

## BASICS OF PLANNING AND ZONING

*Our planning and zoning unit this month is a topic selected at Annual Meeting and represents a different look at local housing issues. Members asked for basic information on how the planning and zoning process works. We decided to use SB 2001 as a vehicle to illustrate the implementation of a law in the development of a new zoning ordinance. We choose SB 2001 because of its widespread impact and because its major component, middle housing, was a focus of last winter's update on local housing issues and should be familiar to members. We are not studying the law itself, only the process used by local jurisdictions to implement it. We expect that to take some time, which will give interested members a good opportunity to see how a new zone is developed and the differences in how each city handles that task.*

With the passage of HB 2001 by the 2019 Legislature, Oregon becomes the first state to require most local jurisdictions to allow middle housing by right in residential zones that have been reserved for a single house on a single lot. Middle housing is defined by the law as duplexes, triplexes, quadplexes, cottage clusters and townhouses.

Eugene and Springfield, as cities with populations of 25,000 or more, will need to revise their zoning codes by June 30, 2022 to comply with the new law. Guidance from the Department of Land Conservation and Development (DLCD) promises some flexibility, stating that cities “may regulate siting and design of middle housing required to be permitted...provided that the regulations do not, individually or cumulatively, discourage the development of all middle housing types permitted in the area through unreasonable cost or delay.” There is a provision for cities to request deadline extensions from DLCD to deal with infrastructure issues. However, if a jurisdiction does not have an extension and misses the deadline, it will be required to adopt a yet-to-be developed model middle housing ordinance.

Our local governments are just beginning to deal with the necessary revisions to their zoning codes, with Springfield in the lead. Local jurisdictions develop their own zoning regulations to reflect local conditions but must comply with their adopted and state-approved comprehensive plans and state law. In Oregon, comprehensive land use plans guide where and how development occurs in cities, counties, and special districts. One key aspect of this is controlling costly urban sprawl. This helps to protect the farms and forests outside city limits. Planned cities also tend to spend less on streets and public services compared to their sprawling counterparts. Because of this, both urban and rural areas benefit.

Even before the passage of HB 2001, a priority for the City of Springfield has been to modernize the existing code to make it more cohesive. The process began a year ago, and three phases were identified: residential (with committees established to look at the code and governance), employment (commercial and industrial), and all other. Staff is moving ahead with phase one (residential) with HB 2001 in mind and has created a time line. This will cause a delay in the other two phases. The hope is to have a draft by the

end of the year but delay public comment until the draft is completed. Springfield aims to complete all work by April 2021, ahead of the state deadline. Rather than regulating density, as the current policy does, the plan will regulate housing type.

Eugene has started its internal analysis of HB 2001, and staff plans to get its report to the council by the end of the year and request funding to begin the external process. Staff members indicate that they will be looking at some of the work already being done by community organizations, specifically the River Road Community Organization, to better meet the need for middle housing.

Lane County has yet to begin the process.

So where do we go from here? Most of us live in areas zoned for single family housing but have probably not given our neighborhood zoning much thought. Now, however, with local governments proposing changes that will affect the way our residential areas develop and evolve, it is time for that to change.

As DLCD has acknowledged, “Getting involved in land use planning can be intimidating. Indeed, the process can be confusing, technical, and bureaucratic to someone who is approaching it for the first time. The rewards can be great though; compelling a City Council to make a decision you agree with through testimony, providing supportive comments when there is a plan change you like, or just knowing how you can find out more about the way your community is planned for and built, can be very gratifying.”

The first step in understanding zoning decision-making lies in knowing the history and purpose of the zoning process.

Zoning can be defined as the regulation of the use of real property by local government; it restricts a particular territory to residential, commercial, industrial, or other uses. The local governing body considers the character of the property as well as its fitness for particular uses. Zoning can help planners bring about orderly growth and change. It controls population density and helps create attractive, healthful residential areas.

In addition to land uses, zoning ordinances establish development standards. These consist of regulations on lot size, setbacks, density, floor area ratio, building height, lot coverage, open space, scale and parking, to name a few.

Municipalities have the power to zone property only if a state grants it by statute or it is derived from constitutional provisions. The Oregon Building Codes and private agreements such as covenants also can affect a home owner’s use of her/his property but are not considered part of a zoning ordinance.

