CITY OF OREGON CITY
PLANNING COMMISSION WORK SESSION AGENDA

Commission Chambers, Libke Public Safety Building, 1234 Linn Ave, Oregon City
Monday, October 23, 2023 at 6:00 PM

WORK SESSION MEETING OF THE PLANNING COMMISSION

Typically there are no public comments at work sessions, but written comments are accepted by:

- *Email ocplanning@orcity.org (deadline to submit written testimony via email is 3:00 PM on the day of the meeting)*
- *Mail to City of Oregon City, Attn: City Recorder, P.O. Box 3040, Oregon City, OR 97045*

CALL TO ORDER AND ROLL CALL

DISCUSSION ITEMS

1. Legislative Review from the 2023 Session

COMMUNICATIONS

ADJOURNMENT

PUBLIC COMMENT GUIDELINES

Complete a Comment Card prior to the meeting and submit it to the City Recorder. When the Mayor/Chair calls your name, proceed to the speaker table, and state your name and city of residence into the microphone. Each speaker is given three (3) minutes to speak. To assist in tracking your speaking time, refer to the timer on the table.

As a general practice, the City Commission does not engage in discussion with those making comments.

Electronic presentations are permitted but shall be delivered to the City Recorder 48 hours in advance of the meeting.

ADA NOTICE

The location is ADA accessible. Hearing devices may be requested from the City Recorder prior to the meeting. Individuals requiring other assistance must make their request known 48 hours preceding the meeting by contacting the City Recorder's Office at 503-657-0891.

Agenda Posted at City Hall, Pioneer Community Center, Library, City Website.

Video Streaming & Broadcasts: The meeting is streamed live on the Oregon City's website at www.orcity.org and available on demand following the meeting. The meeting can be viewed on Willamette Falls Television channel 28 for Oregon City area residents as a rebroadcast. Please contact WFMC at 503-650-0275 for a programming schedule.

CITY OF OREGON CITY

Staff Report

625 Center Street
Oregon City, OR 97045
503-657-0891

To: Planing Commission **Agenda Date:** 10/23/2023

From: Aquilla Hurd-Ravich, Community Development Director
Carrie Richter, Deputy City Attorney

SUBJECT:

Legislative Review from the 2023 Session

STAFF RECOMMENDATION:

Review the legislative summary provided by Deputy City Attorney Carrie Richter.

EXECUTIVE SUMMARY:

The City Attorney's office has provided a summary of land use related changes resulting from the 2023 Oregon Legislative Session with an eye towards identifying areas where local City regulations or procedural amendments are required in response. A significant focus of the 2023 legislature was directed at efforts to increase the supply of housing. Those efforts can be viewed as an attempt at a holistic multi-pronged effort directed at all of the ways in which government can incentivize and remove barriers to the construction of additional housing. Of course, local land use regulation plays a role in this as it is often cited by developers as the reason for delay and increased cost, so land use regulation was a key element of these efforts.

BACKGROUND:

Executive Order 23-04, signed on January 10th 2023, establishes a statewide housing production goal and a Housing Production Advisory Council. The Oregon Housing Needs Analysis (OHNA) estimated a shortage of 140,000 homes across the state and estimated that overall housing demand would require the production of 443,566 homes across the state over the next twenty years. The Governor established the Housing Production Advisory Council (HPAC) to develop an action plan to meet new construction targets of 36,000 homes per year for the next ten years. The HPAC began meeting in March, shortly after the members were appointed, and developed a framework plan by April 2023. Their next task is to develop recommendations to the Governor by December 31, 2023. The HPAC identified and established five work groups:

- Availability of Land
- Land Development Permit Application
- Codes and Design
- Workforce Shortages
- Financing

The work groups are making recommendations to the HPAC for adoption that will get forwarded on to the Governor and recommended for discussion at the 2024 legislative session. The full HPAC meets every two weeks for the next three months on Fridays from 1:30 to 4pm and they are open to the public. The work groups meet twice a month or every two weeks depending on the group. Previous meetings and the workgroup recommendations can be viewed on the HPAC webpage.

