

## BANNING THE “SNOUT HOUSE”: THE POLITICS OF DESIGN IN PORTLAND, OREGON

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*The fact that city officials were willing to adopt — unanimously — regulatory changes that so angered builders raises fascinating questions about the politics of urban planning and design in Portland. This paper analyzes the process that resulted in the adoption of these changes, the Base Zone Design Standards (BZDS), which are a set of amendments to the local zoning code. The argument here is that, despite the rhetorical flourishes employed both by journalists and some in the construction business, these changes ought to be seen as an incremental addition to a set of practices that have been evolving over a period of two decades. They are the result of efforts by City of Portland planners, in alliance with local architects, neighborhood leaders, and livability activists, to craft a response to a variety of local and regional pressures, a response that was legally defensible, politically feasible, and reflective of ideas in good currency within the built environment professions regarding the impact of design on behavior (Rein, 1983).*

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## INTRODUCTION

“Portland [OR] has made the snout house illegal, going to a frontier of design dictate where no other big American city has gone before.” This *New York Times* reporter noted that “ever-quirky” Portland “seems to delight in attacking the wisdom of developers and home builders” and mentioned several of the well-known interventions into the urban development process that the city and the region had undertaken in the last few decades (Egan, 2000:F1, 9). Many homebuilders expressed outrage at the city’s most recent action. A capital strike was threatened; one builder sported a “Friends don’t let friends build in Portland” bumper sticker. This builder declared the city council member who most strongly supported the effort — a former lobbyist for the Homebuilders Association — “a traitor ... and the city of Portland,” he said, “they’ve become socialists” (Egan, 2000:F1, 9).

“Houses that turn their backs to the street. Houses that embrace a nesting pair of monster-sized sport-utility vehicles and little else. Houses that give no idea where the front door might be ... all garage and muscled-front facades ... the big-chested, detached house with two-car garage projecting toward the street” (Egan, 2000:F1, 9). “Snout houses” do not pass the trick-or-treat test articulated by the city council member mentioned above: no small child would approach a stranger’s door on Halloween night if the “welcoming” design element was a double-car garage door (Egan, 2000; Knack, 2001). See Figures 1A-B.

The fact that city officials were willing to adopt — unanimously — regulatory changes that so angered builders raises fascinating questions about the politics of urban planning and design in Portland. This paper analyzes the process that resulted in the adoption of these changes, the Base Zone Design Standards (BZDS), which are a set of amendments to the local zoning code. The argument here is that, despite the rhetorical flourishes employed both by journalists and some in the construction business, these changes ought to be seen as an incremental addition to a set of practices that have been evolving over a period of two decades. They are the result of efforts by City of Portland planners, in alliance with local architects, neighborhood leaders, and livability activists, to craft a response to a variety of local and regional pressures, a response that was legally defensible, politically feasible, and reflective of ideas in good currency within the built environment professions regarding the impact of design on behavior (Rein, 1983).

These design practices are related to a larger set of land use measures that are part of the regional growth management regime in place in the Portland metropolitan area since the 1970s. Core elements of growth management are to discourage development on farmland outside the region’s urban growth boundary and to encourage compact development inside the line, one type of which is infill residential units. Leo argues that while environmentalists, farmers, and central city business people have been strongly supportive members of the regime, the stance of builders has been ambivalent. He notes that the Homebuilders Association has been supportive of growth management activities that set out clear rules creating a more certain environment for building and facilitate processing applications in order to build in a timely manner. However, he also points out that the Homebuilders Association has joined opponents of the regime when governmental actions appear overly constraining (Leo, 1998). BZDS were perceived as one such action.

## DESIGN REGULATION IN PORTLAND

Carl Abbott wrote that, “between 1979 and 1981, the Portland City Council converted design goals into a set of routinized design institutions and procedures ... The effect and likely intent of the new practices was to depoliticize design issues and decisions by embedding them in the planning review process and insulating elected officials from direct responsibility for aesthetic decisions” (1991:7-8). Robert Jones argued that, as a result of the sorts of dynamics Abbott had identified:

*... design review is reduced to a formulaic set of standards for designers to internalize ... There seems little need for trained professionals to serve on design review boards, not because they do not necessarily represent citizen interests but because it takes only a modicum of specialized*

*knowledge to follow a formula in deciding whether or not a proposed development project meets a list of objectified aesthetic criteria.*  
(2001:33)

FIGURE 1A.

