

Climate Friendly & Equitable Communities & Middle Housing Lot Divisions

Planning Commission Meeting May 10, 2022



A duplex in Olympia



Climate Friendly & Equitable Communities Rulemaking

By June 30, 2023

- ❑ Cities in the eight Metropolitan Planning Organizations (MPOs) will be required to identify Climate Friendly Areas (CFAs).
- ❑ CFAs would need to accommodate 30 percent of future growth.
- ❑ Rules call for zoning adjustments in CFA's to allow greater heights (at least 50 feet), greater density (at least 15 dwelling units per acre, with minimum densities, to support transit), and specific employment generation targets.
- ❑ There will be recommendations or requirements to significantly reduce or fully eliminate minimum requirements for off-street parking.
- ❑ Cities will need to plan for high-quality, connected bicycle, pedestrian and transit networks, and to require electric vehicle infrastructure with new development.
- ❑ Rules will change transportation engineering methodology used in determining success/failure of a roadway.
- ❑ Emphasis on avoiding gentrification and displacement and focusing on equity.
- ❑ State consultants for technical work in identifying CFAs and for public involvement process.
- ❑ Rule adoption is envisioned to be complete May 19th, and work with consultants will begin shortly thereafter.

By June 30, 2024

- ❑ Cities to make Comp Plan & Zoning changes to regulations and maps to implement rules.

Senate Bill 458

Middle Housing Lot Divisions (MHL D)

- ❑ Provides ownership opportunities for 'Middle Housing' units built under HB2001, but lots are still subject to parent property's approval and don't have full development rights (*i.e. a middle housing lot that is part of a duplex parent property does not have the right to build an accessory residential unit*).
- ❑ Sets specific parameters for what criteria may be considered for approval.
- ❑ Sets specific parameters for what conditions may be required with approval.
- ❑ MHL Ds are not land use decisions & must be processed using the Expedited Land Division procedure in the ORS (*i.e. a 63-day time clock instead of 120-days*).
- ❑ Any appeals go to a referee who cannot be a city employee or a city official.
- ❑ **Does not apply to accessory residential units.**
- ❑ Cities must adopt codes by June 30, 2022 or implement directly from state law.



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Middle Housing Lot Division Requirements Under SB 458

- ❑ Applies to any lot that allows middle housing under ORS 197.758 (i.e. HB 2001).
- ❑ An MHLD must result in exactly one dwelling per lot, except that common areas may be located on a separate lot or a shared tract.
- ❑ Separate utilities are required for each dwelling unit.
- ❑ Easements are required to be provided for:
 - ✓ **Pedestrian access** (e.g., all pedestrian paths circulating through the parent parcel)
 - ✓ **Common areas** (e.g., common courtyards, community buildings, etc.)
 - ✓ **Driveways and parking areas**, if shared.
 - ✓ **Utilities**
- ❑ An MHLD proposal must meet the requirements of the Oregon Residential Specialty Code. For example, if an attached duplex is being divided, there must be firewall construction between the two units.
- ❑ In a typical land division, the land division is approved, infrastructure installed and plat signed prior to building permits being reviewed and issued for construction. MHLDs could occur prior to submission of an application for building permits, after a middle housing development is approved for development, or after it is constructed. SB 458 gives cities the option of allowing concurrent review of building permits and the land division, but in any case, MHLD applications must include a middle housing development (*either proposed or built*) that complies with the building code and the City's middle housing development code.

Cities May Require...

- ❑ **Street Frontage Improvements.** SB 458 specifies that cities can require street frontage improvements for newly created lots abutting a street. Land divisions are often a trigger for requiring frontage improvements, whereas infill development on an existing lot may not trigger such improvements. Under SB 458, frontage improvements may be required with an MHL D.
- ❑ **Right-of-way Dedication:** SB 458 specifies that cities may require dedication of right-of-way if the original parcel did not previously provide a dedication. Like frontage improvements, such a dedication requirement would be dependent upon the City making findings to demonstrate consistency with constitutional requirements (*i.e. a demonstration of proportionality under Dolan*).
- ❑ **Building Permit Review.** The City may allow concurrent review of building permits and an MHL D application for a middle housing development. Even if permits are not requested concurrently, the applicant is required to demonstrate that the application meets the Oregon Residential Specialty Code.
- ❑ **Tentative/Final Plats:** Cities may require that applicants submit tentative and final plats in a manner consistent with their applicable platting requirements.

