



Bureau of Planning and Sustainability

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MEMO

DATE: August 1, 2016

TO: Planning and Sustainability Commission

FROM: Barry Manning, Project Manager

CC: Susan Anderson, Joe Zehnder, Eric Engstrom, Bill Cunningham, BPS

SUBJECT: Mixed Use Zones Project – PSC Work Session #5

At the Planning and Sustainability Commission meeting on August 2, 2016 the Commission will hold a fifth work session on the Mixed Use Zones Project (MUZ). Note that we will discuss Topic 9: Zoning Map Amendments Requests on August 9.

Topics for the August 2 work session:

- **Topic 6.2: CE zoning building orientation and development standards (2).**
- **Topic 7: Code Issues - Additional issues raised in testimony and/or identified by PSC, Design Commission, Historic Landmarks Commission, BDS, and BPS.** Staff intends to develop code language and return to PSC with proposed approaches to each of the listed items per the staff recommendation, unless items are identified by PSC for further discussion or consideration. Staff asks that Commissioners identify any other items in Topic 7 they would like to discuss further. Note that staff has updated recommendations on items 7.1.E, 7.1.F, 7.1.G, and 7.5.A - see pages 5, 6, and 9.
- **Topic 10: Design Overlay Zone - Recap the proposal for design overlay zone expansion, and consider the requests to apply the Design Overlay zone in Sellwood.**

The following pages outline the specific topics for PSC consideration.



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Topic 6.2 Development Standards Discussion

The standards for the CE zone are intended to result in both auto-accommodating and pedestrian friendly development. They allow for generous parking areas, drive thru facilities and uses that are auto-oriented. They also call for buildings to be oriented to the street and provide ground floor windows and entrances.

To better accommodate some large-scale retail uses, the threshold for use of alternative maximum building setbacks was reduced from 100,000 SF to 60,000 SF. This standard allows primary buildings to be set behind parking when smaller, secondary buildings are located in front of the parking along public sidewalks.

Many retailers testified that these standards are still too difficult and/or costly to meet for many tenants such as large-format grocers, national retailers, or national restaurant chains. They also may create nonconformity for users which adds cost and uncertainty in the development process.

6.2 Development Standards – Staff Recommendations

	Recommendation	Comment
A	Retain building orientation standards in CE zones.	<p>The proposed development standards continue to promote buildings that are near the sidewalk so that they are easily accessible by transit users and pedestrians. They also allow parking areas to the side and rear of buildings.</p> <p>For large sites, the proposed standards increase flexibility by allowing parking in front of buildings. Also in the proposed CE zone, building orientation is less rigorous than in the existing CG zone when sites are located at two transit streets.</p> <p>Recent national retail developments such as Wal-Mart, Safeway, and Walgreens, as well as local retailers such as New Seasons demonstrate that it is possible for national firms and large format retailers to conform closely to Portland building orientation standards.</p> <p>Staff recommends: Retain the proposed building orientation standards in CE zones.</p>
B	Retain proposed alternative setback size threshold of 60,000.	<p>Large scale uses that are unable to or choose not to conform to the base zone development standards may pursue adjustments or the alternative setback approach. To add flexibility, the threshold for use of alternative setbacks has been reduced by 40% from 100,000 SF to 60,000 SF.</p> <p>Staff recommends: Retain proposed alternative setback size threshold of 60,000.</p>



