

**PLANNING COMMISSION  
MINUTES**

April 22, 2024

Meeting held online via Zoom

Commissioners present: Kevin Moss, Carrie Pak, Gerald Murphy, Louise Lopes, Michael Wilson, Tammy Stevens, Tom Middaugh.

Commissioners absent: Tom Peterson

Staff present: Martha Fritzie, Jennifer Hughes, Cheryl Bell, Darcy Renhard

Commission Chair Murphy opened the meeting at 6:33 pm.

Chair Murphy asked if there was anyone in the audience who wished to provide public comment on items other than what is on the agenda. There were none.

Chair Murphy opened the public hearing for ZDO-285.

Ms. Fritzie provided the staff recommendation for ZDO-285. These are proposed amendments to the Clackamas County Zoning & Development Ordinance (ZDO) and Chapter 4 of the Comprehensive Plan (Comp Plan). While the primary components of the amendment package are related to recent allowances for new housing options enabled by the state legislature, there are a few minor amendments that simply clarify existing language, correct errors, and bring our ordinance into compliance with state mandates.

There are five main components to the proposal. The first is to allow accessory dwelling units (ADUs) in rural residential zones. The second is to allow recreational vehicles (RVs) for residential use as second dwellings in certain areas. The third main action is to amend the standards for replacement dwelling in agricultural and forest zones. The fourth would expand allowances for affordable housing generally in the urban area and allow prefabricated structures and single room occupancies. Finally, there are minor and nonsubstantive amendments to correct citations, remove references to a zoning district that no longer exists, clarify setback exemptions for middle housing land divisions, and clarifying how we calculate the floor area for things like ADUs and guest houses. There are also some new references added and we are removing the conflicting language in our Comp Plan that relate to the mandatory items for affordable housing. The items that are of primary focus tonight are items 1 and 2 because these items are optional, not mandatory requirements from state legislature.

Planning staff was directed by the Board of County Commissioners at a policy session to draft the proposed amendments for the new housing options, specifically to allow ADUs and RVs as second dwellings on properties within certain zones. Planning staff worked with PGA to create a web page specifically dedicated to providing information on these proposals. Staff also held an online Q & A session that was well-attended and posted a survey to gather public input. The survey was open from March 18<sup>th</sup> until April 10<sup>th</sup>. We received over 600 responses to the survey.

Ms. Fritzie then provided more detail about each of the items in ZDO-285.

(1)The proposed amendments would allow for ADUs in rural residential zones. Recent legislation expanded the allowance for counties to have the option of allowing ADUs outside the urban growth boundaries. If counties do decide to allow them, then there are minimum requirements in state law that must be applied. Counties also have the option of being more restrictive, but at the very least the minimum standards must be

applied. For clarification, an ADU is another dwelling unit on a property that includes a kitchen and utilities. It is usually smaller than the primary dwelling, but it can be an attached or detached unit. It can also be an internal conversion of the primary dwelling. The important thing to keep in mind is that it is an actual dwelling and is subject to the same permitting process and must be connected to the same types of sewage disposal, water facilities, and electrical facilities as the primary dwelling. While ADUs are not a new type of housing in the county, they are currently only allowed inside of urban growth boundaries. Recent legislation has expanded the allowance so that counties can now consider allowing them outside of urban growth boundaries and urban reserves. As previously stated, this is optional and not a requirement. It is important to note that the Farm/Forest zones, Exclusive Farm Use zones, and Timber zones are not included in this. It only includes the rural residential zones, in which there are approximately 8,300 lots that would meet the minimum 2-acre requirement. Other minimum requirements under state law are that the ADU cannot be larger than 900 square feet, cannot be farther than a hundred feet from the primary dwelling, and can be the only dwelling on the property besides the primary dwelling. There are also certain wildfire mitigation standards that must be applied. In addition to the state's minimum requirements, the proposal in ZDO-285 also adds that there cannot be a guest house on the property and that the ADU must have the same property line setbacks as a primary dwelling.

