AGENDA

PLANNING COMMISSION
December 16, 2021
5:30 p.m.

VIA ZOOM

https://zoom.us/j/95173124560?pwd=QVZXUHpQazlBZ1pNL1NUUWpaN3M4QT09
Meeting ID: **951 7312 4560** Passcode: **864333**
Dial: 1-669-900-6833 or 1-253-215-8782

1. CALL TO ORDER
2. ROLL CALL
3. PLEDGE OF ALLEGIANCE
4. APPROVAL OF AGENDA
5. APPROVAL OF MINUTES – November 18, 2021
6. PUBLIC COMMENT
7. STAFF COMMENTS / PROJECT UPDATES
8. COMMISSIONER COMMENTS / QUESTIONS
9. DISCUSSION ITEMS
   A. Potential Changes to the Land Use and Development Code (LUDO) for the Central Business Commercial (CB-C) zoning district
   B. Update Summary of new legislation from the 2021 Session of the Oregon State Legislature
10. ADJOURNMENT

This meeting conducted via Zoom.

Prepared by/
Paula Webb, Secretary
Community Development Department

MINUTES

PLANNING COMMISSION MEETING
November 18, 2021
5:30 p.m.

VIA ZOOM

PRESIDING:	Cody Cornett, Chair
COMMISSIONERS PRESENT:	Alan Easling, Philip Mascher, Mark Poppoff, one position vacant
COMMISSIONERS ABSENT:	Karly Aparicio, Linda Miller
STAFF PRESENT:	Director Alice Cannon, Secretary Paula Webb

CALL TO ORDER

The meeting was called to order by Chair Cornett at 5:32 p.m.

PLEDGE OF ALLEGIANCE

Chair Cornett led the Pledge of Allegiance.

APPROVAL OF AGENDA

It was moved by Easling and seconded by Cornett to approve the agenda as submitted. The motion carried 4/0; Cornett, Easling, Mascher and Poppoff voting in favor, none opposed, Aparicio and Miller absent, one position vacant.

APPROVAL OF MINUTES

It was moved by Easling and seconded by Mascher to approve the minutes of October 21, 2021 as submitted. The motion carried 4/0; Cornett, Easling, Mascher and Poppoff voting in favor, none opposed, Aparicio and Miller absent, one position vacant.

PUBLIC COMMENT

None.

STAFF COMMENTS / PROJECT UPDATES

Director Cannon stated due to recent events at a City Council meeting Zoom protocols have tightened.

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Director Cannon stated Staff continues progress on long-range planning projects:

- Approval of Shelter Housing Code
- Total Maximum Daily Loan Plan for creeks in the City will be followed up by code amendments
- Employment Buildable Land Analysis, review and update for final adoption
- Housing Inventory, completed 2019, review and update for final adoption
- Moving forward with code amendments identified by Planning Commission and Staff
- Director Cannon, with City Manager Pro Tem Daniel Hunter, is leading a Community Vision Project. The survey will remain open through December 9, 2021.

Senior Planner Dawn Hert noted the City currently allows for tiny homes or small homes as long as they are site built and meet Wasco County Building Codes requirements. The City's cottage cluster ordinance was approved.

COMMISSIONER COMMENTS / QUESTIONS

Commissioner Mascher stated he receives frequent inquiries regarding tiny homes and container homes, and believes they are a building block to address the housing crisis. Mascher would like to prioritize this issue.

Commissioner Mascher asked if his survey responses could be augmented in some way. Director Cannon replied additional comments and supporting documents could be mailed to her or the Department Secretary.

Commissioner Mascher referred to a recent Government Affairs meeting. Discussion included completion of the Scenic Bike Route, scheduled within less than a year, which will connect Troutdale to The Dalles. Mascher noted participants were encouraged to think of ways to make the west end of town more appealing. He felt the idea had a lot of value. Senior Planner Hert thought the Beautification Committee was exploring options.

QUASI-JUDICIAL PUBLIC HEARING

MIP 400-21: Luminous Enterprises, Inc., 2235 W. Tenth Street, 1N 13E 32 DA tax lot 2400

REQUEST: The applicant is requesting Administrative review of a partition of one 0.60 acre property into three parcels of varying size.

Chair Cornett read the rules of a public hearing. He then asked if any Commissioner had ex parte contact, bias or conflict of interest which would prevent an impartial decision. Hearing none, the public hearing opened at 5:58 p.m.

Associate Planner Chandler presented the staff report.

In response to Commissioner inquiries, Staff replied:

- Improvements are required with a subdivision. Street improvements apply to one half of the street, from center line to property line. Future improvements to surrounding parcels

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will be required with development. The street will be open to vehicular traffic; on street parking will be prohibited.

