



# PLANNING COMMISSION

## WEDNESDAY, NOVEMBER 12, 2020

### II. WORK SESSIONS

B. HB 2001 Compliance Middle Housing (Pauly) (45 Minutes)



## PLANNING COMMISSION WORK SESSION STAFF REPORT

|   |  |   |  |
|---|--|---|--|
| <b>Meeting Date:</b> November 12, 2020  |  | <b>Subject:</b> Middle Housing in Wilsonville Project   |  |
|   |  | <b>Staff Member:</b> Daniel Pauly, Planning Manager   |  |
|   |  | <b>Department:</b> Community Development  |  |
| <b>Action Required</b>  |  | <b>Advisory Board/Commission Recommendation</b>   |  |
| <input type="checkbox"/> Motion<br><input type="checkbox"/> Public Hearing Date:<br><input type="checkbox"/> Ordinance 1 <sup>st</sup> Reading Date:<br><input type="checkbox"/> Ordinance 2 <sup>nd</sup> Reading Date:<br><input type="checkbox"/> Resolution<br><input checked="" type="checkbox"/> Information or Direction<br><input type="checkbox"/> Information Only<br><input type="checkbox"/> Council Direction<br><input type="checkbox"/> Consent Agenda |  | <input type="checkbox"/> Approval<br><input type="checkbox"/> Denial<br><input type="checkbox"/> None Forwarded<br><input checked="" type="checkbox"/> Not Applicable |  |
|   |  | <b>Comments:</b> N/A  |  |
| <b>Staff Recommendation:</b> Provide feedback on key issues and the direction of Comprehensive Plan and Development Code changes  |  |   |  |
| <b>Recommended Language for Motion:</b> N/A   |  |   |  |
| <b>Project / Issue Relates To:</b>  |  |   |  |
| <input checked="" type="checkbox"/> Council Goals/Priorities:<br>Thoughtful, Inclusive Built Environment'<br>Equitable housing study and develop affordable housing strategies  | <input type="checkbox"/> Adopted Master Plan(s): | <input type="checkbox"/> Not Applicable   |  |

## **ISSUE BEFORE PLANNING COMMISSION:**

Review the attached memorandum prepared by Angelo Planning Group and provide feedback on the content of the memorandum including responding to key issues and providing other feedback on the Comprehensive Plan and Development Code audit.

## **EXECUTIVE SUMMARY:**

As the Commission will recall, in 2019, the Oregon legislature passed House Bill 2001 (HB 2001), which directs cities throughout Oregon to take a number of actions concerning allowing more middle housing, the most noteworthy being the requirements to:

- Adopt regulations allowing duplexes on each lot or parcel zoned for residential use that allows for development of detached single-family dwellings.
- Adopt regulations allowing triplexes, quadplexes, cottage clusters, and townhouses “in areas zoned for residential use” that allow for the development of detached single-family dwellings.

To assist in this important middle housing work, the City hired a consultant team led by Angelo Planning Group (APG). APG is supported by EcoNorthwest and SERA Architects. The team has prior experience working with Wilsonville on the Frog Pond Area Plan, Frog Pond West Master Plan, Equitable Housing Strategic Plan, and the Town Center Streetscape Plan. Members of the consultant team also supported the Oregon Department of Land Conservation and Development (DLCD) in the development of the middle housing rules and model code for HB 2001. With this and other experience, the consultant team will be a great resource as the City works through this middle housing project.

In addition to compliance with state statute and rules, the audit looks at implementation items from the Equitable Housing Plan. This includes Implementation Action 1B to “Incorporate Equitable Housing into Middle Housing Planning.”

The first major step in the project is to audit the Comprehensive Plan and Development Code and suggest changes that would ensure these documents meet the compliance standards laid out in state administrative rules. Reflective of the compliance requirements from the state and the City’s equitable housing policies, the audit uses the following three lenses:

1. Compliance with HB 2001 and the administrative rules;
2. Likelihood of use by developers/property owners resulting in actual development of middle housing; and
3. Support for equitable housing outcomes.

The draft code audit memorandum covers many details of the Comprehensive Plan and Development Code, but in particular calls out a number of key issues on which the project team are looking for the Commission’s careful attention and targeted feedback (see Attachment 1). These key issues are:

- Should the City allow duplexes, triplexes, and quadplexes to be detached on a lot?
- Should the City allow cottage clusters on separate, individual lots?

- How should the City address middle housing on smaller lots zoned Residential Agriculture-Holding (RA-H) with a Comprehensive Plan designation of residential?

### **EXPECTED RESULTS:**

Guidance on key issues and recommended changes identified by the Comprehensive Plan and code audit.

### **TIMELINE:**

Planning Commission review follows the overall project timeline. In early 2021, work sessions will cover master plan audits, siting and design standards, middle housing site studies and architectural renderings. These will be further refined over the spring through public input and additional work sessions. Public hearings and recommendation to City Council are anticipated by summer 2021.

### **CURRENT YEAR BUDGET IMPACTS:**

The main consultant contract is for \$125,000. \$95,000 is covered by a grant from the Oregon Department of Land Conservation and Development (DLCD). The remaining amount is covered by funds budgeted in the City's FY 2020-2021 Budget. Specific outreach to the Latino community and other historically marginalized communities is funded by an \$81,200 Metro grant.

### **COMMUNITY INVOLVEMENT PROCESS:**

Extensive community outreach will occur over winter and into spring 2021, including to the Latino community and other historically marginalized communities.

### **POTENTIAL IMPACTS or BENEFIT TO THE COMMUNITY:**

A greater amount of middle housing in neighborhoods meeting standards with broad community support. A greater amount of middle housing will create more housing opportunities for a variety of incomes, needs, and preferences.

