

Portland Planning and Sustainability Commission

Tuesday, November 10, 2015

12:30 p.m.

Meeting Minutes

Commissioners Present: Jeff Bachrach (left at 2:50 p.m.), André Baugh, Mike Houck, Gary Oxman, Michelle Rudd, Katherine Schultz, Howard Shapiro, Chris Smith, Teresa St Martin (arrived 12:59 p.m.), Maggie Tallmadge

Commissioners Absent: [1 open position]

City Staff Presenting: Joe Zehnder, Tom Armstrong, Steve Kountz

Chair Baugh called the meeting to order at 12:31 p.m. and gave an overview of the agenda.

Director's Report

Joe Zehnder

- We just finished the last of the five Council Comp Plan work sessions. Thanks to PSC members who attended them. We now move on to the hearings, with the first a week from this Thursday, on November 19 at 2 p.m. in Council Chambers.
- As a reminder, we have another PSC meeting next Tuesday, November 17 at 5 p.m. Then we have a break likely until December 15 (5 p.m. meeting). There is a small chance we will have the December 8 PSC meeting, depending on the outcome of today's meeting.

Consent Agenda

- Consideration of Minutes from the October 27, 2015 PSC meeting.

Commissioner Shapiro moved to approve the Consent Agenda. *Commissioner Schultz* seconded.

The Consent Agenda was approved with an aye vote.

(Y9 – Bachrach, Baugh, Houck, Oxman, Rudd, Schultz, Shapiro, Smith, Tallmadge)

Documents and Presentations for today's meeting

Task 5 – Employment Zoning Project

Work Session / Recommendation: Tom Armstrong, Steve Kountz

Presentation

Testimony received 10/28-11/06

This is a follow up session to the last PSC meeting's hearing that implements changes in the employment zones. Today we will discuss code issues and map choices and changes with a hope for a vote and recommendation about the code changes. We'll accept general direction about map changes, but the hearing on the fully updated zoning map will not be until February at the PSC, so we will take a vote on the zoning map based on all changes in early 2016.

There are 9 bundles of code questions in the November 6 staff memo. Not all require a decision or amendment to the proposed code; some are simply clarifying information.

Environmental Overlay Zones Compatibility with Prime Industrial Overlay

- Slide 6 shows how the overlay zones fit together. Prime industrial zoning regulates what can happen on the site and the development review procedures. E-zone overlays control, regulate and restrict the size and shape of development on parts of a site. As an example, if you have a site with a slough in the back, we have a base zone and then a laying of various overlays applied to different parts of the resource. The prime overlay applies to the full site because it restricts uses. We want the use restriction to apply to the whole site, not just the prime development portion.

Commissioner Smith: One testifier we heard thought they were mutually exclusive.

- As you can see in the slide, they can layer on top of each other.

Commissioner Rudd asked about counting capacity and Buildable Land Inventory (BLI) constraints.

- For the p-zone we assumed the land was 100 percent constrained; and we assumed 50 percent for c-zone.

Commissioner Tallmadge: With a c-zone, it sounds like you could built something on that part. Would have to mitigate for environmental impacts?

- You can build in certain areas of the site, but if you build in an e-zone, there are mitigation requirements.

Commissioner Houck: This is the heart of BES testimony and Audubon Society, particularly as it relates to the Columbia Corridor. In the early 1980s I pleaded with the Planning Commission and City to not rezone the full corridor as industrial land without also doing the environmental zoning. The City created unrealistic expectations for property owners without that simultaneous zoning updates because owners assumed they had full industrial (or other) zoning that they could develop, only to find out later their land was constrained.

Commissioner Tallmadge: A conservation zone can vary in size. Is there a typical ration or size of the protection zone?

- It depends mostly on the type of resource and where it is and anticipated future use of the property and where the line is on the map.

