

Portland Planning and Sustainability Commission

January 25, 2022

5:00 p.m.

Meeting Minutes

PSC Commissioners Present: Jeff Bachrach, Jonell Bell, Jessica Gittemeier, Katie Larsell, Oriana Magnera, Valeria McWilliams, Steph Routh, Eli Spevak, Erica Thompson; 1 open position

City Staff Presenting: Sandra Wood, Sarah Johnston (PBOT), Bob Kellett (PBOT), Vinh Mason, Morgan Tracy, Shannon Buono

Community Members Presenting for Build/Shift

Documents and Presentations for today's meeting can be found [here](#).

Chair Routh called the meeting to order at 5:02 p.m.

Chair Routh: 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

None

Director's Report

Sandra Wood

1. Historic Resources Code Project will be at City Council tomorrow January 12 for a second reading, and we expect it to be adopted. Thank you all for your work on the HRCF. That package should go into effect March 1.
2. Tomorrow we will be submitting our budget. This year Council is allowing us to do a two year budget ask. We will be putting in asks for seven special projects. We don't expect to

get them all, but the process will be playing out between now and the end of the fiscal year.

3. There are a lot of new hires moving forward, so lots of activity around that, including for Joe Zehnder's replacement for the Chief Planner position.

Consent Agenda

Consideration of Minutes from the January 11, 2022, PSC meeting.

Commissioner Thompson moved to adopt the minutes and *Commissioner McWilliams* seconded the motion. The motion passed unanimously. (Y9 - Bachrach, Bell, Gittemeier, Larsell, Magnera, McWilliams, Routh, Spevak, Thompson)

Street Vacation: RW #9235 Unnamed Road off NE 33rd and Marine Drive

Briefing / Recommendation: Sarah Johnston, Bob Kellett (PBOT)

Sarah Johnston from PBOT provided an overview of the street vacation process and the rationale for why the City vacates streets.

- Purpose:
 - The purpose of a street vacation is to extinguish the public's interest in street right-of-way or street area
 - The City does not "own" the street area in fee title, but has a perpetual, all-encumbering easement. The only claim a property owner retains is the right of reversion
 - Most streets that are vacated are "paper" streets that were platted but never built
 - Some are no longer needed due to a change in zoning or subdivisions
 - Some street segments need to be realigned
- Process:
 - Street vacation is governed by state statute ORS Chapter 271
 - City code 17.40.010 through 17.84.065
 - City Charter Section 1-104 – "City may vacate a Street Area if such vacation would not interfere with reasonable access to waterfront or a transportation termina."
 - Must go through an EA
 - Privately-initiated street vacation
 - Applicant must go through petition process
 - City investigate and sends notice to other agencies
 - Bureaus can recommend denial
 - City initiated street vacations require notice sent to property owners and to other agencies
 - Street vacation proposal goes to PSC
 - Bureau Director's Report summarizes PSC recommendations and is sent to City Council

- City Council Hearing – date set
 - Public notice
 - Hearing held
 - 4/5 member approval required
- After, PBOT ensures that all conditions are met and then it is recorded with the County
- Approval Criteria
 - The Street Area is not presently needed
 - Not identified in any adopted plan for:
 - Public services
 - Transportation, stormwater, or utility functions
 - View corridors and/or viewpoints
 - Tree planting/retention
 - Pedestrian amenities
 - Community or commercial uses
 - The Street Area will bit be needed in the future as part of the street grid or needed for connection and pacing requirements for bicycle/pedestrian use
 - Public services, transportation functions, or utilities can be extended in an alternate fashion.
- In this instance, there is a plan for a bike path over the ROW to be vacated but there is an alternate location.

Commissioner Thompson: I was surprised when looking at the SV approval criteria that there was no criterion related to public benefits. I want to confirm that there is not any public benefit criterion. If not, why not?

Johnston: That's correct - there is no public benefit criterion.

Commissioner Thompson: I can see in some of the examples you showed e.g., in the Lloyd District or St. Johns that there would be benefit to pedestrians or cyclists. For the SV we're reviewing, the case hasn't been made that it is in the public's interest

Johnston: The test is whether there's a *public need*. And if there is no need, then it can be approved. But it doesn't have to meet the bar of creating public good.

In the case of this street, it was recently given to the City by the County, and it just dead ends adjacent to the property.

Commissioner McWilliams: I appreciate the context as a new commissioner. I would like to know more about the alternative routing of the 40-Mile-Loop bike path and whether the community supports that.

Bob Kellett: The property in question is where that trail would go to fill in a gap in the trail. As it exists right now would provide one alignment, but it is less than ideal because it bisects the

industrial property. The alternative route bypasses that property and works better for other interested parties and users. I can show a map if it will make it easier to visualize.

