

1600 SE 190th Avenue, Portland Oregon 97233-5910 • PH. (503) 988-3043 • Fax (503) 988-3389

**STAFF REPORT FOR THE PLANNING COMMISSION HEARING
APRIL 2, 2018**

**AMENDMENTS RELATING TO AFFORDABLE HOUSING IN THE URBAN GROWTH BOUNDARY
(PC-2018-9900)**

Staff Contact:
Adam Barber, Senior Planner
adam.t.barber@multco.us (503) 988-0168

SECTION 1.0 INTRODUCTION

This Proposal, PC-2018-9900, relates to the regulation of affordable housing within the Urban Growth Boundary (UGB) in unincorporated Multnomah County. A Planning Commission Work Session on this proposal occurred on February 5, 2018.

In general, this proposal implements state law passed in 2017 and amended in 2018 (cited below) mandating local governments to adopt several practices to increase the housing supply within the UGB. More specifically, this proposal will:

1. Allow accessory dwelling units (ADUs) in areas zoned for detached single-family residential use within the urban growth boundary. ADUs are secondary dwellings created on a property that already has a primary single-family home. This proposal will not allow ADUs outside of the urban growth boundary. Such development is generally prohibited outside of the urban growth boundary by state law and the County Comprehensive Plan (Exhibit G);
2. Develop reasonable siting and design standards for new ADUs inside the urban growth boundary; and
3. Add to county code uses currently listed in state law associated with a place of worship, including allowing housing associated with a non-residential place of worship located in an area zoned for residential use within the urban growth boundary.

Staff Contact: Adam Barber

Background

Senate Bill 1051 (2017 Legislative Session, Exhibit A) and a clarification to SB 1051 added through House Bill 4031 (2018 Legislative Session, Exhibit B) mandate local governments to implement several practices with the intent of increasing the housing supply across the state.

Sections of Senate Bill 1051 requiring county code amendments include:

- Section 6, Subsection 5 (amends ORS 197.312), *as amended by* HB 4031, Section 7 (2018) – County must allow “the development of at least one accessory dwelling unit for each detached single-family dwelling, subject to reasonable local regulations relating to siting and design,” in areas zoned for detached single-family dwellings inside the urban growth boundary.¹ Effective July 1, 2018.
- Section 5, Subsection 4 (amends ORS 197.307) – County may adopt clear and objective standards for accessory dwelling units as long as regulations do not have the effect of discouraging needed housing through unreasonable cost or delay. Effective August 15, 2017.
- Section 7, Subsection 1 and Subsection 4 (amends ORS 215.441) – Presents existing ancillary uses associated with a place of worship in list form rather than paragraph form (text formatting change). Requires the county to allow housing or space for housing in a building detached from a place of worship as long as: (1) at least 50% of the units are affordable (as defined by statute); (2) the property is in an area zoned for residential use inside the urban growth boundary; (3) the housing or space for housing complies with all land use and development requirements in the underlying zone; and (4) there is a covenant to preserve the affordable housing units for that purpose for 60 years. Effective August 15, 2017.

Proposal

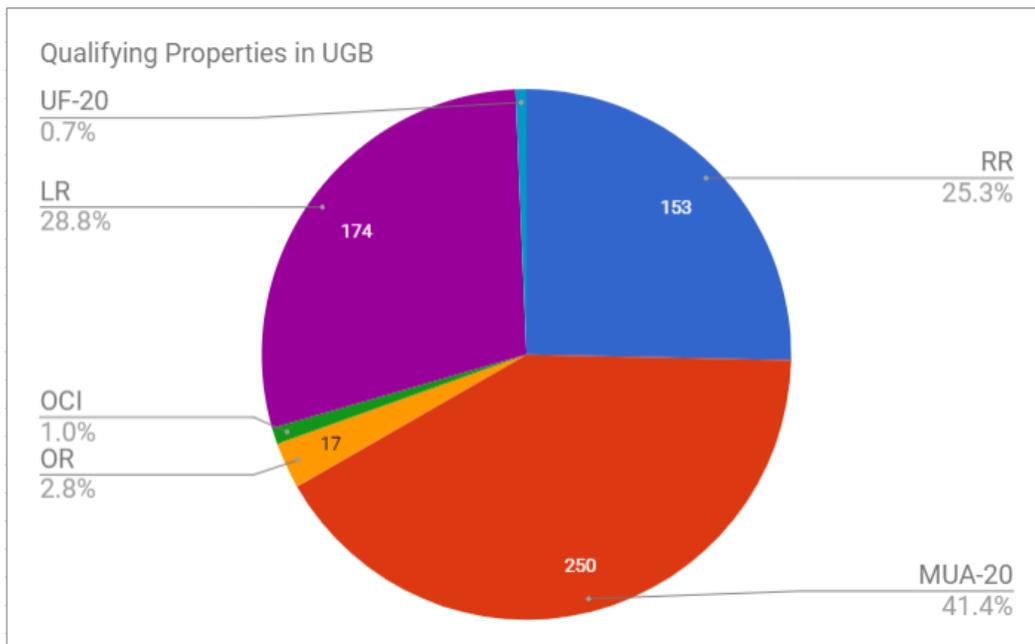
The intent of this Proposal is to increase the housing supply within the urban growth boundary subject to reasonable regulations that help ensure the new housing is consistent with current development standards. Additional design and siting standards for ADUs are proposed to help reduce construction costs by providing flexibility in construction methods and by establishing a limit on the size of an accessory building unit. Lower construction costs is expected to help with housing affordability.

