

## Portland Planning and Sustainability Commission

February 9, 2021

12:30 p.m.

Meeting Minutes

**PSC Commissioners Present:** Jeff Bachrach, Ben Bortolazzo, Jessica Gittemeier, Mike Houck, Katie Larsell, Steph Routh, Katherine Schultz, Chris Smith, Eli Spevak [1 open position]

**PSC Commissioner Absent:** Oriana Magnera

**City Staff Presenting:** Joe Zehnder, Sandra Wood, Brandon Spencer-Hartle, Shannon Buono, Rachael Hoy, Eric Engstrom, Michelle DePass, Mindy Brooks, Daniel Soebbing, Sallie Edmunds, Nikoyia Phillips

### Documents and Presentations for today's meeting

*Chair Spevak* called the meeting to order at 12:30 p.m.

*Chair Spevak:* In keeping with the Oregon Public Meetings law, Statutory land use hearing requirements, and Title 33 of the Portland City Code, the Portland Planning and Sustainability Commission is holding this meeting virtually.

- All members of the PSC are attending remotely, and the City has made several avenues available for the public to watch the broadcast of this meeting.
- The PSC is taking these steps as a result of the COVID-19 pandemic and the need to limit in-person contact and promote social distancing. The pandemic is an emergency that threatens the public health, safety and welfare which requires us to meet remotely by electronic communications.
- Thank you all for your patience, humor, flexibility and understanding as we manage through this difficult situation to do the City's business.

### **Items of Interest from Commissioners**

*Commissioner Houck* provided an update on the Marine Board's decisions about slow/no-wake zones, which is expanded for the Holgate Channel. Boats can go through Sellwood and downtown, but they can't tow. Ban on wakeboards between Waverley and Willamette Falls. I think the PSC did have an impact on this decision. We took this from land use to sustainability issues, and we then included it in the South Reach document, so I'm glad we weighed in.

*Commissioner Smith* noted that PBOT issued a final plan to restripe a portion of Hawthorne Blvd. They did not adopt a configuration that would have had buffered bike lanes, which is something we would want to explore to get to a 25% bike share. Factors that were prioritized raised some concerns for me in terms of how we get to our mode split goals.

*Commissioner Bortolazzo:* Data that has been circulating about the number of building permits filed in Portland last year – 27% below 2009 levels. We're also hearing about BDS layoffs, and I would say multi-family housing was the stat that caught my attention. There were 4 years of decline, with 43% decline

last year. We plunged to 66<sup>th</sup> as a desirable place to live (from leading) via a ULI report as well. COVID has a lot to do with this, but I'd caution us to attribute everything to COVID. My concerns are that if new construction remains low and people continue to move here, housing prices continue to go up. If we lose our appeal as a place for people to move to, we need to keep track of this and where people are moving outside of the city. This is an opportunity for reflection and a conversation I hope to continue in our PSC meetings. Should this be a discussion topic for our upcoming retreat as well?

## **Director's Report**

Joe Zehnder

- We have confirmed that the early May PSC meeting will be on May 4 instead of May 11. This is to ensure we have a recommendation from the PSC to Council about the solid waste and recycling rates.
- You may have seen a notice for Expanding Opportunities for Affordable Housing (EOAH) Package B project. That is the follow-up to the list of sites PSC sent to Council for the first EOAH project last year. These are typically rezonings for churches and CBO-led sites. There are 5 sites in the package, and we will update the PSC with a link to that report.

## **Consent Agenda**

- Consideration of minutes from the January 26, 2021 PSC meeting
- Street Vacation R/W #8924 Alley off SW McDonnell Ter

*Commission Smith* to adopt the Consent Agenda. *Commissioner Routh* seconded.

(Y9 – Bachrach, Bortolazzo, Gittemeier, Houck, Larsell, Routh, Schultz, Smith, Spevak)

## **Spatial Justice Zoning Project**

Scoping: Eric Engstrom, Rachael Hoy, Michelle DePass, Nikoyia Phillips; Cleo Davis

### Presentation

Nikoyia provided a background about the project and the planning team. The [program statement](#) has some links to additional documents. The Racist History of Planning Report is the high-level outline of how City practices and policies have made inequities in Portland, particularly communities of color.

Michelle noted that Council directed BPS to “initiate a future mapping project that identifies, with community members, properties where a zoning change could create community benefits, centering on anti-displacement strategies, equitable wealth generation, addressing past harms, and furthering fair housing.”

Cleo Davis described spatial justice – what it is, why it is an important concept, and why we should care. This is justice within our spaces and environments that allow us to create a more cohesive interconnection with human beings and merit-based resources. A better way of moving forward and building healthier cities.