- Director Cannon stated most cities in Oregon require improvements with development; The Dalles is an anomaly. In other cities, individuals would be buying a shovel ready property with improvements. This anomaly exists in The Dalles due to passage of a House Bill prohibiting the City from requiring LIDs [Local Improvement Districts] and reimbursement districts.

Associate Planner Chandler stated this referral to Planning Commission is the City's opportunity to request the Commission's insight on whether or not this application should be reviewed as a subdivision. Chandler noted since passage of this House Bill, over 60 minor partitions were approved compared to seven subdivision approvals.

There was no testimony from proponents or opponents.

Yesenia Morales, 2229 W. Ninth Street, The Dalles

Ms. Morales requested the applicant's name. Associate Planner Chandler replied, "Luminous Enterprises, Inc."

In response to further questions, Associate Planner Chandler replied:

- Drawings in Appendix 1 of the Staff Report are a representation only. The plan would not be approved as presented.
- The term "serial partition" is not an official term. There is no definition for the amount of time that would create a serial partition. Once a plat is created, continuous modifications would be made.
- Director Cannon noted the term "subsequent years" is not defined in the section used to refer the application to the Planning Commission. If the Community Development Director "has determined that continuous partitioning of this parcel may occur in subsequent years" we may refer it to the Commission.
- Director Cannon stated if the Commission decides to review this application as a minor partition and a portion of the parcel is later sold, that portion would also be reviewed as a minor partition.
- Associate Planner Chandler clarified sidewalk installation is delayed by building permit review. The developer is responsible for curbs. Once a curb line is established, the future houses are responsible for sidewalks. City Engineer McCabe noted corner lots require an ADA ramp.

Chair Cornett closed the public hearing at 6:45 p.m.

Commissioner Poppoff was in favor of review as a minor partition.

Commissioners Easling and Mascher were in favor of review as a subdivision. Mascher stated a centralized approach to the responsibilities made sense. He noted the importance of infrastructure such as sidewalks, bike paths and a coherent utility infrastructure is the right statement to make as a community.

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Chair Cornett stated based on the application and evidence in the staff report, it is clear the intent is to continue to divide the parcel. This is the basis of his decision.

It was moved by Mascher and seconded by Easling to require the proposed land division at 2235 W. Tenth Street be reviewed as a Subdivision application and direct staff to deny Minor Partition 400-21. The motion carried 3/0; Cornett, Easling, and Mascher voting in favor, Poppoff opposed, Aparicio and Miller absent, one position vacant.

LEGISLATIVE PUBLIC HEARING

ZOA 106-21: Shelter Housing Code Amendments, City of The Dalles

REQUEST: Consideration of proposed changes to The Dalles Municipal Code, Title 10 Land Use and Development. The amendment purpose is to expand the permitted uses in the Commercial General and Commercial Light Industrial zones to allow Shelter Housing, also defined as Established and Seasonal Shelters, as permitted uses subject to proposed standards.

Chair Cornett read the rules of a public hearing. He then asked if any Commissioner had ex parte contact, bias or conflict of interest which would prevent an impartial decision. Hearing none, the public hearing opened at 6:56 p.m.

Senior Planner Hert presented the staff report.

There was no testimony from proponents or opponents.

Chair Cornett closed the public hearing at 7:10 p.m.

Commissioner Poppoff's comments included:

- Deletion of the General Commercial zone and inclusion of the Industrial zone,
- Include bathing and laundry facilities,
- In Shelter Housing [Exhibit A, 10.5.060.020 A. 29. a. ii.] change "comply with state building standards" to "comply with state building standards for permanent structures over 200 square feet,"
- In Landscaping [Exhibit A, 10.5.060.020 A. 29. b. iv.] change "may" to "shall" include internal shade trees,
- Page 53 [of the Agenda Packet} language is redundant, and
- In Surfacing [Exhibit A, 10.5.060.020 A. 29. b. i.] include compacted gravel.

Director Cannon noted the public hearing was closed. In order for Staff to respond to the comments, the public hearing must be reopened. Commission deliberation is necessary to ensure agreement with the changes.

Commissioner Easling stated shelter housing could potentially affect neighboring properties and businesses. He suggested review under a Conditional Use Permit (CUP) to provide additional scrutiny. Easling is in favor of the school buffer zone.

Commissioner Mascher stated this had been deliberated extensively, and was in favor of the Staff recommendation.

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Commissioner Poppoff stated the CUP was probably a good idea.

Chair Cornett reopened the public hearing at 7:25 p.m.

Senior Planner Hert noted a House Bill currently in effect allows shelter housing in Commercial Light Industrial, General Commercial, and Residential zones. This housing is permitted outright as long as the housing is established prior to the expiration of the House Bill. The City must adhere to State regulation.