### **ALTERNATIVES:**

The Commission may recommend additional or modified approaches that help the City achieve compliance with House Bill 2001 and implement a key strategy from the Equitable Housing Strategic Plan. If the City does not adopt compliant standards by June 30, 2022, a state model code will come into effect for Wilsonville.

### **ATTACHMENTS:**

1. Memorandum from Angelo Planning Group: Middle Housing in Wilsonville Plan and Code Audit



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MEMORANDUM

## Plan and Code Audit Memo (Task 1.1) Wilsonville Middle Housing Code Update

DATE November 3, 2020  
TO Dan Pauly, City of Wilsonville  
FROM Kate Rogers and Joe Dills, Angelo Planning Group  
CC Ben Weber, Emma-Quin Smith and Ross Determan, SERA Architects  
Becky Hewitt and Tyler Bump, ECONorthwest

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### INTRODUCTION

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#### Purpose and Approach

The purposes of this memorandum are to:

1. Assess regulatory land use barriers to development of middle housing in Wilsonville; and,
2. Identify where amendments to the Wilsonville Planning and Land Development Ordinance (Code) and Comprehensive Plan are needed to comply with Oregon House Bill 2001 (2019) (HB 2001).

This memo is a synthesis of: Code and Comprehensive Plan audits initially prepared by City staff; additional audit work by Angelo Planning Group; work sessions by the project team, and, a virtual tour of Wilsonville neighborhoods by the team. The memo provides background on HB 2001, explanations of code update issues for middle housing, and potential amendments proposed by the project team. In most cases, the concept and intent of the proposed amendment is identified – detailed code language will be prepared later in the project after the Planning Commission’s discussion of concepts. Highlighting used in this memo includes:

- Proposals by the project team are highlighted **in bold font**
- Key issues are highlighted in **call-out boxes**
- Oregon Administrative Rule compliance is highlighted **in red font**

As used in this memo and HB 2001, “middle housing” includes duplexes, triplexes, quadplexes, townhouses, and cottage clusters.

## Background and Overview of HB 2001

The Oregon Legislature passed HB 2001 in August 2019 to help provide Oregonians with a wider range of housing choices. HB 2001 requires Oregon cities with populations over 25,000 and those within the Portland Metro boundary (collectively referred to as “Large Cities”) to adopt zoning code regulations and comprehensive plan amendments to permit middle housing types in residential zones. Specifically, Wilsonville and other Large Cities will need to allow:

- Duplexes on each lot or parcel zoned for residential use that allows for the development of detached single-family dwellings; and
- Triplexes, quadplexes, cottage clusters, and townhouses in areas zoned for residential use that allow for the development of detached single-family dwellings.

The City “may regulate siting and design of middle housing.” However, it may not adopt standards or requirements that result in unreasonable cost or delay in the development of middle housing. The Department of Land Conservation and Development (DLCD) will adopt minimum standards for compliance with HB 2001 as well as a model code for middle housing by December 31, 2020. The City of Wilsonville is required to adopt standards that are consistent with state regulations by June 30, 2022. If the City does not meet the project deadline, the model code will automatically apply.

## Status of State Rulemaking

DLCD is currently in the process of drafting the Oregon Administrative Rules (OARs) that will guide cities’ implementation of middle housing requirements. The final draft of the OARs is expected to be adopted at the November 12, 2020 hearing of the Land Conservation and Development Commission (LCDC). Because the rulemaking process is not yet finalized, the project team must work with the most recent available draft of the OARs (updated on October 29, 2020). We will update the team’s findings and recommendations as needed if revised OARs become available and conflict with any of the recommendations outlined here. The project team anticipates the LCDC will have adopted the rules and model code by the time the Planning Commission meets the evening of November 12.

The draft rules for complying with HB 2001 are fairly prescriptive in defining what cities can and cannot do, but the City has some flexibility to make certain decisions related to its Development Code updates:

- **Siting Standards** – The City can adopt siting standards for middle housing, within limits. The OARs specifically limit certain siting standards, such as minimum lot size requirements and how many parking spaces the code can require. The limitations for duplexes are stricter than for other middle housing types. The draft rules generally state that duplex standards cannot be more restrictive than those applicable to detached single-family dwellings.
- **Design Standards** – The City also can adopt design standards for middle housing besides duplexes (i.e. triplexes, quadplexes, cottage clusters, and townhomes). However, the City will need to justify new design standards and demonstrate how they do not cause unreasonable cost or delay (based on a set of factors determined by the OARs). The Model

Code has design standards the City may use, and the City may apply standards already in use for detached single-family dwellings.

The draft OARs also limit cities' ability to cap residential density for middle housing, except in existing or future Master Planned Communities. This and other specific OAR provisions are identified throughout this memo as they apply to the Wilsonville Development Code.

## **Approach to the Code/Plan Audit and Amendments**

The project team is applying three "lenses" to the Middle Housing Code Update process, and specifically to the code and plan audit:

- 1. Compliance with HB 2001 and the administrative rules.**

This is a primary focus of the code audit. Because the OARs are very prescriptive in specifying how cities must comply with the middle housing requirements, the minimum standards will largely drive Wilsonville's regulatory amendments for middle housing. This memo identifies code and plan text that will likely need to be amended in order to comply with the minimum standards in the OARs.

- 2. Likelihood of use by developers/property owners resulting in actual on-the-ground change.**

This memo identifies areas of the city which are most likely to see development of middle housing, and which warrant additional attention through the code update process. It will also be important to ensure that the Development Code not only meets the state's minimum requirements but truly seeks to facilitate development of middle housing. Meeting the OAR standards will get the City partway there, because the standards are geared toward ensuring that cities do not apply rules that render middle housing infeasible or that cause unreasonable cost or delay. The City may also consider additional ways to not only allow middle housing, but to encourage it. As the project moves forward, the team will seek feedback from developers and others regarding the working amendments.