6.2 Development Standards – Alternatives/Options

	Option	Comment
C	Change setback allowances in the CE zone.	<p>PSC received testimony requesting that maximum setbacks in the CE zone be dropped and that no maximum setback standard be applied so parking areas can more easily be allowed in front of buildings.</p> <p><u>Staff recommends:</u> Do not change the proposed code.</p>
D	Reduce ground floor window requirements in the CE zone.	<p>PSC received testimony requesting an exemption to the requirement for retail uses to have ground floor windows where the interior is used for truck loading, storage, refrigeration or mechanical equipment.</p> <p>The proposed code provides sufficient flexibility to accommodate these needs. The code requires less window coverage on secondary street frontages. It also allows display windows or public art to substitute for views into interior spaces. Finally, it does not require windows for building walls more than 20' from street frontages (accommodating truck loading areas).</p> <p><u>Staff recommends:</u> Do not change the proposed code.</p>
E	Eliminate transit street main entrance requirements in the CE zone.	<p>PSC received testimony requesting that main entrances to building not be required along transit streets.</p> <p><u>Staff recommends:</u> Do not change the proposed code.</p>
F	Revise alternative setback size threshold for large retailers to 40,000 or 45,000 SF.	<p>PSC received testimony requesting a reduced threshold for utilization of the Alternative maximum building setback for large retailers (33.130.215.E).</p> <p>Buildings in the 40,000+ SF size range have proven an ability to meet or adapt to the current setback standards and may not need this alternative.</p> <p><u>Staff recommends:</u> Do not change the proposed code.</p>



Topic 7: Code Issues — Additional issues raised in testimony and/or identified by PSC, Design Commission, Historic Landmarks Commission, BDS, and BPS:

Topic 7 includes issues raised in testimony or raised by Design Commission, Landmarks Commission, Planning and Sustainability Commission, and BDS that have not been addressed elsewhere.

The following table summarizes all the parts of Topics 7.1 through 7.5. These were identified for discussion at the PSC work session on July 12, however they were not discussed due to lack of time.

Staff believes Topics 7.1.E, 7.1.F, and 7.5 warrant PSC discussion, so they will be on the upcoming PSC agenda. Staff asks that PSC Commissioners identify any other items in Topic 7 they would like to discuss further.

7.1 PSC and Public Testimony Issues

	Issue	Comment and Staff Recommendation
A	Required residential open area size.	Staff proposed 48 SF per unit. Research on other jurisdictions show a range of size requirements from zero to 100 SF per unit. For example, Chicago and San Francisco require 36 SF in higher density zones. Tacoma and Santa Monica require 100 SF. <u>Staff Recommends: Retain 48 SF requirement.</u>
B	10' setback on outer Civic Corridors.	Staff proposed a 10 foot building setback on Civic Corridors in Eastern and Western pattern areas. This is to address impacts of wide, high traffic volume streets, allow for enhanced pedestrian space and provide opportunity for a “green” edge. <u>Staff Recommends: Retain proposed 10-foot setback.</u>
C	LEED requirement in PD Bonus.	Staff recommended using an energy efficiency standard similar to LEED Gold for buildings using the Planned Development bonus. A specific standard or certification is not spelled out or required due to the fact that certification comes after construction. BPS will develop administrative rules for implementing this feature. <u>Staff Recommends: Retain the requirement for energy efficient buildings in the Planned Development bonus. Ask BPS to return to PSC with administrative rules for review when drafted.</u>
D	Sandy Boulevard step-down transitions.	The MUZ project proposes to create three plan districts to replace a main street overlay zone, because the standards that apply to affected areas vary, which is not the way overlay zones are applied. The step-down/transition standard was developed as part of a specific Hollywood and Sandy area planning effort. <u>Staff Recommends: Retain current standard.</u>



