HOUSING COMMITTEE

DATE: March 28, 2018 (Wednesday)

TIME: 5:30 pm – 8:00 pm

LOCATION: City Hall Room 209

1. 00 Agenda For March 28, 2018 Housing Committee Meeting

   Documents:

   AGENDA HC MEETING 03.28.2018.PDF

2. 1. Review And Accept Minutes Of Previous Meeting Held On February 28, 2018

   Documents:

   01 MINUTES HOUSING COMMITTEE 2-28-18.PDF

3. 2. Briefing On Proposed Text Amendments To Section 14-403.

   Documents:

   02 SECTION 14-403 TEXT AMENDMENTS BARHYDT AND TORREGROSSA MEMOS.PDF

4. 3. Briefing From HomeStart On Proposed Text Amendments To Facilitate The Development Of Year-Round Housing That Is More Affordable On Peaks Island.

   Documents:

   03 HOMESTART PROPOSED TEXT AMENDMENT.PDF

5. 4. Review And Approval Of The 2018 Affordable Housing Development HOME Fund Application.

   Documents:

   04 HOME FUNDS APPLICATIONS MEMO 03.23.18.PDF

6. 5. Review Of The Franklin Reserve Massing Study Including An Overview Of The GPCOG Brownfields Area-Wide Plan For The East Bayside Neighborhood.

   Documents:

   05 FRANKLIN RESERVE.PDF

7. 6. Committee Discussion Re: 2018 Work Plan

   Documents:

06 2018 HC WORKPLAN 03.02.2018.PDF

Councilor Jill Duson, Chair

Next Meeting Date: April 25, 2018

HOUSING COMMITTEE

DATE: **Wednesday March 28, 2018**
TIME: **5:30 p.m. – 8:00 p.m.**
LOCATION: **City Hall, Room 209**

AGENDA

1. Review and accept Minutes of previous meeting held on February 28, 2018

2. Briefing on proposed text amendments to section 14-403. See enclosed memo from Anne Torregrossa (dated March 5, 2018), and memorandum from Barbara Barhydt (dated March 9, 2018)

3. Briefing from HomeStart on proposed text amendments to facilitate the development of year-round housing that is more affordable on Peaks Island. See enclosed memo from Victoria Volent, Housing Program Manager.

4. Review and approval of the 2018 Affordable Housing Development HOME Fund Application. See attached memo from Mary Davis, Housing and Community Development Division Director. ***This is an actionable item and public comment may be taken.***

5. Review of the Franklin Reserve Massing Study including an Overview of the GPCOG Brownfields Area-Wide Plan for the East Bayside Neighborhood.

6. Committee Discussion re: 2018 Work Plan

Next Meeting Date: **April 25, 2018** **Councilor Jill C. Duson, Chair**

Housing Committee
Minutes of February 28, 2018 Meeting

A meeting of the Portland City Council's Housing Committee (HC) was held on Wednesday, February 28, 2018 at 5:30 P.M. in Room 24 of Portland's City Hall. Councilors present at the meeting included Committee members Councilor Kimberly Cook, Councilor Pious Ali, Councilor Jill Duson, Chair of the Committee and Mayor Ethan Strimling. City staff present included Jeff Levine, Planning and Urban Development Department Director, Mary Davis, Housing and Community Development Division Director, Victoria Volent, Housing Program Manager and Aaron Geyer, Social Service Program Manager.

Item 1: Review and accept Minutes of previous meetings held on January 24, 2018 and February 12, 2018

Councilor Ali motioned and Councilor Cook seconded to accept the minutes from the January 24 2018 and February 12, 2018 Housing Committee meeting. Minutes were unanimously approved 3-0.

Item 2: Review and Recommendation to the City Council – 2018-2019 Housing Program Budget

Mary Davis gave an overview of the budget memo.

Committee members and the Mayor requested information regarding FY18 expenditures YTD and Councilor Duson asked that the information be provided with the HCD budget memo to the council.

Item was opened for public comment:

Cynthia Cochran: question about outreach for the housing rehab program, believes not many people are aware of program.

Scott Vonnegut: Inquired if seed money for a community land trust would come from the Housing Trust Fund (HTF) and how would that be identified in a line item. Mr. Levine indicates that the city would look at all available resources when if a community land trust has been identified as housing policy proposal to explore.

Councilor Ali motioned to approve; Councilor Cook seconded. Committee voted 3-0 to forward to council for approval.

Councilor Cook would like to add to the workplan to discuss budget allocations to inform on creation of next year's budget and also whether financing on housing rehab should be adjusted; add a workplan item to discuss policy and procedures on all the housing programs.

Mayor Strimling requests that public input be solicited before the HTF annual plan is put together.

Item 3: Overview of the Housing and Community Development Division

Mary Davis presented an overview on the responsibilities of the Housing and Community

Development Division.

Item 4: Review of the Housing Trust Fund

Victoria Volent gave a broad overview of the memo. Mr. Levine suggests that the 2018 plan not be too prescriptive.

Councilor Cook would like to hear from public before committee takes action on a plan for the HTF.

Mayor Strimling indicates that he has heard from constituents that flexibility is key and he hopes that the HTF can be the catalyst to development not just the gap funds at the end.

Item 5: Communication Item: Community Land Trust Information

Information provided to the committee to help inform the council goal setting discussion.

Item 6: Communication Item: City-Owned Property

Councilor Duson asks staff to look at list recently done that evaluated paper streets. Councilor Cook thinks it would be helpful to have a color coded map that identifies types of city owned property; it would be helpful to the public to have that type of map (a publicly available map that shows where city owned property is and mark those that would not be appropriate for development – wetlands, etc)

Committee asks for a copy of the COTAPC policies and rules and a copy of the survey template sent out to city departments, councilors.

Item 7: Communication Item: Text Analysis of Housing Report Survey

Councilor Ali asks for more of a data infographic.

Item 8: Committee Discussion re: 2018 Work Plan

Councilor Duson reminds staff that the committee would like a list of policy proposals discussed at last meeting prior to the council goal setting meeting on March 26.

Regarding the Homestart item on the March agenda, Councilor Duson asks that staff be prepared to make comments on the proposal(s) and request that the Homestart organization to prepare a brief presentation.

Councilor Ali motioned to adjourn and Councilor Cook seconded the motion. Motioned approved 3-0. The meeting was adjourned at 8:30 p.m.

Respectfully submitted, Mary Davis

Memorandum
Planning and Urban Development Department
Planning Division

To: Sean Dundon , Chair and Members of the Portland Planning Board

From: Barbara Barhydt, Development Review Services Manager

Date: March 9, 2018

Re: Section 14-403 Text Amendments

Meeting Date: March 13, 2018

I. INTRODUCTION:

Section 14-403 Street Access is contained within Division 24, Use Regulations and Exceptions of the Land Use Code. It applies to both developed and undeveloped streets by establishing minimum street requirements to be met prior to obtaining building permits. The goals of the text amendments are to support the production of new housing in Portland without imposing significant new City expenses in terms of the construction and maintenance of streets and at the same time provide adequate access for public safety services. The proposed amendments seek to allow development on undersized built streets that meet minimum standards for emergency services and to continue to require undeveloped streets to be improved to meet current city street standards. The substance of proposed amendments remains consistent with current policy, while seeking to simplify and clarify the regulations.

The legislative history and public purposes of the section are outlined in a memorandum prepared by Anne Torregrossa, Associate Corporation Counsel (Attachment 1). As stated in Anne Torregrossa's memo, "The City Manager and staff recognized the requirements in Sec 14-403 limited development even on City-accepted streets, and also that the section was complicated, difficult to apply, and duplicated many of the rules and requirements that are now part of the site plan review process." Staff members from Corporation Counsel, Public Works, Fire, Permitting and Inspections, and Planning collaborated on the proposed rewrite of Section 14-403 "...in an attempt to streamline and clarify the requirements of the section...." The staff is seeking the Board's input on the proposed amendments and the draft will also be presented to the Housing Committee before the item returns to the Board for a public hearing and recommendation to City Council.

II. NOTICE AND PUBLIC COMMENT

This item was noticed in the Legal Ad that appeared in the Portland Press Herald on March 5 and March 6th. It was posted on the City's web page on March 2nd and sent to interested citizens through Notify Me on that same date. Public Comment was submitted by Matt Power and is included as Attachment 3, Public Comment. Mr. Power owns property on Tarbell Street finds the existing and proposed Section 14-403 to be cost prohibitive for him to be able to build a home on this street. He offers suggestions to add more streets as exceptions, allow for more waivers of standards, allow for appeals of the ordinance, and have exceptions for tiny houses. Victoria Morales, representing a local developer, has submitted public comment and suggestions for ordinance amendments in Att 3 PC2.

III. PROPOSED TEXT AMENDMENTS

The proposal is to replace the existing Section 14-403 with a rewritten section. Please refer to Attachment 1 (Torregrossa memo) for a summary of the amendments and Attachment 2 for the proposed ordinance text. A comparison of the existing and proposed language is below.

Current Section 14-403 Language	Proposed Section 14-403 Language
a) *In general.* No building intended for use as a habitation shall be erected on a lot which has its only street frontage on a street less than thirty-five (35) feet wide. No building shall be erected on a lot, except on the islands in Casco Bay, which does not abut a street meeting the minimum requirements for street improvements set forth in this section. For purposes of this section, street shall be as defined in section 14-47, except that a dedicated street which may no longer be accepted due to lapse of time and an accepted street which may have been discontinued by abandonment shall also be deemed to be streets, provided that an applicant for a building permit respecting any lot abutting such street shall, without compensation or claim for damages, and at his own cost and expense, first submit to the building authority (a) a deed from the owner of such lot conveying to the city all his right, title and interest in and to such street or any portion thereof; and (b) an agreement by such owner forever releasing the city from any and all claims for damages for the laying out and taking of such street and indemnifying the city against any and all other such claims, both such instruments to be executed and in recordable form acceptable to the corporation counsel and to encumber and run with the land.	A building or structure may only be constructed or moved on a lot, or a dwelling unit added to a lot, where one of the following is met. (a) *Permanently paved and accepted streets or island streets.* The lot has the minimum required frontage on either (i) a permanently paved and accepted City street that meets the minimum clear paved width, measured from the edge of the pavement, excluding sidewalks, or (ii) on an existing street on an island in Casco Bay that meets the minimum clear built width, measured from the edges of the built street. The minimum clear width shall be as follows: 1. For one- or two-family dwellings – 25'; 2. For all other buildings – 28'. These widths may be reduced with the written approval of the Fire Chief, and the Public Works Director where, in their shared and final determination, the ability to provide City services will not be unreasonably impaired.
(b) *Minimum requirements for street improvements on unimproved and improved but unpaved streets.* For a lot abutting any portion of a street which is unimproved or improved but not permanently paved, that portion which abuts the lot, and any like portion between such portion and the nearest permanently paved street or portion which is the principal access to such lot, shall be improved, including sewers, storm drains, pavements, curbs and, if located on a designated school walking route, sidewalks, in accordance with the minimum technical standards promulgated by the public works authority pursuant to section 14-498(a) of article IV of this	(b) *Streets to be upgraded in connection with development.* The owner or developer of the lot will do all of the following in connection with the development of that lot: 1. Upgrade the street, between the lot and the nearest permanently paved and accepted City street, to meet the standards adopted elsewhere in this Code, including those adopted by the public works authority and the planning authority pursuant to this Code;

chapter. Where the nearest permanently paved street does not have granite curbing, the public works authority may waive the requirement of curbing under this section, if it determines that an acceptable alternative drainage plan will be provided. Prior to the issuance of a building permit for erection of a building on a lot abutting any portion of a street which is unimproved or improved but not permanently paved, the following shall occur: (1) A plan of the street improvements required by this section shall be submitted to the public works authority; and (2) upon determination by the public works authority that the plan meets the street improvement requirements established by this subsection, a performance guarantee and inspection fee for said improvements shall be submitted to the city as set forth in section 14-501. Also as set forth in section 14-501, a one-year defect bond shall be tendered to the city prior to release of the performance guarantee required hereby. The provisions of this subsection (b) shall not apply to the erection of any single-family dwelling on any lot where the owner of the lot establishes that he or she was the owner of that same lot on November 19, 1984, and at all times thereafter, and states his or her intention under oath to make the structure his or her personal residence.	2. Take all necessary steps under Chapter 25, Article III, of this Code to dedicate the upgraded portion of the street to the City for acceptance, including a waiver of any claim for damages resulting from the acceptance; and 3. Obtain site plan approval for the work required under this subsection.
I *Exceptions.* The requirements of this section shall not apply to the following city streets upon their construction by the public works authority to such standards as are determined by the authority to be the most feasible: Dingley Court; Morgan Court.	(c) *Other exceptions.* The building or structure is one of the following: 1. An accessory building; or 2. Part of a Planned Residential Unit Development.

