



PLANNING COMMISSION

Regular Meeting Minutes

May 8, 2024

Chairman Fialka called the regular meeting to order at 7:00PM. Present were Commissioners Doherty, Hamm, Saylor, Guerrero, and Kirkpatrick. Commissioners Collins and Caplinger were excused. Staff in attendance included Planning Director C.F. Spencer, City Attorney Richard Tovey, Assistant City Manager Mark Morgan, and Planning Assistant Heather La Beau.

Minutes

Commissioner Saylor moved, and Commissioner Hamm seconded to approve the minutes of the April 10, 2024, regular meeting. Motion passed.

Subdivision- Henry K's Phase 1 Hermiston Home Works Inc 4N2813 Tax Lots 200 & 500- 1295 SE 10th St

Planning Director Spencer presented the staff report. Phase 1 of the subdivision proposes 28 single family lots, two commercial lots, and one large lot for future residential development. The county co-adopted the comprehensive plan map amendment at their May 1 meeting.

Testimony

Tyler Brandt 469 SW Cottonwood Dr- Mr. Brandt is the property owner/developer. He stated the smallest proposed lot size is 6,000 square feet (not 6500 as reflected in the staff report). Mr. Brandt sees a need for single family homes as Hermiston continues to grow and it is his goal to provide affordable homes. He feels the park will be a nice addition but is uncertain how homeowners may feel about it and therefore plans to disclose to potential buyers and builders the location of the future park. There has not been much interest in the commercial lots, save for someone inquiring about a ten-acre parcel for apartments.

Commissioners discussed the trip cap numbers and how they may change when development occurs on the BMCC and surrounding properties, fencing requirements of the canal from Hermiston Irrigation District, access for the proposed park, and the lot fee. The trip caps would adjust with future development. The lot fee is assessed at development and is generally passed to the homebuyer.

Findings of Fact

Chapter 94: Streets and Sidewalks

Two new streets are proposed on the preliminary plat. The applicant proposes an extension of SE Columbia Drive through the development. This extension will connect to E Highland Ave in future phases in accordance with the Hermiston Transportation System Plan and has sufficient right of way width to accommodate urban minor collector construction standards. A second street is proposed for connection to SE Columbia Drive (Road A). This street is proposed as a local residential street and has adequate right of way width to accommodate local standard improvements. Although not shown on the preliminary plat, Road A is proposed as a semi-circular road which will connect back to SE Columbia Drive in a future phase. This street shall be designated as a "Drive" on the final plat and be designated with the prefix ordinal of SE denoting its location in the southeast quadrant of the city in accordance with §94.23 of the Hermiston Code of Ordinances.

Chapter 154: Subdivisions

Design Standards

154.15 Relation to Adjoining Street System.



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The preliminary plat is adjacent to SE 10th Street. Two new streets are proposed. SE Columbia Drive is planned for eastward extension and will connect to E Highland Ave in a future phase. A second semi-circular road, designated as Road A on the preliminary plat, is also proposed. SE Columbia Drive is an urban minor collector and has 56 feet of right of way width on the preliminary plat in accordance with public works drawing ST10. Road A is a local residential street and has 50 feet of right of way width in accordance with public works drawing ST11. SE Columbia Drive intersects SE 10th Street at a right angle and in alignment with the current terminus of SE Columbia Drive creating an adequate and safe intersection. No cul-de-sacs are proposed. However, Road A is currently proposed as a semi-circular drive and will not meet fire safety standards for vehicle turn-arounds as proposed. As a condition of approval, the city will require a temporary turn around to be installed at the end of Road A until the future extension of Road A is completed, allowing fire and life safety exits.

154.16 Street and Alley Width.

All streets have a width of at least 50 feet which meets the minimum requirement for local residential streets. The urban minor collector street has a right of way width of 56 feet satisfying the higher requirement for collectors. No new alleys are proposed as part of the preliminary plat. The street design standards are satisfied.

154.17 Easements.

Easements of 10 feet in width are provided on all street frontages. These easements are public utility easements that accommodate storm drainage, utilities, and sidewalks. The preliminary plat notes several existing easements on the property, including PacifiCorp power easements accommodating electrical transmission infrastructure and an irrigation easement along the A Line Canal.

154.18 Blocks.

SE Columbia Drive is prepared in accordance with the 600-foot maximum block length for residential streets. Road A may exceed the 600-foot length requirement at completion in future phases. The planning commission shall discuss if a pedestrian easement and path is desirable to connect Road A to future development to the north. At the planning commission's discretion, a path may be required, per §154.18(B).

154.19 Lots.

All the proposed lots will make desirable building sites properly related to topography as required by §154.19 of the Hermiston Code of Ordinances. All proposed lots are at least 60 feet wide and 80 feet deep. All the proposed lots exceed the minimum lot size of 5,000 square feet in the R-3 zone. Corner lots meet or exceed the 6,000 square foot minimum lot size and 70-foot minimum width. Where possible, all side lot lines are at right angles or are radial to street lines. There are three corner lots in the proposed development. Lot 1 is serviced by the development's local street network and also has frontage on SE 10th Street. To preserve the functionality of traffic movements on SE 10th Street, staff recommends the planning commission require the applicant to place a notation on the final plat stating that Lot 1 shall not access SE 10th Street. Lots 6 and 28 are corner lots with frontage on SE Columbia Drive and Road A. To preserve the functionality of traffic movements on SE Columbia Drive, staff recommends the planning commission require the applicant to place a notation on the final plat stating that Lots 6 and 28 shall not access SE Columbia Drive.



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154.20 Character of Development.

Staff understands that the applicant intends to market the subdivision as a single-family development. The lot sizes proposed for the development exceed the minimum size permitted in the R-3 zone for single-family dwellings. Five lots are adequate in size to accommodate triplex or higher density uses. Uses permitted in the R-3 zone are listed in §157.027 of the Hermiston Code of Ordinances.

154.21 Parks, School Sites and the Like

The comprehensive plan and parks master plan indicate a need for a park in the vicinity of the proposed development. The developer is negotiating with the city to develop a park accessing the A Line Canal in a future phase of the development.

Preliminary Plat

The preliminary plat contains most of the information required by 154.35 of the Hermiston Code of Ordinances.

The following items are not included with the preliminary plat:

- (a) Grades and profiles of proposed streets
- (b) names of recorded owners of adjoining parcels of unsubdivided land

The above information must be included unless waived by the planning commission. Profiles for the streets will be required as part of the civil drawing review process or final plat process. Staff recommends that the planning commission waive the required information for the preliminary plat but require it for civil drawing submission.

Required Minimum Improvements

154.60 Permanent Markers.

All subdivisions shall be surveyed in accordance with ORS 92.050 through 92.080. The preliminary plat has been surveyed.

154.61 General Improvements.

As a condition of approval for the final plat, the city will require the installation of grading, storm drainage, curb and gutter, sidewalks, street paving and all service utilities. All improvements must comply with the Public Works Department standard plans and specifications manual. As a condition of approval, the planning commission shall require the applicant to sign an improvement agreement with the city agreeing to specific development conditions. In lieu of completion of such work, the City may accept a Letter of Credit in an amount and conditions to be specified.

SE 10th Street is partially improved with paving, curb, and gutter for approximately 330 feet along the development site from the A Line Canal to the south edge of SE Columbia Drive. Sidewalk shall be required along the SE 10th Street frontage of Lots 1 and 30 at the time development occurs on these lots. SE 10th Street is not improved from the south line of SE 10th Street to the Union Pacific railroad, a distance of approximately 800 feet. Commercial development of Lot 29 will require 3/4 improvement to SE 10th Street with two travel lanes, curb, gutter, and sidewalk. Final design approval of all improvements must be obtained from the city engineer.



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Streetlights must also be installed at the applicant's cost. Once installed, the City will assume the monthly service charges.

154.62 Water Lines.

Each lot is planned for connection to the municipal water supply. Water system extensions and fire hydrant locations must be approved by the city engineer. The development will be serviced by the existing water improvements in SE 10th Street.

154.63 Sanitary Sewer System.

Each lot is planned for connection to the sanitary sewer system. The sewer layout must be approved by DEQ, the city sewer superintendent and the city engineer. The development will be serviced by the existing sewer improvements in SE 10th Street.

154.64 Drainage.

All necessary facilities shall be installed sufficient to prevent the collection of surface water in any low spot and to maintain any natural water course.

