

Volume 1 - Staff Report



Residential Infill Project – Part 2

Complying with State Mandates to Expand Housing Choices

May 2022 – Recommended Draft – As-amended, Staff Report



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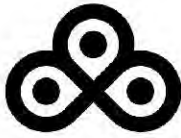
Contact staff:

Morgan Tracy, Project Manager
morgan.tracy@portlandoregon.gov; 503-823-6879

JP McNeil, City Planner
jason.mcneil@portlandoregon.gov; 503-823-6046

Next Steps:

This document incorporates the amendments that Council voted to approve on May 19, 2022. Council will vote on this “as-amended” Recommended Draft on June 1, 2022. If passed, the rules will become effective at 11:59 PM on June 30, 2022.



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Mayor Wheeler and City Commissioners

City Hall

1220 SW 4th Ave

Portland, OR 97205

Dear Mayor and City Commissioners,

The Planning and Sustainability Commission (PSC) is pleased to offer our support for the Residential Infill Project – Part 2, scheduled for your consideration in Spring 2022. The Commission voted unanimously on February 8, 2022, to recommend adoption of the Zoning Code amendments and related changes to the zoning map which will collectively add more residential infill options to complement Part 1 of the project which was adopted in 2020.

Adoption of this project will bring Portland into conformance with Oregon House Bill 2001 and Senate Bill 458 regarding providing pathways to create middle housing. To accomplish this, the proposal:

- Expands middle housing allowances to low density R10 and R20 areas.
- Adds two new types of middle housing options throughout the city: cottage clusters and higher density townhouses.
- Creates a new “Middle Housing Land Division” procedure to enable middle housing to be divided into separate fee-simple lots for increased homeownership opportunities.

Due to the compliance requirements of those bills, the PSC was confined in both project scope and timeline. We support most of Bureau of Planning and Sustainability’s staff proposal;



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however, in response to thoughtful and creative testimony received, there were several amendments that the PSC voted to incorporate into our Recommended Draft. Three of the more substantive amendments are described here:

1. Narrowing the use of wildfire risk in the proposed Constrained Sites 'z' Overlay Zone.

When this project is adopted, middle housing will be allowed in all residential areas of Portland except for areas constrained by natural resources or natural hazards – the Constrained Sites 'z' Overlay Zone. With this project, staff proposed to include the presence of wildfire risk as a component for the 'z' Overlay Zone.

The Commission was concerned with this approach for several reasons. First, it could perpetuate the exclusivity of R10 and R20 zoned neighborhoods by limiting housing options in those areas. Second, the 'z' Overlay Zone places new constraints on R2.5, R5, and R7 neighborhoods that were included in the first part of the Residential Infill Project. Underlying these impacts is the Commission's concern that the wildfire maps informing the overlay zone are more than 20 years old and do not reflect more recent climate models or capture current development.

In weighing competing Comprehensive Plan policies relating to increasing access to housing and limiting development in areas prone to natural hazards, the Commission arrived at a measured and precautionary approach for the lower density zones, while not expanding the 'z' Overlay Zone in the higher density zones that were already discussed during the first Residential Infill Project. The Commission acknowledges the need for a holistic review of wildfire risk based on new data and recommends that, until this data and analysis is available, higher density R2.5, R5, and R7 zones currently covered by RIP 1 remain unencumbered by the wildfire risk component of the 'z' Overlay Zone. For R10 and R20 zones not currently included in RIP 1, the Commission is recommending that the 'z' Overlay Zone include wildfire risk as currently mapped.

This is an interim solution and we recommend that the issue be revisited after new data is available from the State of Oregon so that wildfire risk and emergency response can be more holistically evaluated in terms of other risks from climate change as well as against infrastructure demands, capital expenditures, and overall housing affordability to ensure equitable land use and housing outcomes.



2. Creating a “detached duplex” option

The PSC heard testimony calling for “greater ADU fairness” and creating more options for fee-simple homeownership. Based on existing Accessory Dwelling Unit (ADU) rules, the size of the ADU cannot be larger than 75% of the size of the house or 800 square feet. For smaller houses, this meant that the ADU could not achieve the full 800 square feet. Testifiers also sought to allow ADUs to be divided to create new homeownership opportunities. However, a key limiting factor is that SB458 does not apply to ADUs.

Administrative rules adopted by DLCD to implement HB2001 permit, but do not require, cities to allow “detached duplexes.” The PSC discussed several options to address these issues and is ultimately recommending adding this option to the slate of middle housing types. This type of middle housing provides for two units in separate buildings to be called a duplex, and thus be eligible for a middle housing land division. The size of the two units is limited by the overall floor-to-area maximum for the site, which offers greater benefits to existing smaller homes. In order to leverage this option as a tool for anti-displacement, we included a requirement that this only be available for sites that preserve an existing house.

3. Reducing minimum lot size standards for triplexes and fourplexes.

The PSC reduced the minimum lot sizes adopted with RIP1 for triplexes and fourplexes to match the lot sizes required for houses and duplexes. Setbacks, building coverage, FAR and height limits determine the overall building size allowed on a lot. While staff expressed concerns that resulting unit sizes would trend toward smaller studio and single room units, the PSC found that providing greater flexibility for developers to create such units, if they so choose, was a net benefit since more units overall would be created and they would still need to meet minimum size requirements of the building code.

There was interest from the PSC to create more viable pathways for affordable housing providers to utilize the deeper affordability bonus that Council adopted as part of RIP1. The providers and others noted that the current rules allow six units, but to comfortably fit on a 5,000 square foot lot, the units must be “stacked” two-over-two-over-two. Constructing units as six “side-by-side” is less costly and generally preferred since each unit has a ground floor entrance. The challenge of this approach is that on smaller lots, a 6-unit “side-by-side” building



occupies much of the available open area and requires extensive relaxation of the zoning development standards.

We attempted to develop a workable alternative, but simply did not have sufficient time to fully research, develop and vet a proposal. We have asked project staff to continue to work with affordable housing providers in the hopes that a workable solution can be presented to Council for your consideration as part of your hearings process.

The PSC is very excited with the prospects of Middle Housing Land Divisions to create more first-time homeowner possibilities from middle housing that gets built. We did not spend an extensive amount of time with this part of the proposal and understand that staff is currently undertaking a series of discussions with infrastructure bureaus to ensure the application process is in place by July 1, 2022. We want to communicate the importance that the process not create obstacles or undue burden that might undermine successful implementation of this new type of land division.

The PSC recognizes that the Residential Infill Project – Part 2, while including several measures to reduce displacement risk, may not go as far as needed to fully address the City's housing cost and displacement issues, but that there are limits within both statute and market economies that cannot be redressed through zoning alone. This Commission will continue to encourage Council to enact policies and take actions that improve housing affordability and reduce displacement of low-income households.

In conclusion, we recommend the Residential Infill Project – Part 2 for adoption by City Council because it provides multiple pathways to ownership access and plays a key role toward meeting our housing supply and equity goals. It is also necessary to meet, and in some ways exceeds, Oregon's requirements under HB2001 and SB458.

Respectfully submitted,



Erica Thompson
Vice Chair



Acknowledgements

City Council

Ted Wheeler, Mayor
Jo Ann Hardesty
Mingus Mapps
Carmen Rubio
Dan Ryan

Planning and Sustainability Commission

Steph Routh (Chair)
Erica Thompson (Vice-Chair)
Valeria McWilliams (Vice-Chair)
Jeff Bachrach
Johnell Bell
Jessica Gittemeier
Katie Larsell
Oriana Magnera
Gabe Sheoships
Eli Spevak

Bureau of Planning and Sustainability

Carmen Rubio, Commissioner-in-Charge
Andrea Durbin, Director

Project Team

Sandra Wood, Principal Planner
Morgan Tracy, Project Manager
Shannon Buono, Senior Planner
JP McNeil, City Planner

Additional Contributors

Phil Nameny, City Planner
Neil Loehlein, GIS Mapping
Derek Miller, GIS Mapping
Eden Dabbs, Communications
Krista Gust, Graphic Designer

Partner Bureaus/Agencies

Bureau of Development Services

Stephanie Beckman, Supervising Planner
Kristin Cooper, Senior Planner
Sean Williams, City Planner

Bureau of Transportation

Kurt Kruger, Development Review Manager
Bob Kellett, City Planner

Bureau of Environmental Services

Stephen Himes, Development Supervisor
Rosa Lehman, Portfolio Management

Bureau of Housing

Mathew Tschabold, Management Analyst
Jessica Conner, Housing Program Coordinator

Portland Parks and Recreation, Urban Forestry

Brian Landoe, Analyst II

Fire Bureau

Michael Silva, Deputy Fire Chief
Nate Takara, Deputy Fire Chief

Water Bureau

Mike Saling, Supervising Engineer
Erin Mick, Residential Engineering Manager

Multnomah County Services

Jim Clayton, County Surveyor
David Lentzner, int. Division Chief of Planning
Chet Hagen, Asset Mgmt Program Manager

DLCD

Anne Debbaut, Regional Representative
Ethan Stuckmayer, Senior Housing Planner
Sean Edging, Housing Policy Analyst
Kevin Young, Senior Urban Planner

Consultants

UrbsWorks – Concept Planning

Johnson Economics, Inc. – Economic Analysis

DECA Architecture – Site planning evaluation

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Section 6: Zoning Code Amendments

Appendices (under separate cover)

Appendix A: *R10/R20 Existing Conditions Report*, UrbsWorks, June 2021

Appendix B: *Cottage Cluster and Duplex Concept Report*, UrbsWorks, June 2021

Appendix C: *Age-friendly Housing and Environments*, Shanley Lazas, March 2021

Appendix D: *House Bill 2001 Enrolled Text*, August 2019

Appendix E: *OAR 660, Division 046 and Large Cities Model Code*, Department of Land Conservation and Development, August 2020

Appendix F: *Senate Bill 458 Enrolled Text*, May 2021

Appendix G: *Proposed Landslide Hazard Area - maps and memo*, BPS Staff, November 2021

Section 1: Introduction

The overarching goal of the Residential Infill Project is to update Portland’s single-dwelling zoning rules to better meet the changing housing needs of current and future residents.

Part 1 of the Residential Infill Project was a big lift

The first part of the Residential Infill Project began in 2015 on the heels of the 2035 Comprehensive Plan update. With that update, there was extensive background analysis on Portland’s changing demographics, population and housing need. This analysis noted that the **composition of our neighborhoods** is changing. The city is becoming more diverse, the overall population is aging and the number of people per household is getting smaller. But despite the increase in single or two-person households, there are few options for smaller households to live in single-dwelling neighborhoods, where increasing land costs and market trends have produced mostly larger houses.

Several prominent concerns were also raised including the **rising cost of housing**, as more people are finding it difficult to afford housing — whether they are buying or renting. While home prices plateaued between 2017 and 2020, low interest rates have refueled interest in homeownership, creating a spike in median home values. In 2021, the median home value in Portland was \$544,000¹.

Portlanders are also worried about **increased demolitions** and replacement homes that are larger, more expensive and sited differently than surrounding older homes.

The first part of the Residential Infill Project was adopted in Summer of 2020 and included several big changes for most of the single dwelling zoned lots in the City. **New floor area limits were added** to both cap the size of new structures and reduce the incentive to demolish existing homes. **New types of “middle housing” were allowed** so that a mix of unit types and sizes could be made available in more parts of the city. Incentives for creating affordable housing and home conversions were also included, as was the elimination of minimum parking requirements to further reduce the cost of providing housing. New visitability standards were also created. These changes ensure that housing can be made available in a variety of sizes and prices for all Portlanders, regardless of age, income, ability, race or origin.

The project also led the way for the State to explore similar changes that could be broadly applied to cities to help address the deficit of needed housing across the state. In 2019, the legislature, with bipartisan support, adopted House Bill 2001 (or HB2001).

HB2001 included many of the elements adopted with the first part of the Residential Infill Project, but also includes mandates for additional housing types and applies to a broader swath of residential areas. To respond to the remaining state requirements, the second part of the Residential Infill Project is necessary.

¹ <https://www.zillow.com/portland-or/home-values/>

Part 2 of the Residential Infill Project completes the work we started

During initial scoping for the second part of this project, staff explored whether the focus should be narrow and address the remaining compliance issues from HB 2001 or take the opportunity to explore other fundamental changes to the very low density zones (R10 and R20) on the fringes of the city. These areas were previously omitted during the original Residential Infill Project, so an existing conditions report was created to better understand the opportunities and challenges these areas presented in terms of increasing housing options. Not surprisingly, these areas are largely characterized by the presence of multiple natural resource and land hazard constraints, the topography and soils make development more complicated and expensive, and infrastructure systems are either incomplete or lacking in some areas.

Nevertheless, providing the option for multiple units to be constructed in situations where sites are less constrained in these areas can still help the city address the overall housing supply need, as well as provide for comparatively lower cost housing in these areas. Consequently, the scope for the R10 and R20 areas includes the state-required housing types, along with the other housing type changes that were introduced with RIP Part 1 (i.e. additional ADUs and incentives for affordable housing).

The other mandated aspect of the project is creating standards for two new housing types mandated by HB2001: attached houses and cottage clusters. The standards will enable these housing types in all the single dwelling zones with a more streamlined review process.

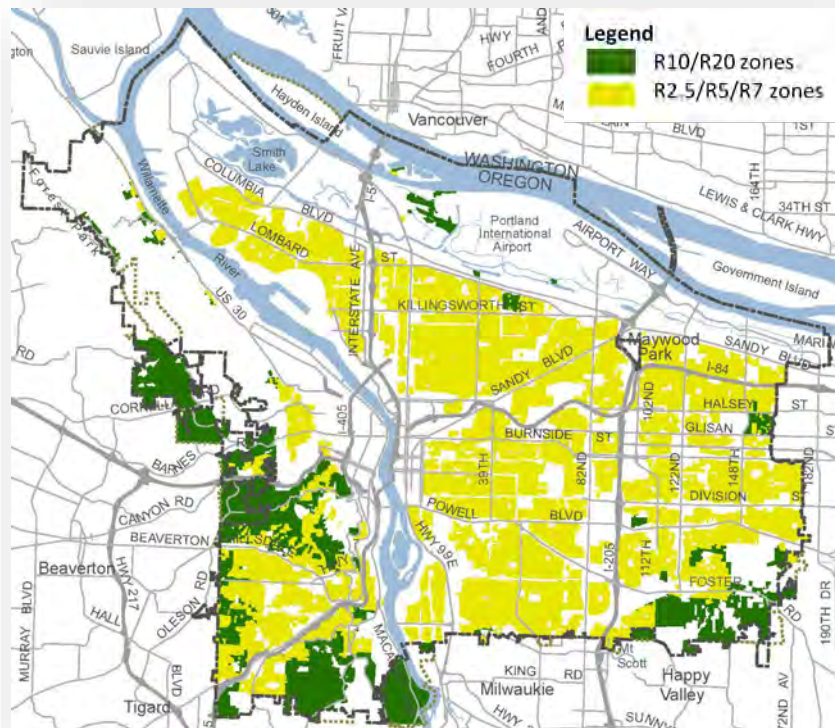
The final piece of the project is in response to a more recent state mandate (Senate Bill 458, or SB458) signed into law in May 2021 that requires cities to allow middle housing to be divided into separate lots through an expedited land division process.

