

# MEMORANDUM

## PLANNING AND URBAN DEVELOPMENT DEPARTMENT

### PLANNING DIVISION



**To:** Brandon Mazer, Chair, and Members of the Portland Planning Board  
**From:** Christine Grimando, Director of Planning and Urban Development; Nell Donaldson, Director of Special Projects; Matt Grooms, Senior Planner  
**Date:** June 26, 2020  
**Re:** Planning Board Memo - ReCode  
**Meeting Date:** June 30, 2020

#### I. INTRODUCTION

Following adoption of *Portland's Plan 2030*, staff in the Department of Planning & Urban Development initiated [ReCode Portland](#), an effort to rethink, restructure, and redraft the city's 961-page land use code to better align with the goals and objectives of the city's comprehensive plan. Phase I of the ReCode effort is focused on reformatting, streamlining, and reorganizing the existing code into a more legible and user-friendly document. Phase II, which is anticipated to formally begin after a revised code is adopted by the City Council under Phase I, will involve the process of carefully examining the code in light of policy goals expressed through *Portland's Plan*, and rewriting the policy in the code to better align with that vision.

In Fall of 2019, Planning staff completed a first draft of the new land use code as envisioned under Phase I and initiated the public review process. This review is framed around a series of special Planning Board meetings dedicated to ReCode, where the Board sequentially reviews new articles of the draft code, as well as edits to previously discussed articles based upon feedback from the Board, the public, and other City departments. This workshop will be the fifth such meeting for the review of ReCode, where the Planning Board will discuss the four remaining articles: *Article 19. Parking and Loading*, *Article 20. Signs*, *Article 21. Public Art*, and *Article 22. Regulation of Explosives*. For more information on the ReCode process, or to review and comment on the draft document, please visit the [ReCode website](#). Public comments may also be submitted through email to [planningboard@portlandmaine.gov](mailto:planningboard@portlandmaine.gov).

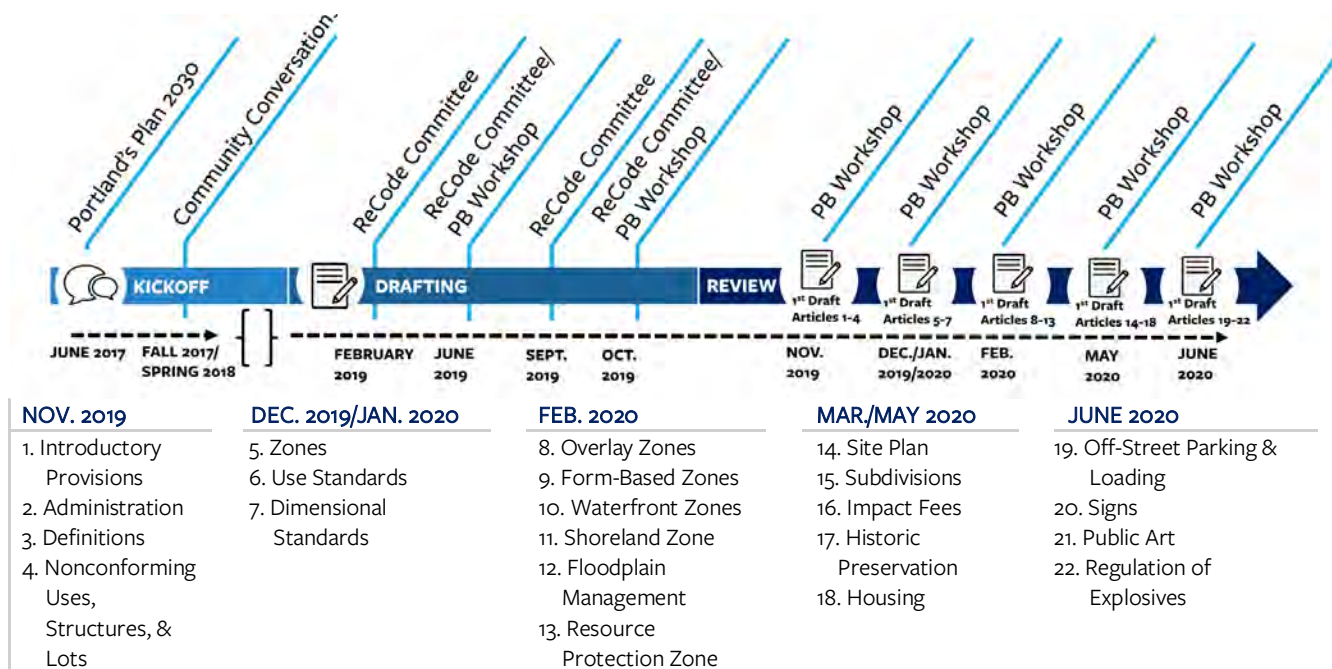


Figure 1. ReCode Phase I: Planning Board workshops and sequence of review

## II. RECODE: REVISIONS TO ARTICLES 1-18

As with prior Planning Board workshops, the May 30 meeting will include a review of revisions to articles that have previously been presented to the Board. These revisions have been compiled in redline, and are included as *Attachment 1*.

### A. Revisions to Articles 14-18

At the May workshop, staff heard feedback from both the Board and the public on Articles 14-18 (*Site Plan, Subdivision, Impact Fees, Historic Preservation, and Housing*). Following the workshop, staff also received additional comments from members of the public through the ReCode website (*Attachment 2*). Simultaneously, Corporation Counsel's office continued their review of the ReCode and offered their own feedback on the drafts. In response to this input, staff has made the following revisions:

1. *Article 14. Site plan*
  - i. *Design.* A common thread in the public comment has been a desire to see design standards strengthened, and to have the authority and enforceability of the Design Manual made clearer through the land use code. In the initial draft of the site plan ordinance, presented in May, staff opted to simplify the zone-based design review section, with the idea that design-specific review standards would be relocated to the city's Design Manual for ease of navigation. This approach was confirmed by Corporation Counsel, who advised that the Design Manual, which is included by reference in the land use code, is enforceable policy as currently structured. At the last workshop however, members of the public raised concerns that the zone-based design section of Article 14 should be retained within the code. In response, this section of the site plan ordinance has been redrafted to include content that had been struck in the last iteration. Staff acknowledges that this change does not resolve larger questions around the structure of the Design Manual and its tie to the land use code. However, staff is concurrently working on a comprehensive rewrite of the Design Manual. As part of this effort, staff will be looking at design standards broadly, including those currently housed within zoning and the site plan article. This work will include a public process, with the goal of creating a more cohesive and enforceable framework for design review in the city.
  - ii. *Public Meeting Notice.* At the last Planning Board workshop, members of the Planning Board suggested that staff evaluate opportunities for posting 'notice of development' signage on properties where development is proposed as a way to more broadly engage members of the public and disseminate information on projects under review. This is a common practice in many communities, where signage is required to provide basic information on the development proposal and, in some instances, public meeting information. In response to this request, staff have reviewed ordinance examples from communities all over the country, and have drafted language that would require signage be posted a minimum of 10 days prior to a public meeting and remain until after the public hearing has concluded. This draft language can be found in revised *Article 14. Site Plan*, as well as revised *Article 15. Subdivision* and *Article 17. Historic Preservation*.
  - iii. *Historic Preservation Advisory Review.* In the public comment on the latest draft of the site plan ordinance, members of the public asked that the section pertaining to Historic Preservation advisory review be amended to include language that had inadvertently been dropped, requiring that Historic Preservation staff prepare a report with an analysis of findings as a recommendation to the Planning Board. In the updated draft, this language has been reinstated.
  - iv. *Appeals.* Based upon feedback from Corporation Counsel, staff has removed the appeal provision for extension of a master development plan application. This is in line with our approach to site plan approvals, as we do not currently include a provision that would allow for an appeal of an extension of a site plan, assuming it meets the City's requirements and the approval has not been extended for a period of greater than three years. Under the proposed

- revisions, a similar approach would exist for a master development plan, where original approval is valid for six years, and the approval may be extended for up to an additional four years.
- v. *Electric Vehicle Charging.* Last, and in concert with the preparation of the draft off-street parking article for review, staff has suggested provisions in the revised site plan ordinance to promote the expansion of electric vehicle charging infrastructure. This policy is not currently contemplated in the land use code, but has been discussed with both the ReCode Committee and the Planning Board in prior workshop settings. It is also considered in the draft of Portland's climate action plan, One Climate Future, which tentatively recommends requiring that new construction be EV-ready and/or install EV chargers at a certain percentage of proposed spaces. The proposal suggested by staff is designed to allow some flexibility pending the outcome of One Climate Future by generally requiring EV provisions in projects undergoing site plan review, with a reference to the Technical Manual, where it is assumed that more detailed requirements would reside. It is anticipated that these technical requirements will be developed as One Climate Future is completed over the next several months, aligning with Council review of Phase I of ReCode.
2. *Article 15. Subdivision*

Since the May workshop, Corporation Counsel has completed their review of the subdivision ordinance. Based on feedback from their office, staff has made several changes to align the subdivision ordinance more closely with state statute. These include edits to provisions governing the timing of subdivision review and the integration of several review standards from state statute that do not exist in the current land use code. In addition, in the revised draft presented here, staff has added language from the existing code that relates to the timing of the release of the recording plat, which is currently located in the site plan ordinance, and appeals-related language, which had previously been considered for removal in the interest of consolidating appeals provisions.
  3. *Article 16. Impact Fees*

Following internal discussions related to edits to the change of use provisions for impact fees, which were presented at the last workshop, staff is suggesting a revision to broaden the list of qualified professionals that can prepare an impact fee modification request.
  4. *Article 17. Historic Preservation*

The Historic Preservation regulations have received considerable feedback, namely in the course of two separate meetings with Greater Portland Landmarks, through the public comment portal, and at our last workshop. A summary of that feedback and responses follows:

    - i. *Definitions.* In preparing Article 17 for Planning Board review, staff made a number of changes to definitions specific to Historic Preservation. For example, certain definitions were eliminated (i.e. design guidelines, business day, open space), while other definitions were substantiated using either the state's Certified Local Government guidelines and National Park Service brief on Historic Preservation (i.e. historic district, landmark, historic landscape district). While generally, sentiment on changes to definitions was positive, staff did receive feedback that the definition for a landmark should be broadened to refer to significance at the local, regional, state and national level. This qualifier has been introduced into this definition.
    - ii. *Appeals.* Appeal language for all of the Boards and review types subject to the City's land use code have been reworked in Article 2 so as to be more consistent. With Historic Preservation, the process remains almost entirely unchanged, though the language used to describe this process has been revised. For example, administrative decisions are appealed to the Historic Preservation Board, and decisions by the Historic Preservation Board are appealable to the Planning Board. As with the current regulations, an appeal to the Planning Board would not be a de novo review, and the Planning Board's role in the appeal would be to confirm that the decision by the HP Board is not arbitrary and capricious. One question raised in public comment is whether or not it is appropriate for an HP Board decision to be appealable to the Planning Board,

particularly for decisions over which the HP Board has final review authority, such as for Certificates of Appropriateness. Corporation Counsel has advised this practice is appropriate. An alternative to this practice would be for HP Board appeals to be heard by Superior Court. Current practice remains in the ReCode draft.

- iii. *Design.* Design has been among the most discussed topics in the ReCode effort, and both members of the public and the Planning Board have requested additional clarification on the enforceability and authority of design standards in both the City's general Design Manual, as well as in the Historic Resources Design Manual. Based upon this feedback this provision is being reintroduced into the text of this latest draft. As with the general Design Manual, the City is currently working on an update to the Historic Resources Design Manual, which is slated to occur beginning later this summer. No additional changes with regards to the relationship of this policy document with the land use code are being proposed at this time.

## **B. Revisions to Articles 1-13**

In addition to revising the articles most recently provided to the Planning Board, staff has taken a comprehensive look at all prior articles, incorporating public comment, Corporation Counsel comments, as well as edits from a final read-through of Chapter 14. This review resulted in the following additional revisions to these articles:

1. *Article 1. Introductory Provisions.* In the revised draft presented here, staff has introduced general language related to successive applications. Similar language currently appears in ZBA provisions and in several other locations in the code. Corporation Counsel advised that this language be stated once. Staff has also eliminated a redundant continuation clause.
2. *Article 2. Administration.* Based on Corporation Counsel's review of this article, staff has made a number of edits to clarify the ZBA's jurisdiction and authority, limitations on variances, and the timelines for which variances are valid.
3. *Article 3. Definitions.* Based on additional internal review of this article, several redundant definitions (e.g. those pertaining to blasting, definitions of various plat types, and the definition of 'development fees', which are covered in their respective articles) have been eliminated.
4. *Article 5. Zones.* Following significant internal discussion, staff has revised Article 5 (as well as 6 and 7) to re-incorporate regulations relating to the B-1b zone. Previously, staff had discussed consolidating the B-1 and the B-1b. However, in keeping with the purpose of Phase I, staff resolved not to make this larger structural change, and instead to address these zones, along with all mixed-use zones, more comprehensively in Phase II. Staff has also updated the conditional and contract zoning language to reflect current state statute.
5. *Article 6. Use Standards.* Based on an internal review, related to parking as an accessory use have been eliminated, which is dealt with in Article 19, and incorporate standards for preschools as a conditional use in the R-P zone. Staff has also added lodging house rooming unit and common area square footage standards, based on existing regulations in the R-5 zone. As noted above, use regulations for the B-1b have also been incorporated.
6. *Article 7. Dimensional Standards.* Again, based on an internal review, the Dimensional Standards article has been revised to ensure that existing provisions are accurately captured (e.g. clarifying footnotes in dimensional tables, adding language relating to fence dimensions, adding lot area requirements for unsewered residential districts). In addition, staff has added rooming unit density standards for lodging houses in the B-1/B-1b and B-2/B-2b/B-2c zones, which are based on ratios expressed in similar standards pertaining to the residential zones.
7. *Article 8. Overlay Zones.* With regards to the demolition delay process for the Munjoy Hill Neighborhood Conservation Overlay Zone, Corporation Counsel has suggested revisions to the section on appeals of demolition permit decisions to cite appropriate state statute, clarify when a decision goes into effect, and the process for filing a notice of appeal. Staff has also re-incorporated design standards for the R-7, which were previously proposed for relocation to the Design Manual.

8. *Article 12.* Lastly, Floodplain Management has been revised to reinstate language regarding penalties, which was previously proposed to be covered through more general provisions.

### III. RECODE: OVERVIEW OF ARTICLES 19-22 and HEIGHT OVERLAY MAPS

This workshop includes an introduction to the last four articles of the ReCode: 19. *Off-Street Parking & Loading*, 20. *Signs*, 21. *Public Art*, and 22. *Regulation of Explosives*. Drafts of these articles are included as *Attachment 3*.

#### A. Article 19: Off-Street Parking & Loading

*Article 19. Off-Street Parking & Loading* represents one of the articles of the ReCode that has received most attention prior to this workshop, both in Planning Board and ReCode Committee meetings during the drafting stage. The Ad Hoc ReCode Committee made off-street parking requirements one of the emphases of their work, discussing existing and potential policy at three of their meetings. Last summer, the Planning Board also delved into off-street parking policy in a workshop setting. All of these workshops included significant public comment, much of which focused on concerns about the potential for oversupply under current parking policy, including attendant concerns about effects on housing affordability, induced vehicular demand, and impacts to urban design, traffic congestion, and greenhouse gas emissions. These workshops also included public comment representing the opposite vantage point, including concerns about lack of off-street parking in certain areas of the city in particular. The changes presented in the draft ReCode are a product of these discussions and the policy direction that resulted, balancing contrasting public perspectives with best practice, the city's multi-modal accessibility, sustainability, and housing goals, and a broad desire for consistency of tools in the ReCode.

It should be noted that, in keeping with the intent of Phase I, the changes to the off-street parking and loading policies reflected in the draft ReCode are generally not a matter of introducing entirely new concepts into the land use code, but instead a matter of expanding the application of existing tools which are both already present in the city's parking regulations and effectively used, such as the parking study option, shared vehicle provisions, and shared parking provisions. In this way, the draft off-street parking regulations presented here reflect a streamlining of city policy, rather than dramatically rewriting it.

Draft changes include:

1. *Introduction of general administrative language.* Language has been added clarifying the applicability of this article and standardizing rules of calculation to generally reflect existing practice. These provisions include the introduction of language to allow grandfathering in the cases of change of use. Under the city's existing ordinance, property owners are required to fully comply with parking requirements under a change of use application in most instances; however, in the case of building enlargements or additions, existing parking deficiencies are grandfathered, meaning that the applicant is required only to provide additional parking associated with new square footage, units, or rooms. In an effort to provide consistency, staff is proposing a blanket grandfathering clause for changes of use which would mirror that for enlargements or alterations, essentially allowing a property owner to take any existing parking deficiency on site as credit against the parking requirement for the proposed use.
2. *Expanded shared vehicle provisions.* The existing parking ordinance allows multi-family residential buildings on the peninsula and in the R-6 and R-6A zones to partially satisfy parking requirements through the provision of shared use vehicles. While this mechanism has been used selectively by developers, it is a valuable tool that allows both flexibility to the developer and an opportunity to incentivize the creation of infrastructure to support transportation and parking demand management. The draft article presented here expands the application of this tool to multi-family developments city-wide.
3. *Expanded joint use allowance.* The existing land use code allows the ZBA or Planning Board to approve shared parking, or "joint use" of parking, in selected mixed-use zones in which residential uses are proposed with non-residential uses and a study can prove the feasibility of joint use. These provisions

- are commonly used where they can be, and are widely considered to provide for more efficient off-street parking arrangements. The draft article presented here broadens the joint use allowance to extend to all uses in all mixed-use zones and eliminates the ZBA or Planning Board review requirement.
4. *1/unit residential parking requirement.* The current parking ordinance requires two parking spaces/residential dwelling unit with exceptions for certain zones and for residential uses on the peninsula. For off-peninsula sites in zones like the B-1, which can be smaller in size, this requirement can serve as a barrier to mixed-use or residential development, as developers attempt to accommodate parking on-site. In the draft ReCode, staff is proposing a one space/dwelling unit requirement city-wide. No maximum is proposed, meaning that more than one space/unit could be provided as deemed necessary by the landowner or developer. In developing alternatives to the two/dwelling unit requirement, staff considered existing exceptions already allowed in the code, including the existing one space/dwelling unit allowance in the B-2/B-2b/B-2c, the R-6, and on the peninsula, case studies of communities across the country, and recent parking-related trends in Portland. For example, the city's *Parking Study for Downtown, the Old Port, and the Eastern Waterfront* cited Census Bureau statistics showing that Portland households had a vehicle ownership rate of 1.34 vehicles/household in 2015, and that drive alone commute rates in the city are decreasing.
  5. *Expanded parking study option.* Currently, parking requirements for developments in the B-6 and B-7 zones or for site plans >50,000 SF are defined through a parking analysis reviewed by the city through site plan review. Rather than relying on the city's parking requirements, which, as in many cities, are based on national studies expressed as Institute of Transportation Engineers-derived parking factors, this method allows the city to arrive at parking requirements through an analysis based on the unique characteristics of the use and an assessment of local parking demand. The draft ReCode expands this tool such that it becomes an option for any project undergoing major site plan review in front of the Planning Board, regardless of zone. This approach should lead to better matches between parking demand and supply for those projects opting to use it. It will also allow for better integration of parking management into Transportation Demand Management plans.
  6. *Added exemption for transit proximate multi-family housing.* The existing land use code includes provisions that allow the Planning Board to determine a parking requirement less than that which would otherwise be required for multi-family housing where unique conditions exist that result in "lesser parking demand," such as availability of transit. Other ordinances nationwide go further than the city's existing code, allowing off-street parking exemptions for transit-proximate development. For example, Portland, OR exempts sites that lie within 1,500 feet of a transit station or 500 feet from a transit line. The City of San Diego has a Transit Overlay Zone, which applies in areas proximate to transit service, in which parking requirements are reduced by .25 spaces/DU. At the ReCode Committee's request, the draft off-street parking article includes an exemption for multi-family housing within ¼ mile of fixed route transit.
  7. *Expanded eligibility for fee-in-lieu provisions.* The current parking policy allows any development in a non-residential zone or the India Street Form-Based Code zone on the peninsula to pay into the city's Sustainable Transportation Fund in-lieu of providing off-street parking. At present, very few developers currently opt for the in-lieu fee, choosing to provide parking on-site or secure parking off-site through the city's off-site parking allowances instead. In the draft presented here, staff proposes to extend the geographic scope of the in-lieu fee to make it an option for any development city-wide as a means of recognizing the possibility of alternative modes across the city and increasing the revenue potential for the fund.
  8. *Additional clarifications.* In addition, staff has made other changes to the existing parking and loading provision to clarify and simplify their administration. For example, parking requirements for like uses have been collapsed to align with new use groupings in Article 6. Staff has eliminated provisions requiring ZBA or Planning Board review of off-site parking arrangements and added a requirement that the receiving site in such arrangements must be in compliance with off-street parking requirements.

Staff has also revised the existing vehicular parking siting regulations for clarity and relocated construction requirements to the Technical Manual (*Attachment 4*).

#### **B. Article 20: Signs**

*Article 20. Signs* is unique among the articles being brought forward to the Planning Board for review, in that it has been entirely rewritten so as to be consistent with both federal and state law, in particular to be consistent with the Supreme Court's June 2015 decision in the case of *Reed v. Town of Gilbert*. Aside from regulatory consistency, the existing sign ordinance is widely perceived as difficult to navigate and in need of a technical overhaul. For these reasons, the city hired a consultant, Lisa Wise Consulting, INC to entirely rewrite the signs article drawing from industry best practice and to introduce graphics that would assist with legibility and interpretation of these regulations. Following preparation of an initial draft, the consultant coordinated with city staff in both the Planning and Zoning office, and has made revisions based upon local experience in dealing in permitting new signs. The consultant has prepared a separate memo (*Attachment 5*) outlining this process and the rationale behind substantive changes that have been made, and is planning to attend the June 30<sup>th</sup> workshop and answer questions related to this article.

#### **C. Article 21: Public Art**

The draft of *Article 21. Public Art* generally reflects existing code language. Outdated references to the public art administration guidelines and Public Art Committee membership organizations have been updated to reflect current titles.

#### **D. Article 22: Regulation of Explosives**

The draft *Article 22. Regulation of Explosives* also generally reflects existing code language. As with other articles, language relevant to administration has been taken out, relying instead on the general administrative language in Article 2. Similarly, language regarding the amendment of Technical Manual standards has also been taken out, as that authority is also now consolidated as well in Article 2. One substantive change that has occurred relates to enforcement of the article. At present, an appeal of a decision is directly appealable to the Planning & Urban Development Department Director. This is the only instance in the code where this is the case, and so as with other Building Authority decisions, the appeal will now be taken to the ZBA.

#### **E. Height Overlay Maps**

A primary goal of ReCode Phase 1 has been to streamline our land use code by consolidating like regulations and eliminating unnecessary redundancy to ensure that overlapping and conflicting language does not persist in the code. As the Board is aware, the City has adopted a number of height overlay maps that illustrate zoning dimensional requirements that are difficult to articulate as text within the code. These maps are incorporated into the land use code by reference. In addition to these maps, however, the land use code also includes significant height-related regulations in the written text. Aside from more general height requirements, the code includes exceptions to height regulations, such as allowing greater height where residential units are provided for example, or for allowing lesser height for accessory buildings or uses. These standards inform one's interpretation of the height overlay maps, and yet, as currently structured, a full picture of height regulations requires a review of both the maps and the dimensional requirements listed in the existing zoning. For this reason, staff has proposed revisions to three separate height overlay maps, the Downtown Height Overlay Map, the Bayside Height Overlay Map, and the B-6 Height Overlay Map (*Attachment 6*). The proposed amendments incorporate existing regulations from the land use code verbatim in order to improve legibility and interpretation of these maps. In the case of the Downtown Height Overlay map, the color scheme and depiction of boundaries has been changed so as to improve legibility, though no change to existing policy has occurred.

#### IV. PUBLIC COMMENT

##### A. General Public Comment

Since the May 19<sup>th</sup> workshop, a total of 89 public comments have been received through the City's online document review platform (*Attachment 2*). The online version of Articles 1-16 has remained unchanged since mid-March, and so the latest public comment document includes comments that date back to that point in time. As has occurred in the last three workshops, Planning staff have prepared written responses to all of these comments, and have indicated where responses have been incorporated into the draft, where comments are being catalogued for future discussion as staff work on the ReCode Phase II work plan, and have provided additional information where requested (*Attachment 7*).

Common themes that have emerged include: the composition and rules of the Planning Board, concerns with zoning dimensional requirements (particularly in the R-6 zone and on Munjoy Hill, though in other residential and business zones as well), a desire to see rooftop appurtenance regulations strengthened, a desire for greater oversight and consideration of demolition permits prior to issuance, a desire clarification of neighborhood meeting procedures, and the strengthening and clarification of design review policy throughout the City.

Aside from comments provided on the land use code draft posted to the ReCode website, two additional pieces of written public comment have been received (*Attachment 8*). The first came from a subset of neighborhood associations, primarily located within the R-6 zone, which proposed a number of changes to the R-6 zone and the R-6 design standards (*PC-36*). The suggested changes include revised language on rooftop appurtenances, definitions of height and grade, design standards, appropriate façade and building treatments at ground level, guidance on what is included in immediate context review, incentives for workforce housing, and requirements for building volume maximums, among others. City staff met with representatives from two of the neighborhood associations on June 3<sup>rd</sup>, and discussed the details of this proposal along with the City's timeline and scope of Phase 1 of ReCode. While the suggested edits have not been incorporated in the latest draft of the code, as they are outside the scope of Phase I, staff will continue to discuss potential changes with this group and the larger community as an early step in Phase II of ReCode.

The other written public comment received came from Greater Portland Landmarks, and was in reference to the latest draft of the Historic Preservation Article and to the advisory review language in the site plan article (*PC-34*). This public comment was provided to the Planning Board at the May 19<sup>th</sup> workshop, and included questions on new and altered definitions, the process for appeals, the section referencing composition of a historic district, and relationship of the Historic Resources Design Manual with the land use code. City staff prepared written responses to these questions and met with Greater Portland Landmarks on June 8<sup>th</sup>, and were able to incorporate some of their suggestions for greater clarity and consistency in the latest draft.

##### B. Capturing Chapter 14 Changes

Planning has had feedback that a project of this size and complexity can sometimes be daunting to navigate. Staff has documented the scope of the changes between the current and new Chapter 14 in a variety of ways, adapting how this is done several times over the course of the review. Since the earliest workshop with the Planning Board in November, Planning Board ReCode memos have included overviews of the types of edits that have been incorporated into the drafts, highlighting major structural changes to the existing code, and explaining substantive policy changes proposed. Since January, staff has also developed a matrix that documents changes represented in the ReCode, with citations to existing and ReCode text, so as to highlight key differences between the existing code and this draft (*Attachment 9*). Over time, this compendium of changes has evolved as additional articles are presented to the Board. New revisions to each article have been made available prior to each workshop as the review process has proceeded. All of these



materials are available on the City’s website, have been consolidated for quick access on the ReCode website, and provide a valuable and thorough public record of the extensive thought that have gone into each of the 22 articles.

As Phase I moves toward its conclusion, staff continues to inventory not only detailed changes, but also the wider implications of the new Code. ReCode Phase I has fealty to existing policy intentions, except where noted otherwise, but has always been explicit that it is not a replica of the current Code. Below is a categorization of where these myriad changes fall (though sometimes changes extend into more than one category). This graphic can be read as a supplement to the more detailed documentation described above. The June 30<sup>th</sup> workshop will include a broader discussion of the substantive sum of ReCode Phase I.

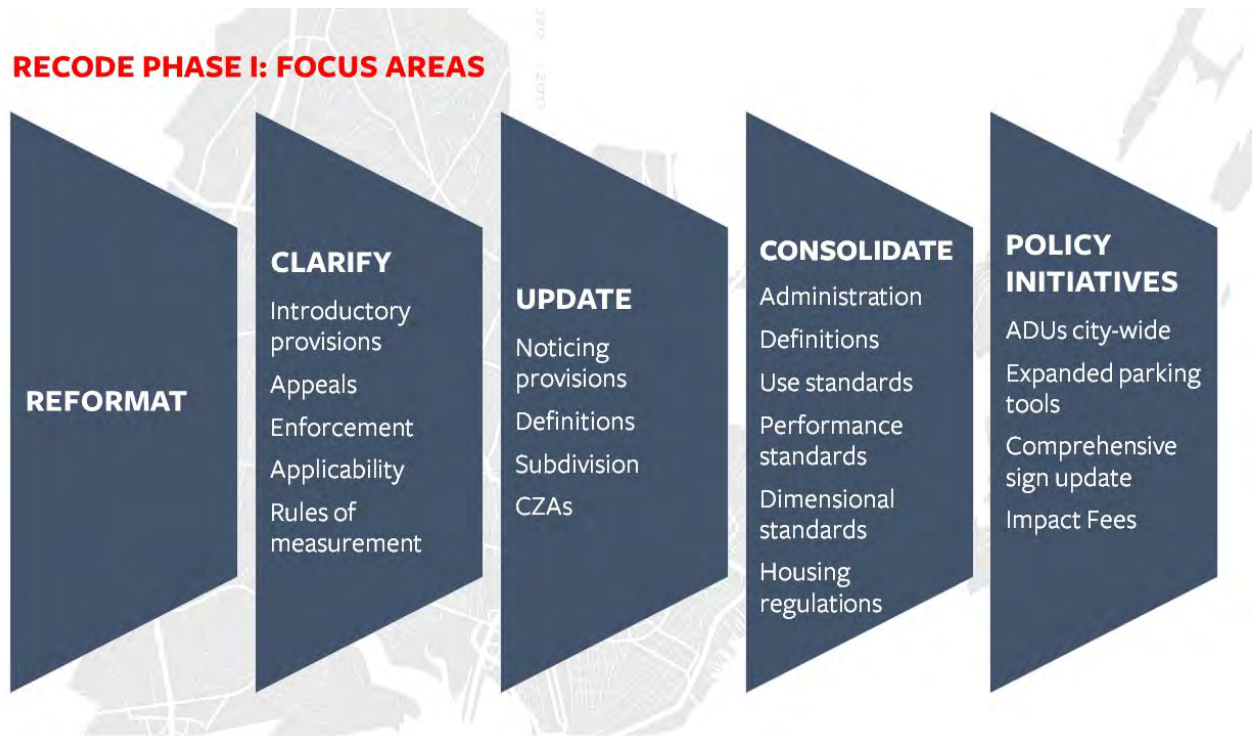


Figure 2. ReCode Phase I: Focus Areas

**V. LOOKING AHEAD TO PHASE II**

As final draft articles of the ReCode are presented here, it is important to recognize the vast volume of public comment that has been received over the course of review, and the fact that a significant portion of this public comment cannot be addressed in the current draft. As noted throughout the review, Phase II of the ReCode, which staff anticipates beginning almost immediately following the adoption of the ReCode under Phase I, will involve the more significant policy work of aligning the code with *Portland’s Plan*. Over the past several weeks, staff has begun to consider a Phase II work plan in general terms, building from not only the significant public comment, but also from *Portland’s Plan* itself and the recent work of the City Council. Ultimately, a code audit will help identify key Phase II focus areas, but as the architecture of that work plan begins to take shape, staff is developing a working list that highlights major themes: strengthening or, in some cases, drafting land use policy that addresses the city’s goals around climate change mitigation and adaptation, racial and social equity, housing, complete neighborhoods, and urban design, among others. This work will involve an investigation into all of the city’s existing zoning districts, and careful consideration of the tools that the land use code currently uses to regulate use, form, and process. Staff anticipates further developing this work plan over the coming months.

**VI. NEXT STEPS**

Following this workshop, staff will continue to gather public feedback on the complete Phase I ReCode document via the website [www.RecodePortland.me](http://www.RecodePortland.me). In mid-July, staff will incorporate feedback from the document and this workshop into a complete, final draft. Staff anticipates returning to the Planning Board with this final draft for a public hearing in late July.

**VII. ATTACHMENTS**

1. Draft ReCode, Revised Articles 1-18
2. Public Comment on Articles 1 - 18
3. Draft ReCode, Articles 19-22
4. Draft Technical Manual edits – Section 1
5. Sign article memo, Lisa Wise Consulting
6. Height Overlay Maps
7. Responses to Public Comment on Articles 1-18
8. Written Public Comment
9. Compendium of Changes within Articles 1-22
10. Memo to Greater Portland Landmarks

## 1. TRANSPORTATION SYSTEMS AND STREET DESIGN STANDARDS

### 1.1. TRAFFIC STUDIES

For the purposes of this section, **passenger car equivalents (PCE)** shall be defined as the number of passenger cars or, in the case of non-passenger vehicles, the number of passenger cars that would be displaced by non-passenger vehicles. One tractor trailer combination is the equivalent of two passenger cars.

Developments that generate 100 PCE or more, thus requiring a Traffic Movement Permit (TMP), shall meet the requirements of TMP regulations of State Law, in addition to all applicable transportation site plan standards of the City Code. For more information concerning state TMP requirements, please refer to <http://www.maine.gov/mdot/traffic-counts/traffic-mvmnt-app.php> or contact the Maine Department of Transportation (MDOT). The City of Portland is the delegated reviewing authority for TMP applications.

Developments that generate less than 100 passenger car equivalents (PCE) but require a scoping meeting because they generate 25 PCE or more and are located

*(1) on an arterial; and/or*

*(2) within ½ mile of a high crash location; and/or*

*(3) within ¼ mile of an intersection that has been identified in a previous traffic study as a failing intersection, with an overall level of service below level of service D,*

shall meet the following standards, if a traffic study is required:

1.1.1.1. Traffic studies shall be prepared, stamped and signed by a Professional Engineer licensed in the State of Maine.

1.1.1.2. Scope of Study:

The City Transportation Engineer, in consultation with the applicant's engineer, shall determine the need for and scope of the traffic study. The requirements for the study shall be based on standard transportation engineering practices.

**A typical traffic study includes the following major sections:**

- A description of the development proposal
- A description of existing conditions.
- Estimated trip generation by the development and design hour volume for affected driveway(s) and study intersections.
- Trip generation will be based upon the latest edition of the ITE *Trip Generation* publication unless suitable documented local data that meets ITE methodology is available.
- Trip distribution
- Capacity analysis for adjacent roadways and for any existing or proposed driveways.
- Traffic crash analysis for adjacent roadways.
- Key findings concerning traffic impacts, problems, and deficiencies.
- Proposed traffic improvements.
- Summary of findings and recommendations for transportation improvements and other impact mitigation measures.

**1.2. Reserved****1.3. HORIZONTAL ALIGNMENT OF STREETS**

The horizontal alignment of all proposed streets shall conform to the following standards:

- Horizontal curves shall have centerline radii of not less than 110 feet.
  - The alignment centerline shall be straight for at least 100 feet between reverse curves whenever either curve has a centerline radius of less than 200 feet.
  - When two streets intersect and one street is an arterial or collector street, or both streets are arterial or collector streets, the angle of intersection shall be 90 degrees. When two streets intersect and neither street is an arterial or collector street, the angle of intersection shall be at least 75 degrees and no greater than 105 degrees.
  - When two streets intersect, adjoining right-of-way lines shall be connected by a circular arc with radius of at least ten (10) feet. The connecting arc shall be tangent to the right-of-way lines on both streets. When the angle of intersection is other than 90 degrees, a radius greater than ten (10) feet may be required.
  - All dead-end streets shall provide for a turnaround at the end of the street, subject to approval by the reviewing authority. Turnarounds shall be designed to facilitate future street connectivity and shall always be designed to the right (refer to Figure I-5).
- Street intersections with more than four (4) legs shall be prohibited.

The minimum distance between intersections on any street shall be as follows unless the City Engineer determines that unique conditions of the site necessitate a lesser length. The distance between intersections shall be measured from the intersection of street centerlines at one intersection to the intersection of street centerlines at the other intersection. Streets shall be classified in accordance with the Federal Highway Administration Functional Classification Guidelines.

<b>Local Street and Local Street Intersection</b>	300 feet
<b>Local Street and Collector Street Intersection</b>	300 feet
<b>Local Street and Arterial Street Intersection</b>	500 feet
<b>Collector Street and Collector Street Intersection</b>	500 feet
<b>Collector Street and Arterial Street Intersection</b>	500 feet
<b>Arterial Street and Arterial Street Intersection</b>	500 feet

**1.4. STREET GRADES**

1.4.1. Street grades shall conform to the following standards:

- The maximum grade for the centerline of all streets shall not exceed eight (8) percent.
- The minimum grade for the centerline of all streets shall not be less than one-half (0.5) percent.
- The cross slope for local streets shall be 0.03. The cross slope for other street classifications shall be 0.02.
- Cross slopes for sidewalks shall be 0.02, sloping down and away from the street line to the top of the curb at the gutter line.
- Street grades at intersections shall not be more than three (3) percent for a distance of one hundred (100) feet from the center of the intersection.

**1.5. VERTICAL ALIGNMENT**

Where two adjacent street segments are proposed to have different straight line centerline finish grades, vertical curves shall be used to connect the adjacent street segments. Vertical curves shall be parabolic and tangent to each of the adjacent grades. The minimum vertical curve length, “L”, shall be calculated based on the following formula

$$L = K \times A$$

where “A” is the absolute value of the algebraic difference between the beginning grade and the ending grade of the vertical curve, with both grades expressed in percent, and “K” is a factor whose value depends on street design speed, which is related to street classification. The design speeds, in miles per hour, for this section’s street classifications are as follows:

<b>Local Street</b>	25 mph
<b>Collector Street</b>	30 mph
<b>Arterial Street</b>	35 mph

The K values corresponding to the minimum vertical curve lengths for the above street classifications and vertical curve types (sag curve or crest curve) are as follows:

Local Streets

Crest Vertical Curves: K = 20

Sag Vertical Curves: K = 30

Collector Streets

Crest Vertical Curves: K = 30

Sag Vertical Curves: K = 40

Arterial Streets

Crest Vertical Curves: K = 50

Sag Vertical Curves: K = 50

**1.6. SIGHT DISTANCE**

Where driveways or new streets enter an existing street, vehicular sight-distance shall conform to standards established by the Maine DOT as contained in their publication, Chapter 299, Highway Driveway and Entrances Rules and noted below for entrances with standard vehicles. For driveways frequently accessed by large vehicles, greater sight distance will be required according to Maine DOT guidelines.

<b>Speed Limit (mph)</b>	<b>Measured Distance (feet)</b>
25	200
30	250
35	305
40	360
45	425
50	495
55	570
60	645

**1.7. DRIVEWAY DESIGN**

1.7.1. Residential development with nine (9) parking spaces or less:

Minimum/maximum driveway width: Any site shall have a minimum driveway width of ten (10) feet and a maximum width of twenty (20) feet measured at the property line.

Location of driveway: A driveway shall be located on the lot in a manner to provide a minimum distance of twenty (20) ft spacing between it and adjacent driveways. This spacing shall be measured between edge of driveways at the property line. If the development is a Level III site plan with frontage on an arterial roadway, the standards listed in the table under section 1.6.1.7 shall apply.

No more than one (1) driveway shall be permitted.

1.7.2. Multi-Family Residential with 10 (ten) parking spaces or more, Commercial and Industrial shall meet the following standards:

1.7.2.1. All driveways shall be designed to connect perpendicular to the street, where feasible. In no case shall the angle of intersection be less than 75 degrees or greater than 105 degrees.

1.7.2.2. Minimum driveway width (one-way): Any site with driveway access to a street shall have a minimum 12 foot wide driveway (at the property line) for one-way ingress or egress. Driveways shall permit traffic to enter and leave the site simultaneously without conflict in aisles, parking or maneuvering areas. If parking is adjacent to the property line, then the appropriate aisle width shall apply. Both the entrance and exit drives shall be identified with appropriate signage.

1.7.2.3. Minimum driveway width (two-way): Any site with driveway access to a street shall have a minimum width of 20 feet for two-way ingress and egress, with a preferred width of 24 feet.

1.7.2.4. Maximum driveway width (two-way): The maximum width of a driveway will be based upon site conditions or vehicle characteristics that warrant a wider access (e.g., dedicated turn lanes at exits) and will require approval of the reviewing authority. Maximum widths shall not exceed the following, although confirmation of exact capacity requirements will be necessary:

- Commercial -24 feet
- Industrial – 30 feet

1.7.2.5. Curbing of driveways: Where driveways enter on an existing street, the full radius of the driveway shall be designed and constructed of granite curb. The radius size shall be based upon information in the following tables. The radii listed below are recommended standards. A vehicle template analysis may be submitted for review as an alternative to the use of the following table:

<b>Passenger Car</b>	<b>12 foot or less departure lane</b>	<b>12 to 14 foot departure lane</b>	<b>14 to 16 foot departure lane</b>	<b>16 to 18 foot departure lane</b>
12 foot or less receiving lane	15ft	15ft	15ft	15ft
12 to 14 foot receiving lane	15ft	15ft	15ft	15ft
14 to 16 foot receiving lane	15ft	15ft	15ft	15ft
<b>SU-30 Truck</b>	<b>12 foot or less departure lane</b>	<b>12 to 14 foot departure lane</b>	<b>14 to 16 foot departure lane</b>	<b>16 to 18 foot departure lane</b>
12 foot or less receiving lane	35ft	30ft	30ft	30ft
12 to 14 foot receiving lane	30ft	30ft	30ft	30ft
14 to 16 foot receiving lane	30ft	30ft	30ft	30ft
<b>WB-50 Truck</b>	<b>12 foot or less departure lane</b>	<b>12 to 14 foot departure lane</b>	<b>14 to 16 foot departure lane</b>	<b>16 to 18 foot departure lane</b>
12 foot or less receiving lane	45ft	45ft	45ft	45ft
12 to 14 foot receiving lane	35ft	35ft	35ft	35ft
14 to 16 foot receiving lane	25ft	25ft	25ft	25ft
<b>WB-62 Truck</b>	<b>12 foot or less departure lane</b>	<b>12 to 14 foot departure lane</b>	<b>14 to 16 foot departure lane</b>	<b>16 to 18 foot departure lane</b>
12 foot or less receiving lane	85ft	85ft	85ft	85ft
12 to 14 foot receiving lane	85ft	85ft	85ft	85ft
14 to 16 foot receiving lane	65ft	65ft	65ft	65ft

1.7.2.6. Maneuvering: The area within the site to which a driveway provides access shall be of sufficient size to allow all necessary functions for loading, unloading and parking maneuvers to be carried out on the site and completely off the street right-of-way. Backing out of vehicles from the driveway is prohibited. The design vehicle used in the analysis shall be the predominant vehicle type and shall be approved by the reviewing authority.

1.7.2.7. Location and spacing of driveways: The location and spacing of driveways shall be determined as follows:

- The angle of intersection between an access driveway and the



right of way shall be 90 degrees where feasible and shall in no case be less than 75 degrees or greater than 105 degrees.

- Along local streets, access driveways to corner lots shall be located a minimum of thirty-five (35) feet from the intersection of the projection of right-of-way lines to the center line of the driveway, except as provided hereinafter.
- Along arterial and collector streets, access driveways to corner lots shall be located a minimum of one hundred fifty (150) feet from the intersection of the projection of right-of-way lines to the center line of the driveway except as provided for hereinafter.
- Along arterial, collector and local streets, minimum acceptable spacing between double or multiple driveways for driveways on adjacent lots or on the same parcel shall meet the criteria below:

Speed Limit (mph)	Minimum Separation* (feet)
25 or less	100
30	125
35	150
40	185
45	230

*\*Spacing of driveways shall be measured from center of driveway to center of driveway **and shall include driveways on both sides of the street.***

1.7.2.8. Number of driveways:

No more than two (2) driveways shall be permitted for ingress and egress purposes to any commercial, industrial or residential (with 10 or more parking spaces) site.