154.65 Sidewalks.

The applicant shall install sidewalks along all street frontages of all lots as required by the improvement agreement.

154.66 Bikeways.

The City of Hermiston Transportation System Plan calls for on-street bikeways on SE Columbia Drive and SE 10th Street. Striping will be required as part of the public improvement design and construction.

Chapter 157: Zoning

157.027 Medium-High Density Residential Zone (R-3)

All the proposed lots are created in conformance with the requirements of the R-3 zone. All the proposed lots exceed the minimum lot size of 5,000 square feet and corner lots are at least 6,000 square feet. All proposed lots are at least 60 feet wide, and 80 feet deep meet the 25-foot minimum street frontage requirement in 157.027(C)(3).

157.101 Development Hazard Overlay (DH)

Comprehensive Plan Figure 12 identifies this site as an area subject to development hazards due to excessively well drained soils and restrictive foundation soils. Therefore, the City will prohibit the outdoor storage of hazardous chemicals and underground storage of gasoline and diesel fuels. Prior to the development of lots containing cemented hardpan, the city shall require a registered engineer's assessment of the design and structural techniques needed to mitigate potential hazards.

Conditions of Approval

1. Applicant shall work with and receive certification from the Hermiston Irrigation District prior to final plat approval. Applicant should be aware that the City of Hermiston will not sign the final plat until the irrigation district has been satisfied and signs the final plat.



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2. Applicant must sign an improvement agreement and shall install grading, storm drainage, curb and gutter, sidewalks, street paving, and all service utilities for this development. All improvements for each phase shall comply with city standards and specifications and shall receive final approval from the city engineer.
3. Streetlights shall be installed at the applicant's cost. Once installed, the City will assume the monthly service charges.
4. Applicant shall comply with all provisions of 92.12 of the Hermiston Code of Ordinances (relating to the control of blowing dust) during all phases of construction.
5. All streets shall be designated in accordance with §94.22 of the Hermiston Code of Ordinances as detailed in the findings of fact for Chapter 94. Road A shall be labeled as a named street on the final plat with a SE prefix and Drive suffix.
6. Applicant/owner shall improve the Lot 29 frontage of SE 10th Street with a ¾ street improvement consisting of two travel lanes, curb, gutter, and sidewalk at such time that commercial development occurs on Lot 29.
7. Comprehensive Plan Figure 12 identifies this site as an area subject to development hazards due to excessively well drained soils and restrictive foundation soils. Therefore, the City will prohibit the outdoor storage of hazardous chemicals and underground storage of gasoline and diesel fuels. Prior to the development of lots containing cemented hardpan, the city shall require a registered engineer's assessment of the design and structural techniques needed to mitigate potential hazards.
8. A notation shall be placed on the plat stating that Lot 1 shall not access SE 10th Street and Lots 6 and 28 shall not access SE Columbia Drive.
9. A per lot assessment for Lots 1 through 28 shall be established of \$1,557. The assessment will be collected at the time of building permit issuance on each lot and shall be used for replacement of the A Line Canal bridge. Said fee is based upon the residential trip cap of 325 peak hour residential trips and a development plan of 208 residential lots. Should the trip cap or lot count be amended in subsequent phases, recalculation of the fee for lots 29 and above shall be performed by the City.
10. Sidewalk shall be installed along the SE 10th Street frontage of Lots 1 and 30 at such time that residential development occurs on each respective lot.
11. SE Columbia Drive is designated as an urban minor collector on the Hermiston TSP and shall be designed with on-street bike lanes through the development. An on-street bike lane shall be striped on the east side of SE 10th Street adjacent to Lots 1 and 30 when residential construction commences on each lot.



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12. The applicant shall dedicate 32.7 feet to SE 10th Street right of way adjacent to the development to align right of way and street improvements within the public domain.
13. A temporary turn-around shall be installed at the end of Road A until future extension of Road A to connect with SE Columbia Drive is completed. Temporary turn around shall be constructed in accordance with Appendix D (Fire Apparatus Access Roads) of the Oregon Fire Code.

Commissioner Hamm moved and Commissioner Kirkpatrick seconded the motion to make the project file a part of the record. Motion passed. Commissioner Hamm moved and Commissioner Saylor seconded to approve the Findings of Fact as written. Motion passed. Commissioner Saylor moved and Commissioner Hamm seconded to approve the conditions of approval as written. There is not a need to amend the conditions to specify not using raised curbs and installing driveway cuts along the canal as this will be addressed in the civil drawings review. Motion passed. Commissioner Hamm moved and Commissioner Saylor seconded to approve the preliminary plat subject to the conditions of approval. Motion passed.

Roundtable discussion Economic Opportunities Analysis (EOA) update

Planning Director Spencer explained that as part of the upcoming urban growth boundary expansion, Oregon requires the city to inventory and analyze the current land supply for future employment and residential needs. The economic landscape has changed significantly in the seven years since the inventory was last reviewed. The addition of data center sites has absorbed 250 acres of the industrial land supply. There is no capability to handle the heavier industries needing 100+ acre size parcels. The first draft of the updated analysis was provided with the staff report.

Brendan Buckley of Johnson Economics introduced Brian Varricchione and Sid Hariharan Godt from MacKenzie, attending via Zoom, who are working on the buildable lands inventory. Using a slide show (attached), Brendan reviewed the findings and analysis of the EOA, including the components of an EOA and an overview of the process. The draft buildable land inventory finds that while there is bulk acreage, none of the industrial sites are over 100 acres. The 20-year demand for data center campus forecasts a deficit of approximately 1,400 acres.

Commissioners asked how to determine which areas the boundary expands and what city does the expansion. Mr. Morgan responded that it often comes down to which municipality can service the lands. The City of Hermiston has potable and non-potable water, as well as sewer currently available in Feedville Road to service development.

Some revisions needed to the draft plan have been identified. One of which is the assumptions having to do with land usage. The amount of needed land may be revised after hearing input from partners. The jobs data is proved by the historical data seen in the neighboring county over the last decade. The "temporary" construction jobs should possibly be included in the employment total. It can be easier on the community to absorb the large employment numbers as they develop over a long period of time as the data centers are built.

Mr. Buckley reviewed the vision statements from the 2011 EOA and the comprehensive plan. He solicited feedback from the commissioners regarding what may need to be updated and changed to reflect the current economic landscape more accurately. Planning Director Spencer pointed out that development has closely aligned with the vision statement created in 2011 as part of the periodic review.



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Results of the Hermiston 2040 vision study found residents like the small-town atmosphere. A balance of economic growth and retention of the small-town component must be considered. The job growth with data centers can be absorbed slowly over time allowing steady growth without overwhelming the community. Data centers are an intense land use, and revenue generator without generating transportation congestion.

Commissioners discussed aspects of job growth related to jobs outside of city limits, where workers live, and commuting trends. A majority of data center jobs are locally filled. A full one-third of residents live and work in city. This is high compared to other cities.

The economic benefit of irrigated acres is phenomenal and will see some growth. Two large irrigation projects came online last year. Only 7-8% of Columbia River water is used to irrigate. Data Center transferred water rights off fields and retain them in the area to increase available water to other crops. The non-contact cooling water is discharged to regional irrigation canals to be used for agricultural irrigation. Developed water capacity is 27k/gal minute. Current development uses 20k/gal minute. Port of Umatilla has water rights 4 times that but are not developed. Significant undeveloped water rights capacity exists. Aquifer storage & recovery program is currently under consideration. The pumping capacity not used in the winter would be injected into the salt layer and then be pulled out in the summer when needed.

Dawn Hert, DLCD Eastern Oregon Regional Representative, thanked the commissioners for being invited to the discussion and appreciates Brendon's presentation. Potential UGB expansions are tracked by DLCD and look forward to more information.

Brendan asked what commercial land needs were not currently being met in Hermiston. Commissioners responded a shopping variety, grocery chain, trade jobs, local affordable housing, restaurants, and overall commercial diversity. Potential increases in higher wage jobs may correlate to greater commercial diversity. It was suggested within the next 20 years residential uses downtown will convert to businesses. Two to three acre lots are needed to accommodate chain restaurants and additional lands for parking is justifiable.

Transportation and warehousing fell short of forecasted projections. Lower land costs in other areas, available work force, and wage cannibalism were factors. Meyer Distribution did locate in Hermiston. The Walmart DC is large enough to skew any increases.

