



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

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Date: May 11, 2016
To: Barry Manning and Bill Cunningham, BPS
From: Gina Tynan, Bureau of Development Services
CC: Paul Scarlett, Susan Anderson, Joe Zehnder, Eric Engstrom, Rebecca Esau, Stephanie Beckman, Douglas Hardy, Kimberly Tallant, Jill Grenda, Kara Fioravanti
Re: BDS Comments on Mixed Use Zone (MUZ) Project Proposed Draft

Thank you for the opportunity to review and comment on the Mixed Use Zones (MUZ) Project Proposed Draft. This important project will shape the future of commercial and mixed-use development and our ability to meet the goals of the Comprehensive Plan to manage growth and to create and maintain healthy, vibrant centers and corridors, as well as neighborhoods, outside of Portland's Central City. We appreciate the chance to participate in informing this critical re-write of the Zoning Code's development regulations.

The comments below highlight our primary areas of concern and also provide detailed comments on the proposal. We appreciate the meetings we've had to begin going over these concerns. We look forward to working with you on the test run of the proposed regulations on several real projects in the coming days, as well as working with you to address the concerns outlined below. We are also committed to participating in the upcoming work sessions with the Planning and Sustainability Commission (PSC) as we collaboratively strive to achieve the PSC's policy direction while ensuring the regulations are as clear and simple as possible, for the public and our administration of the regulations. Again, thank you for the opportunity to work with you on this important project.

Primary Areas of Concern

- 1. Uncertain and/or Unintended Impacts of proposed Development Standards.** There is concern that the revised development standards, bonus incentives, and new and expanded Overlay zones and Plan Districts of the MUZ Project have not been sufficiently evaluated to understand the implications on administration, economics and design that may result from their implementation. With any massive overhaul of a set of regulations, it is challenging to catch all of the details regarding how things would apply to a variety of situations and how it will all fit together. We are interested in working with you as you do the trial run of the regulations on several real projects to identify areas of code that are unclear, or conflict, or need additional refinement to get the desired results. We are also interested in working with you at the PSC Work Session. And we understand that BPS will do a "clean-up" package after the MUZ and other Title 33 amendments are adopted to make sure they all "synch up" with each other, prior to the effective date in late 2017 or early 2018. That is a very important step, given the number of moving parts being considered in the different active legislative projects.

2. **Prescriptive Nature of the Regulations.** We understand that one of the goals of the code is to be responsive to the context of the development. However, many of the development standards are prescriptive in nature and will limit the ability of property owners to create unique projects that truly address the historical context, neighborhood character and evolving nature of the city. Developers tend to design to meet, but not exceed, the base zone standards within the zoning code in order to ensure a timely review and to minimize uncertainty in the permit review process. As such, the detailed, prescriptive nature of the standards proposed could result in both an unintended down-zoning and in uniform and homogenous design characteristics for commercial, multi-dwelling and mixed-use development projects in the MUZ.

3. **Complexity of Development Standards.** BDS staff needs to be able to quickly and easily answer customer questions about the development standards allowed in each zone. As proposed, the development standards of the MUZ are not straightforward and instead rely on the context of the site and considerations more typical of a discretionary review. They are redundant with many existing Community Design Standards and send mixed signals in combination so that it is very difficult to determine basic development standards such as height and setbacks. These standards will not be clear to the average property owner without code language refinements, additional illustrations, and mapping made available to the public as part of the code and through publicly accessible mapping resources such as portlandmaps.com.
 - **The proposed height standards are difficult to apply.** The proposed changes to the measurement of building height in the MUZ are contained within the revised Chapter 33.130 and would be unique from other zones. In the interest of providing clear standards that can be understood and applied by the city as well as property owners and developers, clarifications and consistency within the zoning code are critical. It is important that the revised height measurement works in concert with the standard being developed for single dwelling zones through the Residential Infill Project and that it be applied consistently throughout the code and defined in the Zoning Code Section 33.930.050, Measuring Height. We recommend against establishing different methodologies for height measurement that vary depending on the zoning. The concept of having a fixed point to measure from is needed in all situations and zones, so it is our hope we can develop a single methodology that will apply regardless of the zoning. Perhaps another City has a good method we can use.

The proposed changes are also complex and difficult to understand. That said, we understand the concept of what is proposed. However, if the proposed height measurement standard is not revisited as part of the MUZ Project, it will be vital to include figures within the code to illustrate height measurements in multiple development situations, applicable in all zones. Further, Adjustments to height standards should not be prohibited; there are too many instances of site-specific constraints that would otherwise hinder development.

