



Staff Responses to Commissioner Wellner Comments and Questions Regarding Ordinance No. 886, Exhibit 1 Submitted on Feb. 7, 2022

Commissioner Wellner submitted comments on Ordinance Nos. 885 and 886 in one letter. The following responses are to the questions on Ordinance No. 886 only. Staff review and preparation of responses to questions on Ordinance No. 885 will take additional time and will be available with the staff report for the March 2 hearing.

1) ¹Policy 18 (Plan Designations and Locational Criteria for Development), Summary of Findings and Conclusions:

- a) Page 1: The comparison found in the proposed new paragraph should refer to single detached homes as “traditional single detached homes.” As evidenced by the Model Code, middle housing can take many forms, either attached or detached, and cottage clusters can as well.**

Staff Response: The Community Development Code (CDC) includes the definitions for the different housing types. This is not a change that staff believes is needed, but it could be made if the ordinance is engrossed.

- b) Page 2: Regarding proposed additions to first paragraph, it seems counter-productive to not be able to enforce minimum density requirements in higher-density districts. People may choose to build lower-density middle housing where a higher density was anticipated. Is this an interpretation or an explicit requirement, and are there other potential approaches?**

Staff Response: The Comprehensive Framework Plan for the Urban Area (CFP) is a higher-level policy document that generally does not provide detailed information about development requirements such as density; that information is contained in the Community Development Code (CDC). The Summary Findings and Conclusions in Policy 18 of the CFP does mention that both maximum and minimum densities have been established for all residential districts. The proposed change makes it clear that, as per the Oregon Administrative Rules (OARs) 660-046 (Middle Housing), middle housing is not subject to the specific density requirements in the CFP. This is the extent of the CFP provisions related to density and staff does not believe further changes are necessary to address minimum density.

The CDC amendments in Ordinance No. 885 are the detailed changes to County regulations related to middle housing. The OARs are fairly narrow with regard to the requirements that

¹ These are questions 27 to 34 in Wellner letter.

*jurisdictions can impose on middle housing development, and do not specifically address **minimum** density. They do, however, allow middle housing to be subject to certain requirements that are also imposed on single detached dwellings. As such, Ordinance No. 885 does not require a middle housing proposal to meet current minimum density, but where it will not, Type II plan review criteria apply. These require proof that the proposal will not preclude future achievement of current minimum density. The same is currently required for a proposed detached dwelling on a large lot when minimum density is not met.*

This can be addressed in further detail in the Ordinance No. 885 materials and discussion.

- 2) Page 7, Policy 18, Summary of Findings and Conclusions: Regarding proposed deletions at the top of this page – why is multi-family being taken out of the descriptions of R-15 NB? Is this just a correction? Are we certain that we aren't creating any problems by doing so?**

*Staff Response: This section includes a new statement on page 6 that the R-15 NB district allows "...**attached-unit residential development** at densities of 12 to 15 units per acre (**emphasis added**)."* "Attached dwelling units" and "attached-unit residential development" are umbrella terms that encompass several different attached housing types, including multi-family developments, apartments and condominiums. Therefore, the references to individual attached housing types such as multi-family developments and apartments are proposed to be deleted since they are redundant. In part, these reflect a change throughout the CDC that removes the word "family" from terms used to describe housing types – recognizing the diversity of household types that may occupy them.

These ordinance amendments are consistent with the way that R-15 NB attached dwelling units are treated in the existing CDC text.

- 3) Page 8, Policy 19 (Infill), Summary of Findings and Conclusions: The proposed new paragraph explains that middle housing is not subject to the development regulations associated with the infill policy, or to density requirements that apply to other housing in the R-5 and R-6 districts. Why not just strike the infill standards altogether? Why should higher density and higher intensity housing have lesser standards? Why not create an equal set of standards to create continuity, sensibility and make it easy to understand?**

Staff Response: Commissioner Wellner states that applying the Infill provisions of Policy 19 and CDC Section 430-72 (Infill) to subdivisions for future single detached dwellings may not make sense, since those standards will not be applied to denser middle housing types that could have equal or greater potential neighborhood compatibility impacts. Staff believes that the commissioner has raised a valid point. The middle housing discussion, in general, raises new questions about what is "compatible" and how important "compatibility" is as part of future land use decisions. With the introduction of middle housing by state law, the current "primary purpose" of the R-5 district must also evolve beyond protection of existing neighborhoods developed at five units per acre or less.