The project includes thirteen key proposals

The RIP2 zoning code amendments (see Volume 2) include changes needed to implement the following key proposals. The amendments also address code consistency or clarification issues or make other changes to bring the regulations into conformance with State Law or align with changes made with Part 1 of the Residential Infill Project. Each proposal is described in more detail in Section 4, starting on page 15.

Proposal
Apply Residential Infill Options to R10/R20 Zones
1. Establish new building size limits
2. Allow duplexes on all lots
3. Allow triplexes/fourplexes in certain areas
4. Allow a house with 2 ADUs or duplex with 1 ADU in certain areas
5. Allow four- to six-plexes if half the units are “deeply affordable”
6. Require a unit be “visitable” when 3 or more units are on a lot
Amendments to All Single-Dwelling Zones
7. Allow attached houses in certain areas
8. Allow cottage clusters in certain areas
9. Allow “detached unit duplexes” in certain areas
10. Add a shorter townhouse “deeply affordable” option
11. Increase FAR for fourplexes
12. Apply the ‘z’ overlay to environmentally fragile and natural hazard areas
13. Codify an expedited process to create Middle Housing Land Divisions

Map 1: Location of lower density (R10/R20) and higher density (R2.5/R5/R7) single-dwelling zones



Why is this project important?

This project is necessary for the City of Portland to come into conformance with the state legislature’s adopted House Bill 2001 and Senate Bill 458. These two pieces of legislation are important steps to increasing the types of housing available and the locations where such housing can be built. In addition, by enabling the land under middle housing dwelling units to be split into separate “fee-simple” lots, more first-time homeownership options become possible. Increasing the supply of housing helps to keep home prices in check. By expanding housing development options within single-dwelling neighborhoods, we also make it easier and more attractive for developers to creatively meet demand for a variety of single-family dwellings. This means more people can live in and enjoy the benefits of single-dwelling neighborhoods.

One primary goal of the Residential Infill Project is to help incrementally increase the overall supply of housing units while maintaining the character of long-established single-dwelling neighborhoods. By applying better controls on house size and improving how houses relate to each other, additional units in the form of accessory dwelling units (ADUs), duplexes, triplexes, fourplexes, attached houses and cottage clusters can be better integrated into single-dwelling neighborhoods.

Why is Portland not using the State Model Code?

HB2001 includes “fail-safe measures” for jurisdictions that do not adopt required changes to their zoning and development codes within the timeline established by the legislation. Such jurisdictions would have to apply the State’s HB2001 “model code” or attempt to apply the bill language directly on an application-by-application basis. However, for Portland, implementing the model code would lead to confusion about how the model code would apply in the context of Portland’s other zoning regulations. The model code also does not include other important measures addressed in the RIP2 amendments that provide clear and objective direction for proposed development and does not align with other changes included in the first part of the Residential Infill Project. Moreover, other aspects like middle housing exceptions for goal-protected areas and substandard street conditions, or requirements for more accessible housing are omitted from or not clear in the model code.

Addressing inequity in our community

A history of racially discriminatory decision-making and public policies have contributed to many of today’s inequitable outcomes for communities of color. While some groups and neighborhoods prospered, Black, Latino, Native American and immigrant households face structural barriers to housing stability and economic mobility. The historic use of racially restrictive covenants and redlining by both public and private actors directly contributed to today’s racial disparities in homeownership rates and wealth attainment. It also contributed greatly to the geographic racial segregation that still exists.

Portland’s new Comprehensive Plan includes policies to address equity, prevent displacement and provide for ongoing affordability. The Residential Infill Project is consistent with these policies. It is intended to create opportunities for more types of housing development but also to manage the risk this may create for involuntary displacement of households. A [displacement risk analysis](#) was conducted with Part 1 of the project to evaluate whether, how and where proposed land use changes could cause further harm to historically under-served and under-represented communities. An examination of the demographics, vulnerability, and housing opportunity for the lower density R10 and R20 zones is included in the existing conditions report, Appendix A.

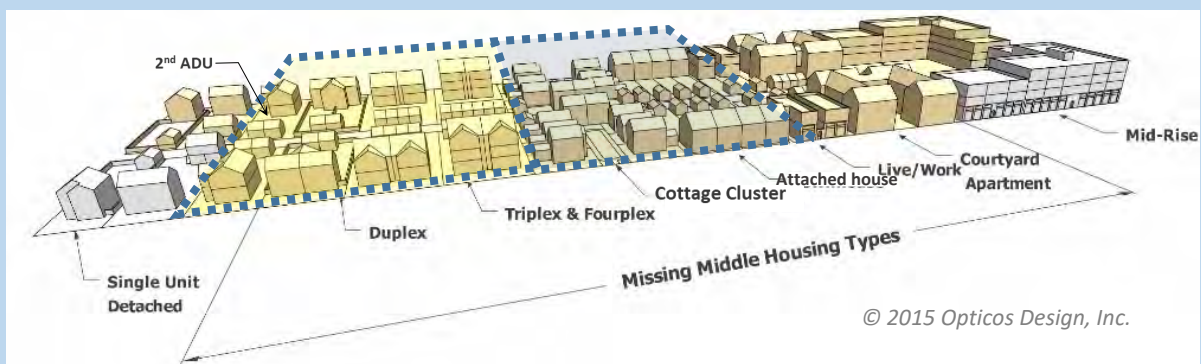
A paradigm shift towards more “middle housing”

Middle housing is a term used to describe housing forms that are compatible in scale with single-dwelling areas but accommodate more units. These housing types range from duplexes and triplexes on the low-intensity end to bungalow courts in the middle of the spectrum and live-work units and courtyard apartments on the higher-intensity end. House Bill 2001 specifically applies to duplex, triplex, fourplex, cottage cluster, and attached houses. This project includes these as well as additional options for accessory dwelling units (ADUs)

Consider a young Portland couple renting a one-bedroom apartment that may not be able to afford the significant investment needed to buy a house. But as their family grows, they may seek additional indoor and outdoor living space in a walkable neighborhood with good access to amenities. A duplex or triplex could better offer this opportunity at a price that is more affordable than that of a single-family home. In addition, if this young couple moves out of a lower-rent apartment, that unit is then freed up for someone else who is entering the housing market.

Or consider an older adult who no longer wants to or can take care of a large house and yard but wants to remain near long-time neighbors and businesses in a familiar setting. Community-oriented cohousing and ADUs could provide viable alternatives for meeting these needs in a desired location.

In both scenarios, greater housing choice typically equates to more variety in unit prices and living arrangements, and thus greater opportunity to find a house in a location and at a price that suits a wider range of needs. Such options, when built at a scale and form compatible with single-dwelling neighborhoods, are considered the “middle” housing spectrum. These new units will be at a size that complements older, existing homes that have defined Portland’s neighborhoods for decades.



The Residential Infill Project recommends allowances for a small segment of the range of middle housing types (shown in the dashed boxes) that can be achieved at a scale and within a form compatible with the character of many of the city’s single-dwelling residential neighborhoods.

Guiding Principles

The 2035 Comprehensive Plan includes five guiding principles, recognizing that implementation of the plan must be balanced, integrated and multi-disciplinary. The Residential Infill Project – Part 2 helps advance these guiding principles in the following ways:

1. Equity

Promote equity and environmental justice by reducing disparities, minimizing burdens, extending community benefits, increasing the amount of affordable housing, affirmatively furthering fair housing, proactively fighting displacement, and improving socio-economic opportunities for under-served and under-represented populations. Intentionally engage under-served and under-represented populations in decisions that affect them. Specifically recognize, address, and prevent repetition of the injustices suffered by communities of color throughout Portland's history.

This project furthers this principle by increasing the range of housing types and choices available in locations across the city. Increased opportunity for additional housing supply, incentives for affordable housing and reductions in the allowed size of new houses help stabilize and impede rising housing costs. Moreover, creating fee-simple ownership options from middle housing units provides more opportunity for first-time homeowners to get a foothold in the housing market.

2. Economic Prosperity

Support a low-carbon economy and foster employment growth, competitiveness, and equitably distributed household prosperity.

This principle is furthered by providing for population growth and added housing choice in more neighborhoods. Allowing increased and well-located housing options affordable to more families supports household prosperity. This helps people spend less of their income on housing, utilities and transportation costs combined and invest a greater percentage of their income in the local economy.

3. Human Health

Avoid or minimize negative health impacts and improve opportunities for Portlanders to lead healthy, active lives.

The Residential Infill Project furthers this principle in several ways. Adding housing capacity to areas well served by transit, and in amenity rich areas offers more opportunities for more Portlanders to enjoy more walkable and rollable neighborhoods, encouraging more active mobility through reduced automobile use, and increasing access to healthy food choices. These smaller and comparably less expensive housing options minimize personal stress caused by housing instability by allowing diverse housing types that meet changing household preferences, needs, abilities and economic conditions and promote social interaction and reduce isolation through visitability requirements and allowances for cottage clusters.

4. Environmental Health

Weave nature into the city and foster a healthy environment that sustains people, neighborhoods, and fish and wildlife. Recognize the intrinsic value of nature and sustain the ecosystem services of Portland's air, water, and land.

This project furthers this principle by increasing open space and natural features while promoting development that responds to positive qualities of the natural setting and site conditions. By applying floor area ratio (FAR) limits, the project better accommodates sustainable stormwater solutions and provides additional space to grow and preserve trees. Also, emphasizing compact housing in areas close to frequent transit, services and other amenities promotes lower carbon emissions through reduced driving demand, thus improving air and water quality. Limitations on more intensive middle housing types in natural resource overlay zones also helps foster a healthier environment.

5. Resilience

Reduce risk and improve the ability of individuals, communities, economic systems, and the natural and built environments to withstand, recover from, and adapt to changes from natural hazards, human-made disasters, climate change, and economic shifts.

This principle is furthered by providing additional opportunities for compact housing development in areas near designated centers and corridors with frequent transit as well as areas close to downtown and near schools, parks and jobs (in addition to providing more housing capacity in areas elsewhere). These smaller units are more energy-efficient than most older homes and comparable larger new homes. New housing and houses that are retrofitted for additional units will be built to modern seismic and fire safety codes, thereby providing additional resiliency. Areas prone to flooding, landslides, wildfire or have inadequate utility infrastructure were carefully evaluated when determining where additional housing units should be allowed, and consequently limited in this proposal. Moreover, by providing for a broader range of housing types and sizes, people are better able to find a dwelling suited to their needs and circumstances in changing economic climates.

Section 2: Community Engagement

Part 2 of the Residential Infill Project builds on prior engagement efforts and recognizes the limitations of the State mandates.

The Recommended Draft is the Planning and Sustainability Commission’s proposal to City Council. It includes proposed zoning code and zoning map amendments to bring Portland into compliance with HB2001 and SB458. In addition, it aligns the middle housing options in the R10 and R20 zones with those previously adopted for the higher density single dwelling zones with RIP1. Since RIP2 continues the work from RIP1, it builds off the extensive community engagement that was conducted with RIP1. This approach takes into consideration the time and energy already focused on the single dwelling zones during the RIP1 process and recognizes that there are opportunity costs to focusing additional City resources on these zones when there are limitations to how the City must comply with new state law. This approach further recognizes the impact to community organizations and other advocacy groups tracking this and so much other work, some of which may better align with their mission and the BPS’s commitment to centering racial equity and social justice.

In the fall of 2021, staff shared the Proposed Draft of the code and map amendments with the public and presented it to the Planning and Sustainability Commission. This outreach period was focused on informing the public of the proposals and familiarizing interested parties with the detailed code amendments in preparation for their testimony to the Planning and Sustainability Commission.

The Planning and Sustainability Commission held a public hearing on December 14, 2021 and heard from 27 testifiers and received over 60 pieces of written testimony. In response to testimony raised, the PSC included several amendments to the Staff proposals, which have been incorporated into this Recommended Draft.

RIP2 Community Engagement Approach

The focus of this project is on Portland’s single dwelling zones, although there are two components of the project with somewhat differing geographies within these zones. The first component is “RIP parity”, which focuses on how to extend the middle housing changes from RIP1 to the R10 and R20 zones. The second component is “HB2001/SB458 compliance” which focuses on changes that pertain to all of Portland’s single dwelling zones. While the audience for the “RIP parity” component is narrower than for the other component (it only impacts some single dwelling zones), the two audiences overlap. Further, unlike RIP1, with the passage of HB2001 and SB458 the City has certain compliance obligations and a deadline of June 30, 2022 to complete RIP2. Consequently, the scope of this project will not be on the scale of RIP1. Staff determined that a single, broad approach to community engagement for the entire project would be most efficient and make the most sense. To that end, a high-level community engagement strategy is warranted for RIP2 that uses the community engagement process from RIP1 as a foundation.

For more information, refer to the [RIP1 Staff Report on Public Involvement](#) and the [RIP2 Community Engagement Plan](#).

Public Outreach and Feedback

RIP2 Community Engagement

Work for RIP2 began in October of 2020 with the drafting of the project scope and hiring a consultant team to conduct existing conditions research, see Appendix A. Interim work also began with other City service bureaus on a parallel project -- the Infrastructure Based Time Extension Request (IBTER) process -- to study infrastructure-constrained lands as authorized in HB2001. The IBTER work has wrapped up, but the service bureau group has continued to meet as a de facto technical advisory committee as we work through the other issues related to infrastructure and HB2001 and middle housing land divisions.

Staff also engaged with members of the public in drafting a project scope for RIP2. Early engagement included targeted outreach to housing stakeholders involved with RIP1 and focus groups with small-scale developers to garner feedback on the cottage cluster portion of the project. The Planning and Sustainability Commission (on 3/9/21) and the Community Involvement Committee (on 2/9/21) held similar discussions. The purpose of these discussions was to identify whether the project scope should be more limited to respond to the outstanding compliance issues, or broader to include more significant changes, similar to the efforts in RIP1.

All stakeholders largely agreed with staff's working project scope – to keep this effort limited to compliance with the State legislation and achieve parity in R10/R20 zones with what is allowed in the higher density single-dwelling zones. Consequently, the scope of this project will not be on the scale of RIP1 and will not include a formal stakeholder committee. Meeting the State deadline of June 30, 2022 would drive the engagement plan.

In September and October of 2021, staff presented the project to the district coalitions representing neighborhoods across the city, to city advisory groups including the Urban Forestry Commission, Historic Landmarks Commission, and Development Review Advisory Committee, and to a group of affordable housing developers and advocates, market-rate and small-scale developers, and realtors.

In early November 2021, Measure 56 notice was sent to over 11,000 property owners whose properties will be affected by the proposed changes and a notice of the December 14, 2021 PSC hearing was sent to those on the BPS Legislative Mailing List. Additionally, notice of the hearings was posted on the project website and BPS social media, in the BPS E-Newsletter, and sent to the project email list.

On November 17 and 18, 2021 staff held two virtual public information sessions and briefed the PSC during their public meeting on November 30 in advance of the PSC's hearing on December 14, 2021. The PSC held work sessions on January 11 and January 25 before voting on a series of amendments and their recommendation to City Council on February 8, 2022.

City Council held hearings in April and May 2022 on the PSC's recommendations, before making several amendments and will vote on the final package of code changes on June 1, 2022.

A community engagement summary is listed below.