- 3. Support for Equitable Housing Outcomes.**

New middle housing opportunities will implement the recommendations in the Wilsonville Equitable Housing Strategic Plan (EHSP) and be a tangible step forward along Wilsonville's roadmap to more equitable housing. This plan, adopted in June 2020, identifies a set of actions meant to move the city toward more equitable housing outcomes. Implementation Action 1B of the EHSP calls for the City to "Incorporate Equitable Housing Needs into Middle Housing Planning". The team is applying this lens in a qualitative manner at each step of the project. There is also project budget allocated for targeted financial analysis.

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## COMPREHENSIVE PLAN AUDIT

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This section of the memo summarizes key insights from the project team’s audit of the Wilsonville Comprehensive Plan (updated in 2018). It also identifies where additional amendments to the plan’s goals, policies, and/or implementation measures may be needed to comply with HB 2001 and the draft OARs, or to address barriers to middle housing.

The project team’s audit focused primarily on the Residential Development section of the Plan’s Land Use and Development chapter. The team identified several changes that should be made to the narrative introduction to this section. **We recommend reworking of the introduction text to incorporate concepts from the Equitable Housing Strategic Plan.** Per the EHSP, “The Plan’s actions encourage the production of more diverse housing types with access to services, improve partnerships with housing providers, expand homeownership opportunities, and reduce displacement risk for Wilsonville residents.” It will be important to incorporate the City’s overall vision and goals for equitable housing as framing elements for the Residential Development section. The EHSP also includes data and other background information that may be useful in the Comprehensive Plan. **The introduction text should describe the requirements of HB 2001 and associated Administrative Rules and incorporate additional data and background information about middle housing.**

**Within the policies and implementation measures, the team recommends the following:**

- **Incorporate middle explicitly into the references to specific housing types.**
- **Add references to exemptions from density maximums and from discretionary review for middle housing.**
- **Incorporating the policy objectives and actions identified in the EHSP into the policies and implementation measures of the Comprehensive Plan.**
- **Amend the Residential Neighborhood (RN) policy (Policy 4.1.7.a) to add a provision (g): “Create housing opportunities for a variety of households”; this same statement would be added to the purpose statement of the RN zone.**

The above-referenced amendments are intended to address compliance with middle housing requirements and create enabling provisions for code amendments.

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## DEVELOPMENT CODE AUDIT

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This section of the memo summarizes key findings from the project team’s audit of the Wilsonville Development Code (Code), proposes initial ideas for code amendments, and identifies issues related to compliance with draft OARs and addressing barriers to middle housing. This section is organized by code section and includes only those sections for which amendments are likely to be needed. Key issues are highlighted in call-out boxes.



## 4.001 Definitions

The project team has identified a number of definitions that will need to be revised, added, or removed in order to implement middle housing code amendments. Amendments are needed to create a new category of “middle housing” and to define each middle housing type consistent with HB 2001. The Bill provides specific definitions of certain terms, including “cottage cluster” and “townhouse,” which will need to be incorporated. The team has also flagged some terms that could create potential conflicts with HB 2001 or should be revised for better clarity and consistency with needed code amendments for middle housing.

### *Middle Housing Definitions:*

- Duplex – Definition currently meets minimum OAR compliance. Consider amending to allow detached units.
- Triplex – **Proposed new definition:** *Three attached dwelling units on a single lot, none of which meets the definition of an accessory dwelling unit.*
- Quadplex – **Proposed new definition:** *Four attached dwelling units on a single lot.* The proposed triplex and quadplex definitions should also be revised to allow detached units (see options below).

#### **Key Issue: Allowing Detached Plexes**

There are two primary options for how duplexes, triplexes, and quadplexes can be defined:

1. Limit the definition to attached units only; or
2. Allow units to be either attached or detached.

The existing duplex definition and current proposed triplex and quadplex definitions define these as attached units—consistent with the conventional understanding of these housing types. However, the OARs allow cities to expand the definition to include detached units as well. There are advantages to allowing detached units, such as promoting preservation of existing single-family homes by allowing detached units to be added to a lot, and, allowing increased flexibility for unusual site configurations (slopes, natural resources, etc.). However, allowing detached units may add complexity to the code—especially for design standards.

- Townhouse – **Proposed revised definition:** *A type of dwelling unit constructed in a row of two or more attached units, where each dwelling unit is located on an individual lot.* This definition is specified by HB 2001 and differs from Wilsonville’s existing definition of “townhouse,” which is a type of multi-family dwelling with units on a single lot.
- Cottage cluster – **Proposed new definition:** *Cluster housing of four or more units where the footprint of each unit does not exceed 900 square feet.* This is consistent with the 900-sf building footprint limit specified by HB 2001. The proposed definition would make cottage

cluster a subset of the existing “cluster housing” type that is currently used in the Village and Residential Neighborhood zones. The definition may also need to specify a minimum density of four units per acre, as defined by HB 2001; and should perhaps specify whether it applies to units on a single lot, units on individual lots, or both (see below).

**Key Issue: Cottage Cluster Units on a Single Lot vs. Individual Lots**

Cities have the option of allowing cottage clusters where all the units are on a single lot, where each unit is on an individual lot, or both. While permitting cottage clusters on a single lot is relatively straightforward, allowing each cottage to be on individual lots requires additional standards tailored to small cottage lots. The code would need to address perimeter setbacks and setbacks for individual lots, shared accessory structures, shared parking and open space tracts, cross-access easements, etc.

Developing units on individual lots is generally a more desirable path for builders, because the units can be owned “fee-simple” — with each unit owning the land underneath and having shared amenities owned in common. Units on a single parcel could be sold as condominiums (or rented), but this can be a less marketable option for ownership.

