



MEMORANDUM

Community Development Department

To: Chair Nye and Planning Commission members

From: Rob Zoeller, Associate Planner
Brian Martin, Long Range Planning Manager

Date: Jan. 12, 2022

Subject: Housing Options Project – Draft Development Code Updates (Part 2)

Attachment A: Draft Development Code Updates (Chapters 40, 50 and 60)

Attachment B: Existing and Proposed Zoning Map Comparison

This memo provides an overview of how draft Development Code amendments implement the city's preferred approach to adding housing variety, and the attached draft code provisions provide a first look at development rules that would meet the city's goals, achieve the city's preferred approach, and comply with state law.

This information is intended to facilitate Planning Commission discussion at the Jan. 19 work session.

The Housing Options Project considers where and how new housing types other than single-detached homes will be allowed in the city's residential areas. Housing types considered include accessory dwelling units, duplexes, triplexes, quadplexes, townhouses and cottage clusters, also known as middle housing.

The Jan. 19 work session involves provisions in the following chapters:

- **Chapter 40: Applications**, including new applications for single-detached housing and middle housing design review. Type 1, Type 2, and Type 3 routes available in proposed amendments.
- **Chapter 50: Procedures**, including adding a new section for expedited land divisions for middle housing land divisions (to comply with 2021's [Senate Bill 458](#)).
- **Chapter 60: Special Requirements**, including establishing design standards and guidelines for single-detached dwellings and middle housing; updates to manufactured home standards; updates to off-street parking requirements (including credits for on-street parking); deletion of solar access requirements; and modifications to other sections to implement the preferred approach.

Staff anticipates another discussion on Feb. 9 to cover topics that require additional discussion. Both the Planning Commission and City Council will get additional opportunities to review the draft code in early 2022, and public hearings to adopt changes to the Comprehensive Plan and Development Code are expected in spring and summer 2022.

More Information on State Law and the State Model Code

State law has a major influence on this project. In 2019 the legislature adopted [House Bill 2001](#) (HB2001), which requires local governments to allow duplexes on all lots and triplexes, quadplexes, townhouses and cottages clusters in areas where zoning allows single-family detached homes.

The Department of Land Conservation and Development (DLCD) published administrative rules that implement HB2001. The rules provide three paths for cities like Beaverton to comply with the law:

1. Comply with the [state's minimum compliance standards](#),
2. Adopt the [state-approved model code](#), or
3. Create alternatives to minimum compliance standards:
 - a. The [performance standard approach](#) allows the city to use lot sizes and/or densities to regulate middle housing differently if the city allows a substantial percentage of housing (which varies by type) on lots in residential areas widely distributed throughout the city.
 - b. The [master plan communities approach](#) allows cities to use master plans for areas if middle housing is allowed, and certain densities are achieved.
4. Create [alternative siting or design standards](#): The city could adopt siting or design standards not allowed in the model code or minimum compliance standards if the standards do not cause “unreasonable cost or delay” in middle housing production.

The preferred approach is based on a combination of the state's minimum compliance standards and the state-approved model code.

Preferred Approach

In August and September, staff created a [preferred approach](#) that blends several themes from public engagement, feasibility analysis, racial equity analysis and Planning Commission and City Council comments.

The changes proposed in the preferred approach touch on the following three themes:

1. **Flexibility:** Promoting financially feasible housing variety opportunities in neighborhoods to reduce segregation; promote racial equity; support building designs that respond to site and climate; increase opportunities for people to live in places that meet their needs; and expand options for property owners.
2. **Context:** Customizing where and how units are allowed based on site or neighborhood characteristics in different areas of Beaverton.
3. **Community:** Encouraging interpersonal interaction through targeted, limited design and open space requirements.

The draft code amendments are based on the preferred approach, which was informed by significant public engagement.

Draft Code

Chapter 40

The draft code amendments would establish three applications for single-detached homes and middle housing that would apply in the proposed Residential Mixed A (RMA), Residential Mixed B (RMB) and Residential Mixed C (RMC) zones.