The role of land supply hindering government employment located where services are needed was discussed. Mr. Morgan stated there is adequate land supply for office jobs, not for Umatilla Army Depot size employment. Umatilla County corrections and health dept opened locations in Hermiston and continue to add more services.

Administration and waste management saw a drop instead of the moderate growth expected. It was speculated this was due to the demilitarization project of waste incineration at the Army dept. Brendan will research to identify specifics.

Health care facilities are generally a residential land use, and the land supply is adequate. Childcare and children's activities are needs that continue to grow for residents and workers. This is a statewide issue and DLCD is working on a program to evaluate the regulatory hurdles for childcare licensing.

Airport expansion is constrained by 395 on the west and high-capacity powerlines to the east. The Master Plan update in 2020 includes extending the runway 500 ft to the east, which is achievable without relocating



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powerlines. The City is currently In the process of acquiring land near the east end of runway to reroute Ott Road. Airport traffic has increased significantly in the last 3 to 4 years.

The next step is to meet with DLCD to solicit feedback. A final EOA update is anticipated to be ready for adoption in July. Brendan will add a chapter summarizing findings. Commissioners desire flexibility in place to capitalize on this and future opportunities that will bolster the economic wellbeing in the area.

Planner Comments and Unscheduled Communication

Planning Director Spencer distributed this year's Oregon Land Use Legislation Report, a synopsis of housing and land use bills. The report is attached to the minutes. Several areas will require code amendments.

There was additional discussion regarding the need for more childcare providers/facilities in the area and how to fill the need. In home preschool options are desired over larger facilities in this region.

Adjournment

Chairman Fialka adjourned the meeting at 9:29PM.

An aerial photograph of a golf course during autumn. The course features green fairways, several trees with vibrant yellow and orange foliage, and a winding lake in the lower right. In the background, a residential area with houses and more trees is visible under a clear blue sky.

Hermiston Economic Opportunities Analysis

**Planning Commission
& Roundtable**

May 8, 2024, 7:00 pm



What is an “EOA”?

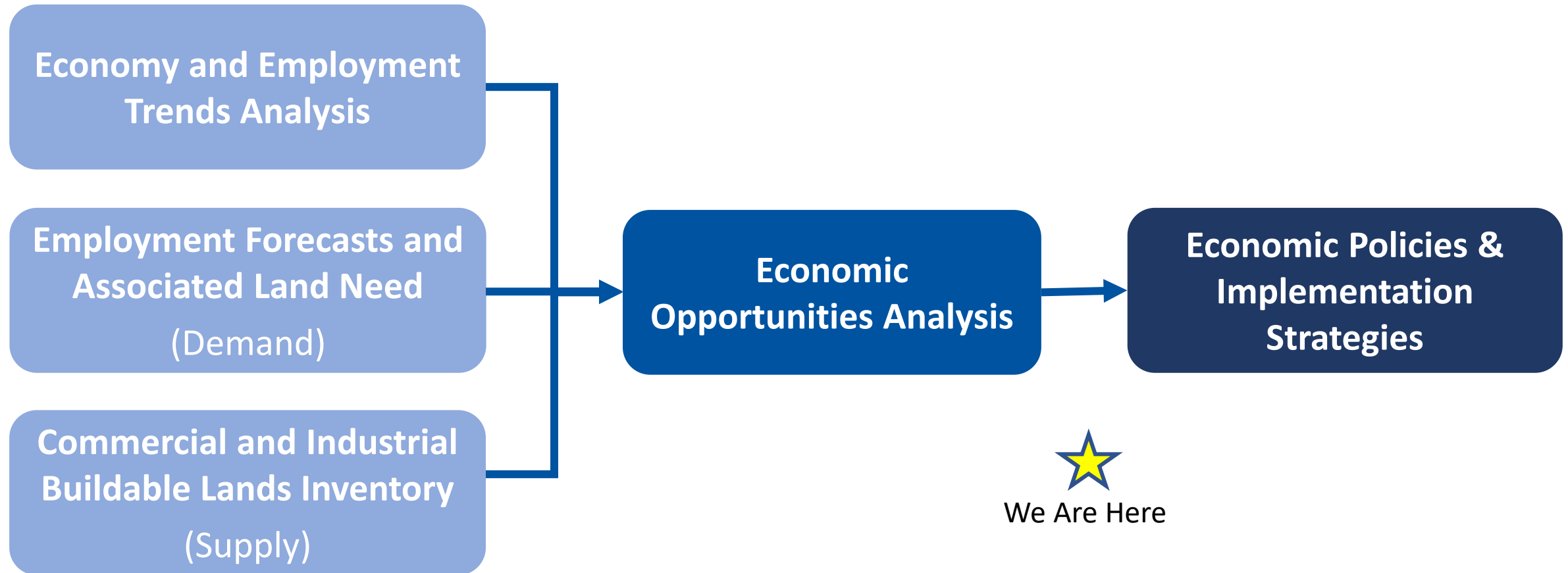
- Identify local economic goals and target industries
- Forecast economic trends and job growth
- Inventory and evaluate land for employment
- Formulate new policies and action items
- Update the Comprehensive Plan, address “Goal 9”

Components of an EOA

1. Statement of Economic Objectives
2. Economic Trends
3. Target Industries
4. Forecast of Job Growth & Land Need
5. Comparison to Land Inventory
6. Findings and Recommendations

