CITY COUNCIL MEETING
STAFF REPORT

Meeting Date: August 15, 2022	**Subject: Resolution No. 2992** Vertical Housing Calculation Methodology **Staff Member:** Matt Lorenzen, Economic Development Manager **Department:** Community Development
Action Required	**Advisory Board/Commission Recommendation**
⊠ Motion	⊠ Approval
☐ Public Hearing Date:	☐ Denial
☐ Ordinance 1st Reading Date:	☐ None Forwarded
☐ Ordinance 2nd Reading Date:	☐ Not Applicable
⊠ Resolution	**Comments:** N/A
☐ Information or Direction	
☐ Information Only	
☐ Council Direction	
⊠ Consent Agenda	
Staff Recommendation: Staff recommends Council approve the consent agenda.	
Recommended Language for Motion: I move to approve the consent agenda.	
Project / Issue Relates To:	

☐Council Goals/Priorities:	☐Adopted Master Plan(s):	⊠Not Applicable

ISSUE BEFORE COUNCIL:

Shall the City of Wilsonville clarify the calculation methodology prescribed by *ORS 307.857 - Application for exemption; review; certification; fees*, by further specifying how to calculate the "the average floor area of a project" for a project comprised of multiple buildings?

EXECUTIVE SUMMARY:

Council adopted Resolution No. 2971 – A RESOLUTION OF THE CITY OF WILSONVILLE ESTABLISHING THE WILSONVILLE VERTICAL HOUSING DEVELOPMENT ZONE (VHDZ) PROGRAM AND LOCAL CRITERIA on May 2, 2022. Since that date, Staff has been focused on developing the materials required to administer the new development incentive program.

ORS 307.857 describes, in detail, what a satisfactory application for partial tax exemption under a locally administered VHDZ program must include. Subsection (2)(g) indicates "computations made under subsection (4)" must be included. Subsection (4) prescribes, step by step, how the partial tax exemption shall be calculated based on number of floors, square footages and uses contained in the development project. In the process of developing a calculation spreadsheet to accompany an applicant's application materials, as required by subsection (2)(g), Staff discovered an oversight in the computation methodology prescribed by statute.

Specifically, subsection (4)(a) states,
> *"The average floor area of a project equals the total square footage of the project divided by the number of floors of the project that are at least 500 square feet in area."*

For a project containing only one building, this methodology is appropriate and adequate. However, the definitions found in ORS 307.841, subsection (6), define a "Vertical housing development project" or "project" as:
> *"…the construction or rehabilitation of a multiple-story building, or a **group of buildings**, including at least one multiple-story building, so that a portion of the project is to be used for nonresidential uses and a portion of the project is to be used for residential uses."*

For a project comprised of multiple buildings, the methodology prescribed by subsection (4)(a) is inappropriate and inadequate because it does not account for the possibility of a multiple building project. This is problematic because by not accounting for number of buildings, a multiple building project could be awarded a higher tax exemption rate than it should otherwise receive if the number of buildings was included in the computation algorithm.

As an example, under a strict reading of ORS, a hypothetical project containing three (3) buildings with two (2) stories each would be treated, effectively, as a 6-story project (3 buildings x 2 floors), and therefore render it eligible for a maximum 80% tax abatement. This is in conflict with the widely accepted intent of the VHDZ program, which is to award an approximate 20% abatement for each floor of residential above the ground floor. The example project described above should be treated as a 2-story project, but the calculation methodology prescribed by statute does not treat it as such.

The proposed resolution clarifies that the "average floor area of a project" should be calculated with an additional step, in order to account for the number of buildings in the project. In so doing, the tax abatement calculation, called the "exemption multiplier" in statute, falls in line with the long-understood intent of the VHDZ program, which is to award an approximate 20% tax

abatement for each floor of residential above the ground floor. Without this clarification, the city is compelled to follow the statute and potentially make tax abatement awards in excess of what is warranted, for projects that are not actually *vertical*.

Indeed, this program is called the **Vertical** Housing Development Zone for good reason. It is meant to incentivize vertical development projects that make efficient use of land and maximize taxable assessed value per acre in areas of a city where such a development pattern is desired. Without this clarification, the statutory calculation methodology does the opposite and encourages a developer to build multiple shorter buildings—a much more horizontal development pattern, consuming more land, with less density and lower valuation, per project.

EXPECTED RESULTS:
Local program rules for the Vertical Housing Development Zone will be clear and accurately award appropriate tax abatements for the types of projects the program is designed to incentivize.

TIMELINE:
Immediate effect. The calculation methodology language contained in Resolution No. 2992 will be incorporated into all administrative and informational materials, and added to the other local program criteria first established by the adoption of Resolution No. 2971.

CURRENT YEAR BUDGET IMPACTS:
None.

COMMUNITY INVOLVEMENT PROCESS:
None.

POTENTIAL IMPACTS OR BENEFIT TO THE COMMUNITY:
This clarification will ensure that inordinate tax abatements are not awarded to projects that do not align with local goals and objectives related to the VHDZ program and the Town Center Plan (2019) more broadly.

ALTERNATIVES:
Interestingly, for over a decade, the State of Oregon and, after 2017, local jurisdictions have actually been using the calculation methodology prescribed by Resolution No. 2992, arithmetically accounting for number of buildings in a project, with no statutory direction to do so. The City can do as has been done in the past and use the "correct" methodology without a formal resolution documenting the rationale and methodology explicitly. By so doing, however, the City assumes the risk associated with the possibility that a developer may closely examine the state statutes, identify the arithmetical oversight, and demand a higher abatement, which statute technically grants.

Staff consulted with the City Attorney on this matter, and discussed the possibility of simply fixing the calculation methodology at the administrative level, without formally establishing the methodology and rationale by resolution of the Council. The City Attorney feels the cleanest and most conservative approach for the city is to formally adopt Resolution No. 2992, and incorporate the methodology clarification into the VHDZ local program criteria in both policy and program administration.

CITY MANAGER COMMENT:
N/A

ATTACHMENT:
1. Resolution No. 2992