Jones found that most architects and planners in the Portland area believed that an important dimension of design review was to create and sustain community identity as it relates to the built environment. Moreover, 96% of the Portland planners he surveyed believed that design review had led to projects being either moderately or substantially improved (Jones, 2001). Indeed, based on a comparative study of design guidelines, Punter concluded that Portland:

*possesses some of the simplest, clearest, best thought-out and without doubt best presented design policies of any American city ... Without doubt what distinguishes Portland's design objectives and guidelines is that they are built on public consensus and the most thoroughgoing and comprehensive process of public consultation of perhaps any city in the U.S.A.*  
(1999:103-104)

FIGURE 1B.

Before the BZDS were adopted, though, just 10% of city land — designated historic districts and other special areas — was covered by design regulations. Citizen interest in generalizing this type of regulatory intervention throughout Portland surfaced during the mid-1990s, politicizing design issues to a greater extent than had been the case earlier.

In 1993 the city had established a two-track design review process that permitted a developer to opt either to meet a set of objective, quantified design standards applied as part of the building permit process — Plan Check — conducted by planners at the Permit Center; or go through a Land Use Review, during which a set of discretionary design guidelines was utilized by planners on either the Design Team of the Planning Bureau, the Portland Design Commission, or the Historic Landmarks Commission to judge a proposal. Punter lauded this process as “clearly efficient, fair, and effective” (1999:105). During a review and update of these standards and guidelines, neighborhood leaders began expressing serious concerns about the compatibility of some of the rapidly increasing number of infill housing units being built in the city with existing community fabrics. Aware of adopted City policies that aimed at capturing a much larger share of forecast regional population growth than had

occurred during the previous two decades, neighborhood leaders articulated worries about sustaining community identities in the face of the many more infill units that City officials wanted to encourage. They wanted to extend design requirements beyond the 10% of Portland then covered.

The City Council and Planning Commission wanted to be responsive to these citizen concerns. The Planning Bureau staff was asked to prepare a set of interim regulations that could be applied citywide. The principles that guided the planners' work included the following: (1) the interim standards should build on provisions of the code that already regulate the design of residential development but were not then applicable citywide; and (2) the standards should be implementable by planners at the Permit Center as part of the building permit process, rather than by more specialized planners assigned to do design analyses as part of a Land Use Review. In September 1997, Bureau planners released a discussion draft of *Interim Design Regulations for Infill Development*. Despite a low-key, funky look, 22 regulations — elaborations of standards already implemented in parts of the city — were proposed to be added to the zoning code and administered by planners at the Permit Center. The regulations included fairly heavy doses of architectural stylistic prescription, as well as more typical zoning code requirements dealing with height and setback (City of Portland, 1997). These sorts of requirements regarding minimum and maximum roof pitch and exterior finish materials, for example, are often found in subdivision covenants, conditions, and restrictions. They represented a departure from the City's earlier practices. Punter noted that the existing guidelines contained clearly stated goals and objectives "sufficiently precise to provide criteria with which applications can be evaluated ..." but remaining "broad and accessible without being in any way prescriptive" (1999:105). The twin desires to be responsive to citizen concerns and to ease administrative burdens led the planners to propose the different approach.

Reaction at a Planning Commission meeting shortly after the release of the draft was mostly negative. The local chapter of the American Institute of Architects (AIA) acknowledged the need to "do something about poor design," which had led to the expression of citizen concern about infill, but objected to regulations that "go too far. They restrict design and set architectural styles. They do not allow for variance due to topography or difficult sites, which is why many infill sites exist" (1997:10). The architects, key members of the growth management regime, were usually allies of the planners on design issues; however, in this case, they warned the planners against trespassing onto architectural turf. Some leading high-end design firms added that their projects would not meet the proposed standards. Nonprofit developers, as well as the architects, worried about additional costs and liabilities that might exacerbate a widespread concern with housing affordability. Neighborhood leaders, though, especially those from southwest Portland, where many rowhouses were being built, were enthusiastic about spreading strict design regulations throughout the city to moderate the drive for increased density sought by city officials.

After discussions with these and other groups, Planning Bureau staff gave the Commission a set of options regarding how to proceed. Staff could narrow the range of concerns to "regulations that would address the relationship between new buildings and the street that have an impact on the building's ability to foster or block an area's growing sense of community" (Bureau of Planning, 1997:6). The planners believed that this option would enable a fairly rapid response to the pressure to act that neighborhood leaders were bringing to bear on Commission and Council. A second option would involve dividing the built environment into single-dwelling and other structures and launching a two-phase project that would permit a more comprehensive examination of design, as well as current zoning code-related issues. The third option was for the Bureau to initiate a full-blown, community-wide discussion of the universe of design concerns. The Planning Commission and City Council chose the first option, with a focus on houses, duplexes, manufactured homes, and attached housing.