- **Single-Detached and Middle Housing Design Review One** would apply to new single-detached dwellings or middle housing as well as building additions. It is a Type 1 application. The decision-making authority is the Community Development Director (typically delegated to staff). The proposal would have to meet all standards to be approved. See [Section 40.21.15.1](#) in the draft code.
- **Single-Detached and Middle Housing Design Review Two** would apply to new single-detached dwellings or middle housing as well as building additions. It is a Type 2 application. The decision-making authority is the Community Development Director (typically delegated to staff). The proposal would have to meet the standards but seek staff approval to vary standards using one guideline. See [Section 40.21.15.2](#) in the draft code.
- **Single-Detached and Middle Housing Design Review Three** would apply to new single-detached dwellings or middle housing as well as building additions. The decision-making authority is the Planning Commission. It is a Type 3 application. The proposal would have to meet the design guidelines, although the applicant could choose to meet the corresponding standards to comply with some of the guidelines. See [Section 40.21.15.3](#) in the draft code.

The amendments also revise the expedited land division section to implement Senate Bill 458. See [Section 40.45.15.9](#).

Senate Bill 458 was adopted by the Oregon Legislature in 2021. It allows lot divisions for middle housing build consistent with HB2001 that enable middle housing units to be sold or owned individually. The city must allow an expedited land division for these lot divisions.

For example, if a property owner built a triplex on a 7,000-square-foot lot in Beaverton consistent with HB2001, the property owner could later apply for an expedited land division to create a lot for each of the triplex units so they could be sold individually. The city could apply all its Development Code rules to the original 7,000-square-foot parent lot. Review of the child lots works differently.

The city cannot require the child lots to have street frontage, driveway access, minimum lot sizes, minimum lot dimensions or apply other review criteria. The child lots would be required to have separate utilities; easements for pedestrian access, common areas, driveways, parking areas, and utilities. They also would have to meet Building Code. The child lots would be limited to one housing unit per child lot.

Chapter 50

The draft code provides the procedure for expedited land divisions that comply with Senate Bill 458 and Middle Housing Land Divisions. See [Section 50.53](#).

Chapter 60

Design Standards and Guidelines for Single-detached Dwellings and Middle Housing (Section 60.05.60)

The draft code proposes design standards for single-detached homes and middle housing. These standards are organized by housing type and cover the following topics:

- Single-Detached Dwellings, Duplexes, Triplexes, and Quadplexes
 - Main Entries, location
 - Windows, percentage facing street
 - Outdoor open area, minimum requirements by lot size and design requirements
 - Tree planting, tree preservation and planting standards, with fee in lieu option for planting
 - Garages and off-street parking areas, limit on percentage along street frontage
 - Driveway location and driveway approaches
 - Solid waste facilities
- Townhouse standards
 - Same topics as required for single-detached and plexes, in addition to maximum number of units in a structure.
- Cottage cluster standards
 - Same topics as required for single-detached and plexes, in addition to:
 - Maximum number of dwellings
 - Building footprint maximum
 - Cottage orientation
 - Courtyard design
 - Community building design requirements
 - Pedestrian access standards
 - Parking design standards

The draft code includes design standards that would be used in the Type 2 and Type 3 processes if applicants want to vary from the design standards. They cover the topics addressed in the standards and are intended to provide flexibility to address site constraints or allow innovative approaches to middle housing while ensuring developments are consistent with the intent of the code.

The discretionary design guidelines path is an option applicants can choose to take.

See additional information about the design standards and guidelines on pages 7-9.

Buffers (Table 60.05.2)

The draft code proposes revisions to the buffer table to update the zone names. The proposals also scale back when buffers are required to reflect that RMA, RMB, and RMC all allow a variety of housing types and are no longer exclusively or mostly intended for single-detached dwellings

Manufactured Home (Section 60.20.20)

The draft code proposes revisions to manufactured home regulations to ensure the rules are consistent with state law, manufactured homes generally are treated the same as single-detached dwellings where appropriate, and the manufactured homes are a viable choice for middle housing (to be part of a duplex, triplex, quadplex or cottage cluster).