Commissioner Thompson: Just to clarify, looking at the map, it looks like this proposal does add some extra 90-degree turns.

Kellett: That is correct. It is one of the trade-offs that those extra turning motions are added. But the proposed alignment also minimizes conflicts with turning trucks.

Commissioner Spevak: I had the same concerns about the indirect routing, which was echoed in the one piece of testimony on this proposal. I reached out to PBOT's Bike Coordinator, who agreed that it was less than ideal, but it makes sense in this case. I would make a **motion** to approve this street vacation request.

Commissioner Magnera: I **second** that motion.

Commissioner Routh: The motion passes unanimously. (Y9 - Bachrach, Bell, Gittemeier, Larsell, Magnera, McWilliams, Routh, Spevak, Thompson)

Build/Shift Community-Led Vision for Climate Building Standards

Briefing: Vinh Mason

Chair Routh: To preface this item, I'd like to mention how much I appreciate the work this community-led initiative has put into this project. I'm really excited to hear what role the PSC can do to support the work that you've been doing over the past two years.

Vinh Mason: I'm excited to share this work with you. We'll do a round of introductions to the team.

Commissioner Magnera: Just for clarification on my role here, as part of my day job at Verde I've been involved with this project for the past two years. I'll not be presenting tonight and will be participating as a PSC member, but I'm honored and excited to be here.

Alma Pinto: As we go through the introductions, in addition to giving your pronouns, if you could also give the one word that represents what inspires your work. For me it's she/her and my word is "resilience." I'm a Climate Justice Associate at Community Energy Project.

Nikita Daryanani (she/her): I'm the Climate and Energy Policy Manager at the Coalition of Communities of Color and my word is "community."

Derek Thompson (he/him): I'm Co-Director of Leaders Become Legends and my word is "strength."

Anjeanette Brown (they/them): I am here representing the community. My word is "community."
Samantha Hernandez (she/her): Oregon Physicians for Social Responsibility and my word is "empathy."

Taren Evans (she/her): I'm the Environmental Justice Director at Coalition of Communities of Color and my word is "justice."

Jona Davis (she/her): I work in Environmental Justice for NECN, and my word is "compassion".

Red Spike Elk (*Lucas Angus* – he/him): I am Head Skipper for the Seven Waters Canoe Family Cultural Group, and my one word is "representation."

Bretto Jackson (he/him): Co-Director of Leaders Become Legends and my word is "equality."

Ezell Watson (he/him, they/them): I am representing community though I work as the Director of Equity and Inclusion at Oregon's Public Utility Commission and my one word is "sanctuary."

Build/Shift: Building Community/Shifting Power - We seek to build community across the Portland Metro Area, share knowledge and community wisdom, and shift political power to Black and Brown folks through leadership development and participatory policymaking.

Derek Thompson: A little background on me – I got involved because I was looking to help young people to find jobs and heard about green energy jobs and opportunities and that it would be a good opportunity for the young people we work with. We started coming to Build/Shift and started to learn about other opportunities in our communities and ways that we can make sure our underserved communities are not being left behind.

This work is about centering and connecting the BIPOC communities who typically left out of the tokenized public process. Above all, it's about reorienting the process to build power for BIPOC communities. If we're moving into a new clean energy world, it's important these opportunities are shared with all communities.

Mason: Origin Story: When working on the 2015 Climate Action Plan, we had an Equity Working Group, where we had stipends and funding to involve community at the end of the process, and they reviewed the plan, they wanted to have been involved in the beginning of the process rather than right at the end. When looking at the Spectrum of Community Engagement, we were looking for a project that was on the far right side of that spectrum where community is centered all the way through, and they help shape the process and outcomes

The Spectrum of Community Engagement to Ownership

- Ignore
- Inform
- Consult
- Involve

- Collaborate
- Defer to

Anjanette Brown: Led the Commissioners through an exercise.

Jamboard Exercise #1: Why is Equity and Listening to Communities important to the Work of the PSC?

- To create a more equitable Portland
- To hear from ALL of Portland
- Because policy has historically only been informed by the powerful and wealthy, and we need to involve all people, especially those previously excluded to effectively solve our problems.
- The work that the PSC does has enormous impact on many communities who aren't given voice in our processes. We need to do better to value those voices
- the PSC gives input to important policy changes in the city of Portland so equity and listening to communities should be at the core of our work
- The collective wisdom of community to advance shared goals.
- because they are the ones who can understand better the intended and unintended consequences of a decision/project
- Historically, community voices have been left out of the conversation and decision-making power of the issues the PSC addresses. Frontline communities feel the most impact from climate, housing, and other issues the PSC addresses.
- Our work effects everyone, people need to have a say.
- communities are best equipped to voice their needs and how we can work to collectively meet them
- Because we are working within a system that can intentionally oppress voices.

