

BEFORE THE COURT OF APPEALS
OF THE STATE OF OREGON

RESTORE OREGON, BOSCO-MILLIGAN FOUNDATION/
ARCHITECTURAL HERITAGE CENTER,
OREGON NIKKEI ENDOWMENT,
PORTLAND CHINATOWN HISTORY FOUNDATION/
PORTLAND CHINATOWN MUSEUM,
and PEGGY G. MORETTI,
Petitioners,

vs.

CITY OF PORTLAND,
Respondent,

and

GUARDIAN REAL ESTATE SERVICES, LLC,
Intervenor-Respondent.

LUBA No. 2018-072

OSB2LAN IVON, LLC and HAITHEM TOULAN,
Petitioners,

vs.

CITY OF PORTLAND,
Respondent.

LUBA Nos. 2018-073/086/087

CA A172000

RECORD TRANSMITTAL

I, Melissa M. Ryan, Board Member of the Land Use Board of Appeals, pursuant to ORS 197.850(5), list below and transmit herewith a certified copy of the original of the entire record under review in the above proceedings.

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EXHIBITS: (Provided to Court of Appeals only)

Record of Local Proceeding

Record (4 CDs)	01/09/19
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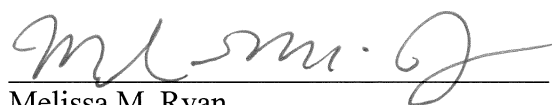
Amended Record (1 CD)
Supplemental Record (1 CD)

01/14/19
04/05/19

Recording of LUBA Proceeding
One Audio CD (LUBA oral argument)

06/27/19

Dated this 3rd day of September 2019.

A handwritten signature in cursive script, appearing to read "Melissa M. Ryan", written over a horizontal line.

Melissa M. Ryan
Board Member

Certificate of Mailing

I hereby certify that I served the foregoing Record Transmittal for LUBA No. 2018-072/073/086/087 on September 3, 2019, by mailing to said parties or their attorney a true copy thereof contained in a sealed envelope with postage prepaid addressed to said parties or their attorney as follows:

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Dated this 3rd day of September, 2019.

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08/29/19 PM12:33 LUBA

August 27, 2019

CERTIFIED MAIL RETURN RECEIPT

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Re: Petition for Judicial Review - *OSB2LAN Ivon, LLC, et al. v. City of Portland*
LUBA Nos. 2018-072; 2018-073/086/087

Dear Counsel:

Enclosed please find a copy of OSB2LAN IVON, LLC and Haithem Toulou's Petition for Judicial Review of the LUBA Decision in the above-referenced case, which was filed with the Court of Appeals on the above date.

Please do not hesitate to contact our office with any questions or concerns.

Very truly yours,

HATHAWAY LARSON LLP

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LUBA Record000001

IN THE COURT OF APPEALS OF THE STATE OF OREGON

OSB2LAN IVON, LLC and HAITHEM
TOULAN,

and

RESTORE OREGON, BOSCO-
MILLIGAN FOUNDATION
ARCHITECTURAL HERITAGE
CENTER, NIKKEI LEGACY,
ENDOWMENT, PORTLAND
CHINATOWN MUSEUM, and PEGGY G.
MORETTI,

Petitioners,

v.

CITY OF PORTLAND,

Respondent,

and

GUARDIAN REAL ESTATE SERVICES,
LLC,

Intervenor – Respondent
below.

LAND USE BOARD OF
APPEALS

LUBA No. 2018-073/086/087

CA 172000

EXPEDITED PROCEEDING
UNDER ORS 197.850 AND
ORS 197.855

PETITION FOR JUDICIAL REVIEW

Petitioners OSB 2LAN IVON, LLC and Haithem Toulán (“Petitioners”) seek
judicial review of the Final Opinion and Order of the Land Use Board of Appeals

("LUBA") in Case No. 2018-073/086/087, dated August 6, 2019.

The parties to the judicial review proceeding before the Court of Appeals are:

Petitioners

OSB2LAN IVON, LLC

Haithem Toulan

Petitioners below

Restore Oregon

Bosco-Milligan Foundation
Architectural Heritage Center

Nikkei Legacy Endowment

Portland Chinatown Museum

Peggy G. Moretti

Respondent

City of Portland

Intervenor - Respondent

Guardian Real Estate Services, LLC

The name, bar number, address, telephone number and email address of the attorneys for each party is:

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- A. Attached to this petition is a copy of LUBA's Final Opinion and Order, dated August 6, 2019, for which judicial review is sought.
- B. Petitioners were parties to the LUBA administrative proceedings which resulted in the order for which review is sought.
- C. Petitioners are not willing to stipulate that the agency record may be shortened.
- D. Pursuant to ORS 197.850(1) and ORAP 4.60(4), Petitioners are adversely affected or aggrieved by LUBA's Final Opinion and Order and have standing because they appeared in the land use proceedings before the City of Portland, were the petitioners in the LUBA appeal that led to LUBA Decision 2018-073/086/087, and therefore, a decision from this Court will have a practical effect on their interests.

DATED August 27, 2019.

HATHAWAY LARSON LLP

/s/ E. Michael Connors

E. Michael Connors, OSB #954956

Of Attorneys for Petitioners

OSB2LAN IVON, LLC and Haithem Toulou

BEFORE THE LAND USE BOARD OF APPEALS
OF THE STATE OF OREGON

RESTORE OREGON, BOSCO-MILLIGAN FOUNDATION/
ARCHITECTURAL HERITAGE CENTER,
OREGON NIKKEI ENDOWMENT,
PORTLAND CHINATOWN HISTORY FOUNDATION/
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and PEGGY G. MORETTI,
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CITY OF PORTLAND,
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OSB2LAN IVON, LLC and HAITHEM TOULAN,
Petitioners,

vs.

CITY OF PORTLAND,
Respondent.

LUBA Nos. 2018-073/086/087

FINAL OPINION
AND ORDER

Appeal from City of Portland.

1 Daniel H. Kearns, Portland, filed a petition for review and argued on behalf
2 of petitioners Restore Oregon *et al.* With him on the brief was Reeve Kearns, PC.
3

4 E. Michael Connors, Portland, filed a petition for review and argued on
5 behalf of petitioners OSB2LAN IVON, LLC and Haithem Toulou. With him on
6 the brief was Hathaway Larson LLP.
7

8 Linly F. Rees, Chief Deputy City Attorney, City of Portland, filed a
9 response brief and argued on behalf of respondent. With her on the brief was
10 Lauren A. King, Deputy City Attorney.
11

12 Timothy V. Ramis, Portland, filed a response brief and argued on behalf
13 of intervenor-respondent. With him on the brief was Jordan Ramis PC.
14

15 RYAN, Board Chair; ZAMUDIO, Board Member, participated in the
16 decision.
17

18 RUDD, Board Member, did not participate in the decision.
19

20 REMANDED 08/06/2019
21

22 You are entitled to judicial review of this Order. Judicial review is
23 governed by the provisions of ORS 197.850.

NATURE OF THE DECISION

In LUBA Nos. 2018-072, 2018-073 and 2018-086, petitioners Restore Oregon *et al.* (Restore Oregon) and OSB2LAN IVON, LLC and Haithem Toulou (together, OSB) appeal Ordinance 189000. In LUBA No. 2018-087, OSB appeals Ordinance 189002. Ordinance 189000 and 189002, together with a third ordinance (189001) that was not appealed, are part of a comprehensive amendment of the city's Central City Plan, which is a part of the city's comprehensive plan. The city and the parties refer to the three ordinances as Central City 2035 (CC 2035).

REPLY BRIEF

OSB moves to file a reply brief to respond to respondent's response brief. There is no opposition to the motion, and it is allowed.

FACTS

The challenged ordinances adopted amendments to the Central City Plan, which was originally adopted in 1988 as part of the Portland Comprehensive Plan (PCP). CC 2035 made a number of changes to the existing Central City Plan. Petitioners in these appeals challenge, among other things, new building height limits that were adopted as part of CC 2035.

A. New Chinatown/Japantown Historic District

As relevant here, and as discussed in more detail in our resolution of Restore Oregon's assignments of error, CC 2035 amended the height limits that

1 apply to new buildings in the New Chinatown/Japantown Historic District
2 (District), a ten square block area located west of the Willamette River and north
3 of the downtown area that is listed on the National Register of Historic Places for
4 its cultural and historical significance.

5 The District was established in 1989. The base zoning of property in the
6 District at the time it was established and today is Central Commercial Zone with
7 a downtown development overlay. At the time the District was established in
8 1989, the maximum allowed building height in the District under the Portland
9 City Code (PCC) was 350 feet plus a possible 75 feet of bonus height. New
10 development in the District is subject to discretionary Historic Resources Review
11 under PCC 33.846 and the city's adopted New Chinatown/Japantown Historic
12 Design Guidelines (Guidelines), first adopted in 2017.¹

13 CC 2035 decreased the existing height limits for four blocks on the
14 northern edge of the District, located between NW Everett and NW Glisan Street
15 and NW 5th and NW 3rd Avenue (North Blocks), from the previous limit of 425
16 feet (base 350 feet plus 75 feet of bonus height) to 200 feet of base height with
17 no bonus height available. CC 2035 also increased the height on one block in the
18 District, Block 33, located between NW Couch and NW Davis Street and NW
19 4th and NW 5th Avenue, from its previous maximum height of 100 feet to 125

¹ The city asks us to take official notice of Ordinance 188623, which was enacted in 2017 and adopted the Guidelines. There is no opposition to the city's motion, and we take official notice of the Ordinance that adopted the Guidelines.

1 feet of base height on the entire block, with an available affordable housing bonus
2 on the west half of Block 33, to allow a maximum height of up to 200 feet on the
3 west half of Block 33. Record 5566-68. Intervenor-respondent Guardian
4 Management Services LLC (Guardian) owns Block 33.

5 Restore Oregon challenges the new height limits as incompatible with the
6 PCP policies that apply in the District, and with newly adopted CC 2035 policies.

7 **B. Southern Triangle**

8 CC 2035 also amended the comprehensive plan and zoning map for other
9 areas of the central city, including the area that includes OSB's approximately
10 three-acre property located on the east side of the Willamette River, generally in
11 the area between the Tillikum Crossing Bridge and the Ross Island Bridge
12 (Southern Triangle). CC 2035 amended the plan and zoning map designations for
13 OSB's property from Heavy Industrial (IH) to Central Employment (EX), with
14 design and river overlays on the entire property, and river environmental and
15 scenic overlays on a portion of the property. The EX zoning applied to OSB's
16 property prohibits residential uses.

17 CC 2035 adopted a Central City Scenic Resources Protection Plan as an
18 update to the previously adopted (in 1991) city-wide Scenic Resources Protection
19 Plan. The new area-specific plan added two scenic resources sites and adopted
20 an Economic, Social, Environmental and Energy (ESEE) analysis. As part of the
21 ESEE analysis, the city mapped and evaluated views and viewpoints within the
22 resource sites, and grouped them into rankings based on quality and quantity. A

1 view of Mt. Hood from the Tillikum Crossing bridge was identified as SW46.
2 The city's ESEE analysis determined to protect the views of Mt. Hood from
3 SW46 by limiting building height on OSB's property and some surrounding
4 properties to 60 feet, and by limiting surrounding properties with similar height
5 restrictions. Approximately two acres of OSB's property are subject to the 60-
6 foot height limit, with one acre of OSB's property subject to a height limit of 100
7 feet with available bonus heights of up to 250 feet. Record 656, 662.

8 In its appeal, OSB challenges these new height limits.

9 **FIRST ASSIGNMENT OF ERROR (RESTORE OREGON)**

10 At the outset, we note that Restore Oregon's petition for review does not
11 comply with the requirement in OAR 661-010-0030(4)(d) that it include a section
12 addressing LUBA's standard of review. LUBA's standard of review of a decision
13 that amends a comprehensive plan is set out at ORS 197.835(6). LUBA is
14 required to reverse or remand the amendment if "the amendment is not in
15 compliance with the goals." *Id.* LUBA is also required to reverse or remand a
16 decision that amends a land use regulation if, as relevant here, "[t]he regulation
17 is not in compliance with the comprehensive plan." ORS 197.835(7)(a).

18 Because the challenged decision is a legislative rather than a quasi-judicial
19 decision, there is no generally applicable requirement that the decisions be
20 supported by findings, although the decision and record must be sufficient to
21 demonstrate that applicable criteria were applied and "required considerations
22 were indeed considered." *Citizens Against Irresponsible Growth v. Metro*, 179

1 Or App 12, 16, n 6, 38 P3d 956 (2002). With respect to evidence, Statewide
2 Planning Goal 2 (Land Use Planning) requires that a decision that amends a
3 comprehensive plan or land use regulation must be supported by an adequate
4 factual base. An “adequate factual base” is equivalent to the requirement that a
5 quasi-judicial decision be supported by substantial evidence in the whole record.
6 *1000 Friends of Oregon v. City of North Plains*, 27 Or LUBA 372, 378, *aff’d*,
7 130 Or App 406, 882 P2d 1130 (1994). Substantial evidence exists to support a
8 finding of fact when the record, viewed as a whole, would permit a reasonable
9 person to make that finding. *Dodd v. Hood River County*, 317 Or 172, 179, 855
10 P2d 608 (1993); *Younger v. City of Portland*, 305 Or 346, 351-52, 752 P2d 262
11 (1988).

12 Restore Oregon argues that the city’s findings in support of the 200 foot
13 maximum height on the North Blocks and the west half of Block 33 (through
14 bonus height) are inadequate to explain why the 200-foot height limit satisfies
15 PCP Policies 4.48 and 4.49, and three newly adopted provisions of CC 2035: CC
16 2035 Policies 5.19 (Historic resources and districts), and Old Town/Chinatown
17 Policies 1.OT-3 (cultural assets) and 5.OT-1 (surface parking), which were first
18 adopted as part of the challenged decision. Restore Oregon also argues that the
19 city’s decision to allow 200-foot tall buildings is not supported by an adequate
20 factual base, in violation of Goal 2. Finally, Restore Oregon argues that the 200-
21 foot height limits that CC 2035 adopts for the District do not comply with PCP
22 Policies 4.48 and 4.49, or with new CC 2035 Policies 5.19, 1.OT-3 and 5.OT-1.

1 For the reasons explained below, we agree with Restore Oregon that the city's
2 findings in support of the 200-foot height limit are inadequate to explain why the
3 200-foot height limit complies with the applicable PCP policies, and that the city
4 has not pointed to evidence in the record that support the city's decision to allow
5 200-foot-tall buildings in some parts of the District. We first describe the process
6 that led to the city council's ultimate adoption of the 200-foot height limits on
7 various blocks in the District.

8 **A. The City's Process**

9 The 200-foot height limit was proposed at the end of an almost ten-year
10 process that, in part, considered new height limits in the District. The city's
11 planning staff initially developed a concept plan for updates to the existing
12 Central City Plan. The concept plan became a discussion draft of the CC 2035
13 plan, and the city's Planning and Sustainability Commission (PSC) held two
14 public hearings and nine work sessions on the draft plan. That process resulted in
15 the PSC's recommended draft plan in June 2017, which recommended for the
16 entire District 125-foot maximum building heights with no bonuses available.

17 The city council held several public hearings on the draft plan between
18 September 2017 through April 2018. During the March 22, 2018 city council
19 meeting, the city council accepted public testimony on the proposed CC 2035
20 height limits. Prior to that meeting, height limits of 125 feet had been the focus
21 of much of the discussion, although some discussion focused on 160-foot height
22 limits. Record 6482, 6496, 7268-71. The mayor proposed an amendment (C1) to

1 the previously proposed plan to increase the maximum building height limit on
2 the west half of Block 33 to 160 feet. Thereafter, a city commissioner proposed
3 an amendment (C2) to increase the maximum building height on the west half of
4 Block 33 to 200 feet, and to increase the Floor Area Ratio (FAR) on the entire
5 block from 6:1 to 9:1. No vote was called on either motion.

6 At the next city council meeting on April 4, 2018, another commissioner
7 proposed an amendment (C3) to increase the maximum height on the west half
8 of Block 33 to 160 feet through bonus height available through an affordable
9 housing bonus. At the conclusion of that meeting, the city council passed the C1
10 amendment that adopted a maximum building height on the west half of Block
11 33 of 160 feet.

12 A further amendment that would allow maximum building heights of 200
13 feet was noticed on the agenda for the city council's May 24, 2018 meeting.
14 Opponents of the proposed new amendment and a 200-foot height limit submitted
15 letters in opposition, but no public testimony was taken at the May 24, 2018
16 meeting. Record 7712-17, 7720-30. At that meeting, the same commissioner who
17 proposed the C2 amendment proposed a new amendment that would (1) allow a
18 maximum building height of 200 feet on the North Blocks, with no bonus height
19 available, and (2) allow base building height for Block 33 of 125 feet but allow
20 an affordable housing bonus building height of up to 200 feet on the west half of
21 Block 33, and increase the base FAR to 9:1 on all of Block 33 if all floors above
22 the ground floor on the west half of the block are developed with a residential

1 use. An oral vote was taken and the amendment passed. At its meeting on June
2 6, 2018, the city council voted to adopt CC 2035.

3 **B. Applicable Portland Comprehensive Plan Policies**

4 As noted, the city is required to demonstrate that CC 2035 complies with
5 the applicable provisions of the PCP. Restore Oregon argues that the city's
6 findings are inadequate to explain why the height limits adopted by CC 2035
7 comply with PCP Policies 4.48 and 4.49, and with three newly adopted
8 provisions of CC 2035: Policies 5.19, 1.OT-3 and 5.OT-1. We set out each
9 provision and the city's findings below.

10 **1. PCP Policy 4.48**

11 PCP Policy 4.48 provides:

12 "Continuity with established patterns. Encourage development that
13 fills in vacant and underutilized gaps within the established urban
14 fabric, while preserving and complementing historic resources."

15 The city found:

16 "224. The Plan responds to the policy through new goals and
17 policies specific to the Central City that call for: the rehabilitation
18 and reuse of historic structures; historic district protection measures;
19 and, incentives to encourage seismic upgrades and other
20 rehabilitation measures for historic resources.

21 " * * * * *

22 "226. The maximum heights within historic districts have generally
23 been reduced, and in most cases bonus height provisions have been
24 repealed to result in new development that is compatible with the
25 existing scale and character of the Central City's historic districts.

1 “227. For instance, in the New Chinatown/Japantown Historic
2 District heights in the northern four blocks have been reduced from
3 a maximum of 350 feet, and the ability to bonus an additional 75
4 feet in height to a maximum of 425 feet, has been eliminated. Now
5 the maximum height in that area is 200 feet with no ability to bonus
6 to a greater height. Although one block in the district received bonus
7 height to a maximum of 200 feet on the west half of the block and
8 125 feet on the eastern half of the block, it should be noted that the
9 greater heights allowed on the west half of the block are adjacent to
10 parcels that may build to 460 feet. Further, the new maximum height
11 limits create a step down from these greater height allowances to the
12 west of the New Chinatown/Japantown Historic District down to
13 100 feet maximum to the east of the site in question, and then
14 eventually down to 75 feet to the properties located just east of the
15 district.

16 “228. Following Council proposing this amendment, testimony was
17 received for and against the increased height. Some testifying was
18 concerned that these heights would not be consistent with the rest of
19 the scale of development elsewhere in the district. However, others
20 noted that the block in question had long been underutilized and that
21 redevelopment of the site would be a catalyst for investment
22 throughout the district, following decades of neglect. In the end,
23 council decided: 1) the heights proposed would still result in a step
24 down from the urban form surrounding the district; 2) the increased
25 height was necessary to incent redevelopment of a catalytic site; and
26 3) the issue of consistency was best left to the Landmarks
27 Commission who remain charged with reviewing future
28 development proposals on that site and elsewhere in the historic
29 district.

30 “Thus, on balance, these amendments in New
31 Chinatown/Japantown Historic District and all other Central City
32 Historic Districts further the objectives of Policy 4.48 above.”
33 Amended Record 75.

34 Restore Oregon argues that the city’s findings are inadequate to explain
35 how CC 2035 complies with PCP Policy 4.48 because the findings do not

1 describe the “established urban fabric” of the District, do not describe how 200-
2 foot-tall buildings would “preserv[]e and complement[]” the District’s historic
3 resources, describe those historic resources, and do not acknowledge the height
4 of existing buildings in the District, with the tallest existing building at 75 feet.
5 Restore Oregon argues that the finding that determines that 200-foot maximum
6 heights are lower than the 350- and 425-foot maximum heights previously
7 allowed by the base zoning in the District, which was in place when the District
8 was created, is not adequate to explain how 200-foot maximum heights satisfy
9 PCP Policy 4.48. Restore Oregon argues that all new development approved after
10 the District was created in 1989 was required to comply with the Historic
11 Resources Review provisions of PCC 33.846.060(F), with review by the
12 Landmarks Commission, and that such review assessed building height on a case
13 by case basis. Differently, here, we understand Restore Oregon to argue that if
14 the city council determines that the maximum building heights allowed by CC
15 2035 comply with PCP Policy 4.48, *i.e.*, they “preserv[e] and complement[] the
16 [District’s] historic resources,” the Landmarks Commission will lack discretion
17 to deny, or approve with conditions that require lower height, a building that
18 proposes a maximum height allowed by the base zoning, even if the Landmarks
19 Commission otherwise determines that the maximum building height is not the
20 appropriate height and mass for the District, or otherwise does not comply with
21 the historic review standards and Guidelines. Restore Oregon Petition for Review
22 13-14.

1 Finally, Restore Oregon argues that the city's findings regarding PCP
2 Policy 4.48 are not supported by an adequate factual base, and that the
3 uncontroverted evidence in the record supports only a conclusion that 200-foot
4 height limits do not "preserv[e] and complement[]" historic resources." Restore
5 Oregon Petition for Review 28.

6 We agree with Restore Oregon that the city's findings are inadequate to
7 explain why the adopted maximum height limits comply with PCP 4.48. The
8 findings do not describe "the established urban fabric" of the District, do not
9 describe the existing historic resources, and do not explain how 200-foot tall
10 buildings would "preserv[e] and complement[]" those existing historic resources.
11 Rather, the findings focus on the importance of creating incentives for
12 development of vacant parcels in the District, determine that the maximum
13 heights in the District are lower than adjacent properties that lie outside the
14 District boundary, and conclude that "the issue of consistency was best left to the
15 Landmarks Commission who remain charged with reviewing future development
16 proposals on that site and elsewhere in the historic district." Amended Record 75.
17 Those findings are not adequate to explain that the maximum height limit of 200
18 feet in the District "preserv[es] and complement[s] historic resources." Because
19 CC 2035 adopts base and bonus maximum height limits that apply as of right to
20 all new development across the District, the question of whether those base and
21 bonus maximum heights "preserv[e] and complement historic resources," and
22 thus comply with PCP Policy 4.48, is a question that the city council must answer.

1 It may not be deferred to discretionary historic resources review of individual
2 development proposals for compliance with the PCC criteria and the Guidelines.

3 The city responds to Restore Oregon's argument that the 200-foot
4 maximum height limits lack an adequate factual base with citations to a number
5 of record pages. City's Response Brief 15. We have reviewed those citations. The
6 material cited by the city is largely focused on maintaining the pre-designation
7 height limits in the North Blocks to encourage development in the District,
8 adopting new height limits to "re-vitalize the area," and arguing that the District
9 is less of an architectural district and more a "cultural" district. Record 14973-
10 78, 6320, 49651, 48059, 48140, 48189, 24096, 24253, 15023, 7731-32. However,
11 none of that evidence addresses the subject of PCP Policy 4.48, which is to
12 "[e]ncourage development that fills in vacant and underutilized gaps within the
13 established urban fabric, *while preserving and complementing historic*
14 *resources.*" (Emphasis added.) Stated differently, the materials cited by the city
15 are evidence that supports the city's findings regarding the "[e]ncourage [infill]
16 development" prong of PCP Policy 4.48, but do not address the "within the
17 established urban fabric" or the "while preserving and complementing historic
18 resources" prongs. In particular, the city does not point to any focused evidence

1 that supports a conclusion that the 200-foot maximum height limit “preserve[es]
2 and complement[s]” District resources.²

3 **2. PCP Policy 4.49**

4 PCP Policy 4.49 provides:

5 “Resolution of Conflicts. Adopt and periodically update design
6 guidelines for unique historic districts. Refine base zoning in
7 historic districts to take into account the character of the historic
8 resources in the district.”

9 The city found:

10 “Consistent with this policy, the plan includes an action item calling
11 for an update of various district specific historic design guideline
12 packages, including those for the East Portland/Grand Avenue and
13 Russell Street Conservation Districts.” Amended Record 75.

14 We understand Restore Oregon to argue that the city’s findings are inadequate
15 because the findings do not describe or consider the character of the District’s
16 historic resources.

17 The city responds that findings are not required, and the city may
18 demonstrate in its brief and through citations to the record that CC 2035 complies
19 with Policy 4.49. The city also argues that CC 2035 complies with Policy 4.49
20 because Policy 4.49 requires the city to update its design guidelines and the city
21 updated the design guidelines for the District. The city also considered whether

² As explained in detail above, the 200-foot maximum height limit was introduced and discussed at the very end of a multi-year planning process, prior to which nearly all of the focused testimony focused on a maximum 125 or 160-foot height.

1 the existing base zoning of Central Commercial with a design overlay is
2 appropriate, and decided not to change the base zoning. Amended Record 149-
3 50. According to the city, nothing more is required.

4 We agree. The city has demonstrated that “required considerations were
5 * * * considered” with regard to PCP Policy 4.49, and that CC 2035 complies
6 with PCP Policy 4.49. *Citizens Against Irresponsible Growth v. Metro*, 179 Or
7 App at 16 n 6.

8 **3. CC 2035 Policies 5.19, 1.OT-3 and 5.OT-1**

9 CC 2035 adopted new Policies 5.19, 1.OT-3 and 5.OT-1 for the first time.
10 The policies were not yet in effect when CC 2035 was adopted, and the city was
11 not required to adopt findings addressing these new policies. Restore Oregon
12 argues that the city’s findings are inadequate because the findings do not yet
13 address those not yet in effect policies. The city and Guardian respond, and we
14 agree, that failure to adopt findings regarding new policies not yet in effect
15 provides no basis for reversal or remand of the decision.

16 Restore Oregon also argues that there is not an adequate factual base to
17 establish that the city’s decision to adopt maximum building heights of 200 feet
18 complies with these new policies. However, Restore Oregon has not established
19 that the city must demonstrate that the maximum building height of 200 feet
20 complies with these new policies that were not yet in effect at the time the
21 maximum building heights were adopted, in the same decision that adopts the
22 new policies for the first time.

1 **C. Conclusion**

2 Remand is required for the city to adopt findings that are adequate to
3 explain why the 200-foot height limit complies with PCP Policy 4.48. That
4 decision must be supported by an adequate factual base. Accordingly, we do not
5 address Restore Oregon's arguments that a 200-foot maximum height limit
6 categorically fails to comply with PCP Policy 4.48.

7 Restore Oregon's first assignment of error is sustained, in part.

8 **SECOND ASSIGNMENT OF ERROR (RESTORE OREGON)**

9 Statewide Planning Goal 1 (Citizen Involvement) requires in relevant part
10 that the city adopt a citizen involvement program. The city has adopted a citizen
11 involvement program that is implemented in part through provisions of the
12 Portland Zoning Code. The PCP also includes citizen involvement goals and
13 policies.

14 In their second assignment of error, we understand Restore Oregon to
15 argue that the city's decision fails to comply with PCP Goals 2.C and 2.E.³ The

³ PCP Goals 2.C and 2.E provide:

“Goal 2.C: Value community wisdom and participation. Portland values and encourages community and civic participation. The City seeks and considers community wisdom and diverse cultural perspectives, and integrates them with technical analysis, to strengthen land use decisions.

“Goal 2.E: Meaningful participation. Community members have meaningful opportunities to participate in and influence all stages of planning and decision making. Public processes engage the full

1 crux of Restore Oregon's argument, as we understand it, is that the city failed to
2 comply with Goal 2.E when it did not allow public testimony during the May 24,
3 2018 city council hearing at which the 200-foot maximum building height was
4 re-introduced, discussed by the city council, and ultimately adopted.

5 The city responds, and we agree, that the city council implicitly interpreted
6 Goal 2.E to not require the city to accept public testimony in response to every
7 motion or amendment made on a legislative proposal in order to satisfy the
8 requirement to allow "meaningful participation." Amended Record 42. Nothing
9 in Goal 2.E suggests that closing the final hearing on a legislative amendment to
10 the comprehensive plan to testimony is inconsistent with Goal 2.E.

11 We also understand Restore Oregon to argue that the city council failed to
12 comply with Goal 2.C, for similar reasons. The city responds, again, that nothing
13 in Goal 2.C requires the city to accept public testimony in a legislative
14 proceeding, in response to a motion or amendment. We agree.

15 Accordingly, Restore Oregon's second assignment of error provides no
16 basis for reversal or remand of CC 2035.

17 Restore Oregon's second assignment of error is denied.

diversity of affected community members, including under-served
and under-represented individuals and communities. The City will
seek and facilitate the involvement of those potentially affected by
planning and decision making."

1 **FIRST ASSIGNMENT OF ERROR (OSB)**

2 OSB's first assignment of error contains multiple subassignments of error.
3 Before turning to the subassignments of error, we set out and explain the
4 applicable Statewide Planning Goal 5 (Open Spaces, Natural Resources and
5 Historic Resources) rules and the city's actions.

6 **A. The Goal 5 Rule and the City's Scenic Resources Inventory**

7 OAR 660-023-0230(2) provides that when a local government amends its
8 acknowledged comprehensive plan to adopt or amend an inventory of its scenic
9 resources, the local government must comply with OAR 660-023-0030
10 (inventory process), OAR 660-023-0040 (ESEE process), and OAR 660-023-
11 0050 (program to achieve the goal). As part of CC 2035, the city adopted the
12 Central City Scenic Resources Protection Plan, which identifies two scenic
13 resource sites for protection.⁴ The resource site at issue in this appeal is identified
14 as the "Viewpoint Boundary," which consists of the central city area and areas
15 contiguous to the central city where scenic views could be affected by heights of
16 buildings within the Central City Plan District. After identifying the Viewpoint
17 Boundary as a resource site, the city mapped and evaluated scenic resources
18 within the Viewpoint Boundary based on quality and quantity criteria. Record
19 18002-18044. Within the Viewpoint Boundary, the scenic view of Mt. Hood from

⁴ OAR 660-023-0010(10) defines "resource site" as "a particular area where resources are located. A site may consist of a parcel or lot or portion thereof or may include an area consisting of two or more contiguous lots or parcels."

1 the Tillikum Crossing bridge received the highest rank. That scenic view was
2 assigned the moniker SW46.

3 As part of complying with OAR 660-023-0040, the city is required to
4 identify uses that could conflict with the scenic resource, and conduct an analysis
5 of the Economic, Social, Environmental and Energy (ESEE) consequences of
6 decisions to allow, limit, or prohibit conflicting uses. The rule requires the local
7 government to determine, based on the ESEE analysis, whether to allow, limit,
8 or prohibit conflicting uses.

9 The city conducted an ESEE analysis to identify uses that conflict with
10 SW46. The ESEE identified building heights and FAR for undeveloped and
11 underdeveloped land within the view corridor from SW46 as a conflicting use.
12 The city then analyzed the ESEE impacts of a future decision to protect ten
13 different significant views of Mt. Hood from the Willamette River, within the
14 Viewpoint Boundary resource site. The ESEE analysis concluded that protecting
15 the view of Mt. Hood from SW46 would have the significant impacts on
16 economic development, but that the economic impacts of protecting the view
17 from SW46 were lower than the economic impacts of protecting all or most of
18 the ten significant views. Record 1836. The city determined that viewpoint SW46
19 should be protected from conflicting uses by limiting building heights and FAR
20 in the view corridor. The city's program to achieve that protection is through EX
21 zoning applied to certain properties and lower building heights than would
22 otherwise be allowed.

1 **B. ESEE Analysis**

2 In three subassignments of error under its first assignment of error, OSB
3 argues that the city's ESEE analysis fails to comply with "Goal 5 and its
4 implementing rules." OSB Petition for Review 14. Initially, we note, as the city
5 notes in its response brief, that OSB cites "OAR 660-016-0000 *et seq*" in support
6 of its assignment of error. OSB Petition for Review 2, 8, 12-13. OAR chapter
7 660 division 16 was the Land Conservation and Development Commission's
8 (LCDC's) first Goal 5 implementing administrative rule. We refer to that division
9 herein as the old Goal 5 rule. That administrative rule has largely been replaced
10 by OAR chapter 660, division 23. We refer to that division herein as the new
11 Goal 5 rule. OAR 660-023-0250(1). Accordingly, OAR 660-016-0000 *et seq.* do
12 not apply to the city's decision to adopt CC 2035. Rather, the provisions of OAR
13 660-023-0000 *et seq.* apply.⁵ See *Beaver State Sand and Gravel v. Douglas*

⁵ OAR 660-023-0250 provides in relevant part:

(1) This division replaces OAR 660, division 16, except with regard to cultural resources, and certain PAPAs and periodic review work tasks described in sections (2) and (4) of this rule. Local governments shall follow the procedures and requirements of this division or OAR 660, division 16, whichever is applicable, in the adoption or amendment of all plan or land use regulations pertaining to Goal 5 resources. The requirements of Goal 5 do not apply to land use decisions made pursuant to acknowledged comprehensive plans and land use regulations.

"(2) The requirements of this division are applicable to PAPAs initiated on or after September 1, 1996. OAR 660, division 16

1 *County*, 43 Or LUBA 140, 149-150 (2002), *aff'd*, 187 Or App 241, 65 P3d 1123
2 (2003) (explaining some important differences between the old Goal 5 rule and
3 the new Goal 5 rule).

4 The city urges us to reject OSB's first assignment of error based on its
5 mistaken citation to an inapplicable administrative rule. In its reply brief, OSB
6 replies that its mistaken reference to an inapplicable rule is harmless because the
7 overall approach in both versions of the rules (inventory, ESEE analysis,
8 program) is the same. In *Beaver State Sand and Gravel* we explained that the old
9 Goal 5 rule and the new Goal 5 rule differ in "pertinent ways." 43 Or LUBA at
10 149. However, although the city takes the position that the rules in "division 23
11 contain different standards for conducting an ESEE analysis than the rules of
12 OAR 660, division 16," the city does not identify those different standards or
13 explain why the different standards mean that OSB's arguments made with
14 citation to the old Goal 5 rule do not provide a basis for reversal or remand. City's
15 Response to OSB Brief 15. Accordingly, we proceed to address those arguments.

16 **1. Columbia Steel Castings**

17 In its first assignment of error, OSB first argues that the city's ESEE
18 analysis is "deeply flawed and fails to comply with Goal 5 and its implementing
19 rules." OSB Petition for Review 14. First, OSB argues that the city's ESEE

applies to PAPAs initiated prior to September 1, 1996. For purposes of this section 'initiated' means that the local government has deemed the PAPA application to be complete."

1 analysis impermissibly used an “area-wide approach” similar to the approach that
2 was rejected in *Columbia Steel Castings Co. v. City of Portland*, 314 Or 424, 840
3 P2d 71 (1992). Even assuming for purposes of this opinion only that the holding
4 in *Columbia Steel Castings* applies to ESEE analyses conducted under the new
5 Goal 5 rule, we reject OSB’s argument.

6 In *Columbia Steel Castings*, the Supreme Court rejected the city’s ESEE
7 analysis methodology that identified 36 specific resource sites, but proceeded to
8 analyze the ESEE consequences based on five large “sub-areas,” which were
9 essentially units of land that were much larger in some cases than the resource
10 sites identified for possible protection. Here, in contrast, the city’s ESEE analysis
11 identified a defined resource site, the Viewpoint Boundary, and then analyzed the
12 ESEE consequences that could result from a decision to limit conflicting uses by
13 evaluating the economic impacts within more defined areas within the resource
14 site, for groups of similar scenic resources and groups of similarly zoned
15 properties within the Viewpoint Boundary resource site. *Columbia Steel Castings*
16 is inapposite for that reason.

17 OAR 660-023-0040(4), which is part of the new Goal 5 rule that governs
18 the ESEE analysis requirement, provides in relevant part that:

19 “Local governments shall analyze the ESEE consequences that
20 could result from decisions to allow, limit, or prohibit a conflicting
21 use. The analysis may address each of the identified conflicting uses,
22 or it may address a group of similar conflicting uses. A local
23 government may conduct a single analysis for two or more resource
24 sites that are within the same area or that are similarly situated and

1 subject to the same zoning. The local government may establish a
2 matrix of commonly occurring conflicting uses and apply the matrix
3 to particular resource sites in order to facilitate the analysis. A local
4 government may conduct a single analysis for a site containing more
5 than one significant Goal 5 resource.”

6 To the extent that OSB challenges compliance with OAR 660-023-0040(4), the
7 city responds that the ESEE analysis is consistent with and complies with OAR
8 660-023-0040(4), which allows the city to conduct a single analysis for a resource
9 site containing more than one resource. We agree. The approach the city took in
10 the ESEE analysis for CC 2035 is nearly the opposite of what occurred in
11 *Columbia Steel Castings*. The ESEE analyzed ten separate districts or sub-areas,
12 including the Southern Triangle, within the single Viewpoint Boundary resource
13 site. Record 2002. OAR 660-023-0040(4) specifically allows that approach.

14 2. ESEE Assumptions

15 OSB next argues that the ESEE analysis impermissibly used different
16 assumptions for the Southern Triangle sub-area, resulting in an undervaluation of
17 the economic impacts to OSB’s property from the decision to protect the
18 viewpoint resource, and that the economic impacts are “artificially low due to the
19 unique approach applied to the Southern Triangle sub-area,” in the following
20 ways. OSB Petition for Review 24.

21 According to OSB, the city used a different methodology in its
22 assumptions about economic impacts to properties in the Southern Triangle that
23 would be impacted by protection of SW46 than it used for the rest of the central
24 eastside area of the central city. We understand OSB to argue that using a

1 different methodology for one sub-area and not others is inconsistent with the
2 rule that governs ESEE analyses.

3 First, we understand OSB to argue that the ESEE analysis improperly
4 assumed base height and FAR for its property and properties in the Southern
5 Triangle. We understand OSB to argue that the ESEE analysis improperly
6 assumed base height under the *existing* IH zoning instead of the maximum base
7 height for OSB's property under the *proposed* EX zoning (200 feet), and that in
8 addition the city should have assumed development under the bonus height
9 allowed under the proposed EX zoning—250 feet—rather than assuming a
10 maximum height of 200 feet under the base height for the proposed EX zoning.
11 OSB Petition for Review 18. Relatedly, OSB argues that in assuming maximum
12 building heights for properties in the Southern Triangle, the ESEE “deviated from
13 the approach for the remaining sub-areas in almost every respect.” OSB Petition
14 for Review 21-22. OSB also argues that the ESEE analysis improperly assumed
15 a FAR of 3:1 for the Southern Triangle that was different than the FAR assumed
16 for other areas of the central city. *Id.*

17 Second, OSB argues that the ESEE analysis undervalued the economic
18 impacts to OSB's property when it assumed lot coverage for OSB's property
19 based on an average lot coverage in the Southern Triangle of 80 percent.
20 Relatedly, OSB points out that the ESEE deviated from the approach for
21 determining lot coverage that was used for the rest of the central city. OSB
22 Petition for Review 22. Third, OSB argues that the city's assumptions for dollar

1 and jobs per square foot values are based on the entire central city and not based
2 on the Southern Triangle sub-area. OSB Petition for Review 19-20. In sum, we
3 understand OSB to argue that the city should have used site specific base and
4 bonus height, FAR, and lot coverage for each property affected by protection of
5 SW46.

6 The city responds in turn. For the assumed maximum building heights and
7 FAR, the city explains that the city used more conservative assumptions in the
8 ESEE for the Southern Triangle than for other sub-areas in the central city,
9 resulting in a higher estimate of economic impact to properties in the Southern
10 Triangle than if less conservative assumptions were used. For example, the city
11 explains that in the ESEE the city generally assumed a height of 90 feet and a 4:1
12 FAR for IH-zoned properties in the central eastside area of the central city, but
13 assumed a height of 200 feet and 3:1 FAR for IH-zoned properties in the Southern
14 Triangle. That assumption was based on the larger block sizes in the Southern
15 Triangle, using vacant and underdeveloped properties included on the city's
16 Buildable Lands Inventory and assuming that properties in common ownership
17 would develop as a single site.⁶ The city also explains that when assuming
18 maximum building height under the proposed EX zoning, the city assumed
19 development at the maximum base zone height (200 feet) because of the

⁶ According to the city, larger block sizes in common ownership could result in FAR being consolidated on one part of a site, allowing taller development on one part of the site.

1 uncertainty of the availability of bonus height that could allow up to 250 feet.
2 Similarly, the city assumed a FAR of 3:1 for the Southern Triangle, based on
3 industrial zoning, site size and development patterns that reflect low warehouse
4 buildings.

5 For the assumed lot coverage, the city explains that the ESEE's assumption
6 of 80 percent lot coverage in the Southern Triangle was based on existing
7 conditions, and that using 80 percent resulted in an estimate of greater economic
8 impact to properties in the Southern Triangle. Similarly, for the assumed lost
9 floor area and lost jobs, the ESEE calculated lost jobs based on a formula of one
10 job per 200 square feet, which converts to 218 jobs per acre.

11 We agree with the city that the ESEE analysis accurately estimated the
12 economic impact to properties in the Southern Triangle, including OSB's
13 property. OSB has not explained why the ESEE's assumptions regarding
14 maximum building height, FAR, lot coverage, and dollars and jobs lost are
15 incorrect or inaccurate for the Southern Triangle, or for OSB's property. In fact,
16 we agree with the city that the ESEE estimated the economic impact to properties
17 in the Southern Triangle that would be affected by protecting SW46 based on
18 assumptions that led to a conclusion of greater economic impact to those
19 properties than if the ESEE used different assumptions that were applied in other
20 areas of the central eastside.

1 Finally, we understand OSB to argue that the city failed to comply with
2 OAR 660-016-0020(2), an inapplicable administrative rule.⁷ We also understand
3 OSB to argue that the ESEE analysis is inaccurate and underestimated the
4 economic impacts from a decision to protect SW46 because the ESEE analysis
5 failed to consider substantial environmental remediation costs that will be
6 incurred to develop OSB's property. According to OSB, those remediation costs
7 mean that a 60-foot height limit and zoning that does not allow residential uses
8 will make any development of OSB's property cost-prohibitive, and the ESEE
9 analysis failed to account for this specific situation.

10 Nothing in OAR 660-023-0040(4), the rule that does apply, requires the
11 local government to consider the cost of environmental remediation for properties
12 with conflicting uses, or requires the level of specificity OSB argues is required.
13 In fact, the rule allows the city to analyze the ESEE consequences based on the
14 entire resource site. Accordingly, OSB's arguments provide no basis for reversal
15 or remand.

⁷ OAR 660-016-0020(2) provides:

“As the Goal 5 process progresses and more specificity about the nature of resources, identified conflicting uses, ESEE consequences and implementing measures is known, notice and involvement of affected parties will become more meaningful. Such notice and landowner involvement, although not identified as a Goal 5 requirement is in the opinion of the Commission, imperative.”

1 **C. The SW46 View Corridor**

2 CC 2035 adopted a zoning map that depicts the location of the view
3 corridor for SW46. Record 656. The map scale is 1:2,800 feet. In its final
4 subassignment of error, OSB argues that the final zoning map adopted by the city
5 council that depicts the extent of the view corridor that crosses OSB's property
6 contains an error. In its final subassignment of error under the first assignment of
7 error, we understand OSB to argue that the view corridor boundary line on the
8 map is farther north than it should be based on the criteria for view corridor
9 delineation and based on the location of existing towers and silos that partially
10 obstruct the Mt. Hood views, including the Ross Island Sand and Gravel silos.
11 Record 12976-77, 12981-82.

12 The city responds that the view corridor was mapped and delineated based
13 on protection of Mt. Hood views to 1,000 feet below the timberline. Record 1223,
14 1998. According to the city, the fact that the Ross Island Sand and Gravel silos
15 are included within the view corridor, although they partially obscure the Mt.
16 Hood view from SW46, does not mean that the view corridor was inaccurately
17 mapped or delineated. Rather, we understand the city to explain that the city
18 council understood that the existing silos partially obscure the view, and included
19 them anyway in the view corridor. The city points to evidence in the record that
20 maps the view corridor based on protection of 1,000 feet below the timberline.
21 Record 1998-1999. We agree with the city that the map at Record 656 is an
22 accurate depiction of the view corridor for SW46, based on evidence in the record

1 regarding the view corridor mapping criterion of protecting Mt. Hood views to
2 1000 feet below the timberline.

3 OSB's first assignment of error is denied.

4 **SECOND ASSIGNMENT OF ERROR (OSB)**

5 CC 2035 is required to comply with Statewide Planning Goal 10
6 (Housing), which requires local governments to inventory their supply of
7 buildable residential land and ensure that the supply is adequate to meet
8 anticipated housing needs. In 2016, as part of periodic review, the city adopted a
9 Buildable Lands Inventory (BLI) that demonstrated that the city has sufficient
10 residential capacity for the anticipated housing units, and more narrowly, that
11 existing zoning in the central city plan district provided adequate capacity to meet
12 anticipated housing need.⁸

13 The city council adopted findings concluding that CC 2035 will not affect
14 the city's compliance with Goal 10, and that CC 2035 would result in additional
15 housing capacity. As part of CC 2035, the city rezoned approximately 41 acres
16 of land in the central city from Central Residential (RX) to Central Commercial
17 (CX). The city's findings concluded that rezoning from RX to CX would not
18 affect the city's compliance with Goal 10 because mixed-use zones such as the
19 CX zone were considered "residentially-designated" in the BLI, pursuant to OAR

⁸ Metro allocated the city 123,000 housing units, and the BLI concluded that the city has overall residential capacity for 267,000 housing units. Record 5342.

1 660-007-0018(1).⁹ Amended Record 15. Also as part of CC 2035, the city
2 rezoned approximately 60 acres from industrial zones (IH, IG-1) to Central
3 Employment (EX). The EX zone generally allows residential uses, although the
4 EX zoning on OSB's property and some other EX zoned properties in the
5 Southern Triangle prohibits residential uses. The city's findings conclude that CC
6 2035 increases the central city's housing capacity by rezoning RX land to CX
7 and industrial-zoned land to CX, and thus complies with Goal 10. Amended
8 Record 13, 14, 16, 148, 153.

9 In its second assignment of error, OSB first challenges the city's reliance
10 on the BLI, which OSB and the city agree is not part of the record of Ordinance
11 189000. The city responds, and we agree, that the city is both entitled and
12 required to rely on its adopted, acknowledged BLI, which is part of the PCP. *1000*
13 *Friends of Oregon v. City of Dundee*, 203 Or App 207, 216, 124 P3d 1249 (2005).
14 The city also responds that the evidence in the record supports the city's
15 conclusion that rezoning property from RX to CX will not decrease residential
16 capacity. Record 23742. We agree.

17 Second, we understand OSB to argue the city failed to consider housing
18 capacity in light of the particular EX zoning that prohibits residential uses, and
19 height restrictions, placed on OSB's property. The city responds that the prior
20 zoning of OSB's property, IH, did not allow residential uses and accordingly,

⁹ In the CX zone, residential uses are allowed outright.

1 OSB's property was not included in the BLI for any residential capacity. We
2 agree with the city that the particular EX zoning and height restrictions on OSB's
3 property do not affect the accuracy of the city's Goal 10 analysis and conclusion
4 that the city has adequate residential capacity.

5 Next, OSB argues that the city was required but failed to adequately
6 explain why OSB's property received an EX zoning designation that prohibits
7 residential uses, while not restricting residential uses on adjacent EX-zoned
8 properties. The city responds that the city has an obligation to comply with
9 various goals, including Statewide Planning Goal 9 (Economic Development)
10 and must balance competing priorities in order to both provide housing capacity
11 and protect industrial uses under Goal 9. Accordingly, the city responds, its
12 choice to prohibit residential uses on some EX-zoned properties reflects a choice
13 to limit conflicts between residential uses and adjacent industrial and
14 employment uses, where the city has a surplus of land to meet housing needs and
15 limited land to meet employment needs. We agree with the city. OSB has not
16 established that Goal 10 obligates the city to allow residential uses on OSB's
17 property.

18 The second assignment of error is denied.

19 **THIRD ASSIGNMENT OF ERROR (OSB)**

20 PCP Policies 3.2, 3.53, 3.58 and 3.59 generally encourage dense mixed-
21 use development, including employment and housing, in areas close to transit

1 stations.¹⁰ OSB's property is adjacent to the OMSI Station transit area, which is
2 immediately to the north of the Southern Triangle. Record 2735. In the third
3 assignment of error, OSB argues that CC 2035's decision to zone its property EX
4 but prohibit residential uses fails to comply with those PCP policies. OSB argues
5 that the findings that conclude that CC 2035 complies with PCP Policies 3.2.
6 3.53, 3.58 and 3.59 are inconsistent, because the OMSI Station area allows
7 residential development as a conditional use with an approved master plan, but
8 the Southern Triangle area prohibits residential development. OSB also argues

¹⁰ PCP Policies 3.2, 3.53, 3.58 and 3.59 provide:

“3.2 Growth and stability. Direct most growth and change to centers, corridors, and transit station areas, allowing the continuation of the scale and characteristics of Portland's residential neighborhoods.

“3.53. Transit-oriented development. Encourage transit-oriented development and transit supportive concentrations of housing and jobs, and multimodal connections at and adjacent to high-capacity transit stations.

“3.58. Transit neighborhood stations. Encourage concentrations of mixed-income residential development and supportive commercial services close to transit neighborhood stations. Transit neighborhood stations serve mixed-use areas that are not in major centers.

“3.59. Destination stations. Enhance connections between major destinations and transit facilities and strengthen the role of these station areas as places of focused activity.”

1 that the findings fail to adequately explain why its property and the area of the
2 Southern Triangle contain restrictions on residential development, while the area
3 adjacent to OMSI station allows residential development as a conditional use.

4 The city responds, again, that required considerations were indeed
5 considered, and points to evidence in the record that they were. *Citizens for*
6 *Irresponsible Growth*, 179 Or App at 16 n 6. The city council also adopted
7 findings explaining how CC 2035's zoning designations comply with these PCP
8 policies. Amended Record 50, 57-58. In essence, the city balanced competing
9 priorities for providing employment land and land for housing, and determined
10 that employment opportunities were the priority for the Southern Triangle due to
11 existing industrial uses in the Southern Triangle. OSB has not established that the
12 city failed to take into account any required considerations under PCP Policies
13 3.2, 3.53, 3.58 or 3.59.

14 OSB's third assignment of error is denied.

15 **DISPOSITION**

16 For the reasons explained in our resolution of Restore Oregon's first
17 assignment of error, Ordinance 189000 is remanded.

CERTIFICATE OF FILING AND SERVICE

I hereby certify that I filed the **Petition for Judicial Review** electronically as a unified, single pdf file pursuant to 16.15(5) with the Appellate Court Administrator on August 27, 2019, through the appellate eFiling System.

/s/ E. Michael Connors

E. Michael Connors, OSB #954956

Of Attorneys for Petitioners

OSB2LAN IVON, LLC and Haithem Toulan

I further certify that on August 27, 2019, I served a true and correct copy of this **Petition for Judicial Review** by United States Postal Service, certified mail, return receipt requested on:

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Salem, OR 97301-1283

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OSB2LAN IVON, LLC and Haithem Toulou

IN THE COURT OF APPEALS OF THE STATE OF OREGON

RESTORE OREGON, BOSCO-MILLIGAN FOUNDATION/
ARCHITECTURAL HERITAGE CENTER,
OREGON NIKKEI ENDOWMENT,
PORTLAND CHINATOWN HISTORY FOUNDATION/
PORTLAND CHINATOWN MUSEUM,
PEGGY G. MORETTI and CITY OF PORTLAND,
Respondents,

v.

GUARDIAN REAL ESTATE SERVICES, LLC,
Petitioner.

LUBA No. 2018-072

CA A172000

OSB2LAN IVON, LLC and HAITHEM TOULAN,
Petitioners below,

v.

CITY OF PORTLAND,
Respondent below.

LUBA Nos. 2018-073/086/087

**AMENDED PETITION FOR JUDICIAL REVIEW
EXPEDITED PROCEEDING UNDER ORS 197.850, ORS 197.855**

Petitioner Guardian Real Estate Services, LLC, hereinafter Petitioner,
seeks judicial review of the Final Opinion and Order of the Land Use Board of
Appeals in Case No. 2018-072, dated August 6, 2019.

A. Attached to this petition is a copy of the Opinion and Order for
which judicial review is sought.

B. Petitioner was a party in the local proceeding that resulted in the Opinion and Order for which review is sought. (Rec. 6453-6454, 7736, 7743, 7745-7747.) Therefore, Petitioner has statutory standing to bring this appeal under ORS 197.850(1).

C. Petitioner is not willing to stipulate that the agency record may be shortened and designates that all portions of the record be included as part of the Court of Appeals review in this case.

D. The parties to this review, as well as their attorneys, are:

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Dated this 27th day of August, 2019.

JORDAN RAMIS PC

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BEFORE THE LAND USE BOARD OF APPEALS
OF THE STATE OF OREGON

RESTORE OREGON, BOSCO-MILLIGAN FOUNDATION/
ARCHITECTURAL HERITAGE CENTER,
OREGON NIKKEI ENDOWMENT,
PORTLAND CHINATOWN HISTORY FOUNDATION/
PORTLAND CHINATOWN MUSEUM,
and PEGGY G. MORETTI,
Petitioners,

vs.

CITY OF PORTLAND,
Respondent,

and

GUARDIAN REAL ESTATE SERVICES, LLC,
Intervenor-Respondent.

LUBA No. 2018-072

OSB2LAN IVON, LLC and HAITHEM TOULAN,
Petitioners,

vs.

CITY OF PORTLAND,
Respondent.

LUBA Nos. 2018-073/086/087

FINAL OPINION
AND ORDER

Appeal from City of Portland.

1 Daniel H. Kearns, Portland, filed a petition for review and argued on behalf
2 of petitioners Restore Oregon *et al.* With him on the brief was Reeve Kearns, PC.
3

4 E. Michael Connors, Portland, filed a petition for review and argued on
5 behalf of petitioners OSB2LAN IVON, LLC and Haithem Toulou. With him on
6 the brief was Hathaway Larson LLP.
7

8 Linly F. Rees, Chief Deputy City Attorney, City of Portland, filed a
9 response brief and argued on behalf of respondent. With her on the brief was
10 Lauren A. King, Deputy City Attorney.
11

12 Timothy V. Ramis, Portland, filed a response brief and argued on behalf
13 of intervenor-respondent. With him on the brief was Jordan Ramis PC.
14

15 RYAN, Board Chair; ZAMUDIO, Board Member, participated in the
16 decision.
17

18 RUDD, Board Member, did not participate in the decision.
19

20 REMANDED 08/06/2019
21

22 You are entitled to judicial review of this Order. Judicial review is
23 governed by the provisions of ORS 197.850.

NATURE OF THE DECISION

In LUBA Nos. 2018-072, 2018-073 and 2018-086, petitioners Restore Oregon *et al.* (Restore Oregon) and OSB2LAN IVON, LLC and Haithem Toulani (together, OSB) appeal Ordinance 189000. In LUBA No. 2018-087, OSB appeals Ordinance 189002. Ordinance 189000 and 189002, together with a third ordinance (189001) that was not appealed, are part of a comprehensive amendment of the city's Central City Plan, which is a part of the city's comprehensive plan. The city and the parties refer to the three ordinances as Central City 2035 (CC 2035).

REPLY BRIEF

OSB moves to file a reply brief to respond to respondent's response brief. There is no opposition to the motion, and it is allowed.

FACTS

The challenged ordinances adopted amendments to the Central City Plan, which was originally adopted in 1988 as part of the Portland Comprehensive Plan (PCP). CC 2035 made a number of changes to the existing Central City Plan. Petitioners in these appeals challenge, among other things, new building height limits that were adopted as part of CC 2035.

A. New Chinatown/Japantown Historic District

As relevant here, and as discussed in more detail in our resolution of Restore Oregon's assignments of error, CC 2035 amended the height limits that

1 apply to new buildings in the New Chinatown/Japantown Historic District
2 (District), a ten square block area located west of the Willamette River and north
3 of the downtown area that is listed on the National Register of Historic Places for
4 its cultural and historical significance.

5 The District was established in 1989. The base zoning of property in the
6 District at the time it was established and today is Central Commercial Zone with
7 a downtown development overlay. At the time the District was established in
8 1989, the maximum allowed building height in the District under the Portland
9 City Code (PCC) was 350 feet plus a possible 75 feet of bonus height. New
10 development in the District is subject to discretionary Historic Resources Review
11 under PCC 33.846 and the city's adopted New Chinatown/Japantown Historic
12 Design Guidelines (Guidelines), first adopted in 2017.¹

13 CC 2035 decreased the existing height limits for four blocks on the
14 northern edge of the District, located between NW Everett and NW Glisan Street
15 and NW 5th and NW 3rd Avenue (North Blocks), from the previous limit of 425
16 feet (base 350 feet plus 75 feet of bonus height) to 200 feet of base height with
17 no bonus height available. CC 2035 also increased the height on one block in the
18 District, Block 33, located between NW Couch and NW Davis Street and NW
19 4th and NW 5th Avenue, from its previous maximum height of 100 feet to 125

¹ The city asks us to take official notice of Ordinance 188623, which was enacted in 2017 and adopted the Guidelines. There is no opposition to the city's motion, and we take official notice of the Ordinance that adopted the Guidelines.

1 feet of base height on the entire block, with an available affordable housing bonus
2 on the west half of Block 33, to allow a maximum height of up to 200 feet on the
3 west half of Block 33. Record 5566-68. Intervenor-respondent Guardian
4 Management Services LLC (Guardian) owns Block 33.

5 Restore Oregon challenges the new height limits as incompatible with the
6 PCP policies that apply in the District, and with newly adopted CC 2035 policies.

7 **B. Southern Triangle**

8 CC 2035 also amended the comprehensive plan and zoning map for other
9 areas of the central city, including the area that includes OSB's approximately
10 three-acre property located on the east side of the Willamette River, generally in
11 the area between the Tillikum Crossing Bridge and the Ross Island Bridge
12 (Southern Triangle). CC 2035 amended the plan and zoning map designations for
13 OSB's property from Heavy Industrial (IH) to Central Employment (EX), with
14 design and river overlays on the entire property, and river environmental and
15 scenic overlays on a portion of the property. The EX zoning applied to OSB's
16 property prohibits residential uses.

17 CC 2035 adopted a Central City Scenic Resources Protection Plan as an
18 update to the previously adopted (in 1991) city-wide Scenic Resources Protection
19 Plan. The new area-specific plan added two scenic resources sites and adopted
20 an Economic, Social, Environmental and Energy (ESEE) analysis. As part of the
21 ESEE analysis, the city mapped and evaluated views and viewpoints within the
22 resource sites, and grouped them into rankings based on quality and quantity. A

1 view of Mt. Hood from the Tillikum Crossing bridge was identified as SW46.
2 The city's ESEE analysis determined to protect the views of Mt. Hood from
3 SW46 by limiting building height on OSB's property and some surrounding
4 properties to 60 feet, and by limiting surrounding properties with similar height
5 restrictions. Approximately two acres of OSB's property are subject to the 60-
6 foot height limit, with one acre of OSB's property subject to a height limit of 100
7 feet with available bonus heights of up to 250 feet. Record 656, 662.

8 In its appeal, OSB challenges these new height limits.

9 **FIRST ASSIGNMENT OF ERROR (RESTORE OREGON)**

10 At the outset, we note that Restore Oregon's petition for review does not
11 comply with the requirement in OAR 661-010-0030(4)(d) that it include a section
12 addressing LUBA's standard of review. LUBA's standard of review of a decision
13 that amends a comprehensive plan is set out at ORS 197.835(6). LUBA is
14 required to reverse or remand the amendment if "the amendment is not in
15 compliance with the goals." *Id.* LUBA is also required to reverse or remand a
16 decision that amends a land use regulation if, as relevant here, "[t]he regulation
17 is not in compliance with the comprehensive plan." ORS 197.835(7)(a).

18 Because the challenged decision is a legislative rather than a quasi-judicial
19 decision, there is no generally applicable requirement that the decisions be
20 supported by findings, although the decision and record must be sufficient to
21 demonstrate that applicable criteria were applied and "required considerations
22 were indeed considered." *Citizens Against Irresponsible Growth v. Metro*, 179

1 Or App 12, 16, n 6, 38 P3d 956 (2002). With respect to evidence, Statewide
2 Planning Goal 2 (Land Use Planning) requires that a decision that amends a
3 comprehensive plan or land use regulation must be supported by an adequate
4 factual base. An “adequate factual base” is equivalent to the requirement that a
5 quasi-judicial decision be supported by substantial evidence in the whole record.
6 *1000 Friends of Oregon v. City of North Plains*, 27 Or LUBA 372, 378, *aff’d*,
7 130 Or App 406, 882 P2d 1130 (1994). Substantial evidence exists to support a
8 finding of fact when the record, viewed as a whole, would permit a reasonable
9 person to make that finding. *Dodd v. Hood River County*, 317 Or 172, 179, 855
10 P2d 608 (1993); *Younger v. City of Portland*, 305 Or 346, 351-52, 752 P2d 262
11 (1988).

12 Restore Oregon argues that the city’s findings in support of the 200 foot
13 maximum height on the North Blocks and the west half of Block 33 (through
14 bonus height) are inadequate to explain why the 200-foot height limit satisfies
15 PCP Policies 4.48 and 4.49, and three newly adopted provisions of CC 2035: CC
16 2035 Policies 5.19 (Historic resources and districts), and Old Town/Chinatown
17 Policies 1.OT-3 (cultural assets) and 5.OT-1 (surface parking), which were first
18 adopted as part of the challenged decision. Restore Oregon also argues that the
19 city’s decision to allow 200-foot tall buildings is not supported by an adequate
20 factual base, in violation of Goal 2. Finally, Restore Oregon argues that the 200-
21 foot height limits that CC 2035 adopts for the District do not comply with PCP
22 Policies 4.48 and 4.49, or with new CC 2035 Policies 5.19, 1.OT-3 and 5.OT-1.

1 For the reasons explained below, we agree with Restore Oregon that the city's
2 findings in support of the 200-foot height limit are inadequate to explain why the
3 200-foot height limit complies with the applicable PCP policies, and that the city
4 has not pointed to evidence in the record that support the city's decision to allow
5 200-foot-tall buildings in some parts of the District. We first describe the process
6 that led to the city council's ultimate adoption of the 200-foot height limits on
7 various blocks in the District.

8 **A. The City's Process**

9 The 200-foot height limit was proposed at the end of an almost ten-year
10 process that, in part, considered new height limits in the District. The city's
11 planning staff initially developed a concept plan for updates to the existing
12 Central City Plan. The concept plan became a discussion draft of the CC 2035
13 plan, and the city's Planning and Sustainability Commission (PSC) held two
14 public hearings and nine work sessions on the draft plan. That process resulted in
15 the PSC's recommended draft plan in June 2017, which recommended for the
16 entire District 125-foot maximum building heights with no bonuses available.

17 The city council held several public hearings on the draft plan between
18 September 2017 through April 2018. During the March 22, 2018 city council
19 meeting, the city council accepted public testimony on the proposed CC 2035
20 height limits. Prior to that meeting, height limits of 125 feet had been the focus
21 of much of the discussion, although some discussion focused on 160-foot height
22 limits. Record 6482, 6496, 7268-71. The mayor proposed an amendment (C1) to

1 the previously proposed plan to increase the maximum building height limit on
2 the west half of Block 33 to 160 feet. Thereafter, a city commissioner proposed
3 an amendment (C2) to increase the maximum building height on the west half of
4 Block 33 to 200 feet, and to increase the Floor Area Ratio (FAR) on the entire
5 block from 6:1 to 9:1. No vote was called on either motion.

6 At the next city council meeting on April 4, 2018, another commissioner
7 proposed an amendment (C3) to increase the maximum height on the west half
8 of Block 33 to 160 feet through bonus height available through an affordable
9 housing bonus. At the conclusion of that meeting, the city council passed the C1
10 amendment that adopted a maximum building height on the west half of Block
11 33 of 160 feet.

12 A further amendment that would allow maximum building heights of 200
13 feet was noticed on the agenda for the city council's May 24, 2018 meeting.
14 Opponents of the proposed new amendment and a 200-foot height limit submitted
15 letters in opposition, but no public testimony was taken at the May 24, 2018
16 meeting. Record 7712-17, 7720-30. At that meeting, the same commissioner who
17 proposed the C2 amendment proposed a new amendment that would (1) allow a
18 maximum building height of 200 feet on the North Blocks, with no bonus height
19 available, and (2) allow base building height for Block 33 of 125 feet but allow
20 an affordable housing bonus building height of up to 200 feet on the west half of
21 Block 33, and increase the base FAR to 9:1 on all of Block 33 if all floors above
22 the ground floor on the west half of the block are developed with a residential

1 use. An oral vote was taken and the amendment passed. At its meeting on June
2 6, 2018, the city council voted to adopt CC 2035.

3 **B. Applicable Portland Comprehensive Plan Policies**

4 As noted, the city is required to demonstrate that CC 2035 complies with
5 the applicable provisions of the PCP. Restore Oregon argues that the city's
6 findings are inadequate to explain why the height limits adopted by CC 2035
7 comply with PCP Policies 4.48 and 4.49, and with three newly adopted
8 provisions of CC 2035: Policies 5.19, 1.OT-3 and 5.OT-1. We set out each
9 provision and the city's findings below.

10 **1. PCP Policy 4.48**

11 PCP Policy 4.48 provides:

12 "Continuity with established patterns. Encourage development that
13 fills in vacant and underutilized gaps within the established urban
14 fabric, while preserving and complementing historic resources."

15 The city found:

16 "224. The Plan responds to the policy through new goals and
17 policies specific to the Central City that call for: the rehabilitation
18 and reuse of historic structures; historic district protection measures;
19 and, incentives to encourage seismic upgrades and other
20 rehabilitation measures for historic resources.

21 " * * * * *

22 "226. The maximum heights within historic districts have generally
23 been reduced, and in most cases bonus height provisions have been
24 repealed to result in new development that is compatible with the
25 existing scale and character of the Central City's historic districts.

1 “227. For instance, in the New Chinatown/Japantown Historic
2 District heights in the northern four blocks have been reduced from
3 a maximum of 350 feet, and the ability to bonus an additional 75
4 feet in height to a maximum of 425 feet, has been eliminated. Now
5 the maximum height in that area is 200 feet with no ability to bonus
6 to a greater height. Although one block in the district received bonus
7 height to a maximum of 200 feet on the west half of the block and
8 125 feet on the eastern half of the block, it should be noted that the
9 greater heights allowed on the west half of the block are adjacent to
10 parcels that may build to 460 feet. Further, the new maximum height
11 limits create a step down from these greater height allowances to the
12 west of the New Chinatown/Japantown Historic District down to
13 100 feet maximum to the east of the site in question, and then
14 eventually down to 75 feet to the properties located just east of the
15 district.

16 “228. Following Council proposing this amendment, testimony was
17 received for and against the increased height. Some testifying was
18 concerned that these heights would not be consistent with the rest of
19 the scale of development elsewhere in the district. However, others
20 noted that the block in question had long been underutilized and that
21 redevelopment of the site would be a catalyst for investment
22 throughout the district, following decades of neglect. In the end,
23 council decided: 1) the heights proposed would still result in a step
24 down from the urban form surrounding the district; 2) the increased
25 height was necessary to incent redevelopment of a catalytic site; and
26 3) the issue of consistency was best left to the Landmarks
27 Commission who remain charged with reviewing future
28 development proposals on that site and elsewhere in the historic
29 district.

30 “Thus, on balance, these amendments in New
31 Chinatown/Japantown Historic District and all other Central City
32 Historic Districts further the objectives of Policy 4.48 above.”
33 Amended Record 75.

34 Restore Oregon argues that the city’s findings are inadequate to explain
35 how CC 2035 complies with PCP Policy 4.48 because the findings do not

1 describe the “established urban fabric” of the District, do not describe how 200-
2 foot-tall buildings would “preserv[e] and complement[]” the District’s historic
3 resources, describe those historic resources, and do not acknowledge the height
4 of existing buildings in the District, with the tallest existing building at 75 feet.
5 Restore Oregon argues that the finding that determines that 200-feet maximum
6 heights are lower than the 350- and 425-foot maximum heights previously
7 allowed by the base zoning in the District, which was in place when the District
8 was created, is not adequate to explain how 200-feet maximum heights satisfy
9 PCP Policy 4.48. Restore Oregon argues that all new development approved after
10 the District was created in 1989 was required to comply with the Historic
11 Resources Review provisions of PCC 33.846.060(F), with review by the
12 Landmarks Commission, and that such review assessed building height on a case
13 by case basis. Differently, here, we understand Restore Oregon to argue that if
14 the city council determines that the maximum building heights allowed by CC
15 2035 comply with PCP Policy 4.48, *i.e.*, they “preserv[e] and complement[] the
16 [District’s] historic resources,” the Landmarks Commission will lack discretion
17 to deny, or approve with conditions that require lower height, a building that
18 proposes a maximum height allowed by the base zoning, even if the Landmarks
19 Commission otherwise determines that the maximum building height is not the
20 appropriate height and mass for the District, or otherwise does not comply with
21 the historic review standards and Guidelines. Restore Oregon Petition for Review
22 13-14.

1 Finally, Restore Oregon argues that the city's findings regarding PCP
2 Policy 4.48 are not supported by an adequate factual base, and that the
3 uncontroverted evidence in the record supports only a conclusion that 200-foot
4 height limits do not "preserv[e] and complement[]" historic resources." Restore
5 Oregon Petition for Review 28.

6 We agree with Restore Oregon that the city's findings are inadequate to
7 explain why the adopted maximum height limits comply with PCP 4.48. The
8 findings do not describe "the established urban fabric" of the District, do not
9 describe the existing historic resources, and do not explain how 200-foot tall
10 buildings would "preserv[e] and complement[]" those existing historic resources.
11 Rather, the findings focus on the importance of creating incentives for
12 development of vacant parcels in the District, determine that the maximum
13 heights in the District are lower than adjacent properties that lie outside the
14 District boundary, and conclude that "the issue of consistency was best left to the
15 Landmarks Commission who remain charged with reviewing future development
16 proposals on that site and elsewhere in the historic district." Amended Record 75.
17 Those findings are not adequate to explain that the maximum height limit of 200
18 feet in the District "preserv[es] and complement[s] historic resources." Because
19 CC 2035 adopts base and bonus maximum height limits that apply as of right to
20 all new development across the District, the question of whether those base and
21 bonus maximum heights "preserv[e] and complement historic resources," and
22 thus comply with PCP Policy 4.48, is a question that the city council must answer.

1 It may not be deferred to discretionary historic resources review of individual
2 development proposals for compliance with the PCC criteria and the Guidelines.

3 The city responds to Restore Oregon's argument that the 200-foot
4 maximum height limits lack an adequate factual base with citations to a number
5 of record pages. City's Response Brief 15. We have reviewed those citations. The
6 material cited by the city is largely focused on maintaining the pre-designation
7 height limits in the North Blocks to encourage development in the District,
8 adopting new height limits to "re-vitalize the area," and arguing that the District
9 is less of an architectural district and more a "cultural" district. Record 14973-
10 78, 6320, 49651, 48059, 48140, 48189, 24096, 24253, 15023, 7731-32. However,
11 none of that evidence addresses the subject of PCP Policy 4.48, which is to
12 "[e]ncourage development that fills in vacant and underutilized gaps within the
13 established urban fabric, *while preserving and complementing historic*
14 *resources.*" (Emphasis added.) Stated differently, the materials cited by the city
15 are evidence that supports the city's findings regarding the "[e]ncourage [infill]
16 development" prong of PCP Policy 4.48, but do not address the "within the
17 established urban fabric" or the "while preserving and complementing historic
18 resources" prongs. In particular, the city does not point to any focused evidence

1 that supports a conclusion that the 200-foot maximum height limit “preserve[es]
2 and complement[s]” District resources.²

3 **2. PCP Policy 4.49**

4 PCP Policy 4.49 provides:

5 “Resolution of Conflicts. Adopt and periodically update design
6 guidelines for unique historic districts. Refine base zoning in
7 historic districts to take into account the character of the historic
8 resources in the district.”

9 The city found:

10 “Consistent with this policy, the plan includes an action item calling
11 for an update of various district specific historic design guideline
12 packages, including those for the East Portland/Grand Avenue and
13 Russell Street Conservation Districts.” Amended Record 75.

14 We understand Restore Oregon to argue that the city’s findings are inadequate
15 because the findings do not describe or consider the character of the District’s
16 historic resources.

17 The city responds that findings are not required, and the city may
18 demonstrate in its brief and through citations to the record that CC 2035 complies
19 with Policy 4.49. The city also argues that CC 2035 complies with Policy 4.49
20 because Policy 4.49 requires the city to update its design guidelines and the city
21 updated the design guidelines for the District. The city also considered whether

² As explained in detail above, the 200-foot maximum height limit was introduced and discussed at the very end of a multi-year planning process, prior to which nearly all of the focused testimony focused on a maximum 125 or 160-foot height.

1 the existing base zoning of Central Commercial with a design overlay is
2 appropriate, and decided not to change the base zoning. Amended Record 149-
3 50. According to the city, nothing more is required.

4 We agree. The city has demonstrated that “required considerations were
5 * * * considered” with regard to PCP Policy 4.49, and that CC 2035 complies
6 with PCP Policy 4.49. *Citizens Against Irresponsible Growth v. Metro*, 179 Or
7 App at 16 n 6.

8 **3. CC 2035 Policies 5.19, 1.OT-3 and 5.OT-1**

9 CC 2035 adopted new Policies 5.19, 1.OT-3 and 5.OT-1 for the first time.
10 The policies were not yet in effect when CC 2035 was adopted, and the city was
11 not required to adopt findings addressing these new policies. Restore Oregon
12 argues that the city’s findings are inadequate because the findings do not yet
13 address those not yet in effect policies. The city and Guardian respond, and we
14 agree, that failure to adopt findings regarding new policies not yet in effect
15 provides no basis for reversal or remand of the decision.

16 Restore Oregon also argues that there is not an adequate factual base to
17 establish that the city’s decision to adopt maximum building heights of 200 feet
18 complies with these new policies. However, Restore Oregon has not established
19 that the city must demonstrate that the maximum building height of 200 feet
20 complies with these new policies that were not yet in effect at the time the
21 maximum building heights were adopted, in the same decision that adopts the
22 new policies for the first time.

1 **C. Conclusion**

2 Remand is required for the city to adopt findings that are adequate to
3 explain why the 200-foot height limit complies with PCP Policy 4.48. That
4 decision must be supported by an adequate factual base. Accordingly, we do not
5 address Restore Oregon’s arguments that a 200-foot maximum height limit
6 categorically fails to comply with PCP Policy 4.48.

7 Restore Oregon’s first assignment of error is sustained, in part.

8 **SECOND ASSIGNMENT OF ERROR (RESTORE OREGON)**

9 Statewide Planning Goal 1 (Citizen Involvement) requires in relevant part
10 that the city adopt a citizen involvement program. The city has adopted a citizen
11 involvement program that is implemented in part through provisions of the
12 Portland Zoning Code. The PCP also includes citizen involvement goals and
13 policies.

14 In their second assignment of error, we understand Restore Oregon to
15 argue that the city’s decision fails to comply with PCP Goals 2.C and 2.E.³ The

³ PCP Goals 2.C and 2.E provide:

“Goal 2.C: Value community wisdom and participation. Portland values and encourages community and civic participation. The City seeks and considers community wisdom and diverse cultural perspectives, and integrates them with technical analysis, to strengthen land use decisions.

“Goal 2.E: Meaningful participation. Community members have meaningful opportunities to participate in and influence all stages of planning and decision making. Public processes engage the full

1 crux of Restore Oregon’s argument, as we understand it, is that the city failed to
2 comply with Goal 2.E when it did not allow public testimony during the May 24,
3 2018 city council hearing at which the 200-foot maximum building height was
4 re-introduced, discussed by the city council, and ultimately adopted.

5 The city responds, and we agree, that the city council implicitly interpreted
6 Goal 2.E to not require the city to accept public testimony in response to every
7 motion or amendment made on a legislative proposal in order to satisfy the
8 requirement to allow “meaningful participation.” Amended Record 42. Nothing
9 in Goal 2.E suggests that closing the final hearing on a legislative amendment to
10 the comprehensive plan to testimony is inconsistent with Goal 2.E.

11 We also understand Restore Oregon to argue that the city council failed to
12 comply with Goal 2.C, for similar reasons. The city responds, again, that nothing
13 in Goal 2.C requires the city to accept public testimony in a legislative
14 proceeding, in response to a motion or amendment. We agree.

15 Accordingly, Restore Oregon’s second assignment of error provides no
16 basis for reversal or remand of CC 2035.

17 Restore Oregon’s second assignment of error is denied.

diversity of affected community members, including under-served
and under-represented individuals and communities. The City will
seek and facilitate the involvement of those potentially affected by
planning and decision making.”

1 **FIRST ASSIGNMENT OF ERROR (OSB)**

2 OSB’s first assignment of error contains multiple subassignments of error.
3 Before turning to the subassignments of error, we set out and explain the
4 applicable Statewide Planning Goal 5 (Open Spaces, Natural Resources and
5 Historic Resources) rules and the city’s actions.

6 **A. The Goal 5 Rule and the City’s Scenic Resources Inventory**

7 OAR 660-023-0230(2) provides that when a local government amends its
8 acknowledged comprehensive plan to adopt or amend an inventory of its scenic
9 resources, the local government must comply with OAR 660-023-0030
10 (inventory process), OAR 660-023-0040 (ESEE process), and OAR 660-023-
11 0050 (program to achieve the goal). As part of CC 2035, the city adopted the
12 Central City Scenic Resources Protection Plan, which identifies two scenic
13 resource sites for protection.⁴ The resource site at issue in this appeal is identified
14 as the “Viewpoint Boundary,” which consists of the central city area and areas
15 contiguous to the central city where scenic views could be affected by heights of
16 buildings within the Central City Plan District. After identifying the Viewpoint
17 Boundary as a resource site, the city mapped and evaluated scenic resources
18 within the Viewpoint Boundary based on quality and quantity criteria. Record
19 18002-18044. Within the Viewpoint Boundary, the scenic view of Mt. Hood from

⁴ OAR 660-023-0010(10) defines “resource site” as “a particular area where resources are located. A site may consist of a parcel or lot or portion thereof or may include an area consisting of two or more contiguous lots or parcels.”

1 the Tillikum Crossing bridge received the highest rank. That scenic view was
2 assigned the moniker SW46.

3 As part of complying with OAR 660-023-0040, the city is required to
4 identify uses that could conflict with the scenic resource, and conduct an analysis
5 of the Economic, Social, Environmental and Energy (ESEE) consequences of
6 decisions to allow, limit, or prohibit conflicting uses. The rule requires the local
7 government to determine, based on the ESEE analysis, whether to allow, limit,
8 or prohibit conflicting uses.

9 The city conducted an ESEE analysis to identify uses that conflict with
10 SW46. The ESEE identified building heights and FAR for undeveloped and
11 underdeveloped land within the view corridor from SW46 as a conflicting use.
12 The city then analyzed the ESEE impacts of a future decision to protect ten
13 different significant views of Mt. Hood from the Willamette River, within the
14 Viewpoint Boundary resource site. The ESEE analysis concluded that protecting
15 the view of Mt. Hood from SW46 would have the significant impacts on
16 economic development, but that the economic impacts of protecting the view
17 from SW46 were lower than the economic impacts of protecting all or most of
18 the ten significant views. Record 1836. The city determined that viewpoint SW46
19 should be protected from conflicting uses by limiting building heights and FAR
20 in the view corridor. The city's program to achieve that protection is through EX
21 zoning applied to certain properties and lower building heights than would
22 otherwise be allowed.

1 **B. ESEE Analysis**

2 In three subassignments of error under its first assignment of error, OSB
3 argues that the city's ESEE analysis fails to comply with "Goal 5 and its
4 implementing rules." OSB Petition for Review 14. Initially, we note, as the city
5 notes in its response brief, that OSB cites "OAR 660-016-0000 *et seq*" in support
6 of its assignment of error. OSB Petition for Review 2, 8, 12-13. OAR chapter
7 660 division 16 was the Land Conservation and Development Commission's
8 (LCDC's) first Goal 5 implementing administrative rule. We refer to that division
9 herein as the old Goal 5 rule. That administrative rule has largely been replaced
10 by OAR chapter 660, division 23. We refer to that division herein as the new
11 Goal 5 rule. OAR 660-023-0250(1). Accordingly, OAR 660-016-0000 *et seq.* do
12 not apply to the city's decision to adopt CC 2035. Rather, the provisions of OAR
13 660-023-0000 *et seq.* apply.⁵ *See Beaver State Sand and Gravel v. Douglas*

⁵ OAR 660-023-0250 provides in relevant part:

(1) This division replaces OAR 660, division 16, except with regard to cultural resources, and certain PAPAs and periodic review work tasks described in sections (2) and (4) of this rule. Local governments shall follow the procedures and requirements of this division or OAR 660, division 16, whichever is applicable, in the adoption or amendment of all plan or land use regulations pertaining to Goal 5 resources. The requirements of Goal 5 do not apply to land use decisions made pursuant to acknowledged comprehensive plans and land use regulations.

"(2) The requirements of this division are applicable to PAPAs initiated on or after September 1, 1996. OAR 660, division 16

1 *County*, 43 Or LUBA 140, 149-150 (2002), *aff'd*, 187 Or App 241, 65 P3d 1123
2 (2003) (explaining some important differences between the old Goal 5 rule and
3 the new Goal 5 rule).

4 The city urges us to reject OSB's first assignment of error based on its
5 mistaken citation to an inapplicable administrative rule. In its reply brief, OSB
6 replies that its mistaken reference to an inapplicable rule is harmless because the
7 overall approach in both versions of the rules (inventory, ESEE analysis,
8 program) is the same. In *Beaver State Sand and Gravel* we explained that the old
9 Goal 5 rule and the new Goal 5 rule differ in "pertinent ways." 43 Or LUBA at
10 149. However, although the city takes the position that the rules in "division 23
11 contain different standards for conducting an ESEE analysis than the rules of
12 OAR 660, division 16," the city does not identify those different standards or
13 explain why the different standards mean that OSB's arguments made with
14 citation to the old Goal 5 rule do not provide a basis for reversal or remand. City's
15 Response to OSB Brief 15. Accordingly, we proceed to address those arguments.

16 **1. Columbia Steel Castings**

17 In its first assignment of error, OSB first argues that the city's ESEE
18 analysis is "deeply flawed and fails to comply with Goal 5 and its implementing
19 rules." OSB Petition for Review 14. First, OSB argues that the city's ESEE

applies to PAPAs initiated prior to September 1, 1996. For purposes of this section 'initiated' means that the local government has deemed the PAPA application to be complete."

1 analysis impermissibly used an “area-wide approach” similar to the approach that
2 was rejected in *Columbia Steel Castings Co. v. City of Portland*, 314 Or 424, 840
3 P2d 71 (1992). Even assuming for purposes of this opinion only that the holding
4 in *Columbia Steel Castings* applies to ESEE analyses conducted under the new
5 Goal 5 rule, we reject OSB’s argument.

6 In *Columbia Steel Castings*, the Supreme Court rejected the city’s ESEE
7 analysis methodology that identified 36 specific resource sites, but proceeded to
8 analyze the ESEE consequences based on five large “sub-areas,” which were
9 essentially units of land that were much larger in some cases than the resource
10 sites identified for possible protection. Here, in contrast, the city’s ESEE analysis
11 identified a defined resource site, the Viewpoint Boundary, and then analyzed the
12 ESEE consequences that could result from a decision to limit conflicting uses by
13 evaluating the economic impacts within more defined areas within the resource
14 site, for groups of similar scenic resources and groups of similarly zoned
15 properties within the Viewpoint Boundary resource site. *Columbia Steel Castings*
16 is inapposite for that reason.

17 OAR 660-023-0040(4), which is part of the new Goal 5 rule that governs
18 the ESEE analysis requirement, provides in relevant part that:

19 “Local governments shall analyze the ESEE consequences that
20 could result from decisions to allow, limit, or prohibit a conflicting
21 use. The analysis may address each of the identified conflicting uses,
22 or it may address a group of similar conflicting uses. A local
23 government may conduct a single analysis for two or more resource
24 sites that are within the same area or that are similarly situated and

1 subject to the same zoning. The local government may establish a
2 matrix of commonly occurring conflicting uses and apply the matrix
3 to particular resource sites in order to facilitate the analysis. A local
4 government may conduct a single analysis for a site containing more
5 than one significant Goal 5 resource.”

6 To the extent that OSB challenges compliance with OAR 660-023-0040(4), the
7 city responds that the ESEE analysis is consistent with and complies with OAR
8 660-023-0040(4), which allows the city to conduct a single analysis for a resource
9 site containing more than one resource. We agree. The approach the city took in
10 the ESEE analysis for CC 2035 is nearly the opposite of what occurred in
11 *Columbia Steel Castings*. The ESEE analyzed ten separate districts or sub-areas,
12 including the Southern Triangle, within the single Viewpoint Boundary resource
13 site. Record 2002. OAR 660-023-0040(4) specifically allows that approach.

14 2. ESEE Assumptions

15 OSB next argues that the ESEE analysis impermissibly used different
16 assumptions for the Southern Triangle sub-area, resulting in an undervaluation of
17 the economic impacts to OSB’s property from the decision to protect the
18 viewpoint resource, and that the economic impacts are “artificially low due to the
19 unique approach applied to the Southern Triangle sub-area,” in the following
20 ways. OSB Petition for Review 24.

21 According to OSB, the city used a different methodology in its
22 assumptions about economic impacts to properties in the Southern Triangle that
23 would be impacted by protection of SW46 than it used for the rest of the central
24 eastside area of the central city. We understand OSB to argue that using a

1 different methodology for one sub-area and not others is inconsistent with the
2 rule that governs ESEE analyses.

3 First, we understand OSB to argue that the ESEE analysis improperly
4 assumed base height and FAR for its property and properties in the Southern
5 Triangle. We understand OSB to argue that the ESEE analysis improperly
6 assumed base height under the *existing* IH zoning instead of the maximum base
7 height for OSB's property under the *proposed* EX zoning (200 feet), and that in
8 addition the city should have assumed development under the bonus height
9 allowed under the proposed EX zoning—250 feet—rather than assuming a
10 maximum height of 200 feet under the base height for the proposed EX zoning.
11 OSB Petition for Review 18. Relatedly, OSB argues that in assuming maximum
12 building heights for properties in the Southern Triangle, the ESEE “deviated from
13 the approach for the remaining sub-areas in almost every respect.” OSB Petition
14 for Review 21-22. OSB also argues that the ESEE analysis improperly assumed
15 a FAR of 3:1 for the Southern Triangle that was different than the FAR assumed
16 for other areas of the central city. *Id.*

17 Second, OSB argues that the ESEE analysis undervalued the economic
18 impacts to OSB's property when it assumed lot coverage for OSB's property
19 based on an average lot coverage in the Southern Triangle of 80 percent.
20 Relatedly, OSB points out that the ESEE deviated from the approach for
21 determining lot coverage that was used for the rest of the central city. OSB
22 Petition for Review 22. Third, OSB argues that the city's assumptions for dollar

1 and jobs per square foot values are based on the entire central city and not based
2 on the Southern Triangle sub-area. OSB Petition for Review 19-20. In sum, we
3 understand OSB to argue that the city should have used site specific base and
4 bonus height, FAR, and lot coverage for each property affected by protection of
5 SW46.

6 The city responds in turn. For the assumed maximum building heights and
7 FAR, the city explains that the city used more conservative assumptions in the
8 ESEE for the Southern Triangle than for other sub-areas in the central city,
9 resulting in a higher estimate of economic impact to properties in the Southern
10 Triangle than if less conservative assumptions were used. For example, the city
11 explains that in the ESEE the city generally assumed a height of 90 feet and a 4:1
12 FAR for IH-zoned properties in the central eastside area of the central city, but
13 assumed a height of 200 feet and 3:1 FAR for IH-zoned properties in the Southern
14 Triangle. That assumption was based on the larger block sizes in the Southern
15 Triangle, using vacant and underdeveloped properties included on the city's
16 Buildable Lands Inventory and assuming that properties in common ownership
17 would develop as a single site.⁶ The city also explains that when assuming
18 maximum building height under the proposed EX zoning, the city assumed
19 development at the maximum base zone height (200 feet) because of the

⁶ According to the city, larger block sizes in common ownership could result in FAR being consolidated on one part of a site, allowing taller development on one part of the site.

1 uncertainty of the availability of bonus height that could allow up to 250 feet.
2 Similarly, the city assumed a FAR of 3:1 for the Southern Triangle, based on
3 industrial zoning, site size and development patterns that reflect low warehouse
4 buildings.

5 For the assumed lot coverage, the city explains that the ESEE's assumption
6 of 80 percent lot coverage in the Southern Triangle was based on existing
7 conditions, and that using 80 percent resulted in an estimate of greater economic
8 impact to properties in the Southern Triangle. Similarly, for the assumed lost
9 floor area and lost jobs, the ESEE calculated lost jobs based on a formula of one
10 job per 200 square feet, which converts to 218 jobs per acre.

11 We agree with the city that the ESEE analysis accurately estimated the
12 economic impact to properties in the Southern Triangle, including OSB's
13 property. OSB has not explained why the ESEE's assumptions regarding
14 maximum building height, FAR, lot coverage, and dollars and jobs lost are
15 incorrect or inaccurate for the Southern Triangle, or for OSB's property. In fact,
16 we agree with the city that the ESEE estimated the economic impact to properties
17 in the Southern Triangle that would be affected by protecting SW46 based on
18 assumptions that led to a conclusion of greater economic impact to those
19 properties than if the ESEE used different assumptions that were applied in other
20 areas of the central eastside.

1 Finally, we understand OSB to argue that the city failed to comply with
2 OAR 660-016-0020(2), an inapplicable administrative rule.⁷ We also understand
3 OSB to argue that the ESEE analysis is inaccurate and underestimated the
4 economic impacts from a decision to protect SW46 because the ESEE analysis
5 failed to consider substantial environmental remediation costs that will be
6 incurred to develop OSB's property. According to OSB, those remediation costs
7 mean that a 60-foot height limit and zoning that does not allow residential uses
8 will make any development of OSB's property cost-prohibitive, and the ESEE
9 analysis failed to account for this specific situation.

10 Nothing in OAR 660-023-0040(4), the rule that does apply, requires the
11 local government to consider the cost of environmental remediation for properties
12 with conflicting uses, or requires the level of specificity OSB argues is required.
13 In fact, the rule allows the city to analyze the ESEE consequences based on the
14 entire resource site. Accordingly, OSB's arguments provide no basis for reversal
15 or remand.

⁷ OAR 660-016-0020(2) provides:

“As the Goal 5 process progresses and more specificity about the nature of resources, identified conflicting uses, ESEE consequences and implementing measures is known, notice and involvement of affected parties will become more meaningful. Such notice and landowner involvement, although not identified as a Goal 5 requirement is in the opinion of the Commission, imperative.”

1 **C. The SW46 View Corridor**

2 CC 2035 adopted a zoning map that depicts the location of the view
3 corridor for SW46. Record 656. The map scale is 1:2,800 feet. In its final
4 subassignment of error, OSB argues that the final zoning map adopted by the city
5 council that depicts the extent of the view corridor that crosses OSB's property
6 contains an error. In its final subassignment of error under the first assignment of
7 error, we understand OSB to argue that the view corridor boundary line on the
8 map is farther north than it should be based on the criteria for view corridor
9 delineation and based on the location of existing towers and silos that partially
10 obstruct the Mt. Hood views, including the Ross Island Sand and Gravel silos.
11 Record 12976-77, 12981-82.

12 The city responds that the view corridor was mapped and delineated based
13 on protection of Mt. Hood views to 1,000 feet below the timberline. Record 1223,
14 1998. According to the city, the fact that the Ross Island Sand and Gravel silos
15 are included within the view corridor, although they partially obscure the Mt.
16 Hood view from SW46, does not mean that the view corridor was inaccurately
17 mapped or delineated. Rather, we understand the city to explain that the city
18 council understood that the existing silos partially obscure the view, and included
19 them anyway in the view corridor. The city points to evidence in the record that
20 maps the view corridor based on protection of 1,000 feet below the timberline.
21 Record 1998-1999. We agree with the city that the map at Record 656 is an
22 accurate depiction of the view corridor for SW46, based on evidence in the record

1 regarding the view corridor mapping criterion of protecting Mt. Hood views to
2 1000 feet below the timberline.

3 OSB's first assignment of error is denied.

4 **SECOND ASSIGNMENT OF ERROR (OSB)**

5 CC 2035 is required to comply with Statewide Planning Goal 10
6 (Housing), which requires local governments to inventory their supply of
7 buildable residential land and ensure that the supply is adequate to meet
8 anticipated housing needs. In 2016, as part of periodic review, the city adopted a
9 Buildable Lands Inventory (BLI) that demonstrated that the city has sufficient
10 residential capacity for the anticipated housing units, and more narrowly, that
11 existing zoning in the central city plan district provided adequate capacity to meet
12 anticipated housing need.⁸

13 The city council adopted findings concluding that CC 2035 will not affect
14 the city's compliance with Goal 10, and that CC 2035 would result in additional
15 housing capacity. As part of CC 2035, the city rezoned approximately 41 acres
16 of land in the central city from Central Residential (RX) to Central Commercial
17 (CX). The city's findings concluded that rezoning from RX to CX would not
18 affect the city's compliance with Goal 10 because mixed-use zones such as the
19 CX zone were considered "residentially-designated" in the BLI, pursuant to OAR

⁸ Metro allocated the city 123,000 housing units, and the BLI concluded that the city has overall residential capacity for 267,000 housing units. Record 5342.

1 660-007-0018(1).⁹ Amended Record 15. Also as part of CC 2035, the city
2 rezoned approximately 60 acres from industrial zones (IH, IG-1) to Central
3 Employment (EX). The EX zone generally allows residential uses, although the
4 EX zoning on OSB's property and some other EX zoned properties in the
5 Southern Triangle prohibits residential uses. The city's findings conclude that CC
6 2035 increases the central city's housing capacity by rezoning RX land to CX
7 and industrial-zoned land to CX, and thus complies with Goal 10. Amended
8 Record 13, 14, 16, 148, 153.

9 In its second assignment of error, OSB first challenges the city's reliance
10 on the BLI, which OSB and the city agree is not part of the record of Ordinance
11 189000. The city responds, and we agree, that the city is both entitled and
12 required to rely on its adopted, acknowledged BLI, which is part of the PCP. *1000*
13 *Friends of Oregon v. City of Dundee*, 203 Or App 207, 216, 124 P3d 1249 (2005).
14 The city also responds that the evidence in the record supports the city's
15 conclusion that rezoning property from RX to CX will not decrease residential
16 capacity. Record 23742. We agree.

17 Second, we understand OSB to argue the city failed to consider housing
18 capacity in light of the particular EX zoning that prohibits residential uses, and
19 height restrictions, placed on OSB's property. The city responds that the prior
20 zoning of OSB's property, IH, did not allow residential uses and accordingly,

⁹ In the CX zone, residential uses are allowed outright.

1 OSB's property was not included in the BLI for any residential capacity. We
2 agree with the city that the particular EX zoning and height restrictions on OSB's
3 property do not affect the accuracy of the city's Goal 10 analysis and conclusion
4 that the city has adequate residential capacity.

5 Next, OSB argues that the city was required but failed to adequately
6 explain why OSB's property received an EX zoning designation that prohibits
7 residential uses, while not restricting residential uses on adjacent EX-zoned
8 properties. The city responds that the city has an obligation to comply with
9 various goals, including Statewide Planning Goal 9 (Economic Development)
10 and must balance competing priorities in order to both provide housing capacity
11 and protect industrial uses under Goal 9. Accordingly, the city responds, its
12 choice to prohibit residential uses on some EX-zoned properties reflects a choice
13 to limit conflicts between residential uses and adjacent industrial and
14 employment uses, where the city has a surplus of land to meet housing needs and
15 limited land to meet employment needs. We agree with the city. OSB has not
16 established that Goal 10 obligates the city to allow residential uses on OSB's
17 property.

18 The second assignment of error is denied.

19 **THIRD ASSIGNMENT OF ERROR (OSB)**

20 PCP Policies 3.2, 3.53, 3.58 and 3.59 generally encourage dense mixed-
21 use development, including employment and housing, in areas close to transit

1 stations.¹⁰ OSB's property is adjacent to the OMSI Station transit area, which is
2 immediately to the north of the Southern Triangle. Record 2735. In the third
3 assignment of error, OSB argues that CC 2035's decision to zone its property EX
4 but prohibit residential uses fails to comply with those PCP policies. OSB argues
5 that the findings that conclude that CC 2035 complies with PCP Policies 3.2.
6 3.53, 3.58 and 3.59 are inconsistent, because the OMSI Station area allows
7 residential development as a conditional use with an approved master plan, but
8 the Southern Triangle area prohibits residential development. OSB also argues

¹⁰ PCP Policies 3.2, 3.53, 3.58 and 3.59 provide:

“3.2 Growth and stability. Direct most growth and change to centers, corridors, and transit station areas, allowing the continuation of the scale and characteristics of Portland's residential neighborhoods.

“3.53. Transit-oriented development. Encourage transit-oriented development and transit supportive concentrations of housing and jobs, and multimodal connections at and adjacent to high-capacity transit stations.

“3.58. Transit neighborhood stations. Encourage concentrations of mixed-income residential development and supportive commercial services close to transit neighborhood stations. Transit neighborhood stations serve mixed-use areas that are not in major centers.

“3.59. Destination stations. Enhance connections between major destinations and transit facilities and strengthen the role of these station areas as places of focused activity.”

1 that the findings fail to adequately explain why its property and the area of the
2 Southern Triangle contain restrictions on residential development, while the area
3 adjacent to OMSI station allows residential development as a conditional use.

4 The city responds, again, that required considerations were indeed
5 considered, and points to evidence in the record that they were. *Citizens for*
6 *Irresponsible Growth*, 179 Or App at 16 n 6. The city council also adopted
7 findings explaining how CC 2035's zoning designations comply with these PCP
8 policies. Amended Record 50, 57-58. In essence, the city balanced competing
9 priorities for providing employment land and land for housing, and determined
10 that employment opportunities were the priority for the Southern Triangle due to
11 existing industrial uses in the Southern Triangle. OSB has not established that the
12 city failed to take into account any required considerations under PCP Policies
13 3.2, 3.53, 3.58 or 3.59.

14 OSB's third assignment of error is denied.

15 **DISPOSITION**

16 For the reasons explained in our resolution of Restore Oregon's first
17 assignment of error, Ordinance 189000 is remanded.

CERTIFICATE OF FILING AND SERVICE

I hereby certify that on the date shown below, I electronically filed the foregoing **Petition for Judicial Review** with the Appellate Court Administrator via the Court's e-filing system on:

I further hereby certify that on the date shown below I electronically served **Petition for Judicial Review** via the Court's e-filing system and/or by first class mail on:

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DATED: August 27, 2019.

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August 9, 2019

Land Use Board of Appeals
775 Summer Street NE, Suite 330
Salem, OR 97301-1283

Re: **Restore Oregon, et al v. City of Portland**, LUBA Nos. 2018-072/073/086/087
Petitioners' Cost Bill

Dear LUBA:

Please find enclosed for filing in the above-mentioned appeal the original and one copy of Petitioners' Cost Bill. Thank you.

Sincerely,



Daniel Kearns

Enclosures

cc: Clients
Linly Rees, Esq.
Tim Ramis, Esq.
Mike Connors, Esq.

**BEFORE THE LAND USE BOARD OF APPEALS
FOR THE STATE OF OREGON**

RESTORE OREGON, BOSCO-MILLIGAN
FOUNDATION/ARCHITECTURAL HERITAGE
CENTER, OREGON NIKKEI ENDOWMENT,
PORTLAND CHINATOWN HISTORY
FOUNDATION/PORTLAND CHINATOWN
MUSEUM and PEGGY G. MORETTI – Petitioners,

v.

CITY OF PORTLAND – Respondent,

and

GUARDIAN REAL ESTATE SERVICES, LLC –
Intervenor Respondent.

OSB2LAN IVON, LLC and HAITHEM TOULAN -
Petitioners,

v.

CITY OF PORTLAND - Respondent.


**LUBA Nos. 2018-072/073
and 2018-086/087**

**PETITIONERS'
COST BILL**

Petitioners, as prevailing parties in LUBA No. 2018-072, request the return of their
deposit for costs and an award of their filing fees pursuant to OAR 661-10-075(1).

Respectfully submitted this 9th day of August 2019.

REEVE KEARNS, PC

By: 
Daniel Kearns, OSB #89395
Attorney for petitioners

CERTIFICATE OF FILING AND SERVICE

I hereby certify that on the date indicated below, I caused to be filed the original and one copy of the enclosed Petitioners' Cost Bill in LUBA Nos. 2018-072/073/086/087 with the:

LAND USE BOARD OF APPEALS
775 Summer Street NE, Suite 330
Salem, OR 97301-1283

by First-Class U.S. mail, postage prepaid. On the same date, I caused to be served a true, complete and correct copy of the same document by First-Class U.S. mail, postage prepaid, on the following parties or attorneys:

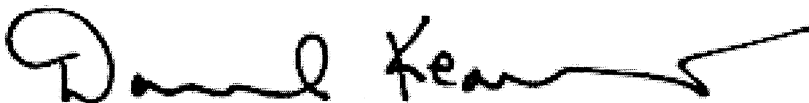
Michael Connors, Esq.
Hathaway Larson LLP
1331 NW Lovejoy St., Suite 950
Portland, OR 97204

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Office of City Attorney
1221 SW 4th Ave., Suite 430,
Portland, OR 97204

Timothy Ramis
Jordan Ramis PC
Two Centerpoint Dr., 6th Floor
Lake Oswego, OR 97035

DATED: August 9, 2019.

REEVE KEARNS, PC

A handwritten signature in black ink, appearing to read "Daniel Kearns", with a long horizontal flourish extending to the right.

By: _____
Daniel Kearns, OSB #89395
Attorney for Petitioners

BEFORE THE LAND USE BOARD OF APPEALS
OF THE STATE OF OREGON

RESTORE OREGON, BOSCO-MILLIGAN FOUNDATION/
ARCHITECTURAL HERITAGE CENTER,
OREGON NIKKEI ENDOWMENT,
PORTLAND CHINATOWN HISTORY FOUNDATION/
PORTLAND CHINATOWN MUSEUM,
and PEGGY G. MORETTI,
Petitioners,

vs.

CITY OF PORTLAND,
Respondent,

and

GUARDIAN REAL ESTATE SERVICES, LLC,
Intervenor-Respondent.

LUBA No. 2018-072

OSB2LAN IVON, LLC and HAITHEM TOULAN,
Petitioners,

vs.

CITY OF PORTLAND,
Respondent.

LUBA Nos. 2018-073/086/087

FINAL OPINION
AND ORDER

Appeal from City of Portland.

1 Daniel H. Kearns, Portland, filed a petition for review and argued on behalf
2 of petitioners Restore Oregon *et al.* With him on the brief was Reeve Kearns, PC.
3

4 E. Michael Connors, Portland, filed a petition for review and argued on
5 behalf of petitioners OSB2LAN IVON, LLC and Haithem Toulou. With him on
6 the brief was Hathaway Larson LLP.
7

8 Linly F. Rees, Chief Deputy City Attorney, City of Portland, filed a
9 response brief and argued on behalf of respondent. With her on the brief was
10 Lauren A. King, Deputy City Attorney.
11

12 Timothy V. Ramis, Portland, filed a response brief and argued on behalf
13 of intervenor-respondent. With him on the brief was Jordan Ramis PC.
14

15 RYAN, Board Chair; ZAMUDIO, Board Member, participated in the
16 decision.
17

18 RUDD, Board Member, did not participate in the decision.
19

20 REMANDED 08/06/2019
21

22 You are entitled to judicial review of this Order. Judicial review is
23 governed by the provisions of ORS 197.850.

Opinion by Ryan.

NATURE OF THE DECISION

In LUBA Nos. 2018-072, 2018-073 and 2018-086, petitioners Restore Oregon *et al.* (Restore Oregon) and OSB2LAN IVON, LLC and Haithem Toulou (together, OSB) appeal Ordinance 189000. In LUBA No. 2018-087, OSB appeals Ordinance 189002. Ordinance 189000 and 189002, together with a third ordinance (189001) that was not appealed, are part of a comprehensive amendment of the city's Central City Plan, which is a part of the city's comprehensive plan. The city and the parties refer to the three ordinances as Central City 2035 (CC 2035).

REPLY BRIEF

OSB moves to file a reply brief to respond to respondent's response brief. There is no opposition to the motion, and it is allowed.

FACTS

The challenged ordinances adopted amendments to the Central City Plan, which was originally adopted in 1988 as part of the Portland Comprehensive Plan (PCP). CC 2035 made a number of changes to the existing Central City Plan. Petitioners in these appeals challenge, among other things, new building height limits that were adopted as part of CC 2035.

A. New Chinatown/Japantown Historic District

As relevant here, and as discussed in more detail in our resolution of Restore Oregon's assignments of error, CC 2035 amended the height limits that

1 apply to new buildings in the New Chinatown/Japantown Historic District
2 (District), a ten square block area located west of the Willamette River and north
3 of the downtown area that is listed on the National Register of Historic Places for
4 its cultural and historical significance.

5 The District was established in 1989. The base zoning of property in the
6 District at the time it was established and today is Central Commercial Zone with
7 a downtown development overlay. At the time the District was established in
8 1989, the maximum allowed building height in the District under the Portland
9 City Code (PCC) was 350 feet plus a possible 75 feet of bonus height. New
10 development in the District is subject to discretionary Historic Resources Review
11 under PCC 33.846 and the city's adopted New Chinatown/Japantown Historic
12 Design Guidelines (Guidelines), first adopted in 2017.¹

13 CC 2035 decreased the existing height limits for four blocks on the
14 northern edge of the District, located between NW Everett and NW Glisan Street
15 and NW 5th and NW 3rd Avenue (North Blocks), from the previous limit of 425
16 feet (base 350 feet plus 75 feet of bonus height) to 200 feet of base height with
17 no bonus height available. CC 2035 also increased the height on one block in the
18 District, Block 33, located between NW Couch and NW Davis Street and NW
19 4th and NW 5th Avenue, from its previous maximum height of 100 feet to 125

¹ The city asks us to take official notice of Ordinance 188623, which was enacted in 2017 and adopted the Guidelines. There is no opposition to the city's motion, and we take official notice of the Ordinance that adopted the Guidelines.

1 feet of base height on the entire block, with an available affordable housing bonus
2 on the west half of Block 33, to allow a maximum height of up to 200 feet on the
3 west half of Block 33. Record 5566-68. Intervenor-respondent Guardian
4 Management Services LLC (Guardian) owns Block 33.

5 Restore Oregon challenges the new height limits as incompatible with the
6 PCP policies that apply in the District, and with newly adopted CC 2035 policies.

7 **B. Southern Triangle**

8 CC 2035 also amended the comprehensive plan and zoning map for other
9 areas of the central city, including the area that includes OSB's approximately
10 three-acre property located on the east side of the Willamette River, generally in
11 the area between the Tillikum Crossing Bridge and the Ross Island Bridge
12 (Southern Triangle). CC 2035 amended the plan and zoning map designations for
13 OSB's property from Heavy Industrial (IH) to Central Employment (EX), with
14 design and river overlays on the entire property, and river environmental and
15 scenic overlays on a portion of the property. The EX zoning applied to OSB's
16 property prohibits residential uses.

17 CC 2035 adopted a Central City Scenic Resources Protection Plan as an
18 update to the previously adopted (in 1991) city-wide Scenic Resources Protection
19 Plan. The new area-specific plan added two scenic resources sites and adopted
20 an Economic, Social, Environmental and Energy (ESEE) analysis. As part of the
21 ESEE analysis, the city mapped and evaluated views and viewpoints within the
22 resource sites, and grouped them into rankings based on quality and quantity. A

1 view of Mt. Hood from the Tillikum Crossing bridge was identified as SW46.
2 The city's ESEE analysis determined to protect the views of Mt. Hood from
3 SW46 by limiting building height on OSB's property and some surrounding
4 properties to 60 feet, and by limiting surrounding properties with similar height
5 restrictions. Approximately two acres of OSB's property are subject to the 60-
6 foot height limit, with one acre of OSB's property subject to a height limit of 100
7 feet with available bonus heights of up to 250 feet. Record 656, 662.

8 In its appeal, OSB challenges these new height limits.

9 **FIRST ASSIGNMENT OF ERROR (RESTORE OREGON)**

10 At the outset, we note that Restore Oregon's petition for review does not
11 comply with the requirement in OAR 661-010-0030(4)(d) that it include a section
12 addressing LUBA's standard of review. LUBA's standard of review of a decision
13 that amends a comprehensive plan is set out at ORS 197.835(6). LUBA is
14 required to reverse or remand the amendment if "the amendment is not in
15 compliance with the goals." *Id.* LUBA is also required to reverse or remand a
16 decision that amends a land use regulation if, as relevant here, "[t]he regulation
17 is not in compliance with the comprehensive plan." ORS 197.835(7)(a).

18 Because the challenged decision is a legislative rather than a quasi-judicial
19 decision, there is no generally applicable requirement that the decisions be
20 supported by findings, although the decision and record must be sufficient to
21 demonstrate that applicable criteria were applied and "required considerations
22 were indeed considered." *Citizens Against Irresponsible Growth v. Metro*, 179

1 Or App 12, 16, n 6, 38 P3d 956 (2002). With respect to evidence, Statewide
2 Planning Goal 2 (Land Use Planning) requires that a decision that amends a
3 comprehensive plan or land use regulation must be supported by an adequate
4 factual base. An “adequate factual base” is equivalent to the requirement that a
5 quasi-judicial decision be supported by substantial evidence in the whole record.
6 *1000 Friends of Oregon v. City of North Plains*, 27 Or LUBA 372, 378, *aff’d*,
7 130 Or App 406, 882 P2d 1130 (1994). Substantial evidence exists to support a
8 finding of fact when the record, viewed as a whole, would permit a reasonable
9 person to make that finding. *Dodd v. Hood River County*, 317 Or 172, 179, 855
10 P2d 608 (1993); *Younger v. City of Portland*, 305 Or 346, 351-52, 752 P2d 262
11 (1988).

12 Restore Oregon argues that the city’s findings in support of the 200 foot
13 maximum height on the North Blocks and the west half of Block 33 (through
14 bonus height) are inadequate to explain why the 200-foot height limit satisfies
15 PCP Policies 4.48 and 4.49, and three newly adopted provisions of CC 2035: CC
16 2035 Policies 5.19 (Historic resources and districts), and Old Town/Chinatown
17 Policies 1.OT-3 (cultural assets) and 5.OT-1 (surface parking), which were first
18 adopted as part of the challenged decision. Restore Oregon also argues that the
19 city’s decision to allow 200-foot tall buildings is not supported by an adequate
20 factual base, in violation of Goal 2. Finally, Restore Oregon argues that the 200-
21 foot height limits that CC 2035 adopts for the District do not comply with PCP
22 Policies 4.48 and 4.49, or with new CC 2035 Policies 5.19, 1.OT-3 and 5.OT-1.

1 For the reasons explained below, we agree with Restore Oregon that the city's
2 findings in support of the 200-foot height limit are inadequate to explain why the
3 200-foot height limit complies with the applicable PCP policies, and that the city
4 has not pointed to evidence in the record that support the city's decision to allow
5 200-foot-tall buildings in some parts of the District. We first describe the process
6 that led to the city council's ultimate adoption of the 200-foot height limits on
7 various blocks in the District.

8 **A. The City's Process**

9 The 200-foot height limit was proposed at the end of an almost ten-year
10 process that, in part, considered new height limits in the District. The city's
11 planning staff initially developed a concept plan for updates to the existing
12 Central City Plan. The concept plan became a discussion draft of the CC 2035
13 plan, and the city's Planning and Sustainability Commission (PSC) held two
14 public hearings and nine work sessions on the draft plan. That process resulted in
15 the PSC's recommended draft plan in June 2017, which recommended for the
16 entire District 125-foot maximum building heights with no bonuses available.

17 The city council held several public hearings on the draft plan between
18 September 2017 through April 2018. During the March 22, 2018 city council
19 meeting, the city council accepted public testimony on the proposed CC 2035
20 height limits. Prior to that meeting, height limits of 125 feet had been the focus
21 of much of the discussion, although some discussion focused on 160-foot height
22 limits. Record 6482, 6496, 7268-71. The mayor proposed an amendment (C1) to

1 the previously proposed plan to increase the maximum building height limit on
2 the west half of Block 33 to 160 feet. Thereafter, a city commissioner proposed
3 an amendment (C2) to increase the maximum building height on the west half of
4 Block 33 to 200 feet, and to increase the Floor Area Ratio (FAR) on the entire
5 block from 6:1 to 9:1. No vote was called on either motion.

6 At the next city council meeting on April 4, 2018, another commissioner
7 proposed an amendment (C3) to increase the maximum height on the west half
8 of Block 33 to 160 feet through bonus height available through an affordable
9 housing bonus. At the conclusion of that meeting, the city council passed the C1
10 amendment that adopted a maximum building height on the west half of Block
11 33 of 160 feet.

12 A further amendment that would allow maximum building heights of 200
13 feet was noticed on the agenda for the city council's May 24, 2018 meeting.
14 Opponents of the proposed new amendment and a 200-foot height limit submitted
15 letters in opposition, but no public testimony was taken at the May 24, 2018
16 meeting. Record 7712-17, 7720-30. At that meeting, the same commissioner who
17 proposed the C2 amendment proposed a new amendment that would (1) allow a
18 maximum building height of 200 feet on the North Blocks, with no bonus height
19 available, and (2) allow base building height for Block 33 of 125 feet but allow
20 an affordable housing bonus building height of up to 200 feet on the west half of
21 Block 33, and increase the base FAR to 9:1 on all of Block 33 if all floors above
22 the ground floor on the west half of the block are developed with a residential

1 use. An oral vote was taken and the amendment passed. At its meeting on June
2 6, 2018, the city council voted to adopt CC 2035.

3 **B. Applicable Portland Comprehensive Plan Policies**

4 As noted, the city is required to demonstrate that CC 2035 complies with
5 the applicable provisions of the PCP. Restore Oregon argues that the city's
6 findings are inadequate to explain why the height limits adopted by CC 2035
7 comply with PCP Policies 4.48 and 4.49, and with three newly adopted
8 provisions of CC 2035: Policies 5.19, 1.OT-3 and 5.OT-1. We set out each
9 provision and the city's findings below.

10 **1. PCP Policy 4.48**

11 PCP Policy 4.48 provides:

12 "Continuity with established patterns. Encourage development that
13 fills in vacant and underutilized gaps within the established urban
14 fabric, while preserving and complementing historic resources."

15 The city found:

16 "224. The Plan responds to the policy through new goals and
17 policies specific to the Central City that call for: the rehabilitation
18 and reuse of historic structures; historic district protection measures;
19 and, incentives to encourage seismic upgrades and other
20 rehabilitation measures for historic resources.

21 " * * * * *

22 "226. The maximum heights within historic districts have generally
23 been reduced, and in most cases bonus height provisions have been
24 repealed to result in new development that is compatible with the
25 existing scale and character of the Central City's historic districts.

1 “227. For instance, in the New Chinatown/Japantown Historic
2 District heights in the northern four blocks have been reduced from
3 a maximum of 350 feet, and the ability to bonus an additional 75
4 feet in height to a maximum of 425 feet, has been eliminated. Now
5 the maximum height in that area is 200 feet with no ability to bonus
6 to a greater height. Although one block in the district received bonus
7 height to a maximum of 200 feet on the west half of the block and
8 125 feet on the eastern half of the block, it should be noted that the
9 greater heights allowed on the west half of the block are adjacent to
10 parcels that may build to 460 feet. Further, the new maximum height
11 limits create a step down from these greater height allowances to the
12 west of the New Chinatown/Japantown Historic District down to
13 100 feet maximum to the east of the site in question, and then
14 eventually down to 75 feet to the properties located just east of the
15 district.

16 “228. Following Council proposing this amendment, testimony was
17 received for and against the increased height. Some testifying was
18 concerned that these heights would not be consistent with the rest of
19 the scale of development elsewhere in the district. However, others
20 noted that the block in question had long been underutilized and that
21 redevelopment of the site would be a catalyst for investment
22 throughout the district, following decades of neglect. In the end,
23 council decided: 1) the heights proposed would still result in a step
24 down from the urban form surrounding the district; 2) the increased
25 height was necessary to incent redevelopment of a catalytic site; and
26 3) the issue of consistency was best left to the Landmarks
27 Commission who remain charged with reviewing future
28 development proposals on that site and elsewhere in the historic
29 district.

30 “Thus, on balance, these amendments in New
31 Chinatown/Japantown Historic District and all other Central City
32 Historic Districts further the objectives of Policy 4.48 above.”
33 Amended Record 75.

34 Restore Oregon argues that the city’s findings are inadequate to explain
35 how CC 2035 complies with PCP Policy 4.48 because the findings do not

1 describe the “established urban fabric” of the District, do not describe how 200-
2 foot-tall buildings would “preserv[]e and complement[]” the District’s historic
3 resources, describe those historic resources, and do not acknowledge the height
4 of existing buildings in the District, with the tallest existing building at 75 feet.
5 Restore Oregon argues that the finding that determines that 200-foot maximum
6 heights are lower than the 350- and 425-foot maximum heights previously
7 allowed by the base zoning in the District, which was in place when the District
8 was created, is not adequate to explain how 200-foot maximum heights satisfy
9 PCP Policy 4.48. Restore Oregon argues that all new development approved after
10 the District was created in 1989 was required to comply with the Historic
11 Resources Review provisions of PCC 33.846.060(F), with review by the
12 Landmarks Commission, and that such review assessed building height on a case
13 by case basis. Differently, here, we understand Restore Oregon to argue that if
14 the city council determines that the maximum building heights allowed by CC
15 2035 comply with PCP Policy 4.48, *i.e.*, they “preserv[e] and complement[] the
16 [District’s] historic resources,” the Landmarks Commission will lack discretion
17 to deny, or approve with conditions that require lower height, a building that
18 proposes a maximum height allowed by the base zoning, even if the Landmarks
19 Commission otherwise determines that the maximum building height is not the
20 appropriate height and mass for the District, or otherwise does not comply with
21 the historic review standards and Guidelines. Restore Oregon Petition for Review
22 13-14.

1 Finally, Restore Oregon argues that the city's findings regarding PCP
2 Policy 4.48 are not supported by an adequate factual base, and that the
3 uncontroverted evidence in the record supports only a conclusion that 200-foot
4 height limits do not "preserv[e] and complement[]" historic resources." Restore
5 Oregon Petition for Review 28.

6 We agree with Restore Oregon that the city's findings are inadequate to
7 explain why the adopted maximum height limits comply with PCP 4.48. The
8 findings do not describe "the established urban fabric" of the District, do not
9 describe the existing historic resources, and do not explain how 200-foot tall
10 buildings would "preserv[e] and complement[]" those existing historic resources.
11 Rather, the findings focus on the importance of creating incentives for
12 development of vacant parcels in the District, determine that the maximum
13 heights in the District are lower than adjacent properties that lie outside the
14 District boundary, and conclude that "the issue of consistency was best left to the
15 Landmarks Commission who remain charged with reviewing future development
16 proposals on that site and elsewhere in the historic district." Amended Record 75.
17 Those findings are not adequate to explain that the maximum height limit of 200
18 feet in the District "preserv[es] and complement[s] historic resources." Because
19 CC 2035 adopts base and bonus maximum height limits that apply as of right to
20 all new development across the District, the question of whether those base and
21 bonus maximum heights "preserv[e] and complement historic resources," and
22 thus comply with PCP Policy 4.48, is a question that the city council must answer.

1 It may not be deferred to discretionary historic resources review of individual
2 development proposals for compliance with the PCC criteria and the Guidelines.

3 The city responds to Restore Oregon's argument that the 200-foot
4 maximum height limits lack an adequate factual base with citations to a number
5 of record pages. City's Response Brief 15. We have reviewed those citations. The
6 material cited by the city is largely focused on maintaining the pre-designation
7 height limits in the North Blocks to encourage development in the District,
8 adopting new height limits to "re-vitalize the area," and arguing that the District
9 is less of an architectural district and more a "cultural" district. Record 14973-
10 78, 6320, 49651, 48059, 48140, 48189, 24096, 24253, 15023, 7731-32. However,
11 none of that evidence addresses the subject of PCP Policy 4.48, which is to
12 "[e]ncourage development that fills in vacant and underutilized gaps within the
13 established urban fabric, *while preserving and complementing historic*
14 *resources*." (Emphasis added.) Stated differently, the materials cited by the city
15 are evidence that supports the city's findings regarding the "[e]ncourage [infill]
16 development" prong of PCP Policy 4.48, but do not address the "within the
17 established urban fabric" or the "while preserving and complementing historic
18 resources" prongs. In particular, the city does not point to any focused evidence

1 that supports a conclusion that the 200-foot maximum height limit “preserve[es]
2 and complement[s]” District resources.²

3 **2. PCP Policy 4.49**

4 PCP Policy 4.49 provides:

5 “Resolution of Conflicts. Adopt and periodically update design
6 guidelines for unique historic districts. Refine base zoning in
7 historic districts to take into account the character of the historic
8 resources in the district.”

9 The city found:

10 “Consistent with this policy, the plan includes an action item calling
11 for an update of various district specific historic design guideline
12 packages, including those for the East Portland/Grand Avenue and
13 Russell Street Conservation Districts.” Amended Record 75.

14 We understand Restore Oregon to argue that the city’s findings are inadequate
15 because the findings do not describe or consider the character of the District’s
16 historic resources.

17 The city responds that findings are not required, and the city may
18 demonstrate in its brief and through citations to the record that CC 2035 complies
19 with Policy 4.49. The city also argues that CC 2035 complies with Policy 4.49
20 because Policy 4.49 requires the city to update its design guidelines and the city
21 updated the design guidelines for the District. The city also considered whether

² As explained in detail above, the 200-foot maximum height limit was introduced and discussed at the very end of a multi-year planning process, prior to which nearly all of the focused testimony focused on a maximum 125 or 160-foot height.

1 the existing base zoning of Central Commercial with a design overlay is
2 appropriate, and decided not to change the base zoning. Amended Record 149-
3 50. According to the city, nothing more is required.

4 We agree. The city has demonstrated that “required considerations were
5 * * * considered” with regard to PCP Policy 4.49, and that CC 2035 complies
6 with PCP Policy 4.49. *Citizens Against Irresponsible Growth v. Metro*, 179 Or
7 App at 16 n 6.

8 3. CC 2035 Policies 5.19, 1.OT-3 and 5.OT-1

9 CC 2035 adopted new Policies 5.19, 1.OT-3 and 5.OT-1 for the first time.
10 The policies were not yet in effect when CC 2035 was adopted, and the city was
11 not required to adopt findings addressing these new policies. Restore Oregon
12 argues that the city’s findings are inadequate because the findings do not yet
13 address those not yet in effect policies. The city and Guardian respond, and we
14 agree, that failure to adopt findings regarding new policies not yet in effect
15 provides no basis for reversal or remand of the decision.

16 Restore Oregon also argues that there is not an adequate factual base to
17 establish that the city’s decision to adopt maximum building heights of 200 feet
18 complies with these new policies. However, Restore Oregon has not established
19 that the city must demonstrate that the maximum building height of 200 feet
20 complies with these new policies that were not yet in effect at the time the
21 maximum building heights were adopted, in the same decision that adopts the
22 new policies for the first time.

1 **C. Conclusion**

2 Remand is required for the city to adopt findings that are adequate to
3 explain why the 200-foot height limit complies with PCP Policy 4.48. That
4 decision must be supported by an adequate factual base. Accordingly, we do not
5 address Restore Oregon’s arguments that a 200-foot maximum height limit
6 categorically fails to comply with PCP Policy 4.48.

7 Restore Oregon’s first assignment of error is sustained, in part.

8 **SECOND ASSIGNMENT OF ERROR (RESTORE OREGON)**

9 Statewide Planning Goal 1 (Citizen Involvement) requires in relevant part
10 that the city adopt a citizen involvement program. The city has adopted a citizen
11 involvement program that is implemented in part through provisions of the
12 Portland Zoning Code. The PCP also includes citizen involvement goals and
13 policies.

14 In their second assignment of error, we understand Restore Oregon to
15 argue that the city’s decision fails to comply with PCP Goals 2.C and 2.E.³ The

³ PCP Goals 2.C and 2.E provide:

“Goal 2.C: Value community wisdom and participation. Portland values and encourages community and civic participation. The City seeks and considers community wisdom and diverse cultural perspectives, and integrates them with technical analysis, to strengthen land use decisions.

“Goal 2.E: Meaningful participation. Community members have meaningful opportunities to participate in and influence all stages of planning and decision making. Public processes engage the full

1 crux of Restore Oregon’s argument, as we understand it, is that the city failed to
2 comply with Goal 2.E when it did not allow public testimony during the May 24,
3 2018 city council hearing at which the 200-foot maximum building height was
4 re-introduced, discussed by the city council, and ultimately adopted.

5 The city responds, and we agree, that the city council implicitly interpreted
6 Goal 2.E to not require the city to accept public testimony in response to every
7 motion or amendment made on a legislative proposal in order to satisfy the
8 requirement to allow “meaningful participation.” Amended Record 42. Nothing
9 in Goal 2.E suggests that closing the final hearing on a legislative amendment to
10 the comprehensive plan to testimony is inconsistent with Goal 2.E.

11 We also understand Restore Oregon to argue that the city council failed to
12 comply with Goal 2.C, for similar reasons. The city responds, again, that nothing
13 in Goal 2.C requires the city to accept public testimony in a legislative
14 proceeding, in response to a motion or amendment. We agree.

15 Accordingly, Restore Oregon’s second assignment of error provides no
16 basis for reversal or remand of CC 2035.

17 Restore Oregon’s second assignment of error is denied.

diversity of affected community members, including under-served
and under-represented individuals and communities. The City will
seek and facilitate the involvement of those potentially affected by
planning and decision making.”

1 **FIRST ASSIGNMENT OF ERROR (OSB)**

2 OSB's first assignment of error contains multiple subassignments of error.
3 Before turning to the subassignments of error, we set out and explain the
4 applicable Statewide Planning Goal 5 (Open Spaces, Natural Resources and
5 Historic Resources) rules and the city's actions.

6 **A. The Goal 5 Rule and the City's Scenic Resources Inventory**

7 OAR 660-023-0230(2) provides that when a local government amends its
8 acknowledged comprehensive plan to adopt or amend an inventory of its scenic
9 resources, the local government must comply with OAR 660-023-0030
10 (inventory process), OAR 660-023-0040 (ESEE process), and OAR 660-023-
11 0050 (program to achieve the goal). As part of CC 2035, the city adopted the
12 Central City Scenic Resources Protection Plan, which identifies two scenic
13 resource sites for protection.⁴ The resource site at issue in this appeal is identified
14 as the "Viewpoint Boundary," which consists of the central city area and areas
15 contiguous to the central city where scenic views could be affected by heights of
16 buildings within the Central City Plan District. After identifying the Viewpoint
17 Boundary as a resource site, the city mapped and evaluated scenic resources
18 within the Viewpoint Boundary based on quality and quantity criteria. Record
19 18002-18044. Within the Viewpoint Boundary, the scenic view of Mt. Hood from

⁴ OAR 660-023-0010(10) defines "resource site" as "a particular area where resources are located. A site may consist of a parcel or lot or portion thereof or may include an area consisting of two or more contiguous lots or parcels."

1 the Tillikum Crossing bridge received the highest rank. That scenic view was
2 assigned the moniker SW46.

3 As part of complying with OAR 660-023-0040, the city is required to
4 identify uses that could conflict with the scenic resource, and conduct an analysis
5 of the Economic, Social, Environmental and Energy (ESEE) consequences of
6 decisions to allow, limit, or prohibit conflicting uses. The rule requires the local
7 government to determine, based on the ESEE analysis, whether to allow, limit,
8 or prohibit conflicting uses.

9 The city conducted an ESEE analysis to identify uses that conflict with
10 SW46. The ESEE identified building heights and FAR for undeveloped and
11 underdeveloped land within the view corridor from SW46 as a conflicting use.
12 The city then analyzed the ESEE impacts of a future decision to protect ten
13 different significant views of Mt. Hood from the Willamette River, within the
14 Viewpoint Boundary resource site. The ESEE analysis concluded that protecting
15 the view of Mt. Hood from SW46 would have the significant impacts on
16 economic development, but that the economic impacts of protecting the view
17 from SW46 were lower than the economic impacts of protecting all or most of
18 the ten significant views. Record 1836. The city determined that viewpoint SW46
19 should be protected from conflicting uses by limiting building heights and FAR
20 in the view corridor. The city's program to achieve that protection is through EX
21 zoning applied to certain properties and lower building heights than would
22 otherwise be allowed.

1 **B. ESEE Analysis**

2 In three subassignments of error under its first assignment of error, OSB
3 argues that the city's ESEE analysis fails to comply with "Goal 5 and its
4 implementing rules." OSB Petition for Review 14. Initially, we note, as the city
5 notes in its response brief, that OSB cites "OAR 660-016-0000 *et seq*" in support
6 of its assignment of error. OSB Petition for Review 2, 8, 12-13. OAR chapter
7 660 division 16 was the Land Conservation and Development Commission's
8 (LCDC's) first Goal 5 implementing administrative rule. We refer to that division
9 herein as the old Goal 5 rule. That administrative rule has largely been replaced
10 by OAR chapter 660, division 23. We refer to that division herein as the new
11 Goal 5 rule. OAR 660-023-0250(1). Accordingly, OAR 660-016-0000 *et seq.* do
12 not apply to the city's decision to adopt CC 2035. Rather, the provisions of OAR
13 660-023-0000 *et seq.* apply.⁵ *See Beaver State Sand and Gravel v. Douglas*

⁵ OAR 660-023-0250 provides in relevant part:

(1) This division replaces OAR 660, division 16, except with regard to cultural resources, and certain PAPAs and periodic review work tasks described in sections (2) and (4) of this rule. Local governments shall follow the procedures and requirements of this division or OAR 660, division 16, whichever is applicable, in the adoption or amendment of all plan or land use regulations pertaining to Goal 5 resources. The requirements of Goal 5 do not apply to land use decisions made pursuant to acknowledged comprehensive plans and land use regulations.

"(2) The requirements of this division are applicable to PAPAs initiated on or after September 1, 1996. OAR 660, division 16

1 *County*, 43 Or LUBA 140, 149-150 (2002), *aff'd*, 187 Or App 241, 65 P3d 1123
2 (2003) (explaining some important differences between the old Goal 5 rule and
3 the new Goal 5 rule).

4 The city urges us to reject OSB's first assignment of error based on its
5 mistaken citation to an inapplicable administrative rule. In its reply brief, OSB
6 replies that its mistaken reference to an inapplicable rule is harmless because the
7 overall approach in both versions of the rules (inventory, ESEE analysis,
8 program) is the same. In *Beaver State Sand and Gravel* we explained that the old
9 Goal 5 rule and the new Goal 5 rule differ in "pertinent ways." 43 Or LUBA at
10 149. However, although the city takes the position that the rules in "division 23
11 contain different standards for conducting an ESEE analysis than the rules of
12 OAR 660, division 16," the city does not identify those different standards or
13 explain why the different standards mean that OSB's arguments made with
14 citation to the old Goal 5 rule do not provide a basis for reversal or remand. City's
15 Response to OSB Brief 15. Accordingly, we proceed to address those arguments.

16 **1. Columbia Steel Castings**

17 In its first assignment of error, OSB first argues that the city's ESEE
18 analysis is "deeply flawed and fails to comply with Goal 5 and its implementing
19 rules." OSB Petition for Review 14. First, OSB argues that the city's ESEE

applies to PAPAs initiated prior to September 1, 1996. For purposes of this section 'initiated' means that the local government has deemed the PAPA application to be complete."

1 analysis impermissibly used an “area-wide approach” similar to the approach that
2 was rejected in *Columbia Steel Castings Co. v. City of Portland*, 314 Or 424, 840
3 P2d 71 (1992). Even assuming for purposes of this opinion only that the holding
4 in *Columbia Steel Castings* applies to ESEE analyses conducted under the new
5 Goal 5 rule, we reject OSB’s argument.

6 In *Columbia Steel Castings*, the Supreme Court rejected the city’s ESEE
7 analysis methodology that identified 36 specific resource sites, but proceeded to
8 analyze the ESEE consequences based on five large “sub-areas,” which were
9 essentially units of land that were much larger in some cases than the resource
10 sites identified for possible protection. Here, in contrast, the city’s ESEE analysis
11 identified a defined resource site, the Viewpoint Boundary, and then analyzed the
12 ESEE consequences that could result from a decision to limit conflicting uses by
13 evaluating the economic impacts within more defined areas within the resource
14 site, for groups of similar scenic resources and groups of similarly zoned
15 properties within the Viewpoint Boundary resource site. *Columbia Steel Castings*
16 is inapposite for that reason.

17 OAR 660-023-0040(4), which is part of the new Goal 5 rule that governs
18 the ESEE analysis requirement, provides in relevant part that:

19 “Local governments shall analyze the ESEE consequences that
20 could result from decisions to allow, limit, or prohibit a conflicting
21 use. The analysis may address each of the identified conflicting uses,
22 or it may address a group of similar conflicting uses. A local
23 government may conduct a single analysis for two or more resource
24 sites that are within the same area or that are similarly situated and

1 subject to the same zoning. The local government may establish a
2 matrix of commonly occurring conflicting uses and apply the matrix
3 to particular resource sites in order to facilitate the analysis. A local
4 government may conduct a single analysis for a site containing more
5 than one significant Goal 5 resource.”

6 To the extent that OSB challenges compliance with OAR 660-023-0040(4), the
7 city responds that the ESEE analysis is consistent with and complies with OAR
8 660-023-0040(4), which allows the city to conduct a single analysis for a resource
9 site containing more than one resource. We agree. The approach the city took in
10 the ESEE analysis for CC 2035 is nearly the opposite of what occurred in
11 *Columbia Steel Castings*. The ESEE analyzed ten separate districts or sub-areas,
12 including the Southern Triangle, within the single Viewpoint Boundary resource
13 site. Record 2002. OAR 660-023-0040(4) specifically allows that approach.

14 **2. ESEE Assumptions**

15 OSB next argues that the ESEE analysis impermissibly used different
16 assumptions for the Southern Triangle sub-area, resulting in an undervaluation of
17 the economic impacts to OSB’s property from the decision to protect the
18 viewpoint resource, and that the economic impacts are “artificially low due to the
19 unique approach applied to the Southern Triangle sub-area,” in the following
20 ways. OSB Petition for Review 24.

21 According to OSB, the city used a different methodology in its
22 assumptions about economic impacts to properties in the Southern Triangle that
23 would be impacted by protection of SW46 than it used for the rest of the central
24 eastside area of the central city. We understand OSB to argue that using a

1 different methodology for one sub-area and not others is inconsistent with the
2 rule that governs ESEE analyses.

3 First, we understand OSB to argue that the ESEE analysis improperly
4 assumed base height and FAR for its property and properties in the Southern
5 Triangle. We understand OSB to argue that the ESEE analysis improperly
6 assumed base height under the *existing* IH zoning instead of the maximum base
7 height for OSB's property under the *proposed* EX zoning (200 feet), and that in
8 addition the city should have assumed development under the bonus height
9 allowed under the proposed EX zoning—250 feet—rather than assuming a
10 maximum height of 200 feet under the base height for the proposed EX zoning.
11 OSB Petition for Review 18. Relatedly, OSB argues that in assuming maximum
12 building heights for properties in the Southern Triangle, the ESEE “deviated from
13 the approach for the remaining sub-areas in almost every respect.” OSB Petition
14 for Review 21-22. OSB also argues that the ESEE analysis improperly assumed
15 a FAR of 3:1 for the Southern Triangle that was different than the FAR assumed
16 for other areas of the central city. *Id.*

17 Second, OSB argues that the ESEE analysis undervalued the economic
18 impacts to OSB's property when it assumed lot coverage for OSB's property
19 based on an average lot coverage in the Southern Triangle of 80 percent.
20 Relatedly, OSB points out that the ESEE deviated from the approach for
21 determining lot coverage that was used for the rest of the central city. OSB
22 Petition for Review 22. Third, OSB argues that the city's assumptions for dollar

1 and jobs per square foot values are based on the entire central city and not based
2 on the Southern Triangle sub-area. OSB Petition for Review 19-20. In sum, we
3 understand OSB to argue that the city should have used site specific base and
4 bonus height, FAR, and lot coverage for each property affected by protection of
5 SW46.

6 The city responds in turn. For the assumed maximum building heights and
7 FAR, the city explains that the city used more conservative assumptions in the
8 ESEE for the Southern Triangle than for other sub-areas in the central city,
9 resulting in a higher estimate of economic impact to properties in the Southern
10 Triangle than if less conservative assumptions were used. For example, the city
11 explains that in the ESEE the city generally assumed a height of 90 feet and a 4:1
12 FAR for IH-zoned properties in the central eastside area of the central city, but
13 assumed a height of 200 feet and 3:1 FAR for IH-zoned properties in the Southern
14 Triangle. That assumption was based on the larger block sizes in the Southern
15 Triangle, using vacant and underdeveloped properties included on the city's
16 Buildable Lands Inventory and assuming that properties in common ownership
17 would develop as a single site.⁶ The city also explains that when assuming
18 maximum building height under the proposed EX zoning, the city assumed
19 development at the maximum base zone height (200 feet) because of the

⁶ According to the city, larger block sizes in common ownership could result in FAR being consolidated on one part of a site, allowing taller development on one part of the site.

1 uncertainty of the availability of bonus height that could allow up to 250 feet.
2 Similarly, the city assumed a FAR of 3:1 for the Southern Triangle, based on
3 industrial zoning, site size and development patterns that reflect low warehouse
4 buildings.

5 For the assumed lot coverage, the city explains that the ESEE's assumption
6 of 80 percent lot coverage in the Southern Triangle was based on existing
7 conditions, and that using 80 percent resulted in an estimate of greater economic
8 impact to properties in the Southern Triangle. Similarly, for the assumed lost
9 floor area and lost jobs, the ESEE calculated lost jobs based on a formula of one
10 job per 200 square feet, which converts to 218 jobs per acre.

11 We agree with the city that the ESEE analysis accurately estimated the
12 economic impact to properties in the Southern Triangle, including OSB's
13 property. OSB has not explained why the ESEE's assumptions regarding
14 maximum building height, FAR, lot coverage, and dollars and jobs lost are
15 incorrect or inaccurate for the Southern Triangle, or for OSB's property. In fact,
16 we agree with the city that the ESEE estimated the economic impact to properties
17 in the Southern Triangle that would be affected by protecting SW46 based on
18 assumptions that led to a conclusion of greater economic impact to those
19 properties than if the ESEE used different assumptions that were applied in other
20 areas of the central eastside.

1 Finally, we understand OSB to argue that the city failed to comply with
2 OAR 660-016-0020(2), an inapplicable administrative rule.⁷ We also understand
3 OSB to argue that the ESEE analysis is inaccurate and underestimated the
4 economic impacts from a decision to protect SW46 because the ESEE analysis
5 failed to consider substantial environmental remediation costs that will be
6 incurred to develop OSB's property. According to OSB, those remediation costs
7 mean that a 60-foot height limit and zoning that does not allow residential uses
8 will make any development of OSB's property cost-prohibitive, and the ESEE
9 analysis failed to account for this specific situation.

10 Nothing in OAR 660-023-0040(4), the rule that does apply, requires the
11 local government to consider the cost of environmental remediation for properties
12 with conflicting uses, or requires the level of specificity OSB argues is required.
13 In fact, the rule allows the city to analyze the ESEE consequences based on the
14 entire resource site. Accordingly, OSB's arguments provide no basis for reversal
15 or remand.

⁷ OAR 660-016-0020(2) provides:

“As the Goal 5 process progresses and more specificity about the nature of resources, identified conflicting uses, ESEE consequences and implementing measures is known, notice and involvement of affected parties will become more meaningful. Such notice and landowner involvement, although not identified as a Goal 5 requirement is in the opinion of the Commission, imperative.”

1 **C. The SW46 View Corridor**

2 CC 2035 adopted a zoning map that depicts the location of the view
3 corridor for SW46. Record 656. The map scale is 1:2,800 feet. In its final
4 subassignment of error, OSB argues that the final zoning map adopted by the city
5 council that depicts the extent of the view corridor that crosses OSB's property
6 contains an error. In its final subassignment of error under the first assignment of
7 error, we understand OSB to argue that the view corridor boundary line on the
8 map is farther north than it should be based on the criteria for view corridor
9 delineation and based on the location of existing towers and silos that partially
10 obstruct the Mt. Hood views, including the Ross Island Sand and Gravel silos.
11 Record 12976-77, 12981-82.

12 The city responds that the view corridor was mapped and delineated based
13 on protection of Mt. Hood views to 1,000 feet below the timberline. Record 1223,
14 1998. According to the city, the fact that the Ross Island Sand and Gravel silos
15 are included within the view corridor, although they partially obscure the Mt.
16 Hood view from SW46, does not mean that the view corridor was inaccurately
17 mapped or delineated. Rather, we understand the city to explain that the city
18 council understood that the existing silos partially obscure the view, and included
19 them anyway in the view corridor. The city points to evidence in the record that
20 maps the view corridor based on protection of 1,000 feet below the timberline.
21 Record 1998-1999. We agree with the city that the map at Record 656 is an
22 accurate depiction of the view corridor for SW46, based on evidence in the record

1 regarding the view corridor mapping criterion of protecting Mt. Hood views to
2 1000 feet below the timberline.

3 OSB's first assignment of error is denied.

4 **SECOND ASSIGNMENT OF ERROR (OSB)**

5 CC 2035 is required to comply with Statewide Planning Goal 10
6 (Housing), which requires local governments to inventory their supply of
7 buildable residential land and ensure that the supply is adequate to meet
8 anticipated housing needs. In 2016, as part of periodic review, the city adopted a
9 Buildable Lands Inventory (BLI) that demonstrated that the city has sufficient
10 residential capacity for the anticipated housing units, and more narrowly, that
11 existing zoning in the central city plan district provided adequate capacity to meet
12 anticipated housing need.⁸

13 The city council adopted findings concluding that CC 2035 will not affect
14 the city's compliance with Goal 10, and that CC 2035 would result in additional
15 housing capacity. As part of CC 2035, the city rezoned approximately 41 acres
16 of land in the central city from Central Residential (RX) to Central Commercial
17 (CX). The city's findings concluded that rezoning from RX to CX would not
18 affect the city's compliance with Goal 10 because mixed-use zones such as the
19 CX zone were considered "residentially-designated" in the BLI, pursuant to OAR

⁸ Metro allocated the city 123,000 housing units, and the BLI concluded that the city has overall residential capacity for 267,000 housing units. Record 5342.

1 660-007-0018(1).⁹ Amended Record 15. Also as part of CC 2035, the city
2 rezoned approximately 60 acres from industrial zones (IH, IG-1) to Central
3 Employment (EX). The EX zone generally allows residential uses, although the
4 EX zoning on OSB's property and some other EX zoned properties in the
5 Southern Triangle prohibits residential uses. The city's findings conclude that CC
6 2035 increases the central city's housing capacity by rezoning RX land to CX
7 and industrial-zoned land to CX, and thus complies with Goal 10. Amended
8 Record 13, 14, 16, 148, 153.

9 In its second assignment of error, OSB first challenges the city's reliance
10 on the BLI, which OSB and the city agree is not part of the record of Ordinance
11 189000. The city responds, and we agree, that the city is both entitled and
12 required to rely on its adopted, acknowledged BLI, which is part of the PCP. *1000*
13 *Friends of Oregon v. City of Dundee*, 203 Or App 207, 216, 124 P3d 1249 (2005).
14 The city also responds that the evidence in the record supports the city's
15 conclusion that rezoning property from RX to CX will not decrease residential
16 capacity. Record 23742. We agree.

17 Second, we understand OSB to argue the city failed to consider housing
18 capacity in light of the particular EX zoning that prohibits residential uses, and
19 height restrictions, placed on OSB's property. The city responds that the prior
20 zoning of OSB's property, IH, did not allow residential uses and accordingly,

⁹ In the CX zone, residential uses are allowed outright.

1 OSB's property was not included in the BLI for any residential capacity. We
2 agree with the city that the particular EX zoning and height restrictions on OSB's
3 property do not affect the accuracy of the city's Goal 10 analysis and conclusion
4 that the city has adequate residential capacity.

5 Next, OSB argues that the city was required but failed to adequately
6 explain why OSB's property received an EX zoning designation that prohibits
7 residential uses, while not restricting residential uses on adjacent EX-zoned
8 properties. The city responds that the city has an obligation to comply with
9 various goals, including Statewide Planning Goal 9 (Economic Development)
10 and must balance competing priorities in order to both provide housing capacity
11 and protect industrial uses under Goal 9. Accordingly, the city responds, its
12 choice to prohibit residential uses on some EX-zoned properties reflects a choice
13 to limit conflicts between residential uses and adjacent industrial and
14 employment uses, where the city has a surplus of land to meet housing needs and
15 limited land to meet employment needs. We agree with the city. OSB has not
16 established that Goal 10 obligates the city to allow residential uses on OSB's
17 property.