As noted above, SB 1051 applies only to properties within the urban growth boundary, and specifically “in areas zones for detached single-family dwellings.” Staff interprets the phrase “in areas zoned for detached single-family dwellings” to equate to county base zones listing a single-family dwelling as an Allowed Use, or where a single-family dwelling is permitted through a non-discretionary permit process. Qualifying county zones located within the UGB are listed

¹ The clarification that ADUs must be allowed in qualifying single-family zones inside the UGB was made in HB 4031 (2018) after the UGB reference was inadvertently omitted in the original 2017 SB 1051. HB 4031 has been signed by the Senate President and Speaker of the House and is awaiting the Governor’s signature.

below, totaling 604 properties (Exhibit E). This could allow for as much as a 6.45% increase in the potential total number of households in unincorporated Multnomah County according to housing data provided on page 10-4 of the Multnomah County Comprehensive Plan showing 9,354 households existing in the county’s rural jurisdiction (Exhibit G).

- RR (Rural Residential) – 153 properties
- MUA-20 (Multiple Use Agriculture-20) – 250 properties
- OR (Orient Rural Center Residential) – 17 properties
- OCI (Orient Commercial-Industrial) – 6 properties
- LR (Urban Low Density Residential LR-5, LR-7, LR-10) – 174 properties
- UF-20 (Urban Future-20) – 4 properties



SECTION 2.0 PROPOSED CODE AMENDMENTS

Code amendments are proposed to Chapters 33 (West Hills Plan Area), 36 (West of Sandy River Plan Area) and Chapter 11.15 (Urban unincorporated land). Zones in Chapters 34 (Sauvie Island / Multnomah Channel Plan Area), 35 (East of Sandy Plan Area), and 38 (Columbia River Gorge National Scenic Area) were not affected by the referenced legislation and are not being amended.

The following text is used within the proposed amendments:

Double Underline = Proposed new language
~~Strikethrough~~ = Language proposed for removal

* * * Indicates a minor gap in code for brevity, typically within the same section

----- Indicates a larger gap, typically in code between different sections

Amending the Definition Section

Amending the definition provisions of:

- MCC 33.0005
- MCC 36.0005
- MCC 11.15.0010

Accessory Building – A subordinate building, the use of which is clearly incidental to that of the main building on the same lot.

Accessory Dwelling Unit (ADU) – An interior, attached, or detached dwelling unit, the use of which is clearly accessory and incidental to that of a lawfully established single-family dwelling on the same Lot of Record. For purposes of this definition, interior means the ADU is located within a building that was not originally designed or used as an ADU. Attached means at least a portion of one wall or floor of the ADU is connected to a building. Detached means the ADU is not connected to any other building. A structure that qualifies as an apartment, duplex dwelling, two-unit dwelling, multi-plex dwelling structure, an accessory building, or an accessory structure is not an ADU.

Accessory Use – A lawful use that is customarily subordinate and incidental to a primary use on a lot.

* * *

Apartment – Any building or portion thereof used for or containing three or more dwelling units.

* * *

Dwelling Unit – A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Staff Contact: Adam Barber

Dwelling (Duplex or Two-Unit) – A detached building designed for two dwelling units, whether in separate or single ownership.

Dwelling (Single Family Detached) – A detached building designed for one dwelling unit including Mobile Homes under the provisions as specified within the base zone.

