



THE BUREAU OF
**PLANNING &
SUSTAINABILITY**

DATE: April 19, 2024
TO: Portland Planning Commission
FROM: Morgan Tracy, Project Manager
Shannon Buono, Senior Planner
SUBJECT: Land Division Code Update Project - Potential Amendments

On April 23, 2024, the Planning Commission is scheduled to hold a work session on the Land Division Code Update Project (LDCU) Proposed Draft. Several technical amendments have been identified in order to help clarify unclear code. These technical amendments are provided for your consideration and are summarized in the table below. Commissioner Spevak has requested an additional amendment that is not a technical clarification, which is described below as well.

For the technical clarification amendments, staff suggests that the Commission vote on them as a group, rather than individually.

How to Read these Amendments

Each amendment is prefaced by a short description of the intended effect of the change. ~~Strikethrough~~ and underline are used to show potential changes to the current code. Text **shading** is used for informational purposes to highlight where potential code amendments differ from the Proposed Draft code language.



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Summary of Potential Amendments

| Amendment 1 – Technical Amendments | | | |
|---|---|--|------------------|
| # | Amendment Name | Amendment Summary/Code Citation | Requestor |
| 1.a. | FAR limit for attached house projects | Clarify that FAR is the unit of measurement 33.110.265 | Spevak |
| 1.b. | Minimum density in the IR zone | Clarify that there are no minimum density requirements that apply in the IR zone 33.612.100 | Staff |
| 1.c. | Combined Flood Hazard Area Tracts | Clarify the type of tract required for flood hazard areas 33.631.100 | Staff |
| 1.d. | Grading limits around root protection zones | Clarify how root protection zones are determined for the purpose of meeting clearing and grading plan standards. 33.635.100 | Staff |
| 1.e. | Land suitability and un-engineered fill | Clarify the applicant is responsible for identifying un-engineered fill on site 33.635.150 | Staff |
| 1.f. | Connectivity standard | Clarify what types of streets are considered through streets for the purpose of calculating distances between through streets. 33.654.110 | Spevak |
| 1.g. | Transportation Impact Study requirement threshold | Clarify that the study is not required for new street intersections when both streets are local classification streets. 33.730.060 | Staff |
| Amendment 2 | | | |
| 2. | Eligibility for standards-Transportation Impacts | Allow sites in multi-dwelling zones to use standards when proposing lots for 1-4 units 33.641.015 | Spevak |



Amendment 1 – Technical Amendments

The following are minor and technical amendments to improve the clarity of the zoning code changes in the Proposed Draft.

Amendment 1.a. – FAR limit for attached house projects

The proposed draft includes changes to address how FAR is calculated for attached house projects. The current code includes a provision specifying that as FAR is combined and shared among lots in the project, no lot may exceed an increment of FAR greater than .05. For example, if the base zone maximum FAR was 0.7, one lot may be up to 0.75, while the other would max out at 0.65. However, the unit of measurement is ambiguous in that last sentence of the code provision.

This change specifies that the .05 refers to the floor area ratio.

Amend 33.110.265:

33.110.265 Residential Infill Options

A–B. [No change]

C. Attached housing. Attached housing allows for more efficient use of land and for energy-conserving housing. Attached houses are allowed in the R20 through R2.5 zones as follows:

1-4. [No change]

5. Floor area. ~~The maximum floor area ratio allowed may be based on the total number of dwelling units in the attached house project.~~ The maximum floor area ratio may be calculated, combined, and shared among the attached house lots. However, the floor area ratio on any lot cannot exceed .05 more than the base zone maximum allows for the site.



Amendment #1.b. – Minimum density in the IR zone

For purposes of readability and ease of implementation, the land division lot density and dimension standards for the Institutional Residential zone (IR) are contained in the multi dwelling zones chapter of the land division code (Chapter 33.612). The chapter includes a standard requiring the applicant to show how the multi-dwelling zones minimum density requirements can be met when the future lots will be developed with a house, duplex, triplex or fourplex. However, the IR zone is not a multi-dwelling zone, and in fact, the IR zone has no minimum density requirements (33.150).

This change will clarify that the minimum density requirements do not apply in the IR zone.

