



Memorandum

Housing and Community Development Program
Planning and Development Department
City of Portland, Maine

To: A. Bryant Applegate, Senior Counsel, CPD, and
Director of America's Affordable Communities Initiative

From: Amy Grommes Pulaski, HCD Program Manager

Date: July 28, 2008

Re: National Call to Action for Affordable Housing through Regulatory Reform

The City of Portland, Maine is in the process of reviewing and revising two city zoning ordinances. One initiative is to revise the R-5 Small Lot and Infill zoning through text amendments. The second initiative is to revise the R-7 Zone, Parking Requirements (Division 20), and Incentives for the Affordable Housing Ordinance.

Text Amendments for R-5 Zone Small Lot and Infill

In summer and fall 2006 the Housing Committee explored options to amend the R-5 zone to encourage infill development on small lots. *"At that time, the Housing Committee recommended that R-5 provisions be drafted to allow single family homes to be built on small vacant lots ranging between 4,000 and 6,000 square feet, increase the density of multiplex housing, allow accessory units in existing homes on undersized lots, and include the provisions for dwelling units in carriage houses. ... At their meeting on October 10, 2007, the Housing Committee reviewed the draft R-5 amendments and unanimously recommended that they be referred to the Planning Board for consideration. The Planning Board held an introductory workshop on this proposal on November 13, 2007, a second workshop on January 8, 2008, and a third workshop on April 22, 2008,"* Jaegerman Memo to Planning Board 5-27-08.

The Planning Board is recommending a "Scaled Back" version to the one presented in the attached report. This includes a small lot single family on a 5,000 square foot lot, and accessory unit provision on a substandard grandfathered lot.

The revised R-5 Zoning text amendments will be presented to the Housing Committee on August 5, 2008.

Text Amendments in the R-7 Zone, Division 20, and Incentives to Affordable Housing Ordinance

The Planning Board reviewed the following Text Amendments in the R-7 Zone, Division 20 (Parking requirements) and Incentives to Affordable Housing Ordinance on May 27, 2008.

Text amendments for R-7 Zone include:

- Reduction in side yard setbacks,
- Possible change in density to eliminate the “proximity to public park” provision for eligible for the 100 units per acre density,
- Reduction in parking provisions on peninsula to one parking space per unit, allowing for shared car initiatives
- Reduction to 0.75 parking spaces per unit for affordable housing, with allowance for modification provision for unique circumstances (like housing for the visually impaired).
- Elimination of the restriction on subsidized projects eligibility for the density bonus provisions.

The revised text amendments for the R-7 Zone, Division 20 (Parking requirements) and Incentives to Affordable Housing Ordinance will be presented to the Housing Committee on August 5, 2008.

Backup Attachments:

1. Planning Board Report #29-08, R-5 small Lot and Infill Zoning Amendments submitted to Portland Planning Board from Alex Jaegerman, Planning Division Director on May 27, 2008. (12 pages)
2. Memorandum: Text Amendments to R-7 Zone, Parking, and Incentives for Affordable Housing to Chair Tevania and Members of the Planning Board from Shukria Wiar, Planner on July 3, 2008. (5 pages)

R-5 Small Lot and Infill Zoning Amendments

Submitted to:
Portland Planning Board
Portland, Maine
May 27, 2008

Submitted By:
Alex Jaegerman
Planning Division Director

I. Introduction

During the summer and fall of 2006, the Housing Committee considered options to amend the R-5 zone to encourage infill development on small lots. At that time, the Housing Committee recommended that R-5 provisions be drafted to allow single family homes to be built on small vacant lots ranging between 4,000 and 6,000 square feet, increase the density of multiplex housing, allow accessory units in existing homes on undersized lots, and include the provisions for dwelling units in carriage houses. The underlying research for these provisions was prepared by Portland's Planning Office. Portland's Department of Planning and Development has contracted with the Greater Portland Council of Governments to help draft text for the zoning amendments utilizing concepts reviewed by the Housing Committee last year.

At their meeting on October 10, 2007, the Housing Committee reviewed the draft R-5 amendments and unanimously recommended that they be referred to the Planning Board for consideration. The Planning Board held an introductory workshop on this proposal on November 13, 2007, a second workshop on January 8, 2008, and a third workshop on April 22, 2008. The Planning Board requested neighborhood meetings be held to present the R-5 housing proposal and gather public input.

II. Neighborhood Meetings

The purpose of the neighborhood meetings was to give the public residing in the R-5 zones an opportunity to learn about the proposed amendments and to hear reactions to the proposals before we proceed to a formal public hearing. Planning staff (Alex Jaegerman and GPCOG consulting staff person Caroline Paras) presented the proposed text amendments and facilitated the discussion at two neighborhood meetings as follows:

Monday, March 31, 2008, Deering High School Cafeteria, 7-9 p.m.
Wednesday, April 2, 2008, Presumpscot School Gym, 7-9 p.m.

