

**CITY OF
ASHLAND**
ASHLAND PLANNING COMMISSION
REGULAR MEETING
Minutes
November 22, 2022

I. CALL TO ORDER: 7:00 PM

Chair Haywood Norton called the meeting to order at 7:00 p.m. in the Civic Center Council Chambers, 1175 East Main Street.

Commissioners Present:

Michael Dawkins
Haywood Norton
Lynn Thompson
Eric Herron
Lisa Verner
Doug Knauer

Staff Present:

Brandon Goldman, Acting Community Development Director
Derek Severson, Senior Planner
Michael Sullivan, Executive Assistant

Absent Members:

Kerry KenCairn

Council Liaison:

Paula Hyatt

II. ANNOUNCEMENTS

Acting Community Development Director Brandon Goldman made the following announcements:

- The November 15, 2022 City Council meeting was cancelled. The discussion regarding PA-T3-2022,00004, the annexation of 1511 Highway 99 N, was rescheduled for December 6, 2022.
- The Planning Commission annual update to Council, and the first reading of PA-L-2021-00013 regarding housing in E-1 and C-1 zones, have both been rescheduled for January 3, 2023.
- An appeal of the Commission's decision to deny PA-T2-2022-00159, 165 Water Street will be heard by the Council on January 17, 2023. The applicant submitted the appeal on May 20, 2022, but subsequently requested a postponement. The Council is required to render a decision by February 10, 2023. Commissioner Thompson asked who would be representing the Commission during the appeal process. Senior Planner Derek Severson responded that it will be incumbent on the appellant to successfully contest the Commission's decision to deny the project, and that staff will be present to provide clarification and defend the decision. Chair Norton inquired if the minutes of the relevant meetings would be sent to the Council, to which Mr. Severson said that they would.

III. PUBLIC FORUM – None

IV. LEGISLATIVE HEARING:

A. PLANNING ACTION: #PA-L-2022-00014

APPLICANT: City of Ashland

ORDINANCE REFERENCES:	AMC 18.5.1	General Review Procedures
	AMC 18.5.3	Land Divisions and Property Line Adjustments
	AMC 18.5.9	Comprehensive Plan, Zoning and Land Use Ordinance Amendments

REQUEST: The proposal would amend the Ashland Land Use Ordinance to implement the requirements of Oregon Senate Bill 458 by adding section 18.5.1.075 "Middle Housing Land Divisions" and section 18.5.3.140 "Middle Housing Land Divisions."

Staff Presentation

Mr. Goldman noted that staff felt that it was important to import the state's language into the City's ordinance to provide clarity for citizens reviewing the code.

Mr. Severson stated that there had been no significant changes to the ordinance since it was first presented at the June 14, 2022 Commission meeting. He gave a brief presentation on Senate Bill 458, which include changes to Middle Housing Lot Divisions (MHLD) and Expedited Land Division codes, and also provided a timeline for the changes to be implemented. Under SB 458 Expedited Land Divisions would not be considered land use actions, and any appeals of staff decisions would be decided by a hearings officer or referee instead of being brought to the Commission. The noticing area for Expedited Land Divisions will also be reduced to 100ft from 200ft, and the City would be required to make a final determination within 63 days of submittal.

House Bill 2001 will also institute code changes to the duplex and Accessory Residential Unit (ARU) approval criteria. Mr. Severson outlined how duplexes would constitute two units on one lot, as attached or detached structures, and that two on-site parking spaces would be required. ARUs would need to meet size guidelines, but that no on-site parking would be required. Both duplexes and ARUs would be permitted with approval of a building permit.

Mr. Severson described previously noted issues with the draft ordinance, the first being whether the MHLD procedure would apply to duplexes permitted prior to HB 2001. The state has indicated that any middle housing lot division proposal would need to demonstrate compliance with both applicable state building code and local middle housing code in order to be eligible under SB 458, and that it is unlikely but not impossible that a pre-HB 2001 housing type would meet those criteria. The second issue was whether MHLD procedure should apply to ARUs in addition to duplexes. Mr. Severson noted that SB 458 itself does not directly address its applicability to ARUs, but that the Department of Land Conservation and Development (DLCD) has explicitly stated that the MHLD procedure would not apply to ARUs.

Mr. Severson concluded by briefly detailing two staff-recommended additions to the ordinance (see attachment #1).

Questions of Staff

Commissioner Verner inquired if the City had a hearings officer or referee, and Mr. Severson responded that one would need to be hired specifically for this role. Chair Norton asked if they would be a fulltime staffer of the City, and Mr. Severson responded that they would be contracted. He added that the appellant would be required to pay \$300 of the officer's contract fee, with the possibility of levying an additional \$500. Any further funding would be paid by the City. Mr. Severson stated that he is in contact with other communities in the Rogue Valley to see who they are hiring for this position and to review copies of their contracts.

Commissioner Thompson asked how the division of a lot would be determined and if it would be at the discretion of the property owner. Mr. Severson responded that it would be up to the property owner, likely with a surveyor's assistance. They would have great latitude to divide the property as there would no longer be setback, street-frontage, or lot size zone requirements. It would be based on what worked best for the building configuration on the property, but would largely be limited to one dwelling per lot.