A joint access driveway shall be considered as adequate access for any adjacent sites and shall be encouraged. An easement for joint access shall be required.

1.7.2.9. Off-street vehicular circulation:

An off-street facility shall have full internal vehicular circulation and storage.

Vehicle circulation shall be completely contained within the facility, and vehicles located within one portion of the facility shall have access to all other portions without using the adjacent street system.

1.7.3. Auxiliary Lanes:

Ingress left-turn lanes requirements: A left-turn lane with appropriate storage

and transition shall be provided where a submitted engineering analysis indicates a need.

Ingress right-turn lanes: For any site, a right-turn lane with appropriate storage and transition shall be provided where a submitted engineering analysis indicates a need.

## **1.8. SIDEWALKS AND DRIVEWAY APRONS**

### **1.8.1. Driveway Aprons**

Any driveway, or section thereof, located within any public street right-of-way shall be designed and built with a permanent, erosion resistant, surface, such as hot mix asphalt pavement, concrete, or brick, as illustrated in Figures I-10 through I-12. At a minimum, all driveway aprons shall be constructed of the designated sidewalk material within the pedestrian access route.

### **1.8.2. Sidewalk Construction and Materials.**

Sidewalks shall be brick, concrete or hot mix asphalt. The City Sidewalk Materials Policy (Appendix-1 of this manual) shall be consulted to determine the appropriate type of sidewalk and driveway construction to use on various streets and in different areas of the City. Within the city's historic districts, only brick shall be used. Sidewalk and driveway construction details are illustrated in Figures I-10 through I-15.

All new concrete sidewalks and driveway aprons which abut existing concrete sidewalks must be doweled in prior to pouring.

### **1.8.3. Sidewalk Design for Accessibility.**

The minimum sidewalk width shall be five (5) feet, including the pedestrian access route through driveway aprons. Where obstructions, such as utility poles, are located in sidewalks, a minimum clear path width of five (5) feet shall be required between the obstruction and one edge of the sidewalk.

The maximum allowed vertical level change at any point is ¼-inch. A level change of ¼-inch to ½-inch shall be formed with a beveled slope no steeper than 26.6 degrees (2:1). Level changes greater than ½-inch shall be designed as ramps.

Sidewalks shall be designed with a running slope no greater than the adjacent street slope.

Sidewalks shall be designed with a cross slope of 2%, including the pedestrian access route through driveway aprons.

Accessible sidewalk ramps shall be required on all projects involving construction of new streets or new sidewalks and all projects involving major alteration, including repaving, of existing streets and sidewalks.

#### 1.8.4. Sidewalk Ramp Design:

Ramps, flares, landings and approaches shall be designed as follows:

- (1) Maximum ramp running slope shall be 8.33% for new construction. In retrofit situations, ramp slope may be between 8.33% to 10% for a rise of up to six (6) inches and 10% to 12.5% for a rise of up to three (3) inches. Ramp cross slope shall be 2% or less.
- (2) Minimum ramp width shall be four (4) feet in new construction and three (3) feet for retrofits.
- (3) Sidewalk ramps adjacent to all public streets shall be constructed with truncated dome detectable warning surface panels. The detectable warning panel shall be located so that the edge nearest the curb line is 6 inches minimum or 8 inches maximum from the curb line. The panel shall be oriented to the direction of travel as identified by the point of egress. The panel shall extend 24 inches minimum up the ramp in the direction of travel. The panel shall extend the full width of the ramp.
- (4) Detectible warning panels shall be composite wet set (replaceable) as manufactured by ADA Solutions, Inc (www. Adatile.com), or equivalent.
- (5) Distinct standards for curb ramp construction apply for locations (1) within and immediately adjacent to Historic Districts and/or Historic Landscapes (Figure I-7A) and (2) all other locations within the City (Figure I-7).
  - For locations within Historic Districts and Historic Landscapes and the areas immediately adjacent where detectible warning panels are required, "Dark Gray" (#36118) panels shall be used (Figure I-7A).
  - For all other areas, "Federal Yellow" (#33538) panels shall be used (Figure I-7).
- (6) Flares shall be designed with a maximum slope of 10% provided that a landing area at least 48 inches x 48 inches is provided at the top of the ramp. If the landing area is less than 48 inches x 48 inches, the maximum slope of the flares shall be 8.33%.
- (7) Landings shall be at least 48 inches by 48 inches for new construction and at least 36 inches x 36 inches for retrofits. Landings shall be designed with slopes in both directions that are no greater than 2%.
- (8) Approaches shall be designed with a cross slope no greater than 2% and a running slope that does not exceed the slope requirements for sidewalk ramps.

#### 1.8.5. Sidewalk Ramp Location and Orientation:

Sidewalk ramps shall be designed as perpendicular ramps with the direction of travel on the ramp perpendicular to the curb line and parallel

to the crosswalk. Where existing conditions (such as narrow right of way width) preclude such layouts, parallel ramps or diagonal ramps may be approved.

Diagonal ramps are located in the middle of a section of circular curb at a corner, where the ramp is at an angle of about 45 degrees to one or two marked crosswalks. In such cases, the crosswalks shall be laid out to encompass a 48 inch by 48 inch landing and wheelchair maneuvering area at the base of the ramp in the street.

## 1.9. Reserved

### 1.10. SURFACE AND AGGREGATES

1.10.1. Aggregates used in concrete mixes and in the construction of streets, sidewalks and aprons shall meet the requirements in SECTION 703 - AGGREGATES of the *State of Maine Department of Transportation Standard Specifications Revision of December 2002* with the following additions and modifications:

#### 703.02 Coarse Aggregate for

Concrete: Designated  
Aggregate Size

Sieve Size	Percent Passing Sieve				
	2 in.	1½ in.	1 in.	¾ in.	½ in.
2 in.	95-100	100	-	-	-
1-1/2 in.	-	95-100	100	-	-
1 in.	50-70	-	90-100	100	-
3/4 in.	-	50-70	-	90-100	100
1/2 in.	15-30	-	25-60	-	90-100
3/8 in.	-	10-30	-	20-55	-
No. 4	0-5	0-5	0-10	0-10	0-15
F.M. (+0.20)	7.45	7.20	6.95	6.70	6.10

1.10.2. Aggregate used in concrete shall not exceed the following maximum designated sizes:

- 2 inches for mass concrete
- 1-1/2 inch for piles, pile caps, footings, foundation mats, and walls 8 inches or

- more thick
- 3/4 inch for slabs, beams, and girders.
- 1/2 inch for fireproofing on steel columns and beams
- 1 inch for all other concrete

1.10.3. 703.06 (a) Aggregate Base:

Aggregate base - crushed, type "B" shall not contain ~~particles-sections~~ of rock which will not pass a two inch (2") square mesh sieve, and shall conform to the type "B" aggregate, as listed in the subsection of the Standard Specifications.

"Crushed" shall be defined as consisting of rock particles with at least 50 per cent of the portion retained on a 1/4 inch square mesh sieve, having a minimum of 2 fracture faces.

1.10.4. 703.06 (b) Aggregate Subbase:

Sand subbase shall not contain particles of rock which will not pass a one inch (1") square mesh sieve, and shall conform to the type "F" Aggregate, as listed in this subsection of the Standard Specifications.

Gravel subbase shall not contain particles of rock which will not pass a three inch (3") square mesh sieve, and shall conform to type "D" Aggregate, as listed in this subsection of the Standard Specifications.

1.10.5. 703.18 Common Borrow:

Common borrow shall not contain any particle of bituminous material.

1.10.6. 703.19 Granular Borrow:

Granular borrow shall contain no particles which will not pass a three inch (3") square mesh sieve.

1.10.7. 703.20 Gravel Borrow:

Gravel borrow shall not contain particles of rock which will not pass a three inch ("3") square mesh sieve.

1.10.8. 703.31 Crushed Stone for Pipe Bedding and Underdrain:

"Crushed Stone" shall be defined as rock of uniform quality and shall consist of clean, angular fragments of quarried rock, free from soft disintegrated pieces, vegetable matter, lumps or balls of clay, and other unsuitable substances.

Crushed stone used as a bedding material for pipe and underdrain shall be uniformly graded and shall meet the gradations listed in the tables below. The stone shall be free from vegetable matter, lumps or balls of clay, and other unsuitable substances.

Sieve Designation	Percentage by Weight Passing
3/4 – inch	100
3/8 – inch	20 - 55
No. 4	0 - 10

For pipe sizes 42 inches and larger	
Sieve Designation (square mesh sieve)	Percentage by Weight Passing
1-1/4 – inch	100
3/8 – inch	20-55
No. 4	0-10

**Minimum thicknesses for pavement structure materials:**

Street Classification	Minimum Materials Thicknesses (Inches)			
	Wearing Course Pavement	Base Course Pavement	Agg. Base Course	Agg. Subbase Course
Minor Residential	1 ½	2	3	15
Residential	1 ½	2	3	15
Collector	1 ½	2 ½	3	18
Commercial/Industrial	2	3	3	18

**Minimum placement temperatures for hot mix asphalt pavement:**

Base Temp. of	Mat Thickness, Inches					
	½	¾	1	1 ½	2	3+
40 - 50*	--	--	--	--	285	275
50 - 60	--	310	300	295	280	270
60 - 70	310	300	290	285	275	265
70 - 80	300	290	285	280	270	265
80 - 90	290	280	275	270	265	260
90+	280	275	270	265	260	255

\* Surface course pavement shall not be placed when the air or road base temperature is less than 50 degrees F.

### 1.11. STREETS ON ISLANDS IN CASCO BAY

Reserved.

### 1.12. PARKING STUDY

Parking studies shall be produced by a licensed transportation professional engineer.

Where a parking study is required, data shall be determined by values contained in the most up to date version of the Institute of Transportation Engineers (ITE)

publication titled Parking Generation, or through local, regional or other pertinent national data. If local or regional data is to be used, the scope and methodology of the parking study shall be coordinated with the City Transportation Engineer.

Where a parking study is required, the applicant's engineer shall have a scoping meeting with the City Transportation Engineer or their designee to determine the need for and required scope of the study. The requirements for the study shall be based on standard transportation engineering practices.

### **1.13. TRANSPORTATION DEMAND MANAGEMENT (TDM)**

All TDM Plans shall include specific provisions for the following:

#### **1.13.1. Transportation Narrative:**

Every TDM plan shall describe how the project fits within the multimodal transportation system serving the district in which the development is located. The narrative should address the specifics of the use, occupants, visitors, and location of the development and how it is anticipated to relate to its transportation context.

#### **1.13.2. Identify a TDM Coordinator to administer the TDM plan:**

Every TDM Plan needs to identify the plan administrator and establish the roles and responsibilities of the administrator.

#### **1.13.3. Employee and Customer Survey:**

The TDM plan shall develop and use an employee and/or customer survey format that:

- Is specifically designed to reflect the use mix within the development.
- Is electronically tabulated.
- Produces comparable data from year to year
- Allows for compilation of data from multiple employers by third party.
- Allows for data use by employees to foster car pooling and ride sharing.
- Identifies barriers to or best practices in public transit, bicycle, and pedestrian transportation.
- Can be conducted periodically (typically annually) and can be used to monitor program effectiveness and provide the basis for periodic plan adjustment (see monitoring section below).

#### **1.13.4. Set Parking and Trip Reduction Target:**

The TDM plan shall use ITE trip generation and parking demand projections as

the basis to establish a projected transportation demand and/or impact of the development. Alternatively, project-specific parking and trip generation projections may be used in place of ITE standards, if estimated by a licensed professional engineer and approved by the City. A project specific demand analysis may be advantageous to projects that can demonstrate reduced parking demand and trip generation based on approved assumptions in their TDM and Site Plan.

The TDM plan must use the specific use, location, local alternative transportation opportunities, and initial survey results to establish an achievable percentage reduction in transportation demand for the project. The TDM plan will utilize the stated parking and trip reduction targets as the basis for reduced infrastructure and contribution requirements for the Planning Board's evaluation.

#### 1.13.5. Customize Parking and Trip Reduction Strategies:

Every TDM plan must be customized to reflect the specific mix of use proposed for the development. For example, A residential development will utilize a very different approach to reducing project generated parking and trips than an office building. Likewise, the administration of the TDM plan and the role of the TDM Coordinator must adequately respond to the scale of the development, the uses in the development, as well as the ownership framework and management of the facility.

#### 1.13.6. Education:

The TDM plan shall, at a minimum include provisions for the following. All educational information and programs shall be readily accessible to all project occupants.

- Transit maps and schedules. These shall be posted and updated by the TDM Coordinator, as necessary.
- Access to Information concerning transportation providers and guaranteed ride home services such as: car pooling list serves and/or van pool providers.
- Internal information sharing such as posting a "Ride Board" or employee email list-serve to facilitate car pooling and to share the results of employee and customer surveys.
- Educational and promotional materials that describe and identify the advantages and cost saving opportunities of using alternative transportation, including specific incentives offered by the employer.
- Recognition of employees who reduce the traffic impact of the development through newsletter, email, bulletin board, or other announcements.
- Information on bicycling routes, parking infrastructure and locations and other amenities or incentives that may be available.

#### 1.13.7. Monitoring:



All TDM plans must include provisions for monitoring program effectiveness over time to establish whether trip reduction targets are being met.

**Responsibility:** TDM Coordinators and/or plan administrators are responsible for monitoring the efficacy of the TDM plan periodically over time and making adjustments to the plan needed to achieve trip reduction targets.

**Methods:** The methods and scheduling of monitoring shall be outlined in the TDM plan and shall follow accepted transportation engineering. Monitoring methods will typically involve use of the periodic survey combined with direct observation.

**Reporting:** TDM plan monitoring shall be compiled into a report that compares the results to trip reduction targets and parking demand projections. The monitoring results shall be provided to the Reviewing Authority according to the monitoring schedule established in the TDM plan.

#### 1.13.8. Project Specific Standards:

Individual TDM Plans shall assess the following topics on a site-specific basis tailored to the transportation needs of the development.

##### 1.13.8.1. Infrastructure:

On-site and off-site infrastructure improvements may be incorporated to achieve trip reduction targets and may include the following:

- **Public Transit Access:** The TDM plan shall identify how occupants and/or visitors will access public transit. Pedestrian links to bus routes and other transit links shall be identified and their usability assessed for sidewalk condition, ADA accessibility, street lighting, cross walk facilities, wayfinding, and general safety and attractiveness. The nearest sheltered public transit facility shall be identified. Deficiencies in the links to public transit that constitute barriers to its use shall be addressed in the TDM plan and in the site plan.
- **Bicycle Parking:** Minimum bicycle parking is a site plan requirement according to ~~Article 14~~[Section 14-526](#) of the Land Use Code. The TDM plan may incorporate additional bicycle parking, bicycle wayfinding, and/or covered parking to further encourage bicycle use.
- **On-site Shower and Locker Facilities:** Access to showers and locker facilities may be incorporated into the TDM Plan in order to encourage human powered transportation alternatives.
- **TDM Bulletin Board or Kiosk:** TDM plans shall identify to occupants where information and educational material will be provided within the development a visible and convenient facility such as a transportation bulletin board and/or kiosk. In multi-tenanted facilities, transportation information shall be provided in the lobby of the structure or other such

location that is accessible and frequented by a significant majority of occupants and visitors to the facility. The TDM coordinator shall be responsible for keeping all material current and available, as needed.

1.13.8.2. Incentives: Incentives available to users and/or occupants of the development may be incorporated to achieve trip reduction targets and may include the following:

- Parking “Cash Out”: TDM plans may include “parking cash out” incentives where employees have the choice of receiving monetary payments in lieu of provided parking. The efficacy of these programs will need to be carefully assessed and the method of monitoring must be described in the TDM plan.
- Public Transit Passes/Van Pool vouchers: Free or reduced price bus passes or van pool vouchers may be used as an incentive in the TDM plan. The use of transit options should be incorporated into the employee/customer survey and incorporated into the plan monitoring program. Transit payment options may be combined with parking cash out incentives, where appropriate.
- Preferred parking for car pool: Car pooling employees may be provided with more convenient and attractive parking, if available. If this option is incorporated into the TDM plan, the location of preferred parking shall be identified on the site plan and signed accordingly.
- Car sharing: Residential developments may incorporate shared car services or jointly owned vehicles into the TDM plan. Commercial development TDM plans may identify use of a shared vehicle for use by employees for either commercial or personal trips through the work day as a means to encourage alternative commuting to work.
- Telecommuting, flex time, and other flexible work scheduling mechanisms that promote fewer employee trips to work or promote alternative transportation travel.

\*Other incentives infrastructure improvements and/or methods as may also be appropriate to the development.

#### **1.14. PARKING LOT AND PARKING SPACE DESIGN**

Refer to ~~Article 19~~~~Division 20~~ of the City Land Use Code (~~Sections 14-331 to 14-350~~) for zoning ordinance requirements concerning the number of parking spaces required for off-street parking.

1.14.1. Parking lots, except for temporary lots to be used for less than one year, shall be constructed of a permanent and durable hard surface that is not subject to ponding or erosion.

1.14.2. Parking spaces shall meet the following dimensional requirements:

- Standard parking space: 9 feet wide by 18 feet long.

- Compact parking space: 8 feet wide by 15 feet long.
- Motorcycle/motorized scooter parking space: 4 feet wide by 8 feet long.

Any parking lot with 10 or fewer spaces shall contain standard sized parking spaces. Parking lots with greater than 10 spaces may be comprised of up to 20% compact parking spaces.

1.14.3. Parking lot layout shall conform to Figures I-28 thru I-32.

1.14.4. Where off-street parking for more than six vehicles is required or provided, the following construction requirements shall apply:

- Appropriate driveways from streets or alleys, as well as maneuvering areas, shall be provided. Location and width of approaches over public sidewalks shall be approved by the traffic engineer.
- The surface of driveways, maneuvering areas and parking areas shall be uniformly graded with a subgrade consisting of gravel or equivalent materials at least six inches in depth, well compacted, and with a wearing surface equivalent in quantities of compaction and durability to fine gravel.
- A system of surface drainage shall be provided in such a way that the waste run-off shall not run over or across any public sidewalk or street.
- Where artificial lighting is provided, it shall be shaded or screened so that no light source shall be visible from outside the area and its access driveways.

1.14.5. Vehicular access shall be provided by one or more aisles. Minimum widths of aisles are illustrated in Figures I-28 thru I-31.

## 1.15. BICYCLE PARKING

Refer to Article 19~~Division 20~~ of the City Land Use Code (~~Sections 14-332.1~~) for zoning ordinance requirements concerning the number of bicycle parking spaces required.

Bicycle parking shall:

- Provide secure, durable racks that maintain bicycles in an upright position and to which bicycles can be affixed with customary lock and cable mechanisms. Fence-type (“wheel bender”) racks designed to secure the front wheel only are prohibited.
- Be installed on a hard surface.
- Be separated from car parking by a physical barrier such as curbing, wheel stops, parking bollards or similar features.
- Be adequately illuminated where nighttime use is anticipated.

1.15.1. Bicycle parking intended for long-term use (residential or full-time employee parking) shall be provided under covered areas and/or in secure storage lockers.

1.15.2. Placement of off-street bicycle parking racks shall conform to the Bicycle Parking Rack Placement Criteria (*drawn from the Bicycle Facility Design Guide of the District Department of Transportation, 2006*) as illustrated in Figure I-33.

1.15.3. Commercial, Industrial (requiring more than ten (10) bicycle parking spaces):

- A minimum of ten percent (10%) of required bicycle parking shall be provided within fifty (50) feet of the main egress point of the structure, or shall be no further from such entry than the nearest five (5) non-handicapped parking spaces.
- Where there is more than one structure on a site, or where a structure has more than one main entrance, the parking shall be distributed to adequately serve all structures or main entrances.

1.15.4. Directional Signage: If bicycle parking is not directly visible from the public right of way, directional signage shall be provided indicating the availability and location of bicycle parking facilities.

1.15.5. Approved Bicycle Racks:

Private property: A variety of commercially available racks are acceptable for installation on private property, including but not limited to those catalogue listings identified herein (Figures I-34 and I-35).

In the Public Right-of-Way: Where site conditions cannot reasonably accommodate bicycle parking on private property, it may be located within a public sidewalk area either adjacent to or within reasonable walking distance of the site, if such areas are available that meet the Bicycle Parking Rack Placement Criteria of this chapter (*drawn from the Bicycle Facility Design Guide of the District Department of Transportation, 2006*) – see Figure I-33. If no such location is available, a financial contribution commensurate with the cost for purchase and installation of the required number of bicycle racks shall be made to a City infrastructure account.

The following approved brands, installed according to company specifications, shall be permitted in the public right of way. Equivalent bicycle racks by other manufacturers are acceptable upon approval by the reviewing authority.

- DERO 'Downtown Rack' Inverted U-Rack (Figure I-35)
- DERO 'Bike Hitch' (Figure I-34)
- Old Port District, including Commercial Street: DERO Bike Hitch only (Figure I-34)

Bicycle racks in the public right of way shall become the property of the City of Portland.

Bicycle racks in the public right of way shall match the designated street furniture color for that location as described in the Municipal Street Lighting Standards in this manual. Where there is no designated street furniture color,

bicycle racks in the public right of way shall be black (manufacturer's specification).

#### **1.16. BICYCLE ROUTES AND LANES**

The City has developed a Bike Route Network Map (Figure I-35) to show present and proposed bike routes on City streets. These routes are typically accomplished by providing either dedicated lanes or "Share the Road" methodology. Positive identification of the lanes shall be provided by pavement markings, bike lane symbols, and signage. The following standards shall be applied to the installation of bike lanes on City streets:

- Vehicular travel lanes and bicycle lanes shall be separated by a six (6) inch solid white painted edge line. At intersections the white edge line shall be a dotted line (two (2) foot painted length by four (4) foot opening) across the intersection.
- Bike lanes shall have a minimum width of five (5) feet. Where sufficient shoulder width is provided, a second edge line shall be painted off the face of the curb at one (1) or two (2) feet. This edge line shall not extend across intersections. See Figure I-36
- When bike lanes are provided on streets with on-street parking, the bike lane shall be a minimum of six (6) feet wide delineated by edge lines on either side of the bike lane. See Figure I-37
- Bicycle lanes shall be marked with appropriate stenciled symbols; see Figure I-38 for two examples.
- Bike routes shall be identified by appropriate signage as found in the FHWA 'Manual of Uniform Traffic Control Devices'. See Figure I-38 for examples.

#### **1.17. Reserved.**

#### **1.18. MOTORCYCLE / MOPED PARKING (ON-STREET):**

To distinguish motorcycle/moped parking spaces from standard parking spaces the spaces shall be painted and delineated with signage. These painted spaces shall be angled and shall be four (4) feet wide by eight (8) feet long. The dimensions for on-street motorcycle/moped parking are outlined in Figure I-31. On-street motorcycle and moped parking may also be located where standard vehicle parking would be prohibited because of sight restrictions, such as, adjacent to a crosswalk or an approach to a traffic control device. Motorcycles/mopeds do not have the same sight impediment as a standard vehicle.

#### **1.19. TRAFFIC SIGNALS**

New or modified traffic signals require the submission of a traffic signal plan including location of all equipment, underground utilities, a phasing and timing plan and a specific list of all traffic signal hardware. For new or modified traffic signal installations, a new plan shall be submitted to the reviewing authority for review and approval before installation can proceed.

Listed below are the traffic signal items required for traffic signal installations. These items or an approved equivalent shall be provided.

1.19.1. Controller Equipment:

- Controllers shall be compatible with existing Naztec Street Wise ATMS Software
- Traffic control cabinets shall be Naztec Model M34 or P44 TS2 Type 1 Series only
- Secondary traffic controllers shall be Naztec Model 980 TS2 Type 1 Series only
- Master controllers shall be Naztec Model 981 Series only
- Malfunction management units shall be Naztec Model MMU-516E only

1.19.2. Video Detection Equipment:

- Video detection units shall be Traficon Model VIP3.1 & VIP3.2 Series only
- Video detection cameras shall be Traficon approved models only

1.19.3. Signal Equipment:

- Signal housings shall be McCain Model MTSTA or MTSTP Series only
- LED modules for vehicle indications shall be GELcore Model DR6 Series only
- LED modules for pedestrian indications shall be GELcore Model PS7 Series only
- Accessible Pedestrian Signals shall be Campbell Advisor Series only

1.19.4. Traffic Structures:

- Mast arms shall be Valmont SM16 or CB16 Series only
- Strain poles shall be Valmont SW56 Series only.

**1.20. PUBLIC CROSSWALKS**

Public crosswalks shall meet the requirements of The Manual on Uniform Traffic Control Devices (MUTCD), unless City standards specify a stricter measure. Public improvements may include but shall not be limited to any one or combination of the following:

- Crosswalks;
- Curb Bump Outs or Curb Extensions;
- Pedestrian Crossing Signs (curbside, overhead or in the street);
- Pedestrian Activated Yellow Flashing Warning Lights;

- Pedestrian Activated Traffic Control Signal (Red, yellow, green);
- Medians

1.20.1. Critical Physical Factors:

Walking Speed:

- This factor is applicable at signalized intersections and affects the length of the pedestrian clearance (flashing “don’t walk”) interval.
- Average walking speed is generally measured as three and a half (3.5) feet per second. In areas with elderly or young children pedestrians, a rate of three (3) feet per second is appropriate.

Vehicular Sight Distance:

- Sight distance shall be based on the posted speed plus 5 miles per hour or the 85<sup>th</sup> percentile travel speed as tabulated below.

<b>Speed (mph)</b>	<b>Stopping Sight Distance (feet) *</b>
25	155
30	200
35	250
40	305
45	360
50	425

\*Assumes level grade

Source: AASHTO Policy reference 1, Exhibit 3-1 of that publication.

- Sight distance shall be based on a driver eye height of 3.5 feet and a pedestrian height of 2.0 feet.
- Parking shall be prohibited within twenty (20) feet from the centerline of a crosswalk and within thirty (30) feet at signalized and STOP sign locations.

1.20.2. General Standards for Crosswalk Installation:

1.20.2.1. The Manual on Uniform Traffic Control Devices (MUTCD) provides guidance for placement of crosswalks. In addition, crosswalks should:

- Occur where substantial pedestrian/vehicle conflicts exist. (See The Federal Highway Administration notebook titled “Traffic Conflict Techniques for Safety and Operations” which provides methods for conflict evaluation.)
- Occur at points of pedestrian concentration that can meet applicable standards or where pedestrians may not recognize the appropriate place to cross (e.g., loading islands, mid-block pedestrian crossings).
- Maintain suitable separation (approximately 300 feet) between non-intersection or mid-block crosswalks.
- Be installed based on an engineering study if located other than at a STOP

sign or traffic signal. For mid-block locations, a study shall evaluate factors of need including but not limited to school crossings, age of pedestrians, and nearest alternative crosswalk location as well as safety issues such as traffic speed, volume, and sight lines.

- Consider advance warning signage if installed at uncontrolled locations and allow for restriction of parking for adequate visibility of the advance signage.
- No crosswalk spacing requirements are to be imposed at intersection locations. Other engineering factors are to be reviewed in the determination of suitability of the location.

1.20.2.2. The Crosswalk Installation Guidelines (Figure I-24) provide criteria for guiding evaluations of when crosswalks may be desirable at uncontrolled locations based on pedestrian and vehicular volumes. Crosswalks at uncontrolled locations shall be placed where these criteria are met; or where special requirements and/or plans exist that support the installation of a crosswalk.

1.20.2.3. Crosswalks proposed at signalized intersections shall include pedestrian signal indications for substantial pedestrian crossings.<sup>1</sup> Each proposed location shall be evaluated based on through traffic volumes, turning vehicle volumes and signal phasing to determine which legs of the intersection are most appropriate for pedestrian crossings.

<sup>1</sup> Design and Safety of Pedestrian Facilities, 1998, ITE Technical Committee 5A-5

The default assumption is that crosswalks shall be provided on all intersection approaches and supplemental analysis must be provided that identifies specific engineering conclusions on why this cannot be accomplished.

1.20.2.4. Marked crosswalks across stop controlled intersection approaches shall be considered where vehicular traffic may block pedestrian traffic<sup>2</sup>. This will be assessed based on a visual observation of vehicular and pedestrian traffic flow at the intersection to determine if there is sufficient vehicular traffic to block the pedestrian crossing path for a significant period of time.

### 1.20.3. Design Criteria:

Street Markings: Crosswalks on public streets shall use a minimum of eight (8) inch wide solid white lines, which should be spaced to provide a minimum overall width of eight (8) feet. Wider line width is required for locations with higher posted speeds as shown in Table 2. Paint, wherever used, shall meet Maine Department of Transportation (Maine DOT) specifications. Additional designs may consist of longitudinal lines. Figure I-21 illustrates these typical crosswalk markings and Table 2 provides dimensions utilized in the City of Portland for various applications.



Table 2 Crosswalk Dimensions			
Type	Overall Width	Line Width	Spacing
<b>Standard Crosswalk Marking (two lines)</b> Posted Speed ≤ 35 mph Posted Speed > 35 mph	8' 8'	8" 12"	N.A.
<b>Crosswalk With Longitudinal Lines (block style)</b> (See Table 4)	8'	24"	Spacing 4' o.c.

The longitudinal or block style striping of crosswalks should be reserved for use at the following locations (see Table 4):

- Uncontrolled locations of special significance, such as school walking routes, trail/shared-use paths and mid-block crossings;
- High volume pedestrian locations with at least 25 pedestrian crossings for each 4 hours or 40 crossings during the peak hour; and
- High vehicle speed (> 35 mph posted speed) crossings.

1.20.3.1. Street Lighting: Crosswalk locations shall be adequately illuminated for night-time use.

<sup>2</sup> Pedestrian Facilities Users Guide, March 2002, USDOT - FHWA

1.20.3.2. Signage: Select crosswalk locations may need to be accentuated through the use of signage mounted curbside, overhead, or on the road centerline, as described below:

1.20.3.3. Curbside Signs: There are three standard curbside signs consisting of a crosswalk warning sign, a school crossing warning sign, and an advance warning pedestrian crossing sign. The City of Portland also installs “yield for pedestrians” signs at crosswalks, as shown in Figures I-22 and I-23. Crosswalk signs shall be placed directly adjacent to crosswalks and advance warning signs shall be placed in accordance with the MUTCD guidelines as shown on Table 3.

Table 3 Advance Warning Sign Placement (2)	
85 <sup>th</sup> Percentile Speed* (mph)	Advance Placement (feet)
25	125**
30	125**
35	125**
40	125
45	175

\*or the posted speed when a speed study is not available.

\*\*recommended minimum for the City of Portland

Source: Table 2C-4 of the MUTCD.

1.20.4. Standard signs shall be black legend on a yellow background. The MUTCD also allows the use of a yellow-green fluorescent high grade reflective background for increased visibility. These higher grade signs shall be used where locations meet at least one of the following criteria:

- Vehicle 85<sup>th</sup> percentile speeds or the posted speed is greater than or equal to 35 mph;
- Pedestrian crossing volume of at least 25 per hour for four hours or 40 during the peak hour; or
- School crossing.

1.20.4.1. Overhead Signs and Flashing Warning Lights: Overhead signs supplemented with pedestrian activated flashers may be placed at high volume pedestrian crossing locations or where specific pedestrian safety issues have been identified.

1.20.4.2. Centerline Signs: Centerline signs shall be able to withstand vehicle impact without damage to the vehicle and with minimal damage to the device and shall be anchored in place. Note that these devices must be removed without damaging the pavement prior to the start of winter season. The City recommends a device with a base anchored to the pavement with epoxy and a flexible upright paddle that is replaceable. The following criteria should be considered for these devices to be utilized:

- Presence of a high crash location (HCL) as defined by Maine DOT: Both of the following criteria must be met in order to be classified as an HCL:
  - A critical rate factor of 1.00 or more for a three-year period. (A Critical Rate Factor (CRF) compares the actual accident rate to the rate for similar intersections in the State; and
  - A minimum of eight (8) accidents over a three (3) year period.
- Principal or minor arterial, as identified in Figure -24.
- At least 25 pedestrian crossings per hour for four (4) hours or 40 pedestrian crossings for the peak hour.

1.20.5. Traffic Control Signals: The following provides general guidance concerning installation of a pedestrian activated red-yellow-green traffic control signal. The MUTCD should be consulted for specific details:

- The location is a school crossing and a traffic engineering study reveals that there are not adequate gaps in the traffic stream; or
- There are 107 pedestrian crossings for each of four (4) hours or 133 crossings during any one hour and under both conditions for high volume roadways. Higher rates of pedestrian crossings are necessary for lower volume streets. The number of pedestrians may be reduced by 50% where they are predominantly elderly or young children to include

crossing locations along school walking routes for elementary and middle school students.

1.20.6. Specific Guidelines for Crosswalk Use: The City of Portland has established the following guidelines for pedestrian street crossing devices (Table 4):

<b>Table 4: Pedestrian Crossing Devices</b>	
<b>Device</b>	<b>Use *</b>
<b>Crosswalk –</b>	
a. 8" lines, 8' total width	Where volume criteria of Figure I-25 are met and speeds are less than 35 mph and at signalized intersections.
b. 12" lines, 8' total width	At all unsignalized locations where volume criteria of Figure I-25 are met and speeds are between 35 and 45 mph.
c. 24" block style lines, 8' width	At mid-block locations where volume criteria of Figure I-25 are met and speeds are between 35 and 45 mph, at all school and trail/shared-use path crossings and as noted in (Design Criteria) above, subsection 1.17 or at uncontrolled locations as determined by the Traffic Engineer.
<b>Curbside signs –</b>	
a. Advance Crossing Signs	For all mid-block crosswalks and other uncontrolled locations as determined by Traffic Engineer.
b. Crossing Signs	
1. Standard Grade	At all locations where crosswalk lines alone are not sufficient to define the crossing location to motorists at the discretion of the Crosswalk Committee.
2. High Grade	Speed greater than or equal to 35 mph; or 25 pedestrians crossing per hour for four hours or 40 pedestrians crossing for the peak hour
3. School	In accordance with MUTCD

<b>Table 4: Pedestrian Crossing Devices (cont.)</b>	
<b>Device</b>	<b>Use *</b>
<b>Overhead Signs/Flashers</b>	On arterial roadways or roadways with at least two lanes of traffic in at least one direction
<b>Centerline Signs</b>	As noted in 1.17.4.2, above.
<b>Traffic Control Signal</b>	Consider at locations meeting MUTCD warrants for school crossings or pedestrian volume crossings.

\*All speeds are 85<sup>th</sup> percentile speeds for off-peak daytime periods or the posted speed.

## **1.21. PUBLIC TRANSIT FACILITIES**

Where required, public transit facilities shall meet the following standards:

### **1.21.1. Transit Pullout Bays:**

1.21.1.1. Transit pullout bays shall be located in the City right of way along the property frontage; or

1.21.1.2. Where space constraints prevent locating a transit pullout bay along

the property frontage, within reasonable walking distance of the site.

1.21.1.3. The design of the pullout bay shall provide adequate space for vehicles to maneuver through facilities without causing damage to either the vehicles or facilities, as detailed in Section I of the Technical Manual.

1.21.2. Transit Shelters:

1.21.2.1. Transit shelters shall be located within the site, directly adjacent to the right-of-way on which the public transportation route is established; or

1.21.2.2. Where site constraints prevent locating a transit shelter on the site, it shall be located within a public sidewalk area along the property frontage. If a transit shelter is to be located within a public sidewalk area, City sidewalk clearance requirements.

1.21.2.3. Where space constraints prevent locating a transit shelter within a public sidewalk area along the property frontage, it may be located within reasonable walking distance of the site.

1.21.2.4. Installation and ongoing maintenance of transit shelters on private property shall be the responsibility of the property owner. Ongoing maintenance of transit shelters located in the City right of way shall be the responsibility of the City or of the local or regional transit authority serving the facility.

1.21.3. Where necessary, developments shall provide easements to the City, sufficient in size to accommodate public transit infrastructure.

**1.22. CONSTRUCTION PERMITTING AND TRAFFIC CONTROL PLANS**

1.22.1. Construction activity in the public right-of-way is controlled by Chapter 25 Article VII of the City Code of Ordinances. Required licenses and permits, restrictions on activity, and fees & charges are all outlined in that Chapter. Rules and Regulations for Excavation Activity are available through the Street Opening Clerk at the Department of Public Services.

1.22.2. Sewer and stormwater system connections are controlled by Chapters 24 and 32 of the City Code of Ordinance. Required permits for new connections and/or abandonment of existing connections are available through the Street Opening Clerk at the Department of Public Services. Rules and Regulations for these utility systems are available through the City Engineer's office of the Department of Public Services. See also Section II of the Technical Manual for lateral abandonment requirements associated with demolition permits.

1.22.3. Traffic Control Plans: Construction activity that impacts the existing public street system must be controlled to protect the safety of the construction workers and all modes of the traveling public. Projects that will occur along arterial and/or collector streets are required to submit a satisfactory 'maintenance of traffic' (MOT) plan prior to any site plan, subdivision, or street opening permit approval.

Maintenance of Traffic (MOT) plans shall provide for the safe passage of the public through or along the construction work zone. On a case-by-case basis applicants may be allowed to close a street and/or detour a mode of traffic when absolutely necessary for safety. MOT plans shall employ the appropriate techniques and devices as called for in the latest edition of the Manual on Uniform Traffic Control Devices (MUTCD). In addition:

- Construction speed signing may be used as needed to slow traffic
- Traffic Control signs shall not be placed where they are an obstruction to bicycles or pedestrians.
- In extreme situations, flaggers may be required to allow for safe pedestrian and bicycle movement

1.22.4. All existing modes of travel in the work zone area shall be accommodated if impacted by the activity. The safe passage of pedestrians, bicyclists, transit providers, and motorists are of equal importance when planning out the work zone; no pre-existing travel mode may be eliminated without the express approval of the Department of Public Services.

- Traffic control for bicycle and pedestrian facilities or routes through work zones shall be maintained until the bicycle and pedestrian facilities or routes are ready for safe operation. Traffic control will not be removed to allow auto travel at the expense of bicycles and pedestrians.
- Barrier systems utilized to separate the construction activity from the public street and/or sidewalk shall not inhibit sight distances, particularly for visibility of pedestrians and bicyclists.

1.22.5. Use of public parking spaces or the blockage of any portion of sidewalk for the purpose of construction activity shall require an occupancy permit and appropriate fee as assessed by the Department of Public Services.

### **1.23. INFRASTRUCTURE CONTRIBUTIONS**

Projects that generate traffic, which impacts roadways and intersections already operating at substandard levels of service E or F or adds traffic to improvement districts within the City (**as identified on the attached map - Figure I-39**) shall contribute towards future improvements. A contribution is not required when the applicant implements improvements to fully mitigate a project's impact.

The contribution amount shall be based upon the percentage impact of the project during the Weekday PM peak hour. Specifically, a percentage calculation of the trip generation increase as compared to No-Build traffic levels multiplied by the capital cost of implementing an improvement plan. If an improvement plan has not been identified for complex locations, the applicant shall fund a study that identifies required improvements.

# MEMORANDUM

To: Matthew Grooms, AICP, City of Portland, ME  
From: Lisa Wise Consulting, Inc  
Date: June 22, 2020  
Subject: **ReCode Portland, Article 19 Signs**

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## **Introduction and Background.**

The purpose of this memorandum is to provide background information on the City's update of the Sign regulations, Division 22, Signs, of the Portland Code of Ordinances and to provide a comparison of the City's current regulations relative to the new sign standards now included in Article 19, Sign Standards of the City's Draft Land Use Code.

In response to a Request for Proposals issued in March 2018, Lisa Wise Consulting, Inc. (LWC) was hired by the City of Portland in May 2018 to modernize and update the City's sign regulations and to achieve the following objectives:

- Analyze the effectiveness of the City's sign regulations and ensure that updated sign regulations are consistent with state and federal law and the U.S. Supreme Court's June 2015 decision in *Reed v. Town of Gilbert*;
- Ensure the updated sign regulations are consistent with existing City planning documents such as the recently adopted Comprehensive Plan;
- Provide recommendations on standards that may be absent from the current sign code and that would be appropriate in Portland;
- Develop a modern, ease-to-use sign code that is well organized, responsive to City needs, includes clear and effective standards for permanent and temporary signs; and
- Include updated definitions and easy-to-understand and apply graphics and illustrations;

After a kick-off meeting with City staff in May 2018, in June LWC conducted in-person stakeholder interviews and a community workshop. These meetings, as well as a detailed review and analysis of the City's existing sign standards informed the Sign Code Diagnosis and Recommendations Report which was completed and submitted in September 2018. This report identified the key issues and challenges with the existing regulations and provided recommendations on how the code could be updated to meet the City's objectives.

An Administrative Draft was submitted to staff in October 2018, and following extensive staff review and discussions with LWC, the Public Review Draft was provided to staff in October 2019. Work on the sign regulations slowed at about this time as City staff prioritized working on the ReCode Portland update to the City's Land Use Code, with the understanding that the new sign regulations would be inserted into this updated document.

## Overview of *Reed v. Town of Gilbert*

For many years, U.S. courts have affirmed that sign regulations must be “content-neutral” to survive a legal challenge. In order to be content-neutral, the sign regulations must be based on “time, place, and manner” restrictions, rather than by making distinctions based on the message the sign conveys. This content-neutral distinction in sign regulation became even more important following the U.S. Supreme Court’s decision in *Reed v. Town of Gilbert* in June 2015, when regulating signs in a content-neutral manner to satisfy First Amendment limitations became more difficult for local governments. In this landmark First Amendment case available here ([www.supremecourt.gov/opinions/14pdf/13-502\\_90lb.pdf](http://www.supremecourt.gov/opinions/14pdf/13-502_90lb.pdf)) all nine Supreme Court justices agreed that the Sign Code of the Town of Gilbert, Arizona, failed the First Amendment’s content neutrality requirement.

The Town of Gilbert’s Sign Code distinguished between a variety of sign types, providing different standards for “political signs”, “ideological signs”, “directional signs”, “real estate signs”, and others. The pastor for a local church placed temporary signs in public rights-of-way to advertise religious services, and the Town’s enforcement staff enforced its Sign Code against the church’s temporary signs. Consequently, the church filed a challenge to the Town’s Sign Code. The federal district court upheld Gilbert’s Sign Code on summary judgment, a decision that was affirmed by the Ninth Circuit Court of Appeals. The church then appealed to the U.S. Supreme Court.



*One of the signs at issue in the Reed case.*

*Source: New York Times, Justices Side with Arizona Church in Dispute over Sign Limit*

The U.S. Supreme Court heard this case in 2015 (it was the first Supreme Court case to address local sign regulations in over twenty years). Six justices agreed that Gilbert’s Sign Code improperly distinguished between types of noncommercial speech based on the subject matter of the speech; the Code was facially content-based. The reason behind this decision was that Gilbert’s Sign Code made several exceptions to the permitting requirement for signs, including,

for example, exceptions for “political”, “ideological”, and “temporary directional signage for qualifying events”, and regulated each of these excepted forms of signage in different ways. The Court majority found that these distinctions were regulated based on the signs’ content, which is prohibited under the Court’s First Amendment doctrine.

Further, because Gilbert’s Code regulated signs based on the content or message of speech, the Code was, therefore, subject to what is called a “strict scrutiny” standard of review. Strict scrutiny requires that a compelling governmental interest must be demonstrated and that the regulations must be narrowly tailored to serve that compelling governmental purpose. The Court found that the Town failed to meet this standard and held that Gilbert’s Sign Code was invalid. On the other hand, a regulation that is “content-neutral” is subject to “intermediate scrutiny”, i.e. the regulation furthers a significant or important governmental interest that is unrelated to the suppression of speech, is narrowly tailored, and it provides ample alternative channels for communication.

