

## Portland Coalition for Historic Resources Response to the Preliminary Recommendations of the Mayor's Residential Infill Project (RIP) Task Force

Prepared August 15, 2016, by Jim Heuer, Chairperson, PCHR

The Portland Coalition for Historic Resources is an ad hoc group advocating for the concerns of Portland's many Historic Districts and Historic Conservation Districts. The group also supports and advocates for the nomination of other historic districts in the City, recognizing Portland's unusual history among Western cities leading to a wealth of largely intact early 20th Century Streetcar Suburbs in the inner core. Those historic Streetcar Suburbs today are among Portland's most cherished neighborhoods and are not only prized places to live but also attract tourists from around the country.

PCHR members have reviewed the documents provided by the Residential Infill Task Force BPS Team and in general have grave concerns. We find that supporting information appears to have been hastily assembled, that the arguments in favor of the proposals lack factual basis, and to the extent that the proposal as currently set forth would be implemented, there is a very good chance of unwarranted disruption and dislocation within Portland's already densely populated inner neighborhoods. We are also disappointed that the conveners of the RIP Task Force at the outset excluded the topic of Historic Preservation, thus excluding from the conversation any potential impacts on or conflicts with Portland's designated historic neighborhoods and districts.

Perhaps worst of all, the provisions seeking to achieve more "affordable" "middle housing" appear to offer false hope to the thousands of Portland residents who currently spend an inordinate amount of their incomes on housing. That said, we feel that there are some parts of the recommendations, which could, with some wording improvements, prove valuable to the City.

### Summary of Concerns:

- **Proposal 1 - Limit the size of houses...** - The one-size-fits all approach based on lot size is an overly simplistic solution that ignores experiences in other cities with more thoughtful approaches. The prospect of "variances" granted for exceptions could nullify the effect of the proposal. Proposed size limits in R2.5 zones on 2500 square foot lots are even more flawed than those for R5 zones and 5000 square foot lots.
- **Proposal 2 - Lower the House Roofline** - Generally a very welcome concept, both in terms of measurement framework and absolute limits. Concerns remain as to reasonable flexibility where the context calls for it, consistent with protecting the integrity of the rules themselves in the face of poorly regulated variances.
- **Proposal 3 - Make Front Setbacks Consistent...** - Another welcome proposal, but the wording needs to be fixed to avoid matching setbacks to recently built infill homes with inappropriate setbacks. No variances should be allowed to this regulation.

- **Proposal 4: Allow more units within the same form as a house near Centers and Corridors** - A proposal which will achieve very little in terms of increases in affordable housing, while exacting an inordinate cost in congestion, loss of viable single family homes, and disruption of neighborhood fabric at locations scattered across the City. The relatively limited exploitation of the long-existing corner duplex rule suggests that this proposal would simply scatter a few units across the city where lower home values or special situations allow for exploitation of the rule.
- **Proposal 5: Allow cottage clusters on lots larger than 10,000 square feet.** - A potentially useful concept when mass demolition of existing, viable single family housing is not required. Extending this concept to R10 and R20 zones, where such large lots already exist, could mitigate the density penalty of these suburban-style zones across the 6 square miles they occupy in Portland.
- **Proposal 6: Establish a minimum unit requirement for R2.5 zone lots.** - This appears to be a solution in search of a problem. While it is true that if a home on a 5000 square foot lot in a R2.5 zone is demolished, only one house can be built -- if the lot is not legally split by the owner. Such splits, however, are commonplace. A reduction in the inordinate BDS charges for such splits could remove one significant stumbling block to these splits.
- **Proposal 7: Allow new houses on historically narrow lots** - By far and away the worst, and most potentially destructive proposal in RIP. Puts many thousands of viable, relatively affordable, single family homes at risks in areas designated as R5 zones because their transit and infrastructure are designed for medium-high density R5 zoning, not R2 or higher density zones. Sadly, this proposal is supported by affordable housing advocates who seem to assume that the newly constructed skinny houses replacing the demolished historic homes will actually be lower in cost than the homes they replaced -- an assumption not supported by real estate economics or actual observation.
- **Centers and Corridors Concept** - The amendment to the Comprehensive Plan goals to encourage "middle housing" along "centers and corridors" within 1250 feet of "high frequency transit", was poorly vetted and hastily adopted. Most egregious was the 1250 foot metric itself. Not only is it a radical departure from Portland planning practice, but also a mis-application of research findings relative to acceptable walking distances from high frequency heavy-rail transit like BART or the Washington METRO, to medium-to-low frequency bus routes. We recommend that no radical, new zoning allowances be introduced using the 1250 foot rule, and that, at most a 500 foot rule, applying only to bus routes with a minimum of 15 minute frequencies during peak hours, be used in high potential experimental sites.
- **Misreading of history** - Proponents of the current proposals argue that single family zoning is a product of the 1950s with a possible racial motivation. This is ludicrous. Portland inner neighborhoods were shaped by strongly worded deed covenants made legal by a court case in 1879. These covenants protected property values in single family areas and were extremely popular with home buyers in the late 19th and early 20th Centuries because those buyers understood what most home owners today understand:

