

To: Pauline Hardie
Lynne McConnell
Ian Leitheister

CC: Lisa Mushel
Bill Bernardy

From: Mike Walker

Subject: Nov 16th's Virtual Meeting Follow up

Date: November 17, 2020

First and most importantly, we wish to express our gratitude for the time you provided us to discuss the suggestions in my November 11, 2020 memo. The discussion was helpful because we identified the prime point of disagreement: whether the City will be allowed discretion under 660-046-0235 when it comes to parking minimums, or whether City will have to adopt either the minimum standards in 660-046-0220 or the proposed model code.

Second, I wanted to point out a possible mis-reading of HB 2001 Section 7(5)(b)(B) that came up in our discussion: Ian suggested this paragraph precluded any parking requirements that differed from the minimum standards in Div. 46. However, if you read the entire Section 7 closely, you'll see that it simply constrains the definition of "Reasonable local regulations ..." as that terminology applies to ADUs referenced in subsection (5)(a). The constraint has nothing to do with other housing types covered by HB 2001. It only makes it clear that cities cannot require additional off-street parking for ADUs (something that is already in the BDC).

Copied Section 7 from House Bill 2001:

SECTION 7. ORS 197.312, as amended by section 7, chapter 15, Oregon Laws 2018, is amended to read: 197.312..... (5)(a) A city with a population greater than 2,500 or a county with a population greater than 15,000 shall allow in areas within the urban growth boundary that are zoned for detached single family dwellings the development of at least one accessory dwelling unit for each detached single family dwelling, subject to reasonable local regulations relating to siting and design. (b) As used in this subsection [,]: (A) "Accessory dwelling unit" means an interior, attached or detached residential structure that is used in connection with or that is accessory to a single-family dwelling. (B) "Reasonable local regulations relating to siting and design" does not include owner occupancy requirements of either the primary or accessory structure or requirements to construct additional off-street parking. (6) Subsection (5) of this section does not prohibit local governments from regulating vacation occupancies, as defined in ORS 90.100, to require owner-occupancy or off-street parking.

Thirdly, Pauline expressed concern that 046-0235 has set an impossibly high bar for proving the City's chosen code doesn't cause unreasonable cost or delay. (660-046-0235(1) Existing

Alternative Siting or Design Standards (example: “that applicable Middle Housing type and that rea has achieved a production rate of the three percent over 20 years....., etc.). We believe few cites will be able to use this first onerous subsection because the compliance with HB 2001 will required some new standards. Bend cannot not rely on this onerous subsection and doesn’t need to. We believe the City should consider using subsection 660-046-0235(2) Other Alternative Siting or Design Standards.....a Large City must submit.....affect the following factors in comparison to what is would other wise be required under OAR 660-046-0220 or OAR 660-046-0225:

- a. *The total time and cost of construction, including design, labor, and materials;*
- b. *The total cost of land;*
- c. *The availability and acquisition of land, including areas with existing development;*
- d. *The total time and cost of permitting and fees required to make land suitable for development.*
- e. *The cumulative livable floor area that can be produced; and*
- f. *The proportionality of cumulative time and cost imposed by the proposed standard(s) in relationship of the public need or interest the stand(s) fulfill.*

This required submittal could be easily completed if Bend chose this path to compliance with HB 2001. Meanwhile, Attachment L of the November 12-13 meeting of the LCDL listed three possible re-worded options for 660-046-0235. However, please note that in each option, only the first subsection was re-worded and 600-046-0235(2) remain unchanged. The question I believe I asked Ethan Stuckmayer yesterday morning was whether the city will still have the option to choose 660-046-0235(2) *Other alternative site and design standards* after the next RAC/TAC meeting and I believe he said this last subsection would remain.

In conclusion, we feel everyone has something to be happy about;

a) Lynne has a path of compliance that she hoped would be available when she attended her first committee meeting,

b) Pauline can meet her deadline by focusing on adding code for the one type of middle housing (quadplexes) not in the current BDC and then only apply a filter for “unreasonable costs or delay” to the existing code, and

c) Ian can feel comfortable that the city’s rights to *consider, promote and manage the local aspects of land conservation for the best interests of the people in their jurisdiction (197.005(3))* have not be circumvented by HB 2001 or a letter from the Speaker of the House.

d) Bend can consider “right-sizing” the parking requirement as defined in the 2017 December Planning Commission meeting by Growth Management Department as part of their “Citywide Parking Report” presentation. (Their three bears analogy; not too much, not too little).