Step	Topic	Timeframe	Engagement Type
1	Early Info Gathering and Sharing – RIP 1 Update and RIP2 preview	10/20 – 6/21	Focus Groups, CIC, PSC
2	Concept Development	6/21 – 8/21	Focus groups, Technical advisory groups
3	Feedback on Concepts	8/21 – 9/21	Neighborhood District Coalitions and other relevant group meetings
3	Proposed Draft to PSC	10/21 – 2/22	Public Info Sessions, Public hearings, M56 notices
4	Recommended Draft to City Council	3/22 – 6/22	Public hearings

Project Updates

Updates on the project are being shared in several ways: e-updates sent to the project mailing list, blog posts for news and updates, BPS E-newsletters and BPS social media sites (Facebook, NextDoor and Twitter).

Recommended Draft Public Review

The Recommended Draft was published on March 21, 2011 which was 37 days prior to the City Council hearing. Comments were submitted via mail, email, and online using the map app on the project website. Parcel-specific information that shows which proposals will affect each specific property was also available through the Map App (www.portlandmaps.com/bps/residential-infill-2).

Section 3: Relevant State Mandates

Residential Infill Project Part 1 has already addressed many of the State’s middle housing requirements in HB2001. However, there remain a few outstanding items that will require additional modifications to the City’s zoning and development rules to bring Portland into full compliance with the State law. Additionally, SB458 is a companion bill to HB2001 that requires cities to process and allow expedited land divisions for middle housing projects.

What is House Bill 2001 (Middle Housing)?

House Bill 2001 (or HB2001) was passed by the Oregon State legislature in 2019². It requires that all cities in the Portland metro area and other cities across the state with over 25,000 people expand housing allowances in their zoning codes. This means that for lots zoned for residential uses, including lots currently limited to single-dwelling development, more types of residential structures must be allowed. Specifically, duplexes are required to be allowed on any lot where a single house is allowed. Other “higher forms” of middle housing, like triplexes, fourplexes, townhouses and cottage clusters are required to be allowed “in areas zoned for residential use.”

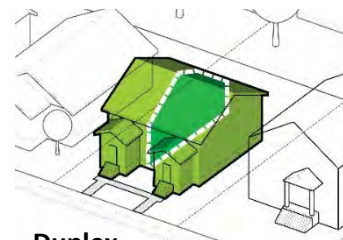
In 2020, the State Department of Land Conservation and Development (DLCD) developed a set of administrative rules³ to provide cities with more guidance on how to apply the requirements of HB2001, including more specificity on how to establish which “areas” were subject to higher forms of middle housing. Within these administrative rules are additional specifications relating to siting and design standards, as well as a “Model Code” that cities can choose to adopt in pieces or in total. Cities must adopt changes to their zoning and development rules in conformance with the State’s rules.

The State’s rules provide fairly rigid sideboards for cities to legislate within, but also contain some areas where choices may be made about how to adopt new middle housing rules. The following sections describe siting and design requirements for each mandated middle housing type, along with relevant limitations and some potential areas of choice that communities may make.

Duplexes

While the State allows duplexes to be defined as detached units on a lot, in Portland, duplexes are currently defined as two units in a single-building on a single lot or parcel. The state bill and rules are unambiguous about where duplexes must be allowed. Wherever a city will permit a house to be constructed, a duplex must also be an allowed housing type.

Cities may regulate aspects of duplex design, provided the rules are clear and objective (i.e. don’t require discretion) and don’t add unreasonable additional cost or time to the development of a duplex. Cities must also apply the same approval process to a duplex that would apply to a house. In Portland, houses are reviewed through an administrative building permit review process.



Duplex

² See Appendix D - HB2001, Signed August 8, 2019:

³ See Appendix E - OAR Chapter 660, Division 46 Middle Housing in Medium and Large Cities

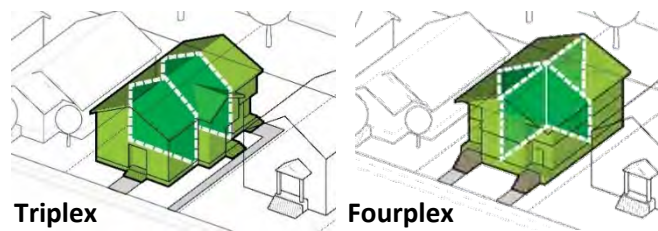
“Higher Forms” of Middle Housing

HB2001, as well as the administrative rules and model code, draw a distinction between duplexes and other “higher forms” of middle housing. These other types include triplexes, fourplexes, townhouses and cottage clusters. Whereas duplexes must be allowed on all lots where houses are permitted, the other types may be limited in some areas. In Portland, the area where the limitations apply consist of natural resource areas and natural hazards, including flood, landslide, and wildfire hazards, as well as areas designated as industrial sanctuary on the City’s comprehensive plan map and areas within the Portland Airport Noise overlay that exceed 68 decibels of Day-Night Average Sound Level (DNL). These areas are currently, or proposed to be, zoned with the Constrained Site (‘z’) overlay zone. See Sections 4 and 5 of this report for more detail.

There are two additional limitations on where higher forms of middle housing can be allowed in Portland: sites that are not on streets that have been accepted for maintenance, and sites below a certain minimum size threshold.

Triplexes and Fourplexes

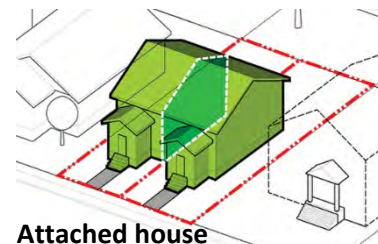
Similar to duplexes, the state also considers three or four detached units on a lot as triplexes and fourplexes respectively. In Portland triplexes are defined as three units in a single building on a lot and fourplexes are four units in a single building on a lot.



These two housing types are grouped together as the applicable state rules and model code treat them the same. Unlike duplexes, there are certain aspects of the rules that allow triplexes and fourplexes to be regulated differently than a detached single dwelling house. However, they must still be reviewed using clear and objective standards and processed the same as applications for a single detached house.

Attached houses

House Bill 2001 uses the term “townhouse” which is defined in that bill as a dwelling unit that is part of a row of two or more dwelling units, where each unit is located on an individual lot or parcel and shares at least one common wall with an adjacent dwelling unit. In Portland’s zoning code, these housing types are called attached houses.



Attached house
Each unit on its own lot

This use of the “attached house” terminology in the zoning code helps avoid confusion with how building code defines townhouses. The building code does not specify whether townhouse units are on one or separate lots, referring instead to the method of the units’ construction.

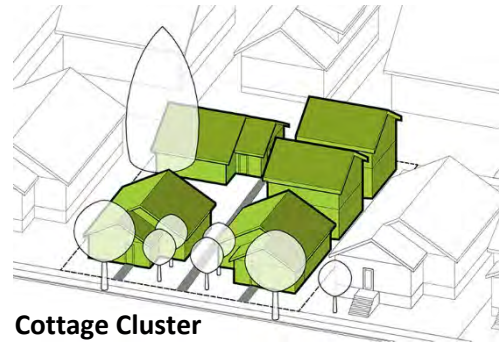
Under the City’s current zoning code, attached houses are allowed on lots that meet the minimum lot size for a detached house in the zone. This enables wider building facades and siting flexibility, but no increase in dwelling unit density. HB2001 did not make any distinction about the level of density required for attached houses; however, the administrative rules clarify that not only is the type of housing to be allowed, but also that they must be allowed at higher density levels.

The State’s rules specify that cities must allow attached house projects at up to four times the permitted density for detached single dwellings. For example, if one lot is allowed for each 10,000

square feet of site area in the R10 zone for detached dwellings, an attached house project would be allowed four lots (for four attached houses). However, a builder may propose fewer lots, as long as there are at least two units that are attached.

Cottage Clusters

The state defines a Cottage Cluster as a group of no fewer than four detached dwelling units per acre with a footprint of less than 900 square feet each that includes a common courtyard. In Portland, multiple detached units that share a single lot are currently referred to as “multi-dwelling development.” This type of housing has been permitted in single dwelling neighborhoods through a “planned development” or PD process. A PD is a discretionary review that trades the prescriptive numerical clear and objective standards for discretionary criteria aimed at achieving enhanced compatibility factoring in the particular aspects of the site and the surrounding neighborhood. With HB2001, this sort of discretionary review cannot be required for cottage cluster developments. PDs will continue to have a role in future innovative housing developments, to provide the flexibility that cannot be afforded through clear and objective standards.



Cottage Cluster

Other Residential Infill options (not mandated by HB2001)

Accessory Dwelling Units (ADUs)

Accessory Dwelling Units are not considered a middle housing type under HB2001. Pursuant to Senate Bill 1051 and ORS 197.312, adopted in 2017, cities with more than 15,000 people must allow the development of at least one ADU with each detached single dwelling house. HB2001 clarified that cities may not apply owner occupancy requirements, nor require additional off-street parking. Portland has broadly allowed a single ADU with a house since 1998 and removed owner occupancy and parking requirements in 2004.



House + 2 ADUs

As part of Residential Infill Project Part 1, more ADU options were created as alternatives to triplexes as a way of accommodating three units on a lot. Under these options, a house can have two ADUs as long as no building contains more than 2 units, and a duplex can have one detached ADU. These ADU options provide more feasible pathways to retain an existing house, while adding more dwelling units to a property. So, while the state only requires cities to allow a single ADU on a lot with a house, the proposals in RIP 2 for the R10 and R20 zones include these same ADU options adopted with RIP 1, in locations where other higher forms of middle housing are allowed.



Duplex + ADU

Affordable Four to Sixplexes

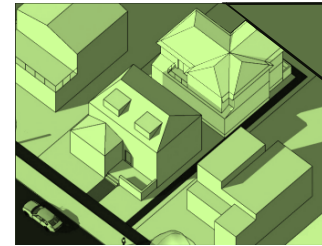
Also adopted with the Residential Infill Project Part 1 was a “deep affordability bonus”. This provides for additional floor area (up to 1.2 FAR), additional height (maximum height of 35 feet), and additional units (up to 6 units total) when half of the units are kept affordable to households earning no more than 60% of the median family income. City Council added greater flexibility for shorter, townhouse-style units as part of this package of amendments. These provisions are also not a required middle housing type under HB2001.



Affordable 4-6plex

Detached unit duplexes

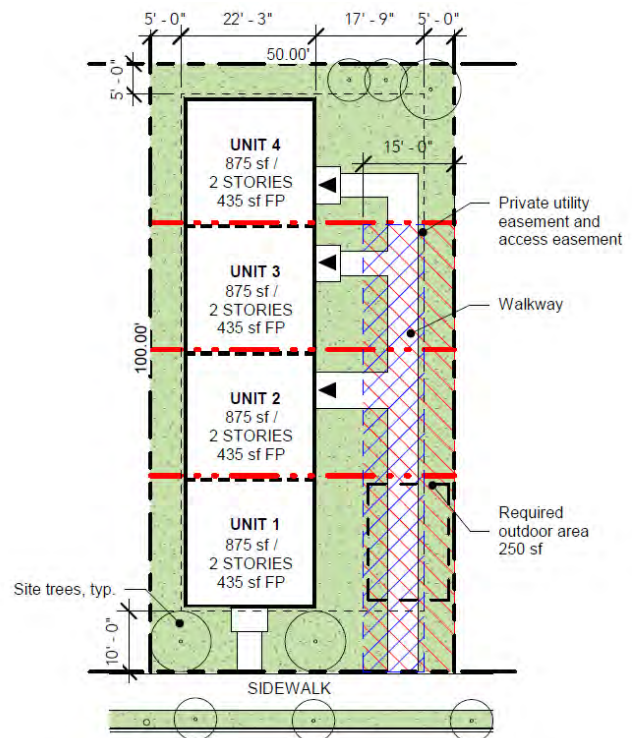
The Planning and Sustainability Commission added a version of the duplex that would allow the second unit to be completely detached from an existing house. This was partly in response to requests for greater “ADU fairness” because smaller homes may be prevented from building larger ADUs. However, the detached unit duplex allows the second primary unit to utilize the balance of remaining FAR on a site. In addition to the requirement that the first unit be an existing house, the second unit is subject to a lower height limit (25 feet) to respond to privacy impacts from back yard development.



Detached-Unit Duplex

What is Senate Bill 458 (Expedited Land Divisions)?

Senate Bill 458 (or SB458) was passed by the Oregon State Legislature in 2021⁴. This bill requires that cities subject to HB2001 allow middle housing developments, like duplexes, triplexes, fourplexes and cottage clusters to be divided through a more expedited and less discretionary process. This allows individual units within those developments to be located on separate lots, better enabling more “fee-simple” conveyance of ownership. In other words, rather than a single fourplex building with four units that can only be rented or owned through a condominium arrangement, SB458 allows the original middle housing lot to be divided so that units may be owned separately without being in a condominium.



⁴ See Appendix F - SB458, Signed May 26, 2021

Section 4: Key Project Proposals

Much of the work in Part 1 of the Residential Infill Project solely applied to the higher density R2.5, R5 and R7 zones. Introduction of floor area limits and expanding allowances for middle housing types to most lots in these zones has already been adopted in those areas. This section of the report describes the additional changes necessary to bring Portland into conformance with HB2001 and SB458. Additionally, in the R10 and R20 zones, some changes are being made to provide greater consistency with housing type allowances already in effect in the higher density R2.5, R5, and R7 zones.

The proposals include some changes that affect all the single-dwelling residential zones. For example, standards for attached houses and cottage clusters are still outstanding compliance issues across all single dwelling zones. Additionally, modifications to the Constrained Sites ‘z’ overlay zone are also necessary, which means that in the R2.5, R5 and R7 zones where the overlay is already in effect, some parcels that were not previously included were added and other parcels that were previously included were removed. For the R10 and R20 zones, the Constrained Sites ‘z’ overlay zone will be all new. Finally, the Middle Housing Land Division Process changes will apply citywide, including multi-dwelling and Mixed-Use zones.

City Council modified the Recommended Draft with several minor and technical amendments, in addition to three more substantive changes. These are reflected in this As-Amended Recommended Draft.

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Proposals 1-6 apply changes made in RIP Part 1 to the R10 and R20 zones

1. Establish new building size limits.

The proposal (*expand RIP1 FAR limits to R10/R20 zones*)

- On R10 and R20 lots that are less than 10,000 square feet, apply a maximum floor area ratio.

What is the intended benefit?

Average household sizes have declined in Portland from nearly 4.2 persons a century ago to just about 2.3 persons today. At the same time, national home sizes have increased from just over 1,000

square feet to more than 2,600 square feet today. Smaller unit sizes are also more **energy-efficient** than a single unit twice the size.

Applying a floor area ratio (FAR) is intended to **prevent disproportionately large buildings, while retaining flexibility** that does not create a barrier to new development or remodels. There are other approaches like reduced building coverage, lower heights and increasing setbacks that could be applied; however, they can excessively limit development of smaller lots, while still allowing overly large buildings on larger lots.

Reducing building coverage alone encourages taller buildings. Combining height limits with building coverage limits creates a complicated set of rules that are inflexible. FAR provides for a proportionate amount of square footage that is linked to lot size. How that square footage is allocated (either spread out or stacked up) remains flexible.

	Floor area ratio	10,000 square foot lot (R10/R20)
Current Code maximum size	N/A - size determined by building coverage, setbacks and height	9,000 square feet <i>This is roughly 0.9 to 1 FAR.</i>
Proposed maximum size For 1 unit	Maximum 0.4 to 1 FAR <i>(same FAR as the R7 zone)</i>	4,000 square feet
Proposed maximum size For 2 units	Maximum 0.5 to 1 FAR <i>(same FAR as the R7 zone)</i>	5,000 square feet
Proposed maximum size For 3 or more units	Maximum 0.6 to 1 FAR <i>(same FAR as the R7 zone)</i>	6,000 square feet

What else about the proposal should I know?

