



Oregon

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TO: Senator Shemia Fagan, Chair, Senate Committee on Housing & Development
Senator Michael Dembrow, Chair, Senate Committee on Environment and Natural Resources
Representative Alissa Keny-Guyer, Chair, House Committee on Human Services and Housing
Representative Brian Clem, Chair, House Committee on Agriculture and Land Use

FROM: Jim Rue, Director, Oregon Department of Land Conservation and Development

RE: Report on Implementation of HB 4079 (2016) – Affordable Housing Pilot Program¹

Summary

The 2016 Legislative Assembly adopted HB 4079 (Chapter 52, Oregon Laws 2016), a pilot program which authorized the Land Conservation and Development Commission (LCDC or Commission) to select two cities in Oregon for an urban growth boundary (UGB) expansion to promote affordable housing, without going through the normal UGB expansion process. Specifically, HB 4079 authorized LCDC to select two cities for the program, one with population greater than 25,000, and the other with population up to 25,000. The law excludes cities in the three Portland Metro area counties, Marion County, Polk County, and (effectively) cities in Jefferson County from eligibility for the program. This pilot program authorizes a city to expand its UGB through an expedited process if the city dedicates at least 30 percent of the newly built housing as affordable and protects the newly added land for continued use as affordable housing for 50 years.

LCDC adopted rules in January, 2017, to implement the legislation. The Commission directed the Department of Land Conservation and Development (DLCD or Department) to initiate outreach efforts to Oregon's cities to explain the program and gauge interest. The Department's outreach efforts reached almost 50 cities directly and engaged other interested parties including homebuilders, affordable housing providers, foundation staff, and consultants.² The Department received five pre-applications for the program. Three of these pre-applications were from cities with population greater than 25,000 (Bend, Eugene, Redmond) and two were from cities with population up to 25,000 (Sisters, Wheeler). Ultimately, two cities, Bend and Redmond, submitted final applications.

Department staff evaluated the two proposals, obtaining additional input to assess the development feasibility and expertise of the two applications. In November 2018, after hearing presentations from the local governments and staff, LCDC selected the City of Bend for the pilot program.

In 2019, the Oregon Legislature amended this statute with the passage of HB 2336 (Chapter 32, Oregon Laws 2019). The amended law effectively allows LCDC to also select the City of Redmond's application

¹ Section 9 of HB 4079 requires the department to report to the 2019 Legislative Assembly committees relating to housing and human services during the legislative session. This memo constitutes that report.

² The department's report to the 2018 Legislature summarizes the reasons cities reported for not applying for the pilot program. That report can be found here:

<https://digital.osl.state.or.us/islandora/object/osl:139017>

for the affordable housing pilot project, in lieu of a city with a population of less than 25,000 (none of which applied).

Current Status

Bend

The City of Bend proposed a 35-acre project on the eastern side of Bend's UGB. The proposed project included 394 units, 185 of which would be for households making less than 60 percent of Area Median Income (AMI), 175 for households making less than 120 percent AMI, and the 34 remaining units were not income restricted. With the exception of 38 units (which appear to be market rate), all of the units are proposed as rentals. In terms of structure type, Bend proposed 19 multi-family buildings and 63 single-family attached buildings. In addition, the proposal included 23,000 square feet of neighborhood commercial space. Overall, proposed residential density for the site is 11 units per gross acre and 16 units per net acre. The site contains six acres of potential wetland area, which proposed to be included in a park.

After approval in November, 2018, Bend submitted, in April, 2019, the required comprehensive plan amendments and forms by which to guarantee the minimum 50-years of affordability required by the statute and administrative rules. The DLCD director accepted this submittal as sufficient to comply with the statute and administrative rules. Since then, Bend has been working to implement the project, in concert with both a "for-profit" and a "non-profit" developer. In September, 2019, Department staff resolved a potential conflict between Bend and the Oregon Department of Transportation over necessary transportation improvements related to adjacent State Highway 20.

However in January, 2020, the city informed DLCD staff that the for-profit developer partner was withdrawing from the project. The city expressed concern about meeting the affordability levels outlined in its initial proposal and asked if any flexibility existed in these standards. DLCD staff noted that the city's initial proposal was well in excess of the minimum affordability standard (30 percent of units at 80 percent of AMI). As long as the city was able to attain the minimum standard, the Department was amenable to changes.

The purpose of the pilot project is to test the feasibility of the concept expressed in HB 4079 (2016), waiving Goal 14 and UGB expansion rules in return for the provision of affordable housing. Bend's experience will indicate whether, and to what degree, a city can guarantee housing affordability as a trade-off for waiver of UGB expansion rules. Another factor in the Department's positive response is that the only other city that applied for the pilot project, Redmond, was effectively granted entry to the program by passage of HB 2336 (2019).

Redmond

The City of Redmond proposed a 40-acre project on the east side of Redmond, in an area covered by Redmond's Eastside Framework Plan. The proposed development includes 485 units with a mix of low-rise apartments, 4-plexes, townhomes, and cottages. The city proposed that half of the units (243) be reserved as affordable housing, with 10 of these units reserved for households with incomes less than 30 percent AMI, 10 units reserved for households with incomes between 30-60 percent AMI, and 223 units reserved for households between 60-80 percent AMI. The remaining 242 would be reserved for households with incomes between 80-120 percent AMI (while the city did not provide confirmation

within the application that these units would be contractually deed-restricted, it appears that was their intent).

Redmond also proposed two mixed-use buildings, with a small amount of community uses and a small convenience store. The plan also includes parks and greenway areas totaling 3.9 acres. The site is part of the city's Eastside Framework Plan, a "complete community" concept plan for the city's urban reserve area to the east of the existing UGB. Overall, residential density for the site is 12 units per gross acre.

Since passage of HB 2336 in 2019 revived Redmond's affordable housing pilot project nomination, DLCD staff have worked with the city as it has continued to develop the details of its project. Redmond still needs to return to the Commission to receive formal approval of its proposed pilot project, but since the Commission was complimentary of Redmond's application in November, 2018; although ultimately choosing Bend's application, the Department does not expect any significant issues with this step of the process. The city is currently processing letters of interest from other developers with the master developer. The city has received a commitment from Deschutes County, the current owner of the site, to donate the property under specified conditions. The biggest hurdle for the city is the requirement that the site be in close proximity to fixed-route transit service – currently Redmond does not have any such service. The city is working with the local transit provider on this issue.

Next Steps

The Department will continue to work with Bend and Redmond on implementation of these two affordable housing pilot projects.