Both meetings were well attended with approximately 60 to 70 persons at each meeting. The notice for these meetings was sent to all property owners within the Residential R-5 districts. The notice also included the date and time for the Planning Board's April 22nd workshop and a public hearing on May 27, 2008. See section VI below for a detailed summary of public comments and proposed changes to the amendment package in response to these comments.

II. Overview

There are roughly 1,545 vacant parcels in the R-5 zone, including those in separate (lead) and abutting (trailing) ownership: 45% of the vacant lots could be affected by these proposed amendments through provisions that decrease the minimum lot size and increase allowable density.

Buildout Analysis of Proposed R-5 Zone Amendments

Lot Size	Vacant Parcels		Zoning		Buildout Potential	
	Lead	Trailing	Current	Amended	Current	Amended
Less than 3,000 SF	240	311	Not buildable	Not buildable	0	0
3,000-4,000 SF	40	249	Not buildable	Not buildable	0	0
4,000-6,000 SF	132	241	Not buildable	1-2 Family	0	746
6,000-9,000 SF	109	87	1-2 Family	1-2 Family	392	784
9,000-12,000 SF	29	13	1-2 Family	Multiplex	58	126
Over 12,000 SF	50	44	Multiplex at 18,000 SF	Multiplex	TBD	TBD
Total	600	945			450	1,656

Under current zoning provisions, about 450 units could be built on vacant R-5 parcels ranging in size from 6,000-12,000 square feet. Under the proposed amendments, an estimated 1,656 units could be built, a net change of 1,206 units. The buildout potential of parcels over 12,000 square feet has not yet been calculated. This approach would make a significant contribution toward increasing the production of housing while preserving neighborhood character and stability.

III. Summary of Previous Analysis and Conclusions

Portland’s R-5 zone is located entirely off the peninsula, encompassing significant portions of East Deering, Libbytown, Oakdale, Deering Center, and Rosemont. These established “inner-ring” neighborhoods are characterized by a compact development pattern of 6-8 units per acre. Adopted in 2002, the City’s Housing Plan called for increased housing production to be achieved, in part, through Action 3.c.1.: *“Evaluate and update, as needed, the current zoning and subdivision codes to encourage new residential development that offers diverse and quality living options; provides traditional neighborhood elements; promotes a walkable city; and is compatible with Portland’s existing neighborhoods.”* In 2003, the City began to update zoning to promote infill development on the peninsula. With the adoption of amendments to R-6 and R-7, the City began to examine opportunities to promote infill development off the peninsula.

As a first step, City staff constructed an inventory of vacant land in the R-5 zone, identifying over 1,500 parcels that might be suitable for residential development. The proposed zoning amendments reflect the following principles:

A. **Maintain the compact development pattern of established neighborhoods.**

The Housing Committee sought to encourage single family home development on small vacant lots in the R-5, but did not want create incentives for the demolition of the existing housing stock for higher densities. Thus, similar to the R-6 infill provisions, the proposed smaller minimum lot size would apply to vacant lots, lots used for parking, or lots with accessory buildings. In addition, the proposed provisions offer the opportunity to separate combined lots (often referred to as double lots) to create one conforming lot and one small lot, again for a single family home. Proposed

amendments are expected to affect a defined universe of 705 parcels that are over 4,000 square feet and currently vacant or used exclusively for parking. A subset of these are also considered double lots.

- B. Promote the character of established neighborhoods by requiring quality residential design.** New homes that utilize the proposed small lot infill provisions of §14-120 (o) will be subject to site plan review. A set of design standards has been developed by Planning staff for amendment to the site plan review standards contained in §14-526. The standards, which articulate principles affecting the size and scale of the home, its orientation to the street, construction materials, and architectural details, will encourage quality design compatible with existing residential buildings that are within a two block radius. The draft R-5 Design Standards are included as Attachment 2.

At both the Housing Committee and Planning Board meetings, public comment was received on the proposal. While one member of the public opposed design standards altogether, another was concerned about when the standards would be triggered. Will design standards apply to all infill in the R-5 Zone or only those lots taking advantage of the small lot infill provisions? What about other zones, such as R-6, where small lot infill development is allowed? The specific case cited is on George Street, where neighbors are concerned about the construction of a new house on a lot created through the recent division of a double lot. The house, built perpendicular to the street, contains a two-door garage that dominates the façade. In this case, the new lot was legally conforming and located in the R-3 Zone.

