

PSC Potential Amendments as of 5/14/18

From Commissioner Smith

- Include R10 and R20 in proposal (i.e., all single-family zones) [smith]
- Move a-overlay provisions to base zones [smith]
- More aggressive FAR bonuses for affordability [smith]
- Provide FAR bonuses for more units [smith]
- Remove all parking minimums in single-family zones [smith]

From Commissioner Houck

- Front setback [Houck]:
Maintain the existing 10 ft setback in R5 zone, do not increase to 15 ft. This will give additional flexibility to retain and protect existing trees in front, side or back yards as needed. Do not force the owner or developer to get a front setback adjustment to gain flexibility to protect trees. That will be a significant disincentive to tree protection. The objective of this amendment is to maximize flexibility with regard to tree protection which should outweigh which seems to seek consistency for aesthetic reasons which should not trump tree preservation. The city has a goal of INCREASING tree canopy to 33% or more city wide and the RIP has the potential to go in the opposite direction.
- Off-street parking [Houck]:
Eliminate off-street parking requirements in residential zones. This will allow for less expensive construction, create more space for housing units, and help protect trees and provide for more greenspace. This is consistent with recent Council action for new multifamily housing and the Better Housing by Design proposal. For new residential zone projects that do include on-site parking, there should be a requirement to provide at least one affordable unit as a condition.
- Tree code exemption for residential lots [Houck]:
Remove the tree code exemption (at 11.50.040.A) on sites less than 5,000 square feet in area. Require all sites that are 2,500 square feet and larger to comply with the tree preservation standards. I understand that Title 11 is not part of the RIP proposal but it's been demonstrated that Title 11 needs to be revisited in light of the RIP project.

From Commissioner Spevak (sent previously):

Drop the "a" overlay; allow 'alternative housing choices' city-wide

If "a" overlay is preserved, make the following amendments:

- Allow basement ADUs to match size of entire floor in all zones, not just within the "a" overlay
- Allow "a" overlay options on lots facing private streets (p. 155 – 33.405.060.A). In more central parts of the city, subdivisions are often done so every new lot fronts a public street. But further out, where lots are larger, subdivisions more often include private streets. In such situations, only the lots abutting the public right-of-way would be eligible for "a" overlay development (since the other ones would only front private streets), unless this is amended.

- *Don't reduce the "a" overlay based on the constraints analysis.* These all sound good as reasons to constrain the "a" boundary. But under current rules, you can build really large SF homes in *any* of these areas. RIP significantly trims down sizes of allowed homes, while also enabling the addition of some more kitchens and entry doors to a pretty small percentage of them (up to 10% absorption?). So there might be a few more residents, but whether there'd be as many as would have been housed in large 4-BR homes is not clear. On the whole, it seems like what would be allowed through RIP might have *less* impact on gravel roads, steep slopes, ... than what's allowed at these locations today.
- Allow "a" overlay to apply in the R-10 zone (p. 145 - 33.405.030, .040)

Increase FAR by .1 for each additional unit (whether it be an ADU, duplex, corner triplex...) and allow ADU to be floated between the main house and detached accessory structures.

The goal here is to provide an incentive (and increase financial feasibility) for creating more than one dwelling unit on a property. There may be better ways to achieve this, so consider this a place-holder approach.

Adopt a cottage cluster code. See attached letter for sample code language to achieve this.

Allow mid-block duplexes, corner plexes, or cottage clusters to have homes on their own lots (as is currently allowed for corner duplexes). See attached letter for sample code language to achieve this.

Allow any combination of internal and detached ADUs, so long as they comply with FAR caps and other base zone regulations. Although the most likely combination is 1 internal ADU and 1 detached ADU, there could certainly be property-specific situations where both ADUs would be of the same type and it would still be possible to meet standards for FAR, setbacks, heights, lot coverage percentage caps... If those standards can be met, I think it should be OK to have 2 ADUs of the same type.

Drop new front porch roof requirements for all housing types (p. 45 - 33.110.235.C.1.b. & 33.110.235.C.2). Does zoning need to regulate roof coverings of entry doors? I'm not convinced this is a problem in need of regulation. The market typically builds covered porch roofs even without zoning requiring it. And it's not all that essential anyway. For instance, I and others have lived in plenty of lovely 1930's courtyard apts with roof coverings smaller than what's proposed in this code update – that are just fine.

