



**PUBLIC MEETING NOTICE
FOR THE
WASHINGTON COUNTY PLANNING COMMISSION**

ZOOM VIRTUAL MEETING

WEDNESDAY, SEPT. 1, 2021

PUBLIC MEETING 1:30 PM

NOTE: Planning Commission meetings are being held virtually, until further notice, via Zoom.

Join online: <https://us02web.zoom.us/j/86926794496>

Online participants will be able to see and hear the proceedings. Online participants' microphones will be muted, unless they are called upon to speak/testify. Participants' cameras will not be activated at any time.

Join by phone: +1-346-248-7799 or +1-669-900-6833; Webinar ID: 869 2679 4496

Participants on phones will be able to hear the proceedings. Phone participants' microphones will be muted, unless they are called upon to speak/testify.

Prior to scheduled public hearing items, the Planning Commission conducts a Work Session to receive briefings from County staff. No public testimony is taken on Work Session items.

Following the Work Session, the Planning Commission considers agenda items, including scheduled public hearing items and consideration of minutes. The public is welcome to speak during the public hearings and time is limited to 3 minutes. The public may also speak on any item **not** on the agenda during Oral Communications. Time is generally limited to 5 minutes for individuals and 10 minutes for an authorized representative of a Citizen Participation Organization (CPO). The Chair may adjust time limits.

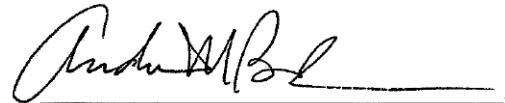
To provide testimony on agenda items or provide oral communication, please complete and submit the sign up form at www.co.washington.or.us/PlanningCommissionTestimony at least 24 hours before the start of a meeting.

To testify, either phone in or log in to Zoom (see instructions above): When your name is called, your microphone or phone will be unmuted. You will have five seconds to begin speaking.

If you do not speak, the next topic/speaker may be called. Please follow these guidelines:

- When your name is called, state your name and home/business address for the record.
- Groups or organizations making a presentation must designate one spokesperson in the interest of time and to avoid repetition.
- When there is more than one speaker on any topic, please avoid repetition.

If you need a sign or spoken language interpreter, please call 503-846-3519 (or 7-1-1 for Telecommunications Relay Service) at least 48 hours prior to this event.



Andy Back

Planning and Development Services Division Manager

PUBLIC MEETING DATES	
BOARD OF COMMISSIONERS WORK SESSIONS	PLANNING COMMISSION MEETINGS
8:30 a.m. 1st and 3rd Tuesdays	1:30 p.m. 1st Wednesday
2 p.m. 4th Tuesday	6:30 p.m. 3rd Wednesday
BOARD OF COMMISSIONERS MEETINGS	<i>Note: Occasionally it may be necessary to cancel or add a meeting date.</i>
10 a.m. 1st and 3rd Tuesdays	
6:30 p.m. 4th Tuesday	



PUBLIC MEETINGS BEFORE THE PLANNING COMMISSION

WEDNESDAY SEPT. 1, 2021 1:30 PM

ZOOM VIRTUAL MEETING

Join online: <https://us02web.zoom.us/j/86926794496>

Online participants will be able to see and hear the proceedings. Participants' microphones will remain muted unless called upon to speak/testify. Participants' cameras will remain off at all times.

Join by phone: +1-346-248-7799 or +1-669-900-6833; Webinar ID: 869 2679 4496

Phone participants will be able to hear the proceedings.

Participants' microphones will be muted unless called upon to speak/testify.

AGENDA

CHAIR: DEBORAH LOCKWOOD
VICE-CHAIR: BLAKE DYE
COMMISSIONERS: MARK HAVENER, STACY MILLIMAN, RACHEL MORI BIDOU, JEFF PETRILLO, SUSHMITA PODDAR, BENJAMIN STADELMAN, AND MATT WELLNER

PUBLIC MEETING

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. DIRECTOR'S REPORT**
- 4. ORAL COMMUNICATIONS** (limited to items not on the Agenda)
- 5. PUBLIC HEARING**
 - a. Ordinance No. 877 – Rural Omnibus**
An ordinance addressing minor amendments to the Community Development Code affecting certain rural land use districts to align with state statute.
- 6. WORK SESSION**
 - a. House Bill (HB) 2001 (middle housing) implementation update and plan for future sessions**
- 7. CONSIDERATION OF MINUTES**
 - a. May 19, 2021**
 - b. June 16, 2021**
- 8. PLANNING COMMISSION COMMUNICATIONS**
- 9. ADJOURN**

Department of Land Use & Transportation • Planning and Development Services

Long Range Planning

155 N. First Ave., Suite 350, MS14 • Hillsboro, OR 97124

Phone: 503-846-3519 • Fax: 503-846-4412

www.co.washington.or.us • lutplan@co.washington.or.us



Aug. 25, 2021

To: Washington County Planning Commission

From: Andy Back, Manager 
Planning and Development Services

Subject: **PROPOSED LAND USE ORDINANCE NO. 877 – An Ordinance Addressing Minor Amendments to the Community Development Code Affecting Certain Rural Land Use Districts to Align with State Statute**

STAFF REPORT

For the Sept. 1, 2021 Planning Commission Hearing
(The public hearing will begin no sooner than 1:30 p.m.)

I. STAFF RECOMMENDATION

Conduct the public hearing; recommend approval of Ordinance No. 877 to the Board of Commissioners (Board) with changes recommended under the Potential Engrossment section of this staff report.

II. OVERVIEW

This ordinance proposes minor amendments to the Community Development Code (CDC) to revise allowed uses in the Exclusive Farm Use (EFU), Exclusive Forest and Conservation (EFC) and Agriculture and Forest (AF-20) Land Use Districts. These minor amendments make changes required for consistency with state law. The Board authorized the changes in this ordinance as part of the Fiscal Year (FY) 2021-22 Long Range Planning Work Program.

III. BACKGROUND

Rural areas outside the Metro Urban Growth Boundary (UGB) and the UGBs of North Plains, Banks and Gaston are subject to limits on development that prevent the need for urban

services to these areas and preserve rural land uses. Under the Oregon Planning Program, land suitable for farming and forestry is identified as resource land. Consistent with Statewide Planning Goals for agricultural land (Goal 3) and forest land (Goal 4), development on resource lands is limited by state law. In Washington County, land designated for exclusive farm use is located in the EFU and AF-20 Districts and land designated for forest use is located in the EFC District (Figure 1).