IV. STAFF ANALYSIS

The proposed text amendments are intended to simplify and clarify the language of Section 14-403 Street Access, which is contained within Division 24, Use Regulations and Exceptions of the Land Use Code. The section applies to both developed and undeveloped streets by establishing minimum street requirements to be met prior to obtaining building permits. There are built streets in Portland, particularly on the peninsula, that are narrow and do not meet city standards. There are also undeveloped streets, particularly off the peninsula, where property owners seek to develop. The proposed amendments address both situations by allowing development on undersized built streets that meet minimum standards for public safety access and continues to require undeveloped streets be improved to meet current city street standards. Staff members from Corporation Counsel, Public Works, Fire, Permitting and Inspections, and

Planning collaborated on updating Section 14-403 to improve the clarity of the ordinance and retain the underlying public purposes of encouraging development were adequate public safety access is available without imposing significant new City expenses for street construction and maintenance. In addition to the long standing public policy on this matter, Portland's Plan 2030 encourages the production of new housing city-wide that meets the diverse needs of Portland's residents and calls for encouraging quality, sustainable design in new housing. Again, the proposed text amendments seek to simplify and clarify Section 14-403, while retaining the substance of the current public policy.

In terms of the specific amendments, subsection (a) address development on existing streets that are built, but do not meet today's standards. The current standards for a local street require a right-of-way width of 50 feet with a pavement width of 28 feet. There are streets, particularly on the peninsula and islands, that do not meet current dimensional standards and in some cases are inaccessible for emergency and public works vehicles. The intent is to set a minimum clear width for a built street, which must be in place in order for the construction of a building or addition of units to occur. Thus, new development may occur on existing undersized developed streets that meet minimum requirements to enable the City to provide emergency public safety services.

Subsection (b) addresses streets that are unimproved for new development. It requires the street to be improved to current street standards by the applicant, which is consistent with the City's current policy. The intent is to provide adequate access for city services, while not burdening the tax base with street construction costs. Since the adoption of Sec 14-403 over 30 years ago, new development along undeveloped streets requires an applicant to bring the road up to standards from where the existing street pavement ends and along the full extent of lot frontage.

Street extensions are reviewed administratively under the site plan ordinance as either a Level I or Level II application. The level of review is based upon the amount of impervious surface area that is being added. The standards of review are the same for both applications. Briefly, the review process requires a survey stamped by a licensed surveyor and engineered plans for the street meeting the City's technical standards. Portland's Technical Manual contains the engineering specifications for streets, sidewalks, public utility installations, and stormwater management (http://www.portlandmaine.gov/756/City-Codes-Ordinances-Regulations-Maps) Over the past five years there have been five approved street extensions that are summarized in the following chart.

Approved Street Extensions Under 14-403
All approved with a 50 foot wide ROW and 28 foot paved width

Street Name	Street Length	Turn Around	Granite Curbs	Side-walks	Develo-ment	Status
Pomeroy	200	yes	yes		Single Family	Built
Gertrude	93	no-gravel road beyond	yes	waived	Single Family	Built
Hillcrest	200	no-gravel road beyond	no- open drainage	waived	Single Family	Built
Pamela	585	no- linked existing Pamela & Alice St	yes	yes	10 Single Family House Lots	Built
Motley	94	no- gravel road beyond	no-open drainage	waived	2 Single Family House Lots	Built

Van Vechten	584	no - gravel road beyond	no-open drainage	waived	4 House Lots	Approved

Under the present version of Section 14-403, an applicant may seek to have the sidewalk waived, if the street is not a school walking route and the curbing may be waived by the Public Works Director. The proposed draft eliminates the waiver language within Section 14-403, and instead allows waivers to be considered using provisions already established under the City Code. In regard to sidewalks and curbs, Section 14-506 Modifications in the Subdivision Ordinance establishes waiver criteria applied during subdivision and site plan reviews. The waiver criteria for curbs and sidewalks are excerpted below.

Sidewalks-

1. There is no reasonable expectation for pedestrian usage coming from, going to and traversing the site.
2. There is no sidewalk in existence or expected within 1000 feet and the construction of sidewalks does not contribute to the development of a pedestrian oriented infrastructure.
3. A safe alternative-walking route is reasonably and safely available, for example, by way of a sidewalk on the other side of the street that is lightly traveled.
4. The reconstruction of the street is specifically identified and approved in the first or second year of the current Capital Improvement Program or has been funded through an earlier CIP or through other sources.
5. The street has been constructed or reconstructed without sidewalks within the last 24 months.
6. Strict adherence to the sidewalk requirement would result in the loss of significant site features related to landscaping or topography that are deemed to be of a greater public value.

Curbing-

1. The cost to construct the curbing, including any applicable street opening fees, is in excess of 5% of the overall project cost.
2. The reconstruction of the street is specifically identified and approved in the first or second year of the current Capital Improvement Program or has been funded through an earlier CIP or through other sources.
3. The street has been rehabilitated without curbing in the last 60 months.
4. Strict adherence to the curb requirement would result in the loss of significant site features related to landscaping or topography that are deemed to be of a greater public value.
5. Runoff from the development site or within the street does not require curbing for stormwater management.

In no event shall the waiver have the effect of creating potentially hazardous vehicle and pedestrian conflict or nullifying the intent and purpose and policies of the land development plan relating to transportation and pedestrian infrastructure and the regulations of this article.

Lastly, the exceptions listed in subsection (c) of Section 14-403 for Morgan and Dingley Court. Both of these streets are improved and narrower than today's standards with development on the adjoining lots. The proposal is to remove these streets from the exception list and instead apply the new provisions for any further development on these streets. The proposed draft does exempt accessory buildings, such as garages and sheds, and Planned Residential Unit Developments (PRUD) from 14-403. PRUDs have separate requirements for the construction and maintenance of the private street network serving the development.

NEXT STEPS

- Address Planning Board questions and suggestions
- Review proposed amendments with the Housing Committee
- Schedule a public hearing with the Planning Board
- Recommendation to City Council

ATTACHMENTS:

1. Memorandum from Anne Torregrossa, Associate Corporation Counsel, March 5, Attachments to the memo include:
    1. Joe Gray memo, 1984
    2. Gary Wood memo, 2012
2. Proposed Text Amendments to Section 14-403
3. Public Comment
    1. Matt Power, 3-3-18
    2. Victoria Morales with Attachment, 3-9-18

MEMORANDUM

TO: City of Portland Planning Board
FROM: Anne M. Torregrossa, Associate Corporation Counsel
DATE: March 5, 2018
RE: Proposed changes to § 14-403

Section 14-403 has been in place for more than thirty years. Initially, it prohibited the construction of residential buildings on streets less than 35' in width. In 1984, however, the City Council added to § 14-403 to require that streets be brought up to standard before any building could be constructed. This included paving, curbing, sidewalks, and sewers. The 1984 changes were spurred by concerns about the significant costs to the City to upgrade these streets at taxpayer expense, and the danger that undersized or substandard streets posed to the provision of City services and the response of emergency vehicles. As described by the City's then-Director of Planning & Urban Development, development on unimproved streets "tends to create incessant demand for costly City-funded street improvements and also makes servicing of these areas by emergency and public safety vehicles extremely hazardous and uncertain." A copy of that memorandum is attached.

Even as recently as 2012, the City Council reaffirmed its commitment to ensuring that streets are safe before they can be built upon, and that developers bear the cost of their development. In 2012, the Zoning Board of Appeals ("ZBA") granted a hardship variance to a developer, exempting his project from the requirements of § 14-403. In response, the City Council amended § 14-473, which governs the ZBA's authority over variances, to eliminate that possibility. In a memo to the Planning Board addressing the reasons for eliminating this loophole, then-Corporation Counsel wrote that, "the decision sets the stage for variances that could defeat the purpose of Section 14-403 by leading to long paper streets with a number of homes or buildings being served by substandard streets and put the City in a difficult situation." That memo is also attached.

The City Manager and staff recognized that the requirements in § 14-403 limited development even on City-accepted streets, and also that the section was complicated, difficult to apply, and duplicated many of the rules and requirements that are now part of the site plan review process. In an attempt to streamline and clarify the requirements of that section, staff from the Planning Department, Fire Department, Department of Public Works, Permitting and Inspections Department, and Corporation Counsel collaborated on the attached proposed revision. The revision accomplishes the following:

1. Reduces the minimum width for permanently paved and accepted City streets from 35' to 25' for one- and two-family dwellings, and to 28' for other buildings. These widths may be further reduced with the determination of DPW and the Fire Department that ability of the City to provide services will not be impaired. This change makes the minimum required widths consistent with those provided for elsewhere in the Code and also provides flexibility where

2. Requires that all streets that are not accepted and paved, be upgraded and dedicated to the City. This is consistent with the previous version of § 14-403 but does remove many of the details from the ordinance, as they are all captured elsewhere, including the site plan review requirements and the technical standards. DPW has the ability under the technical standards to waive certain requirements, as appropriate.

3. Removes certain exceptions, including for Dingley Court, Morgan Court, and single-family dwellings that have been owned since November 19, 1984. These exceptions have been removed because they defeat the intent of the section to protect individuals who might want to build under those circumstances. Additionally, Dingley Court and Morgan Court appear to have been fully built, and there are few undeveloped lots remaining that have been in one ownership since 1984. Additionally, that provision had been abused by certain developers who simply "flipped" the house, rather than living there, as contemplated by the ordinance.

4. Retains the exceptions for island streets.

TO: Councilor Duson, Chair
Members of the Housing Committee

FROM: Victoria Volent, Housing Program Manager

DATED: March 19, 2018

SUBJECT: HomeStart Proposed Text Amendments

Introduction

HomeStart is a 501(c) 3 nonprofit community-based committee of Peaks Island residents whose mission is "to work to create and maintain affordable housing opportunities for the residents of Peaks Island, Maine". To support their goal, HomeStart has proposed four strategies for consideration:

- Improve the current provisions for Accessory Dwelling Units (ADU's)
- Allow the space in older buildings that have been used residentially to be reconfigured to create additional dwelling units but only if at least half of the units are affordable to year round residents
- Reduce the side setback requirements and increase the coverage limits for building on smaller "lots of record" if the units will be affordable to year-round residents
- Reduce the off-street parking required for affordable residential units

Homestart has suggested these strategies to build on recommendations they made in 2015. Their 2015 suggestions informed the package of "encourage and ensure" zoning changes made at that time, which included the inclusionary zoning ordinance, but also some changes to relax regulations of affordable ADU's on Peaks Island and the R-5 zone on the mainland.

Division 7.1 IR-1 Island Residential Zone

The purpose of the IR-1 island residential zone is to provide for low intensity residential, recreational, and rural uses in the less developed areas of the islands, in order to preserve the rustic character of the islands, to protect groundwater resources and natural and scenic areas, and to permit only appropriate low intensity development in areas lacing adequate public facilities and services. Division 7.1 IR – 1 includes sections 14-145.1 through 14-145.6.

