



## **November 10, 2021**

**Regular Meeting | 7:00 p.m.**

Troutdale Police Community Center – Kellogg Room  
234 SE Kendall Ct, Troutdale, OR 97060

### **Agenda**

1. Call to Order, Roll Call, & Pledge of Allegiance
2. Public Comment on Non-Agenda Items
3. Review and Approval of Minutes
  - a. September 22, 2021 Special Meeting
  - b. October 13, 2021 Regular Meeting
4. Discussion Items
  - a. Continuance of HB 2001 Discussion
5. Staff Communications
6. Commissioner Comments
7. Adjournment

### **Participation**

The public may attend the meeting in person or via Zoom. Please email [comdev@troutdaleoregon.gov](mailto:comdev@troutdaleoregon.gov) to request Zoom meeting access credentials.

This meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours prior to the meeting to the City of Troutdale ([comdev@troutdaleoregon.gov](mailto:comdev@troutdaleoregon.gov) or 503-665-5175).

**Next Meeting: Wednesday, December 8, 2021 at 7:00 p.m.**



## Meeting Minutes

September 22, 2021 | Special Meeting

Troutdale Police Community Center – Kellogg Room  
 234 SE Kendall Ct, Troutdale, OR 97060  
 and Held Virtually via Zoom

### 1. Call to Order, Roll Call, & Pledge of Allegiance

Chair Staffenson called the meeting to order at 7:00 p.m.

Commissioners Present: Jordan Wittren, Marv Woidyla, Gian Paolo Mammone,  
 Shirley Prickett, Paul Wilcox, Tanney Staffenson (chair), Rich Allen

Commissioners Absent: None

City Staff Present: Chris Damgen, *Community Development Director*  
 Alex Lopez, *Assistant Planner*

Others in Attendance: None

### 2. Public Comment on Non-Agenda Items

None.

### 3. Review and Approval of Minutes

#### ***a. August 11, 2021 Regular Meeting***

Mr. Wilcox listed corrections. Chair Staffenson also listed corrections.

Mr. Wittren moved to approve the August 11, 2021, minutes as amended and Ms. Prickett seconded the motion. The motion passed unanimously and the minutes were adopted.

#### ***b. August 25, 2021 Special Meeting***

Mr. Wilcox listed corrections. Mr. Mammone listed a few corrections.

Mr. Woidyla moved to approve the August 25, 2021 minutes as amended and Ms. Prickett seconded the motion. The motion passed unanimously and the minutes were adopted.

Mr. Wilcox said that he had found another correction he wished to make to the August 11 minutes. Ms. Prickett moved to reopen the discussion and Mr. Mammone seconded the motion. The motion passed unanimously and the minutes discussion was re-opened.

Mr. Wilcox listed a correction.

Ms. Prickett moved to approve the August 11, 2021 minutes as newly amended and Mr. Woidyla seconded the motion. The motion passed unanimously and the minutes were approved.

#### **4. Discussion Items**

##### ***a. Upcoming Sign Code Text Amendment***

Chair Staffenson referred to the copies of the existing sign code they received before the meeting. He reminded them that the Development Code amendments are the Planning Commission's responsibility. They are responsible for what is in the Code. A text amendment can be presented by the Staff, the Planning Commission, the Council, or another citizen group, and the Commissioners are always the first ones to review it. Text amendments are quite painful and usually monotonous, but they do get to do it.

Mr. Damgen said that they have intermittently discussed amending sign standards for the past year and a half. One of the reasons why Staff are looking at that is because they are trying to provide some greater clarity of some of the definitions. They also believe they can streamline the process and make it more citizen-friendly and applicant-friendly, especially since they have a new permitting system that allows them to do concurrent review. They would need to make some structural changes to the Code. Also, while they are looking at this area of the Code, Staff wants to address some other issues that have arisen which this Commission has faced before.

Mr. Damgen said he would quickly go over Staff's one page memo and address what those issues were previously. First, they suggest making some changes to definitions. These are: to refine the definitions for flags to clarify the distinction with a banner distinction; establish a definition for inflatable sign (a sign that consists of flexible material envelope of non-porous material inflated or shaped from inserted air or other gas); establish a definition for a monument sign (freestanding); establish a definition for a real estate sign (temporary pole or wall-mounted sign) and clarify what types of signs can be considered temporary (banner lawn and real estate.)

Also, in Chapter 10, they have six larger discussion points. The first is to have signs be reviewed as a permit and not as a land use application for faster review and less burden for the applicant and Staff, since they now have the tools and technology to do the entire review in one fell swoop. Much like the Commission allows for other sections in the Code, they have the ability to still have standards governing dimensions and placement, but you don't require the land use application for it. Another example is home occupations. For example, they don't require people to get land use approval to get a home occupation. There are standards, but they decouple it from a more formal review process.

Mr. Damgen said the second suggestion is to allow for freestanding signs to be placed in a front yard setback, provided that they are not on easements or block clear vision standards. The Planning Commission has had this come up again and again recently and have heard examples of where building setbacks have made it too difficult for the signs to be seen.

Third, Staff suggests allowing real estate signs to be exempted from permit requirements.. Real estate signs right now are considered to be temporary signs and permits are required. In the six years he has been part of the Staff, he can think of only two examples of real estate agents contacting their office for permits to display their real estate signs. They should be realistic about what's taking place while also not creating more work for themselves.

Fourth, Staff suggests they prohibit signs that "move, rotate, revolve, flap, flutter, or simulate animation" except for flags. These cause distractions, and he said that previous Planning Commission discussions have affirmed that they do not want to see these.

Fifth, Staff suggests establishing dates for how long and how often temporary signs can be placed. The standards that they last left off with were to allow them up to four times per year for 30-day durations, but they couldn't be back-to-back durations. This enables seasonal sales and things of that nature while not allowing temporary signs to become permanent signs.

Sixth, Staff suggests increasing the size of portable signs from 10 square feet to 12 square feet and providing allowance for placement in a public right of way with an agency's approval. That way, some current signs that are non-conforming will become conforming. The businesses would still need approval from Staff or Multnomah County to place the signs in the right of way which is usually not a problem.

He asked if there were any questions for Staff.

Mr. Woidyla said that the RV store in Wood Village has a huge American flag. He asked if this would affect them. Mr. Damgen answered that flags are exempt from any current permits if they are less than 24 feet in size measured from border to border. Much like with real estate signs, Staff have never had a situation where they needed to regulate the size of a flag.

Ms. Prickett asked if the provision regarding moving signs would apply to feathered signs at apartment complexes. Mr. Damgen answered that it would.

Chair Staffenson said that regarding real estate signs, the Gilbert legal case involving signage and content if someone had to read the sign to determine what type of a sign it is, and you could not regulate a sign after you had read it. He's not sure how to allow real estate signs without reading them and regulating them independently. He asked Mr. Damgen if their legal department could help. Mr. Damgen said that was true, but they are a complaint driven community. Real estate agents typically do not apply for permits, so they should consider if that's an enforceable provision for the City. Chair Staffenson said he understands that, but they were told that this needed to be in the Code because of

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the Gilbert Case. The issue was that you could not regulate a sign based on content. Mr. Damgen said that the question is if a real estate sign is technically a temporary sign since it's true that you can distinguish real estate signs from political signs, for example. Chair Staffenson says he sees a real estate sign as a temporary sign as long as it's not up for two years, for example. Maybe the standard should be 90 days.

Mr. Woidyla suggested that if a property is on the market for a few years, then the real estate agent would need to reapply periodically depending on how long the sign is displayed. Mr. Damgen answered that they currently have a temporary sign definition, but they don't apply any sort of time frame to it. Before the Gilbert case, they could stipulate things like not displaying a sign for a candidate until 2 months before the election, and that you have to take it down two weeks after. The Code now says that a temporary sign has to come down after an election or after a sale is completed.

Mr. Damgen said that they are currently requiring a permit for a real estate sign and he doesn't think this is what anyone wants, and it would not be a good use of Staff time.

Mr. Allen said that he has seen temporary signs become larger over the years. He has asked if they've considered the effect of wind and location on those types of signs and how they would monitor that so the signs don't become large and heavy projectiles. Mr. Damgen said this isn't considered with temporary signs, but it is with permanent signs, particularly if the signs are attached to a building. He personally saw the banners at 257<sup>th</sup> and Stark flapping around in the high winds recently.

Mr. Wilcox asked regarding point 3.1, if a billboard is defaced by graffiti, who would Staff go after, the person who owns the sign or the person who is paying for the sign? Mr. Damgen said that if it's a structure that's in violation of the sign code, then whoever owns the structure is responsible for its maintenance. Staff is saying that they kept this deliberately vague because it allows the property owner and the structure owner to both be liable for fixing the problem. He doesn't think that situation has come up yet, but it could in the future.

Chair Staffenson asked if this allowed feathered signs or not, and Mr. Damgen answered that it did not. He knows there are properties that have them. It's a complaint driven system. They don't actively pursue these things unless it's a public safety issue or it's posted in a right of way. Once a week, their code officer collects signs that are left in right of ways. If they want Staff to be more proactive, they would need to bring it up to the Council.

Ms. Prickett asked what the point is in prohibiting things if Staff are not going to enforce the rules. Mr. Damgen said it's a fair question. Sometimes feathered signs have been on the right of way, especially downtown, and they've been removed. Ms. Prickett said they've removed things from the Code in the past when they weren't enforced, and Mr. Damgen said it's because they've been challenged as to whether the feathered signs are technically signs.

Chair Staffenson asked how Staff responds when it gets a sign complaint. Mr. Damgen said these usually are in the right of way and are advertising something, and the code officer calls them. They can

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then collect their sign, but if they don't, the City throws them in the dumpster. The primary goal is always education before enforcement. Most of these signs are temporary ones that don't require a permit.

Chair Staffenson asked which signs would trigger a land use application. Mr. Damgen said that with these new rules, the business would not need a land use application, but a permit. The Code regulates based on the type of zoning district. Permanent free-standing signs, permanent wall signs, signs on a building, and awnings in a commercial business district also require building permits because of bracketing and boring into walls and as Mr. Allen mentioned, they can be problematic if they're not done right. Certain temporary signs do require a permit. They also have standards for billboards on page 10-9 of the Code they received. They regulate projecting signs that are perpendicular 90-degree signs and also A-Frame or sidewalk signs. Chair Staffenson mentioned that a monument sign would go through a review. The Planning Staff says that it looks at these, but in that case they're looking at the standards that are in place, and a sign permit is issued, not a land use decision. There's still a review and an end document that allows them to move forward with that, but Staff doesn't need to create paperwork about things like a notice of an application. If it needs an electrical or building review tied to it, they don't have to jump through the planning hoop to get to the building hoop. Their permitting system now allows for that concurrency, saving time for Staff and applicants.

Chair Staffenson said he's just used to a monument sign needing to go through a body. Mr. Allen asked Chair Staffenson what negatives he would be concerned with, and Chair Staffenson answered that he would be concerned with public feedback. Mr. Damgen said that still they have dimensional standards in place. The regulations they have to govern signage regulates dimension and placement. Staff looks at those things when they do their review. If someone wanted a 100-foot-tall freeway sign, it would be a variance and be before the Planning Commission. Chair Staffenson said they would still need to think about how long someone could display a temporary sign and how they would enforce it. Mr. Damgen said this would go through their legal department's office before they see it again.