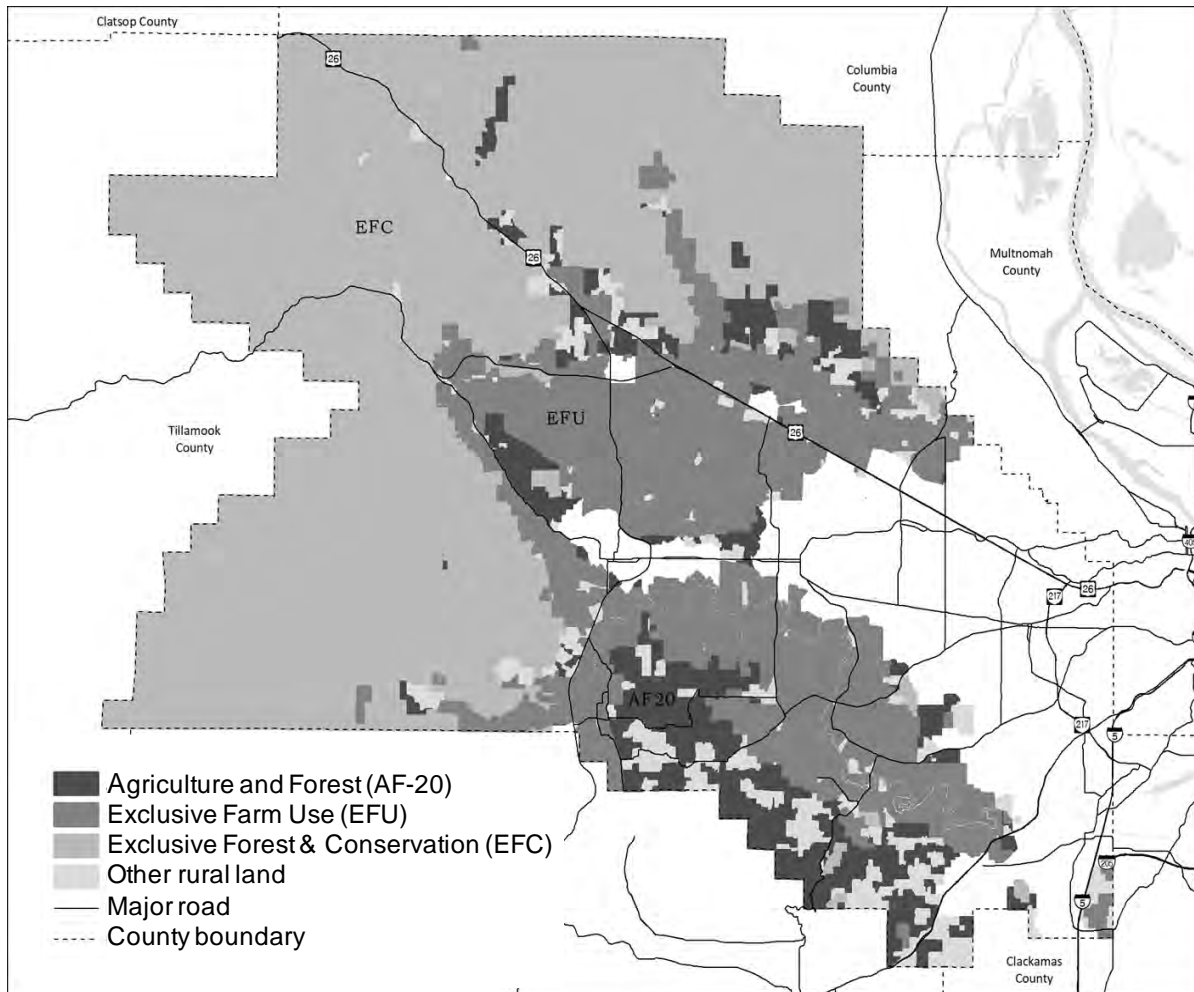


Figure 1. Rural Land Use Districts

Allowed uses on resource lands are found in the Oregon Revised Statutes (ORS) and therefore, are called statutory uses. The list of allowed uses in ORS Chapter 215 may only be changed by the Oregon Legislature. Counties are required to allow most statutory uses, although there are some exceptions identified by the Legislature as voluntary uses. A county may apply additional local standards to a statutory use in limited circumstances but cannot be more permissive than state law. The County includes these statutory uses in the CDC and updates to both voluntary and mandatory uses may occur in response to changes in state law.

This ordinance includes updates to align the CDC with state law, including changes adopted by the Oregon Legislature in 2017 and 2019. The intent of this ordinance is to facilitate land use review and approval for a variety of commercial, educational and residential uses in the rural area consistent with state laws that apply to resource lands.

Ordinance Notification

Notice 2021-01 regarding proposed Ordinance No. 877 was mailed Aug. 6 to parties on the General and Individual Notification Lists (community participation organizations, cities, special service districts and interested parties). A copy of the notice and ordinance was provided to the Planning Commission at that time. A display advertisement regarding the ordinance was published Aug. 13 in *The Oregonian* newspaper.

Changes made by the Legislature to the statutes applicable to template forest dwellings (detailed in the Analysis section below) entitle potentially impacted property owners to Measure 56 notice. Property owners were also entitled to Measure 56 notice regarding the County's proposed changes to the CDC. Therefore, a Measure 56 notice was mailed Aug. 10 to 1,647 property owners in the EFC District, notifying them of both the state and local changes. A copy of this notice is attached to this staff report (Attachment A).

IV. ANALYSIS

Overview

This section provides information on each of the uses amended by Ordinance No. 877 and the rationale for each proposed change. These amendments are consistent with existing state and County policies for rural resource lands. Changes are listed in order of appearance in the CDC and in the exhibit for the filed ordinance.

Extensions (CDC Section 201-5)

While local jurisdictions determine permit timeframes in most cases, for certain farm and forest dwellings the approval period and the ability to qualify for extensions for development permits is determined by the state. Current criteria in the CDC provide a timeframe of four years for a permit and allow a two-year extension when applicants meet *subjective* conditions. These timeframes were changed, most recently in 2019 through House Bill (HB) 2106.

Amendments to this section implement legislative changes made to permit five additional one-year extensions for certain farm and forest dwellings identified in ORS 215.417 after the two-year extension period. In addition, the amendments clarify that reviews for both the existing two-year extension and the five additional one-year extensions are not considered land use decisions as defined in ORS 197.015. Therefore, the ordinance also proposes to remove the subjective criteria for the two-year extension in accordance with provisions in ORS 197.015.

However, staff will continue to review extension applications to ensure that standards applied at the time of the initial approval – aside from template dwelling changes exempted by the Legislature – continue to apply prior to approving an extension. If standards change, a new land use application that meets current standards will be required. Staff has also proposed additional minor revisions to this section for improved clarity.

Portable Temporary Septage Treatment Facilities (CDC Sections 340/344)

An existing statutory allowance permits application of certain solid wastes (septage) to farm fields under limited conditions. Such activities generally require treatment of the septage prior to application, therefore the Legislature clarified through HB 2179 (2017) that portable and temporary facilities to treat septage wastes prior to application are allowed. The ordinance adds portable temporary septage treatment facilities as allowed uses in the EFU and AF-20 districts when these uses meet Oregon Department of Environmental Quality or Agriculture requirements.

