrected.
 - This may require hydrologic modelling.
 - In some cases, it may be well documented complaint records
 - In all cases, it will require demonstration about middle housing specific constraint
 - UGB Greenfield Development – In these cases, greenfield is planned from scratch including stormwater infrastructure, upgrades, and conveyance systems.
 - There really is no case for a stormwater deficiency
 - Downstream Stormwater Conveyance Constraint
 - Would require review of system-wide collection and conveyance system and modelling to demonstrate middle housing impact.

- “Source Control” can really help control impact and ensure new development is taking all steps to minimize stormwater runoff
 - Minimize impervious surface lot coverage
 - More vegetated surfaces
 - Low-impact design
- Jeff: Curious on staff perspective on managing lot coverage vs “unreasonable cost or delay” impact. How do you propose balancing the two?
 - Kevin: We don’t have a specific plan to address that issue. No intention to put into rule how local governments regulate lot coverage in relation to stormwater. With that said, you can build up and not out, which is a tactic used by jurisdictions to minimize lot coverage and impervious surfaces.
- Derrick: Relevant to point out that not all jurisdictions are subject to MS4 permits (e.g. Newport). Speaks to smaller jurisdictions w/o regulatory requirements may not have developed programs.
 - Discussion under Oregon Drainage Law – “Oregon Flow Law” 2014 Supreme Court Case from Lake Oswego (Bazzaz v. Howe, 262 Or. App. 519)
 - Take a look and incorporate to memo – it more clearly lays out drainage issues

Q1. Stormwater System Constraints

Three potential types of stormwater infrastructure deficiency. Are there others?

- Jeff: Suggest including category of regulatory compliance – Situation where we feel implementation will put at greater risk of regulatory noncompliance, would have ability to make that case. States can go beyond minimum defined in federal standard – DEQ has chosen to do that and trying to move to a general permit, currently in litigation. Also negotiating with Phase I communities regarding post-construction stormwater quality. Until defined, we will not know how all communities are impacted.
 - Kevin: We are discussing the increment imposed by middle housing. Is this a scenario that “breaks the camel’s back” in terms of regulatory compliance?
 - Jeff: Similar to sewer example, you may have a constraint that’s a bigger issue, where allowing greater density would increase incremental risk.
- Deedee: I know we are not looking at parking, but it will have impact on stormwater regarding impervious surfaces. Increases in parking will result in increases on stormwater impact.
 - Kevin: It will be adding impervious surface area to the site, unless pervious material used.
- Eric: Regulatory – Endangered Species Act. If there is a local stream with an endangered species, could affect risk with type of development located near that area.
 - Kevin: If continuing to issue permits for SFD, what is the argument about middle housing increment?
 - Eric: Assuming middle housing brings more impervious surfaces, could put at risk of ESA lawsuit.

Q2. Stormwater Constraints

Stormwater often address multiple issues. Do those multiple goals warrant distinct consideration as elements of an IBTER stormwater request?

- Jeff: Would suggest that they don't require additional distinction, so long as we have that regulatory compliance component.

Q3. Establishing a Significant Stormwater Deficiency

Have we provided needed clarity for demonstrating a deficiency?

- Gareth – Three questions about application parameters:
 - Would lack of curb and gutter be cause for an IBTER?
 - Kevin: Good question. Gets into the on-site improvement question. With any new development, typically requires stormwater upgrade to meet standards. Maybe there are other issues here?
 - Serah: If new middle housing is required to treat stormwater on site and you have lack of curb and gutters downstream – it would be hard to understand how middle housing is making that issue worse over a new SFD, because the middle housing would be required to deal with that stormwater runoff.
 - Gareth: Agree. Just looking for clarification.
 - Chris: Seen dialogue around stormwater infrastructure – could be a barrier to the cost of the middle housing. I don't want to put pressure on stormwater management in an effort to reduce expense.
 - Kevin: If a local gov't is comfortable to put these requirements on SFD, they should feel safe to place those on middle housing.
 - Pg 28 3e. "And other land use activities that may impact" – Seems very broad, would be good to get more specificity in application.
 - 3d or 3e – Including vicinity information around equity, transit, and jobs. So you have information to guide decision making. Referencing map that we agree upon for socioeconomic status of census tract.
 - Serah: Good question. Clarify that we should include equity information in this section.
- Derrick: No, I wouldn't view a duplex as creating more impervious surfaces, but other middle housing options certainly could. My comments come in the context of the rulemaking process. If it leads to a result where middle housing creates additional impervious surface, that would drive local jurisdictions to file for an IBTER through this process given their existing surface water system. They would have a potential liability. There may be liability to the state that's worth exploring.
 - Margot: If constraint is already known. The extension will provide additional time, wouldn't the jurisdictions put in place code requirements to mitigate impervious cover?
 - Derrick: Another way to approach is to accelerate their capital program to address issue in pipe system.
- Eric: Two thoughts
 - Distinction between SFD and duplexes – How cities handle street improvements. There may be additional impervious surfaces as street improvements happen. E.g. In lieu for SFD don't apply to middle housing types.

- Another way that some jurisdictions may be constrained is if they use underground injection methods to handle stormwater. That type of system functions under a different regulatory environment and set of rules.
 - Pipe vs infiltration – Some steep hilly neighborhoods would have an issue with frontage improvements. Can almost always engineer an on-site system for water quality and treatment, but disposal will be an issue if there isn't a pipe system in a constrained area. True today in SFD – when you add middle housing, it may add additional impervious surface.
 - Kevin T: Will need to think through this issue
- Jeff: Will come back to lot coverage issue. If communities aren't going to be prevented from limiting lot coverage, then it's a difficult case to make. If requirements set, then increases will create additional impact. Challenge of infill development on volume control, small orifice sizes and particles in water create maintenance issues.
 - Ethan: Lot coverage in large city requirements range from 100% to 150% coverage allowed for SFD – There is flexibility for local jurisdictions.

Onsite Mitigation

- Peggy: With many of these regulations – the whole purpose for regulating is to have clean water and not to have flooding. As we try to accommodate middle housing, want to ensure we don't forget why we have these regulations. "Cost" does not mean that we should preclude these regulations.
- Derrick: Our circumstance on coast with steep terrain makes on-site mitigation impractical. We certainly do not want developers putting water on unstable land. Where we (Newport) have done mitigation it is structural and quite expensive. Circumstances in the valley are not as appropriate in coastal terrain.

Fire Sprinklers

Agree that limitation of 30 dwellings before sprinklers should not be affected by middle housing?

- Peggy: Wrote a short note to TAC, just like discussion on stormwater. Requirements regarding emergency access relate to public health and safety. The standards should apply. Underlying issue is why we have these requirements in the first place.

Equity Metrics

OHCS tool to determine areas vulnerable to gentrification/displacement. How could this tool inform IBTER? Is this a concern with middle housing?

- Serah: To clarify, if we use this tool would we ask IBTER applicants to provide this information? Or is this an analysis that DLCD would do as part of their review
 - Kevin: We would want applicant to review this information and balance it in their applications, but don't necessarily need to show us something that's publicly available.
 - Serah: Make clear that they should use it in discussion
 - Garet: I agree with balancing. Could be more so addressed in a narrative and DLCD use it as part of evaluation.

- Garet: It's a good map, in comparison to Metro tool it is similar. Census tracts have pros and cons, but this has good consistency statewide. Purpose of this map is most informative is areas that aren't identified as vulnerable – these are areas where we want to see middle housing the most. If exception requested in area not vulnerable, will require specificity as to why the area should be allowed an extension.
 - Assumption that having access to middle housing in vulnerable areas would lead to gentrification is a large assumption and one that I don't know would hold true. Allowing middle housing can be an anti-gentrification tool as it allows existing residents greater revenue options
- Alexis: In terms of this type of consideration in IBTER, struggling to find how we would have an extension serve purposes of preventing gentrification when there needs to be a plan to ameliorate deficiency. Doesn't seem that a local gov't could come up with a plan that addresses this. We should have this discussion on the RAC.
 - Ethan: We would balance gentrification/displacement and historic disinvestment with approving an IBTER. Intent to ensure we are not perpetuating status quo.
- Eric: Similar tool as Portland did when deciding where to apply middle housing. Each jurisdiction will need to have discussion about the right answer, but that's the point – they should consider but that doesn't mean there's a correct answer on the map. Concern that if we commit resources to resolve a deficiency, are we pulling resources away from communities that have been historically disinvested?
- Serah: Wrapping equity into IBTER, this is an infrastructure-based extension. We are looking at impacts of middle housing on infrastructure – having a hard time understanding balancing equity within that when making decisions. Is there even a way to have an equity element because they are supposed to be strictly about infrastructure.
 - Kevin: This will be inherently discretionary and imprecise, but the intent is to not reinforce patterns of exclusion that have existed throughout Oregon. It's a fair housing lens. We want jurisdictions to provide an analysis about how this affects their community.
- Jeff: Suggest we would not incorporate proximity to transit/jobs in stormwater IBTER; rather, have a second component within (or not within) these areas – identify a series of questions that you would like those jurisdictions to answer centered on trying to address intentional or unintentional exclusion/problems created by IBTER request. Separate technical from qualitative and equity component. Key piece – don't kick it back to communities; identify key questions to do that screening.
- Peggy: Unlike discussion around IBTER, this really is a discussion for the broader RAC. What we don't want to see is areas where cities can add or exclude middle housing. Back to infrastructure, disinvestment should not lead to lack of middle housing. Pleased to hear there is this metric to help focus how we select “areas” to allow middle housing, not IBTER.
- Ethan: “the infrastructure based time extension request is a very technical exercise. What are the numbers and what are the projections and all that and it leads you to – it's a calculation that leads you to a number and then you compare that to a threshold and that's what sticks. But the equity piece is important in that. We're trying to make sure that we're not intentionally or unintentionally being exclusive which is wholly within the intent of the HB 2001 is to ensure that we do not kind of cross that line.”

- Kevin: I have just recently viewed another on-line tool shared by the Oregon Housing Community Services which we will look at our next meeting. The mapping tool identifies areas of opportunity. Its data pieces were things like: job accessibility for low and medium waged employees; high labor market engagement for the area; median income for the area; high performing elementary schools in the area; and the relative concentration of owners versus renters.

Key Parameters

Next step is to draft up a process for IBTER and conceptual rules. Rule language will not be available at next meeting, but framework for rules will.

- Peggy: I hope that separately there will be a report to DLCD in surveys to jurisdictions to get a better statewide understanding of statewide infrastructure needs and need for updates to CIPs. Water vision – ensure we have information about real need in our state regarding infrastructure. DLCD uses opportunity to gather this information.
- Jeff: We’ve talked about complications where infrastructure is responsibility of another jurisdictions. Is the intention of #4 is that the community state that? Is it beneficial to add language addressing that?
 - Serah: That’s the intent. Trying to get a service provider to sign off is not realistic. We wouldn’t anticipate this to be a barrier.
- Derrick: Not sure fire codes unduly limits middle housing. With exemption, make it clear that it means all dwellings off that point of access. When you have substantial number of dwellings without sprinkler access, they all must come into compliance with sprinkler requirements. It doesn’t target middle housing.

Test runs: We would like examples from jurisdictions of infrastructure constraints to test rules. Not looking for a huge amount of detail; looking for a description, map of area affected, and discussion of how local jurisdiction would plan to address that. Would like examples from both rural and urban areas.

Middle Housing Model Code Technical Advisory Committee (MCTAC) Meeting #5
April 21, 2020; 9am – 12pm
Zoom Virtual Meeting

Key Insights Summary

Medium Cities Model Code – Members offered a series of specific language recommendations to prepare the Medium Cities Model Code for submission to the Secretary of State and Land Conservation and Development Commission. Members also provided feedback on proposed illustrations to ensure they help facilitate understanding of common duplex configurations and avoid unnecessary confusion for users of the Model Code.

Medium Cities Administrative Rules – Of particular focus for the administrative rules was protective measures adopted pursuant to statewide land use planning goals. Committee members offered specific language recommendations to ensure that rules reference the most up-to-date legal requirements and regulate duplexes in a manner consistent with statewide planning goals and House Bill 2001.

Purpose and Definitions for Higher Middle Housing Types – Committee members offered feedback on purpose statements to ensure the Model Code and Minimum Compliance is consistent with the text of House Bill 2001. Additionally, members expressed a general desire that the Model Code provide a large degree of development flexibility to ensure higher middle housing types can be built in a variety of scenarios. This includes ensuring the Model Code definition allows for the provision of detached middle housing units.

Minimum Lot Standards for Higher Middle Housing Types – Minimum lot standards are a contentious element of the Model Code and Minimum Compliance Standards. While some members feel that jurisdictions should retain the ability to require larger lot sizes for lot sizes for higher middle housing types, others note that minimum lot sizes represent a technical regulation that has been wielded to exclude higher density housing types by jurisdiction.

Dimensional Standards for Higher Middle Housing Types – In general, committee members agreed that regulating Floor Area Ratio, in combination with height and setback regulations, would be an easily implementable way to regulate form for middle housing in a wide variety of development scenarios. While other code types (e.g. form based, typical dimensional standards, bulk plane, etc.) have benefits for individual jurisdictions, they each have challenges with regard to their implementability in the context of the Model Code.

Minimum Parking Requirements for Higher Middle Housing Types – Committee members did not reach consensus as to the appropriate provision of off-street parking in the Model Code. Some members feel that the Model Code options do not provide sufficient parking to respond to jurisdiction needs. Others feel that by requiring parking, the Model Code will preclude the development of housing types it seeks to facilitate. Central to the question of off-street parking is the degree to which market and financing factors affect the provision of off-street parking in the absence of minimum parking standards.

Meeting Notes

Participants

- Alexis Biddle
- Amanda Ferguson
- Brian Martin
- Ellen Miller
- Heather Richards
- Hope Beraka
- Kaarin Knudson
- Kimberli Fitzgerald
- Kol Peterson
- Jerry Lidz
- Mark Rust
- Martha Fritzie
- Mary Kyle McCurdy
- Michael Boquist
- Peter Keyes
- Pauline Hardie
- Michael Boquist
- Sarah Adams-Schoen
- Sophie MicGinley
- Ted Reid

Staff/LCDC

- Ethan Stuckmayer
- Robert Mansolillo
- Samuel Garcia
- Matt Hastie
- Kate Rogers
- Sean Edging
- Casaria Taylor
- Cazmine Bonnot
- Kevin Young

Revised and Reformatted Medium Cities Model Code

Nothing of substance or context really changes, primarily formatting changes. Includes illustrations with intent to show the more common ways that they could be configured.

- Kol Peterson: Will duplexes be attached in the model code?
 - For the purposes of the model code, it is attached, but minimum compliance may allow detached duplexes.
- Mark Rust: Question about definition for duplexes – “detached structure on lot or parcel”; OAR definition is different. Large Cities – way the definition is written is confusing talking about duplexes as a “detached structure”. Wonder if it is better to say “a structure” or make consistent with OAR. Section E – Permitted Uses, las words in paragraph “in the subject jurisdiction”; should be written in a way that is directly applicable – to have this language in the code doesn’t seem to make sense. Section F - Wondering if “in no case” could be problematic later
 - Staff: Two attached units within a detached structure – felt clarification was necessary. The other comments are great clarification
- Kol Peterson: Figure 4 Duplex attached via a breezeway – Want to ensure this is a permissible option.
 - Staff: We have removed the term “common wall” in the definition of a duplex. In the case where a duplex development is proposed, this section would apply.
- Michael Boquist: Figure 3 consistent with Large City illustration. Is this consistent with the parking requirement? Not getting into argument of 2 maximum spaces. This scenario would identify four parking spaces. I notice that’s consistent in the Large City.

- Staff: This is an allowed configuration, so this illustration is consistent. The requirement is that a local gov't cannot require more than two spaces.
- Hope Beraka: Breezeway illustration. Can there be a diagram showing if they're stacked front back with a breezeway in between?
 - Staff: Yes, that certainly meets the definition – of course, they would need to meet development and design standards. We will consider adding that illustration. Intent is not to try and illustrate every permutation.
 - Martha: Intent to consider understanding for a layperson
- Martha Fritzie: Agree to remove “in no case”, need to allow jurisdictions to have variances. I don't think figure 4 (Breezeway) meets the definition you have earlier in the document. My understanding in our building department would interpret that as two detached single-family dwelling. Ensure this is consistent with definition. Also notice no parking required in MC; no concern about minimum standard, but concerned about Model Code for jurisdictions that don't have capacity to adopt their own code.
 - Staff: We did look at building code definitions, which is why we updated the duplex definition. We will double check and loop back with building code folks.
- Peter Keyes: When you try to illustrate every possibility, you end up going down a rabbit hole. Keeping it minimal makes sense; maybe taking off sidewalk will eliminate confusion about street-facing. Carport – you could see that and have two legally separate buildings or you could say they're one building. If a building department interprets it as one, it would make carports not permitted between those structures
- Pauline Hardie: D1. Relationship to other regulations – make clearer such that there is a conflict with one standard, doesn't mean all other standards don't apply.
- Martha Fritzie: (2) House Bill 2001 has a few other things in the list of lands that do not need to comply. Were these specifically not included here? Lands without urban services or unincorporated lands.
 - Staff: Because we are adopting standards specific to medium cities, we are excluding those areas as part of this. When we adopt large cities standards, we will revise this to include those pieces

Administrative Rules

- Amanda: Goal 7 A. Floodplain. There is a “special flood hazard” area that is the title – it may be more useful to use that language in case channel flood migration is incorporated. You can also receive credits for applying additional standards to the 500-year flood area. If a community did so, this would imply that they couldn't apply those to duplexes. Not many jurisdictions do that, but it is encouraged by the administering program.
- Martha: Can only prohibit a duplex in Goal 5 areas if you prohibit a single-family detached structure, but others do allow prohibition.
 - Staff: Balance trying to strike: Protect resources under statewide planning goals with requirement for allowing duplexes on “every lot or parcel”. A lot of what we have done is to allow application of the same standards to duplexes. In hazard areas, the intent is to not allow more people in harm's way.

- Jerry: Two questions – 1. Having “middle housing” defined as a duplex knowing that in next chapter, we will have all middle housing is pretty confusing. Why not use duplex in this section. Why do we say so little about protective measures in model code?
 - Staff: The pre-100 section will be applicable to all middle housing development. Attempting to write it such that there is no additional conversation about large and metro cities knowing that we will have to revise this division further. Using duplex creates an editing problem down the road. In MC, development of any kind of middle housing needs to comply with applicable protective measures – it would be duplicative to add it.
- Kimberli Fitzgerald: Page 48 on Goal 5 Natural Resources – Use of the word “shall” and “may”. Specific language recommended on 3aB. Historic Resources “Local governments shall protect significant historic resources”
- Mary Kyle McCurdy: Existing Goal 5 rule already has a requirement for clear and objective standards. It is really important to remind jurisdictions that this is the case. Goals 7 and 15-18 – This seems to treat duplexes in these areas different than single-family homes. Regulating things like number of people and should be done, but if not done for SFD, it should not be done for duplexes.
- Sarah Adams-Schoen: Agreement for “special flood hazard” area being broader than 1% annual change and need to allow more stringent standards for jurisdictions seeking to mitigate hazard risk.
- Amanda Ferguson: I agree with her that there is no reason to prohibit a duplex in these areas but to apply similar standards to SFD. It is the “Flood Insurance Rate Map”. Is the “middle housing” definition going to broaden.
 - Staff: Yes, after LCMC discussion, it will be edited.

Definition for Duplex – minor change to allow detached duplex. Compliance – defined jurisdictions that have “not acted” to comply with HB 2001 on remands from LUBA or Court of Appeals

- Martha Fritzie: 0040 Sub 4&5. Why is the outcome different based on the remand? Implementation outlines process for doing a PAPA, but what about cities that just want to use the Model Code. Do not see process that they can go through other than running down the clock.
 - Staff: In adopting the model code, it would be similar to adopting any other code provision. If they chose to wait or meet the 4 or 5 conditions, then the Model Code would apply without going through the PAPA process.
 - Martha: That opens up the public hearing. My thought was the MC was intended to be easy to apply without going through the process. Findings referenced in 0030(2) are outside of the scope of planning process. We can’t consider making changes to their exemptions.
 - Staff: We are trying to capture provisions in HB 2001 to consider these options in the decisionmaking process. The bill states that local gov’t “shall consider”; while planners may not consider, the local decisionmakers can as part of the adoption process.
- Amanda: Compliance (1). Under amend comprehensive plan – that should probably be a two.
- Martha: Under parking 105(5)a. It needs to specify off-street parking spaces, is that per unit or total?

- Staff: Total – we feel the language is clear enough.
- Martha: I think it needs to clarify per duplex.

Fiscal/Housing Impact Statement

- Mark Rust: What evidence is there for the two dollar amounts cited in the FIS?
 - Staff: Based on experience from similar projects. They are rough numbers. It certainly could be higher.
 - Mark: “Robust” public input can be very expensive - \$50,000 may not be a sufficient dollar amount to cover that expense.

Large and Metro Cities Model Code

Definitions

- Mark Rust: Mention choosing between options. Suggest Option 2 for middle housing definitions to allow for more flexibility
- Brian Martin: Regarding definitions – is there a legal opinion or solid reference that tells me each of the separate units must have an ADU. If there is no way to prevent the requirement for ADUs – I’d say stick with the attached. I appreciate public utility easements being excluded from Floor Area Ratio. Beaverton calculates FAR on net lot size, which includes more than public utility easements. Single-family dwelling definition seems to also include ADUs. Limitations for more than two units should specifically say “including ADUs”.
- Peter Keyes: Lot Coverage – some define it as other impermeable surfaces such as driveways. When you define it as only building, it includes size, massing, etc. Impermeable surfaces is just about rainwater. By including it, it could really reduce the final size of the duplex and mixes up issues. FAR – Are things excluded from lot area because they’re easements; when looking at residential areas, FAR is quite low and compiled with other dimensional requirements. Very rare to see SFD take up entire FAR. If you exclude that from site area, you would really limit building. Easements shouldn’t play into this calculation.
 - Staff: Quite a few cities do include other surfaces than buildings, but we acknowledge the challenges associated with that. Appreciate the comments on potential issues raised for FAR
- Martha Fritzie: Quad and triplex definitions: We should be consistent with duplex definition and allow for more flexibility – keep it as Option 1 and allow for flexibility in OAR.
- Pauline Hardie: Plex definitions: Support options that allow more flexibility. For lot coverage, have an allowance or exemption for porches.
- Kol Peterson: Express strong support for allowing for detached unit development. Letter from 16 signatories in the record outlines rationale.
- Kimberli Fitzgerald: Page 52 Constrained Lands – There is no minimum compliance identified. Recommend similar language included in this section.
 - Staff: This and infrastructure-deficiency is trying to get to the definition of “areas”. We have a lot of work to do on this to determine what the options should be for this. Our thought is to table discussion of applicability for a later time.
- Kaarin Knudson: Definitions for impervious surfaces could repel a lot of middle housing, as stormwater requirements render many infill projects infeasible.

