

# Portland Planning Commission

November 7, 2023

## Commissioners Present

Michael Alexander, Wade Lange, Mary-Rain O’Meara, Nikesh Patel, Michael Pouncil, Steph Routh (virtual), Eli Spevak, Erica Thompson

## City Staff

Patricia Diefenderfer, Sandra Wood, Phil Nameny

## [Documents and Presentations for today’s meeting](#)

*Chair O’Meara* called the meeting to order at 12:32 p.m.

## Items of Interest

*Commissioner Routh:* Happy election day, particularly to those in Maywood Park who are voting on whether to tap into the Portland sewer system today.

## Housing Regulatory Relief Project

Work Session: Sandra Wood, Phil Nameny

## [HRR Memo](#)

Patricia Diefenderfer: I wanted to provide context for today’s deliberations. I know this has been difficult to consider this project and relaxing guidelines in the short-term. However, we know we are in an extraordinary time in the housing crisis, high interest rates, and costs of construction. Patricia shared EcoNorthwest reports and information they provided to Prosper that informed the Advance Portland Strategy. The trends highlight the circumstances we’re facing and the uniqueness of this time. We want to be sure all these factors are taken into account.

## **Disclosures**

None.

*Chair O’Meara:* The staff memo will guide the comments and amendment ideas from commissioners. That has been organized into topic-specific items that we’ll be guided through with staff support today. We are seeking conversation to have your suggested amendments. We aren’t voting today but hope to get input to inform the amendments and your vote on November 14.

*Commissioner Spevak:* I was on the Commission when we adopted things we are looking to change now. That was in a boom time, so I likely will be middle of the road on some things today. I’m a small developer, and I acknowledge the reality that our housing is created by larger developers, not

necessarily local. And I appreciate the Planning Commission gets to make a recommendation with lots of public input and our own knowledge to send to City Council.

*Commissioner Thompson:* I also feel like I'll take a middle of the road approach as I think about process versus product lines. Many of the proposed changes are in the process area, and that is a place where I think we need to make changes as a City to make it easy to get housing built. The work is to create a code that represents the values of the city. Adding steps may not add enough value to offset. The actual buildings themselves is where we have to think long-term and think about the proposed changes and the costs (either permanently or long-term). We are in an environmental and housing crisis, and changes must acknowledge both of these – I don't think the environmental changes are worthy. I again want to thank all the testifiers and input we've received. In terms of the package as a whole versus individual pieces, I want to reflect that this package is not the only opportunity the City has to remove barriers to development. Some of the biggest themes are not even in front of us (inclusionary housing, SDCs for example).

*Chair O'Meara:* Thank you for the wealth of expertise we received via testimony. I learned a lot through this. Thank you to staff and commissioners for this extra work session today. I'm largely supportive of the package but also have thoughts on some of the details, and I don't support the current framing of the environmental items. I'm certain we'll strike a good balance for a package with meaningful impact but also with careful consideration of items that we may or may not think will move the needle enough to create more housing.

*Commissioner Patel:* Thank you to everyone for sharing their perspectives and feedback throughout this process. I sincerely understand the value of the standards at issue which promote sustainable development practices. However, the reality is we are facing a crisis and the city has been underproducing housing for decades. There is no sugarcoating this. The package as proposed includes reasonable measures to help with feasibility at a critical time of need and at a time we're facing challenging market factors (costs and inflation, etc). So on balance, I think these are reasonable measures that are temporary and offer flexibility. I'd also like to note when we start cherry-picking and removing individual standards from the proposal, it defeats the purpose and effect of the full package as proposed.

*Commissioner Alexander:* This is a scenario with parallel truths. In some ways, we're looking at the greatest of less evils. Are we looking to reformat the proposal or look at those individual 7 decisions. I need to think about what success looks like at the end of this, because it affects how I think about it.

*Commissioner Pouncil:* Thanks for the input we've received. I think it's important to realize this is something of an experiment.