However, modifying the Infill standards several years ago to be clear and objective via A-Engrossed Ordinance No. 820 (2017) was somewhat contentious. Based on that experience, staff believes it

likely that community members would have significant concerns if the middle housing ordinances included a wholesale removal of the Infill standards. Neither Ordinance No. 885 nor 886 propose removal of current Infill standards, but neither do they apply these standards to middle housing, per the state's Rules.

Commissioner Wellner suggests that staff could develop an "equal set of standards" to replace the Infill standards. This is not part of the scope of the middle housing ordinances, however staff recognizes this and a number of other CDC changes may be warranted as a follow-up to the current changes being made. Development of such standards may be possible as a stand-alone task for future work if directed by the Board of Commissioners.

4) Page 10, Policy 21 (Housing Affordability), Summary of Findings and Conclusions:

- a) Third paragraph: By characterizing detached housing as inherently more expensive, you are ignoring the basic problem, which is lack of supply. A lack of sufficient detached housing, small or large, places pressure on pricing for middle housing types. By not considering detached products in the family of middle housing, which are allowed under the Model Code, you are only discouraging the construction of middle housing.**

*Staff Response: Staff is not proposing wholesale changes to the background information for each policy and set of Implementing Strategies – this information formed the basis for the original adoption of the policies and strategies and is being retained except where it is incorrect or extremely dated. Staff has not redone the full analysis of the findings and conclusions. The language Commissioner Wellner objects to is existing language not proposed to be changed. The point being made in the sentence the commissioner objects to is that a substantial income is required to afford to purchase **any** home in the urban area. If the ordinance is engrossed, staff recommends the sentence be modified to state that the amount of income to purchase any home will vary, depending on a variety of factors, and that it can be substantial and beyond the reach of many.*

The CFP does not distinguish between detached or attached middle housing. That distinction is made in the CDC and in Ordinance No. 885. Staff does not believe further changes are needed in the CFP to cover the possibility of detached products in the family of middle housing.

- b) Seventh paragraph: The proposed new sentence "Development process changes and code amendments may impact affordability and development timelines..." should be amended to replace the words "may impact" with "affect."**

Staff Response: Staff recommends this change be made, if the ordinance is engrossed.

5) Page 12, Policy 22 (Housing Choice and Availability), Summary of Findings and Conclusions:

- a) **There should be some reference to a shift, albeit recent, to working from home. Could also reference the role that ADUs play in housing affordability, not only for the tenant, but also for the owner.**

Staff Response: Staff recommends referencing the rising trend of working from home and notes the following change could be made to the first paragraph under Policy 22 Summary Findings and Conclusions if the ordinance is engrossed (changed language from that proposed in Ordinance No. 886 is shown as underlined):

Trends over the past several decades contributing to these changes include a rise in single parent households, more women in the workforce, declining birth rates, an aging population, and more active lifestyles, and an increase in working from home due to the development of remote work technology.

Staff also recommends adding reference to the role ADUs play in housing affordability to Policy 21, Housing Affordability Summary Findings and Conclusions (not to Policy 22), as follows:

Middle housing can include new and/or redeveloped middle housing units that are less costly than a new single-detached home in a similar neighborhood. Accessory dwelling units can also provide units that are more affordable. Historically, when middle housing and accessory dwelling units are present in a neighborhood, they help provide variety in sales and rental prices.

- b) **The assumption that attached housing is more affordable than detached completely misses the mark relative to creating a healthy housing supply to accommodate the demand. Limiting middle housing to attached and/or cottage designs will only suppress the construction of middle housing. If a product type is allowed by the Model Code, it should be allowed by the County's Community Development Code. Any characterization that attached middle housing will be more affordable is simply unfounded because affordability is going to be controlled by a lack of supply. It may be less expensive, but it will still be expensive. Until we address the supply issue, even attached middle housing types will see dramatic price increases when demand is high. We should not be actively discouraging detached middle housing when it could make a real dent in our supply problem.**

Staff Response: The Summary Findings and Conclusions in this policy mention that there is demand both for traditional detached homes and a variety of other housing types. This issue is primarily one about the CDC changes, not the CFP provisions in this ordinance. Staff suggests this issue be addressed as part of Ordinance No. 885, which addresses CDC provisions to implement HB 2001.