Parks and Open Areas Prohibitions

This is the question of interpreting Metro's Title 4 and prohibitions they want local jurisdictions to adopt. The prime industrial overlay is how we implement this in Portland. With this issue, Metro Title 4 says "prohibit parks except for those designed to serve local residents and employees". We used a 2-acre maximum to fit this description. There is a question about what a "developed park" versus "open space" is, as well as how nature preserves relate to wetlands and slough areas that could be considered a stormwater area. Metro has noted that Title 4 prohibits developed parks (e.g. fields for sports), but their definition isn't very clear. Metro's opinion is that nature preserves should be allowed. BPS has proposed to be more restrictive than this guideline, so we've said nature preserves should be prohibited in these areas. For wetter resources, we've suggested those could be stormwater facilities and are therefore allowed.

Prohibitions often go into play when you go in to make a change or develop the site, not typically at the acquisition point.

In response to testimony, there are two options to consider:

- PP&R recommended that the 2 acre park size maximum should be more like 10 acres; 2 acres was based on a Goal 9 rule that says that any change less than 2 acres doesn't have a significant impact so you don't need to comply with Goal 9 rules. BPS staff thinks 10 acres is large to be a locally-serving park. But we could create a conditional use process for something larger than 2 acres and prove the size can meet local needs.

- The other option in this category has to do with the status of nature preserves. The PSC can say those can be allowed as outright uses in regionally significant industrial zones.

Commissioner Houck: The issue of lack of parks in N/NE parks is an equity lens question. I think the language staff has proposed is good on pages 4-5 (highlighted yellow additions to proposed code).

- The flipside is that we need to have something in here based on Metro Title 4.

Commissioner Houck: There is a misconception that water quality is associated only with areas on or near water. Upland areas are also important for watershed health and water quality. I'm not sure how many large upland sites there are, so I'm not sure practically speaking what the impact of including upland areas would be on industrial land capacity.

- If the site can be justified to be bought with rate-payer dollars, it has a water quality impact.

Commissioner Rudd: My preference is prohibition and to make PP&R go through a Comp Plan process. A conditional use doesn't get at the jobs trade-off concern. In terms of stormwater facilities, why is this a different definition than in Title 33?

- It's a clarification procedurally, not in the proposed code. BDS won't second-guess BES about meeting the zoning code definition of a stormwater facility.

Commissioner Schultz: When PP&R testified, we asked where their master plan may overlay.

- They have identified park-deficient zones, but they don't have specific acquisition targets at this point. Acquisitions are based mostly on when land is available and the budget.

Commissioner Schultz: Conditional use is a land use review. A Type II review is a staff decision, but it is appealable. Type III goes directly to a hearing's officer. If we go to the conditional use option, we need more balance.

Commissioner Bachrach: I'm agreeing that the conditional use isn't fitting. I think it's a policy and more about Comp Plan amendments. About nature preserves, how would you site a nature preserve, and how is that different from PP&R siting a park?

- That gets to what type of park it is, developed versus natural, for example. Metro wants to be able to manage the site if they invest in it.

Commissioner Houck: Metro's primary focus is to acquire lands to protect natural areas, not active parks.

If you look at Columbia Blvd and N Lombard as the dividing line of where parks are, most people live south of Columbia. People who live north of there we have Comp Plan zoning that will keep them that way but not to add new residences in that area. What is there will be to serve the existing residences and employees.

Commissioner Smith: I have questions about the code language itself. We can do option 1, 2, neither or both. For Option 1, in the transportation system condition language, the term "Level of Service" is used. We are trying to move away from this in the TSP, so I want to be sure we are consistent. In condition E, we see "primary market". Is this well-defined versus an access area / is there a more precise way to define this?

- Primary market is looser and open. We have such low-density in this N/NE area that it's difficult to give a specific service area size or distance.
- In terms of Level of Service standard, this is pretty standard conditional use language we have now. We can look at if we would change all our conditional use standards as the TSP moves forward. This could be an amendment in the Housekeeping Task 5 project to be consistent.

Commissioner Smith: I can go either way on Option 1 and in favor of Option 2.

Commissioner Houck: PP&R and Metro both have a natural acquisition priorities and target areas, including in the Columbia Corridor. How likely is it an area of habitat that wouldn't be on the NRI?

- There are 4 levels in the NRI. The map just shows high and medium resources, so there could be quite a bit out there they might want to acquire.

Commissioner Oxman commented on Metro's testimony. What I took away is that it is not allowable for the City to say nature preserves are prohibited in industrial zones.