Michelle listed a few historic drivers of inequitable growth:

- A history of ownership of land restricted to white communities for generations.
- Land as part of speculative economy concentrating white wealth.
- Tax system and subsidies investing in white homeowners disproportionately.
- Localities heavy reliance on property taxes and rising land values to meet budget.
- Heavy public investment to attract wealthy residents to neighborhoods.
- Lack of public and private investment in Black and brown neighborhoods.
- Public infrastructure projects and discriminatory code enforcement target displacement in Black and brown neighborhoods.
- A biased private finance system privileging white people and rewarding speculation.
- Zoning that sequesters wealth and whiteness in exclusive neighborhoods and fuels speculation in Black and brown communities.
- Government decision makers power relations with developers and landowners and the civic structures that support them.

So far, the team has accomplished / applied:

1. Changed to the use of clear, strong language in our meetings and written documents instead of using watered-down language that is meant to be comfortable for white people, and makes it difficult to address the issues, we for instance, made the effort to intentionally said “Black and Indigenous communities” instead of saying “marginalized” or “underrepresented” communities.
2. We addressed why (besides the Council directive) we should focus on Black and Indigenous communities specifically, and puzzled through why that did not mean the project would not address intersectionality with LGBTQ, disabled, or other marginalized communities.
3. We considered how Black city staff were engaged for instance by re-writing a question on a survey that asked them generally what their bureaus were doing to address racism, understanding the way the question was initially worded would force Black staff to disassociate their human, Black, community selves from their roles as city employees in a way that felt transactional, not relational.

The team learning happening on the team was meaningful and will positively affect the outcomes of any future work we do as a result on the project. In terms of the stages of change management, we’ve made it through 3 of the 5 stages, stopping just short of implementation and evaluation.

Michelle highlighted the work and potential for transformative change. The team learning will positively affect outcomes of the project based on the work they’ve done. The Black and BIPOC communities have been asking for changes for decades. So we drew on the work that’s already been done (e.g. PAALF [Reimagine Black] report and Urban League report), and how they will inform the next iterations of this work.

The ecosystem for change is about doing the right thing. Stopping systemic racism. Wealth-building is a key part. Everyone has a voice. People work together to take care of each other. We’re resilient because of our connections. And communities have the final say over the development that impacts their streets and their families. Opportunities are there for everyone who wants them – education, home ownership, safe streets for Black and brown children, clean air and water, etc.

We have an opportunity to make Portland a less-hard place for Black and brown communities to live and grow.

Michelle thanked the team and what we bring to this work. Let's ensure systems emerge from the experiences of people of color and use data to commit to how we change doing our work.

Eric noted we are trying to create a new branch of our planning practice at BPS. The document has a section that describes the goals as well as possible projects as examples. This would be a practice where we can take on a couple projects annual and move forward – so thinking about this as a broad strategy with some specific projects sitting within it.

*Commissioner Gittemeier:* This is a really exciting project, and I'm hopeful these things can get done. In terms of community involvement, has there been engagement with the organizations who created the base plans?

- Eric: Prioritization will be when we engage communities, though we know this is a difficult time for engagement. The list is pretty much taken from the community plans – ones that BPS has some sway and input into.
- Michelle: Once there are project ideas on the table, we will go to the community. But they have already spoken, so another listening session might say we really haven't been listening yet.
- Cleo: Yes. I am a community member, and a lot of these ideas are not just coming from this work team. I am going to my community and discussing it.

*Commissioner Bortolazzo:* Cleo, you made reference to merit-based resources. Can you elaborate?

- Cleo: This is based off of you merit, so, for example, Black folks have died for this country, yet we have very little and continue to be denied jobs, locked out of resources, killed by the police. If we had a more merit-based economy, we wouldn't be so heart-strung on a dominant hierarchy level.

*Commissioner Smith:* I'm delighted to see this project as a very important step. When I think about this spatially, I'm interested in how you see the split between restorative (e.g. Albina Vision), opening up opportunities throughout the city, versus addressing current disparities (e.g. East Portland).

- Cleo: From the viewpoint, the current harms are predicated off of past harms (displacement, lack of resources, profiling, etc). The community I'm representing is looking more at a redress – stop the bleeding now and look at what is to happen in the future.
- Michelle: We puzzled through this question about focusing on people, place, or both. I can't say we actually answered that. So the answer has to be that we focus on both.
- Eric: One of the items is continued work on next steps in East Portland. We also talked about responding to implementation of the Residential Infill Project where we're most concerned about displacement.

*Commissioner Houck:* Looking through the projects with partner agencies, BES is overlooked. Utilities have tremendous resources. Green infrastructure project have a tremendous ability to improve quality of life.

- Eric: The list was intentionally left short because we're still vetting with potential partners. We know there is more work to do on the partnership ideas.

*Commissioner Routh:* Thank you so much for sharing this today. We have had briefings in the past about some of the plans, and one issue is about what our role is and how the PSC can help move the work forward. This project brings this into greater clarity and creates a path for that – thank you. We are looking at the role of the PSC and frontline communities, how this works in terms of accountability and transparency, so I can see this conversation will come into the planning sphere as well.

