

## Carla McLane

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**From:** MARQUARDT Ryan \* DLCD <Ryan.MARQUARDT@dlcd.oregon.gov>  
**Sent:** Wednesday, June 10, 2026 4:47 PM  
**To:** shearerj@aks-eng.com  
**Cc:** Carla McLane; Brandon Hammond; PATTERSON Kenneth E; MARTIN Kelli N; MADSEN Joel \* DLCD; HERT Dawn \* DLCD; CROWELL Courtney \* GOV  
**Subject:** HAPO Inquiry: Multiunit development, City of Boardman (File# RVW26-000024)  
**Attachments:** 13849 20260602 HAPO Inquiry.pdf

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

Hello Joey,

I'm responding to an inquiry you submitted to HAPO on 6/2/2025 (attached). Please be advised that this response is guidance based on information you've provided and does not constitute legal advice.

Staff from the City of Boardman and the Oregon Department of Transportation (ODOT) are included on this response. [HAPO's policy](#) is to provide reciprocal guidance to applicants and local jurisdictions to ensure all parties have access to the same information.

The proposed development is for 240 apartment units on a site within the City of Boardman. ORS 197A.400(1) requires that a local government may adopt and apply only clear and objective standards, conditions and procedures regulating the development of housing. We're not aware that that the ORS 197A.400(1) would be inapplicable based on ORS 197A.400(2) (exemption for certain areas of Portland; designated historic areas).

BDC 4.10.200.A governs when a Traffic Impact Study is required. ODOT's 5/21/2026 letter cites BDC 4.10.200.A.1.b as a criterion met by this development that resulted in a requirement for a TIS ("*Any proposed development or land use action that ODOT states may have operational or safety concerns along a state highway;*"). This is a procedural requirement that is not clear and objective, and a housing development must have the ability to proceed under clear and objective procedures. For the TIS requirement to be allowable under ORS 197A.400, the city would need to find that the applicant elected review under discretionary procedures per ORS 197A.400(3), or that the TIS was required under applicability criteria applied in a clear and objective manner.

The approval criteria for a TIS are established in BDC 4.10.400.A, and approval of the development proposal requires satisfaction of the criteria within that section. The listed criteria are connected with "and", indicating that all criteria must be met. These include multiple discretionary criteria, such as "*mitigation measures satisfactory to the City Engineer, and ODOT*", "*Have the least negative impact on all applicable transportation facilities;*", and "*Make the most efficient use of land and public facilities as practicable*". These are approval standards that are not clear and objective, and a housing development must have the ability to proceed under clear and objective standards. For these standards to be allowable under ORS 197A.400, the city would need to find that the applicant elected review under discretionary standards per ORS 197A.400(3), or that the standards were applied in a clear and objective manner. Conditions of approval based on TIS standards would only be permissible if it is shown that the underlying standards are allowable.

HAPO is not responding to items 2-4 on page 4 of ODOT's 5/21/2026 letter. Those requests appear as subsidiary to whether the requirement for and approval standards of the TIS conform with ORS 197A.400.

In summary, there are sections of the BDC with discretionary language pertaining to TISs. These would be inapplicable for a housing application subject to review under clear and objective standards. Further review of

findings or recommended findings from the city would be necessary for a more detailed response, and those have not been provided with this inquiry.

Please feel free to contact me with any follow up questions or requests for clarification.

Thanks,  
Ryan

**Ryan**



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Cell:

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**Marquardt, AICP**

Housing Planner | Housing Accountability and Production Office

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*The Housing Accountability and Production Office is a joint office between the Department of Land Conservation and Development (DLCD) and the Department of Consumer and Business Services' Building Codes Division (BCD).*