The following provisions adopted by City Council through RIP1 are still applicable:

The calculation of total floor area does not include basements (floors located at least 4 feet below grade) or rooms where the ceiling height is less than 80 inches (the minimum height required by the building code).

Existing houses (at least 5-years old) will be allowed to add up to 250 square feet without meeting the FAR limits. This one-time expansion, available once in each 5-year period, allows for existing houses to make a small addition without having to provide floor plans for the entire house when they submit for building permits. It also allows for adaptability over time without significant alteration to the home’s scale.

Two bonuses are available to obtain additional floor area. These bonuses are mutually exclusive and cannot be combined. The first bonus is intended to encourage retaining existing houses that are at least 5 years old when units are being added and the front façade is not altered by more than 25%. The second bonus is available when one unit is rented to households that earn no more than 60% of the median family income or sold to households that earn no more than 80% of the median family income.

How is this different than the approach used in RIP Part 1?

In RIP1, FAR limits were applied to all lots in the R2.5, R5, and R7 base zones, and each zone had a different escalating scale. For R10 and R20, only lots that are smaller (less than 10,000 sq ft) will

have the same scaled FAR applied. FARs on larger lots tend to be less impactful, and the lot sizes within these lower density zones vary more widely than the zones in RIP1.

How does this satisfy the requirements of HB2001?

HB2001 does not require cities to adopt floor area limits but does allow such limits to be applied, so long as the limits are not lower for middle housing types as what is applied to a single house.

2. Allow Duplexes on all lots

The proposal (*apply RIP1 allowances to R10/R20 zones*)

- In any zone, on any lot where a house is allowed, a duplex may be built instead.

What is the intended benefit?

This proposal recognizes that where currently any lot with a single house may have an accessory dwelling unit, shifting to allow two units as a duplex on any lot provides more flexibility in how these units are created and arranged. Instead of having a primary unit and smaller subsidiary accessory unit, both units may be similarly sized. Duplexes are also a fairly common construction type, regulated under the 1&2 dwelling building code, the same as houses.

What else about the proposal should I know?

The Planning and Sustainability Commission recommended adding another type of duplex, referred to as a “detached unit duplex”. This is a distinctly different type of housing from the more conventional duplexes described here. “Detached unit duplexes” are described in more detail in Proposal 9.

How is this different than the approach used in RIP Part 1?

Duplexes are already allowed on any lot where a house is otherwise allowed in the R2.5, R5 and R7 zones. Some special plan district provisions that currently limit duplexes in these zones are being removed.

How does this satisfy the requirements of HB2001?

This change is necessary to bring the city into compliance with HB2001. The bill specifically requires that cities “allow the development of...a duplex on each lot or parcel zoned for residential use that allows for the development of detached single-family dwellings.” Certain areas are excluded from the bill including lands zoned primarily for commercial, industrial, agricultural, or public uses.

3. Allow Triplexes and Fourplexes in certain areas

The proposal (*apply RIP1 allowances to R10/R20 zones*)

- In R10 and R20 zones allow up to four units on a lot when it meets certain qualifications:
 - Must meet minimum lot size requirements
 - Must be located on a street that has been accepted for maintenance by the City
 - Must not be in an area with the Constrained Sites ‘z’ overlay zone

What is the intended benefit?

These additional housing types offer alternatives to apartment buildings or single houses, and many neighborhoods already have these housing types from past generations. In addition, allowing multiple dwelling units **uses land more efficiently**, by allowing two or three families to live where just one family is allowed today. The proposal works in conjunction with floor area limits so that as

multiple units are proposed, the resulting unit sizes are progressively smaller, to encourage a wider variety of housing types, sizes, and prices.

How is this different than the approach used in RIP Part 1?

Triplexes and fourplexes are already allowed on lots in the R2.5, R5 and R7 zones that meet minimum lot size requirements, are on a maintained street, and are not located in the 'z' overlay. It should be noted that the PSC has recommended reducing the minimum lot sizes for triplexes and fourplexes in the R2.5, R5 and R7 zones.

How does this satisfy the requirements of HB2001?

This change is necessary to bring the city into compliance with HB2001. However, unlike duplexes that must be allowed wherever a house is allowed, these types of increased options may be limited by certain factors. These factors include limiting applicability in certain Statewide "goal protected areas" [see Proposal 8, Applying the 'z' overlay], considerations for sufficient infrastructure [maintained streets], and certain eligible siting and design standards [lot size standards] that are enumerated in the Administrative Rules (see Appendix E).

4. Allow a House with 2 ADUs or Duplex with 1 ADU in certain areas

The proposal (*apply RIP1 allowances to R10/R20 zones*)

- In R10 and R20 zones, allow for more accessory dwelling units (ADUs) in more configurations on a lot when it meets certain qualifications:
 - Must meet minimum lot size requirements
 - Must be located on a street that has been accepted for maintenance by the City
 - Must not be in an area with the Constrained Sites 'z' overlay zone

What is the intended benefit?

Increasing options for accessory dwelling units is a way of complementing the required additional middle housing types like triplexes. However, these additional ADU configurations provide options for smaller additional units which can more easily be accommodated on sites with existing structures like houses or duplexes, without impacting the original structure.

What else about the proposal should I know?

The following provisions adopted by City Council through RIP1 are still applicable:

Like the other zones where additional ADU options are already allowed, to ensure that structures remain one or two dwelling buildings and thus subject to the residential specialty building code, there are limits to where the third unit may be created. For a house, this means that an ADU can either be inside/attached to the house or detached from the house, but in no case may more than one ADU be inside/attached to the house. Both ADUs may be detached from the house, and either attached to each other or detached entirely from any other dwelling unit. For a duplex, since there are already two units in the duplex structure, an ADU may only be created as a detached unit.

How is this different than the approach used in RIP Part 1?

Allowing two ADUs with a house, or one detached ADU with a duplex is already allowed on qualifying lots in the R2.5, R5 and R7 zones. It should be noted that the PSC recommended reducing the minimum lot sizes for triplexes and fourplexes in the R2.5, R5 and R7 zones to match the lot size required for new single dwelling detached lots in those zones.

How does this satisfy the requirements of HB2001?

HB2001 does not require these ADU configurations, but also explicitly does not preclude cities from allowing them. Current state law (Senate Bill 1051) requires cities to allow a single dwelling unit wherever a detached house is allowed. The City is already in conformance with SB1051.

5. Provide a bonus for more “deeply affordable” units

The proposal (*apply RIP1 allowances to R10/R20 zones*)

- In R10 and R20 zones, when half of the units are affordable at 60% MFI, allow up to 6 dwelling units on a lot when the lot meets certain qualifications:
 - Must meet minimum lot size requirements
 - Must be located on a street that has been accepted for maintenance by the City
 - Must not be in an area with the Constrained Sites ‘z’ overlay zone

What is the intended benefit?

The average rent for a two-bedroom apartment (utilities not included) in Portland is currently about \$1,800 a month⁵. In 2021, the 60% MFI rent limit for a two-bedroom unit equates to about \$1,300 a month including utilities⁶. This proposal is designed to help make small, affordable infill housing development projects more feasible by making more units available than what is allowed for market rate housing projects and/or to better accommodate larger families in affordable housing. Requiring only half of the units to meet this affordability threshold will allow developments to include some market-rate units to help offset the costs of the affordable units and allow for greater income diversity.



Affordable 4-6plex

What else about the proposal should I know?

The following provisions adopted by City Council through RIP1 are still applicable:

This bonus provides for additional floor area (up to 1.2), additional height (up to 35 feet), and additional units (up to 6 total) when half of the units are kept affordable to rental households earning no more than 60% of the median family income. When the units within the project are sold for ownership at least half of the units must be affordable to households earning no more than 80 percent of MFI. The housing Bureau’s administrative rules require rental units to remain affordable for a term of 99 years and ownership units to be affordable for 10 years.

The same requirements for lot eligibility will apply to these housing types as apply to triplexes and fourplexes (lot size, sited on an improved street, located outside the ‘z’ overlay). Unlike those housing types, where only one visitable unit is required, for these building types, at least two visitable units are required. See more about visitable units in Proposal 6.

The Planning and Sustainability Commission considered, but did not pass changes that would allow 6 attached houses (i.e. side by side units on separate lots) on much smaller lot sizes as an alternative to the stacked unit configuration adopted with RIP1. City Council passed an amendment that will allow for more building coverage in exchange for a lower overall building height, see Proposal #10.

⁵ <https://www.zumper.com/rent-research/portland-or>

⁶ <https://www.portland.gov/sites/default/files/2021/2021-ami-rents-phb.pdf>

How is this different than the approach used in RIP Part 1?

Offering a deeper affordability bonus for four to six units on a lot is already allowed on qualifying lots in the R2.5, R5 and R7 zones.

How does this satisfy the requirements of HB2001?

HB2001 does not require voluntary affordability bonuses. However, the bill does direct that a local government consider ways to increase the affordability of middle housing by considering ordinances and policies.

6. Require a unit be “visitable” when 3 or more units are on a lot

The proposal (*apply RIP1 “visitability” standards to R10/R20 zones*)

- In the R10 and R20 zones, when 3 or more units are located on a lot, require at least one unit be “visitable”:
 - Zero step entry
 - Wider halls and doorways that can accommodate a wheelchair
 - Bathroom and living area located on the ground floor

What is the intended benefit?

“**Visitability**” requirements promote a growing share of housing that can be accessed and visited by people with mobility impairments (including elderly and disabled persons), while also providing convenience to other users of all ages, who, for example, use strollers or bicycles. These requirements ensure that people can easily enter and move about at least one floor of a house and have access to a bathroom and an area to socialize. This helps remove barriers that can lead to social isolation.

Building features should encourage interaction between older adults and the community, such as front entries that promote visibility, to contribute to older adults’ perceived social support. Housing designed for social networks will lower burdens on formal services and support community ties that predict older adults’ ability to remain in place. For more information about Age Friendly Housing, see Appendix C.

The visitability requirements are intended as low-cost, high-performing basic standards but do not meet the level of truly “accessible” living. Complete accessibility throughout a dwelling can add cost and may not be needed by as many residents. The visitability standards instead provide a platform for future home modifications that can be tailored to meet the specific needs of the occupant.

What else about the proposal should I know?

The following provisions adopted by City Council through RIP1 are still applicable:

To meet the visitability requirements, the dwelling must have a no- or low-step entry, wider hallways and doors (34 inches minimum), a bathroom with adequate maneuvering area and an area to socialize (10-foot by 10-foot room dimension) on the same floor as the bathroom and visitable entrance.

Certain situations are exempt from the visitability requirements due to the impracticalities of meeting the standards. For example, existing houses or accessory buildings are exempt because of their fixed set of conditions like the level of the entrance or interior room layouts. Grading to achieve a zero-step entry could negatively impact the building. Reconfiguring interior walls or adding bathrooms where there is no plumbing would likewise be challenging.

Additionally, lots that are very steep (20 percent average slope) or have a steep slope from the street to the front door would require extensive grading, which could add significant cost and potentially remove topographic characteristics that help define the street.

How is this different than the approach used in RIP Part 1?

Visitability requirements were included with Residential Infill Options in RIP1 and are applied in the same manner.

How does this satisfy the requirements of HB2001?

HB2001 states that “Local governments may regulate siting and design of middle housing required to be permitted under this section, provided that the regulations do not, individually or cumulatively, discourage the development of all middle housing types permitted in the area through unreasonable costs or delay.”

The state administrative rules provide further guidance on what is “reasonable” which include regulations that conform to the administrative rules or are otherwise contained in the model code. For other regulations, cities must meet the alternative siting or design standards in OAR 660-046-0235. These standards require that cities demonstrate that the proposed regulations are not unreasonable in comparison to what would otherwise be allowed, considering:

- The total time and cost of construction, including design, labor, and materials;
- The total cost of land;
- The availability and acquisition of land, including in areas with existing development;
- The total time and cost of permitting and fees required to make land suitable for development;
- The cumulative livable floor area that can be produced; and
- The proportionality of cumulative time and cost imposed by the proposed standard or standards in relationship to the public need or interest the standard or standards fulfill.

The visitability standards advance a key tenet of the 2035 Comprehensive Plan Goals for supporting fair, equitable, healthy, resource efficient, and physically-accessible housing. Physical barriers limit housing choice for many Portlanders’ ability to find adequate housing. Integrating visitability requirements into Portland’s housing stock as the city develops and redevelops ensures more equitable access to housing, in more locations throughout the city.

In exchange, there are marginal increases in the cost of design and materials which are much lower than if such construction was attempted as a retrofit. There is no impact to the total cost of land, or its availability for acquisition including areas with existing development. The standards already contemplate and exempt situations where the cost to comply could become unreasonable. Visitability requirements are reviewed along with other aspects of the building permit, so there is no impact to permitting review timelines or fees. While the visitability standards do require greater clearance widths for doors and bathroom areas and ensure that a minimum amount of habitable space be provided on the ground floor, none of this reduces the amount of livable floor area that can be produced. Furthermore, according to a survey by the national association of homebuilders, a bath on the first floor, wider doorways and halls, along with zero-step entries were ranked as desirable or essential by prospective homebuyers 60 to 79% of the time⁷. Therefore, the minor added costs incurred during design and construction weighed against the current and future public need and demand for more equitable and accessible housing, are reasonable design regulations.

⁷ See excerpt from NAHB *What Home Buyers Really Want*, in Appendix C.

Proposals 7-13 relate to amendments in all single dwelling zones

7. New standards for attached houses

The proposal (*create new density and lot sizes for attached houses in the RM1 -R20 zones*)

- In the RM1, R2.5, R5, R7, R10 and R20 zones, create new density and lot dimension standards to conform to State administrative rules for “townhouses” (referred to as attached houses in the Portland zoning code).

What is the intended benefit?

Attached houses are individual dwelling units located on separate lots but that share a common wall with one or more abutting dwelling units on their own separate lot(s). They are already an allowed housing type in the R2.5 through R20 zones, however, they currently do not meet the increased density, lot size, or street frontage standards prescribed by the State’s HB2001 administrative rules.

Attached houses provide options to create fee-simple lots for homeownership, which is different from other middle housing types that are typically multiple units that share a single lot and can either be rented or owned through a condominium arrangement (or as fee simple lots through the middle housing land division process, see Proposal 9). Attached house lots created through a regular (non-middle housing expedited) land division process results in lots that are truly independent from each other, as opposed to divided middle housing lots which continue to rely on and are interdependent with the parent parcel (and adjoining units) for compliance with land use regulations.

What else about the proposal should I know?

Because attached houses require independent lots for each dwelling unit, significant changes were required in the land division chapters (33.610, 33.611, and 33.612) of the zoning code to create different lot density standards, as well as lot dimensional standards.