Require two dwelling units on R5 sites that are 10,000 square feet or larger and for R7 sites that are 14,000 square feet or larger (p. 2 33.110.210 B). RIP requires two dwellings on R2.5 sites that are 5,000 square feet or larger to make sure such sites achieve minimum densities. This amendment would extend that same logic to larger sites with lower density zoning. (recognizing that ADUs may be allowed to count towards these minimums)

Allow maximum height on small flag lots to match the base zone (p. 29 - 33.110.220 B.)

Since these lots are zoned for 2 full dwellings, someone should be allowed to build 2 full dwellings on them. The logic of allowing 'mini-flag' lots is to incentivize the preservation of the existing house out front. But if there's an artificial decrease in the size allowed for the 2nd home on the lot, that steers the

economics to just take down the front house and build 2 full-sized homes on the property, as would be allowed under the base zone.

Allow higher building coverage caps in Planned Development situations with multiple homes sharing a large lot (p. 43 - Table 110-5-4)

The maximum building coverage table is geared towards single homes, each on its own lot. Under current code, the maximum allowed building coverage on a 40,000sf lot (about an acre) is 6,000sq. ft. This is more than ample for 1 big home, but nearly impossible to meet with multiple homes, where R5 zoning would support 8 homes through a planned development. Possible code language: Cap lot coverage at the greater of what the table allows or 35%. This would match some existing cottage codes out there.

Adjust FAR caps so they don't decrease size allowances for ADUs from what code currently allows. (p. 55 - 33.110.250.C.1 and other places)

On a 5,000sf lot, ADUs are currently capped at 800sf of living area, measured in such a way that excludes exterior walls. But as proposed, the ADU would be capped at 750sf including exterior walls. In practice, this significantly suppresses the size of detached ADUs. It's even more severe in undersized R5 lots or any R2.5 lot.

Possible fix: Regulate total FAR for a property and allow it to be shared between primary and detached accessory structures. There could also be a separate FAR cap on the primary house (so it doesn't grow too large). Rely on existing regulations for living area, height and lot coverage to ensure detached accessory structures don't get too large.

Expand options bonus housing options for 'transitional sites', where single dwelling zones abut other uses (p. 99 - 33.110.270.G.1.)

Current code provides an additional dwelling unit allowance on properties zoned R2.5 – R20 abut higher density, mixed-use zoning, where development might reach 3+ stories. I'd suggest expanding this bonus for properties that abut higher density multi-dwelling zoning that can have similar bulk/height as CM zones (e.g. R1, RH, RX). I'd also suggest expanding this bonus for properties abutting or immediately across the street from urban parks (defined to exclude wild parks such as Forest Park).

Drop front landscaping standards for R2.5 (p. 77 - 33.110.260.C.4)

Don't add extra regulations on housing that meets city policy goals by providing relatively inexpensive choices. There are no front landscaping standards elsewhere in the single dwelling code. By proposing front yard landscaping standards for R2.5, the Proposed Draft singles out a particular housing type and zone for additional regulation. Such standards, if required, should apply to all homes in SD zones.

Related: Drop "Promote open landscaped front yards and quality building materials for improved compatibility" unless such standards also apply to traditional single family home at the same location. (p. 73 - 33.110.260)

Drop requirements that main entry doors on corner duplexes face different streets (p. 93 - 33.110.270.E.5.a, p. 145 – 33.405.040.C)

Although it's sometimes nice to have entries face different streets and the market will probably usually build this way, there's no compelling reason to require it. If someone has reason to put two doors on a corner duplex facing the same street, why not let them? Note also that mid-block duplexes in the "a" overlay zone would, I believe, be allowed to have 2 doors facing the same street. So not allowing this for corner duplexes seems strange.

Drop requirement that internal ADUs can only have one door facing the street (p. 119 - 33.205.040.C.1)
This can force awkward layouts and sometimes adjustments (to locate roof or steps inside a setback) to comply. Note that code has nothing to say about how many doors face the street in a single family house without an internal ADU. If there's resistance to this amendment, a compromise would be to drop the requirement in homes more than 5 years old but still make it apply for new construction.

In the section on Manufactured Homes, drop from the purpose statement "without changing the character of existing neighborhoods" and drop sections 33.251.020.D.2, 4. This seems like a double standard vis-à-vis SF homes. There are plenty of flat-roofed new homes going up with metallic siding that don't objectively fit in any better than flat-roofed manufactured homes. The difference is that they're (much) more expensive. I'd feel uncomfortable with a zoning code that clamps down on inexpensive housing types based on aesthetics when fancy homes with similar aesthetics have free reign.

Allow homes created within PDs to have an internal and detached ADU in the "a" overlay, just as this would be allowed for fee simple lot at the same location (p. 129 - 33.270). This fulfills the stated intent of providing parity between development in subdivisions and single lot PDs.

