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February 24, 2015

Chair André Baugh and the Planning and Sustainability Commission
Bureau of Planning and Sustainability, City of Portland
1900 SW 4th Avenue, Suite 700
Portland, Oregon 97201

Dear Chair Baugh and Planning and Sustainability Commissioners:

As a coalition of organizations and individuals profoundly concerned with preventing displacement and expanding access to affordable housing in Portland, we are proud to present you with the following policy proposals for the Comprehensive Plan update. Our organizations have carefully deliberated over and crafted these proposals for your consideration, and we stand united in calling for their immediate inclusion in the Comprehensive Plan.

These recommendations are not conceptual proposals. Rather, they are specific policies that must be incorporated into the Comprehensive Plan before it is submitted to City Council. We urge the Planning and Sustainability Commission to explicitly direct BPS staff to incorporate these specific policies into the Comprehensive Plan, and to share an updated draft of the plan with us before it is finalized. We are eager to support BPS staff in any way that would be helpful as they carry out this work. Additionally, these policies should guide the various zoning implementation projects that are associated with the Comprehensive Plan, including the Mixed Use and Institutional Zoning projects, as well as guidance to the Transportation System Plan.

As you know, the improvements to Portland's neighborhoods envisioned throughout the Comprehensive Plan will inherently lead to increased higher property values and housing costs, and, therefore, the displacement of people of color and low-income residents. The policy proposals included in this document provide a framework by which the Comprehensive Plan can mitigate these displacement pressures and ensure that the growth and development of our city benefits, rather than further burdens, the communities that would otherwise bear the brunt of displacement.

We strongly believe that the inclusion of the following anti-displacement measures will create the foundation for a truly equitable Portland. We appreciate your continued commitment to improving outcomes for Black communities, communities of color, renters, and those of very-low and deeply-low incomes. The Commission's leadership in this regard has been invaluable, through its stewardship and adoption of a holistic equity framework for Portland's strategic plan. Action 5 of the Portland Plan is a clear call to action: "Where disparities in service delivery and community development programs are found, change policies and priorities to mitigate disparities..."¹ Now is the time to live up to that commitment – to "change policies and priorities" – by incorporating the following policies into the Comprehensive Plan. Doing so will make this plan a powerful tool for eliminating housing disparities and increasing opportunity for communities of color and low-income Portlanders.

SECTION 1: Equity

RECOMMENDATION 1-A: Strengthen the "community involvement" section in Chapter 2 of the Proposed Draft by integrating an emphasis on equity and inclusion. (Proposed new language in *italics*).

The goals and policies in this chapter convey the City's commitment to equity and inclusion and intent to:

- Provide a wide range of opportunities for involvement in land use decisions, with targeted access and inclusion in decision-making for those with the potential to be adversely affected by the results of those decisions.
- Foster ongoing positive relationships between communities and the City in support of positive land use decision outcomes by ensuring accountability for improving community well-being and inclusion, and by ensuring adherence to community benefit agreements.
- Recognize that the City has a responsibility to plan for the needs of and engage with disparately under-served and under-represented communities, and to prioritize policy mandates based on need, so as to achieve greater equity for the most negatively impacted.

¹ Portland Plan, 2012, Bureau of Planning and Sustainability, City of Portland p 19.

- Expand opportunities for meaningful community engagement in land use decisions, from issue identification and project scoping through implementation, monitoring, evaluation, accountability and enforcement.
- Require transparent, well-designed, thoughtful, culturally specific and relevant, representative and responsive public processes for land use decision-making, implementation and monitoring.
- Build community capacity to increase the community's meaningful participation, innovation, solution-making and leadership in land use decisions and monitoring.
- Utilize public comment on land use decisions as part of an equity-based community impact assessment to promote thoughtful consideration of and mitigation for land-use policies that cause a negative disparate impacts, irrespective of intent.

WHERE IN THE PLAN? Chapter 2: Community Involvement

WHY IS THIS IMPORTANT? Driven by a commitment to social justice, equity and meaningful community involvement, the City's land use policy must ensure that the needs of the most vulnerable, impacted and underserved will be the focus of public policy in the next iteration of the Comprehensive Plan. In the land use arena, a commitment to equity is a promise to enact and implement ameliorative policy that will benefit residents and communities that have historically been disparately impacted by harmful outcomes. This recommendation ensures that the City will prioritize the participation and leadership of these residents and communities in land use decision-making, and that equity will be articulated at the outset as an overarching goal of land use decisions.