Where We've Been:

- Portland Initiates Zero Cities Project - June 2018
- Zero Cities Community Forum - December 2019
- Zero Cities Report to City Council - February 2020
- Build/Shift Community Workshops - Fall 2020
- Build/Shift Energy Burden Workshop - March 2021
- Build/Shift Community Policy Convenings - July 2021
- Build/Shift Stakeholder Engagement Planning - Fall 2021
- Kick-Off & Website Launch - December 2021
- PSC - Kick Off to Broad Stakeholder Engagement - January 2022

Zero Cities Project Background (2018-2020)

- Multi-city project with twin goals to:
 - Advance racial equity
 - Zero carbon building sector by 2050
- Community Partners:
 - Verde

- APANO
- CCC
- OPAL
- PAALF (Imagine Black)

Race Forward Equity Assessment Tool

- Looking for the intersections of advancing racial equity and reducing carbon
 - Community Engagement
 - Gentrification and Displacement
 - Energy Cost Burden on People of Color
 - Economic Prosperity for People of Color (Wealth, Jobs and Business)
 - Substandard Housing and Exposure to Health Risks
 - Geographic Location and Environmental Risk
 - Urban Heat Island Effects
- We focused in on gentrification and displacement
- Since the data we had was several years old, we were looking for a way to get on-the-ground real-time info, which led to the Zero Cities Community Forum.

Zero Cities Community Forum - December 2019: Presented by Knowledge Murphy

- A training for community members in both English and Spanish about buildings and energy.
- A forum was then planned to share what was learned at the training in an all black and brown space with over 50 community members in an all-day workshop
- The forum was in English and Spanish, and it was not assumed that the dominant language was English

Values Community Wants the City to Hold:

- Repair broken trust
- Listen to each other
- Put into practice

Community-Led Engagement Lessons Learned:

- Connect with new people
- Building trust
- Technical expertise (NBI)
- Lived experience
- Bilingual conversation
- Budget flexibility
- Black and brown space
- Invitations from the PAR Team
- Working at community pace

Jamboard Exercise #2: What can the PSC do better to repair, listen, and build trust with community?

- Create opportunities for meaningful engagement and two-way dialogue.
- Create opportunities for authentic community engagement
- REALLY LISTEN
- The PSC gives input to important policy changes in the city of Portland so equity and listening to communities should be at the core of our work
- Our work affects everyone, people need to have a say
- Communities are best equipped to voice their needs and how we can work to collectively meet them

What We Learned:

- Anti-Displacement and affordable housing focus group
 - People value non-traditional ways of living
 - Think about the idea of a home less individualistically and more collectively
- Community-based renewable energy and green infrastructure priorities
 - Community solar
 - Green spaces
 - Community gardens that service community grocery stores
- Energy burden cost survey
 - Future workshop on energy cost burden to go deeper
 - Become the second phase of work

Policy Solutions Lab: The Split Incentive

- A policy problem in which a landlord is not incentivized to make energy improvements because they don't receive the direct energy/cost reduction benefits, and when they do make improvements, they raise the rent.
- We learned that folks want to see improvements without rent going up

Taking Zero Cities to Council – February 2020

- With the pandemic and racial justice activity in 2020, priorities shifted
- Regrouped after the fires in 2020, which led into the Energy Burden Workshop

Energy Burden Workshop – March 2021

- The energy burden is the percent of your income spent on energy bills (6% is burdened, 10% is severely burdened)
- Energy Burden Workshop Discussion Themes
 - Adapting budgets to pay bills
 - Family and social network obligations
 - Discomfort with landlord interactions
 - Unaware of utility programs and other resources

Policy Convenings – Summer 2021

July 13 & 15th 2021

- Community/personal values and future visioning "What buildings do you love and why?"
- Recent heatwave experiences. Local and state policy structures and context,

Policy Convenings – Community Recommendations

- Minimum standards and upgrades for residential building
- Incentives for energy efficiency, solar panels, and LEED certifications
- More energy assistance to low income individuals and families to help with the utility cost burden
- Accessibility of building energy information for tenants

HEART Standards

- Health
- Equitable energy
- Anti-displacement
- Resilience
- Temperature

Jamboard #3: How can we implement the A (anti-displacement) in HEART standards and avoid unintended consequences?