A planner noted that "the narrow scope [i.e., the impact of a car or garage between the living room and the street] avoids many of the difficult stylistic issues that add significant complexity to an already complex subject," allowing the 22 proposed regulations to be reduced to eight concepts (Hartnett, n.d.:1-2). This option represented a reframing of local discourse away from the issue of the

FIGURE 2.

compatibility of infill units to the relationship of garage-dominated infill units to the public realm. The public realm was defined to include the public right-of-way (streets, planting strip, and sidewalk) and adjacent private property that is visible from the public right-of-way (see Figure 2). The public right-of-way was already *de facto* a legitimate sphere of city influence since front yards were subject to zoning controls.

During the ensuing public discussions about proposed regulations, planners would articulate claims about the consequences of design choices for individual and collective behavior in the public realm. Planners argued as if the public realm was a sphere within which they could bring legitimate technical expertise to bear. A focus on the public realm would permit the planners to avoid open conflict with architects regarding issues of style. It would address some of the concerns articulated by neighborhood leaders, although it remained an open question whether a focus on the public realm would go far enough, in their eyes, to maintain their support. Planners anticipated that builders would be reluctant to embrace any concept requiring changes in their behavior. Moreover, builders hadn't participated very much in earlier efforts to develop design regulations in historic and other special districts. However, based on past experiences in other policy areas, planners expected to work with them in a cooperative manner to reach common ground.

Planning Bureau staff began the process of writing zoning code language that would embody the public realm concept by discussing their ideas in two arenas. The first was with a technical advisory committee consisting of representatives of city bureaus likely to be affected by zoning code changes. These included planners who administer the zoning code, building officials who handle permitting, transportation officials concerned with improving the environment for pedestrians, and Portland Development Commission staff, who financed housing projects. These meetings forced the planners to clarify their ideas about the meaning of the public realm, to solidify their thinking about the legal basis for intervening in it, and to set limits regarding what to regulate. Planners produced a diagram of the public realm that reflected the evolution of their thinking.

The planners then held a public workshop, which would begin with a presentation by staff and then segue into small group discussions, the results of which would be summarized by the small groups. The staff consciously invited a wide variety of stakeholders to participate in the workshop; planners sought a balanced representation of diverse viewpoints. Five members of the Portland AIA chapter were invited. Eight builders were invited, and the head of the Homebuilders Association of Metropolitan Portland was free to bring as many other members as he wished. Not-for-profit community development corporations received invitations. Twenty-five representatives of neighborhood residential and business associations were invited, as were four representatives of citywide business associations. Four members of the Design and Landmarks Commissions were asked to attend. Finally, members of three public interest groups were asked to participate: Willamette Pedestrian Coalition; Coalition for

a Livable Future, which is a network of community-based and nonprofit organizations interested in sustainability and equity issues in the region; and City Club, which is Portland's oldest and most active good government organization.

Staff wrote issue statements to structure workshop discussions. These articulated planners' critique of the impact of "snout houses" on the experience of living in city neighborhoods. Participants were asked to agree/disagree with the following ideas:

- "People live here, not cars." Access to the building should be clearly visible from the street, and the automobile should be accommodated within the building without it taking over the front facade;
- Maintain "the human experience of getting from the sidewalk or parking area to the main pedestrian entry";
- Accommodate the automobile without it taking over the space between the building and the street;
- Design buildings that provide opportunities for people to participate in the life of their neighborhood and that would reinforce community identity and attachment; and
- Preserve trees.

The three interest group representatives and four of the five architects in attendance agreed with the planners' critique and with the ways in which the planners characterized the public realm issues that ought to be addressed. While the business associations were neutral, all seventeen neighborhoods represented expressed their dislike of much of the infill development then occurring and their support for intervention. The only participants who objected to the planners' concepts were the four builders who were there, although they said little beyond registering their opposition. They felt that their point of view would not get a fair hearing at a workshop whose composition was weighted heavily against them (Ross, 2001). Two sparsely attended open houses were held by the Bureau after the workshop; most of the time was spent in a cordial, but futile, attempt to find common ground between planners and builders.

The planners then submitted a draft report to the Planning Commission proposing the following standards:

- a garage must be at least three feet behind the living area of a house (that is, the living area must be placed closer to the street);
- a garage may be only half as wide as the house;
- the main entrance has to face the street; and
- window area must total at least 15% of the front elevation, excluding the garage. (This 15% threshold was already in place in design districts.)