For the Board's reference, the R-6 Design Standards apply to residential development on all lots less than 10,000 square feet whether or not the proposal employs the revised setbacks of the infill provisions. The question for the Planning Board to consider is whether all residential development, even including single family houses, on lots of a particular size in the R-5 zone should be subject to the R-5 design guidelines whether or not the proposal constitutes a small lot infill project.

- C. Encourage accessory units in existing homes on small lots and in carriage houses.** There are carriage houses in the R-5 zone that could easily accommodate another unit. Currently, the City has a zoning provision that permits a residential unit in carriage houses within the R-4 and R-6 zones. It is proposed that the R-5 be included in this provision. The R-5 zone allows a two family house by right on a lot with the minimum lot size. Portland allows accessory units in the single family zones (R-1, R-2, R-3, IR-1, IR-2) as a conditional use. The proposed amendments for R-5 would permit accessory units as a conditional use for existing homes on non-conforming lots.
- D. Encourage multiplex housing at higher densities.** The proposed amendments reduce the minimum land area required per unit for a multiplex (three units or more) from 6,000 square feet per unit to 3,000 square feet per

unit. This would make lots with 9,000 square feet or more eligible for additional density.

- E. Currently, the site plan ordinance requires the addition of a third unit in a two-family structure that has not been reviewed by the Planning Board to be reviewed as a major site plan. This ordinance provision was created prior to the establishment of separate design standards and thus such projects were reviewed as a major development under the design criteria of Site Plan Standard 15 (included as an attachment). The proposed amendments would make this an administrative review.

IV. Summary of Proposed Zoning Amendments

SINGLE FAMILY HOMES ON SMALL LOTS

1. Allow a single family home to be built on a small vacant lot with a minimum of 4,000 square feet.

Borrows the approach used to amend the R-6 zone by creating a small lot infill provision for existing lots between 4,000-6,000 square feet that are vacant, used exclusively for parking, or occupied by nonresidential structures.

Provisions: Add §14-120 (o) on page 15 and amend §14-121 on page 16.

2. Allow larger lots to be divided, where feasible, and permit a single family house to be built on the new small infill lot.

Permits the division of a single lot no larger than 11,000 square feet. The original parcel must conform to the minimum lot size of the R-5 zone, 6,000 square feet, while the vacant portion of the “double” lot must meet the requirements of §14-120 (o) described above.

Provisions: Add §14-120 (o)(1)(4) on page 15.

3. Apply design standards to development on small lots.

Adds a provision to require site plan review for units using the small lot infill provisions of §14-120 (o).

Provisions: Add §14-121 (d) on page 16 and §14-526 (a)(32), Article V, Site Plan Review Standards, on page 18.

ACCESSORY DWELLING UNITS FOR SINGLE FAMILY HOMES

4. Allow an accessory dwelling unit in a free-standing structure on a site, such as a garage.

Expands the “carriage house” provision to R-5, which allows any detached structure over 250 square feet that dates back to January 1, 1940, such as a garage or carriage house, to be converted to a dwelling unit.

Provisions: Amend §14-433 on page 17.

5. Allow an attached accessory dwelling unit on a nonconforming lot.

Adds a provision to allow an accessory unit within and subordinate to the principal structure as a conditional use on nonconforming lots that are between 4,000 to 6,000 square feet.

Provisions: Add §14-118 (a)(5) on page 6.

INCREASED DENSITY FOR MULTIPLEXES

6. Reduce the minimum lot area per unit for a multiplex (a building with three or more units) from the current standard of 6,000 square feet on vacant lots only(would not apply to conversions or additions).

Amends the minimum lot area for a multiplex from 6,000 square feet per unit to 3,000 square feet per unit.

Provisions: Amend §14-117 (a)(2)(a) on page 2 and amend §14-120 (f) on page 13.

7. Preserve the existing housing stock of large units in multi-family buildings.

Limits the “chopping up” of large units by requiring conversions to maintain units of at least 1,200 square feet. New units of no less than 600 square feet could still be created within the principal structure.

Provisions: Amend §14-117 (a)(2)(b).

V. Summary of Public Comment

A summary of all public comment has been prepared by Caroline Paras (Attachment 6) along with the sign-in sheets as Attachment 7. It includes comments received at the neighborhood meetings, in writing and over the phone. The written comments are included as Attachment 8.

VI. Questions and Issues Regarding Proposed Amendments

We have discerned a number of trends in the public comment. In general, a high degree of concern and opposition was reflected in the majority of the comments. Caroline's chart notes that the comments were directed toward the following subjects:

- Increasing density in general;
- The proposed change to the parking standard;
- The increase in the multiplex density in particular;
- Accessory units, carriage houses and requests for third dwelling units,
- Compatibility with the neighborhood and design standards
- Why this initiative is coming forward, at whose request, and to further what policies of the comprehensive plan.

