City of Wilsonville Community Development Department, Planning Division

# Technical Comments to Amend SB 1537-4

February 8, 2024

**An updated version of SB 1537 (the "dash 4" amendments) was heard today by the Senate Committee On Housing and Development. The following technical comments update the City's prior comments of Feb. 7 on SB 1572 as introduced.**

**While a number of the City's issues of concerns were address in SB 1537-4, several significant problems remain unaddressed.**

## Sections 1-7: Housing Accountability and Production Office - Neutral

Generally, the City does not see the HAPO clearly benefiting housing production and sees more value in redirecting funding to the development of affordable housing projects. If HAPO is created, it should support cities, not create more government red tape, and fund affordable housing projects and infrastructure that will stimulate housing production.

- **Amend** Page 7, Lines 15-18: Add language that hearings officers and administrative law judges be versed in land use and housing policy to ensure accurate and effective handling of complaints under this statute. *No change in -4 amendment.*

## Sections 12-23: Financial Assistance Supporting Housing Production

The City is pleased to see additional infrastructure projects qualifying for funding opportunities in the -4 amendment.

- **Amend:** The City continues to encourage exploration of options to fund larger, long-term infrastructure projects and site acquisition for affordable housing in future urban growth boundary expansion areas (urban

reserves), to ensure a future pipeline of land ready for moderate- to low-income housing development (while the land costs substantially less). *No change in -4 amendment.*

### Sections 37-43: Housing Land Use Adjustments – Oppose moderately

While some of our technical recommendations were resolved in the -4 amendment, the City has grave concerns regarding Mandatory Adjustments and recommends amending the following:

- **Amend** Page 49, Line 26: Please define a limit for articulation adjustments as these should not be waived entirely; *No change in -4 amendment.*
- **Amend** Page 49, Lines 29-30: Please reconsider deleting garage door orientation from this list as it creates significant design and safety implications for the entire streetscape and neighborhood (particularly when the project is not infill); partially resolved in -4 amendment. Adjustment language is still there but language added to exempt safety-related standards from adjustments. *No change in -4 amendment.*
- **Amend** Page 50, Lines 2-4: Please consider reducing the 30% adjustment to window area to a 15-20% adjustment (at least on front facades). This is the highest adjustment in the list (by far), and in an urban or town center environment, reducing window glazing by 30% will be substantial and degrade the activity and feelings of safety of the mixed-use environment; the minimum percent in climate-friendly areas should be 24% of the total façade. *No change in -4 amendment.*
- **Amend** Page 50, Line 7-8: Modify *"transit street orientation requirements"* to "transit-oriented street requirements." *No change in -4 amendment.*
- **Amend** Page 51, Line 14: Modifications are needed to the Mandatory adjustments exception process. The current language assumes adjustments have been requested, developers are still available to comment, and is far too subjective to make a determination under.

Proposed amendments include:

- **Amend** with bold text (c)(A) "Within the previous 5 years **the city has not denied more than 10% of received adjustment requests**;" or *No change in -4 amendment.*
- (B) The adjustment process is flexible and accommodates project needs as demonstrated by testimonials of housing developers who have utilized the adjustment process within the previous five years. **If a local government has had no adjustment applications in the previous five years, this shall be considered met. If a local government has contacted all housing developers who have utilized the adjustment process within the previous five years and received no responses, this shall be considered met. Rather than testimonials, local governments may submit information regarding significant housing production within the city during the previous five years without the necessity of adjustments.** *No change in -4 amendment.*

**Sections 44-47: Limited Land Use Decisions - Neutral**

While some recommendations are resolved in the -4 amendment, the City proposes more time to vet and improve the language in these sections and recommends the following amendment (at minimum):

- **Amend** Page 54, Line 11: Approval of expansion of non-conforming uses should be removed or clarified that it only applies for residential uses where additional units are being created by approval of the expansion. *No change in -4 amendment.*