SECTION 2: Assessing and mitigating displacement impacts of development and land use actions

RECOMMENDATION 2-A: Strengthen and add detail to the "impact analysis" tool introduced in Chapter 5 of the Proposed Draft; apply to the entire Plan.

Much like an Environmental Impact Analysis assesses the projected environmental impacts of proposed infrastructure and development projects, an "Affordability and Displacement Impact Analysis" will assess the impacts of public-sector actions on residential and commercial displacement, and on the long-term affordability of housing and commercial space. This analysis will take into account specific details of the development or land use action in question, as well as the context of the housing and real estate markets in the surrounding area - including historic policies, practices, and development patterns that have contributed over time to the displacement of residents and businesses. The analysis will assess three distinct impacts:

1. Added displacement pressure on existing low-income and elderly residents, people of color, and other disparately-impacted groups;
2. Added displacement pressure on existing minority-owned and other small businesses; and
3. Long-term impact on the affordability of housing and commercial space for low-income households, communities of color, and minority-owned businesses.

Actions triggering an Affordability and Displacement Impact Analysis could include the following, regardless of location:

- Planning decisions, including zoning changes and designations such as Neighborhood Centers, that will spur development and/or increase property values and housing costs;
- The designation or extension of urban renewal districts;
- Infrastructure and other significant public investments that may lead to increased property values -- including but not limited to roads and transit, street treatments, active transportation improvements, parks, urban renewal projects, and brownfields remediation;
- Issuing significant permits for private-market developments; and
- Disposal or development of publicly owned land.

WHERE IN THE PLAN? Chapter 1: The Plan and Guiding Principles, Policy 1.8: include "Affordability and Displacement Impact Analysis" among implementation tools; include in Chapter 5: Housing Access.

WHY IS THIS IMPORTANT? The entire Comprehensive Plan should be covered by an umbrella policy that requires an Affordability and Displacement Impact Analysis when the City and other public entities (including PDC and TriMet) take actions in the City of Portland that will potentially affect the real estate and housing markets, including issuing permits for development. The City should work with community partners to develop the methodology for conducting this analysis.

RECOMMENDATION 2-B: Require mitigation for anticipated affordability and displacement impacts.

Learning valuable lessons from NEPA case law, stronger mitigation direction is necessary. When an Affordability and Displacement Impact Analysis (see 2-A) finds that public-sector actions (including issuing permits for private-market developments) are projected to contribute to displacement and loss of affordability for the low-income residents, communities of color and minority-owned businesses, the Impact Analysis must also identify mitigation strategies. Implementation of these strategies must be tied to the implementation and budget of the project or policy being assessed. Potential anti-displacement strategies include those listed in Recommendation 2-C below.

WHERE IN THE PLAN? Chapter 3: Citywide Design and Development, Policy 3.3.a add "mitigate impacts of displacement."

WHY IS THIS IMPORTANT? While naming displacement as an undesired outcome is an essential first step toward preventing displacement, the City needs tools that move beyond analysis. Requiring that displacement impacts be mitigated will ensure that the City's growth and development does not come at the expense of low-income residents and communities of color.

RECOMMENDATION 2-C: Community Benefits Agreements and anti-displacement measures. After conducting an Affordability and Displacement Impact Analysis (see 2-A), the City should require developers of new developments to enter into Community Benefits Agreements which are:

1. Directly responsive to mitigation needs identified by the Impact Analysis;
2. Negotiated prior to permits being issued;
3. Legally binding; and
4. Created in collaboration with organizations and individuals embedded in communities at risk of disparate and adverse impact by the development in question.

Potential anti-displacement measures include, but are not limited to:

- Permanently affordable housing for low-income households;
- Land or money contributed to affordable housing development;
- One-for-one replacement of affordable homes (multi-family and single-family) that are lost;
- Relocation assistance for low-income renters who are displaced;
- A right of return for previously displaced neighborhood residents;
- Affordable rents for minority-owned commercial tenants, with long-term rent stability;
- Living wages;
- Employment opportunities for individuals enrolled in apprenticeships or other trades programs;
- Local-source job training and hiring;
- Contracting targets for minority- and women-owned businesses;
- Hiring targets for minority and women employees; or
- Labor neutrality agreements signed by developers and commercial tenants.

WHERE IN THE PLAN? Add in Chapter 3: Citywide Design and Development, Policy 3.3.c "Community Benefits and Anti-displacement"; Chapter 4: General development principles include a policy for "Community Benefits Agreements" that favor community development practices as a part of the City's overall development strategies; ensure implementation in Mixed Use and Institutions Zone Projects, and guidance to the Transportation System Plan.