18 The second assignment of error is denied.

19 **THIRD ASSIGNMENT OF ERROR (OSB)**

20 PCP Policies 3.2, 3.53, 3.58 and 3.59 generally encourage dense mixed-
21 use development, including employment and housing, in areas close to transit

1 stations.¹⁰ OSB's property is adjacent to the OMSI Station transit area, which is
2 immediately to the north of the Southern Triangle. Record 2735. In the third
3 assignment of error, OSB argues that CC 2035's decision to zone its property EX
4 but prohibit residential uses fails to comply with those PCP policies. OSB argues
5 that the findings that conclude that CC 2035 complies with PCP Policies 3.2.
6 3.53, 3.58 and 3.59 are inconsistent, because the OMSI Station area allows
7 residential development as a conditional use with an approved master plan, but
8 the Southern Triangle area prohibits residential development. OSB also argues

¹⁰ PCP Policies 3.2, 3.53, 3.58 and 3.59 provide:

“3.2 Growth and stability. Direct most growth and change to centers, corridors, and transit station areas, allowing the continuation of the scale and characteristics of Portland's residential neighborhoods.

“3.53. Transit-oriented development. Encourage transit-oriented development and transit supportive concentrations of housing and jobs, and multimodal connections at and adjacent to high-capacity transit stations.

“3.58. Transit neighborhood stations. Encourage concentrations of mixed-income residential development and supportive commercial services close to transit neighborhood stations. Transit neighborhood stations serve mixed-use areas that are not in major centers.

“3.59. Destination stations. Enhance connections between major destinations and transit facilities and strengthen the role of these station areas as places of focused activity.”

1 that the findings fail to adequately explain why its property and the area of the
2 Southern Triangle contain restrictions on residential development, while the area
3 adjacent to OMSI station allows residential development as a conditional use.

4 The city responds, again, that required considerations were indeed
5 considered, and points to evidence in the record that they were. *Citizens for*
6 *Irresponsible Growth*, 179 Or App at 16 n 6. The city council also adopted
7 findings explaining how CC 2035's zoning designations comply with these PCP
8 policies. Amended Record 50, 57-58. In essence, the city balanced competing
9 priorities for providing employment land and land for housing, and determined
10 that employment opportunities were the priority for the Southern Triangle due to
11 existing industrial uses in the Southern Triangle. OSB has not established that the
12 city failed to take into account any required considerations under PCP Policies
13 3.2, 3.53, 3.58 or 3.59.

14 OSB's third assignment of error is denied.

15 **DISPOSITION**

16 For the reasons explained in our resolution of Restore Oregon's first
17 assignment of error, Ordinance 189000 is remanded.

Certificate of Mailing

I hereby certify that I served the foregoing Final Opinion and Order for LUBA No. 2018-072/073/086/087 on August 6, 2019, by mailing to said parties or their attorney a true copy thereof contained in a sealed envelope with postage prepaid addressed to said parties or their attorney as follows:

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Dated this 6th day of August, 2019.

Sara L. Urch
Staff Attorney



Stephen Hoffman
Executive Support Specialist



Oregon

Kate Brown, Governor

Land Use Board of Appeals

775 Summer St NE, Ste 330

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July 30, 2019

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RE: Restore Oregon et al v. City of Portland
LUBA No. 2018-072/073/086/087

This letter is to express the Board's appreciation for the parties' agreement that the Board will have until Wednesday, August 7, 2019 to issue its final opinion and order in the above-referenced appeal.

Best Regards,

Stephen Hoffman
Executive Support Specialist





HATHAWAY LARSON

Koback · Connors · Heth

June 21, 2019

06/24/19 AM 11:23 LUBA

CERTIFIED MAIL RETURN RECEIPT

Land Use Board of Appeals
DSL Building
775 Summer St. NE, Suite 330
Salem, OR 97301-1283

Re: *Restore Oregon, et al. v. City of Portland; OSB2LAN Ivon, LLC, et al. v. City of Portland, et al.*
LUBA Nos. 2018-072; 2018-073/086/087

Dear Board Clerk:

Enclosed for filing, please find an original and one copy of Petitioners OSB2LAN Ivon, LLC and Haithem Toulan's Motion to File Reply Brief, together with the original and four (4) copies of Petitioners OSB2LAN Ivon, LLC, LLC and Haithem Toulan's Reply Brief in the above-captioned matter.

Thank you for your consideration.

Very truly yours,

HATHAWAY LARSON LLP

E. Michael Connors

cc: Linly Rees (w/encl.)
Daniel Kearns (w/encl.)
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LUBA Record000119

BEFORE THE LAND USE BOARD OF APPEALS
FOR THE STATE OF OREGON

05/24/19 AM 11:28 LUBA

**RESTORE OREGON, BOSCO-
MILLIGAN FOUNDATION
ARCHITECTURAL HERITAGE
CENTER, NIKKEI LEGACY,
ENDOWMENT, PORTLAND
CHINATOWN MUSEUM, and
PEGGY G. MORETTI,**

Petitioners,

vs.

CITY OF PORTLAND,

Respondent,

and

**GUARDIAN REAL ESTATE
SERVICES, LLC,**

Intervenor-Respondent

LUBA No. 2018-072

 **ORIGINAL**

**OSB2LAN IVON, LLC and
HAITHEM TOULAN,**

Petitioners,

vs.

CITY OF PORTLAND,

Respondent.

LUBA No. 2018-073/086/087

PETITIONERS' MOTION TO FILE REPLY BRIEF

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1 Petitioners OSB2LAN IVON, LLC and Haithem Toulou (‘‘Petitioners’’)
2 request permission to file the enclosed reply brief in response to Respondent
3 City of Portland’s (the ‘‘City’’) response brief in LUBA No. 2018-073/086/087
4 pursuant to OAR 661-010-039. Petitioner filed this motion and the reply brief
5 within seven (7) days of the response brief. Therefore, Petitioners’ reply brief
6 is timely under OAR 661-010-039.

7 Petitioners request permission to file a reply brief to respond to the City’s
8 argument that Petitioners’ first assignment of error should be rejected regardless
9 of its merits because Petitioners did not specifically cite to OAR 660, Division
10 23. Resp. Brf., p.14. LUBA has consistently held that a reply brief is appropriate
11 to respond to arguments that an assignment of error should fail regardless of its
12 stated merits. *Cove at Brookings Homeowners Assoc. v. City of Brookings*, 47
13 Or LUBA 1, 4 (2004); *Sequoia Park Condo. Assoc. v. City of Beaverton*, 36 Or
14 LUBA 317, 321, *aff’d* 163 Or App 592, 988 P2d 422 (1999). Petitioners are
15 entitled to file a reply brief to respond to the City’s assertion that Petitioners’ first
16 assignment of error should be rejected regardless of its merits.

17 Additionally, the City argues that LUBA should disregard *Columbia Steel*
18 *Castings Co. v. City of Portland*, 314 Or 424, 840 P2d 71 (1992) because it was
19 issued prior to the adoption of OAR 660, Division 23. Resp. Brf., pp.14-15. A
20 reply brief is appropriate to respond to new arguments that could not have been
21 reasonably foreseen or anticipated. *D.S. Parklane Development, Inc. v. Metro*,

1 35 Or LUBA 516, 527 (1999), *aff'd* 165 Or App 1, 994 P2d 1205 (2000); *Citizens*
2 *For Florence v. City of Florence*, 35 Or LUBA 255, 258-59 (1998); *Franklin v.*
3 *Deschutes County*, 30 Or LUBA 33, 35 (1995). Petitioners could not have
4 reasonably foreseen or anticipated that the City would argue that *Columbia Steel*
5 *Castings* is no longer applicable to Goal 5 ESEE decisions because it has not
6 been overruled, modified or questioned. Nor is there anything in the text or
7 legislative history of OAR 660, Division 23 that suggests it was intended to
8 replace or modify the Goal 5 ESEE analysis approach required by *Columbia Steel*
9 *Castings* and it was specifically cited and relied on by the Oregon Court of
10 Appeals subsequent to the adoption of OAR 660, Division 23. *See Mark Latham*
11 *Excavation, Inc. v. Deschutes County*, 250 Or App 543, 546, 281 P3d 644, 646
12 (2012).

13 III. CONCLUSION

14 For the foregoing reasons, Petitioners request that LUBA grant Petitioners
15 permission to file the attached reply brief.
16

DATED this 21st day of June, 2019.

HATHAWAY LARSON LLP

By: E. Michael Connors
E. Michael Connors, OSB# 954956
Of Attorneys for Petitioners

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BEFORE THE LAND USE BOARD OF APPEALS
FOR THE STATE OF OREGON

**RESTORE OREGON, BOSCO-
MILLIGAN FOUNDATION
ARCHITECTURAL HERITAGE
CENTER, NIKKEI LEGACY,
ENDOWMENT, PORTLAND
CHINATOWN MUSEUM, and
PEGGY G. MORETTI,**

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**GUARDIAN REAL ESTATE
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**OSB2LAN IVON, LLC and
HAITHEM TOULAN,**

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CITY OF PORTLAND,

Respondent.

LUBA No. 2018-072



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LUBA No. 2018-073/086/087



ORIGINAL

PETITIONER'S REPLY BRIEF

1 The City argues that Petitioners' first assignment of error should be
2 rejected outright for two primary reasons. First, the City argues that Petitioners
3 did not specifically cite to OAR 660, Division 23. Resp. Brf., p.14. Second,
4 the City argues that Petitioners relied heavily on *Columbia Steel Castings Co. v.*
5 *City of Portland*, 314 Or 424, 840 P2d 71 (1992), which was issued prior to the
6 adoption of OAR 660, Division 23. Resp. Brf., pp.14-15. The City is wrong in
7 both respects.

8 Contrary to the City's assertion, Petitioners alleged that the CC2035 Plan
9 violates Goal 5 and the regulations that implement the Goal. See Pet. Brf., p.8,
10 15 & 32. Petitioners also relied on *Columbia Steel Castings* and the Oregon
11 Supreme Court's interpretation of the ESEE analysis requirements under Goal
12 5. See Pet. Brf., pp. 2, 12-13, 15-16, 20, 24 & 30.

13 *Columbia Steel Castings* is still relevant and controlling law for purposes
14 of reviewing a Goal 5 ESEE analysis even though it was issued prior to the
15 adoption of OAR 660, Division 23. *Columbia Steel Castings* has not been
16 overruled, modified or questioned in any subsequent cases. The City does not
17 point to anything in the text or legislative history of OAR 660, Division 23 that
18 suggests it was intended to replace or modify the Goal 5 ESEE analysis
19 approach required by *Columbia Steel Castings*. The Oregon Court of Appeals
20 cited to and relied on *Columbia Steel Castings* and OAR 660, Division 16 in
21 *Mark Latham Excavation, Inc. v. Deschutes County*, 250 Or App 543, 281 P3d

1 644, 646 (2012) even though that case involved a county decision issued well
2 after OAR 660, Division 23 was adopted.¹

3 Although the Court cited to various provisions in OAR 660, Division 16,
4 the underlying rationale was not based on specific language in OAR 660,
5 Division 16. Rather, it was based on the underlying principle that an ESEE
6 analysis cannot meaningfully balance the impacts that resource sites and
7 conflicting uses have on one another unless each is analyzed, described and
8 assessed with sufficient particularity. The Court explained:

9 Although the wording of OAR 660–16–005 does not require that
10 an analysis be performed for areas smaller than each resource site,
11 this alone does not establish the level of specificity that may be
12 required. * * * * * It may be that, to a certain extent, the parties
13 have been missing the point of the rule regarding ESEE analyses
14 by placing their emphasis on specificity of locations of resource
15 sites and of conflicting uses. An ESEE analysis must consider the
16 impact of the resource site on the conflicting use and the impact of
17 the conflicting use on the resource site, it is true. OAR 660–16–
18 005(2). But, unless both the resource site and the conflicting uses
19 are described with sufficient particularity, the ESEE analysis
20 cannot begin. And, even when the resource site and the conflicting
21 uses are independently and adequately described, the result is not
22 yet an ESEE analysis. An ESEE analysis describes the *interaction*
23 of the two phenomena, *i.e.*, the impact that each has on the other.
24 *See 1000 Friends of Or. v. LCDC (Tillamook Co.)*, 303 Or 430,
25 434-35, 737 P.2d 607 (1987) (describing process).

¹ The county decision at issue was a conditional use permit decision that allowed an expansion of a mining operation pursuant to an ESEE analysis. *Id.* at 548. The county's original decision was adopted in 2009 and subsequently remanded by LUBA. *Id.* *Mark Latham Excavation* specifically addressed the county's remand decision adopted in 2011. *Id.* The Court relied on both *Columbia Steel Castings* and OAR 660, Division 16 for purposes of its review of the Goal 5 ESEE issues. *Id.* at 556-59.

1 As noted, the end result of the process is supposed to be a
2 balancing of the impacts that the resource site and the conflicting
3 use have on each other. Only then can a jurisdiction make a final
4 decision whether to protect a resource site totally, or partially, or
5 instead to allow the conflicting use without restriction. *Columbia*
6 *Steel Castings Co.*, 314 Or at 431, 432.

7 Regardless of any differences in the language between OAR 660 Divisions 16
8 and 23, there is no question that the underlying purpose of the ESEE analysis is
9 still the balancing of the impacts that the resource sites and conflicting uses
10 have on one another and adequately assessing those impacts. OAR 660-023-
11 0040(1), (4) & (5). The City does not argue otherwise.

12 Additionally, the overall ESEE approach and the language in OAR 660,
13 Division 23 is essentially the same as the OAR 660, Division 16 approach and
14 language the Court relied on in *Columbia Steel Castings*. Both OAR 660
15 Divisions 16 and 23 require a local government to: (1) inventory resource sites
16 and determine their significance; (2) identify conflicts with the inventoried
17 resource sites; (3) determine the ESEE consequences of allowing, limiting or
18 prohibiting conflicting uses; and (4) adopt a program to allow, limit or prohibit
19 the conflicting uses based on these ESEE consequences. OAR 660-016-0000;
20 OAR 660-016-0005(1); OAR 660-016-0010(1)–(3); OAR 660-023-0030; OAR
21 660-023-0040(1), (4) & (5); OAR 660-023-0050(1). Both OAR 660 Divisions
22 16 and 23 require the ESEE analysis to address the impacts with enough
23 specificity to enable a reviewing body sufficient information to understand the
24 conflicts and consequences of allowing, limiting or prohibiting conflicting

1 uses.² OAR 660-016-0005(3); OAR 660-016-0010; OAR 660-023-0040(1).
2 The City summarily claims that OAR 660, Division 23 contains different
3 standards than OAR 660, Division 16, but the City does not identify those
4 differences or explain their significance. Resp. Brf., p.15.

5 The only difference the City addressed, the difference between OAR
6 660-016-0020(2) and OAR 660-023-0060, is a distinction without significance.
7 Resp. Brf., pp.31-32. Petitioners assert that the City erred by failing to consider
8 or address Petitioner's site or area specific information that undermined the
9 ESEE analysis and conclusions because *Columbia Steel Castings* and OAR
10 660-016-0020(2) require an interactive public process. Pet. Brf., pp.24-30.
11 Although OAR 660-016-0020(2) does not expressly require the local
12 government to account for or respond to public comments and information, the
13 Court concluded that OAR 660-016-0020(2) contemplates an ongoing
14 interactive public process that requires consideration of public comments and
15 adjustments to the ESEE analysis when necessary. *Columbia Steel Castings*,

² OAR 660-016-0005(3) and OAR 660-016-0010 require the local government to "explain why decisions are made for specific sites" and provide "adequate information on the location, quality, and quantity of the resource site as well as on the nature of the conflicting use and ESEE consequences." OAR 660-023-0040(1) requires the local government to adopt findings demonstrating that the "requirements under each of the steps have been met" and the ESEE analysis "should enable reviewers to gain a clear understanding of the conflicts and the consequences to be expected." Both OAR 660 Divisions 16 and 23 require the ESEE analysis and local government decision to be specific enough to explain the rationale for the ESEE and Goal 5 determinations.

1 314 Or at 431-32. Similarly, although OAR 660-023-0060 does not expressly
2 require local governments to account for or respond to public comments and
3 information, it contemplates an ongoing interactive public process that requires
4 such consideration because it expressly requires “opportunities for citizen
5 involvement during the inventory and ESEE process.” The City’s argument
6 that OAR 660-023-0060 merely requires notice and compliance with its
7 community involvement program is the same type of literal approach the Court
8 rejected in *Columbia Steel Castings* based on the purpose of the provision.

9 Finally, the majority of Petitioners’ claims of error are based on the
10 general principles that the CC2035 Plan lacks sufficient findings to demonstrate
11 the “required considerations were indeed considered” and/or were not supported
12 by an “adequate factual base” or substantial evidence. Those general standards
13 apply to all legislative decisions regardless of whether or not OAR 660 Division
14 16 or 23 applies. Pet. Rev., pp.9-12.

15 For the reasons stated above and in the Petition for Review, Petitioners
16 respectfully request that LUBA reverse or remand the CC2035 Plan.

DATED this 21st day of June, 2019.

HATHAWAY LARSON LLP

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June 14, 2019

06/17/19 PM12:05 LUBA

Land Use Board of Appeals
DSL Building
775 Summer Street NE, Suite 330
Salem, OR 97301-1283

Re: *Restore Oregon, et al. v. City of Portland; OSB2LAN Ivon LLC and Haithem Toulou v. City of Portland*
LUBA Case Nos. 2018-072; 2018-073/086/087

LUBA Administrator:

Enclosed for filing please find (1) the original and four copies of the City's brief in response to Petitioners Restore Oregon, Bosco-Milligan Foundation/Architectural Heritage Center, Nikkei Legacy Endowment, Portland Chinatown Museum and Peggy G. Moretti; and (2) the original and four copies of the City's brief in response to Petitioners OSB2LAN Ivon LLC and Haithem Toulou.

Sincerely yours,

Allison McCoppen
Legal Assistant

AM/am
Enclosures
cc E. Michael Connors
Daniel Kearns
Timothy V. Ramis



ORIGINAL

BEFORE THE LAND USE BOARD OF APPEALS
OF THE STATE OF OREGON

RESTORE OREGON, BOSCO-MILLIGAN
FOUNDATION/ ARCHITECTURAL
HERITAGE CENTER, NIKKEI LEGACY
ENDOWMENT, PORTLAND
CHINATOWN MUSEUM and PEGGY G.
MORETTI,

LUBA Nos. 2018-072;
2018-073/086/087
(Consolidated)

Petitioners,

v.

CITY OF PORTLAND,

Respondent,

and

GUARDIAN REAL ESTATE SERVICES,
LLC,

Intervenor-Respondent.

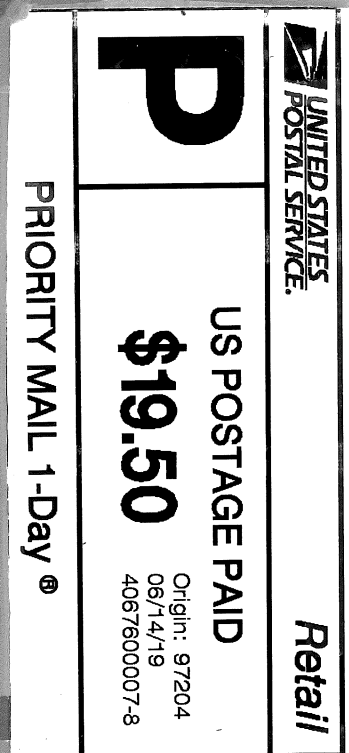
OSB2LAN IVON, LLC and HAITHEM
TOULAN,

Petitioners,

v.

CITY OF PORTLAND,

Respondent.



BRIEF OF CITY OF PORTLAND IN RESPONSE TO PETITIONERS
RESTORE OREGON, *et al.*

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1 **I. STANDING**

2 Respondent City of Portland (“City”) agrees that Petitioners Restore
3 Oregon, Bosco-Milligan Foundation/ Architectural Heritage Center, Nikkei
4 Legacy Endowment, Portland Chinatown Museum, and Peggy G Moretti
5 (“petitioners”) have standing to appeal Ordinance No. 18900.

6 **II. STATEMENT OF THE CASE**

7 **A. Nature of the Decision**

8 On August 2, 2018, the Land Use Board of Appeals (“LUBA”) on its
9 own motion consolidated LUBA Nos. 2018-072, -073, -086, and -087.
10 Consolidation of separate appeals is a matter of administrative convenience for
11 the parties and the Board. *Leach v. Lane County*, 45 Or LUBA 733, 735
12 (2003). Petitioners in this consolidated appeal filed separate petitions for
13 review that assign error to distinct and unrelated parts of Central City 2035. For
14 clarity, the City responds with separate response briefs. *See Foland v. Jackson*
15 *County*, 61 Or LUBA 500, 501 (2010) (Respondents are entitled to file separate
16 response briefs or a combined response brief).

17 Petitioners appeal Ordinance No. 189000 (As Amended) which adopted
18 the Central City 2035 Plan; amended the *2035 Comprehensive Plan* (“Portland
19 Comprehensive Plan” or “PCP”), Comprehensive Plan Map, Transportation
20 System Plan, Willamette Greenway Plan, Scenic Resources Protection Plan,
21 Zoning Map, and Title 33; authorized adoption of administrative rules; and
22 repealed and replaced prior Central City plans and documents. Record (“R”).
23 1-10. The City refers to Ordinance No. 189000 (As Amended) as the “Central
24 City 2035 Plan” or “CC2035.”

25 **B. Nature of the Relief Sought**

26 Portland requests that LUBA affirm CC2035 under ORS 197.835(1).

1 **C. Summary of Arguments**

2 CC2035 is consistent with Statewide Planning Goal 5, PCP policies, and
3 contemporaneously adopted Central City goals and policies. The Council's
4 findings and evidence in the record demonstrate that the entirety of CC2035,
5 including the decision to amend the maximum allowed height in the New
6 Chinatown/Japantown Historic District ("NC/JT"), is supported by an adequate
7 factual base.

8 The Council adopted CC2035 following extensive public participation
9 consistent with Portland's adopted *Community Involvement Program*.
10 Petitioners fail to show that their substantial rights were rights were violated or
11 that Council failed to comply with adopted public participation policies and
12 regulations.

13 **D. Summary of Material Facts**

14 Petitioners' summary of material facts fails to include citations to the
15 record to support their assertions. *Squier v. Multnomah County*, __ Or LUBA
16 __ (LUBA No. 2014-074, February 4, 2015, slip op 4-5). The City offers the
17 following in its place:

18 Petitioners challenge Council's decision to adopt CC2035. The decision
19 resulted from extensive public process. In 2010, the Bureau of Planning and
20 Sustainability (BPS) initiated the CC2035 project. Amended Record ("AR")-
21 3¹. The first product was the *Central City 2035 Concept Plan*. *Id.*
22 Subsequently, three quadrant plans, including the *West Quadrant Plan*, were
23 developed and adopted by Council. *Id.* Each plan was informed by years of
24

25 _____
26 ¹ Each Record page (R.#) or Amended Record page (AR.#) cited can be found
in the attached Excerpt of Record. For documents over ten pages only the first
page is included in the Excerpt of Record. For ease of reference, the Excerpt of
Record pages are in numerical order and maintain their original Record or
Amended Record page numbers.

1 public engagement. R.5413-5414. Informed by the *Concept Plan* and three
2 quadrant plans, BPS developed the *Discussion Draft Central City 2035 Plan*.
3 AR.4. The *Discussion Draft Central City 2035 Plan* was released for public
4 review for approximately four months. *Id.* BPS staff reviewed and considered
5 written and verbal comments and prepared the *Proposed Draft Central City*
6 *2035 Plan* for review by the public and the Planning and Sustainability
7 Commission (PSC). *Id.* The PSC held two public hearings and nine work
8 sessions before forwarding their *Recommended Draft Central City 2035 Plan* to
9 the City Council. *Id.*

10 Between August 2017 and May 2018, the Council held public hearings
11 and work sessions to deliberate on proposed amendments. AR.4. In total,
12 Council held seven public hearings and received nearly 7,000 pages of written
13 testimony. R.7710-13487; 14674-15883. On June 6, 2018, the Council
14 adopted CC2035.

15 Among other things, CC2035 amended Title 33. R.8. Relevant to
16 petitioners' appeal are amendments to the Zoning Code as the Code applies to
17 NC/JT. NC/JT was placed on the National Register of Historic Places in 1989
18 for its multiethnic heritage, architecture, and role in and association with
19 Portland's early growth as an industrial and commercial center. *See New*
20 *Chinatown/Japantown Guidelines*². App.1-62. At the time of Council's
21 adoption of CC2035, there were 17 historic districts in the City of Portland.
22 R.24253. NC/JT is one of seven historic districts in the Central City. R.24253.
23 At the time of nomination to the National Register, NC/JT was zoned C1Z
24 _____

25 ² The City requests that LUBA take official notice of *New*
26 *Chinatown/Japantown Historic District Design Guidelines* adopted by
Ordinance 188623 adopted on September 28, 2017. Under ORS 40.090(7)
LUBA may take official notice of a city ordinance. *Johnson v. City of*
Portland, LUBA No 2018-037, Slip Op at 3, n.2 (Sept 6, 2018).

1 (Central Commercial Zone with Downtown Development overlay zone), which
2 allowed “for many commercial uses; mid to high rise development, clean labor
3 – intensive industry and manufacturing; and high density apartments . . . The
4 allowable FAR (floor area ratio) [was] 4:1, 6:1 or 9:1 . . .” R.7748. Since the
5 NC/JT was placed on the National Register, the City has approved new
6 development in the District, including the Pacific Tower at 160 feet tall.
7 R.49721; R.43155.

8 New development in Portland’s historic districts are subject to Historic
9 Resource Review to ensure exterior alterations and new construction protect
10 individual historic buildings and maintain the coherency of the district as a
11 whole. *See* PCC 33.846; 33.445. Historic Resource Review is a discretionary
12 land use review process based on approval criteria in the zoning code and,
13 where adopted, district-specific design guidelines. PCC 33.846.060(F). The
14 adopted *New Chinatown/Japantown Historic District Design Guidelines* require
15 the decisionmaker to consider whether a proposed development is the
16 appropriate height and mass for the District, among other things. *See*
17 *Guidelines* A9, C3, D2, D3, D4. App.45, 55-56, 58-60. Additionally,
18 contributing resources within historic districts are also subject to demolition
19 review to protect individual historic buildings. PCC 33.846.080.

20 Petitioners challenge Council’s decision to adopt Map 510-2 Floor Area
21 Ratio (FAR), Map 510-3 Base Height, Map 510-4 Bonus Height and PCC
22 33.510.200.C, hereinafter collectively referred to as the “NC/JT Amendment.”
23 More particularly, petitioners challenge the Zoning Code changes as the Code
24 applies to two areas: 1) “North Blocks” and 2) “Block 33.”

25 //

26 //

1 North Blocks

2 The North Blocks are four blocks between NW Everett and NW Glisan
3 Streets and NW 5th and NW 3rd Avenues. Prior to CC2035, the code allowed
4 structures on these blocks to develop up to 425 feet in height with 350 feet in
5 base height and 75 feet in bonus height with 9:1 base FAR. R.588; 584.
6 Council's final decision in CC2035 reduced the base height to allow structures
7 to develop up to 200 feet, with no bonus height allowed. R.654. However,
8 future development of the site is subject to Historic Resource Review, which
9 could further reduce the height if necessary to meet the approval criteria in the
10 historic district guidelines. ORS 227.175(4)(e); PCC 33.846.060(F), (G);
11 R.6386.

12 Block 33

13 Block 33 is located between Couch and Davis Streets and 4th and 5th
14 Avenues. Block 33 contains no contributing resources to the historic district.
15 R.7745. Today, the Block serves as a surface parking lot and is not developed.
16 R.6319. Prior to the CC2035, Block 33 was authorized to develop structures up
17 to 100 feet with 6:1 FAR. R.588; 584. Council's final decision in CC2035
18 increased the base height to 125 feet for the full block and increased the
19 maximum height on the west half of the block up to 200 feet, through a
20 potential bonus of 75 feet. R.5566-5568. The base FAR is 6:1; however, the
21 FAR increases to 9:1 if all floors above the ground floor on the western half of
22 the block are in residential use. R.5568.

23 As with the North Blocks, future development of the site is subject to
24 Historic Resource Review, which could further reduce the allowable height if
25 necessary to meet the approval criteria in the historic district guidelines. ORS
26 227.175(4)(e); PCC 33.846.060(F), (G).

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III. JURISDICTION

The City agrees LUBA has jurisdiction to review the appealed land use decision.

IV. ARGUMENT

A. Response to Petitioners’ First Assignment of Error

The NC/JT Amendment is consistent with applicable Comprehensive Plan policies and supported by substantial evidence in the record.

1. Standard of Review

Petitioners fail to identify the standard of review as required by OAR 661-010-0030(4)(d). LUBA must affirm CC2035 unless LUBA determines that CC2035 does not comply with the Statewide Planning Goals or the Comprehensive Plan or is not supported by substantial evidence in the whole record. ORS 197.835(5), (7), (9).

2. Argument

The Council’s decision to adopt CC2035, including the NC/ JT Amendment, is consistent with Statewide Planning Goal 5 (Goal 5) and Portland’s Comprehensive Plan, and is supported by substantial evidence in the record. Petitioners frame their first assignment of error as a failure to apply applicable law challenge but also appear to make a substantial evidence argument.

- a. The entirety of CC2035 as well as the specific NC/JT Amendment are consistent with Goal 5.

As an initial matter, Council found CC2305 is consistent with Goal 5. ORS 197.835(5) and PCC 33.835.040 require that amendments to the zoning code must be consistent with Statewide Planning Goals. Goal 5 requires local jurisdictions to protect natural resources and conserve scenic and historic areas

1 and open spaces. OAR 660-015-0000(5). The Council found that CC2035
2 protects historic resources pursuant to Goal 5:

3 The plan includes new incentives to seismically improve
4 historic landmarks and to transfer un-used floor area from
5 sites with historic landmarks to provide greater long-term
6 protection of these resources. The plan also lowers the
7 maximum allowable height in some historic districts, and
8 generally removes height bonus allowances within all
9 historic districts, with the exception of ½ block in New
10 Chinatown/ Japantown, to ensure new development in these
11 areas is compatible with the massing of adjacent
12 contributing structures and the character of the district.

13 AR.6.

14 As discussed more fully below, CC2035 considered and protected
15 historic resources throughout the Central City. Petitioners do not dispute that
16 CC2035 complies with Goal 5, instead petitioners assert that NC/JT
17 Amendment is inconsistent with specific Comprehensive Plan policies.

18 b. Portland plausibly found that CC2035, including the
19 NC/JT Amendment, is consistent with applicable
20 Comprehensive Plan Policies.

21 Council plausibly found that the NC/JT Amendments are consistent with
22 the relevant and applicable goals and policies of the PCP. Portland is entitled to
23 deference in its interpretation of the PCP. ORS 197.829(1); *Siporen v. City of*
24 *Medford*, 349 Or 247, 259 (2010). Deference is appropriate when a governing
25 body interprets its own laws because it is in the best position to understand the
26 laws' intent and is politically accountable for the laws it makes. *Gage v. City of*
Portland, 319 Or 308, 316-17 (1994). Deference afforded to a governing
body's interpretation is not affected by whether the decision is quasi-judicial or
legislative. *Homebuilders Ass'n of Metropolitan Portland v. City of Portland*,
37 Or LUBA 707, 734 (2000).

1 Where a city interprets a city goal or policy and its interpretation is
2 plausible and not inconsistent with the language of the goal or policy, the city is
3 granted interpretative discretion. *Id.*; *Siporen* 349 Or at 262. Council plausibly
4 found that the NC/JT Amendment is consistent with the Comprehensive Plan.
5 Council directly considered PCP Policy 4.48's applications to the NC/JT
6 Amendment. Policy 4.48 requires:

7 **Continuity with established patterns.** Encourage
8 development that fills in vacant and underutilized gaps
9 within the established urban fabric, while preserving and
contemplating historic resources.

10 In response, Council found:

11 The Plan responds to the policy through new goals and
12 policies specific to the Central City that call for: the
13 rehabilitation and reuse of historic structures; historic district
protection measures; and, incentives to encourage seismic
upgrades and other rehabilitation measures for historic
resources.

14 * * *

15 The maximum heights within historic districts have
16 generally been reduced, and in most cases bonus height
17 provisions have been repealed to result in new development
that is compatible with the existing scale and character of
the Central City's historic districts.

18 For instance, in the New Chinatown / Japantown Historic
19 District heights in the northern four blocks have been
20 reduced from a maximum of 350 feet, and the ability to
21 bonus an additional 75 feet in height to a maximum of 425
22 feet, has been eliminated. Now the maximum height in that
23 area is 200 feet with no ability to bonus to a greater height.
24 Although one block in the district received bonus height to a
25 maximum of 200 feet on the west half of the block and 125
26 feet on the eastern half of the block, it should be noted that
the greater heights allowed on the west half of the block are
adjacent to parcels that may build to 460 feet. Further, the
new maximum height limits create a step down from these
greater height allowances to the west of the New Chinatown
/ Japantown Historic District down to 100 feet maximum to
the east of the site in question, and then eventually down to
75 feet to the properties located just east of the district.

1 Following Council proposing this amendment, testimony
2 was received for and against the increased height. Some
3 testifying [were] concerned that these heights would not be
4 consistent with the rest of the scale of development
5 elsewhere in the district. However, others noted that the
6 block in question had long been underutilized and that
7 redevelopment of the site would be a catalyst for investment
8 throughout the district, following decades of neglect. In the
9 end, council decided: 1) the heights proposed would still
10 result in a step down from the urban form surrounding the
11 district; 2) the increased height was necessary to incent
12 redevelopment of a catalytic site; and 3) the issue of
13 consistency was best left to the Landmarks Commission
14 who remain charged with reviewing future development
15 proposals on that site and elsewhere in the historic district.

16 Thus, on balance, these amendments in New Chinatown /
17 Japantown Historic District and all other Central City
18 Historic Districts further the objectives of Policy 4.48 above.

19 AR.75.

20 Given Council's authority to interpret and apply its PCP goals and policies,
21 petitioners must do more than disagree with Council's conclusions. *Columbia*
22 *Pacific Building Trades Council v. City of Portland*, __Or LUBA __ (LUBA
23 No. 2017-001, July 19, 2017) (slip op at 15) *aff'd in part, rev'd in part on other*
24 *grounds*. Petitioners "must demonstrate that the city council failed to
25 meaningfully consider a reasonably specific and pertinent PCP goal or policy."
26 *Id.* The City does not dispute that Policy 4.48 is relevant, but it considered
petitioners' arguments and rebutted them. Petitioners fail to demonstrate that
Council did not meaningfully consider the policy.

Petitioners also appear to assert that CC2035 and, more
particularly, the NC/JT Amendment are inconsistent with PCP Policy
4.49. Policy 4.49 requires:

Resolution of conflicts. Adopt and periodically update
design guidelines for unique historic districts. Refine base
zoning in historic districts to take into account the character
of the historic resources in the district.

1 The Council found:

2 Consistent with this policy, the plan includes an action item
3 calling for an update of various district specific historic
4 design guidelines packages, including those for East
5 Portland/ Grand Avenue and Russell Street Conservation
6 Districts.

7 AR.75.

8 Although the findings on this policy are not relevant to NC/JT, Portland
9 is not required to adopt formal findings to support its legislative decision.
10 *Redland/Viola/Fisher's Mill CPO v. Clackamas County*, 27 Or LUBA 560,
11 563-64 (1994). It is enough if Portland demonstrates – based on legal argument
12 or citations to the record in this brief – that CC2035 complies with applicable
13 legal standards “and that required considerations were indeed considered.”
14 *Citizens Against Irresponsible Growth v. Metro*, 179 Or App 12, 16 n 6.
15 Relevant to this policy, Council adopted the *New Chinatown/ Japantown*
16 *Historic District Design Guidelines* in September 2017—only a few months
17 before the final adoption of CC2035. App.63-79.

18 Petitioners do not dispute that Council adopted and updated guidelines
19 for the NC/JT. Instead, it appears that petitioners are asserting that the building
20 height allowed by CC2035 violates Policy 4.49. Pet Brief, 27. The plain
21 language of the policy, however, requires Council to update design guidelines,
22 which it did, and to consider whether the *base zoning* is appropriate. The policy
23 does not require Council to consider whether the plan district needs to be
24 refined. The entire historic district is zoned CXd (Central Commercial with
25 design overlay). Petitioners do not argue, and the City does not understand
26 them to argue, that the CX base zone is inappropriate for these sites.
Furthermore, Policy 4.49 does not require that Council match or mirror historic
resources, instead it requires Council take the historic resources “into account.”

1 Again, petitioners must do more than simply disagree with Council's
2 conclusions. *Columbia Pacific Building Trades Council v. City of Portland*,
3 __Or LUBA __ at 5. Petitioners have not demonstrated that Council failed to
4 meaningfully consider any PCP policies.

5 c. CC2035 consistent with the contemporaneously
6 adopted Central City goals and policies.

7 Oregon law requires that amendments to land use regulations must
8 comply with relevant provisions in the comprehensive plan and, if there are no
9 specific provisions, with statewide planning goals. ORS 197.835(7).
10 Additionally, PCC 33.835.040 requires that zoning code amendments are
11 consistent with the PCP. "In addition, the amendments must be consistent with
12 the intent or purpose statement for the base zone, overlay zone, plan district, use
13 and development, or land division regulation." PCC 33.835.040.

14 Consistent with Oregon law and the Zoning Code, the Council correctly
15 considered and found that CC2035 is consistent with Statewide Planning Goals,
16 Urban Growth Management Functional Plan, and the PCP goals and policies in
17 effect at the time of adoption.

18 CC2035 amended the PCP to add the CC2035 goals and policies. R.7;
19 171-289 (Volume 1, Goals and Policies). Petitioners appear to assert that the
20 Council failed to include findings showing how the NC/JT Amendment is
21 consistent with the contemporaneously adopted CC2035 goals and policies.
22 Again, Portland is not required to adopt formal findings to support its legislative
23 decision. *Redland/ Viola/ Fisher's Mill CPO v. Clackamas County*, 27 Or
24 LUBA at 563-64.

25 //

26 //

1 The record demonstrates that CC2035 is consistent with the following
2 goals and policies cited by petitioners:

3 Policy 5.19 **Historic resources and districts.** Enhance the
4 identity of historically, culturally and architecturally
5 significant buildings and places, while promoting
contextually-sensitive infill development on vacant and
surface parking lots.

6 R.13705.

7 Policy 1.OT-3 **Cultural assets.** Support the
8 protection and enhancement of the rich cultural and multi-
9 ethnic history and diversity of Old Town/Chinatown,
including its unique physical characteristics, cultural and
arts institutions, community organizations, and mix of
businesses.

10 R.13671.

11 Policy 5.OT-1 **New Chinatown/Japantown.** Protect
12 significant resources and enhance the historic multi-cultural
13 significance of the New Chinatown/Japantown Historic
14 District. Support the district's historic character, multi-
ethnic history and today's Pan-Asian culture.

15 R.13707.

16 CC2035 implements these policies through several actions focused on
17 preservation. First, CC2035 adopts new historic resources transfer provisions
18 that allow property owners to transfer FAR from historic resources that meet
19 minimum standards for seismic upgrades. R.386-388. The previous Zoning
20 Code included 19 FAR bonus options and five transfer provisions. R.375.
21 CC2035 revised the system to eliminate almost transfer and bonus option to
22 prioritize affordable housing and historic preservation. *Id.* Next, CC2035
23 provided for additional retail and office allowances for historic resources,
24 effectively making historic resources more valuable for retention by allowing
25 more flexible uses. R.363-364; 370. Additionally, historic resources were
26 made exempt from bird-safe glazing standards to protect the integrity of the

1 resource. R.468. Finally, the CC2035 included several New Chinatown/
2 Japantown specific actions including:

3 UD52: Update the National Register nomination for the
4 New Chinatown/Japantown historic district. Review and
5 revise as appropriate district boundaries, period and areas of
significance, and list of contributing properties.

6 R.5894.

7
8 RC54: Explore the development of new and enhance
9 existing financial tools to help fund seismic upgrades to the
district's [Old Town/Chinatown] historic buildings.

10 R.5924.

11 Together these actions support policies to enhance and protect historic
12 resources. To the extent petitioners are asserting the NC/JT Amendment is
13 inconsistent with these policies, petitioners do not identify any basis for their
14 argument that these policies specifically or exclusively apply to decisions to
15 determine the appropriate height maximums. In fact, the term "height" does not
16 appear once in any of the policies cited by petitioners.

17 Furthermore, petitioners make no specific arguments based on the text of
18 these policies. Central City policies 5.19, 1.OT-3, and 5-OT-1 are not
19 mentioned in any of the testimony cited by petitioners. Petitioners arguments
20 are simply inadequately developed for review. "It is petitioners' responsibility
21 to allege the facts necessary to support their claim and to adequately develop
22 their legal argument." *Doman v. City of Woodburn*, 45 Or LUBA 158, 160
23 (2003) citing *Deschutes Development v. Deschutes County*, 5 Or LUBA 218,
24 220 (1982). Petitioners cannot simply disagree with Council's conclusions,
25 petitioners must show that Council failed to meaningfully consider a specific
26 and pertinent policy. The Council correctly found that CC2035 is consistent

1 with PCP goals and policies. The record demonstrates that CC2035
2 is also consistent with the not yet effective Central City goals and policies.
3 Petitioner fails to identify how the NC/JT Amendment is not consistent with
4 Central City goals and policies.

5 d. The NC/JT Amendments are supported by an
6 adequate factual basis.

7 The Council's findings and accessible evidence in the record reflect that
8 Council's decision was supported by an adequate factual base. Statewide
9 Planning Goal 2 (Goal 2) requires legislative land use decisions be supported by
10 an adequate factual base. This requirement is identical to the substantial
11 evidence requirement for quasi-judicial decisions. *1000 Friends v. City of*
12 *North Plains*, 27 Or LUBA 372, 377-78 (1994), *aff'd* 130 Or App 406. "If a
13 finding is reasonable in light of countervailing as well as supporting evidence,
14 the finding is supported by substantial evidence." *Bakers Five, LLC v. LCDC*
15 261 Or App 259, 347 (2014) *quoting Garcia v. Boise Cascade Corp*, 309 Or
16 292, 295 (1990). LUBA may not reweigh the evidence in the record. *Younger*
17 *v. City of Portland*, 305 Or 346, 358-60 (1988).

18 The Council considered and rejected petitioners' testimony that allowing
19 height up to 200 feet in the NC/JT District is contrary to historic preservation
20 policies. The Council found that the increased height could serve as a catalyst
21 to fill in vacant and underutilized gaps within the District while still preserving
22 and complementing historic resources, consistent with PCP Policy 4.48. Again,
23 Council found:

24 Following Council proposing this amendment, testimony
25 was received for and against the increased height. Some
26 testifying [were] concerned that these heights would not be
consistent with the rest of the scale of development
elsewhere in the district. However, others noted that the
block in question had long been underutilized and that
redevelopment of the site would be a catalyst for investment

1 throughout the district, following decades of neglect. In the
2 end, council decided: 1) the heights proposed would still
3 result in a step down from the urban form surrounding the
4 district; 2) the increased height was necessary to incent
redevelopment of a catalytic site; and 3) the issue of
consistency was best left to the Landmarks Commission
who remain charged with reviewing future development
proposals on that site and elsewhere in the historic district.

5 AR.75.

6 Council's finding and decision is supported by evidence received
7 throughout the public process. R.14973-14978 (testimony describing why it is
8 consistent with the National Register nomination and the Old Town Chinatown
9 vision statement to leave the height on the North Blocks); R.6320 (testimony
10 explaining the process and unlikelihood of a delisting and increasing height is
11 the best opportunity for development on Block 33); R.49651 (background
12 document describing the North Blocks as "envisioned by the city with the
13 potential for larger-scaled structures, to take advantage of the location's view to
14 the Willamette River in the east and north, and to downtown in the south, and
15 the housing towers in the west."); R.48059 (background finding that new
16 construction is only viable in NC/JT where greater development entitlements and
17 rents can be achieved); R.48140 (interview notes describing Block 33 as a key
18 catalyst site); R.48189 (summary of issues and opportunities identifying that
19 redevelopment of vacant and surface parking lots is important component for
20 revitalizing the area); R.24096 (BPS staff briefing to PSC explaining that the
21 *New Chinatown/ Japantown Historic District Design Guidelines* are intended to
22 allow the Block 33 applicant to make the case for a building that's taller than
23 what the height limits are today); R.24253 (PSC work session considering
24 historic district heights and request to set height on North Blocks at 350 feet);
25 R.15023 (testimony describing that the district's roots are cultural rather than
26 architectural); R.7731-7732 (testimony in support of increased entitlements on

1 Block 33 to encourage development); R.48092 (background document
2 considering high-density housing north of NW Everett along NW Glisan
3 corridor); R.48190 (summary of planning events describing testimony that
4 development regulations, including height and FAR may be discouraging new
5 development).

6 The record contains substantial evidence that would permit a reasonable
7 person to conclude that the NC/ JT Amendment is consistent with the PCP and
8 policies adopted to support the District. Policy 4.48 requires Council to
9 consider ways to “encourage development that fills in vacant and underutilized
10 gaps” while “preserving and complementing historic resources.” Petitioners
11 assert that the increased height will not preserve and complement the NC/JT
12 District. Petitioners cite extensively to evidence that supports their argument
13 but neglect the countervailing evidence. However, the Council heard
14 substantial evidence that the increased height will encourage development while
15 still preserving the historic district consistent with PCP Policy 4.48. The choice
16 between conflicting evidence belongs to the local government. *Friends of*
17 *Deschutes County v. Deschutes County*, 49 Or LUBA 100, 104 (2005). Council
18 considered all the evidence and found that the NC/JT Amendment was
19 appropriate. The petitioners’ disagreement with the Council’s conclusions
20 provides no basis for reversal or remand.

21 **B. Response to Petitioner’s Second Assignment of Error:**

22 **Council correctly found that its decision to amend CC2035 to**
23 **include the NC/JT Amendment was consistent with Goal 1 and**
24 **applicable Comprehensive Plan Policies.**

25 **1. Standard of Review**

26 Petitioners again fail to identify the standard of review as required by
OAR 661-010-0030(4)(d). Under ORS 197.835, LUBA must affirm CC2035

1 unless LUBA determines that CC2035 does not comply with the Statewide
2 Planning Goals or the Comprehensive Plan; or the City committed procedural
3 error that prejudiced the substantial rights of petitioners.

4 2. Procedural History

5 The City Council adopted CC2035 following a long and extensive public
6 process that began with the *Central City Concept Plan* and three quadrant
7 Plans, included extensive PSC review, and culminated in seven Council
8 hearings and nearly 7,000 pages of written testimony submitted to Council.
9 AR.4; R.7710-13487; 14674-15883.

10 The City's consideration of heights in historic districts began with the
11 quadrant plans and continued through the PSC and Council process. Council
12 heard public testimony on the PSC's *Recommended Draft Central City 2035*
13 *Plan* on September 7, 14, and 20. AR.4. The *Recommended Draft* proposed
14 increasing the maximum height on Block 33 from 100 feet to 125 feet and
15 reducing the maximum height on the North Blocks from a maximum height of
16 425 feet to 125 feet. R.14024; 14090; 14096.

17 Following the September 20 hearing, Council closed the record and held
18 meetings on October 18, November 29, and December 6 to deliberate and
19 discuss proposed amendments. R.5493. During the October 18, 2017 meeting,
20 Council considered amending the PSC's recommendation for height and FAR
21 in the NC/JT District. R.7612. Specifically, Council considered testimony
22 requesting that the Zoning Code retain the existing 350 feet of base height with
23 bonus height option to 425 feet on the North Blocks. *Id.* In response to the
24 testimony, Mayor Wheeler introduced an amendment to increase the maximum
25 building heights to 160 feet for the North Blocks. R.6814; 7397. The record
26 was then reopened January 5, 2018 until January 22 to accept additional

1 testimony on this and other amendments. R.5493; 6642. On March 7, 2018,
2 Council voted to approve an amendment to the *Recommended Draft* that set the
3 maximum height for the North Blocks to 160 feet, a decrease from the existing
4 425-foot maximum height. R.6546.

5 Later, during the March 22, 2018 meeting Council considered additional
6 amendments to the *Recommended Draft*, including two amendments related to
7 the maximum allowed height on Block 33. R.6439. One amendment,
8 introduced by Mayor Wheeler, proposed to increase the maximum building
9 height from the *Recommended Draft's* proposed 125 feet to 160 feet on the
10 western half of Block 33. *Id.*; R.7268. The other amendment, introduced by
11 Commissioner Saltzman, increased the maximum building height to 200 feet for
12 the western half of the block, increased the FAR from 6:1 to 9:1, and exempted
13 the block from Historic Resource Review. R.7208. No vote was taken on
14 either amendment and the record was left open until April 4, 2018. R.5493.

15 During the April 4 meeting, Council considered additional amendments
16 and variations on the March 22 amendments. R.6386. Council voted to
17 increase the maximum building height from the PSC-recommended 125 feet to
18 160 feet on the western half of the block, maintain 6:1 FAR, and require that
19 height above the base 125 feet can only be accessed with the affordable housing
20 bonus. R.6386. Once again, Council reopened the record and left it open until
21 April 11. R.6399.

22 Subsequently, on May 24, Commissioner Saltzman introduced the NC/JT
23 Amendment. R.6314. The NC/JT Amendment superseded earlier amendments
24 to the *Recommended Draft*. The NC/JT Amendment reduced the base height
25 allowed for the North Blocks to 200 feet with no bonus height and increased the
26 base height for Block 33 to 125 feet for the full block and increased the

1 maximum height on the west half of the block to 200 feet, including a potential
2 bonus of 75 feet. R.6314; 5560; 5566-5568. Future development on both sites
3 would remain subject to Historic Resources Review. The record remained
4 closed and no additional testimony was taken prior to Council's vote on the
5 NC/JT Amendment. R.6258.

6 Following Council's vote on the NC/JT Amendment, the Council moved
7 to substitute the findings in Exhibit A. R.6323. The updated findings reflected
8 amendments made throughout the process including the NC/JT Amendment and
9 replaced the packet filed with the clerk's office. *Id.* Exhibit A, as amended by
10 Council on May 24, appears in AR.1-AR.153³.

11 3. Argument

- 12 a. Petitioners fail to show that their substantial rights
13 were violated.

14 The City provided meaningful public participation at all stages of the
15 land use process. In their second assignment of error, petitioners appear to
16 argue that their substantial rights were violated by the failure to follow
17 applicable procedures. LUBA must affirm CC2035 unless petitioners establish
18 that a procedural error occurred that prejudiced the substantial rights of the
19 petitioners. ORS 197.835(9)(a)(B). Prior to making legislative land use
20 decisions, local governments must send notice to property owners affected by
21 the decision before the first hearing. ORS 227.186. Additionally, Portland's
22 Zoning Code sets out additional legislative procedures which requires both the
23 PSC and City Council conduct at least one hearing. PCC 33.740.020,

24 _____
25 ³ Petitioners assert that the findings were "replaced after this appeal was filed."
26 Pet Brief, 26. As described in the City's transmittal letter on January 11, 2019,
the City mistakenly omitted Exhibit A as adopted by Council from the record.
Petitioners did not object to the City's submission. To the extent petitioners are
objecting now, petitioners' objection should be denied as untimely. OAR 661-
010-0026(2).

1 33.740.030. Following the Council’s hearing, “the Council may adopt, modify,
2 or give no further consideration to the [PSC’s] recommendation.” PCC
3 33.740.030(C).

4 Petitioners do not assert that Council failed to provide required notice or
5 hearing before adopting CC2305. Instead, petitioners appear to assert that the
6 Council committed procedural error by failing to provide an additional
7 opportunity to testify following a motion and prior to voting on that motion.
8 Nothing in Oregon law or Portland’s Zoning Code requires the Council to take
9 testimony on every motion before voting. *See Vannatta v. City of St. Helens*, __
10 Or LUBA __ (LUBA No. 2018-128, April 9, 2019) (slip op at 7) (holding that
11 city council did not commit procedural error when it continued its deliberations
12 without allowing additional testimony and evidence).

13 The record and findings demonstrate that the Council accepted and
14 considered testimony and argument on the appropriate height and FAR in
15 NC/JT. The fact that the Council ultimately decided to address the issue in a
16 manner that petitioners oppose does not amount to procedural error. *See*
17 *Elizabeth Graser-Lindsey v. City of Oregon City*, __ OR LUBA __ (LUBA No.
18 2016-044, November 22, 2016) (slip op at 32).

19 Finally, petitioners complain that the NC/JT Amendment is a result of a
20 “back-room deal.” Quasi-judicial procedural requirements in ORS 197.763 or
21 ORS 227, including the requirement that decisionmakers disclose ex parte
22 communication, do not apply to legislative decisions. *Casey Jones Well*
23 *Drilling, Inc. v. City of Lowell*, 34 Or LUBA 263, 285 (1998). Even if ex parte
24 communication did apply, petitioners do not provide evidence of any ‘deal
25 making’ that occurred outside of the Council hearings. Petitioners assert that
26 Commissioner Fish “walked-through the unseemly lobbying efforts of Block 33

1 and 26 developers.” Pet Brief at 37 *citing* record pages 6317-18. However,
2 petitioners’ characterization is an embellishment. In fact, Commissioner Fish
3 recounts the procedural history of the proposed amendments discussed above in
4 the procedural history. R.6317-6318. While the City does not dispute that the
5 Council considered numerous amendments and received testimony addressing
6 the appropriate height for the blocks, nothing about Commissioner Fish’s
7 characterization suggests the testimony was “unseemly lobbying.” Petitioners
8 fail to demonstrate a procedural error that violated their substantial rights.

9 b. The City complied with its adopted Community
10 Involvement Program and engaged the community
 consistent with Goal 1.

11 Petitioners assertion that Goal 1 was violated is misplaced. Goal 1
12 requires the city adopt a citizen involvement program. OAR 660-015-0000(1).
13 Pursuant to Goal 1, Portland adopted the *Community Involvement Program* in
14 2010.⁴ The *Community Involvement Program* is implemented in part through
15 the legislative procedure requirements set out in Portland City Code Chapter
16 33.740. “Goal 1 does not apply directly to plan and land use regulation
17 amendments, and the local government's Goal 1 obligation is to follow its
18 acknowledged CIP.” *Stevens v. Clackamas County*, 68 Or LUBA 490, 497
19 (2013). By following legislative procedures in the Zoning Code, the City
20 complied with Goal 1.

21 In *Rajneesh Medical Corporation v. Wasco County*, 12 Or LUBA 219
22 (1984), LUBA held that the county failed to comply with *specific* public
23 involvement policies when it failed to hold any meetings or send any notices
24 prior to amending its comprehensive plan. Petitioners do not make any attempt

25 _____
26 ⁴ The City requests that LUBA take official notice of Ordinance 184047 adopted
on August 11, 2010. App.80-84. Under ORS 40.090(7) LUBA may take
official notice of a city ordinance. *Johnson v. City of Portland*, LUBA No
2018-037, Slip Op at 3, n.2 (Sept 6, 2018).

1 to explain how a specific element or procedural requirement of the community
2 involvement program was violated. Instead, petitioners list a number of general
3 community involvement policies from the PCP and assert without any textually
4 based argument that the Council did not follow these policies when it elected
5 not to take additional testimony before voting on the NC/JT Amendment.
6 Petitioners' general, nonspecific allegations are insufficient.

7 The Council correctly found that Goal 1 was satisfied in each phase of
8 the legislative process. AR.2-3. The events and outreach strategies are further
9 detailed in Volume 6, Public Involvement of the Central City 2035 Plan.

10 R.5405-5468. Petitioner has failed to demonstrate otherwise.

11 c. CC2035 complied with PCP goals and policies
12 requiring community participation.

13 Next, petitioners assert that CC2035 failed to comply with PCP Goals 1
14 and 2, and PCP Policies 1.17, 2.16, 2.18, 2.20. However, petitioners' argument
15 only addresses PCP Goal 2.C and 2.E. Petitioners fails to develop an argument
16 relating to Goal 1 or PCP Policies 1.17, 2.16, 2.18, 2.20 sufficient for review.
17 *See Deschutes Development Company v. Deschutes County*, 5 Or LUBA 218,
18 220 (1982) (LUBA will not speculate as to the legal basis upon which petitioner
19 is attempting to structure its case).

20 Goals 2.C and 2.E provide:

21 Goal 2.C: Value community wisdom and participation
22 Portland values and encourages community and civic
23 participation. The City seeks and considers community
24 wisdom and diverse cultural perspectives, and integrates
25 them with technical analysis, to strengthen land use
26 decisions.

Goal 2.E: Meaningful participation Community members
have meaningful opportunities to participate in and influence
all stages of planning and decision making. Public
processes engage the full diversity of affected community
members, including under-served and under-represented
individuals and communities. The City will seek and

facilitate the involvement of those potentially affected by planning and decision making.

In response to Goal 2, the Council found:

The process leading to the final Recommended Draft of Central City 2035 included the development of four initial concept plans (the CC2035 Concept Plan, North/Northeast, West, and Southeast Quadrant Plans) and included a detailed public engagement process that provided repeated and numerous opportunities for all interested parties to shape and influence the final recommended draft.

For instance, each of the four noted plans were initially developed with the assistance of a Stakeholder Advisory Committee (SAC), specifically developed for each plan area. These SAC's include a diverse membership, including representatives from under-represented communities who have been impacted by past planning decisions. SAC meetings were open to the public, and public comment periods were a part of each meeting.

In addition to the SAC's, open house events, meetings with neighborhood and business associations, and meetings with numerous interest-based organizations were held, to ensure all interested parties and organizations had a chance to learn about and provide input on the plan.

Further, the BPS website had pages dedicated to each plan effort, and tools such as a Map App page, and contact information for a Central City 2035 hotline, each providing additional opportunities to learn about the plan effort, review background reports, meeting notes, and numerous ways to comment on the plan. . . .

* * *

Further opportunities for the public to engage with the PSC and City Council in the legislative review of CC2035 are summarized in the Statewide Planning Goal 1, Citizen Involvement. . .

AR.42-44.

Throughout the legislative process, the City sought community participation and provided opportunities for meaningful community participation. Petitioners assert that the City failed to comply with Goal 2.E and provide meaningful opportunities to participate in *all stages* because the

1 Council did not accept additional testimony before its vote on the NC/JT
2 Amendment. Council is entitled deference in its interpretation of PCP goals
3 and policies. ORS 197.829(1). Council found that the process included
4 detailed public engagement with “repeated and numerous opportunities” for
5 parties to shape and influence CC2035. AR.42. The Goal 1 findings further
6 outline the extensive public participation in each phase of developing CC2035
7 up to and including the City Council hearings. AR.2-3. During the Council
8 consideration, testimony was received, amendments were proposed, and
9 additional hearings were held. AR.4. Opportunities to participate in “all stages
10 of planning and decision making” does not require that the Council allow the
11 community to participate in every amendment and final deliberations. Nor does
12 the Council interpret the phrase this way. Petitioners interpretation would
13 require the Council to deliberate with the public and would never allow the
14 decisionmakers the opportunity to close the record and engage in a discussion
15 before voting. Council implicitly, if not explicitly, interpreted “all stages” to
16 include the development phases leading up to a *Recommended Draft* as well as
17 opportunities for testimony during before Council. Goal 2.E, however, does not
18 require testimony in response to every motion and every amendment.

19 The City’s decision also complies with Goal 2.C to value community
20 wisdom and participation. Petitioners make no specific argument about the text
21 of Goal 2.C. Instead, petitioners appear to suggest that the Council violated
22 Goal 2.C because there was testimony in response to earlier amendments and,
23 therefore, Council necessarily was required to accept additional testimony
24 before voting on the NC/JT Amendment. Goal 2.C requires that the City seek
25 and consider community wisdom. Like Goal 2.E, nothing in the plain language
26 of the goal requires the Council to accept testimony on every motion and allow


1 the public to participate in Council's deliberations. The Council plausibly and
2 correctly found that CC2035 is consistent with PCP goals and policies.

3 **V. CONCLUSION**

4 For the reasons stated above, the city requests that LUBA affirm
5 Ordinance 189000. If LUBA disagrees, remand is the appropriate remedy,
6 rather than reversal. Any inadequacies in the interpretation or application of
7 approval criteria or state law, or adoption of findings can be remedied by
8 remanding for adoption of new findings. Similarly, any evidentiary deficiency
9 can be corrected by remanding for reconsideration of the evidence or for new
10 evidence.

11 DATED: June 14, 2019.

12 Respectfully submitted,

13
14 

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1 **Certificate of Compliance with Brief Length and Type Size Requirements**

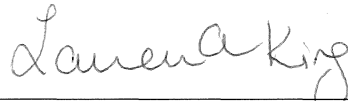
2
3 Brief Length

4 I certify that (1) this brief complies with the word-count limitation in OAR 661-
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15 I further certify that on June 14, 2019, I filed the original and four (4)
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17 LAND USE BOARD OF APPEALS
18 DSL BUILDING
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APPENDIX

NEW CHINATOWN/JAPANTOWN HISTORIC DISTRICT DESIGN GUIDELINES



ADOPTED BY ORDINANCE NO. 188623, SEPTEMBER 28, 2017

EFFECTIVE OCTOBER 28, 2017



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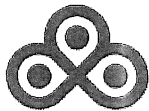
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Copies of the Central City Fundamental Design Guidelines and specific historic district design guideline documents are available at the Bureau of Planning and Sustainability.

Please call 503-823-7700, or visit www.portlandoregon.gov/bps

*Cover Image: Sketch showing Chinese/Japanese cultural adaptations
Project funding provided by the Portland Development Commission.*

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Chapter 1: Introduction

The New Chinatown/Japantown Historic District Design Guidelines are adopted land use approval criteria that protect the architectural integrity and cultural significance of Portland's New Chinatown/Japantown Historic District. Chapters 1 and 2 of the document provide background on the purpose of the design guidelines and describe the unique architectural and cultural qualities that make the district historically significant. General Guidelines, Alteration Guidelines, Addition Guidelines, and New Construction Guidelines can be found in Chapter 3. Only the adopted guidelines in Chapter 3 serve as land use approval criteria.

The New Chinatown/Japantown Historic District is important to Portland's past, present, and future identity. The design guidelines are intended to encourage respectful changes to the district's built environment, create opportunities for increased use, and retain its architectural and cultural qualities.

VISION STATEMENT

The New Chinatown/Japantown Historic District Design Guidelines are designed to allow change to take place in a mindful way that brings vibrancy to the district while retaining the important architectural and cultural qualities that make it a unique historic neighborhood.

The vision for the future includes a vibrant, economically healthy neighborhood, activated by tourism as well as an increase in people living, shopping, and working in the district. Historic buildings are rehabilitated and seismically upgraded. There are new buildings on formerly vacant lots and vertical additions above some of the district's older buildings. A regular series of tall, glass-fronted storefront bays activate the pedestrian level. Most buildings have a strong projecting cornice or a parapet with design detail, and there are some higher buildings visible above four or five stories. New buildings have a traditional base level that blends well with the



Society Hotel, NW 3rd Avenue and NW Davis Street, 2016.

older buildings. Secondary materials and design insertions at both new and older buildings bring to mind a Japanese and/or Chinese design aesthetic. This aesthetic is reinforced by projecting signs, flags, and new horizontal balconies with varying metal railing designs. This vision promotes the retention of historic resources, encouragement of compatible development, the preservation of the district's cultural significance and authenticity, and the enhancement of the pedestrian right-of-way.

PURPOSE OF DESIGN GUIDELINES

Historic district design guidelines provide guidance to property owners, designers, architects, and developers as to the desired architectural character of alterations, additions, and new construction in a historic district. The guidelines in Chapter 3 serve as the approval criteria for exterior alterations and additions to existing buildings, and for construction of new buildings within the New Chinatown/Japantown Historic District. Intended to retain and reinforce the architectural and cultural qualities that make the district significant, the New Chinatown/Japantown Historic District Design Guidelines are informed primarily by unique attributes found in the historic district, secondarily by local best practices, and thirdly by the Secretary of the Interior's Standards for the Treatment of Historic Properties.



Wong's Cleaners sign on NW 3rd Avenue. Portland Bureau of Planning and Sustainability.

Design guidelines are land use approval criteria that must be met as part of the City of Portland's Historic Resource Review process. Applicants are required to explain, in their Historic Resource Review application, how their proposal meets each applicable guideline in Chapter 3.

APPLYING DESIGN GUIDELINES

Design and Historic Resource Review within Portland's Central City often requires meeting approval criteria found in multiple layers of design guidelines. The Central City Fundamental Design Guidelines make up the foundational set of design guidelines in the Central City. These fundamental guidelines apply to the New Chinatown/Japantown Historic District, but are augmented by the district-specific design guidelines found in Chapter 3 of this document. Citywide, design guidelines are intentionally developed to avoid conflicting requirements. However, when conflicts arise between guidelines, the most district-specific design guidelines govern. In the New Chinatown/Japantown Historic District, both the Central City Fundamental and Historic District design guidelines apply, with Chapter 3 of this document taking precedence when conflicts arise with Central City Fundamental Design Guidelines.

A portion of the New Chinatown/Japantown Historic District overlaps with the Skidmore/Old Town National Historic Landmark District on the west side of NW 3rd Avenue. In this overlap area, the Skidmore/Old Town, New Chinatown/Japantown, and Central City Fundamental design guidelines all apply. For more details, see Chapter 3.

Although the New Chinatown/Japantown Historic District is in the River District, the River District Design Guidelines do not apply.

HISTORIC RESOURCE REVIEW

The City of Portland applies Historic Resource Review to proposals for new construction, exterior alterations, and additions to the city's historic resources. Historic Resource Review ensures that the physical integrity of these designated historic properties and districts is preserved in a way that conveys their significance. The Historic Resource Review process is managed by Bureau of Development Services staff and by citizens appointed to the Portland Historic Landmarks Commission (PHLC). The PHLC is a volunteer board composed of members with expertise in design, development, and historic preservation.

Historic Resource Review takes into consideration the appearance, quality, and appropriateness of physical changes to historic resources. Historic Resource Review generally does not consider interior building changes that are not visible from the public right of way. As a type of discretionary land use review, Historic Resource Review ensures the preservation of historic resources and the compatibility of new development, while allowing a degree of flexibility for applicants. During the Historic Resource Review process, a proposal is evaluated against the applicable approval criteria (such as the New Chinatown/Japantown Historic District Design Guidelines) and any other regulations being proposed for modification.

The land use review process varies with the type, size, and location of the proposal. Smaller proposals are reviewed by Bureau of Development Services staff, and the process generally takes two to three months. Larger proposals are reviewed by the Historic Landmarks Commission with a process of about three to four months. Owners of nearby properties are notified, and testimony from individuals, organizations, and neighborhood associations is accepted and encouraged. Optional Design Advice meetings are available prior to making application for Historic Resource Review to provide greater predictability to potential applicants.

If property owners are seeking state or federal historic tax incentives for rehabilitation of a contributing building, the proposal may be subject to reviews by other agencies that in some cases will be more stringent than the City of Portland's Historic Resource Review process.

Additional information on Historic Resource Review and other land use reviews in Portland is available from the Bureau of Development Services, 1900 SW 4th Avenue, Suite 1500, Portland, Oregon, 97201, or by calling 503-823-7526.

ARCHAEOLOGICAL RESOURCES

The Portland Zoning Code does not apply regulations for managing archaeological resources in the New Chinatown/Japantown Historic District. The protection and management of subsurface archaeological resources such as objects, human remains, and sites are governed by state law (see ORS 97, 358, and 390).



The Mason, Ehrman & Co. Building, NW 5th Avenue and NW Everett Street, c1908. Courtesy of the Portland Development Commission.

The potential for archaeological resources is high within the boundary of the New Chinatown/Japantown Historic District. As such, property owners may wish to consult with a professional archaeologist or the State Historic Preservation Office (SHPO) prior to commencing ground-disturbing activities. If subsurface archaeological resources are discovered, all work should cease immediately and the SHPO should be contacted. The proper removal of discovered archaeological resources may provide unique opportunities for on-site or in-district public history displays. For help with artifact identification and display, contact the SHPO.



Hip Sing Tong Building, c1950s, NW 3rd Avenue. Portland Bureau of Planning and Sustainability.

TERMS/CONCEPTS

The terms below are used throughout this document. These concepts are discussed here in order to provide background for their use in the New Chinatown/Japantown Design Guidelines, and not necessarily as definitions that would be provided by a dictionary.

Compatibility and Differentiation

Compatibility is the quality of being similar, sympathetic to, or achieving harmony with others. Compatibility is a key concept for both new construction and changes to existing buildings within a historic district. Compatibility must be considered not only in regards to an affected building, but to buildings in the immediate proximity and throughout the district. Architectural compatibility in a historic district is achieved when a project reflects many, but not necessarily all, of the important historic characteristics of the district.

Differentiation is the quality of being distinct from another. Architectural differentiation in a historic district is achieved when a project is seen as clearly a product of its own time; a contemporary insertion.

How does one find the right balance between these two divergent concepts? There are a range of approaches, with the appropriate choice being informed partly by the scale and degree of the project.

The first and most straightforward approach to balancing compatibility and differentiation is replicating historic precedents found in a historic context, either through interpretation or reconstruction. In this approach, there is still differentiation between the new and the existing, but the differentiation is achieved at a very minor level, such as insulated glass being used in a new window that otherwise matches the proportions and recess of existing single-pane windows. This approach is especially appropriate if there is a missing element that can be returned in order to complete a pattern or to achieve original symmetry in an existing building or site.

For a larger addition or new construction, the approach to achieving both compatibility and differentiation will most commonly be a contextual response ranging from an interpretation of a historic building style found in the district to a sensitive, yet contemporary, insertion that relates to its immediate context and/or exhibits character-defining architectural features found in the district.

The National Park Service suggests several, albeit contradictory, design techniques as effective ways to construct an addition to a historic building,

including “Avoid designs that unify the two volumes into a single architectural whole...,” and “Base the size, rhythm and alignment of the new addition’s window and door openings on those of the historic building.”¹ In general, a successful new building design will incorporate most of the features of a single historic building style (not multiple styles) found in the historic district and relate to character-defining features found on neighboring properties and contributing historic resources found throughout the district.

Juxtaposition is taking the concept of differentiation to its extreme. A project using juxtaposition does not reflect features of its surroundings, even in a re-interpreted way, but stands in contrast to existing patterns, materials, scale, or other historic district references. Juxtaposition as it relates to the New Chinatown/Japantown Historic District is generally discouraged as it is not supported by the National Park Service due to the difficulty in achieving the required level of abstraction without damaging the integrity of the district. However, juxtaposition may be successful at a small scale, for instance where a historic entry might be highlighted by an additive, but contemporary, new design insertion. Juxtaposition may also be appropriate if small-scale authentic Chinese or Japanese design expression is sensitively applied to an existing or new building.



The Tuck Lung Building, NW 4th Avenue and NW Davis Street. Courtesy of the Portland Development Commission.

Authenticity

Authenticity is the quality of being genuine or real. Cultural authenticity in a historic district is achieved when a project incorporates or retains architectural references to the cultural or ethnic history of the site, building, or district. To avoid “kitsch” or cultural misappropriation, such references must have historic precedent by the culture(s) that developed or historically used such expressions or adaptations. The designer of a culturally authentic project should know where those architectural references come from and, if appropriate, what they mean to the culture that developed and/or use them.

It is important to recognize that the New Chinatown/Japantown Historic District was physically shaped not only by immigrant communities, but by its late 19th- and early 20th- century architecture. The district was never an exclusive enclave of a single ethnic group or culture; nor was it the only place in Portland where persons of Chinese or Japanese ancestry lived or worked. Unlike many other Chinese and Japanese pre-WWII immigrant communities on the West Coast, New Chinatown/Japantown was developed primarily within an existing built environment. Although new buildings were not Chinese or Japanese in style, both Chinese and Japanese cultures altered their surroundings by introducing design expressions and adaptations such as balconies, awnings, and signs.

The district’s character was developed over time, with established architectural styles of the mainstream Western culture being altered and supplemented by design expressions of immigrant Chinese and Japanese cultures, primarily in the period of 1880 to 1943. The district therefore presents a unique amalgam of cultures and changes over time. Some of the comparable ethnic and cultural historic districts on the West Coast exhibit buildings of a more distinctively Asian building type; however, buildings in Portland’s New Chinatown/Japantown remained more rooted in Western architectural styles, even when the owners or developers were part of the Chinese or Japanese community.

¹ Anne E. Grimmer and Kay D. Weeks, Preservation Brief #14: New Exterior Additions to Historic Buildings: Preservation Concerns (Washington, D.C.: U.S. Department of the Interior, National Park Service, 2010), 7-8.

In her book *Sweet Cakes, Long Journey: The Chinatowns of Portland, Oregon*, author Rose Marie Wong explains the architectural hybrid that came to define the district's physical form:

In their revisions to existing structures, the Portland Chinese created an architectural manifestation of their own, something identifiable as a cultural vernacular. Most simply put, the majority of the buildings were not designed by architects, nor did they resemble any academically recognized architectural style, certainly not in the sense that society envisioned as authentically 'Chinese'. Without using obvious elements such as pagoda-style roofs, tiling, and turreted building shapes, the immigrant residents expressed their cultural identity through the easier means of applied decoration and ornament. This, along with their presence, created the 'image' of a Chinese district.²

Authentic design expressions informed by the cultural significance of New Chinatown/Japantown are highly encouraged when changes to the district are being proposed. To be successful, such expressions must take into account the district's unique blending of Western architectural styles augmented by Chinese or Japanese alterations and applied additions.

The design of a project, whether employing Chinese and/or Japanese design influences or not, should be compatible with buildings in the district (both extant and demolished), especially those in the immediate vicinity of the site.

Although authentic Chinese and/or Japanese design expressions related to the history of the historic district are highly encouraged, they are not required.

Contributing and Noncontributing Resources

In a historic district, *contributing resources* are those that convey the physical integrity and/or cultural significance that characterized the historic district during its period of significance. *Noncontributing resources* are those that were built after the period of significance or have been so altered as to not convey sufficient physical integrity from the period of significance.

The status of each property, expressed as either contributing or noncontributing, is a form of classification used in a National Register of Historic Places nomination and acknowledged in the Historic Resource Review process. The National Register nomination for New Chinatown/Japantown Historic District in 1989 determined

the classification of contributing or noncontributing. However, classification can be changed. It is possible to reclassify as contributing a building built during the period of significance that has been restored since the time of the district's listing. Alternatively, a contributing resource can be reclassified as noncontributing if its historic integrity is compromised. If enough resources are reclassified as noncontributing, an entire district's historic designation can be removed.



The Chinese Consolidated Benevolent Association Building, NW Davis Street, prior to 1980s renovations. Courtesy of the Portland Development Commission.

² Rose Marie Wong, *Sweet Cakes, Long Journey: The Chinatowns of Portland, Oregon* (Seattle: University of Washington Press, 2004), 221.

HOW TO USE NEW CHINATOWN/JAPANTOWN DESIGN GUIDELINES

The design guidelines in Chapter 3 are qualitative statements that, when taken together, encourage the desired character of changes within the New Chinatown/Japantown Historic District. Although discretionary in nature, the New Chinatown/Japantown Historic District Design Guidelines are land use approval criteria that must be met for additions, alterations, and new construction to be approved in the district.

Each design guideline has a title, contextual background statement, and examples of design expressions that may meet the guideline.

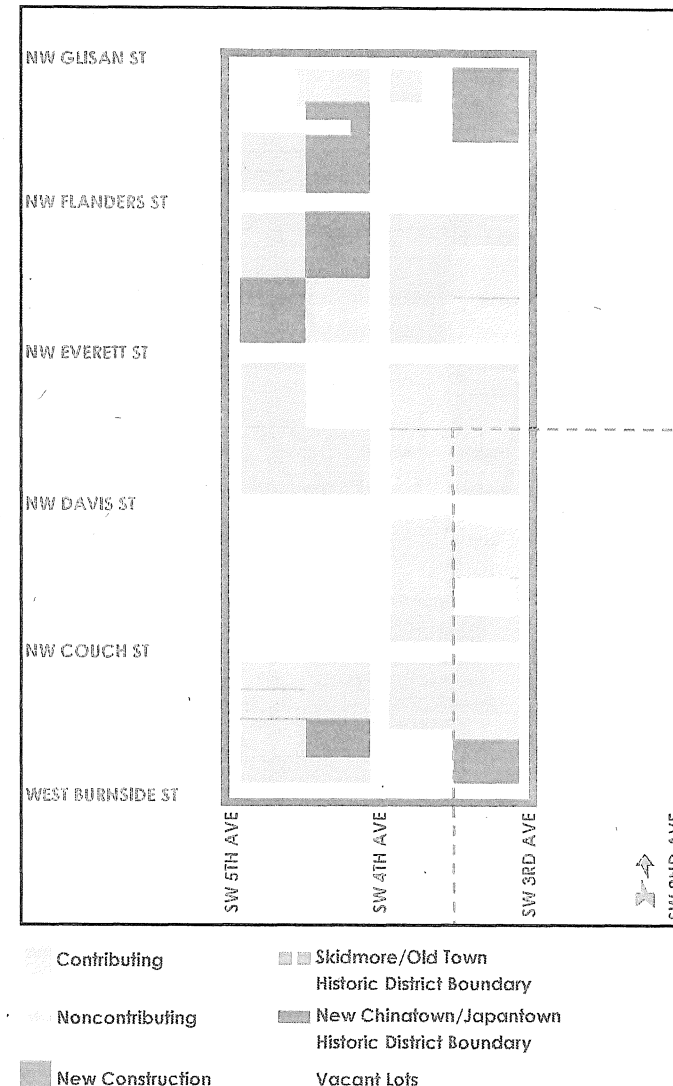
Applicants must demonstrate that all guidelines applicable to their design have been met. Because design changes vary in size, scale, and complexity, not all guidelines apply to all proposals. There are four categories of design guidelines for New Chinatown/Japantown:

1. **General Guidelines** apply to all projects in the historic district.
2. **Alteration Guidelines** apply to changes to existing buildings (both contributing and noncontributing) that do not increase the building's height or size.
3. **Addition Guidelines** apply to increases in vertical or horizontal exterior wall area of any existing building. Addition Guidelines only apply to horizontal additions creating up to 25 feet of new linear frontage.
4. **New Construction Guidelines** apply to new buildings and to horizontal additions to existing buildings that are greater than 25 linear feet in width.

Applicants will typically have to meet design guidelines in multiple categories (such as General and Alteration). In some cases, designers or applicants may be required to use all guidelines categories: Alteration Guidelines for changes to an existing building façade, Addition Guidelines for additional stories and small horizontal additions, and New Construction Guidelines for a horizontal addition larger than 25 feet in width.

It is important for applicants to note that the General Guidelines in Chapter 3 of this document and the Central City Fundamental Design Guidelines (separate document) apply to all exterior changes in the New Chinatown/Japantown Historic District.

NEW CHINATOWN/JAPANTOWN CONTRIBUTING BUILDINGS MAP



HOW TO USE THIS DOCUMENT

Each guideline addresses a specific topic, but has the same components.

The **TITLE** is in capital letters, bold, and uses an alpha-numeric prefix that relates to the framework described on the preceding pages. For example, Guideline B2: DESIGN OF ALTERATIONS is the second guideline of Section B, ALTERATION GUIDELINES.

The **BACKGROUND** statement outlines the reasons for the design guideline and the goals that the City wishes to achieve. The background statement also provides clarification among related or similar design guidelines or adds more detail to the guideline language. This information helps inform application of the guidelines, but does not serve as approval criteria.

The **DESIGN GUIDELINE LANGUAGE** serves as the actual approval criteria.

The **accomplished by** statements and photographs are provided to exemplify and illustrate how guidelines may be met. In many cases the descriptions are followed by pictures of examples. The accomplished by's and the examples must not be considered as the only possible design solutions. They are intended to stimulate new ideas and provide direction for designers and developers, but are not approval criteria.

GENERAL GUIDELINES B2: DESIGN OF ALTERATIONS

B2: DESIGN OF ALTERATIONS

BACKGROUND:

Proposed changes to the building should respect the original building style, especially retaining original bays and openings such as the historic storefront width and height.

Features or elements specific to a different historic architectural style, even one found in the district, should not be used.

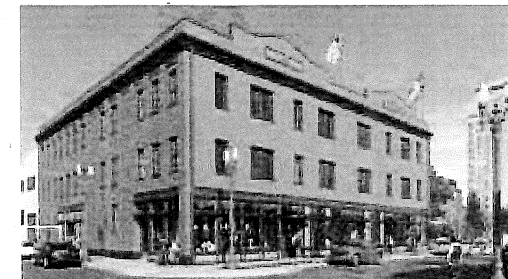
Culturally authentic details such as parapet or other rooftop edge detailing, entryway surrounds, awnings, projecting balconies, signs, and other design elements which illustrate or suggest a building's Japanese or Chinese affiliation may be appropriate depending on the change's impact on historic materials.

GUIDELINE B2

DESIGN ALTERATIONS TO BE RESPECTFUL OF THE ORIGINAL STYLE, TYPE, AND DESIGN OF THE BUILDING.

Guideline B2 may be accomplished by:

- Using contemporary building details which tie the building to its ethnic or cultural history, but don't create a false sense of that history.
- Ensuring that architectural elements from other historic building styles are not unintentionally introduced.
- Integrating authentic design elements in ways that minimally impact the existing building's historic materials and overall stylistic presentation.



The Overland Warehouse at 4th and Davis was rehabilitated to retain the historic pattern of window and storefront openings. Historic materials were repaired and, where necessary, replaced with materials in keeping with the original. Images courtesy Emerick Architects.

Chapter 2: History, Character, and Context

BACKGROUND

The New Chinatown/Japantown Historic District was placed on the National Register of Historic Places in 1989 for its multiethnic heritage, architecture, and role in and association with Portland's early growth as an industrial and commercial center. The district is also recognized for its historic architecture built during its period of significance (1880 to 1943).³

Written with emphasis on the Chinese experience in the district, the New Chinatown/Japantown Historic District nomination found the district to be locally and nationally significant "for its history as the largest and most intact Chinatown in Oregon."⁴ However, subsequent research has demonstrated that the district was equally important to Portland's early Japanese community, as well as to African, Greek, Jewish, and Scandinavian immigrant groups throughout 1880-1943.

Research conducted after the district was designated has found that the Chinese and Japanese communities were the largest and most enduring ethnic presence during the district's period of significance. The presence of these two primary groups was exhibited in adaptations made to the built environment to reflect their Asian heritage and by establishment of a safe social setting that included schools, churches, social and political associations, grocery and department stores, pharmacies, hotels, restaurants, and laundries, among many other institutions required for everyday life.

Beginning with the onset of World War II, political, economic, and social factors reduced the number and visibility of Chinese and Japanese residents, businesses, and patrons in the district. However, the district retains sufficient ethnic and cultural significance and historic architecture to convey its importance as one of Portland's National Register historic districts.

Efforts to officially recognize New Chinatown/Japantown for its significance began in the 1970s, stimulated by local Chinese revitalization efforts. At that time, new Chinese restaurants, groceries, and Asian import and medicine shops were opened, and existing Chinese businesses expanded in the district. This wave of growth and change also included a \$275,000 restoration of the Chinese Consolidated Benevolent Association (CCBA) Building, which was funded in part by the Republic of China and the Oregon State Historic Preservation Office.

By the late 1970s, the CCBA had established a Chinatown development committee and revitalization plan which was adopted by Portland City Council in 1984. The installation of bilingual street signs and ornamental street lights followed, capped by the erection of the Chinatown Gate in 1987. The Gate, which was at the time the second largest Chinese gateway in the United States, was a gift of the Republic of China to the City of Portland and marks the NW 4th Avenue entrance to the historic district.⁵

Following the construction of the Chinatown Gate and the National Register designation in 1989, efforts to enhance and distinguish the district and its immediate surroundings have included the construction of the



Aerial view of New Chinatown/Japantown c.1933. City of Portland Archives, Oregon, #A2011-024.

³ Northwest Heritage Property Associates. Portland New Chinatown/Japantown Historic District National Register of Historic Places Form (Washington: D.C.: U.S. Department of the Interior, National Park Service, 1989). Title page.

Lan Su Chinese Garden just outside of the district at NW Everett Street and NW 3rd Avenue, the creation of two Festival Streets located along NW Davis and Flanders Streets between NW 3rd and 4th Avenues, the installation of bronze history plaques within sidewalk masonry pavers on NW 3rd and 4th Avenues, the installation of red street lamps, and the creation of a Japanese-American Historical Plaza three blocks east of the district.

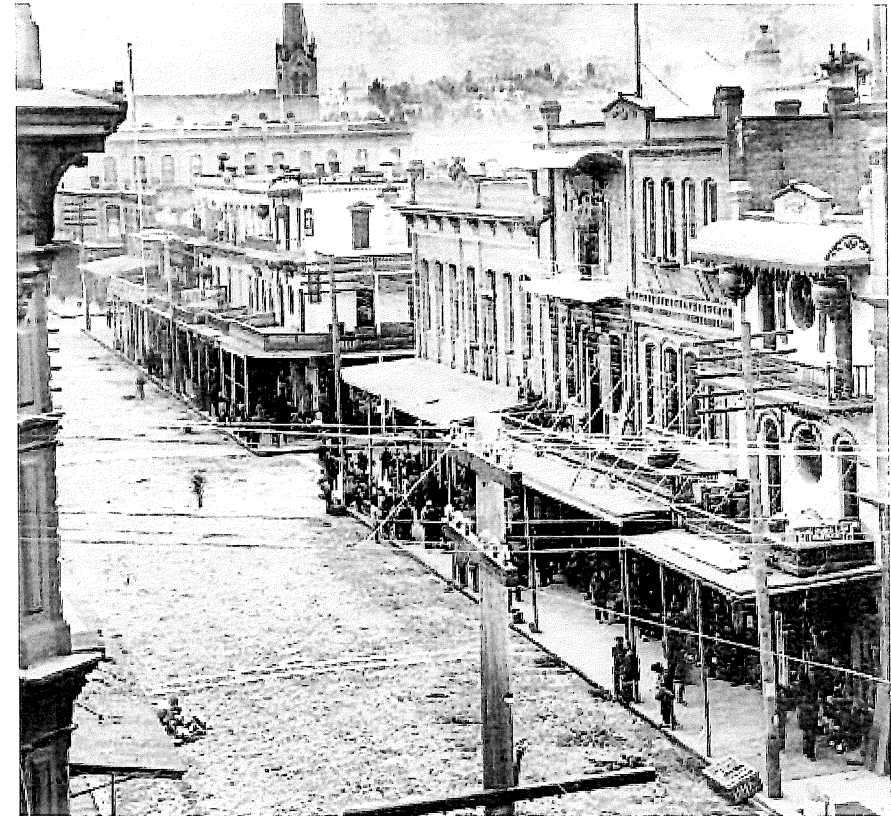
SETTING

The New Chinatown/Japantown Historic District is located three blocks west of the Willamette River and immediately north of West Burnside Street in the Old Town/Chinatown neighborhood of Portland, Oregon. It consists of ten city blocks bound by NW Glisan Street to the north, NW 3rd Avenue to the east, West Burnside Street to the south, and NW 5th Avenue to the west. The district is adjacent to the Pearl District neighborhood to the north and west and intersects the Skidmore/ Old Town Historic District along NW 3rd Avenue between West Burnside and NW Everett Streets. The district currently includes multiple businesses, apartments, restaurants, social services, hotels, and parking lots. Maximum height and Floor Area Ratio (FAR) allowances within the district are established by the Central City Plan District.

HISTORICAL CONTEXT

Prompted by the discovery of gold in California in 1848 and the opening of a shipping route from San Francisco, Chinese immigrants had arrived in Portland by 1851. Early Chinese immigrants in Portland quickly established laundries and restaurants along Front Street (now Naito Parkway), catering to the broader population. A few men became labor contractors, paying to transport and supply poor Chinese laborers from Southeast China to work in the Northwest. Most Chinese laborers at this time did not expect to remain in the United States permanently; they arrived with the intent to make money and return home to their families, although some men brought wives from China. Such sojourners often retained their language, customs, and traditions.⁶

Records show that by the late 1860s, Chinese immigrants were employed by local employers such as the Oregon Iron Company, the Clackamas Paper Manufacturing Company, and Oregon Woolen Mills. By 1870, Chinese immigrants also found employment constructing railines for companies such as Northern Pacific and Central Pacific. In the ensuing years, Chinese labor shifted from the railroad industry to fish canneries along the Columbia River where more than 2,000 Chinese were employed by 1874.⁷ Thereafter, Chinese labor was also used to log forests, mine for gold, build roads, and dig waterways. Regardless of their active role contributing to the development of Portland's economy, Chinese laborers were openly discriminated against. Bills, taxes, and ordinances were used to suppress Chinese immigrants from obtaining power, money, and property.



"Old Chinatown", SW 2nd Avenue, looking southwest, c.1890. Courtesy of the Oregon Historical Society.

⁶ Jacqueline Peterson-Loomis, *Beyond the Gate: A Tale of Portland's Historic Chinatowns* (Portland, OR: U.S. Oregon Historical Society, 2016).

In response to violent protests on the West Coast instigated by workers who feared competition from Chinese laborers, Congress passed the Chinese Exclusion Act of 1882. That law prohibited further immigration by Chinese laborers, the immigration of resident Chinese laborers' wives and children, and the naturalization of Chinese immigrants already living in the United States.⁸

Discrimination against Chinese laborers led to the growth of Japanese immigration to fill the same roles. Chinese merchants and their families who were exempt from Chinese Exclusion built a substantial Chinese community and way of life centered along Portland's SW 2nd Avenue, numbering 10,000 persons at its height in 1900. In addition to this community which later became known as "Old Chinatown," a second community of Chinese gardeners lived in rural portions of the city, such as along Tanner Creek (now Goose Hollow).⁹

⁷ Northwest Heritage Property Associates, *Portland New Chinatown/Japantown*, 8-4.

⁸ *Ibid.*, 8-5.

⁹ Douglas Lee, Chinese Americans in Oregon, http://oregonencyclopedia.org/articles/chinese_americans_in_oregon/#.Vzugabn2aUk.



NW 4th Avenue, looking northwest, 1915. Courtesy of the Oregon Historical Society.

During the later years of the 1800s, Portland's Japantown (known as Nihonmachi) took root north of West Burnside Street as a hub for new Japanese immigrants. Arriving in Portland in the 1890s to find work along the West Coast, hundreds of young Japanese males, similar to their Chinese counterparts, found work at or with "railroads, lumber mills, farms and fish canneries."¹⁰ Japantown's boundaries were once much broader than the current New Chinatown/Japantown Historic District, stretching from SW Ankeny to NW Glisan streets with concentrations of businesses on NW 2nd, 3rd, and 4th Avenues. At its height around 1940, Japantown occupied a 10- to 12-block area north of West Burnside Street, primarily between NW 2nd and 6th Avenues.

Prior to the rise of Japantown, only a few Chinese laundries and other businesses were established north of West Burnside Street. However, after a fire in 1873 destroyed "17 of the 62 existing Chinese businesses"¹¹ in Old Chinatown, Chinese business owners began a slow migration from south of West Burnside Street to what would later be called New Chinatown. Nonetheless, by 1885, the number of Chinese businesses in Old Chinatown "increased from 63 to 123."¹² Old Chinatown remained the focal point for Chinese economic, cultural, and residential life and activity in Portland until after the turn of the century, when New Chinatown eclipsed it.

Like the rest of Portland in the wake of the 1905 Lewis and Clark Centennial Exposition, Old Chinatown experienced a building and population boom which prompted many Chinese to rapidly seek new residency in New Chinatown. The new arrivals quickly displaced many longtime Chinese residents and business owners due to rising rents and property values.¹³ Another contributing factor that led to the increased migration of Portland's Chinese population north of West Burnside Street was the 1904 decision by the United States government to make Chinese Exclusion its permanent immigration policy.¹⁴

¹⁰ Oregon Nikkei Legacy Center, *A Glimpse of Portland's Japantown 1940: A Tour Guide* (Portland, OR: Nikkei Legacy Center, 2002), 2.

¹¹ Northwest Heritage Property Associates, *Portland New Chinatown/Japantown*, 8-13.

¹² *Ibid.*

¹³ Marie Rose Wong, *Sweet Cakes, Long Journey: The Chinatowns of Portland, Oregon*, 256-262.

¹⁴ Jacqueline Peterson-Loomis, *Beyond the Gate: A Tale of Portland's Historic Chinatowns*.

During this transition to New Chinatown, many prominent Chinese merchants from Portland took their businesses and their accumulated wealth to Seattle, San Francisco, or back to China. Others fled to new labor markets in rural Oregon or were given passage home to China by the Chinese government or charitable labor contractors. For those who stayed and for new Chinese immigrants arriving after 1904, the best option was to relocate to New Chinatown.¹⁵ This move was reinforced by the development of two blocks by Chinese investors along NW 4th Avenue between NW Davis and Flanders streets in 1909 and the construction of the Chinese Consolidated Benevolent Association (CCBA) Building in 1911.¹⁶ Though Chinese could not own property or land at this time they paid for the construction of these buildings, which in turn helped solidify New Chinatown's presence as the center of Portland's Chinese community.

As old businesses found new quarters and new businesses proliferated, and as family, clan, district, and political associations began to establish headquarters in New Chinatown, the district expanded beyond NW 4th Avenue. The Chinese population made inroads west to NW 6th Avenue and east to NW 3rd Avenue, areas which also housed Japanese residents and businesses, as well as Jewish and Greek businesses. For the Chinese living east and west of NW 4th Avenue, as well as on the east-west streets, housing often had to be carved from within family businesses, usually as an apartment behind the store on the ground level and/or as a loft built mid-floor to serve as both storage and sleeping quarters.

Though sharing an overlapping area north of West Burnside Street, Japantown residents' housing needs and solutions were different from the Chinese. Unlike the punitive restrictions placed on Chinese immigration during the long Exclusion Act era, Japanese immigrants were not restricted by nationality, class, or gender, meaning that both Japanese merchants and workers were allowed to bring wives and families to the United States until the passage of the Immigration Act of 1924.

As a result, the gender ratio in Japantown was much closer to equal than was the case for New Chinatown. It also meant that Japantown had many large families in need of housing. The Japanese solution to the persistent housing shortage in the district was to assume the management of residential hotels. In exchange for the grueling and gritty work of looking after day laborers and pensioners, Japanese

hotel managers' families were provided with apartments in one of the many two- and three-story residential hotels within the district that were built in the first two decades of the twentieth century to accommodate incoming workers.



Tokio Suki-yaki Japanese Restaurant, NW 4th Avenue between NW Flanders and Everett Streets, c1941. Courtesy of the Oregon Nikkei Endowment.

¹⁵ Marie Rose Wong, *Sweet Cakes, Long Journey: The Chinatowns of Portland, Oregon*, 256-262.

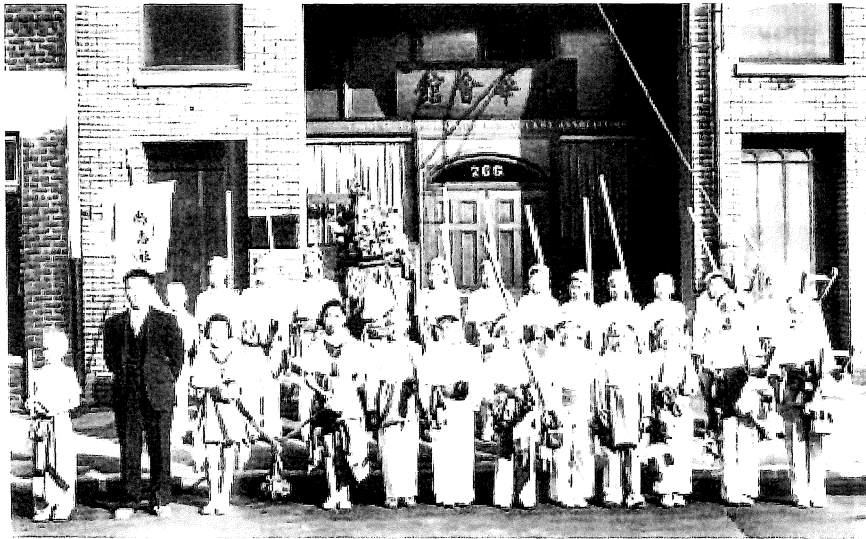
¹⁶ Jacqueline Peterson-Loomis, *Beyond the Gate: A Tale of Portland's Historic Chinatowns*.

Between 1910 and 1940, both New Chinatown and Japantown developed into thriving, overlapping ethnic communities. In Japantown, hotels, bath houses, laundries, groceries, restaurants, gambling halls, doctors and dentists, and Buddhist and Christian churches were established by the 1920s. Other institutions and activities included a Japanese newspaper, sports teams, and a Boy Scout troop.

The district also hosted a Japanese language school and a Japanese hotel association which had more than 100 members. One account found that “after a full day attending public school, the students spent two hours each weekday, as well as Saturday morning, in Japanese school.”¹⁷ With a concentration of more than 100 Japanese businesses located within a six or eight block area, by 1940, Japantown had “evolved into a self-sufficient, Japanese-speaking community,”¹⁸ which provided services not only to early immigrants, but also to “the greater Japanese community throughout Oregon.”¹⁹

¹⁷ Katagiri, Cannon Kitayama, Liz Nakazawa, *Nihonmachi: Portland's Japantown Remembered* (Portland: Oregon Nikkei Legacy Center, 2002), 12.

¹⁸ Oregon Nikkei Legacy Center, *A Glimpse of Portland's Japantown 1940: A Tour Guide* (Portland: Oregon Nikkei Legacy Center, 2002), 2.



Lion Dance Class, c.1930s. Courtesy of the Portland Chinatown History Foundation.

The Japantown which many called home disappeared in the spring of 1942, suddenly and involuntarily. After the Japanese government attacked Pearl Harbor in 1941, many Japanese throughout the West Coast became subject to immediate discrimination. In 1942, Executive Order 9066 required that “all persons of Japanese ancestry were removed from the West Coast and placed into concentration camps.”²⁰ In early May of that year, notices were posted throughout Japantown giving Japanese citizens only two weeks to gather their belongings in one suitcase and report to a government assembly center in North Portland.²¹ Overnight, Japantown was vacated, leaving a lasting impact on the people and place that had occupied the district.

After the war, some Japanese returned to Japantown to manage residential hotels in the 1950s; however, many Japanese left Portland and the West Coast altogether. A few organizations such as the Japanese American Citizen League and Japanese Ancestral Society, as well as a handful of Japanese restaurants and businesses, did return to Japantown. More recently, the establishment of the Oregon Nikkei Legacy Center and the creation of Waterfront Park's Japanese-American Historical Plaza have further restored the visibility of Japantown's heritage.²²

Around the same time, New Chinatown also experienced a decline in residents. Beginning with the passage of the Magnuson Act of 1943, which repealed the Chinese Exclusion Act of 1882 and allowed Chinese Americans to become naturalized citizens and buy property, families living in New Chinatown began in earnest to look for homes in southeast Portland's Ladd's Addition.²³ Over the ensuing decades, housing needs continued to precipitate outmigration of resident families from New Chinatown, primarily to southeast and northeast Portland where a secondary Chinese business district (known today as the Jade District) developed along 82nd Avenue beginning in the 1950s.

¹⁹ Oregon Nikkei Legacy Center, *Nihonmachi: Portland's Japantown*, <http://www.discovernikkei.org/en/nikkeialbum/albums/44/slide/?page=2>.

²⁰ *Ibid.*

²¹ Heather Andrews, *Beyond the Gate: An Ethnic History of Portland's Nihonmachi and New Chinatown* by Foot (Portland: Heather Andrews, 2010), 6.

²² Jacqueline Peterson-Loomis, *Coming Home: Voices of Return and Resettlement* (Portland, OR: Oregon Nikkei Legacy Center, 2012-13), Map of Nikkei Hotels in 1950.

²³ Jacqueline Peterson-Loomis, *Beyond the Gate: A Tale of Portland's Historic Chinatowns*.

However, New Chinatown remained the Chinese business and cultural center of Portland for years, and many Chinese and Chinese Americans bought their first property or opened their first business in the district from the 1940s to 1970s. This retention of property and businesses helped anchor the district for decades and contributed to its recent culturally significant additions, such as the Chinatown Gate, the Lan Su Chinese Garden, the Festival Streets, and bronze plaques.

Nevertheless, social and economic factors such as a greater acceptance of Chinese during World War II due to China's alliance with the United States, the growth of middle class Chinese families, emergence of a Chinese-American identity, the impact of both the Great Depression and World War II on New Chinatown's aging building stock, and changes in occupational and business opportunities have unmistakably transformed New Chinatown since the district's period of historic significance.²⁴

Both New Chinatown and Japantown were fragile constructions where both groups struggled together to gain a livelihood due to the social and economic environment during the district's period of significance (1880-1943). In response to racial discrimination, limited housing for families, and a lack of job opportunities outside of New Chinatown and Japantown, these two communities made distinctive adaptations to their environment, established and matured a community, and shared a home in what we now call the New Chinatown/Japantown Historic District.

²⁴ Northwest Heritage Property Associates, Portland New Chinatown/Japantown, 8-15.



Tanaka Benjamin Portland office, c.1930. Courtesy of the Oregon Historical Society.



Hop Sing Tong Headquarters, NW 4th Avenue and Everett Street, c.1931. Courtesy of the Oregon Historical Society.

URBAN AND ARCHITECTURAL CHARACTER

The National Park Service listed the New Chinatown/Japantown Historic District in the National Register for multiple reasons, including its significant multiethnic heritage, concentration of historic architecture, and contributions to Portland's Industrial development. Of these three reasons, the district's retention of late 19th- and early 20th-century architecture most clearly defines its urban character today. Architecturally, the district is defined by three contributing styles common during its period of significance (1880-1943). These styles are 20th Century Commercial, Italianate, and Moderne.

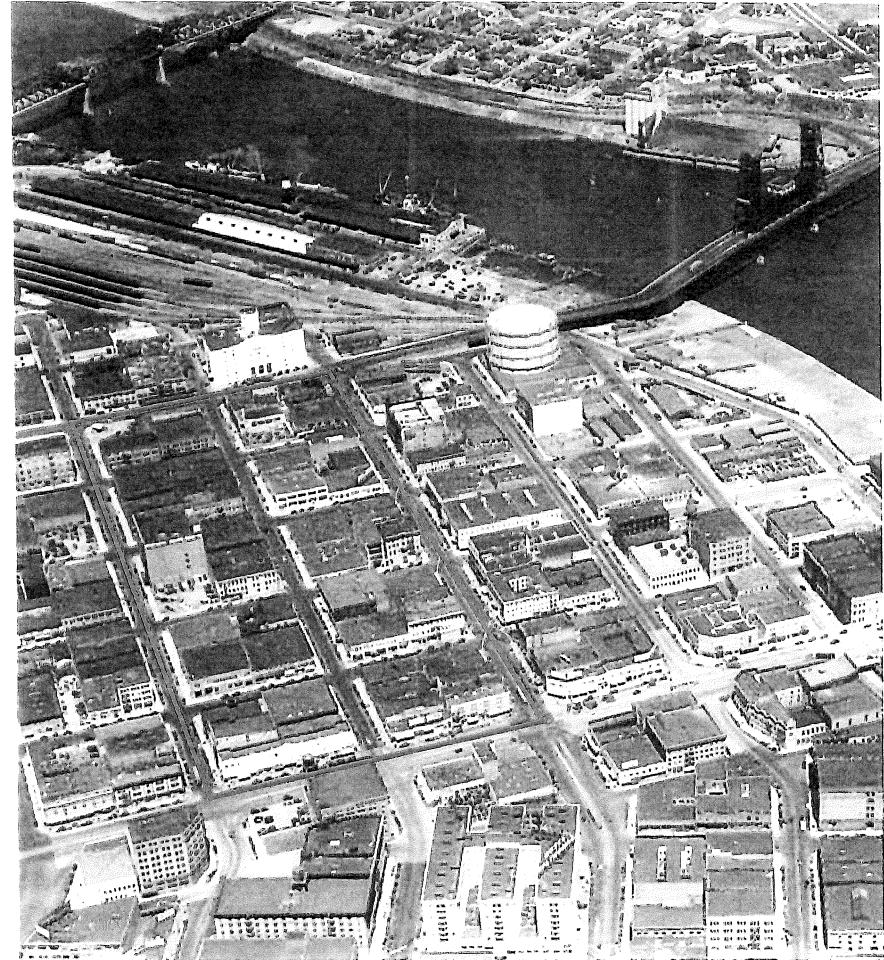
Other styles and sub-styles found within the district include Richardsonian Romanesque and Mission Revival. In addition to these historic styles, alterations to historic buildings, new construction, and right-of-way improvements have added to the architectural diversity of the district. However, although the district consists of new and historic buildings which now span three centuries, its overall character is derived from the three historic architectural styles. Collectively, these three styles make up three-fourths of all buildings within the district, giving the district an underlying stylistic uniformity.

Most of the 20th Century Commercial-style buildings and the one Moderne building occupy a quarter-block (100' x 100') footprint and range in height from one to seven stories. The Italianate-style buildings generally have smaller footprints and are on average three stories tall. The most common exterior building materials found within the district are brick and concrete stucco, both in widely varying color ranges.

In addition to the district's architectural styles, the built environment in the district was uniquely shaped by the Chinese and Japanese communities. Generally, buildings built in the district were one of the three contributing styles but originally displayed few to no permanent exterior design expressions related to Chinese or Japanese architecture. However, with time and the development of the district into a multiethnic community, cultural adaptations were made to buildings to reflect the occupants' Asian heritage, particularly Chinese.

Using the existing built environment as a form of expression, it was common for Chinese occupants in the district to apply or repurpose upper-level wrought-iron balconies as extended living space or gardens, alter existing storefronts with projecting signage, and add storefront awnings. Other vernacular adaptations to the existing buildings within the district included the application of long

horizontal arched awnings at the upper levels, hanging lanterns, the flying of political flags, the addition of signs, and the removal of upper-level walls or windows to create recessed balconies.



Aerial view of New Chinatown-Japantown in 1935. City of Portland Archives, Oregon, #2005-005.

Many of the buildings within the district had storefront commercial uses at the ground floor, social or association spaces at the second floor, and living quarters at the top floors. This hierarchical arrangement was derived from traditional architectural practices retained from China. The hierarchy aligned with the placement of signage, exterior and recessed balconies, and the application of other cultural elements. Functionally, balcony spaces were meant to help keep interiors cool during the summer and warm in the winters. They also allowed for residents to hang-dry their clothes in an urban setting, provided space for children to play, and created places for households to worship.²⁵

Collectively, these smaller-scale cultural adaptations created a unique built environment character during and after the period of significance, which not only defined the district but visually expressed its cultural heritage. Although no exterior adaptations expressing Japanese cultural influence are visible today, added signs advertising Japanese-owned businesses and restaurants using Japanese characters were present before 1942. Generally, however, much of the Japanese influence on the built environment that occurred prior to 1942 was interior, such as the bathhouses in the basements of several hotels.

Overall, large-scale authentic Chinese and Japanese architectural expressions such as materials, form, and roof styles did not originally exist in this district due to the groups' assimilation into the district's existing late 19th- and early 20th-century architecture. While in some cases whole buildings, such as the CCBA Building reflected an overall Chinese design, for the most part the buildings within the district reflect a unique combination of existing architectural styles and cultural adaptations. The restoration of the Hung Far Low sign at the corner of NW 4th Avenue and NW Couch Street and the addition of Chinese signage representing associations or tongs around door openings and underneath cornice lines of several buildings continue to reinforce this vernacular design approach within the district.

²⁵ Paul Erling Groth and Todd W. Bressi, *Understanding Ordinary Landscapes* (New Haven, MA: Yale University, 1997), 82.

STREET, LOT, AND BLOCK PATTERNS

The site of the New Chinatown/Japantown Historic District was originally owned by Captain John H. Couch as part of his 640-acre land claim that stretched one mile north of West Burnside Street and one mile west of the Willamette River to Northwest 20th Avenue.²⁶ In 1850, as part of a multiphase project, Couch platted his land in a traditional grid plan with streets oriented to true north.

Located in the southeast corner of Couch's Addition, the New Chinatown/Japantown Historic District site originally had 200-foot square blocks surrounded by 60-foot wide streets. Although this spatial framework continues to define the district, changes along West Burnside Street and NW Glisan Street have altered its once-uniform block and street pattern. In 1931, West Burnside was widened from its original 60-foot width to approximately 100 feet. This widening resulted in the reduction of the original 200-foot blocks immediately north of West Burnside Street by 20 feet. Similarly, the 1933 widening of NW Glisan Street between NW 3rd and 4th Avenues from 60 feet to approximately 80 feet also changed the district's block pattern.

²⁶ Northwest District Association, *Northwest Portland Historic Inventory: Historic Context Statement* (Portland, OR: Northwest District Association, 1991), 8.



Aerial New Chinatown/Japantown looking northwest, 1938. Intersection of NW 4th Avenue and Everett Street at center. City of Portland Archives, Oregon, #A2010-001.

Within the district, the 200-foot blocks also experienced developmental changes over time. Historically, the block lots were divided into halves, quarters, eighths, and sixteenths. According to Sanborn fire insurance maps, the district's blocks in 1889 featured a mix of single dwellings, storefront businesses, and vacant lots. By 1901, the density of the district had increased with the continued development and infilling of its existing blocks, which included multiple storefront businesses, boarding houses, and schools, in addition to warehouses and stables. By 1908, few if any vacant lots remained within the district, with most lots occupied by larger quarter and half-block buildings. By 1924, blocks within the district were almost exclusively developed with quarter- and half-block buildings, many of which continue to define the district's built environment today.

Over time, the district's historic block, lot, and street pattern, and construction of contiguous one- to seven-story buildings created a streetscape that defined its urban character at the end of the period of significance. Today, this character and historic framework remain evident with existing buildings constructed to the right-of-way line. Changes such as the increase of vacant lots after 1950 and the construction of a MAX light rail line on NW 5th Avenue in 2009 have altered its historic character slightly.

STREETSCAPE ELEMENTS AND PUBLIC REALM

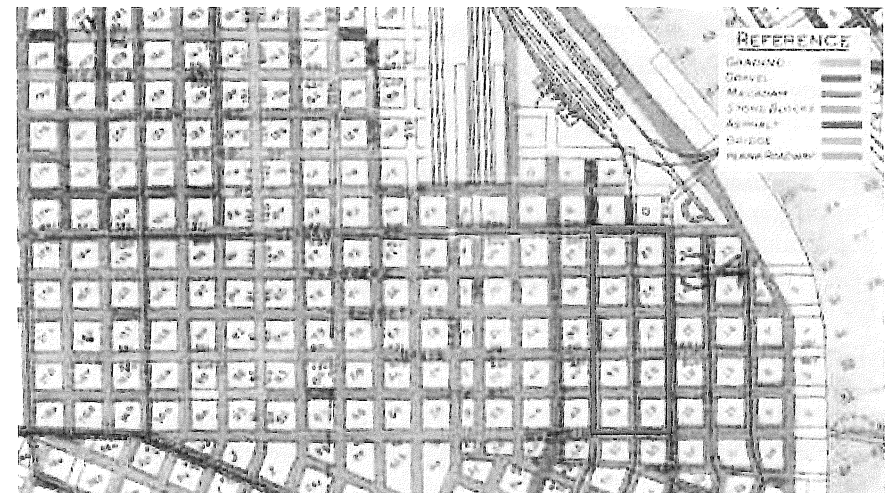
Throughout the history of the district, design and material characteristics of its public realm have also evolved. These elements, including paving materials, sidewalk characteristics, street lighting, signage, landscape features, public art, and other cultural adaptations, provide texture to the district's urban form.

Some of the first streets within the New Chinatown/Japantown Historic District were paved with macadam, broken stone, stone blocks, and asphalt. According to the 1894 Paving Map of Portland, macadam was used on NW 4th and 5th Avenues, stone block paving was used on NW Glisan Street, and asphalt was used on NW 3rd Avenue. By 1913, the district's stone block streets were shared with multiple streetcar lines on NW 3rd Avenue and West Burnside Street, and an Oregon & California Railroad line on NW 4th Avenue.

²⁵ Richard Thompson, Portland Streetcar System, http://www.oregonencyclopedia.org/articles/portland_streetcar_system/#.Vz14tbn2aUk.

Asphalt-paved streets were not exclusively used within the district until the 1940s. With the rise of asphalt paving and automobile use, the streetcars that ran through the district as early as the 1890s became obsolete by the 1950s, when streetcar lines were converted to bus routes and the tracks were paved over.²⁷ The MAX light rail line constructed in 2009 on NW 5th Avenue gave the district its first rail transit in more than fifty years. The remaining streets within the district are finished with asphalt and include painted crosswalks.

In the early 1900s, sidewalks within the district were wide and constructed of concrete. Although the material and overall dimensions of the sidewalks have not changed much, other elements and features located on the sidewalks have. Early sidewalks featured wood telephone poles, streetcar poles, lantern posts, sidewalk elevators, and metal lamp posts. By 1920, sidewalks also featured wood benches, vending carts and displays, metal street clocks, and fire hydrants. Years later, metal traffic signals, pedestrian walk signs, and parking meters were installed throughout. Over time, the district's sidewalks have lost historic elements such as street clocks, glass inserts, and historic lamp posts. Today, the sidewalks feature wayfinding signs, ATM machines, metal and wood benches, bike racks, pay phones, trash receptacles, traffic signals, pedestrian walk signals, and bus stops.



Paving Map of Portland January 1, 1895. Courtesy of Portland Archives, accession #2014-001.

Lighting within the district has also changed over time. Early turn-of-the-century lighting fixtures included metal lamp posts topped with glass globes and street lanterns hung from wood poles. In 1914, lighted metal archways known as the Great Light Way were installed at each intersection on NW 3rd Avenue in an attempt by boosters to retain Portland's commercial center near the Willamette River.²⁸ Due to street widening projects and the Depression, the lighted archways were gone by 1940.²⁹ By 1927, metal double headed lamps were installed throughout the district. Large cantilevered street lights arrived in 1970.

Projecting building elements found within the New Chinatown/Japantown Historic district included signs and awnings. The earliest signs were painted, typically along the top sides of buildings for visibility, but attached signs located above the first-level storefronts, both horizontally or vertically, arrived after 1900. By 1913, large vertical signs had been installed at the corners of many buildings. Other sign types such as painted signs on building walls, larger fluorescent internally lit signs, and neon signs were used within the district. The district also included semi-uniform cloth awnings at the storefront level of many buildings, which created a canopy over the concrete sidewalk.

Landscape features within the district were historically limited. Following the construction of dense development in the early 1900s, historic images show few landscape elements. By 1969, cherry trees were planted around Block 33, which at that time was a vacant lot. Today, the district includes street trees, saplings, and bushes in rectangular and round grade-level planters with and without metal grills, and rectangular stone planters with vegetation and Chinese palm trees within the Festival Streets on NW Davis and NW Flanders Streets.

Based on their proximity, function, and concentration of different ethnic communities, NW 3rd, 4th, and 5th Avenues each differ in physical characteristics and ethnic history.

NW 3rd Avenue shares its history with the Skidmore/Old Town Historic District, with a number of cast-iron storefront façades and Italianate buildings. Historically, NW 3rd Avenue held a high concentration of Japanese-operated businesses, such as hotels, retail, restaurants, and laundries.

²⁸ Dan Haneckow, Great Light Way (3rd St., Portland), http://www.oregonencyclopedia.org/articles/great_light_way_3rd_st_portland_/#VzJXSbn2aUk.

²⁹ Ibid.

NW 4th Avenue represented the heart of New Chinatown and featured many 20th Century Commercial-style buildings. Like NW 3rd Avenue for the Japanese community, NW 4th Avenue had a high concentration of Chinese associations, clubs, businesses, restaurants, and laundries. Today, NW 4th Avenue continues to act as a significant thoroughfare for the Chinese community as it now includes the Chinatown Gate, cherry trees, and existing Chinese associations and businesses.

NW 5th Avenue exhibits a different history. Although the Chinese and Japanese communities owned businesses along NW 5th Avenue, it never held the focus of either culture like NW 3rd and 4th Avenues did and, to some extent, still do. The architecture along NW 5th Avenue, which includes the tallest contributing buildings within the district, continues to illustrate the light industrial and commercial uses that characterized the district during the period of significance.

Overall, streetscapes in the New Chinatown/Japantown Historic District have evolved and endured over time. Although many original elements have been lost, altered, or changed, the streetscapes retain much of their integrity through their architecturally and culturally significant buildings, spaces, and elements.

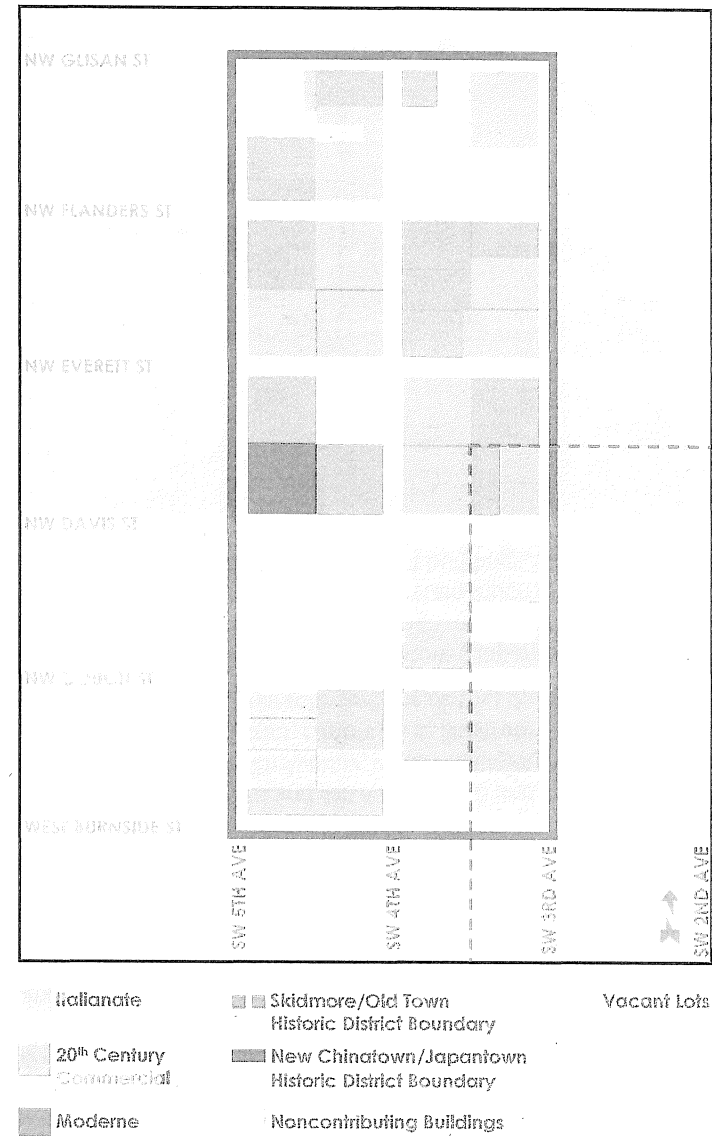


Chinatown Gate, 1987. City of Portland Archives, Oregon, #A2010-003.

STYLES OF CONTRIBUTING BUILDINGS IN THE NEW CHINATOWN/JAPANTOWN HISTORIC DISTRICT

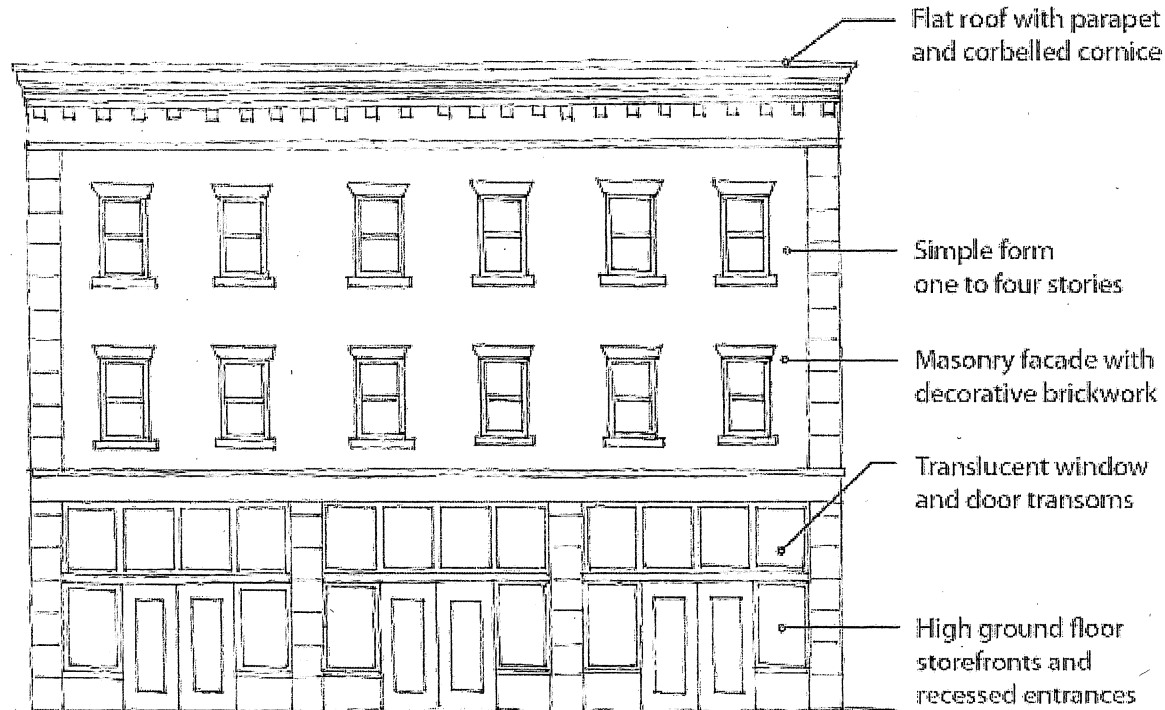
The New Chinatown/Japantown Historic District is architecturally defined by three contributing architectural styles: 20th Century Commercial, Italianate, and Moderne. Although the district currently includes other historic and contemporary styles, these three styles represent all of the district's twenty-six contributing buildings.

NEW CHINATOWN/JAPANTOWN CONTRIBUTING BUILDINGS MAP



STYLE: 20TH CENTURY COMMERCIAL

Twentieth Century Commercial-style architecture was common throughout the United States from 1890 to 1920. Typical design characteristics of 20th Century Commercial-style architecture include simple forms of one to four stories, high ground floor storefronts, brick and masonry façades, corbelled cornices, and flat roofs with parapets. Other common features include recessed entrances, translucent window and door transoms, decorative brick patterns, and symmetrical bays and fenestration. By far the most common architectural style in the district, examples include the Blanchet House (Yamaguchi Hotel) (c1905), the Pally Building (1908), the Royal Palm Hotel (1913), the Hung Far Low Building (1916), and the Goldsmith Company Building (1924).

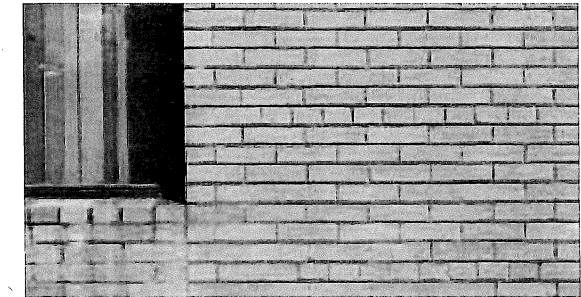


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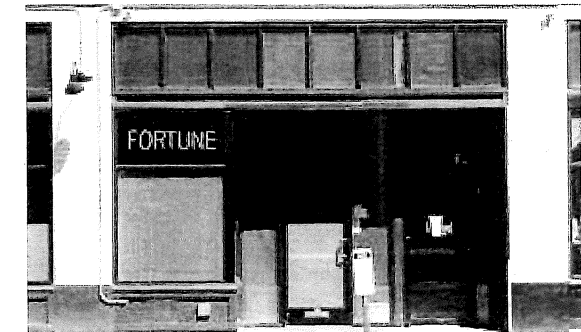
STYLE DETAILS WITHIN THE DISTRICT



Corbelled cornice



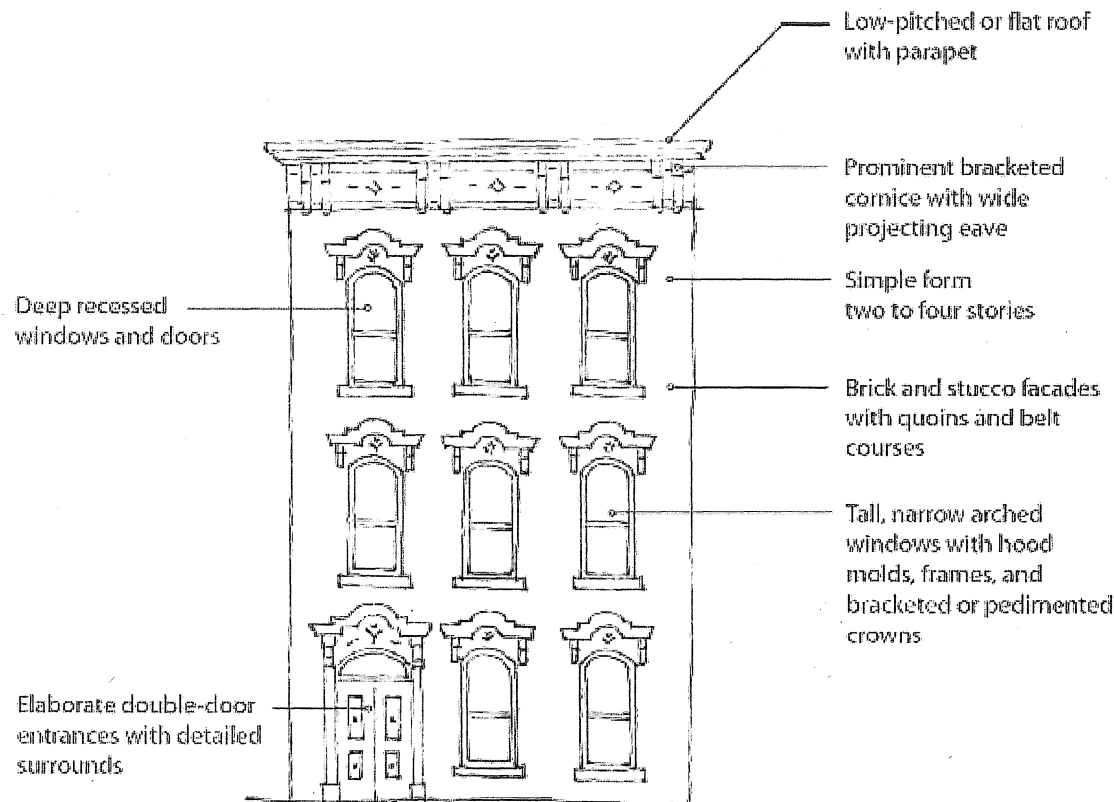
Masonry facade



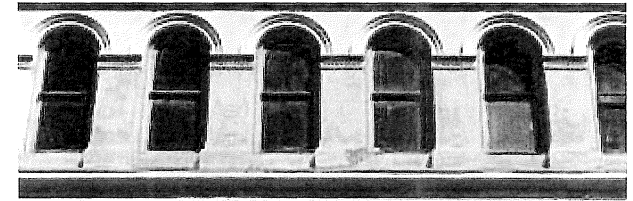
Ground floor storefront with recessed entrance

STYLE: ITALIANATE

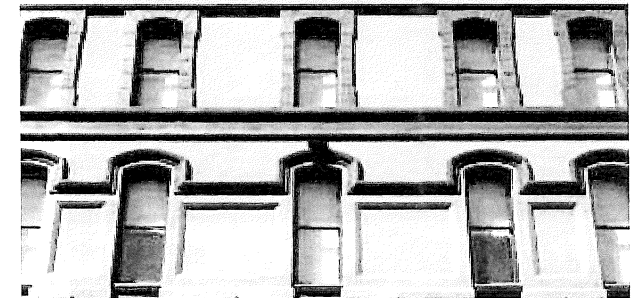
Italianate-style architecture was common throughout the United States from 1840 to 1885. Traditional characteristics of Italianate architecture include simple forms of two to four stories, deep recessed windows and doors, cast iron, brick and stucco, tall, narrow arched windows with hood molds, frames, and bracketed or pedimented crowns, quoins, belt courses, and a low-pitched or flat roof with parapet. Other features and details include prominent bracketed cornices with wide overhanging eaves and elaborate double-door entrances with detailed surrounds. Examples within the district include the Society Hotel (Portland Seamen's Bethel) (1881), the Sinnott House (Couch Street Fish House) (1883), and the Hip Sing Association (1889).



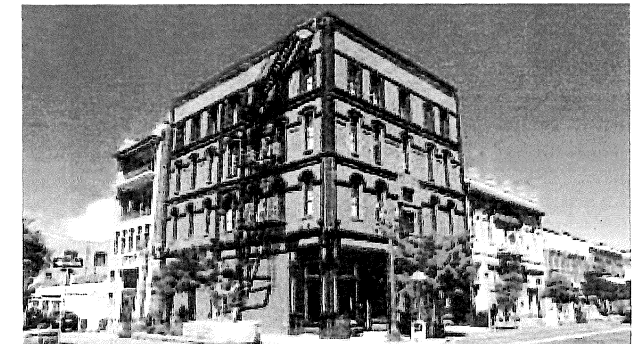
STYLE DETAILS WITHIN THE DISTRICT



Narrow arched windows with hood molds



Stucco and belt courses



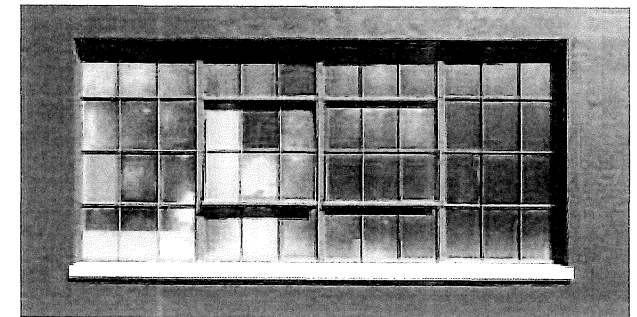
Simple four-story form

STYLE: MODERNE

Moderne or Streamline Moderne was a popular architectural style within the United States from 1930 to 1955. Typical architectural features of Moderne-style architecture include horizontal massing, cubic forms with flat walls finished with concrete or stucco, asymmetrical façades, metal framed windows arranged in a horizontal band, and flat roofs with small parapets. Other common design characteristics include curved building corners, cantilevered awnings and glass brick. The one example within the district is the Zellerbach Paper Co. (1940).

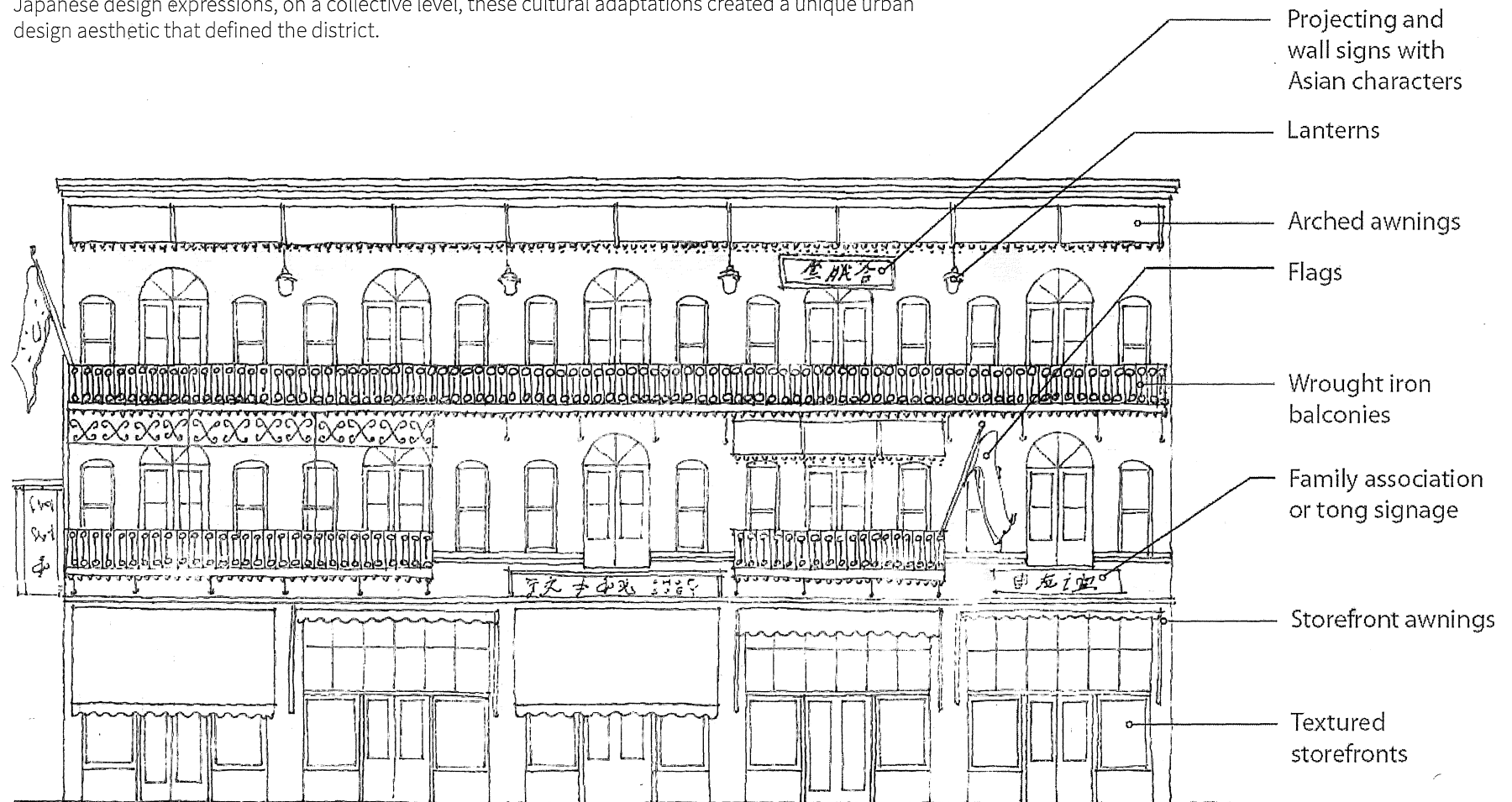


STYLE DETAILS WITHIN THE DISTRICT

*Asymmetrical facade**Glass block**Metal framed window*

CULTURAL URBAN DESIGN ADAPTATIONS

Cultural adaptations to existing and sometimes new buildings within the district were a common and significant expression of Chinese and Japanese culture during the 1880 to 1943 period. These adaptations were predominantly conducted by Chinese occupants and owners and included the repurposing or installation of horizontally-oriented upper-level projecting and/or recessed balconies as extended living space or gardens, altering existing storefronts with signs and cloth awnings, applying horizontal arched awnings at the upper levels, displaying political flags, adding hanging lanterns, installing signs with Asian characters. Although not every building exhibited Chinese and/or Japanese design expressions, on a collective level, these cultural adaptations created a unique urban design aesthetic that defined the district.



CHANGE AND ETHNIC AND CULTURAL IMPACTS

The New Chinatown/Japantown Historic District reflects successive layers of development, change, and the cultural heritage of more than one immigrant community. As such, its significance cannot be tied to any one moment in time or even to one ethnic group. Since 1989, after the district was placed on the National Register, new information and continued research on the district has uncovered significant dates, associations, and other elements that the original nomination lacks.

In addition to developing a better understanding of the history of the district, the district itself has also continued to change. Some of these changes, though not yet historic, have gained cultural importance, such as the Chinatown Gate.

According to the National Register nomination, "The character of Chinatown has changed as past traditions are absorbed into the present. The Chinatown of a century ago with its unusual sights, sounds, and smells has been replaced with a more integrated approach to life. Traditional needs for social and familial associations have diminished as Chinese Americans have been assimilated into the mainstream of American life and institutions."³⁰

The New Chinatown/Japantown cultural affiliation maps on the following page show buildings, spaces, and structures that had or continue to retain their cultural affiliations during and after the district's period of significance (1880-1943).



The Royal Palm Hotel, at NW 3rd Avenue and NW Flanders Street, was built in 1913. Japanese steam baths were added in the basement in 1932. Photo 1989, courtesy of the Portland Development Commission.



The Royal Palm Hotel, at NW 3rd Avenue and NW Flanders Street, 2016.

³⁰ Northwest Heritage Property Associates, Portland New Chinatown/Japantown, 8-16.

MAPS SHOWING CULTURAL AFFILIATION OF EXISTING BUILDINGS

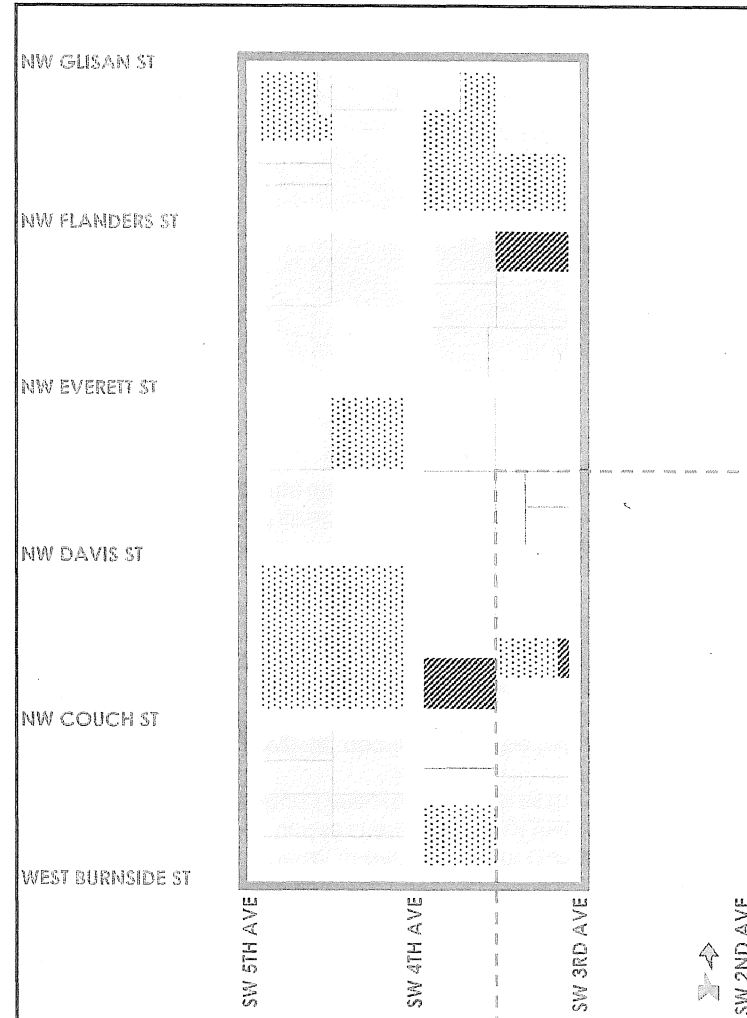
1880-1943



LEGEND:

- Japanese-Affiliated
- Chinese-Affiliated
- No Significant Affiliation
- Chinese- and Japanese-Affiliated
- New Chinatown/Japantown Historic District Boundary
- Skidmore/Old Town Historic District Boundary
- Vacant Lots

1943-PRESENT



Chapter 3: Design Guidelines

The following design guidelines are approval criteria for Historic Resource Review in the New Chinatown/Japantown Historic District. There are four categories of guidelines: **General, Alteration, Addition, and New Construction**. Not all projects will use all guidelines. Each category explains where those guidelines apply. For projects in the Skidmore/Old Town Historic District overlap area, the Skidmore/Old Town Historic District Design Guidelines and New Chinatown/Japantown Guidelines apply. In addition to these Historic District Design Guidelines, the Central City Fundamental Design Guidelines apply to projects in the New Chinatown/Japantown Historic District.

GENERAL GUIDELINES

- A1 INTEGRATE AUTHENTIC CHINESE AND/OR JAPANESE DESIGN ELEMENTS IN KEEPING WITH DISTRICT CHARACTER.
- A2 USE DURABLE, HIGH-QUALITY MATERIALS AND FINISHES.
- A3 USE DIMENSIONAL SIGNS AND RETAIN HISTORIC SIGNS TO HELP PRESERVE THE DISTRICT'S CHARACTER.
- A4 INTEGRATE HORIZONTALLY-ORIENTED BALCONIES IF COMPATIBLE WITH THE BUILDING'S STYLE.
- A5 FOCUS EXTERIOR LIGHTING ON THE PEDESTRIAN ENVIRONMENT.
- A6 PROVIDE TEXTURE, SMALL-SCALE DETAIL AND A RICH PEDESTRIAN ENVIRONMENT AT THE GROUND FLOOR.
- A7 MINIMIZE THE VISIBILITY OF ROOFTOP MECHANICAL EQUIPMENT FROM THE RIGHT-OF-WAY.
- A8 REFLECT THE DESIRED STREETScape CHARACTER OF THE DISTRICT IN RIGHTS-OF-WAY, AT BUILDING ENTRIES, AND IN SPECIAL PLACES.
- A9 PROVIDE VISUAL INTEREST TO EXPOSED LOT-LINE WALLS THROUGH ELEMENTS SUCH AS EXPRESSED FLOOR LINES, ART, OR INCLUSION OF OPENINGS WHERE ALLOWED.

A10 INCORPORATE AN ARCHITECTURAL EDGE AND/OR ACTIVE USE ALONG THE SIDEWALK ALONG ANY SURFACE PARKING OR OFF-STREET LOADING AREAS.

A11 PROVIDE PUBLIC HISTORY PLAQUES OR INFORMATION AT THE GROUND FLOOR LEVEL.

GUIDELINES FOR ALTERATIONS

- B1 RETAIN AND REPAIR HISTORIC FEATURES AND MATERIALS
- B2 DESIGN ALTERATIONS TO BE RESPECTFUL OF THE ORIGINAL STYLE, TYPE, AND DESIGN OF THE BUILDING.
- B3 KEEP ALTERATIONS OR NEW ELEMENTS VISUALLY SECONDARY TO THE ORIGINAL FEATURES OF THE BUILDING.
- B4 UNDERTAKE SEISMIC IMPROVEMENTS IN THE MOST UNOBTRUSIVE WAY POSSIBLE.

GUIDELINES FOR ADDITIONS

- C1 ENSURE ADDITIONS ARE COMPATIBLE WITH THE ORIGINAL STYLE, FORM, AND MASSING OF THE EXISTING BUILDING.
- C2 DESIGN HORIZONTAL ADDITIONS TO CONTRIBUTING BUILDINGS EITHER TO APPEAR TO BE A NEW BUILDING, OR AS A VISUALLY SECONDARY VARIATION OF THE ORIGINAL.

GENERAL GUIDELINES GENERAL GUIDELINES

- C3 DESIGN VERTICAL ADDITIONS TO CONTRIBUTING BUILDINGS TO LIMIT THE VISUAL IMPACT OF THE ADDITION.

GUIDELINES FOR NEW CONSTRUCTION

- D1 DESIGN THE NEW STRUCTURE TO BE INFORMED BY ONE OF THE HISTORIC STYLES FOUND IN THE DISTRICT.
- D2 REFLECT THE FORM AND ARTICULATION OF THE DISTRICT'S CONTRIBUTING BUILDINGS IN NEW CONSTRUCTION.
- D3 RELATE THE VERTICAL COMPOSITION OF THE NEW STRUCTURE TO NEIGHBORING CONTRIBUTING BUILDINGS.
- D4 EXTEND THE PRIMARY MASS OF THE NEW STRUCTURE TO STREET-FACING PROPERTY LINES IN ORDER TO PROVIDE OR RESTORE A SENSE OF THE STREET WALL.
- D5 DESIGN STREET-FACING WALLS WITH A REGULAR RHYTHM OF BAYS, OPENINGS, AND FEATURES.
- D6 WINDOWS AND WINDOW OPENINGS SHOULD BE OF A SIMILAR PROPORTION, RECESS, AND ALIGNMENT TO THE ORIGINAL WINDOWS IN CONTRIBUTING BUILDINGS.



Looking north along NW 4th Avenue in New Chinatown/Japantown Historic District, 1979. Courtesy of Norm Gholston.

A: General Guidelines

General Guidelines apply to all exterior alterations, additions, or other projects that change the built environment in the New Chinatown/Japantown Historic District. Depending on the scope of the change, additional categories of New Chinatown/Japantown Historic District Design Guidelines are also likely to apply.

A1: DISTRICT CHARACTER

BACKGROUND:

Early 20th-century architecture most clearly defines the urban character of the district. Three styles in the district provide a degree of uniformity: 20th Century Commercial, Italianate, and Moderne. The Chinese and Japanese communities uniquely shaped their environment by adding adaptations and embellishments to these regular building forms.

Examples of Chinese details or adaptations to Western building styles include arched awnings above upper-level balconies, recessed or projecting horizontal balconies facing the street, decorative metal detailing such as railings and gates, and the use of applied ornamentation on wall areas within distinct borders or frames. Other details are typically more intrinsic to a building's original construction: tiled roof projections (typically not as the entire roof), expressed lintels at openings and/or post-and-lintel conditions, and diamond-shaped, hexagonal, or other non-square openings as accents.

In traditional Chinese architecture, materials such as wood, glazed terra cotta, ceramic tile, and stone were common, but these materials do not appear in any quantity in the district. Chinese architecture historically tended towards bolder colors such as yellow, red, green, or polychrome.

Exterior examples of adaptations to buildings made by Japanese residents or immigrants are rarer, but there are some observed commonalities in other historic West Coast Japantown communities. These include building details showing a strong lintel expression, half-timbering, and the use of brackets (typically wood) at cornices or entries. In historic Japanese urban architecture, wood was by far the most predominant material, but brick and concrete were also common by the mid 1800s.