Dwelling (Multi-Plex Structure) – See Multi-plex Dwelling Structure.

* * *

Duplex Dwelling – See Dwelling (Duplex or Two Unit).

Family –

(a) Any one of the following shall be considered a family when living together as a single housekeeping unit within a dwelling unit (excluding servants):

1. An individual or two or more persons related by blood, marriage, legal adoption, foster care or guardianship; or,
2. A group of not more than five (5) unrelated persons; or,
3. Residential Home – A residence for (5) or fewer unrelated mentally or physically handicapped persons and staff persons who need not be related to each other or any other home resident. A residential home must be registered as an Adult Care Home with the Multnomah County Department of County Human Services pursuant to Chapter 23 of the Multnomah County Code.

(b) Each group described herein or portion thereof, shall be considered a separate family.

* * *

Floor Area – The area included within the surrounding exterior walls of a building or portion thereof, exclusive of vent shafts and courts. The floor area of a building, or portion thereof, not provided with surrounding exterior walls shall be the usable area under the horizontal projection of the roof or floor above.

* * *

Habitable Dwelling – An existing dwelling that:

- (a) Has intact exterior walls and roof structure;
- (b) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;

- (c) Has interior wiring for interior lights;
- (d) Has a heating system; and
- (e) Was lawfully established.

* * *

Lawfully Established Dwelling – A dwelling that was constructed in compliance with the laws in effect at the time of establishment. The laws in effect shall include zoning, land division and building code requirements. Compliance with Building Code requirements shall mean that all permits necessary to qualify the structure as a dwelling unit were obtained and all qualifying permitted work completed.

* * *

Manufactured Home – See Mobile home.

Mobile Home – A structure transportable in one or more sections, which is designed to be used for permanent occupancy as a dwelling and which is not constructed to the standards of the uniform building code (the State of Oregon Structural Specialty Code and Fire and Life Safety Regulations). Mobile homes include residential trailers and manufactured homes subject to the siting provisions as specified within the base zone:

- (a) Residential Trailer – A mobile home which was not constructed in accordance with federal manufactured housing construction and safety standards (HUD), in effect after June 15, 1976. This definition includes the State definitions of Residential Trailers and Mobile Homes stated in the Oregon Revised Statutes (ORS) 446;
- (b) Manufactured Home – A mobile home constructed in accordance with federal manufactured housing construction and safety standards (HUD code) in effect after June 15, 1976;
- (c) For flood plain management purposes (MCC 39.5000 – 39.5055) only, the term Manufactured Home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days.

* * *

Multi-Plex Dwelling Structure – A row house or town house apartment structure.

* * *

Park-Model Recreational Vehicle – A recreational vehicle built on a single chassis, mounted on wheels, and designed to facilitate movement from time to time but not intended to be towed on a regular basis and that does not exceed 400 square feet when in the set-up mode and designed to provide recreational seasonal or temporary living quarters which may be connected to utilities necessary for the operation of installed fixtures and appliances.

Permitted Use – A use permitted in a base zone without the need for special administrative review and approval, upon satisfaction of the standards and requirements of this Chapter.

* * *

Primary Use – See Permitted Use.

* * *

Recreational Vehicle – A vehicle as defined in ORS 446.003 and specifically includes camping trailers, camping vehicles, motor homes, recreational park trailers, bus conversions, van conversions, tent trailers, travel trailers, truck campers, combination vehicles which include a recreational vehicle use, and any vehicle converted for use or partial use as a recreational vehicle. Recreational Vehicles contain eating and sleeping facilities and are equipped with one or more of the following:

- (a) Holding tank(s);
- (b) Liquid petroleum gas; or
- (c) A 110 to 240 volt electrical systems.

* * *

Residential Home – See Family.

Residential Trailer – See Mobile Home.

* * *

Travel Trailer – A non-motorized, towable recreational trailer which contains an Oregon Insignia of Compliance as a recreational vehicle. Motor homes, converted buses, van conversions, slide-in truck campers and folding camper trailers (“pop-up” campers) are not considered a travel trailer.

Two-Unit Dwelling – See Dwelling (Duplex or Two-Unit).