Since the Reed decision, several lower courts have invalidated content-based regulations of noncommercial speech, particularly those relating to political signs (*Marin v. Town of Southeast*). The lower courts have also upheld several examples of content-neutral time, place, and manner regulations, including restrictions on painted wall signs (*Peterson v. Village of Downers Grove*), murals (*Kersten v. City of Mandan*), and a New York City prohibition on illuminated signage extending more than 40 feet above curb level (*Vosse v. City of New York*). In *Central Radio, Inc. v. City of Norfolk*, the lower court looked unfavorably at specific exemptions for artwork, and based on this decision, some cities have also chosen to exclude flags from their sign regulations as they could be considered an ideological message.

“Time, place, and manner” restrictions, as the name suggests, limit the length of time, the manner, and place or location of a sign. As an example, well-written sign regulations may include a limitation on the length of time they may be displayed, especially for portable or temporary signs, such as A-frames or banner signs; restrictions on the total area, maximum height, or illumination of a sign; and where the sign may be placed (i.e. so as not to encroach within the public right-of-way).

### Content-Based Regulations vs. Content-Neutral Regulations

- What does sign say?
- Message determines if it stays up or down, or applicable regulations
- Time
- Place
- Manner



*The distinction between a content-based and a content neutral sign.*



The City’s existing sign standards provide comprehensive standards for the design, placement, and illumination of signs and sign structures for both permanent and temporary signs. However, some of the current sign standards are not content-neutral, including, for example, the following sign types:

- Seasonal sales/special activities signs
- Political signs
- Real estate/construction/for sale or lease signs.

### Summary of Major Changes to Article 19, Signs

As noted previously City staff have prioritized the completion of ReCode Portland, the new Land Use Code, and working with the Planning Board on this important coding project. For most articles in the new Land Use Code, the City’s existing standards and procedures are being carried forward into a new reorganized, updated, and more user-friendly format. However, as was described in the 2018 Sign Code Diagnosis and Recommendations Report, the sign regulations required significant reorganization to present the standards in a user friendly manner following established best practices, additional updated standards were needed to address for example changes in lighting technology, and to ensure compliance with *Reed* and consistency with other adopted City documents.

One of the primary goals of the updated Sign Article is to ensure that all sign regulations are legally-defensible and consistent with applicable federal and State requirements including the U.S. Supreme Court’s decision in the *Reed v. Town of Gilbert* sign code case. The updated Sign Article will rely on existing administrative procedures and standards as much as possible, while ensuring that clear, concise, user-friendly, and well-illustrated sign regulations are provided.

Table 1 provides a simple comparison of the Table of Contents for Division 22, Signs in the City’s existing Code of Ordinances with the proposed Table of Contents for Article 19, Sign Standards in the new Land Use Code. This Table of Contents establishes a logical organization for the Article consistent with the format of the Land Use Code, groups similar standards into Sections and Subsections, and provides a simple and clear approach for organizing the standards.

**Table 1: Comparison of the Tables of Content for Division 22, Signs and Article 19, Sign Standards**

Existing Code: Division 22 – Signs	ReCode: Article 19 – Sign Standards
Sec. 14-366. Purpose	<b>19.1 Purpose</b>
Sec. 14.366.5. Applicability	<b>19.2 Definitions</b>
Sec. 14-367. Definitions.	<b>19.3 Applicability</b>

<b>Existing Code: Division 22 – Signs</b>	<b>ReCode: Article 19 – Sign Standards</b>
Sec. 14-368. Regulations.	<b>19.4 Review Procedure</b>
Sec. 14-368.5. Permits.	19.4.1 Review Authority
Sec. 14-369. Computations.	19.4.2 Applications and Fees
Sec. 14-369.5. Tables.	19.4.3 Permanent Sign Permits
Table 1. Permitted sign types by zone.	19.4.4 Temporary Sign Permits
Table 2.1: RI—R6, IRI—IR3, IS-FBC UN: Residential and Island Residential Zones	19.4.5 Signs in Historic Districts
Table 2.2: Institutional Uses in Residential Zones	19.4.6 Appeals
Table 2.3: Residence-Professional (R-P) Zone	19.4.7 Waivers
Table 2.4: ROS & RPZ Open Space Zones and Signs in All Municipal Parks	<b>19.5 Sign Districts Established</b>
Table 2.5: Neighborhood Business (B-1) Zone— Single Tenant Lots	<b>19.6 General Restrictions for All Signs</b>
Table 2.6: Regional Business (B-2) Zone, IS-FBC UT or UA Zone — Single Tenant Lots	19.6.1 Location Restrictions
Table 2.7: Airport Business (AB) Zone	19.6.2 Prohibited Signs
Table 2.8: Sign Regulations by Zone	19.6.3 Display Restrictions
Table 2.9: Island Business (IB) Zone	<b>19.7 General Requirements for All Signs</b>
Table 2.10: Commercial Corridor (B-4) Zone — Single Tenant Lots	19.7.1 Sign Measurement
Table 2.11: Office Park (O-P) Zone	19.7.2 Computation of the Number of Signs
Table 2.12: Industrial I-L, I-Lb, I-M, I-Ma, I-Mb, I-H, I-Hb and Waterfront Port Development Zones	19.7.3 Sign Illumination
Table 2.13: Multi-Tenant Lots— B-1, B-2, AB, B-4, IB, and IS-FBC UT or UA Zones	19.7.4 Changeable Sign Copy
Table 2.14: Gas Stations— All Zones Where Permitted	19.7.5 Structure and Installation
Sec. 14-369.6. Signs prohibited under this division.	19.7.6 Sign Maintenance
Sec. 14-370. Portable/temporary signs.	<b>19.8 Standards for Permanent Signs</b>
Sec. 14-370.7. Special sign types.	19.8.1 Allowed Sign Types by Sign District
Sec. 14-371. Exemptions.	19.8.2 Permanent Building-Mounted Sign Standards
Sec. 14-372. Nonconforming signs.	19.8.3 Permanent Freestanding Sign Standards
Sec. 14-372.5. Violations and enforcement.	<b>19.9 Standards for Temporary Signs</b>
	19.9.1 In General
	19.9.2 Additional Standards for Temporary Signs

Existing Code: Division 22 – Signs	ReCode: Article 19 – Sign Standards
	<b>19.10 Non-Conforming Signs</b>
	19.10.1 Removal or Replacement of a Non-Conforming Sign
	19.10.2 Permanent Directional Signs in Residential Zones
	19.10.3 Non-Conforming Signs in Residential Zones
	<b>19.11 Enforcement</b>
	<b>19.11.1 Authority</b>
	<b>19.11.2 Violations</b>

Table 2 on the following page provides a high-level overview of Article 19, Sign Standards with a brief description of the change(s) made organized by Division or Section. A statement describing the rational for the change, i.e. was the change based on incorporating typical best practices, to ensure a user-friendly code, or to address a legal concern is included in the last column.

**Table 2: Summary of Major Changes Incorporated Into Article 19, Signs**

New Sign Regs: Division Number and Name	New Sign Regs: Section Number	New Sign Regs: Section Name	Existing Code Reference (if relevant)	Description of Change	Rationale
19.1 Purpose	-	-	14-366. Purpose	Expanded and updated.	Best practices and legal recommendations to ensure the purpose statements are content-neutral.
19.2 Definitions	-	-	14-367. Definitions	Updated and expanded to include all new terms for the new sign types and components of signs.	Best practices and legal recommendations to ensure all new terms are defined in a content-neutral manner.
19.3 Applicability	-	-	14.366.5. Applicability	Expanded to clarify that Article 19 applies to permanent and temporary signs; includes a statement that the Article must be applied in a content-neutral manner; a new clause provides for the right to picket; updated substitutions and interpretations language; and signs exempt from the provisions of Article 19.	Best practices and legal recommendations to ensure that Article 19 is applied in a content-neutral manner.
19.4 Review Procedures	19.4.1	Review Authority	14-368. Regulations	A simple table establishes the review authorities for signs.	Best practice for a user-friendly code.
	19.4.2	Applications and Fees	14-368.5. A Application 14-368.5. B Fees	Establishes the procedure for filing a sign permit and for its review and approval.	Updated to reflect the City’s permitting procedures.
	19.4.3	Permanent Sign Permits	14-368.5. Permits	Establishes the requirements for permitting permanent signs.	Updated to reflect the City’s permitting procedures.
	19.4.4	Temporary Sign Permits	14-368.5. Permits	Establishes the requirements for permitting temporary signs.	Updated to reflect the City’s permitting procedures.

New Sign Regs: Division Number and Name	New Sign Regs: Section Number	New Sign Regs: Section Name	Existing Code Reference (if relevant)	Description of Change	Rationale
			14-370. Portable/ temporary signs		
	19.4.5	Signs in Historic Districts	Article IX, Historic Preservation	Provides consolidated procedures for signs in the City's historic districts and cross-references to existing guidelines and standards.	Updated to reflect the City's permitting procedures and best practices for a user-friendly code.
	19.4.6	Appeals		Identifies the appeal authority for decisions on signs.	Updated to reflect the City's appeal procedures.
	19.4.7	Waivers		Establishes waivers when the strict interpretation of the Sign Regulations would result in practical difficulties.	Best practice for a user-friendly code.
19.5 Sign Districts Established	-	-		A simple table shows all sign districts established by zone and provides description.	Best practice for a user-friendly code.
19.6 General Restrictions for All Signs	19.6.1	Location Restrictions		Defines the location restrictions for signs, i.e. where they may not be placed.	Best practice for a user-friendly code.
	19.6.2	Prohibited Signs	14-369.6. Signs prohibited under this division	Identifies the sign types that are prohibited within the City.	Best practice for a user-friendly code.
	19.6.3	Display Restrictions		Consolidates all display features that are prohibited for all signs.	Best practice for a user-friendly code.
19.7 General Requirements for All Signs	19.7.1	Sign Measurement	14.368.D Signage Plan 14-369 Computation 14-371. Exemptions	Includes expanded standards for the measurement of sign area and sign height for all signs in easy-to-read tables.	Best practice for a user-friendly code.

New Sign Regs: Division Number and Name	New Sign Regs: Section Number	New Sign Regs: Section Name	Existing Code Reference (if relevant)	Description of Change	Rationale
	19.7.2	Computation of the Number of Signs	14-369 Computation	Clarifies how to determine the number of signs.	Best practice for a user-friendly code.
	19.7.3	Sign Illumination	14-368.5.E Application for new sign or for sign modification 14.368.D.4 Signage Plan	A table establishes the sign illumination standards by sign district. New standards are included for all types of illumination.	Best practice for a user-friendly code to address advances in technology, such as Electronic Message Centers and LED signs.
	19.7.4	Changeable Sign Copy	14-367. Definitions 14-372.4 Nonconforming signs	Establishes standards for changeable copy on a sign.	Best practice for a user-friendly code.
	19.7.5	Structure and Installation	14-368.C Design, construction, and maintenance	Establishes standards for the construction and installation of all signs.	Best practice for a user-friendly code.
	19.7.6	Sign Maintenance	14-368.C Design, construction, and maintenance 14-372.4 Nonconforming signs	Consolidates standards for sign maintenance.	Best practice for a user-friendly code.
19.8 Standards for Permanent Signs	19.8.1	Allowed Sign Types by Sign District	14-369.5. Tables	A table identifies what sign types are allowed in each sign district.	Best practice for a user-friendly code.
	19.8.2	Permanent Building-Mounted Sign Standards	14-369.5. Tables 14-370.7. Special sign types	The standards for each permanent building-mounted sign type are included in tables so that the standards may be easily understood and applied.	Best practice for a user-friendly code and where necessary to ensure that the standards are written in a content-neutral manner.

New Sign Regs: Division Number and Name	New Sign Regs: Section Number	New Sign Regs: Section Name	Existing Code Reference (if relevant)	Description of Change	Rationale
	19.8.3	Permanent Freestanding Sign Standards	14-369.5. Tables 14-370.7. Special sign types	The standards for each permanent freestanding sign type are included in tables so that the standards may be easily understood and applied.	Best practice for a user-friendly code and where necessary to ensure that the standards are written in a content-neutral manner.
19.9 Standards for Temporary Signs	19.9.1	In General	14-370. Portable/ temporary signs	Establishes the general provisions for all temporary signs including clarification that temporary signs are not included in the area for permanent signs and general time, place, and manner restrictions.	Best practice for a user-friendly code and to ensure that the standards for temporary signs are written in a content-neutral manner.
	19.9.2	Additional Standards for Temporary Signs	14-370. Portable /temporary signs	Two tables establish the maximum standards for temporary signs by sign district and specific standards for each of the allowed temporary sign types.	Best practice for a user-friendly code and to ensure that the standards for temporary signs are written in a content-neutral manner.
19.10 Nonconforming Signs	19.10.1	Applicability		Establishes provisions for the maintenance and continuation of non-conforming signs.	Best practice for a user-friendly code.
	19.10.2	Removal or Replacement of a Non-Conforming Sign	14-372. Nonconforming signs	Expanded to include updated requirements for the removal and replacement of nonconforming signs.	Best practice for a user-friendly code.
	19.10.3	Permanent Directional Signs in Residential Zones	14-372. Nonconforming signs	Updated to establish standards for directional signs placed in public right-of-way.	Best practice for a user-friendly code.

New Sign Regs: Division Number and Name	New Sign Regs: Section Number	New Sign Regs: Section Name	Existing Code Reference (if relevant)	Description of Change	Rationale
	19.10.4	Non-Conforming Signs in Residential Zones	14-372. Nonconforming signs.	Updated and expanded to establish standards for nonconforming signs for non- conforming business signs in residential zones.	Best practice for a user-friendly code.
19.11 Enforcement	19.11.1	Authority	14-372.5. Violations and enforcement	Establishes the Building Authority as the enforcement agency for Article 19.	Best practice for a user-friendly code.
	19.11.2	Violations	14-372.5. Violations and enforcement.	Establishes the regulations and penalties for violations of Article 19.	Updated to reflect the City's enforcement procedures and a best practice for a user-friendly code.



# Downtown Height Overlay Portland, Maine

As amended xxxx xx, xxxx **Draft 6.26.20**

## Areas Eligible for Architectural Cap\*\*\*

Eligible areas are represented in black below



## Height Overlay Zone Legend Maximum Height (ft.)

	45
	50 (maximum street wall height within 15 ft. stepback)**
	50 (maximum street wall height within 30 ft. stepback)**
	65
	85
	90 (maximum street wall height within 15 ft. stepback)**
	90 (maximum street wall height within 30 ft. stepback)**
	125
	150
	190
	210

## Notes

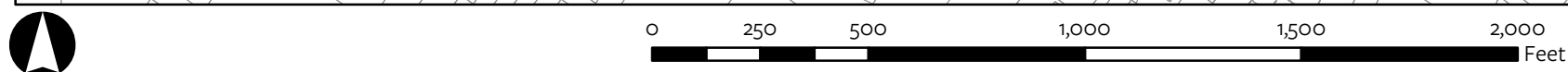
No new construction of any building shall be less than 35 feet in height within 50 feet of any street frontage. See Land Use Code for exceptions

Maximum street wall height within the B3 zone is 65 ft. unless otherwise noted

\*Boundary offsets are from street centerline unless otherwise noted

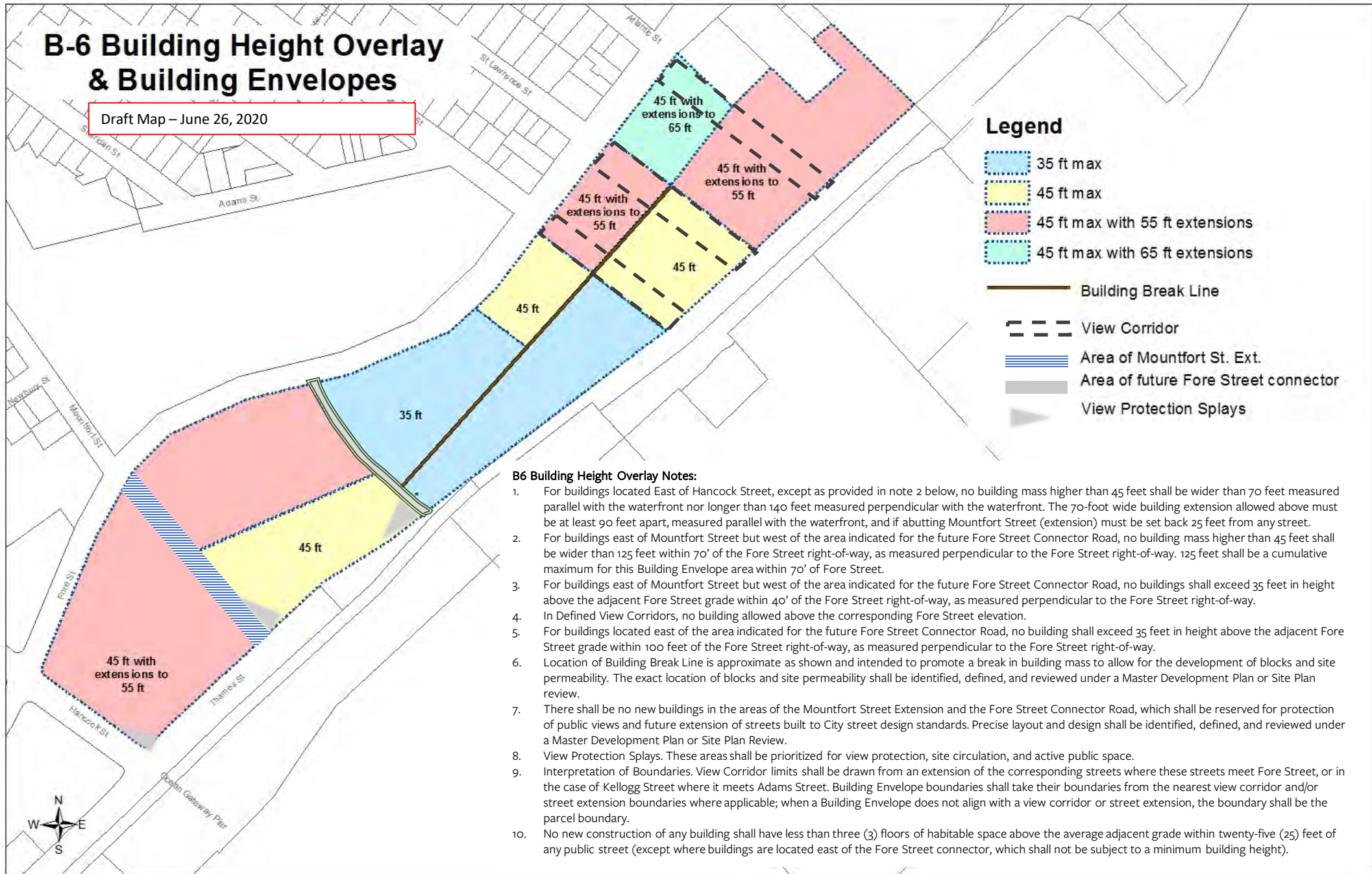
\*\*Multiple stepbacks cumulatively reaching at least the minimum noted above (15 and 30) are acceptable

\*\*\*Architectural Cap Allowance: the building form may extend up to 40 ft. above the designated height limit for the purpose of providing a distinctive graduated design for an architectural building top and to enclose rooftop appurtenances. No habitable floor area shall be developed within the building envelope provided by the additional 40 ft. unless at least 50% of such habitable floor area is devoted exclusively to one or more publicly accessible uses, and provided that such floor area is incidental to the primary design intent of the space



# B-6 Building Height Overlay & Building Envelopes

Draft Map – June 26, 2020



### B6 Building Height Overlay Notes:

1. For buildings located East of Hancock Street, except as provided in note 2 below, no building mass higher than 45 feet shall be wider than 70 feet measured parallel with the waterfront nor longer than 140 feet measured perpendicular with the waterfront. The 70-foot wide building extension allowed above must be at least 90 feet apart, measured parallel with the waterfront, and if abutting Mountfort Street (extension) must be set back 25 feet from any street.
2. For buildings east of Mountfort Street but west of the area indicated for the future Fore Street Connector Road, no building mass higher than 45 feet shall be wider than 125 feet within 70' of the Fore Street right-of-way, as measured perpendicular to the Fore Street right-of-way. 125 feet shall be a cumulative maximum for this Building Envelope area within 70' of Fore Street.
3. For buildings east of Mountfort Street but west of the area indicated for the future Fore Street Connector Road, no buildings shall exceed 35 feet in height above the adjacent Fore Street grade within 40' of the Fore Street right-of-way, as measured perpendicular to the Fore Street right-of-way.
4. In Defined View Corridors, no building allowed above the corresponding Fore Street elevation.
5. For buildings located east of the area indicated for the future Fore Street Connector Road, no building shall exceed 35 feet in height above the adjacent Fore Street grade within 100 feet of the Fore Street right-of-way, as measured perpendicular to the Fore Street right-of-way.
6. Location of Building Break Line is approximate as shown and intended to promote a break in building mass to allow for the development of blocks and site permeability. The exact location of blocks and site permeability shall be identified, defined, and reviewed under a Master Development Plan or Site Plan review.
7. There shall be no new buildings in the areas of the Mountfort Street Extension and the Fore Street Connector Road, which shall be reserved for protection of public views and future extension of streets built to City street design standards. Precise layout and design shall be identified, defined, and reviewed under a Master Development Plan or Site Plan Review.
8. View Protection Splays. These areas shall be prioritized for view protection, site circulation, and active public space.
9. Interpretation of Boundaries. View Corridor limits shall be drawn from an extension of the corresponding streets where these streets meet Fore Street, or in the case of Kellogg Street where it meets Adams Street. Building Envelope boundaries shall take their boundaries from the nearest view corridor and/or street extension boundaries where applicable; when a Building Envelope does not align with a view corridor or street extension, the boundary shall be the parcel boundary.
10. No new construction of any building shall have less than three (3) floors of habitable space above the average adjacent grade within twenty-five (25) feet of any public street (except where buildings are located east of the Fore Street connector, which shall not be subject to a minimum building height).

**Height Districts**

**A. Gateway Urban Height District**

Min. 4 floors, max. ht. 125', except as permitted under subsection 7.5.1.A (Space and Bulk exceptions) of the Land Use Code, where buildings may have a maximum height of 165'.

**B. Intermediate Urban Height District**

min. 3 floors, max. ht. 105'

**C. Transitional Neighborhood Height**

min. 3 floors, max. ht. 85'

**D. Traditional Neighborhood Height**

min. 2 floors, max ht. 55'



**Bayside  
Height Overlay Map  
Draft Version 6-26-2020**

**Note\*\*** Newly constructed buildings shall have the required minimum number of floors as provided by the Bayside Height Overlay Map within 50 feet of any frontage. Such floors shall be occupiable or habitable and above the average grade of the abutting street.

**REVIEW COMMENTS ON RECODE DRAFT - ITERATION #5 (Articles 1-18)**

	Name	Section	Comment	Staff Response
	Karen Snyder	2.1.1	The criteria for the Planning Board is very generic and needs better definition of requirements. A recommendation would be to state the following instead. The Planning Board members is a required to be a resident of the city and shall not be officers or employees of the city. The Planning Board member must have a working knowledge of the Portland land use code, Portland design standards, and must be guided by the Portland Comprehensive Plan. The Planning Board must balance the needs of the community, environment, and sustainability when considering a development proposal.	
	Karen Snyder	2.1.7	This section is very vague and should be more specific. Below is recommended verbiage for this section. Note: This came from Lisbon, ME document..If any Board member personally or that of his legal partner or spouse has a substantial financial interest, direct or indirect, in any contract with the Town or in the purchase or sale of any land, material, supplies or service to the Town or to a contractor supplying the Town, that person shall make known that interest and shall refrain from voting or otherwise participating in his or her capacity on the Board. In like fashion, any such member who may have a direct or perceived interest in property being considered for any action by the Board should also refrain from participation. That member shall step away from the Board for any vote or discussion concerning such matters but shall be able to participate as is allowed for any member of the general public.	Concerns over the requirements for becoming a Planning Board member, and potential for conflicts of interest have been raised a number of times in the review of the draft land use code. While we are not suggesting substantive changes to this provision at this time, we are noting this as a topic to evaluate as part of ReCode Ph. 2.
	Karen Snyder	2.2.5	This section is very vague and should be more specific. Below is recommended verbiage for this section. Note: This came from Lisbon, ME document..If any Board member personally or that of his legal partner or spouse has a substantial financial interest, direct or indirect, in any contract with the Town or in the purchase or sale of any land, material, supplies or service to the Town or to a contractor supplying the Town, that person shall make known that interest and shall refrain from voting or otherwise participating in his or her capacity on the Board. In like fashion, any such member who may have a direct or perceived interest in property being considered for any action by the Board should also refrain from participation. That member shall step away from the Board for any vote or discussion concerning such matters but shall be able to participate as is allowed for any member of the general public.	
	Zachary Barowitz	Article 3 (Family)	"Family" replaced "household" in the Reagan era to conform with the great propaganda campaign ("family values" "focus on the family") it was staunchly anti-same gender couple and anti many things that should be included in this definition. "Household" is a better and more accurate term.	Noted. The revised definition has been written so as to better function with other types of housing arrangements that are defined within the code, and to provide sufficient flexibility for shared housing arrangements while limiting the impacts of shared housing.
	Zachary Barowitz	Impact Industrial)	Can we add "artist studios" to this list. And could there be a loft law (e.g., provision)?	Term has been added.
	Zachary Barowitz	Article 3 (Manufactured Housing)	There is prefab manufactured housing and then there is fabricated building systems. The line between the two can be blurry.	As part of ReCode Ph. 1, we have eliminated regulations that would single out or treat manufactured housing differently than any other form of construction, and so substantively, this definition does not impact how different forms of manufactured housing are regulated in the code. Further, IRC and IBC establishes regulatory differences for modular vs. manufactured housing.
	Zachary Barowitz	Article 3 (Neighborhood Center)	This could also be commercial business like a grocery store (Fresh Approach) or Maine Hardware.	A neighborhood center would not include things such as a grocery store or hardware store, which are considered retail.
	Zachary Barowitz	Article 3 (On and Off Peninsula)	This is a novel definition of "peninsula." A more traditional understanding of peninsula would extend out to Woodfords Corner. The older term "in-town Portland" is better.	The definitions for on-peninsula and off-peninsula are referenced throughout the code, with policy crafted to reflect the boundaries as described here. As part of ReCode Ph. 2, we will review zoning requirements broadly, and may recommend substantive change to existing regulations to account for different metrics, such as being proximate to transit or services. However, at this point in time, changing this definition would have broad implications, implications which have not been fully evaluated, and so no change is proposed at present.
	Zachary Barowitz	Article 3 (On and Off Peninsula)	In Libbytown, I-295 runs pretty much North-South. Is this why brick sidewalk requirements don't apply between 295 and St. John Street. "In-Town Portland" is a better descriptor.	
	Zachary Barowitz	Article 3 (Sidewalk)	This would include median strips and lot of other facilities on the streetscape	Median strips, bicycle lanes and breakdown lanes are not considered as being dedicated to pedestrian use. Conversely, the definition for roadway provides a counterbalance and further separates out sidewalks and esplanades. No changes to this definition are suggested at this time.

Zachary Barowitz	6.8.2.H	Why on earth would you want to shield play areas from residential view? So parents cannot see their kids on the play grounds. To make sure playground child molesters can't be seen by neighbors? I'd revise this?	Related to existing requirements for a fence - existing policy
Zachary Barowitz	6.8.15	This isn't Beverly Friggin' Hills, we are in Maine; junk cars are a way of life. Seriously, people fix up cars etc.	This section specifically calls out stored vehicles. Our interpretation is that if a vehicle is being actively worked on, that it would not be considered a stored vehicle and would not be subject to these requirements.
Liz Trice	Table 7-A	It's great to see a grid like this, would like to see more grids and less text in the zoning. Long zoning texts is an impediment to people creating housing and business developments. Especially since there are topics that are vague. We should have a type of zoning between the R1 and R6 that allows for moderate density cottage or townhouse development; lots could be 24' wide by 60' deep. Or we could just cut the 50x100 lots in two - that means lots that are 2,000 feet. Very nice, affordable, transit oriented: <a href="https://seattle.curbed.com/2018/4/4/17200290/pine-street-cottage-for-sale-rsl">https://seattle.curbed.com/2018/4/4/17200290/pine-street-cottage-for-sale-rsl</a>	Noted - And we agree!
Liz Trice	Table 7-A	This is larger than many existing lots in R3, should be smaller to match what existing lots are.	
Liz Trice	Table 7-A	This grid highlights what is wrong with the zoning. The requirements for R1-R4 or five would be perfectly appropriate for rural South Dakota but Portland could stand - (read: "NEEDS" a more forward thinking approach). Combine R-1 through R-5 and make it all R5; that is plenty un-dense.	We appreciate this feedback, and are cataloguing these comments for future discussion as we begin developing a work plan for Phase 2 of ReCode, which will involve a comprehensive evaluation of existing policy and recommendations for changes based upon best practice and the goals and objectives of the City's Comprehensive Plan.
Karen Snyder	Table 7-A	This grid highlights the discrepancy between R-6 and R-1 to R-5. R-6 is constantly being unfairly targeted for higher density while R-1 to R-5 are ignored and are at low density. This is unfairly putting the burden of housing density on R-6. There is way more acreage in R-1 to R-5 for higher density zoning.	
Liz Trice	Table 7-A	These numbers 15,000, 10,000 sf of lot area are extremely large, and prohibit any kind of transit oriented development. It would make sense to zone all along the arterials for higher density, for example 200 feet back from any arterial would have density of 15 -20 units/acre. <a href="https://metro council.org/Communities/Services/Livable-Communities-Grants/Transit-Oriented-Development/TOD/Metropolitan-Council-TOD-Guide-Land-Use-Densities.aspx">https://metro council.org/Communities/Services/Livable-Communities-Grants/Transit-Oriented-Development/TOD/Metropolitan-Council-TOD-Guide-Land-Use-Densities.aspx</a>	
Zachary Barowitz	Table 7-A	What's a SNIDU?	
Liz Trice	Table 7-A	This should have a footnote. What's a SNIDU?	Provided a footnote.
Liz Trice	Table 7-C	5,000 is not a small lot. My two unit in the West End is on a lot size of 1,450 SF. You could have a very nice cottage or townhouse with a yard on something smaller. The cape style houses throughout R3 are 24x30= 720 SF, and townhouses can be as small as 18x 24= 432 SF; you can double or triple that to allow for a small front yard and back yard. It's extremely exclusionary to insist that only large homes on larger lots are allowed to be built.	We appreciate this feedback, and are cataloguing these comments for future discussion as we begin developing a work plan for Phase 2 of ReCode, which will involve a comprehensive evaluation of existing policy and recommendations for changes based upon best practice and the goals and objectives of the City's Comprehensive Plan.
Liz Trice	Table 7-B	We should scrap PRUD completely and just allow multifamily in zones. There are ver few properties of this size.	
Zachary Barowitz	Table 7-B	Why do we zone land that would be useful for public/low income housing as if it were high-end restrictive zoning (i.e., large minimum lot sizes)? Let's make this land worthwhile to develop and house a few people to boot.	
Zachary Barowitz	Table 7-B	Huh? Not cellar dwellers? Why not? (NB I can't actually read the who description here).	Across the City, we require that dwelling units be substantially above grade, though we do make exceptions where only portions of the unit are below grade (such as a two story unit with basement).
Liz Trice	Table 7-E	I don't believe there should be different rules on and off peninsula. Also, this density looks good, but is not actually allowed, because off-street parking is required for housing in these zones. We should remove off-street parking requirements for business zones.	As part of Phase 2 of ReCode, we will evaluate the City's zones and dimensional restrictions, which contain exceptions for both on-peninsula and off-peninsula locations. In the Comprehensive Plan, we have identified that we will promote housing in areas proximate to transit, and as part of Ph. 1 of ReCode, are reducing parking requirements for residential uses. We anticipate looking at parking requirements more holistically in Ph 2.
Zachary Barowitz	7.4.2	The code should not include things that are unenforceable. What about our right to privacy? Must we legislate the sanctity of the the white picket fence. Who wrote this? Mr. Blandings?	
Zachary Barowitz	7.4.2	<a href="https://en.wikipedia.org/wiki/Mr._Blandings_Builds_His_Dream_House">https://en.wikipedia.org/wiki/Mr._Blandings_Builds_His_Dream_House</a>	The standard referenced has been revised to reintroduce existing language that allows for fences along street frontages where it is considered a side or rear yard.

			Maybe you can make this into a grid, too, or get rid of many exceptions, or make the exceptions the rule. Long lists of exceptions are what makes zoning very difficult to navigate.	We agree that tables are more effective at presenting information such as permitted/conditional/prohibited uses and dimensional requirements. However, the space and bulk exceptions are unique across the different zones and do not lend themselves to be placed in tables. We are continuing to evaluate different options for improving document navigability.
Liz Trice	7.5.1.C		still, too many descriptions ... maybe there could be a section "for building over 85 feet"?	Noted. We have worked to clarify the height overlay map, which help to illustrate these standards.
Liz Trice	7.5.1.D		In residential zones, everything except chimneys and up to 5' of set back and properly screened HVAC systems should have to be within the height limit. Entire rooms on top of a roof should be banned if they exceed the height limit.	
Barbara Vestal	7.5.1.H		The rooftop appurtenance is too generic in this section and you will end up with unsightly HVACs like at Anderson St & Fox St apts which at the time Planning Asst Director Tuck O'Brien said would be fixed but was never corrected. The definition should be as follows: Rooftop appurtenances, other than chimneys, shall not exceed the maximum height allowed by applicable R-6 dimensional standards, except that HVAC equipment may be permitted to exceed that height by a maximum of 5 feet above the primary roof so long as it meets the following criteria: HVAC equipment shall be set back at least 10 feet from any roof edge, shall be physically consolidated to the extent practicable, shall be visually contained in screening which does not exceed 5 feet in height above the main roof, and the screening shall utilize a shape and choice of materials that is consistent with the principal building.	Following conversations with a number of interested parties, City staff acknowledge that there are a number of policy and topic areas, such as rooftop appurtenances, that will require additional evaluation and possible revision. With the exception of permitting deck railings above the maximum building height, which is viewed as a clarification of existing policy, no additional changes are being proposed at this time, though we anticipate taking this up as an early effort of ReCode Ph. 2.
Karen Snyder	7.5.1.H		These are the type of rules we should be deleting or combining into a simple chart. You shouldn't have to sift through hundreds of pages to know everything you need to know about a certain type of project in a certain zone.	
Liz Trice	7.5.5.G		A 50 foot height cap seems out of place for high-density zoning and limits the practicality of R-7 in many areas.	
Eric Freeman	Table 8-A		I appreciate that you're wanting to make R6 easier to develop, but it should be done with simple zones - either calling this R7, or liberalizing R6, or saying in R6, that this higher is allowed, for example, along Arterials or with 500 feet of transit stop, not with an overlay - you shouldn't have to look at two places in the code. Also, I don't any need for a minimum unit size. New York and Tokyo and other large cities allow units as small as 100 SF; the typical long-stay hotel room (the fastest growing part of the hospitality business) is 320 SF, and classic hotel rooms are closer to 200 Cruise ship rooms can be under 100 square feet. I'm happy to provide stories and designs of small units. As long as there are homeless people in Portland, and as long as people are being priced out of the city, as long as there is demand, we should not be placing restrictions on housing that make it more expensive unless it is a life and safety issue.	We appreciate this feedback, and are cataloguing these comments for future discussion as we begin developing a work plan for Phase 2 of ReCode, which will involve a comprehensive evaluation of existing policy and recommendations for changes based upon best practice and the goals and objectives of the City's Comprehensive Plan.
Liz Trice	Table 8-A		This setback is too small. Rowdy people can easily throw anything they want from the park on this building with such a small setback. This setback encroaches on the park. It needs to be farther for example 25 ft setback.	
Karen Snyder	8.3.2.B		This process was not great with MMC. All the information at meetings was delivered to the neighborhoods as if it was a done deal - there was no meaningful opportunity to influence the changes. It didn't feel like the city was using its muscle to move us away from single vehicle occupancy. This was an opportunity to create a Transit Management Agency, and we lost it.	
Liz Trice	8.5.3.C		This is a mistake. Current text is 144 SF NOT 250 SF. Please correct. Or is this intentional? If so, reasoning?	This change is intentional, and reflects a desire to allow for larger accessory structures that do not need to undergo full site plan review or meet more stringent principal building dimensional restrictions such as setbacks.
Barbara Vestal	Table 8-E		This section is poorly worded and has shown unintended consequences. It has not generated much affordable housing, only luxury condos. More affordable housing is being removed than what is being replaced. All that a new building has to do is have only 1 affordable housing unit to gain an extra 10 feet and the rest of the housing is luxury apt or condos. This extra 10 feet needs to be removed because it is actually de-incentivizing affordable housing.	We appreciate this feedback, and are cataloguing these comments for future discussion as we begin developing a work plan for Phase 2 of ReCode, which will involve a comprehensive evaluation of existing policy and recommendations for changes based upon best practice and the goals and objectives of the City's Comprehensive Plan.
Karen Snyder	Table 8-E			

Karen Snyder	8.7.4.A	Where is the rooftop appurtenance specific language for the Munjoy Hill Overlay District? It is missing. The below language needs to be added back but with revisions: Rooftop appurtenances, other than chimneys, shall not exceed the maximum height allowed by applicable R-6 dimensional standards, except that HVAC equipment may be permitted to exceed that height by a maximum of 5 feet above the primary roof so long as it meets the following criteria: HVAC equipment shall be set back at least 10 feet from any roof edge, shall be physically consolidated to the extent practicable, shall be visually contained in screening which does not exceed 5 feet in height above the main roof, and the screening shall utilize a shape and choice of materials that is consistent with the principal building.	Following conversations with a number of interested parties, City staff acknowledge that there are a number of policy and topic areas, such as rooftop appurtenances, that will require additional evaluation and possible revision. With the exception of permitting deck railings above the maximum building height, which is viewed as a clarification of existing policy, no additional changes are being proposed at this time, though we anticipate taking this up as an early effort of ReCode Ph. 2.
Karen Snyder	8.7.4.A	This section is confusing... Is only 8.7.4 Design Review section is to be adhered to? Where does it say in this section that the entire R-6 Design Manual is suppose to be followed? 8.7.4. Section is misleading because it seems only this small section is suppose to be adhered to instead of adhering to the entire R-6 Design Standard Manual. There needs to be verbiage before Section A that the R-6 Design Manual needs to be adhered to alongside the below additional sections.	Based upon this feedback, we are adding language in this section to clarify the relationship between these design standards, and the general R-6 design standards, so that applicants are aware that they are required to adhere to both R-6 and overlay specific design standards.
Karen Snyder	8.7.4.B	Alternate Design Review should be removed. It only allows bad design and the developers are clearly ignoring the immediate surrounding buildings with regards to neighborhood context and scale and massing.	Alternative Design Review will be looked at in more detail as part of the overhaul of the City's design manual, which will separate public outreach and engagement.
Barbara Vestal	14.2.2	Are there any standards or is the intent just to allow demolition even without site plan approval if the applicant requests it? It would seem like demolition should not be allowed, even if requested, without site plan approval at least for properties that were subject to a demolition delay as preferably preserved in the Munjoy Hill Conservation Overlay District.	The Munjoy Hill Neighborhood Conservation Overlay, or property located within a designated historic district, are there only areas where currently a process exists to delay demolitions until the Planning Authority or relevant Board has approved such demolition. At this time, we are not proposing any additional changes to the code to delay demolitions, however we are including this as a topic to be considered further in Phase 2 of ReCode.
Karen Snyder	14.2.1	Where in this section does it state a demolition permit can not be approved until the site plan is approved? Too many buildings have been demolished without a site plan being approved and this is not a good process. It needs to be stated that the Demolition permit can NOT be approved until the Site Plan is approved.	
Karen Snyder	14.2.1	Where in this section does it state a demolition permit can not be approved until the site plan is approved? Too many buildings have been demolished without a site plan being approved and this is not a good process. It needs to be stated that the Demolition permit can NOT be approved until the Site Plan is approved.	
Karen Snyder	14.5.5.C	In the last neighborhood meeting of 58 Fore St held in 12/2019, it was a joke. The developer was not there. His minions could not answer basic questions and/or avoided answering questions. They clearly just showed up to tick a box. You know this meeting went bad when another developer complained about this meeting. There should be recourse on this type of behavior.	
Karen Snyder	14.5.5.C	I agree with Barbara Vestel's comment below: This should also say that the applicant shall be present and shall have members of the development team present who are ready, willing and able to answer questions posed by the public, and shall answer questions posed truthfully and fully. The applicant shall have available all plans, elevations, and other submission materials. Failure to meet any of these requirements shall result in the applicant having to hold another neighborhood meeting which does comply with these requirements prior to proceeding with Planning Board review. This should also provide that the time available for the meeting shall be at least 2 hours in duration, that it shall be held in an accessible location, and the meeting shall be scheduled to begin at 5:30 or after.	The neighborhood meeting process is intended as an early opportunity for outreach with members of the community, where the development team can describe their proposal and either answer questions that come up in the course of the meeting, for provide a prompt response after the meeting has concluded. Additionally, the neighborhood meeting minutes are used by the City to articulate areas of neighborhood concern, and flag these points to members of the Planning Board if they are not addressed by the applicant. While staff are not suggesting any changes to neighborhood meeting requirements at this time, we encourage individuals to reach out to Planning staff where additional information has been requested and not provided.
Karen Snyder	14.5.5.C	Why isn't there any City Followup when a Developer holds a Neighborhood meeting and doesn't answer the public Concerns? If during a Neighborhood meeting, the developer can not answer questions by the public and the public voices complaints to the Planning Board, it must be required that the neighborhood meeting be rescheduled with a City Official in attendance and the public concerns are answered.	
Karen Snyder	14.6.4.E	Why isn't there specific reference to the Historic Preservation standards as to what should be adhered to? This section is too generic.	The land-use code is intended to function as one cohesive document, with very limited overlap between the various articles. Here for example, it is the responsibility of an applicant, if they are developing in a historic district, that they review the applicable standards for alterations or new development listed in Article 17. This section is intended to require a development, subject to site plan review, to adhere to HP provisions as required by that section of the code.