The draft code is proposed to remove design requirements that are not applied to single-detached housing, not clear and objective, or that could unnecessarily increase the cost of manufactured homes (such as size requirements that prevent smaller units or requiring an added garage or carport). The proposed code does retain a few provisions specifically allowed in state law, including the excavated and back-filled foundation with an enclosed perimeter, the thermal envelop requirement and the restriction on manufactured homes abutting a historic district or landmark.

Although manufactured homes can be used as part of middle housing, the Development Code (and state law) define manufactured home parks as sites with four or more manufactured homes. So once more than three manufactured homes are placed on a site, it becomes a manufactured home park and would have to be consistent with standards for a park.

Off-street Parking (Section 60.30.10.5, Table 60.30.10.5.A, and Table 60.30.10.4.B, Section 60.30.10.10)

Off-street parking requirements establish the minimum number of spaces that must be included on the lot for car storage when development occurs. These spaces take up space on the lot and can compete with space needed for housing, outdoor open space or tree preservation/planting. Minimum off-street parking requirements also can help ensure adequate parking, especially in neighborhoods with no or few on-street parking spaces present.

The preferred approach contemplated reduced off-street parking requirements in part because of a significant and urgent need for housing and a greater variety of housing in the city. The draft code also must be consistent with state law, which caps minimum parking requirements at one space per unit at the most — and for some housing types on some lot sizes even lower.

The draft code's off-street parking requirements for vehicles are in Table 60.30.10.5.A, and the requirements for bicycle parking are in Table 60.30.10.5.B. The draft code does not currently include bicycle parking for single-detached dwellings and middle housing.

In addition, some modifications are proposed for the location of vehicle parking on sites, as found in Section 60.30.10.10. Off-street parking credits that can be used to reduce off-street parking minimum requirements are also found in Section 60.30.10.10.

Solar Access Standards

Staff proposes to delete the solar access protection standards, which currently only apply to the R5, R7 and R10 zones. Although promoting solar energy production is desirable, this section of code was written with exclusively single-detached dwellings in mind and there is no practical way to apply them to the mix of housing types allowed in the RMA, RMB and RMC zones. It also would take significant work to determine how to make them entirely clear and objective and compliant with state laws regarding middle housing and middle housing land divisions. Issues include:

- Solar access standards calibrated for single homes on larger lots. For example, some provisions limit development on a certain portion of the lot, which might not be an issue on a 7,000-square-foot lot but likely would be more of a constraint on lots between 2,000 square feet and 5,000 square feet that are allowed in many locations in RMA, RMB and RMC. Those limitations might mean there is not enough room for a duplex, triplex, quadplex on smaller lots where outdoor open space and parking are required.
- Not all provisions use clear and objective standards. Section 60.45.10.5.B that requires a judgement about “significant development amenities” and “significant diminution in the market value.”
- Many of the provisions could cause “unreasonable cost or delay” for middle housing, which state law does not allow.
- As the code is written, a large percentage of lots would be exempted because the code assumes a “shadow pattern” from districts that are not single-family residential zones, which includes RMA, RMB and RMC. The shadow pattern is the “from the largest structure allowed at the closest setback on adjoining land, whether or not that structure now exists.” That means the shadow is assumed to be a 35-foot-tall or 40-foot-tall building at the abutting properties’ setbacks, which would generate large shadows on many lots.
- State law (Senate Bill 458) requires cities to allow middle housing land divisions to facilitate fee-simple sales of middle housing. For example, a property could build a duplex and then create “child lots” under each duplex so the units could be sold rather than rented. State law does not allow the city to apply many of the solar access standards to those lots.