Off-setting these comments were a few individuals who support the proposed amendments and believe that the changes will allow new development that is substantially similar to and compatible with the existing development in the R-5 neighborhoods as they experience it. Also, there were a number of individuals who approached us during the meetings and afterward, with requests to consider further amendments that would facilitate the addition of a third dwelling unit in portions of existing two-family structures or structures accessory thereto. These specific requests will be discussed below, with consideration as to whether they represent a general condition that could or should be responded to with additional text amendments.

A. Density in general as it relates to the small lot provision.

While there was much concern expressed about increasing density in the neighborhoods, much of the concern was specific to the multi-family uses in the neighborhoods. There was some degree of acceptance of the concept of allowing single-family homes on smaller lots. Councilor Leeman, at the second meeting, suggested retention of this provision, with the recommendation that the smaller minimum lot size be increased from 4,000 square feet to 5,000 square feet. She requested that staff prepare diagrams of how a single family house of various typical sizes and shapes could fit on a smaller lot to test out the practicality and impact of the proposed smaller minimum lot size. We have not yet had an opportunity to conduct this test. We suggest that we advertise a range of 4,000 to 5,000 square feet, and work on the diagrams in preparation for the public hearing.

Staff Recommendation

Retain option to allow single family homes on existing vacant lots, lots used for parking or non-residential uses, and lots divided from a large parcel that maintains one conforming lot under current provisions and one small lot for a single family home. The minimum lot area for the small lot is currently proposed at 4,000. Further consideration including some schematic sketches of lots of 4,000 sf and 5,000 sf to explore how a house can be sited on small lots has revealed that a lot of 4,000 sf is tight to fit a single family house with driveway, while a 5,000 sf lot accommodates this use more readily. We are therefore suggesting in the alternate language that the small lot size be set at 5,000 sf. .

B. Reduction in required parking.

There was clear and consistent opposition to the proposed reduction in parking requirement from two spaces to one space per dwelling for the small lot single-family development. While the trend on the peninsula has been to accept one space per unit, this policy might not translate well to the more suburban neighborhoods. This winter with all the snow was in sharp memory as people related the narrowing of the streets due to snow banks, and the increasing rate of on-street parking was viewed as an aggravation to the flow of traffic on neighborhood streets. Given the consistency of opposition to this change, and the likelihood that small lot single-family homes will have multiple vehicles, we are recommending that this change be dropped and the parking remain at the current standard, 2 spaces per dwelling.

Staff Recommendation

Delete the proposal to reduce the number of parking spaces from 2 to 1 for small lot development.

C. Multiplex Density

The reduction in lot area per dwelling for multiplex from 6,000 square feet to 3,000 square feet for vacant land development generated a strong negative reaction. The combination of increased density and multi-family development character elicited considerable opposition. It was pointed out by the staff that the 3,000 square feet per dwelling is typical R-5 density, and that the 6,000 square feet current requirement is the zoning anomaly, but there was no convincing the crowd that this change would be a good idea, even though the R-5 zone contains a good measure of both single and multiple family dwellings. It was pointed out by residents that encouraging multiplexes serves single or two person households and does not promote housing for families, which is the predominant character of the R-5 neighborhoods. While the idea of rationalizing the multiplex density at 3,000 square feet seems reasonable in theory, neighborhood opposition could make this a losing proposition. The Board might want to consider deleting this proposed change in recognition of these concerns, or advertising it for public hearing to experience first hand the level of concern. We look for guidance from the Board on what to advertise on this matter.

Staff Recommendation

We are recommending deletion of the proposed changes for multiplex development within the City.

D. Accessory Units, Carriage Houses and Requests for Third Dwelling Units.

a. Accessory units in single family homes on nonconforming lots

The proposed amendments include a provision to allow existing single family homes on undersized (nonconforming) lots to create an accessory dwelling unit as a conditional use. The proposed provisions are patterned after the conditional use provisions contained in Portland's R-1, R-2, R-3, IR-1 and IR-2. The accessory unit provisions were not included in the R-5 zone in the past, as these provisions were considered unnecessary since the zone permits a one or two family house on a minimum lot size of 6,000 square feet. The proposed amendments would allow homes on non-conforming lots to apply for an accessory unit meeting the standards of the conditional use. This provision was proposed to the Housing Committee by a resident and has not raised any objections to date.

