



MEMORANDUM

TO: Deschutes County Planning Commission

FROM: Kyle Collins, Associate Planner
Will Groves, Planning Manager

DATE: July 19, 2023

SUBJECT: Rural Accessory Dwelling Unit (ADU) Legislative Amendments – Planning Commission Recommendations, Public Comments, and Agency Comments

The Board of County Commissioners (Board) will conduct a public hearing on July 26, 2023 concerning local provisions for rural ADUs as identified in Senate Bill (SB) 391¹ (file no. 247-22-000671-TA).

Staff submitted an initial 35-day Post-Acknowledgement Plan Amendment (PAPA) notice to the Department of Land Conservation and Development (DLCD) on August 17, 2022. A public hearing was held with the Deschutes County Planning Commission (Commission) on September 22, 2022². The Commission held deliberations on October 27, 2022³ and the recommendations from that meeting are discussed within provided attachments.

Since the Commission's initial public hearing on this proposal, legislation was passed by the Oregon Legislature which requires several changes to the original proposed amendments to maintain compliance with state standards. Specifically, SB 644 was recently passed which provides direction to local jurisdictions looking to adopt rural ADU standards prior to formal release of the Statewide Wildfire Hazard Map required by SB 762. Additionally, SB 80 was passed which alters the original standards and terminology used within the forthcoming Statewide Wildfire Hazard Map. Further details regarding SB 644 and SB 80 are discussed in following sections.

Given the passage of SB 644 and SB 80, along with the necessary amendment changes required by the bills, staff conducted a work session with the Board on June 5, 2023 to understand preferred steps on the ADU proposal moving forward. During that work session, the Board directed staff to reinstate PAPA notice proceedings with DLCD to capture the newest version of the amendments and provide the Commission with an opportunity to review the revised amendments. Per Board direction, staff

¹ <https://olis.oregonlegislature.gov/liz/2021R1/Downloads/MeasureDocument/SB0391/A-Engrossed>

² See Deschutes County Planning Commission September 22, 2022 Agenda for more information: <https://www.deschutes.org/bc-pc/page/planning-commission-17>

³ See Deschutes County Planning Commission October 27, 2022 Agenda for more information: <https://www.deschutes.org/bc-pc/page/planning-commission-21>

submitted a revised 35-day PAPA notice to DLCD on June 7, 2023 and held a new work session with the Commission on July 13, 2023.

I. FIRST PLANNING COMMISSION RECOMMENDATIONS

As noted above, a public hearing was held with the Commission on September 22, 2022. The Commission held deliberations on October 27, 2022 and made recommendations concerning the proposed amendments. Many of these recommendations correspond with staff's initial draft amendments while others would require new language and modifications to the proposed amendments:

- **Recommendation #1** (*approved 4 to 2*): The Commission recommended adoption of the proposed amendments, with changes to the initial proposal as discussed herein.
- **Recommendation #2** (*approved 5 to 1*): "Useable floor area" is undefined within SB 391 and the administering statutes. The Commission recommends "Useable Floor Area" be defined as "the area of the accessory dwelling unit included within the surrounding exterior walls, including garages and other accessory components." To clarify, the 900 square-foot size limitation for rural ADUs would apply to the entire ADU structure, including garages and accessory components.
- **Recommendation #3**: 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. This recommendation was unchanged by the Commission from staff's initial proposal and thus no approval vote was taken.
- **Recommendation #4**: Due to vulnerable groundwater characteristics in southern Deschutes County, the Commission recommends 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. This recommendation was unchanged by the Commission from staff's initial proposal and thus no approval vote was taken.
- **Recommendation #5** (*approved 5 to 1*): The Commission recommends prohibiting 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).
- **Recommendation #6** (*approved 6 to 0*): Pursuant to SB 762, the Commission recommends delaying the adoption of any local rural ADU legislation until such time as the final Statewide Map of Wildfire Risk (Statewide Wildfire Hazard Map) has been released by the Oregon Department of Forestry (ODF).
 - This recommendation was made prior to adoption of SB 644 and the corresponding impacts on SB 391 and the Statewide Map of Wildfire Risk (Statewide Wildfire Hazard Map).