Amend 33.612.100.A:**33.612.100 Density**

- A. Single-dwelling development.** Except in the IR zone, when a house, attached house, duplex, attached duplex, triplex, or fourplex is proposed for some or all of the site, the applicant must show how the proposed lots can meet the minimum density stated in Chapter 33.120. Site area devoted to streets is subtracted from the total site area in order to calculate minimum density.
- B. All other development.** When development other than a house, attached houses, duplex, attached duplex, triplex, or fourplex is proposed, minimum density must be met at the time of development.

Amendment #1.c. – Combined Flood Hazard Area tracts

For sites with flood hazard areas that are meeting clear and objective requirements, the standard requires that the combined flood hazard area be located within a non-buildable "tract". The lack of specificity for the tract when shown on a plat or referred to in deed records could be confusing to future property owners who may be unaware of its purpose.

This change adds specificity to the type of tract, by calling it out as a flood hazard tract..

Amend 33.631.100.C:**33.631.100 Flood Hazard Area Standards**

All of the following standards must be met.

- A. All proposed lots must be outside of the combined flood hazard area;**
- B. All services must be outside of the combined flood hazard area, except as follows:**
 1. Stormwater outfalls, when such discharges are allowed, are allowed within the combined flood hazard area; and
 2. Subsurface connections to existing sewer, stormwater, or water services are allowed within the combined flood hazard area.
- C. The combined flood hazard area must be entirely within a flood hazard tract.**



Amendment #1.d. – Grading limits around root protection zones

One of the proposed standards for the clearing and grading requirements is that no grading is proposed within the root protection areas of trees to be retained. However, there are two ways to calculate root protection areas per Title 11; a prescriptive path (clear and objective) and a performance path (discretionary). Introducing a discretionary measure of tree protection into a clear and objective standard for grading limits creates confusion.

This change clarifies that the root protection zone area is determined using the clear and objective prescriptive path method (e.g. 1 foot radius for each inch of tree diameter, with certain permissible encroachments allowed).

Amend 33.635.100.C:

33.635.100 Clearing and Grading Standards

The preliminary clearing and grading plan must meet the following standards:

- A. No new alleys or streets are proposed unless the street is a pedestrian connection or common green.**
- B. No more than 10 cubic yards of soil will be removed from or deposited on the site;**
- C. No clearing or grading is proposed within:**
 - 1. Root protection zones of trees to be preserved or offsite trees to be protected. For purposes of this standard, the root protection zones must meet the prescriptive path method described in Title 11, Trees;**
 - 2. Streams, springs, seeps, or wetlands tracts or easements; or**
 - 3. The floodway.**
- D. On sites where any portion of the site is within a Potential Landslide Hazard Area shown on Map 632-1, no clearing or grading is proposed in areas of the site identified in the applicant’s Landslide Hazard Study as “Hazardous,” “No Build,” or as having a recommended building setbacks from a slope.**



Amendment #1.e. – Land suitability and un-engineered fill

The land suitability standards focus on three key topics: potential contaminants from prior land uses, uncompacted fill that may create settlement issues for new construction, and abandoned underground facilities that can either create contamination issues, or voids that create settlement issues. The proposed draft is not clear about who will remove un-engineered fill or how such fill will be identified.

This change clarifies responsibility for the standard relating to un-engineered fill so that the applicant bears the responsibility of identifying these areas and addressing this requirement.

Amend 33.635.150.B:

33.635.150 Land Suitability Standards

The following standards must be met:

- A. The applicant has confirmed the following uses are not present on the site and have not previously existed on the site:**
 - 1. Any use in the Industrial Use category, except Wholesale Sales;
 - 2. Quick Vehicle Servicing; or
 - 3. Outdoor firing range.
- B. The applicant has proposed to remove any un-engineered fill in areas where buildings, streets, vehicle areas or services will be located, or has confirmed that there is no un-engineered fill on the site; and**
- C. Prior to final plat, any underground facilities that will not remain in use must be decommissioned. Examples of such facilities include sewage or stormwater disposal or heating oil tanks.**



Amendment #1.f. – Connectivity standard

The connectivity standard requires an examination of through street connections in the vicinity of the land division site. The proposed standard requires a through street when the distance between existing through streets exceeds 530 feet. The proposed standard excludes dead end streets from that distance calculation, as dead-end streets do not provide connectivity. The standard does not specifically address how to measure between partial through streets. Partial through streets are the first phase of a street that will be connected in stages as other properties develop (e.g. a street that ends at a property line). The standard is not clear whether partial streets should be factored into the distance calculation or not. Since it is assumed that a partial through street will be extended, and that the street will ultimately connect, these partial streets should be considered to be the same as “through streets” for purposes of this distance calculation.