- **The proposed setback standards are reliant on too many factors.** The proposed setback standards are difficult to understand and are reliant on a multitude of varying site and context factors including width of street and adjacent zoning that make verification of the applicable setback standard too complex for most applicants and property owners to determine without assistance from BDS staff. They are identified in the base zone development standards, overlays, Plan Districts, and the Community Design standards – and vary from code section to section – making it challenging to identify the applicable standard on any given site. We ask that these standards be examined in totality for what they are trying to accomplish and

then be refined and limited to the most important components to address the purpose of these standards.

4. Code Language Clarifications to Defined Terms are Critical to application of the proposed Development Standards.

- **Clarification of floor area.** With the inclusion of residential floor area in the calculation of floor area ratio (FAR) and reduction to the overall allowed floor area, this become a more significant development standard within the code. The code should be revised to specifically address what is and is not considered floor area. The current code is challenging to administer even in the limited circumstances where floor area limits come into play (relatively flat lots with high rise development downtown) and the existing code language will not be sufficient to address these changes to the MUZ. Please clarify whether the following are included in FAR: covered balconies, enclosed parking, lobbies, mechanical rooms, elevators and stairways, rooftop amenities such as partially covered deck and elevator alcoves. Figures to illustrate examples of building area that is and is not counted as floor area are strongly recommended. This is also a priority coming out of the Residential Infill Project.

- **Ground floor windows standards.** With increased area requirements for ground floor window standards, clarification of applicability is essential to achieve the intended design and character objectives of this standard to activate ground floor areas. The existing code language presents challenges to application of the ground floor window standards that will be exacerbated by this increased requirement in concert with other new development standards. Specifically, the following issues should be thoroughly addressed:
 - Please clarify window areas that do not count toward meeting the ground floor windows standard, such as those with views into bike parking, loading spaces and mechanical equipment.
 - Please identify a minimum depth for display window areas of at least 24 inches to allow for more ample and engaging displays that will meet this standard.
 - Please address whether or not the openings/entrances to structured parking count in the area that is subject to the ground floor window standards. Currently we tell applicants that openings to structured parking are counted, and for 100% residential development with a garage door opening to structured parking, it precludes them being able to ever meet the standard.
 - Please provide figures illustrating how the ground floor window standard applies on sloped sites (i.e., areas subject to these standards on a given façade) and on sites with street frontage on one, two and three or more sides.

5. Clarification is needed to address applicability of Adjustment Review and/or Modifications and their Criteria for Approval. Additional code language revisions are needed to address approval criteria for Adjustment Review and Modifications. Specifically, the purpose statements must adequately address the proposed development standards. In many cases, the proposed code language is unclear if Modifications are allowed. Further, prohibiting Adjustments to qualifying situations would undermine organization of the code and require similar notes for all qualifying situations.

6. Many standards identified in Plan Districts are duplicative as they are already addressed by the Base Zone standards, Community Design Standards or through applicable Approval Criteria of land use review. There continues to be a lack of clarification on how the MUZ development standards, associated overlay zones and plan districts relate to the Community Design

Standards. In many instances, multiple levels of regulations apply, but it seems that they identify the same level of specificity of standards as provided within the base zone, which is not necessary. Many of the regulations in the proposed new plan districts are also similar enough to the base zone or overlay zone requirements that they are not necessary. The inclusion of this redundant code language speaks to the particular challenges of developing and reviewing the overhaul of an entire chapter of code.

7. **Use of the Planned Development process to allow bonus options needs to be more thoroughly and consistently incorporated into the existing Planned Development regulations per Chapter 33.270.** The existing planned development process should be unchanged when used in MUZ when there is no bonus earned. Clarification within the proposed revisions of this code section is needed to confirm that some Planned Development regulations will apply only when using the bonus options for MUZ. The approval criteria should be clear and more specific in terms of what the development should look like – reference to the entirety of the Community Design Guidelines is not appropriate.
8. **Some of the proposed Development Standards will create new Code Enforcement issues.** The code language includes use limitations and development standards related to hours of operation, covenant requirements and occupancy of structures. These standards and provisions cannot currently be enforced by BDS and are likely to set up false expectations by the public of what will occur in their neighborhoods. These items are too prescriptive and should not be codified within the zoning code.
9. **Expansion of Landscape Requirements.** It is our understanding that all MUZs except the CX zone will be subject to Title 11, the city's Tree Code. However, tree planting to meet on-site tree density standards typically cannot be accommodated in rooftop gardens and other alternative landscape areas due to minimum required area and dimensions, required minimum soil depth and resulting impacts of structural building load requirements. It is anticipated that these standards will require applicants to pay in lieu fees to address Title 11 standards for trees rather than resulting in a greening affect.