E	Operating Hours in CM1; change threshold size (15,000 sf) and broaden surrounding R zones to MFR.	<p>SCHEDULED FOR ADDITIONAL DISCUSSION WITH PSC</p> <p>PSC received testimony from Irvington neighborhood requesting that limitation on hours of operation for small CM1 zoned sites be extended to sites of 15,000 SF. Others requested the limitation be extended to all Residential zones. BDS expressed concern about code enforcement issues regarding hours of operation.</p> <p>Staff Recommends: Staff will develop a new Commercial-Residential (CR) zone that can be applied to isolated commercial sites with small retail and office in the context of residentially zoned areas. This would be applied on sites that are currently zoned residential with nonconforming commercial uses; it could also be applied on other isolated commercial sites rather than CM1. The zone would allow small commercial uses, limit hours of operation for commercial uses, and limit the amount of residential that could be developed on site unless there is a commercial use on site. The height limit would be 30'; FAR of 1:1; no bonuses. If no commercial uses are present, maximum residential density would be 1 unit per 2500 SF of site area.</p>
F	Require Commercial uses in the CM1 zone.	<p>SCHEDULED FOR ADDITIONAL DISCUSSION WITH PSC</p> <p>PSC received testimony from community groups and members requesting that specific sites in CM1 and nonconforming uses being rezoned to CM1 be required to have commercial uses (and limit residential). This approach would also support Comp Plan Policy 6.66 that calls for small commercial nodes in areas between centers to expand local access to goods and services.</p> <p>Staff Recommends: Staff will develop a new Commercial-Residential (CR) zone that can be applied to isolated commercial sites with small retail and office in the context of residentially zoned areas. This would be applied on sites that are currently zoned residential with nonconforming commercial uses; it could also be applied on other isolated commercial sites rather than CM1. The zone would allow small commercial uses, limit hours of operation for commercial uses, and limit the amount of residential that could be developed on site unless there is a commercial use on site. The height limit would be 30'; FAR of 1:1; no bonuses. If no commercial uses are present, maximum residential density would be 1 unit per 2500 SF of site area.</p>



G	Ground floor window height issue.	<p>PSC received testimony from community members concerned about the placement, height and measurement of ground floor windows.</p> <p><u>Staff Recommends:</u> Revise code to address issues addressed in testimony, and incorporate changes to ensure windows relate to pedestrian viewing areas.</p>
H	Rooftop Mechanical and stairwell enclosures allowances	<p>Concern raised that required step backs combined with open space requirements will make meeting the exceptions of 15' setbacks for stair enclosures in 33.130.210.D difficult to achieve.</p> <p><u>Staff Recommends:</u> Retain this existing code language pending further discussion with BDS; return to PSC for further discussion and with a revision if this is an issue.</p>
I	Auto-Accommodating Development (33.910)	<p>There was a suggestion to re-label the section in 33.910 from "Auto-Accommodating Development" to "Auto-Oriented Development," and also amend references to it in other parts of the code.</p> <p><u>Staff Recommends:</u> Retain "Auto Accommodating." This term is used in the zoning code to describe uses, situations and developments that are designed for both vehicle and pedestrian access (limited setback from street, entrances close to sidewalk, windows etc.). Using "Auto-Oriented" suggests that pedestrian oriented features are less important.</p>



7.2 Design Commission and Historic Landmarks Commission Issues

	Issue	Comment and Staff Recommendation
A	Ground Floor Windows - require 50% overall.	<p>The Portland Design Commission recommended that the standard for Ground Floor Window coverage be increased from 40% to 50%, or an average of 50% for multiple facades.</p> <p><u>Staff Recommends:</u> retain the proposed standard.</p>
B	Limit Ground Floor Residential uses and require separate entrances for each ground-level residential unit.	<p>The Portland Design Commission recommended that residential uses should not be allowed on a corridor unless they are live/work units, and that all ground floor units have an individual entrance.</p> <p>Portland has many miles of CM zoning. It may be difficult to require active uses or live/work in all situations. Although providing individual residential entries is an option for development, requiring individual entries may not be appropriate in all cases.</p> <p><u>Staff Recommends:</u> Retain the proposed standard.</p>
C	TDR radius - apply a two-mile radius standard.	<p>The Portland Historic Landmarks Commission recommended that the radius for TDR be extended to two miles.</p> <p><u>Staff Recommends:</u> Revise the standard to two miles.</p>
D	Apply minimum FARs to all Commercial/Mixed Use Zones.	<p>The Portland Design Commission recommended that minimum FARs be established for all Commercial/Mixed-Use zones. The MUZ project proposed minimum FAR in the Centers Main Street Overlay zone, where intense activity and development is desired.</p> <p>Because Commercial/Mixed-Use zones are applied citywide and in a number of development contexts, staff does not support applying minimum FARs more broadly.</p> <p><u>Staff Recommends:</u> Retain the proposed standard.</p>



7.3 Urban Forestry Commission Issues

	Issue	Comment and Staff Recommendation
A.	Relationship between MUZ and Title 11, Trees.	<p>The Urban Forestry Commission Chair expressed concerns about whether the Mixed Use Zones project goals for trees align with proposed future amendments to Title 11.</p> <p>Staff Recommends: Staff will meet with the Urban Forestry Commission and staff to review and discuss the MUZ, and future proposed changes to Title 11.</p>

7.4 BDS Issues

Substantive issues raised by BDS that are not addressed in other topics are outlined in the table below.