Mr. Allen said he wholeheartedly agreed with not allowing moving signs since it detracts from the small-town feel.

Ms. Prickett said she thinks larger signs should still be land use applications. Mr. Damgen said that these are currently all Type I reviews that don't require notifications unless there's a variance. The question is why they are generating paperwork and stretching out the time it takes for an applicant to get a permit. They need to go through the City's process before they can even apply for an electrical permit. The permitting software will allow all of the reviews to be done concurrently. It may be atypical, but it helps them be more efficient in handling the applications without changing the regulations. They will still need to produce documents that allow Staff to make the review. He asked if there were certain zoning districts that they want to be sure to review. Chair Staffenson said he is cautious about people not feeling involved in the process. Mr. Damgen said that they wouldn't be involved right now in the process anyway.

Mr. Mammone commented that he agreed with Staff that the sign standard process is extremely time consuming as it is now. He thinks they should be concerned about slowing down the pace of review for something that can be handled administratively when they have very clear quantitative standards to be met. He agrees with Staff that they should change the process, not only because there's a software that can facilitate it, but because changing makes good sense. If there's a concern about a major variance, he's fine with it coming before the Planning Commission. His concern is that when the Planning Commission defines the need for a sign permit based on the zone, they are making changes that go against allowing the City to be a dynamic department. He also recognizes that not all of the signs need to fall within a specific classification. If they recognized that an everyday real estate sign like "open house" is exempt from being permitted, that would simplify the matter. He thinks they should stick to two categories—permanent or temporary. In his way of thinking, a sign is either a permanent or a temporary sign, and that is the crucial distinction. Now they are starting to differentiate between different type of signs which is counterintuitive to being dynamic, so he thinks they should avoid that. He wonders if they even need a permit for someone to have a temporary sign, especially if it's for a political campaign. He would rather not frustrate the business community that the time stretch is so long for a land use application.

Mr. Wittren said that he agrees with Staff that they need to permit this activity. He completely disagrees with Mr. Mammone. He likes having control over what they permit and don't in order to keep the small town feeling in place instead of having the city feel generic.

Chair Staffenson said he isn't someone who tends to frustrate the business community. He's dealt with signs here personally and in multiple municipalities. He knows it can be frustrating at times. He thinks they want to lean towards it not being a land use action and identify which ones they want to permit and which ones they don't. He thinks it would be difficult to take some of the monuments and lumping all of them together.

Mr. Damgen said what is difficult is some of the other standards, like the setback standard. This is difficult for a business to overcome because they want a sign to be visible and placed away from the property without it becoming a massive sign. Staff is trying to utilize the sign standard that the Planning Commission spent a lot of time putting together 5 years ago and making some searchable edits where they can be more effective. He also wants clear information for the applicants. The Planning Commission has also recently had two applications that questioned the point of whether the setback standard is not a good standard and needs to be fixed.

Chair Staffenson said that the point of the setback was to get to clear vision, but there are other ways to accomplish that.

Mr. Mammone said he wished to clarify that just because he is suggesting a permit instead of a land use application does not mean that he is suggesting less regulation. He wants it to be more immediate and easier for an applicant to recognize what type of sign is allowed. He also agrees with Mr. Damgen that the sign should not be connected to the business itself unless it's a pole sign.

**b. HB 2001 Introduction**

Mr. Damgen said he would show them a brief slide show and reacquaint them with what this is. He said he would start with some clarifications.

“Large cities” are defined as cities of 25,000 or more. Troutdale falls under the “large cities” definition as do nearly all of the communities within the Metro region. This matters because “medium sized cities” of 10-25,000 residents had until this June to get their codes updated. Medium sized cities were only required to add duplexes into their housing typologies.

Mr. Damgen said he would remind them of the definition of “middle housing.” There are duplexes, triplexes, quadplexes, town houses which they have in the past called row houses. It also includes cottage cluster developments which they historically have not seen much of here in Oregon. These are a group of small homes.

Mr. Damgen explained that HB 2001 does not restrict single family detached dwellings from being developed. However, it prohibits residential zoning districts from allowing only single family detached dwellings. It also requires middle housing typologies to be permitted in residential zoning districts and allow for clear and objective design standards that can be applied. They must match the same design criteria that exists for single family dwellings in the zone. Right now, a house needs to contain 6-8 of a menu of 16 design criteria. They currently have separate design standards for middle housing typologies. The new law is that whatever applies to a single-family house should be applicable to middle housing, and they can’t require enhanced design standards for one category. He asked if there were any questions. Hearing none, he continued with his slide about who this would affect, the properties shaded yellow or orange on the slide. What’s not clear is what will happen to any properties east of the Sandy River, the natural scenic area. Also, certain subdivisions may be exempted from this law.

As they know, subdivisions typically come with Covenants, Conveyances and Restrictions (CC&Rs). Subdivisions that were established prior to the law’s passage that specifically limited development to only single-family detached dwellings are exempt from HB 2001. Subdivisions with covenants that have no clear restrictions are required to comply with the law. Staff is working on an analysis of which subdivisions may be affected. They need to review a lot of covenant documents.

Mr. Damgen said there are some standards that are already in place. For example, they recently updated the MU-3 zoning code, and middle housing typologies were included in that. The design standards already exist for single family residential development, and they could simply apply them to middle housing where appropriate. They already include middle housing typologies in R-10, R-7, and R-5 zones such as duplexes and town houses. R-4 already allows duplexes, triplexes, and town houses. However, in both of those cases, minimum lot size standards would no longer be enforceable.

Mr. Damgen showed a slide to show four common types of duplexes: stacked duplex, side-by-side duplex, duplex attached by breezeway, and duplex attached by garage wall. There are also duplex side by side that share a common lot and duplexes that are front and back that share a common lot. He

showed a slide of triplex and quadplex examples: attached triple front and back, attached triplex side by side, stacked quadplex, and detached quadplex. He asked if there were any questions about the typologies.

Mr. Wilcox said that the physically separated duplexes didn't make any sense to him. They look like 4 houses that are built close together. The duplexes he's seen were on the same lot. He's also seen instances where they have land leases where you own the structure. He asked Mr. Damgen to clarify. Mr. Damgen said that he didn't fully understand it either. With the quadplex example, you would treat it almost like a condominium plat where the structures are uniquely owned and the grounds are owned by one property owner. One could be occupied by the property owner and the other three leased.

Mr. Wilcox said he thinks this bill is meant to help with density. He asked if Troutdale has a minimum floor square footage size of the actual house. Mr. Damgen said that with cottage clusters, there's a minimum size. He wasn't sure about the other typologies.

Mr. Mammone asked Mr. Damgen if a few years ago, he'd attended PSU's Institute for Sustainable Housing's tour of middle housing in Portland with a stop in Troutdale. Mr. Damgen said he didn't attend it.

Mr. Damgen said that tonight's discussion was meant to be about delivery of this information and clarification about it. Also, for those thinking about plans for vacant or undeveloped property, Staff is not seeing many applicants who have an existing family home and want to replace it with a quadplex, for example. They do know of applicants who have oversized lots and the properties have access challenges. They're discussing whether to do a typical subdivision or something else. Cottage clusters are interesting since there's flexibility about how the units are placed. Also, it wouldn't require as much physical infrastructure to develop. This is admittedly the one typology that Staff doesn't have any experience in. He thinks that while there's concern about this law, it's mostly going to affect communities that have more tracts of undeveloped land. There's only a finite amount of properties left that they can develop, and the market will dictate what the highest and best use is, and right now, single family detached homes are the most desired.

Mr. Woidyla said these single family detached homes will be on small lots. Mr. Damgen said that was true potentially, but not necessarily. If someone wants to build a triplex in an R-10 lot, beginning July 1, Staff will not be able to prohibit them from doing it. However, just because something is permitted doesn't mean it's developable. There are setback issues, property terrain issues, and even aesthetic considerations. They can still require design standards provided that they are clear and objective.

Mr. Allen said that he sees this as terrible. There can be more conflict between neighbors in the situations that Mr. Damgen showed. He doesn't think that it's by accident that Portland is starting to look more like Chicago. It isn't as pleasant of a place to be. He also sees that as they push people from home ownership to rental situations they are incentivizing generational economic disadvantage and poverty. He feels the State is trying to force Troutdale to be more like failed developments in other

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areas of their region. The best thing they are going to be able to do is at least try to make the environment as pleasant as possible to reduce some of the anxiety that people will inevitably feel.

Mr. Woidyla said he agrees with Mr. Allen and also the overreach of the government is getting unbearable. He is concerned about that.

Chair Staffenson said he feels this is disappointing. He has a friend in Portland who lives next to a house that was demolished and replaced with a quadplex. It doesn't look good since there are no setbacks and it's built right on top of his property. He finds it frustrating that when someone decides to be a home owner, they carefully consider how the area and community looks, and this is changed when the State government says that local communities don't know what they're doing and the State needs to do the planning for them.

Mr. Damgen said it's disappointing because this Planning Commission has encouraged multifamily development through good development. The problem is that other communities have not been as open to doing that. Troutdale gets less flexibility to determine its outcome because other communities have taken advantage of it.

Chair Staffenson said that he agrees, but when you take the entire state and lump them all together and put out the same product, it's a recipe for trouble. He finds it very disappointing.

Mr. Allen said the worst part is the lack of minimum setbacks. It will make it hard for people to feel at ease.

Mr. Damgen said the silver lining is that middle housing includes owner occupation. For instance, the 100 units they're developing of middle housing are all separate owner units for sale. It can expand pathways for home ownership.

Chair Staffenson said he agrees, but he thinks they're creating more rental units than home units because if they're taking single family properties and zoning them to allow for a quadplex, there's a 3:1 ratio there.

Mr. Wilcox asked Mr. Damgen if he is familiar with the DR Horton project next door to Springwater High School. Mr. Damgen said he was not. Mr. Wilcox said it combines town houses with single family homes and rear entrance garages, and it's quite a mixed community and it's 100% owner occupied. Mr. Damgen said this community has demonstrated that ability in the past. Ms. Prickett's neighborhood is an example of that.

Ms. Prickett said she moved to it in 1980, and there are duplexes and single lot houses. Some of the duplexes back up to the high school and the park and others buffer them from the commercial on the south side. There's a good mix, and most of the time, there's no problem. The Safeway complex also has apartments, commercial and single-family units. Troutdale has been ahead of the game for a long time. They also range from R-4 to R-10 lots.

Mr. Wittren said that goes back to pride in ownership versus rentals and people not taking pride in their neighborhood. Mr. Damgen said that one of the townhouse projects they have is introducing ADUs built into it. Staff is seeing a trend of Hispanic and Asian multigenerational housing next to each other. Not every duplex will turn into a rental. Also, they have a fair amount of single family detached homes that are rentals right now.