Director Cannon believed the Council goal was to create a permitted use opportunity in the City.

Commissioner Mascher said he was aware of four different projects in the continuum of homeless shelter to affordable housing with treatment services for stressed community members. All are stuck in some kind of limbo. Creating a system where each will be reviewed and subject to "not in my backyard" scrutiny is opening the gates to a cumbersome system more or less unable to address a crisis that we're facing. Courageous and bold moves are needed to make an impact on this crisis.

Chair Cornett noted Exhibit A, 10.5.060.020 A. 29. a. i. did not include bathing facilities. Director Cannon replied that was the intent; that language could be included.

Director Cannon addressed the gravel versus asphalt comment. She stated permanent shelters should have the same requirements as private developers – asphalt, concrete or similar durable material.

Senior Planner Hert clarified the repetitive language in Exhibit A. The same language is used for both zoning sections.

Chair Cornett closed the public hearing at 7:34 p.m.

Chair Cornett agreed with the addition of bathing facilities and shade trees. He did not think there should be changes to state building codes standards. Cornett stated a CUP requirement in the General Commercial zone could be advantageous.

Commissioner Easling agreed with Chair Cornett's comments.

Chair Cornett moved to approve Zoning Ordinance Amendment 106-21 with changes: "General Commercial be moved to conditional use as opposed to permitted outright, bathing facilities to be a requirement specific to shelter housing, established and seasonal shelters shall include bathing facilities, and landscaping shall include internal shade trees."

Senior Planner Hert read back the motion: Change Title 10, Chapter 10.5.060 General Commercial, to allow both temporary and permanent shelter housing to be a conditional use, 29. a., "Provide sleeping and restroom facilities for clients," "bathing facilities" to be added, and for 29. b. iv., change "landscaping may" to "landscaping shall" include internal shade trees. For the Commercial/Light Industrial zone, two modifications: 28. a. vi., "Provide sleeping, restroom and "bathing facilities," and landscaping, 28. C. iv., "landscaping plan "shall" include internal shade trees.

Commissioner Poppoff seconded the motion. The motion carried 4/0; Cornett, Easling, Mascher and Poppoff voting in favor, none opposed, Aparicio and Miller absent, one position vacant.

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ADJOURNMENT

Chair Cornett adjourned the meeting at 7:40 p.m.

Submitted by/
Paula Webb, Secretary
Community Development Department

SIGNED: _____
Cody Cornett, Chair

ATTEST: _____
Paula Webb, Secretary
Community Development Department

DRAFT

CITY of THE DALLES
313 COURT STREET
THE DALLES, OREGON 97058

(541) 296-5481
FAX (541) 296-6906

MEMORANDUM

To: City of The Dalles Planning Commission

From: Alice Cannon, Community Development Director

Re: **Promoting Neighborhood Development in Downtown The Dalles Through Flexible Land Uses**