- Brian Martin: On C2. As the minimum compliance is written that Large and Metro cities would be required to allow tri-, quad-, etc on every lot. HB 2001 says “in areas”. I hope there is more work coming on giving cities flexibility.
 - Staff: What kind of criteria can we reasonably expect cities to deploy to regulate middle housing – we have heard from the RAC and MCTAC that locational factors aren’t the appropriate factor. We have cast a wide net and will work to refine that.
 - Brian: I don’t understand “wide net”. Not sure about conversation referenced before, I recall locational criteria not being appropriate for the Model Code, but for the minimum compliance, the way the law was written was intended to allow cities to write reasonable regulations about what areas these would be allowed. Administrative standards should be clear about parameters on this.
- Alexis Biddle: 2b. Hoping we can have discussion on lands not zoned for residential use included in minimum compliance. Not sure why it’s referenced in Model Code.
 - Staff: Intent was to be consistent with MCMC, but we can take a second look
- Brian Martin: For the number of units, if quadplexes in the Model Code are allowed in every lot. Does it make sense to say, “maximum number of units on any lot is 4”?
 - Staff: If we end up with definition including attached or detached, we probably would just say “no more than four units”.
 - Brian: If not sure about the minimum compliance, leave it blank and we can fill it in later.
- Mary Kyle McCurdy: Statement has been made that intent of HB 2001 was to facilitate middle housing that is compatible with existing neighborhoods. I don’t see that in the bill, so we should not say that. “Compatibility” not referenced in the Bill.
- Martha Fritzie: When talking about maximum number of units – it doesn’t make sense to have different numbers for tri- or quad-plexes, but I thought the intent was to decide areas where it’s appropriate to have additional density.
- Mark Rust: Minimum Lot Size, Maximum Density, and where these are allowed. Springfield landed on “anywhere where there is a large enough lot”. In looking at options for minimum lot size, in order to do a triplex, you’d have to have significantly more land (300 or 400% SFD minimum lot size) in Springfield based on approved existing density. When discussing lot coverage, height, setbacks, they could be the same as any SFD or less restrictive. These multi-plexes may be larger and less compatible with existing SFD. “Compatibility” is a discretionary and value laden word.
- Peter Keyes: Arguments against any consideration of increasing minimum lot size or setting maximum density. Point of HB 2001 was to be able to put 4 units on a lot; increasing the lot size will prevent that. Keep in mind many of these units can be provided as smaller lots. Easy to design 4-plex that is half the size of existing SFDs built and on the market. We have units down to 400 SF per unit. A small lot goes a long way towards making that affordable.
- Pauline Hardie: Support Option 2 or 3 and exempt them from density as they likely wouldn’t comply.
- Kaarin Knudson: Lot Sizes – This is a component of housing code that is wielded to effectively eliminate infill and the goals HB 2001 is trying to accomplish. Allowing even opening of the question could be a driver of how and if middle housing could be allowed in a community would create discord and not be consistent with the intent of the law.

- Mark Rust: Trying to understand Kaarin’s point; focus on the minimum lot size. Are you saying we shouldn’t have that at all?
 - Kaarin Knudson: I think it’s one of the most complicated things we are doing. One thing that the City of Eugene has seen is different lot sizes to be just over or under what would be required to allow for infill housing. Conversation has been very technical and aggressively anti-infill through the wielding of minimum lot size. I worry about a conversation that frames potential for community conversations that different middle housing types are not allowable on certain lots, when they could very effectively be allowed. It has been a very complicated and unproductive to generating additional housing. Most codes have minimum lot sizes, all of those codes do not allow for these housing types. Big picture – this is the way by which different types of housing are deemed to be “incompatible”. It’s not about the type, it’s about these form based issues.
- Jerry Lidz: I agree with concerns that Peter and Kaarin express. That’s why we’re looking at constraints on how big the minimum lot size can be to give jurisdictions some leeway, but address the preclusion of middle housing.
- Pauline Hardie: Consider Option 1 or Option 4. We could look at form-based codes to incorporate middle housing into these areas.
- Alexis Biddle: Option 1 is the best option for being the most liberal in allowing middle housing, but I feel Options 2, 3, 4 could be moved to minimum compliance so there is a maximum minimum. I worry about having a minimum lot size in the minimum compliance but a “maximum minimum” is appropriate.
- Peter Keyes: In response to Jerry, I can understand intuitively that if units are above a certain size, we can adjust the ratio, but if we are going to allow an SFD to be a certain size, why wouldn’t you allow that same volume of building provided as more units? Strongly in favor of Option 1.
- Heather Richards: No concern about minimum lot size. I do have concerns about discussion around maximum lot sizes. I would hate to see larger unit housing needs met by only single-family dwellings – would like middle housing to also serve this need.
 - Staff: Alexis was referring to a “maximum minimum”, so not having a minimum lot size that is larger than a certain size, so it wouldn’t preclude middle housing on larger lots.

Controlling Lot Coverage/Massing

- Peter Keyes: Really agree – as much as I like form-based codes, it would be too complex to implement. Form-based will take a lot of time to implement. Really like using FAR – it is a very clear-cut calculation and different ratios make a lot of sense for different size lots, especially in comparison to thinking about number of units on a lot
- Pauline Hardie: Support use of Floor Area Ratios (Option 2a). We’ve been at 0.6, but would be interested in allowing more.
- Mark Rust: On bulk-plane regulations, similar to something Eugene has tried with ADU regulations. To me, typical development standards are setbacks, lot coverage, and height and that’s your envelope. With FAR, would you combine these with other dimensional standards? Supportive of Option 2 – more difficult for Planning Commissions and Councils to understand. Thinking about moving this through a public process will require education to laypeople.

- Martha Fritzie: Number 4 (bulk plane) is too complicated to implement. Leaving option open is fine, but in general, it is a complicated way to go. If you are looking at Option 2b (FAR based on lot size), it should be based on actual lot size and not minimum lot size within the zone. An example would be legal lots of record that are smaller than the minimum. Does FAR include the garage/detached structures?
 - Pauline: Bend does count garages.

Off-Street Parking

- Mark Rust: Option 3 – if two spaces are required for a SFD, would it be per unit? Or total?
 - Staff: Interpret that as the same as the total development, i.e. two total.
- Amanda Ferguson: Certainly it's more palatable if we consider one per unit as the minimum standard (not MC)
- Heather Richards: In McMinnville – The collective units are the same size of a single-family dwelling units, which is not reflected in our jurisdiction. We would like to use these products to serve all of our housing needs, so no assumption about unit size. I do have concerns about minimum compliance standards.
- Jerry Lidz: Draft doesn't distinguish between covered and uncovered parking. One of the reasons we have tried to limit parking is expense, but there is an enormous difference between an off-street space and requiring a garage/carport. Seems odd that a triplex would have fewer parking. It seems to me that on-street parking is not going to work with electric cars.
 - Staff: Important to note that these are requirements and says nothing about what can be allowed.
 - Jerry: Understand the market, but doesn't provide for me a sufficient rationale for me.
 - Staff: We tried to some degree to build off of the MCMC with no required parking for duplexes. In a sense, you can see Option 1 and Option 2 as consistent with that.
- Brian Martin: Probably the Model Code doesn't have enough required parking. The thing that makes me unsure is the on-street credit. It's a nice idea, but you don't know if the parking is actually available. We need more attention on the minimum compliance section; should have more flexibility for cities to respond to different conditions in their cities
- Martha Fritzie: Minimum compliance. Concern with Model Code – similar to comments about duplexes, when doing 3 to 4 units, people have cars, a lot of these locations are suburban and are located on streets with off-street parking not required. I would say at a minimum 1 per unit in the Model Code.
- Pauline Hardie: I agree. 1 per unit. Support the credit for on-street parking if the street is improved.
- Mary Kyle: My first impression is that the Model Code should be the same as the duplex code, the state should not impose a minimum and allow builders to respond to local conditions. I stray away from 1 off-street per unit, because that would preclude many of these from lots, but I would like to hear the perspectives of builders. Trying to describe an on-street credit in the Model Code is a bit much to include given varying conditions.
- Kaarin Knudson: Agree to Option 1 that there should be no requirements. I think that experts working on developing these codes understand this well, but with the geometries we are talking, we would end up with the entirety of backyards paved or a scenario where you are lining street frontages with only parking, neither of which is a great outcome for the

neighborhood when the focus is on providing more housing. Keep in mind the geometric requirements for parking when thinking about minimum parking.

- Peter Keyes: Writing a code that applies to so many jurisdictions with different conditions. I'm sensitive to a cul-du-sac off of an arterial, but I'm thinking about the more urban conditions – if you require more parking here, you will just preclude the housing types that you want. Additionally, nothing here precludes parking – often times, financial institutions will have role in determining demand for parking. It should not be the city that makes that determination and instead a role for the market and where people decide to live.

Next steps and providing commentary on proposed Model Code and Minimum Compliance provisions.

HOUSING RULEMAKING ADVISORY COMMITTEE

MEETING PACKET #6



TO: Housing Rulemaking Advisory Committee Members
FROM: Ethan Stuckmayer, Senior Housing Planner
SUBJECT: RAC Meeting #6 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

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RAC Meeting Packet Item #8: Draft IBTER Transportation Rule Outline Memo

[#1] IBTER Rule Concepts Memo: Any (conceptual level) feedback regarding our draft decision criteria? Here’s the draft criteria:

- a. The identified deficiencies are consistent with the parameters and thresholds established in Sections 4 and 5 above.
- b. The applicant has adequately described and documented the identified deficiency(ies) and a boundary for the requested extension area(s) has been established.
- c. The proposed remediation plan is feasible and presents the most expeditious course of action to enable implementation of middle housing as quickly as possible.
- d. Approval of the IBTER application will not exclude middle housing from a significant portion of the identified Areas of Opportunity within the local government boundary, nor result in concentrating middle housing in Areas Vulnerable to Gentrification within the local government boundary.

[#2] Online Tools to Inform Intra-City Equity Analysis – What are your thoughts regarding the use of the on-line mapping tools to assess equity impacts provided in Packet Item # 8? Are there other resources or data that should be considered?

RAC Meeting Packet Item #9: Housing Production Strategies Memo

[#3] After reviewing the updated report structure and summary of last HPSTAC meeting, are there any considerations that may have been overlooked?

[#4] After reviewing the updated report structure, are there any other sections that need to have minimum compliance and guidance? If so, what would constitute these distinctions for proposed sections?

[#5] Given the short time frame for work sessions related to Phase One and Phase Two of the RHNA prototype, how would you like to be included in future discussions going forward?

- a. Self-selected, short (~1hr.) meetings conducted in addition to current RAC meetings,
- b. Recorded versions of the presentation(s) made to HPSTAC to review, if desired, or
- c. Incorporate RHNA updates into current RAC agendas, with the possibility of extending current meeting times.

RAC Meeting Packet Item #10: Large and Metro Cities Preliminary Model Code

[#6] Clearly, more work needs to be done to better define “constrained lands” and within which areas higher level middle housing must be allowed. Currently, DLCD recommends that higher-level middle housing be allowed on all lots and parcels outright but with the caveat that on “constrained lands” (which are comprised of goal protected areas and infrastructure deficient areas), the jurisdiction may apply additional protective measures to the development these housing types. Do you concur with this recommendation? How should the model code address the requirement for middle housing “in areas zoned for single-family homes?”

[#7] Definitions – There are two options for how the model code might define triplexes and quadplexes. Should the definition require the units be attached within one structure or be defined as multiple units on a lot in any configuration?

[#8] Applicability – Are there other criteria not listed above that could be used to define where middle housing types must be allowed?

[#9] Development Standards – Minimum Lot Size – Several options for minimum lot size standards have been provided, which of the options would be most appropriate when being applied to triplex and quadplex development?

[#10] Development Standards – Minimum Lot Width – Do you agree that the minimum lot width should be the same for triplexes and quadplexes as it is for a single-family detached structure? Or, do we need to include provisions for lot width at all in the model code?

[#11] Development Standards – Regulating Scale/Bulk – DLCD’s preferred option to regulate scale and bulk is using the Maximum Floor Area Ratio (FAR) standards for triplexes and quadplexes. Do you agree, or would you prefer to use one of the other options provided in the model code?

[#12] Development Standards – Off-Street Parking – four options have been provided for triplex and quadplex off-street parking, which of these options do you prefer? Are there options not listed that should be considered?

[#13] Design Standards – DLCD’s initial recommendation is to regulate only four design aspects of triplexes and quadplexes. Do you agree with regulating the design of these elements? Do you recommend more or fewer design standards?

[#14] Design Standards – Garages and Off-Street Parking Areas – Three options have been provided for triplex and quadplex garage design standards, which of these options do you prefer? One additional option is to prohibit jurisdictions from requiring garages for all middle housing types. This option could be paired with garage design standards. Which option do you prefer?

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

INFRASTRUCTURE-BASED TIME EXTENSION REQUEST TECHNICAL ADVISORY COMMITTEE MEETING PACKET #5



TO: Infrastructure-Based Time Extension Request (IBTER) Technical Advisory Committee Members

FROM: Kevin Young, Senior Urban Planner, DLCD

Serah Breakstone, Senior Planner/Project Manager, OTAK, Inc.

SUBJECT: Draft Infrastructure-Based Time Extension Request Rule Concepts

Below is the first complete draft of concepts for the administrative rules that will be developed regarding the IBTER process. For the purposes of IBTERTAC Meeting #5 on May 6, 2020, the focus of discussion should be at the conceptual level. It should be noted where concepts are unclear or where more clarification is needed, but a detailed review of the specific language, grammar, etc. is not warranted at this time. At the next meeting of the IBTERTAC on May 28, 2020, we will be reviewing draft administrative rules, with a closer emphasis on specific wording.

1. Purpose

- a. The purpose of this section is to prescribe submittal requirements, required data and analysis, the evaluation process, and applicable criteria for infrastructure-based time extension requests (IBTERs) as provided in Oregon Laws 2019, chapter 639. OAR 660-046-XXXX to OAR 660-046-XXXX establish standards related to the IBTER application and review process.

2. Applicability

- a. Local governments, as defined in OAR 660-046-0010, may apply for the approval of infrastructure-based time extensions to allow a delay in the enactment of middle housing allowances within defined areas with infrastructure constraints that would be exacerbated by middle housing development.

3. Definitions

- a. In addition to the definitions in OAR 660-046-0020 and in ORS 197.015 and 197.758, the following definitions apply specifically to IBTER applications:
 1. “Greenfield Development” means the development of vacant property, with little or no prior residential development. Consistent with OAR 660-024-0050(2)(a), development of a property one-half acre in size or larger occupied by a single dwelling, or development of larger properties with a gross density of two units per acre or less, shall be considered “Greenfield Development.”
 2. “IBTER” means infrastructure-based time extension request, which is the process described in Sections 1 – 8 of this document for local governments to apply for approval of requests to delay enactment of middle housing allowances within defined areas with

infrastructure constraints that would be exacerbated by middle housing development in areas zoned to allow detached single-family dwellings.

3. "Infill" means the development of vacant property less than one-half acre in size within previously built areas. These areas are already served by public infrastructure.
4. "Public Infrastructure" as the term is used in OAR 660-046-0300 - -03XX, means, publicly owned and operated water, sanitary sewer, stormwater, and transportation infrastructure systems.
5. "Redevelopment" means converting an existing single-family detached dwelling into another housing type with additional units, or demolishing an existing single-family detached dwelling and constructing another housing type with additional units, on property less than one-half acre in size. An example would be converting a single-family detached dwelling into a duplex.
6. "Service Levels" shall be defined by common engineering standards of practice, adopted levels of service or as a policy for a utility, established for an identified localized deficiency in an adopted utility master plan, or as necessary to comply with State or Federal rules.
7. "Significant infrastructure deficiency" means:
 - i. An existing significant infrastructure deficiency occurs when a local government or service provider (if outside the local government jurisdiction) is unable to provide defined minimum service levels within a developed, or developing, area zoned to allow single-family detached dwellings..
 - ii. An anticipated significant infrastructure deficiency occurs when a local government or service provider anticipates that it will be unable to provide acceptable service levels within a specified area by December 31, 2023, based either on extrapolated current development rates alone, or based on extrapolated current rates and additional anticipated middle housing development. See Section 4.g regarding anticipated redevelopment rates.

4. Parameters for IBTER applications

- a. The purpose of the IBTER application is for DLCDD to determine if a city may delay the enactment of middle housing provisions that would otherwise be required by OAR 660-046-0105 or OAR 660-046-0205. The justification for delayed enactment must be based on an identified infrastructure constraint within a defined area where additional housing units would exacerbate an existing or anticipated service deficiency that is occurring, or is anticipated to occur by December 31, 2023.
- b. Infrastructure systems that are eligible as a basis for an IBTER application are limited to Public Infrastructure, as defined in Section 3.
- c. Other than portions of counties within a metropolitan service district that are provided with sufficient urban services, lands outside a city's limits (but inside a UGB) are not eligible for an extension.
- d. If a local government is currently unable to issue any new permits for residential development due to a localized or citywide infrastructure constraint, that situation should be addressed through a moratorium process as outlined in ORS 197.505 and 197.540. IBTER applications will not be accepted to address this type of situation.

- e. If the local government currently permits the development of new single detached dwellings within the constrained area, the local government must demonstrate that the additional infrastructure demand created by middle housing development would lead to exceeding the minimum service level of the infrastructure system, or must provide other valid justification for allowing single-family detached dwellings in the subject area while prohibiting middle housing development until the infrastructure constraint is addressed.
- f. IBTER requests shall demonstrate that the identified infrastructure deficiency cannot be addressed as a required improvement in conjunction with middle housing development. In this context, “Rough proportionality” arguments may be provided to demonstrate that necessary infrastructure improvements would be disproportionate to the anticipated impacts of a proposed middle housing development.
- g. For the purpose of estimating the additional impacts of middle housing development on infrastructure systems, the local government may assume the following increases in residential development within the infrastructure-constrained area over the period ending December 31, 2023:
 - 1. A 1% increase in the number of dwelling units as a result of middle housing Infill or Redevelopment in previously developed areas.
 - 2. A 3% increase in the number of dwelling units (above historic residential dwelling unit production within the same zone) in Greenfield Development areas.
 - 3. The local government may project an increase in anticipated middle housing residential development above the thresholds identified in subsection (1) or subsection (2) if the local government can produce quantifiable validation of such an increase. For local governments located outside a metropolitan service district, the standards for demonstration of a quantifiable validation are provided in subsection (4). For local governments within a metropolitan service district, the standards for demonstration of a quantifiable validation are provided in subsection (5).
 - 4. A quantifiable validation for a local government located outside a metropolitan service district is a demonstration that the higher assumed housing rate anticipated from middle housing development has been achieved in areas that are zoned to allow no greater than the same authorized density level within the local jurisdiction or a jurisdiction within 25 miles of the local jurisdiction. In other words, the local government must demonstrate an actual increase in residential dwelling units produced above the rates anticipated in subsections (1) and (2) above, within a zone that allows densities that are no higher than would be allowed with adopted middle housing provisions. The evidence may be provided from an existing zone within the local government’s jurisdiction, or from another local government within 25 miles of the subject local government.
 - 5. A quantifiable validation for a local government located inside a metropolitan service district is a demonstration that the higher assumed housing production rate anticipated from middle housing development has been achieved in areas that are zoned to allow no greater than the same authorized density level within the local government’s jurisdiction or elsewhere within the metropolitan service district. In other words, the local government must demonstrate an actual increase in residential dwelling units produced above the rates anticipated in subsections (1) and (2) above, within a zone

that allows densities that are no higher than would be allowed with adopted middle housing provisions. The evidence may be provided from an existing zone within the local government's jurisdiction, or from another local government within the metropolitan service district.

5. Infrastructure-Specific IBTER Application Thresholds. This section describes scenarios for each infrastructure type that may be used to justify an IBTER.

- a. Transportation. The following scenarios may be considered justification for a transportation IBTER application:
 - i. Areas where the supporting roadways and/or intersections are operating at 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. This applies only to areas where mitigation is feasible, planned, and within the scope and financial capacity of the local government.
 - ii. Areas that lack adequate emergency vehicle access per current adopted Fire Code standards, and for which mitigation in conjunction with development is not feasible.
- b. Stormwater. Applicants must evaluate the potential for proportionate on-site mitigation improvements to address identified stormwater system constraints. If on-site mitigation requirements would not be possible or proportionate to anticipated system impacts, the following scenarios could be considered justification for a stormwater IBTER application:
 - i. Lack of stormwater infrastructure such as storm drainage pipes, curb and gutters, catch basins and inlets, lateral storm connections and discharge outfalls.
 - ii. Downstream stormwater conveyance system constraint such as localized ponding or flooding and storm pipe back-ups caused by pipes, culverts, or catch basins in disrepair; high groundwater; compacted underlying soils; or backwater from nearby waterways during high flows.
 - iii. Existing regulatory compliance issues that would be exacerbated by additional middle housing units. In this context, "regulatory compliance" means that additional middle housing development is anticipated to trigger or contribute to exceeding limits for stormwater established by state or federal regulations and/or permitting. Documentation is required from the regulatory agency that anticipated impacts from middle housing would have a significant negative impact on compliance with the applicable requirements.
- c. Water and sewer. For water and sanitary sewer IBTER applications, the following scenarios may be considered justification for an IBTER:
 - i. A localized (not citywide) water source deficiency that limits the ability of the local government or service provider to meet water demand.
 - ii. A localized (not citywide) water or sanitary sewer infrastructure deficiency that limits the ability of the local government or service provider to extend or maintain adequate service levels and treatment for water and sewer. For example, the Oregon Health Authority requires that all water suppliers maintain a pressure of at least 20 pounds per square inch (PSI) at all service connections at all times (OAR 333-061-0025).

- iii. For sanitary sewer, a combined sewer/stormwater system that may exceed capacity as a result of new middle housing units.
- iv. Existing regulatory compliance issues that may be exacerbated by additional middle housing units. In this context, “regulatory compliance” means that additional middle housing development is anticipated to trigger or contribute to exceeding limits for water or sanitary sewer systems established by state or federal regulations and/or permitting. Documentation is required from the regulatory agency that anticipated impacts from middle housing would have a significant negative impact on compliance with the applicable requirements.

6. Application Submittal Timeline & Requirements

- a. IBTER applications must be filed with DLCD by:
 - i. December 31, 2020 for Medium Cities
 - ii. June 30, 2021 for Large and Metro Cities and portions of counties with sufficient urban services within a metropolitan service district.
- b. Required submittal materials. IBTER applications shall include, at a minimum, the following information in order to be deemed complete for review and processing:
 - i. A narrative providing a general description of the existing or anticipated deficiency, including:
 - 1. A description of the impacted infrastructure and the current system capacity
 - 2. A description of the current or anticipated infrastructure system constraint. The application shall clarify if capacity is exceeded currently, or is anticipated by December 31, 2023, based on current development trends; or if the infrastructure system is only expected to exceed capacity based on additional impacts from middle housing development.
 - 3. Assumptions used to calculate or estimate system capacity
 - 4. Documentation of the deficiency, including (but not limited to) maintenance and complaint records, photographs, modeling results (if available), applicable regulatory compliance issues, a deficiency documented in an adopted utility master plan, or other evidence of deficiency.
 - ii. If the local government believes the deficiency impacts middle housing but no other types of development within the impacted area, and plans to continue issuing permits for other types of development within the area, the local government must provide a detailed analysis of how existing infrastructure can continue to meet the needs of other types of development but not middle housing.
 - iii. The name of the service provider if the infrastructure is owned/operated by an outside agency, along with a description of any agreements between the local government and service provider for infrastructure system improvement.