**The team recommends that the code allow for both situations.** The team needs to work through more details of the cottage cluster standards before bringing those details to the Planning Commission.

- **Middle housing** – **The project team proposes a new definition that includes each of the housing types listed above.** Duplex could either be included or excluded from the definition, since different standards apply to duplexes than to the “higher” middle housing types.

*Existing Definitions Needing Revision:*

- **Accessory Dwelling Unit** – **Clarify definition to distinguish from duplex.**
- **Apartment** – **Distinguish this housing type from triplexes and quadplexes by specifying that they typically include five or more units.**
- **Dwelling Unit, Multiple-Family** – **Specify this does not include middle housing or ADUs.**
- **Dwelling Unit, Single-Family** – **Limit this to detached single-family units and ensure it is only used elsewhere in the code to refer to detached units.** This is not necessary for OAR compliance. Rather, it is intended to simplify the code by distinguishing single-family detached dwellings from townhouses (i.e., single-family attached dwellings).
- **Family / Household** – **Replace the term “family” in favor of the term “household,” which is more inclusive.** Revisions to other definitions and code provisions using the term “family” will need to be checked and updated.

- Lot / Parcel – Clarify that both “lot” and “parcel” are inclusive of parcels created through a partition (in anticipation of middle housing being created through partitions).
- Parcel – Add to the definition to include parcels created through a partition.
- Row House – This term is used extensively in the Village zone and other Villebois documents to refer to both attached and detached units constructed in a row of similar houses. Clarify the somewhat overlapping relationship between “row house” and “townhouse.”

Note: Additional definitions may also be needed, depending on which new siting and design standards the City adopts for middle housing (such as floor area ratio). Concepts for potential siting and design standards will be explored in Tasks 2.2 and 2.3 of this project and discussed at the January Planning Commission meeting.

#### 4.030 Jurisdiction and Powers of Planning Director and Community Development Director

This section lists the types of applications that are processed as Class I and Class II administrative actions. Subsection 4.030(.01)(A)(4) states that the following applications are subject to Class I review: “Building permits for single family or two-family dwellings, and in the Village zone, row houses or apartments, meeting zoning requirements and located on lots that have been legally created.”

**OAR Compliance:** OAR 660-046-0215 states: *Large Cities must apply the same approval process to Middle Housing as applies to detached single-family dwellings in the same zone.* This subsection likely needs to be revised to include middle housing among the housing types subject to Class I review.

#### 4.113 Standards Applying to Residential Developments in Any Zone

This section identifies general development standards for residential uses that apply in any zone, such as open space standards, setbacks, height, and standards for accessory dwelling units (ADUs).

##### (.01) Open Space

This section applies a minimum open space requirement to subdivisions (creation of four or more lots), planned developments (PDs), and multi-family development. The minimum standard is 25% of the Gross Development Area of the entire development. (Note: only shared open spaces are included; private open space on individual lot does not count toward the requirement.) The code states that the standards do not apply to non-multi-family partitions, so they would not apply to partitions for single-family dwellings or middle housing. Under the current regulations, infill development of middle housing within existing PDs (if permitted) would not be subject to the open space requirement, because they would be treated as a modification to the existing PD, for which 25% open space has already been set aside. **The project team proposes exempting middle housing created through subdivision of existing lots in previously-approved subdivisions.** This way, townhouse subdivisions (and potentially cottage clusters, if allowed on individual lots) would not need to provide additional open space beyond the original requirements for the existing

subdivision. With the proposed changes, development of middle housing as part of a new PD or subdivision of previously undivided land (i.e., “greenfield development”) would still be subject to the open space requirement.

**OAR Compliance:** The draft OARs classify open space requirements as “design standards.” Per draft OAR 660-046-0225(1)(c), cities are allowed to apply “*The same clear and objective design standards that the Large City applies to detached single-family structures in the same zone.*” Because Wilsonville’s standard is the same for single-family detached dwellings as it would be for middle housing, with the proposed modifications these regulations would comply.

**Best Practice:** It is important to ensure that in no case would “infill” townhouses be subject to a 25% open space standard. A requirement to devote that much land to open space would likely render many townhouse developments infeasible.

#### (.02) Building Setbacks

The setback standards in this section apply to all residential development, unless superseded by standards elsewhere in the code or in a legislative master plan. The Village and Residential Neighborhood zones provide separate setback standards.

**OAR Compliance:** Per draft OAR 660-046-0220, *middle housing must be subject to the same or lesser setbacks as single-family detached dwellings, except perimeter setbacks for cottage clusters cannot exceed 10 feet and townhouses must be allowed zero side setback where units are attached.* Because the setback standards in section 4.113(.02) apply to all housing types, they generally comply with the OARs.

To comply with OARs for cottage clusters and townhouses, **the team proposes adding a 10-foot limit on cottage cluster setbacks and adding a zero setback allowance for townhouses.**

**Best Practice:** The City could also consider reducing setbacks for middle housing to promote development feasibility, particularly on smaller lots.

#### (.10) Accessory Dwelling Units

Currently, ADUs are permitted with single-family detached and attached dwellings. No changes to this allowance are recommended, but **revisions are needed to clarify the terminology for the housing types that allow ADUs (i.e., single-family detached dwellings, row houses, and townhouses).** The project team proposes to delete language in this section related to density limits for duplexes (since OAR 660-046-0115(2) exempts duplexes from density calculations), and proposes to move ADU parking standards to Section 4.155 Parking, Loading, and Bicycle Parking.

**OAR Compliance:** Proposed revisions are related more to policy direction and clarity than to OAR compliance. With the revisions noted here, this section should comply.