Karen Snyder	14.6.4.E	Why was the last sentence removed from this section when transferring the language from the old form to the new form? The last line needs to be added back...To aid the planning board in its deliberations, historic preservation staff shall provide a written analysis of the proposed development's immediate context, identifying the major character-defining elements and any established building patterns that characterize the context."	This language was inadvertently dropped from the text, and has been reintroduced in kind, such that HP staff will prepare an analysis for the Planning Board's review.
Karen Snyder	14.6.4.E	Why was the last sentence deleted from the existing language which says "To aid the planning board in its deliberations, historic preservation staff shall provide a written analysis of the proposed development's immediate context, identifying the major character-defining elements and any established building patterns that characterize the context." ? This is an important part of the analysis and should still be required by ordinance.	
Karen Snyder	14.6.4.I	This section is incredibly generic and provides NO substantial clarity that City of Portland Design Manual and/or the Historic Preservation Standards are to be equally enforced as zoning There should be a grid just like with other sections that clearly specifies by zone what design standards are applicable. For example:  Zone Design Standard R-1 City of Portland Design Manual R-2 City of Portland Design Manual R-3 City of Portland Design Manual R-5 City of Portland Design Manual and/or Historic Preservation Standards R-6 City of Portland Design Manual and/or Historic Preservation Standards B-1 City of Portland Design Manual	Design standards in Article 14 have been reintroduced, and are intended to serve as the basis for applying design guidelines and standards as listed in the Design Manual.
Karen Snyder	14.7.3	Why isn't there specific reference to the Historic Preservation standards as to what should be adhered to? This section is too generic.	Noted above.
Karen Snyder	14.7.3	As in Article 14.6.4. E.2 when talking about within 100 feet of an Historic Historic , why is the last sentence needs to be added to this section... "To aid the planning board in its deliberations, historic preservation staff shall provide a written analysis of the proposed development's immediate context, identifying the major character-defining elements and any established building patterns that characterize the context."	This language was inadvertently dropped from the text, and has been reintroduced in kind, such that HP staff will prepare an analysis for the Planning Board's review.
Karen Snyder	14.13.3	This is not right. This provides incentives for Developers to hastily get approvals knowing the zoning will change and then sell their plans at the highest price without any consideration to the neighborhood zoning at the time of build. This is shifty and should NOT be allowed. If Zoning has changed within the 3 year extension, the developer should be required to go back to the Planning Board and seek new approvals. A good example of this is 9 Romasco St. Their site plan was approved in 2016, Munjoy Hill Overlay was established in June 2018 but because their 9 Romasco site plan was approved prior to 2018, this developer was able to build against the newly established zoning and now sticks out like sore thumb and is incongruous to the neighborhood.	Provisions for allowing the extension of a site plan or master development plan approval are common across land-use codes, and are a critical tool, as they account for changes in market conditions related to construction costs and financing, while giving the public and City assurance that work will occur within a set amount of time.
Barbara Vestal	17.2	Deleted "but without itself being a landmark." Why?	This section has been reworked to be consistent with guidance from the National Park Service, and has been vetted with Greater Portland Landmarks.
Barbara Vestal	17.2	Deleted Design guidelines and design manual. How do these get incorporated by reference if there are no definitions?	These are general terms with generally understood meaning that do not further their interpretation within this article. Specific terms such as the 'Historic Resources Design Manual' have been retained.
Barbara Vestal	17.1	Note this was changed from "applying design standards" to "applying review standards". What is the reasoning?	The term 'review standards' are used throughout this article, whereas 'design standards' generally have a more limited connotation.
Barbara Vestal	17.2	This is a new definition. Is HP staff satisfied with it and is it used elsewhere in the ordinance?	New definitions have been drafted by HP staff and are drawn from the state's CLG guidelines, so as to make local definitions consistent with those of the state. Following adoption of this article, the state will review this article for consistency with state statute.
Barbara Vestal	17.2	This is a new definition. Is the HP staff satisfied with it and is the term used elsewhere in the ordinance?	
Barbara Vestal	17.2	Portland? Can't it also have regional or state or national significance?	This definition has been revised to include 'local, regional, state, or national significance'.
Barbara Vestal	17.3.1	How does this deviate from the current ordinance?	



Barbara Vestal	17.4.1	The definition of structure was deleted. It served a purpose by calling out a variety of things that are reviewable under the HP portion of the ordinance like garages, fences, signs, etc. Does HP staff believe these are adequately flagged without the definition?	The definition of structure is included in the general definitions for the Land Use Code and has been revised so as to incorporate the HP specific definition.
Barbara Vestal	17.4.1	If you are using caps, these should be caps.	Noted.
Barbara Vestal	17.5.4	This is mangled and punctuation is wrong. Deleted "many of which may qualify as landmarks" (which is probably appropriate) but left in the reference to landmarks below. Needs to be consistent about criteria.	This section has been redrafted, taking cues from National Park Service adopted definitions and has been discussed with members of Greater Portland Landmarks.
Barbara Vestal	17.7.2	"Where applicable" has been inserted. What is intended? That design guidelines will be provided for new districts but not for landmarks? Or something else?	This section has been clarified, so that the HP Board may recommend guidelines if it is useful to the interpretation of the standards listed in 17.8.
Barbara Vestal	17.7.2	Unless public open space is deemed to be a public way (which I think it is not) this deletes changes visible from public open space from the universe of those requiring a Certificate of Appropriateness. The existing ordinance says it is regulated if viewed "from any open space or street." Why is open space being deleted?	The term 'open space' has been added back in to the text.
Barbara Vestal	17.7.1	What happened to 14-636 Exterior work within historic landscape districts? This addresses alteration or new construction within an historic landscape district and is important.	This section remains in the draft, and is listed under 17.7.3.
Barbara Vestal	17.7.5	This was broadened from street-fronting facade to "readily visible from a public way." Probably an improvement.	Agreed.
Barbara Vestal	17.7.5	This has been changed from notice of administrative approvals being given at the next meeting to being given quarterly. Quarterly seems like a rather long gap. How about monthly reporting?	In order to free up Board and staff time, staff are recommending that notice of administrative approvals be provided less frequently and grouped into quarterly updates.
Barbara Vestal	17.7.5	This seems too vague now that staff proposes to delete all of the detail about design standards that is currently included in 14-526 (d)5a. Perhaps a reference to design standards other than the ones included in Article 17 don't apply?	Design standard references in Article 14 have been reintroduced.
Barbara Vestal	17.7.5	The current ordinance says prepare a recommendation. This says prepare a report. Is this a deliberate choice not to have staff make recommendation, or is it assumed that will be part of the report?	Term recommendation has been added to augment report.
Barbara Vestal	17.7.6	The appeal from HP to the Planning Board seems to have been deleted. Is that intentional or has it been moved elsewhere?	References to appeal processes are included in Article 17, and a new more streamlined appeal process for HP related decisions has been introduced into Article 2. This language is derived from Zoning Board of Appeals and Planning Board appeal provisions, though it retains the same structure as at present, where review by the Planning Board of an HP Board decision is appellate in nature.
Barbara Vestal	17.8.1	Why have you removed the provision about amendments to the design manual being forwarded to the Council as a communication and become effective 45 days thereafter unless the Council disapproves? This is part of what I believe to be a misguided effort to remove the Council from design standards throughout Recode. The HPBoard and Planning Board cannot legislate their own standards. Authority has to come from the Council for all of the design standards. Why is the City apparently taking the position that 30-A MRS section 4323 allows the HPBoard and/or PB to exercise legislative authority when it seems clear that only the City Council -- the local legislative body -- has statutorily conferred home rule authority?	As an early step in Phase 2 of ReCode, and coinciding with work already in progress on updates to both the general and historic resources design manuals, the City will comprehensively evaluate the relationship between these policy documents. The goal is to create a consistent framework that clearly establishes review hierarchy and strengthens enforceability of design standards. In this vein, design standards have been retained in Article 14, which serve as the basis for the general design manual.  Regarding amendments to the Historic Resources Design Manual, the language requiring communication of such standards to the City Council has been added back in.  At present, the general design manual and the historic resources design manual function in different capacities, and may continue to do so, with different processes for amending or adopting design standards.



Helen Donaldson &lt;hcd@portlandmaine.gov&gt;

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## Follow up on ReCODE Planning Board Workshop

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**Ben Walter** <bwalter@cwsarch.com>

Fri, Nov 8, 2019 at 4:10 PM

To: "Christine Grimando (cdg@portlandmaine.gov)" <cdg@portlandmaine.gov>, "Helen (Nell) Donaldson (hcd@portlandmaine.gov)" <hcd@portlandmaine.gov>, Grooms Matthew <mgrooms@portlandmaine.gov>

Hi Christine, Nell and Matt,

First, I want to thank you for your great work moving Portland's ReCode process forward – I REALLY love the direction you are taking and can envision the long term benefits that await the city. I know it's a huge effort and your thoughtful and conscientious approach will prove to be a great benefit for decades to come.

I remember, when I was about half my age in the early 90s, having a conversation with Joe Grey about how challenging the zoning ordinance was but also how complicated the fixes would be. He said don't hold your breath.

I believe that we have all learned over the past 60 years that uniformity isn't always a benefit to supporting natural, prosperous and organic communities. On the other hand, I grew up in a very large city (of now 6M residents now) that had NO zoning and can clearly understand the disaster that resulted in.

Successful zoning can be analogized to being a good parent where you do your best to steer you kids down a healthy path to posture them for success but only so far as to afford them the opportunity to make good decisions and freedom to evolve into who they really are. This is where the rigidity of old school zoning (Portland's included) has, in many areas, failed. Fortunately that will soon be behind us.

Like most New England cities and towns, Portland has many unique historical development patterns that don't fit into any one mold, and that should be recognized and supported.

I wanted to reiterate a few of the current ordinance's zoning challenges I mentioned last nights; specifically the many case where the zoning language doesn't support the best qualities of the historical built environment.

A few (of many) specific issues include:

1. It's hard to understand how Portland zone lines were determined. I'm guessing it was a little haphazard, or politically motivated. For example, There are areas zoned R-3 (single family) that have a large number of low density multifamily structures (not permitted in the zone) and should have been zoned R-5 (single family and multi-unit). This condition is rampant as far as I can tell.
2. Most apparent, there are substantial portions of the R-3 and R5 where the large majority of properties were made non-conforming with respect to setbacks (others requirements) when the zoning ordinance was adopted. In the majority cases, and as an example, small 50' wide x 100' deep lots, more or less, that were developed around the turn of the 19<sup>th</sup> century don't conform with the more suburban nature of the R-3 and R-5 dimensional requirements. On these lots the predominant pattern was to build a house up to essentially a zero side lot-line on one side of the lot (maybe 2'+/- to accommodate for eave overhangs) and put the drive way on the other side of the lot. This pattern allowed for a ~32' wide by ~40' long (or more) house. If these were built today the 32' wide house would be required to be 24' wide to meet the

required 8' side yard setbacks and considerably out of form character with the neighborhood. Many houses were developed most of the way or close to the rear property line, without a back yard, but many were not. The adopted zoning makes horizontal extensions provisions on these property both out of character with the neighborhood and mostly non-functional. Updated zoning should support reinforcing the historic fabric of the neighborhood.

3. There are many other issues like this that need to be reviewed. I'm sure the list of considerations will be exhausting, but it will be beneficial.

You have your work cut out for you. I'd be happy to talk through any of these issues with you if that would be helpful.

Secondly, separately and selfishly, as I mentioned at last night's meeting, and in full disclosure because I'm stuck in one of these binds, a quick start would be to simply allow the horizontal extension of existing non-conforming side yard setbacks up to the rear-setback line provided a) the neighborhood fabric supports the extension (it's very prevalent in my neighborhood and all of my adjacent neighbors' houses extend close to or beyond what I'm proposing); and b) that the extension continues to retain the existing fire and maintenance access. In my case I would already have about 4 ½ feet to my property line plus the neighbor's driveway. These seem to be the only two factors to consider.

Also, I am leery about filing for an Interpretation, Hardship or Practical Difficulty appeal if the odds seem favorable that this change might be coming in either by either a near-term separate zoning language change or a few years down the road as part of the overall re-zoning document. If it seems it will be part of your re-zoning proposal, or at least that the Planning Department supports this type of change, I may be willing to not file the appeals, take my chances and build the future addition's platform as a temporary 'deck' (capable of supporting the future addition) for now and wait it out. Either way it's more complicated than I had hoped for, but I will need to make that decision soon. I would like to hear your thoughts.

Thanks for your help.

Ben

Benedict B. Walter, AIA

President | Licensed Architect ME NH GA

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## Google Groups

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### Feedback on RecodePortland

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**David Spector**

Nov 22, 2019 6:36 PM

Posted in group: **ReCode Portland**

My comment:

While I'm all in favor of improving Portland's Land Use Code, I searched the latest document posted at <https://www.recodeportland.me/recode-files-1>, the Planning Board Workshop November 7, 2019 report, and the main document at [portlandmaine.gov/DocumentCenter/View/18269/Portlands-Plan-2030-with-Appendices](http://portlandmaine.gov/DocumentCenter/View/18269/Portlands-Plan-2030-with-Appendices), and could find no provision for Open Spaces or Green Spaces in either document (other than the two existing types of resource protection zones, which are underused). Our wonderful parks get only brief mentions here and there. A comprehensive wildlife and wilderness land protection plan seems to be missing.

Frankly, the new Code seems to favor housing development over protection of our tiny bits of wilderness, missing a big piece of what government can do for its citizens now.

Every city needs parks and wilderness areas, places where people can walk in solitude and quiet, away from the incessant sound and air pollution of city life, a natural environment.

In addition, providing living space for wild things, whether mammals, invertebrates, birds, or just a good native variety of trees and bushes, is indispensable. Once our world is all paved over, it will first become boringly uniform and stale, then it will die.

Our national government, through the National Park Service, has recognized the need to set aside 52.2 million acres of land as wild and/or protected national parks. The National Monuments system protects over 2 million acres of public land and water, the majority of that having been established in the last five to ten years.

Portland is a good-sized city, yet seems to have no coherent plan to protect its few small, scattered wild areas, such as Mayor Baxter Woods, Greater University Park, and Oat Nut Park (see <https://www.portlandmaine.gov/DocumentCenter/View/1594/List-of-Parks-and-Open-Spaces>). Without protection from development, these and similar areas will disappear before most folks even learn that they exist.

We must protect the heritage of our descendants, or they will have nothing but a choked city to live in.

All of this is perhaps obvious, yet seems to be missing from the RecodePortland initiative, which has been in progress for about a year already.

David Spector  
56 Yale St  
Portland, Maine



Helen Donaldson &lt;hcd@portlandmaine.gov&gt;

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**Fwd: 12/17/2019-Recode - Dimensional/R6 Design Manual All ready Going to Planning Board When NOT addressed in RECODE subcommittee?**

1 message

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**jmy** <jmy@portlandmaine.gov>

Fri, Dec 13, 2019 at 9:40 AM

To: Christine Grimando &lt;cdg@portlandmaine.gov&gt;, Caitlin Cameron &lt;ccameron@portlandmaine.gov&gt;, Helen Donaldson &lt;hcd@portlandmaine.gov&gt;

I will save this to the R-6 folder/public comment

On Thursday, December 12, 2019 at 3:32:55 PM UTC-5, Karen Snyder wrote:

Dear Planning Board Members,

It has been brought to my attention that next week Recode recommendations for dimensional standards and R-6 Design Manual will be brought to the Planning Board next week on 12/17/2019 when it has not even been addressed in any Recode subcommittee meetings.

From what I can understand, the last Recode subcommittee meeting held was 10/28/019 and it addressed ADUs, reducing parking requirements for future developments, and definitions. In addition, there was also a presentation by a developer from Atlanta, Eric Kronberg, who proposed to eliminate single family zoning and to eliminate parking for cheaper housing in which he did not provide any substantiated facts on this. The next day, Eric Kronberg, then presented at the 1st YIMBY session on 10/29/2019.

The last Recode Subcommittee agenda of 10/28/2019 is below:

<https://portlandme.civicclerk.com/web/UserControls/DocPreview.aspx?aid=624>

Therefore, I am quite surprised that there was a City notice yesterday 12/11/2019 to say that Recode dimensional standard recommendations and R6 Design Standards will be presented at a Planning Board Workshop next week on Tuesday, 12/17/2019.

I am especially surprised since the following has NOT occurred.




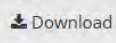
1) There was no Recode subcommittee that even addressed the proposed dimensional standards or R-6 Design Standards. However, there is no Planning Board workshop agenda yet of the proposed Recode changes being presented next week but we only have tomorrow to make public comment for next week workshop to put on record. This means we have less than 1/2 day to see these proposed recommendations and comment on them .


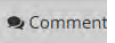
2) The City Planning Department did not contact any neighborhood organization to address this very important issues which affect long term residents every day.

3) I sent my concerns to Recode subcommittee on the R-6 Design standards 3 times and each time I was rebuffed, or ignored, or was told that it will be addressed in the future... but it never has been addressed.

4) The City feedback link shown below implies that the first 4 articles are being addressed OR input is available to be entered for the first 4 articles which makes since these articles have been addressed in a Recode subcommittee meeting.

# Collaborative and accessible, this platform facilitates dialogue on the City's Draft Land Use Code




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Consequently, why haven't the dimensional standards and R-6 Design Manual issues follow proper due process like the other Recode issues and have been addressed in Recode Subcommittee meeting rather than going directly to Planning Board workshop?

It would be advised to have a Recode subcommittee meet to address the proposed dimensional standards and R-6 Design manual changes rather than be rushed to Planning Board without proper democratic due process in which the proposed changes in a Recode subcommittee.

Regards,  
 Karen Snyder  
 Munjoy Hill Property Owner



Helen Donaldson &lt;hcd@portlandmaine.gov&gt;

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**Fwd: Draft Recode Provisions**

6 messages

**Christine Grimando** <cdg@portlandmaine.gov>

Mon, Dec 16, 2019 at 11:43 AM

To: Helen Donaldson &lt;hcd@portlandmaine.gov&gt;, Matthew Grooms &lt;mgrooms@portlandmaine.gov&gt;

Christine Grimando, AICP  
Acting Director  
Planning & Urban Development Department  
[389 Congress Street](#)  
Portland, Maine 04101  
[cdg@portlandmaine.gov](mailto:cdg@portlandmaine.gov)  
Ph: (207) 874-8608

----- Forwarded message -----

From: **Barbara Vestal** <[vestal@chesterandvestal.com](mailto:vestal@chesterandvestal.com)>

Date: Sun, Dec 15, 2019 at 9:53 PM

Subject: Draft Recode Provisions

To: <[planningboard@portlandmaine.gov](mailto:planningboard@portlandmaine.gov)>Cc: Christine Grimando <[CDG@portlandmaine.gov](mailto:CDG@portlandmaine.gov)>, Belinda Ray <[bsr@portlandmaine.gov](mailto:bsr@portlandmaine.gov)>, <[ksnyder@portlandmaine.gov](mailto:ksnyder@portlandmaine.gov)>

Chair Dundon and Planning Board Members:

I have spent a few hours reviewing the ReCode provisions you have scheduled for workshop on 12/17. I must say I am very frustrated that the materials provided to you and to the public are not more transparent about the changes being proposed.

Since it is a complete changeover from current to new draft, it is not possible to prepare a redline version. But it is not too much to ask that where the draft varies from the current, that changes should be flagged by staff. And once it gets into draft form, every change from there on out should be captured in a redline.

MY MAJOR OBJECTION AT THIS TIME IS THAT THERE ARE SUBSTANTIVE POLICY CHANGES BEING MADE BY OMISSION, WITHOUT ANY FLAGGING OF THOSE CHANGES FOR THE BOARD OR THE PUBLIC.

Staff keeps repeating that Phase I is formatting and organizational, and that policy debate and changes will not be made until after Phase I is adopted. Then in Phase II policy changes to bring the zoning into line with the comprehensive plan will be pursued. However, in the draft before you there are substantive changes. I have not done an exhaustive review, nor should it be my job or the job of the public at large to identify all of the changes. The burden should be on staff to flag each of these changes in a memo to be presented to the Planning Board and the public for subsequent discussion.

I primarily only looked at the R-6 draft text. Among the changes I found from the existing R-6 language are the following:

1. For some reason Professional Offices is changed to "General Offices" in the chart, which then refers to notes. At the qualifying note 6.5.6.C, somebody, making a substantive change, has decided to omit the existing language which currently states that professional offices are allowed BUT that category excludes personal services, retail services and veterinarians. The new draft only expressly says that veterinarians are excluded. The list of illustrative examples of permitted professional offices contained in the existing text are omitted in the draft. 14-137(c)(2). I don't know whether somebody has made the judgment that personal services or retail services should be allowed. It has not been flagged as a decision point because there has been a representation that there are no substantive changes.



2. The current R-6 extensive provisions about manufactured housing do not appear in the draft sections. 14-136(a)(4). It is unclear what the intent is for individual manufactured housing units.
3. In the current R-6 zoning, there are requirements that documentation of special needs independent living units must be recorded in the Registry of Deeds. Those provisions are omitted in the current draft. Was there a decision to delete that requirement? 14-136 (b)(7)
4. Only some of the R-6 conditions for hostels are included. It is unclear whether staff intends to house them elsewhere or they have decided not to include them at all. 14-136 (b)(9).
5. The sheltered care group homes in the current R-6 zone are specifically limited to homes that are not serving parolees, persons involved in correctional prerelease programs or current illegal drug users. That restriction is omitted in the draft which is before you. Similarly our current zoning requires that the proposed use provide adequate on-site staffing AND supervision of residents. The draft omits the requirement for adequate supervision.
6. In the dimensional standards, there is an inconsistency between "grade, average" and "grade, predevelopment," with the latter stating it is at the corners of the foundation of the proposed structure. Even if we are putting off until Phase II the critical policy discussion on getting height measured correctly, there seems to be something missing if these "rules of measurement" are supposed to be documenting how it is actually done now.
7. The discussion in 7.5 D rooftop appurtenances fails to acknowledge that there are exceptions to the statement that rooftop appurtenances may exceed the height limitations. At a minimum it should say except as otherwise limited in the Munjoy Hill Conservation Overlay Zone or a similar overlay zone.

These are just some examples of what appear to be substantive changes that have not been flagged as being contained in the materials before you. Admittedly some of them are fairly subtle. But the point is that there are policy choices that are being made by staff, and they are not being held for discussion in Phase II, nor are they being flagged so that you and the public are aware of the shifts. Some of the changes (e.g. personal services vs. professional services, parolees and persons in correctional pre-release programs, adequate supervision, rooftop appurtenances exceeding height limitations, etc.) delete provisions that were there for a purpose and could have a significant impact on how well the proposed uses fit into a dense residential neighborhood.

In addition to these variations from existing language, there are areas that are so different that they cannot even be tracked to see what is being left out. For example, staff needs to explain what they are doing about preschool, day care facilities and home babysitting services. They seem to be lumping them together in some provisions, but the definition of preschool seems to assume a school that might be providing some day care services; it does not seem broad enough to include home babysitting services.

In addition there are obvious errors. It says uses not expressly listed in Tables 6-1 to 6-6 are prohibited. There are no tables 6-1 to 6.6. They are 6-A to 6-F. 6.2.2.

Why aren't waterfront zones included in Article 5? They are geographic zones just like the others.

What happened to the term limits for Planning Board members? They used to exist.

Why such a disproportionate emphasis on signs on the definition section?

While it might be a good idea to have a maximum building width, what is the rationale for the specific new maximum building width standards that are just being introduced in the R-6? How does it apply on a corner lot? Is there a comparable building depth maximum that would apply there? If a lot has frontage on two streets, how does one determine which is the width?

Why aren't the purpose statements imported intact? The purpose statement for the B-6 zone is paraphrased, leaving out language about encouraging a "distinctly urban form" and leaving out a qualifier "as recommended in the Eastern Waterfront master plan for redevelopment." These are in the current purpose statement and are important phrases.

How can this process be made more transparent? It should not be up to lay citizens or a volunteer board to do side-by-side comparisons of existing and proposed draft language. Similarly it is next to impossible to do a good job of making sure concepts do not slip through the cracks when chunks of proposed language are being rolled out in succession.

If this Phase I is being represented as just repackaging without making substantive changes, maybe staff needs to simultaneously be presenting the Planning Board, the public and other reviewers with a marked up copy of the current zoning ordinance indicating where all of the pieces have been moved to (or where they are to appear in future drafts).

Disappearing language may be inadvertent or it may be intentionally held for some future section. The point is we don't currently have this information, it is impossible to do a thorough review without it, and only staff has access to the information to recreate what they have done as they have produced the new draft. Similarly where there are specific policy changes (such as ADUs) staff should be calling them out very clearly as decision points.

Regards,

Barbara Vestal

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## Public Comment: Portland ReCode is Slow as Molasses Disaster

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George Rheault <george.rheault@gmail.com>

Dec 17, 2019 11:14 AM

Posted in group: **Planning Board**

I get that Portland's elected officials and city administration are too scared to reform its massively wasteful and climate-change-inducing land-use policies, but hey, it is not 1965 anymore and the planet cannot wait. The trouble with Portland's land use ordinances is not formatting, layout or graphical presentation but substance which the Planning Board refuses to address in any timely fashion.

Below are some links that show that Portland can continue its teeny-tiny baby step moves away from its NIMBY exclusionary suburban sprawl zoning legacy and have very little to show for it for years (like Seattle as outlined in the Sightline article attached) OR it can rev its engines and take the bull by the horns like Bastrop, Texas recently did (also attached).

While Bastrop is only 1/7th the size of Portland's population, its land area is about half Portland's land area (almost 70% of Portland's actual municipal territory is water), so the comparison is relevant.

Portland, like Bastrop, needs to get back to the grid, embrace urbanism, and ELIMINATE wasteful insidious suburban forms like PRUDs, cul-de-sacs and single-family zones.

Better hurry up - the lobsters are already moving to Canada.

<https://www.sightline.org/2019/11/15/it-shouldnt-take-a-decade-to-re-legalize-duplexes/>

<https://www.statesman.com/news/20191125/bastrop-council-adopts-new-development-code>

<https://www.curbed.com/2019/12/2/20991992/real-estate-grid-infrastructure-urban-planning-bastrop>

[NB: Bastrop has already made concessions but at least it is getting something valuable in exchange for its give-aways:

<https://www.statesman.com/news/20191024/bastrop-council-compromises-with-neighbors-over-lcra-property-zoning> ]

[https://en.wikipedia.org/wiki/Bastrop,\\_Texas](https://en.wikipedia.org/wiki/Bastrop,_Texas)

# It Shouldn't Take a Decade to Re-legalize Duplexes

*Loosening zoning to allow more homes is a daunting task for cities. States can help.*



This mid-century triplex in Seattle's West Woodland neighborhood would be illegal to build today under current zoning rules. Photo by Dan Bertolet, used with permission.



This mid-century triplex in Seattle's West Woodland neighborhood would be illegal to build today under current zoning rules. Photo by Dan Bertolet, used with permission.

This month, Seattle city council will take a vote that illustrates how ludicrously difficult it is for cities to change their own rules to welcome more new neighbors.

The vote is one [tiny but important step](#) in the dragged-out bureaucratic grind Seattle will have to go through to loosen the stranglehold of zoning that locks up [three quarters](#) of the city's residential land for expensive stand-alone houses with big yards.

The council vote would ensure that Seattle's next [20-year plan for growth](#) includes the option—*just the option*—of opening up detached house neighborhoods to “middle housing” such as duplexes and rowhouses. It's a vote to agree to talk about something eventually.

Even if it passes, that growth plan won't be done until four years from now. Enacting the actual changes to zoning—assuming the final plan does end up calling for them—could swallow another two years. That means re-legalizing middle housing likely won't happen until a full decade after Seattle's 2015 affordability plan first [recommended it](#).

In a city with soaring rents, on a planet in a climate emergency, this is utterly insane.

How many families will be forced to the urban fringe by rising rents and prices because Seattle is maintaining its [invisible walls](#) of exclusion for an extra ten years? Thousands, if not tens of thousands.

Adding compact homes to job-rich, growing cities like Seattle is also a critical path to reining in climate pollution, by [reducing car dependence](#), and [cutting home energy use](#). And the science tells us that to avoid catastrophic warming, we have 11 years to [halve carbon emissions](#).

It's the same story for most North American cities. They can't get out of their own way and enact reforms that would allow what they badly need: more homes. This failure of local government demands state-level solutions.

So far, one state has stepped up in a big way. Last summer, Oregon [legalized fourplexes](#) in all large cities and duplexes almost everywhere in the state. In a move almost as bold, California just legalized [two accessory dwellings](#) on every house lot.

Most North American cities won't be lifting their bans on modest housing choices any time soon unless these two state wins become a national trend.

## **Exclusionary zoning is no ordinary law**

Imagine there was this law [commonly on the books](#) that acutely worsens [housing affordability](#), [carbon emissions](#), [sprawl](#), and [economic opportunity](#). And let's say this law was originally conceived to [segregate neighborhoods](#) by class and race. And let's say [wonks](#) and [advocates](#) from across the [political spectrum](#) shared a strong consensus on getting rid of this law. And let's say the deep flaws of this law had been covered in lots of major media outlets like the [New York Times](#).

One might think city leaders would be rushing to repeal that law. But prohibitions on everything but detached houses on large lots are no ordinary laws. Few cities have touched them, and those that have acted have only scratched the surface. Why?

Part of the problem is self-imposed bureaucracy that turns each zoning change into an excruciating multi-year marathon. Another part is overreliance on public engagement [typically dominated](#) by a small minority of wealthier, older, whiter, homeowners. The voices heard most invariably oppose allowing more homes.

The core reason, though, is politicians know that most residents who vote in local elections don't want their neighborhoods to change—it's human nature and there's not much city officials can do about it. In most cities, the depth and pace of zoning reform needed won't happen without intervention from higher levels of government—that is, from states.

## Seattle can't afford ten years to make room for new neighbors

Seattle, as I described above, is on track to squander a decade—or perhaps longer if obstructionists file legal appeals—before re-legalizing small-scale multifamily homes citywide. A groundbreaking city plan instigated by former mayor Ed Murray first proposed it in 2015, but the mayor quickly [distanced himself](#) from his own plan's recommendation after it [stirred the ire](#) of lawn-and-driveway zoning preservationists.

In 2019, Seattle, after a three-year process, adopted a [package of rezones](#) in that included [legalization of middle housing](#) in six percent of the city's land zone formerly reserved for single-detached houses. It was a minor change relative to the legislation's other rezones that affected every multifamily area in the city, yet still it was the most controversial piece because it dared to meddle with “single-family” zoning.

Meanwhile, the Seattle Planning Commission in 2018 published an [in-depth report](#) making the case for re-legalizing middle housing. But unlike [some cities](#), Seattle's Planning Commission has zero authority to shape policy. Electeds can use it for political cover or ignore it as they see fit.

Seattle's current mayor, Jenny Durkan, has shown little enthusiasm for opening up more neighborhoods to middle housing. To make sure the idea stays alive, Councilmember Teresa Moqueda proposed a [budget “proviso”](#) that would deny funding for an upcoming environmental study unless it analyzes rezones that would permit middle housing in single-detached house zones, along with related anti-displacement measures. The environmental study is a prerequisite for a state-mandated [update to the comprehensive plan](#)—the city's 20-year roadmap for growth.

In other words, the budget proviso would put the city in a legal bind if officials drag their feet even more on middle housing rezones. It's an insurance policy against can-kicking.

The fact is, failing to consider opening up detached house zones to middle housing in the plan for Seattle's next 20 years of growth would constitute urban planning malpractice.

Still, city council felt the need to wield a funding threat to keep that from happening. Bureaucratic hurdles not only suck up time, but they also make zoning reform all the more vulnerable to obstruction.

Last summer, [Seattle adopted](#) the most progressive rules for secondary cottages of any major US city. But it took [five years](#) from when Councilmember Mike O'Brien first proposed it! Five years just to enable the gentlest possible incremental neighborhood change in one of the fastest growing, most forward-thinking cities in the nation.

## **Other major cities have also been mired, with one exception**

Minneapolis is so far the only big US city to [authorize middle housing citywide](#), and the process was exceptionally fast. The [alignment of many stars](#) enabled electeds to legalize triplexes after only two years of wrangling. In practice, though, triplex zoning isn't much different from Seattle's recent allowance for two accessory dwellings per house lot.

Portland launched its planning process to [re-legalize middle housing](#) in September 2015. A city council vote is expected in early 2020. It's a cutting-edge plan that would permit up to fourplexes on all lots, including crucial size bonuses for projects that create more or cheaper homes. But getting there has already devoured four and a half years.

Vancouver, BC, has long been the North American leader on accessory dwelling policy. In June 2018, the city launched a [new effort](#) to open up low density neighborhoods to middle housing. A few months later, it took a first step, [re-legalizing duplexes citywide](#) (though [only 72 permits](#) for duplexes have been filed). After that, however, officials decided to fold the middle housing effort into a [long-range plan](#) that isn't scheduled for implementation until spring of 2022.

In 2012, Austin launched [CodeNEXT](#), a major rewrite of the city's zoning rules. Early proposals for robust middle housing rezones got [watered down](#) over the years, and then in August 2018 the city council [scrapped the whole thing](#). Austin has since launched a [new code update](#) that proposes allowing duplexes citywide and higher unit-count middle housing near transit.

[Atlanta](#), [Washington DC](#), and [Charlotte](#) are contemplating middle housing zoning reform as part of broader planning efforts, but action—if any comes of it—is several years off. And at least one major city—Philadelphia—has been [going backwards](#).



Almost invariably, the process is ridiculously slow, at best. In the vast majority of cities, including exclusive, job-rich suburbs, the conversation is barely happening at all.

## **A few smaller US cities have dabbled**

In perhaps the best US example of a smaller city taking action, in late 2018, [Tigard, Oregon](#), a Portland suburb, legalized courtyard apartments, cottage clusters and de-facto duplexes on almost every lot, plus fourplexes on almost every corner.

Around the same time Olympia, Washington, demonstrated how absurd things can get. City council adopted a modest set of [zoning changes](#) to permit middle housing in more neighborhoods. A local anti-housing group [filed an appeal](#) with the state's growth management hearings board, and in July 2019 the board [invalidated](#) the [new zoning](#) (see correction note, below). In a bizarre twist, a [state law](#) passed earlier this year enacted a new ban on such appeals, but since it's not retroactive, Olympia must now re-adopt the exact same zoning ordinance.

In 2008, [Grand Rapids](#), Michigan, passed new rules that permit some middle housing types in low-density areas, but only with [special approval](#). [Durham](#), North Carolina, recently legalized duplexes, but only in neighborhoods near downtown. [Kirkland](#), Washington, [Bloomington](#), Indiana, and [Charlottesville](#), Virginia, have middle housing plans in the works.

## **Local control isn't working, but states can step up**

Seattle's city council will do right to proactively check the budget proviso box so that middle housing zoning reform doesn't get stalled by a technicality. But a decade to open up neighborhoods to much-needed middle housing options is way, way too long to wait in the face of our dual affordability and climate crises.

Likewise, across North America, city governments that stick their necks out to take on exclusionary zoning struggle mightily to overcome the gauntlet of their own bureaucracy, combined with the fear of neighborhood change that drives stiff political resistance. The challenge is so formidable that most cities don't even bother trying.

As the evidence for intractable local dysfunction piles up, the solution becomes more evident: [state legislation](#).

Oregon showed how it's done last summer by [legalizing duplexes and fourplexes](#). California got part way there this fall by requiring cities to allow two accessory dwellings on every house lot—effectively [triplexing the state](#). Last spring, Washington [tried](#) and [failed](#) to pass accessory dwelling reform. Just last week, a newly elected member of the Virginia House of Delegates, Ibraheem Samirah, [promised state action](#) against exclusionary zoning.

Next state for middle housing, please?

*Seattle city council will vote on the middle housing budget proviso on [November 25](#). Sightline's letter of support is [here](#).*

**Correction 11/18/19:** In the original version of this article I wrote that Olympia's missing middle rezone was invalidated because of a "minor technical flaw in the public process." This was incorrect, as commenters on the article pointed out. The growth management hearings board [found](#) inconsistencies with the city's comprehensive plan and flaws in the environmental analysis.

# How a small Texas city rewrote the rules of development

Bastrop, Texas, found that updating the building code meant getting back on the grid



An intersection in downtown Bastrop, Texas. Last month, the city adopted a new building code, known as Bastrop Building Block, or B3, which radically alters how the city will approach development

*Courtesy City of Bastrop, Texas.*

A small town outside Austin, Texas, took a big step toward becoming a more sustainable and walkable community. In many ways, it was as simple as getting back on the grid.

Last month, Bastrop, Texas, adopted a new building code, known as Bastrop Building Block, or B3, which radically alters how the city will approach development. Instead of using the one-size-fits-all approach common to land-use policy, the new flexible system was designed to address three interrelated issues hitting municipalities across the county: population growth, aging infrastructure, and outdated development patterns.

While the details of local zoning code may seem technical, Bastrop's change is far from boring. The shift, according to proponents, may help reshape the city at little to no cost to local government, and even serve as a sustainable model for thoughtful development in a state known for a sprawl-centric development culture. It all starts with water.

### *How flooding washed away old planning rules*

Located just 20 minutes east of the booming city of Austin, Bastrop leaders knew that “the growth was coming,” says city manager Lynda Humble. So Bastrop decided to change its policies in the middle of 2018. That May, Humble, who was in the midst of her first year as city manager, told the city council that, under the existing code, new development would exacerbate the city’s flooding problems—the town had faced four FEMA-declared floods from the Colorado River and then Hurricane Harvey in just the past few years—and she couldn’t do anything about it. Since the city is on the hook to maintain flood infrastructure, it could go broke without enforcing smarter, more sustainable development mandates.

The council decided to rewrite the rules. There had already been meetings and discussions around a forthcoming comprehensive plan for the city, and residents had made it clear they wanted managed growth and fiscal sustainability. The challenge to any change was accomplishing these goals while maintaining the feel of Bastrop, a city founded in the early part of the 19th century.



An example of how new development would fit into the B3 model.

*Courtesy Bastrop, Texas*

The new B3 code was built around the idea of getting rid of nuisances, not mandating specific types of buildings. That means, for instance, retail has fewer parking minimums (requirements for a certain number of spaces per store) to reflect the shift to online shopping, and each residential lot can add two accessory-dwelling units. The city was also divided up into a series of character districts, new designations that reflected existing buildings and neighborhoods, such as the museum district or university district, as opposed to more formulaic residential or commercial

zones. Within these character districts, new developments needed to be built on gridded streets within Bastrop Blocks, 385-foot-square sections that all have to deal with their own drainage issues, so as to not dump drainage problems onto the city.

Mayor Connie Schroeder had said she wanted to build neighborhoods, not “a sea of faceless subdivisions,” and the code allows more flexibility.

### *How returning to the grid can save a city*

Part of the process included an analysis of the city by consultants from SimpleCity, based in nearby San Marcos, Texas. Matt Lewis, the company’s CEO, and his team conducted a detailed examination of downtown Bastrop, a traditional area filled with small, gridded blocks. In addition to discovering that downtown was the only fiscally sustainable area of Bastrop—based on an analysis of revenue per acre and productivity—the consultants found that zoning alone wouldn’t create the change the city wanted. Transportation reform also needed to be included, which meant altering parking rules and the layout of new streets in relation to existing roadways.

“Bastrop didn’t want to become anywhere America,” says Lewis. “Extracting the gridded street network as a key piece of the code was fundamental to going beyond typical zoning and ensuring this effort would be successful for generations to come.”

In 1837, when Bastrop was founded, the streets downtown were measured based on the turn of a wagon wheel. Today, at a time when planners are contemplating an era of [autonomous vehicles](#), these antiquated yet walkable streets still manage foster the kind of economic and social activity that makes street life and commerce thrive. B3 makes grids mandatory.

In keeping with the goal of fiscal sustainability, Mayor Schroeder said that simple math is all that’s needed to see that more sprawling developments patterns don’t add up. In November of 2017, the city council was analyzing the layout of streets in a new subdivision. Based on the length of the winding roads, the number of homes, and the property value, the city found that it would take 16 years for this development to generate the revenue needed to pay for 5 years of road maintenance. Denser, more closely connected streets mean lower construction and maintenance costs.

In postwar America, most cities left the grid and went with a system that allowed arterial roads, which form the curving and disconnected cul-de-sacs of modern suburbia. Bastrop may be one of the first to return to the right angle roadways.

“Another view of success is clarity and simplicity for the community,” says Mayor Schroeder, “to know what they can expect neighbors to build and what they can do on their own property.”

Humble says that the plan has proven the potential of planning and community engagement. When the full B3 proposal was adopted in November—a move that rezoned more than 4,700 pieces of property—there wasn’t a single protestor at the city council meeting. Residents have been able to

ask for variances, she says, and recent outreach to developers has helped spread the idea that creative projects that “push the envelope” are welcome.

“It’s already gratifying to know development is better based on the conversations we’re having today with developers,” she says.

Why aren’t more cities making similar shifts? Mayor Schroeder says that few are willing to admit they’re going broke, and fewer are willing to challenge existing paradigms of development.

“It’s unnerving to acknowledge that everything you’ve been trained on doesn’t work,” says Humble.

## Somerville gets rid of most parking requirements in new citywide zoning code

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Christian MilNeil <c.neal.milneil@gmail.com>

Dec 17, 2019 3:27 PM

Posted in group: **Planning Board**

Wanted to make sure that everyone sees this:

<https://mass.streetsblog.org/2019/12/16/somerville-council-dramatically-curtails-off-street-parking-requirements/>

Somerville has roughly the same population as Portland does.

The kicker of this zoning revision is that it sets *\*maximum\** parking ratios for new development in its densest neighborhoods, recognizing that parking garages in downtown neighborhoods a) waste valuable real estate that could otherwise be used for housing or offices; b) increase regional traffic; and c) undermine transit services by subsidizing drive-alone commuters instead.

Developers are working on proposals and projects that will add about 2,500 more parking garage spaces downtown, in Portland Square, the Portland Company site, and on Commercial Street.

For comparison purposes, the 4 lanes of Franklin Street can hold, at most, about 750 passenger cars parked in bumper-to-bumper traffic. There's no way local streets (or I-295, for that matter) can accommodate such a big increase in peak-hour traffic volumes, but the city thus far has no ordinance to regulate this.

ReCode is supposed to be taking a look at improving the city's toothless TDM standards and regulating parking more, but it needs to be done much more urgently before these garage projects completely swamp the city's ability to reduce traffic, and with it, all our chances of meeting regional greenhouse gas reduction goals.

Somerville's new zoning also strives to create more middle-class housing opportunities by doing things like legalizing up to 3 apartments in every residential lot across the city – something else we should be considering here in Portland.

Christian MilNeil

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double u double u double u dot christianmilneil dot com



Matthew Grooms <mgrooms@portlandmaine.gov>

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## Recode information

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**EJ Koch** <ejkoch@gmail.com>

Fri, Jan 3, 2020 at 4:31 PM

To: Christine Grimando <cdg@portlandmaine.gov>, recodeportland@portlandmaine.gov

Hello Christine –

I've been trying to make sense of the Recode information put up on the Webpage so far and it feels pretty dense. I am interested in getting copies of your internal informational memos to the Board discussing the provisions and what is intended/what is changed. Is there a strikeout draft? Memos that include charts or other assists to show changes the recode would make to current zoning? Responses to questions from Board members and others?

Anything that highlights the consistencies (or not) with the comprehensive plan?

I am always impressed with the materials staffpeople develop for their Boards/Commissions to facilitate better understanding and help with decision making.

If possible, I'd like to get these materials by the end of next week (January 10) so I'll have some time to digest them.

Many thanks –

Erna Koch  
[ejkoch@gmail.com](mailto:ejkoch@gmail.com)  
617-818-0882  
Vesper St., Portland





Matthew Grooms <mgrooms@portlandmaine.gov>

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## Form Submission - Contact us Re:Code - ADUs

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Squarespace <no-reply@squarespace.info>  
Reply-To: mfhutchins@gmail.com  
To: recodeportland@portlandmaine.gov

Fri, Jan 10, 2020 at 11:12 AM

**Name:** Michael Hutchins

**Email Address:** [mfhutchins@gmail.com](mailto:mfhutchins@gmail.com)

**Subject:** ADUs

**Message:** As part of the work your committee is doing to make ADUs easier to build, are you revising the definition of a half-story?

A half story cannot contain an independent apartment or dwelling unit according to the current definition.

Thanks.

(Sent via *ReCode Portland*)

Google Groups

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## R-6 Design Standards/ Planning Board 12/17/19

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Carol Connor <balsamique@live.com>

Dec 15, 2019 1:40 PM

Posted in group: **Planning Board**

12/14/19

To: Chair and Members of the Portland Planning Board,

Due to the very short public notice regarding the proposed changes in the R-6 zone design standards, I was unable to make the deadline for my letter to be included in the PB packet for the 12/17/19 meeting. I respectfully request that my written comments do be noted as part of the public record.

It is deeply concerning to me that there was a public notice on 12/11/2019 announcing that changes to both Recode dimensional standards and R6 Design Standards are being presented at a Planning Board meeting on Tuesday, 12/17/2019. The notice with supporting materials was not sent out until late Friday afternoon 12/13/19 with the PB Workshop just a few days away. With such short notice this does not allow for thoughtful public study and comment.

Where was the opportunity for interested parties to have a detailed explanation of the changes, and be permitted the chance to ask questions about the reasoning and ramifications of those changes? How can such substantive alterations to the design standards be presented without relevant input from the community members who will be most impacted?