Amending the Uses Section of Applicable Zones

Amending the zoning use provisions of:

- *MUA-20 Allowed Use MCC 36.2820(L)*
- *MUA-20 Primary Uses MCC 11.15.2128(F)*
- *RR Allowed Use MCC 33.3120(L); 36.3120(M)*
- *RR Primary Uses MCC 11.15.2208(F)*
- *OR Allowed Use MCC 36.3420(L)*
- *OCI Allowed Use MCC 36.3520(L)*
- *UF-20 Primary Uses MCC 11.15.2386(F)*
- *LR-5 Primary Uses MCC 11.15.2626(D)*
- *LR-7 Primary Uses MCC 11.15.2606(D)*
- *LR-10 Primary Uses MCC 11.15.2566(D)*

Staff Note: *The following uses and their accessory uses are allowed in each referenced zone, subject to all applicable supplementary regulations contained in Multnomah County Code.*

() Accessory Dwelling Unit (ADU), subject to the following standards:

(1) The ADU is sited entirely inside the urban growth boundary.

(2) The ADU is not accessory to a health hardship dwelling or any other type of temporary dwelling.

(3) Transportation Impacts shall be mitigated per Multnomah County Road Rules. The ADU shall use the same lawfully established driveway entrance as the single-family dwelling, although the driveway may be extended to the ADU. No variance, adjustment, deviation or any other modification to this shared driveway provision is allowed.

(4) The floor area of the ADU shall not exceed either 800 square feet, or 75% of the floor area of the single-family dwelling to which the ADU is accessory, whichever is less.

Staff note - Staff's research suggests 3-bedrooms can fit in an 800 sf home and this size would allow use of a mobile home, which must be at least 600 sf by county code, as an ADU. The 75% floor area cap is proposed because the primary dwelling could be a 600 square foot mobile home and a 75% cap would allow a 450 square foot ADU.

For comparison purposes, below is ADU size limitation information from a sampling of other jurisdictions:

- Average Maximum ADU Size Allowed = 803 Square Feet
- Average Minimum ADU Size Required = 263 Square Feet
- Average Maximum ADU Size (%) Allowed in Comparison to Dwelling = 48 Percent

For additional details on size limitations from other jurisdictions, see Exhibit H.

(5) The ADU shall either be:

(a) Attached to or located within the interior of a lawfully established single-family dwelling;

(b) Attached to or located within the interior of a lawfully established building that is accessory to a single-family dwelling, provided that the accessory building existed on the effective date of this ordinance;

(c) Attached to or located within the interior of a lawfully established building that is accessory to a single-family dwelling, provided that the accessory building is located at least 7 feet and no more than 20 feet from the single family dwelling, measured at the closest points between exterior walls of both buildings. Chimneys, eaves, building and window trim are not included in the measurement above. No variance, adjustment, deviation or any other modification to any of the distances listed in this provision are allowed; or

(d) Detached, provided that the detached ADU is located at least 7 feet and no more than 20 feet from the single family dwelling, measured at the closest points between exterior walls of both buildings. Chimneys, eaves, building and window trim are not included in the measurement above. No variance, adjustment, deviation or any other modification to any of the distances listed in this provision are allowed.

(6) An attached or interior ADU shall include at least one separate exterior doorway to the outside. Internal entrance(s) to the attached building are allowed.

(7) The following designs are not permitted for use as an ADU: Recreational vehicle, park model recreational vehicle, yurt or any other similar design not intended for permanent human occupancy or any structure unable to meet all applicable construction or installation standards.

Staff note – *The definition of Recreational Vehicle includes camping trailers, camping vehicles, motor homes, recreational park trailers, bus conversions, van conversions, tent trailers, travel trailers, truck campers, and other similar vehicles.*

(8) Short-term rental of the ADU is prohibited. For purposes of this subsection, short-term rental is defined as fee-based occupancy for a period less than 30 consecutive calendar days. Month-to-month rental agreements for long-term purposes are not short-term rental.

(9) The land owner shall sign and record with the county a covenant stating that the ADU cannot be used for short-term rental, as defined in this section. The covenant shall apply until such time the subject property is annexed into a city and no longer subject to county land use regulations.

Amending Accessory Structure Regulations for Zones Qualifying for ADUs

Amending the accessory structure provisions of:

- *MUA-20 Allowed Uses – MCC 36.2820(F)*
- *RR Allowed Uses - MCC 33.3120(F); 36.3120(G)*
- *OR Allowed Uses - MCC 36.3420(F)*
- *OCI Allowed Uses - MCC 36.3520(F)*

Staff Note: *The following uses and their accessory uses are allowed in each referenced zone, subject to all applicable supplementary regulations contained in Multnomah County Code.*

() Accessory Structures subject to the following:

* * *

(6) The combined footprints of all buildings accessory to an accessory dwelling unit (ADU) shall not exceed combined footprints of 400 square feet and the combined footprints of all Accessory Buildings on a Lot of Record, including buildings accessory to an ADU, shall not exceed 2,500 square feet.