The Chinese Consolidated Benevolent Association Building was constructed in 1911 and is a good example of a 20th Century Commercial style building with Chinese-influenced details such as the decorative metalwork, recessed balconies, hipped tiled roof projection at the cornice, and expressed lintels, as well as added embellishments such as signs, rich colors, and hanging flags.

GUIDELINE A1

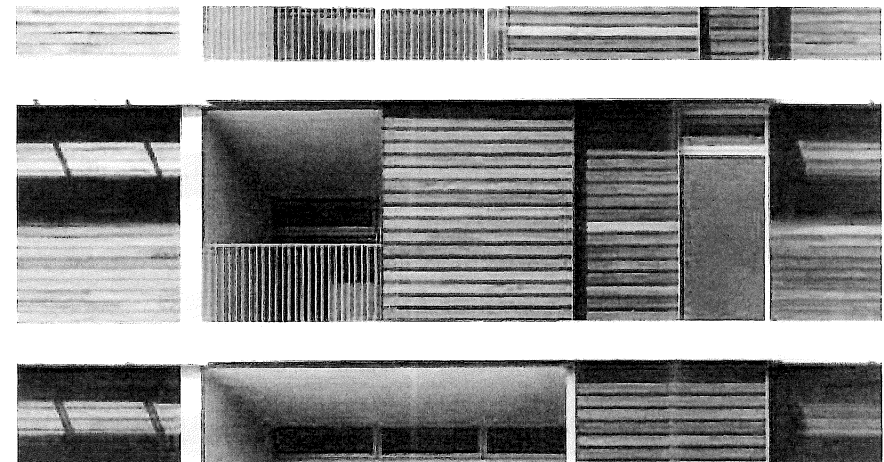
INTEGRATE AUTHENTIC CHINESE AND/OR JAPANESE DESIGN ELEMENTS IN KEEPING WITH DISTRICT CHARACTER.

Guideline A1 may be accomplished by:

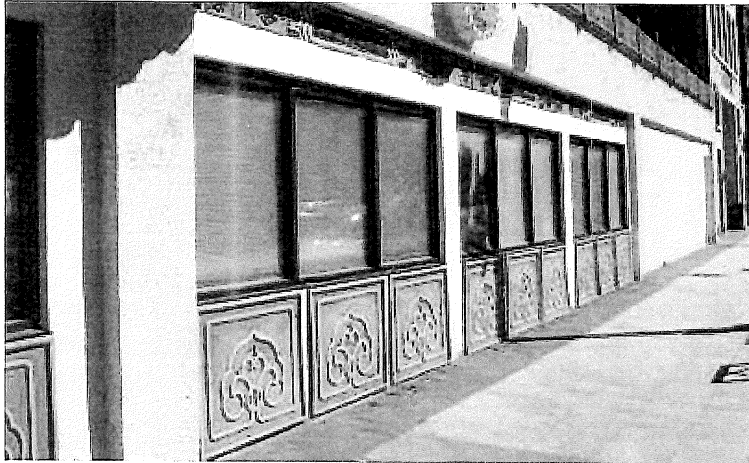
- Demonstrating the appropriateness of proposed elements through an understanding of the historic significance of the district and site. This may be accomplished through site research, photographic documentation, engagement with district stakeholders, and/or reviewing the background provided in chapter 2.
- Using architectural elements, materials, or colors to evoke a connection to Chinese or Japanese urban design.
- Using traditional or contemporary details to evoke a connection to Chinese or Japanese architecture. Examples of details showing a Japanese influence might include a focus on the material or textural quality of architectural surfaces and an overall simplicity of forms and planes. Chinese-influenced details might include horizontal projecting or recessed balconies above the ground level.
- Adding removable design elements or embellishments to either new or existing buildings which reflect a Chinese or Japanese affiliation. These elements may include signs, decorative panels or entry surrounds, flags or banners, upper-level planter boxes, color, and other embellishments.
- Using horizontal projections, such as balconies and awnings, at upper floor and cornice levels.
- Refraining from use of Chinese or Japanese designs, symbols, or characters that are culturally misappropriated or on contributing buildings that do not have a history of Japanese or Chinese affiliation.



The Chinese Freemasons Building in Vancouver, BC, shows Chinese-influenced recessed balconies. Courtesy of the National Trust for Canada.



The Hancock Lofts in Malibu, California, uses sliding wood shutters, a sunshading device which also recalls traditional Japanese screens. Courtesy of ericstaudenmeier.com.



The storefront and parapet detailing on the House of Louie Building on Block 27 adds colorful, rich detail to the street environment.



Recessed horizontal balconies and the use of materials such as tile add culturally-derived details to a new design inspired by the 20th Century Commercial style.

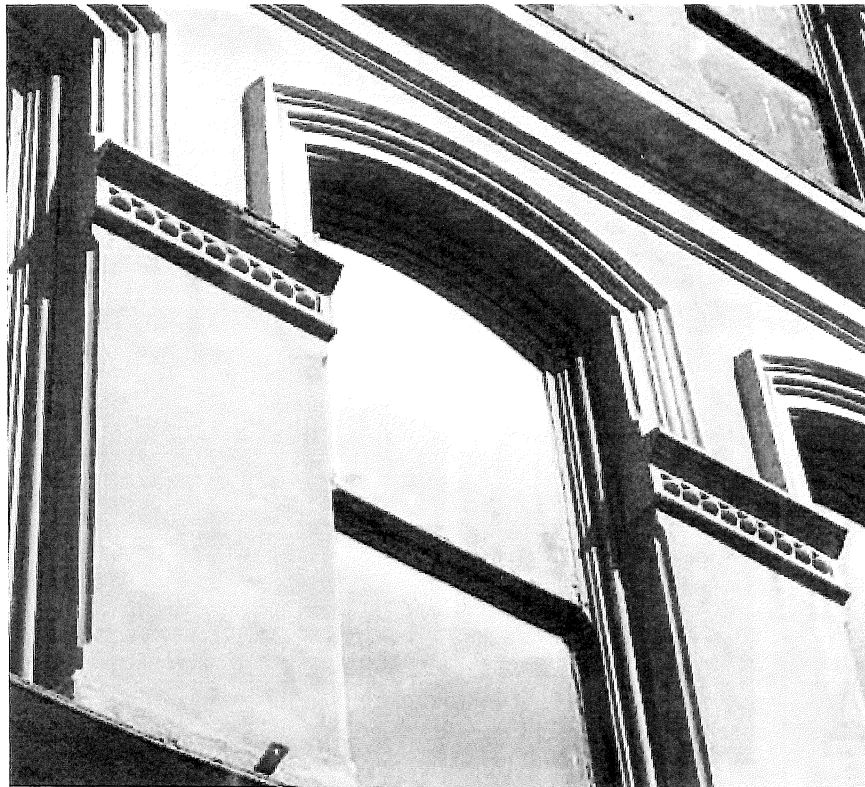
A2: MATERIALS AND FINISHES

BACKGROUND:

Brick, masonry, and painted stucco finishes are the primary exterior wall surfaces in the district. Most of the contributing buildings are brick and incorporate traditional brick patterns and depth details, especially at window heads and cornices. Windows and storefronts are generally made of wood and metal, with depth and texture evident in the materials.

GUIDELINE A2

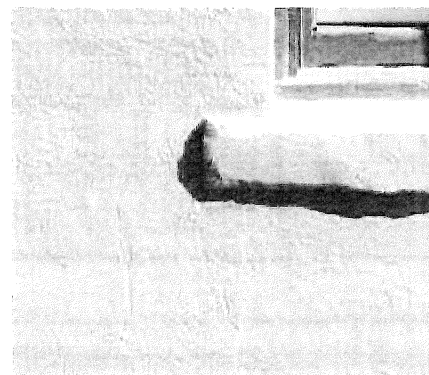
USE DURABLE, HIGH-QUALITY MATERIALS AND FINISHES.



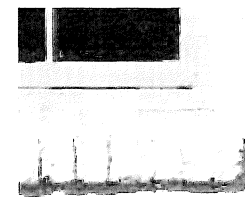
The predominant wall finish at the Sinnott House is a smooth concrete stucco.

Guideline A2 may be accomplished by:

- Using quality materials and finishes consistent with those used on contributing buildings in the district.
- Replacing missing features on contributing buildings with materials in keeping with the building's original materials.
- Providing designs that include brick patterning, corbelling, insets and projections, or other traditional brickwork details. Brick size and texture, joint width, and other small-scale design features can provide a sense of continuity with the craftsmanship and texture of contributing buildings.
- Using smooth concrete stucco finishes, rather than textured or noticeably sanded wall treatments.
- Using durable and high-quality contemporary materials as secondary accents in combination with traditional primary wall materials such as masonry or concrete stucco.
- Avoiding the use of paint on previously unpainted brick or masonry. Removal of paint to reveal originally exposed surfaces is encouraged, but should be undertaken by gentle means.
- Using accent materials, finishes, and/or color to evoke an authentic Chinese or Japanese design influence.



Stucco is most commonly found on Italianate styles in the district.



Avoid painting brick, but if existing brick is already fully painted, as at the Columbia River Ship Supply building, repainting is acceptable.



The Union Gospel Mission Building brickwork has highly contrasting mortar joints.



The Haradon Building, on 5th Avenue, exhibits highly detailed and sculptural brick details.

A3: SIGNS

BACKGROUND:

The district represents the only historic district in Portland nominated primarily for its cultural importance. As one of the most visible representations of the Japanese and/or Chinese culture, signs can have a meaningful impact in preserving the district's character.

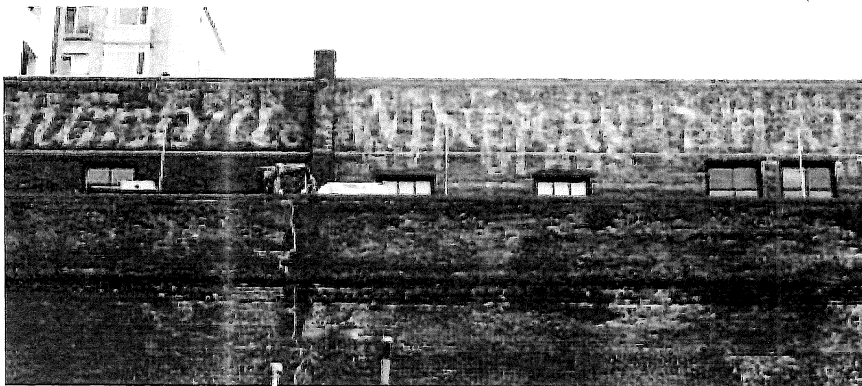
Projecting signs in particular bring a sense of the unique cultural influence prevalent in the district.

Along 4th Avenue, the heart of New Chinatown and the location of the Chinatown Gate, signs of noticeable size and/or authentic Chinese design expressions will help to provide the ambience of a unique district. 3rd Avenue was at one time the center of Japantown and also the location of the Great Light Way archways. At these two streets, projecting signs larger than 30 square feet were part of the streetscape, and can again help to signify the district and support its desired character.

Historic faded painted signs on brick buildings contribute to the character of the district and should be retained as much as possible.

GUIDELINE A3

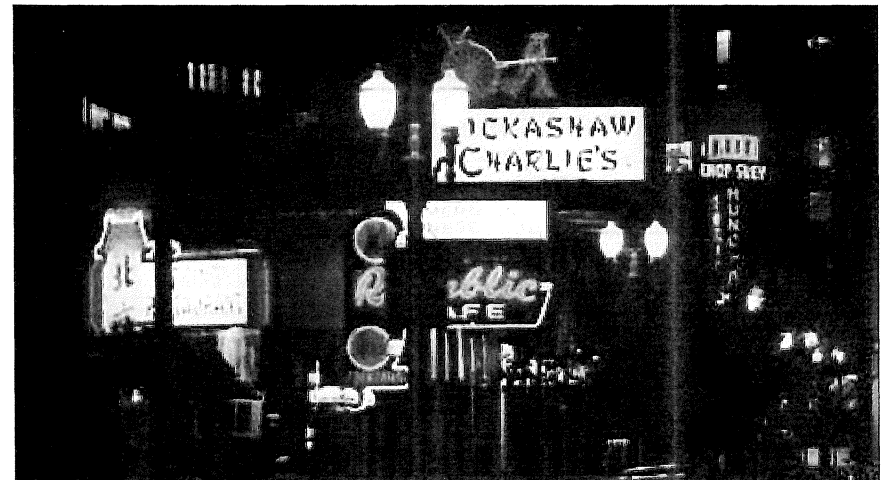
USE DIMENSIONAL SIGNS AND RETAIN HISTORIC SIGNS TO HELP PRESERVE THE DISTRICT'S CHARACTER.



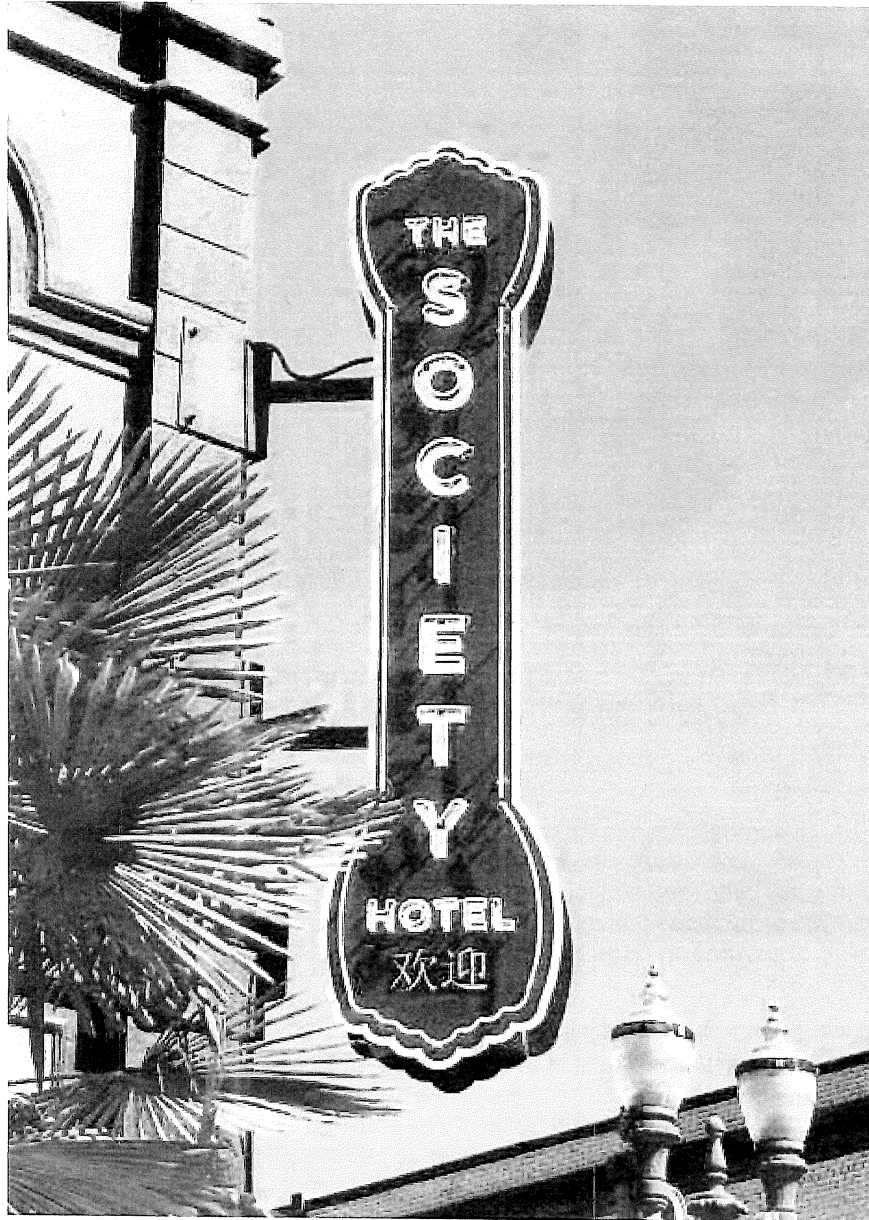
Retain faded painted signs in the district.

Guideline A3 may be accomplished by:

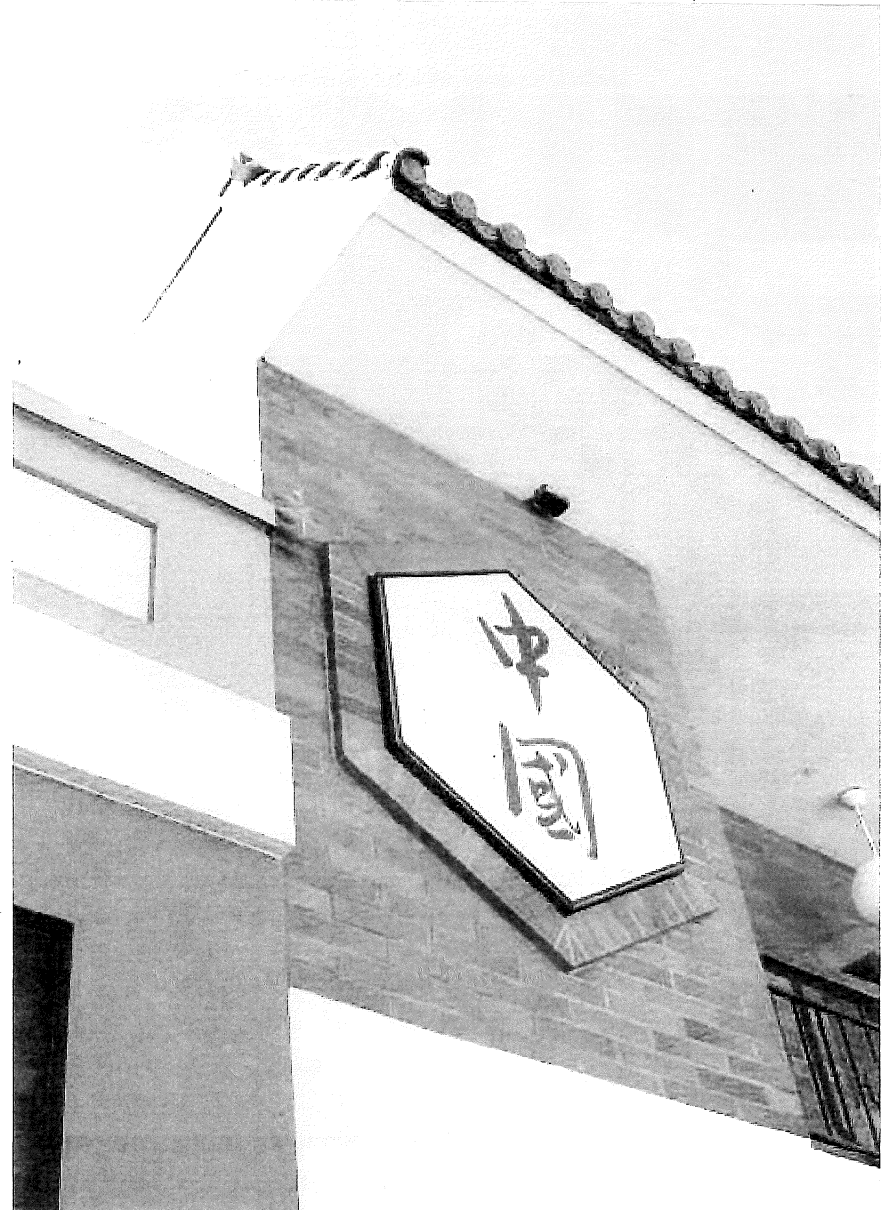
- Creating new three-dimensional, ornate, or multi-part projecting signs throughout the district.
- At locations along 3rd and 4th Avenue, creating new dimensional projecting signs that may be larger than 30 square feet in size, if compatible with the historic character of the district. Modification through Historic Resource Review can be used for approval of these larger signs.
- Creating new wall signs that respect and keep visible the architectural features of the building. Large new flat wall signs are discouraged.
- Retaining historic faded painted wall signs and/or allowing for murals or other art at visible end walls or lot-line walls.
- Sizing and placing signs and their structural support systems so that significant features on contributing buildings are not concealed or disfigured.
- Using metal, neon, glass, acrylic, and/or other materials in a layered projecting sign design, incorporating illumination if desired. Plastic is discouraged from being used as the primary "face" material of the sign.



This 1987 image at night along NW 4th Avenue shows a multitude of projecting signs on the more muted brick buildings, providing a sense of visual interest and excitement. Photo by Bruce Forster, City of Portland Archives, Oregon, #A2010-003.



This sculptural, projecting sign on NW 3rd Avenue is 40 square feet in area. Signs of this size and quality are encouraged.



This wall sign at the Tuck Lung building was designed to fit in the hexagonal brick surround.

A4: BALCONIES

BACKGROUND:

Recessed and projecting balconies are a common feature of Chinese regional and vernacular architecture. During the early 1900s, additive balconies, repurposed fire escapes, and alterations creating horizontal building recesses above the street level created a series of open-air living spaces in the district. Most of these no longer exist, but their presence during the period of significance make them a desired feature to retain and reintegrate in the district.

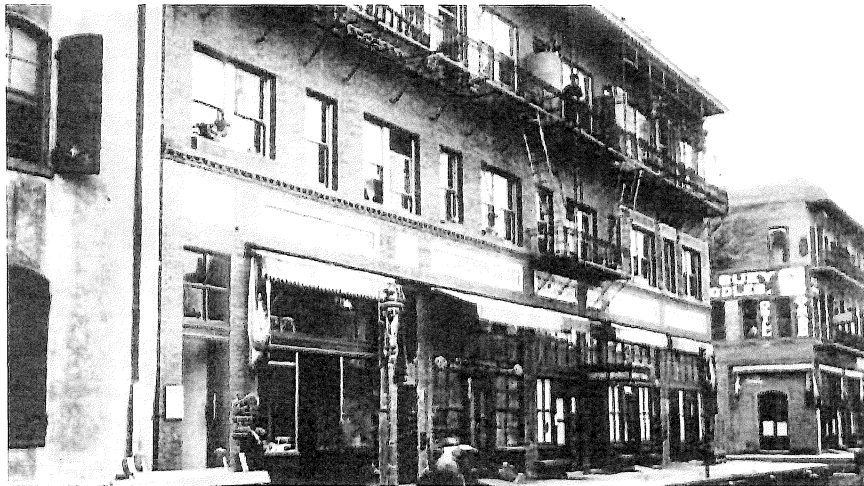
New balconies on existing, even contributing, buildings may be added if appropriate to the style of the building and if only minimally impactful to historic materials. Generally, added balconies would be compatible with buildings with relatively flat, unornamented surfaces. Balconies on new construction are especially encouraged in order to bring more life to the street environment.

GUIDELINE A4

INTEGRATE HORIZONTALLY-ORIENTED BALCONIES THAT ARE COMPATIBLE WITH THE BUILDING'S STYLE.

Guideline A4 may be accomplished by:

- Incorporating balconies on new and noncontributing buildings that read as horizontal recesses in or projections.
- Retaining balconies and/or fire escapes on contributing buildings.
- Avoiding glass railings at balconies in favor of metal and/or wood railing designs.
- Retaining a sense of visual openness at upper balconies, whether projecting or recessed, by use of horizontal designs that span multiple bays.
- Capping horizontal projecting balconies with horizontal awnings, where appropriate.



This building on NW 4th Avenue in New Chinatown/Japantown no longer exists, but this 1931 image shows the upper-level projecting balcony typical of the district. Courtesy of the Oregon Historical Society.



The Waldo Building on SW 2nd Avenue in "Old Chinatown" has an inset balcony.

A5: LIGHTING

BACKGROUND:

Historically, lighting was focused on the street-level environment, with the exception of signs, some of which were projecting or affixed at the roof. Illuminated signs (see sign guideline A3) historically provided extensive levels of illumination in the district.

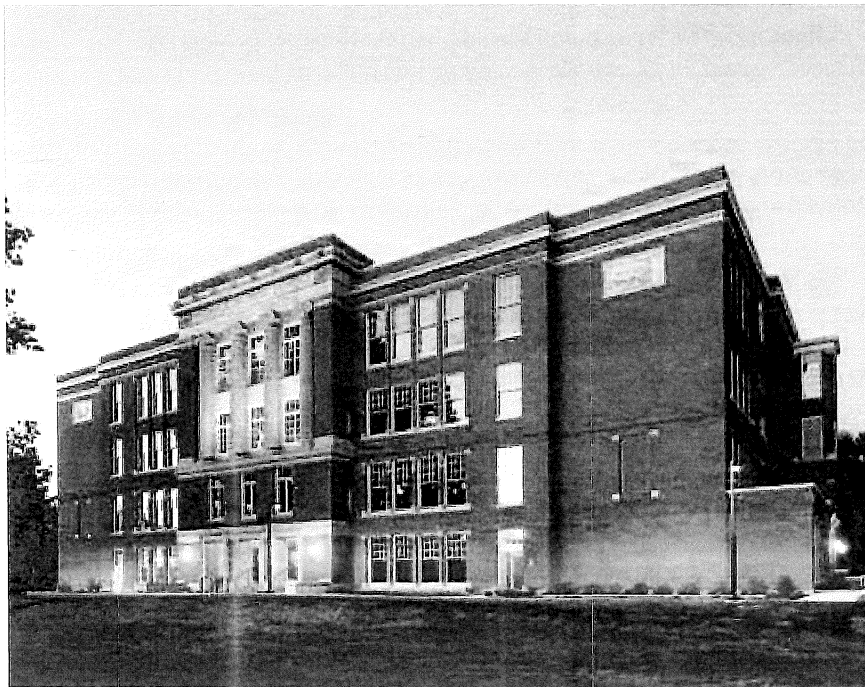
New light fixtures or illuminated features should continue to be focused on the ground floor and street level of buildings, but retain the historic feel of the level and type of illumination that may have been provided by incandescent lights.

GUIDELINE A5

FOCUS EXTERIOR LIGHTING ON THE PEDESTRIAN ENVIRONMENT.

Guideline A5 may be accomplished by:

- Including pedestrian-scale lights in a regular rhythm along the storefront-level building façade.
- Using light fixtures that are sensitive to the character of the building and historic district.
- Selectively lighting outstanding architectural features or details on older buildings.
- Including muted upper-level spot lighting to highlight architectural features, but not to wash large areas or as a linear feature.
- Incorporating low wattage exposed-bulb theater or Tivoli-style lights on projecting building elements such as entry canopies or signs.
- Being sensitive to the quality of the light at the ground level environment, avoiding harsh illumination such as provided by sodium or fluorescent fixtures.



Exterior lighting on Washington High School in SE Portland illuminates both the pedestrian realm and character-defining features of the building. Photo courtesy Venerable Properties.



The Tivoli-style lights at the Simon Building façade add a festive atmosphere to the street level.

A6: GROUND FLOOR TREATMENT

BACKGROUND:

Storefronts are an important element in the district and historically were indicators of Chinese and/or Japanese occupancy of buildings. Storefront systems typically had a low base with inset panels or a rough textured masonry. Glass is inset from the storefront frame and the frame inset from the pilasters or wall. Clear glass transoms occur in a regular spacing above storefront windows. These storefront bays in repetition, but with variations, provided a rich, textural, and detailed street-level environment.

Historically, cloth awnings were used at individual storefront bays, which could be extended out or pulled in depending on weather conditions. Designing new awnings to fit within each storefront bay preserves the character of the district by ensuring that elements within the pedestrian environment are textural, varied, and occurring at a regular rhythm.

As a result of security concerns, some building owners and tenants in the district have installed security features such as roll-down gates, window grilles, and flood lighting. These features are generally discouraged, but when necessary should be as minimally visible as possible.

Parking is likely to remain an important amenity in the district for the foreseeable future. Though offstreet parking was not typically found in the district through 1943 (the end of the period of significance), other auto-related uses such as garages became increasingly common in the late 1910s into the 1930s. Many buildings included vehicular openings which were the same size as storefront bays, and in the same pattern. New garage openings should follow this strategy as much as possible, and should include a door which can be closed to limit pedestrian views into a dark car ramp or into a brightly lit parking garage.

GUIDELINE A6

PROVIDE TEXTURE, SMALL-SCALE DETAIL AND A RICH PEDESTRIAN ENVIRONMENT AT THE GROUND FLOOR.

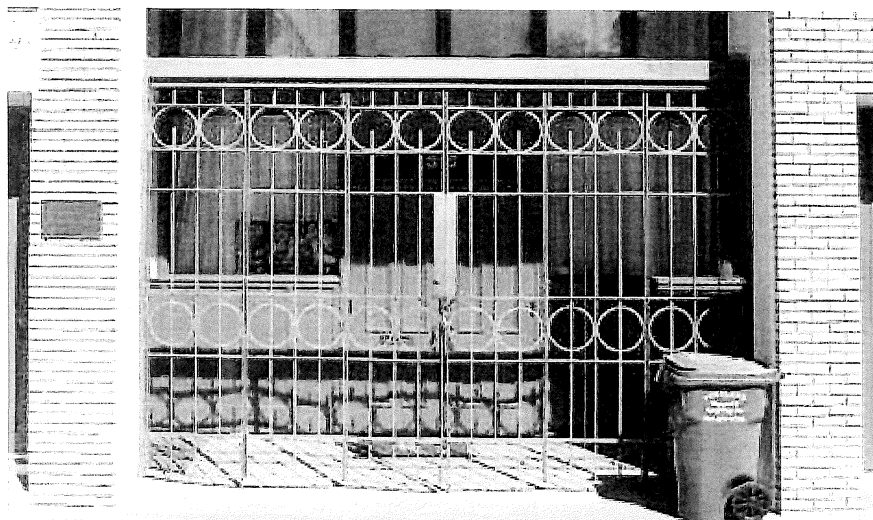
Guideline A6 may be accomplished by:

- Keeping a human scale in the dimensions of elements and details at the ground floor level. Such considerations as the height of transom windows and awnings, brick detailing or patterning, and special entryway conditions reinforce the human scale.

- Using small-scale changes of plane and texture in the design of new storefronts to recall and interpret historic storefront features.
- Designing awnings to create a series of additive horizontal elements providing cover above the sidewalk. New ground floor awnings should use durable, high-quality materials such as metal, woven fabric, canvas, or glass and be designed specifically to the size of the storefront or entry opening.
- Minimizing the visual impact of security features such as moveable gates or roll-down doors by inseting such features into the storefront bay opening.
- Providing a motion sensor for safety lighting to avoid all-night illumination.
- Keeping garage entry openings a similar size as storefront openings found in the district.
- Ensuring that any on-site loading spaces are not visually open to the sidewalk. If the loading space is on site, it should have a door along the sidewalk similar to a garage opening.
- Using translucent materials in garage doors to prevent direct views of interior light fixtures.



These projecting awnings at Block 28 allow the transom windows to remain visible.



The folding security gate at the Chinese Consolidated Benevolent Association was designed to fit its opening with minimal impact to the storefront and adds Chinese decorative detail to the entry.



This San Francisco storefront uses wood and geometric styling to reflect a modern Japanese aesthetic. Courtesy of Craig Steely Architecture.



The new storefront system at the historic Minnesota Hotel building has a fine-grain level of detail.

A7: ROOFTOP EQUIPMENT

BACKGROUND:

Most of the mechanical equipment, ducts, and other rooftop features currently in place are modern additions to the district. As such, rooftop equipment should not be visible, or be only slightly visible, from the right-of-way. For new construction or new additions, the roofscape should be carefully designed and considered. New construction or new addition projects have the opportunity to create a parapet condition, enabling rooftop mechanical equipment to be closer to the roof edge without visually detracting from the building and overall district.

GUIDELINE A7

MINIMIZE THE VISIBILITY OF ROOFTOP MECHANICAL EQUIPMENT FROM THE RIGHT-OF-WAY.

Guideline A7 may be accomplished by:

- Gathering mechanical equipment, elevator over-runs, and other rooftop elements together away from the street-fronting roof edges, and/or screening by a building parapet.
- Providing a unified design for rooftop elements.
- Minimizing visibility of rooftop elements such as rooftop equipment, stair over-runs, or mechanical enclosures from the right-of-way.
- Providing rooftop uses such as green roofs or solar panels where these structures would not have a significant impact on views from the right-of-way.



The Society Hotel's parapet condition masks solar panels and a rooftop deck space. Courtesy of Addam Goard.



The roof of the historic Society Hotel on NW 3rd Avenue includes solar panels which are fully screened from street-level views by existing parapets.

A8: STREETSCAPE CHARACTER

BACKGROUND:

Streetscapes in this urban historic district are important elements that help define the district's character. Streetscapes are the district's only public open spaces both historically and currently.

At NW 4th Avenue, which historically was the center of New Chinatown, the Chinatown Gate defines the south end of the district. The importance of the NW 4th Avenue streetscape should be reinforced by new buildings, additions, and exterior alterations meant to enhance and enliven its character. The NW 4th Avenue streetscape is envisioned as having visual priority over the streetscapes of the cross streets.

At Festival Streets especially, the raised planters and art create opportunities for buildings to respond to these special features, especially at the ground floor.

NW 5th Avenue is part of the Transit Mall, with brick sidewalks and large round planters.

Throughout the historic district, utility lines are appropriately buried rather than overhead, and other utility meters and boxes should also be kept below-grade.

GUIDELINE A8

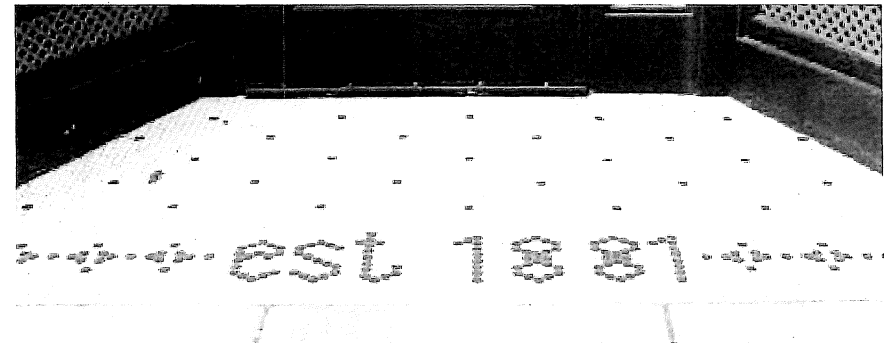
REFLECT THE DESIRED STREETSCAPE CHARACTER OF THE DISTRICT IN RIGHTS-OF-WAY, AT BUILDING ENTRIES, AND IN SPECIAL PLACES.



Chinatown Gate, c1986. Photo by Bruce Forster, courtesy of Portland Development Commission.

Guideline A8 may be accomplished by:

- Creating textural interest and a sense of district continuity by giving design attention and material compatibility to the walking surface, whether on private property or in the right-of-way. Special threshold surface materials such as masonry, tile, or terrazzo reflect the unique character of the New Chinatown/Japantown Historic District.
- Locating accessible entries in a manner that preserves historic step-ups, while providing accessibility to the building.
- For new buildings or additions fronting NW 4th Avenue, prioritizing a contextual relationship with the contributing buildings that also front NW 4th Avenue. Where appropriate, incorporate strong projecting elements and/or stepbacks facing NW 4th Avenue to enhance and restore a main street uniformity.
- Where new and non-contributing building walls face Festival Streets, providing compatibly-scaled and detailed openings, thereby encouraging uses to spill out into these special areas and support increased vitality within the district.
- Where NW 3rd Avenue buildings face the Lan Su Garden, or where NW 4th Avenue buildings are in proximity to the Chinatown Gate, providing respectful contextual responses to these important places.
- Aligning street trees and landscaping to relate to building and right-of-way features.



The threshold condition at the Society Hotel uses mosaic tile.

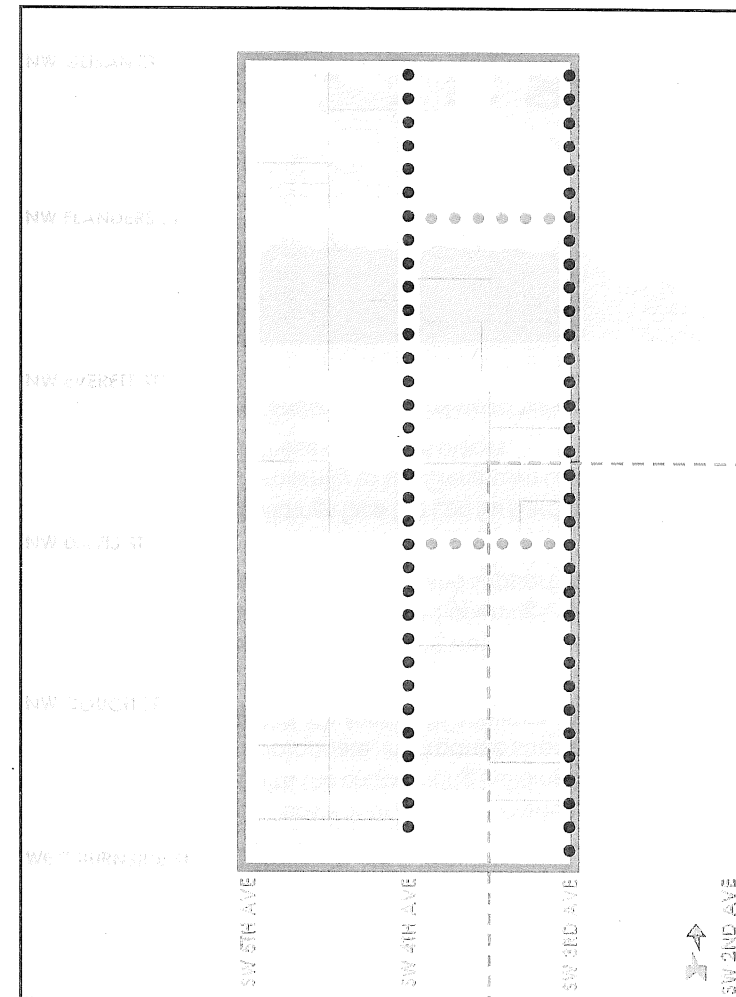


Festival Streets are marked by planters with Chinese palm trees, artwork, special paving, and other elements. New and existing buildings facing these streets have an opportunity to respond to the street design.



The storefront windows at this NW Portland building open up toward the sidewalk. A similar condition may be appropriate facing Festival Streets.

MAP SHOWING SPECIAL AREAS IN THE DISTRICT



Existing Buildings

Culturally Significant Attractions

Vacant Lots

●● Special Signage Streets

●● Festival Streets

■ New Chinatown/Japantown Historic District Boundary

■ Skidmore/Old Town Historic District Boundary

A9: EXPOSED LOT-LINE WALLS

BACKGROUND:

Exposed lot-line walls are visible when there are vacant lots in the district and when a taller building extends above a shorter neighboring building. Historically, lot line walls in the historic district were simple brick walls, which were often painted with signs across the top. Many of these “ghost” signs are still visible today.

When a new lot-line wall is created next to a developed lot, the wall typically is not allowed to have openings due to fire code regulations. However, if the adjacent development is set back from the lot line or other construction requirements met, there may be an allowance to create windows in the new lot line wall.

For most situations, the lot line wall should include visual and textural interest such as the expression of floor lines or the wrapping of front façade materials and/or elements into at least a portion of the side wall.

GUIDELINE A9

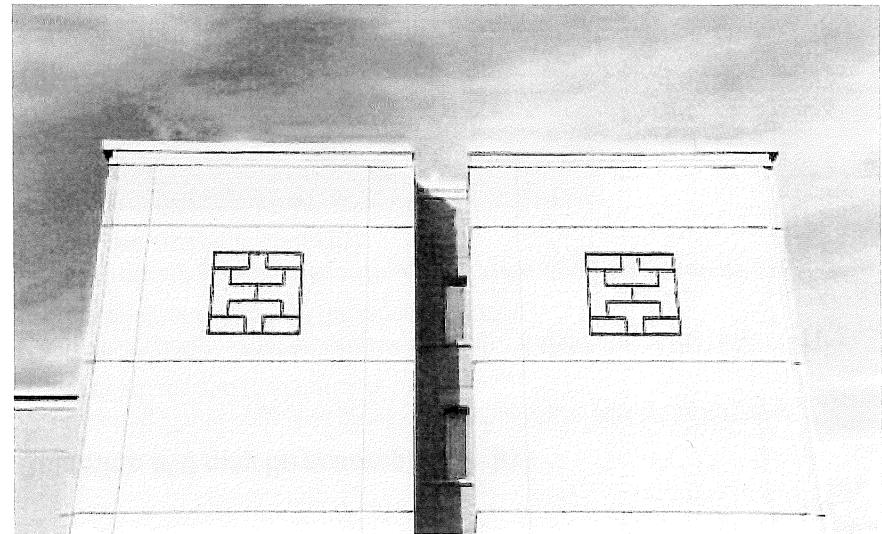
PROVIDE VISUAL INTEREST TO EXPOSED LOT-LINE WALLS THROUGH ELEMENTS SUCH AS EXPRESSED FLOOR LINES, ART, OR INCLUSION OF OPENINGS WHERE ALLOWED.

Guideline A9 may be accomplished by:

- Designing new exposed lot-line walls with intrinsic detailing and textural interest.
- For existing and new end walls, providing for embellishments, murals, or other art; incorporating and/or retaining historic faded painted signs where those exist.
- Avoiding fully painting unpainted historic brick walls.



This painted mural creates interest on an otherwise unexciting wall.



The end wall at the Blanchet Hospitality House at NW 3rd and Glisan Streets shows floor line delineations and texture. Courtesy of Addam Goard.

A10: ARCHITECTURAL EDGE

BACKGROUND:

Although surface lots are generally discouraged, open parking or loading areas should include fencing or an architectural edge along the right-of-way in order to retain a sense of a street wall. Reflecting the character of the historic district in the materials and/or details of the fence or screen is strongly encouraged. The design should also consider an edge condition with visual openings or partial screening to support the livability and safety goals of the neighborhood, which include maintaining usability, safety, and deterring unwanted activities.

The Portland Zoning Code also has screening requirements that must be met for new or redeveloped parking areas.

For existing parking areas, active food carts facing the sidewalk are strongly encouraged. While there is no requirement for improving the entire edge of an existing parking lot, additions of fencing or landscaping will improve the appearance of the lot and help to define a street edge.

GUIDELINE A10

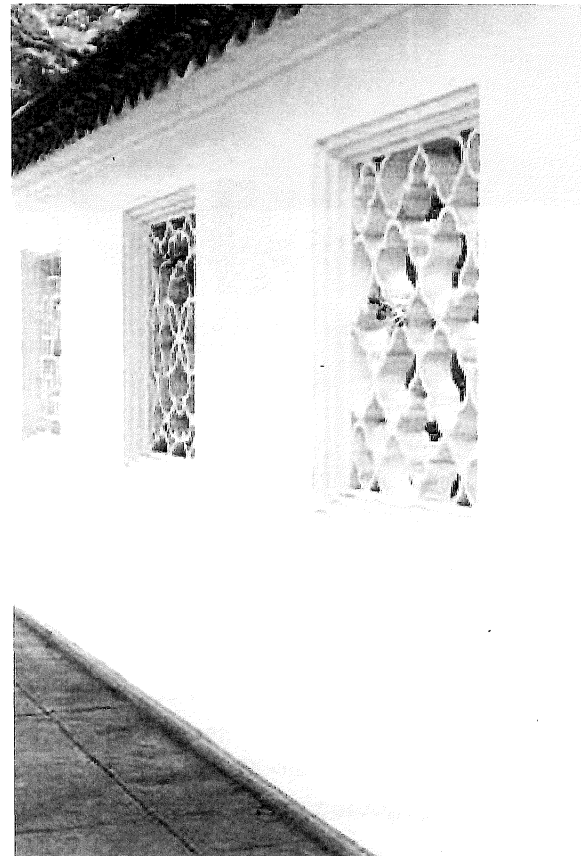
INCORPORATE AN ARCHITECTURAL EDGE AND/OR ACTIVE USE ALONG THE SIDEWALK ALONG ANY SURFACE PARKING OR OFF-STREET LOADING AREAS.



Food carts in SW Portland provide a visual screen between the parking lot and the sidewalk.

Guideline A10 may be accomplished by:

- Creating a built edge that provides a partial visual screening between pedestrians and the interior of the site.
- Utilizing designs that emphasize the cultural character of the district in the materials and details of the fence or screen.
- Incorporating active uses such as food carts along the perimeter of a surface parking area where possible.



The solid perimeter wall at the Lan Su Garden is punctuated by a series of openings with decorative screens using Chinese designs. This idea could be used at a parking lot edge as well.

A11: HISTORY DISPLAY**BACKGROUND:**

For a map of properties in the district that are contributing resources, see page 21. For a map of properties in the district that are known to be culturally significant, see page 27. At these properties, recognition of the site's significance will help to preserve the district's stories for future generations.

GUIDELINE A11

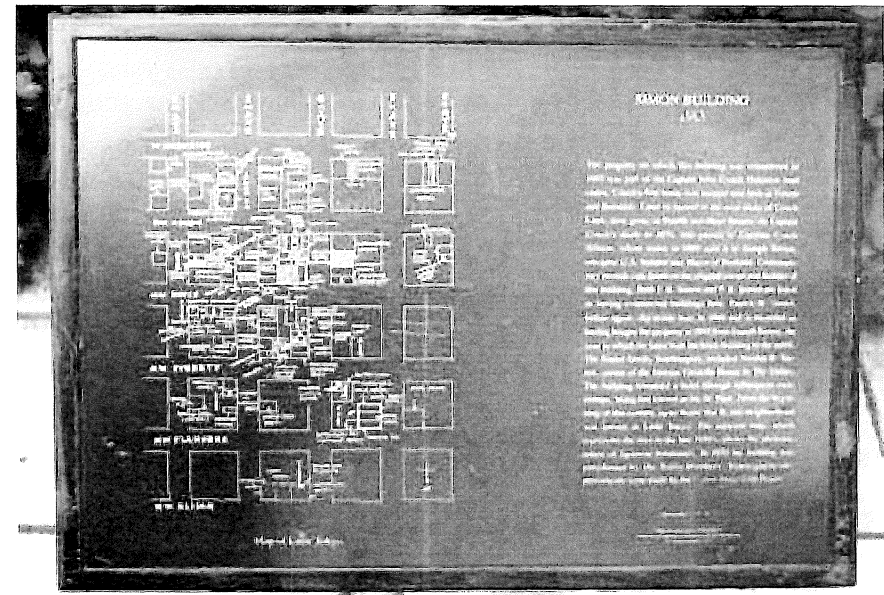
PROVIDE PUBLIC HISTORY PLAQUES OR INFORMATION AT THE GROUND FLOOR LEVEL.

Guideline A11 may be accomplished by:

- Visually displaying stories or historic background through imagery, text, or displays readable from the public right-of-way.
- Using sources for research such as those cited in Chapter 2 of this document.
- Stamping the concrete base or an inserted concrete marker with the date a new building or addition was constructed.
- Following the examples of projects that use such plaques, providing consistency in size and placement throughout the district.
- Allowing for modern media art installations which may use lighting or other wall-mounted elements to convey historic information or an experience, especially at the pedestrian level.



New buildings can use a date-stamped cornerstone such as this historic one at a church on NE Fremont Street.



This plaque, located in front of the Simon facade on NW 3rd Avenue, provides historic information for passers-by.

B: Guidelines for Alterations

Alteration Guidelines are to be used for projects that make changes to the exterior of existing buildings in the New Chinatown/Japantown Historic District, but do not increase the existing building's height or size. These guidelines apply to both contributing and noncontributing buildings. General Guidelines (A) also apply, and potentially other New Chinatown/Japantown Historic District Design Guidelines depending on the project scope.

B1: HISTORIC FEATURES AND MATERIALS

BACKGROUND:

The character-defining features and historic materials found on contributing buildings are significant and should be preserved and repaired with sensitivity. Character-defining features are “markers” that define the style and often the era of construction of buildings (chapter 2 features an illustrated guide of typical character-defining features).

Predominant exterior building materials on contributing buildings in the historic district generally were made or finished by hand. These materials help to create a degree of imperfection which adds to the softness and character of the wall surfaces. Building materials used for alterations should generally be the same as the old materials they are replacing.

If there are cost, availability, or other reasons why the material cannot be the same, the new material may be contemporary but should visually match the historic material. In cases where historic features have deteriorated to the point where repair is not feasible and replacement is necessary, replacement features should be a visual match to the removed features.

Both contributing and noncontributing buildings exhibit exterior changes that were made over time. If the changes were made 50 years ago or more, those changes may have acquired historic significance. Physical alterations that were made by one of the predominant ethnic communities are an example of changes that should generally be retained to show the building's and the district's history and affiliations over time.

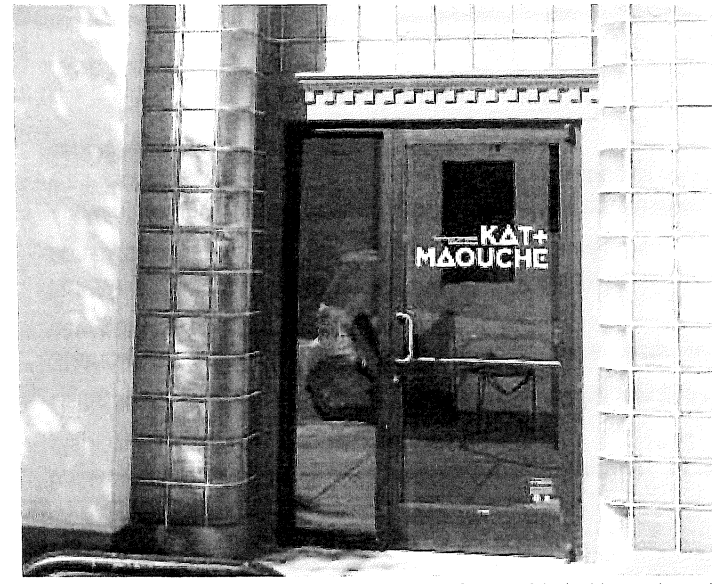
GUIDELINE B1

RETAIN AND REPAIR HISTORIC FEATURES AND MATERIALS

Guideline B1 may be accomplished by:

- Preserving the original building's most important and character-defining features.

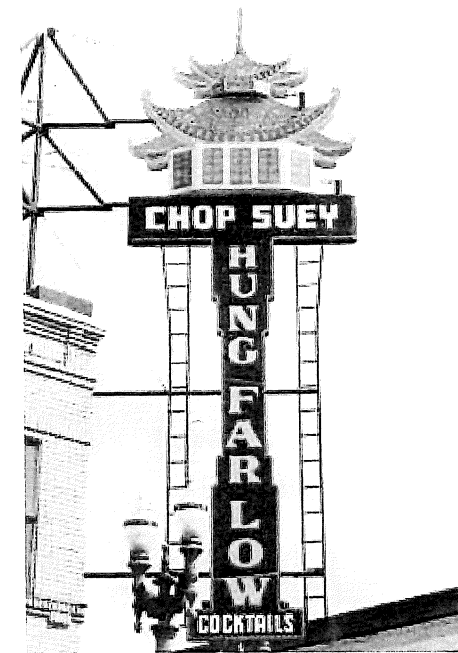
- Researching historic photos or drawings as a guide to the design for replacing a missing character-defining feature on a building. If no historic evidence is found, a simplified and more contemporary version of the feature may be appropriate.
- Repairing, rather than replacing, materials that help to define the character of the building. Retention of original wood or steel frame window sashes is especially encouraged. Where necessary, replacing historic materials on existing buildings with the same material or a visual match.
- Retaining exterior modifications associated with authentic Japanese and/or Chinese cultural adaptations.



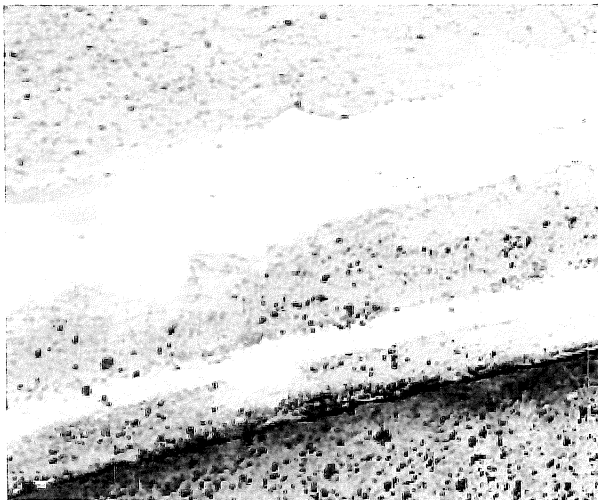
This curved-wall glass block entry is a character-defining feature of the building. It shows the Moderne sub-style detailing used on this 20th Century Commercial style building on NW 4th Avenue.



This Italianate building on NW 3rd Avenue retains its added upper-level awning, projecting sign, and fire escape. These alterations have acquired historic significance.



The historic and iconic Hung Far Low sign was rehabilitated and re-installed in its original location, though the restaurant is no longer in operation.



These "before" and "after" views of masonry repair at Washington High School illustrate the visual match of the new material with the historic material. Courtesy of Venerable Properties.

B2: DESIGN OF ALTERATIONS

BACKGROUND:

Proposed changes to the building should respect the original building style, especially retaining original bays and openings such as the historic storefront width and height.

Features or elements specific to a different historic architectural style, even one found in the district, should not be used.

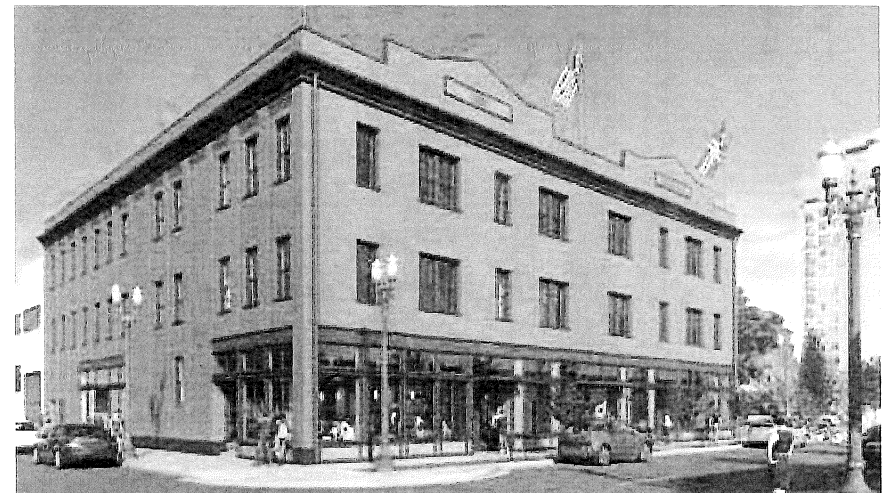
Culturally authentic details such as parapet or other rooftop edge detailing, entryway surrounds, awnings, projecting balconies, signs, and other design elements which illustrate or suggest a building's Japanese or Chinese affiliation may be appropriate depending on the change's impact on historic materials.

GUIDELINE B2

DESIGN ALTERATIONS TO BE RESPECTFUL OF THE ORIGINAL STYLE, TYPE, AND DESIGN OF THE BUILDING.

Guideline B2 may be accomplished by:

- Using contemporary building details which tie the building to its ethnic or cultural history, but don't create a false sense of that history.
- Ensuring that architectural elements from other historic building styles are not unintentionally introduced.
- Integrating authentic design elements in ways that minimally impact the existing building's historic materials and overall stylistic presentation.



The Overland Warehouse at 4th and Davis was rehabilitated to retain the historic pattern of window and storefront openings. Historic materials were repaired and, where necessary, replaced with materials in keeping with the original. Images courtesy Emerick Architects.

B3: HIERARCHY OF ALTERATIONS

BACKGROUND:

To ensure that newer features do not visually overwhelm the historic building, added elements should enhance historic features rather than being visual distractions from the historic features of the building. Alterations or new features should be secondary to the style, materials, and form of the existing building.

GUIDELINE B3

KEEP ALTERATIONS OR NEW ELEMENTS VISUALLY SECONDARY TO THE ORIGINAL FEATURES OF THE BUILDING.

Guideline B3 may be accomplished by:

- Designing new features to fit cleanly within existing fenestration
- Using abstracted forms or details in new features, without ornamentation or excessive detailing, in order to avoid visually competing with original detailing.
- Keeping contemporary insertions at a limited size and scope so as not to overwhelm the original features of the building.



This modern entry canopy and tenant sign facing NW 5th Avenue add respectful, yet contemporary details.

B4: SEISMIC IMPROVEMENTS

BACKGROUND:

There are a number of historic unreinforced masonry structures in the New Chinatown/Japantown Historic District. These structures may be especially dangerous in a seismic event. Seismic retrofits are therefore critical to the longevity and character of the District.

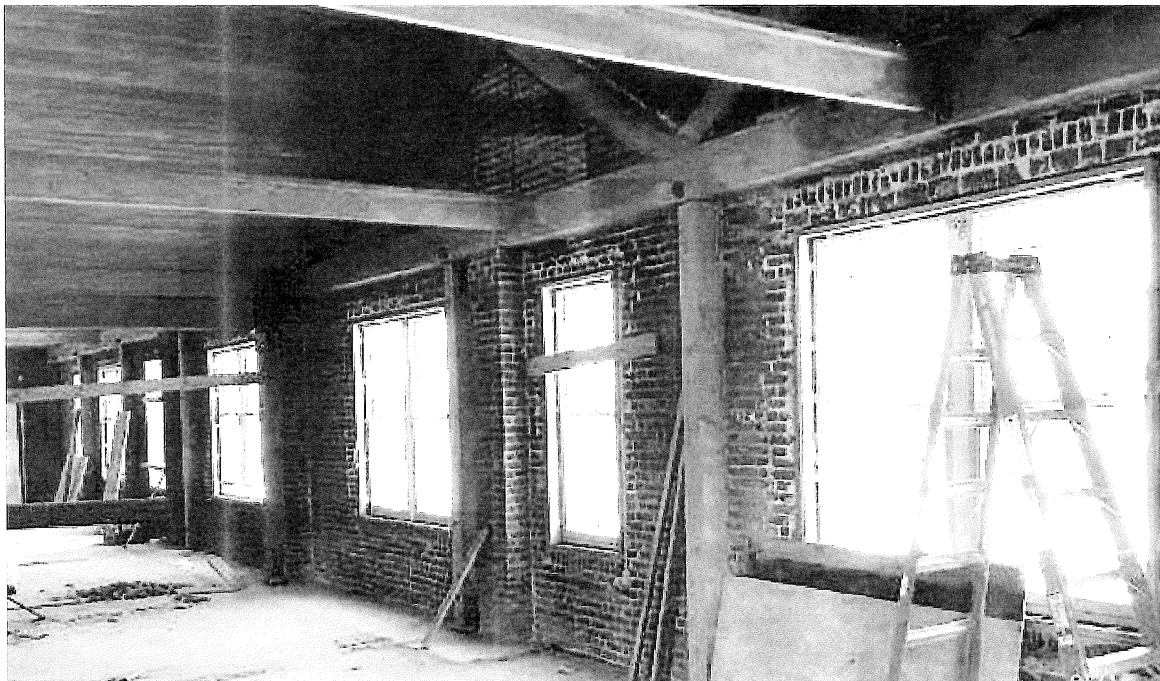
To ensure that newer features do not visually overwhelm the historic building, added elements should enhance historic features rather than being visual distractions from the historic features of the building. Alterations or new features should be secondary to the style, materials, and form of the existing building.

GUIDELINE B4

UNDERTAKE SEISMIC IMPROVEMENTS IN THE MOST UNOBTUSIVE WAY POSSIBLE.

Guideline B4 may be accomplished by:

- Seismically upgrading historic buildings.
- Retaining and strengthening existing structural materials to the extent possible.
- Prioritizing solutions that retain historic materials and do not impact window openings or the exterior of buildings.



The Overland Warehouse seismic retrofit solution was able to retain existing heavy timber and add metal reinforcements at the timber joints and between the brick walls and the timbers. Courtesy of Emerick Architects.



The seismic retrofit at the Telegram Building in SW Portland added a shear wall at the inside face of the exterior wall, but kept historic window openings clear.

C: Guidelines for Additions

Addition Guidelines are to be used for projects that add floor area to an existing building in the New Chinatown/Japantown Historic District, as long as the new floor area does not add more than 25 feet of new street façade (in those cases, guidelines for New Construction (D) apply). Addition Guidelines are to be used for new portions of the building, but the Alteration Guidelines (B) continue to apply to changes to the existing building. General Guidelines (A) will apply.

C1: COMPATIBILITY

BACKGROUND:

The design of the new addition should visually relate to the design of the original building, especially if the original building is contributing in the district. There should be more similarities than differences in the addition; in other words the design should be more compatible than differentiated from the original.

GUIDELINE C1

ENSURE THAT ADDITIONS ARE COMPATIBLE WITH THE ORIGINAL STYLE, FORM, AND MASSING OF THE EXISTING BUILDING.

Guideline C1 may be accomplished by:

- Visually matching most of the original characteristics of the building in the new addition.
- Designing additions to be primarily compatible with the original building and secondarily compatible with contributing resources throughout the district.
- Not attempting to replicate highly decorative or detailed elements of the original building in the addition, but providing new elements or details at the new wall areas that reference some of those original details.



The compatible addition (left) to this apartment building uses the same tan brick, horizontal banding, and other features from the original 1914 design. Courtesy of Gary Chilluffo.



The 1952 addition (right) to the 1925 north wing of Grant High School, on NE 36th Avenue, is compatible due to its size, scale, materials, and window alignments.

C2: HORIZONTAL ADDITIONS

BACKGROUND:

A relatively small-scale addition might continue the overall design, appearance, materials, and patterns of an existing building as long as the new addition defers to the original building. Additions to contributing buildings should be visually secondary to the historic resource.

It is important to acknowledge the need for expanded floor plates in some historic buildings in order to meet modern building, seismic, and fire codes. Horizontal building additions are, in some cases, necessary to allow a historic building to be fully used and preserved.

GUIDELINE C2

DESIGN HORIZONTAL ADDITIONS TO CONTRIBUTING BUILDINGS EITHER TO APPEAR TO BE A NEW BUILDING, OR AS A VISUALLY SECONDARY VARIATION OF THE ORIGINAL.

Guideline C2 may be accomplished by:

- Maintaining most of the design characteristics of the original building facade in additions of floor area.
- Allowing a very small addition of floor area (such as an added elevator tower on an existing building) to be more contemporary in materials and expression, as long as the new element does not detract from the historic architecture.
- Using highly compatible massing, materials, and design features.



The addition (right) to the historic Park Plaza building in Baltimore uses proportional windows, a similar color palette, and other features that reflect those of the historic building. Courtesy of Marks, Thomas Architects.

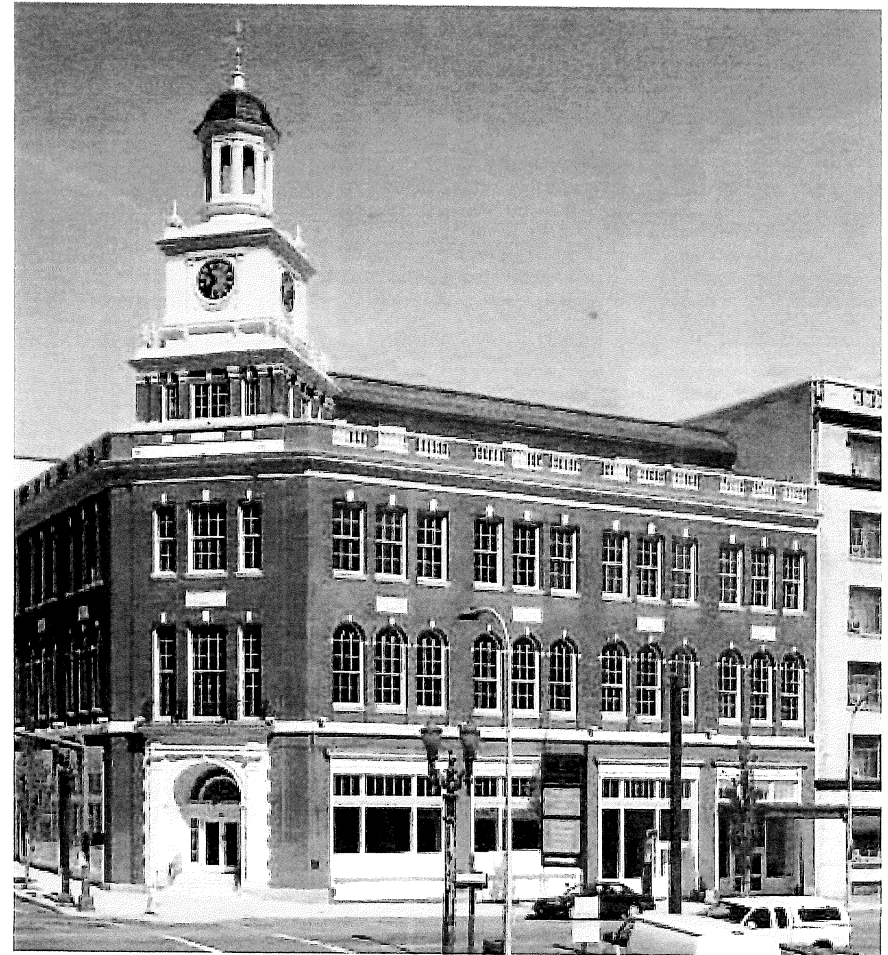
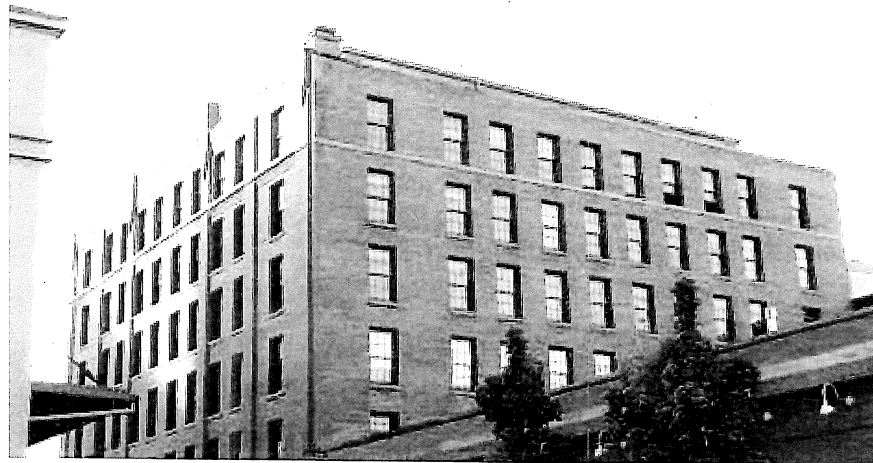
C3: VERTICAL ADDITIONS

BACKGROUND:

The district's overall character is derived from its historic buildings. While vertical additions may be compatible with these older buildings, they should act as a background to the original historic construction.

Vertical additions should be differentiated from the original building by a change in material or other visual shift, but should recognize and continue the rhythm and proportion of openings or bays below. Because vertical additions can significantly change the character, scale, and proportion of a historic building, additions of a limited height or scale will more easily achieve compatibility with the scale of the contributing building.

It is important to acknowledge that the development potential within the district will drive some vertical addition proposals to be more than a single added story. To be successful, the architecture and scale of the new development must defer to the contributing building. Extending the same wall planes up from the historic building at all sides may not adequately preserve a sense of the building's original volume depending on the building and/or site.



Vertical additions can be designed to be minimally visible from the street, as evidenced by the Crane Building in Northwest Portland (left) and Telegram Building in Southwest Portland (right).

GUIDELINE C3

DESIGN VERTICAL ADDITIONS TO CONTRIBUTING BUILDINGS TO LIMIT THE VISUAL IMPACT OF THE ADDITION.

Guideline C3 may be accomplished by:

- Taking advantage of transfer opportunities provided in the Portland Zoning Code for sites with a disparity between a property's development allowances and its existing historic building.
- Stepping back the street-facing plane of the addition from the existing street wall. A single-story penthouse addition on an existing multi-story building can be almost invisible from the street level if set back.
- Designing additions to visually retain a sense of the original volume of the building and to be visually secondary to the primary original building.
- Using shifts in material and/or color at the new addition, while continuing other aspects of the building's design such as the pattern and proportion of openings.
- Keeping or creating a historically appropriate projecting cornice element to define the historic streetwall height.
- Treating vertical additions to noncontributing buildings to be compatible with the district as a whole.
- Continuing the overall structural rhythm from the lower levels into upper-level walls, and retaining a visual sense of the vertical structure in upper level wall areas.



The added penthouse on the historic Telegram Building on SW Washington Street is set back from the façade and is almost invisible from the street.

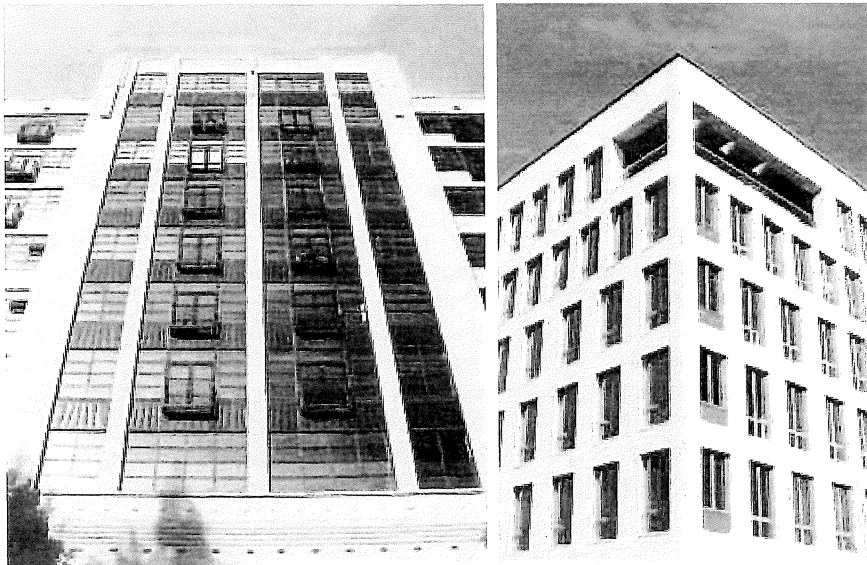
D: Guidelines for New Construction

New Construction Guidelines apply to projects that add significant floor area to an existing building (more than 25 feet of linear street-facing wall) and to new infill projects in the New Chinatown/Japantown Historic District. If an existing building is to have exterior alterations or additions, then the Alteration Guidelines (B) and Additions Guidelines (C) continue to apply. General Guidelines (A) also apply.

D1: BUILDING STYLE

BACKGROUND:

By far, the most prevalent architectural style in the district is the 20th Century Commercial style, also sometimes called Streetcar-Era Commercial. This style in particular can tolerate a relatively wide range of expression, as well as more contemporary or culturally-inspired details. Other styles found in the district may also be used as the starting point for the design of new construction, but new construction should respond to and support the overall architectural continuity of the district.



The Gregory Building in Northwest Portland (left) features elements characteristic of the Moderne style, while the L.L. Hawkins Building in Northwest Portland (right) features elements characteristic of the 20th Century Commercial style. Courtesy of Addam Goad.

GUIDELINE D1

DESIGN THE NEW STRUCTURE TO BE INFORMED BY ONE OF THE HISTORIC STYLES FOUND IN THE DISTRICT.

Guideline D1 may be accomplished by:

- Constructing new buildings that are inspired by the defining characteristics of one of the contributing styles in the district.
- For horizontal additions larger than 25 feet of street facade, using most of the defining characteristics of the original building in the addition.
- Designing new street-facing facades to directly incorporate features of contributing buildings in the district.
- Complementing the architecture of the historic or contributing buildings in the district and not overly drawing attention to the design of new construction through excessive differentiation or juxtaposition.
- Incorporating the existing Romanesque-style Simon Building façade on NW 3rd Avenue into a new structure, being respectful of the character-defining features of the façade.

D2: FORM AND ARTICULATION

BACKGROUND:

Contributing building forms in the district are simple volumetric shapes, typically square or rectangular with no setbacks. This “blocky” overall development form should be evident in new construction. Compatible forms are simple, with a flat or minimally pitched roof and strong cornice lines or parapet edges.

The district includes mostly quarter-block and smaller development, though there were historically half-block buildings with full-block façades. While new development may have a unified street face for as much as an entire Portland block, a street-facing façade should also be broken by an intermediate scale and rhythm where building fronts are longer than a quarter-block (100 feet) of frontage. Adjacent forms should be used to inform new construction. If the new construction is a large horizontal addition, the new work may be differentiated from the existing contributing building so that the addition appears to be a separate, but related, building.

GUIDELINE D2

REFLECT THE FORM AND ARTICULATION OF THE DISTRICT'S CONTRIBUTING BUILDINGS IN NEW CONSTRUCTION.

Guideline D2 may be accomplished by:

- Where a building has a full-block face, changing the proportion of one or more vertical bays to visually group areas of the building façade into smaller areas.
- Using variegated rooflines to break the apparent scale of a full-block building façade.
- Extending the apparent massing of a neighboring contributing building(s) into the form and/or design of new construction.
- Creating a linear projecting element such as a strong cornice or upper-level horizontal awning to break height and reflect similarities with nearby contributing buildings.
- Where buildings have frontage on NW 4th Avenue, relating building features first to the NW 4th Avenue streetscape and second to the side streets.



The white building, second from left, is University Lofts, an infill project between historic buildings on Euclid Avenue in Cleveland, Ohio. The façade uses the height, window proportion and alignment, and other strategies to fit into its context. Courtesy of City Architecture.



The Blanchet Hospitality House development at NW 3rd Avenue and Glisan Street reflects the historic scale, massing, materials, and pattern of openings found in the district.

D3: VERTICAL COMPOSITION**BACKGROUND:**

When new construction is of similar height to neighboring buildings, the street wall height of adjacent buildings should be continued into the new construction, with strong horizontal articulation of cornice or parapet lines. If the building is taller than its neighbors, the building should employ one or more strategies to reduce the impact of the taller height, such as a stepback, a projecting horizontal band, awning, cornice, and/or a change in materials or color.

GUIDELINE D3

RELATE THE VERTICAL COMPOSITION OF THE NEW BUILDING TO NEIGHBORING CONTRIBUTING BUILDINGS.

Guideline D3 may be accomplished by:

- Extending a strong cornice or parapet line from a neighboring contributing building(s) into the design of new construction.
- Visually minimizing heights in excess of neighboring buildings through strategies such as step-backs, projecting horizontal elements, change of materials, color shifts, and/or shifting or grouping the pattern of openings and bays above a more regularized base.



In this drawing of new construction (on right) next to a contributing building, the cornice line of the older building is reinterpreted into the façade of the new building.

D4: BUILDING MASS**BACKGROUND:**

Historically, streetscapes were the only public open space in the district. Streetscapes were defined by the roadway with raised sidewalks on either side (originally constructed of wood or concrete) with a continuous wall of buildings of varying heights between one and seven stories.

Some of the original buildings in the district had rear courtyards or light wells, but these were private spaces that could not be seen from the street. Proposals for additions or new construction that include breaks or gaps in the street wall should be carefully considered so as not to detract from the defining sense of urban enclosure along the street.

Small insets in the building wall, however, such as a horizontal recessed balcony at an upper floor or an inset storefront entry, provide relief and interest to the streetscape environment.

GUIDELINE D4

EXTEND THE PRIMARY MASS OF THE NEW STRUCTURE TO STREET-FACING PROPERTY LINES IN ORDER TO PROVIDE OR RESTORE A SENSE OF THE STREET WALL.

Guideline D4 may be accomplished by:

- Providing depth and relief to the street-facing façade of a building by including recessed entries, windows, and other features, but bringing the majority of the building wall to the property line.
- Where buildings are proposed to be significantly taller than nearby contributing buildings, retaining a street wall base that meets the property line and generally aligns with the height of adjacent contributing buildings. Above this street wall base, the upper building wall or walls may step back.



Looking north along NW 4th Avenue c.1910, there is a strong and consistent street edge formed by the buildings on either side. Courtesy Oregon Historical Society.



This 1939 image looking south along SW 2nd Avenue, the heart of Old Chinatown, shows a similarly urban quality to the streetscape. The only visible gaps in the street "wall" occur at cross streets. City of Portland Archives, Oregon, #A2005-001.

D5: STREET-FACING WALLS**BACKGROUND:**

Street-facing façades of contributing buildings in the district were designed with a regular rhythm of structure, bays, and openings. The overall repetitive module of a storefront bay within the district is a critical feature of the historic character of the district, providing pedestrian-scale texture, interest, and flexibility.

While modern structural systems allow for a much wider variety of openings and materials, a regularity of bays and design features should be evident at new street-facing walls.

GUIDELINE D5

DESIGN STREET-FACING WALLS WITH A REGULAR RHYTHM OF BAYS, OPENINGS, AND FEATURES.

Guideline D5 may be accomplished by:

- Creating horizontal lines (such as a continuous band of transom windows) that carry through a building's storefront bays.
- Generally using vertical alignments for structural or masonry wall elements. In cases where a building may be taller than contributing buildings in the district, the design of the upper building walls may be somewhat less regularized above the street wall, but should still visually relate to the base of the building.
- Designing a regular storefront bay size that is compatible with those of contributing buildings.
- Employing variations of bay width in a regular pattern, such as A-B-A-B-A. This does not mean that a new building must be entirely symmetrical, but the pattern of openings and features should be compatible with the district.



The second-story windows in this historic building are grouped into sets of three above each storefront bay.



This rendering of the WorldMark Building in Southwest Portland shows the continuation of a streetscape wall with a regular rhythm of openings. Image courtesy SERA Architects.

D6: WINDOWS AND WINDOW OPENINGS

BACKGROUND:

20th Century Commercial style and Italianate buildings typically had a tall ground floor with clear or very lightly tinted glass storefront openings. Upper-level windows in these two styles were rectangular in proportion. Italianate style windows were most typically wood double-hung, with a narrow, tall proportion. 20th Century Commercial style windows were typically also wood, and may have been double-hung, casement, awning, or some combination. The Moderne style and sometimes the 20th Century Commercial style typically had metal divided-light windows, more horizontal than vertical in proportion.

Above the ground floor, the wall patterning of new construction should convey a sense of the proportion, size, and inset depth of historic window openings.

GUIDELINE D6

WINDOW AND WINDOW OPENINGS SHOULD BE OF A SIMILAR PROPORTION, RECESS, AND ALIGNMENT TO THE ORIGINAL WINDOWS IN CONTRIBUTING BUILDINGS.

Guideline D6 may be accomplished by:

- Designing the floor plates of new buildings in relative alignment with those of adjacent contributing buildings.
- Using depth and proportion to ensure that new window openings are compatible with nearby contributing buildings.
- Avoiding designs that use glass as the predominant wall material above the ground floor.
- Using traditional window materials above the ground floor such as wood or steel, or materials that may be painted and dimensioned to look like wood or steel, such as aluminum-clad wood.
- Providing window divisions (muntins, traditionally) that have depth. Modern “grid” dividers may be used, so long as the exterior face of the window includes a surface “grid” with adequate depth.



This rendering for the new addition to the historic Grove Hotel shows upper level windows in general alignment and using a similar proportion to the windows at the adjacent contributing building on NW 4th Avenue. Courtesy of Naito Development.

ORDINANCE No. 188623

Adopt the New Chinatown/Japantown Historic District Design Guidelines (Ordinance)

The City of Portland Ordains:

Section 1. The Council finds:

General Findings

1. The City of Portland celebrates and protects designated historic resources significant to Portland's architectural, cultural, and social history. Historic resources can be buildings, structures, sites, objects, or districts designated at the local or federal level. Protection programs for historic resources are provided by the City of Portland Zoning Code and governed by Statewide Land Use Goal 5.
2. The preservation of historic resources honors the diverse history of Portland's many communities, ensures culturally significant places are passed down for the benefit of future generations, celebrates the architectural landmarks that define the city's built environment, minimizes the loss of embodied energy to the landfill, allows for resource-efficient adaptive reuse, and promotes the enhancement of significant districts.
3. The New Chinatown/Japantown Historic District was listed in the National Register of Historic Places by the National Park Service on November 21, 1989. The historic district is bound by NW Glisan Street to the north, NW 3rd Avenue to the east, West Burnside Street to the south, and NW 5th Avenue to the west. The New Chinatown/Japantown Historic District includes 29 contributing historic resources built during the period of historic significance, 1880-1943.
4. Alteration, addition, and new construction projects within the historic district are today subject to the Central City Fundamental Design Guidelines and River District Design Guidelines. These existing guidelines lack adequate approval criteria for the protection of historic district's character-defining architectural features. Furthermore, the existing design guidelines lack adequate examples, images, and background documentation to meet the City of Portland's format for land use approval criteria that apply to designated historic resources.
5. Historic district design guidelines provide guidance to property owners, designers, architects, and developers as to the desired architectural character of alterations, additions, and new construction in a historic district and serve as the approval criteria used by Bureau of Development Services staff and the Portland Historic Landmarks Commission for historic resource review.
6. In February 2016, Portland Development Commission (Prosper Portland) and the Bureau of Planning and sustainability launched a joint project to develop district-specific design guidelines for the New Chinatown/Japantown Historic District. The intention of the project was to develop historic district design guidelines that would replace the existing River District Design Guidelines as approval criteria in the historic district. The Central City Fundamental Design Guidelines will still apply, with the approval criteria in the New Chinatown/Japantown Historic District Design Guidelines taking precedence when conflicts between the sets of guidelines arise.

7. Prosper Portland and the Bureau of Planning and Sustainability convened a 10- member Stakeholder Advisory Committee (SAC) to provide advisory recommendations to the project team based upon committee members' knowledge and expertise related to land use, architecture, history, property development, and familiarity with the community. Appreciation is owed to those who served: Jackie Peterson, Joren Bass, Katherine Schultz, Will Naito, Brian Kimura, Neil Lee, Hermann Colas, Hillary Adam, Peggy Moretti, and Matthew Roman.
8. Five SAC meetings were held on March 16, March 29, April 26, May 24, and June 7, 2016. All SAC meetings were open to the public, with time reserved at the conclusion of each meeting for public comments.
9. The Portland Historic Landmarks Commission was briefed on the project on March 28, 2016. The Planning and Sustainability Commission was briefed on the project on September 27, 2016.
10. Two public open houses were held in the historic Chinese Consolidated Benevolent Association Building in the New Chinatown/Japantown Historic District on May 3 and June 15, 2016.
11. A proposed draft of the New Chinatown/Japantown Historic District Design Guidelines was published on August 1, 2016.
12. On August 2, 2016, notice of the proposed guidelines was mailed to the Department of Land Conservation and Development in compliance with the post-acknowledgement review process required by OAR 660-18-0020.
13. On August 2, 2016, notice of the proposal as required by ORS 227.186 was sent to all property owners in the New Chinatown/Japantown Historic District, as well as members of the project SAC, interested persons, and relevant neighborhood associations and coalitions.
14. The Portland Historic Landmarks Commission held two public hearings on the New Chinatown/Japantown Historic District Design Guidelines on September 12 and 26, 2016. The commission took public testimony, discussed the draft guidelines and directed staff to return with specific revisions.
15. On December 12, 2016, the Historic Landmarks Commission held a work session and unanimously recommended that City Council adopt the recommended draft New Chinatown/Japantown Historic District Design Guidelines. The Historic Landmarks Commission recommended draft New Chinatown/Japantown Historic District Design Guidelines are attached as Exhibit A.
16. The New Chinatown/Japantown Historic District Design Guidelines implement and/or are consistent with the Statewide Planning Goals, the Metro Urban Growth Management Functional Plan, the Portland Comprehensive Plan, and the Central City Plan as explained in this ordinance.
17. It is in the public interest that the New Chinatown/Japantown Historic District Design Guidelines be adopted to serve as the approval criteria for exterior alterations and additions to existing buildings and for construction of new buildings within the New Chinatown/Japantown Historic District. Implementation of the guidelines will retain and reinforce the architectural and cultural qualities that make the district significant, improve the area's vitality, and strengthen the historic character of the district as a defining and historically and culturally significant area of the city.

Statewide Planning Goals Findings

State planning statutes require cities to adopt and amend comprehensive plans and land use regulations in compliance with state land use goals. Only the Statewide Planning Goals addressed below apply to the adoption of New Chinatown/Japantown Historic District Design Guidelines.

18. Goal 1, Citizen Involvement, requires provision of opportunities for citizens to be involved in all phases of the planning process. The development of New Chinatown/Japantown Historic District Design Guidelines offered numerous opportunities for public involvement. The amendments support this goal in the following ways:
 - a) On March 16, 2016, the first of five meetings of the Stakeholder Advisory Committee (SAC) was convened to assist in the development of the New Chinatown/Japantown Historic District Design Guidelines. The 10-member SAC included stakeholders from the development community, neighborhood association, historic preservation community, and other stakeholders involved in urban design, architecture, and history. The SAC provided input and advice that significantly shaped the proposed design guidelines, which were reviewed and supported by the SAC at their last meeting held on June 7, 2016.
 - b) In addition to regular SAC meetings which were open to and attended by the public, project open houses were held on May 3 and June 15, 2016, in the New Chinatown/Japantown Historic District. SAC members, property owners, University of Oregon students, and other interested persons attended these events at which staff displayed design guideline concepts, responded to questions, and took public input. Each event was attended by approximately 50 people.
 - c) Stakeholder interviews were conducted by JLA Public Involvement in April and May 2016 to increase the project's breadth and depth of understanding of New Chinatown/Japantown. A total of 18 architects, property owners, community members, and SAC members were interviewed to solicit personal or professional insights and expectations for the proposed design guidelines.
 - d) During the development of the New Chinatown/Japantown Historic District Design Guidelines, a mailing list was produced for the project that included all parties on the City of Portland's legislative mailing list, all property owners in the historic district, interested parties, and the members of the SAC. The mailing list contained approximately 430 recipients. The Bureau of Planning and Sustainability provided mailed notice of Historic Landmarks Commission hearings to all persons on this mailing list on August 2, 2016.
 - e) During the development of the New Chinatown/Japantown Historic District Design Guidelines, the Bureau of Planning and Sustainability maintained a website that tracked the development of the project. The website offered a source of information announcing each SAC meeting, open house, briefings, work sessions, hearing with the Portland Historic Landmarks Commission. SAC meeting agendas, meeting minutes, project concepts, and other background documents were made available on the website.
 - f) During the development of the New Chinatown/Japantown Historic District Design Guidelines, one briefing was held with the Planning and Sustainability Commission

on September 27, 2016, to provide background information and inform the Commission on the purpose and use of design guidelines.

- g) During the development of the New Chinatown/Japantown Historic District Design Guidelines, the Portland Historic Landmarks Commission was briefed on March 28, 2016, to be informed of project goals and public process expectations.
 - h) During the development of the New Chinatown/Japantown Historic District Design Guidelines, staff twice presented project updates to the Old Town/Chinatown Community Association.
 - i) Notice of Proposed Amendment and copies of the proposed draft New Chinatown/Japantown Historic District Design Guidelines were submitted digitally to the Oregon Department of Land Conservation and Development on August 2, 2016, announcing the first evidentiary hearing on the revised guidelines.
 - j) Two hearings were held with the Portland Historic Landmarks Commission on September 12 and 26, 2016.
 - k) On December 12, 2016, the Historic Landmarks Commission held a work session and unanimously voted to recommend the New Chinatown/Japantown Historic District Design Guidelines with minor edits. On January 6, 2017, the recommended draft New Chinatown/Japantown Historic District Design Guidelines were published for public review in advance of City Council hearings.
 - l) Portland Comprehensive Plan findings on Goal 1, Metropolitan Coordination, and its related policies and objectives also support this goal.
19. **Goal 2, Land Use Planning**, requires the development of a process and policy framework which acts as a basis for all land use decisions and assures that decisions and actions are based on an understanding of the facts relevant to the decision. The amendments are supportive of this goal because:
- a) The City of Portland Zoning Code contains procedures that were followed and criteria that have been satisfied for the development of the New Chinatown/Japantown Historic District Design Guidelines. The amendments are supportive of this goal because the required legislative process as described in Portland City Code 33.740, Legislative Procedures, was followed.
 - b) The amendments are also supportive of this goal because Portland City Code 33.445.040 describes the procedure for adoption of design guidelines for historic and conservation districts. Historic district design guidelines ensure "the conservation and enhancement of the special characteristics of historic resources."
 - c) The New Chinatown/Japantown Historic District Design Guidelines support the factual basis requirement of this goal because the New Chinatown/Japantown Historic District is designated on the National Register of Historic Places, the historic significance and physical integrity of which is described in detail in Exhibit A.
 - d) Portland Comprehensive Plan findings on Goal 1, Metropolitan Coordination, and its related policies and objectives also support this goal.
20. **Goal 5, Natural Resources, Scenic and Historic Areas, and Open Spaces**, requires the conservation of open space and the protection of natural, historic, and scenic resources. The amendments support this goal because the New Chinatown/Japantown Historic District Design Guidelines provide clear, district-specific design guidance for changes to a designated historic district significant in the areas of ethnic history and architecture. The guidelines will serve as approval criteria for alterations, additions, and new

- construction, protecting the character-defining elements of the historic district and enhancing its unique historic and architectural character. As required approval criteria for historic resource review, the updated guidelines will help ensure that preservation, rehabilitation, and new development respect the district's historic significance, preserve its physical integrity, and contribute to its unique role in Portland's Central City.
21. **Goal 9, Economic Development**, requires provision of adequate opportunities for a variety of economic activities vital to public health, welfare, and prosperity. The New Chinatown/Japantown Historic District Design Guidelines support this goal by promoting the adaptive reuse, seismic upgrade, and preservation of historic contributing buildings and guiding new construction that is contextually appropriate and enhances the historic district's unique retail, housing, and commercial opportunities.- The long-term preservation of New Chinatown/Japantown's historic character supports the role the district plays in attracting visitors to the city and boosting Portland's heritage tourism economy. Furthermore, the adoption of new district-specific design guidelines for New Chinatown/Japantown does not impact, and is consistent with, the City of Portland's adopted Economic Opportunities Analysis.
 22. **Goal 10, Housing**, requires provision of housing, including needed housing units, to meet the needs of citizens. The New Chinatown/Japantown Historic District Design Guidelines support this goal by allowing for the preservation, adaptive reuse, and expansion of contributing historic resources to contain housing units. The guidelines further encourage building forms and expressions that are suited for housing designs consistent with the mixed-use residential character of the district during the historic period. The guidelines encourage the incorporation of balconies, rooftop amenities, and high quality materials, all of which would support active and lasting residential uses. As historic resource review approval criteria, the guidelines do not change the zoned allowances for building height and density.
 23. **Goal 11, Public Facilities and Services**, requires planning and development of timely, orderly and efficient public service facilities that serve as a framework for urban and rural development. The New Chinatown/Japantown Historic District Design Guidelines support this goal by intentionally providing clearer guidance for improving pedestrian facilities and the design of the public realm throughout the district.
 24. **Goal 12, Transportation**, requires provision of a safe, convenient, and economic transportation system. Additionally, the Oregon Transportation Planning Rule (TPR), requires certain findings if a proposed Comprehensive Plan Map amendment, zone change, or regulation will significantly affect an existing or planned transportation facility. The updated guidelines do not increase or decrease development entitlements within the New Chinatown/Japantown Historic District and therefore do not significantly affect a transportation facility.
 25. **Goal 13, Energy Conservation**, requires development of a land use pattern that maximizes the conservation of energy based on sound economic principles. The revised guidelines support this goal by encouraging preservation, rehabilitation, adaptive reuse, and seismic upgrade of existing historic structures in the district. Historic preservation has been demonstrated to be an environmentally sustainable and efficient form of urban development. Reuse of existing buildings preserves the embodied energy within the structure and the sensitive rehabilitation of those buildings, as guided by the New

Chinatown/Japantown Historic District Design Guidelines, will allow for the thoughtful energy retrofit of historic buildings.

26. **Goal 14, Urbanization**, requires provision of an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities. The goal provides that expansion of urban growth boundaries should only be done to accommodate the growth necessary to supply land for housing, employment, schools, and other public amenities and land uses necessary to support urban areas. The revised guidelines support this goal because they encourage rehabilitation and new construction within the New Chinatown/Japantown Historic District, a subarea that can add additional density of housing and other uses. The guidelines encourage development patterns that maximize the efficient use of development sites and allow for additions to historic buildings.

Findings on Metro Urban Growth Management Functional Plan

Metro's Urban Growth Management Functional Plan was developed by Portland's metropolitan regional government to assist local jurisdictions in their implementation of Statewide Planning Goals and the regional development vision. Only the applicable elements of the functional plan are addressed below.

27. **Title 1, Requirements for Housing and Employment Accommodation**, requires that each jurisdiction contribute its fair share to increasing the development capacity of land within the Urban Growth Boundary. This requirement is to be generally implemented through citywide analysis based on calculated capacities from land use designations. The revised guidelines do not change the overall amount of development allowed within the New Chinatown/Japantown Historic District Design Guidelines and are therefore consistent with this title.
28. **Title 6, Central City, Regional Centers, Town Centers, and Station Communities**, calls for enhancements of these areas as principal centers of urban life via actions and investments by cities and counties, complemented by regional investments. The New Chinatown/Japantown Historic District Design Guidelines support this title by providing clearer design guidance for property owners, designers, and developers as they consider rehabilitating existing structures and constructing new buildings in an important historic district within the Central City, the primary center of Metro's 2040 Growth Concept.

Findings on Portland's Comprehensive Plan Goals

The City of Portland's Comprehensive Plan is the policy document that establishes the framework for the city's land use planning program and informs such implementing documents as the Zoning Code (Title 33). Although a new Comprehensive Plan was adopted by the Portland City Council on June 15, 2016, the new plan does not take effect until January 1, 2018, and, therefore, it is the 1980 Comprehensive Plan that applies to the New Chinatown/Japantown Historic District Design Guidelines. The following Comprehensive Plan goals, policies, and objectives are relevant and applicable to the amendments.

29. **Goal 1, Metropolitan Coordination**, calls for the Comprehensive Plan to be coordinated with federal and state law and to support regional goals, objectives, and plans. The New Chinatown/Japantown Historic District Design Guidelines process included the participation of representatives from city and state agencies, ensuring consistency with

- applicable local and state plans and policies. The amendments also support this goal because notification of the proposal was provided to the Oregon Department of Land Conservation and Development per ORS 197.610 on August 2, 2016, and notice of the Historic Landmarks Commission hearings on the guidelines was sent to Metro, TriMet, the State Historic Preservation Office, and other agencies on August 2, 2016. In addition, the guidelines do not change the Urban Growth Boundary, Urban Planning Area Boundary, Urban Services Boundary, or the policy or intent of existing regulations relating to metropolitan coordination and regional goals.
30. Policy 1.4, Intergovernmental Coordination, calls for continuous participation in intergovernmental affairs with public agencies to coordinate metropolitan planning and project development and maximize the efficient use of public funds. The amendments support this policy because the New Chinatown/Japantown Historic District Design Guidelines process identified and included several local agencies and commissions, including Prosper Portland, the Bureau of Development Services, Portland Historic Landmarks Commission, and the Portland Planning and Sustainability Commission. Individuals from each of these agencies and commissions participated in the local planning process and were invited to review and comment on different aspects of the design guidelines. Additional findings on Statewide Planning Goal 1, Citizen Involvement, further support this Comprehensive Plan policy.
 31. **Goal 2, Urban Development**, calls for maintenance of Portland's role as the major regional employment and population center by expanding opportunities for housing and jobs, while retaining the character of established residential neighborhoods and business centers. The amendments support this goal because the design guidelines will serve a critical role in the protection and enhancement of the historic and cultural character of the New Chinatown/Japantown Historic District, a unique commercial district within the downtown core that gained historic significance during the 1880-1943 period. Guidelines specifically encourage the adaptive reuse of historic buildings and the construction of new, compatible infill development.
 32. Policy 2.2, Urban Diversity, calls for promotion of a range of living environments and employment opportunities for Portland residents in order to attract and retain a stable and diverse population. The New Chinatown/Japantown Historic District Design Guidelines support this policy by providing clear, district-specific design guidance for development and redevelopment projects in a unique part of the Central City, helping to preserve and enhance the historic district's special historic and cultural urban character. Because the New Chinatown/Japantown Historic District is adjacent to, and overlapping with, the Skidmore/Old Town Historic District, which has its own set of district-specific design guidelines adopted in 2016, changes in the greater Old Town/Chinatown district will allow for a range of building types and architectural expressions to support myriad uses, including retention of existing affordable housing and social services, as well as new market-rate housing development.
 33. Policy 2.6, Open Space, calls for the provision of opportunities for recreation and visual relief by preserving Portland's parks, golf courses, trails, parkways, and cemeteries. The amendments are consistent with this policy because the guidelines specifically support the activation of the public realm along the festival streets of NW Davis and NW Flanders, enhancement of views to and from the Lan Su Chinese Garden, and

- connections with Tom McCall Waterfront Park and the Japanese American Historical Plaza.
34. Policy 2.10, Downtown Portland, calls for the reinforcement of downtown's position as the principal commercial, service, cultural, and high density housing center in the city and the region. The New Chinatown/Japantown Historic District Design Guidelines support this policy by encouraging the preservation and rehabilitation of historic structures as well as compatible new development within the New Chinatown/Japantown Historic District, a National Register district and the Central City's only historic district significant for ethnic history. The guidelines encourage urban development patterns that lend themselves to dense housing and office uses appropriate for the district's proximity to the downtown core.
 35. Policy 2.19, Infill and Redevelopment, calls for encouraging infill and redevelopment as a way to implement the Livable City growth principles and accommodate expected increases in population and employment. This policy also calls for infill and redevelopment within the Central City. The guidelines support this policy by providing clearer design guidance for rehabilitation and encouraging contextually appropriate development and redevelopment within the New Chinatown/Japantown Historic District. Several surface parking lots and underutilized non-contributing buildings provide meaningful opportunities for new infill development within the district and many contributing historic buildings can be used more intensively for housing and other uses.
 36. Policy 2.20, Utilization of Vacant Land, calls for providing for full utilization of existing vacant land except in those areas designated as Open Space. The New Chinatown/Japantown Historic District Design Guidelines support this policy by encouraging contextually sensitive development on surface parking and vacant lots in the downtown core and encouraging infill projects be built to street wall and fully utilize development parcels.
 37. Policy 2.22, Mixed-use, calls for continuation of a mechanism that will allow for the maintenance and enhancement of areas of mixed-use character where such areas act as buffers and where opportunities exist for the creation of mixed-use nodes. The guidelines are consistent with this policy by providing clearer design guidance for rehabilitation and new development projects and encouraging contextually appropriate development and redevelopment within a historic mixed-use commercial and residential district in the Central City. The guidelines specially address storefront opportunities to increase the vitality and unique expression of the ground floors of buildings, new and old.
 38. Policy 2.25, Central City Plan, calls for continued investment within Portland's Central City while enhancing its attractiveness for work, recreation and living. This policy further calls for implementation of the Central City Plan through coordinated development that provides aid and protection to Portland's citizens, and enhances the Central City's special natural, cultural, and aesthetic features. The New Chinatown/Japantown Historic District Design Guidelines support this policy because they provide clearer design guidance for property owners, designers, and developers proposing changes to existing buildings and new construction within the New Chinatown/Japantown Historic District. As approval criteria to be met in historic resource review, the guidelines will help ensure that preservation, rehabilitation, and new development projects respect the district's historic character and enhance its unique sense of place. The guidelines encourage contextually

- sensitive development and reinvestment that will improve the area's long-term vitality for housing, retail, and commercial uses.
39. **Goal 3, Neighborhoods**, calls for preservation and reinforcement of the stability and diversity of the city's neighborhoods while allowing for increased density. The New Chinatown/Japantown Historic District Design Guidelines are consistent with this goal as they promote historically and culturally sensitive infill development and rehabilitation projects in an area with surface parking lots. The guidelines will help ensure that new development projects honor the district's historic character and contribute to its unique sense of place.
 40. **Policy 3.4, Historic Preservation**, calls for the preservation and retention of historic structures and areas throughout the city. The amendments support this goal because the New Chinatown/Japantown Historic District Design Guidelines provide clear design guidance for property owners, designers, and developers proposing changes within the New Chinatown/Japantown Historic District. As historic resource review approval criteria, the updated design guidelines will help ensure that preservation, rehabilitation, and new construction projects protect the district's historic and cultural character. Findings for Statewide Planning Goal 5, Natural Resources, Scenic and Historic Areas, and Open Spaces, further supports this policy.
 41. **Policy 3.5, Neighborhood Involvement**, provides for the active involvement of neighborhood residents and businesses in decisions affecting their neighborhood. An extensive public involvement process was used in the development of the revised guidelines which engaged a wide variety of stakeholders, consistent with this policy. Upon adoption, the New Chinatown/Japantown Historic District Design Guidelines will serve as approval criteria to be used in historic resource review, a land use review which allows for public comment on projects that are subject to review. The findings for Statewide Planning Goal 1, Public Involvement, and the general findings also demonstrate support for this policy.
 42. **Policy 3.6, Neighborhood Plan**, calls for maintaining and enforcing neighborhood plans that are consistent with the Comprehensive Plan and that have been adopted by City Council. Findings for Central City Plan policies 1, 3, 4, 6, 11, 12, 14, and 16 and the Downtown Plan policy for Planning District 19 demonstrate support for this policy.
 43. **Goal 4, Housing**, calls for enhancing Portland's vitality as a community at the center of the region's housing market by providing housing of different types, tenures, density, sizes, costs, and locations that accommodates the needs, preferences, and financial capabilities of current and future households. The New Chinatown/Japantown Historic District Design Guidelines are consistent with this goal because they encourage rehabilitation and contextually sensitive new development in a distinctive Central City location. The New Chinatown/Japantown Historic District was much more dense during its period of historic significance (1880-1943), and the design guidelines encourage the infilling of sites that formerly included housing with residential and other uses allowed in the zone.
 44. **Objective C**, calls for considering the cumulative impact of regulations on the ability of housing developers to meet current and future housing demand. The amendments support this objective because the New Chinatown/Japantown Historic District Design Guidelines provide clear design guidance for proposed developments, including housing projects, which must be approved through the discretionary historic resource review process in the

- district. Addition, alteration, and new construction projects are currently subject to the Central City Fundamental Design Guidelines and River District Design Guidelines, neither of which provides clarity on how development teams should best address the unique context of the historic district in their proposed projects. The New Chinatown/Japantown Historic District Design Guidelines will replace the River District Design Guidelines to provide greater clarity and consistency in the review of projects within this subarea of Portland's Central City. The Central City Fundamental Design Guidelines will still also apply to New Chinatown/Japantown.
45. Objective E, calls for the efficient use of infrastructure by focusing well-designed new and redeveloped housing on vacant, infill, or under-developed land. The New Chinatown/Japantown Historic District Design Guidelines support this objective by encouraging rehabilitation and contextually sensitive new infill development, which can include housing, within the New Chinatown/Japantown Historic District. The historic district includes numerous surface parking lots which can be intentionally redeveloped to support the historic district's architectural and cultural historic character.
 46. Objective F, calls for housing design that supports the conservation, enhancement, and continued vitality of areas of the city with special scenic, historic, architectural or cultural value. The New Chinatown/Japantown Historic District Design Guidelines support this objective by replacing existing approval criteria with district-specific approval criteria that respond to the unique characteristics of the historic district.
 47. **Goal 5, Economic Development**, calls for promotion of a strong and diverse economy that provides a full range of employment and economic choices for individuals and families in all parts of the city. The New Chinatown/Japantown Historic District Design Guidelines are consistent with this goal because they encourage compatible development and investment within the historic district that can provide a variety of new commercial opportunities and also strengthen the district's historic and cultural character and tourism appeal. By promoting contextual redevelopment and the long-term preservation of the district's historic resources, the guidelines support the role the district plays in attracting visitors within and to the city and boosting Portland's opportunities for cultural and heritage tourism.
 48. Policy 5.1, Urban Development and Revitalization, calls for encouraging investment in the development, redevelopment, rehabilitation, and adaptive reuse of urban land and buildings for employment and housing opportunities. The revised guidelines support this policy by providing clearer design guidance for property owners, designers, and development teams proposing rehabilitation and new construction projects in the New Chinatown/Japantown Historic District, an urbanized area with many opportunities to increase the efficient use of existing buildings and redevelop surface parking lots.
 49. Objective E calls for defining and developing Portland's cultural, historic, recreational, educational and environmental assets as important marketing and image-building tools of the city's business districts and neighborhoods. New Chinatown/Japantown Historic District Design Guidelines support this objective because they ensure that alteration, addition, and new construction projects are informed by and respond to the district's cultural and historic character and sense of place, enhancing its opportunity as a unique historic and cultural asset for the city. As Portland's only historic district designated in part for its significant ethnic history, New Chinatown/Japantown Historic District

- expresses a significant part of Portland's history and can provide lasting memory for how the Central City and region developed during the 1880-1943 period.
50. Policy 5.6, Area Character, calls for promotion and enhancement of the special character and identity of Portland's designated commercial areas. The design guidelines support this policy because they will strengthen the unique character and vibrancy of the New Chinatown/Japantown Historic District.
 51. **Goal 6, Transportation**, calls for developing a balanced, equitable, and efficient transportation system that provides a range of transportation choices, reinforces the livability of neighborhoods; supports a strong and diverse economy; reduces air, noise, and water pollution; and lessens reliance on the automobile while maintaining accessibility. The amendments make no changes to development allowances (allowed height or bulk) or the transportation system. These amendments do encourage contextually sensitive development with active ground floor environments in an area with excellent access to existing transit service and pedestrian and bicycle facilities and are therefore consistent with this goal and related policies. The guidelines specifically address enhancement of the public realm along Festival Streets, including allowing for "uses to spill out into these special areas" to foster a strong pedestrian and bicycle environment.
 52. **Goal 7, Energy**, calls for promotion of a sustainable energy future by increasing energy efficiency in all areas of the city. The New Chinatown/Japantown Historic District Design Guidelines support this goal by encouraging preservation, rehabilitation, and adaptive reuse of existing historic structures in the district, which has been demonstrated to be a sustainable and efficient form of development. Reuse of existing buildings preserves embodied energy, reduces the need for resource-intensive new construction, and provides opportunities for energy retrofits. Guidelines specifically address opportunities for solar energy systems and seismic upgrades for historic buildings.
 53. **Goal 8, Environment**, calls for the maintenance and improvement of the quality of Portland's air, water, and land resources. The New Chinatown/Japantown Historic District Design Guidelines support this goal by encouraging the preservation, rehabilitation, and adaptive re-use of existing historic structures in the district. Reuse of existing buildings preserves the embodied energy within the structure and reduces the need for resource-intensive new construction.
 54. **Goal 9, Citizen Involvement**, calls for improved methods and ongoing opportunities for citizen involvement in the land use decision-making process. The development of the New Chinatown/Japantown Historic District Design Guidelines was a partnership between Prosper Portland and the Bureau of Planning and Sustainability, informed by a 10-member SAC. Project outreach efforts included open SAC meetings, two district open houses, mailings to interested parties, and commission briefings. Historic resource review is a land use review that allows for public notice of and involvement opportunities in alteration, addition, and new construction projects that are subject to the review. Additional public involvement and outreach activities during the preparation of the revised guidelines are summarized in the findings for Statewide Planning Goal 1, Citizen Involvement and also demonstrate support for this goal.
 55. Policy 9.1, Citizen Involvement Coordination, calls for encouraging citizen involvement in land use planning projects through coordination with community organizations, availability of planning reports, and notice of public hearings. The amendments support

this policy because the New Chinatown/Japantown Historic District Design Guidelines were developed with feedback and input from representatives of local neighborhood associations, relevant community organizations, and City of Portland commissions. The findings for Statewide Planning Goal 1, Citizen Involvement, and the general findings also demonstrate support for this policy.

56. **Goal 10, Plan Review and Administration**, calls for periodic review of the Comprehensive Plan, implementation of the Plan, addressing amendments to the Plan, to the Plan Map, and to the Zoning Code and Zoning Map. The amendments support this goal because they resulted from a review of the existing design review approval criteria within the district and development of new approval criteria that respond to the unique historic, cultural, and architectural features of the New Chinatown/Japantown Historic District. The New Chinatown/Japantown Historic District Design Guidelines replace the River District Design Guidelines as historic resource review approval criteria in the historic district.
57. Policy 10.10, Amendments to the Zoning and Subdivision Regulations, requires amendments to the zoning and subdivision regulations to be clear, concise, and applicable to the broad range of development situations faced by a growing, urban city. The amendments make no changes to the Zoning Code but support this policy by providing descriptive, visual, and clear approval criteria in guidelines that are intentionally developed for the 10-block New Chinatown/Japantown Historic District. The district-specific design guidelines were developed by City staff, the Historic Landmarks Commission, and stakeholders from the development community with the intention of honoring the unique character of the historic district and making it easier for applicants and administrators to apply historic resource review approval criteria for alteration, addition, and new construction projects.
58. Policy 10.13, Design Review, calls for development of recommendations for City Council consideration for additional areas where design review would be appropriate and preparation of design review standards and guidelines for both existing and proposed areas. The amendments do not expand the application of design review, but support this policy because they provide district-specific approval criteria for historic resource review in the New Chinatown/Japantown Historic District. The New Chinatown/Japantown Historic District Design Guidelines replace the River District Design Guidelines as approval criteria in the historic district. The existing Central City Fundamental Design Guidelines apply to most areas of the Central City, including New Chinatown/Japantown; in addition to the New Chinatown/Japantown Historic District Design Guidelines, the Central City Fundamental Design Guidelines will continue to apply to alteration, addition, and new construction projects in the New Chinatown/Japantown Historic District.
59. **Public Facilities General Goal 11-A**, calls for provision of a timely, orderly, and efficient arrangement of public facilities and services that support existing and planned land use patterns and densities. The New Chinatown/Japantown Historic District Design Guidelines are consistent with this goal because they encourage rehabilitation and context-sensitive new construction in an area of Portland's Central City that has excellent access to public facilities and services.
60. **Goal 12, Urban Design**, calls for the enhancement of Portland as a livable city, attractive in its setting and dynamic in its urban character by preserving its history and building a

- substantial legacy of quality private developments and public improvements for the use and enjoyment of future generations. The New Chinatown/Japantown Historic District Design Guidelines support this goal because they provide improved approval criteria for historic resource review, promote excellence in building design and construction materials, and protect the physical integrity and historic and cultural character of a unique place within Portland's built environment.
61. Policy 12.1, Portland's Character, calls for enhancing and extending Portland's attractive identity by building on design elements, features, and themes identified within the city. The New Chinatown/Japantown Historic District Design Guidelines support this policy because they promote reinvestment and revitalization in a National Register historic district and because they replace the broader River District Design Guidelines as approval criteria for the historic district so to better guide how alteration, addition, and new construction projects protect contributing historic resources and allow for infill that is highly responsive of the district's architectural and cultural significance.
 62. Policy 12.2, Enhancing Variety, calls for promoting the development of areas of special identity and urban character. The New Chinatown/Japantown Historic District Design Guidelines support this policy because they ensure rehabilitation and new construction projects preserve the district's unique cultural and historic features and enhance its distinctive urban form and identity. Application of the guidelines will restore New Chinatown/Japantown's distinction from other areas of Portland's Central City. Elements such as projecting signs, balconies, awnings, and unique ground floor treatments will both honor the district's authentic story and foster the development of an urban environment unique in the region.
 63. Policy 12.3, Historic Preservation, calls for enhancing the city's identity through the protection of Portland's significant historic resources. The amendments support this policy because the New Chinatown/Japantown Historic District Design Guidelines provide clear district-specific design guidance and describe best practices for property owners, designers, and development teams proposing changes to contributing historic resources and new construction in New Chinatown/Japantown, a designated historic district. As required historic resource review approval criteria for alterations, additions, and new construction, the design guidelines will ensure that rehabilitation, adaptive reuse, and new construction projects respond to the district's historic and cultural history, preserve its physical integrity, and contribute to its unique sense of place. Findings for Statewide Planning Goal 5, Natural Resources, Scenic and Historic Areas, and Open Spaces, further supports this policy.
 64. Policy 12.4, Provide for Pedestrians, calls for providing a pleasant, rich, and diverse experience for pedestrians, including comfortable, safe, and attractive pathways. The guidelines support this policy because they encourage alteration, addition, and new construction projects that reinforce the pedestrian scale, form, and design of buildings in the district and provide a rich, varied, and contextually-informed public realm.
 65. Policy 12.5, Promote the Arts, calls for the promotion of the arts and excellence in design, with art placed at locations that are visible to the public. The guidelines support this policy by specifically addressing exposed lot-line walls and encouraging the incorporation of visual interest into such walls, including providing for embellishments, murals and other art, and incorporating and/or retaining historic faded painted signs where they exist.

66. Policy 12.6, Preserve Neighborhoods, calls for preserving and supporting the qualities of individual neighborhoods that help to make them attractive places. The New Chinatown/Japantown Historic District Design Guidelines support this policy by providing district-specific design guidance that will help ensure that rehabilitation projects and new development preserve the district's unique historic and cultural character and enhance its distinctive urban design qualities. Findings for Statewide Planning Goal 5, Natural Resources, Scenic and Historic Areas, and Open Spaces, further supports this policy.
67. Policy 12.7, Design Quality, calls for enhancing Portland's appearance and character through development of public and private projects that are models of innovation and leadership in the design of the built environment. The amendments support this policy by adopting district-specific historic resource review approval criteria, which are applicable to all exterior alteration, addition, and new construction projects within the historic district. The New Chinatown/Japantown Historic District Design Guidelines will promote context-sensitive development projects and excellence in building design and construction materials.

Findings on Central City Plan

The Central City Plan was adopted in 1988 as an area-specific update of the Comprehensive Plan for Portland's central city neighborhoods. The Central City Plan built upon the work of the Downtown Plan, extending its geographic area and expanding its range of policy concerns. The plan provides guidance for the growth and enhancement of Portland's Central City. In 1995, the plan was amended with the incorporation of the River District Plan policies. Although a new Central City Plan has been recommended for adoption by the Portland City Council, the new plan will not take effect until 2018, and, therefore, it is the 1988 Central City Plan, as amended, that applies to the New Chinatown/Japantown Historic District Design Guidelines. The following policies are relevant and applicable to the amendments:

68. **Policy 1, Economic Development**, calls for the City to build upon the Central City as the economic heart of the Columbia Basin, and guide its growth to further the City's prosperity and livability. The New Chinatown/Japantown Historic District Design Guidelines are consistent with this policy because they encourage compatible development and investment within the historic district that can provide new commercial opportunities and strengthen the district's cultural and historic character and tourism appeal. By promoting contextually appropriate development and the long-term preservation of the district's historic resources, the guidelines support the role New Chinatown/Japantown plays in attracting visitors to the city and boosting Portland's cultural and heritage tourism economy.
69. **Policy 3, Housing**, calls for the maintenance of the Central City's status as Oregon's principle high density housing area by keeping housing production in pace with new job creation. New Chinatown/Japantown Historic District Design Guidelines are consistent with this policy because they encourage contextually sensitive new development and rehabilitation of existing buildings in a distinctive Central City subarea, including housing.
70. **Policy 4, Transportation**, calls for improvements to the Central City's accessibility to the rest of the region and its ability to accommodate growth, by extending the light rail system and by maintaining and improving other forms of transit and the street and

highway system, while preserving and enhancing the City's livability. The amendments make no changes to the transportation system. These amendments do encourage contextually sensitive development and unique ground floor activation in an area with excellent access to existing transit service and pedestrian and bicycle facilities and are therefore consistent with this policy.

71. **Policy 6, Public Safety**, calls for protection of citizens and their property, and the creation of an environment in which people feel safe. The New Chinatown/Japantown Historic District Design Guidelines are consistent with this policy because they will facilitate contextually sensitive new development and investment in a district that has less on-street activity than it did during the historic period. Guidelines specifically address public safety and property protection opportunities, such as allowing for security lighting and gates that are informed by the district's architectural characteristics.
72. **Policy 11, Historic Preservation**, calls for the preservation and enhancement of historically and architecturally important buildings and places and promotes the creation of legacy for the future. The amendments support this policy because the New Chinatown/Japantown Historic District Design Guidelines provide clear district-specific design guidance and describe best practices for property owners, designers, and development teams proposing changes to contributing historic resources and new construction in a designated National Register historic district. As required approval criteria for historic resource review, the guidelines will help ensure that preservation, rehabilitation, and new development projects respect the district's cultural and historic character, preserve its physical integrity, and contribute to its unique sense of place.
73. **Policy 12, Urban Design**, calls for the enhancement of the Central City as a livable, walkable area which focuses on the river and captures the glitter and excitement of city living. Objectives of this goal include the formation of districts with unique character, excellence in design, and a rich pedestrian environment. The New Chinatown/Japantown Historic District Design Guidelines support this policy as they honor the historic district's unique character-defining features, such as architectural styles, materials, balconies, signs, rich storefront environments, and authentic expressions of Japanese and Chinese culture during the 1880-1943 period. The guidelines offer visual examples and lengthy background statements on how each approval criterion can be met, supporting the enhancement of this subarea as a unique part of the Central City and region.
74. **Policy 14, Downtown**, calls for strengthening the Downtown as the heart of the region, maintaining its role as the preeminent business location in the region, expanding its role in retailing, housing, and tourism, and reinforcing its cultural, educational, entertainment, governmental and ceremonial activities. The revised guidelines support this policy because they will help ensure that changes in the built environment respect the historic character and contribute to the unique sense of place of the New Chinatown/Japantown Historic District, a defining subarea of the Central City and an important historic and cultural resource for the region. The guidelines encourage contextually sensitive infill and reinvestment in existing building that will improve the area's vitality, encourage tourism, and honor and preserve a unique multi-ethnic historic place.
75. **Policy 16, North of Burnside**, calls for extending downtown development towards Union Station and the Broadway Bridge while protecting existing housing and social services for the district's special needs populations. The New Chinatown/Japantown Historic District Design Guidelines support this policy by providing approval criteria for

place-based infill construction that is appropriate to the historic district's architectural features, while also responding to the rich transit and pedestrian amenities of the area. The guidelines' special attention to architectural and cultural urban design features is directly supportive of the policy.

Findings on the Downtown Plan

76. **Planning District 19, North of Burnside**, calls for redevelopment and rehabilitation of buildings to support new housing and social programs for existing residents. The Plan calls for retention of Chinese and Japanese businesses, mixed use construction, the activation of a strong retail environment. The New Chinatown/Japantown Historic District Design Guidelines support this planning district because of focus on rehabilitation of existing buildings and construction of new buildings that are informed by the multi-ethnic history of the district and supportive of the addition of new housing and other uses. Rehabilitation and new construction projects subject to the guidelines will further enhance the urban design character of this unique subarea.

NOW, THEREFORE, the Council directs:

- a. Adopt the New Chinatown/Japantown Historic District Design Guidelines, attached as Exhibit A, as approval criteria for historic resource review within the New Chinatown/Japantown Historic District;
- b. Adopt the background statements included in Exhibit A as legislative intent and further findings; and
- c. This Ordinance and Exhibit A are binding City policy.

SEP 27 2017

Passed by the Council:

Mayor Ted Wheeler

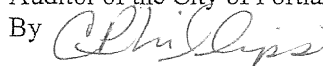
Prepared by: Brandon Spencer-Hartle

Date Prepared: August 8, 2017

Mary Hull Caballero

Auditor of the City of Portland

By


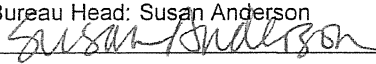



Deputy

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Agenda No. 188623
ORDINANCE NO.
Title

Adopt the New Chinatown/Japantown Historic District Design Guidelines (Ordinance)

INTRODUCED BY Commissioner/Auditor: Ted Wheeler	CLERK USE: DATE FILED <u>SEP 05 2017</u>
COMMISSIONER APPROVAL	Mary Hull Caballero Auditor of the City of Portland
Mayor—Finance & Administration - Wheeler	By:  Deputy
Position 1/Utilities - Fritz	ACTION TAKEN:
Position 2/Works - Fish	SEP 14 2017 CONTINUED TO SEP 28 2017 4:00 PM TIME CERTAIN
Position 3/Affairs - Saltzman	Record closed 9-15-17, 5pm.
Position 4/Safety - Eudaly	
BUREAU APPROVAL	
Bureau: Planning and Sustainability Bureau Head: Susan Anderson 	
Prepared by: Brandon Spencer-Hartle Date Prepared: 7/26/2017	
Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/>	
Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
City Auditor Office Approval: required for Code Ordinances 	
City Attorney Approval: required for contract, code, easement, franchise, comp plan, charter	
Council Meeting Date 9/14/2017	

AGENDA
TIME CERTAIN <input checked="" type="checkbox"/> Start time: <u>2:00 pm</u> Total amount of time needed: <u>45 minutes</u> (for presentation, testimony and discussion)
CONSENT <input type="checkbox"/>
REGULAR <input type="checkbox"/> Total amount of time needed: _____ (for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
	YEAS	NAYS
1. Fritz	✓	
2. Fish	✓	
3. Saltzman		
4. Eudaly	✓	
Wheeler	✓	

ORDINANCE NO. 184047 As Amended

Amend the Community Involvement Work Program; amend the Periodic Review Work Program; and direct the Bureau of Planning and Sustainability to submit these amended Work Programs to the Oregon Department of Land Conservation and Development for Approval (Ordinance)

The City of Portland Ordains:

Section 1. The Council finds:

General Findings

1. On August 11, 2010, by Ordinance No. 184046 the Portland City Council established the Planning and Sustainability Commission and assigned to this commission authorities formerly exercised by the City Planning Commission.
2. This reassignment occurred during the Work Program Completion Phase of Portland's second Periodic Review.
3. Periodic Review is a state-mandated program that requires larger cities to update their comprehensive plans. Portland completed its first Periodic Review 2000, and began its second review in 2008.
4. Community involvement and commission review of proposed comprehensive plan amendments are required components of Periodic Review.
5. On August 6, 2008 the Portland City Council adopted a new Community Involvement Program, Periodic Review Evaluation, and Periodic Review Work Program.
6. The Oregon Department of Land Conservation and Development approved Portland's Periodic Review Evaluation and Periodic Review Work Program, rejected objections to the Community Involvement Program and rejected objections to the composition of the Community Involvement Committee (DLCD Order 001773, September 30, 2009).
7. Because the City's state-approved Community Involvement Program and Periodic Review Work Program make reference to the City Planning Commission rather than the Planning and Sustainability Commission, and because amendments made by Ordinance No. 184046 to Portland's Comprehensive Plan and Title 33 of the Municipal Code are land use decisions, an amended Comprehensive Plan, Municipal Code, Community Involvement Program, and Periodic Review Work Program must be submitted to the Oregon department of Land Conservation and Development for approval.
8. The Community Involvement Committee has recommended beneficial changes to the Community Involvement Program, and on July 13, 2010, the City Planning Commission recommended that the City Council adopt these improvements. These improvements must be submitted to the Oregon Department of Land Conservation and Development for approval.

9. There are discrepancies between the version of the Periodic Review Work Program adopted by the City and the version approved by DLCD Order 001773; and on July 13, 2010, the City Planning Commission recommended that City Council adopt an amended Periodic Review Work Program designed to resolve these discrepancies. These amendments must be submitted to the Oregon Department of Land Conservation and Development for approval.

Findings on Statewide Planning Goals

10. State planning statutes require cities to adopt and amend comprehensive plans and land use regulations in compliance with state land use goals. Because of the limited nature of these amendments only Statewide Planning Goals 1 and 2 apply.
11. **Goal 1, Citizen Involvement**, requires provision of opportunities for citizens to be involved in all phases of the planning process. The preparation of these amendments has provided numerous opportunities for public involvement.
12. On April 27, 2010, the Mayor met with the Planning Commission at a public meeting to discuss the proposed Planning and Sustainability Commission with them. On the same day, he also met with the Sustainable Development Commission at a public meeting to discuss the proposed Planning and Sustainability Commission with them.
13. On May 18 2010, notice of the proposed amendments to the Community Involvement and Periodic Review Work Programs was mailed to more than 500 people and organizations, including all neighborhood associations and coalitions and business associations in the City of Portland. The notice informed them of the proposals, the availability of the proposed amendments on or before July 3, 2010, a briefing before the Planning Commission on June 8, 2010, and a public hearing before the Planning Commission on July 13, 2010.
14. During the week of June 7, 2010, the Mayor's Office sent letters to nearly 900 people, including members of both Commissions, to inform them of the proposed new Commission.
15. On July 1, 2010, the proposed amendments described in the May 18, 2010 notice became available for public review.
16. On July 13, 2010, the Planning Commission held a hearing on the proposed Community Involvement and Periodic Review Work Program amendments. Staff from the Bureau of Planning and Sustainability presented the proposal, and public testimony from two individuals was received. The Commission voted unanimously to forward amendments to the Community Involvement and Periodic Review Work Programs to City Council with a recommendation to approve the amendments and forward them to the Oregon Department of Land Conservation and Development for state approval.
17. On July 21, 2010, notice of the City Council hearing was mailed to persons who had testified at the Planning Commission hearing in person or in writing and to the prior objectors of record for the work program development phase of Portland's second periodic review. The notice informed them of the availability of the recommended changes to the Community Involvement Program and Periodic Review Work Program, and the public hearing before the City Council.
18. On July 21, 2010, the Planning Commission's recommended amendments were published. They were made available to the public, posted on the Bureau's website, and mailed to those who requested copies.

19. On August 4, 2010, City Council held a hearing on the Planning Commission recommendation for a new Planning and Sustainability Commission. Staff from the Bureau of Planning and Sustainability presented the proposal, and public testimony was received.
20. On August 11, 2010 City Council voted to adopt this Ordinance to amend the Community Involvement and Periodic Review Work Programs.
21. The amended Community Involvement and Periodic Review Work Programs meet the requirements of Statewide Planning Goal 1 because they improve existing programs already determined to comply. The un-amended Work Programs met the requirements of Statewide Planning Goal 1 as documented in the response to objections section of DLCD Order 001773, which is attached as Exhibit C and made part of this Ordinance by this reference. The amended Work Programs exceed the requirements of Statewide Planning Goal 1 by adding greater clarity and detail, and by resolving technical discrepancies between city and state versions on the same programs. These improvements include a charter and bylaws for the Community Involvement Committee, more explicit lists of expected Periodic Review products, and a more realistic schedule of expected product submission dates. No Periodic Review tasks have been added or deleted by these amendments, and the final completion date for all Periodic Review tasks remains the same.
22. **Goal 2, Land Use Planning**, requires the development of a process and policy framework that acts as a basis for all land use decisions and assures that decisions and actions are based on an understanding of the facts relevant to the decision. The amended Periodic Review Work Program continues to observe the following required content and sequence of Statewide Planning Goal 2:
 - a. Establishment of an adequate factual base for planning decisions, included new housing needs and economic opportunity analyses, buildable lands inventory, jobs and housing capacity estimates, and coordinated jobs and population growth estimates;
 - b. Examination of alternative courses of action; including economic, social, environmental, and energy consequence analyses;
 - c. Adoption of a new or revised Comprehensive Plan Map and new or revised Comprehensive Plan policy; and
 - d. Adoption of sufficient and effective measures to carry out the new or revised map and policies.

Findings on Portland's Comprehensive Plan Goals

23. Because of the limited nature of the amendments only two Comprehensive Plan provisions apply.

24. Policy 1.4, **Intergovernmental Coordination**, requires continuous participation in intergovernmental affairs with public agencies to coordinate metropolitan planning and project development and maximize the efficient use of public funds. The amendments support this policy because a number of other government agencies were notified of this proposal and given the opportunity to comment. These agencies include Metro, which is assigned regional coordination authority for these amendments by Oregon Revised Statutes, Chapter 195.
25. Goal 9, **Citizen Involvement**, calls for improved methods and ongoing opportunities for citizen involvement in the land use decision-making process, and the implementation, review, and amendment of the Comprehensive Plan. This project followed the process and requirements specified in Chapter 33.740, Legislative Procedure. The amendments support this goal for the reasons found in the findings for Statewide Planning Goal 1, Citizen Involvement.

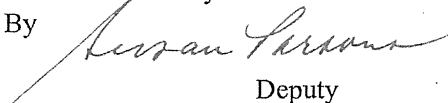
NOW, THEREFORE, the Council directs:

- a. Adopt the amended Community Involvement Program, which is attached as Exhibit A and made part of this Ordinance by this reference.
- b. Adopt the amended Periodic Review Work Program, which is attached as Exhibit B and made part of this Ordinance by this reference.
- c. Submit re-formatted, adopted-text versions of Exhibits A and B to the Oregon Department of Land Conservation and Development as locally-adopted periodic products and request state approval of these products.
- d. Submit adopted-text versions of the amendments made by Ordinance No. 184046 to Portland's *Comprehensive Plan* and to Title 33 of the *Municipal Code* to the Oregon Department of Land Conservation and Development as locally-adopted periodic products and request state approval of these products.
- e. Transfer all Period Review hearings records presently before the City Planning Commission to the Planning and Sustainability Commission on the effective date of Ordinance No. 184046 .
- f. This Ordinance is binding city policy.

Passed by the Council: AUG 11 2010

Mayor Adams
Prepared by: A. Burns
Date Prepared: July 14, 2010

LaVonne Griffin-Valade
Auditor of the City of Portland
By


Deputy

1123 IT39 - 5

Agenda No. **184047** As Amended
ORDINANCE NO. Title

Amend the Community Involvement Work Program; amend the Periodic Review Work Program; and direct the Bureau of Planning and Sustainability to submit these amended work programs to the Oregon Department of Land Conservation and Development (DLCD) for State Approval (Ordinance)

INTRODUCED BY Commissioner/Auditor: Mayor Adams	CLERK USE: DATE FILED <u>JUL 30 2010</u>
COMMISSIONER APPROVAL Mayor—Finance and Administration—Adams Position 1/Utilities - Fritz Position 2/Works - Fish Position 3/Affairs - Saltzman Position 4/Safety - Leonard	LaVonne Griffin-Valade Auditor of the City of Portland By: <u>[Signature]</u> Deputy
BUREAU APPROVAL Bureau: Planning and Sustainability Bureau Head: Susan Anderson Prepared by: A. Burns Date Prepared: July 14, 2010 Financial Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/> Not Required <input type="checkbox"/> Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Council Meeting Date August 4, 2010 City Attorney Approval <u>[Signature]</u>	ACTION TAKEN: As Amended AUG 04 2010 PASSED TO SECOND READING AUG 11 2010 9:30 A.M. <div style="border: 1px solid black; padding: 5px; display: inline-block;">PPD</div>

AGENDA TIME CERTAIN <input checked="" type="checkbox"/> 2012 Start time: 3:30 P.M. Total amount of time needed: 30 minutes Second of two ordinances sharing time certain. CONSENT <input type="checkbox"/> REGULAR <input type="checkbox"/> Total amount of time needed: _____ (for presentation, testimony and discussion)
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FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:		
		YEAS	NAYS
1. Fritz	1. Fritz	✓	
2. Fish	2. Fish	✓	
3. Saltzman	3. Saltzman	✓	
4. Leonard	4. Leonard	✓	
Adams	Adams	✓	

EXCERPT OF RECORD

4. In 1988, the City Council adopted the *Central City Plan*, which expanded the approach of the *Downtown Plan* to areas north of East Burnside (the Pearl and Old Town/Chinatown districts), west and south of Interstate 405 (the Goose Hollow and South Waterfront districts), and to the east side of the Willamette River (Lower Albina, Lloyd, and Central Eastside districts) (Ordinance No. 160606 and Resolution No. 34417). This plan addressed the preservation and development of new housing, expansion of transit, and other multi-modal improvements, enhancement of the Willamette River waterfront, views, the role of social services and affordable housing and environmental health, among other critical issues.
5. In 1987, the City Council adopted the *Willamette Greenway Plan* (Ordinance No. 160237). This plan implemented and was consistent with Statewide Planning Goal 15, Willamette River, for the City of Portland. This plan included goals, objectives, mapped boundaries with an inventory of property characteristics, Zoning Code regulations and special design guidelines that apply to properties along the Willamette River, including the Central City, and a list of public acquisition areas. The plan also updated information and regulations for scenic resources along the Willamette River.
6. In 1991, City Council adopted the *Scenic Resources Protection Plan* (SRPP) (Ordinance No. 163957). The SRPP includes a citywide inventory of scenic resources and an Economic, Social, Environmental and Energy Analysis (ESEE) as required by OAR 660-16-000 through 660-16-025. The SRPP consolidated and updated information about scenic resources from previous plans, including the *Downtown Plan*, *Central City Plan* and *Willamette Greenway Plan*. The SRPP implemented new regulations (Zoning Code Chapter 33.480) to protect designated scenic resources. The SRPP also amended the environmental regulations (Zoning Code Chapter 33.430) to allow for scenic resource management when the scenic and environmental resources overlap.
7. Following adoption and implementation of the *Central City Plan*, subsequent plans amended the policy and regulatory framework of the plan. These plans include, but are not limited to: *University District Plan* (1995); *River District Plan* (1995); *Goose Hollow Station Community Plan* (1996); *Downtown's West End* (2002); *South Waterfront Plan* (2002); and *North Pearl District Plan* (2008). These plans also provided the opportunity to address new and emerging issues not addressed by the Downtown and Central City plans, such as stormwater management, the enhancement of endangered species habitat, green building design, family compatible housing supply, and the role of bike and pedestrian infrastructure to support active transportation alternatives.
8. In 1995, the City Council adopted the *Central City Transportation Management Plan* (Ordinance No. 169535 and Resolution No. 35472). This plan amended the Central City's transportation and parking policies and regulations in order to maintain air quality, promote economic development, support an efficient transportation system and encourage the use of alternative modes of travel.

9. Recognizing a need to create a new long-range plan for the Central City, the Bureau of Planning and Sustainability, in collaboration with other City bureaus and public agencies, initiated the *Central City 2035 Plan* project (CC2035) in 2010. The goal of the project was to create a comprehensive new policy and regulatory framework for the Central City, including the Central Reach of the Willamette River, taking into consideration new and emerging issues such as sustainable development, climate change, resiliency and equity.
10. The first product was the *Central City 2035 Concept Plan*, which provided an overarching policy framework intended to guide the development of subsequent, more detailed quadrant plans, as well as updates to the Portland Zoning Code, *Willamette Greenway Plan* and *Transportation Systems Plan* (TSP). The *Central City 2035 Concept Plan* contained a new vision statement identifying the Central City as a regional asset and a center of "Innovation and Exchange." The plan also contained goals and policies addressing the following topics: Regional Center – Economy and Innovation; Housing and Neighborhoods; Willamette River; Urban Design; and, Health and the Environment. Lastly, the plan contained an Urban Design Concept and Framework. This plan was adopted by City Council on October 24, 2012 (Resolution No. 36970).
11. On October 25, 2012, Council adopted the CC2035 *N/NE Quadrant Plan* (Resolution No. 36972). This was the first of three quadrant plans that would identify more detailed and specific land use, urban design, and transportation policies and implementing actions, including potential zoning proposals, for specific parts of the CC2035 plan area. The *N/NE Quadrant Plan* covered the Lloyd and Lower Albina districts. This plan, created in partnership with the Oregon Department of Transportation (ODOT), also included the *I-5 Broadway/Weidler Interchange Improvements Facility Plan*, which identifies improvements to safety and operations on the Interstate 5 freeway and multimodal local transportation facilities in the vicinity of the Broadway/Weidler interchange.
12. In October 2014, the City Council adopted the *Willamette River Greenway Inventory* (Ordinance No. 186858). The *Willamette River Greenway Inventory* is an update to the inventory contained in the *Willamette Greenway Plan* and is consistent with Statewide Planning Goal 15. The updated inventory provides information about public recreation, historic and archaeological sites, significant natural and scenic areas, vegetative cover, fish and wildlife habitats, floodplains and flooding, hydrologic conditions, ecologically fragile areas, land uses and zoning, agricultural lands, timer resources, aggregate resources, property ownership and acquisition areas.
13. On March 5, 2015, Council adopted the CC2035 *West Quadrant Plan* (Resolution No. 37115). This plan identified more detailed and specific land use, urban design, and transportation policies and implementing actions, including potential zoning proposals, for the western half of the Central City. One of the outcomes of this plan was a reorganization of the area into seven districts, including: Downtown; West End; Goose Hollow; Pearl District; Old Town/Chinatown; South Waterfront; and, University District/South Downtown.

14. On July 29, 2015, Council adopted the CC2035 *Southeast Quadrant Plan* (Resolution No. 37147), which focused on the Central Eastside District. As with the other plans, it addressed land use, urban design, and transportation, and also expanded the Central City to include the new Clinton Station Area located on the far southeast corner of the plan area.
15. The *Concept Plan* and three quadrant plans also contained policy guidance and other recommendations for a comprehensive update of the *Willamette Greenway Plan* for the Central Reach of the Willamette River.
16. Guided by the policies, urban design diagrams, code concepts and other elements of the *Concept Plan* and three quadrant plans, the Bureau of Planning and Sustainability, in collaboration with other City bureaus, developed the *Discussion Draft Central City 2035 Plan*, released for public review on February 8, 2016. Additional guidance for the development of the *Discussion Draft Central City 2035 Plan* came from the *Central Reach Urban Design Concept* (2014), updates to the Natural and Scenic Resource inventories (2015), the *Central City Floor Area Ratio Bonus and Transfer Study* (2015), and other studies. A review period of approximately four months included open houses and presentations to interested groups, organizations, and appointed commissions. Written and verbal comments and proposed amendments were reviewed and considered by staff.
17. The *Proposed Draft Central City 2035 Plan* was released on June 20, 2016 for review by the public and the Portland Planning and Sustainability Commission (PSC). The PSC conducted an extensive review and plan revision process, including public hearings on July 26 and August 9, 2016 and work sessions on September 27 and November 16, 2016 and January 10, January 24, February 14, February 28, March 14, April 11 and May 23, 2017. The PSC voted on May 23, 2017 to forward to City Council their *Recommended Draft Central City 2035 Plan*.
18. On June 20, 2016 notice of the *Proposed Draft Central City 2035 Plan* was mailed to the Department of Land Conservation and Development in compliance with the post-acknowledgement review process required by OAR 660-18-020. A revised notice, reflecting Planning and Sustainability Commission and City Council amendments to the plan, was sent to the Department of Land Conservation and Development on March 13, 2018.
19. On June 24, 2016, a notice of the July 26, 2016 Planning and Sustainability public hearing on the *Proposed Draft Central City 2035 Plan* was sent to the project's mailing list, individuals and organizations who requested such notice, and other interested parties.
20. On June 24, 2016, approximately 21,000 notices of the *Proposed Draft Central City 2035 Plan* and Planning and Sustainability Commission hearing were sent to all property owners potentially affected by proposed zoning map and code changes, as required by ORS 227.186. Property owners received a separate notice for each property potentially affected by the proposal.

21. On June 22, 2017, BPS published the Planning and Sustainability Commission's *Recommend Draft Central City 2035 Plan*. The plan contains the following elements, some of which were amended by City Council:

- Volume 1, Goals and Policies. This document includes the policies and goals for the Central City as a whole, and each individual district within the Central City. The document also contains a vision statement and urban design concept diagrams. Volume 1, as amended by City Council and dated May 2018, is attached as Exhibit B. The urban design diagrams will be adopted by a separate Resolution.
- Volume 2A, Zoning Code & Map Amendments, Part 1: Central City Plan District. This document includes amendments to Title 33, Planning and Zoning, that implement the land use and transportation policies of the plan. It also contains amendments to the Comprehensive Plan Map and official Zoning Map for the CC2035 plan area. Volume 2A, Part 1, as amended by City Council and dated May 2018, is attached as Exhibit C.
- Volume 2A, Part 1 contains new Zoning Code provisions that require certain new development and alteration projects to use bird-safe glazing treatment patterns and application techniques (33.510.223, Bird-Safe Exterior Glazing) and register for an approved green building certification program (33.510.244, Low-Carbon Buildings). The Bureau of Planning and Sustainability will adopt, administer and periodically amend Administrative Rules that identify objective standards, including specific products or programs that can be used, to meet the code requirements.
- Volume 2A, Zoning Code & Map Amendments, Part 2: Willamette River and Trails. This document includes amendments to Title 33, Planning and Zoning, related to the Central Reach of the Willamette River, along with miscellaneous citywide code amendments related to trails, definitions and measurements. It also contains amendments to the overlay zones shown on the official Zoning Map. Volume 2A, Part 2, as amended by City Council and dated May 2018, is attached as Exhibit D.
- Volume 2A, Zoning Code & Map Amendments, Part 3: Environmental and Scenic Overlay Zones. This document includes amendments to Title 33, Planning and Zoning, and the official Zoning Map related to the environmental and scenic resource overlay zones. These amendments apply outside the Central City and will be adopted by a separate ordinance.
- Volume 2B, Transportation System Plan Amendments. This document includes amendments to the *Transportation System Plan*, including amendments to policies, project and study lists, and street classification maps. The document also includes the *Portland Central City Multimodal Mixed Use Area Agreement between the City of Portland and the Oregon Department of Transportation*, dated June 15, 2016. Also included is a letter dated June 15, 2016 from the Oregon Department of Transportation to the Portland Bureau of Transportation providing written concurrence with the designation of the Central City as a Multi-Modal Mixed-Use Area (MMA), subject to

City adoption of the agreement. Volume 2B, as amended by City Council and dated May 2018, is attached as Exhibit E.

- Volume 3A, Scenic Resources Protection Plan, Part 1: Summary, Results and Implementation. This document includes a summary of the Scenic Resources Inventory, a summary of the Economic, Social, Environmental and Energy analysis, and a description of the Zoning Code changes and maps that implement the CC2035 Scenic Resources Protection Plan. Volume 3A, Part 1, as amended by City Council and dated May 2018, is attached as Exhibit F.
- Volume 3A, Scenic Resources Protection Plan, Part 2: Scenic Resources Inventory. This document is an updated inventory of views, viewpoints, view streets, scenic corridors, focal points and scenic sites in the Central City and an updated inventory of views and viewpoints surrounding the Central City for which buildings in the Central City could block the view. The inventory includes maps and descriptions of the location, geometry and relative quality of the scenic resources. Volume 3A, Part 2 is attached as Exhibit G.
- Volume 3A, Scenic Resources Protection Plan, Part 3: Economic, Social, Environmental & Energy Analysis. This document includes a trade-off analysis of the relative economic, social, environmental and energy consequences associated with different levels of scenic resources protection. This document includes maps and descriptions of the recommendations to protect specific scenic resources. Volume 3A, Part 3, as amended by City Council and dated May 2018, is attached as Exhibit H.
- Volume 3B, Willamette River Central Reach Natural Resources Protection Plan. This document presents an overview of the regulatory context for the river, an inventory approach and methodology, an analysis of protection options and recommendations, inventory results, and implementation tools. Volume 3B is attached as Exhibit I.
- Volume 4, Background Materials. This document references a number of background reports and documents used to develop the *Central City 2035 Plan*, including the *CC2035 Concept Plan*, the three quadrant plans, *Willamette River Greenway Inventory* and other studies and planning documents. Volume 4 is attached as Exhibit J.
- Volume 5A, Implementation: Performance Targets and Action Plans. This document includes performance targets that provide aspirational objectives by which to measure progress towards achieving the goals and policies of the *Central City 2035 Plan*. This document also includes action items that describe future projects and programs that will help implement the goals and policies of the plan. The performance targets and action items in Volume 5A will be adopted by a separate Resolution.
- Volume 5B, Implementation: The Green Loop. This document contains the Green Loop Concept Report, describing a proposed six-mile linear park that invites residents, employees, and visitors to experience the Central City by foot and by bicycle. The document includes key objectives, alignment options, design principles, and precedents

of how the concept could be realized. Volume 5B will be adopted by a separate resolution.

- Volume 6, Public Involvement. This document presents a summary of public engagement activities during the CC2035 planning process, an outreach activities log, and materials related to an ethics complaint regarding the *West Quadrant Plan*. Volume 6 is attached as Exhibit K.
22. A public notice of the September 7, 2017 Portland City Council public hearing on the *Recommended Draft Central City 2035 Plan* was sent on August 23, 2017 to the project's mailing list, those who testified to the Planning and Sustainability Commission, individuals and organizations who requested such notice and other interested parties.
 23. A public notice of the January 18, 2018 Portland City Council public hearing on potential City Council amendments to the *Recommended Draft Central City 2035 Plan* was sent on December 29, 2017 to the project's mailing list, those who testified at the September 7, 2017 City Council public hearing and its continuations on September 14 and 20, 2017, and to property owners potentially affected by the amendments. Additional public hearings on potential amendments were held on March 7 and 22, 2018 and April 4, 2018. These additional hearings were announced on the CC2035 project web site and through the project's email distribution list.
 24. The Central City 2035 Findings of Fact Report, attached as Exhibit A, includes additional findings demonstrating consistency with the State-wide Planning Goals, Metro Urban Growth Management Functional Plan, and the City of Portland 2035 *Comprehensive Plan*.

NOW, THEREFORE, the Council directs:

- a. Amend the 2035 *Comprehensive Plan* to add the goals and policies of the *Central City 2035 Plan*, as shown in Exhibit B (Volume 1, Goals and Policies).
- b. Amend Policy 9.51, Multimodal Mixed-Use Area, and Figure 9-2 of the 2035 *Comprehensive Plan*, as shown on pages 35 and 36 of Exhibit E (Volume 2B, Transportation System Plan Amendments).
- c. Amend the 2035 *Comprehensive Plan* to reflect the adoption of the *Central City 2035 Plan*, as shown in Exhibit L (Additional Amendments to the 2035 *Comprehensive Plan*), attached.
- d. Amend the definition of "Neighborhoods" in the Glossary of the 2035 *Comprehensive Plan* as follows:

Neighborhoods: Broad areas of the city that typically include residential, commercial, and mixed-use areas. Neighborhoods are physical communities located outside of the ~~Central City~~ and large industrial areas. The term "neighborhoods" may, but is not always intended to, refer to specific Neighborhood Association geographies.