*Commissioner Schultz:* This is very exciting work – thanks for sharing it with us. About the lens of benefits and harms, if you're taking it on the lens of focusing on Black and Indigenous communities, I am interested in how we wrestle with the benefits and burdens created within each community.

- Michelle: We are going to have to develop a tolerance for difficult conversations. We need to get better at this. And we'll have to do our work differently to improve outcomes for people.

## **Ezone Map Correction Project**

Briefing: Mindy Brooks, Daniel Soebbing, Sallie Edmunds

### Presentation

#### *Disclosures*

- *Commissioner Schultz:* I have a perceived conflict of interest as I live within an ezone.

Mindy reminded the Commission of the work on this project so far. We had a hearing on July 28, and we had a briefing on September 8 about our site visit work since the hearing. Today we're talking about some topics the PSC and testimony identified. The memo summarizes the 10 topics, 4 of which we'll discuss today.

The purpose of the environmental overlay zones is to protect streams, wetlands, flood areas, steep slopes, forests and wildlife. And to reduce the risks to people, homes and business from landslides, flooding and heat island. The purpose of the Environmental Overlay Zone Map Correction project is to make sure the zones actually align with the natural resource features.

There are 25 zones exempt from ezone regulations in code (33.430). The ezones do not apply retroactively. Legal existing structures and disturbances are vested. The ezones are intended to limit new impacts to natural resources.

#### *Wetland Mapping and Determinations*

Bureau of Environmental Services has been conducting the Wetland Inventory Project for the past two years. They are following the Oregon Department of State Lands rules for wetland mapping. The process includes using GIS data to map potential wetlands. Once potential wetlands are mapped, on-site wetland determinations are performed to finalize the mapping. Since most wetlands are on private property, we need permission to be on-site. If permission is not granted, then the state has an approved off-site mapping protocol that is used.

Due to COVID the entire 2020 field season to make wetland determinations was cancelled. BES took that time to refine the potential wetland mapping.

As a result, in November 2020, BES provided an update of the data and it included wetlands on 600 properties that previously did not have wetlands mapped.

600 properties is a lot; however, you will see in the next map, the vast majority of those already had a stream or forest mapped and already had ezones proposed. But to be sure everyone was informed of the new data, in December we sent a letter to all 600 properties and included the form to request a free wetland determination. Wetland determinations will be done this spring.

Most of the new (pink) wetlands are along stream corridors. Those streams already had ezones proposed, so the increase in p zone due to the added wetlands is minimal. In many cases, the changes just represent a shift at the edge of the p zone. However, there are some stand-alone wetlands that were not mapped before.

The staff recommendation is to apply a 'p' zone – the higher level of protection – to the wetlands and land within 25 ft. And a 'c' zone – the lower level of protection – to land between 25-50 ft of wetlands.

At the end of January, we sent a Measure 56 notice to all properties where the zoning may change as a result of this wetland mapping or as a result of site visits so they would know about the upcoming opportunity to testify.

BES's consultant, SWCA, will be conducting just over 250 wetland determinations this spring and the data will be finalized in June.

Wetland determinations are scientific and objective. They are performed by a wetland scientist following the US Army Corps of Engineers methodology. Wetland mapping is not a discretionary process. Either the feature meets the criteria, or it doesn't.

At the hearing on February 23, you will likely hear from people with new wetlands identified and mapped on their property. Some wetlands are isolated but are still important. They act like sponges, holding water, reducing localized flooding and improving water quality. They also provide habitat. That is why the staff recommend applying ezones.

*Commissioner Larsell:* I kept thinking about the person who heard about earlier changes then got this on top of that. Is that the 600 owners? Or were they included in the original group?

- Mindy: About half of the 600 already had heard about the project mostly because they had streams. The other half are stand-alone and hadn't heard about it before. The issue was about timing – the wetlands work is with BES, and we thought we'd come back with a new wetlands correction. Then COVID changed up our schedule, so we have wetlands coming in now... or we can hold off on those and come back with those in a future project. But that leaves them vulnerable until we come back to them.

*Commissioner Schultz:* You listed exemptions about trees and pruning of shrubs. What is the process that's different outside that 10' range of a structure? I find the distance very confusing, so there may be better ways to communicate what's allowed or not.

- Mindy: If not a native shrub, you can prune. You need to maintain native vegetation in the ezones. A defensive zone around structures for wildfires is important. We will share more about the process beyond 10'.

- Daniel: Beyond 10' from the structure, you can get a permit to prune up to 5 trees per 10,000 square feet per year.

*Commissioner Bachrach:* I echo Katie's concerns. We're presenting numbers in the aggregate, but for the individual homeowners who are burdened with costs and regulatory, it's not very helpful to talk in aggregate. This can be very intrusive for small property owners. 300 new properties is a huge expansion.

- Mindy: 222 new properties came in as a result of mapping – wetland and site visit confirmations. We didn't know this would be such a large wetland expansion mapping from BES.

