



PUBLIC MEETING NOTICE
FOR THE
WASHINGTON COUNTY PLANNING COMMISSION
ZOOM VIRTUAL MEETING

WEDNESDAY, OCT. 6, 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.

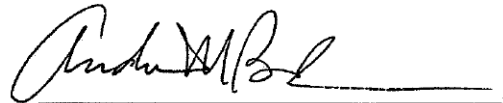
To provide testimony on agenda items or provide oral communication, please complete and submit the sign up form at www.co.washington.or.us/PlanningCommissionTestimony at least 24 hours before the start of a meeting.

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 OCT. 6, 2021 1:30 PM

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AGENDA

CHAIR: DEBORAH LOCKWOOD
VICE-CHAIR: BLAKE DYE
COMMISSIONERS: RACHEL MORI BIDOU, MARK HAVENER, STACY MILLIMAN, JEFF PETRILLO, SUSHMITA PODDAR, 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. 879**

An ordinance amending the Washington County – Tigard Urban Planning Area Agreement, an element of the Comprehensive Plan
- 6. WORK SESSION**
 - a. House Bill (HB) 2001 (middle housing) implementation**

How HB 2001 rules allow local jurisdictions to limit middle housing to address statewide planning goals and Master Planned Communities

*Attachments: Middle Housing Briefing Memo #3: Statewide Planning Goal Limitations
Middle Housing Briefing Memo #4: Master Planned Community Limitations
HB 2001 Analysis Paper 2021-04: Considerations for North Bethany and HB 2001*
- 7. CONSIDERATION OF MINUTES**
 - a. Sept. 1, 2021**
- 8. PLANNING COMMISSION COMMUNICATIONS**
- 9. ADJOURN**

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

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Sept. 29, 2021

To: Washington County Planning Commission

From: Andy Back, Manager 
Planning and Development Services

Subject: **PROPOSED LAND USE ORDINANCE NO. 879 – An Ordinance Amending the Washington County – Tigard Urban Planning Area Agreement, an Element of the Washington County Comprehensive Plan**

STAFF REPORT

For the Oct. 6, 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. 879 to the Board of Commissioners (Board).

II. OVERVIEW

Ordinance No. 879 proposes to amend the 2003 Washington County – Tigard Urban Planning Area Agreement (UPAA), an element of the County Comprehensive Plan. The proposed update includes adding policies and processes for coordinating concept planning in the Urban Reserves within Tigard’s area of interest, updated policies for coordinating development review within unincorporated areas in Tigard’s Urban Planning Area and minor changes to the process for comprehensive planning in the Urban Planning Area. The 2003 Urban Planning Area maps are deleted, and a new map has been included that reflects Tigard’s Urban Planning Area, including the River Terrace area and annexations since the last update.

Authorization for UPAA ordinances was granted by the Board as part of the 2020-21 Long Range Planning Work Program, adopted June 22.

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III. BACKGROUND

State law allows local governments to enter into agreements that outline and acknowledge the responsibilities for coordinating comprehensive planning activities within the Regional Urban Growth Boundary (UGB). Additionally, Statewide Planning Goal #2 (Land Use Planning) requires governmental plans related to land use be consistent with adopted County and city comprehensive plans and regional plans.

To this end, in 1983 Washington County began the process of developing individual UPAA's with cities within the County's UGB. These describe and map each city's site-specific urban planning area and include policies for coordinating comprehensive planning and development within the planning area in compliance with state planning goals and laws. The adopted UPAA's are included as an element of the County Comprehensive Plan. From time to time, amendments have been made to the various UPAA's to expand or modify a city's planning area boundary and/or provide updates to the policies regarding coordination between the County and city.

The Washington County – Tigard UPAA was originally adopted in 1983, with updates in 1986 and 1988. The current UPAA was adopted in 2003 via Ordinance No. 614. The 2003 UPAA update modified the city's urban planning area to include land that Metro added to the Regional UGB and annexations to Tigard since the 1988 UPAA.

The purpose of the last amendment was to make the UPAA provisions and urban planning area map consistent with the 2003 Tigard Urban Service Agreement (TUSA). The TUSA identified the long-term service providers of the various services to comply with the provisions of Oregon Revised Statutes (ORS) 195, generally referred to as Senate Bill 122. The 2003 UPAA map included matching the boundary of the Tigard Urban Planning Area with the Tigard Urban Service Area boundary.

Both the 2003 UPAA text and map labeled certain unincorporated lands adjacent to the city as "Active Planning Area" and "Area of Interest," each with special provisions described in the UPAA. Active Planning Areas included small, unincorporated lands that are within, or directly next to, the city boundary where the city conducts comprehensive planning and regulates development to the greatest extent possible. Areas of Interest encompassed the remaining unincorporated areas, namely Bull Mountain and Metzger, where the County conducts comprehensive planning and regulates development, but the city has an interest in comprehensive planning and in ultimately annexing. Special annexation policies about the transfer of County services to the city and future annexations into the city were included with the 2003 UPAA.

Changes Since 2003

There have been annexations and changes to Tigard's Urban Planning Area since the last update. In 2002, Metro added 467 acres to the UGB, west of Bull Mountain, near Tigard. Known as River Terrace, this residential development has since been annexed to Tigard.

With House Bill 4078-A in 2014 and House Bill 2047 in 2015, the Oregon legislature validated and acknowledged the Metro-led process for developing Urban and Rural Reserve land designations for the region. This included 888 acres of Urban Reserve land within the unincorporated areas west of Tigard (Urban Reserve Areas 6C and 6D). Title 11 of Metro's Urban Growth Management Functional Plan (UGMFP) identifies the planning responsibilities and guiding policies and requirements for the Urban Reserve areas as they transition from rural to urban uses.

Updates to the UPAA are required to reflect the established planning areas of Tigard as well as the need for continued coordination on the major multimodal transportation investments identified to serve the area near SW Roy Rogers Road and SW Beef Bend Road.

Outdated references in the 2003 UPAA to completed transportation projects, annexation issues and expired or no longer relevant intergovernmental agreements have been deleted. Changes were also made to the planning area terms found in the 2003 UPAA. The proposed updates to the UPAA also include edits for clarity and brevity.

Ordinance Notification

Notice 2021-02 regarding proposed Ordinance No. 879 was mailed Sept. 10, 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 Sept. 17 in *The Oregonian* newspaper.