The code calls for landscaping to meet the L2 (low screen) landscaping standard per Chapter 33.248 on sites in the MUZ across from R zoning; this landscape standard, which requires trees, shrubs and groundcover plantings at a minimum setback width, is not an urban landscape model, but more suburban in nature. There will be street trees in place, which provides some visual separation. The proposed landscape screening should be reevaluated to address the intent and character of buffering between sites with different zoning designations and the provision of appropriate greenspaces. In addition, please provide specific language to clarify how the L3 (high screen) landscaping standard works in the setback with high-screen shrubs required along the property line to form a continuous screen. Specify if pedestrian connections, bike parking, outdoor area, trash enclosures and mechanical equipment can be in the setback where L3 is required. Also, please consider the practical problems created by planting trees too close to foundations.

Detailed Comments

We offer the following additional detailed comments as Appendix A, attached.

Appendix A

Page	Code Section	Comment
21 & 62	Comp. Plan Policy 10.1 – Land Use Comp. Plan Policy 10.1 – Land Use Designations	The corresponding zones identified for the Mixed Use designations are repeated under multiple designations. What is intended by this? Does BPS intend to allow up-zonings from the less intense zones to the more intense if mapped with a more “intense/urban” designation? If so, the report should include a proposed Comprehensive Plan Map and should evaluate the Zoning Map Amendment approval criteria—Adequacy of Services.
63	33.130.010	Please delete the reference in purpose statement, “The zones implement the vision, guiding principles, and goals and policies of the Comprehensive Plan.” If left in, it would require addressing the entire Comprehensive Plan when doing an Adjustment Review, given Approval Criterion 33.805.040 B and C require demonstrating the purpose of the zone is met. In the last paragraph of the purpose statement, 2 nd line, replace the vague term “intent” with the term “characteristics,” as “characteristics” are described in 33.130.030.
63	33.130.030.A.	It will be extremely difficult to enforce hours of operation so broadly in the Zoning Code. Can the impacts of these uses instead be addressed by the size of the use and whether and where exterior development is allowed? If hours of operation are going to be used more broadly in the base zone, they should be defined and it should be clear if employees can be present on the site outside these hours of operation (people cleaning up inside the building vs. doors open for business).
65	33.130.030.C.	Is language that says “not appropriate for sites where adjacent properties have single-dwelling residential zoning” meant to inform quasi-judicial comprehensive plan amendments? If so, is this the right place to put it? Is it not covered by the other criteria?
67	33.130.050.B.2.	Five units seems like a low threshold for requiring Neighborhood Contact in commercial zones. For example, TDM will only be required for 10 or more units. These are areas that we have designated for the most intense development in the City. Why are we doing that if five dwelling units is going to impact the neighborhood enough to warrant contact prior to permit application? Currently, the Community Design Standards require that projects with more than <u>3</u> units (i.e., 4 or more) are subject to Neighborhood Contact. With expansion of the “d” overlay will there be any MUZ sites

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		to which this would not apply and supersede 33.130.050.B.2?
69	33.130.100.B.2.c.	<p>It is extremely difficult to enforce hours of operation for Retail Sales and Services uses. Are there alternative ways to regulate impacts other than hours of operation to achieve the same result? No exterior development?</p> <p>What commercially-zoned sites have “all” the abutting properties in a single-dwelling zone? Probably less than a handful.</p> <p>The size limitation, as well as other code provisions (convenience stores, off-site impacts, etc.), should be sufficient to attract mostly small-scale tenants and preserve neighborhood character.</p>
71	33.130.100.B.3	Are area limitations identified in 3a - 3d of this subsection intended to apply to Utility Scale Energy Production uses? These are a Manufacturing and Production use and therefore require a CU.
73	33.130.100.B.9	<p>With Commercial Parking allowed by right, can someone add additional parking spaces up to the maximum allowed? Identifying that surface parking exists on a site does not necessarily mean that the number of spaces on the site were legally constructed. Can this language be clarified?</p> <p>Has PBOT/BPS looked at the required CU for commercial parking in the CX zone? Why require a CU for sites in the CX zone but allow in the CM2 and CM3 zones?</p>
77	Table 130-1	Manufacturing & Production should be identified as “CU/L” in all zones as Utility Scale Energy Production is a Manufacturing & Production use that requires a CU.
79	33.130.205	<p>With increased applicability of FAR maximums, how FAR is measured is going to become critical. Please clarify whether the following are included in FAR: covered balconies, enclosed parking, lobbies, mechanical rooms, elevators and stairways, rooftop amenities such as partially covered deck and elevator alcoves.</p> <p>We respectfully disagree with BPS’s March 31, 2016 response to this same request in the Discussion Draft of: BPS staff believe that the floor area definitions are sufficient to explain what contributes to floor area. Unclear which specific items might especially need to be illustrated. Additional clarity is critical.</p> <p>Also, should the term “accessory parking” in B be replaced with</p>