*Commissioner Lange:* Thank you for the context today. Larger developers are looking at Portland see if we're doing something about the housing crisis. This package is well thought-out and reviews regulations that may help kick-start development in the pipeline that may not be started yet. I appreciate the work on the regulations over the years – lots of work and thought have gone into them.

At the end of the day, when I see people on the streets and we have a declared housing emergency, but we're not doing everything we can to resolve this crisis, I am looking at this lens first.

*Commissioner Routh:* I appreciate the thoughtfulness everyone has brought to this and everyone who has engaged and offered testimony. I have also been going back and forth. I am also looking at process versus product as *Commissioner Thompson* noted.

Patricia: The notion of the package of a whole or whether parts can move forward we can discuss. I would say this is not an all-or-nothing proposition. I think it will be more challenging if the Commission is trying to modify a standard, that becomes trickier since we don't have time to evaluate. But whether or not particular elements of the package move forward in the recommendation is a discussion.

Sandra and Phil introduced themselves. In the package are 5 process proposals (including neighborhood contact, which we'll discuss today) and 11 about the product. The Zoning Code has many regulations, and this package proposes a suspension of just 17 regulations. Of course housing is the main proposal and premise. We didn't want to take each proposal to determine another alternative to regulations that are already in place – they already have a level of complexity, and we don't want to add another layer. The temporary suspension is the heart of the proposal.

There are 7 topics on the plate today.

### **Neighborhood Contact**

*Chair O'Meara* proposed that all developments currently requiring a neighborhood notification maintain a minimum requirement of a site sign posting (2500 square feet and larger) with contact information of the developer and/or architect provided in addition to contact information for BDS or other City department that can provide information regarding the proposed development.

Phil: The staff proposal is to suspend Contact 1 and 2 for 5 years. We heard comments about if neighborhood contact in general is a good thing. The posters do always have a development contact. It's hard to have a City contact aside from the website for Neighborhood Contact because there isn't City knowledge until a permit is starting. So I think we want to keep that. I would push back a bit on the 10k versus 25k as that amends regulations that are already there, making things more confusing. So we could waive the meeting for 5 years and keep the notification.

*Chair O'Meara:* Thanks for the information. I support the 10,000 square foot (as is current) so we don't create more confusion.

Technically the sign should be posted 35 days and not more than 1 year before filing for the permit or land use review. With COVID and virtual meeting requirements, the policy has been a bit less stringent if someone forgets to post the sign they can still start the permit process as long as the sign is posted.

*Commissioner Spevak:* I think this could be a way to formalize.

- Phil: We'd want to do more analysis on this.
- Sandra: The intent is to allow the community to have time to discuss with the developer before the project.

### **Ecoroofs**

Sandra: We saw comments proposing an amendment to keep the requirement. We also saw some discussion about allowing more of the roof to not be ecoroof if it included solar or another ecological design feature. This only applies to new buildings in Central City over a certain size. The code is written that the whole roof needs to be an ecoroof but up to 40% can be other things as noted at the end of the memo. There were curiosities about projects that have gotten adjustments to the standards.

Phil: There may be 6 adjustments – but what was proposed as modifications have varied. A few times it went from 60% to 58%, so very modest. Some have been much more substantial, even down to 0%. Solar and ecoroofs can't coexist, so that is a grey area to try to come up with another percentage or exempt as this has been a case-by-case review.

*Commissioner Lange:* When developing Hasslo, there wasn't an ecoroof requirement at that time. We decided to go for LEED Platinum. Do you have any feel for how this is now – if a developer doesn't have to make an ecoroof, are developers still putting them on?

- Phil: We have seen proposals outside the (required) Central City that include ecoroofs to show the building/developer has considered sustainable features.

*Commissioner Thompson:* About the exceptions – in my experience, 40% is really the bare minimum you need for buildings that are approaching the size threshold we're talking about. So buildings that are interested in solar don't really have the space on the roof in this space. So I thought about modifying the existing requirement for projects striving to be more sustainable than our code requires. I can let go of my proposed tweaks and just say I don't support getting rid of the ecoroof requirement. For me, this is more about stormwater – it's about the heat island affect more so. Knowing we'll have more extreme weather events, this is very important.