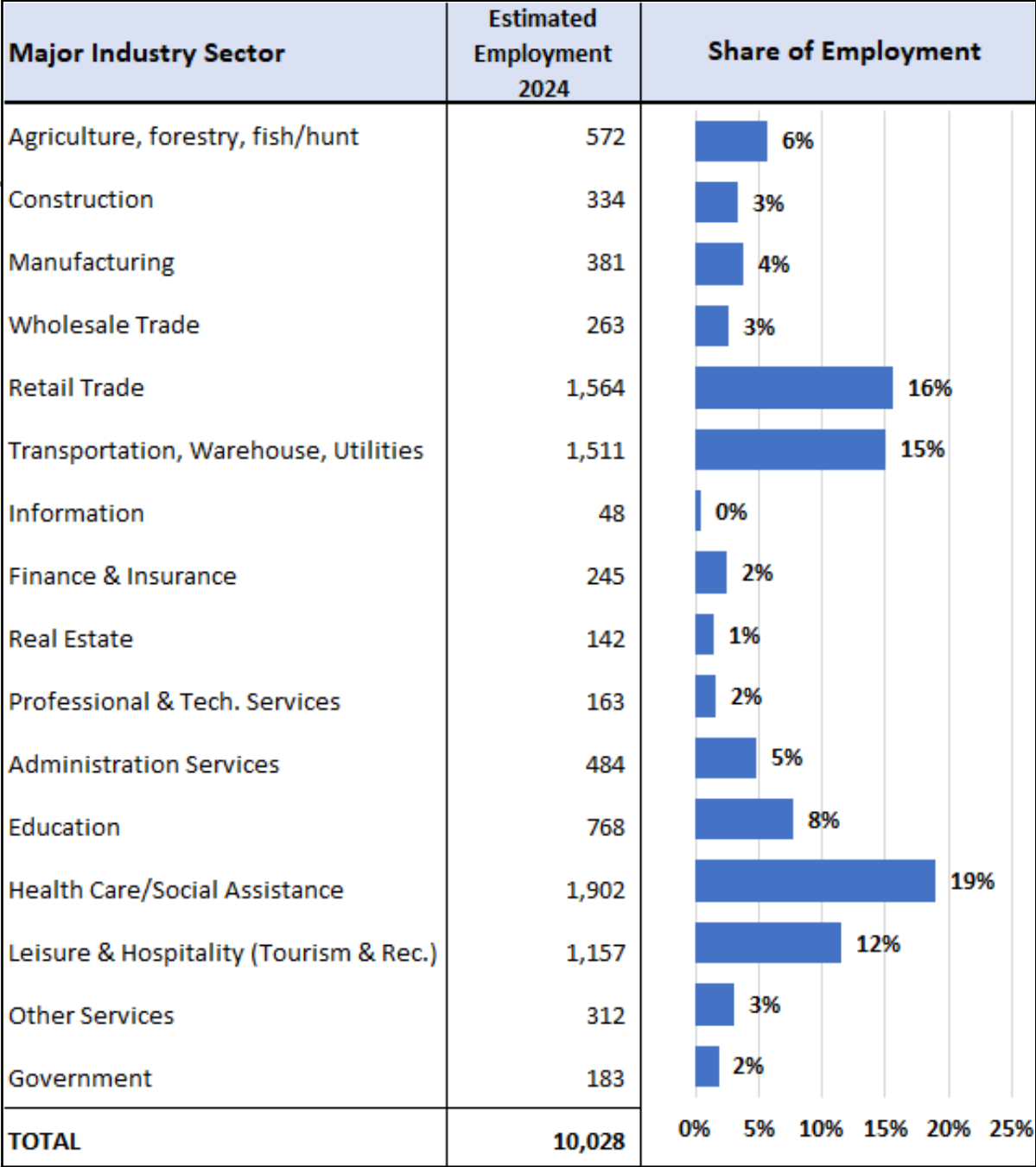


Overview of EOA Process



Employment Forecast

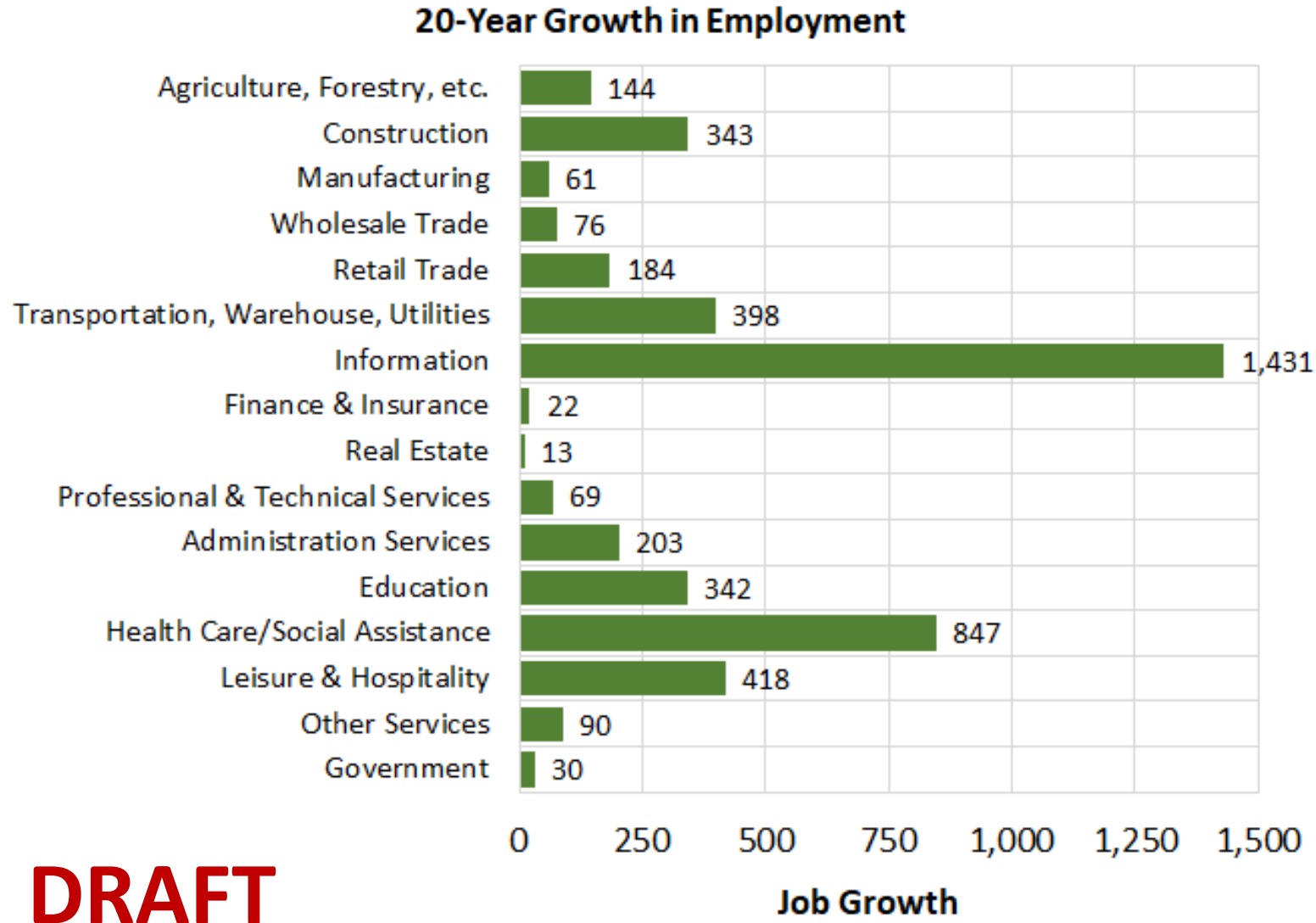
- Start with Current Employment Profile
- Safe Harbor Approach:
 - PSU Population Forecast (1.0% AAGR)
- Adjusted Growth Forecast
 - Reflects target industries and goals
 - Known proposed development
 - Data center and Construction jobs
 - Indirect and induced employment



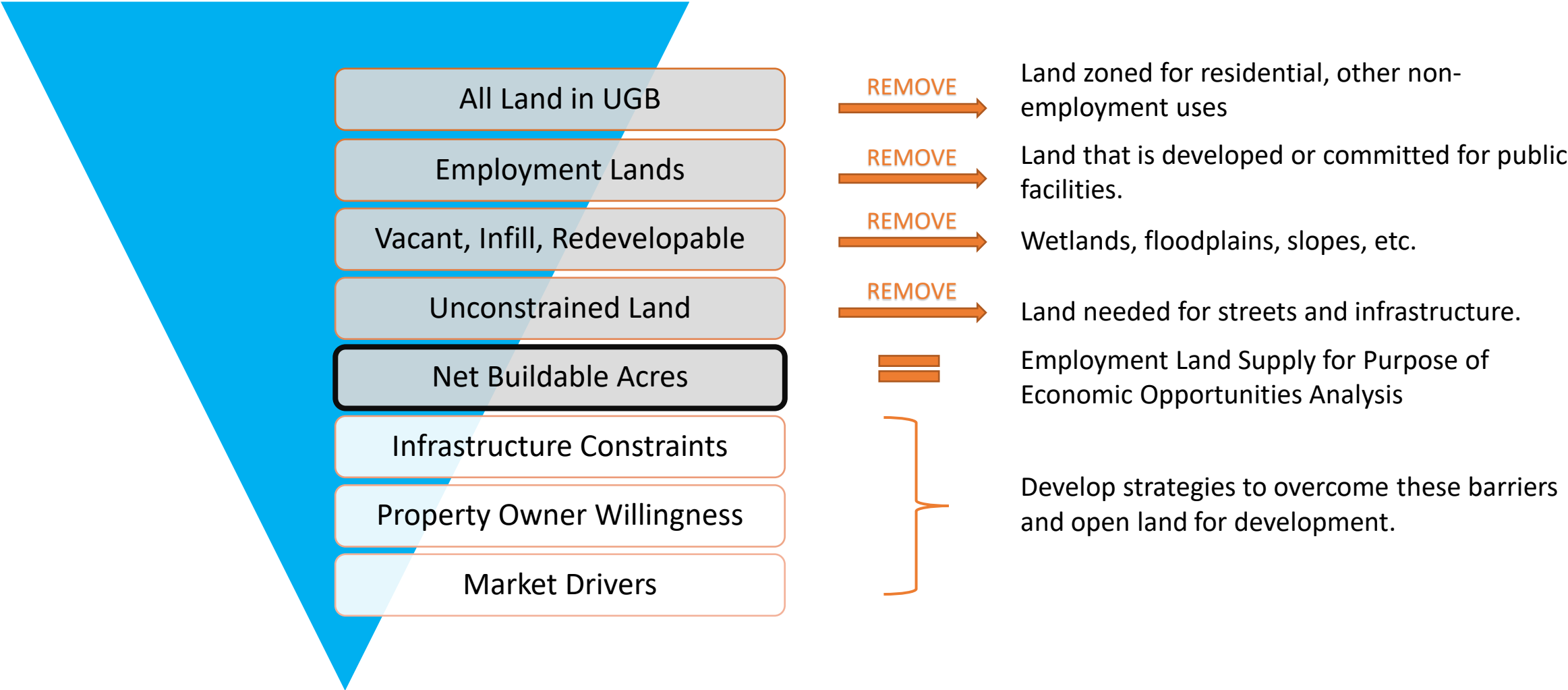
Draft Employment Projection

Adjusted Forecast (2044)