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		"structured parking"?
80	33.130.210	The changes to height and measuring height add a huge amount of complexity compared with how we measure building height under current code. The 5-story building in a zone with a 45-foot height limit is often a result of packing building area in a gable rather than manipulating grade.
81	33.130.205.C.4	Clarify if Adjustments and Modifications are allowed or if changes to development standards are prohibited.
81	33.130.205.C.5	Some sites are listed as "unclaimed" and some are in two neighborhoods. Wouldn't it make more sense to have a distance requirement only, rather than requiring the receiving and sending sites are in the same neighborhood? No other zoning code regulations are based on neighborhood.
81	33.130.210.A	Include the following sentence in the 1 st paragraph of the purpose statement, before the last sentence: "Light, air and the potential for privacy are intended to be preserved in adjacent residential zones."
82	33.130.210.B	<p>This language is difficult to follow. Reference should be to the sidewalk along the frontage adjacent to the façade. Why is the 25 foot distance used? This measurement should be coordinated with the Residential Infill project and definitions should be located in 33.930 rather than in 33.130.</p> <p>Please don't have a separate methodology for measuring height in these zones than the methodology used in all other zones.</p> <p>The 25-foot provision should be replaced with the existing "within a 5 foot horizontal distance" language from 33.930.050.</p> <p>At minimum, include a figure that graphically represents the complex measurement method that is proposed.</p> <p>This proposed height measurement is very confusing and will be challenging for applicants and/or developers to measuring correctly - this will result in the need for BDS staff to tell them how high they can build because they won't know the width of the street and will have to be instructed how to measure height with every project.</p>
83	33.130.210.C.1.b	We understand that there is concern people would opt for a height adjustment rather than use bonus options. However, prohibiting height adjustments could make certain sites undevelopable in ways you haven't considered. For instance some sites have unusual topography (6400 SW Canyon Court). By prohibiting height adjustments in this situation, the applicant would be forced to do a great deal of grading and construction of retaining walls. In other instances, additional height is proposed because the site is required to give an exceptional

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		<p>dedication for a public project (8124 SW Barbur Boulevard and the Barbur light rail). In other instances, additional height may be requested because the applicant is proposing to preserve a resource and construct a project with a smaller footprint and a greater height. Rather than prohibiting height Adjustments over 10 percent, a statement could be included in either the purpose statement or the standards that says “Adjustments to height are not allowed and are discouraged before bonus options are exhausted”.</p> <p>Adjustments to base zone height are prohibited; are Modifications allowed?</p>
83	33.130.210.C.2	<p>Do you really appreciate benefits from a step down that occurs 55 feet above the street on a narrow street?</p> <p>On sites with more than one street lot line, it would seem you would want the step down along the lower transit (i.e., the secondary) street as opposed to the higher transit street. Why allow the bulk on the secondary street as opposed to the more significant transit street?</p> <p>Narrow street is defined as one that is less than 70 feet wide. Is this before or after dedications are taken?</p>
85	33.130.210.C.2.b	<p>In combination with a 10 foot setback, reduced height for 25 feet is significant – what if the lot is 25 feet wide?</p> <p>The stepdown should occur only where the site is adjacent to an R-zoned lot line. We have had instances where a commercially-zoned lot only touches at the back corner with an R-zoned lot and it makes for an odd arch of height limit when the standard is “within 25 feet”.</p>
85	Figure 130-2	Show the required setback in both scenarios.
85	33.130.210.C.2.b and c	<p>What if both step downs apply on a smaller site? The application of an appropriate zone should be the tool for addressing the impacts rather than applying a zone and then stepping it back from all sides.</p> <p>Have you mapped the CM2, CM3, CX and CE zones to see if any of the sites are not within 100 feet of a transit street?</p>
87	33.130.210.D.5	This states that the antennas are exempt from height limits; it would be helpful to state that the “ <u>antennas and mounting devices</u> ” are exempt from the height limits.
89	Table 130-2 Min. Landscaped Areas	Unless Title 11 is amended, all the C zones (except CX) will now be subject to Tree Density. However, green roofs and other features with 30” of soil cannot accommodate many trees. How will the density