*Commissioner Houck:* I want to remind folks this didn't appear out of thin air – this is a function of planning at the City and the regional level (Metro titles 3 and 33). The cumulative impact of loss or protection address climate change and quality of life. We should all be aware of the functions and values of these resources – and why the regulations are important.

- Mindy: Our early briefings talked about the why behind this project. These resources provide critical functions. Wetlands hold water. We have heard anecdotally on site visits that some people experience basement flooding after a nearby site is developed.

*Commissioner Gittemeier:* It sounds like property owners have been information about what they can/can't do. What about information for the public about the resources and what they are.

- Mindy: For two years, we did lots of community engagement for this project. We sent postcards to all impacted properties, attended 36 community meetings and held 9 events. Much was focused on the regulation *and* the why about the project. The site visits have been fruitful conversations about the resources and reducing risk as well.

#### *Wildfire and Vegetation Management*

There was a request in the testimony to allow more or different vegetation management to reduce wildfire risk and commissioners expressed interest in better understanding what is already allowed in ezones to manage vegetation.

BPS worked with staff from Bureau of Development Services, Urban Forestry and Portland Fire and Rescue to develop a handout that explains how property owners can manage vegetation around their homes to reduce wildfire risks.

The full handout is attachment b to the PSC memo. Basic allowances are shown on slide 10.

Staff's recommendation is to not change anything right now regarding wildfire hazards.

*Commissioner Houck:* Within 30' of the structure. Does the fire hazard zone need to be actually mapped by the City? I see abuses to this regarding what pruning represents.

- Daniel: To clarify, you can *prune* up to 5 trees (not remove).
- Mindy: The city maintains the map of the wildfire hazard zone.

*Commissioner Larsell:* How much does PF&R influence and/or are they in line with this?

- Mindy: The handout came from a discussion about if what is allowed by the overlay zone is consistent with PF&R recommendations. Their response is yes. The handout was a joint project with them.

*Commissioners Routh:* Recent climate fires have come closer to our doorstep. When is the next wildfire zone map update project?

- Mindy: Title 11 is in scoping for an update (Trees), and we are asking those staff to consider the testimony we received and update the title if appropriate.

*Chair Spevak:* If someone added an awning or shed, do they get to take a tree out (since it's less than 10')?

- Mindy: We'd have to check with BDS about specifics about what a structure is.

*Commissioner Houck:* When we have wildfires, native vegetation didn't burn (e.g. at UP). FEMA has provided the City with funding to remove invasive and try to get a handle on getting native species back in as a strategy. I'm curious if there is potential to work with individual residents on that/

#### *Multnomah County Drainage District (MCDD) Request*

MCDD is the agency that operates and maintains the flood control system in the Columbia Corridor. This map is not MCDD's jurisdictional boundaries. The Columbia Corridor/Industrial Lands project area (which is the next phase of this ezone map correction project) in yellow. I added the levees in reddish brown as a reference.

MCDD asked through testimony if PSC would consider adding a new exemption for small improvements, particularly safety upgrades.

This request came from their experience having to go through Environmental Review to do minor improvements like adding a handrail to a pump house.

We reached out to BDS and BES on this topic. We all agree that a new standard would be appropriate because through a standard we can limit the extent of additional impacts while also requiring appropriate natural resource enhancement. MCDD is OK with the approach.

By adding a standard, we would reduce city staff time and resources used to review very minor cases. Before we go any further and develop a draft code language, we wanted to ask the PSC's thoughts on developing a new standard. This would be new as opposed to revisions as the rest of the project is.

There is an exemption for dredging within the slough already. This would be non-discretionary, an amount of environmental enhancement would be included, and it wouldn't be applied to levees since that's major work.

Staff will bring back draft code language this spring for consideration.

*Commissioner Houck* would like to hear with BES' perspective is before we weigh in. Mindy noted they were not ok with an exemption but a standard is more appropriate.

#### *Update on Site Visits*

Daniel provided an update on site visits.

Staff have completed approximately 578 site visits since the project began in 2018. Demand for site visits was very high when the first M56 notice was sent back in June 2020.



In the 6-month period between July 2020 and January 2021, staff completed more than 200 site visits. More than 100 of those site visits were conducted after the last PSC briefing, which was held in early September.

Now that the surge of requests has been addressed, there are only a handful of site visits planned for the coming weeks. We are now getting site visit requests at a rate of 1 or 2 per week.

At the last Ezone briefing before the PSC, it was pointed out that all of the site visit examples that we presented were on lots on which the Ezones were expanding. For this briefing, I wanted to show some examples of site visits that were conducted on lots where proposed Ezones will be reduced compared to the existing Ezones.

Daniel shared a number of examples of site visit results including a number where the ezone is proposed to be reduced.

*Commissioner Houck* emphasized the quality and accuracy of this work. I don't remember other jurisdictions going site-by-site, so this is great work. *Commissioner Larsell* expressed thanks to staff for their work as well.

Mindy noted the schedule for the project: We have a hearing on February 23 – this is a continuation of the hearing last July.

