

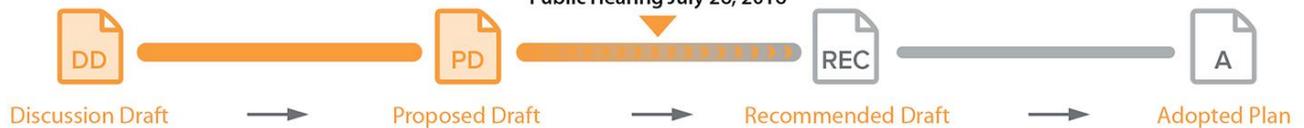
# Miscellaneous Zoning Amendments

EARLY IMPLEMENTATION OF THE 2035 COMPREHENSIVE PLAN

PROPOSED DRAFT - JUNE 2016



Planning and Sustainability Commission  
Public Hearing July 26, 2016



June 2016  
[www.portlandoregon.gov/bps](http://www.portlandoregon.gov/bps)



Bureau of Planning and Sustainability  
Innovation. Collaboration. Practical Solutions.

City of Portland, Oregon  
Charlie Hales, Mayor - Susan Anderson, Director



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## ***Miscellaneous Zoning Project***

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The Bureau of Planning and Sustainability is committed to providing equal access to information and hearings. If you need special accommodation, please call 503-823-7700, the City's TTY at 503-823-6868, or the Oregon Relay Service at 1-800-735-2900.

### **How can I provide feedback to decision-makers?**

**You may testify about proposed changes to the Planning and Sustainability Commission (PSC) in the following ways:**

**Testify in person at the PSC public hearing.**

You may speak for 2 minutes to the Commission, and your testimony will be added to the public record.

**PSC Miscellaneous Zoning Project Public Hearing**

Tuesday, July 26, 2016 at 4PM

Portland Building, Room C, 1120 SW 5<sup>th</sup> Ave., Portland, OR

To confirm the time and date, check the PSC calendar at

[www.portlandoregon.gov/bps/35452](http://www.portlandoregon.gov/bps/35452)

**Testify in writing between now and July 26th, 2016.**

Written testimony must be received by 4 pm on July 26, 2016. Please provide your full name and mailing address.

- Email: [psc@portlandoregon.gov](mailto:psc@portlandoregon.gov) with subject line "PSC MISC. Zoning Update Testimony"
- U.S. Mail: Portland Planning and Sustainability Commission, MISC. Zoning Update Testimony, 1900 SW 4th Ave., Suite 7100, Portland OR 97201
- Map App: [www.portlandmaps.com/bps/mapapp](http://www.portlandmaps.com/bps/mapapp), click on the "comments" form and provide your testimony

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A digital copy of this report and additional project background information can be found at

[www.portlandoregon.gov/bps/70647](http://www.portlandoregon.gov/bps/70647)

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## Acknowledgments

This report was written by staff from the City of Portland Bureau of Planning and Sustainability with input from the Portland Bureaus of Transportation, Development Services and Parks and Recreation.

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# 1. Introduction and overview

## What is the Miscellaneous Zoning Project?

The Miscellaneous Zoning Project (MZP) is one of the Task 5 Implementation projects of the 2035 Comprehensive Plan Update. It includes a package of eight amendments to the zoning code and zoning map that implement new goals and policies of the 2035 Comprehensive Plan. This project does not have one overall theme like other Task 5 packages such as the Employment Zoning Project or the Mixed-Use Zoning Project. Rather, it includes a variety of amendments that are necessary to resolve an apparent conflict between the 2035 Comprehensive Plan policies and existing code or otherwise implement Council direction. The following is a summary list of the zoning code and zoning map amendments proposed as part of this project:

### Proposed zoning code and zoning map amendments:

1. Allow retail plant nurseries as a conditional use in residential zones.
2. Preserve rights to one house on lots that were buildable prior to down-zoning as part of the City's natural hazard mitigation strategy.
3. Amend the multi-dwelling residential zone maximum FAR map series to reflect changes made by City Council to designations on the 2035 Comprehensive Plan Map and subsequent zoning map scheduled for PSC Review on July 12, 2016.
4. Allow established office uses in historic buildings to continue in the R5 zone as an incentive to preserve historic resources.
5. Amend the Guild's Lake Industrial Sanctuary plan district to limit office uses and expand the area where these limits apply.
6. Address school district enrollment capacity during zoning map amendments, land divisions, and planned developments in a district that has a school facility plan.
7. Delete requirement for addressing "no-net-loss of housing" policies for quasi-judicial comprehensive plan map amendments and zoning map changes.
8. Update the trail alignments designation on the zoning map to correspond to the Major Public Trail alignment adopted in the 2035 Comprehensive Plan.

## What is in this report?

This report consists of four parts. Section 1 introduces the project. Section 2 describes the general policy directions leading to the proposed code and map changes, including the relationship between specific code or map amendments and Comprehensive Plan policies, as well as public involvement activities related to the proposed amendments. Section 3 includes the proposed zoning code amendments, along with code commentary pages that describe and help clarify rationale for the proposed changes and expected implementation actions. Section 4 describes proposed zoning map changes including Appendix A that shows the proposed trail alignment that will be applied on the zoning map. The zoning map amendment proposal can also be found in the [online map app](#).

## 2. Relationship to Comprehensive Plan

### Early implementation project of the Comprehensive Plan

The Miscellaneous Zoning Project is one of the early implementation projects of the Comprehensive Plan Update. It includes a number of specific code and map changes that implement, conform to, or otherwise support 2035 Comprehensive Plan policies that are not included in one of the designated Task 5 zoning code amendment projects previously considered by the Planning and Sustainability Commission.

### Guiding principles of the Comprehensive Plan

The Comprehensive Plan establishes five Guiding Principles, which encourage balanced, integrated multi-disciplinary approaches in plans and investments that implement the Plan.

#### Economic prosperity

*Guiding Principle: Support a low-carbon economy and foster employment growth, quality education and training, competitiveness, and equitably-distributed household prosperity.*

#### Human health

*Guiding Principle: Avoid or minimize negative health impacts and improve opportunities for Portlanders to lead healthy, active lives.*

#### Environmental health

*Guiding Principle: Weave nature into the city and foster a healthy environment that sustains people, neighborhoods, and wildlife. Recognize the intrinsic value of nature and sustain the ecosystem services of Portland's air, water and land.*

#### Equity

*Guiding Principle: Promote equity and environmental justice by reducing disparities, minimizing burdens, extending community benefits, increasing the amount of affordable housing, affirmatively furthering fair housing, proactively fighting displacement, and improving socio-economic opportunities for under-served and under-represented populations. Intentionally engage under-served and under-represented populations in decisions that affect them. Specifically recognize, address and prevent repetition of the injustices suffered by communities of color throughout Portland's history.*

#### Resilience

*Guiding Principle: Reduce risk and improve the ability of individuals, communities, economic systems, and the natural and built environments to withstand, recover from, and adapt to changes from natural hazards, human-made disasters, climate change, and economic shifts.*

The amendments in the Miscellaneous Zoning Project are generally consistent with the Guiding Principles in that they either directly promote a specific principle (or principles) or they contribute to a larger code amendment project that supports the Guiding Principles. More specifically, the proposed amendments support the following Comprehensive Plan goals and policies.

## Goals and policies specifically implemented in this project

### 1) Allow retail plant nurseries as a conditional use in residential zones

The proposed code language allowing retail plant nurseries in residential zones as conditional uses supports Economic Development Goals and Policies directed at promoting and retaining local, neighborhood serving businesses. Specific goals and policies supported by the proposed code amendment include:

#### **Goal 6.A: Prosperity**

Portland has vigorous economic growth and a healthy, diverse economy that supports prosperity and equitable access to employment opportunities for an increasingly diverse population. A strong economy that is keeping up with population growth and attracting resources and talent can:

- Create opportunity for people to achieve their full potential.
- Improve public health.
- Support a healthy environment.
- Support the fiscal well-being of the city.

#### **Goal 6.B: Development**

Portland supports an attractive environment for industrial, commercial, and institutional job growth and development by 1) maintaining an adequate land supply; 2) a local development review system that is nimble, predictable, and fair; and 3) high-quality public facilities and services.

**Policy 6.62 Neighborhood business districts.** Provide for the growth, economic equity, and vitality of neighborhood business districts. *See Figure 6-3 – Neighborhood Business Districts.*

**Policy 6.64 Small, independent businesses.** Facilitate the retention and growth of small and locally-owned businesses.

### 2) Preserve right to one dwelling on lots that were buildable prior to the adoption of the 2035 Comprehensive Plan (with restrictions)

This proposed code amendment is intended to address property owner hardship that may be created through residential downzoning (R10 to R20) intended to address natural hazards that were proposed as part of the Residential Mapping Project. To this extent the proposed text amendment primarily supports the following Environmental Goal and Policies:

#### **Goal 7.B: Healthy watersheds and environment**

Ecosystem services and ecosystem functions are maintained and watershed conditions have improved over time, supporting public health and safety, environmental quality, fish and wildlife, cultural values, economic prosperity, and the intrinsic value of nature.

- Policy 7.6 Hydrology.** Through plans and investments, improve or support efforts to improve watershed hydrology to achieve more natural flow and enhance conveyance and storage capacity in rivers, streams, floodplains, wetlands, and aquifers. Minimize impacts from development and associated impervious surfaces, especially in areas with poorly-infiltrating soils and limited public stormwater discharge points, and encourage restoration of degraded hydrologic functions.
- Policy 7.14 Natural hazards.** Prevent development-related degradation of natural systems and associated increases in landslide, wildfire, flooding, and earthquake risks.

**3) Amend the Multi-dwelling residential zone map series to conform with Comprehensive Plan Map Series and Zone Map Changes**

A number of Comprehensive Plan Map changes were approved by City Council in their adoption of the 2035 Comp Plan Policy Document and Map (6/15/16). In some instances the Comp Plan Map change dictates a corresponding change of zoning. Some of those subsequent zone changes will revise the location of RH High Density Residential zones which in turn requires that the Zoning Code Map series 120-1 through 120-20 pertaining to Maximum FAR in RH Zones be revised to reflect Council direction. Towards this end, changes to the Zoning Code Chapter 120 Map Series are supportive of the following Comprehensive Plan Goal and Policies:

**Goal 1.D: Implementation tools**

Portland’s Comprehensive Plan is executed through a variety of implementation tools, both regulatory and non-regulatory. Implementation tools comply with the Comprehensive Plan and are carried out in a coordinated and efficient manner. They protect the public’s current and future interests and balance the need for providing certainty for future development with the need for flexibility and the opportunity to promote innovation.

- Policy 1.3 Implementation tools subject to the Comprehensive Plan. Maintain** Comprehensive Plan implementation tools that are derived from, and comply with, the Comprehensive Plan. *Implementation tools include those identified in policies 1.4 through 1.9.*
- Policy 1.4 Zoning Code.** Maintain a Zoning Code that establishes the regulations that apply to various zones, districts, uses, and development types.
- Policy 1.5 Zoning Map.** Maintain a Zoning Map that identifies the boundaries of various zones, districts, and other special features.

**4) Allow established office uses in historic buildings in the R5 Zone to continue as a historic preservation incentive**

This proposed code change is targeted at preserving existing historic single family residential structures that have been used as offices to continue as an allowed use with a Historic Preservation Incentive Review. As such these code amendments are supportive of the following Design Development Goal and Policies:

**Goal 4.B: Historic and cultural resources**

Historic and cultural resources are identified, protected, and rehabilitated as integral parts of an urban environment that continues to evolve.

**Policy 4.46**      **Historic and cultural resource protection.** Within statutory, requirements for owner consent, identify, protect and encourage the use and rehabilitation of historic buildings, places, and districts that contribute to the distinctive character and history of Portland’s evolving urban environment.

**Policy 4.50**      **Demolition.** Protect historic resources from demolition. When demolition is necessary or appropriate, provide opportunities for public comment and encourage pursuit of alternatives to demolition or other actions that mitigate for the loss.

**5) Amend Guild’s Lake Industrial Sanctuary Plan District to limit office uses and expand the area where these limits apply**

The code changes presented here are geographically targeted to the Guild’s Lake Industrial Sanctuary Plan District. The proposed changes expand the area where both Floor Area Ratio limits for office uses and traffic mitigation strategies apply. These changes support Comprehensive Plan Industrial and Employment District policies including:

**Policy 6.36**      **Industrial land.** Provide industrial land that encourages industrial business retention, growth, and traded sector competitiveness as a West Coast trade and freight hub, a regional center of diverse manufacturing, and a widely-accessible base of family-wage jobs, particularly for under-served and under-represented people.

**Policy 6.37**      **Industrial sanctuaries.** Protect industrial land as industrial sanctuaries identified on the Comprehensive Plan Map primarily for manufacturing and distribution uses and to encourage the growth of industrial activities in the city.

**Policy 9.31**      **Economic development and industrial lands.** Ensure that the transportation system supports traded sector economic development plans and full utilization of prime industrial land, including brownfield redevelopment.

**6) Address David Douglas School District capacity shortfalls as part of land divisions, planned developments, Comprehensive Plan map amendments and zoning map change applications**

These proposed text amendments directly implement the following Public Facilities policy:

**Policy 8.113 School district capacity.** Consider the overall enrollment capacity of a school district – as defined in an adopted school facility plan that meets the requirements of Oregon Revised Statute 195 – as a factor in land use decisions that increase capacity for residential development.

This amendment is part of a broader response to David Douglas School District capacity shortfalls that includes; down zoning of residentially zoned properties within the DDSD boundary, assistance in locating elementary school sites and expressed interest in shared school facilities with Portland Parks.

**7) Delete the code requirements for addressing no net loss of housing policies not included in the 2035 Comprehensive Plan**

In this instance the proposed zoning code changes are not a response to *new* goals and policies but rather the elimination of an existing Comprehensive Plan policy and it's supporting objectives (shown below)

**4.2 Maintain Housing Potential**

Retain housing potential by requiring no net loss of land reserved for, or committed to, residential, or mixed-use. When considering requests for amendments to the Comprehensive Plan map, require that any loss of potential housing units be replaced.

**Objectives:**

**A.** Allow the replacement of housing potential to be accomplished by such means as: 1) rezoning (and redesignating) existing commercial, employment, or industrial land to residential; 2) rezoning (and redesignating) lower density residential land to higher density residential land; and 3) rezoning to the CM zone; or 4) building residential units on the site or in a commercial or employment zone if there is a long term guarantee that housing will remain on the site.

**B.** Allow for the mitigation of the loss of potential housing units with a housing pool credit system.

Changes have been made to applicable State Statutes and Rules since the adoption of the existing Comprehensive Plan that now allow the City to consider housing potential in its commercial and mixed use zones towards meeting its regional housing share obligations. This together with documentation that the city's historic housing construction rates are exceeding its regional housing share allow the City to remove this policy and related objectives from its updated Comprehensive Plan. Zoning code changes presented in this report remove the outdated implementing text from the Zoning code.

The 2035 Comprehensive Plan continues to address housing issues, especially housing affordability, most notably in Chapter 5 Housing.

**8. Update the Major Public Trail stars on the zoning map to correspond to the trail alignment adopted in the 2035 Comprehensive Plan.**

New Major Public Trail alignments have been identified in the 2035 Comprehensive Plan (see figure 8-2 page 65) necessitating the need to amend the zoning map designation that corresponds to these trail alignments. These changes directly implement the following 2035 Comprehensive Plan Goal and Policies.

**Goal 8.H: Parks, natural areas, and recreation**

All Portlanders have safe, convenient, and equitable access to high-quality parks, natural areas, trails, and recreational opportunities in their daily lives, which contribute to their health and well-being. The City manages its natural areas and urban forest to protect unique urban habitats and offer Portlanders an opportunity to connect with nature.

**Policy 8.53**      **Public trails.** Establish, improve, and maintain a citywide system of public trails that provide transportation and/or recreation options and are a component of larger network of facilities for bicyclists, pedestrians, and recreational users.

**Policy 8.54**      **Trail system connectivity.** Plan, improve, and maintain the citywide trail system so that it connects and improves access to Portland’s neighborhoods, commercial areas, employment centers, schools, parks, natural areas, recreational facilities, regional destinations, the regional trail the regional trail system, and other key places that Portlanders access in their daily lives.

**Policy 8.57**      **Public access requirements.** Require public access and improvement of public trails along the future public trail alignments shown in Figure 8-2 Future Public Trail Alignments.

**Policy 8.96**      **Recreational trails.** Establish, improve, and maintain a complete and connected system of public recreational trails, consistent with Portland Parks & Recreation’s trail strategy.

# 3. Public and stakeholder involvement

The zoning code and zoning map amendments described in this report pertain to a variety of subject areas connected in their shared attribute of amending the zoning code or map so that they support and comply with the 2035 Comprehensive Plan. These policies were developed through an extensive public outreach effort over a number of years.

## Portland Plan

The result of more than two years of research, dozens of public workshops and fairs, hundreds of meetings with individual community groups and over 20,000 comments from residents, businesses and nonprofit community organizations, the Portland Plan’s three integrated strategies and framework for advancing equity were designed to help realize the vision of prosperous, educated, healthy and equitable city.

## Comprehensive Plan Update

In July of 2015 the Portland Planning and Sustainability Commission (PSC) Recommended a New Comprehensive Plan to City Council. This is the most significant update of the Comprehensive Plan since the original plan was adopted in 1980. The PSC made its recommendation after considering a 2014 staff proposal as well as more than 4,000 public comments over the course of a year. The original staff recommendation was based on an earlier 2013 working draft, produced in collaboration with eight advisory committees in 2012 and 2013.

After receiving the PSC recommendation, City Council held five public hearings. City Council members received more than 2,500 comments via email, letters, verbal testimony and an online Map App. In February 2016, Council members each submitted potential amendments in response to public comment and an additional series of public meetings were held to craft final Comprehensive Plan policy language. On June 15, 2016 City Council voted to adopt the 2035 Comprehensive Plan.

## Periodic Review and Task 5 Comp Plan Implementation Projects

The projects listed below began in early 2014 and will become effective with State acknowledgement of Portland's 2035 Comprehensive Plan anticipated in 2018. These projects are necessary to either address a state mandate or implement a key component of the new Plan. Each of these Task 5 Implementation projects undertook its own specific public outreach efforts and appeared in front of the Planning and Sustainability Commission following public notice. Following public hearings the Planning and Sustainability Commission forwarded recommended changes to the City Council for their consideration and action. The City Council is tentatively scheduled to hold public hearings and render decisions on these PSC recommendations in the fall of 2016.

- Mixed Use Zones Project
- Residential and Open Space Zoning Map Update
- Community Involvement Program
- Campus Institutional Zoning Project
- Employment Zoning Project
- Transportation System Plan (TSP)

## **Miscellaneous Zoning Amendments**

The eight areas of code and map amendments included in this package (see pg.4) were identified during the course of the 2035 Comprehensive Plan process and selected because they address conflicts between the updated Comprehensive Plan and the existing Zoning Code or Map that are not otherwise addressed through the Task 5 projects listed above.

These proposed text and map changes were presented initially as an in-house draft to other city bureaus including the Bureau of Development Services, the Bureau of Parks and Recreation, and the Bureau of Environmental Services. Following review and comment from these agencies the proposed code amendment package was published as a Discussion Draft and presented on the Bureau's Website including an interactive "Map App" that graphically presents the proposed major public trail alignments.

Targeted outreach efforts were undertaken in conjunction with this publication to reach those groups identified as most effected by the proposed amendments. For example, changes to specific geographic locations such as the Guilds Lake Plan District prompted specific notification to the applicable neighborhood and business associations. Broader amendments to the code, such as the inclusion of school districts as "service providers" for the purpose of development review or deletion of the "No Net Loss" policies include notification to the BPS legislative and periodic review notification lists. Letters were also sent to individual property owners whose property was identified: for a new public trail alignment segment

BPS has maintained a project website throughout the duration of this project including draft copies of the report and an interactive "Map App" that portrays the major public trails alignment. Measure 56 and legislative notice(s) will be sent according to applicable rules prior to the Planning and Sustainability Commission's Public Hearing on these proposed amendments that is tentatively scheduled for July 26<sup>th</sup>.

## 4. Proposed Zoning Code Text Amendments with Commentary

Proposed text changes to the Zoning Code are presented on the following pages. New text is displayed in an underlined format while existing text proposed for deletion is portrayed in a ~~strike-through format~~

*Code commentary is provided on facing pages that describes and helps clarify the rationale for the proposed changes and expected implementation actions.*

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## Commentary

### **33.110.100 Primary Uses**

This amendment will allow retail nurseries, such as Portland Nursery, to be allowed as a conditional use in single-dwelling residential zones. Currently, retail nurseries are prohibited in residential zones, and the nurseries that are operating in residential zones are nonconforming uses. Existing regulations for expanding a nonconforming use are quite strict—an expansion can be allowed only if it will not have a net increase in overall detrimental impacts on the surrounding neighborhood. One of the factors that must be considered in the assessment of detrimental impacts is “the amount, location, and nature of any outside displays, storage or activities” (33.258.080.B.1). Retail nurseries almost always have outside displays, storage and activities, and it can be very difficult to establish that an expansion of the outdoor uses will not have any increase in detrimental impacts.

Prior to 1991, retail nurseries were a conditional use in residential zones. With the adoption of the 1991 code nurseries were eliminated from the list of conditional uses leaving existing nurseries as nonconforming uses. With the 2035 Comprehensive Plan, the City is making an effort to preserve neighborhood serving businesses that are nonconforming while also ensuring that the impacts from the use are limited (Policy 6.67). As a conditional use, existing retail nurseries will have more flexibility, through a conditional uses land use review with notification to neighbors, to expand operations in a manner that is compatible with the surrounding area. The additional flexibility will make it possible for these neighborhood serving businesses to stay and grow on their current sites. This amendment will also allow additional retail nurseries to be established in single-dwelling residential zones. The approval criteria in 33.815.105, Institutional and Other Uses in Residential Zones will apply to this type of conditional use review.

## 33.110 Single-Dwelling Zones

# 110

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### Use Regulations

#### 33.110.100 Primary Uses

- A. Allowed uses.** Uses allowed in the single-dwelling zones are listed in Table 110-1 with a "Y". These uses are allowed if they comply with the development standards and other regulations of this Title. Being listed as an allowed use does not mean that a proposed use will be granted an adjustment or other exception to the regulations of this Title. In addition, a use or development listed in the 200s series of chapters is also subject to the regulations of those chapters.
- B. Limited uses.** Uses allowed that are subject to limitations are listed in Table 110-1 with an "L". These uses are allowed if they comply with the limitations listed below and the development standards and other regulations of this Title. In addition, a use or development listed in the 200s series of chapters is also subject to the regulations of those chapters. The paragraphs listed below contain the limitations and correspond with the footnote numbers from Table 110-1.
1. – 9. [No change]
  10. Retail Sales And Service. This regulation applies to all parts of Table 110-1 that have note [10]. Retail plant nurseries are a conditional use.

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## Commentary

Note addition of footnote L[10] to Retail Sales and Service allowing for Retail plant nurseries as conditional uses in the listed Single Dwelling Zones.