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		standards reasonably be met without paying in lieu?
91	Example illustration	Where is the street? Is the site 100 feet deep? Is it realistic to show a whole block frontage – how does it work and what does it look like on a smaller site?
93	33.130.212..B.3	Are Modifications also prohibited?
93	33.130.212.B.5.b	Why would you not want the maximum height by the transit street instead of the side street if you are requiring step-downs? Again, on sites with more than one street lot line, it would seem you would want the step down along the lower transit (i.e., the secondary) street as opposed to the higher transit street. Why allow the bulk on the secondary street as opposed to the more significant transit street? Would this encourage buildings constructed 10 feet from the street lot line so they could be built straight up with no step down?
95	33.130.212.C	Could the back of retail on the first floor be one big affordable unit? No minimum number or percentage of the units need to be affordable?
95	33.130.212.C	What Bureau is going to require/review/enforce the covenant requirement? BDS or PHB? BDS would not have the ability to do this enforcement.
97	33.130.212.D	Why the need for both a covenant AND a long-term lease with PDC? Isn't that duplicative? Who will require and enforce the covenant? Very problematic for BDS to enforce.
99	33.130.215.B.1	Would be clearer to read, Unless as specified below, there is no <u>minimum</u> required setback...”
99	33.130.215.B.1.b	The concept of the 5' and 10' setbacks required is overly prescriptive, fussy, and less than urban. Given the width of the ROW between the C zoned lot and the RF-R1 lots, there is already adequate separation. The “within 100' of a transit street” will result in only portions of sites being held to the standard; potentially have the standard apply to sites located within 100' of a transit street. It will be challenging to verify and implement a variety of setbacks on a site based upon portions of the site that are or are not within 100' of a transit street. This may also create some unintended design challenges. “... on the portion of a site” that is across a local service street ...”

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		<p>“... the CM1 zone, or “on or” within 100 feet of a transit street”</p> <p>Light rail on Barbur is already taking a 20-foot dedication from a site. This would require the site lose an additional 10 feet of frontage, an excessive amount that would likely discourage development.</p>
99	33.130.215.B.1.b(1) and (2)	<p>Is there a maximum dimension for the bicycle and pedestrian access?</p> <p>This is borrowed from the Community Design Standards. Have you looked to see if it is successful? Sometimes only half the frontage is across the street from RF-R1 which plays out with weird landscaping patterns. See 16-106345 AD.</p>
101	33.130.215.B.1.b	<p>L2 landscaping is unworkable in the first 5 feet from the street lot line, in many circumstances, since it conflicts with the required street trees. Also, not a very urban form. Why not just rezone the residential on the other side of the street to R2.5 or a more urban residential zone?</p>
103	33.130.215.B.2.b	<p>Explain how L3 works in the setback – L3 with shrubs on the property line? Specify if pedestrian connection, bike parking, outdoor area, trash enclosure and mechanical equipment can be in this setback given no setback for lower structures.</p> <p>The standard should clearly state, “Buildings that are 15 feet or less in height, with fully enclosed walls are...”</p> <p>Reword last sentence of 2b to read, “...must be landscaped to at least the L3 standard at a width of 10 feet.”</p>
103	33.130.215.B.2.c	<p>Please delete this standard. The Zoning Code should not be regulating side windows. It is a building code issue and a marketing decision.</p>
105	33.130.215.B.3	<p>Include provision clarifying that stormwater planters are allowed in the required setback from an adjacent R-zone. Perhaps replicate language from 33.130.225.B.1.a?</p> <p>In B.3.b.1 and 2, clarify whether railings are allow to exceed the 2.5' height.</p>
105	33.130.215.B.3.b(3)	<p>This means a 100% residential project could have a 10-foot deep canopy. This conflicts with the landscaping requirement.</p>
109	33.130.215.D.2	<p>Stormwater planters should be allowed within these areas – where are they supposed to be located?</p>

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113	Figure 130-7	<p>Show a scenario where the front building meets the setback and a detached building is proposed completely behind the front building. Is that allowed?</p> <p>Is a building with the ground floor entirely in retail with residential uses above considered a “residential building” for purposes of this standard?</p>
119	33.130.220.B	<p>Very concerned that we are encouraging less intense and undesirable development by removing the minimum building coverage requirements for small sites in inner pattern area.</p>
121	33.130.222.C	<p>This is overly prescriptive and unnecessary with all the other standards that are manipulating the envelope and facades of the building. Where will we see these buildings with that large a façade area outside areas where design standards or design review are required?</p> <p>If retaining this standard, please reword C.1.c to read, “Portions of building facades that are vertically separated by a gap of 10 feet in width or more and...” In C.2 second line, is this supposed to be 2 feet “in depth”?</p> <p>Please provide examples of new development that doesn’t include street-facing articulation. By including a standard for façade articulation, you could be setting the bar lower on articulation and buildings would be designed to meet this requirement rather than exceed it.</p> <p>What about a building that has stepped back the upper floor due to other requirements, does that count as façade articulation?</p>
123	33.130.225.B.1.a and b	<p>Can the conjunction between these subsections be changed to “or” to avoid conflicts with the Stormwater Management Manual?</p>
123	33.130.225.B.2.b	<p>The L1 standard requires trees and groundcover plants. By requiring L1 beneath the large trees, additional trees will be required to be planted beneath the canopy of large trees to meet this standard. In addition, sometimes ground cover doesn’t grow well when shaded or in conflict with large tree roots; this could create enforcement issues.</p> <p>Please clarify the language to address the intended result to require L1 landscaping within the 30’ x 30’ area. If only groundcover plantings are required in addition to the large tree to be preserved, this alternative should be clearly stated.</p>
125	33.130.225.2.c	<p>Can these areas be on the decks of underground parking? How is</p>