We propose two work sessions: one in April to review code amendments, and one in July to review the zoning map amendments (wetland determinations will be completed in June). We have a tentative PSC recommendation scheduled for August.

*Commissioner Smith:* We have a significant change in PSC membership in early June. Do you have a plan for getting new members up to speed?

- Mindy: We know the timing isn't great. Wetlands season is now through May, so we won't be able to finish the project before the change in the Commission. We certainly can add a briefing or discussion with new members before the final work sessions and vote.

A note for the public: that there was a typo on the most recent M56 notice sent to 550 properties. That notice was sent because of the new wetland data and changes to mapping based on site visits. The M56 notice said that written testimony would be accepted January 26 through February 3, when in fact written testimony is being accepted through February 23.

Written testimony can be provided through the Map App. People can also sign up to testify through our website.

*Chair Spevak:* Asked about Item E (Industrial and Employment Lands). Why did the change happen? The other question is about subdivisions and land divisions. If the bill gets traction, it could force the City's hand on partitions.

- Mindy: We originally held on to lands in hopes of doing that work without significant impact on employment lands. But now we're coming up on the EOA update, and it seemed more appropriate to work on Industrial lands in the policy conversation with that project first.

We will continue this project to February 23 for the public hearing. Staff will provide responses to questions from today before the hearing.

### **Historic Resources Code Project**

Work Session: Sandra Wood, Brandon Spencer-Hartle; HLC Chair Kristen Minor

Sandra noted the HRC [progress report](#) and highlighted the progress and work for the HRC. Today we have two hours for discussion of a number of topics. Sandra highlighted the 5 themes of the HRC proposal, noting we'll talk about 2.b today and finalize that discussion. 3.a is still at the 3x3 group discussion, so we are skipping ahead to 3.b, 3.c, and 3.d today.

Brandon shared the [Issues Table](#) for today's work session.

*Proposal 2.b Revise the criteria and procedures for locally designating, amending, and removing landmark and district status.*

#### **Item 4 and Item 5 are about process.**

There is general support for the proposals for designation and designation removal. The proposal allows for the designation—and removal of designation—for Historic and Conservation landmarks, districts, and their constituent “contributing” and “noncontributing” parts. The proposal allows Historic and Conservation Landmarks to be designated or have their designation removed either quasi-judicially or legislatively. For individual landmarks — as well as for changes in contributing status for individual properties in designated districts — the Historic Landmarks Commission would serve as the decision-maker (quasi-judicial) or as the recommending body to City Council (legislative). The proposal allows for the designation — and removal of designation—for Historic and Conservation Districts only through a legislative procedure, with the Planning and Sustainability Commission serving as the recommending body to City Council.

The City does not have authority to add or remove resources from the National Register of Historic Places, therefore the proposals are only applicable to City designations (silver and gold levels of the hierarchy of historic resources).

Staff continue to support the general approach to the designation and designation removal processes described. The HLC's input on the significance and integrity approval criteria for district designation/removal is integral to the PSC's recommendation to City Council; HLC's inclusion in the PSC hearing would help to inform the HLC's input to the PSC and provide efficiency to the public who wish to testify to both bodies.

Chair Kristen Minor noted the HLC hearing yesterday about the proposed South Park Blocks nomination that was brought forth by volunteers. It wasn't brought by PP&R is because the bureau went forward with a Master Plan that intended to then do a national register nomination later. We asked the preparers to hold on going to the state board, and I think they are willing – we'll find out more tomorrow. This is totally different from the PSC process we're discussing.

*Chair Spevak* noted it's important for the PSC to make the recommendations with the HLC as a resource to get perspective.

PSC members generally agree with this.

**Item 6 and Item 7 are about design criteria.**

The proposal provides criteria for designating new landmarks and districts, criteria for removing existing landmarks and districts, and criteria for changing the level of protection (i.e. resource type) for existing landmarks and district. The proposed criteria require consideration of historic significance, physical integrity, and appropriate level of protection (i.e. resource type). Additionally, the proposal requires that designation and designation removals requiring a legislative procedure (i.e. entire districts) be found to equally or better support the goals and policies of the Comprehensive Plan, while also meeting the historic significance and integrity criteria for designation. The proposed criteria incorporate required evaluation factors provided by the Goal 5 State Administrative Rule (OAR 660-023-0200(5)(a)) and do not affect a resource's listing in the National Register of Historic Places.

Staff support the general approach to the criteria and requirements for designation and designation removal. Following further discussion at the 3x3 group, staff support amending the proposed code language for both designation and designation removal to provide greater clarity and consistency for quasi-judicial applicants and legislative decision-makers.

*Commissioner Bachrach:* I think there was unanimity in that the 3x3 didn't like the broad consideration. We looked at existing, specific code language, and we liked that more.

Brandon: When we come back in March, we can talk about specificity around demo review and the Comp Plan. But staff agrees with what *Commissioner Bachrach* is saying.