b. Carriage House Provisions

Similarly, the proposed amendments add R-5 to the lots of record section of the Land Use Ordinance (14-433), which allows the creation of a unit in a carriage house or structure built

before 1940. This provision was originally created for the R-4 and R-6 zones to allow carriage houses to be preserved and reused. At issue at that time was the fact that many of the carriage houses did not meet current setback requirements. When these structures were built accessory structures could be on or closer to the property boundary than the current standards. The date of 1940 was included as carriage houses were generally built prior to that date and a minimum square footage of 250 feet was applied to exclude accessory structures, such as sheds or small garages. While this concept was not overwhelmingly opposed at the neighborhood meetings, some participants questioned the date and the minimum structure size of 250 square feet. The comments reflected that the 1940 date was too restrictive and the 250 square feet minimum was too small for a unit. According to Marge Schmuckal, Zoning Administrator, those proposals that have come forward have been larger than the 250 minimum. She also notes that the underlying minimum area per dwelling unit must be met to convert such a structure into a unit. The Planning Board may wish to consider whether the provisions as drafted should be revised to allow a broader range of detached structures to be converted to a dwelling unit. Marge notes that she has received inquiries as to whether a separate detached structure could be built on a 6,000 square foot lot in R-5 and be considered a two-family dwelling.

Staff Recommendation:

At the workshop on April 22, the Board discussed the issues of allowing surplus space in existing structures to be converted to additional housing units. (see next discussion, below) The Board suggested breaking this issue from this package of amendments for further research, possibly across other zoning districts. We have retained the carriage house provision in the staff's alternate draft, but we question whether this amendment should go forward now, or could be folded into the surplus space analysis some time in the future. This may be a point of discussion for the Board.

c. Third Dwelling Unit in a Two-Family House

We have fielded inquiries from approximately six (6) individuals who have two-family buildings to which they would like to add a third unit. On one hand, this appears to be an avenue to create additional dwellings, but the conversion potential could have some unintended consequences. Two cases involve two-family homes on lots of just under 6,000 square feet, which are lawful nonconforming lots. Both of these have one unit on the first floor, and a second unit on the second floor, and a third floor that is in one case part of the second floor unit, and in the other case, older finished rooms that could be part of the second floor unit but are not currently in use as living space. The owners would like to convert the third floor to a third unit. The down side of this conversion is that the larger, second and third floor multi bedroom units would be eliminated in favor of smaller apartments. The combination of excess density and loss of larger, "family sized" dwellings would suggest we leave this alone at the present time.

Two other cases involve two family dwellings with true surplus space, not presently used or appropriate for use as part of the existing dwellings that could make attractive third units with little or no negative consequences. In one case, an owner lives in a two family dwelling with a detached garage with office. The owner would like to convert the office to a third dwelling for income purposes. Parking would appear to be adequate. We do not have lot size information for this case, but under current zoning, the lot size would require 18,000 square feet for the third unit. The other case involves a two family home that was once a four-unit, with a large rear "el" that contained the other two units. A fire many years ago eliminated the units, although the structure is intact and in raw but structurally sound condition. The ell is currently boarded up and used for storage. The owner would like to convert the empty volume to a third unit. Parking might accommodate 6 vehicles in a stacked arrangement. The lot size is 5,500 square feet. We have advised the owner that he could pursue a conditional rezone given the unique circumstances.

There were a few other cases with similar circumstances. We have considered the possibility of a conditional use provision that would allow conversions in limited circumstances of true surplus building volume, sufficient parking, owner occupancy, or other similar requirements for accessory or third dwellings. We are not convinced that this idea is worth pursuing, however. We would like some feedback from the Planning Board as to whether to put effort into drafting such a provision. From our neighborhood meeting experience, we would expect such a provision to be met with some skepticism. We mention it because the cases seem to have merit individually, and could represent a general condition worthy of consideration. The direction of the City Council is to avoid conditional zoning for situations that should be accommodated under the basic zoning code.

Staff Recommendation

- *No changes are suggested to the accessory unit provisions for a single family home on a non-conforming lot.*
- *Retain the carriage house provisions as proposed and the staff is seeking the Board's guidance on whether revisions should be considered.*
- *The draft amendments do not address adding a third unit to a two-family house, unless it meets the dimensional requirements of a multiplex. At the suggestion of the Board at the previous workshop, we recommend that this issue be deferred until a more thorough analysis can be completed, including other zoning districts.*

E. Compatibility with the neighborhood and design standards

An update of site plan standard #15 is proposed that deletes the first section, which refers to neighborhood compatibility and a new provision was created that requires design review for small lot development and multi-family structures in the R-5 zone. The additional review was proposed for those homes seeking to utilize the small lot provisions with reduced dimensional requirements and for multiplexes. There was confusion about this change and many participants were opposed to deleting the first section. There were also comments received that all residential development within the R-5 zone should be reviewed under the proposed design guidelines. This provision would need to be revised pending whether the provisions for the multiplex move forward. The Board may want to consider whether all residential development, include single and two-family dwellings should be reviewed under the proposed R-5 design guidelines.