The Planning Commission held a hearing in November 1998. Since it was a legislative proposal, the City took the standard notification steps, which included notifying those who had previously participated, as well as neighborhood and business associations. The draft report had been available for a month prior to the hearing, during which time staff had not heard anything that would require a change in the proposal. The Commission received testimony in support of the proposed zoning code changes from two of the five coalitions of neighborhood associations, nine of the most active neighborhood associations, pedestrian activists, and the Police Bureau. The Chief of Police, who held a Ph.D. in Urban Studies, argued that:

*The Base Zone Design Standards are in accord with the concept of Crime Prevention Through Environmental Design because they encourage resident participation in the public realm of the street through increased surveillance opportunities ... When physical design creates and defines public, semipublic, and private spaces, residents show greater signs of territoriality. That is, they are more willing to care for their own space and to challenge people who are not supposed to be there. This helps to deter criminal activity by creating spaces that are defensible and defended. Crime is lowest in buildings that have the most visibility and the best surveillance based on building orientation and street location.*

(Moose, 1993, 1998)

Neighborhood residents were disappointed that they would not be getting a design review process to insure compatibility but felt that “half a loaf [is] better than none.” Builders, however, opposed any regulation at all. The builder most active in the BZDS deliberations said, “In general, I don’t believe that planners ought to be involved in designing something for the public” (Christ, 1998:B2).

Builders did not acknowledge the problem that the proposed BZDS were developed to fix. They felt that planners did not understand either the construction business or the real estate market. Builders claimed that home buyers wanted the double-car, side-by-side garage, regardless of whether or not a site’s narrow dimensions would push the house farther back. Dual-income households, in particular, the builders felt, wanted two-car garages. If basements were not feasible on a site, then buyers wanted cheap space to house a washer/dryer along with the car. Very importantly, builders argued they would not be able to use many of their existing stock plans and would have to add significantly to the cost of construction to meet the proposed standards (Fish, 2001; Ross, 2001).

Planning Bureau staff and commissioners then worked together in a series of workshops to refine the proposed standards. The Commission’s most significant concern — maintaining scope for creative design while prohibiting, through the zoning code, the most egregious offenses to the public realm — could be addressed, it thought, by making clearly written purpose statements part of the regulations. A thoughtful developer/builder could then apply for an adjustment if the purpose of the regulation could be accomplished in a manner that the code changes had not anticipated. The builders, however, continued to oppose any new regulations. Builder unwillingness to engage with planners in a search for technically viable and politically feasible solutions surprised and disappointed the commissioners. In fact, one builder had constructed a house with a two-car garage that came very close to meeting the 50% standard regarding the width of the garage in relation to the overall width of the front of the house. However, the builder did not propose an amendment to increase the permitted garage width to 55%, a width that he had already achieved. The commissioners might very well have responded favorably to such a proposed amendment. Rather, members of the Homebuilders Association brought a slide show to the Commission that illustrated how they exploited loopholes in the code currently being applied in historic and other special zones. They did encourage the Commission to adopt an incentive-based approach to achieving the purposes of the BZDS, but this alternative approach was left vague; the builders believed that they were not being treated fairly and geared up to resist what they perceived as another twist of the regulatory screw (Abel, 2001; Buono, 2001; Ross, 2001; Michaelson, 2001).

The City Council took up Planning Commission recommendations at the end of June 1999. The commissioners revised the staff proposal somewhat before sending it along, most significantly by allowing a garage to have the same setback from the street as the living area of the house and by allowing a one-car garage to come closer to the street than the front entrance if a porch was incorporated into the design. The Homebuilders’ government affairs director initiated the campaign against the proposal with a blast in *Home Building News* (Ross, 1999). The writer pointed out that in an annual survey of their sentiments, residents indicated they were satisfied with the new developments in their neighborhoods (City of Portland, 1998). *The Oregonian* editorialized against the BZDS, agreeing with the builders about the importance of individual freedom and choice (*The Oregonian*, 1999). The paper’s architectural critic, though, wrote in support, stressing the negative consequences of “snout houses” for community social well-being (Gragg, 1999).

The City Council met in a packed chamber. The hearing lasted four hours and featured 59 sets of testimony. The Homebuilders Association chartered buses to bring members to the evening meeting; approximately 20 builders testified against the BZDS. Coalition for a Livable Future, an organization of about 50 environmental protection, social justice, and affordable housing organizations, including, among others, Audubon Society, The Urban League, Portland Community Design, Oregon Food Bank, 1000 Friends of Oregon, Citizens for Sensible Transit, and the Portland chapter of AIA, turned out supporters, many of whom brought banners, to testify in favor of the regulations. (Banners are extremely rare at City Council hearings.)