- Our understanding is that they consider nature preserves to be habitat, not parks (where people would recreate). With the proposed code, the City is exercising their ability to be more protective of industrial land opportunity, and there is a higher bar to get to a habitat area status. We consider this as a local option because Metro's note is a recommendation, not a requirement.

Commissioner Houck noted the proposed language by staff addresses the concerns and what people commented on in their testimony.

Commissioner Schultz moved to accept the staff proposed code language. *Commissioner Bachrach* seconded.

St Martin noted the proposed language signals the intent, and the options show that one size does not fit all.

(Y4 – Bachrach, Rudd, Schultz, Shapiro; N6 – Baugh, Houck, Oxman, Smith, St Martin, Tallmadge)

The motion fails.

Commissioner Smith moved to adopt code language for Option 1: Allowing larger local-serving parks as a conditional use. *St Martin* seconded.

Commissioner Schultz moved to amend Option 1 to add language to conditional use that balances industrial land with the need for parks. *Commissioner Tallmadge* seconded.

Commissioner Bachrach: Which is more appropriate to review this, the hearings officer or the PSC? We want policy considerations, so I think it's more appropriate to come to the PSC than a legal land use hearings officer. I'd suggest this comes as a Comp Plan amendment to the PSC.

Commissioner Rudd agreed. This just constrains the size of parks allowed outright, but there is a need for discussion if we take larger areas out of industrial use.

The PSC voted on Option 1 with *Commissioner Schultz*' amendment: Allow larger local-serving parks as a conditional use with the inclusion of balancing industrial land with the need for parks.

(Y6 – Houck, Oxman, Shapiro, Smith, St Martin, Tallmadge; N4 – Bachrach, Baugh, Rudd, Schultz)

Option 1 with the amendment passed. Staff will return with proposed language.

Smith moved to adopt Option 2: Nature preserves can be allowed as outright uses in regionally significant industrial zones. *Houck* seconded.

(Y6 – Houck, Oxman, Shapiro, Smith, St Martin, Tallmadge; N4 – Bachrach, Baugh, Rudd, Schultz)

Option 2 passed.

E-Zone Update Timing

This proposal gets at questions about updating other e-zones in the Columbia Corridor, specifically the middle segment that was looked at as part of the Airport Futures project. We couldn't move forward with the e-zone update on industrial land at that time, but now we potentially have a batch of e-zone updates to come through. A proposal was to roll them into this zoning update package. The flip side was to waive or suspend the full implementation of the overlay until the rest of the e-zones are done.

Staff noted that waiting for the re-zoning of e-zones doesn't get us where we need to be as part of the Comp Plan in terms of the EOA or complying with Metro. Regarding Airport Futures e-zone updates that are still hanging out there, we have had no public process about bringing those forward. Staff's preference is to keep things how they are and to continue to push forward to do the full Columbia Corridor update sooner than later.

It would be a 6-12 month process to review the Airport Futures e-zones maps, how that would affect land supply to incorporate into the EOA, notice property owners of the proposal, create and share a discussion draft, and then publish a proposed draft to be reviewed at a PSC hearing.

The PSC has two options:

1. Keep the proposed code as written (*as amended*).
2. Add the Airport Futures e-zone changes to the proposed zoning map.

Commissioner Smith noted right now the environmental work is not part of Task 5. What staff just described is what we would have to add to Task 5 to get e-zones and employment zoning synched.

Joe: Part of what the PSC has heard through the EOA and Comp Plan policies is a package that we're going to provide for 20 years of industrial employment capacity through investments and allowing future space for the e-zone projects.

Commissioner Houck noted we're talking about significant high-med-low natural resources. My recollection about Airport Futures was there was an ESEE done during that process. Why couldn't those lands be added into the overlay process?

- Airport Futures just looked at the middle section of the slough – the resources on golf courses and airport properties e-zones went forward. The other review of e-zones are looking at private land, which didn't move forward since are waiting for the EOA and adopted Comp Plan. We would now have to base e-zone changes on the now-proposed EOA, which has lots of evidence and policy changes from the Airport Futures project.