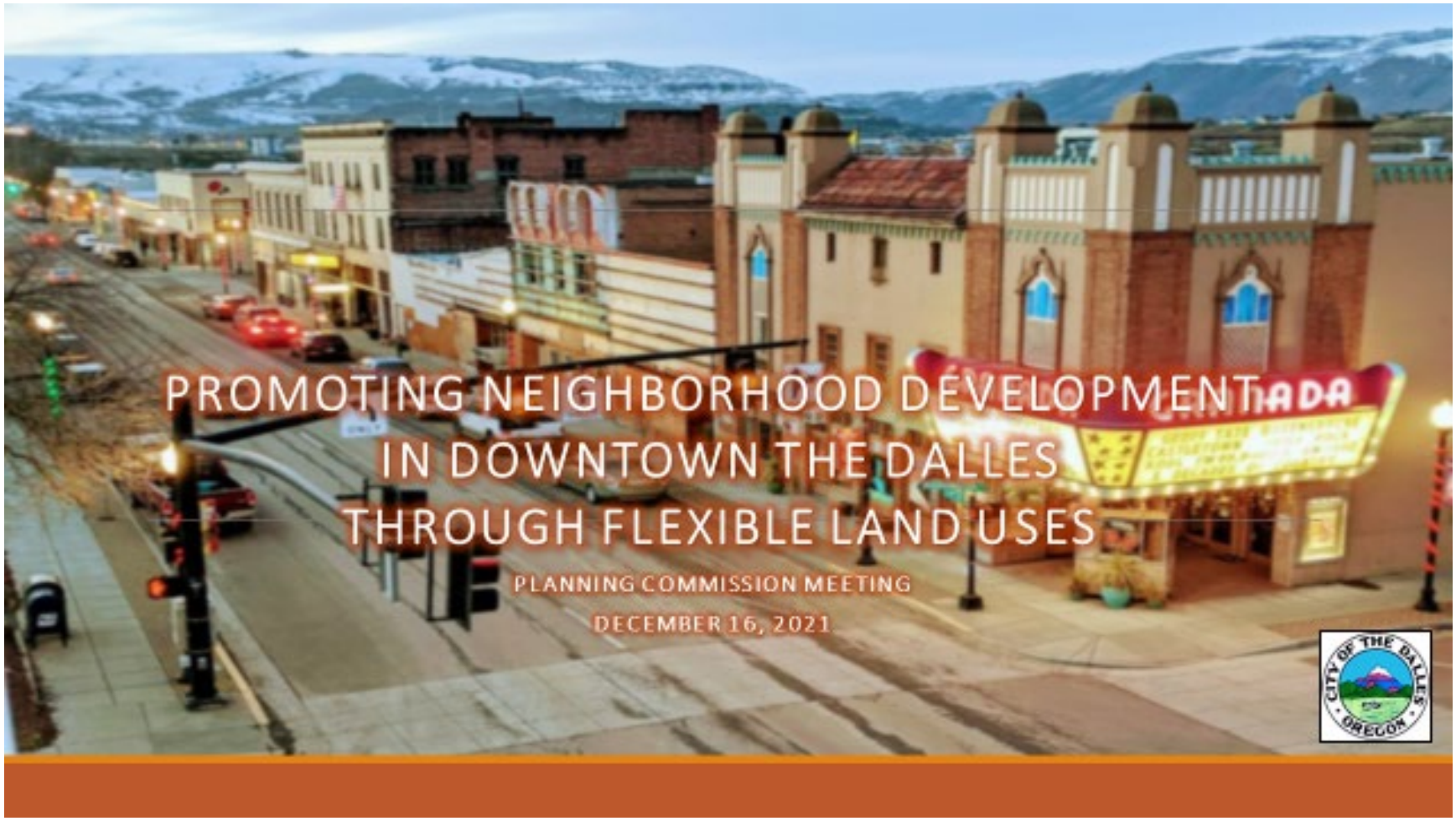
Date: December 16, 2021

During the Housing Code Amendment discussion at the April 22, 2021 meeting, the Commission requested that staff consider revising the ground-floor commercial requirement in downtown to allow property owners and developers more land use flexibility on the ground floor throughout downtown.

A majority of the Commission believed that maximum flexibility should be given to property owners, allowing ground floor commercial (retail, office, and restaurant), and residential throughout downtown. This was in recognition of the changing nature of retail shopping worldwide. More shoppers are purchasing goods online, requiring retail districts like downtown The Dalles to evolve in order to avoid an abundance of vacancies on the ground floors of First, Second and Third Streets. The current policy direction from City Council and the Urban Renewal Agency is to incentivize the development of new residential units in downtown in order to create a "neighborhood" in downtown, capable of supporting and strengthening a walkable downtown shopping and entertainment district on historic Second Street.

Staff thought further about the Commission's proposal to remove <u>all</u> ground-floor retail requirements and believe it is prudent to discuss and evaluate two other before taking this code amendment to a public hearing. The options should offer land use flexibility responsive to the real estate market, while supporting and strengthening the historic downtown shopping district. The attached PowerPoint will be discussed at the meeting.

ATTACHMENT: PowerPoint


PROMOTING NEIGHBORHOOD DEVELOPMENT
IN DOWNTOWN THE DALLES
THROUGH FLEXIBLE LAND USES
PLANNING COMMISSION MEETING
DECEMBER 16, 2021
CITY OF THE DALLES
OREGON

Existing Downtown Zoning

2

Where is Ground-Floor Commercial currently required in downtown?

Answer: The area surrounded by the red border, defined as CBC-Subdistrict 2. Residential is allowed only on upper levels of buildings within the red outlined area.

Note:
CBC Sub-District 2 is the core of downtown

3

Some questions to consider during the discussion:

- What is a healthy mix of commercial and residential land uses in the downtown area, **considering the rise of online shopping and remote work**?

- How can the land use regulations **promote more residential development within ¼ mile of the historic downtown shopping district to:**
  --Support and sustain the historic downtown?
  --Address the regional housing shortage?