Ms. Prickett said they also have group homes in her neighborhood for people who can't care for themselves. She has a neighbor who built a mother-in-law's apartment on her property a long time ago. They have a good variety of socioeconomic development. She thinks they've always done what is right for their community and they shouldn't be considered a large city. Mr. Damgen said he and ten other planners from communities tried to convince the State that they should be treated like a medium sized city, but it didn't get changed.

Mr. Damgen said they should review the model code. The critical thing to know is that if they choose to not pay attention to the bill, then the model code would go into effect on July 1, 2022. If there are things in the model code that they do not like or types they want to encourage, Staff needs to know so they can work for those changes. Also, their code has "severability" which means that the rest of their code won't be invalidated such as the zoning districts. They just need to allow these typologies in these particular zoning districts.

Chair Staffenson asked Mr. Damgen who is enforcing the law, and Mr. Damgen replied that it is the LCDC. Whenever they do a Code edit, LCDC is notified. He said he's always found that starting with the model code as an example is easiest. Chair Staffenson asked if the State came up with this on their own. Mr. Damgen said they hired a consultant and looked at a variety of neighborhoods.

Mr. Mammone said the original model code was already in effect in 2002. It was meant to encourage good urban design. He referred again to the PSU tour he'd mentioned and that he hopes that Staff can locate information from that tour. There was a Portland development that stipulated if the unit came for sale, the renter would have first right of refusal.

Mr. Damgen said that every city is going through what they are, and there might be ideas generated by them that might also work for Troutdale.

Chair Staffenson said they need to do the best they can with what they have. He just doesn't agree with this type of government.

## **5. Staff Communications**

Mr. Damgen said that Mr. Lopez emailed everyone confirming availability for October 13. Mr. Mammone said he thinks he'll be there. Mr. Damgen said there will be a new application hearing for the Fox Ridge apartment community. There are changes to the circumstances. Also, next Wednesday, there will be the annual rent burden meeting.

Mr. Lopez said that the rent burden meeting will be held at the Troutdale Terrace, an affordable housing community. They will go over the required talking points but would also have more of a roundtable discussion of the management, residents, and other groups that have experience with rent burdened communities. They want people to be able to offer first hand experience of what it's like to live in a rent burdened community beyond the stereotypes that they hear. Mr. Damgen said it will start at 6 PM and it will be either hybrid or on Zoom.

Mr. Damgen said construction on the food cart pod is underway. The first homes in the Lancaster Park subdivision are starting to be occupied. The Howard Estates subdivision is now called Gateway Landing. There's also an apartment project that looks like town homes across from Reynolds High School, the Cherry Park Apartments, that are wrapping up. Arby's is set to re-open next week after being closed for several years, and they are hiring. The parks open house will be on October 20<sup>th</sup> and he will give them more details soon. It's going to be held from 2 to 7 PM.

They've hired an Associate Planner, Melissa Johnston from Woodland, WA. She starts on October 19<sup>th</sup>.

## **6. Commissioner Comments**

Mr. Allen said he's grateful to hear about the new planner and also Arby's reopening.

Mr. Wilcox said that there was a reference during the approval of the minutes about the parking. He said he would read a quote from the Code 9.040. "Required off street parking may be reduced by one parking space for every on street parallel parking space located adjacent to the subject site. For purposes of calculating the nonadjacent on street parking, the following applies." He said it then gives the dimensions of the parking spaces. He said that when they discussed Fox Ridge Apartments meeting the minimum standards for parking and coming up short, they were being credit for the 14 on street parking spaces, but his understanding was those spaces didn't apply when the variance percentage is being calculated, so he'd like to get some clarification on that.

Mr. Damgen said there was an item in the narrative that they'd submitted previously that suggested that. Staff will pay attention to this issue when Fox Ridge's new application is presented. He appreciates Mr. Wilcox bringing it up. They will have clarification at that meeting about the number and the degree of the variance even if it differs from the Applicant's perception.

Mr. Wilcox said Fox Ridge Apartments raised another concern for him when he heard that Staff could do a variance of up to 30% on quantifiable measurements. That means, for example, if an apartment complex called for 300 parking spaces, Staff could offer a 30% variance, and that would drop it down to 210. Another example is if you have a 35-foot height allowance; a 30% variance would bump it up to 40 ½ feet. He feels this is way too much leeway for Staff.

Mr. Damgen said the current staff understands which issues are so-called nuclear issues. This is why Staff did not handle Fox Ridge as a Type II application. They have the right to elevate any application, and they think that's good governance. Parking and height are typically the two big issues people care about. They try to know what could impact people and be respectful in spite of the latitude they have.

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Chair Staffenson said he thinks that it's great that the staff has that latitude. He thinks this particular application was going to tip the scales more than some other applications did. He said Mr. Wilcox is right about how much latitude they have, and this one showed how impactful it could be with the community. He thinks that it can also put the Staff in a bad position.

Mr. Damgen says that if the applicant has a high expectation for an appeal, then it's going to go before the Planning Commission any way, and it wastes several weeks of time. They try to be very up front with the applicant about community reactions. Chair Staffenson said he felt good about the current staff, but what if something happened to Mr. Damgen? Mr. Damgen said maybe they didn't have a staff like that in the past, and the threshold they have in place has been there since before he arrived. Also, if applicants need to come before a board, they might be intimidated by it, which could be a good or a bad thing depending on your point of view.

Mr. Wilcox said that the appeal process would only apply if the applicant was denied and complained that a Planning Director had made the decision unilaterally. Mr. Damgen said that anyone who provides commentary on the application can complain. Neighbors are notified, and one of them could pay \$250 and appeal it to the Planning Commission. That's a low cost of entry for someone to come before the Planning Commission.

Mr. Woidyla had no comments.

Ms. Prickett asked Mr. Damgen about code enforcement and how long a car can sit once it's tagged. She asked what happens when the tag is removed. Mr. Damgen said that's defacing a public sign which is a misdemeanor. Ms. Prickett said there was an abandoned car in bad shape behind Home Depot, and she noticed there was a tag, and it was gone within a few days. She asked if Code Enforcement makes a grease mark, and Mr. Damgen said that their officer adds a calendar note.

Mr. Mammone asked Mr. Damgen if Staff could include the Zoom link in their agendas so it's easy to find. Mr. Damgen said he would do that. Mr. Mammone said he also agrees with Chair Staffenson that it was good the Planning Commission was included on weighing in on the Fox Ridge Apartments. He is perplexed that such a complex development could even have been allowed by only administrative review. He wonders what can they do in the future to make sure that at a certain level of complexity, the Planning Commission needs to be consulted. Mr. Damgen said it was a worthy conversation to have. He thinks that City Council needs to be involved. The City has not wanted a design review committee. If a developer meets the criteria, it's approved. Mr. Mammone said that also, they don't work in a vacuum, and approving an application is a team effort.

Mr. Wittren commented that when they talk about design, Mr. Mammone has mentioned that the barbecues and playgrounds and being surrounded by car lots is a bad thing. However, he would be fine having an apartment next to the parking lots rather than next to the playground and the barbecues and hearing the noise from them. Second, he asked Staff when the food cart pod would open. Mr. Damgen said there had been permitting challenges. He is not sure when it will be approved.

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After it is, it will probably be a three-month process. Mr. Wittren thanked Mr. Wilcox for being so careful about the minutes.

Mr. Damgen said he forgot to mention that Melissa Sillitoe, the transcriptionist, will not be available much longer since her other job has become full time. Her last meeting will be in October. They want to thank her for several years of service. Chair Staffenson said he echoed that.

## **7. Adjournment**

Mr. Wittren moved to adjourn and Ms. Prickett seconded the motion. The vote was unanimous and meeting was adjourned at 9:42 p.m.



## Meeting Minutes

October 13, 2021 | Regular Meeting

Troutdale Police Community Center – Kellogg Room  
 234 SE Kendall Ct, Troutdale, OR 97060  
 and Held Virtually via Zoom

### 1. Call to Order, Roll Call, & Pledge of Allegiance

Chair Staffenson called the meeting to order at 7:00 p.m.

Commissioners Present: Jordan Wittren, Marv Woidyla, Gian Paolo Mammone,  
 Shirley Prickett, Paul Wilcox, Tanney Staffenson (chair), Rich Allen

Commissioners Absent: None

City Staff Present: Chris Damgen, *Community Development Director*  
 Alex Lopez, *Assistant Planner*

Others in Attendance: Mike Nugent  
 Jeff Vanderdasson  
 Doug Circosta  
 Michael Robinson  
 Greg Handy

### 2. Public Comment on Non-Agenda Items

None.

### 3. Review and Approval of Minutes

#### a. September 8, 2021 Regular Meeting

Mr. Wilcox listed a few changes.

Mr. Wittren moved to approve the minutes as amended and Ms. Prickett seconded the motion. The motion passed unanimously and the minutes were adopted

### 4. Public Hearings

Chair Staffenson read a description of the public hearing process.

#### a. Case File LU-0020-2021 Fox Ridge Apartments

### Opening of Hearing

Chair Staffenson asked for conflict of interest or *ex parte* contacts to be declared. Chair Staffenson said that the Applicant had invited an attorney, Mike Robinson of Schwabe, Williamson and Wyatt as their legal counsel, and Mr. Robinson has done some work for him personally in another part of the State.

Chair Staffenson opened the hearing for the case file LU-0020-2021 Fox Ridge Apartments.

### Staff Report

Mr. Damgen said this is a familiar type of development for the Planning Commission but because it is a *de novo* application and for good governance, he will go through the application again. Also, there are some key differences between the earlier application and the one being considered tonight.

Mr. Damgen said this is a grouping of properties located around 910 SW Halsey Street. The status is partially developed. There are already three homes on site. The land use designation is High Density Residential. The zoning is A-2, Apartment Residential. It is within the Town Center Overlay. There is a minor degree of sloping on the site. Surrounding property uses are residential. There is single family zoning to the north, although it is also classified as high-density land use. To the east, there is multi-family residential in existing older complexes that is served by Halsey Loop. To the south, there is also multi-family residential housing, Troutdale Terrace, which is accessed off 257<sup>th</sup> Drive. To the west, there is a medium density single family smaller lot subdivision. The property has frontage on Halsey Street, but importantly, it also has frontage on Halsey Loop to the east which is what they will discuss a bit later.

Mr. Damgen said that also, as they may know, it is a very sloping site with a very long driveway up to the previous residence. There is significant terrain differential which has caused problems in the past for previous development on the site, particularly with water pressure concerns but with access as well. Prior to last year, there was a so-called "spite strip" that inhibited development from accessing Halsey Loop which is a public street. That spite strip was eventually removed meaning that the subject property can now take access off Halsey Loop, and that is what the proposal will show.

Mr. Damgen said that what is being proposed is a 162-unit apartment complex. It's market rate. There are nine buildings, amenities and common areas. Primary access would be taken from the east off of Halsey Loop. Half-street improvements would be required, including a significant right-of-way dedication. There would be bike, pedestrian and emergency access onto SW 5<sup>th</sup> and 6<sup>th</sup> Ways. There would be tree removal in select areas. There would also be trees along the western property area that would remain for visual screening purposes and site maintenance. Mr. Damgen reminded them that they are not reconsidering tonight any re-zoning of the property. Also, since they're dealing with multiple properties, the application includes a lot consolidation of the properties as well.