**Sections 48-60: One-Time Site Additions To Urban Growth Boundaries – Oppose strongly**

The City has several issues of strong concern regarding the proposed additions to UGB and recommends the following amendments:

- **Amend** Page 56, Line 22-33: The most notable gaffe is the ridiculous notion that a UGB expansion is not a land use decision. Inclusion of this language begs the question that if a UGB expansion, allowing the conversion of rural land to urban uses, is not a land use decision, what is? This is a dangerous precedence. *No change in -4 amendment.*

- **Amend** Page 56, between Lines unknown: Add language in bold preventing a nearby jurisdiction from expanding into another jurisdiction's urban reserve areas. The City recommends this language, **"(c) Has written support from neighboring cities that are also adjacent to the site or only separated by a road."** *No change in -4 amendment.*
- **Amend** Page 58, Line 4: The City does not support the language *"Metro may not conduct a hearing to review or select petitions or adopt amendments to its urban growth boundary under this section."* A process like this means there is no ability for a local city to make their case to the Metro Council or have an opportunity to appeal a decision if they are denied yet need that land to meet housing production targets and do not agree with Metro's discretionary decision around which applications "best comply" and "maximize development of needed housing". *No change in -4 amendment.*
- **Amend** Page 58, Line 19: Development-ready is not defined and needs to be in order to document qualifications under Section 52 in a manner that can be applied through this objective process. *No change in -4 amendment.*
- **Amend** Page 58 Line 29 to Page 61 Line 9, Lines 6-45: Sections 53 and 54 should only be required where a City does not already have a Concept Plan already adopted for the applicable UGB proposal area that went through a public process. This Section involves more process, hearings, and input than the actual UGB expansion decision at a disproportionate level. This would make sense where a City does not know where it has willing property owners or does not have a long-range plan for growth. However, many cities know which area or urban reserve they will seek to grow in, and would seemingly already have a concept plan. In this scenario, is the work necessary to consider all these "other areas or sites" when they don't make the most sense for growth and lag behind other areas that already have a concept plan? *No change in -4 amendment.*
- **Amend** Page 62, Lines 15-16: Section 55 states, *"a city shall adopt a binding conceptual plan as an amendment to its comprehensive plan."* Will these concept plans still need to meet State and Regional requirements as well? The statement should have a clarifying clause at

the end that states "**that satisfies State and Regional statutory requirements for concept planning.**" *Not resolved in -4 amendment*

- **Amend** Page 63, Lines 11-13: Enforcement mechanisms requiring the agreed upon amount of low-and moderate-income housing need to be strengthened. *15% of market rate units is likely not substantial enough to ensure development of the low- and moderate-income housing.* Affordable housing development should commence at 50% of occupancy of market rate units. As written, a grading permit would qualify for "commenced," and a developer could grade the land, get their final 15% market rate COOs and then they walk away with zero units of affordable housing constructed and ready for occupancy. In addition to **changing 15 percent to 50%**, we also suggest adding the following text to the end of that line, "**and 50 percent of the affordable housing units have obtained certificates of occupancy prior to the city issuing certificates of occupancy for the last 15 percent of market rate units;**" *No change in -4 amendment = no commitment to affordability.*
- **Amend** Page 63, Line 19: Financial penalties for noncompliance with the affordability provisions needs to be spelled out, otherwise there will be no accountability. *No change in -4 amendment = no commitment to affordability*
- **Amend** Page 64, between Lines 11-12: Section 56 needs to add a clarifying statement that "**(3) This Section can only be used once under this Act."** *No change in -4 amendment.*
- **Amend** Section 58: Page 65 Line 29 to Page 66 Line 7 appears to be a Takings and is problematic to remain included. Needs to be amended or stricken. *No change in -4 amendment.*

For more information, contact Community Development Dept, Planning Div:

**Miranda Bateschell**, Planning Director
City of Wilsonville
503-570-1581
bateschell@ci.wilsonville.or.us

**Daniel Pauly**, Planning Manager
City of Wilsonville
503-570-1536
pauly@ci.wilsonville.or.us