- Get policy analysis support to assess - if costs go up for housing to meet HEART standards - who ends up paying it?
- Listen to what community members need to stay where they are - and help provide that
- Ensure benefits of energy policies redound to residents w/o increasing costs to residents
- Rethink city measures in non-linear ways to support community to stay in homes ongoing listening sessions, and increased support and resources for community
- We need to ensure that there are good incentives to help make the improvements associated with the HEART standards

Where We're Going:

- Build/Shift Stakeholder engagement planning
- Broader stakeholder engagement – Early 2022
- Community convening to review policy
- Draft ordinance and public comment – Summer 2022
- Return to PSC
- Ordinance to City Council Fall 2022

To close out, the Build/Shift left with an ask for the PSC: Should the PSC write a letter of support to Council for Build/Shift's Approach to Work?

- PSC members expressed strong support for writing a letter

Residential Infill Project – Part 2

Work Session: Morgan Tracy, Sandra Wood

Commissioner Thompson will continue to lead the RIP2 work at the PSC.

Commissioner Introductions and Disclosures

Several commissioners (Bell, Larsell, Magnera, McWilliams, Routh, Spevak, Thompson) disclosed that they owned property in a single dwelling zone where the RIP2 proposes will have an impact. Additionally, Chair Spevak and Commissioner McWilliams made the following disclosures:

Commissioner Spevak: I am a developer with a focus on affordable housing, so I, too, have some disclosures. I own my home in a single dwelling zone and I also own some property in the R5 zone that will be developed in the near future. though I do not anticipate they will use any of the provisions in RIP2. In the event any discussion comes up that could be specific to that development I will absent myself from those discussions. I also want to disclose that I have been involved with the Build Small Coalition, though I did not have any hand in the testimony submitted by them.

Commissioner McWilliams: I own property in a single dwelling zone, and as part of my job at Metro, I help coordinate the Build Small Coalition, which submitted testimony on this project. I did not participate in those conversations or the writing of their letter.

Chair Routh (via Commissioner Thompson): own property on a single dwelling zone and for my day job I work at the Sightline Institute, which submitted testimony on this project. I keep a firewall between my work and items that come before the PSC, and I didn't not have any role in developing that testimony.

Chair Thompson: I just want to start off by acknowledging that the last meeting was challenging with a lot to cover and discuss and we have a short timeline, which is frustrating for everyone. But I appreciate all the work everyone has put into this, including the commissioners working on the subcommittees

Sandra Wood re-introduced the RIP2 Project to the PSC. This is the second of three work sessions. The next work session is February 8 at 12:30 pm

List of Amendments:

1. Amend the 'z' overlay - adjust the wildfire risk component (covered at last work session)
2. Create option for two detached units (Spevak, Bachrach)
3. Make ADU rules more flexible (Spevak, Bachrach, Thompson)
4. Modify cottage cluster rules (Spevak)
5. Facilitate more deeply affordable four- to sixplexes (Thompson)
6. Encourage more fourplexes (Thompson, Bachrach)
7. Remove lot size minimums for 3+ units (Spevak, Bachrach, Thompson)

Morgan Tracy led the Amendment Discussion.

Amendment 2: Create option for two detached units. We had very productive conversations with the subgroup (McWilliams, Magnera, Spevak). The proposal from the subgroup is:

- Allow detached duplexes

- Add standards:
 - Limit height to 20 feet
 - Limit option to existing houses
- Do not add:
 - Affordability requirement
 - Only allowing if front house was small

Commissioner Spevak: I appreciate BPS staff taking this issue up with DLCD to allow us to add some "strings" to the detached duplex proposal. I think this is a good idea – this would allow some ADU's to be sold off separately, benefitting existing homeowners and those that aren't professional developers. As a developer, I've seen housing like this built and when sold off it is probably the cheapest fee-simple option on the market. But I think it's reasonable to limit the size and bulk of these units.

Commissioner Bachrach: Is there going to be a criterion for what qualifies as an existing house?

Tracy: The code specifies that an "existing" house is one that is at least five years old.

Commissioner Bachrach: I support this and I ask staff to jump in if there are problems or concerns with the amendments and let us know what those are.

Straw Poll: Eight commissioners raised their hands in support of this amendment. Staff will bring this back on February 8.

Amendment #3: Make ADU rules more flexible. This addresses the testimony about "ADU Fairness

- Staff thinks that this issue is covered by Amendment 2

Commissioner Proposal

- a) Increase building coverage limits for accessory structures from 15% to 20% (staff supports)
- b) Allow the footprint of the accessory structure to be as large as the primary structure (already allowed) or 900 square feet, whichever is greater
- c) Increase the allowed living area of ADU's from 75% to 85% of the living area of the largest unit on the site

Building Coverage: Current rules

- Three rules currently apply:
 - Total lot coverage
 - Accessory structures (15% max combined)
 - Footprint cannot be larger than house

Commissioner Larsell: I don't see anything that addresses the size of the existing house. Am I missing something?