(7) An Accessory Structure exceeding any of the Allowed Use provisions above, except for the combined footprints allowed for all buildings accessory to an ADU, shall be considered through the Review Use provisions.

Amending the accessory structure provisions of:

- *MUA-20 Accessory Uses - MCC 11.15.2134(D)*
- *RR Accessory Uses - MCC 11.15.2214(D)*
- *UF-20 Uses Permitted Under Prescribed Conditions - MCC 11.15.2388(E)*

() Other structures or uses customarily accessory or incidental to any use permitted or approved in this district. The combined footprints of all buildings accessory to an accessory dwelling unit (ADU) shall not exceed combined footprints of 400 square feet; and

Amending the accessory structure provisions of:

- *LR-5 Uses Permitted Under Prescribed Conditions - MCC 11.15.2628*
- *LR-7 Uses Permitted Under Prescribed Conditions - MCC 11.15.2608*
- *LR-10 Uses Permitted Under Prescribed Conditions - MCC 11.15.2568*

(A) Accessory buildings such as garages, carports, studios, pergolas, private workshops, playhouses, private greenhouses or other similar structures related to the dwelling in design, whether attached or detached, provided:

- (1) The height or total ground floor area of accessory buildings shall not exceed the height or ground floor area of the main building on the same lot.
- (2) If attached to the main building, an accessory building shall comply with the yard requirements of this base zone.
- (3) If detached and located behind the rear-most line of the main building, or a minimum of 50 feet from the front lot line, whichever is greater, a one-story accessory building may be located adjacent to or on a rear and/or side lot line not abutting on a street.
- (4) A detached accessory building shall occupy no more than 25 percent of a required yard.
- (5) The combined footprints of all buildings accessory to an accessory dwelling unit (ADU) shall not exceed combined footprints of 400 square feet.

Amending Community Service Use Regulations

Amending the Community Service provisions of:

- MCC 33.6015(A)(4)
- MCC 36.6015(A)(1)
- MCC 11.15.7020(A)(4)

***Staff note** – Ancillary uses in (a) – (f) above were provided within the body of sub (1) in ORS 215.441 prior to 2017 SB 1051 which re-organized the uses into list form. These ancillary uses had not yet been incorporated into county code, which is why sub(1) does not contain strikethrough language to be removed. A zoning assessment for church uses and map showing existing places of worship is included in Exhibit F.*

The following uses and their accessory uses are allowed in each referenced zone, subject to all applicable supplementary regulations contained in Multnomah County Code.

() Church, or other nonresidential place of worship, including the following activities customarily associated with the practices of the religious activity:-

(a) Worship services;

(b) Religion classes;

(c) Weddings;

(d) Funerals;

(e) Meal programs;

(f) Child care, but not including private or parochial school education for prekindergarten through grade 12 or higher education; and

(g) Providing housing or space for housing in a building that is detached from the place of worship, provided:

(i) The subject property is located in a base zone that lists single-family dwelling as an Allowed Use, or where a single-family dwelling is permitted through a non-discretionary land use review process.

(ii) The subject property is located inside the urban growth boundary.

(iii) At least 50 percent of the residential units provided under this subsection (g) are affordable to households with incomes equal to or less than 60 percent of the median family income for Multnomah County.

(iv) The housing or space for housing complies with applicable land use regulations and meets the standards and criteria for residential development for the underlying zone, including the density standards for dwellings in the applicable zone.

(v) Housing and space for housing provided under subsection (g) of this section must be subject to a covenant appurtenant that restricts the owner and each successive owner of the building or any residential unit contained in the building from selling or renting any residential unit described in subsection (g)(iii) of this section as housing that is not affordable to households with incomes equal to or less than 60 percent of the median family income for Multnomah County for a period of 60 years from the date of the certificate of occupancy.

Amending Home Occupation Regulations

Staff Note - Multnomah County permits Type A, B and C Home Occupations with Type A being the least intensive. Chapter 11 does not list a Type C Home Occupation use.