IV. ANALYSIS

County and Tigard staffs worked to craft amendments to the UPAA to address the factors that have changed since 2003, primarily the advent of Urban Reserves and associated changes to the UPAA map. Because the UPAA was last updated prior to the Urban and Rural Reserve process, amendments are necessary to address this action.

The proposed UPAA includes a new Section IV (Comprehensive Planning and Development Policies for Urban Planning Areas) addressing processes and policies for coordinating comprehensive planning in the Urban Planning Area and notification for development review. It also includes policies on implementation of concept plans and related agreements.

The proposed UPAA also adds a new Section III (Concept Planning for Urban Reserve Areas) that describes and defines the Urban Reserve lands, outlines the planning responsibility for concept planning and includes a description of the general expectations of the concept plan to fully comply with UGMFP Title 11. The County has an interest in assuring the planning for the unincorporated area meets expectations for road funding, access management, any potential jurisdictional transfer of roadways and appropriate serviceability to the area in compliance with Title 11. Thus, the proposed UPAA amendments clearly outline the coordination of planning responsibilities and a process that will guide the concept planning expectations for the Urban Reserve area.

At this time, the city has identified the Urban Reserve areas near SW Roy Rogers Road, called River Terrace West, as the "Urban Reserve Planning Area." When added to the UGB, Tigard will conduct comprehensive planning and annex the land under Section IV, B. (Urban Planning Area B) of the UPAA. The boundaries are labeled "Urban Reserve Planning Area" on Exhibit A of the proposed UPAA.

Several policies are added in an updated Section IV, D. (Special Policies) that are required to facilitate ongoing transportation planning efforts. These policies are in Tigard's UPAA to ensure ongoing coordination on the ultimate design and alignment of the SW Tile Flat Road extension and the SW Mountainside Way extension within the River Terrace West Urban Reserve Planning Area to its ultimate connection at SW Roy Rogers Road.

Other updates include removing outdated provisions concerning notice and coordination requirements in the comprehensive planning process, providing more flexibility in the timing of amendments to the current UPAA and clarifying the annexation process for unincorporated lands with County land use designations.

Changes were made to the planning area terms found in the 2003 UPAA. The 2003 "Area of Interest" became "Urban Planning Area A" and "Active Planning Area" is changed to "Urban Planning Area B" to be consistent with other County UPAA's. Finally, the Tigard Urban Planning Area map, Exhibit A, is updated to reflect the new Urban Planning Area, the new terms for the urban planning areas, addition of the Urban Reserve Planning Area and recent annexations.

The Tigard City Council reviewed the proposed 2021 UPAA at its Aug. 24 meeting and adopted Resolution No. 21-30, indicating approval and support of the amendments.

Summary of Proposed Changes

- A new Section IV (Comprehensive Planning and Development Policies for Urban Planning Areas) with processes and policies for coordinating comprehensive planning in the Urban Planning Area and improved notification policies for development review.
- A new Section III (Concept Planning for Urban Reserve Areas) of the UPAA that includes a process for coordinating concept planning in the Urban Reserve Area.
- Replacement of Urban Planning Area maps “Exhibits A and B” of the 2003 UPAA with new map “Exhibit A” that identifies the Urban Reserve Planning Area and annexations since 2003.
- Removal of outdated special annexation processes and conditions.



Sept. 29, 2021

To: Washington County Planning Commission

From: Andy Back, Manager
Planning and Development Services

Subject: **MIDDLE HOUSING (HB 2001) WORK SESSION: STATEWIDE PLANNING GOAL LIMITATIONS**

BRIEFING MEMO #3

For the Oct. 6, 2021 Planning Commission Meeting

I. BRIEFING TOPICS

This is the third in a series of briefing memos for Planning Commission (PC) Work Sessions on implementation of House Bill (HB) 2001 to provide education and the opportunity to discuss key points in advance of future hearings. This briefing memo covers the ways that HB 2001 rules allow local jurisdictions to limit middle housing in Statewide Planning Goal protected areas, including significant natural resources, historic areas and natural hazard areas.

II. STATEWIDE PLANNING GOAL PROTECTED AREAS

The Oregon Administrative Rules (OARs or Rules) allow jurisdictions to regulate middle housing to comply with protective measures (including plans, policies, and regulations) adopted and acknowledged pursuant to certain statewide land use planning goals.¹ OAR 660-046-0010(3) lists the specific statewide planning goals and gives direction on how the regulations are applied in relation to middle housing. The OAR provisions for those goals relevant to Washington County are described below, followed by staff's preliminary analysis:

¹ The foundation of the statewide program for land use planning in Oregon is a set of 19 Statewide Land Use Planning Goals. The goals express the state's policies on land use and related topics, like citizen involvement, housing, and natural resources. (Source: <https://www.oregon.gov/lcd/op/pages/goals.aspx>)

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1. Goal 5 – Natural Resources, Scenic and Historic Areas.

Goal 5 is a broad statewide planning goal that covers more than a dozen resources. Goal 5 Rules provide procedures, standards and implementation measures to carry out the intent of the Goal. Local natural and historic resource protection measures adopted pursuant to Goal 5 Rules apply to middle housing.² How they apply differs by resource type, as discussed below:

- A. Natural Resources. Goal 5 OARs require jurisdictions to adopt land use regulations to protect or limit impacts to identified local natural resources. The HB 2001 Rules *allow*:
- Application of the same regulations to duplexes as to single detached dwellings in the same land use district.
 - Limits on Middle Housing other than duplexes within natural resource sites identified and protected pursuant to Goal 5.

Middle Housing OARs allow jurisdictions to treat middle housing other than duplexes differently to protect the County's Goal 5 natural resources.

Analysis: *Comprehensive Framework Plan (CFP) Policy 10 (Biological Resources and Natural Areas) contains the County's policy statements relative to Significant Natural Resources (SNRs). Distinct types of resources have been inventoried and, within the urban area, maps of the resource areas are included in the Community Plans. Regulations for how to address impacts to natural resource areas during development are included in the Community Development Code (CDC), primarily in Section 422, Significant Natural Resources.*

The level and type of regulation within resource areas differ depending on the resource type. Section 422 regulates the following resource types: Water Areas and Wetlands, Water-Related Fish and Wildlife Habitat, Upland/Wildlife Habitat, and Significant Natural Areas.