Division 7.2 IR-2 Island Residential Zone

The purpose of the IR-2 island residential zone is to protect the character of existing developed residential neighborhoods on the islands and to allow infill where there are adequate public services available. Expansion or extension of an existing IR-2 zone should be strictly limited, generally focused toward areas adjacent to existing village IR-2 areas, and restricted by such factors as adequacy of access, whether adequate water will be available for private use and for fire protection, and whether sols in the area are adequate for subsurface water disposal or whether public sewers are available. Division 7.2 IR-2 includes sections 14-145.7 through 14-145.22

Accessory Dwelling Units

The proposed changes to Division 7.1 IR-1 section 14-145.3 (a) 1 include; reducing the square footage of accessory dwelling units from four hundred (400) to three hundred (300) square feet; removing the requirement that either the accessory unit or the principal dwelling unit shall be occupied by the owner of the lot; allowing the accessory unit to be located in an unattached accessory building; requiring the maximum rent to be affordable to households earning up to 115% AMI; and deed restricting the accessory unit for a term of twenty years through an Affordable Housing Agreement.

Reconfiguration of large, older residential buildings

The changes to Division 7.1 IR-1 section 14-145.5 (a), and Division 7.2 IR-2 section 14-145-8 are proposed amendments to allow the reconfiguration of large (1,200 square feet of gross floor area), older (pre 1985) residential buildings to include one or more additional dwelling units in the principal building and/or in an existing accessory building. The proposed amendments also provide for; minimum lot, and building standards; maximum rent and sale prices; twenty year deed restrictions; and a provision that at least fifty percent of the dwelling units in the reconfigured building(s) be occupied by a household meeting the income restrictions outlined in the City's Inclusionary Zoning Ordinance.

The amendment to section 14-145.5 (a) Minimum Lot Size would also allow the reconfiguration of large, older residential buildings on lots served by both on-site water and sewage disposal. Under these conditions, the minimum lot size requirement would be 20,000 square feet.

Division 25. Space and Bulk Regulations and Exceptions

The requirements of this article are subject to the Space and Bulk Regulations and Exceptions of Division 25. Division 25 includes section 14-433 Lots of Record and Accessory Dwelling Structure Setbacks for Existing Buildings.

Development of "lots of record"

The proposed change to section 14-433 is the inclusion of an amendment designed to enhance feasible development of small, vacant lots if they meet specific requirements. The amendments only pertain to lots of record as of July 15, 1985 located in the IR-1 or IR-2 Zone on Peaks Island intended for use as a single family residence. The dwelling units would be occupied by households earning up 120% of the Area Median Income (AMI) and deed restricted for twenty years through an Affordable Housing Agreement.

Zone	Min. lot size	Street Frontage	Set-backs	Max. lot coverage
IR-1	40,000 SF with public water; 60,000 SF without public water	n/a if meets applicable yard and min. lot dimensions	30'- front 30'- rear 20'- side	20%
IR-2	20,000 SF with both off-site water and sewage	n/a if meets applicable yard and min. lot dimensions	25' – front 25' – rear 20' - side	20%
Proposed IR-1 and IR-2 amendments	5,000 SF if served by both public sewer and water; 10,000 SF if served by on-site sewage system and public water	45'	10' – rear 10' - side	Less than 40%; unless subject to shoreland zoning then 20%

Section 14-433 is further proposed for amendment by adding a new subsection that allows two adjacent lots of records as of July 15, 1985 located in the IR-1 or IR-2 Zone of Peaks Island to be used as a two-family rental or homeownership dwelling unit. At least one unit would be occupied by a household earning up to 120% of the Area Median Income (AMI) and deed restricted for twenty years.

Zone	Min. lot size	Street Frontage	Set-backs	Max. lot coverage
Proposed IR-1 and IR-2 amendment	10,000 SF with both public sewer and water; 20,000 SF is served by on-site sewage and public water	95’	15’ – rear 15’ - side	Less than 40%; unless subject to shoreland zoning then 20%

Off Street Parking Requirements

The proposed amendment to section 14-332.1 would add a subsection to reduce the parking requirement for affordable, deed restricted housing units in the IR-1, and IR-2 zone from two spaces per unit to one space per unit. The proposed amendment to Section 14.332.1 (f) would allow one parking space for each dwelling unit that is deed restricted as affordable housing.

Conclusion

Portland’s Comprehensive Plan, *Portland’s Plan 2030*, acknowledges the City of Portland is actively engaged in efforts to encourage housing preservation and creation, for all income levels and household sizes, through policy initiatives and public/ nonprofit partnerships. The proposals presented by HomeStart in their report *Suggested Amendments to the Portland Zoning Ordinance to Facilitate the Development of More Affordable, Year-Round Housing on Peaks Island* is in keeping with the Comprehensive Plan’s directive to create housing for all income levels through policy initiatives. Further, within the Housing Chapter of the Comprehensive Plan is the recommendation to support island communities by “support(ing) land use tools that encourage year-round residences in existing and new housing on Portland’s islands, while maintaining their unique character and environment”.

Attachments:

HomeStart Suggested Amendments to the Portland Zoning Ordinance (revised Oct 15, 2017)
HomeStart Overview of Draft Amendments (June 28, 2017)
HomeStart Rationale for HomeStart's Suggested Zoning Ordinance Amendments (Aug 29, 2017)

Revised October 15, 2017

Suggested Amendments to the Portland Zoning Ordinance to Facilitate the Development of More Affordable, Year-Round Housing on Peaks Island

HomeStart has identified four concepts for possible amendments to the City of Portland's Zoning Ordinance to facilitate the development of year-round housing that is more affordable. The objective in proposing these amendments is to create opportunities for the creation of affordable, year-round housing by removing obstacles in the current zoning requirements that regulate residential uses on Peaks Island. The four concepts are:

- Reduce the off-street parking required for affordable residential units
- Improve the existing Accessory Dwelling Unit ordinance based on community feedback since its enactment 3 years ago
- Based on community requests to make better use of existing housing , allow larger homes built before 1985 to be reconfigured to create additional dwelling units but only if at least half of the units are affordable to year-round residents
- Reduce the side setback requirements and increase the coverage limits for single family homes on smaller "lots of record" if the units will be affordable to year-round residents

In addition, per community request, wording has been added to all proposed amendments that specifies that no new affordable housing may be used for seasonal, weekly or daily rentals.

The HomeStart Zoning Advisory Committee (ZAC) developed draft amendments to revise the Zoning Ordinance to address these four concepts. The Board of HomeStart reviewed the draft amendments and has voted to recommend them to the Peaks Island Council with some minor revisions.

Draft Zoning Ordinance Amendments

Here are HomeStart's proposed ordinance amendments to address the four concepts. Since these are changes to the existing ordinance, the proposed revisions are shown in underline and strike through format. When text is proposed to be added to the ordinance, it is underlined. And when existing text is proposed to be deleted, it is struck through.

1. Accessory Dwelling Unit (ADUs) – The following amendments are designed to make the ADU provisions that were adopted a few years ago more useable:

I-R1 Zone Amendment:

Amend Sec. 14-145.3(a)1. to read:

1. Accessory dwelling unit within, except as provided in g.v. below, and clearly subordinate to a principal single-family detached dwelling or legal multi-family dwelling., provided that:

a. The accessory unit shall be no more than thirty-five (35) percent of the gross habitable floor area of the building and shall have a minimum floor area of three ~~four~~ hundred (3~~4~~00) square feet;

b. Lot area shall be seventy thousand (70,000) square feet, or on Peaks Island be an existing lawfully non-conforming lot as of May 1, 2015;

c. There shall be no open outside stairways or fire escapes above the ground floor;

d. Any additions or exterior alterations such as facade materials, building form, roof pitch and exterior doors shall be designed to be compatible with the architectural style of the building and preserve the single-family appearance of the building. The exterior design of new construction including facade materials, building form, roof pitch and exterior doors shall have a single-family appearance;

e. A lower level dwelling unit shall have a minimum two-thirds of its floor-to-ceiling height above the average adjoining ground level;

f.~~Either the accessory unit or the principal dwelling shall be occupied by the owner of the lot on which the principal building is located, except for bonafide temporary absences;~~

f~~g~~. All sanitary waste shall be disposed of by a public sewer, subsurface sewerage system or other method in compliance with state and local regulations; and

g~~h~~. ~~For~~ Properties containing accessory units ~~created~~ on Peaks Island on existing lawfully non-conforming lots as of May 1, 2015 shall comply with the following additional requirements:

i. The primary unit and the accessory unit shall ~~Shall~~ remain under common ownership ~~with the primary unit on the lot~~;

ii. Neither unit shall ~~Shall not~~ be sold as a condominium unit~~s~~ or otherwise separated from the ownership of the entire property ~~pre-existing unit on the site~~;

iii. One of the units shall be occupied by a household ~~Shall be rented households~~ earning up to 100% of AMI and be subject to income verification as set forth in the City's Inclusionary Zoning Implementation Guidelines for Developers of Rental Housing ~~as further outlined in implementing regulations~~;

iv. The accessory unit shall be occupied ~~Shall be rented~~ as the occupant's primary residence as defined in the City's Inclusionary Zoning Implementation Guidelines and may not be rented out for short or long term periods, including seasonal, weekly or daily rentals, to other households~~on an annual basis~~;

v. The accessory unit shall ~~Shall~~ be built within the principal building, ~~or~~ as an attachment to the principal building, or in an accessory building in accordance with subsection (d);

vi.The maximum rent for the accessory unit shall not exceed one hundred fifteen percent (115%) of the Affordable Monthly Rent determined in accordance with the City's Inclusionary Zoning Implementation

Guidelines for Developers of Rental Housing;

vii. The accessory unit shall be subject to an Affordable Housing Agreement as set forth in the City's Inclusionary Zoning Implementation Guidelines for Developers of Rental Housing for a term of not less than twenty (20) years, and

viii. The owner of the property shall provide the occupant of the affordable unit with a written description of the occupancy requirements for the unit.

I-R2 Zone Amendment:

Amend Sec. 14-145.9(a)1. to read:

1. Accessory dwelling unit within, except as provided in g.v. below, and clearly subordinate to a principal single-family detached dwelling or legal multi-family dwelling~~.~~, provided that:

a. The accessory unit shall be no more than thirty-five (35) percent of the gross habitable floor area of the building and shall have a minimum floor area of three ~~four~~ hundred (3~~4~~00) square feet;

b. Lot area shall be thirty thousand (30,000) square feet, or on Peaks Island be an existing lawfully non-conforming lot as of May 1, 2015;

c. There shall be no open outside stairways or fire escapes above the ground floor;

d. Any additions or exterior alterations such as facade materials, building form, roof pitch and exterior doors shall be designed to be compatible with the architectural style of the building and preserve the single-family appearance of the building. The exterior design of new construction including facade materials, building form, roof pitch and exterior doors shall have a single-family appearance;

e. A lower level dwelling unit shall have a minimum two-thirds of its floor-to-ceiling height above the average adjoining ground level;

f.~~Either the accessory unit or the principal dwelling shall be occupied by the owner of the lot on which the principal building is located, except for bonafide temporary absences;~~

f~~g~~. All sanitary waste shall be disposed of by a public sewer, subsurface sewerage system or other method in compliance with state and local regulations; and

g~~h~~. ~~For~~ Properties containing accessory units ~~created~~ on Peaks Island on existing lawfully non-conforming lots as of May 1, 2015 shall comply with the following additional requirements:

i. The primary unit and the accessory unit shall ~~Shall~~ remain under common ownership ~~with the primary unit on the lot~~;

ii. Neither unit shall ~~Shall not~~ be sold as a condominium unit~~s~~ or otherwise separated from the ownership of the entire property ~~pre-existing unit on the site~~;

iii. One of the units shall be occupied by a household ~~Shall be rented households~~ earning up to 100% of AMI and be subject to income verification as set forth in the City's Inclusionary Zoning Implementation Guidelines for Developers of Rental Housing ~~as further outlined in~~

~~implementing regulations~~;

iv. The accessory unit shall be occupied ~~Shall be rented~~ as the occupant's primary residence as defined in the City's Inclusionary Zoning Implementation Guidelines and may not be rented out for short or long term periods, including seasonal, weekly or daily rentals, to other households~~on an annual basis~~;

v. The accessory unit shall ~~Shall~~ be built within the principal building, ~~or~~ as an attachment to the principal building, or in an accessory building in accordance with subsection (d);

vi. The maximum rent for the accessory unit shall not exceed one hundred fifteen percent (115%) of the Affordable Monthly Rent determined in accordance with the City's Inclusionary Zoning Implementation Guidelines for Developers of Rental Housing;

vii. The accessory unit shall be subject to an Affordable Housing Agreement as set forth in the City's Inclusionary Zoning Implementation Guidelines for Developers of Rental Housing for a term of not less than twenty (20) years, and

viii. The owner of the property shall provide the occupant of the affordable unit with a written description of the occupancy requirements for the unit.

