



**Bureau of Planning and Sustainability**  
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June 4, 2019

Representative Paul Holvey, Chair  
House Committee on Rules  
900 Court Street NE  
Salem, OR 97301

RE: SB 534-B

Dear Chair Holvey and Members of the Committee:

The City of Portland appreciates the opportunity to comment on SB 534-B. The City of Portland is opposed to this bill because of its broad application that fails to consider unique situations that have already been the subject of deliberate planning and zoning decisions by the City Council. Specific details of the bill would also create uncertainty for both developers and the City.

**Historically Narrow and Other Substandard Lots**

Some Portland neighborhoods that are zoned R5 and developed as detached single-family houses on 5,000 square foot lots today have an underlying pattern of platted lots that are smaller than the predominant 50-foot by 100-foot lots. While many lots in Portland were platted with 50-foot wide by 100-foot deep lots, surveyors in the late 1800s and early 1900s sometimes platted lots that measured 25 feet or 33 feet by 100 feet. These “historically narrow lots” were typically sold in bundles depending on the buyer’s preference. Often, a single home was developed on two or three of these bundled lots (see figures on page 2). These historically narrow lots are randomly distributed throughout the city due to platting decisions made by developers in the early 1900s. Portland also has instances of old “paper subdivisions” that predated the City’s land division code and resulted in lots that do not meet development standards.

**Pre-emption of local authority**

The attached map identifies areas with concentrations of platted narrow lots in the R5 zone. The City estimates that there are 14,000-16,000 historically narrow lots in Portland. The City’s current regulations only allow development on a narrow substandard size lot that has been vacant for 5 years. The City also is actively planning to allow for the development of about half of the historically narrow lots. As part of the Residential Infill Project, the Portland Planning and Sustainability Commission (PSC) has recommended that the City Council rezone about half of these lots to R2.5 (purple areas on the

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map). The proposed rezoning is based on consideration of factors such as: proximity to commercial centers, frequent transit and neighborhood amenities; consistent zoning and development patterns; and site constraints such as unimproved streets, poor street connectivity, or stormwater or topography issues. **Though SB 534-B includes certain exceptions for site constraints, the bill takes away city authority to focus development on lots in areas near transit and neighborhood services. The bill also requires cities to change the zoning of specific properties without allowing cities to consider factors such as displacement.**



Figure 1. Historically platted narrow lots in North Portland

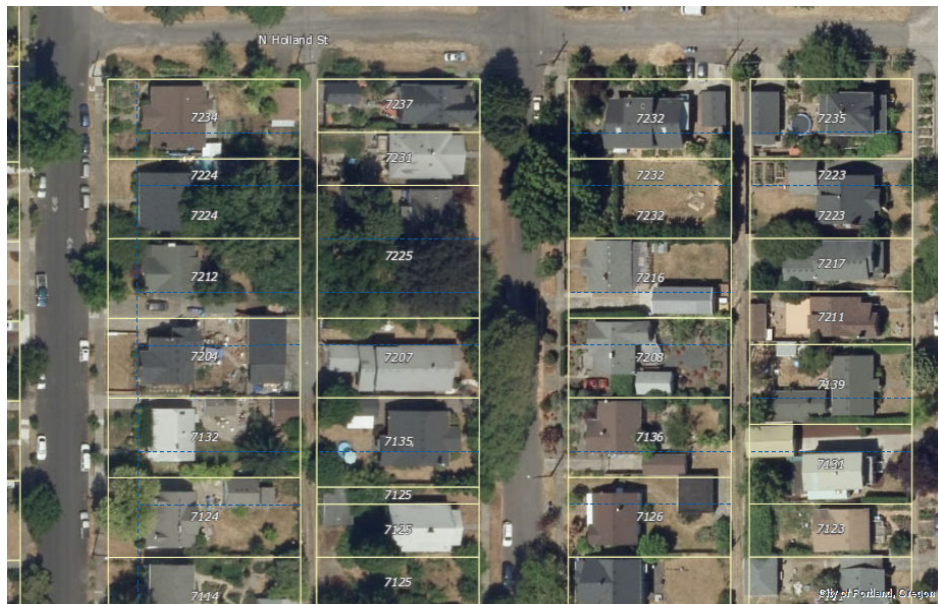


Figure 2. Development of historically narrow lots



The PSC also recommended that the City Council allow attached houses on the remaining narrow lots in the R5 zone. The City Council will consider these recommendations later this year. The few remaining lots that are not included in these proposals are in areas with inadequate services, significant natural resources, or have steep slopes.

SB 534-B would circumvent the normal local planning process to force development of narrow lots that were never intended to be developed in this pattern. Moreover, current state law requires cities to allow an accessory dwelling unit on each lot where a house is allowed, and HB 2001 will require cities to allow at least one middle housing type on each lot where a house is allowed. In combination with HB 2001, SB 534-B will have the effect of requiring cities to allow development of at least a duplex on each historically narrow lot.

### Unintended consequences

Old paper subdivisions exist throughout Portland and are difficult to find. For example, the paper subdivision in the following figure is at NW Skyline and Cornell Rd. It is on a 4-acre lot with RF (R10) zoning. Most of the lots have steep slopes, some in excess of 25% and others with 20-25% slopes. The City of Portland has considered such constraints in determining its zoning map and regulations. However, because SB 534-B only allows a prohibition on development for lots with slopes in excess of 25%, the City could be forced to allow 6-8 of these lots to be developed. While we do not think that this is the intent of this legislation, when the local planning process is pre-empted, the City's ability to make site-specific detailed decisions is limited.



Figure 3. Old paper subdivision at NW Skyline and Cornell



**Effective Date is too short**

The January 1, 2020 effective date poses a significant problem for implementation of this legislation. Compliance with this bill will require amendments to the Comprehensive Plan, zoning code and zoning map. It is virtually impossible to make these changes in the 6 months that would be afforded by this bill if it is effective on January 1, 2020.

It will take significant time to work with our infrastructure bureaus to determine which lots cannot be adequately served or are constrained by natural resources or natural hazards, provide required notices for a planning commission hearing before the zoning map changes could be heard by the Portland City Council.

If the City is unable to amend the Zoning Code by January 1, 2020, the proposed bill would apply directly. This would mean the City would be required to apply the discretionary criteria for each individual development application through a land use decision with findings and public notice for every single lot determination that takes place before the City Council amends the zoning map. Each of those decisions will be appealable to LUBA.

**Conclusion**

The City of Portland has serious concerns about SB 534-B. The bill would both disrupt the City's planning work that is underway and inappropriately restrict the ability of the City to make specific zoning decisions. We appreciate the opportunity to comment and respectfully urge the committee to not move the bill forward. Thank you for your consideration.

Sincerely,



Andrea Durbin  
Director