School Type and School Expansions (CDC Sections 340/344 and 430-121)

The CDC's current provisions for schools are outdated and do not reflect current state law. Statutory changes have been made in both how the allowed use is defined (ORS 215.213) and expansions to the allowed use (ORS 215.135). The most recent change occurred through HB 3384 in 2019. Proposed CDC changes update the definitions in the school use allowance in the EFU and AF-20 land use districts and update the special use standards for school expansion in Section 430-121 for consistency with current state law.

Processing Facilities for Farm Products (CDC Sections 340/344 and NEW Section 430-102)

The CDC's current use allowance for processing facilities is outdated and does not reflect current state law. Proposed changes will update the processing facility standards to include poultry processing consistent with ORS 215.255. Additional changes propose to clarify and relocate existing criteria for this use to a new section in the CDC's Special Use standards and add a new required provision for very small facilities (under 2,500 square feet) adopted through HB 2844 in 2019.

Parking Dump Trucks/Trailers on EFC Land (CDC Section 342)

Truck parking on resource lands is a long-standing allowance in state law (ORS 215.311). Limited truck parking is allowed when the applicant submits an analysis to demonstrate that the proposed use will not have a significant impact on nearby farm and forestry uses. In the EFC District the allowed trucks are dump trucks and trailers; in the EFU and AF-20 Districts the allowed trucks are logging trucks.

The statutory allowance specific to the EFU and AF-20 Districts was adopted into the CDC in 2005, but the statutory allowance for the EFC District was not. The 2005 CDC change included a significant number of amendments and it is possible this use allowance was simply overlooked at the time. Regardless, there has been recent interest among applicants in parking dump

trucks on EFC land. Therefore, staff recommends this statutory allowance be added to the CDC so that staff and applicants will have better information about the scope of the use as allowed per state law.

It is important to distinguish between this use allowed in the EFC District, which is narrow in scope, and the contractor's establishment use that is allowed in certain land use districts. A contractor's establishment is an allowed use in most rural land use districts that are exempted from Planning Goals 3 and 4 (Rural Commercial (R-COM), Rural Industrial (R-IND), Land Extensive Industrial (R-MAE), Agriculture and Forest (AF-10/5)) and on land brought into a UGB for future urban development (Future Development (FD-10/20)). A contractor's establishment is not an allowed use in the rural residential districts or the resource districts.

A contractor's establishment may include interior office space where bookkeeping, payroll and other business operations are conducted, vehicle parking for a wide variety of work trucks including equipment used for construction, farming or forestry (heavy vehicles), employee commuter vehicles, outdoor or covered materials storage or accessory storage buildings. Such an establishment is subject to size limitations in rural districts. In contrast, the state allowance in resource districts only allows parking of those specific vehicles identified in statute and no auxiliary uses or structures.

Staff has concerns that some applicants would seek to expand on permitted truck parking in ways that are more suitable for contractor's establishments. While staff considered including code standards to reflect the limitations noted above, statute only provides for the application of health and safety provisions. Staff is further reviewing the possibility of refining code standards to address these possible issues and may bring further code changes forward in a future ordinance.

Clarify Stocking Requirements for Forest Dwellings (CDC Section 428)

Stocking refers to minimum replanting following certain forestry activities regulated by the Oregon Forest Practices Act. The current stocking requirement in the CDC is out of date. The proposed changes clarify that stocking requirements apply only to new dwellings on lots 10 acres or larger, consistent with ORS 215.730.

Template Forest Dwellings in the EFC District (CDC Section 430-37.2)

Dwellings on forest lands are limited by state law. The template forest dwelling is one of three ways to qualify for a forest dwelling in Washington County. The County first adopted the statutory template forest dwelling allowance into the CDC in 1996. This allowance is voluntary, so the County may be more restrictive than statute but not less.

The template test refers to a required analysis of nearby development found within a specified area in order to qualify for a dwelling. Under state law, the "template area" consists of 160 acres configured as a square or rectangle centered on the subject property or tract. Based on the soil quality, a minimum number of both parcels and dwellings must be located within

the template area to qualify for a dwelling on the subject tract. The template forest dwelling allowance only applies in the EFC District.

Changes to the template forest dwelling provisions of ORS 215.755 adopted through HB 2225 (2019) were intended to close loopholes that may result in allowing multiple dwellings on a single tract. The state law changes are effective Nov. 1, 2021 for Washington County. The provisions have the *potential* to restrict certain properties from qualifying for a dwelling, which may result in a claim for compensation under Ballot Measure 49.¹ Like other land use reviews, the burden of proof to demonstrate the validity of the Measure 49 claim would lie with the applicant.

Amendments proposed for consistency with statutory changes include the following:

- Only lawfully established lots or parcels can be considered.
- Property line adjustment cannot be used to achieve the minimum number of lots or parcels located within the template.
- The center of the lot or parcel is defined as the “mathematical centroid.”
- A “look back” to tract configuration in January 2019 is required to ensure no more than one dwelling per landowner is permitted.

In addition, organizational changes were made to the rural dwelling subsections of CDC Section 430-37.2, including to define tract as one or more contiguous lots or parcels under the same ownership in accordance with ORS 215.010.

Potential Engrossment of Ordinance No. 877

The Oregon Department of Land Conservation and Development (DLCD) provided comments on the filed ordinance (Attachment B), identifying areas of remaining inconsistency with state law, as described below:

1. Floor area for processing facilities for farm crops (ORS 215.255/CDC 430-102)
State statute specifies floor area of “less than 10,000 feet” whereas the CDC currently states the floor area “shall not exceed 10,000 square feet.” Ordinance No. 877 inadvertently carried this inconsistency forward by proposing to limit floor area to 10,000 square feet. This is a minor inconsistency that can be eliminated by inserting “less than” before “10,000 square feet.”

Staff Recommendation: *Revise to eliminate inconsistency as described above.*

2. Application of biosolids and septage (ORS 215.213(1)(y), CDC 340-4.1 P., CDC 344-4.1 P.)
State statute limits application of wastewater/biosolids “for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in an exclusive

¹ Passed by the voters in 2007, Measure 49 authorized property owners to make claims for compensation when a state or local government enacts a land use regulation that restricts a residential use, or a farm or forest practice.

farm use zone.” While the CDC does not include this clause, this limitation is included in ORS 215.246, which requires a determination from DEQ that the proposed application rates and site management practices will “ensure continued agricultural, horticultural or silvicultural production and do not reduce the productivity of the tract.” ORS 215.246 is among the referenced statutes that applicants are required to address to qualify for this allowance. While the subjective requirements for this use must be addressed through the application of the referenced statutes in the CDC, noting the limitation to agricultural, horticultural, silviculture and irrigation purposes would clarify those limits for all readers.

Staff Recommendation: *For increased clarity add missing clause and reference to ORS 215.213(1)(y).*

3. County assessor notification in stocking provisions (ORS 215.730 and OAR 660-006-0029/ CDC 428-3.3 and CDC 428-4.3)

The statutory requirements for forest dwellings include land use regulations to qualify for a use, as well as requirements for coordination between the county land use authority and the County Assessor. Notification between departments is a procedural activity the County must complete (in accordance with OAR 660-006-0029), rather than a land use requirement an *applicant* must meet in order to qualify for land use approval. DLCDC noted there was clarification in the rule that the County might want to consider around these coordination requirements.