4

Code Amendment Option 1:
Allow maximum land use flexibility in the CBC-2 zone

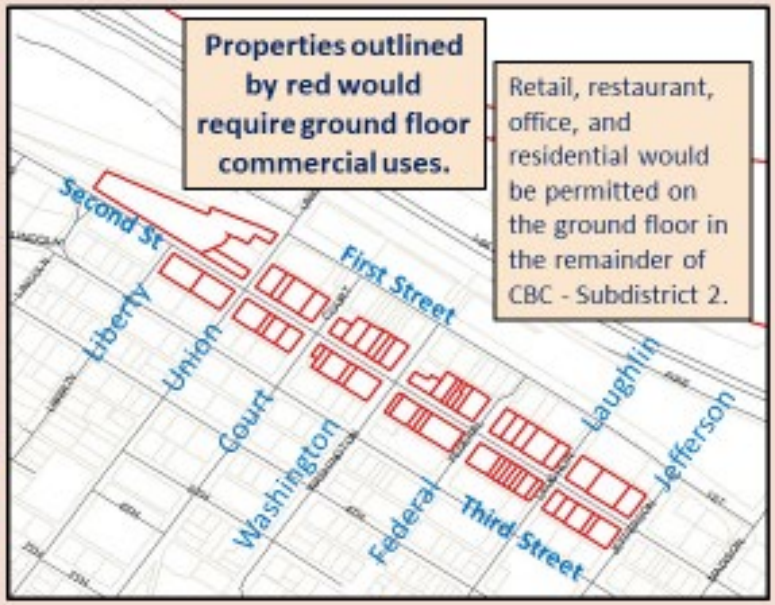
Suggestion: Remove the commercial ground floor requirement in the red area.

Note: This option was originally recommended by Planning Commission on 4/22/2021.

5

Code Amendment Option #2 – Protect historic Main Street/Second Street shopping district

require ground-floor commercial on these properties



6

Code Amendment Option #3 – Ground-floor residential uses in the red area would require Conditional Permit approval from Planning Commission

Note:
This requirement would only apply to CBC Sub-District 2 (the red area)

7

Discussion

- Staff prefers Option #2 and welcomes Commission feedback at tonight's meeting.
- Following the discussion, staff will take the results of this discussion to stakeholders for comment and to City Council for discussion prior to a hearing.

8

This Raises Another Code Issue:

- If ground-floor residential is permitted in CBC-Subdistrict 2, then we should review development standards to ensure residential compatibility on the ground floor.

Existing Downtown Zoning

CBC-Subdistrict 2 currently requires a maximum zero foot setback for all development,

subject to footnote #2, allowing 15-foot exception where outdoor seating for food service is proposed, subject to quasi-judicial approval of the Planning Commission

CBC Central Business Commercial	Standard		
	Sub-district 1 Historic Districts	Sub-district 2 Downtown Core	Sub-district 3 Downtown Fringe
Setbacks Front Yard and Corner Side Yard	0 ft. maximum, 10 ft. maximum where overlaps Sub-district 3[1]	0 ft. maximum[2]	10 ft. maximum[3]
Side and Rear Yards	No minimum/maximum, except 15 ft. where shares lot line with residentially zoned property, unless there is a vertical grade change between adjacent zone districts greater than 20 feet		
Lot Size, Width, Depth	No minimum/one full City block maximum provided any public rights-of-way are maintained		
Building Height	35 ft. maximum, except 75 ft. maximum with a conditional use permit		
Building Orientation	New buildings and major remodels of existing buildings increasing floor area by more than 30% shall be oriented primarily toward a street or designated accessway rather than a parking area		
Pedestrian Access	All building entrances shall have a clear pedestrian connection to the street/sidewalk in accordance with Section 10.3.030.070(C): Pedestrian Walkways		
Off-Street Parking (Bicycles and Vehicles)	See Chapter 10.7 - Parking Standards		
Landscaping	See Article 6.010: Landscaping Standards		
Accessory Uses, Buildings and Structures	See Article 6.030: Accessory Development		
Access Management	See Article 6.050: Access Management		

1. Applicant may request up to 15-foot exception where outdoor seating for food service is proposed, subject to separate quasi-judicial approval of both the Historic Landmarks Commission and the Planning Commission.
2. Applicant may request up to 15-foot exception where outdoor seating for food service is proposed, subject to quasi-judicial approval of the Planning Commission.
3. Applicant may request up to 5-foot exception where outdoor seating for food service is proposed, subject to quasi-judicial approval of the Planning Commission.

Staff would like to discuss possible modifications to this requirement at the meeting.

Thank you!
GRANADA
GRANADA
DECEMBER 16, 2021

CITY of THE DALLES
313 COURT STREET
THE DALLES, OREGON 97058

(541) 296-5481
FAX (541) 296-6906

MEMORANDUM

To: City of The Dalles Planning Commission

From: Dawn Marie Hert, Senior Planner

Re: 2021 Legislative Update

Meeting Date: December 16, 2021

At the direction of the Planning Commission, staff has prepared a presentation detailing the 2021 Regular Session Legislative House Bills and Senate Bills that directly relate to development and our Land Use and Development code. Staff will provide details and expected code updates to ensure that these Bills are followed and implemented.