In August, the Governor's Senior Housing Policy Advisor requested input from Cities for recommended actions that should be considered during the 2024 legislative session. Oregon City staff drafted a letter and presented this to City Commission on September 6, 2023, supporting the Financing workgroup recommendations for the State to help fund infrastructure. Other recommendations under consideration by the HPAC did not seem to directly impact housing production in the same way as infrastructure financing and seem to only create more state codes and bureaucracy for local governments to navigate.

The review of land use related legislation is attached for your review. As well as the signed letter sent to the Governor's Office.

No action is required from the Planning Commission on this matter. Staff is presenting this information as an educational topic given the potential for legislative review of amendments or review of future housing applications.

Bateman Seidel

MEMORANDUM

TO: Mayor McGriff and Oregon City Commissioners

FROM: Carrie Richter, Deputy City Attorney

DATE: October 16, 2023

RE: Review of 2023 Land Use-Related Executive Orders & Legislation

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This office has been asked to provide a summary of the land use related changes resulting from the 2023 Oregon Legislative Session with an eye towards identifying areas where local City regulations or procedural amendments are required in response. One of the most significant events at the 2023 legislature was the walk-out of republican legislators. The walkout resulted in many topic-related bills were merged together into omnibus bills - a single bill that may include separate and diverse requirements intended to work together to address a broad concern. As such, this memorandum is focused primarily on the land use planning related elements of those bills, although there may be broader impacts for the City such as for public works or public safety. Similarly, although this memo identifies a number of grant opportunities, it should not be construed to include a comprehensive list of state money that might be available for activities that have a tangential impact on land use regulation within Oregon City. For example, HB 5030/Lottery Bond funds designated $10 million to the Main Street Revitalization Grant program which could be accessed by Oregon City or others interested in additional Main Street-focused projects but it is not listed here as it is not directly related to work of the Planning Department.

This memorandum is organized based on a subjective evaluation of the immediacy of the impact and the affirmative response deadlines that it may place on Oregon City. However, this ordering should not be construed to suggest any judgment on the overall significance or impact.

Housing

A significant focus of the 2023 legislature was directed at efforts to increase the supply of housing. Those efforts can be viewed as an attempt at a holistic multi-pronged effort directed at all of the ways in which government can incentivize and remove barriers to the construction of additional housing. Of course, local land use regulation plays a role in this as it is often cited by developers as the reason for delay and increased cost, so land use regulation was a key element of these efforts.

Housing Production Advisory Council Recommendations

Executive Order 23-04, signed by Governor Kotek on her first day in office, set a housing production goal of 36,000 homes per year over the next ten years. This represents an 80% increase over current trends. To accomplish this goal the order established the Housing Production Advisory Council (HPAC), a council of experts (largely representing development interests) charged with developing an action plan to meet the new construction targets. When the HPAC refers to "housing production" they are talking about housing at all levels and not just affordable housing or shelters for the houseless.

Identifying the levels of affordability needed in every community will be accomplished as set out in HB 2001 (2023), as discussed further below. By December 2023, the HPAC is to issue written findings and a recommendation for how to reach the Governor's overall housing goal, which presumably may become the subject of legislation to be passed in the 2024 Legislative Session.

At this point, City staff has received a request from a housing staff member in the Governor's office for comment on the latest HPAC work group recommendations. Attached to this memorandum are the draft comments staff has put together in response that will be forwarded to HPAC on or before Sept 7.