Based on the survey results, there is pretty strong support for this specific piece of the proposal. Over 70% of the respondents were in favor of the county allowing ADUs in all the rural residential zones. Twenty-one percent were against it, and about 7.5% thought it was appropriate in only some of the areas. The most common concerns noted in survey comments were the quality of life in the rural areas and the need for the ADUs to be connected to wastewater facilities. There was also concern about the ADUs becoming short term rentals; additional demands on infrastructure; and code enforcement and how the rules would be enforced. There were a lot of positive comments about this being a good option to house other family members or friends who might need a less expensive place to live. It could also be an income option as long-term rentals for people in the rural residential zones as well as being a way to address the need for more affordable housing.

(2) We received a slightly different response when it came to the second item - RVs as second dwellings. The definition of recreational vehicle is broad: a licensed vehicle, with or without motive power, designed for human occupancy. It cannot have a gross floor area of more than 400 square feet when in setup mode. This includes, but is not limited to, park trailers, travel trailers, pickup campers, motor homes, fifth wheel trailers, and camping and tent trailers. Right now, RVs are allowed as dwellings only when it is approved on some sort of temporary basis, such as a hardship or temporary dwelling for care. It is not a permanent residence. Recent legislation also created an opportunity for counties to allow for these to be used as secondary dwellings in certain areas. Like the rural ADUs, this is optional and there are minimum standards under state law that the county must apply, but we can also choose to apply additional standards. This allowance is a bit broader in terms of geography. It includes properties both inside and outside the Portland Metropolitan Urban Growth Boundary in residential zones, specifically single family residential zones. Again, we are not talking about farm and forest zones, and this use would not be allowed in an urban reserve. The number of lots that could potentially accommodate this use is much larger. This is in part because there is no minimum lot size identified in state law, and because it would be allowed within the Metro urban growth boundary. There are over 24,000 lots within the urban area that would potentially qualify, and about 15,000 in the rural areas.

If the county were to allow RVs as second dwellings in these areas, state law has certain minimum requirements. There could only be one sited on the property and there can only be one other dwelling on the property (the primary dwelling). The primary dwelling must be the property owner's primary residence. No

part of the primary dwelling can be rented. The property owner must provide what are considered essential services to the RV. There are habitability requirements as well. The RV cannot be used as a short-term rental and the RV is not subject to state building codes since RVs are technically vehicles. Staff identified other items they felt are important to include in the standards – and the proposal in ZDO-285 also includes a minimum (10 feet) and maximum (100 feet) siting distance from the primary dwelling and requires the RV to comply with the same setback distances from the property lines as the primary dwelling. There are also requirements that the RV have a permitted connection to septic/sewer, public water service or well, and electricity and the property may not contain a guest house.

There was a more mixed response to this question on the survey. Only about 41% of respondents were in favor of allowing RVs as second dwellings in all the areas state law would allow. Almost 12% said that they should be allowed only in rural areas, but just over a third of responses were not in favor of allowing them as second dwellings at all. Though comments were very similar, there were a few more concerns identified with the RV option including: concern about the utility connections; whether these would be used as short-term rentals; that RVs are not suitable for permanent habitation; potentially negative effect to property values; increased crime and public safety issues; and again, the code enforcement concern. There was also some acknowledgement that this could provide an affordable option for housing family members or the elderly.

(3) ZDO-285 also includes amendments to align the County's requirements for alteration, restoration, and replacement of dwellings in Agriculture and Forest zones with recent changes in state law. Previously there were different rules in farm zones versus forest zones. Now they are all the same, which is helpful from an administrative standpoint. The dwelling must have or have had in the past 3 years, the general physical components of what one would consider integral to a dwelling, and it must have been assessed as a dwelling within the past 5 years. There are standards for wildfire mitigation as well. ZDO-285 does not propose anything more restrictive than state law, we are just codifying it in the county's ZDO, so we can administer it better.