**Table 110-1  
Single-Dwelling Zone Primary Uses**

Use Categories	RF	R20	R10	R7	R5	R2.5
<b>Residential Categories</b>						
Household Living	Y	Y	Y	Y	Y	Y
Group Living	CU	CU	CU	CU	CU	CU
<b>Commercial Categories</b>						
Retail Sales And Service	<del>N</del> [10]					
Office	N	N	N	N	N	N
Quick Vehicle Servicing	N	N	N	N	N	N
Vehicle Repair	N	N	N	N	N	N
Commercial Parking	N	N	N	N	N	N
Self-Service Storage	N	N	N	N	N	N
Commercial Outdoor Recreation	N	N	N	N	N	N
Major Event Entertainment	N	N	N	N	N	N
<b>Industrial Categories</b>						
Manufacturing And Production	CU [6]	N	N	N	N	N
Warehouse And Freight Movement	N	N	N	N	N	N
Wholesale Sales	N	N	N	N	N	N
Industrial Service	N	N	N	N	N	N
Railroad Yards	N	N	N	N	N	N
Waste-Related	N	N	N	N	N	N
<b>Institutional Categories</b>						
Basic Utilities	L/CU [5]					
Community Service	CU [1]					
Parks And Open Areas	L/CU [2]					
Schools	CU	CU	CU	CU	CU	CU
Colleges	CU	CU	CU	CU	CU	CU
Medical Centers	CU	CU	CU	CU	CU	CU
Religious Institutions	CU	CU	CU	CU	CU	CU
Daycare	L/CU [3]					
<b>Other Categories</b>						
Agriculture	L [7]	L [7]	L/CU [8]	L/CU [8]	L [9]	L [9]
Aviation And Surface Passenger Terminals	CU	N	N	N	N	N
Detention Facilities	N	N	N	N	N	N
Mining	CU	N	N	N	N	N
Radio Frequency Transmission Facilities	L/CU [4]					
Railroad Lines And Utility Corridors	CU	CU	CU	CU	CU	CU

Y = Yes, Allowed

L = Allowed, But Special Limitations

CU = Conditional Use Review Required

N = No, Prohibited

Notes:

- The use categories are described in Chapter 33.920.
- Regulations that correspond to the bracketed numbers [ ] are stated in 33.110.100.B.
- Specific uses and developments may also be subject to regulations in the 200s series of chapters.

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## Commentary

### **33.110.212 When Primary Structures are Allowed**

As a result of the 2035 Comprehensive Plan down designations for areas prone to natural hazards, legally established lots may be deemed unbuildable due to the increase in minimum lot size established by the down-designation from R10 to R20. In order to address property owner hardship that may be created through this residential downzoning, this zoning code change creates an opportunity for these properties to be developed with one single family dwelling.

Properties subject to downzoning actions intended to address issues of service adequacy or neighborhood compatibility are not eligible for similar mitigation. Claims of reduced property value in these circumstances can be submitted according to procedures and criteria establish by Oregon Measure 47/49 and subsequent implementing state statutes and rules.

**33.110.212 When Primary Structures are Allowed**

- A. Purpose.** The regulations of this section allow for development of primary structures on lots and lots of record, but do not legitimize plots that were divided after subdivision and partitioning regulations were established. The regulations also allow development of primary structures on lots that were large enough in the past, but were reduced by condemnation or required dedications for right-of-way.
- B. Adjustments.** Adjustments to this section are prohibited.
- C. Primary structures allowed.** In all areas outside the West Portland Park Subdivision, primary structures are allowed as follows:
1. On lots created on or after July 26, 1979;
  2. On lots created through the Planned Development or Planned Unit Development process;
  3. On lots, lots of record, lot remnants, or combinations thereof that have not abutted a lot, lot of record, or lot remnant under the same ownership on July 26, 1979 or any time since that date.
  4. On lots, lots of record, lot remnants, or combinations thereof created before July 26, 1979 that meet the requirements of Table 110-6.
  5. Primary structures are allowed on lots, lots of record, lot remnants, and combinations thereof that did meet the requirements of Table 110-6 in the past but were reduced below those requirements solely because of condemnation or required dedication by a public agency for right-of-way.
  6. On lots, lots of record, lot remnants, and combinations thereof zoned R20 that met the requirements of Table 110-6 in the past but no longer meet the requirements solely due to a zone change effective on [insert effective date of CP].
- D. Regulations for West Portland Park.** [No change]
- E. Plots.** [No change]
- F. Nonconforming situations.** [No change]

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## Commentary

### **33.120.100 Primary Uses**

This amendment will allow retail nurseries, such as Portland Nursery, to be allowed as a conditional use in the R3, R2 and R1 zones. Commercial uses are already allowed through a conditional use review in the RH and RX zones. Currently, retail nurseries are prohibited in the R3, R2, and R1 zones, and the nurseries that are operating in these zones are nonconforming uses. The regulations for expanding a nonconforming use are quite strict—an expansion can be allowed only if it will not have a net increase in overall detrimental impacts on the surrounding neighborhood. One of the factors that must be considered in the assessment of detrimental impacts is “the amount, location, and nature of any outside displays, storage or activities” (33.258.080.B.1). Retail nurseries almost always have outside displays, storage and activities, and it can be very difficult to establish that an expansion of the outdoor uses will not have any increase in detrimental impacts.

Prior to 1991, retail nurseries were a conditional use in residential zones. The adoption of the 1991 code made them nonconforming uses. With the 2035 Comprehensive Plan, the City is making an effort to preserve neighborhood serving businesses that are nonconforming while also ensuring that the impacts from the use are limited (Policy 6.67). As a conditional use, existing retail nurseries will have the ability, through a land use review with notification to neighbors, to expand operations in a manner that is compatible with the surrounding area. The additional flexibility will make it possible for these neighborhood serving businesses to stay and grow on their current sites. This amendment will also allow additional retail nurseries in multi-dwelling residential zones. The approval criteria in 33.815.105, Institutional and Other Uses in Residential Zones are the criteria that will apply to this type of conditional use review.

This conceptual zoning code change was recommended by the Planning & Sustainability Commission in July 2015.

## 33.120 Multi-Dwelling Zones

# 120

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### Use Regulations

#### 33.120.100 Primary Uses

- A. Allowed uses.** Uses allowed in the multi-dwelling zones are listed in Table 120-1 with a “Y”. These uses are allowed if they comply with the development standards and other regulations of this Title. Being listed as an allowed use does not mean that a proposed use will be granted an adjustment or other exception to the regulations of this Title. In addition, a use or development listed in the 200s series of chapters is also subject to the regulations of those chapters.
- B. Limited uses.** Uses allowed in these zones subject to limitations are listed in Table 120-1 with an “L”. These uses are allowed if they comply with the limitations listed below and the development standards and other regulations of this Title. In addition, a use or development listed in the 200s series of chapters is also subject to the regulations of those chapters. The paragraphs listed below contain the limitations and correspond with the footnote numbers from Table 120-1.
1. – 14. [No change]
  15. Retail Sales And Service. This regulation applies to all parts of Table 120-1 that have note [15]. Retail plant nurseries are a conditional use.

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## Commentary

Note addition of footnote L[15] to Retail Sales and Service allowing for Retail plant nurseries as conditional uses in the listed Multi-Dwelling Zones.

**Table 120-1  
Multi-Dwelling Zone Primary Uses**

Use Categories	R3	R2	R1	RH	RX	IR
<b>Residential Categories</b>						
Household Living	Y	Y	Y	Y	Y	Y
Group Living	L/CU [1]	Y [1]				
<b>Commercial Categories</b>						
Retail Sales And Service	N [15]	N [15]	N [15]	CU[2]	L/CU [3]	L/CU [10]
Office	N	N	N	CU[2]	L/CU [3]	L/CU [10]
Quick Vehicle Servicing	N	N	N	N	N	N
Vehicle Repair	N	N	N	N	N	N
Commercial Parking	N	N	N	N	CU [4]	N
Self-Service Storage	N	N	N	N	N	N
Commercial Outdoor Recreation	N	N	N	N	N	N
Major Event Entertainment	N	N	N	N	N	CU
<b>Industrial Categories</b>						
Manufacturing And Production	N	N	N	N	N	CU
Warehouse And Freight Movement	N	N	N	N	N	N
Wholesale Sales	N	N	N	N	N	N
Industrial Service	N	N	N	N	N	CU
Railroad Yards	N	N	N	N	N	N
Waste-Related	N	N	N	N	N	N
<b>Institutional Categories</b>						
Basic Utilities	L/CU [13]	L/CU [13]	L/CU [13]	L/CU [13]	L/CU[13]	L/CU [13]
Community Service	CU [6]	CU [6]	CU [6]	L/CU [6]	L/CU [5, 6]	CU [6]
Parks And Open Areas	L/CU [7]	L/CU [7]	L/CU [7]	Y	Y	Y
Schools	CU	CU	CU	CU	L/CU [5]	L/CU [11]
Colleges	CU	CU	CU	CU	CU	L/CU [11]
Medical Centers	CU	CU	CU	CU	CU	L/CU [11]
Religious Institutions	CU	CU	CU	CU	CU	CU
Daycare	L/CU [8]	L/CU [8]	L/CU [8]	L/CU [8]	Y	L/CU [12]
<b>Other Categories</b>						
Agriculture	L [14]	L [14]				
Aviation And Surface Passenger Terminals	N	N	N	N	N	N
Detention Facilities	N	N	N	N	N	N
Mining	N	N	N	N	N	N
Radio Frequency Transmission Facilities	L/CU [9]	L/CU [9]				
Rail Lines And Utility Corridors	CU	CU	CU	CU	CU	CU

Y = Yes, Allowed

L = Allowed, But Special Limitations

CU = Conditional Use Review Required

N = No, Prohibited

Notes:

- The use categories are described in Chapter 33.920.
- Regulations that correspond to the bracketed numbers [ ] are stated in 33.120.100.B.
- Specific uses and developments may also be subject to regulations in the 200s series of chapters.

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## Commentary

### **Map Series 120-1 through 120-20 RH Areas with Maximum FAR of 4:1**

City Council has adopted a number of changes to the *Comprehensive Plan Map* pertaining to where the *High Density Multi-Dwelling Residential* land use designation is assigned. Subsequent, implementing changes to the zoning map have followed as components of the *Composite Zoning Proposal*. In a limited number of situations these base zone changes require corresponding revisions to the RH zone FAR Map series 120-1 through 120-20.

These changes are presented on the following pages where:

- existing maps 120-1 through 120-20 are deleted in their entirety (pgs. 25-63), to be replaced by;
- a revised and amended map series 120-1-through 120-17 (pgs. 64-97).

More specific commentary is provided for individual map changes on facing pages.

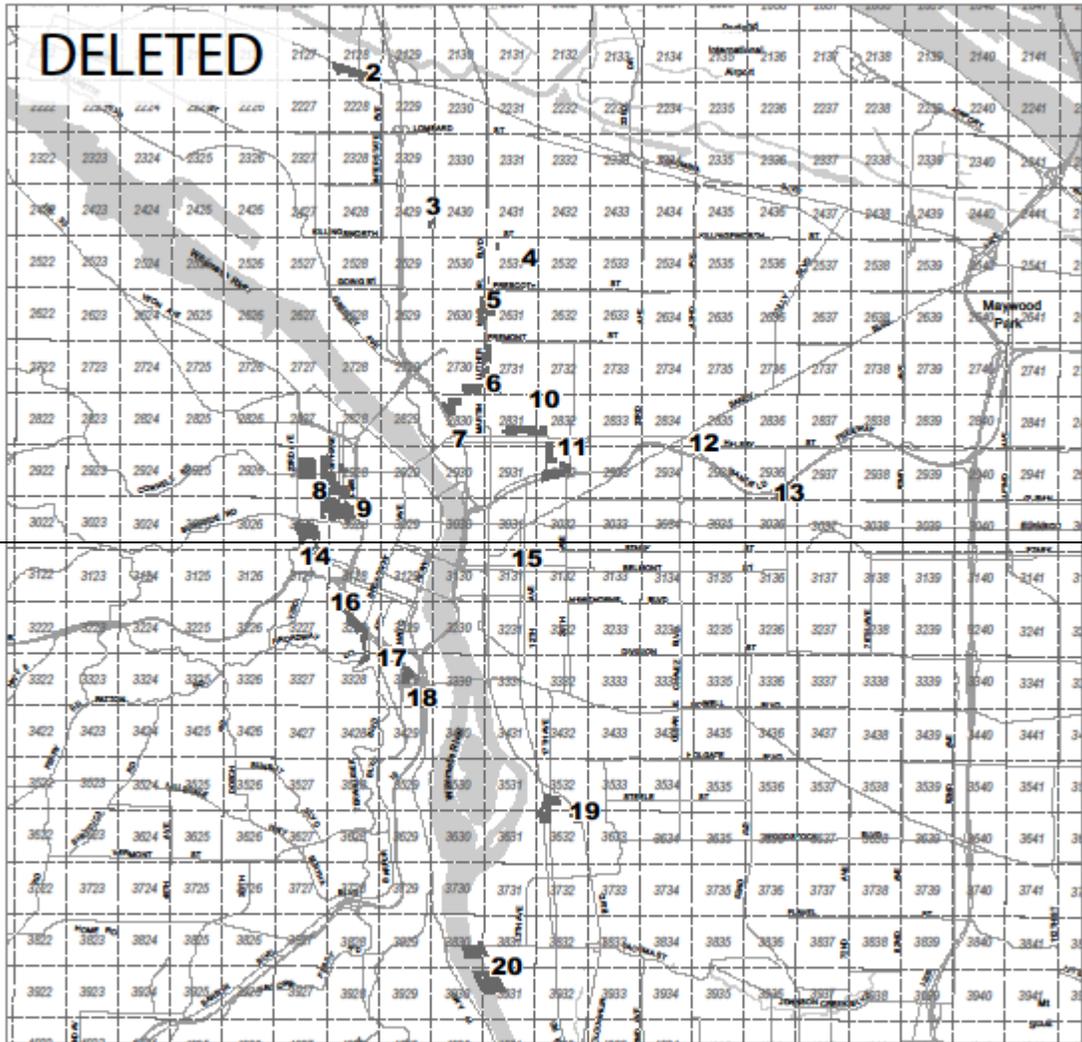
Note that specific measure 56 notification was sent to property owners whose underlying zoning was changed as a component of the consolidated zoning code changes presented to the PSC on July 12<sup>th</sup>.

Index Map 120-1 revised to reflect map series changes.  
See page 65 of this report for revised map.

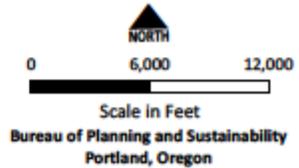
# Index Map for RH Areas with Maximum FAR of 4:1

# Map 120-1

Map Revised January 1, 2015



-  Boundary of Existing/Potential RH - Zoned Area
-  Portland Quarter Section Index



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## Commentary

Map 120-2 deleted in its entirety with no replacement  
Changes made to the Comprehensive Plan Map and zone designations from IG2 (RH) to EG1(ME) for this geographic area better reflect current and future desired development in this area and lessen potential residential conflicts.



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## Commentary

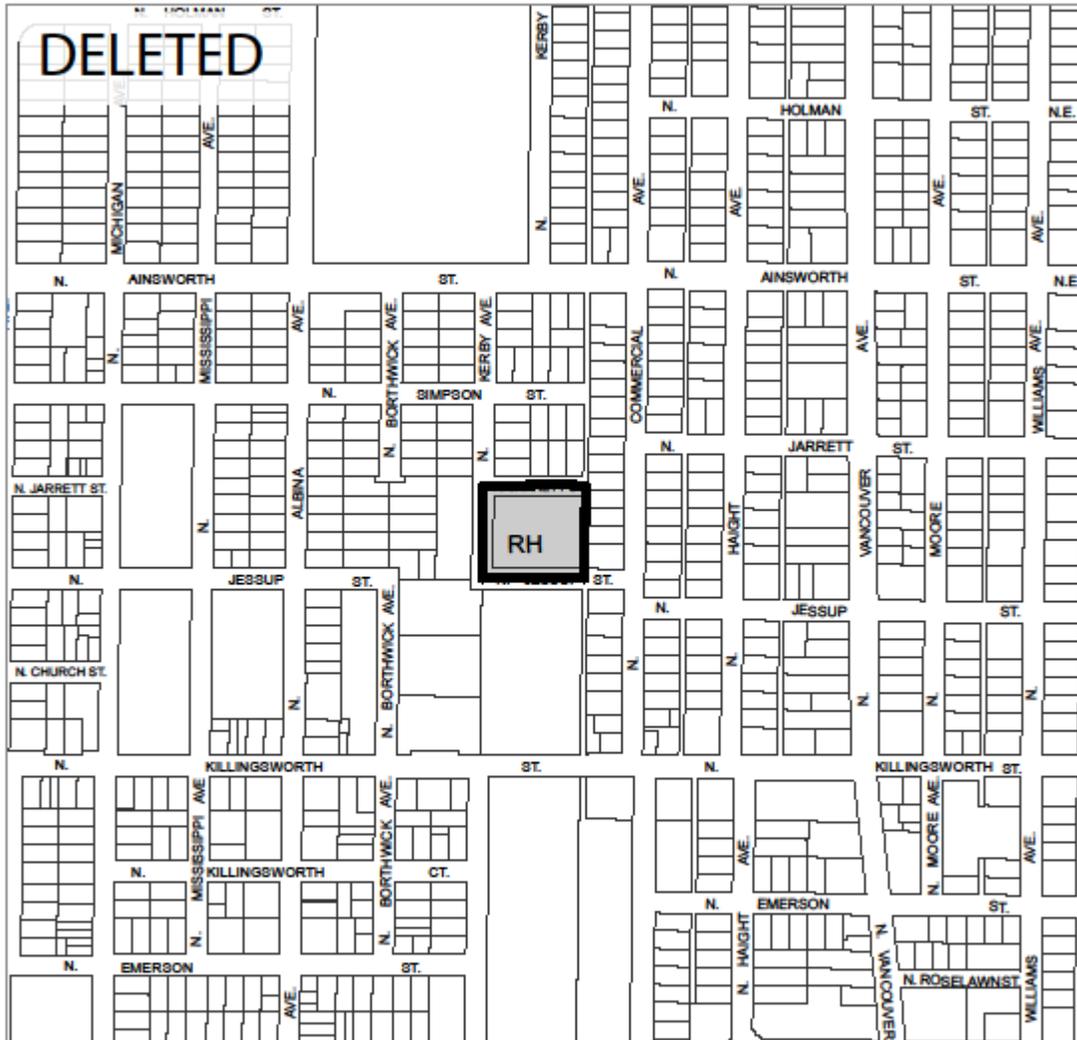
Existing Map 120-3 is unchanged in the new map series except it is renumbered to Map 120-2.

See page 67 of this report for renumbered map.

# RH Areas with Maximum FAR of 4:1

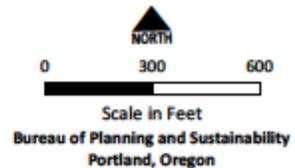
# Map 120-3

Map Revised January 1, 2015



- City Boundary
-  Boundary of Existing/Potential RH - Zoned Area

Quarter Section(s): 2429, 2430



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## Commentary

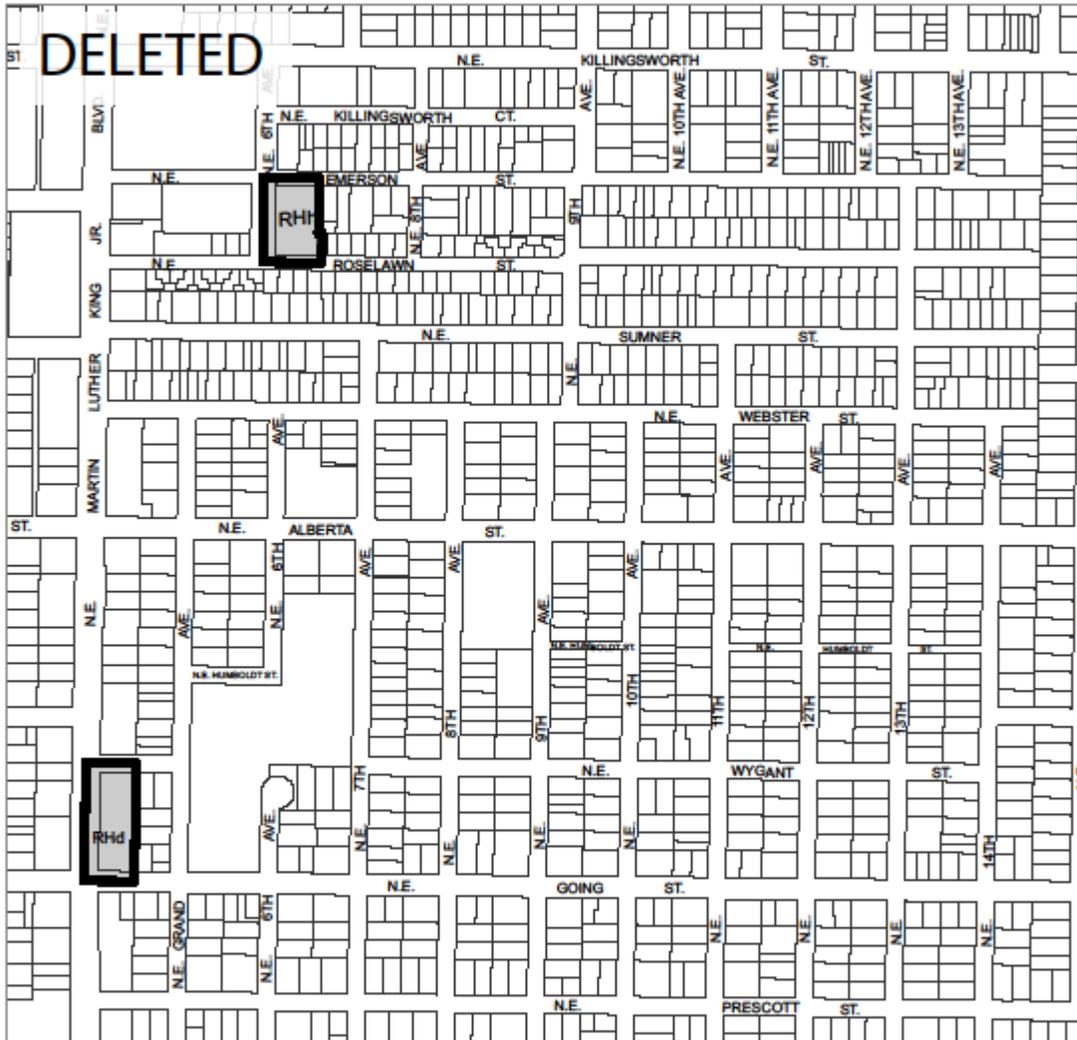
Existing Map 120-4 is unchanged in the new map series except it is renumbered to Map 120-3.

See page 69 of this report for renumbered map.

# RH Areas with Maximum FAR of 4:1

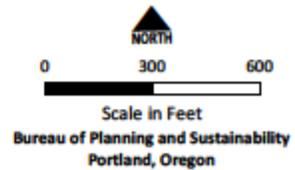
# Map 120-4

Map Revised January 1, 2015



- City Boundary
-  Boundary of Existing/Potential RH - Zoned Area

Quarter Section(s): 2531



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## Commentary

Existing Map 120-5 renumbered to 120-4.