## 4.118 Standards Applying to All Planned Development Zones

Section 4.118 identifies standards that apply in all Planned Development zones, with a focus on granting the Development Review Board or Planning Director the ability to waive, modify, or add certain requirements and to apply certain conditions of approval for PD applications.

### *(.01) Height*

This section gives the Development Review Board certain authority to regulate building height.

**OAR Compliance:** The project team proposes revisions to this section to ensure that height requirements are consistent with OAR height provisions for each middle housing type as follows:

- Duplex – Maximum height cannot be lower than the height limit for single-family detached dwellings.
- Triplex / Quadplex – Maximum height cannot be lower than the height limit for single-family detached dwellings; in no case can the height limit be less than 25 feet.
- Townhouse – Maximum height cannot be lower than the height limit for single-family detached dwellings; if covered or structured parking is required, the height standards must allow construction of at least three stories.
- Cottage cluster – [No restriction on height standards.]

### *(.03) Waiving or adopting development requirements*

This section gives the Development Review Board authority to waive or adopt certain development standard in PD zones. **The project team proposes adding an exception that additional requirements or restrictions cannot conflict with established clear and objective standards or be grounds for denying a residential application that has selected the clear and objective path for approval.**

**OAR Compliance:** This is consistent with OAR 660-046-0215, which states that *“Large Cities may adopt and apply only clear and objective standards, conditions, and procedures regulating the development of Middle Housing consistent with the requirements of ORS 197.307.”*

Nothing else in section 4.113 appears to be out of compliance with the OARs. The revisions noted here also comply.

## 4.120 RA-H Residential Agricultural – Holding Zone

### *Applicability of Middle Housing Requirements*

As stated in subsection 4.120(.01), “the purpose of the RA-H zone is to serve as a holding zone to preserve the future urban level development potential as undeveloped property designated for more intensive development.” RA-H land is designated with a range of Comprehensive Plan map

designations, including Residential at various densities, Village, and Industrial. Generally, this land must be rezoned consistent with the underlying Comprehensive Plan designation at the time development is proposed; however, development of one single-family dwelling and ADU is permitted per lot without a zone change. Because this zone does not strictly implement a residential Comprehensive Plan designation, it is our current understanding that the RA-H zone is not subject to middle housing requirements. HB 2001 states that the requirements apply to “*areas zoned for residential use,*” and per OAR 660-046-0020(19), “*Zoned for residential use*” means a zoning district in which residential dwellings are the primary use and which implements a residential comprehensive plan map designation.”

**The project team proposes a review of options and potential amendments to section 4.120 to clarify the purpose and applicability of the zone—including renaming the zone as “Future Development Agricultural – Holding.”**

**Key Issue: Enabling New Housing on Small RA-H Zoned Lots, Including Old Town**

Much of the Old Town Neighborhood is designated for residential use on the Comprehensive Plan map, with an assigned density of 6-7 dwelling units per acre; however, most of these lots are zoned RA-H. As noted above, the City requires Zoning Map amendments concurrent with applications for development proposals, except for development of a single-family home. Zoning will not be changed to be consistent with the Comprehensive Plan until a development application on a specific site has been reviewed by the Development Review Board and approved by the City Council.

The City recently adopted design standards to ensure new development in Old Town is consistent with the unique historic character of the neighborhood (see Section 4.138). Because existing homes are older and smaller, leading to lower improvement to land value ratio, this area may be more likely to see redevelopment—including development of middle housing. However, the requirement for a Zoning Map amendment is a significant barrier, as it adds to the time and cost of housing development, and potentially introduces a lot of uncertainty to the process, which increases risk. It can also present a false sense of ability for noticed neighbors to influence outcomes; there is typically only one rezoning option and the DRB and Council would have very few if any legal grounds to deny a rezoning request consistent with Comprehensive Plan.

**How can the City increase housing options on smaller RA-H zoned lots by reducing barriers to middle housing development?** There are ways to work toward greater consistency between the Comprehensive Plan and zoning in this area. The project team has identified four primary options to consider:

1. **Legislative rezoning** for the residential lots that are currently zoned RA-H to be consistent with their Comprehensive Plan designation. Rezoning was

recommended in the Old Town Neighborhood Plan, but did not move forward at the time the plan was adopted (in 2011). This would be the most straightforward approach, as it would remove the barrier imposed by the additional Zoning Map amendment process while delivering on an aspect of the neighborhood plan. However, it may not be favored by some existing Old Town residents, as it would have an effect of allowing middle housing without further public process or notice to neighbors.

2. **Conditional rezoning** pending property owner approval. This would rezone the residential RA-H properties consistent with the Old Town Neighborhood Plan, but the rezoning would only take effect on a given lot if its owner gives written approval. This would remove the Zoning Map amendment barrier, but may be more politically palatable than legislative rezoning because property owners could keep the current zoning if so desired.
3. **Amending the RA-H zone** to permit middle housing development without a rezone. This is a straightforward approach, but may not be consistent with the purpose of the RA-H zone, which is to preserve future potential for urban-level development.
4. **Streamlining or expediting the required process** for Zoning Map amendments. An example of an expedited rezone process is found in the Coffee Creek Industrial Design Overlay District. When a requested Zoning Map amendment in this area is consistent with the Comprehensive Plan designation, the request is reviewed by the City Council without needing review by the Development Review Board or Planning Commission. This would not entirely remove the process barrier, but would at least reduce the review time.

Note: The considerations noted above could potentially apply in more areas than just Old Town. There are several other parcels in the city that are less than 2 acres in size (and therefore not subject to Planned Development requirements) and are designated for residential use in the Comprehensive Plan and zoned RA-H (including several such lots near SW Canyon Creek Rd and Boeckman Rd, along Montgomery Way, and near Wilsonville Road and Brown Road). This is an issue that will need more attention through this Middle Housing Code Update process.