The Homebuilders touched on affordability issues but were passionate about their freedom to build what they wanted and what they thought their buyers wanted. Builders threatened to take their construction activity elsewhere if the regulations were adopted. Realtors, arriving late to the public debate, objected to planners engaging in social engineering. The chair of the City's design commission articulated the argument in favor of the BZDS in an opinion piece published in *The Oregonian* on the day of the hearing:

*The standards address the fundamental concepts of good design that will contribute to the positive character of existing neighborhoods ... Portland's history of encouraging good design is based on the concept that new development has a responsibility to be considerate of its neighbors and to contribute positively to the public realm — the street ... Good design is about more than aesthetics. It is about the way neighborhoods function. It's about houses that encourage us to look out the window and see our neighbors' children walking home safely from school. It's about streets that are defined by people, not cars. It's about an inclusive, rather than an isolated, perception of ourselves in the context of the community.*  
(Spencer, 1999:B13)

Culture war erupted during and after the Council meeting; the term “snout house” created an irresistible target for punsters: “Portland City Council may turn up its nose at ‘snout’ houses,” read one headline in *The Oregonian* (Oliver, 1999:A1, 7). An assistant editor of the newspaper wrote a tongue-in-cheek (but not a joking) confession:

*The minute we signed the papers for our new home, I knew my days as a cultural snoot were over. The house is on a cul-de-sac. No one has a front porch. And our house has a snout. Snicker all you want, but you know what? We love it ... I think class is what this argument is about ... We of the ordinary classes can't be trusted to choose our own homes. We are expected to make economic sacrifices so someone else can select for us. (Yes, they admit, the design standards will cost us more, thus maybe keeping the hoi polloi away from better neighborhoods a little longer.) They tell us it's for our own good, that we will be happier in their garage-less infill bungalows and multifamily bunkers on itty-bitty lots with neighbors a loud cough away ...*  
(Price, 1999:E9)

The five-member Portland City Council was divided on the issue. Two members, the mayor and the former Homebuilders' lobbyist — the Planning Bureau was one of the City agencies in his portfolio under Portland's commission form of local government — had previously indicated their support for the BZDS. The three other members were undecided. (Three votes are required to pass new zoning regulations. The mayor has one vote; there is not an executive veto.) Two of the undecided members were clearly disturbed at the level of conflict that had surfaced. They were also concerned that the difficulties associated with building on narrow lots — many infill lots were, indeed, narrow — had not been sufficiently acknowledged in the proposed changes. Finally, they were skeptical about the claimed relationships between the specific public realm design standards being advocated and individual and collective behavior in neighborhoods. In a memo to the mayor and the lead planner on the project, these two council members expressed their skepticism as follows:

*As much as many of us like to believe these proposed standards will make huge differences in community-building and safety, we think that some are overestimating the benefits that these standards will bring. Attributing powerful community healing properties to what are essentially aesthetic standards just doesn't make sense. Many factors have contributed to the presence of violent crime and crime against property in our neighborhoods, just as numerous causes have*



*contributed to the break-up of the family and the alienation people sometimes feel from their neighbors. Design standards are merely one of the pieces and possibly not even a significant one.* (Sten and Saltzman, 1999)

They called on their council colleagues and the planners to explore other ways of achieving the objectives sought, including (1) providing builders with stock plans that met the standards, (2) instituting a faster permitting track for projects that met standards, and (3) providing design assistance.

The third undecided council member was primarily concerned that adopting the proposed BZDS, which, in general, he believed were worthy of support, would lead to an unacceptable increase in the cost of construction, thereby exacerbating the problem of housing affordability. Planners thought that this third member could be persuaded by empirical analysis of the construction cost issue and that responses to the technical issues raised by the other two members could also engender support.

Planning staff worked assiduously to prepare a set of memos that would address, in technical terms, the worries expressed by the three council members. Regarding the amount of infill development that was forecast to occur, planners reported that between 4,000 and 4,700 such units might be built by 2017. These would be units built one or two per block face throughout the city's neighborhoods. This number of units represented a small percentage of the total number of housing units that Portland was committed to accommodate to meet the density goal established for it by Metro, the regional planning agency. The memo cast infill development as inevitable, mandated by the regional agency. The memo also focused attention on the sophisticated computer modeling involved to forecast growth in the city and the region and on the fact that, just recently, planners had completed a compliance report for Metro that assumed a steady rate of infill residential development.

