



**MEMORANDUM**

To: Clackamas County Planning Commission

From: Martha Fritzie, Principal Planner  
Joy Fields, Senior Planner

Date: March 7, 2022

RE: **ZDO-282**: Land Use Housing Strategies Project (LUHSP) Phase 2 – **House Bill 2001 (HB2001)** Implementation Update

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The purpose of the March 14 policy session is to:

- Update the Planning Commission on ZDO-282, which contains the proposed amendments to the Zoning & Development Ordinance (ZDO) and Comprehensive Plan related to House Bill 2001 (HB2001) implementation and middle housing in the urban, unincorporated areas of the county; and
- Give the Planning Commission an opportunity to discuss issues and ask staff questions about the proposed amendments in order to help prepare for the March 28 public hearing on this matter.

As Planning Commissioners may recall from previous conversations about this topic, HB2001 mandates that jurisdictions, including Clackamas County, allow people to build what is called middle housing -- duplexes, triplexes, quadplexes, cottage clusters, and townhomes -- in urban areas where they might now only be allowed to build single-family detached housing. In unincorporated Clackamas County, these requirements will apply to properties in urban zoning districts R5, R7, R8.5, R10, R15, R20, R30, VR5/7, and VR4/5 (See *Attachment A1* for map).

Ordinance ZDO-282 contains the amendments to the county's ZDO that are needed to implement HB2001 and other minor amendments related to housing, including those needed to allow for middle housing land divisions.

ZDO-282 also includes amendments to the county's Comprehensive Plan to enable the middle housing zoning code amendments. The Comprehensive Plan updates are focused on Chapter 6, *Housing*, which contains the goals and policies to guide housing-related standards in the ZDO. This chapter is outdated and long overdue for an update. Chapters 4 and 10 will also be amended to ensure there are no inconsistencies or barriers to the implementation of HB2001.

The full text of the proposed amendments, along with a brief summary of the proposed changes, are available at [www.clackamas.us/planning/zdo282](http://www.clackamas.us/planning/zdo282). Paper copies will be attached and mailed to the Planning Commission with this memorandum.

The proposed amendments will generally accomplish the following five actions.

**1. Allow duplexes, triplexes, quadplexes, townhouses, and cottage clusters (middle housing) in urban low-density residential areas, and identify development and design standards that apply to this middle housing.**

The county must stay within the minimum standards established by the state in the Oregon Administrative Rules (OAR 660, Division 46) and may use standards found in the state's *Middle Housing Model Code*. Generally, this means that the county has:

- No control over what, how, and where middle housing types must be allowed in the urban area, and
- Limited control over certain siting and design standards for some middle housing, as long as those standards do not result in unreasonable cost or delay in the development of middle housing. To meet the “do not result in unreasonable cost or delay” standard, the regulations must be the same (or less restrictive than):
  - those for a single-family dwelling;
  - what is included in *the Middle Housing Model Code*; or
  - what is included in the OARs for “minimum compliance” with each standard.

The amendments proposed in ZDO-282 include changes that are needed to allow middle housing in urban low-density residential areas and identify the development standards for such middle housing and would:

- Add new definitions for middle housing types and specify where they are allowed outright.
- Add a new ZDO section – Section 845, *Triplexes, Quadplexes, Townhouses, and Cottage Clusters*– with siting and design standards that are unique to triplexes, quadplexes, townhouses, and cottage clusters in zones affected by HB2001. This includes general standards -- minimum lot sizes for triplexes, quadplexes and cottage clusters -- and standards specific to each type of middle housing including entry orientation, driveway regulations, windows, cottage cluster courtyard regulations, and others.
- Establish a minimum lot size of 5,000 square feet for the development of triplexes and 7,000 square feet for quadplexes and cottage clusters. Under the HB2001 rules, larger minimum lot sizes would be allowed if certain “performance standards” were met, but the county’s land supply does not meet those standards. Therefore, the proposal includes the largest minimum lot sizes that can be established under the state’s rules.
- Establish a maximum density for townhomes that is three or four times the density for single-family homes (depending on zoning district). These densities meet the requirements allowed under the state’s rules.
- Establish minimum parking requirements at the highest level allowed under the state’s rules: one parking space per dwelling unit.
- Prohibit the development of middle housing without public sewer service, except for duplexes that meet certain exceptions allowed for detached single-family dwellings in the urban area.
- Retain existing requirements and exemptions for sidewalk construction, which will mean that sidewalk construction will be required for middle housing with four or more units, whereas the option to pay a fee-in-lieu-of (FILO) sidewalks that is currently available to single-family dwellings and other development with three or fewer dwelling units will continue.

- Keep other infrastructure requirements for middle housing the same as for a detached single-family dwelling.

## 2. Remove the 3,000 square foot minimum lot size for residential development.

Currently the ZDO requires a lot be at least 3,000 square feet (in most zoning districts) in order for development of a dwelling to be approved. This requirement means that if an existing, legally-established lot happens to be smaller than 3,000 square feet, it cannot be developed with a dwelling, even if the development could meet all other applicable development standards. In the county's urban area there are a number of older, platted lots that are 25 feet x 100 feet (2,500 square feet). For these lots to be developed, owners have had to develop two or more lots with a single dwelling or replat lots (e.g., reconfigure four platted lots into three) in order to develop – both options that cost property owners time and money.