- iv. Vicinity map showing the boundary of the impacted areas for which the IBTER is requested. If more than one infrastructure deficiency is identified (sewer and transportation, for example), the map should show the boundary of each deficiency separately and any areas of overlap.
- v. A summary of the parcels within the impacted area boundary, including occupied and vacant parcels, zoning and identification of Greenfield Development areas and areas that would be subject to Infill and Redevelopment, per the definitions in Section 3.
- vi. A description of the local government’s plan for middle housing implementation in the impacted area, including identification of areas intended for duplex-only provisions, and, as applicable, standards to be applied in goal-protected and constrained areas, and areas intended to accommodate triplexes, quadplexes, townhomes, and cottage cluster developments.
- vii. A regional map, if applicable, showing the infrastructure that otherwise provides service to the area where an IBTER is being requested.
- viii. Equity indicators – Provide mapping of your entire jurisdiction, indicating the location of the area where an extension is being requested, from the following mapping tools:
 - 1. Areas Vulnerable to Gentrification,
at: <https://geo.maps.arcgis.com/apps/webappviewer/index.html?id=e1b0eda68ba04f189e2fc6cf827a9ce4>
 - 2. Opportunity Areas,
at: <https://geo.maps.arcgis.com/apps/webappviewer/index.html?id=2cb211dbdd3d4cf497d8190283f1402f>
 - 3. Mapping of areas served by any identified High Performing Elementary Schools within the jurisdiction. High Performing Elementary Schools in Oregon are identified here: <https://www.greatschools.org/oregon/>
 - 4. Provide a narrative addressing the equity criteria identified in Section 7.
- ix. Specify the duration of the extension requested in order to remedy deficiencies and implement middle housing. Provide an explanation of how the proposed remediation is the most expeditious feasible approach available to address the identified infrastructure constraint.
- x. A mitigation plan that describes the proposed infrastructure improvement(s) intended to remedy the service deficiency so that middle housing may be implemented. For each infrastructure improvement project, the description should include, at a minimum:
 - 1. Explanation of how the improvement project will provide adequate service to anticipated middle housing
 - 2. Potential funding source(s) and schedule for project completion

3. Area within the extension boundary that will be remedied by the project
 4. Proposed timeline and associated mapping to demonstrate any phasing of the remediation plan where there are several improvement projects identified. For example, a smaller improvement project may take two years and will remedy one portion of the extension boundary but not the entire area. A second project may be larger, take longer, and remedy a larger area within the extension boundary.
 5. A vicinity map of other areas within the local government where middle housing will be implemented during the extension.
 6. If a bond measure or similar financial mechanism that requires voter approval is proposed as a means to fund an infrastructure improvement project, applicants shall include alternative method(s) that may be utilized if the public vote fails.
 7. Infrastructure improvement projects that are a condition of development cannot be proposed as part of a remediation plan.
- c. Completeness review. Upon receipt of an IBTER application, DLCDC will conduct a preliminary completeness review within 30 days of receipt and notify the local government of any additional materials that are required to make a complete application. The local government must submit all requested materials within 60 days of receipt of request for additional materials. If requested completeness materials are not submitted within the 30-day period, the application will be voided.

7. Review Process & Approval Criteria. IBTER applications will be reviewed as outlined below.

- a. Review and decision-making authority. IBTER applications will be reviewed for consistency with the approval criteria by DLCDC, with the assistance of technical consultants. The DLCDC Director will be the decision-making authority for IBTER applications.
- b. Once a complete application has been filed, DLCDC will grant or deny the request as follows:
 - i. Within 90 days of receipt of a complete application for medium cities
 - ii. Within 120 days of receipt of a complete application for large cities
- c. Review Criteria. In reviewing IBTER applications, DLCDC will consider the following criteria:
 - i. The identified deficiencies are consistent with the parameters and thresholds established in Sections 4 and 5 above.
 - ii. The applicant has adequately described and documented the identified deficiency(ies) and a boundary for the requested extension area(s) has been established.
 - iii. The proposed remediation plan is feasible and presents the most expeditious course of action to enable implementation of middle housing as quickly as possible.

- iv. Approval of the IBTER application will not exclude middle housing from a significant portion of the identified Areas of Opportunity within the local government boundary, nor result in concentrating middle housing in Areas Vulnerable to Gentrification within the local government boundary.
- d. DLCDC may establish reasonable conditions of approval for IBTER approvals if deemed necessary to comply with approval criteria.

8. Time limits for infrastructure-based time extension requests:

- a. At the time of submittal of an IBTER application, the local government must specify the length of the extension requested in order to remedy deficiencies and implement middle housing. The applicant may provide a detailed and phased timeline for implementation, and may propose contingent timelines, dependent upon circumstances outside the control of the local government. However, DLCDC may apply conditions of approval limiting time extensions, as deemed necessary.
- b. Upon the expiration date of an extension, the local government must either enact development code regulations implementing middle housing within the IBTER area, or shall apply the model code within the IBTER area, as applicable from OAR 660-046-0100 or -0200.

INFRASTRUCTURE-BASED TIME EXTENSION REQUEST TECHNICAL ADVISORY COMMITTEE MEETING PACKET #5



TO: Infrastructure-Based Time Extension Request Technical Advisory Committee Members
FROM: Kevin Young, Senior Urban Planner
SUBJECT: Online Tools to Inform Intra-City Equity Analysis

Areas Vulnerable to Gentrification – Scoring based on five variables by census tract:

<https://geo.maps.arcgis.com/apps/webappviewer/index.html?id=e1b0eda68ba04f189e2fc6cf827a9ce4>

- 1) HUD's 2019 Qualified Census Tracts (see below),
- 2) Concentration of People of Color – from ACS 5-year estimates. If non-white population is greater in the tract than the region.
- 3) Concentration of Less Formal Education – from ACS 5-year estimates. If percentage of population that obtained a high school degree or below is greater in the tract than the region.
- 4) Concentration of Renters – from ACS 5-year estimates. If the percentage of housing units that are rented is greater in the tract than the region.
- 5) Opportunity Zones – Designated by the U.S. Dept. of the Treasury

Areas of Opportunity – Scoring based on five variables, using American Community Survey 5-Year Estimate data, unless otherwise noted:

<https://geo.maps.arcgis.com/apps/webappviewer/index.html?id=2cb211dbdd3d4cf497d8190283f1402f>

- 1) Job Accessibility for Low and Median Wage Employees – If the ratio of low and median wage jobs to labor force was higher in the tract than in the region.
- 2) High Labor Market Engagement – If the labor market engagement index is higher in the tract than in the region.
- 3) Median Income – If the median household income is higher in the tract than in the region.
- 4) Concentration of Owners – If the percentage of owner-occupied housing units is greater in the tract than in the region.

5) High Performing Elementary Schools – Derived from the 2019 GreatSchools Summary Rating – scores based on how well students are prepared for post-secondary education. OHCS considers a score of 7 or above (on a scale of 1 – 10) to be a high performing school.

For more information on GreatSchools in Oregon: <https://www.greatschools.org/oregon/>

HUD Low-Income Housing Tax Credit Qualified Census Tracts – at least 50 percent of households with incomes below 60 percent of the Area Median Gross Income (AMGI) or a poverty rate of at least 25 percent.

https://www.huduser.gov/portal/sadda/sadda_qct.html

HOUSING RULEMAKING ADVISORY COMMITTEE



MEETING PACKET #6

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. Furthermore, minimum compliance and guidance standards will be articulated through the rulemaking process in order to enforce what is required of HB 2003, as well as to convey additional, non-mandatory goals inspired by the bill.

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 May 7 meeting to help guide ongoing refinement of HPS concepts.

The goal for this memo is to:

- 1) review discussion topics addressed at the last April 8 HPSTAC meeting,
- 2) continue refining the 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,
- 3) discuss items that will be regarded as minimum compliance for Housing Production Strategy Reports, and
- 4) provide a brief update for the OHCS Regional Housing Needs Analysis (RHNA) prototype process simultaneously being worked on pursuant to HB 2003.

HPSTAC #3 Review

At the last HPSTAC meeting, the committee continued work on the Housing Production Strategy Report outline, reviewed a guidance document to support the writing of the Housing Production Strategy Report, and listened to a presentation from Dr. Marisa Zapata from Portland State's Homeless Research

and Action Collaborative (HRAC) regarding strategies cities can implement to support housing production and affordability for those most susceptible to housing vulnerabilities.

Equity Considerations

When it came to the Housing Production Strategy Report, there was general consensus to elevate equity considerations to the beginning of the Housing Production Strategy Report where housing need is contextualized, in addition to being discussed as part of each specific housing production strategy tool. This may include gathering data points surrounding those currently experiencing homelessness by way of the McKinney-Vento and Point-in-Time data sets. In addition, shelter capacity and housing need for extremely low-income, low-income, and people of color should be explicitly identified, if the data is available. This will ensure that cities and DLCD appropriately understand the housing need for the most vulnerable across the State. The HPSTAC also recommended gathering data on homeowners who are experiencing cost burden, as well as the number of units that are currently in the development pipeline (pre-application, land use decision process, number of units permitted, and number of units completed).

Engagement

In terms of engagement, the HPSTAC felt that outreach as part of the HNA process would facilitate the engagement of housing consumers, especially those who have been disproportionately impacted and marginalized by housing policies in the past. In addition to the engagement with this portion of the community, cities should specifically seek to engage housing providers as part of their engagement efforts throughout the HPS process, including utility providers and home builders. Overall, there was consensus around creating minimum standards and guidance around engagement in order to manage expectations between communities and DLCD.

Dr. Marisa Zapata Presentation: Housing Prevents and Ends Homelessness

Dr. Marisa Zapata provided a special presentation that outlined the root causes of homelessness and the systematic barriers that lead to a shortage of housing units in our cities. The presentation outlined the poor state of homeless count data and concluded that the number of people experiencing homelessness is often underrepresented. In order to end homelessness the most important step a community can take is to prevent it by maintaining a quality, safe affordable housing stock at a range of incomes, investing in public supported housing, and providing needed wraparound services (such as permanently supported housing).

Following Dr. Zapata's presentation, TAC members discussed permanently supportive housing and a continuum of resources alongside housing at length. In addition to roads, transit, and utilities which we typically think of as essential services in the development of housing innovative measures to include case management, income, healthcare, and social support services within proximity of affordable housing would provide the needed resources to stabilize and even elevate housing outcomes for vulnerable communities. In addition, several data sets, including the Point-in-Time and McKinney-Vento, were suggested as a way for cities to supplement the housing needs identified in their Housing Needs Analysis. These data sets could then be incorporated into the specific Housing Production Strategies cities will implement to meet the need for their most vulnerable residents.

Housing Production Strategy Report Structure

The HNA will require the local government to identify a housing need that will be expressed as a number of housing units, by type, tenure, and income level. The HPS will require the local government to identify strategies to support the development of the housing needs identified in the HNA. Below is an update on the Housing Production Strategy Report structure since the last HPSTAC meeting:

Within one year of the date a city has adopted their 6 or 8 year Housing Needs Analysis (HNA), the city must 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). In adherence to HB 2003, Section 4(3), this section shall include consideration of:

- Socio-economic and demographic trends of a jurisdiction's population;
- Market conditions affecting the provision of needed housing;
- Measures already adopted by the city to promote the development of needed housing; and
- Existing and expected barriers to the development of needed housing.

In addition, this section can include (to the extent possible), but is not to be limited to the following topics for further contextualization of housing need:

-
- 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 (homeowners and renters);
- Anticipated population growth and demographic trends of jurisdictions' population;
- Housing need for houseless population;
 - Homeless counts using Point-in-time and/or McKinney-Vento data sets
 - Capacity of existing shelters
- Units that are in the development pipeline by housing type (pre-app, land use decision, completed).

Engagement

This section describes engagement strategies employed to better understand housing needs and barriers to housing, for which audience, and what purpose. Specifically, this section should include:

- Brief summary of housing consumers engaged during HNA (i.e., local residents),
- Brief summary of housing providers engaged during HPS (i.e., developers, social service providers), and
- Summary of specific outreach to marginalized communities.

This section should also include a discussion of how the city will utilize or alter actions to directly address issues or concerns raised throughout the engagement process.

Strategies to Accommodate Future Housing Need

This section will be comprised of a list of all tools/policies/actions a city is employing to meet its Identified Housing Need. A city can employ any number of tools/policies/actions to address its housing needs so long as the strategies collectively address the entirety of the city's Identified Housing Need. The tools/policies/actions that can be employed by cities can generally be categorized into seven categories:

- Zoning, Planning, and Code Changes
- Reduce Regulatory Impediments
- Financial Incentives
- Financial Resources (Local, State, Federal)
- Tax Exemption and Abatement
- Land, Acquisition and Partnerships
- Innovative Options

For each tool/policy/action a city proposes in this section, the city must include:

- Description of the strategy,
- Timeline for adoption,
- Timeline for implementation,
- Magnitude of impact
 - Identified Housing Need being fulfilled (tenure and income)
 - Number of housing units that may be created, if possible
 - An analysis of the income and demographic populations that will receive benefit and/or burden from the strategy Time frame over which the strategy is expected to impact needed housing

For prioritization purposes, cities are encouraged to organize tools/policies/actions in one of the following ways:

- Jurisdictional priority (high to low),
- Cost (low cost to high cost),
- Timeframe (short-term to long-term), or
- Identified Housing Need (most need to least need)

This section will also include an opportunity for cities to describe how each tool expands, alters, or interacts with other tools/policies/actions the city currently has in place.

- *List of strategies currently being employed*

Conclusion

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

- In concluding the Housing Production Strategy Report, the city should consider the following:
 - Any opportunities, constraints or negative externalities associated with adoption of the elements of proposed housing production strategies
 - 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?
- A Housing Production Strategy Report must include within its index a copy of the city's most recently completed survey to meet the requirements of HB 4006 and a copy of the ORS 197.178 report, which shows all permits applied for and accepted within the year.

Question #1: After reviewing the updated report structure and summary of last HPSTAC meeting, are there any considerations that may have been overlooked?

Minimum Compliance vs. Guidance

As rulewriting continues to develop, expectations will need to be clearly defined for the Housing Production Strategy Report structure in order to allow for consistent reporting across jurisdictions and DLCD staff review. For this reason, it has been suggested that minimum compliance and guidance standards be established going forward, especially for the *Engagement* and *Contextualized Housing Needs* sections. This will help cities provide a baseline of information to DLCD staff, with the opportunity to establish non-mandatory best practices for Housing Production Strategy Report writing.

Question #2: After reviewing the updated report structure, are there any other sections that need to have minimum compliance and guidance? If so, what would constitute these distinctions for proposed sections?

Update on OHCS RHNA

Pursuant to HB 2003, OHCS has been charged with developing a Regional Housing Needs Analysis (RHNA) in conjunction with EcoNorthwest. This process seeks to create a prototype that will calculate housing needs by region, and then allocate number of units and housing types to cities. OHCS is currently holding stakeholder sessions to gather feedback on work completed as part of Phase One, running the Regional Housing Needs Analysis modeled after the California Method. The stakeholder sessions will help shape development of Phase Two, the Oregon Method. OHCS will be presenting their findings with a short discussion at the May 18 HPSTAC meeting, and are eager to work with more stakeholders going forward.

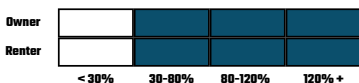
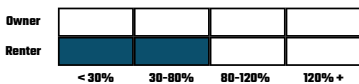
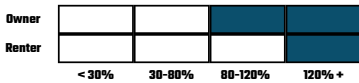
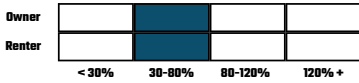
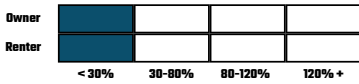
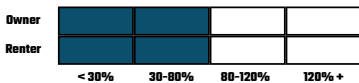
Question #3: Given the short time frame for work sessions related to Phase One and Phase Two of the RHNA prototype, how would you like to be included in future discussions going forward?

- a) Self-selected, short (~1 hr.) meetings conducted in addition to current RAC meetings,
- b) Recorded versions of the presentation(s) made to HPSTAC to review if desired, or
- c) Incorporate RHNA updates into current RAC agendas, with the possibility of extending current meeting times

Bucket A: Reduction of Financial and Regulatory Impediments

Sometimes, the overlapping of regulations intended to provide for the safe, accessible, and affordable production of housing can become so burdensome to housing developers as to become an impediment to housing development. Cities should routinely audit standards and regulations to ensure they do not, individually or cumulatively, create barriers to the production of needed housing.

Needed Housing Impact



Bucket A Actions

A1

Specific Action #1

A two sentence description of what this action entails. A two sentence description of what this action entails.

A2

Specific Action #2

A two sentence description of what this action entails. A two sentence description of what this action entails.

A3

Specific Action #3

A two sentence description of what this action entails. A two sentence description of what this action entails.

A4

Specific Action #4

A two sentence description of what this action entails. A two sentence description of what this action entails.

A5

Specific Action #5

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A6

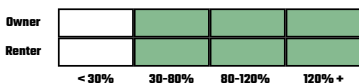
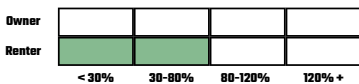
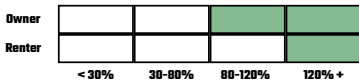
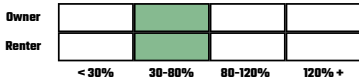
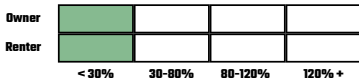
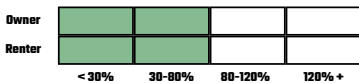
Specific Action #6

A two sentence description of what this action entails. A two sentence description of what this action entails.

Bucket B: Creation of Financial and Regulatory Incentives

Producing housing to meet all of the needs of a community, especially those community members with low or no income, is impractical for the private development market. Often times, the production of housing that is affordable to households in the 50% AMI income bracket is not feasible without additional public subsidization. Cities should consider creating financial and regulatory incentives to increase the production of housing.

Needed Housing Impact



Bucket B Actions

B1

Specific Action #1

A two sentence description of what this action entails. A two sentence description of what this action entails.

B2

Specific Action #2

A two sentence description of what this action entails. A two sentence description of what this action entails.

B3

Specific Action #3

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B4

Specific Action #4

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B5

Specific Action #5

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B6

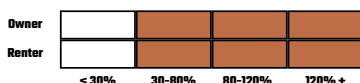
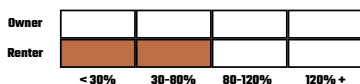
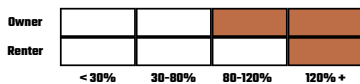
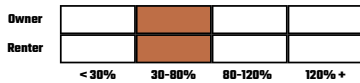
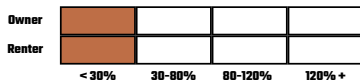
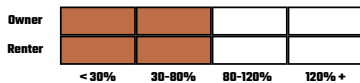
Specific Action #6

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

Communities across the State of Oregon are in a housing crisis. Local, State, and Federal agencies have provided resources that can assist in addressing this issue. Some of these resources are open to any community or housing developer. While other resources are narrowly focused on specific aspects of the housing continuum. A city should be sure to exhaust all of the resources available to them in the production of needed housing.

Needed Housing Impact



Bucket C Actions

Specific Action #1

C1

A two sentence description of what this action entails. A two sentence description of what this action entails.

Specific Action #2

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Specific Action #3

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Specific Action #4

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Specific Action #5

C5

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Specific Action #6

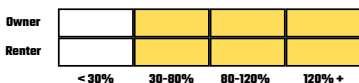
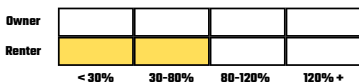
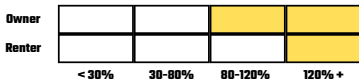
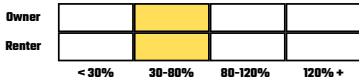
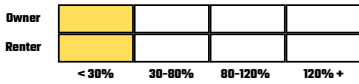
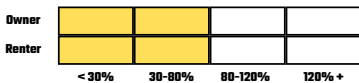
C6

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Bucket D: Other Housing Production Strategies

Market conditions, policies, and housing preferences can change at any time and without forewarning. Additionally, As such, there may be housing production strategies that arise that are not easily categorized into Bucket A, B, or C above. These strategies are unique or emerging solutions to fostering the development of needed housing in our communities.

Needed Housing Impact



Bucket D Actions

Specific Action #1

D1

A two sentence description of what this action entails. A two sentence description of what this action entails.

Specific Action #2

D2

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Specific Action #3

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Specific Action #4

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Specific Action #5

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Specific Action #6

D6

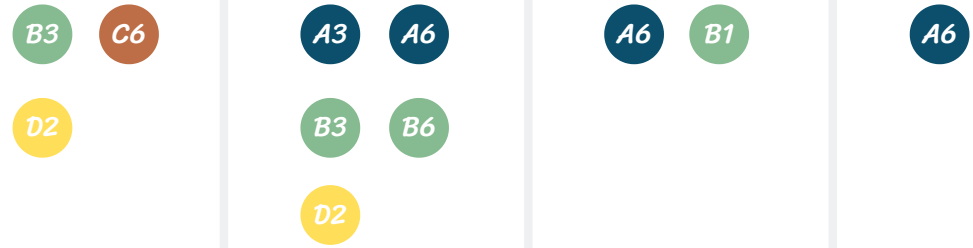
A two sentence description of what this action entails. A two sentence description of what this action entails.

City X's Housing Production Strategy

Identified Housing Need

< 30%	30 - 80%	80 - 120%	> 120%
200 units	300 units	250 units	50 units

Proposed Tools/Policies /Actions



Strategy Matrix



Housing Production Strategies List of Tools/Policies/Actions

DRAFT - April 28, 2020

Housing Strategy Guidance Document:

To assist cities in the creation and drafting of their Housing Production Strategy Report in compliance to HB 2003, the Department of Land Conservation and Development (DLCD) will provide a guidance document of housing production strategies a city could employ to facilitate housing production in their community. The document will contain a list of strategies assigned by categories (subject to change as rulemaking continues). Each strategy will include a brief overview of its intent and purpose as well as a projection of its expected impact by housing tenure and by income bracket.

As the city prepares a housing production strategy report, the city would review the guidance document to select specific strategies that work best for their community and that address their identified Housing Needs. The city would simply reference the strategy number when describing the adoption, implementation, and expected magnitude of impact of each strategy in their report.

Proposed Categories:

The proposed categories contain tools, strategies, or policies that are intended to:

1. Reduce financial and regulatory impediments to develop Needed Housing
2. Create financial and regulatory incentives for development of Needed Housing
3. Provide access to local, state, and federal resources
4. Other innovative housing production strategies

Category A	Zoning, Planning, and Code Changes
Category B	Reduce Regulatory Impediments
Category C	Financial Incentives
Category D	Financial Resources (Local, State and Federal)
Category E	Tax Exemption and Abatement
Category F	Land, Acquisition, and Partnerships
Category Z	Innovative Options

Category A: Zoning, Planning, and Code Changes

#	Strategy	Description	Source (if available)
A1	Ensure Land Zoned for Higher Density is not Developed at Lower Densities	This strategy will work on establishing minimum density standards, updating development codes to not allow (or prohibit) new single-family detached housing in high density zones, and allowing single-family detached homes in medium density zones only if they meet minimum density or maximum lot size requirements.	Morrow County HNA, 2017
A2	Zoning Changes to Facilitate the Use of Lower-Cost Housing Types	In many cities, towns, and counties, changes to local zoning policies can help to facilitate the development of lower-cost housing types, such as Accessory Dwelling Units (ADU's), manufactured homes, multifamily housing, micro-units, or single-room occupancy developments. To increase the likelihood the market can produce lower-cost housing types, it is important to make them allowable as of right in all locations and neighborhoods. If not, still provide flexibility in zoning code to still issue variance or conditional use permits that allow deviations from existing regulations on a case-by-case basis.	https://www.localhousingolutions.org/act/housing-policy-library/zoning-changes-to-facilitate-the-use-of-lower-cost-housing-types-overview/zoning-changes-to-facilitate-the-use-of-lower-cost-housing-types/
A3	FAR, Density, or Height Bonuses for Affordable Housing	FAR, density, or height bonuses for affordable housing developments.	
A4	Public Facility Planning	Completing water, sewer, and transportation PFPs and getting capital improvement projects (CIP) built so that costs to develop on land zoned for desired housing can be further anticipated and supported. In addition, public utilities planning also allows for more unit capacity, especially in areas that are upzoned for denser housing.	City of Tigard
A5	Housing Rehabilitation Codes	Housing rehabilitation codes (or rehab codes) are building codes designed to reduce the costs of renovating and rehabilitating existing buildings, thereby facilitating the continued availability and habitability of older rental housing and owner-occupied homes.	https://www.localhousingolutions.org/act/housing-policy-library/housing-rehabilitation-codes-overview/
A6	Allow for Single Room Occupancy in Residential Zones	Allow for SRO, Adult Dorms, and Cohousing in all residential zones.	