The planners also provided site plans to show that the regulations were "do-able." Alternative garage locations were shown, and a tandem (two-car deep garage) design was discussed. In addition, in 1997 the Oregon state Transportation and Growth Management Program gave a grant to Livable Oregon, a non-profit "smart growth" advocacy organization, to create a catalog of house plans that could fit on smaller lots. The catalog provided complete stock building plans as a resource for builders who would otherwise be put off by the time and expense of altering stock plans designed for wider lots. The planners called attention to this resource, as well as to a series of prototype plans created by Portland Community Design Center, a local non-profit community architecture firm, which could fit on even smaller lots. An architect with one of the city's more influential firms told the Council that he supported the planners' contention that it was indeed possible to meet the design standards. The planners also cited a study carried out by for-profit general contractors, under contract to Portland Community Design Center, that found that meeting the BZDS would not impose a significant cost penalty. This study relied on the pricing of Community Design Center-drawn plans by an independent contractor.

The Homebuilders challenged the planners' assertion that these alternative site and building plans were viable, in large part because many of them did not include an attached 20-22 foot-wide two-car garage. Builders also expressed frustration with what they saw as a lack of data to support the implied connection between building design and safety. The planners could not provide analyses of residential burglaries, for example, that differentiated between those plans that met the proposed standards and "snout houses." Instead, they argued that "snout houses" "do not promote community life or enhance neighborhood safety. Residents are not able to visually survey the activities occurring around their houses, and they are less likely to interact with their neighbors" (Bureau of Planning, 1999:11).

The planners also addressed the issues of incentives, such as fast-tracking and reducing fees, and utilizing the existing Land Use Review process for those builders who felt they either could not or chose not to meet a base zone design standard. The lead planner noted that the Planning Commission had considered alternatives to regulatory intervention but had concluded that, while incentives could be complements, standards had to be implemented. Fast-tracking a plan that met BZDS would be difficult because so many other bureaus were involved in the permitting process. Reducing the permit fee for a plan that met the design standards had serious financial implications for the Office of Plan-

ning and Development, requiring a separate discussion (Hartnett, 1999). Planners wanted, from the beginning, to locate implementation of new standards at the Permit Center, rather than depend on more specialized staff and a more discretionary process. The discretionary process required public notification, preparation of a staff report, and issuance of an administrative decision that could be appealed. The process typically took 6-8 weeks, and the City usually recovered only half of its process-related costs. They argued now that the BZDS were not easily untangled from other standards that affect design, such as those dealing with height and lot coverage, and that generalist planners would be able to accommodate the proposed quantitative design standards into their work. In addition, they pointed out that specialized design staff would be accessible to assist with particularly difficult cases.

Taken together, the arguments advanced by the planners proved persuasive to the council member who had worried about affordability. Once it became clear that the proposed BZDS had majority support, the remaining two council members joined the majority to make it unanimous (Learn, 1999; Oliver, 1999). (See the Appendix for the Standards.) The regulations were scheduled to take effect on September 3, 1999; however, the Homebuilders challenged the BZDS ordinance at the Oregon Land Use Board of Appeals (LUBA), the specialized state agency that hears appeals of local land use legislative actions. The Homebuilders contended that the city had failed to give proper notice of hearing. LUBA dismissed this charge. The builders claimed the regulations violated the takings clause of the U.S. Constitution because they did not advance a legitimate state interest. Connecting residents to the public realm did not constitute, in the eyes of the builders, a legitimate state interest. Moreover, they argued that the BZDS did not advance a legitimate state interest in aesthetics. LUBA denied these charges as well. Finally, the Homebuilders asserted that the design standards violated Oregon's Statewide Planning Goal 10 because they would significantly increase housing costs and discourage the construction of diverse types of housing. LUBA found that the Homebuilders based their assertions on costs associated with modifying existing stock plans, rather than implementing alternative plans that were available to the industry (LUBA, 2000).