Tracy: We get to that through the footprint and the living area limits. By reverse engineering, if the house is smaller than 1,067 square feet, the size of the ADU shrinks. By upping the square footage of standard, it allows larger ADU's for those smaller houses.

ADU size – Commissioner Proposal

- Increase living area of ADU from 75% to 85% of the primary unit size
- Max size: 800 feet

Commissioner Spevak: I'm willing to drop this one (the 85% requirement) unless another commissioner wants to run with it.

Commissioner Thompson: By dropping this, are we not dealing with the ADU Fairness issues that were raised in the testimony?

Tracy: If Amendment #2 is included, then that creates an option for a larger second unit on the site as a detached duplex.

Commissioner Thompson: Are there other advantages to building an ADU rather than a duplex?

Tracy: Mostly the advantage is the SDC waiver, which may be re-evaluated in the future. The SDC waiver is tied to the idea that the ADU is smaller than the primary structure. There are also addressing differences and possibly a tax difference.

Wood: Another distinction is that building coverage change applies to all accessory structures, so that includes sheds, garages, and the like.

Commissioner Bachrach: So, is the trade-off that you can either do an ADU and get the SDC waiver or do a larger second unit and pay the SDCs but have the flexibility to do a land division?

Commissioner Spevak: In some cases, having a separate accessory structure building coverage can be limiting, and the change from 15% to 20% is minor but could be very helpful to get attached ADU's to work. It also aligns with the cottage cluster footprint.

I agree with what Morgan said that the SDC is tied to the notion that the ADU is smaller than the house, but I would add that I think the SDC waiver has more to do with the fact that the structures are small and less to do with the size of the ADU relative to the main house. The important part is the cumulative impacts of the buildings on the site.

Shannon Buono: I just want to reiterate the point that Sandra made, which is that these larger building sizes apply not only to ADU's but also garages and sheds and other accessory structures.

Commissioner Thompson: So, to clarify, Eli, you support just 'a' and 'b' of this proposal?

Commissioner Spevak: I'm open to dropping 'c'.

Commissioner McWilliams: I support all three.

Commissioner Magnera: I also support all three.

Straw Poll: Does anyone support some elements but not all? *(There was no support for some but not all)*

Straw Poll: *On all sections 'a', 'b', and 'c', all ten commissioners supported all three parts of the amendment.*

Chair Routh: I'd like to hear from staff if there is anything more we should know about their objections.

Tracy: We're fine with 'a'. The second item starts to blur what the different housing types are and the third item we're not sure that the cost/benefit works out – it would be a large cost in terms of staff time to make this work and would only impact a small number of properties.

Commissioner Bachrach: Not to be wishy-washy, but I would be fine dropping 'c' if others agree.

Commissioner McWilliams: So, staff doesn't support so 'c'?

Tracy: Our take is that the bang for the buck isn't there for 'c'.

Wood: It also starts to blur the line between accessory and primary.

Commissioner Thompson: Does anyone feel strongly about keeping 'c'? I would be OK dropping it.

Straw Poll: *Lack of support to keep 'c' – PSC supports keeping Amendment 3 parts 'a' and 'b'.*

Amendment #4: Modify Cottage Cluster Rules.

Commissioner Proposal:

- Allow pedestrian system within common outdoor area
- Allow adjacent sidewalk to be included in pedestrian system,
- Remove requirement for 1 common outdoor area for 8 units

Commissioner Spevak: I support these changes as they were explained by Morgan.

Commissioner McWilliams: What are the requirements for the common outdoor area?

Tracy: It depends on how closely packed in units are. It's 150 square feet if the structures are 10 feet apart and 200 square feet if they are 6 feet apart.

Commissioner Spevak: On the idea of the common space, in Cully there are a lot of urban farms and discussion of the ringing that land with cottages and that might be for more than eight units.

Straw Poll: *Nine of ten support all of Amendment 4.*

Commissioner Spevak recused himself from the discussion about Amendments 5 and 6.

Amendment 5: Enable four to six Attached Houses (affordable four- to sixplexes on fee simple lots). It's about finding ways to leverage the deep affordability sixplex option to create more fee simple options. We'll start with a little context for what the existing deeper affordability option is.

Current Deep Affordability Bonus:

- Projects with 50% of units affordable at 60% MFI get:
 - Up to six units total
 - 1.2 FAR bump
 - 35 foot height bump
- Standards were created to achieve stacked flats on one lot in same envelope as what's allowed in the R2.5 zone

Staff heard that there was desire for more possibilities to create units where each unit had a front porch and entrance at the ground level e.g., attached houses or townhouses. Or if they're all on one lot, then they are a variation of a plex.

