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October 18, 2023

Portland Planning Commission  
Housing Regulatory Relief Testimony  
1900 SW 4<sup>th</sup> Ave, Suite 7100  
Portland, OR 97201

Dear Commissioners:

The Sellwood Moreland Improvement League (SMILE) is submitting these comments on the Housing Regulatory Relief Project Proposed Draft. To summarize our key points:

- Instead of permanently eliminating neighborhood contact meetings for projects 10,000-25,000 square feet (sf), permanently require process II instead of process III.
- We support the proposed changes that simplify and improve neighborhood contact process II.
- We oppose suspending neighborhood contact requirements.
- We support the proposed permanent changes to standard PR1, Ground Floor Height. Instead of suspending standard PR1, make it optional as done for standard PR2.
- For the active use requirement in the Main Street Overlay, we support the proposed improvement and oppose suspending it.
- Instead of suspending the articulation requirement, permanently allow existing window design standards to also satisfy the articulation requirement.

## **Improve, Don't Eliminate, Neighborhood Contact for 10,000-25,000 sf projects**

We have had 37 neighborhood contact meetings since 2015 and many of them have resulted in improved project designs that will positively impact our community for years to come. Such livability benefits as improved setbacks and landscaping, creating better and safer traffic flows, and modifying construction materials and design to better complement our neighborhood's

historical architectural quality have resulted from these meetings. They also provide an opportunity for developers and us to have a conversation that results in us recognizing flaws in the zoning code and advocating for improvements (see the following examples). If you are not familiar with these meetings, please view one them<sup>1234</sup>.

Permanent elimination of these collaborative planning meetings for proposed developments between 10,000 and 25,000 sf is a serious mistake that will negatively affect the livability of our community for years to come. Since 2019 when the neighborhood contact rules were revised, we have hosted 11 contact meetings and 5 of them would have been eliminated under this proposal.

There would be no significant benefit from eliminating neighborhood contact meetings. Neighborhood contact ranked only 16th of 25 items in the housing regulatory survey of developers<sup>5</sup>. As we prepare these comments, no cost analysis has been provided showing that this would be a significant cost savings that would generate affordable housing (page 8 of the Proposed Draft). It is hard to believe that budgeting a development is precise enough to allow one meeting to cancel a project. The typical development in our neighborhood, a 19-unit building with no inclusionary housing, is in this size range. Thus, even if there were a significant financial benefit to eliminating the neighborhood contact requirement, production of inclusionary housing would not significantly increase. Inclusionary housing and more-affordable-than inclusionary housing is our greatest housing need, not market rate housing.

Instead, we propose that Neighborhood contact II be required for developments between 10,000 and 25,000 sf in the design overlay rather than neighborhood contact III. The Neighborhood Contact III process requires that the neighborhood association have the first right to host a meeting and if they do not, the developer hosts a meeting. Neighborhood Contact II (now required for developments over 25,000 sf) requires that the developer host a meeting and that meeting can be at a neighborhood association meeting. We do not care who hosts the meeting, the important thing is that a meeting takes place. We support the proposed changes that simplify and improve neighborhood contact process II and permanently allow online meetings.

If the cost of hosting a meeting is prohibitive, then require a meeting only if the neighborhood association hosts it. In 2019 the City required developers to host meetings because most neighborhood associations do not have the infrastructure to do so. The cost analysis has not been released, so we do not know whether hosting the meeting or attending a meeting is the alleged cost problem. We would continue to offer to host contact meetings as a service to our members, which include all property and business owners (i.e. developers) and residents. Developers are pleased that we host meetings so they don't have to.

We oppose suspending neighborhood contact requirements, which include signs.

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<sup>1</sup> December 16, 2021, 5252 SE 18<sup>th</sup> Ave, <https://www.youtube.com/watch?v=5iWsjhrm3vQ>

<sup>2</sup> December 20, 2021, 8120 SE 6<sup>th</sup> Ave, <https://www.youtube.com/watch?v=FMnMbQeby-s>

<sup>3</sup> January 6, 2022, 1666 SE Lambert St, <https://www.youtube.com/watch?v=mELAYFIRctg>

<sup>4</sup> March 2, 2022, 2500 SE Tacoma St, <https://www.youtube.com/watch?v=vPYWxJGakbY>

<sup>5</sup> Page 8, <https://www.portland.gov/bds/documents/housing-regulation-survey-results-spring-2023/download>

Proposed permanent elimination of Neighborhood Contact Meetings (Page 59):

**33.420.030 Neighborhood Contact**

~~Neighborhood contact is a set of outreach steps that must be taken before certain developments can be submitted for approval. Neighborhood contact is required as follows:~~

- ~~A. When the proposed development will add at least 10,000 square feet of net building area to a site, the neighborhood contact step of 33.705.020.C., Neighborhood contact III, are required.~~
- ~~B. If the proposed development has already met the neighborhood contact requirements as part of a land use review process, it is exempt from the neighborhood contact requirements.~~

Our proposed revision (in red):

**33.420.030 Neighborhood Contact**

Neighborhood contact is a set of outreach steps that must be taken before certain developments can be submitted for approval. Neighborhood contact is required as follows:

- A. When the proposed development will add at least 10,000 square feet of net building area to a site, the neighborhood contact step of 33.705.020.CB., Neighborhood contact III, are required.
- B. If the proposed development has already met the neighborhood contact requirements as part of a land use review process, it is exempt from the neighborhood contact requirements.