Staff Recommendation

- *No changes are proposed.*

VII. Genesis of this zoning initiative.

The Board is familiar with the reasoning behind this zoning initiative, which is part of an ongoing effort to create more housing opportunities following the housing plan. Housing: Sustaining Portland's Future was adopted as part of the Comprehensive Plan in 2002. There are five policies of which three are relevant to this proposal. The policies and few relevant objectives are as follows:

Policy #1: Ensure an Adequate and Diverse Supply of Housing for All

Ensure that an adequate supply of housing is available to meet the needs, preferences, and financial capabilities of all Portland households, now and in the future.

- *Ensure the construction of a diverse mix of housing types that offers a continuum of options across all income levels, which are both renter and owner-occupied.*

- *Increase home ownership opportunities for all types of households and all income levels.*
- *Identify vacant land and redevelopment opportunities throughout the City to facilitate the construction of new housing.*

Policy # 3: Neighborhood Stability and Integrity

Maintain and enhance the livability of Portland's neighborhoods as the city grows and evolves through careful land use regulations, design and public participation that respect neighborhood integrity.

- *Encourage innovative new housing development, which is designed to be compatible with the scale, character, and traditional development patterns of the City's residential neighborhoods.*
- *Encourage new housing development in proximity to neighborhood assets, such as open space, schools, community services and public transportation.*
- *Ensure the integrity and economic value of Portland's neighborhoods.*

Policy #5: Sustainable Development

Portland's Comprehensive Plan encourages a manageable level of growth that will sustain the city as a healthy urban center in which to live and work and to achieve our shared vision for Portland. Portland should encourage sustainable development patterns and opportunities within the city by promoting efficient land use, conservation of natural resources, and easy access to public transportation, services, and public amenities.

- *Encourage growth in Portland that strives for a dynamic balance of the essential elements of the city, such as excellent schools, diverse housing choices, proximity to services and employment, increased public transit usage, expanded economic base, high quality services, and an affordable tax rate.*

VIII. Recommendations

As noted above, this initiative has undergone considerable public commentary, which suggests some direction for revisions. We have advertised the original set of amendments, and include for the Board's consideration a scaled back alternative. This alternative removes some of the more problematic amendments, as noted in the discussion above. At this time staff recommends this scaled back version, with the suggestion that a future phase of amendments might be appropriate for the surplus space issue after further study. The amendments that are included in this recommendation would allow modest changes in the R-5 neighborhoods with a housing addition that is very similar and most compatible to the existing mature neighborhood fabric. While this approach will not maximize the new housing development opportunities, it will allow some incremental development in a manner least intrusive to the neighborhoods.

IX. Motion for the Board to Consider

We have endeavored to keep to a work plan including this public hearing at this date. If the Board is ready to make a recommendation to the City Council, then a motion is in order. If the Board needs more time to consider the alternatives, it can table this item after public comment and discussion by the Board to a further workshop and subsequent public hearing date. We will give the Housing Committee who are

awaiting this recommendation an update in either case. If the Board is prepared to make a recommendation, the following motion is offered:

Based on the information and findings of Planning Report 29-08, the workshop memo's to date on this subject, the public comments as summarized from the neighborhood meetings and this public hearing, {and other findings, if any}, the Planning Board finds that the **[original draft (attachment 1)]** or **[alternative draft (attachment 2)]** proposed R-5 Zoning Amendments **[are] or [are not]** consistent with the comprehensive plan, and therefore **[does] or [does not]** recommend the amendments to the City Council.

Attachments:

1. R-5 Zoning Original Proposed Amendments
2. R-5 Zoning Staff Recommended Alternative Amendments
3. R-5 Proposed Zoning Comparison Chart
4. Draft R-5 Small Residential lot and Multiplex Design Standards
5. List of recent housing developments in R-5 vicinity
6. House Lot Diagrams (3)
7. Public comments

Memorandum
Department of Planning and Development
Planning Division



To: Chair Tevanian and Members of the Portland Planning Board
From: Shukria Wiar, Planner
Date: July 3, 2008 for **July 8, 2008 Workshop**
Re: Text Amendments to R-7 Zone, Parking, and Incentives for Affordable Housing

I. INTRODUCTION

On May 27, 2008 the Planning Board held a workshop hearing to consider various text amendments in the R-7 Zone, Division 20 (Parking requirements), and to the Incentives for Affordable Housing Ordinance. The Planning staff is requesting text amendments these three sections of the Zoning Ordinance.