- e. Replace 2035 Comprehensive Plan Map CON-05, Significant Scenic Resources, with CON-05-A, Significant Scenic Resources, and CON-05-B, Significant Scenic Resources in the Central City, as shown on Exhibit M, attached.
- f. Amend the Comprehensive Plan Map as shown on page 519 of Exhibit C (Volume 2A, Zoning Code & Map Amendments, Part 1: Central City Plan District).
- g. Amend the official Zoning Map to apply base zones as shown on page 515 of Exhibit C (Volume 2A, Zoning Code & Map Amendments, Part 1: Central City Plan District).
- h. Amend the official Zoning Map to apply overlay zones as shown on pages 194 to 206 of Exhibit D (Volume 2A, Zoning Code & Map Amendments, Part 2: Willamette River and Trails).
- i. Amend Title 33, Planning and Zoning, as shown in Exhibit C (Volume 2A, Zoning Code & Map Amendments, Part 1: Central City Plan District) and Exhibit D (Volume 2A, Zoning Code & Map Amendments, Part 2: Willamette River and Trails).
- j. Amend the *Transportation System Plan* to add the policies, amend the transportation projects and studies lists, and amend the project and street classification maps, as shown in Exhibit E (Volume 2B, Transportation System Plan Amendments).
- k. Adopt the *Central City 2035 Scenic Resources Protection Plan*, contained in Exhibit F (Volume 3A, Scenic Resources Protection Plan, Part 1: Summary, Results and Implementation), Exhibit G (Volume 3A, Scenic Resources Protection Plan, Part 2: Scenic Resources Inventory) and Exhibit H (Volume 3A, Scenic Resources Protection Plan, Part 3: Economic, Social, Environmental & Energy Analysis).
- l. Adopt the *Willamette River Central Reach Natural Resources Protection Plan*, contained in Exhibit I (Volume 3B, Willamette River Central Reach Natural Resources Protection Plan).
- m. Adopt the *Portland Central City Multimodal Mixed Use Area Agreement between the City of Portland and the Oregon Department of Transportation*, dated June 15, 2016, as shown on pages 32 to 35 of Exhibit E (Volume 2B, Transportation System Plan Amendments).
- n. Adopt Exhibit A (Central City 2035 Findings of Fact Report), as amended by City Council and dated May 2018, Exhibit J (Volume 4, Background Materials), and Exhibit K (Volume 6, Public Involvement) as further findings.
- o. Adopt the Introduction section, commentary to the Central City Goals and Policies section, and the Central City Districts section of Exhibit B (Volume 1, Goals and Policies) as further findings.

- p. Adopt the commentary in Exhibit C (Volume 2A, Zoning Code & Map Amendments, Part 1: Central City Plan District) and Exhibit D (Volume 2A, Zoning Code & Map Amendments, Part 2: Willamette River and Trails) as legislative intent and further findings.
- q. Adopt Chapter 4: Analysis of Protection Options and General Recommendations, and Chapter 5: Results of Exhibit I (Volume 3B, Willamette River Central Reach Natural Resources Protection Plan) as further findings.
- r. The *Central City 2035 Plan* elements adopted by directives a. through q., above, repeal and replace the following:
 - 1. The *Planning Guidelines/Portland Downtown Plan*, adopted by City Council in December 1972, as updated.
 - 2. Ordinance No. 160606, as amended, which adopted the *Central City Plan* goals and policies.
 - 3. Resolution No. 34417, as amended, which adopted the *Central City Plan* action charts, functional maps and urban design plans.
 - 4. Ordinance No. 169535, as amended, which adopted the goals, policies and objectives of the *Central City Transportation Management Plan*.
 - 5. Resolution No. 35472, which adopted the action items and other components of the *Central City Transportation Management Plan*.
 - 6. Resolution No. 36970, which adopted the *Central City 2035 Concept Plan*.
 - 7. Resolution No. 36972, which adopted the *N/NE Quadrant Plan*.
 - 8. Resolution No. 37115, which adopted the *West Quadrant Plan*.
 - 9. Resolution No. 37147, which adopted the *Southeast Quadrant Plan*.
- s. Amend Ordinance No. 160237, as amended, to no longer apply the provisions of the *Willamette Greenway Plan* within the Central Reach River Overlay Boundary as shown on Map 475-1 on page 78 of Exhibit D (Volume 2A, Zoning Code & Map Amendments, Part 2: Willamette River and Trails).
- t. Amend Ordinance No. 163957, as amended, to no longer apply the provisions of the *Scenic Resources Protection Plan* to any and all scenic resources within the Central City Boundary or to viewpoints and view corridors within the Viewpoint Boundary as shown on Map 1 on page 6 of Exhibit F (Volume 3A, Scenic Resources Protection Plan, Part 1: Summary, Results and Implementation).

- u. Authorize the Director of the Bureau of Planning and Sustainability or designee to adopt, administer and periodically amend Administrative Rules for 33.510.223, Bird-Safe Exterior Glazing and 33.510.244, Low-Carbon Buildings. The adoption or amendment of these rules must include a public comment period.
- v. Direct the Bureau of Planning and Sustainability to update the 2014 *Willamette River Greenway Inventory* (adopted by Ordinance No. 186858) based on the adoption of the *Central City 2035 Plan*.
- w. Direct the Portland Bureau of Transportation to work with the Portland Public School District on a Memorandum of Understanding for the redevelopment of the Lincoln High School property to ensure that specific programming and security needs for the facility are appropriately balanced with a north-south public access connection through the site that serves the pedestrian and bicycle connectivity needs of Goose Hollow, consistent with the directives of the *Central City 2035 Plan*.

Section 2. Effect

The directives of this ordinance will take effect on July 9, 2018.

Section 3. Severability

If any section, subsection, sentence, clause, phrase, diagram or drawing contained in this ordinance, or the map, report, inventory, analysis, or document it adopts or amends, is held to be deficient, invalid or unconstitutional, that shall not affect the validity of the remaining portions. The Council declares that it would have adopted the map, report, inventory, analysis, or document each section, subsection, sentence, clause, phrase, diagram and drawing thereof, regardless of the fact that any one or more sections, subsections, sentences, clauses, phrases, diagrams or drawings contained in this Ordinance, may be found to be deficient, invalid or unconstitutional.

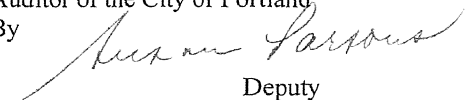
Passed by the Council: JUN 06 2018

Mayor Ted Wheeler
Prepared by: Troy Doss and Nicholas Starin
Date Prepared: May 15, 2018

Mary Hull Caballero

Auditor of the City of Portland

By



Deputy



CENTRALCITY 2035

Volume 1 GOALS AND POLICIES

Recommended Draft
June 2017



Bureau of Planning and Sustainability
Innovation. Collaboration. Practical Solutions.

City of Portland, Oregon
Ted Wheeler, Mayor • Susan Anderson, Director



Commentary

33.510.119 Retail Sales and Service and Office Uses in the IG1 Zone

C. Central Eastside Subdistrict.

This section was adopted by City Council as part of the Comprehensive Plan Task 5 Early Implementation Project on December 21, 2016.

The use allowances in the Economic Opportunity Subarea (EOS) are expanded to the IG1 zones in the Central Eastside subdistrict. Industrial Office uses are allowed in this expanded area, and Retail Sales And Service and Traditional Offices uses are limited.

These changes were recommended in the Southeast Quadrant Plan. The changes are intended to provide a balanced approach that supports industrial retention and industrial office job growth. The EOS has been very successful at increasing employment densities, especially those in industrial office space, while retaining existing industrial operations.

These updates are intended to:

- 1) Foster new multi-story building construction that accommodates industrial and industrial office uses.
- 2) Partially meet 20-year growth-capacity needs in the updated Comprehensive Plan for the Central City Industrial area.
- 3) Encourage and allow the full interior of an existing building shell to be rehabilitated to allow industrial office uses.

Some buildings in the district have multiple stories that easily can be used as industrial office space, whereas some have former industrial warehouse or production space where the ceiling is very tall and additional floors could be added within the shell of the building to create industrial office space.

Further, in some cases it may be desirable for developers to add a penthouse to the roof of an existing building to serve as additional industrial office space for accessory uses to the office use. These provisions are intended to address this desire.

area of all Retail Sales And Service and Traditional Office uses on the site. More than 12,000 square feet on a site in Retail Sales And Service uses is prohibited.

- b. Industrial Office. Up to 100 percent of the gross building area on a site may be in an Industrial Office use including gross building area added inside of the building as it existed on [insert effective date]. In addition, up to 5,000 square feet of floor area added to the roof of the building as it existed on [insert effective date] can be in Industrial Office use. Industrial Office use in more than 5,000 square feet of floor area added to the roof of the building is prohibited.
3. Conditional uses. More than 12,000 square feet on a site may be in Traditional Office uses if approved through a conditional use. The total amount of square footage includes net building area, exterior display, and storage area of Traditional Office uses on the site. If there are also Retail Sales And Service uses on the site, no more than 12,000 square feet may be in Retail Sales And Service use.

C. Central Eastside Subdistrict.

1. Purpose. The regulations of this subsection are intended to broaden the mix of employment uses in the Central Eastside Industrial District in a manner that increases the vitality of the district without negatively impacting the viability of industrial uses and development. The additional uses allowed by the regulations are uses that build on the economic strengths, locational advantages and urban character of the Central Eastside.
2. Where these regulations apply. The regulations of this subsection apply to sites zoned IG1 in the Central Eastside Subdistrict that are not subject to Subsection B.
3. Allowed uses.
 - a. Retail Sales And Service and Traditional Office uses.
 - (1) Sites up to 40,000 square feet in size. The following regulations apply to Retail Sales And Service and Traditional Office uses on sites that are 40,000 square feet or less in size:
 - Up to 5,000 square feet of the net building area plus the exterior display and storage area on a site may be in Retail Sales And Service use. More than 5,000 square feet in Retail Sales And Service use on a site is prohibited.
 - Up to 5,000 square feet of net building area on a site may be in Traditional Office use. More than 5,000 square feet in Traditional Office use on a site is prohibited.
 - (2) Sites over 40,000 square feet in size. The following regulations apply to Retail Sales And Service and Traditional Office uses on sites that are more than 40,000 square feet in size:
 - Retail Sales and Service uses on a site are allowed but net building area plus exterior display and storage is limited to an amount equal to 12.5 percent of the total site area. More than 12.5 percent in Retail Sales And Service use is prohibited.

Chapter 33.510, Central City Plan District

33.510.11920 Retail Sales And Service and Office Uses in Specified Historic Resources in the IG2 and IH Zones

- A. Where these regulations apply.** The regulations of this subsection apply in the IG2 and IH Zones to historic resources that are listed on the National Register of Historic Places or to structures or objects that are identified as contributing to the historic significance of a Historic District or a Conservation District.
- B. Allowed uses.** Up to 12,000 square feet on a site may be in Retail Sales And Service or Office use. The total amount of square footage includes net building area, exterior display, and storage area of all Retail Sales And Service and Office uses on the site. More than 12,000 square feet on a site in Retail Sales And Service uses is prohibited.
- C. Conditional uses.** More than 12,000 square feet on a site may be in Office uses if approved through a conditional use. The total amount of square footage includes net building area, exterior display, and storage area of Office uses on the site. If there are also Retail Sales And Service uses on the site, no more than 12,000 square feet may be in Retail Sales And Service use.

33.510.121 Residential Uses in the EX zone

- A. Purpose.** Residential uses are restricted in portions of the EX zone in the Lower Albina and Central Eastside subdistricts in order to avoid conflicts between residential and industrial activities.
- B. Residential use restrictions.**
 - 1. Residential uses are prohibited in the areas shown on Map 510-6.
 - 2. Residential uses are only allowed through a Central City Master Plan in the areas shown on Map 510-6.

Development Standards

33.510.200 Floor Area Ratios

- A. Purpose.** Floor area ratios (FARs) work with the height, setback, and building coverage standards to control the overall bulk of development. Generally, the highest FARs in Portland are applied in the Central City plan district to support its role as the region's premier center for jobs, health and human services, and urban living. The minimum FARs required in the Central City plan district are intended to ensure a minimum level of development on a vacant site, ensure that not all development potential is transferred off a site, and ensure redevelopment of under-utilized sites. The maximum FARs allowed in the Central City plan district balance multiple objectives of the Central City 2035 Plan including:
 - Locating the largest floor area ratios along the Transit Mall and high-capacity transit lines;

Chapter 33.510, Central City Plan District

Commentary

33.510.200.E. Exceptions continued:

3. Minimum density requirements do not apply in open space zones where development is minimal. Also, public school sites that may be large and contain extensive open space programming are exempt from these requirements. This section also clarifies that Industrial zones are not regulated but FAR and therefore are not subject to minimum or maximum FAR requirements.

33.510.205 Floor Area Bonus and Transfer Options

The previous Zoning Code allowed for increased development potential in the Central City using 19 FAR bonus options and five transfer provisions. This bonus and transfer system has been updated to eliminate most options and prioritize affordable housing and historic preservation. In addition, for properties along the Willamette riverfront there is a bonus option to expand riverfront open space. Bonus and transfer options are available to residential, mixed-use and commercial developments.

The adopted 2035 Comprehensive Plan acknowledges the importance of providing public and community benefits when a project receives increased FAR allowances (Policy 3.3.d). The reduction in the number of bonus and transfer options in the Central City has been done to streamline the available bonuses and transfers and align them with the priorities of affordable housing and historic preservation.

33.510.205.B Priorities for the use of bonus and transfer options.

The bonus and transfer system is prioritized as follows. The maximum bonus FAR on most sites in the Central City is 3 to 1:

1. If inclusionary housing is triggered in the Central City, a building earns up to 3 to 1 FAR for building affordable housing.
2. If inclusionary housing is not triggered, a building may earn up to 3 to 1 through one of the following:
 - o Affordable housing fund bonus,
 - o Historic resource transfer, or
 - o River front open space bonus (only applies to properties along the riverfront)
3. The transfer within a subdistrict may be used after 3 to 1 is earned from one of the above options, except in South Waterfront. See 33.510.205.B.2.a

(5) The bonus floor area may be used only in the South Waterfront subdistrict.

f. Open space fund bonus option. In the South Waterfront subdistrict, contributors to the South Waterfront Public Open Space Fund (SWPOSF) receive bonus floor area. For each \$22.50 contributed to the SWPOSF, one square foot of bonus floor area is earned. To qualify for this bonus, the following requirements must be met:

(1) The applicant must submit with the application for land use review a letter from Portland Parks and Recreation documenting the amount that has been contributed to the SWPOSF;

(2) The bonus floor area may be used only in the South Waterfront subdistrict; and

(3) The SWPOSF is to be collected and administered by Portland Parks and Recreation. The funds collected may be used only within the South Waterfront, either for acquisition, improvement, or maintenance of public open space or for bank restoration or improvement projects along the Willamette River.

D. Floor area transfer options. Transferring floor area from one site to another is allowed as follows. The transferred floor area is in addition to the maximum floor area ratio shown on Map 510-2. There is no limit to the amount of floor area that can be transferred to a site. Transferring floor area is only allowed in situations where stated. Adjustments to the floor area transfer requirements are prohibited. When FAR is transferred from one site to another, the sending site must retain an amount equal to the minimum FAR required by 33.510.200.C., or an amount equal to the total surface parking area on the site multiplied by the maximum floor area ratio allowed shown on Map 510-2, whichever is more.

1. Transfer of floor area from a Historic Resource. The following regulations apply to transferring floor area from a Historic Resource:

a. Purpose. This transfer option improves public safety by encouraging seismic upgrades of historic resources, and encourages the preservation of historic resources by reducing redevelopment pressure.

b. Sites eligible to send floor area. In order to send floor area the site must meet the following requirements. Sites that are eligible to send floor area are allowed to transfer unused FAR up to the maximum FAR allowed on the site plus an additional 3 to 1:

Commentary

33.510.205.D.1.c.(2): The historic resource transfer is not available for use in South Waterfront because using existing FAR within the subdistrict is a priority, especially transferring FAR off the greenway.

33.510.205.D.1.d.(2): The covenant for the sending site makes it subject to demolition review (locally designated landmarks and contributing properties in conservation districts are not ordinarily subject to demolition review).

33.510.205.D.1.e.(1): This exception allows historic resources to continue to be able to transfer to sites outside of the Central City, by using the base zone transfer provisions.

33.510.205.D.1.e.(2): This exception allows sites in the R1, R2 and R3 zones to continue to use the base zone provisions to transfer density.

- (1) Be in a RH, RX, CX, EX, or OS zones, and
 - (2) Contain a Historic or Conservation Landmark or a contributing resource in a Historic or Conservation district for which the Bureau of Development Services verifies the following:
 - If the building is classified as Risk category I or II, as defined in the Oregon Structural Specialty Code, it has been shown to meet or exceed the American Society of Civil Engineers (ASCE) 41- BPOE improvement standard as defined in City of Portland Title 24.85;
 - If the building is classified as Risk category III or IV, as defined in the Oregon Structural Specialty Code, it has been shown to meet or exceed the ASCE41- BPON improvement standard as defined in City of Portland Title 24.85; or
 - The owner of the landmark or contributing resource has entered into a phased seismic agreement with the City of Portland as described in Section 24.85.
- c. Sites eligible to receive floor area:
- (1) Must be zoned RH, RX, CX or EX; and
 - (2) Must be within the Central City plan district outside of the South Waterfront subdistrict.
- d. Covenants. The owners of both the sending and receiving sites must execute a covenant with the City. The covenant must meet the requirements of 33.700.060, and must be attached to and recorded with the deed. The covenants may not be revoked or rescinded. The covenants must include the following:
- (1) The covenant for each site must reflect the existing floor area on each site and the respective increase and decrease of potential floor area; and
 - (2) The covenant for the sending site must state that the owner will not demolish or relocate the historic resource unless the City approves the demolition or relocation through demolition review.
- e. Exceptions.
- (1) Sites with eligible historic resources in a RH, RX, CX or EX zone may elect to transfer floor area to a receiving site outside of the Central City plan district if they meet the standards of 33.120.205.G, 33.130.205.C or 33.140.205.D.
 - (2) Sites with eligible historic resources in the R1, R2 and R3 zones may transfer density if they meet the standards of 33.120.205.G.

Chapter 33.510, Central City Plan District

33.510.223 Bird-Safe Exterior Glazing

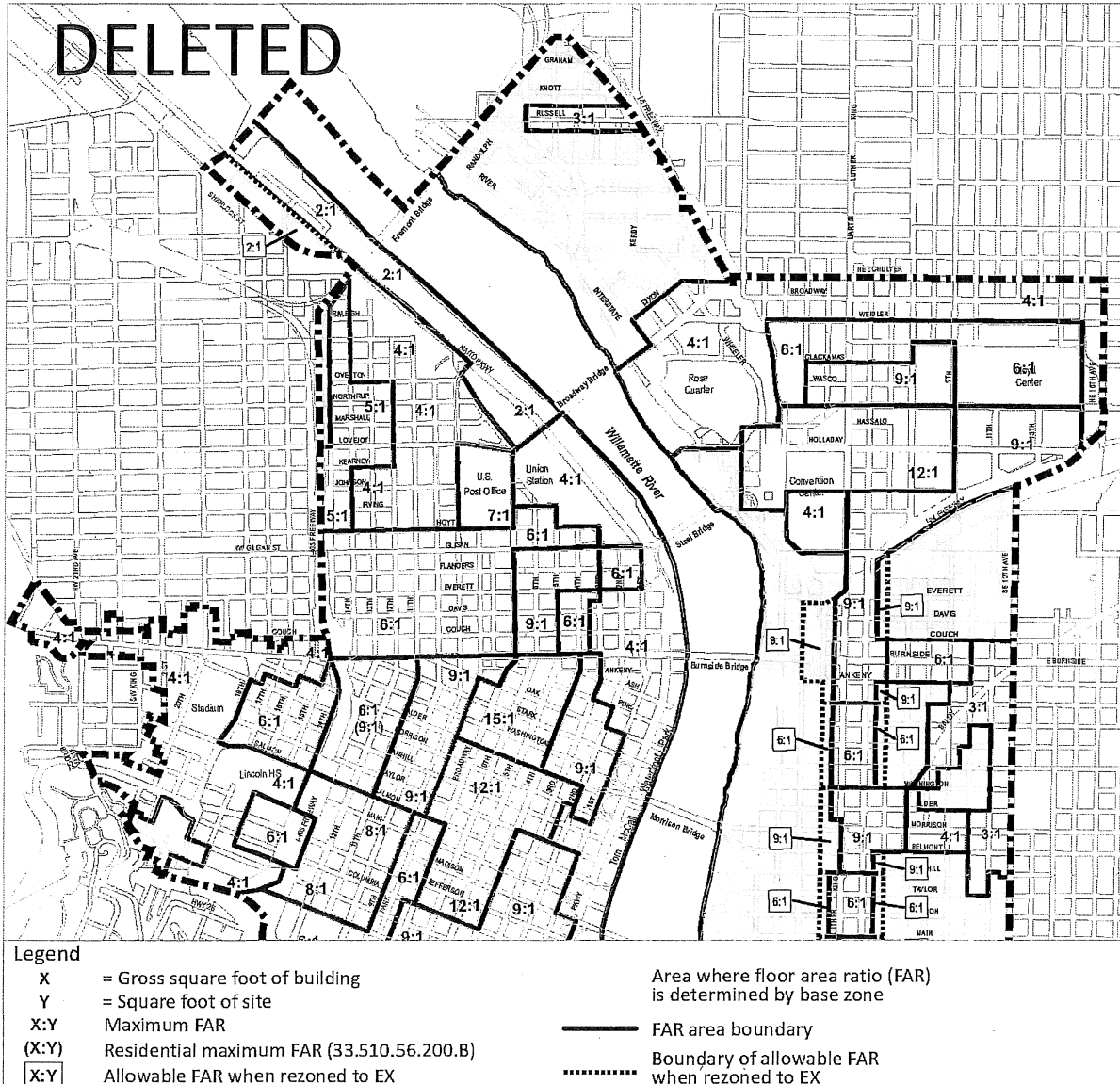
- A. Purpose.** The bird-safe glazing standards are intended to reduce the risk of bird-to-building collisions. The standards reduce the transparency, or reflectivity, of exterior windows and other glazed surfaces, thereby improving the visibility of exterior glazed surfaces to birds. The reduction in transparency applies to the portions of buildings that studies show are associated with the greatest occurrence of bird strikes.
- B. Development subject to the bird-safe exterior glazing standards.** The bird-safe glazing standards apply to new buildings and major remodeling projects. For new buildings, the standards apply per façade when the façade has 30 percent or more glazing within the first 60 feet measured from the grade adjacent to the façade. For major remodeling projects, the standards apply per facade when at least 75 percent of the façade is altered and the altered façade has 30 percent or more glazing within the first 60 feet measured from the grade adjacent to the facade. The standards also apply to glazing located directly adjacent to an ecoroof, roof garden, or other vegetated or landscaped roof area. The standards do not apply to houses, attached houses, manufactured homes, accessory dwelling units, duplexes, attached duplexes, triplexes, historic landmarks, and contributing resources in historic or conservation districts.
- C. Bird-safe exterior glazing standards.** At least 90 percent of the windows and glazing on the following portions of each façade must choose treatment patterns and application techniques from the *Portland Bird Safe Windows List*:
1. Windows and glazing, including glazed balcony railings, located within the first 60 feet of the building measured from the grade adjacent to the facade;
 2. Windows and glazing located within the first 15 feet of the building above an adjacent ecoroof, roof garden, or other vegetated or landscaped roof area; and
 3. The glazed portions of sky bridges or fences.

Floor Area Ratios

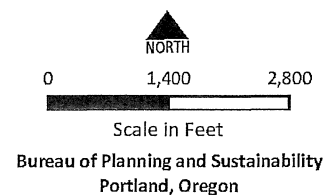
Map 510-2

Map 1 of 2

Map Revised March 1, 2018



- Central City Plan District boundary
- Proposed right-of-way
- Proposed accessway



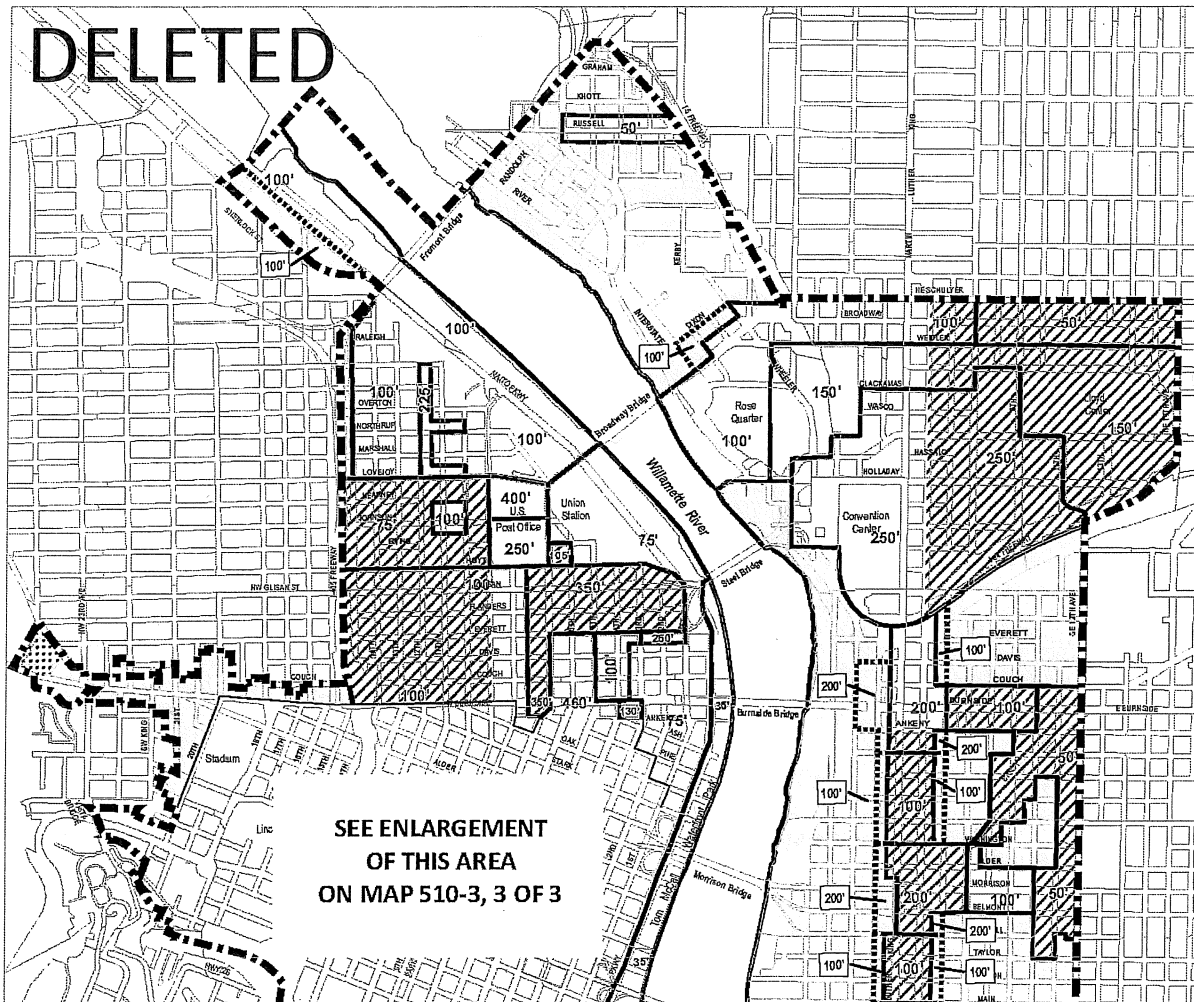
Chapter 33.510, Central City Plan District

Maximum Heights

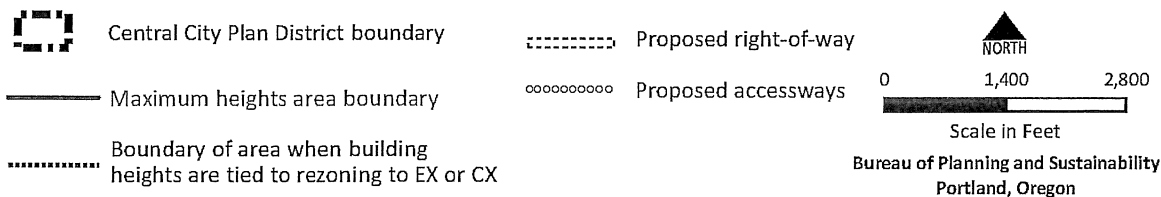
Map 510-3

Map 1 of 3

Map Revised March 1, 2018



Legend			
X'	Maximum building height	Areas where maximum height is determined by base zone	Area eligible for Open Space performance standards
[X']	Allowable building height when rezoned to EX or CX	[Diagonal lines]	Area eligible for general and housing height bonus
(X')	Allowable height for residential (33.510.205.F)	[Dotted pattern]	Area eligible for housing height bonus only
		[Cross-hatch pattern]	Area eligible for historic step-down exception
		[Diagonal lines]	Maximum height limit of 75' for first 125 feet from top of bank



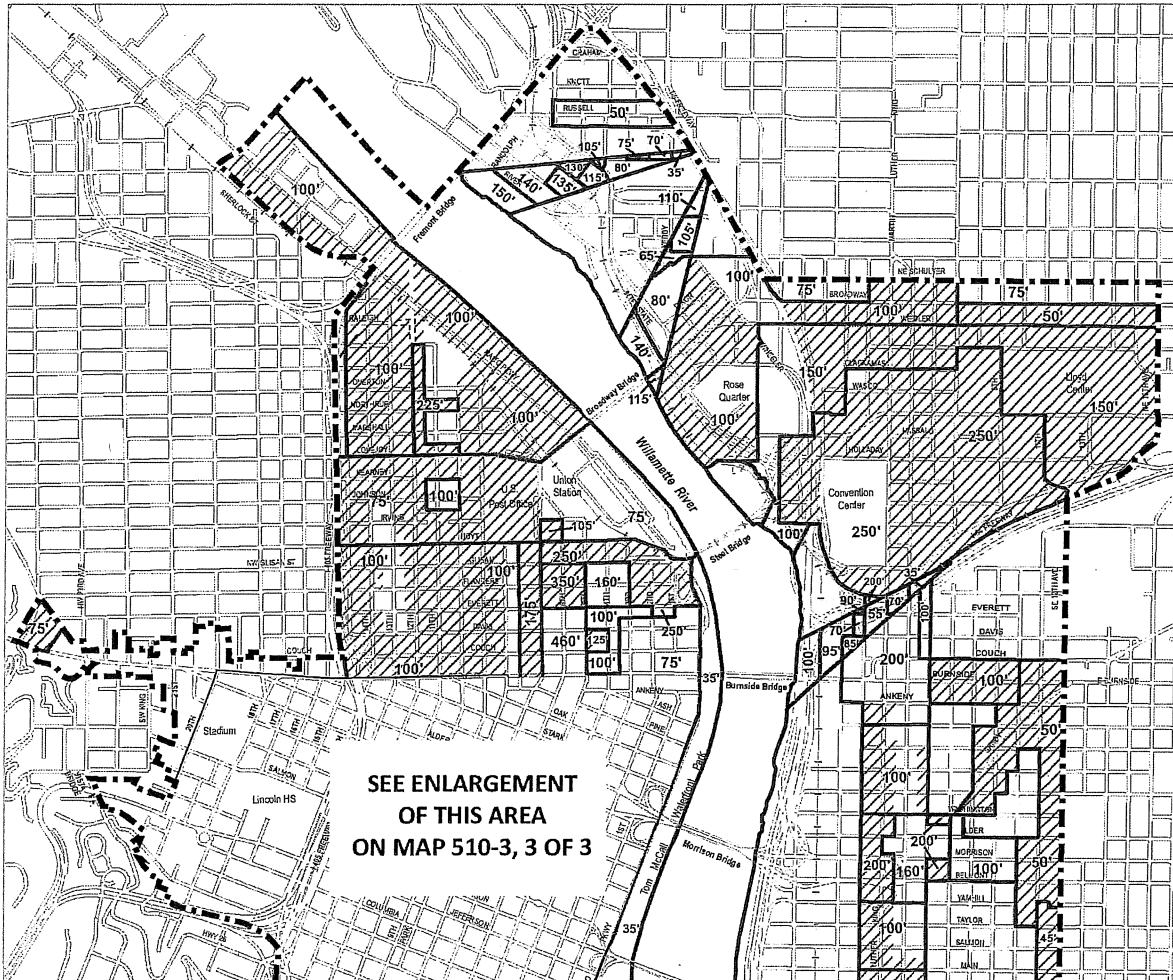
Chapter 33.510, Central City Plan District

Base Heights

Map 510-3

Map 1 of 3

Map Revised XXXXX XX, 201X



Legend



Central City Plan District boundary



Base building height

Areas where height is determined by base zone



Area eligible for height increase



Base height limit of 75' for first 125 feet from top of bank

Proposed right-of-way

Proposed accessways



0 1,400 2,800

Scale in Feet

Bureau of Planning and Sustainability
Portland, Oregon

Chapter 33.510, Central City Plan District

189000

CENTRALCITY 2035

Volume 6 PUBLIC INVOLVEMENT

Recommended Draft
June 2017



Bureau of Planning and Sustainability
Innovation. Collaboration. Practical Solutions.
City of Portland, Oregon
Ted Wheeler, Mayor • Susan Anderson, Director



Introduction

The *Central City 2035 Plan* brings together more than five years of work and the voices of thousands. In addition to the outreach events and activities summarized below, hundreds of Portlanders provided formal testimony to the Planning and Sustainability Commission and City Council on the various projects that guided the development of this plan. The public will continue to play a crucial role moving forward as the Plan is refined through the CC2035 process.

This chapter summarizes highlights from the multi-year engagement process. Sections below include the public engagement summary and acknowledgements. The Outreach Activity Log and other relevant materials are attached at the end of this document.

Public Engagement Summary: How We Got Here

Public engagement for the *CC2035 Concept Plan*, each of the three quadrant plans and related work is summarized below. All of this work was integrated to develop the *CC2035 Plan*.

CENTRAL CITY 2035 CONCEPT PLAN (2010-2012)

An 18-member Central City Advisory Group (AG) representing stakeholders or stakeholder groups with experience in different issues and/or interests in the future of the Central City was appointed by Mayor Adams to serve for one year. All meetings of the group were open to the public and included time for public comment.

During late 2010 and 2011, City staff and the Advisory Group conducted a series of workshops and symposiums to scope the range of issues that CC2035 needed to address. At each symposium a group of expert panelists considered existing conditions, opportunities and constraints to addressing the topic discussed, and recommended strategies and objectives to better achieve the desired outcomes they identified. All events were open to the general public and included time for public comment. Approximately 435 people attended the symposiums or workshops.

- **Economic Vitality:** two symposiums, 21 panelists
- **Housing and Community Development:** two symposiums, 21 panelists
- **Willamette River:** two symposiums, 25 panelists
- **Mobility:** two symposiums, 23 panelists
- **Public Safety:** one symposium, 15 panelists
- **Civic and Cultural Life:** two symposiums, 29 panelists
- **Urban Design:** three workshops, 53 participants
- **Historic Resources:** two symposiums, 25 panelists

A 17-member Central City 2035 Steering Committee met eight times to guide staff on the development of a Concept Plan to develop policies and guidance for the quadrant plan process. All meetings were open to the public and included time for public comment.

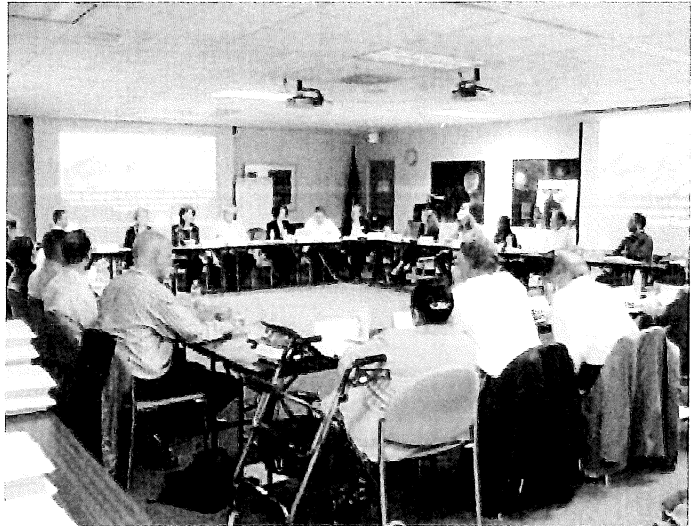
THE QUADRANT PLANS (2010-2015)

Public events, meetings, project milestones and opportunities for engagement were promoted and featured on each project's respective website; the BPS website; in quadrant-specific and BPS e-newsletters and emails; on social media; and in various newspapers including the Oregonian, Daily Journal of Commerce, Willamette Week and Portland Tribune.

N/NE Quadrant Plan (2012)

A 30-member stakeholder advisory committee (SAC) met 19 times and held an additional 14 subcommittee meetings. All meetings were open to the public and provided opportunity for public comment. In addition:

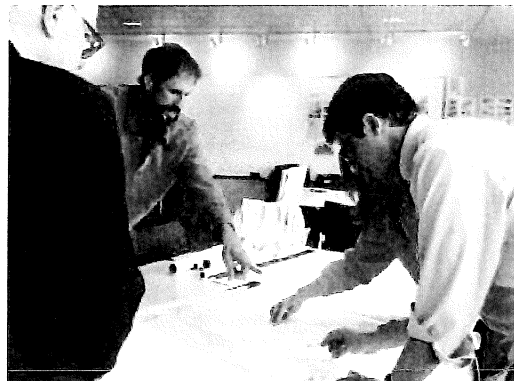
- Staff attended 100 community meetings, reaching more than 1,100 people
- Staff hosted 10 public events, reaching nearly 600 people
- Web tools and surveys reached an additional 140 people



West Quadrant Plan (2015)

A 33-member stakeholder advisory committee (SAC) met 16 times. All meetings were open to the public and provided opportunity for public comment. In addition:

- Staff attended 110 community meetings, reaching approximately 1100 people
- Staff hosted 12 public events, reaching more than 400 people
- Web tools, mailers and surveys reached an additional 700 people



In the summer of 2015 after City Council adopted the West Quadrant Plan, the City Ombudsman received an anonymous complaint from a group of concerned community members. They claimed that certain members of the West Quadrant SAC had conflicts of interest that weren't disclosed in the course of the committee's work — and should have been. Attachment B provides the relevant information related to this complaint.

Southeast Quadrant Plan (2015)

A 30-member stakeholder advisory committee (SAC) met 14 times. In addition, open-membership working groups were formed, focusing on the 1) Central Reach; 2) transportation; and 3) policy. These groups met numerous times during the quadrant process.

- Staff attended 93 community meetings, reaching nearly 500 people
- Staff hosted 15 public events related to the quadrant and Willamette River, reaching an additional 500 people
- Web tools and mailers reached an additional 1,000 people

This document was substituted
with a revised version.
See final document:

189000

~~997-1023-1041-1146-1195~~
~~1278-1308-1320-1330-1340~~
Agenda No. ~~326-353-526~~
ORDINANCE NO.
Title

Adopt the Central City 2035 Plan; amend the Comprehensive Plan, Comprehensive Plan Map, Transportation System Plan, Willamette Greenway Plan, Willamette River Greenway Inventory, Scenic Resources Protection Plan, Zoning Map, and Title 33; repeal and replace prior Central City plans and documents. (Ordinance)

INTRODUCED BY Commissioner/Auditor: Ted Wheeler	CLERK USE: DATE FILED <u>AUG 29 2017</u>
COMMISSIONER APPROVAL	Mary Hull Caballero Auditor of the City of Portland
Mayor—Finance and Administration - Wheeler	By: <u>[Signature]</u> Deputy
Position 1/Utilities - Fritz	Action Taken:
Position 2/Works - Fish	Sep 07 2017 Continued to Sep 14 2017 2PM Time Certain
Position 3/Affairs - Saltzman	Sep 14 2017 Continued to Sep 20 2017 3PM Time Certain
Position 4/Safety - Eudaly	Sep 20 2017 Continued to Oct 18 2017 2PM Time Certain
BUREAU APPROVAL	Record closed 9/22/2017, 5pm
Bureau: Planning and Sustainability Bureau Head: Susan Anderson	Oct 18 2017 Continued to Nov 2 2017 2PM Time Certain
Prepared by: Nicholas Starin Date Prepared: 8/14/17	Nov 2 2017 Rescheduled to Nov 29 2017 4PM Time Certain
Impact Statement	Nov 29 2017 Continued to Dec 6 2017 2PM Time Certain
Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/>	Dec 6 2017 Continued to Jan 18 2018 2PM Time Certain
Portland Policy Document	Record reopened 01/05/2018
If "Yes" requires City Policy paragraph stated in document.	Record is open until noon, 01/22/18
Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	Jan 18 2018 Continued to Mar 7 2018 2PM Time Certain
City Auditor Office Approval: required for Code Ordinances	Mar 7 2018 Continued to Mar 15 2018 4PM Time Certain As Amended
City Attorney Approval: required for contract, code, easement, franchise, comp plan, charter	Written record is open until noon, 03/19/2018 for amendments 22, 3, 6, 15.
Council Meeting Date 9/7/17	Mar 15 2018 Continued to Mar 22 2018 2PM Time Certain
	Mar 22 2018 Continued to Apr 4 2018 2PM Time Certain As Amended
	Written record open until 2PM 4/4/2018 for amendment C (Block 33).
	Record closed for amendment B.
	APR 04 2018 CONTINUED TO APR 11 2018 4:30 Time Certain As Amended
	APR 11 2018 CONTINUED TO MAY 24 2018 2:30 Time Certain As Amended
	MAY 24 2018 substituted As Amended

AGENDA
TIME CERTAIN <input checked="" type="checkbox"/> Start time: <u>2:00</u> 1 of 3 Total amount of time needed: <u>3 hours</u> (for presentation, testimony and discussion)
CONSENT <input type="checkbox"/>
REGULAR <input type="checkbox"/> Total amount of time needed: _____ (for presentation, testimony and discussion)

FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:		
		YEAS	NAYS
1. Fritz	1. Fritz		
2. Fish	2. Fish		
3. Saltzman	3. Saltzman		
4. Eudaly	4. Eudaly		
Wheeler	Wheeler		

CC2035 Item 526-530

189000 & 189002

Motions & Votes 05/24/18 Refer to BPS staff 5/24/18 memo.

S-526	<p>Adopt the Central City 2035 Plan; amend the Comprehensive Plan, Comprehensive Plan Map, Transportation System Plan, Willamette Greenway Plan, Scenic Resources Protection Plan, Zoning Map and Title 33; authorize adoption of administrative rules; repeal and replace prior Central City plans and documents (Previous Agenda 353; Ordinance introduced by Mayor Wheeler)</p> <p>1. Motion to accept substitute ordinance and all associated exhibits as described in Attachment B of the May 24 BPS memo: Moved by Wheeler and seconded by Fish. (Y-5)</p> <p>2. Motion to accept the minor and technical amendments shown in Attachment A of the May 24 BPS memo: Moved by Fish and seconded by Fritz. (Y-5)</p> <p>3. Motion to adopt the New Chinatown/Japantown amendment as written in Attachment A, Part II of the May 24 BPS memo; the amendment includes Block 33 and the four blocks in the north end of the district and addresses height: Moved by Saltzman and seconded by Wheeler. (Y-3 Saltzman, Eudaly, Wheeler. N-2 Fritz, Fish.)</p> <p>4. Motion to substitute a new Exhibit A to reflect motion #3: Moved by Wheeler and seconded by Saltzman. (Y-4; N-1 Fritz)</p> <p>5. Motion to accept staff addendum to May 24 packet, Technical Amendment 9, regarding shadow studies, Map 510-4, map 3 of 3: Moved by Wheeler and seconded by Fish. Vote not called.</p> <p>6. Motion to add "D" on page 3 of staff addendum to May 24 packet, Technical Amendment 9, Shadow study, sites shown on Map 510-3 to add "Adjustments and modifications to this standard are prohibited.": Moved by Fritz and seconded by Fish. Vote not called.</p>	<p>SUBSTITUTE CONTINUED TO MAY 30, 2018 AT 10:15 AM TIME CERTAIN AS AMENDED</p>
527	<p>Amend the Central City Plan District of the Zoning Code to increase bonus heights and impose master plan requirements in certain RiverPlace subareas (Ordinance introduced by Mayor Wheeler; amend Code Sections 33.510.210.D and 33.510.255, and Maps 510-4, 510-16 and 510-19)</p>	<p>CONTINUED TO MAY 30, 2018 AT 10:15 AM TIME CERTAIN</p>
S- 528	<p>Adopt the Central City 2035 Plan Volume 2A, Part 3, Environmental and Scenic: amend the Portland Zoning Map and Portland Zoning Codes for Environmental Overlay Zones and Scenic Resource Zones (Previous Agenda 352; Ordinance introduced by Mayor Wheeler; amend Code Chapters 33.430 and 480)</p> <p>Motion to accept substitute and all associated exhibits described in Attachment B to the May 24 BPS memo: Moved by Wheeler and seconded by Fish. (Y-4; Saltzman absent)</p>	<p>SUBSTITUTE PASSED TO SECOND READING JUNE 6, 2018 AT 2:00 PM TIME CERTAIN</p>
529	<p>Adopt the Central City 2035 Plan Action Charts, Performance Targets and Urban Design Diagrams (Previous Agenda 354; Resolution introduced by Mayor Wheeler)</p> <p>Motion to accept amended Resolution to update effective date and accept substitute exhibits: Moved by Wheeler and seconded by Fritz. (Y-4; Saltzman absent)</p>	<p>CONTINUED TO JUNE 6, 2018 AT 2:00 PM TIME CERTAIN AS AMENDED</p>
530	<p>Adopt the Central City 2035 Plan Green Loop Concept Report (Previous Agenda 355; Resolution introduced by Mayor Wheeler)</p> <p>Motion to amend Resolution to update effective date and accept previous motion to add resolved paragraph directing Bureaus to continue with with community partners on similar open space and transportation projects: Moved by Wheeler and seconded by Fritz. (Y-4; Saltzman absent)</p>	<p>CONTINUED TO JUNE 6, 2018 AT 2:00 PM TIME CERTAIN AS AMENDED</p>

reflected on Map 510-3 and 510-4. If the height in a view corridor is the same on 510-3 and 510-4, then projections are prohibited. However, in a view corridor, if the height on 510-3 is less than 510-4, projections are allowed as long as they don't exceed the height shown on 510-4. In other words, within view corridors, projection above the height shown on Map 510-4 would intrude on the view corridor and are therefore prohibited.

- Additional projections allowed include railings, parapets, fences and walls and mechanical screening to the allowed projections list for the Central City.

Amended code:

C. Base height.

1. Base heights are shown on Map 510-3. Heights greater than shown on Map 510-3 are allowed through the bonus height or height transfer options specified in Subsections D. and E.
2. Exceptions to base height. Generally, the following minor projections are allowed to extend above the base heights shown on Map 510-3. However, in a view corridor shown on Map 510-20, if the site is not eligible for a height increase, projections above the height limit shown on Map 510-3 are prohibited. Eligibility for a height increase is shown on Map 510-3. In a view corridor shown on Map 510-20, if the site is eligible for a height increase, the following minor projections are allowed, but the projection must not extend above the height limit shown on Map 510-4. Small wind turbines are subject to the standards of Chapter 33.299:

a. – f. [no change]

II. Major Amendment

1. Height and FAR increases in New Chinatown/Japantown Historic District

Code Maps: Map 510-2 Floor Area Ratio (FAR), Map 510-3 Base Height, Map 510-4 Bonus Height

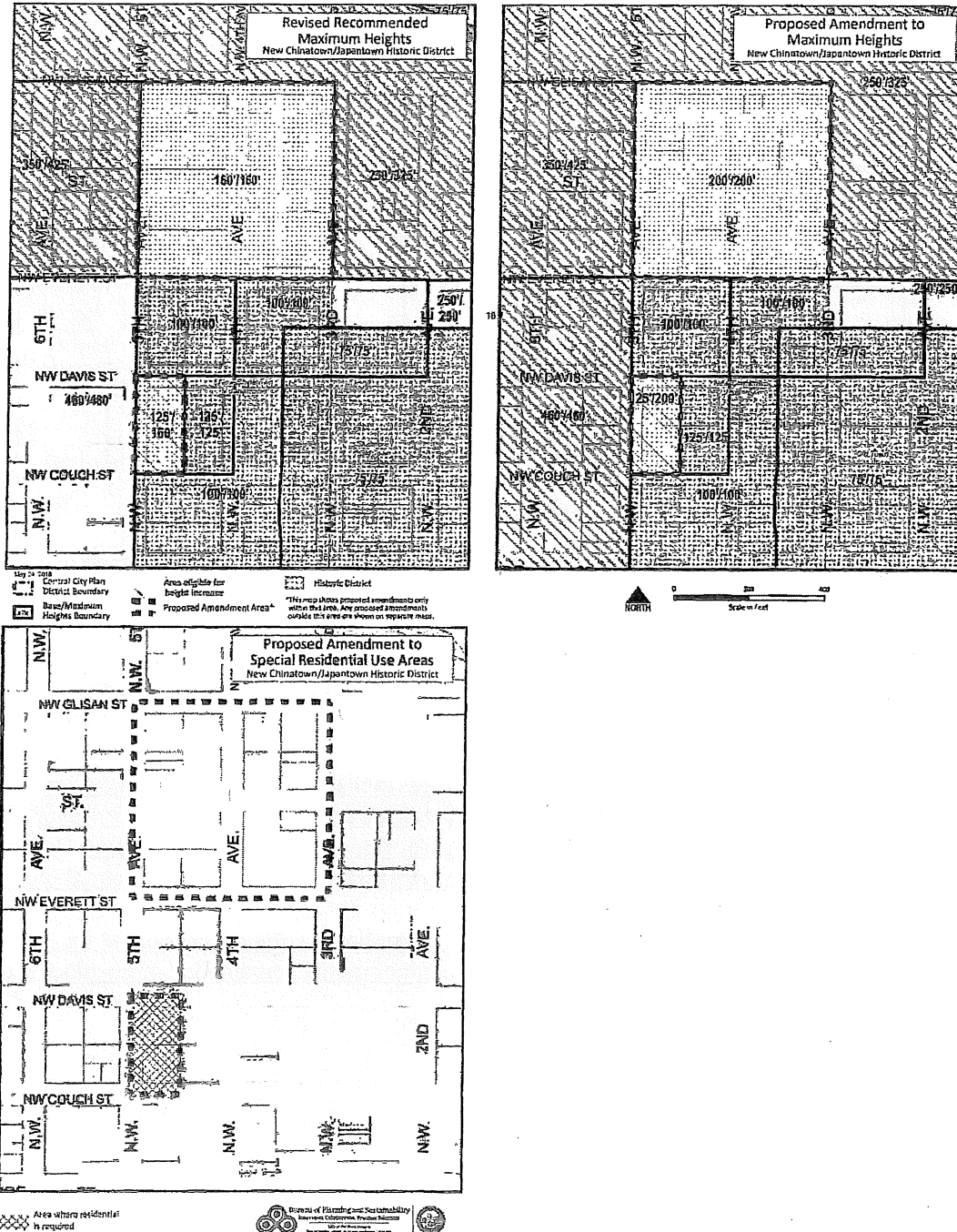
Code Section: 33.510.200.C.

Sponsor: Saltzman

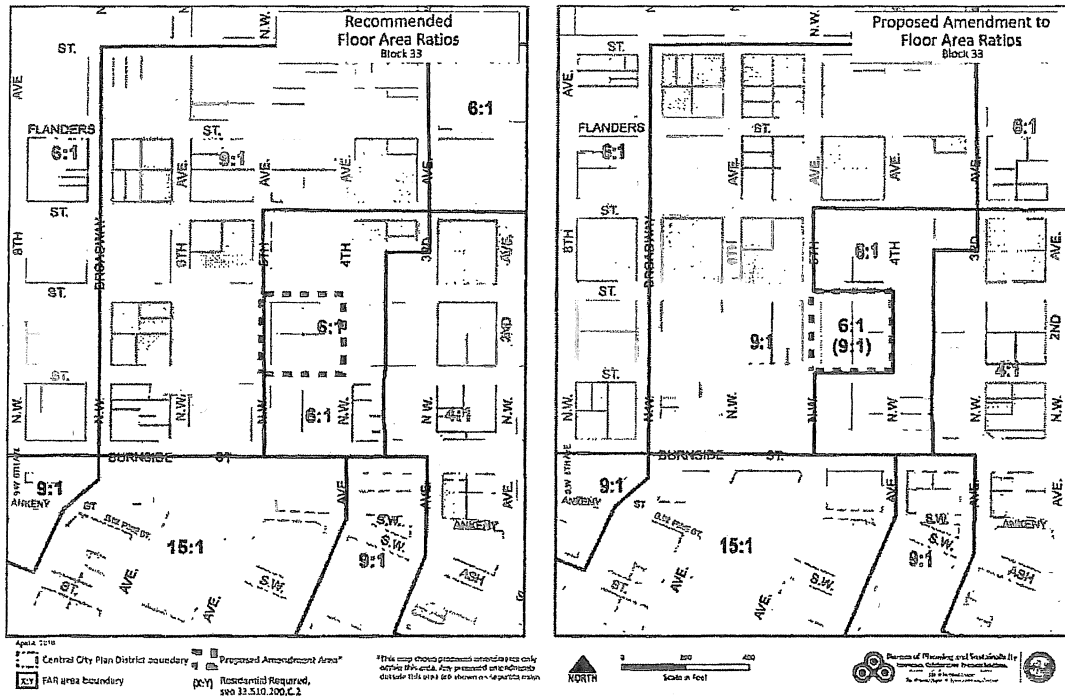
Explanation: This amendment does the following:

- **4 northern blocks of the New Chinatown/Japantown Historic District:** Increases the base heights to 200 feet on the 4 blocks.
- **Block 33:**
 - Increases the bonus height on the western ½ of the block to 200 feet. The base height remains at 125 feet for the full block. The affordable housing bonus is required to be used if the bonus height is used.
 - Increases base FAR to 9:1 on the full block if all floors above the ground floor on the western ½ of the block are in a residential use.

Amendments to Maps 510-3 Base Height and 510-4 Bonus Height



Amendment to Map 510-2 FAR



Code amendment:

33.510.200.C. Floor area ratio.

1. Generally, maximum floor area ratio (FAR) for sites in the Central City plan district are shown on Map 510-2. Maximum FAR can be increased on a site if FAR is transferred or earned through a bonus as allowed by 33.510.205, Floor Area Bonus and Transfer Options. Increases in FAR on a site are limited as described in Subsection D. Exemptions are in Subsection E.
2. On the site shown on Map 510-2 as requiring residential use, the maximum FAR for the entire site is 9 to 1 if all floors above the ground floor on the western half of the block are in a residential use.
3. [2 re-numbered as 3].

Portland Bureau of Planning and Sustainability (BPS)							
Action Identifier		Implementation Actions	Timeline			Implementers	
Geography	Code	Action	Next 5 years	6-20 years	Ongoing	Lead	Partner
Lower Albina	RC82	Consider zoning provisions for the IG1 zone east of the Union Pacific railroad alignment that allow compatible office-like uses, similar to the Industrial Office allowances in the Central Eastside. Implementation of these provisions should be accompanied by a Lower Albina parking strategy that explores on- and off-street parking strategies for workers and visitors.		X		BPS, PBOT	
Lower Albina	UD49*	Encourage and assist Lower Albina property owners to nominate their historic properties for designation as landmarks.			X	BPS	AHC, SHPO, ENA
Lower Albina	UD46*	Improve the design review approval criteria used for development proposals within the Russell Street Conservation District and design overlay zone within Lower Albina.	X			BPS	BDS
Old Town/Chinatown	HN19	Provide a housing tax abatement program for OT/CT.			X	BPS, PHB	County
Old Town/Chinatown	HN20	Encourage social service providers to locate queuing indoors.			X	BPS	PHB, County
Old Town/Chinatown	HN21	Encourage social service providers to locate retail uses on the ground floor with services above.			X	BPS	PHB, County
Old Town/Chinatown	HN47	Develop incentives that encourage new housing in the Naito Parkway/riverfront area.	X			BPS, Prosper	
Old Town/Chinatown	RC52	Develop and implement strategies, e.g. good neighbor agreements, to mitigate negative impacts of nightlife uses.			X	BPS	Prosper
Old Town/Chinatown	TR89	Improve access through the US Postal Service site to Union Station as it redevelops.		X		BPS	PBOT, Prosper
Old Town/Chinatown	UD54	Review and revise as appropriate the 4th Ave. "Bright Lights District" provisions of the Central City Fundamental Design Guidelines.	X			BPS	
Old Town/Chinatown	UD52	Update the National Register nomination for the New Chinatown/Japantown historic district. Review and revise as appropriate district boundaries, period and areas of significance, and list of contributing properties.		X		BPS	OTCTCA
Old Town/Chinatown	UD56	Explore opportunities for direct access to the Willamette River, (e.g. a beach), near the Steel Bridge.		X		BPS	PPR, Private, HAP, PWA
Old Town/Chinatown	UD84	Evaluate options for preserving public views of the White Stag sign from the Burnside Bridge and Eastbank Esplanade.		X		BPS	PPR

Prosper Portland (formerly Portland Development Commission)								
Action Identifier		Implementation Actions	Timeline			Implementers		
Geography	Code	Action	Next 5 years	6-20 years	Ongoing	Lead	Partner	
Old Town/Chinatown	HN47	Develop incentives that encourage new housing in the Naito Parkway/riverfront area.	X			Prosper, BPS		
Old Town/Chinatown	RC54	Explore the development of new and enhance existing financial tools to help fund seismic upgrades to the district's historic buildings.	X			Prosper	BPS	
Old Town/Chinatown	RC45	Support continued project and development opportunities and help fund development gaps that can bring transformative development on large opportunity sites.			X	Prosper		
Old Town/Chinatown	RC49	Identify financing and business strategies to renovate and seismically upgrade Union Station and maximize the potential of the station and adjacent parcels.	X			Prosper		
Old Town/Chinatown	RC53	Pursue investment partnerships for seismic upgrading and other real estate development.	X			Prosper		
Old Town/Chinatown	RC56	Provide predevelopment funds and technical assistance to enable property owners to complete full due diligence on underutilized properties.			X	Prosper		
Old Town/Chinatown	RC57	Implement incentives that encourage new development in the Naito Parkway/riverfront area including targeted clusters of commercial uses as identified in the Old Town/Chinatown Five Year Action Plan.	X			Prosper		
Old Town/Chinatown	RC43*	Implement the Old Town/Chinatown Five Year Action Plan.	X			Prosper	City	
Old Town/Chinatown	RC47	Actively pursue developers for City and Prosper Portland-owned properties, including Block 8, Block 25, Block A&N and Block R.	X			Prosper		
Old Town/Chinatown	RC51	Establish a district management entity to coordinate public space and event programming, fundraising efforts and district branding and promotion.	X			Prosper	OTCTCA	
Old Town/Chinatown	RC58	Pursue development of one or more new shared parking structures to serve various users in the district and replace lost parking as surface lots redevelop.	X			Prosper, PBOT		
Old Town/Chinatown	RC48	Explore the potential redevelopment of the Greyhound Terminal site by continuing to pursue moving bus operations onto Block Y.	X			Prosper	Private	

June 6-7, 2018

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **6TH DAY OF JUNE, 2018** AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Wheeler, Presiding; Commissioners Eudaly, Fish and Fritz, 4

OFFICERS IN ATTENDANCE: Karla Moore-Love, Clerk of the Council; Lauren King, Deputy City Attorney; and Nicholas Livingston and John Paolazzi, Sergeants at Arms.

		Disposition:
S-610	TIME CERTAIN: 2:00 PM – Adopt the Central City 2035 Plan; amend the Comprehensive Plan, Comprehensive Plan Map, Transportation System Plan, Willamette Greenway Plan, Scenic Resources Protection Plan, Zoning Map and Title 33; authorize adoption of administrative rules; repeal and replace prior Central City plans and documents (Second Reading Agenda 538; introduced by Mayor Wheeler) 30 minutes requested for items 610 - 614 (Y-3 Eudaly, Fish, Wheeler. N-1 Fritz.)	SUBSTITUTE 189000 AS AMENDED
611	Amend the Central City Plan District of the Zoning Code to increase bonus heights and impose master plan requirements in certain RiverPlace subareas (Second Reading Agenda 539; introduced by Mayor Wheeler; amend Code Sections 33.510.210.D and 33.510.255, and Maps 510-4, 510-16 and 510-19) (Y-3 Eudaly, Fish, Wheeler. N-1 Fritz.)	189001 AS AMENDED
S-612	Adopt the Central City 2035 Plan, Volume 2A, Part 3, Environmental and Scenic: amend the Portland Zoning Map, and Portland Zoning Codes for Environmental Overlay Zones, and Scenic Resources, and amend the Scenic Resources Protection Plan (Second Reading 528; introduced by Mayor Wheeler; amend Code Chapters 33.430 and 480) (Y-3 Eudaly, Fish, Wheeler. N-1 Fritz.)	SUBSTITUTE 189002
613	Adopt the Central City 2035 Plan Action Charts, Performance Targets and Urban Design Diagrams (Previous Agenda 529; Resolution introduced by Mayor Wheeler) (Y-4)	37360 AS AMENDED
614	Adopt the Central City 2035 Plan Green Loop Concept Report (Previous Agenda 530; Resolution introduced by Mayor Wheeler) (Y-4)	37361 AS AMENDED

At 2:53 p.m., Council recessed.

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a detailed and lengthy debate on window fritting patterns and I also want to acknowledge the work bureau of environmental services did with the Audubon society produce a draft of what I believe to be the first ever first bird safe administrative rule of its kind in the entire country.

Edmunds: That's our understanding.

Wheeler: That is buried in here as well and I want to acknowledge that. So okay, the first item of business is on 526.

Fish: Mayor I just have one question.

Wheeler: Commissioner Fish.

Fish: Sallie, we're not taking testimony today?

Edmunds: That's correct.

Fish: So when you identify something we're going to vote on as a minor or technical amendment or amendment package, what we can assume at least with respect to these issues is that we have not received any commentary from the public that's opposed to the action we're taking. Is that fair?

Edmunds: That's correct. These are truly errors that we found. For example in one case we found that you had adopted an additional map that you didn't need to adopt so we're removing that map. Couple of other cases there were missing words that were in an earlier draft and were not carried over into -- yeah.

Fish: That's helpful. Thank you.

Wheeler: Very good, first item of business is on item 526. That's to accept the substitute main central city 2035 ordinance. I move to accept the substitute main central city 2035 ordinance.

Fish: Second.

Wheeler: And all the associated exhibits as described in attachment b on the May 24th bps memorandum. I have a second from commissioner Fish. Is there any further discussion on these items? There being none, Karla, could you please call the roll on the vote to accept the substitute ordinance and exhibits.

Fish: Aye. **Saltzman:** Aye. **Eudaly:** Aye. **Fritz:** Aye.

Wheeler: Aye. Substitute ordinance and exhibits are approved. Next up are additional amendments to the substitute main ordinance on 526. Rachael, want to get us started?

Edmunds: Rachael is not here at the moment so as I said next we have a few minor and technical amendments that we found through the course of preparing the draft and think you could move as a package. If there are any you would like to know more about we would be happy to go over them.

Fish: I move them as a package.

Wheeler: Ok we have a motion and we have a second to approve the minor and technical amendments to the substitute main central 2035 ordinance. Is there any further discussion? There being none, Karla, could you please call the roll on the minor and technical amendments.

Fish: Aye. **Saltzman:** Aye. **Eudaly:** Aye.

Fritz: Thanks again to staff and to Claire in my office for going through these with a fine tooth comb. Aye.

Wheeler: Aye. Motion carries. Next we have a major amendment to the amended substitute ordinance for item 526. Commissioner Saltzman, I believe, this is your amendment. Do you have a motion to make?

Saltzman: Yes, I do I move to adopt the new chinatown/japantown amendment as written in attachment a, part 2, of map 24 of the map 24 bps memo and this amendment increases the bonus height on the western half of block 33 to 200 feet. The base height remains at 125 feet for the full block. The affordable housing bonus is required to be used if the bonus

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refine base zoning in historic district to take into account the character of the historic districts in this historic resources in the district. This amendment is in direct conflict with these policies. If the district's northern blocks are given 200 feet height for base height it would create incentive for demolition of smaller contributing properties in the 10-block new town Japan town historic district and will put the district at risk for being delisted when these contributing properties are gone. We have heard from historic preservation advocates and members of old town Chinatown community association that increasing the height on 40% of the districts, 50% with block 33, without any consultation with the district is unacceptable and we will be putting at risk the health and success of Ian su Chinese garden. The property on block 26 to the west of the garden is not subject to the shadow study standard that intended to ensure that parks and open spaces are not negatively impacted by reducing access to light and warmth. Block 26 is not subject to the shadow study standard as it's not eligible for bonus height. And to that end and actually it's even beyond that with the increase in the floor area ratio there can be unlimited transfer floor area ratio from the historic properties which I believe will happen under this amendment. So, colleagues, let's not do another Albina, let's not rush into something because certain developers have asked us to. Why don't we see whether it works to increase the 130 which was the compromise and now its being asked to compromise in the compromise and come back if we don't get the kind of development we want?

Wheeler: Commissioner Fish.

Fish: Thank you.

[applause]

Wheeler: Folks just as a reminder the council rules, just let everybody speak. Thumbs up if you like something, thumbs down if you don't like something. Just helps us keep the flow going. Commissioner Fish then commissioner Eudaly.

Fish: Mayor, I have three questions and I don't know whether they are directed to staff or to the sponsor, but having -- joe, are you going to join us? Joe Zehnder?

Joe Zehnder, Bureau of Planning and Sustainability: Yes, sorry.

Fish: Are you going to join us for a second.

Zehnder: We're troubleshooting here.

Fish: So, I have three questions and I don't know whether they're appropriately directed to you or to the sponsor, but I'll pose the question and ask either of you to respond to it. Like commissioner Fritz, I have received a fair amount of correspondence mostly in the form of emails and letters from people raising significant principled objections to this amendment. First question I want to ask is do we have anything in the record currently from any community organization, any of our advisory bodies or anyone in the community that supports this amendment?

Zehnder: The amendment for the change of height north of Everett I'm not sure that we have testimony and support of that.

Fish: Ok, the second question that I want to raise.

Zehnder: Excuse me, commissioner. We have testimony absolutely in opposition of reducing the heights there from property owners. So, that's the other part of this.

Fish: The second question I want to raise is we spent a fair amount of time during this process addressing the concerns of one property owner at block 26, and I'll refer to that as the Menashe property because Mr. Menashe was the owner and potential developer who felt most aggrieved by a decision we made to reduce the height limit on his property from over 300 feet to 160 feet. We had some extensive conversations as a council about whether 160 feet was the proper limit or not. My recollection is despite Mr. Menashe's pleas and his lawyer's pleas the council finally agreed that 160 feet should be the height limit on his property. Is that correct?

Zehnder: Correct.

Fish: And Joe would you remind me, what was the principal reason -- Mr. Menashe is obviously in a different position than the developer in block 33. Because here we're contemplating increasing the height. In his instance, in his case he was faced with a significant reduction in the allowed height for his property. What was the principal reason that we settled on 160 feet at block 26?

Zehnder: It was based on the height of the existing structure just to the west of this block. So already in this district that could get up to 425 I believe with bonus there's an existing tower of 160. So, even though and the historic district is adopted I believe after the 160 foot tower was built. So, the datum, the ceiling has already been set there. If we're going to try to bring heights down to something closer to what the heights should be rather than the 425 that predates the historic district, we use that existing precedent to set the bar. Part of what we're thinking is if the precedent really now is what we're proposing to see done in block 33, we would just apply that. That's the new ceiling. There's no particular science to that.

Fish: Okay and I guess prior to this hearing my assumption was if you raise the height and I think it was the assumption of most of my colleagues after the last hearing, that if you made an adjustment on block 33, we would have to in all fairness make an adjustment on block 26. How did that grow to the four northern blocks? Why has this expanded to cover more space?

Zehnder: You know, one of the principles that we try to build into this kind of allowance decision is treating properties in like situations in a like way. So making the distinction between the other three blocks or four blocks in that area compared to this one, the Menashe block is what we're calling it, we didn't see a clear case. One could make a policy case for that distinction. We chose to apply it to treat all like blocks in the same way.

Fish: My final question is probably maybe to the mayor. I was the author of the amendment that now requires that in order to access any bonus, height bonus the developer must use inclusionary housing. So whatever we decide today there is now baked into what we have decided a requirement that the height is linked to inclusionary housing. I think that's --

Zehnder: On block 33 that's true.

Fish: On block 33, but not on the other locations?

Zehnder: On the other locations it would be base height.

Fish: So it would not be subject to a bonus.

Zehnder: It would be subject -- well. They have 9-1 floor area, commissioner. To get to what it would take to build to that height they are going to need extra floor area, so they do have access, I believe, to the inclusionary housing bonus they just don't get bonus height. They have base height.

Fish: So, I guess the question that I would ask of the sponsors is now that we have settled the question that additional height is subject to inclusionary housing, I guess we can argue about whether there are some additional units to be gained between 160 and 200 feet, but I understood the bigger concern out of coming out of the last hearing was whether 160 feet and the terms we established were sufficient to generate development at that site. I guess my question is, has the developer informed anyone on council that the current zoning for that site would not be feasible for development? Commissioner Saltzman said this change could potentially give us additional housing. I care deeply about housing, and I was the author of the amendment, but what I understood the last time we had this discussion and this is beginning to feel like groundhog day, was that the concern was whether it would be economically viable to develop this site under the terms we set, and my question is, has the developer notified the city that it would not be feasible to develop under existing

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zoning?

Wheeler: I will answer that question for my part. I have not had such a conversation with the developer, but that's not my reason for voting for this and I'm listening to the conversation and I'm still persuaded. You mentioned the difference between and we were talking about a 40 foot difference here. We're talking about a practical decrease in the existing heights to the north, and let's not forget what block 33 is and has been for decades. It's a surface parking lot. This city went to Salem along with others for the purpose of declaring surface parking lots to be defined as blight and therefore something that is not desirable. So we have waited for decades for there to be development on this site and we have not seen it. We're now near the end of the development cycle that is broadly accepted. I believe with 200 feet based on what I understand to be the process and I'm going to ask a few follow-up questions in a moment, there's not a substantial difference in terms of impact yet there's potentially a significant difference in terms of affordable housing opportunities as well as housing generally in this area where currently people could build higher to the north and there's nothing built on block 33. So I want to go through a couple of these cause commissioner Fritz made some very compelling statements and she read what I thought was some really thoughtful and detailed testimony, but I don't buy a lot of it and so I guess I want to ask a couple of questions. Could you tell us what the process is if a developer decides they want to develop let's say on block 33, what is the process they go through with regard to historic district, with regard to shading, with regard to lan su, and its impact things like that.

Zehnder: Well on block 33 what is intended is that it's in the historic district. So we go through landmarks commission review that would review the proposed building in light of both the allowances on the site and the historic district guidelines that were recently adopted and developed and adopted as part of this project. So, that's the process it goes through. It's a type 3 I believe.

Wheeler: Sorry to interrupt. I want to jump to the punch here. If the historic landmarks commission decided that what was being proposed would jeopardize the historic district wouldn't that be an opportunity for them to intervene?

Zehnder: The landmarks commission indeed could determine that the plan as submitted is not acceptable and that it would be appealed.

Wheeler: Tell me about shade particularly on Lan Su. We all love Lan Su. I was engaged at Lan Su. [speaking simultaneously]

Zehnder: It would be affected by the menashe building, not block 33 and we have a height or shade study requirement that defines certain days of the year where you have to model the design and massing of the building and demonstrate whether or not a certain percent of the affected parcel, the park, is in shade. I don't know the exact times and dates but staff does.

Fritz: The council is very familiar with that because we just waived that on the Fremont apartments. So, there's absolutely no guarantee that would protect lan su.

Wheeler: Is there anything we would be voting on that would change that requirement with regards to shading?

Zehnder: Not the ability not to -- the appeal -- if it was -- if it did not meet the standard --

Fritz: The standard could be modified or adjusted, right?

Zehnder: The standard could be modified and adjusted.

Wheeler: We could do that regardless.

Zehnder: It could be modified or adjusted or it could be chosen not to be modified or adjusted and then it would be kicked back to city council.

Wheeler: Thank you.

Eudaly: Mayor.

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Wheeler: Commissioner Eudaly.

Eudaly: Thank you. Yeah I'm not buying many of these arguments either. First of all I just have to say, the raising the specter of Albina in this conversation is absurd. Albina was a thriving business and residential community, predominantly african-american, which was decimated by urban renewal and Emanuel hospital and the freeway and at the coliseum. Our Chinatown historic district unfortunately is not a thriving business or residential area. For anyone and businesses are struggling, and they could certainly use more housing. Secondly, I would never think that anyone who is remotely familiar with my position on housing would never think that the argument that we don't need affordable housing would fly with me. I frankly find that offensive. Market rate housing is affordable to people earning 120% or more of median income and when we're talking about affordable housing in regards to inclusionary zoning, we're talking about housing that's affordable to people at 60 and 80% of mfi, median family income. And those are many people who do vital work in our city and are not somehow less desirable neighbors than those who can afford market rate rents. Thanks for reading the letter, I'm going to read a letter from John Tuft from the heritage consulting group. Dear mayor and commissioners I welcome the opportunity to comment regarding the proposal to modify the height limit on block 33. As many of you know my company heritage consulting group is a national leader in cultural resource evaluation and particularly in securing rehabilitation tax credits in the redevelopment of historic buildings. We count among our clients individuals, local and national developers, affordable housing agencies as well as local, state and federal governments. I founded heritage in 1982, for many years my office was in the merchant hotel in old town. I was fortunate the council, Naito and Bing Sheldon are personal friends have been involved in most major rehabilitation projects in Portland, our city hall, to the Multnomah hotel and the Benson house, Montgomery park. In total we evaluated thousands of buildings and have listed over 350 properties on the national register. The discussion before you is an interesting one. The first aspect I would like to comment on is the question of the national register district being delisted. It's put out every time there's a major change proposed in an historic district. You will recall that the same people today saying the district will be delisted said the same in the dirty discussion in 2010. To the best of my knowledge no national register district in the country has ever been delisted. Still there there have been individual properties removed from the national register. Only automatic removals are those situations where the building is removed from the national register. The only automatic removal are those situations where the building is moved or the entire resource is destroyed. I don't think a surface parking lot counts as a historic resource. The process to delist is a reverse of the listing process. Someone would need to proactively prepare a nomination that explains why the district no longer warrants historic designation. That nomination would be reviewed and commented on by the Portland landmarks commission, Oregon state preservation office and the Oregon state advisory committee. It would be unheralded for the national park service, the state historic preservation office or the national trust to undertake such an effort. I also want to remind you that the district was listed for its association with Japanese and Chinese communities in the city. Unlike a architectural resource the national register typically has greater flexibility when the site is important for its associative value. That's from the 16 story 160 foot pacific tower apartments was built in 2003. Later the state historic preservation office, nor national park service felt compelled to question integrity or viability of the district. I can comfortably say I have never heard anyone denigrate the historic value of this district because of pacific tower. The second offset that I think is important here is that this development will not involve demolition or alteration of any historic building in the district specifically referring to block 33 to be cleared is not referring to the three other blocks. I just wanted to be fair and

May 23-24, 2018

about issues of history and process and equity and fairness and those are very important principles. Each of us are going to make our own judgments about how they apply to any issue before us, but I found in the totality those concerns compelling. While I appreciate the exchange that I had with Joe Zehnder, who has spent a lot of time coaching me on the basics of land use and zoning, I still frankly cannot reconcile the way that this council approached, block 26, and then block 33 and I thought that the council was very clear about why they thought 160 feet was appropriate at block 26 and after all Mr. Menashe came into this process at the beginning. He had a lawyer advocating for him throughout, he had a, I thought, a particularly compelling claim since he had owned the property for a long time with a height that was well above where we landed and yet, this council felt that 160 feet under those circumstances was appropriate. This is not even an 11th hour appeal to the council. Completely reversed equities, no promise of any future development. The only thing that we know for sure is that through this action, this land is going to become substantially more valuable with no promise of any future development. I can't square the two and because of the limited amount of time that we have to evaluate this, I have to go on my instinct and my instinct says that we are making a mistake. While I am very pleased and grateful that this council has made clear that whatever our decision, any future height increases will be linked to a bonus for affordable housing, and I think that was very important, and frankly, I compliment staff for having crafted that mechanism because we, essentially, imported something that did not really apply to a historic district from outside the district, and so regardless of the outcome of this vote, we have ensured that there will be affordable housing. I cannot support this amendment and therefore, I vote no.

Saltzman: Aye.

Eudaly: So we really don't have consensus in the neighborhood, with the residents, the community members, the businesses and even advocates for historic preservation are not in agreement on this item. So it's been a tough job to sort through these issues and we have spent many hours reading all the testimony, listening to the staff, and subject matters, and members of the community. And to be clear, there are many people, in particular business owners in that neighborhood that are desperate for change to come in order for it to become a more viable place to live and do a business. As I said before, my two primary concerns are the integrity of the historic district status, which is not necessarily at risk, and because any future developments will have to go through landmarks, I feel moderately comfortable with, and any impacts on the garden, which I think we all agree were committed to avoiding, and that may mean the developer doesn't get to take advantage of the full height that we are extending. What, I think what we have to consider today is what does the city need, and the city needs more housing and the city needs more vibrant neighborhood in Chinatown old town and the businesses need more people on the street. So I think, that's it I vote aye.

Fritz: This is a really sad day, and I am sorry, thank you for those of you who came representing the Chinese, Japanese communities, thank you for those who came for the Lan Su Chinese garden. We know what we are doing here, we are destroying the district. Half of the district will be gone and the developers would not have asked for the increased height if they did not plan to demolish the existing buildings, so four contributing buildings will be gone and four or five blocks does not make a historic district. There is no support. I have heard no support from the community for the additional four blocks. We are supposed to be doing treating zoning where people should be able to expect that they can develop something like what the zoning code allows them to do, and that was one of the reasons that we reduced the height because the historic landmarks commission told us that it was almost impossible. In fact, impossible to develop at the heights that were previously allowed. So that this whole central city plan and the comprehensive plan have

April 4, 2018

- 326 Adopt the Central City 2035 Plan; amend the Comprehensive Plan, Comprehensive Plan Map, Transportation System Plan, Willamette Greenway Plan, Willamette River Greenway Inventory, Scenic Resources Protection Plan, Zoning Map and Title 33; repeal and replace prior Central City plans and documents (Previous Agenda 289; Ordinance introduced by Mayor Wheeler)

Motions & Votes 04/04/18 Refer to BPS staff 4/4/18 voting guide-revised.

1. **Currently on table from 3/22:**
Block 33 amendments Wheeler **C1** and Saltzman **C2**.
Portland Public Schools. The vote on the amendment regarding access on public school sites in the Central City is postponed.
2. **Motion to adopt Fish amendment C3 for Block 33 to allow the height increase to 160' on the western half of the block through bonus height, and require the owner to use affordable housing bonus:**
Moved by Fish; seconded by Wheeler.
3. **Motion to amend Saltzman C2 to remove the Historic Resource Review exemption:** Moved by Saltzman and seconded by Wheeler.
4. **Fish amendment to C1, C2 to require any height above 125' be subject to the housing bonus.** Moved by Fish and seconded by Eudaly.
(Y-4; N-1 Fritz)
5. **FISH motion C3 withdrawn.**
6. **Roll on Block 33 C2 as amended twice: Increase maximum building height from 125' to 200' on the western half of the block. Eastern half block retains recommended 125'. Any height above 125' is subject to the housing bonus. Increase FAR from 6:1 to 9:1. Maintain Historic Resource Review:** (Y-2 Saltzman and Wheeler. N-3 Fritz, Fish, Eudaly). Motion failed.
7. **Roll on Block 33 C1 as amended: Increase maximum building height from 125' to 160' on the western half of the block. Eastern half block retains recommended 125' height. Any height above 125' is subject to the housing bonus. Maintain FAR at 6:1. Maintain Historic Resource Review of FAR and height:** (Y-4; N-1 Fritz)
8. **Amendment E1 regarding top of bank in relationship to structures such as docks or wharves was withdrawn by Wheeler.**
9. **Motion to accept correction to North Pearl height to return the code to its current meaning:** Moved by Wheeler and seconded by Eudaly.
Vote not called.
10. **Motion to accept bird safe glazing amendment to clarify when glazing next to an eco-roof is required and other technical corrections:** Moved by Wheeler and seconded by Saltzman. Vote not called.
11. **Motion to accept amendment to transfer Floor Area from a Historic Resource to be clear that all buildings must show that they meet or exceed the specified Oregon Structural Specialty code section:**
Moved by Wheeler and seconded by Saltzman.

CONTINUED TO
APRIL 11, 2018
AT 4:30 PM
TIME CERTAIN

April 4, 2018

Wheeler: Does anyone else want to testify on any of these amendments? All right, very good.

Fish: Any other amendments that have been offered?

Wheeler: Not that I'm aware of.

Eudaly: I think mine comes later.

Wheeler: That concludes our hearing on these particular amendments. I would like to close the written record but leave the written record open until April 11 at 4:30 p.m. Time certain when we'll come back for a vote on any remaining amendments. If people would like to comment on these they are certainly welcome to. Sally, can you go over the next steps, please.

Edmunds: Just a clarification, closing the oral record now, leaving the written record open.

Wheeler: That's correct. Sorry. There's a typo on my cheat sheet. I apologize.

Edmunds: So next steps, these are the sessions that are still on the calendar for central city 2035 for your review. So we'll be back here on April 11 at 4:30 time certain to vote on those three amendments that you were just subject to the public hearing.

Wheeler: Good.

Edmunds: Thank you very much.

Wheeler: There being no further business that portion of the hearing is adjourned.

[end of excerpt]

March 21-22, 2018

289 Adopt the Central City 2035 Plan; amend the Comprehensive Plan, Comprehensive Plan Map, Transportation System Plan, Willamette Greenway Plan, Willamette River Greenway Inventory, Scenic Resources Protection Plan, Zoning Map and Title 33; repeal and replace prior Central City plans and documents (Previous Agenda 260; Ordinance introduced by Mayor Wheeler)

1. **Motion to adopt amendment A, allow surface parking for a public school use in the Central City:** Moved by Wheeler and seconded by Fish. Y-5

2. **Motion to adopt amendment B, exempt public school uses from superblock regulations in the Central City:** Moved by Wheeler and seconded by Fish. Vote not called.

3. **Motion to adopt amendment C, increase maximum building height from 125' to 160' on half of Block 33:** Moved by Wheeler and seconded by Eudaly. Vote not called.

4. **Motion to increase amendment C, maximum building height to 200':** Moved by Saltzman and seconded by Wheeler. Vote not called.

Roll call on motions held over from January 18 & March 7:

5. **Item F-J and L minor and technical package amendments:** Y-5

6. **Item AR 15 and New K -- Height and FAR at Big Pink, Wells Fargo and Pac West:** Y-5

7. **Item New A-B, I-84 viewpoints on new pedestrian bridge:** Y-5

8. **Item New C-D, Upper Hall viewpoints:** Y-4; N-1 Fritz

Item E top of bank rescheduled to April 4, 2018.

Item M trail commentary item withdrawn. Commentary discussion is part of the record.

RiverPlace amendments from March 7:

9. **Request to reconsider March 7 RiverPlace 2A1 #7 and #10 vote:** Moved by Eudaly and seconded by Wheeler. Y-3; N-1 Fritz; Saltzman recused himself on Riverplace votes.

10. **RiverPlace #AR7 RiverPlace bonus height:** Y-3; N-1 Fritz. Saltzman recused himself.

Item AR 10 RiverPlace special tower orientation, withdrawn.

**CONTINUED TO
APRIL 4, 2018
AT 2:00 PM
TIME CERTAIN**

290 Adopt the Central City 2035 Plan Action Charts, Performance Targets and Urban Design Diagrams (Previous Agenda 261; Resolution introduced by Mayor Wheeler)

**CONTINUED TO
APRIL 4, 2018
AT 2:00 PM
TIME CERTAIN**

291 Adopt the Central City 2035 Plan Green Loop Concept Report (Previous Agenda 262; Resolution introduced by Mayor Wheeler)

**CONTINUED TO
APRIL 4, 2018
AT 2:00 PM
TIME CERTAIN**

At 4:30 p.m., Council adjourned.

March 7-8, 2018

planning and sustainability. The tallest contributing building in the district is the prosper Portland building, which is around 85 feet in height. That is just south of Everett.

Fritz: So, this would be double the height of that.

Spencer-Hartle: That's right.

Fritz: Do you have any other thoughts from the landmarks commission?

Spencer-Hartle: So one thing I will say is that council adopted in October new design guidelines to be used in this historic district. Then guidelines don't specify the height as a standard. They do talk about relationship with existing buildings. So the commission regardless of what height you set will be looking at a site specific response for new infill development. They do have the review authority to deny a project which could bring it to this body on appeal for a broader discussion about where the concern about unraveling the district may come from.

Fish: Can I make a comment? One thing about this one that just on an equitable level I feel bad about is that you have a property owner that's covered by what we're about to do from -- it's a long time long term owner of a piece of property and a family that's done a lot for our community, who as a result of this action is going to see the maximum height on a piece of property held over time cut in less than half. There may be no way around this given the balance of maintaining the integrity of the historic district and the absence of -- other comparatives. But I don't want us to lose sight of the fact that someone who has purchased and retained for a long time a piece of property that as of right could have been developed to twice the height that we're proposing here is going to take about a 55% haircut. I appreciate all the arguments about context and historical districts and all the things we're trying to balance, but I also have to say I'm sympathetic to someone who has just seen essentially a nest egg in something that he's invested in over the time significantly reduced in value because of what we're doing. So, I don't want to lose track of that part of this.

Spencer-Hartle: If I may, commissioners, one of the considerations that we had in all the historic districts was the existing floor area ratio on the properties and so what we didn't do is lower heights so far that one could not use their base and in many cases the bonus far on the site thinking that in the future there may be further opportunities for refinement or review for specific districts. In this case at the 125 foot height level we believe that the property owner could use their base height at the 160 foot level they could use their base and 3-1 bonus height. We thought about what the existing far entitlement in addition to the height entitlement was for specific sites recognizing that we have a floor area transfer program. If we set the height so high one may transfer far from other places that sets up a dynamic that landmarks commission is concerned about and for those contributing buildings which there are many north of Everett property owners can transfer their floor area ratio off of the building somewhere else.

Wheeler: Any further questions on this item before I call the question? Please call the roll Karla.

Fritz: No. **Fish:** Aye. **Saltzman:** Aye. **Eudaly:** Aye.

Wheeler: Aye. The amendment is adopted. Next item. View of the vista bridge. This is amendment 21 in the amendments report. This is southwest Jefferson street and southwest 14th avenue, the view of the vista bridge and west hills. Mindy do you want to tee us up on this?

Mindy Brooks, Bureau of Planning and Sustainability: Sure. The amendment is to not increase the heights along the north side of southwest Jefferson and maintain the existing heights of 30 to 45 feet. The map on your left shows the recommended draft heights that increase the height and the draft on your right is the proposed amendment to retain the heights there.

January 17-18, 2018

percent, why? To benefit extractive industries, especially uranium miners whose past activity has already poisoned Navajo water sources. It's the interest of Navajo, hopi, utes, et cetera, being despoiled for the benefit.. for private financial benefit of bilagaana, bilaganna are white men. Pin America private profit almost always trumps the public interest. Well, I would ask you to take the smallest of steps to take Portland off the same page as my fellow alum, Mr. Trump, full disclosure, he graduated in the class after me, so pass the amendments to protect our iconic views.

Wheeler: Appreciate it. All right. That concludes our hearing on the central city 2035 amendments report. Just a reminder, the record will be left open for written testimony until tomorrow, Friday, January 19, at 5:00 p.m., so if you are not able to be here today and testify, you still have that opportunity to do so.

Fritz: Mayor may I ask a question about that?

Wheeler: Commissioner Fritz.

Fritz: Is your staff actually going to start working on it at 5:01 tomorrow or would it be possible to extend the deadline until noon on Monday?

Saltzman: They're hard work staff, I know that.

Fritz: I know they're very hard working, but I personally think that people having especially for the amount of work that's gone into this particular hearing you should be able to take the weekend off. And I think certainly I would appreciate extending the deadline to noon on Monday.

Wheeler: Is there any objection? Seeing none, we will revise that, the record will then remain open until Monday, January 21 at 12:00 noon. I think that's great, thank you, commissioner Fritz. I'm sorry, the 22nd, what did I say? January 22, Monday, January 22, 12:00 noon. As I mentioned earlier, I'd like staff to draft amendments for the upper hall view issue, we moved and seconded today, I'd like that published please for review by March 2 and in consultation, I understand that's fine, on march 7 I'd like to begin our session with a public hearing on that particular amendment then I'd like to close the hearing and then deliberate on the amendments report and the other amendments that we moved and seconded at the beginning of the hearing today. Is there anything else that anybody would like to do or say before we adjourn?

Lauren King, Deputy City Attorney: What time is the march 7 meeting we should announce that as well.

Moore-Love: 2:00 p.m.

King: It's a 2pm time certain, thank you.

Wheeler: So the march 7 meeting will be 2p.m. time certain march 7. Thank you everybody, who testified today, excellent testimony, great points raised by all, we are adjourned.

At 5:24 pm council adjourned.

October 18, 2017

A RECESSED MEETING OF THE COUNCIL OF THE CITY OF PORTLAND, OREGON WAS HELD THIS **18TH DAY OF OCTOBER, 2017** AT 2:00 P.M.

THOSE PRESENT WERE: Mayor Wheeler, Presiding; Commissioners Eudaly, Fish, Fritz and Saltzman, 5.

Commissioner Saltzman arrived at 2:05 p.m.

OFFICERS IN ATTENDANCE: Karla Moore-Love, Clerk of the Council; Lauren King, Senior Deputy City Attorney; and Adam Cuellar and Jim Wood, Sergeants at Arms.

	Disposition:
<p>1146-1148 TIME CERTAIN: 2:00 PM</p> <p>Central City 2035 Plan items continued from September 20, 2017 hearing.</p> <p>On October 18th Council discussed issues of interest and considered draft amendments to the main components of the plan. No votes or public testimony were taken.</p> <p>On January 18, 2018 at 2pm there will be a hearing on the final proposed amendments. At that time the record will reopen for testimony on the amendments.</p> <p>For more information see project website www.portlandoregon.gov/bps/cc2035</p> <p>1146 Adopt the Central City 2035 Plan; amend the Comprehensive Plan, Comprehensive Plan Map, Transportation System Plan, Willamette Greenway Plan, Willamette River Greenway Inventory, Scenic Resources Protection Plan, Zoning Map and Title 33; repeal and replace prior Central City plans and documents (Previous Agenda 1041; Ordinance introduced by Mayor Wheeler) 3 hours requested for items 1146-1148</p> <p>Motions made. No votes taken:</p> <p>B1 – Old Town/Roseland Theater height: Moved by Wheeler and seconded by Saltzman.</p> <p>B2 – New Chinatown/Japantown height (historic): Moved by Wheeler and seconded by Fish.</p> <p>B3 – Old Town/Chinatown height (non-historic): Moved by Wheeler and seconded by Saltzman.</p>	<p>CONTINUED TO NOVEMBER 29, 2017 AT 4:00 PM TIME CERTAIN</p>

C2. Block 33--Saltzman Amendment (amended on the floor on March 22, 2018)

Code sections: Amend Map 510-2: FAR, Amend Map 510-3: Base Height, Amend Map 510-4: Bonus Height, Add new Map 510-24: Special Historic Landmarks Review Provisions, Amend chapter 33.846.060

Sponsored by: Saltzman

Explanation: Commissioner Saltzman requested the following amendments to apply to Block 33. See the code and map amendments below.

- Increase height on the western half of Block 33 from 125' to 200'
- Increase FAR from 6:1 to 9:1
- Exempt Block 33 from Historic Resource Review

Amended Code:

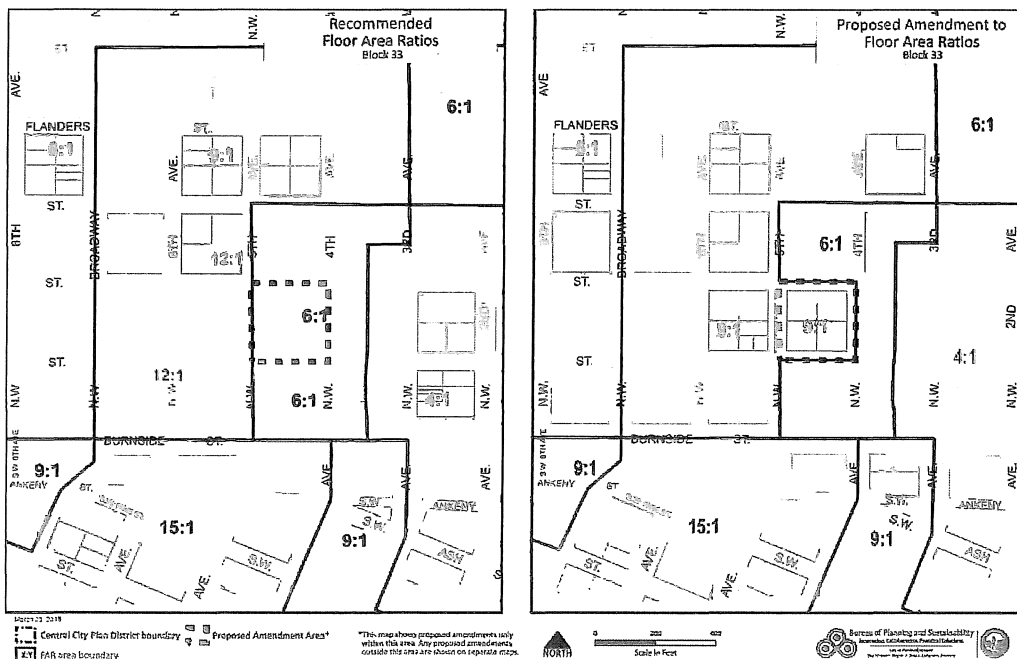
33.846.060 Historic Resource Review

A.-D. [No change]

E. Limits of historic resource review. For development on a site shown on Map 510-24, the review body cannot reduce proposed floor area or reduce proposed height below the amount of floor area or maximum height allowed by the base zone, overlay zone or plan district.

Re-letter E. through G. to be F. through H.

Floor Area Ratio Map



Increase Height and FAR for the west half Block 33 adjacent to the 5th & Couch MAX Station in the Chinatown/Japantown Historic District.

Code sections: 33.510.200.B; 33.510.205; :

Sponsored by: Wheeler

Explanation: This amendment increases the height and FAR for the west half of Block 33, which is the only vacant block adjacent to a Max station in a historic district in the Central City. There are no historic resources on this site, which is currently used for surface parking. A different height amendment in this historic district proposed a uniform 160-foot maximum height over several blocks; this amendment proposes a stepped maximum height of 200 feet on the west half of the block facing the MAX station, along with the previously planned 125 feet on the east half of the block, in order to more gradually taper building heights down from the 460 feet allowed west of 5th Ave to the 100 feet allowed to the east of 4th Ave. It also raises the base FAR to 9 to 1, with an increase to 12 to 1 when at least 33% of the floor area is residential, consistent with neighborhood goals of additional market rate housing to catalyze this challenged area.

The DOZA report approved by the City Council recommends that the objective height and FAR standards in the zoning code be entitlements that are not subject to later reduction in design review. This proposal applies that policy to historic design review for this block, while preserving the Historic Landmarks Commission's discretion regarding all other historic design guidelines.

Commentary: The intent is to increase housing adjacent to the Max station, and preliminary sketches forecast 324 apartments in the tower facing 5th Ave. The lower height limit on the east half of the block is not being changed. The Old Town Chinatown Neighborhood Association supports the proposal as a means to catalyze redevelopment of this struggling area.

The development community lacks confidence in the maximum height and FAR regulations in historic districts and the Central City, because discretionary design review is unpredictable and commonly reduces building size, and thereby reduces housing and business opportunities. The City Council accepted the DOZA report and directed staff to implement it, but the city has yet to adopt its key recommendation into the zoning code that design review should not continue to reduce planned density; rather it should focus on the design of the density set forth in the objective code standards for height and FAR. This proposal is an opportunity to implement that recommendation, in support of the council's goals for increasing the supply of housing and leveraging the region's transit investments.

The Historic Landmarks Commission opposes this, however to date it has not articulated alternative solutions to the lack of market feasibility for smaller scale

18. New Chinatown/Japantown height

Code map: Map 510-3- Base Heights and 510-4- Bonus Heights

Sponsored by: Wheeler (10/18/17, Table B2)

Explanation: Recommended Draft building height reductions in this area are intended to better align future development expectations with the character of the historic district. This amendment increases maximum building heights up to 160' in this portion of the district. This is consistent with higher heights recommended in the East Portland/Grand Avenue Historic District. Also, the Pacific Tower (built in 2003 in the district) is 160' which provides additional basis for increasing building height in this area to 160'.

Amended maps:

B. Height and FAR

October 12, 2017

No.	Discuss	Comment	Commenter(s)	Topic	Proposed Amendment	BPS Recommends	Staff Comments
1	Y	23030	Carrie Richter, for David Leiken	Height at Roseland Theater	Restore height on Roseland Theater property or all the blocks along SW 5 th and SW Broadway to north of W. Burnside to 460'.	Yes	Restore the 460-foot base height that exists today on the 6-block area between SW 5 th and SW Broadway and W. Burnside and NW Everett. See attached Map B1.
2	Y	24186	Christe White, for Michael Menashe	Increase Height in New Chinatown/Japantown Historic District	Located at NW 3 rd and 4 th , Everett and Flanders- in the historic district. Proposal is to reduce it to 125' and 9:1 FAR. Request is to restore the current height to 350' with bonus height option to 425'.	Yes, but amended	Staff proposes to raise heights from 125' to 160' on the 4-blocks located between NW 3 rd , NW 5 th , NW Glisan and NW Everett. Height reductions in this area are intended to better align future development expectations with the character of the historic district. Allowing heights up to 160' in this portion of the district would be consistent with higher heights recommended in the East Portland/Grand Avenue Historic District. Also, the Pacific Tower (built in 2003 in the district) is 160' which provides additional basis for increasing height in this area to 160'. See attached Map B2.
3	Y	24186	Christe White, for Michael Menashe	Height in Old Town/Chinatown (outside historic district)	Located between 5 th and 6 th and Flanders and Glisan- outside of the historic district. Request is to restore the current height to 350 with option to bonus to 425.	Yes	Restore height to 350' with the option of bonus height to 425' in the four blocks located between NW 5 th Ave, NW Broadway, NW Glisan and NW Everett. Staff proposes to restore heights to the south of these sites and this area also makes sense with proximity to the transit mall and some additional redevelopment potential in this area. See attached Map B3.

From: [Edmunds, Sallie](#)
To: [Hoy, Rachael](#); [Starin, Nicholas](#); [Doss, Troy](#); [Raggett, Mark](#); [Brooks, Mindy](#)
Subject: FW: Historic Landmarks Commission open letter to City Council
Date: Wednesday, May 23, 2018 11:05:48 AM
Attachments: [PHLC to CC Chinatown Heights.pdf](#)
[ATT00001.htm](#)

See attached.

From: Chisek, Kyle
Sent: Wednesday, May 23, 2018 10:11 AM
To: Zehnder, Joe <Joe.Zehnder@portlandoregon.gov>; Edmunds, Sallie <Sallie.Edmunds@portlandoregon.gov>
Subject: Fwd: Historic Landmarks Commission open letter to City Council

Sent from my iPhone

Begin forwarded message:

From: "Adam, Hillary" <Hillary.Adam@portlandoregon.gov>
Date: May 23, 2018 at 9:01:07 AM PDT
To: "Wheeler, Mayor" <MayorWheeler@portlandoregon.gov>, "Fish, Nick" <NickFish@portlandoregon.gov>, "Fritz, Amanda" <Amanda.Fritz@portlandoregon.gov>, "Saltzman, Dan" <Dan.Saltzman@portlandoregon.gov>, "Eudaly, Chloe" <Chloe.Eudaly@portlandoregon.gov>
Cc: "Chisek, Kyle" <Kyle.Chisek@portlandoregon.gov>, "Schmanski, Sonia" <Sonia.Schmanski@portlandoregon.gov>, "Crail, Tim" <Tim.Crail@portlandoregon.gov>, "Finn, Brendan" <Brendan.Finn@portlandoregon.gov>, "Runkel, Marshall" <Marshall.Runkel@portlandoregon.gov>, "Esau, Rebecca" <Rebecca.Esau@portlandoregon.gov>, "Tallant, Kimberly" <Kimberly.Tallant@portlandoregon.gov>, "Fioravanti, Kara" <Kara.Fioravanti@portlandoregon.gov>
Subject: Historic Landmarks Commission open letter to City Council

Mayor and Commissioners,

Attached is a letter written by the Historic Landmarks Commission, which they asked me to forward to you, in response to the latest proposed Major Amendment to the Central City 2035 plan related to increased heights and FAR within the New Chinatown/Japantown Historic District, to be considered on Thursday May 24th.

The Commission intends to release this letter to the media and this email is to let you know of their intent and to inform you as to the content of the letter.

April 3, 2018

Dear Commissioner Fish,

I am writing this to you personally as a Portland resident, though I represent Old Town small business Deadstock Coffee on the board of the Old Town Community Association. My background as a PDC manger charged for eight years with working on Old Town's Vision of a balanced community makes my perspective unique – I've been on both sides of many tables, always working for a better Old Town for everyone.

I support an amendment to CC2035 to increase height on the western half of Block 33 to 200 feet, increased floor area ratio density (FAR) as proposed, and making these entitlements conditioned upon residential development which now will be subject to inclusionary zoning.

It is well known that the Old Town Chinatown neighborhood has struggled for decades in ways different from the balance of the central city. In the last forty years, a great deal of this gap in prosperity has to do with four causes:

- Existing buildings, a large portion of which are unreinforced masonry, have been very expensive to renovate. Most of the renovations required substantial subsidies from the Special Assessment property tax abatement, historic and new market tax credits, and favorable gap financing from Prosper Portland. These complicated structures have historically not worked for smaller buildings as there are high up-front costs and seismic retrofits are more expensive per square foot on smaller buildings.
- The growth that Old Town has experienced, combined with a successful entertainment district has resulted in the fastest growing parking rates in the city. Monthly parking passes cannot be found in many parts of Old Town.
- The concentration of social services and shelters has had little balance of anything other than needed significant investment and improvement of low-income housing. The great success of Central City Concern and others in partnership with then Portland Development Commission made great strides in improving most all low-income housing in Old Town (with seismic improvements!). There has been very little addition of affordable middle income/workforce or market rate housing by comparison. The neighborhood's most recent statistics show 30% of Old Town's housing is 30% MFI or below, 93% of Old Town Housing is at 60% MFI or below. This in a neighborhood that has long stated a goal of *half its housing at 50% MFI or below* (yes, 50% at 50% or below).

The high concentration of social services and shelters in particular, is reflected in documented differences in market rent achievable in Old Town of at least 15%. During this homeless emergency the ramifications are amplified in Old Town, resulting in even more rent differentials and difficulty in attracting market tenants – note the empty

storefronts in Old Town or those used for office space instead of vibrant retail – only one of Central City Concern's 7 buildings in Old Town has retail.

- The lack of historic guidelines in the two historic districts, coupled with the lower entitlements typical in these districts, has made development significantly harder than other locations in the city.

Renovation costs of older buildings, attractive parking revenues, concentration of social services and shelters and the uncertainty and smaller entitlements in the two historic districts has meant that Old Town has lagged significantly in the largest development boom this city has ever seen.

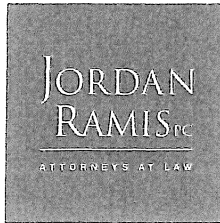
The design guidelines in Skidmore have helped. The one new building and two now under construction benefited from this increased certainty provided by stated guidelines - architects are no longer guessing what might be acceptable submissions to Historic Landmarks Review. All of those projects are in the Skidmore district, away from the core of social services and shelters.

Two new building projects in the New Chinatown/Japantown District are stalled, due to both height restrictions and the threat of a fifth homeless shelter. Each one has to balance the risk of building smaller projects with stricter design requirements, the market differential in achievable rents, and the easy path of surface parking revenue. As I stated in my testimony this is particularly true on Block 33, where its juxtaposition to the entertainment district results in the largest per-stall in the city.

Increased entitlements will provide what this housing development states will be adequate to build on Block 33. We lost Uwajimaya in part due to these reasons. Let's please not lose this next best opportunity for New Chinatown/Japantown.

Peter Englander

Cc: Jamie Dunphy
Ian Williams, Deadstock Coffee



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March 29, 2018

City of Portland Mayor and City Council

Re: Central City 2035 Amendments: Block 33, Chinatown Historic District

Dear Mayor and Commissioners:

I have enclosed an excerpt from the Chinatown/Japantown Historic District nomination application which I spoke about at the March 22 hearing. It responds to Commissioner Eudaly's concern regarding the validity of the claim that approval of any building on Block 33 exceeding 125 feet in height "poses a very real risk of jeopardizing the designation" of the district. This claim, attributed by staff to the Landmarks Commission, overstates the risk for several reasons:

- As the attachment demonstrates, the federal historic designation application contemplated larger buildings than we propose for Block 33. There is no evidence that delisting can be triggered by a CC 2035 regulation that requires smaller buildings than were allowed in the district at the time it was created, such as actual delisting that has occurred in similar circumstances.
- Mr. Schaefer was correct in testifying that City zoning ordinance prevents any lessening of protections in the district without City Council approval.
- Block 33 is not a contributing resource, and therefore, as is made clear in the area's new design guidelines, its development is not a factor in deciding whether to remove historic designation from the district because many contributing resources must have been compromised to justify removal.

1. The claim that the proposal would allow larger buildings than was the case when the district was designated is untrue. The nomination documents confirm that the contemporaneous zoning allowed high rise development and high density apartments. The maximum height limit in the district has been 350 feet, apparently as far back as the 1991 zoning code, and at least for the past 15 years. There is no evidence that the 350-foot height limit has endangered the local or federal listing of the Chinatown/Japantown Historic District. We've asked SHPO for delisting examples but have not been advised of any.

United States Department of the Interior
National Park Service

**National Register of Historic Places
Continuation Sheet**

Section number 7 Page 3

these structures include: Litherland & Abery; Drake, Wyman & Voss; A.E. Elreth; R.H. Graham; Robertson, Hay & Wallace; Wm. J. Kratz; E.C. Wegmann & Son; Zanella Bros.; Temblay Horn Co.; and Reimers & Jolivette.

ALTERATIONS

The type of alterations which have been made to structures within the district include changes to the first floor storefronts and the application of stucco to brick facades. Storefront windows have been replaced with large, single-paned, fixed glass windows and transom windows have been covered over with plywood or stucco. Recent changes to buildings within the district include the rehabilitation of historic buildings and the extensive remodeling of four buildings so that the original building is no longer recognizable. Although three of the extensively remodeled buildings are considered compatible with the historic architectural character of the district, these buildings are no longer considered "historic" in terms of classification.

ZONING

The Chinatown Historic District is zoned CIZ, which allows for many commercial uses; mid to high rise development, clean labor - intensive industry and manufacturing; and high density apartments. Transit use is encouraged within the district, and parking for development is not required. The allowable FAR (floor area ratio) is 4:1, 6:1 or 9:1 depending on where the building is located in the district.

PUBLIC IMPROVEMENTS

Public improvements such as water, roads, and sewers within the Chinatown Historic District were developed in conjunction with the rest of the downtown. More recent public improvements include the widening of Burnside Street in 1930, and, in the 1980's, the addition of oriental street lights and banners, bi-lingual street signs, and the Chinatown Gateway.

Although development plans for a "new" Chinatown, between SW Third and SW Front Avenue, and SW Ash and SW Washington streets, were revealed in 1961, they were never undertaken. In the mid 1970's, the Chinese Consolidated Benevolent Association (CCBA) committed itself to remaining in Chinatown and restoring its historic headquarters. CCBA also established a Chinatown Development Committee which completed the Chinatown Development Plan, which was officially adopted by the Portland City Council in December, 1984. It called for a number of public improvements to enhance Chinatown's cultural identity. Bi-lingual street signs with Chinese calligraphy were installed in May 1981 "to help maintain the historical and ethnic character of the area" (*Oregonian*, May 21, 1981) and to strengthen the Chinatown's identity, and visually demarcate the area as a special section of the City.

In 1984, 57 twin ornamental street lights on SW Morrison, along the light rail alignment, were removed, refurbished, and reinstalled in Chinatown. The lights were painted red with gold trim, the traditional Chinese colors of prosperity and good luck. Oriental banners were designed for the street lights by Wing Leong, and show the Chinese lunar calendar with the 12 lunar symbols and Chinese and Gregorian dates. The street lights and banners were dedicated on March 2, 1985.

POLICY 1.PL-3 Tourism, retail and entertainment. Enhance the success of this urban mixed use district, drawing new visitors and supporting attractions, including unique retail, dining, riverfront and entertainment opportunities.

Old Town/Chinatown

POLICY 1.OT-1 Institutions, creative economy and target sector industries. Support the success of higher education institutions, capitalizing on them as lasting anchors for creative industries and businesses.

Support entrepreneurial incubation and encourage business start-ups and the City's economic development cluster industries to locate in the district.

POLICY 1.OT-2 Tourism, retail and entertainment. Support unique attractions in the district, including: cultural institutions; Governor Tom McCall Waterfront Park; retail, dining, and performance venues; and nightlife attractions. Expand the festival and event programming of public spaces in the district; manage activities in a way that controls negative impacts.

POLICY 1.OT-3 Cultural assets. Support the protection and enhancement of the rich cultural and multi-ethnic history and diversity of Old Town/Chinatown, including its unique physical characteristics, cultural and arts institutions, community organizations, and mix of businesses.

POLICY 1.OT-4 Strategic redevelopment. Encourage the reuse, rehabilitation and seismic upgrade of underutilized buildings to increase useable space and economic activity in the district. Support location of retail uses in the ground floors of buildings, including retail businesses that complement and enhance the cultural and historical significance of the area.

POLICY 1.OT-5 Surface parking. Encourage new mixed-use infill development on vacant lots and surface parking lots while supporting existing businesses.

Lower Albina

POLICY 1.LA-1 Next generation industrial/employment sanctuaries. Diversify the range of employment activities allowed in the area east of the Union Pacific railroad and near the MAX station.

POLICY 1.LA-2 Incubator. Support existing businesses and foster the district as an industrial and employment incubator.

POLICY 1.LA-3 Russell Street vitality. Support the urban vibrancy of Russell Street and its unique blend of working daytime industrial activity with compatible nighttime restaurant and entertainment activity.

POLICY 5.19 Historic resources and districts. Enhance the identity of historically, culturally and architecturally significant buildings and places, while promoting contextually-sensitive infill development on vacant and surface parking lots.

See district policies section for related policies in: DT, WE, PL, OT, LA, CE

POLICY 5.20 Preservation incentives. Provide financial and regulatory incentives that support the economic feasibility of the preservation, rehabilitation and seismic upgrade of historic resources.

DISTRICT POLICIES: URBAN DESIGN

This section contains Urban Design policies specific to a particular Central City district.

Downtown

POLICY 5.DT-1 Retail core. Design a unified identity for the retail core through signage, banners, lighting, street furnishings and plantings.

POLICY 5.DT-2 Transit Mall. Provide a safe and pleasant street environment for transit riders and other pedestrians along SW 5th and 6th Avenues. Maintain the consistent streetscape, transit furnishings, and public art along the corridor.

POLICY 5.DT-3 Street hierarchy and development character. Support the signature retail/commercial character of SW Morrison, SW Yamhill, SW Broadway, SW Alder and West Burnside; the signature boulevard character of 5th, 6th and Naito Parkway; and the signature boulevard/flexible character of SW Salmon; and the flexible character of SW Oak and SW Ankeny.

POLICY 5.DT-4 Open space network.

a. Civic gathering places. Provide safe and accessible urban spaces for large public gatherings including festivals, parades, concerts, sports events and other assemblies. Reinforce Broadway as Portland's theater and bright lights district.

b. South Park Blocks. Preserve the South Park Blocks as one of Portland's signature open spaces and integrate them with high quality pedestrian and bicycle facilities as well as improved opportunities for habitat.

POLICY 5.DT-5 Historic resources and districts. Protect historic resources throughout the district. In particular, protect the historic character and architecturally significant resources of the Yamhill Historic District.

POLICY 5.GH-4 **Open space network.** Enhance existing open spaces, including Collins Circle, Firefighters Park and the stadium plazas to be more usable, engaging spaces and improve access to Washington Park. Support the inclusion of publicly accessible green open space in the redevelopment of Lincoln High School.

POLICY 5.GH-5 **Historic resources and districts.** Identify significant historic resources within the district, encouraging the preservation and rehabilitation of existing buildings that represent a wide range of architectural styles, scales and eras.

The Pearl

POLICY 5.PL-1 **NW 13th Avenue Historic District and main street.** Protect the historic warehouse character and architecturally significant resources within the district. Continue the active character of the street environment north of the historic district by encouraging active uses; adding and maintaining loading docks; and maintaining lower building heights along NW 13th Avenue from NW Davis Street to the north.

POLICY 5.PL-2 **Under I-405 repurposing.** Support redevelopment of areas under I-405 to create safe, attractive, and engaging spaces.

POLICY 5.PL-3 **Street hierarchy and development character.** Support the retail/commercial character of NW 11th, 13th, Lovejoy, and Glisan; as well as the flexible character of NW Davis, Flanders, Johnson, Marshall and Pettygrove.

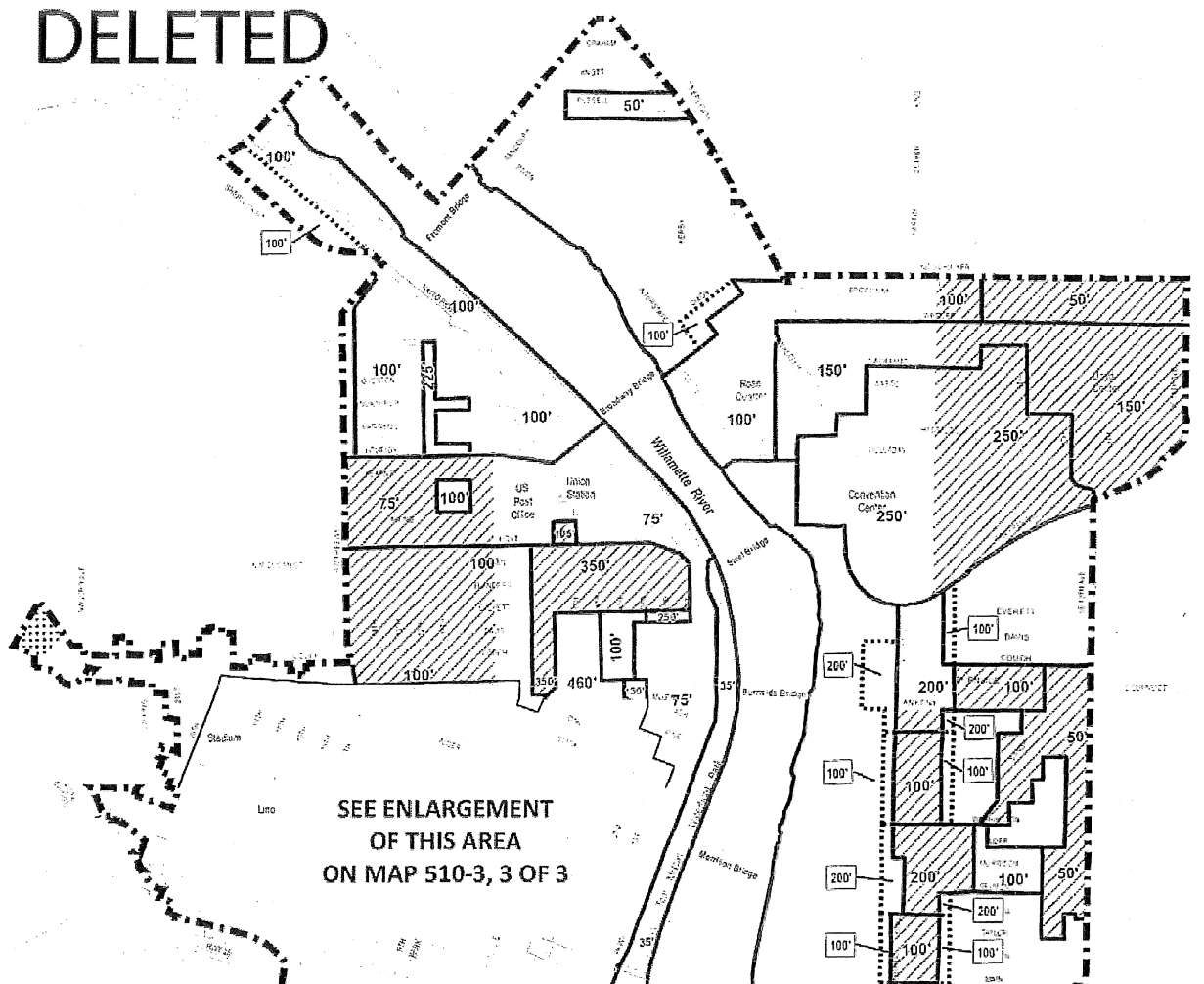
POLICY 5.PL-4 **Open space network.** Require the development of publicly accessible open space at the Centennial Mills and US Postal Service sites as part of redevelopment to provide linkages to street tree canopy and other open spaces.

POLICY 5.PL-5 **Historic resources and districts.** Encourage the preservation of older and often smaller buildings with historic character.

Old Town/Chinatown

POLICY 5.OT-1 **New Chinatown/Japantown.** Protect significant resources and enhance the historic multi-cultural significance of the New Chinatown/Japantown Historic District. Support the district's historic character, multi-ethnic history and today's Pan-Asian culture.

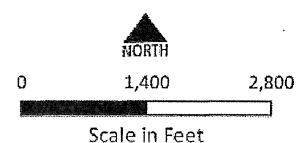
POLICY 5.OT-2 **Skidmore/Old Town.** Protect historic and architecturally significant resources of the Skidmore/Old Town National Historic Landmark District. Support the district's historic commercial character, history of social service and connection to the Willamette River. Encourage the incorporation of cast-iron architectural artifacts in new development within the district.



Legend			
X'	Maximum building height	Areas where maximum height is determined by base zone	Area eligible for Open Space performance standards
[X']	Allowable building height when rezoned to EX or CX	Area eligible for general and housing height bonus	Area eligible for historic step-down exception
(X')	Allowable height for residential (33.510.205.F)	Area eligible for housing height bonus only	Maximum height limit of 75' for first 125 feet from top of bank

- Central City Plan District boundary
- Maximum heights area boundary
- Boundary of area when building heights are tied to rezoning to EX or CX

- Proposed right-of-way
- Proposed accessways



Bureau of Planning and Sustainability
Portland, Oregon

June 2017

Recommended Draft Central City 2035 Plan
Chapter 33.510, Central City Plan District

RECOMMENDED DRAFT | 263

14024

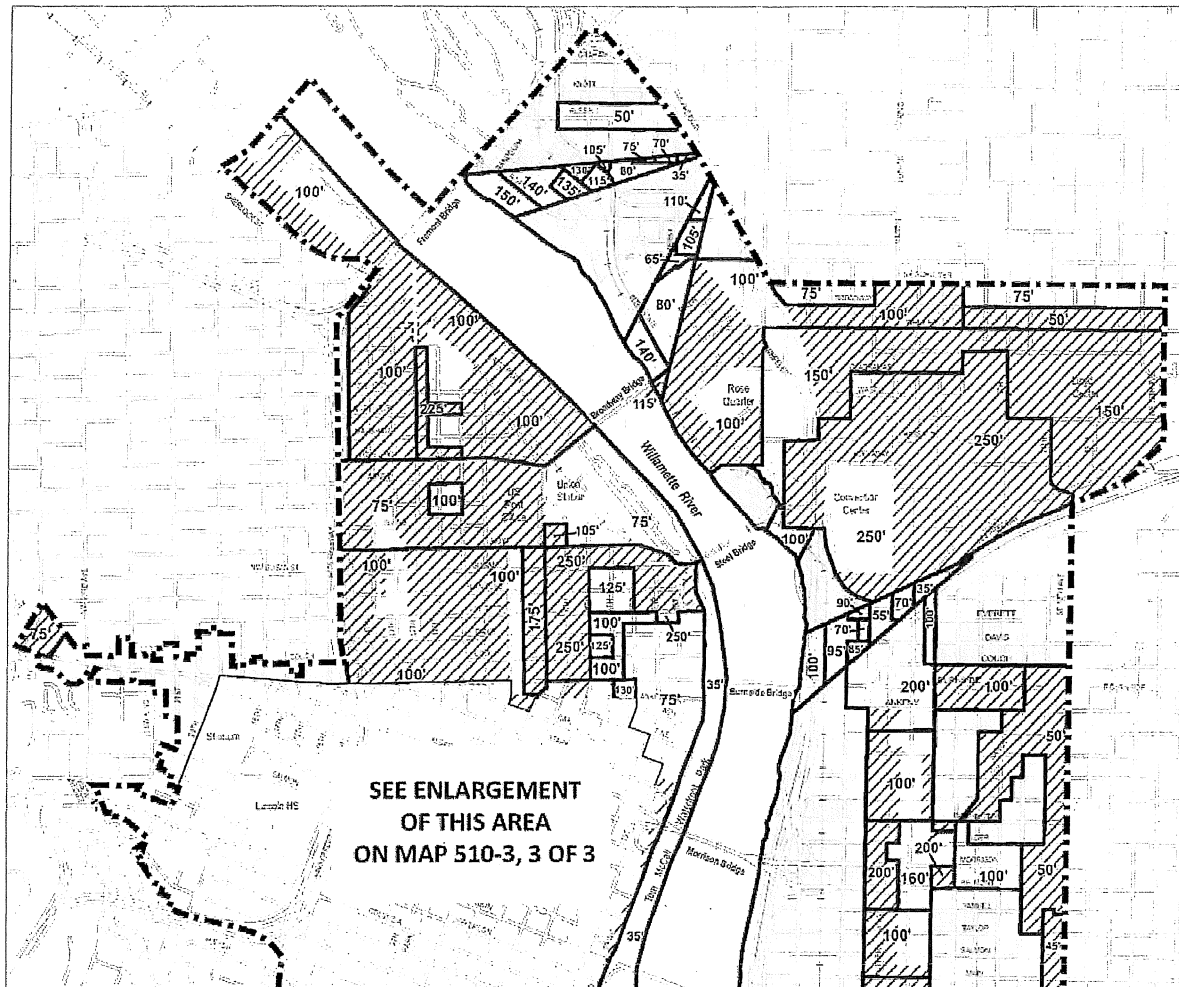
LUBA Record000308

Base Heights

Map 510-3

Map 1 of 3

Map Revised XXXXX XX, 201X



Legend



Central City Plan District boundary



Base building height

Areas where height is determined by base zone



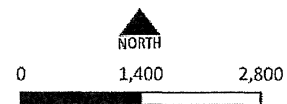
Area eligible for height increase



Base height limit of 75' for first 125 feet from top of bank

Proposed right-of-way

Proposed accessways



Scale in Feet
Bureau of Planning and Sustainability
Portland, Oregon

June 2017

Recommended Draft Central City 2035 Plan
Chapter 33.510, Central City Plan District

RECOMMENDED DRAFT | 329

14090

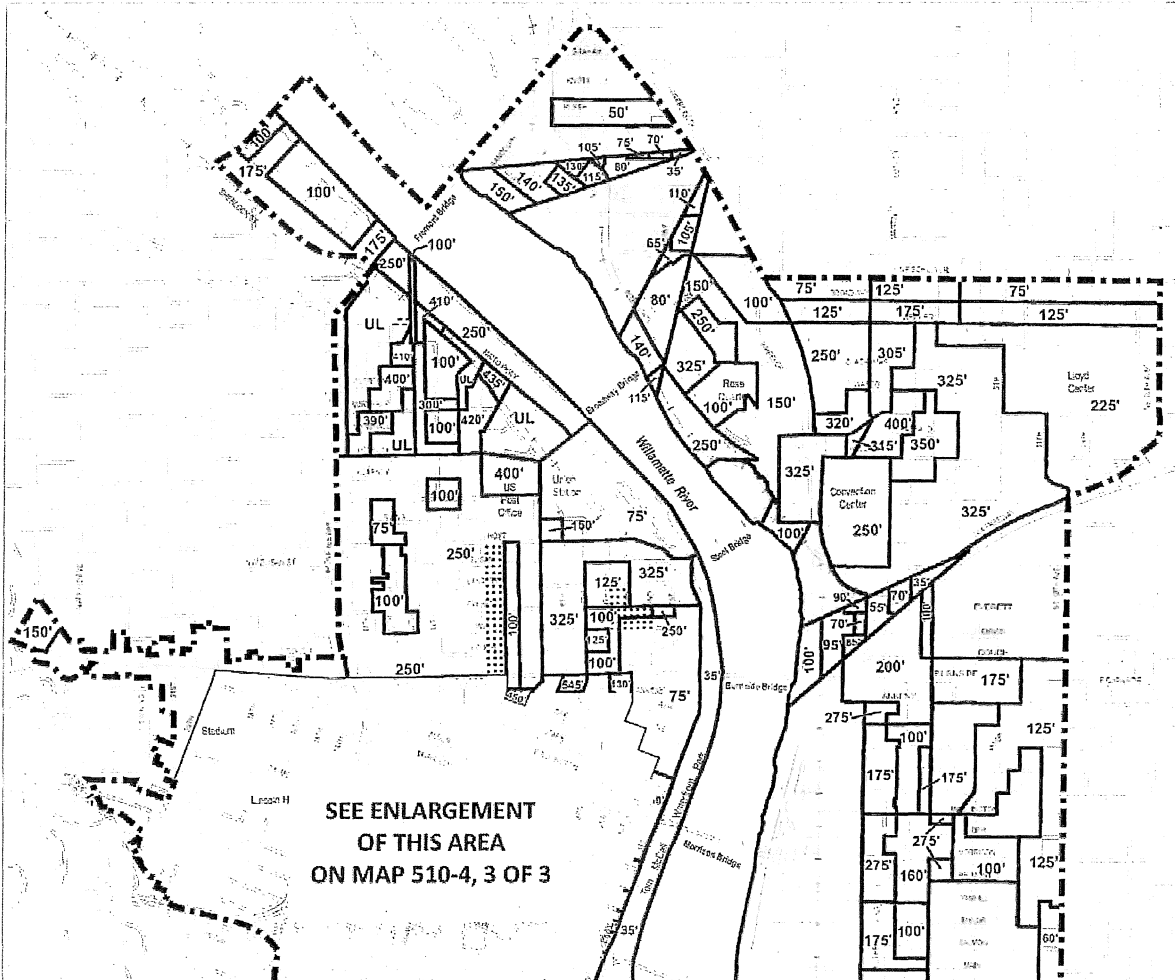
LUBA Record000309

Bonus Heights

Map 510-4

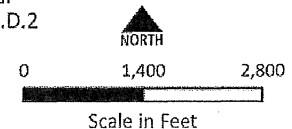
Map 1 of 3

Map Revised XXXXX XX, 201X



Legend

- Central City Plan District boundary
- Maximum bonus height
- Areas where a shadow analysis is required
- Unlimited height allowed
- Area eligible for additional height under 33.510.210.D.2
- Areas where height is determined by base zone
- Proposed right-of-way
- Proposed accessways



Bureau of Planning and Sustainability
Portland, Oregon

June 2017

Recommended Draft Central City 2035 Plan
Chapter 33.510, Central City Plan District

RECOMMENDED DRAFT | 335

14096

LUBA Record000310

CC2035 RECOMMENDED DRAFT - MAP APP COMMENTS

CADDRESS	CCITY	CCOMMENT	CEMAIL	CNAME	COMM ENT_ID	CPROPO SAL	CSTAT E	CSTATEID	CTESTIMON YID	CTIMESTAMP	CZIP	CSPATX	CSPATY	COMMENT _ORIGIN	LIAISON_DIST RICT	NEIGHBOR HOOD	PROPOSAL_STA GE
1104 SW Columbia St #105	Portland	Let's remove all building height limits from the central city so that we can build all the housing the employment centers our region needs.	ovid@metamorphica.net	Ovid Boyd	22571	cc2035	OR	1N1E34DC 900	1N1E34DC 900	2017/07/20 11:21:54	97201	-13655740.28	5704211.731	Map App	Central City	Old Town/Chinatown	Recommended
1104 SW Columbia St #105	Portland	I would like to request that the Columbia/Jefferson bikeway is a high quality protected one.	ovid@metamorphica.net	Ovid Boyd	22572	cc2035TS P	OR		TSP-20131	2017/07/20 11:26:19	97201	-13657145	5703115.829	Map App	Central City	Downtown	Recommended
1104 SW Columbia St #105	Portland	I think you should consider a streetcar line on Jefferson/Columbia that then heads up along NW 23rd/21st and into the developing slabtown area	ovid@metamorphica.net	Ovid Boyd	22573	cc2035TS P	OR		TSP-20131	2017/07/20 11:28:03	97201	-13657546.29	5703273.48	Map App	Central City	Downtown	Recommended
1104 SW Columbia St #105	Portland	I think we should add a streetcar line along SW Naito Parkway, continuing to Front Ave and the new developments up there	ovid@metamorphica.net	Ovid Boyd	22574	cc2035TS P	OR		TSP-20127	2017/07/20 11:29:03	97201	-13655951.87	5703106.274	Map App	Central City	Old Town/Chinatown	Recommended
1104 SW Columbia St #105	Portland	There needs to be a connection between the Max and Streetcar at the Broadway bridgehead (east side of the river)	ovid@metamorphica.net	Ovid Boyd	22575	cc2035TS P	OR		TSP-20010	2017/07/20 11:30:00	97201	-13655783.47	5705838.898	Map App	Central City	Eliot	Recommended
1104 SW Columbia St #105	Portland	I would like to see plans for bus-only lanes throughout the central city	ovid@metamorphica.net	Ovid Boyd	22576	cc2035TS P	OR		TSP-20118	2017/07/20 11:31:30	97201	-13655624.62	5702671.539	Map App	Central City	Downtown	Recommended

14674

Christe C. White
cwhite@radlerwhite.com
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1882.001

August 17, 2017

VIA EMAIL

Mayor Ted Wheeler
1221 SW 4th Avenue, Room 340
Portland, OR 97204

Commissioner Chloe Eudaly
1221 SW 4th Avenue, Room 210
Portland, OR 97204

Commissioner Dan Saltzman
1221 SW 4th Avenue, Room 230
Portland, OR 97204

Commissioner Nick Fish
1221 SW 4th Avenue, Room 240
Portland, OR 97204

Commissioner Amanda Fritz
1221 SW 4th Avenue, Room 220
Portland, OR 97204

Re: Request to Restore Height in Central City Plan District

Dear Mayor Wheeler and Commissioners,

This office represents Michael Menashe. On May 23, 2017, the PSC voted to reduce the height allowance on Mr. Menashe's properties in the Central City Plan District by 225 feet and 100 feet respectively. The properties are located between NW 3rd and 4th, Everett and Flanders ("Site 1") and between 5th and 6th, Flanders and Glisan ("Site 2"). The current and PSC proposed heights are as follows:

	Current Code	Proposed Code	Lost Height
Site 1	Base Height 350 feet	Base Height 125 feet	225 feet
Site 2	Base Height 350 feet	Base Height 250 feet	100 feet

We request that the City Council restore the existing height allowance for the following reasons:

1. Site 1 is located in the New Chinatown/Japantown Historic District. Site 2 is not located in the Historic District and does not contain any historic resource. The Historic District was established in 1989. It appears that the Portland Development Commission was the lead agency and applicant on the nomination application. The nomination narrative responds in the following manner relative to zoning and size of buildings that will be permitted in the District post-nomination:

{00702096;1}

Mayor Ted Wheeler & City Commissioners
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"The Chinatown Historic District is zoned CIZ, which allows for many commercial uses; mid to high rise development, clean labor-intensive industry and manufacturing; and high-density apartments. Transit use is encouraged within the district and parking for development is not required. The allowable FAR (floor area ratio) is 4:1, 6:1 or 9:1 depending on where the building is located in the district." (Exhibit 1).

Consistent with this zoning description, Site 1 had a 9:1 base FAR on the 1991 zoning map and a base height allowance of 350 feet and was also located in an area eligible for height bonuses. The 1991 zoning map is attached as Exhibit 2. Site 1 was recognized in the nomination application itself as one of the sites that would be eligible for the highest density redevelopment. At the time the District was adopted, the City found that the currently zoned density was consistent with Historic District status.

2. Nothing has changed. The current code, just like the 1991 code, maintains a base height of 350 feet and an FAR of 9:1 and maintains the opportunity for bonus heights. The current height and FAR maps are attached as Exhibit 3. For 27 years post-nomination, the City has maintained allegiance to its position in 1989 and 1991; that is, the 9:1 FAR and 350-foot base height was consistent with the Historic District at the time of nomination and continues to be consistent with that nomination.

3. The City reconfirmed its objectives for Site 1 in 2006. In 2006, PDC led an update process to the OT/CT Vision Plan, Development Plan and Update 1997-2003. Relevant excerpts of the Update are attached as Exhibit 4. Site 1 is identified as Block 26 and again re-confirms the City's redevelopment parameters for the site as 9:1 base FAR, 3:1 bonus FAR, 350 feet in base height and bonus height opportunities to 425 feet. The very purpose of the Update was to highlight the redevelopment opportunities consistent with these development parameters and forward a strategy to implement those redevelopment options within the Historic District:

"Blocks 24, 25 26 show residential podiums with smaller slender towers in the core of the blocks. These might take advantage of view to Garden. Hotel in the upper stories of any of these towers might be appropriate." (Exhibit 4).

The precedent images and related narrative in the Update show a mix of building bulk, volume and articulation, with episodic towers over podiums. The narrative states that "living streets provide a means for social and commercial interaction in the neighborhood" and that density allows for a "critical mass of residents and shoppers" in a "layering of varying uses." (Exhibit 4). Lastly, the Key Elements from the Community Outreach Stakeholder Interviews establish an overall redevelopment strategy to "help create a vibrant, mixed-use, 24 hours/7-day week neighborhood, rooted in a rich historical past." (Exhibit 4). To accomplish this objective, the stakeholders directed to "develop workforce housing" and to address "the lack of area residents with discretionary income."

{00702096;1}

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Page 3

4. DAO Architecture visually illustrated the vertical form these various redevelopment objectives would take in the Historic District within the allowed FAR and height maps. Exhibit D provides a series of drawings completed by DAO. As shown, Block 26 contains a tower on top of a 4-story podium with "retail or anchor tenant space on podium floors, with Condos and Apartments above." (Exhibit 5).

What this history plainly illustrates is that the 9:1 FAR with 3:1 bonus option and the 350 feet in height with height bonus options was deemed consistent with the Historic District at the time of its nomination and adoption onto the National Register and consistent with the City's redevelopment objectives for 27 years post-adoption. Now today, the PSC recommendation to the City Council offers a dramatically different plan. The PSC has reduced this long-held base height from 350 feet to 125 feet and has taken away any bonus height potential. The stated rationale for this significant change is that reduced heights are required to protect the Historic District.

Given the history of the planning efforts, this explanation is not compelling. Is the city's rationale that height cannot be compatible with historic district preservation? How can that be? Site 1 had a 350-foot height limit before or immediately after it was nominated as part of the Historic District and that very nomination discussed the zoning of Site 1 with a 9:1 FAR. No agency, neither the City nor the National Park Service found that the height or FAR was inconsistent with the nomination or preservation of the Historic District. And the City re-affirmed this height in the 1991 zoning code amendments. To the contrary, height is not inconsistent with the vitality and preservation of Historic Districts. The City's own Update Study and redevelopment strategy and related DAO modeling demonstrates that height allowances offer flexibility in locating higher, more narrow towers atop lower podiums that are designed to complement and be compatible with the rich history of the area and the District.

To take this compatibility exercise a step further, Mr. Menashe asked Henneberry Eddy architects to evaluate precedent projects in, near and adjacent to lower height historic architecture and to model a variety of height options on Site 1 to illustrate the character and nature of the issue created by the proposed height reduction.

First, the precedent images from around the world aptly demonstrate the exciting potential for well-designed height adjacent to historic resources. (Exhibit 6).

- (a) Take the Hotel 50 Bowery in New York. The 22-story hotel is located in the historic heart of Chinatown and is adjacent to the landmarked Beaux-Arts style building designed in 1922. The building rises well above the surrounding historic resources but it does not crowd them and instead provides a backdrop that further highlights the rich history of the area;
- (b) Take the Quay in Sydney Australia. At 220 feet, it is in Haymarket which includes much of Sydney's Chinatown, Thai town and Railway Square. To integrate with the historic center, the project revived what remained of the ground level market to provide the historical context at the street level. Two towers make up the remainder of the development at 16 and 17 stories respectively;

{00702096;1}

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- (c) Take City College of San Francisco. The 212-foot tower is located between the Financial District, Chinatown and Jackson Square Historic District. Again, there is an articulated street level podium with a tower setback on top of the podium providing the space to appreciate the much lower density adjacent and nearby resources.

These precedent images, and many more examples of their kind, demonstrate that compatibility with historic resources is not grounded in lower and restricted height; instead, it is based on high quality modeling and architecture that brings its own vitality to the district while leaving room to celebrate the historic and cultural history of the District's existing high value resources.

To that end, Henneberry Eddy also produced a comparative study on the value of retaining the current height limit versus the options under the much-reduced height recommended by the PSC. Excerpts of that study are found in Exhibit 7.

Henneberry Eddy modeled a development within the newly proposed height limit of 125 feet at 9:1 and compared it to the design options that would otherwise be available under the current height of 350 feet. A review of the massings results in a few findings:

- (a) The current height limit allows a greater number of design solutions, namely the ability to propose a narrower tower on top of a street level base. Like the precedent images shared above, the podium helps define and embrace the street level experience, while the narrower tower, setback from the street level, provides light, air and space between existing uses. Maintaining the current height allowance is not only consistent with all the prior planning efforts, including the initial historic district designation, but it also preserves the opportunity to investigate a potentially superior design approach; and
- (b) The massings that would be allowed under the proposed height restriction of 125 feet lead to a more muscular building form that provides less opportunity to create a tower-over-podium design. As the building envelope becomes more vertically restricted, the opportunity to pursue multiple form options is equally restricted, leading to lesser design compatibility alternatives within the District.
- (c) What does this loss of 225 feet in height mean to the property owner and to the City? Based on an approximately 35,000-square foot block and floorplate, 225 feet in base height results in about an 18-floor loss and a total of 630,000 square feet of lost development value. This significant reduction immediately devalues the property, eliminates significant housing potential in the downtown core, reduces the options for forwarding an elegant compatible design, reduces affordable units, reduces the tax and SDC revenues that the property would otherwise generate and devalues the significant investments in infrastructure that were made in reliance on meeting density goals in the Central City.

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5. The City does not need to decimate the height allowance on Site 1 to protect a non-Landmark contributing resource. The code already carries significant protections for these resources. PCC 33.445.330 requires demolition review for any contributing resource in an Historic District. Thus, the owner of Site 1 must first apply for and obtain approval to remove the existing warehouse-style building before the height could even be realized. The demolition review is a Type IV procedure with an advisory public hearing before the Landmarks Commission and a second hearing with a final decision before another City review body, such as a Hearings Officer or City Council. In that review, the applicant must demonstrate that either the denial of the demolition permit would effectively deprive the owner of all reasonable economic use of the site or demolition of the resource has been evaluated against and on balance has been found supportive of the goals and policies of the Comprehensive Plan and any relevant area plans. The City weighs the following factors:

- (a) The merits of the demolition;
- (b) The merits of the development that could replace the demolished resource;
- (c) The effect demolition would have on the area's desired character;
- (d) The merits of preserving the resource; and
- (e) Any proposed mitigation for the demolition.

The Type IV demolition review process and burden of proof provides a significant amount of protection for the contributing resource. If the applicant can meet these burdens, then site redevelopment will be justified and permitted. Further, site redevelopment will be subject to Landmarks Commission review. Anyone familiar with that process will attest that the Landmarks Commission will ensure that a proposed building on Site 1 is made to be compatible with the Historic District, even at its current allowed height.

6. Site 2 is not located in an historic district, yet the PSC has recommended a 100-foot reduction in the base height and the maximum bonus height has been reduced from 425 feet today to 325 feet. Again, it seems that being close to an historic district is punishing to density. Site 2 is across a City street from the historic district boundary and again was a site that was mapped for its current height and density either with, before or after the historic district was designated. Site 2 will also be subject to design review to ensure that the quality, permanence and character of a Site 2 development is compatible with its built environment.

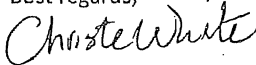
A 100-foot reduction in height on Site 2 represents about 8 floors of development potential or about 300,000 square feet. At an average unit size of 800 square feet, the PSC height reduction could prevent about 375 housing units from coming to the market.

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Mayor Ted Wheeler & City Commissioners
August 17, 2017
Page 6

In sum, there is no compelling rationale for reducing the height on Site 1 and Site 2 under the general notion of historic district protection. The District was adopted contemporaneously with these height allowances and the heights allow flexibility in design that could better protect other historic resources in the District. The PSC proposal does not strike the right balance. We therefore request that the Council restore the heights that the PSC removed from both Site 1 and Site 2.

Best regards,



Christe C. White

cc via email: Michael Menashe
Joe Zehnder, Bureau of Planning and Sustainability
Troy Doss, Bureau of Planning and Sustainability
Kara Fioravanti, Bureau of Development Services
Maurice Henderson, Chief of Staff to Mayor Ted Wheeler
Sonia Schmanski, Chief of Staff to Nick Fish
Marshall Runkel, Chief of Staff to Chloe Eudaly
Tim Crail, Chief of Staff to Amanda Fritz
Brenden Finn, Chief of Staff to Dan Saltzman

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Submitted by
Christe White
for Will Ines
9/14/2017

14 September City Council Testimony – Hennebery Eddy Architects

More than 60% of the 10-block Chinatown/Japantown district is occupied by parking lots and non-contributing buildings. The district's roots are cultural rather than architectural.

The objective should be to design new buildings to relate well to architecturally significant, historic structures while bringing economic vitality and people to take advantage of the public investment in the transit mall, festival streets, and other infrastructure in the district.

The standard for design must be high and the Historic District Guidelines are appropriate. But, we believe retaining the ability to design taller structures will help to better meet the guidelines.

An arbitrary height limit of 125' and under for most of the district will not bring back historic structures that don't exist.

It will restrict development to a predetermined a blocky, muscular 9:1 FAR building form built out to the property line ten to eleven stories tall. This will result in new buildings that will seem massive next to the existing historic buildings and will create broad shadows on adjacent public spaces.

And worse, economic motivation to develop even these projects may be lacking since the district is surrounded by areas with taller height limits, restricting the ability to capture regional views.

Taller buildings for Chinatown/Japantown will lead to greater compatibility if they:

1. Establish a strong two to four story base that takes cues from adjacent historic structures.
2. Use contextually appropriate high quality permanent materials.
3. Create a vibrant human scaled, pedestrian environment at street level.
4. Include taller, slender towers above their bases, set back from the property line, and crafted to limit shadows on neighboring buildings and public open spaces like the Lan Su Chinese Garden. Director Park is a successful example of a public open space with tall buildings to its south, east and north.

This will respect the historic context, create economic potential for upper floors, and have the potential to keep the 3:1 FAR bonus and associated housing in the neighborhood.

Design Guidelines for Chinatown/Japantown Historic District Briefing

Brandon introduced the project. It is a 10-block national historic district listed in 1989. Today it's subject to two sets of guidelines. These new guidelines will be approved by Council in early winter.

This is a collaborative project between BPS and PDC that worked with a 10-member stakeholder advisory committee. There were 2 hearings at the Historic Landmarks Commission, and next we're going into a work session phase. We hope to have the guidelines finalized at the October HLC meeting.

- *Chair Schultz* noted she served on the committee representing a client, not representing the PSC.

PDC provided some of the financial backing. Their building in the district allowed for opportunities for stakeholders. BPS worked closely with them and the consultant and to guide the legislative process. When we did the West Quadrant Plan, there was a consensus reached to consider additional height on parts of the district if we could come up with historic guidelines to strengthen the review process to allow greater height but to make it fit in the district.

Brandon provided background about what historic district design guidelines are and how they function.

Block 33 is an example. The guidelines are intending to let the applicant make the case for a building that's a bit taller than what the height limits are today.

There are three main sections to the design guideline document:

- Introduction
- History, character and context
- Design guidelines used for historic resource review including 4 different categories of guidelines

Commissioner Spevak asked about the order of the two commissions' decisions.

- These guidelines intend to be agnostic on height. We will discuss height as part of the CC2035 Plan tonight. These are separate when they go to Council. The design guidelines will get through Council first, and they work with or without the height guidelines. By City law, the HLC has the discretion to look at the allowed maximum height and reduce it if it's contextually appropriate. These guidelines address characteristics. There is a line above which the HLC would have difficulty approving, but we don't think this is anything we're proposing in the CC2035 Plan.

Commissioner Spevak: Who gets to make the call? Can the HLC effectively downzone parts of the city? It seems like the PSC has a limited authority in this regard.

- This is addressed when we go through the process of establishing a historic district. Property owners collectively decided to create the district. We are attempting to make this more transparent in tonight's discussion and proposal.
- HLCs look at historic districts as unique places within the city. They view their job as maintaining the overall district integrity.