Proposed Lot Dimension and Density Standards for Attached Houses (R20-R7)			
	R20	R10	R7
Maximum density			
Attached house lots	1 lot per 5,000 sq. ft.	1 lot per 2,500 sq. ft.	1 lot per 1,750 sq. ft.
All other lots	1 lot per 20,000 sq. ft.	1 lot per 10,000 sq. ft.	1 lot per 7,000 sq. ft.
Minimum Lot Area			
Attached house lots	1,500 sq. ft.	1,500 sq. ft.	1,500 sq. ft.
All other lots	12,000 sq. ft.	6,000 sq. ft.	4,200 sq. ft.
Maximum Lot Area	34,500 sq. ft.	17,000 sq. ft.	12,000 sq. ft.
Minimum Lot Width			
Attached house lots	15 ft.	15 ft.	15 ft.
All other lots	60 ft.	50 ft.	40 ft.
Minimum Front Lot Line			
Attached house lots	15 ft.	15 ft.	15 ft.
All other lots	30 ft.	30 ft.	30 ft.
Minimum Lot Depth	60 ft.	60 ft.	55 ft.
Minimum Lot Area for ADU			
Attached house lots	10,000 sq. ft.	5,000 sq. ft.	3,500 sq. ft.

Proposed Lot Dimension and Density Standards for Attached Houses (R5-RM1)			
	R5	R2.5	RM1
Maximum density			
Attached house lots	1 lot per 1,500 sq. ft.	1 lot per 1,500 sq. ft.	based on max FAR
All other lots	1 lot per 5,000 sq. ft.	1 lot per 2,500 sq. ft.	based on max FAR
Minimum Lot Area			
Attached house lots	1,500 sq. ft.	1,500 sq. ft.	1,500 sq. ft.
All other lots	3,000 sq. ft.	1,500 sq. ft.	1,500 – 4,000 sq. ft.
Maximum Lot Area	8,500 sq. ft.	N/A	N/A
Minimum Lot Width			
Attached house lots	15 ft.	15 ft.	15 ft.
All other lots	36 ft.	36 ft.	25-33 ft.
Minimum Front Lot Line			
Attached house lots	15 ft.	15 ft.	15 ft.
All other lots	30 ft.	30 ft.	25-30 ft.
Minimum Lot Depth	50 ft.	40 ft.	40 ft.
Minimum Lot Area for ADU			
Attached house lots	2,500 sq. ft.	1,500 sq ft	N/A

Since Portland allows accessory dwelling units for both detached and attached houses, these new higher-density attached house lots could potentially octuple the density of the underlying base zone if each contained an ADU. To maintain density parity with allowed fourplexes, new minimum lot size standards will apply for ADUs proposed with attached houses.

Minor changes to the RM1 zone are needed to reduce the lot dimension standards from 1,600 sq ft to 1,500 sq ft. Parcels in the Constrained Sites overlay zone and sites located on streets that are not maintained are ineligible for the higher densities for attached houses, however attached houses as a housing type continue to be allowed in these locations under current rules for lot density. For corner lots in these locations, duplexes will be allowed, and may be divided using the Middle Housing Land Division process.

How is this different than the approach used in RIP Part 1?

These higher-density attached houses were not included as a housing type in RIP1.

How does this satisfy the requirements of HB2001?

HB2001 itself does not specify increased densities for attached houses; however, both the administrative rules and model code require cities to adopt increased densities ranging from four times the underlying base zone density, to 25 units per acre whichever is less.

8. A whole new type of housing: Cottage Clusters

The proposal

- In the RM1, R2.5, R5, R7, and R10 zones, create new development standards that allow multiple smaller detached dwelling units around a shared outdoor area.



For example: Smaller homes clustered around a common open space in Edgewood.

What is the intended benefit?

Cottage clusters are groups of **relatively small homes oriented around a shared common space** such as a courtyard or garden, with parking often relegated to the edge of the site. These clustered developments foster a **sense of community** among residents and can be modeled to suit **many specific living needs**. The units could be part of a cohousing project, tailored to older adults or people with disabilities, or built with innovative attributes.

Unlike most of the other housing type proposals in the Residential Infill Project which are attached to each other or stacked, cottage clusters must be comprised of detached units. They also exchange private yards for more common open space which helps build community cohesiveness and encourages neighbors to socialize.

Multiple detached houses are currently allowed in the single dwelling zones through a discretionary review process called a “Planned Development”. However, with HB2001, this arrangement of housing units must be allowed through a non-discretionary “clear and objective” standards process. That means that the City must develop a set of rules specific for cottage clusters that can be applied to a set of building permit plans, and not a discretionary land use review.

To accomplish this, a new Residential Infill Option is being proposed in the single dwelling base zone chapter. The proposed cottage cluster standards will address certain required specifications listed below. Proposals that do not meet these standards may still seek approval through a Planned Development review.

Summary of Cottage Cluster Proposed Standards

- a. **Minimum site dimensions.** HB2001 allows cities to apply up to a 7,000 sq ft minimum lot size for cottage clusters. The minimum 7,000 sq ft requirement will apply in the R7 zone and R10 zones. A smaller 5,000 sq ft lot size will apply in the R2.5, R5 and RM1 zone to enable small 3- and 4-unit clusters on more common sized lots in these zones.
- b. **Maximum area.** A maximum site size of 1 acre is included to prevent cottage clusters (and subsequent middle housing land divisions) to replace more orderly platting for larger undeveloped areas. The maximum site size also reinforces that Residential Infill Options are intended to be “infill” options and not “greenfield” options.
- c. **Minimum density.** HB2001 restricts cities from applying a maximum density limitation to cottage clusters, and only specifies that a minimum density of 4 units per acre be met. However, since that could violate Metro’s Urban Growth Functional Plan minimum density requirements of 80% of the maximum base zone allowance, a minimum number of units will be required based on the site’s size and base zoning.
- d. **Maximum cottage cluster units.** One of the principles of cottage cluster style developments is social cohesion within the cluster. This is generally achieved in cluster of no more than 12 to 16 units. Another reason for the 16 unit max is that with the limits on what the city can regulate through a clear and objective administrative review, larger - and consequently more complex developments - cannot be adequately addressed through standards alone.
- e. **Floor area.** HB2001 prohibits cities from applying floor area ratios to cottage clusters, but cities may regulate individual unit “floor area” to ensure that individual dwelling units are smaller and more “cottage-like.” An average unit size of 1,400 sq ft. is proposed which creates the ability to vary unit types and sizes. For example, an 1,800 sq ft 3-4 bedroom unit could be averaged with a 1,000 sq ft 2-bedroom unit to meet the 1,400 sq ft average. Existing houses are excluded from floor area calculation as a way of encouraging their retention on cottage cluster sites. Accessory structures have a 400 sq ft floor area limit.
- f. **Maximum height.** To also ensure that individual dwelling units are smaller and more “cottage-like”, a lower height limit of 25 feet applies. This provides sufficient height for two full stories. In comparison, ADU height limits are 20 feet which typically results in 1 and a half story construction, which is a more appropriate relationship between the primary building and accessory building. However, on a cottage cluster site, the dwellings will all be primary. The 25-foot height limit (vs 20 feet) will also help to differentiate the dwellings from accessory structures on the site (20 and 15 foot height limits).
- g. **Separation between units.** Units must be separated from each other by 10 feet. Reduced separation (to 6 feet) is allowed in exchange for more common open space. Separation distances only apply to the dwelling units, and not detached accessory structures.
- h. **Building Coverage.** HB2001 prohibits cities from applying building coverage limits to cottage cluster sites, but also specifies that dwelling units must have a maximum “footprint” of 900 square feet. While overall building coverage limits will not apply, dwelling units will each have a maximum building coverage of 900 square feet and detached accessory structures will each have a maximum building coverage that is no larger than the smallest dwelling unit.
- i. **Common outdoor area.** HB2001 also requires that there be a common area with a cottage cluster. While there is scant direction in the state’s administrative rules about the common

area, the model code provides additional guidance on dimensional requirements. The proposal borrows from the model code, including 150 square feet of area required per unit (200 square feet, when reduced separation between units is proposed), 15-foot minimum dimension in all directions, and surfacing and amenity requirements. To prevent individual outdoor areas from being called the common area, a minimum amount of 450 sq ft per common area is required. The Planning and Sustainability Commission recommended changes to allow pedestrian connection pathways to be included in the common outdoor area width and area calculations.

- j. Dwelling Unit Orientation.** This standard is patterned after the model code and requires that units within 25 feet of a street must orient toward the street and that 50% of the remaining dwelling units be oriented toward the common area. The rest of the units that don't orient to a common area or the street must orient to the pedestrian connection system.
- k. Pedestrian Connections.** This requires that a hard surface path connect all the dwelling units on the site with each other, the common area, and any other amenities on the site. This requirement is borrowed from what is required for multi-dwelling developments and is similar to what is contained in the model code. The Planning and Sustainability Commission recommended changes that allow an adjacent sidewalk in the right of way to function as part of the pedestrian connection system, to reduce the need for redundant impervious area.
- l. Visitability.** The visitability standard applies to cottage clusters like other middle housing types with 3 or more units on a site. This requires a certain number of units be constructed with reduced barriers for people with mobility impairments and encourage visitation as well as create a base level of accessibility that allow for more tailored modifications. For more information about visitability standards, refer to Proposal #5, on page 19.

How is this different than the approach used in RIP Part 1?

Cottage clusters were not an included housing type in RIP1.

How does this satisfy the requirements of HB2001?

HB2001 requires cities allow cottage clusters in residential areas through a clear and objective standards track. HB2001 requires that minimum site sizes be no larger than 7,000 square feet. In the R2.5 and R5 zones, a 5,000 square foot site size is proposed acknowledging the large number of such lots and providing an alternative to ADU development that can utilize the provisions of SB458 to create fee simple ownership opportunities.

Cottage clusters are only proposed to be allowed in the RM1, R2.5, R5, R7, and R10 zones. Oregon Administrative Rules (OAR660-046-0205) state that cities may apply different minimum lot size and maximum density provisions when middle housing (other than duplexes) is allowed on a certain percentage of eligible lots. The basis for the percentage of eligible lots includes lots zoned for residential use that allow detached single-family dwellings, and excludes goal-protected areas, master planned communities, and areas impacted by state or federal law. Cities must additionally demonstrate that at least 75 percent of eligible lots within each census block group allow for at least one middle housing type other than duplexes.

The following table calculates where each middle housing type would be allowed in the city based on minimum lot size thresholds established in the Oregon Administrative Rules and excluding areas

located in the constrained sites overlay. The “RIP2 lots” indicates how many lots are eligible based on lot size and in the case of cottage clusters, zoning designations. In the case of cottage clusters, the OAR requires that when cities apply other siting criteria, at least 70% of the otherwise eligible lots must be eligible for cottage cluster development. Cities must also ensure the equitable distribution of Middle Housing by allowing at least one Middle Housing type other than Duplexes and Cottage Clusters on 75 percent or more of all lots within each census block group.

Comparison of middle housing lot size criteria Oregon Admin Rules and RIP2 Recommended Draft proposal Lots outside ‘z’ overlay where detached house allowed				
Housing Type	OAR lots	RIP 2 lots	% of OAR	OAR required threshold
Duplex	164,707	164,707	100%	100%
Triplex	102,284	164,707	161%	80%
Fourplex	55,185	164,707	298%	70%
Attached house	151,459	162,074	107%	60%
Cottage cluster	55,185	82,108	149%	70%

By allowing cottage clusters on 5,000 square foot lots in the RM1, R2.5 and R5 zones, versus the state-specified 7,000 square foot minimum lot size, while restricting cottage clusters to RM1 through R10 zones, the pool of cottage cluster eligible lots increases from 55,185 lots to 82,108 lots, or an additional 26,923 lots. Additionally, triplexes and fourplexes are now allowed on any lot outside the ‘z’ overlay zone where a detached house is allowed and where sufficient infrastructure exists.

9. A twist on the standard duplex: detached unit duplexes

The proposal (allow “detached unit duplexes” in certain areas)

- In the R2.5 through R20 zones, allow an existing house to add a detached second unit in order to be converted to a detached unit duplex when it meets certain qualifications:
 - The house must be at least 5 years old
 - The new unit may not be taller than 25 feet
 - The lot must not be in an area with the Constrained Sites ‘z’ overlay zone

What is the intended benefit?

Accessory dwelling units must remain secondary and smaller than the primary house. For some smaller homes, this means that the ADU cannot achieve the maximum 800 square foot size. ADUs are also not eligible to use the middle housing land division process (See Proposal 13). This proposal is intended to provide an alternative to promote retaining existing houses, by allowing a new larger second unit to be detached from the existing house, when there is already a house present on the site. The new unit will be subject to building coverage and site FAR, and a lower 25 foot height limit.

What else about the proposal should I know?

Since this housing type meets the state definition of a duplex, it is considered a middle housing type and is eligible for a middle housing land division, see Proposal 13.

How is this different than the approach used in RIP Part 1?

Detached unit duplexes were not an included housing type in RIP1.

How does this satisfy the requirements of HB2001?

HB2001 requires that cities allow duplexes on all lots where single detached houses are allowed and may not subject them to added or different standards that are not applied equally to a house. Proposal 2 meets the city's duplex obligations under the Bill. This proposal is in *addition to and exceeds* the State's requirements, by offering another housing type configuration. It is consistent with other aspects of the administrative rules such as tying conversions of existing houses to a 5-year time frame, and applying a 25 foot height limit, consistent with cottage clusters.

10. More contextual deeply affordable townhouse units

The proposal (Provide a shorter, but larger footprint “deeply affordable” option)

- In the R2.5 through R20 zones, when projects meet the affordability requirements in 33.110.265.F, allow more building coverage and smaller individual outdoor areas in exchange for lower building heights.
 - Building coverage is increased to 60%
 - Outdoor area is reduced from one 250 sq ft area to individual 48 sq ft areas per unit
 - Building height is reduced to 25 feet

What is the intended benefit?

The previous deeper affordability bonus provided for more floor area (1.2) and height (35') but did not allow for more building coverage. This largely necessitated that projects be built as “stacked flats”. When three or more units are stacked in a building, it must meet commercial building code. However, side by side “townhouse” units, can be built to less-costly residential building code, thus making these projects more feasible to construct. This arrangement of units also provides each with an independent front door (as opposed to more shared hall or stairways). The overall allowable size of the building remains unchanged, but this alternative allows for a lower, two-story building form, which may also respond to the context of a neighborhood better than the three story format.

What else about the proposal should I know?

The affordability requirements are unchanged, i.e. half of the four, five or six units must be income restricted to households earning no more than 60% MFI (for rental) or 80% MFI for ownership). See Proposal 5 for more information.

How is this different than the approach used in RIP Part 1?

This proposal creates an alternative set of development standards that were previously not available under RIP1.

How does this satisfy the requirements of HB2001?

This housing type is not a requirement of HB2001 and is not considered a middle housing type by the State. As such, it is also ineligible for a middle housing land division.

11. Bigger fourplexes

The proposal (allow an increase in floor area for four or more units)

- In the R2.5 through R20 zones, allow additional 0.1 FAR when building a fourth unit on a site

What is the intended benefit?

Additional floor area ratio (FAR) enables units in a fourplex to be larger. This additional space could allow for an extra bedroom, or provide areas needed to make the unit more accessible.

What else about the proposal should I know?

The additional FAR is also incorporated into the regular bonuses for one affordable unit, or when converting an existing house. Sites with four or more units (such as an attached housing project, or planned development with more than 4 units on a single lot are also eligible for this additional FAR.

How is this different than the approach used in RIP Part 1?

RIP1 applied the same FAR to 3 and 4+ unit projects.

How does this satisfy the requirements of HB2001?

HB2001 does not require FAR limits for fourplexes.