With the experience of many recent cases of R-7 zone developments, many of which also require conditional rezoning, we are proposing to revise the R-7 Zone, Division 20 (Parking requirements), and to the Incentives for Affordable Housing Ordinance. The Planning Staff have proposed zoning text amendments that remove barriers to the effective use of the R-7 zone. The hope is to limit the future need for case-by-case conditional rezonings that are of concern and to encourage new housing on small infill lots in a manner consistent with the existing compact development pattern typically found on the peninsula. The Planning staff has narrowed their thinking on these topics and after further consideration, the following text amendments in the proceeding paragraphs are recommended.

The text amendments are broken down by sections of the Zoning Ordinance and are as follows:

- I. Introduction
- II. R-7 Compact Urban Residential Overlay Zone Text Amendments
- III. Division 20: Parking Requirement Text Amendments Staff Review
- IV. Incentives For Affordable Housing Text Change
- V. Next Steps

II. R-7 COMPACT URBAN RESIDENTIAL OVERLAY ZONE TEXT AMENDMENTS:

The proposed R-7 zone text options will enable future developers to move forward to create projects with clarified side and rear yard setbacks. The current setback requirement has been confusing to applicants, and has required conditional zoning in several applications. The purposed amendment is intended to simplify this process.

The proposed text amendments are underlined and labeled.

A. Division 7.01. R-7 Compact Urban Residential Overlay Zone

Sec. 14-142. Permitted Uses.

Permitted uses in the R-7 Compact Urban Residential Overlay Zone, shall be the uses permitted in the R-6 Zone, except that:

- (a) Residential uses shall comply with the following dimensional requirements:
 - 1. Minimum Lot Size: None
 - 2. Minimum Frontage: None
 - 3. Minimum Yard Dimensions:
 - A. Front Yard: None
 - B. Rear and side yard: Five (5) feet except that on portions of lots that abut a lot under separate ownership with existing residential development, ten (10) feet setback is required from any property line within ten (10) feet of such adjoining residential structure.

As for the density, the planning staff is not proposing any changes to this section; this requirement will be left as is. The current R-7 zone has two density levels: seven hundred twenty five (725) square feet of land area per dwelling unit is required or four hundred thirty five (435) square feet of land area per dwelling unit for developments which are located within 500 feet, property line to property line, of a municipal park or playground. If the Planning Board is interested in making a change to the density, for consideration we offer the simplification that would allow a single density level at the high level of 435 square feet of land area per dwelling unit, regardless if the property is within the 500 feet from a municipal park or playground. This number is based on one hundred (100) dwelling units per one acre (43,560 sq ft divided by 100).

The following text amendment would be a possibility if the Board would like to consider it at public hearing. We are seeking guidance on whether or not to advertise this change.

B. Division 7.01. R-7 Compact Urban Residential Overlay Zone

Sec. 14-142. Permitted Uses.

- 5. Maximum Residential Density: Four hundred and fifty (435) square feet of land area per dwelling unit

III. DIVISION 20: PARKING REQUIREMENT TEXT AMENDMENTS

Currently, the ordinance states that for any new constructions, the requirement is two (2) parking spaces for each dwelling unit, plus one (1) additional parking space for every six (6) units or fraction thereof. The planning staff recommends that for the peninsula only, this parking requirement be changed to 0.75 parking spaces for affordable housing units and one parking space for all other residential development. The parking data supports this number; it was based on parking analysis conducted by the Tom Errico, City Traffic Consultant, and information

rovided by Christian McNeil of Portland Bike-Pedestrian Committee. These analyses are included as Attachment 8 and Attachment 9, respectively. Again the 0.75 parking spaces per unit will be for affordable dwelling units only.

When this particular text change was first brought up, the Planning Board had suggested that the planning staff examine the carsharing program as presented by Peter Bass of Random Orbits (specifically the development at Danforth and High Streets). The City Council requested that the car-sharing requirement be as of right and not through conditional rezone agreements.

Carsharing is a recent innovation in the United States and an alternative transportation option. Carsharing companies work on a membership basis. You pay an annual membership fee, then reserve and pick up a car when you need it. Depending on your reservation, you are billed by the hour or by the day for your usage. Various pricing plans are available. Pricing includes gas (up to 180 miles), insurance, cleaning, maintenance and parking at the reserved location.

Carsharing is effective in high density, mixed use areas with a good pedestrian environment. It also does well in an area that has parking pressure and low vehicle ownership rates but a high number of one-person households. Portland does not have access to the commercial carsharing program such as the Zip Car franchise. It is possible for medium to large residential development to create their own private carsharing system as was done by Random Orbits at High and Danforth Streets.