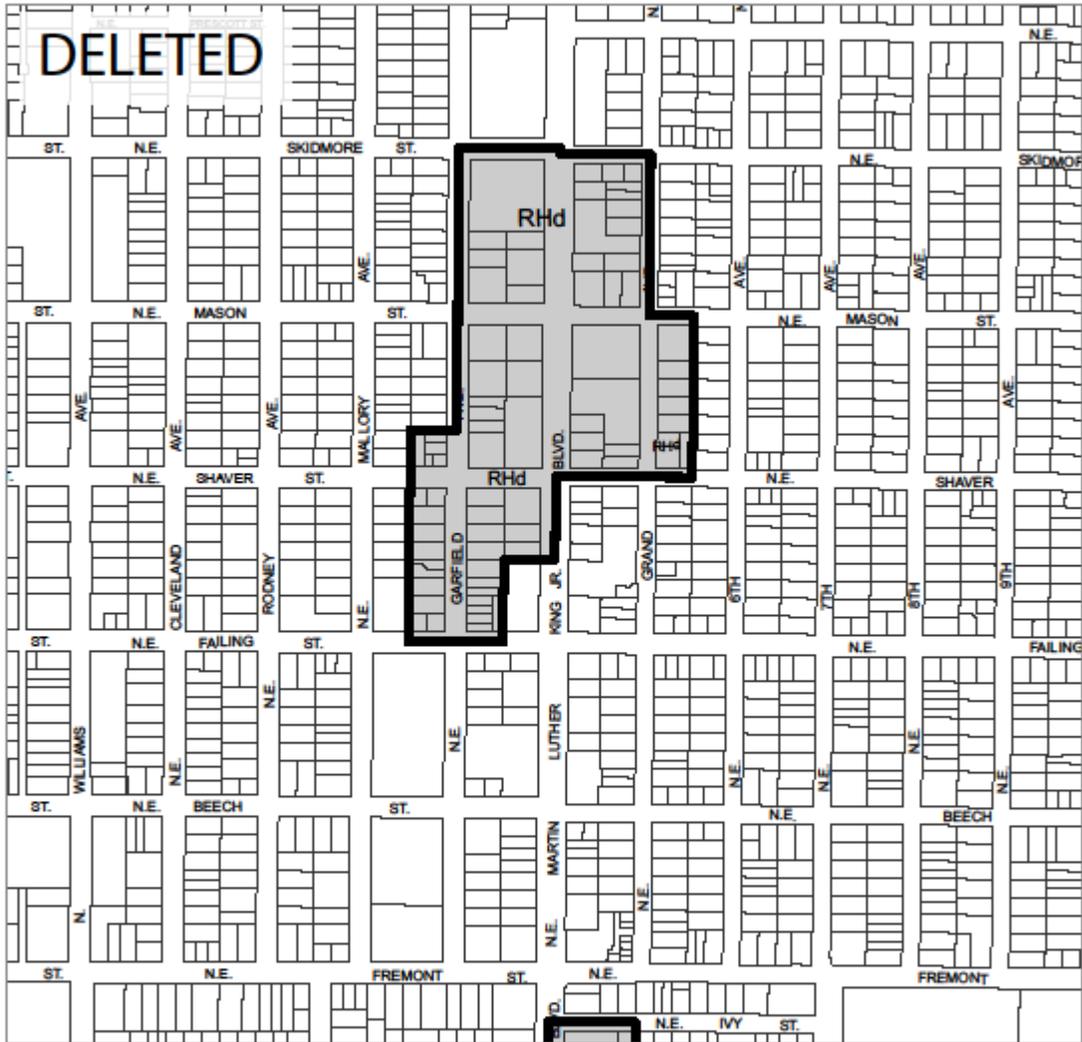
The Comprehensive Plan Map designation was changed to Central Employment and zoned (EX) for a number of properties within the original boundary of this FAR bonus area in order to address nonconforming situations i.e., existing commercial buildings and uses in a residential zone.

See page 71 of this report for revised map.

# RH Areas with Maximum FAR of 4:1

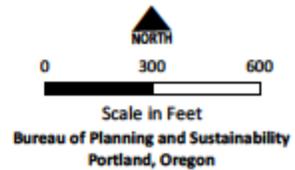
# Map 120-5

Map Revised January 1, 2015



- City Boundary
- █ Boundary of Existing/Potential RH - Zoned Area

Quarter Section(s): 2630, 2631



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## Commentary

Existing Map 120-6 renumbered to 120-5.

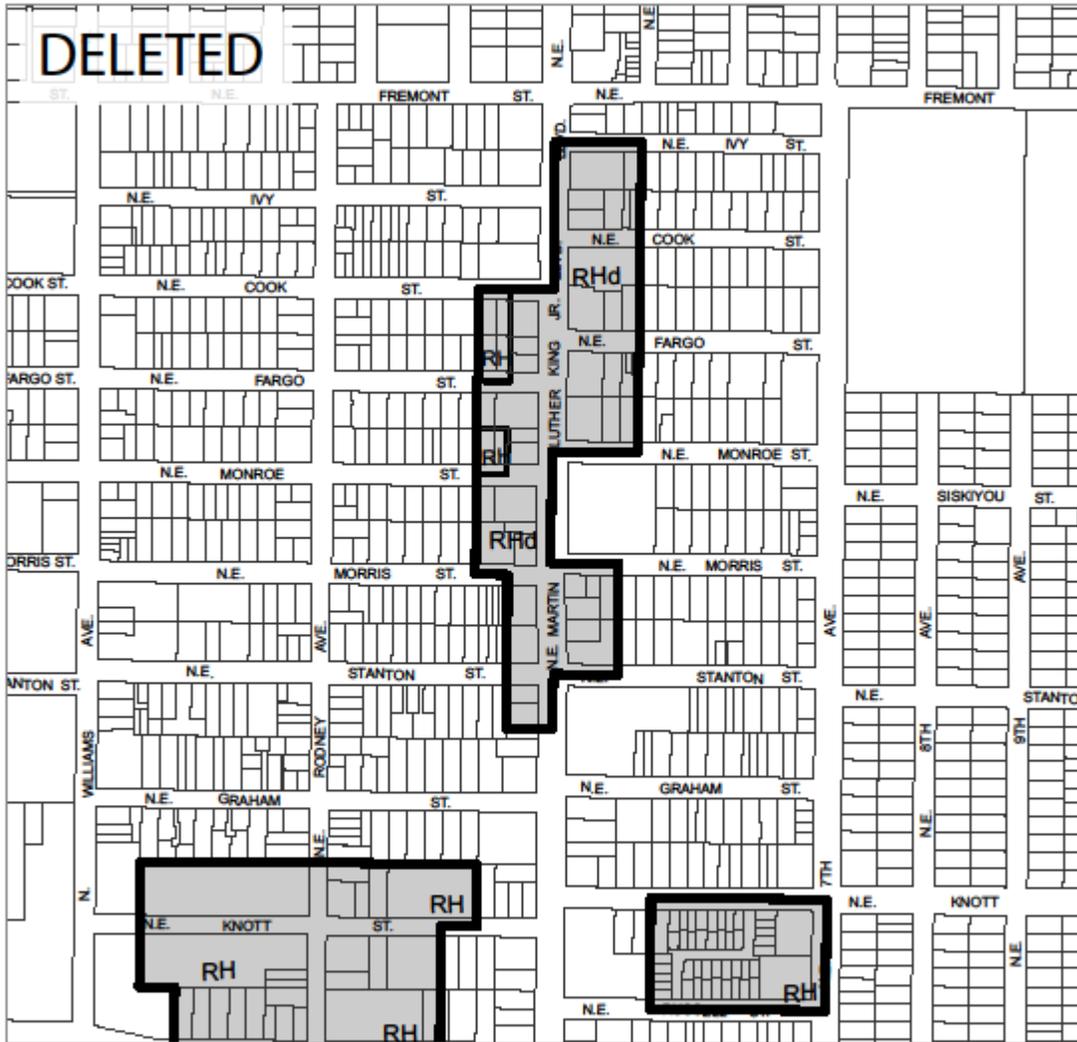
The Comprehensive Plan Map designation was changed to *Mixed Use-Urban Center* and zoned (CM3) for a number of properties within the original boundary of this FAR bonus area in order to address nonconforming situations and support a more continuous commercial street frontage.

See page 73 of this report for revised map.

# RH Areas with Maximum FAR of 4:1

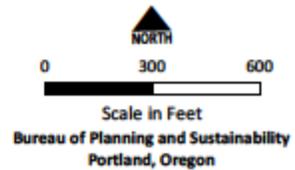
# Map 120-6

Map Revised January 1, 2015



- City Boundary
- █ Boundary of Existing/Potential RH - Zoned Area

Quarter Section(s): 2730, 2731



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## Commentary

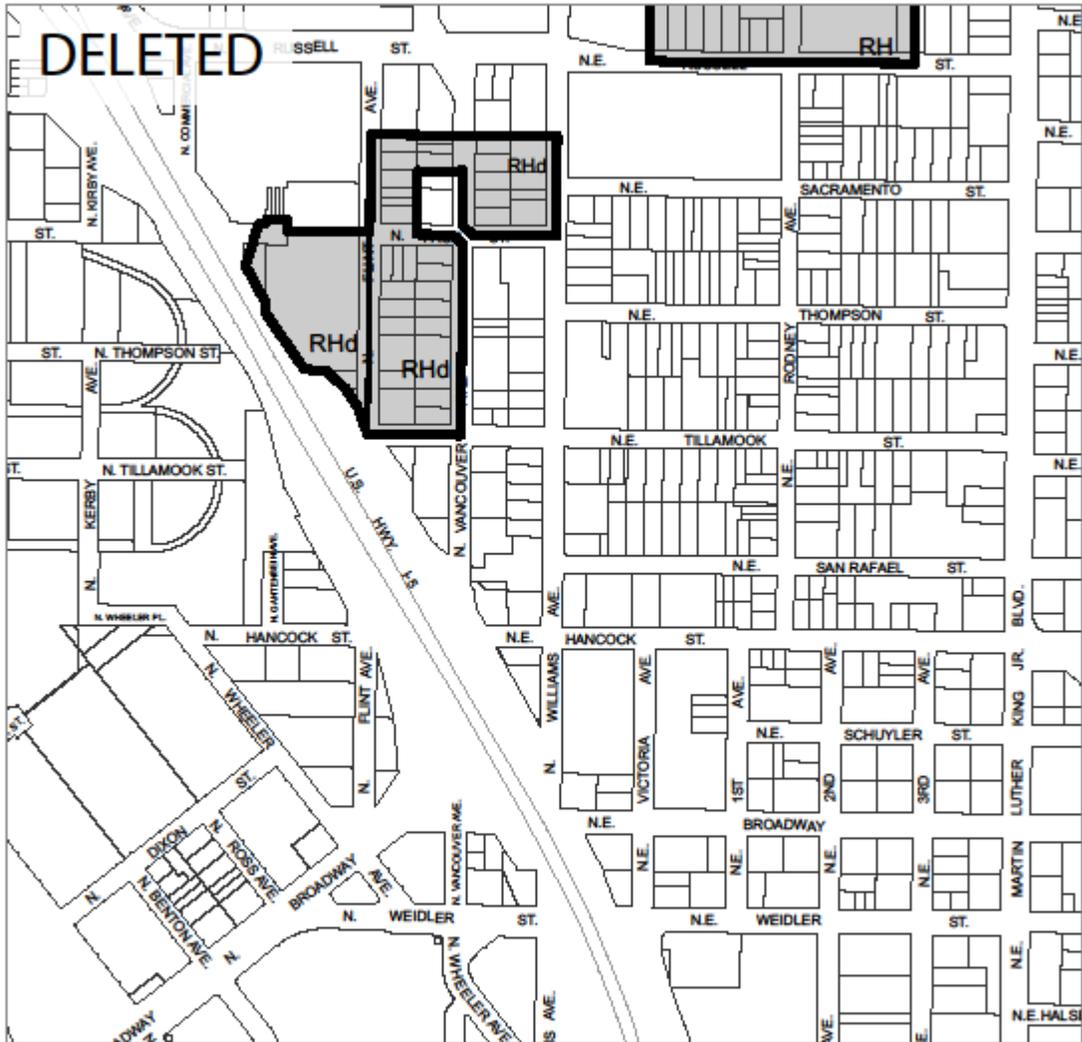
Existing Map 120-7 deleted in its entirety with no replacement.

This is a an area with a diverse mix of uses including light manufacturing, warehouse, retail, office, residential and institutional near the I-5/N Broadway Central City area. Community desire to eliminate regulatory conflicts and reflect the mix of uses in close proximity to the freeway led to a Comprehensive Plan Map change to Mixed Use Urban Center and a CM3 zone.

# RH Areas with Maximum FAR of 4:1

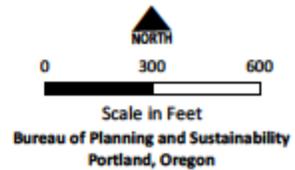
# Map 120-7

Map Revised January 1, 2015



- City Boundary
- █ Boundary of Existing/Potential RH - Zoned Area

Quarter Section(s): 2730, 2830



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## Commentary

Existing Map 120-8 renumbered to 120-6.

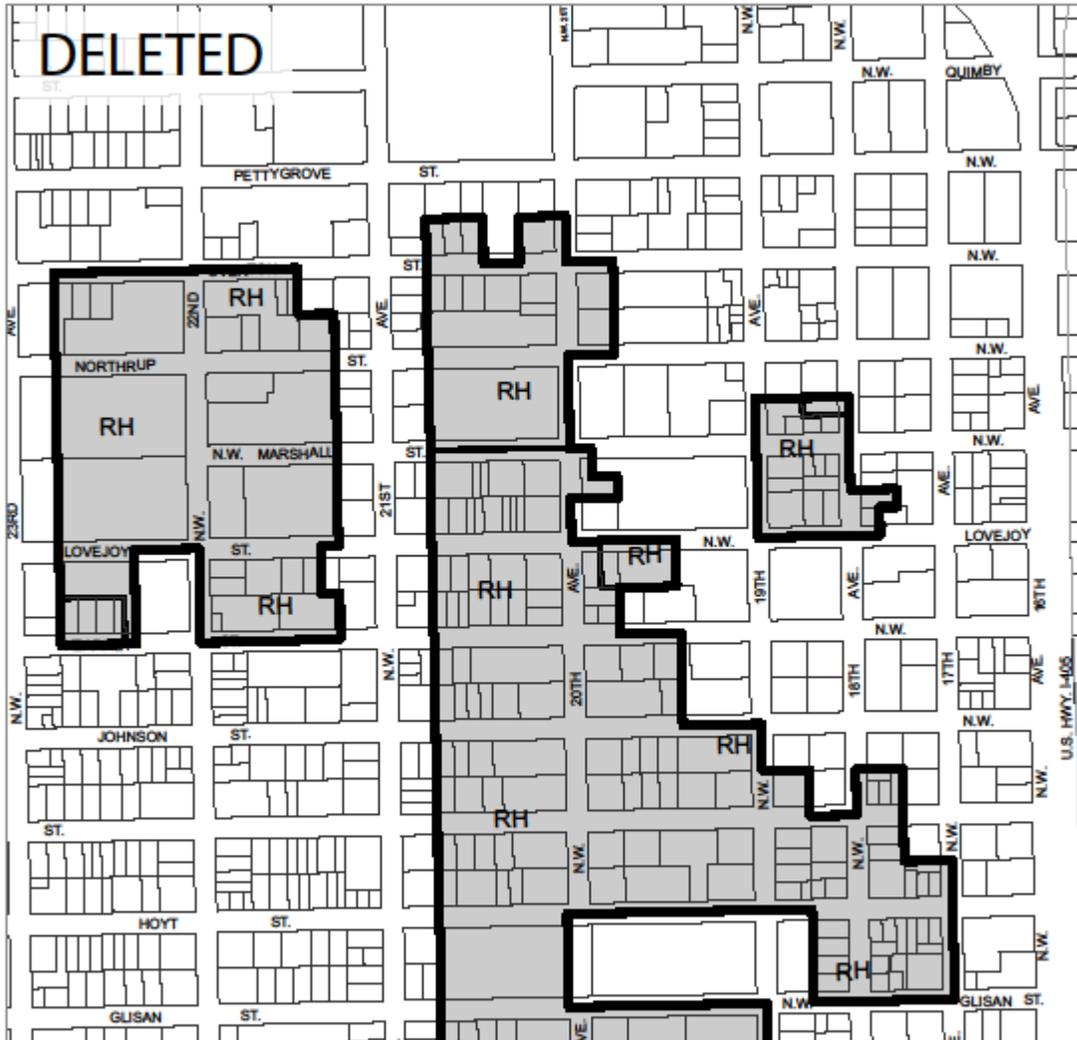
120 series map change responds to changes made to the Institutional Campus (IC) Comprehensive Plan Map designation and CI2 Zone assigned to the Legacy Good Samaritan Hospital.

See page 75 of this report for revised map.

# RH Areas with Maximum FAR of 4:1

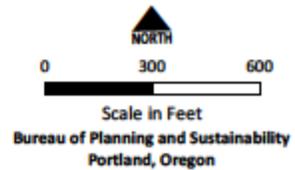
# Map 120-8

Map Revised January 1, 2015



- City Boundary
- █ Boundary of Existing/Potential RH - Zoned Area

Quarter Section(s): 2927, 2928, 3027, 3028



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## Commentary

Existing Map 120-9 is unchanged in the new map series except it is renumbered to Map 120-7.

See page 77 of this report for renumbered map.



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## Commentary

Existing Map 120-10 renumbered to 120-8.

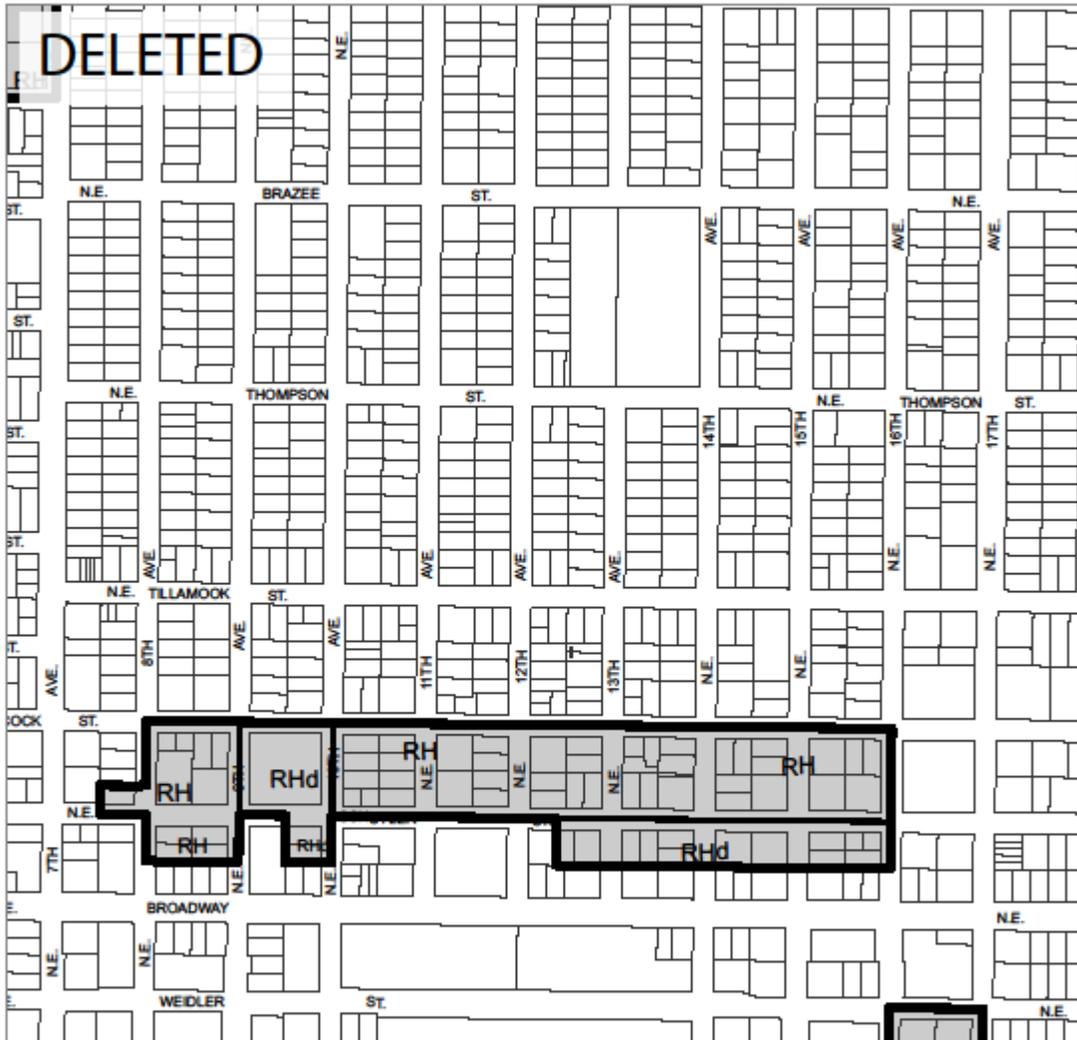
Proposal to retain RH zoning north of Schuyler but eliminate the 4:1 FAR "bonus" is a response to advocacy on behalf of the Irvington Community Association and concerns regarding the compatibility of 4:1 FAR structures with the Irvington Historic District. (Separate Measure 56 notices have been sent to impacted property owners.)

See page 79 of this report for revised map.

# RH Areas with Maximum FAR of 4:1

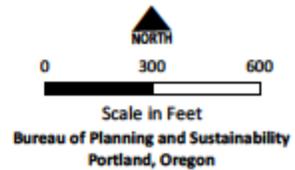
# Map 120-10

Map Revised January 1, 2015



- City Boundary
- █ Boundary of Existing/Potential RH - Zoned Area

Quarter Section(s): 2831, 2832



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## Commentary

Existing Map 120-11 renumbered to 120-9.

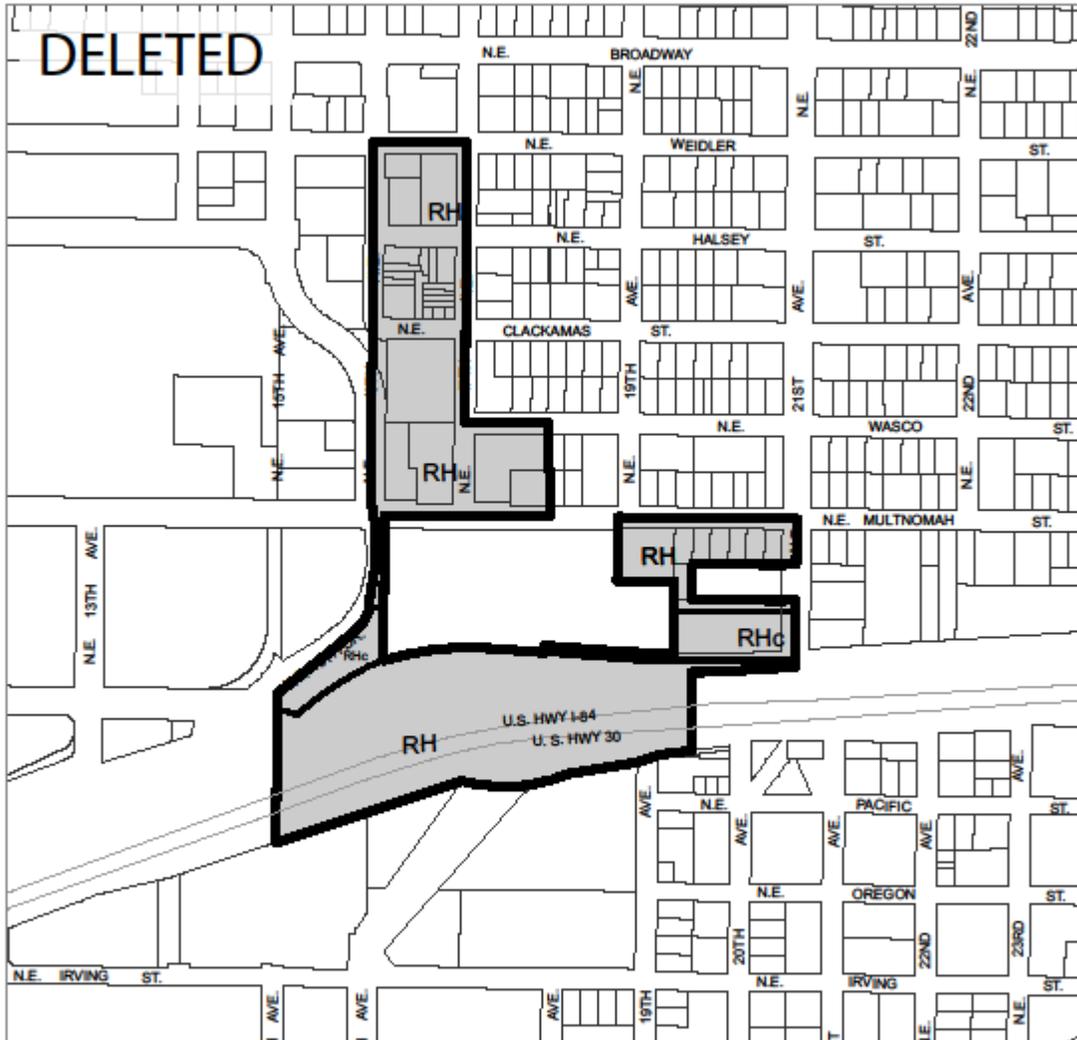
Comprehensive Plan Map changes from Medium to High Density Residential and zone change from R2 to RH accompanied by 4:1 FAR outside of original map boundary proposed as a result of Council action during Comprehensive Plan Map deliberations.