*Commissioner Bortolazzo* likes the general direction. Removal criteria are too broad, so Brandon's suggestions are better direction from the general Comp Plan.

*Proposal 3.b Increase exemptions to historic resource review.*

Staff have followed the consistency and tried to cluster them together for ease of implementation. As proposed with minor tweaks, staff propose increasing the list of exemptions and not constricting it.

**Item 1: relax exemptions and allow skylights and hatches on non-street-facing elevations. Allow solar panels on street-facing elevations.**

**Item 2: energy efficiency and seismic resilience.**

**Item 3: provide broad solar PV exemption.**

The proposal expands existing exemptions for skylights, hatches, and solar installations for Historic Landmarks, Conservation Landmarks, Historic Districts, and Conservation Districts. For Historic and Conservation Landmarks, the proposal would exempt certain skylights, hatches, and solar installations from historic resource review if the affected roof area faces the rear lot line or is installed on a flat roof. For Historic Districts, the proposal would exempt certain skylights, hatches, and solar installations from historic resource review if the affected roof area faces the rear or side lot line or is installed on a flat roof. For Conservation Districts, the proposal would exempt certain skylights and hatches from historic resource review if the affected roof area faces the rear or side lot line or is installed on a flat roof and would exempt certain solar installations on all roof slopes. The proposal was developed following extensive discussions between BPS and BDS staff, and guidance from the State Historic Preservation Office.

BPS staff are receptive to exempting certain solar installations on street-facing roof slopes in Historic Districts provided the design parameters of the exemption minimize impact on historic integrity. Objections to this approach were raised by the HLC, BDS, staff and the State Historic Preservation Office during development of the Discussion and Proposed Drafts, therefore it was not included in the Proposed Draft. BPS staff do not support exempting solar installations on street-facing elevations for individual landmark properties.

*Commissioner Smith:* Solar panels should be allowed – we’re trying to save the planet.

*Commissioner Larsell:* It sounds like there were certain kinds of solar panels that would be preferred.

*Commissioner Bortolazzo:* I appreciate staff’s receptivity and providing a middle path here. I like this proposal.

*Commissioner Smith:* I was under the impression that sometimes the roof pitch is not optimal for solar, so you elevate and edge of the panel to adjust the angle. Would the flush mount preclude this?

- Brandon: Our bigger issue is the tightness of the installation. An exemption wouldn’t preclude an applicant for asking for an exemption or review.
- *Commissioner Schultz:* They are less efficient if they’re not optimized, but they can still be installed.

*Chair Spevak* would be happy to say they’re allowed throughout.

*Commissioner Schultz:* To me, it’s obvious a solar panel is added and can be removed – it wasn’t installed when the property was built. Does it hurt the integrity of the historic piece?

- Brandon: Solar panels today are allowed subject to historic resource review. When there is an exemption, it negates the review for the whole category.

*Commissioner Bachrach:* We encourage solar panels, and the desire outweighs an impact on historic resources. I like this as *Commissioner Smith* proposed. Make solar and PV readily available.

Staff will bring back an amendment for PSC review.

#### **Item 4: expand window replacement exemption option.**

For both landmarks and districts, windows are often described in the nominations as significant character-defining features of the resource. Historic resource review allows for consideration of window alteration and/or replacement for those windows described in the nomination, but may result in denial (such as proposed replacement of a prominent art glass window) or approval with conditions (such as specifications on replacement window type). The proposal would exempt replacement of certain windows for different resource types, such as replacement basement windows and non-historic windows in districts. Additionally, the proposal exempts installation of storm windows and window screens for all resource types.

Staff continue to support the proposal as a meaningful expansion of existing exemptions while not jeopardizing the integrity of historic resources. BPS staff are receptive to further expanding the exemption for window replacement in districts to allow replacement of certain rear-facing windows without review. BPS staff do not support further exempting window replacement for landmarks or in

districts where the rear elevations of buildings are highly visible from surrounding streets (such as those districts in the Central City where historic building heights often exceed 35 feet). Importantly, staff note that resources at the conservation level may avoid historic resource review for alterations that meet the clear and objective Community Design Standards.

*Chair Spevak:* I think there is more room to compromise, but my impetus for energy efficiency, you should focus on the building envelop – so I want to make it easier for people to replace windows.

As we explored the proposed window replacement exemption, we ran into questions about window and building types. An overall exemption is difficult as a one-size-fits-all exemption since there are so many variables in the diversity of architectural diversity.

Kristen: I want to represent HLC, and we have a very strong objection to an overall exemption for replacing windows.

*Commissioner Bachrach:* This should apply to residential buildings (single-family houses) as an exemption. But if you're a non-contributing structure in a district, I think the exemption should apply outright.

*Commissioner Routh:* Preserving history and preparing for the future is a delicate balance.

Brandon: In the field of historic preservation, we talk about reversible or irreversible change. Solar panels are reversible, and we've been mindful about moving more aggressively about these changes. So this is a bit more about why we've been more conservative about window changes.