A7	Code Provisions for ADUs	ADUs are smaller, ancillary dwelling units located on the same lot as a primary residence. They are typically complete dwellings with their own kitchen, bathroom and sleeping area. Given that ADUs are usually built by individual homeowners with limited experience or financial resources, code provisions can have a significant influence on the feasibility of their development and enable more widespread production. For example, easing occupancy requirements, allowing more ADUs on a lot, and expanding maximum size requirements.	http://www.ci.the-dalles.or.us/sites/default/files/imported/public_docs/PDFs/the_dalles_housing_strategies_report_final.pdf
A8	Promote Cottage Cluster Housing	Cottage clusters are groups of relatively small homes typically oriented around shared common grounds with 4-14 homes typically between 1,000-1200 square feet in size. By further defining cottage cluster design and development standards, housing code can effectively address a predictable process for developers, and potentially encourage greater production for this housing type. Some examples may include: allowing for a wide range of sizes and attached/detached options for housing; not specifying ownership structure so that both renters/owners can live on the same cluster; ensuring that minimum site size, setbacks and building coverage requirements do not prohibit cottage cluster development on smaller lots; draft design requirements that ensure neighborhood compatibility, and efficient use of land, but are not so specific as to restrict the ability to adapt to varying neighborhood contexts.	City of the Dalles Housing Strategy Report, April 2017
A9	Short-Term Rentals Regulations	Short-term rentals can be seen as an investment strategy for small investors, but can also remove rental housing supply from the market, in effect driving up rent from the local housing market. To avoid this effect, regulations can include definitions for various forms of short-term rentals, defining use, and occupancy standards, and even adding limits to the number of days that a short term rental can be in operation in order to mitigate their impact on the local housing market.	Morrow County HNA, 2017
A10	Inclusionary Zoning	Requiring that a portion of the units within a market rate development be set aside as affordable housing. This tool will often be combined with property tax exemptions or development bonuses to offset the cost of affordable housing units.	

A11	Add Restrictive Covenants to Ensure Affordability	Adding restrictive covenants to ensure affordability over time at a certain income level for affordable housing developments.	
A12	Align Zoning with Lot Division	Sometimes there are conflicting regulations between the density that is allowed by the zoning code versus the density that is allowed when lot division (for fee-simple lots) is considered. This can cause unintentional reductions in density, only caused by the fact that the development partner would like to create for-sale housing on fee-simple lots. Ideally, the densities would be aligned, so there is not an unfair disadvantage - to either condominium versus fee-simple developments.	<i>{Created by Anyeley}</i>

Category B: Reduce Regulatory Impediments

#	Strategy	Description	Source (if available)
B1	Remove or Reduce Minimum Parking Requirements	Removing parking requirements for certain residential uses provides the opportunity to reduce the amount of lot area used for pavement and provides more space for housing and open space. This strategy offers greater flexibility to site housing and reduces costs associated with providing parking.	City of Tigard
B2	Remove Development Code Impediments for Conversions	Streamlining the conversion of larger single-family homes into multi-unit dwellings (i.e., duplex or triplex)	City of Tigard
B3	Expedite Permitting for Needed Housing Types	Expedited permitting will help to reduce costs of development of Needed Housing as identified by the City, such as affordable housing.	
B4	Streamline Permitting Process	In some cities, towns, and counties, the process associated with obtaining approval for new construction is so time-consuming or costly that it dampens the amount of new development and adds significantly to its costs. To help streamline the process, cities, towns and counties can initiate a comprehensive review of all steps in the development approval process to identify the factors that most significantly suppress new residential construction and redevelopment. With a clearer picture of the obstacles, local leaders can then begin to assess whether they can be reduced or eliminated to stimulate development activity.	https://www.localhousingsolutions.org/act/housing-policy-library/streamlined-permitting-processes-overview/streamlined-permitting-processes/
B5	Flexible Regulatory Concessions for Affordable Housing	Often, nonprofit housing developers and housing agencies face regulatory impediments to building affordable housing, which can often derail projects. This strategy provides a flexible framework for delivery of affordable housing including but not limited to reduced minimum setbacks, height bonuses, and/or allowing for flexibility in how units are delivered.	Morrow County HNA, 2017
B6	Housing First Policy	Change the culture of development services to have a pro-housing agenda	

Category C: Financial Incentives

#	Strategy	Description	Source (if available)
C1	Reduce or Exempt SDCs for Needed	Reducing, deferring, and/or financing System Development Charges (SDCS) at a low interest rate for desired housing types. This strategy	City of Tigard

	Housing	reduces development costs.	
C2	Modify SDC fee schedules	Updating SDC fee schedule so that is tied to dwelling size. This strategy ensures that smaller dwelling sizes are not disproportionately burdened by fees and therefore encouraged.	
C3	Reduce or Exempt SDCs for ADUs	Waivers/reductions of SDCS for ADU production in order to improve the feasibility of the development.	
C4	Incentivize Manufactured and Modular Housing		

Category D: Financial Resources (Local, State, and Federal)

#	Strategy	Description	Source (if available)
D1	Community Development Block Grant (CDBG)	CDBG Grants are federal funds set aside in the form of grants to be used for public works infrastructure, community facilities, housing rehabilitation, and microenterprise training. Eligibility is based upon the levels of low- and moderate-income families that may benefit from services provided by the eligible projects.	City of Tigard
D2	Low Income Housing Tax Credit (LIHTC)	Federal program that encourages private investment in affordable rental housing by providing a dollar-for-dollar reduction in federal income tax liability in exchange for investment in qualifying new construction and rehabilitation projects.	https://www.localhousingolutions.org/act/housing-policy-library/low-income-housing-tax-credit-overview/
D3	Housing Trust Funds	Housing Trust Funds are a flexible source of funding that can be used to support a variety of affordable housing activities. Because they are created and administered at the city, county, or state level, housing trust funds are not subject to the restrictions of federal subsidy programs and therefore can be designed specifically to address local priorities and needs. The entity administering the fund determines eligible activities, which can include anything from emergency rent assistance for families facing the threat of eviction or homelessness to gap financing for new construction of affordable housing to repairs for older homeowners.	https://www.localhousingolutions.org/act/housing-policy-library/housing-trust-funds-overview/
D4	Operating Subsidies for Affordable Housing Developments	Operating subsidies are payments made annually (or more frequently) to owners of affordable housing developments that make the housing more affordable by covering a portion of the ongoing costs of operating the development.	https://www.localhousingolutions.org/act/housing-policy-library/operating-subsidies-for-affordable-housing-developments-overview/
D5	Employer-Assisted Housing Programs	Employer-assisted housing programs provide a channel through which employers can help their employees with the cost of owning or renting a home, typically in neighborhoods close to the workplace. Assistance may be provided in a variety of ways, including through down payment grants or loans that are forgiven over a period of employment, homeownership counseling and education, rental subsidies and, less commonly, direct investment in the construction of rental housing.	https://www.localhousingolutions.org/act/housing-policy-library/employer-assisted-housing-programs-overview/

D6	HOME Program	HOME is a federal program established by Congress in 1990 that is designed to increase affordable housing for low- and very low-income families and individuals. State and localities receive HOME funds from HUD each year, and spend it on things such as: rental assistance, assistance to homebuyers, new construction, rehabilitation, improvements, demolition, relocation, and administrative costs.	
D7	Dedicated Revenue Sources for Affordable Housing	A dedicated revenue source for affordable housing provides an ongoing committed stream of revenue for affordable housing, often deposited into a Housing Trust Fund. This can be helpful in increasing the total funding available for affordable housing. Some areas this fund can be donated to are: developer fee and real estate transfer taxes.	https://www.localhousingolutions.org/act/housing-policy-library/dedicated-revenue-sources-overview/
D8	Demolition Taxes	Cities, towns and counties establish demolition taxes and condo conversion fees as a way to generate revenue and replace affordable housing lost to these activities. The proceeds from both demolition taxes and condo conversion fees are typically deposited in a Housing Trust Fund to support affordable housing activities.	https://www.localhousingolutions.org/act/housing-policy-library/demolition-taxes-and-condominium-conversion-fees-overview/
D9	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.	
D10	Tax Increment Financing (TIF) Set-Aside	Create a TIF set-aside for affordable housing development programs and urban renewal areas (URAs). Target could be to begin setting aside funds for affordable housing projects as a medium-term action, over the next 5 years or so.	
D11	Flexible Use of Housing Choice Vouchers	Housing agencies have the authority to attach up to 20% of their voucher assistance to specific housing units for each housing project. Project-based vouchers provide rental assistance for eligible individuals and families who occupy specific housing units managed by private owners who have entered into agreements with a housing agency. The household pays an established amount to the owner each month (typically approximately 30% of monthly income) and the housing agency pays the balance of the rent due.	https://www.localhousingolutions.org/act/housing-policy-library/project-basing-of-housing-choice-vouchers-overview/

D12	Property Tax Relief for Income-qualified Homeowners	Property taxes are based on property values and so can go up regardless of the taxpayers' ability to pay. In the case of homeowners, rising property taxes can be an obstacle to housing affordability and stability. A tool used in a number of jurisdictions for mitigating these effects on those with limited incomes is by capping the amount of property tax that homeowners have to pay as a share of their income. Some jurisdictions also provide relief to lower-income renters by treating some portion of their rent as attributable to property taxes and then providing an income tax credit to offset the increase in taxes. In addition to basing the benefit on income, eligibility for caps can also be restricted to specific populations such as seniors, disabled persons, and/or veterans.	https://www.localhousingolutions.org/act/housing-policy-library/property-tax-relief-for-income-qualified-homeowners-overview/
D13	Low-Interest Loans/Revolving Loan Fund		
D14	Eviction Prevention Programs	Eviction prevention programs provide financial assistance to help renters facing eviction stay in their homes. These programs are generally designed for families who are being evicted due to nonpayment of rent during or following an unforeseen crisis, such as job loss or serious illness, rather than those who face more persistent affordability challenges. Jurisdictions may be interested in investing in eviction prevention to address concerns about displacement of low-income renters and also to avoid or reduce use of other more costly local services, like homeless shelters.	https://www.localhousingolutions.org/act/housing-policy-library/eviction-prevention-programs-overview/
D15	Tax or Bond - for Resident Support Services and Permanent Supportive Housing Services	Tax or bond that creates a funding source for supportive housing services, such as access to health care, mental health, and other social services that better support and stabilize residents who face complex challenges and will benefit from affordable housing programs.	

Category E: Tax Exemption and Abatement

#	Strategy	Description	Source (if available)
E1	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.	
E2	Vertical Housing Development Zone Tax Abatement	Partial property tax exemption program for new mixed use development. To qualify, a project must have improved, leasable, non-residential development on the ground floor and residential development on the floors above.	
E3	Multiple Unit Property Tax Exemption (MUPTE)	This strategy 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	
E4	Multiple-Unit Limited Tax Exemption (MULTE)	Under the Multiple-Unit Limited Tax Exemption (MULTE) Program, multiple-unit projects receive a ten-year property tax exemption on structural improvements to the property as long as program requirements are met.	https://www.portlandoregon.gov/phb/74691
E5	Homebuyer Opportunity Limited Tax Exemption Program (HOLTE)	Under the HOLTE Program, single-unit homes receive a ten-year property tax exemption on structural improvements to the home as long as the property and owner remain eligible per program requirements.	https://www.portlandoregon.gov/phb/74639

Category F: Land, Acquisition, and Partnerships

#	Strategy	Description	Source (if available)
F1	Land Banking	Public purchasing of vacant/under-utilized sites of land in order to save for future affordable housing development.	
F2	Joint Development	Joint development is a process by which public transit or other local or state agencies agree to make land available at donated or reduced price for private development, which may include affordable housing	
F3	Community Land Trusts	Land acquired by nonprofits or community-based organizations that maintain permanent ownership of land. Prospective homeowners are able to enter long-term (i.e., 99-year), renewable leases at an affordable rate. Upon selling, homeowners only earn a portion of the increased property value, while the trust keeps the remainder, thereby preserving affordability for future low- to moderate-income families	
F4	Preserving Low-Cost Rental Housing to Mitigate Displacement	Preventing displacement and preserving "naturally occurring" affordable housing through acquisition, low-interest loans/revolving loan fund for preservation, and/or code enforcement.	
F5	Preserving Safe, Affordable Manufactured Homes	Manufactured home parks often provide a form of affordable housing stock, but are particularly vulnerable to redevelopment pressures since lots are temporarily leased out. In order to preserve safe, affordable options into the future, manufactured home parks need to be further protected through assistance that allows community purchase of land or funds used to maintain upkeep of these dwelling units.	
F6	Public/Private Partnerships	Partnerships between government and the private sector and/or nonprofits have the capacity to bring resources to the table that would otherwise not be available if each institution were able to help communities provide housing on its own. This can come in the form of coalitions, affordable housing task forces, and collaboratives.	

F7	Providing Information and Education to Small Developers	Providing information to small, local developers that will help them understand land use permitting processes and give them a sense of clarity and certainty about requirements so they can better provide smaller scale housing at an affordable level.	
F8	Protection from Condo Conversions	In order to reduce the stress and cost of displacement caused by condo conversions or sales of rental buildings, some jurisdictions provide tenants with protections in the event that their landlord seeks to convert or sell. Protections can include: requiring approval of a majority of residents for a conversion; providing for a long notice period before a conversion or sale; giving tenants a right to purchase units before they can be offered to outside buyers; relocation assistance paid by the landlord for tenants forced to move because of a conversion; and/or giving tenants a right to remain as a renter or renew a tenancy following a sale.	
F9	Conversion of underperforming commercial assets	Acquisition of underperforming commercial assets or partnerships with owners of the assets for conversion into needed housing.	

Category Z: Innovative Options

#	Strategy	Description	Source (if available)
Z1	TBD	To be determined by the jurisdiction	



MEMORANDUM

**Large & Metro Cities Model Code
Part 1 (REVISED DRAFT) & Part 2 (INITIAL DRAFT)
DLCD Middle Housing Model Code**

DATE April 13, 2020
TO MHMC Model Code Technical Advisory Committee (MCTAC)
FROM Matt Hastie, Cathy Corliss, and Kate Rogers, Angelo Planning Group
CC Ethan Stuckmayer and Robert Mansolillo, DLCD
Project Team

Commentary:

This memorandum combines Parts 1 and 2 of the draft Large & Metro Cities Model Code (LMCMC):

- **Chapter 1. Combined Standards for All Middle Housing.** This chapter includes the Purpose, Applicability, Definitions, and Relationship to Other Regulations sections, which are proposed to be shared by all middle housing types. The draft code provisions have been revised following review of the initial draft of LMCMC Part 1 at Model Code Technical Advisory Committee (MCTAC) meeting 4 and Rulemaking Advisory Committee (RAC) meeting 5.
- **Chapter 2. Duplexes, Triplexes, and Quadplexes.** This memo presents the initial draft of LMCMC Part 2, with proposed standards for duplexes, triplexes, and quadplexes. These draft code provisions will be further refined based on direction from the MCTAC and RAC.

The remaining middle housing types (townhouses and cottage clusters) will be included in subsequent drafts of the LMCMC presented to the MCTAC.

The following tables include provisions organized into two columns (plus commentary for the MCTAC):

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 (as defined in the house bill) 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 DLCDC will compare amended development codes to ensure they comply with state law.

Ultimately, the LMCMC minimum compliance standards will be adopted **directly** into administrative rules, and the model code will be adopted **by reference** into administrative rules

Chapter 1. Combined Standards for All Middle Housing

Sections:

- A. Purpose
- B. Definitions
- C. Applicability
- D. Relationship to Other Regulations

Standard	Model Code	Minimum Compliance	Commentary
A. Purpose	The purpose of this model middle housing code (“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 code, notwithstanding other definitions in the local jurisdiction’s development code:	--	--
1. “Common wall”	“Common wall” means a wall or set of walls in a single structure 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). If needed, additional language can be added to refer to Oregon Building code requirements for walls between housing units on separate lots or within separately owned components of the same structure.</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; • Goal 16 Estuarine Resources; • Goal 17 Coastal Shorelands; • Goal 18 Beaches and Dunes. 	No requirements for this definition. Jurisdictions may allow middle housing on constrained lands to the extent they determine to be appropriate and consistent with statewide goal protection requirements.	<i>This definition is proposed to establish one type of area where middle housing (besides duplexes) is <u>not</u> permitted by the model code. This may be subject to substantial revision. Additional work on the definition and provisions related to “constrained lands” 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. See the Applicability section for additional commentary.</i>
3. “Cottage cluster”	“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.	<i>Same as model code, with the exception that the individual units could be located on separate lots. (See additional information in commentary.)</i>	<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</i>

Standard	Model Code	Minimum Compliance	Commentary
			<p><i>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>4. “Detached single-family dwelling”</p>	<p>“Detached single-family dwelling” means a detached structure on a lot or parcel that is comprised of a single dwelling unit. Detached single-family dwellings 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>Update since MCTAC 4: <i>The previous definition referred to a “detached single-family dwelling or structure.” All references to single-family <u>structures</u> have been changed to <u>dwellings</u> for the sake of clarity, consistency, and simplicity.</i></p>
<p>5. “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>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 requirements.</p>	<p><i>The recommended model code and minimum compliance provisions for the definition of “duplex” are the same as for the Medium Cities Model Code.</i></p>
<p>6. “Floor area ratio (FAR)”</p>	<p>“Floor area ratio” means the amount of gross floor area of a building or structure in relation to the amount of site area, expressed in square feet. For example, a floor area ratio of 2 to 1 means two square feet of floor area for every one square foot of site area. Public utility easements may be excluded from the site area when calculating the floor area ratio for a site.</p>	<p><i>Same as model code if the jurisdiction applies FAR standards to middle housing.</i></p>	<p>Update since MCTAC 4: <i>This definition was added because draft provisions for triplexes and quadplexes include maximum floor area ratio standards (see Chapter 2, Section B.7).</i></p>
<p>7. “Infrastructure-deficient areas”</p>	<p>“Infrastructure-deficient areas” means 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, but for which the local government has demonstrated that it is not possible to develop a plan and secure necessary financing and/or needed jurisdictional consent for the necessary improvements as contemplated for the infrastructure-based time extension request (IBTER) process. In the case of transportation system constraints, degraded mobility standards (level of service, etc.) do not qualify an area as “infrastructure-deficient.”</p>	<p><i>No requirement for this definition. Pursuant to Section 4 of HB 2001, DLCDC will define Infrastructure-deficient areas for the purposes of a city seeking an extension of middle housing provision in infrastructure-deficient areas.</i></p>	<p>Update since MCTAC 4: <i>This definition is proposed to establish another type of area where middle housing (besides duplexes) is <u>not</u> permitted by the model code.</i></p> <p><i>HB2001 allows local governments to apply for a time extension in adopting middle housing regulations for specific areas that are deficient in water, sewer, storm drainage or transportation services, through what’s known as the infrastructure-based time extension request (IBTER) process. The proposed definition of “infrastructure-deficient areas” in the model code refers to areas with <u>long-term deficiencies</u>, which the jurisdiction does not intend to improve. Accordingly, these areas are not eligible for IBTER requests. The burden of proof would fall to the local jurisdiction to demonstrate that an IBTER is not feasible for these areas.</i></p> <p><i>The proposed Applicability statement would exempt these infrastructure-deficient areas from the requirement to allow middle housing (other than duplexes), as stated in Section C.</i></p>

Standard	Model Code	Minimum Compliance	Commentary
			<i>Additional work on the definition of infrastructure-deficient areas and jurisdictions' abilities to limit middle housing in these areas may still be needed, based on the work of the Infrastructure-Based Time Extension Request Technical Advisory Committee (IBTERTAC).</i>
8. "Lot coverage"	<p>"Lot coverage" means the amount of area covered by building(s) or impervious surfaces on a lot expressed as a percentage of the total lot area.</p> <p>For jurisdictions that regulate minimum landscape area rather than lot coverage, "lot coverage" means the area of a lot which is not required landscape area expressed as a percentage of the total lot area.</p>	<i>Same as model code.</i>	<p>Update since MCTAC 4: <i>This definition was added because the draft provisions for triplexes and quadplexes include maximum lot coverage standards (see Chapter 2, Section B.7).</i></p> <p><i>Lot coverage could be challenging to implement in the model code because it is not defined consistently by local jurisdictions. Some jurisdictions only count building/structure coverage, while others also include impervious surfaces (e.g., driveways). Additionally, some jurisdictions regulate required landscape area in lieu of lot coverage. We've attempted to account for the latter issue, but if lot coverage standards are carried forward in the draft model code, the definition may still need to be refined.</i></p>
9. "Middle housing"	<p>"Middle housing" means duplexes, triplexes, quadplexes, cottage clusters, and townhouses.</p>	<i>Same as model code.</i>	<i>HB2001 provides the definition of "middle housing."</i>
10. "Quadplex"	<p>OPTION 1: "Quadplex" means a detached structure on a lot or parcel that is comprised of four dwelling units. A quadplex is also commonly called a "fourplex."</p> <p>OPTION 2: "Quadplex" means four dwelling units on a lot or parcel in any configuration.</p>	<p>Jurisdictions must define "quadplex" as four dwelling units on a lot. Jurisdictions must allow quadplexes to be provided in an attached configuration but may allow detached units as well. 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>Update since MCTAC 4: <i>A second option was added, which would allow quadplex units to be either attached or detached. The proposed definition of "quadplex" in Option 1 is consistent with the way "duplex" is defined in the draft model code. The second option would allow additional flexibility.</i></p> <p>Note: <i>Allowing detached units in the model code would likely have trickle-down effects, particularly for the development and design standards. These issues have not been fully explored for this draft, but will be addressed in a later draft if Option 2 is the preferred definition.</i></p>
11. "Townhouse"	<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>	<i>HB2001 provides the definition of "townhouse."</i>
12. "Triplex"	<p>OPTION 1: "Triplex" means a detached structure on a lot or parcel that is comprised of three dwelling units.</p> <p>OPTION 2: "Triplex" means three dwelling units on a lot or parcel in any configuration.</p>	<p>Jurisdictions must define "triplex" as three dwelling units on a lot. Jurisdictions must allow triplexes to be provided in an attached configuration but may allow detached units as well.</p>	Update since MCTAC 4: <i>A second option was added, which would allow triplex units to be either attached or detached. See commentary for "quadplex" above.</i>
13. "Zoned for residential use"	<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>	<i>Same as model code.</i>	<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	--	--	--