Design guidelines do typically come before the PSC for briefings. We just haven't written updates in a while. But the PSC will see these coming through in the next few years. We want the district-specific guidelines to make the process more transparent, not more difficult.

Decision Table A. Historic District Heights

Considerable testimony focused on allowed building heights in historic districts. The table below is organized by historic district to allow PSC to review each district individually.

Background:

- Portland has 17 historic districts on the National Register of Historic Places. Seven of these are located within the Central City. Properties in Portland's historic districts are subject to Historic Resource Review to ensure exterior alterations and new construction protect individual historic buildings and maintain the coherency of the district as a whole. Historic Resource Review is a discretionary land use review process based on approval criteria in the zoning code and, where adopted, district-specific design guidelines.

Policy Approach:

- To protect the integrity of historic districts and reduce conflicts in the Historic Resource Review process, staff propose refining heights in Central City historic districts.
- Adherence with Comprehensive Plan Policy 4.49, "Resolution of Conflicts in Historic Districts. Adopt and periodically update design guidelines for unique historic districts. Refine base zoning in historic districts to take into account the character of the historic resources in the district."
- The proposed refinement removes bonus height options in all historic districts and reduces base heights in three historic districts that were listed in the National Register subsequent to the 1988 Central City Plan.
- The proposed heights take into account the historic resources in each district, the approval criteria used for Historic Resource Review, and the City's desire to encourage compatible infill on vacant and non-historic sites within these districts.

Contents of Decision Packet A: Historic District Heights

- Decision Table A
- Maps A1, A2 and A3

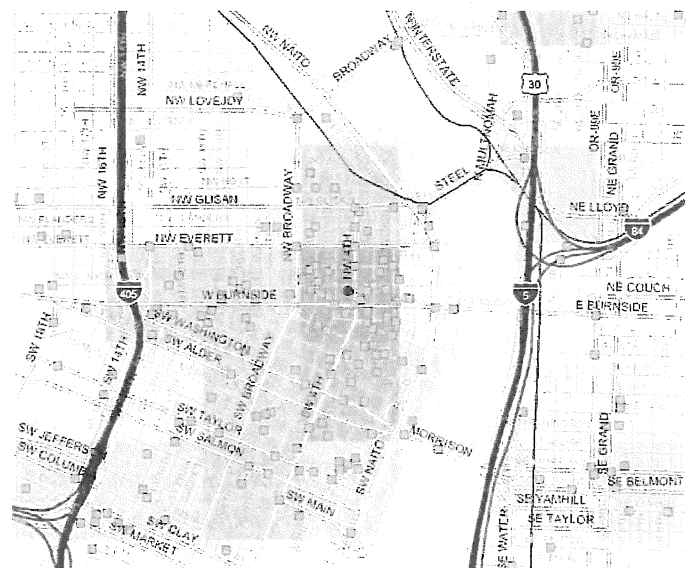
Summary of testimony:

Twenty-eight pieces of testimony were submitted related to heights in Central City historic districts

- Architectural Heritage Center, Restore Oregon, and individuals testified in general support of the policy approach to Proposed Draft heights
- Individual property owners in New Chinatown/Japantown, NW 13th Avenue, and East Portland/ Grand Avenue requested no reduction in current heights on their property and/or within their historic district.

Ref #	Comment #	Commenter(s)	Historic District	Proposed draft	Request(s)	Staff recommendation	Staff rationale	Discuss?	PSC decision
A1 and Map A1	21097, 20833, 21010, 20982	Old Town/ Chinatown Community Association, Michael Menashe, Jaqueline Peterson-Loomis, Portland Historic Landmarks Commission	New Chinatown/ Japantown Historic District	New Chinatown/ Japantown Historic District heights of 75', 100' and 125'. Reference: Map 510-3, p. 327	1. Old Town/ Chinatown Community Association and Jaqueline Peterson- Loomis request affirmation of Proposed Draft historic district heights. 2. Property owner Menashe requests maintaining existing 350' height on Block 26 to allow for a 7/8ths block redevelopment project in the future. 3. Portland Historic Landmarks Commission requests district-wide 75' height.	Retain Proposed Draft version	Heights in the New Chinatown/ Japantown Historic District have not been refined since the district's listing in the National Register of Historic Places in 1989. The heights presented in the Proposed Draft provide a consistent approach that takes existing buildings and historic resource review into account.	<input checked="" type="checkbox"/>	<input type="checkbox"/> Support staff rec. <input type="checkbox"/> Other

2009 321 Glisan	153
2003 Pacific Tower	160
2007 Riverplace/The Strand	160
2012 PSU College Station	168
2008 937 Condos	172
2004 The Henry	173
2005 Brewery Block 5 (The Louisa)	175
2008 Casey Condominiums	175
2008 Lovejoy Block 2/The Asa	175
2009 The Cyan	175
2005 The Elizabeth	175
2008 The Encore	175
2005 The Pinnacle	175
2006 First Presbyterian Church	180
2007 The Civic	185
2008 The Wyatt	190
2015 Block 17, HSP	202
Meier & Frank-Nines	
2008 Hotel/Macy's	209
2006 The Eliot	220
2007 The Metropolitan	225
2012 Riva on the Park	230
1990 Pioneer Tower	236
2009 Ladd Tower (RX half)	240
OHSU Center for Health & Healing	240
Marriott Courtyard Hotel	
2009 (Remodel)	245
2012 Atwater Place (Block 34)	247
2007 The Benson	250
2012 The Meriwether (Block 25)	250
2010 1st and Main Office	251
2000 Hilton Exec Tower	253
2009 12 West	266
1992 1000 Broadway Building	288
1999 ODS Tower	308
1997 US Courthouse Building	318
2012 Mirabella (Block 30)	325
2012 The Ardea (Block 46)	325
2012 The John Ross (Block 35)	325
2000 Fox Tower	370
2015 Park Avenue West Tower	460



- c. **Cost of Building Rehabilitation & New Construction:** Since seismic requirements were incorporated into building codes, significant investment has been required to improve unreinforced masonry buildings – often making redevelopment infeasible. Only the largest projects have progressed and only with significant subsidy. Smaller buildings have largely remained vacant or underutilized, and in poor condition. New construction is similarly only viable where greater development entitlements and rents can be achieved, namely west of the historic district. Multiple predevelopment analyses, completed and underway, continue to supply financial feasibility data to determine the optimal capital stack, including the applicability of the Portland Development Commission's (PDC) financial programs and other available tools. Also of interest is the ability to identify appropriate financing to provide the type of office space and lease terms desired by the software industry and other high growth businesses. These firms typically have a desire for shorter and more flexible lease terms than traditionally offered – and are seeking spaces often ranging between 1,000 – 10,000 sf, which can be well suited for the neighborhood's historic building stock. As Portland's employment base shifts, and these tenants desire spaces in areas such as Old Town / Chinatown, landlords and other partners will need to identify how to accommodate the needs of this high growth model.
- d. **Lack of District Connectivity:** Old Town / Chinatown suffers from challenging barriers on all sides of the district (Burnside, North Park Blocks/Broadway, USPS/Union Station/railroad tracks, Naito). Improving physical connectivity between Old Town / Chinatown and adjacent areas including Downtown, the Pearl District and Waterfront Park can strengthen the vitality and economic health of the area. The lack of turns off Burnside and an absence of significant positive street activity exacerbate crossing perceptions along West Burnside. Similar perceptions occur along NW Broadway where high traffic volumes and an inconsistent street level environment deter pedestrians from walking between the Pearl and Old Town / Chinatown. Internal to the district, a lack of linkages between development nodes also poses challenges. Activity can be found around the Waterfront Park and Ankeny/Burnside area with the redevelopments completed by the University of Oregon, Oregon College of Oriental

Purpose

The goal of Old Town/Chinatown events was to work with the community to identify today's issues and opportunities based on progress since the 1988 plan and generate ideas about how the area should evolve over the next 25 years. The input gathered in these events will be used in the preparation of preliminary concept diagram that illustrate future scenarios for the district, as well as potential policy and implementation tool recommendations to be included in the West Quadrant Plan.

Results: Key Planning Themes

Several key themes emerged from the March events in Old Town/Chinatown and the work leading up to them. These themes provide direction for the West Quadrant Plan process and the actions that the plan should consider in Old Town/Chinatown.

1. **Harness Creative Energy**, especially east-west along NW Couch and north-south along NW Broadway, using the higher education institutions as lasting anchors to attract creative companies.
2. **Support and encourage the nightlife district**, but manage and buffer it well to increase positive impact and reduce negatives.
3. **Continue pursuing housing goals to balance the district housing mix**, especially student and market-rate. Consider high-density housing north of NW Everett along the NW Glisan corridor.
4. **Recognize the Skidmore District as a national architectural gem** and continue to prioritize restoration and complementary infill at a comparable scale.
5. **Reexamine the preservation framework in New Chinatown/Japantown** to recognize the district's unique cultural significance. Identify key cultural and architectural resources, and develop a more flexible and attractive development framework for other sites. Focus the cultural hub of the district between NW Everett to W Burnside and NW 4th and NW 3rd.
6. **Develop and implement an improved parking management strategy for the district** to meet growing demand that encourages surface-lot redevelopment and rehabilitation of historic buildings.
7. **Improve connections** into and out of the district from the west and south. Improve access to Waterfront Park and the Willamette River.

Planning Process

Old Town/Chinatown community members and stakeholders were invited to attend two events in March 2013. Both events were held at the University of Oregon Portland Center in Old Town Chinatown.

Community Planning Forum

The first event was a community planning forum held on March 8th from 8:30 a.m. to 12:30 p.m. Approximately 70 people attended, including a broad representation of area residents, property owners, businesses and institutions.



OT/CT Interview Notes

Brian Emerick, Historic Landmarks Commission (11/5/12)

- Chinatown and Skidmore are 2 distinct places
- Chinatown does need the most thought
- Scale of new development will be important to the PHLC
- New Blanchet House does have some Asian detailing and mural, which is at least a nod. PHLC thought the Scale of new Blanchet fits in district
- A new direction or approach may be OK for Chinatown and acceptable to the PHLC as long as there is a clearly articulated vision
- Take a look at Victoria BC Chinatown, a small "curated" urban space. Quirky character, public art, lighting, Fan Tan Alley

Raymond Cheng, Architect (9/26/12)

- Parking is major issue
- A new open space is needed, Chinese garden is great but inward-looking
- Concept for an International District is a good idea, people might accept that, but keep "Chinatown" in the name. Look at Seattle example
- Block 33 is key catalyst site
- Social service concentration and drugs are an issue
- Need new retail and housing
- The old buildings themselves are not so important, open to new larger developments
- Most old buildings not feasible to rehab

Steven Ying, CCBA (11/26/12)

- Saying on Chinatown Gate means "4 oceans, 1 family"
- Vision Plan was half completed and then dropped
- Jackie Peterson has a plan to create a living museum along [4th? 3rd?] from Davis to Everett
- Hoy Yin Association □ immigrants from a specific village/area, own ABC Seafood [?]
- PSU Chinese Students group is active
- Portland Chinese Times newspaper
- CCBA has 21 Board members, from other associations
- Going back to what Chinatown used to be is impossible: housing is too expensive, there is no parking, there is no Chinese grocery
- What Chinatown has is traditional organizations who own property
- Chinatown can be about tourism, culture and history
- An Asian grocery would be important to kick-start things
- Missing residents who would spend money, social service clients don't have the money to spend
- Find uses for the Festival Streets
- Chinese associations and landowners don't like to borrow money, making reinvestment in properties difficult
- Most or all tongs have 6-10 residential spaces on the upper floors—Gee How Oak Tin has 10 rooms
- The steady income from ground floor leases is important
- Create Sun Yat Sen Park on the Cindy's site, I could get the statue
- Chinese follow food and free parking. Charging for Sunday parking hurt the restaurants
- In Seattle Chinese go for food in Bellevue and Renton, except for Occasional banquets in Chinatown
- House of Louie building and business for sale for \$1 million
- Lunch business OK in restaurants, dinners not doing well
- Condemn the properties where owners not willing to do something

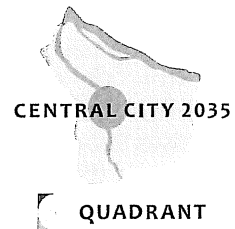
Richard Harris, former CCC and OT/CT Visions Committee (11/26/12)

- Purposes of OT/CT Visions committee
 - Advise PDC and URAC—nobody wanted to miss out on URA money
 - Strengthen the neighborhood association through a community development approach
 - Provide a discussion venue for businesses and social services—create a unified voice

Old Town/Chinatown

Summary of Issues and Opportunities

Below is a summary of issues and opportunities in the Old Town/Chinatown study area of the Central City. It was compiled by Bureau of Planning and Sustainability staff based on a number of sources, including a series of interviews with Old Town/Chinatown stakeholders, a review of previous planning projects in the area, and the 2010 Central City 2035 Subdistrict Profiles report. This document is meant as a starting place for Old Town/Chinatown planning efforts as part of the West Quadrant Plan process.



Historic Districts and Neighborhood Identity

- The Old Town/Chinatown area includes two overlapping but distinct Historic Districts: Skidmore/Old Town (a National Historic Landmark) and New Chinatown/Japantown. These two districts have some of Portland's oldest commercial structures and evoke Portland's early history.
- Current planning direction for the Skidmore/Old Town district, most recently articulated in the Ankeny/Burnside Development Framework, emphasizes preservation of historic structures while supporting new development that sensitively responds to the historic urban fabric.
 - Recent projects such as the University of Oregon Portland Center, Mercy Corps and the Oriental College of Medicine have successfully renovated historic buildings and begun to increase the district's vitality.
 - Implementation of some recommended regulatory changes, including the adoption of new historic design guidelines and proposed height changes, remain unresolved.
- The overall direction for the New Chinatown/Japantown Historic District is not as clear. The identity of the district is more tied to its ethnic and cultural significance, as opposed to historic buildings per se, and it continues to face long-term challenges including disinvestment, lack of infill, complicated ownership structures, and the shift of Portland's Asian communities away from the area.
 - Several new ideas about the future direction of New Chinatown/Japantown have emerged in recent years, including expanding its identity to encompass Pan-Asian themes, modern Asian design aesthetics and the promotion of entrepreneurship.
 - It's not clear how these concepts fit with a more traditional approach to historic preservation and they could imply the need for changes to the regulatory framework in the district.

Neighborhood Vitality and Development Energy

- Old Town/Chinatown has a large number of older and historic buildings that are underutilized (particularly on upper stories) and in need of seismic and fire-life-safety upgrades and other significant reinvestments. In many cases, achievable rents in the area do not support rehabilitation of these structures without significant public subsidies or other sources of funding.
- Surface parking lots consume a significant portion of the two historic districts. These "missing teeth" in the built fabric reduce street-level activity and negatively impact the area's identity and sense of place.
 - Redevelopment of vacant and surface parking lots is an important component for revitalizing the area. Additional strategies and incentives may be needed to encourage redevelopment of these lots while also addressing the parking needs of local businesses, the entertainment cluster and attractions such as the Chinese Garden and Saturday Market.
- A number of buildings in new Chinatown/Japantown have multiple, often absentee, shareholders, complicating efforts to renovate the structures.

Old Town/Chinatown

Summary of Issues and Opportunities

- Development regulations, including height and floor area ratio (FAR) limits and historic design guidelines, appear to be inconsistently applied in Old Town and may be discouraging new development. Current maximum heights and FAR within the Central City reflect a desire to extend the tallest buildings from downtown north through parts of Old Town/Chinatown and across the Willamette River into the Lloyd District. Within Old Town/Chinatown, this pattern raises issues related to the appropriate scale of buildings within and adjacent to the two historic districts. On the other hand, some property owners have indicated that existing entitlements within the historic districts are too low to justify new development on vacant parcels, many of which produce stable income streams as parking lots.
- A vibrant entertainment and nightlife scene has emerged in Old Town, enlivening the area late at night (particularly on Fridays and Saturdays) but creating inactive storefronts during the day.
 - Currently Old Town pedestrian activities is very episodic, with the greatest activity during weekend nights. This area lacks sufficient density and diversity of activities to support both active daytime and nightlife.
 - The nightlife scene creates public safety concerns, contributes to problems with vandalism, and generates conflicts with nearby housing and social services.
- There is a large supply of affordable housing in Old Town and a large percentage of its residents have low incomes. However, market-rate housing opportunities are limited and little new housing has been constructed in recent years. A number of stakeholders have indicated that a more diverse mix of housing affordability would improve Old Town's livability, public image and business environment.
- Most of the major public and private development and infrastructure projects in the past decade have relied significantly on the use of Urban Renewal funding and tax increment financing. However, the availability of urban renewal funds will decrease dramatically and will be more narrowly focused in coming years. The need for new and creative funding mechanisms has been identified.
- Block 33 (Jack's Chinatown Parking site) is a full-block redevelopment site in the center of New Chinatown/Japantown. New development on this lot could have a catalytic impact on investment in the district.
- The Old Town/Chinatown Business Association hasn't been active recently, although the recent reincarnation of the Old Town/Chinatown Neighborhood Association into the Old Town Community Association may reinvigorate business participation in the association, similar to the successful model used by the Lloyd Community Association. Previous studies have identified the need for an additional management entity or entities that could assist with public space programming, district advocacy and marketing, security, parking and transportation coordination and small business assistance.

Public Perceptions and Safety

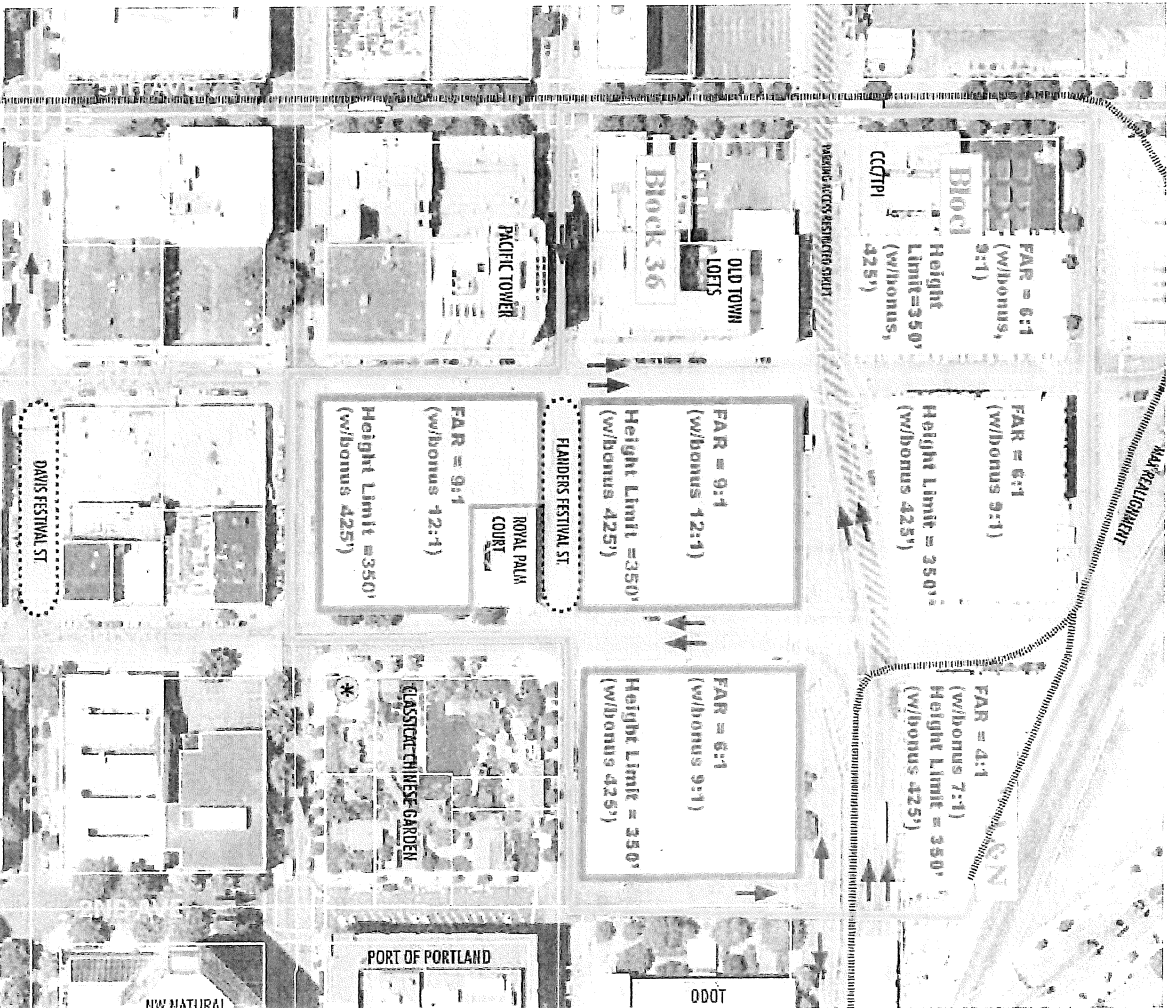
- A variety of social services are located in Old Town, providing critically important services in a highly-accessible location. However this concentration also presents challenges to the area's retail environment and makes attracting new private investment more difficult.
- Many of the area's social service providers have reinvested in their buildings in recent years and solved some of the problems of large queues awaiting services on the streets. However, some providers of services to the homeless still accumulate crowds of clients on the street creating a negative environment for retail and commercial activity.
- The active entertainment and nightlife scene has increased concerns about public safety in the area, including vandalism, public intoxication, and the potential for pedestrian-auto conflicts.

Urban Planning Framework

The study's primary opportunity sites of Block 24, 25, and 26 are on the eastern flank of Portland's River District, within the Central City Plan District. This area was envisioned by the city with the potential for larger-scaled structures, to take advantage of the location's views to the Willamette River in the east and north, and to downtown in the south, and the housing towers in the west. These parcels, along with the 1/4-block, 14-story Pacific Tower directly adjacent to Block 26, will help to transition from the low- and mid-rise environment at the center of Old Town and in the Skidmore / Old Town historic district to the taller structures to the west, in the Pearl.

In anticipating this vision, the zoning classifications for the study area's blocks is **CXd** (Central Commercial with a design overlay). Blocks 25 and 26 each have an allowable Floor-Area-Ratio (FAR is essentially a measure of a building's bulk - 1:1 corresponds to the site area, 1-story deep) of **9:1**, bonusable to **12:1** (if certain amenity bonuses are proposed within the development, such as residential use, sustainability features, etc.) These two blocks also have an existing height limit of **350'**, bonusable to **425'**. These entitlements are quite generous within the city of Portland, able to accommodate large structures, or if the floorplates do not fill the parcel, more slender, higher towers.

Block 24 has a similar height limit to these blocks, with an allowable FAR of 6:1, bonusable to 9:1, as does the developable parcels on Blocks P and O. Block A&N, closer to the river, has an FAR of 4:1, bonusable to 7:1, with a similar height limit to the other blocks in the study area, as shown on the map to the right.



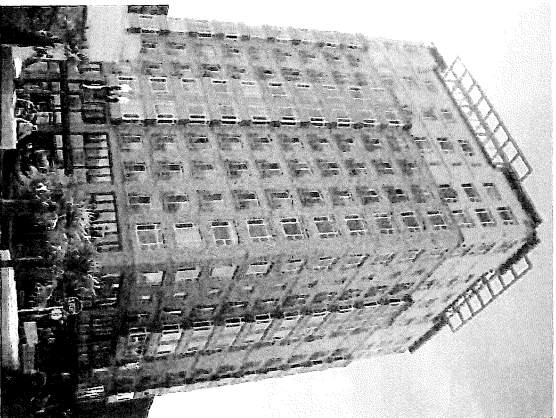
Zoning Code Allowable Development Limits and Transportation Map, showing FAR (Floor-Area-Ratio), Height Limits, and Traffic Directions

Housing

One of the key needs for the North Old Town/Chinatown neighborhood is the provision of housing that serves a pluralistic population of varying income levels and diverse lifestyles, from students to immigrants to the working class. This neighborhood is considered by many local developers as a secondary location compared to other districts in the downtown core and therefore has not seen the dramatic increase in housing construction as other nearby downtown districts.

As construction costs continue to rise, this district will continue to face difficulties. Creative strategies will need to be implemented in order to raise the economic feasibility for housing developments proposed for this neighborhood, with an additional focus on maintaining the spirit of place of Old Town/Chinatown. The following pages illustrate a small sampling of local and foreign project examples highlighting innovative strategies that may be useful for the needs and economics of the study area parcels. Some attributes of the projects illustrated include:

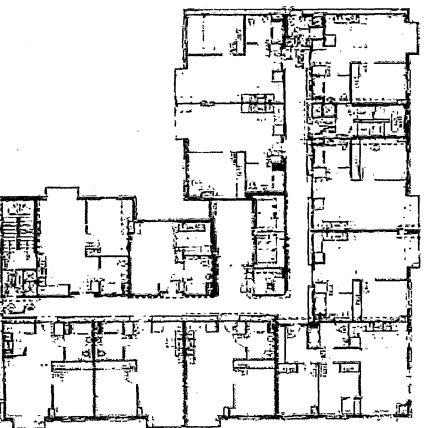
- **Innovative products** - housing that responds to the local Portland demographics, and specifically a more edgy and unique local identity of Old Town/Chinatown,
- **Innovative construction techniques** - projects that utilize nontraditional construction methods and materials for cost savings,
- **Small-scale and flexible floor plans** - a mix of unit types, particularly smaller units may respond to the district's younger demographics,
- **Mix of housing types** - a range of for-sale as well as rental units (even within single developments) may allow for economic and lifestyle diversity, and respond to absorption rate pressure,
- **Workforce housing** - targeted middle-income to retain and entice families and workers to live downtown and support the district's amenities,
- **Innovative financing strategies** - a mix of market-rate and affordable financing strategies will likely need to be explored in order to provide the desired housing mix,
- **Partial-block development** - the district's current make-up of primarily partial block parcels offer opportunities for phasing to match the historic fine-grained development, as well as real economic and parking challenges,
- **Sustainability** - economic feasibility and sustainability measures often conflict, but several of the included examples are successful in combining these attributes.



Pacific Tower

Portland, OR, North Old Town/Chinatown

- 1/4 block development on 10,000sf site
- 13 levels of housing over retail and public-use ground floor, 156 apartments
- Minimal parking, (12 on-grade, monthly rental spaces) due to immediate proximity of transit mall
- Economics Data: When opened in 2003, the rentals were originally targeted towards Asian seniors, 10% for households under 30% of MFI and the remainder for house holds 60% or less of MFI. The eventual tenants are now younger, in their 20's or 30's and some students able to fall within the income ceilings. Rents range from \$540-\$850.



Floor Plan

Exhibit A:

Central City 2035 Findings of Fact Report

May 24, 2018

Findings on Statewide Planning Goals

State planning statutes require cities to adopt and amend comprehensive plans and land use regulations in compliance with state land use goals. The Statewide Planning Goals addressing citizen involvement and coordination apply to all legislative reviews. Many of the other goals focus on the assembly of information, proper analysis, and policy decisions.

The Statewide Planning Goals that apply to Portland are:

- Goal 1, Citizen Involvement
- Goal 2, Land Use Planning
- Goal 5, Natural Resources, Scenic and Historic Areas, and Open Spaces
- Goal 6, Air, Water and Land Resource Quality
- Goal 7, Areas Subject to Natural Hazards
- Goal 8, Recreational Needs
- Goal 9, Economic Development
- Goal 10, Housing
- Goal 11, Public Facilities and Services
- Goal 12, Transportation
- Goal 13, Energy Conservation
- Goal 14, Urbanization
- Goal 15, Willamette River Greenway

There are approximately 560 acres of land both within Portland's municipal boundaries and beyond the regional urban growth boundary that can be classified as rural land. In 1991, as part of Ordinance 164517, the City Council took an exception to Goal 3 and 4, the agriculture and forestry goals, in the manner described and authorized by state law and Goal 2. Because of the acknowledged exception, **the following goals do not apply:**

- Goal 3, Agricultural Lands
- Goal 4, Forest Lands

Other Statewide Planning Goals apply only within Oregon's coastal zone. The Statewide Planning Goal Glossary defines "Coast Zone" as "The area lying between the Washington border on the north to the California border on the south, bounded on the west by the extent of the state's jurisdiction, and in the east by the crest of the coastal mountain range, with the exception of: (a) The Umpqua River basin, where the coastal zone shall extend to Scottsburg; (b) The Rogue River basin, where the coastal zone shall extend to Agness; (c) The Columbia River basin, where the coastal zone shall extend to the downstream end of Puget Island. (Formerly ORS191.110)." Since Portland is not within Oregon's coastal zone, **the following goals do not apply to this decision:**

- Goal 16, Estuarine Resources
- Goal 17, Coastal Shorelands
- Goal 18, Beaches and Dunes

Goal 19, Ocean Resources

1. **Goal 1, Citizen Involvement.** To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

Goal 1 applies to all legislative land use decisions. Administrative rules under Goal 1 further require cities to:

- Designate a committee for citizen involvement;
- Provide for widespread citizen involvement with an opportunity for citizens to be involved in all phases of the planning process (developing, evaluating, and amending plans; and in the development, adoption, and application of legislation to carry out the plan - the subject of periodic review Task V);
- Adopt and publicize a program for citizen involvement that is appropriate to the scale of Portland's *Central City 2035 Plan* process;
- Provide the opportunity for the public to be involved in data collection;
- To assure that technical information is available in an understandable form;
- Assure effective two-way communication with citizens, including feedback mechanisms; and
- Assure a sufficient level of funding and human resources are allocated to the citizen involvement program to make citizen involvement an integral part of the planning process.

Each of the three primary phases in the development of CC2035 involved a detailed approach to addressing the requirements of Goal 1. The entire public involvement process of CC2035 is detailed in Volume 6 – Public Involvement, and is also summarized in this ordinance as follows:

Phase 1: Central City 2035 Concept Plan. The development of the concept began by establishing an 18-member Advisory Group (AG) representing stakeholders and interest groups with experience in different issues related to the Central City and its future. This group, appointed by Mayor Sam Adams, served for one year, and participated in a series of public meetings, including workshops and topic specific symposiums, that included additional experts on different topic areas. These events, which approximately 425 people attended, were used to develop strategies and objectives in the creation of a new framework of goals, policies, and actions intended to guide the development of CC2035.

Next a 17-member Steering Committee met eight times over a year to guide staff in the development of policy and urban design framework presented by the Central City 2035 Concept Plan. As with the earlier efforts, these meetings were open to the public and attendees were provided an opportunity at each meeting to provide input to the committee as part of that process.

Phase 2 – Quadrant Plans

N/NE Quadrant Plan. A 30-member stakeholder advisory committee (SAC) met 19 times and held an additional 14 subcommittee meetings. All meetings were open to the public and opportunities to provide direct input to the SAC were provided. In support of outreach on the plan, staff attended 100 community meetings attended by more than 1,100 people; hosted 10 public events attended by more than 600 people; and, used web based tools that an additional 140 people used to provide input.

West Quadrant Plan. A 33-member SAC met 16 times. All meetings were open to the public and opportunities to provide direct input to the SAC were provided. In support of outreach on the

plan, staff attended 100 community meetings attended by more than 1,100 people; hosted 12 public events attended by more than 400 people; and, used web based tools, mailers and surveys that an additional 700 people used to provide input.

Southeast Quadrant Plan. A 30-member SAC met 14 times. All meetings were open to the public and opportunities to provide direct input to the SAC were provided. In support of outreach on the plan, staff attended 93 community meetings attended by more than 500 people; hosted 15 public events attended by more than 500 people; and, used web based tools and mailers that an additional 1,000 people used to provide input.

Phase 3 – Discussion, Proposed, and Recommended Draft Development. This phase of CC2035 involved several topic specific efforts conducted in support of CC2035 development. These efforts used a combination of committees, public open house events, and meetings with community based organizations to provide additional opportunities to influence the final recommendations to CC2035. They included the following:

- **Central City Parking Policy Update** (30-member SAC, open house event, online surveys, community meetings)
- **Central City Scenic Resources Protection Plan** (Technical Advisory Committee, Panel of Experts, Public Review Draft, community meetings, open house events)
- **River Planning** (Central Reach Working Group, 2-Day Public Workshop, Public River Walks, community meetings, open house events)

Additionally, as a final version of CC2035 was being produced, additional opportunities to give input into the plan were provided as follows:

- **Discussion Draft.** Release on February 8, 2016, this draft of the plan presented preliminary zoning amendments and policy for CC2035. Open house events attended by more than 70 were held, and staff attended over 40 community meetings related to this draft. Public input on this first draft closed on March 31, 2016, and over 200 written comments were submitted.
- **Proposed Draft.** On June 20, 2016, the Proposed Draft of CC2035 was released in preparation for the PSC review of the plan. This draft of the plan was amended from the earlier Discussion Draft based on much of the public input provided during the review period of that draft. Prior to the first PSC public hearing, held on July 26, 2016, open house events were conducted to provide those who may testify before the PSC with more specific information about plan elements.

The PSC held public hearings and work sessions between June 2016 and April 2017. During these meetings, testimony was received on the Proposed Draft, amendments were proposed during work sessions, and an additional hearing was held to receive testimony on PSC proposed amendments before the PSC voted on the final Recommended Draft to be forwarded to City Council. The PSC held meetings for the plan on the following dates:

- | | |
|-----------------|--------------------|
| - Briefing: | June 28, 2016 |
| - Hearing: | July 26, 2016 |
| - Hearing: | August 9, 2016 |
| - Work Session: | September 27, 2016 |
| - Work Session: | November 16, 2016 |
| - Work Session: | January 10, 2017 |

- Work Session: January 24, 2017
- Work Session: February 14, 2017
- Work Session: February 28, 2017
- Work Session: March 14, 2017
- Work Session: April 11, 2017
- Work Session & Vote: May 23, 2017

- **Recommended Draft.** On June 22, 2017, the Recommended Draft of CC2035 was released in preparation of City Council review of the plan. This draft of the plan was amended from the earlier Proposed Draft and presents the recommendation of the PSC to City Council.

City Council held public hearings and work sessions between August 2017 and May 2018. During these meetings, testimony was received on the Recommended Draft, amendments were proposed during deliberations, and additional hearings were held to receive testimony on Council proposed amendments before the Council voted on the final As Adopted Central City 2035 Plan. The Council held meetings for the plan on the following dates:

- Work Session: August 15, 2017
- Hearing: September 7, 2017
- Hearing: September 14, 2017
- Hearing: September 20, 2017
- Deliberation: October 18, 2017
- Deliberation: November 29, 2017
- Deliberation: December 6, 2017
- Hearing: January 18, 2018
- Hearing: March 7, 2018
- Hearing: March 22, 2018
- Hearing: April 4, 2018
- Deliberation: April 11, 2018
- Deliberation & Initial Vote: May 24, 2018
- Final Vote: June 6, 2018

The events and outreach strategies summarized here, and detailed in Volume 6, Public Involvement of the Central City 2035 Plan demonstrate consistency with the requirements of Statewide Planning Goal 1.

As noted above, the process leading to the final Recommended Draft of Central City 2035 included the development of four initial concept plans (the CC2035 Concept Plan, North/Northeast, West, and South East Quadrant Plans) and included a detailed public engagement process that provided repeated and numerous opportunities for all interested parties to shape and influence the final recommended draft.

For instance, each of the four noted plans were initially developed with the assistance of a Stakeholder Advisory Committee (SAC), specifically developed for each plan area. These SAC's include a diverse membership, including representatives from under-represented communities who have been impacted by past planning decisions. SAC meetings were open to the public, and public comment periods were a part of each meeting.

In addition to the SAC's, open house events, meetings with neighborhood and business associations, and meetings with numerous interest based organizations were held, to ensure all interested parties and organizations had a chance to learn about and provide input on the plan.

Goal 2, as it applies to CC2035, requires the development of a process and policy framework that acts as a basis for all land use decisions and assures that decisions and actions are based on an understanding of the facts relevant to the decision. The amendments support this goal because CC2035 was developed consistent with State-wide Planning Goals, the Metro Urban Growth Management Functional Plan, and 2035 Comprehensive Plan, as detailed in this ordinance. Further, the Central City 2035 Concept Plan, created with a stakeholder committee and approved by the PSC and City Council, established an additional policy framework to guide the development of subsequent quadrant plans, and the Recommended Draft of CC2035.

The plan was also developed in consultation and in partnership with all applicable City of Portland bureaus, state agencies, such as the Oregon Department of Transportation, Department of Land Conservation and Development, and local agencies, such as TriMet, Metro, and Multnomah County. Lastly, two agencies, the Port of Portland, and Portland Public Schools, testified on different elements of the recommended amendments to the Zoning Code. Thus, CC2035 is consistent with the requirements of Statewide Planning Goal 2.

3. **Goal 5, Open Space, Scenic and Historic Areas, and Natural Resources.** To protect natural resources and conserve scenic and historic areas and open spaces.

Scenic Resources

- a) The plan includes an updated inventory of scenic resources in the Central City, which was developed based on the procedures and requirements for complying with Goal 5. The policies and development standards in the plan protect significant scenic resources identified in the adopted *Central City Scenic Resources Protection Plan*, Volume 3A, Part 1 and Part 3;
- b) The plan includes an economic, social, environmental and energy analysis (ESEE) for the scenic resources, Volume 3A, Part 2. The ESEE analysis was developed based on the procedures and requirements for complying with Goal 5. The ESEE includes identification of conflicting uses, determination of the impact area, analysis of the ESEE consequences of allowing, limiting, or prohibiting conflicting uses, and development of a program to protect and conserve specified resources identified in the inventory;
- c) Scenic resource (s) overlay zones have been applied to significant scenic resources and limit development and vegetation within views. The river overlay zoning regulations, found in 33.475, require that viewpoints associated with designated views be developed to provide public access to the scenic resource;
- d) Building heights in portions of the Central City, shown on Map 510-3 and 510-4, have been updated to preserve significant views of and across the Central City. Projections are prohibited above the height if in a scenic view corridor.

Historic Resources. The plan includes new incentives to seismically improve historic landmarks and to transfer un-used floor area from sites with historic landmarks to provide greater long-term protect of these resources. The plan also lowers the maximum allowable height in some historic districts, and generally removes height bonus allowances within all historic districts, with the exception of ½ block in New Chinatown/Japantown, to ensure new development in these areas is compatible with the massing of adjacent contributing structures and the character of the district.

Natural Resources. Per OAR 660-023-0240(2) Goal 15 supersedes the requirements of Goal 5 for natural resources also subject to and regulated under Goal 15. The only Goal 5 natural resources in the CC2035 Plan area are located within the Willamette Greenway and therefore are regulated by Goal 15.

Community Involvement: Goals

58. **Goal 2.A: Community involvement as a partnership.** The City of Portland works together as a genuine partner with all Portland communities and interests. The City promotes, builds, and maintains relationships, and communicates with individuals, communities, neighborhoods, businesses, organizations, institutions, and other governments to ensure meaningful community involvement in planning and investment decisions.
59. **Goal 2.B: Social justice and equity.** The City of Portland seeks social justice by expanding choice and opportunity for all community members, recognizing a special responsibility to identify and engage, as genuine partners, under-served and under-represented communities in planning, investment, implementation, and enforcement processes, particularly those with potential to be adversely affected by the results of decisions. The City actively works to improve its planning and investment-related decisions to achieve equitable distribution of burdens and benefits and address past injustices.
60. **Goal 2.C: Value community wisdom and participation.** Portland values and encourages community and civic participation. The City seeks and considers community wisdom and diverse cultural perspectives, and integrates them with technical analysis, to strengthen land use decisions.
61. **Goal 2.D: Transparency and accountability.** City planning and investment decision-making processes are clear, open, and documented. Through these processes a diverse range of community interests are heard and balanced. The City makes it clear to the community who is responsible for making decisions and how community input is considered. Accountability includes monitoring and reporting outcomes.
62. **Goal 2.E: Meaningful participation.** Community members have meaningful opportunities to participate in and influence all stages of planning and decision making. Public processes engage the full diversity of affected community members, including under-served and under-represented individuals and communities. The City will seek and facilitate the involvement of those potentially affected by planning and decision making.
63. **Goal 2.F: Accessible and effective participation.** City planning and investment decision-making processes are designed to be culturally accessible and effective. The City draws from acknowledged best practices and uses a wide variety of tools, including those developed and recommended by under-served and under-represented communities, to promote inclusive, collaborative, culturally-specific, and robust community involvement.
64. **Goal 2.G: Strong civic infrastructure.** Civic institutions, organizations, and processes encourage active and meaningful community involvement and strengthen the capacity of individuals and communities to participate in planning processes and civic life.

The process leading to the final Recommended Draft of Central City 2035 included the development of four initial concept plans (the CC2035 Concept Plan, North/Northeast, West, and South East Quadrant Plans) and included a detailed public engagement process that provided repeated and numerous opportunities for all interested parties to shape and influence the final recommended draft.

For instance, each of the four noted plans were initially developed with the assistance of a Stakeholder Advisory Committee (SAC), specifically developed for each plan area. These SAC's include a diverse membership, including representatives from under-represented communities

who have been impacted by past planning decisions. SAC meetings were open to the public, and public comment periods were a part of each meeting.

In addition to the SAC's, open house events, meetings with neighborhood and business associations, and meetings with numerous interest based organizations were held, to ensure all interested parties and organizations had a chance to learn about and provide input on the plan.

Further, the BPS website had pages dedicated to each plan effort, and tools such as a Map App page, and contact information for a Central City 2035 help line, each providing additional opportunities to learn about the plan effort, review back ground reports, meeting notes, and numerous ways to comment on the plan.

Once a SAC endorsed plan was created for the Concept Plan and all three quadrant plans, briefings were held with the Planning and Sustainability Commission (PSC), Design Commission, and Landmarks Commission. These meetings were open to the public and PSC meetings were televised and available to review online. Then a public hearing on each plan was held with the PSC, who heard testimony and reviewed written testimony on each plan. These hearings were followed by a series of work sessions where the PSC revised the plan based on their and public input, and a formal PSC Recommended Draft was forwarded to the Portland City Council, where a similar series of briefings, hearings, and work sessions were held on each plan before Council adopted each after making amendments based in part on public testimony.

On June 12, 2015, the Portland Office of the Ombudsman received a complaint noting that West Quadrant Plan SAC members did not disclose conflicts of interest, and asking that the SAC recommendations be invalidated. On October 21, 2015, the Ombudsman responded to this complaint by noting that the Oregon Government Ethics Commission makes a distinction between actual and potential conflicts of interest, stating:

"An actual conflict of interest occurs when an action taken by the official would directly and specifically affect the financial interest of the official, the official's relative or a business with which the official or a relative of the official is associated. A potential conflict of interest exists when an official takes action the could have a financial impact on that official, a relative or a business with which the official or the relative of the official is associated."

The Ombudsman found that SAC members did not face "actual" conflicts of interest, citing that the Oregon Government Ethics Commission, because "actual conflicts of interest cannot occur where an advisory committee makes non-binding recommendations (Advisory Opinion No. 07A-1001, page 3)." However, the Ombudsman indicated that SAC members could have faced a "potential" conflict, and although that "does not preclude anyone from being a member of the SAC or voting on a recommendation, the Ombudsman, prior to review of the CC2035 Plan by the PSC, recommended that BPS contact SAC members with a request to disclose any conflicts they may have had.

The public was provided opportunities to discuss concerns and suggest amendments in front of both the PSC and Council in response to the potential conflict disclosures. Several members of the public took that opportunity. Based on this testimony Council requested BPS staff to produce a height map of the West Quadrant, with properties owned by West Quadrant SAC members highlighted. Council made this request to determine if there was a basis for claims that SAC members disproportionately benefited from height amendments. Upon reviewing the ownership map, Council determined that no disproportionate benefits were gained by SAC members.

Further opportunities to for the public to engage with the PSC and City Council in the legislative review of CC2035 are summarized in the Statewide Planning Goal 1, Citizen Involvement, earlier in these findings.

Therefore, the plan and this public engagement process are consistent with Goals 2.A – 2.G of the 2035 Comprehensive Plan.

Community Involvement: Policies

Partners in decision making

65. **Policy 2.1, Partnerships and coordination.** Maintain partnerships and coordinate land use engagement with:
 66. **2.1.a,** Individual community members.
 67. **2.1.b,** Communities of color, low-income populations, Limited English Proficient (LEP) communities, Native American communities, and other under-served and under-represented communities.
 68. **2.1.c,** District coalitions, neighborhood associations, and business district associations as local experts and communication channels for place-based projects.
 69. **2.1.d,** Businesses, unions, employees, and related organizations that reflect Portland's diversity as the center of regional economic and cultural activity.
 70. **2.1.e,** Community-based, faith-based, artistic and cultural, and interest-based non-profits, organizations, and groups.
 71. **2.1.f,** Institutions, governments, and Sovereign tribes.
72. **Policy 2.2, Broaden partnerships.** Work with district coalitions, neighborhood associations, and business district associations to increase participation and to help them reflect the diversity of the people and institutions they serve. Facilitate greater communication and collaboration among district coalitions, neighborhood associations, business district associations, culturally-specific organizations, and community-based organizations.

During the development of the CC2035 Plan, staff conducted SAC meetings (57), subcommittee meetings (21), attended community meetings and events (303), and held project specific public open house events and tours (53). All meetings and events were open to the public and included opportunities for public comment. These meetings included those held with neighborhood associations, business associations, district coalitions, City advisory groups, professional organizations, and specific interest groups. Contact and updates to these organizations and individual stakeholders was maintained via email and website updates regarding the plan. A series of Technical Advisory Committee (TAC) meetings were also conducted on the overall CC2035 Plan, and for each quadrant plan. These TAC meetings included representatives of City, regional, and state government. These efforts demonstrate consistency with Policies 2.1 and 2.2.

Environmental justice

73. **Policy 2.3, Extend benefits.** Ensure plans and investments promote environmental justice by extending the community benefits associated with environmental assets, land use, and public investments to communities of color, low-income populations, and other under-served or under-represented groups impacted by the decision. Maximize economic, cultural, political, and environmental benefits through ongoing partnerships.

224. The Plan responds to the policy through new goals and policies specific to the Central City that call for: the rehabilitation and reuse of historic structures; historic district protection measures; and, incentives to encourage seismic upgrades and other rehabilitation measures for historic resources.
225. The Central City Plan District is proposed to be amended to include FAR transfer provisions that require seismic upgrades, but provide additional transferable floor area to provide a financial incentive to support these upgrades. The Plan also includes an action item calling for the City to advocate for the passage of a state historic tax credit.
226. The maximum heights within historic districts have generally been reduced, and in most cases bonus height provisions have been repealed to result in new development that is compatible with the existing scale and character of the Central City's historic districts.
227. For instance, in the New Chinatown / Japantown Historic District heights in the northern four blocks have been reduced from a maximum of 350 feet, and the ability to bonus an additional 75 feet in height to a maximum of 425 feet, has been eliminated. Now the maximum height in that area is 200 feet with no ability to bonus to a greater height. Although one block in the district received bonus height to a maximum of 200 feet on the west half of the block and 125 feet on the eastern half of the block, it should be noted that the greater heights allowed on the west half of the block are adjacent to parcels that may build to 460 feet. Further, the new maximum height limits create a step down from these greater height allowances to the west of the New Chinatown / Japantown Historic District down to 100 feet maximum to the east of the site in question, and then eventually down to 75 feet to the properties located just east of the district.
228. Following Council proposing this amendment, testimony was received for and against the increased height. Some testifying was concerned that these heights would not be consistent with the rest of the scale of development elsewhere in the district. However, others noted that the block in question had long been underutilized and that redevelopment of the site would be a catalyst for investment throughout the district, following decades of neglect. In the end, council decided: 1) the heights proposed would still result in a step down from the urban form surrounding the district; 2) the increased height was necessary to incent redevelopment of a catalytic site; and 3) the issue of consistency was best left to the Landmarks Commission who remain charged with reviewing future development proposals on that site and elsewhere in the historic district.

Thus, on balance, these amendments in New Chinatown / Japantown Historic District and all other Central City Historic Districts further the objectives of Policy 4.48 above.

Policy 4.49, Resolution of conflicts. Adopt and periodically update design guidelines for unique historic districts. Refine base zoning in historic districts to consider the character of the historic resources in the district.

Consistent with this policy, the plan includes an action item calling for an update of various district specific historic design guideline packages, including those for the East Portland/Grand Avenue and Russell Street Conservation Districts.

229. **Policy 4.50, Demolition.** Protect historic resources from demolition. Provide opportunities for public comment, and encourage pursuit of alternatives to demolition or other actions that mitigate for the loss.
230. **Policy 4.51, City-owned historic resources.** Maintain City-owned historic resources with necessary



ORIGINAL

BEFORE THE LAND USE BOARD OF APPEALS
OF THE STATE OF OREGON

RESTORE OREGON, BOSCO-MILLIGAN
FOUNDATION/ ARCHITECTURAL
HERITAGE CENTER, NIKKEI LEGACY
ENDOWMENT, PORTLAND
CHINATOWN MUSEUM and PEGGY G.
MORETTI,

LUBA Nos. 2018-072;
2018-073/086/087
(Consolidated)

05/17/19 PM 12:08 LUBA

Petitioners,

v.

CITY OF PORTLAND,

Respondent,

and

GUARDIAN REAL ESTATE SERVICES,
LLC,

Intervenor-Respondent.

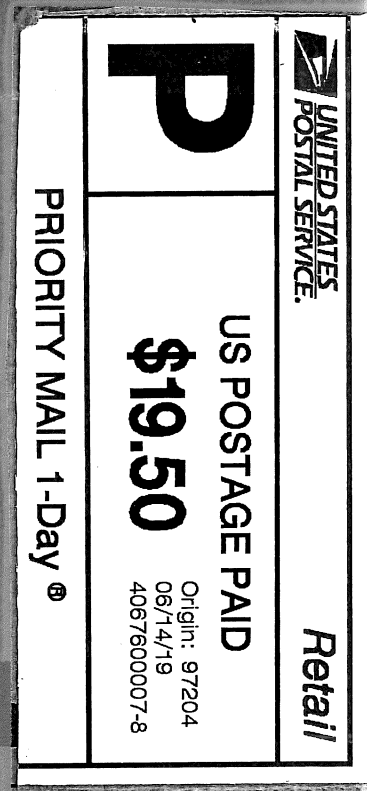
OSB2LAN IVON, LLC and HAITHEM
TOULAN,

Petitioners,

v.

CITY OF PORTLAND,

Respondent.



BRIEF OF CITY OF PORTLAND IN RESPONSE TO PETITIONERS
OSB2LAN, IVON, LCC and HAITHEM TOULAN

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1 **I. STANDING**

2 Respondent City of Portland ("City") agrees that Petitioners OSB2LAN
3 IVON LLC and Haithem Toulon ("petitioners") have standing to appeal City
4 Ordinances 189000 and 189002.

5 **II. STATEMENT OF THE CASE**

6 **A. Nature of the Decision**

7 On August 2, 2018, the Land Use Board of Appeals ("LUBA") on its
8 own motion consolidated LUBA Nos. 2018-072, -073, -086, and - 087.
9 Consolidation of separate appeals is a matter of administrative convenience for
10 the parties and the Board. *Leach v. Lane County*, 45 Or LUBA 733, 735
11 (2003). Petitioners in this consolidated appeal filed separate petitions for
12 review that assign error to distinct and unrelated parts of CC2035. For clarity,
13 the City responds with separate response briefs. *See Foland v. Jackson County*,
14 61 Or LUBA 500, 501 (2010) (Respondents are entitled to file separate
15 response briefs).

16 Ordinances 189000 and 189002 are legislative decisions adopted as part
17 of the Central City 2035 Plan ("CC2035").

18 **B. Nature of the Relief Sought**

19 The City requests that LUBA affirm the City's legislatively adopted
20 ordinances.

21 **C. Summary of Arguments**

22 **First Assignment of Error - Goal 5**

23 The City's Economic, Social, Environmental and Energy analysis meets
24 the requirements of the Goal 5 administrative rules in OAR 660, division 23. The
25 City satisfied the rules by conducting an inventory of scenic resources within two
26 resource sites in the Central City, analyzing conflicting uses, and analyzing the

1 impacts of preserving scenic views on conflicting uses. The City's analysis was
2 based on substantial evidence in the record and was sufficiently resource-site
3 specific to "enable reviewers to gain a clear understanding of the conflicts and
4 the consequences to be expected." OAR 660-023-0040(1).

5 By citing inapplicable administrative rules, petitioners do not identify any
6 legal standard that the City's decision fails to meet. In addition, petitioners do
7 not provide any basis for LUBA to reject the information used by the City in
8 evaluating economic consequences of protecting the view corridor of Mt. Hood
9 that crosses petitioners' property. The City used appropriately conservative and
10 specific assumptions of height, FAR, lot coverage, job impacts and other factors,
11 and petitioners have not demonstrated otherwise. The City did not consider
12 environmental remediation costs for any of the industrial properties in the Central
13 Eastside, and petitioners have not pointed to any basis for concluding that the
14 City was required to consider such property by property specific information. To
15 the contrary, such an analysis would be lengthy and complex, contrary to OAR
16 660-023-0040(1). Finally, evidence in the record demonstrates that the zoning
17 map correctly defines the view corridor adopted by the City Council

18 Second Assignment of Error - Goal 10

19 The City's decision correctly finds that CC2035 satisfies Goal 10. The
20 City's recently adopted BLI determined that the City has a surplus of land for
21 residential use that far exceeds the City's allocation from Metro. Substantial
22 evidence in the record demonstrates that the Central Residential (RX) zone has
23 produced far fewer housing units and far less housing density over a 16 year
24 period than the Central Commercial (CX) zone, where residential use is allowed
25 as of right. Further, the Metropolitan Housing rules treats mixed-use zones where
26 housing is allowed by right to be residentially designated for purposes of the BLI.

1 As a result, rezoning land from RX to CX does not negatively affect the supply
2 of housing in the Central City, and Goal 10 is satisfied.

3 Third Assignment of Error – Comprehensive Plan

4 The Council correctly and plausibly found that CC2035 complies with
5 the Comprehensive Plan policies, including policies relating to transit and
6 transit-oriented development. The Comprehensive Plan encourages housing
7 and employment growth in transit areas but recognizes that some areas are
8 better suited for employment-related development. Consistent with adopted
9 policies, the Council found that allowing housing as a conditional use in the
10 OMSI Station area was appropriate. However, to protect employment activities
11 and provide a buffer between residential and industrial activities in the Southern
12 Triangle, Council prohibited housing on petitioners' property. Council's
13 decision demonstrates meaningful consideration of all application
14 policies. Petitioners fail to establish otherwise.

15 **D. Summary of Material Facts**

16 The City adopted the first Central City Plan in 1988. R.1110¹. In 1991,
17 the City adopted a Scenic Resources Protection Plan, creating a Goal 5 scenic
18 resources inventory and addressing protection for scenic resources throughout
19 the City. R.1111. In 1992, the City adopted the Central City Plan District
20 which included building height limitations to implement resource protection
21 decisions in the 1991 Scenic Resources Protection Plan. *Id.*

22 Recognizing the need for an updated plan to address emerging issues, the
23 City initiated CC2035 in 2010. Planning for the CC2035 began with Council's
24 adoption of a *Concept Plan* in 2012, followed by adoption of three quadrant
25 _____

26 ¹ Each Record page (R.#) or Amended Record page (AR.#) cited can be found
in the Excerpt of Record (ER). For documents over eleven pages only the first
page is included in the ER. The ER pages are in numerical order and maintain
their Record or Amended Record page numbers.

1 plans in 2012 and 2015. R.3-4. The Bureau of Planning and Sustainability
2 (“BPS”) prepared a CC2035 discussion draft for public review on February 8,
3 2016. R.4. BPS published the Planning and Sustainability Commission’s (PSC)
4 Recommended Draft of CC2035 on June 22, 2017. R.5. The City Council held
5 multiple work sessions and hearings on the Recommended Draft CC2035
6 beginning in September 2017, and ultimately adopted the final, as amended,
7 CC2035 on June 6, 2018. R.1-11. As part of CC2035, in Ordinance 189000, the
8 Council adopted new comprehensive plan goals and policies, comprehensive plan
9 and zoning map amendments, zoning code text amendments, and transportation
10 system plan amendments for the Central City. R.7-10

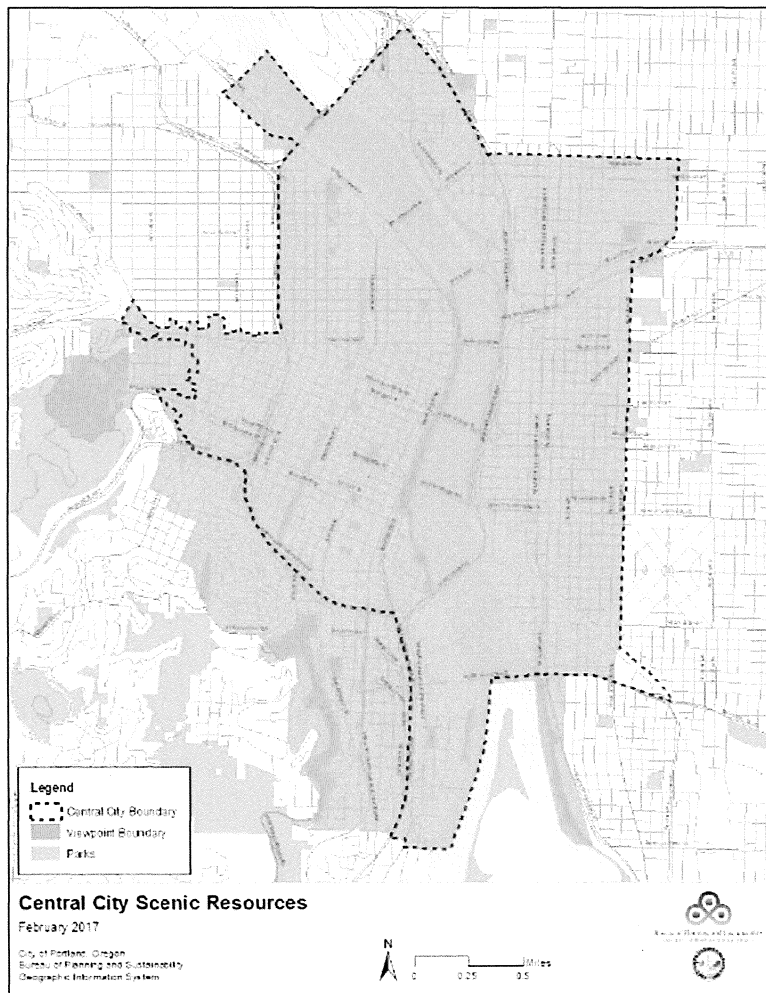
11 The Council also adopted the Central City Scenic Resources Protection
12 Plan (CCSRPP), an update to the Central City geography of the City’s overall
13 Scenic Resources Protection Plan (Ordinance No. 163957). The CCSRPP
14 amended the City’s existing Goal 5 inventory by adding two scenic resources
15 sites (AR.6) and included a Scenic Resource Inventory and an Economic,
16 Social, Environmental and Energy (ESEE) Analysis. R.1265, R.1110-2015.

17 The Council also adopted Ordinance 189002 which made limited
18 amendments to the zoning code applicable to protection of scenic resources
19 outside the Central City that are potentially impacted by development in the
20 Central City. R.5551-5556. Because these amendments were based on the
21 CCSRPP Economic, Social, Environmental and Energy Analysis (ESEE), the
22 Council also adopted the CCSRPP as part of Ordinance 189002. R.5554. The
23 CCSRPP inventory and ESEE are discussed in more detail below.

24 Scenic Resources Inventory

25 The City conducted an inventory of scenic resources within two resource
26 sites. R.1115-1119; R.1244-1761. For the purposes of this inventory, the

1 resource sites are called the Central City boundary and the Viewpoint
2 Boundary. R.1112. These “boundaries” are the City’s “resource sites” as that
3 term is defined in the Goal 5 rule. R.1253, 1262-1264. The Central City
4 boundary resource site contains the following scenic resources: view streets,
5 scenic corridors, visual focal points and scenic sites.² R.1262. The Viewpoint
6 Boundary resource site (“Viewpoint Boundary”) contains scenic views and
7 viewpoints. *Id.* The Viewpoint Boundary consists of the Central City plus areas
8 contiguous to the Central City where views from the contiguous areas may be
9 affected by building heights within the Central City Plan District.



Map 1: Central City Scenic Resources Protection Plan Geographic Scope

² The terms describing the types of scenic resources evaluated by the ESEE are defined in the CCSRPP. R.1107-1108.

1 R.1112.

2 Within the two resource sites, the City mapped and evaluated scenic
3 resources quality and quantity. The methodology used to evaluate the scenic
4 views and viewpoints within the Viewpoint Boundary included an expert panel
5 assessment of all views and viewpoints with scores based on quality and
6 quantity criteria. R.1287-1295. The results of the assessment were grouped
7 into rankings. Scenic view SW46, a view of Mt. Hood from the Tilikum
8 Crossing Bridge that is the focus of this appeal, received the highest rank,
9 “River View Group A.” R.1491-1492.

10 ESEE Analysis

11 After completing the scenic resources inventory for the resource sites, the
12 City conducted an ESEE analysis to evaluate the impacts of decisions to allow,
13 limit or prohibit uses that conflict with the scenic resources. R.1120-1130,
14 1131-1205; 1762-2015. The ESEE analysis first considered which resources
15 were significant. The analysis identified all scenic view and viewpoint
16 resources in the Viewpoint Boundary as significant, except the lowest ranking
17 views that did not include water as a primary focal feature of the view. R.1789.
18 All of the views that included the Willamette River as a primary focal feature
19 were considered significant, including SW46. *Id.*

20 Next, the ESEE analysis identified conflicting uses for scenic views and
21 viewpoints and analyzed the impacts of the conflicting uses. R.1792-1803. In
22 the case of SW46, the ESEE analysis considered building heights to be a
23 conflicting use and analyzed the impact of protecting the Mt. Hood view on the
24 conflicting uses. R.1794-1797.

25 For scenic views and viewpoints, the City first performed the ESEE
26 consequences analysis for the entire Viewpoint Boundary. R.1804-1832. Then

1 the City modified or affirmed the decisions for each individual view and
2 viewpoint within the resource site based on district-specific conditions and
3 balancing of goals. R.1834-1984.

4 Following OAR 660-023-0040, the City considered environmental,
5 social, economic and energy consequences of protecting scenic resources. The
6 methodology for consideration of economic impacts on conflicting uses was to:
7 (1) consider the building height and mass allowed by the existing and proposed
8 base zones as compared to the heights required to protect the views (R.1810-
9 1814, 1197-2004); (2) evaluate the economic impacts on the conflicting uses of
10 protecting the view. (*Id*); (3) balance the results of the economic analysis for
11 conflicting uses and the economic analysis for the scenic resources as well as
12 the social, environmental and energy consequences and identify general
13 resources site decisions (R.1830-1832); and (4) based on policy priorities
14 (R.1834-1838), affirm, clarify or modify the resource site decisions for each
15 viewpoint.

16 The City considered views of Mt Hood from river viewpoints as a high
17 priority for protection. R.1132. As described in the ESEE analysis,

18 Surrounding Portland are mountains that help define the visual
19 setting of the city... These views are iconic to Portland and draw
20 tourists to locations like the International Rose Test Garden in
21 Washington Park. Continued protection of views of Mt Hood and
Mt St Helens is a high priority. This can be achieved by limiting
building heights and vegetation heights and allowing vegetation
management within the view corridors.

22 R.1834.

23 The scenic resources inventory included ten significant views of Mt
24 Hood from the Willamette River. The general ESEE analysis concluded that
25 protecting any of these views would have significant economic impacts on
26 development and recommended that two of the ten be protected. R.1836. Of

1 the ten views, the two views from the Tilikum Crossing --SE21 and SW46 --
2 had the lowest economic impacts. R.1812-1813, 1836. The view from SW46
3 was higher ranked with an A ranking compared to SE21's B ranking. R.1491,
4 1595. Based on the site specific ESEE analysis, the City determined that SW46
5 should be proposed for protection because the view included more of the
6 Willamette River in the foreground of the view:

7 The general ESEE recommendation for Group A views is to
8 prohibit conflicting structures and vegetation within view corridors
9 to Mt Hood, Mt St Helens, or bridges, and to limit conflicting
10 structures and vegetation within view corridors to other primary
11 focal features. Due to the location of this [SW46] viewpoint on
12 Tilikum Crossing out over the Willamette River, there's no
13 potential for structures or vegetation to block the view of the
14 Willamette River, Ross Island Bridge, or the South Waterfront
15 skyline. However, structures or vegetation on the east side of the
16 river have the potential to block a view of Mt Hood. This
17 viewpoint was included in the larger analysis for views of Mt Hood
18 from the Willamette River results in a ESEE recommendation for
19 CCSW46 to prohibit conflicting uses within the view corridor to Mt
20 Hood (shown in red)." R.1929; See also R.1836.

21 Charts in the ESEE analysis further explain the site-specific analysis for
22 SW46:

23 There are 5 viewpoints from Willamette River bridges and 5
24 viewpoints from the Greenway Trail from which one can see Mt
25 Hood. All were evaluated to determine if one or two have a
26 minimal impact on BLI sites and therefore could be protected by
27 limiting building height in the Central Eastside. The economic
28 analysis results showed that protection of any of the views would
29 have a significant impact on development at [BLI] sites. However,
30 the viewpoints located on the Tilikum Crossing are large
31 developed viewpoints with significant use by pedestrians and
32 bicyclists. In addition, views of Mt Hood from this general area are
33 culturally significant to Native Americans. It is recommended that
34 the view of Mt Hood from SW46 be protected by limiting building
35 heights in the Central Eastside. SE21 was not chosen because the
36 development sites within SW46 are larger and allow more
37 flexibility to redistribute building height. R.1163.

38 SW46 is the only protected view of Mt Hood from the Willamette River.

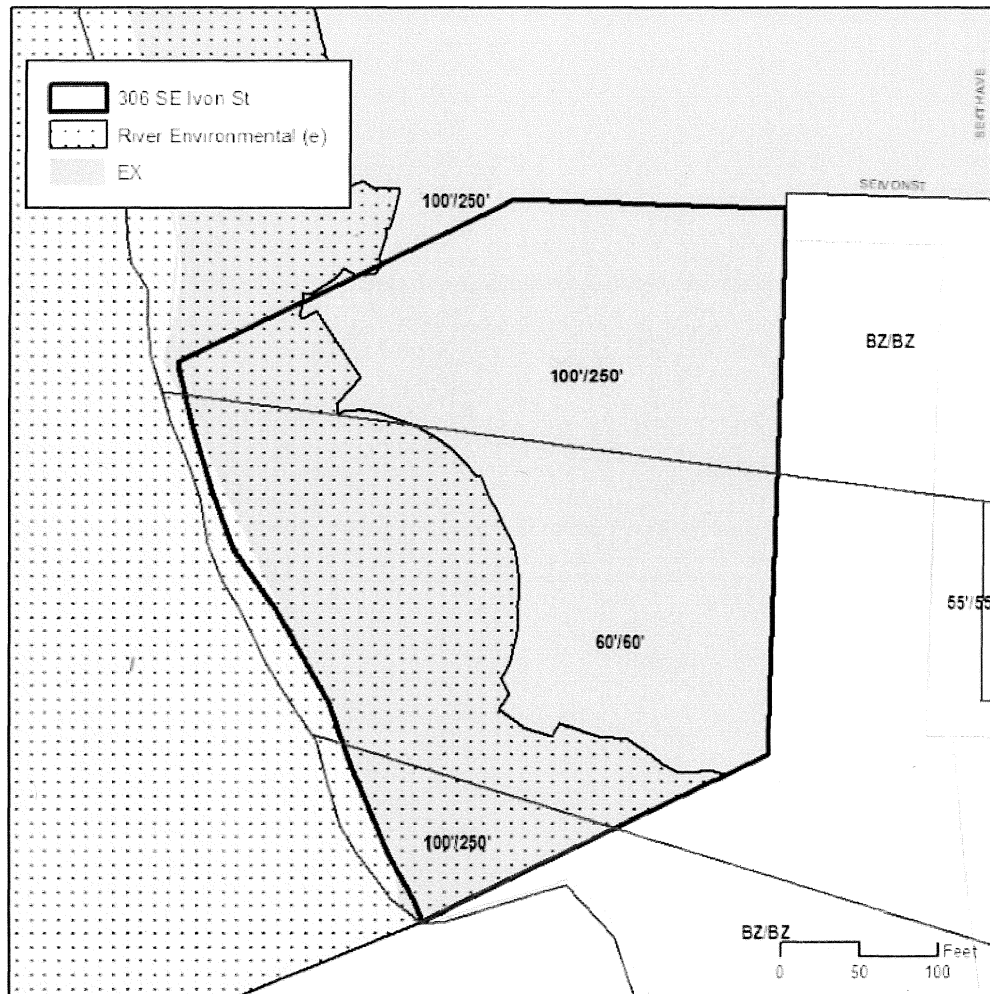
39 //

1 Petitioners' property

2 Petitioners own riverfront property at 306 SE Ivon (the "property") on
3 the east side of the Willamette River between the Tilikum Crossing Bridge and
4 the Ross Island Bridge. The property is located in the Central Eastside and is
5 also in an area referred to in CC2035 as the Southern Triangle. R.2748. Before
6 adoption of CC2035, the site had IH (Heavy Industrial) zoning and an Industrial
7 Sanctuary comprehensive plan designation with a Greenway overlay. R.832-
8 836. CC2035 amended the zoning and comprehensive plan designation for the
9 property to EX (Central Employment) with design and river general overlays on
10 the entire site and river environmental and scenic resource overlay zones on
11 part of the site. R.834, 1050.

12 EX zoning allows uses on the property that were not allowed under the
13 previous IH zoning, including expanded opportunities for retail sales and
14 services, including hotels, offices, commercial outdoor recreation, schools,
15 colleges and medical centers. Portland City Code (PCC) 33.140.100, Table 140-
16 1. App.1-2. While the EX base zone generally allows Household Living and
17 Group Living, Map 510-6 (Map 2 of 2) of the Central City Plan District in Title
18 33 states that residential uses are prohibited on the property and immediately
19 surrounding EX property in the Central Eastside. R.670. Therefore, under both
20 the previous IH zoning and the CC2035 EX zoning, residential uses are not
21 allowed on the property. The maximum floor area ratio for the property is 3:1.
22 Map 510-2 (Map 2 of 2) (R.652). While the base height in the EX zone is
23 typically 65 feet (PCC 33.140.210.B, Table 140-2) (App.3), the base height for
24 the limited number of EX zoned properties in the Central Eastside District is
25 100 feet with bonus heights of up to 250 feet. R.656, 662. Approximately one
26 acre of petitioners' property has the 100-foot base height maximum with the

1 potential of bonus height to 250 feet. R.6833, 24211-24212, 24172. Most of the
2 remainder of the property has a maximum height of 60 feet because of a scenic
3 view corridor from SW46 on the Tilikum Crossing bridge looking east to Mt.
4 Hood. R.656.



21 R.24212

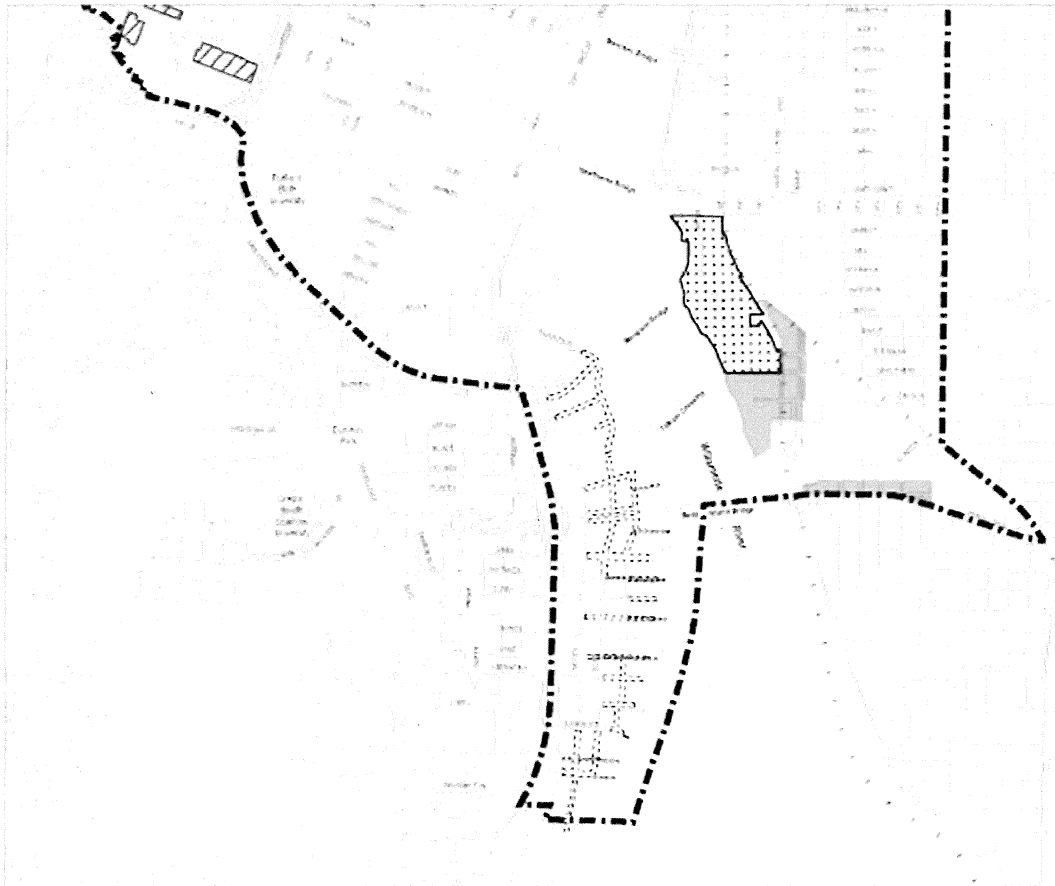
22 The land east and south of the property is a Ross Island Sand and Gravel
23 concrete plant which retained its IH zoning and industrial sanctuary designation
24 in CC2035. R.6900m 6902. Immediately to the north to Caruthers, west of 4th
25 Avenue, and north to Harrison, east of 4th Avenue, are properties rezoned from
26 industrial to EX and also mapped to prohibit residential uses. R.670, 832, 834.

Special Residential Use Areas







Map 510-6

Map 2 of 2

Map Revised XXXXX XX, 201X



Legend

-  Central City Plan District boundary
-  Required residential development area
-  Residential uses prohibited
-  Residential uses require a Central City Master Plan
-  Proposed right-of-way
-  Proposed accessway



Scale in Feet

Bureau of Planning and Sustainability
Portland, Oregon

Chapter 33.510, Central City Plan District

R.670.

1 The properties contain relatively low rise, warehouse type development.
2 R.25221. These EX zoned properties, with no housing option, provide a buffer
3 for industrially zoned properties to avoid eroding the viability of industrial
4 employment. AR.58.

5 **III. JURISDICTION**

6 The City agrees the appealed decision is a land use decision that LUBA
7 has jurisdiction to review.

8 **IV. ARGUMENT**

9 **A. Scope of review**

10 To avoid repetition, the City addresses the applicable scope of review at
11 the outset of the brief. Petitioners' assignments of error assert that the City's
12 decisions in Ordinance 189000 and 189002 are inconsistent with Statewide
13 Goal 5 and the rules set forth in OAR 660, division 16; are inconsistent with
14 Statewide Goal 10 and the rules that implement that goal; and are inconsistent
15 with certain comprehensive plan policies and lack adequate findings with
16 respect to those comprehensive plan policies.

17 Under ORS 197.835(6)-(9), LUBA may reverse or remand a decision
18 adopting a comprehensive plan or land use regulation amendment if LUBA
19 finds it does not comply with the statewide planning goals or applicable
20 comprehensive plan provisions or lacks an adequate evidentiary base. There is
21 no statutory requirement that legislative decisions be supported by findings.
22 *Redland/Viola/Fisher's Mill CPO v. Clackamas County*, 27 Or LUBA 560,
23 563-64 (1994). Where, as here, a legislative decision is challenged, the
24 respondent may demonstrate compliance with applicable standards by adopting
25 explanatory findings in the challenged decision, presenting argument based on
26 the statewide planning goals, administrative rules, code provisions, and

1 evidence in the record in its brief, or both. *Citizens Against Irresponsible*
2 *Growth v. Metro*, 179 Or App 12, 16, n. 6, 38 P3d 956 (2002); *Residents of*
3 *Rosemont v. Metro*, 38 Or LUBA 199, 204-205 (2000). The City is permitted
4 to provide argument and citations to the record to assist the Board in resolving
5 the petitioners' assignments of error. *Von Lubken v. Hood River County*, 22 Or
6 LUBA 307, 314 (1991). If the record citations and legal argument clearly
7 support part of the decision, LUBA must affirm that part of the decision. ORS
8 197.835(11)(b).

9 Statewide Planning Goal 2 requires that legislative land use decisions be
10 supported by an adequate factual base. This requirement is identical to the
11 substantial evidence requirement for quasi-judicial decisions. *1000 Friends of*
12 *Oregon v. City of North Plains*, 27 Or LUBA 372, 377-78 (1994). Substantial
13 evidence to support a finding of fact means that "viewing the record as a whole,
14 a reasonable person could make the disputed finding." *Columbia Pacific*
15 *Building Trades v. City of Portland*, 289 Or App 739, 755, 412 P3d 258
16 (2018), citing *Stevens v. City of Island City*, 260 Or App 768, 772, 324 P3d 477
17 (2014). LUBA may not reweigh the evidence in the record in evaluating
18 petitioners' substantial evidence challenge. *Younger v. City of Portland*, 305 Or
19 346, 358-60, 752 P2d 262 (1988).

20 Finally, the City agrees that the "raise it or waive it" provisions of ORS
21 197.763(1) do not apply to preclude petitioners from raising issues for the first
22 time before LUBA. However, as discussed below, the City does not agree with
23 petitioners that they previously raised all the issues and arguments contained in
24 their petition for review.

25 //

26 //

1 **B. Response to Petitioners' First Assignment of Error:**

2 **The CC2035 Plan complies with Goal 5 and the**
3 **regulations that implement the Goal because the City's**
4 **ESEE analysis complies with the requirements set forth**
5 **in OAR 660-023-000 et seq.**

- 6 1. Petitioners rely on inapplicable regulations to argue that the
7 City failed to comply with Goal 5.

8 Petitioners do not allege that the City's ESEE analysis violates the
9 language of Goal 5 itself. Rather, petitioners assert that the ESEE analysis
10 violates Goal 5 because the City failed to comply with the requirements set
11 forth in OAR 660, division 16, administrative rules that implement Goal 5. As
12 a threshold matter, petitioners' argument must be rejected because OAR 660,
13 division 16 does not apply to the City's post acknowledgment plan amendments
14 (PAPAs)³. OAR 660, division 23 provides the applicable rules for complying
15 with Goal 5. App.19-45. OAR 660-023-0250 states in relevant part:

16 (1) This division replaces OAR 660, division 16 except with
17 regard to cultural resources, and certain PAPAs and periodic
18 review work tasks described in sections (2) and (4) of this rule.

19 (2) The requirements of this division are applicable to PAPAs
20 initiated on or after September 1, 1996. OAR 660, division 16
21 applies to PAPAs initiated prior to September 1, 1996. For
22 purposes of this section "initiated" means that the local
23 government has deemed the PAPA application to be complete.

24 Because the process for CC2035 was initiated after 1996 and does not relate to
25 cultural resources, the applicable standards for conducting an ESEE analysis are
26 found in division 23, not division 16.

 As a result, the rules petitioners cite as a basis for its allegation of Goal 5
noncompliance do not contain the current regulatory requirements. The primary
case petitioners rely on, *Columbia Steel Castings v. Portland*, 314 Or 424, 840
P2d 71 (1992), was decided before the OAR 660, division 23 rules were

³ The term PAPA refers to adoption of plan and zoning code amendments other than through periodic review. OAR 660-023-0010(5).

1 adopted and was based solely on the text of OAR 660, division 16.

2 Assigning error to the City's compliance with inapplicable administrative
3 rules and failing to identify the correct rules is not merely a technical error.

4 Petitioner bears the burden of persuasion to establish a basis for remand or
5 reversal by explaining how the City failed to apply required standards. ORS
6 197.350(1). LUBA can only grant relief if petitioners demonstrate that an
7 *applicable* legal standard is violated. *Day v. City of Portland*, 25 Or LUBA 468,
8 474 (1993) (petitioners failed to adequately allege error by citing wrong code
9 provision); *Schellenberg v. Polk County* 22 Or LUBA 673, 679 (1992) (without
10 showing that applicable legal standard was violated, LUBA cannot grant relief).
11 The rules adopted by the Land Conservation and Development Commission in
12 OAR 660, division 23 contain different standards for conducting an ESEE
13 analysis than the rules of OAR 660, division 16. Petitioners fail to identify any
14 legal requirement the City's decision does not satisfy.

15 2. The City's ESEE methodology complied with Goal 5 and
16 applicable administrative rules

17 Even assuming for the sake of argument that petitioners had alleged error
18 based on OAR 660, division 23, the City's detailed ESEE process complies
19 with the applicable administrative rules. As specified by OAR 660-023-
20 0230(3)(a), when a city amends its acknowledged plans to provide or amend a
21 scenic resources inventory, it must comply with OAR 660-023-0030 through
22 0050. In this case, the City's decision to identify two resource sites and adopt
23 an amended scenic inventory for the resource sites in the CCSRPP requires
24 compliance with these rules.

25 //

26 //

1 The City must inventory Goal 5 resources, determine the significance of
2 the resource sites and “must next conduct an ESEE analysis that (1) identifies
3 conflicting uses and (2) analyzes the ESEE consequences that could result from
4 decisions to allow, limit, or prohibit conflicting uses. Based on that ESEE
5 analysis, the local government must determine whether to allow, limit or
6 prohibit identified conflicting uses.” OAR 660-023-0040; *Johnson v. Jefferson*
7 *County*, 56 Or LUBA 25, 37 (2008), *aff’d* 221 Or App 156, 189 P3d 30 (2008);
8 *NWDA v. Portland*, 50 Or LUBA 310, 337-8 (2005). Here, petitioners appear to
9 challenge only the City’s analysis of ESEE consequences for the Viewpoint
10 Boundary, and specifically, the economic consequences of a decision to
11 prohibit uses that conflict with the scenic view resource associated with SW46.
12 As discussed in more detail below, the City followed the appropriate analysis
13 set forth in the Goal 5 administrative rules, and petitioners fail to identify any
14 way in which the City’s ESEE analysis is inconsistent with those rules. In
15 addition, the City’s decisions to allow, limit or prohibit conflicting uses are
16 supported by substantial evidence in the record.

17 OAR 660-023-0030 requires the City to undertake an inventory process
18 to collect information about scenic resources, determine the significance of the
19 resources, and adopt a list of significant resource sites. The City followed the
20 inventory process detailed in the administrative rule. R.1244-1761. “Resource
21 site” is defined as “a particular area where resources are located. A site may
22 consist of a parcel or lot or portion thereof or may include an area consisting of
23 two or more contiguous lots or parcels.” OAR 660-023-0010(10). As discussed
24 above, the City defined two resource sites: 1) the Viewpoint Boundary and 2)
25 the Central City boundary. R.1262-1264. The City then inventoried particular
26 resources within the resource sites. R.1264. The Viewpoint Boundary was

1 identified as the resource site for scenic views and viewpoints because many of
2 the view corridors start from viewpoints on the west side and extend across the
3 Central City and Willamette River in numerous directions. R.1294-1295.

4 Petitioners have not challenged the City's designation of resource sites and do
5 not assign error to the City's inventory process.

6 OAR 660-023-0040(1) describes the ESEE analysis:

7 [F]indings shall demonstrate that requirements under each of the
8 steps have been met, regardless of the sequence followed by the
9 local government. The ESEE analysis need not be lengthy or
complex, but should enable reviewers to gain a clear understanding
of the conflicts and the consequences to be expected."

10 The City adopted the three-part CCSRPP as Volume 3A of CC2035.

11 R.8, R.5554. The City also adopted findings that Goal 5 was satisfied, based on
12 documentation of the required steps in the adopted ESEE analysis. AR.6-7.

13 Together, these are adequate to demonstrate compliance with the first part of
14 the OAR 660-023-0040(1) standard, and petitioners provide no argument to the
15 contrary. Parts 1 and 3 of Volume 3A contain the City's ESEE analysis and its
16 implementation. As discussed in more detail below, these volumes enable
17 reviewers to gain a clear understanding of conflicts and expected consequences
18 and demonstrate compliance with the second part of the OAR 660-023-0040(1)
19 standard.

20 a. Determination of impact area

21 To begin the conflicting use analysis, the City identified impact areas,
22 that is, the "area surrounding scenic resources that may impact the quality,
23 value, function or extent of those resources." R.1792. Due to the number,
24 density and overlapping impact areas for significant scenic resources in the
25 Central City, the City determined that the impact area was the entire area within
26 the Viewpoint Boundary. R.1793. Petitioners do not challenge the City's

1 definition of the impact area. Thus, City compliance with OAR 660-023-
2 0040(3) is uncontested.

3 b. Identification of conflicting uses

4 OAR 660-023-0040(2) next requires the City to identify conflicting uses
5 that “exist, or could occur, with regard to significant Goal 5 resources sites.” A
6 conflicting use is a land use or other activity that “could adversely affect a
7 significant Goal 5 resource.” OAR 660-023-0010(1). For scenic resources in the
8 Central City boundary and Viewpoint Boundary, it is not the types of uses
9 allowed that create conflicts. Rather, it is the height, mass and location of
10 structures and vegetation that creates conflict with scenic resources. R.1794.
11 To identify conflicting uses, the City evaluated potential development under
12 existing and proposed zoning that could adversely affect scenic resources. The
13 City is not required to identify conflicts resource by resource, but rather is to
14 consider the conflicts for the entire resource site. OAR 660-023-0040(2);
15 R.1777.

16 In addition to vegetation, above-ground utilities and other impacts, the
17 City determined that base height and floor area ratio (FAR) for undeveloped or
18 underdeveloped land on the acknowledged Buildable Lands Inventory conflict
19 with scenic resources. R.1794-1797, 2000-2001. The City considered both
20 existing and potential zoning in determining whether height and FAR could
21 create potential conflicts. R.1812-1814. For SW46 in the Southern Triangle, the
22 existing base zone allowances for industrial uses created greater potential for
23 conflicts in the view corridor than the EX zoning because in the industrial zones
24 in the Central Eastside there is no base height or base FAR. *Id.* The City
25 assumed that, generally, buildings in the Central Eastside in industrial zones
26 would not exceed 90 feet. However, because of the large lot pattern and the

1 lower density development existing in the Southern Triangle, the City
2 recognized the potential for greater height and applied a 200-foot base height in
3 the Southern Triangle if the Central Eastside. R.1794, 1999.

4 Although petitioners challenge certain assumptions the City made about
5 height and FAR, as discussed below, they do so in the context of analyzing
6 ESEE consequences, not conflicting uses.

7 c. Analyze ESEE consequences

8 The City's ESEE consequences analysis is the subject of petitioners' first
9 assignment of error. As discussed above, petitioners' argument incorrectly
10 identifies the rules under which the City's ESEE analysis is to be conducted and
11 evaluated. The applicable rules contain different standards for compliance than
12 the rules cited by petitioners. Petitioners have failed to identify any legal
13 standard that the City's ESEE analysis does not satisfy. Under ORS 197.835,
14 there is no basis for remand or reversal. However, to the extent that LUBA
15 decides to consider petitioners' arguments about the ESEE consequences
16 analysis, the City's decision meets the applicable requirements.

17 To conduct an ESEE consequences analysis, the City must:

18 [A]nalyze the ESEE consequences that could result from decisions
19 to allow, limit, or prohibit a conflicting use. The analysis may
20 address each of the identified conflicting uses, or it may address a
21 group of similar conflicting uses. A local government may
22 conduct a single analysis for two or more resource sites that are
23 within the same area or that are similarly situated and subject to the
24 same zoning . . . A local government may conduct a single analysis
25 for a site containing more than one significant Goal 5 resource.
26 The ESEE analysis must consider any applicable statewide goal or
acknowledged plan requirements, including the requirements of
Goal 5. The analyses of the ESEE consequences shall be adopted
either as part of the plan or as a land use regulation.

OAR 660-023-0040(4).

ESEE consequences are defined as the positive and negative economic,
social, environmental and energy consequences that could result from a

1 decision to allow, limit or prohibit a conflicting use. OAR 660-023-0010(2).

2 The CCSRPP applied a two-level ESEE analysis of scenic views and
3 viewpoints. The first level is a general ESEE analysis performed for the
4 Viewpoint Boundary as a whole (R.1804-1829) and general ESEE
5 recommendations were made for categories of similar scenic views and
6 viewpoints. R.1830-1833.

7 The general ESEE evaluation considered all the potential impacts,
8 positive and negative, on both the scenic resources and the conflicting uses of
9 allowing, limited or prohibiting conflicting uses. An economic impacts analysis
10 was done for every scenic view and viewpoint with existing limitations on
11 building heights or where limitations on building heights would be necessary to
12 protect the view using information in the Economic Opportunities Analysis
13 (June 2016) (R.4991-5324). R.1806-1812. The economic analysis also
14 considered impacts such as property values and rent, tourism, trees, wayfinding
15 and scarcity. R.1815-1819. These were considered with the social,
16 environmental and energy factors to produce a general ESEE recommendation.
17 R.1830-1832.

18 The second level of the ESEE analysis applied the general ESEE
19 recommendations to each individual scenic view and viewpoint to balance goals
20 of protecting scenic resources and goals conflicting uses within the specific
21 view corridor. R.1834-1984. The results for each scenic view were either to
22 confirm, clarify or modify the general ESEE decision.

23 For views of Mt Hood from the Willamette River, the City compared the
24 economic impacts of protecting ten significant views. All are similar scenic
25 resources with views crossing the Central Eastside, all would require reductions
26 in allowed building heights to protect the view, and all would have a significant

1 impact on economic development. R.1836. The two views of Mt Hood from
2 the Tilikum Crossing, SE21 and SW46, had the lowest economic impacts but
3 City Council decided only to protect SW46. *Id.* The recommendation for the
4 other views was no protection of the view of Mt Hood because of the economic
5 impacts. R.1169-1174.

6 On balance, the City determined that viewpoint SW46 should be
7 protected because the SW46 ranked higher for scenic quality in the inventory
8 and because the properties within the view corridor of SW46 are larger
9 providing more potential for development outside of the protected view
10 corridor. R.1173, 1491, 1595. In the case of SW46, the resource specific
11 analysis confirmed the general ESEE decision to prohibit conflicting uses
12 within the view corridor to Mt. Hood. R.1929

13 The City's ESEE consequences analysis followed the requirements of
14 OAR 660-023-0040 and enabled reviewers to understand the economic
15 consequences of decisions to protect scenic views.

16 3. The City's ESEE analysis was resource site-specific,
17 consistent with applicable law

18 Petitioners assert that the City used an area-wide approach for evaluating
19 economic impacts that was rejected in *Columbia Steel Castings*. This appears to
20 be based on a misunderstanding of what the resource sites are for the CCSRPP.
21 As discussed above, there are two resource sites in the CCSRPP. Within the
22 Viewpoint Boundary, the City inventoried all scenic views and viewpoints.
23 This resource site contains multiple resources, but the individual views and
24 viewpoints are not themselves separate resource sites.

25 Petitioners' argument must be rejected for two reasons. First, as
26 discussed previously, *Columbia Steel Castings* is based wholly on findings of

1 noncompliance with the text of OAR 660, division 16, administrative rules that
2 do not apply to the CC2035 PAPA.

3 Second, to the extent that cases based on the text of OAR 660, division
4 16 continue to have relevance to Goal 5 implementation, *Columbia Steel*
5 *Castings* is factually distinguishable from CC2035. In *Columbia Steel*
6 *Castings*, the City had identified and inventoried 36 resource sites, each
7 comprised of numerous properties. 314 Or at 427. One of the sites contained
8 1,867 acres with multiple resources including Smith and Bybee Lakes and a
9 portion of the Columbia Slough. *Id.* OAR 660, division 16 required that an
10 ESEE analysis enable the jurisdiction to explain impacts of conflicting uses on
11 resource sites and why the jurisdiction made protection decisions for specific
12 resource sites. *Id.* at 430-32. The City, instead of conducting an ESEE analysis
13 based on the resource sites, based its analysis on five larger sub areas. The
14 Court held that, because of language in OAR 660, division 16 requiring analysis
15 based on resource sites, the ESEE analysis must contain adequate information
16 about impacts that resource sites and conflicting uses have on each other. An
17 analysis based on units of land that were larger than the resource sites lacked
18 adequate specificity about the resource sites and conflicting uses. *Id.* at 432.

19 The City's CC2035 ESEE satisfies both aspects of the *Columbia Steel*
20 *Castings* analysis. First, the City's conflicting use and ESEE analysis focuses
21 on conflicts and consequences within the defined resource sites - the Viewpoint
22 Boundary and the Central City boundary— consistent with the requirements of
23 OAR 660-023-0040(2)-(4). Unlike *Columbia Steel Castings*, the City did not
24 rely on analysis of larger sub-areas. Importantly, *Columbia Steel Castings* said
25 nothing about the required size for a resource site. Nor did it require a
26 property-by-property ESEE analysis. *Columbia Steel Castings* at 428. It

1 required an analysis on a resource site basis. Because the City conducted an
2 ESEE analysis and balancing process for the resource site where “identification
3 of actual and conflicting uses is specific” to that resource site, the City satisfies
4 *Columbia Steel Castings*, to the extent it remains applicable. *Columbia Steel*
5 *Castings*, at 431-2.

6 Second, while the court in *Columbia Steel Castings* acknowledged that a
7 certain amount of specificity about the impacts of conflicting uses and resources
8 on each other is necessary, the level of specificity suggested by petitioners goes
9 far beyond what that court contemplated. Here, the City provided ample
10 specificity as part of the general analysis and specific resource reviews by
11 differentiating the economic impacts within distinct districts within the resource
12 site. R.2002, 1812-1813, 1832, 1834-1838. Further, OAR 660-023-0040(1)
13 explicitly states that the ESEE analysis does not need to be lengthy or complex.

14 4. The methodology for analyzing ESEE consequences in the
15 Southern Triangle complies with OAR 660-023-0040(3).

16 Petitioners identify three examples of how the City purportedly used an
17 improper area-wide analysis. Because the area the ESEE analysis is based on
18 the Viewpoint Boundary, petitioners’ claim is without merit. After positing that
19 the City’s approach was not specific enough, petitioners argue, seemingly
20 inconsistently, that the City’s use of more specific information for the Southern
21 Triangle was inappropriate. As discussed below, the City’s methodology
22 appropriately analyzes the economic consequences of view protection.

23 //

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a. Height and FAR

To determine the economic impact of preserving views, the City compared the view corridors with allowable building heights under both existing zoning and proposed CC2035 zoning.

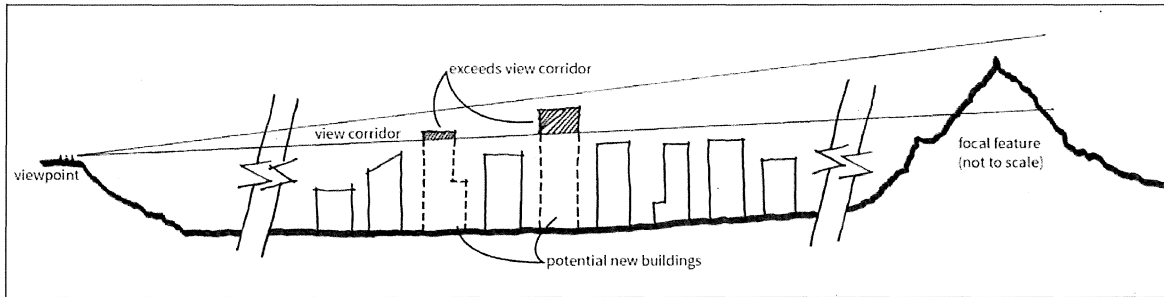


Figure 1: Example of BLI Building Height Conflicts

R. 2001.

The City based height and massing for possible development on height allowed by the base zone unless the base zone had no limits, which is the case for IH and IG1. For IH and IG1 in the Central Eastside, the City generally assumed a height of 90 feet and 4:1 FAR, based on typical building height of no more than 90 feet. R.1999. While industrial uses are typically lower in height, as shown by the 90-foot assumption for much of the Central Eastside, because of the larger block sizes in the Southern Triangle, the City assumed FAR could be consolidated on one part of a site, resulting in taller development on one part of the site.⁴ Thus the City estimated potential for 200-foot development under the existing IH zoning. This results in a greater economic impact on the conflicting use for purposes of the ESEE analysis, than if the City had used existing low height development in the Southern Triangle as the basis for its existing height

⁴ The taller the assumed heights of buildings in a view corridor, the greater the economic impact of protecting the view. Given that existing buildings in the Southern Triangle are typically one story warehouses 20-40 feet tall (R.1999, 25221), the 200-foot height assumption under existing IH zoning in the Southern Triangle results in a comparatively higher economic consequence to protecting the view.

1 assumption.⁵

2 The City then translated the amount of allowed height that would have to
3 be limited to protect views into foregone square feet per floor based on lot
4 coverage assumptions⁶ and applied a value for lost area and jobs per square
5 foot. R.2000-2002. These are adequate and appropriate assumptions for height
6 and FAR that take into consideration the Central City as a whole and the unique
7 nature of different districts within the Central City.

8 As part of CC2035, the proposed zoning for petitioners' property was EX
9 with base height of 100 feet and a base FAR of 3:1. Therefore, the City
10 concluded, the economic impact of protecting the SW46 view would be greater
11 for Southern Triangle properties with the existing IH zoning than with the
12 proposed EX zoning. R.2003-2004. Petitioners assign error to the assumption
13 of height for *existing* IH zoning because it does not reflect the *proposed* heights
14 under CC2035 zoning. Specifically, petitioners argue that the City should have
15 used the bonus height allowed in the proposed CC2035 zoning -- 250 feet --
16 instead of a 200-foot height for existing IH zoning as described in the City's
17 methodology. This erroneously conflates the two parts of the City's analysis.
18 The City did not err in analyzing the impacts under existing zoning and
19 proposed zoning separately.

20 Though not clear from the argument, petitioners also may be asserting
21 that under the analysis of economic consequences under proposed EX zoning,
22 the City should have used a 250-foot height assumption. However, the base
23

24 ⁵ Even with the city's assumption of taller development in the Southern
25 Triangle under existing IH zoning, there is less impact on building height than
26 other river level views because the scenic view at SW46 is elevated on a bridge.
R.2003-2004, 1836.

⁶ Similarly, the higher the lot coverage, the greater the amount of site area that
reduced height will impact, resulting in higher economic consequences.
R.2001-2002.

1 height in EX is generally 65 feet (PCC 33.140.210, Table 140-2) (App.3) and
2 the mapped base height for EX in the Central Eastside in CC2035 is 100 feet.
3 R.656. The proposed 250-foot height cited by petitioners is bonus height that
4 may be achieved, but is not guaranteed.⁷ As stated in the City's ESEE, the
5 methodology used base height and FAR rather than bonus height and FAR for
6 all zones in the Central Eastside that have base height and FAR because it is not
7 certain that bonus height and FAR can and will be achieved or used. R.2000-
8 2001, 35053. Petitioners do not acknowledge the City's explanation in the
9 ESEE nor do they provide any reason this explanation is inadequate. The 100-
10 foot base height of the EX zone is still higher, and has a greater economic
11 impact, than the 90-foot height assumed for most of the rest of the Central
12 Eastside.

13 The City assumed an FAR of 3:1 for the Southern Triangle. This was
14 based on industrial zoning, site size and development patterns. R.1999
15 ("traditional industrial uses in low rise buildings"), R.5251 (EOA showing all
16 2010 existing FAR for Central City industrial at 2:1 FAR or less), R.5264
17 (showing traditional industrial development), R.25221 (showing low warehouse
18 development in Southern Triangle). Given this evidence, petitioners have not
19 identified any reason why 3:1 FAR is an inappropriate assumption for
20 development under existing zoning in the Southern Triangle. Because the
21 proposed CC2035 FAR is 3:1, it is also an appropriate assumption for the
22 analysis under proposed zoning.

23 Petitioners then assert the City erroneously applied the same heights and
24 FAR in the Southern Triangle and Lower Albina. Petition at 18. Petitioners'

25 _____

26 ⁷ Bonus height may be obtained through an FAR bonus or transfer. FAR
bonuses and transfers are available by constructing inclusionary housing,
contributing to the affordable housing fund or through a transfer from a historic
structure. PCC 33.510.205-.210. App.6-18.

1 record citations do not support this claim. R.1999-2000. The City assumed
2 heights of 200 feet and FAR of 3:1 in the Southern Triangle. The assumed
3 height for Lower Albina was set at 150 feet and no FAR was used. R.1999.

4 Finally, contrary to petitioners' assertion, there is evidentiary support in
5 the record for the proposition that larger properties in the Southern Triangle
6 have flexibility to accommodate allowed FAR even with height restrictions.
7 The economic analysis was conducted for vacant and underdeveloped
8 properties on the Buildable Lands Inventory, not for all properties within a view
9 corridor. OAR 660-023-0040(2); R.1121, 35053. Evaluating commonly owned
10 properties as one unit is consistent with the zoning code, which defines a site as
11 all abutting property under common ownership. Portland Zoning Code
12 33.910.030. App.4. In the SW46 view corridor, where the view-imposed height
13 restriction would be lower than height allowed by the base zone, there are three
14 vacant BLI sites and two underutilized BLI sites. R.35456. All of these sites
15 have significant land area outside the view corridor for development. R35456,
16 24172, 36061. There are portions of the view corridor that cover entire BLI
17 sites, but in those cases, the view corridor height limits are above base heights,
18 or the sites are developed and remain IH with typical low height industrial.
19 R.24172, 35456.

20 The economic analysis assumed that the height assigned to the sites in
21 each base zone could be used across the whole site. R.35053. In reality, on
22 larger blocks, the massing could be shifted and the development potential could
23 be used on a different part of the site where greater height is allowed. R.36061.
24 However, because the existing zoning did not force massing to move away from
25 the view corridor, the City assumed that the full height could be achieved
26 anywhere on site. R.35053. Thus, if the view corridor crossed any portion of a

1 BLI site, impacts of protecting the view were calculated for the entire site, not
2 just the view corridor. R.35053, 35184. Given the opportunity to develop to
3 zoned height outside the view corridor, this is a conservative approach that
4 overestimates the economic impacts of protecting the views.

5 b. Lot coverage

6 Petitioners also cite use of average lot coverage in the economic
7 consequences analysis as an example of “area-wide” analysis. Again, under the
8 current Goal 5 rules, the City may conduct a single analysis for a resource site
9 containing more than one resource. OAR 660-023-0040(4). The City provided
10 additional specificity within the Viewpoint Boundary by differentiating lot
11 coverage based on ten separate districts within the resource site. For the
12 Southern Triangle, with a larger block pattern, 80% lot coverage was assumed,
13 with 20% of the lot in non-building (e.g., parking, loading, storage). R.2001-
14 2002, 3199 (showing larger block pattern), 35393.

15 Petitioners fail to identify any specific error in these lot coverage
16 numbers. Evidence in the record states that the averages were applied for each
17 district in the resource site and are based on existing conditions. R.2001-2002.
18 Nothing in the record contradicts this evidence of average lot coverage.

19 In addition, with respect to SW46 and petitioners’ site in the Southern
20 Triangle, the assumed average lot coverage is the highest of any on the eastside
21 of the Willamette River, resulting in a greater area of impact and therefore a
22 higher economic impact. R.2002. This higher lot coverage is a conservative
23 assumption that results in a comparatively greater impact in the economic
24 consequences analysis.

25 Given that the City chose to prohibit conflicting uses for SW46 with an
26 estimate of economic impacts based on lot coverage that is higher than

1 anywhere else in the Central Eastside, use of Central Eastside lot coverage
2 numbers would have resulted in a lower economic consequence for SW46.

3 c. Dollar Value and Jobs

4 Petitioners further assert it was error for the city to use the same floor
5 area value and jobs numbers for the entire Central City. See R.2001. This
6 argument erroneously presumes that the dollar and jobs values were applied
7 “area wide” – that is, to a geography larger than the resource site. As discussed
8 previously, the resource area for the ESEE analysis includes the entire Central
9 City, and thus, the city appropriately conducted a single analysis for the
10 resource site. OAR 660-023-0040(4).

11 The “ESEE consequences” are the “positive and negative economic,
12 social, environmental, and energy” consequences that could result from
13 allowing, limiting, or prohibiting conflicting uses. OAR 660-023-0010(2).
14 OAR 660-023-0010(4) contains no specific methodology for analyzing
15 economic consequences. The City properly analyzed the economic
16 consequences to building heights of protecting views, in part by considering
17 foregone floor area value and jobs within the Viewpoint Boundary.

18 Staff documents in the record consistently used the same lost floor area
19 value and jobs for all views.⁸ See e.g., 1170, 1813, 1836, 2003, 34483, 35184,
20 35394. A staff prepared document can constitute substantial evidence, even if it
21 is not supported by other evidence. *Pete’s Mountain Homeowners Association*
22 *v. Clackamas County*, 55 Or LUBA 287, 312 (2007); *Buhler Ranch Partnership*

23
24 ⁸ The calculation of foregone jobs is based on one job per 200 square feet.
25 R.2004. This converts to 218 jobs per acre. The jobs per acre number cited on
26 R.2001 appears to have transposed the first digits to 128 jobs per acre. Because
128 was not used in the calculation of foregone jobs relied on by city in the
ESEE analysis, this scrivener’s error is harmless and provides no basis for
remand. *Whittemore v. Gearhart*, __ Or LUBA __ (LUBA No. 2016-101 May
30, 2017) (slip op at 13-14).

1 v. *Wallowa County*, 33 Or LUBA 593, 601 (1997) (a staff report may provide
2 an adequate factual base to support a legislative decision).

3 Petitioners complain that the City failed to explain how and why it
4 arrived at the floor area value and jobs assumptions. However, the applicable
5 rules contain no requirement that the record include evidence of analysis
6 supporting calculations or explaining the basis for all assumptions that underlie
7 the evidence. *ODOT v. Clackamas County*, 27 Or LUBA 141, 147 (1994). The
8 substantial evidence standard requires LUBA to determine whether, considering
9 all relevant evidence in the record, a reasonable person could rely on the staff
10 prepared assumptions. ORS 197.835(9)(a)(C).

11 LUBA cannot reweigh the evidence but can consider whether supporting
12 evidence is refuted or undermined by other evidence in the record. *Wilson Park*
13 *Neigh. Assoc. v. City of Portland*, 27 Or LUBA 106, 113, *aff'd* 129 Or App 33,
14 *rev den* 320 Or 325 (1994). Petitioners did not testify about the validity of
15 these values during the city ESEE process and point to no evidence to support
16 their assertion that different numbers should be used for different parts of the
17 Central City. Even if the record lacks an explicit explanation of how
18 assumptions were generated, the City was not required to do so, particularly
19 given that the assumptions were never contested.

20 d. Assumptions for Southern Triangle

21 Petitioners finally argue that it was error to use the same height, FAR and
22 lot coverage numbers for all properties in the Southern Triangle. This reflects a
23 misunderstanding of applicable law. OAR 660-023-0040(4) states that “a local
24 government may conduct a single analysis for a site containing more than one
25 significant resource.” The “ESEE analysis need not be lengthy or complex.”
26 OAR 660-023-0040(1). In other words, the Goal 5 rules are not prescriptive

1 and allow the local government significant discretion in determining how to
2 group property for purposes of the ESEE analysis. The City did not, and is not
3 required to, conduct a property by property study of height and FAR. *Columbia*
4 *Steel Castings*, 314 Or at 431. The City conducted the analysis for groups of
5 similar scenic resources and groups of similar zoned properties within the
6 Viewpoint Boundary. The City's decision to analyze ESEE consequences for
7 like-zoned properties within the Viewpoint Boundary was completely within its
8 range of discretion.

9 In summary, petitioners raise many issues in their petition about the
10 ESEE analysis that they did not raise during the City proceedings. For
11 example, petitioners never challenged FAR, lot coverage and dollar and job
12 value assumptions. Petitioner is correct that the raise it or waive it requirement
13 does not apply in legislative proceedings. However, if, as petitioners argue, the
14 ESEE analysis is an ongoing process that must take into account public
15 comments and make adjustments, and if petitioners never raised concerns
16 during the process about how specific aspects of the analysis were conducted,
17 the City cannot be faulted for failing to respond.

18 5. The City's ESEE analysis adequately considered the impacts
19 of protecting scenic view corridors on conflicting uses

20 Petitioners contend that the City's ESEE analysis does not comply with
21 OAR 660-016-0020(2) because it does not adequately take into account
22 constraints on their property that they allegedly raised. First, OAR 660-016-
23 0020(2) does not apply to the CCSRPP. There is no equivalent requirement in
24 OAR 660, division 23. Regarding public comments, OAR 660-023-0060 states:

25 Local governments shall provide timely notice to landowners and
26 opportunities for citizen involvement during the inventory and
ESEE process. Notification and involvement of landowners,

1 citizens, and public agencies should occur at the earliest possible
2 opportunity whenever a Goal 5 task is undertaken in the periodic
3 review or plan amendment process. A local government shall
4 comply with its acknowledged citizen involvement program, with
statewide goal requirements for citizen involvement and
coordination, and with other applicable procedures in statutes,
rules, or local ordinances.

5 Petitioners do not claim that the City failed to provide timely notice or to
6 comply with its community involvement program.

7 Second, after planning staff completed the ESEE analysis, after the PSC
8 had recommended approval, and after the City Council was briefed on the
9 CCSRPP, petitioners submitted voluminous material into the record. R.8008-
10 13126. However, petitioners did not then, and do not now, explain how those
11 materials pertain to the City's ESEE analysis. In fact, the January 19, 2018
12 transmittal letter does not even mention the ESEE analysis.⁹ R.8008-8009. The
13 documentation submitted by the applicant was not directed at any specific
14 aspect of the ESEE analysis.

15 The City described a methodology for determining the economic impact
16 of preserving resources in the Viewpoint Boundary, with additional specificity
17 for specific geographic areas within the resource site based on conditions
18 described in the record and in adopted City inventories and analysis. Neither
19 the City nor LUBA should be expected to search over 5,000 pages submitted by
20 petitioners to speculate why petitioners thought the City's methodology was
21 unsatisfactory.

22 //

23
24
25 ⁹ The closest reference is a request to remove height limits and allow residential
26 development: "Development will occur on the Property only if it is of a scale
(full height potential) and type (some housing) that can absorb these costs....
We request that the City Council amend CC2035 to remove the height limits
associated with viewpoint CC-SW46 which impact the Property. We further
request that the City Council amend CC2035 to allow residential development
either outright or through a master planning process, on the Property." R.8008.

1 In testimony, petitioners asserted that because of environmental
2 remediation costs, no development of the site was possible with reduced
3 heights. R.8008-8009. This testimony is contradicted by evidence submitted
4 by petitioners that indicates height is not the only or primary limiting factor.
5 Rather, the inability to build residential development and development costs
6 appear to be more significant factors for development feasibility, factors that
7 would apply equally to the existing IH zoning on the property. R.12975, 25285
8 (“Without the potential to build at least some housing on the site, it is unlikely
9 the Property can be redeveloped due to the cost of cleanup.”)

10 Furthermore, petitioners cite no support for the proposition that the City
11 must consider the cost of environmental remediation for individual properties
12 with potentially conflicting uses. The Goal 5 rules do not require an analysis
13 that is lengthy or complex, and it allows the City to conduct an analysis based
14 on the entire resource site. The level of specificity demanded by petitioners is
15 not supported by the rules or applicable case law. OAR 660-023-0040 does not
16 require the City to calculate potential remediation costs for all sites with
17 conflicting uses just as the City would not need to consider an individual
18 property owner’s net wealth or how much the owner overpaid or underpaid for
19 a site, all factors that might influence how likely a particular property is to
20 develop now or in the future. There is nothing in the text of the rule to require
21 such an analysis to be conducted. Rather, here the City considered the
22 development potential allowed by the existing and proposed zoning code,
23 information that is uniformly available for all conflicting uses. In this case, the
24 consequence of the view corridor is reduced height, and the analysis reasonably
25 focused on the impact of reduced height on development potential, rather than
26 other site constraints that exist regardless of the view corridor.

1 In any event, the City acknowledged petitioners' comments regarding
2 environmental remediation. R.24211, 24172. The evidence shows that on
3 petitioners' nearly three-acre property, the City found there is opportunity to
4 develop the allowed FAR under proposed EX zoning. Because the BLI sites in
5 the SW46 view corridor are larger sites, they have the ability to develop
6 significant height outside the view corridor to consolidate allowed FAR.
7 R.24211-24212. There is at least a 40,000 square foot area outside the view
8 corridor and outside river setback, an area the size of a typical downtown city
9 block. *Id.* The base 3:1 FAR on the property can be consolidated outside of the
10 view corridor and river setback and achieve the allowed EX base height of 100
11 feet. Additional FAR and height could be obtained through bonuses and
12 transfers to achieve 250 feet of building height outside of the view corridor and
13 setback. R.24212.

14 Petitioners may claim that a development scenario with lower heights in
15 the center of the property is infeasible, but development scenarios they were
16 considering in both 2013 and 2016 contemplate a lower building in the center of
17 the property with a taller structure on the northern portion of the property,
18 resembling what could be allowed under the CC2035 height limits for the
19 property. R.8010-8036, 12287-12294.

20 The ESEE methodology was published with the *Central City 2035 Plan*
21 *Proposed Draft* in June 2016, so that participants would have the opportunity to
22 identify issues. R.28848-30545. The only mention of the ESEE in petitioners'
23 testimony consists of an assertion that 60-foot limit in the view corridor would
24 preclude development on petitioners' property. R.8008, 14761-14762, 25283-
25 25284. Petitioners also acknowledge that under the existing industrial zoning on
26 the site, development is unlikely to be built to 250 feet height, which they claim
is necessary for development feasibility. R.14762.

1 The choice between conflicting evidence belongs to the local
2 government. *Friends of Deschutes Co. v. Deschutes Co.* 49 Or LUBA 100, 104
3 (2005). The City considered petitioners' argument but, based on evidence and
4 reasoning provided by planning staff, did not agree that a 60-foot height
5 limitation on a portion of the property would preclude development. R.6833-
6 6834.

7 6. The City correctly designated the view corridor on zoning
8 maps

9 The Mt. Hood view corridors were mapped using GIS and were based on
10 protection of a view to 1,000 feet below the mountain's timberline. R.1998.
11 "The timberline is a defining feature and creates the contrast in the mountain."
12 *Id.* The ESEE noted only two exceptions to this defined viewpoint elevation,
13 one from the Vista Bridge and one from Salmon Springs. The GIS modeling
14 then determined the allowed heights based on the view corridor and the
15 elevation of the land under the view corridor. *Id.* The Ross Island Sand and
16 Gravel equipment towers partially obscure the view of Mt Hood from SW46;
17 however, Council affirmed the approach of protecting view corridors to 1,000
18 feet below timberline by approving the view corridor maps and the associated
19 heights derived from the view corridor maps. R.656, 1223. The view corridor
20 used for the economic analysis and reflected on the zoning map correctly
21 identifies the desired area of view protection.

22 One photo of the view corridor appears to show a smaller area of
23 protection. R.1929. However, this photo is not intended to be a precise
24 representation of the extent of the view corridor which is defined as the view of
25 Mt. Hood to 1,000 feet below timberline. R.1999. This is made clear by looking
26 at other photos of Mt. Hood in the ESEE, where the red box on the photo

1 generally shows the location of Mt. Hood, but does not represent protection of
2 the 1,000-foot below timberline elevation, while the map of the view corridor
3 and the resulting zoning map do provide full view protection. See, e.g., R.1891-
4 1895, 1899, 1901, 1937-1939. The mapping for the view corridor, also shown
5 on the same page, and in the detailed zoning maps, ultimately represent the
6 accurate representation of protection of the Mt. Hood view down to 1,000 feet
7 below timberline as approved by Council.

8 Other evidence in the ESEE also shows the intended extent of the view
9 corridor. Photographs depicting the difference in the view of Mt. Hood from
10 SW46 with and without proposed view corridor height limits show protection of
11 a view corridor that includes the view area north of Ross Island Sand and
12 Gravel towers. R.1174, 36062. The depiction of the extent of the view corridor
13 as depicted in the zoning maps represents the City's final decision on protection
14 of the resource, based on the ESEE analysis. The zoning map is not in error,
15 and petitioners fail to demonstrate otherwise.

16 7. Conclusion

17 The purpose of assessing building heights, FAR, lot coverage, jobs and a
18 value of square footage is to allow the City to provide an estimate of the
19 economic impact of not allowing full building height within a protected view
20 corridor. R.24187. Petitioners assert the City's assumptions are both not
21 specific enough and too specific, and could result in an artificially low
22 economic impact for preserving SW46. However, as discussed above with
23 respect to each of these factors, the City used more conservative assumptions
24 for the Southern Triangle than other areas in the Central Eastside, resulting in a
25 higher estimate of economic impact to protect SW46 than if assumptions used
26 elsewhere in the Central Eastside had been used. Petitioners have made no
credible claim to the contrary.

1 Further, in focusing on the height limit, petitioners fail to acknowledge
2 the economic benefit granted to the property as a whole by the CC2035 project.
3 Petitioners requested and received EX zoning on their property, with the
4 significant added flexibility, and presumably increased land value, that
5 upzoning provides. They now complain because, with continued residential
6 prohibition and view-related height limits on a portion of the property, they are
7 not receiving the full additional value of EX zoning.

8 The ESEE analysis does not determine an outcome. Regardless of the
9 economic impact of retaining a single Mt. Hood view from the Tilikum
10 Crossing bridge, the City could have decided that the positive ESEE benefits of
11 protecting that view outweighed the negative economic consequences. In fact,
12 the City could have chosen to protect the view resource by retaining the
13 industrial zoning, as it did for the Ross Island Sand and Gravel property, and
14 imposing height limits for the view corridor. In conducting the ESEE, the
15 “required considerations were indeed considered.” *Citizens Against*
16 *Irresponsible Growth v. Metro*, 179 Or App 12, 16 n 6, 38 P 3d 956 (2002)
17 (citing *Redland*, 27 Or LUBA at 563). The City analysis of the economic
18 impacts of protecting views on the conflicting uses was detailed, specific, and
19 enabled reviewers to gain a clear understanding of the conflicts and
20 consequences to be expected. The City’s ESEE analysis is more than adequate
21 to satisfy the applicable Goal 5 rules.

22 **C. Response to Petitioner’s Second Assignment of Error:**

23 **The CC2035 Plan does not impact housing capacity and**
24 **therefore complies with Statewide Planning Goal 10.**

25 The City assumes this assignment of error relates only to Ordinance
26 189000, as Ordinance 189002 did not amend the zoning designation of any
property.

1 Goal 10 provides in relevant part:

2 Buildable lands for residential use shall be inventoried and plans
3 shall encourage the availability of adequate numbers of needed
4 housing units at price ranges and rent levels which are
commensurate with the financial capabilities of Oregon households
and allow for flexibility of housing locations, type and density.

5 The City's findings discuss how the City complied with Goal 10 in a
6 recent periodic review by adopting a buildable lands inventory (BLI) for
7 residential units through Ordinance 185657 (adopted October 3, 2012), updated
8 by Ordinance 187831 (June 15, 2016). AR14. As discussed in the 2015 Growth
9 Scenarios Report adopted by Ordinance 187831, Metro has allocated 123,000
10 housing units to be provided throughout Portland by 2035. R.5342. The City's
11 acknowledged BLI demonstrates that the City's overall residential capacity is
12 267,000, which far exceeds the Metro allocation, meaning that overall the City
13 has more than enough capacity for required housing units under Goal 10.
14 R5342. Additionally, the findings state that existing zoning in the Central City
15 provides adequate capacity to meet housing need. AR.14. These findings simply
16 provide background on the previously adopted Comprehensive Plan's
17 demonstration of compliance with Goal 10 and are not necessary to the City's
18 decision.

19 However, because CC 2035 rezoned 41.4 acres of land from RX (Central
20 Residential) zone to CX (Central Commercial) zone (AR.24), the City
21 considered whether this rezoning would affect the City's compliance with Goal
22 10. As discussed in the City's findings, state rules for implementation of Goal
23 10 allow mixed use zones such as CX to be considered "residentially
24 designated" in the BLI, meaning that RX and CX receive the same designation.
25 OAR 660-007-0018(1); AR.15. The City further found that "mixed -use zones
26 in the Central City produced more housing per acre than high-density

1 residential zones have over the last 25 years. This analysis served as a basis for
2 CC2035 amending the base zone of RX to CX in various location [sic] in the
3 Central City.” AR.15.

4 These findings are supported by substantial evidence in the record
5 demonstrating that rezoning from RX to CX will have no detrimental impact on
6 housing capacity and may in fact increase housing production. As explained in
7 the City’s findings, while the CX zone is not an exclusively residential zone,
8 residential uses are allowed by right. The findings and record demonstrate that
9 the CX zone produced significantly more residential development, measured
10 both in the total number of units and in the average density of units per acre,
11 than the RX zone between 1990-2016. AR.24-25; R.23742; AR.150 (“[T]here
12 are more mixed-use residential projects and more housing units per residentially
13 developed acre in the CX than any other zone applied within the Central
14 City.”); AR.86 (“Most of the base zones in the Central City allow housing by
15 right, and over 1,100 acres of the plan district have such zoning applied to it.
16 These include the RH and RX zones, which focus on housing production, but
17 also the CX and EX zones, commercial and employment mixed use zones
18 where historically the most housing has been created since 1990. CC2035
19 maintains this supply of land zoned for these purposes and expands the total
20 area of mixed-use zoning allowing housing outright or as a conditional use in the
21 Central City by over 100 acres.”)

22 As explained in a staff memorandum to the Planning and Sustainability
23 Commission:

24 It should be noted that the RX and RH zones focus on housing as
25 the primary use and contains development standard [sic] that
26 significantly limits the amount of commercial and other uses
allowed by right; whereas the CX and EX zones allow housing,
commercial, and even some industrial uses with relatively no

1 limitations by individual use. Despite the intent and protections
2 offered by these zone, the analysis presented in summary Table 2
3 demonstrates that the CX and EX zones, have produced more
4 housing projects, more units, and housing at a higher density that
5 either the RX or RH zones.

6 R.23741.

7 As a result, Council rezoned RX to CX for the express purpose of
8 “stimulating residential mixed use development in areas where residential
9 development has been slow to respond to the RX zone.” AR.24. Petitioners
10 point to no argument or evidence in the record to the contrary. That
11 uncontroverted evidence alone supports the City’s determination of compliance
12 with Goal 10.

13 In addition, the CC2035 rezoned 59.3 acres of industrial land to EX
14 (Central employment) in the Central Eastside. While a portion of this acreage
15 does not allow residential use (Map 510-6; R.670), the EX zone generally
16 allows residential uses. The record supports the City’s findings that the EX
17 zone provided more residential units in the Central City than RX or any other
18 residential zone. AR.26; R 23742. In fact, in both EX and CX, the average
19 density of housing per acre (134.92 units and 168.24 units respectively) has
20 been greater than in the RX zone (132.9 units) from 1990-2016. AR.26;
21 R.23742. The evidence supports the City’s conclusion that converting RX to
22 CX will ensure the availability of adequate units of housing in the Central City,
23 and with the addition of EX zoned land, CC2035 increases the Central City’s
24 housing capacity. As a result, the rezoning does not affect the BLI and
25 complies with Goal 10.

26 Petitioners make a number of unsupported Goal 10 arguments. First,
petitioners allege the City cannot rely on the BLI because it is not in the record.
Contrary to petitioners’ assertions, the primary evidentiary support for the

1 City's decision is not the BLI; the findings regarding the BLI provide historical
2 background documenting pre-CC2035 compliance with Goal 10. As discussed
3 above, the City's determination that CC2035 does not affect Goal 10
4 compliance is supported by findings and evidence that rezoning from RX to CX
5 does not reduce residential capacity.

6 Further, the City's acknowledged BLI was adopted as part of the City's
7 comprehensive plan in periodic review. AR.14. The City is entitled to and
8 required to rely on an acknowledged inventory that is part of the comprehensive
9 plan. *1000 Friends of Oregon v. Dundee*, 203 Or App 207, 216, 124 P3d 1249
10 (2005); *Jaqua v. Lane Co.*, 46 Or LUBA 134, 171 (2004); *Craig Realty Group*
11 *v. Woodburn*, 39 Or LUBA 384, 394-6 (2001). Just as comprehensive plan
12 policies do not need to be added to the record, neither does the BLI as an
13 element of the comprehensive plan. Given the lack of a raise it or waive it
14 requirement in legislative proceedings, petitioners' position would result in the
15 absurd result that cities would have to include the entire comprehensive plan
16 and acknowledged supporting documents such as the EOA and BLI in the
17 record for every legislative proceeding, on the off-chance that an appeal might
18 challenge reliance on a previously acknowledged element of the plan. Finally,
19 there are portions of the BLI in the record that explain the City's GIS model and
20 findings, and references to relevant BLI data.¹⁰

21 The Council also specifically found that CC2035 would ensure the City
22 can accommodate needed housing. "Analysis demonstrated that these
23 amendments will be sufficient to allow approximately 39,500 units to be

24
25 ¹⁰ The findings about the BLI and overall pre-CC2035 housing capacity have no
26 bearing on the city's decision that CC2035 does not affect Goal 10
compliance. See *Reynolds v. Clackamas County*, 21 Or LUBA 412, 414-15
(1991). As a result, whether or not the GIS model data is in the record is not
relevant. *Barbara Chilla v. City of North Bend*, 39 Or LUBA 121, 128 (2000).

1 developed through the life of the plan.” AR.15. This is supported by evidence in
2 the record, based on the BLI, showing that CC2035 will result in a capacity for
3 37,600 additional households. Vol 5A p3; see also Vol 1, p10 (estimating
4 approximately 38,000 new households). This is more than the 36,000 new
5 households estimated for the pre-CC2035 Central City in the Comprehensive
6 Plan based on the BLI¹¹. Growth Scenarios Report at 38. Petitioners fail to
7 acknowledge the City’s findings, based on substantial evidence in the record, as
8 discussed above, that EX and CX produce more housing than the RX zone.

9 Third, petitioners attempt to equate the prohibition on residential uses
10 and height restrictions on their property to loss of housing capacity. Petitioners’
11 property has never been zoned to permit residential development, and
12 residential development is not permitted under CC2035. Petitioners’ property
13 therefore was not used to demonstrate housing capacity under Goal 10, and
14 petitioners have not pointed to any evidence to the contrary. As a result, the
15 residential and height restrictions cannot be construed to impact compliance
16 with Goal 10.

17 In the face of substantial evidence in the record demonstrating that the
18 conversion of RX zoned land to CX and the addition of EX zoned land will
19 result in a higher density of residential units, LUBA should reject petitioners’
20 speculative concerns. *West Hills Development v. Washington Co.*, 37 Or LUBA
21 46, 57 (1999).

22 Finally, the City must balance various policies, including policies to
23 protect industrial uses under Goal 9. As petitioners acknowledge, the City
24 elected to prohibit residential uses on their property in part to reduce conflict
25

26 ¹¹ Although the findings cite a number that slightly exceeds the number in the
evidence in the record, both estimates exceed the number of households
estimated by the pre-CC2035 Comprehensive Plan.

1 with adjacent industrial and employment uses. AR.58. Where the City has a
2 surplus of land to meet residential capacity needs and only limited land to meet
3 employment needs, the City reached a reasonable balance in meeting its
4 comprehensive plan policies. *See* discussion of OMSI station area in R.51041
5 (“The proposal was to allow all EXd uses except housing. This approach has
6 been. . . consistent with the City’s recent Economic Opportunities Analysis
7 which showed that Portland is at risk of providing less employment capacity
8 than is needed by 2035 and should therefore make all efforts to maintain
9 existing employment lands and increase employment capacity through more
10 dense uses.”) Petitioners point to nothing in Goal 10 that mandates the City
11 allow housing on their property.

12 **D. Response to Petitioner’s Third Assignment of Error:**

13 **The Council plausibly found that the CC 2035 is**
14 **consistent with applicable Comprehensive Plan policies.**

15 The City assumes this assignment of error relates only to Ordinance
16 189000, as Ordinance 189002 did not impose development restrictions on
17 petitioners’ property.

18 The Council’s decision to adopt CC2035 complies with all applicable
19 Portland Comprehensive Plan (PCP) policies, including policies relating to
20 transit and transit-oriented development. Petitioners assert that the Council’s
21 findings related to transit-oriented development policies are inadequate and
22 inconsistent. However, there is no requirement that the City’s legislative
23 decision be supported by findings. *Redland/Viola/Fischer's Mill CPO v.*
24 *Clackamas County*, 27 Or LUBA 560, 563-64 (1994). The City is only
25 required to show that required considerations were indeed considered. *Citizens*
26 *Against Irresponsible Growth v. Metro*, 179 Or App 12, 16 n 6, 38 P 3d 956
(2002) (citing *Redland*, 27 Or LUBA at 563). Moreover, “[t]here is no

1 requirement that a legislative land use decision redesignating numerous
2 properties include findings specifically setting out the justification for the
3 change in designation made for each affected property.” *McInnis v. City of*
4 *Portland*, 27 Or LUBA 1, 5 (1994).

5 The SE Quadrant Plan distinguishes between the five unique geographies
6 within the Central Eastside. R.51092. As previously discussed, the property is
7 in the Southern Triangle. The Southern Triangle is:

8 characterized by its large blocks and parcels. . . The largest
9 industrial use is Darigold, but there is also a small collection
10 of industrial businesses dispersed through the area. These
11 large blocks are likely to continue to attract industrial uses,
12 but may also represent a unique opportunity in the Central
City for institutions and businesses seeking to establish a
multiple building campus within a stone’s throw of the
Willamette River and downtown.

13 R.2748.

14 The OMSI Station area, immediately north of the Southern Triangle, includes:

15 includes attractions such as the Oregon Museum of Science
and Industry (OMSI), Portland Community College’s
16 CLIMB Center (PCC), the Oregon Rail Heritage Foundation
(ORHF), Portland Spirit, and the main office and practice
17 facilities for Portland Opera. The opening of the Tilikum
Crossing and Orange Line through the OMSI station will
18 increase the visibility of these attractions for thousands of
daily riders. During the SE Quadrant Plan process, Portland
Opera described a desire to locate a performance theater at
19 their site in collaboration with the Oregon Ballet, the
Maritime History Museum announced their interest in
20 relocating to the eastside waterfront, and OMSI, ORHF and
PCC all discussed expanding their respective operations.

21 R.2749.

22 Historically, the Central Eastside was zoned to serve as an employment
23 district. R.51062. The *SE Station Areas Concept Plan* report recognized that:

24 [t]ypically, station area planning processes have focused on
25 developing housing and retail near light rail stations – an
26 approach that may not be appropriate in these predominantly
industrial station areas. Instead, this process seeks to create a

new model – one that increases density of employment uses near the light rail stations in a way that encourages investment in the area and boosts transit ridership, while also complementing adjacent residential neighborhoods.

R.3993.

Likewise, the *SE Quadrant Plan* policies identified the Southern Triangle as an area to “encourage redevelopment of large sites to include employment opportunities. . .” R.2781. Employment opportunities, not housing, have always been the priority for both the Southern Triangle and the OMSI Station Area. Accordingly, when BPS was developing the *SE Quadrant Plan*, the *Plan* presented to the PSC proposed to convert lands immediately surrounding the OMSI Station from General Employment (EG2) and General Industrial (IG1) to Central Employment (EXd) with the limitation that housing would not be allowed. R.51041.

However, following public testimony in support of some residential uses in the area, the PSC voted to recommend allowing housing as a conditional use with stringent criteria through a master plan provision for the OMSI Station area. R.51041. Ultimately, the *SE Quadrant Plan* sought to balance the benefits of allowing housing with the desire to protect the employment land. Implementation Action RC5 provided:

Allow housing as a conditional use on sites within the OMSI station area having a Comprehensive Plan designation of EG. Develop conditional use criteria that ensures housing would:

- Not have an adverse impact on truck and freight movement;
- Be supported by transportation system in addition to other uses allowed in area;
- Preserve designated scenic resources;
- Be designed to buffer housing from nuisance impacts on uses and not create adverse impacts on uses allowed by right in the zone; and
- Be developed as part of a master plan that demonstrates how urban design, landscaping, building features will limit conflicts between housing and other uses allowed by right.

R.19612; *See also* 19369.

1 Consistent with the *SE Quadrant Plan*, CC2035 proposed to rezone
2 petitioners' property, as well as other properties in the Southern Triangle, from
3 IH to EX. R.832; 834. Other properties in the area, such as OMSI, were
4 proposed to be rezoned from EG2 and to EX. R.832; 834. In the EX zone,
5 residential uses are restricted in identified subdistricts "in order to avoid
6 conflicts between residential and industrial activities." R.370. Within the
7 OMSI station area, residential uses are allowed with a Central City Master Plan.
8 R.670. However, in order to protect industrial and employment activities,
9 residential uses are prohibited on petitioners' EX-zoned property. *Id.*

10 In its third assignment of error, petitioners assert that the Council's
11 decision not to allow residential uses on petitioners' property is inconsistent
12 with transit-oriented development policies. PCP Policies 3.53 through 3.59
13 address Transit Station areas. "These policies encourage housing and
14 *employment* growth in transit areas. . . Mixed-use development with housing is
15 not the priority for all transit station areas; some are locations for employment .
16 . ." PCP, page GP3-18. App.5. To that end, PCP Policy 3.57 requires:

17 Encourage concentrations of jobs and employment-focused land
18 uses in and around stations in employment-zoned areas.

19 In response, the Council found:

20 CC2035 addresses the objectives of Policies 3.56 and 3.57 in
21 several ways. Along the transit mall and at key station areas,
22 FAR and height allowances have been applied to mixed-use
23 zoned areas where a higher density of uses and development
24 may now occur in response to the transit that has been
25 expanded in the Central City over the last decade. In the
26 Central Eastside, two new station areas located in
underutilized low density industrial/employment land have
been rezoned to mixed employment, with higher FAR and
height allowances. One of these, the Clinton Station, is
intended for a mix of residential and employment uses,
whereas, *the OMSI station area is intended for Employment
Transit-Oriented Development (ETOD) and housing is only
allowed as a conditional use where it can be found to not
erode the viability of industrial employment uses on adjacent
parcels.*

1 Properties immediately adjacent to petitioners' property are zoned EX,
2 Central Employment and IH, Heavy Industrial, and IG, General Industrial. The
3 limitations and prohibitions on housing on the property and within the vicinity
4 encourages employment transit-oriented development, consistent with PCP
5 policies. It was also designed not to erode the industrial employment uses on
6 the adjacent Ross Island Sand and Gravel property and prevent residential uses
7 near the industrial use. R.6900-6903.

8 Petitioners assert that the Council's decision to zone the property EX
9 with no residential use is directly contrary to PCP policies 3.2, 3.53, 3.58, 3.59.
10 LUBA must affirm the CC2035 unless LUBA determines that the City decision
11 does not comply with the PCP. ORS 197.835(7). Portland is entitled to
12 deference in its interpretation of the PCP and regulations implementing the
13 PCP. ORS 197.829(1); *Siporen v. City of Medford*, 349 Or 247, 259 (2010).
14 Deference is appropriate when Portland interprets its own laws because Council
15 is in the best position to understand the laws' intent and is politically
16 accountable for the laws it makes. *Gage v. City of Portland*, 319 Or 308, 316-
17 17 (1994).

18 Given Council's authority to interpret and apply its PCP goals and
19 policies, petitioner must do more than disagree with Council's conclusions.
20 *Columbia Pacific Building Trades Council v. City of Portland*, __ Or LUBA __
21 (2017) at 5, 289 Or App 739 (2018) *aff'd in part, rev'd in part on other*
22 *grounds*. Petitioners "must demonstrate that the city council failed to
23 meaningfully consider a reasonably specific and pertinent PCP goal or policy."
24 *Id.* Petitioner has not demonstrated how Council's interpretation and
25 application of those policies is clearly wrong or why Council was required to
26 reach a different conclusion. Instead, petitioner asserts that in response to

1 specific policies Council failed to explain why different development
2 restrictions were imposed in the OMSI station area versus the Southern
3 Triangle. Yet, there is no requirement that a legislative land use decision
4 involving numerous properties include findings specifically setting out the
5 justification for change made for each affected property. *McInnis v. City of*
6 *Portland*, 27 Or LUBA 1, 5 (1994).

7 The record demonstrates that Council meaningfully considered the
8 transit-oriented development policies and determined that both the Southern
9 Triangle and OMSI Station areas are generally intended to serve employment
10 transit-oriented development, and housing is appropriate as a conditional use in
11 the OMSI Station area but not the Southern Triangle.

12 Moreover, the City is not required to consider individual policies in
13 isolation from other applicable policies. *Shamrock Homes LLC v. City of*
14 *Springfield*, 68 Or LUBA 1, 12 (2013). It is possible that the City could
15 conclude, after balancing all applicable policy requirements, that the property
16 should be zoned EX with no residential use. Council plausibly concluded that
17 employment transit-oriented development is most appropriate for petitioners'
18 property pursuant to PCP 3.57.

19 Petitioner erroneously cites *Monogios v. City of Pendleton*, 44 Or LUBA
20 576 (2003) and *Doob v. Josephine County*, 27 Or LUBA 293 (1994) for the
21 proposition that the findings fail to demonstrate compliance or consistency with
22 applicable criteria or policies. Both cases concern quasi-judicial decisions and
23 are not applicable. Instead, LUBA must consider whether record citations and
24 legal argument clearly support the City's decision.

25 The Council plausibly determined that EX with the prohibition on
26 residential uses on petitioners' property and EX with limited residential uses for


1 the OMSI station area were appropriate.

2 **V. CONCLUSION**

3 For the reasons stated above, the City requests that LUBA affirm
4 Ordinances 189000 and 189002. If LUBA disagrees, remand is the appropriate
5 remedy, rather than reversal. Any inadequacies in the application of approval
6 criteria or state law or adoption of findings can be remedied by remanding for
7 adoption of new findings. Similarly, any evidentiary deficiency can be
8 corrected by remanding for reconsideration of the evidence or for new
9 evidence.

10 DATED: June 14, 2019.

11 Respectfully submitted,

12 

13
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1 **Certificate of Compliance with Brief Length and Type Size Requirements**

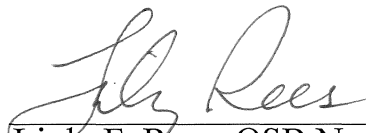
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3 Brief Length

4 I certify that (1) this brief complies with the word-count limitation in OAR 661-
5 010- 0030(2) for appeals filed before January 1, 2019, and (2) the word count of
6 this brief as described in OAR 661-010-0030(2) is 13,529 words.

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8 Type Size

9 I certify that the size of the type in this brief is not smaller than 14 point for
10 both the text of the brief and footnotes as required by OAR 661-010-0030(2).

11
12 Dated this 14th day of June, 2019.

13
14 

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1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I served the foregoing CITY OF PORTLAND'S
3 RESPONSE BRIEF on:

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18 on June 14, 2019, by mailing to said person(s) a correct copy thereof, contained
19 in a sealed envelope, with postage paid, and deposited in the post office at
20 Portland, Oregon on said day.

21 I further certify that on June 14, 2019, I filed the original and four (4)
22 copies of the CITY OF PORTLAND'S RESPONSE BRIEF with the:

23 LAND USE BOARD OF APPEALS
24 DSL BUILDING
25 775 SUMMER STREET NE, SUITE 330
26 SALEM, OR 97301-1283

by mailing said document, contained in a sealed envelope, with first class
postage paid, and deposited with the post office at Portland, Oregon on said
day.



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APPENDIX

8. Waste-Related limitation. This regulation applies to all parts of Table 140-1 that have a [8]. All Waste-Related uses are conditional uses, unless they meet all of the following conditions in which case they are allowed by right.
 - a. The use must be approved by Metro under their authority as prescribed in ORS 268.317;
 - b. Metro's approval of the use must include a mitigation plan. The requirements for the mitigation plan must be approved by the City Council through an intergovernmental agreement with Metro, adopted prior to Metro's approval of the use; and
 - c. The location of the use must be in conformance with Metro's Regional Solid Waste Management Plan.
9. Community Service uses in EG zones. This regulation applies to all parts of Table 140-1 that have a [9]. Most Community Service uses are allowed by right. Short term housing and mass shelters are regulated by Chapter 33.285, Short Term Housing and Mass Shelters.

Table 140-1 Employment and Industrial Zone Primary Uses						
Use Categories	EG1	EG2	EX	IG1	IG2	IH
Residential Categories						
Household Living	N	N	Y	CU [1]	CU [1]	CU [1]
Group Living	N	N	L/CU [2]	N	N	N
Commercial Categories						
Retail Sales And Service	L/CU [3]	L/CU [3]	Y	L/CU [4]	L/CU [5]	L/CU [6]
Office	Y	Y	Y	L/CU [4]	L/CU [5]	L/CU [6]
Quick Vehicle Servicing	Y	Y	N	Y	Y	Y
Vehicle Repair	Y	Y	Y	Y	Y	Y
Commercial Parking	CU [15]	CU [15]	CU [15]	CU [15]	CU [15]	CU [15]
Self-Service Storage	Y	Y	L [7]	Y	Y	Y
Commercial Outdoor Recreation	Y	Y	Y	CU	CU	CU
Major Event Entertainment	CU	CU	CU	CU	CU	CU
Industrial Categories						
Manufacturing And Production	Y	Y	Y	Y	Y	Y
Warehouse And Freight Movement	Y	Y	Y	Y	Y	Y
Wholesale Sales	Y	Y	Y	Y	Y	Y
Industrial Service	Y	Y	Y	Y	Y	Y
Bulk Fossil Fuel Terminal	L [17]	L [17]	N	L [17]	L [17]	L [17]
Railroad Yards	N	N	N	Y	Y	Y
Waste-Related	N	N	N	L/CU [8]	L/CU [8]	L/CU [8]

<p align="center">Table 140-1 Employment and Industrial Zone Primary Uses</p>						
Use Categories	EG1	EG2	EX	IG1	IG2	IH
Institutional Categories						
Basic Utilities	Y/CU [12]	Y/CU [12]	Y/CU [12]	Y/CU [13]	Y/CU [13]	Y/CU [13]
Community Service	L/CU [9]	L/CU [9]	L/CU [10]	L/CU [11]	L/CU [11]	L/CU [11]
Parks And Open Areas	Y	Y	Y	Y	Y	Y
Schools	Y	Y	Y	N	N	N
Colleges	Y	Y	Y	N	N	N
Medical Centers	Y	Y	Y	N	N	N
Religious Institutions	Y	Y	Y	N	N	N
Daycare	Y	Y	Y	L/CU [11]	L/CU [11]	L/CU [11]
Other Categories						
Agriculture	L [16]	L [16]	L [16]	L [16]	L [16]	L [16]
Aviation And Surface Passenger Terminals	CU	CU	CU	CU	CU	CU
Detention Facilities	CU	CU	CU	CU	CU	CU
Mining	N	N	N	CU	CU	CU
Radio Frequency Transmission Facilities	L/CU [14]	L/CU [14]	L/CU [14]	L/CU [14]	L/CU [14]	L/CU [14]
Rail Lines And Utility Corridors	Y	Y	Y	Y	Y	Y

Y = Yes, Allowed

L = Allowed, But Special Limitations

CU = Conditional Use Review Required

N = No, Prohibited

Notes:

- The use categories are described in Chapter 33.920.
- Regulations that correspond to the bracketed numbers [] are stated in 33.140.100.B.
- Specific uses and developments may also be subject to regulations in the 200s series of chapters.

10. Community Service in the EX zone. This regulation applies to all parts of Table 140-1 that have a [10]. Most Community Service uses are allowed by right. Short term housing and mass shelters are regulated by Chapter 33.285, Short Term Housing and Mass Shelters.

11. Community Service and Daycare limitations in I zones. This regulation applies to all parts of Table 140-1 that have a [11]. Community Service uses or Daycare uses up to 3,000 square feet of net building area are allowed. Community Service uses or Daycare uses larger than 3,000 square feet of net building area are a conditional use. Short term housing and mass shelters of any size are prohibited.

12. Basic Utilities in E zones. This regulation applies to all parts of Table 140-1 that have a [12]. Public safety facilities that include Radio Frequency Transmission Facilities are subject to the regulations of Chapter 33.274. All other Basic Utilities are allowed.

13. Basic Utilities in I zones. This regulation applies to all parts of Table 140-1 that have a [13]. Public safety facilities that include Radio Frequency Transmission Facilities are subject to the regulations of Chapter 33.274. Public safety facilities which have more

- b. For pitched, hipped, or gambrel roofs, they must be mounted no more than 12 inches from the surface of the roof at any point, and may not extend above the ridgeline of the roof. The 12 inches is measured from the upper side of the solar panel.