In summary, the standards designed for single-detached houses on larger lots are not applicable to zones where a mix of housing types and smaller lot sizes are allowed. The city could conduct a future project to determine a new approach to solar access.

Accessory Dwelling Unit (60.50.03)

The draft code makes minor changes to comply with state law and establish how accessory dwelling units (ADUs) are handled in the new RMA, RMB, and RMC districts. Changes include:

- Making sure that ADUs are only allowed with a single-detached home, not other middle housing types.
- Setting the maximum size at 800 feet, unless they are occupying an existing floor inside an existing home, in which case they can occupy the entire floor.
- Clarifying that ADUs can be added to accessory structures, such as garages.
- Allowing ADUs to be as close as 5 feet from the rear property line if the maximum height of the ADU is 15 feet.

Projections into Required Yards and Public Right-of-Way. (60.50.15)

The draft code allows decks to project into the rear setback in RMB and RMC if the deck is at least 5 feet from the property line and the maximum deck height measured to the top of the railing is 20 feet. Decks are a frequent reason property owners request flexible setbacks. Flexible setbacks were deleted from Chapter 20, so this provision was added to address the frequent requests for decks in the rear setback. Rear setbacks are proposed to be 15 feet in RMB and RMC.

Design Standards and Guidelines

The design standards and guidelines in Chapter 60 implement several strategies from the preferred approach, including:

- Strategy 8. Ensure outdoor open space
- Strategy 9. Implement design standards
- Strategy 10. Encourage tree preservation and require planting
- Strategy 11a. Create different rules for townhouses
- Strategy 11b. Create different rules for cottage clusters

Main entries (Table 60.05.60.1.S1 and G1)

The standard requires at least one entry per residential structure to provide an entry in one of four different formats – directly at the street, at an angle to the street, facing a common open space that opens onto the street, or onto a porch or similar space that opens toward a street. The guideline provides a discretionary path for applicants to meet the intent of having some entries visible from and accessible from the street or on-site parking areas. A Type 3 Planning Commission review would need to review the guideline.

Windows (Table 60.05.60.1.S2 and G2)

The standard requires 15 percent of street-facing facades to include windows or entrance doors, except for structures where most of the façade isn't visible from the street. The guidelines provide discretionary paths where a visible connection is required between the

resident and the street for structures near the street and visible from the street. Under a Type 2 staff review, the window percentage could be reduced to 12 percent if special site conditions exist. A Type 3 Planning Commission review would need to find that the number, size and placement of windows provide the opportunity for visual connections between the building and the street.

Outdoor Open Area (Table 60.05.60.1.S3 and G3)

The standard requires open space based on lot size, starting at 200 square feet and scaling up to 500 square feet for the largest lots. Design standards require at least one portion of the open space to be accessible to all units on the site and be able to fit a 12-foot-by-12-foot square inside to make sure the space is usable. These open areas are allowed in the front and rear setbacks and some of the area can be provided through private open space.

A guideline allows a 20 percent reduction in required open area on lots larger than 3,000 square feet through a Type 2 staff review if there are special conditions on the site. A second guideline allows more significant variation from the standard using a Type 3 Planning Commission review if the applicant can demonstrate that the site plan provides opportunities for outdoor recreation and relaxation at an adequate size to be usable.

Tree Planting and Tree Preservation (Table 60.05.60.1.S4 and G4)

The standards require trees to be planted on the site based on site available on the site for tree planting, either a standard assumption of 30 percent of the site or the actual space left over after subtracting existing and proposed buildings. A combination of small, medium, or large trees can be used to comply. Tree planting standards describe type, location and methods of plantings.

Rather than planting the trees, an applicant can pay a fee in lieu to the city so the city can plant trees elsewhere.

There is no guideline. Applicants must meet the standard.

Garages and Off-street Parking Areas (Table 60.05.60.1.S5 and G5)

The standard limits the street frontage occupied by garages, on-site parking, and driveways to 50 percent for all parking areas near the street. The guidelines require the development to minimize the visual and safety impacts of garages, parking areas and driveways.