On an interior 5000 sf lot, these four- and fiveplexes are achievable with reasonably-sized width and floor plates. It can technically be done as a sixplex but at that point the floorplates shrink to about 375 square feet. This is how we ended up with the stacked flat option with RIP1 – the floorplates get too small. Also, of these options only fourplexes can use SB458 to be divided.

Wood: To go a little deeper into the land division piece of it, some of the testimony was suggesting that sixplexes be allowed to use SB458 to be divided through the Middle Housing Land Division (MHL) process. This is the first time that we are allowing for lots to be created without street frontage (because that's what SB458 says we have to do) but we're learning through work with the infrastructure bureaus what challenges that creates for service provision. But these rules for MHL only apply to middle housing as defined by the state, which only includes, duplexes, triplexes, fourplexes, and cottage clusters. Fiveplexes and sixplexes are NOT middle housing and therefore not allowed to be divided under the MHL process.

Commissioner Gittemeier: What is the benefit of fee simple lots?

Wood: You wouldn't have to do a condo plat. It is complicated and developers avoid it.

Tracy: One of the advantages to a buyer of a fee-simple lot is that it is better understood and there is a bit more autonomy, though the nature of the MHLA is going to necessitate some sort of management structure for the common elements, though it's not a requirement of the bill.

Bachrach: The reason that the legislature did this is because the market has shown that people do not like condominiums - they want fee-simple options.

Amendment #5A: Attached Houses on Large Lots – staff preference

- Where there is adequate street frontage, when 4-6 units are proposed, and when 50% are affordable, we just need to raise the number of attached houses that can be in a row from four to six
- One of the options in RIP2 is a higher density attached house, where we created density standards that roughly equate what you would get to from a fourplex on a standard lot.
- So, on larger lots, you can create 1,500 square foot lots that are 15-foot wide and the only barrier to creating sixplexes is a rule in the R5 and R7 zones that the maximum number of attached housing units is four. By changing that maximum, sixplexes would be possible.
- This, however, requires a larger lot than the standard 5,000 square foot lot and it must use the standard land division process.
- This is not what was asked for in testimony: that was for side-by-side sixplexes on a standard 50x100 foot lot.
- That still leaves us with the 375 square foot floorplate problem, so in testimony we heard requests for changes to the development standards to get it to work. This is the next amendment proposal.

Amendment# 5B: Attached houses on Small Lots – what we heard in testimony

- Changes to rules include:
 - Increase number of attached units to 6
 - Reduce minimum lot size to 800 square foot average
 - Increase FAR to 1.2
 - Increase building coverage to a 65% average
 - Reduce the outdoor area requirement to 48 square feet per lot
- Examples of this type of development are found in the RM3 and RH Zone
- Concerns with outcome:
 - Proposal begins deviating from single dwelling standards toward more multi-dwelling RM2 or RM3 development
 - Increased building coverage on small lots reduces area available for trees and increases potential stormwater impacts

Commissioner Thompson: While I was excited about this idea and we heard a lot about it in the testimony, I didn't realize that these wouldn't be eligible to be divided under SB458. Considering

we can't change the land division rules, then maybe the better option is fee-simple sixplexes where there is adequate frontage.

Tracy: I want to note staff concerns with the massing of the structures and also the concerns about trees and stormwater.

Commissioner Thompson: Can you talk a little bit more about your concerns with the massing, since it seems that these are comparable to what is allowed with the stacked flats?

Tracy: While these buildings are essentially the same size, it's that the massing is spread out rather than up and creates more building coverage and reducing the amount of open space.

Commissioner McWilliams: I do think that the need for affordable housing is so dire, I would support all options to incentivize more affordable housing.

Commissioner Bachrach: I agree that anything we can do to add housing is a good thing. What seems to be missing is what we heard in the testimony to do sixplexes for fee-simple development. But staff is saying that we can't do that - do I have that right?

Tracy: You can't use SB458 to divide a sixplex. We would have to do it through the standard LD process, which requires street frontage for each lot, meaning we can only do it on lots with adequate street frontage. And most often, this type of development is going to work on a corner lot. The "helicopter lots" without frontage are a new thing with SB458.

Wood: To put a finer point on it, there are two ways to create a fee simple lot: an MHL D through SB 458 or the regular land division. To do it the regular way, you need to have the frontage.

Commissioner Thompson: Would an applicant still be able to use the expedited land division process?

Buono: The ELD process is not synonymous with MHL D's. The ELD process is available to be used for any land division and it is the process that MHL D's must use per SB458. In practice no one uses the ELD process with a regular land division because the shortened timeline doesn't work with all the regular land division requirements for service bureaus. So, for Amendment #5a, you could do a regular land division using the ELD process, but you could not do an MHL D.

