County Commissioners
Colm Willis, Chair
Kevin Cameron
Danielle Bethell

Chief Administrative Officer
Jan Fritz

MARION COUNTY BOARD OF COMMISSIONERS
WORK SESSION

Facilities Management Program Update
Minutes

Thursday, July 30, 2026, 9:30 a.m. – 11:30 a.m.
Commissioners' Boardroom
Courthouse Square, 555 Court St. NE, Suite 5231
Salem, Oregon 97301

ATTENDANCE:
Commissioners: Kevin Cameron, Danielle Bethell and Colm Willis.
Board's Office: Alvin Klausen, Jonathan Sanford, Matt Lawyer, Trevor Lane, Toni Whitler, Kendall Hall, and Chris Eppley.
Legal Counsel: Andrew Mittendorf and Steve Elzinga.
Public Works: Max Hepburn, Chris Trussel, Brendan Reich, John Speckman, Lani Radtke, Kent Inman, Toepfer and Brian May.
Assessor's Office: Tom Rohlfing, and Nate Combs.

Commissioner Kevin Cameron called the meeting to order at 9:32 a.m.

1. Welcome & Introductions
-Commissioner Kevin Cameron

2. Discussion of HB 2138
-John Speckman, Andrew Mittendorf, Max Hepburn, Chris Trussell, Nate combs, and Kent Inman

- Planning:
  - Overview of HB 2138 as an expansion of HB 2001:
    - Closed perceived loopholes of design standards and Homeowners Association (HOA) limitations that restricted middle housing.
  - Requirements apply in unincorporated urban areas inside urban growth boundaries (UGBs):
    - Served by public water and sewer
  - County impacts focus primarily in East Salem and Illahee area in Salem UGB.
  - Functional end of single-family zoning in affected areas and replace with Dwelling Single Unit (DSU) and require allowance of:
    - Duplexes, triplexes, fourplexes, townhouses, cottage clusters, and additional "bonus" units.
    - For accessible or affordable housing in some cases.
  - Although code must allow these uses, physical build out is constrained by water/sewer capacity:
    - Especially in areas served by private or special districts.
  - New middle housing land division process allows subdivision of cottage clusters and townhouses into very small lots:

        - If structures meet setback and other standards.
        - 63-day decision timeline and no neighbor notice.
    - Need a new development code chapter for expedited middle housing land divisions and draft language is in progress and under internal review.
    - Potential for increased density through single-room occupancy (SRO) developments:
        - Uncertainty whether there will be market demand for such products.
    - Need to balance compliance with state mandates against risk of litigation from developers if applications or adjustments are denied.
- Legal:
    - Qualifying urban unincorporated areas with public water and sewer.
    - County is required to allow middle housing types and broader SRO housing.
    - Bonus unit incentives for accessible/affordable units:
        - Allowing +1 or +2 units beyond base density.
        - Likely not mandatory for county outside metro area.
        - Could be voluntarily adopted.
        - Current recommendation is to wait and revisit later.
    - Middle housing must be allowed in areas within UGBs where public water and sewer are available:
        - Areas on private systems may be eligible only if provider verifies adequate capacity.
    - Expedited middle housing land division is limited land use decision with mandatory 63-day timeline:
        - No required notice to neighbors.
        - Only applicant has direct appeal rights through land use channels.
        - Broader challenges likely proceeding in circuit court.
    - Limits on neighbor recourse when county correctly applies state law:
        - Possible exceptions in private covenants or civil claims are implicated.
    - Bill declares Covenants, Conditions, and Restrictions (CC&Rs) that prohibit middle housing to be unenforceable:
        - Potential constitutional challenges that would be resolved in private litigation rather than by county.
    - If county follows state requirements and adopted standards:
        - Minimal basis for successful Measure 37/49 or takings claims against county for allowing middle housing.
    - Further analyze:
        - Neighbor notice can be provided voluntarily without violating statute.
        - Extent to which tentative plats and other processes are legally required versus optional under HB 2138 and related legislation.
        - Options for residents to challenge or respond to nearby projects under new framework.
- Land Development and Engineering Permits:
    - HB 2138 impacts on engineering review, street standards, and permits.
    - Bill prohibits requiring Traffic Impact Analyses (TIAs) or generalized exactions for middle housing except:
        - System development charges (SDCs).
        - Fee in lieu arrangements.
        - Clearly specified development requirements.
    - County may require frontage improvements and specific infrastructure upgrades:
        - Standards must be precise and consistently applied rather than broad or discretionary.
    - TIAs cannot be used on project-by-project basis for middle housing:

        - Creates tension with statutory language requiring standards to:
            - Lessen congestion.
            - Facilitate adequate transportation.
    - Exception allowing robust exactions for townhouses or cottage clusters with more than 12 units:
        - Possible policy lever for higher density projects.
    - Strong state push toward minimal or no off-street parking requirements for middle housing:
        - Particularly near transit corridors.
        - Associated concern:
            - Pedestrian safety.
            - School access.
            - Narrow local streets.
    - Board direction to:
        - Require off-street parking for new middle housing where legally supportable.
        - Explore limited use of on-street parking paired with adequate street width and potential permit systems.
        - Avoid waiving SDCs for middle housing, given infrastructure funding needs.
    - Produce comparative SDC analysis, including Salem, East Salem, and nearby jurisdictions:
        - Demonstrate relative cost levels and support future policy discussions.
    - Need for new, detailed standards for:
        - Frontage width.
        - Street section.
        - Drainage.
        - Pedestrian facilities in expedited land divisions:
            - Without relying on case-by-case TIAs.
- Building:
    - HB 2138 does not directly change building code requirements:
        - Standard state building codes will continue to apply to all projects.
    - Confusion between land use terminology and building code definitions affects:
        - How permits are categorized:
            - Single family vs. multifamily vs. townhouse.
        - Fire/life safety standards.
        - Separation walls and utilities.
        - Eligibility for later subdivision.
    - Many applicants try to permit duplexes/multiplexes in cheapest, fastest ways:
        - Later attempt to subdivide units into separate ownerships.
        - Discovering:
            - Utilities are shared:
                - Single water/sewer/electric services.
            - Fire separation and wall construction do not meet townhouse/zero-lot-line standards.
            - Certificates of occupancy (COs) issued for single building, not for separate lots.
    - Subdivision of such buildings can require:
        - New permits.
        - Upgrading walls and utilities to townhouse standards.
        - Issuance of new COs for individual units—at significant cost.
    - A technical mitigation is built to townhouse standards from outset:
        - Increases upfront costs and may conflict with state affordability goals.

- Department warning applicants about possible future subdivision constraints:
    - Need standardized guidance or FAQ material explaining tradeoffs.
- HB 2138 does not authorize waiving building permit fees:
    - Current direction is to not pursue fee waivers:
    - Due to limited general fund capacity.
- Future issues around SRO and "single occupancy" definitions:
    - Especially when units share kitchens or other facilities.
- Application of building code will depend heavily on specific development proposal.

- Assessor:
  - Property tax exemptions referenced or encouraged in HB 2138:
    - Low-income rental housing, nonprofit low-income housing, single unit rehabilitation, and others.
  - Nonprofit corporate low-income housing exemption adopted in 2017:
    - Has not been used to date.
  - Some exemptions can remove 100% of assessed value of improvement from taxation when criteria met:
    - With annual qualification requirements.
  - Home buyer opportunity limited tax exemption concept in other jurisdictions which:
    - Land value remains taxable.
    - Improvement value is exempt for a fixed period for qualifying buyers.
    - Taxes may increase substantially after exemption period:
      - Raising long-term affordability concerns.
  - When multi-unit structures are subdivided, new parcels are created and reassessed at current market values:
    - May increase tax burdens even if physical improvements unchanged.
  - Agreed to:
    - Analyze existing and potential exemptions for housing:
      - Including their fiscal impact.
    - Compile data on nonprofit-owned residential properties and value of current exemptions.
- Surveyor:
  - Current subdivision/partition workflow:
    - Plat reviewed after planning and engineering conditions of approval satisfied.
    - Surveyor's office coordinates version control and circulates updated plats to ensure all departments review same document.
    - Legal review timelines for plats typically met with significant delays:
      - 30-day standard.
      - Often caused by unpaid taxes or incomplete conditions of approval by applicants.
  - Growing concern about declining quality of plat submissions, leading to:
    - Multiple rounds of review:
      - Often four or more.
    - Substantial overage charges beyond base review deposits.
    - Perception in development community that county is source of delay:
      - Underlying problem is substandard submittals.
  - Tentative plat concept used in some cities adds another review layer and increases complexity, potentially producing:
    - Homes built on tentative configurations that are never finalized.
    - Recorded plats that lag behind built conditions.
  - Office reviews plats "at cost," with high refund rates when simple:

        - Significant overages when repeated corrections are required.
    - Any statutory push toward tentative plats and tighter timelines under HB 2138 would need to account for:
        - Existing process dependencies.
        - The need to maintain accuracy and legal sufficiency of recorded plats.

