



City of Portland, Oregon
Bureau of Development Services
Land Use Services
FROM CONCEPT TO CONSTRUCTION

Dan Ryan, Commissioner
Rebecca Esau, Director
Phone: (503) 823-7300
Fax: (503) 823-5630
TTY: (503) 823-6868
www.portland.gov/bds

MEMO

Date: April 22, 2022
To: Barry Manning, BPS
From: Kimberly Tallant
Benjamin Nielsen
Bureau of Development Services
Re: BDS Comments on Montgomery Park to Hollywood – Northwest Plan Project
Discussion Draft Code Amendments

Thank you for the opportunity to review and comment on the Discussion Draft Code Amendments for the Montgomery Park to Hollywood – Northwest Plan Project.

We look forward to working with BPS staff to address our concerns and to providing additional feedback as the project develops. Please direct questions about these comments Benjamin Nielsen, BDS planner.

Primary Area of Concern

Potential Implementation Issues

1. BDS planners have concerns about the implementation of 33.590.030, Quasi-Judicial Zoning Map Amendments—specifically, the complexity in interpreting the meaning of some of the approval criteria and difficulty in determining if the approval criteria are adequately met, particularly with regard to 33.590.030.A. The zone changes would be better adopted legislatively with the MP2H Northwest Plan or a separate legislative project rather than quasi-judicially.
 - It is unclear as to how staff should determine if there is no net loss of industrially-zoned land. Should this be a 1:1 relationship between land area changed from industrial to other land use categories within the plan district to greenfield sites outside the plan district which have their zoning changed to industrial?
 - Language in the MP2H Northwest Plan document states: “offset the loss of industrial land by replacing with additional new industrially zoned land with similar industrial characteristics.” Does IH-zoned land need to be offset with IH-zoned land, or can lower-intensity industrial zones satisfy this criterion? Do these characteristics also include infrastructure and transportation systems? These “similar industrial characteristics” should be clearly defined.
 - The emphasis on mitigation of brownfield sites in the commentary suggests these offset areas of newly-zoned industrial land should not be brownfields, but the code language is not specific on this point. The code language is also not clear as to whether applicants can mitigate an existing brownfield site on their

own or can only mitigate an existing industrially-zoned brownfield site by paying into the Industrial Land Supply Mitigation Fund.

- Which bureau will be administering the new Industrial Land Supply Mitigation Fund? Who will create and manage the administrative rules necessary to ensure the Fund is adequately funded, managed, and that sites are adequately mitigated?
- Will the 'k' Prime Industrial Overlay zone need to be adopted on newly-designated industrial land to meet the offset criterion? Does the land also need the IS comprehensive plan designation?

Detailed Comments

We offer the following detailed comments:

Item No.	Page	Code Section	Comment
1.	31	33.590.010	Code is inconsistent with use of the term "mixed-use." Make sure all occurrences that require it have the hyphen, not just some.
2.	32	33.590.030 commentary	Commentary is listed as "1, 2, 3," but the related code sections are listed as "A, B, and C."
3.	33	33.590.030.A	Will there be a related admin rule? Who is managing this? Who is collecting the fee?
4.	33	33.590.030.A	The phrase "no net loss of industrial land" and "no net loss of industrially-zoned land area" seems repetitive or implying a distinction that is not clear. The applicant either shows evidence of no net loss of industrial land area or mitigation payment.
5.	33	33.590.030.A	Suggested rewrite: "In Subdistricts A and B, the application must demonstrate that either there is no net loss of industrially-zoned land as a result of the zoning map amendment, or the loss of industrially-zoned land is mitigated. ** Mitigation is demonstrated by providing evidence of no net loss of industrially-zoned land area or contributions to the City of Portland Industrial Land Supply Mitigation Fund at \$X.00 per square foot in an amount corresponding to the land area proposed for zoning map amendment;" **Need sentence here describing how we will define no net loss. SF to SF? Development potential? Definition would be helpful. Also, if this is done by another ZC, how far along does it need to be before we can determine criterion A is granted? Commentary says "prior to implementing a zoning change." Does the other ZC need to be complete?
6.	33	33.590.030.A	How does paying into the Industrial Land Supply Mitigation Fund balance with the Comp. Plan Amendment approval criteria for Industrial Sanctuary properties in 33.810.050? Section 33.590.030 reads