2. Reconfiguration of large, older residential buildings – The following amendments allow the existing floor area in large, older buildings in both the I-R1 and I-R2 Districts to be reconfigured to create more dwelling units as long as they meet certain requirements. The provisions for the two districts are slightly different recognizing the difference in the lot sizes in the two districts:

I-R1 Zone Amendment:

Amend Sec. 14-145.5(a) by adding a new subsection 9. which shall read:

9. Notwithstanding the provisions Sec. 14.145-2 Permitted use and subsection 1 of Sec. 14-145.5(a)1, a property on Peaks Island existing as of April 1, 2017 that meets the following requirements may be reconfigured to create one or more additional dwelling units in the principal building and/or in an existing accessory building:

a. The lot was developed and used as a residential property prior to April 1, 1985;

b. The principal building has at least one thousand two hundred (1,200) square feet of gross floor area;

c. The lot has a minimum of six thousand five hundred (6,500) square feet of area if the lot is served by the public water system and/or the public sewer system and twenty thousand (20,000) square feet of area if the lot is served by both on-site water supply and sewage disposal;

d. The lot is or will be served by the public sewer systems or an on-site subsurface sewage disposal system meeting the requirements of the Maine Subsurface Wastewater Disposal Rules for the proposed use;

e. The property does not discharge any stormwater to the sanitary sewer system or any such discharge will be corrected as part of the reconfiguration of the building;

f. The reconfiguration of the property to create additional dwelling unit(s) shall not expand the exterior building envelop of the existing structures except as follows:

1)Minor additions with not more than ten percent (10%) of the existing floor area of the building are permitted to accommodate additional access to the building and/or to comply with local, state and/or federal safety and accessibility requirements, and

2)The installation of windows and dormers is permitted provided that the alterations maintain the character of the building;

g. The reconfiguration shall maintain the character of the structure and except as provided for in f. shall not significantly alter the exterior appearance of the structure;
h. The dwelling units in the reconfigured building(s) may be rented or may be sold as condominium units or otherwise separated from the ownership of the entire property;
i. At least fifty percent (50%) of the dwelling units in the reconfigured building(s) shall be occupied by a household meeting the income requirements set forth in the City's Inclusionary Zoning Implementation Guidelines for Developers of Rental Housing if the unit(s) will be rented or the City's Inclusionary Zoning Implementation Guidelines for Developers of Homeownership Housing if the unit(s) will be sold;
j.The affordability requirement of i. shall apply for a minimum of twenty (20) years and shall be subject to verification as set forth in the City's guidelines;
k.All affordable units in the reconfigured building(s) shall be the occupant's primary residence as defined in the City's Inclusionary Zoning Implementation Guidelines and may not be rented out for short or long term periods, including seasonal, weekly or daily rentals, to other households
l.The maximum rent for the units occupied by income qualified households shall not exceed one hundred fifteen percent (115%) of the Affordable Monthly Rent determined in accordance with the City's Inclusionary Zoning Implementation Guidelines for Developers of Rental Housing;
m.The maximum sales price for units occupied by income qualified households shall be based on the City's Inclusionary Zoning Implementation Guidelines for Developers of Ownership Housing; and
n.If the affordable unit(s) is rented, the owner of the property shall provide the occupant of the affordable unit with a written description of the occupancy requirements for the unit.

I-R2 Zone Amendment:

Amend Sec. 14-145.11(a) by adding a new subsection 8. which shall read:

8.Notwithstanding the provisions Sec. 14.145-8 Permitted use and subsection 1 of Sec. 14-145.11(a)1, a property on Peaks Island existing as of April 1, 2017 that meets the following requirements may be reconfigured to create one or more additional dwelling units in the principal building and/or in an existing accessory building:

a.The lot was developed and used as a residential property prior to April 1, 1985;
b.The principal building has at least one thousand two hundred (1,200) square feet of gross floor area;
c.The lot has a minimum of six thousand five hundred (6,500) square feet of area;
d. The lot is or will be served by the public sewer systems or an on-site subsurface

sewage disposal system meeting the requirements of the Maine Subsurface Wastewater Disposal Rules for the proposed use;

e. The property does not discharge any stormwater to the sanitary sewer system or any such discharge will be corrected as part of the reconfiguration of the building;

f. The reconfiguration of the property to create additional dwelling units shall not expand the exterior building envelop of the existing structures except as follows:

1) Minor additions with not more than ten percent (10%) of the existing floor area of the building are permitted to accommodate additional access to the building and/or to comply with local, state and/or federal safety and accessibility requirements, and

2) The installation of windows and dormers is permitted provided that the alterations maintain the character of the building;

g. The reconfiguration shall maintain the character of the structure and except as provided for in f. shall not significantly alter the exterior appearance of the structure;

h. The dwelling units in the reconfigured building(s) may be rented or may be sold as condominium units or otherwise separated from the ownership of the entire property;

i. At least fifty percent (50%) of the dwelling units in the reconfigured building(s) shall be occupied by a household meeting the income requirements set forth in the City's Inclusionary Zoning Implementation Guidelines for Developers of Rental Housing if the unit(s) will be rented or the City's Inclusionary Zoning Implementation Guidelines for Developers of Homeownership Housing if the unit(s) will be sold;

j. The affordability requirement of i. shall apply for a minimum of twenty (20) years and shall be subject to verification as set forth in the City's guidelines;

k. All affordable units in the reconfigured building(s) shall be the occupant's primary residence as defined in the City's Inclusionary Zoning Implementation Guidelines and may not be rented out for short or long term periods, including seasonal, weekly or daily rentals, to other households;

l. The maximum rent for the units occupied by income qualified households shall not exceed one hundred fifteen percent (115%) of the Affordable Monthly Rent determined in accordance with the City's Inclusionary Zoning Implementation Guidelines for Developers of Rental Housing;

m. The maximum sales price for units occupied by income qualified households shall be based on the City's Inclusionary Zoning Implementation Guidelines for Developers of Ownership Housing; and

n. If the affordable unit(s) is rented, the owner of the property shall provide the occupant of the affordable unit with a written description of the occupancy requirements for the unit.

3. Development of "lots of record" – The following amendments are designed to make it more feasible to develop small vacant lots if they meet certain requirements:

Amend Section 14-433 by adding a new subsection 4. to read:

4. In addition to the provisions of subsection 3. a lot of record as of July 15, 1985 that is located in the I-R1 or I-R2 Zone on Peaks Island may be used for a single-family home provided that the lot and the proposed home meets all of the following requirements:

a. The lot contains a minimum of five thousand (5,000) square feet of area if served by the public sewer system or ten thousand (10,000) square feet if served by an on-site sewage disposal system meeting the requirements of the Maine Subsurface Wastewater Disposal Rules for the proposed use;
b. The lot has a minimum of forty-five (45) feet of street frontage;
c. The side and rear yards will be a minimum of ten (10) feet;
d. The lot coverage will be less than forty percent (40%) unless the lot is subject to shoreland zoning in which case the maximum coverage shall be twenty percent (20%);
e. The home will be served by the public water system;
f. The home shall be occupied by a household earning up to 120% of AMI and be subject to income verification as set forth in the City's Inclusionary Zoning Implementation Guidelines for Developers of Homeownership Housing;
g. The home shall be occupied as the occupant's primary residence as defined in the City's Inclusionary Zoning Implementation Guidelines and may not be rented out for short or long term periods, including seasonal, weekly or daily rentals, to other households;
h. The home shall be subject to an Affordable Housing Agreement as set forth in the City's Inclusionary Zoning Implementation Guidelines for Developers of Homeownership Housing for a term of not less than twenty (20) years.

Amend Section 14-433 by adding a new subsection 5. to read:

5. In addition to the provisions of subsection 3. two adjacent lots of record as of July 15, 1985 that are located in the I-R1 or I-R2 Zone on Peaks Island may be used for a two-family home in which the units are side-by-side provided that the combined lots and the proposed building meets all of the following requirements:

a. The combined lots contain a minimum of ten thousand (10,000) square feet of area if served by the public sewer system or twenty thousand (20,000) square feet if served by an on-site sewage disposal system meeting the requirements of the Maine Subsurface Wastewater Disposal Rules for the proposed use;
b. The combined lots have a minimum of ninety-five (95) feet of street frontage;
c. The side and rear yards will be a minimum of fifteen (15) feet;
d. The lot coverage will be less than forty percent (40%) unless the lot is subject to shoreland zoning in which case the maximum coverage shall be twenty percent (20%);
e. The home will be served by the public water system;
f. At least one of the units shall be occupied by a household earning up to 120% of AMI and be subject to income verification as set forth in the City's Inclusionary Zoning Implementation Guidelines for Developers of Homeownership Housing;
g. Both units shall be occupied as the occupant's primary residence as defined in the City's Inclusionary Zoning Implementation Guidelines and may not be rented out for short or long term periods, including seasonal, weekly or daily rentals, to other households;
h. If the units will be sold, the affordable unit shall be subject to an Affordable Housing Agreement as set forth in the City's Inclusionary Zoning Implementation Guidelines for Developers of Homeownership Housing for a term of not less than twenty (20) years;
i. If the unit(s) will be rented, the affordable unit(s) shall be subject to an Affordable

Housing Agreement as set forth in the City's Inclusionary Zoning Implementation Guidelines for Developers of Rental Housing for a term of not less than twenty (20) years; and

j. If the affordable unit(s) is rented, the owner of the property shall provide the occupant of the affordable unit with a written description of the occupancy requirements for the unit.

4. **Off-Street Parking Requirements** – The following amendments propose reducing the parking requirement for affordable housing units in the I-R1, I-R2, and I-B Districts from two spaces per unit to one space per unit:

Amend Sec. 14.332.1 by adding a new subsection (l) to read:

> (l) *I-R1 and I-R2 Zones*: Residential uses shall provide a minimum of one (1) parking space for each dwelling unit that meets the housing affordability provisions of the I-R1 or I-R2 Zones.

Amend Sec. 14.332.1 by revising subsection (f) to read:

> (f) *I-B~~R1~~, Island Business Zone*: Off-street parking shall be required at twenty-five (25%) percent of the required number of number of parking spaces for specified uses as provided in division 20 (off-street parking) of this article, except ~~that~~ residential uses ~~shall meet the full parking requirement~~ shall provide a minimum of one (1) parking space for each dwelling unit that meets the housing affordability provisions of the I-B Zone.

June 28, 2017

Overview of Draft Amendments to Facilitate the Development of More Affordable, Year-Round Housing on Peaks Island

Following HomeStart's February workshop on possible concepts for revising the Zoning Ordinance, HomeStart formed a Zoning Advisory Committee (ZAC). The concepts discussed at the February workshop were:

- Improve the current provisions for Accessory Dwelling Units
- Allow two-family homes but only if at least one of the units is affordable to year-round residents
- Allow larger single-family homes to be reconfigured to create additional units but only if at least half of the units are affordable to year-round residents
- Reduce the side setbacks for building a home on a smaller "lot of record" if the home will be affordable to year-round residents
- Reduce the off-street parking required for residential uses

The task of the ZAC was to develop draft amendments to revise the Zoning Ordinance to address these concepts based on the feedback from the workshop. This group met a number of times and has developed a set of possible ordinance amendments for further community review and input. The following sections provide an overview of the draft ordinance amendments – the full text of the draft amendments is available on HomeStart's website and will be discussed at the second community workshop on Thursday July 20th.