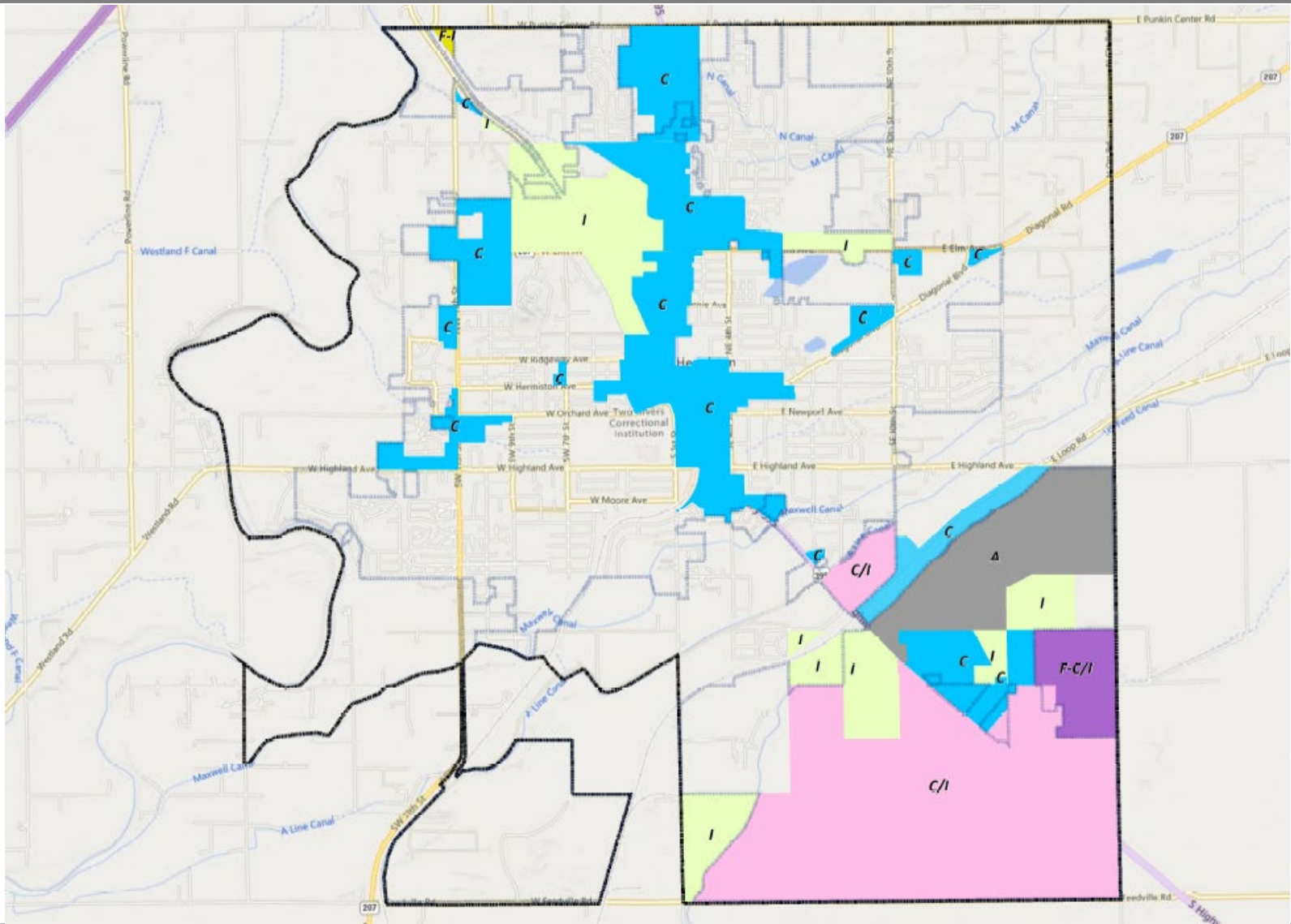
- 14,700 total jobs
- 4,650 new jobs
- 1.9% annually
- Rate since 2010



Buildable Land Inventory: Filters



Buildable Land Inventory



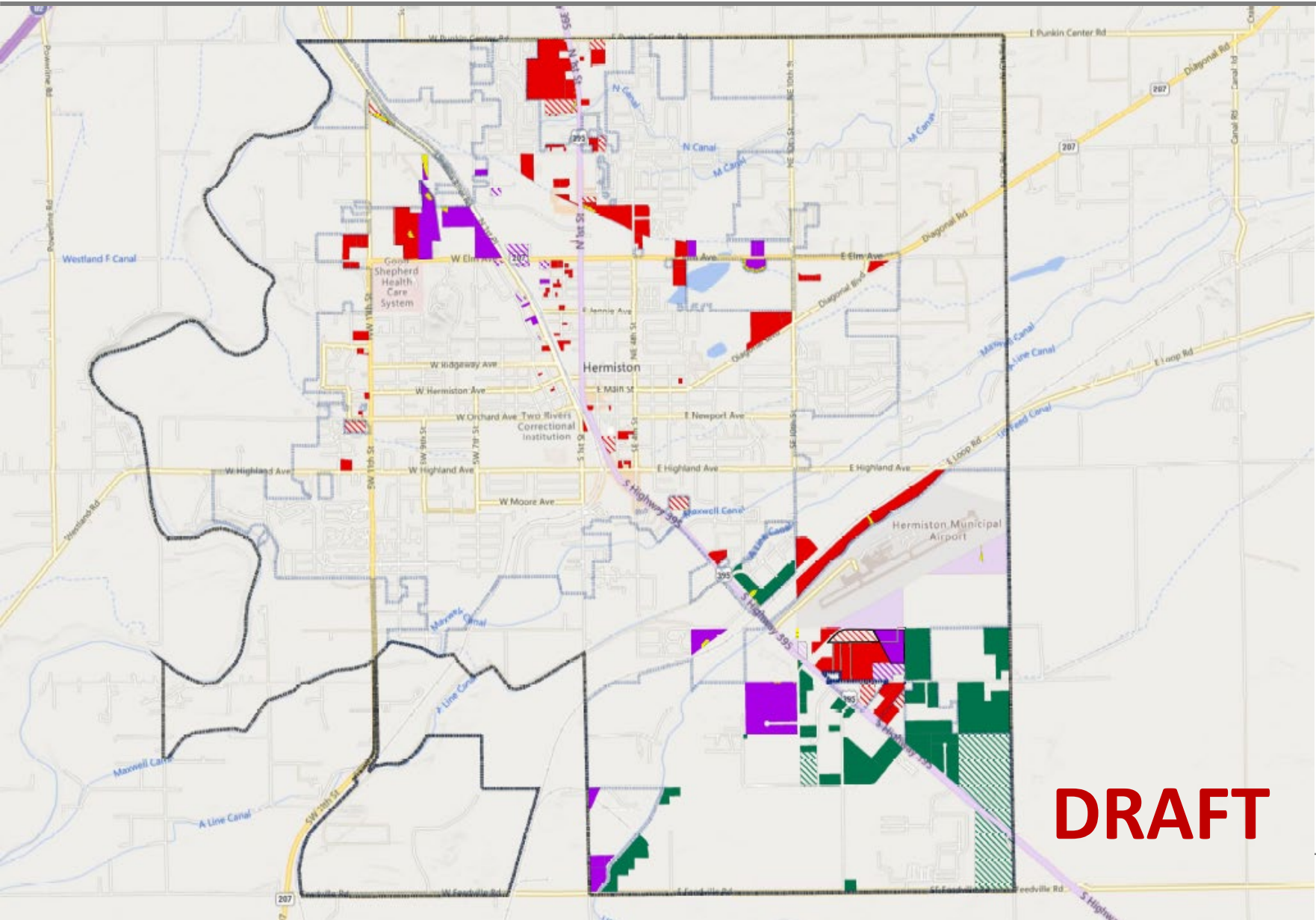
**Figure 2: Hermiston
Employment Land
Comprehensive Plan
Designations**

Hermiston, Oregon

LEGEND

-  Hermiston City Limits
-  Hermiston Urban Growth Bounday (UGB)
- Comprehensive Plan Designations**
 -  Airport (A)
 -  Commercial (C)
 -  Commercial/ Industrial (C/I)
 -  Future Commercial/ Industrial (F-C/I)
 -  Industrial (I)
 -  Future Industrial (F-I)