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		ground level defined? 30 inches deep is far too shallow to allow for trees to grow.
125	33.130.228.A	...“opportunities for outdoor living opportunities” is redundant.
125	33.130.228.B.1	48 square feet per unit is a lot - none is required today. A minimum sill height should be noted [4’ maximum]. Otherwise the 40% GFW requirement could be met for a 5’+ tall sill.
125	33.130.228.B.2.a	How are required outdoor areas that extend into the front setback private, for the use of an individual unit, if contiguous with the street or sidewalk? Have you checked with PBOT about this allowance? They are becoming more reluctant to grant right-of-way encroachments.
125	33.130.228.2.b(2)	Are mailbox areas considered part of the lobby or should they be included here? Is this an exhaustive list of items that cannot be used to meet the requirements or just examples?
129	33.130.230.B.2.c	How is “secondary street frontage” defined?
131	33.130.230.C	Include window areas that do NOT count into bike parking, loading spaces and mechanical equipment. Display window areas should have a minimum depth requirement to avoid the typical 1inch deep display cabinet [think Walgreens 25’ long transit street fronting display window cabinets with thumb tacked posters for the latest sales on toothpaste]. A proper minimum depth of 24 inches would at least allow for more ample and engaging displays. Please address whether or not the openings to structured parking count in the area that is subject to the ground floor window standards. Currently we tell applicants that it IS counted, and for 100% residential buildings that have only units, plus a garage door opening, it precludes them being able to ever meet the standard.
131	33.130.230.D	The title of this section seems inaccurate as it regulates height, interior volume, and street facing entrances [see below], and should be changed to read “Ground Floor Active Use standard”, and/or designated as its own standard.

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131	Figure 130-11	It might be helpful to have a second figure showing a sloped lot and/or a building with stormwater planters along the front. How does the standard work in those circumstances?
131	33.130.230.D	This standard – specifically D.2 and D.3 – needs to require street facing entrances. Whether setback and landscaped or raised above ground level, without a direct pedestrian connection to the street, the frontage will not activate the street edge. This was specifically cited by the Design Commission as critical to this active ground floor standard activating ground floor residential frontages.
131	33.130.230.D.1.c	For flexibility, and to encourage stoops, why not allow the front entrance to be up to 2' above the level of the finished grade? Successful stoops should be a minimum of 2' and require entrances from the street. This was specifically cited by the Design Commission as critical to this active ground floor standard, and 3' was preferred.
131	33.130.230.D.d.2.a	How does this work with 33.130.215.B.1.b(1)? Is L1 or L2 required?
133	33.130.230.D.3	Why a raised ground floor? This makes ADA access difficult and further restricts the height of buildings that contain residential uses—especially in the areas that need a lower height limit.
133	33.130.230.E	How often is the public art exception used outside the Central City? Limiting it to ½ the requirements may ensure it is never used.
135	33.130.235.C	Wall-mounted mechanical equipment should not be allowed on street-facing facades and should be painted to match or otherwise screened from adjacent properties.
137	33.130.240.B.1.a.(1) first bullet	What happens if you have a building behind another building? How is the straight line connection requirement to be met? Why not only require the straight line connection for buildings that are proximate to the street (within a specified number of feet), with all other entrances interconnected via an internal pedestrian circulation path?
137	33.130.240.B.1.a.(1) second bullet	Why is Household Living only required to provide a direct connection to one unit? It would make sense if it were to a lobby, but otherwise it does not make sense.
139	33.130.240.B.2.a	Consider allowing narrower connection to a smaller number of units as in multi-dwelling zone. Also consider allowing it to be part of vehicle area if a different paving material as in multi-dwelling zone.