- ❑ **Cities cannot apply any approval criteria other than the approval criteria specified in SB 458 to applications for an MHL D—i.e. the allowable criteria include the City’s standards for middle housing development, separate utilities, easements, one dwelling on each lot, and building code compliance.**

Expedited Land Divisions (ELDs)

Cities are required to apply the expedited land division (ELD) process from ORS 197.360 to 197.380 to middle housing land divisions (MHLDs) to streamline review. The expedited land division process is outlined below:

- Submittal requirements are consistent with typical land divisions.
- Completeness review must occur by the City within 21 days of application submittal.
- Notice is given to properties **within 100 feet of the site**, to utility providers and to applicable neighborhood association(s).
- There is a 14-day comment period.
- A decision must be made by the city within 63 days after a complete application is submitted, unless extended by the Council under limited circumstances. *This is in contrast to the 120 days typically allowed for land use actions.*
- An ELD is not considered to be a land use decision, and would not be heard by the Planning Commission.
- The Staff Advisor makes the initial administrative decision, and any appeals go to a referee who cannot be a city employee or city official, but could be a hearings officer.
- Only the applicant and any person or organization who files written comments in the time period specified in the bill may appeal. An appeal must be filed within 14 days of mailing the notice of decision. A \$300 deposit to cover costs must be paid with the appeal submittal.
- A City-appointed “referee” decides any appeal decision—often this is a city’s Hearings Officer - who must issue a decision within 42 days of the appeal being filed. The decision of the referee is the final local decision on the MHLD application. Any appeals of the referee’s decision go to the Oregon Court of Appeals rather than to the Land Use Board of Appeals (LUBA).

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Planning Commission/City Council

RE: Legislative Update / Affordable Housing

Thank you for your time and effort.

In reading the legislative update items within the Planning Commission's 5/10/22 packet, I wanted to request the Planning Commission, City Council and Planning staff to again consider 100% ground floor residential "temporary" housing in certain commercial and employment zoned areas in Ashland, but specifically NOT within the Downtown. Unfortunately, I'm not aware of any updates or revisions since the Council's last hearing when they kicked the item back to the Planning Commission.

Nevertheless, our world, state and city are in a serious crisis and little is occurring from the powers of government and if it is, it's agonizingly slow and disconnected. Please note that I do not blame any individual or body as that's illogical and absurd as the problems are too complex and beyond a simple code fix from the City of Ashland or State of Oregon. As a private land use planner and developer, I'm trying everything I can do to push housing type options and incorporate climate responsible elements within our projects that also must be within market parameters, financing constraints and code limitations.

That said, I sincerely believe we (the City and community of Ashland) can act quicker and pick some lower hanging fruit such as temporarily allowing ground floor office and commercial buildings to be used as residential housing. I'm tired of seeing human beings in the streets when vacant commercial spaces sit empty or mixed-use buildings can't get financing simply because banks will not loan due to the City's ground floor commercial requirements.

We are failing as a society and a community when the simplest of code changes to affordably house humans are dismissed over fears that land use regulations are too complex to enforce years after the housing crisis is resolved. To prevent such a housing opportunity because we do not know "how to revert such temporary spaces back to commercial/office use" or "what the trigger would be to revert back to commercial/office use" is simply not an acceptable excuse. I truly understand the questions, but to do nothing is incredibly disappointing, especially now after years beyond the Alameda fire when this plea was originally proposed.

For those who think this is some type of strategy to develop more hi-end condominiums, you are sadly mistaken and need to open your eyes and ears to what's occurring and get over your anti-development mentality and realize there are simple options that exist that can help address our affordable housing needs. For example, if such a code were to be adopted, why not make it a standard requirement that such housing on the ground floor be affordable rental housing at 80% AMI?? Keep our excellent design and building code standards intact, but who cares about the timeframe when in reality, there's so many people falling through the cracks and into their cars or into the streets as I write this.

Please do something and do it soon.

Mark Knox, 604 Fair Oaks Court, Ashland