Table 140-2 Development Standards						
Standard	EG1	EG2	EX	IG1	IG2	IH
Maximum FAR (see 33.140.205)	3 to 1	3 to 1	3 to 1	no limit	no limit	no limit
Maximum FAR with Inclusionary Housing Bonus (see 33.140.205.C)	NA	NA	5 to 1	NA	NA	NA
Maximum Height (see 33.140.210)	45 ft.	no limit	65 ft	no limit	no limit	no limit
Min. Building Setbacks Street Lot Line (see 33.140.215)	5 ft.	25 ft.	0	0	25 ft.	5 ft.
- Lot line abutting an OS, C, E, or I zoned lot	0	0	0	0	0	0
- Lot line abutting an R zoned lot	See Table 140-3	15 ft.	See Table 140-3	See Table 140-3	15 ft.	15 ft.
Max. Building Stbks (see 33.140.215) Transit Street or Pedestrian District	10 ft.	None	10 ft.	None	None	None
Maximum Building Coverage (see 33.140.220)	85% of site area	85% of site area	100% of site area	100% of site area	85% of site area	100% of site area
Min. Landscaped Area (see 140.225)	15% of site area	15% of site area	None	None	15% of site area	None
Ground Floor Window Standards apply (see 33.140.230)	No	No	Yes	No	No	No
Pedestrian Standards Apply (see 33.140.240)	Yes	Yes	Yes	No	No	No

Table 140-3 Minimum Building Setbacks and Minimum Landscape Buffer From Residential Zone Lot Lines [1]			
Zone	Height of the building wall	Lots abutting a side lot line of an R zoned lot	Lots abutting a rear lot line of an R zoned lot
EG1, EX, IG1	15 ft. or less	5 ft. / 5 ft. @ L3	0 / none
	16 or more	10 ft. / 5 ft. @ L3	10 ft. / 5 ft. @ L3
EG2, IG2, IH	Any height	15 ft. / 10 ft. @ L3	15 ft. / 10 ft. @ L3

Notes:

[1] Does not apply to lot lines that abut lots in the RX zone. See 33.140.215.B.

Short Term Housing. A structure that contains one or more individual sleeping rooms, and where tenancy of all rooms may be arranged for periods of less than one month. The short term housing facility may or may not have food preparation facilities, and shower or bath facilities may or may not be shared. The facility is managed by a public or non-profit agency to provide short term housing, with or without a fee. Examples include transitional housing, and emergency shelter where individual rooms are provided. Where individual rooms are not provided, the facility may be a mass shelter.

Short Term Parking. Parking having a duration of four hours or less.

Side Lot Line. See Lot Lines.

Side Setback. See Setback.

Side Street Lot Line. See Lot Lines.

Sign. As defined in Title 32, Signs and Related Regulations

Significant Detrimental Impact. An impact that affects the natural environment to the point where existing ecological systems are disrupted or destroyed. It is an impact that results in the loss of vegetation, land, water, food, cover, or nesting sites. These elements are considered vital or important for the continued use of the area by wildlife, fish, and plants, or the enjoyment of the area's scenic qualities.

Single Room Occupancy Housing (SRO). See Residential Structure Types.

Site. For land divisions, the site is the lots, lots of record, or tracts proposed to be divided or reconfigured. For all other purposes, the site is an ownership except as follows:

- If a proposed development includes more than one ownership, then all the ownerships are included as the site.
- If a proposed development includes only a portion of an ownership, and the balance of the ownership is vacant, then the applicant may choose to define the site as the portion of the ownership that is proposed for development.
- If a proposed development includes only a portion of an ownership, and there is other development on the ownership, then the applicant may choose to define the site as the portion of the ownership that is currently developed plus the portion proposed for development.

Site Frontage. The part of a site that abuts a street. See also, Block Frontage.

Small Scale Energy Production. Energy production where the energy is derived from the following:

- Solar;
- Small wind energy turbines;
- Geothermal;
- Hydroelectric systems that produce up to 100 kW;
- Waste heat capture, heat exchange or co-generation of energy as a byproduct of another manufacturing process;
- The following systems that use only biological material or byproducts produced, harvested or collected on-site. Up to 10 tons a week of biological material or byproducts from other sites may be used where the base zone regulations specifically allow it:

Transit station areas

Transit stations provide access to high-capacity transit, which currently consists of the region's light rail system, and in the future may also include bus rapid transit. These policies encourage housing and employment growth in transit station areas to maximize people's ability to benefit from the regional connections they provide and to increase transit access to employment. The policies support a range of transit station area types, with differing priorities for growth, depending on the station type and context.

Priority is given to growth in station areas located in centers since they provide more people with opportunities to be close to both transit and to commercial and public services. These stations have the highest potential for mixed use development. Center stations benefit from the concentration of local services and businesses as well as connections to other transit routes typically found on corridors. Mixed-use development with housing is not the priority for all transit station areas; some are locations for employment, or they serve major regional destinations such as the Oregon Zoo. *See Figure 3-4 — Transit Station Areas-*

- Policy 3.53 Transit-oriented development.** Encourage transit-oriented development and transit-supportive concentrations of housing and jobs, and multimodal connections at and adjacent to high-capacity transit stations.
- Policy 3.54 Community connections.** Integrate transit stations into surrounding communities and enhance pedestrian and bicycle facilities (including bike sharing) to provide safe and accessible connections to key destinations beyond the station area.
- Policy 3.55 Transit station area safety.** Design transit areas to improve pedestrian, bicycle, and personal safety.
- Policy 3.56 Center stations.** Encourage transit stations in centers to provide high density concentrations of housing and commercial uses that maximize the ability of residents to live close to both high-quality transit and commercial services.
- Policy 3.57 Employment stations.** Encourage concentrations of jobs and employment-focused land uses in and around stations in employment-zoned areas.
- Policy 3.58 Transit neighborhood stations.** Encourage concentrations of mixed-income residential development and supportive commercial services close to transit neighborhood stations. Transit neighborhood stations serve mixed-use areas that are not in major centers.
- Policy 3.59 Destination stations.** Enhance connections between major destinations and transit facilities and strengthen the role of these station areas as places of focused activity.

- (5) All facilities. All neighborhood facilities must meet the following:
 - The floor area of the facility must be reserved for the exclusive use of the neighborhood facility for at least 10 years from the date a certificate of occupancy is issued for the qualifying floor area. No uses other than those listed in this subsection are allowed;
 - The applicant must document that there is a binding agreement with an operator for each facility. This documentation must be submitted with the application for design review; and
 - The property owner must execute a covenant with the City which is attached to and recorded with the deed of the site. The covenant must ensure that the owner will reserve the floor area as specified above. The covenant must comply with the requirements of Section 33.700.060.
2. South Waterfront subdistrict. In South Waterfront subdistrict, floor area used for automated parking is not counted towards maximum FAR for the site. The automated parking facility must rely on a mechanical system instead of a vehicle operator to transport vehicles to a storage space within the facility.
3. Minimum FAR. Sites zoned Industrial or Open Space, and sites with a school that will be operated by or for a public school district are exempt from the minimum floor area ratio.

33.510.205 Floor Area Bonus and Transfer Options

- A. **Purpose.** Floor area bonus and transfer options allow additional floor area as an incentive for certain uses and types of development that provide a public or community benefit. The bonus floor area can be gained in exchange for affordable housing or riverfront open space in new development. Transfer options can be used in exchange for historic preservation and transferring FAR within a subdistrict. In the South Waterfront subdistrict new development gains bonus floor area and height in exchange for creating open space and expanding the Willamette River Greenway within the subdistrict.
- B. **Priorities for the use of bonus and transfer options.** When FAR will be increased using bonuses or transfers, the following regulations specify which bonus and transfer options must be used before other bonus or transfer options:
 1. Unless otherwise specified in Subparagraph B.2. the first 3 to 1 of any increase in FAR on a site must be earned or gained through use of one of the following options:
 - a. The inclusionary housing bonus option described in Subparagraph C.2.a;
 - b. The Affordable Housing Fund bonus option described in Subparagraph C.2.b.;
 - c. The historic resources transfer provisions described in Paragraph D.1. or
 - d. The riverfront open space bonus option described in Subparagraph C.2.c.
 2. Exceptions. The following exceptions apply to the bonus and transfer option priorities specified in Paragraph B.1:
 - a. The South Waterfront subdistrict is exempt from the bonus and transfer options usage priorities specified in Paragraph B.1. However, if the site is within the

Greenway bonus target area shown on Map 510-5, and the development does not trigger the requirements of 33.245, Inclusionary Housing, the South Waterfront Willamette River Greenway bonus option must be used before any other bonus. Bonus floor area of at least 7,500 square feet from the South Waterfront Willamette River Greenway bonus option must be earned before the project qualifies for other bonus options;

- b. Floor area transferred legally through a covenant recorded prior to July 9, 2018 may be used to increase maximum FAR on a site before using one of the bonus or transfer options listed in Paragraph B.1. until July 9, 2020. For the purposes of this subparagraph, used means that the transferred floor area has been shown on an eligible receiving site in a complete application for design review; and
 - c. Unused floor area earned through a bonus that no longer exists in the zoning code can be utilized on the site where it was earned before using one of the bonus or transfer options listed in Paragraph B.1.
- C. **Floor area bonus options.** Additional development potential in the form of floor area is earned for a project when the project includes any of the specified features listed below. The bonus floor area amounts are additions to the maximum floor area ratios shown on Map 510-2.
 - 1. General regulations.
 - a. The bonus options are only allowed in situations where stated. Adjustments to the requirements or to the amount of bonus floor area earned are prohibited.
 - b. Bonus FAR is only available to sites zoned RH, RX, CX, or EX, unless specifically stated otherwise.
 - c. Projects may use more than one bonus option unless specifically stated otherwise. Bonuses may be done in conjunction with allowed transfers of floor area, however in some cases, certain bonus options must be used before other bonus options can be used or transferring can occur. See Subsection B.
 - d. The maximum floor area increase that may be earned through the bonus options must be within the limits for overall floor area increases stated in 33.510.200.D.
 - e. Buildings using bonus floor area must not exceed the maximum height limits shown on Map 510-3 unless eligible for bonus height.
 - 2. Bonus floor area options.
 - a. Inclusionary housing bonus option. Projects that include buildings that trigger 33.245, Inclusionary Housing, receive bonus floor area. The amount of bonus floor area earned is an amount equal to the net building area of the building that triggers 33.245, up to a maximum increase of 3 to 1 FAR on the site.
 - b. Affordable Housing Fund bonus option. Proposals that contribute to the Affordable Housing Fund (AHF) receive bonus floor area. Up to 3 to 1 FAR can be earned by paying into the fund. For each square foot purchased a fee must be paid to the Portland Housing Bureau (PHB). Until January 9, 2020 the applicant

will receive 1.5 square feet of bonus floor area for each square foot purchased from PHB. After January 9, 2020 the applicant will receive 1 square foot of bonus floor area for each square foot purchased. The Portland Housing Bureau collects and administers the Affordable Housing Fund, and PHB determines the fee per square foot and updates the fee at least every three years. The fee schedule is available from the Bureau of Development Services. To qualify for this bonus option, the applicant must provide a letter from the PHB documenting the amount that has been contributed to the AHF. The letter is required to be submitted before a building permit can be issued for the development, but it is not required in order to apply for a land use review.

- c. Riverfront open space bonus option. The riverfront open space bonus provides an opportunity to expand publicly accessible open space along the Willamette River. Proposals that provide open space adjacent to the river setback area will receive bonus floor area. For each square foot of open space provided, a bonus of 3 square feet of additional floor area is earned. To qualify for this bonus, the following requirements must be met:
 - (1) Location. The open space must be located outside of but adjacent to the river or greenway setback. When the setback area is increased in conformance with 33.475.210.E., Encroachment into the setback, the open space must be located outside of but adjacent to the increased setback area;
 - (2) Size and dimensions. The open space must include at least 2,500 square feet of contiguous area. Each area must be designed so that a 25 foot by 25 foot square will fit entirely within it;
 - (3) Ownership and use. A public access easement must be provided that allows for unrestricted public access from 5 am to 12 midnight unless otherwise specified by the terms of the easement; and
 - (4) Maintenance. The property owner must execute a covenant with the City that ensures the preservation, maintenance and continued operation of the open space by the property owner. The covenant must meet the requirements of 33.700.060, Covenants with the City, and must be recorded and attached to the deed for the open space.
- d. South Waterfront Willamette River Greenway bonus option. To complement and enhance the existing public corridor, projects along the Willamette River Greenway in the South Waterfront subdistrict that provide open space for public activity will receive bonus floor area. For each square foot of open space dedicated, a bonus of 3 square feet of additional floor area is earned. Open space that will earn bonus floor area under Subparagraph C.2.e, Open Space bonus option, may not be used to earn additional floor area under this bonus. To qualify for this bonus, the following requirements must be met:
 - (1) Location. The open space must abut the South Waterfront Greenway Area, as shown on Figure 510-3;

- (2) Size and dimensions. The open space must include at least 2,500 square feet of contiguous area; the north-south dimension of the area must be at least twice as long as the east-west dimension of the area;
 - (3) Connection to the trail. A direct pedestrian connection must be provided between the open space and any required trail or trail easement on the site;
 - (4) Ownership and use. One of the following must be met:
 - The open space and pedestrian connection must be dedicated to the City; or
 - A public access easement must be provided that allows for public access to and use of all the open space and the pedestrian connection;
 - (5) Maintenance. The property owner must execute a covenant with the City that ensures the installation, preservation, maintenance, and replacement, if necessary, of the open space features. The covenant must meet the requirements of 33.700.060, Covenants with the City, and must be recorded and attached to the deed for the open space;
 - (6) Landscaping. The open space must be landscaped to meet the requirements of Paragraphs 33.510.253.E. 5.a.(2) and E.5.f.(5) that apply to South Waterfront Greenway subarea 3;
 - (7) Open space features. Public seating such as benches must be provided at a ratio of at least 5 seats per 1,000 square feet of open space; and
 - (8) Timing. The requirements of this paragraph must be met before an occupancy permit for any building using the bonus floor area is issued.
- e. Open Space bonus option. In the South Waterfront subdistrict, proposals that provide open space that may be used by the public will receive bonus floor area. For each square foot of open space provided, a bonus of 1 square foot of additional floor area is earned. Open space that will earn bonus floor area under Subparagraph C.2.d., South Waterfront Willamette River Greenway bonus option, may not be used to earn additional floor area under this bonus. To qualify for this bonus, the following requirements must be met:
- (1) Size and dimensions. The open space must include at least 2,500 square feet of contiguous area;
 - (2) Ownership and use. One of the following must be met:
 - The open space must be dedicated to the City; or
 - The property owner must record a public access easement that has been attached to the deed for the open space and allows for public access to and use of all the open space;
 - (3) Maintenance. The property owner must execute a covenant with the City that ensures the preservation, maintenance and continued operation of the open space by the property owner. The covenant must meet the

requirements of 33.700.060, Covenants with the City, and must be recorded and attached to the deed for the open space;

- (4) Parks approval. The applicant must submit with the application for land use review a letter from Portland Parks and Recreation stating that the open space features meet the requirements of the bureau, and that the space is acceptable to the bureau; and
 - (5) The bonus floor area may be used only in the South Waterfront subdistrict.
- f. Open space fund bonus option. In the South Waterfront subdistrict, contributors to the South Waterfront Public Open Space Fund (SWPOSF) receive bonus floor area. For each \$23.70 contributed to the SWPOSF, one square foot of bonus floor area is earned. To qualify for this bonus, the following requirements must be met:
- (1) The applicant must submit with the application for land use review a letter from Portland Parks and Recreation documenting the amount that has been contributed to the SWPOSF;
 - (2) The bonus floor area may be used only in the South Waterfront subdistrict; and
 - (3) The SWPOSF is to be collected and administered by Portland Parks and Recreation. The funds collected may be used only within the South Waterfront, either for acquisition, improvement, or maintenance of public open space or for bank restoration or improvement projects along the Willamette River.

D. Floor area transfer options. Transferring floor area from one site to another is allowed as follows. The transferred floor area is in addition to the maximum floor area ratio shown on Map 510-2. There is no limit to the amount of floor area that can be transferred to a site. Transferring floor area is only allowed in situations where stated. Adjustments to the floor area transfer requirements are prohibited. When FAR is transferred from one site to another, the sending site must retain an amount equal to the minimum FAR required by 33.510.200.C., or an amount equal to the total surface parking area on the site multiplied by the maximum floor area ratio allowed shown on Map 510-2, whichever is more.

1. Transfer of floor area from a Historic Resource. The following regulations apply to transferring floor area from a Historic Resource:
 - a. Purpose. This transfer option improves public safety by encouraging seismic upgrades of historic resources, and encourages the preservation of historic resources by reducing redevelopment pressure.
 - b. Sites eligible to send floor area. In order to send floor area the site must meet the following requirements. Sites that are eligible to send floor area are allowed to transfer unused FAR up to the maximum FAR allowed on the site plus an additional 3 to 1:
 - (1) Be in a RH, RX, CX, EX, or OS zones, and

- (2) Contain a Historic or Conservation Landmark or a contributing resource in a Historic or Conservation district for which the Bureau of Development Services verifies the following:
 - If the building is classified as Risk category I or II, as defined in the Oregon Structural Specialty Code, it has been shown to meet or exceed the American Society of Civil Engineers (ASCE) 41- BPOE improvement standard as defined in City of Portland Title 24.85;
 - If the building is classified as Risk category III or IV, as defined in the Oregon Structural Specialty Code, it has been shown to meet or exceed the ASCE41- BPON improvement standard as defined in City of Portland Title 24.85; or
 - The owner of the landmark or contributing resource has entered into a phased seismic agreement with the City of Portland as described in Section 24.85.
 - c. Sites eligible to receive floor area:
 - (1) Must be zoned RH, RX, CX or EX; and
 - (2) Must be within the Central City plan district outside of the South Waterfront subdistrict.
 - d. Covenants. The owners of both the sending and receiving sites must execute a covenant with the City. The covenant must meet the requirements of 33.700.060, and must be attached to and recorded with the deed. The covenants may not be revoked or rescinded. The covenants must include the following:
 - (1) The covenant for each site must reflect the existing floor area on each site and the respective increase and decrease of potential floor area; and
 - (2) The covenant for the sending site must state that the owner will not demolish or relocate the historic resource unless the City approves the demolition or relocation through demolition review.
 - e. Exceptions.
 - (1) Sites with eligible historic resources in a RH, RX, CX or EX zone may elect to transfer floor area to a receiving site outside of the Central City plan district if they meet the standards of 33.120.205.G, 33.130.205.C or 33.140.205.D.
 - (2) Sites with eligible historic resources in the R1, R2 and R3 zones may transfer density if they meet the standards of 33.120.205.G.
2. Transfer of floor area within a floor area transfer sector. In the RX, CX, EX, and OS zones, floor area, including bonus floor area and bonus floor area earned through a bonus that no longer exists in the zoning code, may be transferred between sites. The sites are not required to be abutting, however both the sending site and the receiving site must be located within the same floor area transfer sector shown on Map 510-23. In addition, floor area transfers are subject to the following requirements:
 - a. The sending site must not be a Historic or Conservation landmark or a contributing resource in a historic or a conservation district;

- b. If bonus floor area is included in the transfer, the public benefit to be provided in exchange for the bonus floor area must be completed in advance or at the time of issuing any occupancy permit on the receiving site taking advantage of the bonus floor area; and
- c. The property owner(s) must execute a covenant for both sites. The covenants must comply with the regulations of 33.700.060, must be recorded with the deeds for each site, and must reflect the existing floor area on each site and the respective increase and decrease of potential floor area.

33.510.210 Height

A. Purpose. The building height standards are intended to implement and balance multiple objectives of the Central City 2035 Plan. Generally, the tallest heights in the Portland region are applied in the Central City to support its role as the region's premier center for jobs, services, and urban living. Other objectives include:

- Locating the tallest building heights along the Transit Mall and high-capacity transit lines;
- Protecting designated public views;
- Varying building height across the Central City;
- Generally, stepping down height to the Willamette River and neighborhoods adjacent to the Central City;
- Emphasizing bridgehead locations with taller buildings;
- Limiting shadows on public open spaces; and
- Ensuring building height compatibility within historic districts.

B. Base height.

1. Base heights are shown on Map 510-3. Heights greater than shown on Map 510-3 are allowed through the bonus height or height transfer options specified in Subsections D. and E. Adjustments to height limits shown on Map 510-3 are prohibited.
2. Exceptions to base height. Generally, the following minor projections are allowed to extend above the base heights shown on Map 510-3. However, in a view corridor shown on Map 510-20, if the site is not eligible for a height increase, projections above the height limit shown on Map 510-3 are prohibited. Eligibility for a height increase is shown on Map 510-3. In a view corridor shown on Map 510-20, if the site is eligible for a height increase, the following minor projections are allowed, but the projection must not extend above the height limit shown on Map 510-4. Small wind turbines are subject to the standards of Chapter 33.299:
 - a. Chimneys, vents, flag poles, satellite receiving dishes, and other similar items that are attached to a building and have a width, depth or diameter of 5 feet or less may extend 10 feet above the base height limit, or 5 feet above the highest point of the roof, whichever is greater. If the item is more than 5 feet wide, deep, or tall, it is subject to the height limit;

- b. Parapets and railings. Parapets and rooftop railings may extend 4 feet above the base height limit;
 - c. Walls or fences located between individual rooftop decks may extend 6 feet above the base height limit if the wall or fence is set back at least 4 feet from the edges of the roof;
 - d. Rooftop mechanical equipment and any required screening for the mechanical equipment, and stairwell enclosures that provide rooftop access may extend above the base height limit as follows. The equipment and enclosures must be set back at least 15 feet from roof edges on street facing facades:
 - (1) Elevator mechanical equipment may extend up to 16 feet above the base height limit; and
 - (2) Other mechanical equipment, required screening, and stairwell enclosures may extend up to 10 feet above the base height limit if the equipment or enclosures do not cumulatively cover more than 10 percent of the roof area;
 - e. Roof mounted solar panels may extend above the height limit as follows:
 - (1) On flat roofs and on the horizontal portion of mansard roofs, solar panels may extend up to 5 feet above the top of the highest point of the roof; and
 - (2) On pitched, shed, hipped or gambrel roofs, solar panels must be mounted no more than 12 inches from the surface of the roof at any point, and may not extend above the ridgeline of the roof. The 12 inches is measured from the upper side of the solar panel; and
 - f. Antennas, power poles and public safety facilities.
- C. Shadow study.** Sites shown on Map 510-3 as requiring a shadow analysis must provide a shadow study that shows that the shadow cast by the proposed buildings or other structures does not cover more than 50 percent of the adjacent open space at noon on March 21, June 21 and September 21, and not more than 75 percent of the adjacent open space at noon on December 21, and 3:00 pm on March 21, June 21, and September 21. Adjacent includes open space across a right-of-way from the site subject to the shadow study standard.
- D. Bonus height options.** Bonus height can be achieved through the following options:
- 1. Bonus height in the South Waterfront subdistrict. Within the South Waterfront subdistrict, buildings that include any floor area achieved through bonuses or from transfers onto the site earn a height bonus as follows:
 - a. In the area located between 125 feet to 150 feet landward of the South Waterfront height reference line shown on Map 510-16, buildings may earn a height bonus of 25 feet if approved as a modification through design review. Projections above 150 feet are prohibited.
 - b. In the area located between 150 feet landward of the South Waterfront height reference line shown on Map 510-16 and the western boundary of the

subdistrict, buildings earn a height bonus of 125', up to a maximum building height of 250 feet. Adjustments are prohibited.

2. South Waterfront height opportunity area.

- a. Purpose. In the core of the South Waterfront subdistrict, additional building heights may be appropriate to support the goals of the South Waterfront Plan. The regulations of this subsection are intended to:
- Support the growth of an Innovation Quadrant in the Central City;
 - Provide diverse housing opportunities;
 - Support the density goals of the subdistrict while ensuring quality design;
 - Create additional opportunities for visual access through the subdistrict;
 - Promote the development of slender towers with an east-west orientation;
 - Develop an exceptional and varied skyline enhancing the district's setting against the Tualatin Hills to the west and the Cascade Range to the east;
 - Establish and maintain a pedestrian environment with access to sunlight;
 - Contribute to the district's urban variety, adding visual interest at the pedestrian level and from vantage points outside of the district;
 - Create an urban form that is visually permeable; and
 - Continue to maintain all protected public views and view corridors, on the east and west side of the Willamette River, as identified in adopted plans.
- b. Additional building height may be requested as a modification through design review as follows:
- (1) The site must be in the South Waterfront height opportunity area shown on Map 510-16;
 - (2) The maximum height that may be approved is 325 feet, including projections, roof top mechanical equipment, and any other structures that project above the roof of the building;
 - (3) One of the following must be met:
 - The average floor-to-floor height in the building must be at least 16 feet and floors of the building above 75 feet must be 25,000 square feet in area or less; or
 - Floors of the building above 75 feet must be 10,000 square feet in area or less;
 - Adjustments to the standards of this subsubparagraph are prohibited; however, modifications through design review may be requested as follows:
 - A modification to the 25,000 square foot limitation may be requested;
 - A modification to the 10,000 square foot limitation may be requested if the north-south dimension of the building above 75 feet is 112 feet or less. The north-south dimension is measured as specified in 33.510.251.A.3.e. However, modifications to allow floors larger than 12,500 square feet are prohibited;

- (4) The portion of the proposed building that is greater than 250 feet in height must be at least 200 feet from the portion of any other existing or approved building that is greater than 250 feet in height, and that used the provisions of this subsection to achieve additional height. Approved buildings are those with an unexpired design review approval. Adjustments to this standard are prohibited; however, modifications to the 200 foot minimum distance requirement may be requested through design review. In reviewing such a request, the review body will consider the results of the South Waterfront Public Views and Visual Permeability Assessment for the proposal;
- (5) Where a block is less than 80,000 square feet in area, only one building on the block may use the provisions of this subsection. Where a block is at least 80,000 square feet in area but less than 120,000, only two buildings on the block may use the provisions of this subsection. Where a block is at least 120,000, only three buildings on the block may use the provisions of this subsection.

Applications for land divisions of sites that include a building that has used the provisions of this subsection must show how the land division will not move the site out of conformance with this subsection;

- (6) The applicant must contribute \$11.90 to the South Waterfront Public Open Space Fund (SWPOSF) for every square foot of floor area over 250 feet in height. The contribution to the SWPOSF must be made before the building permit is issued for the building. Contributions to the fund used to earn bonus floor area under 33.510.205.C.2.f, Open space fund bonus option, do not count towards meeting this requirement. Adjustments to this standard are prohibited; and
 - (7) The applicant must request advice from the Design Commission as described in 33.730.050.F. The design advice request must be submitted before the request for a pre-application conference. In providing their advice to the applicant, the Design Commission will consider protection and enhancement of public views from both the east and west, as identified in adopted plans; development of a diverse, varied and visually interesting skyline; and creation of a district that is visually permeable. These factors will be considered at different scales, including the site of the proposal, the site and adjacent blocks, and the subdistrict as a whole.
3. Bonus height earned through an FAR bonus or transfer. Except for sites in the South Waterfront height opportunity area, the bonus heights shown on Map 510-4, or allowed by Subparagraph D.3.e, are allowed when the following are met. Projections above the height limits shown on Map 510-4, or allowed by Subparagraph D.3.e are prohibited:
- a. The site must be shown on Map 510-3 as eligible for a height increase;
 - b. The proposal must earn an additional FAR of at least 1 to 1 through use of one of the following FAR bonus or transfer options. The site shown on Map 510-4 as

requiring residential is only allowed to earn the additional 1 to 1 through the bonus option listed in D.3.b (1):

- (1) The inclusionary housing bonus option of Subparagraph 33.510.205.C.2.a;
- (2) The Affordable Housing Fund bonus option of Subparagraph 33.510.205.C.2.b; or
- (3) The historic resource transfer of Paragraph 33.510.205.D.1.

- c. Limit shadow. The following additional shadow standard and approval criterion are intended to limit the effects of shadow cast by buildings using bonus height. The shadow study standard applies to sites shown on Map 510-4 as requiring a shadow study. The shadow approval criterion applies to sites within 500 feet of a residential zone located outside of the Central City when more than 75 feet of bonus height is proposed:

- (1) Shadow study standard. When bonus height will be used on a site shown on Map 510-4 as requiring a shadow study, the shadow study must show that the shadow cast by the proposed buildings or other structures does not cover more than 50 percent of the adjacent open space at noon on March 21, June 21 and September 21, and not more than 75 percent of the adjacent open space at noon on December 21, and 3:00 pm on March 21, June 21, and September 21. Adjacent includes open space across a right-of-way from the site subject to the shadow study standard.
- (2) Shadow approval criterion. A proposal for more than 75 feet of bonus height on a site that is within 500 feet of a residential zone located outside of the Central City plan district will be approved if the review body finds that shadow cast by the proposed building will not have a significant negative impact on dwelling units located outside the Central City plan district in an R zone within 500 feet of the site.

- d. North Pearl Height Opportunity Area. The following additional standards apply when bonus height will be used in the North Pearl Height Opportunity area shown on Map 510-16:

- (1) When bonus height will be used on sites located entirely between NW Naito Parkway and the Willamette River, building façades above 100 feet that face NW Naito Parkway or the Willamette River must not exceed 120 feet in length; and
- (2) When bonus height will be used on sites that are not located between NW Naito Parkway and the Willamette River the following must be met:
 - The building must not be taller than 175 feet; or
 - If the building is taller than 175 feet, the floors of the building above 100 feet must not be more than 12,500 square feet each.

- e. RiverPlace Height Opportunity Area. Up to 325 feet of height is allowed in the RiverPlace height opportunity area shown on Map 510-16 when the following standard is met:

- (1) Purpose. In the RiverPlace height opportunity areas, additional building heights may be appropriate to meet density goals as well as:
 - Provide diverse housing opportunities;
 - Support high quality design;
 - Create additional opportunities for visual access through the area;
 - Promote the development of slender towers with an east-west orientation;
 - Establish and maintain a pedestrian environment with access to sunlight;
 - Create open space amenities connecting to the riverfront;
 - Contribute to the area's urban variety, adding visual interest at the pedestrian level and from vantage points outside of the area;
 - Create an urban form that is visually permeable and maintains all protected public views and view corridors.
- (2) Standard. If the building is taller than 75 feet, the floors of the building above 100 feet must not be more than 10,000 square feet each. Adjustments are prohibited, however modification through design review may be requested if the north-south dimension of the building above 75 feet is 112 feet or less. The north-south dimension is measured as specified in 33.510.251.A.3.e.

E. Open space height transfers.

1. Purpose. These regulations provide an incentive for the creation and development of needed open space in the Central City plan district.
2. Requirements for open space areas eligible for the height transfer.
 - a. The proposed open space area must be in the Central City plan district outside of the South Waterfront subdistrict. The site is subject to the review requirements stated in Paragraph E.4.
 - b. The area designated for the open space must be dedicated to the City as a public park. The minimum size of the open space must be a full block at least 35,000 square feet in size. However, the open space may be 20,000 square feet in size if located along the alignment of the North Park Blocks.
 - c. All park improvements must be made by the applicant prior to dedication to the City. The improvements to the park are subject to a design review using the specific area's design guidelines.
3. Amount of height potential that can be transferred. The allowed height at the proposed open space site may be transferred within the Central City plan district consistent with the limits stated below.
 - a. The maximum amount of height that may be transferred is 100 feet. The transfer may only be to a site eligible for additional height as shown on Map 510-3. Increases in height that result in buildings greater than the maximum height shown on Map 510-4 are prohibited. The transferred height may not be used in addition to any bonus heights allowed by Paragraph D.3.

- b. The open space site must be dedicated to the City before the issuance of building permits for the building receiving the increased height.
- 4. Design Review.
 - a. Procedure. The review is processed with a Type III procedure. The Parks Bureau will provide advice to the Design Commission.
 - b. Approval criteria. The proposed open space site will be approved for the height transfer if the review body finds that the applicant has shown that all of the following approval criteria are met:
 - (1) The proposed site will help to alleviate an area's identified projected future open space deficiency. This determination is based on such things as proximity to parks, proximity to people living or working in the Central City plan district, and how the site relates to the Central City 2035 Plan's park and open space policies;
 - (2) The proposed improvements on the open space site are consistent with the design guidelines for the area; and
 - (3) The Parks Bureau approves of the site.

33.510.211 Shadow Study Required

A shadow study is required for new structures that are 100 feet or more in height on sites shown on Map 510-11, and for major remodels to existing structures that increase the height of the existing structure to 100 feet or higher on sites that are shown on Map 510-11. The shadow study must show that the shadow cast by the new or remodeled structure does not cover more than 50 percent of the adjacent open space at 10 am on March 21. Adjacent includes open space located across a right-of-way from the site. Adjustments are prohibited.

33.510.215 Required Building Lines

- A. **Purpose.** The required building line standards ensure that buildings in certain parts of the Central City are built to the sidewalk's edge unless landscaping or an extension of the sidewalk is provided. The standards support the street and development character objectives of the Central City 2035 Plan by creating diverse street character, promoting active uses, pedestrian movement, and opportunities for stopping and gathering. Extensions of the sidewalk may incorporate trees, landscape planters, groundcover, and areas for stormwater management between the building and the sidewalk.
- B. **Required building line standards.**
 - 1. General Standards. Unless otherwise specified in Paragraphs B.2. through B.5., new development and major remodels in the RX, CX and EX zones must meet one of the following standards. Exterior walls of buildings designed to meet the requirements of this Paragraph must be at least 15 feet high measured from the finished sidewalk at the building's edge:
 - a. The building must extend to the street lot line along at least 75 percent of the lot line; or

Land Conservation and Development Department

Chapter 660

Division 23

PROCEDURES AND REQUIREMENTS FOR COMPLYING WITH GOAL 5

660-023-0000

Purpose and Intent

This division establishes procedures and criteria for inventorying and evaluating Goal 5 resources and for developing land use programs to conserve and protect significant Goal 5 resources. This division explains how local governments apply Goal 5 when conducting periodic review and when amending acknowledged comprehensive plans and land use regulations.

Statutory/Other Authority: ORS 183 & 197

Statutes/Other Implemented: ORS 197.040 & 197.225 - 197.245

History:

LCDC 2-1996, f. 8-30-96, cert. ef. 9-1-96

660-023-0010

Definitions

As used in this division, unless the context requires otherwise:

(1) "Conflicting use" is a land use, or other activity reasonably and customarily subject to land use regulations, that could adversely affect a significant Goal 5 resource (except as provided in OAR 660-023-0180(1)(b)). Local governments are not required to regard agricultural practices as conflicting uses.

(2) "ESEE consequences" are the positive and negative economic, social, environmental, and energy (ESEE) consequences that could result from a decision to allow, limit, or prohibit a conflicting use.

(3) "Impact area" is a geographic area within which conflicting uses could adversely affect a significant Goal 5 resource.

(4) "Inventory" is a survey, map, or description of one or more resource sites that is prepared by a local government, state or federal agency, private citizen, or other organization and that includes information about the resource values and features associated with such sites. As a verb, "inventory" means to collect, prepare, compile, or refine information about one or more resource sites. (See resource list.)

(5) "PAPA" is a "post-acknowledgment plan amendment." The term encompasses actions taken in accordance with ORS 197.610 through 197.625, including amendments to an acknowledged comprehensive plan or land use regulation and the adoption of any new plan or land use regulation. The term does not include periodic review actions taken in accordance with ORS 197.628 through 197.650.

(6) "Program" or "program to achieve the goal" is a plan or course of proceedings and action either to prohibit, limit, or allow uses that conflict with significant Goal 5 resources, adopted as part of the comprehensive plan and land use regulations (e.g., zoning standards, easements, cluster developments, preferential assessments, or acquisition of land or development rights).

(7) "Protect," when applied to an individual resource site, means to limit or prohibit uses that conflict with a significant resource site (except as provided in OAR 660-023-0140, 660-023-0180, and 660-023-0190). When applied to a resource category, "protect" means to develop a program consistent with this division.

(8) "Resource category" is any one of the cultural or natural resource groups listed in Goal 5.

(9) "Resource list" includes the description, maps, and other information about significant Goal 5 resource sites within a jurisdiction, adopted by a local government as a part of the comprehensive plan or as a land use regulation. A "plan inventory" adopted under OAR 660-016-0000(5)(c) shall be considered to be a resource list.

(10) "Resource site" or "site" is a particular area where resources are located. A site may consist of a parcel or lot or portion thereof or may include an area consisting of two or more contiguous lots or parcels.

(11) "Safe harbor" has the meaning given to it in OAR 660-023-0020(2).

Statutory/Other Authority: ORS 183 & 197

Statutes/Other Implemented: ORS 197.040 & 197.225 - 197.245

History:

LCDC 2-1996, f. 8-30-96, cert. ef. 9-1-96

660-023-0020

Standard and Specific Rules and Safe Harbors

(1) The standard Goal 5 process, OAR 660-023-0030 through 660-023-0050, consists of procedures and requirements to guide local planning for all Goal 5 resource categories. This division also provides specific rules for each of the fifteen Goal 5 resource categories (see OAR 660-023-0090 through 660-023-0230). In some cases this division indicates that both the standard and the specific rules apply to Goal 5 decisions. In other cases, this division indicates that the specific rules supersede parts or all of the standard process rules (i.e., local governments must follow the specific rules rather than the standard Goal 5 process). In case of conflict, the resource-specific rules set forth in OAR 660-023-0090 through 660-023-0230 shall supersede the standard provisions in OAR 660-023-0030 through 660-023-0050.

(2) A "safe harbor" consists of an optional course of action that satisfies certain requirements under the standard process. Local governments may follow safe harbor requirements rather than addressing certain requirements in the standard Goal 5 process. For example, a jurisdiction may choose to identify "significant" riparian corridors using the safe harbor criteria under OAR 660-023-0090(5) rather than follow the general requirements for determining "significance" in the standard Goal 5 process under OAR 660-023-0030(4). Similarly, a jurisdiction may adopt a wetlands ordinance that meets the requirements of OAR 660-023-0100(4)(b) in lieu of following the ESEE decision process in OAR 660-023-0040.

Statutory/Other Authority: ORS 183 & 197

Statutes/Other Implemented: ORS 197.040 & 197.225 - 197.245

History:

LCDC 2-1996, f. 8-30-96, cert. ef. 9-1-96

660-023-0030

Inventory Process

(1) Inventories provide the information necessary to locate and evaluate resources and develop programs to protect such resources. The purpose of the inventory process is to compile or update a list of significant Goal 5 resources in a jurisdiction. This rule divides the inventory process into four steps. However, all four steps are not necessarily applicable, depending on the type of Goal 5 resource and the scope of a particular PAPA or periodic review work task. For example, when proceeding under a quasi-judicial PAPA for a particular site, the initial inventory step in section (2) of this rule is not applicable in that a local government may rely on information submitted by applicants and other participants in the local process. The inventory process may be followed for a single site, for sites in a particular geographical area, or for the entire jurisdiction or urban growth boundary (UGB), and a single inventory process may be followed for multiple resource categories that are being considered simultaneously. The standard Goal 5 inventory process consists of the following steps, which are set out in detail in sections (2) through (5) of this rule and further explained in sections (6) and (7) of this rule:

- (a) Collect information about Goal 5 resource sites;
- (b) Determine the adequacy of the information;
- (c) Determine the significance of resource sites; and
- (d) Adopt a list of significant resource sites.

(2) Collect information about Goal 5 resource sites: The inventory process begins with the collection of existing and available information, including inventories, surveys, and other applicable data about potential Goal 5 resource sites. If a PAPA or periodic review work task pertains to certain specified sites, the local government is not required to collect information regarding other resource sites in the jurisdiction. When collecting information about potential Goal 5 sites, local governments shall, at a minimum:

- (a) Notify state and federal resource management agencies and request current resource information; and
- (b) Consider other information submitted in the local process.

(3) Determine the adequacy of the information: In order to conduct the Goal 5 process, information about each potential site must be adequate. A local government may determine that the information about a site is inadequate to complete the Goal 5 process based on the criteria in this section. This determination shall be clearly indicated in the record of proceedings. The

issue of adequacy may be raised by the department or objectors, but final determination is made by the commission or the Land Use Board of Appeals, as provided by law. When local governments determine that information about a site is inadequate, they shall not proceed with the Goal 5 process for such sites unless adequate information is obtained, and they shall not regulate land uses in order to protect such sites. The information about a particular Goal 5 resource site shall be deemed adequate if it provides the location, quality and quantity of the resource, as follows:

- (a) Information about location shall include a description or map of the resource area for each site. The information must be sufficient to determine whether a resource exists on a particular site. However, a precise location of the resource for a particular site, such as would be required for building permits, is not necessary at this stage in the process.
- (b) Information on quality shall indicate a resource site's value relative to other known examples of the same resource. While a regional comparison is recommended, a comparison with resource sites within the jurisdiction itself is sufficient unless there are no other local examples of the resource. Local governments shall consider any determinations about resource quality provided in available state or federal inventories.
- (c) Information on quantity shall include an estimate of the relative abundance or scarcity of the resource.
- (4) Determine the significance of resource sites: For sites where information is adequate, local governments shall determine whether the site is significant. This determination shall be adequate if based on the criteria in subsections (a) through (c) of this section, unless challenged by the department, objectors, or the commission based upon contradictory information. The determination of significance shall be based on:
 - (a) The quality, quantity, and location information;
 - (b) Supplemental or superseding significance criteria set out in OAR 660-023-0090 through 660-023-0230; and
 - (c) Any additional criteria adopted by the local government, provided these criteria do not conflict with the requirements of OAR 660-023-0090 through 660-023-0230.
- (5) Adopt a list of significant resource sites: When a local government determines that a particular resource site is significant, the local government shall include the site on a list of significant Goal 5 resources adopted as a part of the comprehensive plan or as a land use regulation. Local governments shall complete the Goal 5 process for all sites included on the resource list except as provided in OAR 660-023-0200(2)(c) for historic resources, and OAR 660-023-0220(3) for open space acquisition areas.
- (6) Local governments may determine that a particular resource site is not significant, provided they maintain a record of that determination. Local governments shall not proceed with the Goal 5 process for such sites and shall not regulate land uses in order to protect such sites under Goal 5.
- (7) Local governments may adopt limited interim protection measures for those sites that are determined to be significant, provided:
 - (a) The measures are determined to be necessary because existing development regulations are inadequate to prevent irrevocable harm to the resources on the site during the time necessary to complete the ESEE process and adopt a permanent program to achieve Goal 5; and
 - (b) The measures shall remain effective only for 120 days from the date they are adopted, or until adoption of a program to achieve Goal 5, whichever occurs first.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040 & 197.225 - 197.245

History:

LCDD 1-2017, f. & cert. ef. 2-10-17

LCDC 2-1996, f. 8-30-96, cert. ef. 9-1-96

660-023-0040

ESEE Decision Process

- (1) Local governments shall develop a program to achieve Goal 5 for all significant resource sites based on an analysis of the economic, social, environmental, and energy (ESEE) consequences that could result from a decision to allow, limit, or prohibit a conflicting use. This rule describes four steps to be followed in conducting an ESEE analysis, as set out in detail in sections (2) through (5) of this rule. Local governments are not required to follow these steps sequentially, and some steps anticipate a return to a previous step. However, findings shall demonstrate that requirements under each of the steps have been met, regardless of the sequence followed by the local government. The ESEE analysis need not be lengthy or complex, but should enable reviewers to gain a clear understanding of the conflicts and the consequences to be expected. The steps in the standard ESEE process are as follows:

- (a) Identify conflicting uses;
- (b) Determine the impact area;
- (c) Analyze the ESEE consequences; and
- (d) Develop a program to achieve Goal 5.

(2) Identify conflicting uses. Local governments shall identify conflicting uses that exist, or could occur, with regard to significant Goal 5 resource sites. To identify these uses, local governments shall examine land uses allowed outright or conditionally within the zones applied to the resource site and in its impact area. Local governments are not required to consider allowed uses that would be unlikely to occur in the impact area because existing permanent uses occupy the site. The following shall also apply in the identification of conflicting uses:

(a) If no uses conflict with a significant resource site, acknowledged policies and land use regulations may be considered sufficient to protect the resource site. The determination that there are no conflicting uses must be based on the applicable zoning rather than ownership of the site. (Therefore, public ownership of a site does not by itself support a conclusion that there are no conflicting uses.)

(b) A local government may determine that one or more significant Goal 5 resource sites are conflicting uses with another significant resource site. The local government shall determine the level of protection for each significant site using the ESEE process and/or the requirements in OAR 660-023-0090 through 660-023-0230 (see 660-023-0020(1)).

(3) Determine the impact area. Local governments shall determine an impact area for each significant resource site. The impact area shall be drawn to include only the area in which allowed uses could adversely affect the identified resource. The impact area defines the geographic limits within which to conduct an ESEE analysis for the identified significant resource site.

(4) Analyze the ESEE consequences. Local governments shall analyze the ESEE consequences that could result from decisions to allow, limit, or prohibit a conflicting use. The analysis may address each of the identified conflicting uses, or it may address a group of similar conflicting uses. A local government may conduct a single analysis for two or more resource sites that are within the same area or that are similarly situated and subject to the same zoning. The local government may establish a matrix of commonly occurring conflicting uses and apply the matrix to particular resource sites in order to facilitate the analysis. A local government may conduct a single analysis for a site containing more than one significant Goal 5 resource. The ESEE analysis must consider any applicable statewide goal or acknowledged plan requirements, including the requirements of Goal 5. The analyses of the ESEE consequences shall be adopted either as part of the plan or as a land use regulation.

(5) Develop a program to achieve Goal 5. Local governments shall determine whether to allow, limit, or prohibit identified conflicting uses for significant resource sites. This decision shall be based upon and supported by the ESEE analysis. A decision to prohibit or limit conflicting uses protects a resource site. A decision to allow some or all conflicting uses for a particular site may also be consistent with Goal 5, provided it is supported by the ESEE analysis. One of the following determinations shall be reached with regard to conflicting uses for a significant resource site:

(a) A local government may decide that a significant resource site is of such importance compared to the conflicting uses, and the ESEE consequences of allowing the conflicting uses are so detrimental to the resource, that the conflicting uses should be prohibited.

(b) A local government may decide that both the resource site and the conflicting uses are important compared to each other, and, based on the ESEE analysis, the conflicting uses should be allowed in a limited way that protects the resource site to a desired extent.

(c) A local government may decide that the conflicting use should be allowed fully, notwithstanding the possible impacts on the resource site. The ESEE analysis must demonstrate that the conflicting use is of sufficient importance relative to the resource site, and must indicate why measures to protect the resource to some extent should not be provided, as per subsection (b) of this section.

Statutory/Other Authority: ORS 183 & 197

Statutes/Other Implemented: ORS 197.040 & 197.225 - 197.245

History:

LCDC 2-1996, f. 8-30-96, cert. ef. 9-1-96

660-023-0050

Programs to Achieve Goal 5

(1) For each resource site, local governments shall adopt comprehensive plan provisions and land use regulations to implement the decisions made pursuant to OAR 660-023-0040(5). The plan shall describe the degree of protection intended

for each significant resource site. The plan and implementing ordinances shall clearly identify those conflicting uses that are allowed and the specific standards or limitations that apply to the allowed uses. A program to achieve Goal 5 may include zoning measures that partially or fully allow conflicting uses (see OAR 660-023-0040(5)(b) and (c)).

(2) When a local government has decided to protect a resource site under OAR 660-023-0040(5)(b), implementing measures applied to conflicting uses on the resource site and within its impact area shall contain clear and objective standards. For purposes of this division, a standard shall be considered clear and objective if it meets any one of the following criteria:

- (a) It is a fixed numerical standard, such as a height limitation of 35 feet or a setback of 50 feet;
- (b) It is a nondiscretionary requirement, such as a requirement that grading not occur beneath the dripline of a protected tree; or
- (c) It is a performance standard that describes the outcome to be achieved by the design, siting, construction, or operation of the conflicting use, and specifies the objective criteria to be used in evaluating outcome or performance. Different performance standards may be needed for different resource sites. If performance standards are adopted, the local government shall at the same time adopt a process for their application (such as a conditional use, or design review ordinance provision).

(3) In addition to the clear and objective regulations required by section (2) of this rule, except for aggregate resources, local governments may adopt an alternative approval process that includes land use regulations that are not clear and objective (such as a planned unit development ordinance with discretionary performance standards), provided such regulations:

- (a) Specify that landowners have the choice of proceeding under either the clear and objective approval process or the alternative regulations; and
- (b) Require a level of protection for the resource that meets or exceeds the intended level determined under OAR 660-023-0040(5) and 660-023-0050(1).

Statutory/Other Authority: ORS 183 & 197

Statutes/Other Implemented: ORS 197.040 & 197.225 - 197.245

History:

LCDC 2-1996, f. 8-30-96, cert. ef. 9-1-96

660-023-0060

Notice and Land Owner Involvement

Local governments shall provide timely notice to landowners and opportunities for citizen involvement during the inventory and ESEE process. Notification and involvement of landowners, citizens, and public agencies should occur at the earliest possible opportunity whenever a Goal 5 task is undertaken in the periodic review or plan amendment process. A local government shall comply with its acknowledged citizen involvement program, with statewide goal requirements for citizen involvement and coordination, and with other applicable procedures in statutes, rules, or local ordinances.

Statutory/Other Authority: ORS 183 & 197

Statutes/Other Implemented: ORS 197.040 & 197.225 - 197.245

History:

LCDC 2-1996, f. 8-30-96, cert. ef. 9-1-96

660-023-0070

Buildable Lands Affected by Goal 5 Measures

(1) If measures to protect significant resource sites inside urban growth boundaries affect the inventory of buildable lands in acknowledged plans required by Goals 9, 10, and 14, a local government outside of the Metro UGB, and Metro inside the Metro UGB, prior to or at the next periodic review, shall:

- (a) Amend its urban growth boundary to provide additional buildable lands sufficient to compensate for the loss of buildable lands caused by the application of Goal 5;
- (b) Redesignate other land to replace identified land needs under Goals 9, 10, and 14 provided such action does not take the plan out of compliance with other statewide goals; or
- (c) Adopt a combination of the actions described in subsections (a) and (b) of this section.

(2) If a local government redesignates land for higher density under subsections (1)(b) or (c) of this rule in order to meet identified housing needs, the local government shall ensure that the redesignated land is in locations appropriate for the

housing types, and is zoned at density ranges that are likely to be achieved by the housing market.

(3) Where applicable, the requirements of ORS 197.296 shall supersede the requirements of sections (1) and (2) of this rule.

Statutory/Other Authority: ORS 183 & 197

Statutes/Other Implemented: ORS 197.040 & 197.225 - 197.245

History:

LCDC 2-1996, f. 8-30-96, cert. ef. 9-1-96

660-023-0080

Metro Regional Resources

(1) For purposes of this rule, the following definitions apply:

(a) "Metro" is the Metropolitan Service District organized under ORS Chapter 268, and operating under the 1992 Metro Charter, for 24 cities and certain urban portions of Multnomah, Clackamas, and Washington counties.

(b) "Regional resource" is a site containing a significant Goal 5 resource, including but not limited to a riparian corridor, wetland, or open space area, which is identified as a regional resource on a map adopted by Metro ordinance.

(2) Local governments shall complete the Goal 5 process in this division for all regional resources prior to or during the first periodic review following Metro's adoption of a regional resources map, unless Metro adopts a regional functional plan by ordinance to establish a uniform time for all local governments to complete the Goal 5 process for particular regional resource sites.

(3) Metro may adopt one or more regional functional plans to address all applicable requirements of Goal 5 and this division for one or more resource categories and to provide time limits for local governments to implement the plan. Such functional plans shall be submitted for acknowledgment under the provisions of ORS 197.251 and 197.274. Upon acknowledgment of Metro's regional resource functional plan, local governments within Metro's jurisdiction shall apply the requirements of the functional plan for regional resources rather than the requirements of this division.

Statutory/Other Authority: ORS 183 & 197

Statutes/Other Implemented: ORS 197.040 & 197.225 - 197.245

History:

LCDC 2-1996, f. 8-30-96, cert. ef. 9-1-96

660-023-0090

Riparian Corridors

(1) For the purposes of this rule, the following definitions apply:

(a) "Fish habitat" means those areas upon which fish depend in order to meet their requirements for spawning, rearing, food supply, and migration.

(b) "Riparian area" is the area adjacent to a river, lake, or stream, consisting of the area of transition from an aquatic ecosystem to a terrestrial ecosystem.

(c) "Riparian corridor" is a Goal 5 resource that includes the water areas, fish habitat, adjacent riparian areas, and wetlands within the riparian area boundary.

(d) "Riparian corridor boundary" is an imaginary line that is a certain distance upland from the top bank, for example, as specified in section (5) of this rule.

(e) "Stream" is a channel such as a river or creek that carries flowing surface water, including perennial streams and intermittent streams with defined channels, and excluding man-made irrigation and drainage channels.

(f) "Structure" is a building or other major improvement that is built, constructed, or installed, not including minor improvements, such as fences, utility poles, flagpoles, or irrigation system components, that are not customarily regulated through zoning ordinances.

(g) "Top of bank" shall have the same meaning as "bankfull stage" defined in OAR 141-085-0010(12).

(h) "Water area" is the area between the banks of a lake, pond, river, perennial or fish-bearing intermittent stream, excluding man-made farm ponds.

(2) Local governments shall amend acknowledged plans in order to inventory riparian corridors and provide programs to achieve Goal 5 prior to or at the first periodic review following the effective date of this rule, except as provided in OAR 660-023-0250(5).

(3) Local governments shall inventory and determine significant riparian corridors by following either the safe harbor methodology described in section (5) of this rule or the standard inventory process described in OAR 660-023-0030 as modified by the requirements in section (4) of this rule. The local government may divide the riparian corridor into a series of stream sections (or reaches) and regard these as individual resource sites.

(4) When following the standard inventory process in OAR 660-023-0030, local governments shall collect information regarding all water areas, fish habitat, riparian areas, and wetlands within riparian corridors. Local governments may postpone determination of the precise location of the riparian area on lands designated for farm or forest use until receipt of applications for local permits for uses that would conflict with these resources. Local governments are encouraged, but not required, to conduct field investigations to verify the location, quality, and quantity of resources within the riparian corridor. At a minimum, local governments shall consult the following sources, where available, in order to inventory riparian corridors along rivers, lakes, and streams within the jurisdiction:

- (a) Oregon Department of Forestry stream classification maps;
- (b) United States Geological Service (USGS) 7.5-minute quadrangle maps;
- (c) National Wetlands Inventory maps;
- (d) Oregon Department of Fish and Wildlife (ODFW) maps indicating fish habitat;
- (e) Federal Emergency Management Agency (FEMA) flood maps; and
- (f) Aerial photographs.

(5) As a safe harbor in order to address the requirements under OAR 660-023-0030, a local government may determine the boundaries of significant riparian corridors within its jurisdiction using a standard setback distance from all fish-bearing lakes and streams shown on the documents listed in subsections (a) through (f) of section (4) of this rule, as follows:

(a) Along all streams with average annual stream flow greater than 1,000 cubic feet per second (cfs) the riparian corridor boundary shall be 75 feet upland from the top of each bank.

(b) Along all lakes, and fish-bearing streams with average annual stream flow less than 1,000 cfs, the riparian corridor boundary shall be 50 feet from the top of bank.

(c) Where the riparian corridor includes all or portions of a significant wetland as set out in OAR 660-023-0100, the standard distance to the riparian corridor boundary shall be measured from, and include, the upland edge of the wetland.

(d) In areas where the top of each bank is not clearly defined, or where the predominant terrain consists of steep cliffs, local governments shall apply OAR 660-023-0030 rather than apply the safe harbor provisions of this section.

(6) Local governments shall develop a program to achieve Goal 5 using either the safe harbor described in section (8) of this rule or the standard Goal 5 ESEE process in OAR 660-023-0040 and 660-023-0050 as modified by section (7) of this rule.

(7) When following the standard ESEE process in OAR 660-023-0040 and 660-023-0050, a local government shall comply with Goal 5 if it identifies at least the following activities as conflicting uses in riparian corridors:

- (a) The permanent alteration of the riparian corridor by placement of structures or impervious surfaces, except for:
 - (A) Water-dependent or water-related uses; and
 - (B) Replacement of existing structures with structures in the same location that do not disturb additional riparian surface area.
- (b) Removal of vegetation in the riparian area, except:
 - (A) As necessary for restoration activities, such as replacement of vegetation with native riparian species;
 - (B) As necessary for the development of water-related or water-dependent uses; and
 - (C) On lands designated for agricultural or forest use outside UGBs.

(8) As a safe harbor in lieu of following the ESEE process requirements of OAR 660-023-0040 and 660-023-0050, a local government may adopt an ordinance to protect a significant riparian corridor as follows:

(a) The ordinance shall prevent permanent alteration of the riparian area by grading or by the placement of structures or impervious surfaces, except for the following uses, provided they are designed and constructed to minimize intrusion into the riparian area:

- (A) Streets, roads, and paths;
- (B) Drainage facilities, utilities, and irrigation pumps;
- (C) Water-related and water-dependent uses; and
- (D) Replacement of existing structures with structures in the same location that do not disturb additional riparian surface area.

(b) The ordinance shall contain provisions to control the removal of riparian vegetation, except that the ordinance shall allow:

- (A) Removal of non-native vegetation and replacement with native plant species; and
- (B) Removal of vegetation necessary for the development of water-related or water-dependent uses.

(c) Notwithstanding subsection (b) of this section, the ordinance need not regulate the removal of vegetation in areas zoned for farm or forest uses pursuant to statewide Goals 3 or 4;

(d) The ordinance shall include a procedure to consider hardship variances, claims of map error, and reduction or removal of the restrictions under subsections (a) and (b) of this section for any existing lot or parcel demonstrated to have been rendered not buildable by application of the ordinance; and

(e) The ordinance may authorize the permanent alteration of the riparian area by placement of structures or impervious surfaces within the riparian corridor boundary established under subsection (5)(a) of this rule upon a demonstration that equal or better protection for identified resources will be ensured through restoration of riparian areas, enhanced buffer treatment, or similar measures. In no case shall such alterations occupy more than 50 percent of the width of the riparian area measured from the upland edge of the corridor.

Statutory/Other Authority: ORS 183 & 197

Statutes/Other Implemented: ORS 197.040 & 197.225 - 197.245

History:

LCDD 3-2004, f. & cert. ef. 5-7-04

LCDC 2-1996, f. 8-30-96, cert. ef. 9-1-96

660-023-0100

Wetlands

(1) For purposes of this rule, a "wetland" is an area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support, and that under normal circumstances does support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

(2) Local governments shall amend acknowledged plans and land use regulations prior to or at periodic review to address the requirements of this division, as set out in OAR 660-023-0250(5) through (7). The standard inventory process requirements in OAR 660-023-0030 do not apply to wetlands. Instead, local governments shall follow the requirements of section (3) of this rule in order to inventory and determine significant wetlands.

(3) For areas inside urban growth boundaries (UGBs) and urban unincorporated communities (UUCs), local governments shall:

(a) Conduct a local wetlands inventory (LWI) using the standards and procedures of OAR 141-086-0110 through 141-086-0240 and adopt the LWI as part of the comprehensive plan or as a land use regulation; and

(b) Determine which wetlands on the LWI are "significant wetlands" using the criteria adopted by the Division of State Lands (DSL) pursuant to ORS 197.279(3)(b) and adopt the list of significant wetlands as part of the comprehensive plan or as a land use regulation.

(4) For significant wetlands inside UGBs and UUCs, a local government shall:

(a) Complete the Goal 5 process and adopt a program to achieve the goal following the requirements of OAR 660-023-0040 and 660-023-0050; or

(b) Adopt a safe harbor ordinance to protect significant wetlands consistent with this subsection, as follows:

(A) The protection ordinance shall place restrictions on grading, excavation, placement of fill, and vegetation removal other than perimeter mowing and other cutting necessary for hazard prevention; and

(B) The ordinance shall include a variance procedure to consider hardship variances, claims of map error verified by DSL, and reduction or removal of the restrictions under paragraph (A) of this subsection for any lands demonstrated to have been rendered not buildable by application of the ordinance.

(5) For areas outside UGBs and UUCs, local governments shall either adopt the statewide wetland inventory (SWI; see ORS 196.674) as part of the local comprehensive plan or as a land use regulation, or shall use a current version for the purpose of section (7) of this rule.

(6) For areas outside UGBs and UUCs, local governments are not required to amend acknowledged plans and land use regulations in order to determine significant wetlands and complete the Goal 5 process. Local governments that choose to amend acknowledged plans for areas outside UGBs and UUCs in order to inventory and protect significant wetlands shall follow the requirements of sections (3) and (4) of this rule.

(7) All local governments shall adopt land use regulations that require notification of DSL concerning applications for development permits or other land use decisions affecting wetlands on the inventory, as per ORS 227.350 and 215.418, or on the SWI as provided in section (5) of this rule.

(8) All jurisdictions may inventory and protect wetlands under the procedures and requirements for wetland conservation plans adopted pursuant to ORS 196.668 et seq. A wetlands conservation plan approved by the director of DSL shall be deemed to comply with Goal 5 (ORS 197.279(1)).

Statutory/Other Authority: ORS 183 & 197

Statutes/Other Implemented: ORS 197.040 & 197.225 - 197.245

History:

LCDC 2-1996, f. 8-30-96, cert. ef. 9-1-96

660-023-0110

Wildlife Habitat

(1) For purposes of this rule, the following definitions apply:

(a) "Documented" means that an area is shown on a map published or issued by a state or federal agency or by a professional with demonstrated expertise in habitat identification.

(b) "Wildlife habitat" is an area upon which wildlife depend in order to meet their requirements for food, water, shelter, and reproduction. Examples include wildlife migration corridors, big game winter range, and nesting and roosting sites.

(2) Local governments shall conduct the inventory process and determine significant wildlife habitat as set forth in OAR 660-023-0250(5) by following either the safe harbor methodology described in section (4) of this rule or the standard inventory process described in OAR 660-023-0030.

(3) When gathering information regarding wildlife habitat under the standard inventory process in OAR 660-023-0030(2), local governments shall obtain current habitat inventory information from the Oregon Department of Fish and Wildlife (ODFW), and other state and federal agencies. These inventories shall include at least the following:

(a) Threatened, endangered, and sensitive wildlife species habitat information;

(b) Sensitive bird site inventories; and

(c) Wildlife species of concern and/or habitats of concern identified and mapped by ODFW (e.g., big game winter range and migration corridors, golden eagle and prairie falcon nest sites, and pigeon springs).

(4) Local governments may determine wildlife habitat significance under OAR 660-023-0040 or apply the safe harbor criteria in this section. Under the safe harbor, local governments may determine that "wildlife" does not include fish, and that significant wildlife habitat is only those sites where one or more of the following conditions exist:

(a) The habitat has been documented to perform a life support function for a wildlife species listed by the federal government as a threatened or endangered species or by the state of Oregon as a threatened, endangered, or sensitive species;

(b) The habitat has documented occurrences of more than incidental use by a species described in subsection (a) of this section;

(c) The habitat has been documented as a sensitive bird nesting, roosting, or watering resource site for osprey or great blue herons pursuant to ORS 527.710 (Oregon Forest Practices Act) and OAR 629-024-0700 (Forest Practices Rules);

(d) The habitat has been documented to be essential to achieving policies or population objectives specified in a wildlife species management plan adopted by the Oregon Fish and Wildlife Commission pursuant to ORS Chapter 496; or

(e) The area is identified and mapped by ODFW as habitat for a wildlife species of concern and/or as a habitat of concern (e.g., big game winter range and migration corridors, golden eagle and prairie falcon nest sites, or pigeon springs).

(5) For certain threatened or endangered species sites, publication of location information may increase the threat of habitat or species loss. Pursuant to ORS 192.501(13), local governments may limit publication, display, and availability of location information for such sites. Local governments may adopt inventory maps of these areas, with procedures to allow limited availability to property owners or other specified parties.

(6) As set out in OAR 660-023-0250(5), local governments shall develop programs to protect wildlife habitat following the standard procedures and requirements of OAR 660-023-0040 and 660-023-0050. Local governments shall coordinate with appropriate state and federal agencies when adopting programs intended to protect threatened, endangered, or sensitive species habitat areas.

Statutory/Other Authority: ORS 183 & 197

Statutes/Other Implemented: ORS 197.040 & 297.225 - 197.245

History:

LCDC 2-1996, f. 8-30-96, cert. ef. 9-1-96

660-023-0115

Greater Sage-Grouse

(1) Introduction. Greater Sage-Grouse (hereafter "sage-grouse") habitat is a unique wildlife resource subject to a variety of threats across a broad, multi-state region. Oregon's sage-grouse habitat is comprised of a combination of public land managed by the federal government and nonfederal land generally in private ownership. Managing private and other nonfederal land for the best possible outcomes requires partnership and cooperation among many stakeholders. Accordingly, private and other nonfederal lands are strongly encouraged to participate in a Candidate Conservation Agreement with Assurances program. Voluntary conservation efforts of this nature are recognized by the State of Oregon as a critical part in recovering the breeding population targeted by Oregon's Greater Sage-Grouse Conservation Assessment and Strategy for Oregon. Beyond voluntary efforts it remains necessary to provide a regulatory framework that offers fairness, predictability and certainty for all involved parties. Engagement on the part of county government is critical to Oregon's efforts to address possible impacts from future development.

(2) Exempt activities.

(a) Those activities that do not require governmental approval, including farm use as defined in ORS 215.203(2), are exempt from the provisions of this rule. State agency permits necessary to facilitate a farm use, including granting of new water right permits by the Oregon Water Resources Department (OWRD), are also exempt from the provisions of this rule.

(b) Any energy facility that submitted a preliminary application for site certificate pursuant to ORS 469.300 et seq. on or before the effective date of this rule is exempt from the provisions of this rule. Notwithstanding ORS 197.646(3), this rule shall not be directly applicable to any land use decision regarding that facility unless the applicant chooses otherwise. Similarly, any changes to a local government's acknowledged comprehensive plan or land use ordinances developed to achieve consistency with this rule shall not constitute "applicable substantive criteria" pursuant to OAR 345-022-0030(3), unless they are in effect on the date the applicant submits a preliminary application for site certificate, unless the applicant chooses otherwise.

(c) Private and other nonfederal lands are strongly encouraged to participate in a Candidate Conservation Agreement with Assurances (CCAA) program. Voluntary conservation efforts of this nature are recognized by the State of Oregon as a critical part in recovering the breeding population targeted by the Greater Sage-Grouse Conservation Assessment and Strategy for Oregon. Uses identified in CCAA agreements are relieved from the provisions of this rule except that conflicting uses identified in section (7) will be subject to sections (9) to (11) in all instances regardless of enrollment status.

(3) Definitions. For purposes of this rule, the definitions in OAR 635-140-0002 and in the glossary of the "Greater Sage-Grouse Conservation Assessment and Strategy for Oregon" adopted by the Oregon Fish and Wildlife Commission on April 22, 2011 (copies of the plan are available through the Oregon Department of Fish and Wildlife (ODFW)) shall apply. In addition, the following definitions shall apply:

(a) "Areas of High Population Richness" means mapped areas of breeding and nesting habitat within core habitat that support the 75th percentile of breeding bird densities (i.e. the top 25 percent). Please see Exhibit A.

(b) "Candidate Conservation Agreement with Assurances" means a formal agreement between the United States Fish and Wildlife Service (USFWS) and one or more parties to address the conservation needs of proposed or candidate species, or species likely to become candidates, before they become listed as endangered or threatened. Landowners voluntarily commit to conservation actions that will help stabilize or restore the species with the goal that listing under the Federal Endangered Species Act will become unnecessary.

(c) "Core areas" means mapped sagebrush types or other habitats that support sage-grouse annual life history requirements that are encompassed by areas:

(A) Of very high, high, and moderate lek density strata;

(B) Where low lek density strata overlap local connectivity corridors; or

(C) Where winter habitat use polygons overlap with either low lek density strata, connectivity corridors, or occupied habitat. Core area maps are maintained by ODFW.

(d) "Development action" means any human activity subject to regulation by local, state, or federal agencies that could result in the loss of significant sage-grouse habitat. Development actions may include but are not limited to, construction and operational activities of local, state, and federal agencies. Development actions also include subsequent repermitting of existing activities proposing new impacts beyond current conditions.

(e) "Direct impact" means an adverse effect of a development action upon significant sage-grouse habitat which is proximal to the development action in time and place.

(f) "Disturbance" includes natural threats to sage-grouse habitat such as: wildfire, juniper infestation and the spread of noxious weeds or human activities that can negatively affect sage-grouse use of habitat either through changing the vegetation type or condition, or displacement of sage-grouse use of an area. For purposes of this rule only disturbance from human activities are considered.

(g) "General habitat" means occupied (seasonal or year-round) sage-grouse habitat outside core and low density habitats.

(h) "Indirect impacts" means adverse effects to significant sage-grouse habitat that are caused by or will ultimately result from an affected development activity. Indirect impacts usually occur later in time or are removed in distance compared to direct effects.

(i) "Large-scale development" means uses that are: over 50 feet in height; have a direct impact in excess of five acres; generate more than 50 vehicle trips per day; or create noise levels of at least 70 dB at zero meters for sustained periods of time. Uses that constitute large-scale development also require review by county decision makers and are listed in one of the following categories identified in the table attached to OAR 660-033-0120.

(A) Commercial Uses.

(B) Mineral, Aggregate, Oil and Gas Uses.

(C) Transportation Uses.

(D) Utility/Solid Waste Disposal Facilities.

(E) Parks/Public/Quasi-Public.

(j) "Lek" means an area where male sage-grouse display during the breeding season to attract females (also referred to as strutting-ground).

(k) "Low density areas" means mapped sagebrush types or other habitats that support sage-grouse that are encompassed by areas where:

(A) Low lek density strata overlapped with seasonal connectivity corridors;

(B) Local corridors occur outside of all lek density strata;

(C) Low lek density strata occur outside of connectivity corridors; or

(D) Seasonal connectivity corridors occur outside of all lek density strata. Low density area maps are maintained by ODFW.

(l) "Mitigation hierarchy" means an approach used by decision makers to consider development proposals and is ordinarily comprised of a three step process:

(A) "Avoidance" is the first step in the mitigation hierarchy and is accomplished by not taking a certain development action or parts of that action.

(B) "Minimization" is the second step in the mitigation hierarchy and is accomplished by limiting the degree or magnitude of the development action and its implementation.

(C) "Compensatory mitigation" is the third step in the mitigation hierarchy and means the replacement or enhancement of the function of habitat capable of supporting sage-grouse in greater numbers than predicted to be impacted by a development.

(m) "Occupied Lek" means a lek that has been regularly visited by ODFW and has had one or more male sage-grouse counted in one or more of the last seven years.

(n) "Occupied Pending Lek" means a lek that has not been counted regularly by ODFW in the last seven years, but sage-grouse were present at ODFW's last visit.

(o) "Priority Areas for Conservation" (PACs) means key habitats identified by state sage-grouse conservation plans or through other sage-grouse conservation efforts (e.g., BLM Planning). In Oregon, core area habitats are PACs.

(4) Local program development and direct applicability of rule. Local governments may develop a program to achieve consistency with this rule by following the standard process in OAR 660-023-0030, 660-023-0040 and 660-023-0050 and submitting the amendment to the commission in the manner provided for periodic review under ORS 197.628 to 197.650 and OAR 660-025-0175. Until the commission has acknowledged a county amendment to its comprehensive plan and land use regulations to be in compliance with Goal 5 and equivalent to this rule with regard to protecting sage-grouse habitat, sections (5) to (12) shall apply directly to county land use decisions affecting significant sage-grouse habitat. Once the commission has acknowledged a local government program under this section, that program becomes the controlling county land use document and sections (5) to (12) of this rule no longer apply directly.

(5) Quality, Quantity and Location. For purposes of this rule, sage-grouse habitat is only present in Baker, Crook, Deschutes, Harney, Lake, Malheur and Union Counties. The location of sage-grouse habitat within these counties shall be determined by following the map produced by ODFW included as Exhibit B.

(6) Determination of Significance. Significant sage-grouse habitat includes only lands protected under Statewide Planning Goals 3 or 4 as of July 1, 2015 that are identified as:

(a) Core areas;

(b) Low density areas; and

(c) Lands within a general habitat area located within 3.1 miles of an occupied or occupied-pending lek.

(d) The exact location of sage-grouse habitat may be refined during consideration of specific projects but must be done in consultation with ODFW.

(7) Conflicting uses. For purposes of protecting significant sage-grouse habitat, conflicting uses are:

(a) Large-scale development; and

(b) Other activities, which require review by county decision makers pursuant to OAR 660-033-0120 table and are proposed:

(A) In a core area within 4.0 miles of an occupied or occupied-pending lek;

(B) In a low density area within 3.1 miles of an occupied or occupied-pending lek; or

(C) In general habitat within 3.1 miles of an occupied or occupied-pending lek.

(8) Pre-Application Conference. A county should convene a pre-application conference prior to accepting an application for a conflicting use in significant sage-grouse habitat. The pre-application conference should include, at a minimum, the applicant, county planning staff and local ODFW staff.

(9) Program to achieve the goal of protecting significant sage grouse habitat in a core area.

(a) A county may consider a large-scale development in a core area upon applying disturbance thresholds and the mitigation hierarchy as follows:

(A) A county may consider a large-scale development that does not cause the one-percent metering threshold described in section (16) or the three-percent disturbance threshold described in section (17) to be exceeded.

(B) Avoidance. Before proceeding with large-scale development activity that impacts a core area, the proponent must demonstrate that reasonable alternatives have been considered and that the activity or other action cannot avoid impacts within core area habitat. If the proposed large-scale development can occur in another location that avoids both direct and indirect impacts within core area habitat, then the proposal must not be allowed unless it can satisfy the following criteria.

(i) It is not technically feasible to locate the proposed large-scale development outside of a core area based on accepted engineering practices, regulatory standards or some combination thereof. Costs associated with technical feasibility may be considered, but cost alone may not be the only consideration in determining that development must be located such that it will have direct or indirect impacts on significant sage-grouse areas; or

(ii) The proposed large-scale development is dependent on a unique geographic or other physical feature(s) that cannot be found on other lands; and

(iii) If either subparagraph (9)(a)(B)(i) or (9)(a)(B)(ii) is found to be satisfied the county must also find that the large-scale development will provide important economic opportunity, needed infrastructure, public safety benefits or public health benefits for local citizens or the entire region.

(C) Minimization. If the proposed use cannot be sited by avoiding a core area altogether, including direct and indirect impacts, it shall be located to minimize the amount of such habitat directly or indirectly disturbed, and to minimize fragmentation of the core area(s) in question by locating the development adjacent to existing development and at the edge of the core area when possible. Uses should minimize impacts through micro-siting, limitations on the timing of construction or use, or both, and methods of construction. Minimizing impacts from large-scale development in core habitat shall also ensure direct and indirect impacts do not occur in known areas of high population richness within a given core area, unless a project proponent demonstrates, by a preponderance of the evidence, that such an approach is not feasible. Costs associated with minimization may be considered, but cost alone may not be the only consideration in determining that location of development cannot further minimize direct or indirect impacts to core areas.

(D) Compensatory Mitigation. To the extent that a proposed large-scale development will have direct or indirect impacts on a core area after application of the avoidance and minimization standards and criteria, above, the permit must be conditioned to fully offset the direct and indirect impacts of the development to any core area. The required compensatory mitigation must comply with OAR chapter 635, division 140.

(b) A county may approve a conflicting use as identified at subsection (7)(b) above upon either:

(A) Receiving confirmation from ODFW that the proposed conflicting use does not pose a threat to significant sage-grouse habitat or the way sage-grouse use that habitat; or

(B) Conditioning the approval based on ODFW recommendations, including minimization techniques and compensatory mitigation, if necessary, to resolve threats to significant sage-grouse habitat.

(10) Program to achieve the goal of protecting significant sage-grouse habitat in a low density area.

(a) A county may approve a large-scale development in a low density area upon applying the mitigation hierarchy as follows:

(A) Avoidance. Before proceeding with large-scale development activity that impacts a low density area, the proponent must demonstrate that reasonable alternatives have been considered and that the activity or other action cannot avoid impacts within a low density area. If the proposed large-scale development can occur in another location that avoids both direct and indirect impacts within a low density area, then the proposal must not be allowed unless it can satisfy the following criteria:

(i) It is not technically or financially feasible to locate the proposed large-scale development outside of a low density area based on accepted engineering practices, regulatory standards, proximity to necessary infrastructure or some combination thereof; or

(ii) The proposed large-scale development is dependent on geographic or other physical feature(s) found in low density habitat areas that are less common at other locations, or it is a linear use that must cross significant sage-grouse habitat in order to achieve a reasonably direct route.

(B) Minimization. If the proposed use cannot be sited by avoiding a low density area altogether, including direct and indirect impacts, it shall be located to minimize the amount of such habitat directly or indirectly disturbed, and to minimize fragmentation of the low density area(s) in question by locating the development adjacent to existing development and at the edge of the low density area when possible. Uses should minimize impacts through micro-siting, limitations on the timing of construction or use, or both, and methods of construction.

(C) Compensatory Mitigation. Required consistent with the provisions of paragraph (9)(a)(D) above.

(b) A county may approve a conflicting use as identified at subsection (7)(b) above when found to be consistent with the provisions of subsection (9)(b).

(11) Program to achieve the goal of protecting significant sage-grouse habitat on general habitat.

(a) A county may approve a large-scale development on significant sage-grouse habitat in general habitat upon requiring:

(A) General Habitat Consultation. Minimizing impacts from development actions in general habitat shall include consultation between the development proponent and ODFW that considers and results in recommendations on how to best locate, construct or operate the development action so as to avoid or minimize direct and indirect impacts on significant sage-grouse habitat within the area of general habitat. A county shall attach ODFW recommendations as a condition of approval; and

(B) Compensatory Mitigation. Required consistent with the provisions of paragraph (9)(a)(D) above.

(b) A county may approve a conflicting use identified in subsection (7)(b) above when found to be consistent with the provisions of subsection (9)(b).

(12) Especially Unique Local Economic Opportunity. A county may approve a large-scale development proposal that does not meet the avoidance test for significant sage-grouse habitat if the county determines that the overall public benefits of the proposal outweigh the damage to significant sage-grouse habitat. Requirements for minimization and compensatory mitigation continue to apply and attempts should be made to avoid areas of high population richness, if possible. The county shall make this balancing determination only when the proposal involves an economic opportunity that will provide a number of permanent, full-time jobs, not including construction activities, paying at least 150 percent of average county wages sufficient to increase the amount of total private nonfarm payroll employment by at least 0.5 percent over the figure included in the most recent data available from the Oregon Department of Employment rounded down to the nearest whole number. The applicant has the burden to show that the overall public benefits outweigh the damage to the significant sage-grouse habitat. This provision may be exercised by each effected county once during every ten-year period beginning on the effective date of this rule. A county is also free not to approve a proposal submitted under this section.

(13) A proposal to up-zone lands containing significant sage-grouse habitat to a greater development potential than otherwise allowed under Goals 3 and 4 shall follow the ordinary Goal 5 process at OAR 660-023-0030 to 660-023-0050. Furthermore, up-zoning lands in a core area shall be considered a direct impact and count towards the three percent disturbance threshold pursuant to section (17) below.

(14) Landscape-Level Consideration. The standards in sections (9), (10) and (11) above, are designed to minimize the amount of future impacts from human sources to significant sage-grouse habitat areas. Consistent with available science concerning the relation between human activities and sage-grouse population levels, the department will monitor direct impacts in core areas in each of the PACs shown in Exhibit (C).

(15) Central Registry. The department will work with the counties identified in section (5), ODFW, the Bureau of Land Management (BLM), and USFWS to maintain a central registry, tracking human disturbance from existing (baseline) and all new development affecting core areas. In addition to serving as partners in maintaining the central registry, counties must report all development land use permits for all uses within a core area to the department. The registry will include baseline calculations of direct impact levels consistent with the approach identified by the BLM. The percentage figures included in Exhibit D establish the baseline for human disturbance existing on the effective date of this rule. If better information becomes available, the commission may revise the baseline subject to a rule amendment that is coordinated with the counties identified in section (5) and other interested parties. Counties may establish more refined, project specific data to replace the baseline figures so long as all counties utilize a common methodology. Each year the department shall report to the commission the amount of new direct impacts in each PAC. The report shall be coordinated with and made available to all affected counties.

(16) Metering. This rule is intended to ensure that the area of direct impact levels in any PAC, including energy facilities exempted under subsection (2)(b), does not increase by an amount greater than 1.0 percent of the total area of the PAC in any ten-year period. The initial period shall commence upon the effective date of this rule and continue for ten consecutive years, where upon the process shall be successively repeated. The commission will consider revisions to this rule if the department's yearly reports required by section (15) indicate that the development trends in any PAC indicate that the 1.0 percent direct impact threshold is in jeopardy of being exceeded before the ten-year period has expired. Any proposal to amend this rule undertaken by the department shall be developed in coordination with all affected counties and other stakeholders.

(17) Disturbance Threshold. This rule is intended to ensure that direct impact level, including energy facilities exempted under subsection (2)(b), does not exceed three percent of the total area in any PAC. If this three-percent threshold is approached, then the department must report that situation to the commission along with a proposal to amend this rule to adapt the standards and criteria such that the threshold is not exceeded.

(18) State agency coordination programs. All state agencies that carry out or that permit conflicting uses in core area, low density area, or significant general habitat including but not limited to OWRD, Oregon Department of Transportation, Department of State Lands, Department of Geology and Mineral Industries, Oregon Department of Energy and the Energy Facility Siting Council, and Department of Environmental Quality must report the proposed development to the department, along with an estimate of the direct impact of the development. In addition, to the extent not regulated by a county, such

development, other than the issuance of water rights, the expansion of cultivation, and other farm uses under ORS 215.203(2), must meet the requirements of paragraph (9)(a)(D) of this rule.

(19) Scheduled Review. The department shall commence a review of these rules no later than June 30, 2020 and, if determined to be necessary, recommend revisions to achieve the policy objectives found herein. Furthermore, should the species become listed under the Federal Endangered Species Act, the commission shall consider whether continued application of this rule is necessary. Should the rule remain applicable and the species is de-listed the commission shall consider whether continued application of this rule is necessary.

[ED. NOTE: To view tables referenced in rule text, click here to view rule.]

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040

History:

LCDD 6-2017, f. & cert. ef. 5-25-17

LCDD 4-2016, f. & cert. ef. 2-10-16

LCDD 5-2015, f. 8-6-15, cert. ef. 8-13-15

660-023-0120

Federal Wild and Scenic Rivers

(1) At each periodic review, local governments shall amend acknowledged plans and land use regulations to address any federal Wild and Scenic River (WSR) and associated corridor established by the federal government that is not addressed by the acknowledged plan. The standards and procedures of OAR 660-023-0030 through 660-023-0050 apply to WSRs, except as provided in this rule.

(2) Local governments shall not inventory WSRs using the standard process under OAR 660-023-0030, except that local governments shall follow the requirements of 660-023-0030(5) by designating all WSRs as significant Goal 5 resources.

(3) A local government may delay completion of OAR 660-023-0040 and 660-023-0050 for a WSR until the federal government adopts a management plan for the WSR. Prior to the federal government adoption of a management plan, the local government shall notify the federal government of proposed development and changes of land use within the interim WSR corridor.

(4) Prior to or at the first periodic review following adoption of a management plan by the federal government for an established WSR, the local government shall adopt a program to protect the WSR and associated corridor by following the ESEE standards and procedures of OAR 660-023-0040 and 660-023-0050. The impact area determined under OAR 660-023-0040(3) shall be the WSR corridor that is established by the federal government. Notwithstanding the provisions of OAR 660-023-0040(5), the local program shall be consistent with the federal management plan.

(5) For any lands in a designated WSR corridor that are also within the impact area of a designated Oregon Scenic Waterway, the local government may apply the requirements of OAR 660-023-0130 rather than the applicable requirements of this rule in order to develop a program to achieve Goal 5.

Statutory/Other Authority: ORS 183 & 197

Statutes/Other Implemented: ORS 197.040 & 197.225 - 197.245

History:

LCDC 2-1996, f. 8-30-96, cert. ef. 9-1-96

660-023-0130

Oregon Scenic Waterways

(1) At each periodic review, local governments shall amend acknowledged plans and land use regulations to address any Oregon Scenic Waterway (OSW) and associated corridor that is not addressed by the acknowledged plan. The standards and procedures of OAR 660-023-0030 through 660-023-0050 apply to OSWs, except as provided in this rule.

(2) Local governments shall not inventory OSWs following all the steps of the standard inventory process under OAR 660-023-0030. Instead, local governments shall follow only the requirements of OAR 660-023-0030(5) by designating OSWs as significant Goal 5 resources.

(3) A local government may delay completion of the Goal 5 process (OAR 660-023-0040 and 660-023-0050) for an OSW until the Oregon Parks and Recreation Commission (OPRC) adopts a management plan for the OSW. Prior to the OPRC adoption of a management plan for the OSW, the local government shall:

(a) Notify the Oregon Parks and Recreation Department (OPRD) of proposed developments and changes of land use on land within the interim OSW corridor; and

(b) Inform landowners who apply to the local government for development approval or changes of land use within the OSW corridor of their notice obligations under ORS 390.845.

(4) Prior to or at the first periodic review following adoption of a management plan by the OPRC for an established OSW, the local government shall adopt a Goal 5 program for the OSW and associated corridor by following either the ESEE standards and procedures of OAR 660-023-0040 and 660-023-0050 or the safe harbor provisions in section (5) of this rule. The impact area determined under OAR 660-023-0040(3) shall be the scenic waterway and adjacent lands as set forth in ORS 390.805(2) and (3). Notwithstanding the provisions of OAR 660-023-0040(5), the local program for the OSW shall be consistent with the management plan adopted by OPRC.

(5) As a safe harbor, a local government may adopt only those plan and implementing ordinance provisions necessary to carry out the management plan adopted by OPRC rather than follow the ESEE standards and procedures of OAR 660-023-0040 and 660-023-0050.

Statutory/Other Authority: ORS 183 & 197

Statutes/Other Implemented: ORS 197.040 & 197.225 - 197.245

History:

LCDC 2-1996, f. 8-30-96, cert. ef. 9-1-96

660-023-0140

Groundwater Resources

(1) For purposes of this rule, the following definitions apply:

(a) "Delineation" is a determination that has been certified by the Oregon Health Division pursuant to OAR 333-061-0057, regarding the extent, orientation, and boundary of a wellhead protection area, considering such factors as geology, aquifer characteristics, well pumping rates, and time of travel.

(b) "Groundwater" is any water, except capillary moisture, beneath the land surface or beneath the bed of any stream, lake, reservoir, or other body of surface water.

(c) "Protect significant groundwater resources" means to adopt land use programs to help ensure that reliable groundwater is available to areas planned for development and to provide a reasonable level of certainty that the carrying capacity of groundwater resources will not be exceeded.

(d) "Public water system" is a system supplying water for human consumption that has four or more service connections, or a system supplying water to a public or commercial establishment that operates a total of at least 60 days per year and that is used by 10 or more individuals per day.

(e) "Wellhead protection area" is the surface and subsurface area surrounding a water well, spring, or wellfield, supplying a public water system, through which contaminants are reasonably likely to move toward and reach that water well, spring, or wellfield.

(2) Local governments shall amend acknowledged plans prior to or at each periodic review in order to inventory and protect significant groundwater resources under Goal 5 only as provided in sections (3) through (5) of this rule. Goal 5 does not apply to other groundwater areas, although other statewide Goals, especially Goals 2, 6, and 11, apply to land use decisions concerning such groundwater areas. Significant groundwater resources are limited to:

(a) Critical groundwater areas and restrictively classified areas designated by the Oregon Water Resources Commission (OWRC), as provided in ORS 340 and 536, subject to the requirements in section (3) of this rule applied in conjunction with the requirements of OAR 660-023-0030 through 660-023-0050; and

(b) Wellhead protection areas, subject to the requirements in sections (4) and (5) of this rule instead of the requirements in OAR 660-023-0030 through 660-023-0050.

(3) Critical groundwater areas and restrictively classified areas are significant groundwater resources. Following designation by OWRC, and in coordination with the Oregon Water Resources Department (WRD), local plans shall declare such areas as significant groundwater resources as per OAR 660-023-0030(5). Following the requirements of OAR 660-023-0040 and 660-023-0050 and this rule, local governments shall develop programs to protect these significant groundwater resources.

(4) A local government or water provider may delineate a wellhead protection area for wells or wellfields that serve lands within its jurisdiction. For the delineation of wellhead protection areas, the standards and procedures in OAR chapter 333, division 61 (Oregon Health Division rules) shall apply rather than the standards and procedures of OAR 660-023-0030.

(5) A wellhead protection area is a significant groundwater resource only if the area has been so delineated and either:

(a) The public water system served by the wellhead area has a service population greater than 10,000 or has more than 3,000 service connections and relies on groundwater from the wellhead area as the primary or secondary source of drinking water; or

(b) The wellhead protection area is determined to be significant under criteria established by a local government, for the portion of the wellhead protection area within the jurisdiction of the local government.

(6) Local governments shall develop programs to resolve conflicts with wellhead protection areas described under section (5) of this rule. In order to resolve conflicts with wellhead protection areas, local governments shall adopt comprehensive plan provisions and land use regulations, consistent with all applicable statewide goals, that:

(a) Reduce the risk of contamination of groundwater, following the standards and requirements of OAR chapter 340, division 40; and

(b) Implement wellhead protection plans certified by the Oregon Department of Environmental Quality (DEQ) under OAR 340-040-0180.

Statutory/Other Authority: ORS 183 & 197

Statutes/Other Implemented: ORS 197.040 & 197.225 - 197.245

History:

LCDD 3-2004, f. & cert. ef. 5-7-04

LCDC 2-1996, f. 8-30-96, cert. ef. 9-1-96

660-023-0150

Approved Oregon Recreation Trails

(1) For purposes of this rule, "recreation trail" means an Oregon Recreation Trail designated by rule adopted by the Oregon Parks and Recreation Commission (OPRC).

(2) Recreation trails are designated by OPRC in cooperation with local governments and private land owners. Local governments are not required to inventory recreation trails under OAR 660-023-0030. Instead, local governments shall designate all recreation trails designated by OPRC as significant Goal 5 resources. At each periodic review, local governments shall amend acknowledged plans to recognize any recreation trail designated by OPRC subsequent to acknowledgment or a previous periodic review.

(3) Local governments are not required to amend acknowledged plans or land use regulations in order to supplement OPRC protection of recreation trails. If a local government chooses to supplement OPRC protection, it shall follow the requirements of OAR 660-023-0040 and 660-023-0050.

Statutory/Other Authority: ORS 183 & 197

Statutes/Other Implemented: ORS 197.040 & 197.225 - 197.245

History:

LCDC 2-1996, f. 8-30-96, cert. ef. 9-1-96

660-023-0160

Natural Areas

(1) For purposes of this rule, "natural areas" are areas listed in the Oregon State Register of Natural Heritage Resources.

(2) At periodic review, local governments shall consider information about natural areas not addressed at acknowledgment or in previous periodic reviews. Local governments shall inventory such areas as significant and develop a program to achieve the goal following the standard Goal 5 process in OAR 660-023-0040 and 660-023-0050.

Statutory/Other Authority: ORS 183 & 197

Statutes/Other Implemented: ORS 197.040 & 197.225 - 197.245

History:

LCDC 2-1996, f. 8-30-96, cert. ef. 9-1-96

660-023-0170

Wilderness Areas

(1) For purposes of this rule, "wilderness areas" are those areas designated as wilderness by the federal government.

(2) Local governments are not required to inventory wilderness areas using the procedures of OAR 660-023-0030, except that local governments shall list all federally designated wilderness areas as significant Goal 5 resources as provided under OAR 660-023-0030(5).

(3) At periodic review, local governments shall amend acknowledged plans to recognize any wilderness areas designated after the last periodic review or acknowledgment.

(4) A local government need not complete the Goal 5 process in OAR 660-023-0040 and 660-023-0050 for wilderness areas unless it chooses to provide additional protection for the wilderness area, such as the regulation of conflicting uses in an impact area adjacent to the wilderness area.

Statutory/Other Authority: ORS 183 & 197

Statutes/Other Implemented: ORS 197.040 & 197.225 - 197.245

History:

LCDC 2-1996, f. 8-30-96, cert. ef. 9-1-96

660-023-0180

Mineral and Aggregate Resources

(1) For purposes of this rule, the following definitions apply:

(a) "Aggregate resources" are naturally occurring concentrations of stone, rock, sand gravel, decomposed granite, limestone, pumice, cinders, and other naturally occurring solid materials commonly used in road building or other construction.

(b) "Conflicting use" is a use or activity that is subject to land use regulations and that would interfere with, or be adversely affected by, mining or processing activities at a significant mineral or aggregate resource site (as specified in subsection (5)(b) and section (7) of this rule).

(c) "Existing site" is an aggregate site that meets the requirements of subsection (3)(a) of this rule and was lawfully operating, or was included on an inventory of significant aggregate sites in an acknowledged plan, on September 1, 1996.

(d) "Expansion area" is an aggregate mining area contiguous to an existing site.

(e) "Farmland" means land planned and zoned for exclusive farm use pursuant to Goal 3 and OAR chapter 660, division 033.

(f) "Mineral resources" are those materials and substances described in ORS 517.750(7) but excluding materials and substances described as "aggregate resources" under subsection (a) of this section.

(g) "Minimize a conflict" means to reduce an identified conflict to a level that is no longer significant. For those types of conflicts addressed by local, state, or federal standards (such as the Department of Environmental Quality standards for noise and dust levels), to "minimize a conflict" means to ensure conformance to the applicable standard.

(h) "Mining" is the extraction and processing of mineral or aggregate resources, as defined in ORS 215.298(1)(b) for farmland, and in ORS 517.750 for land other than farmland.

(i) "Mining area" is the area of a site within which mining is permitted or proposed, excluding undisturbed buffer areas or areas on a parcel where mining is not authorized.

(j) "Processing" means the activities described in ORS 517.750(10).

(k) "Protect" means to adopt land use regulations for a significant mineral or aggregate site in order to authorize mining of the site. For purposes of subsection (2)(d) of this rule, "protect" also means to limit or prohibit new conflicting uses within the impact area of the site.

(l) "Thickness of the aggregate layer" means the depth of the water-lain deposit of sand, stones, and pebbles of sand-sized fraction or larger, minus the depth of the topsoil and nonaggregate overburden.

(m) "Willamette Valley" means Clackamas, Columbia, Linn, Marion, Multnomah, Polk, Washington, and Yamhill counties and the portions of Lane and Benton Counties east of the summit of the Coast Range.

(2) Local governments are not required to amend acknowledged inventories or plans with regard to mineral and aggregate resources except in response to an application for a post acknowledgement plan amendment (PAPA) or at periodic review as specified in section (9) of this rule. The requirements of this rule modify, supplement, or supersede the requirements of the standard Goal 5 process in OAR 660-023-0030 through 660-023-0050, as follows:

(a) A local government may inventory mineral and aggregate resources throughout its jurisdiction, or in a portion of its jurisdiction. When a local government conducts an inventory of mineral and aggregate sites in all or a portion of its jurisdiction, it shall follow the requirements of OAR 660-023-0030 except as modified by subsection (b) of this section with respect to aggregate sites. When a local government is following the inventory process for a mineral or aggregate resource site under a PAPA, it shall follow the applicable requirements of OAR 660-023-0030, except where those requirements are expanded or superceded for aggregate resources as provided in subsections (b) through (d) of this section and sections (3), (4) and (8) of this rule;

(b) Local governments shall apply the criteria in section (3) or (4) of this rule, whichever is applicable, rather than OAR 660-023-0030(4), in determining whether an aggregate resource site is significant;

(c) Local governments shall follow the requirements of section (5) or (6) of this rule, whichever is applicable, in deciding whether to authorize the mining of a significant aggregate resource site, and OAR 660-023-0040 through 660-023-0050 in deciding whether to authorize mining of a significant mineral resource; and

(d) For significant mineral and aggregate sites where mining is allowed, except for aggregate sites that have been determined to be significant under section (4) of this rule, local governments shall decide on a program to protect the site from new off-site conflicting uses by following the standard ESEE process in OAR 660-023-0040 and 660-023-0050 with regard to such uses.

(3) An aggregate resource site shall be considered significant if adequate information regarding the quantity, quality, and location of the resource demonstrates that the site meets any one of the criteria in subsections (a) through (c) of this section, except as provided in subsection (d) of this section:

(a) A representative set of samples of aggregate material in the deposit on the site meets applicable Oregon Department of Transportation (ODOT) specifications for base rock for air degradation, abrasion, and soundness, and the estimated amount of material is more than 2,000,000 tons in the Willamette Valley, or more than 500,000 tons outside the Willamette Valley;

(b) The material meets local government standards establishing a lower threshold for significance than subsection (a) of this section; or

(c) The aggregate site was on an inventory of significant aggregate sites in an acknowledged plan on September 1, 1996.

(d) Notwithstanding subsections (a) and (b) of this section, except for an expansion area of an existing site if the operator of the existing site on March 1, 1996, had an enforceable property interest in the expansion area on that date, an aggregate site is not significant if the criteria in either paragraphs (A) or (B) of this subsection apply:

(A) More than 35 percent of the proposed mining area consists of soil classified as Class I on Natural Resource and Conservation Service (NRCS) maps on June 11, 2004; or

(B) More than 35 percent of the proposed mining area consists of soil classified as Class II, or of a combination of Class II and Class I or Unique soil, on NRCS maps available on June 11, 2004, unless the average thickness of the aggregate layer within the mining area exceeds:

(i) 60 feet in Washington, Multnomah, Marion, Columbia, and Lane counties;

(ii) 25 feet in Polk, Yamhill, and Clackamas counties; or

(iii) 17 feet in Linn and Benton counties.

(4) Notwithstanding section (3) of this rule, a local government may also determine that an aggregate resource site on farmland is significant if subsections (a) and (b) of this section apply or if subsection (c) of this section applies:

(a) The quantity of material proposed to be mined from the site is estimated to be 2,000,000 tons of aggregate material or less for a site in the Willamette Valley, or 500,000 tons or less for a site outside the Willamette Valley; and

(b) Not more than 35 percent of the proposed mining area consists of soil:

(A) Classified as Class I on Natural Resource and Conservation Service (NRCS) maps available on June 11, 2004; or

(B) Classified as Class II, or of a combination of Class II and Class I or Unique soil, on NRCS maps on June 11, 2004, unless the average thickness of the aggregate layer within the mining area exceeds the amounts specified in paragraph (B) of subsection (3)(d) of this rule.

(c) A local land use permit that allows mining on the site was issued prior to April 3, 2003, and the permit is in effect at the time of the significance determination.

(5) For significant mineral and aggregate sites, local governments shall decide whether mining is permitted. For a PAPA application involving an aggregate site determined to be significant under section (3) of this rule, the process for this decision

is set out in subsections (a) through (g) of this section. A local government must complete the process within 180 days after receipt of a complete application that is consistent with section (8) of this rule, or by the earliest date after 180 days allowed by local charter.

(a) The local government shall determine an impact area for the purpose of identifying conflicts with proposed mining and processing activities. The impact area shall be large enough to include uses listed in subsection (b) of this section and shall be limited to 1,500 feet from the boundaries of the mining area, except where factual information indicates significant potential conflicts beyond this distance. For a proposed expansion of an existing aggregate site, the impact area shall be measured from the perimeter of the proposed expansion area rather than the boundaries of the existing aggregate site and shall not include the existing aggregate site.

(b) The local government shall determine existing or approved land uses within the impact area that will be adversely affected by proposed mining operations and shall specify the predicted conflicts. For purposes of this section, "approved land uses" are dwellings allowed by a residential zone on existing platted lots and other uses for which conditional or final approvals have been granted by the local government. For determination of conflicts from proposed mining of a significant aggregate site, the local government shall limit its consideration to the following:

(A) Conflicts due to noise, dust, or other discharges with regard to those existing and approved uses and associated activities (e.g., houses and schools) that are sensitive to such discharges;

(B) Potential conflicts to local roads used for access and egress to the mining site within one mile of the entrance to the mining site unless a greater distance is necessary in order to include the intersection with the nearest arterial identified in the local transportation plan. Conflicts shall be determined based on clear and objective standards regarding sight distances, road capacity, cross section elements, horizontal and vertical alignment, and similar items in the transportation plan and implementing ordinances. Such standards for trucks associated with the mining operation shall be equivalent to standards for other trucks of equivalent size, weight, and capacity that haul other materials;

(C) Safety conflicts with existing public airports due to bird attractants, i.e., open water impoundments as specified under OAR chapter 660, division 013;

(D) Conflicts with other Goal 5 resource sites within the impact area that are shown on an acknowledged list of significant resources and for which the requirements of Goal 5 have been completed at the time the PAPA is initiated;

(E) Conflicts with agricultural practices; and

(F) Other conflicts for which consideration is necessary in order to carry out ordinances that supersede Oregon Department of Geology and Mineral Industries (DOGAMI) regulations pursuant to ORS 517.780.

(c) The local government shall determine reasonable and practicable measures that would minimize the conflicts identified under subsection (b) of this section. To determine whether proposed measures would minimize conflicts to agricultural practices, the requirements of ORS 215.296 shall be followed rather than the requirements of this section. If reasonable and practicable measures are identified to minimize all identified conflicts, mining shall be allowed at the site and subsection (d) of this section is not applicable. If identified conflicts cannot be minimized, subsection (d) of this section applies.

(d) The local government shall determine any significant conflicts identified under the requirements of subsection (c) of this section that cannot be minimized. Based on these conflicts only, local government shall determine the ESEE consequences of either allowing, limiting, or not allowing mining at the site. Local governments shall reach this decision by weighing these ESEE consequences, with consideration of the following:

(A) The degree of adverse effect on existing land uses within the impact area;

(B) Reasonable and practicable measures that could be taken to reduce the identified adverse effects; and

(C) The probable duration of the mining operation and the proposed post-mining use of the site.

(e) Where mining is allowed, the plan and implementing ordinances shall be amended to allow such mining. Any required measures to minimize conflicts, including special conditions and procedures regulating mining, shall be clear and objective. Additional land use review (e.g., site plan review), if required by the local government, shall not exceed the minimum review necessary to assure compliance with these requirements and shall not provide opportunities to deny mining for reasons unrelated to these requirements, or to attach additional approval requirements, except with regard to mining or processing activities:

(A) For which the PAPA application does not provide information sufficient to determine clear and objective measures to resolve identified conflicts;

(B) Not requested in the PAPA application; or

(C) For which a significant change to the type, location, or duration of the activity shown on the PAPA application is proposed by the operator.

(f) Where mining is allowed, the local government shall determine the post-mining use and provide for this use in the comprehensive plan and land use regulations. For significant aggregate sites on Class I, II and Unique farmland, local governments shall adopt plan and land use regulations to limit post-mining use to farm uses under ORS 215.203, uses listed under ORS 215.213(1) or 215.283(1), and fish and wildlife habitat uses, including wetland mitigation banking. Local governments shall coordinate with DOGAMI regarding the regulation and reclamation of mineral and aggregate sites, except where exempt under ORS 517.780.

(g) Local governments shall allow a currently approved aggregate processing operation at an existing site to process material from a new or expansion site without requiring a reauthorization of the existing processing operation unless limits on such processing were established at the time it was approved by the local government.

(6) For an aggregate site on farmland that is determined to be significant under section (4) of this rule, the requirements of section (5) of this rule are not applicable, except for subsection (5)(f), and the requirements of OAR 660-023-0040 through 660-023-0050 are not applicable. Instead, local governments shall decide whether mining is permitted by applying subsections (a) through (d) of this section:

(a) The proposed aggregate mine shall satisfy discretionary conditional use permit approval standards adopted by the local government pursuant to applicable requirements of ORS 215.213(2) or 215.283(2), and the requirements of ORS 215.296 and 215.402 through 215.416;

(b) The local government shall determine the post-mining use in accordance with subsection (5)(f) of this rule;

(c) The local government shall issue a permit for mining aggregate only for a site included on an inventory of significant aggregate sites in the comprehensive plan in accordance with ORS 215.298(2); and

(d) The conditional use permit shall not allow mining of more than the maximum amount of aggregate material specified under subsection (4)(a) of this rule.

(7) Except for aggregate resource sites determined to be significant under section (4) of this rule, local governments shall follow the standard ESEE process in OAR 660-023-0040 and 660-023-0050 to determine whether to allow, limit, or prevent new conflicting uses within the impact area of a significant mineral and aggregate site. (This requirement does not apply if, under section (5) of this rule, the local government decides that mining will not be authorized at the site.)

(8) In order to determine whether information in a PAPA submittal concerning an aggregate site is adequate, local government shall follow the requirements of this section rather than OAR 660-023-0030(3). An application for approval of an aggregate site following sections (4) and (6) of this rule shall be adequate if it provides sufficient information to determine whether the requirements in those sections are satisfied. An application for a PAPA concerning a significant aggregate site following sections (3) and (5) of this rule shall be adequate if it includes:

(a) Information regarding quantity, quality, and location sufficient to determine whether the standards and conditions in section (3) of this rule are satisfied;

(b) A conceptual site reclamation plan;

NOTE: Final approval of reclamation plans resides with DOGAMI rather than local governments, except as provided in ORS 517.780

(c) A traffic impact assessment within one mile of the entrance to the mining area pursuant to section (5)(b)(B) of this rule;

(d) Proposals to minimize any conflicts with existing uses preliminarily identified by the applicant within a 1,500 foot impact area; and

(e) A site plan indicating the location, hours of operation, and other pertinent information for all proposed mining and associated uses.

(9) Local governments shall amend the comprehensive plan and land use regulations to include procedures and requirements consistent with this rule for the consideration of PAPAs concerning aggregate resources. Until such local regulations are adopted, the procedures and requirements of this rule shall be directly applied to local government consideration of a PAPA concerning mining authorization, unless the local plan contains specific criteria regarding the consideration of a PAPA proposing to add a site to the list of significant aggregate sites, provided:

(a) Such regulations were acknowledged subsequent to 1989; and

(b) Such regulations shall be amended to conform to the requirements of this rule at the next scheduled periodic review after September 1, 1996, except as provided under OAR 660-023-0250(7).

Statutory/Other Authority: ORS 183 & ORS 197

Statutes/Other Implemented: ORS 197.040 & ORS 197.225 - 197.245

History:

LCDD 7-2018, minor correction filed 08/13/2018, effective 08/13/2018

LCDD 5-2004, f. & cert. ef. 6-25-04

LCDC 2-1996, f. 8-30-96, cert. ef. 9-1-96

660-023-0190

Energy Sources

(1) For purposes of this rule:

(a) "Energy source" includes naturally occurring locations, accumulations, or deposits of one or more of the following resources used for the generation of energy: natural gas, surface water (i.e., dam sites), geothermal, solar, and wind areas. Energy sources applied for or approved through the Oregon Energy Facility Siting Council (EFSC) or the Federal Energy Regulatory Commission (FERC) shall be deemed significant energy sources for purposes of Goal 5.

(b) "Protect," for energy sources, means to adopt plan and land use regulations for a significant energy source that limit new conflicting uses within the impact area of the site and authorize the present or future development or use of the energy source at the site.

(2) In accordance with OAR 660-023-0250(5), local governments shall amend their acknowledged comprehensive plans to address energy sources using the standards and procedures in OAR 660-023-0030 through 660-023-0050. Where EFSC or FERC regulate a local site or an energy facility that relies on a site specific energy source, that source shall be considered a significant energy source under OAR 660-023-0030. Alternatively, local governments may adopt a program to evaluate conflicts and develop a protection program on a case-by-case basis, i.e., upon application to develop an individual energy source, as follows:

(a) For proposals involving energy sources under the jurisdiction of EFSC or FERC, the local government shall comply with Goal 5 by amending its comprehensive plan and land use regulations to implement the EFSC or FERC decision on the proposal as per ORS 469.504; and

(b) For proposals involving energy sources not under the jurisdiction of EFSC or FERC, the local government shall follow the standards and procedures of OAR 660-023-0030 through 660-023-0050.

(3) Local governments shall coordinate planning activities for energy sources with the Oregon Department of Energy.

Statutory/Other Authority: ORS 183 & 197

Statutes/Other Implemented: ORS 197.040 & 197.225 - 197.245

History:

LCDD 3-2004, f. & cert. ef. 5-7-04

LCDC 2-1996, f. 8-30-96, cert. ef. 9-1-96

660-023-0200

Historic Resources

(1) For purposes of this rule, the following definitions apply:

(a) "Demolition" means any act that destroys, removes, or relocates, in whole or part, a significant historic resource such that its historic, cultural, or architectural character and significance is lost. This definition applies directly to local land use decisions regarding a National Register Resource. This definition applies directly to other local land use decisions regarding a historic resource unless the local comprehensive plan or land use regulations contain a different definition.

(b) "Designation" is a decision by a local government to include a significant resource on the resource list.

(c) "Historic context statement" is an element of a comprehensive plan that describes the important broad patterns of historical development in a community and its region during a specified time period. It also identifies historic resources that are representative of the important broad patterns of historical development.

(d) "Historic preservation plan" is an element of a comprehensive plan that contains the local government's goals and policies for historic resource preservation and the processes for creating and amending the program to achieve the goal.

(e) "Historic resources" are those buildings, structures, objects, sites, or districts that potentially have a significant relationship to events or conditions of the human past.

(f) "Locally significant historic resource" means a building, structure, object, site, or district deemed by a local government to be a significant resource according to the requirements of this division and criteria in the comprehensive plan.

(g) "National Register Resource" means buildings, structures, objects, sites, or districts listed in the National Register of Historic Places pursuant to the National Historic Preservation Act of 1966 (PL 89-665; 16 U.S.C. 470).

(h) "Owner":

(A) Means the owner of fee title to the property as shown in the deed records of the county where the property is located; or

(B) Means the purchaser under a land sale contract, if there is a recorded land sale contract in force for the property; or

(C) Means, if the property is owned by the trustee of a revocable trust, the settlor of a revocable trust, except that when the trust becomes irrevocable only the trustee is the owner; and

(D) Does not include individuals, partnerships, corporations or public agencies holding easements or less than fee interests (including leaseholds) of any nature; or

(E) Means, for a locally significant historic resource with multiple owners, including a district, a simple majority of owners as defined in (A)-(D).

(F) Means, for National Register Resources, the same as defined in 36 CFR 60.3(k).

(i) "Protect" means to require local government review of applications for demolition, relocation, or major exterior alteration of a historic resource, or to delay approval of, or deny, permits for these actions in order to provide opportunities for continued preservation.

(j) "Significant historic resource" means a locally significant historic resource or a National Register Resource.

(2) Relationship of Historic Resource Protection to the Standard Goal 5 Process.

(a) Local governments are not required to amend acknowledged plans or land use regulations in order to provide new or amended inventories, resource lists or programs regarding historic resources, except as specified in section (8). Local governments are encouraged to inventory and designate historic resources and must adopt historic preservation regulations to protect significant historic resources.

(b) The requirements of the standard Goal 5 process in OAR 660-023-0030 through 660-023-0050, in conjunction with the requirements of this rule, apply when local governments choose to amend acknowledged historic preservation plans and regulations.

(c) Local governments are not required to apply the ESEE process pursuant to OAR 660-023-0040 in order to determine a program to protect historic resources.

(3) Comprehensive Plan Contents. Local comprehensive plans should foster and encourage the preservation, management, and enhancement of significant historic resources within the jurisdiction in a manner conforming with, but not limited by, the provisions of ORS 358.605. In developing local historic preservation programs, local governments should follow the recommendations in the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation, produced by the National Park Service. Local governments should develop a local historic context statement and adopt a historic preservation plan and a historic preservation ordinance in conjunction with inventorying historic resources.

(4) Inventorying Historic Resources. When a local government chooses to inventory historic resources, it must do so pursuant to OAR 660-023-0030, this section, and sections (5) through (7). Local governments are encouraged to provide opportunities for community-wide participation as part of the inventory process. Local governments are encouraged to complete the inventory in a manner that satisfies the requirements for such studies published by the Oregon State Historic Preservation Office and provide the inventory to that office in a format compatible with the Oregon Historic Sites Database.

(5) Evaluating and Determining Significance. After a local government completes an inventory of historic resources, it should evaluate which resources on the inventory are significant pursuant to OAR 660-023-0030(4) and this section.

(a) The evaluation of significance should be based on the National Register Criteria for Evaluation, historic context statement and historic preservation plan. Criteria may include, but are not limited to, consideration of whether the resource has:

(A) Significant association with events that have made a significant contribution to the broad patterns of local, regional, state, or national history;

(B) Significant association with the lives of persons significant to local, regional, state, or national history;

(C) Distinctive characteristics of a type, period, or method of construction, or represents the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity whose components may lack individual distinction;

(D) A high likelihood that, if preserved, would yield information important in prehistory or history; or

(E) Relevance within the local historic context and priorities described in the historic preservation plan.

(b) Local governments may delegate the determination of locally significant historic resources to a local planning commission or historic resources commission.

(6) Designating Locally Significant Historic Resources. After inventorying and evaluating the significance of historic resources, if a local government chooses to protect a historic resource, it must adopt or amend a resource list (i.e., "designate" such resources) pursuant to OAR 660-023-0030(5) and this section.

(a) The resource list must be adopted or amended as a land use decision.

(b) Local governments must allow owners of inventoried historic resources to refuse historic resource designation at any time during the designation process in subsection (a) and must not include a site on a resource list if the owner of the property objects to its designation on the public record. A local government is not required to remove a historic resource from an inventory because an owner refuses to consent to designation.

(7) Historic Resource Protection Ordinances. Local governments must adopt land use regulations to protect locally significant historic resources designated under section (6). This section replaces OAR 660-023-0050. Historic protection ordinances should be consistent with standards and guidelines recommended in the Standards and Guidelines for Archeology and Historic Preservation published by the U.S. Secretary of the Interior, produced by the National Park Service.

(8) National Register Resources are significant historic resources. For these resources, local governments are not required to follow the process described in OAR 660-023-0030 through 660-023-0050 or sections (4) through (6). Instead, a local government:

(a) Must protect National Register Resources, regardless of whether the resources are designated in the local plan or land use regulations, by review of demolition or relocation that includes, at minimum, a public hearing process that results in approval, approval with conditions, or denial and considers the following factors: condition, historic integrity, age, historic significance, value to the community, economic consequences, design or construction rarity, and consistency with and consideration of other policy objectives in the acknowledged comprehensive plan. Local jurisdictions may exclude accessory structures and non-contributing resources within a National Register nomination;

(b) May apply additional protection measures. For a National Register Resource listed in the National Register of Historic Places after the effective date of this rule, additional protection measures may be applied only upon considering, at a public hearing, the historic characteristics identified in the National Register nomination; the historic significance of the resource; the relationship to the historic context statement and historic preservation plan contained in the comprehensive plan, if they exist; the goals and policies in the comprehensive plan; and the effects of the additional protection measures on the ability of property owners to maintain and modify features of their property. Protection measures applied by a local government to a National Register resource listed before the effective date of this rule continue to apply until the local government amends or removes them; and

(c) Must amend its land use regulations to protect National Register Resources in conformity with subsections (a) and (b). Until such regulations are adopted, subsections (a) and (b) shall apply directly to National Register Resources.

(9) Removal of a historic resource from a resource list by a local government is a land use decision and is subject to this section.

(a) A local government must remove a property from the resource list if the designation was imposed on the property by the local government and the owner at the time of designation:

(A) Has retained ownership since the time of the designation, and

(B) Can demonstrate that the owner objected to the designation on the public record, or

(C) Was not provided an opportunity to object to the designation, and

(D) Requests that the local government remove the property from the resource list.

(b) Except as provided in subsection (a), a local government may only remove a resource from the resource list if the circumstances in paragraphs (A), (B), or (C) exist.

- (A) The resource has lost the qualities for which it was originally recognized;
- (B) Additional information shows that the resource no longer satisfies the criteria for recognition as a historic resource or did not satisfy the criteria for recognition as a historic resource at time of listing;
- (C) The local building official declares that the resource poses a clear and immediate hazard to public safety and must be demolished to abate the unsafe condition.
- (10) A local government shall not issue a permit for demolition or modification of a locally significant historic resource during the 120-day period following:
- (a) The date of the property owner's refusal to consent to the historic resource designation, or
- (b) The date of an application to demolish or modify the resource if the local government has not designated the locally significant resource under section (6).
- (11) OAR 660-023-0200(1)(a) and (1)(h) are effective upon filing of the rule with the Secretary of State.
- (12) OAR 660-023-0200(8) is effective upon filing of the rule with the Secretary of State and applies directly to local government permit decisions until the local government has amended its land use regulations as required by OAR 660-023-0200(8)(c).
- (13) OAR 660-023-0200(9) is effective upon filing of the rule with the Secretary of State and applies directly to local government decisions until the local government has amended its land use regulations to conform with the rule.
- (14) OAR 660-023-0200(10) is effective upon filing of the rule with the Secretary of State and applies directly to local government permit decisions.

Statutory/Other Authority: ORS 197.040

Statutes/Other Implemented: ORS 197.040, 197.225 - 197.245 & 197.772

History:

LCDD 3-2018, amend filed 02/23/2018, effective 02/23/2018

LCDD 1-2017, f. & cert. ef. 2-10-17

LCDC 2-1996, f. 8-30-96, cert. ef. 9-1-96

660-023-0220

Open Space

- (1) For purposes of this rule, "open space" includes parks, forests, wildlife preserves, nature reservations or sanctuaries, and public or private golf courses.
- (2) Local governments are not required to amend acknowledged comprehensive plans in order to identify new open space resources. If local governments decide to amend acknowledged plans in order to provide or amend open space inventories, the requirements of OAR 660-023-0030 through 660-023-0050 shall apply, except as set forth in section (3) of this rule.
- (3) Local governments may adopt a list of significant open space resource sites as an open space acquisition program. Local governments are not required to apply the requirements of OAR 660-023-0030 through 660-023-0050 to such sites unless land use regulations are adopted to protect such sites prior to acquisition.

Statutory/Other Authority: ORS 183 & 197

Statutes/Other Implemented: ORS 197.040 & 197.225 - 197.245

History:

LCDC 2-1996, f. 8-30-96, cert. ef. 9-1-96

660-023-0230

Scenic Views and Sites

- (1) For purposes of this rule, "scenic views and sites" are lands that are valued for their aesthetic appearance.
- (2) Local governments are not required to amend acknowledged comprehensive plans in order to identify scenic views and sites. If local governments decide to amend acknowledged plans in order to provide or amend inventories of scenic resources, the requirements of OAR 660-023-0030 through 660-023-0050 shall apply.

Statutory/Other Authority: ORS 183 & 197

Statutes/Other Implemented: ORS 197.040 & 197.225 - 197.245

History:

LCDC 2-1996, f. 8-30-96, cert. ef. 9-1-96

660-023-0240**Relationship of Goal 5 to Other Goals**

(1) The requirements of Goal 5 do not apply to the adoption of measures required by Goals 6 and 7. However, to the extent that such measures exceed the requirements of Goals 6 or 7 and affect a Goal 5 resource site, the local government shall follow all applicable steps of the Goal 5 process.

(2) The requirements of Goals 15, 16, 17, and 19 shall supersede requirements of this division for natural resources that are also subject to and regulated under one or more of those goals. However, local governments may rely on a Goal 5 inventory produced under OAR 660-023-0030 and other applicable inventory requirements of this division to satisfy the inventory requirements under Goal 17 for resource sites subject to Goal 17.

Statutory/Other Authority: ORS 183 & 197

Statutes/Other Implemented: ORS 197.040 & 197.225 - 197.245

History:

LCDC 2-1996, f. 8-30-96, cert. ef. 9-1-96

660-023-0250**Applicability**

(1) This division replaces OAR 660, division 16, except with regard to cultural resources, and certain PAPAs and periodic review work tasks described in sections (2) and (4) of this rule. Local governments shall follow the procedures and requirements of this division or OAR 660, division 16, whichever is applicable, in the adoption or amendment of all plan or land use regulations pertaining to Goal 5 resources. The requirements of Goal 5 do not apply to land use decisions made pursuant to acknowledged comprehensive plans and land use regulations.

(2) The requirements of this division are applicable to PAPAs initiated on or after September 1, 1996. OAR 660, division 16 applies to PAPAs initiated prior to September 1, 1996. For purposes of this section "initiated" means that the local government has deemed the PAPA application to be complete.

(3) Local governments are not required to apply Goal 5 in consideration of a PAPA unless the PAPA affects a Goal 5 resource. For purposes of this section, a PAPA would affect a Goal 5 resource only if:

(a) The PAPA creates or amends a resource list or a portion of an acknowledged plan or land use regulation adopted in order to protect a significant Goal 5 resource or to address specific requirements of Goal 5;

(b) The PAPA allows new uses that could be conflicting uses with a particular significant Goal 5 resource site on an acknowledged resource list; or

(c) The PAPA amends an acknowledged UGB and factual information is submitted demonstrating that a resource site, or the impact areas of such a site, is included in the amended UGB area.

(4) Consideration of a PAPA regarding a specific resource site, or regarding a specific provision of a Goal 5 implementing measure, does not require a local government to revise acknowledged inventories or other implementing measures, for the resource site or for other Goal 5 sites, that are not affected by the PAPA, regardless of whether such inventories or provisions were acknowledged under this rule or under OAR 660, division 16.

(5) Local governments are required to amend acknowledged plan or land use regulations at periodic review to address Goal 5 and the requirements of this division only if one or more of the following conditions apply, unless exempted by the director under section (7) of this rule:

(a) The plan was acknowledged to comply with Goal 5 prior to the applicability of OAR 660, division 16, and has not subsequently been amended in order to comply with that division;

(b) The jurisdiction includes riparian corridors, wetlands, or wildlife habitat as provided under OAR 660-023-0090 through 660-023-0110, or aggregate resources as provided under OAR 660-023-0180; or

(c) New information is submitted at the time of periodic review concerning resource sites not addressed by the plan at the time of acknowledgement or in previous periodic reviews, except for historic, open space, or scenic resources.

(6) If a local government undertakes a Goal 5 periodic review task that concerns specific resource sites or specific Goal 5 plan or implementing measures, this action shall not by itself require a local government to conduct a new inventory of the affected

Goal 5 resource category, or revise acknowledged plans or implementing measures for resource categories or sites that are not affected by the work task.

(7) The director may exempt a local government from a work task for a resource category required under section (5) of this rule. The director shall consider the following factors in this decision:

(a) Whether the plan and implementing ordinances for the resource category substantially comply with the requirements of this division; and

(b) The resources of the local government or state agencies available for periodic review, as set forth in ORS 197.633(3)(g).

(8) Local governments shall apply the requirements of this division to work tasks in periodic review work programs approved or amended under ORS 197.633(3)(g) after September 1, 1996. Local governments shall apply OAR 660, division 16, to work tasks in periodic review work programs approved before September 1, 1996, unless the local government chooses to apply this division to one or more resource categories, and provided:

(a) The same division is applied to all work tasks concerning any particular resource category;

(b) All the participating local governments agree to apply this division for work tasks under the jurisdiction of more than one local government; and

(c) The local government provides written notice to the department. If application of this division will extend the time necessary to complete a work task, the director or the commission may consider extending the time for completing the work task as provided in OAR 660-025-0170.

Statutory/Other Authority: ORS 183 & 197

Statutes/Other Implemented: ORS 197.040 & 197.225 - 197.245

History:

LCDC 2-1996, f. 8-30-96, cert. ef. 9-1-96

EXCERPT OF RECORD

SUBSTITUTE

ORDINANCE No. 189000 As Amended

Adopt the Central City 2035 Plan; amend the Comprehensive Plan, Comprehensive Plan Map, Transportation System Plan, Willamette Greenway Plan, Scenic Resources Protection Plan, Zoning Map, and Title 33; authorize adoption of administrative rules; repeal and replace prior Central City plans and documents. (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

General Findings

1. In 1972, the Portland City Council adopted the *Planning Guidelines/Downtown Plan* as a policy statement to guide public and private decision-making in the Downtown area (adopted Motion on agenda item 3958, December 28, 1972). The plan addressed issues related to the loss of retail and housing, parking and the general character, livability and prosperity of Portland's downtown core. The plan included provisions to enhance the pedestrian environment, preserve and develop new housing, improve air quality, reinforce the retail core, preserve historic landmarks and districts, protect views and vistas, develop public transportation infrastructure, and recapture and reconnect the urban environment with the Willamette River waterfront. In 1980, the City Council updated and retitled the plan *Goals and Policies/Downtown Plan* (Resolution No. 32772).
2. In 1979, scenic resources were first designated and protected through building height limits as part of the implementation of the *Downtown Plan*. Additional scenic resources were identified and protected through the adoption of area plans between 1979 and 1988.
3. Portland's first *Comprehensive Plan* was adopted by the Portland City Council in October 1980 and was acknowledged as complying with Oregon's Statewide Planning Goals by the Land Conservation and Development Commission (LCDC) in May 1981. The 1980 *Comprehensive Plan* was again deemed in compliance with the Statewide Planning Goals at the conclusion of Portland's first Periodic Review in January 2000. The 1980 plan was incrementally updated by post-acknowledgement plan amendments through November 2011. In June 2016, as part of Task IV of Portland's second Periodic Review, the Portland City Council completely replaced the 1980 plan by the adoption of Portland's new 2035 *Comprehensive Plan*, but delayed the effective date of the new plan to allow the LCDC sufficient time to review and acknowledge the new plan. During the delay between adoption and effect, the 1980 plan continued to serve as the City's comprehensive plan. Portland's 2035 *Comprehensive Plan* was approved by the LCDC on March 15, 2018 and became effective on May 24, 2018. Because this ordinance is adopted after the effective date of the 2035 *Comprehensive Plan*, its provisions are gauged against the applicable provisions of the 2035 *Comprehensive Plan*, not the 1980 plan.

4. In 1988, the City Council adopted the *Central City Plan*, which expanded the approach of the *Downtown Plan* to areas north of East Burnside (the Pearl and Old Town/Chinatown districts), west and south of Interstate 405 (the Goose Hollow and South Waterfront districts), and to the east side of the Willamette River (Lower Albina, Lloyd, and Central Eastside districts) (Ordinance No. 160606 and Resolution No. 34417). This plan addressed the preservation and development of new housing, expansion of transit, and other multi-modal improvements, enhancement of the Willamette River waterfront, views, the role of social services and affordable housing and environmental health, among other critical issues.
5. In 1987, the City Council adopted the *Willamette Greenway Plan* (Ordinance No. 160237). This plan implemented and was consistent with Statewide Planning Goal 15, Willamette River, for the City of Portland. This plan included goals, objectives, mapped boundaries with an inventory of property characteristics, Zoning Code regulations and special design guidelines that apply to properties along the Willamette River, including the Central City, and a list of public acquisition areas. The plan also updated information and regulations for scenic resources along the Willamette River.
6. In 1991, City Council adopted the *Scenic Resources Protection Plan* (SRPP) (Ordinance No. 163957). The SRPP includes a citywide inventory of scenic resources and an Economic, Social, Environmental and Energy Analysis (ESEE) as required by OAR 660-16-000 through 660-16-025. The SRPP consolidated and updated information about scenic resources from previous plans, including the *Downtown Plan*, *Central City Plan* and *Willamette Greenway Plan*. The SRPP implemented new regulations (Zoning Code Chapter 33.480) to protect designated scenic resources. The SRPP also amended the environmental regulations (Zoning Code Chapter 33.430) to allow for scenic resource management when the scenic and environmental resources overlap.
7. Following adoption and implementation of the *Central City Plan*, subsequent plans amended the policy and regulatory framework of the plan. These plans include, but are not limited to: *University District Plan* (1995); *River District Plan* (1995); *Goose Hollow Station Community Plan* (1996); *Downtown's West End* (2002); *South Waterfront Plan* (2002); and *North Pearl District Plan* (2008). These plans also provided the opportunity to address new and emerging issues not addressed by the Downtown and Central City plans, such as stormwater management, the enhancement of endangered species habitat, green building design, family compatible housing supply, and the role of bike and pedestrian infrastructure to support active transportation alternatives.
8. In 1995, the City Council adopted the *Central City Transportation Management Plan* (Ordinance No. 169535 and Resolution No. 35472). This plan amended the Central City's transportation and parking policies and regulations in order to maintain air quality, promote economic development, support an efficient transportation system and encourage the use of alternative modes of travel.

9. Recognizing a need to create a new long-range plan for the Central City, the Bureau of Planning and Sustainability, in collaboration with other City bureaus and public agencies, initiated the *Central City 2035 Plan* project (CC2035) in 2010. The goal of the project was to create a comprehensive new policy and regulatory framework for the Central City, including the Central Reach of the Willamette River, taking into consideration new and emerging issues such as sustainable development, climate change, resiliency and equity.
10. The first product was the *Central City 2035 Concept Plan*, which provided an overarching policy framework intended to guide the development of subsequent, more detailed quadrant plans, as well as updates to the Portland Zoning Code, *Willamette Greenway Plan* and *Transportation Systems Plan* (TSP). The *Central City 2035 Concept Plan* contained a new vision statement identifying the Central City as a regional asset and a center of "Innovation and Exchange." The plan also contained goals and policies addressing the following topics: Regional Center – Economy and Innovation; Housing and Neighborhoods; Willamette River; Urban Design; and, Health and the Environment. Lastly, the plan contained an Urban Design Concept and Framework. This plan was adopted by City Council on October 24, 2012 (Resolution No. 36970).
11. On October 25, 2012, Council adopted the CC2035 *N/NE Quadrant Plan* (Resolution No. 36972). This was the first of three quadrant plans that would identify more detailed and specific land use, urban design, and transportation policies and implementing actions, including potential zoning proposals, for specific parts of the CC2035 plan area. The *N/NE Quadrant Plan* covered the Lloyd and Lower Albina districts. This plan, created in partnership with the Oregon Department of Transportation (ODOT), also included the *I-5 Broadway/Weidler Interchange Improvements Facility Plan*, which identifies improvements to safety and operations on the Interstate 5 freeway and multimodal local transportation facilities in the vicinity of the Broadway/Weidler interchange.
12. In October 2014, the City Council adopted the *Willamette River Greenway Inventory* (Ordinance No. 186858). The *Willamette River Greenway Inventory* is an update to the inventory contained in the *Willamette Greenway Plan* and is consistent with Statewide Planning Goal 15. The updated inventory provides information about public recreation, historic and archaeological sites, significant natural and scenic areas, vegetative cover, fish and wildlife habitats, floodplains and flooding, hydrologic conditions, ecologically fragile areas, land uses and zoning, agricultural lands, timer resources, aggregate resources, property ownership and acquisition areas.
13. On March 5, 2015, Council adopted the CC2035 *West Quadrant Plan* (Resolution No. 37115). This plan identified more detailed and specific land use, urban design, and transportation policies and implementing actions, including potential zoning proposals, for the western half of the Central City. One of the outcomes of this plan was a reorganization of the area into seven districts, including: Downtown; West End; Goose Hollow; Pearl District; Old Town/Chinatown; South Waterfront; and, University District/South Downtown.

14. On July 29, 2015, Council adopted the CC2035 *Southeast Quadrant Plan* (Resolution No. 37147), which focused on the Central Eastside District. As with the other plans, it addressed land use, urban design, and transportation, and also expanded the Central City to include the new Clinton Station Area located on the far southeast corner of the plan area.
15. The *Concept Plan* and three quadrant plans also contained policy guidance and other recommendations for a comprehensive update of the *Willamette Greenway Plan* for the Central Reach of the Willamette River.
16. Guided by the policies, urban design diagrams, code concepts and other elements of the *Concept Plan* and three quadrant plans, the Bureau of Planning and Sustainability, in collaboration with other City bureaus, developed the *Discussion Draft Central City 2035 Plan*, released for public review on February 8, 2016. Additional guidance for the development of the *Discussion Draft Central City 2035 Plan* came from the *Central Reach Urban Design Concept* (2014), updates to the Natural and Scenic Resource inventories (2015), the *Central City Floor Area Ratio Bonus and Transfer Study* (2015), and other studies. A review period of approximately four months included open houses and presentations to interested groups, organizations, and appointed commissions. Written and verbal comments and proposed amendments were reviewed and considered by staff.
17. The *Proposed Draft Central City 2035 Plan* was released on June 20, 2016 for review by the public and the Portland Planning and Sustainability Commission (PSC). The PSC conducted an extensive review and plan revision process, including public hearings on July 26 and August 9, 2016 and work sessions on September 27 and November 16, 2016 and January 10, January 24, February 14, February 28, March 14, April 11 and May 23, 2017. The PSC voted on May 23, 2017 to forward to City Council their *Recommended Draft Central City 2035 Plan*.
18. On June 20, 2016 notice of the *Proposed Draft Central City 2035 Plan* was mailed to the Department of Land Conservation and Development in compliance with the post-acknowledgement review process required by OAR 660-18-020. A revised notice, reflecting Planning and Sustainability Commission and City Council amendments to the plan, was sent to the Department of Land Conservation and Development on March 13, 2018.
19. On June 24, 2016, a notice of the July 26, 2016 Planning and Sustainability public hearing on the *Proposed Draft Central City 2035 Plan* was sent to the project's mailing list, individuals and organizations who requested such notice, and other interested parties.
20. On June 24, 2016, approximately 21,000 notices of the *Proposed Draft Central City 2035 Plan* and Planning and Sustainability Commission hearing were sent to all property owners potentially affected by proposed zoning map and code changes, as required by ORS 227.186. Property owners received a separate notice for each property potentially affected by the proposal.

21. On June 22, 2017, BPS published the Planning and Sustainability Commission's *Recommend Draft Central City 2035 Plan*. The plan contains the following elements, some of which were amended by City Council:

- Volume 1, Goals and Policies. This document includes the policies and goals for the Central City as a whole, and each individual district within the Central City. The document also contains a vision statement and urban design concept diagrams. Volume 1, as amended by City Council and dated May 2018, is attached as Exhibit B. The urban design diagrams will be adopted by a separate Resolution.
- Volume 2A, Zoning Code & Map Amendments, Part 1: Central City Plan District. This document includes amendments to Title 33, Planning and Zoning, that implement the land use and transportation policies of the plan. It also contains amendments to the Comprehensive Plan Map and official Zoning Map for the CC2035 plan area. Volume 2A, Part 1, as amended by City Council and dated May 2018, is attached as Exhibit C.
- Volume 2A, Part 1 contains new Zoning Code provisions that require certain new development and alteration projects to use bird-safe glazing treatment patterns and application techniques (33.510.223, Bird-Safe Exterior Glazing) and register for an approved green building certification program (33.510.244, Low-Carbon Buildings). The Bureau of Planning and Sustainability will adopt, administer and periodically amend Administrative Rules that identify objective standards, including specific products or programs that can be used, to meet the code requirements.
- Volume 2A, Zoning Code & Map Amendments, Part 2: Willamette River and Trails. This document includes amendments to Title 33, Planning and Zoning, related to the Central Reach of the Willamette River, along with miscellaneous citywide code amendments related to trails, definitions and measurements. It also contains amendments to the overlay zones shown on the official Zoning Map. Volume 2A, Part 2, as amended by City Council and dated May 2018, is attached as Exhibit D.
- Volume 2A, Zoning Code & Map Amendments, Part 3: Environmental and Scenic Overlay Zones. This document includes amendments to Title 33, Planning and Zoning, and the official Zoning Map related to the environmental and scenic resource overlay zones. These amendments apply outside the Central City and will be adopted by a separate ordinance.
- Volume 2B, Transportation System Plan Amendments. This document includes amendments to the *Transportation System Plan*, including amendments to policies, project and study lists, and street classification maps. The document also includes the *Portland Central City Multimodal Mixed Use Area Agreement between the City of Portland and the Oregon Department of Transportation*, dated June 15, 2016. Also included is a letter dated June 15, 2016 from the Oregon Department of Transportation to the Portland Bureau of Transportation providing written concurrence with the designation of the Central City as a Multi-Modal Mixed-Use Area (MMA), subject to

City adoption of the agreement. Volume 2B, as amended by City Council and dated May 2018, is attached as Exhibit E.

- Volume 3A, Scenic Resources Protection Plan, Part 1: Summary, Results and Implementation. This document includes a summary of the Scenic Resources Inventory, a summary of the Economic, Social, Environmental and Energy analysis, and a description of the Zoning Code changes and maps that implement the CC2035 Scenic Resources Protection Plan. Volume 3A, Part 1, as amended by City Council and dated May 2018, is attached as Exhibit F.
- Volume 3A, Scenic Resources Protection Plan, Part 2: Scenic Resources Inventory. This document is an updated inventory of views, viewpoints, view streets, scenic corridors, focal points and scenic sites in the Central City and an updated inventory of views and viewpoints surrounding the Central City for which buildings in the Central City could block the view. The inventory includes maps and descriptions of the location, geometry and relative quality of the scenic resources. Volume 3A, Part 2 is attached as Exhibit G.
- Volume 3A, Scenic Resources Protection Plan, Part 3: Economic, Social, Environmental & Energy Analysis. This document includes a trade-off analysis of the relative economic, social, environmental and energy consequences associated with different levels of scenic resources protection. This document includes maps and descriptions of the recommendations to protect specific scenic resources. Volume 3A, Part 3, as amended by City Council and dated May 2018, is attached as Exhibit H.
- Volume 3B, Willamette River Central Reach Natural Resources Protection Plan. This document presents an overview of the regulatory context for the river, an inventory approach and methodology, an analysis of protection options and recommendations, inventory results, and implementation tools. Volume 3B is attached as Exhibit I.
- Volume 4, Background Materials. This document references a number of background reports and documents used to develop the *Central City 2035 Plan*, including the *CC2035 Concept Plan*, the three quadrant plans, *Willamette River Greenway Inventory* and other studies and planning documents. Volume 4 is attached as Exhibit J.
- Volume 5A, Implementation: Performance Targets and Action Plans. This document includes performance targets that provide aspirational objectives by which to measure progress towards achieving the goals and policies of the *Central City 2035 Plan*. This document also includes action items that describe future projects and programs that will help implement the goals and policies of the plan. The performance targets and action items in Volume 5A will be adopted by a separate Resolution.
- Volume 5B, Implementation: The Green Loop. This document contains the Green Loop Concept Report, describing a proposed six-mile linear park that invites residents, employees, and visitors to experience the Central City by foot and by bicycle. The document includes key objectives, alignment options, design principles, and precedents

of how the concept could be realized. Volume 5B will be adopted by a separate resolution.

- Volume 6, Public Involvement. This document presents a summary of public engagement activities during the CC2035 planning process, an outreach activities log, and materials related to an ethics complaint regarding the *West Quadrant Plan*. Volume 6 is attached as Exhibit K.
22. A public notice of the September 7, 2017 Portland City Council public hearing on the *Recommended Draft Central City 2035 Plan* was sent on August 23, 2017 to the project's mailing list, those who testified to the Planning and Sustainability Commission, individuals and organizations who requested such notice and other interested parties.
 23. A public notice of the January 18, 2018 Portland City Council public hearing on potential City Council amendments to the *Recommended Draft Central City 2035 Plan* was sent on December 29, 2017 to the project's mailing list, those who testified at the September 7, 2017 City Council public hearing and its continuations on September 14 and 20, 2017, and to property owners potentially affected by the amendments. Additional public hearings on potential amendments were held on March 7 and 22, 2018 and April 4, 2018. These additional hearings were announced on the CC2035 project web site and through the project's email distribution list.
 24. The Central City 2035 Findings of Fact Report, attached as Exhibit A, includes additional findings demonstrating consistency with the State-wide Planning Goals, Metro Urban Growth Management Functional Plan, and the City of Portland 2035 *Comprehensive Plan*.

NOW, THEREFORE, the Council directs:

- a. Amend the 2035 *Comprehensive Plan* to add the goals and policies of the *Central City 2035 Plan*, as shown in Exhibit B (Volume 1, Goals and Policies).
- b. Amend Policy 9.51, Multimodal Mixed-Use Area, and Figure 9-2 of the 2035 *Comprehensive Plan*, as shown on pages 35 and 36 of Exhibit E (Volume 2B, Transportation System Plan Amendments).
- c. Amend the 2035 *Comprehensive Plan* to reflect the adoption of the *Central City 2035 Plan*, as shown in Exhibit L (Additional Amendments to the 2035 *Comprehensive Plan*), attached.
- d. Amend the definition of "Neighborhoods" in the Glossary of the 2035 *Comprehensive Plan* as follows:

Neighborhoods: Broad areas of the city that typically include residential, commercial, and mixed-use areas. Neighborhoods are physical communities located outside of the Central City and large industrial areas. The term "neighborhoods" may, but is not always intended to, refer to specific Neighborhood Association geographies.

- e. Replace 2035 Comprehensive Plan Map CON-05, Significant Scenic Resources, with CON-05-A, Significant Scenic Resources, and CON-05-B, Significant Scenic Resources in the Central City, as shown on Exhibit M, attached.
- f. Amend the Comprehensive Plan Map as shown on page 519 of Exhibit C (Volume 2A, Zoning Code & Map Amendments, Part 1: Central City Plan District).
- g. Amend the official Zoning Map to apply base zones as shown on page 515 of Exhibit C (Volume 2A, Zoning Code & Map Amendments, Part 1: Central City Plan District).
- h. Amend the official Zoning Map to apply overlay zones as shown on pages 194 to 206 of Exhibit D (Volume 2A, Zoning Code & Map Amendments, Part 2: Willamette River and Trails).
- i. Amend Title 33, Planning and Zoning, as shown in Exhibit C (Volume 2A, Zoning Code & Map Amendments, Part 1: Central City Plan District) and Exhibit D (Volume 2A, Zoning Code & Map Amendments, Part 2: Willamette River and Trails).
- j. Amend the *Transportation System Plan* to add the policies, amend the transportation projects and studies lists, and amend the project and street classification maps, as shown in Exhibit E (Volume 2B, Transportation System Plan Amendments).
- k. Adopt the *Central City 2035 Scenic Resources Protection Plan*, contained in Exhibit F (Volume 3A, Scenic Resources Protection Plan, Part 1: Summary, Results and Implementation), Exhibit G (Volume 3A, Scenic Resources Protection Plan, Part 2: Scenic Resources Inventory) and Exhibit H (Volume 3A, Scenic Resources Protection Plan, Part 3: Economic, Social, Environmental & Energy Analysis).
- l. Adopt the *Willamette River Central Reach Natural Resources Protection Plan*, contained in Exhibit I (Volume 3B, Willamette River Central Reach Natural Resources Protection Plan).
- m. Adopt the *Portland Central City Multimodal Mixed Use Area Agreement between the City of Portland and the Oregon Department of Transportation*, dated June 15, 2016, as shown on pages 32 to 35 of Exhibit E (Volume 2B, Transportation System Plan Amendments).
- n. Adopt Exhibit A (Central City 2035 Findings of Fact Report), as amended by City Council and dated May 2018, Exhibit J (Volume 4, Background Materials), and Exhibit K (Volume 6, Public Involvement) as further findings.
- o. Adopt the Introduction section, commentary to the Central City Goals and Policies section, and the Central City Districts section of Exhibit B (Volume 1, Goals and Policies) as further findings.

- p. Adopt the commentary in Exhibit C (Volume 2A, Zoning Code & Map Amendments, Part 1: Central City Plan District) and Exhibit D (Volume 2A, Zoning Code & Map Amendments, Part 2: Willamette River and Trails) as legislative intent and further findings.
- q. Adopt Chapter 4: Analysis of Protection Options and General Recommendations, and Chapter 5: Results of Exhibit I (Volume 3B, Willamette River Central Reach Natural Resources Protection Plan) as further findings.
- r. The *Central City 2035 Plan* elements adopted by directives a. through q., above, repeal and replace the following:
 - 1. The *Planning Guidelines/Portland Downtown Plan*, adopted by City Council in December 1972, as updated.
 - 2. Ordinance No. 160606, as amended, which adopted the *Central City Plan* goals and policies.
 - 3. Resolution No. 34417, as amended, which adopted the *Central City Plan* action charts, functional maps and urban design plans.
 - 4. Ordinance No. 169535, as amended, which adopted the goals, policies and objectives of the *Central City Transportation Management Plan*.
 - 5. Resolution No. 35472, which adopted the action items and other components of the *Central City Transportation Management Plan*.
 - 6. Resolution No. 36970, which adopted the *Central City 2035 Concept Plan*.
 - 7. Resolution No. 36972, which adopted the *N/NE Quadrant Plan*.
 - 8. Resolution No. 37115, which adopted the *West Quadrant Plan*.
 - 9. Resolution No. 37147, which adopted the *Southeast Quadrant Plan*.
- s. Amend Ordinance No. 160237, as amended, to no longer apply the provisions of the *Willamette Greenway Plan* within the Central Reach River Overlay Boundary as shown on Map 475-1 on page 78 of Exhibit D (Volume 2A, Zoning Code & Map Amendments, Part 2: Willamette River and Trails).
- t. Amend Ordinance No. 163957, as amended, to no longer apply the provisions of the *Scenic Resources Protection Plan* to any and all scenic resources within the Central City Boundary or to viewpoints and view corridors within the Viewpoint Boundary as shown on Map 1 on page 6 of Exhibit F (Volume 3A, Scenic Resources Protection Plan, Part 1: Summary, Results and Implementation).

- u. Authorize the Director of the Bureau of Planning and Sustainability or designee to adopt, administer and periodically amend Administrative Rules for 33.510.223, Bird-Safe Exterior Glazing and 33.510.244, Low-Carbon Buildings. The adoption or amendment of these rules must include a public comment period.
- v. Direct the Bureau of Planning and Sustainability to update the 2014 *Willamette River Greenway Inventory* (adopted by Ordinance No. 186858) based on the adoption of the *Central City 2035 Plan*.
- w. Direct the Portland Bureau of Transportation to work with the Portland Public School District on a Memorandum of Understanding for the redevelopment of the Lincoln High School property to ensure that specific programming and security needs for the facility are appropriately balanced with a north-south public access connection through the site that serves the pedestrian and bicycle connectivity needs of Goose Hollow, consistent with the directives of the *Central City 2035 Plan*.

Section 2. Effect

The directives of this ordinance will take effect on July 9, 2018.

Section 3. Severability

If any section, subsection, sentence, clause, phrase, diagram or drawing contained in this ordinance, or the map, report, inventory, analysis, or document it adopts or amends, is held to be deficient, invalid or unconstitutional, that shall not affect the validity of the remaining portions. The Council declares that it would have adopted the map, report, inventory, analysis, or document each section, subsection, sentence, clause, phrase, diagram and drawing thereof, regardless of the fact that any one or more sections, subsections, sentences, clauses, phrases, diagrams or drawings contained in this Ordinance, may be found to be deficient, invalid or unconstitutional.