Driveway location (Table 60.05.60.1.S6 and G6)

The standard allows driveways to be as close as 3 feet from the property line. There is no guideline. The standard must be met.

Driveway approaches (Table 60.05.60.1.S7 and G7)

The standards limit driveway approaches to 32 feet per frontage. A guideline allows flexibility if, through a Type 3 process at the Planning Commission, the applicant can demonstrate the application limits potential conflicts between vehicles and pedestrians, preserves on-street parking, allows adequate space for trees and minimizes the visual impact of off-street parking.

Solid Waste Facilities (Table 60.05.60.1.S8 and G8)

The standards require screening for waste storage facilities on sites where buildings have a combined square footage of at least 4,000 square feet and provide several screening options. The guideline provides a more flexible path if the facilities are screened from an abutting street, if approved through a Type 3 Planning Commission review.

Townhouse standards and guidelines (Table 60.05.60.2)

Townhouse standards generally rely on the same standards above that address the location of main entries, window coverage, required outdoor open area, tree plantings, garage and off-street parking areas, driveway location and driveway approaches, and solid waste facilities. In addition, new standards and guidelines have been added that relate to the maximum number of units in a townhouse structure. Driveway location and access standards for townhouses will be covered at the February 9 work session.

Cottage cluster standards and guidelines (Table 60.05.60.3)

Cottage cluster standards generally rely on the same standards above that address the location of main entries, window coverage, required outdoor open area, tree plantings, garage and off-street parking areas, driveway location and driveway approaches, and solid waste facilities. In addition, new standards and guidelines have been added that relate to the maximum number of dwellings in a cottage cluster, cottage orientation and common courtyards, community buildings, pedestrian access, parking design, and incorporating existing structures (including ADUs) into proposed cottage clusters developments.

Content for the February 9 Work Session

Staff is still reviewing feedback from the December 15 Planning Commission work session, and will bring updated versions of Chapters 20, 30 and 90 back to the Planning Commission for additional consideration.

In addition, staff is working on additional changes to Chapter 60, including [Section 60.35 Planned Unit Development](#) and [Section 60.55 Transportation Facilities](#), and anticipates that these will also be available for review at the February 9 work session.

Proposed Comprehensive Plan Updates

Staff anticipates that proposed Comprehensive Plan updates will be available for review in March or April 2022.

Discussion

Staff is generally interested in comments that Planning Commission members have on the approach to draft code updates for Chapters 40, 50 and 60. That said, below are some of the most important questions that we'd like to highlight for the Jan. 19 work session:

- Do you have any comments on the approval criteria for Single-Detached and Middle Housing Design Review Two ([Section 40.21.15.2.C.4](#)) and Single-Detached and Middle Housing Design Review Three ([Section 40.21.15.2.C.3](#))?

- Do you have any comments on the Design Standards and Design Guidelines in Section 60.05.60: Design Standards and Guidelines for Single-Detached Dwellings and Middle Housing?
- After reviewing the Design Guidelines in Section 60.05.60, do you have any thoughts on the outcome if a developer chooses to use multiple guidelines? Staff could consider not allowing a certain combination of guidelines to be selected.
- Is there anything that you would like to know more about for the Feb. 9 work session?

Tentative Project Schedule

- **Feb 9.** – Planning Commission work session to discuss code updates (Part 3)
- **Mar. 15** – City Council work session on draft code updates
- **Feb.-Apr.** – Public review of draft code
- **Mar.-Apr.** – Consultant prepares updates to the Comprehensive Plan
- **Mar.-Apr.** – Planning Commission work session on Comprehensive Plan updates
- **Apr. 19** – City Council work session on draft code and Comprehensive Plan updates
- **May 18** – Planning Commission public hearing to begin the adoption process
- **Jul. 19** – City Council public hearing to adopt changes to the Comprehensive Plan and Development Code updates