- SB 644 effectively decouples the Statewide Map of Wildfire Risk (Statewide Wildfire Hazard Map) from the adoption of any local rules allowing rural ADUs. During any interim period where a local jurisdiction has adopted rules allowing ADUs and prior to the release of the final risk map, any constructed ADUs will be subject to the home hardening building codes as described in section R327 of the 2021 Oregon Residential Specialty Code.
- **Recommendation #7** (*approved 6 to 0*): The Commission recommends prohibiting rural ADU development the Westside Transect Zone (WTZ) Zone.
- **Recommendation #8** (*approved 6 to 0*): The Commission recommends prohibiting 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.

Outside of the explicit recommendations above, the Commission engaged in numerous discussion points relevant to the proposed amendments. A number of Commissioners expressed concern that the rural ADU amendments were being presented prior to completion of other ongoing long range planning initiatives which may have significant bearing on the proposal. Specifically, some Commissioners highlighted the importance of the ongoing state wildfire mitigation efforts and SB 762, the ongoing Deschutes County Comprehensive Plan update ([Deschutes 2040](#)), and the ongoing Goal 5 habitat inventory update for mule deer ([Wildlife Inventory Update](#))⁴. Of these items, only the SB 762 mapping and wildfire mitigation efforts received a majority vote recommending delay of the proposed amendments. Should the Board elect to follow the Commission’s recommendation to delay adoption of the proposed amendments until release of the final Statewide Map of Wildfire Risk (Statewide Wildfire Hazard Map) by ODF, it is unclear when these maps will be formally released and may delay adoption and implementation of any local ADU standards.

II. SECOND PLANNING COMMISSION RECOMMEDATIONS

As noted above, a second work session was held with the Commission on July 13, 2023. The Commission made recommendations concerning the proposed amendments during the same meeting. This work session was held before a different Commission composition, as two previous Commissioners ended their terms prior to July 2023. Many of these recommendations correspond with staff’s initial draft amendments while others would require new language and modifications to the proposed amendments:

- **Recommendation #1** (*approved 5 to 0*): The Commission recommended adoption of the proposed amendments, with changes to the initial proposal as discussed herein.
- **Recommendation #2**: “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

⁴ As of June 26, 2023, the Board elected to withdraw the proposed Goal 5 habitat inventory update for mule deer.

walls, exclusive of garages, carports, decks and porch covers.” This recommendation was unchanged by the Commission from staff’s initial proposal and thus no approval vote was taken.

- **Recommendation #3:** 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. This recommendation was unchanged by the Commission from staff’s initial proposal and thus no approval vote was taken.
- **Recommendation #4:** Due to vulnerable groundwater characteristics in southern Deschutes County, the Commission recommends 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. This recommendation was unchanged by the Commission from staff’s initial proposal and thus no approval vote was taken.
- **Recommendation #5** (*approved 3 to 2*): The Commission recommends prohibiting 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).
- **Recommendation #6** (*approved 3 to 2*): The Commission recommends prohibiting rural ADU development in the Westside Transect Zone (WTZ) Zone.
- **Recommendation #8** (*approved 4 to 0, 1 abstain*): The Commission recommends prohibiting 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.

Ultimately, all the previous recommendations from the Commission were maintained, with the exception of the previously proposed “useable floor area” definition. During the second round of deliberations, the Commission ultimately agreed with the draft proposal as initially drafted by staff.

Outside of the explicit recommendations above, the Commission engaged in numerous discussion points relevant to the proposed amendments. Some Commissioners expressed possible options to mitigate the groundwater impacts in southern Deschutes County without imposing acreage standards for new ADU development. However, ultimately no supplementary recommendation on this point was proposed. Additionally, some Commissioners expressed support for allowing ADU development within the WTZ Zone, given existing requirements for wildlife habitat protection and wildfire mitigation.