Mr. Damgen said that the architectural design is for a 3- to 3 ½-story garden style apartment complex. This would typically be given a Type II level review. However, Staff and the Applicant elected to move this to a Type III level application for the Planning Commission's consideration. As mentioned, it includes consolidating five different tax lots into one. There are some significant differences between

this case file and the previous one, which was case file number LU-0010-2021. The earlier application which was introduced in August was for 166 units. The new application calls for 162 units due to some of the basement units being converted into garage parking. As a result, there are 6 additional on-site parking spaces added to the proposal. This means that the degree of variance that is being sought has decreased, and it's now at the variance level where it typically could be approved at a Staff level. It also means that there is a reduced density now, including the range of density that is required. Also, the decision criteria has changed, and he will review that also.

Mr. Damgen said that the applicable criteria that they would be looking at with this application remain exactly the same. There are three different sections for five components of the review. Since this is a Type III application, they are the decision-making body, and this is a quasi-judicial hearing. This is a required public hearing, and as before, they notified the same parties, and there is a 120-day clock to reach. Only the Applicant can pause the clock. Appeals must be made and paid for within ten days of the decision. Only those who provide testimony orally or in writing retain appeal rights. An appeal in this case would go to the City Council. The earliest potential appeal date would be November 9, 2021.

Mr. Damgen screen shared the timeline. He said that the pre-application was the same as with the prior application. The details and content are different. The Applicant submitted their information in mid-September, and now they are holding the public hearing tonight. Notifications were sent to the same parties who still believe that this is an approvable proposal. They also received testimony from the public.

Mr. Damgen said that Staff wanted to bring up the closest comparison for their analysis, and that is the property on Cherry Park Road and 242<sup>nd</sup> Avenue. It has a similar style and market rate type of impact, even though it is a larger property. Staff wants to focus on parking considerations. This property did require a zoning change. As of August, 98.7% of the units were occupied although all of them were leased. There are one-, two-, and three-bedroom apartments. 512 parking spaces were provided, which is slightly more than would be typically required.

As they may recall, Staff had found a great number of unused reserved parking on a weeknight at 9 PM. They noticed that the compact spaces on the site went largely unused when nearby standard parking was available. Of the 512 spaces they saw, 190 or about 63% of the spaces were being used when Staff observed the parking lot. That's 1.5 spaces per unit. The apartment building is at effectively full capacity, and the compact spaces are not being used. They believe as a Staff that the 2.3 parking spaces per unit ratio is excessive. Even though changing the Code isn't up for discussion tonight, they believe this information is relevant to the decision they will make about this proposal. Unused parking also means an unnecessary expense for the developer and that has trickle down effects that contribute to housing affordability issues. Compact spaces are being excessively added to plans in order to reach the parking requirement. Also, when they look at the Housing Needs Analysis which is officially required by the State, Staff finds that this particular application and also Eagle Ridge Apartments meet these income thresholds that are highlighted on the screen. Eagle Ridge offers the same type of setups and is 100% leased. There is a waiting list for one- and three-bedroom units. Staff thinks the Housing Needs Analysis may have underestimated the market demand for market rate

multi-family housing in suburban settings. Three-bedroom units are effectively supporting households at 100% of the Median Family Income, and single-family homes are out of reach for many people at that income level. For comparison, the new townhomes that are being built across the street are starting at about \$420,000 and it is out of reach for a lot of people.

Mr. Damgen said that another factor in Staff's analysis of the Fox Ridge Apartments proposal is that this is a site that is already zoned for multi-family development. The access is being taken off a street of lower classification, meaning a side street rather than Halsey Street directly. It would not require a new curb to be cut on Halsey Street, but it would require improvements to Halsey Street, and this was something that the County addressed in their conditions of approval. Also, there is a bus station in close proximity to this property, and adding additional residents will hopefully help improve the efficiency of that bus line which has seen an uptick in service recently.

Mr. Damgen said the western tree line, adjacent to 5<sup>th</sup> and 6<sup>th</sup> Ways will largely stay intact and there will be new tree plantings in common spaces and other areas. The row of trees on the western side of Halsey Loop are in poor to fair health now, and that is the area where the right of way dedication will happen to allow for the proper street width and sidewalk features to be installed. An arborist study provided by the developer confirmed that there were no rare, threatened, or endangered trees or animal habitats on the site.

Mr. Damgen reminded them they are not debating tonight what the parking threshold should be. They just want them to know that they think it's too high, and they think this is something that they should consider when they discuss this application. Staff also thinks they should consider in the future whether there should be a design review committee at some level. However, tonight, the Staff and the Planning Commission have a very narrow list of application criteria that needs to be abided by whether or not they think this design is optimal, and Staff believes the Applicant has met these criteria. Again, all of the criteria has to be met or conditionally met through adopted findings by the Planning Commission. He said he would review the five criteria, pausing to answer any questions about each one. He will cover the variances first, then the site development review, and then the lot line adjustments.

Mr. Damgen turned to the building height variances. The height allowance of 38-39 feet is what was requested, and as a reminder, in the previous land use application, there was no disagreement with the premise of the findings; what they see is a copy and paste of what they saw in the previous case file. Special circumstances or conditions apply to the property and are not typical of the surrounding area. In this case, they've highlighted the hilly terrain of this property. The Applicant is hoping to accommodate the slope through daylight basements and garage parking. **As such, the criterion is met.**

Mr. Damgen said the next criteria is that the property not be damaging or injurious to the adjacent properties or the surrounding neighborhoods or otherwise injurious to the public welfare. The public comments they've received did not express concerns about the height of the building. According to the narrative, the 35-foot-height requirement on the uphill side of the building are not injurious to

potential views, and the buildings closest to it are actually not the ones that are seeking variances to the height. The row of trees to the west would be significantly maintained and would provide visual buffer. Also, the Applicant is using low-pitched roofs as shown in the architectural plans to reduce the height of the structures as much as possible. **As such, the criterion is met.**

Mr. Damgen said the next criteria is that the variance be consistent with the general purpose and intent for which a variance is sought. The intent is to allow three-story buildings to be built in the zoning district. They're going to use the design to accommodate the steep slopes to meet density requirements and to avoid unsightly large retaining walls. **As such, the criterion is met.**

Mr. Damgen said the next criteria is that the variance is the minimum necessary to relieve a practical difficulty from full compliance and to minimize or avoid the resulting hardship. They are using low pitched roofs and providing daylight basements. **As such, the criterion is met.**

Mr. Damgen asked if there were any questions about the building height variances. There were none.

Mr. Damgen explained that second set of the variances were for the setbacks for the parking area on the south side of the property. In the first application, there was some question about the degree of the variance needing to be sought and whether there should be compact spaces or standard spaces. They believe the criterion is met. Staff spoke to the unique situation with the sloping earlier. No public comments were received specifically addressing this variance request. The property to the south is higher in elevation than the subject property. **As such, the criterion is met.**

Mr. Damgen said the next consideration is that the variance requested will be consistent with the general purpose and intent, Mr. Damgen said that the Code is largely talking about vertical building setbacks and less so about ground setbacks. If adequate and sufficient landscaping can occur and walls and buffers that can protect any adjacent properties, then it's fine to allow the variance to occur. That is the case here. If this subject property and the property to the south would have all been one development, no buffer would even have been required between two rows of parking. **As such, the criterion is met.**

Regarding that the variance is the minimum necessary to relieve a difficulty that allows for full compliance, the variance request is to extend 3 feet and 2 inches into the rear 15-foot setback. This allows for 47 standard sized parking spaces and a 23-foot-wide drive aisle which is sufficient for fire response and emergency services. Previous applications did show the row of compact spaces, but Staff believes that the criterion is met to satisfy that and also to address the concerns of too much compact parking. **As such, the criterion is met.**

Mr. Damgen asked if there were any questions. There were none.

Mr. Damgen said he would address the actual standard parking variance and the question of how many off-street parking spaces there would need to be. Several of the criteria will remain the same as in previous applications. He will highlight the few changes. Special circumstances or conditions exist

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on the property. As noted in previous findings, the site has significant sloping that is not typical of does not affect the surrounding properties. The topography creates economic and spatial challenges to developing a feasible project which they have witnessed in previous development attempts not panning out. Staff believes this is the best attempt to utilize the terrain and parking as best as possible. **As such, the criterion is met.**

Mr. Damgen said the variance requested will not be injurious to adjacent properties and the surrounding neighborhood or otherwise detrimental to the surrounding area. The Applicant was required to submit a traffic impact study. It was reviewed also by Multnomah County Transportation and by the City's Public Works department. Both agencies have proposed conditions of approval. The Applicant is proposing 340 spaces, a slight uptick from the 334 spaces previously requested. With 162 units on site, the required number is 378 spaces. The Applicant has proposed 14 adjacent spaces which brings down the required number of off- street spaces to 364. The variance is 6.59%. The amount of parking is 2.1 spaces per unit not including the 14 on-street spaces. The Applicant is offering the 14 on street parking spaces, but the variances is based on what's required off-street and that's why that number is the way that it is. The application states that the owner and developer found a ratio of 1.8 spaces per unit to be adequate. City staff's own analysis and research has shown that 0.91 to 0.97 is what they have observed to be the actual utilization rate. This suggests that the 2.1 spaces per unit is more than sufficient to adequately accommodate parking on the site. **As such, the criterion is met.**

The variance and provision would be consistent with the general intent for which the variance is sought. Staff looked at the national household travel survey. 38% of rental spaces in the US only own one car. The same survey found that 42% of the households live in census tracts with a population density within Troutdale's range. Using the lower number of 38% of the households having one car and all the others having two cars would mean 269 cars occupying parking spaces. That would leave 71 parking spaces for guests and approximately one space for every 2.2 apartment units. The Code calls for one space for every three apartment units. Since calculations are based on national surveys, it's reasonable to assume that similar trends could apply to Troutdale as these statistics include suburban communities and not just urban centers. **As such, the criterion is met.**

The variance is the minimum necessary to relieve a practical difficulty for full compliance and to avoid the resulting hardship. The Applicant appears to have made every effort to include as much parking as possible and has done so by adding six additional spaces. As such the criterion is met and exceeded, but while the unit count dropped, there is still an expectation of return on investment. The Applicant believes they've provided a plan to address this concern from the previous application. **As such, the criterion is met.**

Mr. Damgen asked if there were any questions. There were none.

Mr. Damgen turned to the site development review criteria, saying these would be largely the same. The proposal complies with the approval criteria. In this case, the criteria would be conditionally met, and that would be incumbent upon the variances for the rear setback and the height variances being improved. It complies with the criteria regarding non-conformities. In this case, the existing structures

have been demolished. There are no required upgrades to the existing development. The proposal complies with the approval criteria specified for applicable site design standards in the Code except the landscaping and parking. Staff believe it will be conditionally met provided they agree to the variance on the off-street parking standards. The variance is now at 6.95 percent. **As such, the criterion is met.**

Mr. Damgen turned to the issue of whether the application met the requirements of any existing requirements due to prior land use decisions. There haven't been any that affect the approvability of this application. **As such, the criterion is met.**

Next, if applicable, design standards are proposed to be adjusted. In this case, there are no adjustments for the design standards. **As such, the criterion is met.**

Mr. Damgen asked if there were any questions. There were none.