**Make the Ground floor height design standard optional rather than required**

The ground floor height design standard PR1 provides an attractive retail space that helps a business district thrive. It also increases the height, mass, and cost of buildings.

Instead of suspending this design standard, we propose that it should be an optional design standard, as done for PR2.

This would give a developer maximum flexibility and a small reward (points) if they choose to follow the standard.

We support the proposed change to exclude this standard from multi-dwelling residential zones that we initially proposed as a RICAP item (see box).

**Neighborhood Contact Meeting Improves Zoning Code I**

During a neighborhood contact meeting on a proposed townhome development in the RM2 zone<sup>6</sup>, the developer mentioned that some of the first floor garages were 12 feet tall. You could park an RV in there! We asked, and it was because of Design Standard PR1. It increased height, mass, cost, and the number of stairs to access living space. This is obviously wrong. We submitted a RICAP request to change this standard. This demonstrates that conversations between developers and residents can lead to constructive outcomes.

<sup>6</sup> January 6, 2022, 1666 SE Lambert St, 27:00-32:30, <https://www.youtube.com/watch?v=mELAYFIRctg>

## The active use requirement allows business districts to thrive

The active use requirement in the Main Street Overlay “*encourage a continuous area of shops and services, create a safe and pleasant pedestrian environment, minimize conflicts between vehicles and pedestrians, support hubs of community activity, and foster a dense, urban environment with development intensities that are supportive of transit.*”

One business leader told us that when there is an interruption, pedestrians assume they are at the end of the business district and turn around. While the proposed suspension is for five years, it would permanently fragment business districts.

### Neighborhood Contact Meeting Improves Zoning Code II

During a neighborhood contact meeting on a proposed mixed-use development in the CM2dm zone, we pointed out that planned retail space on a narrow side street next to the loading area for a grocery store was doomed to fail. The developer agreed and said that it was needed to satisfy the 100-foot rule. The proposed change to the 100-foot rule would solve this problem, so we support it. In a previous contact meeting, a different developer was making a dubious retail space a live/work space to improve the odds of success, so we suggested trying live/work to the developer. This demonstrates that conversations between developers and residents can lead to constructive outcomes.

The proposed suspension only applies to the Main Street Overlay, which is in our primary business districts but is a small subset of commercial development in the City. Thus, the cost benefit of suspension should be evaluated on a City-wide basis, not a single project basis.

We oppose suspending the active use requirement in the Main Street Overlay.

We support the proposed revision to the 100-foot rule (33.415.200, pages 56-57), which can create infeasible retail space (see box).

## No boxes: Allow a cheaper way to articulate

We oppose suspending the active use requirement in the Main Street Overlay. The proposed suspension of articulation requirements would allow straight-sided box buildings which are the antithesis of architectural design in our neighborhood<sup>7</sup>.

Instead, we propose that to satisfy the articulation requirement two existing design standards be applied on all visible walls: 1) an existing optional design standard for tall symmetric windows and 2) a required street-facing window detail design standard. This would provide articulation (see photo<sup>8</sup> on next page) and allow construction of less costly planar walls rather than popouts,

<sup>7</sup> Sellwood-Moreland Main Street Design Guidelines, <http://smilesellwood.wpengine.com/wp-content/uploads/2020/07/FINAL-SMILE-Design-Guidelines-7-13-2020.pdf>

<sup>8</sup> 1930 NE Alberta Street, built 2017, for more examples see page 11 of the Sellwood-Moreland Main Street Design Guidelines, <http://smilesellwood.wpengine.com/wp-content/uploads/2020/07/FINAL-SMILE-Design-Guidelines-7-13-2020.pdf>

nonperpendicular, and jagged walls. This would also provide articulation. The specific design standards are QR8, Street-Facing Window Detail, that would be applied to all visible walls, and the second bullet on page 420-10 of design standard C3 that is worth one point:

- The street-facing windows on floors above the ground floor must be vertical – taller than it is wide. Street-facing windows on each upper floor must be directly above the one below, excluding the ground floor. Upper floors that step back per the standard below do not need to be vertical or aligned.



### Concluding general comments

- As of the release of this report, the cost analysis of the proposed changes has not been published (page 8 of the Proposed Draft). The lack of transparency is not good governance.
- We would like to see proof that the proposed changes will produce significant cost savings that will significantly increase production of inclusionary and affordable housing. Projects were entering the development pipeline with these regulations and development stopped when interest rates increased several-fold. Higher interest rates appear to be the cause of the housing slowdown, not these regulations. Compare the cost of these regulations to the increased cost of capital. In addition, consider other ways to achieve greater reductions in building costs, such as point access blocks which are allowed in Seattle and Europe<sup>9</sup>.
- While many of the proposed regulatory changes are temporary, the buildings they will allow are permanent. Changes to zoning code can be reversed, poorly-designed buildings are irreversible.

This testimony was approved by the SMILE Board of Directors October 18, 2023. Thank you for the opportunity to testify.

Sincerely,

A handwritten signature in black ink, appearing to read "David Dugan". The signature is stylized and cursive.

David Dugan

President, Sellwood-Moreland Improvement League

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<sup>9</sup> <https://www.theurbanist.org/2023/02/07/one-stairway-is-enough-to-reach-housing-heaven/>