III. WRITTEN TESTIMONY & DISCUSSION

To date, a total of seventeen (17) comments from sixteen (16) members of the public have been received by staff concerning the initially proposed amendments.

Eight (8) of the submitted comments generally expressed support for the proposed ADU amendments, citing the following items:

- Opportunities for a general increase in housing supply, particular given ongoing housing shortages and burdensome rental costs in Central Oregon.
- Increased opportunities for intergenerational living as many aging parents and family members pursue housing with other family members on existing developed properties.
- Increased economic activity from rural ADU development.
- In conjunction with the initially proposed County standards, the existing requirements in SB 391 will serve to limit the effects of increased development in rural areas of the county.

Alternatively, nine (9) of the submitted comments expressed general disapproval of the proposed ADU amendments, citing the following items:

- Negative impacts from increased traffic.
- Additional risk from adding residential development in high wildfire risk areas.
- Impacts to pre-existing water resources from adding additional exempt, private residential wells in the rural county.
- Loss of open space and rural quality of life expected from increased rural density.
- Impacts to wildlife populations and habitat related to increased development density.
- General skepticism around the impact that rural ADUs would have on housing availability and affordability in the region.
- Concerns that certain restrictions, such as the limitation of utilizing rural ADUs for short term vacation rental purposes, can be accurately tracked and enforced by county staff.

Among those comments expressing general disapproval, not all requested a full denial of the proposed amendments. Certain commenters suggested additional actions or details that should accompany any ADU program if ultimately approved by the Board:

- Delaying the amendment process until final versions of the Statewide Wildfire Hazard Map required by Senate Bill (SB) 762 has been released by the Oregon Department of Forestry.
- Prohibit ADUs in all Goal 5 inventories captured by Deschutes County, including the Wildlife Area Combining Zone, Greater Sage-Grouse Area Combining Zone, and the Flood Plain Zone.
- Prohibit ADUs in the Westside Transect Zone.

- Delay the amendment process until the County's proposed Goal 5 inventory update is completed⁵.

IV. PLANNING COMMISSION HEARING TESTIMONY & DISCUSSION

During the public hearing before the Commission, nine (9) individuals provided testimony. Some testimony expressed dissatisfaction regarding the proposed text amendments in general. These comments focused primarily on the following items:

- Negative impacts to wildlife populations.
- Negative impacts on ground water supplies.
- Potential code compliance issues, specifically related to the required prohibition on vacation rentals.
- Additional wildfire risk from increased development in the rural county.
- A lack of compatibility between the proposed amendments, the statewide land use goals, and the Deschutes County Comprehensive Plan.

Some testimony expressed support for the proposed text amendments in general. These comments focused primarily on the following items:

- Opportunities for a general increase in housing supply, particular given ongoing housing shortages and burdensome rental costs in Central Oregon.
- Increased opportunities for intergenerational living as many aging parents and family members pursue housing with other family members on existing developed properties.
- Increased economic activity from rural ADU development.

V. AGENCY COMMENTS & DISCUSSION

As part of the record, ten (10) comments have been included from several state and local agencies with an interest in the proposed ADU amendments. Staff will attempt to highlight some of those specific comments that are particularly pertinent:

Deschutes County Environmental Soils Division

Due to concerns regarding failing treatment systems and groundwater impacts, the Onsite Wastewater Division recommends the following:

⁵ As noted above, the Board elected to withdraw the proposed Goal 5 habitat inventory update for mule deer.

- Increasing the minimum lot or parcel size for rural ADUs to be at least five (5) acres in size in this specific geographic area. Additionally, in consultation with the Onsite Wastewater Division, staff has explored the possibility of requiring advanced wastewater treatment systems for ADU development in southern Deschutes County.
- Limiting properties constructed with ADUs from all future residential dwelling development, including additional ADUs, medical hardship dwellings, and temporary dwellings within recreational vehicles or similar uses.

