

PLANNING COMMISSION DECISION MATRIX

SENATE BILL (SB) 391 – RURAL ACCESSORY DWELLING UNIT (ADU) TEXT AMENDMENTS

Land Use File No. 247-22-000671-TA

	Issue Area	SB 391 Criterion	Current Amendment Standards	Possible Alternatives
1	Should rural ADUs be allowed with additional standards or prohibited?	None	Allows an owner of a lot or parcel within an area zoned for rural residential use to construct one accessory dwelling unit on the lot or parcel. Applies to Rural Residential (RR10), Multiple Use Agricultural (MUA10), Urban Area Reserve (UAR-10), Suburban Residential (SR 2.5), and Westside Transect (WTZ) zones. Additional local standards are proposed.	<ol style="list-style-type: none"> 1. Prohibit rural ADU development in Deschutes County.
2	How should "Useable Floor Area" be defined?	The ADU cannot include more than 900 square feet of "useable floor area."	"Useable floor area" is undefined within SB 391 and the administering statutes. For the purposes of Deschutes County Code, "Useable Floor Area" currently means "the area of the accessory dwelling unit included within the surrounding insulated exterior walls, exclusive of garages, carports, decks and porch covers."	<ol style="list-style-type: none"> 1. Require the 900 square-foot limit to apply to the entire ADU structure, including garages and accessory components. 2. Set a maximum size limit to accessory components of ADUs such as garages. 3. Additional requirements for permitting standards on habitable versus non-habitable space (i.e. – Group R-3 building permits for habitable space and Group U permits for non-habitable space).
3	How should the 100-Foot Siting Distance requirement be interpreted?	The accessory dwelling unit will be located no farther than 100 feet from the existing single-family dwelling.	A unit must be located no farther than 100 feet from the existing single family dwelling, measured from a wall of the single-family dwelling to the nearest part of the "useable floor area" of the accessory dwelling unit.	<ol style="list-style-type: none"> 1. Requiring the entire footprint of an ADU to be located within 100 feet of the existing single-family dwelling.

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4	Are specific limitations warranted for Southern Deschutes County Groundwater Protection?	None	Due to vulnerable groundwater characteristics in southern Deschutes County, the Onsite Wastewater Division recommends increasing the minimum lot or parcel size for rural ADUs to be at least five (5) acres in size. The boundaries of this recommendation were defined by the upper Deschutes watershed area studied during the La Pine Demonstration Project, US Geological Survey report 2007-5237, USGS Fact Sheet 2007-3103.	<ol style="list-style-type: none"> 1. Prohibit all rural ADU development in the identified southern Deschutes County boundaries. 2. Maintain 5-acre minimum parcel size for rural ADU development and require advanced nitrogen reducing systems for wastewater treatment for both existing single-family dwellings and proposed ADUs. 3. Set a larger minimum parcel size requirement for all southern Deschutes County properties to qualify for rural ADU development. 4. Remove the minimum size requirements for all southern Deschutes County properties to qualify for rural ADU development.
5	Do the current amendments and ESEE analysis adequately address and protect Goal 5 and Natural Resources?	None	Allows rural ADU development in designated Goal 5 areas such as the Wildlife Area Combining Zone, subject to existing standards and requirements. Any development within Goal 5 sites such as the Flood Plain Zone or jurisdiction wetlands requires a Conditional Use Permit and review by local, state, and federal agencies to ensure compliance with environmental and natural hazard mitigation regulations. However, as presently drafted, the proposed amendments do not allow ADU development within the Flood Plain Zone (DCC 18.96).	<ol style="list-style-type: none"> 1. Prohibit rural ADU development in designated Goal 5 resource areas (i.e. – Wildlife Area Combining Zone, Greater Sage-Grouse Area Combining Zone, and the Sensitive Bird and Mammal Habitat Combining Zone) 2. Prohibit rural ADU development in some, but not all, designated Goal 5 resource areas. 3. Develop additional restrictions in coordination with the Oregon Department of Fish and Wildlife (ODFW) for rural ADU development in designated Goal 5 resources areas such as minimum parcel sizes, driveway access consolidation, etc. 4. Delay the adoption of rural ADU legislation until such time as the proposed Deschutes County Goal 5 inventory update is complete.