ZDO-282 proposes to remove the 3,000-square-foot minimum lot size for residential development and instead let the applicable development standards (setbacks, lot coverage, parking, etc.) determine what can be built on a lot. There are three reasons for this proposal:

- The 3,000-square-foot minimum lot size has been in the county's zoning code for decades and current staff has found no evidence pointing to the rationale behind its original inclusion. Staff is aware that this rule creates more expense and inconvenience for property owners wanting to develop.
- In 2019, the legislature passed Senate Bill 534, which requires certain jurisdictions to allow the development of at least one dwelling on each platted lot that is zoned for a single-family dwelling, regardless of the size of the platted lot. While an argument can be made that this legislation does not apply to the County's urban unincorporated areas, the language is unclear.
- The rules for HB2001 specify that a duplex must be allowed "*on any property zoned to allow detached single-family dwellings, which was legally created prior to the [jurisdiction's] current lot size minimum for detached single-family dwellings in the same zone.*" Staff interprets this provision to mean that the 3,000-square-foot minimum lot size cannot be applied to a duplex, and if a duplex is allowed, staff believes it does not make sense to continue to prohibit the development of a detached single-family dwelling.

## 3. Simplify the maximum lot coverage requirements in urban low density residential zoning districts.

Currently the R-2.5 and R-5 zoning districts allow up to 50% of a lot to be covered with structures and the R-7 through R-30 districts allow up to 40% of a lot to be covered. However, there are exceptions that allow 50% lot coverage for existing lots of record that are smaller than 6,000 square feet and created prior to current zoning or for any lot that is developed with a townhouse. In addition, lots in a Planned Unit Development (PUD) have a maximum lot coverage of 65%.

ZDO-282 proposes to simplify the lot coverage requirements in the R-7 through R-30 zoning districts to eliminate the need for most of the exceptions and simply allow for a 50% maximum lot coverage on any lot in those zoning districts.

The exception for lots within a PUD would remain; PUD lots are generally smaller than what the underlying zoning district allows because a PUD includes common area tracts in lieu of larger lots and individual yards.

#### **4. Allow and identify standards for middle housing land divisions.**

In 2021, the Oregon Legislature passed Senate Bill 458, which requires that any jurisdiction subject to the requirements of HB2001 also allow the division of land that has or is proposed to have middle housing (duplexes, triplexes, quadplexes, townhouses, cottage clusters) that is developed consistent with the HB2001 regulations. With a middle housing lot division, a jurisdiction may include certain limitations such as prohibiting further division of the lots or prohibiting accessory dwelling units on the resulting lots.

#### **5. Repeal design standards specific to manufactured dwellings.**

Currently manufactured homes that are to be placed individually on a property (not in manufactured dwelling parks) must have at least 700 square feet of living space if within the rural area and 1,000 square feet of living space if within the urban area. These manufactured dwellings are also subject to a number of standards, like a requirement for a garage or carport, that are not required for other dwellings and that can add significant expense to the placement of the home.

ZDO-282 proposes to repeal Section 824, *Manufactured Dwellings*, which contains these requirements for two reasons:

- The Oregon legislature is currently poised to pass a bill that would prohibit jurisdictions from having such standards for manufactured dwellings. Including these amendments with this package will be more efficient than addressing them later; and
- The existing standards for manufactured dwellings can create cost barriers to providing them as a more affordable housing option.

Removing these standards would mean that manufactured dwellings would be subject to the same standards as detached, single-family dwellings. In addition, removing the minimum size for manufactured dwellings in the urban area would effectively allow them to be accessory dwelling units or dwellings in a cottage cluster, to the extent that it could meet all of the applicable development standards for those types of dwellings.

#### **Discussion Items/Questions:**

- A. Does the Planning Commission have any comments, concerns, or questions regarding the five major item discussed above?
- 1) Allowing duplexes, triplexes, quadplexes, townhouses, and cottage clusters (middle housing) in urban low-density residential areas and identifying development and design standards that apply to this middle housing.
  - 2) Removing the 3,000-square-foot minimum lot size for residential development.
  - 3) Simplifying the maximum lot coverage requirements in urban low-density residential zoning districts.
  - 4) Allowing and identifying standards for middle housing land divisions.
  - 5) Repealing design standards specific to manufactured dwellings.
- B. Planning staff will provide a staff report, draft code amendments and summaries, all written testimony received to date, and a summary report of public outreach to the Planning Commission one week before the March 28 hearing. Is there any additional information the Planning Commission needs in order to feel sufficiently prepared for the public hearing(s) on ZDO-282?

**For More Information:**

Please contact Martha Fritzie at 503-742-4529 or [mfritzie@clackamas.us](mailto:mfritzie@clackamas.us) or visit our webpages:

- HB2001 Implementation Project: [www.clackamas.us/planning/hb2001](http://www.clackamas.us/planning/hb2001)
- Land Use Housing Strategies Project: <https://www.clackamas.us/planning/land-use-housing-strategies>