

HB 4063 -1 STAFF MEASURE SUMMARY

House Committee On Housing

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Sub-Referral To: Joint Committee On Ways and Means

Meeting Dates: 2/7, 2/14

WHAT THE MEASURE DOES:

Clarifies public improvements and conditions of development a local government may require as an assessment of “substantial completion” prior to land use approval of a residential subdivision, including road construction and paving, necessary offsite improvements for emergency services, and water and sewage disposal. Clarifies a city or county’s determination of substantial completion does not require the plat of a residential subdivision to be recorded. Requires a city or county to assign where necessary temporary addresses to lots in a residential subdivision utilizing preliminary, tentative, or proposed plat information, and requires applicants to notify the city or county whenever lot numbering or subdivision names change during development.

Directs the Oregon Business Development Department, in contract with a third-party consultant, to work in cooperation with three participating jurisdictions in a pilot program to identify: current processes for approving residential construction projects; sources and causes of delays, interruptions, or defects in the processes, resource constraints that contribute to the defects, and to identify, test and recommend solutions to reduce or eliminate the identified defects. Requires department to submit a report and recommendations to an interim committee of the Legislative Assembly no later than September 1, 2022. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Varied local government implementation of House Bill 2306 (2019) to address substantial completion, due to different resources and delays due to the pandemic
- Small construction items such as utility poles or street light placement delaying permit approval for major residential projects
- Bonding for public infrastructure guarantees developer will cover any damages to infrastructure during development process

EFFECT OF AMENDMENT:

-1 Replaces the measure.

Clarifies public improvements and conditions of development a local government may require as an assessment of substantial completion prior to land use approval of a residential subdivision, including road design to support all-weather access for emergency response or heavy construction vehicles, and necessary offsite improvements for emergency services as well as water, stormwater, and sewage disposal. Modifies definition of “substantial completion” to clarify local government authority to set development standards or determine alternative standards in agreement with a developer. Requires city or county to consult with public service districts to ensure conditions of development are in compliance with applicable laws and regulations, and any permits held by the city or county. Clarifies a city or county’s determination of substantial completion does not require the plat of a residential subdivision to be recorded. Requires a city or county to assign temporary addresses to lots in a residential subdivision utilizing preliminary, tentative, or proposed plat information, and requires applicants to notify the city or county whenever lot numbering or subdivision names change during development.

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Directs Department of Consumer and Business Services (DCBS), in contract with a third-party consultant, to work in cooperation with at least 10 different local governments throughout the state to research and analyze administrative procedures for approving residential construction projects. Requires contractor, in consult with participating local governments, to: calculate average length of time for project approval; identify best practices, administrative changes, or other remedies to reduce time necessary for required approvals; identify practices to prioritize projects designed for middle housing or individuals earning 80 to 150 percent of median family income in the region; identify training and resources, or procedural and policy changes needed by local governments to increase residential construction while maintaining critical infrastructure. Requires department to submit initial report and recommendations to an interim committee of the Legislative Assembly related to housing no later than December 1, 2022, and provide additional quarterly reports as deemed necessary by DCBS until December 1, 2023. Takes effect on the 91st day following adjournment sine die.

BACKGROUND:

Land use planning in Oregon involves broad public participation and local control. Local jurisdictions are required to prepare comprehensive land use plans that are consistent with a set of statewide planning goals, overseen by the Land Conservation and Development Commission (LCDC). Comprehensive plans are acknowledged by LCDC and implemented through local land use regulations that include zoning, regulation of subdivisions, and any other ordinances the local government deems necessary to give effect to its comprehensive plan, such as for noise, signage, or tree removal. Developers must apply for local approval of projects. Every application must have at least one public hearing to receive public input, and local governments may approve or reject the application. Projects may then be appealed to a specialized tribunal called the Land Use Board of Appeals (LUBA).

As part of a March 2021 technical report on the Regional Housing Needs Analysis methodology (directed by the legislative assembly in House Bill 2003 (2019), ECONorthwest estimated that statewide, 443,000 new single family and multi-family units across all affordability levels are needed to accommodate population growth in Oregon by 2040. The report estimates a shortfall of 110,000 units meet current housing demand due to underproduction. In its May and December 2021 economic forecasts, Oregon Office of Economic Analysis reported that housing inventory is the biggest challenge to single-family housing affordability, pointing to rising construction and lumber costs, increased interest rates and lengthy development timelines.

In an effort to address development and permitting timelines, House Bill 2306 (2019) required local governments to issue certain residential building permits that would otherwise have been denied for failure to meet conditions of development, when public improvements are substantially complete, and a bond or other approved financial guarantee has been secured. Substantially complete means certain systems meet applicable standards, including water, fire hydrants, sewage, storm drainage, curbs, and streets and street signs.

House Bill 4063 clarifies the public improvements and conditions of development a local government may require as an assessment of “substantial completion” prior to land use approval of a residential subdivision. The measure directs the Oregon Business Development Department via a third-party contractor, to work with at least three participating jurisdictions to analyze current processes for approving residential construction projects, identify barriers to and opportunities for reduced construction permitting and timelines, and report recommendations to an interim committee of the legislative assembly by September 15, 2022.