Commissioner Dawkins inquired if the new state guidelines would conflict with the current code. Mr. Severson responded that the Commission would be required to approve a MHLD proposal if it came before them, but that if it was a land use action under the flag drive partition regulations then the review process would not change. Mr. Goldman clarified that MHLD proposals are not land use decisions, and would not go before the Commission except under rare circumstances.

Commissioner Thompson asked whether the first of staff's recommended additions to the guidelines would supplant cottage housing codes. Mr. Severson commented that cottage housing is exempt from these rules. Mr. Goldman added that it would be more expedient for an applicant to go through the performance standards review process to create a cottage housing development, rather than dividing up a property in an incremental fashion. Commissioner Thompson inquired if her property in an R-2 zone with two dwelling units would be able to be subdivided and sold separately under the new guidelines. Mr. Goldman responded that she could, but that the secondary unit would need to meet building and setback requirements in relation to the parent lot. He noted that both buildings would still be considered a duplex, and that the owners would not be permitted to develop

an ARU in either property. Commissioner Thompson asked if both properties would be fully transferable. Mr. Severson responded that neither property would have full development rights, but that they could both be sold and resold.

Commissioner Herron asked whether ARUs need separate utilities from the parent property, and Mr. Severson responded that they would only require separate electrical service. Commissioner Herron commented that the parent property would then be required to provide all other utilities in order to be legally divided, and asked if that was explicitly stated in the Ashland Municipal Code. Mr. Severson responded that it is part of the building code requirements, and that separate utilities are required by state law.

Chair Norton noted that divided duplexes could now develop their own Covenants, Conditions, and Restrictions (CC&Rs) under the new guidelines. Mr. Severson stated that the duplex would still be subject to the original division approval, which would include building design and placement of a landscape plan. Commissioner Thompson noted that the state bill contains a clause regarding planned communities, and that the properties within such a division would be subject to the governing documents of the planned community, and would be allocated assessments and voting rights on the same basis as existing units. Commissioner Verner requested clarification on when this situation would apply. Mr. Goldman responded that a duplex in an existing planned community that went through a middle housing land division would have voting rights under the existing CC&Rs. The other scenario would be if a single-family home, outside of an existing planned community, added a second unit to their property and then went through the MHLD process. These two properties could then develop their own CC&Rs for maintenance of any common areas. Chair Norton expressed concern that the conditions for the division could become confused after the properties are sold and resold, which could result in conflicts arising between two future property owners. Commissioner Thompson pointed out that the City would not get involved in such a civil matter.

Commissioner Knauer inquired if the City actively observed mandates coming from the state, and whether the City had an advocate at the state level. Councilor Hyatt detailed how the League of Oregon Cities (LOC) will annually send out a list of priority issues to a variety of committees, which are then placed into relevant categories. One of those categories are land actions, and the City votes on which it deems to be the top six highest priority items. The LOC then leverages lobbyists at the league on behalf of those cities. However, those lower priority items are not overlooked, as environments and circumstances change rapidly. Land use, affordability, and infrastructure are currently a high priority for the LOC and are being advocated for on behalf of Oregon cities. A lobbyist within the LOC can also be approached if there is an issue that would be counter to the interests of a city.

Commissioner Thompson commented that there was a consortium of Oregon cities that is currently suing the DLCD over the removal of parking mandates within the state's new Climate Friendly and Equitable Communities guidelines. Chair Norton inquired if the City was approached about joining the lawsuit. Councilor Hyatt responded that Medford and Grants Pass had joined the lawsuit, but to her knowledge the City had not entertained the notion of joining.

Commissioners Thompson/Dawkins m/s to recommend that the City Council adopt the draft ordinance with staff's additional recommendations. Voice Vote: All AYES. Motion Passed. 6-0.

V. OPEN DISCUSSION

Mr. Goldman stated that the open discussion item had been added in order to address topics not on the agenda that Commissioners would like to discuss, as well provide an opportunity for Commissioners to put forth topics for discussion at future Study Sessions. He noted that no new items could be added to the current agenda during an Open Discussion, nor could a decision be made on such an item.

Chair Norton inquired if the Midtown Lofts project at 188 Garfield was progressing. Mr. Goldman responded that a site visit had recently been conducted to look for tree protection fencing in advance of the permit being issued, and the developers would soon begin work on the common areas. The Commission discussed a variety of projects that have yet to begin development. Mr. Severson announced that the Columbia Care facility and Plaza North on First Street both recently obtained their occupancy permits.

Chair Norton informed the Commission that Governor-Elect Tina Kotek had expressed the belief that the Urban Growth Boundary

(UGB) was having a detrimental effect on affordable housing in the state, and had shown interest in modifying State Bill 100 to address this issue. Commissioner Dawkins commented that one of the incoming City Councilors appeared open to expanding the UGB.

Councilor Hyatt expressed her gratitude to the Commissioners for their dedication and willingness to delve into difficult issues, and that she always appreciated recommendations that come from them. She also expressed her appreciation to staff.

VI. ADJOURNMENT

Meeting adjourned at 7:52 p.m.

*Submitted by,
Michael Sullivan, Executive Assistant*