Standard	Model Code	Minimum Compliance	Commentary
<p>1. <u>Applicability of Code Sections.</u></p>	<p>a. Code sections applicable to all middle housing types are: Chapter 1, Sections A. Purpose, B. Definitions, C. Applicability, [potentially others].</p> <p>b. Code standards applicable to specific housing types are listed below:</p> <ul style="list-style-type: none"> • Duplexes: Chapter 2. • Triplexes: Chapter 2. • Quadplexes: Chapter 2. • Cottage clusters: [list sections here]. • Townhouses: [list sections here]. 	<p>Not applicable.</p>	<p><i>This subsection of Applicability states which sections of the model code are applicable to each type of housing.</i></p>
<p>2. <u>Applicability by Development Type and Location.</u></p>	<p>a. Except as specified in subsection (b), the standards of this code allow for the following development on lots or parcels (including lots of record) zoned for residential use that allow for the 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, quadplexes, cottage clusters, and townhouses, and those created through conversion of existing detached single-family structures. <p>b. <u>Exceptions.</u> The standards in this code do not allow for the following, unless otherwise permitted by the jurisdiction through clear and objective standards, criteria, and procedures:</p> <ul style="list-style-type: none"> • On constrained lands or within infrastructure-deficient areas, the creation of triplexes, quadplexes, cottage clusters, or townhouses, or the creation of more than two dwelling units on a lot, including accessory dwelling units. • On lands that are not zoned for residential use, the creation of middle housing. This includes lands zoned primarily for commercial, industrial, agricultural, public, or mixed uses, even if those zones allow for the development of detached single-family dwellings. 	<p><i>As with the model code, local governments may use other criteria to regulate middle housing (other than duplexes) within areas zoned for residential use on constrained lands or infrastructure-deficient areas.</i></p>	<p>Update since MCTAC 4: <i>Infrastructure-deficient areas have been added to the exceptions (in addition to constrained lands); the draft model code would not require jurisdictions to allow middle housing, other than duplexes, in these areas. As noted in the commentary for definitions, these provisions may be subject to substantial revision. This section has also been cleaned up and slightly reorganized for the sake of readability.</i></p> <p><i>This subsection establishes the following:</i></p> <ul style="list-style-type: none"> • <i>Identifies <u>where</u> within “areas zoned for residential use” middle housing must be allowed.</i> <ul style="list-style-type: none"> ○ <i>Clarifies that the provisions only apply in residential zones in which detached single-family dwellings are permitted.</i> ○ <i>Per HB2001, duplexes must be allowed on all residential lots that allow SFD.</i> ○ <i>The proposed language for other middle housing types indicates that they are not allowed in designated resource/hazard areas (“constrained lands”) or in infrastructure-deficient areas “<u>unless otherwise permitted by the jurisdiction through clear and objective standards, criteria, and procedures.</u>” This gives local jurisdictions the ability to identify conditions where they would be allowed in these areas, as opposed to a blanket prohibition.</i> • <i>Indicates that the standards apply to new construction as well as conversions of single-family detached homes.</i> • <i>For lots on constrained lands or infrastructure-deficient areas, 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.</i>

Standard	Model Code	Minimum Compliance	Commentary
			<ul style="list-style-type: none"> Note: we propose limiting the number of units allowed on a lot outside of constrained/infrastructure-deficient areas in the development standards under each housing type.
D. Relationship to Other Regulations	--	--	<p>Update since MCTAC 4: We propose adding this section to Chapter 1, because its standards are generally shared by all middle housing types.</p>
1. <u>Conflicts.</u>	In the event of a conflict between this code and the jurisdiction’s standards applicable to a proposed middle housing development, the standards of this code control.	Same as model code.	Proposed language is the same as the draft Medium Cities Model Code, except it refers to all middle housing.
2. <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 pursuant to this code.	<p>Duplex – 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. <i>(draft OAR 660-046-0105.7 for Med Cities)</i></p> <p>Other Housing Types – N/A</p>	<p>For public works standards, it is appropriate to grant the same exceptions to duplexes that apply to single-family dwellings, because duplexes must be allowed on any lot that allows a detached single-family dwelling. However, it may not be appropriate to grant the same exceptions to other middle housing types, which need not be permitted on any single-family lot, and which represent higher-intensity development.</p>
3. <u>Protective Measures.</u>	Middle housing developed pursuant to this 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).	Same as model code.	<p>This 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 middle housing types are reviewed for historic compatibility in historic districts, or limiting building heights within the Willamette Greenway.</p> <p>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.</p>

Chapter 2. Duplexes, Triplexes, and Quadplexes

Sections:

- A. Permitted Uses and Approval Process
- B. Development Standards
- C. Design Standards
- D. Duplex, Triplex, and Quadplex Conversions

General Commentary: The duplex provisions from the draft Medium Cities Model Code have been carried forward to the LMCMC. We did not receive any comments from the MCTAC or RAC suggesting that the duplex standards should be any different for Large & Metro Cities. (Additional Note: In order to save space, commentary is provided within the Model Code and Minimum Compliance columns, rather than in a third column.)

Question for MCTAC: Do you think the duplex standards should be in a separate chapter from triplexes and quadplexes? It's useful to compare them at this stage, but it may be more appropriate to keep them separated, given that duplexes must be allowed on all single-family lots, and that the duplex standards generally defer to the jurisdiction's single-family standards.

Standard	Model Code			Minimum Compliance
	Duplex	Triplex	Quadplex	
A. Permitted Uses and Approval Process	<p><i>Commentary: Proposed language is the same as the draft Medium Cities Model Code, with added references to triplexes and quadplexes.</i></p> <p>Duplexes, triplexes, and quadplexes shall be permitted outright wherever they are allowed as provided in Chapter 1, Section C (Applicability). Duplexes, triplexes, and quadplexes 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, triplex, or quadplex subject to discretionary standards and criteria if such a process is available in the subject jurisdiction.</p>			<p>Duplex – 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. <i>(draft OAR 660-046-0104 for Med Cities)</i></p> <p>Triplex, Quadplex – see duplex, except refer to areas where triplexes and quadplexes are allowed pursuant to Applicability section</p>
B. Development Standards	<p><i>Commentary: Similar to the Medium Cities Model Code, we propose subjecting duplexes, triplexes and quadplexes to all clear and objective standards that apply to single-family dwellings, unless the model code provides different standards. Triplexes and quadplexes are proposed to be subject to more specific model code standards than duplexes, to ensure that these housing types are appropriately scaled to single-family neighborhoods. Numeric standards presented in [brackets] indicate either a choice between two options or an initial draft that is subject to change.</i></p> <p>Except as noted below, duplexes, triplexes, and quadplexes developed pursuant to this code shall meet all clear and objective development standards that the jurisdiction applies to detached single-family structures in the same zone, unless those standards conflict with this code.</p>			--

Standard	Model Code			Minimum Compliance
	Duplex	Triplex	Quadplex	
	Development standards that the jurisdiction applies only to duplexes, triplexes, or quadplexes, or to multifamily development, shall not apply to duplexes, triplexes, or quadplexes developed pursuant to this code.			
1. <u>Number of Units.</u>	-- <i>(For duplexes, this is addressed in the Applicability section in Chapter 1.)</i>	<p>Commentary: <i>This provision is intended to clarify that the model code does not allow the creation or conversion of a triplex or quadplex from a single-family house that has an existing ADU (thus creating more than three or four units on a lot). This is consistent with the limit proposed for duplexes. <u>Note:</u> If the preferred option for the model code is to allow detached triplexes and quadplexes, this provision would likely need to be revised. In that case, a triplex with an ADU would not be operationally different than a quadplex and may be acceptable. The model code would still limit the number of units on a lot to four units for quadplexes.</i></p> <p>This code does not allow for the creation of more than the following number of dwelling units on a lot, including accessory dwelling units:</p> <ul style="list-style-type: none"> • <i>For triplexes: three (3) units;</i> • <i>For quadplexes: four (4) units.</i> 		Same as model code.
2. <u>Minimum Lot Size.</u>	-- <i>(See general statement under Section B.)</i>	<p>Commentary: <i>Several options for minimum lot size standards are presented below. [Note: standards to limit massing/bulk (e.g., Floor Area Ratio—see section B.7) will work to limit the scale of buildings on smaller lots. Those standards should be considered in conjunction with minimum lot size.]</i></p> <ul style="list-style-type: none"> • OPTION 1: The minimum lot size for a triplex or quadplex is the same as the minimum lot size for a detached single-family dwelling in the same zone. • OPTION 2: The minimum lot size for a triplex or quadplex is the same as the minimum lot size for a detached single-family dwelling in the same zone, except that no minimum lot size shall be less than: <ul style="list-style-type: none"> ○ [5,000 sf] for a triplex; or ○ [7,000 sf] for a quadplex. • OPTION 3: Minimum lot size for a triplex or quadplex is calculated as a percentage of the minimum lot size for a detached single-family dwelling in the same zone as follows: <ul style="list-style-type: none"> ○ Triplex: [125 / 150] percent; and ○ Quadplex: [150 / 200] percent. • OPTION 4: The minimum lot size is based on the gross floor area (GFA) of the triplex or quadplex as follows: <ul style="list-style-type: none"> ○ If the GFA is no larger than 2,800 sf, the minimum lot size is the same as the minimum lot size for a detached single-family dwelling in the same zone; ○ If the GFA is over 2,800 sf, the minimum lot size is calculated as a percentage of the minimum lot size for a detached single-family dwelling in the same zone as follows: 		<p>Duplex – 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. <i>(draft OAR 660-046-0105.1.a for Med Cities)</i></p> <p>Triplex, Quadplex – <i>minimum lot size no less than minimum lot size for single-family detached in same zone</i></p>

Standard	Model Code			Minimum Compliance
	Duplex	Triplex	Quadplex	
		<ul style="list-style-type: none"> Triplex: [125 / 150] percent; and Quadplex: [150 / 200] percent. 		
3. <u>Minimum Lot Width.</u>	-- <i>(See general statement under Section B.)</i>	<p>Commentary: Two options for minimum lot width are presented below. Option 1 defers to the jurisdiction’s standards for detached single-family dwellings. Option 2 is intended to ensure that lots have an appropriate width for the shape and size of the triplex or quadplex. The thinking is that lots will need to be wider for side-by-side triplexes and quadplexes (with three or four street-facing units), than for stacked buildings (with only one or two street-facing units). Note: some jurisdictions regulate minimum lot width on a per-unit basis (e.g., 30 feet per unit). This could be problematic for middle housing if the model code defers to the local jurisdiction’s minimum lot width standards.</p> <p>OPTION 1: The minimum lot width for a triplex or quadplex is the same as the minimum lot width for a detached single-family dwelling in the same zone.</p> <p>OPTION 2: The minimum lot width for a triplex or quadplex is the same as the minimum lot width for a detached single-family dwelling in the same zone, except that no minimum lot width shall be less than [20 feet] per street-facing ground-floor unit.</p>		<p>Duplex – same as model code</p> <p>Triplex, Quadplex – minimum lot width no less than minimum lot width for single-family detached in same zone</p>
4. <u>Maximum Density.</u>	The jurisdiction’s pre-existing density maximums and minimum lot sizes for duplexes do not apply to duplexes permitted pursuant to this code.	<p>Commentary: The regulations would control the number of lots per acre, not the number of units per acre. Depending on the option selected for minimum lot size, this approach could allow for an increase of up to 4 times the maximum density currently allowed in a SF zone (e.g., under Options 1, 2 or 4, up to four units could be allowed on a single family lot.</p> <p>The maximum density for triplexes and quadplexes shall be determined by the minimum lot size as provided in Section B.1.</p>		<p>Duplex – For the purposes of calculating density, if a local government applies density maximums in a zone, it may not apply those maximums to the development of duplexes. <i>(draft OAR 660-046-0105.2.a for Med Cities)</i></p> <p>Triplex, Quadplex – same as model code</p>
5. <u>Setbacks.</u>	<p>Commentary: Proposed language is the same as the draft Medium Cities Model Code, with added references to triplexes and quadplexes. Note: for <u>maximum setbacks</u>, development would be subject to the same standards that apply to detached single-family, per the general statement under Section B.</p> <p>Duplexes, triplexes and quadplexes shall be subject to the same minimum and maximum setback standards that are applicable to detached single-family dwellings in the same zone provided that in no case shall a minimum front setback of greater than 20 feet or a minimum rear setback of greater than 15 feet be required except for those minimum setbacks applicable to garages and carports.</p>			<p>Duplex – A local government may not require setbacks to be greater than those applicable to detached single-family structures in the same zone. <i>(draft OAR 660-046-0105.3.a for Med Cities)</i></p> <p>Triplex, Quadplex – see duplex</p>
6. <u>Height.</u>	-- <i>(See general statement under Section B.)</i>			<p>Duplex – Duplexes may not be subject to lower maximum height standards than those applicable to detached single-family structures in the same zone. <i>(draft OAR 660-046-0105.4.a for Med Cities)</i></p> <p>Triplex, Quadplex – see duplex</p>

Standard	Model Code			Minimum Compliance							
	Duplex	Triplex	Quadplex								
7. OPTIONS FOR REGULATING SCALE / BULK:											
<p>Commentary: Bulk generally refers to the relative size, volume, or massing of a building. Scale generally refers to how people perceive the size of a building compared to other buildings or forms. Bulk and scale are often regulated to avoid stark contrasts between adjacent buildings or all buildings in a neighborhood or district. Regulating building scale or bulk may be appropriate because triplexes and quadplexes are more likely to maximize the buildable envelope on the site, and the intent of HB2001 was to facilitate middle housing that is compatible with existing single-family neighborhoods.</p> <p>We are presenting four options for regulating building scale or bulk: (1) Maximum Lot Coverage, (2) Maximum Floor Area Ratio, (3) Maximum Unit Size, and (4) Bulk Plane Regulations. These standards could be used in combination or independently. Our initial recommendation is to apply <u>Maximum Floor Area Ratio (FAR)</u> standards to triplexes and quadplexes; however, we are presenting the other options for MCTAC discussion. Commentary for each of these options is included below. Additional information about FAR can be found on page 18 of this memo.</p>				--							
OPTION 1: Maximum Lot Coverage	<p>Commentary: Maximum lot coverage standards are used widely in residential zones to control the intensity of development and to encourage open space on the site. A lower maximum lot coverage standard (35-50%) encourages multi-story buildings and a higher proportion of open space on the site, but may present a barrier to multi-unit development if the standard overly restricts the size of the structure. A higher maximum lot coverage standard (50-80%) generally allows for larger buildings and may also encourage single-story development. Lot coverage could be challenging to implement in the model code because jurisdictions calculate lot coverage differently (some include all impervious surfaces, others only include buildings and structures). And some jurisdictions regulate minimum landscape area instead of lot coverage. Per the definitions section, we propose including impervious surfaces in the calculation. We attempted to address the issue of jurisdictions regulating landscape area instead of lot coverage below.</p>			<p>Duplex – 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. <i>(draft OAR 660-046-0105.6 for Med Cities)</i></p> <p>Triplex, Quadplex – see duplex</p>							
	<p>-- <i>(See general statement under Section B.)</i></p>	<p>For jurisdictions that do not regulate maximum lot coverage, and instead regulate minimum landscape area as a percentage of the site, maximum lot coverage shall be equal to 100 percent minus the minimum landscape area for the site.</p> <ul style="list-style-type: none"> OPTION 1a: The maximum lot coverage for a triplex or quadplex is the same as the maximum lot coverage for a detached single-family dwelling in the same zone. OPTION 1b: The maximum lot coverage for a triplex or quadplex is the same as the maximum lot coverage for a detached single-family dwelling in the same zone, except that maximum lot coverage of less than [60 percent] shall not apply. OPTION 1c: The maximum lot coverage for a triplex or quadplex is based on the size of the lot, as provided below: <table border="1" style="margin-left: 20px;"> <thead> <tr> <th>Lot size</th> <th>Maximum Lot Coverage</th> </tr> </thead> <tbody> <tr> <td>Less than 3,000 sf</td> <td>80 percent</td> </tr> <tr> <td>3,000 sf or more but less than 5,000 sf</td> <td>75 percent</td> </tr> <tr> <td>5,000 sf or more but less than 20,000 sf</td> <td>70 percent</td> </tr> <tr> <td>20,000 sf or more</td> <td>60 percent</td> </tr> </tbody> </table> OPTION 1d: The maximum lot coverage for a triplex or quadplex is equal to the maximum lot coverage for a detached single-family dwelling in the same zone, plus an additional [10 percent]. 	Lot size		Maximum Lot Coverage	Less than 3,000 sf	80 percent	3,000 sf or more but less than 5,000 sf	75 percent	5,000 sf or more but less than 20,000 sf	70 percent
Lot size	Maximum Lot Coverage										
Less than 3,000 sf	80 percent										
3,000 sf or more but less than 5,000 sf	75 percent										
5,000 sf or more but less than 20,000 sf	70 percent										
20,000 sf or more	60 percent										

Standard	Model Code			Minimum Compliance										
	Duplex	Triplex	Quadplex											
OPTION 2: Maximum Floor Area Ratio (FAR)	<p>Commentary: Floor Area Ratio is a ratio of the floor area in the structure (usually the livable space) to the square footage of the site. A maximum FAR standard works by limiting the size of a building in proportion with the size of the lot. A primary advantage of FAR is that it balances compatibility and flexibility. FAR ensures relatively consistent size of buildings but provides flexibility in how floor area is distributed across the site and across multiple units. Two buildings with the same FAR on the same or similar-sized lot can look very different and include a range of dwelling sizes, but the overall bulk and scale of the buildings will be generally similar. We also recommend this option because it is relatively simple to administer. Note: FAR should be considered together with options for Minimum Lot Size (section B.1), because FAR is calculated based on the size of the lot. See page 18 of this memo for additional discussion about FAR.</p> <p>For triplexes and quadplexes, we are presenting two options for FAR standards below. Option 2a applies a flat FAR to all tri and quad structures, regardless of the zone. Option 2b scales the allowable FAR based on the minimum lot size in the zone. The rationale for Option 2b is that zones with smaller minimum lot sizes are intended for higher-intensity development, and will generally have smaller lots; therefore, allowing larger buildings (relative to the lot size) in these zones would be compatible with the zones’ intent and would make tri and quad development more feasible. In contrast, zones with larger minimum lot sizes are generally intended for lower-intensity development and will have larger lots. If maximum FAR is not reduced for these zones, very large triplexes and quadplexes could potentially be developed, which would be out of scale with single-family homes in the neighborhood. (Note: Portland and Bend both regulate FAR for middle housing. Portland’s draft standards for triplexes and quadplexes in single-dwelling zones [as part of the Residential Infill Project] scale the maximum FAR based on the zone. Bend applies a maximum FAR of 0.6 to 1 in its RS zone [a low-density zone that allows 4.0 to 7.3 units per gross acre]).</p>			<p>Duplex – 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. (draft OAR 660-046-0105.6 for Med Cities)</p> <p>Triplex, Quadplex – see duplex</p>										
	-- (See general statement under Section B.)	<ul style="list-style-type: none"> OPTION 2a: The maximum floor area ratio for a triplex or quadplex is 0.6 to 1. OPTION 2b: The maximum floor area ratio for a triplex or quadplex is based on the minimum lot size for a detached single-family dwelling in the same zone, as provided below: <table border="1"> <thead> <tr> <th>Minimum Lot Size in Zone</th> <th>Maximum FAR</th> </tr> </thead> <tbody> <tr> <td>Less than 3,000 sf</td> <td>0.9 to 1</td> </tr> <tr> <td>3,000 sf or more but less than 5,000 sf</td> <td>0.7 to 1</td> </tr> <tr> <td>5,000 sf or more but less than 20,000 sf</td> <td>0.6 to 1</td> </tr> <tr> <td>20,000 sf or more</td> <td>0.4 to 1</td> </tr> </tbody> </table>		Minimum Lot Size in Zone	Maximum FAR	Less than 3,000 sf	0.9 to 1	3,000 sf or more but less than 5,000 sf	0.7 to 1	5,000 sf or more but less than 20,000 sf	0.6 to 1	20,000 sf or more	0.4 to 1	
Minimum Lot Size in Zone	Maximum FAR													
Less than 3,000 sf	0.9 to 1													
3,000 sf or more but less than 5,000 sf	0.7 to 1													
5,000 sf or more but less than 20,000 sf	0.6 to 1													
20,000 sf or more	0.4 to 1													
OPTION 3: Maximum Unit Size	<p>Commentary: Limiting the floor area of individual dwelling units is another method for controlling the overall bulk and scale of the building. We do not recommend this approach because it could be overly restrictive. Having flexibility to have some larger and some smaller units will make it easier to design triplex and quadplex buildings, to respond to site conditions, and to provide flexibility for people who want to live in one unit and rent out others. (Note: The standard below is adapted from Tigard’s Quad standards.)</p>			<p>Duplex –</p> <p>Triplex, Quadplex –</p>										
	-- (See general statement under Section B.)	<p>The maximum square footage of each dwelling unit is:</p> <ol style="list-style-type: none"> For a triplex: [1,200 sf]; For a quadplex: [1,000 sf]. 												