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6	Do the current amendments adequately address Senate Bill 762 and Wildfire Mitigation?	<ul style="list-style-type: none"> • Statewide wildfire risk maps have been approved and the accessory dwelling unit complies with the Oregon residential specialty code relating to wildfire hazard mitigation for the mapped area; • The accessory dwelling unit has adequate setbacks from adjacent lands zoned for resource use; • The accessory dwelling unit has adequate access for firefighting equipment, safe evacuation and staged evacuation areas; • If the accessory dwelling unit is not subject to ORS 477.015 to 477.061, the accessory dwelling unit has defensible space and fuel break standards as developed in consultation with local fire protection service providers. 	<ul style="list-style-type: none"> • The accessory dwelling unit will have a minimum setback of 100 feet between the accessory dwelling unit and adjacent land zoned F-1, F-2, or EFU and meet the other minimum setback requirements of the underlying zone and combining zones. • The lot or parcel is served by a fire protection service provider with professionals who have received training or certification described in ORS 181A.410. • Adequate access for firefighting equipment, safe evacuation and staged evacuation areas are met by providing: <ul style="list-style-type: none"> ○ Written certification from a fire protection service provider with professionals who have received training or certification described in ORS 181A.410, on a form prepared by Deschutes County, that access to the property meets minimum fire district requirements to provide emergency services to the property; ○ A safe evacuation plan; and ○ Written authorization from the owner of the staged evacuation area that the occupants of the rural accessory dwelling unit may evacuate to the staged evacuation area • The lot or parcel and accessory dwelling unit comply with rules of the State Board of Forestry under ORS 477.015, 477.025 and 477.027. If the accessory dwelling unit is not subject to ORS 477.015, 477.025 and 477.027, the accessory dwelling unit has defensible space and fuel break standards as developed in consultation with local fire protection service providers • Statewide wildfire risk maps, described in ORS 477.490, have been approved. Pursuant to the Statewide wildfire risk maps, the following requirements shall apply: <ul style="list-style-type: none"> ○ For extreme and high wildfire risk classes in the wildland-urban interface that are identified pursuant to ORS 477.490, the wildfire hazard mitigation building code standards as described in section R327 of the 2021 Oregon Residential Specialty Code; ○ For extreme and high wildfire risk classes in the wildland-urban interface that are identified pursuant to ORS 477.490, the minimum defensible space rules established by the State Fire Marshal as described in ORS 476.392. ○ If the accessory dwelling unit is not subject to ORS 477.015, 477.025 and 477.027, the accessory dwelling unit has defensible space and fuel break standards as developed in consultation with local fire protection service providers. 	<ol style="list-style-type: none"> 1. Delay the adoption of rural ADU legislation until such time as the final State Wildfire Risk Map has been released by the Oregon Department of Forestry. 2. Require all rural ADUs contain fire sprinklers (per recommendation from Chief Mike Supkis of La Pine Rural Fire Protection District).

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7	Should ADUs be allowed in the Westside Transect Zone?	None	Rural ADUs would be allowed on properties within the Westside Transect Zone (WTZ). All existing requirements related to development within the WTZ including subdivision and property scale fuel treatments, wildfire mitigation building code standards, and maintenance of designated open space corridors would be unaffected by the proposed amendments.	<ol style="list-style-type: none"> 1. Prohibit rural ADU development in the WTZ. 2. Develop additional restrictions for rural ADU development in the WTZ such as siting standards, etc.
8	Should Vacation Occupancy be prohibited in the existing residence, as well as the ADU?	A county may not allow an accessory dwelling unit allowed under this section to be used for vacation occupancy, as defined in ORS 90.100.	The applicant shall sign and record with the County Clerk, prior to the issuance of a building permit, a restrictive covenant stating an accessory dwelling unit allowed under this section cannot be used for vacation occupancy, as defined in DCC 18.116.370(A)(8) and consistent with ORS 90.100.	<ol style="list-style-type: none"> 1. Prohibit both the existing single-family dwelling and the ADU for vacation occupancy use, as defined in DCC 18.116.370(A)(8) and consistent with ORS 90.100.