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140	33.130.242	The commentary says this encourages courtyard housing, but is this clear through the proposed code language? Would a graphic make it clearer?
141	33.130.242.A	The purpose statement should be updated to reflect the courtyard housing allowance.
141	33.130.242.B	Would it be easier to just say houses, etc. are exempt?
141	33.130.242.C	Is it OK for the residential entrance to be to one unit? Why not require a lobby or common area?
141	33.130.242.C.3.c(1)	Minimum dimension for the “courtyard”? 10 feet by 20 feet?
145	33.130.245.B.1	<p>“...and <u>those associated with</u> industrial categories.”</p> <p>What about accessory recreational vehicles, e.g., RV trailers and boats?</p> <p>B1 states that exterior display for uses in the industrial categories is not allowed. Section 33.130.100.B.5 states exterior display is prohibited.</p> <p>Also, for clarity, B.1 should read, “...building materials, and goods associated with uses...”</p>
145	33.130.245.B.2	<p>Look at exceptions to Retail Sales and Service uses. Many of the more industrially-oriented sales are classified in the industrial categories. Are these intentionally not allowed exterior display in CE?</p> <p>For clarity, this should read, “Exterior display of goods is allowed except for those associated with...”</p>
145	33.130.245.B.3	This standard should be listed first because it is the most general of the three. It should also be titled “Abutting R zones” otherwise it repeats the title of the subsection.
145	33.130.245.C.1	This states exterior storage is not allowed; Section 33.130.100.B.5 states exterior storage is prohibited for industrial uses.
147	33.130.250	<p>Can we please pull the window standard out of this section and put it with the Ground Floor Window section? This section is really a repeat of the BZDs for houses and it is too easy to miss here.</p> <p>Why does the window standard above the ground floor not apply to nonresidential floor area? Wouldn't we want windows on a commercial</p>

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		building on a corridor?
153	33.130.250.D.3.b	The commentary says 24 feet but the standard says 22 feet.
171	33.130.260	The purpose statement does not explain the intent for the standards in Subsection B. If adjusted, there is no guidance.
175	33.266.100.B	It is not possible, in the building code, to hold up occupancy for landscaping. We bargain with inspectors to give a temporary C of O for tree planting sometimes, when trees need to be planted in a different season than the building completion. In ITAP, we are creating a way to hold up final C of O, but it is not routine practice right now. Please don't codify this; it cannot really be enforced.
175	33.266.100.C.1	Clarify that when there are multiple tenants with the same use, you add up the floor area rather than apply the minimum to each tenant.
177	33.266.100.E	Is the measurement taken to the property line or the parking?
177	33.266.100.F	Clarify that no attendant or guarantee is required for automated stacked parking. Rectify disconnect with 33.266.140.B; which appears to assume some stacked parking scenarios will operate without an attendant.
179	33.266.110.B.2	This code should only reference the map, not have both the map and the reference to peak hour service; the peak hour service definition should be deleted. The map is of no use if we also still have to look at transit schedules for verification. (also 33.266.115.B.1.b.) Should streetcar be included or only if it offers frequent service? ...according to recent (March 2016) communications from PBOT, the streetcar N/S Loops A and B offer peak hour service. Will these also be mapped?
181	33.266.110.B.3	The examination of joint parking agreements to see if "parking demands occur at different times" is slightly discretionary, perhaps it could be done similar to a documenting a non-conforming situation or something.
181	33.266.110.C	Does PBOT think the on-site carpool space requirement makes sense? Would those dedicated spaces better serve the users with flex car spaces or other types of shared vehicles that are identified/approved

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		via the required TDM?
189	Table 266-1	It is too bad that there is no longer a commercial zone where parking is not required and the allowance is being taken out of the code in 2016 with our long range comprehensive plan.
191	Table 266-2	The Table needs to be consistent in how it refers to Footnote #2. The footnote should be added to uses that generally/usually reviewed as a CU—Parks and Open Areas, Schools, Religious Institutions, and Daycares. Agricultural Uses, specifically, Marijuana grow operations, should have a parking requirement.
207	33.266.410.B	So, if I have 15 existing dwelling units on a site and add 15 more, no TDM plan is required?
211	33.270.010 last bullet	Typo: Energy efficient development.
217	33.270.200	Clarify that the additional requirements listed are for PDs in C/MU zones that are requesting bonus FAR and height through a PD. We may have PDs in commercial zones for other reasons, such as allocating allowed density/FAR across a split zoned site. What are the “energy efficiency requirements of the BPS” and how will they be certified/maintained over the life of the PD?
223	33.415.200	Tough to implement with new shell buildings. Also, this standard will result in only portions of a site needing to meet the standard. Would it be better to state, “For sites within 100 feet...”? How are the hours of 7am to 9pm enforced?
223	33.415.200.I and J	Only required to be 25 percent of ground floor?
227	33.415.340	Only on transit street frontage or all frontages? Only on facades within 20 feet of the street?
227	33.415.35.B	For portions within maximum setback? For nonresidential portions of building?
229	33.415.300.B.2	Typo. “At least 25 percent of the ground-floor area of the building must be in one of <u>or</u> more of the following uses...”
239	33.520.100	These provisions are not enough to warrant a plan district. Already