that their home would be the single most important investment they ever made. Nearly all of Portland's inner neighborhoods were once covered by these covenants.

## **In Conclusion**

We feel that the profound defects in the current proposal call for a complete re-assessment of the work of the RIP task force. A thorough economic analysis performed by professional real estate and development economists should be undertaken to better understand the tradeoffs in these proposals and why higher density is not already being built out with the zoning currently in place. That analysis should force the City to answer the question: “Exactly how many existing single family houses are you willing to sacrifice to expand ‘middle housing’, and at what cost in energy waste and destruction of existing viable housing stock.” The City might also want to address the question: “How will Portland provide the planned 28,000 new single family homes required in the next 25 years (even with a majority of new residents relegated to multi-family housing) if this number of single family residences is destroyed?”

The proposed budget of \$15,000 for such analysis that remains unspent is absurdly low. It is an insult to the thousands of home owners likely to be affected by these poorly conceived proposals, and must be increased by City Council to a meaningful amount commensurate with the potential impacts on the City’s residents.

We are especially dismayed by the support of the current proposals by advocates for affordable housing, despite the complete lack of evidence, other than the verbal assurances of the developer community, that affordability will be enhanced by these proposals. We encourage all Portland residents concerned about problems of affordability to demand a more thoughtful and potentially effective and balanced approach to dealing with this serious problem.

## **Detailed Evaluation of Proposals**

We address our detailed comments to each of the proposals advanced by the BPS Team in the remainder of this document.

### **Proposal 1 - Limit the size of houses while maintaining flexibility in form**

We note that this proposal addresses one of the key requests of the United Neighborhoods for Reform Resolution presented to City Council in November and December, 2014:

*“2) Establishment of a task force composed of 50% neighborhood organizations and 50% city staff and concerned citizens to determine ...:*

- a) Revision of code to limit the mass, footprint, setbacks, and height of construction to that of the average of existing homes within a specified distance.*
- b) Revision of current zoning and lot-splitting policies to protect existing housing and lot size.*
- c) Recommendations for tree and solar access protections.”*

PCHR strongly supported the UNR Resolution and especially this provision, when it was presented by UNR representatives in 2014.

While we applaud the intent of Proposal, we are concerned that extremely diverse neighborhoods like inner Northeast, the Northwest District and elsewhere are ill-served by the “one-size fits all” approach to setting limits on the maximum square footage of new house construction or expansion. For example, Irvington has approximately 1750 tax lots that are nominally 5000 square feet in size and contain a single family residence. The sizes of these residences range from just under 800 square feet to 5579 square feet per PortlandMaps.com, with an average of 2215 square feet.

It appears that the RIP team chose simple dimensional limits over more sophisticated site-specific approaches in the interest of simplicity. Thus the 2500 square foot size limit on 5000 square foot lots. However, in historic districts, City Code 33.846.060G and any individual district guidelines require new infill to be compatible in “size, scale, and massing” with the existing historic fabric. Under these regulations, 2500 square feet would be egregiously out of proportion in some areas, and hopelessly confining in others. We have to suppose in a highly diverse city like Portland, this situation obtains widely. Members of the BPS RIP team have been urged by PCHR to invite Nore Winter and Associates, currently involved in this same type of project in Los Angeles, to visit Portland and share the far more tailored approaches being considered there. We support that step as a means of finding a more functional approach to ensuring compatibility of the size and bulk of replacement single family homes in established neighborhoods.