- In 1908, Los Angeles adopted the country’s first municipal zoning ordinance, creating residential districts and separate industrial districts.

- The first comprehensive zoning code in the United States was New York City's 1916 Zoning Resolution, which was passed amid concerns that new skyscrapers were blocking light and air from the streets.
- The legal basis for many municipal zoning codes in America arrived a decade later in 1926, when the U.S. Supreme Court heard the case *Village of Euclid v. Ambler Realty Co.* The decision affirmed that municipalities had the constitutional authority to regulate which uses could go on which parcels and other aspects of buildings on private property.

In Oregon, the state has long been involved in land use issues.

- In 1913, the Legislature declared all beaches a state highway.
- A 1925 Oregon Supreme Court decision upheld a city's power to zone.
- In 1947 the Legislature permitted counties to zone private land.
- The Exclusive Farm Use zone and its allowable uses was created by the Legislature in 1963.

However, it was in the 1970s that the statewide land use legislation we are familiar with today was born. Senate Bill 100 passed in 1973 and survived efforts to repeal it in both 1976 and 1978. It created the Land Conservation and Development Commission (LCDC) with its first major task the adoption of statewide planning goals to govern the development of local comprehensive land use plans. Goal 1 is Citizen Involvement which calls for "the opportunity for citizens to be involved in all phases of the planning process." (A summary of the goals and guidelines is included at the end of this report.)

What is involved in the zoning process? In Lane County, working on a planning commission is much the same as serving on other public citizen advisory groups. The commission will discuss background material prepared by staff, ask questions and request additional information if needed, make recommendations and hold public hearings. After further discussion, it will send a recommendation to its governing body, which in turn will hold additional public hearings before making a decision.

That decision can be appealed. However, DLCD warns: "It is important that you are involved in planning decisions from the beginning. If someone chooses to appeal a decision (to bring their concerns to the Land Use Board of Appeals or Circuit Court) because they don't agree with the facts that were used to make the local land use decision, they must have already participated and voiced their concerns at the local planning level. The Oregon land use system requires someone to be involved in a planning decision from the beginning if they want to object later on. This is a safeguard for development and change, which also allows communities to get early feedback when the public is not in support of a proposed change."

Planning commission meetings are open to the public. Eugene, Springfield and Lane County all have websites with the schedules, agendas and a variety of other information. If you cannot attend a meeting in person, it is often possible to watch or listen.

Citizens can be involved as individuals or as part of a group, such as a neighborhood organization or the League action committee. All League members are welcome to participate in action committee meetings, held monthly and announced in the *Argus*.

Recommendations for advocacy from the committee are forwarded to the board for discussion and a decision on whether or how to proceed.

#### ADUs in Springfield - an Update

The City of Springfield has embraced accessory dwelling units (ADUs) as part of its affordable housing strategy. From 2018 through August 2019 it received 24 applications for ADUs. Three constructed. (Eugene received 13 during that same period.) According to its web page, "the city has made it easier for property owners to add an ADU by relaxing its regulations and providing financial incentives."

All new development in Springfield must pay system development charges (SDCs) to fund the upkeep and added impact to existing city infrastructure such as streets, and local wastewater and stormwater systems. However, for new ADUs that are permitted through June 30, 2022 those city SDCs are being waived at a savings of an estimated \$5,000 to \$6,000 for a typical ADU in Springfield. This SDC waiver has been in place since July 1, 2017 and is subject to annual reviews.

The Metropolitan Wastewater Management Commission (MWMC) has followed suit and is covering the cost of regional wastewater SDCs for ADUs in Springfield as long as the city is waiving the SDCs. However, other SDCs imposed by the Springfield Utility Board (SUB) and Willamalane Park and Recreation District still apply.

The city has also made its rules more flexible to encourage the construction of ADUs. Amendments to the Springfield Development Code that went into effect on April 4, 2018 now allow ADUs in all residential districts within the Urban Growth Boundary, including the Washburne Historical District. The city council also relaxed the parking requirements for ADUs, removed the requirement for the property owner to live on site (allowing for both the main house and the ADU to be rentals), increased the maximum size of an ADU to 800 square feet, and added flexibility in the design standards, including allowing manufactured homes or towable structures that are placed on a permanent foundation as ADUs.