Mr. Damgen turned to the lot line adjustment variance. The applicant must demonstrate that the proposed lots conform to the applicable zone. Staff believe the proposed lot would meet all dimensional standards. No boundary lines would violate the setbacks. The Applicant needs to re-submit a record of survey to confirm those items, **so in this case, it's conditionally met.**

**Staff recommends approval with conditions of the application.** There are conditions from Public Works, Planning, Building, Multnomah County Transportation Planning, and Gresham Fire and Emergency Services.

Mr. Damgen acknowledged that it's unusual to revisit an application so quickly. However, a waiting period is not required for this. It's a property that's already zoned for this type of development; it's a difficult property to develop; and they believe that the facts speak for themselves and that the Applicant has tried to address the concerns that they had. He can also show an additional development at the conclusion of public testimony as they're in deliberation.

Staff proceeded to take questions from the Planning Commission.

Chair Staffenson asked how long the property has been zoned A-2. Mr. Damgen answered that it's been at least since the 1998 Town Center Plan from what Staff can tell.

#### Applicant Testimony

Mike Nugent introduced himself as the development manager for the Applicant. He's joined there by several members of his team to answer any questions they may have. He is a resident of Portland. All of the partners of the Applicant's manager were there: architect Doug Circosta, civil engineer Jeff Vanderdasson, and legal counsel Michael Robinson. He thanked them for their volunteer service. They remain excited about the project and doing business in Troutdale. They understand the Committee's concerns regarding their previous application that had to do with density and parking. They have made changes to this application that they believe are responsive to those concerns. He said they

welcomed any questions or clarifications that the Commissioners have. He has a clarification to make regarding the requesting parking variance. As Staff said, compared to their initial application, there is a net of six parking spaces added. However, as they may remember in the last hearing, they deleted and modified some of the compact parking and replaced it with standard parking which resulted in a net of seven parking spaces. In this new application, they have deleted four apartment units and they have added 13 parking spaces. Also, by eliminating four units, they eliminate the need for nine or ten parking spaces.

Mr. Nugent said they are comfortable with the changes that are requested in the Staff Report. They've enjoyed getting to know staff of the Troutdale Historical Society and accommodating their requests for tours and documentation of the houses on the property.

Mr. Wittren said he's made the suggestion of splitting the parking 50/50 between compact and standard spaces. He asked if they explored that. Mr. Nugent said that they hadn't, but they would be happy to do anything the Commission felt was needed.

Mr. Wilcox said that between Buildings C and H there's a green space that's described as "barbecue/view point/dog area." He asked if the dog area is entirely fenced. Mr. Nugent said there would be at least one gate, and maybe two gates, but it would be completely enclosed. Mr. Wilcox noted that this would be Troutdale's first dog park, and that sounds good.

### Public Testimony

#### Proponents

There were no proponents who testified.

#### Opponents

Greg Handy (Troutdale) He asked if the group had received an 11-page letter and read all 87 pages plus the links. Chair Staffenson said he believes most of them have. He said he would go to the back page. He has issues with four things. First, on page 3, deals with park and open space. The Director said this land has been designated as A-2 since about 1998. There should have been some consideration and communication from the Director and the Planning Commission to the Parks Advisory Commission to see if they could acquire some of the 6.4 acres for the citizens who are not represented because they are not landowners. He's noted that on pages 1-3. He hasn't heard any deliberations or discussion by the Planning Commission about doing that, so he's assuming the Planning Commission has decided not to do anything.

Mr. Handy said that next, page 5 deals with Condition #11 when it requires an environmental habitat assessment of the property. Maybe the arborist was correct and there are no endangered species on the property. However, the arborist was asked to do an assessment of the habitat. The arborist is not certified to do a biological or environmental assessment of the property. He asked how they proposed to meet the requirement under Condition #11. He has been on many types of planes, but that doesn't make him a pilot. It is disingenuous for them to continue to promote the notion that the arborist is

qualified to do the assessment. He is requesting that a proper assessment be done, and that's noted on page 5.

Mr. Handy said on page 6, the Director stated "We will want to continue working with the Applicant to identify additional tree protection where possible. There may even be opportunities for additional landscaping that isn't even shown." Mr. Handy asked what language would be included that would address that. The Planning Commission should make these opportunities a part of the project by defining the scope necessary to achieve those two opportunities.

Mr. Handy said that the Director also stated that there weren't any types of trees of significance. He asked rhetorically how the Director was qualified to judge the significance of the trees. Under TDC 13-10-130, the Director should have completed a list of significant trees. The fir trees on the property have been there since at least 1962 since they survived the Columbus Day storm. If they look at Gresham's significant tree criteria, it offers a much broader, detailed and more complete view of how significant trees should be inventoried and listed. Once you cut them down, they're gone. Mr. Handy said he also included a link to the black cottonwood tree. This is a pioneer tree that offers significant bird habitat.

Mr. Handy said that the 2040 Plan, the Comprehensive Land Use plan, and other documents talk about the importance of wildlife in Troutdale. They've identified some bird species and animal species on their 0.72-acre property that includes migratory birds like the cedar waxwing, piliated woodpecker, fountain warbler, golden crown kinglet, red breasted nuthatch, and lesser goldfinch. He would like a true biologist to take a look at the property before they destroy more habitat. He's included references to National Geographic, the US Department of Agriculture, Oregon Fish and Wildlife and several others in addition to the 87 pages that he sent them. He will forward his other comments to the Council along with some other recommendations.

#### Neutral Parties

There were no neutral parties who testified.

#### Applicant Clarification / Rebuttal

Mike Nugent (Portland, OR.) He said he isn't sure how to address the comments regarding the open space. They are developers who try to locate properly designated land to design a project for it. They have an attractive open space and amenities within their project. There are resources for children that will encourage them to stay on-site and have fun. Regarding tree protection, they love trees and would like to retain as many as they can. It saves them money. The vast majority of the trees are on the perimeter of the property. The ones on the east side have been identified by the City's Code Officer as dead or dying and needing to be removed. They are retaining all of the trees on the western boundaries except for a few that would be removed to allow for emergency access. They are adding 105 trees specimen trees to their plan.

He asked Michael Robinson, their counsel, to make a remark.

Mr. Woidyla said he would like to hear more from the Applicant about the arborist. Mr. Nugent said that he believes he is ISA qualified. He did an extensive review of the site and they are comfortable with that report.

Chair Staffenson asked Mr. Nugent about the screening. Would he be opposed to fencing the property for security purposes? Mr. Nugent said they are not opposed to that. In fact, because of the grade change, they anticipate there will be a fence along one of the perimeters for safety purposes on the southern side. There are already fences on the western side on all of those properties along that boundary.

Mr. Wilcox said he wasn't clear about where the extra 12 garages are coming from. Mr. Nugent said that in Building B, one of the buildings that has 3 ½ levels, they have eliminated the four apartment units on the ground floor, the daylight basement units, on the north side of that building. In place of those four apartment units, they will be constructing twelve garages and one open parking space that fits into the middle of a set of garages. Mr. Wilcox asked if Building B will have 12 garages on the up slope and on the down slope also? Mr. Nugent said that was correct. He said Building A doesn't have any garages. They also think the garages are going to be in significantly higher demand due to the trend of people purchasing electrical cars. They intend to include charging stations in most if not all of the garages, so there will be a demand for those spaces.

Michael Robinson with Wyatt Schwabe Williamson (1211 SW 5<sup>th</sup> Avenue #1900, Portland, OR 97204.) He has watched a few hearings, read the application packet and the Staff's report. He asked if there were any questions for him or the others on the team before closing the hearing. He said he also wanted to respond to Mr. Handy's testimony.

First, facts need to relate to the approval criteria. If they don't relate, even if they are good points, they are not appropriate in a quasi-judicial hearing. People should be able to say anything they want in a public hearing, but at the end of it, the Planning Commission needs to sort out whatever is relevant. Mr. Handy's comments are unrelatable to approval criteria. This is a site design review application. It's unusual to have comp plan policies called out as being applicable to site review applications. In fact, there aren't any comp plan policies called out for site review applications. Comments about trees and natural elements may be important and of interest to the City Council, but they aren't relevant to the approval criteria. There's also a number of State law policies, but they don't need to go there, because their City Council hasn't put in the approval criteria any Comp plan policies. There are no applicable Comp plan policies.

Mr. Robinson said that second, the section that Mr. Handy cites which is TDC 13-10-130 is part of a general work task description to the Planning Director. It's not a quasi-judicial approval criteria. Mr. Handy is entitled to raise it, but it isn't a quasi-judicial approval criteria. It's a list of things the Planning Director should do.

Mr. Robinson said that lastly, regarding the park. He reviewed the City's comp plan, and many will have a star or a check next to property the Council thinks might be appropriate for a park. This property

doesn't have that. It's been A-2 since 1998 and not used to its fullest potential since then. There's nothing that would have kept the Park Director or the City Council from working towards turning the site into a park. However, it is not relevant to tonight's quasi-judicial proceeding or the application. Finally, a few commissioners had raised suggestions for improvements to the application, and Mr. Nugent had said he would be happy to accept those conditions of approval.

Chair Staffenson asked if there were questions.

Mr. Mammone said he would like to ask a few questions of the Applicant. He said first, he appreciated the effort that he saw from his team regarding the design. He has never had logistical concerns, but he does have a few questions. He'd like to reach a compromise about some elements. He understands that the application meets the technical aspect of the Code. He has concerns about the physical design. First, he sees in the design just north of Building H, a barbecue/viewpoint/dog area. What is it? Is it a shared open space?

Mr. Nugent said it's an amenity that will benefit all of the residents. There's a shelf on the south side of the property that has some very nice views to the north. They anticipate developing a patio/barbecue area that will have views to the north between buildings that will be very desirable as an amenity for the building residents. They are still figuring out the specifics. There will be an open area to the east and a fenced dog run area along Halsey Loop.

Mr. Mammone said this sound like it's shared open space, but not necessarily a children's area. Mr. Nugent said that was correct. Mr. Mammone asked if this area is more elevated than the surrounding land. Mr. Nugent said that was correct. Mr. Mammone said he appreciated the open space. His question is if there is a way to place the shared open space more in proximity to the children's play area which is completely surrounded by parking spaces. Good planning theory dictates letting everyone be seen so they are safe. He doesn't think surrounding the open area with parking constitutes good urban design in order for people to be seen and feel safe. It helps eliminate bad social behavior.

Mr. Mammone said that his second question is that it appears there are only two areas for garbage disposal. Neither of them seem to be very strategically located. For example, if he was living in Building H on the east end, he would need to walk around 51 parking spaces to drop off his trash bag. Building A is also very far away from the garbage area. He asked if there was a way to place this closer to the units by shifting some parking, for example.

Mr. Wittren said that he also wanted to make a comment. He appreciated the design overall, and when he was younger and lived in an apartment building, he appreciated being away from the park and being away from the social setting.