Similarly, the proposed sizes in R2.5 zones on 2500 square foot lots are alarming. While a single family home on 5000 square feet would be limited to 2500 square feet above ground, two new houses on adjacent 2500 square foot lots carved out of one original 5000 square foot lot in an R2.5 zone would each be allowed to 1750 square feet, for a total mass of 3500 square feet – 40% larger. With allowed ADU construction, total building mass could be even larger. Our Position Paper on Lot Splitting and Density in R2.5 zones provides more statistical detail on our concerns.

Finally, we must say that the BPS answer to our concerns regarding situations where larger-than-2500 square foot homes would be “in context” is not comforting: “Well, the developer can request a variance”. We are alarmed about the implications of this statement. Without very clear constraining rules on when a variance might be allowed, the potential for such variances could negate this size rule almost entirely, especially when developers are looking to build duplexes or triplexes on a 5000 square foot lot. Indeed, if clearly crafted rules for variance from the “standard” are feasible, then why not simply make those rules the standard everywhere? Finally, we would urge that any such flexible rules consider the context based on homes close to the median age of the neighborhood, not those constructed in the last 10 years, which may already be absurdly out of proportion to their surroundings.

### **Proposal 2: Lower the house roofline.**

In general we support the approach to new measurements of height and reduced heights overall; however, some greater sensitivity to context is called for here too. In some NE neighborhoods, the ratio of the tallest house to the shortest is over 3 to 1. This suggests that some formula for flexibility should be introduced that more appropriately recognizes the local, historic context.

### **Proposal 3: Make front setbacks consistent with setbacks on existing, immediately adjacent homes.**

In 1879, U.S. courts held that deed covenants could be enforced to ensure that single family neighborhoods remained single family and that various other requirements could be imposed on future owners. Portland adopted deed covenants almost immediately. Such covenants applied to Irvington, Piedmont, Ladd's Addition, Beaumont, Rose City Park, Laurelhurst, Waverleigh, Montavilla, Sellwood, and nearly all other Streetcar Era suburban developments which now form Portland's treasured inner core of historic neighborhoods. Virtually ALL of these covenants stipulated that homes be set back substantially from the street -- distances ranging from 15 to 25 feet. It is these covenants, which provided protection for property owners long before zoning was ever contemplated, which resulted in the deep landscaped front yards that make Portland's neighborhoods so inviting and livable.

Unfortunately, this Proposal's front setback provisions are weak, and lend themselves to abuse. The term "immediately adjacent" houses allows for converting entire blocks to obtrusive, projecting setbacks if there be but one existing new home on the block built close to the sidewalk. We urge language that recognizes the existing historic patterns of setbacks, as visible in the positioning of homes dating to the development period of the area. Determining this is relatively easy, as the original plats are well recorded and a simple title check will reveal the original setback requirements.

### **Proposal 4: Allow more units within the same form as a house near Centers and Corridors.**

This proposal is deeply flawed and has potential for doing irretrievable harm to Portland's treasure-trove of early 20<sup>th</sup> Century streetcar era neighborhoods, while very likely dramatically under-achieving the hoped-for goals of expanded mid-range housing opportunity. It is predicated on unsupported or just-plain-wrong assumptions about the history and development of these neighborhoods and the current economics of land development in inner Portland. Our specific objections follow:

- 1. "Centers and Corridors" is over-broad and poorly researched.**

In the final days of the development of the Portland Comprehensive Plan, goals were hastily added which supported higher-density infill housing within 1250 feet (roughly ¼ mile) of "centers and corridors" without any period of public comment and little testimony. In the supporting documents for the RIP proposals, maps are presented showing ¼ mile circles around MAX stations and on either side of "high frequency bus

routes”, defined as having a minimum of 20-minute rush period frequencies. We note, however, that such lines as the #17 and #77 bus routes, both of which have less than 20-minute rush period frequencies are not shown on the map, perhaps as a result of rushed preparation. In any event, it would appear that despite all the complicated mapping, the actual effectivity of proposed higher density construction would be substantially greater than shown on the maps despite the inevitable car dependency at such distances from minimally viable transit options.