- 1) Water-related resources: *The allowable uses and activities are the same for the two water-related resources – Water Areas and Wetlands and/or Water-Related Fish and Wildlife Habitat. Section 422-4 lists the allowable uses and activities within field-verified resources of these types. The only **residential** development currently allowed within a resource area is one detached dwelling and accessory structures on a lot of record, as long as there is not sufficient buildable land outside the field-verified resource area. This allowance exists so that there is some economic use left for a residential property that may be primarily within a water-related resource area.*

² This includes measures adopted pursuant to either OAR Divisions 23 (1996) or 16 (1981).

Impacts to the water-related resources would be greater if more intensive middle housing (up to four units) were considered, including more land area disturbed for the buildings and yards, and more people and domestic animals potentially disturbing the sensitive water resource area. HB 2001 Rules require that duplexes be treated the same as single detached dwellings but allow local jurisdictions to place limits on the more intensive middle housing types in these sensitive areas.

Preliminary Recommendation: *Allow duplexes as required within the water-related resource areas, in the same way as single detached dwellings, but prohibit any other middle housing.*

- 2) ***Upland/Wildlife Habitat:*** *For development that might impact field-verified Upland/Wildlife Habitat, it is a little more complicated. Relevant parts of Section 422 that apply to **all** development applications with mapped Upland/Wildlife Habitat are the resource boundary field verification (422-3.1) and habitat assessment (422-3.3). This includes applications for land divisions that create new lots as well as a single detached dwelling on an existing lot.*

When there are field-verified Upland/Wildlife Habitat resources that will be affected by the proposed development, the requirements in Section 422-5, Tree Preservation in Habitat Areas, also sometimes apply. These regulations require preservation of 15% or 25% of the verified habitat area, leaving 75%-85% of the remaining area potentially available for development.

Currently, the construction of a single residence or accessory structure when located on an existing lot with Upland/Wildlife Habitat is exempt from the tree preservation standards of Section 422-5. The idea was that lots were created through a land development process that likely included SNR review, and that any mitigation had already been required through this process.

The possibility of adding multiple residential units was not contemplated at the time the exemption for a single detached dwelling was adopted (through A-Engrossed Ordinance No. 869 in 2020). Additionally, upon further review, this exemption may need to be revised to better reflect when SNR-related requirements were originally added to the CDC.

*Depending on when a lot was created, different rules were applied. Section 422 was added to the CDC in early 1984. Lots created **after** this date had to follow the Goal 5-related Section 422 requirements.*

Under the HB 2001 Rules, duplexes are to be reviewed the same as single detached dwellings, therefore if no changes are made to the single dwelling exemption, a duplex would also be exempt, regardless of when the lot was created. For middle

housing other than duplexes, HB 2001 Rules allow local jurisdictions to limit this more intensive middle housing in protected natural resource areas.

Options for discussion include:

- a) Keeping the current exemption for single detached dwellings, so it applies to duplexes but **not** other middle housing types. Other types of middle housing would need to follow Section 422-5 requirements.*
- b) Modifying the current exemption for single dwellings to specify it applies to lots created after the date Section 422 was added to the CDC. Expand this to include duplexes but **not** other middle housing types. Other middle housing would need to follow Section 422-5 requirements if it would impact the Upland/Wildlife Habitat resources.*
- c) Modifying the current exemption for single dwellings to specify it applies to lots created after the date Section 422 was added to the CDC. Expand this to include all middle housing types. This would mean all middle housing would be exempt from Section 422-5 requirements if the original land division had already been subject to Section 422 by an earlier land use decision.*

Protection of Upland/Wildlife Habitat is likely to continue to be a controversial topic, and further review and discussion is needed.

Preliminary Recommendation: *Staff's preliminary recommendation is option b, which would clarify the current exemption for single detached dwellings, provide the same exemption for duplexes as required, but require more intensive middle housing to provide habitat preservation if it impacts habitat areas. Since non-duplex middle housing has the potential for greater impacts to these resources and HB 2001 Rules allow limits on such housing within resource areas, staff believes this is appropriate. This would not prohibit middle housing in these areas but would subject it to the preservation requirements.*

- 3) Significant Natural Areas: Significant Natural Areas (SNAs) are sites of special importance in their natural condition for their ecological, scientific and educational value that were included in the County's original natural resource inventory. Section 422-6 includes the rules to reduce impacts to an SNA by requiring landscape screening and buffering or an extended setback between the SNA and the area to be developed.*

Each SNA is unique and their potential for residential development varies. Additional analysis is needed before a recommendation can be made. In general, however, if the screening, buffering and setbacks are required for a single detached dwelling the same requirements would apply to middle housing.

- B. Historic Resources. Goal 5 OARs require jurisdictions to adopt land use regulations to protect locally significant historic resources. This includes regulations applicable to middle housing “to comply with Goal 5 protective measures as it relates to the integrity of a historic resource or district.” (OAR 660-046-0010(3)(a)(B)) Jurisdictions may apply the same regulations that apply to single detached dwellings in the same land use district, with specific limitations.

***Analysis:** CFP Policy 11 (Historic and Cultural Resources) contains the County’s policy basis for Historic Resource protections. A Cultural Resources Inventory was prepared in the 1980s and is part of the Comprehensive Plan. The inventory resulted in identification of properties that were designated with a Historic and Cultural Resources Overlay District. Properties within this overlay district are subject to limits on changes or alterations to the designated resource and specific findings. Relocation and demolition are possible in certain circumstances and subject to the specific findings and review process described in CDC Section 373, Historic and Cultural Resource Overlay District.*

***Recommendation:** These provisions would continue to be applied as they are now, regardless of whether middle housing was proposed or not.*

2. Goal 6 – Air, Water and Land Resources Quality.

Goal 6 allows jurisdictions to limit development to attain federal and state air, water and land quality requirements. HB 2001 Rules state jurisdictions *may apply* such regulations to middle housing.