Standard	Model Code			Minimum Compliance
	Duplex	Triplex	Quadplex	
OPTION 4: Bulk Plane Regulations	<p><i>Commentary: Bulk plane is a unique and interesting approach used by the City of Denver, which has an entirely form-based development code. However, we do not recommend this option because the regulations are complex and would be quite complicated to administer. This option may be considered as an alternative approach that jurisdictions could use to regulate building bulk/scale. (Note: The bulk plane standards are not fully fleshed out here; rather, the concept is presented more generally for the sake of discussion with the MCTAC.)</i></p>			Duplex – Triplex, Quadplex –
	-- (See general statement under Section B.)	<p>A bulk plane is an imaginary line sloping from the perimeter of the lot toward the center of the lot which establishes a sloped maximum height standard along that plane. No portion of the building may exceed the height of the bulk plane.</p> <p>Denver’s system varies bulk plane requirements based on the neighborhood context of the zone, such as Suburban, Urban Edge, or Urban. There are two components to the bulk plane standard: the Bulk Plane Vertical Height, which is the height at which the sloped bulk plane originates, and the Bulk Plane Slope, which is the degree of the angle of the bulk plane (see Figure 1). See Figure 2 for an example of the bulk plane for an urban house and Figure 3 for an example of the bulk plane for a suburban house.</p>		
	<div style="display: flex; justify-content: space-around;"> <div style="text-align: center;"> <p>Figure 1. Bulk Plane Measurements, City of Denver</p> </div> <div style="text-align: center;"> <p>Figure 2. Bulk Plane for an Urban House, City of Denver</p> </div> </div>			

Standard	Model Code			Minimum Compliance
	Duplex	Triplex	Quadplex	
	<p>Figure 3. Bulk Plane for a Suburban House, City of Denver</p>			
8. <u>Off-street Parking.</u>	No off-street parking is required for a duplex permitted pursuant to this code.	<p>Commentary: For triplexes and quadplexes, we are presenting three options for minimum parking requirements, intended to be commensurate with the draft standard for duplexes (no minimum parking). Option 1 would require no minimum parking; Option 2 would require the same amount of parking as for a single-family detached dwelling; and Option 3 would require either one or two spaces, but also offer a credit for on-street parking.</p> <ul style="list-style-type: none"> • OPTION 1: No off-street parking is required for a triplex or quadplex permitted pursuant to this code. • OPTION 2: <ol style="list-style-type: none"> a. <u>Required Off-street Parking.</u> The minimum number of required off-street parking spaces is: <ol style="list-style-type: none"> i. For a triplex, one (1) space; ii. For a quadplex, two (2) spaces. A credit for on-street parking shall be granted for some or all the required off-street parking as provided in Subsection b. No additional parking spaces shall be required for conversion of a single-family detached home to a triplex or quadplex. b. <u>On-Street Credit.</u> If on-street parking spaces meet all the standards in Subsections i-iv below, they shall be counted toward the minimum off-street parking requirement. <ol style="list-style-type: none"> i. On-street parking must be allowed on the side of the street where the space is to be provided. ii. The space must be a minimum of 22 feet long; iii. The space must be abutting the subject site; and iv. The space must not obstruct a required sight distance area. 		<p>Duplex – A local government may not require more than a total of two (2) off-street parking spaces. <i>(draft OAR 660-046-0105.5.a for Med Cities)</i></p> <p>Triplex – A local government may not require more than a total of three (3) off-street parking spaces.</p> <p>Quadplex – A local government may not require more than a total of four (4) off-street parking spaces.</p> <p>Nothing in this section precludes a local government from allowing on-street parking credits to satisfy off-street parking requirements. <i>(draft OAR 660-046-0105.5.b for Med Cities)</i></p>

Standard	Model Code			Minimum Compliance
	Duplex	Triplex	Quadplex	
		<ul style="list-style-type: none"> OPTION 3: The total number of off-street parking spaces required for a triplex or quadplex is the same as the total number of off-street parking spaces required for a detached single-family dwelling in the same zone. <i>(Note: The on-street parking credit could be offered in conjunction with this option as well.)</i> 		
C. Design Standards	<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 those standards conflict with this code.</p> <p>Other design standards that the jurisdiction applies only to duplexes shall not apply to duplexes developed pursuant to this code.</p>	<p>Commentary: <i>Our initial recommendation is to regulate four basic design elements for triplexes and quadplexes: (1) entry orientation, (2) windows, (3) garages and off-street parking areas, and (4) driveway approaches. For all other design elements, we propose deferring to the jurisdiction's standards for single-family dwellings.</i></p> <p>New triplexes and quadplexes shall meet:</p> <ul style="list-style-type: none"> The design standards in subsections 1 through 4, below; and All other clear and objective design standards that the jurisdiction applies to detached single-family structures in the same zone, unless those standards conflict with this code. <p>Other design standards that the jurisdiction applies only to triplexes and/or quadplexes shall not apply to triplexes and quadplexes developed pursuant to this code.</p>		<p>Duplex – 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.</p> <p>A local government may not apply design standards to duplexes created through internal conversion of a single-family detached structure. <i>(draft OAR 660-046-0106 for Med Cities)</i></p> <p>Triplex –</p> <p>Quadplex –</p>
1. <u>Entry Orientation.</u>	-- <i>(See general statement under Section C.)</i>	<p>Commentary: <i>We suggest applying entry orientation standards to at least one building entrance for triplexes and quadplexes. Options 1 through 3 present various way of approaching the entry orientation standard, based on review of best practices from various jurisdictions' development codes.</i></p> <ul style="list-style-type: none"> OPTION 1: At least one main entrance for each structure must face a street property line. <i>(Adapted from Tigard's Quad standards.)</i> OPTION 2: At least one main entrance for each structure must be oriented toward a street, front lot line, or common open space that is adjacent to the street. <i>(Adapted from Salem's standards for three- and four-family uses.)</i> OPTION 3: At least one main entrance for each structure must: <ol style="list-style-type: none"> Be within 8 feet of the longest street-facing wall of the dwelling unit; and Either: <ol style="list-style-type: none"> Face the street. Be at an angle of up to 45 degrees from the street; or Open onto a porch. The porch must: 		

Standard	Model Code			Minimum Compliance
	Duplex	Triplex	Quadplex	
		<p>(A) Be at least 25 square feet in area;</p> <p>(B) Have at least one entrance facing the street; and</p> <p>(C) Have a roof that is:</p> <ul style="list-style-type: none"> No more than 12 feet above the floor of the porch; and At least 30 percent solid. This standard may be met by having 30 percent of the porch area covered with a solid roof, or by having the entire area covered with a trellis or other open material if no more than 70 percent of the area of the material is open. <p><i>Figure 4. Options for Entrance Standards, City of Portland</i></p> <p><i>(Option 3 adapted from Portland’s standards for single-dwelling residential zones; these apply to all structures in single-dwelling zones, including proposed new Residential Infill options.)</i></p>		
2. <u>Windows.</u>	-- <i>(See general statement under Section C.)</i>	<p>Commentary: We suggest a modest minimum window coverage standard for triplexes and quadplexes. Windows help create more interesting facades as well as enabling more “eyes on the street,” which can have benefits for crime prevention and perceptions of safety in residential areas, and allowing more natural light into the interior of the home.</p> <p>A minimum of 15 percent of the area of all street-facing facades must include windows or entrance 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 that moves and does not include the frame. <i>(Adapted from Tigard’s Quad standards and Portland’s standards for single-dwelling residential zones; both cities apply the same standard.)</i></p>		
3. <u>Garages and Off-street Parking Areas.</u>	-- <i>(See general statement under Section C.)</i>	<p>Commentary: The way in which vehicle parking is integrated into a development has a substantial impact on the appearance of the development from the street. We propose standards that limit the width of parking areas and/or garages, and potentially that regulate how close garages can be</p>		

Standard	Model Code			Minimum Compliance
	Duplex	Triplex	Quadplex	
		<p><i>to the street, relative to the dwelling units. The intent is to promote a pedestrian-friendly environment by limiting the dominance of vehicle storage on the site. Three optional approaches are presented below.</i></p> <ul style="list-style-type: none"> OPTION 1: Off-street vehicle use areas shall not exceed 50 percent of the buildable width along each street. <i>(Adapted from Salem’s standards for three- and four-family uses.)</i> OPTION 2: Garages on the front facade and off-street parking areas in the front yard, are permitted in compliance with the following standards: <ol style="list-style-type: none"> Outdoor on-site parking and maneuvering areas shall not exceed a total of forty feet wide or fifty percent of the lot frontage, whichever is less; and The combined width of all garages shall not exceed forty feet or fifty percent of the lot frontage, whichever is less. <p><i>(Adapted from Oregon City’s standards for 3-4 plexes.)</i></p> OPTION 3: <u>Garage Door Standards.</u> <ol style="list-style-type: none"> The maximum combined garage door width facing the street is 50 percent of the total building width. In addition to complying with the front setbacks for the respective zoning districts, the front of the garage or carport can be no closer to the front lot line than the longest street-facing wall of the dwelling unit that encloses livable space, except that: <ol style="list-style-type: none"> If there is a covered front porch, the garage or carport can extend up to five feet in front of the enclosed livable space, but no further than the front of the porch. A garage or carport may extend up to 10 feet in front of the enclosed livable space if there is enclosed livable space or a covered balcony above at least a portion of the garage or carport. <p><i>(Adapted from Bend’s standards for duplexes and triplexes.)</i></p> OPTION 4: Triplexes and quadplexes developed pursuant to this code shall not be subject to mandates for construction of a garage or carport. <i>(Note: Option 4 could be combined with any of the other options.)</i> 		
4. <u>Driveway Approach.</u>	-- <i>(See general statement under Section C.)</i>	<p>Commentary: <i>Similar to proposed garage and parking area standards, we suggest limiting driveways for triplexes and quadplexes. The proposed standards are adapted from Bend’s standards for duplexes and triplexes. When applied to corner lots, these provisions currently are not entirely consistent with the objective of having at least one entrance fronting the adjacent street. To the extent this is a priority, additional changes may be needed.</i></p> <p>Triplexes may have a maximum of [three] driveway approaches and quadplexes may have a maximum of [four] driveway approaches in compliance with the following:</p>		

Standard	Model Code			Minimum Compliance
	Duplex	Triplex	Quadplex	
		<ul style="list-style-type: none"> a. The total width of all driveway approaches must not exceed 32 feet per frontage, as measured at the line. For lots or parcels with more than one frontage, see subsection 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. For lots or parcels abutting an improved or improvable alley, access must be taken from the alley. ii. Lots or parcels with frontages only on collectors and/or arterial streets may have one driveway approach. iii. Triplexes and quadplexes 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. Conversions to Duplex, Triplex, and Quadplex	<p><i>Commentary: Proposed language is the same as the draft Medium Cities Model Code, with added references to triplexes and quadplexes.</i></p> <p>Conversion of an existing detached single-family structure to a duplex, triplex, or quadplex is allowed, pursuant to Chapter 1, Section C (Applicability), provided that the conversion does not increase nonconformance with applicable clear and objective standards.</p>			Same as model code.

Supplemental Information: Floor Area Ratio (FAR)

Floor Area Ratio (FAR) is a ratio of the floor area in the structure (usually the livable space) to the square footage of the site. The city currently uses FAR to regulate the size of commercial and mixed-use buildings in some zones. A maximum FAR standard works by limiting the size of a building in proportion with the size of the lot. Figure 5 provides an abstract illustration of FAR.

Figure 5. FAR of 1 to 1 (Salem, OR).

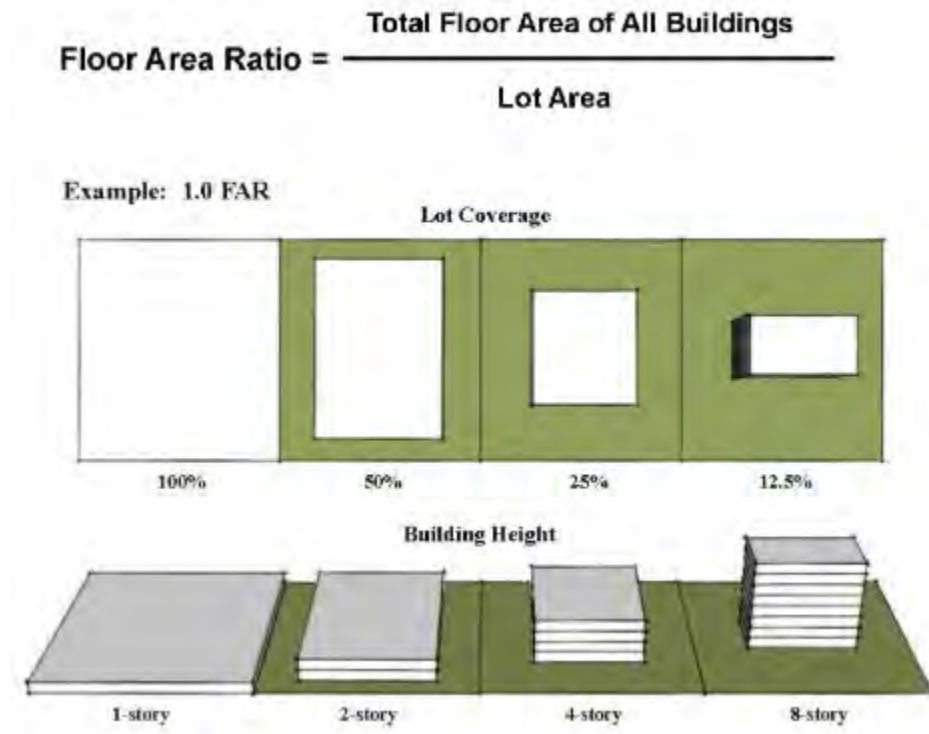
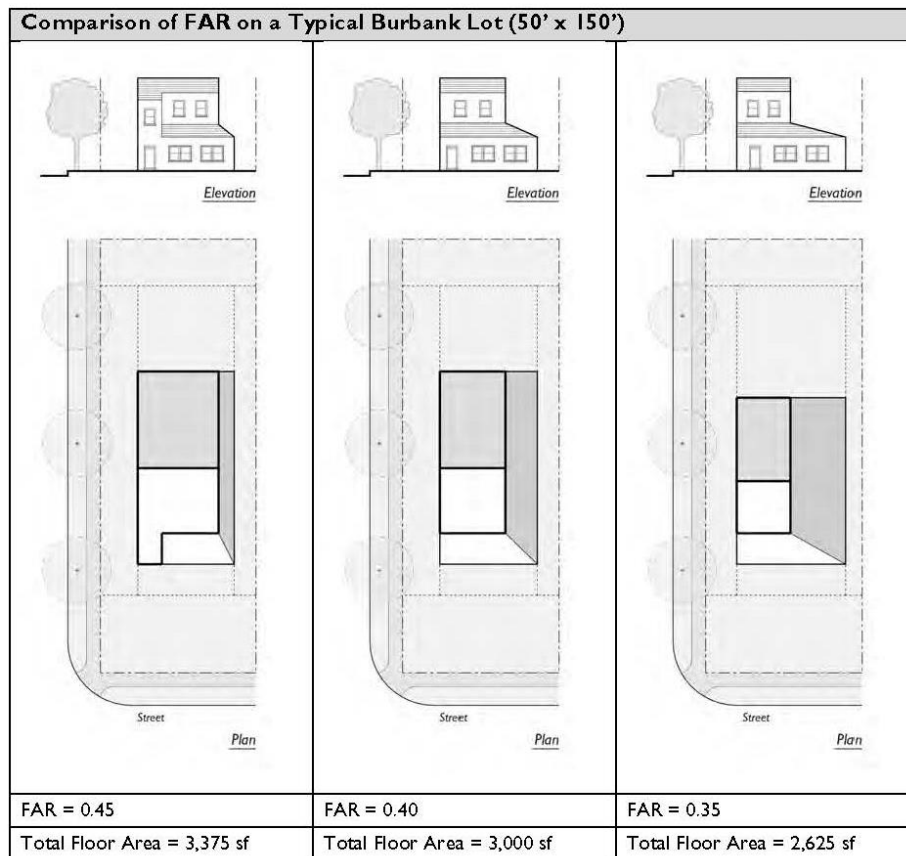


Figure 6 provides an example of a house meeting three different FAR standards on the same size lot.

Figure 6. Example of various FAR amounts (Burbank, California)



Note: Portland and Bend both apply FAR in their single-dwelling/low-density zones.

The primary advantage of FAR is that it balances compatibility and flexibility. FAR ensures relatively consistent size of buildings but provides flexibility in how floor area is distributed across the site and across multiple units. Two buildings with the same FAR on the same or similar-sized lot can look very different and include a range of dwelling sizes, but the overall bulk and scale of the buildings will be generally similar.

The following tables provide examples of what the maximum allowable building sizes would be based on Options 2a and 2b for Maximum FAR standards. Maximum building sizes are calculated based on several example lot sizes. The tables also identify what the resulting average unit sizes would be for triplexes and quadplexes.

Option 2a: FAR of 0.6 to 1

Example lot size (sf)	Max building size (sf)	Avg Unit Size (sf)	
		Triplex	Quadplex
3,000	1,800	600	450
5,000	3,000	1,000	750
7,000	4,200	1,400	1,050
10,000	6,000	2,000	1,500

20,000 | 12,000 | 4,000 3,000

Option 2b: FAR scaled based on minimum lot size in the zone

Standard Min lot size in zone	FAR	Example lot size (sf)	Max building size (sf)	Avg Unit Size (sf)	
				Triplex	Quadplex
<3,000 sf	0.9	1,500	1,350	450	338
		2,000	1,800	600	450
		2,500	2,250	750	563
3000 sf - <5000 sf	0.7	3,000	2,100	700	525
		4,000	2,800	933	700
		4,500	3,150	1,050	788
5000 sf - <20,000 sf	0.6	5,000	3,000	1,000	750
		10,000	6,000	2,000	1,500
		15,000	9,000	3,000	2,250
20,000+ sf	0.4	20,000	8,000	2,667	2,000
		25,000	10,000	3,333	2,500
		30,000	12,000	4,000	3,000

Floor Area Ratio Examples

The following examples are intended to illustrate FAR based on several building prototypes. These four examples calculate what the FAR would be if you placed the prototypes on lots of various sizes. Prototypes include triplexes and quadplexes in both side-by-side and stacked configurations. FAR calculations are highlighted in yellow.

1. Triplex, side-by-side (source: <https://www.houseplans.pro/plans/plan/t-419>)



Building Info	Lot size	FAR
Total size: 3,780 sf	4,000 sf	0.95
Unit size: 1,260 sf (3 bedroom)	5,000 sf	0.76
Height: 26 ft	7,000 sf	0.54

10,000 sf	0.38
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2. Triplex, stacked (source: <https://www.thehouseplanshop.com/027m-0019.php>)



<u>Building Info</u>	<u>Lot size</u>	<u>FAR</u>
Total size: 3,011 sf	4,000 sf	0.75
Unit size: 2x 1,010 sf (2 bedroom)	5,000 sf	0.60
1x 991 sf (2 bedroom)	7,000 sf	0.43
Height: 35 ft	10,000 sf	0.30
	20,000 sf	0.15

3. Quadplex, side by side (source: <https://www.thehouseplanshop.com/031m-0090.php>)



<u>Building Info</u>	<u>Lot size</u>	<u>FAR</u>
Total size: 5,108 sf	4,000 sf	1.28
Unit size: 1,277 sf (3 bedroom)	5,000 sf	1.02
Height: 25 ft	7,000 sf	0.73
	10,000 sf	0.51
	20,000	0.26

4. Quadplex, stacked (source: <https://www.thehouseplanshop.com/027m-0067.php>)



<u>Building Info</u>	<u>Lot size</u>	<u>FAR</u>
Total size: 4,610 sf	4,000 sf	1.15
Unit size: 2x 1,571 sf (3 bedroom)	5,000 sf	0.92
2x 734 sf (1 bedroom)	7,000 sf	0.66
Height: 33 ft	10,000 sf	0.46
	20,000 sf	0.23

Rulemaking Advisory Committee Meeting #6

May 7, 2020; 11:00 am – 3:00 pm

Department of Land Conservation and Development (DLCD)

Zoom Virtual Meeting



Public Comment Summary March 27 – April 30, 2020

Date	Commenter	Commenter Type	Comments Summary	Comment Type
4/7/2020	Derrick Tokos	RAC	Provides an example of a multi-unit, market rate development in Newport that has been delayed in construction due to a freeze on construction loans. Recommends consideration by HPSTAC of larger economic forces affecting housing provision.	Email
4/7/2020	Theresa Cherniak	RAC	Includes a series of recommendations to the Model Code including: <ul style="list-style-type: none"> - Purpose: Clarify singular "duplex" instead of "duplexes" and add "infrastructure" in the alternative approaches - Definitions: Recommends narrowing the proposed wording for "unreasonable cost or delay" - Definitions: Recommends adding "primary" to the duplex definition and removing the reference to ADUs - Definitions: Question about how "zoned for residential use" applies in jurisdictions with a unified comp plan/zoning map - Applicability: Language suggestions to the alternative approaches - Development and Design Standards: Language suggestions - Public Works Standards: Indicate C&O standards applicable to single family dwellings applies to duplexes and that many cities do not control public works - Minimum lot Size: Considers that minimum lot size should not be included in the model code per LUBA No. 2019-115 - Off-street parking: Recommends addressing parking on a per unit basis and allowing jurisdiction to impose additional parking requirements. 	Letter

4/8/2020	Rebecca Small	Staff	Letter advocates allowing the provision of detached tri- and quad-plexes to provide additional flexibility for middle housing development.	Letter
4/9/2020	Lynne McConnell	RAC	Encourages the following revisions to the Medium Cities Model Code and Administrative Rules and to carry changes to the Large and Metro Cities Model Code: <ul style="list-style-type: none"> - Revise duplex definition to allow for attached/detached duplex dwellings (and follow suit for tri and quadplexes) - Delete reference to Accessory Dwelling Units in the duplex definition - Define "conflict" between the rules/model code an local code - Define what it means to "consider" measures required in OAR 660-046-0030(2) 	Letter
4/9/2020	Heather Richards	RAC	Information on the average duplex size over the past ten years for duplexes permitted in McMinnville.	Email
4/10/2020	Kimberli Fitzgerald	RAC	A letter from Salem Planning Staff providing comments on the most recent draft of the model code and administrative rules. General comments: <ul style="list-style-type: none"> - Suggests clarifying "detached single-family dwelling" to ensure it includes Accessory Dwelling Units - Indicates that current definition of "unreasonable cost or delay" would preclude the application of reasonable standards for tri- and quadplexes Goal 5 - Historic Resources: <ul style="list-style-type: none"> - Suggests clarifying "unreasonable cost or delay" definition with the provision of goal exception language - Suggests the provision of language in the model code for properties listed on the National Register of Historic Places 	Letter
4/12/2020	Mike Reeder	Public	Provides clarification on the existing legal framework for "unreasonable cost or delay". In general, it is: <ul style="list-style-type: none"> - Essentially ignored by local governments and practitioners - Overshadowed by the "clear and objective" requirement - Difficult to apply; it requires fact-based 	Email

			analysis to determine He believes it should be applicable to standards/procedures which add cost without serving a compelling purpose (e.g. a tree inventory without preservation requirements)	
4/13/2020	Peggy Lynch	RAC	Testimony on IBTERTAC Meeting 4 Packet Materials. Suggests ensuring fire and life safety standards remain effective. Recommends broader conversation on the RAC regarding equity in relation to underinvested areas. Also recommends incorporating HPS Strategies to address infrastructure deficiencies.	Email
4/20/2020	Peggy Lynch	RAC	Recommends allowing jurisdictions to select areas higher-level middle housing may be sited. Question as to whether constrained lands and infrastructure-deficient areas are the only criteria that can be used to exclude middle housing from areas. Additionally, asks how an issue raised by Washington County regarding allowing some building on a lot they would otherwise not allow is addressed in rule.	
4/21/2020	Kimberli Fitzgerald	RAC	Includes questions and comments from City of Salem staff including: - Desired clarification for minimum compliance for design standards for tri- and quad places - Model code includes impervious surfaces in lot coverage in calculations - could impose barriers. - Clarify what "other criteria" in the applicability section refers to with regard to where tri- and quadplexes are located - The Model Code indicates a minimum lot size that is no less than that of SFD, clarify it's relationship with minimum lot standards that cities could impose. - "Unreasonable cost and delay" definition would preclude newly adopted design standards for tri- and quadplexes - Clarify in applicability whether middle housing can be converted into another middle housing type.	

From: [Derrick Tokos](#)
To: [Stuckmayer, Ethan](#)
Cc: [Young, Kevin](#); [Phipps, Lisa](#); [Edging, Sean](#)
Subject: FW: Wyndhaven Ridge
Date: Tuesday, April 7, 2020 11:12:08 AM

Hi Ethan,

I wanted to bring this example to your attention, as it seems relevant to the work you are doing. Wyndhaven Ridge is a 66-unit, market rate multi-family project on the north side of Newport that is just about finished with plan review. The developer was trying to get their construction loan in place so that they could pull permits for the apartment buildings by April 15th.

Hopefully, the freeze by this lender on construction loans is as temporary as the developer hopes it will be, and that this is not indicative of a larger trend. This particular developer also shared with me that he is concerned about supply chain disruptions and is planning to front load the purchase of construction materials as a hedge.

As you move forward with your work with the Housing Production Strategy Technical Advisory Committee, it would be helpful if there could be consideration about how large scale economic factors that influence the production of housing, such as a disruption to construction lending, should be factored into the reporting and monitoring program.

Derrick I. Tokos, AICP

Community Development Director

City of Newport

169 SW Coast Highway

Newport, OR 97365

ph: 541.574.0626 fax: 541.574.0644

d.tokos@newportoregon.gov

From: Todd Woodley <toddw@woodleyresources.com>

Sent: Tuesday, April 07, 2020 8:33 AM

To: Derrick Tokos <D.Tokos@NewportOregon.gov>

Subject: Wyndhaven Ridge

Derrick,

Just to give you an update as it relates to being permitted, our lender has put a hold on all construction loans for the time being. They have indicated a re-visit May 1, so we won't be needing to obtain permits until at least May 1, and likely delayed out to May 15th.

That being said, we are overnight mailing you the revised public plans. We will want to continue with this approval process as we would like to be able to construct public improvements once we're bank approved. Also, we're hoping to get going as soon as May 15th on concrete, so we'll still want to process this as soon as possible.

We also expect revised private set drawings for Site grading, sewer, domestic water, and storm sewer. Hoping to have those submitted by early next week as well.