1. Accessory Dwelling Unit (ADUs) – The proposed amendments are designed to make the ADU provisions that were adopted a few years ago more useable. Here is an overview of the proposed changes:

- The minimum size of an ADU is reduced from 400 SF to 300 SF
- The owner of the property no longer has to live there
- The income and rent are tied to the City's affordable housing provisions

2. Reconfiguration of large, older residential buildings – The proposed amendments allow the existing floor area in large, older residential buildings in both the I-R1 and I-R2 Districts to be reconfigured to create more dwelling units as long as they meet certain requirements. The following is an overview of the provisions:

- The lot must have been developed and used for residential activity prior to 1985 and the building must have a minimum of 1,200 SF of floor area
- The lot must have a minimum of 6,500 SF if connected to the sewer and 20,000 SF if served by a septic system
- The space in both the principal building and any accessory buildings such as a garage can be used to create one or more additional dwelling units
- No stormwater can be discharged to the sewer system

- The building must maintain its character and can only have minimal changes to the exterior
- At least 50% of the units must be occupied as their permanent residence by residents meeting the income requirements of the City's affordable housing provisions

3. Development of "lots of record" – The proposed amendments are designed to make it more feasible to develop small vacant lots if they meet certain requirements. Here is an overview of the proposed amendments:

- Lots of record with a minimum of 5,000 Sf if connected to the sewer or 10,000 if served by a septic system can be developed as an affordable single-family home
- The side setbacks are reduced to 10 feet
- The portion of the lot that can be covered by impervious surface is increased to 40% outside of Shoreland areas where it stays at 20%
- The unit must be occupied by residents with an income of up to 120% of the AMI reflecting the higher cost of living on the island and be used as their permanent residence
- If there are two adjacent lots of record that could be developed using this provision, the lots can be combined and a side-by-side two-family home built on the combined lots
- At least one of the units in the two-family home must be occupied by residents with an income of up to 120% of the AMI and the requirements of the City's affordable housing provisions and used as their permanent residence

4. **Off-Street Parking Requirements –** The proposed amendments reduce the parking requirement for affordable housing units in the I-R1, I-R2, and I-B Districts from two spaces per unit to one space per unit

August 29, 2017

Rationale for HomeStart's Suggested Zoning Ordinance Amendments

Accessory Dwelling Units

Rationale for an ordinance amendment: The Land Use Code contains special provisions for accessory dwelling units (ADUs) in the I-R1 and I-R2 Zones on Peaks Island. However there are internal inconsistencies in the provisions and the existing provisions present obstacles for their use. As a result, no one has taken advantage of the provision to create an ADU. The suggested amendments are intended to correct the internal inconsistencies and make the provisions more usable.

Utilization of Existing Residential Properties

Rationale for an ordinance amendment: The I-R1 and I-R2 Districts contain some older larger residential properties. These homes may be oversized for the current owners or are buildings that are no longer needed for their prior use. These properties offer the potential to expand the year-round housing supply through their creative reuse by utilizing the existing floor area for the creation of additional but smaller dwelling units. The Portland ordinance treats all dwelling units the same – a large five bedroom single-family home is treated the same as a small studio or one-bedroom apartment even though the impacts are quite different. This is especially important in terms of water use and sewage loading which are highly correlated to the number of occupants in the unit. One bedroom units have fewer occupants on average than do four or five bedroom homes. Therefore it makes sense to allow the reconfiguration of the floor space in existing larger residential properties to create more but smaller units. For example a single-family home with 4 bedrooms could be converted into two units each with two bedrooms. This would not significantly change the sewage discharge but would give a property owner more options for what to do with the property.

Development of Lots of Record

Rationale for an ordinance amendment: The minimum lot size provisions in the I-R1 and I-R2 do not to apply to "lots of record" existing as of 1985 that meet the requirements of Section 14-433. However the allowed development of smaller lots of record is constrained by the requirement that development on those lots still conform to the 1985 lot frontage requirement, the current setback requirements and the current maximum lot coverage requirements. The requirement for 20 foot side setbacks makes the typical small lot with 50 feet of frontage unable to utilize this provision. Similarly the 20% limit on lot coverage makes it difficult for many of the small "lots of record" to utilize this provision. These requirements are especially problematic for lots in the I-R2 Zone since these are the very lots that offer the greatest potential for expanding the supply of lower cost, year-round housing on Peaks Island.

Off-Street Parking Requirements

Rationale for an ordinance amendment: Division 20 of Chapter 14 Land Use of the Code of Ordinances establishes off-street parking requirements for uses within the City. Section 14-332 establishes a basic standard for parking for residential uses citywide of 2 spaces per dwelling unit for new construction and 1 additional space per unit when an additional dwelling unit or an accessory unit is created. The ordinance provides for some exceptions to this requirement and some reductions. The code currently recognizes that the use of cars on the islands differs from the mainland and exempts planned developments in the I-R3 District from providing off-street parking and allows reduced parking for nonresidential uses in the I-R1 (sic) Island Business District. Since the ownership and use of motor vehicles on the islands is significantly different than uptown, the off-street parking requirement for new affordable residential units in the IR-1 and IR-2 Districts should be reduced to 1 parking space per dwelling unit.

Portland, Maine Yes. Life's good here.

Mary Davis
Division Director, Housing & Community Development Division

TO: Councilor Duson, Chair
Members of the Housing Committee

FROM: Mary Davis, Division Director
Housing and Community Development Division

DATE: March 23, 2018

SUBJECT: 2018 HOME Affordable Housing Development Application

It has been the policy of the City of Portland to utilize an annual application and/or RFP process for the allocation of city resources for the development of affordable housing. This memo presents the proposed 2018 HOME Affordable Housing Development Application for the Housing Committee's review.

Council/Committee Goal Addressed with this Application

2017 City Council Common Goals: Housing Committee: Increase access to safe, location-efficient rental and ownership housing that is affordable for working and low-income families.

Financial Impact

The Housing and Community Development Division has completed an annual review of HOME program funding to ensure that we are in compliance with HOME Program commitment and expenditure deadlines and the grant-based accounting system. As a result of this review, we have determined that there is approximately $487,000 in previously budgeted entitlement and program income funding that has not been allocated to or expended by a specific project.

Therefore, the 2018 HOME Affordable Housing Development Application will make available $325,064 from the FY2018-2019 HOME Program Budget (affordable housing development and CHDO budget allocations) and $587,000 in unexpended, previously budgeted funds. If the committee endorses the proposed application, it will be released on March 30th and will make $912,064 available for affordable housing development in FY19.

Application Criteria

Eligible developments include new construction of rental housing, the conversion of non-residential property to housing and the rehabilitation of existing rental units that creates or maintains affordable units. "Housing First" developments will be identified as a priority.

Mary Davis
Division Director, Housing & Community Development Division

Developments should promote the efficient use of land, a location proximate to shopping, work places and community facilities and incorporate high standards of energy efficiency, "green" design criteria and should not require a contract or conditional zone.

Affordability restrictions for rental housing include units affordable to households at or below 60% of the area median income for a minimum period of 90 years.

Projects receiving funding must set aside 10% of the units in the project for individuals or families residing in a Portland shelter.

Recommendations, along with all proposals and scoring information, will be forwarded to the Housing Committee for review and funding recommendation to the full City Council for final funding approval.

Staff Recommendation

Staff is seeking Committee approval of the application criteria for the 2018-2019 HOME Affordable Housing Development Application.

City of Portland

Affordable Housing Development

HOME Funds Application

July 1, 2018 – June 30, 2019

Applications will be accepted until all budgeted funds have been allocated.

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I. GENERAL INFORMATION

A. Availability of Funding

The City of Portland has made the development of affordable rental housing a priority use for its federal housing funds, as is identified in the City of Portland's 2016-2020 HUD 5-year Consolidated Plan. To accomplish this priority, the City of Portland will accept applications for the development of affordable rental housing in the City of Portland.

Certified Community Housing Development Organizations (CHDO's) or organizations eligible for CHDO certification are strongly encouraged to apply for these funds. The HUD definition of a CHDO organization is attached as Exhibit #1 entitled Definition of a Community Housing Development Organization (CHDO).

The City of Portland's Division of Housing and Community Development uses an application process to ensure that public funds are utilized for maximum public benefit while accomplishing specific objectives and providing fair access to all applicants. Applications will be accepted until all budgeted funds are allocated. The City of Portland reserves the right to partially fund application requests or deny any application that does not meet the application criteria.

The City of Portland is making available $325,064 in FY 2018-2019 HUD Home Investment Partnership Program (HOME) funds (which includes $70,525 from a mandatory set-aside for CHDO organizations or organizations eligible for CHDO certification) and $587,000 from FY17 and FY18 unexpended funds.

Total Funding Available: $912,064.

B. General Guidelines

Rental developments shall provide units to households earning up to 60% of area median income and meet the restrictions of the HUD HOME program. Mixed income projects are eligible and encouraged, however not all units in a mixed income project will be eligible for HOME funding. Projects with mixed unit types including efficiencies, one, two and three bedroom units are eligible. The minimum term of affordability is 90 years, to be secured by a land use restriction covenant in the deed.

This application outlines the selection criteria which all projects applying for these funds must meet, as well as scoring factors which will be used by the City of Portland to evaluate the applications.

C. Federal Requirements

Environmental Review Requirements

All projects are subject to environmental review, clearance and release of funds by the U.S. Department of Housing and Urban Development. Once an application has been submitted, the applicant cannot take any "choice limiting actions" prior to receiving notification from the City that the environmental review process, including historic preservation review and clearance, has been completed and a release of funds has been received. A Phase I ESA along with a lead and asbestos testing report <u>will be required</u> before HUD Environmental Review Requirements can be completed.

Federal Labor Standards

As may be applicable, applicants must ensure that they and all contractors and subcontractors meet requirements for federal prevailing wage rates specified under the Davis-Bacon Act. The Act requires all laborers and mechanics employed by contractors or subcontractors in the performance of construction work over $2,000, financed in whole or in part with assistance received under HUD programs, shall be paid the prevailing wage as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-5). Projects that include 12 or more HOME-assisted units must meet the requirements of the Davis-Bacon Act.

Section 3

All HOME projects must comply with Section 3 of the Housing and Urban Development Act of 1968. Contractors and subcontractors performing work on Section 3-covered projects must provide, to the greatest extent feasible, opportunities for the employment of low- and very low-income residents of the local community and the businesses that substantially employ these persons.

Minority and Women Owned Business (MWBE) Participation

All HOME projects must complete, track and report on outreach and contracts given to women- and minority-owned businesses to ensure their inclusion, to the maximum extent possible, in the procurement of property and services. Applicants are encouraged to utilize firms certified as a Minority Business Enterprise or Woman's Business Enterprise as part of the development team. The development team members include the developer, architect, attorney, general contractor and management agent.

Lead-Based Paint

<u>**All**</u> residential rehabilitation, adaptive re-use and construction activities must comply with 24 CFR Part 35 and Section 401(b) of the Lead-Based Paint Poisoning Prevention Act.

Access to the Internet

All HUD funded new construction and substantial rehabilitation projects of multifamily rental housing will be required to provide the installation of broadband internet access to its residents to help narrow the digital divide for households in need.

Fair Housing and Equal Opportunity

[Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.) (HUD implementation regulations 24 CFR Part 1); The Fair Housing Act (42 U.S.C. 3601-3620)(24 CFR Part 100-115(; Equal Opportunity in Housing (Executive Order 11063, as amended by Executive Order 12259)(24 CFR Part 107); Age Discrimination Act of 1975, as amended (42 U.S.C. 6101)(24 CFR Part 146).]