Mr. Mammone asked Chair Staffenson if the Applicant could please respond to his two questions.

Mr. Nugent said that regarding the open spaces, the primary driver for those locations are the unique views in that area. Personally, he agrees that it would be better to not have open space surrounded by

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parking. Unfortunately, the parking requirements in the Code require them to put as many spaces in there as they can. They went through 15-20 iterations of the site plan and this is the area that they felt made the most sense. The swimming pool area is another open area for residents, and to the west, there's another open area that is designed for children which is in proximity to the swimming pool area. He said he would also ask Mr. Circosta to address Mr. Mammone's question. Regarding the trash, they used to place trash receptacles close to every building to make it really convenient for everyone. They've found that it's very hard to police all those areas. There's a lot of trash that misses the cans. They also have more pest problems, and garbage trucks have gotten bigger. In most of their developments, they only have one large trash area that people will take out the trash when they're running an errand and drive to the trash area. These also have trash compacters. Because of the grade changes, they felt it was necessary to have two instead of only having one as they usually do.

Mr. Mammone asked if they could move the garbage to being between Buildings H and I, towards the east, along the parking that is bordering the south. Mr. Nugent said access from a garbage truck would be restricted in that area. Also, frankly, residents don't like being near the compacters, so they try to locate these as far away from the buildings as possible. Mr. Mammone asked where the garbage trucks would come from. Mr. Nugent said they would enter through Halsey Loop.

Chair Staffenson said he wouldn't want to get too far into a discussion about moving the garbage area without consulting Public Works. Mr. Mammone said he would like to understand it better, but he understands.

Mr. Mammone said the area with the beautiful view is surrounded by carports. He wonders if they could relocate those to somewhere else. Mr. Circosta said he would answer the question. He said that if you look at the drawings and the topography of the site, you'll see there is a retaining wall on the north edge of the open space. The parking that's on the north side of the open space is below the barbecue area so that you look over the top of it. Mr. Mammone asked Mr. Circosta for his estimate of the height difference between the barbecue/open area and the carport roof. Mr. Circosta said you would not look over the top of any carport.

#### Closure of Hearing

**Mr. Wittren moved to close the hearing and Mr. Woidyla seconded the motion. The motion passed unanimously and the hearing was closed.**

Chair Staffenson called a 10-minute recess.

#### Discussion

Mr. Damgen said that Mr. Wilcox had requested information before the meeting that Staff would like to briefly show on the screen. Mr. Damgen said this exhibit was a comparison of properties in Troutdale and 3 referenced programs that Carla Properties has developed. The additional information that Mr. Wilcox requested is statistics about the Mountain Meadows Apartments located off 257<sup>th</sup> Drive. They have a very similar unit count but with a higher proportion of three-bedroom units. There's also a higher garage space count. That project was sometimes referenced as having a parking issue, and Staff

was unable to do an observation of that property to do a count. However, they can see the comparison here on the screen, and he hopes that's helpful.

Chair Staffenson said he has a few comments about the pages they received from Mr. Handy. They presently have an application in front of them, and by State statute they are to render a decision on that application and that does not include making a recommendation to the City Council about acquiring parkland. To his knowledge, this hasn't been done ever by this body in the past. Their job is to work with what is in front of them and what they are obligated to do. Second, the Applicant has followed direction and attempted to do what they asked. They may discuss design standards in the future, but he thinks it would be unfair to Staff and the Applicant to change the design at this point. If they have serious issues, they will need to vote accordingly, but he doesn't support 11<sup>th</sup> hour design changes.

Mr. Handy asked if he could make a comment about that. Chair Staffenson said that he could not at this time. Mr. Handy asked if he could make a comment to the Applicant's attorney. Chair Staffenson said no, the public hearing is closed. Mr. Handy said he understands, but the attorney said he would take questions. Chair Staffenson said that was meant to be questions from the Commissioners. They typically allow 3-5 minutes for public comment and Mr. Handy had almost 10 minutes. Mr. Handy said he wanted a clarification. Chair Staffenson said this could not be part of the record, and he was sorry.

Chair Staffenson asked for comments from the Commissioners. Mr. Wittren said he believes the Applicant has made a significant and sincere effort to do what they could to respond to the Commissioners' requests.

Mr. Woidyla asked if they had any information about the proposed widening of Halsey Street. Mr. Damgen asked what he meant exactly. Mr. Woidyla said he was referring to widening it to four lanes. Mr. Damgen doesn't think that is required at this time. The County and the Applicant need to decide the level of improvement needed. At the same time, the City and County and the two cities to the west are collaborating on a grant application to look at the entire Halsey Street design. His suspicion is that unless there's something that is urgently needed, any future widening would be just for turning traffic and for enhanced pedestrian safety.

Mr. Mammone asked Mr. Damgen if there was an analysis by the Department of Transportation and if they have information about a traffic increase because of the development and if a new traffic signal would be necessary. Mr. Damgen said there was a traffic analysis by a local traffic engineering firm, and the information is included in the packet. However, the civil engineers at the City and the County both looked at this, and both determined that based on the ITE materials and the number of units, Halsey Loop and Halsey Street could accommodate it, however there would be a need for some improvements in the future.

Ms. Prickett said that she feels the Applicant has proven that he's trying to do the best he can with a unique piece of property.

Mr. Allen said that he agrees with the sentiments raised by Mr. Wittren and Ms. Prickett.

Mr. Damgen said that he would share his screen again so they could go through the sequencing. They have suggested motions on the screen to make it easy for them to follow.

#### Voting

**Mr. Wittren moved to approve the findings of fact for the variance for the building height as presented for the case file LU-0010-2021 Fox Ridge Apartments and Ms. Prickett seconded the motion.** Mr. Wilcox said he had a comment. The height variance allows for 4 levels on the down slope of the building and that's a density bonus for the developer. Voting resumed. **The motion passed unanimously and the findings were approved.**

*Transcriptionist note: This was later stricken from the record since Mr. Wittren referenced an incorrect case number.*

**Mr. Wittren moved to approve the variances for the setback standards for the case file LU-0020-2021 Fox Ridge Apartments as presented and Ms. Prickett seconded the motion.** Mr. Wilcox commented that since this is where the compact spaces were switched to standard spaces, in comparing the two applications it went from 81 to 27 compact spaces or a reduction of two thirds. Chair Staffenson said they increased the number of standard spaces. Mr. Wittren said this is the point he made to the Applicant about splitting spaces 50/50, but he's OK with where it's at. There was no other discussion on the motion. Voting resumed. **The motion passed unanimously.**

**Mr. Wittren moved to approve the variances to the parking components of the proposal for case file LU-0020-2021 Fox Ridge Apartments as presented and Ms. Prickett seconded the motion.** Mr. Wilcox said he had a question. He asked if they were on the parking standards now. Chair Staffenson said they were. Mr. Wilcox said he would start with the Applicant adding 12 garages. At the previous meeting, he raised the issue of garages not automatically being parking spaces. People have to choose to pay the extra rental fee and to not use it for storage. He wanted to discuss Mountain Meadows as a comparison property. It has 164 units and 330 parking spaces of which 131 are standard spaces, 115 compact and 84 garage spaces. At 2.33 that called for 382 spaces. They provided 330, so they were 52 spaces short. He is not sure if they had a variance for it. It's noteworthy to him that the 115 compact spaces put them exactly at the 35% maximum allowance for compact spaces. To the issue of garages now, at a previous meeting, Mr. Nugent acknowledged that not every garage is going to have a car in it. The estimate he was offering was 80% parking utilization of garages. Mr. Wilcox said he decided to visit Mountain Meadows yesterday and to talk to the property manager. She estimated that 50% of spaces are utilized, so that's a lot of parking spaces lost to storage. They charge \$100/month for garage parking. It's much less than what a self-storage business charges. Also, she talked about people doubling up because vacancy rates are near zero and rents are high. People have roommates or multi-generational households. She also mentioned that they have a policy of only one unregistered car per resident. They do have a parking problem that she readily acknowledged, and she said they want to acquire the property behind them for additional parking. Their parking ratio is 2.0 which is close to what they're looking at for Fox Ridge Apartments. His position is that there's a clear path to approval at

reduced density as far as the parking standard goes, so he sees no basis for granting a variance to the parking.

Mr. Wittren said that it's very close to Mountain Meadows with a parking ratio of 2.01, but it's also close to Troutdale Terrace at a 2.18 parking ratio. He thinks they are all using their best judgement. He feels the Applicant has tried to maximize parking as much as possible.

Mr. Mammone asked Mr. Damgen if the ratio is 2.09. Mr. Damgen said it was 2.10.

There was no further discussion and voting resumed. **The motion passed 6-1 (Wilcox.)**

**Mr. Wittren moved to strike his previous motion for the variance to the building height for case file LU-0010-2021 Fox Ridge Apartments and instead approve the findings for the case file LU-0020-2021 Fox Ridge Apartments as presented, and Ms. Prickett seconded the motion. The motion passed unanimously.**

**Mr. Wittren moved to approve the findings for the site development review for the case file LU-0020-2021 Fox Ridge Apartments as presented and Ms. Prickett seconded the motion. The motion passed 6-1 (Wilcox.)**

**Mr. Wittren moved to approve the findings for the lot line adjustment for the case file LU-0020-2021 Fox Ridge Apartments as presented and Mr. Woidyla seconded the motion. The motion passed unanimously.**

Chair Staffenson said he wished to add Condition of Approval #16 to have adequate screening separating the properties in the form of a fence with materials to be approved by Staff.

**Mr. Wittren moved to approve the Final Order and Conditions of Approval for the case file LU-0020-2021 Fox Ridge Apartments as amended and Ms. Prickett seconded the motion. The motion passed unanimously.**

Mr. Mammone asked if they had to approve more details about the fencing tonight. He asked Mr. Damgen to share his screen. Mr. Damgen said that the Applicant would need to demonstrate that they have provided adequate screening. The Applicant did mention earlier that there is already some fencing around the perimeter, and there is screening by the trees on the westerly line. He thinks that if there are deficiencies they will compel the Applicant to adjust it. If needed, they would take it to this body for clarification. Mr. Mammone said the problem is that in 6 months, he will not be sure where the adequate screening should be, and it might be more appropriate to clarify this tonight. Mr. Damgen said that it's the Applicant's burden to demonstrate where they believe the deficiencies are. The Planning Commission has empowered Staff to approve the location and materials of any deficiencies that occur. Mr. Mammone said that it wasn't that he didn't trust the Staff. It's that he has never been confronted with a condition that is as vague as this one. He thinks they need to specify the condition that they are asking the Applicant to meet. He has tried to compromise with anyone, but

this is feels ambiguous. Chair Staffenson asked how the other Commissioners felt. Mr. Wittren said they had all voted yes, and that was enough.

## **5. Staff Communications**

Mr. Damgen said there would not be a special meeting in October. However, there are many things occurring such as the Parks Master Plan survey. They especially want to hear from seniors and kids. Also, the Public Safety and Equity Committee will have its first meeting on October 21. There will be a Type IV hearing in November. Also, they have a new Permit Specialist, Paige Torres. Their new Planner is Melissa Johnston, and she will be at the next Planning Commission meeting.