3. Other Housing

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- Board Concepts for Housing and Land Division:
    - Concern of cumulative impact of HB 2138 on neighborhood livability, safety, and local control, especially in vulnerable and already strained areas.
    - Policy preference for:
        - Maintain or expand opportunities for traditional starter homes.
        - Modest single family detached homes:
            - ~1,200–1,500 sq ft, 3 bed/2 bath, on small but usable lots.
        - Supporting homeownership:
            - For families, veterans, seniors, and people with disabilities.
            - Down payment assistance, rather than higher density rentals.
    - Market preferences in Marion County differ from those in dense urban cores:
        - Residents value driveways, garages, and yards.
        - Rely on cars due to limited transit.
    - Need spectrum of housing types:
        - Smaller units or town homes for childless homes and older adults.
        - Caution against policy crowding out traditional single-family products.
    - Open to consider:
        - Appropriate smaller lots with adequate parking and infrastructure.
        - Cottage clusters and similar formats for targeted populations:
            - Provided neighborhood impacts are manageable.
    - Engage state level partners and associations to seek correction or adjustment in future sessions based on practical implementation problems.
- Board Concepts for Housing Development Standards:
    - Directed staff to prioritize standards that protect:
        - Pedestrian safety.
        - School access.
        - On street congestion and emergency access.
        - Overall neighborhood livability.
    - Support requiring off street parking for new middle housing:
        - Where consistent with state law.
        - Particularly in areas with narrow roadways and limited transit.
    - Interest in exploring resident only or permit parking schemes in highly constrained neighborhoods:
        - Recognize administrative burden.
    - Oppose waiving SDCs and broad permit fee waivers for middle housing projects:
        - Absent clear alternative funding.
        - Infrastructure costs must be borne by growth, not general fund.
    - Oppose county directly administering local affordability/rent control programs layered on top of state law:
        - Complex, staffing burden, and skepticism about long term outcomes.
        - Preferred to revisit only if clearly beneficial and manageable.
    - Staff to:

        - Develop clear, written standards for expedited land divisions and middle housing:
            - That can be defended under law but still reflect local priorities.
        - Create FAQs so applicants and residents understand what is and is not within county control under HB 2138.

4. Next Steps

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- Analyze if tentative plat process is legally required under HB 2138:
    - If not, bring recommendation regarding to avoid or limit use:
        - Given local process and risk concerns.
- Develop internal standards for expedited middle housing land divisions, covering:
    - Street width and location.
    - Access management.
    - Drainage and stormwater.
    - Pedestrian accommodations and congestion mitigation, without relying on TIAs.
- Prepare comparative report on SDC levels and structures:
    - Marion County urban, Salem, Woodburn, and other relevant jurisdictions.
- Draft an FAQ/guide for developers explaining:
    - HB 2138 middle housing entitlements and limits.
    - Future subdivision issues for duplexes/fourplexes:
        - Utilities, fire separation, CO's.
    - Expectations for parking, frontage, and infrastructure under county standards.
- Get data on existing property tax exemptions:
    - Those related to nonprofit and low-income housing.
    - Evaluate their potential use and fiscal impact in the HB 2138 context.
- Coordinate with Oregon Association of Counties (AOC) and counties to consolidate concerns and proposed fixes to HB 2138 for next long legislative session.
- Schedule follow up work sessions to:
    - Review general code updates:
        - Non-housing.
    - Present draft housing code changes and development standards:
        - Including cottage clusters, small lots, and middle housing.
    - Address battery energy storage code issues once pending Land Use Board of Appeals (LUBA) decision is issued.

Adjourned – time: 11:27 a.m.
Minutes by: Mary Vityukova
Reviewed by: Gary L. White