## CONCLUSION

In a post-mortem on the BZDS ordinance, the president of the Portland Planning Commission noted that:

*The design standards — although a small set of standards — are the newest ingredients to our recipe for preserving neighborhood character ... The council's recent unanimous approval of the commission's base zone design standards was another step in a long public dialogue that I believe helps balance the consequences of the urban growth boundary and the challenges of growth.*  
(Abel, 1999:B11)

Reframing public discourse to focus on the public realm was an astute political choice made by planners, albeit a risky one. It meant taking a limited, indirect approach to dealing with the issue of compatibility, which had been what galvanized neighborhood activists. However, by deferring architectural style-related regulations, planners were able to maintain the support of designers. The public realm was a sphere within which planners thought they could exercise legal authority to shape builder behavior, as well as deploy legitimate professional expertise to influence the behavior of individuals and groups in neighborhoods. Political support from architects and from Coalition for a Livable Future, both of whom shared planners' ideas about the nature and significance of the public realm and the behavior-shaping capabilities of the BZDS, was crucial. Homebuilders disputed the planners' claim to legitimate expertise, though, as well as their legal and moral authority to regulate the public realm. *The Oregonian* agreed with the Homebuilders, but the arguments made in opposition by these two actors, usual pro-growth voices in local politics, weren't persuasive to Planning Commission and City Council. Members of these two bodies were clearly disturbed by the unwillingness of the builders to acknowledge the concerns expressed by neighborhood and livability activists and to cooperate in a search with planners for common ground.

Abbott concluded his study of institutionalization with a question for Portland: "Whether the successful bureaucrats will be willing and able to participate in another round of democratic debate as the city's needs inevitably change over the next generation" (1991:15-16). Planning Bureau staff clearly were willing and able to do so. The debate was ideologically charged to a greater extent than had earlier been the case. The planners themselves spoke in technical terms, however, while their designer and livability-advocate allies engaged the builders and their media allies in Commission and Council meetings. They never used, for example, the term "snout house" in public. Jones argued that "design review provides a convenient means to insure that hegemonic groups in society are able, within reason and the rule of law, to exercise their will" (2001:33). In Portland at the end of the second millennium, new urbanist ideas about the public realm advocated by built environment professionals and supported by an activist community knowledgeable about and favorably disposed to intervention on design matters, achieved hegemonic status. Builders and others challenged the evidentiary basis for the intervention. Planners offered what evidence they could, recognizing the limits of what they had available. Staff proposed that the standards "be monitored after implementation to provide an opportunity to assess their impacts and correct unintended consequences" (Hartnett, 1999).

Rather than a quirky, radical step, the BZDS are more accurately seen as an experiment, one of several being conducted by the City of Portland, Metro, and the state of Oregon on behalf of the nation, that will permit an evaluation of the possibilities and limits of a primarily regulatory approach to managing growth. Leo points out that the program of the Portland regional growth management regime "requires not just the limited compliance needed to carry out projects but the much more thoroughgoing compliance involved in the imposition of wide-ranging restrictions and obligations" (1998:367). The continued willingness of the private sector to invest in ways and in places consistent with this approach is crucial to the stability of the Portland regime. About the same time that the City adopted the BZDS, a group of property rights activists began efforts to place a takings-related compensation measure on the statewide ballot in 2000. Homebuilders and Realtors supported them, as the measure took aim at a host of land use regulations. Ballot Measure 7 was approved by a majority of voters in November 2000, although it has not been implemented pending a challenge to its constitutionality yet to be decided by the Oregon Supreme Court (Abbott, *et al.*, 2002). The rhetoric and the behavior of the Homebuilders and the Realtors during and after the BZDS episode raises questions: Will the crack that appeared in the political coalition that has supported the experiments thus far widen? Will regime supporters search for alternatives to the dominant approach?

## APPENDIX

Office of Planning and Development Review  
Land Use Review Division  
City of Portland, Oregon

### NEW STANDARDS FOR RESIDENCES & GARAGES Effective September 3, 1999

#### 33.110.230 Main Entrances in R10 through R2.5 Zones

**A. Purpose.** These standards:

- Together with the street-facing facade and garage standards, ensure that there is a physical and visual connection between the living area of the residence and the street;
- Enhance public safety for residents and visitors and provide opportunities for community interaction;
- Ensure that the pedestrian entrance is visible or clearly identifiable from the street by its orientation or articulation;
- Ensure that pedestrians can easily find the main entrance, and so establish how to enter the residence.

**B. Where the standards apply.** The standards of this section apply to houses, attached houses, manufactured homes, and duplexes in the R10 through R2.5 zones. Where a proposal is for an alteration or addition to existing development, the standards of this section apply only to the portion being altered or added. Development on flag lots or on lots that slope up or down from the street with an average slope of 20 percent or more is exempt from these standards. In addition, subdivisions and PUDs that received plan approval between September 9, 1990, and September 9, 1995, are exempt from these standards.

FIGURE 3. Main entrance facing the street.

FIGURE 4. Main entrance opening onto a porch.