(4) The other housing related items are mandatory. There were several different bills that require the counties to allow certain types of housing. We are required to allow additional affordable housing inside the Metro UGB, in certain urban zones with urban services that are owed by certain entities, public entities, or religious organizations. It also provides an alternate housing density bonus. Single room occupancies (SROs) are a different housing type that we are required to allow within residential zones inside of any UGB. For clarity, a SRO is defined as a residential development with no fewer than 4 attached units that are independently rented and lockable and that provide living and sleeping space for the exclusive use of the occupant, but requires that the occupant share sanitary and food preparation facilities with other units within the occupancy. Finally, state law now says that we must allow prefabricated structures inside of an urban growth boundary in the same manner as we allow manufactured dwellings. The proposal in ZDO-285 expands the allowance for prefabricated structures to apply anywhere in the county, like a manufactured dwelling.

It is staff's recommendation that the Planning Commission recommend to the Board of County Commissioners adoption of ZDO-285 text amendments included as Attachment A, with some minor changes proposed by staff.

Commissioner Stevens asked if the additional dwellings, ADUs and RVs, would be taxed as an additional dwelling on the property. Ms. Fritzie stated that it was her understanding that when you put a dwelling (including an ADU) on a property it will be assessed and taxed. That isn't necessarily the case with RVs.

Commissioner Pak wanted to know if there would be assessments for system development charges in the urban areas. If these units are connecting to public utilities, then it would seem they should be assessed those fees. Ms. Fritzie explained that the SDCs are determined by the actual service provider. The County has service districts that provide those services, so we can't really answer how they would look at RVs. ADUs are assessed SDCs. If these are going to be long-term rentals, then Commissioner Pak thinks that the appropriate utilities should be collecting the SDCs for the additional services that they will be providing.

Commissioner Pak asked who is responsible for removal of an RV when it is no longer usable as a dwelling. Ms. Fritzie and Ms. Bell said that the RV must be owned by the property owner or the tenant. Because the RV must be in an operable state to be allowed under these provisions, they would have to be able to drive or be towed off the site. If they were not operable, it would be a violation under County Code. Commissioner Pak is more concerned about the RV aspect of this than the ADUs. At least with the ADUs there is a permitting process in place. There also seem to be a lot of properties on the map that are very near waterways. Will the environmental impacts to wetlands and waterways be given consideration before these are allowed? Ms. Fritzie reassured Commissioner Pak that there would be a Type 1 review process for RVs where Planning staff looks at the proposal against all the applicable criteria. They would have to meet all the same siting standards as any other proposed structure. They would be prohibited within areas that are regulated by the Floodplain Management District, which includes the floodway and the 100-year floodplain.

Commissioner Wilson asked what constitutes a nuisance property and who determines that. Ms. Bell answered that according to the County Code, Chapter 6.08, a nuisance property is defined as a property on which 3 or more nuisance activities exist or have occurred in the last 60-day period, or in which 12 or more nuisance activities have occurred in a 12-month period. Nuisance properties include properties related to law enforcement actions, code enforcement violations, and things of that nature. Commissioner Wilson is still concerned about the lack of code enforcement and the shortage of staff available to enforce violations.

Commissioner Lopes wanted to know what would happen to the structure if there were persistent code violations and the property was deemed to be a nuisance. Would the ADU have to be removed or torn down? Ms. Hughes replied that an ADU in violation may have to be converted into a different use that is allowed within the zone, most likely a storage or other accessory building.

Commissioner Middaugh has noticed that there is a prohibition at the state level for these dwellings to become short-term rentals. He asked if there are consequences at the state level. Ms. Hughes and Ms. Fritzie answered that there is not. The state simply tells us what the rules are and we are bound to enforce them.

Commissioner Murphy did some investigating to find out how HUD looks at RVs. He found that they look at them as a temporary structure and not as permanent dwellings. This is at the Federal Government level. These vehicles are not designed for full time occupancy, and they are not required to meet any sort of building code standards. He does not feel that RVs are suited to be used as permanent dwellings.

Chair Murphy asked if there were any representatives of CPOs, hamlets or villages that wish to provide comment. There were none.

Chair Murphy opened the hearing for public comment.