	Issue	Comment and Staff Recommendation
A	Height measurement standards for Commercial/Mixed-Use zones.	<p>BDS expressed concern about applying a new height measurement standard to C/MU zones, and different height measurement standards for other zones, including new standards that may be developed for the Residential Infill Project.</p> <p>Staff Recommends: Staff will work with BDS and BPS staff to determine if a singular new approach may be used. Alternatively, retain the proposed approach, but relocate the standard to Chapter 33.930.</p>
B	Setback requirements for residential windows.	<p>The building code currently requires windows to setback a minimum of 3-feet from property lines. Staff proposed a minimum setback of 5 feet as a way to address livability and access to light and air.</p> <p>Staff Recommends: Retain the proposed 5-foot setback.</p>
C	Ground floor windows: clarify qualifying areas; add minimum 24” depth of display area; clarify parking structures; application on sloped sites.	<p>PSC received testimony from BDS concerned about the measurement of ground floor windows in situations with sloped lots as well as other aspects of ground floor window requirements.</p> <p>Staff Recommends: Staff will work with BDS to clarify code, including qualifying areas and depth of display. Some sites, such as sloped sites may require an adjustment.</p>



D	Consider eliminating specific plan districts, or incorporate plan district provisions into base zone. Drop specific references to allowed and prohibited materials in plan districts.	<p>The Sandy, Division, and Lombard Plan Districts were formerly part of a Main Street overlay zone. They were the result of specific area planning efforts. The overlay zone was broken into separate plan districts in keeping with current code practice. Where redundant with base zone, standards were dropped from plan districts; what remains is unique to the area.</p> <p>Staff Recommends: Retain the plan districts. Staff will work with BDS to clarify the regulations of plan districts and make changes where appropriate to incorporate in or reference other codes.</p>
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7.5 Bureau of Planning and Sustainability Issues

Substantive issues identified by BPS that are not addressed in other topics are outlined below.

	Issue	Comment and Staff Recommendation
A.	Agriculture uses.	<p>SCHEDULED FOR ADDITIONAL DISCUSSION WITH PSC</p> <p>Agriculture is currently a CU in Commercial/Mixed Use zones. Agriculture is Allowed/Limited use in E/I zones. New state law allows marijuana grow operations; these are currently being permitted in the EX zone. Allowing/Limiting Agriculture use in CM3 will be consistent with existing EX code. Allowing Agriculture uses in CE with size with limits will relieve pressure on E/I zones to accommodate these facilities.</p> <p>Staff Recommends: Revise code to allow Limited Agriculture use in CM3 and CE zone up to the size limits allowed for industrial uses: CM3: 1:1 FAR; CE: 40,000 SF.</p>

Topic 10: Design Overlay Zone – Recap the proposal for design overlay zone expansion, and consider the requests to apply the Design Overlay zone in Sellwood.

PSC received testimony from the Sellwood-Moreland Improvement League (SMILE) and many community members requesting the design overlay zone in the Sellwood neighborhood.

As part of MUZ, staff considered where design overlay zones were appropriate to apply. In Portland, design review has traditionally been required for areas where a special design character is specified and for zones which allow intense or large scale development. The Mixed Use Zones proposal continues this approach by extending the design overlay zone to areas designated as “Mixed Use - Urban Center” on the Comprehensive Plan map. This designation includes Town Centers and the most urban Neighborhood Centers and Corridors



Plan, and is not a place where the larger-scale development allowed in the Town Centers and other Mixed Use-Urban Center areas is expected.