***Analysis:** CFP Policies 4 (Air Quality), 5 (Noise), 6 (Water Resources) and 7 (Mineral and Aggregate Resources) contain the County’s policy statements to implement Goal 6. CDC Section 423, Environmental Performance Standards, contains the performance standards for air quality, odor, noise, vibration, heat and glare, storage, drainage and wastewater quality, adequate water supply, radioactive materials, and toxic or noxious matter. These are applicable to all uses and activities, and require that prior to issuance of a development permit or certificate of occupancy, the Director can require evidence that appropriate federal, state or local permits have been or will be obtained or that the development complies with the standards. Often these are State Department of Environmental Quality (DEQ) or County Code standards.*

***Recommendation:** Since these apply to all development, they would apply to any middle housing under HB 2001 provisions.*

3. Goal 7 – Areas Subject to Natural Hazards.

Goal 7 requires local comprehensive plans to reduce risk to people and property from Oregon’s natural hazards. The goal lists natural hazards such as floods, landslides, earthquakes, and wildfires. HB 2001 Rules allow regulations restricting middle housing based on adopted Comprehensive Plan inventories, policies and implementing measures

and upon making findings. In particular, HB 2001 Rules allow restrictions on use, density and occupancy for special flood hazard areas and other hazard areas where the County determined the development of middle housing would present a greater risk to life or property than development of a single detached house.

Analysis: *CFP Policy 8 (Natural Hazards) contains the County's policy statements related to natural hazards. County adopted maps show current or best available flood plains and drainage hazard areas. Additionally, several recent community plan areas (North Bethany and Bonny Slope West (subarea of Cedar Hills-Cedar Mill Community Plan)) contain maps specific to landslide prone lands.*

CDC Section 410, Grading and Drainage, requires all grading and drainage activities occur pursuant to Chapter 14.12 (Grading) of the Washington County Code and the state plumbing code. If they occur on lands within CWS' boundaries, they must also meet CWS Design and Construction Standards. CDC Section 410 and Chapter 14.12 require a permit for all site grading, with limited exemptions. No urban residential development is exempt. For landslide study areas (North Bethany and Bonny Slope West only) additional requirements apply. All grading requirements apply when there is site grading, and no residential development is exempt.

For flood plain and Drainage Hazard Areas (DHAs), CDC Section 421 regulates development. Within the floodplain and DHA, the only residential use allowed is one detached dwelling together with no more than two accessory structures (under a Type II procedure) provided there is not sufficient buildable land outside the flood plain. Section 421-8, Criteria for Dwellings, provides standards if a dwelling is to be placed in a flood area. Section 421-9 includes criteria for manufactured dwellings in a flood area.

Preliminary Recommendation: *Since the grading and drainage requirements apply to all development, they would apply to middle housing. For residential properties in flood plains and DHAs, at least one single dwelling is allowed so that there is some economic use left. Impacts to the flood plain or DHA would be greater from the more intensive middle housing types, and staff's preliminary recommendation is to allow duplexes in the same way as single detached dwellings but limit any other middle housing.*

4. Goal 9 – Economic Development.

HB 2001 Rules allow limits to middle housing on lots or parcels zoned for residential use and designated for future Industrial or employment uses.

Analysis: *This is not applicable to the County. The County does not have separate zoning and plan designations, but rather uses a "one-map system." Land designated by the County for Industrial uses does not allow single detached homes, therefore middle housing is not allowed.*

5. Goal 11 – Public Facilities and Services.

Goal 11 requires jurisdictions to plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development. HB 2001 Rules provide that jurisdictions work to ensure infrastructure serving areas where middle housing is allowed is “appropriately designed and sized” to serve middle housing. Provisions are made in other sections of the HB 2001 rules to address specific infrastructure deficiencies, but no specific limits are allowed based on the statewide planning goal.

***Analysis:** CFP Policy 22 (Public Facilities and Services) and 24 (Transportation) contain the County’s policy statements regarding public facilities. In addition, the Transportation System Plan outlines the transportation system in the County and policies for its development. CDC Article V, Public Facilities and Services, contains public facility standards that apply to all land divisions and property line adjustments with few exceptions. Construction of a single detached dwelling unit or duplex on an approved duplex lot (limited number of these) are exempt from the requirements.*

The HB 2001 OARs include provisions to ensure “Sufficient Infrastructure,” which is narrowly defined, for other than duplex Middle Housing (OAR 660-046-0220(2)(g), -0220(3)(h), -0220(4)(i)). This is a broader topic and will be addressed in a separate briefing.



Sept. 29, 2021

To: Washington County Planning Commission

From: Andy Back, Manager 
Planning and Development Services

Subject: **MIDDLE HOUSING (HB 2001) WORK SESSION: MASTER PLANNED COMMUNITY LIMITATIONS**

BRIEFING MEMO #4

For the Oct. 6, 2021 Planning Commission Meeting

I. BRIEFING TOPICS

This is the fourth in a series of briefing memos for Planning Commission (PC) Work Sessions on implementation of House Bill (HB) 2001 to provide education and the opportunity to discuss key points in advance of future hearings. This briefing memo covers the ways that HB 2001 rules allow local jurisdictions to limit middle housing in Master Planned Communities.

II. MASTER PLANNED COMMUNITIES OVERVIEW

The Oregon Administrative Rules (OARs or Rules) for HB 2001 allow for limits on Middle Housing within undeveloped residential areas of Master Planned Communities. The North Bethany Subarea Plan is the only Master Planned Community within unincorporated Washington County. The question is whether the County should exercise this option.

The attached HB 2001 Analysis Paper 2021-04: *Considerations for North Bethany and HB 2001* (Attachment A) provides background, analysis and options for how to address this topic.

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Sept. 29, 2021

LONG RANGE PLANNING
HB 2001 ANALYSIS PAPER 2021-04

Considerations for North Bethany and HB 2001

Problem Statement: House Bill (HB) 2001 Administrative Rules (OARs or Rules) allow for limits on Middle Housing within undeveloped residential areas of Master Planned Communities. The North Bethany Subarea Plan is the only Master Planned Community within unincorporated Washington County. Should the County exercise this option?

OAR References: 660-046-0020(10), 660-046-0205(2)(b)(B)
Master Planned Community definition and allowances.

Recommendation: Consider the following options and provide input:

- 1. Limit middle housing (other than duplexes) within portions of North Bethany that were not developed as of Jan. 1, 2021. Once an area within North Bethany is developed, all middle housing provisions would apply.**
- 2. Do not treat North Bethany differently from other areas. Apply middle housing provisions to *all* of North Bethany's districts that allow single detached dwellings, regardless of whether or not they are developed.**

Background:

The following provides background on the provisions in the OARs for Master Planned Communities and how they apply in North Bethany, describes the planned residential mix in the community, and outlines the current status of development.

