



Home Builders Association  
of Metropolitan Portland

October 4, 2021

Mayor Julie Fitzgerald  
Wilsonville City Council  
29799 SW Town Center Loop E  
Wilsonville, OR 97070

**Subject: Ordinance 851, Middle Housing Public Hearing**

Dear Mayor Fitzgerald and Councilors:

The Home Builders Association of Metropolitan Portland (“HBA”) represents over 850 companies and tens of thousands of women and men who work in the residential building and remodeling industries throughout the greater Portland area. HBA members finance, build and service all forms of housing, including middle housing. We work to promote housing affordability and are dedicated to maximizing housing choice for all who reside in the region.

HBA supports the City’s swift progress toward implementing House Bill 2001 (“HB2001”) and its companion, Senate Bill 458 (“SB458”), which provides for an expedited land division for qualifying middle housing applications. At the same time, HBA is concerned that SB458 implementation could create confusion based on the difference between state and local definitions for ‘lot’ and ‘parcel’, as well as the term used to describe a unit of land resulting from a middle housing land division. Additionally, HBA is concerned the proposed code changes would prevent certain middle housing types from proceeding pursuant to a SB458 middle housing land division.

The City strives to promote middle housing home ownership opportunities, which are facilitated by a predictable environment for financing, review, and construction. However, as written, the proposed code amendments (“Proposal”) adds uncertainty to the process. To support financial market feasibility for middle housing in Wilsonville, HBA urges the City to revisit the Land Divisions and various zone development code sections to **ensure its middle housing terms and processes are consistent with ORS 92.010 and SB458 provisions.**

Specifically, the City’s proposed Section 4.001, Definitions, defines the following terms:

‘147. Lot: A unit of land owned by or under the lawful control and in the lawful possession of one distinct ownership, or separated from other land by a drawing on a recorded subdivision or partition plat. However, does not include a unit of land created through a middle housing land division.’

‘206. Parcel: (1) A unit of land resulting from a partition and (2) Within the Coffee Creek Industrial Design Overlay District, areas bounding by addressing streets, supporting streets and/or through connections are defined as a parcel. [Added by Ord. #812, 2/22/18]’

‘176: Middle Housing Land Division Unit: A unit of land resulting from a Middle Housing Land Division. Not considered a lot except for platting and property transfer purposes. Each Middle Housing Land Division Unit is considered part of a parent lot and are not further divisible. Each Middle Housing Land Division Unit has one dwelling unit.’

Whereas, ORS 92.010(4) states: “‘Lot’ means a single unit of land that is created by a subdivision of land.’ And, ORS 92.010(6) states: “‘Parcel’ means a single unit of land that is created by a partition of land.’

While the above state and local term consistency is largely critical for financing, HBA is also concerned with internal code consistency for adopting and applying clear and objective standards for housing. For example, proposed code section 4.232.03.E states that

“An applicant for a land division may process the land division as a Middle Housing land division if all the following are met: ... Evidence demonstrates how buildings or structures on a *resulting lot or parcel* will comply with applicable building code provisions relating to new property lines and, notwithstanding the creation of the new *middle housing land division units*, how structures or buildings located on the newly created *middle housing land division units* will comply with the Oregon residential specialty code.” (*Italics added for emphasis*).

The above criterion appears to use different terms to describe a unit of land that results from a ‘parent’ lot middle housing land division. This could lead to the application of unclear and/or discretionary standards for middle housing. **Thus, in addition to the platting and property transfer purposes, HBA stresses that inter- and intra-code consistency for the terms ‘lot’ and ‘parcel’ is important for the legal acquisition, financing, and development of land for middle housing.**

SB458 is clear that a city or county shall approve a tentative plan for and apply established expedited land division procedures when reviewing a qualifying middle housing land division application. Importantly, if approved, the resulting units of land are defined as lots or parcels, per ORS 92.010. These units of land can be built upon, and bought and sold by individual households, sooner than lots or parcels resulting from other land division procedures.

Unfortunately, significant changes dated October 1, 2021 to Subsection 4.232.03.G.1 and 2 appear to limit the ability to process certain middle housing land division applications. The reason for the recent revisions is ostensibly to avoid yielding units of land ‘substantially similar’ to detached single-family lots. However, SB458 does not establish parent lot criteria – whether related to size, when an existing home was constructed, or any other standard—for the purpose of requiring local jurisdictions to process qualifying applications pursuant to ORS 197.360 - 197.380. **As such, the City should not restrict any given middle housing type from processing under a middle housing land division.**

The purpose of SB458 was to create lots or parcels that can be bought and sold independently from one another. In the case of two, three and four-unit clusters, these middle housing types function more like single detached lots than attached middle housing types. **Whether the City desires to allow or restrict further division of lots resulting from a detached middle housing land division, the City retains that option through its ability to condition – or not condition – any given plat.**

The Planning Commission unanimously approved the City’s middle housing siting and design standards in September, and Council has not publicly deliberated on proposed Subsections

4.232.03.G.1 and 2. If approved, these changes would limit middle housing land divisions and reduce the number of home ownership opportunities available at all price points. If the City wishes to readdress the siting standards for the middle housing application types referenced in these sections, it should revisit Subsections 4.232.03.G.1 and 2, to ensure they do not cause unreasonable cost or delay.

**If the Council chooses to move forward and adopt the Planning Commission-approved siting standards for 2-4 unit cluster divisions, the City should remove the proposed language in proposed Subsection 4.232.03.G.1 and 2 that would otherwise restrict them.**

HBA supports the City's move to address equity in both renting and home-buying. More housing inventory across the income spectrum -- for both rental and purchase -- is and will be needed to accommodate our region's households. By allowing a greater amount of middle housing options to be built throughout the City, Wilsonville is creating an environment where its housing stock can more effectively meet a variety of incomes, needs, and preferences. While rentals will always remain an important part of Wilsonville's housing portfolio, the ability to purchase a home of any size can change a household's trajectory, and have a positive ripple effect for generations.

The City's HB2001 work, and a refined SB458 implementation, will ensure that all forms of middle housing have a chance to be on new distinct tax lots. These new lots -- and the homes they carry—represent households across the home budget spectrum with greater chances at building wealth through home equity-building over time. By expanding home ownership opportunities to more of its population, the City is offering its residents a highly important financial investment tool, while promoting an increasingly local and diversified tax base.

Respectfully,



Roseann Johnson

Assistant Director of Government Affairs

Cc: Kristin Akervall, Council President  
Charlotte Lehan, Councilor  
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City Recorder