Commissioner Houck: I thought that through the Comp Plan PEG process and EOA process the other e-zones areas were considered as constrained lands and developing capacity.

- The BLI looked at physical characteristics that contribute to land being a significant natural resource. But our analysis did not fully account for the capacity losses that would come from whatever e-zone decision you make. We have done an analysis that shows we know it will use up most of the excess capacity. This is dependent on Council adopting the proposed brownfield strategies and the other concepts that create the 90-acre surplus in the BLI.

Commissioner Houck: So, if we don't deal with these natural resources now and adopt an EOA and then attempt to apply e-zones later the argument will be that we can't apply the e-zones to because there will then be a shortage of industrial lands. I predict that is exactly what will happen.

- We have assumptions built into the EOA. We need to show some progress towards creating this assumed capacity before we start changing it or using it for additional environmental protection.
- If any of the contingencies happen at Council, we'd have to amend the EOA. So this may happen now, it may happen in the future, but it can't prevent us from doing it.

Chair Baugh noted we have a Comp Plan and an EOA sitting in front of Council. I'd like them to get through their work on the Comp Plan before the PSC starts in on making changes and adding the Airport Futures e-zone changes. I appreciate the concern *Commissioner Houck* has raised, but Council ultimately has a strong responsibility to follow-through on the e-zone side too.

Commissioner Houck: There are 2 sets of environmental areas, Airport Futures and the remaining areas in the NRI. But, the natural areas associated with Airport Futures already gone through the ESEE analysis. Why can't those natural areas be included in this process?

- We would have to refresh and re-analyze the previous work looking at the new Comp Plan policies. There is definitely a starting point, but it's not just a quick project. And there would be another basic education and outreach process.

Commissioner Houck: I can see where this is leading. As part of this process, I'm going to be expecting a very strong statement from the PSC that it isn't acceptable to wait. This is a high priority that needs to be taken on, particularly per BES' Director Mike Jordan's comments.

Commissioner Oxman asked when the e-zone updates are likely to be done.

- When we finish with the Comp Plan and Task 5 code (end of 2016), this could be a 2017 initiative. We can begin working on changes in conformance as soon as we send the Comp Plan package to the state. So this could be in about 1.5 years.

Chair Baugh noted the PSC will put a strong statement in the letter to Council that the e-zone process needs to be taken up quickly.

Commissioner Bachrach asked about trade-offs for working on the e-zone priority. I don't know what other projects would be put aside by saying this is a priority.

- We'd say it's something that needs to be taken up as soon as possible. But it's also a budget and staffing process question. The PSC will have a chance to weigh in on the proposed BPS workplan and budget early in 2016.

Commissioner Houck noted that when there are differences of opinion on the PSC they are often spelled out in our letter to Council. And, while we strive for consensus if there is a difference of opinion we are free to go to Council to express our issues of concern.

The PSC confirmed the proposed code as written.

Self-Service Storage Definition

The City is going beyond what Metro Title 4 requires with this prohibition. This is an extra step to protect industrial capacity for jobs. We have talked with BDS about how they interpret the different types of storage, and self-service is mostly allowed in industrial zones. Think of the mini-storage facilities as opposed to a commercial storage facility. Staff is comfortable with the current language in the prime industrial overlay zone. Small industrial zones outside this area are still ok to have self-service storage.

The proposal is to prohibit self-storage in the Prime Industrial Overlay Zone.

The PSC has two options:

1. Keep the prohibition in place. Self-service storage would continue to be allowed in employment and industrial zones outside of the Prime Industrial Overlay Zone.
2. Delete the prohibition. No change to the current regulations.

Houck moved Option 1: Keep the prohibition in place. *Smith* seconded.

The policy question is really about job capacity/density. It is less than the density of a warehouse.

Small craft businesses would need the size of storage that we typically see in self-storage.

Commissioner Oxman: By keeping prohibition in place, does that compromise self-storage?

- This prohibition is just in the prime industrial overlay zones. But yes, over time it could change the nature of the sites. It could drive more vertical self-storage facilities.

(Y9 – *Bachrach, Baugh, Houck, Oxman, Rudd, Schultz, Shapiro, Smith, Tallmadge*; N – *St Martin*)

The motion passed.