WHY IS THIS IMPORTANT? Community benefits agreements can be powerful tools to mitigate displacement pressures and ensure that development equitably benefits, rather than burdens, the communities where it takes place. These binding agreements provide community members a voice to shape development and guide its impacts. By encouraging the use of these agreements, other cities have been able to leverage private funding for the construction of

parks and public space, and to increase living wage job opportunities close to where people live.

RECOMMENDATION 2-D: Capture windfall real estate profits as funding for anti-displacement measures.

When property owners realize windfall profits from real estate sales or rentals as a direct result of public-sector actions – including the upzoning of properties, infrastructure investments and urban renewal projects –such profits should be captured by the City in order to fund anti-displacement measures such as those listed in the Community Benefits Agreement proposal (see 2-C).

Tools that should be considered for capturing windfall real estate profits include a capital gains tax on land value increases, linkage fees, and a speculation tax. However, windfall property value increases should only be captured when property owners realize profits by renting or selling their property -- and not through a traditional property tax on assessed value. In this way, homeowners who have not yet gained additional income as a result of their windfall property value increases would not be burdened.

WHERE IN THE PLAN? Add in Chapter 3: Citywide Design and Development, Policy 3.8.a the intent to recapture increased property values for public benefits; and/or as funding source option in Chapter 5: Housing Affordability, Policy 5.28.

WHY IS THIS IMPORTANT? This measure will counteract the displacement effect that results when upzoning or new infrastructure provides property owners with the chance to rent or sell real estate at inflated prices. These windfall profits result from public-sector actions and investments, and not from any effort or investment by the property owners who benefit. Therefore, these profits should be recaptured by the City in order to fund measures that mitigate the displacement pressure caused by rising real estate values and housing costs.

SECTION 3: Housing

RECOMMENDATION 3-A: Add emphasis on “permanently affordable” homeownership; support shared-equity and cooperative forms of ownership.

WHERE IN THE PLAN? Chapter 5: Housing Affordability, Policies 5.34, 5.35 and 5.36 “support” and “encourage” homeownership. These policies should specifically refer to “permanently affordable homeownership” models (e.g. community land trusts, limited-equity cooperatives) that remove housing from the speculative market.

WHY IS THIS IMPORTANT? Permanently affordable models of homeownership ensure that lower-income households will continue to have access to those homes even after the initial

owners sell them, and that initial homeownership subsidies continue to benefit subsequent owners. This is an important long-term anti-displacement strategy.

RECOMMENDATION 3-B: Use land-banking as an anti-displacement tool.

Use land-banking as a proactive anti-displacement tool to remove properties from the private market, particularly in neighborhoods that are now experiencing or are projected to experience rising housing costs. Such properties should be reserved for permanently affordable housing and commercial spaces, and their specific uses should be guided by robust community-based planning processes.

Explore a variety of strategies to acquire properties, including eminent domain, right of first refusal on for-sale properties, acquisition of foreclosed properties, and acquisition of underused properties owned by institutions and public agencies. Develop sustainable funding mechanisms to enable non-profits and government to acquire land and manage land banks. Support and coordinate with community-based organizations that wish to use land-banking to gain control of property for community-serving purposes.

WHERE IN THE PLAN? Add as a new policy in **Chapter 5: Housing Affordability**.

WHY IS THIS IMPORTANT? Land-banking sets aside properties in gentrifying neighborhoods for affordable housing and other community-defined priorities. This practice provides a means for neighborhoods to remain inclusive and equitable, even as real estate and housing prices outpace the incomes of many neighborhood residents. Only by removing residential property from the speculative market can we preserve housing opportunity for Portlanders of low incomes.

RECOMMENDATION 3-C: Create permanently affordable units in market-rate housing developments.

Aggressively use all available tools to mandate or incent the inclusion of affordable housing units in private-market developments. Toward this end, adapt effective models being used in other jurisdictions, lobby at the state level to authorize tools that are currently preempted (such as inclusionary zoning and rent control), and explore new land use tools. Prioritize housing developed through these programs for members of communities disparately impacted by housing discrimination and involuntary displacement.

WHERE IN THE PLAN? Add a new policy in **Chapter 5: Housing Affordability**.

WHY IS THIS IMPORTANT? Public-sector and non-profit housing investments are vital, yet do not provide enough affordable housing to meet the needs of our city. Therefore, Portland must also take advantage of well-known, proven tools that create affordable units in private-market developments. Increasing the number of units available at federal affordability levels for very

and deeply low-incomes provides more options for households of any configuration or background. These policies can also compliment transit-oriented development and mixed-use objectives, ensuring housing options for households of diverse incomes and backgrounds in areas with high-quality transit, infrastructure, and services.