Commissioner Magnera: These drawings were helpful for me to wrap my head around. What comes up for me with the different types of units in a stacked vs a side-by-side sixplex is visitability and accessibility.

Commissioner Thompson: I think that the attached sixplex would be better for ADA accessibility and, since my understanding is that four or more units triggers ADA requirements, that's something to consider. It would be a building type that would allow more people to take advantage of the five- and six-unit development while meeting ADA requirements.

Tracy: I'm not sure about that. I believe that when you build to the townhouse code you don't have to meet ADA – those are triggered by the commercial building code. And there are tradeoffs in terms of visibility and accessibility. With the stacked sixplex, there are two units entirely on the ground floor and can be fully accessible, whereas the attached houses are all on two levels, though they are all visitable. In either case, two of the units need to meet the visitability standards.

Commissioner Bachrach: Have you looked at what Proud Ground is doing? It seems linked to what we're talking about.

Tracy: I did get an email from Diane Linn at Proud Ground expressing support for this idea that didn't include a concrete proposal, though it did point to a specific site that was a corner lot.

Commissioner Thompson: Shall we move on to the straw poll? There are two parts here: Large Lots (#5a) and Small Lots (#5b).

Straw Poll: Amendment #5a Large Lots - tweaks one standard so that six units can be attached together. *Eight commissioners in support*

Straw Poll: Amendment #5b Small Lots - staff thinks will almost always be six units on a corner lot and requires changes to multiple standards. *Seven commissioners in support*

Chair Routh: I'm supportive of the idea of smaller lots, but I'm also concerned about the amount of work we're creating for staff.

Commissioner Bachrach: I'm uncomfortable with a lot of the reservations staff raised and I'm concerned with the bulk of it in the single dwelling zones. I'm just not on board with this being a good idea and I don't see it being an option that will even be used much.

Commissioner Thompson: I volunteer to remain available to help if staff need it.

Commissioner McWilliams: I can also be available to help.

Amendment #6: Encourage more fourplexes. Increase FAR for fourplexes in all single-dwelling zones.

Commissioner Thompson: We heard in the testimony that there isn't enough of an incentive to do four units instead of three, though I wasn't clear on some of the issues with ADA requirements since that came up in testimony

Tracy: An important caveat with ADA is that if you build the units side-by-side as townhouses, then that uses the townhouse code and ADA doesn't apply. When the units are stacked, then

they are built to the Commercial code and could trigger ADA (though this also applies to triplexes).

Commissioner Magnera: Wouldn't the ADA requirements also be tied to the type of funding is used to develop the affordable housing? I'm not sure how applicable it is at this scale, but I know that there are HUD requirements in some cases that are associated with ADA.

Tracy: There is a requirement in some cases for subsidized affordable housing, though I'm not sure when that applies. To be clear though, we're talking about fourplexes generally, not just affordable ones.

Commissioner Magnera: I want to clarify that we're not talking only about affordable units – is it just getting an affordable bonus or is it all units. Would there be an especially big impact on projects that are using those restricted funds to have the flexibility that this amendment affords?

Wood: It would be important for them to get bonus FAR, which is already built into the base FAR's that we adopted with RIP

Commissioner Gittermeier: Were the testifiers also asking for more building coverage?

Tracy: I don't think that was part of the ask for this. For the sixplexes they were asking for a bump in FAR. With this amendment, we're increasing the FAR within the allowed building coverage.

Commissioner Thompson: And still trying to keep some of the bonus incentives to keep existing houses etc.

Tracy: This gets to our staff concerns:

- RIP has only been effective for 5 months
- Increasing FAR diminishes incentive for existing bonuses

As an aside, our data shows that since RIP went into effect in August, we've only seen three triplex permits and 16 fourplex permits, which suggests that there doesn't seem to be any disincentive to building fourplexes.

Commissioner Thompson: We're also hearing a need for larger, family units. Are the sizes of the fourplexes being limited by the FAR?

Tracy: This goes back to our earlier conversations about affordability. One of the biggest inputs to housing affordability was unit size – as the units get larger, affordability decreases. This isn't to say we only want small fourplex units, but we want a good variety to hit all size and price points.

Commissioner Thompson: Let's do a **straw poll** and see if there's interest in pursuing this amendment. *Seven out of nine commissioners support this amendment.*

Wood: For the commissioners that didn't raise their hands, do you have anything to add as to why you don't support this?

Commissioner Bell: It's not that I don't support this, I would just need to do more research to better understand it.

Amendment #7: Reduce minimum lot sizes for 3+ units.

Commissioner Proposal: Reduce minimum lot sizes for middle housing development

Commissioner Bachrach: What's the downside of doing this? The size of the units is already governed by the FAR.