Before moving forward with the proposed changes, I hope that the Planning Board will put the brakes on until there have been informational meetings to inform the public and provide a forum to engage input from the people and neighborhood organizations who actually populate this community.

Questions, concerns, comments on the proposed revisions:

(k) (1) Standards

Incorporating the small new residential development lot size to include those over 10,000 square feet is a positive change. What is the rationale around deleting the exemption for proposals required to obtain a certificate of appropriateness under Portland's historic preservation ordinance?

III. Context

The immediate surrounding architecture of a neighborhood should have the most impact on new construction design choices. The new proposed language would authorize the the planning board to have full power to change the 2 block impact zone which opens a new loophole....thus more inappropriate profit driven projects in the neighborhood. "The planning authority may determine the neighborhood to be greater than a two block radius, due to unique characteristics of a given site. In such case, the planning authority shall determine the scope of the neighborhood."

There is some confusion for me in the newly proposed language relative to typology and use. "Different standards apply depending on building type (single or two family, multi-family, addition)"

What exactly are those different standards and what is the rationale for them?

The suggested revisions to the R-6 Development Design Principles and Standards need more than just a workshop for public input. The community must have an active role in developing its content. This is not something to be rushed through in the busy holiday season, but instead requires a thorough examination by the planning board with stakeholders having more authorship in the document. In addition, such substantive alterations should go before the City Council before enactment.

Respectfully,

Carol M. Connor  
12 Montreal Street  
Portland, ME 04101  
balsamique@live.com 207 232 2265

Sent from my iPad

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## Comments on the proposed R-6 design standards changes

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**JEAN MC MANAMY** <ninimaine@aol.com>

Jan 17, 2020 1:36 PM

Posted in group: **Planning Board**

Chair Dundon and members of the planning board:

I am writing to you about the proposed revisions of the R-6 design standards. At this time, Friday noon, the attachments for the Jan. 21 agenda have not been published and my comments are on the version published for the Dec. 17 meeting.

I support the efforts by the board to reduce the use of alternative design review, and had hoped it would be eliminated entirely. The workload generated by ADR is unnecessary and overwhelming. While I love contemporary design and find some of the infill buildings on Munjoy Hill to be interesting, compatible, and appropriately matched to the streetscape, most are not. I believe that the reason developers seek ADR is not that contemporary design is impossible, but that they wish to push the envelope by building more units than the existing design standards allow. It is about profit, not about trim details. The current zoning requirements have created a “moral hazard” for developers. So long as the zoning and design standards plus the approval process allow the ADR workaround, the investor side of the development team will—must—push for maximum profit.

As you are aware, the current zoning requirements have enabled a runup in land values and development costs (again, driven by investor goals) which has reduced the housing supply on the Hill for middle class families and those dependent on housing subsidy. There is growing talk of a real estate bubble, which in light of the coming real estate revaluation, could collapse and lead to massive displacement of families on limited incomes on the Hill and further stress on service sector employers downtown. We are heading toward a situation where expensive peninsula schools will have empty seats due to population displacement.

All proposed improvements in the design standards and zoning must further the comprehensive plan’s goals of ensuring housing for all types of households and preserving existing housing units where feasible.

The proposed changes, many of which are laudable, extend substantially beyond support for excellent design. Instead, they establish increased freedom from consistency with neighborhood context for multifamily buildings. There is no evidence that this will lead to improvement in the housing scarcity which is causing disruption for middle class households and local businesses. Instead, evidence predicts it will exacerbate the existing real estate bubble and its social and financial consequences.

Sadly, the proposed revisions would exempt the Munjoy Hill Overlay District from the new standards, leaving in place a much relaxed ADR process whose implementation may occur at staff discretion, on a case by case basis, within the walls of city hall, with no public review. Many of the relaxed requirements have to do with compatibility with contextual scale, size and use as well as streetscape. This is too lax a standard and approval process for any zoning which deals with property rights. And given the seemingly insatiable appetite for redevelopment of Munjoy Hill, doesn’t do much for staff workloads or conservation of the larger neighborhood.

I will save specific language commentary for the workshop, when the public will have access to the newest proposed text. But I am asking the Planning Board to answer the following before proceeding with this work:

1. How does the thrust of the proposal to accelerate the development of large multifamily buildings in each of the affected R-6 neighborhoods support the comprehensive plan’s goal of housing for all types of households?
2. How does the exemption of Munjoy Hill from ADR, as well as the pullback from contextual compatibility for multifamily housing, meet the conservation goals of the Overlay District?
2. How does the pullback from contextual compatibility for new development—especially with respect to scale, mass, and impact on immediate neighbors—which is designed to encourage replacement housing, meet the comprehensive plan’s goals for preservation of existing structures for social and environmental reasons?

Many Munjoy Hill residents have requested at public meetings in recent years to have further changes in the R-6 zone, only to be repeatedly told by staff that such proposals were premature. We were surprised to see the planning office propose changes almost immediately after we were told at a Planning Board workshop our requests were premature. There has been no neighborhood discussion of these proposals, as we have seen during the excellent dialogues occurring around proposals for a Munjoy Hill Historic District and for the Conservation Overlay District.

In order to restore public confidence in the planning process, I urge you to take these proposed changes out to public review, in compliance with the comprehensive plan, through a series of neighborhood meetings in each affected neighborhood.

Thank you for your consideration. I will be providing specific language suggestions when the new draft is made available to

the public.

Jean (Nini) McManamy  
10 Willis St. 04101

Nini McManamy  
Sent from my iPad



Matthew Grooms &lt;mgrooms@portlandmaine.gov&gt;

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## Fwd: Recode comments, EJ Koch

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Helen Donaldson <hcd@portlandmaine.gov>  
To: Matthew Grooms <mgrooms@portlandmaine.gov>

Fri, Jan 17, 2020 at 1:56 PM

----- Forwarded message -----

From: **jmy** <jmy@portlandmaine.gov>  
Date: Fri, Jan 17, 2020 at 1:53 PM  
Subject: Fwd: Recode comments, EJ Koch  
To: Helen Donaldson <hcd@portlandmaine.gov>

On Friday, January 17, 2020 at 11:51:11 AM UTC-5, Ejkoch Gmail wrote:

I am writing to express my opposition to much of the proposed "recode," for a number of reasons, including a flawed public input policy, and the negative impact that the recode is likely to have on my neighborhood and others.

The Planning Department seems to be specifically targeting R-6 with proposed design changes. They say they worked with architects last year to make the proposed changes - however many residents were never made aware, nor were the neighborhood organizations which would be immediately affected by the proposed changes, and I'm not aware that there were any neighborhood meetings held.

What is the explanation for this? There was more than adequate opportunity to publicize and hold neighborhood meetings over the past year to explain the changes that would be made, and get feedback from those who would be affected.

This process, and the apparent results, completely contradict the Comprehensive Plan (Page 52) - "***Develop additional resources for neighborhood associations and citizen planners, such as neighborhood planning toolkits and processes to enhance communication between neighborhood groups and City staff, to enrich community input.***"

The Planning Dept appears to be minimizing residents' concerns by referring to "6 public comments" sent on 12/13/2019 when it was clear to some of us that the Planning Dept proposal made massive R-6 Design changes and then quickly put these changes on the Planning Board agenda for a 12/17/2019 Planning Board workshop. None of this appears to be working to the advantage of the residents of Portland.

Regarding the proposal itself, there are many questions. I and others have found the documentation on the web rather impenetrable, and unclear as to the impacts the planning department would expect from the recode provisions. Without an adequate public information and input policy, this proposal cannot be claimed as legitimate.

The Historic Resources Policy Guide: "Stabilize and enhance historic areas of the city by ensuring quality investment in existing structures and compatible infill development."

**Question #1: How is removing all R-6 Design Standard language that support compatible infill regarding scale/massing and architectural compatibility by removing a 2 block radius requirement and instead using the ambiguous term of "neighborhood" accomplishing the goal of the Historic Resource Policy? The Planning Department proposes removal of ANY requirement of multi units to adhere to scale/massing and architectural compatibility.**

The Housing Policy Guide supports a diverse and increased housing stock, recognizing this will necessarily involve new construction as well as investment in existing buildings: "Increase, preserve, and modify the overall supply of housing city-wide to meet the needs, preferences and financial capabilities of all Portland residents."

**Question#2: How could encouraging even more predatory development entailing the removal/demolition of affordable and existing housing, to be replaced with high end luxury condos and high end single family homes be considered increasing “diverse housing stock?”**

The Environment Policy Guide has much to say about building to high energy standards and encouraging alternative technologies for both new construction and rehabilitation of existing structures: “Encourage landowners and developers to incorporate sustainable design, materials, and practices in rehabilitation of historic resources and in new construction.”

**Question#3: How is the Planning Department proposal that encourages demolition and speculation, or the proposed R-6 Design standard language changes going to help the environment? The Carbon footprint of demolishing a building is many times worse for the environment than renovating. Erecting high end “eco-friendly” million dollar condos does not adequately offset the environmental damage of demolition of existing buildings as shown:**

[-https://amp.theguardian.com/cities/2020/jan/13/the-case-for-never-demolishing-another-building](https://amp.theguardian.com/cities/2020/jan/13/the-case-for-never-demolishing-another-building)

The Planning Department, instead of adequately enforcing the Current R-6 Design standards will, through the proposed changes, encourage even more predatory development than several neighborhoods already endure under the existing, unenforced design standards. I see no benefit to that.

The policy idea that any addition to the housing stock has the effect of depressing prices and will make the housing stock more affordable is **false**. The opposite is true. From the 2015 Greater Portland COG Workforce Housing Study (before speculative development started to overwhelm our neighborhoods):

- “ At first glance, the construction of luxury housing in any downtown would be considered a boon, not a burden. In the long run, however, neighboring property owners will follow suit, running up sales prices and rents unsustained by real growth in wages, incomes, jobs, or property improvements.
- For workers, the consequence is longer commutes from suburbs and rural areas. Others will establish themselves in less expensive urban markets, such as Biddeford, Lewiston, Gardiner, and Bath. Absent a correction by regulation or the market, these forces could take shape, first as a collection of individual choices which then swell into an undeniable movement. And they did happen during the 2000’s.”

This is just what is happening now. The proposed Design Standards and other changes will exacerbate this. Is this a good look for a city government that is constantly bleating about the need for workforce and affordable housing?

The Planning Board should require the Planning Department to actually reach out to and truly attempt to inform neighborhood stakeholders BEFORE going to any Planning Board workshop. The proposed R-6 Design changes are not acceptable, and may not be valid due to an inadequate public process.

Thank you.

Erna Koch  
Vesper st.  
Portland, ME

--  
Nell Donaldson  
City of Portland Planning Division  
(207) 874-8723  
[hcd@portlandmaine.gov](mailto:hcd@portlandmaine.gov)

Google Groups

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## Re-Coding & R-6 Zoning Changes

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Wayne Valzania <Wayne@redhookdesignalliance.com>

Jan 17, 2020 5:30 PM

Posted in group: **Planning Board**

Portland Planning Board

City of Portland, Maine

Portland, Maine 04101

Re: January 21, 2020 Workshop – “Recoding” and R-6 Zoning Changes

Dear Members of the Portland Planning Board:

I am writing out of concern regarding both the Re-Code process that is underway and the R6 Zoning rewrite that is currently in process. Over the past few years, my wife Carolyn and I, residents at 27 Merrill Street on Munjoy Hill, have attended numerous workshops and planning board meetings in regard to development on the peninsula and what seems to be a lack of a cohesive development plan that best serves all of the residents of Portland. Having lived in several cities I have had the opportunity to see and experience the results well planned city development and some where city planning hasn't been as successful. My feeling is that the Portland Planning Department is working very hard in an extremely difficult situation. Faced with the demands of economic pressure and an interest in all that Portland has to offer, including living on Munjoy Hill, the decisions before you are life and city altering. I do not suggest that you as planners aren't taking your responsibility seriously, however I do think that the process has accelerated to a point where irreversible mistakes might be made. My suggestion is to slow down, develop the city in collaboration with those who live here, through additional workshops and listening sessions with citizens, rather than just those who are actively developing our city, driven by immediate profit. We have been promised a collaborative rewrite of the R6 and have accepted that promise. Please include us in the conversation, make it a transparent process, and openly explain to us what the changes are and how you expect they will benefit us as property owners and taxpayers. There are many issues that hinge on the outcome of this process, affordable housing being one of them. An analysis of development as it is taking place will show that it negatively effects the ability of people to live and work in Portland. In many regards we have a service economy, populated by restaurant, hotel and inn staff and the many people who work in the shops and stores which contribute so much to the attraction of our city. For the work that they do, and their love of our city, they too should be able to live here among us and enjoy the city to which they contribute.

Thank You for your work, and I look forward to your thoughtful work on behalf of all of us who live here.

Regards,

Wayne Valzania

**Wayne Valzania MS CPM**

**Red Hook Design LLC**

17-C Westfield Street

Portland, ME 04102

Mobile 207-274-4918

RedHookDesignAlliance.com



Matthew Grooms &lt;mgrooms@portlandmaine.gov&gt;

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**Fwd: 1/21/2020- Planning Board Workshop on Recode Input Tool Process Needs Work**

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Helen Donaldson <hcd@portlandmaine.gov>  
To: Matthew Grooms <mgrooms@portlandmaine.gov>

Fri, Jan 17, 2020 at 1:56 PM

----- Forwarded message -----

From: **jmy** <jmy@portlandmaine.gov>  
Date: Fri, Jan 17, 2020 at 1:50 PM  
Subject: Fwd: 1/21/2020- Planning Board Workshop on Recode Input Tool Process Needs Work  
To: Helen Donaldson <hcd@portlandmaine.gov>

Saved to the project file.

On Friday, January 17, 2020 at 12:16:54 PM UTC-5, Karen Snyder wrote:

Dear Planning Board,

I am concerned as to the non-transparent process of this entire Recode input process that is being used for public comments for the following reasons. The link used is:

<https://www.recodeportland.me/public-input-1>

- 1) The Recode process started last February 2019 but the Recode Input Tool was just introduced by the City on 11/22/2019 right before the holidays for the public to comment into.
- 2) There is no red-lining of language changes made by the Planning Department when going from the old format to the new format. Note: No red-lining is needed when just moving language to a different format but red-lining the actual language content changes when moving to this standardized format is required.
- 3) ALL of the Recode comments made in the Recode Input Tool should REMAIN in the input tool and the Planning Department should only comment on these comments as to how they handled it. Did they use the comment, incorporate the comment or simply ignore it? But by the current process of removing the public comment and burying it in a staff memo does not provide continuity and transparency to how the public comments are being handled within this Recode process

Therefore, I recommend the following with the Recode Input tool link: <https://www.recodeportland.me/public-input-1>

Planning Department needs to please leave all public comments in this input tool and just indicate within each public comment how they handled that comment. This way it provides a fully transparent public comment change process.

Regards,  
Karen Snyder  
Waterville St.

--  
Nell Donaldson  
City of Portland Planning Division



1/17/2020

City of Portland Mail - Fwd: 1/21/2020- Planning Board Workshop on Recode Input Tool Process Needs Work

(207) 874-8723

[hcd@portlandmaine.gov](mailto:hcd@portlandmaine.gov)

## Planning Board January 21 Recode Workshop Comments

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**Mike Hoover** <chzstk@gmail.com>

Jan 17, 2020 11:48 AM

Posted in group: **Planning Board**

Chairman Dundon and Planning Board Members -

I currently live and own property on Munjoy Hill within the R-6 zoning district. I would like to address the Planning Staff development of the recode to date.

While I recognize that the staff have worked hard on this effort, and it is a difficult task, I have serious concerns about the current format and content of phase one of the recode. This document has been described as a reformatting of the code, without changing any of the intent of the code itself. However, there are very specific changes to important zoning criteria for the R-6 zoning district which are currently included in the document. This is not consistent with the stated purpose of this phase of the document development.

These changes have not been identified in the document as specific zoning code revisions. In addition, the document provides no ability for the reader to identify these important changes.

I request that prior to any further consideration of the recode update by the Planning Board, a document should be developed and submitted for review which identifies the specific changes made to zoning codes, and describes the intent for these changes.

Without this information, important changes will be made in a vacuum, without public input or consideration. It is important that this process be transparent and inclusive of public input. At this time, it is not.

Sincerely,

Michael Hoover  
40 Melbourne  
Portland, ME

Google Groups

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## 01/21/2020 PB Workshop - Opposition to Proposed R-6 Design Standards Changes

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**Mary Casale** <dirtgirl1@aol.com>

Jan 17, 2020 11:53 AM

Posted in group: **Planning Board**

Dear Chairman Dundon and Planning Board Members,

I am in opposition to the changes being presented.

These changes are coming from the Planning Department under the umbrella of the City of Portland Recode .

This is not due process and has not engaged nor notified the residents of R-6 zone of this dismantlement and Re-Write of the design standards.

The wink and nod to Public engagement is alarming .

I attended the September 11, 2017 Munjoy Hill Neighborhood Organization Board of Directors meeting at which Christine Grimando and Nell Doanaldson presented the idea of Re-code ( which is a misleading identifier ) . I identified my concerns as to the lack of standards for demolishing not only single buildings but blocks of buildings, ( among multiple other concerns) and was politely listened to . There were no other community, neighborhood meetings to engage as many stakeholders as possible.

I have spoken to many of my neighbors and they are totally unaware of what is being proposed. Re-Code ? " isn't that some computer programming thing.?"

I request that the Planning Board reach out to the residents of the R-6 so that education on the impacts of such changes are identified and questions are posed , solutions sought , prior to any presentation.

Thank you for the time you devote to our city

Regards

Mary Westort Casale

39 Waterville St

Sent from my iPad

## Google Groups

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### Recode Draft

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**Judith Cutler**

Jan 20, 2020 11:28 AM

Posted in group: **ReCode Portland**

Today, January 20th is the 1st time I saw the Recode Draft. Am only made aware of these issues through the Munjoy Hill Conservation group.

Who IS answerable to the people of Portland?

Judith Cutler

Eastern Promenade

Sent from my iPhone

To: Portland Planning Staff + Chairperson and Members of the Portland Planning Board

From: Rob Whitten

subject: Mass and Scale

CC: Interested Parties

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Members of the Planning Staff and Chairperson and Members of the Portland Planning Board,

Good evening. My name is Rob Whitten, I'm an architect with a practice in Portland. I came to Portland to begin my career and found Portland to be a wonderful, welcoming environment. My wife and I repaired and renovated a condemned house at 23 St. Lawrence Street and raised our family. We've been there for forty-three years and plan to stay on the Hill as long as we can.

**R-6:** An R-6 neighborhood is livable city at its best: with a wide mix of housing types whose one to three story residential scale and a mix of housing, open space, transit options, quiet streets, neighborhood parks, local schools, and walk to work employment.

Prior to 2015 Portland's R-6 zoning provided many opportunities for affordable housing as rentals and possible purchases from older neighbors as they left the community.

One of the most important features of our R-6 neighborhood is the mass and scale of the housing that has evolved over 100 years.

The question to the Planning Department and the Planning Board; what is Mass and Scale? How does one determine contextually appropriate Mass and Scale as specified in the City of Portland's Design Standards? Is Mass and Scale defined by the width of the structure multiplied by the length of the structure multiplied by the height of the structure?

**Mass and Scale:** I've prepared model to demonstrate and to show the impact of Mass and Scale on an R-6 neighborhood.

Attached are images of a three-dimensional model of a typical R-6 neighborhood. The model is built at a scale of 1" = 20' and it represents a typical R-6 street pattern with 50' by 80' lots of 4000 square feet. The dashed red lines indicate minimum 5' front yards and 5' side yard setbacks and 15' rear yard setbacks.

**See pages 1 and 2.** This is a typical R-6 neighborhood as seen on St. Lawrence Street, Atlantic Street, North Street, Montreal Street, Munjoy Street, Morning Street, or Beckett Street. This is consistent with many existing R-6 neighborhoods in the West End.

The aerial view and street view show the Mass and Scale of housing, open space, and parking. The volume of each structure is labelled =  $W \times L \times H$  = Mass and Scale. The existing structures on the model represent older housing stock with affordable apartments, green space, and off-street parking.

**See pages 3 and 4:** The model proceeds to teardown, infill, and replace the existing structures of 24,000 cubic feet, 40,000 cubic feet, and 56,000 cubic feet with new structures that are the minimum sideboard set back, the minimum rear yard setback, the maximum height including four story setbacks, and the maximum lot coverage. The model proceeds to group single lots as larger parcels, eliminating the space between buildings that bring sun light, fresh air, green space and parking to the neighborhood.

The new structures range from 96,000 cubic feet on a 50 x 80 lot to 213,000 cubic feet on a double lot to 352,000 cubic feet on a triple lot.

**See pages 5 and 6:** The new structures represent the maximum Mass and Scale that can be built on a given lot or group of lots.

The new structures are 400% bigger on a single lot to over 1400% larger on a triple lot

The new structures on the model stand in contrast to the once affordable, existing R-6 neighborhood.

**ReCode and R-6:** R-6 zoning was changed in 2015 to attract affordable housing, and to allow for in-fill development of undeveloped smaller properties, and to the maintain the live-able character the existing R-6 neighborhoods.

The unintended consequence of the zoning change has been the loss of affordable housing, the loss of younger work force families, and new structures designed to serve the luxury, condominium housing market

Over the past five years the R-6 neighbors have attended many Planning Board workshops, Planning Board meetings, and City Council meetings to express concerns about the revised R-6 zone and to speak in opposition to the Mass and Scale of recent R-6 developments.

**See pages 7 and 8:** Is this the vision and goal of the Planning Department and the Planning Board for Portland's R-6 neighborhoods?

Thank you for your time and consideration.

Rob Whitten  
23 St. Lawrence Street  
Portland, Maine 04101



**Rob Whitten** / Founder & Principal

**Whitten Architects**

207.774.0111 x101

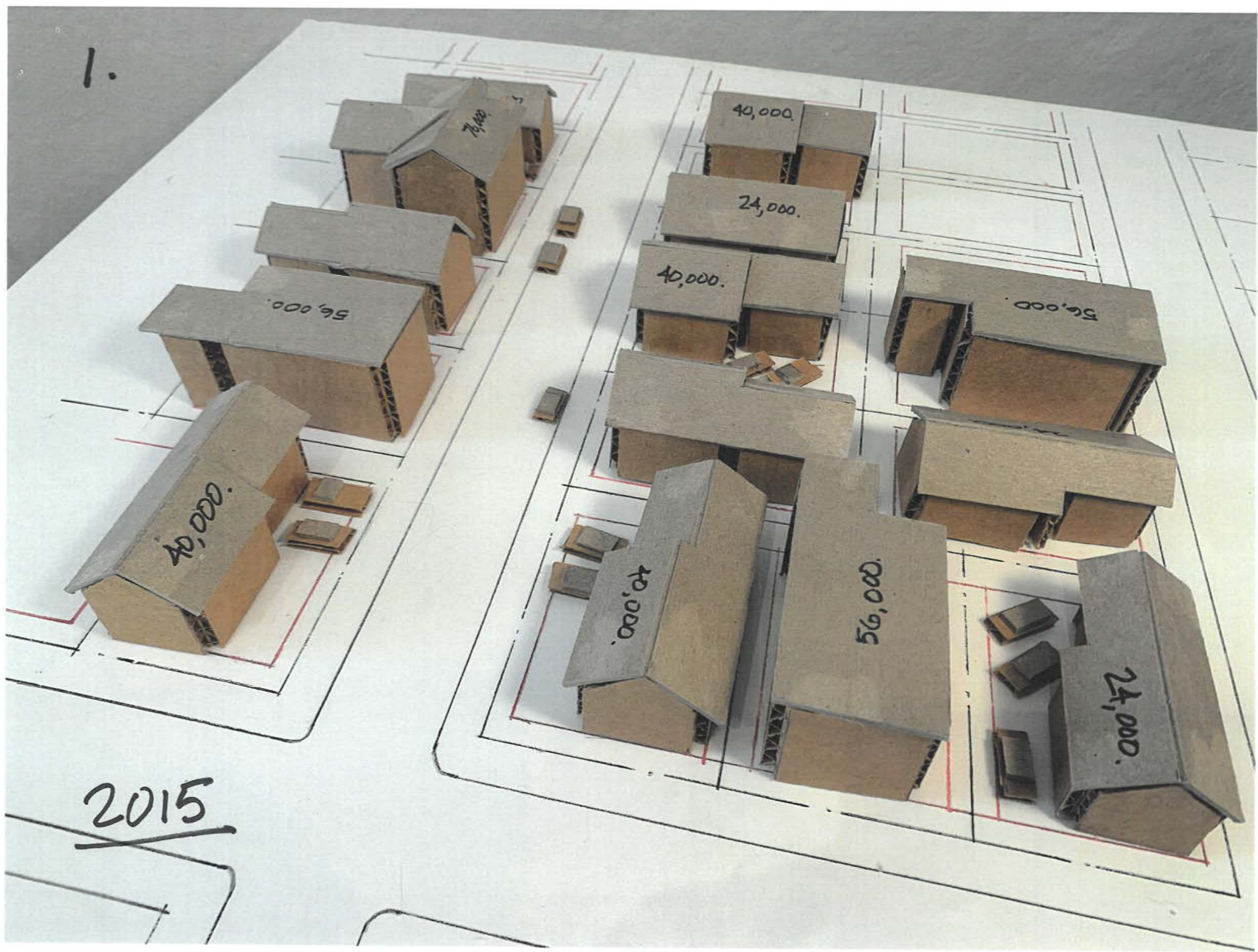
37 Silver Street

Portland, Maine 04101

[www.whittenarchitects.com](http://www.whittenarchitects.com)



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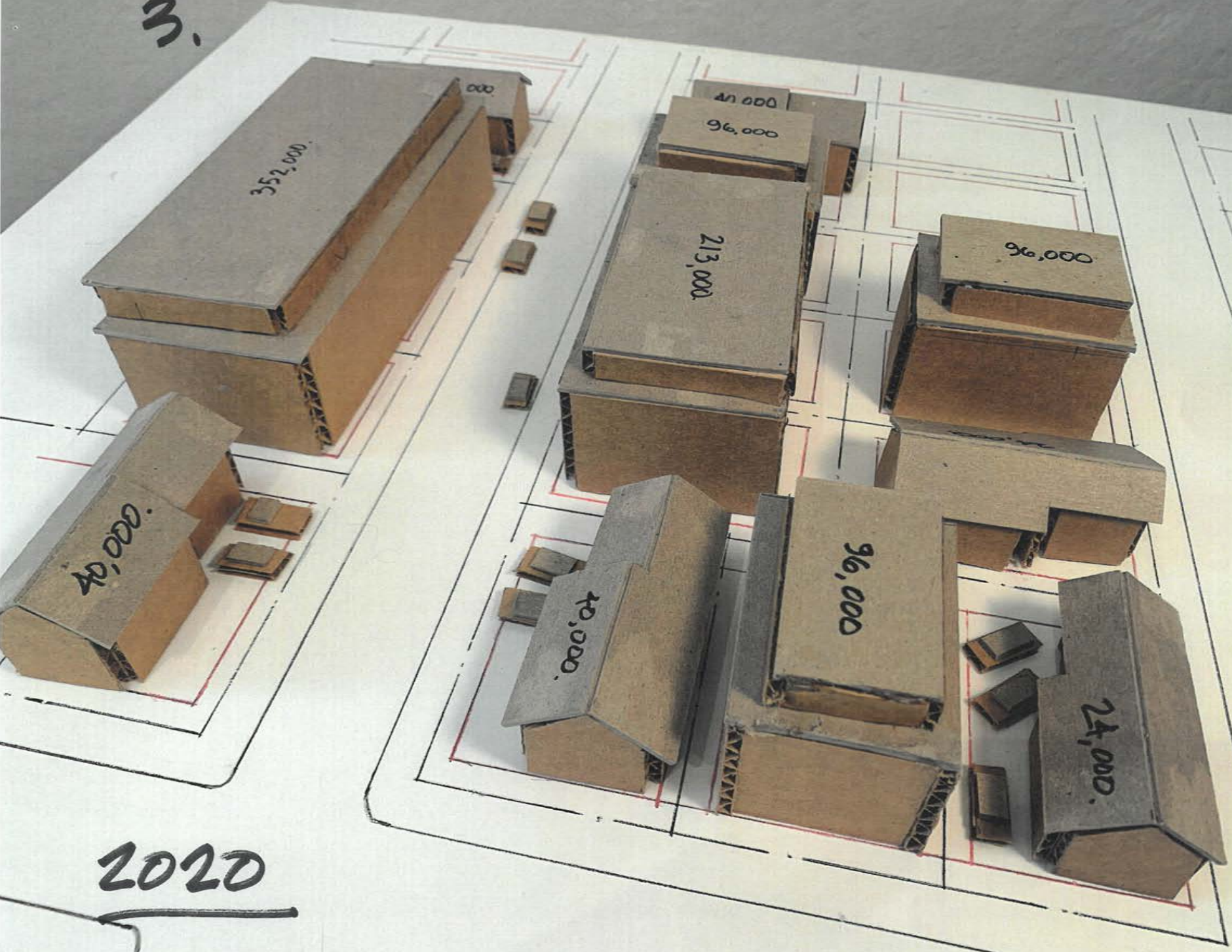
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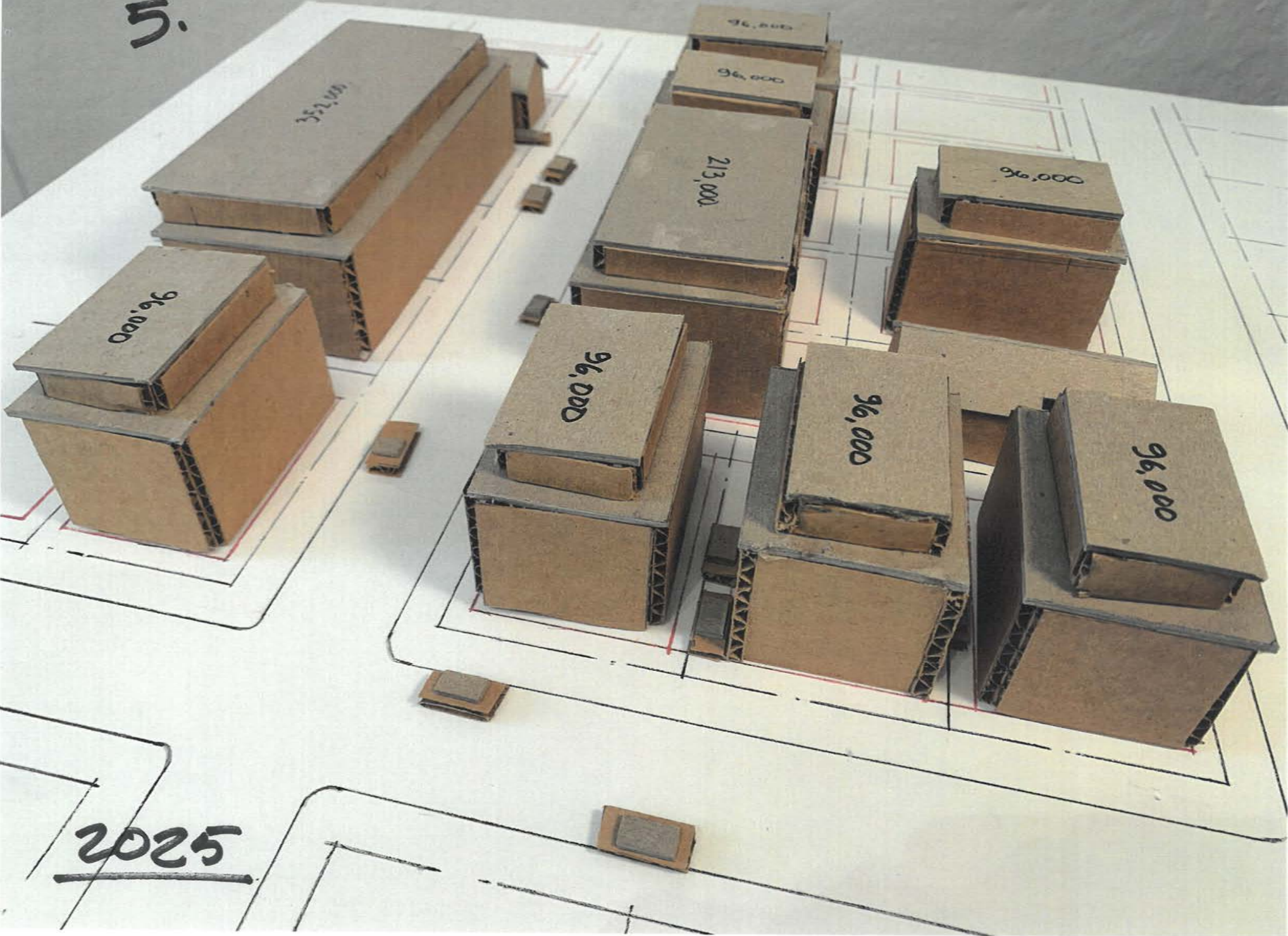
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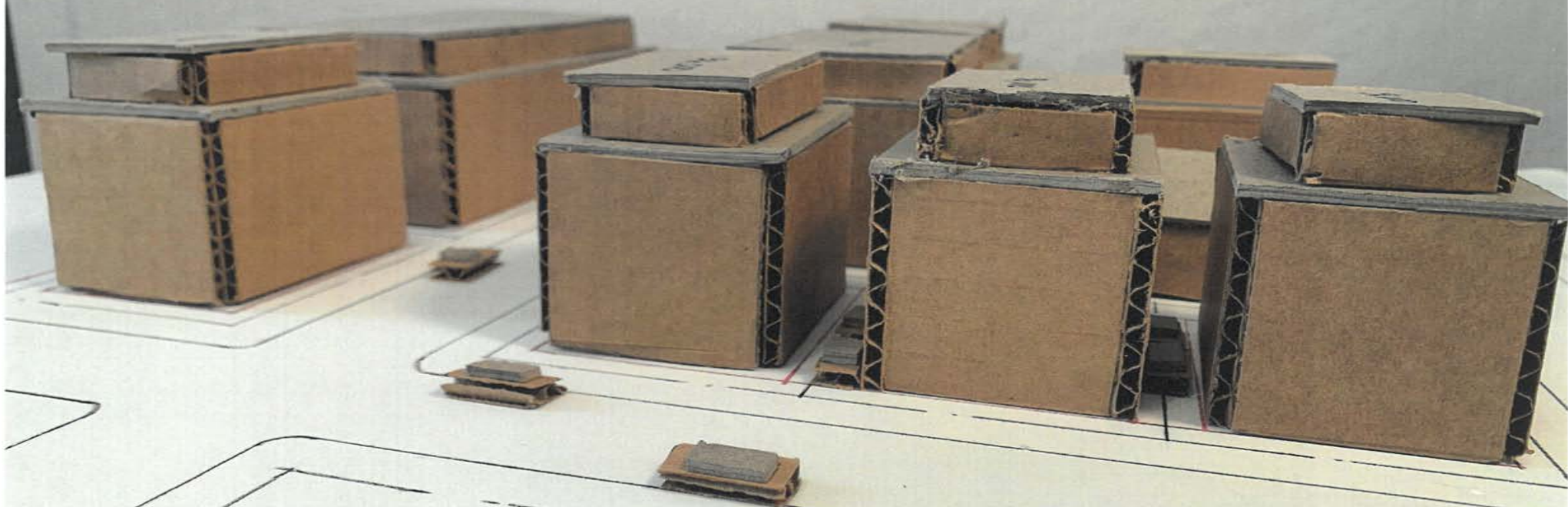


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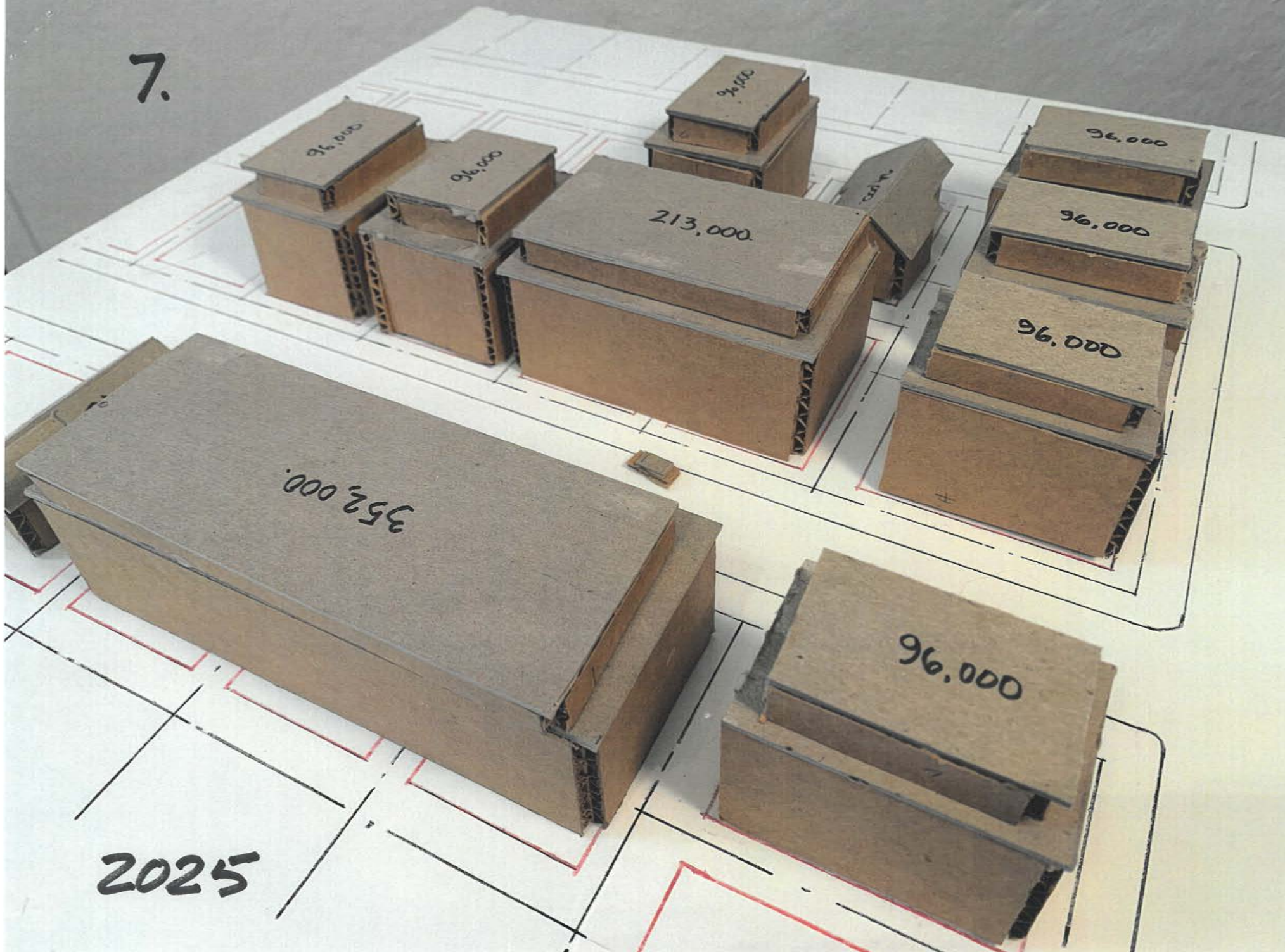


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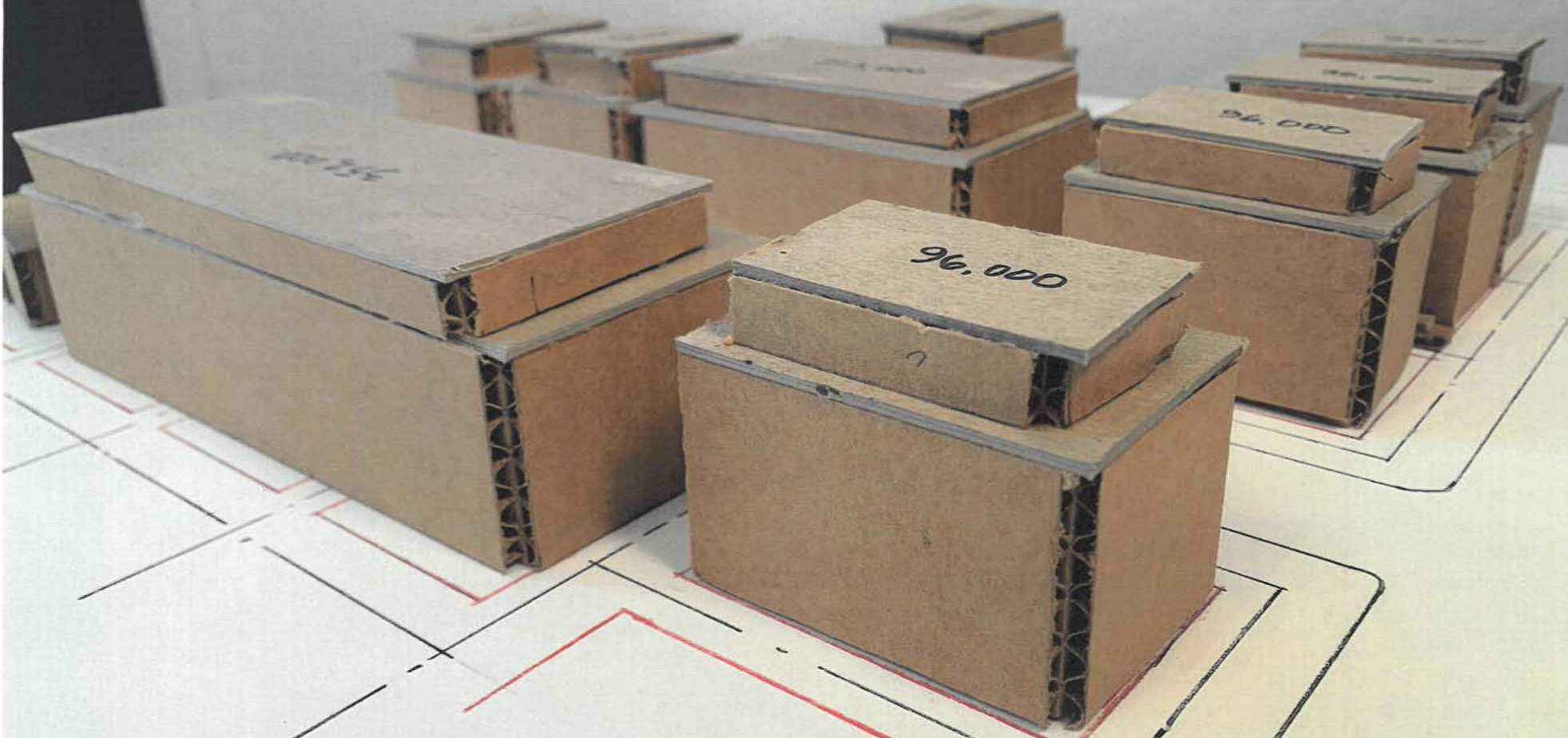
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2025

## Opposition to Proposed R-6 Design Standard Changes

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Michael Englert <michaeljenglert@gmail.com>

Jan 21, 2020 2:02 PM

Posted in group: **Planning and Urban Development**

Dear Planning Board of the City of Portland:

We agree with the Munjoy Hill Conservation Collaborative and other citizens opposing the proposed Recode changes and proposed R-6 Design Changes. The Planning Department did not provide an opportunity for citizens and neighborhood organizations to provide input and did not hold neighborhood meetings regarding these substantial proposed changes to the R-6 residential neighborhoods, even though the Comprehensive Plan emphasizes "neighborhood organization involvement."

Substantively, the proposed design changes would allow developers to build in R-6 without due consideration to abutters or to the streetscapes, and would continue the proliferation of square box luxury condos at the expense of historic, vernacular structures that make Portland such a unique and attractive city. We believe the current R-6 Design Standards are acceptable (although such standards have reportedly been largely ignored by the Planning Board and Planning Department). Moreover, this proposed new language appears to limit abutters' legal standing to seek redress in court.