#### 4.122 Residential Zone

Single-family detached dwellings are permitted outright in this zone, therefore middle housing must also be permitted. **The project team proposes:**

- **Uses:** Adding middle housing to the list of permitted uses.
- **Density:**



- Exempting duplexes, triplexes, quadplexes, and cottage clusters from density calculations as required by the OARs.
- Applying a maximum density for townhouses of four times the density allowed for single-family development or 25 dwelling units per acre, whichever is less, as required by OAR 660-046-0220(3)(c).
- **Minimum Lot Size:** Updating the minimum lot size standards to generally be consistent with the OAR standards. The OAR minimum standards are as follows:

Duplexes: *cities “may not require a minimum Lot or Parcel size that is greater than the minimum Lot or Parcel size required for a detached single-family dwelling in the same zone.”*

Triplexes:

- *“If the minimum Lot or Parcel size in the zone for a detached single-family dwelling is 5,000 square feet or less, the minimum Lot or Parcel size for a Triplex may be up to 5,000 square feet.*
- *If the minimum Lot or Parcel size in the zone for a detached single-family dwelling is greater than 5,000 square feet, the minimum Lot or Parcel size for a Triplex may not be greater than the minimum Lot or Parcel size for a detached single-family dwelling.”*

Quadplexes and Cottage Clusters:

- *“If the minimum Lot or Parcel size in the zone for a detached single-family dwelling is 7,000 square feet or less, the minimum Lot or Parcel size for a fourplex may be up to 7,000 square feet.*
- *If the minimum Lot or Parcel size in the zone for a detached single-family dwelling is greater than 7,000 square feet, the minimum Lot or Parcel size for a Quadplex may not be greater than the minimum Lot or Parcel size for a detached single-family dwelling.”*

Townhouses: *“the average minimum Lot or Parcel size may not be greater than 1,500 square feet.”*

The minimum lot size for single-family detached dwellings in the R zone is 5,000 sf. Therefore, to meet the minimum OAR standards in this zone:

- The minimum lot size for duplexes and triplexes can be no more than 5,000 sf.
- The minimum lot size for quadplexes and cottage clusters can be no more than 7,000 sf.
- For townhouses, the average minimum lot size can be no more than 1,500 sf. **For the R zone, the project team proposes going beyond the minimum OAR standards for townhouses by applying a minimum lot size of 1,250 sf.** This would be consistent with allowing four times the density for townhouses compared to a single unit on a 5,000-sf lot (as proposed above).



- **Minimum Lot Width / Street Frontage:** Reducing the minimum lot width and street frontage for townhouses to 20 ft.
- **Maximum Lot Coverage:**
  - The current maximum lot coverage standard is 30% for all buildings. For minimum compliance, the lot coverage standards for middle housing need only be the same as or less restrictive than the standard for single-family detached dwellings. The exception is cottage clusters, which must be exempt from lot coverage standards.
  - **The project team's initial proposal is to update the maximum lot coverage standards applicable to all housing types (except cottage clusters) to be consistent with the standards in the PDR zones. The lot coverage standards would be scaled to the size of the lot, so smaller lots would be allowed additional lot coverage.**
  - Lot coverage is a primary barrier to making changes to existing homes as homes are often built to maximum lot coverage. Not updating lot coverage to be consistent throughout the City would be a substantial barrier to middle housing on many R zoned lots.

**OAR Compliance:** With the amendments proposed above, this section is expected to comply.

**Best Practice:** While not required by the OARs, lot coverage that works for single-family detached dwellings may not work for townhouses and some other types of middle housing. This potential barrier will be further explored during the Siting and Design Concepts phase of the project (Task 2.3).

#### 4.124 Standards Applying to All Planned Development Residential Zones

Single-family detached dwellings, duplexes, and multiple-family dwellings are among the uses “typically permitted” in all PDR zones; therefore, most middle housing types are already permitted in these zones. **Amendments to this section are needed to make this use allowance more explicit and to update the development standards for middle housing. The project team's proposed amendments include:**

- **Uses:** Adding middle housing to the list of “typically permitted” uses.
- **Density:** Adding density exemptions (same as noted above for Section 4.122).
- **Minimum Lot Size:** Updating the minimum lot size standards consistent with the OAR minimum standards (see Section 4.122 for the OAR standards).
  - In all PDR zones, apply the same minimum lot size for duplexes as that for single-family detached dwellings. Apply a minimum lot size for townhouses of 1,500 sf.
  - PDR-3 through PDR-7: These zones have minimum lot sizes of less than 5,000 sf; therefore, the team proposes a minimum lot size of 5,000 sf for triplexes and 7,000 sf for quadplexes and cottage clusters.

- PDR-1 and PDR-2: These zones have minimum lot sizes of 20,000 sf and 7,000 sf, respectively. Therefore, the team proposes the same minimum lot sizes for triplexes, quadplexes, and cottage clusters.
- **Minimum Lot Width / Frontage:** Updating the minimum lot width and street frontage standards for townhouses to be 20 ft, consistent with minimum OAR compliance.
- **Maximum Lot Coverage:** Exempting cottage clusters from maximum lot coverage standards.

**OAR Compliance:** With the amendments proposed above, the development standards in this section are expected to comply.

**Best Practice:** Similar to the R zone, the project team proposes to examine maximum lot coverage standards in the PDR zones to consider whether they pose barriers to middle housing development.