ATTACHMENT:

- PowerPoint Summary of Legislative House Bills and Senate Bills

City of The Dalles Planning Commission

THURSDAY, DECEMBER 16, 2021 | 5:30 PM

Legislative Update – Housing & Land Use

- **HB 2003: Regional Housing Needs Analysis,** *Effective Date: June 26, 2019 (Previous Session status update)*
- **HB 2006: Emergency Shelter Siting,** *Effective May 12, 2021*
- **HB 2008: Religious-Owned Affordable Housing Siting and Property Tax Exemption,** *Effective Sept. 25, 2022*
- **HB 2583: Occupancy Limitations,** *Effective January 1, 2022*
- **HB 2918: Surplus Land Reporting for Affordable Housing**, *Effective January 1, 2022*
- **HB 3040: SDC Study and Reporting Requirements,** *Effective July 19, 2021*
- **HB 3109: Childcare Facility Siting**, *Effective January 1, 2022*
- **HB 3261: Motel Conversion Siting,** *Effective May 1, 2021*
- **SB 8: Affordable Housing Land Use Requirements,** *Effective January 1, 2022*
- **SB 458: Middle Housing Land Division,** *Effective January 1, 2022*

Legislative Update – Housing & Land Use

- **HB 2003: Regional Housing Needs Analysis,** *Effective Date: June 26, 2019*
  - HB 2003 – Passed in 2019 by the Oregon Legislature, HB 2003 is a law to make sure communities meet the diverse housing needs of Oregonians. The law requires Oregon's medium and large cities to study the future housing needs of their residents and to develop strategies to make sure the housing needed is produced.
  - This Bill requires cities over 10,000 people to analyze what housing is needed for current and future residents every six to eight years. The bill then requires each city to adopt a housing production strategy within a year of completing the analysis. The strategy must list specific actions the city will take to promote the development of all identified housing needs – such as revising regulations or providing financial incentives. The bill also directs the Oregon Housing and Community Services Department to conduct a pilot project to calculate housing needs for the next 20 years in each region, for all income levels. The Department of Land Conservation and Development must then report to the legislature on the method's effectiveness.
  - The bill also authorizes cities to allow affordable housing to be built on public land inside urban growth boundaries, and allows multiple buildings for affordable housing to be built next to places of worship.
  - Based on the Housing Needs Assessment Update Schedule, the City of The Dalles is required to complete and adopt a Housing Needs Analysis and Housing Strategies Report by December 31, 2025.

Legislative Update – Housing & Land Use

- **HB 2006: Emergency Shelter Siting,** *Effective May 12, 2021*
  - HB 2006 requires local governments to approve an application for an emergency shelter regardless of state or local land use laws, if the application meets specific approval criteria outlined in the bill. HB 2006 removes state requirements for mailed notice, public hearing, or solicitation of public comment on an application, and there is no requirement for a city to make a decision within a particular period of time. Decisions made under HB 2006 may not be appealed to the Oregon Land Use Board of Appeals but may be appealed using the writ of review process provided under ORS 34.010 – 34.100. The bill does not specify a process for local jurisdictions to review and approve shelters. Jurisdictions may require applicants to demonstrate they meet the requirements of HB 2006 through a letter and other formal documentation or they may choose to require applicants to submit an application. Cities should fully document their findings and justification for either approving or denying a shelter under HB 2006 and consult with legal counsel to ensure they are documenting findings appropriately to respond to potential appeal under ORS 34.010 – 34.100. The siting authority in HB 2006 sunsets on July 1, 2022, but shelters approved under the bill may remain in operation after the sunset. Should a shelter cease to operate, the standard land use regulations would apply again. HB 2006 went into effect upon signing on May 12, 2021. Shelter applicants must submit applications between May 12, 2021 and June 30, 2022 to qualify under HB 2006. The Legislature enacted an earlier, pilot version of the bill during the first special session of 2020 through HB 4212, which was in place for 90 days, during which time several cities approved multiple emergency shelters under the expedited siting provisions. The LOC advocated for and gained technical improvements to HB 2006 in 2021 to improve local implementation and testified in support for the bill, which passed with strong bipartisan support.

Legislative Update – Housing & Land Use

- **HB 2008: Religious-Owned Affordable Housing Siting and Property Tax Exemption,** *Effective Sept. 25, 2022*
  - HB 2008 requires local governments to approve the development of affordable housing on property not zoned for housing, without requiring a zoning change, on property owned by a religious organization if that property is located within an urban growth boundary, is not zoned for industrial use and is contiguous to property zoned for residential use. For a property contiguous to more than one residential property, the zoning of the property with the greatest density is applied to the new development. The bill allows local governments to apply certain restrictions or conditions of approval, provided that the conditions are clear, objective, and related to health, safety, habitability, or infrastructure. Governor Brown signed HB 2008 into law on July 14, 2021 and the bill goes into effect on September 25, 2021.
  - HB 2008 also provides a property tax exemption for property owned or purchased by a religious organization that is used solely to provide affordable housing to individuals with a combined household income at or below 60% of an area's median income. The development must also be subject to an affordable housing covenant guaranteeing affordability for at least 60 years. The bill applies to property tax years beginning on or after July 1, 2021.