OAR Provisions and North Bethany

- Washington County's urban unincorporated area qualifies as a "Large City" as that term is defined in OAR 660-046 (Middle Housing in Medium and Large Cities).
- The OARs define a "Master Planned Community" as a site within a Large City that is greater than 20 acres in size, for which the jurisdiction adopted, by resolution or ordinance, a master plan or a plan that functions as a master plan, after the site was incorporated into the Urban Growth Boundary (UGB). (OAR 660-046-0020(10))
 - The North Bethany Subarea, which is greater than 20 acres in size, was added to the UGB in 2002. Washington County developed the North Bethany Subarea Plan over a four-year period, incorporating a level of planning and design not used by the County before or since.

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- North Bethany land use planning included extensive coordination with infrastructure service providers (e.g., Clean Water Services (CWS), Tualatin Valley Water District (TVWD), transportation planning and engineering, and Tualatin Hills Park & Recreation District (THPRD)). In the case of transportation and parks, supplemental System Development Charges (SDCs) were established to address additional infrastructure needs created by the new development, calibrated to the expected number of new households. The North Bethany Subarea Plan was adopted by ordinance in 2010.
- While not specifically labeled a “master plan,” the North Bethany Subarea Plan functions as a “master plan.” According to the North Bethany Subarea Plan text, “The planning process established a vision and framework for how development should occur in the North Bethany area, including land use designations, transportation, stormwater, parks and open space networks, affordable housing and infrastructure funding.” The Plan text also notes that THPRD and CWS have incorporated North Bethany infrastructure and public service requirements into their respective plans.
- Based on the above findings, staff believes North Bethany complies with the OAR’s definition of a “Master Planned Community.”
- The OARs state that if a Large City has adopted a master plan or plan that functions in the same manner as a master plan before Jan. 1, 2021, it may limit the development of Middle Housing *other than duplexes* if the entire master planned area is authorized for a net residential density of at least eight dwelling units per acre and allows all dwelling units, at minimum, to be detached single-family dwellings or duplexes.
 - Overall, the North Bethany Subarea is authorized for a minimum average net residential density of 11.5 dwelling units per acre and is therefore eligible for this optional restriction on the development of non-duplex middle housing.
 - Regardless of whether or not the County decides to apply this optional limitation, duplexes would still be allowed in all North Bethany districts where single detached dwellings are allowed (R-6 NB, R-9 NB, and R-15 NB).
- The OARs state that a jurisdiction may only apply this optional restriction on the development of middle housing in an adopted master planned area “...to portions of the area not developed as of January 1, 2021 and may not apply this restriction after the initial development...” Staff’s working understanding is that this would mean where construction has been completed on the approved development or phase of the development (if it is phased).

North Bethany Subarea Plan residential mix

- North Bethany includes a range of mixed-use and residential land use districts with a range of housing types and densities.
 - The center of the plan area contains the mixed-use and residential districts with the highest density requirements – from 19 to 25 units/acre (R-24 NB and R-25+ NB).

These districts allow multifamily attached housing types only: apartments and condominiums. These areas will not be eligible for middle housing since they do not currently allow single detached dwellings.

- Further from the center, the medium density residential district requires 12 to 15 units/acre and allows a range of attached dwelling types: duplexes, multiplexes, townhomes, apartments and condominiums (R-15 NB). Detached dwelling units are also allowed in this district, but only if additional, specific requirements are met. Lots within this district will be potentially eligible for middle housing.
- Farthest from the center, the lower density land use districts require five to six units per acre or seven to nine units per acre (R-6 NB and R-9 NB). In these districts, both single detached and attached dwelling units are allowed, but attached dwellings are capped at a maximum of six units per building. Lots within this district will be potentially eligible for middle housing.

North Bethany Subarea Plan development and implementation considerations

- During adoption of the North Bethany Subarea Plan and subsequent amendments to remove or realign area streets, Bethany residents expressed concerns about traffic impacts to Kaiser Road and adjacent areas from North Bethany development. Concerns about potential traffic impacts to existing and adjacent streets, however, are not unique to this area, and the road system was considered adequate to address expected traffic.
- CWS designed a unique system of regional stormwater facilities in North Bethany intended to handle stormwater from multiple developments. The sizing of those facilities was in large part based on assumptions about the number of dwellings they would serve and resultant amounts of impervious surfaces.
- North Bethany is being developed and built by several different development companies through numerous individual land use applications. To date, applications for 29 different projects have been made and are at various stages of approval, ranging from project review through platted and built. Project sizes range from 24 to 417 units. (See Map A, attached)
- Several large areas have received subdivision approval but have not yet received final plat approval (when lots are created) and construction has not yet started. These projects are primarily located in the north and northeast portions of the subarea. Map A shows these areas with lot lines in light gray. One of the largest of these areas has been approved for a 246-lot subdivision (Abbey Creek Terrace/Hosford Farms). Another project, Ridgeline, has received final plat approval for several phases but just over 200 lots have not yet received final plat approval. None of these areas were developed (built) as of Jan. 1, 2021.
- Several other parcels in the central portion of North Bethany, located east and west of the planned intersection of Kaiser and Shackelford Road, have not yet submitted development applications. These are shown in Map A and B in a yellow outline. Further

analysis is needed to determine the portions of the lots within the eligible land use districts (several lots are split-zoned) and the development potential of those lots. A very rough preliminary estimate is that about 16 acres are within the R-6 NB to R-15 NB districts.

- A segment of Shackelford Road is planned to be located along the south edge of Abbey Creek Terrace/Hosford Farms, the primary area that has not yet been developed.