#### 4.125 V – Village Zone

The Village zone applies within the Villebois Village Master Plan area. The draft OARs provide some exemptions from the middle housing requirements in existing Master Planned Communities. Per OAR 660-046-0205(2)(c)(B), cities may regulate or limit development of “higher” middle housing (types other than duplexes) in undeveloped portions of the master planned area (as of January 1, 2021), as long as it permits a net residential density of 8 units per net acre overall and permits duplexes on every lot. After a master planned area is built out, cities cannot limit development of middle housing (i.e., as infill or redevelopment) beyond the minimum OAR compliance standards.

The preliminary amendments proposed for the Village zone assume that Villebois meets the exemption for existing Master Planned Communities. **The team proposes the addition of a new subsection intended to allow the potential future redevelopment of additional middle housing units, as required by the OAR. The proposed new language would comply with OAR standards by providing:**

- **Density exemptions for middle housing;**
- **Minimum lot size standards consistent with minimum OAR compliance; and**
- **A 10-ft limit for cottage cluster setbacks.**

The proposed new subsection also applies the design standards of the Architectural Pattern Book that corresponds to the applicable Preliminary Development Plan (PDP). Lastly, the proposed amendments also prohibit application of the V zone outside the Villebois Village Master Plan boundaries.

It is important to note that because Villebois was developed so recently, and relatively densely, redevelopment is unlikely for many years, if at all. Additional consideration of the V zone and Villebois Village Master Plan will be incorporated into memo 1.2, which will address modifications to legislative master plans.

**OAR Compliance:** The existing design standards in subsection 4.125(.14) and in the Architectural Pattern Books apply to single-family detached dwellings. OAR 660-046-0225(1)(c) allows cities to apply the same standards to middle housing as apply to single-family dwellings, as long as the standards are clear and objective and the requirements do not scale based on the number of units. For example, if main entries for single-family dwellings are required to be covered, the code cannot require the entry for each unit of a quadplex to be covered. Some modifications to the Villebois design standards will be needed to comply with this requirement. This will be further explored in Task 2.3.

With the proposed amendments, Table V-1 meets the OAR standards in terms of minimum lot size, minimum lot width, maximum building height, and minimum setbacks. The table will also meet minimum standards for maximum lot coverage, as long as cottage clusters are exempted.

#### 4.127 RN – Residential Neighborhood Zone

The Residential Neighborhood zone implements the Frog Pond West Master Plan and will implement future phases of the Frog Pond Plan (East and South). The zoning designation will be applied within the Frog Pond area as development is proposed and as land is annexed into the city. Because much of Frog Pond is not yet developed, or has not yet received land use entitlements, this is a key opportunity area for middle housing development and will be a focus of the Middle Housing Code Update project. Several middle housing types—attached single-family dwelling units (i.e., townhouses), duplexes, and cluster housing—are already permitted in the RN zone.

While the draft OARs provide some exemptions from the middle housing requirements in existing Master Planned Communities, the Frog Pond West Master Plan does not meet the necessary criteria for an exemption. As noted above for the Village zone, the OARs allow cities to regulate or limit development of “higher” middle housing areas with an existing master plan, as long as they permit a net residential density of 8 units per net acre overall and permit duplexes on every lot. However, based on the maximum unit counts assigned to each subdistrict in the Frog Pond West Master Plan, a density of 8 units/net acre will not be achieved (Frog Pond West has an average net density of 6.7 dwellings per acre). Without changes to the master plan, the City must allow all middle housing types in the RN zone.

The City will have options to consider regarding its approach to middle housing in Frog Pond West. This issue will be explored further in memo 1.2 and warrants additional attention through the Middle Housing Code Update process. The approach to Frog Pond East and Frog Pond South will also be a key focus of the project.

**As a starting point, the project team proposes amendments to section 4.127 assuming that all middle housing types must be allowed in the RN zone in order to comply with the OARs. The proposed amendments:**

- **Add middle housing types to the list of permitted uses;**

- **Limit density for townhouses to four times the allowed density for single-family or 25 units/acre;**
- **Exempt other middle housing from density limits;**
- **Apply minimum lot size standards for middle housing consistent with minimum OAR compliance;**
- **Apply a minimum lot width for townhouses of 20 ft; and**
- **Add a 10-ft limit for cottage cluster setbacks.**

**OAR Compliance:** As noted above, the draft OARs allow the City to apply the same design standards to middle housing that apply to single-family detached dwellings; however, the standards cannot scale based on the number of units. Some initial amendments to the design standards are proposed to address this issue, but additional revisions may be needed. This will be further addressed in Task 2.3.

**Best Practice:** The project team also proposes adding a purpose statement to this section that addresses equity and affordability, consistent with the Equitable Housing Strategic Plan.

#### **4.138 Old Town (O) Overlay Zone and Old Town Single-Family Design Standards**

The Old Town overlay zone establishes design standards within the Old Town neighborhood. This code section references the Old Town Single-Family Design Standards Book as applying to single-family and duplex development within the overlay zone. **The design standards in section 4.138 and the design standards book will need to be updated so they apply to higher middle housing types as well.**

**OAR Compliance:** As noted previously in this memo, the City may apply the same design standards to middle housing as apply to single-family detached dwellings, provided they do not scale based on the number of units. Some of the design standards will likely need to be revised to comply with this provision. Further, design standards cannot apply to middle housing created by converting or adding to existing single-family detached dwellings (per OAR 660-046-0225(2)). This will be further addressed in Task 2.3.

Middle housing must also be permitted through the same approval process as single-family detached dwellings. Per subsection 4.138(.03)(B), single-family and duplex developments in the O zone are reviewed through the Class I Administrative Procedure concurrently with building plan review. The same procedure must also apply to middle housing.