The Fair Housing Act prohibits discrimination in all housing-related transactions based on race, color, national origin, religion, sex, disability, age or familial status. It also includes minimum accessibility design requirements for all new construction and rehabilitation projects and requires that reasonable accommodations be made in rules, policies, practices, services and reasonable structural modifications. Section 504 of the Rehabilitation Act of 1973 prohibits discrimination based on disability and requires that everyone have equal opportunity to obtain housing built with federal funds.

Affirmative Marketing

Developers must have tenant selection policies and criteria to ensure that tenants are selected for occupancy at the property in a fair and equitable manner. Tenant selection policies must be based on objective criteria that expressly prohibit bias. Tenant selection procedures should be clear and easily understood by prospective tenants. An affirmative marketing plan is required to ensure that the property serves a diverse cross-section of the population of the market area, must consist of actions to provide information and otherwise attract eligible persons in the housing market area that might not otherwise apply without special outreach, and ensure that the HOME-assisted housing is available to qualified applicants without regard to race, color, national origin, religion, sex, disability, or familial status.

Violence Against Women Act

Developers must comply with the Violence Against Women Act (VAWA) requirements in 24 CFR §92.359 and 24 CFR Part 5, subpart L. VAWA provides protections and options for victims of domestic violence, dating violence, sexual assault and stalking.

D. Goals for the Distribution of HOME Funds

The goal for the distribution of HOME funds is to promote and finance the development of affordable rental housing consistent with the City of Portland's Comprehensive Plan and the HUD Five-Year Consolidated Plan. The City of Portland seeks development projects with a high standard of quality, design, and livability. Projects should not require a contract or conditional zone (although other rezoning consistent with the City's Comprehensive Plan may be considered). Resolution of any zoning issues is required before City Council approval of the applicants funding request. Developments should promote efficient use of land, locations proximate to shopping, work places and community facilities. They should also incorporate high standards of energy efficiency, "green" design and socially sustainable criteria.

II. SCOPE OF SERVICES

A. General Specifications

All applications submitted for this funding must meet the following selection criteria to be considered further in the review process.

Eligible Projects

1) Projects must create rental housing units which promote economic diversity in the neighborhood in which the development is located. New construction, conversion of non-residential property to housing and rehabilitation of existing rental units that creates accessible or maintains affordable units is eligible. Projects that have previously received HOME funds are not eligible.

2) All projects must provide rental units to households earning up to 60% of area median income and meet the income and rent restrictions of the HOME Program.

3) *Housing First* developments are a priority under this application.

4) Single Room Occupancy (SRO) and other supportive housing projects specifically for special needs populations are eligible under this application.

5) Projects receiving funding through this application must include a written occupancy policy that prohibits smoking in the units and the interior common areas of the project in addition to including a non-smoking clause in the lease for every household and making educational materials on tobacco treatment programs available to residents through the residence service coordinator, occupancy specialist, or property manager, such as the phone number for the statewide Maine Tobacco HelpLine.

6) Projects receiving funding through this application must set aside 10% of the units in the project for individuals or families residing in a Portland shelter. The City's Health and Human Services Department would be responsible for providing referrals, providing or coordinating supportive services and financial resources to assist with monthly rent payments. A Supportive Housing Agreement between the City and the Developer would document the services and expectations. At the time of loan closing or prior to disbursement of the City's funding, the requirements would be secured by a Declaration of Covenants which will be recorded in the Cumberland County Registry of Deeds.

B. Site Information and Criteria

1) Site Control: Land or buildings proposed as part of a project under this application must have site control at the time the application is submitted in the form of title, purchase and sale

agreement, option, long-term lease for a minimum of 90 years, or other acceptable method. At a minimum, site control must extend through December 31, 2018.

2) Local Approvals: Local land use approval is not required prior to submittal of the application, however approval is required before the City Council will approve the funding request. The applicant must submit an analysis of the project in relation to local land use regulations and site feasibility.

3) Applications must not require a contract or conditional zone. Resolution of any zoning issues is required before City Council approval of the applicants funding request.

C. Financial Feasibility

1) Financial applications must be developed in accordance with the underwriting guidelines of the primary funding source, including adequate cash flow and debt coverage ratio, and conform to the City of Portland's underwriting criteria.

2) Use of HOME Funds: All projects will be reviewed for the proposed use of HOME funds compared to other resources. Applicants must describe the proposed mortgage and security position for the City of Portland's funding.

D. Market Demand

Applicants must provide an analysis and discussion of market demand justifying the need for the proposed project.

E. Applicant Capacity

All applicants must demonstrate capacity to develop, own and manage the proposed project. All applications must provide evidence of a development team with the capacity to successfully complete the project including:

1) Key staff members assigned to the project with the abilities and experience to successfully complete the project within the proposed timeframe.

2) An architect, general contractor and professionals on the team with the experience and capacity to complete the project.

3) A management team with qualified personnel and the capacity and experience to operate, manage and maintain the affordable rental property of size and mix of the proposed project.

4) Qualified staff with the capacity to perform ongoing property ownership requirements such as budgeting, tax accounting and oversight of management and maintenance.

5) A portfolio of current affordable housing projects that are financially sound and meeting their established goals.

6) Support Services: Applications containing rental units targeted to special needs populations must include commitments for support services to be provided to the residents and have in place a policy to make accessible units available when needed if units are occupied by someone that does not need the accessible features.

F. Term of Affordability

All projects must have a minimum affordability period of 90 years, secured by a land use restriction covenant in the deed.

G. Design Compatibility

Projects must be designed to contribute to the character of their neighborhood and adhere to the following general guidelines.

Project designs:

1) MUST comply with the City's Green Building Ordinance (Chapter 6, Article VII, Sec. 6-165) (http://www.portlandmaine.gov/DocumentCenter/Home/View/1070). **Please note** that the Green Building Ordinance may be more restrictive than the requirements in Maine Housing's Quality Standards and Procedure Manual.

2) Should establish a building form, scale, massing and rhythm appropriate for the surrounding neighborhood.

3) Should provide a quality design that, where possible, reinforces the public realm of open space, sidewalks and streets through appropriately scaled entries that orient to the street instead of interior blocks or parking lots, and incorporate porches, fenestration, landscaping, and architectural details.

4) MUST meet the accessibility requirements of the Fair Housing Act and Section 504 of the Rehabilitation Act of 1973, and the Maine Human Rights Act for multi-family housing. Provide for universal accessibility to the extent possible.

5) Should provide visual and acoustical privacy between units while maximizing natural light and ventilation within units.

H. Timeframe

The applicant must describe projected dates by which commitments will be obtained; the closing will take place, construction start-up, substantial completion, final completion and occupancy. Timeframes must be realistic and achievable. All funded projects must be able to start construction within 12 months of notice of award.

III. APPLICATION REQUIREMENTS

Complete responses to this application, should include one (1) original printed version of the application with original signatures **plus** one (1) full electronic version, submitted via email, USB drive or CD. Printed version must be signed by an officer or employee having authority to bind the organization.

Applications must be submitted electronically and in paper form to:

City of Portland: Housing and Community Development Division
Attention: Mary Davis
389 Congress Street, Room 312
Portland, ME 04101
mpd@portlandmaine.gov
207-874-8711

Applicants who require a conditional commitment of HOME funds as part of other financing applications, such as the Low Income Housing Tax Credit Program, must apply no later than April 30, 2018. The City of Portland will consider applications received after April 30, 2018 if funds are available. Applicants applying after April 30th should contact the City of Portland to confirm the availability of funds prior to submitting an application.

A. Project Summary

A brief description of the project, no longer than two pages, to include the number and type of units, tenants or owners to be served, special features, the impact on the neighborhood and other ways the application meets the selection criteria and preference guidelines.

Photographs and maps of the site and area are required.

Note: All respondents should investigate legal and zoning requirements for proposed projects prior to submission of application.

B. All Applications Must Provide The Following:

1) Evidence of site control

2) A zoning opinion from an attorney or land use professional indicating if the project meets current zoning, or if zoning amendments will be required.

3) Conceptual architectural and site plans

4) A project schedule showing critical path events and their timeframe for completion;

5) Map showing location of site

6) Corporation/partnership articles and by-laws

7) Organization's DUNS Number

8) Applicant's audits for 3 most recent years. (If audits are not available, applicant must submit 3 years of internally prepared or CPA compiled statements AND 3 years of tax returns WITH attachments).

9) Most recent quarterly income and expense report (management prepared).

10) Documentation demonstrating certification or eligibility to obtain certification as a CHDO (if seeking the CHDO funds)

11) A brief development team summary, including:

- The type of organization/ownership structure <u>and</u> organization chart if developer is not the same legal entity as the ultimate owner of the project
- The names of Board of Directors, Corporate Officers, or Owners, as appropriate
- Name, title and relevant experience of individuals involved in managing the business entity and this proposed project. A copy of the 501(3)(c) exemption certification
- Brief description of similar projects completed for developer, architect, and General Contractor (if selected)
- A list of all projects currently in development with status and projected timeframe

12) A sources and uses funding statement

13) A detailed development budget including all acquisition, construction, and soft costs, including any prefunded reserves and developer fee

14) Cost estimates for construction, signed by architect or GC

15) For renovation projects, a capital needs assessment completed by an independent party, including their qualifications to perform such assessment

16) Preliminary operating budget identifying rents and expenses for the first year

17) Projected prefunded project reserves and annual contributions to reserves

18) Debt service coverage ratio over the 15-year operating pro forma timeline

19) A 15-year operating pro forma for the project with inflators of 2% on income and 3% on expenses

20) Evidence of financial commitments, or explanation of the ability and timing to secure those commitments. A statement describing the applicant's capacity for and experience in raising the type of capital needed to finance projects of this size and type.

21) Projects serving special needs populations must provide evidence of commitments of support services, and a description of the service provider and funding cycle for those services.

22) Applicant must include a management plan for the long-term management of the project including manager's experience and capacity.

23) An analysis and discussion of market demand justifying the need for the proposed project.

24) **<u>For Renovation of Operational Projects</u> (or projects with operational components) the following items are also required:**

- Relocation plan budget
- Description of all current debt, operation subsidies, and services provided (as applicable)
- Current rent roll
- 2 years of audits for project property (if available) OR 2 years of management income and expense statements for project property
- Most recent Quarter internally prepared income and expense statement.

IV. SELECTION PROCESS

Selection criteria will be used in reviewing and scoring the applications.

A. Point System for Evaluating and Scoring Applications (Max 100)

Proposed use of funds to achieve the City of Portland's goals and address demonstrated need. 30 points

Maximum points will be awarded for those applications that demonstrate sufficient market demand, create housing options which promote economic diversity in the neighborhood in which the development is located, are consistent with the Comprehensive Plan, leverage funds efficiently, and include a policy prohibiting smoking.

Financial feasibility, including cost, development budget operating pro forma and the provision of secured and leverage funds. 25 points

Maximum points will be awarded for those applications that include a complete set of financial documents to support the financing request, contain a realistic set of sources and uses development budgets and a pro forma operating budget, include sufficient reserves for operations and maintenance, including pre-funded reserves, and long-term financial sustainability of the project is highly likely.

Applicant's ability to complete project, including development team experience, capacity, project readiness and timeframe for completion. 25 points

Maximum points will be awarded for those applications that demonstrate the readiness of the project to proceed, a development team with a successful track record in projects of similar size, scale, type and complexity to the proposed project and the capacity to fulfill their responsibilities.

Impact on surrounding neighborhood, including design compatibility and environmental issues. 20 points

Maximum points will be awarded for those applications where site selection is appropriate for use, no zoning amendments are required, the design is consistent with neighborhood design characteristics, amenities and unit design are well thought out and appropriate, where no environmental issues have been identified and meet the requirements of the City of Portland's Green Building Ordinance.