## **6. Commissioner Comments**

Mr. Wilcox commented that even though the Applicant came up short for parking spaces, he is glad to hear he is installing charging stations in the garages.

Mr. Allen said he appreciates learning from the Planning Commission.

Mr. Mammone asked if there would be a meeting on October 27. Mr. Damgen said that was correct.

Mr. Wittren thanked everyone for a robust discussion.

Chair Staffenson thanked everyone for their time on this proposal.

## **7. Adjournment**

**Ms. Prickett moved to adjourn and Mr. Wittren seconded the motion. The vote was unanimous and the meeting was adjourned at 9:20 PM.**



**DATE:** November 10, 2021  
**FROM:** Chris Damgen, Community Development Director  
**TO:** Planning Commission

**SUBJECT:** Prospective Text Amendment – HB 2001 Implementation

As you may recall, the so-called “missing middle” housing bill (HB 2001) requires cities of a certain size and within the Metro region to allow for middle housing typologies in any zoning district that is either exclusively or historically associated with single-family detached housing. Middle housing typologies as defined by the state include duplexes, triplexes, quadplexes, townhomes (also called rowhouses or attached single-family dwellings) and cottage cluster developments.

Tonight’s discussion is a continuation of the prospective text amendment that the City of Troutdale will undergo in early 2022. Department Staff provided an introduction to House Bill 2001 at the September 22, 2021 special meeting. The items to be discussed tonight include the following:

- Confirming calendar dates to work on the draft of the text amendment, specifically:
  - Wednesday, January 26, 2022
  - Wednesday, February 23, 2022
  - Wednesday, April 13, 2022 (prospective hearing date)
- Reviewing prospective structural changes to the Troutdale Development Code (TDC) to better accompany the required amendments
- Review sections of the TDC where HB 2001 legislation will require eliminating or amending certain standards
- Other topics of consideration

Please review the attached items and be prepared to provide confirmation of availability on anticipated discussion dates for future work sessions.

**ATTACHED:**

- Staff presentation from 9/22/21 Planning Commission special meeting
- Prospective structural changes to the Troutdale Development Code
- Affected sections of the Troutdale Development Code

# MIDDLE HOUSING & HB 2001 DISCUSSION

Troutdale Planning Commission

September 22, 2021



# CLARIFICATIONS

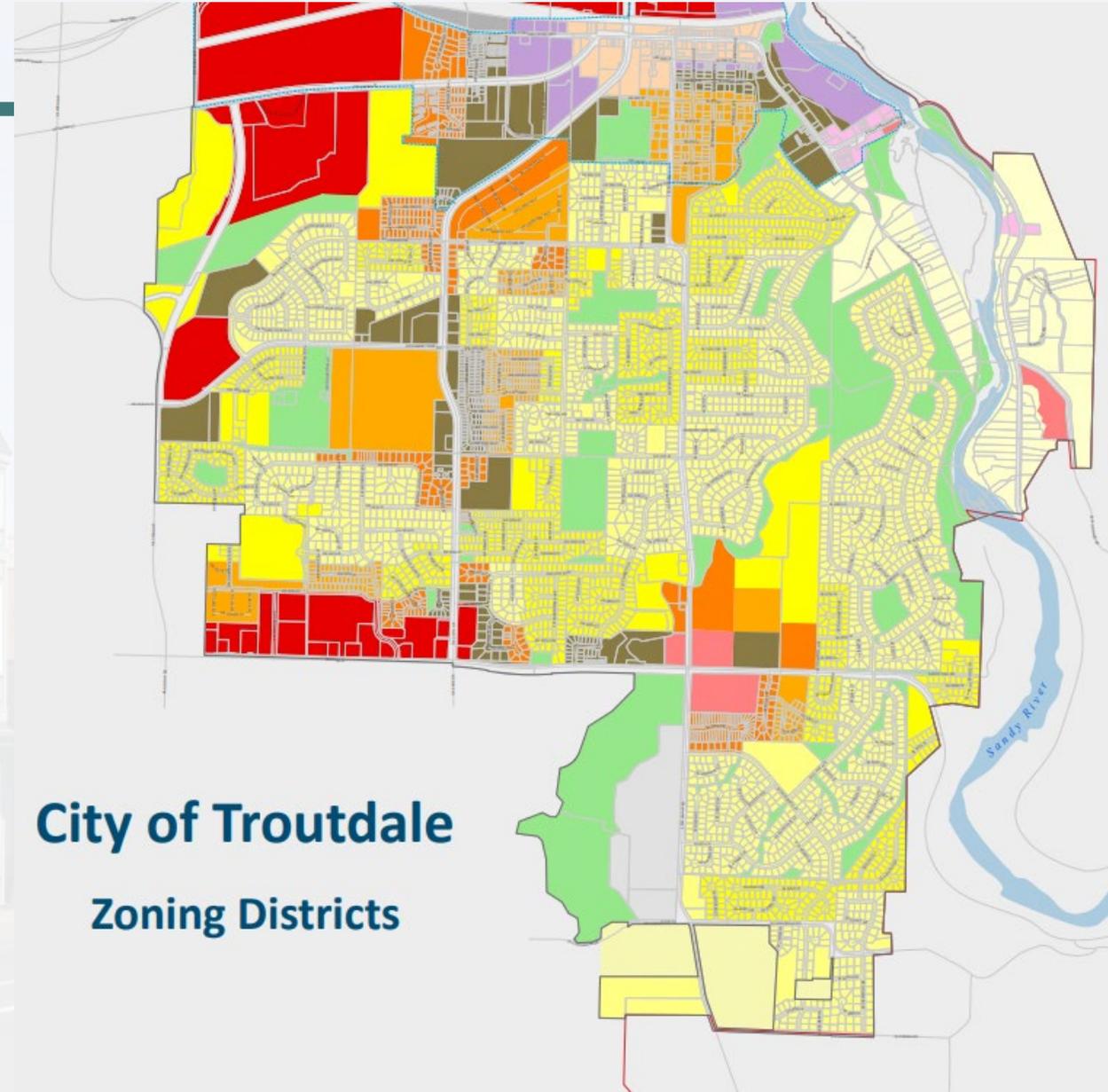
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- Troutdale falls under “large cities” definition, as do nearly all communities within the Metro region
- HB 2001 does not restrict single-family detached dwellings from being developed
- HB 2001 prohibits residential zoning districts from allowing only single-family detached dwellings
- HB 2001 requires middle housing to be permitted in residential zoning districts
- HB 2001 allows for clear and objective design standards that apply to detached single family dwellings in the same zone

# WHO THIS AFFECTS

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- Properties that are zoned R-20, R-10, R-7, R-5, and R-4 (yellow & orange on the map)
- Unclear on NSA areas (east of the Sandy River)
- Certain subdivisions may be exempted (next slide)



# SUBDIVISION CC&RS

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- Typically cities cannot regulate Covenants, Conveyances, & Restrictions (CCR) for platted subdivisions
- Subdivisions with covenants that were established prior to the law's passage that specifically limited development to only single-family detached dwellings are exempt from HB 2001
- Subdivisions with covenants that have no clear restrictions on dwelling types are required to comply with the law
- Staff to perform analysis on which subdivisions may/may not be affected

# SOME OF THE STANDARDS ARE ALREADY HERE

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- Definitions – several of the definitions already match
- Design standards – already exist for single-family residential development and could be applied to middle housing
- R-10, R-7, and R-5 – already allows duplexes and townhouses \*
- R-4 – already allows duplexes, triplexes, and townhouses \*

\* Minimum lot size standards apply and would no longer be enforceable



# DUPLEX EXAMPLES

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Figure 3. Stacked Duplex

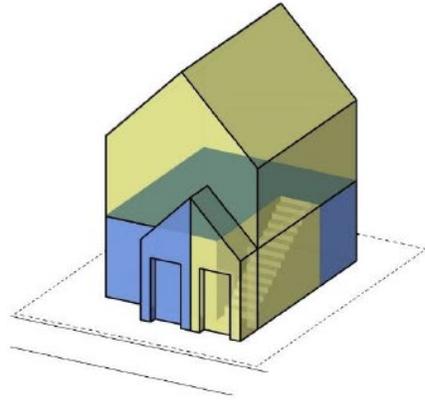


Figure 4. Side-by-Side Duplex

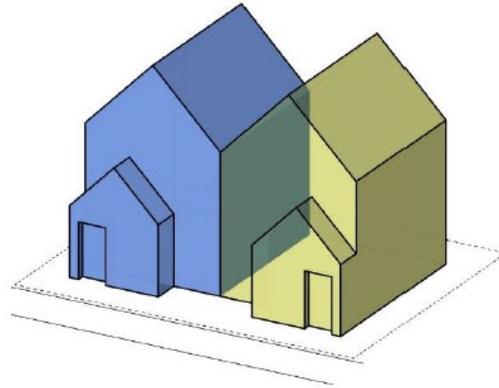


Figure 5. Duplex Attached by Breezeway

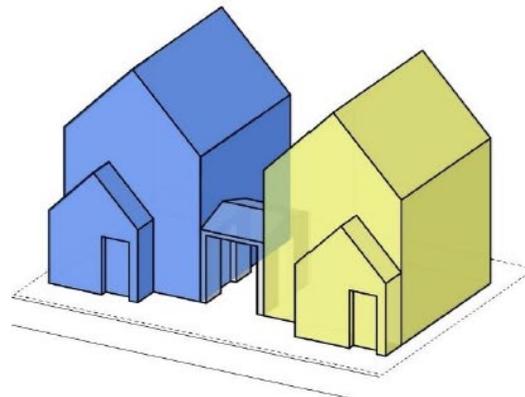
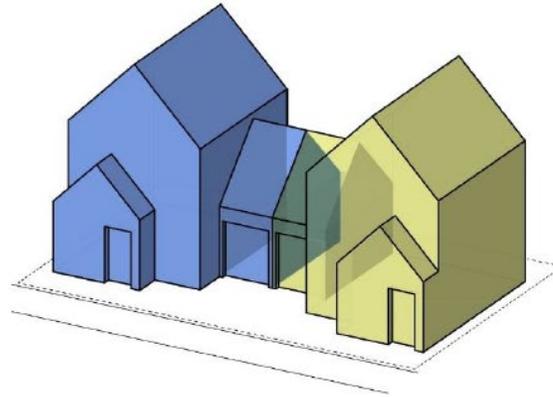