*Chair O'Meara:* I was also recommending a modification to current code given my experience building affordable housing. For us, it's a question of ecological impact and not passing along costs to tenants. So my proposal, which I understand is difficult, would be for waiving this if project is otherwise including ecological or sustainable design features such as solar infrastructure covering more than 50% of roof area. But I would be willing to review if there are case-by-case exemptions.

*Commissioner Spevak:* My instinct would be to do an amendment something to what *Chair O'Meara* proposed.

Phil: This gets triggered on new buildings in Central City on buildings 20,000 square feet and larger, which will go through Design Review as well. So it's probably not a big add in terms of time, though it may be an add in terms of lack of flexibility and needing the modification request. This is more about the question about having the flexibility negotiated during Design Review.

Sandra: Code went into effect in 2018, so we don't have many data. So where I the proposals are:

- Retain ecoroof requirement.
- Retain the requirement but provide exemption for projects that propose solar or another ecological design feature instead. Of the 60% you want to dedicate to solar would not have to be dedicated to ecoroofs.

Staff will write both these up as potential amendments to vote on next meeting.

### **Bird-safe Glazing**

*Commissioners Spevak and Routh* want to retain the requirement.

Phil: Bird-safe glazing applies to the first 60' and applies to all new buildings as well as major remodels that change 70% of the facade.

*Commissioner Thompson*: There was testimony about the ratio that triggers the bird-safe requirement was intended to allow fenestration of housing units without triggering the requirement. If less than 30% of the facade is glass, you don't have to do it. this is a reasonable window-to-wall ratio for housing units. So there is a way to do housing without even triggering the requirement – which I agree with for floors 2 and up, but I'm not sure this is reasonable for the ground floor. Proposal that if the window-to-wall ratio under 30% then you don't have to do bird-safe glazing on them. I don't want people to be penalized for providing transparency on the ground floor.

Phil: The 30% is all inclusive of the ground up to the 60' height. We've been having the question of defining the ground floor in terms of provisions. So if someone is doing an atrium in the lobby, is there an upper limit to where we start counting for the 30% or not?

Commissioners support staff crafting an amendment for the amount of windows on the ground floor doesn't count against the whole facade... just count from the second floor up to 60'.

### **Ground Floor Active Use / Development**

Sandra: Active ground floor use requirement – we had one comment from *Chair O'Meara* about this. All the comments are about development/design standards (height of the ground floor and window requirement).

*Chair O'Meara*: I was wondering if there could be a 25% active use requirement in overlay zones and plan districts but with flexibility as to what is defined as ground floor active use. Perhaps that's already in the definition?

- Patricia: Yes, that is already built in. Some testimony we heard was about even requiring these various uses may not help the community in a meaningful way – they're just doing it to meet the standard. *Commissioner Routh* also had a comment about encouraging live-work on the ground floor. There is nothing in code that prohibits this currently.

The 60% active use would get reduced to 40% if residential use is proposed. This provides more flexibility, and this was our initial proposal.

*Commissioner Pouncil:* If there are changes in the window requirements, is there a way in a future things could be retrofitted back to the 60%?

- Sandra: Yes, this is just the minimum.
- *Commissioner Thompson:* This is getting at my concern as the proposal and providing flexibility for the future. Like in practice the structural engineering of this idea is really difficult since things are established at the time they receive the permit and build to the current standard.

*Chair O'Meara:* For long-term regulated affordable housing, to build a certain number of units including ground floor it's impossible from a regulatory standpoint to convert those units to commercial or other use. So the question of flexible conversion comes into play here.

*Commissioners Spevak:* I like staff's proposal to drop regulations aside from glazing on the first floor. I've seen so much ground floor commercial/active use that are basically dead right now. If there is demand for retail, it figures out how to find space. So I'm ok with a pause in the requirement. I'd rather have a chance for living space on the first floor.