B. Evaluation and Selection Process and Timeframe

Applications will be reviewed by an evaluation team that will include City of Portland staff. The following process will be used:

1) All applications will be reviewed for completeness. Only complete applications will be reviewed under the scoring factors in order to recommend the most qualified applications based on the information submitted. The application review team may confer with the applicants and/or third parties to clarify or verify information and request additional information.

2) Recommendations, along with all applications and scoring information, will be forwarded to the City Council's Housing Committee for review and approval. Their recommendations will be forwarded to the City Council for final review and approval.

3) Applicants will be kept informed throughout the review process, specifically in regard to recommendations and funding levels.

4) The evaluation and review process should be substantially complete within 30 days of receipt of complete application. Applicants will be notified of their application status as soon as possible.

5) Based on City Council approval, successful applicants will receive a letter of funds reservation. A letter of funds reservation is not a commitment letter but an agreement to set aside budgeted funds for up to six months, to allow the project sponsor to proceed with securing other commitments.

V. Instructions and Other Information

The City of Portland reserves the right, at its sole discretion, to award all, a portion, or none of the available funding from this application, as well as reject any and all applications for city funding, based on the quality and merits of the applications received, or when it is determined to be in the public interest to do so. Furthermore, the City of Portland may extend deadlines and timeframes, as needed.

Confidentiality: Applications received by the City of Portland shall become a matter of public record subject to public inspection, except to the extent, which an applicant designates in writing, proprietary data to be confidential and submits that data under separate cover, such information may be held from public inspection, as provided in Maine law: 5 MRSA Sections 13119-A and 13119-B.

Compliance with Federal Law: The selected applicant will be required to certify that the development and management of the proposed housing will be in compliance with all applicable laws, executive orders, OMB Circulars and federal regulations, including but not limited to: Fair Housing Act, Equal Opportunity and Non-discrimination, National Environmental Policy Act (NEPA), the Uniform Relocation Assistance and Real Property Acquisition Policies Act, the Davis-Bacon Act, the Lead-Based Paint Poisoning Prevention Act, Flood Disaster Protection Act, Conflict of Interest, Contractor Debarment and Cost Principles.

All applications must meet the rules and regulations of the HOME Program as noted in 24 CFR Part 92, as amended, and the requirements of the Consolidated and Further Continuing Appropriations Act of 2012 and 2013. Any costs incurred by the City to meet HOME Program regulations, such as newspaper advertisements, underwriting fees, etc., shall be passed along to the selected applicant.

VI. Equal Employment Opportunities

Vendor shall comply fully with the Nondiscrimination and Equal Opportunity Provisions of the Workforce Investment Act of 1998, as amended (WIA, 29 CFR part 37); the Nontraditional Employment for Women Act of 1991; title VI of the Civil Rights Act of 1964, as amended; section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975, as amended; title IX of the Education Amendments of 1972, as amended; and with all applicable requirements imposed by or pursuant to regulations implementing those laws, including but not limited to 29 CFR part 37.

VII. Reservation of Rights

The City of Portland reserve the right, at its sole discretion, to award all, a portion, or none of the available funding from this application, as well as reject any and all applications based on the quality and merits of the applications received, or when it is determined to be in the public interest to do so. Furthermore, the City of Portland may extend deadlines and timeframes, as needed.

The selection of a proposal through this application process does not guarantee any other City approvals. All projects will be subject to the City's standard development review process. Similarly, *selection of a proposal through this application process does not signify that the City will not request modifications to*

<u>the proposed development plan or negotiate additional details, covenants or terms that are not specifically outlined in this application</u>.

The City of Portland reserves the right to substantiate any proposers' qualifications, capability to perform, availability, past performance records and to verify that the applicant is current in its financial obligations to the City of Portland.

All materials and equipment used as well as all methods of installation shall comply at a minimum with any and all Federal, OSHA, State and/or local codes, including applicable municipal ordinances and regulations.

The successful applicant shall agree to defend, indemnify and save the City of Portland harmless from all losses, costs or damages caused by its acts or those of its agents, and, before signing the contract, will produce evidence satisfactory to the City of Portland's Corporation Counsel of coverage for General Public and Automobile Liability insurance in amounts not less than $400,000 per person, for bodily injury, death and property damage, protecting the contractor and the City of Portland, and naming the City of Portland as an additional insured from such claims, and shall also procure Workers' Compensation insurance.

Pursuant to City of Portland procurement policy and ordinance, the City of Portland is unable to contract with businesses or individuals who are delinquent in their financial obligations to the City of Portland. These obligations may include but are not limited to real estate and personal property taxes and sewer user fees. Applicants who are delinquent in their financial obligations to the City of Portland must do one of the following: bring the obligation current, negotiate a payment plan with the City of Portland's Treasury office, or agree to an offset which shall be established by the contract which shall be issued to the successful applicant.

The City of Portland, Maine, reserves the right to waive any informalities in applications, to accept any application or portion thereof, and, to reject any and all applications, should it be in the best in the best interest of the City of Portland to do so.

It is the custom of the City of Portland, Maine to pay its bills 30 days following the receipt of correct invoices for all items covered by the approved application.

VIII. Appendices

Exhibit #1. HUD definition of a Community Housing Development Organization (CHDO)

IX. APPLICATION SIGNATURE PAGE

THIS PAGE MUST BE INCLUDED

The UNDERSIGNED hereby declares that he/she or they are the only person(s), firm or corporation interested in this application as principal, that it is made without any connection with any other person(s), firm or corporation submitting a application for the same.

The UNDERSIGNED hereby declares that they have read and understand all conditions as outlined in the invitation for bids, and that their application is made in accordance with same.

The UNDERSIGNED hereby declares that any person(s) employed by the City of Portland, Maine, who has direct or indirect personal or financial interest in this application or in any portion of the profits that may be derived there from, has been identified and the interest disclosed by separate attachment. (Please include in your disclosure any interest which you know of. An example of a direct interest would be a City of Portland employee who would be paid to perform services under this application. An example of indirect interest would be a City of Portland employee who is related to any officers, employees, principal or shareholders of your firm or to you. If in doubt as to status or interest, please disclose to the extent known).

The proposer acknowledges the receipt of Addenda numbered ____________________
If Applicable

COMPANY NAME: ____________________
(Individual, Partnership, Corporation, Joint Venture)

AUTHORIZED SIGNATURE: ____________________ DATE: __________
(Officer, Authorized Individual or Owner)

PRINT NAME & TITLE: ____________________

ADDRESS: ____________________

____

TELEPHONE: ____________________ FAX: ____________________

E-MAIL: ____________________FEDERAL TAX ID NUMBER: ____________________

DUNS NUMBER: ____________________
NOTE: All bids must bear the handwritten signature of a duly authorized member or employee of the organization making the bid. This sheet must be signed and returned with the application package.

X. EXHIBIT #1 – DEFINITION OF A COMMUNITY HOUSING DEVELOPMENT ORGANIZATION (24 CFR §92.2 and §92.300-303)

1. Is a private nonprofit organization under State or local laws;

2. Has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;

3. Is neither controlled by, nor under the direction of, individuals or entities seeking to derive profit or gain from the organization. A community housing development organization may be sponsored or created by a for-profit entity, but:

   i. The for-profit entity may not be an entity whose primary purpose is the development or management of housing, such as a builder, developer, or real estate management firm.
   ii. The for-profit entity may not have the right to appoint more than one-third of the membership of the organization's governing body. Board members appointed by the for profit entity may not appoint the remaining two-thirds of the board members; and
   iii. The community housing development organization must be free to contract for goods and services from vendors of its own choosing;
   iv. The officers and employees of the for-profit entity may not be officers or employees of the community housing development organization;

4. Has a tax exemption ruling from the Internal Revenue Service under section 501(c)(3) or (4) of the Internal Revenue Code of 1986 (26 CFR 1.501(c)(3)-1 or 1.501(c)(4)-1)), is classified as a subordinate of a central non-profit under section 905 of the Internal Revenue Code of 1986, or if the private nonprofit organization is a wholly owned entity that is disregarded as an entity separate from its owner for tax purposes (e.g., a single member limited liability company that is wholly owned by an organization that qualifies as tax-exempt), the owner organization has a tax exemption ruling from the Internal Revenue Service under section 501(c)(3) or (4) of the Internal Revenue Code of 1986 and meets the definition of "community housing development organization";

5. Is not a governmental entity (including the participating jurisdiction, other jurisdiction, Indian tribe, public housing authority, Indian housing authority, housing finance agency, or redevelopment authority) and is not controlled by a governmental entity. An organization that is created by a governmental entity may qualify as a community housing development organization; however, the governmental entity may not have the right to appoint more than one-third of the membership of the organization's governing body and no more than one-third of the board members may be public officials or employees of governmental entity. Board members appointed by a governmental entity may not appoint the remaining two thirds of the board members. The officers or employees of a governmental entity may not be officers or employees of a community housing development organization;

6. Has standards of financial accountability that conform to 24 CFR 84.21, "Standards for Financial Management Systems;"

7. Has among its purposes the provision of decent housing that is affordable to low-income and moderate-income persons, as evidenced in its charter, articles of incorporation, resolutions or bylaws;

8. Maintains accountability to low-income community residents by:

   i. Maintaining at least one-third of its governing board's membership for residents of low-income neighborhoods, other low-income community residents, or elected representative of low-income neighborhood organizations. For urban areas, "community" may be a neighborhood or neighborhoods, city, county or metropolitan area; for rural areas, it may be a neighborhood or neighborhoods, town, village, county, or multi-county area (but not the entire State); and
   ii. Providing a formal process for low-income program beneficiaries to advise the organization in its decisions regarding the design, siting, development, and management of affordable housing;

9. Has a demonstrated capacity for carrying out housing projects assisted with HOME funds. A designated organization undertaking development activities as a developer or sponsor must satisfy this requirement by having paid employees with housing development experience who will work on projects assisted with HOME funds. For its first year of funding as a community housing development organization, an organization may satisfy this requirement through a contract with a consultant who has housing development experience and will advise and train appropriate key staff of the organization. An organization that will own housing must demonstrate capacity to act as owner of a project and meet the requirements of §92.300(a)(2). A nonprofit organization does not meet the test of demonstrated capacity based on any person who is a volunteer or whose services are donated by another organization; and

10. Has a history of serving the community within which housing to be assisted with HOME funds is to be located. In general, an organization must be able to show one year of serving the community before HOME funds are reserved for the organization. However, a newly created organization formed by local churches, service organizations or neighborhood organizations may meet this requirement by demonstrating that its parent organization has at least a year of serving the community.

Portland, Maine Yes. Life's good here.

Planning & Urban Development Department

TO: Councilor Duson, Chair
Members of the Housing Committee

FROM: Victoria Volent, Housing Program Manager

DATED: March 19, 2018

SUBJECT: Franklin Reserve

Introduction

"During 2016 and 2017, Greater Portland Council of Governments, the City of Portland, and the consultant Woodard & Curran implemented a planning process (funded by a $200,000 award by the US Environmental Protection Agency) to focus on developing a brownfield action plan to guide and facilitate future development and redevelopment within the 130-acre land area of East Bayside." Within the final report are the goals to spur "sustainable and equitable development outcomes, such as the creation of safe and affordable housing on brownfield sites and; assess optimization of green space by studying existing open space and the community based urban farm located along Franklin Arterial." The parcel located between Franklin Street and Boyd Street is known as the Franklin Reserve. Possible reuse options for the Franklin Reserve include a variety of community-based housing and/or commercial opportunities. The final report recommendation is for "the City (to) consider whether or not an exploration of possible reuse options for this site is desired".