The reference to coordinating with the County Assessor was previously removed from the CDC. According to the staff report for Ordinance No. 694, which made that change, that was an intentional decision as “this change removes text that does not apply to land use review process and inserts text referencing the applicable Oregon Revised Statute for informational purposes.” This approach appears to operate well for the County.

Staff Recommendation: *No change.*

4. Date of establishment for school expansions (ORS 215.135/CDC 430-121.3)

Schools uses are limited on high value (HV) farm land. No new school sites are allowed, and expansions are only allowed at those schools established on a site prior to Jan. 1, 2009 as noted by DLCDC. This requirement is in addition to the existing impact test required by CDC Sections 340-4.3 and 344-4.3 and the new provisions proposed for Section 430-121 in this ordinance.

The proposed CDC changes did not include the date for limitation on school expansions and adding the requirement would be consistent with statute. All existing schools could likely be expanded, since staff was unable to find any existing schools in the EFU and AF-20 Districts established after Jan. 1, 2009, but the clarification would improve consistency with state law. An additional comment on this section was received from a

member of the public (Attachment B) requesting clarification about existing schools that move locations.

Staff Recommendation: *Revise to add required date of establishment and clarify which schools may be expanded.*

Summary of Proposed Changes

Ordinance No. 877 proposes to amend the CDC element of the Comprehensive Plan for consistency with current state law as discussed in this staff report. Engrossment of the ordinance to address additional points of inconsistency is recommended by staff as noted below.

- Revise permit extension timeframes for certain residential developments in resource districts (ORS 215.417).
- Add temporary portable on-site septage treatment facilities as an allowed use in the EFU and AF-20 Districts (ORS 215.213).
 - Clarify limitation to agriculture, horticulture, silviculture or irrigation uses (engrossment).
- Update the existing use allowance and special use standards for schools in the EFU and AF-20 Districts, consistent with current state law (ORS 215.213 and 215.135).
 - Clarify when school expansions may occur (engrossment).
- Update processing facility standards for the EFU and AF-20 Districts for consistency with state law (ORS 215.255) to include poultry processing and very small facilities (under 2,500 square feet).
 - Clarify floor area for processing must be “less than” 10,000 square feet (engrossment).
- Add allowance for dump truck parking in the EFC District (ORS 215.311).
- Clarify forest planting “stocking” requirements in the EFC District (ORS 215.730).
- Reorganize the forest dwelling standards and update the template forest dwelling standards that apply in the EFC District (ORS 215.730).

List of Attachments

The following attachments identified in this staff report are provided:

Attachment A: Measure 56 Notice

Attachment B: Public comments



Measure 56 Notice: This is to notify you that the Oregon Legislative Assembly has enacted a land use planning statute that *may* affect the permissible uses of your property and other properties.

On July 2, 2019, the Legislative Assembly enacted House Bill (HB) 2225. The Department of Land Conservation and Development (DLCD) has determined that enactment of HB 2225 *may* affect the permissible uses of your property. This change affects properties in forest zones across the state, and *may* change the value of your property and other properties designated Exclusive Forest and Conservation (EFC) in Washington County.

We understand DLCD cannot provide a copy of HB 2225 for inspection at its offices at this time but will mail a copy to you at no cost. For additional information, contact DLCD at (503) 934-0622. A copy of HB 2225 is also available online on the Oregon State Legislative website at: <https://olis.leg.state.or.us/liz/2019R1/Downloads/MeasureDocument/HB2225>.

NOTICE INFORMATION: This notice contains specific language required by Oregon Revised Statute 197.047 to comply with the requirements of Ballot Measure 56, approved by Oregon voters in 1998. The law requires certain wording in this notice, but that wording does not necessarily describe the likely effects from the change in land-use laws. Receiving this notice does not mean the changes affect your property or property value.

THE PROVISIONS OF HB 2225 WILL BE EFFECTIVE FOR WASHINGTON COUNTY NOV. 1, 2021.

The County plans to update the Community Development Code (CDC) for consistency with the changes to state law through the local land use ordinance process.

(see reverse for details)

Attachment A

Measure 56 Notice: The Washington County Board of Commissioners has proposed a land use regulation that *may* affect the permissible uses of your property and other properties. This change is proposed to update the County's Community Development Code for consistency with state law.

PROPOSED LAND USE ORDINANCE NO. 877

Aug. 10, 2021

The Washington County Planning Commission and Board of Commissioners (Board) will soon consider proposed **Ordinance No. 877**.

Summary: Ordinance No. **877** would amend the template forest dwelling allowance, consistent with changes in state law. Change will require review of 2019 tract ownership to limit tracts to a single dwelling.

Contact: Carine Arendes at 503-846-8871 or carine_arendes@co.washington.or.us

PUBLIC HEARING INFORMATION

Board action must be taken at a public hearing. At the hearing the Board may:

- adopt the ordinance
- continue the hearing to a future date
- direct changes to the ordinance
- reject the ordinance

Any person may testify before the Planning Commission or Board at any scheduled public hearing, either in person or in writing. Proposed Ordinance No. 877 is available for inspection at the Department of Land Use & Transportation, Planning and Development Services, Suite 350, 155 N. First Ave., Hillsboro, Oregon. An electronic copy is available on the County's webpage:

www.co.washington.or.us/landuseordinances

HEARING INFORMATION

For information about how to testify before the Planning Commission or Board of Commissioners, please see the following webpages or call 503-846-3519.

Planning Commission: www.co.washington.or.us/plancomm

Board of Commissioners: <https://washingtoncounty.civicweb.net/Portal>

Planning Commission

Board of Commissioners

1:30 p.m.

10 a.m.

(Sept. 1, 2021)

(Oct. 5, 2021)

NOTICE INFORMATION: This notice is provided to comply with the requirements enacted by voter-approved Ballot Measure 56, including notice that the Board has determined adoption of this ordinance *may* affect the permissible uses of your property, and other properties in the affected district, and *may* change the value of your property (ORS 215.503).

NOTE: No additional notice about the proposed ordinance will be mailed to you unless you subscribe to Washington County's Individual Notice for land use ordinances. For subscription information, contact 503-846-3519 or lutplan@co.washington.or.us

FOR MORE INFORMATION: This notice provides general information required by law, however it does not detail specifically how proposed changes *may* affect your property.

- For land use questions, contact Long Range Planning at 503-846-3519.
- For property value questions, contact Washington County Assessment and Taxation at 503-846-8741.

Attachment B

Received 08/23/21
Wash. Co. LUT

From: marymanseau <marymanseau@gmail.com>
Sent: Monday, August 23, 2021 12:05 PM
To: Carine Arendes <Carine_Arendes@co.washington.or.us>
Subject: [EXTERNAL] Testimony for Ordinance 877

Ordinance 877 Testimony

Proposed changes to Section 340-4.2T includes adding "new" to the following sentence: "New schools within 3 miles of UGB must also comply with Section 344-6."