Thanks,
Todd

Todd Woodley
503-931-3894



April 7, 2020

TO: Ethan Stuckmayer, Senior Housing Planner

FROM: Theresa Cherniak, Principal Planner

SUBJECT: COMMENTS ON DUPLEX MODEL CODE AND OARS

Thank you for the opportunity to participate on the Rulemaking Advisory Committee and to comment on the draft Duplex Model Code language for Medium Cities and proposed OARs. Many of these comments have been made at the RAC or TAC meetings, but I wanted to get them into the record and provide final comments before this moves forward to the Commission. Most are in the form of suggested track changes, though some include further comments and questions. They are organized by section, based on the March 23, 2020 version of the documents. I am happy to talk further about any of the suggestions should clarification be needed.

Model Code

A. Purpose:

Should read: “...a duplexes on a lots which allows a detached single family dwellings.”
HB2001 talks about a duplex, not multiple duplexes. Terms can be confusing and misused if not properly framed. The plural could be taken to mean that multiple duplexes would be allowed on a lot, which isn’t the intent of staff or of HB2001.

Alternative approaches 1., add as follows “...with lower transportation, infrastructure, and public service costs.”

B. Definition: Unreasonable cost and delay

This is a tough concept to define in a clear and objective way and will definitely be different for a duplex versus the remaining types of middle housing. This definition should just reference a duplex, as worded it applies to all middle housing and to an entire development of duplexes, which is different from a duplex. Additionally, further thought should be given to defining what would be considered a “burden” – unfortunately I don’t have a great suggestion but do have concerns with the terminology. Suggested rewording is as follows:

*“Unreasonable cost and delay means any standard, approval criteria or process that imposes **additional burden** upon development of middle housing a duplex development above the **burden** placed upon development of a single family detached dwelling development in the same zone.”*

B.2. Definition: Duplex.

I continue to recommend that “primary” be inserted, “...*a detached structure on a lot or parcel that is comprised of two primary dwelling units...*”

If this term is inserted, there is no need for the additional language about ADU’s, though the two could live together in the section. This is the language jurisdictions use to distinguish between a primary use and a secondary use. In the case of a duplex, both units are primary units – neither is secondary or lesser than the other. In the case of an ADU, by definition the ADU is secondary and accessory to the primary unit.

If the language stays in its current form, it might be clearer to say “...*In instances where a building structure can meet this definition of a duplex as well as ~~and also meets~~ the jurisdiction’s definition of a primary dwelling unit with an ~~attached or internal~~ accessory dwelling unit...*”

Minimum Compliance column: Based on your response at the RAC meeting, I’d request the following restatement: “...~~The~~ Definitions must distinguish a duplex from a combination of a single family detached unit and an ADU...” to clarify that this doesn’t have to be in the duplex definition but can be done in a different way. For instance, the County would intend to define a duplex as two primary units in a structure and retain our separate ADU definition. By reading each definition, one can see and understand the differences. While I believe it would be problematic to require jurisdictions to tie the ADU and duplex definitions together in the code, promotional materials could discuss the different options that people have.

B. 3. Definition: Zoned for residential use

Some jurisdictions in the Metro area (unsure of other areas of the state) use a one map system where there is a Comprehensive Plan map that identifies land use districts but no separate Zoning map. Is the language generic enough that it would apply to all jurisdictions, whether they have a Zoning map or not?

C. Applicability

Same comment as in A., above (singular duplex).

Alternative Approaches –

- use “may” rather than “should”
- First bullet – “*Allowing duplexes units to have...*” [If intent is that ADU would be allowed for each duplex unit, not one for the duplex as a whole]
- It is unclear what is meant by the third bullet

D.2. Relationship to other regulations. Development and Design Standards.

Should read “*A duplexes developed under this model code ~~is are~~ subject to the following standards:...*”

Same comment on last bullet (singular duplex)

D. 3. Public Works Standards

- The converse should also be noted – that clear and objective public works standards applied to a single-family dwelling (SFD) can also be applied to a duplex.
- Many public works standards will not be controlled by the local jurisdiction.

E. Permitted Uses and Approval Process

This is where the singular form is particularly important. I suggest the model code section read:

“A duplexes shall be permitted outright on a lots or parcels zoned for residential use that allows for the development of a single family dwellings. A duplexes shall be subject to the same approval process as the local jurisdiction applies to a detached single family dwellings in the same zone...”

Additionally, I’d suggest the following change: *“...subject to discretionary standards and criteria if such a two-track process is available”* to clarify that this is only if a two-track (discretionary or nondiscretionary) process is offered by a jurisdiction.

F.1. Development Standards: Minimum lot size.

This section should consider implications of LUBA No. 2019-115. That decision parses the terms ‘siting’ and ‘design’ in detail, and specifically found that requirements for the following are not siting and design regulations (at all – reasonable or otherwise):

- minimum lot size
- Lot dimension/shape

The order appears to deem things extraneous to the site itself not to be siting and design standards.

As such, it seems minimum lot size should not be addressed in the Model Code. The minimum lot size at Washington County is only for a new lot that's part of a land division. Minimum lot size wouldn't apply to other existing lots of record that might be smaller but where a new detached SFD could still be allowed. A possible alternative would be to say that a duplex is allowed on a residential lot where the jurisdiction would allow a detached SFD. This IS noted in the Applicability section, but that is not a standard.

F.5. Development and Design Standards. Off-Street Parking

Minimum Compliance column: The statement should be clarified whether the *“...off-street parking spaces for a duplex”* is per unit or per duplex. The premise for duplex regulations is that they be no more onerous than those for a single family dwelling. For fairness and maximum flexibility for jurisdictions, I would suggest that this be on a per unit basis.

One cannot assume that duplexes will be small units or house fewer people than an SFD, and in fact many new duplex units currently being built appear to be as large as many single family homes. Many jurisdictions require more than one off-street parking space per SFD and have valid reasons for such requirements, and therefore may also wish to require more than one

off-street parking space per duplex unit. They may also wish to reduce the requirement. The point is it should be a local decision, with the limitation that it be no more than required for an SFD per unit.

Other Comments:

1. Alternative Approaches:

Generally, these should use the term “may” rather than “should”, since these are potential approaches and not necessarily recommended approaches.

2. Draft Oregon Administrative Rules

- Comments listed above for the Duplex Model Code also apply to the draft OARs
- Applicability – 2. A. should include “mixed use”

S:\WPSHARE\Housing\HB2001& HB 2003\Rules Advisory Committee\RAC_5_Meeting\ DuplexModelCodeComments_040620.docx

Ethan Stuckmayer
Oregon Department of Land Conservation and Development
635 Capitol St NE # 150
Salem, OR 97301

April 8, 2020

RE: HB 2001 LMC Model code for Middle housing - Detached Plexes

As a group that includes policy makers, planners, builders, developers, and architects, we recommend that DLCD adopt Large & Metro Cities Model Code (LMC) language that will maximize development site opportunities and avoid unnecessary barriers that would prevent HB 2001 from achieving its housing development potential.

We support model code language that allows the development of both attached plexes and detached plexes. Our sense is that rulemaking advisory committee members have not had policy disagreements about allowing detached vs. attached units. Defaulting to an attached unit definition was proposed in the interest of conforming to a commonly used definition. However, requiring that plexes be structurally attached may not be as effective a standard in terms of actual housing production or greenhouse gas reduction. Instead, example code language should be:

Configurations of two, three or four attached and detached units are allowed on properties subject to the LMC.

To accompany this change, DLCD would also need to clarify the meaning of ‘detached single family dwelling’ in SB1051 so that ADUs are not automatically allowed for each unit of a detached plex.

Rationale

Detached plex development options offer significant advantages in terms of housing production opportunity and greenhouse gas emissions reduction. Here’s why:

1) Detached Plex development can make middle housing production feasible on more lots

Most new attached unit development will require the demolition of any existing home. However, a recent study by Redfin¹ concluded that only 1.4% of single family homes on the market will be desirable candidates for total site redevelopment. For detached plex development, however, any interested homeowner whose property fits the basic size requirements (and isn’t located on constrained land) may

¹ <https://www.redfin.com/blog/oregon-upzoning-bill-impact-housing-supply/>

pursue development on their property while still remaining in their primary dwelling. A 2017 analysis² by Portland State University demonstrated that there are currently 70,000 such sites within the City of Portland that have the necessary conditions to build additional detached units.

With detached plexes, homeowners can add additional units on their property incrementally as their resources permit while maintaining residence in their primary dwelling on-site. Detached plex development enables average homeowners to participate in middle housing production even while the owners still occupy the primary dwelling. This creates abundant site opportunities and a large pool of potential ‘mom and pop’ developers. This is akin to ADUs, which are largely added by homeowners instead of professional developers, at a 90% to 10% ratio.³

Conversely, opportunities to produce attached 3- and 4-plexes via whole site redevelopment works only for real estate investors/developers. Such opportunities will be largely relegated to professional developers who have the experience and financing to take on larger-scale, \$750K-\$1M site redevelopment projects. These sites are extremely limited by the current selection of homes on the market and effectively require redevelopment of an entire property all at once.

While an attached plex code will likely allow internal conversions and structural additions to an existing single-detached family home, this is an unrealistic way to provide very much middle housing. Due to size and design limitations, even simple internal ADU conversions can be challenging and comprise only 25% of ADU production in Portland.

2) Detached plex development gives flexibility for site development challenges

Allowing detached plex developments provides builders with options on challenging sites where requiring an attached structure would effectively prohibit development altogether. A summary provided by the Bend planning department includes:

- Flexibility of detached plex development allows for tree preservation and topographic site challenges.
- Privacy preferences: Detached development not sharing a wall; easier potential for separate outdoor areas.
- Provides option to convert the garage, build above it, or tear down the garage and use that same location for the 2nd units

3) Detached plex developments allow for the preservation of the existing primary structure.

Allowing detached plexes incentivizes preservation of existing homes. Preserving homes and retaining existing building materials prevents the production of new building materials and the GHG emissions

² <https://www.pdx.edu/sustainability/solutions-blog/maps-show-30-percent-of-portland-lots-could-host-backyard-homes> PSU's research tallied sites that had 917 sq ft of buildable area in the back yard and were not in hazardous areas.

³ <https://accessorydwellings.org/2019/01/14/adu-permit-trends-in-portland-in-2017-and-2018/>

associated with their production. The vast majority of GHG emissions from building materials occurs during their production - making the preservation of existing structures and materials a key strategy to reducing GHGs of the building sector.

“Building reuse almost always offers environmental savings over demolition and new construction. Moreover, it can take between 10 and 80 years for a new, energy-efficient building to overcome, through more efficient operations, the negative climate change impacts that were created during the construction process.”⁴

In 2017, Seattle hired ECONorthwest to analyze the effects of a zoning reform to allow up to two ADUs per lot. The study⁵ concluded that making it more feasible to build detached accessory homes reduced the chance that it would be profitable to demolish the existing structure, forecasting a total 11 percent drop in demolitions⁶ simply by increasing the potential for backyard structures. The drop in demolitions existed in neighborhoods at all price levels modeled.

4) Detached plex structures can preserve familiar aesthetics while enabling middle housing development, just like ADUs.

Size-constrained detached dwellings (e.g. ~1,000 sq ft detached units) are more politically palatable in existing low-density neighborhoods. Provided the additional detached units have some size constraints, detached plex development may not cause as much resentment regarding the 'change in character of neighborhoods' because detached development enables the preservation of the existing primary dwelling, and the additional units will be less visible to pedestrians, akin to detached ADUs.

5) Attached triplexes and fourplexes are complicated by building code requirements, especially when preserving the primary dwelling

Most small-scale multi-plex developments are built under the residential code using townhouse provisions with solid fire wall separations between dwellings. This approach is very difficult if not impossible to implement in any scenario where an owner or developer wants to preserve the existing home. Fire walls have specific construction requirements that are difficult to retrofit, and they block existing windows and doors that provide light, egress, and yard access for existing homes. Even if commercial building code were used and fire sprinklers installed at great expense, these issues remain.

In contrast, detached structure(s) allow an existing home to remain as is, while still allowing any new multi-plex structure to implement fire separation and safety measures independently, ensuring middle housing on residential lots remains more financially attainable for ‘mom and pop’ developers, owners, and renters. It enables the existing pool of contractors and builders who specialize in common residential construction methods to implement these models without adding unnecessary complexities, ensuring these essential small businesses maintain access to these new housing market potentials.

⁴ From the Greenest building: Quantifying the Environmental Value of Building Reuse
<https://forum.savingplaces.org/HigherLogic/System/DownloadDocumentFile.ashx?DocumentFileKey=b6b14c78-e108-1931-3f6d-9df1a153f9e1&forceDialog=0>

⁵ http://www.seattle.gov/Documents/Departments/Council/M-AppADU_FEIS_2018_appendices.pdf

⁶ <https://www.sightline.org/2018/05/24/seattles-new-environmental-study-on-accessory-dwellings-obliterates-obstructionists-claims/>

In summary, detached plex development will assist in accomplishing these goals:

- maximize housing development opportunities
- reduce GHG
- enable more Oregonians to participate in building housing stock
- reduce building costs
- develop middle housing structures that are more consistent with existing neighborhoods
- provide builders with the flexibility to adapt to local conditions

We urge the DLCD to allow both attached and detached plex development in the model code for large and Metro cities.

Sincerely,

Metro Planning and Development Department
Homebuilders Association of Metropolitan Portland
City of Bend
Sightline Institute
1,000 Friends of Oregon
Orange Splot
Jet Planning
Ink:Built Architecture
Community Vision
Neighborhood Workshop
Portland Houseworks
Accessory Dwelling Strategies
Pozitive Properties NW
Blue Sky Property Northwest
Kaarin Knudson- Member of Technical Advisory Committee
Chris Pryor- Eugene City Councilor and member of the City of Eugene's
Housing Policy Board





CITY OF BEND

April 8, 2020

Ethan Stuckmayer
Oregon Department of Land Conservation and Development

RE: HB 2001 Rulemaking

Dear Mr. Stuckmayer,

The City of Bend would like to recognize the hard work of the Department of Land Conservation and Development staff and committees on the rulemaking to implement the middle housing requirements. The City of Bend supports the changes required by HB 2001 that provide Oregonians with more housing choices. These changes help implement the Bend City Council's goal of increasing the supply of shovel ready land available for housing and employment in alignment with the City's Comprehensive Plan by:

Permitting 3,000 units with the target of 1170 single-family units, 390 single family attached units and 1440 multi-family units by June 30, 2021.

The City of Bend encourages the following revisions to the Medium Cities Model Code and recommends the same changes be carried over into the Large & Metro Cities Model Code.

- Revise the definition for duplexes to include two dwelling units on one lot or parcel. For permitting purposes, these two dwelling units may be attached vertically or horizontally or detached.
 - For Large & Metro Cities, define triplexes and quadplexes similar to the proposed definition above for duplexes so that they may be attached or detached.
- Delete the reference to Accessory Dwelling Units (ADUs) in the duplex definition.
- Define "conflict" between the rules/model code and a local code. How would it be identified?

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MAYOR
Sally Russell

MAYOR PRO TEM
Bruce Abernethy

CITY COUNCILORS
Barb Campbell

Gena Goodman-Campbell
Justin Livingston
Bill Moseley
Chris Piper

CITY MANAGER
Eric King

In addition, the City of Bend supports the following changes to the Oregon Administrative Rules for both the Middle Housing in Medium Cities and Large & Metro Cities.

- Revise the definition for duplexes to include two dwelling units on one lot or parcel. For permitting purposes, these two units may be attached vertically or horizontally or detached.
 - For Large & Metro Cities, define triplexes and quadplexes similar to the proposed definition above for duplexes.
- Clearly state what the standards of review are for demonstrating that amendments to Development Codes and Comprehensive Plans were “considered” as stated in OAR 660-046-0030(2).

The City of Bend also requests clarification that the Alternative Approaches to be included in the model code are suggestions, not requirements. We’re requesting confirmation that the City will not be required to adopt findings as to whether the City will use an alternative approach or not.

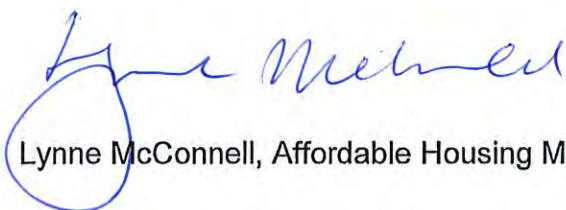
To further clarify the need to allow detached plexes, please find the attachment submitted to the advisory committees that summarizes comments from the City of Bend Planning Department regarding why applicants choose to develop a detached duplex.

Thank you for your time and consideration.

Sincerely,



Colin Stephens, Planning Division Manager



Lynne McConnell, Affordable Housing Manager

Attachment: Detached Duplexes

I asked the planners in the department why applicants prefer to construct a detached duplex instead of an attached duplex. The following are their responses:

- Primarily privacy concerns and desire to minimize the potential noise between residences.
- They already have a house on the lot and they are wanting to build a second full unit. The owner does not need to modify the existing house if the second dwelling is detached.
- Don't require fire walls/fire proofing (Bend requires six feet between units).
- In the case of adding a second unit to a lot with an existing unit, sometimes there's not a "good" wall to attach to; it could mean eliminating windows which may not be permitted for egress or, the room plain and simple needs windows, i.e., a living, room and the existing layout doesn't offer flexibility to relocate or reduce windows.
- If one unit is already existing, there may be lot constrictions, driveway location, or other reasons that the 2nd unit cannot easily be attached. For new construction, I would think attaching is economical and efficient.
- When I first bought my 1,500 square foot house on my 6,000 square lot RS zoned lot in 2004, the old Zoning Ordinance didn't even allow me to build an ADU. Now I can build an ADU (attached or detached) or a duplex. My lot has paved alley access, so if I eventually build an ADU or second dwelling unit, it will take access from the alley. By keeping the second unit detached, I should still have enough room for a small shared yard / patio / deck between my primary dwelling unit and my second dwelling unit.
- I just had a pre-app where the applicants were excited to learn that duplex/triplex are not required to share a wall, and as such, could be more compatible to the existing SFD form and development pattern of the existing neighborhood.
- More people would be inclined to duplex/triplex living if they have their own space and don't have to share a wall.
- More practical for lots with manufactured homes.
- For privacy and not sharing a wall with your neighbor and all their noises, in addition to working around existing conditions.
- They want to build above a detached garage.
- Topography and tree preservation.

- As others have pointed out, the Code was changed a number of years ago to allow a second dwelling to be added to a site with an existing single family dwelling without the requirement that they be attached. It is rare to find an existing single family dwelling where it makes sense to attach another house to a portion of it. There are access, grade, egress windows, firewalls, etc. to consider. It is two dwellings on one site either way. To require them to be attached will likely eliminate some infill opportunities.
- In the historic district it's all about preserving the original home on the property.



2017 – 10 duplexes

2018 – 12 duplexes

2019 – 17 duplexes

2020 – 4 duplexes to date

Since 2018 there have been 23 attached and 9 detached duplexes. (One of the 2020 duplex applications hasn't uploaded plans so I don't know if it is attached or detached.)

From: Heather Richards [mailto:Heather.Richards@mcminnvilleoregon.gov]

Sent: Thursday, April 9, 2020 12:34 PM

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

Subject: Duplex Size

Hi Ethan,

We ran our permit data for the last ten years for duplexes relative to size. We issued 52 permits for duplexes, average unit size was 1330 sf. Sizes ranged from 1800 sf to 1075 sf. Most appear to hover around 1300 – 1500 sf. We had one developer that built 14 duplexes at 1075 sf per unit, which were the smallest units built. Although we do not collect information about number of bedrooms, based on the size ranges it appears that most are 3-bedroom, 2 bath units or 2 bedroom, 2 bath units.

Have a great day!

Heather Richards, PCED

Planning Director

City of McMinnville

231 NE Fifth Street

McMinnville, OR 97128

503-474-5107 (work)

541-604-4152 (cell)

www.mcminnvilleoregon.gov

From: [Kimberli Fitzgerald](#)
To: [Edging, Sean](#); [Stuckmayer, Ethan](#)
Cc: [Lisa Anderson-Ogilvie](#); [Eunice Kim](#); [Bryce Bishop](#)
Subject: City of Salem comments - Middle Cities Model Housing and Administrative Rules
Date: Friday, April 10, 2020 11:18:08 AM
Attachments: [Middle Cities Model Housing and Administrative Rules. City of Salem Comments. 4.10.20.pdf](#)

Hi Sean and Ethan;

Attached please find our comments related to the Middle Cities Model Housing Code which in particular address some of the definitions as well as applicability sections related to Goal 5- Historic Resources. As we had discussed previously, we are recommending either a Goal exception or a minimum standard/model code language for historic. As I've noted in the attached comments, we want to ensure that jurisdictions have a clear and objective path to historic design review approval as it applies to the development of middle housing within historic districts (ie. only clear and objective standards apply) even if they choose to also offer a discretionary path.

We've also included some comments that I submitted during our last RAC meeting (to Ethan) regarding the initial review of the Large cities code.

Thanks again for working with us on this and enjoy your weekend!
Kimberli

*Kimberli Fitzgerald, AICP/RPA
Historic Preservation Officer/City Archaeologist
Historic Preservation Program Manager
503 540-2397 503 351-7578 (cell)
kfitzgerald@cityofsalem.net*

TO: Ethan Stuckmayer, Senior Housing Planner, DLCD
Sean Edging, Housing Policy Analyst, DLCD

FROM: Kimberli Fitzgerald, Historic Preservation Manager, RAC Member
Lisa Anderson-Ogilvie, Assistant Planning Director,
Eunice Kim, Long Range Planning Manager
Bryce Bishop, Planner II

DATE: April 10, 2020

RE: House Bill 2001: Medium Cities Model Housing Code and Administrative Rules

Thank you for the opportunity to participate in the rulemaking associated with the development of the Model Code, and to comment on the associated rules and minimum standards for medium sized cities. We have some general comments and recommendations and then some specific comments and recommendations related specifically to Goal 5 (historic) resources.

General Comments- Medium Cities

Definitions. The definition of “detached single-family dwelling or structure” seems to say that a single-family home with an attached/internal ADU is still a detached single-family dwelling (see highlight below). That does not make sense, and it is *not* consistent with the definition in the model code (see b. below). We would suggest changing the admin rules definition to match the model code definition or something like it.

- a. **Admin rules:** “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.”
- b. **Model code:** “Detached single-family dwelling or structure” means a detached structure on a lot/parcel that is comprised of a single dwelling unit.”

Comments – Goal 5 – Historic Resources

Our comments related to Goal 5 Historic Resources are specifically regarding the definitions and rules associated with the implementation of the following section of HB 2001: Section 2 (5) *Local governments may regulate siting and design of middle housing required to be permitted under this section, 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. Local governments may regulate middle housing to comply with protective measures adopted pursuant to statewide land use planning goals.

Proposed:

660-046-020 Definitions: *“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.”*

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

“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.”

Goal Exception Recommended

A majority of medium (and large) jurisdictions utilize discretionary historic guidelines and not clear and objective standards which will make it relatively impossible for these jurisdictions to meet the minimum requirements proposed under OAR 660-046-0103. However, establishing an exception to the clear and objective standard, similar to what is already adopted in ORS 197.307(5) would make it easier for these jurisdictions to comply.

If a goal exception is not feasible, then we would recommend instead that a minimum standard be established along with Model Code criteria, similar to what has been adopted for other design review issues that have been addressed.