See page 81 of this report for revised map.

**RH Areas with  
Maximum FAR of 4:1**

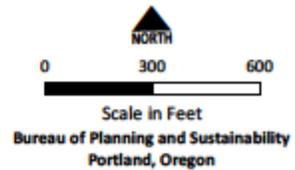
**Map 120-11**

Map Revised January 1, 2015



- City Boundary
- █ Boundary of Existing/Potential RH - Zoned Area

Quarter Section(s): 2832, 2932



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## Commentary

Existing Map 120-12 is unchanged in the new map series except it is renumbered to Map 120-10.

See page 83 of this report for revised map.



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## Commentary

Existing Map 120-13 renumbered to 120-11.

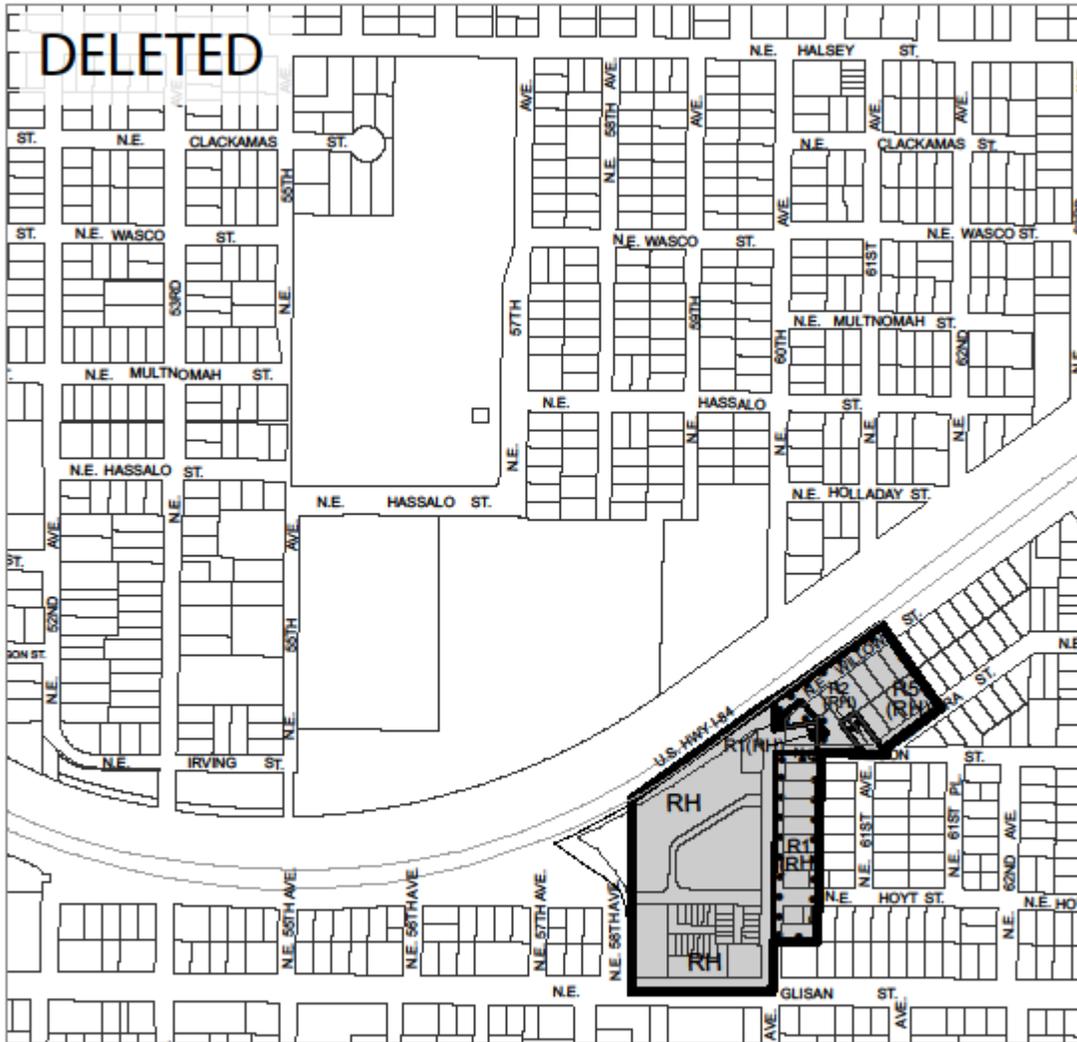
The (RH) Comprehensive Plan Map designation has been removed from a portion of the designated 4:1 FAR area by Council action.

See page 85 of this report for revised map.

# RH Areas with Maximum FAR of 4:1

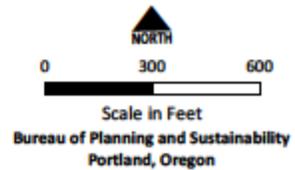
# Map 120-13

Map Revised January 1, 2015



- City Boundary
- ▭ Boundary of Existing/Potential RH - Zoned Area

Quarter Section(s): 2936, 3036



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## Commentary

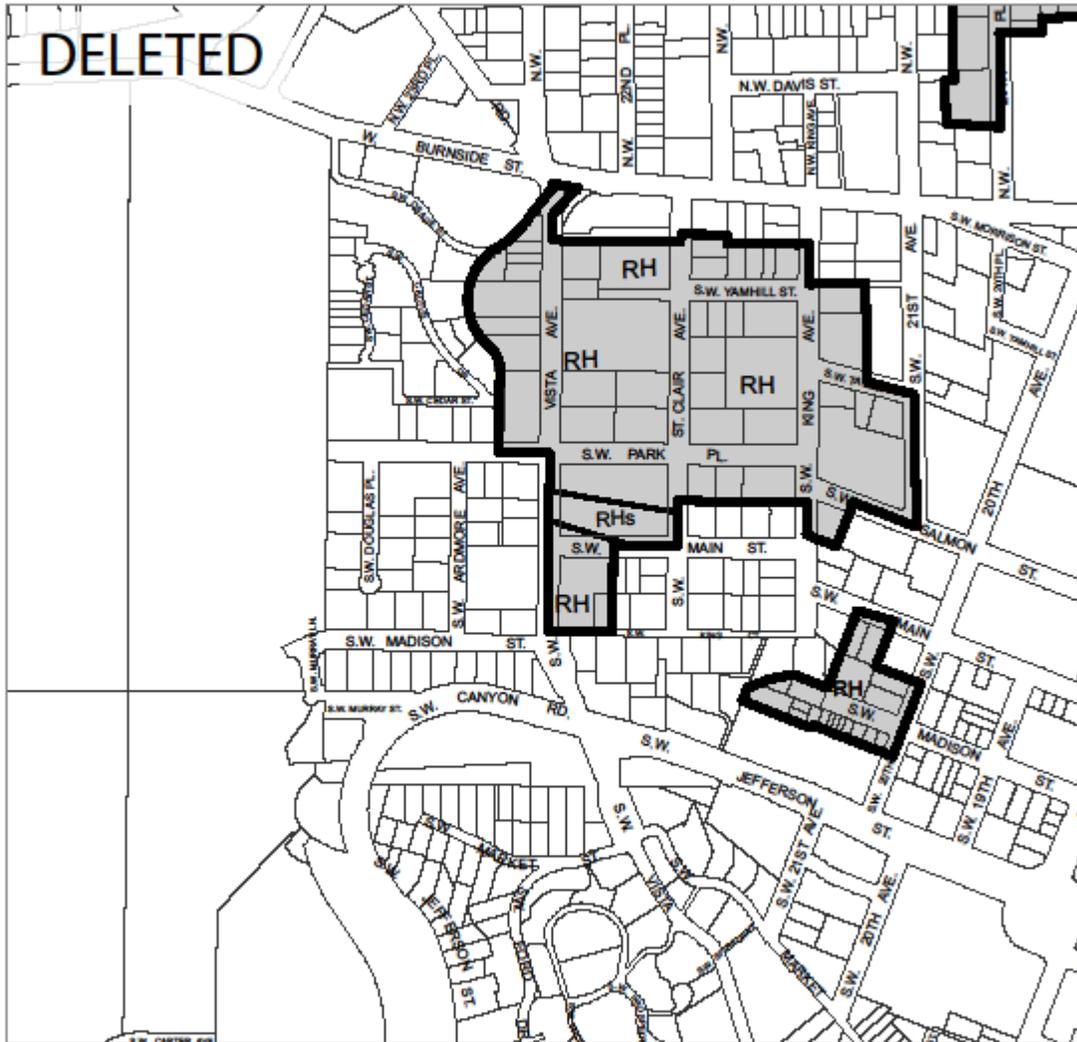
Existing Map 120-14 is unchanged in the new map series except it is renumbered to Map 120-12.

See page 87 of this report for renumbered map.

**RH Areas with  
Maximum FAR of 4:1**

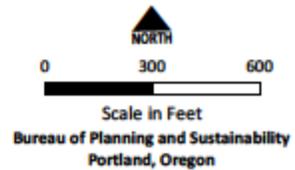
**Map 120-14**

Map Revised January 1, 2015



- City Boundary
- █ Boundary of Existing/Potential RH - Zoned Area

Quarter Section(s): 3027, 3127



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## Commentary

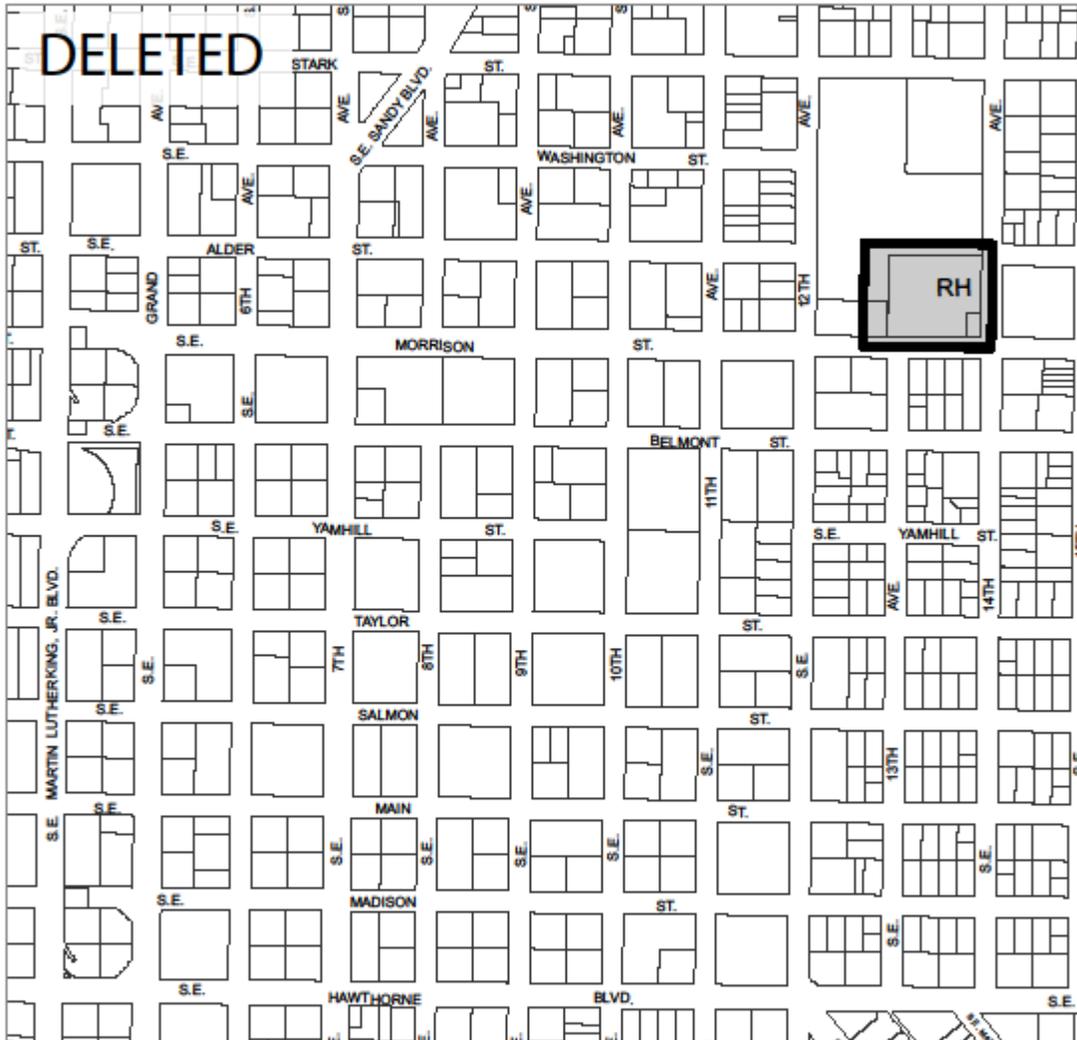
Existing Map 120-15 is unchanged in the new map series except it is renumbered to Map 120-13.

See page 89 of this report for renumbered map.

# RH Areas with Maximum FAR of 4:1

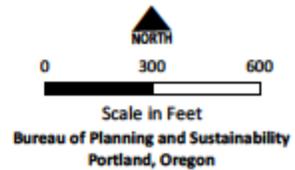
# Map 120-15

Map Revised January 1, 2015



- City Boundary
-  Boundary of Existing/Potential RH - Zoned Area

Quarter Section(s): 3131



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## Commentary

Existing Map 120-16 renumbered to 120-14.

City initiated Comprehensive Plan Map designation reflected on this map and adjoining, existing map 120-17.

See page 91 of this report for revised map.



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## Commentary

Existing Map 120-17 renumbered to 120-15.

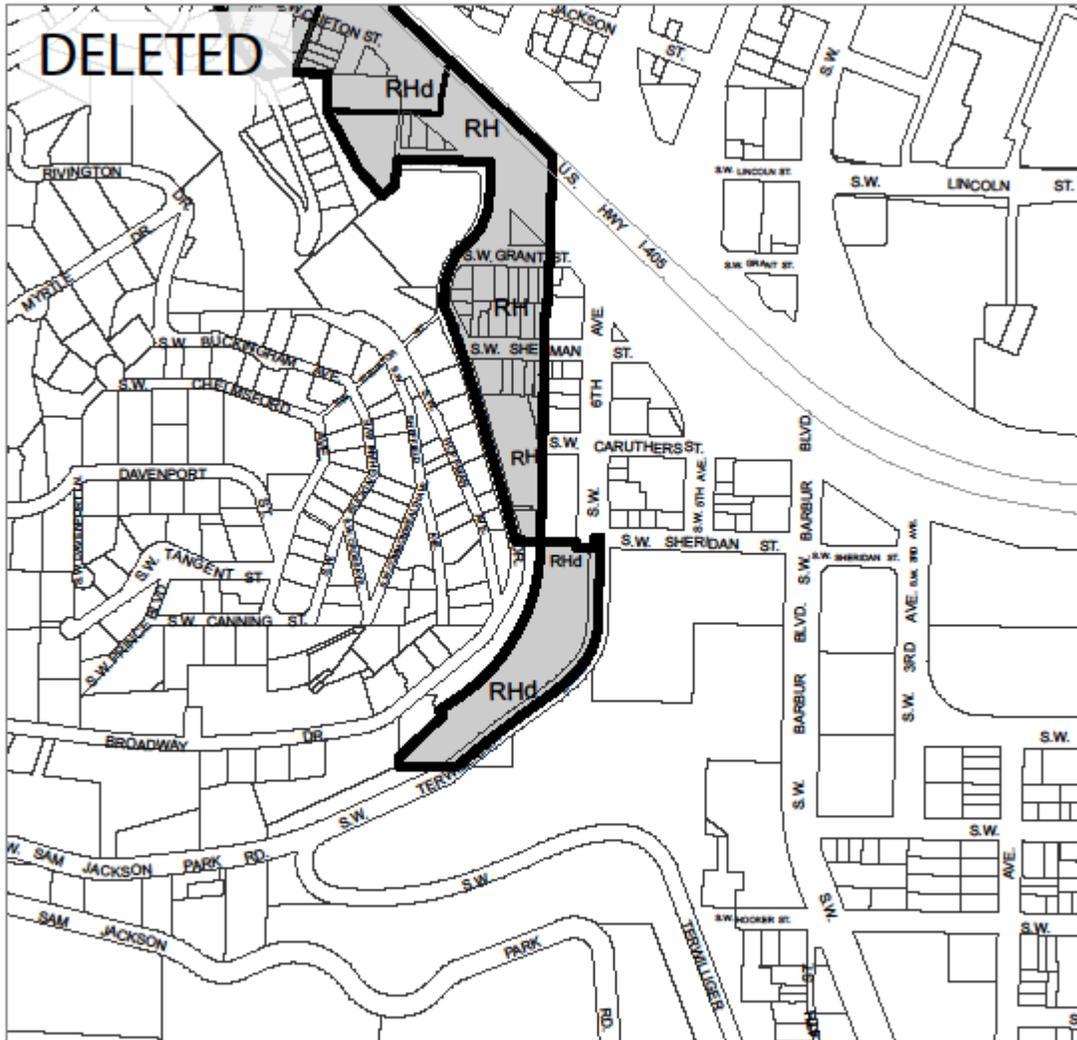
Change in Comprehensive Plan Map designation to High Density Residential and RH zone approved by City Council in support of potential Terwilliger Plaza assisted living expansion.

See page 93 of this report for revised map.

**RH Areas with  
Maximum FAR of 4:1**

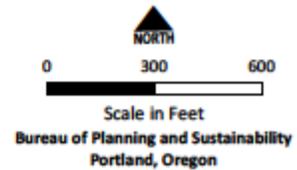
**Map 120-17**

Map Revised January 1, 2015



- City Boundary
- █ Boundary of Existing/Potential RH - Zoned Area

Quarter Section(s): 3228, 3328



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## Commentary

Existing Map 120-18 renumbered to 120-16.

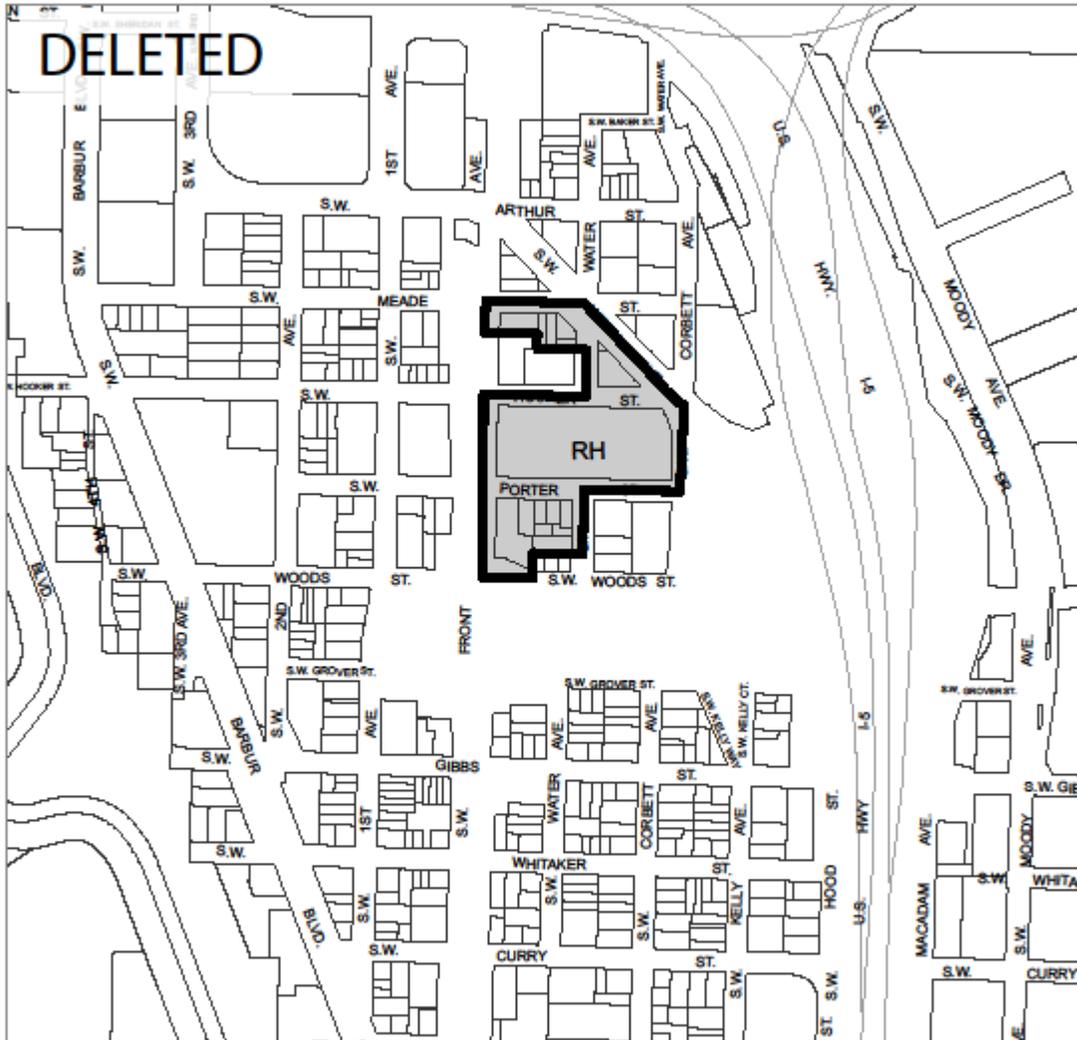
Existing high density multi-dwelling residential Comprehensive Plan Map designation and RH zone removed from a portion of this 120 Map series 4:1 FAR area and replaced with CI2 Campus Institutional Zone in response to Council direction. This in response to public testimony by Northwest College of Naturopathic Medicine.

See page 95 of this report for revised map.

# RH Areas with Maximum FAR of 4:1

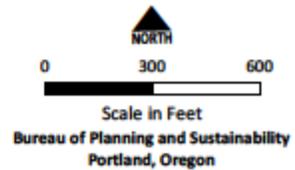
# Map 120-18

Map Revised January 1, 2015



- City Boundary
- █ Boundary of Existing/Potential RH - Zoned Area

Quarter Section(s): 3329



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## Commentary

Map 120-19 deleted in its entirety with no replacement  
Comprehensive Plan Map and zone designation changes made to this general area in response to elimination of the Harold Street light rail station, previously proposed as a component of the Max Orange Line.