In addition, the proposed standard allows pedestrian connections to also be considered as through connections. Pedestrian connections may either be combined with a through street (i.e. a sidewalk) or they may be a standalone connection for pedestrians and bicycles only. Because standalone pedestrian connections are a type of street or be a part of a street, the wording of this standard can be confusing.

This change clarifies that partial streets and pedestrian connections are included when determining the distance between “through streets”.

Amend 33.654.110.C:**33.654.110 Connectivity and Location of Rights-of-Way****C. Standards.****1. Through streets.**

- a. Through streets must be provided where there is more than 530 feet between through streets unless the entire site frontage is within 200 feet of the closest intersecting edge of a through street.
- b. Measuring the distance between through streets.
 - (1) For the purposes of this standard, the distance between through streets is measured from the closest intersecting edge of the through street, partial through street, or self-contained pedestrian connection in one direction along the shared block frontage, to the closest intersecting edge of the through street, partial through street, or self-contained pedestrian connection in the opposite direction along the shared block frontage.
 - (2) Dead end streets are not included in measurements between through streets.



Amendment #1.g. –Transportation Impact Study requirement threshold

The proposed code improves clarity for when a transportation impact study is required. The proposed draft specifies that for land division proposals in single dwelling residential zones, this study is required when there are more than 10 lots proposed, when driveway access will intersect with a non-local street, or when a new street intersection will result from the land division.

PBOT staff have noted that the impact study also is not necessary when these new street intersections are both local streets. This change further clarifies the thresholds for when the transportation impact study is required, by excluding proposed street intersections when both streets are local street classifications.

Amend 33.730.060.D.1.k:

k.j- Transportation Impact Study. ~~Three copies~~One copy of the Transportation Impact Study, if required; and. The study must be prepared by an Oregon Licensed Traffic Engineer. For land divisions in single-dwelling zones, a Transportation Impact Study is required when 11 or more lots are proposed, when vehicle access from any lot will be from a non-local street, or when a new street intersection is proposed that includes a non-local street. For land divisions in all other zones, the City Engineer may require a Transportation Impact Study when there are potential safety or operation concerns that may be impacted by the layout of the site or the size or location of proposed streets or driveways.



Amendment 2

Amendment 2. Eligibility threshold for using standards – Transportation Impacts

The proposed draft includes a provision that specifies when standards for the Transportation Impact requirements may be used. Single dwelling zoned lots are eligible for between one and four units in most cases. Multi dwelling zone development is limited not by numbers of units, but by floor area ratios. Based on this the use of the transportation impact standards was limited to single dwelling zones. However, land divisions in multi dwelling zones may propose lots that are not intended for multi-dwelling development, but instead for one to four units, i.e. house, duplex, triplex, or fourplex. Since the transportation impact is the same between the single dwelling land division scenario and multi-dwelling zone land division that proposes lots for one to four units each, the standards should be available for these applications as well.

This change revises where the clear and objective standards may be used to include multi-dwelling zones when all lots will be developed with houses, duplexes, attached houses, attached duplexes, triplexes or fourplexes.

Amend 33.641.015:

33.641.015 Where This Approval Criterion Applies These Regulations Apply

~~This approval criterion applies to land divisions in all zones.~~

A. The standards stated in 33.641.100 apply to

1. Proposals for land divisions located entirely within a single-dwelling zone;
2. Proposals for land divisions located entirely within a multi-dwelling zone and where all the proposed lots meet the lot dimension standards for houses, duplexes, attached houses, attached duplexes, triplexes or fourplexes; and
3. Adjustments to the standards are prohibited. For proposals that cannot meet the standards, the approval criteria stated in 33.641.200 apply. Where a proposal can meet the standards, the applicant may choose to meet the approval criteria stated in 33.641.200 instead of the standards.

B. The approval criteria stated in 33.641.200 apply to proposals for:

1. Land divisions located partly in a single-dwelling zone and partly in another zone;
2. Land divisions located entirely in multi-dwelling zones where at least one lot meets the lot dimension standards for multi-dwelling structures, multi-dwelling development, or cottage clusters;
3. Land divisions located partly in multi-dwelling zones and partly in another zone; and
4. Land divisions in the OS, C, E, I, CI and IR zones.