A review of transit planning literature reveals studies that commuters appear to be willing to walk up to 1250 feet to really high frequency (every 10 minutes headway or less) heavy rail transit lines like BART in the Bay Area and METRO in Washington, DC. There is no rationale for applying these findings to moderate frequency bus service routes in a city with widely distributed employment growth to predict where such bus transit can facilitate a material reduction in automobile use and ownership. Indeed, the City's long-established rule of 500 feet from a "high frequency" bus line is pretty ambitious. Surveys have shown that over 75% of residents of apartment buildings built without parking own automobiles, even when built within 500 feet of a bus line. It should also be pointed out that, as the transit research literature makes clear, line-of-sight distance to a bus or rail route is NOT the same as the actual walking distance from homes within that radius and the nearest stop, due to the circuitry imposed by block and street layouts. For a line-of-sight distance of 1250 feet, actual walking distance is likely to be closer to 1500 feet -- well beyond any reasonable expectation of acceptance by potential transit customers with an automobile option.

In any event, this new concept of where density should be “concentrated” flies in the face of 25 years of planning in Portland, where zoning was carefully constructed not only around transit corridors but also around areas providing services, schools, and terrain which supports higher density construction. The motivation for this approach to zoning clearly was to provide higher density in areas where residents could reasonably walk to transit and shopping. Subsequent zoning rules set boundaries of 500 feet around high-frequency transit corridors where parking was not required. In other instances greater density of residential construction was allowed with 1000 feet of MAX stations (see rules for RH zoning).

These distances adopted through carefully developed planning policy track historic rules of thumb adopted by streetcar companies and developers in the early 20<sup>th</sup> Century (well before automobiles became a significant factor in public mobility), which held that lots would sell to home buyers if they were within 600 feet of a streetcar line. This is demonstrated in Irvington, where the neighborhood grew up with nearly every house within 600 feet of one of the car lines serving the area in 1910, which, we should point out, provided minimum 15 minute headways between the cars from 5am to midnight and considerably greater frequency during rush periods -- more than double the frequency of

the so-called "high frequency bus routes" that serve Portland today.

**2. Opening up R5 zones to Duplexes and Triplexes will provide minimal increase in affordable housing while exacting an exorbitant cost in neighborhood disruption**

The most telling argument suggesting the problematic nature of this recommendation is that fact that 25% of ALL Irvington single family residences sit on corner lots due to the long-narrow block layout in the neighborhood (the standard pattern is 16 lots per block, of which 4 are corners), but that not one such single family house has been converted to a duplex in the last 10 years. In fact, the only change in duplex status occurring in recent times has been de-conversion from duplexes to single family residences. We should point out that the limiting factor here is NOT the required Historic Resource Review for alterations to structures in the District, as the HRR rules are silent relative to the number of housing units contained in the properties being regulated.

From our observation around the City, the only lots currently being considered for duplex conversion are those with very small houses on 5000 square feet or large lots where the economics support demolition of the existing house and complete replacement. The effect of this continuation of current development will simply further erode the availability of moderately affordable single family houses while introducing still more high-priced rental housing, and disrupting the historic development patterns of the neighborhoods.

As to increasing density in inner city neighborhoods, including Historic Districts, we support the current programs which encourage ADU development. Considering that Portland's existing R1, R2, and RH zoning is not close to being at capacity, there is, as BPS has asserted many times, ample capacity for more rental housing. If potential new residential capacity is included as a result of new Mixed Use zones, even more capacity will come on line under the 2035 Comprehensive Plan. If a problem exists with the form of housing being built in R1, R2 and R3 zones, the solution is to fix those zoning rules, not to attempt to toss density willy-nilly around in already moderately dense R5 zones..

**3. More than simply undermining the integrity of the R5 zone will be needed to expand "middle housing" even where already allowed**

Currently, there are over 13,000 single family residences on land zoned R1, R2, R2.5, and RH where additional housing capacity is allowed based on lot size. Assuming that there are already upwards of 10,000 inner Portland houses on R5 corner lots, we have the potential for redevelopment of over 20,000 single family homes into greater density housing with today's zoning regulations (Of course, at a cost of some \$5-7 billion for purchase of the homes to be destroyed in the process, which certainly would have an impact on the "affordability" of the resulting replacement housing.) Yet, the pace of conversion of these properties is glacial. In the last several years, according to UNR statistics, most demolished single family homes have been replaced by larger, more costly single family homes. The inevitable reading of the actual real estate facts on the ground is that zoning by itself is not sufficient to bring about density increases and

certainly isn't bringing about increases in "affordable" housing alternatives even where allowed.