#### **4.139.00 – 4.139.11 Significant Resource Overlay Zone (SROZ)**

This section of the code implements Wilsonville’s natural resource protection regulations, in compliance with Statewide Planning Goal 5 and Titles 3 and 13 of the Metro Urban Growth Management Functional Plan. Per OAR 660-046-0010, local governments may regulate middle housing to comply with protective measures adopted pursuant to statewide land use planning

goals. While duplexes must be allowed on every lot or parcel that allows development of a single-family detached dwelling, higher middle housing may be restricted in Goal 5 riparian areas, wetlands, and wildlife habitat areas.

**OAR Compliance:** Subsection 4.139.04(.17) states that new single-family dwellings are exempt from these regulations as long as the building does not encroach into the Impact Area and/or SROZ; this exemption must be extended to the development of new duplexes as well. Similarly, the allowance for single-family dwellings on lots with limited buildable land through Class II review must also apply to duplexes.

#### 4.140 Planned Development Regulations

This section provides the review process, submittal requirements, and approval criteria for planned developments (PDs).

##### *Planned Development Approval Process*

Per OAR 660-046-0215, middle housing must be subject to the same approval process as applies to detached single-family dwellings in the same zone and must be subject to only clear and objective standards, criteria, and procedures. Even though the Planned Development process includes review by a board and is therefore discretionary, review of housing development for compliance with siting and design standards is clear and objective. During Planned Development review, the Development Review Board reviews the overall development and lot configuration for consistency with the Comprehensive Plan, Development Code, traffic impacts, and availability of facilities and services. When it comes time to apply for building permits on individual lots, single-family dwellings, duplexes, and certain other housing developments are reviewed administratively for compliance with the applicable siting and design standards. **Middle housing will need to be subject to this same process that applies to single-family dwellings.**

##### *Adherence to Approved Plans*

All residential sites greater than two acres must be developed as PDs. As such, most of the neighborhoods in Wilsonville were created through the PD process. Once a final plan is approved, per subsection 4.140(.09)(L), "The approved final plan and stage development schedule shall control the issuance of all building permits and shall restrict the nature, location and design of all uses." In other words, the PD essentially overrides the underlying zoning regulations. This is an issue for middle housing because residential PDs allow only single-family detached dwellings in areas of the PD planned and approved for single-family. Thus, even if the City amends the PDR zones to allow middle housing, the use provisions of the approved PD would override the zoning, serving as a barrier to construction to new middle housing in areas of the city where it is not already built and approved.

**The project team proposes that language be added in this section to provide a path for updated PDR zoning standards to apply within an existing PD.** At that point, the PD would be considered

“legal non-conforming” and would be subject to the standards of Sections 4.189 through 4.192. As proposed, this would happen when one of the following takes place:

1. The zoning of land within the PD area has been changed since adoption of the plan;
2. The zoning standards for the zone under which the PD was approved have been substantially modified (as defined by the new proposed code); or
3. City Council declares all PDs within a certain zone are to become legal non-conforming—either as a standalone ordinance or as part of updating or replacing zoning standards. This would allow PDs to be made legal non-conforming even if amended zoning standards do not quite meet the threshold for “substantial modification.”

These proposed additions are intended to ensure that any code amendments to allow middle housing in the PDR zones would apply even within approved PDs.

#### 4.155 General Regulations – Parking, Loading and Bicycle Parking

The draft OARs place limits on the amount of off-street parking that can be required for middle housing. Wilsonville’s existing parking standards comply with OAR standards, as they require only one parking space per dwelling for residential developments with nine or fewer units. **Accordingly, a minor amendment is needed to the off-street parking standards in Table 5 to add a reference to middle housing.**

Separate from middle housing, HB 2001 also prohibits cities from applying off-street parking mandates to ADUs. **This should be addressed by stating that no parking is required for ADUs.**

**Also somewhat separate from middle housing, a new subsection 4.155(.02)Q is proposed that applies additional standards for garages.** This proposed amendment relates to a previous study regarding the City’s parking standards. The intent of the standards is to address a common complaint that garages placed to meet minimum parking standards are not being used for parking. This is an opportunity to ensure that garages associated with middle housing—and other housing types—are used for their intended purpose, and not for other uses like storage.

**OAR Compliance:** With the proposed revisions, this section should comply.

#### 4.177 Street Improvement Standards

The project team proposes only one minor change to this section. Currently, residential private access drives can provide primary access to no more than four dwelling units. This effectively disallows any of the existing homes on a property that is served by a private access drive from being redeveloped as middle housing. **The team proposes to change the allowance to four residential lots.** A per-lot basis would allow each of those lots served by a private drive to be a single-family home or multi-unit middle housing.

**OAR Compliance:** It appears no other changes are needed for minimum compliance.

#### 4.400 – 4.450 Site Design Review

As noted above in relation to section 4.030, building permits for single-family dwellings are reviewed through the Class I administrative procedure, and the same approval process must apply to middle housing. Accordingly, single-family dwellings, and other housing types subject to Class I review, are exempted from the Site Design Review provisions. **The only change proposed for this section is to add middle housing to the list of exempted development types.**

#### Additional Middle Housing Barrier: Existing CC&Rs

It should be noted that existing covenants, conditions, and restrictions (CC&Rs) are likely to restrict middle housing within many existing neighborhoods in Wilsonville. CC&Rs are rules established by a developer or homeowners association that govern residences in a particular development—typically a subdivision or planned development. CC&Rs are usually attached to the title of a property and may place certain restrictions on uses, activities, and improvements in a development. Some CC&Rs associated with new developments prohibit more than one dwelling unit on a lot and can effectively prohibit the development of middle housing. HB 2001 prohibits the establishment of new CC&Rs or similar instruments that would prohibit middle housing or accessory dwelling units in a residential neighborhood. However, Wilsonville and other cities do not have the authority to eliminate, or enforce, existing CC&Rs. This will likely limit the potential for infill development in many areas of the city. CC&Rs are a significant barrier to middle housing that the City can do little to address at this time.