Analysis:

The County can decide to limit applicability of HB 2001 middle housing provisions *except for duplexes* in undeveloped portions of North Bethany until after “initial development.” There are implications to including and excluding parts of North Bethany from the HB 2001 middle housing provisions:

- A report prepared for the County by ECONW in June 2021, *House Bill 2001 Implementation, Economic Analysis and Market Research*, indicated that a subdivision of middle housing units (particularly tri- and quadplexes) is unlikely in North Bethany; however, townhouses were shown in other areas of the County to be the more feasible middle housing type. It is not clear whether these would be a more feasible middle housing type in the areas remaining to be developed in North Bethany.
- Implications of the recent passage of Senate Bill (SB) 458 – the middle housing expedited land division bill – are also unclear. The bill may make middle housing types more feasible in North Bethany’s remaining areas.
- Concerns regarding capacity of the road system in North Bethany may be reactivated and amplified if Abbey Creek Terrace/Hosford Farms, among other areas not yet developed, would be subject to middle housing allowances through HB 2001 implementation.
- Staff is unclear about how allowing middle housing in North Bethany would impact the area’s transportation system. It could marginally add to volumes on the system, but also could offset that impact by contributing more funding.
- CWS staff have expressed some concerns about potential impacts of significant increased numbers of dwellings on North Bethany’s planned and built stormwater facilities. Specifically, they had the following input:

Stormwater infrastructure

- Infrastructure was sized based on the allowed density of land use designations on the properties to be served. None of the infrastructure is sized with *additional* capacity.
- For the areas that are already built out, allowing *significant* additional residential density would be a problem. The infrastructure for the undeveloped (greenfield) portions of North Bethany may be able to be adjusted.

- The conveyance capacity (pipe sizing) was calculated in CWS' normal way. Placing a duplex where a single dwelling is now allowed probably will not change it a lot. But placing a quadplex where a single dwelling is now allowed could affect the conveyance capacity, because CWS has a different way of calculating capacity for that level of density.
- CWS would have to look at potential impacts on the Abbey Creek tributary, which is being used as part of the stormwater infrastructure for the Hosford property (located in the central part of northern area) should large scale changes in the allowed number of dwellings occur on that property.
- The northeast corner of North Bethany is currently undeveloped, but there is already a planned stormwater pond for that area. If the full middle housing allowances applied to this area prior to initial build-out and resulted in significant additional units, there may be a stormwater capacity issue.

Sewer infrastructure

- Sanitary sewer capacity would be more of a concern if *significant* additional units were built in North Bethany.
- The sewer line in the northern area is buried very deep and its crossing of the Abbey Creek tributary is via a bridge. That sewer line serves the Hosford property and the undeveloped northeast corner, so there might be sanitary sewer capacity issues for these areas if *significant* additional units were built. That sewer line also serves the existing residential area east of Kaiser Road and north of the cemetery, as well as the area east of the cemetery.

It is unclear whether much middle housing would occur in North Bethany due to small lot sizes and newer construction, but if it did there could be implications for infrastructure. Further analysis may be required to further assess potential impacts should non-duplex middle housing be allowed in the undeveloped portions of North Bethany.

Summary:

OAR 660-046 states that if a Large City (including Washington County) has adopted a master plan before Jan. 1, 2021, it may limit the development of middle housing *other than duplexes* if the master planned area allows all dwelling units, at a minimum, to be detached single-family dwellings or duplexes. The North Bethany Subarea Plan complies with the OAR's definition of a "Master Planned Community." Therefore, the **currently undeveloped** residential areas of the North Bethany Subarea Plan would be eligible for this optional restriction on the development of middle housing *other than duplexes*.

The County may choose to either exercise this optional restriction or to allow the full range of middle housing to all portions of North Bethany, regardless of whether they are developed or undeveloped. The options and some considerations associated with these options are detailed below.

Options:

1. Limit the development of middle housing (other than duplexes) within portions of North Bethany that were not developed as of Jan. 1, 2021. Once an area within North Bethany is developed, all middle housing provisions would apply.
2. Do not treat North Bethany differently from other areas. Apply middle housing provisions to **all** of North Bethany's districts that allow single detached dwellings, regardless of whether or not they are developed.

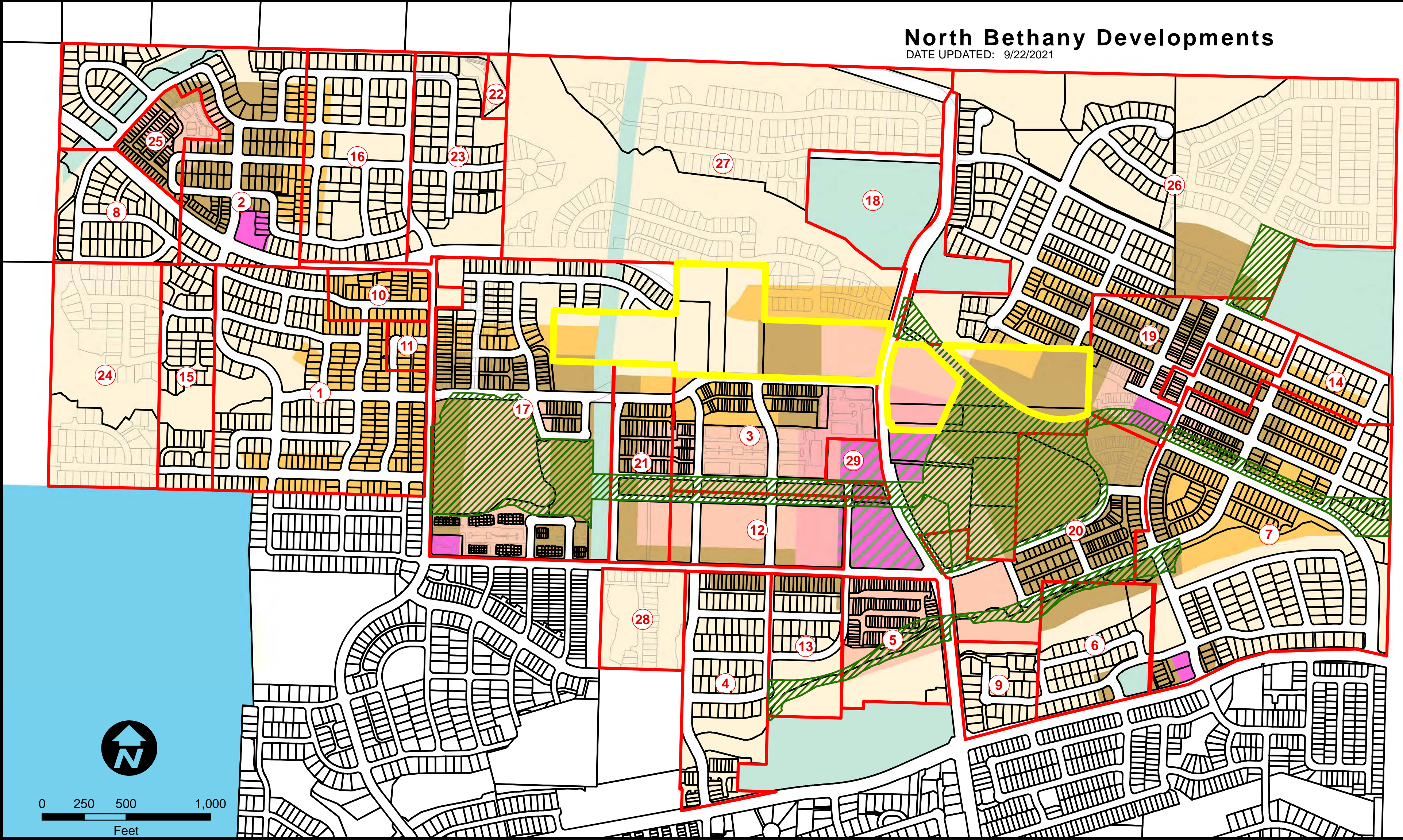
Considerations:

- Service providers and community members may have concerns about potential impacts to North Bethany stormwater facilities, roads and other infrastructure that could result from allowing middle housing other than duplexes prior to initial build-out and allowing a larger number of residential units to be constructed.
- While North Bethany's infrastructure has been more comprehensively planned and funded than anywhere else in the unincorporated County, it also has more greenfield sites with potentially more development capacity than other areas.
- North Bethany has greater development pressure than other areas in the unincorporated urban area. In addition, its remaining undeveloped residential areas consist of larger lots with a correspondingly greater potential for a large increase in the number of dwelling units if the development of middle housing is not limited in these areas. Therefore, impacts to planned and constructed infrastructure appear to be a possibility.
- Given that most of the urban unincorporated area will be subject to HB 2001, are the circumstances in North Bethany so unique as to exclude it?



North Bethany Developments

DATE UPDATED: 9/22/2021



MAP A

- ① DR Horton - 238 units (Approved)
Plat - Bethany Abbey Meadows No.1/ No.2
Casefile 13-341 S/PD/AMP
- ② DR Horton - 314 units (Approved)
Plat - Bethany Abbey Heights No.1/ No.2
Casefile 13-310 PD/S/D/SU/D/AMP
- ③ Polygon - Approx. 300 units (Approved)
Plat - North Bethany Crest
Casefile 17-439, 18-005 S/D(R)/DFR/PD
- ④ DR Horton - 85 units (Approved)
Plat - North Bethany Creek
Casefile 13-036 S/D(R)/DHA
- ⑤ West Hills - Approx. 90 units (Approved)
Plat - North Bethany Park
Casefile 15-413 S/D(R)/DHA/PD
- ⑥ Polygon - 37 units (Approved)
Plat - Polygon at Bethany Creek Falls No. 3
Casefile 14-042 PD/S/AMP
- ⑦ Polygon - Approx. 291 units (Approved)
Plat - Polygon at Bethany Creek Falls No.1/ No.2
Casefile 13-205 S/P/PLA/DHA/W
- ⑧ DR Horton - 46 units (Approved)
Plat - Grace Hollow No.1 & No.2
Casefile 14-069 S/PD
- ⑨ Noyes - Approx. 29 units (Approved)
Plat - Crossing at North Bethany
Casefile 14-363 S/DHA/APPEAL

- ⑩ DR Horton - approx. 40 units (Approved)
Plat - Commons at Abbey Creek
Casefile 14-218 PD/S
- ⑪ DR Horton - Approx. 17 units (Approved)
Plat - Commons at Abbey Creek No. 2
Casefile 14-219 S
- ⑫ West Hills - 208 units (Approved)
Plat - North Bethany Ridge
Casefile 14-078 P/P/D(R)/PD
- ⑬ West Hills - Approx. 38 units (Approved)
Plat - North Bethany Creek No. 2
Casefile 15-028 S/D(R)
- ⑭ Polygon - 70 units (Approved)
Plat - Polygon at Bethany Creek Falls No. 2
Casefile 14-350 S
- ⑮ K&R - 48 units (Approved)
Plat - Abbey Ridge
Casefile 15-203 S
- ⑯ Noyes - 94 units (Approved)
Plat - Estates at Abbey Creek
Casefile 15-252 S, 16-053 MR/PLA
- ⑰ West Hills - 288 units (Approved)
Plat - Arbor at West Park
Casefile 15-129 S/D(R)/DFR/PD, 16-047 S/D(R)/PD
- ⑱ BSD | Elementary School (Approved)
Casefile 16-027 SU/D(INS)/AMP
- ⑲ Polygon - 163 units (Approved)
Plat - Polygon at Bethany Creek Falls No. 6
Casefile 16-185-S/PD/DFR | modified by 17-183 | 19-299 (ORD 843)

- ⑳ Polygon - 180 units (Approved)
Plat - Polygon at Bethany Creek Falls No. 5
Casefile 16-109 S/PD/PLA/PLA/D(R)/DFR
- ㉑ West Hills - 127 units (Approved)
Plat - North Bethany Ridge No. 2
Casefile 16-136-S/D(R)/PD
- ㉒ Noyes - CWS Regional Facility (Approved)
Casefile 16-108-SU/D
- ㉓ Noyes - 62 units (Approved)
Not Formally Platted - Estates at Abbey Creek No.2,
Casefile 16-383-S
- ㉔ Noyes - 94 units (Approved)
Plat - Abbey Woods
Casefile 16-435
- ㉕ K&R - 130 units (Approved)
Plat - Abbey Crest
Casefile 17-002
- ㉖ Polygon - 417 units (Approved)
Plat not final - Ridgeline
Casefile 17-212
- ㉗ K&R - 246 units (Approved)
Plat not final - Abbey Creek Terrace, a.k.a Hosford Farms
Casefile 17-083
- ㉘ Finnley Woods - 24 units (Dev Review)
Casefile 19-437
- ㉙ Sunshine Elite - Mixed Use Development (Dev Review)
Casefile 21-198

	R-6 NB		NCMU NB
	R-9 NB		NCC NB
	R-15 NB		INST NB
	R-24 NB		INST
	R-25+ NB		
	Potentially eligible parcels without Development Applications		
	Fixed Parks		



WASHINGTON COUNTY PLANNING COMMISSION (PC) MINUTES OF WED., SEPT. 1, 2021

ALL PUBLIC MEETINGS ARE RECORDED

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

2. **ROLL CALL**

PC Members Present: Rachel Mori Bidou, Blake Dye, Deborah Lockwood, Stacy Milliman, Jeff Petrillo, Sushmita Poddar (joined at 1:37 p.m.), and Matt Wellner; Absent: Mark Havener

Staff Present: Andy Back, Planning and Development Services (PDS); Theresa Cherniak, Anne Kelly, Carine Arendes, Todd Borkowitz, and Susan Aguilar, Long Range Planning (LRP); Jacquilyn Saito-Moore, County Counsel

Chair Lockwood announced PC member Stadelman unexpectedly resigned, effective Aug. 28, due to challenges he was having in meeting time commitments to adequately serve on the PC.