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## Commentary

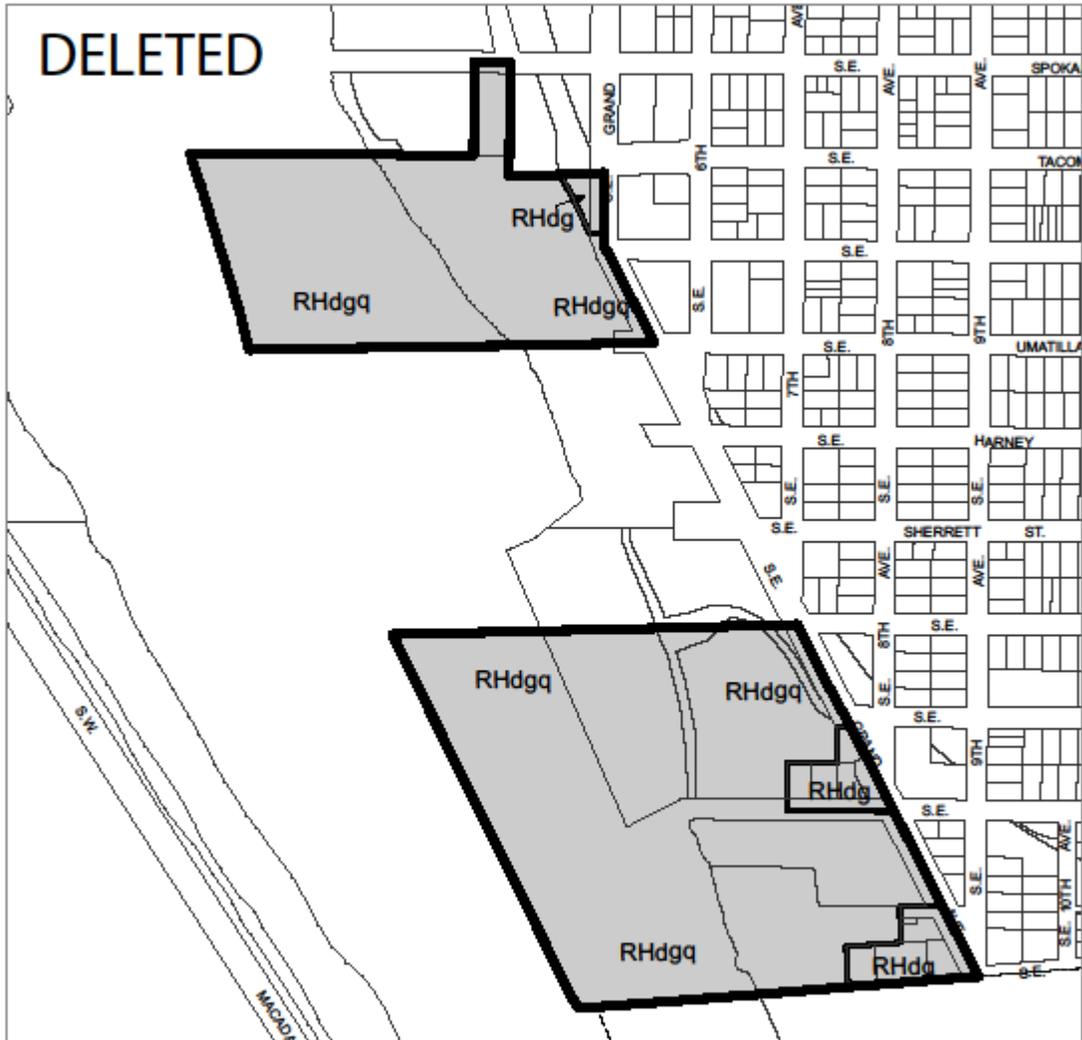
Existing Map 120-20 is unchanged in the new map series except it is renumbered to Map 120-17.

See page 97 of this report for renumbered map.

**RH Areas with  
Maximum FAR of 4:1**

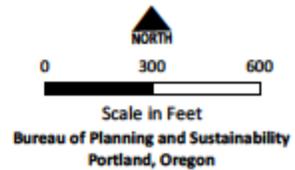
**Map 120-20**

Map Revised January 1, 2015



- City Boundary
- █ Boundary of Existing/Potential RH - Zoned Area

Quarter Section(s): 3830, 3831, 3930, 3931



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## Commentary

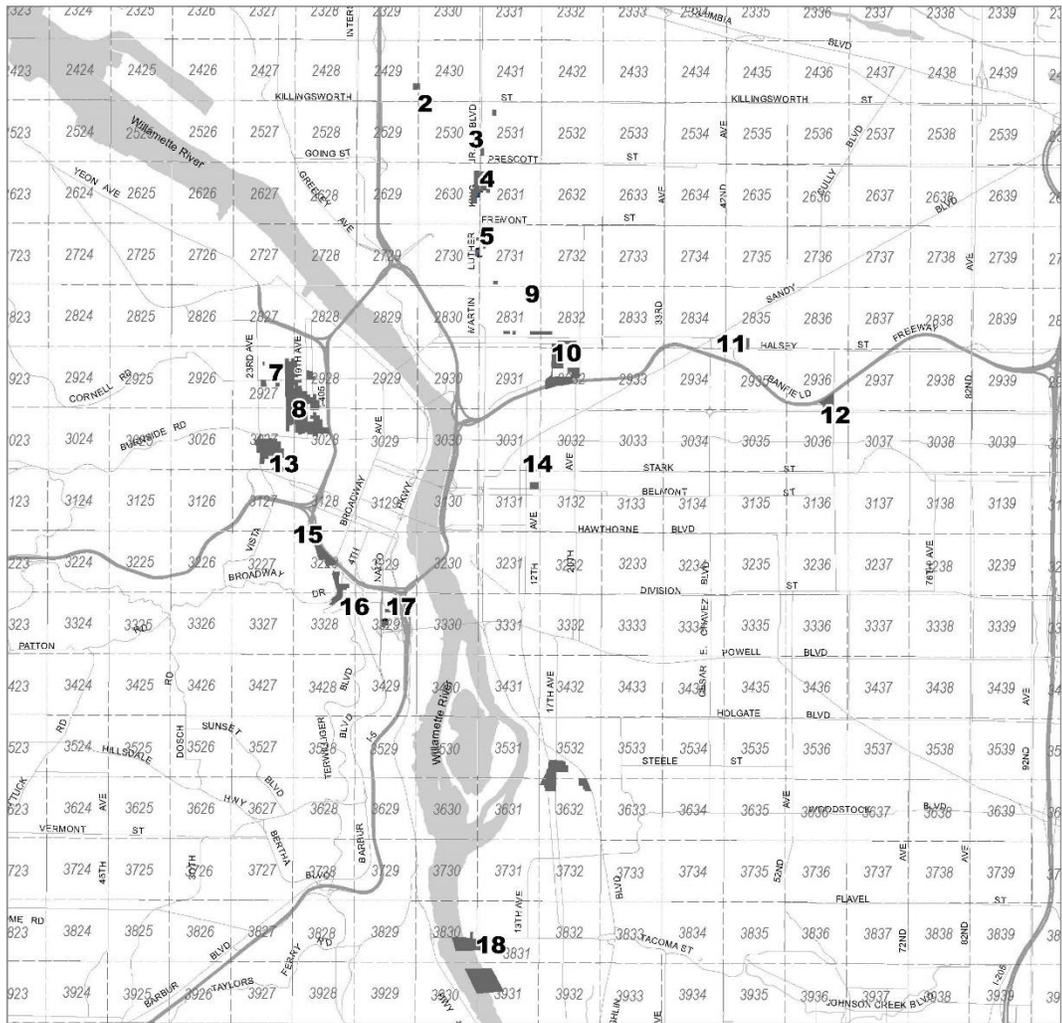
New index map 120-1 reflects new map series revisions, deletions and renumbering.

See page 25 of this report for original map.

Proposed Index Map for RH Areas with  
Maximum FAR of 4:1

Map 120-1

Map Revised Xxxxx X, 201X



-  Boundary of Existing/Potential RH - Zoned Area
-  Portland Quarter Section Index



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## Commentary

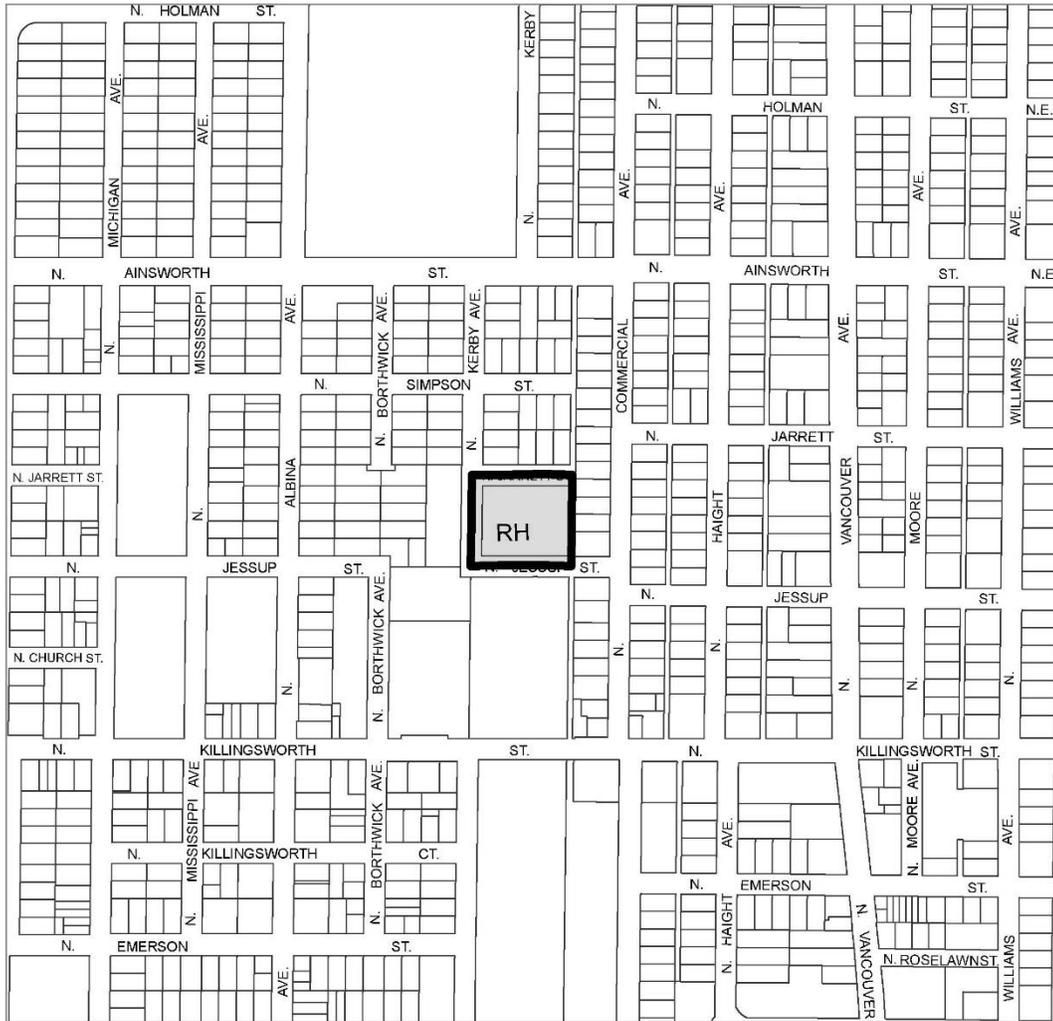
Proposed Map 120-2 is unchanged from the existing map series except it is renumbered from Map 120-3.

See page 29 of this report for original map.

**Proposed RH Areas with  
Maximum FAR of 4:1**

**Map 120-2**

Map Revised Xxxxx X, 201X



- City Boundary
- Boundary of Existing/Potential  
RH - Zoned Area

Quarter Section(s): 2429, 2430



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## Commentary

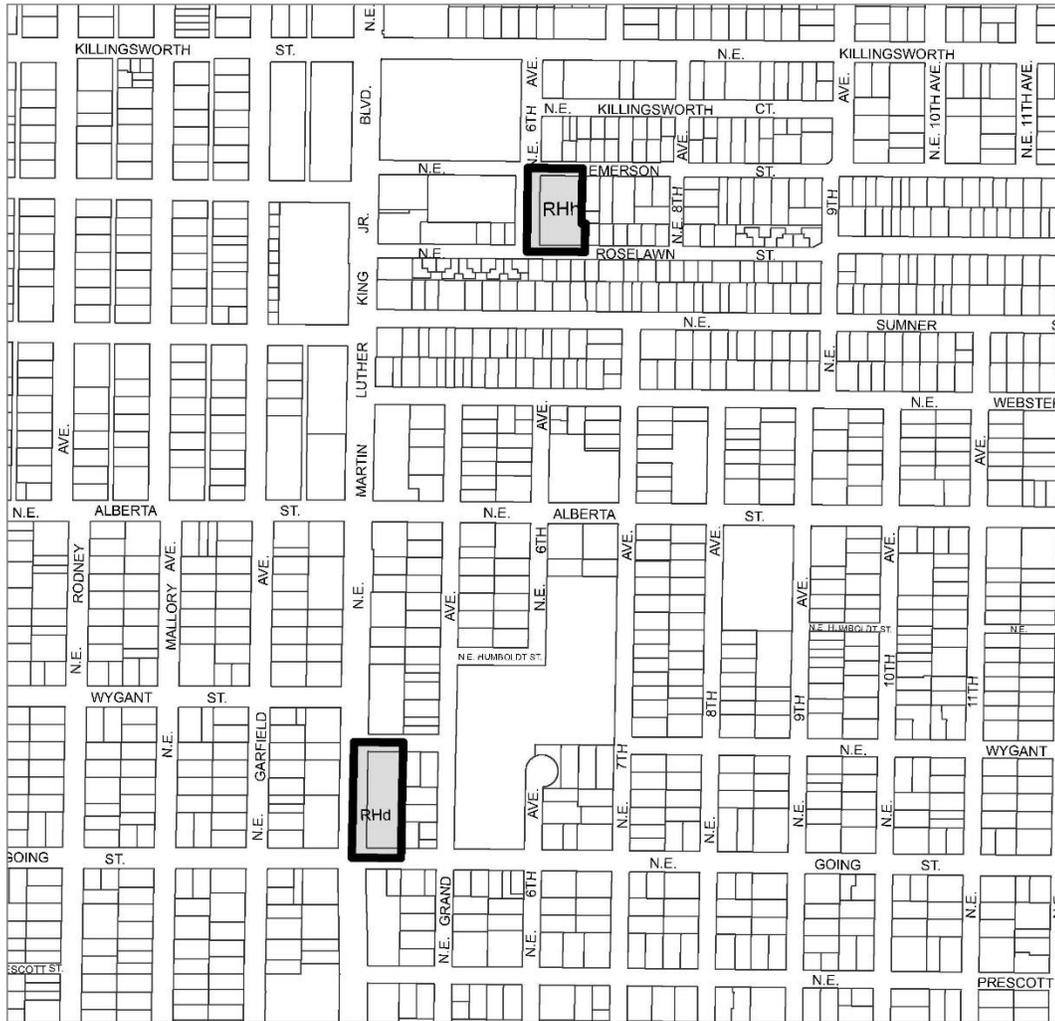
Proposed Map 120-3 is unchanged from the existing map series except it is renumbered from Map 120-4.

See page 31 of this report for original map

# Proposed RH Areas with Maximum FAR of 4:1

# Map 120-3

Map Revised Xxxxx X, 201X



- City Boundary
-  Boundary of Existing/Potential RH - Zoned Area

Quarter Section(s): 2531



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## Commentary

Proposed Map 120-4 is renumbered from the existing map series Map 120-5. The Comprehensive Plan Map designation was changed to Central Employment and zoned (EX) for a number of properties within the original boundary of this FAR bonus area in order to address nonconforming situations i.e., existing commercial buildings and uses in a residential zone.

See page 33 of this report for original map.

# Proposed RH Areas with Maximum FAR of 4:1

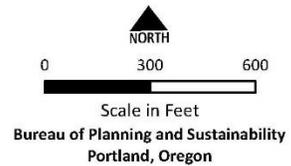
# Map 120-4

Map Revised Xxxxx X, 201X



- City Boundary
- ▭ Boundary of Existing/Potential RH - Zoned Area

Quarter Section(s): 2630, 2631



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## Commentary

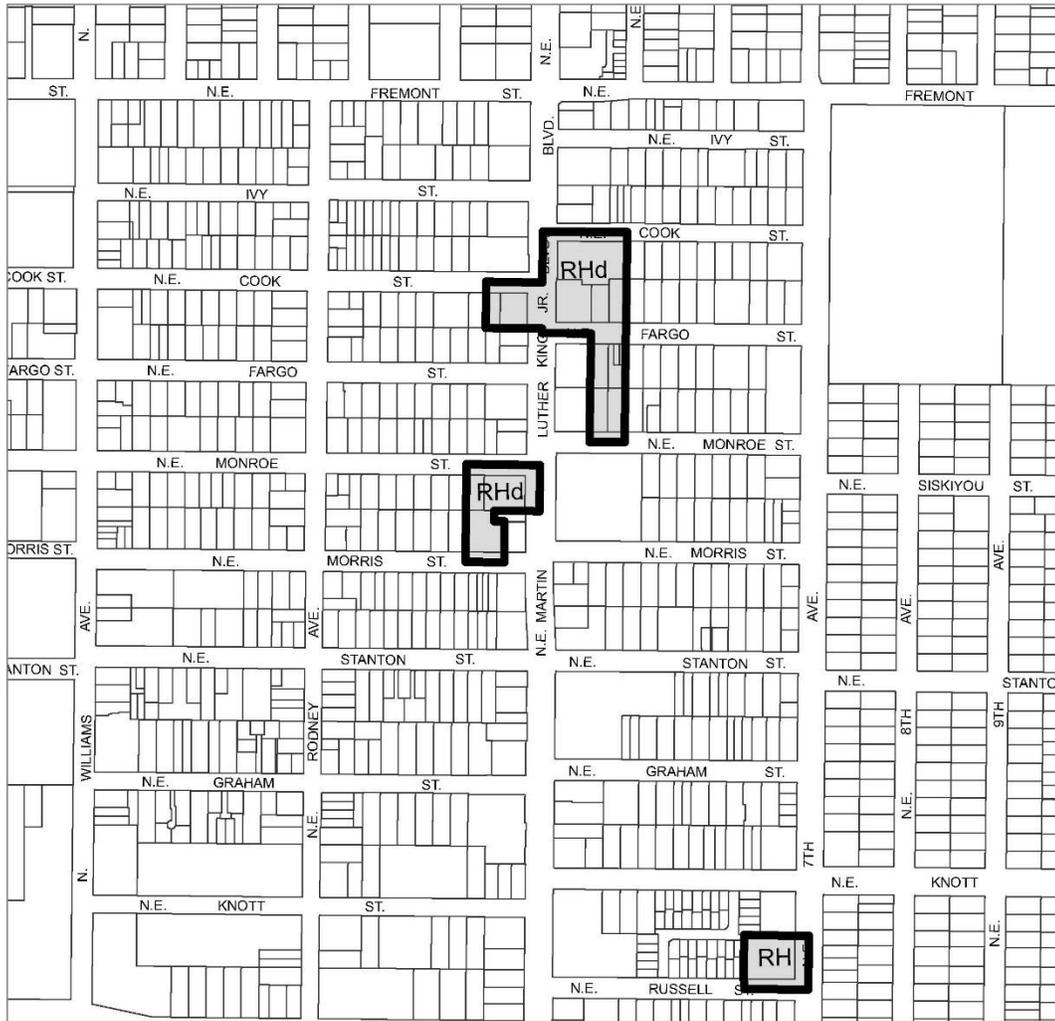
Proposed Map 120-5 is renumbered from the existing map series Map 120-6. The Comprehensive Plan Map designation was changed to Mixed Use-Urban Center and zoned (CM3) for a number of properties within the original boundary of this FAR bonus area in order to address nonconforming situations and support a more continuous commercial street frontage.

See page 35 of this report for original map.

# Proposed RH Areas with Maximum FAR of 4:1

# Map 120-5

Map Revised Xxxxx X, 201X



- City Boundary
- ▭ Boundary of Existing/Potential RH - Zoned Area

Quarter Section(s): 2730, 2731



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## Commentary

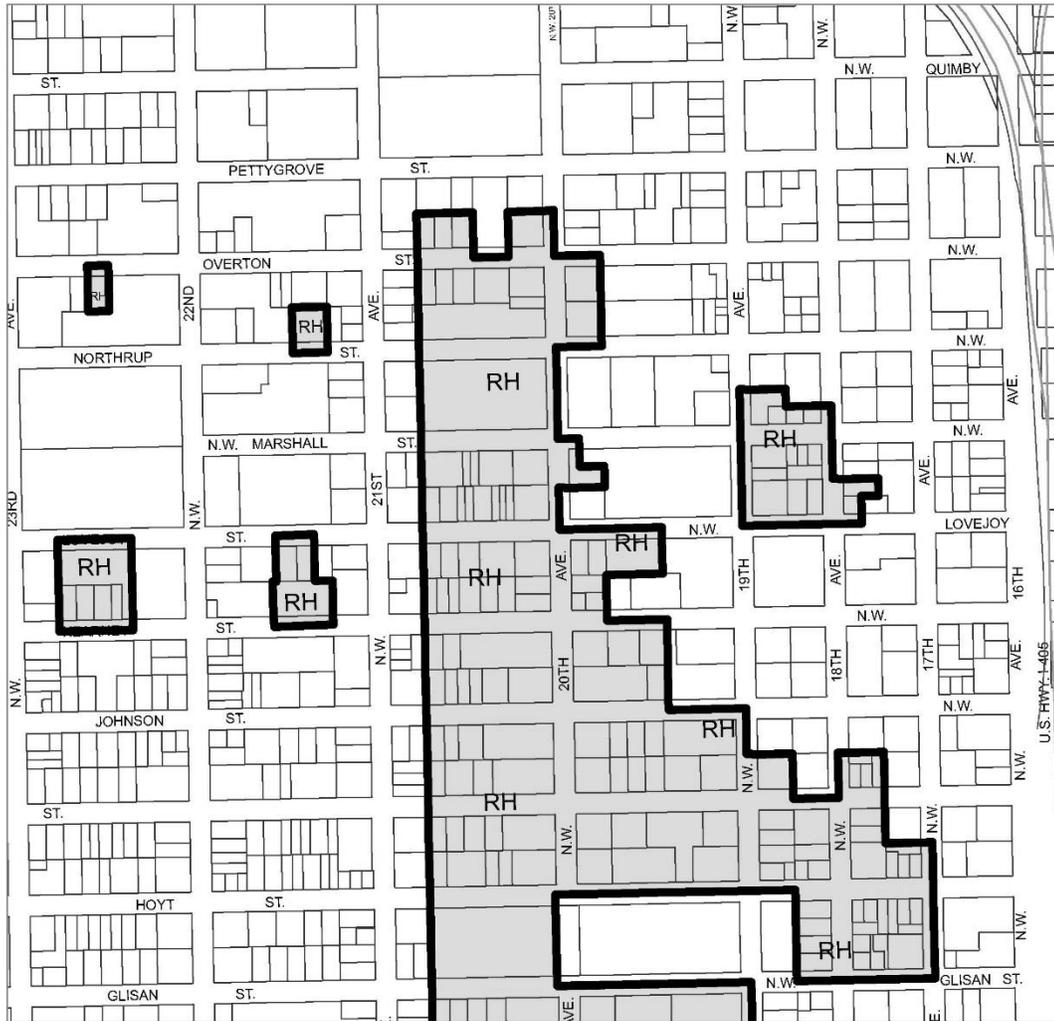
Proposed Map 120-6 is renumbered from the existing map series Map 120-8. 120 series map change due to Legacy Good Sam Hospital campus change to the Institutional Campus Comprehensive Plan Map designation and CI2 zone and a minor map error correction.