Oregon Department of Fish and Wildlife

The Oregon Department of Fish and Wildlife (ODFW) has requested certain mitigation standards for any ADUs that may be developed within the Wildlife Area (WA) Combining Zone. Specifically, ODFW has requested the following:

- The siting and fencing standards of Deschutes County Code (DCC) 18.88⁶ be maintained for all rural ADU development in the WA Combining Zone.
- A specific size limitation be instituted for all accessory components (i.e. - garages, storage structures, etc.) of any developed ADU not included in the 900 square-foot “useable floor area” required by SB 391.
- Access to properties should utilize existing roads and driveways for all rural ADU development.

Staff believes that the siting and fencing standards of DCC 18.88 would apply to all rural ADU development, regardless of specific language included in the proposed text amendments. To maintain clarity, should rural ADUs be allowed within the Wildlife Area Combining Zone, staff could modify the proposed amendment language to explicitly state the referenced standards from DCC 18.88 will apply to any future ADU development.

Options for specific size limitations have been proposed and discussed by the Commission regarding accessory components of an ADU. As discussed above and within the attached Recommendation Matrix (Attachment 1), the Commission initially recommended limiting the definition of “useable floor area” to encompass both living areas and accessory components of an ADU. As recommended, the total footprint of any proposed ADU, including components such as garages or storage areas, would be limited to 900 square feet.

Finally, staff notes that construction of new roads is typically reviewed through a subdivision or partition process against the standards of DCC Title 17. These proposals are generally distinct from specific physical development on an individual property, such as the construction of an ADU. Additionally, driveway permits are issued and reviewed through the Road Department primarily for

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https://deschutescounty.municipalcodeonline.com/book?type=ordinances#name=CHAPTER_18.88_WILDLIFE_AREA_COMBINING_ZONE;_WA

compliance with clear sighting and other safety requirements. If driveway access to rural ADUs is required to be consolidated to existing access points, it is unclear how this specific standard would be reviewed or enforced over time.

Oregon Association of Water Utilities

The Oregon Association of Water Utilities has requested certain permitting standards for properties pursuing ADU development. Specifically, the Association notes there are many different types of water systems serving portions of rural Deschutes County, and not all of these systems have the ability to add new demand. While any one ADU may not be problematic, the cumulative additional demand of multiple new ADU's in portions of a system without available capacity will result in a degradation of service to existing customers.

In order to avoid legal battles from all involved and/or existing utility customers, the Association has requested that a letter of approval to proceed from a county is provided only after or upon such letters of capacity and capability from utilities are received, otherwise known as a "Willing and Able to Serve Letter."

After review of this request, staff notes that the proposed draft amendments were altered to require the submittal of a "Willing and Able to Serve Letter" from any property owner looking to develop an ADU if the unit is to be served by any water source other than an onsite domestic well.

Attachments:

1. Planning Commission Recommendation Matrix

PLANNING COMMISSION RECOMMENDATION MATRIX

SENATE BILLS (SBs) 391 & 644 – RURAL ACCESSORY DWELLING UNIT (ADU) TEXT AMENDMENTS

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

	Issue Area	SB 391/644 Criterion	Draft Amendment Standards	Possible Alternatives	First Recommendation	Second Recommendation
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. 	<ul style="list-style-type: none"> • Approve rural ADU development in Deschutes County • Recommended by Planning Commission 4 to 2 	<ul style="list-style-type: none"> • Approve rural ADU development in Deschutes County • Recommended by Planning Commission 5 to 0
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). 	<ul style="list-style-type: none"> • Require the 900 square-foot limit to apply to the entire ADU structure, including garages and accessory components • Recommended by Planning Commission 5 to 1 	<ul style="list-style-type: none"> • “Useable Floor Area” means “the area of the accessory dwelling unit included within the surrounding insulated exterior walls, exclusive of garages, carports, decks and porch covers.” • This recommendation was unchanged by the Commission from staff’s initial proposal and thus no approval vote was taken.
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. 	<ul style="list-style-type: none"> • 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. • This recommendation was unchanged by the Commission from staff’s initial proposal and thus no approval vote was taken. 	<ul style="list-style-type: none"> • 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. • This recommendation was unchanged by the Commission from staff’s initial proposal and thus no approval vote was taken.