Draft Buildable Land Inventory



**Figure 5: Hermiston
Net Buildable
Employment Land**

Hermiston, Oregon

LEGEND

- Hermiston City Limits
- Hermiston Urban Growth Boundary (UGB)
- Commercial - Vacant
- Commercial - Redevelopable
- Industrial - Vacant
- Industrial - Redevelopable
- Mixed - Vacant
- Mixed - Redevelopable
- Airport - Vacant
- Airport - Redevelopable
- Constrained (Unbuildable) Land

Buildable Land Inventory

DRAFT

Land Inventory

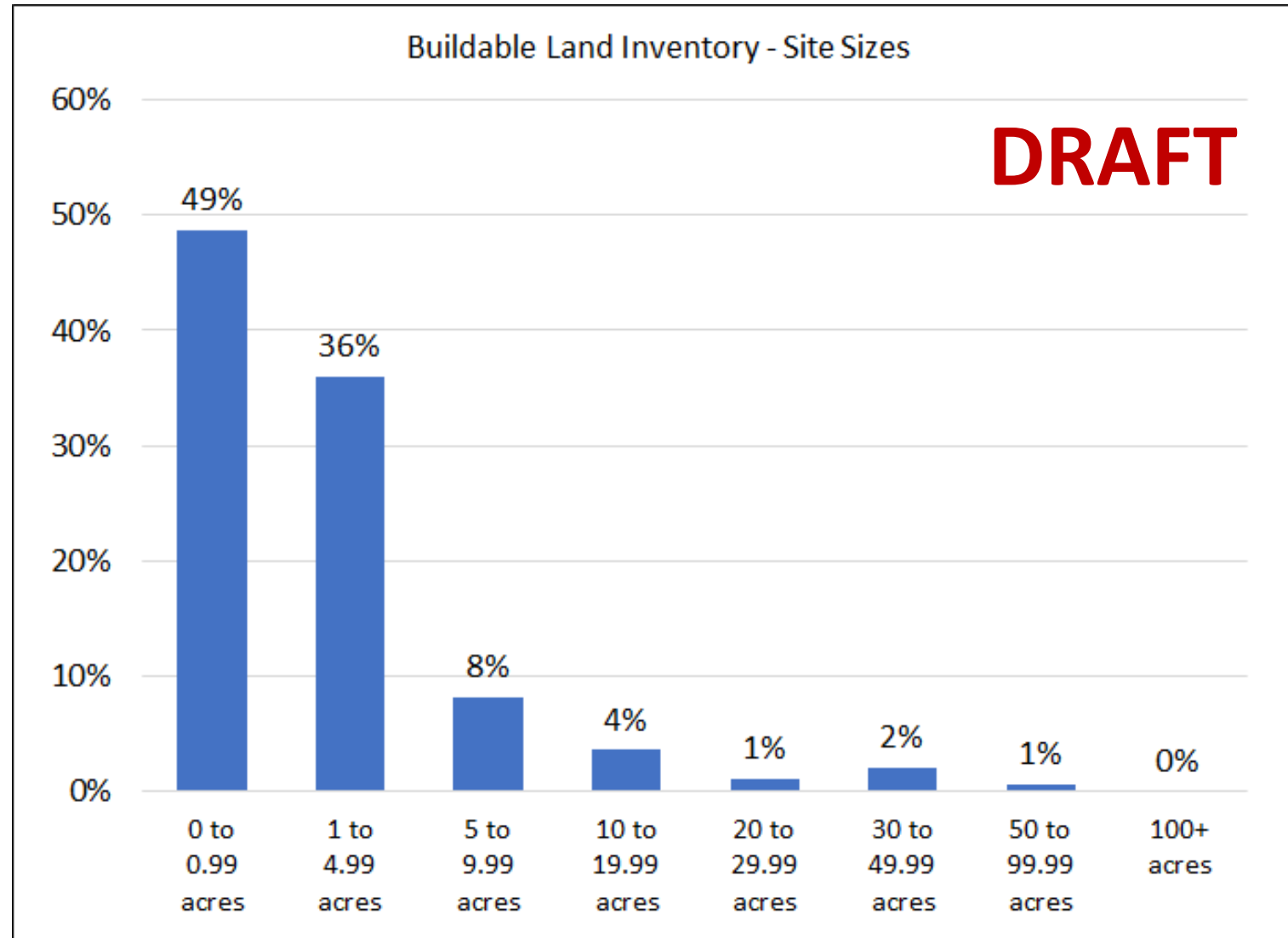
- 386 Commercial
- 685 Industrial
- Most sites very small
- No larger sites
- Further revisions expected

TABLE 3: RECLASSIFIED HERMISTON EMPLOYMENT BUILDABLE LANDS INVENTORY ¹			
	<i>Vacant</i>	<i>Redevelopable</i>	<i>Total</i>
<i>Designation</i>	<i>Net Buildable Acreage</i>	<i>Potential Acreage²</i>	<i>Potential Acreage</i>
Commercial Designation (includes 50% of Mixed Designations acreage)			
Commercial (C)	208.71	35.90	244.61
50% of Mixed Commercial/Industrial (C/I) and Future Mixed Commercial/Industrial (F-C/I)	90.97	50.28	141.25
<i>Commercial subtotal</i>	<i>299.68</i>	<i>86.18</i>	<i>385.86</i>
Industrial Designations (includes 50% of Mixed Designations acreage)			
Airport (A)	48.04	1.88	49.92
Industrial (I)	105.22	15.70	120.92
50% of Mixed Commercial/Industrial (C/I) and Future Mixed Commercial/Industrial (F-C/I)	90.97	50.28	141.25
<i>Industrial subtotal</i>	<i>244.23</i>	<i>67.86</i>	<i>312.09</i>
Total	543.91	154.04	697.95
Table Note: ¹ Due to rounding, some totals may not correspond with the sum of separate figures. ² The Redevelopable Potential Acreage assumes removal of existing structures, and redevelopment of the entire parcel.			

Buildable Land Inventory

Land Inventory

- 50% < one acre
- 85% < five acres
- 96% < 20 acres
- No sites over 100 acres



20-Year Land Demand vs. Supply

EMPLOYMENT ZONING DESIGNATION	20 YR. DEMAND (Gross Acres)	BUILDABLE LAND (Acres)	Permitted Data Center Sites (Acres)	SURPLUS OR (DEFICIT) (Gross Acres)
Commercial (Office, Institutional, Retail)	100.9	385.9		285.0
Industrial (Gen. Ind., Warehouse, Flex)	122.6	312.1		189.5
Data Center Campus	1,614.2	NA	214	(1,400.2)
TOTAL:	1,837.7	698.0	214.0	(925.7)

DRAFT

Questions or Comments So Far?

Community Economic Objectives

Vision Statement from Prior EOA (2011)

The City of Hermiston aspires to become the regional center for trade and industry through the following actions:

- Ensuring an adequate supply of industrial land in large parcels to provide job creation and economic growth.
- Ensuring an adequate supply of commercial land in the downtown and along commercial corridors.
- Removing barriers to commercial redevelopment to ensure a modern and efficient commercial base.
- Continue to provide leadership in identifying and locating new, and expanding existing, industrial, and commercial businesses into the City.
- Providing adequate infrastructure to support all employment activities through public and private funding sources.



Community Economic Objectives

Comprehensive Plan (Policy 20)

Overview

Hermiston is well situated as an economic hub in Umatilla County and the surrounding region. The city enjoys some competitive advantages which can be enhanced in the future to grow employment, establish successful industry clusters, and diversify the employment base. An ample supply of buildable commercial and industrial lands, in multiple zoning classifications, will provide the flexibility to meet the needs of new and expanding businesses.

Vision

To become the center of commercial and industrial activity in northeast Oregon providing an attractive, livable community utilizing adaptive, modern policies to capture economic development opportunities.





Discussion:

- What does the Hermiston economy need?
- What businesses or services are lacking locally?
- What types of jobs are most needed?
- What does the local workforce/residents need?
- What are some barriers to job/business growth?
- What does Hermiston look like in 20 years?

- Revised and Final EOA and BLI documents
- City Council public hearing
- Phase II: Urban Growth Boundary (UGB) consideration process

THANK YOU!

An aerial photograph of a golf course during autumn. The course features green fairways, a winding path, and a lake in the lower right. Trees with yellow and orange foliage are scattered throughout the landscape. In the background, a residential area with houses and a clear blue sky are visible.