12. Apply the 'z' overlay to environmentally fragile and natural hazard areas

The proposal

- In the single dwelling zones, apply the Constrained Sites 'z' overlay zone to properties that:
 - Have inventoried and protected Goal 5 natural resources
 - Are encumbered by higher risk Goal 7 landslide, floodplain, or wildfire natural hazards
 - Are designated for future Goal 9 employment land conversion
 - Are located in high average decibel areas near the Portland International Airport
- Amend the landslide data in the Comprehensive Plan - Buildable lands Inventory (maps)

What is the intended benefit?

The purpose of an overlay zone is to apply distinct requirements or restrictions to specific geographic areas. Overlay regulations work in concert with the underlying base zone to further specific goals such as environmental or historic resource protection.

The proposals described above would allow additional housing options through the base zone regulations in the single dwelling zones. The proposed **Constrained Sites** overlay zone ('z' overlay) will limit areas within these base zones that are less suitable for locating additional households, either for protection of natural resources, due to increased risks to property or people from natural hazards, or because the area is envisioned as future industrial lands. Properties within the 'z' overlay will retain current allowances for a house with or without an accessory dwelling unit and will also be able to have a duplex wherever a house is allowed, but these properties would be ineligible for triplexes, fourplexes, cottage clusters, higher density attached houses or additional ADUs.

What else about the proposal should I know?

Using updated landslide risk data for the Comprehensive Plan Background Reports

With the state's HB2001 rulemaking, it became clear that the landslide data used to formulate the 'z' overlay in RIP part 1 would need to be adopted as part of the Comprehensive Plan Background Reports. The current Comprehensive Plan Landslide Map was created from data in 1998 which has subsequently been updated by the Department of Geology and Mineral Industries (DOGAMI) with more accurate data. This newer data was used as the basis for the 'z' overlay in RIP1 but was not adopted with the Comprehensive Plan Background Reports. Adopting that data now does not

impact the applicability of the 'z' overlay since it is using the same source data used in RIP part 1. For more information about the proposed Comprehensive Plan Landslide Hazard Map, and changes from the current map, see Appendix G.

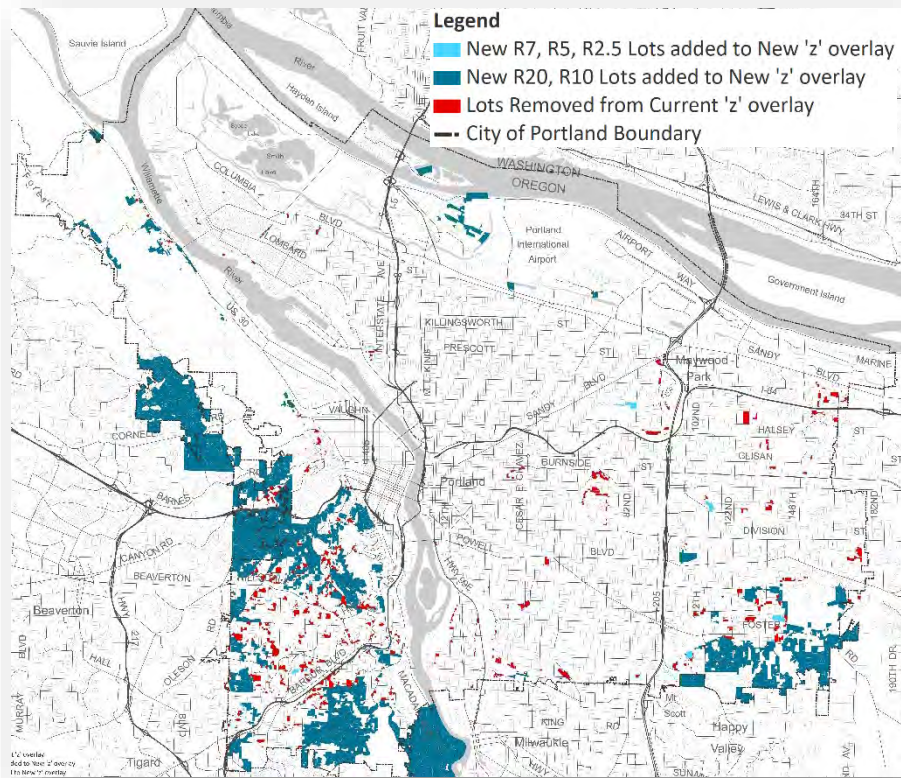
Changes to the 'z' overlay in R2.5, R5, and R7 zones

When Residential Infill Project – Part 1 was adopted, the state had not finalized its rules on what areas could be excluded from higher forms of middle housing. At that time, RIP1 adopted the new Constrained Sites 'z' overlay zone which applied to areas identified in the City's Natural Resources Inventory, areas in the floodplain, and areas with landslide susceptibility.

The state rulemaking process clarified how natural resources could be considered for limiting certain types of middle housing. Instead of the City's prior approach of using inventoried low, medium, and high value resources, the state rules specify that only areas that are both identified *and* protected (through regulations like the environmental overlay zone) could be excluded. This resulted in a reduction of approximately 3,000 parcels contained in the 'z' overlay in the R2.5, R5, and R7 zones.

While wildfire risk areas are present in the higher density single dwelling zones, they are not nearly as prevalent as they are in the lower density R10 and R20 zones. Moreover, attention and concern related to wildfire risk has become increasingly elevated due to climate change and more recent examples of large wildfires that have threatened or destroyed populated areas in the state. However, the Planning and Sustainability Commission recommended that the wildfire risk not be applied to areas within the R2.5, R5, and R7 zones, until more data and analysis is available from the State's updated wildfire mapping project. Consequently, while wildfire risk is part of the 'z' overlay in R10 and R20 zones, no R2.5, R5 or R7 parcels are affected by the wildfire component of the 'z' overlay.

Map 2: Areas added and subtracted from 'z' overlay zone (R2.5-R20)



How the 'z' overlay will be applied to R20, R10, R7, R5, R2.5 zones

The State Administrative Rules provides that cities may limit the development of middle housing to comply with protective measures adopted and acknowledged pursuant to statewide land use planning goals and sets certain parameters for when those limits may be applied. In addition to the changes described above, the 'z' overlay will also be adding areas of Airport Noise above 68 DNL, and industrial sanctuary areas, areas that were not present in RIP1's higher density R2.5, R5, and R7 zones. Landslide and floodplain data is unchanged from RIP1 and will be included in the new 'z' overlay moving forward.

Elements that factor in the designation of the Constrained Sites 'z' overlay zone

The following list describes the specific elements that were combined to create the 'z' overlay. A lot that contains any of the following receives the 'z' for the entire lot.

- **Natural resource constraints (State Goal 5 resources) MAP 3**

Properties identified in the City's Natural Resource Inventory, that are also mapped to one of the following overlay zones would not be able to take advantage of new proposed base zone regulations that allow additional housing options (beyond a duplex). A minus 5-foot buffer is applied to account for areas located in building setbacks and to remove lots from the 'z' with negligible environmental zoning. The environmental overlay zones in this Recommended Draft reflect the boundaries as recommended through the E-zones correction project as of September 2021.

 - Environmental Conservation 'c' Overlay Zone.
 - Environmental Protection 'p' Overlay Zone.
 - Pleasant Valley Natural Resource 'v' Overlay Zone.
- **Conformance with Federal Rules (State Goal 6 air, water, or land resources) MAP 4**

Properties that are located in the Airport Noise Impact 'x' Overlay Zone that are within the Federal Aviation Administration's 68 DNL (day/night average decibel) level.
- **Natural land hazard constraints (State Goal 7 natural hazards) MAPS 5, 6, and 7**

Properties with the following natural hazards would not be able to take advantage of new proposed base zone regulations that allow additional housing options (beyond a duplex).

 - Flood risk (Map 5)
 - 100-year floodplain: areas that are within the FEMA 100-year floodplain including the FEMA-defined floodway
 - 1996 flood inundation area
 - Landslide prone areas (Map 6). This map combines three types of landslide risk which are among the elements included in the proposed Comprehensive Plan Landslide Hazard Map, see appendix G for more information:
 - Potentially rapid moving landslides: These areas are subject to debris flow hazards. Debris flows are mixtures of water, soil, rock and/or debris that have become a slurry and commonly move rapidly downslope. A minus 50 foot buffer is applied to account for the data resolution and accuracy.
 - Deep landslide susceptibility: Deep landslides involve movement of a relatively thick layer of material.
 - Landslide scarps and deposits: These show areas where previous landslides have occurred and are indicative of areas more susceptible to future landslides.

- Wildfire risk (Map 7) – applied to R10 and R20 zones only
 - City Wildfire Hazard Zone: These are areas in the city with a minimum hazard score of 5 based on topography, vegetative type, and vegetation density. See Title 24.51
 - County Wildfire Protection Plan: These are areas in unincorporated Multnomah County (under City zoning through an intergovernmental agreement) where the overall fire risk is “high” or “extreme”
- **Future Employment Land (State Goal 9 economy) Shown on MAP 4**
 Properties that are zoned residential but have an Industrial Sanctuary (IS) Comprehensive Plan designation. These are small areas near the Columbia Corridor that are slated for conversion to employment lands in the future. Additional single dwelling residential development is inconsistent with this future land use.

Summary of Areas in and out of ‘z’ Overlay Zone					
	Lots in City	Lots in proposed ‘z’ overlay		Lots outside ‘z’ overlay	
	Lots	Lots	%	Lots	%
R20	2,699	2,595	96%	104	4%
R10	13,253	10,122	76%	3,131	24%
R7	33,023	3,748	11%	29,275	89%
R5	73,775	2,216	3%	71,559	97%
R2.5	26,742	57	0.2%	26,685	99.8%
TOTAL	149,492	18,738	12.5%	130,754	87.5%

Property owners can request to be removed from the constrained sites overlay through a discretionary zone map change request by demonstrating that the applicable constraints listed above are not present on the site or that the specific location of a mapped constraint (such as the floodplain) is incorrect. Sites may only be added to the overlay through a legislative project, which could occur as a result of new information (like new flood elevations, new state mandates, new wildfire hazard data etc.).

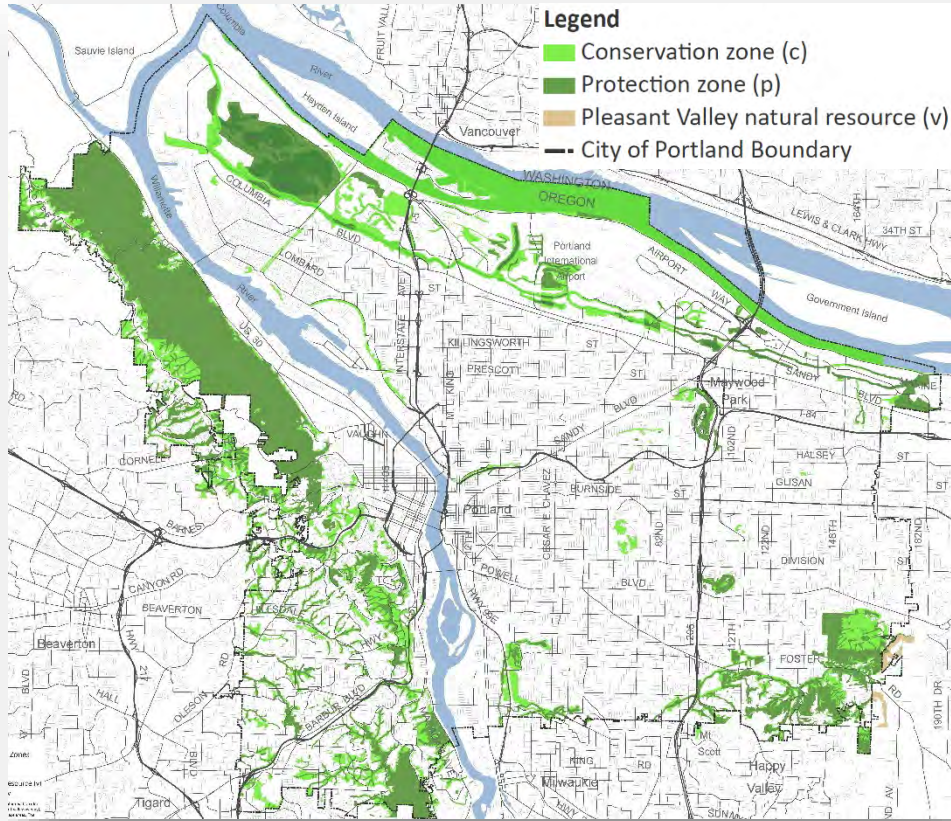
How is this different than the approach used in RIP Part 1?

The ‘z’ overlay in RIP1 excluded some of the above listed constraints in the higher density R2.5, R5, and R7 zones as they were either not present (such as airport noise and industrial sanctuary areas) or less prevalent (like wildfire risk). Additionally, with regard to natural resources, the amended ‘z’ overlay only factors lots that have environmental overlay zoning present, and not the more expansive natural resources inventory.

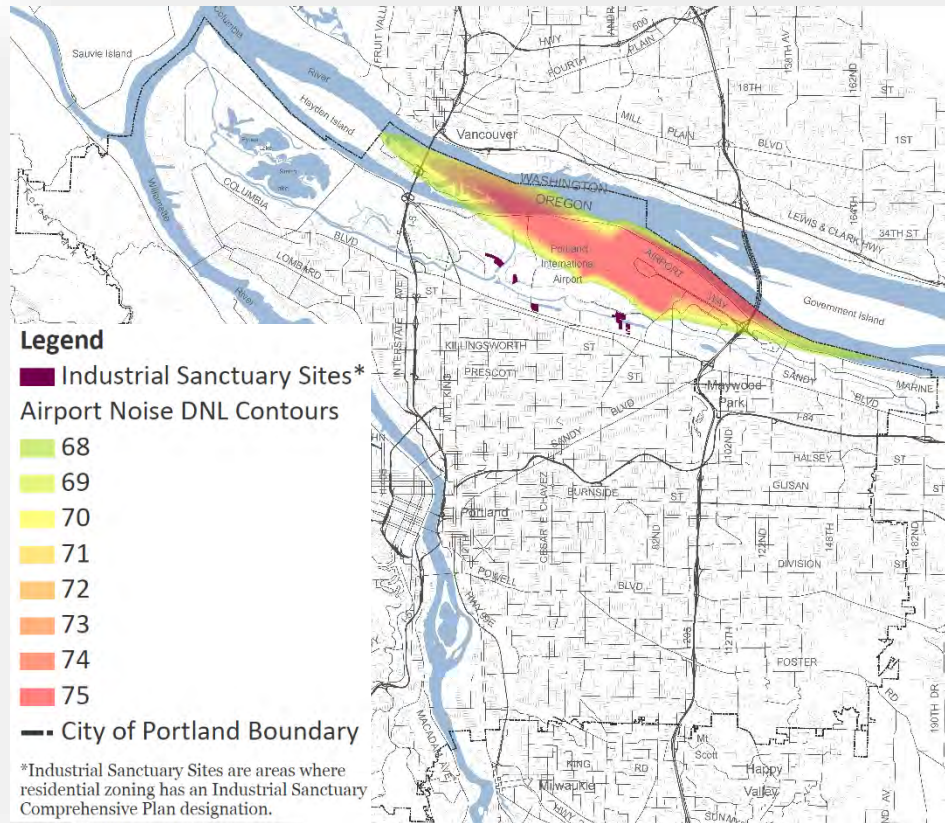
How does this satisfy the requirements of HB2001?