The addition of "new" to this sentence is likely intended for clarification, but instead seems to add a new level of murkiness. Will an existing school moving to a location within 3 miles of the UGB be required to comply with section 344-6? If the intent is for Section 433-6 to apply to existing schools in a new location, clarification is needed. Only someone in planning would think that an existing school relocating in a new location is a new school. To prevent the proposed rule from being misinterpreted, changes in wording is needed. Maybe by replacing "new schools" with "new schools or existing schools relocating" would help clarify.

Thank you for considering this needed clarification,

Mary Manseau
5230 NW 137th Avenue
Portland, OR 97229

Attachment B

Received 08/03/21
Wash. Co. LUT

From: DEBBAUT Anne * DLCDCD <Anne.DEBBAUT@dlcd.oregon.gov>
Sent: Tuesday, August 3, 2021 12:49 PM
To: Carine Arendes <Carine_Arendes@co.washington.or.us>
Subject: [EXTERNAL] WA County Ord. No. 877 (DLCDCD PAPA 001-21) Amending CDC for compliance with state law

Hi Carine,

Thank you for your Notice to amend the CDC for consistency with state law related to farm and forest uses.

We would like to point out a few additional details incorporated in statute and rule that the county should consider. They are noted here:

1. (ORS 215.255/Washington 430-102), Processing Facilities for Farm Products: This is minor, however the county ordinance limits total processing area to 10,000 square feet while statute requires that the processing area be less than 10,000 square feet.
2. (ORS 215.213(1)(y)/Washington 340-4.1(P), Land applications: The statute requires that the application of wastewater/biosolids be 'for agricultural, horticultural or silvicultural production, or for irrigation in connection with a use allowed in an exclusive farm use zone'. This caveat appears to be missing in the county ordinance.
3. (OAR 660-006-0029/Washington 428-3.3, Stocking requirements: We note there is additional clarification in rule that you may want to consider around the requirements to coordinate with your county assessor. ORS 321.267 (small forestland taxation) does only apply to parcels greater than 10 acres.
4. (ORS 215.135/Washington 430-121.3, School expansions on EFU: ORS 215.135 also requires 215.296 findings and demonstration that the school in question was established on or before January 1, 2009.

Please let me know if you have any questions.

Best,
Anne

Please note my new email address!



Anne Debbaut

Portland, Columbia County, and Washington County Regional Representative | Portland Metro Regional Solutions

Interim Morrow and Umatilla County Regional Representative | Eastern Oregon Regional Solutions

Oregon Department of Land Conservation and Development

Cell: 503.804.0902 | Main: 503.373.0050

anne.debbaut@dlcd.oregon.gov | www.oregon.gov/LCD



Aug. 25, 2021

To: Washington County Planning Commission

From: Andy Back, Manager 
Planning and Development Services

Subject: **BRIEFING MATERIALS FOR MIDDLE HOUSING (HB 2001) WORK SESSION**

BRIEFING MEMO

For the Sept. 1, 2021 Planning Commission Meeting

I. BRIEFING TOPICS

The following topics are addressed in this memo, for discussion in the Work Session:

- Refinement of Planning Commission (PC) House Bill (HB) 2001 Work Session schedule and expectations.
- HB 2001/rules – where the County has options or policy choices to make.

II. OVERVIEW

At the Aug. 18 PC meeting, staff presented a proposed outline of future Work Session briefings on various HB 2001-related topics in preparation for future hearings on HB 2001 implementation ordinances. This is the first briefing memo in a series of memos that will be prepared for these Work Sessions.

Based on discussion at the PC meeting and further consideration of topics and other ordinance hearings, staff has refined the schedule and expectations. This memo provides both the Work Session schedule and the expected hearings schedule. Additionally, this memo provides further context for upcoming briefings with an overview of where, within the HB 2001 rules, there are options or policy choices.

Department of Land Use & Transportation
Planning and Development Services • Long Range Planning

155 N First Avenue, Suite 350, MS 14, Hillsboro, OR 97124-3072
phone: 503-846-3519 • fax: 503-846-4412
www.co.washington.or.us/lut • lutplan@co.washington.or.us

III. SCHEDULE AND EXPECTATIONS

Concept of PC Work Sessions

- Primary purpose: Education in advance of future hearings, discussion of key points.
- Use PC meetings through end of year to educate on current code and HB 2001/rule concepts.
- Limited aspects of the bill allow flexibility in implementation – we will brief the PC on many of these.
- Briefings will be scheduled around upcoming ordinance hearings, as shown below in *italics*.

Draft Work Session schedule (tentative and subject to change)

Sept. 1 (Day)

- *Ord. No. 877 – Rural Omnibus Ordinance – Hearing.*
- Refinement of PC HB 2001 Work Session schedule and expectations.
- HB 2001/rules – where we have options or policy choices to make.

Sept. 15 (Night)

Setting the stage:

- County land use districts affected – housing types currently allowed and general associated standards, as compared to housing types and standards prescribed by HB 2001 rules, discussion.
- Where HB 2001 applies.
- Existing land uses and lot sizes in the County.
- Recommended approach to meeting HB 2001 rules.

Oct. 6 (Day)

- *Tigard Urban Planning Area Agreement Ordinance – Hearing.*
- Ways that HB 2001 rules allow local jurisdictions to limit middle housing in:
 - Statewide Planning Goal protected areas, including significant natural resource areas, natural hazard areas.
 - Master Planned Communities.

Oct. 20 (Night)

- *Transportation System Plan Ordinances – Hearings.*
- Parking – Current CDC regulations, what HB 2001 rules allow jurisdictions to require for middle housing, discussion.

Nov. 3 (Day)

- *Housekeeping Ordinance – Hearing.*
- Street frontage improvements – Current CDC regulations and practice related to housing, what HB 2001 rules allow, discussion.

Nov. 17 (Night)

- Design standards – Current CDC regulations, past community comments, what HB 2001 rules allow, discussion.
- Middle housing types and limited flexibility that HB 2001 rules allow in locally adopted definitions. Will include concept of *detached* duplex/triplex/quadplex.

Dec. 1 (Day)

- Affordability strategies – How we might be able to help affordability as part of the initial middle housing ordinance, potential future strategies to encourage housing affordability, including regulated affordable housing.
- Middle housing expedited land division (Senate Bill 458) – overview and discussion.

Overall timeline and hearings schedule

The attached graphic shows the County's updated timeline for HB 2001 Middle Housing implementation. The work is occurring in phases -- currently the *Code Concepts and Policy Decisions phase*, which will be followed by the *Code Writing and Adoption Process* phases.