See page 39 of this report for original map.

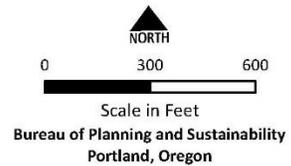
# Proposed RH Areas with Maximum FAR of 4:1

# Map 120-6

Map Revised Xxxxx X, 201X



- City Boundary
- Boundary of Existing/Potential RH - Zoned Area



Quarter Section(s): 2927, 2928, 3027, 3028

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## Commentary

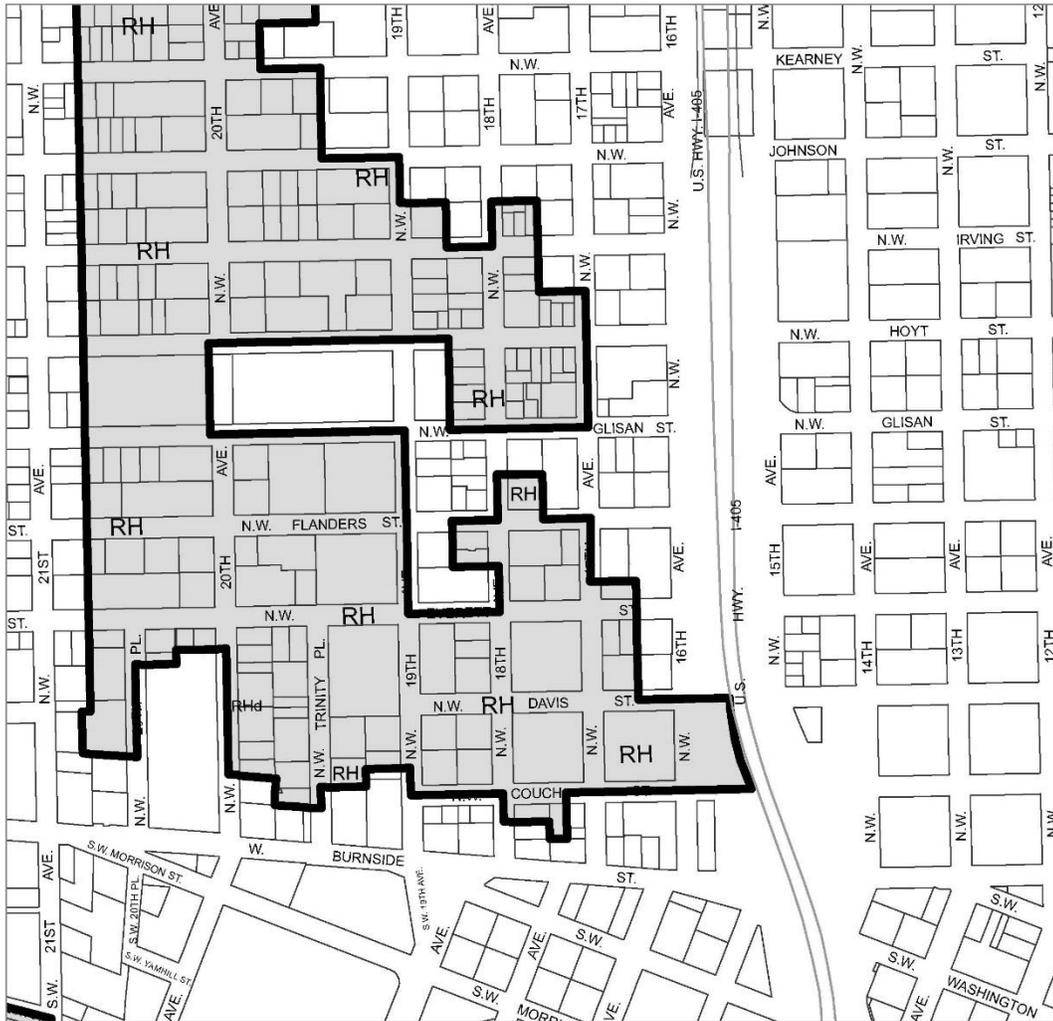
Proposed Map 120-7 is unchanged in the new map series except it is renumbered from existing map series Map 120-9.

See page 41 of this report for original map.

# Proposed RH Areas with Maximum FAR of 4:1

# Map 120-7

Map Revised Xxxxx X, 201X



- City Boundary
- █ Boundary of Existing/Potential RH - Zoned Area

Quarter Section(s): 2927, 2928, 3027, 3028



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## Commentary

Proposed Map 120-8 is renumbered from the existing map series Map 120-10. Proposal to retain RH zoning north of Schuyler but eliminate the 4:1 FAR "bonus" is a response to advocacy on behalf of the Irvington Community Association and concerns regarding the compatibility of 4:1 FAR structures with existing Irvington Historic District. (Separate Measure 56 notices have been sent to impacted property owners.)

See page 43 of this report for original map.

# Proposed RH Areas with Maximum FAR of 4:1

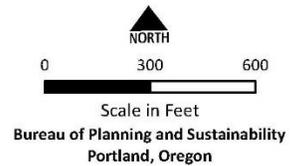
# Map 120-8

Map Revised Xxxxx X, 201X



- City Boundary
-  Boundary of Existing/Potential RH - Zoned Area

Quarter Section(s): 2831, 2832



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## Commentary

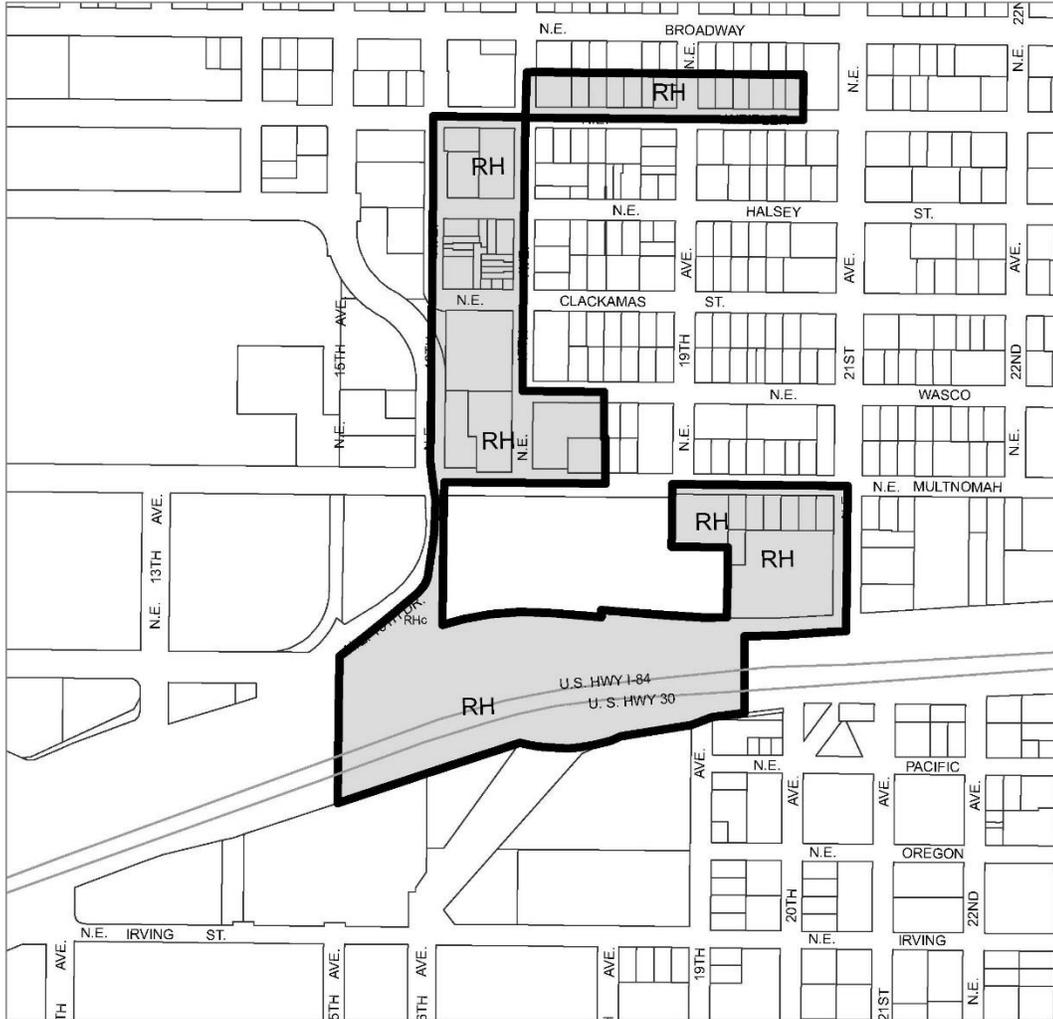
Proposed Map 120-9 is renumbered from the existing map series Map 120-11. Comprehensive Plan Map changes from Medium to High Density Residential and zone change from R2 to RH accompanied by 4:1 FAR proposed as a result of Council action during Comprehensive Plan Map deliberations.

See page 45 of this report for original map.

# Proposed RH Areas with Maximum FAR of 4:1

# Map 120-9

Map Revised Xxxxx X, 201X



- City Boundary
- █ Boundary of Existing/Potential  
RH - Zoned Area

Quarter Section(s): 2832, 2932



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## Commentary

Proposed Map 120-10 is unchanged from the existing map series except it is renumbered from Map 120-12.

See page 47 of this report for original map.

# Proposed RH Areas with Maximum FAR of 4:1

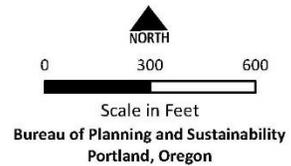
# Map 120-10

Map Revised Xxxxx X, 201X



- City Boundary
-  Boundary of Existing/Potential RH - Zoned Area

Quarter Section(s): 2835, 2935



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## Commentary

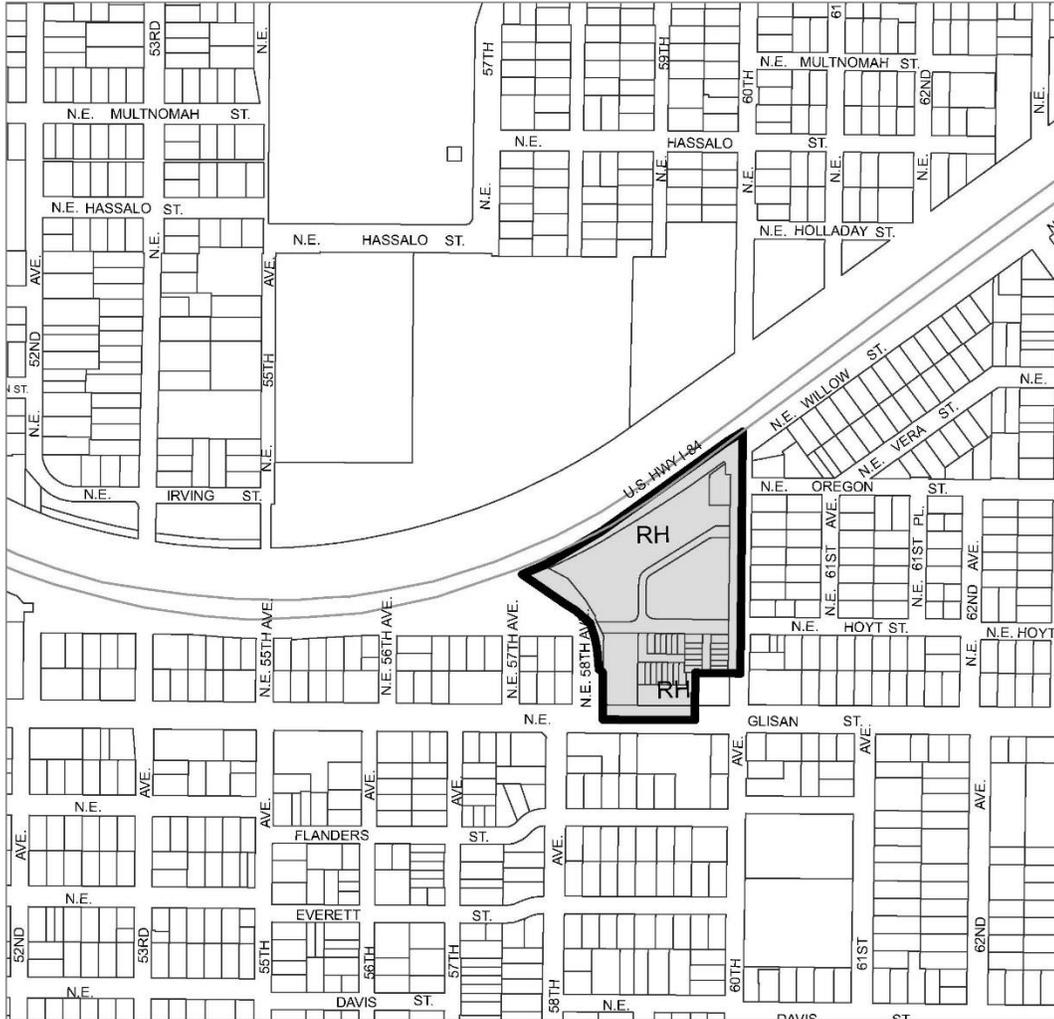
Proposed Map 120-11 is renumbered from the existing map series Map 120-13.  
The (RH) Comprehensive Plan Map designation has been removed from a portion of the designated 4:1 FAR area by Council action.

See page 49 of this report for original map.

# Proposed RH Areas with Maximum FAR of 4:1

# Map 120-11

Map Revised Xxxxx X, 201X



- City Boundary
- █ Boundary of Existing/Potential RH - Zoned Area

Quarter Section(s): 2936, 3036



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## Commentary

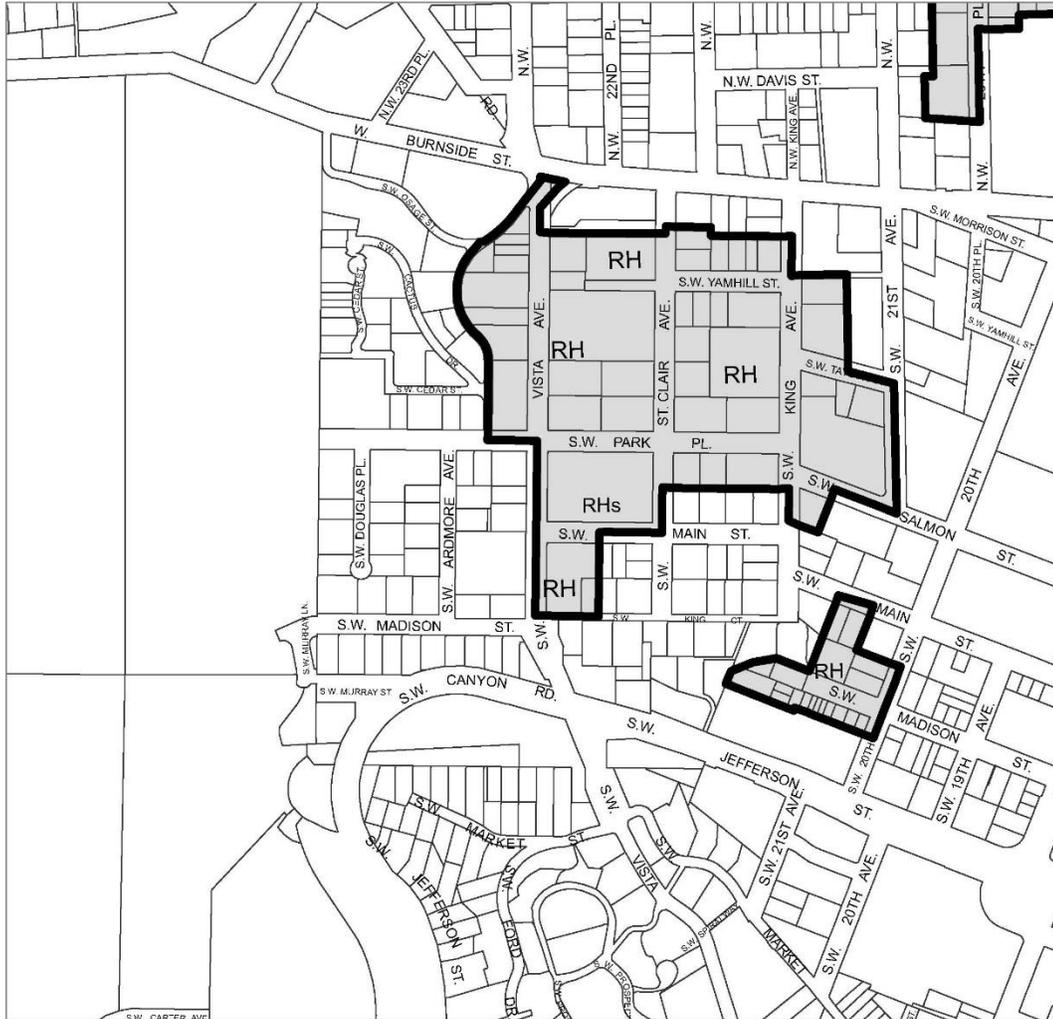
Proposed Map 120-12 is unchanged from the existing map series except it is renumbered from Map 120-14.

See page 51 of this report for original map.

# Proposed RH Areas with Maximum FAR of 4:1

# Map 120-12

Map Revised Xxxxx X, 201X



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## Commentary

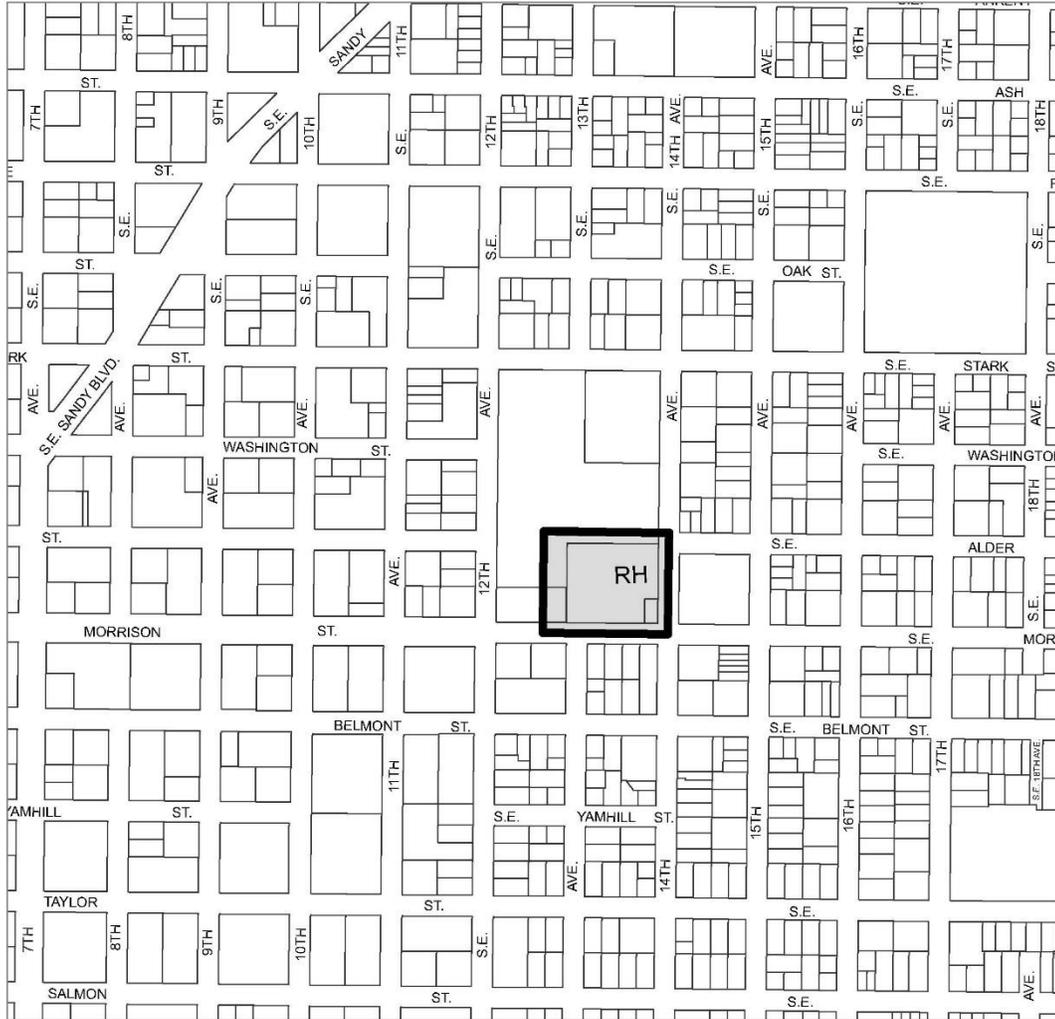
Proposed Map 120-13 is unchanged from the existing map series except it is renumbered from Map 120-15.

See page 53 of this report for original map.

# Proposed RH Areas with Maximum FAR of 4:1

# Map 120-13

Map Revised Xxxxx X, 201X



- City Boundary
-  Boundary of Existing/Potential RH - Zoned Area

Quarter Section(s): 3131



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## Commentary

Proposed Map 120-14 is renumbered from the existing map series Map 120-16. City initiated Comprehensive Plan Map Designation reflected on this map and adjoining, proposed map 120-15.

See page 55 of this report for original map.



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## Commentary

Proposed Map 120-15 is renumbered from the existing map series Map 120-17 Change in Comprehensive Plan Map designation to High Density Residential and RH zone accompanied by 4 to 1 FAR approved by City Council in support of potential Terwilliger Plaza assisted living expansion.

See page 57 of this report for original map.



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## Commentary

Proposed Map 120-16 is renumbered from the existing map series Map 120-18 Existing high density multi-dwelling residential Comprehensive Plan Map designation and RH zone removed from a portion of this 120 Map series 4:1 FAR area and replaced with CI2 Campus Institutional Zone in response to Council direction. This in response to a public request by Northwest College of Naturopathic Medicine.

See page 59 of this report for original map.



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## Commentary

Proposed Map 120-17 is unchanged from the existing map series except it is renumbered from Map 120-20.

See page 63 of this report for original map.



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## Commentary

### **33.445.610. C.9 Historic Preservation Incentive**

This amendment creates an additional regulatory incentive to preserve Historic Landmarks, Conservation Landmarks, and contributing structures in Historic and Conservation districts. In this case the incentive allows Office uses in the R5 zone in historic structures that have had a legally established Office use for a period of time. The impetus for the change comes from a group of contributing historic resources in the King's Hill Historic District that have had Office uses in them consistently since at least the early 1970's. The proposed amendments provide an opportunity to legally establish the existing Office uses in these structures and attach the approval to the property rather than to an individual as is the case with the "revocable permits" under which the existing office uses operate.

This is a targeted response to a specific identified need.