HB2001 states that a city may regulate Middle Housing to comply with protective measures (including plans, policies, and regulations) adopted and acknowledged pursuant to statewide land use planning goals. The Administrative rules include additional guidance on how and where densities may be limited.

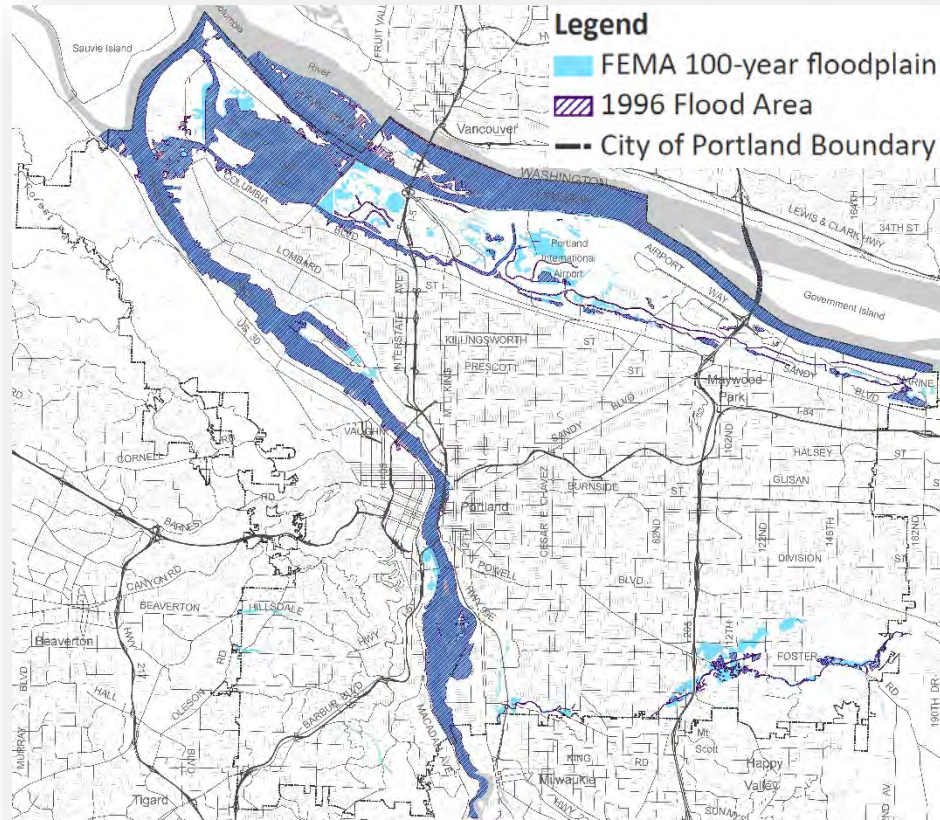
Map 3: Environmental Overlay Zone (Goal 5) Areas
 (reflects adopted ezone boundaries, May 2022)



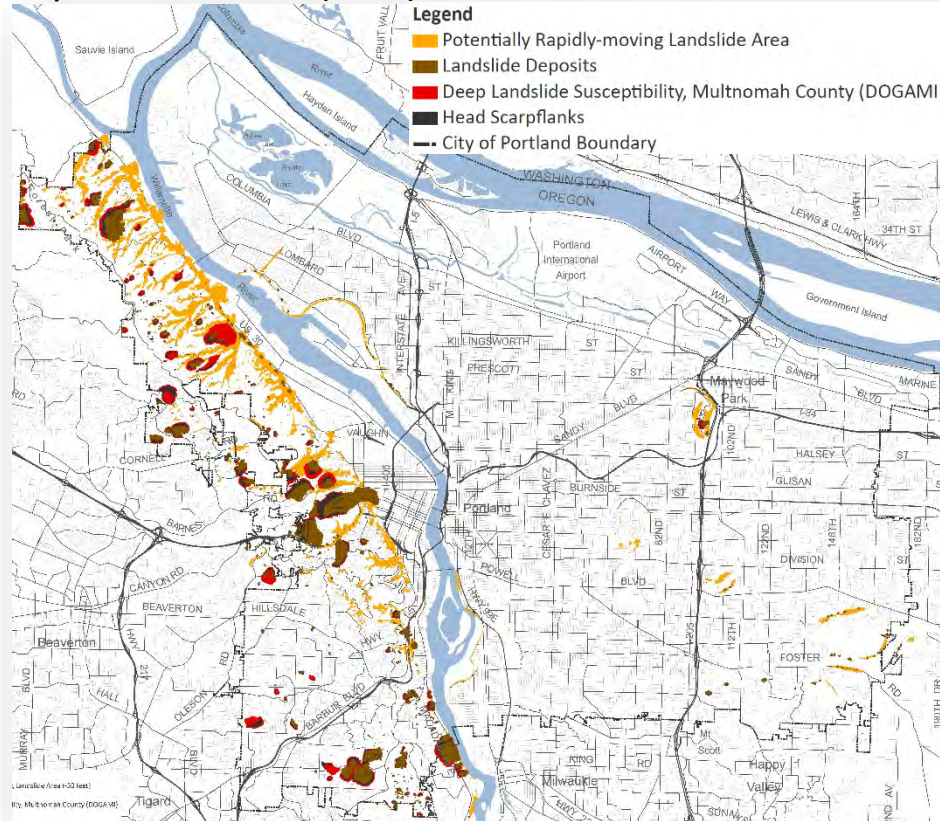
Map 4: Airport Noise/Industrial Sanctuary (Goal 6/9) Areas



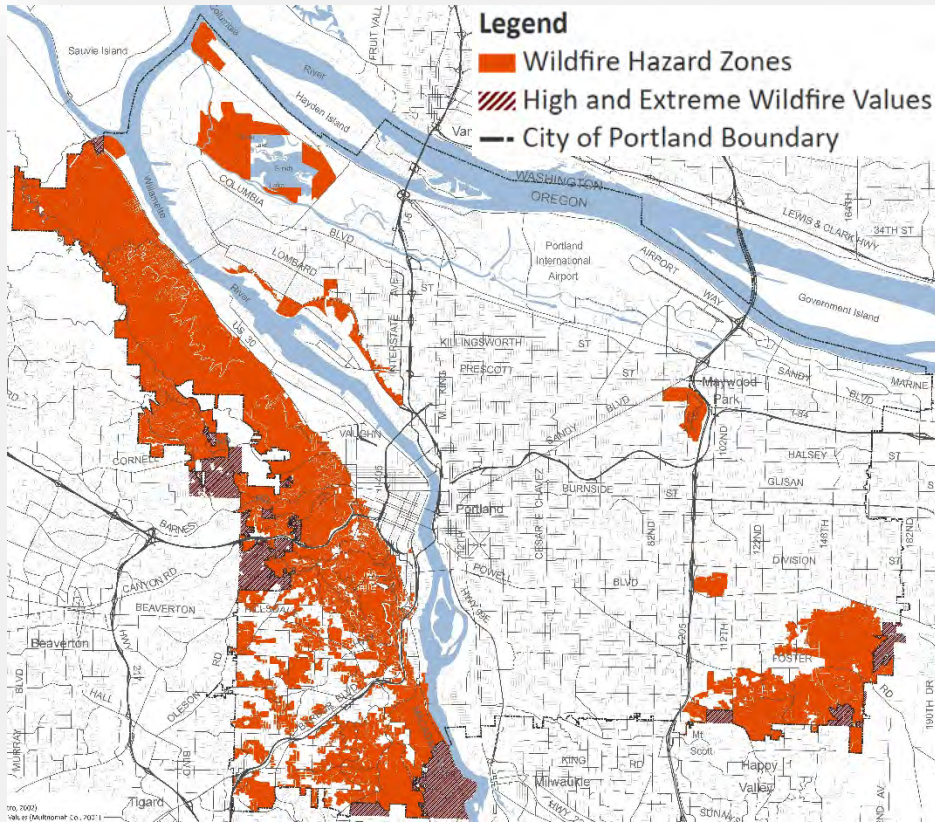
Map 5: Flood hazard (Goal 7) Areas



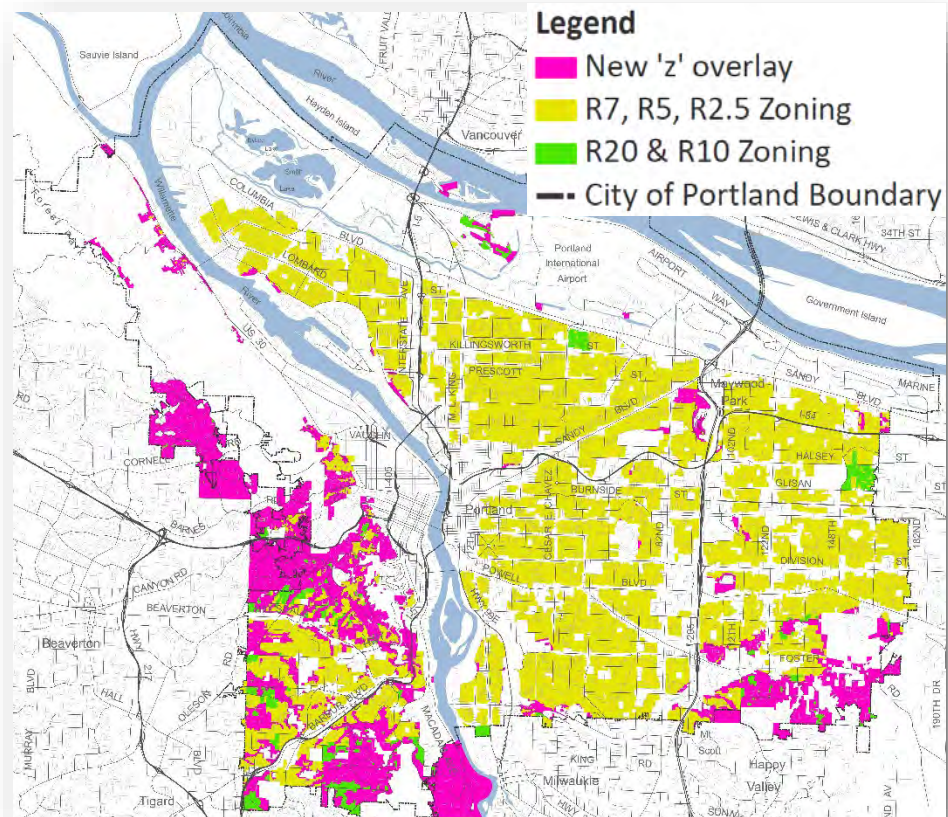
Map 6: Landslide Hazard (Goal 7) Areas



Map 7: Wildfire Hazard (Goal 7) Areas (not applicable in R2.5, R5, R7)



Map 8: Proposed 'z' Overlay Zone



13. Codify expedited Middle Housing Land Divisions

The proposal

- For duplexes, triplexes, fourplexes and cottage clusters, create a simplified land division.
- Codify the expedited land division procedures from the Oregon Revised Statutes.
- Create rules to clarify how subsequent development on middle housing land division sites is regulated.
- Establish a process to facilitate the combined building permit and land division reviews.

What is the intended benefit?

Senate Bill 458 (or SB458) requires that cities allow middle housing developments, specifically duplexes, triplexes, fourplexes and cottage clusters, to be divided through a more expedited and less discretionary process. This allows individual units within those developments to be located on separate lots, better enabling more “fee-simple” conveyance of ownership. In other words, rather than a single fourplex building with four units that can only be rented or owned through virtue of a condominium arrangement, SB458 allows the original middle housing lot to be divided so that units may be owned separately without a being a condominium. The expedited process is intended to streamline the review with more limited review standards and shortened timelines in order to enable these units and lots to be ready for sale more quickly.

What else about the proposal should I know?

The bill sets forth a series of parameters on how a city must process middle housing land division applications. The city must apply an “expedited land division” process defined in ORS 197.360 through 197.380, and the applicant must submit a tentative plan for the division including the following:

- A proposal for development of middle housing in compliance with the Oregon residential specialty code and applicable middle housing zoning and land use regulations,
- Separate utilities for each dwelling unit,
- Easements necessary for utilities, pedestrian access, common use areas or shared building elements, dedicated driveways/parking, and dedicated common area,
- One dwelling unit per each resulting lot or parcel (except common areas), and
- Demonstration that the buildings will continue to meet the Oregon residential specialty code after the land division.

Cities retain the ability to require or condition certain aspects, including further lot division limitations, street frontage improvements, and right-of-way dedication if the original parcel did not make such dedications. Cities may not subject applications to approval criteria outside of what is provided in the bill, including that a lot or parcel require driveways, vehicle access, parking, or minimum street frontage, or other requirements inconsistent with House Bill 2001.

In addition to the limited approval criteria, Middle Housing Land Divisions must be processed the same way as an expedited land division. An expedited land division is intended to streamline the review of land divisions under state law, which typically allows up to 120 days for final city approval. Most land division applications under the current Zoning Code procedures do not take the full 120 days to process, and often are processed and decided in much less time. In the event additional information or time is required during a regular land division, the applicant can request that the 120-day deadline be extended. An expedited land division application must be processed in 63 days or less, and this timeframe can only be extended by Council action. While local appeals are heard by the Code Hearings Officer, the Land Use Board of Appeals (LUBA) does not have jurisdiction to

review a final City decision on an Expedited Land Division. These are heard by the Court of Appeals. A comparison of the review steps is outlined below:

Process Step	Regular Land Division	Expedited Land Division
City review for complete application	21 days	21 days
Applicant's time to make application complete	180 days	180 days
Public notice	30 days	14 days
Days from complete application to decision	Type Ix – 45 days* Type Iix – 42 days*	63 days**
Is there a local appeal?	Type Ix – no Type Iix – yes	Yes
Deadline to file an appeal	14 days after decision	14 days after decision
Local appeal body	Type Ix – n/a Type Iix – Hearings Officer	Hearing's Officer
City's timeline to issue a decision on the appeal	Must occur within 120 days from complete application	Additional 42 days from filing of appeal
State level appeal body	Land Use Board of Appeals	Court of Appeals
Total timeline without local appeal	42-45 days	63 days
Total timeline including local appeals	120 days	119 days

* Review deadline can be extended by the applicant.

** The 63-day deadline can only be extended by the City Council during a regularly scheduled public meeting.

One of the more interesting aspects of SB458 is that the type of development is not changed by the land division action. In other words, a fourplex that is divided into four separate lots remains a fourplex after the land division, and not a 4-unit attached house project. A cottage cluster that is divided into separate lots remains a cluster of dwelling units and not "houses" as the zoning code defines them. This is important in terms of how future alterations or redevelopment on the site would be reviewed.

Another challenging aspect of these land divisions is their development sequencing. Typical land divisions require all infrastructure and lot arrangement issues to be reconciled and approved before the land division plat can be recorded. Only then are building permits released for development on the lots. For a middle housing land division, the building construction can occur simultaneously with or even precede the land division approval. This conversion from a single site to multiple separate lots can create numerous challenges for applicants with building code compliance, utility placement and design, and ensuring the units are constructed within the boundaries of each lot.

New regulations are being added to the land division chapters in the zoning code to spell out the review process, criteria, and applicable regulations, as well as including additional standards to clarify how subsequent development is treated on these land division sites after the land division is complete.

How is this different than the approach used in RIP Part 1?