We therefore urge the Planning Board to table this workshop discussion, and direct the Planning staff to design and implement an appropriate process to assure public participation and community input into any proposed changes to the R-6 Design Manual.

Michael and Linda Englert  
193 Sheridan Street  
Portland, ME 04101

Google Groups

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## Recode and R-6 design standards

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**Maggy W** <mawnola@gmail.com>

Jan 21, 2020 5:12 AM

Posted in group: **Planning Board**

Dear members of the planning board,

I have been intending to attend today's workshops on the Recode and the revised Design Standards, however I injured my back yesterday and am still unable to walk without great pain today. Therefore I hope my late comments will still make it into today's meetings.

Quite simply, I feel the electronic documents that have been sent out are too sizable and complex for members of the public like myself to understand all of the changes and implications in order to provide feedback and input. I would have hoped that the planning staff would solicit input from the affected neighborhoods by bringing an in-depth presentation to the neighborhood centers and carefully highlighting the proposed changes.

In my case, I have a vision impairment that prevents me from reading anything longer than a short article or email either on a computer screen or on the printed page. But even if I could have read the entire online document, I still would not have known exactly what had been changed without having a side-by-side comparison with the old document.

Sending out an electronic document without highlighting or annotating changes and with a complicated method of providing comments does not meet the definition of engaging the public in the process.

From what I can read, the proposed documents do not address at least two issues causing problems in my R-6 neighborhood:

1- height calculations: we must start consistently measuring average grade from original grade. Measuring from "finished grade" allows a developer to manipulate that grade with retaining walls solely to bypass height restrictions. If they need retaining walls or planters for their design that is one thing, but they should still have to use average original grade for their height measurements. This manipulation of height is one of the practices that has caused the most heartache on the hill and renders meaningless the height limits in the land use definitions. We absolutely need to prevent abuses where a retaining wall allows a developer to build extra high, as in 32 Saint Lawrence, which is a towering 4-story single-family home for 2 people. I think most residents are surprised to learn that the current practice is to measure from finished grade - most people assume that all of Portland uses original grade, which is the standard on the islands.

2- One other point made clear by 32 Saint Lawrence is that buildings above a certain square footage should trigger level 3 site procedures. This just-under-4000 square foot building on a sub-divided lot should have had a neighbors' meeting and a public planning board review. However because it is a single-family dwelling, it bypassed that process, even though it is larger than most of the surrounding multi-family buildings.

Maggy Wolf  
28 Saint Lawrence



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## R6 Zoning Changes and Design Standard Changes

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**R Cousins** <rcousins@hotmail.com>

Jan 21, 2020 11:34 AM

Posted in group: **Planning Board**

I won't be able to attend tonight's meeting. But I do want you to know that I totally support the other 6 comments you've received via email. I'm not sure who owns our current Planning Department but it seems the **predator developers** are in control. It feels like we're just turning '**our**' city over to the moneyed interests with total disregard for the current population. I'm not opposed to change and yes there are buildings that may need to be removed and replaced with more habitable structures. But this shouldn't be a free-for-all process driven by fees paid to the city for a laissez-faire development driven by greed.

Without input from those affected by the changes, (and what specifically are the changes? The Planning Dept has the obligation to indicate what is being replaced as well as the new language), then this becomes a non-democratic process. To my knowledge we the taxpayer don't directly choose or drive the development process or the Planning Department goals. Although as already stated in the Comprehensive Plan " *Develop additional resources for neighborhood associations and citizen planners, such as neighborhood planning toolkits and processes to enhance communication between neighborhood groups and City staff, to **enrich community input.***" Where is this happening within the Planning Dept. for the Zoning Changes and Design Standard Changes?

I looked at the Recode through the provided link and once again it's almost impossible for me as a layman to follow what's changed. I suggest you direct the Planning Department to provide the existing code with red-lined changes and if possible how this will affect the neighborhood I fondly live in.

I suggest you simply send this whole thing back to the department with instructions to 'do-over' the whole thing with involvement from ALL parties per the Comprehensive Plan.

Sincerely,  
Mr Rae Cousins  
Munjoy Hill Resident

## Recode changes being proposed for R6 design.

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**Nancy Machesney** <dmaches101@aol.com>

Jan 22, 2020 1:56 AM

Posted in group: **Planning and Urban Development**

Dear Planning Board,

I was just made aware of the workshop held on 1/21/ 20 . I was out of town was not able to attend this meeting.

For the record, I would like to voice my strong opposition to the proposed changes to the R-6 residential zone . These proposed changes ,particularly those to the R-6design, would negatively affect neighbors and give developers unfair advantages. The planning board instead should be enforcing the current rules and listening to their taxpayers concerns.

I happen to live in a development ( Munjoy Heights) where the developer, bent over backwards to be mindful of his abutters, Munjoy Hill and the city. Current developers need to be held to the same standards. Open garages, oversized developments on small on unsafe lots , passes on roadways clearances and green spaces should not be allowed. The planning board needs to keep and impose the law as is it stands for the fairness and safety to all involved.

Thank you,

Nancy Machesney  
213 Sheridan Street

Sent from my iPad

Portland Planning  
Portland City Council

CC: City Council

January 22, 2020

Hello & Happy New Year,

After December's workshop on this same topic, I walked away seeing a possible path forward. Then, after watching last night's Planning Workshop on R6, next steps for our great City seem clear.

The Planning Board is faced with many intersecting topics in the same season. Revising the R6, reviewing the Conservation Overlay on Munjoy Hill, revamping design documents, finalizing the Recode appear, in total, overwhelming. Add the question of adding a Historic District to Munjoy Hill and the City has a very complex, sometimes overlapping and confusing series of topics on their plate.

The good news is **the Recode rules the day** and is the opportunity the City has to address all of the other needs (both Planning and Citizen based needs.) My advice: Clear your (planning staff's and city council's) plate clean of all distractions except the Recode work. This envelops all other topics & will give your team & Staff focus.

- R6 revamp was an 'olive branch' to the Hill to address the fallout of the poorly constructed (by the City Council) Conservation Overlay District. Clearly, the voices during last night's workshop will not accept this work from Planning staff. Live comments from most in attendance last night were proven incorrect and the belief that the first draft of the new R6 is a 'liberalization of the R6' is preposterous. *Planning Board members, please do NOT support this when it may change in a month or so after implementation due to the Recoding efforts.*
- The Hill Conservation Overlay imposed many unintended consequences and needs to be repealed and addressed via the Recode process. *Planning Board members, please make this part of the Recoding scope.*
- An R6 should be an R6 citywide. The Hill, or any other neighborhood in Portland, does not require its own set of regulations (e.g., overlay or otherwise.) While the Hill has a group of tenacious advocates, please keep in mind they do not represent the entire Hill or the City. The Hill simply does not require special accommodations when compared to other neighborhoods.

- The proposed Historic District is a confused mess of a recommendation that proponents on the Hill believe will address zoning issues like demolition, size of building, etc. It will not. HD on the Hill is a red herring promoted by NIMBYs who attempt to fool others into believing it will address zoning matters. When in reality, it will only increase prices further and push development/housing crisis to other areas of the City. *Planning Board members, please do not support this when adding a 12<sup>th</sup> district has little-to-nothing to do with the concerns of the citizens &, as documented earlier, has been a process filled with issues.*

**Note: re HD on the Hill, it is worth mentioning that the Historic Staff's memo presented in preparation for the December 10, 2019 Planning Board Workshop cites that criteria has been met for both 14-610 and 14-611. However, the memo does not explain how the criterion was met. Unless the memo is missing significant detail, the information provided does not adequately explain (thus satisfy) that the criterion has been met.**

- While the Hill does have historic value to our city (14-610), how is its 'value [a] significant example of cultural, historic, architectural, archeological or related aspect of the heritage? Couldn't this be said about any neighborhood in our City?
- Re 14-611, the Staff memo cites a number of individual buildings as justification for the criteria. If individual buildings, why does the City need a large district? Why not simply designate those or recommend voluntary national designation or landmark assignments? It seems a 'stretch' to cite a small number of buildings on various streets as justification to convert a neighborhood.

Finally, as this new year starts, I want to sincerely thank the Planning Board. Witnessing what your team manages in terms of volume of work and public involvement (borderline harassment) is truly mind-boggling. You all deserve awards from tolerating the avalanche of (sometimes misinformed) comments from the same 12 people on each and every topic before you.

Best,

Carle Henry

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## Proposed ReCode Changes to R-6 Neighborhood Protections

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Laura S. Underkuffler <lu27@cornell.edu>

Jan 22, 2020 11:28 AM

Posted in group: **Planning Board**

Chair Dundon and Planning Board Members:

I have just become aware of the proposed ReCode changes to existing R-6 neighborhood protections regarding incompatible development. After studying these for several hours, my comments follow.

As an introductory matter, my husband and I own the house at 215 Oxford Street and we have lived there for 11 years. I commute to Ithaca NY where I teach law – in the fields of property, land use, zoning, and related areas – at Cornell University.

I was shocked when I read the proposed changes. The status at the moment is that they take a giant step toward the complete evisceration of existing protections for the Bayside neighborhood of traditional, modest, low- and middle-income homes and residents.

Existing zoning requirements are not simply fluffy requirements that can be changed or ignored when that is deemed to be convenient. Standards and requirements provide vital protections for residents – in this case, those who live in low- and moderate-income neighborhoods, with the affordable housing that the City professes that it wants – from changes that are detrimental to those modest homes and that neighborhood character. We are not arguing against low-income and affordable housing here. We are arguing for its preservation in the face of tear-downs and the building of luxury housing for the wealthy.

The document describing the proposed changes admits that the existing design standards were intended to require that new construction would “maintain the existing character (built character includes scale, form, relationship to the street, material, façade composition).” The proposals express an unabashed and overt rejection of this standard, on the basis that these “current standards are not aligned with or representative of contemporary architecture and development landscape.” This, however, is a complete non-sequitur. Of course the character of modest, traditional neighborhoods is not the same as that of buildings that completely reject that character. The question is how to make contemporarily built buildings *harmonious* with that character. The answer of these proposed changes is simply to discard the rules and the effort to require that. The changes are not designed to determine compatible infill; they are designed, unfortunately, to undermine that requirement altogether.

Nods to “compatibility” (see “Standards,” section (k)(1)), are completely undermined by the specific changes proposed.

The document which presents these changes rightly acknowledges that there is “substantial community discussion around the characteristics and scale of new developments compared with the existing built fabric – [and] the general consensus has been a desire to maintain the existing neighborhood character and look at how planning tools such as zoning, historic districts, and design review can impact that goal.” Unfortunately, these proposals completely contradict that statement. The solutions in this document to the incompatibility of existing character and proposed buildings are to simply eliminate the requirement that existing character be maintained.

First, the goal of the changes is stated to be to “remove overly prescriptive [requirements] based on traditional building patterns that are no longer relevant to contemporary living patterns.” Where there were previously “quantifiable standards, there are now references and suggested parameters rather than a strict requirement.” In other words, protective standards are explicitly and unapologetically eliminated in favor of “references” that supply no protection whatsoever. (It is also a

question how “contemporary living patterns” are only created by developers who build large, high-end, incompatible buildings for profit, and not by those who now live in existing housing. The implicit economic-class bias here must be recognized.)

The proposed changes state that “new residential construction within ... compact R-6 zones should relate to the predominant character defining features of the neighborhood.” However, the next sentence of the existing regulations – defining this in terms of “the orientation and placement of a building on a site, relationship to the street, and mass, form, and materials” is lined out. In other words, the specific protections and criteria that implement those protections for neighbors are eliminated.

Under existing requirements, the context to be used to determine compatibility is defined as a two-block radius. The proposed changes eliminate this and state that the “Planning Authority shall determine the scope of the neighborhood.” In other words, if the Planning Authority does not want to protect neighbors, if it does not want their needs to impact a permit application, it can simply ignore them by extending the definition of a neighborhood ..... to whatever size it (in its discretion) wishes.

This completely ignores the reason for the two-block radius in the first place. It is there because it is common sense that those who are within that radius will be the most severely impacted by incompatible development. To eliminate the problem of incompatibility by changing the definition of the neighborhood, and thereby dilute or eliminate the voices of those most hurt by the incompatible development, is completely unacceptable.

The proposed changes state that “design review shall refer to buildings in the neighborhood of comparable size, scale, and use to that which is being proposed when determining the predominant characteristics to relate to.” This – combined with the prior “neighborhood” assertion in the document – is the most transparent statement of what these changes aim to accomplish. If a site is surrounded by small scale, traditional, and mixed income housing, the “neighborhood” can suddenly become larger. In fact, it must become larger to meet this additional criterion. The question is not whether this development proposal is compatible with surrounding properties – it is whether this development proposal is similar to other developments of similar size and bulk. This immediately eliminates any size or bulk constraints. Once one large incompatible building is built, somewhere in the city (the “neighborhood”), the new proposal must simply look like that one. We look to “buildings in the neighborhood [ten blocks away? a half mile away?] of comparable size, scale, and use” to determine the “compatibility” of the new high-end condo complex. The final subversion of any legal protections of the existing neighborhood is obvious.

The impetus for discarding existing requirements is apparently, in part, the desire to eliminate the “Alternative Design Review” process. However, the disinclination to afford process that protects residents and small homeowners is not a reason to discard that process, legally or as a matter of public policy. The demanding process for decision-making about nonconforming buildings is there for a reason. Standards are there for a reason. Standards and requirements provide vital protection for residents – in this case, those in low- and moderate-income neighborhoods – from changes that are detrimental to their modest home and neighborhood character.

I do not fault staff for doing what they were tasked to do. However, there must be a better way to accomplish whatever incremental reforms are needed, without completely eviscerating existing legal protections for the low- and moderate-income neighbors of incompatible developments in Bayside.

Sincerely, ,

Laura Underkuffler

215 Oxford Street

J. DuPratt White Professor of Law

Cornell University

To: Chair Maser and Planning Board Members  
For: ReCode Workshop, February 18  
Re: Proposed R-6 Dimensional Standard - Maximum Building Width  
Date: February 14, 2020

The January 21<sup>st</sup> planning board meeting provided a split format for presentation of changes to the R-6 zone (within a “ReCode – Phase One” workshop) and changes to the R-6 design standards in a separate, second, workshop. This presentation resulted in much confusion and misunderstanding. Since the proposed changes to the R-6 design standards were the only agenda item on a clearly labeled, evening workshop, they were the focus of almost all public testimony and comment. Many did not even notice the few added lines (and most particularly, the related footnote #13), included within the 200 page ReCode document covering Articles 1-7 of the City’s revised land use code. Many, like me, were not able to attend both workshops. Some didn’t even know that they should. In particular, discussion about the proposed maximum building width dimensional standard in the first workshop was minimal, since it was just one thing among so many, and was abruptly truncated (in relation to footnote 13) during the second workshop. Many people left these workshops more confused, rather than less.

It was therefore alarming to learn that, as a result of this confusion, planning staff made the decision to remove (red-line) the maximum building width dimensional standard from the R-6 zone in the ReCode document presented for review at your February 18 workshop. Having taken the time to watch the video recording of the January 21 ReCode workshop, I note that no planning board member, staff member, or member of the public suggested that this proposed dimensional standard should be removed. This staff decision seems to be based upon the push back from the public regarding proposed changes to the R-6 design standards contained in Appendix 7 of the City’s Design Manual. This decision highlights the inter-relationship of these two proposals.

After many subsequent discussions with planning staff, leaders from the most highly impacted R-6 neighborhood associations, and Greater Portland Landmark’s Director of Advocacy, Julie Larry, much confusion has become clarified, as follows:

1. Planning staff proposed the maximum building width dimensional standard for the R-6 zone in order to address the numerous controversies that have arisen, over many years, regarding the incompatible scale and mass of new developments in the R-6 zone since the 2015 amendments to that zone.
2. Planning staff proposed these changes NOW, as part of the “ReCode - Phase One” process, because this issue has become acute, and will continue to result in ongoing controversy and confusion until it is adequately addressed.
3. Despite planning staff’s best efforts, the ReCode process is extraordinarily cumbersome, confusing and challenging for just about everyone. It could take years to bring to completion. Even “Phase One” will inevitably take longer than currently anticipated to reach final approval and implementation.

As a result of this clarified understanding, I hope that the planning board will consider the following options and requests:

1. **EITHER:**
  - a. Pull the proposed R-6 maximum building width standard out of the ReCode process container AND ask planning staff to bring it forward to the planning board as a “stand alone” amendment to the current land use code, in order to facilitate more transparency, combined review with proposed changes to the R-6 design standards and implementation than the ReCode process will allow; OR
  - b. Reinstate the R-6 maximum building width standard into the “ReCode - Phase One” process;
2. **AND,** please encourage planning staff to meet with R-6 neighborhood association leaders to discuss the two related proposals for changes to R-6 standards and address questions and concerns prior to the next “ReCode – Phase One” or the “stand alone R-6 text amendment” planning board workshop.

I have great appreciation for the efforts of planning staff and planning board member, Maggie Stanley, to bring clarity and focus to this ongoing, acute issue impacting R-6 neighborhoods.

Thank you for your consideration,

Cynthia L. Cochran  
17 Hammond Street  
East Bayside Neighborhood

(Representing at least 30 East Bayside neighbors)



## 2/18/2020- PB Workshop on Recode-Continued Concerns

Karen Snyder <karsny@yahoo.com>

Feb 14, 2020 11:40 AM

Posted in group: **Planning Board**

Dear Planning Board members,

Based on the last Planning board workshop held on 1/21/2020 on Recode, there are still concerns about the Recode process and certain issues in the following areas:

**Concern #1: There is not an ability to make any public comment on Article 8-12 or add any additional ability to comment on Article 1-7.**

- I have attempted several times this week to enter Recode public comments and I get the below message on the Recode site where we use to be able to enter Recode Public comments.
- In previous PB Recode workshops, if an Article was being addressed, we could add public comment but for this workshop if Articles 8-12 are being addressed, there isn't ability to add public comment.



**Comments on Articles 1-7 are now being reviewed. Please check back in Friday, February 14th for the next iteration of the ReCode.**

**[TO REVIEW COMMENTS ON PREVIOUS ITERATIONS OF THIS DOCUMENT, PLEASE CLICK HERE.](#)**

**Concern #2: It doesn't appear the Planning Staff Recode is reaching out to any Neighborhood organizations to discuss the Recode Process and the Changes.**

- It appears the Planning Staff is expecting the Neighborhood Organizations to reach out to Planning Staff instead of vice versa as I thought the Planning Board members indicated in last PB workshop held on 1/21/2020 should be done.
- How are the residents and Neighborhood organizations suppose to know what is going on in the Recode process if there is no transparency of what the Planning Staff is working on and at what stage unless the Planning Staff reaches out first?
- Interestingly, the Planning Staff appears instead to be reaching out to the "youth" and trying to interconnect this Recode effort with climate change.



## POSTPONED - RECODE/CLIMATE YOUTH EVENT

Wednesday, February 5, 2020

4:00 PM – 5:30 PM

City of Portland (map)

This event is being postponed. We are actively working to reschedule and will be updating the event information in the near future.

Planning Staff are teaming up with the City's Sustainability Coordinator, Troy Moon, to present the relationship between land-use policy and climate change to a group of interested youth. Following a brief presentation, we will be leading an exercise to raise awareness on these connections, gather feedback and promote future engagement in the ReCode project.

### **Concern #3: I am not sure what the Recode Committee is being used for except for only discussing ADUs and attempting to exclude parking on proposals near transportation nodes.**

-Why aren't any other substantive changes being addressed in Recode Committee besides the ADU and Parking policy discussion? The last Recode Committee Meeting was back in October 2019. The below are all the Recode Committee agenda topics discussed.

- **Recode Input Tool: 12/1/2019** – Planning Department opened up Articles 5-8 for public input without highlighting the substantial language changes.
- **Recode Input Tool Announced: 11/22/2019** – Where Public can input on Article 1-4 changes without highlighting the substantial language changes.
- **Recode Committee Agenda Topics: 10/28/2019** – Recode Timeline, Presenter: Eric Kronburg- Achieving Housing and Sustainability Goals Through Zoning Reforms: Accessory Dwelling Units and Parking Policy; **Accessory Dwelling Unit (ADU) Policy, Parking Policy**, and Definitions
- **Recode Committee Agenda Topics: 9/23/2019** – **Parking Policy, ADUs Policy**, Definitions, Coastal Resiliency Initiative
- **Recode Committee Agenda Topics: 6/24/2019** – **Parking, ADUs**, Public Input
- **Recode Committee Agenda Topics: 2/25/2019** – Recode Timeline, Staffing, Public Input Tools

Source: <https://www.portlandmaine.gov/129/Agendas-Minutes>

### **Concern #4: Why can't in Table 7-A Residential Dimensional Standards, such as dimensional specification "Building Width" be discussed even if it was taken out of Phase 1?**

-Residents and Neighborhood organizations want the ability to ask questions regarding this new dimensional standard labeled "Building Width" which seems to only apply to R-6.

-R-6 residents may be in full support of this new dimensional standard if the following questions could be addressed:

Q4a: How were the building widths developed? What data and resources were used?

Q4b: What if the building is on a corner lot or façade of building is visibly impacted from the public way?

Q4c: Note 13 which is directly tied to Table 7-A Building Width (max) specification as shown below, needs better clarification in the statement:

**13 Or average of building widths of principal facades within the same block (both sides of the street), except in the case of attached buildings or townhouses, where these building widths apply but for an unlimited run**

Q4d: Note 13 above should in addition state "whichever is less".

Q4e: What happens if in Note 13, the "Block" includes parcels zoned other than R-6?

TABLE 7-A (CONT.): RESIDENTIAL ZONE DIMENSIONAL STANDARDS

	R-1	R-2	R-3 <sup>1</sup>	R-4	R-5 <sup>2</sup>	R-5A <sup>1</sup>	R-6	R-6A
Stepbacks (when <b>080</b> ty line abuts a residential zone)(min.)							10 ft. from side property line and 15 ft. from rear property line <sup>3</sup>	
Structure Height (max.)	35 ft.	35 ft.	35 ft.	35 ft.	35 ft.	35 ft.	<b>078</b> <sup>4</sup> <b>076</b> <sup>5</sup>	65 ft.
	Detached Accessory 18 ft.	18 ft.	18 ft.	18 ft.	18 ft.	18 ft.	18 ft.	
Building width (max.)	<b>079</b> <sup>6</sup>		<b>076</b> <sup>7</sup>					1- and 2-family: 30 ft. <sup>8</sup> 3+ family, 3 stories: 60 ft. <sup>9</sup> <b>077</b> <sup>10</sup> family, 4 stories: 45 ft.
							<b>074</b> <sup>11</sup>	<b>072</b> <sup>12</sup>
Lot Coverage (max.)	20%	20%	35%	30%	40%	30%	60%	20
Landscaped Open Space Ratio (min.)								20
Width of garage opening on front façade (max.)							9 ft. or 40% of building width <b>073</b> <sup>13</sup> whichever is greater, and in no case more than 20 ft.	

<sup>1</sup> All R-6 dimensional standards apply in the R-6A unless otherwise indicated.  
<sup>2</sup> See separate table for PRUD standards.  
<sup>3</sup> Single family homes may be built on small lots in the R-5 under small residential lot dimensional requirements under certain conditions. See separate table for R-5 Small Residential Lot dimensional requirements.  
<sup>4</sup> For R-5A, PRUD standards shall apply to PRUDs, multi-family development of 4 or more units, congregative care, and intermediate, extended, or long-term care facilities, unless noted otherwise in the table above. See PRUD table for PRUD standards.  
<sup>5</sup> Applies to 1, 2, and 3 family dwellings only.  
<sup>6</sup> Alterations to single-family, two-family, and multi-family dwellings in existence as of 6/1/13 shall not result in the creation of any additional dwelling unit of less than 600 square feet of floor area, exclusive of common hallways and storage in basement and attic, and shall not result in any existing dwelling unit being reduced in size to less than 1,000 square feet of floor area, exclusive of common areas and storage in basement and attic.  
<sup>7</sup> Except for long term and extended care facilities: 10,000 SF for the first 9 residents plus 750 SF for each additional resident, up to a total of 2 ac.  
<sup>8</sup> Except that a side setback in the R-6 zone may be reduced to zero, provided that the cumulative side yards are not less than 10 ft. A permanent maintenance easement a minimum of 5 ft. in width shall be provided on the parcel adjacent to the lot line with the reduced side setback.  
<sup>9</sup> Subdivisions consisting of horizontally attached dwellings on individual lots are not required to have side yards between such dwellings where a party wall condition will exist. Horizontally attached dwellings located within a single lot shall be required to meet the applicable side setback requirements at the external lot boundaries of the subdivision and internal lot boundaries between such dwellings that are not attached to each other. No minimum lot size shall be required for individual lots underlying townhouse (horizontally attached) dwelling types. The applicable minimum lot area per dwelling shall apply to each lot.  
<sup>10</sup> Does not apply on side streets.  
<sup>11</sup> Except as provided under the Fort Sumner Park Height Overlay and Manjiva Hill Conservation Overlay.  
<sup>12</sup> Or average of building widths of principal façades within the same block (both sides of the street), except in the case of attached buildings or townhouses, where these building widths apply but for an unlimited run.

I would appreciate if these concerns are addressed in next Tuesday, 2/18/2020 Planning Board Workshop at 4:30 pm on Recode.

In conclusion, I think all these Recode concerns can be simply addressed by the Planning Staff having productive and transparent neighborhood workshop meetings with the residents and Neighborhood organizations prior to go to Planning Board workshops. 2017 was the last time any productive community workshops were given by Planning Staff. That was 3 years ago.

Regards,  
 Karen Snyder  
 Munjoy Hill Property Owner



Helen Donaldson <hcd@portlandmaine.gov>

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## Fwd: R-6 zone ReCode efforts

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jmy <jmy@portlandmaine.gov>

Tue, Feb 18, 2020 at 11:44 AM

To: Matthew Grooms <mgrooms@portlandmaine.gov>, Christine Grimando <cdg@portlandmaine.gov>, Helen Donaldson <hcd@portlandmaine.gov>

I will save this to the google drive and the web.

On Friday, February 14, 2020 at 4:33:30 PM UTC-5, Kate Clay wrote:

Dear members of the planning board:

The following has just come to my attention:

"At the 1.21.20 Planning Board workshop, staff introduced Article 7 of the ReCode, which included a new proposal to institute a maximum building width requirement (recommended in concert with a simultaneous effort to update R-6 design standards). Otherwise, no changes to dimensional requirements for the R-6 zone were (or are) proposed. *Based upon feedback received at the 1.21.20 workshop*, staff will remove the proposed building width requirement, and will postpone discussion of proposed changes to R-6 Design requirements."

Wait, what??? Wait, why??? I was not able to be there in person but I viewed the workshop video, and I did not hear anyone say that maximum building width requirements were a BAD idea. In fact, many of us living in R-6 zones feel it is of the utmost urgency to add the dimensional requirement to limit the size and massing of new construction as soon as possible, to prevent newly submitted projects from escaping review using this metric.

I strongly urge you to reinstate the maximum building width requirement, whether in the Phase I portion of ReCode, or as a stand alone amendment to current standards being applied to construction applications.

Kate Clay  
37 Fox St.



Helen Donaldson <hcd@portlandmaine.gov>

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## Fwd: R-6 & Building Width

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jmy <jmy@portlandmaine.gov>

Tue, Feb 18, 2020 at 11:45 AM

To: Matthew Grooms <mgrooms@portlandmaine.gov>, Christine Grimando <cdg@portlandmaine.gov>, Helen Donaldson <hcd@portlandmaine.gov>

Another one.....

On Friday, February 14, 2020 at 5:00:04 PM UTC-5, Sarah Michniewicz wrote:

Hello Chair Maser and Members of the Planning Board,

I'm writing to express my disappointment that proposed changes to the R-6 maximum building width have apparently been removed from consideration in phase 1 of the ReCode process. While I do have concerns about some of the other proposed changes to the design standards (including changes to the 2-block radius standard), the maximum building width recommendation is one that deserves *urgent* consideration lest the scale and mass of new developments continue along their current contentious trajectory for the remainder of the ReCode process.

Residents in many R-6 zones are focused on how new developments will harmonize with the existing built context. My neighborhood, West Bayside, has the additional concern of vast stretches of open land and lots. Future development of these areas have the potential for great impact on residents and the neighborhood as a whole. Whether that impact is beneficial ultimately depends on the care with which you craft the standards under which such development happens.

It's clear that a lot of time and effort is going into the ReCode process, and that public education efforts have been made. Still, most people I've talked to don't have a clear idea of what the process involves or what it might mean for them. Recently you have been hearing that public process on this topic could have been more robust, and changes such as the maximum building width more prominent. I ask that going forward there is more effort to proactively connect with neighborhoods and neighborhood leaders as was done with development of the comprehensive plan.

Addressing these concerns at the February 18 Planning Board workshop, particularly the maximum building width, would be much appreciated.

Sincerely,

Sarah Michniewicz

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Helen Donaldson &lt;hcd@portlandmaine.gov&gt;

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**Fwd: planning board 12/17**

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Christine Grimando &lt;cdg@portlandmaine.gov&gt;

Tue, Feb 18, 2020 at 10:27 AM

To: Matthew Grooms &lt;mgrooms@portlandmaine.gov&gt;, Helen Donaldson &lt;hcd@portlandmaine.gov&gt;

Christine Grimando, AICP  
Director  
Planning & Urban Development Department  
389 Congress Street  
Portland, Maine 04101  
[cdg@portlandmaine.gov](mailto:cdg@portlandmaine.gov)  
Ph: (207) 874-8608

----- Forwarded message -----

From: **Liz Trice** <[liztrice@gmail.com](mailto:liztrice@gmail.com)>  
Date: Mon, Feb 17, 2020 at 5:54 PM  
Subject: Re: planning board 12/17  
To: Christine Grimando <[cdg@portlandmaine.gov](mailto:cdg@portlandmaine.gov)>

Hi Christine!

I've been trying to keep up with the Rezone process; and I'm not sure if I'm catching everything. I read a section of zoning that was posted a few weeks ago, and I'm trying to figure out if I should go to the planning board meeting this week.

My concerns are primarily to make sure we don't have language that restricts affordable housing situations. This typically means allowing units to be small, not requiring off street parking, allowing ADUs etc. In what I read last week,

1. I was concerned to see that the definition of lodging house is two or more rooms for rent - I think this is extremely restrictive! Several years ago I led a committee and research project aimed at incentivizing more "home sharing" - since we have so many people living alone (about 65% of households in my West End census district), many of them in 3 and 4 bedroom homes, home sharing provides a low-cost way for both home owners and renters to share costs. I don't think lodging house should be until 5 or more rooms are rented, or developing a different criteria, for example, if the person managing the property isn't living there. Where we were doing our research, we found that several states actually have organizations devoted to helping to form good household matches. We ended up partnering with Pine Tree Legal to create a website that interprets landlord-tenant law for housemates and provides forms and agreements for people to use. <https://helpmelaw.org/homesharing-maine>
2. I noticed B1 doesn't allow handicapped family units (?), "cultural facilities" post secondary schools, bars, general services + offices over 5000sf, hotels, recreation and amusement centers, retail over 500sf, veterinary services, communication studios, high tech manufacturing, low impact industrial, printing and publishing. . . that all seemed really arbitrarily restrictive to me.
3. The ADU section said that the original building should not to be significantly altered? Meaning no additions or cottages? I think that it's good that there's no minimum unit size.

Those were my initial comments; please let me know if Tuesday's planning board meeting is likely to be relevant to me, and where else I might get my voice heard on these issues.

Liz Trice  
207-776-0921

"Whatever you do, or dream you can, begin it. Boldness has genius and power and magic in it."

*"Lo que usted puede hacer, o soñar que puedes, comenzar. La audacia tiene genio, poder y magia en ella."*

- Johann Wolfgang von Goethe / William Hutchison Murray

On Fri, Dec 13, 2019 at 4:30 PM Christine Grimando <[cdg@portlandmaine.gov](mailto:cdg@portlandmaine.gov)> wrote:

Hi Liz,

The materials are posted here: <https://portlandme.civicclerk.com/Web/Player.aspx?id=1163&key=-1&mod=-1&mk=-1&nov=0> and individual draft chapters of the ReCode will be posted on the ReCode website for direct comment: <https://www.recodeportland.me/public-input-1>

Thanks for your interest!

Christine

Christine Grimando, AICP  
Acting Director  
Planning & Urban Development Department  
[389 Congress Street](https://www.portlandmaine.gov/389-Congress-Street)  
[Portland, Maine 04101](https://www.portlandmaine.gov/Portland-Maine-04101)  
[cdg@portlandmaine.gov](mailto:cdg@portlandmaine.gov)  
Ph: (207) 874-8608

On Fri, Dec 13, 2019 at 2:07 PM Liz Trice <[liztrice@gmail.com](mailto:liztrice@gmail.com)> wrote:

Hi Christine!

I can't make the planning board meeting 12/17; can you send me any materials they will be reviewing and tell me how I could send comments?

Liz

"Whatever you do, or dream you can, begin it. Boldness has genius and power and magic in it."

*"Lo que usted puede hacer, o soñar que puedes, comenzar. La audacia tiene genio, poder y magia en ella."*

- Johann Wolfgang von Goethe / William Hutchison Murray

Notice: Under Maine law, documents - including e-mails - in the possession of public officials or city employees about government business may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested.



Helen Donaldson &lt;hcd@portlandmaine.gov&gt;

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**Fwd: Removal of Maximum Building Width dimensional standard for the R-6 zone**

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jmy &lt;jmy@portlandmaine.gov&gt;

Tue, Feb 18, 2020 at 11:49 AM

To: Matthew Grooms &lt;mgrooms@portlandmaine.gov&gt;, Christine Grimando &lt;cdg@portlandmaine.gov&gt;, Helen Donaldson &lt;hcd@portlandmaine.gov&gt;

On Monday, February 17, 2020 at 10:02:22 PM UTC-5, Carolyn Treat wrote:

To the Planning Board:

**I am writing to emphatically protest the decision to remove the Maximum Building Width Dimensional Standard for the R-6 Zone from this Phase 1 of the ReCode process.** Unfortunately I am unable to attend the February 18th workshop as it occurs during working hours, so I am writing to you as a resident and home owner in one of affected neighborhoods of East Bayside. I also was not at the January 21st workshop due to a work conflict so I am not aware of the feedback you received then which would have led to this decision.

I strongly urge you to reconsider your decision to strike the Maximum Building Width Standard. I would also request an explanation as to why this was done. Those of us who live in these R-6 neighborhoods do not have the luxury of waiting to address the issue of inappropriate size and massing while the new multi-lot demolition and development projects are coming fast and furious down the pipeline, with several already in process. These massive projects will have a permanent and overwhelming affect on the existing housing stock, forever altering the intimate streets and neighborhoods where they are being proposed and built.

What is the rationale for this very reasonable Dimensional Standard being removed? There needs to be further discussion regarding the application of this Standard as well as other aspects of the Phase 1 ReCode. Why take this piece off the table before we have a chance to continue this important discussion? This Dimensional Standard would provide the R-6 neighborhoods with a much needed compromise as it relates to the combining of lots and the construction of outsize apartment complexes. These structures would still be allowed, but with a width restriction that renders them more compatible with the surrounding buildings. This seems to me to be a win-win for all involved.

This issue should not be put on the back burner for some unspecified future discussion that could get delayed for months or years. Our neighborhoods are already seeing the effects of insufficient building standards with currently approved projects and these multi-lot proposals will continue to multiply unchecked if no changes are made. The planning board has the opportunity to continue this important discussion with the affected communities.

**Please retain the Maximum Width Building Dimensional Standards for the R-6 Zone!!**

I thank you for your time and with much appreciation for the work that was done to create this standard,

Respectfully Signed,  
Carolyn Treat  
(and representing Chip Flanagan)  
Homeowners  
41 Hammond St





Helen Donaldson &lt;hcd@portlandmaine.gov&gt;

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**Fwd: Comment re ADU/ReCode**

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jmy &lt;jmy@portlandmaine.gov&gt;

Tue, Feb 18, 2020 at 11:47 AM

To: Matthew Grooms &lt;mgrooms@portlandmaine.gov&gt;, Christine Grimando &lt;cdg@portlandmaine.gov&gt;, Helen Donaldson &lt;hcd@portlandmaine.gov&gt;

On Saturday, February 15, 2020 at 9:47:56 AM UTC-5, Elizabeth Ramage-Healey wrote:

I'm attaching a copy of my testimony from the last Planning Board workshop requesting deletion of Sec. 6.6.2..10. I'm not sure whether the City planners are on board with this request but would note, as I did several weeks ago to them, that Home Start had a good community meeting on ADUs on Peaks on Thursday, Jan. 23. The diverse group of 24 people there are clearly interested in the idea and understood Home Start's rationale in asking to drop the income and rental restrictions in section 6.6.2.A.10. I was reminded that the one person who showed strong interest in buying a property on Peaks with the intention of adding an ADU last year backed out when he learned of the 20 year deed restriction.

If left in, this provision would saddle Peaks Island with restrictions almost guaranteed to inhibit ADUs rather than encourage them. We didn't understand this 5 years ago; we do now.

Thank you.

Betsey Ramage-Healey  
President  
Home Start

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 **planning bd. 1.21.20.pdf**  
39K

January 19, 2020

To : Portland Planning Board

Home Start, the affordable housing advocate on Peaks Island, is requesting that you delete section 6.6.2.A.10 (page 89) from the proposed ReCode draft regarding Accessory Dwelling Units. This is the section specifying income and rental restrictions for ADUs on Peaks Island. As you may know we have advocated for these provisions and appreciate the fact that they have been kept in the proposed draft. However we have changed our position for 3 reasons:

1. As far as we know, the Peaks Island ADU ordinance has not produced a single ADU since its adoption;

2. If left in place, it would be the only part of Portland with such restrictions, assuming the other ReCode recommendations for ADUs are adopted; this would in all likelihood be a disadvantage to Peaks;

3. We have learned from ADU presentations by the City as well as from other sources that the experience across the country is that homeowners don't like the 20 year restrictive covenant for income and rental restrictions, and avoid building ADUs where they are present. They become a disincentive for ADUs.

Deleting Section 10 would make the ADU ordinances more consistent city wide, simplify the ReCode a bit, and improve the prospects for ADUs on Peaks. The key provision for Peaks islanders is that ADUs must be year round as specified in Section 6.6.1.A.4 on page 88. We ask that that be retained in the proposed draft.

Thank you for considering this request. We are happy to answer any questions.

Betsey Remage-Healey  
President  
Home Start  
remagehealey@gmail.com



Helen Donaldson <hcd@portlandmaine.gov>

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## Fwd: Design & Build Standards (or lack of)

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jmy <jmy@portlandmaine.gov>

Tue, Feb 18, 2020 at 11:46 AM

To: Helen Donaldson <hcd@portlandmaine.gov>, Christine Grimando <cdg@portlandmaine.gov>, Matthew Grooms <mgrooms@portlandmaine.gov>

On Saturday, February 15, 2020 at 4:51:02 PM UTC-5, Steven Oldford wrote:

I live @ 37 Fox Street. I was just informed that a critical part of correcting the mistakes in the R-6 (Article 7) has been pushed back to Part 2 of the recode process. Please rethink.

Because of the inability of you to see the problems that the last recode failed to recognize there is a serious blight on my neighborhood in the form of an oversized mass that has been permitted to build behind my house called Hammond House.

I was appalled when I attended the vote on this project to find that only one of you went to the neighborhood to look at the physical space before voting. That one gentleman voted Hammond House down while the rest of you voted yes. The lack of initiative on the part of those who voted yes to see for yourselves how this building is going to ruin our neighborhood is deeply disturbing and reminded me of how municipal business is conducted in Costa Rica (where I lived for 2 years). If you do not put the Article 7 changes for building width in part 1 so it can be addressed sooner it will result in many more Hammond Houses in other inappropriate neighborhoods and many more Portlanders who will be sharing their thoughts at subsequent planning board meetings.

You have an opportunity to right a serious wrong. Don't blow it by procrastinating.

Steven Oldford



Helen Donaldson &lt;hcd@portlandmaine.gov&gt;

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## Fwd: Request to Reconsider Tabling the Maximum Building Width Dimensional Standards

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jmy &lt;jmy@portlandmaine.gov&gt;

Wed, Feb 19, 2020 at 11:51 AM

To: "Grimando, Christine" &lt;cdg@portlandmaine.gov&gt;, Helen Donaldson &lt;hcd@portlandmaine.gov&gt;, Matthew Grooms &lt;mgrooms@portlandmaine.gov&gt;

I will save this as ongoing public comment

On Tuesday, February 18, 2020 at 12:33:06 PM UTC-5, Bailey, Ellen wrote:

To Chair Mazer and Planning Board Members,

First, let me express my appreciation to the city planning staff and planning board members for undertaking the huge task of tackling the rewrite of our city's land use code. This is a monumental task!

I only have a brief comment for the time being:

I am very concerned that one of the results of the meeting on January 21st was to remove the maximum building width dimensional standard from the R-6 zone. I am opposed to tabling the discussion on this as this is clearly an acute matter for R-6 neighborhoods. In fact, the lack of clear metrics on maximum building dimensions has been the source of multiple controversies surrounding new developments. It is my sincere hope that we can put the discussion about these standards back on the table and can provide clarity for both residents and developers on how large is too large in an R-6 neighborhood.

Thank you for reconsidering this important topic.

Ellen Bailey  
President, East Bayside Neighborhood Organization

Web Site: <http://eastbayside.org>  
Facebook: <https://www.facebook.com/eastbayside/>

# 5/19/2020 PB Workshop- Additional Concerns over Latest Recode Articles 14-18

Karen Snyder <karsny@yahoo.com>

May 18, 2020 9:10 AM

Posted in group: **Planning Board**

Dear Planning Board Members,

Firstly, I understand the need for streamlining, tabularizing, and standardizing processes to make more efficient and transparent. I have done this kind of work all my life since I have a bachelor's and master's in Industrial Engineering and have done the same effort for private manufacturing companies and corporations. Therefore, I do appreciate the Planning Department's standardizing and streamlining efforts.

This email is in 2 sections:

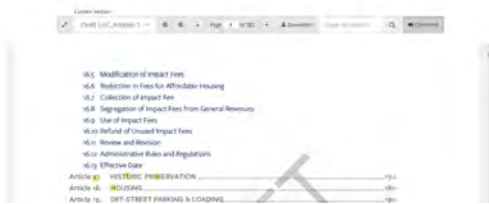
**SECTION 1** - There are still serious concerns (and frustrations) over the fact that old zoning language when transferring to the new Recode format is being dropped and this is not being red-lined or pointed out to the public. If below are 2 examples, how many more examples are out there where the Planning Department has left out old zoning language in the new format? This is a 1,000 page document now and the public has no assurance that old zoning language was left out when transferring to Recode. Granted that some of the zoning language being dropped may be superfluous but some zoning language being left out I fear is critical like in Section 1:Example #2 below.

*-When the public and Planning Board Members have requested the red-lining differences and the Planning Department still has not done it, is this legal?*

**SECTION 2** - The latest questions for Planning Board Workshop this Tuesday, 5/19/2020 that need to be addressed.

*-Please note: I still was not able to access Article 17 and 18 for comment on website even though it is going to PB workshop this Tuesday. I went to the top of the Recode document and clicked on Article 17 and 18 and it did not take me to the detail. It is greyed out and is shown immediately below*

ARTICLES 1-18 ARE NOW AVAILABLE FOR COMMENTING. TO REVIEW COMMENTS ON PREVIOUS ITERATIONS OF THIS DOCUMENT, PLEASE CLICK HERE. PLEASE USE THE DROP DOWN MENU AT THE TOP OF THE DOCUMENT TO ACCESS ARTICLES 17 AND 18.