Several actions might be taken to enable the existing capacity for more density to be utilized more quickly:

- a. Modify rules for corner duplexes such that entrances no longer need to face different streets, thereby facilitating conversion of existing single family homes without the necessity of radical reconfiguration.
- b. Subsidize or abolish System Development Charges when an existing corner lot single family home is converted to a duplex without altering the exterior envelope of the structure.
- c. Allow multiple ADU type structures with reduced System Development Charges when constructed on the site of a single family residence in an R1 or R2 zone on a 5000 square foot lot.
- d. Relax parking requirements for corner duplexes within 500 feet of high frequency transit corridors.

#### **Proposal 5: Allow cottage clusters on lots larger than 10,000 square feet.**

Inner Portland has some fine examples of small house clusters and attractively designed low-rise courtyard complexes which date to the 1920s and 1930s. When such units are constructed within 500 feet of high frequency transit lines, they provide a great opportunity for enhanced density at a human scale. To the extent that this proposal would be confined to areas within 500 feet of high frequency transit in R1, R2, or RH zones, we would support it. However, we'd urge the RIP to explore ways for the City to encourage such units to be individually owner occupied so as to extend the benefits of home ownership to those who can afford these smaller units. Most of our small cluster housing was converted to condominiums a number of years ago. Condo conversions are problematic today, we understand, partly because of bank reluctance to lend money for their conversion or construction. The City should explore ways to mitigate this obstacle to home ownership as it encourages more of these smaller units to be built.

#### **Proposal 6: Establish a minimum unit requirement for R2.5 zone lots.**

The average age of homes in R2.5 zones is 83 years -- the highest age of all of our single family zones. PCHR is especially concerned that poorly conceived changes to R2.5 zoning rules will put at risk some of our most historic neighborhoods, some of which are currently protected as Historic Conservation Districts, but many of which are not.

We applaud the approach where an ADU can count toward the number of housing units on a R2.5 zoned site, especially when the base lot is 5000 square feet, so as to reduce development pressure and the threat of demolition of these fine historic properties.



## **Proposal 7: Allow new houses on historically narrow lots near Centers and Corridors within the R5 zone.**

We feel that undermining the R5 zoning simply because of some accident of history is an affront to the residents of those neighborhoods who purchased their homes expecting the protections offered by that R5 zoning. They suddenly find themselves de-facto zoned R2.5 without benefit of a formal zoning change process – simply to provide targets of opportunity to developers to build homes their neighbors could not afford.

R2.5 zoning is an excellent tool for densifying selected parts of our single family areas within 500 feet of high frequency transit, and likely should be expanded as Portland’s population grows. However, the recently completed Comprehensive Plan did expand the scope of R2.5 zoning in the inner city. We see no reason to recklessly expand R2.5 zoning through this de-facto rezoning into areas inappropriate for greater density (despite the ridiculous 1250 foot distance from “centers and corridors proposed by RIP), until the full benefits of the newly designated R2.5 areas are realized.

Further, we are dismayed at the scope of proposed changes to allowed density in the R2.5 zone. Per BPS estimates, an existing house on a 5000 square foot lot in an R2.5 zone could be demolished and replaced by up to 8 units with an average size of 538 square feet. This is a recipe for demolition of thousands of existing single family homes and replacement with small rental housing units – thereby exacerbating both the supply of single family residences and the much-discussed “middle housing”.

Because of these concerns, which we detail more fully in a separate White Paper on this subject, we oppose Proposal 7 in its entirety. It has no place in the output of the RIP task force, was injected into the debate by a developer-led and funded coalition which argues for it on the basis of completely unfounded assertions of increased affordability of housing. In recent public outreach sessions, BPS staff asserted that splitting R5 lots would allow the land cost to be spread over two houses, with a resulting lower cost for each. This was a naïve assertion. Greater density allowances result in land prices being bid upward to capture the "economic rent" enjoyed by potential developers from building two houses rather than one. The consequence is a higher cost per square foot for these infill houses on split lots than for the original house, and NO gains in affordability.

For questions or comments regarding this material, contact the Chairperson of the Portland Coalition for Historic Resources, Jim Heuer, at [jim@househistorypdx.com](mailto:jim@househistorypdx.com)