## 33.445 Historic Resource Overlay Zone

# 445

### 33.445.610 Historic Preservation Incentives

- A. Purpose.** Historic preservation incentives increase the potential for historic resources to be used, protected, renovated, and preserved. Incentives make preservation more attractive to owners of historic resources because they provide flexibility and economic opportunities.
- B. Eligibility for historic preservation incentives.** Conservation Landmarks and Historic Landmarks are eligible to use the historic preservation incentives in Subsection C if the requirements of Subsection D are met. Sites with resources identified as contributing to the historic significance of a Historic District or a Conservation District are eligible to use the incentives in Paragraphs C.3 through C.98 if the requirements of Subsection D are met.
- C. Incentives.** The following incentives are allowed if the requirements of Subsection D, Covenant, are met. The incentives are:
1. – 8. [No change.]
  9. Office uses in the R5 zone. In the R5 zone, up to 100 percent of the net building area of a structure may be approved for Office use as follows:
    - a. Review required. The Office use must be approved through Historic Preservation Incentive Review; and
    - b. Previous Office use required. The last use in the structure must have been an Office use and must have been allowed when established; if part of the structure was in residential use, the proposal must include at least as many dwelling units as were part of the last allowed use or uses. If the last allowed use was residential only, the structure is not eligible for this incentive.
- D. Covenant.** The owner must execute a covenant with the City. The covenant may not be revoked or rescinded. The covenant must:
1. State that the owner agrees that the historic resource is subject to demolition review, and the owner will not demolish or relocate the historic resource unless the City approves the demolition or relocation through demolition review; and
  2. Meet the requirements of Section 33.700.060, Covenants with the City.

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## Commentary

### **33.531.140. D Additional Prohibited Uses**

Through the Employment Zoning Project, Household Living and Group Living have been changed from conditional uses to prohibited uses in the EG zones. As a result, they do not need to be included in this list. They are now prohibited by the base zone regulations.

### **33.531.140. C.2 Maximum FAR**

Office use is proposed to be limited to a maximum FAR of 1 to 1 for sites in Subdistrict B of the Guild's Lake Industrial Sanctuary plan district. The EG1 zone currently allows Office use up to a maximum FAR of 1 to 1, with the opportunity for an additional 0.85:1 FAR bonus for contributions to the Northwest Transportation Fund, for a maximum FAR of 1.85:1 for Office uses in Subdistrict B. The current bonus office density limitation of 1.85:1 in Subdistrict B was based on traffic modeling when the plan district was created, estimating that the resulting uses would be adequately served by existing transportation facilities and anticipated improvements that would be funded through the Northwest Transportation Fund bonus option. However, under the Employment Zoning Project, the maximum FAR for Office uses will increase to 3 to 1. Without the proposed limitation, the maximum FAR for Office uses in Subdistrict B could reach 3.85 to 1. Therefore, the proposed limitations on Office uses is necessary to be consistent with the transportation plan for the surrounding area.

## 33.531 Guild's Lake Industrial Sanctuary Plan District

# 531

### 33.531.140 Additional Regulations in Subdistrict B

- A. Purpose.** These regulations minimize conflicts between industrial operations in the Guild's Lake Industrial Sanctuary and the mixed-use neighborhood to the south. Uses are limited or prohibited that may conflict with nearby industrial and residential uses or that can overburden the area's transportation system. These regulations provide additional flexibility in the siting of the limited amount of Office uses allowed in the subdistrict, while preserving overall Office use limitations. The regulations also limit blank walls on the ground level of buildings to encourage a continuity of active uses along street frontages and to avoid a monotonous pedestrian environment. Parking access is limited along NW Vaughn Street to minimize impacts on the transportation system and to reduce conflicts with pedestrians.
- B. Where these regulations apply.** These regulations apply to sites in an EG zone within Subdistrict B, shown on Map 531-2.
- C. Additional limited uses.**
1. Retail Sales And Service uses limitation. Retail Sales And Service uses are allowed if the net building area plus the exterior display and storage area is not more than 10,000 square feet per site.
  2. Office use limitation. Office uses are allowed if the net building area devoted to office uses does not exceed a maximum FAR of 1 to 1 ~~is not more than the square footage of the site.~~
- D. Additional prohibited uses.** The following uses are prohibited:
- ~~1. Household Living~~
  - ~~2. Group Living~~
  - ~~13.~~ Quick Vehicle Servicing;
  - ~~24.~~ Commercial Outdoor Recreation; and
  - ~~35.~~ Major Event Entertainment.
- E. Development standards.**
1. Maximum floor area ratios. Half the floor area used for parking is not counted toward maximum floor area ratios.
  2. Maximum height. The maximum building height is 65 feet.
  3. Building coverage. The maximum building coverage is 100 percent.
  4. Minimum landscaped area. There is no minimum landscaped area.
  5. Transfer of floor area. The amount of floor area allowed to be in Office use on the portion of a site within Subdistrict B may be transferred to the portion of another site within Subdistrict B, if all of the following are met:

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## Commentary

### **33.531.140. E.6 Ground floor windows**

Changing text to reference "NW Vaughn" rather than "transit street" This change is being proposed because Subdistrict B will be enlarged and extended to NW Nicolai which is also a transit street but not a ROW where enhanced groundfloor window standards are sought.

### **33.531.140. E.11 Marketing statement**

Paragraph E.11 currently requires that owners of buildings market office space to office use whose primary market is industrial firms. The requirement to market office use in Subdistrict B to only those tenants whose primary market is industrial firms located in the Guild's Lake Industrial Sanctuary plan district. The marketing requirement is difficult to enforce because many forms of marketing are used in property leasing. Additionally, office sectors have become a predominant use in EG zones, and recommended code amendments in the Employment Zoning Project of the Comprehensive Plan Update will increase allowable office density from 1:1 to 3:1 FAR in EG zones generally to accommodate forecast job growth in this business district type.

- a. Development on the receiving site must meet all development standards except for the amount of floor area in office use, which is increased to allow the amount transferred;
- b. Transfer of Office floor area may involve only one transferring site and one receiving site; and
- c. The property owner(s) must execute a covenant with the City that is attached to and recorded with the deed of both the site transferring and the site receiving the floor area reflecting the respective increase and decrease of potential Office use floor area. The covenant must meet the requirements of Section 33.700.060.

~~65.~~ Setbacks and main entrances. There is no minimum building setback. Sites are subject to the maximum setback standards and main entrance standards of the EG1 zone.

~~76.~~ Ground floor windows. The ground floor of all street-facing façades that are 20 feet or closer to a ~~transit~~-street lot line adjacent to NW Vaughn Street must meet the ground floor window standards of the EX zone.

~~87.~~ Drive-through facilities. Drive-through facilities are prohibited.

~~98.~~ Motor vehicle access. Motor vehicle access to a vehicle area or structure is not allowed from NW Vaughn Street unless the site has no other street frontage.

~~109.~~ Disclosure statement. Before a building permit is issued for an Office use, the applicant must record a disclosure statement with the County. In addition, the owner must provide a copy of the disclosure statement to all prospective tenants and buyers. The disclosure statement must state that the office is located in an industrial area where impacts from industrial uses are present, such as noise, vibrations, fumes, odors, glare, traffic and freight movement. The statement is available at the Development Services Center; ~~and~~

~~11.~~ Marketing statement. Before a building permit is issued for an Office use, the applicant must record a marketing statement with the County. The statement must state that the owner will make a good faith effort to market office space to businesses whose primary market is industrial firms in the Guild's Lake Industrial Sanctuary plan district. The statement is available at the Development Services Center.

- F. Northwest Transportation Fund bonus option.** Contributors to the Northwest Transportation Fund (NWTF) receive Office floor area bonuses. For each contribution to the NWTF, a bonus of one square foot of additional floor area that may be used for Office use is earned, up to an additional floor area ratio of 0.85 to 1. The amount of the contribution required for each square foot of additional floor area is in Chapter 17.19, Northwest Transportation Fund. This bonus allows additional floor area to be in Office uses; it does not increase the total amount of floor area in any use that is allowed on the site, and does not count towards the maximum FAR allowed by the base zone.

The NWTF is to be collected and administered by the Portland Office of Transportation. The funds collected may be used only to make transportation improvements in the area that will be most affected by the bonus, which is generally bounded by: NW Pettygrove Street, NW Nicolai Street, I-405, NW 27th Avenue.

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## Commentary



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## Commentary

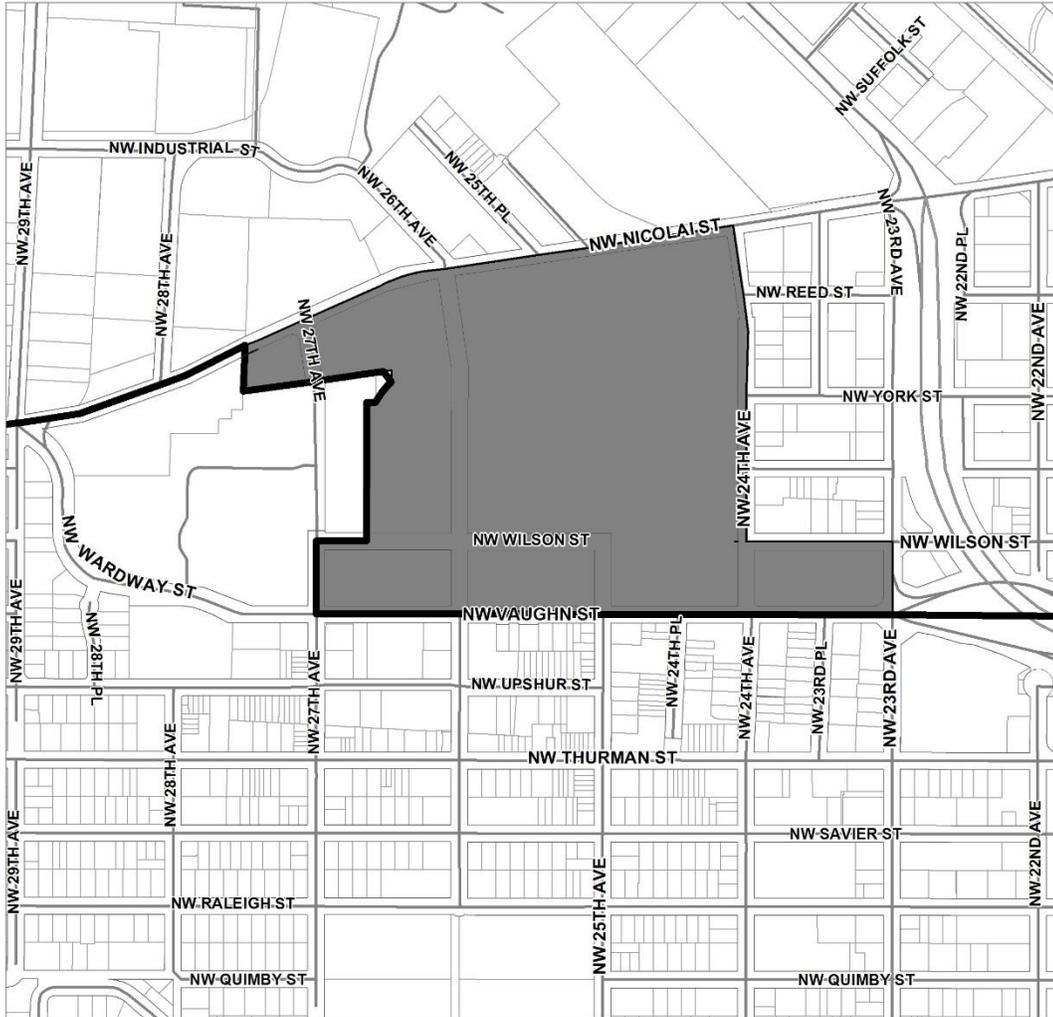
Note new map 531-2 shows expanded Subdistrict B

# Draft Guild's Lake Industrial Sanctuary Plan District Subdistrict B

# Map 531-2

Code reference: 33.531.140.B

Map Revised xxxx, 201x



-  Plan District Boundary
-  Subdistrict B



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## Commentary

### **33.600 Table of Contents**

This amendment is associated with the amendments that add school district capacity as a service consideration during a land division. See pg. 111 for more details.

# 600s

## Land Divisions and Planned Developments

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### Services and Utilities

33.651 Water Service

33.652 Sanitary Sewer Disposal Service

33.653 Stormwater Management

33.654 Rights-of-Way

33.655 School District Enrollment Capacity

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## Commentary

### **33.655 School District Enrollment Capacity**

This is a new chapter. To implement new Comprehensive Plan policy, school district capacity is being added as a service criterion for the approval of a land division. When a land division occurs within the boundaries of a school district that has an adopted school facility plan, the school district will be required to verify that the schools in the district have adequate space to accommodate the students expected to live in the homes that will be developed once the land is divided into additional lots. This requirement is similar to existing service requirements, such as streets, sewer and water, that apply to a request for a land division. To meet the verification requirement, the applicant for a land division that will result in 11 lots or more will be required to provide a letter from the school district verifying that they have adequate capacity.

Administrative Staff from the David Douglas School District have worked with BPS staff on this proposal and are supportive of their assigned service provider responsibilities. BDS Staff have expressed concerns regarding the administration of this section, most specifically the need to develop objective criteria to be used in determining which development proposals will be subject to capacity related holds and lack of mitigating options available to individual developers faced with such "over capacity determinations and delays. These administrative procedures will need to be further defined prior to the effective date of this proposed code change.

**33.655 School District Enrollment Capacity****655**Sections:33.655.010 Purpose33.655.020 Where These Regulations Apply33.655.100 School District Enrollment Capacity Standard**33.655.010 Purpose**

In some areas of the City, growth and development have outpaced the ability for a school district to accommodate increasing student population. This regulation ensures that there is adequate enrollment capacity within school districts to accommodate the student population that is projected to be generated from a land division site.

**33.655.020 Where These Regulations Apply**

The standard of this chapter applies to all land divisions that will result in eleven or more lots within the boundaries of a school district that has an adopted school facility plan that has been acknowledged by the City of Portland.

**33.655.100 School District Enrollment Capacity Standard**

The school district within whose boundaries the land division site lies has verified that enrollment capacity for the district is adequate to serve the proposed development. Adjustments are prohibited.

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## Commentary

### **33.660 and 33.662 Review of Land Divisions in Open Space, Residential, Commercial, Employment and Industrial Zones**

These amendments are associated with other amendments that add school district capacity as a service consideration during a land division. See pgs. 110 111 for additional discussion.

## **33.660 Review of Land Divisions in Open Space and Residential Zones**

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**660**

### **33.660.120 Approval Criteria**

The Preliminary Plan for a land division will be approved if the review body finds that the applicant has shown that all of the following approval criteria have been met. The approval criteria are:

- A. K. [No change]
- L. **Services and utilities.** The regulations and criteria of Chapters 33.651 through 33.6554, which address services and utilities, must be met.

## **33.662 Review of Land Divisions in Commercial, Employment, and Industrial Zones**

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**662**

### **33.662.120 Approval Criteria**

The Preliminary Plan for a land division will be approved if the review body finds that the applicant has shown that all of the following approval criteria have been met. The approval criteria are:

- A. – J. [No change]
- K. **Services and utilities.** The regulations and criteria of Chapters 33.651 through 33.6554, which address services and utilities, must be met.

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## Commentary

### **33.665.340 Proposals without a land division (Planned Development Review)**

These amendments are associated with the addition of school district capacity as a service consideration during a land division. See pgs. 110-111 for more details.

## 33.665 Planned Development Review

# 665

### 33.665.340 Proposals Without a Land Division

The approval criteria of this section apply to Planned Developments that do not include a land division. The approval criteria are:

#### A. Services.

1. The proposed use must be in conformance with the Arterial Streets Classifications and Policies of the Transportation Element of the Comprehensive Plan;
2. The approval criteria of Section 33.654.110, Connectivity and Location of Rights-of-Way, must be met;
3. The standards of Section 33.651.020, Water Service Standards, must be met;
4. The standard of Section 33.652.020, Sanitary Sewer Disposal Service Standard, must be met;
5. The standard of Section 33.655.100, School District Enrollment Capacity Standard, must be met; and,
56. The application must show that a stormwater management system can be designed that will provide adequate capacity for the expected amount of stormwater.

#### B. – G. [No change]

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## Commentary

### **33.730.060.D. Required information for land divisions**

To implement Comprehensive Plan policy 10.3.d, land divisions that result in 11 or more lots within school districts that have an adopted and acknowledged school facility plan will be subject to an additional service standard related to enrollment capacity. In order for such a land division to be approved, the school district will have to verify that there is adequate enrollment capacity to serve the proposed development. This amendment adds the requirement for verification information to the list of land division review application requirements.

**33.730.060 Application Requirements****A. – B. [No change]**

**C. Required information for land use reviews except land divisions.** Unless stated elsewhere in this Title, a complete application for all land use reviews except land divisions consists of all of the materials listed in this Subsection. The Director of BDS may waive items listed if they are not applicable to the specific review. The applicant is responsible for the accuracy of all information submitted with the request.

1. Two copies of the completed application form bearing an accurate legal description, tax account number(s) and location of the property. The application must include the name, address, and telephone number of the applicant, the name and addresses of all property owners if different, the signature of the applicant, and the nature of the applicant's interest in the property.
2. One copy of a written statement that includes the following items:
  - A complete list of all land use reviews requested;
  - A complete description of the proposal including existing and proposed use(s) or change(s) to the site or building(s);
  - A description of how all approval criteria for the land use review(s) are met. As an alternative and where appropriate, this information may be placed on the site plan; and
  - Additional information needed to understand the proposal, or requested at the pre-application conference, if applicable.
3. Four copies of a site or development plan. At least one complete copy must be 8-1/2 inches by 11 inches, suitable for photocopy reproduction. The site or development plan must be drawn accurately to scale and must show the following existing and proposed information:
  - All property lines with dimensions and total lot area;
  - North arrow and scale of drawing;
  - Adjacent streets, access (driveways), curbs, sidewalks, and bicycle routes;
  - Existing natural features such as watercourses including the ordinary high water line and top of the bank;
  - The location, size, and species of all trees 6 inches and larger in diameter. On sites where the development impact area option for large sites in Chapter 11.50 will be used, only trees within that area must be shown;
  - Trees proposed to be preserved, including protection methods meeting the requirements of Chapter 11.60, and trees proposed to be removed;
  - Easements and on-site utilities;
  - Existing and proposed development with all dimensions;
  - Building elevations;
  - Location of adjacent buildings;
  - Distances of all existing and proposed development to property lines;
  - Types and location of vegetation, street trees, screening, fencing, and building materials;

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## Commentary

- Percentage of the site proposed for building coverage, and landscaping coverage;
  - Motor vehicle and pedestrian access and circulation systems, including connections off-site;
  - Motor vehicle and bicycle parking areas and design, number of spaces, and loading areas;
  - Bus routes, stops, pullouts or other transit facilities on or within 100 feet of the site; and
  - Additional requirements of the specified land use review.
4. In the case of a land use review that requires a pre-application conference, a copy of the completed pre-application conference summary or proof of participation, if available.
  5. A transportation impact study, if required by the Office of Transportation at a pre-application conference.
  6. In the case of a zone change within the boundaries of a school district that has an adopted school district facility plan that has been acknowledged by the City, the application must include verification from the school district that there is adequate enrollment capacity to serve the zone change site.

**D. Required information for land divisions.** Unless stated elsewhere in this Title, a complete application for a land division consists of the materials listed below. The Director of BDS may waive items listed if they are not applicable to the specific review. The applicant is responsible for the accuracy of all information submitted with the request. At least one copy of each plan/map submitted with the application must be 8 ½ by 11 inches in size, and be suitable for reproduction.

1. Preliminary Plan for all sites except those taking advantage of Chapter 33.664, Review of Large Sites in I Zones. An application for Preliminary Plan for all sites except those taking advantage of Chapter 33.644, Review of Large Sites in I Zones, must include all of the following:
  - a. j. [No change]
  - k. When the land division site is within the boundaries of a school district that has an adopted school district facility plan that has been acknowledged by the City, and the land division will create eleven or more lots, the application must include verification from the school district that there is adequate enrollment capacity to serve the development site.
2. – 4. [No change]

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## Commentary

### **33.810.050.A.3 and 33.810.060 No Net Loss of Housing and Housing Pool**

The current Comprehensive Plan contains a policy directing that the City “retain housing potential by requiring no net loss of land reserved for, or committed to, residential, or mixed-use.” The policy specifically requires that Comprehensive Plan map amendments replace any loss of potential housing. The policy is carried out by requirements in the zoning code and replacement can occur through several measures including rezoning other land to increase housing potential, building residential units on the site, or through the use of a housing pool.

The policy was aimed at ensuring the City's overall number of potential housing units remain the same even in the face of quasi-judicial changes in Comprehensive Plan designations.

The 2035 Comprehensive Plan has the capacity for 267,000 additional housing units. With a growth forecast of 123,000 units, the City now has a large surplus of residential capacity, such that it is no longer necessary to closely track the impact of individual land use decisions on the residential capacity from quasi-judicial comprehensive plan amendments. With the large surplus of residential capacity, Policy 4.2 (Maintain Housing Potential) in the current Comprehensive Plan was replaced by Policy 5.3 (Housing Potential) in the 2035 Comprehensive Plan that focuses on evaluating the impacts of legislative plans and investments on housing capacity, especially affordable housing for low- and moderate-income households. Therefore, the following code provisions for No Net Loss of Housing and the Housing Pool are no longer needed and are proposed to be deleted.

