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Chair Dundon and Members
Portland Planning Board
389 Congress Street
Portland, Maine 04101

Re: R-6 Munjoy Hill Neighborhood Conservation Overlay District

Dear Chair Dundon and Planning Board Members:

I continue to believe that the package before you does not go far enough to protect the existing Munjoy Hill neighborhood from being overwhelmed by out-of-scale new development. The treasured architectural and social fabric of Munjoy Hill is being threatened by a growing number of teardowns. Perfectly serviceable, compatible structures are being razed, to be replaced by oversized luxury housing. This is a significant threat to the neighborhood, and something that the City can and should fix.

Let us be clear. This is not simply market forces at work. The City set these destructive forces into action in 2015 with an ill-conceived package of R-6 zoning amendments. While billed as a means to encourage infill development on small, scattered vacant lots, the impact of the 2015 amendments was much broader. By not limiting the infill incentives to then-vacant lots (as the zoning had prior to 2015), it made almost every structure a potential target for demolition and new construction. To add even more incentive for demolition, it allows new structures to be constructed on the razed site that are almost twice as tall as most Munjoy Hill homes.

INTEGRATE DESIGN STANDARDS INTO THE ZONING ORDINANCE:

One way to slow the destruction is to limit the height of new construction to something that is compatible with the context of the immediate neighborhood. The design standards have been touted by the City as a way to make new construction respond to its context. In accordance with the design standards, scale and massing of proposed new construction is to be responsive to the predominant development patterns within a two block radius.

BUT at the same time as it is touting the sensitivity of the design standards, the staff's proposed draft contains the statement that the zoning will control over the design standards. This has the effect of granting maximum heights **as of right**, with the design standards left to affect only less important characteristics.

The only way to counteract this is to incorporate the most important design standards (those on scale and mass) into the zoning ordinance itself, and to require proposed development to meet both the key design standards and to be less than the dimensional caps. If a proposed development needs to reduce the scale and/or mass to be found to meet the design standards, then it should only be approved for that reduced scale or mass, not for the dimensional maximums otherwise allowed by zoning. In particular, the maximum heights have to be conditioned upon also meeting enforceable design standards so that, for example, a 4-story building may not be shoehorned into an area of 2-story homes. Design standards do absolutely nothing to control the out-of-scale growth if the ordinance is structured, as it is currently, so that zoning always "trumps" design standards.

ALTERNATE ACTION: ONLY ALLOW NEW CONSTRUCTION ON VACANT LOTS, NON-RESIDENTIAL LOTS, OR LOTS IN EXCESS OF 4,500 AS WE DID PRE-2015:

If the City is not willing or able to impose enforceable, contextual size limits as part of the zoning, then new construction on smaller lots (e.g., lots of less than 4,500 square feet) must be limited so that new construction is only allowed on lots which were already vacant as of January 1, 2018 or were in non-residential use as of January 1, 2018, as the zoning was structured prior to 2015. A return to the approach that existed pre-2015 at least relieves the pressure, now felt by every existing residential structure, to be razed to become a potential building site for a newly constructed building which can be built out to a much greater scale than the existing building.

ENDORSE AN 18-MONTH DEMOLITION DELAY, BUT MAKE THE PROCESS MORE TRANSPARENT AND ACKNOWLEDGE THE VALUE OF AFFORDABLE HOUSING:

The theory of an 18-month demolition delay for residential structures is good. It would be strengthened by a process that requires the owner to post required information if the owner applies for a demolition permit. Similarly, there should be a process which would allow neighbors and other interested parties to request a hearing in a timely manner should they disagree with a determination that a structure does not meet any of the exceptions but is not "preferably preserved." There should also be an acknowledgement that in addition to architectural/historic value, existing affordable housing is a public good that should be given consideration during the proposed demolition review process.

THE PLANNING BOARD AND CITY COUNCIL SHOULD ENDORSE PROCEEDING WITH TIMELY NOMINATION OF APPROPRIATE HISTORIC DISTRICTS ON MUNJOY HILL

For areas that qualify as historic districts, there are much better demolition protections and much better processes for review of new construction within an historic district than exist in non-districts. Parts of Munjoy Hill are every bit as architecturally valuable as other parts of the City, yet they have not yet been designated for historic preservation protections. Moreover, preserving existing historically-significant housing is likely to have the dual benefit of retaining important housing stock that is more affordable than any housing units that are likely to be created through unsubsidized new construction.

Much of the survey work has already been completed by Greater Portland Landmarks, subject to review by the City. The Planning Board and City Council should encourage staff to give priority in its work program to completing what needs to be done so that proper nominations may be initiated by early Fall. Delay in completing this work deprives these areas of interim protections which will attach once a formal nomination is initiated. Of course designations will need to proceed through the Historic Preservation Board, Planning Board and City Council, with due process at each level.

SET ASIDE PROPOSED AMENDMENTS TO BUILDING EXTENSIONS FOR LATER REVIEW.

I believe you should set aside the proposed amendments to 14-436 Building Extensions for later review. The proposed amendments would apply City-wide, not just in the R-6. As drafted, it seems like the amendments could make significant changes which have not really been discussed.

The current ordinance only allows certain building extensions within the existing building footprint. As drafted, as I read it, the extensions would not be limited to the existing footprint, and could go well beyond the existing footprint. They could be vertical or horizontal extensions. I believe what the proposed language would allow is that if one part of the building fails to meet a setback requirement, the entire rest of the building can be built out to the same plane. And there would no longer be a limit on the % expansion of the first floor footprint. And it deletes the restriction that buildings expansions can only occur once during the lifetime of an existing structure. These are potentially significant City-wide changes which should require more analysis as to whether they are even beneficial.

CONCLUSION:

It goes against many of the core principles the City espouses – support for affordable housing, vibrant neighborhoods, and environmentally sustainable practices -- to set up the regulatory incentives to encourage perfectly serviceable workforce housing to be demolished and replaced by out-of-scale luxury units. The effect of the 2015 amendments was to make every structure in the R-6 zone expendable, and to make every lot of at least 2,000 square feet a potential building site for new construction, regardless of whether an existing residential structure would need to be razed. The incentives are further driven in the wrong direction by zoning dimensional limits that are much more generous than the existing pattern of development. Staff analysis found the average structure is 2.4 stories. The proposed zoning would allow 45 feet (4.5 stories) as of right for one unit plus a “workforce” unit, or for 3 units.

The regulatory incentives are all wrong. The City should be encouraging highly selective demolition and rebuilding where it won't harm the existing neighborhood and might strengthen the overall housing stock (e.g. post-1930s houses, non-residential structures, dangerous structures). But new construction should be restricted to a scale, mass and design that will enhance the neighborhood. And the City's primary focus, to be reinforced by zoning which only allows rebuilding at the scale and mass of existing development, should be on maintaining and rehabilitating the already existing housing stock, which is historic, compatible, reflective of patterns that emerged organically over time, and more affordable than any unsubsidized new construction.

Sincerely,


Barbara A. Vestal