**David Lythgoe, Welches** – Mr. Lythgoe is against having RVs allowed in these zones. He agrees with Commissioner Murphy that the RVs only have a certain life expectancy. Since they are not required to meet current construction standards, he is concerned about their ability to withstand snow loads. The other

concern is the lack of foundation requirement. Whereas an ADU is required to have a full foundation, RVs are not. One of the functions of a foundation is to stop the spread of fire. Also, since an ADU requires a building permit, they would essentially be taxed. An RV would not have the same requirement. He is concerned about our schools becoming overwhelmed as well as our infrastructure.

**Lisa Massena, Welches** – Ms. Massena said that based on the survey results that were presented earlier, 59% of people did not say that they are okay with allowing RVs as second dwellings. They are not fine with it. She asked if the ‘yes’ responses were concentrated in specific areas or were they all over the place? Hoodland residents have generally said that they do not think that this is better for their community. Can the County say that it is okay in one area but not another? We already have generous regulations that serve the needs of those who want to use RVs as temporary dwellings to care for other people, so it is not clear to her why we would want to take a vehicle and turn it into a permanent residence. It makes more sense to her to look at how to increase our housing stock such as apartments and other multi-family units. Things that fit better into communities in terms of being taxed and providing revenue that is then available to support all the services and infrastructure that those residents will need.

**Dennis Tylka, Welches** – Mr. Tylka is against allowing RVs as dwellings. He asked what would prevent someone from circumventing the 2-acre minimum requirement for an ADU by just buying a tiny home or a park trailer like the ones in the RV village in Welches. Those are licensed by the State of Oregon and fit the definition of RV in ZDO Section 202. They won’t be assessed any development fees or property taxes, which is another reason why it would be a good idea to have a minimum lot size on the RVs as well as the ADUs. Since the County cannot regulate RVs through the building code, he would recommend that the County require RV camp site pads be constructed. The County could perform the necessary utility inspections for the site pad and ensure that the RV is habitable. He suggested that there be a requirement for a canopy to be built over these RVs in the snow zones so that they can withstand the snow loads. There is also the concern over what happens when a tree falls on one of these. Another reason he is opposed to RVs as dwellings is because RVs do not pay property taxes, but the people who live in them still require county services such as schools, fire, police, healthcare, and so on. The County is going to have to either increase everyone else’s property taxes or decrease the level of services for what we do have. He asks that the Planning Commission recommend against allowing the RVs as dwellings.

**Adam Boyce, Oregon City** – Mr. Boyce is very interested in and supports this proposal as it would provide more opportunities for those who need it financially. It would allow people to live there they want to live and have some property. This could be a good step forward in that direction. He would like to see some data around the current state of affordable housing within the County. There is opportunity for tiny homes for long term habitation, which are a little bit separate from typical RVs even though they are licensed as RVs. Primarily he is talking about ADU use though.

**Erica Strong (via chat)** – Ms. Strong asked for clarification on the RV regulations. She asked if the RVs must meet structural or vehicle codes. The presentation says that the environmental impact of the RVs would be regulated as vehicles, but she heard in the discussion that they would be regulated as structures. Ms. Fritzie explained that RVs are not subject to the same building codes as a structure. They are built and inspected somewhere else because they are technically vehicles. If someone were to want to use an RV as a second dwelling, they would have to meet setbacks from property lines and other provisions within the code. One of those provisions that we added specifically to our zoning code was to address the concern over the fact that they are not structures, so they would not ordinarily be subject to a lot of the regular standards in our zoning code, particularly those related to overlay districts and riparian areas and floodplain. The siting standards were added specifically to address some of those issues.

Chair Murphy closed the public testimony portion of the hearing.

Ms. Hughes said that there is nothing that prevents us from requiring an RV pad, much like you would find if you were in a state park with RV hookups. An actual foundation would not be allowed under these amendments, but an RV pad could be.