Patricia: I also want to note that under the circumstances and the slowing of development we're seeing, I don't think the buildings would make a huge difference in the urban fabric as they would be among other buildings.

*Chair O'Meara:* Creation of ground-floor units can make housing more accessible e.g. universal design. Some people might prefer to be on a ground floor. I am leaning to approve this as written currently.

*Commissioner Pouncil:* I am also a proponent of ground-floor residential but know that design has to really be implemented to make sure these don't negatively impact the quality of the streetscape – and that residents are also safe. I also think about infrastructure required for ground-floor units and being flexible about the space and potentially going back to retail in the future.

*Commissioner Routh:* Live-work might provide activation and also allowing for residences. I also appreciate the opportunity for more accessible units on the ground floor. Is potential costs for live-work greater than the cost of building underutilized commercial space?

Sandra: Live-work is often a ground floor with commercial space in the front and a loft/mezzanine area for living above. This might become an issue with the building code in terms of fire code – but we have very limited experience with them in Portland. But from a code perspective, this is allowed.

Patricia: The building code does present significant challenge that increase cost of providing the units since you effectively have to build them as discrete spaces that bring in a whole other level of requirements. On the cost question, I am not sure. We are aiming to create flexibility to allow the market to determine what is most viable for the ground floor.

*Commissioner Thompson:* This one has the potential to be meaningful. Having uses you can't currently lease is a cost to developer. It's about considering the trade-offs to determining if we're not building housing units given this.

*Commissioner Routh:* I agree that this is the hard amendment. First floor use that isn't being used doesn't contribute to community vibrancy and safety. Straw poll to the proposal as drafted by staff.

### **Bike Parking**

Phil: *Commissioner Spevak's* note will be included in the staff technical amendments.

*Commissioner Spevak* supports having a future work group including bike and development advocates. *Commissioner Routh* agrees with this concept.

Sandra: This is something we can include in the transmittal letter to Council.

### **Threshold for Development Projects to Qualify for Waivers**

*Commissioner Spevak:* I would propose being more thorough than code current states if we get more from it. So the idea is let's make it real. Code hacks are a real thing for developers.

Sandra: In talking with BDS, this isn't showing as a real problem that needs to be solved. We also like to assume good intent.

Patricia: We are all assuming these are invoked with new building; but they could be invoked with conversions. So we want to be sure we're mindful of that and conversion could result in 1-2 ground floor units. And financing construction is that you're largely building either commercial or housing. So this suggestion wouldn't serve much of a purpose and wouldn't be something we really need to solve for.

*Commissioner Spevak* is fine with dropping this as a proposed amendment.

### **Nonconforming Development**

Phil: There were questions about suspending some standards and then after 5 years we'd have nonconforming buildings – so would that development have to bring it up to conformance in future changes? We have a nonconforming chapter, and some regulations apply to major remodels. Nonconforming upgrades usually are things that aren't included in these provisions aside from long-term bike parking or surface parking. Bird-safe glazing does get triggered if you're doing lots of exterior work and major retrofit. But from what we heard today, there isn't a desire to provide this temporary exemption and wouldn't be an issue.

Sandra summarized today's discussion.

*Commissioner Spevak:* For the neighborhood contact sign posting, we recognized not everyone can see a sign. So we (the Planning and Sustainability Commission) included a notice via an online format.

- Phil: There is no anticipated change about maintaining an online presence. Under the BDS neighborhood contact page, it has a map and dots on development that people can click on to see information about the site and meetings. Because of the proposal for maintaining signage, this will be online as well.

Staff will send the proposed amendments by the end of the week for commissioners' review prior to the November 14 meeting.

*Chair O'Meara:* The HRR Project will continue to the November 14, 2023 Planning Commission meeting.

Adjourn

*Chair O'Meara* adjourned the meeting at 2:40 p.m.

Submitted by Julie Ocken