PLANNING COMMISSION RECOMMENDATION MATRIX

SENATE BILLS (SBs) 391 & 644 – RURAL ACCESSORY DWELLING UNIT (ADU) TEXT AMENDMENTS

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

	Issue Area	SB 391/644 Criterion	Current Amendment Standards	Possible Alternatives	First Recommendation	Second Recommendation
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. 	<ul style="list-style-type: none"> • In southern Deschutes County, the minimum lot or parcel size for rural ADUs is at least five (5) acres in size. • This recommendation was unchanged by the Commission from staff’s initial proposal and thus no approval vote was taken. 	<ul style="list-style-type: none"> • In southern Deschutes County, the minimum lot or parcel size for rural ADUs is at least five (5) acres in size. • This recommendation was unchanged by the Commission from staff’s initial proposal and thus no approval vote was taken.
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. 	<ul style="list-style-type: none"> • 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) • Recommended by Planning Commission 5 to 1 	<ul style="list-style-type: none"> • 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) • Recommended by Planning Commission 3 to 2

PLANNING COMMISSION RECOMMENDATION MATRIX

SENATE BILLS (SBs) 391 & 644 – RURAL ACCESSORY DWELLING UNIT (ADU) TEXT AMENDMENTS
 Land Use File No. 247-22-000671-TA

	Issue Area	SB 391/644 Criterion	Current Amendment Standards	Possible Alternatives	First Recommendation	Second Recommendation
6	Do the current amendments adequately address Senate Bill 762 and Wildfire Mitigation?	<ul style="list-style-type: none"> The Statewide Wildfire Hazard 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; or the Statewide Wildfire Hazard Maps have been approved and all accessory dwelling units comply with the Oregon Residential Specialty Code relating to wildfire hazard mitigation The accessory dwelling unit has adequate setbacks from adjacent lands zoned for resource use; The accessory dwelling unit has adequate access for firefighting 	<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. A designated staged evacuation areas and safe evacuation route must be identified. Adequate access for firefighting equipment, safe evacuation and staged evacuation areas are met by providing: <ul style="list-style-type: none"> A continuous, minimum 20-foot width right(s)-of-way with an unobstructed vertical clearance of not less than 13.5 feet, defined as: <ul style="list-style-type: none"> Public roads with maintenance responsibility accepted by a unit of local or state government or assigned to landowners or homeowners association by covenant or agreement; or Private roads, as permitted by DCC Title 18, with maintenance responsibility assigned to landowners or homeowners associations by covenant or agreement pursuant to ORS 105; and A continuous, minimum 20-foot width onsite driveway with an unobstructed vertical clearance of not less than 13.5 feet, designed and maintained as follows: 	<ol style="list-style-type: none"> Delay the adoption of rural ADU legislation until such time as the final Statewide Wildfire Hazard Map has been released by the Oregon Department of Forestry. Require all rural ADUs contain fire sprinklers (per recommendation from Chief Mike Supkis of La Pine Rural Fire Protection District). 	<ul style="list-style-type: none"> Delay the adoption of rural ADU legislation until such time as the final Statewide Wildfire Hazard Map has been released by the Oregon Department of Forestry. Recommended by Planning Commission 6 to 0. 	<ul style="list-style-type: none"> Decision point is no longer relevant given the new provisions of SB 644. No vote undertaken by Planning Commission.