			that if you pay into the fund you are good to go, whereas the approval criteria in 33.810.050 are much more rigorous (and quantitative) and are intended to discourage changing properties out of the Industrial Sanctuary.
7.	33	33.590.030.C	How far along in the process with PBOT will applicants need to be in order for this criterion to be determined to be met? Is “ submitted a master street plan” the right language, or should the plan be approved, reviewed, etc. before ZC approval?
8.	35	33.590.130	<p>The proposed code here fixes a problem we’ve grappled with elsewhere in the code when we’re talking about sites or buildings within X feet of a thing. The proposed language is: “In the EX zone when any portion of a building is within 200 feet of a streetcar stop, at least 25 percent of the ground level floor area within 200 feet must be in one of the following active uses.” This clarifies whether the entire ground floor is subject to the standard or just the portion within 200 feet of the streetcar stop.</p> <p>However, the standard should be as clear as possible about where the measurement should begin from. This streetcar platform boundary is not mapped would also be harder to determine and measure from than the original language for the standard in 33.415.200, where the measurement is taken from the street lot line along a transit street.</p> <p>Delete colon at end of paragraph before list of active uses.</p>
9.	37	33.590.210.A	It may be good to stay with the already existing FAR purpose statement located in chapters throughout the code in order to be consistent with intent. From 33.140.205 - “Purpose. Floor area ratios (FARs) regulate the amount of use (the intensity) allowed on a site. FARs provide a means to match the potential amount of uses with the desired character of the area and the provision of public services. FARs also work with the height, setback, and building coverage standards to control the overall bulk of development. The bonus FAR options allow additional floor area as an incentive for providing affordable housing.”
10.	37	33.590.220	There should be a purpose statement for this section for use in evaluating modifications through design review or planned development review.
11.	37	33.590.220.B	Clarification on Subsection D step-down height: something we’ve grappled with over the years is whether height exceptions from base zones apply when there is a height limit in a plan district (the language for which generally does not include exceptions). In this case, in Subdistrict D, what is in

			essence a step-down height limit is introduced. In 33.130, the exceptions section (33.130.210.C) states the exceptions apply to step-down heights. From my reading of the PD, it's not clear to me whether the 45-foot limit along Vaughn could be increased using either the exceptions listed in 33.140.210.B or using the bonus height options of 33.590.230.
12.	39	33.590.230.A.2.b	The Affordable Housing Fund fee schedule is available from the Portland Housing Bureau, not the Bureau of Development Services.
13.	41	33.590.230.B & C	Consider referring to the Affordable Housing Fund fee schedule for the per square foot price rather than putting a specific price in the zoning code. If a multiplier is desired to achieve a higher cost per square foot, that could be stated in the zoning code, but all affordable housing funding mechanisms are best managed and addressed by PHB staff.
14.	43	33.590.235.B	Minimum Density. Should we exempt Group Living uses like we do in the Commercial/ Mixed Use Zones in 33.130.207.B?
15.	45	33.590.245.B.3	The last sentence, " In these instances, the artwork will be allowed if it is found to be consistent with the purpose for the ground floor window standard," is both redundant and at odds with the modification approval criteria, since it implies that modifications to ground floor windows can be approved only by meeting modification approval criterion A and not B and C as well.
16.	35 and 47	33.590.130 and 33.590.250.D	It may be confusing for some developers (and staff) to have two different standards in different sections of the chapter using the same name: "Ground floor active use standard."
17.	47	33.590.250.C	The standard reads: "Windows must cover at least 15% of the area of the façade above the ground floor wall area." A plain reading of the language means that this standard applies to all building facades. This also means the standard would apply to zero lot line buildings, which cannot have windows on the party wall.
18.	47	33.590.250.C	Although this code is clearly copied from the Northwest Plan District chapter, it may make sense to update the "ground floor wall area" to end at 10 feet above grade rather than 9 feet to better align with the Ground Floor Windows standards in 33.590.245 (and potentially making the same change in 33.562).
19.	47	33.590.250.E.2.b	Consider raising the height of structured parking floors from 9 feet or more above grade to at least 10 feet above grade to more closely align with the 12-foot clear height in 33.590.250.D.1 and best practices in urban design.

20.	49	33.590.255.C.1.a and C.1.c	Repeating and different standards for having walkways as part of the required landscaping area. Under a it says you can do up to one-third as walkways or other things, then under c it says you can do up to 25 percent in walkways, but only if pervious. How to implement both?
21.	55	33.590.280.B	Suggested edits: A TDM plan is required when new development includes a building with 10 or more dwelling units or more than 20,000 square feet of commercial use, or an alteration to existing development includes the addition of more than 10 or more dwelling units or more than 20,000 square feet of commercial use within a building.
22.			A Character Statement to supplement the <i>Portland Citywide Design Guidelines</i> should be included and adopted as part of the final plan.