Kristen: I would suggest we could talk about this in the 3x3 as an issue – an expanded window exemption – as I see about half of the PSC in support of that.

**Item 5: 33.445.D.2.p. add language to make it similarly easy to remove electrical, gas or water meters from any facade unless it's specifically designated in historic documentation.**

Staff supports this amendment and would further support corresponding changes to other exemptions.

Staff will work on an amendment for PSC consideration. We'll look for continuity with other exemptions.

**Item 6: allow more options for ADA access.**

The proposals include a few changes to more readily allow for accessibility improvements to historic resources. An exemption for all historic resource types allows alterations to accommodate ADA requirements when the changes don't destroy existing materials. Additionally, a new procedure type for all historic resource types would process alterations to accommodate persons with disabilities through a Type I review (for those activities that do not meet the exemption). Finally, existing language in the approval criteria for landmarks and districts without design guidelines provides specificity for accessibility and seismic upgrades.

Staff support upgrading historic resources for visitability and accessibility, however, staff have not identified any additional opportunities for these code amendments to achieve accessibility goals while ensuring the preservation of historic integrity beyond what has been proposed.

*Commissioner Routh:* I can rescind this as staff have gone as far as they can with this one.

**Item 7: allow more flexibility in ADU construction.**

**Item 8: amend code to exempt all detached garages and accessory structures from any historic review.**

**Item 9: extend exemption for new detached structures to 800 sf, so full-sized detached ADUs can be built.**

**Item 10: increase maximum square feet to 700 square feet.**

The proposals include numerous changes that, individually and together, intend to allow and incentivize increased housing opportunity for all historic resource types, especially districts. The proposed changes include reducing the level of demolition review required for existing detached accessory structures, exempting certain smaller new detached accessory structures from historic resource review, allowing unlimited units in residential zones, allowing two accessory dwelling units on sites where only one would typically be allowed, and reducing the review type to Type Ix for new structures less than 800 square feet that require historic resource review. At the January 8 work session, the PSC requested an amendment that would further encourage new accessory structures by exempting garages and sheds in Historic Districts from demolition review all together.

Regarding proposed exemptions for new detached accessory structures, staff sought to provide a by-right path for new small structures that would not overwhelm their historic neighbors. Several options were explored by staff, with the 20'x20' proposal in districts being the alternative that garnered the most support by Historic Landmarks Commissioners at a spring 2020 work session. BPS staff also considered a 24'x24' option, and a blanket 800 square foot option but encountered concerns about compatibility issues with the larger size structures. The 24' x 24' approach was found to be most meritorious by BPS staff for alignment with other sections of the code.

*Commissioner Houck:* I know homebuilders were pushing for 800, so I suggested 700 as a medium. I'm fine with the 800 square feet proposal, but I know there was concern about it becoming too large and values of the homes.

*Commissioner Bortolazzo:* I generally agree with comments from other commissioners. 200 square feet is very limiting, so considering these are accessory structures, I'd be interested in exploring an 800 square foot options. These are high-opportunity areas.

*Commissioner Smith:* I second *Commissioner Bortolazzo's* comments. *Commissioner Bachrach* concurs.

*Chair Spevak:* I generally think the rules for the area would be applicable in historic districts too.

Staff is comfortable allowing 2 ADUs, but if you're exempting everything up to 800 square feet, we might have to review this allotment.

*Commissioner Bortolazzo:* I'd like to understand more about the 24x24 idea. Is this the maximum envelop (576 square feet) or could this be massaged based on site constraints?

- Shannon: We would be writing in what's allowed in set backs today. 15 feet tall, walls no taller than 10 feet. No dormers or doors facing the property line.

- Sandra: A few years ago, we did a project about Accessory Structures. We had some regulations for ADUs, detached sheds, etc. A big structure should meet set back limitations; a small one could go into set backs (24x24 was defined as small).

Staff will write up suggested language for the amendment.

**Item 11: a detached accessory structure >200SF needs HR in C and E zones. C and E zoned lots are typically larger than an R zone. Consider expanding the limitation in C and E zones to 400sf.**

The proposed exemption for detached accessory structures was developed with specificity to residential areas due to 1) public feedback submitted during concept development and Discussion Draft phases and 2) the lessened public visibility of residential districts as compared to districts in commercial and employment zones. The specifics of the exemption—such as allowed window and exterior finish types, roof form, and setbacks—were designed to apply in residential contexts and would need adjustments to apply successfully in commercial contexts.

*Commissioner Bortolazzo:* This suggestion came from BDS testimony.

Brandon: BPS continue to support the Proposed Draft approach to expanding the detached structure exemption only to residential zones; however, staff are receptive to expanding the exemption to other zones provided that the exemption include design parameters that respond to typical design conditions found in those zones.

Kristen: I would like to ask this go to the 3x3 if there is enough PSC support to request an amendment.