RECOMMENDATION 3-D: Tenant Protections.

Strengthen protections for residential tenants in order to prevent their displacement and improve their living conditions. Specific provisions to be considered include:

- Prohibit no-cause evictions;
- Limit rent increases and require landlords to document the reasons for rent increases;
- Discourage demolitions and condo conversions, and provide relocation assistance for low-income tenants who are displaced;
- Ensure strict and consistent enforcement of fair housing laws, and of codes that protect the safety and health of tenants; and
- Provide tenants with effective recourse when their rights are violated.

WHERE IN THE PLAN? Add a new policy in **Chapter 5: Housing Access**.

WHY IS THIS IMPORTANT? Tenants make up nearly 47% of Portland households, from a diverse range of races, ethnicities, ages, and abilities (ACS 2013). By supporting a fair and affordable rental market, the City can impact affordability for all income levels. Enacting these basic protections allows the City to improve housing stability, general health and habitability of homes, and provide residents the opportunity to thrive in place without the disruption of serial displacement or relocation.

SECTION 4: Zoning Projects

RECOMMENDATION 4-A: Reconstruction Opportunity Area Overlay Zone.

Create a Reconstruction Opportunity Area Overlay zoning designation which either commemorates neighborhoods of historic housing discrimination, or identifies areas with medium or high risk of displacement based on “City of Portland Gentrification Risk Study” standards. The Overlay should favor development patterns that create neighborhood stabilization for historic and existing Black communities, other communities of color, and low-income households. Such an Overlay includes first opportunity contracting and hiring practices, targeted living-wage job creation, preservation and creation of opportunities for minority-owned small businesses to grow in place, increasing the supply of permanently affordable housing units for various household configurations, culturally appropriate supports to households seeking homeownership, and ensuring affordable and accessible transportation and public space for residents. With the support of the Planning and Sustainability Commission, areas in which the Overlay is designated would convene community-based oversight to ensure that resident needs are met through Overlay activities.

WHY IS THIS IMPORTANT? The Reconstruction Opportunity Area Overlay focuses on measures to restore and stabilize communities that have historically been displaced or under-developed, as well as those areas at risk of displacement. The impacts of displacement have already rippled through Portland, in some cases disrupting the social, cultural, and political development of individual leaders and their communities. Over time these disruptions can contribute to adverse health outcomes such as low birth weights and increased asthma rates - outcomes often connected to spatial and environmental exposures that are linked to disparities in income, lack of access to infrastructure and services, and lack of participation in public decision making. The Reconstruction Overlay is a code-oriented tool that introduces community development approaches as a part of the Comprehensive Plan.

RECOMMENDATION 4-B: Mixed-Use Zones Project.

The Mixed-Use Zones project should be seen as an opportunity to immediately and aggressively implement the anti-displacement measures identified in this document. Development in Mixed-Use Zones should generate significant community benefits that:

1. Increase opportunities for Black communities, other people of color and very low-/deeply low-income households to access stable housing in these areas; and
2. Preserve and create opportunities for minority-owned small businesses to operate and grow.

WHY IS THIS IMPORTANT? The proposed Mixed Use designations offer developers more flexibility and help Portland meet the housing needs of its growing population. However, absent the robust anti-displacement measures proposed in this document for inclusion in the Comprehensive Plan, development in mixed-use zones will not address the need for affordable housing and, in fact, will contribute to the displacement of low-income families and small businesses by raising property values and rents. We support the Comprehensive Plan Mixed Use Zones project on the condition that new development in these zones be governed by our proposed anti-displacement policies and provide concrete community benefits (for example, those benefits listed in Recommendation 2-B above).

Organizations endorsing these proposals (in alphabetical order)

Asian Pacific American Network of Oregon

Center for Intercultural Organizing (Portland)

Community Alliance of Tenants

Community of Practice

Cully Association of Neighbors

Groundwork Portland

Housing Land Advocates

Living Cully (Habitat for Humanity Portland/Metro East, Hacienda CDC, NAYA, Verde)

N/NE Neighbors for Housing Affordability

OPAL, Environmental Justice Oregon
Oregon Opportunity Network (~~pending - Cameron~~)
Portland African American Leadership Forum
Portland Burn Survivors
Portland Harbor Community Coalition
~~REACH Community Development (pending - Cameron)~~
Right 2 Survive
Right 2 Dream Too
Rose Community Development Corporation
Upstream Public Health
Urban League of Portland
1000 Friends of Oregon

Individuals in support

Cat Goughnour, Radix Consulting Group LLC
Elisa Harrigan
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