Legislative Update – Housing & Land Use

- **HB 2583: Occupancy Limitations,** *Effective January 1, 2022*
  - HB 2583 prohibits local governments from imposing occupancy limits based on familial or non-familial relationships. The bill does not prevent landlords and other private entities from setting occupancy limits for their own units (within existing law; ORS 90.262). Because it only applies to limits based on relationships, the bill also does not prevent local governments from addressing overcrowding, enforcing fire and building codes, or imposing limits on short-term rental occupancy. HB 2583 goes into effect on January 1, 2022.
- **HB 2918: Surplus Land Reporting for Affordable Housing**, *Effective January 1, 2022*
  - HB 2918 requires local governments to submit an inventory of their surplus real property owned by the agency or district to the Oregon Department of Land Conservation and Development (DLCD) on January 1 of each even-numbered year. The DLCD is charged with developing and maintaining an online database but is not responsible for verifying the accuracy of inventory uploaded by local governments. The bill includes a new, optional process that a city may use to sell property for the purpose of developing affordable housing as an alternative to ORS 221.725 or 2241.727. If a city chooses to use the alternative process, it is required to satisfy certain requirements established in the bill. HB2918 took effect immediately upon signing and cities are required to submit a list of surplus real property to DLCD by January 1, 2022.

Legislative Update – Housing & Land Use

HB 3040: SDC Study and Reporting Requirements, *Effective July 19, 2021*

- HB 3040 directs and funds Oregon Housing and Community Services (OHCS) to conduct a comprehensive study of system development charges (SDCs) in consultation with the Oregon Department of Land Conservation and Development, the Department of Environmental Quality, the Department of Revenue, and the Oregon Business Development Department. The scope of the study must include the role of SDCs and their fee rates, the history and methodologies of SDCs, the impact of SDCs on overall housing costs, the costs and benefits of payment deferrals, and aspects of transparency related to fee rates. Local governments are required to comply with reasonable requests from OHCS, or from a third party conducting the study or any portion of the study, for information in furtherance of the study. OHCS is required to provide a preliminary report by December 31, 2021 and a final report by June 1, 2022.
- The bill also requires any local jurisdiction that charges SDCs and maintains a website to include the current SDC fee rates for each type of development, the SDC methodology used to determine fee rates, the list of capital improvement projects that will receive funding from SDC fee revenue, and contact information for a local official responsible for answering questions about system development charges. Jurisdictions without a public website must provide that information to the public free of charge upon request. The bill went into effect upon signing on July 19, 2021 and jurisdictions must meet the reporting requirements by January 1, 2022.

Legislative Update – Housing & Land Use

HB 3109: Childcare Facility Siting, *Effective January 1, 2022*

- HB 3109 establishes childcare facilities as a permitted use in all commercial or industrial zoned areas, except in areas zoned for heavy industrial use. The bill prohibits local governments from enacting, enforcing, or imposing any land use regulations or fees that prohibit or place conditions on childcare facilities that are more restrictive than those imposed for other uses in the same zone. A local government may impose reasonable conditions upon the establishment or maintenance of a childcare facility in an area zoned for industrial uses, including but not limited to, siting restrictions for properties designated on the Oregon Department of Environmental Quality's statewide list of contaminated properties as having known or suspected releases of hazardous substances. The LOC worked with the bill sponsors on technical amendments to clarify local government implementation. Governor Brown signed HB 3109 into law on July 7, 2021 and the bill goes into effect on January 1, 2022.

Legislative Update – Housing & Land Use

HB 3261: Motel Conversion Siting, *Effective May 1, 2021*

- HB 3261 requires local governments to allow the conversion of hotels and motels into emergency shelters or affordable housing, regardless of state or local land use laws, if the application meets specific approval criteria in the bill. Cities may still require the converted use to comply with building codes, occupancy limits, and reasonable siting and design standards if the standards do not, individually or cumulatively, prohibit the conversion through unreasonable costs or delay. HB 3126 went into effect on May 6, 2021 and applies to hotel and motel conversions or applications for conversions submitted on or after January 1, 2021. The LOC worked with the bill sponsor on amendments to narrow the scope of the original bill and clarify local implementation.