Discussion questions:

1. Think about your neighborhood. Is there middle housing in your neighborhood: duplexes, triplexes, quadplexes, cottage clusters and townhouses?
2. Are there ADUs in your neighborhood? What do you think of Springfield's approach to ADUs?
3. Have you ever been involved in land use planning? Attended a planning commission meeting? Tell us about your experience.
4. Do you think the increase in vacation rentals impacts the available number of living units for rent?
5. How can we best achieve compact urban development while providing adequate housing for all the citizens of our communities?

Resources

1. <https://www.oregon.gov/lcd/OP/Pages/Goals.aspx>
2. [https://www.oregon.gov/lcd/OP/Documents/compilation\\_of\\_statewide\\_planning\\_goals.pdf](https://www.oregon.gov/lcd/OP/Documents/compilation_of_statewide_planning_goals.pdf)
3. <https://www.eugene-or.gov/3652/Missing-Middle-Handbook>
4. <https://www.eugene-or.gov/4244/Single-Family-Zoning>
5. [https://lanecounty.org/government/county\\_departments/public\\_works/land\\_management\\_division/land\\_use\\_planning\\_\\_\\_zoning](https://lanecounty.org/government/county_departments/public_works/land_management_division/land_use_planning___zoning)
6. <https://www.eugene-or.gov/758/Planning>
7. <http://www.springfield-or.gov/city/development-public-works/development-enforcement/current-planning-development/>

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## Oregon Statewide Planning Goals

**GOAL 1, CITIZEN INVOLVEMENT:** To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

**GOAL 2, LAND USE PLANNING:** To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.

**GOAL 3, AGRICULTURAL LANDS:** To preserve and maintain agricultural lands.

**GOAL 4, FOREST LANDS:** To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.

**GOAL 5, NATURAL RESOURCES, SCENIC AND HISTORIC AREAS AND OPEN SPACES:** To protect natural resources and conserve scenic and historic areas and open spaces.

**GOAL 6, AIR, WATER AND LAND RESOURCES QUALITY:** To maintain and improve the quality of the air, water and land resources of the state.

**GOAL 7, AREAS SUBJECT TO NATURAL HAZARDS:** To protect people and property from natural hazards.

**GOAL 8, RECREATIONAL NEEDS:** To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

**GOAL 9, ECONOMIC DEVELOPMENT:** To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

**GOAL 10, HOUSING:** To provide for the housing needs of citizens of the state.

**GOAL 11, PUBLIC FACILITIES AND SERVICES:** 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.

**GOAL 12, TRANSPORTATION:** To provide and encourage a safe, convenient and economic transportation system.

**GOAL 13, ENERGY CONSERVATION:** To conserve energy.

**GOAL 14, URBANIZATION:** To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

**GOAL 15, WILLAMETTE RIVER GREENWAY:** To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.

**GOAL 16, ESTUARINE RESOURCES:** To recognize and protect the unique environmental, economic, and social values of each estuary and associated wetlands; and to protect, maintain, where appropriate develop, and where appropriate restore the long-term environmental, economic, and social values, diversity and benefits of Oregon's estuaries.

**GOAL 17, COASTAL SHORELANDS:** To conserve, protect, where appropriate, develop and where appropriate restore the resources and benefits of all coastal shorelands, recognizing their value for protection and maintenance of water quality, fish and wildlife habitat, water-dependent uses, economic resources and recreation and aesthetics. The management of these shoreland areas shall be compatible with the characteristics of the adjacent coastal waters; and to reduce the hazard to human life and property, and the adverse effects upon water quality and fish and wildlife habitat, resulting from the use and enjoyment of Oregon's coastal shorelands.

**GOAL 18, BEACHES AND DUNES:** To conserve, protect, where appropriate develop, and where appropriate restore the resources and benefits of coastal beach and dune areas; and to reduce the hazard to human life and property from natural or man-induced actions associated with these areas.

**GOAL 19, OCEAN RESOURCES:** To conserve marine resources and ecological functions for the purpose of providing long-term ecological, economic, and social value and benefits to future generations.