Calculate density in Single Dwelling zones before subtracting for required ROW dedication. Consider providing a density bonus in situations where the developer has to physically construct streets or other improvements in the ROW dedication area as a condition of development to help off-set that cost. Especially in parts of the city with poor street connectivity or narrow existing ROW, developers are required to dedicate land area to the city. Under current regulations, the number of units that can be built on the property is calculated based on the site area *after* the dedication. Then developers sometimes also have to pay for physical ROW improvements (sidewalks, curbs, asphalt...), to be turned over to city ownership following completion. This is a double-whammy for builders, making it significantly less likely for them to develop properties that would trigger street network improvements – hence such sites often get skipped over for development and the street never gets built.

For historic resource homes, allow internal conversions by right into up to 1 home per 1,000sf of site area (as is currently allowed for 'Capital H' historic registry properties). (p. 155, 157 – 33.405.060). Perhaps this could substitute for all the special allowances proposed in RIP for older homes?

Allow Bonus FAR to be used in any structure, not just the primary dwelling unit. (p. 159 – 33.405.070.B).
I don't understand the policy logic of this clause, which seems to say that if you build 2 ADUs, the primary structure gets to be larger than would otherwise be allowed. I can see the argument for bonus FAR, but not why it could only be used for the primary structure.

Drop the requirement that one of the ADUs in a corner triplex be detached (p. 161 – 33.405.070.C). In practice, I doubt there would be room to create a detached unit, and doing so would increase cost (bldg. skin area). Also, consider increasing FAR for such situations.

Allow lots for attached homes to be narrower than 20' (16'? 18'?), since those are pretty reasonable widths for affordable row-homes (p. 181 – 33.611.200.C.4). For reference, I'm building a community of 16' wide townhomes (built to the 2-hr standard) right now and although the width is a little less roomy than Portland normal, they're just fine - and wider than lots of townhomes in east coast cities.

Continue to allow corner lot PLAs that involve swiveling property lines (p. 193 – 33.677.300.A.4). To achieve this, leave language intact (rather than striking out this section)

If no density bonus is provided or available, don't layer on additional constraints in the PD process related to site orientation and layout (p. 209 – 33.854.310.F.2).

Reduce 5' path width standard to 36" serving 1-4 homes or 4' serving multiple homes. Don't require paths to be accessible if that means ADA-accessible. (p. 209 - 33.854.310.G.). Even mild grade changes can force trade-offs between ADA-accessible path grades and the need to create stepped entries. Also, neither of these standards apply to SF homes on their own lots or (I think) in subdivisions.

Drop off-street parking requirements (p. 123 – Table 266-2)

I have a hard time interpreting proposed language. As written, it seems to exempt all kinds of housing allowed in SD zones *except* homes in single-lot PDs and SROs.

Shift R2.5 to RM1 (proposed new zoning in BHBD from merger of R2 and R3), with special rules as necessary to preserve key elements of R2.5 (e.g. footnote to establish FAR proposed in RIP rather than slightly higher FAR proposed in BHBD). This could also be handled as part of BHBD and/or as a separate project. Long term, it makes a lot more sense in terms of code structure to merge R2.5 with the new R2/R3 -> RM1 zoning, and it's hard to imagine a better time to take this on than when the single dwelling and multi-dwelling codes are being updated just a couple month apart. The single dwelling code already ties itself in knots to accommodate R2.5 (many code sections specific to that zone). These could be removed entirely if R2.5 were shifted over (and, if critical, replaced with a footnote in the multi-dwelling code chapter).

Draft Clerical & Minor Amendments:

V. 2. p. 21 Drop top row of Minimum Lot Size Requirements. Change R7 minimum lot size from 6,300sf to 5,000sf.

V.2, p. 33 33.110.220. D.1. "Measured at that the corners..." remove extraneous "that"

V.2, p. 33 For clarity, consider shifting 33.110.225.D.4 into section 33.110.220.D.1 & 2 so all the information about heights and setbacks specific to steeply sloping lots is in one place.

V.2, p. 37 33.110.225.D.8 Re-Label: “Land divisions *and Planned Developments* with existing development”. In section (b), add in words in italics: “When a dedication of public right-of-way along the frontage of an existing street is required as part of a land division *or planned development*, the minimum front or side setback between an existing building and a lot line ... may be reduced to zero.”