Legislative Update – Housing & Land Use

SB 8: Affordable Housing Land Use Requirements, *Effective January 1, 2022*

- SB 8 requires local governments to approve the development of certain affordable housing, and not require a zone change or conditional use permit, on land zoned to allow commercial uses, to allow religious assembly, or as public lands. Qualifying land may be owned by a public body or a religious nonprofit. The bill applies to property zoned to allow for industrial uses only if the property is publicly owned, adjacent to lands zoned for residential uses or schools, and not specifically designated for heavy industrial uses. These requirements do not apply to land that a local government determines lacks adequate infrastructure, or on property that: contains a slope of 25% or greater; is within a 100-year floodplain; or is constrained by state land use regulations based on natural disasters and hazards or natural resources. Local governments may still impose development requirements based on siting and design standards and building permits. SB 8 also includes a statewide density bonus for affordable housing in areas zoned for residential use. A local government may reduce the density or height of a development as necessary to address a health, safety or habitability issue, including fire safety, or to comply with a protective measure adopted pursuant to a statewide land use planning goal. Finally, the bill broadens the ability of applicants developing affordable housing to obtain attorney fees in prevailing appeals before LUBA. SB 8 was signed into law on June 23, 2021 and the bill goes into effect on January 1, 2022.

Legislative Update – Housing & Land Use

- **SB 458: Middle Housing Land Division,** *Effective January 1, 2022*
  - SB 458 requires local governments to approve divisions of real property for new middle housing development on lots and parcels subject to the middle housing regulations established under HB 2001 (2019). SB 458 establishes utilities and land use conditions under which local governments must approve divisions of real property for new middle housing development and provides an expedited approval timeline for qualifying applications. The bill also establishes additional conditions cities and counties may impose during review and approval of middle housing land division plans. Signed into law on May 26, 2021, SB 458 goes into effect on January 1, 2022. The LOC worked closely with the bill's proponents to negotiate technical improvements to the bill.

Legislative Update – Property Tax

- **HB 2456: Tax Reviser's Bill,** *Effective September 25, 2021*
- **SB 141: Vertical Housing Exemption Changes,** *Effective September 25, 2021*

Legislative Update – Property Tax

- **HB 2456: Tax Reviser's Bill,** *Effective September 25, 2021*
  - This annual bill makes corrections to and updates tax statutes. It allows the governing body of a local government to select the definition of "low income" from an expanded definition for purposes of certain rental property tax exemptions. HB 2456 also allows cities to extend the deadline for completion of construction for homes under the single unit affordable housing exemption. Cities may need to update ordinances or resolutions, depending on their specific language. Cities will need to review and update any program materials available on the internet or published by their offices.

Legislative Update – Property Tax

- **SB 141: Vertical Housing Exemption Changes,** *Effective September 25, 2021*
  - Makes a percentage of partial property tax exemption for property of vertical housing development projects proportional to allocation of floor area to residential housing or low income residential housing, without rounding up or down. The bill is unclear on whether cities would be required to recalculate the exemption percentage for existing projects. The exemption percentage is calculated at the time of application, and the bill does not require reapplication for existing projects, but the calculation changes are applicable to the 2021-22 tax year. Cities may need to update ordinances or resolutions, depending on their specific language. Cities will need to review and update any program materials available on the internet or published by their offices.

Legislative Update – Wildfire

- **SB 762: Wildfire Policy,** *Effective July 1, 2021*
  - This bill provides the administrative structure and policy guidance for state agencies to follow-up with additional resources, oversite, and regulations to reduce the risk of wildfire in the Wildland Urban Interface (WUI). The WUI is effectively the area/band of forestland that is on the edge of an urban setting. There are multiple advisory groups that will be established by this legislation to take a deeper dive into future land use decisions, emergency response coordination, landowner responsibilities and the mapping process that the Oregon Department of Forestry and Oregon State University will be responsible for.

- **SB 405:** ***Nonconforming Use,*** *Effective May 15, 2021*
  - SB 405 allows a nonconforming use to not be considered interrupted or abandoned by a city or county while a federal, state, or local emergency order issued on or after January 1, 2020 temporarily limits or prohibits the use, or the restoration or replacement of the use. The bill also, until September 30, 2025, requires cities and counties to allow commencement of restoration or replacement of nonconforming uses that were damaged or destroyed by the September 2020 wildfires. SB 405 was signed into law and became effective on May 15, 2021.

Legislative Update – General Government

- **HB 2560: Electronic Participation in Public Meetings,** *Effective January 1, 2022*

  Requires, to the extent reasonable, the governing body of a public body to allow for virtual or electronic participation in public meetings. Technical failures, disruptive participants and added cost beyond the de minimis render the requirement unreasonable. Cities should also evaluate their obligations under the Americans with Disabilities Act when electing not allow for virtual or electronic participation in public meetings.

End