Hermiston Economic Opportunities Analysis

**Planning Commission
& Roundtable**

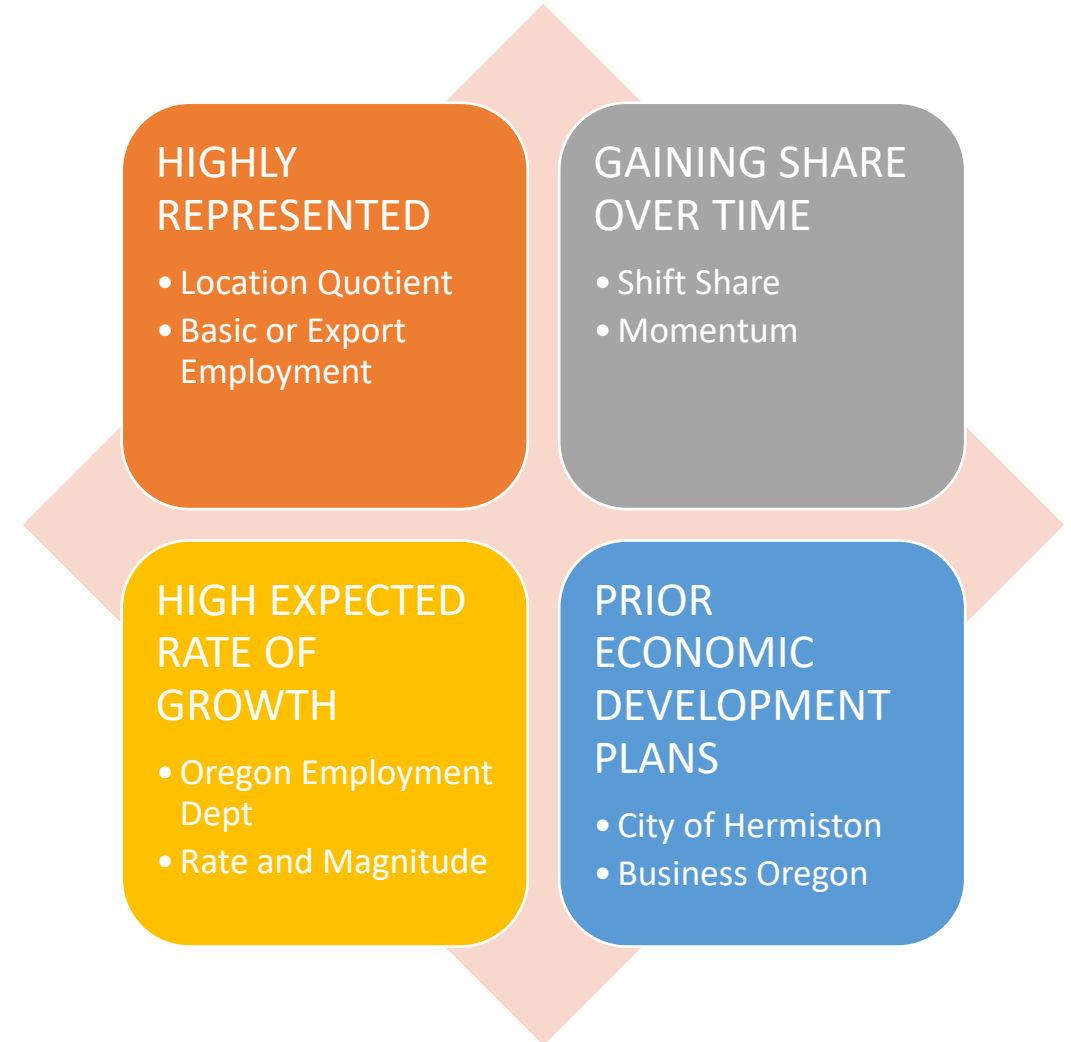
May 6, 2024, 7:00 pm

Economic Opportunities Analysis



Identifying Target Industries

- Local economic development goals
- National, State & Regional trends
- Location Quotient
- Shift-Share Analysis
- OED forecasted regional growth



To: Byron Smith, City Manager
Rich Tovey, City Attorney
From: Clinton Spencer, Planning Director
Subject: Oregon Land Use Legislation Report
Date: April 18, 2024



The legislative short session for 2024 has concluded and it is time to evaluate our development code framework in context with the adopted legislation. I performed a similar analysis at the end of the 2023 session, but at the time determined that the city could simply fall back on statutory language rather than perform code amendments to comply with the 2023 package. Now that we have two years of legislation to consider, it is appropriate to consider all adopted legislation and consider what, if any, changes we deem appropriate to pursue.

SB 1537 (2024)

This is the omnibus housing bill and establishes many new requirements for housing production in the state. Many of them will have far-reaching consequences for municipal operations but are much more top down from the state and won't require action on the city's part.

- The Housing Accountability and Production Office is a nebulous construct which may or may not prove to be successful. It will monitor complaints about cities not following statewide housing law and enforce those rules on cities. It is also being set up to provide funding opportunities to bring cities into compliance with housing law. *(No action needed)*
- A new rule is established to let developers opt-in to new housing laws that are established after an application is submitted without re-applying. I am a little surprised this needed to be written. I assumed most jurisdictions would use a commonsense approach to let developers use whichever mechanism benefitted them more. If you submit a permit application with a 10-foot setback and the city lowers the setback requirement to five feet, of course you should be able to build at five feet. Conversely if it was submitted with a five-foot requirement which was increased to ten feet, they should be able to take advantage of what was in place at the time of application. *(No action needed)*
- Cities and developers can now be awarded attorney fees when an appeal is decided in their favor. *(No action needed)*
- Funding is being established for infrastructure supporting housing, and to subsidize affordable housing construction. *(No action needed)*

- Residential development may request up to ten deviations from property development standards and the city shall grant such requests unless they impact affordability, natural resource protection, and hazard mitigation. Building and fire code waivers are not eligible deviations. This process is remarkably similar to our infill process already in code. An applicant must demonstrate compliance with a specific set of criteria established in Section 38. This is a limited land use decision, but only the applicant is eligible to appeal. Local governments may apply to the housing production office for an exemption to the requirement, but that is not recommended. *(Recommend code amendment to clarify process and criteria)*
- Some limited land use decisions have been moved from a quasi-judicial process to an administrative process. Property line adjustments, replats, and expansion of a non-conforming use are all considered administrative effective January 1, 2025. Hermiston processes property line adjustments administratively, but the others require additional approvals. This has been a pet project of mine for several years, especially for replats. It is good to see legislation reflect the actual need. *(Recommend code amendments to subdivision and zoning code)*
- One-time UGB amendment for housing. The UGB expansion may only be undertaken when the city can demonstrate less than 20 acres of contiguous undeveloped residential land in the UGB and the expansion is less than 50 acres. *(No action needed. Hermiston will not qualify)*

HB 2063 (2024)

HB 4063 also establishes some new housing production requirements, very few of which will be applicable to Hermiston.

- Metro unincorporated lands are required to be planned for future housing. *(No action needed)*
- Realtors are again able to forward letters from prospective buyers to the seller. This had been previously banned and the ban was found unconstitutional. *(No action needed)*
- A remainder lot from a partition may be further partitioned again into three lots in the same calendar year if it's to be used for middle housing. Current law allows a partition to create three lots in a calendar year. The amendment allows lots within that partition to be partitioned into an additional three lots in the same year for middle housing land divisions. *(Potential amendment needed to subdivision code, but also could just be a citation in a report)*
- Clarifies single-unit housing property tax exemption process. *(No action needed)*

SB 1564 (2024)

Directs DLCD to develop model housing codes for small, medium, and large cities. The codes will encompass single-family, middle, multi-family, and ADU units. These model codes already exist but will be more refined. *(No action needed)*

HB 4026 (2024)

Prohibits a local government from referring an urban growth boundary expansion to the voters. *(No action needed)*

Housing Production Advisory Council Recommendations Report (2024)

In 2023 the governor formed a council to recommend future changes to law and policy to better to facilitate housing construction. The report was issued in February of 2024. It does not carry the force of law but is a set of recommendations that the governor will use to shape the 2025 legislative agenda. Some of the recommendations are listed below. I am working with several other eastern Oregon cities to discuss this document.