Staff must develop draft code changes by the end of 2021 to allow sufficient time for hearings at the PC and Board in the first half of 2022. Regulations must be adopted by the Board's June 28, 2022 meeting to meet the state's deadline. Following is the expected timeline for ordinance filing, Work Sessions and hearings:

File Ordinance (goal/latest): Dec. 17/29 (if first PC date Feb. 2)
Jan. 7/12 (if first PC date Feb. 16)

Planning Commission:

- Work Sessions are planned through 2021 on specific topics to prepare for hearings.
- Plan on three hearings, working through CDC changes in sections.
- Tentative hearing dates: Feb. 2, Feb. 16, March 2, 2022 (possible fourth hearing March 16).
- Alternate hearing dates: Feb. 16, March 2, March 16 (possible fourth hearing April 6).

Board of Commissioners:

- Work Sessions will be planned in late 2021 and early 2022 on specific topics.
- Plan on three hearings, with engrossment.
- Tentative hearing dates:
 - Ordinance hearings – April 5, April 26, May 17, 2022 – order engrossment.
 - Engrossment hearings – June 7 (day) and June 28 (night) (one day and one night hearing required).
- Alternate hearing dates:
 - Ordinance hearings – April 26, May 17, June 7 – order engrossment.
 - Engrossment hearings – June 21 and June 28.

IV. HB 2001/RULES – WHERE THE COUNTY HAS OPTIONS OR POLICY CHOICES TO MAKE

The HB 2001 rules require that the County:

- Allow duplexes on all lots where it would currently allow single detached dwellings, under the same review process and most of the same rules.
- Allow *other* middle housing in areas where single detached dwellings are currently allowed, under the same review process. The rules allow additional requirements on *other* middle housing and some limits on these in areas subject to Statewide Planning Goal protections and lots not yet initially developed within a Master Planned community.
- Limit off-street parking requirement to a maximum of one off-street space per unit (or less depending on minimum lot sizes). Applicants could provide more.

While HB 2001 and its rules are quite prescriptive, certain provisions allow some options for local implementation. Staff has been researching, reviewing and considering these options over the past several months. This work has been informed by discussions with interdepartmental staff, builders/developers, Community Participation Organization (CPO) members, the Committee for Community Involvement (CCI), other local jurisdictions, the Department of Land Conservation and Development (DLCD), community members responding to web/social media outreach, the Board, the PC and others.

Key options are presented below to show the limited number of topics where the rules allow flexibility. This is not an exhaustive list, and there may be other smaller choices along the way, but it gives the likely breadth. **These topics will be discussed in the upcoming briefings and at this time are presented to give an overview and to illustrate there is a relatively narrow scope of policy choices to be considered. There are implications to each of these approaches that will be discussed with the PC during Work Session briefings.**

1. Choice of paths to compliance:

- A. Presumptive Approach/Minimum Compliance Standards: Locally drafted standards to comply with rules.
- B. Model Code: State-provided, applies by default if jurisdiction noncompliant (June 30, 2022 deadline).
- C. Performance Metric (specifically related to lots subject to middle housing): Allow on specified percentage of equitably distributed lots; requires tracking, reporting.

Preliminary recommendation/current approach: Option A, borrowing from Option B for specific sections or graphics.

2. Minimum lot square footage for middle housing:

The County is not required to specify minimum lot sizes. If it does, lot sizes are limited as follows:

- A. Triplex: 5,000 square feet (sf) (or minimum for a single detached dwelling if larger – 5,500 sf in R-5).
- B. Quadplex or Cottage Cluster: 7,000 sf.
- C. Townhouses: Average 1,500 sf per unit (site minimum 3,000 sf).

3. May limit middle housing other than duplexes in:

- A. Parts of Master Planned communities until developed per plan (such as parts of North Bethany).
- B. Lands protected by Statewide Planning Goals (like those with significant natural resources) within specific parameters.

4. May establish minimal design requirements (except for conversions) addressing the following:

- A. Duplex: Nothing beyond those for single detached dwelling.
- B. All other middle housing: Windows, orientation, driveways, parking or garage locations.
- C. Townhouses: Façade – balcony/porch, recess, dormer, bay window.
- D. Cottage Clusters: Courtyards, walkways, parking screening, accessory/community buildings.

5. Definition of duplex, triplex, quadplex

The rules allow the County to define plexes as *attached* units (as is done currently) or to also include *detached* units.

6. Specifics for Cottage Clusters:

The rules provide a framework for regulations but provide some flexibility in the:

- Number of units in a cluster.
- Allowed square footage of units and whether garages count toward that number.
- Allowed height.

7. Street frontage improvement requirements (road improvements, right-of-way, sidewalks)

Unless land division is proposed, street frontage improvement requirements are limited. Staff is exploring options for how to address such requirements for middle housing.

List of Attachments

The following attachments identified in this staff report are provided:

Attachment A: HB 2001 Timeline

HB 2001 IMPLEMENTATION TIMELINE

JAN. 2021

JULY 2021

JAN. 2022

JUNE 30, 2022

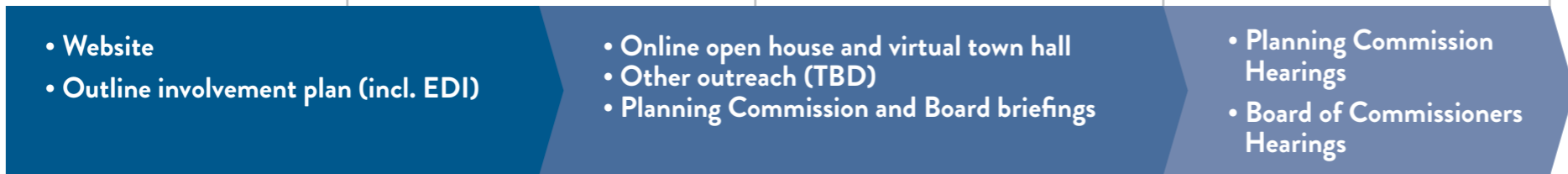
DLCD RULEMAKING

ECONOMIC ANALYSIS AND MARKET FEASIBILITY STUDY

HB 2001 IMPLEMENTATION



PUBLIC PROCESS



BOARD BRIEFINGS





Portland Housing Bureau

The Department of Housing and Urban Development (HUD) sets income limits that determine eligibility for assisted housing programs. HUD develops income limits based on Median Family Income estimates and Fair Market Rent area definitions for each metropolitan area, parts of some metropolitan areas, and each non-metropolitan county.