## 33.810 Comprehensive Plan Map Amendments

# 810

### 33.810.050 Approval Criteria

**A. Quasi-Judicial.** Amendments to the Comprehensive Plan Map that are quasi-judicial will be approved if the review body finds that the applicant has shown that all of the following criteria are met:

1. The requested designation for the site has been evaluated against relevant Comprehensive Plan policies and on balance has been found to be equally or more supportive of the Comprehensive Plan as a whole than the old designation;
2. The requested change is consistent with Statewide Land Use Planning Goals;
3. ~~When the requested amendment is:~~
  - ~~From a residential Comprehensive Plan Map designation to a commercial, employment, industrial, or institutional campus Comprehensive Plan Map designation; or~~
  - ~~From the urban commercial Comprehensive Plan Map designation with CM zoning to another commercial, employment, industrial, or institutional campus Comprehensive Plan Map designation;~~

~~the requested change will not result in a net loss of potential housing units. The number of potential housing units lost may not be greater than the potential housing units gained. The method for calculating potential housing units is specified in subparagraph A.2.a, below; potential housing units may be gained as specified in subparagraph A.2.b, below.~~

  - a. ~~Calculating potential housing units. To calculate potential housing units, the maximum density allowed by the zone is used. In zones where density is regulated by floor area ratios, a standard of 900 square feet per unit is used in the calculation and the maximum floor area ratio is used. Exceptions are:~~
    - (1) ~~In the RX zone, 20 percent of allowed floor area is not included;~~
    - (2) ~~In the R3, R2, and R1 zones, the amenity bonus provisions are not included; and~~
    - (3) ~~In the CM zone, one half of the maximum FAR is used.~~
    - (4) ~~Where a residentially zoned area is being used by an institution and the zone change is to the Institutional Residential zone, the area in use as part of the institution is not included.~~
    - (5) ~~Where a residentially zoned area is controlled by an institution and the zone change is to the Institutional Residential zone the area excluded by this provision also includes those areas within the boundaries of an approved current conditional use permit or master plan.~~

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## Commentary

- ~~b. Gaining potential housing units. Potential housing units may be gained through any of the following means:
 
  - ~~(1) Rezoning and redesignating land off site from a commercial, employment, or industrial designation to residential;~~
  - ~~(2) Rezoning and redesignating lower density residential land off site to higher density residential land;~~
  - ~~(3) Rezoning land on or off site to the CM zone;~~
  - ~~(4) Building residential units on the site or in a commercial or employment zone off site. When this option is used to mitigate for lost housing potential in an RX, RH, or R1 zone, only the number of units required by the minimum density regulations of the zone are required to be built to mitigate for the lost housing potential;~~
  - ~~(5) Any other method that results in no net loss of potential housing units, including units from the housing pool as stated in 33.810.060 below.~~
  - ~~(6) In commercial and employment zones, residential units that are required, such as by a housing requirement of a plan district, are not credited as mitigating for the loss of potential units.~~
  - ~~(7) When housing units in commercial or employment zones are used to mitigate for lost housing potential, a covenant must be included that guarantees that the site will remain in housing for the credited number of units for at least 25 years.~~~~

43. In order to prevent the displacement of industrial and employment uses and preserve land primarily for these uses, the following criteria must be met when the requested amendment is from an Industrial Sanctuary or Mixed Employment Comprehensive Plan Map designation:

a. – g. [No change]

**33.810.060 Housing Pool**

**A. Purpose.** ~~The housing pool is intended to provide a resource of housing units that can be used by applicants for Comprehensive Plan Map amendments where housing potential would be lost. It is intended to be used only in cases where the other approval criteria for approving the Comprehensive Plan Map amendment have been met. It is generally intended for use only by small business persons or other applicants who do not have other resources or expertise to mitigate for the lost housing potential through other means.~~

**B. Adding units to the pool.** Units may be added to the housing pool through the following methods:

- ~~1. Units in C, E, or I zones. Residential units in C, E, or I zones that are not required by other regulations, such as the requirement of a plan district, may be included in the pool. The residential units can be included only if there is a covenant that guarantees that the site will remain in housing for the credited number of units for at least 25 years.~~

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## Commentary

2. ~~Redesignating and rezoning land. Units may be added to the pool by redesignating and rezoning nonresidentially zoned land to a residential designation and zone. They may also be added by redesignating and rezoning lower density residential land to higher density residential land, or by redesignating and rezoning to the CM zone. In these cases the number of units added to the pool is the number of additional potential housing units that result from the change. However, increased housing potential that results from a neighborhood planning or district planning process may not be included.~~

**~~C. Subtracting units from the pool.~~**

1. ~~Process. Use of units from the housing pool will not be recommended until after the Director of BDS has made a tentative recommendation on the application for a Comprehensive Plan Map amendment. The review body will make the final decision on whether units from the pool may be used. The review body will base its recommendation on the review criteria in Paragraph C.2. below.~~
2. ~~Review criteria for use of the pool. Units from the housing pool will only be used if the review body finds that all of the criteria below are met. The burden of proof that the criteria are met increase as the size of the area of the Comprehensive Plan Map amendment increases.~~
  - a. ~~The applicant does not have the resources or expertise, or cannot reasonably obtain the resources or expertise to mitigate for the lost housing potential through other means, and~~
  - b. ~~The project will:~~
    - (1) ~~Provide valuable services to the surrounding community, through such means as providing goods or services to the community, drawing trade and economic activity into the community, or hiring from the community;~~
    - (2) ~~Retain or create employment opportunities for city residents; and~~
    - (3) ~~Contribute new investment to the area.~~

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## Commentary

## 33.855 Zoning Map Amendments

# 855

### Sections:

- 33.855.010 Purpose
- 33.855.020 Initiating a Zoning Map Amendment
- 33.855.030 When a Comprehensive Plan Map Amendment Is also Required
- 33.855.040 Procedure
- 33.855.050 Approval Criteria for Base Zone Changes
- 33.855.060 Approval Criteria for Other Changes
- 33.855.070 Corrections to the Official Zoning Maps
- 33.855.075 Automatic Map Amendments for Historic Resources
- 33.855.080 Recently Annexed Areas

### **33.855.010 Purpose**

This chapter states the procedures and approval criteria necessary to process an amendment to the base zones, overlay zones, plan districts, and other map symbols of the Official Zoning Maps. The chapter differentiates between amendments which are processed in a quasi-judicial manner and those processed in a legislative manner. A discussion of quasi-judicial and legislative is found in 33.700.070.

### **33.855.020 Initiating a Zoning Map Amendment**

- A. Quasi-Judicial.** Requests for a zoning map amendment which are quasi-judicial may be initiated by an individual, a representative of the owner, the Planning and Sustainability Commission, or the City Council. The Historical Landmarks Commission may initiate amendments concerning historic districts, and the Design Commission may initiate amendments concerning design districts. The Director of BDS may request amendments for initiation by the Planning and Sustainability Commission. Initiations by a review body are made without prejudice towards the outcome.
- B. Legislative.** Requests for zoning map amendments which are legislative may be initiated by the Planning and Sustainability Commission or the City Council. The Historical Landmarks Commission may initiate amendments concerning historic districts, and the Design Commission may initiate amendments concerning design districts. Others may request to the Planning and Sustainability Commission to initiate a legislative zoning map amendment. The Planning and Sustainability Commission will review these amendment requests against adopted initiation criteria. Initiations by a review body are made without prejudice towards the outcome.

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## Commentary

### **33.855.030 When a Comprehensive Plan Map Amendment Is also Required**

This amendment changes the reference from the policy number in the old Comprehensive Plan to the correct policy number in the newly adopted Comprehensive Plan.

### **33.855.040 Procedure**

These amendments correct incorrect usage of the word "which".

### **33.855.050.A.3 No net loss of housing**

This paragraph is being deleted because the requirement to ensure no net loss of housing when the zone is being changed from CM to CS is being deleted. See pg. 120 for more details.

**33.855.030 When a Comprehensive Plan Map Amendment Is also Required**

Zoning map amendments may also require an amendment to the Comprehensive Plan Map. Determination of whether the Comprehensive Plan Map must also be amended is based upon whether the proposed zoning map amendment is to a zone designated by the Comprehensive Plan Map. See Policy ~~10.71.18~~ in the Comprehensive Plan. If an amendment to the Comprehensive Plan Map is required, the zoning map amendment cannot be made unless the amendment to the Comprehensive Plan Map is approved first. Both amendments may be processed concurrently. 33.855.040 Procedure

**33.855.040 Procedure**

- A. Quasi-Judicial.** Requests for quasi-judicial zoning map amendments ~~which are quasi-judicial~~ are reviewed through a Type II or Type III procedure. Zoning map amendments to rezone a site to IR, Institutional Residential, are processed through a Type II procedure. Amendments for all other zones are processed through a Type III procedure.
- B. Legislative.** Requests for legislative zoning map amendments ~~which are legislative~~ are reviewed through the legislative procedure stated in Chapter 33.740.
- C. Manufactured dwelling park special notice.** The applicant for a zoning map amendment ~~which~~that changes the zoning on a manufactured dwelling park must provide written notice by first class mail to each unit in the manufactured dwelling park. The notice must include the time, date, and location of the public hearing and the new zone being proposed. The notices must be mailed 20 to 40 days before the hearing date.

**33.855.050 Approval Criteria for Base Zone Changes**

An amendment to the base zone designation on the Official Zoning Maps will be approved (either quasi-judicial or legislative) if the review body finds that the applicant has shown that all of the following approval criteria are met:

- A. Compliance with the Comprehensive Plan Map.** The zone change is to a corresponding zone of the Comprehensive Plan Map.
  1. When the Comprehensive Plan Map designation has more than one corresponding zone, it must be shown that the proposed zone is the most appropriate, taking into consideration the purposes of each zone and the zoning pattern of surrounding land.
  2. Where R zoned lands have a C, E, or I designation with a Buffer overlay, the zone change will only be approved if it is for the expansion of a use from abutting nonresidential land. Zone changes for new uses that are not expansions are prohibited.
  - ~~3. When the zone change request is from a higher density residential zone to a lower density residential zone, or from the CM zone to the CS zone, then the approval criterion in 33.810.050 A.3 must be met.~~

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## Commentary

### **33.855.050.B.2.d. Adequate public services.**

Amending the approval criterion for zoning map amendments implements Comprehensive Plan policy 10.3.d, and will ensure that school district capacity is a consideration in the same way that sewer and water system capacity are considered during a zoning map amendment. If the sewer system is incapable of handling the increased development that would occur as a result of a zoning map amendment, then the zoning map amendment cannot be approved unless the applicant for the zone change can upgrade the service to meet the projected need. With this amendment, school districts will be treated as any other service provider during a zoning map amendment, and the ability of the district to serve any projected increase in students will be a deciding factor in the decision.

**B. Adequate public services.**

1. Adequacy of services applies only to the specific zone change site.
2. Adequacy of services is determined based on performance standards established by the service bureaus. The burden of proof is on the applicant to provide the necessary analysis. Factors to consider include the projected service demands of the site, the ability of the existing and proposed public services to accommodate those demand numbers, and the characteristics of the site and development proposal, if any.
  - a. Public services for water supply, and capacity, and police and fire protection are capable of supporting the uses allowed by the zone or will be capable by the time development is complete.
  - b. Proposed sanitary waste disposal and stormwater disposal systems are or will be made acceptable to the Bureau of Environmental Services. Performance standards must be applied to the specific site design. Limitations on development level, mitigation measures or discharge restrictions may be necessary in order to assure these services are adequate.
  - c. Public services for transportation system facilities are capable of supporting the uses allowed by the zone or will be capable by the time development is complete. Transportation capacity must be capable of supporting the uses allowed by the zone by the time development is complete, and in the planning period defined by the Oregon Transportation Rule, which is 20 years from the date the Transportation System Plan was adopted. Limitations on development level or mitigation measures may be necessary in order to assure transportation services are adequate.
  - d. The school district within which the site is located has adequate enrollment capacity to accommodate any projected increase in student population over the number that would result from development in the existing zone. This criterion applies only to sites that are within a school district that has an adopted school facility plan that has been acknowledged by the City.
3. Services to a site that is requesting rezoning to IR Institutional Residential, will be considered adequate if the development proposed is mitigated through an approved impact mitigation plan or conditional use master plan for the institution.

**CD. When the requested zone is IR, Institutional Residential.** [No change]

**DE. Location.** [No change]

# 5. Proposed Zoning Map Amendments with Commentary

*The Major Public Trails referred to in this amendment were formerly referred to as Public Recreational Trails. The Comprehensive Plan 2035 update (March 2016 amendments) and Central City 2035 Plan (February 2016 Discussion Draft) proposed renaming these trails to better acknowledge their scale and role in providing both recreational and transportation options.*

## Summary

The City of Portland supports the development of public trails to provide public access for recreation or transportation purposes, like walking and bicycling. Trails are often located along rivers, through natural areas, or along rail or highway rights-of-way, with connections to and through neighborhoods and are a component of larger network of facilities for bicyclists, pedestrians, and recreational users. The trail system also assists in providing other public services, including emergency vehicle and public safety access, flood protection and control, and shoreline anchoring. The development of public trails is supported by a variety of Comprehensive Plan goals and policies. See page 10. of this report.

Since 1995, the City of Portland has used Major Public Trail regulations, implemented through the City's Zoning Code Chapter 33.272 and Zoning Map designations to increase recreational opportunities and access to the City's rivers, natural areas, and open spaces; support active modes of transportation; and connect the city's regional trail system.

This amendment proposes changes to the Major Public Trail designations depicted on the City's Official Zoning Maps to implement Comprehensive Plan Policy 8.54 and accompanying Figure 8-2 (see page 135), and to support broader trails policies. These designations are intended to show built and unbuilt public trail alignments where the City intends to apply Zoning Code regulations established in 33.272. The Major Public Trail network does not include the entire trail system nor the full pedestrian and bicycle system. The Major Public Trail designations do not diminish the role or importance of other bicycle and pedestrian connections nor do they direct City investment. Rather, they are intended to define the geographic scope of a zoning-based implementation tool.

A variety of changes are proposed to the Zoning Map Major Public Trail designations for consistency with the new public recreation trail alignments identified in the 2035 Comprehensive Plan (see figure 8-2 page 65). A more detailed summary of the proposed changes is included in Table 1. The proposal includes changes to:

*Note: The Major Public Trails referred to in this amendment were formerly referred to as Public Recreational Trails. The Comprehensive Plan 2035 update and Central City 2035 Plan proposed renaming these trails to better acknowledge their scale and role in providing both recreational and transportation options.*

1. **Add missing and newly adopted regional trail alignments:** Regional trails not included in the currently adopted trail designations were added, consistent with adopted trail plans.

2. **Remove outdated designations:** Existing, but outdated Public Recreational Trail alignments that are now inconsistent with more recently adopted regional trail plans have been proposed for deletion.
3. **Modify existing designations:** The proposal includes modifications to currently adopted alignments in certain locations to:
  - Update alignments in cases where the existing trail designations does not align with more recently adopted plans for regional trails
  - Select a single preferred Major Public Trail alignment in cases where duplicative alignments were previously adopted (e.g. the current alignments show duplicative trails on both sides of a stream or other narrow waterway)
  - Select a single preferred Major Public Trail alignment in cases where existing alignments followed the centerlines of waterways, to ensure connectivity and avoid piecemeal implementation on both sides of the waterway.
4. **Add select significant connections in Southwest Portland:** The proposal adds the Major Public Trail designation to significant trail connections in Southwest Portland which were not previously designated as Major Public Trails. While these connections are not part of the regional trail system, they are part of the Southwest Urban Trail system. This change is intended to acknowledge the importance of these multi-modal connections in an area where trails play a more substantial role in meeting pedestrian and bicycle connectivity needs.

The Major Public Trails designations depict both built and unbuilt trail segments for a number of reasons: a) including complete trail alignments provides context for parcel level decisions on trail locations; b) in some cases the City may have already been granted an easement but the trail has not been built OR the trail has been built without an underlying easement or not to City standards; and c) including full trail alignments limits the need to update the designations as trails are built over time.

Since 1995, the City of Portland has used Major Public Trail regulations, implemented through the City's Zoning Code Chapter 33.272 and Zoning Map designations to increase recreational opportunities and access to the City's rivers and natural areas, support active modes of transportation, and connect the City's regional trail system. The major public trail system also assists in providing other public services, including emergency vehicle and public safety access, flood protection and control, and shoreline anchoring.

### **Zoning Code Major Public Trail Requirements**

This section provides an overview of the requirements included in Chapter 33.272 Major Public Trails for context when considering this proposal. No changes are proposed.

*Note: This summary reflects changes proposed in the Central City 2035 Discussion Draft.*

### **Nexus and proportionality requirement**

The Major Public Trail regulations apply to all properties that have the Major Public Trail symbol designation shown on the Official Zoning Maps. The regulations apply when a proposed development will increase the use of the trail system or will contribute to the need for additional

trail facilities and application of the regulations is determined to be roughly proportional to the impacts of the proposed development. A determination that the regulations of Chapter 33.272 do not apply does not preclude acquisition and construction of a public trail through other legal means.

Additional Zoning Code regulations may apply for sites in the Columbia South Shore Plan District and the South Waterfront Subdistrict of the Central City Plan District.

#### **Easement requirements**

Applicants for a land use review or for building permits on lands designated with a Major Public Trail symbol are required to grant an easement for the trail. Such dedications are typically recorded as part of a land use review and finalized prior to issuance of final permit approval. In some cases, the land may be donated to the City if certain requirements are met.

#### **Construction requirements**

In single dwelling zones, construction of the designated Major Public Trail is only required for Land Divisions and Planned Developments. Construction of the trail is not required as part of development on an existing single-dwelling lot. In all other zones, construction of a designated Major Public Trail is required when there is new development; when exterior alterations to existing development are 35 percent or greater of the assessed improvement value of the total improvements on the site; or when there is a Land Division or Planned Development.

#### **Trails in or adjacent to public rights-of-way**

Trails shown adjacent to public rights-of-way may be constructed in the public right-of-way, subject to approval from the Bureau of Transportation. Trails shown in the right-of-way are planned for construction by the City of Portland within the public right-of-way.

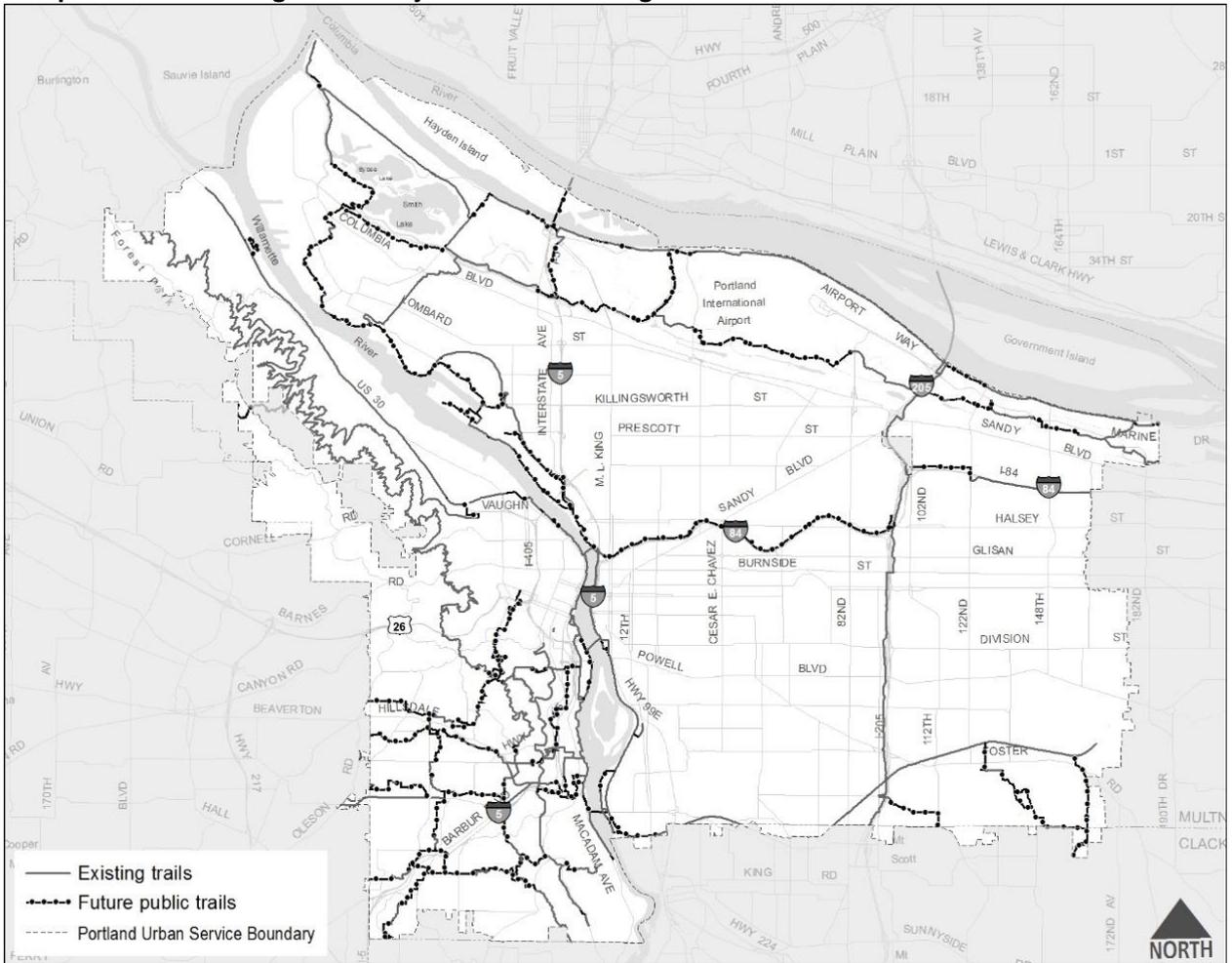
#### **Trail standards**

A Major Public Trail must comply with the standards of Portland Parks and Recreation or the Bureau of Transportation (when located in a public right-of-way).

#### **Trail Maintenance**

Section 33.272 Public Recreational Trails of the Zoning Code lays out conditions for City acceptance of maintenance responsibilities for Major Public Trails, namely that the trail lie within a negotiated easement or right-of-way granted to the City, that it be constructed to City standards and physically continuous, and that the applicant request City maintenance. The applicant retains maintenance and liability responsibilities, and must maintain the trail to a level at least equal to that of trails maintained by the City, unless these responsibilities are accepted by the City.

Comprehensive Plan Figure 8-2 Major Public Trail designations



**Table 1. Summary of Changes**

Trail	Type of Change Proposed	Approximate Trail Construction Status (built /unbuilt)	Private Property Implications	Supporting Plan or Document
Columbia Slough Trail	Modify existing designations	Built: 30 – 40% Unbuilt: 60-70%	Proposed modifications affect a number of property owners. However, PP&R has already acquired easements for some proposed segments. Several prominent portions are unbuilt and on private property, for example between the landfill site and Peninsula Crossing Trail and along Broadmoor golf course.	Columbia South Shore slough trail segments from 1993 Columbia South Shore Slough Trail Master Plan
Cross Columbia South Shore trails (2)	Remove outdated designations		Designation removal affects a few private properties	
Cross levy trail near NE 33rd	Modify existing designations	Unbuilt: Most (>90%)	Changes are located on Port of Portland and private property, but PP&R has acquired easements for some segments	
Delta Park connection	Add missing/new regional trail alignments; Modify existing designations	Unbuilt: Most (>90%)	No impacts to private property – all additions are located on public property	
Esplanade (Greenway Trail to Steel Bridge)	Modify existing designations	Built: Most (>90%)	No impacts to private property	1987 Willamette Greenway Plan
Forest Park Trails	Add missing/new regional trail alignments	Built: 98% Unbuilt: 2%	Impacts one private property	

I-205 Trail	Modify existing designations	Built: 100%	Adds designation to currently built alignment. Impacts a few private properties in Maywood Park	
I-84 Path	Add missing/new regional trail alignments	Built: 60% Unbuilt: 40%	Impacts five private properties on NE Fremont at 102nd	
Marine Drive Trail	Modify existing designations	Built: Most (%)	Proposed modifications affect a few private properties, but many of them have already provided an easement to PP&R.	
Mt. Scott/Scouter Mtn. Trail	Add missing/new regional trail alignments	Built: 30% Unbuilt: 70%	Affects about 10 private properties	Metro 2013 Mount Scot/Scouters Mountain Trail Loop Master Plan
North Portland Greenway (both sides of the river)	Modify existing designations	Unbuilt: Most (%)	Impacts some private properties – designation is added on some and deleted on others	1987 Willamette Greenway Plan; 2010 River Plan / North Reach, and 2013 North Portland Greenway Trail Alignment Plan
Peninsula Crossing	Add missing/new regional trail alignments; Modify existing designations	Built: 100%	None – all additions are located on public property	
Riverfront Trail Central City	Modify existing designations	Built: 90% Unbuilt: 10%	No new private properties affected	1987 Willamette Greenway Plan
SE 162nd Springwater Connector	Add missing/new regional trail alignments	100% unbuilt	No impacts; entirely in public right-of-way	

Springwater Corridor	Modify existing designations	Built: 100%	mostly public property; removes the trail designation from several private properties between SE 45th and SE 23rd where the trail designation follows Johnson Creek, and realigns the stars on several CEID riverfront properties but no new private properties added	1987 Willamette Greenway Plan for the segments along the Willamette River
SW Trails	Add missing/new regional trail alignments; Modify existing designations	Unbuilt: Most (%?)	Most new alignments are located on public property; Some are located on private properties (in some cases the trail is already built on the private property)	2007 Red Electric Trail Planning
Westside Greenway Trail south of downtown	Modify existing designations	Built: 90% Unbuilt: 10%	A few private properties are added but the trail is already built on these properties and easements have been acquired	1987 Willamette Greenway Plan
Wildwood Trail	Add missing/new regional trail alignments	Built: 100%	No impacts to private property	1995 Forest Park Natural Resource Management Plan

# Appendix 1 Major Trail Alignments

An electronic map of the Major Public Trail alignments can be found at <https://www.portlandoregon.gov/bps/article/574126> and is available on the [online map app](#) at <https://www.portlandmaps.com/bps/mapapp/>