Golf Course Landscaping Standards

The Portland International Airport Plan District (Chapter 33.565) implements the Airport Futures Land Use Plan. As part of bringing a proposal forward to put the Comp Plan in place for future industrial conversion, we have added landscaping standards that give us some ecological lift. We've proposed increasing the required landscaped area from 15 to 20 percent. We've also proposed at least 75 percent of the plants must be native plants from the Portland Plant List. There is an Airport Plant list that is less bird-friendly. As we heard at the last meeting, Broadmoor Golf Course representatives were concerned about the increased landscaping requirement.

In response to testimony objecting to these standards, the PSC has two options:

1. Keep the proposed standards in place, which includes a minimum landscaped area of 20 percent, including setbacks and parking lot landscaping, as well as eco-roofs. At least 75 percent of the plants must be native plants from the Portland Plant List.
2. Delete the proposed standards. The minimum landscaping standards in the base zone (IG2) would apply (15 percent minimum landscaped area).

Commissioner Bachrach asked about how much land the extra landscaping requirement would be. Is there something different about this land versus the surrounding industrial land?

- There are 112 acres total. Today it is designated as Open Space.

Commissioner Bachrach: Does a golf course have significant ecological value?

- *Commissioner Houck*: Yes, Heron Lakes Golf Course is a prime example. We are discussing rezoning open space to industrial here, so the trade-off is enhanced landscaping and use of native species.

Commissioner Rudd: We aren't talking about converting all land in all the golf courses. For each, it's only parts of the golf course. But my question is, why can't I use recreational land as part of my landscaping?

- This has to do with parcel lands and what's defined as a site. You can't have off-site mitigation for landscaping. It would depend on where the parcel line is defined to see what we would include as part of the landscaped area.

Commissioner Rudd: On the bigger industrial site, if I want to put in a lawn bowling facility, why is this not part of my additional 5 percent?

- The current requirement 15 percent landscaping, and part of this can be passive hard-scape. The proposed change is to not allow that in this plan area because of the additional area of habitat protection in the prime industrial zone.

Commissioner Schultz: I'm a proponent of ecoroofs, but they aren't great in all facilities.

- This is an optional incentive.

There is the Portland Plant List with a sub-set that is the Airport Plant List, which is less bird-friendly. It's designed to discourage bird habitat around the plane landing area. They applied this limited list to a narrow area (the airfield), but it doesn't apply to the rest of the plan district currently. BPS thinks that if it makes sense to apply this Airport Plant List to a broader swath as part of a zoning update.

Commissioner Bachrach: We are placing lots of policy expectations on the property. I don't see a need to put this property under further scrutiny.

The PSC confirmed the proposed code as written: a minimum landscaped area of 20 percent, including setbacks and parking lot landscaping, as well as eco-roofs. At least 75 percent of the plants must be native plants from the Portland Plant List.

Residential Non-Conforming Uses in EG Zones

This is mostly about properties on 82nd Avenue, specifically the area between Montavilla business district and SE Division/PCC Southeast. On the Comp Plan Map, we have switched from General to

Mixed Employment to provide more employment in this area. A concern we heard is because of how we've drawn the map line, the back side of properties picks up a one-lot deep strip of existing residential homes. We did this because lots of these homes already have a General Commercial zoning and Comp Plan designation. We looked at trying to get 200-foot deep sites to be more functional sites in the future.

The questions from testimony were because we're prohibiting residential development in EG zones, the existing houses become non-conforming. We do include an ability to expand your house by 500 square feet, but there is a limitation about what happens in the case of a fire and rebuilding. The answer is if it is more than 75 percent of the assessed value damaged, you can't rebuild, and it would convert over to new mixed employment zoning. You could still get replacement value as cash.

Commissioner Oxman: When you apply the 75 percent of assessed value, is this based on improvements on the property or the value?

- It's improvement value. A concern we've talked about has been how the assessed improvement value reflects market values in the City, and they don't reflect true market value or replacement costs. This is likely to be addressed in RICAP 9 next year to review the assessed value since it's usually very low.

Commissioner St Martin: This seems like a more fair way to address this issue.