V. 2, p. 89 33.110.270.D (If corner duplex provision is changed so doors no longer have to face different streets): Replace last 2 sentences with: “Duplexes and attached houses on corner lots are consistent with historic development patterns where larger homes and plexes were often located on corners. They can be designed so each unit is oriented towards a different street, giving the structure the appearance of a house when viewed from either street.” (Implied: but we’re not *requiring* this)

V.2, p. 117 33.205.020.B Change to “A legally permitted detached single-dwelling unit in a multi-dwelling development.” (Reason: some detached homes on single lots were created before the PD process existed)

V.2, p. 154 “C. Maximum FAR”. I think this belongs somewhere else, as this section of code isn’t about triplexes.

V.2, p.161 33.405.070.C.3 Edit: Change “the” to “that” in 1st sentence.

V.2, p. 213 33.910 “Building Coverage” The last sentence about 2’ eave depth is hard to interpret.

V.2, p. 217 33.910 “Residential Structure Type”, “Accessory Dwelling Unit”: Revise the language saying that ADUs are ‘always smaller’, since they can be equal to the size of the main house if it’s a 1-story house with ADU basement.

Attached Home Land Division Option for Fee Simple Ownership

For corner plexes and mid-block duplexes, allow attached homes (on their own lots) subject to the following lot size constraints:

- In the R5 – R20 zones, lots must meet the minimum lot dimension standards stated in Chapter 33.611, Lots in the R2.5 Zone.
- In the R2.5 zone, there are no minimum lot dimension standards for the new lots.

Commentary: This mimics the way corner duplex lots are treated under existing code (33.110.240.E.3.)

Cottage Clusters

Provide two paths for cottage cluster development:

(1) Mix of primary homes and accessory dwelling units through a PD process:

- Allow an internal and detached ADU in the “a” overlay or a single ADU (internal or detached) outside the “a” overlay.

Commentary: This mirrors what would be allowed on fee simple lots through a subdivision process and is similar to the current Discussion Draft proposal. It levels the playing field between what would be allowed on subdivided lots and what would be allowed through a planned development.

- At least 50% of homes must face onto common landscaped open space that includes at least 400 square feet of grassy area, play area, or dedicated gardening space, which must be at least 15 feet wide at its narrowest dimension.

Commentary: The Discussion Draft proposes this language for all PDs with detached homes. This language makes sense for cottage clusters, but not necessarily for other PDs with detached homes. Dimensional requirements are borrowed from Portland’s existing rules for common greens.

- Cap building coverage at the greater of Table 110-4 or 35% of site area.

Commentary: Building coverage requirement for single dwelling zones are designed for situations of 1 home per lot, so typically need to be adjusted to work for more than 1 home on a larger lot. Applying a standard building coverage based on lot size to address this issue is a common feature of cottage cluster codes (Bend allows 50% for 6,000sf or smaller lots; 35% for 6,000sf+ lots; Grants Pass allows 35% for cottage clusters regardless

of lot size). Capping building coverage based on the greater of Table 110-4 or 35% of site area uses the existing table to deal with smaller lots (where higher coverage percentages are appropriate) and the 35% cap for larger sites.

- Review through a Type IIX PD process.

Commentary: Matches Discussion Draft proposal

(2) More traditional cottage cluster option:

- Allow double the base zone density, subject to homes no larger than 1,200sf.

Commentary: This size cap is large enough for a modest 3-BR home, yet is less than half the size of an average new home in Portland. Using this provision would yield less building mass than would typically get developed in a non-cottage cluster project. Also, 1,200sf was established as a square footage transition point for PBOT SDCs based on an expectation that this would be a natural demarcation point in the RIP.

- Max height: 25'

Commentary: Traditionally, cottages fall in scale somewhere between ADUs and single family homes. Detached ADUs are capped at 20' in height; single family homes are capped at 30'. Capping height at 25' is mid-way between, effectively limiting cottages to 2 stories. This is the height limit found in Sisters', Bend's, and Langley's cottage cluster codes.

- Base code provisions apply for setbacks, property line fencing, FAR, off-street parking. Building coverage capped at greater of Table 110-4 or 35%.

Commentary: To ensure size, massing and privacy impacts on adjoining properties are no greater than would be allowed by other by-right development, cottage clusters should have to meet these standard base code provisions. Exceptions to standard provisions (such as 0' setbacks to alleys, parking waivers near transit; front yard setbacks where adjoining properties have 10' setbacks...) would also apply to cottage clusters. See prior comment re: building coverage cap.

- Exempt 1 pre-existing home (built before ____) per cottage cluster from the 1,200sf size cap and 25' height limit, so long as the entire cluster complies with the FAR limit and other requirements of the zone and of this title.