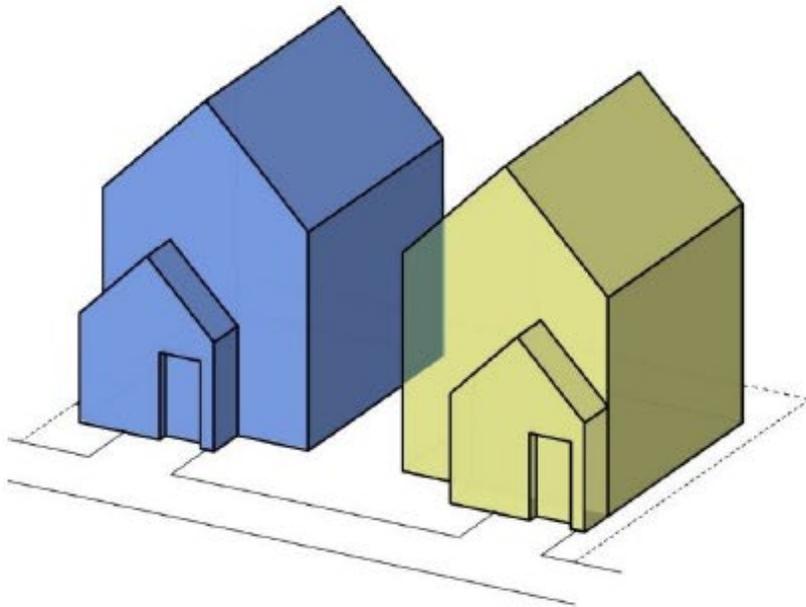
Figure 6. Duplex Attached by Garage Wall



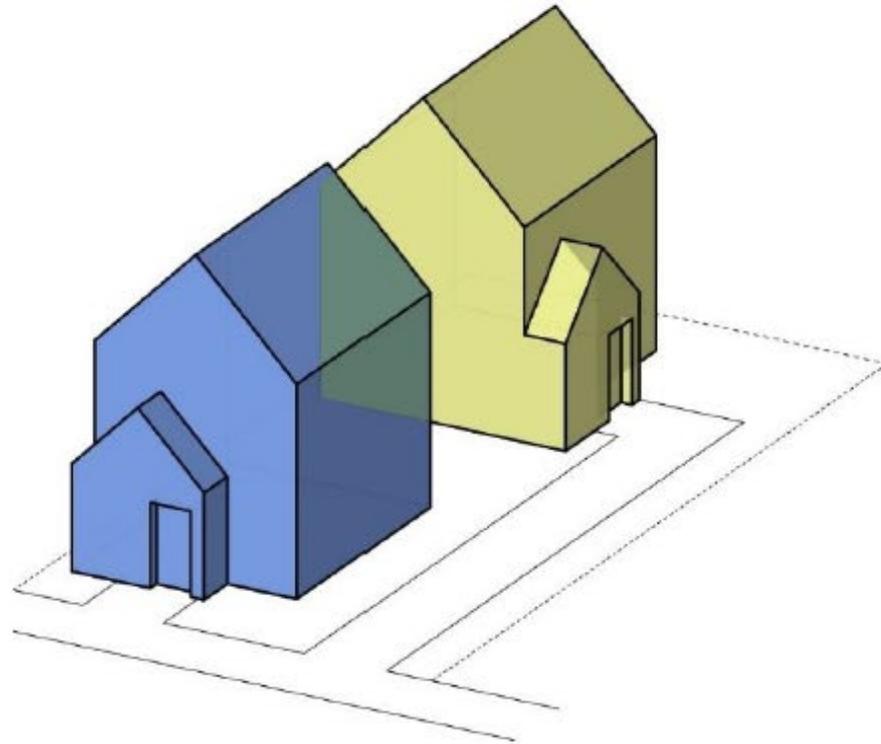
# DUPLEX EXAMPLES

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*Figure 7. Detached Duplex Units Side-by-Side*



*Figure 8. Detached Duplex Units Front and Back*



# TRIPLEX & QUADPLEX EXAMPLES

Figure 9. Attached Triplex Front and Back

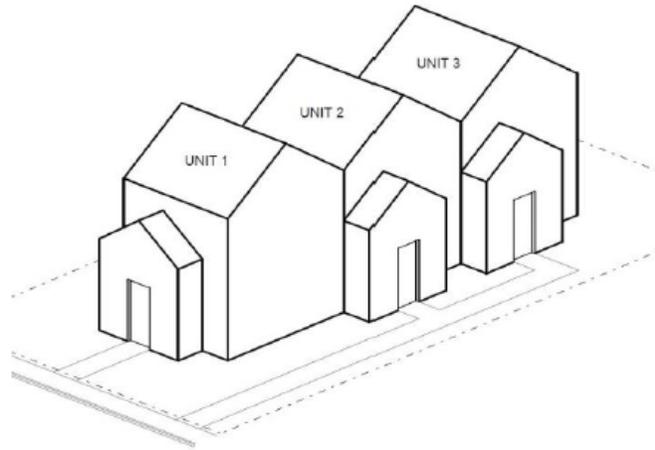


Figure 10. Attached Triplex Side-by-Side

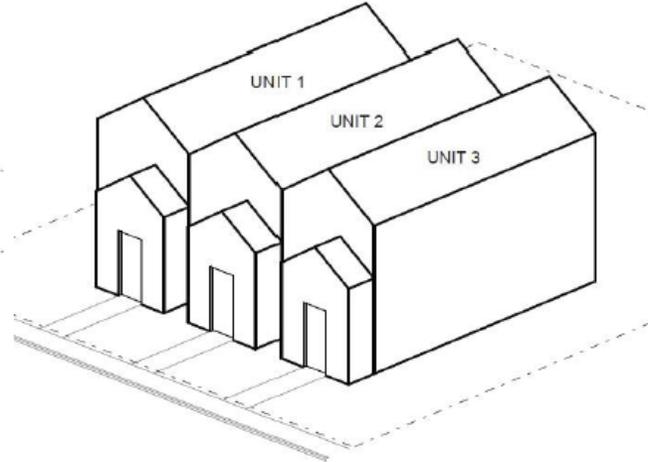


Figure 11. Stacked Quadplex

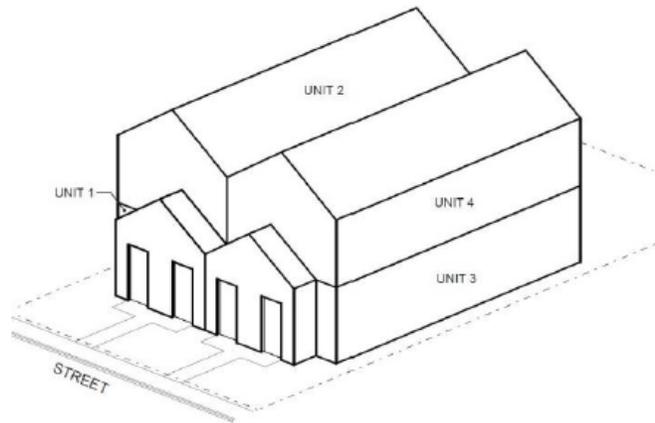
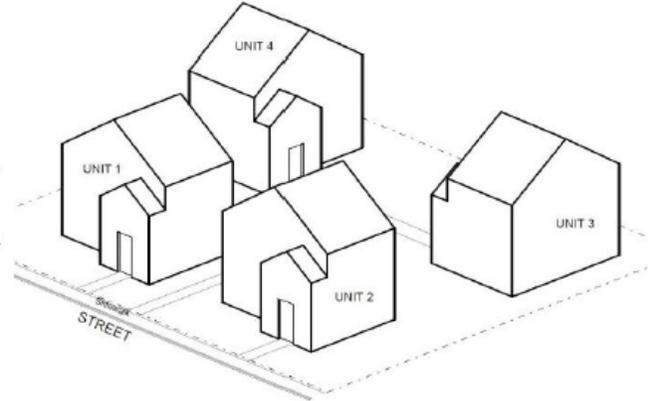


Figure 12. Detached Quadplex



## **Affected Sections of the Troutdale Development Code Troutdale Planning Commission – November 10, 2021**

Listed below are the expected chapters and sections that will require amendments in order to comply with HB 2001 standards. This list is subject to change upon further review and discussion.

### **CHAPTER 1 – INTRODUCTORY PROVISIONS**

- **AMENDED – Section 1.020 Definitions**  
Additional definitions will need to be included to match model code

### **CHAPTER 3 – ZONING DISTRICTS**

- **NEW – Section 3.001 Use Table for Residential Zoning District**  
This would establish a simplified use table listing all residential land uses in rows, the zoning districts in columns, and denoting if uses are permitted (P), permitted with specific standards (S), conditional (C), or not allowed (N). The use table concept was established for mixed use zoning districts when the MU-3 Urban Mixed Use zoning district was created
- **AMENDED – Section 3.010 Single-Family Residential (R-20)**  
Details forthcoming
- **AMENDED – Section 3.020 Single-Family Residential (R-10)**  
Details forthcoming
- **AMENDED – Section 3.030 Single-Family Residential (R-7)**  
Details forthcoming
- **AMENDED – Section 3.040 Single-Family Residential (R-5)**  
Details forthcoming
- **AMENDED – Section 3.050 Attached Residential (R-4)**  
Details forthcoming
- **AMENDED – Section 3.130 Neighborhood Commercial (NC)**  
Details forthcoming
- **AMENDED – Section 3.140 Mixed Office/Housing (MO/H)**  
Details forthcoming

### **CHAPTER 5 – MISCELLANEOUS STANDARDS**

- **AMENDED – Section 5.900 Accessory Dwelling Units**  
HB 2001 prohibits requiring off-street parking or owner occupancy requirements for ADU approvals. Those standards will need to be removed.

### **CHAPTER 8 – SITE ORIENTATION & DESIGN STANDARDS**

A full restructuring of this chapter will be proposed. Please see the prospective structural changes attachment.

## **Prospective Structural Changes to the Troutdale Development Code Troutdale Planning Commission – November 10, 2021**

Listed below are proposed structural changes to the Troutdale Development Code. This is subject to change upon further review and discussion.

### **CHAPTER 3 – ZONING DISTRICTS**

The basic layout of Chapter 3 sections would be as followed:

#### **3.XXX Zoning District**

- 3.XX1 Purpose
- 3.XX2 Permitted Uses (refers to use tables)
- 3.XX3 Other Uses (form language that enables director to determine use)
- 3.XX4 Specific Use Standards (refers to standards in other chapters/sections)
- 3.XX5 Dimensional Standards
  - A. Applicability
  - B. Density
  - C. Setbacks
  - D. Building Height

### **CHAPTER 8 – DEVELOPMENT & DESIGN STANDARDS (renamed)**

This chapter is slightly renamed and would be expanded to accommodate current design standards and those anticipated for middle housing typologies.

#### **8.100 RE-NUMBERED & RE-TITLED – General Standards (re-numbered)**

This section would include already existing standards currently found in sections 8.010 to 8.045

#### **8.200 NEW – Residential Standards**

This section will take portions from the existing Section 8.200 and include required development and design standard considerations for middle-housing typologies. It would also include single-family design standards that are currently in the various zoning district sections in Chapter 3 and consolidate them in one place.

- 8.210 Approval Process
- 8.220 Single-Family Dwellings and Duplexes
- 8.230 Triplexes and Quadplexes
- 8.240 Townhouses
- 8.250 Cottage Clusters
- 8.260 Multi-Family Developments

#### **8.300 NEW – Mixed Use Standards**

This section will be a placeholder to house future adopted standards for mixed use development zoning districts (utilizing the proposed code changes from the Main Streets on Halsey code audit project). It would incorporate some existing standards currently found in Appendix A (CBD Design Standards).