Related Issue - By-Right Adjustment and other Enforcement Mechanisms

One of the bills that failed during the 2023 Session (in a very dramatic fashion on the last day of the session), was HB 3414; however, the Governor has indicated she intends to bring the bill back in 2024. This bill has two separate and distinct parts. The first part would require a local government to allow a developer of housing to waive and not comply with certain development and design requirements - solely at a developer's request. The types of regulations that were eligible for this treatment varied as the session wore on but the Governor's office consistently advocated for a bill that allowed by-right waivers for all development standards (setback, parking, landscaping) and design standards (building orientation, height, materials, transparency) without much limitation, although there was a late concession to allow riparian and urban forestry protection standards to remain. Late in the session, this bill was amended making it permissive for local governments to engage in a one-time limited expansion of the urban growth boundary without going to through the rigorous need-based process. The second part of the bill creates the framework of an enforcement structure for local governments who fail to produce housing in the required numbers. Again, this is all mentioned here because (1) this bill will be back in 2024 and (2) many believe that the HB 3414 authorizations will be rolled into the HPAC recommendations. Therefore, HB 3414 elements were considered when drafting the City's comments.

Housing Need and Production Obligations

HB 2001 (2023) (this is distinct from the 2021 HB 2001 that related to middle housing) did pass this session and it creates the framework for inventory, need, tracking and enforcement for the production of housing at a variety of income levels (most often referenced as the Oregon Housing Needs Analysis (OHNA)). By March, 2024, DLCD will issue a housing production target schedule identifying the proportion of the allocated housing need each city is required to produce. No later than January 1, 2025, and annually thereafter, the Department of Administrative Services will issue a statewide housing analysis projecting housing production targets on a regional basis. The Portland area targets will be supplied to Metro. The Housing and Community Services Department will publish a production dashboard to track local government progress. Thereafter, Metro will allocate a housing need evaluation for each Metro city. Within six years thereafter, Oregon City will have to compile an inventory of buildable lands likely to produce housing based on identified factors. If that inventory is insufficient to satisfy the Metro-allocated need, the City must revise its zoning and regulations to satisfy any shortfall. The difference between this framework and the present system is that, under the newly enacted HB 2001, cities have to go beyond simply zoning lands available for housing - cities are on the hook to ensure that the housing is actually built. Presumably this would be done through a variety of tools,

including regulatory incentives, inclusionary zoning, and/or grant funding. Failure to satisfy the production obligations could lead to state intervention to mandate zoning code classifications or other regulatory changes, presumably through the enforcement structure set forth in HB 3414.

Incentives for Special Categories of Housing

Reuse of Commercial Buildings for Housing – HB 2984 requires local governments to allow the conversion of a building or portion of a building from commercial use to housing without any otherwise required zone change or a conditional use permit. There are exceptions where public services are inadequate, on slopes over 25%, within a floodplains, and on industrial-zoned lands. The City already allows residential in all of its commercial zoned except for MUE, which is an industrial zone. As such, no change to the City's land use regulations is necessary. However, as of Jan. 1, 2024, the city cannot impose any additional off-street parking requirements for these residential conversions and *constrains the collection of system development charges to those specifically adopted to address residential conversions on or before December 31, 2023* or otherwise limited to water and wastewater-limited charged that were not otherwise collected at the time of commercial building construction. Therefore, as part of the effort to revisit the SDC structure for historic resources as directed by the City Commission at its meeting on August 23, the City will include a specific recommendation for commercial-to-residential conversions as well.

Affordable or Mid-Income Housing Allowed Outright in Commercial Zones – HB 3395, the omnibus housing package bill, includes a number of housing related provisions. Section 2 mandates that local governments permit housing in commercial zones so long as it is subject to an affordable housing covenant making it available to households earning less than 60 percent of area median income. Mixed use development including housing is permitted outright in commercial zones where available to households with income less than or equal to 120 percent and greater than 80 percent of the area median income. As noted above, housing is already allowed outright in commercial zones in Oregon City so this section of HB 3395 will have no impact.