Commentary: If an existing home is larger than 1,200sf and/or taller than 25', this should not disqualify the property on which it sits from being used for a cottage cluster development, so long as the home gets preserved.

- Max. homes per cluster: 16

Commentary: Some cottage cluster codes cap the number of homes in a cluster (e.g. 12 in White Salmon; 14 in Sisters, OR) and some don't cap the number at all (e.g. Bend). Portland's zoning code already caps the number of homes around a common court at 16. This seems like a reasonable number to use for a cap on homes in a cottage cluster.

- At least 50% of homes must face onto common landscaped open space (which could be a common green or within a shared court) that includes at least 400 square feet of grassy area, play area, or dedicated gardening space, which must be at least 15 feet wide at its narrowest dimension.

Commentary: The Discussion Draft proposes this language for all PDs with detached homes. This language makes sense for cottage clusters, but not necessarily other PDs with detached homes. Portland's dimensional requirements for common greens would apply, even in a planned development where no common green is technically created.

- Accessory dwelling units shall not be permitted in cottage cluster developments

Commentary: A cottage cluster code is an alternative way of building more, smaller homes on a property. Adding ADUs would effectively 'double dip' on two types of density bonus. Bend's cottage cluster code has an ADU prohibition, presumably based on this same logic. Portland's current corner duplex provision similarly disallows ADUs.

- Allow cottage clusters to include 1 and/or 2-unit buildings

Commentary: Integrating duplexes or 2-unit attached townhomes into a cottage cluster development facilitates the creation of more substantial open areas by decreasing the amount of land dedicated to side yards between homes. Neighbors would not be negatively impacted, since the largest possible 2-unit building in a cottage cluster would be 2,400sf and capped at 25' in height, which is less massive and shorter than typical new single family homes allowed by right.

- A "common house" detached, covered, accessory structure in a cottage cluster containing shared kitchen facilities and guest bedroom(s) would be permitted so long as it falls within overall FAR, height, setback and building coverage limits for the site. Such a building would not count towards the maximum allowed density so long as a covenant is recorded against the property stating that the structure is not a legal dwelling unit and will not be used as a primary dwelling.

Commentary: Under current regulations, a 'common house' with kitchen and sleeping facilities is treated as a dwelling unit. This means the builder pays SDCs for the structure and it counts against maximum allowed density for the site. These costs significantly decrease the likelihood that such shared amenities will ever get built. An alternative approach is to treat such a structure as a commercial structure. But this has its own

complications & added expenses – since building code would treat it as a mixed occupancy structure and hence trigger full NFPA-13 sprinkling and associated 2” water service with accompanying quarterly fees in perpetuity. Covenanteeing the property could be a way to allow common houses without burdening them with these additional costs/regulations.

- Don't layer on additional restrictions often associated with cottage cluster codes that rarely, if ever, get used (e.g. min. covered porch areas, design restrictions, fences, ...)

Commentary: Many cottage cluster codes have rarely, if ever, been used. This is reminiscent of ADU codes from around the country with low utilization rates. Over-regulation may be a driving cause in both instances. In cities where regulations have been trimmed back on ADUs, numbers have typically increased. Given the public policy benefits of cottage cluster housing, it makes sense to reduce regulations so they are more likely to get developed as an alternate to traditional single family homes (which would be larger and more expensive). Any design restrictions (e.g. historic design, community design standards, street window glazing requirements...) that would apply to single family homes would also apply to cottage cluster homes. But additional design requirements specific to cottage cluster homes should be avoided.

(Version 2a) Single lot cottage cluster through a Planned Development:

- Type Ix PD process for:
 - Lots less than or equal to 15,000sf;
 - Preserves an existing home; and
 - Doesn't take advantage of the density bonus portion of the cottage cluster code.

Commentary: Make the land use process as easy as possible for someone who is preserving an existing home on a relatively small lot and not using the density bonus provision.

- Type II PD process for all other situations

(Version 2b) Subdivision cottage cluster:

- For cottage cluster homes in R5 – R20 zones, lots must meet the minimum lot dimension standards stated in Chapter 33.611, Lots in the R2.5 Zone.
- For cottage cluster homes in the R2.5 zone, there are no minimum lot dimension standards for the new lots.

Commentary: This mimics the way corner duplex lots are treated under existing code (33.110.240.E.3.). Cottage cluster homes on separate lots could be attached (up to 2) or detached.

- Type Ix, IIx or III procedure based on thresholds applicable to subdivisions or partitions of the same number of lots.
- Compatible with Common Greens or Shared Courts (see 33.654)