\*\*\*\*\*  
**SECTION 1:Example #1 of Substantial Changes that are NOT being Red-Lined by Planning Department:**

**Topic: Residential Zoning Definition Statements**

Old Zoning Language Location:Chapter 14 Article 3, Zoning 14-46 to 14-490

New Recode Language Location: Article 5 Table 5-B

- Below red-lined is missing from the Recode language without indicating it was dropped from the old zoning language.

R-1a	To provide for lower density residential development characterized by single-family homes on individual lots in outlying areas of the city and along traffic corridors with limited additional traffic capacity.
R-2a	To provide for low density residential development characterized by single-family homes on individual lots in outlying areas of the city and along traffic corridors with limited additional traffic capacity.
R-3a	To provide for medium density residential development characterized by single-family homes on individual lots and also to provide for planned residential unit developments on substantially sized parcels. <b>Such development shall respond to the physical qualities of a site and complement the scale, character and style of the surrounding neighborhood.</b>
R-4a	<b>(a)</b> To preserve the unique character of the Western Promenade area of the city by controlling residential conversions and by allowing the continued mix of single-family, two-family, and low-rise multifamily dwellings and other compatible development at medium densities.
R-5a	To provide appropriate areas of the city for medium density residential development characterized by single-family, <b>two-family</b> , and low-intensity multifamily dwellings on individual lots; to ensure the stability of established medium density neighborhoods by controlling residential conversions; and to provide for planned residential unit development on substantially sized parcels. <b>Such PRUD development shall respond to the physical qualities of a site and complement the scale, character and style of the surrounding neighborhood.</b>
R-6a	(a) To set aside areas on the peninsula for housing characterized primarily by multifamily dwellings at a high density providing a wide range of housing for differing types of households; and to conserve the existing housing stock and residential character of neighborhoods by controlling the scale and external impacts of professional offices and other nonresidential uses. <b>(b) In cases of qualifying small, vacant, underutilized lots located in the urban residential and business zone, to encourage new housing development consistent with the compact lot development pattern typically found on the peninsula.</b>
R-6Aa	(c) To encourage neighborhood livability with higher density multi-family housing on large parcels located off the peninsula. The zone is appropriate in areas that are along major public transportation routes, near service areas, and in redevelopment (underutilized) or infill areas.

TABLE 5-B: RESIDENTIAL ZONE PURPOSE STATEMENTS

R-1	To provide for lower density residential development characterized by single-family homes on individual lots in outlying areas of the city and along traffic corridors with limited additional traffic capacity.
R-2	To provide for low density residential development characterized by single-family homes on individual lots in outlying areas of the city and along traffic corridors with limited additional traffic capacity.
R-3	To provide for medium density residential development characterized by single-family homes on individual lots and also to provide for planned residential unit developments on substantially sized parcels.
R-4	To preserve the unique character of the Western Promenade area of the city by controlling residential conversions and by allowing the continued mix of single-family, two-family, and low-rise multi-family dwellings and other compatible development at medium densities.
R-5	To provide appropriate areas of the city for medium density residential development characterized by single-family, two-family and low-intensity multifamily dwellings on individual lots; to ensure the stability of established medium-density neighborhoods by controlling residential conversions; and to provide for planned residential unit development on substantially sized parcels.
R-5A	To provide for moderate density residential development in off-peninsula locations that can provide a unique residential living experience with a high degree of natural site amenities; and to provide areas of the city in the general proximity of the peninsula that have the capability for adequate municipal services, including traffic corridors with adequate traffic capacity, that can appropriately accommodate a more intensive use of land than other lower-density zoned land and be compatible with surrounding neighborhoods; and to increase affordable housing opportunities in off-peninsula locations by providing a moderate density zone.
R-6	To set aside areas on the peninsula for housing characterized primarily by multi-family dwellings at a high density providing a wide range of housing for differing types of households; to conserve the existing housing stock and residential character of neighborhoods by controlling the scale and external impacts of professional offices and other nonresidential uses; and to encourage new housing development consistent with the compact lot development pattern typically found on the peninsula.
R-6A	To encourage neighborhood livability with higher density multi-family housing on large parcels located off the peninsula along major public transportation routes, near service areas, and in redevelopment (underutilized) or infill areas.

## Section 2: Example #2 of Substantial Changes that are NOT being Red-Lined by Planning Department:

**Topic: Site Plan requirement for Site plans within 100 feet of Historic District boundary**

Old Zoning Language Location: Chapter 14 Section 14-526

New Recode Language Location: Article 14.6.4.E.2

- Below red-lined/Circled is missing from the Recode language without indicating it was dropped from the old language.

historic districts or historic landscape districts: when any part of a proposed development is within one hundred (100) feet of any designated landmark, historic district, except the India Street historic district, or historic landscape district, such development shall be generally compatible with the major character-defining elements of the landmark or portion of the district in the immediate vicinity of the proposed development. Character-defining elements of landmarks and historic districts are identified in the historic resources inventory and respective historic district designation reports. For the purposes of this provision, "compatible" design shall be defined as design which respects the established building patterns and visual characteristics that exist in a given setting and, at the same time, is a distinct product of its own time. To aid the planning board in its deliberations, historic preservation staff shall provide a written analysis of the proposed development's immediate context, identifying the major character-defining elements and any established building patterns that characterize the context.

Current section

Draft LUC\_Articles 1-



Page 251 of 282



identified in the historic resources inventory and respective historic district designation reports. For the purposes of this provision, "compatible" design shall be defined as design which respects the established building patterns and visual characteristics that exist in a given setting and, at the same time, is a distinct product of its own time.<sup>1</sup>

## SECTION 2: New Public Comments/Questions that Need to be Addressed in Recode

Note: Since the website said that Article 1-18 is for public comments, I have also added additional previous Recode comments on previous Articles that were not addressed prior.

### RECODE COMMENT #1: Article 2.1.1 -PB Member qualifications

The criteria for the Planning Board is very generic and needs better definition of requirements. A recommendation would be to state the following instead. The Planning Board members is a required to be a resident of the city and shall not be officers or employees of the city. The Planning Board member must have a working knowledge of the Portland land use code, Portland design standards, and must be guided by the Portland Comprehensive Plan. The Planning Board must balance the needs of the community, environment, and sustainability when considering a development proposal.

### RECODE COMMENT #2: Article 2.1.7 – PB Conflict of Interest

This section is very vague and should be more specific. Below is recommended verbiage for this section. Note: This came from Lisbon, ME document..If any Board member personally or that of his legal partner or spouse has a substantial financial interest, direct or indirect, in any contract with the Town or in the purchase or sale of any land, material, supplies or service to the Town or to a contractor supplying the Town, that person shall make known that interest and shall refrain from voting or otherwise participating in his or her capacity on the Board. In like fashion, any such member who may have a direct or perceived interest in property being considered for any action by the Board should also refrain from participation. That member shall step away from the Board for any vote or discussion concerning such matters but shall be able to participate as is allowed for any member of the general public.

### **RECODE COMMENT #3: Article 2.2.5 – HPB Conflict of Interest**

This section is very vague and should be more specific. Below is recommended verbiage for this section. Note: This came from Lisbon, ME document..If any Board member personally or that of his legal partner or spouse has a substantial financial interest, direct or indirect, in any contract with the Town or in the purchase or sale of any land, material, supplies or service to the Town or to a contractor supplying the Town, that person shall make known that interest and shall refrain from voting or otherwise participating in his or her capacity on the Board. In like fashion, any such member who may have a direct or perceived interest in property being considered for any action by the Board should also refrain from participation. That member shall step away from the Board for any vote or discussion concerning such matters but shall be able to participate as is allowed for any member of the general public.

### **RECODE COMMENT #4 – Article 7 – Table 7-A Dimensional Standards**

This grid highlights the discrepancy between R-6 and R-1 to R-5. R-6 is constantly being unfairly targeted for higher density while R-1 to R-5 are ignored and are at low density. This is unfairly putting the burden of housing density on R-6. There is way more acreage in R-1 to R-5 for higher density zoning.

### **RECODE COMMENT #5: Article 7.5.1.H Rooftop Appurtenances**

The rooftop appurtenance is too generic in this section and you will end up with unsightly HVACs like at Anderson St & Fox St apts which at the time Planning Asst Director Tuck O'brien said would be fixed but was never corrected.

The definition should be as follows: Rooftop appurtenances, other than chimneys, shall not exceed the maximum height allowed by applicable R-6 dimensional standards, except that HVAC equipment may be permitted to exceed that height by a maximum of 5 feet above the primary roof so long as it meets the following criteria: HVAC equipment shall be set back at least 10 feet from any roof edge, shall be physically consolidated to the extent practicable, shall be visually contained in screening which does not exceed 5 feet in height above the main roof, and the screening shall utilize a shape and choice of materials that is consistent with the principal building.

### **RECODE COMMENT #6: Article 8.3.1.B – Ft. Sumner Park - Setback**

This setback is too small. Rowdy people can easily throw anything they want from the park on this building with such a small setback. This setback encroaches on the park. It needs to be farther for example 25 ft setback.

### **RECODE COMMENT #7: Article 8.7.3 Table E Munjoy Hill Overlay Zone**

This section is poorly worded and has shown unintended consequences. It has not generated much affordable housing.. only luxury condos. More affordable housing is being removed than what is being replaced. All that a new building has to do is have only 1 affordable housing unit to gain an extra 10 feet and the rest of the housing is luxury apt or condos. This extra 10 feet needs to be removed because it is actually de-incentivizing affordable housing.

### **RECODE COMMENT #8 :Article 8.7.4 – Munjoy Hill Conservation Overlay DESIGN SECTION**

This section is confusing... Is only 8.7.4 Design Review section is to be adhered to? Where does it say in this section that the entire R-6 Design Manual is suppose to be followed? 8.7.4. Section is misleading because it seems only this small section is suppose to be adhered to instead of adhering to the entire R-6 Design Standard Manual. There needs to be verbiage before Section A that the R-6 Design Manual needs to be adhered to alongside the below additional sections.

### **RECODE COMMENT #9 – Article 8.7.4 – Where is Rooftop Appurtenance language?**

Where is the rooftop appurtenance specific language for the Munjoy Hill Overlay District? It is missing. The below languag needs to be added back but with revisions:



Rooftop appurtenances, other than chimneys, shall not exceed the maximum height allowed by applicable R-6 dimensional standards, except that HVAC equipment may be permitted to exceed that height by a maximum of 5 feet above the primary roof so long as it meets the following criteria: HVAC equipment shall be set back at least 10 feet from any roof edge, shall be physically consolidated to the extent practicable, shall be visually contained in screening which does not exceed 5 feet in height above the main roof, and the screening shall utilize a shape and choice of materials that is consistent with the principal building.

#### **RECODE COMMENT #10: Article 8.7.4 B Munjoy Hill Overlay Zone – Alternate Design Option**

Alternate Design Review should be removed. It only allows bad design and the developers are clearly ignoring the immediate surrounding buildings with regards to neighborhood context and scale and massing.

#### **RECODE COMMENT #11 – Article 14.2.1 – Site Plan Approval Required**

Where in this section does it state a demolition permit can not be approved until the site plan is approved? Too many buildings have been demolished without a site plan being approved and this is not a good process. It needs to be stated that the Demolition permit can NOT be approved until the Site Plan is approved.

#### **RECODE COMMENT # 12 Article 14.5.5.C.2 Site Plan Meeting Procedures Content**

- -I agree with Barbara Vestel's comment below: This should also say that the applicant shall be present and shall have members of the development team present who are ready, willing and able to answer questions posed by the public, and shall answer questions posed truthfully and fully. The applicant shall have available all plans, elevations, and other submission materials. Failure to meet any of these requirements shall result in the applicant having to hold another neighborhood meeting which does comply with these requirements prior to proceeding with Planning Board review. This should also provide that the time available for the meeting shall be at least 2 hours in duration, that it shall be held in an accessible location, and the meeting shall be scheduled to begin at 5:30 or after.
- -In the last neighborhood meeting of 58 Fore St held in 12/2019, it was a joke. The developer was not there. His minions could not answer basic questions and/or avoided answering questions. They clearly just showed up to tick a box. You know this meeting went bad when another developer complained about this meeting. There should be recourse on this type of behavior.
- Why isn't there any City Follow-up when a Developer holds a Neighborhood meeting and doesn't answer the public concerns? If during a Neighborhood meeting, the developer can not answer questions by the public and the public voices complaints to the Planning Board, it must be required that the neighborhood meeting be rescheduled with a City Official in attendance and the public concerns are answered.

#### **RECODE COMMENT #13 – Article 14.6.4. E.2 Historic Preservation and Article 14.7.3 Historic Preservation**

Why isn't there specific reference to the Historic Preservation standards as to what should be adhered to? This section is too generic.

#### **RECODE COMMENT #14 – Article 14.6.4. E.2 Historic Preservation**

Why was the last sentence removed from this section when transferring the language from the old form to the new form? The last line needs to be added back... "To aid the planning board in its deliberations, historic preservation staff shall provide a written analysis of the proposed development's immediate context, identifying the major character-defining elements and any established building patterns that characterize the context."

#### **RECODE COMMENT #15 – Article 14.7.3.I Historic Preservation**

As in Article 14.6.4. E.2 when talking about within 100 feet of an Historic District , why is the last sentence missing and needs to be added to this section... "To aid the planning board in its deliberations, historic preservation staff shall provide a written analysis of the proposed development's immediate context, identifying the major character-defining elements and any established building patterns that characterize the context."

## **RECODE COMMENT #16 – Article 14.6.4.i.1 Design Standards**

This section is incredibly generic and provides NO substantial clarity that City of Portland Design Manual and/or the Historic Preservation Standards are to be equally enforced as zoning. There should be a grid just like with other sections that clearly specifies by zone what design standards are applicable. For example:

Zone	Design Standard
R-1	City of Portland Design Manual
R-2	City of Portland Design Manual
R-3	City of Portland Design Manual
R-5	City of Portland Design Manual and/or Historic Preservation Standards
R-6	City of Portland Design Manual and/or Historic Preservation Standards
B-1	City of Portland Design Manual
etc.	

## **RECODE COMMENT #17 Article 14.13.3 Site Plan**

This is not right. This provides incentives for Developers to hastily get approvals knowing the zoning will change and then sell their plans at the highest price without any consideration to the neighborhood zoning at the time of build. This is shifty and should NOT be allowed. If Zoning has changed within the 3 year extension, the developer should be required to go back to the Planning Board and seek new approvals. A good example of this is 9 Romasco St. Their site plan was approved in 2016, Munjoy Hill Overlay was established in June 2018 but because their 9 Romasco site plan was approved prior to 2018, this developer was able to build against the newly established zoning and now sticks out like sore thumb and is incongruous to the neighborhood.

## **RECODE COMMENT #16 Article 18 – Historic Preservation**

How can Planning Board be having a workshop on 5/19/2020 on Article 17 and Article 18 when the public has no opportunity to comment? I have tried to comment on 5/17/2020.

## **RECODE COMMENT #19 – Article 18 Housing**

How can Planning Board be having a workshop on 5/19/2020 on Article 17 and Article 18 when the public has no opportunity to comment? I have tried to comment on 5/17/2020.

I hope the above concerns are addressed this Tuesday, 5/19/2020 Planning Board Workshop.

Regards,

Karen Snyder

Munjoy Hill Property Owner.



19 May 2020

Chair Mazer and Members of the Planning Board,

Greater Portland Landmarks has several questions and comments on the chapters presented for discussion at this evening's Planning Board workshop. We will be making additional minor comments on the online portal. We ask that the following be clarified or addressed in your discussion tonight:

- Article 14.6.4 (E) 2. SITE DESIGN STANDARDS - Historic Resources
  - In paragraph 2. Language has been removed specifying that historic preservation staff provide a written analysis of the proposed development's immediate context, identifying the major character-defining elements and any established building patterns that characterize the historic context to aid the Planning Board in finding a proposed project generally compatible with a landmark or district. Why? We feel this is an important function, and a rather unique element within the land use code, that should not be removed.
- Article 17.12 APPEALS
  - The appeals section (currently 14-681) has been shortened and references Article 2, but there is no appeals section proposed in Article 2 under paragraph 2.2 *Historic Preservation Board*.
- Article 17 DEFINITIONS
  - The revised definition of a landmark: 'Any property, site, structure or object of particular historic, architectural or archaeological significance to the municipality (Portland?) relating to its cultural, social, economic, political or architectural heritage, or which is associated with historic persons, important events or themes in local, state or national history.' This is much better than the existing language, but might better reflect the designation criteria if it shared that language about the level of value a landmark or district might have, such as:  
*Any property, site, structure or object of particular historic, architectural or archaeological significance to the city, region, state or country relating to its cultural, social, economic, political or architectural heritage, or which is associated with historic persons, important events or themes in local, state or national history.*
- Article 17.7.2 EXCEPTIONS TO CERTIFICATES OF APPROPRIATENESS
  - Currently if alterations are not visible from an open space (like a park) or a public way, they are not reviewable, this draft proposes to just use the term public way. Are open spaces included in the definition of public ways?
- Article 17 LANDMARK AND DISTRICT NOMINATION TIME LIMIT EXTENSIONS
  - When a board announces in a public meetings a date to which the matter will be rescheduled, should there also be criteria for when an extension is a reasonable action? A decision should not be excessively extended as elements of the ordinance are in effect until a final decision is made by the Council.
  - Paragraph 17.5.8 Action by City Council
    - The language in paragraph A. needs to be altered/ clarified that not all recommendations to the council come from the Planning Board, Landmark designation recommendations come from the Historic Preservation Board:

*Within 60 days after the filing of a Planning Board recommendation, or Historic Preservation Board recommendation in the case of a landmark, on the nomination with the City Clerk pursuant to Section 17.5.6, the Council shall designate the landmark or district or reject designation.*

- Article 17.5.2 (D) NOMINATION PROCEDURES
  - Who is required to complete additional documentation necessary for consideration, the applicant or the city?
- Article 17.7.5 REVIEW PROCESS FOR CERTIFICATE OF APPROPRIATENESS – MAJOR SITE PLAN
  - While paragraph C states that a project is exempt from other design standards, it implies but does not definitively state that a project is subject to the design standards in Article 17. Being clear that Article 17 design standards do apply would be a good idea in our opinion.
- Article 17.4.1. B. MINIMUM CRITERIA FOR DESIGNATION
  - In paragraph B, a phrase was removed at the end of the first sentence (the comma is still there). The remaining two sentences need some additional editing as the second sentence regarding contributing buildings references the language about landmarks that was removed.
  - In paragraph C, the definition of a historic landscape district is narrowed to man-made or designed landscapes. This would seem to eliminate other types of cultural landscapes that are not necessarily formally designed, but still recognized as landscapes by the National Parks Service, like vernacular landscapes or ethnographic landscapes (which include geological structures proposed to be eliminated from the current criteria).
- Access to public information:
  - 17.5.8 removes the requirement that city notice mailings include copies of ordinances and design guidelines, which seems reasonable. We suggest that it should be noted in the ordinance that council action notices should (and do!) include information on where to find a copy of the resolution or designation ordinance and design guidelines online as publically available information. Likewise, in 17.8.B the historic resources design manual should not only be available for copying in the office, but available online.
- Could staff clarify their thinking on the relationship between design manuals and the ordinance? Are manuals separate but incorporated by reference and enforceable or is the intent that they are not enforceable, but additional guidance? We feel strongly they should be part of adopted policy.

Thank you for considering our views and addressing our comments.

Julie Larry

Director of Advocacy  
Greater Portland Landmarks  
93 High Street  
Portland, ME

## Recode Portland

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**Donna.Williams@maine.rr.com** <Donna.Williams@maine.rr.com>

May 22, 2020 2:15 PM

Posted in group: **Planning Board**

Last fall I read about the initiative, Recode Portland, in the local newspaper. As a former planning board member myself, and a property owner in Portland, I immediately subscribed to receive notifications of upcoming meetings, but have never received one notice. It is with some dismay, that I now read discussions have been ongoing, many of them remotely, and, i fear, with little understanding or discussion in the community, except amongst the development professionals. Particularly right now, given the pandemic, I doubt there will be much community support for creating more density in the city. I was dismayed to read last fall that the city approved doubling the number of housing units at Front St. There must be better ways to address the need for affordable housing. Is this to be the type of development we shall see in the future? I ask that you suspend this initiative until the entire community can participate in the discussion in a meaningful way.

Thanks for your consideration.

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**PROPOSAL TO REVISE PORTLAND'S ZONING ORDINANCE AS IT AFFECTS THE R-6 ZONE AND R-6 DESIGN GUIDELINES**

**Developed by R-6 Neighborhood Associations, May 1, 2020**

**RECOMMENDATION #1:**  
**Incorporate Core R-6 Design Principles into Recode Text and**  
**Adopt Revised R-6 Design Standards**

**Intent** Core design principles are policy statements, just as important as dimensional requirements and should be approved by the City Council, the City's policy body, rather than the Planning Board, which is responsible for administering the policy established by the Council. Core design principles that apply to historic districts are set forth in the existing Land Use Code (Sec. 14-651). We believe this inclusion sets precedent for such core principles being set forth in the Recode text as they apply to R-6 neighborhoods. As with historic preservation design principles, the R-6 design standards should be further detailed in the Design Manual. Having a uniform set of core design principles will simplify understanding by development, design, and construction professionals.

**R-6 Neighborhood Associations Proposal** New language setting forth Design Principles for the R-6 zone, is to be inserted in Recode text, perhaps as a new Section 7.4 "Design Principles for the R-6 Zones", with supplemental standards to be adopted which will be contained in the Design Manual. It should be noted in the text that these are core principles that apply to all R-6 zones unless covered by separate overlay zone design standards, in which case the more stringent of the standards apply.

**Proposed New 7.4 to be inserted in Recode: Design Principles for R-6 Zones:**

- (a) Purpose: All development has a responsibility to enhance the neighborhood in which the project is proposed to be built. Meeting this responsibility is especially critical in the R-6 neighborhoods because the impact of a new project is amplified within dense, compact, urban neighborhoods. New development should be respectful of and compatible with the valued character-defining architectural features of an existing neighborhood; should promote and support safe, engaged neighbors; and should meet a high standard of building design. With good design, these goals may be achieved even when incorporating a contemporary vocabulary.
- (b) Applicability: Proposals must comply with these Design Principles, the associated R-6 design standards, R-6 dimensional standards, and all other applicable standards;
- (c) Requirements for approval: In evaluating all zoning and/or site plan applications proposing new construction and/or a major additions and alterations for residential use, the planning board and/or Planning Authority, as applicable, shall not approve an application unless the development proposal meets each of the principles contained in (e)-(h) ( hereinafter sometimes

referred to as R-6 Design Principles) and all associated requirements contained in this section and the associated R-6 Design Standards contained in Portland's Design Manual.

(d) Definitions and application:

1. "Visually related" refers to the relationship between buildings, structures, and places in proximity to the subject property when viewed at street level. Buildings, structures and places are "visually related" to a subject property if: 1) those buildings, structures and/or places are within view of a person standing upon the subject property, and/or 2) if the subject property, or any portion thereof, as proposed to be developed, would readily be viewed by a person standing at the building, structure and/or place.
2. In assessing the degree of visual compatibility with structures with which a proposed building is visually related, greater weight is to be placed upon adjacent buildings and structures, and upon existing buildings on both sides of the street within the block containing the subject property, particularly if those buildings contribute to and are compatible with the predominant character-defining architectural features of the neighborhood.
3. Unless otherwise indicated, these Design Principles shall apply to the front façade and to those portions of the building that are readily visible from a public way. On corner properties or where more than one façade is readily visible from a public way, all such readily visible facades will be evaluated with equal care as the front facade.
4. For guidance concerning the intent and application of these Principles, reference shall be had to the City of Portland's *Design Manual, Section K, R-6 Design Standards*, which standards are incorporated by reference herein and must be met, and to any additional R-6-specific guidance adopted by the City Council, from time to time.
5. Any proposal in the R-6 zone required to obtain a certificate of appropriateness under Portland's Historic Preservation Ordinance is exempt from review under these Design Principles and related Peninsula Neighborhoods R-6 Design Standards because the application will be reviewed under the applicable historic preservation standards.

(e) Scale, form and massing:

1. Height. In addition to the applicable requirements of Zoning, Site Plan and Subdivision of this Chapter 14, Land Use, the proposed height shall be visibly compatible with surrounding structures when viewed from any street or open space and in compliance with any design standards, including but not limited to these R-6 Design Principles and those standards contained in Section K of the Design Manual (sometimes collectively referred to as the R-6 Design Principles and Standards).
2. Width. The width of a building shall be visually compatible with surrounding structures when viewed from any street or open space and in compliance with any applicable design principles and standards, including but not limited to these R-6 Design Principles and those standards contained in Section K of the Design Manual.



3. Proportion of principal facades. The relationship of the width to the height of the principal elevations shall be visually compatible with structures, public ways and open spaces to which it is visually related.
4. Roof shapes. The roof shape of a structure shall be visually compatible with the structures to which it is visually related.
5. Scale of a structure. The size and mass of structures shall be visually compatible with the structures, public ways and places to which they are visually related.

(f) Composition of principal facades:

1. Proportion of openings. The relationship of the width to height of windows and doors shall be visually compatible with structures, public ways and places to which the building is visually related.
2. Rhythm of solids to voids in facades. The relationship of solids to voids in the façade of a structure shall be visually compatible with structures, public ways and places to which it is visually related.
3. Rhythm of entrance porch and other projections. The relationship of entrances and other projections to sidewalks shall be visually compatible with the structures, public ways and places to which they are visually related.
4. Relationship of materials. The relationship of the color and texture of materials (other than paint color) of the façade shall be visually compatible with the predominant materials used in the structures to which they are visually related.

(g) Relationship to street:

1. Walls of continuity. Facades and site structures, such as masonry walls, fences and landscape masses, shall, when it is a characteristic of the area, form cohesive walls of enclosure along a street to ensure visual compatibility with the structures, public ways and places to which such elements are visually related.
2. Rhythm of spacing and structures on streets. The relationship of a structure or object to the open space between it and adjoining structures or objects shall be visually compatible with the structures, objects, public ways and places to which it is visually related.
3. Directional expression of principal elevation. A structure shall be visually compatible with the structures, public ways and places to which it is visually related in its directional character, whether this be vertical character, horizontal character or nondirectional character.
4. Street-level Activation. A structure should enhance the pedestrian friendliness and sociability of the existing streetscape, and be compatible with the typical orientation of R-6 residential buildings to the street

(h) Other Principles:

1. Distinguishing original character. In the case of a major building addition, if the distinguishing original, qualities of a structure, object or site and/or its environment are identified as positive, character-defining architectural and/or neighborhood features, they shall not be destroyed nor, when possible to avoid, altered.

2. Contemporary design. Contemporary design for new construction shall not be discouraged when it can otherwise meet the standards contained herein. Contemporary design for additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant cultural, historical, or architectural materials that characterize the property and the neighborhood. The new work shall be differentiated from the old and shall be compatible with the size, scale, material and character of the property, neighborhood and environment.

(i) Submission requirements. In order to illustrate the building design, visual relationships, visual compatibility, and compliance with the R-6 Design Principles and Standards the applicant shall submit:

- A site plan,
- Building elevations with materials labeled,
- Floor plans,
- Representation of the building materials – samples, renderings, illustrations, etc.
- A plan showing the proposed building footprint in relation to all buildings with which it would be visually related,
- Renderings, street elevations, photomontages, photographs, or other visual tools to depict the proposal and its relation to all buildings with which it would be visually related in order to determine its compatibility with their building elements and predominant character defining architectural features,
- A brief written narrative of how it meets each Design Principles and Standards, and Diagrams, illustrations, or similar depictions of how the building meets each Design Principle/Standard.

The proposed revised Design Standards, which would replace in its entirety the section of Portland's Design Manual currently entitled "Design Certification Program R-6 Infill Development", appear starting on the next page.

## **R-6 DESIGN STANDARDS**

TO BE ADOPTED BY THE PORTLAND CITY COUNCIL AS REPLACEMENT IN ITS ENTIRETY FOR THE SECTION OF PORTLAND'S DESIGN MANUAL CURRENTLY ENTITLED "Design Certification Program R-6 Infill Development"

### **I. PURPOSE**

All developers, no matter how small their project, have a responsibility beyond simply meeting the needs of their end users. They have a public responsibility to add to and enhance the neighborhoods in which their projects are built. The impact of a new project is amplified within dense, compact, urban neighborhoods.

New residential construction within Portland's compact R-6 zones should relate to the predominant character defining features of the neighborhood. The design of new development is critical, particularly elements such as the orientation and placement of a building on a site; its relationship to the street; and its mass, form and materials.

The intent of the R-6 design principles and standards is to ensure that infill housing development makes a positive contribution to the City's neighborhoods. The intent is to ensure that infill housing is compatible with the existing neighborhood character and meets a high standard of building design, while allowing for diversity of design.

### **II. APPLICABILITY**

New residential construction and major addition and alteration projects will be reviewed for consistency with R-6 Design Principles and Standards. Although the R-6 zoning regulation governs dimensional standards for development, building envelopes that meet the zoning requirements may not automatically meet the design standards -both zoning requirements and design standards must be met. An applicant may be required to reduce a proposed development below zoning maximums if necessary to satisfy design standards. These principles and standards are interdependent and should be considered holistically. The applicant must demonstrate that a proposal is consistent with the Design Principles. The standards are time-honored ways of achieving the Principles.

Unless otherwise indicated, the R-6 Design Principles and Standards shall apply to the front façade and those portions of the building that are readily visible from the public way. On corner properties or where the architecture has a visual impact upon multiple adjacent public spaces, both public facades will be evaluated with equal care.

### **III. CONTEXT**

Each infill project will have a unique context of surrounding structures and sites with some strong, unifying characteristics, and some that are subtle and less obvious. The more definite

and easily discernable traits within an established context should serve as a basis for a design solution, which can reinforce the predominate characteristics of the surrounding development patterns. Special attention shall be given to the existing streetscape and buildings to which the proposal is visually related and those that contribute to and are compatible with the predominant character-defining architectural features of the neighborhood.

The visual character, predominant patterns, and architectural features of each Neighborhood are clarified below:

### **Visual Character of Bayside**

*Based on:* Bayside Neighborhood Survey Report, Maine Historic Preservation Commission, 2019

Bayside is an urban neighborhood on the northern half of Portland's peninsula extending from Marginal Way along Back Cove to Cumberland Avenue. The neighborhood is also separated into two fairly distinct zones; densely developed residential blocks dating from the early-19th century to the early 20th century and a less dense area of low-rise industrial properties dating primarily from the mid-20th century. Lots sizes in the residential areas range from very small lots of less than 0.02 acre to larger lots created by demolitions or merged lots. The topography of the area slopes slightly downhill from Cumberland Avenue towards Marginal Way between Forest Avenue and Franklin Street and much more steeply downhill from Cumberland to Marginal Way between Boyd Street and Anderson Street. Most homes are located on sloping sites and built right up to the sidewalk with little or no intermediary space between the sidewalk and the entry. Almost all residential properties have a set of stairs to reach the front entry door. Side entrances are also common, particularly on the very narrowest of lots.

The neighborhood consists of single family residences, two-family and multi-family residences, including semi-detached homes, triple-deckers, and apartment buildings. Most small scale dwellings are 1 ½ to 2 ½ stories in height with gable or occasionally mansard roofs, while the three to four story apartment blocks and triple-deckers tend to have flat roofs. Earlier 19th century buildings have simple rectangular plans, while later 19th century dwellings, although still rectangular in plan, often have projecting bays and front porches or stoops to break up their rectangular mass. Most of the houses are vernacular expressions of the various architectural styles popular at the time of their construction.

Franklin Street, an Urban Renewal project divides the east and west half of the neighborhood. The two halves of the neighborhood have slightly different visual characteristics. West Bayside contains a collection of very early small-scale dwellings, either wood frame or brick, in the Federal and Greek Revival styles, while East Bayside is characterized by later 19<sup>th</sup> century dwellings in the Italianate or Second Empire styles built after the neighborhood was partially destroyed in the Great Fire of 1866. Because of the different periods of development – or redevelopment, the residential areas have slightly different scaled streetscapes.

There are some smaller commercial spaces present in the residential blocks, but these are generally small in scale and compatible with their residential neighbors. The visual character of

the neighborhood was greatly altered during the Urban Renewal era which resulted in the clearance of blocks of residences. Additional residences were cleared for the construction of attached housing projects. Late 20<sup>th</sup> and early 20<sup>th</sup> century residential projects have also been built in both sections of the neighborhood. While these dwellings do not fit the typical street pattern of their historic neighbors, most are of a similar scale and mass, and include characteristics typical of the neighborhood like raised stoops and bay windows that help them to blend into the small-scale feel of the neighborhood.

### **Visual Character of Munjoy Hill**

*Based on:* Munjoy Hill Development & Context Statement, City of Portland, 2019

Although Munjoy Hill exhibits a variety of architectural styles and residential building types, including single-family, multi-family, triple decker and the occasional apartment building, there are a number of shared building characteristics that serve to unify much of the neighborhood and give it its own identifiable visual character. First and foremost, the neighborhood is distinguished by its dense development pattern. Buildings occupy narrow, deep lots and are closely spaced. With few exceptions, mostly on the Eastern Promenade, buildings are of modest scale, ranging from 1 ½ to 3 stories. Most dwellings are wood-frame construction with clapboard exteriors; the occasional brick building breaks this predominate material palette. Buildings generally have small footprints, with their narrow, usually gable, end facing the street.

Most houses are two or three bays wide, often with a projecting one- or two-story front bay. Projecting front entry vestibules are also common. Most houses sit above a high brick foundation, with a raised stoop and flight of exterior stairs leading to the main entry. Entries are typically located on the street façade and are generally shifted to one side, although there are examples of primary entrances on the side elevation. Most buildings are set back a short distance from the sidewalk, allowing for a shallow front yard. Driveways, where they exist, occupy much of the width of the lot's side yard. Just as the scale of houses on Munjoy Hill is generally modest, so too is the architecture. Most of the houses, with the exception of those facing the Eastern Promenade, are vernacular expressions of the various architectural styles popular at the time of their construction. The very large number of Italianate buildings throughout the neighborhood, with their tall vertical expression, gable end facing the street, bracketed entry hood, and projecting bays, lends a certain consistency to the blocks.

Munjoy Hill is largely a neighborhood of wood framed dwellings. On many blocks, narrow lots contribute to a consistent streetscape. Gables, bay windows, and raised stoops are common. Certainly, there are some blocks within the neighborhood (Moody Street, for example) that do not follow this typical development pattern. There are also houses that do not exhibit the common building characteristics described above. These are, however, exceptions rather than the rule on Munjoy Hill. That is why later developments such as MacArthur Gardens, which features several separate-but-related brick buildings set back from the street within a campus-like setting, do not feel sufficiently integrated with the neighborhood. Munjoy Hill is often

described as “friendly” and “approachable”. While there are no doubt many factors that contribute to this reputation, the neighborhood’s distinct visual character is key among them.

### **Visual Character of Parkside**

*Based on:* West End Neighborhood Profile, City of Portland, 1993

The area bounded by Congress Street, High Street, Deering Avenue and Park Avenue constitutes the neighborhood commonly known as “Parkside”. The area was sparsely developed until the Great Fire of 1866 when many dwelling were built on speculation during a period of active real estate speculation. This concentrated period of development is responsible for the largely cohesive streetscapes within this densely occupied neighborhood. Deering Street is set off from the development pattern of the remainder of the neighborhood because of its slightly earlier period of development as an enclave of large one and two-family brick dwellings. The remainder of the neighborhood south of Cumberland Avenue is largely single-family houses and duplexes in the Victorian styles that predominated from the late 1860s to the early 1890s. These are more modest-scaled dwellings built by local builders in the vernacular interpretations of the Italianate, Second Empire, and Queen Anne styles. This includes gable roof and mansard roof dwelling of two to three stories in height and three to five bays in width. A majority of the homes, both single family, and duplexes, often have a projecting one- or two-story front bay. Projecting front entry vestibules are also common. Most houses sit above a high brick foundation, with a raised stoop and flight of exterior stairs leading to the main entry. Most buildings are set back a short distance from the sidewalk, allowing for a shallow front yard. Driveways, where they exist, occupy much of the width of the lot’s side yard.

As the neighborhood developed south to north, the area north of Cumberland Avenue was built up later, from the 1880s into the early 20<sup>th</sup> century. Development is mostly in the form of apartment houses and a significant concentration of triple-deckers. Both housing types tend to have flat roofs. Earlier examples of these larger scale buildings often include a raised stoop, multi-story porch, or a projecting one- or multi-story front bay that helps to blend the buildings with the character of their smaller scale neighbors. Later examples are boxier, often with one large central entrance that provides the building’s only ornamentation. Most of the multi-family buildings are located at or near the sidewalk. Driveways are less common as these larger-scaled buildings have a large foot print that covers most of the lot.

Parkside is a dense neighborhood of wood-framed and brick buildings, mostly residential in use. On many blocks, narrow lots create a consistent rhythm along the neighborhood’s streets. Gables, bay windows, and raised stoops or porches are common. Most entrances on the street façade, although examples of side entrances are present.

The development pattern of the neighborhood is mostly consistent except the introduction of a few small parking lots, religious structures, and a few 20<sup>th</sup> century low rise buildings. There are also houses that do not exhibit the common building characteristics described above. These are, however, exceptions rather than the rule in Parkside.

### **Visual Character of the West End**

*Based on: West End Neighborhood Profile, City of Portland, 1993*

The area bounded by Congress Street, High Street, the Western Promenade and Beach Street constitutes the neighborhood commonly known as the “West End”. It contains buildings dating from the 1820s to the present day. While the Western Prom and the neighborhood’s large Federal and Victorian homes were often designed by noted architects, the neighborhood contains a high percentage of modest-scaled 1 ½ to 2 ½ story dwellings built by local builders in the vernacular interpretations of the styles popular at the time of their construction. A majority of the homes, both single family, and duplexes, were built gable end to the street with a simple side hall plan. This basic plan was adapted to the latest architectural fashions.

Although the West End exhibits a variety of architectural styles and residential building types, including single-family, multi-family, apartment buildings, and the occasional triple decker, there are a number of shared building characteristics that serve to unify much of the neighborhood and create an identifiable visual character. The mid-19<sup>th</sup> century to the late 19<sup>th</sup> century houses that comprise the majority of dwellings in the West End are two or three bays wide, often with a projecting one- or two-story front bay. Porches are also common, either on the front or side elevations. Most buildings are set back a short distance from the sidewalk, allowing for a shallow front yard. Most houses sit above a high brick foundation, with a raised stoop and flight of exterior stairs leading to the main entry. Entries are typically located on the street façade and are generally shifted to one side, although there are examples of primary entrances on the side elevation. While most dwelling have a small footprint, there are larger scale townhouses and apartment buildings found throughout the neighborhood, particularly within close distance to the former streetcar routes. These larger scale buildings often include a raised stoop, a projecting one- or multi-story front bay that help to blend the buildings into the character of their smaller-scale neighbors.

Throughout the neighborhood are small nodes of commercial uses that are comparable in scale to the residential dwellings they serve. The visual character of the neighborhood was altered by the addition of the Reiche School (1973), which resulted in the clearance of three-square blocks of residences. Additional residences were cleared on Spring, Clark, Gray, Summer, Salem, and Brackett Streets for the construction of attached housing projects. While the new dwellings do not fit the typical street pattern of their historic neighbors, they are of a similar scale and mass that does not detract from the dense, but small-scale feel of the neighborhood.

**IV. R-6 DESIGN STANDARDS** These R-6 Design Standards provide detailed guidance for decision-makers, applicants and residents as to the meaning, application and interpretation of the Design Principles for R-6 Zones, which are included in Section 7.4 of the Recode Ordinance.

#### **PRINCIPLE A: SCALE, FORM & MASSING**

*The scale, form and massing of a building reflects and reinforces the traditional building character of the neighborhood through a well composed scale, form, and volume.*

Explanatory Note: is a significant factor that contributes to the character of a building. The building's massing (as defined by its bulk, size, physical volume, scale, footprint, shape and form) should be harmonious with the massing of existing surrounding residential buildings to which it is visually related and that contribute to and are compatible with the predominant massing of the Neighborhood. The massing of a building can be defined as the overall geometry (length, width, and height) of its perceived form. The overall height of the form (actual and perceived) as well as the geometry of its roof is of particular importance in defining the massing of a building.

**STANDARD A-1 Height, Width and Massing**

The massing of a new building or addition (as defined by its width, height, physical volume, scale, shape and form) should be harmonious with the massing of existing surrounding buildings to which it is visually related and that contribute to and are compatible with the predominant massing of the neighborhood.

**STANDARD A-2 Proportion of principal facades.**

The relationship of the width to the height of the principal façade should be compatible with the predominant width and height of the residential buildings to which it is visually related.

**STANDARD A-3 Roof shape/form.**

The roof forms of a new building or addition should be compatible with the predominant roof forms found on the existing surrounding residential buildings to which it is visually related. R-6 neighborhoods are typically defined by simple roof forms. Additions and alterations are typically introduced as subsidiary to the main roof form by placing them away from the public right-of-way and by being of a height and scale clearly subsidiary to the main roof.

**STANDARD A-4 Main Roofs and Subsidiary Roofs**

The building shall have a clear main roof form. Subsidiary roof forms and dormers shall be clearly subordinate to the main form in size, space and number.

**STANDARD A-5 Roof Pitch**

Gable roofs shall be symmetrical with a pitch similar to the predominant roof pitch found on the existing surrounding residential buildings to which it is visually related. Hip roofs with a shallow pitch and flat roofs shall have a cornice line. The slope of the roof may be either parallel or perpendicular to the street. Monopitch (shed) roofs are allowed when contextually appropriate. There is no minimum pitch for porch roofs.

**STANDARD A-6 Scale of a structure.**

The scale of the new building or addition shall be visibly compatible with its surrounding residential buildings. The scale shall be complimentary and respectful to the established patterns of those buildings to which it is visually related and which contribute to and are compatible with the predominant scale of the neighborhood .



## **PRINCIPLE B: COMPOSITION OF PRINCIPAL FACADES**

*Building proportions must be harmonious and individual building elements shall be human scaled. The building's façade elements must create a sense of balance by employing local or overall symmetry and by appropriate alignment of building forms, features and elements. The design of the building shall be articulated to create a visually interesting and well composed residential façade. Building facades shall utilize building materials that are harmonious with the character defining materials and architectural features of the neighborhood and the residential structures to which the building is visually related.*

### **STANDARD B-1 Façade Composition**

The composition of the new building or addition façades, including rhythm, size, orientation and proportion of window and door openings shall relate to the facades of residential buildings to which it is visually related and that contribute to and are compatible with the predominant character of the neighborhood.

### **STANDARD B-2 Proportion of Openings**

Doorways, windows and other openings (fenestration) shall be scaled appropriately to the overall massing of the building. The area of fenestration of the front façade (and for corner lots, both street-facing facades), the solid-to-void ratio and relationship shall be comparable to that found on facades of buildings of the same type in the neighborhood to which the building is visually related. Doorways, windows and other openings in the façade (fenestrations) shall have a proportional relationship to the overall massing of the building.

### **STANDARD B-3 Proportion and Orientation of Window Openings**

Windows in the R-6 neighborhood context are traditionally rectangular and vertically proportioned. The majority of windows shall be rectangular and vertically proportioned to relate to those proportions found within the facades of residential buildings to which the proposed facade is visually related. (The use of classical proportions is encouraged). Special accent windows may be introduced with limited use where justified by building program or façade composition. Appropriately scaled windows or other building openings shall be included on all sides of a building.

### **STANDARD B-4 Window Types**

Window patterns shall be composed of no more than two window types and sizes except where there is a design justification for alternate window forms. R-6 neighborhoods are typically defined by a limited number of window types and sizes, typically two types and sizes.