The 2021 Median Income for a Family of Four in the Portland-Vancouver-Hillsboro MSA is: **\$96,900**

Median Income Percentages 2021 (effective 4/1/2021)

Household Size	30%	40%	45%	50%	55%	60%	65%	80%	100%	120%
1	\$20,300	\$27,080	\$30,465	\$33,850	\$37,235	\$40,620	\$44,005	\$54,150	\$67,830	\$81,396
2	\$23,200	\$30,960	\$34,830	\$38,700	\$42,570	\$46,440	\$50,310	\$61,900	\$77,520	\$93,024
3	\$26,100	\$34,840	\$39,195	\$43,550	\$47,905	\$52,260	\$56,615	\$69,650	\$87,210	\$104,652
4	\$29,000	\$38,680	\$43,515	\$48,350	\$53,185	\$58,020	\$62,855	\$77,350	\$96,900	\$116,280
5	\$31,350	\$41,800	\$47,025	\$52,250	\$57,475	\$62,700	\$67,925	\$83,550	\$104,652	\$125,582
6	\$35,580	\$44,880	\$50,490	\$56,100	\$61,710	\$67,320	\$72,930	\$89,750	\$112,404	\$134,885
7	\$40,120	\$48,000	\$54,000	\$60,000	\$66,000	\$72,000	\$78,000	\$95,950	\$120,156	\$144,187
8	\$44,660	\$51,080	\$57,465	\$63,850	\$70,235	\$76,620	\$83,005	\$102,150	\$127,908	\$153,490

Notes:

(1) 2021 Income levels have increased based on HUD's calculations for the Portland-Vancouver-Hillsboro, OR-WA MSA. The income schedule above is to be used for projects that DO NOT qualify for the HERA and are not funded with CDBG or HOME.

(2) Other 2021 MFI levels are based on the 4-Person Income Limit of \$96,900. The 1-Person family Income Limit is 70% of the 4-Person Income Limit, the 2-Person family Income Limit is 80% of the 4-Person Income Limit, the 3-Person family Income Limit is 90% of the 4-Person Income Limit. Each family size larger than four (4) is calculated by an 8% increase per HH member to the 4-Person Income Limit. (i.e., 5-Person = 108%; 6-Person = 116%; 7-Person = 124%; 8-Person = 132%, and so on.

(3) The incomes limits listed above are based on income limits published by HUD effective April 1, 2021.

2021 Housing Affordability: Maximum Monthly Rent Including Utilities by Median Income With a Housing Burden of 30% (effective 4/1/2021)

# of Bedrooms	Household Size	30%	40%	45%	50%	55%	60%	65%	80%	100%	120%
0	1	\$507	\$677	\$761	\$846	\$930	\$1,015	\$1,100	\$1,353	\$1,695	\$2,034
1	1.5	\$543	\$725	\$816	\$906	\$997	\$1,088	\$1,178	\$1,450	\$1,816	\$2,180
2	3	\$652	\$871	\$979	\$1,088	\$1,197	\$1,306	\$1,415	\$1,741	\$2,180	\$2,616
3	4.5	\$754	\$1,006	\$1,131	\$1,257	\$1,383	\$1,509	\$1,634	\$2,011	\$2,519	\$3,023
4	6	\$889	\$1,122	\$1,262	\$1,402	\$1,542	\$1,683	\$1,823	\$2,243	\$2,810	\$3,372
5	7.5	\$1,059	\$1,238	\$1,393	\$1,548	\$1,702	\$1,857	\$2,012	\$2,476	\$3,100	\$3,720

Notes:

(1) Portland-Vancouver-Hillsboro, OR-WA MSA = Clackamas, Clark, Columbia, Multnomah, Skamania, Washington & Yamhill Counties

(2) Rents can be set below the median family income % threshold. For instance a residential unit may be restricted to households at or below 50% MFI, but have one-bedroom rents (and utilities expenses) that are below \$906/month.

(3) The rent limits listed above are based on the income limits published by HUD effective on April 1, 2021. Utility allowances must continue to be deducted from rents to achieve the maximum tenant rents allowed. Please note that all definitions and explanations herein may be subject to change upon later IRS and/or HUD clarification.



WASHINGTON COUNTY PLANNING COMMISSION (PC) MINUTES OF WED., MAY 19, 2021

ALL PUBLIC MEETINGS ARE RECORDED

1. **CALL TO ORDER** - 6:30 p.m. Zoom virtual meeting
The meeting was called to order by Chair Lockwood.

2. **ROLL CALL**

PC Members Present: Blake Dye, Deborah Lockwood, Mark Havener, Jeff Petrillo, Sushmita Poddar, and Benjamin Stadelman; Absent: Matt Wellner

Staff Present: Andy Back, Planning and Development Services (PDS): Theresa Cherniak, Erin Wardell, Jessica Pelz, Suzanne Savin, Todd Borkowitz, Susan Aguilar, and Kurt Walter, Long Range Planning (LRP); Jacquilyn Saito-Moore, County Counsel; Breanna Jackson, Support Services

3. **DIRECTOR'S REPORT** - Andy Back, Manager of PDS:

Updates

- The Board appointed Benjamin Stadelman to the PC (District 4).
- The appointment process for the District 1 PC position continues. The Board is expected to vote on the appointment in June.
- The public review period for the Draft 2021-22 LRP Work Program closed on May 7. The Board will discuss the comments received on June 1 and is expected to adopt the final Work Program on June 22.
- The Board has been discussing land acknowledgements and is scheduled to continue their discussion at the July 20 Work Session.

Today's PC Meeting

Work Sessions on:

- Short Term Rentals (STR) survey results
- Urban Reserves Transportation Study (URTS) update

Upcoming PC Meetings

- June 2 (day) – No agenda items are scheduled, so staff recommends canceling but utilizing the time for a PC training to:
 - Discuss effective communication at PC meetings and possible ground rules
 - Review County Policy No. 301 – *Workplace Discrimination, Harassment, Sexual Assault, and Retaliation Prevention* and applicability to County Boards and Commissions
 - Clarify staff's role during PC meetings and have a refresher on Robert's Rules of Order
- June 16 (night) – Middle Housing and topic to be decided.

PC Discussion and Comments

- A question on why the PC is having a work session on short term rentals if the topic is outside of the scope of land use and transportation.

4. ORAL COMMUNICATIONS – (none)**5. WORK SESSION****a. Short Term Rentals (STR) survey results**

Suzanne Savin, Senior Planner with the LRP Community Planning group of LRP, gave a PowerPoint presentation on the STR survey results. It included detailed description of the online open house survey questions and what we heard and the Board's subsequent direction on the topic. The regulations will focus on the County's urban unincorporated areas.

Staff noted that regulation of STRs will move forward as a license process, which means the regulations will be adopted into the County Code rather than the Community Development Code. As such, the ordinance will not be a land use ordinance and will go directly to the Board of Commissioners. Staff noted this briefing is intended to close the loop with the PC since the topic has been discussed at past PC meetings.

b. Urban Reserves Transportation Study (URTS) update

Erin Wardell, Principal Transportation Planner, and Jessica Pelz, Senior Planner, both with the LRP Transportation Planning group, gave a PowerPoint presentation on the URTS and long-range transportation planning for Washington County's urban reserve areas. Staff expects to file ordinances for this project in mid-July.