Random Orbits project was based on the following parking formula:

14 parking spaces for 26 units, which included
12 parking spaces for 12 units plus
02 share parking vehicles for 14 units, which equals to
01 share parking vehicles for 7 units

Based on this formula, an option for the Planning Board to consider is that there be one car share for very eight (8) required vehicle parking spaces as parking requirement but in no case, the parking requirement can be reduced by 50%. This option would be on the peninsula only.

The text amendment will occur in Section 14-332 (Uses Requiring Off-Street Parking) of the Zoning Ordinance, see the following:

Sec. 14-332. Uses requiring off-street parking.

In all zones where off-street parking is required, the following minimum off-street parking requirements shall be provided and maintained in the case of new construction, alterations which increase the number of units, and changes of use:

(a) *Residential structures:*

3. For residential development on the peninsula (area defined as southerly of I-295):
 - A. One space per dwelling unit
 - B. The required parking may be partially met through provision of shared-use vehicles as defined in Section 14-47. One shared use vehicle shall be deemed to satisfy eight (8) required car spaces.

but in no case shall the parking requirement be reduced by more than 50%.

- C. For each affordable housing unit for rent or sale within an eligible project, no more than 0.75 parking spaces shall be required. The planning board may establish a parking requirement for affordable housing units for rent or sale within an eligible project that is less than 0.75 parking spaces per affordable housing unit, regardless of the size of the structure.

With *Affordable Housing Unit for Rent* meaning a dwelling unit for which:

- (a) The rent is affordable to a household earning 80% or less of the U.S. Department of Housing and Urban Development moderate-income figure for metropolitan Cumberland county Maine for a household of that size; and
- (b) Annual rent increases for that unit are limited in perpetuity by deed restriction or other legally binding agreement to the percentage increase in the U.S. Department of Housing and Urban Development moderate-income figure for metropolitan Cumberland county Maine for a household of that size.

And

Affordable Housing Unit for Sale meaning a dwelling unit for which:

- (a) The sale price is affordable to a household earning 120% or less of the U.S. Department of Housing and Urban Development moderate-income figure for metropolitan Cumberland county Maine for a household of that size; and
- (b) The resale price is limited by deed restriction or other legally binding agreement for all future sales of the unit to an amount that is affordable to a household earning 120% of the U.S. Department of Housing and Urban Development moderate-income figure for metropolitan Cumberland county Maine for a household of that size, as calculated for the year in which the sale takes place.

IV. INCENTIVES FOR AFFORDABLE HOUSING TEXT CHANGE

On April 1, 2008, the Housing Committee recommended an amendment to delete the passage prohibiting public financing from the IZ ordinance, (c) *Which has not and will not receive any public funding, reduced-interest loans or other subsidies or incentive other than those described in this division* and have the section placed on reserve (see Housing Committee minutes, Attachment 3). This has been forwarded to the Planning Board for recommendation. The following shows the text amendment:

Division 30. Incentives for Affordable Housing

Sec. 14-485. Definitions:

Eligible project means a development project:

- (a) That is permissible under the provisions of this chapter in the zone in which it is proposed;
- (b) That will be a multi-family dwelling ,as defined in section 14-47, and will not be located in an R-1 or R-2 zone;
- (c) ~~Reserve; Which has not and will not receive any public funding, reduced interest loans or other subsidies or incentives other than those described in this division;~~ and
- (d) That creates new dwelling units, among which is at least one affordable housing unit for rent or sale, through new construction, substantial rehabilitation of existing structures, adaptive reuse or conversion of a non-residential use to residential use, or any combination of these elements. Affordable housing units for sale or rent may not differ in exterior design from other units within an eligible project.

V. Next Steps

- a. Finalize the text amendment language
- b. Schedule a public hearing

Attachments:

1. Section 14-141: R-7 Compact Urban Residential Overlay Zone
2. Section 14-485: Incentives For Affordable Housing
3. Housing Committee Minutes (excerpt from April 1, 2008 meeting)
4. Map of R-7 Zones and Conditional Rezones
5. Chart of R-7 Zones and Conditional Rezones on the Peninsula
6. Tom Errico memorandum Dated: 08.21.2008
 - a. Tom Errico memorandum
7. Chart of *Vehicles Available and Household Income*: US Census Bureau
8. Tom Errico Letter Dated: 11.20.2008
9. Christian McNeil, Portland BikePed. Committee Dated: 05.17.2008
10. Christian McNeil, Portland BikePed. Committee Dated: 05.22.2008
11. Development Options Urban Infill Lot (6000 SF)
12. Map of *Percent Commute by Transit: 2000*