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247	33.545.100	<p>have maximum setback, main entrance requirement. Is there also a “d” overlay?</p> <p>Should these provisions just be incorporated into base zone? No surface parking by corners in 33.266?</p>
241-267	<p>33.520-Division 33.545-Lombard 33.575-Sandy</p> <p>33.520.110.B 33.545.120.C.4 33.575.110</p>	<p>Assuming all MUZ areas will be mapped with the “d” overlay, provisions regarding exterior finish materials should be omitted from the Plan District as exterior materials must meet the Community Design Standards or be approved through discretionary DZ.</p> <p>Further, please note that “Sheet pressboard” is outdated language – and certainly isn’t used anymore on an exterior surface. Changes to language should include “composite materials manufactured from wood or other products . . . less than 10%”. The correct language is shown on pg. 253 for 33.545.120.C.4.</p>
249	33.545.110.D	Is the full bonus realized for any amount of housing?
253	33.545.120.C.3	The base zone design standards already address attached garages; this does not need to be identified in the Plan District language.
259	33.575.100.C	Base zone step down proposed appears to be adequate to address this and does not need to be duplicated here.
289	33.855	General comment about amendments to Planned Development chapter. Please pay attention to how the amendments could affect PDs that are not using the bonus option for C/MU zones. Clarification is needed in several places to indicate that the requirements apply only when the bonus option is used. Specific places are noted below.
289	33.855.200.A	Allowing design review for buildings within the PD site after the PD is complete doesn’t work for the typical PD processed under the current code. The PD review approves specific building footprints and elevations (or a set of development standards), therefore it is important for the PD and DZ to run concurrently. Suggest clarifying that subsequent design review is allowed when using the bonus option in C/MU zones if that is what is intended.
289	33.855.200.B	Clarify that the Type III process is for proposals in C/MU zones using the bonus option. Also, Type III review should not be triggered for all PDs simply because the site is in a Design overlay zone. The development proposed could meet community design standards, or if Design Review was required, it may be a Type II process.

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291	33.855.250.A	Clarify that the supplemental application requirements apply to proposals in C/MU zones using the bonus option.
295-297	33.855.310 33.855.320	Clarify that the approval criteria in .320 apply to proposals in C/MU zones using the bonus option. Will proposals in C/MU zones that are not using the bonus option still use the criteria in .310? We often have transfer of density across zone boundaries for sites that include commercial and residential (single or multi). The code needs to clearly identify which criteria apply as the way it currently reads we would be applying .310, .320, and .350
297	33.855.320.A.1	Please be more specific than “framework for development that meets the Community Design Guidelines”. To make findings for this criterion would require addressing the entire Community Design Guidelines when doing a Planned Development review.
297	33.855.320.C	How can BES approve individual buildings without determining compliance with the Stormwater Management Manual? Is there a maximum length of time for phasing?
297	33.855.340.C	Typo: Change reference to CN1 zone.
297, 305-307	33.855.320 33.855.500 33.855.510	Master Plans are only successful when the rigorous up-front process provides development <i>and</i> procedural incentives. Having implemented master plans, it seems that 33.855 requires Type III review for the most common types of market-driven changes that occur post Plan adoption. Without <i>procedural</i> incentives (most amendments = Type II or lower review, allowing projects to meet CDS rather than mandating DZ, etc.) the bonuses offered through PDs for larger sites will likely not be used.
299	33.855.350	It would be helpful to provide more direction on how these criteria apply to split-zoned sites. Perhaps: “The approval criteria of this section apply to Planned Developments where some or all of the site is within the RF through R2.5 zones and do not include a land division.”
303	33.855.350.G	Currently, the Transportation Impacts criteria for PDs with no land division mirror the Transportation Impacts criteria for land divisions in 33.641. This proposal would change one, but not the other resulting in different criteria applying if you do a stand-alone PD in single-dwelling zones vs. a land division and PD in a single-dwelling zone. Please keep this code sections consistent, unless there is a specific reason that they should be different.

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303	33.855.350.G	PBOT reviewed the amendments proposed to the Transportation Impacts criterion for PD's in the RF - R2.5 zones and thinks they are positive changes. These same criteria should be applied to PDs in commercial zones when they are asking for FAR bonuses. These criteria should also replace the land division transportation criteria in 33.641. This will provide consistent language throughout the code when PBOT needs to determine the adequacy of transportation facilities.
307	33.855.520	Change "of a development plan" to "of the original planned development application". The term development plan isn't used anywhere else.
315	Zoning Maps	Main street overlay maps should indicate areas proposed with "d" overlay.