Franklin Reserve

Franklin Reserve consists of two contiguous parcels that total 1.88 acres. One parcel, at 2 Boyd Street, is 1.4 acres and owned by the City of Portland. The other parcel at 43 Boyd Street is .48 acres and owned by the Portland Housing Authority. The City-owned site is adjacent to Kennedy Park, and is currently open space. The non-profit group Cultivating Community operates the Boyd Street Farm located on the northern portion of the Franklin Reserve as their "flagship urban agriculture project where over 48 community gardeners and youth participate in their education and leadership programs." The southern portion of the site is mostly grass, with a memorial on the Cumberland Avenue site.

The Franklin Reserve is assessed at $119,880 and is located in the R – 6 zone. The purpose of the R – 6 zone is for housing characterized primarily by multi-family dwellings at high-density providing a range of housing for different types of households.

As part of this process, there were two land use exercises. The Youth Center Community Engagement project worked with high school students in the area to develop concepts for the site (attached.) In addition, the grant funded massing work by a professional designer. That effort was designed to determine if there was any potential for housing development on the site.

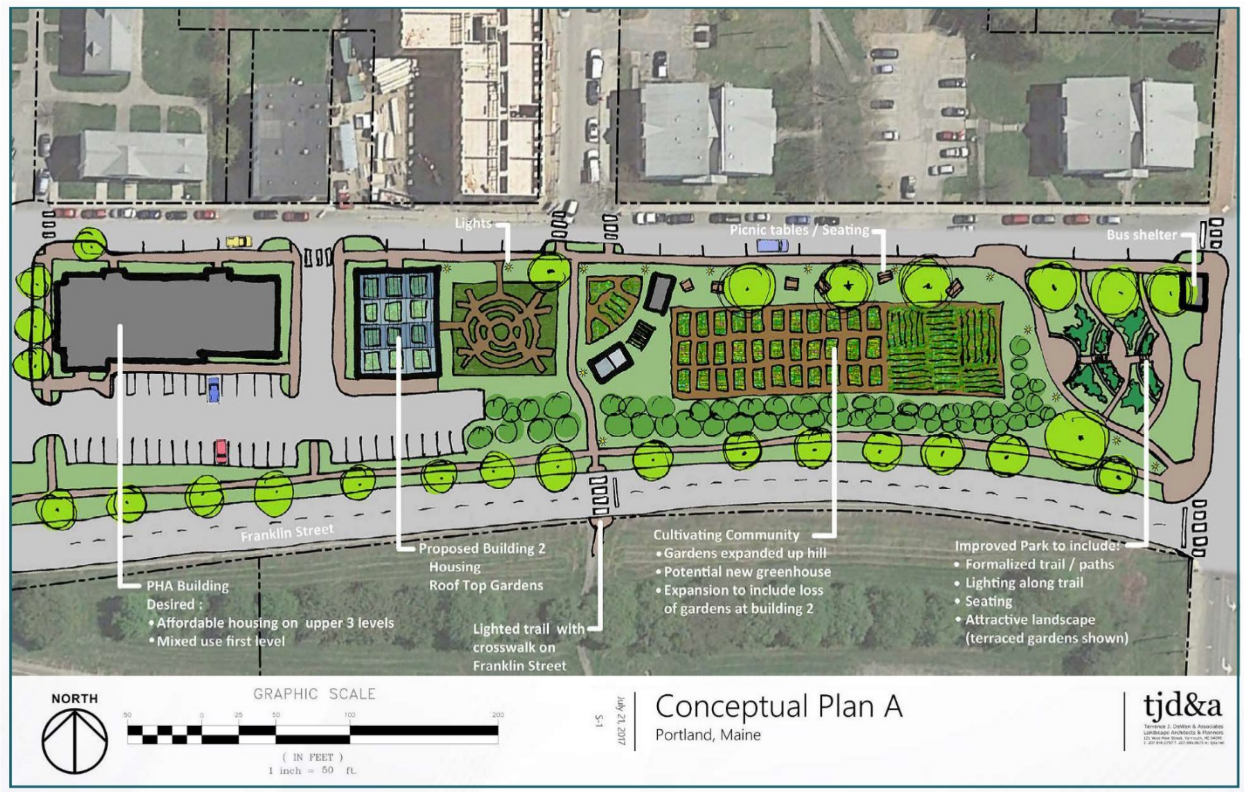
While this massing work looked at a number of options, some of the concepts involved moving or eliminating the Cultivating Community gardens. City staff rejected those concepts as being inconsistent with other city goals related to urban agriculture. In the end, the massing effort determined there could potentially be housing developed on this site between the gardens and the Armenian Memorial with minimal impact on either. A concept showing that alternative is attached as well. That concept meets the current requirements of the underlying R-6 zone.

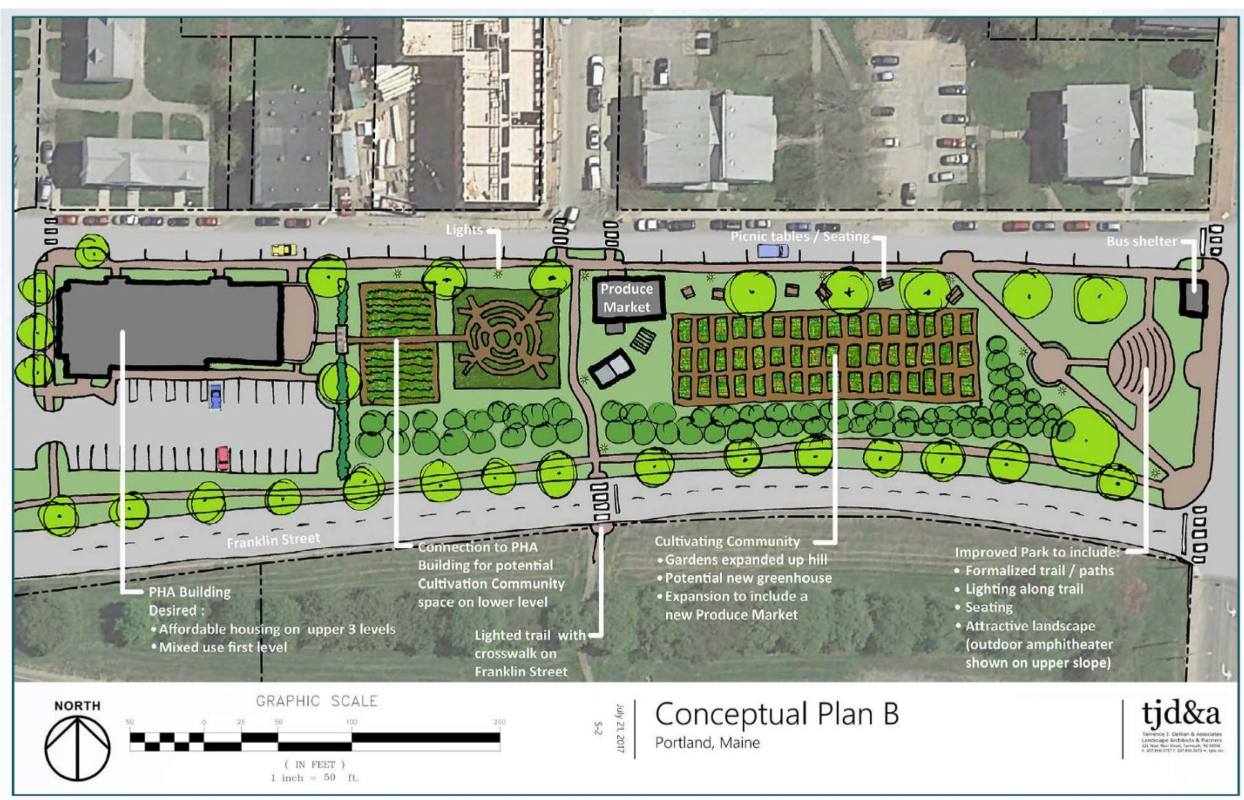
Environmental Review

To support a change in use that includes residential housing or mixed-use commercial space and housing, "environmental conditions would need to be evaluated to provide information on what cleanup and/or risk management techniques would need to be performed in order to support the change in use." Brownfield assessment and clean-up funding may be available through GPCOG's Brownfields Revolving Loan Fund, the City of Portland Brownfields Revolving Loan Fund, and/or Community Block Grant funding.

Conclusion

The Outcomes and Recommendations proposed for Franklin Reserve indicate "the City should consider whether or not an exploration of possible reuse options for this site is desired". A community-held priority for this site identified "affordable housing as well as preserving some open space, adding community space, and helping to ensure that Cultivating Community remains in East Bayside." Staff recommends identifying a preferred use or reuse option that aligns with the needs of the community. There does appear to be potential for infill housing development on this site that would address Comprehensive Plan goals related to both housing development and density along key corridors in the City. However, staff would want to conduct additional detailed analysis to ensure that this infill development would not have significant negative impacts on other uses of the Reserve.





Student Conceptual Plans for Open Space

Massing Work for Housing

DRAFT
2018 Housing Committee Work Plan
March 15, 2018

Items to refer to the 2018 Housing Committee

- Items from the 2018 Council Goal Setting Process
- Housing First Incentives;
- Capitalizing Housing Trust Fund;
- Possible revisions to and the implementation of Section 6-225 (Rental Housing Advisory Committee) of the Tenant Housing Rights Ordinance. (see June Agenda)
- City-led affordable housing development

January 24, 2018

1. Review 2017 Housing Policy Proposals.
2. Review 2017 Housing Committee Report; Goals, Work Plan, and Accomplishments.
3. Review Summary of Feedback of Housing Policy Proposals.
4. First Review of Developer Feedback on the Inclusionary Zoning Ordinance.
5. Update on 2018 Short Term Rental registration process.
6. 2018 Work Plan Discussion

February 12, 2018

1. Review Housing Policy Proposals
2. Review Public Feedback on Housing Policy Proposals
3. 2018 Work Plan Discussion

February 28, 2018

1. Housing Program Budget - Review and Recommendation to the City Council
2. Overview of the Housing and Community Development Division
3. Overview of the Housing Trust Fund
4. Communication Items: Community Land Trust Information; City-owned property information; Text Analysis of Housing Report Survey
5. 2018 Work Plan Discussion

March 28, 2018

1. 14-403
2. HomeStart
3. Affordable Housing Development HOME Fund Application - Review and Approval to Issue by the Committee
4. Franklin Reserve Massing Study/GPCOG overview of Brownfields Planning Grant
5. 2018 Work Plan Discussion – including a discussion of the Council's goal setting session

April 25, 2018

1. Review of FY19 HUD Annual Allocation Plan
2. Housing Trust Fund Annual Plan
3. Portland Water District
4. IZ Workflow Update
5. City-Owned Property – Westbrook Street
6. TENTATIVE - Review of Rental Housing Survey results
7. 2018 Work Plan Discussion

May 23, 2018

1. Review and Recommendation to the City Council – Funding Requests Received from the Affordable Housing Development HOME Fund Application
2. TENTATIVE – Review of Rental Housing Survey results
3. Hotel Linkage Fee Discussion
4. 2018 Work Plan Discussion

<u>June 27, 2018</u>

1. Presentation of Community Land Trust model
2. Review of City-Owned Property re: housing development potential
3. Discussion regarding creation of a Housing Advisory Board; including possible revisions to and the implementation of Section 6-225 (Rental Housing Advisory Committee) of the Tenant Housing Rights Ordinance.
4. 2018 Work Plan Discussion

<u>July 25, 2018</u>

1. 2018 Work Plan Discussion

<u>August 22, 2018</u>

1. Review of and possible changes to the Condo Conversion Ordinance
2. 2018 Work Plan Discussion

<u>September 26, 2018</u>

1. Review of FY18 HUD Consolidated Annual Performance Report
2. 2018 Work Plan Discussion

<u>October 24, 2018</u>

1. Presentation of Annual Housing Report
2. Review of Year 1 of the Short Term Rental Program
3. 2018 Work Plan Discussion

<u>November 28, 2018</u>

1. Review of 2018 Annual Committee Report
2. 2018 and 2019 Work Plan Discussion

<u>December 26, 2018 (day after Christmas)</u>