- Annual housing production of 36,000 “homes” is established by executive order 23-04. What constitutes a home is not specified.
- Develop a process to streamline the divestiture of government owned property suitable for housing construction.
- Expand executive order to declare housing an emergency and create expedited process for housing construction and approval.
- Create a one-time UGB expansion process solely for housing. Cities using the process will receive prioritized support and be required to adopt minimum affordability parameters.
- Streamline wetlands delineation and banking process for housing.
- Allow affordable housing developers right of first refusal for publicly owned land.
- Preclude local governments from creating special processes for surplus land for housing.
- Create by-right legislation allowing affordable housing on public land and precluding additional process or design standards for housing on public land.
- Expand Building Codes Division to increase staff and decrease plan review time.
- Consider increasing third party inspectors licensed by the state to inspect and perform plan reviews.
- Consider virtual inspections.
- Eliminate courtyard and separate utilities requirements for cottage cluster housing.
- Require cities to produce clear and objective building permit process similar to zoning standards. Handouts must be developed for land use, construction, and building permitting.
- Require only two rounds of review for civil plans. After the first round’s request for changes are addressed, future comments may only address fire and life safety.
- Consider increasing the percentage of by-right development adjustments in SB 1537 from 10% to 20%.

- Remove housing development from public discretionary review or review by city councils.
- Cities should create a “feasibility acceptance” process. This acceptance is binding for 18 months on the final application submittal.
- After a city deems an application complete, no additional information may be requested.
- Appeals should be sent to a hearings officer instead of planning commission or city council. State may create hearings officer circuits for cities with no hearings officer.
- Legislature to create definition for adequate findings to limit revisions.
- Applicants should have an opportunity to rebut questions of staff even after closure of a hearing.
- Allow use of single stair for buildings up to five floors.
- Allow multiple water and sewer services off a single mainline tap.
- Develop taskforce to determine conflicts between climate friendly rules and housing production targets.
- Consider if transportation planning standards create barriers to housing development.
- There are several transportation related mitigation measures proposed, all of which will streamline the process, including interim mitigation measures.
- Mandatory annual training for all cities over 10,000 for annual legislation and case law. Must be attended by at least one planning staff member.
- Consider SDC delay or financing options.
- Measure 50 reform. Increase from 3% to 5% annual increase. Exempt cities from compression. Authorize voters to increase permanent levy.
- Exempt property taxes temporarily for housing at 120% AMI or below.
- Incentivize construction by paying cities \$10,000 per housing unit constructed within city limits over next ten years.

There are some very good ideas and some extremely bad ideas in this document. It is worth reading from cover to cover. Some of the ideas, such as allowing only one civil review and then only addressing the initial review after that are very bad for long term infrastructure health. Third party inspectors are also a great idea. Not allowing additional information to be requested once an application is complete is a headache in practice. *(No action needed)*

HB 4064 (2022)

HB 4064 is a bill that was adopted several years ago at the behest of Oregon’s mass timber industry. In February of this year DLCD finally issued guidelines for how cities should address its provisions, which in essence mandate additional freedoms for siting manufactured and modular housing. Hermiston is generally in compliance already, but there are a few items in the new guidelines which will require amendment. In essence, the law still remains the same that cities must permit manufactured and modular housing in all areas that permit site built single-family housing. However, statute used to allow siting and design requirements that were

specified in the ORS such as requiring a foundation. With the adoption of the new language, it has been modified to state that cities may not place any additional requirements on manufactured housing that is not required for site-built homes. There are exceptions for compliance with statewide planning goals (requiring blow-outs for housing in flood plains for example) and to meet thermal envelope requirements for energy efficiency. The requirement to allow prefabricated housing on all single-family lots still does not apply to residential trailers or single-wide mobile homes. The specific prohibitions on prefabricated housing that will impact the city are the requirement for a 1,000 square foot minimum and multi-sectional, carport or garage, foundation, and roof pitch standards. **(Recommend code amendments)**

HB 2001 (2023)

This bill created the Oregon Housing Needs Analysis framework. The authority for housing production targets to be assigned to regions and cities are created here. DLCDC is tasked with developing those targets in 2024. Housing production has to be balanced across all levels of AMI. Requires DLCDC to adopt more flexibility related to administration of Goal 10 (Housing) and Goal 14 (Urbanization) with the goal of prioritizing housing production. First draft of the Housing Accountability and Production Office was established in this bill. *(No action needed, but continual monitoring is necessary)*

HB 3395 (2023)

A large bill which made many changes to housing production. At the time of passage, we considered if they needed immediate action or if we could roll them into other future changes.

- Adjusts threshold for cities to comply with middle housing rules from 10,000 to 2,500. *(No action needed)*
- Requires cities to allow affordable housing in commercial zones or mixed use structures with ground floor commercial. **(Recommend code amendment)**
- Allows cities up to seven extra days beyond the 120-day deadline to finalize an approval order. *(No action needed)*
- Amends the “shall approve” requirement for emergency shelter siting. Clarifies language. Cities still shall approve an emergency shelter as long as it is operated by a non-profit or government organization, is meeting building codes, not in an area subject to natural hazards, and cannot be used for any other purpose. **(Recommend code amendment)**
- Removes condominium plats from local review and moves regulation to the office of the real estate commissioner. *(No action needed, however it would be a good policy moving forward to understand how a manufactured dwelling park subdivision under ORS 92.830 is not a condominium under ORS 100 and out of the city’s hands)*
- Directs cities to accept funding commitments in the form of award letters for affordable housing projects. *(No action needed)*

- Requires cities to approve single-room occupancy structures of up to six units in single-family zones and consistent with multi-family density standards in all other residential zones. **(Recommend code amendment)**

HB 2127 (2023)

Specific legislation tied to expansion of Pendleton's UGB. Pendleton missed a filing deadline, and the legislature granted an extension. *(No action needed)*

HB 2898 (2023)

The bill relaxes and extends the permissions relating to siting a recreational vehicle as a shelter. Although there is little doubt the legislature will eventually require cities to allow RVs as dwelling units, this bill still relates to RV parks, Mobile Home parks, and RVs used as shelter after a wildfire. *(No action needed)*

HB 2984 (2023)

Requires cities to allow conversion of commercial property to residential use. A city may not require more parking than originally required for the commercial use. This has far reaching potential consequences for some of Hermiston's aging hotels. It is not clear from the adopted language in ORS 197A.445(3) if the conversion of commercial to residential use must be "affordable" housing or not. The other provisions in the section speak to affordable housing, but (3) does not. *(Recommend code amendment)*

HB 3197 (2023)

Requires cities to apply clear and objective standards to residential development. Added other types of housing outside of UGBs to also use clear and objective standards. *(No action needed)*

SB 1013 (2023)

Allows counties to allow placement of a recreational vehicle as an accessory dwelling in rural areas. This rule does not apply within an urban growth boundary. *(No action needed)*

HB 3362 (2023)

Allows a county to validate a unit of land created prior to 1/1/23 if the county later revoked the approval. This appears to be a specific fix that would have helped with the illegal partition at the corner of SE 4th St and Highway 395 which was stuck in legal limbo for nearly two decades. *(No action needed)*

Recommended Actions

There are several items which could be interpreted as requiring immediate code amendments before 1/1/25. In the past, we have treated statutory changes which override our code as being something we acknowledge and stop applying the affected portion of code (our 10-day appeal period became 12 days per statute, so we simply started changing our notices). However, the City Attorney had said that

having outdated code language can impact the entire enforceability of the code, especially in a litigation situation. Therefore, it is prudent to consider several changes to the code in the next year. The recommended amendments are listed in recommended order of importance.

1. Draft amendments to §157.145 governing manufactured dwelling standards to reflect the large amendments made to local design standards.
2. Draft new code language to clarify the up to ten variances process to comply with SB 1537 (designated as “housing land use adjustments” in the new statute).
3. Draft new code language to establish process and criteria for building affordable housing in commercial zones and for converting commercial structures to residential use.
4. Amend R-1 zone to permit up to six SRO units on a lot and amend other multi-family zones to permit SRO units.
5. Draft new code language for emergency shelter siting. Potentially amend the M-1 shelter language at the same time as it is now redundant with state law.
6. Amendments to Subdivision and Zoning code to clarify that replats, non-conforming use expansions, and property line adjustments are administrative decisions.
7. Clarify that middle-housing land divisions may be partitioned up to twice in a calendar year in the Subdivision code.
8. As part of these amendments, we may also consider working to develop code language for expedited land divisions and middle housing land divisions for the Subdivision code. It does not appear that DLCD has a model code for those processes but it is likely that we will need to have local code soon rather than relying on the statutory language which is confusing and hard to interpret.