PC Discussion and Comments

- A question on whether future growth is projected to occur similarly to past growth and how projections consider a potential increase in remote work.
- A question on how congestion in corridors like OR 99W and OR 217 will be alleviated.
- Comments that:
 - Transportation project discussions should include TriMet and consider climate goals;
 - More covered bus stands will better ensure ridership;
 - Streets are not merely connectors but work to create places where people can gather to help develop a sense of community and belonging; and
 - Affordable housing needs to be assured in new development so that average and lower wage families do not get pushed to the urban fringes where transit investment is often lacking.
 - Adequate public involvement should be ensured on transportation projects.

c. CONSIDERATION OF MINUTES – (none)**d. PC COMMUNICATION**

A PC member communicated for the record that a traumatic incident occurred at a past PC meeting when a sitting PC member was treated disrespectfully and that the County has recognized this and is working toward ensuring such incidents don't occur again. She noted the hope to have a safe and welcoming space for Planning Commission members.

e. **ADJOURN: 7:52 p.m.**

Chair Lockwood
Washington County Planning Commission

Andy Back, Secretary
Washington County Planning Commission

Minutes approved this _____ day of _____, 2021
Submitted by LRP Staff

DRAFT



WASHINGTON COUNTY PLANNING COMMISSION (PC) MINUTES OF WED., JUNE 16, 2021

ALL PUBLIC MEETINGS ARE RECORDED

1. **CALL TO ORDER** - 6:30 p.m. Zoom virtual meeting
The meeting was called to order by Chair Lockwood.

2. **ROLL CALL**

PC Members Present: Blake Dye, Deborah Lockwood, Jeff Petrillo, Sushmita Poddar (left at approximately 6:45 p.m.), Benjamin Stadelman, and Matt Wellner; Absent: Mark Havener

Staff Present: Stephen Roberts, Director of Land Use & Transportation (LUT), Andy Back, Manager of Planning and Development Services (PDS); Theresa Cherniak, Kim Armstrong, Todd Borkowitz, and Susan Aguilar, Long Range Planning (LRP); Jacquilyn Saito-Moore, County Counsel

3. **DIRECTOR'S REPORT**

LUT Director Stephen Roberts addressed comments made by several PC members at recent meetings that negatively affected another PC member. He acknowledged that insufficient immediate action was taken by the County in response, but that the County is committed to doing better going forward. Director Roberts specifically thanked some PC members for their efforts to remedy and divert the conversation at the time. He also highlighted the Board's equity resolution and commitment to creating a more inclusive culture that values and celebrates the diversity of Washington County residents and shared that the County is at the early stages of implementing the equity resolution. Director Roberts also stated that guidance for staff and PC members is being sought from the Office of Equity, Inclusion and Community Engagement, and that training for staff and PC members will occur in the near future to help achieve the County's equity goals.

Updates - Andy Back, Manager of PDS

- The appointment process for the two Districts 1 PC positions continues. The Board will discuss candidates in its July 20 Work Session and is expected to make appointments soon after.
- The Board is anticipated to adopt the final version of the 2021-22 LRP Work Program on June 22. The staff report for that meeting is now available on the Board's website. There were several changes based on public input, Board input, and further review of staffing levels.
- Former PC member Anthony Mills was acknowledged for his seven years of service on the PC.

Upcoming PC Meetings

- July 7 (day) – recommend canceling
- July 21 (night) – TBD

PC Discussion

- A question about changes made to the LRP Work Program.
- Commentary that the County's response to comments made at recent PC meetings was insufficient and its acknowledgment of former PC member Anthony Mills was inappropriate.
 - In response, the PC opted to take a 10-minute break. Upon reconvening, Chair Lockwood, Director Roberts, and some PC members discussed the commentary and how best to proceed for the evening. PC Member Poddar left the meeting.
 - PC Member Stadelman moved to adjourn. PC Member Petrillo seconded the motion, then later moved to amend the motion to consider only Oral Communications and housekeeping for future PC meetings before adjourning for the day. PC Member Wellner seconded the amendment to the motion, but PC Member Petrillo then withdrew the amendment, therefore the vote was on the original motion to adjourn. **Vote: 1 – 3 – 1. Motion failed.**

Yes: Stadelman; **No:** Lockwood, Petrillo, and Wellner; **Abstained:** Dye

4. ORAL COMMUNICATIONS

- Amy Johnson expressed concern that staff's acknowledgement of former PC member Mills and the PC's decision to continue the meeting after PC member Poddar left the meeting were disrespectful, and noted her belief that racism is happening in PC meetings. Ms. Johnson also indicated her support for PC member Poddar and the prior request for an indigenous lands' acknowledgement at the start of PC meetings.
- Red Wortham expressed support for PC member Poddar and her addressing inappropriate and racist comments made at past PC meetings and communicated disappointment in perceived County inaction and in the PC for continuing the meeting.

Written comments received

- Kevin Teater shared that he was "disheartened and frustrated" by the comments made at a past PC meeting that were "out of line, racist and traumatizing." He applauded the leadership of PC member Poddar and criticized staff's acknowledgement of former PC member Mills.

5. WORK SESSION**a. House Bill (HB) 2001 Implementation Economic Analysis and Market Feasibility Study final report**

Theresa Cherniak, Principal Community Planner and Kim Armstrong, Senior Planner with the LRP Community Planning group, gave a PowerPoint presentation on the Economic Analysis and Market Feasibility Study final report, including an overview of HB 2001 provisions, minimum compliance defined by Oregon Administrative Rules, project timeline, feasibility analysis, recommendations, next steps, and PC/public involvement.

PC Discussion and Comments

- A comment that single-family housing should not be regulated more to match current County regulations for middle housing; instead, regulations for middle housing should be consistent with current regulations for single family housing.
- A reminder to staff to be mindful of HB 2001 goals for equity, affordability, and accessibility, and be innovative in implementation to encourage a diversity of housing types.

- A comment that the County should perform outreach to underrepresented populations and consider creating a “blue ribbon” committee of housing design and building professionals to advise in technical details.

b. CONSIDERATION OF MINUTES

- **March 17, 2021**

Commissioner minutes. **Vote: 5 – 0 (unanimous). Motion passed.**

Yes: Dye, Lockwood, Petrillo, Stadelman, and Wellner

- **April 21, 2021**

Commissioner minutes. **Vote: 5 – 0 (unanimous). Motion passed.**

Yes: Dye, Lockwood, Petrillo, Stadelman, and Wellner

- Chair Dye motioned to cancel the July 7, 2021 PC meeting. Mr. Petrillo seconded the motion. **Vote: 5 – 0 (unanimous). Motion Passed.**

Yes: Dye, Lockwood, Petrillo, Stadelman, and Wellner

c. PC COMMUNICATION

- Thank you to Jacquilyn Saito-Moore, Breanna Jackson, and Director Roberts for facilitating the June 2, 2021 PC training.
- Comment that Chair Lockwood and Vice Chair Dye should coordinate with staff on scheduling a follow up training for PC members facilitated again by Breanna Jackson.

d. ADJOURN - 8:39 p.m.

Chair Lockwood
Washington County Planning Commission

Andy Back, Secretary
Washington County Planning Commission

Minutes approved this _____ day of _____, 2021
Submitted by LRP Staff