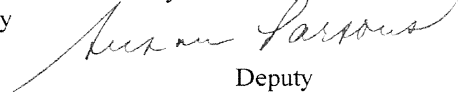
Passed by the Council: JUN 06 2018

Mayor Ted Wheeler
Prepared by: Troy Doss and Nicholas Starin
Date Prepared: May 15, 2018

Mary Hull Caballero

Auditor of the City of Portland

By



Deputy

S- 520 - 530 610 =

Agenda No. *Substitute*
ORDINANCE NO. 189000 As Amended
 Title

Adopt the Central City 2035 Plan; amend the Comprehensive Plan, Comprehensive Plan Map, Transportation System Plan, Willamette Greenway Plan, Scenic Resources Protection Plan, Zoning Map, and Title 33; authorize adoption of administrative rules; repeal and replace prior Central City plans and documents. (Ordinance)

INTRODUCED BY Commissioner/Auditor: Ted Wheeler	CLERK USE: DATE FILED <u>MAY 17 2018</u>
COMMISSIONER APPROVAL Mayor—Finance and Administration - Wheeler <i>KC</i> Position 1/Utilities - Fritz Position 2/Works - Fish Position 3/Affairs - Saltzman Position 4/Safety - Eudaly	Mary Hull Caballero Auditor of the City of Portland By: <i>[Signature]</i> Deputy
BUREAU APPROVAL Bureau: Planning and Sustainability Bureau Head: Susan Anderson <i>[Signature]</i> Prepared by: Nicholas Starin Date Prepared: 5/10/18	ACTION TAKEN: MAY 24 2018 CONTINUED TO MAY 30 2018 10:15 <i>Time Certain</i> As Amended
Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/>	MAY 30 2018 <i>Passed to 2nd Reading</i> JUN 06 2018 2 P.M. <i>Time Certain</i> As Amended
Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
City Auditor Office Approval: required for Code Ordinances	
City Attorney Approval: required for contract, code, easement, franchise, comp plan, charter <i>[Signature]</i>	
Council Meeting Date 5/24/18	

AGENDA	FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
TIME CERTAIN <input checked="" type="checkbox"/> Start time: <u>2:30</u> Total amount of time needed: <u>1.5 hours</u> (for presentation, testimony and discussion)		YEAS	NAYS
CONSENT <input type="checkbox"/>	1. Fritz		<input checked="" type="checkbox"/>
REGULAR <input type="checkbox"/>	2. Fish	<input checked="" type="checkbox"/>	
Total amount of time needed: _____ (for presentation, testimony and discussion)	3. Saltzman	<input type="checkbox"/>	<input type="checkbox"/>
	4. Eudaly	<input checked="" type="checkbox"/>	
	Wheeler	<input checked="" type="checkbox"/>	

33.510.11920 Retail Sales And Service and Office Uses in Specified Historic Resources in the IG2 and IH Zones

- A. **Where these regulations apply.** The regulations of this subsection apply in the IG2 and IH Zones to historic resources that are listed on the National Register of Historic Places or to structures or objects that are identified as contributing to the historic significance of a Historic District or a Conservation District.
- B. **Allowed uses.** Up to 12,000 square feet on a site may be in Retail Sales And Service or Office use. The total amount of square footage includes net building area, exterior display, and storage area of all Retail Sales And Service and Office uses on the site. More than 12,000 square feet on a site in Retail Sales And Service uses is prohibited.
- C. **Conditional uses.** More than 12,000 square feet on a site may be in Office uses if approved through a conditional use. The total amount of square footage includes net building area, exterior display, and storage area of Office uses on the site. If there are also Retail Sales And Service uses on the site, no more than 12,000 square feet may be in Retail Sales And Service use.

33.510.121 Residential Uses in the EX zone

- A. **Purpose.** Residential uses are restricted in portions of the EX zone in the Lower Albina and Central Eastside subdistricts in order to avoid conflicts between residential and industrial activities.
- B. **Residential use restrictions.**
1. Residential uses are prohibited in the areas shown on Map 510-6.
 2. Residential uses are only allowed through a Central City Master Plan in the areas shown on Map 510-6.

Development Standards

33.510.200 Floor Area Ratios

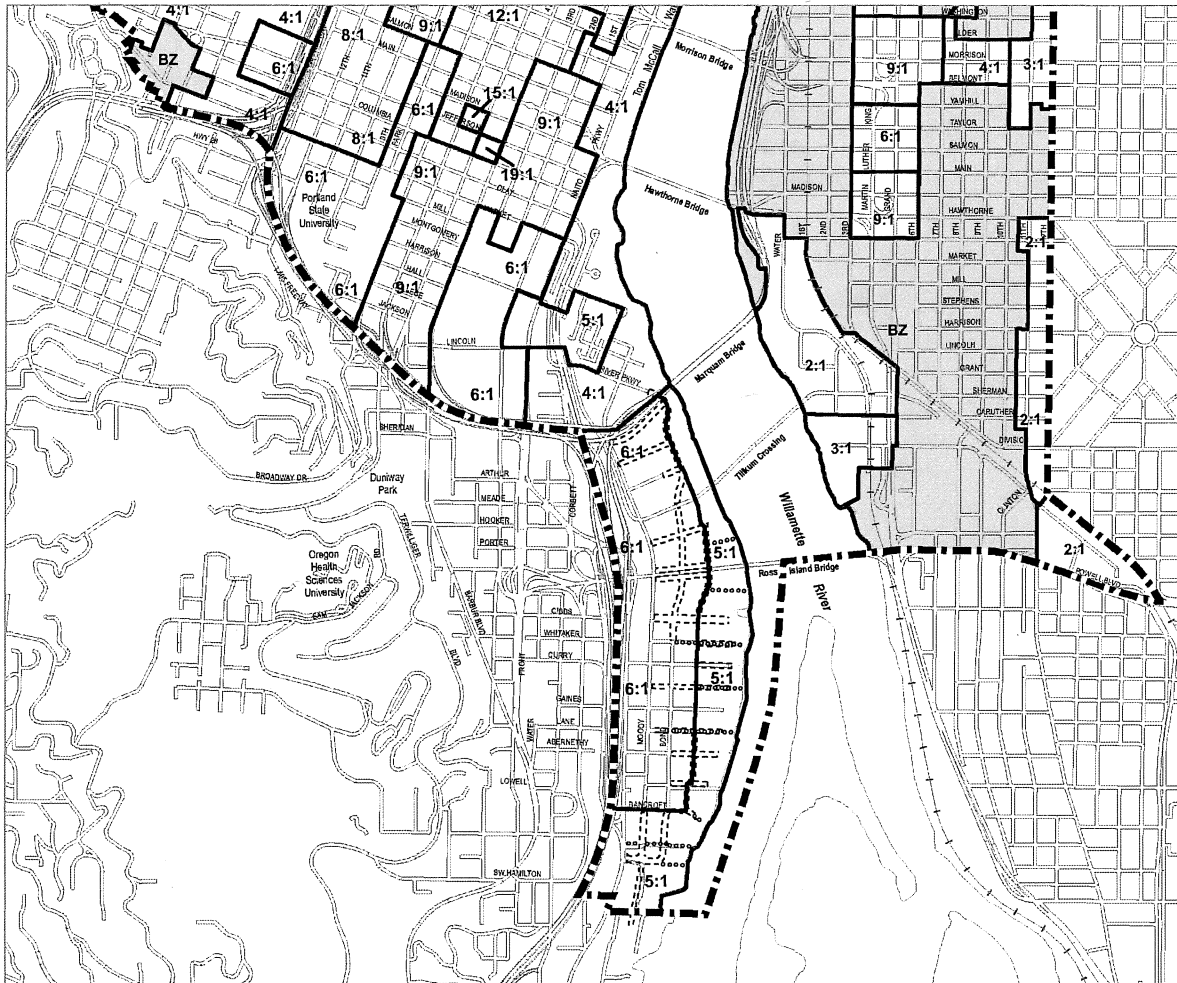
- A. **Purpose.** Floor area ratios (FARs) work with the height, setback, and building coverage standards to control the overall bulk of development. Generally, the highest FARs in Portland are applied in the Central City plan district to support its role as the region's premier center for jobs, health and human services, and urban living. The minimum FARs required in the Central City plan district are intended to ensure a minimum level of development on a vacant site, ensure that not all development potential is transferred off a site, and ensure redevelopment of under-utilized sites. The maximum FARs allowed in the Central City plan district balance multiple objectives of the Central City 2035 Plan including:
- Locating the largest floor area ratios along the Transit Mall and high-capacity transit lines;

Maximum Floor Area Ratios

Map 510-2

Map 2 of 2

Map Revised Xxxx XX, 201X



Legend



Central City Plan District boundary



Maximum FAR area boundary



Area where floor area ratio (FAR) is determined by base zone

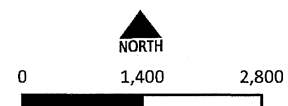
Proposed right-of-way

Proposed accessway

X:Y Maximum FAR

X = Gross square foot of building

Y = Square foot of site



Scale in Feet

Bureau of Planning and Sustainability
Portland, Oregon

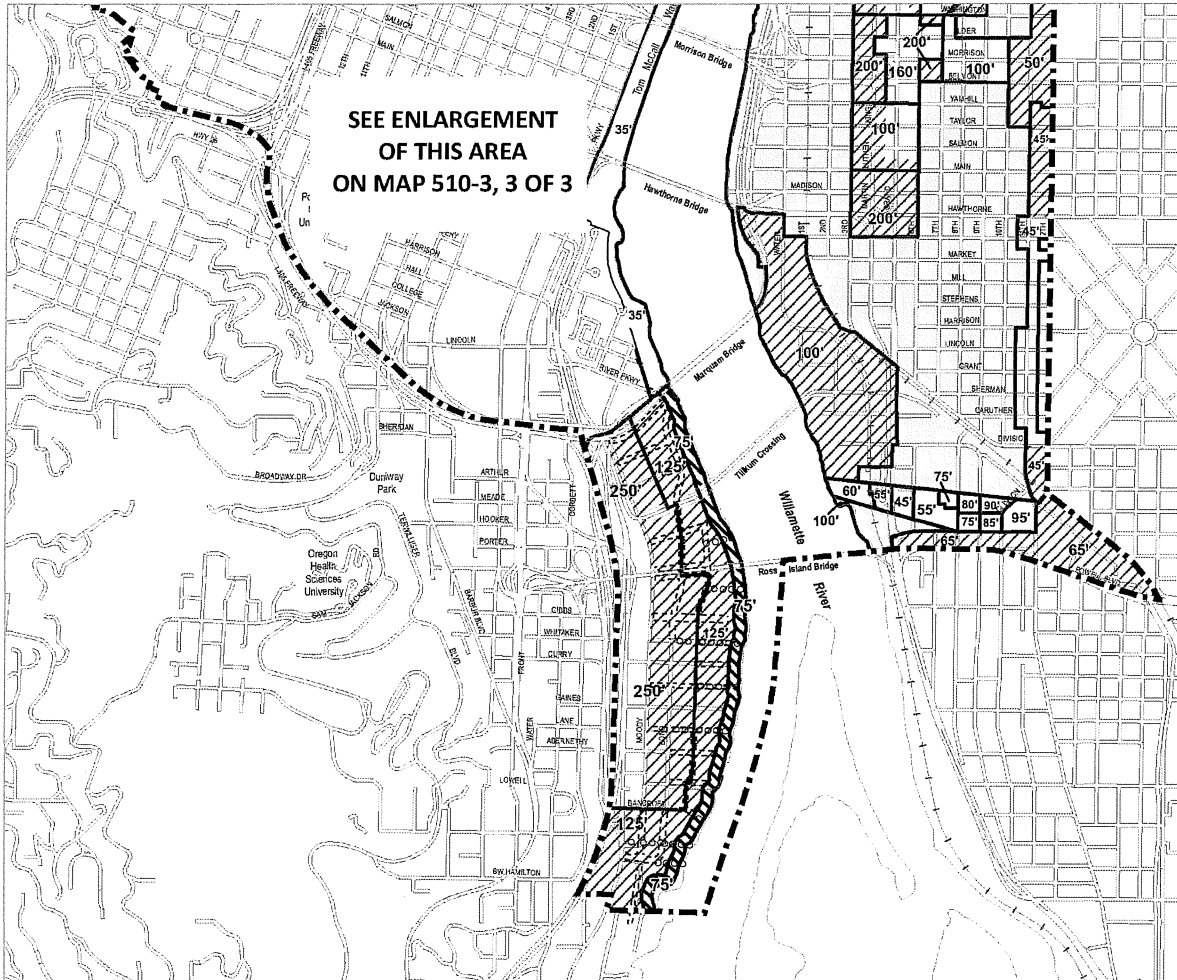
Chapter 33.510, Central City Plan District

Base Heights

Map 510-3

Map 2 of 3

Map Revised XXXXX XX, 201X



Legend



Central City Plan District boundary



Base building height

Areas where height is determined by base zone



Area eligible for height increase



Base height limit of 75' for first 125 feet from top of bank

Proposed right-of-way

Proposed accessways

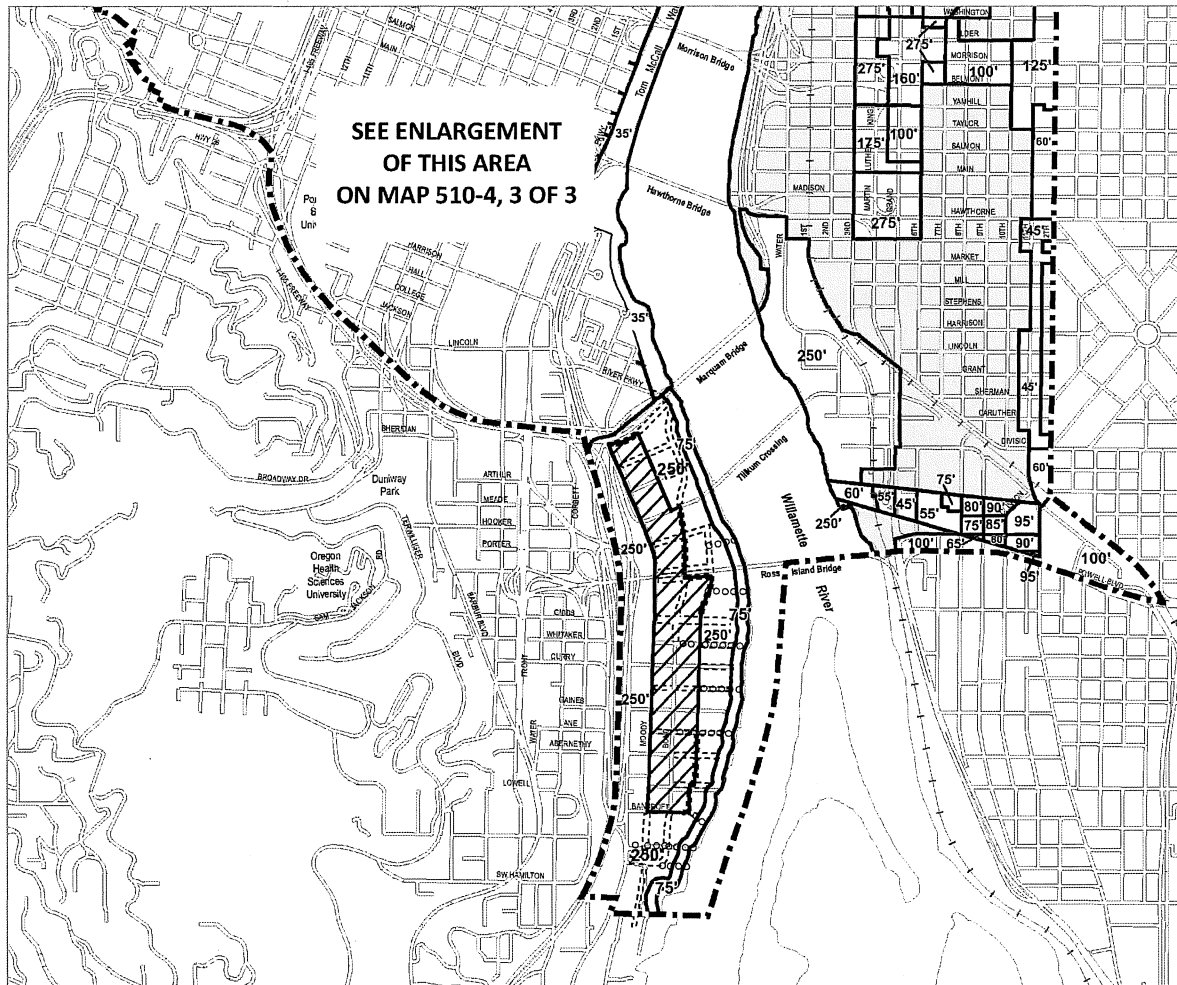


0 1,400 2,800

Scale in Feet

Bureau of Planning and Sustainability
Portland, Oregon

Chapter 33.510, Central City Plan District



Legend



Central City Plan District boundary



Maximum bonus height



Areas where height is determined by base zone



Area where residential required



Proposed right-of-way



Proposed accessways



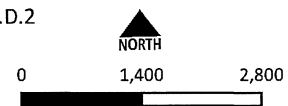
Areas where a shadow analysis is required



Unlimited height allowed



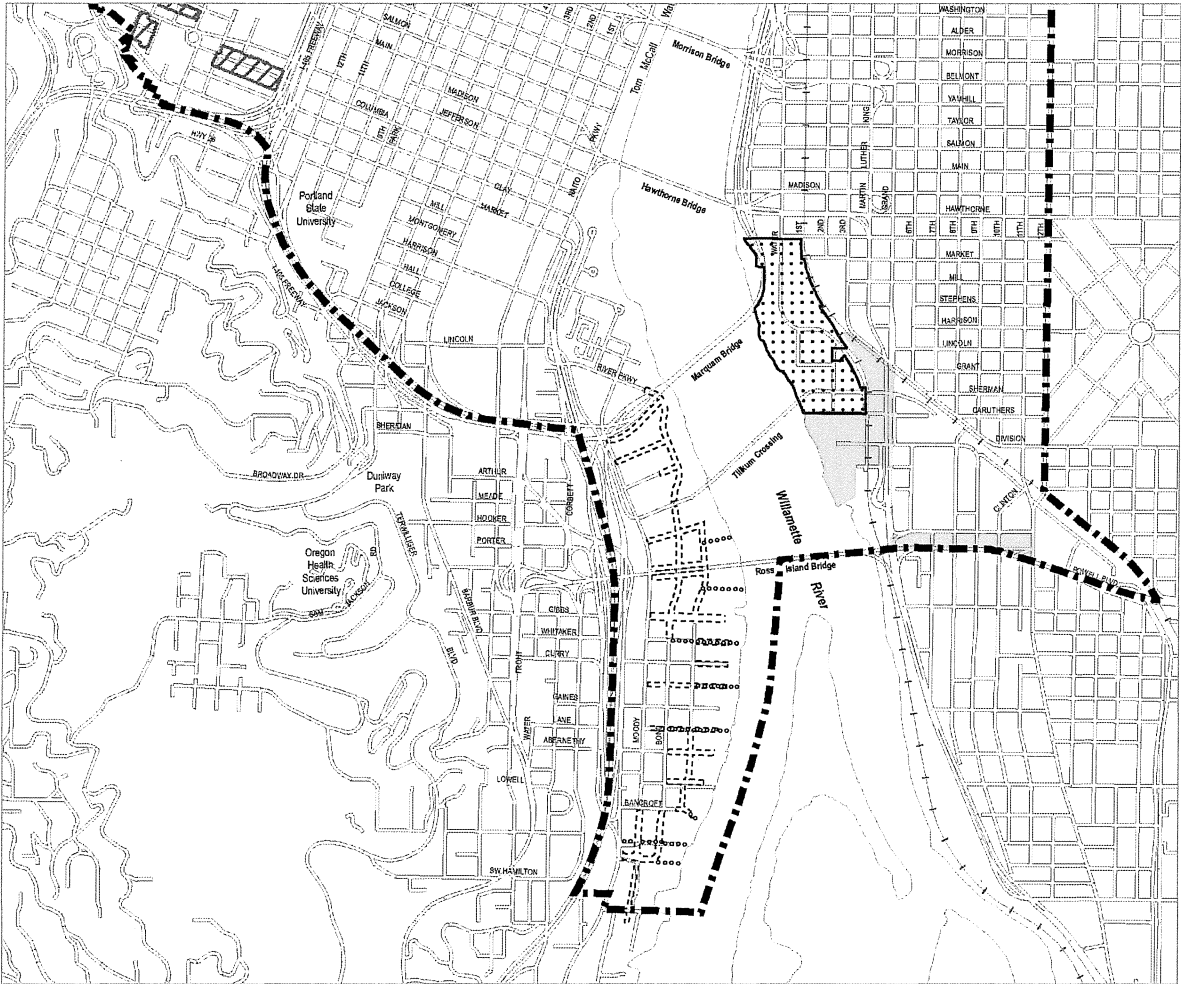
Area eligible for additional height under 33.510.210.D.2



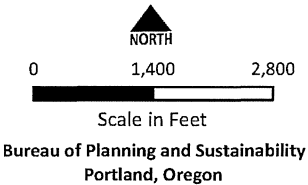
Scale in Feet

Bureau of Planning and Sustainability
Portland, Oregon

Chapter 33.510, Central City Plan District

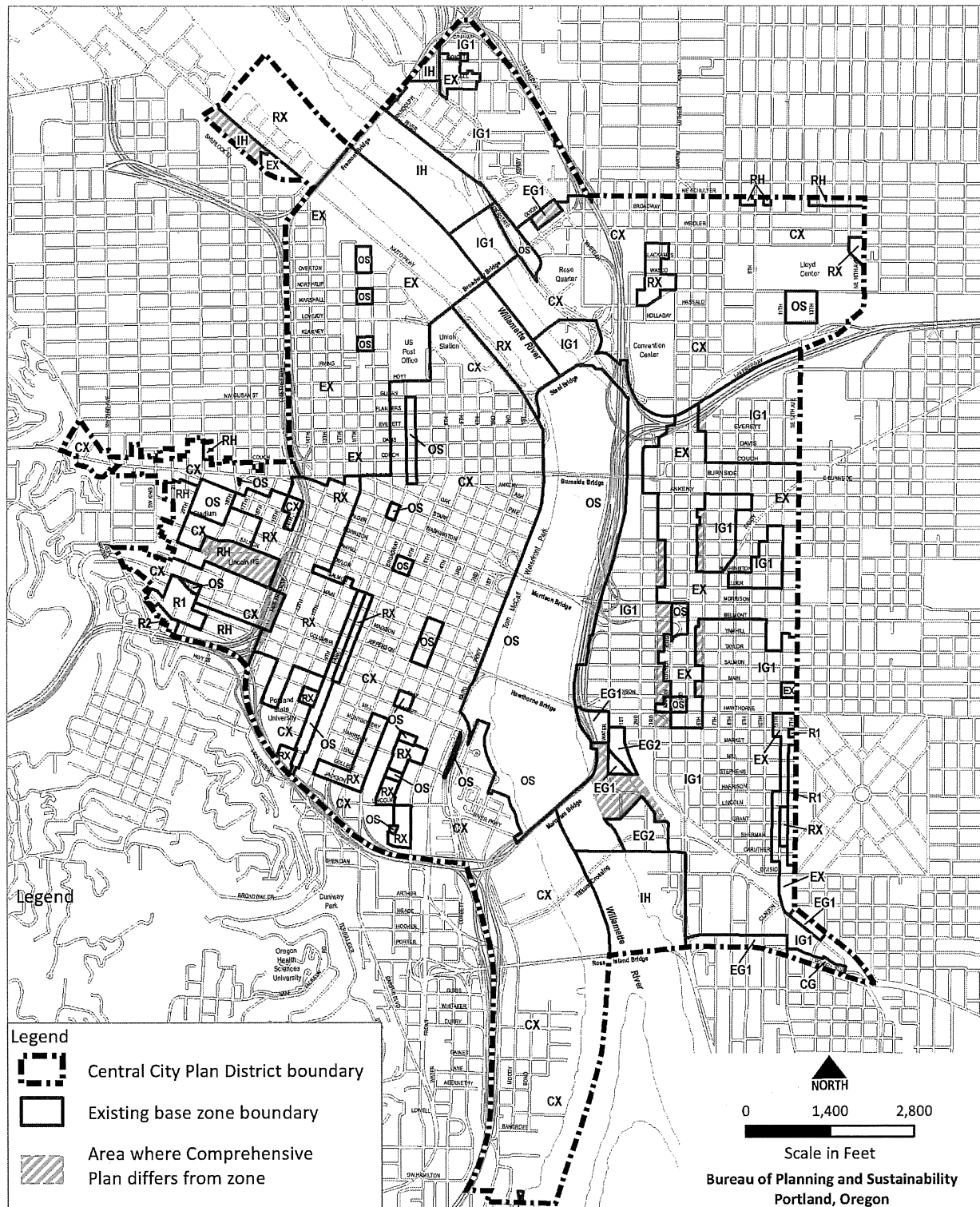


- Legend**
- Central City Plan District boundary
 - Required residential development area
 - Residential uses prohibited
 - Residential uses require a Central City Master Plan
 - Proposed right-of-way
 - Proposed accessway



Central City Existing Zoning

June, 2017



Zoning and Comprehensive Plan Maps

Revised Recommended Draft CC2035

513
832

May 2018

LUBA Record000462

Commentary

Recommended Zoning

This map shows changes to the base zones. Zone changes are highlighted in gray on the map.

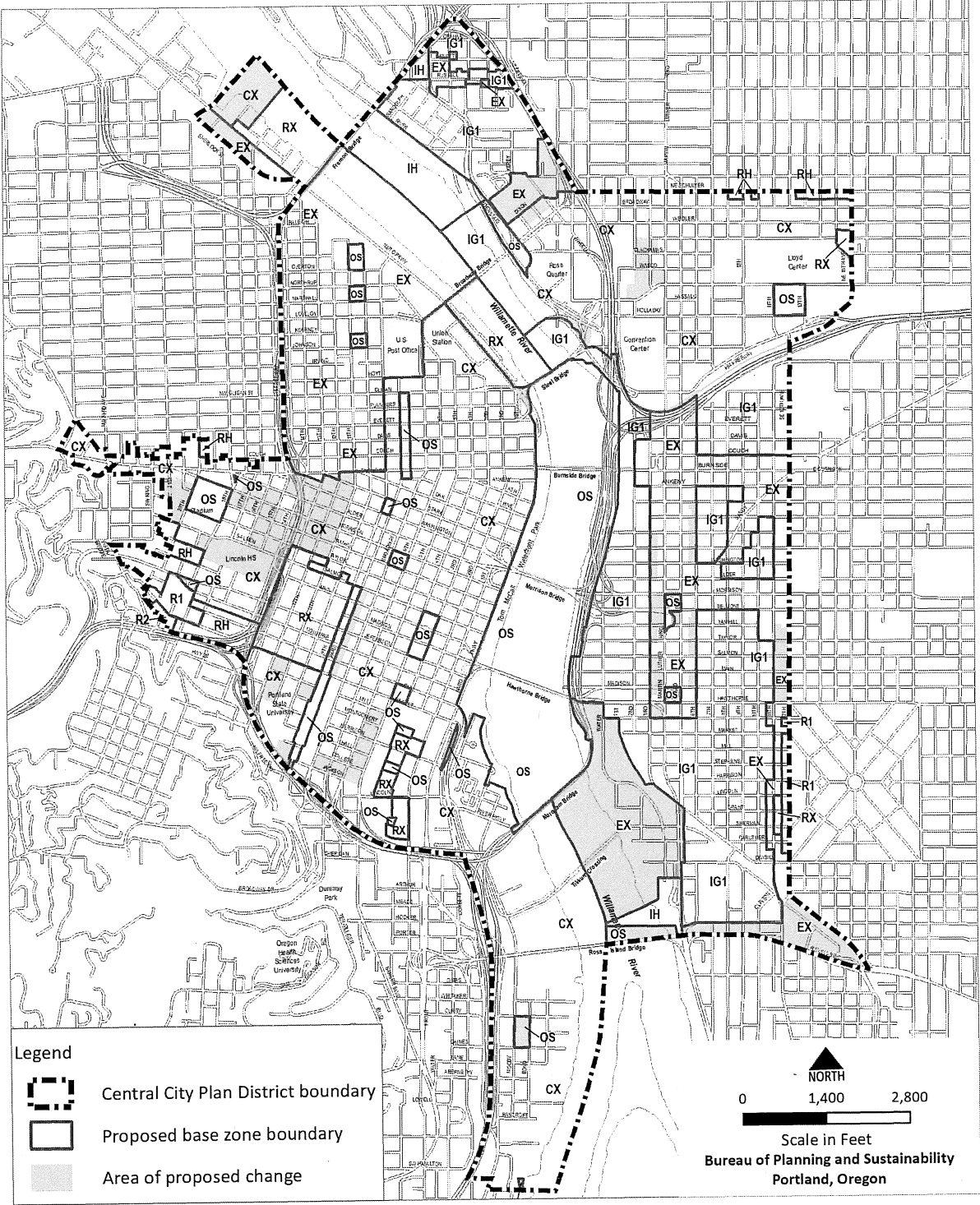
Generally, the zoning is consistent with the Comprehensive Plan designations (shown on following maps). Exceptions include specific parcels where property owners have requested that their property *not* receive a rezoning to conform with the Comprehensive Plan Map designation. In this case, the Comprehensive Plan designation is updated but the zoning remains intact.

The following describes broad categories of zone changes:

- **From General Employment (EG1 or EG2), General Industrial (IG1) or Heavy Industrial (IH) to Central Employment (EX):** These changes are made in the Central Eastside around the new light rail stations and a few other locations so that more flexible employment uses can be accommodated.
- **From General Industrial (IG1) to Central Employment (EX):** Properties between SE 3rd and 6th Avenues in the Central Eastside that are zoned IG1 but have Comprehensive Plan Central Employment designations will be rezoned EX to match the Comprehensive Plan designation.
- **From Central Residential (RX) to Central Commercial (CX):** This change is for a number of properties in the Lloyd, West End, Downtown, South Downtown/University District, North Pearl and Goose Hollow subdistricts to increase the flexibility of uses in these areas.
- **Additional changes**
 - The N/NE Quadrant Plan recommended a Portland Public Schools owned property at the Blanchard Site is rezoned from IG1 to EX to enable redevelopment, and a small piece of land near the Steel Bridge east bridgehead is being rezoned from IG1 to EX.
 - The West Quadrant Plan recommended rezoning parcels west of NW Naito Parkway at the northern tip of the Pearl District from IH to EX and rezoning Elizabeth Caruthers Park from CX to OS.
 - Metro requested a zone change from IH to OS for a property they own and maintain as open space in the Central Eastside adjacent to the Ross Island Bridge.

Central City Recommended Zoning

May, 2018



Zoning and Comprehensive Plan Maps

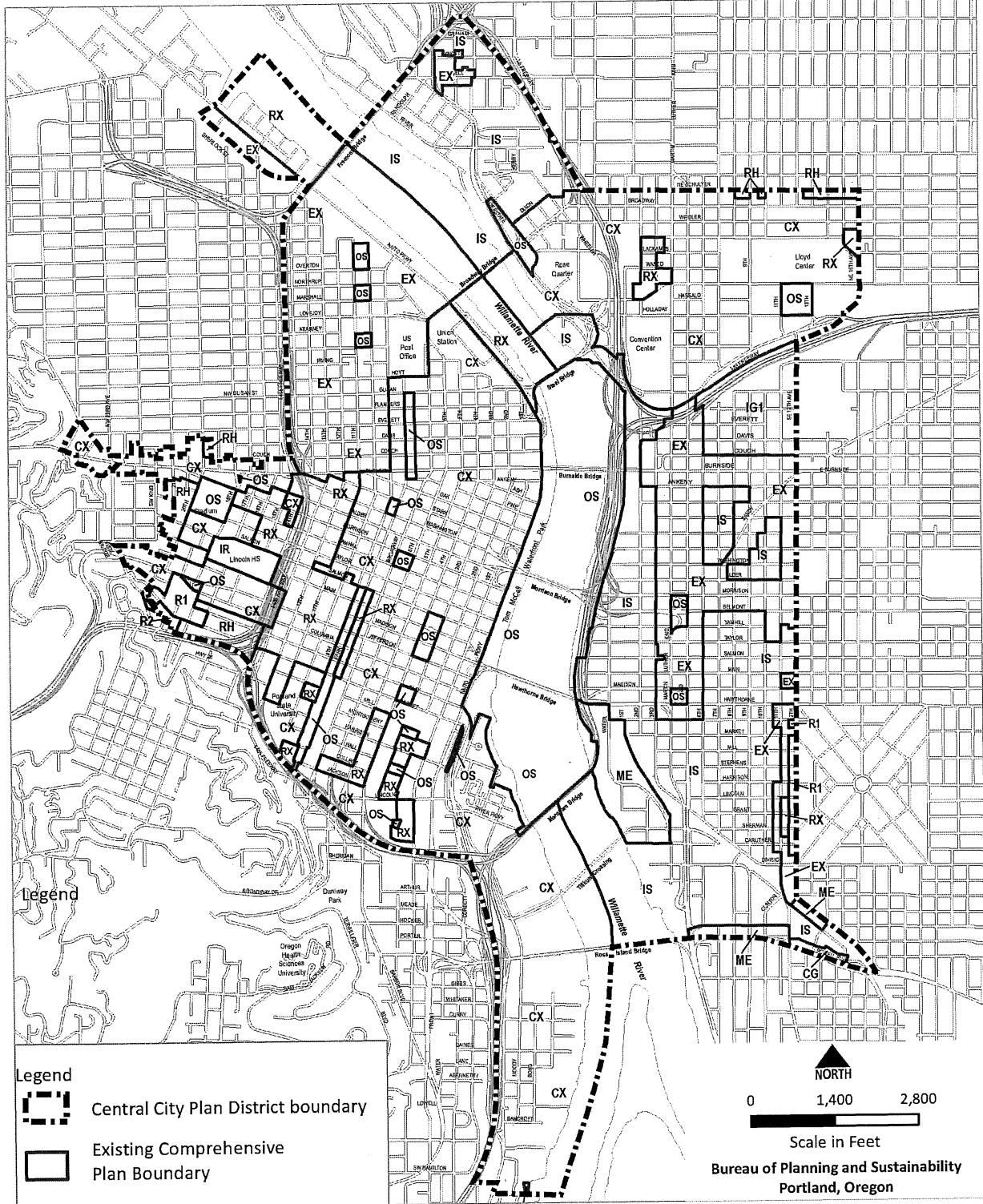
Commentary

Existing Comprehensive Plan Designations

This map shows Comprehensive Plan Map designations for the Central City, prior to the CC2035 changes.

Central City Existing Comprehensive Plan

June, 2017



Zoning and Comprehensive Plan Maps

Revised Recommended Draft CC2035

517
836

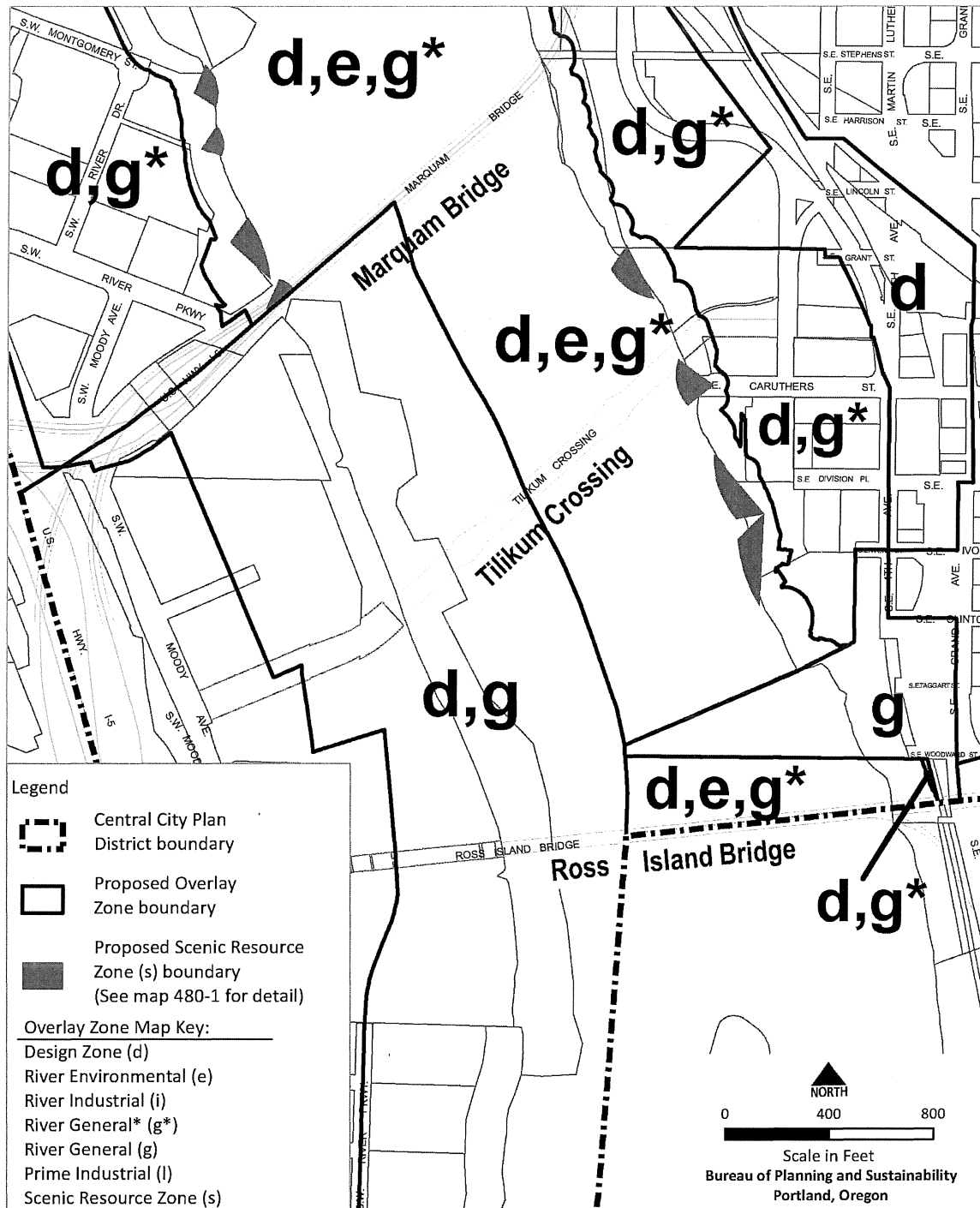
May 2018

LUBA Record000466

Central City Recommended Overlay Zones

Inset Map E

June, 2017



Overlay Zone Maps

1.INTRODUCTION

A. What are Scenic Resources?

A scenic resource is any structure, feature, or element (natural or built) that is valued for its appearance. The “scenic” part of the resource is the focal feature or features, such as Mt Hood, Tilikum Crossing, or Terwilliger Boulevard, which have broadly appealing scenic qualities. These focal features are observed by the viewer from identified locations including viewpoints, trails or streets. It is the combination of the focal features and the ability to view the focal features that make up scenic resources. Since resources are experienced by individuals, their significance or importance will differ from person to person.

The *Central City Scenic Resources Protection Plan* (CCSRPP) addresses scenic resources that are accessible to the general public. The resources are located on or viewed from public property, a public right-of-way, public trails or institutional campuses. Scenic resources viewed from private property, such as a view from an office or apartment, are not part of the CCSRPP.

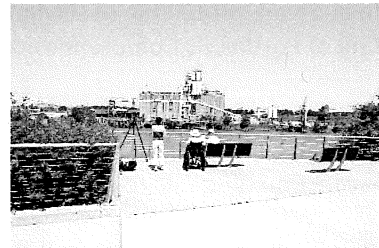
The CCSRPP uses the following definitions for these key terms:

Views: A view is an aesthetically pleasing landscape or scene comprised of one or more visual features. A view may be framed, wide angle, or panoramic and may include natural and/or manmade structures and activities. A view may be to a faraway object, such as a mountain, or of a nearby object, such as a bridge. A view may be to a faraway object, such as a mountain, or of a nearby object, such as a city bridge. Views are also referred to as view corridors in the plan.



Mt Hood.

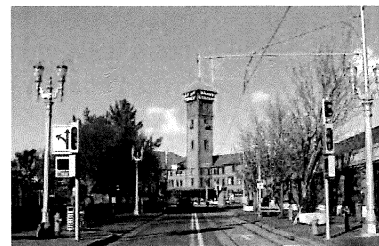
Viewpoints: A viewpoint is a location from which one enjoys a view. A viewpoint may have developed viewing area with features such as benches, signs, and lighting or may simply be a publically accessible point from which to take in a view.



Viewpoint on Greenway Trail.

View streets: A view street is a linear scenic resource that is enclosed or bordered on both sides (for example, by buildings or trees) and leads to a visual focal point that has an aesthetically pleasing, scenic quality and is the terminus of the view. River access ways are a subset of view streets.

Visual focal points: A visual focal point is a feature or element of the natural or built environment that is an aesthetically pleasing or interesting object of a view. Views may have one or more primary visual focal points and one or more secondary or contributing visual focal points.



Union Station Clock Tower.

Scenic sites: A scenic site is an area valued for its aesthetic qualities. The area may be made up primarily of natural, vegetated cover and water, or include structures and manmade landscaping. Scenic sites may or may not include scenic viewpoints.



Japanese American Historical Plaza.

Scenic corridors: A scenic corridor is a linear transportation feature, including but not limited to a road, rail, trail or waterway valued for its aesthetic qualities and accessed by car, bike, train, foot, wheelchair or boat. A scenic corridor includes multiple views, viewpoints, visual focal points or scenic sites that may be interspersed with vegetation, built structures or other obstructing features of the surrounding environment. There may be pullouts or designated viewpoints along the travel way where travelers can safely stop to enjoy a particularly nice view. A scenic corridor differs from a view street in that a view street includes a single designated point on the street where looking from that point you can see one or more visual focal features. A scenic corridor is an aesthetically pleasing resource in and of itself.

B. Why Protect Scenic Resources

Scenic resources are an important part of the fabric of a city. Views of areas, such as Mt Hood, and sites, such as the Japanese American Historical Plaza, are iconic to Portland and also help depict the historical and cultural diversity of the city. Scenic resources are important to Portland's tourism economy. Views from the International Rose Test Garden and Governor Tom McCall Waterfront Park draw thousands of tourists every year. Scenic resources can also inform the design of buildings, parks, and monuments.

In addition, protection of scenic resources is required by Oregon statewide planning goals and by the City of Portland's Comprehensive Plan.

Statewide Land Use Planning Goals

The State of Oregon adopted sixteen statewide planning goals in 1974. Goals 5, 8, and 15 provide for protection of scenic resources.

Oregon State Land Use Goal 5, Open Spaces, Scenic and Historic Areas, and Natural Resources, establishes a process in which scenic resources are inventoried and evaluated for significance. If a resource is found to be significant, the local government must evaluate the consequences of three policy choices: protecting the resource, allowing proposed uses that conflict with the resource, or establishing a balance between protecting and allowing uses that conflict with the resource. The local government must then adopt a program based on the results of this evaluation.

Oregon State Land Use Goal 8, Recreational Needs, requires jurisdictions to satisfy the recreational needs of citizens. Local jurisdictions are responsible for creating and maintaining recreational areas, facilities, and opportunities to meet the current and future needs. Recreational areas, facilities, and opportunities are defined to include scenic landscapes, scenic roads, and travel ways as well as passive activities, such as sightseeing.

Oregon State Land Use Goal 15, Willamette Greenway, is intended to protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic, and recreational qualities of the land along the Willamette River. Goal 15 requires an inventory of existing conditions including significant scenic areas.

City of Portland Comprehensive Plan

Local jurisdictions are required to develop and update Comprehensive Plans to demonstrate compliance with the statewide land use planning goals. Portland updated its Comprehensive Plan in 2016. The following Comprehensive Plan goals and policies form the basis for this CCSRPP and future scenic resource protection plans.

Goal 4.A: Context-sensitive design and development

New development is designed to respond to and enhance the distinctive physical, historic, and cultural qualities of its location, while accommodating growth and change.

Policies: Scenic resources

Portland's signature views of Mt Hood and other mountain peaks, bridges, and rivers are important to the city's identity. These views strengthen connections to the local and regional landscape. The policies below encourage the recognition, enhancement, and protection of public views and significant scenic resources, as designated in the Scenic Resources Inventory and Protection Plans.

- Policy 4.41 Scenic resources.* Enhance and celebrate Portland's scenic resources to reinforce local identity, histories, and cultures and contribute toward way-finding throughout the city. Consider views of mountains, hills, buttes, rivers, streams, wetlands, parks, bridges, the Central City skyline, buildings, roads, art, landmarks, or other elements valued for their aesthetic appearance or symbolism.
- Policy 4.42 Scenic resource protection.* Protect and manage designated significant scenic resources by maintaining scenic resource inventories, protection plans, regulations, and other tools.
- Policy 4.43 Vegetation management.* Maintain regulations and other tools for managing vegetation in a manner that preserves or enhances designated significant scenic resources.
- Policy 4.44 Building placement, height, and massing.* Maintain regulations and other tools related to building placement, height, and massing in order to preserve designated significant scenic resources.
- Policy 4.45 Future development.* Encourage new public and private development to create new public viewpoints providing views of Portland's rivers, bridges, surrounding mountains, hills and buttes, the Central City skyline, and other landmark features.

C. History of Scenic Resources Protection in the Central City

This section provides a brief history about how scenic resources have been protected and managed in and around the Central City. There are other plans and studies related to scenic resources located outside of the Central City, such as Rocky Butte and Mt Tabor, which are not included in this summary.

1979 Downtown Plan

As Portland has grown, the Central City (also known as downtown in previous plans) has gotten taller. Taller buildings add visual diversity to the skyline, which itself is a scenic resource. However, some taller buildings can block views from the western and southwestern hills across the Central City to area mountains. With implementation of the *1979 Downtown Plan*, the City adopted building height restrictions intended to protect views of Mt Hood from Washington Park and a view of Mt St Helens from Terwilliger Boulevard.

1983 Terwilliger Parkway Corridor Plan

Terwilliger Boulevard was originally conceived by John Olmsted in 1903 as a recreational pleasure drive that would take advantage of the area's special scenic opportunities. Initially the land surrounding the parkway was clear cut, offering panoramic views of the region. Much of the land was donated, deeded, or acquired in order to improve it for public enjoyment. In the 1970s a bike lane was added. In the early 1980s, due to increased pressure for development around the parkway, the City undertook a study and adopted the *Terwilliger Parkway Corridor Plan* in 1983. Today Terwilliger Boulevard is designated as a scenic drive, which was a subset of scenic corridors. Most of the drive is located outside of the Central City and is not being addressed by the CCSRPP. However, there are some designated viewpoints along Terwilliger Boulevard with views of or across the Central City. Those views and viewpoints are addressed in the CCSRPP.

1988 Willamette Greenway Plan

The Willamette River has long been an important scenic resource in Portland. However, development along the riverbanks has limited the public enjoyment of this resource. Until 1974, the highway was located where Governor Tom McCall Waterfront Park is today. With the adoption of Oregon statewide planning goal 15, Willamette Greenway, the state required local jurisdictions to plan for public access to the Willamette River and protection of the scenic resources associated with the river. In 1987 the City adopted the *Willamette Greenway Plan*, which went into effect in 1988. The plan required development of a public trail on properties with river frontage and numerous viewpoints along the river where designated. The views are primarily of the river itself, the bridges, and the city skyline. The zoning code requires that public viewpoints identified in the plan be developed when trail improvements are triggered by new development. The *Willamette Greenway Plan* also designated greenway view corridors, now called *river access ways*, where it is possible to see the Willamette River or Governor Tom McCall Waterfront Park from approaching streets and rights-of-way.

1988 Central City Plan

As the City of Portland was coming into compliance with the statewide planning goals, scenic resources were being identified through different planning processes. The *1988 Central City Plan* envisioned "buildings, open spaces and streets which blend with the Tualatin Hills, the Cascades, and river vistas to create a dramatic backdrop for an attractive and memorable place." The plan went on to call out the importance of "access to the riverbank and the water's surface." The Central City Plan designated views and viewpoints.

1991 Scenic Resources Protection Plan

Previous plans identified scenic resources and began to designate specific views, viewpoints, and drives to protect and manage for their aesthetic qualities. Donations, deeds, and acquisition of lands set aside significant resources for the public. Then, in 1989-1990, all of the previous plans were brought together. The 1991 *Scenic Resources Protection Plan* identified 131 scenic resources throughout Portland. Implementation of the plan included application of a Scenic Resources (s) overlay, amendments to the Scenic Resources chapter (33.480) of the zoning code and adjustment of building height restrictions.

1992 Central City Plan District

With the adoption of the *Central City Plan District* in 1992, public viewpoints were updated on the City's official zoning map to reflect the 1991 *Scenic Resources Protection Plan*. The maximum heights map was updated to better protect specific views, such as the view of Mt Hood from Vista Bridge.

2000 Union Station Clock Tower-related FAR and Height Limitations Study

The Union Station Clock Tower is a landmark and historic structure in Portland. The clock tower can be seen from different vantage points including down streets, from the riverfront, and from bridges. This study analyzed the area surrounding the clock tower - an area that has a 75-foot maximum height limit as set by the 1988 *Central City Plan* to protect views of Union Station and the neighborhood's historic resources. The result of the study was to continue to protect views of the clock tower, but to increase the floor area ratio (FAR) in specific locations and to allow bonuses to be used to increase the maximum height limits.

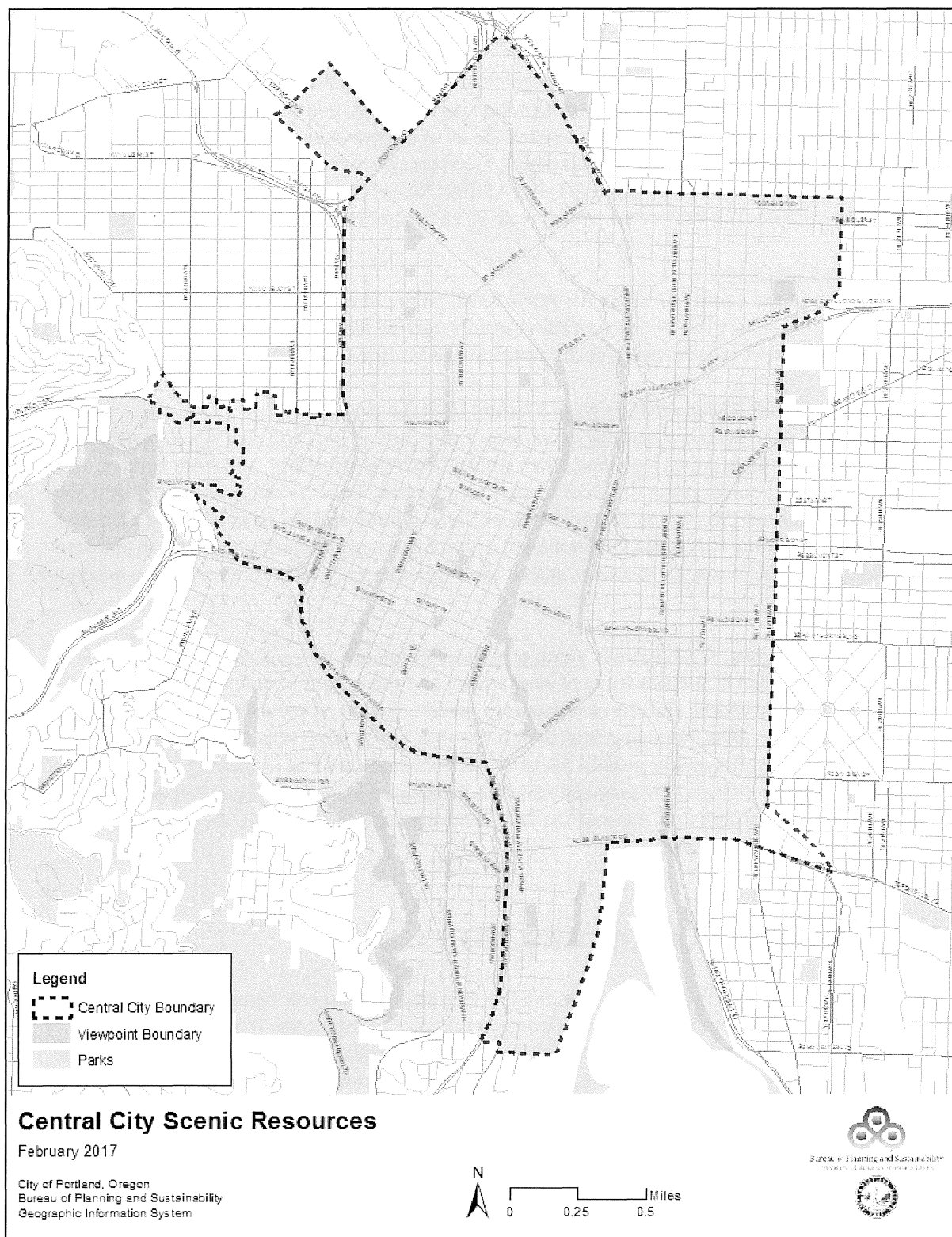
2002 South Waterfront Plan & 2006 Public Views and Visual Permeability Assessment

The *South Waterfront Plan* included a study of view streets and the impact of building heights, placement, massing, and widths and street setbacks to preserve visual permeability from the district to the Willamette River and Ross Island and from across the river to the West Hills. The 2006 assessment further looked at specific viewpoints around South Waterfront that could be negatively affected by development within the district. Three viewpoints were designated along Terwilliger Parkway and two along the Springwater Corridor Trail. Four of the five points are included in this CCSRPP update; the fifth is outside of the CCSRPP boundary.

D. Relationship to Central City 2035

As part of the Central City 2035 (CC2035) Plan, the City reevaluated its scenic resources and the impacts of potential in building heights and vegetation management on the resources. The CCSRPP analysis informed updates to the zoning code including revisions to the building heights map and location, the extent of Scenic Resources (s) overlay zones, and landscaping requirements within (s) overlay zones.

The CCSRPP includes scenic resources located in the CC2035 plan district as well as viewpoints located outside of the Central City where the view could be impacted by building height or vegetation within the Central City (Map 1).



Map 1: Central City Scenic Resources Protection Plan Geographic Scope

2. Part 2 and 3 Summary

The *Central City Scenic Resources Protection Plan* (CCSRPP) includes Part 2: *Central City Scenic Resources Inventory* (CCSRI) and Part 3: *Central City Economic, Social, Environmental and Energy Analysis* (ESEE). A summary of the approach, methodology, and results for each Part is presented below.

A. Scenic Resources Inventory

The first step in updating the CCSRPP was to produce the *Central City Scenic Resources Inventory* (CCSRI). The CCSRI includes public scenic views and viewpoints, view streets, scenic corridors, visual focal points, and scenic sites within the Central City 2035 boundary. There are also viewpoints located outside of the Central City 2035 boundary that include scenic views of or across the Central City.

1. Approach

To learn about current best practices for documenting and evaluating scenic resources, staff reviewed case studies of scenic resource conservation methods from a variety of jurisdictions around the nation, Canada, Europe, and New Zealand. The case studies provided a broad array of methods and approaches that were relevant and potentially applicable to Portland's inventory and helped staff develop a consistent and objective approach and methodology.

To produce the CCSRI, staff began by mapping scenic resources that were inventoried in previous plans, including the *Terwilliger Parkway Corridor Plan* (1983), *Willamette Greenway Plan* (1987), *Scenic Views, Sites and Drives Inventory* (1989), *Scenic Resource Inventory Map* (1989), *Scenic Resources Protection Plan* (1991), *Central City Plan District* (1992), *South Waterfront Plan* (2002), and *South Waterfront Public Views and Visual Permeability Assessment* (2006). Next, potential new scenic resources were added to the inventory via one of four mechanisms:

- 1) Central City staff identified potential new scenic resources based on input received from CC2035 advisory committees and public open house events.
- 2) An inter-bureau technical committee consisting of staff from the Bureau of Planning and Sustainability, Portland Parks and Recreation, Bureau of Environmental Services, and Bureau of Transportation identified potential new scenic resources.
- 3) The public nominated potential new views and viewpoints via an open call for nominations through an online survey, email, phone call, or written letter.
- 4) Staff documented potential new scenic resources during field visits while inventorying existing and potential scenic resources.

Staff conducted field visits to each existing and potential new scenic resource, recorded a standard set of information and took a standard set of photographs. All existing and potential public scenic resources were documented using a set of criteria; however, a slightly different methodology, described below, was used to evaluate each type of scenic resource.

2. Methodology

Below is a summary of the methodology used to identify and designate each type of scenic resource that are included in the CCSRI. The methodology represents accepted standards and best practices in the field.

Views and Viewpoints

A view is an aesthetically pleasing landscape or scene comprised of one or more visual features. A view may be narrow or panoramic, may include natural and/or manmade features, and may be of a faraway object (e.g., a mountain) or of a nearby object (e.g., a city bridge). A viewpoint is the location from which one enjoys the view. It may be a generalized location, such as a butte, and include several vantage points where the view may be seen to best advantage, or it could be a single observation point. A viewpoint may be developed with benches, signs and/or lighting or it may simply be a publicly accessible point from which one can take in a view.

The CCSRI includes 157 views from 148 viewpoints; some viewpoints have multiple views. The views were evaluated by experts in the fields of landscape architecture, urban design, or cultural or natural resources. The experts scored the quality and characteristics of the upland and river views separately. This is because research has shown that the presence of water alone is a very strong factor in influencing scenic quality and, thus, river views tend to be rated higher than upland views. This is indeed what the evaluation found: nearly all of the river views were ranked high to medium for scenic quality.



Fremont Bridge as seen from the Broadway Bridge.

The viewpoints themselves were evaluated by project staff based on three factors:

- 1) Whether or not the viewpoint included a developed viewing area.
- 2) The accessibility of the viewpoint.
- 3) The amount of use the viewpoint likely receives as a viewpoint (as opposed to use in general).

The results of the evaluations were combined:

- Upland views were ranked as Tier I, II or III, with Tier I including the highest ranked upland views and Tier III including the lowest ranked upland views.
- River views were ranked as Group A, B or C, with Group A including the highest ranked river views. It should be noted that, because river views tended to receive higher scores than upland views, Group C River views are still of a high quality although not as high as the Group A and B River views.

Examples of Upland Tier I views include views of Mt Hood from the Washington Park International Rose Test Garden and views of Mt Hood and Mt St Helens from SW Terwilliger Boulevard. Examples of Group A River views include views of Mt Hood from Governor Tom McCall Waterfront Park, views of the Willamette River and Fremont Bridge from the Broadway Bridge and views of the Willamette River, Hawthorne Bridge and downtown skyline from the Eastbank Esplanade.

View Streets

A view street is defined as a linear stretch that is enclosed or bordered on both sides by buildings or vegetation and leads to a visual focal point that is the terminus of the view and contributes an aesthetic quality to the view.

View streets must have a focal terminus that:

- 1) Is either a public park, river, mountain, butte, bridge, building (prominent private buildings were included if they represent the Central City skyline), artwork, sculpture, fountain, or historic or iconic landmark.
- 2) Can be seen from at least two blocks away.
- 3) Can be seen from the sidewalk or a crosswalk.



Union Station Clock Tower viewed from NW 6th Ave.

River access ways are a subset of view streets. For river access ways, the view street must terminate at or within the Willamette Greenway boundary and provide a visual and physical connection to the Willamette River. A view street, including river access ways, may include a background focal point (e.g., the West Hills) such that the full extent of the view extends beyond the street grid and public right-of-way. The CCSRI includes 27 view streets. Examples of view streets include a view of Salmon Street Springs looking down SW Salmon Street from SW 4th Avenue and a view of Union Station looking north on NW 6th Avenue starting at W Burnside Street.

Scenic Corridors

A scenic corridor is a linear transportation feature including, but not limited to, a road, rail, trail, or waterway valued for its aesthetic qualities and accessed by car, bike, train, foot, wheelchair, or boat. A scenic corridor must be at least 0.5 miles in length and include multiple views, viewpoints, visual focal points, or scenic sites that may be interspersed with vegetation, built structures, or other obstructing features of the surrounding environment. There may be pullouts or designated viewpoints along the corridor where travelers can safely stop to enjoy a particularly nice view. To be included in the CCSRI, a scenic corridor must be publicly owned or accessible to the general public and located within the Central City 2035 boundary. The CCSRI includes six scenic corridors: the North Park Blocks, the South Park Blocks, the Willamette Greenway Trail (west), the Willamette Greenway Trail (east), the Portland Aerial Tram, and the Willamette River.



Willamette Greenway Trail.

Visual Focal Points

A visual focal point is a feature or element of the natural or built environment that serves as an aesthetically pleasing or interesting object of a view. Visual focal points must be publicly owned or on public land and visible from a distance of at least two city blocks. With the exception of the three major mountains in the area (Mt Hood, Mt Adams, and Mt St Helens), all visual focal points designated in the CCSRI are located within the Central City 2035 boundary. The CCSRI includes 25 visual focal points. Examples of visual focal points include the Chinatown Gateway, Mt Hood, the Fremont Bridge, and the White Stag sign.



Chinatown Gateway.

Scenic Sites

A scenic site is a single geographic destination that is valued for its aesthetic qualities and provides or relates to a pleasing or beautiful view of natural or built scenery; the pleasing view can be either internal or external to the site. The site may be made up primarily of natural vegetated cover and water, or include structures and manmade landscaping. Scenic sites may or may not include scenic views and viewpoints. Scenic sites must be publicly owned or on public land. All five scenic sites designated in the CCSRI are located within the Central City 2035 boundary: the North Park Blocks, the South Park Blocks, Lan Su Chinese Garden, the Japanese American Historical Plaza, and the Mark O. Hatfield U.S. Courthouse 8th floor rooftop terrace sculpture garden.

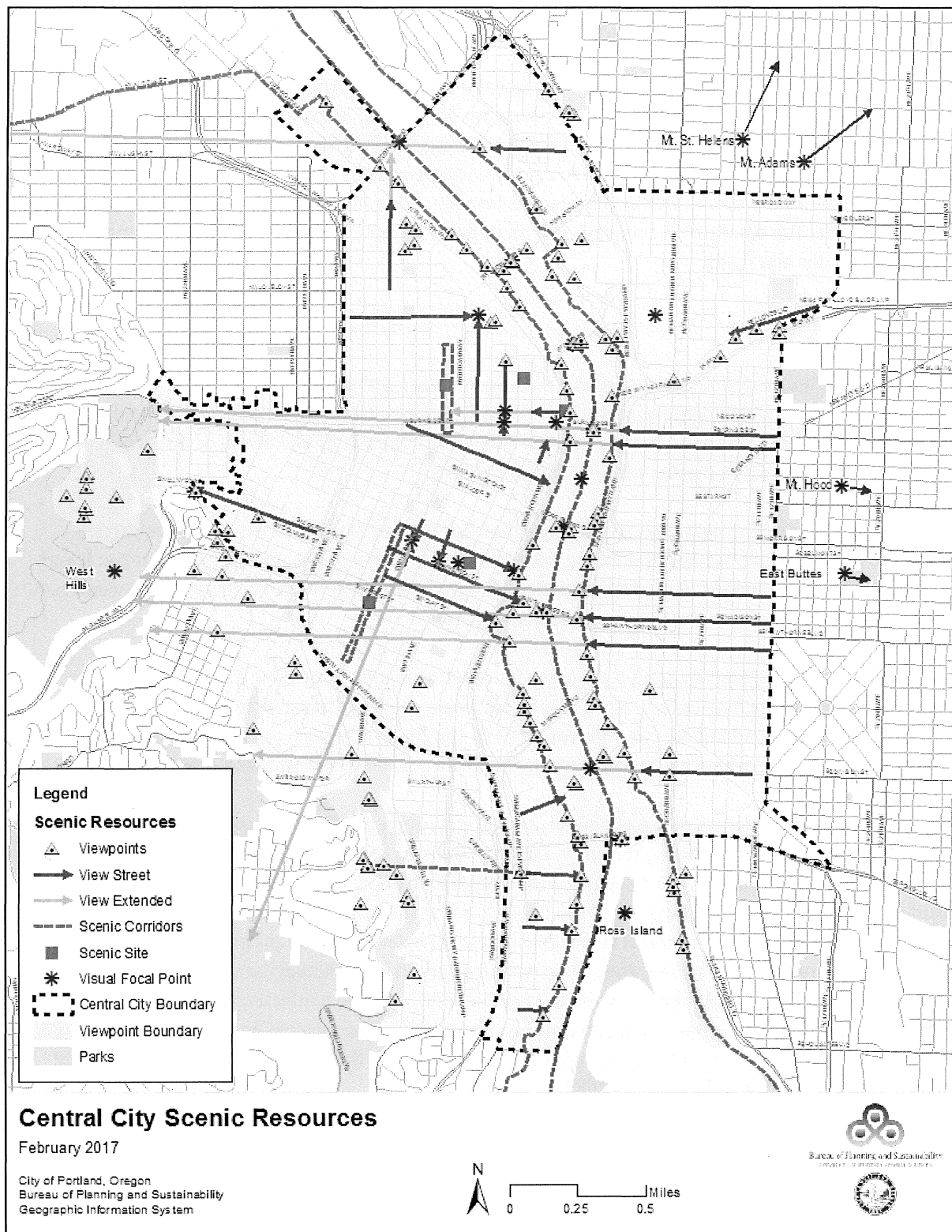


Japanese American Historical Plaza.

3. Results

The CCSRI includes a mix of scenic resources: 157 views from 148 viewpoints, 27 view streets, six scenic corridors, 25 visual focal points, and five scenic sites. Roughly half of the scenic resources included in the CCSRI are newly identified while the other half were identified in previous plans and inventories. A few scenic resources were retired because the view is now blocked by development. Map 2 shows all of the scenic resources.

The CCSRI does not include recommendations about future protection of, management of, or enforcement measures related to the scenic resources. An in-depth analysis of the trade-offs involved in protecting, or not protecting, each scenic resource is included in Part 3, the Central City Scenic Resources Economic, Social, Environmental and Energy Analysis (CCESEE).



Map 2: Central City Scenic Resources Inventory Results

B. Economic, Social, Environmental and Energy Analysis

The next step, Part 3, of the CCSRPP was to conduct the *Central City Scenic Resources Economic, Social, Environmental and Energy Analysis* (ESEE). The purpose of the ESEE is to identify uses that may conflict with (e.g., block or detract from) a scenic resource and determine if those conflicting uses should be limited using regulatory or non-regulatory tools. Staff considered the effect of building height and massing on significant views as well as alternatives for vegetation management to maintain or enhance scenic resources. The results of the analysis inform updates to the CC2035 Plan including changes to zoning regulations and maps.

1. Methodology

Performing an ESEE analysis is a requirement of Oregon State Land Use Goal 5; however, no methodology is prescribed by the goal. Therefore, staff developed a methodology intended to understand the economic, social, environmental, and energy impacts of protecting or not protecting the scenic resources. The City's methodology included five steps.

The first step was a determination of significance. Per Goal 5, only *significant* resources are carried forward to the ESEE analysis. Based on the experts' scores from the CCSRI, Upland Tier I and Tier II and River Group A, B, and C views were determined to be significant. Upland Tier III views were determined to not be significant because the views received low scores.

The second step was to identify conflicting uses. Types of conflicting uses in the Central City include: buildings height and massing (where a tower is located on a site), rooftop structures, sky bridges, vegetation, above-ground utilities, permanent fencing, and other uses such as garbage or recycling receptacles, or loud noises such as a freeway. The conflicts posed by each of these uses is described.

The third step was an analysis of the economic, social, environmental, and energy benefits of both the scenic resources and the conflicting uses. For example, there are economic benefits associated with views including tourism and property values. There are also economic benefits associated with buildings including employment and housing. All of the benefits are considered together to produce a general recommendation for each grouping of scenic resources. The recommendations are intended to generally balance the various benefits of both the scenic resources and the conflicting uses. The outcome of this step are general recommendations of when to prohibit, limit, or allow conflicting uses.

- *Prohibit* means that the conflicting uses, such as a building or vegetation, should be not allowed within the view. A prohibit recommendation is used when the benefits of the scenic resource outweigh the benefits of the conflicting uses.
- *Limit* means that the conflicting uses, such as vegetation, should be managed to reduce the impacts on the view (e.g., pruning branches). A limit recommendation is used when the benefits of both the scenic resource and the conflicting uses should be protected.
- *Allow* means that conflicting uses do not need to be managed. An allow recommendation is used when the benefits of the conflicting uses outweigh the benefits of the scenic resource. When an allow recommendation is applied, the scenic resource will remain until such time as a conflicting use, such as a building, blocks or impacts the resource.

For both the limit and prohibit decisions, it is important to keep in mind that the decision only applies to *conflicting* uses. For example, vegetation can be a focal feature of the view or contribute to the view by framing the focal features. Vegetation is only considered a *conflicting* use if it blocks (or severely detracts from) a view. Another example is the city skyline. The city skyline is expected to change over time. New buildings may partially block older buildings in the background, but as long as the skyline is visible then the new buildings are not considered a *conflicting* use. Structures that would block a view of the skyline are considered a *conflicting* use.

The biggest economic impact of protecting a scenic resource happens when a view corridor crosses part of the Central City and buildings in the Central City would be tall enough to block or partially block the view. In these circumstances, additional analysis was performed to better understand the economic impacts. This was the fourth step.

The fourth step included two parts: conflicts between views and potential building height and the economic impacts of protecting any given view. The first part was to determine, of the Tier I and Group A views that received a *prohibit* or *limit* decision, which views could be impacted by buildings based on the current allowed heights in the Central City. In other words, if buildings were to develop to the maximum heights allowed today, would they block a view? The analysis used GIS to create a view corridor between each viewpoint and primary focal features to compare that with the allowed heights for every site within the view corridor (see Figure 1 below). Priority was given to sites identified in the City's *Buildable Lands Inventory* (BLI) because those sites are the most likely to be redeveloped by 2035 and result in buildings blocking the view. Using this analysis, the general amount of conflicts were identified – many, few, or no buildings could block or partially block the view.

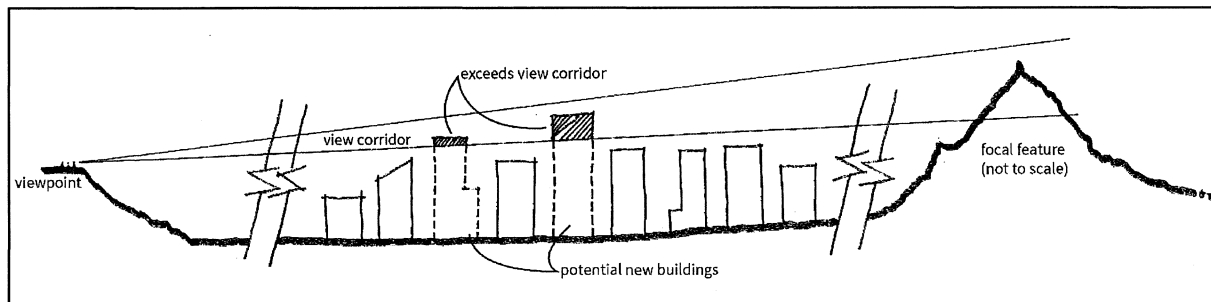


Figure 1: Example view corridor surface elevation and building height

The second part of the analysis was to determine, of these same Tier I and Group A views, what is the economic impact on the BLI sites of prohibiting any portion of a building from protruding into the view corridor. This analysis considered the number of potential stories that would have to be eliminated to protect the view and the per-square-foot value, in terms of money and jobs, of those stories. The result is a potential reduction in development value and reduction in job capacity if the view is fully protected.

The fifth, and final, step was a site-specific recommendation. In this step, the general recommendations and results of the economic analysis is applied to each individual scenic resource. The general recommendation may remain the same or be adjusted. One way in which adjustments were made is if there are three viewpoints in very close proximity that offer similar or identical views. Of those three, perhaps one has better public access from a nearby sidewalk and also includes a bench or information sign. Although the general recommendation may be to protect all three viewpoints, the site-specific recommendation is to protect the more accessible and developed viewpoints. Another example of an adjustment is if there are five viewpoints with similar views but in different locations and with very different economic impacts on future development. The general recommendation may be to protect all five viewpoints and the site-specific recommendation is to protect the two viewpoints with fewer economic impacts on future development or to continue to protect one or more due to proximity to the surrounding neighborhood.

Recommendations about the type of protections and management and maintenance are also included in the ESEE. For example, some views from the West Hills to Mt Hood can only be protected if building heights in the Central City are limited. The amount of limitation varies greatly from a few feet to more than 100 feet. Other recommendations address vegetation management and investments in public access and viewpoint amenities.

2. Results

There are four categories of ESEE recommendations:

1. **Prohibit** – The most stringent of the recommendations, *prohibit*, means that conflicting uses, including buildings and vegetation, should be prohibited from blocking or partially blocking the scenic resource. A *prohibit* recommendation is implemented by setting maximum building/vegetation heights through the zoning code.
2. **Limit** – A *limit* recommendation is flexible. It means that impacts of the conflicting use on the scenic resource should be limited but not prohibited. It can be implemented by requiring building designs to reduce impacts on the resource or by allowing tree pruning or removal.
3. **Allow** – An *allow* recommendation means that the benefits of the conflicting uses outweigh the benefits of protecting the scenic resource. There are no restrictions on conflicting uses.
4. **Not Significant** – This category relates only to views. Tier III Upland Views, which are the lowest scoring of the views, are determined to be not significant. These are not included in the ESEE analysis and are not recommended for future protection.

Map 6, at the end of this section, shows the ESEE recommendations for all scenic resources. Below is a short summary of the results.

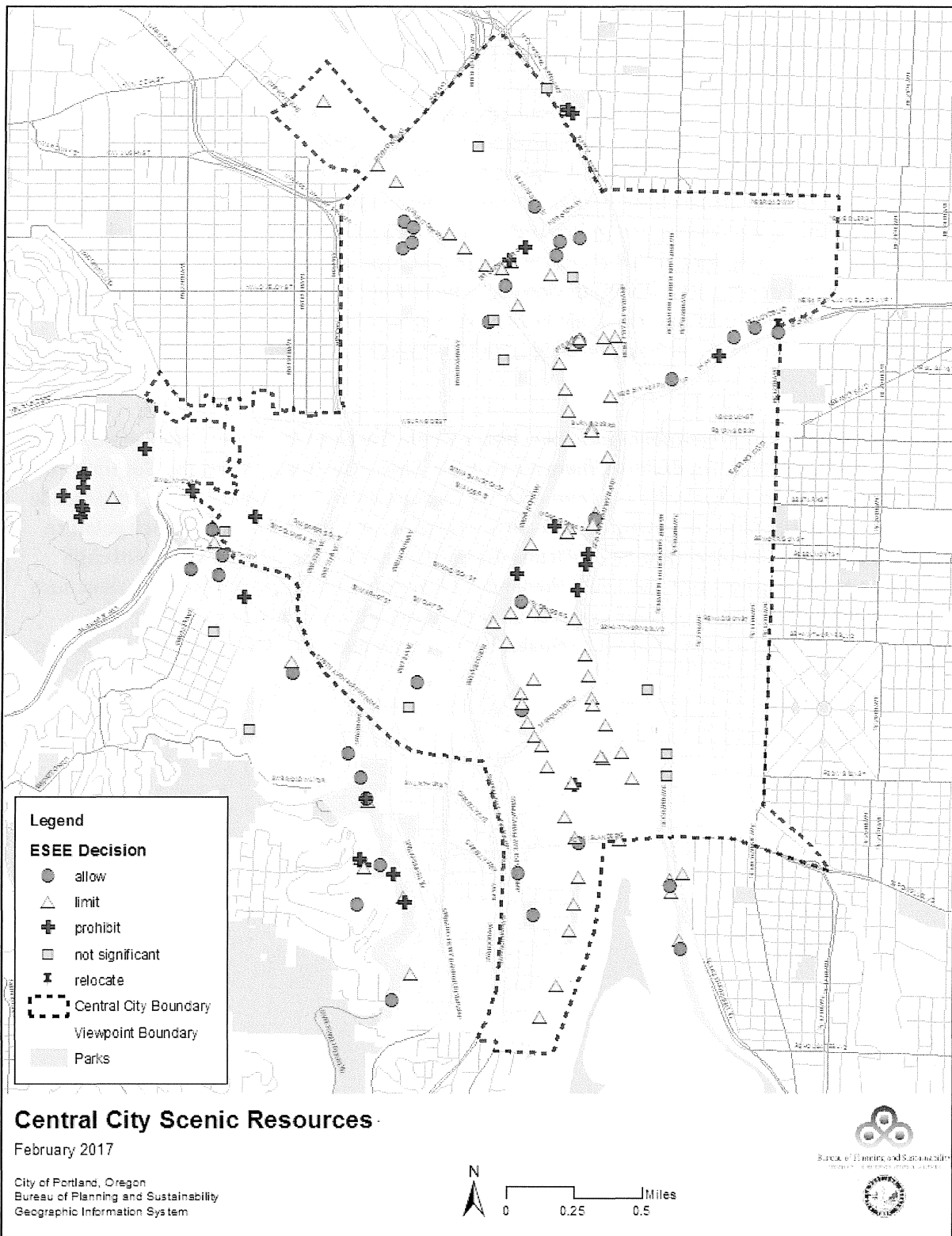
Views and Viewpoints

Tier I Upland and Group A River views of Mt Hood, Mt St Helens, Willamette River bridges, or the Central City skyline are recommended for the highest level of protection including prohibiting or limiting building and/or vegetation heights within one or more view corridors. Tier II Upland and Group B River views are also recommended for some limitations on building heights and/or vegetation. An allow

recommendation is made for most Group C River views. (As a reminder, Tier III Upland views were determined to be not significant.) Map 3 shows the ESEE decisions for each viewpoint and view.

The recommendation for a viewpoint itself is based on the recommendation for its respective view(s). For any view with a limit or prohibit recommendation, that recommendation applies to the viewpoint as well. The recommendation includes maintaining the viewpoint, relocating trash receptacles or fencing, relocating above ground utilities, signs or other discordant elements, and limiting the degree of shadow cast on the viewpoint. For undeveloped or underdeveloped viewpoints, viewpoint amenities should be added, such as a bench, lighting, informational plaque or telescope that both identify the viewpoint and enhance the overall viewing experience. For viewpoints on bridges, the Willamette Greenway Trail, sidewalks, or other areas that may lack a safe location to pull out of traffic and enjoy the view, a designated and marked location should be added. For all viewpoints, staff recommend improving ADA access.

There are some views from viewpoints located in places where, based on the current regulations, there will not be conflicting uses. For example, there are multiple viewpoints located along the Governor Tom McCall Waterfront Park seawall offering views of the Willamette River, bridges and the Central Eastside skyline. No buildings, utilities or fences will be built or vegetation planted in front of the viewpoints to block the views. Therefore there are no conflicting uses with most of these view corridors. Although there are no conflicting uses with the views, there may still be conflicting uses with the viewpoints such as the placement of fencing or garbage cans. For all of the views with no conflicting uses the ESEE recommendation to allow, limit or prohibit remains but no implementation actions may need to be put in place.



Map 3: View Corridor and Viewpoint ESEE Decisions

View Streets

The general recommendation for view streets is to limit building placement and massing and to limit vegetation that would block or substantially reduce the air space around the focal terminus of the view. For example, the recommendation may be to use tall trees, which could be limbed-up, in landscaping as a way to frame the view of a statue at the end of a street (see Figure 2). Another example is setting back buildings from the lot line and increasing the width of the public space along the street (see Figure 3). Map 4 shows the ESEE decisions for each view street.

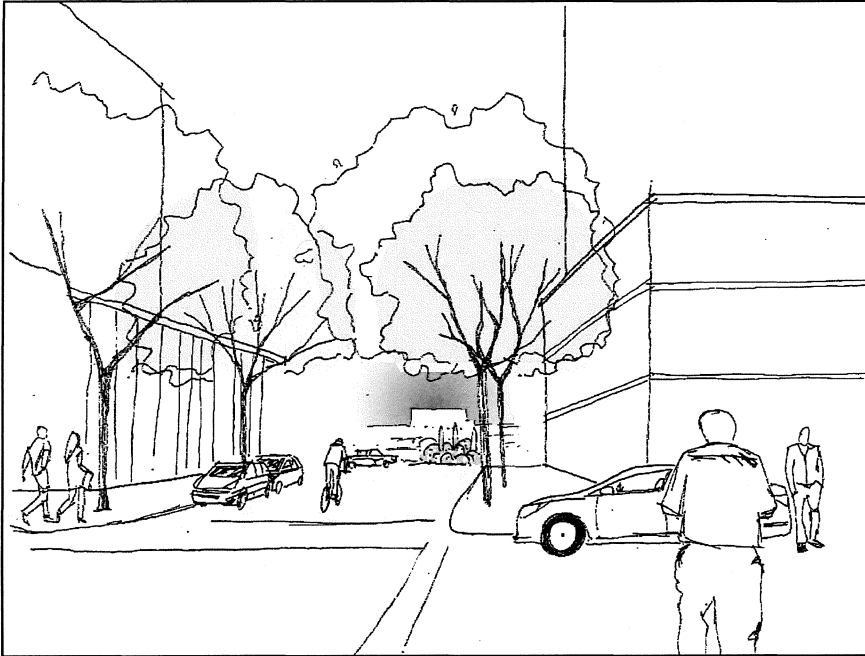


Figure 2: Example of a View Street with Vegetation Framing a Focal Feature.

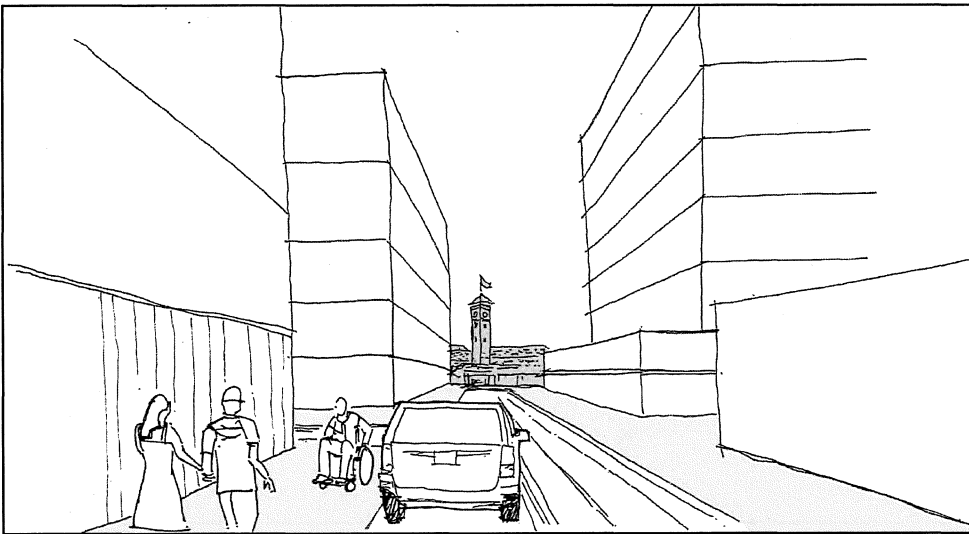
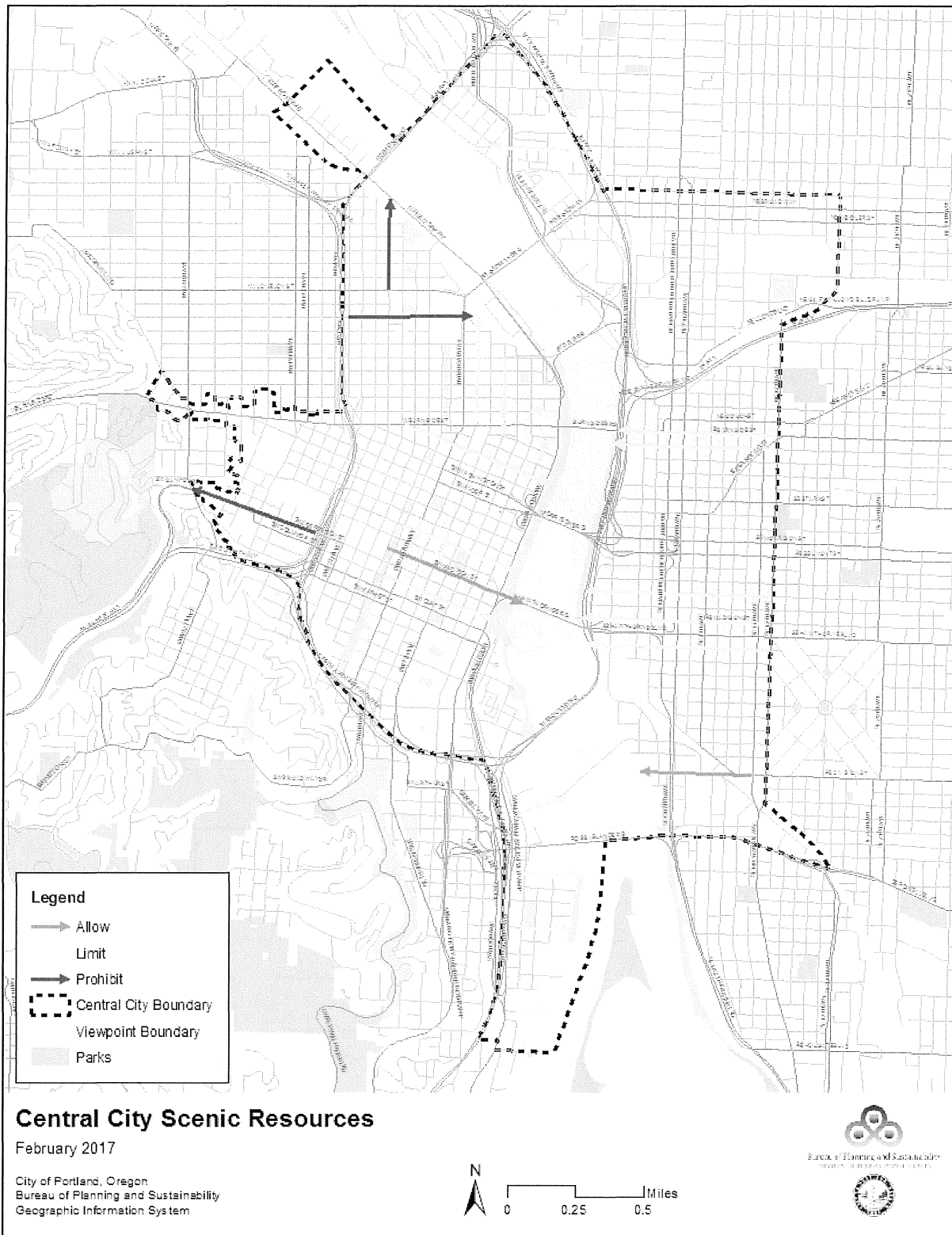


Figure 3: Example of a View Street with Air Space around a Focal Feature.



Map 4: View Street ESEE Decisions

Scenic Corridors

The recommendation for scenic corridors is to limit building placement and massing that would create a predominance of shade on the resources, particularly at developed viewpoints located along the corridor. In many situations the vegetation located along the scenic corridor is a primary or secondary feature of the resource itself and contributes to its scenic quality. However, in some instances the vegetation can become discordant; for example, if the vegetation were to block protected views extending from viewpoints located along the scenic corridor. In general, vegetation along a scenic corridor should be retained and only *conflicting* vegetation should be limited. Figure 4 shows an example of vegetation along a scenic corridor that contributes to the scenic quality and frames, but does not obstruct, the view from a designated viewpoint. Map 5 shows the ESEE decisions for each scenic corridor.

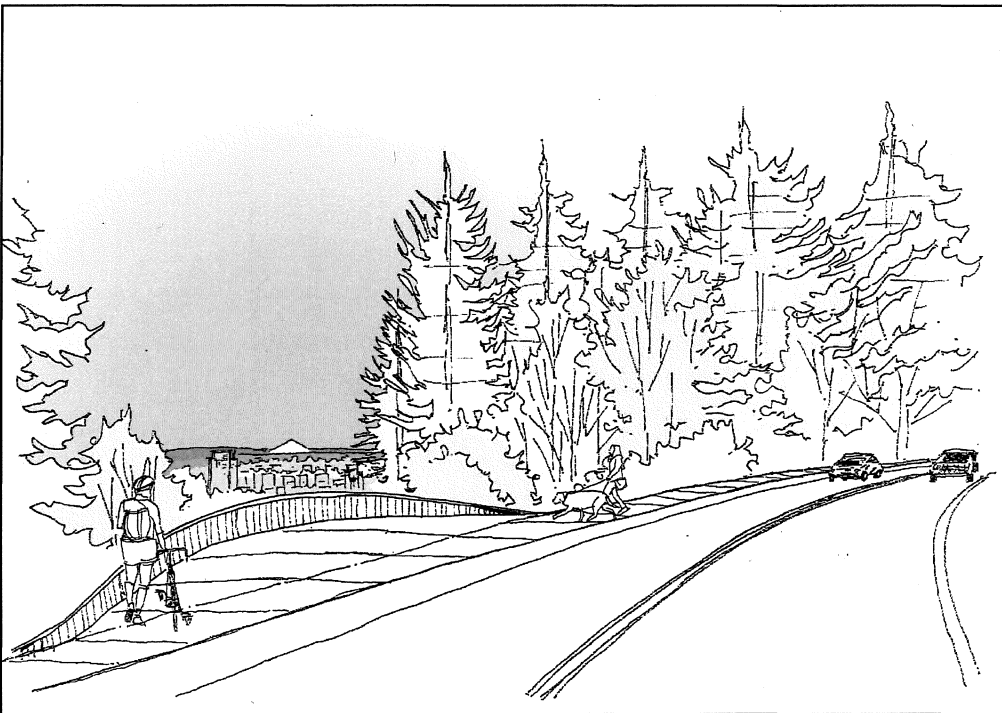
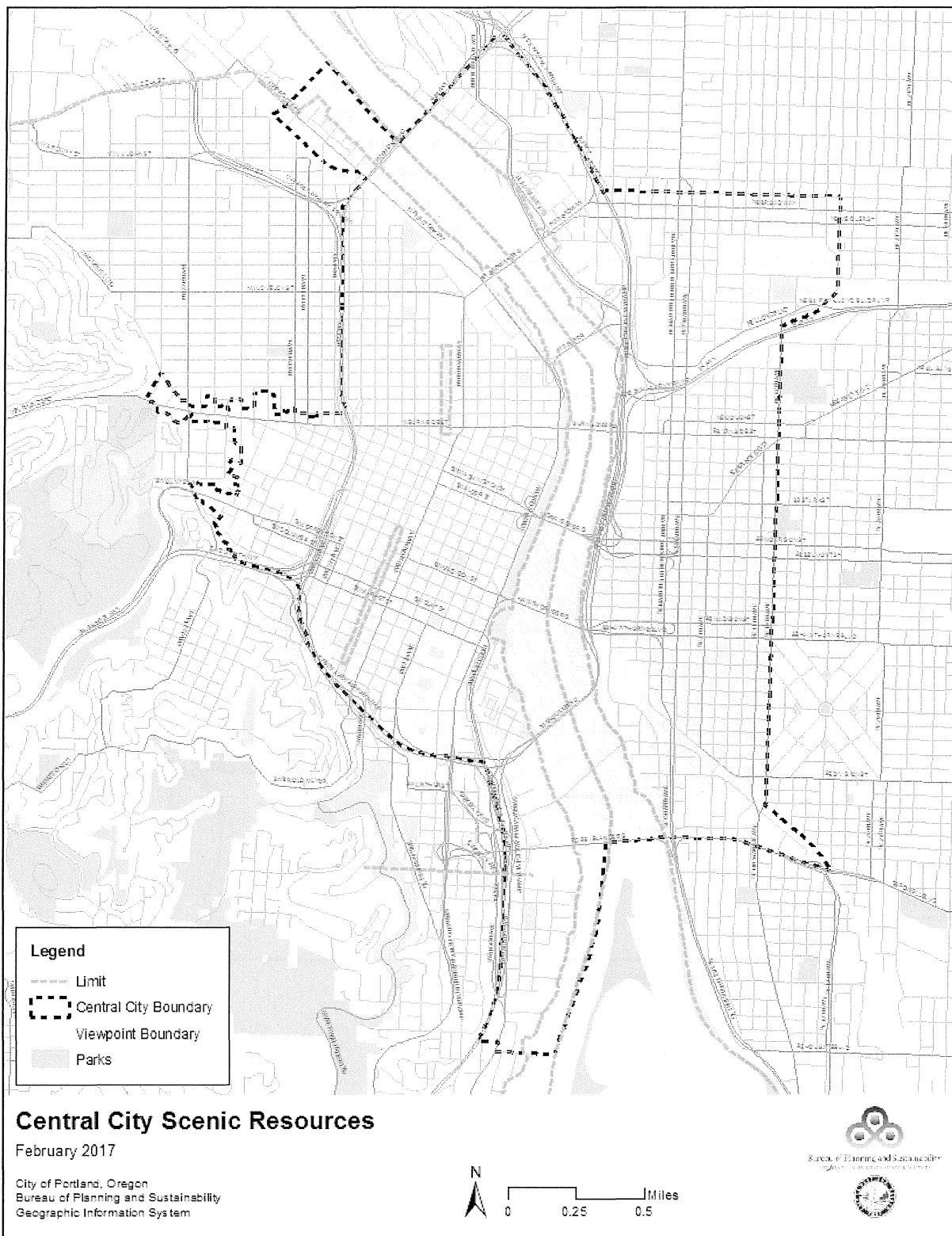


Figure 4: Example Scenic Corridor with Vegetation and Viewpoint.



Map 5: Scenic Corridors ESEE Decisions

Scenic Sites

The scenic sites in the Central City are: the North Park Blocks, the South Park Blocks, Lan Su Chinese Garden, the Japanese American Historical Plaza, and the Mark O. Hatfield U.S. Courthouse 8th floor rooftop terrace sculpture garden. The sites are all in public ownership or under public management. The sites require no additional protections. However, surrounding buildings and vegetation could become conflicting uses with the scenic site if the building or vegetation would create a predominance of shade on the scenic site or restrict access to the site. The ESEE recommendation for scenic sites is to limit building massing and placement of large structure vegetation surrounding the sites.

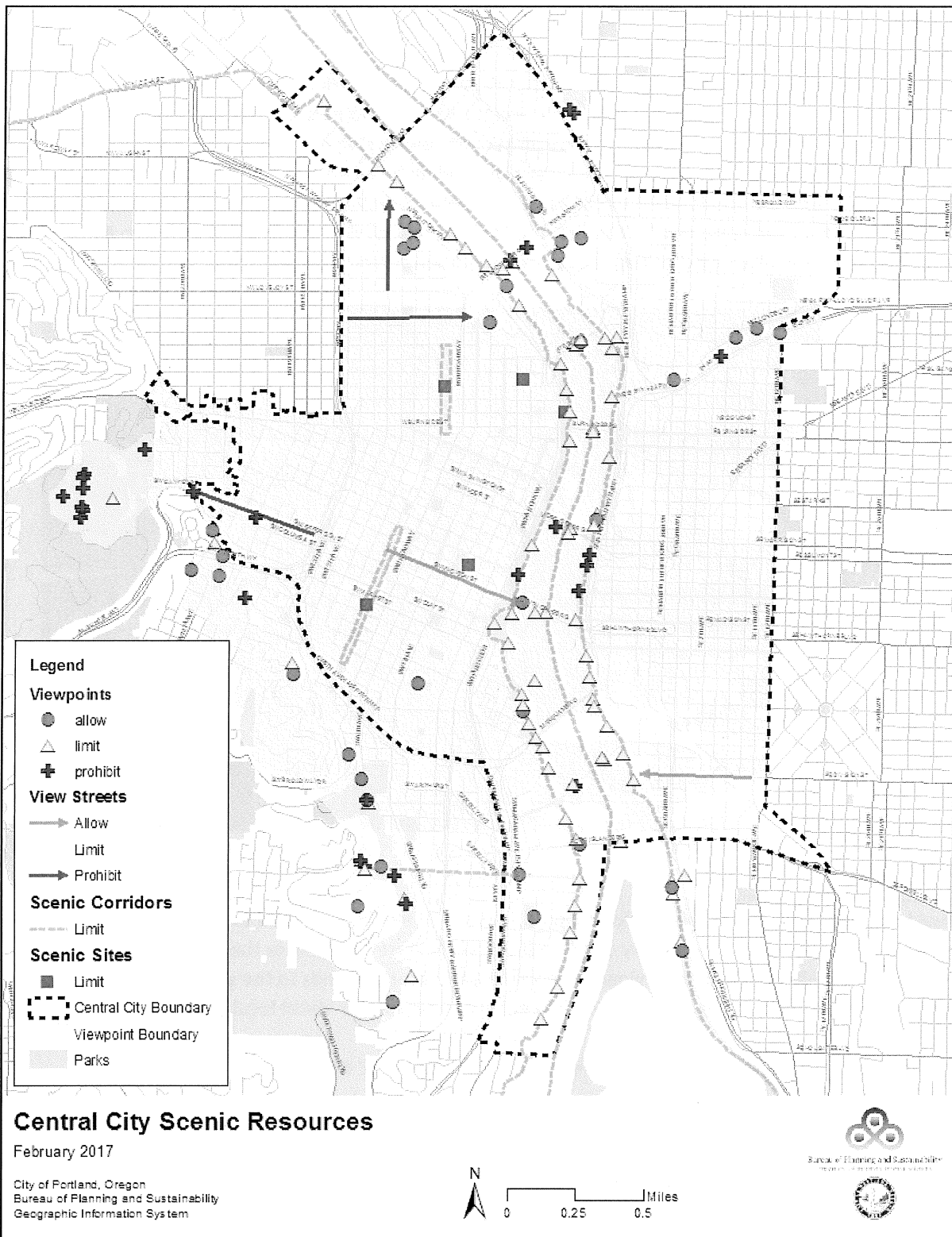


Mark O. Hatfield U.S. Courthouse 8th floor rooftop terrace

Visual Focal Points

Visual focal points are things like Mt Hood, Mt St Helens, Tilikum Crossing, and the Salmon Street Springs fountain. They are the primary or secondary focal feature of a view or the focal terminus of a view street. The ESEE decision for a view or view street therefore extends to the visual focal point(s) identified for that view. There are no individual recommendations for visual focal points.

Map 6 shows all of the Central City scenic resources with their ESEE decisions.



Map 6: All Scenic Resources ESEE Decisions

3. View Corridors and Viewpoints Summary of ESEE Decisions

This section includes a summary of the ESEE decisions for viewpoints and view corridors in the Central City. The other scenic resources – view streets, scenic corridors, scenic sites and visual focal points – are addressed in Chapter 4.

Viewpoints and view corridors are protected by limitations on building and vegetation heights and by management of vegetation. The protected viewpoints and view corridors are addressed in the zoning code, Title 33, in three ways:

1. In Chapter 33.480, Scenic Resources, viewpoints and view corridors, as well as scenic corridors, have a scenic (s) overlay and associated zoning standards applied to the resources.
2. In Chapter 33.510, Central City, allowed building heights are adjusted based on the view corridors.
3. In Chapter 33.430, Environmental Zones, allows tree removal, with replacement, through a zoning standard.

Below is a summary of the protected viewpoints and view corridors. Please see Table 1 at the end of section B. For a full description of each individual view corridor decision, please see Part 3 of 3.

A. Policy Priorities

The policy priorities are intended to describe the general approach to protect views and viewpoints in and around the Central City. The description of the protected views and viewpoints refines the general policy priorities based on the *Central City Scenic Resources Economic, Social, Environmental and Energy Analysis* (ESEE).

Mountains

Surrounding Portland are mountains that help define the visual setting of the city. Mt Hood and Mt St Helens can be seen from various viewpoints that have been protected over time. These views are iconic to Portland and draw tourists to locations like the International Rose Test Garden in Washington Park. Continued protection of views of Mt Hood and Mt St Helens is a high priority. This can be achieved by limiting building and vegetation heights and allowing vegetation management within the view corridor. When possible, Mt Rainier, which can be seen to the west of Mt St Helens, should be included in the view corridor for Mt St Helens.

Mt Adams can also be seen from some upland viewpoints; however, Mt Adams is partially blocked by the foothills of the Cascades. Overall, views of Mt Adams are not a priority for protection. The exception is when there is a view of Mt Adams from an established and well visited viewpoint and the view has few conflicts with potential building height.



Mt St Helens with Mt Rainier in the view.

Viewpoint ID	Location	Focal Features	ESEE Recommendation		Implementation Tools	
			Decision	Explanation	Height Limit	Vegetation Management
SW 46	Tilikum Crossing – southwest	Mt Hood, Willamette River	prohibit, limit	There are 5 viewpoints from Willamette River bridges and 5 viewpoints from the Greenway Trail from which one can see Mt Hood. All were evaluated to determine if one or two have a minimal impact on BLI sites and therefore could be protected by limiting building height in the Central Eastside. The economic analysis results showed that protection of any of the views would have a significant impact on development at Buildable Lands Inventory (BLI) sites. However, the viewpoints located on the Tilikum Crossing are large developed viewpoints with significant use by pedestrians and bicyclists. The viewpoints located on the Tilikum Crossing are large developed viewpoints with significant use by pedestrians and bicyclists. In addition, views of Mt Hood from this general area are culturally significant to Native Americans. It is recommended that the view of Mt Hood from SW46 be protected by limiting building heights in the Central Eastside. SE21 was not chosen because the development sites within view SW46 are larger and allow more flexibility to redistribute building height.	X (Mt Hood)	NCU
SW 47	Duniway Park	Mt Hood	allow	The 2006 South Waterfront Views and Permeability Study addresses views from Terwilliger Boulevard to Mt Hood. That plan remains in effect. Additional vegetation management should occur to maintain the view.		

C. River Views

River views are views where the Willamette River is a primary focal feature of the view. The view may also include other primary focal features, such as the Central City skyline. All river views received a high relative rank by the experts as part of the inventory. The recommendations for river views are summarized into the following categories:

1. Views of Mt Hood
2. Views of Willamette River Bridges and the Central City Skyline

Views of Mt Hood

There are multiple locations along the western riverbank where one can see Mt Hood. This occurs today because building heights in the Central Eastside have been historically low, supporting primarily industrial uses. It is anticipated that new development, with an evolving focus on high tech and creative industrial uses, will result in buildings that are taller. In addition, there is a lot of potential along Martin Luther King Jr. and Grand Boulevards for tall commercial buildings. Buildings located in the Central Eastside with heights more than three to four stories will have the potential of blocking a view from the western riverbank to Mt Hood.

Views of Mt Hood are a high priority for protection in the Central City. Mt Hood is a defining feature for Portland and views of Mt Hood attract tourists. There are a total of 10 viewpoints where there is a view of Mt Hood today – including five along the Greenway Trail and five located on bridges.

Staff performed an economic analysis of each of the views of Mt Hood from the Greenway Trail and bridges to determine if it would be possible to protect one or two views without creating a significant economic impact on redevelopment in the Central Eastside. The result of the economic analysis is that, due to the low elevation of the viewpoints along the riverbank, all of the view corridors would require significant limitations on building heights. The potential economic impact ranges from \$8M-\$37M and from 1,100 to 18,000 jobs per viewpoint (see Table 2).

Table 2: Economic Impact of Protecting Views of Mt Hood from the Willamette River

Viewpoint	Location	Focal Features	Square Feet of Conflict within View Corridor [1]	Reduction in Development Value within View Corridor [2]	Reduction in Job Capacity within View Corridor [2]
NW14	Broadway Bridge	Mt Hood	2,607,772	\$93,879,792	13,044
SE07	Morrison Bridge	Mt Hood	437,537	\$15,751,332	2,192
SE21	Tilikum Crossing - East	Mt Hood	223,000	\$8,028,000	1,115
SW01	Greenway Trail at SW Ankeny	Mt Hood	986,467	\$35,512,812	4,937
SW11	Greenway Trail at SW Morrison	Mt Hood	838,994	\$30,203,784	4,197
SW17	Salmon Springs	Mt Hood	302,150	\$10,877,400	1,512
SW26	Hawthorne Bridge	Mt Hood	743,279	\$26,758,044	3,720
SW36	Greenway Trail - Montgomery St Gardens	Mt Hood	981,598	\$35,337,528	4,912
SW38	Greenway Trail - Pedestrian Trail	Mt Hood	1,026,698	\$36,961,128	5,138
SW46	Tilikum Crossing - Southwest	Mt Hood	218,168	\$7,854,048	1,093

[1] If a view corridor crosses any portion of a BLI site, the entire BLI site is treated as if it were within the view corridor.

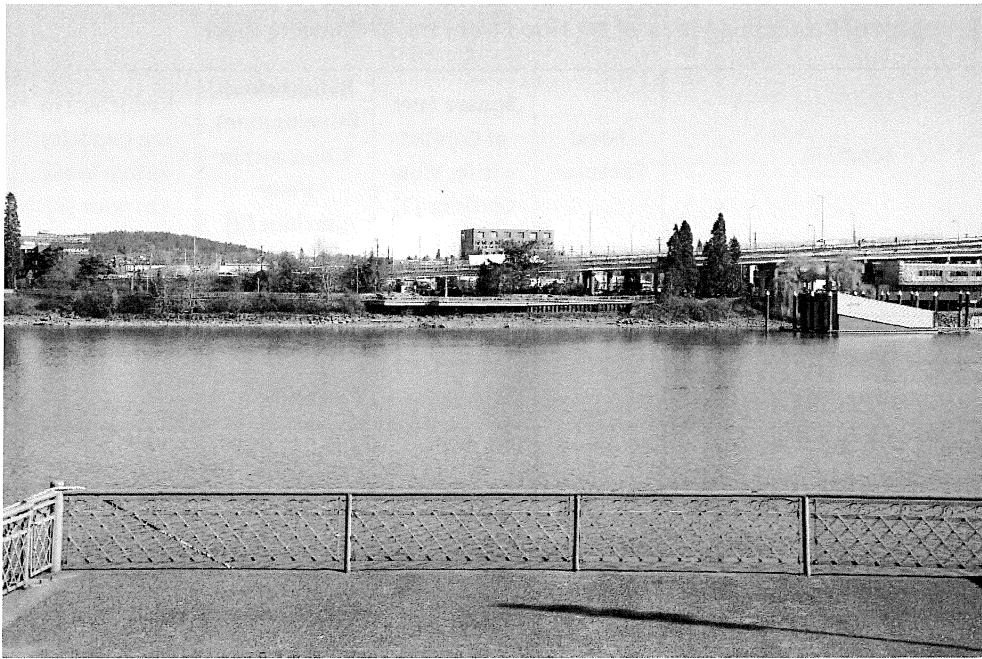
[2] Assumes \$36/sq ft and 1 job/200 sq ft

**The views highlighted in gray were further evaluated*

Three of the viewpoints, with the least economic impacts, warranted additional evaluation due to their location and high frequency of use: Salmon Springs and Tilikum Crossing (2 viewpoints).

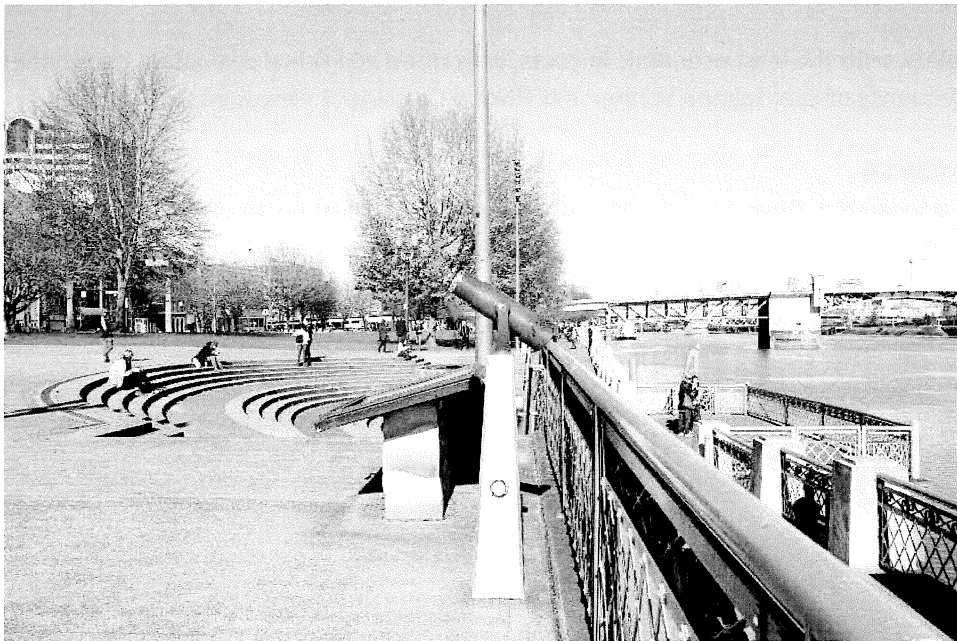
Salmon Springs (SW17)

Salmon Springs is located at Governor Tom McCall Waterfront Park just north of the Hawthorne Bridge. This viewpoint was further evaluated because of the high volume and frequency of use.



Existing View of Mt Hood from viewpoint SW17

Salmon Springs is a regional tourist attraction. The viewpoint is developed with a wide seating area and two telescopes. The Salmon Springs fountain is a popular attraction in the summer. Multiple summer events at the Park result in tens of thousands of tourists visiting Salmon Springs every year. The Portland Spirit has a dock extending from Salmon Springs, which is the main boarding location for tours of the Willamette River. It is also located at the terminus of SW Salmon Street, which is a view street and river access way.



Salmon Spring Viewpoint (SW17)

The recommendation is that although the view of Mt Hood from Salmon Spring is frequently visited and an important part of the park, the economic impacts on the MLK/Grand corridor of protecting the view of Mt Hood outweigh the value of the view. Full development along the SE MLK and SE Grand Blvd, which are the streetcar alignment, is a high priority for the Central Eastside and Portland.

Tilikum Crossing, also known as Bridge of the People, is the newest bridge crossing the Willamette River. The bridge was constructed for the MAX Orange Line light rail passenger trains and also serves city busses and the Portland Streetcar. There are large lanes for pedestrians and bicyclists. Private cars and trucks are not permitted on the bridge, although emergency vehicles can access the bridge if needed. Four viewpoints were constructed on the bridge – one at each of the cable-stayed towers. Both of the south side viewpoints offer panorama views of the Willamette River, Ross Island Bridge, and Ross Island, as well as a view east to Mt Hood. The viewpoints are wide locations where one can move out of the flow of traffic to enjoy the view.

The views from SW46 (south western viewpoint) and SE21 (south eastern viewpoint) to Mt Hood cross the portion of the Central Eastside known as the Southern Triangle. This area developed with industrial uses on sites larger than the typical Central City block pattern. Along the riverfront the

uses are commercial. Current building heights are relatively low, but there is potential for taller buildings with redevelopment. To protect the view, building heights along the riverfront would need to be below 60 ft or a 5 story building. Inland, building heights would need to be below 45 ft (4 stories) to 95 ft (8 stories).

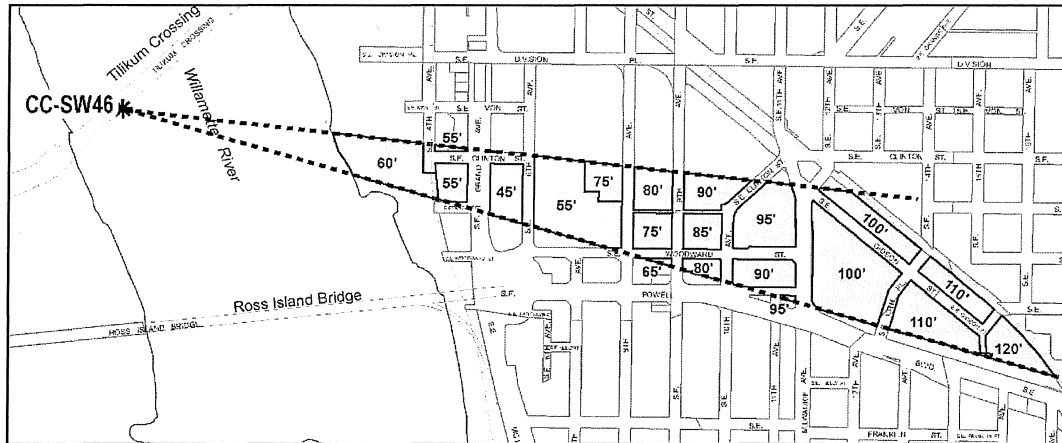


Figure 8: Draft Potential Height Limitations from Viewpoint SW46 to Mt Hood.

The economic impacts of protecting either one of the views is a reduction in potential development value approximately \$8M and roughly 1,100 reduction in job capacity. However, the real impact would likely be much less because the impacted blocks are very large, ranging from 50,000 sq ft to 200,000 sq ft. (For comparison, a typical city block in the Central City is 40,000 sq ft.) Typically, the view corridor occupies between 2% and 50% of any given site. That means that there is sufficient space outside of the view corridors on nearly all of the impacted sites to transfer the height from within the view corridor to outside of the view corridor.

Of the two views, the view from SW46 crosses larger sites providing more potential for transferring floor area ratios outside of the view corridors and thus has less potential economic impacts. In addition, the view from SW46 includes more of the Willamette River in the foreground of the view of Mt Hood. This increases the quality of the view from SW46, making it more scenic than the view from SE21.

The recommendation is to set building heights in the Southern Triangle to protect the view of Mt Hood from SW46, the south western viewpoint located on the Tilikum Crossing. The view from SE21, the south eastern viewpoint, should be maintained as a view of the Willamette River, the Ross Island Bridge, Ross Island, and the Central Eastside skyline, and not as a view of Mt Hood.

Figures 11 and 12 depict how the view may change. The figures show each Buildable Lands Inventory (BLI) site with a potential building envelope that is extruded to the maximum height (shown in yellow). There are two examples shown:

1. The first is based on the existing base heights. Two sites could be built with buildings that would partially block the view of Mt Hood.
2. The second example is based on limiting the base heights to the view corridor elevation. The proposed base building heights would protect the view of Mt Hood.

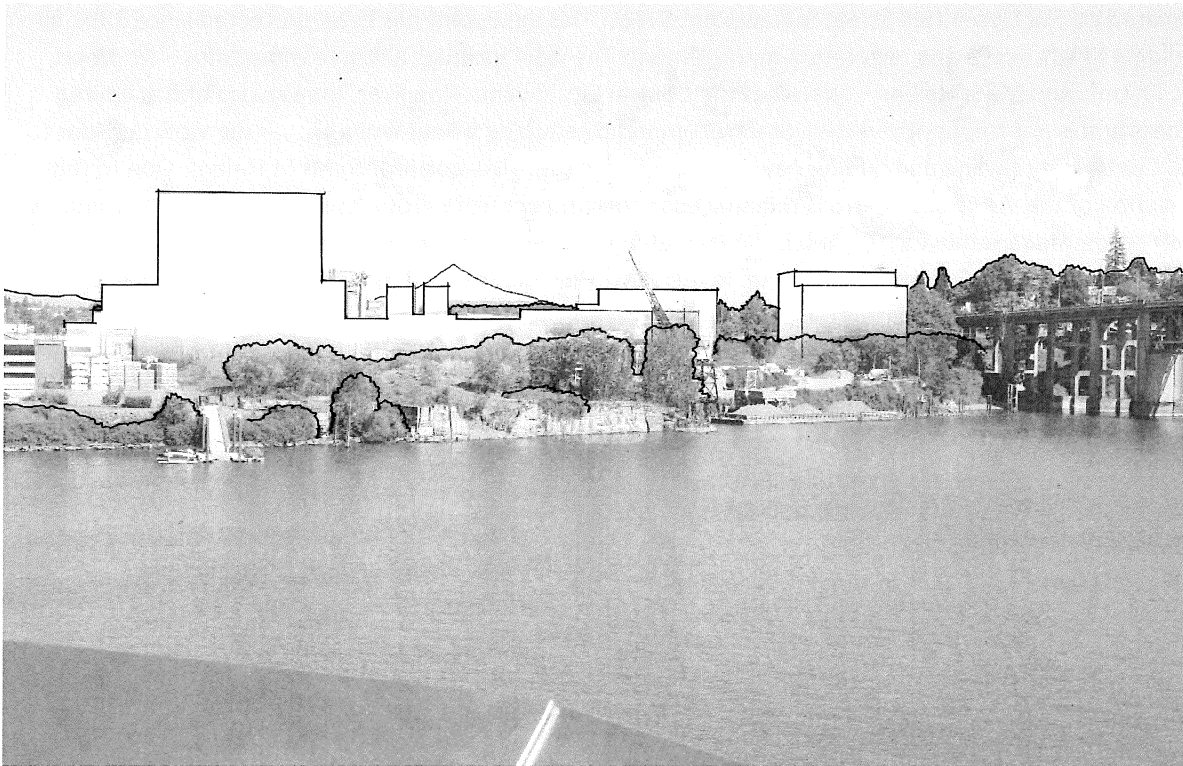


Figure 9: View of Mt Hood from SW46 – Existing Bonus Heights

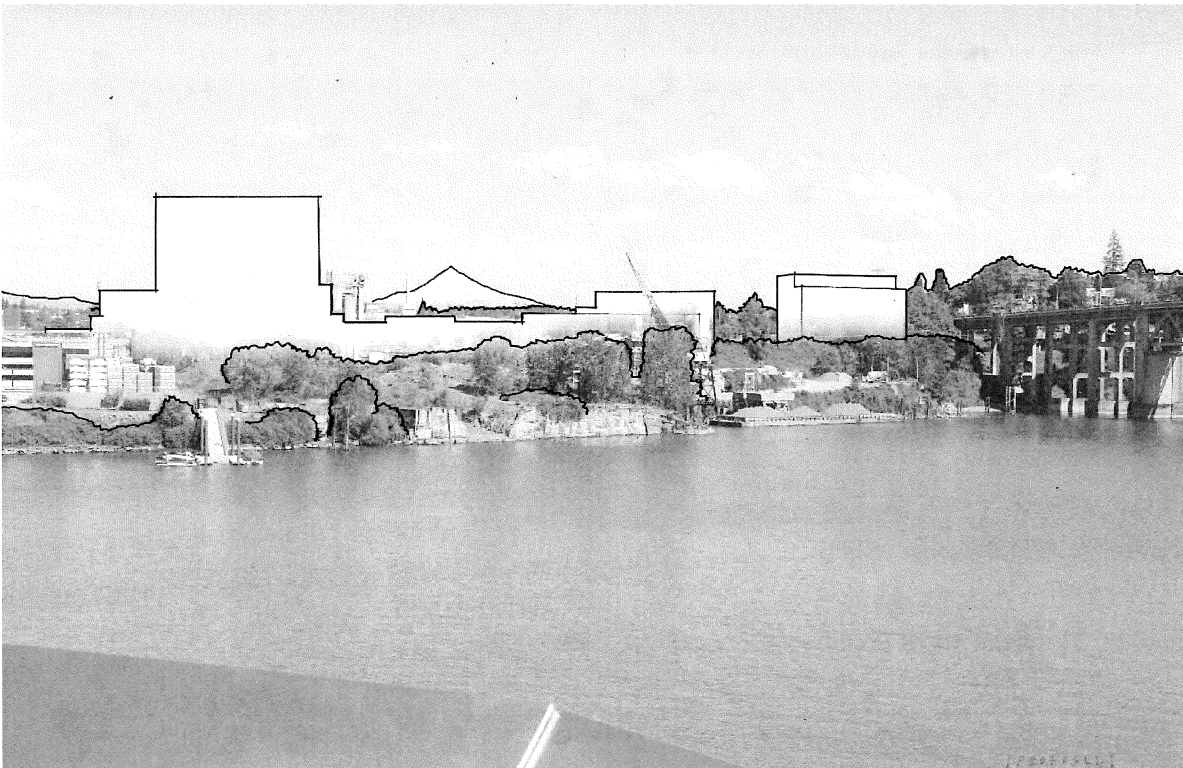


Figure 10: View of Mt Hood from SW46 – Proposed Bonus Heights

Located on SW Upper Hall Street is viewpoint SW24. This viewpoint has been protected since 1991 by building height limits and vegetation management. The view includes all three mountains – Mt Hood, Mt Adams, and Mt St Helens – as well as the Central City skyline. However, the viewpoint has limited access and is not frequently visited. Staff recommend retaining height limits within the view corridor to the Central City skyline and adding new height limits within view corridor to Mt St Helens. Due to the elevation of the viewpoint, there is minimal economic impact from protecting the view of Mt St Helens. Staff recommend removing the height limits within the view corridor to Mt Hood because there are many views of Mt Hood from viewpoints in the West Hills that receive much more frequent use by the general public as a viewpoint. A formal viewpoint should be developed with a bench and marker.



Figure 25: Viewpoint SW24 ESEE Decisions (red = prohibit; yellow = limit)

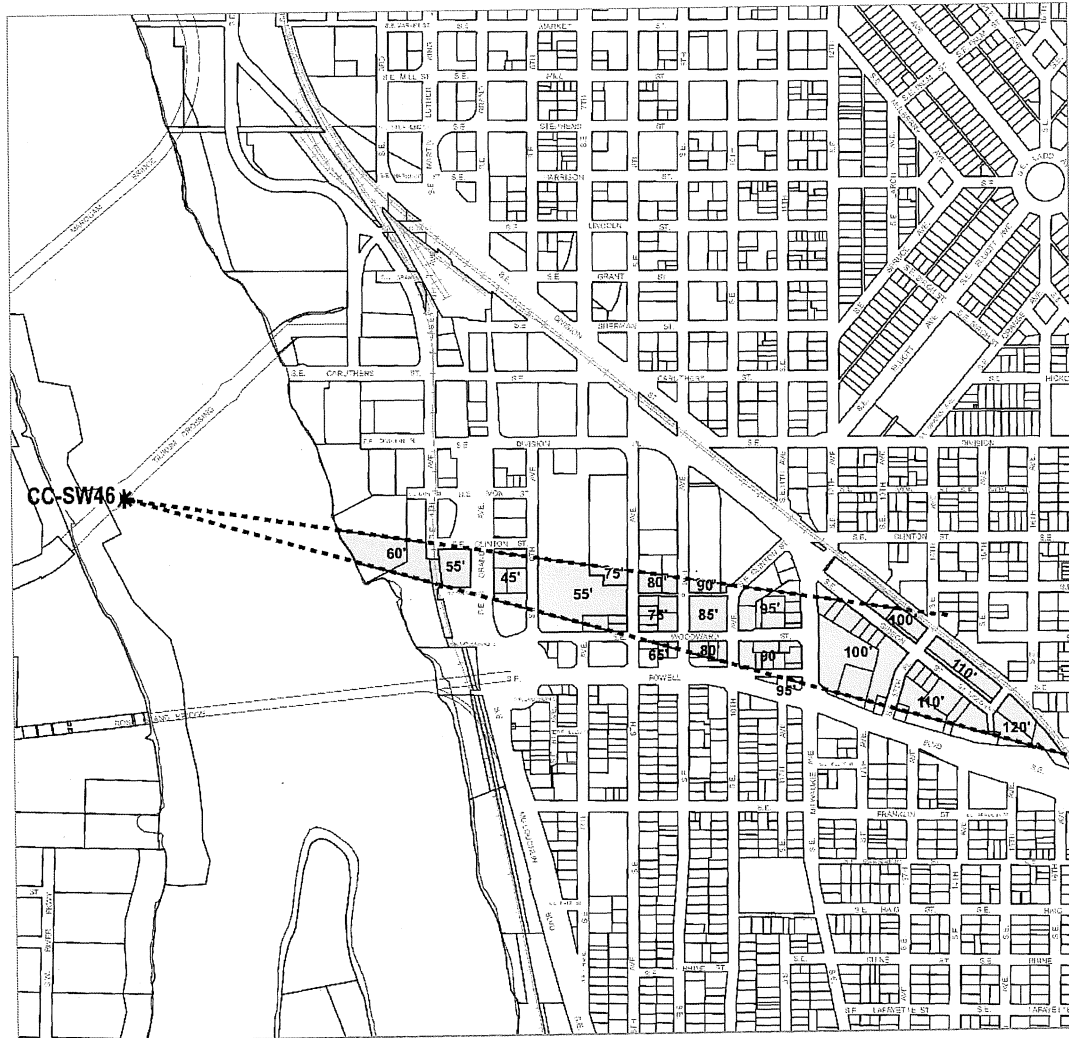
Central City Scenic Resources Protection Plan

View Corridors with Height Restrictions

Map A

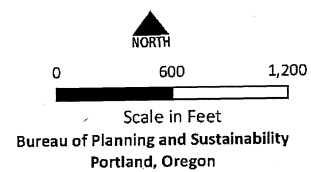
Map 8 of 8

Map Revised Xxxxx X, 201X



Legend

- City Boundary
- * Viewpoint
- 75' View corridors with height restrictions
- View Street



**There are no amendments to the Recommended Draft
Volume 3A, Scenic Resources Protection Plan, Part 2:
Scenic Resources Inventory**

CENTRALCITY

2035

Exhibit G

Volume 3A

SCENIC RESOURCES

PROTECTION PLAN

Part 2: Scenic Resources Inventory

Recommended Draft
June 2017

EXECUTIVE SUMMARY

Portland's Central City has some of the most iconic views in the region. These views have been formally designated and catalogued by the City of Portland over the past 30 years through the development of several plans (e.g., *Scenic Resources Protection Plan* (1991), *Willamette Greenway Plan* (1987)). This Scenic Resources Inventory is the first update to the inventories in these plans. This inventory is being done as part of the broader Central City 2035 project, which update the goals, policies and zoning code for the Central City.

Report Purpose and Uses

The purpose of the *Central City Scenic Resources Inventory* (CCSRI) is to provide useful, current and accessible information on the location and quality of existing public scenic resources in and around Portland's Central City. The CCSRI includes descriptions, evaluations, photographs and maps of public views and viewpoints, scenic corridors, view streets, visual focal points and scenic sites in the Central City.

The CCSRI is intended to inform and support a broad array of City and community activities related to the Central City. Such activities include long-range planning, implementing and updating city programs to protect scenic resources, and identifying priorities for the maintenance and enhancement of scenic resources.

Specifically, the CCSRI will form the basis for an updated Economic, Social, Environmental and Energy Analysis (ESEE), which is required by Oregon State Land Use Goal 5: Open Spaces, Scenic and Historic Areas, and Natural Resources. The ESEE will recommend which of the inventoried scenic resources should be protected and managed.

Inventory Area

The CCSRI is an update of scenic resource information for the Central City only. The following map includes two boundaries:

1. Central City 2035
2. Viewpoint Boundary

The CCSRI includes public scenic views and viewpoints, view streets, scenic corridors, visual focal points and scenic sites within the Central City 2035 boundary. There are also viewpoints located outside of the Central City 2035 boundary that include views of or across the Central City. Those scenic views that could be affected by development or vegetation management within the Central City are also included in the inventory (shown in the Viewpoint Boundary on the above map). Viewpoints located farther away or high enough that development or vegetation management within the Central City would not affect the view are not included in this inventory update and remain protected under the previous plans.

Scenic corridor: A scenic corridor is a linear transportation feature, including but not limited to a road, rail, trail or waterway valued for its aesthetic qualities and accessed by car, bike, train, foot, wheelchair or boat. A scenic corridor includes multiple views, viewpoints, visual focal points or scenic sites that may be interspersed with vegetation, built structures or other obstructing features of the surrounding environment. There may be pullouts or designated viewpoints along the travel way where travelers can safely stop to enjoy a particularly nice view.

1.c Inventory Area

Views, viewpoints, view streets, scenic corridors, visual focal points and scenic sites located within the CC2035 boundary are part of this inventory update.

There are also views from viewpoints located outside of the CC2035 boundary that include views of or across the Central City. Some of these views could be affected by development or vegetation management within the Central City and were, therefore, included.

A view from a viewpoint outside of the Central City was included in this inventory if the zoning and building height regulations within the CC2035 boundary could result in development that would partially block a primary visual feature of the view, such as Mt Hood. This was determined by analyzing the existing and proposed views along with the Central City zoning and building height limitations, including base height and maximum height that could be achieved through bonuses. The elevation of the viewpoint, plus the elevation of the land within the Central City, allowed staff to estimate if future development could partially block a view of a primary visual feature.

It is important to note that a changing skyline does not equal partially blocking the view. For example, from the viewpoint at the top of Rocky Butte one can see the downtown skyline. Development within the Central City will change how that view looks; however, new buildings of any height located in the Central City could not block the view of downtown from Rocky Butte.

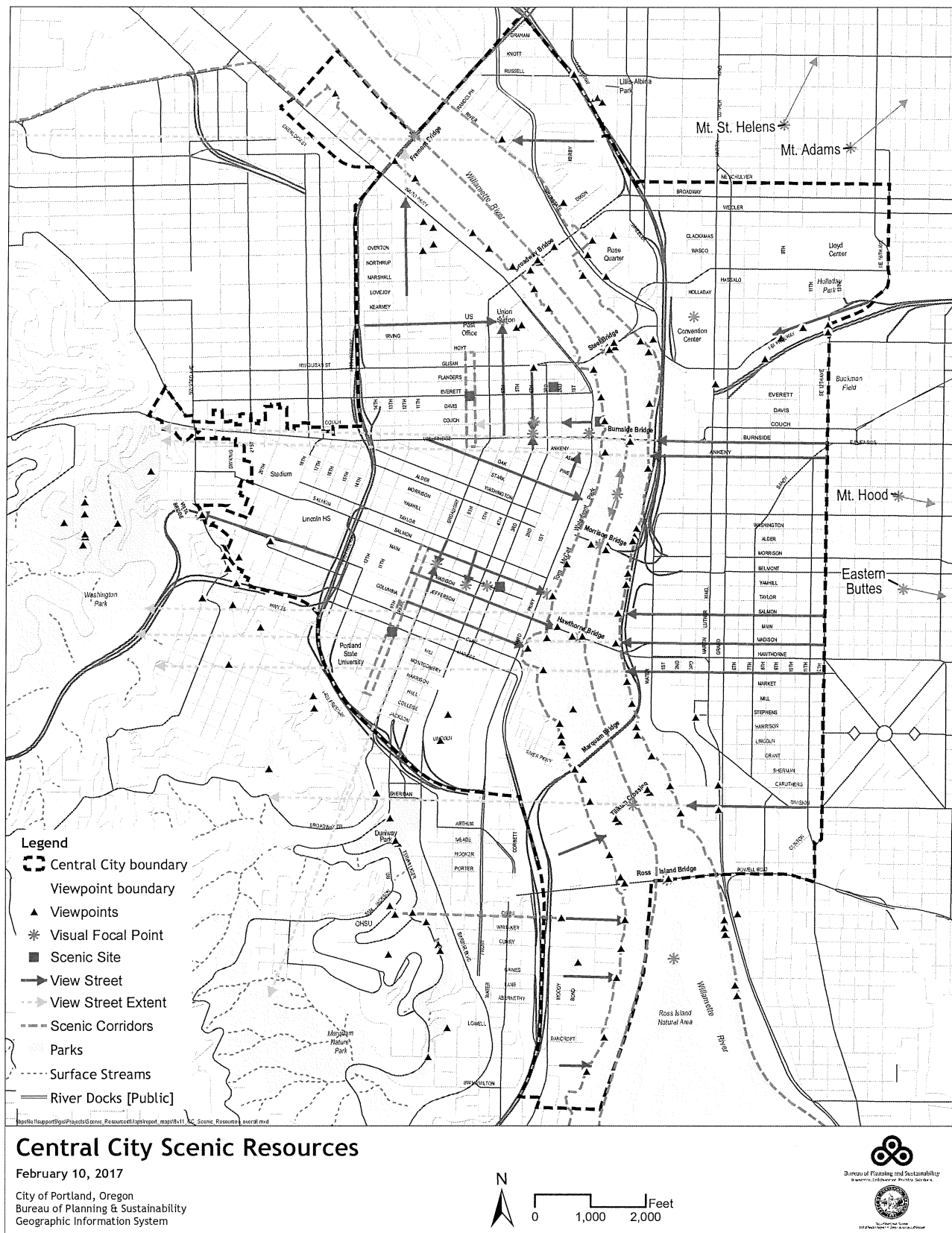
Like development, trees and other vegetation can also block a view. A view was included in this inventory if vegetation located within the CC2035 boundary could grow and partially block a primary visual feature of the view. Staff considered the elevation of the viewpoint and the elevation of the land within the Central City. Using the average height of the tallest native tree (the Douglas fir with an average mature height of 120 to 240 feet (EMSWCD 2013)), staff could estimate if vegetation, at maturity, would partially block the view.

There are views of the Central City from places like Pittock Mansion or Mt Tabor. These views can be affected by vegetation or development near that viewpoint. Without management of the vegetation or, in some cases, management of development, those views of the Central City could be partially or completely blocked. However, those views would not be affected by development or vegetation management within the Central City boundary and, therefore, are not included in this inventory update. Views of the Central City not included in this inventory update are:

- Pittock Mansion
- Rocky Butte
- Mt Tabor
- Sellwood Boulevard
- Skidmore Bluffs (aka, Mocks Crest Property)
- Willamette National Cemetery
- Council Crest Park
- Hoyt Arboretum
- Oregon Zoo
- Washington Park archery range

Map 1 shows the study area for the Scenic Resource Inventory Update for the Central City and the viewpoints, view streets, scenic corridors, scenic sites and visual focal points that were included in this inventory.

MAP 1: CENTRAL CITY SCENIC RESOURCES INVENTORY AREA



1.d Regulatory Context

State Land Use Planning Program

Comprehensive land use planning was mandated by the 1973 Oregon Legislature, primarily in response to population growth pressures on valuable farm and forest lands. Since 1975, cities and counties in Oregon have been required to comply with Statewide Planning goals. Today there are 19 goals that Oregon cities and counties must comply with through adoption and maintenance of local comprehensive plans. Portland adopted its first comprehensive plan in 1980 to satisfy the requirements of the state planning program.

Multiple state planning goals apply to the inventory area; however, only those goals most directly related to scenic resources — Goals 5, 8 and 15 — are addressed in this section. Other goals, including Goal 9: Economic Development and Goal 12: Transportation, are addressed in separate planning documents.

Oregon State Land Use Goal 5, Natural Resources, Scenic and Historic Areas, and Open Spaces, establishes a process in which scenic resources are inventoried and evaluated for significance. If a resource is found to be significant, the local government must evaluate the consequences of three policy choices: protecting the resource, allowing proposed uses that conflict with the resource, or establishing a balance between protecting and allowing uses that conflict with the resource. The local government must then adopt a program based on the results of this evaluation.

The City of Portland has been in compliance with Goal 5 for scenic resources since 1991, with the adoption of the *Scenic Resources Protection Plan*. This inventory is an update for a portion of the scenic resources contained in the *Scenic Resources Protection Plan*, specifically, the scenic resources for the Central City.

Oregon State Land Use Goal 8, Recreational Needs, requires jurisdictions to satisfy the recreational needs of citizens. Local jurisdictions are responsible for creating and maintaining recreational areas, facilities and opportunities to meet the current and future needs. Recreational areas, facilities and opportunities are defined to include scenic landscapes, scenic roads and travel ways as well as passive activities, such as sightseeing. The 1991 *Scenic Resources Protection Plan* provided a framework for protection and enhancement of scenic resources.

Oregon State Land Use Goal 15, Willamette River Greenway, is intended to protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of the land along the Willamette River. Goal 15 requires an inventory of existing conditions including significant scenic areas. The 1988 *Willamette Greenway Plan* identified scenic resources along the Willamette River.

Ranking Methodology

Upland views, in combination with their associated viewpoints, were assigned a rank based on the experts' view evaluation and staff's viewpoint evaluation. Ranking the upland views is a way to organize the data into views/viewpoints that are higher quality, are more diverse and are well used as compared to views/viewpoints that are lower quality with less diversity and not well used.

To assign each upland view a rank, the total scores were divided into three tiers based on natural breaks. The three tiers were identified as follows:

Upland View Ranks

- TIER I (high): 7.6 - 11.2 (n=17)
- TIER II (medium): 4.6 - 7.5 (n=28)
- TIER III (low): 0 - 4.5 (n=21)

River Views

Scoring Methodology

For the river views, the project consultants ran the same statistical analysis of the experts' results for the three overall criteria: universal scenic quality; essence/iconic of Portland; and Portland imageability. Here too the ratings of *universal scenic quality* were the most reliable across all experts. However, the reliability of the results for river views was lower than for upland views. This is because nearly all river views scored relatively high; therefore, the statistical analysis is misleadingly magnifying the small differences between the views. Because of this, the same approach to produce an overall score and rank for upland views could not be used for the river views.

An alternative approach was proposed by the project consultant to identify which river views are of slightly higher scenic value and which are of slightly lower scenic value among all the similar views. A signal detection method was used. The approach assesses each expert's score for each view and rates it against that expert's own average score for all the other views. In other words, did a particular view score higher or lower than the average score for all the river views?

Grouping Methodology

River views that consistently received a higher than average score for universal scenic quality by all experts were assigned to Group A. River views that consistently received a lower than average score for universal scenic quality by all experts were assigned to Group C. The remainder of the views, all of which had mixed ratings and were scored to have approximately average universal scenic quality, were assigned to Group B.

7. Extrapolating Rankings

Some views from specific viewpoints were not sent to the experts for evaluation for the following reasons:

- The viewpoint was not accessible due to construction. This included views from the new Tilikum Crossing and views from along the Greenway Trail in South Waterfront.
- The view from the viewpoint was not documented due to weather or time constraints. Photos of views that were sent to the experts were only taken on completely sunny days and during the leaf-on season. Therefore, some views were not photographed prior to the expert review. (Photo documentation was made during or after the expert review).
- The view from the viewpoint was completely obscured by vegetation. Many existing viewpoints in the southwest hills, particularly along SW Terwilliger Boulevard, have overgrown vegetation that is blocking the view. The view from that viewpoint, taken during the leaf-off season, was added to the inventory after expert review.

In all situations, staff determined that it is important to keep the views/viewpoints in the inventory for future potential protection. When construction is completed, the viewpoints that are being developed as part of the construction will be open to the public. In the case of overgrown vegetation, vegetation management could re-establish the view.

It is not possible to extrapolate scores from the individual criteria from one viewpoint to the next because the results of the experts' scores for most of the detailed scenic composition criteria were unreliable. The project consultant took a different approach to rank or group the views that were not evaluated by the experts.

The consultant looked at the highest and lowest ranked/grouped views for both upland and river views to find common focal points as well as features or characteristics of the views that likely caused the experts to score the view high or low. The project consultants found that the commonalities among high and low scored views for both river and upland are strong enough that they provide a good predictive framework for ranking/grouping additional views.

Commonalities of higher ranked upland views included:

- Great depth of field out to 50 or more miles (20 of 22 highly rated upland views).
- Presence of certain focal features: 20 have skyline, Mt Hood, river and/or bridges prominently featured; bridges and the urban skyline are notable as favored features.
- All but three have natural vegetation in view.
- All are seen from viewpoints at comparatively mid to high elevation.
- Natural, semi-natural or well landscaped areas are in most of the highly rated upland views, often framing the view.
- The foreground is always free of discordance.

Commonalities of higher grouped river views included:

- Depth of field at least to middle ground distances (5 miles).

- Presence of upland terrain features, such as the West Hills or Cascades as a backdrop or a focal feature.
- Presence of one or more strong focal features, such as urban skyline, bridges, Mt Hood, and/or the West Hills.
- Presence of natural or semi-natural vegetation.
- Wide angle or panoramic views.
- Higher elevation viewpoints.

Common characteristics of low-rated views, both upland and river views, were the absence of the above commonalities. Nearly every low ranked/grouped view:

- Lacked depth of field.
- Was from a low vantage point.
- Did not have a clear focal point (or if it had one it was well off to the side).
- Had little or no natural vegetation.
- Had discordant features in the foreground, such as fencing, roads, utility lines, plain looking concrete piers, or construction debris.

When performing the extrapolation, the consultant also referred to the original instructions sent to the experts. The experts were asked to:

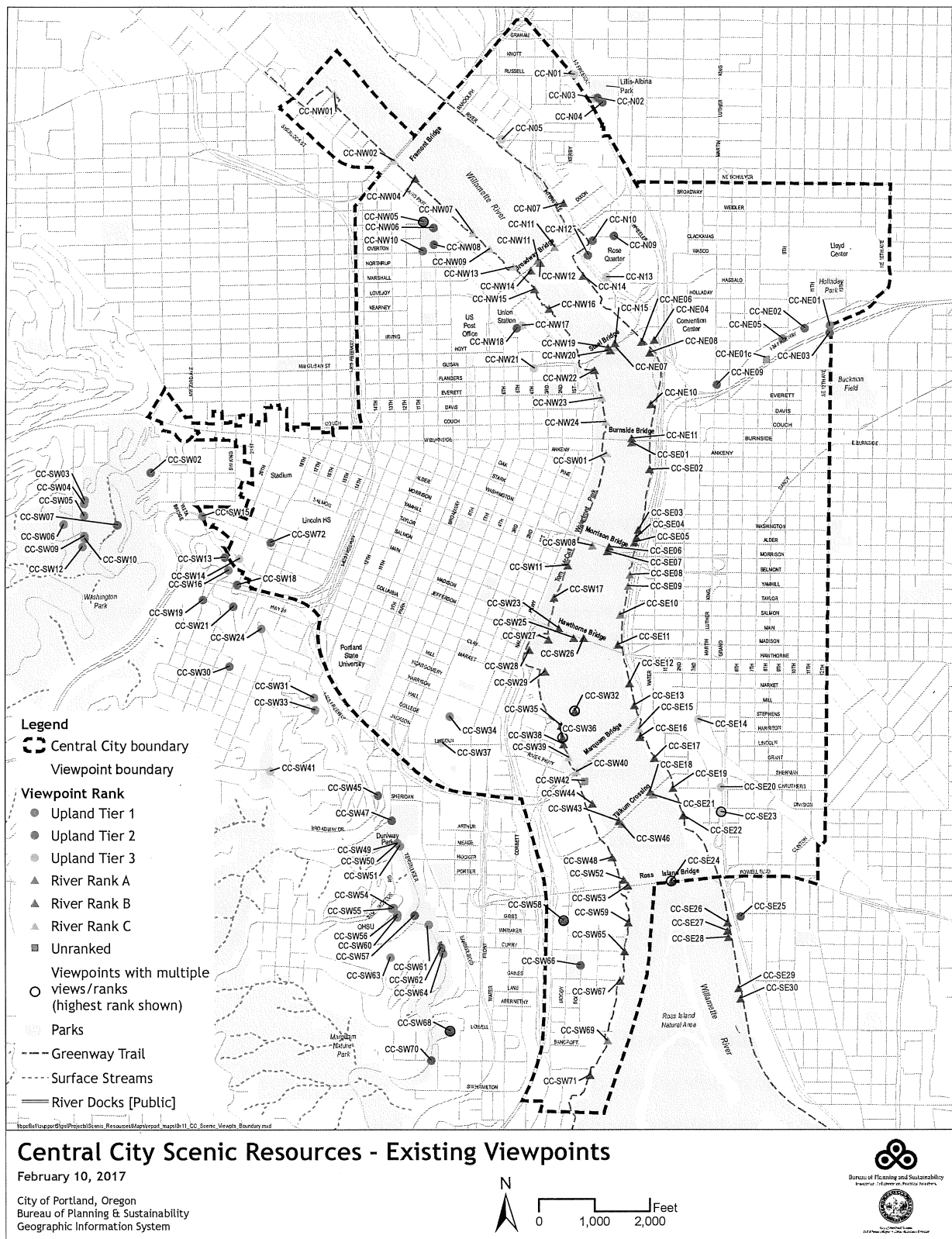
- ‘Complete’ the vertical extent of the images in their mind’s eye when scoring each view.
- Ignore construction fencing in the picture and focus on the elements of the view beyond the fencing.
- Rate the views accounting for the extent to which the average viewer would focus beyond discordant features in the immediate foreground (e.g., overgrown vegetation, roads/rail lines) but might still be aesthetically affected by it.

The project consultant reviewed photos taken near the viewpoints that were not accessible due to construction as well as photos of views taken during or after the experts’ reviews. When the view had many commonalities with the higher ranked/grouped views it was assigned to Tier I for upland or Group A for river views. When the view had very few or no commonalities with the higher ranked/grouped views it was assigned to Tier III for upland or Group C for river views. The remaining views were assigned a default rank of Tier II for upland or Group B for river views.

3.b. Scenic Views and Viewpoints Results

There are 157 views from 148 viewpoints included in the Central City Scenic Resources Inventory (see map 2). For the purpose of this inventory the viewpoints are then further split into quadrants based on the street grids for the city (NW, N, NE, SW, and SE).

MAP 2: SCENIC VIEWS AND VIEWPOINTS



1. Analysis of Results

The project consultants performed analysis of the results for views and viewpoints.

River views, as expected, rated universally higher than upland views. This is consistent with scenic preference research that suggests the presence of water is a strong determinant in scenic quality. Only 12 out of 79 river views had an average rating of 5 or lower. In contrast, 28 out of 57 upland views were rated 5 or lower (note that not all views were assessed by the panel). Total scores for both river and upland were out of 13. This suggests the presence of water alone is a very strong factor in influencing scenic quality rating. This also suggests that all river views are of high scenic quality, including those in Group C.

The project consultant assessed the highest (Tier I/Group A) and lowest (Tier III/Group C) views under both upland and river views to find common features or characteristics of views that may likely have caused the panel members to score views high or low. Views that were scored toward the middle (Tier II/Group B) were not individually assessed; however, most of these views contain some, but not all, characteristics common to the more highly rated views.