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

Updates

- Board Commissioner Jerry Willey has been informed of PC member Stadelman's resignation and the County's recruitment for the District 4 PC vacancy has begun.
- Staff will send out a Doodle poll to find a time when all PC members can meet to continue the facilitated training on PC communication norms.
- On Sept. 7, staff will ask the Board of Commissioners to continue Ordinance No. 865, related to Metro's Urban Growth Boundary (UGB) expansion areas, pending an appeal of the UGB expansion decision at the Oregon Supreme Court.
- On Sept. 14, staff will provide the Board an update on the County's implementation of House Bill (HB) 2001 to promote development of middle housing.

Today's PC Meeting

- Hearing on Ordinance No. 877 – Rural Omnibus
- Briefings on HB 2001 implementation topics

Upcoming PC Meetings

Sept. 15 (night)

- Briefing on HB 2001 implementation topics

Oct. 6 (day)

- Hearing on Ordinance No. 879 – Tigard Urban Planning Area Agreement (UPAA)
- Briefing on HB 2001 implementation topics

PC Discussion and Comments

- A question on the pending appeal at Land Use Board of Appeals (LUBA) related to the County's Significant Natural Resources regulations.

4. PUBLIC HEARING

a. Ordinance No. 877 – Rural Omnibus

Carine Arendes, Associate Planner with the LRP Community Planning group, gave a PowerPoint presentation on the County's ordinance process, as well as Ordinance No. 877. The Board authorized changes as part of the Fiscal Year (FY) 2021-22 LRP Work Program. Staff highlighted proposed amendments to the Community Development Code (CDC) to be consistent with Oregon law, including revisions to allowed uses in the Exclusive Farm Use (EFU), Exclusive Forest and Conservation (EFC), and Agricultural and Forest (AF-20) districts.

Staff Recommendation

- Conduct the public hearing on Ordinance No. 877 and hear oral testimony.
- Recommend approval of Ordinance No. 877 to the Board with potential engrossment.

Oral Testimony

- Kathy Welch (46161 SW Patton Valley Road, Gaston, OR)
 - Asked how a specific property (half designated EFU, half EFC) will be affected.
- Steve Starkel (10825 SW Grabhorn Road, Beaverton, OR)
 - Expressed concern about truck parking noise and leakage of hazard material from trucks parked in EFC designated areas.
 - Asked about determining truck ingress and egress.
 - Suggested the County specify allowed times for truck operation.

PC Deliberations

- Questions on:
 - Why code language is not proposed for items identified for Board engrossment.
 - Whether proposed amendments are entirely in response to new state requirements, particularly regarding dump truck parking in some rural land use districts.
 - Whether the ordinance is just creating a formal LUT process and establishing local rules.

Vote

PC member Wellner moved to recommend Ordinance No. 877 to the Board with staff's recommended changes. Vice Chair Dye seconded the motion. PC member Petrillo stated for the record that staff's recommended changes include addressing inconsistencies in processing facility floor areas, as recommended by the state; clarifying the application of biosolids and septage; and specifying school establishment dates to clarify which schools may be expanded. **Vote: 7-0.**

Motion passed.

Yes: Bidou, Dye, Lockwood, Milliman, Petrillo, Poddar, and Wellner

5. WORK SESSION

a. House Bill (HB) 2001 Implementation Update and Plan for Future Work Sessions

Theresa Cherniak, Principal Community Planner and Anne Kelly, Senior Planner with the LRP Community Planning group gave a PowerPoint presentation outlining planned HB 2001 briefings to the PC and timeline, highlighting policy options for PC consideration, and summarizing preliminary results of the online open house for middle housing.

PC Discussion and Comments

- Questions on the number of survey respondents and their demographics.
- Confirmation that a survey is a potential resource for community engagement and an opportunity to build relationships with the community.
- A request that staff provide the PC the HB 2001 bill and information on minimum standards.
- A request that staff provide data on resident income and housing affordability.
- A suggestion to move the PC’s housing affordability strategies discussion to an earlier date.
- Suggestions that staff engage the Homebuilders Association on HB 2001 and invite Proud Ground to provide information on homeownership incentive programs.
- Interest in ensuring community engagement consultants effectively engage the full spectrum of people who live in the community.

6. CONSIDERATION OF MINUTES

PC member Petrillo moved to adopt the PC minutes from May 19, 2021 and June 16, 2021. Vice Chair Dye seconded the motion. PC member Petrillo withdrew his motion to adopt two sets of minutes and motioned to adopt each set of minutes individually. Vice Chair Dye seconded the motion.

a. May 19, 2021

PC member Poddar asked to amend page 2 of the May 19, 2021 PC minutes to replace, “traumatic incident” with, “bias incident.” PC member Petrillo moved to adopt the minutes as amended. PC member Poddar seconded the motion. **Vote: 4-0-3. Motion passed.**

Yes: Dye, Lockwood, Petrillo, and Poddar; **Abstained:** Bidou, Milliman, and Wellner

b. June 16, 2021

PC member Wellner moved to adopt the June 16, 2021 PC minutes. Vice Chair Dye seconded the motion. **Vote: 4-0-3. Motion passed.**

Yes: Dye, Lockwood, Petrillo, and Wellner; **Abstained:** Bidou, Milliman, and Poddar

7. ADJOURN - 4:04 p.m.

Deborah Lockwood, Chair
Washington County Planning Commission

Andy Back, Secretary
Washington County Planning Commission

Minutes approved this _____ day of _____, 2021

Submitted by LRP Staff.