Minimum Standard:

While the City of Salem already has historic design standards and a clear and objective process applicant can follow, many other jurisdictions do not, and therefore the minimum standard we recommend is that jurisdictions must provide a clear and objective path to approval. Specifically, jurisdictions who apply protective measures to Goal 5 resources as part of the development of middle housing shall ensure that the resource is not adversely affected or destroyed through the application of clear and objective design review standards. Hopefully this will be an incentive for them to develop their own clear and objective design standards, but if they do not, then we recommend the following model code language:

Recommended language for model code (middle housing) to ensure compliance with Goal 5(historic):

Alterations, additions and new construction to accommodate middle housing is allowed within established National Register or locally designated historic districts or within

individually listed National or locally designated historic sites and shall be evaluated for compatibility utilizing the following standards:

1. *Material.*
 - (A) *Exterior siding of the proposed alteration, addition and new construction shall match the appearance of the siding material of the primary resource.*
2. *Design.*
 - (A) *Alterations, additions and new construction shall be located on a secondary façade, which is one that is at the rear of the primary historic resource or is not visible to a person standing on the property line on the far side of any adjacent, at-grade public street.*
 - (B) *Alterations, additions and new construction shall be no taller than the primary historic resource and the added square footage shall be not more than 50% of the square footage of the existing primary historic resource.*
 - (C) *Alterations, additions and new construction shall be designed so no original window and door openings of the historic resource are obscured or destroyed.*

Additional General Comments – Large Cities

1. The definition of “**unreasonable cost and delay**” (below) seems to imply that we cannot apply any standard to triplexes and fourplexes, etc. if those same standards don’t also apply to single-family homes. That would mean we could not apply our recently-adopted special use standards for three- and four-family projects once those uses are allowed in single-family zones.
 - a. “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.
2. Under the **applicability** section, the draft refers to new triplex, fourplex, etc., and those created through conversions of an existing SF home. Would it also apply to a triplex, fourplex, etc. that is created through a conversion of an existing duplex, etc? or only if the existing structure is a single-family home?

From: [Mike Reeder](#)
To: [Edging, Sean](#)
Subject: RE: HB 2001 - Unreasonable Cost and Delay
Date: Sunday, April 12, 2020 9:05:52 AM
Attachments: [image004.png](#)
[The Nuts and Bolts of Needed Housing Presentation Notes.pdf](#)

Sean:

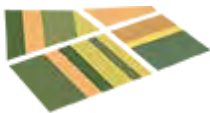
Thank you for the opportunity to provide testimony regarding the Rulemaking for HB 2001. Please include this email and the attachment to the record. Please note that the attachment is a bit dated and has my old contact information. My new contact information is below. Should you have any additional questions, please contact me directly.

Here are my general thoughts on the “unreasonable cost or delay” provision of the Needed Housing Statute:

- It is essentially ignored by local government (and by most private planners and attorneys)
- It is typically overshadowed by the “clear and objective standards” provision
- It is itself not clear and objective – who is to say what does or does not constitute unreasonable cost or delay?
- In quasi-judicial applications for housing, when applicable, I typically argue that some local government criteria that may otherwise be clear and objective are nevertheless not appropriately applied to a particular application for needed housing because the local code provision requirement serves no real purpose in light of the clear and objective requirement. I argue that any expense (regardless of the actual dollar amount) for a study (such as a Traffic Impact Analysis or tree inventory) that serves no purpose because it is not clear and objective, violates the “unreasonable cost or delay” provision because to require an applicant to expend resources on such is by itself, unreasonable.
- In my experience, I generally have not had the need or opportunity to advance an unreasonable cost or delay case past the local government stage – and given the very limited caselaw on the subject it is clear that it is a speculative (and somewhat toothless) provision
- It is a very fact specific analysis – see *Home Builders Association of Lane County v. Eugene*, 41 Or LUBA 370, 422 (2002)

Respectfully,

Mike Reeder



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Oregon Land Use Law

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Oregon APA Legal Issues Workshop

December 2, 2016

Portland Building Auditorium

The Nuts and Bolts of Needed Housing **Presenters: Anne C. Davies and Micheal M. Reeder**

Prepared by:

Micheal M. Reeder
Arnold Gallagher P.C.
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Eugene, Oregon 97401
(541)484-0188
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State-wide Planning Goal 10 Definition of Needed Housing

Goal 10 (OAR 660-015-0000(10)) defines “Needed Housing Units” as follows:

“***Needed Housing Units*** -- means housing types determined to meet the need shown for housing within an urban growth boundary at particular price ranges and rent levels. On or after the beginning of the first periodic review of a local government’s acknowledged comprehensive plan, “needed housing units” also means government-assisted housing. For cities having populations larger than 2,500 people and counties having populations larger than 15,000 people, “needed housing units” also includes (but is not limited to) attached and detached single-family housing, multi-family housing, and manufactured homes, whether occupied by owners or renters.”

Goal 10 Rule Definition of Needed Housing

The Goal 10 administrative/interpretive rule (OAR 660, Division 8) defines “Needed Housing” as follows:

“(6) ‘Needed Housing’ means housing types determined to meet the need shown for housing within an urban growth boundary at particular price ranges and rent levels, including at least the following housing types: (a) Attached and detached single-family housing and multiple-family housing for both owner and renter occupancy; (b) Government assisted housing; (c) Mobile home or manufactured dwelling parks as provided in ORS 197.475 to 197.490; (d) manufactured homes on individual lots

planned and zoned for single-family residential use that are in addition to lots within designated manufactured dwelling subdivisions; and (e) Housing for farmworkers.”

Needed Housing Statute – ORS 197.307

In addition to Goal 10 and the Goal 10 Rule, the Oregon Legislature adopted what has been labeled the “Needed Housing Statute”, ORS 197.307. Adopted in 1981 the Needed Housing Statute was a codification of the Land Conservation and Development Commission’s “St. Helens” housing policy. The purpose of the St. Helens Policy was to assure the provision of adequate numbers of needed housing types in a community at least cost, while retaining the flexibility for the community to set standards for approval and attach special conditions to particular development proposals when appropriate.

Related Statute – ORS 227.173(2)

This statute clarifies that when cities impose approval standards for needed housing projects under ORS 197.307, that the approval standards must be facially “clear and objective”. ORS 227.173(2) states:

“When an ordinance establishing approval standards is required under ORS 197.307 to provide only clear and objective standards, the standards must be clear and objective on the face of the ordinance.”

Drafting anything to be clear and objective is a difficult task!

St. Helens Policy

The original purposes of the adoption of Goal 10 - Housing, the Goal 10 Rule and ORS 197.303 – 197.307 was to make sure that local communities, typically the more affluent, did not discriminate against low-moderate income people and to require all cities to take in their “fair share” or low-moderate income people and families. It was a tool to counter exclusionary zoning. See Anne Davies’ discussion of LCDC’s 1979 “St. Helen’s Policy.” The full text of the St. Helens Policy is attached to the end of this document.

Housing Affordability Crisis - Possible New Emphasis on Needed Housing?

However, the question for the day is whether there should be a “new St. Helens Policy” that remedies the deficiency in suitable and affordable housing exacerbated by overly restrictive land use laws, including stingy UGBs, advanced under the policy of protecting farm and forest land? While restrictive land use policies may not be facially

discriminatory, it can be argued that the natural consequences of such policies tend to discriminate against low to moderate income people, minorities and senior and disabled individuals.

Take for example a recent report this week in the *Oregonian* described a Portland survey that found that almost 60% of respondents in 2016 said that their neighborhood was unaffordable. This was up from a little more than 20% in 2012.
http://www.oregonlive.com/portland/index.ssf/2016/11/survey_portland_livability_fal.html#incart_2box

Average minority households are effectively priced out of Portland, along with households headed by single mothers according to the 2016 State of Housing report just released. Unaffordability disproportionately impacts low-income residents, communities of color, seniors and individuals with disabilities:

<http://portlandtribune.com/pt/9-news/334726-214439-report-portland-housing-increasingly-unaffordable-new-policies-plans-could-pay-dividends>

The City of Eugene is experiencing an extremely tight housing and rental market that is contributing to the homeless problem:

<http://registerguard.com/rg/news/local/35017190-75/lack-of-affordable-housing-in-eugene-springfield-swells-homeless-students-ranks.html.csp> In this article, the homeless-student liaisons for the Bethel, Eugene and Springfield School Districts cite housing costs:

“‘There’s not enough affordable housing,’ said Deborah Daily, the Eugene district’s homeless-student liaison. ‘There’s an increase in families living in their cars, and owners in the area are choosing to do no-cause evictions...the rental market is very competitive. People don’t have the means to move in, even if they have jobs. They don’t have the money for a down payment or a deposit, and they just can’t find housing.’”

The City of Springfield is also grappling with a tight housing market and affordability issues. The Springfield City Council recently discussed its housing affordability problem:

<http://registerguard.com/rg/news/local/35039257-75/developer-eyes-springfield-land-for-apartment-project-as-city-grapples-with-rental-shortage.html.csp>

<http://registerguard.com/rg/news/local/35026206-75/springfield-eyeing-solutions-for-affordable-housing-crunch.html.csp>

Recent Needed Housing LUBA Caselaw

Walter v. City of Eugene, 73 Or LUBA 356 (2016) (LUBA No. 2016-024), *aff'd* 281 Or App 461 (2016)

GPA1, LLC v. City of Corvallis, 73 LUBA 339 (2016) (LUBA No. 2016-013)

Group B, LLC v. City of Corvallis, 72 Or LUBA 74 (2015) (LUBA No. 2015-019), *aff'd* 275 Or App 577, *rev denied*, 359 Or 667 (2016)

Other Important Needed Housing Caselaw

Rudell v. City of Bandon, 249 Or App 309, 318-320 (2012) (where Court determined that the city's interpretation of its definition of "foredune" is "sufficiently clear and objective" to "pass muster" under the Needed Housing statute that requires approval standards to be clear and objective).

Montgomery v. City of Dunes City, 236 Or App 194 (2010) (where the Court held that ORS 197.303(2)(a) does not except cities with a population less than 2,500 from the application of the "clear and objective" standards required by ORS 197.307(6) when its comprehensive plan identifies a particular housing type as "needed housing" (i.e. "opts in").

Rogue Valley Assoc. of Realtors v. City of Ashland, 35 Or LUBA 139 (1998), *aff'd*, 158 Or App 1 (1999) (high-cost housing or luxury housing as needed housing).

State of Oregon v. City of Forest Grove, 9 Or LUBA 92 (1983) (LUBA No. 82-101) (discrimination against needed housing types through charter amendments is prohibited).

Evergreen Development, Inc. v. City of Coos Bay, 38 Or LUBA 470, 477-479 (2000) (LUBA No. 2000-003) (the needed housing provisions may not apply when rezoning land for housing for which the buildable lands inventory is already adequate).

Petitions to LCDC For Enforcement Under ORS 197.319-197.335

"The Commission can do what LUBA cannot." --Bill Kloos in the *GPA1, LLC v. Corvallis*, November 21, 2016 Petition for Enforcement Under ORS 197.319-197.335.

On November 21, 2016, on behalf of GPA1, LLC and the Oregon Home Builders Association, Eugene attorney Bill Kloos filed a Petition for Enforcement. This Petition was filed with the Land Conservation and Development Commission (DLCD) pursuant to ORS 197.319-197.335.

The City of Eugene will also likely be the subject of a Petition for Enforcement in the near future to be filed on behalf of the Home Builders Association of Lane County and the Oregon Home Builders Association.

Needed Housing Checklist

1. Is development proposal fit within the definition of “Needed Housing” under ORS 197.303?
2. Is the land subject to the proposal within a UGB?
3. Is the land subject to the proposal identified in the Buildable Lands Inventory?
4. If local government has an option for an “alternative approval process” track to needed housing (provided under ORS 197.307(6), is the development proposal applied for under the alternative track?
5. Are the approval standards, conditions or procedures “clear and objective”?
 - a. Are the standards/conditions/procedures capable of more than one plausible meaning? I.e. are there multiple reasonable interpretations?
 - b. Are the standards or conditions “subjective, value laden” such as “proposal must be in harmony with the surrounding vicinity...”?
 - c. Does an interpretation of a standard/conditions/procedure support the purpose of the standard/condition/procedure?
6. Even if the standards/conditions/procedures are clear and objective, do the standards/conditions/procedures have the effect either by themselves or cumulatively of discouraging needed housing through unreasonable cost or delay?

Note: While the author takes full responsibility for the content of this document, the author would like to acknowledge the gracious assistance of Bill Kloos by providing the author with valuable insight about much of the material and caselaw contained herein. See <http://www.landuseoregon.com/projects/> for additional information.

LAND CONSERVATION AND DEVELOPMENT COMMISSION
HOUSING POLICY

Policy:

Where a need has been shown for housing within an urban growth boundary at particular price ranges and rent levels, housing types determined to meet that need shall be permitted in a zone or zones with sufficient buildable land to satisfy that need. This policy shall not be construed as an infringement on a community's prerogative to 1) set approval standards under which a particular housing type is permitted outright, 2) impose special conditions upon approval of a specific development proposal, or 3) establish approval procedures. However, approval standards, special conditions, and the procedures applicable to both 1) must be clear and objective and 2) must not have the effect, either of themselves or cumulatively, of discouraging, such as through unreasonable cost or delay, the needed housing type.

Discussion:

The purpose of the St. Helens housing policy is to assure the provision of adequate numbers of needed housing types in a community at least cost, while retaining flexibility for the community to set standards for approval and attach special conditions to particular development proposals when appropriate. To ensure that this policy is properly implemented, the procedures governing applications to construct needed housing types, including procedures governing the imposition of special conditions, shall be clear and objective and must not have the effect, individually or cumulatively, of discouraging, such as through unreasonable cost or delay, a needed housing type.

In order to clarify and effectively implement the St. Helens policy, this discussion will focus on the concept of "conditional use"--a confusing term which the above-stated policy purposely avoids using. In a recent case related to a denial of a conditional use permit for a mobile home, the Oregon Supreme Court provided three distinct interpretations of "conditional use" which are helpful in this discussion:

"Standing alone, the term 'conditional use' can convey quite different meanings. It could mean that the specified use is a permitted use whenever certain conditions exist or are satisfied. Or, second, it may mean that the use will be permitted subject to special conditions attached to the individual permit. Third, 'conditional use' historically has often been employed simply as a device to permit discretionary decisions on certain uses, without much attention to the meaning of conditional" Anderson v. Peden, 284 Or at 316.

For the purpose of clarification, this discussion will refer to the first type of condition as "approval standards," the second as "special conditions," and the third type as "discretionary criteria."

LCDC Housing Policy

1. APPROVAL STANDARDS

The use of "approval standards"--where a housing type is permitted whenever certain factors exist or are satisfied--is consistent with this policy so long as the standards used are clear, definite and objective, and do not have the effect, individually or cumulatively, of discouraging the needed housing type. Such factors must be written into appropriate sections of the zoning ordinance as standards governing approval of building permits for the particular housing type as required by ORS 215.416(5)(6) and 227.173(1)(2).¹ Thus, it would be entirely appropriate for a community to require, for example, that all multifamily development have one and one-half parking spaces per unit and direct access to a paved city street, or that garden apartments be limited to two stories and provide for 15 percent landscape coverage.

2. SPECIAL CONDITIONS

It would also be appropriate for a community to attach special conditions to a particular development proposal by, for example, requiring additional screening, controlling access, or even by specifying, in precise terms, design features which ensure that development will be safe and attractive. However, it would not be appropriate for a community to employ special conditions or procedures governing special conditions as a device to exclude a needed housing type, to delay construction, or to push the cost of a proposal beyond the financial capabilities of the households for whom it was intended. Moreover, special conditions cannot be so discretionary as to be employed as a device to deny a proposal that otherwise complies with approval standards. The discretion provided is to impose reasonable conditions, not to deny approval. In order for special conditions to meet the St. Helens test, the range of conditions that may be imposed on a specific development must be expressly stated in the ordinance and must be strictly limited in scope. Any special conditions imposed on a particular development must be clear and objective and must not have the potential effect of discouraging a needed housing type.

Design review is a form of special condition. Where standards in the zoning ordinance are satisfied, preliminary approval would be granted. Compliance with special conditions would be required for final approval. In all cases the applicant should be informed of the applicable special conditions at an early stage in the development approval process.

¹ For a discussion of approval standards and special conditions and their application to ORS 215.416 and 227.173 see Commonwealth Properties Inc., v. Washington County, Oregon Court of Appeals 35 Or. App. 387 (1978).

LCDC Housing Policy

3. DISCRETIONARY CRITERIA

The third type of conditional use is where approval is discretionary and dependent upon vague criteria such as "no adverse impact on the neighborhood," or "compatible with surrounding development." Such criteria are inappropriate as a means for providing for a needed housing type. Discretionary criteria would be permissible only upon assurance that there is adequate buildable land to accommodate the need for a particular housing type in other zones in which discretionary criteria do not apply.

EXAMPLES OF STANDARDS AND CONDITIONS

Clear and Objective Approval Standards

Mobile Home Parks shall be approved provided that:

- the park is located on either a collector or arterial street paved to city standards, and is served by the full-range of services as defined in the plan.
- a landscape plan prepared by a registered landscape architect has been provided which includes, a) a 4' berm with coniferous trees of at least 6' in height planted at 10' intervals; b) deciduous trees of at least 8' in height planted at 15' intervals along all private roads.

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Multiple family development shall be approved provided that:

- landscaping exceeds 15% of lot area;
- units are clustered in groups of six or fewer;
- the project is served by paved city streets with sidewalks;
- lighting is designed to not shine on adjoining properties and is limited to 10' in height;
- one and one-half parking spaces per unit are provided.

UM:krh/MC

Clear and Objective Special Conditions

The jurisdiction may impose the following conditions to minimize conflict between proposed and existing uses:

- increase setbacks to a maximum of 20' to ensure adequate sunlight to adjoining properties;
- screen unsightly development such as trash receptacles, mechanical apparatus, storage areas, or windowless walls;
- retain trees or other natural features under specified conditions;
- require design details in harmony with existing development in an historic overlay zone;
- modify access provisions for safety reasons;
- require the staggering of units to avoid a "barrack-like" effect;
- require participation in an improvement district to ensure provision of basic services, parks, or streets and sidewalks directly benefiting the proposed development.

Discretionary Criteria Inconsistent with Housing Policy

Evidence shall be provided to demonstrate that the proposed use will:

- be in harmony with the surrounding neighborhood;
- preserve and stabilize the value of adjacent properties;
- encourage the most appropriate use of the land;
- have a minimal adverse impact on the livability, value and appropriate development of abutting properties and the surrounding area compared with the impact of development that is permitted outright;
- preserve assets of particular interest to the community;
- not be detrimental or injurious to property and improvement in the neighborhood or to the general welfare of the community;
- will not unduly impair traffic flow or safety in the neighborhood.

Failure to meet any of the above standards shall be grounds for denial.

From: [Bonnot, Cazmine](#)
Subject: IBTER testimony received
Date: Monday, April 13, 2020 11:58:04 AM

TAC members: The following are thoughts after having read the Mtg. #4 packet.

1) Related to the 30-unit limitation/fire code issue: We should allow developers to decide IF they want to build multi-unit housing with sprinklers in order to address the fire code. We should NOT change safety standards. These standards are for the safety of all living in these areas.

2) Related to the equity impacts/gentrification and OHCS metrics. This question needs a broader conversation with the RAC. The only reason for the IBTER TAC to be involved would be if there would be some way to get infrastructure investment in these under invested areas. Experience has shown that under invested areas become targets for redevelopment, removing currently "affordable" housing from a city's inventory. We need more housing, but the new development is likely to not be as affordable as that being replaced--unless it is subsidized housing. It's unclear if there would be a way to limit development so as to only replace with similarly cost equivalents.

3) The HPS Strategies list should include a city's investments by adding sidewalks and transit service so as to increase appeal to developers and middle housing. Also, the stormwater tools listed on page 30 of the packet from local codes should be additional suggestions for the Middle Housing Code. (Maximum lot coverage, Right-of-way storm management, Low impact development) And they should NOT be considered unreasonable cost and delay. The stormwater issue is about public health and safety.

Looking forward to the April 14th conversation. Peggy Lynch, LWVOR

From: Peggy Lynch [mailto:peggylynchor@gmail.com]

Sent: Sunday, April 19, 2020 9:12 PM

To: Taylor, Casaria <ctaylor@dlcd.state.or.us>; Stuckmayer, Ethan <estuckmayer@dlcd.state.or.us>

Cc: Peggy Lynch <peggylynchor@gmail.com>; Debbie Aiona <debbieaiona@fastmail.com>; Nancy Donovan <nancy.donovan@icloud.com>

Subject: MCTAC Mtg. #5 materials - Comments

https://www.oregon.gov/lcd/LAR/Documents/MCTAC5%20Packet.pdf?utm_medium=email&utm_source=govdelivery

Page 38 of packet: Meeting Packet Item #7: Large and Metro Cities Preliminary Model Code [#3] Clearly, more work needs to be done to better define “constrained lands” and within which areas higher level middle housing must be allowed. **Currently, DLCD recommends that higher-level middle housing be allowed on all lots and parcels outright** but with the caveat that on “constrained lands” (which are comprised of goal protected areas and infrastructure deficient areas), the jurisdiction may apply additional protective measures to the development these housing types. Do you concur with this recommendation? How should the model code address the requirement for middle housing “in areas zoned for single-family homes?”

Having attended legislative hearings and listened to legislator statements on the chamber floors and in conversations with some electeds, it seemed as if there was an expectation that jurisdictions could select specific "areas" for the higher level middle housing beyond the caveat of "constrained lands". This is an issue I have asked from the beginning: what criteria can a jurisdiction use in selecting those "areas"? Had the assumption been that the entire jurisdiction where SF zoning exists would require this higher-level middle housing, I sincerely believe the bill would not have passed the Senate.

From Page 65 of the packet: As with the model code, local governments may use other criteria to regulate middle housing (other than duplexes) within areas zoned for residential use on constrained lands or infrastructure-deficient areas. **Does this mean that ONLY these two criteria can be used to exclude SF zoned lands w/in a jurisdiction? Does this language come directly from HB 2001?**

Separate issue: Washington County brought up the issue where jurisdictions must allow some building on a lot that they would otherwise not allow. How is that issue addressed in the rule?

Thanks for considering these comments. Peggy Lynch, League of Women Voters of Oregon

From: [Kimberli Fitzgerald](#)
To: [Edging, Sean](#)
Subject: Comments/Questions: MCTAC Packet #5- Large City Code
Date: Tuesday, April 21, 2020 10:40:06 AM

So – I am wondering if you can pass along these general questions/comments from the City of Salem?

- The model code for large cities has four **design standards** for triplexes and quadplexes, but the draft doesn't say yet what the min. compliance would be for cities. Can it be clarified what the minimum standard is? We don't currently require some of the design standards that are proposed in the model code, and vice versa.
- The model code for large cities defines **lot coverage** as the amount of lot area covered by structures and *impervious surfaces*. In Salem -Our definition does not include impervious surfaces, and it seems like their draft definition would reduce the amount of lot area that could be used for middle housing because driveways, parking areas, etc. would count toward a maximum lot coverage (thereby reducing the amount of space available for housing) – (Someone else had this question/and staff recognizes this challenge in the comments).
- It is still not clear in the model code what “**other criteria**” (in the applicability section) could be used to determine where triplexes and quadplexes are located. It appears that min. lot size could be used, but what about things like min. distance to transit (or other locational standards)?
- The model code for large cities says for **min. lot size and min. lot width**, the min. compliance for triplexes and quadplexes is “no less than the minimum” lot size/width for single-family detached in the same zone. Does that mean a city could have a min. lot size or width that is as big as it wants? It seems like that could be used to really discourage triplexes and quadplexes.
- In the large city code— the interpretation of “Unreasonable cost and delay” means the City of Salem can't apply our new triplex/fourplex standards-- Since any 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.
- Under the **applicability** section, the draft refers to new triplex, fourplex, etc., and those created through conversions of an existing SF home. Would it also apply to a triplex, fourplex, etc. that is created through a conversion of an existing duplex, etc? or only if the existing structure is a single-family home?

Thanks-
Kimberli