**C. Location.** At least one main entrance for each structure must:

1. Be within 8 feet of the longest street-facing wall of the dwelling unit; and
2. Either:
  - a. Face the street. See Figure 3;
  - b. Be at an angle of up to 45 degrees from the street; or
  - c. Open onto a porch. See Figure 4. The porch must:
    - (1) Be at least 25 square feet in area;
    - (2) Have at least one entrance facing the street; and
    - (3) Have a roof that is:
      - No more than 12 feet above the floor of the porch; and
      - At least 30 percent solid. This standard may be met by having 30 percent of the porch area covered with a solid roof, or by having the entire area covered with a trellis or other open material if no more than 70 percent of the area of the material is open.

**33.110.232 Street-Facing Facades in R10 through R2.5 Zones**

**A. Purpose.** This standard:

- Together with the main entrance and garage standards, ensures that there is a visual connection between the living area of the residence and the street;
- Enhances public safety by allowing people to survey their neighborhood from inside their residences; and
- Provides a more pleasant pedestrian environment by preventing large expanses of blank facades along street.

**B. Where this standard applies.** The standard of this section applies to houses, attached houses, manufactured homes, and duplexes in the R10 through the R2.5 zones. Where a proposal is for an alteration or addition to existing development, the standard applies only to the portion being altered or added. Development on flag lots or on lots that slope up or down from the street with an average slope of 20 percent or more is exempt from these standards. In addition, subdivisions and PUDs that received plan approval between September 9, 1990, and September 9, 1995, are exempt from this standard.

**C. The standard.** At least 15 percent of the area of each facade that faces a street lot line must be windows or main entrance doors. Windows in garage doors do not count toward meeting this standard, but windows in garage walls do count toward meeting this standard. To count toward meeting this standard, a door must be at the main entrance and facing a street lot line.

**33.110.250 Accessory Structures**

**E. Special standards for garages.**

4. Length of street-facing garage wall.
  - a. Where this standard applies. The standard of this paragraph applies to garages that are accessory to houses, manufactured homes, and duplexes in the R10 through R2.5 zones. Where a proposal is for an alteration or addition to existing development, the standard applies only to the portion being altered or added. Development on flag lots or on lots that slope up or down from the street with an average slope of 20 percent or more is exempt from these standards. In addition, subdivisions and PUDs that received plan approval between September 9, 1990, and September 9, 1995, are exempt from this standard.

FIGURE 5. Length of street-facing garage wall.

FIGURE 6. Length of street-facing garage wall exception. (This drawing does not meet all of the Base Zone Design Standards. The interior living area above the garage is the longest street-facing wall of the dwelling unit. The garage entrance can be no closer to the street than the longest street-facing wall of the dwelling unit. See Figure 7.)

FIGURE 7. Street lot line setback.

FIGURE 8. Garage front setback exception.

- b. Generally. The length of the garage wall facing the street may be up to 50 percent of the length of the street-facing building facade. See Figure 5. On corner lots, only one street-facing garage wall must meet this standard.
- c. Exception. Where the street-facing facade of the building is less than 24 feet long, the garage wall facing the street may be up to 12 feet long if there is one of the following. See Figure 6.
  - (1) Interior living area above the garage. The living area must be set back no more than 4 feet from the street-facing garage wall; or
  - (2) A covered balcony above the garage that is:
    - At least the same length as the street-facing garage wall;
    - At least 6 feet deep; and
    - Accessible from the interior living area of the dwelling unit.
5. Street lot line setbacks.
  - a. Where this standard applies. The standard of this section applies to houses, attached houses, manufactured

homes, and duplexes in the R10 through the R2.5 zones. Where a proposal is for an alteration or addition to existing development, the standard applies only to the portion being altered or added. Development on flag lots or on lots that slope up or down from the street with an average slope of 20 percent or more is exempt from these standards. In addition, subdivisions and PUDs that received plan approval between September 9, 1990, and September 9, 1995, are exempt from this standard.

- b. Generally. A garage wall that faces a street may be no closer to the street lot line than the longest street-facing wall of the dwelling unit. See Figure 7.
- c. Exception. A street-facing garage wall may be up to 6 feet in front of the longest street-facing wall of the dwelling unit, if:
  - (1) The street-facing garage wall is 40 percent or less of the length of the building facade; and
  - (2) There is a porch at the main entrance. The garage wall may not be closer to the street lot line than the front of the porch. See Figure 8. The porch must meet the following:
    - The porch must be at least 48 square feet in area and have minimum dimensions of 6 feet by 6 feet;
    - The porch must have a solid roof; and
    - The roof may not be more than 12 feet above the floor of the porch.

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