Tracy: Here are the staff concerns:

- Relitigating RIP and it's only been in effect 5 months
- Impacts the economics (and displacement risk analysis from RIP1)
- Creates conflict and pressure to increase FAR's, reduce setbacks, increase building coverage, etc.
- Lot sizes are consistent with (and already smaller than) HB2001

The biggest concern for the lot sizes is creating unrealistic expectations for what is practically achievable on a lot. An example could be if an applicant comes in and says I want to do a fourplex on a 1,600 square foot lot because that's what's allowed in R2.5 and we've ratcheted up the FAR and the result is unit that the units are 400 square feet each. It's possible but is it realistic or what we want to be encouraging? So, we can eliminate the lot size and let the FAR work it out, but I'm concerned that we'd be back here in front of the PSC asking to boost the FAR because this proposal doesn't work.

Wood: How do we do long range planning if we have no idea of what type of development is going to occur on certain sites? For RIP1, we had the BLI and the Displacement Risk Analysis that allowed for a deeper analysis of expectations. We don't have that kind of data for these amendments, and we can't say that the impacts are.

Commissioner Spevak: I was there for the displacement risk conversation, and I don't remember the issue being these substandard lots.

Tracy: For the model that we created, we filtered out the number of lots we're we could do triplexes and modeled out building triplexes on those lots and how that impacted displacement. This amendment changes the assumptions about what lots went into the model so it could change the geography and distribution.

Commissioner Spevak: I'm not sure I see the policy rationale and how the City of Portland can set what a "reasonably sized unit" is. These standards effectively set a floor on what the smallest units that can be built are. Smaller units are cheaper, and some can make them work and this policy says you can't build smaller.

Tracy: There are zones (multi-dwelling) that allow for smaller units, but I think the question is whether we want to see that development in all lots or if we are planning for a variety of housing types in different areas.

Commissioner Spevak: What is this policy protecting people from? It seems that the market is generally pushing for larger units, so what's the danger for allowing for smaller units, too?

Wood: Well, maybe we need to go back to why we have these regulations. The purpose of minimum lot size regulations is:

- Each lot has enough room for a reasonably sized house and garage
- Lots are of a size and shape that development on each lot can meet the development standards
- Each lot has room for at least a small, private outdoor areas

The land division code sets these minimums to allow for orderly development and so we can have room for the amenities and needs the development standards provide for.

A potential amendment would be to replace the minimum lot sizes for triplexes and fourplexes to be the same as that for a house or duplex.

Spevak: I've seen a lot of zoning codes across the country and see that there are often too many minimum sizes for things. I would prefer to allow for less regulation and see what the market will create. I don't anticipate this coming up often.

Straw Poll: For the amendment to reduce lot sizes for "middle housing" development. *Seven commissioners support.*

Wood: To clarify, this is for the minimum lot sizes for "where a primary structure is allowed," correct?

Tracy: No, these are for new lots if you're doing a land division. This is not for lots of record or other substandard lots.

Commissioner Spevak: I thought we were talking about existing lots. My intent with this amendment was not to allow for new lots at this size but if the lot already existed you could do the full range of options. Is that what you were solving for?

Tracy: No, we weren't. A good example of problems that could arise are for platted 2,500 square foot lots in the R7 zone, that normally would not be eligible for a primary structure but SB534

says we must at least allow a single dwelling and now HB 2001 says we have to at least allow a duplex. It would be tight but doable. If we don't set the 4,200 square foot minimum lot size for triplexes and fourplexes, it's possible that these 2,500 square foot R7 lots would be eligible for a triplex or a fourplex.

Spevak: This may be more than I can digest right now. I was just hoping that on say a 3,000 square foot lot you might be able to build a triplex or fourplex.

Wood: So, I guess that the amendment here is to eliminate the minimum for existing lots.

Commissioner Spevak: I'll go with the staff potential amendment to make the minimum lot size smaller to a reduction to the same as for a house or duplex but only for EXISTING lots.

Straw Poll: for existing lots and how big they must be for a triplex or fourplex– NOT for new lots. *Seven commissioners were in support of the amendment.*

Wood: So that's it for these amendments. At our next session on February 8 we will:

- Discuss the staff technical amendments
- Move and vote on amendments
- Vote on recommendation

Commissioner Sheoships: Can someone recap what we decided on Amendment #1?

Wood: At the last meeting we held a straw poll where commissioners supported an amendment to not use the wildfire hazard map in the R2.5, R5, and R7 zones but to use it in the R10 and R20 zones.

Tracy: And also a recommendation to review and update the maps when the new state maps are available.

Commissioner Thompson continued the item until February 8th

Adjourn

Commissioner Thompson: Adjourned the meeting at 8:31 pm

Submitted by JP McNeil