Extension of Emergency Shelter Siting Obligations – HB 3395, Section 7, extends the emergency shelter siting authorization established in 2021 HB 2006. Instead of sunsetting on a date certain, local governments must approve shelter requests upon a finding of compliance with only state law-identified criteria until such time as the total sheltered and unsheltered homeless population within the state is less than 0.18 percent.[1] A new amendment provides that these shelter siting decisions can be made with or without holding a public hearing and now provides for the recovery of attorney fees by a shelter applicant (as well as recovery of attorney fees by the local government when it approves the request and prevails in a court challenge).

Single Room Occupancies Permitted – HB 3395, Section 17, requires that local governments allow for "single room occupancies" – four or more bedroom structure rented to unrelated people with shared bathroom and kitchen amenities. "Single room occupancies" of up to six units must be allowed in all

[1] The existing siting authority would have expired on July 1, 2023.

zones that allow for detached single family residential uses and for a greater number of units that matches the otherwise proscribed minimum density in the zone.

Manufactured Dwelling Parks as Allowed Use in Commercial Zones – HB 3151 expands the existing mandate of allowing affordable housing units without a zone change or conditional use permit, to include manufactured dwelling parks that are owned by a non-profit cooperative in commercial zones or on lands that "allow for religious uses." In Oregon City, religious uses are conditionally allowed in residential zones but "allowed" outright only in commercial zones.[2] The plain language suggests that a manufactured home park could not be permitted on land occupied by a religious use that is either non-conforming or was conditionally approved. Utility service adequacy, natural hazard development constraints or other statewide land use mandated protections continue to apply. This bill takes effect January 1, 2024.

Property Tax Exemption for Owner-Occupied Middle Housing – Although only tangentially related to land use, SB 919 authorizes cities or counties to adopt a five-year property tax exemption for a newly constructed accessory dwelling unit or the conversion of an existing single family structure to a duplex, triplex or fourplex, where the structure is owner occupied and none of the units are used as short term rentals. This is a permissive authorization at the election of a city or county.

Required Assurance for Subdivision Improvements - In addition to a bond, irrevocable letter of credit or other assurance for the completion of public improvements required as part of a subdivision, HB 3395, Section 15 requires local governments to accept one or more award letters from public funding sources for affordable housing projects subject to restricted income covenants, provided the awards total an amount greater than the project cost. This bill takes effect on January 1, 2024.

Limitation on Period for Adopting Findings for Housing under 120-Day Rule – Under current law, when a city makes a land use permit decision, the time to adopt written findings after making a tentative decision was entirely exempt from the 120-day rule limitation (or 100 days in the case of affordable housing). HB 3395, Section 4 changes this so that a city has only 7 days after the tentative decision to adopt written findings outside of the decision time limits when it is considering an application for housing. This bill takes effect on January 1, 2024.

Climate Change

Assistance with CFEC Compliance – Section 148 of SB 5506, an omnibus climate change bill, appropriates an additional $2,690,922, to provide assistance to local governments to comply with Climate Friendly and Equitable Community obligations.

Community Green Infrastructure Grant Program – HB 3409 is a wide-ranging climate focused bill. The bill calls for the Department of Energy to engage in rulemaking establishing energy efficiency standards

[2] Religious uses are listed as a conditional use in the MUE, MUC and NC zones. However, the City has an obligation under federal law to treat religious uses on equal terms as non-religious uses. Since religious uses typically have the same impacts, they would need to be treated the same as commercial uses. These provisions should be changed during the next code amendment update effort.

for commercial buildings, including government owned buildings. The first deadline for achieving these standards is 2028. Section 28 of this bill calls on the State Department of Forestry to create an urban tree canopy assessment tool and Section 24 requires that DLCD implement grant program for local governments that adopt plans to expand their urban tree canopy through a long-term arrangement with an Oregon nursery to supply trees. Section 86 requires that the Oregon Health Authority implement a grant program for the creation and operation of resilience hubs and networks to offer natural disaster assistance. Most of the grant funding opportunities become effective after Jan. 1, 2024.