Ms. Bell and Ms. Hughes clarified that County Code Enforcement does not take anonymous complaints, but that you can request confidentiality. There is a type of ranking standard for the violations that we receive. If it rises to the level of life, health, or safety issues, then only one complaint needs to come in before Code Enforcement acts. If it is of a lower standard and there is no immediate risk, then we would need two complaints before taking action.

Chair Murphy closed the public testimony. He asked if the County is going to be tracking the locations of all these RVs. If you think about it, this could have an impact on a congressional district since we would be adding population. How else do we know what our census is? Ms. Hughes answered that we would have a way to track it in our permitting system. We may not rely on that particular data for census information, but we will have it if we need it.

Commissioner Moss asked if we have any idea how many of these ADUs and RVs we may be looking at. He thinks that it is not going to be as big of an issue as we are hearing. We are going to be more concerned about the RVs that we see parked along the highways that are public health nuisances. Ms. Fritzie does not think that there is going to be a massive influx of these either but it is hard to predict. There is some cost associated with permitting all the utilities and going through the whole process. We are not sure if any other counties allow the RV option yet, although she thinks that Deschutes County may. Currently less than 1% of lots in the urban area where ADUs have been allowed since the mid-1990s have an ADU. There may be more interest in having them now than in past decades, but we are still looking at a very small percentage increase. We hear a lot of feedback that the RVs are already out there, so the key would be getting those permitted legally.

Commissioner Stevens shared some conversations that she has had with acquaintances that have RVs on their properties as dwellings. None of them are legally permitted, and there are various reasons why they are there. Commissioner Wilson remarked that this goes back to lack of code enforcement. Commissioner Stevens replied that Code Enforcement does not even know that these are there. Some are parked and stored within barns or other buildings. The neighbors do not care that they are out there, so Code Enforcement has no way of knowing that it is even happening. Some of them are scary and dangerous, but if Code Enforcement doesn't even know about them then you can't expect them to take any action. Commissioner Lopes agreed that you often see multiple RVs parked on a piece of land with extension cords and hoses. None of it is permitted, but they are renting them out. A lot of times those RVs are shabby because the RV parks have standards and won't accept these old, shabby ones. There are violations everywhere out where she lives in the country.

Commissioner Moss said that people want to be able to do what they want on their own property. While he agrees that the extension cords, for example, may create a fire danger, what is to stop somebody from lighting off a firework and starting a wildfire. Nobody wants to live in a police state, and even if we provide all the pathways in the world for people to come into compliance, some people are just not going to do it.

Commissioner Pak does not feel that she can support recommending the RV component of this based on the potential impacts. She doesn't have a problem with the ADU because there will be permitting and oversight. Our housing problem is complex and nuanced, and this does not feel like a long-term solution to a much bigger problem. If the Board does move forward with approving this, she would ask that they implement some type of program to bring all of those that are currently in violation into compliance within a specific timeframe.

Commissioner Middaugh pointed out that the City of Molalla is concerned about noncompliant RVs being grandfathered in as nonconforming uses in their city if we pass this. The State's intent was to provide another avenue for people who are houseless to find a place to live. We aren't talking about the abandoned RVs that we all see alongside the road. We are talking about providing a set of rules that would allow houseless people to move into an RV. He would like to see us allow the RVs in the single-family residential zones, but require the RV pads with electricity, water, and essential services like they are in RV parks.

Commissioner Moss moved that the Planning Commission recommend that the Board of County Commissioners approve ZDO-285 with the staff recommendations, excluding option number 2 on the RVs. Commissioner Stevens seconded the motion. *Ayes = 6 (Stevens, Moss, Murphy, Pak, Lopes, Wilson), Nays = 1 (Middaugh), Abstain = 0. Motion is passed.*

Commissioner Moss moved to approve the minutes from the April 8, 2024, Planning Commission as submitted. Commissioner Wilson seconded the motion. *Ayes = 6 (Wilson, Lopes, Stevens, Moss, Murphy, Pak), Nays = 0, Abstain = 1 (Middaugh). Motion is passed.*

Ms. Hughes provided a recruitment and schedule update.

There being no further business, the meeting was adjourned at 9:04 pm.