*Commissioner Schultz:* I'm not really supportive, so I'm not sure if we need to spend the energy on this by staff or 3x3. I think it's more complicated than commercial zones, so I wouldn't take this route.

*Commissioner Bortolazzo:* I'm torn. The overall intent is for flexible for commercials and employment zones for accessory structures. I'm not sure what the capacity of the 3x3 is, so I want to be mindful of that.

*Commissioner Schultz:* I get the philosophy of this. The scale of 24x24 in a CM2 zone, for example, is wonky. In a residential zone, it makes sense. Then it gets really complicated on how to solve for this.

This potential amendment is dependent on staff capacity and that of the 3x3.

**Item 12: testimony about preserving neon signs was interesting. Staff suggested this might be most relevant when there is a neon sign that is itself an accessory structure.**

At the PSC's January 8 work session, commissioners instructed staff to return with an amendment exempting certain detached accessory structures from demolition review. To align with amendments being prepared, staff support exploring this neon sign issue within the context of the Proposal 3.a.

*Commissioner Smith* confirmed this works.

**Item 13: provide additional encouragement for seismic upgrades.**

See issue 3.

Brandon and *Commissioner Larsell* spoke about this 1:1. Staff are excited to look for opportunities to enhance seismic upgrades in districts.

The proposal includes several changes intended to streamline the review of seismic improvements. These include new exemptions for parapet bracing, seismic straps, and removal of service chimneys in districts; a reduced historic resource review procedure type; and specificity in the approval criteria that apply to landmarks and districts without adopted district guidelines.

Staff support increased incentives and other programs to encourage seismic upgrades, however, staff have not identified any additional opportunities for these code amendments to achieve resilience goals beyond what has been proposed.

This could be part of a future work discussion that we'll have in March.

Kristen: We could revisit this a little in Theme 4 (reuse). HLC very much looks to the PSC for help in this arena.

**Item 14: expand list of alterations exempt from Historic Review. The list of alterations exempt from historic review should be expanded to include: solar installations, window replacements, ADUs, painting, any alteration not visible from the street in front of the property.**

*Chair Spevak*: Could we say "non-street-facing facade"?

- Shannon: We could do some language with some broader use.

*Proposal 3.c Refine historic resource review approval criteria.*

**Item 1: Consider mimicking 33.825.035 for historic reviews to establish height and FAR as entitlements.**

**Item 2: For new development in districts (not modification to existing designated resources) I would appreciate if we could discuss a posture similar to what we arrived at in DOZA, i.e., height and FAR entitlements are by right but building massing and design features could be adjusted by the HLC.**

**Item 3: include clear, objective standards in terms of maximum height and FAR for affordable housing developments in historic districts.**

*Chair Spevak*: I wanted to bring this up because for example when we did zoning code for Central City, I discovered the code could show some dimensions, which could be irrelevant on the ground if the HLC didn't allow it. I would ask that staff show us some maps to give an idea of how much we should think/change on this topic.

*Commissioner Bortolazzo*: I was thinking similarly. It's a discretionary nature of the review process in historic districts, and that can create costs and uncertainties about what you can/can't do with FAR, bulk/mass, and height. Clarity on parameters is what I'm after.

*Commissioner Smith*: I would agree with the request to see a map to see the extent of the issue.



Kristen: This would fundamentally change how we protect historic resources. HLC has supported increased density, etc because we have the granular ability to look at context and create compatibility on the ground. Who else is going to do that?

*Commissioner Schultz:* If more work was done to put a ceiling on height for example, and we talked about compatibility, that would provide more certainty to the development community. At least they would have some parameters. Does this work?

Kristen: We've been asking about right-sized districts for a while. If there was some type of compatibility zoning project, we'd be in.

Staff has said they can try to use maps to find hot spots (very different expectations between HLC and zoning code requirements). We can look at those maps, which can happen as part of a 3x3.

*Proposal 3.d Improve demolition delay to apply only at the time of demolition application.*

**No issues were raised.**

*Proposal 4.a Exempt all landmarks and districts from parking requirements.*

**Item 1: go further for Landmarks: Drop loading zone requirements? Flex on bike parking requirements?**

Staff have received policy feedback regarding loading standards citywide and would prefer approaching these issues holistically instead of through historic resource code changes. Staff recognize that the changes to bike parking regulations occurred so recently that there is not yet evidence of their impacts on historic resources.

*Chair Spevak* retracted this suggestion.

Item 11: Sandra double-checked this. Given lukewarm reception, should this go to the 3x3?

*Commissioner Bortolazzo* confirmed he's ok dropping this. My angle was looking for additional flexibility for existing structures to stay, but if you needed an extra space, I wanted that added level of option. But I am happy to take the conversation off-line with staff and then either drop it or ask to bring it back. Sandra will check with code from the past accessory structures project.

This item is continued to March 9 PSC meeting.

**Adjourn**

*Chair Spevak* adjourned the meeting at 4:23 p.m.