### **STANDARD B-5 Window and Door Height**

The majority of window's and door's head heights shall align along a common horizontal datum line.

### **STANDARD B-6 Window and Door Alignment**

The majority of windows shall stack so that centerlines of windows are in vertical alignment.

**STANDARD B-7 Symmetry**

Primary window compositions (the relationship of two or more windows) shall be arranged symmetrically around the building façade's centerline (overall symmetry) or around another discernable vertical axis line.

**STANDARD B-8 Massing Variation in Principal Façade**

Provide variety in the massing by incorporating at least two of the following architectural elements. Such features shall be applied to the front façade and those portions of the building that are readily visible from the public way.

1. Gables or dormers.
2. Balconies.
3. Recessed entries.
4. Covered porches, covered entries or stoops.
5. Bay windows. In the case of horizontally attached dwelling units, at least one-half of the ground floor units shall have a bay window to satisfy this criterion.

**STANDARD B-10 Main Entries**

Main entries shall be emphasized and shall be integrated architecturally into the design of the building, through the use of detailing relevant to its context (such as special materials, side lights, trim, canopy, and/or lighting) and massing features relevant to its context (such as a porch, stoop, recessed entry, or covered entry), so that the entry is clearly discernable from the street.

**STANDARD B-11 Building Elements**

Individual building elements (such as porches, balconies, stoops, or similar) shall be scaled appropriately for the overall façade while also creating functional space. Such elements should not dominate the façade and should reflect proportions, scales, and relationships and placement found in the residential structures to which it is visually related. Circulation towers and community rooms are inconsistent with the existing development pattern and are permitted only on side or rear façades or internal to the structure.

**STANDARD B-12 Articulation**

Buildings shall provide surface articulation by employing features found on the facades of residential buildings to which it is visually related and that contribute to and are compatible with the predominant character of the neighborhood (such as eaves/rakes/overhanging rooflines, pronounced cornice lines, offsets to the façade planes, balconies, and railings, dimensional trim, window reveals, or similar elements) appropriate to the style, scale, and type of the building. Trim and details shall be designed and detailed consistently on the facades visible from the public right of way.

**STANDARD B-13 Visual Cohesion**

Excessive variations in façade design (including window type, pattern, material type, and material placement) shall not be allowed if such changes disrupt the visual cohesion of the

façade or differs significantly from the predominant character of the neighborhood or the residential structures to which it is visually related.

**STANDARD B-14 Delineation between Floors**

If consistent with the context, buildings should delineate the boundary between floors of the structure through such features as belt courses, cornice lines, porch roofs, material variation, window alignment or similar architectural features.

**STANDARD B-15 Porches, Balconies, etc.**

Porches, decks, balconies, stoops and entryways shall be architecturally integrated into the overall design of the building in a manner that compliments its massing, material, and details while providing articulation and visual interest to the façade. Multilevel porches and balconies on front facades shall not obscure the architectural features of the façade.

**STANDARD B-16 Material Selection**

Use materials and treatments for the exterior walls (including foundation walls) and roofing that are harmonious with what is found on the facades of residential buildings to which it is visually related and that contribute to and are compatible with the predominant character of the neighborhood in scale, texture, character, or finish. R-6 neighborhoods are typically defined by simple material palettes using fine-grain materials such as clapboard, brick, and occasionally shingle or other masonry types.

**STANDARD B-17 Material Placement and Façade Design**

The placement of façade materials shall be consistent with the façade design and appropriate to their nature. For example, brick facing should not appear to be thin layers on the façade, or to overhang without apparent support. Materials shall be arranged so that the visually heavier material, such as masonry or material resembling masonry, is installed below lighter material, such as wood cladding. In addition, material placement shall reflect the predominant characteristics of the neighborhood, typically a single material used consistently throughout with occasional accents or details highlighting architectural features. Buildings shall not rely solely on material placement to mitigate the scale of the building, create visual interest, or otherwise relate the building to its context.

**STANDARD B-18 Accent Materials**

Secondary, detail, or accent materials that differ from the residential structures to which it is visually related in scale, texture, character, or finish may be used to create architecture that is reflective of its own time. These materials must be clearly subordinate in placement and extent of use to the primary materials and compatible with the residential structures to which it is visually related.

**PRINCIPLE C: RELATIONSHIP TO STREET**

*The building's façade shall reinforce a sense of the public realm of the sidewalk while providing a sense of transition into the private realm of the home. An important component of a neighborhood's character is the relation of dwellings to the sidewalk and the street. Design of*

dwelling can enhance the pedestrian friendliness and sociability of the streetscape while protecting the privacy of the residents' internal home life. Vernacular buildings in the R-6 context typically include the characteristic of approachability.

**STANDARD C-1 Directional expression of principal elevation.**

The directional expression of the new building or addition's principal facades shall relate to the directional expression of the facades of residential buildings to which it is visually related and that contribute to and are compatible with the predominant character of the neighborhood.

**STANDARD C-2 Balance of Visual Privacy and Street-Level Activation (RESERVED FOR POSSIBLE CHANGES TO BETTER ADDRESS STREET-LEVEL ACTIVATION CONCERNS)** Provide residential occupancy of street level spaces but ensure the visual privacy of occupants of dwellings through design strategies relevant to the neighborhood. These design strategies could include: vertical separation (such as placing the window sill height at least 48" above the adjoining sidewalk grade; providing the finished floor elevation of a residence a minimum of 24" above sidewalk elevation through front yard setback and landscape buffers, or through incorporating transition spaces like porches along the front side of the building façade design; or other measures.

**STANDARD C-3 Entrances**

Emphasize and orient the main entrance to the street. The main entrance of the structure shall either face the street or be located on the side and be clearly visible from and directly accessible to the principal street frontage.

**STANDARD C-4 Transition Spaces**

Create a transition space between the street and the main entrance with the use of elements relevant to the neighborhood and the residential structures to which it is visually related such as porches, stoops, recessed entries, covered entries, sidewalk gardens.

**STANDARD C-5 Garages**

Garages and structured parking should be visually and physically subordinate and recessive to the principal façade and main building form. Attached and detached garages are allowed provided that no garage door may be included in the front façade of the principal structure and provided that if a garage door is included in the front façade of a detached garage that the structure is set back from the front façade of the primary structure by a distance of at least 18 feet

**RECOMMENDATION #2:**

**Replace Table 7-A Dimensional Standards For R-6 Building Width Maximum With Building Volume Maximum and Regulate Combining Lots**

**Intent:** The existing dimensional standards try to assure compatibility with the existing development context by regulating only building width. Enforce the building context principle by regulating building volume, instead of building width.

**R-6 Neighborhood Proposal:**

In Recode, Article 7, Dimensional Standard Table 7 A, for R-6, **replace Building Width (max) with Building Volume (max)** as follows:

In the R-6 zone, the building volume of a proposed structure (length times width times height) may not exceed 115% of the average (sum of numbers divided by total number of values) building volume of all existing principal structures on each lot for which any portion of the lot is within 100 feet of the perimeter of the lot which will contain the proposed structure.

In addition, to maintain the existing scale of development, **regulate the combination of lots** of record as of January 1, 2018 to require that they be developed as separate lots. Insert in Recode, Article 7:

In the R-6 zone, building lots in separate ownership as of January 1, 2018 may not be combined to enable construction of a structure that would not be permitted on each component lot, and must be developed as if they were separate lots based on their January 1, 2018 boundaries.

**RECOMMENDATION #3:**

**Replace Recode Article 8 And Article 7 Rooftop Appurtenance Language.**

**Intent:** Provide clearer language in Dimensional Standards regarding rooftop appurtenances.

**R-6 Neighborhood Proposal:**

In Article 7.5.1 H Rooftop Appurtenances, add to the end of that section:

In the R-6 zone, rooftop appurtenances, other than chimneys, shall not exceed the maximum height allowed by applicable R-6 dimensional standards, except that HVAC equipment may be permitted to exceed that height by a maximum of 5 feet above the primary roof so long as it meets the following criteria: HVAC equipment shall be set back at least 10 feet from any roof edge, shall be physically consolidated to the extent practicable, shall be visually contained in screening which does not exceed 5 feet in height above the main roof, and the screening shall utilize a shape and choice of materials that is consistent with the principal building.

Similarly, in 8.7 Munjoy Hill Neighborhood Conservation Overlay Zone, Table 8-E footnote 1, replace the first sentence with the following:

Rooftop appurtenances, other than chimneys, shall not exceed the maximum height allowed by applicable R-6 dimensional standards, except that HVAC equipment may be permitted to exceed that height by a maximum of 5 feet above the primary roof so long as it meets the following criteria: HVAC equipment shall be set back at least 10 feet from any roof edge, shall be physically consolidated to the extent practicable, shall be visually contained in screening which does not exceed 5 feet in height above the main roof, and the screening shall utilize a shape and choice of materials that is consistent with the principal building.

**RECOMMENDATION #4:**  
**Provide effective incentives for development of Workforce Housing**

**Intent:** It is not an effective incentive to give a 10' height bonus for only 1 affordable unit in a proposed development in the Munjoy Hill Overlay Zone. In addition, there is inconsistency in how various bonuses apply in different R-6 neighborhoods. Under this proposal, an effective density incentive would be applied to all R-6 neighborhoods. The exterior dimensions remain unchanged, so from the exterior, there would be no difference. This proposal allows for the same space to be cut up into more dwelling units if they are workforce units. Decreasing the minimum lot area per dwelling unit allows the equivalent of "tiny house" size units in a multifamily building throughout all R-6 neighborhoods and deletes the possibility of a 10 foot height bonus in the Munjoy Hill Overlay, retaining only the underlying 35' height limit in the Munjoy Hill Overlay Zone.

**Assumptions:** A development would need at least 66% Small Workforce Units to qualify, and the units would need to be no smaller than 200 sq ft and no bigger than 500 sq ft. The building footprint would be restricted to the same 60% lot coverage as the existing R-6, and all the setback requirements would be the same. From the outside, this would have the same dimensional requirements as any other multifamily unit. This proposal would just give more flexibility for how it is configured inside the unit to accommodate more, smaller units. The incentive is that only 325 sf of lot area per dwelling unit (down from 725 otherwise) would be required.

**Existing or Proposed Currently in Recode:**

TABLE 8-E: MUNJOY HILL NEIGHBORHOOD CONSERVATION DISTRICT DIMENSIONAL REQUIREMENTS

height (max.) <sup>1</sup>	35 ft. 45 ft. for buildings with 3 or more units on lots over 2,000 SF that include at least one workforce housing unit <sup>2</sup>
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**R-6 Neighborhood Proposal:**

- (1) Replace Recode Article 7-Dimensional Standards, Table 7-H, R-6 language with the following regarding minimum lot area.

**Min. Lot Area/Dwelling Unit** 725 sf, except 325 sf for developments of 3 units or more on lots over 2000 sf. that include at least 66% or more small dwelling units that qualify as "workforce housing unit for rent" or "workforce housing unit for sale", defined elsewhere in this ordinance (hereinafter "Small Workforce Units"). These Small Workforce Units shall be no smaller than 200 sf and no larger than 500 sf, must meet the definition for workforce units for rent or for sale, and may only be sold or rented to a household at or below the applicable income levels. These requirements shall be deed restricted for affordability for the longest term possible under state and federal law. Notwithstanding anything in the Ordinance to the contrary, projects utilizing the reduced minimum lot area per dwelling unit provided herein may not also utilize any density bonus they may otherwise be eligible for under 14-488(g), 14-488.1 or any other density, height

and/or dimensional bonus or waiver granted as a result of providing one or more workforce housing units.

- (2) Replace Article 8.E Munjoy Hill Neighborhood Conservation District or 14-140.5(c) Dimensional Standards.

Within the District, the following dimensional standards requirements supersede those dimensional standards outlined elsewhere in Chapter 14:

**Maximum Height** 35'; [~~45'~~ for developments of 3 units or more on lots over 2000 sf that include at least one "workforce housing unit for rent" or "workforce housing unit for sale", defined elsewhere in this ordinance. Workforce units shall be no smaller than 50% of the average size of the other units in the development, must meet the definition for such units and only be sold or rented to a household at or below the applicable income levels. These requirements shall be deed restricted for affordability for the longest term possible under state and federal law.]

**Minimum Side Yard Setback** Buildings of height up to 35': As per the underlying zoning. [~~Buildings more than 35': 10'~~ for all side yards, except that a side yard no less than 5' is permitted when used to continue a documented built pattern of the surrounding streetscape, in which case a proportional increase in another side yard must be provided.]

**Minimum Rear Yard Setback** Buildings of height up to 35': 10' [~~Buildings more than 35': 15'~~ As measured from rear decks, porches, or similar unenclosed space: 7.5' As measured from accessory structures with a ground coverage of 144 square feet or less: 5']



**RECOMMENDATION #5:**  
**Replace Recode Article 7 Definitions of Height and Grade**

**Intent:** Clarification and correction is needed on the proposed grade definition.

**Existing or Proposed Currently in Recode:**

There was no existing definition for grade when building is on a slanted lot.

**R-6 Neighborhood Proposal:**

Replace in Recode Article 7.2 – Dimensional Standards with below definitions.

**Delete: Grade, average.** The average of finished grades measured at the ground level adjoining all corners of a structure.

**Insert: Grade, pre-development.** Average grade, existing on October 1, 2000, at the corners of the foundation of the proposed structure, provided that the average grade of a sloping site shall not exceed the grade of the lowest corner by more than 4 feet for the purpose of measuring building height.

**Insert: Height.** The vertical measurement from the pre-development grade to the highest point of a structure. For buildings, height shall be measured to the roof surface in flat roofs; to the highest point of the roof surface or the highest point on the deck of mansard roofs; to a level midway between the level of the eaves and highest point of pitched roofs or hip roofs; or to a level two-thirds of the distance from the level of the eaves to the highest point of gambrel roofs. For this purpose, the level of the eaves shall be taken to mean the highest level where the plane of the roof intersects the plane of the outside wall on a side containing the eaves.



**OVERVIEW OF RECODE EDITS (6/26/20)**

Article	ReCode Section/Subsection/Other	Existing Code Reference (if relevant)	Change
<b>1 Introductory Provisions</b>	1.3, 1.7, 1.8		Added purpose, delegation of authority, rules of interpretation provisions.
	1.5	<b>Article III, Div. 1, 22, 26.5, 27; Article V; Article VIII</b>	Consolidated enforcement and successive application provisions from across existing code.
	1.6	<b>Article III, Div. 1</b>	Added language to clarify relationship with other laws provisions.
	1.9	<b>Article III, Div. 1</b>	Added language to clarify amendment procedure.
<b>2 Administration</b>	2.1.8, 2.2.6, 2.3.7	<b>Article II; Article VI; Article IX, Div. 2</b>	Consolidated noticing language for meetings of all boards, updated to comply with state law and current practice.
	2.1.10, 2.2.8, 2.3.9	<b>Article II; Article III, Div. 27 &amp; 28; Article VI; Article IX, Div. 2</b>	Modified jurisdiction provisions to clarify roles, reflect current practice (e.g. Planning Board to review and offer recommendations on amendments to entire Land Use Code, eliminated references to 'urban renewal plans' from Planning Board and development of plaque system and Council reporting requirements from HP Board.) Added technical and design manual authority from subdivision to PB and CLG reference to HP.
	2.1.11, 2.3.10	<b>Article III, Div. 28; Article V</b>	Consolidated and updated administrative appeal procedures for Planning Board and ZBA.
	2.2.2, 2.2.4	<b>Article IX, Div. 2</b>	Updated HP Board term limits to align with Chapter 2 and eliminated two year limit on board chair.
	2.2.9	<b>Article IX, Div. 9</b>	Drafted new appeal process for HP administrative and Board decisions that is consistent with protocols for other administrative decisions and both Planning Board and ZBA decisions. Appeal process is consistent with current practice, where Planning Board review of HP Board decisions is appellate in nature.
	2.3	<b>Article III, Div. 27 &amp; 28; Article VI</b>	Updated ZBA provisions to reflect current law, clarify variance language.
	<b>3 Definitions</b>	<b>Article 3</b>	<b>Across all articles</b>
<b>Article 4</b>		<b>Across all articles</b>	Consolidated redundant definitions where appropriate (e.g. dwelling unit, lot, street).
<b>Article 5</b>		<b>Across all articles</b>	Added definitions to clarify where currently undefined (animal-related services, appurtenance, communication studio, repair services, tasting room, telecommunication tower).
<b>Article 6</b>		<b>Article III, Div. 1</b>	Modified definitions to add definitional language from 'Use' (intermediate care facility, sheltered care group home, retail).
<b>Article 7</b>		<b>Across all articles</b>	Added definitions where definitional language exists elsewhere in code (e.g. agriculture, airport restricted access areas, correctional pre-release facility, mulitplex, PUD, repair services, sounds).
<b>Article 8</b>		<b>Article III, Div. 1</b>	Eliminated commonly defined or outdated definitions (e.g. adult day care facility, chemical free night club, health care practitioner, engineer, tourist home, nanotechnology, non-profit organization).
<b>Article 9</b>		<b>Across all articles</b>	Integrated definitions with specific applications into text of relevant article (e.g. eligible project, temporary parking, 'shoreland zone,' gross area).
<b>Article 10</b>		<b>Article III, Div. 1</b>	Added/modified definitions to address consolidated like uses (e.g. hotel-related, service-related, office-related, auto service station-related, preschool-related, warehousing-related, cultural facilities).
<b>Article 11</b>		<b>Across all articles</b>	Moved definitions to Article 3 from elsewhere in code where appropriate (e.g. building alteration, building addition, accessory and principal buildings).
4.2.1 & 4.2.2		<b>Article III, Div. 23</b>	Clarified language around determination of non-conforming uses (e.g. struck references to building design in determination of nonconforming uses).
4.2.4 & 4.4.1	<b>Article III, Div. 23</b>	Added language clarifying regulations around timelines (e.g. discontinuance of accessory uses, extensions of structure- and lot-related nonconformities in cases of use extensions; broadened timelines for reconstruction of non-conforming structures).	
4.3.1	<b>Article III, Div. 23</b>	Restructured and revised lot of record language for clarity. Added clarity regarding lawfulling nonconforming structures on developed lots of record.	

**OVERVIEW OF RECODE EDITS (6/26/20)**

Article	ReCode Section/Subsection/Other	Existing Code Reference (if relevant)	Change
4 Nonconforming Uses, Structures, & Lots	4.4.1	Article III, Div. 23	Eliminated reference to rebuilding in the R-6 under the small lot provisions as these provisions no longer exist.
	4.4.5	Article III, Div. 23	Modified applicability for non-conformities as to number of dwelling units (modified date and expanded list of zones to include R-5, R-6, and B-2).
5 Zones	5.3	Article III, Div. 1.5	Updated CZA language to match state statute.
	Tables 5-B to 5-G	Article III	Eliminated purpose statement language not related to purpose (e.g. PRUD design language in R-3/R-5, repeating performance standards in I-L and I-M, setback exceptions for additions in B-1, frameworks for other standards in B-6 and B-7).
	Tables 5-B to 5-G	Article III	Updated language to reflect consolidated uses (e.g. general offices in the O-P and R-P) and to strike language related to uses that are not currently permitted (e.g. hospitals in I-H).
	Table 5-D	Article III, Div. 9	Consolidated B-1 and B-1b zones. Simplified and clarified associated use and dimensional provisions in Articles 6 and 7.

**OVERVIEW OF RECODE EDITS (6/26/20)**

Article	ReCode Section/Subsection/Other	Existing Code Reference (if relevant)	Change
<b>6 Use</b>	<b>6.1, 6.2, 6.3, 6.6, 6.7</b>	<b>Article III; Article III, Div. 24;</b>	Added applicability, determination of use, and change of use language, accessory use general guidelines, temporary use general guidelines, based on existing policy if applicable.
	<b>6.2.2</b>	<b>Article III</b>	Eliminated specific prohibited use language which exists intermittently in favor of general language.
	<b>Tables 6-A to 6-F</b>	<b>Article III</b>	Added floor area limits for services, offices, and retail. Modified floor area limits for places of assembly. Moved other dimensional-related language to Article 7 where feasible.
	<b>Tables 6-A to 6-F</b>	<b>Article III</b>	Consolidated like uses (e.g. hotel-related, service-related, office-related, auto service station-related, preschool-related, warehousing-related, cultural facilities).
	<b>Tables 6-A to 6-F</b>		Added parks and open space as permitted use across zones (permitted intermittently at present), telecommunication towers where allowed in practice.
	<b>Tables 6-A to 6-F; 6.4; 6.5</b>	<b>Article III</b>	Eliminated language which targets populations or uses protected under law (e.g. 'manufactured housing' as isolated single-family use; exclusion of certain populations from sheltered care group homes; prohibition on 'addiction treatment' clinics).
	<b>Tables 6-A to 6-F</b>	<b>Article III</b>	Eliminated use restrictions which run counter to policy directives around ADUS (e.g. limitations on two-family in R-4, R-5, R-6).
	<b>Tables 6-C, 6-E</b>	<b>Article III</b>	Clarified provisions for self-storage as permitted/conditional use.
	<b>6.4, 6.5.6</b>	<b>Article III</b>	Consolidated use standards where minor variations exist across zones (auto- and boat-related uses, drive-throughs, lodging houses, preschools as conditional use, off-street parking in mixed use zones, utility substations, SF limits on industrial uses in B-6 zone; off-street parking; solar energy systems; wind energy systems).
	<b>6.4, 6.5.6</b>	<b>Article III</b>	Eliminated provisions that introduce administrative burdens (e.g. deed restrictions SNIDUs, lease term limits for surface parking).
	<b>Tables 6-A to 6-F</b>	<b>Article III</b>	Eliminated some one-off provisions for purposes of consistency (e.g. maximum lot areas for multiplexes and SNIDUs in some zones, selective places of assembly in some zones).
	<b>6.6</b>	<b>Article III; Article III, Div. 24;</b>	Consolidated accessory use regulations (e.g. ADUs, drive-throughs, antennas and discs) and added accessory use regulations for tasting rooms. Eliminated provisions within ADUs unique to Peaks Island (affordability requirements).
	<b>6.8</b>	<b>Article III</b>	Consolidated performance standards where minor variations exist across zones (e.g. noise standards, outdoor effects, outdoor storage, waste disposal, storage of vehicles).

**OVERVIEW OF RECODE EDITS (6/26/20)**

Article	ReCode Section/Subsection/Other	Existing Code Reference (if relevant)	Change
7 Dimensional	7.1		Added applicability.
	7.2		Added rules of measurement where no rule currently exists for purposes of clarity (e.g. building footprint, landscaped open space ratio, lot coverage).
	7.2	Article III, Div. 1, 15.2, 22	Clarified rules of measurement based on existing practice (setback, stepback, street frontage, revisions to clarify 'structure' v. 'building').
	Tables 7-A to 7-H	Article III	Generalized standards across zones where appropriate (e.g. average depth of front yards for front setback in residential zones, maximum front setback from all frontages in mixed use zones).
	Tables 7-A to 7-H	Article III	Eliminated some one-off standards for purposes of consistency (multiplex density based on street frontage in R-5; FAR regs for R-P, B-4; minimum lot width for B-4).
	Tables 7-A, 7-D	Article III	Simplified minimum lot area for places of assembly by consolidating into two classes based on floor area.
	Tables 7-A, 7-D	Article III	Modified qualifying floor area for detached accessory structures to 250 SF.
	Tables 7-A to 7-H	Article III	Generally eliminated dimensional references to adjacent residential zone (e.g. I-B, B-4 FAR, R-P impervious surface ratio).
	Table 7-E	Article III	Eliminated obsolete language (e.g. references to B-5 between Forest and Franklin, as no longer exists).
	Table 7-E	Article III	Modified regulations for purposes of consistency (e.g. B-4, currently framed as residential in nature; B-2 density update, currently less dense than B-1; rooming unit densities in B-1 and B-2).
	Table 7-E	Article III, Overlay maps	Consolidated height-related standards to height overlay maps, where they exist (e.g. B-3, B-6, B-7).
	7.4	Article III, Div. 25; Article X	Clarified corner clearance and fence standards, consolidated dimensional standards for alternative energy.
	7.5.1	Article III, Div. 25	Updated height exceptions to clarify approach to structures which are currently unregulated (e.g. telecommunication towers, deck railings as rooftop appurtenances). Clarified height limitations of alternative energy installations.
	7.5.5 & 7.5.6	Article III, Div. 25	Updated setback and stepback exceptions to clarify and reflect current practice (e.g. to allow bay windows and balconies to project up to two feet), consolidated setback exceptions in R zones.
8 Overlay Zones		Article III, Div 4.5	Eliminated Flexible Housing Overlay Zone.
	8.3	Article III, Div. 7	Eliminated obsolete language from Fort Sumner Overlay (e.g. retroactive clause).
	8.7.4	Article III, Div. 7	Added additional language to the section on appeal of a demolition delay so as to make this section consistent with state statute and clarify timeline and review authority. Also, clarified required design standard compliance.
	8.8	Article III, Div. 12	Updated uses in PAD Overlay to match updated use provisions.
Form-Based Zones	9.1.7	Article III, Div. 15.2	Updated uses to match updated use provisions.
Waterfront Zones	10.1		Added introductory language to clarify interpretation of article.
11 Shoreland	11.3	Article III, Div. 26	Relocated language for review process related to entire article.
12 Floodplain Management	12.4 & 12.5	Article III, Div. 26.5	Added language to clarify process (e.g. Building Authority review, timeline for Flood Hazard Permits, certificates of compliance, role of DPW, submittals).
13 Resource Protection Zone	13	Article III, Div. 19	--

**OVERVIEW OF RECODE EDITS (6/26/20)**

Article	ReCode Section/Subsection/Other	Existing Code Reference (if relevant)	Change
14 Site Plan	Article 3	Article V	Eliminated redundant and/or unnecessary definitions and relocated general definitions to Article 3.
	14.3.1	Article V	Simplified site plan classifications to two categories: Minor and Major site plans. less is now a Minor site plan, and Level III's are major. Eliminated use-based thresholds (e.g. park improvements) with a few exceptions, and added bottom-end threshold to exempt small projects (e.g. generator pad locations) from site plan review.
	Table 14-A	Article V	Moved submission requirements to Technical Manual. Maintained distinctions between minor residential and low-impact development for purposes of fee assignment and submission requirements.
	Tech Manual Section 16	Article V	Eliminated preliminary & final application types.
	14.5.2	Article V	Clarified traffic standard related to LOS evaluation to allow more flexibility.
	14.6.1	Article V	Added relevant curbing and sidewalk waiver language from subdivision.
	14.6.1	Article V	Relocated certain existing technical site plan standards (e.g. parking lot surface material and landscaped island design) to Technical Manual.
	Technical Manual Sections Section 1 & 5	Article V	Eliminated standards (e.g. TDM requirements, zone-based design standards language) where redundant with the Technical or Design Manuals.
	14.6	Article V	Standardized waiver criteria for all forms of waiver (e.g. site plan standards, Technical Manual requirements, and submittal requirements).
	14.8	Article V	Updated performance guarantee and associated fees language to clarify process and reflect current practice.
14.11.3	Article V	Highlighted process for advanced site work, previously listed within the enforcement section of the code, which has been relocated to Article 2.	
14.11.3	Article V	Highlighted process for advanced site work, previously listed within the enforcement section of the code, which has been relocated to Article 2.	
15 Subdivision	Article 3, 15.2, 15.3.10	Article IV	Removed redundant and/or unnecessary definitions, relocated general definitions to Article 3, where feasible, and integrated some subdivision-specific definitions from the state (e.g. 'tract (or parcel)') into the text.
	15.3	Article IV	Updated review procedure language to eliminate provisions which no longer reflect current practice (e.g. references to paper copies), are unnecessarily prescriptive (e.g. references to internal workflow), or are outdated with respect to state statute.
	Tech Manual Section 16	Article IV	Relocated submittal requirements, including plat requirements and supplemental submission items, to the Technical Manual.
	2.1.10	Article IV	Relocated provisions establishing the Planning Board's authority to adopt technical and design standards to Article 2.
	15.4	Article IV	Added standards to reflect current state statute
	15.5	Article IV	Updated the technical and development standards to eliminate redundant, unnecessary, or one-off standards (e.g. minimum right-of-way widths, standards for manufactured housing parks, and special exceptions for subdivisions in the R-3 zone).
	15.7	Article IV	Updated performance guarantee-related language to clarify the performance guarantee process and reflect current practice.
16 Impact Fees	16.3.4, 16.3.6, & 16.5.2	Article XVII	Updated provisions for changes of use and demolitions to allow credit for existing uses on site within prior ten years, consistent with state TMP policy and revised language regarding the preparation of modification requests to allow qualified professionals.
	16.13	Article XVII	Updated effective date provisions to reflect actual effective date.

**OVERVIEW OF RECODE EDITS (6/26/20)**

Article	ReCode Section/Subsection/ Other	Existing Code Reference (if relevant)	Change
17 Historic Preservation	17	Article IX	Reorganized article generally, relocating administration closer to beginning of article, moving review types (Board and staff level reviews) to same section, and moving miscellaneous application requirements to application section.
	17	Article IX	Relocated administrative language out of section, including appeals (to Article 2).
	17.2	Article IX	Relocated general definitions to Article 3 (e.g. 'application', 'business day,' 'open space').
	17.2	Article IX	Substantiated existing definitions for historic district, landscape district and landmark using 'Certified Local Government' (CLG) guidelines from state. The definition of landscape district has been revised to account for multiple types of landscape district, not just designed districts.
	17.2	Article IX	Added definitions for 'rehabilitation' and 'preservation' from CLG guidelines
17 Historic Preservation	17.2	Article IX	Eliminated generally understood definitions, such as 'design guideline' and 'owner'.
	17.5.2	Article IX	Added language to allow HP Board and other review authorities to delay a public hearing where adequate documentation and materials are not provided.
	17.5.10	Article IX	Revised process for extending timeframes throughout article, such that timeframes may only be extended if HP Board, Planning Board or City Council provide a reason and agree to a revised timeframe in the course of a public meeting.
	17.6.2	Article IX	Removed National Register of Historic Places language which subjected properties identified as national register sites prior to adoption of this ordinance, as those properties are now identified as landmarks on official historic resources map of the city/
	17.7.1	Article IX	Added new 'non-building permit' trigger for Certificate of Appropriateness for 'streetscape and pedestrian improvements', based upon review criteria in the Historic Resources Design Manual.
	17.7.4	Article IX	Clarified Board vs. administrative review.
	17.7.5	Article IX	Consolidated all review types (i.e. Board, administrative, and site plan) into one section.
	17.7.5	Article IX	Provided new consent agenda option for staff level reviews, where staff can place items on a Board agenda as a consent item, where any member of the Board can refer it to Board level review.
	17.7.9	Article IX	Relocated expiration of approval language, previously listed under the Administration section, to 'Issuance of 'Certificate of Appropriateness'
	17	Article IX	Removed Landmarks section of existing ordinance. Similar to 'National Register' section listed above, Landmarks applied to properties previously designated as a historic landmark prior to adoption of this ordinance. As these landmarks are all now included on official map, there is no need to have this language.
	17 (General)	Article IX	Extended timeframes throughout the article to align with current practice.
17	Article IX	Appeals process moved to Article 2. Appeals are generally simplified, and in line with appeals for other Board and Administrative reviews.	
	18	Article III, Div. 29, 30 and 31, Article VII, and Article XII	Consolidated housing-related ordinances, including housing replacement, housing trust fund, condominium conversion, and relocation of displaced residents.
	18	Article III, Div. 29, 30 and 31 and Article VII	Relocated general definitions (e.g. 'low income household,' 'low income unit for rent') to Article 3.
	18	Article III, Div. 29	Integrated definitions with specific applications into text (e.g. 'loss of dwelling unit,' 'dwelling unit,' 'hotel project,' 'tenant,' 'developer.').
	18.1.2, 18.2.5	Article III, Divs. 29 & 30	Eliminated effective date/retroactive clauses that are no longer applicable (e.g. reference to effective date of exemptions clause in housing replacement, retroactive clause for hotel IZ).
	18.1.4	Article III, Div. 29	Modified references to administrative authorization review for housing replacement to align with changes in site plan.

**OVERVIEW OF RECODE EDITS (6/26/20)**

Article	ReCode Section/Subsection/ Other	Existing Code Reference (if relevant)	Change
18 Housing	18.2.3	Article III, Div. 30	Added language to explicitly exempt projects that are otherwise required to include affordability restrictions from IZ provisions.
	18.2.4	Article III, Div. 30	Clarified language regarding dimensional bonuses available to IZ projects.
	18.2.5	Article III, Div. 30	Updated hotel references to align with revised hotel-related terms in Article 6.
	18.3.2	Article III, Div. 31	Added in-lieu fees as source for Housing Trust Fund.
	18.5.4	Article XII	Incorporated Council-adopted payment provisions into text.



**OVERVIEW OF RECODE EDITS (6/26/20)**

Article	ReCode Section/Subsection/ Other	Existing Code Reference (if relevant)	Change
<b>19 Parking &amp; Loading</b>	<b>19.1.1, 19.1.2, &amp; 19.1.3</b>	<b>Article III, Div. 20</b>	Added language clarifying applicability and standardizing rules of calculation to generally reflect existing practice.
	<b>19.1.3</b>	<b>Article III, Div. 20</b>	Added grandfathering clauses for changes of use and building additions/alterations.
	<b>19.1.4</b>	<b>Article III, Div. 20</b>	Expanded shared vehicle provisions to allow multi-family developments city-wide to partially satisfy parking requirements with shared use vehicles, and eliminated property owner ownership requirement.
	<b>19.1.5</b>	<b>Article III, Div. 20</b>	Expanded the joint use allowance to all uses in all mixed-use zones and eliminated the ZBA or Planning Board review requirement.
	<b>Table 19-A</b>	<b>Article III, Div. 20</b>	Expanded residential off-street parking requirement to 1/unit city-wide.
	<b>Table 19-A</b>	<b>Article III, Div. 20</b>	Collapsed off-street parking requirements for like uses to match updated use tables.
	<b>Table 19-A</b>	<b>Article III, Div. 20</b>	Expanded the parking study option to any project undergoing major site plan review in front of the Planning Board, regardless of zone.
	<b>Table 19-A</b>	<b>Article III, Div. 20</b>	Added provisions to exempt multi-family housing from off-street parking requirements if proximate to transit.
	<b>19.1.6</b>	<b>Article III, Div. 20</b>	Eliminated provisions requiring ZBA/PB review of off-site parking arrangements; added requirement that receiving site must be in compliance with off-street parking requirements.
	<b>19.1.7</b>	<b>Article III, Div. 20</b>	Expanded eligibility for fee-in-lieu-of-parking provisions to any project under site plan review city-wide.
	<b>19.1.8</b>	<b>Article III, Div. 20</b>	Revised vehicular parking siting regulations for clarity (e.g. front yard setback); moved some siting rules to Technical Manual.
<b>20 Signs</b>	<b>20</b>	<b>Article III, Div. 22</b>	<p>The signs article has been comprehensively rewritten in order to be made consistent with state and federal law, notably Supreme Court Case Reed v. Town of Gilbert. This work was completed by Lisa Wise Consulting, INC in consultation with City staff, and a reference for changes can be found in the memo provided by the consultant (Attachment X).</p> <p>Staff did remove the existing waiver provisions for signs, where if a sign does not conform with certain dimensional requirements, an applicant can apply for waivers, which would trigger a minor site plan review with the Planning Authority. Eliminating this, would require an applicant to seek a variance from the ZBA instead. The rationale for this is that as the sign article has been rewritten, the regulations are now informed by current best practice, and therefore, new signs should generally be required to adhere to these standards.</p>
<b>21 Public Art</b>	<b>21.3 &amp; 21.5.1</b>	<b>Article XII</b>	Updated references to 'Guidelines for the Public Art Ordinance' for consistency.
	<b>21.5.2</b>	<b>Article XII</b>	Updated reference to Creative Portland and fixed typo in Public Art Committee Structure language.
		<b>Article VIII</b>	Eliminated provisions for the adoption of or amendment to technical standards within the City's technical manual (14-586 Administration), now consolidated within Article 2.
	<b>21.7</b>	<b>Article VIII</b>	Within the enforcement section, language has been struck that would allow a building authority decision to be appealed to the Director of Planning and Urban Development. Consistent with building authority decisions generally, this would now be appealable to the ZBA.
<b>22 Regulation of Explosives</b>	<b>21.7</b>	<b>Article VIII</b>	Language struck regarding enforcement authority of this article. As established in Article 1, The Building Authority shall have enforcement authority over the provisions of the land-use code.
<b>In general</b>	<b>Fee Schedules</b>	<b>Article III, Div. 1; Article IV; Article V; Article IX; Article VII</b>	Consolidated fees in separate fee schedules.

# Memorandum

## Planning and Urban Development Department



To: Julie Larry, Director of Advocacy, Greater Portland Landmarks  
From: Nell Donaldson, Director of Special Projects  
Date: June 8, 2020  
Re: ReCode Feedback

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In anticipation of our meeting, we've compiled responses to the comments you submitted for the most recent ReCode workshop. Where specific language from Articles is excerpted below, please keep in mind that it is draft language, and still subject to change. As always, thank you for your thoughtful and rigorous attention to this project.

**1. Article 14.6.4 (E) 2. SITE DESIGN STANDARDS - Historic Resources**

- In paragraph 2. Language has been removed specifying that historic preservation staff provide a written analysis of the proposed development's immediate context, identifying the major character-defining elements and any established building patterns that characterize the historic context to aid the Planning Board in finding a proposed project generally compatible with a landmark or district. Why? We feel this is an important function, and a rather unique element within the land use code, that should not be removed.

Language regarding the written analysis by historic preservation staff was inadvertently left out of the previous draft, and will be reinserted into 14.6.4(E).2. The final section of that section states: *To aid the review authority planning board in its deliberations, Historic Preservation staff shall provide a written analysis of the proposed development's immediate context, identifying the major character-defining elements and any established building patterns that characterize the context.*

**2. Article 17.12 APPEALS**

The appeals section (currently 14-681) has been shortened and references Article 2, but there is no appeals section proposed in Article 2 under paragraph 2.2 Historic Preservation Board. See updated language in Article 2.

The appeals language is still being discussed with Corporation Counsel. Generally, the proposal is to make the appeal process consistent with appeals of other administrative and Board decisions addressed in the land use code, with the exception that an HP Board decision appealed to the Planning Board would remain appellate in nature.

**3. Article 17 DEFINITIONS**

- The revised definition of a landmark: 'Any property, site, structure or object of particular historic, architectural or archaeological significance to the municipality (Portland?) relating to its cultural, social, economic, political or architectural heritage, or which is associated with historic persons, important events or themes in local, state or national history.' This is much

better than the existing language, but might better reflect the designation criteria if it shared that language about the level of value a landmark or district might have, such as:

*Any property, site, structure or object of particular historic, architectural or archaeological significance to the city, region, state or country relating to its cultural, social, economic, political or architectural heritage, or which is associated with historic persons, important events or themes in local, state or national history.*

This feedback has been incorporated into a revised definition for a landmark, such that designation criteria will now include significance at the local, regional and national level.

**4. Article 17.7.2 EXCEPTIONS TO CERTIFICATES OF APPROPRIATENESS**

- Currently if alterations are not visible from an open space (like a park) or a public way, they are not reviewable, this draft proposes to just use the term public way. Are open spaces included in the definition of public ways?

This exception has been revised to be clearer on this point. The revised draft will include text that states: *A Certificate of Appropriateness is not required where the Planning Authority determines that the proposed exterior changes to a structure are not readily visible at pedestrian heights from any public way or public open space. Where a Certificate of Appropriateness is required for such changes, it shall be limited to those portions of the structure or structures so visible.*

**5. Article 17 LANDMARK AND DISTRICT NOMINATION TIME LIMIT EXTENSIONS**

- When a board announces in a public meeting a date to which the matter will be rescheduled, should there also be criteria for when an extension is a reasonable action? A decision should not be excessively extended as elements of the ordinance are in effect until a final decision is made by the Council.

Staff is not recommending specific criteria for an extension in the decision time frame, though the draft proposes language that would require a Board or the Council to articulate a reason for the extension in the course of a public meeting.

**6. Paragraph 17.5.8 Action by City Council**

- The language in paragraph A. needs to be altered/ clarified that not all recommendations to the council come from the Planning Board, Landmark designation recommendations come from the Historic Preservation Board:

Within 60 days after the filing of a Planning Board recommendation, or Historic Preservation Board recommendation in the case of a landmark, on the nomination with the City Clerk pursuant to Section 17.5.6, the Council shall designate the landmark or district or reject designation.

The edit as suggested in this letter has been incorporated into the draft text.

7. Article 17.5.2 (D) NOMINATION PROCEDURES

- Who is required to complete additional documentation necessary for consideration, the applicant or the city?

The standard listed here intentionally does not prescribe a particular party as responsible for providing additional documentation, but generally it is the responsibility of the nominating party, whether that be the City or another entity, to provide necessary documentation to support a district's nomination. Regardless of who the nominating party is, the City may also assist with the collection or provision of additional relevant information and, in all cases, the City will be responsible for confirming the accuracy, completeness and relevance of the documentation to the nomination.

8. Article 17.7.5 REVIEW PROCESS FOR CERTIFICATE OF APPROPRIATENESS – MAJOR SITE PLAN

- While paragraph C states that a project is exempt from other design standards, it implies but does not definitively state that a project is subject to the design standards in Article 17. Being clear that Article 17 design standards do apply would be a good idea in our opinion.

In order to ensure greater clarity, we have added additional language to 17.7.5.C that clearly requires compliance with design standards listed in Article 17, so that the final sentence of that paragraph states *and shall comply with applicable design standards listed within Article 17.*

9. Article 17.4.1. B. MINIMUM CRITERIA FOR DESIGNATION

- In paragraph B, a phrase was removed at the end of the first sentence (the comma is still there). The remaining two sentences need some additional editing as the second sentence regarding contributing buildings references the language about landmarks that was removed. "many of which may qualify as landmarks".

Staff is proposing new draft language to describe the composition of a district:

*In the case of a nominated historic district, the Historic Preservation Board shall also determine whether there is an interrelationship of resources within it which creates an identifiable entity, even if composed of a wide variety of resources. A district must convey a visual sense of the overall historic environment or be a grouping of historically or functionally related properties. A historic district can comprise both individually distinctive historic resources and historic resources that may lack individual distinction but which contribute to the significance and visual character of the district as a whole.*

- In paragraph C, the definition of a historic landscape district is narrowed to man-made or designed landscapes. This would seem to eliminate other types of cultural landscapes that are not necessarily formally designed, but still recognized as landscapes by the National Parks Service, like vernacular landscapes or ethnographic landscapes (which include geological structures proposed to be eliminated from the current criteria).

Agreed. *Man-made or designed* has been struck in the revised draft of Article 17, and the definition will be broadened to include cultural landscapes, such as ethnographic and vernacular landscapes as well as designed landscapes.

10. Access to public information:

- 17.5.8 removes the requirement that city notice mailings include copies of ordinances and design guidelines, which seems reasonable. We suggest that it should be noted in the ordinance that council action notices should (and do!) include information on where to find a copy of the resolution or designation ordinance and design guidelines online as publicly available information. Likewise, in 17.8.B the historic resources design manual should not only be available for copying in the office, but available online.

Though this type of information is typically found on City notices, and will continue to be, the Article as written is careful not to overstate the required content of notices. Elements of the current Design Manual are online, and Staff is currently working on a more accessible format for that document for easier public viewing.

11. Could staff clarify their thinking on the relationship between design manuals and the ordinance? Are manuals separate but incorporated by reference and enforceable or is the intent that they are not enforceable, but additional guidance? We feel strongly they should be part of adopted policy.

While both design manuals are crucial documents, each function differently in the review process from the Land use code overall. We looking forward to discussing the role of both the Historic Resources Design Manual and the City of Portland Design Manual in development review at our meeting on Monday.