		<p>equipment, safe evacuation and staged evacuation areas.</p>	<ul style="list-style-type: none"> • Composed of an all-weather surface including asphalt or concrete; or • Designed and maintained to support a minimum gross vehicle weight (GVW) of 75,000 lbs as certified by a Professional Engineer, registered in Oregon; or ▪ Written confirmation 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; • Wildfire Hazard Mitigation Defensible Space Standards: <ul style="list-style-type: none"> ○ If the Statewide Wildfire Hazard Map described in ORS 477.490 has been approved, the following requirements shall apply: <ul style="list-style-type: none"> ▪ For all wildfire risk designations and/or hazard designations in the wildland-urban interface that are identified pursuant to ORS 477.490: <ul style="list-style-type: none"> • The minimum defensible space rules established by the State Fire Marshal as described in ORS 476.392 ○ If the Statewide Wildfire Hazard Map described in ORS 477.490 has not been approved, then either of the following requirements shall apply: <ul style="list-style-type: none"> ▪ The property owner(s) shall construct and maintain the following firebreaks on land surrounding the accessory dwelling unit on land that is owned or controlled by the owner: <ul style="list-style-type: none"> • Primary Firebreak. Prior to use, a primary firebreak, not less than 10 feet wide, 			
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			<p>shall be constructed containing nonflammable materials. This may include lawn, walkways, driveways, gravel borders or other similar materials; and</p> <ul style="list-style-type: none"> • Secondary Firebreak. A secondary firebreak of not less than 20 feet wide shall be constructed outside the primary firebreak. This firebreak need not be bare ground, but can include a lawn, ornamental shrubbery or individual or groups of trees separated by a distance equal to the diameter of the crowns adjacent to each other, or 15 feet, whichever is greater. All trees shall be pruned to at least eight feet in height. Dead fuels shall be removed; and • Fuel Break. A fuel break shall be maintained, extending a minimum of 100 feet in all directions around the secondary firebreak. Individual and groups of trees within the fuel break shall be separated by a distance equal to the diameter of the crowns adjacent to each other, or 15 feet, whichever is greater. Small trees and brush growing underneath larger trees shall be removed to prevent spread of fire up into the crowns of the larger trees. All trees shall be pruned to at least eight feet in height. Dead fuels shall be removed. The fuel break shall be completed prior to 			
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			<p>the beginning of the coming fire season; and</p> <ul style="list-style-type: none"> • No portion of a tree or any other vegetation shall extend to within 15 feet of the outlet of a stovepipe or chimney; or ▪ The accessory dwelling unit has defensible space and fuel break standards as developed in consultation with local fire protection service providers who have received training or certification described in ORS 181A.410 <ul style="list-style-type: none"> • Wildfire Hazard Mitigation Building Code Standards: <ul style="list-style-type: none"> ○ If the Statewide Wildfire Hazard Map described in ORS 477.490 has been approved, the following requirements shall apply: <ul style="list-style-type: none"> ▪ For areas designated as high wildfire hazard that are identified pursuant to ORS 477.490: <ul style="list-style-type: none"> • The Wildfire Hazard Mitigation building code standards as described in section R327 of the Oregon Residential Specialty Code. ○ If the Statewide Wildfire Hazard Map described in ORS 477.490 has not been approved, the following requirements shall apply: <ul style="list-style-type: none"> ▪ The Wildfire Hazard Mitigation building code standards as described in section R327 of the Oregon Residential Specialty Code. 			
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PLANNING COMMISSION RECOMMENDATION MATRIX

SENATE BILLS (SBs) 391 & 644 – RURAL ACCESSORY DWELLING UNIT (ADU) TEXT AMENDMENTS
 Land Use File No. 247-22-000671-TA

	Issue Area	SB 391/644 Criterion	Current Amendment Standards	Possible Alternatives	First Recommendation	Second Recommendation
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. 	<ul style="list-style-type: none"> • Prohibit rural ADU development in the WTZ • Recommended by Planning Commission 6 to 0 	<ul style="list-style-type: none"> • Prohibit rural ADU development in the WTZ • Recommended by Planning Commission 3 to 2
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 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 ORS 90.100. 	<ul style="list-style-type: none"> • Prohibit both the existing single-family dwelling and the ADU for vacation occupancy use, as defined in ORS 90.100 • Recommended by Planning Commission 6 to 0 	<ul style="list-style-type: none"> • Prohibit both the existing single-family dwelling and the ADU for vacation occupancy use, as defined in ORS 90.100 • Recommended by Planning Commission 4 to 0 (1 abstain)