OREGON CITY

City Manager

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Ph (503) 722-3789 | Fax (503) 722-3880

September 15, 2023

Matthew Tschabold
Sr. Housing Policy Advisor
Office of Governor Tina Kotek

RE: Oregon City comments for the Housing Policy Advisory Council consideration

Dear Mr. Tschabold,

Thank you for reaching out to the City of Oregon City for our comments and recommendations to increase housing production. Our Mayor and City Commissioners had a robust conversation about this topic and support the following comments.

Need for Infrastructure Funding to Achieve House Goals

The City of Oregon City is located at the southeast corner of the Metro Urban Growth Boundary. We have opportunities for infill development if adequate infrastructure, and specifically transportation improvements, are available. Over 1000 acres of land abutting the existing Oregon City boundary to the south and east was added to the UGB in 2002 and a smaller area was added in 2004. All of these lands were concept planned for urban development through the adoption of the:

- Park Place Concept Plan covering 500 acres for residential and small nodes of neighborhood-scaled commercial development, adopted in 2008.
- Thimble Creek (originally Beavercreek Road) Concept Plan covering 453 acres, provides for a complete community including residential, industrial and neighborhood-scaled commercial, adopted in 2008.
- South End Concept Plan includes approximately 510 acres planned for residential development, adopted in 2014.

The City long ago adopted concept plans and updated its infrastructure master plans to include facilities and services necessary to serve development. Although these areas are entirely planned and zoned for urbanization, there has been a slow progress in development. The Park Place and Thimble Creek areas have not seen any significant development yet, and construction in South End has been slow and fragmented. The main

reason for the delay is the significant expense of providing public utility infrastructure to these areas given existing geographic and transportation constraints.

Geographic and transportation constraints affect the ability to build housing

Oregon City's terrain, including the UGB expansion areas, has many hills and geologic hazard areas that are particularly susceptible to landslides. This means that providing services in these areas requires extra engineering work to ensure that roads and pump stations are stable on slopes or creative arrangements for rural service districts can be made to accommodate the orderly transition of services for urban development. The steep terrain can make it difficult for pedestrians and bicyclists to get around, and spotty service by Tri-Met can be a challenge for alternative transportation.

One of the major obstacles facing development within concept planned areas is the need to use or cross ODOT-maintained state highways like Highway 213 or 99E to reach existing commercial nodes within the City. Unfortunately, the majority of traffic on these highways is pass-through traffic from Mulino, Molalla, or rural parts of Clackamas County. As a result, these highways are at or near peak hour capacity and causing intersections to fail, just from the existing and background growth of the surrounding communities. This poses a significant challenge for new development in these areas, as they too will rely on these highways for access. However, Oregon City can only exact capacity-increasing improvements that are proportionate to the impacts of the development, which are usually less than 1-2% of the whole.

The City has adopted alternative mobility measures at a few intersections, but this has led to congestion exceeding state standards and ultimately compromising safety and emergency access creating livability concerns for existing residents. To address these concerns, the Park Place Concept Plan recommends that new developments be served by two distinct arterial roads for access. This will allow for better distribution of traffic to other city arterials and provide secondary access in case of an emergency. However, there has been no development proposed that would extend the full length of the planned dual access points. Hence, it is crucial for the City and developers to collaborate and build this critical infrastructure before development can occur.

Reduced federal funding affects smaller and older suburban cities like Oregon City

In the last decade, the federal government has reduced its investment in water, sanitary sewer, and stormwater infrastructure, leading to increased costs for local communities. Oregon City's existing piped infrastructure is old, some of its dating back to early 20th century, and requires more frequent inspection and maintenance than newer cities. For example, there are 33,000 linear feet of sanitary sewer pipes that were built prior to 1940 within the City, some of which dates back to early 1900. If new development does not construct necessary infrastructure directly, the City will need to rely even more heavily on system development charges and utility fees. To address this challenge, local governments could receive grants and forgivable loans, similar to the Oregon Infrastructure Fund, to fund critical infrastructure or the State should consider a program to directly subsidize private developers to construct infrastructure necessary to serve the proposed development.