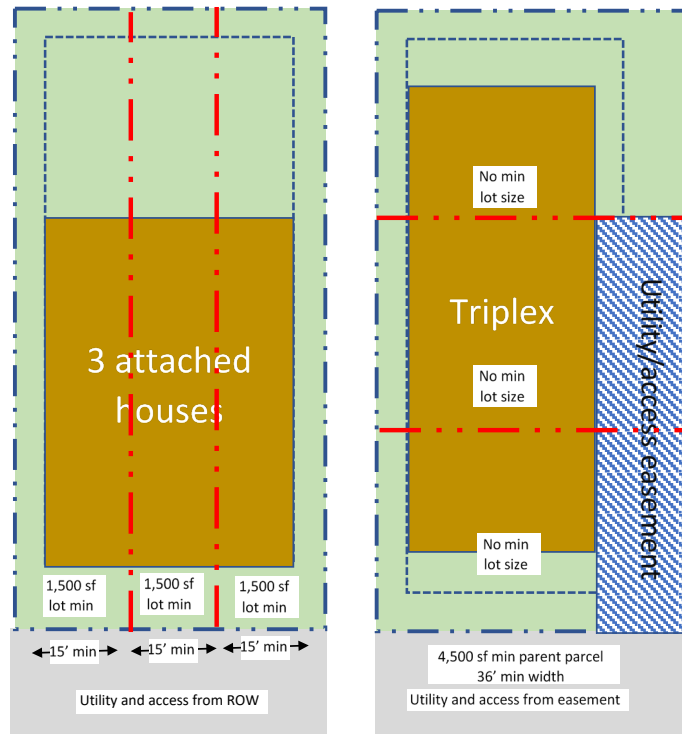
In RIP Part 1, no significant changes were made to the land division chapters that would enable middle housing to be divided. Instead, RIP Part 1 relied on changes to the existing historically narrow platted areas to provide for fee-simple opportunities.

How does this satisfy the requirements of SB458?

This proposal is entirely geared toward complying with Senate Bill 458. New land division chapters are being created for Middle Housing Land Divisions (MHLDs) with application requirements, review procedures, and review standards to implement the bill. Further work with infrastructure and utility service providers will be necessary to ensure that any conflicting rules or codes are amended to facilitate these new land division applications. That work is outside these amended zoning code regulations and will be brought to City Council separately, as necessary.

Side by side comparison of attached house lots created through a standard land division and a divided triplex created through a Middle Housing Land Division. One big distinction is the lack of frontage and lot size requirements for the MHLD.

It should be noted that the three attached houses on the left could also have been platted as a divided triplex using the MHLD.



Section 5: Zoning Map Amendments

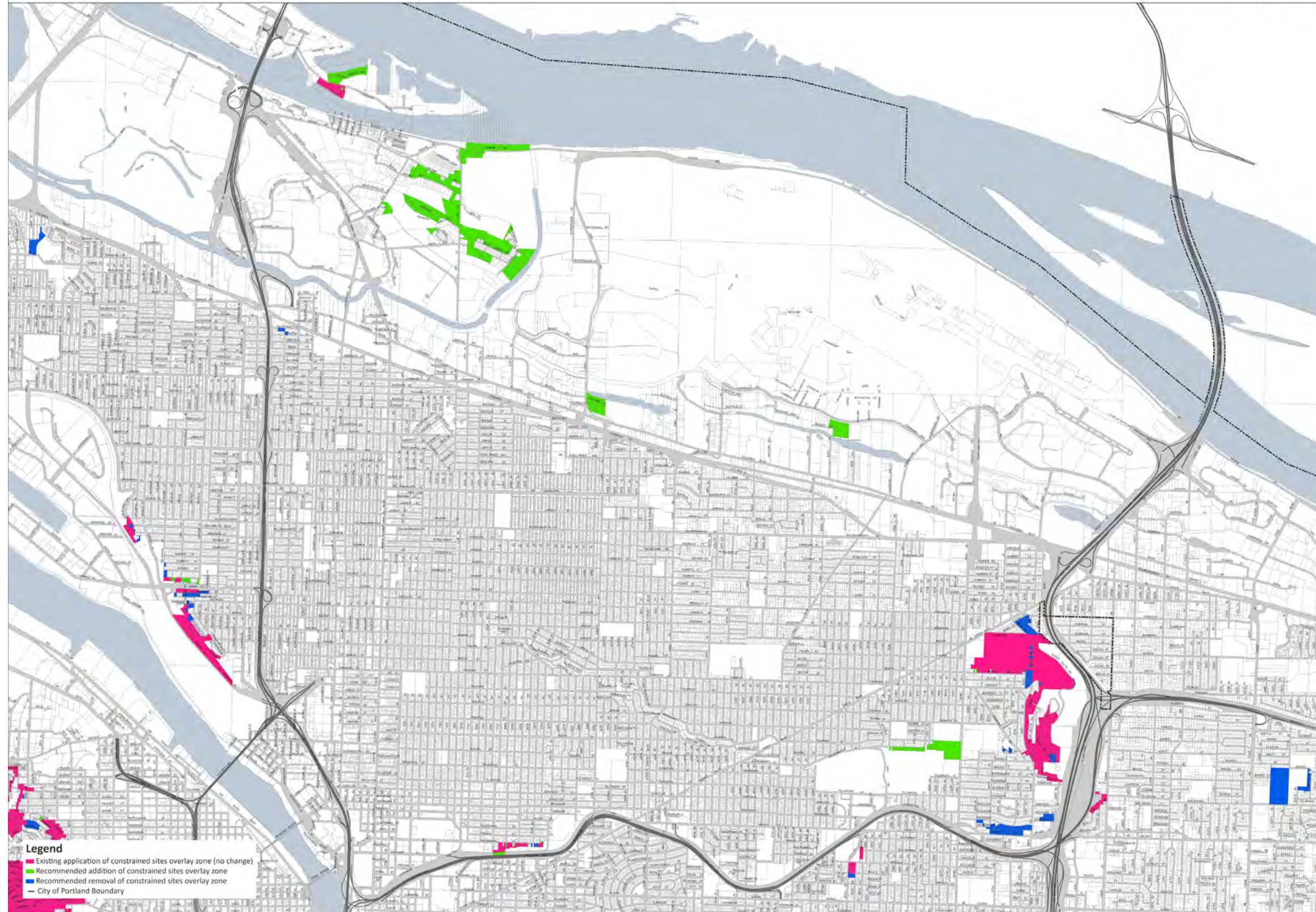
Amendments to the zoning map are proposed as shown in the following series of maps. These reflect the modifications to the Constrained Sites 'z' overlay zone, described in Proposal 12 above. These maps show parcels that will have the 'z' overlay added (green), removed (blue), or are unchanged (pink). These changes will be incorporated into the City's official zoning maps upon adoption and the effective date of RIP2

The series of maps cover the entire city and applicable service areas and are presented by the five following "districts" to be more legible at the parcel level scale:

1. North
2. Northeast
3. East
4. Southeast
5. West

Recommended 'z' Overlay, As-Amended

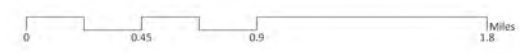
Northeast




Legend

- Existing application of constrained sites overlay zone (no change)
- Recommended addition of constrained sites overlay zone
- Recommended removal of constrained sites overlay zone
- City of Portland Boundary

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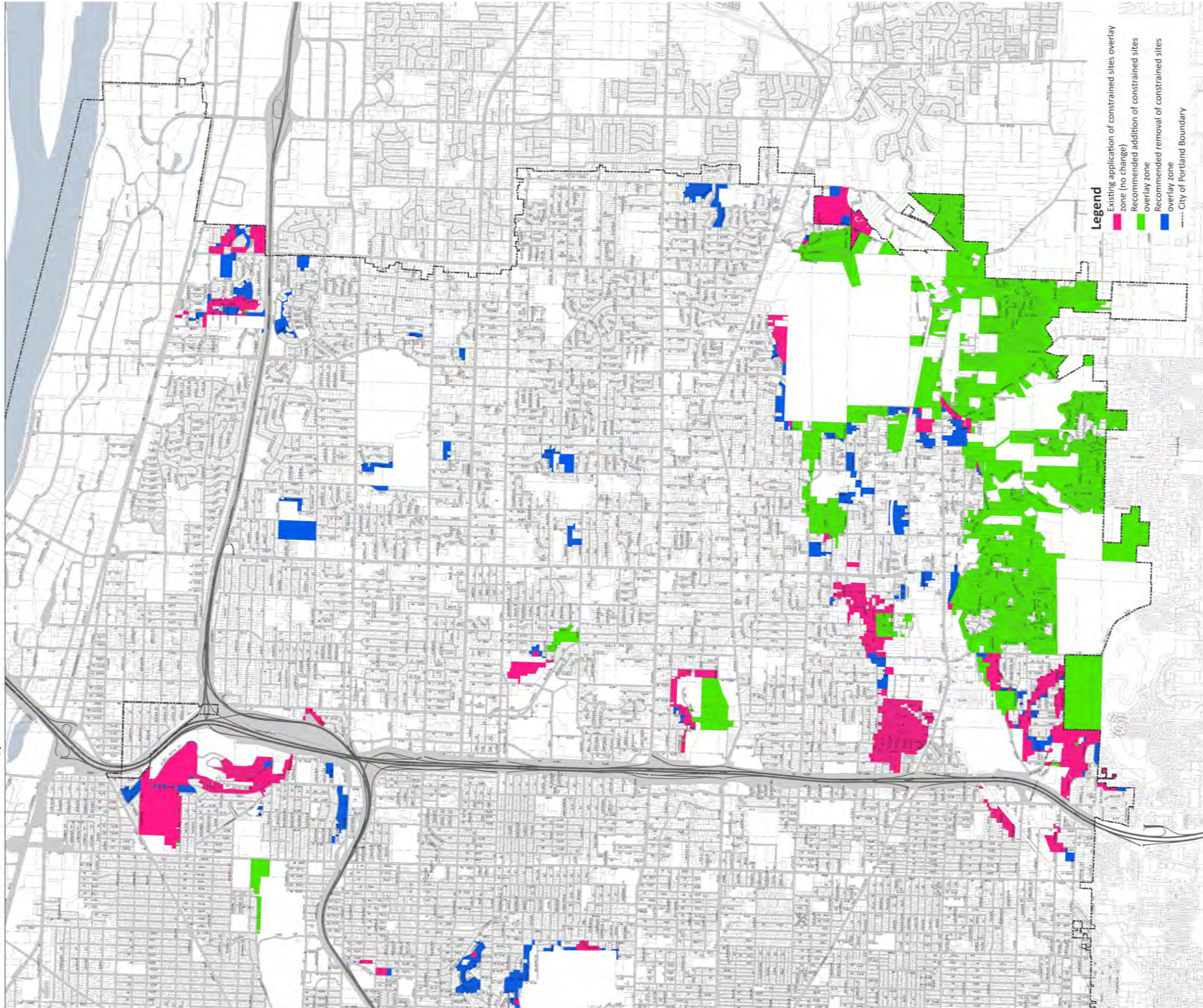


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Recommended 'z' Overlay, As-Amended

East



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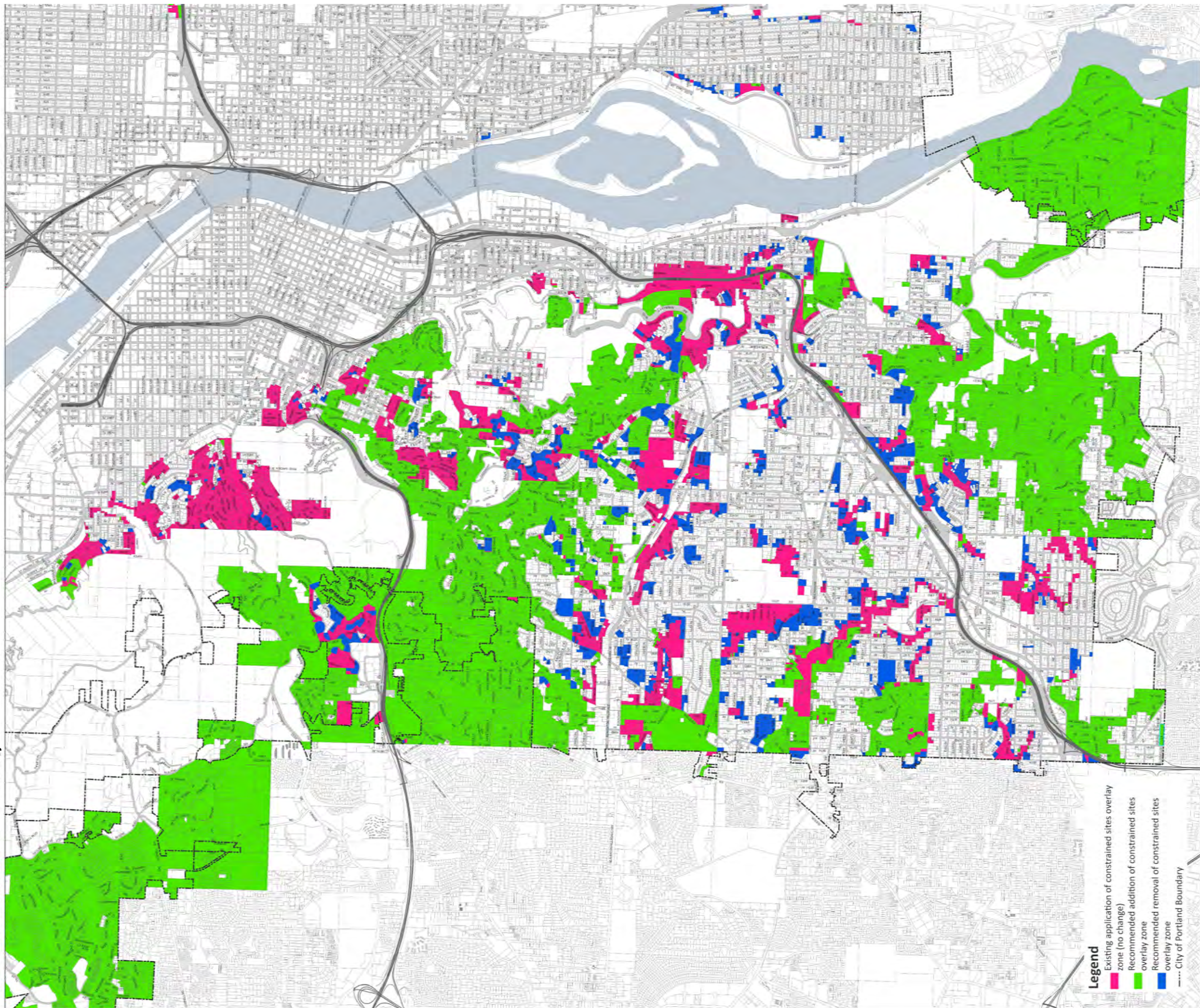


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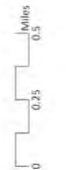


Recommended 'z' Overlay, As-Amended

West



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The Residential Infill Project – Part 2 is completing the work started in Part 1 by complying with State Mandates to expand housing choices

For more information:

Visit the web: www.portlandoregon.gov/bps/rip2

Explore the Map App: www.portlandmaps.com/bps/residential-infill-2/

Email the project team: Residential.Infill@PortlandOregon.gov



Oregon State House of Representatives Chamber