- *Type A Home Occupations* allow up to one non-resident employee or two customers on the premises at one time and limit the home occupation to 20% of the gross floor area of the dwelling (including square footage of any attached garage), or 500 square feet, whichever is less. Must be conducted in the dwelling. No outdoor storage or signs allowed. No noise, lights, odor, dust, etc. detectable at property lines. Type A HO is a non-transferrable registration.
- *Type B Home Occupations* may be in the dwelling, or in an accessory structure. Allows 25% of total gross floor area of dwelling, attached garage and accessory buildings, or 1,000 square feet, whichever is less. Allows up to one non-resident employee and no more than two customers at one time. No noise, lights, odor, dust, etc. detectable at property lines. Permit expires in three years, with simplified path for renewal prior to expiration.
- *Type C Home Occupations*. Similar to Type B, but expands allowance to 35% of total gross floor area of dwelling, attached garage and any accessory buildings, or 1,500 square feet, whichever is less. Up to five employees allowed. No noise, lights, odor, dust, etc. detectable at property lines. Three-year permit, similar to Type B.

The proposed code amendments would allow a Type A home occupation conducted in association with an ADU, but prohibit Type B and Type C home occupations. Allowing a Type A home occupation would provide for small-scale business opportunities in keeping with the low impact, incidental nature of the ADU.

Chapter 11.15 does not list a Type C Home Occupation use. Instead, any proposal exceeding the provisions of a Type A Home Occupation, is reviewed as a Type B Home Occupation in Chapter 11.15 zones.

Amending the Type B Home Occupation provisions of:

- MCC 33.0550
- MCC 36.0550

TYPE B HOME OCCUPATION

(A) Type B home occupation is a lawful commercial activity that is conducted in a dwelling or accessory building, but not within or in association with an accessory dwelling unit, on a parcel by a business operator, is subordinate to the residential use of the premises, and complies with the following:

(* * *)

Amending the Type B Home Occupation provisions of MCC 11.15.7465 Home Occupations CU

Criteria for Approval

The approval authority shall find that the following standards are met:

- A. The standards found in MCC 11.15.7120.
- B. The home occupation does not employ more than 5 employees.
- C. The site has on-site parking as per MCC 11.15.6100 to accommodate the total number of employees and customers.
- D. No deliveries other than those normally associated with a single family dwelling and between the hours of 7 a.m. – 6 p.m.
- E. No outdoor storage or display.
- F. No signage (including temporary signage and those exempted under MCC 11.15.7912) with the exception of those required under MCC 11.05.500 - .575.
- G. No noise above 50 dba at the property lines.
- H. No repair or assembly of any vehicles or motors.
- I. The application has been noticed to and reviewed by the Small Business Section of the Department of Environmental Quality.
- J. Each approval issued by a hearings officer shall be specific for the particular home occupation and reference the number of employees allowed, the hours of operation, frequency and type of deliveries, the type of business and any other specific information for the particular application.
- K. The home occupation is not conducted within or in association with an accessory dwelling unit.

(* * *)

Amending the Type C Home Occupation provisions of:

- MCC 33.6660
- MCC 36.6660

Criteria for Approval

Staff Contact: Adam Barber

7.A.5 – TYPE C HOME OCCUPATION (CU)

(A) A Type C home occupation is a lawful commercial activity that is conducted in a dwelling or accessory building, but not within or in association with an accessory dwelling unit, on a parcel by a business operator, is subordinate to the residential use of the premises, and complies with the following:

SECTION 3.0 EXHIBITS

EXHIBIT A	ENROLLED VERSION OF SENATE BILL 1051 (2017 LEGISLATIVE SESSION)
EXHIBIT B	HOUSE BILL 4031 (2018 LEGISLATIVE SESSION)
EXHIBIT C	GUIDANCE ON IMPLEMENTING THE ACCESSORY DWELLING UNITS (ADU) REQUIREMENT UNDER OREGON SENATE BILL 1051, OREGON DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT, MARCH 2018
EXHIBIT D	SEPTEMBER 2016 MAP OF THE PORTLAND METRO AREA UGB (WITH GENERAL AREAS OF INTERLACHEN LANE, PLEASANT VALLEY AND SPRINGWATER IDENTIFIED)
EXHIBIT E	DETAIL MAP OF PROJECT AREA INSIDE URBAN GROWTH BOUNDARY
EXHIBIT F	PLACES OF WORSHIP ZONING ASSESSMENT AND MAP
EXHIBIT G	MULTNOMAH COUNTY COMPREHENSIVE PLAN CHAPTER 10 – HOUSING
EXHIBIT H	COMPARISON OF ADU SIZE REGULATIONS IN OTHER JURISDICTIONS