The Sellwood neighborhood is experiencing new mixed use and multi dwelling development in Commercial/Mixed Use zone areas and does have a stock of older buildings of unique character that might benefit from aspects of design review. However, it is inconsistent to apply the design overlay in Sellwood at this time without a broader review of the need for design review tools in other neighborhood centers. Further, the Design Overlay Zone Assessment (DOZA) project, currently underway, may identify new tools and methods for improving design quality; it may be appropriate to consider design overlays for Sellwood and other Neighborhood Centers at the conclusion of that effort.

Staff Recommends: Do not expand the Design overlay zone beyond the areas identified in the Proposed Draft at this time. Reconsider applying the Design overlay zone to Sellwood and other Neighborhood Centers at conclusion of the DOZA project.

Topic 11: Employment-focused uses: EX and CM3 zoning.

The MUZ project developed a new array of Commercial/Mixed Use zones to replace the existing Commercial Zones and the EX (Central Employment) zones, as applied outside of the Central City. The CM3 zone was developed to replace the existing EX zone as well as the CX zone.

The EX zone is an Employment zone that allows a very broad array of uses, including residential uses by right. The development standards of EX allow 65 feet of height and 3:1 FAR, which includes residential uses. The EX zone always includes the Design overlay zone. The EX zone has traditionally been applied to areas that contain a mix of urban employment uses (with high degrees of building coverage at a variety of heights), as well as commercial uses and residential uses. These are areas such as NW Portland west of I-405, and along N Williams. In recent years, many of these areas have developed with multistory mixed use developments rather than employment-focused developments. The CX zone allows 75-feet of height and has an FAR of 4:1, with a narrower array of uses, but also allows residential and some industrial.

The CM3 zone was developed to replace both EX and CX zones. The development standards and use allowances in CM3 are very similar to EX, but industrial uses are limited to 1:1 FAR rather than the 3:1 FAR allowed in EX. A comparison of the key use allowances and development standards is attached.



Summary comparison of key standards and allowances: CM3, EX, and CX Zones

	CM3	EX	CX
Maximum FAR	3 to 1* (5 to 1 with bonus)	3 to 1*	4 to 1*
Base Height	65 ft.* (75 ft. with bonus)	65 ft.*	75 ft.*
Residential Categories			
Household Living	Y	Y	Y
Group Living	L/CU	L/CU	L/CU
Commercial Categories			
Retail Sales And Service	Y	Y	Y
Office	Y	Y	Y
Quick Vehicle Servicing	N	N	N
Vehicle Repair	Y	Y	L
Commercial Parking	L	CU	CU
Self-Service Storage	L	L	L
Commercial Outdoor Recreation	Y	Y	Y
Major Event Entertainment	CU	CU	Y
Industrial Categories			
Manufacturing and Production	L/CU	Y	L/CU
Warehouse and Freight Movement	L	Y	N
Wholesale Sales	L	Y	L
Industrial Service	CU	Y	CU
Railroad Yards	N	N	N
Waste-Related	N	N	N
Institutional Categories			
Basic Utilities	Y/CU	Y/CU	Y/CU
Community Service	L/CU	L	L/CU
Parks and Open Areas	Y	Y	Y
Schools	Y	Y	Y
Colleges	Y	Y	Y
Medical Centers	Y	Y	Y
Religious Institutions	Y	Y	Y
Daycare	Y	Y	Y
Other Categories			
Agriculture	L/CU	L	L/CU
Aviation and Surface Passenger Terminals	N	CU	CU
Detention Facilities	CU	CU	CU
Mining	N	N	N
Radio Frequency Transmission Facilities	L/CU	L/CU	L/CU
Rail Lines and Utility Corridors	CU	Y	CU

Y = Yes, Allowed; CU = Conditional Use Review Required; L = Allowed, But Special Limitations; N = No, Prohibited

* Additional height and FAR may be gained through plan district provisions. Residential use is not counted in FAR in CX.