- Yes, and since this code doesn't go into effect into about July 2017, RICAP 9 would likely be about this same time period as when this code does.

Commissioner Schultz: Why did we chose no housing in the EG zones but by conditional use in the IG zone?

- Houseboats are a conditional use in the I-zones. There aren't houseboats in the EG zones, but there are marinas allowed.

Industrial Office Definition

This is purely to true up the definition as part of the Central City code update. We just wanted to acknowledge this question is out there.

Air Quality as Part of Development Review

The City relies on the DEQ to regulate for individual businesses. We do have some buffer zone standards to deal with the edges. We have a future work task as part of a health project/package to come up with new landscaping, HVAC standards for the sensitive sites at the edge, but that mainly gets at the receiving end of the air quality question. We haven't yet seen a way to get at air quality emissions through the Zoning Code. We are not currently proposing standards.

Commissioner Smith noted he's interested in seeing the City be more proactive about air quality issues, even if it's just in terms of monitoring. Technology is improving, but DEQ isn't advancing as quickly as the technology options are. We could look at both sides of the equation.

- *Commissioners Tallmadge and Houck* concur.

Commissioner Oxman: Impacts extend well beyond the current 20-foot buffer. So I think the answer is in source-control, but this is not the City's role.

EG Zone Office Uses at 3:1 FAR and Guild's Lake Industrial Sanctuary Plan

Code change options:

1. Keep the citywide 3:1 FAR for office uses in place.
2. Reduce the citywide 3:1 FAR for office uses in the EG zones.
3. Limit office use to 1:1 FAR (plus bonuses) in the Guild's Lake Industrial Sanctuary Plan District.

Map change options:

1. Keep the proposed map change from IG1 to EG1.

2. Retain IG1 until transportation capacity is further evaluated.

There may be an option to bring additional transportation analysis forward to look at somewhere between the 1:1.8 and 1:3 FAR.

Also, regarding map change Option #2: You could defer the limits until we see the transportation information. Then in February you could make a final decision about Option #3.

Commissioner Smith: How does the proposed change interact with the Guild's Lake Plan District?

- If 3:1 FAR is the base zone standard, the Guild's Lake Plan District in subzone B trumps. Guild's Lake didn't specify a 1:1 FAR.

Commissioner Smith moved to adopt Option 3 of the code change proposals: Limit office use to 1:1 FAR (plus bonuses) in the Guild's Lake Industrial Sanctuary Plan District. *Commissioner Houck* seconded.

ESCO also has proposed to change the area to Nicolai on their property re-designated as mixed employment with EG zoning so they can do more office space here in conjunction with their headquarters. We are relying on ESCO to bring forward transportation analysis about the 21st and Vaughn intersection. Our consideration is that it is probably ok and fits our policies to do mixed employment Comp Plan map change, but we'd want them to ultimately go through a quasi-judicial zoning change in the future to resolve the transportation impacts.

Particular to this site, we can adopt additional code standards to get us close to 2:1 office (1.8:1). We could wait and see what the transportation analysis looks like and review with the map in February or with the Housekeeping amendments at the end.

Commissioner Smith: I don't have a problem with the citywide proposal in Code Change 1. But the goal is to protect the intersection, and the Guild's Lake Plan took this on. My first goal is to do no harm to the Guild's Lake Plan. I think we want to do Code Change 3, and possible Map Option 2.

Commissioners confirmed staff should look at moving forward with Code Option 1 and Map Option 2.

Commissioner Schultz moved to accept and recommend to Council all proposals about the Employment Zones Project as accepted in today's meeting except the Parks and Open Areas prohibition "allow larger local-serving parks as a conditional use with the inclusion of balancing industrial land with the need for parks", which staff will bring back to the PSC. *Commissioner Shapiro* seconded.

(Y9 – Baugh, Houck, Oxman, Rudd, Schultz, Shapiro, Smith, St Martin, Tallmadge)

Staff will return with the updated language to address the conditional use issue in the *Parks and Open Areas prohibitions* policy change.

Staff will bring the rest of the mapping discussion back on December 8.

Adjourn

Chair Baugh adjourned the meeting at 3:01 p.m.