This said, it is important to prioritize infrastructure investment toward housing that the market may not develop on its own, such as housing for veterans, low-income households, and those in need of social services. If infrastructure is subsidized to provide market-rate housing, developers should not be allowed to profit from these efforts. It is necessary to establish a reasonable market cap on the homes serviced by publicly funded infrastructure to prevent developers from profiting from government-funded savings that are eventually paid back by taxpayers through loans or bonds.

Allow for a Customized Program to Acknowledge Local Needs

Local governments are responsible for planning housing at all levels under Goal 10. However, it's important to note that not all housing or the demand for housing is the same Cities must be empowered to accommodate housing in the places where it is needed, when it is needed. Oregon City, a bedroom community of the Portland Metro area, has primarily single-family houses in its residential housing supply. This presents an excellent opportunity for middle housing. However, the transportation constraints noted above make it challenging to provide multi-family housing anywhere except for as infill within developed commercial areas. To overcome this challenge, the city needs to encourage multi-family development in areas where commercial support already exists. Statewide zoning mandates that are one-size-fits-all, such as eliminating off-street parking requirements, are not helpful in achieving this goal.

Oregon City, as the Clackamas County seat, has a greater need for affordable housing and services for the homeless than other cities on the Metro-edge. If the HPAC wants to effectively support communities in meeting the needs of low-income residents, it must distribute relief in a way that recognizes the higher demand for supportive services in Oregon City.

The City's Identity is Tied to the Preservation of Naturally Occurring Affordable Housing

Oregon City, being the first city in Oregon, is home to a large number of historic resources, including its Main Street and residential historic districts. These districts protect a variety of vernacular houses built between 1844 and 1930 and are a significant source of tourism and economic growth for the city. Therefore, any housing production plans for the area must consider the inherent limitations and opportunities that come with preserving these historic resources. Mandated incentives, including financial incentives and mandating or authorizing removal of regulations that protect these resources , should not be permitted as a way to encourage the demolition of these structures. Doing so would not only remove naturally occurring affordable housing but also have a negative impact on the effort to combat climate change.

Additional Recommendations from the Working Groups

The working groups have put forward several recommendations that will affect how local communities can review and respond to development applications. However, some of these recommendations seem to suggest state-mandated codes for local jurisdictions, which could increase bureaucracy for local staff instead of promoting more housing production. The recommendations include updating the appeals process, modifying the public hearing process, allowing adjustments for by-right development of up to 20%, creating wetland mitigation banks, and regulating the removal of trees for development purposes. This one-sized-fits-all approach fails to acknowledge local limitations and opportunities and will only serve to create another layer of complicated regulations, the very thing that HPAC has stated that it is trying to avoid.

In Oregon City, we believe that the state should fund infrastructure in new urbanizing areas and infill development to incentivize the type of housing that is needed most – low- and

middle-income housing and in a way that will assuredly meet those goals. State-supported infrastructure financing will only respond to this shortfall if it is subject to a covenant restriction requiring that the reduced infrastructure cost is passed along to the home buyer. In addition, the requirement that fees generated from building permits may only be used for the building program should be expanded to allow for the use of those funds across the entire development process, such as planning and engineering, to increase staffing to respond to development applications.

Recommendations from the HPAC and working groups that create more regulations without an affordability cap may not directly benefit housing production like state-supported infrastructure financing. The recommendations should be reviewed by a range of economists to demonstrate the feasibility and impact associated with the proposed changes. Oregon is a desirable place to live, and the economics of land values and development costs, especially compared to the costs along the entire west coast, are not addressed nor have the proposals demonstrated that they will reduce housing affordability.

Sincerely,

Tony Konkol

Tony Konkol
City Manager
City of Oregon City
tkonkol@orcity.org