Upland Views

Below is a list of common features of highly rated upland views:

- Great depth of field out to 50 or more miles (20 of 22 highly rated upland views)
- Presence of certain focal features: 20 have skyline, Mt Hood, river, and/or bridges prominently featured; bridges and the urban skyline are notable as favored features
- All but three have natural vegetation in view
- All have mid-to-high elevation viewpoints
- Natural, semi-natural, or well landscaped areas are in most of the highly rated upland views, often framing the view
- The foreground is always free of discordance

Upland views that scored low had limited depth of field, lacked focal features, lacked vegetation, were low elevation viewpoints, and had discordant elements in the foreground, such as roads and utility lines.

River Views

Below is a list of common characteristics of highly rated river views:

- Depth of field at least to middle ground distances (5 miles)
- Presence of upland terrain features, such as the West Hills or Cascades as a backdrop or focal feature
- Presence of one or more strong focal features, such as urban skyline, bridges, Mt Hood, and/or the West Hills
- Presence of natural or semi-natural vegetation

- Wide angle, or panoramic views
- Higher elevation viewpoints

Common characteristics of low rated river views were the absence of the above features. Nearly every low rated view lacked depth of field, did not have a clear focal feature (or if it had one it was well off to the side,) and had little or no natural vegetation. In addition, several lower rated river views had discordant features in the foreground, such as fencing, plain looking concrete piers, or construction debris. Lower rated river views also tended to feature the I-5/I-84 interchange as a major focal feature.

Upland views had some similarities and some differences. Since many of the favored views were from high vantage points, they tended to have greater depth of field, often all the way to the Cascade Mountains and volcanic peaks. Natural vegetation was a characteristic of highly rated views for both river and upland, though it appeared to be a more important factor in upland views than in river views. And viewer position was important, with high viewpoints typically outscoring lower ones.

The commonalities among high and low-rated views for both river and upland are strong enough that they provide a good predictive framework for rating additional views that were either not scored by the expert panel, or could emerge later in this process as suggested viewpoints.

2. Line of Sight Analysis

The experts identified primary focal features of the views and in most cases the experts identified the same primary focal features for the same views. In addition, many viewpoints with views of these primary focal features are located near to one another. In order to understand the relationship between views of the primary focal features, staff performed two line of sight analyses.

Staff began the analysis by drawing a line of sight from all of the Tier I upland views to the primary focal features of the view. Staff also included lines of sight from Tier II upland and Group A or B river views of the major mountains – Mt Hood, Mt Adams and Mt St Helens. If the primary focal feature of the view was identified as “downtown skyline” staff drew lines of sight to one or more of the four most prominent buildings – U.S. Bancorp Tower, Wells Fargo Center, Park Avenue West Tower and KOIN Center – as representatives of the downtown skyline.

Next an ArcGIS spatial analysis was performed to understand the relationship of the views to each other. Below are detailed explanations of each ArcGIS analysis. A more detailed explanation of the ArcGIS analysis can be found in Appendix C.

Line of Sight: Intersection Density

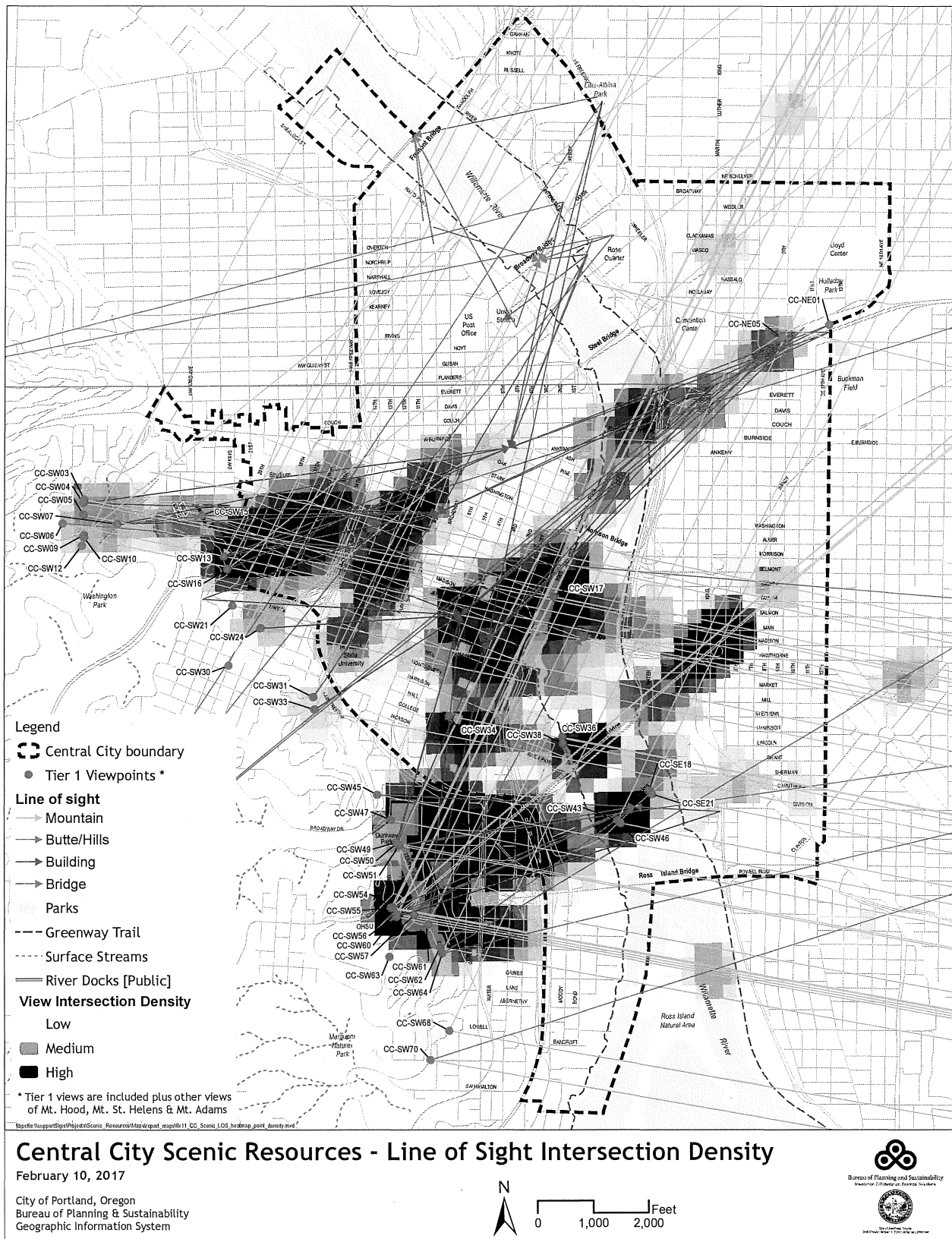
A data layer of points was created where the lines of sight intersect each other and an ArcGIS Spatial Analyst Point Density Tool was used to calculate the density of the intersection points from the lines of

sight. In other words, the number of lines of sight intersect at any given point. The results of the analysis are reported by city block. Map 3 shows is areas where many views that cross each other (black) and where fewer (light gray) or no (white) views cross each other.

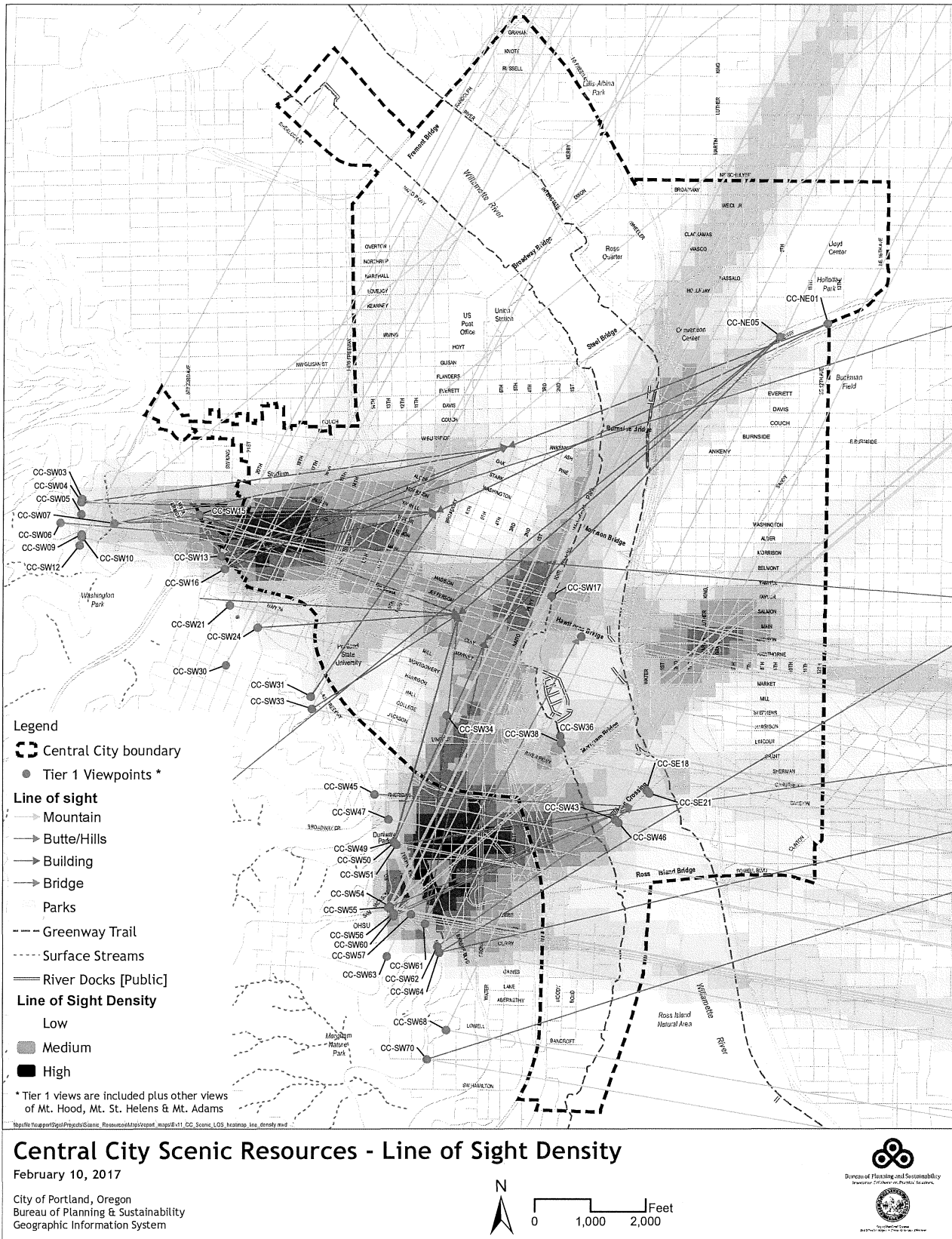
Line of Sight: Line Density

A data layer of lines was created. Like the intersection analysis, an ArcGIS Spatial Analyst Line Density Tool was used to calculate the proximity of lines of sight to each other. The results of the analysis are reported by city block. Map 4 shows is areas where many views are in very close proximity to other views (black) and where fewer (light gray) or no (white) views are in close proximity to each other.

MAP 3: SCENIC VIEWS - LINE OF SIGHT INTERSECTION DENSITY



MAP 4: SCENIC VIEWS - LINE OF SIGHT DENSITY

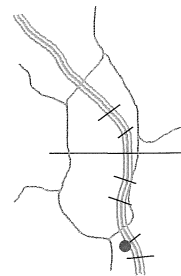


SCENIC RESOURCES INVENTORY | ¹⁸⁹⁰⁰⁰EXTRAPOLATED RIVER VIEW

CCSW46: TILIKUM CROSSING - SOUTH SIDE, WEST

Group: A

Description: This view from the western bump-out on the south side of Tilikum Crossing looks south up the Willamette River toward the Ross Island Bridge, Ross Island, and the South Waterfront. The West Hills, multiple buttes, and Mt Hood are all visible in the distance. Tilikum Crossing is one of the few bridges with separated bicycle and pedestrian lanes as well as pedestrian bump-outs, creating a safe place for viewers to stop and enjoy the view. The bridge is only accessible to bikes, pedestrians, and public transit; automobiles are not allowed. Tilikum Crossing is currently under construction and scheduled to open in September 2015.



Primary Focal Feature(s): Willamette River, Ross Island Bridge, Mt Hood

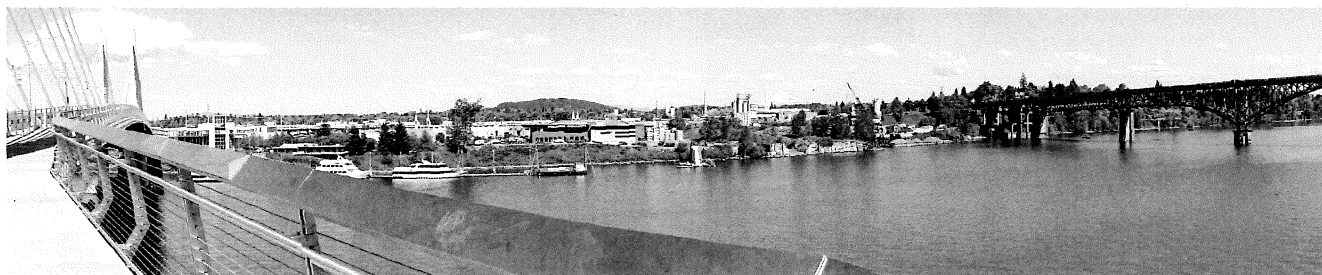
Secondary Focal Feature(s): Ross Island, West Hills, South Waterfront, Mt Tabor, Kelly Butte, Mt Scott, riverbank

RANKINGS:

Universal Scenic Quality:	Extrapolated	Access to Viewpoint:	1
Developed as a Viewpoint:	1	Use as a Viewpoint:	0.5

CONTRIBUTING FACTORS:

Shares many characteristics with high rated river views: 3 distance zones, natural vegetation, focal bridge, view of mountain, high viewer position.



View from Tilikum Crossing, south side, west bump-out

View Direction = **SE**
Horizontal Angle = **180**

South Waterfront Greenway Corridor

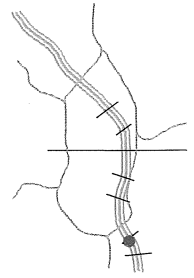


SCENIC RESOURCES INVENTORY | EXTRAPOLATED RIVER VIEW 189000

CCSE21: TILIKUM CROSSING - SOUTH SIDE, EAST

Group: B

Description: This view from the eastern bump-out on the south side of Tilikum Crossing looks south up the Willamette River toward the Ross Island Bridge, Ross Island, and the South Waterfront. The West Hills, multiple buttes, and Mt Hood are all visible in the distance. Tilikum Crossing is one of the few bridges with separated bicycle and pedestrian lanes as well as pedestrian bump-outs, creating a safe place for viewers to stop and enjoy the view. The bridge is only accessible to bikes, pedestrians, and public transit; automobiles are not allowed. Tilikum Crossing is currently under construction and scheduled to open in September 2015.



Primary Focal Feature(s): Willamette River, Ross Island Bridge, Mt Hood

Secondary Focal Feature(s): Ross Island, West Hills, South Waterfront, Mt Tabor, Kelly Butte, Mt Scott, riverbank

RANKINGS:

Universal Scenic Quality:	Extrapolated	Access to Viewpoint:	1
Developed as a Viewpoint:	1	Use as a Viewpoint:	0.5

CONTRIBUTING FACTORS:

Shares characteristics with high rated river views (natural vegetation, focal bridge, focal mountain, superior viewer position) but view is dominated by east/left side which lacks prominent focal features.



View from Tilikum Crossing, south side, east bump-out

189000



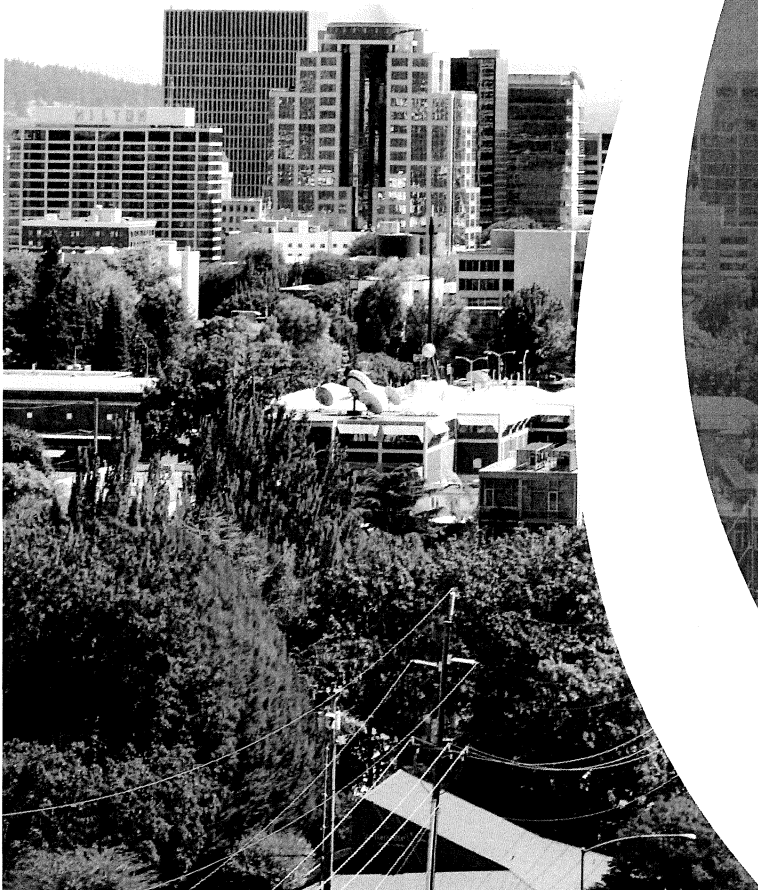
CENTRALCITY 2035

Exhibit H

Volume 3A SCENIC RESOURCES PROTECTION PLAN

Part 3: Economic, Social,
Environmental & Energy Analysis

Recommended Draft
June 2017



Bureau of Planning and Sustainability
Innovation. Collaboration. Practical Solutions.
City of Portland, Oregon
Ted Wheeler, Mayor • Susan Anderson, Director



The purpose of this ESEE analysis is to update and refine previously adopted scenic resources protection plans for the Central City. The ESEE analysis will evaluate the economic, social, environmental, and energy trade-offs associated with different levels of protection for significant scenic resources in, of and across the Central City. The results of the ESEE analysis will inform the CC2035 Plan and updates to the zoning code or other tools to protect and manage scenic resources. The existing scenic resources protection program relies primarily on established scenic overlay zone maps and height regulations, along with supplemental zoning code provisions called "plan districts" that apply to specific areas of the city. The City of Portland also employs other tools to help protect and conserve significant resources identified in scenic resource inventories, such as design guidelines and vegetation management plans. The results of this ESEE analysis will include decisions that provide the basis for an updated program for the Central City Plan District and areas surrounding the Central City.

The Goal 5 rule (OAR 660-015-0000(5)) requires that the ESEE analysis include the following steps:¹

1. Determine the impact area. Local governments shall determine an impact area for each resource site. The impact area shall be drawn to include only the area in which allowed uses could adversely affect the identified significant scenic resources. The impact area defines the geographic limits within which to perform ESEE analysis.

2. Identify conflicting uses. Local governments shall identify conflicting uses that exist, or could occur, within significant scenic resource areas. To identify these uses, local governments shall examine land uses allowed outright or conditionally within the zones applied to the resource site and in its impact area. A "conflicting use" is a land use or other activity reasonably and customarily subject to land use regulations, that could adversely affect a significant resource (except as provided in OAR 660-023-0180(1)(b)).

3. Analyze the ESEE consequences. Local governments shall analyze the ESEE consequences that could result from decisions to allow, limit, or prohibit a conflicting use. The analysis may address each of the identified conflicting uses, or it may address a group of similar conflicting uses. The narratives and tables within this analysis include a thorough explanation of the consequences and describe, to the extent there is existing information, primary, secondary and tertiary impacts for the local and regional community. The final ESEE decision will inform land use actions to address scenic resources. However, the City's comprehensive approach provides the community and City decision makers with a better understanding of the broad implications of the options, and may inform decisions that go beyond the ESEE decision.

4. Develop a program. Based on and supported by the analysis of ESEE consequences, local governments shall determine whether to allow, limit, or prohibit identified conflicting uses that could negatively affect significant scenic resources:

(a) A local government may decide that a significant scenic resource is of such importance compared to the conflicting uses and the ESEE consequences of allowing the conflicting uses are so detrimental to the resource that the conflicting uses should be prohibited.

¹ Although Goal 15, Willamette Greenway, does not require these steps to determine levels of protection for scenic resources the City is not precluded from using the same process to evaluate resources located within the Greenway Boundary.

1.e. Determination of Significance

To comply with the Oregon Statewide Planning Goal 5 rule, local jurisdictions must assess inventoried scenic resources to determine if the resources are “significant” based on location and relative quantity and quality. Resources that have been deemed significant must then be evaluated to determine if and how those resources should be protected by the local jurisdiction.

The determination of significance is made based on the scenic resources type, as follows (Map 2):

Views and Viewpoints Determination of Significance

The views and viewpoints in the inventory were divided into upland views and river views. Upland views may include the Willamette River, but the river is not the dominant feature of the view, whereas, in river views, the Willamette River is *the* dominant feature. A group of experts scored the views based on criteria related to quality and uniqueness. Staff scored the viewpoints based on accessibility, use, and whether or not it was developed as a viewpoint. The scores were combined and each view/viewpoint was assigned a rank: Tier I-III for upland views and Group A-C for river views.

Upland views that possess multiple of the following characteristic are determined to be significant:

- Great depth of field out to 50 or more miles (20 of 22 highly rated upland views).
- Presence of certain focal features: 20 have skyline, Mt Hood, river and/or bridges prominently featured; bridges and the urban skyline are notable as favored features.
- All but three have natural vegetation in view.
- All are seen from viewpoints at comparatively mid to high elevation.
- Natural, semi-natural or well landscaped areas are in most of the highly rated upland views, often framing the view.
- The foreground is always free of discordance.

Significant upland views include those ranked Tier I and Tier II. Tier I views typically possess more of the listed characteristics than Tier II views, but overall these characteristics when taken together create significant upland views in the Central City.

Tier III views are determined to not be significant and are not carried forward in the ESEE Analysis. Tier III views lack commonalities with Tier I and II views. Tier III views generally do not have a clear focal point, have little natural vegetation, lack depth of field, have many discordant features blocking the view and/or are from a low vantage point. There are 15 Tier III views documented in the Central City Scenic Resources Inventory.

River Views: All views where the Willamette River is the dominant focal feature received a relatively high score by the experts. This is consistent with other studies of scenic resources – views that include a dominant natural water feature are typically preferred over views without a dominant natural water feature. Therefore, all river views, Group A-C, are determined to be significant.

View Streets Determination of Significance

The criteria for inclusion of a street in the scenic resources inventory as a *view street* resulted in many previously identified view streets in the Central City being retired. The remaining view streets all end in a unique and prominent focal terminus that can clearly be seen at a distance of two block from the center of the street/crosswalk or sidewalk. All view streets are determined to be significant.

Chapter 2 – Conflicting Use Analysis

2.a. Introduction

The initial step of the ESEE analysis is for local governments to identify conflicting land uses that are allowed within resource and impact areas. According to the Goal 5 administrative rule: *a conflicting use* is one that, if allowed, could negatively impact a significant resource. Conflicting uses are identified for the resource and within the impact area of the resource. This section identifies the impact area and conflicting uses.

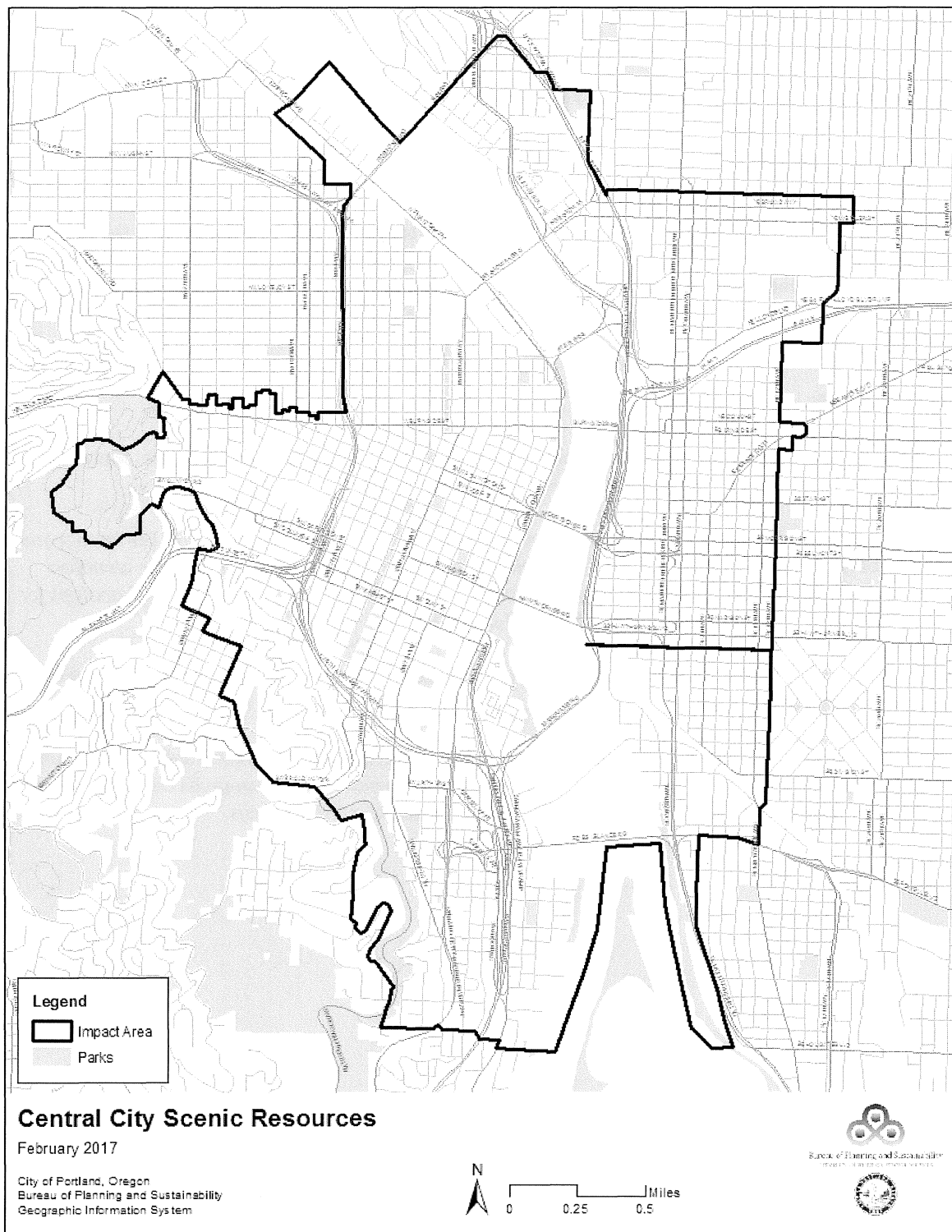
Impact Area

An impact area is the area surrounding scenic resources that may impact the quality, value, function or extent of those resources. Per the Goal 5 rule:

Local governments shall determine an impact area for each significant resource site. The impact area shall be drawn to include only the area in which allowed uses could adversely affect the identified resource. The impact area defines the geographic limits within which to conduct an ESEE analysis for the identified significant resource [OAR 660-23-040 (3)].

For the purposes of the Central City, the impact area includes all lands located within the geographic scope of this analysis (Map 3).

The Goal 5 rule requires that the impact areas be considered along with the inventoried resources when conducting the ESEE analysis. Impact areas are considered extensions of the resources themselves and are therefore not addressed separately in the analysis of potential consequences.



Map 3: Impact Area

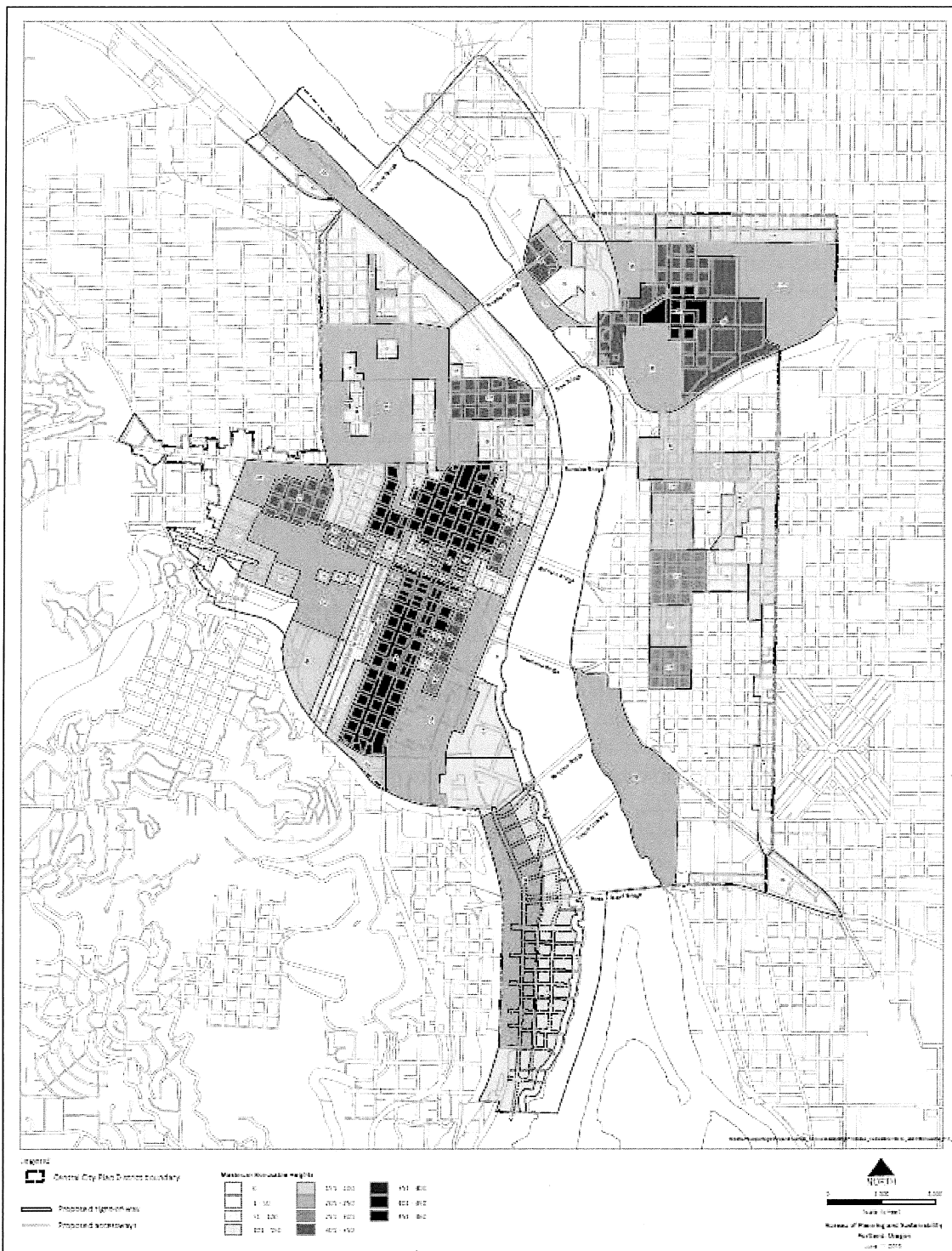
2b. Conflicting Use Analysis

To identify potential conflicts, the Goal 5 rule directs local governments to examine the uses allowed, outright or conditionally, within broad zoning categories (e.g., industrial, open space). For scenic resources it is not the general type of use, such as commercial, residential or open space, that conflicts with the resources. Rather it is the height, mass, extent and location of structures and vegetation that can conflict with the resource. The general conflicting uses are described below as they relate to scenic resources. All of these conflicting uses are allowed to some extent in every base zone within the impact area. Chapter 5 provides a detailed description of the specific conflicting uses associated with each scenic resource.

Building Height and Mass

Allowed buildable height limits (hereafter called “base heights”) and floor-to-area (FAR) were established through previous planning efforts and are set in zoning code maps 510-2 and 510-3 (Map 4a-4c includes the existing base heights). These base heights and FAR cover most of the Central City. However, some areas do not have a base height set and rely on the base zone. In order to understand how heights may conflict with views, assumptions were made and heights assigned in the following geographies:

1. Central Eastside: The portions of the Central Eastside zoned IG1 do not have base heights. The type of development in the district on IG1 sites is not the same as industrial development in the rest of Portland. The sites are smaller and the industrial uses allow for buildings to have more than one story. For this analysis, it is assumed that the typical industrial building in the Central Eastside will not exceed 90 feet. This is based on 4:1 FAR and 80% lot coverage. The following are exceptions to that assumption:
 - a. In the geography known as the *Southern Triangle* there are larger “super” blocks and it would be possible to reconfigure these sites to have tall towers on portions of the site. The Southern Triangle is bound by the railroad to the north and east, SE Powell Boulevard to the south and the Willamette River to the west. A base height of 200 feet is applied to the Southern Triangle. A custom typology is also used (see Appendix A).
 - b. There are three blocks bound by SE Taylor Street to the north, SE Madison Street to the south, SE Water Avenue to the east, and the Willamette River Greenway to the west, which are owned by the Portland Development Commission and are referred to as the *ODOT Blocks* (because portions of the blocks are in the Interstate 5 right-of-way and managed by OR Department of Transportation). These blocks are larger than the typical blocks in the Central Eastside and may have taller buildings. A base height of 175 feet is applied to the ODOT Blocks. A custom typology is also used (see Appendix A).
2. Lower Albina: Most of Lower Albina is zoned for industrial uses and does not have base heights, except where there are previously protected view corridors. Staff chose to use the tallest industrial structures in the subdistrict, the grain elevators, to set a base height of 150 feet across the district.
3. Open Space: Land zoned open space cannot be developed with tall buildings. Although some structures could be built, the modeling assumes a base height limit of zero feet for OS zoned land in the Central City.



Map 4: Base Heights (2015)

Depending on the location of buildings in relation to the viewpoint and focal features of a scenic resource, in terms of both distance between the building and the viewpoint or focal features as well as the difference in elevation, building height and mass can have the following negative impacts on the resource:

1. Blocking or partially blocking the focal feature(s). A scenic resource can be eliminated if a building, due to height or mass, completely blocks the focal feature(s) as seen from a designated viewpoint or vantage (e.g., intersection of a view street). Partially blocking the focal feature(s) can reduce the quality, value or extent of the scenic resource. Below are images that show how building height and mass can conflict with a scenic resource.



Example: Building blocking resource



Example: Building partially blocking resource

2. Substantially reduce the air space around the focal feature(s). When the air space around a focal feature is significantly reduced or eliminated, the focal feature becomes less prominent and the quality and extent of the scenic resource is diminished. Below are images that show how air space relates to the quality of a scenic resource.



Example: Scenic resource with air space



Example: Scenic resource without air space

3. Design of a building may substantially detract from the scenic resource. A building could impact a scenic resource if the building design detracts from or overpowers the scenic resource. In contrast, a building could be designed to contribute to the scenic quality of a view, adding interest and intrigue to the city skyline without detracting from a focal feature of the view. Below are examples.

Buildings, once constructed, tend to remain for decades and are often considered permanent. Therefore, once a building blocks or partially blocks a scenic resource, the scenic resource is gone and unlikely to be re-established.

Rooftop Structures

Large buildings in the Central City may have different types of rooftop structures that can conflict with scenic resources. Housing for mechanical equipment or elevators, cell towers, solar panels or architectural features are just some examples of structures that are frequently located on top of buildings and can partially block scenic resources. The existing regulations in the Central City allow projections above building height limits.

Some rooftop structures, like housing for mechanical equipment or elevators, are typically as permanent as the building itself and unlikely to be removed until the building is redeveloped. Other rooftop structures, such as cell towers, may be less permanent and could be removed, replaced or relocated to be less obstructive to the scenic resource.



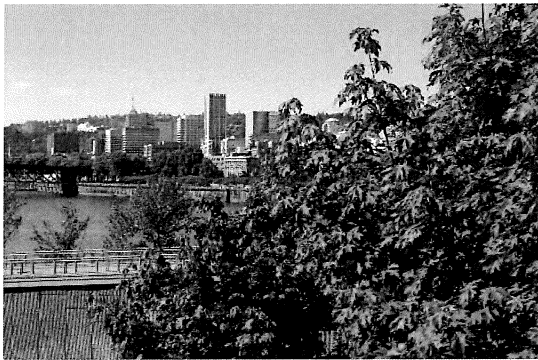
Example: Rooftop projection impeding the view of a scenic resource

Vegetation

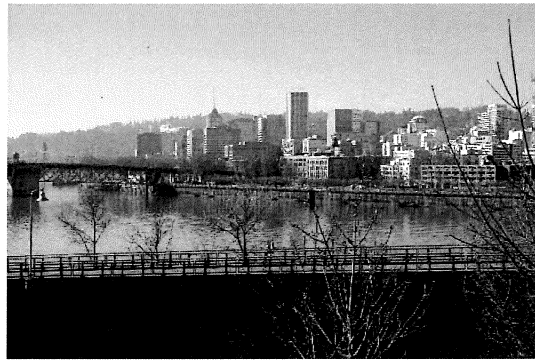
In most situations vegetation itself is part of the scenic resource. Vegetation creates a foreground, background or can frame focal features. Views that include natural vegetation are generally valued more than views without natural vegetation. Vegetation can also be used to create mystery and surprise by strategically revealing views of particular focal features. Clearing of vegetation that is itself a focal feature or is contributing feature of the scenic resource would reduce the quality and extent of the scenic resource. Conversely, vegetation can also become a conflicting use. Trees or shrubs, when located in front of a focal feature, can grow to block or partially block the focal feature.

Whether or not vegetation is a conflicting use depends greatly on the topography of the land surrounding the viewpoint or vantage and the species of tree. For example, a tall deciduous tree may block a view during the leaf-on (summer) season; however, the view may open up during leaf-off (winter) season. Conversely, once an evergreen tree grows tall or wide enough to block a view, that view will remain blocked year round.

The images below show the same view during leaf-on and leaf-off season.



Example: Leaf-on



Example: Leaf-off

Increasingly ecoroofs are being utilized to manage stormwater, reduce building heating and cooling costs, and reduce heat island impacts of reflective surfaces. Typically ecoroofs are planted with groundcover vegetation like sedums. However, some ecoroofs incorporate larger structure vegetation and trees. Depending on the location and height of the building in relation to the viewpoint or vantage point, ecoroof vegetation could conflict with the scenic resource.

Above-ground Utilities

Above-ground utilities, such as power lines, stop lights and street car wires, conflict with a scenic resource when they partially block or distract from a view of the focal feature(s). The images below shows how utilities can reduce the quality or extent of an otherwise high quality scenic resource. In some situations utilities can be relocated to reduce conflicts with the scenic resource.



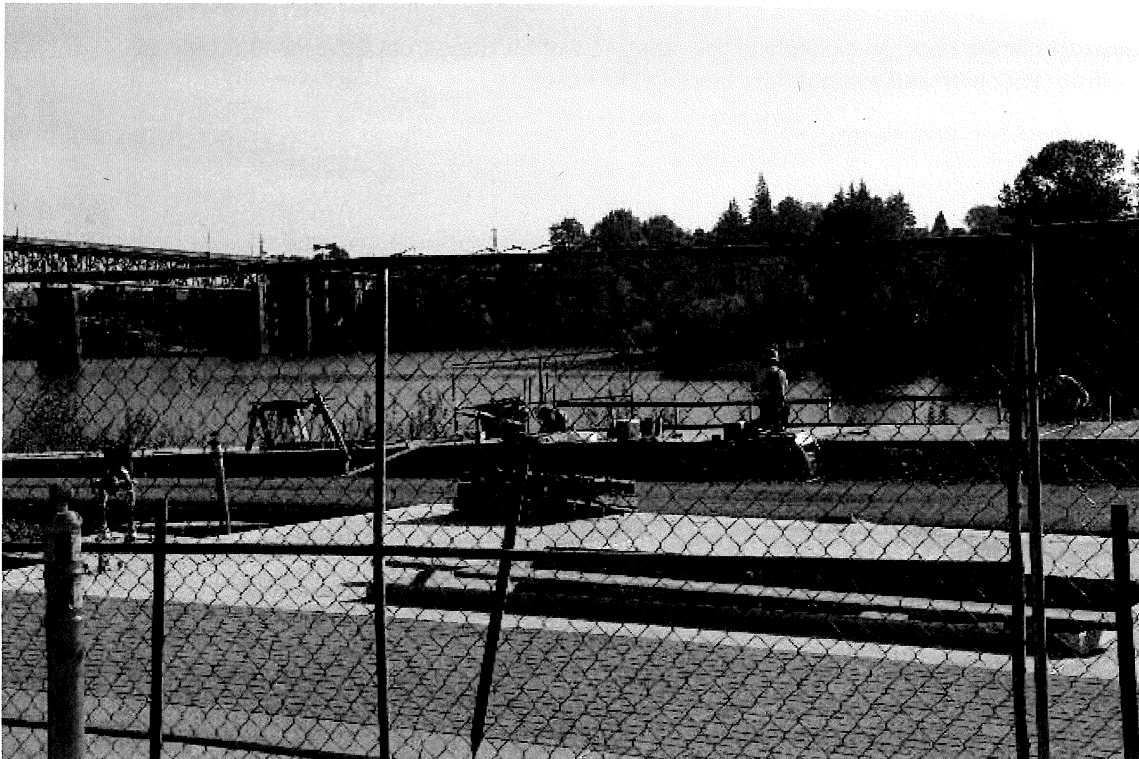
Example: Discordant wires and stop lights

Sky Bridges

In an urban area sky bridges are sometimes used to facilitate above-ground pedestrian movement between buildings. Sky bridges can block or partially block a focal feature or detract from the scenic quality of a view.

Construction Activities

Many practices associated with construction can affect the quality or extent of a scenic resource. Some construction activities can completely or partially block focal features of a view on a temporary basis. For example, construction fencing may visually interfere with a view or the presence of large cranes, which are used in construction of buildings in the Central City, can detract from the scenic quality of a view.



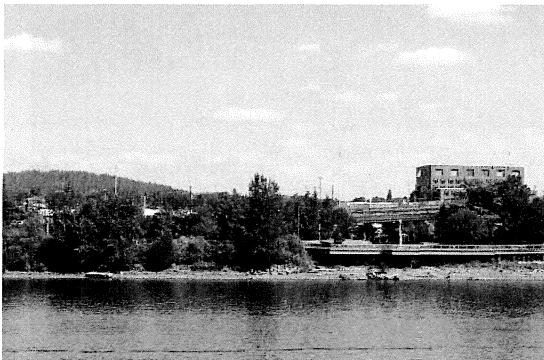
Example: Greenway Trail construction fencing

Other construction activities may not physically block or visually detract from a scenic resource but may still negatively impact the resource. For example, the noise and vibration resulting from construction can create an unpleasant environment that detracts from the scenic resource.

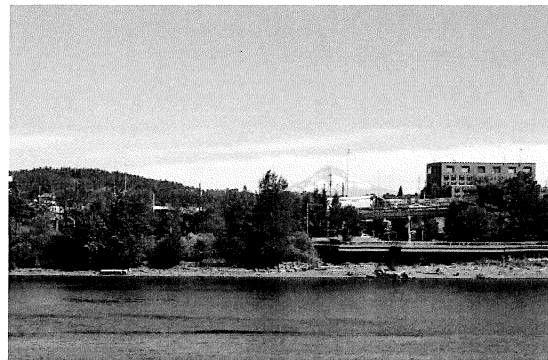
Air Pollution

In summers in Portland air pollution from urban uses creates a haze that can block views of focal features, particularly views of the surrounding mountains. Air pollution can also arise from a single point source, such as a smokestack. This type of air pollution can interfere with a view by blocking a focal feature or simply detracting from the scenic quality of the view. In addition, if the source of the air pollution is located near the viewpoint, it may detract from the viewing experience if it becomes uncomfortable to breathe in that location or if there is an accompanying unpleasant odor.

The pictures below show an example of the same view of Mt Hood from Governor Tom McCall Waterfront Park with and without haze blocking the view.



Example: Haze



Example: Clear

Aircrafts

The presence of an air travel path across a view can impact the quality of the view. For example, in certain views of Mt St Helens, one can see planes take-off or land at Portland International Airport. This can add interest to the view if there is sufficient distance between the viewpoint and focal feature such that the plane does not outcompete the focal feature. The aircraft flight pattern also does not diminish the view greatly if the frequency of the aircrafts crossing the view doesn't cause a constant disruption.

In other situations, aircraft can diminish the quality of the view or detract from the focal feature(s) due to the proximity or frequency of aircraft flow across the view. This may become a concern as drones become more common. If a designated drone flightpath is located in the Central City between a viewpoint and a focal feature, a steady flow of drones could disrupt the continuity of the view and detract from the scenic quality.

Fencing

There are a wide variety of reasons that fencing is used in the Central City. A construction site may be fenced off to keep trespassers out, the sidewalk along an overpass may have a fenced railing, or a bridge might have security fencing for safety. Fences can conflict with the scenic resource by obscuring the view or detracting from the focal features.



Example: Security fencing on the Vista Bridge

Other impacts: noise, odors, litter, etc.

Human activities that create noise, unpleasant smells and litter can reduce the quality of a scenic resource. While these activities are not necessarily associated with any particular use, deliberate management may be necessary to reduce the conflicts between noise, odor or litter and the scenic resource.



Example: Garbage/recycling cans adjacent to a developed viewpoint

Chapter 3 – ESEE Analysis

3.a. Introduction

The ESEE analysis is intended to evaluate the potential economic, social, environmental and energy consequences of allowing, limiting, or prohibiting conflicting uses in areas containing significant scenic resources. Significant scenic resources are identified and mapped in the *Central City Scenic Resources Inventory* (2016). The *conflicting uses* are identified in Chapter 2 of this ESEE. Conflicting uses are the uses that if allowed could negatively impact a significant resource.

Chapter 3 explores the consequences on both the conflicting use and the scenic resources of protecting the resources or not. These consequences are described as the qualitative, quantitative and relative costs, benefits, and impacts of the three program choices – allow, limit or prohibit the conflicting use. For example, a view of Mt Hood from Washington Park has positive economic impacts including bringing tourism to the city but if protecting that view requires buildings in downtown to be limited then there is a negative impact on development and employment.

Chapter 3 includes the following topics. There is overlap between each topic. For example, there are economic and social consequences of protecting a scenic resource as it relates to employment.

3.c. Economic Analysis. This section examines the economic consequences of allowing, limiting or prohibiting conflicting uses for the Central City scenic resources. The economic consequences addressed are: economic development in the Central City, employment, property values and rents, tourism, economic value of trees, wayfinding and scarcity.

3.d. Social Analysis. This section examines the social consequences of allowing, limiting or prohibiting conflicting uses in the Central City. The social consequences addressed are: employment, density of development, crime and safety, public health, Portland's imageability, historic and cultural importance, neighborhood identity, sense of place, wayfinding and recreation.

3.e. Environmental Analysis. This section examines the environmental consequences of allowing, limiting or prohibiting conflicting uses in the Central City. The social consequences addressed are: efficiencies due to location, heat island, air quality, water quality, fish and wildlife habitat, climate change and vegetation.

3.f. Energy Analysis. This section examines the energy consequences of allowing, limiting or prohibiting conflicting uses in the Central City. The social consequences addressed are: efficiency due to location, construction and building materials, on-site energy consumption and heating and cooling.

This chapter does not include a recommendation based on each of the topic areas – economic, social, environmental or energy. There are positive and negative consequences of any choice to protect a scenic resource. Chapter 4 uses this analysis to produce a general recommendation for each type of scenic resource. The recommendations attempt to balance the positive and negative consequences across the whole Central City.

3.b. Definitions

The terms allow, limit and prohibit are terms defined by Oregon Statewide Planning Goal 5.

Allow a conflicting use – “a local government may decide that a conflicting use should be allowed fully, notwithstanding the possible impacts on the [inventory] site.” The Goal 5 rule also requires that the ESEE analysis “demonstrate that the conflicting uses is of sufficient importance relative to the [inventory] site, and must indicate why measures to protect the resource to some extent should not be provided.” [660-23-040(5)(a)]

Limit a conflicting use – “a local government may decide that both the [inventory] site and the conflicting uses are important compared to each other and, based on the ESEE analysis, the conflicting use should be allowed in a limited way that protects the [inventory] site to a desired extent.” [660-23-040(5)(b)]. A program to limit conflicting uses can be designed to allow some level of development or other conflicting use with certain restrictions to protect the scenic resources. The levels of limitation on conflicting uses can vary by resource and by conflicting use.

Prohibit conflicting uses – A decision to prohibit conflicting uses would provide significant scenic resources the highest level of protection. Per Goal 5, “a local government may decide that a significant [inventory] site is of such importance compared to the conflicting uses, and the ESEE consequences of allowing the conflicting uses are so detrimental to the resource, that the conflicting uses should be prohibited.” [660-23-040(5)(c)] Some development may be allowed with a prohibit decision if all economic use of a property would be prevented through full protection.

3.c. Economic Analysis

This section examines the economic consequences of allowing, limiting or prohibiting conflicting uses for the Central City scenic resources. The economic consequences are expressed as the qualitative, quantitative and relative costs, benefits, and impacts of the three program choices – allow, limit or prohibit the conflicting use. This portion of the ESEE analysis relies on current information.

3.c.1. Economic Consequence for the Conflicting Uses

This subsection outlines the potential economic impacts on conflicting uses of protecting scenic resources. The economic factors considered in this analysis include the positive or negative impacts on economic development, employment, economic competitiveness of the Central City, property values and rents, tourism, and the economic value of trees. The next subsection will outline the potential economic impacts on the scenic resources.

Economic Development in the Central City

The Central City is the economic center of Portland and a hub for the regional economy. The Central City is home to professional service industries that support the entire Metro region, as well as a growing number of colleges and universities. The Central City has maintained a manufacturing base and hosts a number of emerging business sectors that diversify the economy, support regional prosperity and increase Portland's exposure on the global stage. To keep the Central City the economic center of the region, there is a need to support the growth of office based industries, entrepreneurship and business innovation, small and start-up firms, educational institutions and industrial and employment districts.

The *Economic Opportunity Analysis* (June 2016) provides information about the recent history and trends of economic development and employment in the Central City. In 2013, there were 393,742 jobs in Portland, the equivalent of 38% of the 1.02 million employment base of the Portland-Metro Service Area. In 2010, Central City commercial areas (not including Central Eastside or Lower Albina districts) accounted for 28% of the city's employment base. In addition, the Central City has supported 28 newly constructed four-plus story buildings over the past 20 years and the renovation of an additional 43 buildings.

During the 2000-2008 time period, the Central City had a relatively slow overall job growth rate (0.3%). Employment declined somewhat in the Downtown and South Waterfront Districts while increasing in the River and Lloyd Districts in this time period. In industrial areas, employment declined outside of the Central City in the Harbor and Airport Districts but increased within the Central City in the Central Eastside and Lower Albina Districts. Industrial employment overall helped buffer the effects of the recession here in Portland and maintained middle-wage jobs.

In recent years, Central City office space has experienced a resurgence of leasing activity. Some tenants have been drawn back in from the suburbs by the vitality and transit accessibility of the urban core as well as attracting companies from across the United States. Portland is attracting a variety of office-based and professional services, which has led the Central City to be one of the most competitive office markets in the country.¹ The Central City has benefited from the synergy of providing options for housing and work in close proximity.

¹ http://www.oregonlive.com/business/index.ssf/2014/04/portland_maintains_nations_low.html

The trends of office-related jobs in the Central City between 2000 and 2008 are noted as follows:

- Within Portland's Central Business District (CBD), which includes South Waterfront, service sector employment increased by more than 1,700 jobs, with another 635 jobs in education and health services. These gains were not adequate to offset a net CBD job loss of nearly 3,100 jobs during this time period.
- The River District experienced a net gain of more than 2,500 jobs from 2000-2008, with office-related job gains concentrated in services (+1,500), information and design (+825), and education and health (+590) – offset in part by net loss of industrial employment with legacy manufacturing and transportation, warehousing and wholesale firms. Strong growth of non-office employment (+2,000) is also noted for Pearl District activity in retail, arts and accommodations (including dining).
- The Lloyd District also realized a substantial reported net job gain (up by more than 2,000). This was led by gains in office-related service sector jobs (+2,700), partially offset by some loss of industrial job base.
- Goose Hollow reported nominal employment growth in construction sector with job losses in nearly every other industry sector, for a total employment decrease of 1,100 jobs.

Central City's districts differ not only in terms of recent employment gain or loss, but also with regard to the mix (or distribution) of employment:

- Approximately 46% of CBD employment is comprised of service businesses (ranging from professional to financial services), with 17-18% each in sectors of information and design and retail, arts and accommodations and 12% in the public sector. Together, these functions account for 92% of CBD employment.
- River District employment is relatively diverse, with retail, arts and accommodations accounting for 27% of employment, followed by services (at 21%), then information and design (16%), and with a still significant (15%) portion in transportation, warehousing and wholesaling activity.
- Services and retail (including arts and entertainment) account for about 70% of the Lloyd District employment.
- Central City incubator districts have an increasingly diverse mix of employment activity. Industrial accounts for 44% of Central Eastside employment, with strong added components of retail and service activities (at 17% each). In Lower Albina, industrial use accounts for a lesser 33% of district employment; education and health accounts for nearly half (at 46%).
- Retail represents the largest employment sector (at 30-44% of job base) for Goose Hollow.

Multnomah County's long-term linear job growth pattern predicts 184,000 new jobs countywide will be added between 2010 and 2035. The projections for 2035 include 45,000 additional jobs in the Central City, one third of the total jobs projected for the City of Portland.² The categories of employment in the Central City are very diverse and include industries including: software and technology; professional services such as design and architecture, finance, insurance, food services, education and medical; warehousing and distribution; and manufacturing. (See Figure 1.)

² <https://www.portlandoregon.gov/bps/59297>

Central City Job Growth by Building Type 2010 - 2035

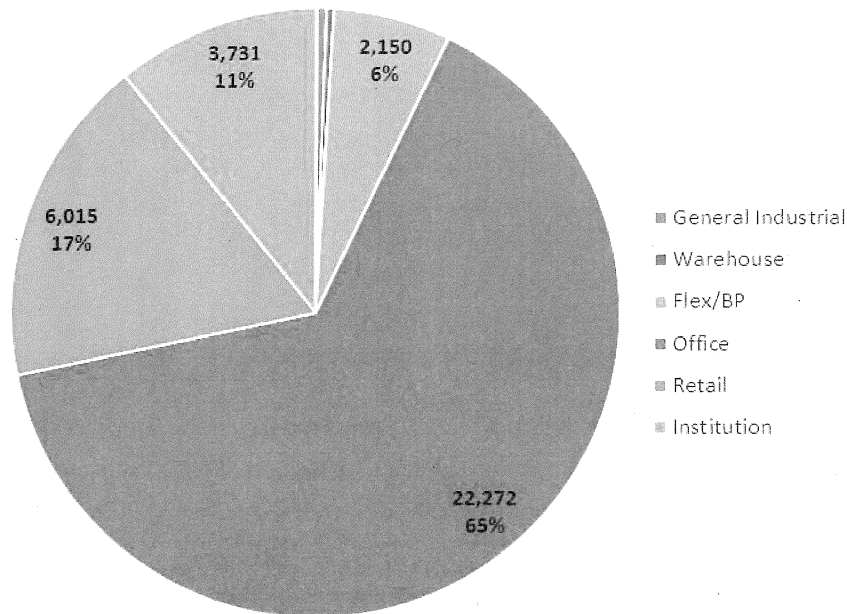


Figure 1. Central City Job Growth by Building Type 2010-2035

**Flex/BP: is flexible space and business park*

The economic benefits derived from this development and job growth include:

- Employment
- Personal income to residents of the region
- Earnings

The mix of businesses and employment geographies in the local economy shapes the income distribution and economic equity of the population. As shown in Figure 2, employment in the Central City and institutional geographies is concentrated in high-wage occupations that primarily require a college education. Within the Lower Albina and the Central Eastside Industrial Districts, employment is concentrated in middle-wage occupations. There are also lower wage jobs in the Central City, primarily in the retail and service sectors.

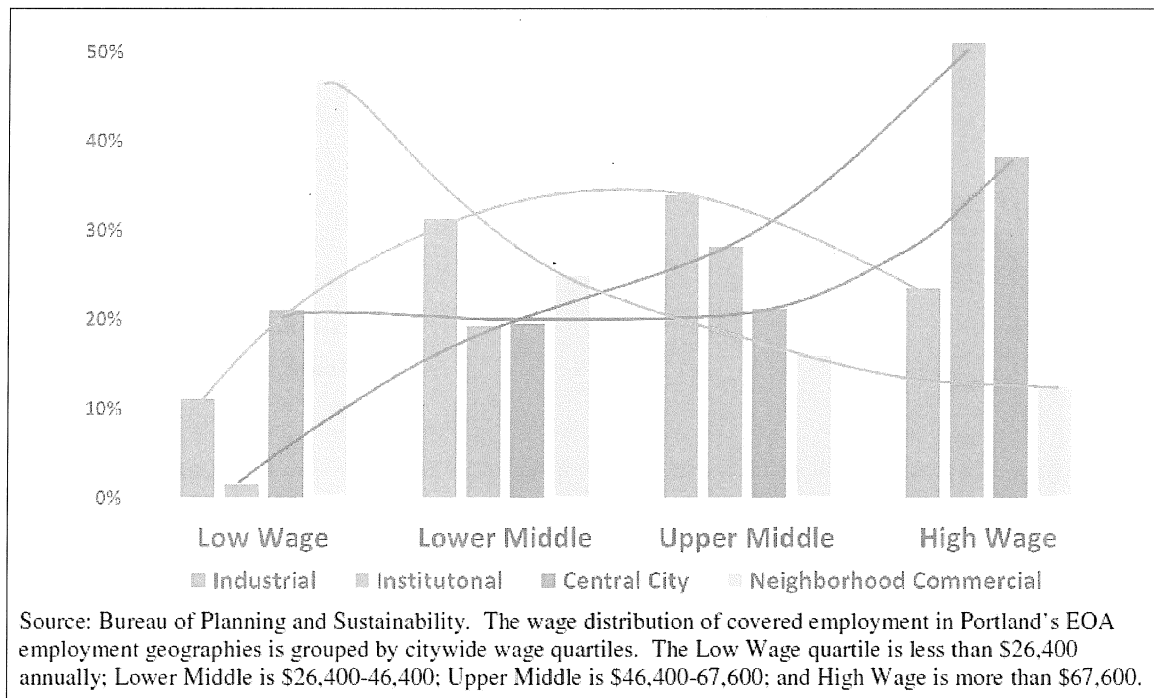


Figure 2: Portland Wage Distribution

Since 1980, the wage distribution of the economy has been changing, and job growth has become increasingly polarized in low- and high-wage occupations with shrinking middle-wage job opportunities. This national trend is mirrored in the state and the region. For the majority of the workforce that doesn't have a 4-year college degree, middle-wage job opportunities are primarily in industrial occupations, as seen in the Lower Albina and Central Eastside Districts, and administrative-support occupations that are prevalent in all of the Central City districts. Portland has been less affected by the trend of losing middle-wage jobs than other regions throughout the country and has a relatively balanced economy that supports a predominantly middle-class population.

Employment and economic development includes direct (discussed above), indirect and induced benefits. Indirect benefits occur as the new economic activity purchases from other businesses in the region. Induced effects occur as the employees of the new economic activity are able to make added purchases from increased disposable income from local retail and services. For example, a new software company moves into the Central City and generates direct jobs, income and output. The company contracts with marketing and development businesses, generating indirect jobs, income and outputs. The employees of the software company also make individual purchases like groceries, clothes, etc., generating induced jobs, income and outputs.

This relationship is expressed as a multiplier. For example, an employment multiplier of 2.00 indicates that for every job directly associated with a place-specific investment, another job is created off-site through indirect and induced economic effects elsewhere in the region. There are nationally recognized models used to determine the economic multipliers based on building type. For example, the General Industrial building type is associated with a relatively high 3.15 overall jobs multiplier. Economic development within the Central City can be expected to generate indirect and induced benefits for Portland and the region. Table 1 shows the economic multipliers by building type.

Building Type	Jobs	Economic Multiplier	
		Income	Output
Office	1.95	1.87	1.98
Institution	1.62	1.69	2.13
Flex / BP	2.19	2.12	1.91
General Industrial	3.15	2.50	2.15
Warehouse	2.36	1.95	1.95
Retail	1.64	1.76	1.97

Source: E. D. Hovee & Company, LLC based on IMPLAN

Table 1: Economic Multiplier by Building Type *Flex/BP: is flexible space and business park

Economic Competitiveness of the Central City

There are a number of unique attributes of the Central City that makes it the largest employment center in the Portland region. The Central City is the Class A office core of the region. There are physical and infrastructure attributes that businesses utilize to grow our economy that cannot be replicated elsewhere. Location benefits of the Central City include proximity to a number of major institutions (e.g., Oregon Health and Science University, Portland State University), ease of access to the regional and west coast highway transportation systems, and access to the regional transit system that serves the Central City. Additionally, agglomeration benefits exist for business development in the Central City. Agglomeration benefits are described as firms from a range of industries that are able to benefit from the concentration of shared resources, competitors and clients. Shared resources of agglomeration include physical infrastructure, centers of research, and labor pools which all increase economic productivity.

The Central City has attributes and benefits that cannot be realized elsewhere in the region. Growth that would occur in the Central City is unlikely to occur outside of the Central City due to the physical, infrastructure, and human capital benefits that exist only within the Central City.

Employment

To understand the potential impact of protecting views on employment in the Central City, a GIS analysis was performed. The purpose of the analysis was to compare the existing and proposed building heights and floor-to-area ratios (FAR) with limits that could be imposed to protect view corridors. The full methodology for the view corridor analysis is found in Appendix B. A summary and results are presented here.

The methodology to compare the employment impacts of protecting view corridors included the following steps:

1. Create three-dimensional planes that represent the view corridor elevation from the viewpoint and the lowest elevation on the focal feature that should be seen.
2. Compare the view corridor elevation to allowed building heights (existing and proposed), taking into consideration FAR, on sites identified in the Buildable Lands Inventory (BLI) as vacant or underutilized. Figure 3 is an illustration of the view corridor elevation and buildings.

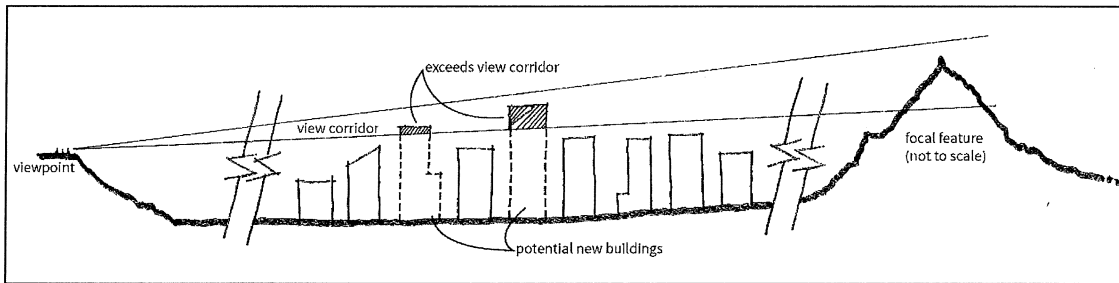


Figure 3: Illustration of a View Corridor in Relation to Building Heights and the Focal Feature

3. For each BLI site where allowed building height is taller than the view corridor elevation, determine:
 - a. Building height limits needed to protect the view
 - b. Number of stories of the potential buildings that would be eliminated to protect the view
 - c. Job allocation associated with the stories eliminated

This GIS analysis was performed for the following views and viewpoints:

- Tier I Upland views
- Group A River views of Mt Hood
- Tier II Upland and Group B River views of Mt Hood and Mt St Helens
- Views unique to a neighborhood

Table 2 summarizes the results of the analysis.

Table 2: Economic Impacts of Protecting Views

			Existing Heights (base + FAR-restricted heights)			Proposed Heights (base + FAR-restricted heights)		
VP	Location	Focal Features	Square Feet of Conflict within View Corridor [1]	Reduction in Development Value within View Corridor [2]	Reduction in Job Capacity within View Corridor [2]	Square Feet of Conflict within View Corridor [1]	Reduction in Development Value within View Corridor [2]	Reduction in Job Capacity within View Corridor [2]
Views Proposed for Protection								
N04	Lillis Albina Park	Central City				60,000 [3]	\$2,160,000 [3]	300 [3]
NE01	I-84 Overpass (bike/ped)	Central City				451,455 [3]	\$16,252,380 [3]	2,261[3]
SW02	Washington Park - Lewis and Clark Monument	Mt Hood						
SW04	Rose Garden - Telescopes	Mt Hood						
View Street	Jefferson St Overpass	Vista Bridge				20,846 [3]	\$750,445 [3]	105 [3]
SW15	Vista Bridge	Mt Hood						
SW16	SW Vista Ave	Mt St Helens						
SW17	Salmon Springs	Mt Hood	416,715	\$15,001,740	2,085	302,150	\$10,877,400	1,512
SW24	Upper Hall	Mt St Helens Mt Adams						
SW31	SW Cardinell	Mt St Helens						
SW46	Tilikum Crossing - West	Mt Hood	294,828	\$10,613,808	1,476	218,168	\$7,854,048	1,093
SW49	SW Terwilliger Blvd	Mt St Helens						
SW50	SW Terwilliger Blvd	Mt St Helens						
SW55	OHSU Viewing Platform	Mt Hood Mt St Helens						
SW56	OHSU Tram - North	Mt Hood Mt St Helens						
SW61	OHSU Tram - South	Mt Hood Mt St Helens						
SW64	SW Terwilliger Blvd	Mt St Helens						

			Existing Heights (base + FAR-restricted heights)		Proposed Heights (base + FAR-restricted heights)			
VP	Location	Focal Features	Square Feet of Conflict within View Corridor [1]	Reduction in Development Value within View Corridor [2]	Reduction in Job Capacity within View Corridor [2]	Square Feet of Conflict within View Corridor [1]	Reduction in Development Value within View Corridor [2]	Reduction in Job Capacity within View Corridor [2]
Views Evaluated for Comparison (NOT proposed for protection)								
NW14	Broadway Bridge	Mt Hood	2,607,772	\$93,879,792	13,044	2,607,772	\$93,879,792	13,044
SE07	Morrison Bridge	Mt Hood	437,537	\$15,751,332	2,192	437,537	\$15,751,332	2,192
SE21	Tilkum Crossing - East	Mt Hood	223,000	\$8,028,000	1,115	223,000	\$8,028,000	1,115
SW01	Greenway Trail at SW Ankeny	Mt Hood	966,497	\$34,792,812	4,837	986,467	\$35,512,812	4,937
SW11	Greenway Trail at SW Morrison	Mt Hood	886,694	\$31,920,984	4,436	838,994	\$30,203,784	4,197
SW13	SW Vista Ave	Mt St Helens						
SW26	Hawthorne Bridge	Mt Hood	700,441	\$25,214,796	3,506	743,279	\$26,758,044	3,720
SW34	Lovejoy Fountain	Mt Hood	174,000	\$6,264,000	870	174,000	\$6,264,000	870
SW33	SW Rivington Dr	Mt Hood						
SW36	Greenway Trail - Montgomery St Gardens	Mt Hood	1,141,098	\$41,079,528	5,709	981,598	\$35,337,528	4,912
SW38	Greenway Trail - Pedestrian Trail	Mt Hood	1,192,198	\$42,919,128	5,965	1,026,698	\$36,961,128	5,138

BOLD text = New view and viewpoint*Italicized text* = Existing view with existing protections in the form of building height limits. The proposal may alter the protections.

Regular text = Existing viewpoint but the view is not currently protected by limiting building heights.

[1] If a view corridor crosses any portion of a BLI site, the entire BLI site is treated as if it were within the view corridor.

[2] Assumes \$36/sq ft and 1 job/200 sq ft

[3] The proposed heights are taller than existing base heights. For these views, the proposed heights are compared against not continuing to protect the view.

Many of the views included in the analysis are already protected by limits to building heights. The first two steps in the analysis revealed that some of those protected view corridors needed additional height limits to be fully protective. Therefore there are some economic impacts associated with continued protection of those views.

There are new view corridors that are included in the analysis. Because there are no current height limits associated with the views, the economic impacts of protecting those views are much higher than for existing view corridors. In particular, there are ten viewpoints located along the Willamette River and from bridges across the Willamette that are views of Mt Hood. (The ten viewpoints have an asterisk in Table 2.) While previous plans did identify most of these viewpoints of Mt Hood and other focal features, the view corridors were not protected with limits on building heights.

The ability to see Mt Hood from the Willamette River is unique to the Central City. These views help define Portland and are a tourist attraction. However, protecting views from the low elevation of the riverbank or from bridges up to the mountain would require significantly limiting building heights in the Central Eastside. The results of the analysis show that the employment impacts associated with these views range from 1,100-13,000 reduction in job capacity. The three viewpoints with the least impacts are at Salmon Springs (SW17) and Tilikum Crossing (SW46 and SE21).

Salmon Springs is located in the middle of Governor Tom McCall Waterfront Park. This large existing viewpoint is developed with a curved seating area, telescopes and informational signs. There is an interactive fountain and loading/unloading of regional passenger ships at this location. Tens of thousands of people visit Salmon Springs every year, especially during events like the Rose Festival. The view of Mt Hood in this location will continue to add to the tourism of the park, especially if many of the other views of Mt Hood from the park are eliminated due to development in the Central Eastside.

Protecting the view of Mt Hood from Salmon Springs could result in a reduction in job capacity of up to 2,166 potential jobs within the view corridor in the Central Eastside. The Central Eastside is an industrial and employment district that provides living wage jobs. The Central Eastside is currently home to more than 1,200 companies and 18,000 jobs. The District continued to thrive during the recession and has become the location of choice in Portland for many employers, who are drawn to its historic industrial architecture, affordable space, and close proximity to the city's business core. Forecasts indicate there is demand for an additional 9,000 jobs to locate within the Central Eastside from 2010 to 2035 including nearly 2,220 jobs in industrial sectors. The Central Eastside has capacity for approximately 12,000 jobs, meaning there is a surplus job capacity of roughly 3,000 jobs. Protecting the view of Mt Hood from Salmon Springs would reduce the amount of surplus job capacity but not impact the ability of the district to meet the job demand for 2035.

The other views of Mt Hood from the Willamette River with the least amount of economic impacts are located on Tilikum Crossing. Tilikum Crossing is the newest Willamette River Bridge. It is dedicated for transit, bicycles, pedestrians and emergency vehicles. There are four belvederes located on the bridge offering wide views of the river and city skyline, and two of the viewpoints provide a view of Mt Hood. The view from the western of the two views provides a slightly better view of Mt Hood because more of the river is seen in the foreground. Both views cross an area known as the Southern Triangle. Many of the BLI sites in the Southern Triangle are larger than the standard block size in Portland. This provides flexibility in designing buildings and moving the tallest parts of buildings outside of view corridors. While protecting the view of Mt Hood from Tilikum Crossing shows a reduction in job capacity of roughly 1,100 jobs, it is likely those jobs could be redistributed on-site due to the larger block pattern.

Property Values and Rents

Generally, as an area becomes more densely developed, property values and rents will rise as the concentration of businesses, residents and customers make the area more attractive. Although property values and rents are determined by a number of complex factors, fully allowing conflicting uses could directly affect the property values of affected parcels and indirectly affect property values in the immediate vicinity. Limiting or prohibiting the conflicting uses would likely reduce these benefits of development. Additionally, limiting or prohibiting conflicting uses would reduce the land value that is associated with development entitlement that is held by the property owner. A decrease in development entitlement to limit or minimize conflicting uses would negatively impact the value of land for property owners.

Tourism

The Central City is a popular tourist destination with a variety of attractions that draw people to the area. These destinations include: scenic sites such as Lan Su Chinese Garden and the Japanese American Historical Plaza, open spaces such as Waterfront Park and Pioneer Square, entertainment venues such as Keller Auditorium and the Arlene Schnitzer Concert Hall, museums such as the Portland Art Museum and OMSI, events such as the Saturday Market and the Farmer's Market, festivals such as the Oregon Blues Festival and Dragon Boat Races, sightseeing destinations such as the Portland Aerial Tram and Waterfront Park, and shopping stores and centers, including a few local flagship stores such as Nike and Columbia Sportswear. In addition, the Central City is highly connected to the transportation network, with a direct public transit connection to the airport, numerous hotel shuttles between the airport and Central City, and the presence of Union Station, the Greyhound bus terminal, and Bolt Bus's drop-off/pick-up site within the Central City itself. All of these factors contribute to the Central City's status as a strong tourist destination.

In general, fully allowing conflicting uses would result in further opportunity to support tourism. New hotels, attractions, restaurants and shops would add to the tourist's experience. Limiting or prohibiting certain conflicting uses, such as retail, commercial, employment, industrial or open space, could have a negative impact on tourism by reducing the options or quality of tourist attractions. Limiting or prohibiting other conflicting uses, such as housing or offices, would have limited negative impact on tourism overall. However, any use that interferes with sightseeing (e.g., blocks a view) would have a significant impact on the scenic aspects of tourism (discussed further in the Scenic Resources tourism section below).

Economic Value of Trees

Urban vegetation provides a number of benefits, many of which have an economic value. These benefits include cleaner air, lower health care costs, reduced atmospheric carbon, increased property values, reduced energy consumption, and reduced and cleaner stormwater runoff.

Urban vegetation removes both carbon and air pollution from the air, both of which have an economic value. Across the United States, urban forests (trees and shrubs) have been estimated to remove an annual average of 711,000 metric tons of air pollutants, which has an annual value of \$3.8 billion (Nowak et al. 2006). A similar study estimated that trees in urban areas remove 651,000 metric tons of air pollution each year, with a resulting human health value of \$4.7 billion based on a reduction of a number of adverse health effects including asthma exacerbation and acute respiratory symptoms (Nowak et al. 2014). In urban areas of the United States, trees are estimated to store 643 million metric tons of carbon with an annual sequestration rate of 25.6 million metric tons; this equates to a \$50.5 billion storage value plus an annual sequestration value of \$2 billion (Nowak et al. 2013).

Urban vegetation also contributes to property value. In Portland's east side, street trees were found to add \$8,870 to single-family home sale prices (approximately 3% of the median sales price) and to reduce a home's time on market by 1.7 days (Donovan and Butry 2010).

Street trees also contribute to lower repaving costs. A study based in Modesto, CA found that "tree shade was partially responsible for reduced pavement fatigue cracking, rutting, shoving, and other distresses" (pg. 303) and, further, that the street segment planted with six Chinese hackberry trees was projected to reduce costs for repaving by 58% over a 30 year period compared to the unshaded street segment (McPherson and Muchnick 2005).

Based on its combined benefits, vegetation provides significant economic value to a city. Portland Parks and Recreation's 2013 street tree inventory of the Downtown neighborhood found that "Downtown's street trees provide \$560,000 annually in environmental services and aesthetic benefits, including \$429,000 in property value increases, \$7,800 in air quality improvement, \$3,600 in carbon dioxide reduction, \$22,800 in energy savings, and \$98,800 in stormwater processing" (City of Portland PP&R 2013, pg. 2). Given that the Downtown neighborhood inventory identified 3,617 street trees, the average annual value that each Downtown street tree provides is \$155 (City of Portland PP&R 2013, pg. 12).

While natural vegetation can contribute to the scenic quality of a scenic resource, it can also grow up to block or partially block a scenic resource. Allowing these vegetation-related conflicting uses would preserve the economic benefits of vegetation. Limiting or prohibiting these conflicting uses would limit the economic benefits of vegetation.

3.c.2 Economic Consequence for the Scenic Resources

The previous subsection outlined the potential economic impacts on conflicting uses of protecting scenic resources. This subsection outlines the potential economic impacts on the scenic resources of allowing, limiting or prohibiting conflicting uses. The economic factors considered in this analysis include tourism, property values, wayfinding, and scarcity.

Tourism

In the Central City, a lot of economic activity is generated by tourism. Scenic resources are an important component of tourism, creating destinations and improving the overall aesthetic quality of the Central City. Allowing conflicting uses, particularly additional building capacity (height and massing) within the Central City, could adversely affect scenic resources, particularly scenic views looking out across the Central City toward the mountains where additional development may block or partially block the view. Prohibiting or limiting conflicting uses in such a way as to preserve the focal features of the scenic resource, whether it be preserving a specific characteristics of a view or ensuring a site or feature is maintained, helps preserve the economic function of these scenic resources as tourist attractors.

Views and Viewpoints

In some cases, increased building height/massing would not interfere with the most important focal features of the view and could even contribute positively to the scenic quality of the panorama by providing a more diverse skyline. In other cases, increased building height/massing could result in blocking, partially blocking or substantially encroaching on the primary focal features of the view that make it scenic. Thus, before assessing the impacts of additional building capacity on scenic resources, it is necessary to determine which scenic elements are most important to the view.

The views that contribute the most to tourism are views with the following characteristics:

- Depth of field of 5 to 50 miles or more.
- Views of Mt Hood, Mt St Helens and the Willamette River.
- Presence of certain contributing features: urban skyline, West Hills, buttes/hills, bridges prominently featured or iconic signs, buildings or landmarks.
- Viewpoints that are located at mid to high elevation.
- Wide angle or panoramic views.
- Natural, semi-natural or well landscaped areas are in most of the highly rated upland views, often framing the view.
- The foreground is always free of discordance.

In addition to the important characteristics of a view, developed viewpoints with amenities such as benches, lighting or signs and viewpoints that are easily accessible increase the attractiveness for tourists.

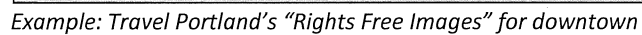
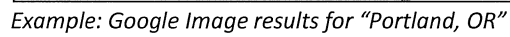
Scenic Sites

Scenic sites such as the Lan Su Chinese Garden, are also important tourist attractions. Conflicting uses for scenic sites differ from those for views. Because scenic sites are self-contained, there is no risk of adjacent development blocking the site itself. An increase in building height or mass at an adjacent site could, however, increase shade over the scenic site reducing the quality of the resource. Other conflicting uses that could affect a scenic site include discordant noise, smells or pollution. For example, siting a loud, smoke emitting factory next to a scenic site would detract from its desirability as a place to visit. Allowing these conflicting uses would decrease the likelihood that the scenic site would remain as a tourist attractor. Prohibiting these conflicting uses would enhance the overall quality of the scenic site such that it continues to attract tourists and residents alike.

Visual Focal Points

Visual focal points are also important tourist attractors. Many Portland visitors and residents make special trips to visit some of these visual focal points, including the historic White Stag sign (which now reads Portland Oregon), Hawthorne Bridge, or the elk statue on SW Main Street. However, aside from the removal or destruction of the visual focal points, the primary conflicting uses result from an impact on *views of* these visual focal points, and not the points themselves. These impacts are covered under views and viewpoints and view streets.

Anecdotally, staff performed an online search of "Portland, OR" and visited Travel Portland's website. The images most often photographed are: the urban skyline, Willamette River and at least one bridge, Mt Hood, Mt St Helens and the historic White Stag sign.



Property Values

While this analysis does not consider private views, a nearby public view or nearby access to a public scenic resource can have a positive effect on property values. Similarly, a nearby scenic site can also increase property values, particularly those that have a park-like or natural setting. Allowing conflicting uses that detract from the quality of the scenic resource would decrease property values. Prohibiting or limiting the conflicting use such that it does not conflict with the scenic resource would ensure that the scenic resource remain and would, thereby, positively affect property values.

Wayfinding

The ability to see landmarks, unique landscape features and development in the Central City helps people to orient themselves and navigate around Portland. For example, view streets that have the West Hills and/or downtown skyline as a focal terminus can help orient residents and tourists alike, directing them toward downtown. View streets with bridges or another element of Waterfront Park as a focal terminus help direct people toward the river. As people move easily through the Central City they are encouraged to explore and discover more by what they see. In general, facilitating navigation through the city, particularly by drawing people to or through the downtown area on foot, will result in an increased concentration of people in the area who can support services such as shops and restaurants. Creating a more navigable city with visual focal points that draw people toward them also results in a more enjoyable experience of the city. Removing visual focal points or blocking the focal termini of view streets could result in a decrease in wayfinding ability and a decreased concentration of people travelling, and spending, along those navigation corridors.

Scarcity

Another topic of consideration is scarcity. As an area develops and scenic resources are reduced, the values associated with those resources become scarce. This can increase the value of the remaining scenic resources. For example, if an area develops such that there is only one remaining view of Mt Hood, that view of Mt Hood will be highly valuable to the area's image. Allowing conflicting uses would eliminate the economic value of having that scenic resource as a source of revenue through tourism. Prohibiting or limiting the conflicting uses such that they don't detract from the scenic resource would retain the value of the resource.

3.d. Social Analysis

This section examines the social consequences of allowing, limiting or prohibiting conflicting uses in the Central City. The social consequences are expressed as the qualitative and relative costs, benefits, and impacts of the three program choices – allow, limit or prohibit the conflicting use. This portion of the ESEE analysis relies on current information.

3.d.1 Social Consequence for the Conflicting Uses

The following subsection outlines the potential social impacts on conflicting uses of protecting scenic resources. The social factors considered in this analysis include the positive or negative impacts on employment, density of development, crime and safety and public health.

Employment

One of the most important factors in determining human health and welfare is household income, which is dependent on employment. The reason that income has such a strong influence on health is that it determines whether people are able to make healthy choices such as living in safe, healthy homes and neighborhoods, eating nutritious food, fully participating in family and community life and obtaining timely and appropriate health care. Many studies have shown that people with health insurance are healthier than those without (Mult. Co. Health Department, 2012). In the United States the risk for mortality, morbidity, unhealthy behaviors, reduced access to health care and poor quality of health care increases with decreasing socioeconomic circumstances (CDC, 2011). Research has linked unemployment to stress, depression, obesity and increases in cardiovascular risk factors such as high blood pressure (Mult. Co. Health Department, 2012).

Today, approximately 77 percent of Portland households earn enough income to be considered economically self-sufficient (City of Portland, 2012). This means more than 20 percent of Portlanders do not make enough money to cover their basic household's needs. An important factor in Portland's future economic prosperity, and addressing economic equity concerns, will be maintaining and growing "family-wage" jobs. As discussed in the economic section (2.b.1), the Central City is the largest employment district within Portland.

Having a good job does more than supply the means to meet physical needs, it also provides opportunities to be creative, promotes self-esteem, and provides avenues for achievement and self-realization. Research indicates that the effects of unemployment include impacts on psychological function, including anxiety and depression, and correlate with impacts on physical function as measured increased utilization of health services (BPS, 2012). Research also points to financial strain as strong mechanism through which unemployment contributes to ill health. In addition, it has been found that unemployment compounds the effects of unrelated (stressful) life events.

Other social benefits that accrue from an increased concentration of jobs within the Central City in proximity to transportation networks consist of reduced commute times, more opportunities for living close to work, more time for family and friends, and increased access to other entertainment and recreational opportunities in downtown Portland.

As the building envelope expands with the ability to develop taller and larger buildings, the potential for additional jobs on the site increases these social benefits. Limiting or prohibiting the height or mass of

the building envelope will protect scenic resources and, in turn, limit the social benefits of increased employment.

Density of Development

Maximizing the intensity of development in locations well-served by Central City transit and social services has been a cornerstone of multiple planning efforts including the current update of the Comprehensive Plan. Providing workforce and affordable housing options adjacent to and within the Central City and/or creating new employment concentrations of office and institutional activities facilitate fuller use of transportation infrastructure in addition to increased opportunities to walk and bike. Additional activation of nearby retail, entertainment and related services would likely result from concentrations of workers at the site. Limiting the development capacity of these uses may reduce the social benefits ascribed to increased density in the Central City, potentially increasing home-to-work commutes, and reducing recreation and family time.

Crime and Safety

Development that includes a variety of uses such as housing, entertainment and employment results in a more activated Central City. An activated center means more pedestrian activity and more eyes on the street, which reduces crime and improves safety. Thus, allowing development-related conflicting uses could improve the safety of the Central City. Limiting or prohibiting the conflicting uses could reduce the level of activation resulting from development and reduce eyes on the street, potentially reducing safety.

Depending on placement, vegetation can be a conflicting use or can contribute to scenic quality. Vegetation-related conflicting uses might include a large, dense thicket that has grown up and blocked a view. This thicket could also serve as a hiding place for criminal activities. Allowing this type of conflicting use would decrease the real or perceived safety of the viewpoint. Limiting or prohibiting this type of conflicting use could retain a perceived sense of safety at a viewpoint, along a scenic corridor, or within a scenic site.

Street trees can contribute greatly to the natural character of a panoramic view looking down on the city fabric. However, they can also grow to block the focal terminus of a view street. A local Portland study found that trees in the public right-of-way (ROW) were associated with lower crime rates (Donovan and Prestemon 2013). Trees can also serve as traffic calming devices, slowing the flow of traffic and thereby increasing safety of the street. Thus, allowing a tree in the public ROW, whether it contributes to or blocks a scenic resource, could increase safety. Limiting or prohibiting trees in the public ROW would limit the increased safety benefits of street trees.

Public Health

Development-related conflicting uses can have a negative impact on human health. Building construction and use consume energy and result in lower air quality. Development also increases impervious surfaces, resulting in lower water quality. Both of these negatively impact human health and well-being. Allowing development-related conflicting uses would decrease public health. Limiting or prohibiting development-related conflicting uses could reduce the impacts on human health. Certain design practices, such as requiring eco-roofs or passive solar, could also help reduce the impacts of development on human health.

Vegetation-related conflicting uses can have a positive impact on human health. Vegetation helps improve both air and water quality. Of particular note is the effect of trees on improving air quality and, thereby, reducing asthma and acute respiratory symptoms. One study found that trees and forests in

urban areas across the US removed a total of 651,000 metric tons of air pollution in 2010, with a human health value of approximately \$4.7 billion (Nowak et al. 2014). The study went so far as to state that “in terms of impacts on human health, trees in urban areas are substantially more important than rural trees due to their proximity to people” (Nowak et al. 2014, pg. 124).

Other studies have found that trees reduce stress (Dwyer et al. 1992), increase sense of community (Dwyer et al. 1992), and reduce ultraviolet radiation and its associated health problems (Heisler et al. 1995 in Nowak et al. 2010). A Portland-based study on urban tree canopy and birth weight found that increased tree canopy within 50 meters of a house and proximity to a private open space reduced the risk of a baby being born small for its gestational age (Donovan et al. 2011).

Allowing vegetation-related conflicting uses would increase potential public health benefits. Limiting or prohibiting vegetation-related conflicting uses would limit public health benefits of vegetation.

Views of water, in both natural and built environments, are associated with higher preference ratings (White et al. 2010). In fact, photographs of built environments containing aquatic elements, such as a river, were rated just as high as photographs of natural green spaces (White et al. 2010). Allowing conflicting uses that block the portion of the view with water will reduce the scenic quality of the resource.

Views of water, in both natural and built environments, are also associated with “greater positive affect and higher perceived restorativeness than those without water” (White et al. 2010). Further studies have found that exposure to water, referred to as “blue space,” is associated with lower psychological distress (Nutsford et al. 2016, Wheeler et al. 2012, White et al. 2013). Allowing conflicting uses that would block visual access to water would reduce the health benefits of views of water. Limiting or prohibiting development-related conflicting uses could retain some of these benefits.

3.d.2 Social Consequence for the Scenic Resources

The following subsection outlines the potential social impacts on conflicting uses of protecting scenic resources. The social factors considered in this analysis include the positive or negative impacts on Portland’s imageability, historic and cultural importance, public health, neighborhood identity, sense of place, wayfinding and recreation.

Portland’s Imageability

Many scenic resources are iconic to Portland’s image and help set Portland apart from other cities across the country and the world. These iconic scenes include panoramic views looking across the Central City towards Mt Hood, close-up shots of the White Stag sign, and images of one or more of Portland’s bridges. In addition to the importance of these iconic scenic resources for tourism and marketing (as discussed in the economic analysis section), Portland’s scenic resources contribute to the city’s identity.

Both development and vegetation can conflict with the resource by blocking, partially blocking, or detracting from Portland’s most iconic images. However, development and vegetation can also positively contribute to Portland’s image. Well-designed and carefully located buildings can add interest and diversity to the city’s skyline without blocking important scenic features such as Mt Hood. Similarly, vegetation can be intentionally located to frame a view or otherwise supplement a scenic resource. When development and vegetation contribute to the scenic quality of a resource, they are not

considered to be conflicting uses. When they detract from the scenic quality, they are conflicting uses. Allowing conflicting uses would detract from Portland's imageability and identity. Limiting or prohibiting conflicting uses would help preserve the city's identity.

Historic and Cultural Importance

Many of the Central City's scenic resources also have historic or cultural importance. These range from culturally significant environmental resources, such as the Willamette River, to identity related cultural resources, such as the Chinatown Gate. Many cultural resources are also historically significant. For example, the Japanese American Historical Plaza tells the story of the history of Japanese Americans. Still others are designated historic landmarks through either the National Register of Historic Places or the City Historic Landmark list. These include Union Station, the White Stag sign, and many of the city's historic bridges. Allowing conflicting uses that block or partially block culturally or historically significant scenic resources would detract from their cultural or historic value as well as their scenic value. Limiting or prohibiting conflicting uses would help maintain the historic, cultural, and scenic significance of the resource.

Public Health

The presence of and access to scenic resources can improve public health. Many scenic resources include natural vegetation which has been shown to have numerous public health benefits, including improved air and water quality, reduced psychological stress, and healthier birth weights (discussed under the conflicting uses public health section above).

There is also evidence of the benefit of views of vegetation. In a classic study on the comparison of hospital patients with either a view of a brick wall or a view of trees, Ulrich found that patients with a view of trees not only recovered faster, but also had fewer negative evaluative comments from nurses, took fewer analgesic doses, and had slightly lower postsurgical complications (Ulrich 1984). A meta-review of studies looking at health effects of landscapes found that natural landscapes generally have a stronger positive health effect than urban landscapes (Velarde et al. 2007). More specifically, "[t]he literature review identified that the main health aspects of exposure to landscapes related to reduced stress, improved attention capacity, facilitating recovery from illness, ameliorating physical well-being in elderly people, and behavioral changes that improve mood and general well-being. These effects have been addressed by means of viewing natural landscapes during a walk, viewing from a window, looking at a picture or a video, or experiencing vegetation around residential or work environments" (Velarde et al. 2007, pg. 210).

Natural vegetation that contributes to the scenic resource is not considered a conflicting use; however, natural vegetation that blocks a scenic resource is. Allowing vegetation-related conflicting uses that block a view or visual access to a scenic resource would retain the public health benefits of that vegetation. Limiting or prohibiting vegetation-related conflicting uses would reduce the public health benefits. In contrast, allowing development-related conflicting uses that block visual access to scenic resources that include a natural vegetation element would reduce these benefits. Limiting or prohibiting development-related conflicting uses could retain some of these benefits.

Neighborhood Identity and Sense of Place

Scenic resources can create or contribute to a neighborhood's identity and people's sense of place. For example, the view of Mt Hood from the Vista Bridge is part of the Goose Hollow neighborhood's identity. Signs, statues, streets and other scenic resources are sources of pride for neighbors and help visitors relate to the place. Allowing conflicting uses that block visual access to scenic resources will reduce the social benefits of neighborhood identity and sense of place.

Wayfinding

The ability to see landmarks, unique landscape features and development in the Central City helps people to orient themselves and navigate around Portland. View streets with bridges or elements of Waterfront Park as focal termini help direct people toward the river. Facilitating navigation through the city, particularly by drawing people to or through the downtown area on foot helps to create stewardship within the community. Creating a more navigable city with visual focal points that draw people toward them also results in a more enjoyable experience of the city. Removing visual focal points or blocking the focal termini of view streets could result in a decrease in wayfinding ability and a decreased concentration of people travelling, and spending, along those navigation corridors. Allowing conflicting uses that block visual access to these scenic resources will reduce their wayfinding benefits. Limiting or prohibiting conflicting uses will help retain the wayfinding function of scenic resources.

Recreation

Scenic resources, particularly trails and sites, provide and enhance recreational opportunities. Scenic trails are used by a number of people walking, biking, skating, or running. The presence of scenic elements enhances one's experience travelling along the corridor. Scenic sites serve as pleasant places to go for a stroll. Allowing conflicting uses that detract from the scenic quality of a trail or site would decrease the attractiveness of the scenic trail or site. Limiting or prohibiting these conflicting uses would help retain the scenic quality of the trail or site, making it a more enjoyable place to recreate.

3.e. Environmental Analysis

This section examines the environmental consequences of allowing, limiting or prohibiting conflicting uses in the Central City. The social consequences are expressed as the qualitative and relative costs, benefits, and impacts of the three program choices – allow, limit or prohibit the conflicting use. This portion of the ESEE analysis relies on current information.

3.e.1 Environmental Consequence for the Conflicting Uses

The following subsection outlines the potential environmental impacts on conflicting uses of protecting scenic resources. The environmental factors considered in this analysis include the positive or negative impacts on efficiencies due to location, heat island, air quality, water quality, wildlife habitat, climate change, glare, wind tunnel and access to sunlight.

Efficiencies Due to Location

Concentrating development activity in the Central City provides a number of environmental benefits related to creating efficiencies in transportation, building infrastructure, and heating and cooling. In contrast, limiting or prohibiting the conflicting uses either limits the desirability of the Central City for redevelopment altogether or results in a limited amount of development that does not have the same level of efficiency. Additionally, it has often been suggested that the trade-off for protecting environmental and scenic resources within the regional Urban Growth Boundary (UGB) is increased intensity of development in the Central City and other urban centers. Any reduction in the development capacity of the Central City could increase development pressures in locations less ideally situated in the urban landscape to maximum efficiencies.

Heat island

The hard-scape of buildings in a predominately paved urban environment in combination with combustion engines and building heating and cooling systems create a net increase in ambient temperatures referred to as heat island. Allowing increased building capacity will result in a larger contribution to overall heat island in the Central City. Limiting or prohibiting conflicting uses such as development would decrease the urban heat island effect.

Allowing conflicting uses such as vegetation would decrease the urban heat island effect. Vegetation, particularly in the form of large tree canopy, provides shade and is associated with localized air cooling, increased humidity, and soil moisture, all of which help decrease ambient temperatures. Limiting or prohibiting these uses would result in a loss of their heat island reducing effects.

Air Quality

Allowing development would result in a net decrease in air quality. A building's lifecycle can affect air quality in a number of ways: the production and transportation of building materials results in an increase in both particulate matter and volatile organic compounds (VOCs), the building construction itself requires heavy construction equipment and produces significant dust, and, post occupancy, the building continues to use energy for heating, cooling and lighting, which also has negative effects on air quality. Limiting or prohibiting development-related conflicting uses such that they are less energy intensive would improve air quality.

Allowing vegetation can help improve air quality. Vegetation absorbs and stores carbon, while also releasing oxygen. On average, urban trees and shrubs across the United States are estimated to remove

a total of 711,000 metric tons of pollution per year (Nowak et al. 2006). Limiting or prohibiting vegetation would result in a net decrease in air quality.

Water Quality

Allowing certain conflicting uses, such as new development, would result in a net increase in impervious surfaces, and, therefore, increased stormwater runoff; this, in turn, results in decreased water quality. Limiting or prohibiting these uses would result in decreased stormwater runoff in cases where impervious surfaces are limited. In addition, requiring certain stormwater management practices, such as ecoroofs, could also reduce stormwater runoff by slowing down and reducing the flow of rooftop-collected stormwater into the City's stormwater system.

Allowing other conflicting uses, such as vegetation, would result in a net decrease in stormwater runoff. Trees, vegetation, roots and leaf litter intercept precipitation, decrease erosion by holding soils, banks and steep slopes in place, slow surface water runoff, take up nutrients, and filter sediments and pollutants found in surface water. The result is decreased stormwater runoff and increased water quality. Limiting or prohibiting these conflicting uses would diminish the ecosystem services that vegetation provides.

Fish and Wildlife Habitat

Allowing development-related conflicting uses would reduce the already-limited habitat and wildlife corridors within the Central City. Limiting or prohibiting development could retain some habitat and wildlife connectivity.

Vegetation and associated landscape features (e.g. snags) provide wildlife habitat functions such as food, cover, breeding and nesting opportunities, and migration corridors. Though native vegetation is particularly important to native species survival, both native and non-native vegetation patches and corridors support local native wildlife and migratory species, some of which are listed by federal or state wildlife agencies. Vegetated corridors along waterways, between waterways and uplands, and between upland habitats allow wildlife to migrate and disperse among different habitat areas, and provide access to water. Vegetation creates a buffer between human activities and wildlife. Noise, light, pollution and domestic animals all impact wildlife and vegetation can reduce those impacts. Allowing vegetation-related conflicting uses would increase habitat and wildlife corridors within the Central City. Limiting or prohibiting vegetation-related conflicting uses would have a negative impact on habitat and wildlife corridors.

Climate Change

Allowing conflicting uses such as development can contribute negatively to climate change. Increased development results in increased energy consumption by the buildings, primarily in the form of heating, cooling, and lighting. This increase in energy consumption results in an increase in greenhouse gas emissions and contributes to climate change. Limiting or prohibiting these uses would reduce energy consumption and the release of greenhouse gases.

Allowing conflicting uses such as vegetation helps mitigate climate change. Trees uptake and store carbon, removing carbon dioxide from the atmosphere and slowing the rate of climate change (<https://www.americanforests.org/our-programs/urbanforests/whywecare/>). Across the United States, the total carbon storage by urban trees is estimated to be 643 million tonnes with a net annual carbon sequestration rate of 18.9 million tonnes per year (Nowak et al. 2013). Limiting or prohibiting conflicting uses such as vegetation would reduce the benefits vegetation provides in terms of climate change mitigation.

3.e.2 Environmental Consequence for the Scenic Resources

The following subsection outlines the potential environmental impacts on conflicting uses of protecting scenic resources. The environmental factors considered in this analysis include the positive or negative impacts on vegetation.

Vegetation

Depending on species, form, and location, vegetation can either contribute or detract from a scenic resource. For example, large trees planted near a viewpoint and in the direct path between the viewpoint and a primary focal feature may grow to partially or completely block the view to that focal feature. However, those same large trees planted at the edges of the view extent can both frame the view and add to its scenic quality. Based on an analysis of views by an expert panel conducted as part of the CCSRI, it was determined that natural, semi-natural or well-landscaped areas are in most of the highly rated views, often framing the view.

Natural or well-landscaped vegetation also contributes positively to scenic sites and scenic corridors. In fact, vegetation is an integral scenic element of scenic sites such as the park blocks, the Japanese American Historical Plaza, and Lan Su Chinese Garden. Furthermore, when spaced appropriately with open vistas, vegetation greatly contributes to the viewer's overall experience travelling along a scenic corridor.

Vegetation that frames or contributes to a view is generally not a conflicting use, while vegetation that blocks or detracts from a view is. Limiting or prohibiting vegetation from blocking or detracting from a scenic resource helps preserve the scenic quality of the resource. Allowing vegetation that blocks or detracts from the scenic resource will reduce the quality of the resource.

3.f. Energy Analysis

This section examines the energy-related consequences of allowing, limiting or prohibiting conflicting uses in the Central City. The energy-related are expressed as the qualitative and relative costs, benefits, and impacts of the three program choices – allow, limit or prohibit the conflicting use. This portion of the ESEE analysis relies on current information.

3.f.1 Energy Consequence for the Conflicting Uses

The following subsection outlines the potential energy impacts on conflicting uses of protecting scenic resources. The energy factors considered in this analysis include the positive or negative impacts on efficiencies due to location, construction and building material, on-site energy consumption and heating and cooling.

Efficiencies Due to Location

Greater building capacity in the Central City or another location that is well-served by transit and near significant concentrations of jobs, services, and housing would increase energy efficiency. Decreasing intensity of development in the Central City and other urban centers would result in increased development pressures in locations less ideally situated in the urban landscape, which, in turn, would result in increased energy costs related to transportation and other infrastructure provisions. Allowing conflicting uses (e.g., increase building capacity) in the Central City would increase energy efficiency. Limiting or prohibiting the conflicting use would reduce the efficiencies of concentrating a number of services within the Central City and result in a less efficient use of the land.

Construction and Building Materials

Increasing building height within the Central City increases the amount of building materials required which results in increased energy costs related to producing and transporting those construction materials. However, by maximizing the efficient use of structural elements and building services, these construction-related energy costs can be minimized. For example, a taller building at one location would result in fewer energy costs related to transporting materials than two shorter buildings at two separate locations. Allowing conflicting uses increases construction costs and building materials needed. Limiting or prohibiting conflicting uses would reduce construction related energy costs.

On-site Energy Consumption

In general, increased building capacity within the Central City would result in increased energy consumption. This energy consumption can be minimized through the use of energy efficient building construction practices such as passive solar, LED lighting, and eco-roofs. In addition, energy consumption can further be reduced through efficient use of space. Allowing development-related conflicting uses (e.g., increased building capacity) increases the energy consumption of the site. Limiting or prohibiting conflicting uses reduces on-site energy consumption.

Heating and Cooling

Urban vegetation can provide shade in the summer months, resulting in decreased electricity use (Donovan and Butry 2009). Vegetation can also serve as a wind-block, insulating a house and reducing heating costs in the winter. Heating and cooling savings depend on climate. In hot climates, deciduous trees shading a building can save cooling-energy use, while in cold climates, evergreen trees shielding the building from the cold winter wind can save heating-energy use. Allowing vegetation-related

conflicting uses would decrease on-site energy consumption. Limiting or prohibiting these conflicting uses would reduce the energy benefits of trees.

3.f.2 Energy Consequence for the Scenic Resources

The following subsection outlines the potential energy impacts on scenic resources of protecting scenic resources. The energy factors considered in this analysis include the positive or negative impacts on efficiencies due to location.

Efficiencies due to location

Providing scenic resources near major population centers increases energy efficiency. For example, scenic resources located in an area that is well-served by transit and provides significant pedestrian and bicycling infrastructure, such as the Central City, would have lower transportation related energy costs than scenic resources located in areas less connected to alternative transportation.

Chapter 4 – General ESEE Recommendation

Chapter 3 described the economic, social, environmental and energy consequences of different levels of scenic resources protection. The general ESEE recommendation presented in Chapter 4 is intended to balance across the factors to optimize the positive, negative and neutral consequences associated with conflicting uses. The purpose of the general ESEE recommendation is to set policy direction for categories of scenic resources. The general ESEE recommendation will be further clarified and refined for viewpoints, view corridors and view streets. In some situations, the general ESEE recommendation may be changed for a scenic resource based on additional research done in Chapter 3 or on specific site conditions. Note – Scenic corridors, visual focal points and scenic sites are only addressed in the general ESEE recommendation and are not further refined.

The general ESEE recommendation falls into one of three types of decisions: allow, limit, or prohibit conflicting uses.

- *Prohibit* means that the conflicting uses, such as a building or vegetation, should be not allowed within the view. A prohibit recommendation is used when the benefits of the scenic resource outweigh the benefits of the conflicting uses.
- *Limit* means that the conflicting uses, such as vegetation, should be managed to reduce the impacts on the view (e.g., pruning branches). A limit recommendation is used when the benefits of both the scenic resource and the conflicting uses should be protected.
- *Allow* means that conflicting uses do not need to be managed. An allow recommendation is used when the benefits of the conflicting uses outweigh the benefits of the scenic resource.

For both the limit and prohibit decisions, it is important to keep in mind that the decision only applies to *conflicting* uses. For example, vegetation can be a focal feature of the view or contribute to the view by framing the focal features. Vegetation is only considered a *conflicting* use if it blocks (or severely detracts from) a view. Another example is the city skyline. The city skyline is expected to change over time. New buildings may partially block older buildings in the background, but as long as the skyline is visible then the new buildings are not considered a *conflicting* use. Structures that would block a view of the skyline are considered a *conflicting* use.

4.a. General Recommendation

Table 3 summarizes the general ESEE recommendations for significant scenic resources based on type of conflicting use. The table covers scenic views, view streets, scenic corridors and scenic sites. As noted, visual focal points are addressed under the recommendations for other scenic resources.

The recommendation for a viewpoint itself is based on the recommendation for its respective view(s). For any view with a limit or prohibit recommendation, that recommendation applies to the viewpoint as well as the view corridor. The recommendation for the viewpoints includes maintenance, relocating trash receptacles, and limiting the degree of shadow cast on the viewpoint. For undeveloped or underdeveloped viewpoints, viewpoint amenities should be added, such as a bench, plaque or telescope, which both identify the viewpoint and enhance the overall viewing experience. Figures 4 and 5 provide an example of a viewpoint before and after development. For viewpoints on bridges, the Willamette Greenway Trail, sidewalks, or other areas that may lack a safe location to pull out of traffic and enjoy the view, a designated and marked location should be added. For all viewpoints, staff recommend improving ADA access.

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Figure 4: Example Viewpoint before Development



Figure 5: Example Viewpoint after Development – includes viewpoint amenities (bench, sign) and landscaping

Table 3: General Recommended ESSE Decisions for Central City Significant Scenic Resources

Table 3: General Recommended ES&E Decisions for Central City Significant Scenic Resources							
		Significant Scenic Resources					
Conflicting Uses	Views/Viewpoints*			View Streets	Scenic Corridors	Visual Focal Points	Scenic Sites
	Tier I Upland Views Group A River Views	Tier II Upland Views Group B River Views	Group C River Views				
Buildings Roof-top Structures Sky Bridges	Prohibit height, massing or placement that would block, partially block or substantially encroach on views where Mt. Hood, Mt. St Helens, or a bridge is a primary focal feature.	Limit height, massing or placement that would block, partially block or substantially encroach on views where Mt. Hood or Mt. St. Helens is a primary focal feature.	Allow	Prohibit sky bridges that would block, partially block or substantially reduce the air space around the focal terminus.	Limit height, massing or placement that would create a predominance of shade on the resource, particularly at developed viewpoints located along the corridor.	Limit height, massing or placement that would create a predominance of shade on the site.	
	Limit height, massing or placement that would block, partially block or substantially encroach on views of other primary focal features.	Allow height, massing or placement that would block, partially block or substantially encroach on views of other primary focal features.		Limit height, massing or placement that would block, partially block or substantially reduce the air space around the focal terminus.			
Vegetation**	Prohibit vegetation that upon maturity would block, partially block or substantially encroach on views where Mt. Hood, Mt. St. Helens or a bridge is a primary focal feature.	Limit vegetation that upon maturity would block, partially block or substantially encroach on views of the primary focal features.	Limit vegetation that upon maturity would block or partially block views of the primary focal features.	Limit vegetation that upon maturity would block, partially block or substantially reduce the air space around the focal terminus.	Limit vegetation that upon maturity would become discordant to the resource.	Addressed under recommendations for other resources***	Limit vegetation that upon maturity would become substantially discordant to the resource.
Above-ground Utilities	Limit above-ground utilities that would block, partially block or substantially detract from views of primary focal features.	Limit above-ground utilities that would block, partially block or substantially detract from views of primary focal features.	Allow	Limit above-ground utilities that would block, partially block or substantially detract from the focal terminus.	Allow		
Permanent Fencing	Prohibit permanent fencing that would block, partially block or substantially detract from views where Mt. Hood, Mt. St. Helens, or a bridge is a primary focal feature.	Limit permanent fencing that would block, partially block or substantially detract from views of the primary focal features.	Limit permanent fencing that would block or partially block views of the primary focal features.	Limit permanent fencing that would block, partially block or substantially detract from the focal terminus.	Allow		
Other Conflicting Use	Limit other conflicting uses that would block, partially block or substantially detract from views of primary focal features.	Limit other conflicting uses that would block, partially block or substantially detract from views of primary focal features.	Allow	Limit other conflicting uses that would block or partially block views of the focal terminus.	Allow		Limit other conflicting uses that would substantially detract from the site.

*Tier III Upland Views are determined to not be significant.
 **Vegetation is only a conflicting use when the species size or location results in mature or unmaintained vegetation becoming discordant to the scenic resource. All other vegetation is not a conflicting use and is typically considered a primary or contributing feature of the scenic resource.
 ***Visual focal points are not stand alone scenic resources. Visual focal points are the primary and secondary focal features of a view or are the focal terminus of a view street. A use can become conflicting with the visual focal point only as it relates to how the focal point is seen from a viewpoint or view street. Therefore, the ESSE recommendations for the viewpoint or view street address the focal feature.

4.b. Implementation Tools

The general ESEE recommendations will be implemented at each resource based on the site-specific analysis presented in Chapter 4. Below is a summary of the types of implementation tools that will be used:

Zoning and Land Use

There are three zoning tools that will be used to protect scenic resources: building height restrictions, scenic overlay zones and design guidelines.

The first zoning tool is building height limits adopted through the zoning code. Over the past 30 years, the Central City Plan District has used limits on building heights to protect scenic resources as well as historic resources, neighborhood character and relationship to the Willamette River Greenway. Each scenic resource with a general recommendation to prohibit or limit building height, mass or placement will be further evaluated in Chapter 3 to determine if the existing building heights are sufficient to implement the recommendation or if adjustments to the allowed heights are needed.

The second zoning tool is views protected with specific scenic overlay zones adopted through the code. The Scenic Resources Protection Plan originally implemented these overlay zones and associated code language to ensure that no structures, buildings or vegetation be placed within the overlay zone that could block the scenic resources. Some of the overlay zones are accompanied by specific building height limitations or limitations on vegetation removal when vegetation is a primary or secondary visual focal feature of the resource. Each scenic resource with a general recommendation to prohibit or limit conflicting uses will be further evaluated and the scenic overlay zone updated accordingly. The code language may also be updated to make sure all conflicting uses are addressed.

Another tool is design guidelines. Design guidelines are used for specific areas, districts or streets to ensure that development fits into the existing and desired future character of the area. Design guidelines can be used to specify the way a building's frontage interacts with sidewalks and streets. Design guidelines could also be used to explain how vegetation or structures should enhance the scenic resources.

Vegetation Management Plans

For many scenic resources, overgrown and unmaintained vegetation has resulted in visual focal points being blocked or obscured. Even if the vegetation is currently not a conflicting use, the species type or placement could become conflicting without management. Each scenic resource with a general recommendation to prohibit or limit conflicting vegetation will be further evaluated and site-specific recommendations about vegetation management provided.

Other Non-Regulatory Tools

Improvements in the way that the public can access a scenic resource may be recommended. Bus stops, bike lanes, sidewalks, change in grade and wayfinding tools to help a diversity of people find and enjoy the resources may be recommended. ADA accessibility should be addressed at some of the resources to ensure access for all people.

Investments in amenities, such as lighting and benches, may improve the safety and experience of the scenic resources. Addition of interpretation, including signs or telescopes, would add interest and provide education to visitors.

Chapter 5 – Site-Specific ESEE Decisions for Viewpoints and View Corridors

Chapter 3 is the general ESEE analysis, which results in recommendations for all categories of scenic resources and conflicting uses. Chapter 3 provides a more in-depth analysis of view corridors and allowed building heights. In Chapter 4, the general recommendations are applied to the individual viewpoints and view corridors and adjustments or clarifications are made based on the context of the resource in its setting, additional analysis (Chapter 3) or guidance from the CC2035 plan. For example, the general ESEE recommendation for two viewpoints in close proximity and with similar views may be to limit conflicting uses for both viewpoints. The site-specific decision may be to limit conflicting uses on one but allow conflicting uses on the other. A detailed explanation of the decision is provided along with photographs, maps and other graphics that further depict the decision. There are 133 views with associated viewpoints included. Map 5 shows the decisions for viewpoints and view corridors based on the site-specific analysis.

5.a. Policy Priorities

In general, the following policy priorities were used to adjust and clarify the general recommendations for each viewpoint.

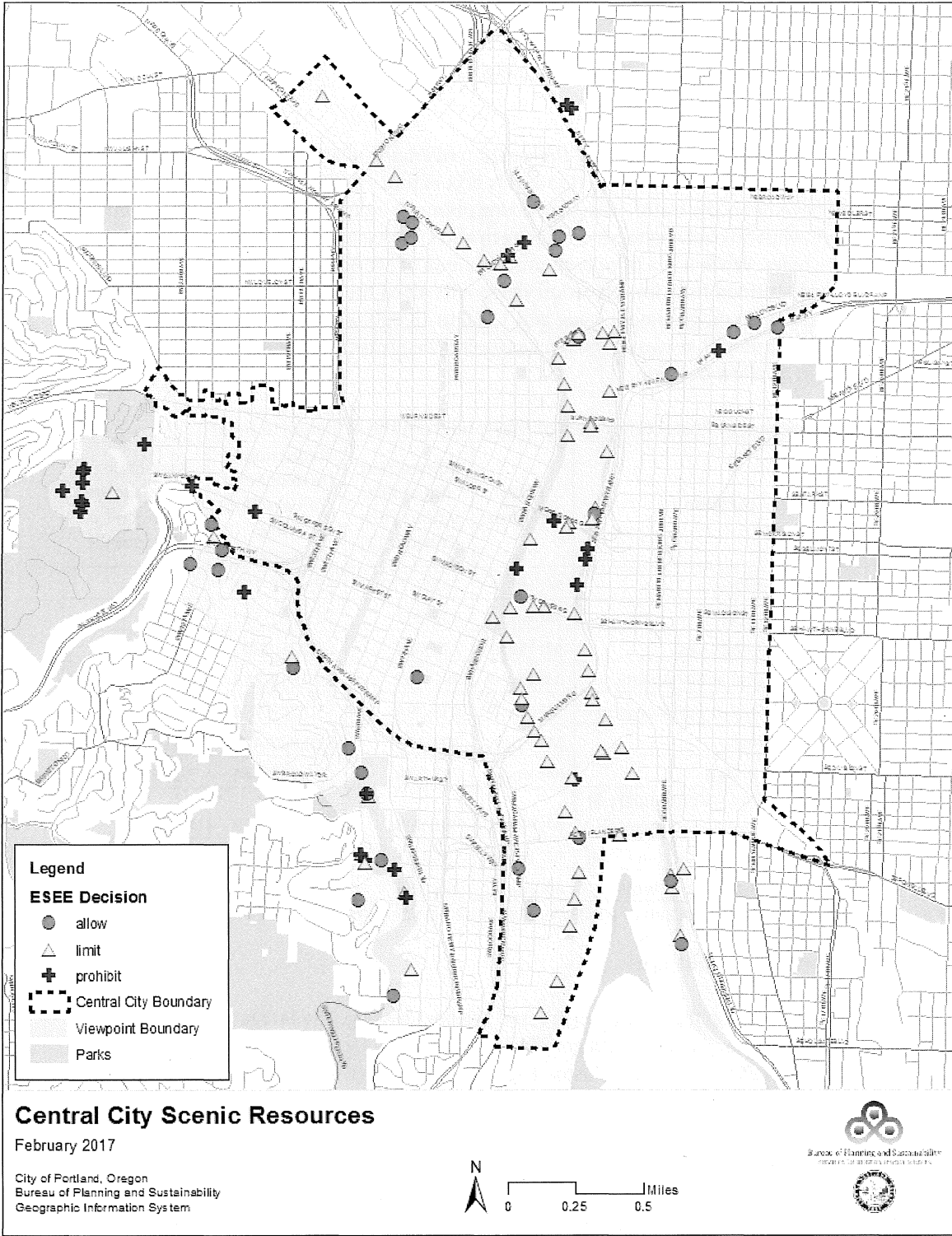
Developed and Frequently Visited Viewpoints

Portland has been protecting views for many years. There are long established, developed viewpoints with supporting infrastructure, such as benches or telescopes, throughout the Central City. Typically, these viewpoints have been invested in, are maintained as viewpoints, and exist in locations that are frequently visited by a high volume of people, such as the International Rose Test Garden, Terwilliger Boulevard or Governor Tom McCall Waterfront Park. Views from developed and frequently visited viewpoints are a priority for continued protection, maintenance and investment.

In some situations, there are views that are a priority for protection from viewpoints that are not developed. These viewpoints are typically in locations that lend themselves to easy access from multiple forms of transportation – vehicle, bus, bike, foot – and have enough space for investment in supporting infrastructure.

Views of Area Mountains from Upland Viewpoints

Surrounding Portland are mountains that help define the visual setting of the city. Mt Hood and Mt St Helens can be seen from various viewpoints that have been protected over time. These views are iconic to Portland and draw tourists to locations like the International Rose Test Garden in Washington Park. Continued protection of views of Mt Hood and Mt St Helens is a high priority. This can be achieved by limiting building and vegetation heights and allowing vegetation management within the view corridor. When possible, Mt Rainier, which can be seen to the west of Mt St Helens, should be included in the view corridor for Mt St Helens.



Map 5: Viewpoints and View Corridors ESEE Decisions

Mt Adams can also be seen from some upland viewpoints; however, Mt Adams is partially blocked by the foothills of the Cascades. Overall, views of Mt Adams are not a priority for protection. The exception is when there is a view of Mt Adams from an established and well visited viewpoint and the view has few conflicts with potential building height.

View of Mt Hood from River Viewpoints

There are multiple viewpoints located along the western riverbank of and bridges crossing the Willamette River that include a view of Mt Hood. This occurs today because building heights in the Central Eastside have been low historically, supporting primarily industrial uses. It is anticipated that new development, with an evolving focus on high tech and creative industrial uses, will result in buildings that are taller. While it is a priority to protect views of Mt Hood, the economic impact of protecting views of Mt Hood from low elevation viewpoints along the river is high, ranging from \$8M to \$94M reduction in development value and 1,100 to 13,000 reduction in job capacity (see Table 4). It is recommended that two of the ten viewpoints be protected and the remaining eight viewpoints result in an allow decision.

Table 4: Economic Impact of Protecting Views of Mt Hood from the Willamette River

Viewpoint	Location	Focal Features	Square Feet of Conflict within View Corridor [1]	Reduction in Development Value within View Corridor [2]	Reduction in Job Capacity within View Corridor [2]
NW14	Broadway Bridge	Mt Hood	2,607,772	\$93,879,792	13,044
SE07	Morrison Bridge	Mt Hood	437,537	\$15,751,332	2,192
SE21	Tilikum Crossing - East	Mt Hood	223,000	\$8,028,000	1,115
SW01	Greenway Trail at SW Ankeny	Mt Hood	986,467	\$35,512,812	4,937
SW11	Greenway Trail at SW Morrison	Mt Hood	838,994	\$30,203,784	4,197
SW17	Salmon Springs	Mt Hood	302,150	\$10,877,400	1,512
SW26	Hawthorne Bridge	Mt Hood	743,279	\$26,758,044	3,720
SW36	Greenway Trail - Montgomery St Gardens	Mt Hood	981,598	\$35,337,528	4,912
SW38	Greenway Trail - Pedestrian Trail	Mt Hood	1,026,698	\$36,961,128	5,138
SW46	Tilikum Crossing - Southwest	Mt Hood	218,168	\$7,854,048	1,093

[1] If a view corridor crosses any portion of a BLI site, the entire BLI site is treated as if it were within the view corridor.

[2] Assumes \$36/sq ft and 1 job/200 sq ft

Viewpoint SW46 is located on the newly constructed Tilikum Crossing. The bridge connects the South Waterfront innovation district at Oregon Health and Science University to the Central Eastside at the Oregon Museum of Science and Industry. Because it is at a high elevation there are fewer economic impacts that other views of Mt Hood from the Greenway Trail or other Willamette River bridges. SW46 is chosen over SE21, another view of Mt Hood from Tilikum Crossing, because SW46 provides a higher quality view due to the extent of the Willamette River seen in the foreground.

Views of Willamette River Bridges from Upland Locations

Portland is known as “Bridge City USA” because there are 12 bridges that cross the Willamette River, nine of which are located in the Central City. The Willamette River bridges can be seen in most views of and across the Central City. However, in many of the views bridges are contributing, not primary,

features. Views of the Willamette River bridges are a priority when the bridge is a primary feature of the view. This very rarely occurs from upland viewpoints; when it does occur the view of the bridge should be protected.

Views of Bridges and the Central City Skyline from the Willamette River

From the Greenway Trail on the western riverfront and the Eastbank Esplanade on the eastern riverbank, there are many opportunities to view bridges or the Central City skyline with the Willamette River in the foreground. The location of these viewpoints is riverward of any development; therefore, there are no conflicting uses with building heights or massing that would potentially impact the views. However, some of the viewpoints could be impacted by vegetation growing on the riverbank and partially blocking the view.

Riverbank vegetation is an important part of a healthy riparian corridor along the Willamette River. Vegetation provides localized shade, nutrients and structure to the river, particularly at shallow water locations. Vegetation in the floodplain helps to attenuate river flows. Vegetation also provides resting, nesting and feeding opportunities for birds and other animals. The Willamette River is on the Pacific Flyway for migrating birds. In addition, vegetation helps to stabilize the riverbanks. For all of these reasons, it is important to allow the riverbanks to be revegetated where possible.

To maximize the riverbank enhancement opportunities, only the viewpoints that offer the best views of each of the bridges and the best views of the skyline should be protected. Vegetation within these view corridors should be limited to shrubs and groundcover and maintained to keep the vegetation from blocking the views. Trees should not be planted within these view corridors.

Views of the Central City Skyline and West Hills

Views of Portland's Central City skyline are a priority for protection. The skyline is evolving and will change over time. Today one building may be a dominating feature of the skyline, but 10 years from now a different building may dominate the view. The policy of protecting views of the Central City skyline is not intended to preserve a view of any single or mix of existing buildings but rather to protect wide views of the changing skyline. This can be achieved by limiting structure and vegetation height near viewpoints.

From the east, looking west, the skyline is set against the backdrop of the West Hills. The contrast of built and natural features creates a dynamic view. Maintaining permeability between the buildings to the West Hills is a policy priority. This can be achieved by using a combination of limits on building heights and floor-to-area ratios that incent towers that occupy $\frac{1}{2}$ or $\frac{1}{4}$ blocks, rather than entire city blocks.

Views Unique to a Neighborhood

Portland's terrain includes hills on the west side of the Willamette River and flatter areas on the east side, with a few prominent buttes and ridges. By virtue of their elevation, there are many views from the West Hills to the Central City skyline and area mountains. This allows more flexibility when choosing which viewpoints and views to protect.

A large portion of the views from viewpoints in the West Hills are from small, neighborhood streets that primarily serve the residents near the viewpoint. Many of the viewpoints are difficult to find and lack infrastructure, like sidewalks, benches or nearby parking. Typically vegetation growing on the hillside in front of the viewpoint is blocking or partially blocking the view. The slopes are very steep and the vegetation is providing slope stability, as well as habitat. The priority is to choose to protect views that are more frequently used by the public, are more easily accessible and have developed viewpoints or are at locations where a viewpoint could be developed. Choosing one representative view to protect from like situations, such as nearby viewpoints with similar views, is recommended to minimize removal of vegetation on the steep slopes.

Due to the lower elevation on the east side of the Central City, there are not as many views from the neighborhoods to the Central City skyline or Willamette River bridges. When an upland view from the east looking west is identified, it is a priority for protection even if the viewpoint is not developed or frequently used.

South Waterfront

In 2006, the City produced the *South Waterfront Public Views and Visual Permeability Assessment*. The assessment included an analysis of views from SW Terwilliger Boulevard to Mt Hood and from the Springwater Corridor to the West Hills. The plan identified five viewpoints that must be considered when designing buildings in South Waterfront. Those viewpoints are shown in Figure 7: the northernmost pullout along SW Terwilliger Boulevard (SW51), the pullout along SW Terwilliger Boulevard just south of SW Campus Drive (SW62), the pullout along SW Terwilliger Boulevard just north of the Charthouse Restaurant (which is outside of the CCSRPP boundary), the collection of picnic tables and benches along the Springwater Corridor west of SE Franklin Street (SE26-28), and the intersection of SE Caruthers Street and the Greenway Trail/Springwater Corridor (SE19). The recommendations of the *South Waterfront Public Views and Visual Permeability Assessment* are upheld. Building height limits in South Waterfront are not being amended by this CCSRPP. However, the viewpoints along the Willamette River have been moved slightly to reflect existing conditions and development that has already occurred in South Waterfront.

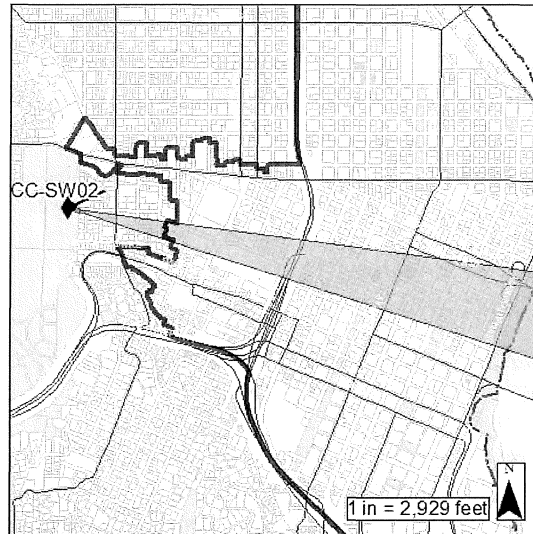
CCSW02: LEWIS AND CLARK MONUMENT AT SW PARK PLACE

Site-Specific ESEE Decision: The ESEE decision is to:

1. *Prohibit* conflicting structures and vegetation within view corridor to Mt Hood.

Protected focal feature(s) of the view: Mt Hood

Explanation: Located at the entrance to Washington Park from SW Park Place, this view acts much like a corridor with the path and landscaping in the foreground. Mt Hood is visible in the background but is partially obscured by a large building. Large trees are encroaching on the view from both sides, although the side vegetation also frames the view. Vegetation management will be needed to maintain the view of Mt Hood. The view from CCSW02 is ranked Tier II.



The general ESEE recommendation for a Tier II view where Mt Hood or Mt St Helens is a primary focal feature is to limit conflicting structures and vegetation within the view corridor to Mt Hood. There is an existing height limit associated with this historic view corridor from the Lewis and Clark Monument to Mt Hood. Though the view of Mt Hood is already compromised – there's an apartment building that encroaches on the view of the mountain – the viewpoint is located in an accessible area at the entrance of Washington Park. Therefore, the recommendation is to prohibit conflicting uses and to retain the height restriction associated with the view of Mt Hood from this viewpoint (shown in red) and limit vegetation (shown in yellow).



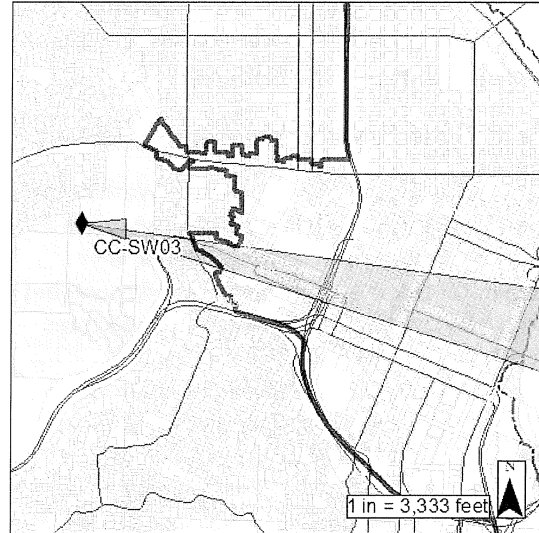
CCSW03: INTERNATIONAL ROSE TEST GARDEN – NORTH SIDE, PICNIC TABLES

Site-Specific ESEE Decision: The ESEE decision is to:

1. *Prohibit* conflicting structures and vegetation within view corridor to Mt Hood.
2. *Limit* conflicting structures and vegetation within view corridor to Central City skyline.

Protected focal feature(s) of the view: Mt Hood, Central City skyline

Explanation: Although located north of the main entrance and stairways into the garden, this viewpoint currently offers the least obstructed view of Mt Hood from the Rose Garden. There is also a view of the rose gardens in the foreground and views of the eastern foothills, Central City skyline, and Mt Adams in the distance. This viewpoint is not a developed viewpoint like others in the Rose Garden that have telescopes, benches, or other viewing amenities, although there are picnic tables. The view from CCSW03 is ranked Tier I.



The general ESEE recommendation for a Tier I view is to prohibit conflicting structures and vegetation within the view corridors to Mt Hood, Mt St Helens, and bridges, and to limit conflicting structures and vegetation within view corridors to other primary focal features. That recommendation stands. However, this viewpoint is at a sufficiently high elevation that there are no conflicts with the view of Mt Hood and existing developable height limits. This is true for both BLI and non-BLI lots. Mid-ground vegetation is beginning to encroach on the view of Mt Hood from below. If these trees grow much taller, they will completely obscure Mt Hood. Vegetation management could prevent this and may also restore views of the Central City skyline and Mt Adams, which is partially visible from this viewpoint. Therefore, the recommendation is to prohibit conflicting structures and vegetation to maintain a view of Mt Hood



(shown in red), and to limit conflicting structures and vegetation within a view corridor to the Central City skyline (shown in yellow).

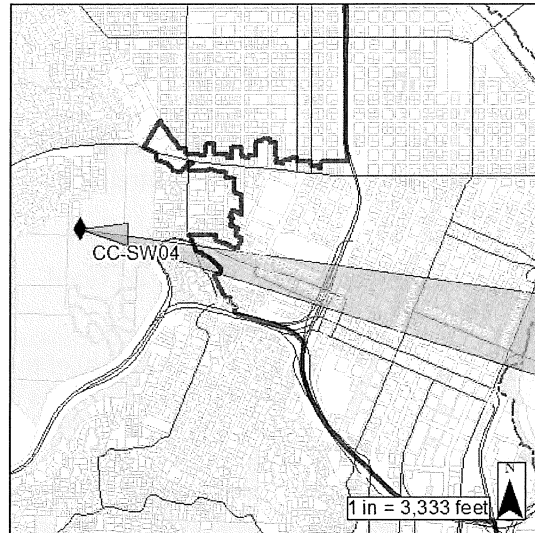
CCSW04: INTERNATIONAL ROSE TEST GARDEN – TOP OF STAIRS NEAR TELESCOPE

Site-Specific ESEE Decision: The ESEE decision is to:

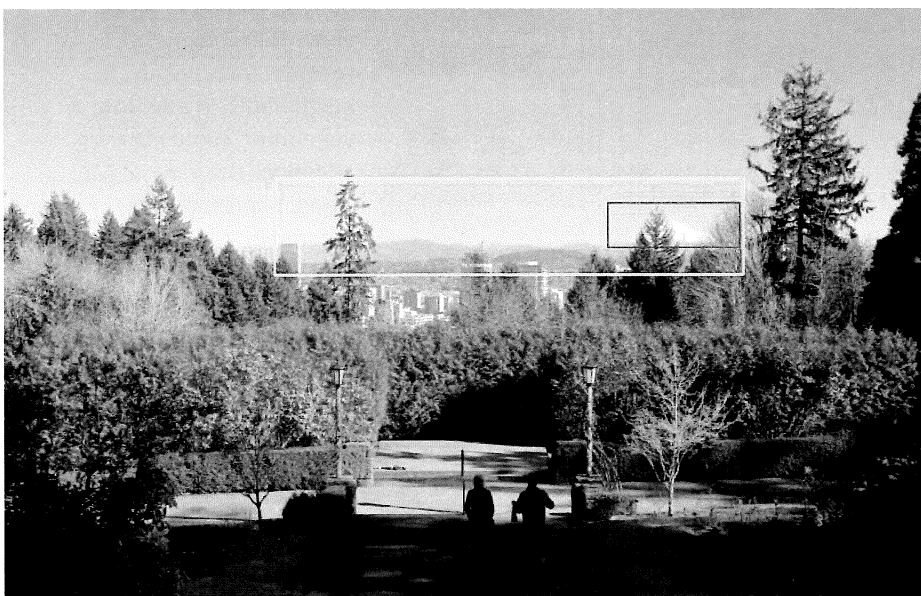
1. *Prohibit* conflicting structures and vegetation within view corridor to Mt Hood.
2. *Limit* conflicting structures and vegetation within view corridor to the eastern foothills.

Protected focal feature(s) of the view: Mt Hood, eastern foothills

Explanation: Located at the top of the stairs above the amphitheater stage at the Rose Garden, this view looks out to the eastern foothills and Mt Hood. The Downtown skyline and rose garden are secondary focal features. This is one of two developed viewpoints at the rose garden and has a viewing telescope (the other developed viewpoint is CCSW10). The view from CCSW04 is ranked Tier I.



The general ESEE recommendation for a Tier I view is to prohibit conflicting structures and vegetation within view corridors where Mt Hood, Mt St Helens, or a bridge is a primary focal feature and to limit conflicting structures and vegetation within view corridors to other primary focal features. There are two BLI and two non-BLI lots that, if redeveloped to their allowed height potential, could block the view. Therefore, staff recommend applying a height limit. In addition, vegetation could grow up and block the view of Mt Hood. Therefore, the recommendation is to prohibit conflicting structures and vegetation to maintain a view of Mt Hood (shown in red) and to limit conflicting structures and vegetation to maintain a view of the eastern foothills (shown in yellow).



CCSW05: INTERNATIONAL ROSE TEST GARDEN – TOP OF STAIRS ABOVE GAZEBO

Site-Specific ESEE Decision: The ESEE decision is to:

1. *Prohibit* conflicting structures and vegetation within view corridor to Mt Hood.
2. *Limit* conflicting structures and vegetation within view corridor to the Central City skyline.

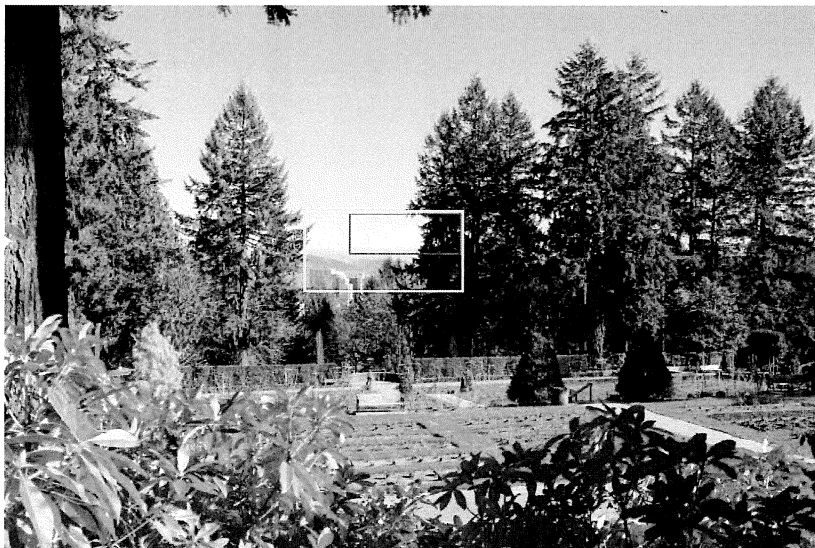
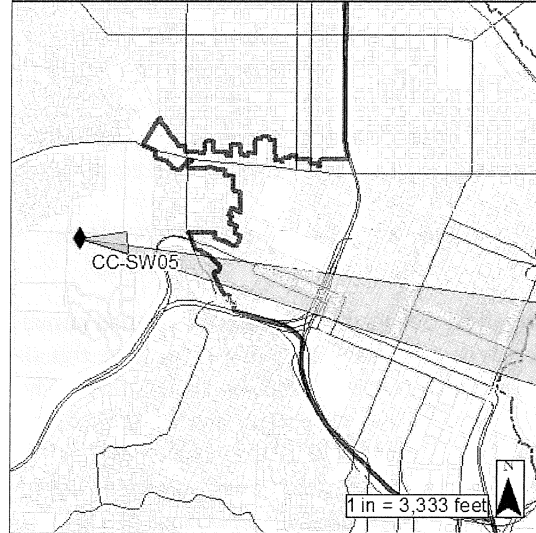
Protected focal feature(s) of the view: Mt Hood, Central City skyline

Explanation: This viewpoint is just left (north) of the top of the stairs above the gazebo. The view looks out over the rose garden to Mt Hood. A small portion of the Central City skyline and eastern foothills are also visible. The rose garden in the foreground contributes positively to the scenic quality of this view, though a row of Douglas firs in the mid-ground encroaches on the view from both sides.

As one moves closer to the middle of the top of the stairs above the gazebo, glimpses of Mt Adams and different sections of the Central City skyline, including the Park Avenue West Tower and the U.S. Bancorp Tower, open up, though Mt Hood is not visible from that vantage point. This viewpoint is not a developed viewpoint like others in the Rose Garden that have telescopes, benches, or other viewing amenities. The view from CCSW05 is ranked Tier I.

The general ESEE recommendation for a Tier I view is to prohibit conflicting structures and vegetation within view corridors where Mt Hood, Mt St Helens, or a bridge is a primary focal feature and to limit conflicting structures and vegetation within view corridors to other primary focal features. There are three BLI and two non-BLI lots that, if redeveloped to their allowed height potential, could block the

view. Therefore, staff recommend applying a height limit. In addition, vegetation could grow up and block the view of Mt Hood. Therefore, the recommendation is to prohibit conflicting structures and vegetation to maintain a view of Mt Hood (shown in red) and to limit conflicting vegetation to maintain a view of the Central City skyline (shown in yellow).



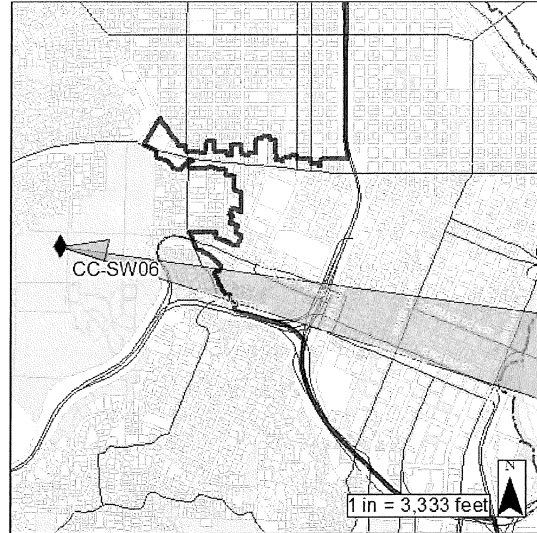
CCSW06: PORTLAND JAPANESE GARDEN

Site-Specific ESEE Decision: The ESEE decision is to:

1. *Prohibit* conflicting structures and vegetation within view corridor to Mt Hood.
2. *Limit* conflicting structures and vegetation to maintain a view of the Central City skyline.

Protected focal feature(s) of the view: Mt Hood, Central City skyline

Explanation: This view, taken from the Portland Japanese Garden, looks out to Mt Hood and the eastern foothills. The Central City skyline and Mt Tabor are secondary focal features. Though the Japanese Garden is open to the public, there is a required admission fee to enter the garden, which restricts who is able to access the viewpoint. The view from CCSW06 is ranked Tier I.



The general ESEE recommendation for a Tier I view is to prohibit conflicting structures and vegetation within view corridors where Mt Hood, Mt St Helens or a bridge is a primary focal feature and to limit conflicting structures and vegetation within view corridors to other primary focal features. That recommendation stands. However, the viewpoint at the Japanese Garden is at a high enough elevation that structures within the Central City boundary, even if built to their allowed heights, will not block the view of Mt Hood under current zoning. The view of the Central City skyline is being impacted by vegetation growing up from below, particularly a row of Douglas firs in the foreground; however, vegetation also contributes positively to the view. Therefore, the recommendation is to prohibit conflicting structures and vegetation to maintain a view of Mt Hood (shown in red) and to limit conflicting structures and vegetation to maintain a view of the Central City skyline (shown in yellow).



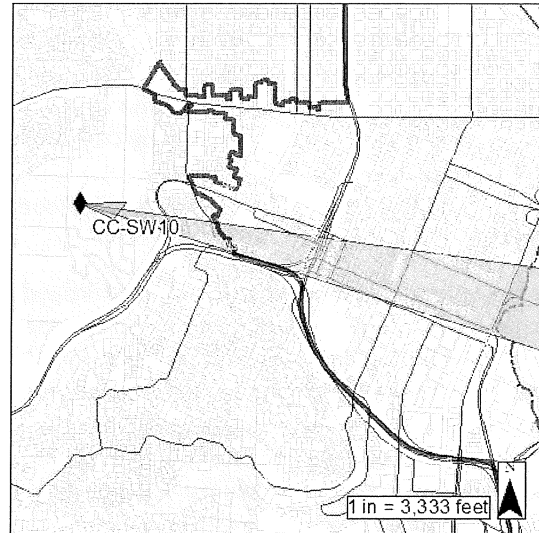
CCSW10: INTERNATIONAL ROSE TEST GARDEN – NEAR GARDEN STORE, SOUTH POINT

Site-Specific ESEE Decision: The ESEE decision is to:

1. *Prohibit* conflicting structures and vegetation within view corridor to Mt Hood.
2. *Limit* conflicting structures and vegetation within view corridor to the Central City skyline.

Protected focal feature(s) of the view: Mt Hood, Central City skyline

Explanation: This view looks out to the Downtown skyline, eastern foothills, and Mt Hood. The Wells Fargo Center partially blocks a full view of Mt Hood. Though the presence of vegetation contributes positively to the scenic quality of this view, particularly the large weeping willow on the left, a row of Douglas firs is encroaching on the view from below, almost entirely blocking the skyline and part of Mt Hood. There are multiple vantage points from this large viewing platform. This viewpoint is between the restrooms and garden store; the other is just to the north (CCSW09). The view from CCSW10 is ranked Tier I.



The general ESEE recommendation for a Tier I view is to prohibit conflicting structures and vegetation within view corridors where Mt Hood, Mt St Helens or a bridge is a primary focal feature, and to limit conflicting structures and vegetation within view corridors to other primary focal features. The Rose Garden is a major tourist attraction and draws many visitors throughout the year. This is the most highly developed viewpoint in the Rose Garden and consists of a viewing platform area with tables and chairs, benches, two telescopes, restrooms, a water fountain, bike racks, and lighting. The view of Mt Hood is already compromised – the Wells Fargo Center partially obstructs the view of the mountain; however, it is still a Tier I ranked view. There are three BLI conflicts and five non-BLI conflicts. Staff recommend



applying height limits to preserve this view. In addition, a row of Douglas firs is encroaching on the view from below, almost entirely blocking the skyline and part of Mt Hood. Therefore, the recommendation is to prohibit conflicting structures and vegetation to maintain a view of Mt Hood (shown in red) and to limit conflicting structures and vegetation to maintain visibility through to the Central City skyline (shown in yellow).

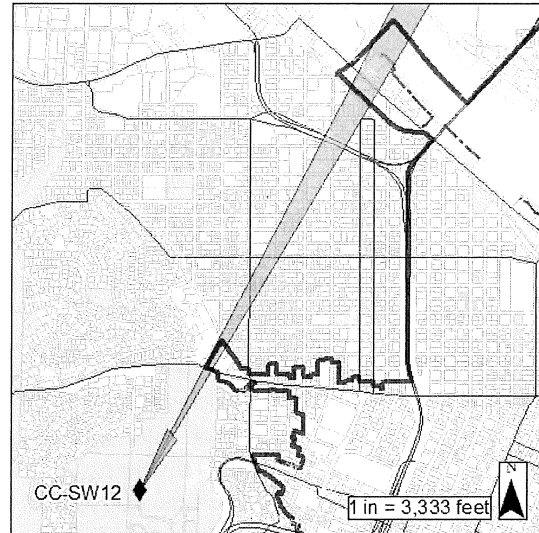
CCSW12: WASHINGTON PARK – ZOO TRAIN STATION BY ROSE GARDEN

Site-Specific ESEE Decision: The ESEE decision is to:

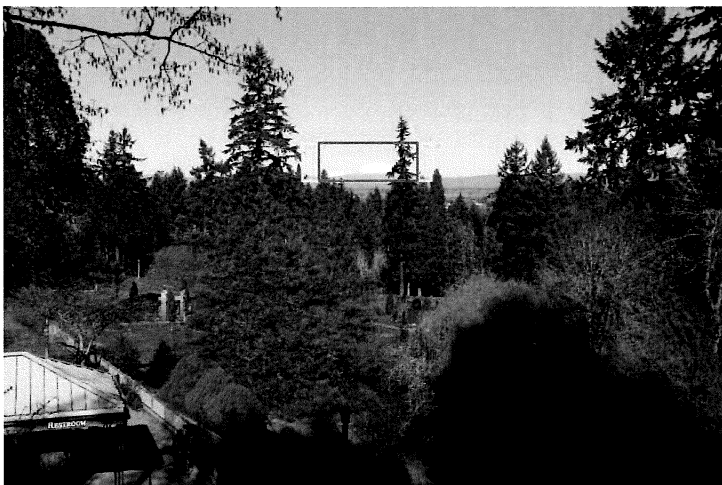
1. *Prohibit* conflicting structures within view corridor to Mt St Helens and Mt Rainier.
2. *Limit* conflicting vegetation within the view corridor to Mt St Helens and Mt Rainier.

Protected focal feature(s) of the view: Mt St Helens, Mt Rainier

Evaluation: The viewpoint at the Washington Park zoo train platform by the Rose Garden offers a rare view of Mt St Helens with Mt Rainier peeking out from behind. Historically, this view provided a panoramic overlook that also included views of the Downtown skyline and Mt Hood, in addition to Mt St Helens. Today, the view is almost entirely blocked by vegetation and Mt Hood and the skyline are no longer visible. Glimpses of the rose garden can be seen in the foreground along with glimpses of the eastern foothills in the distances. The historic view could be restored through vegetation management. The view from CCSW12 is ranked Tier I.



The general ESEE recommendation for a Tier I view is to prohibit conflicting structures and vegetation within view corridors where Mt Hood, Mt St Helens or a bridge is a primary focal feature and to limit conflicting structures and vegetation within view corridors to other primary focal features. The viewpoint at the zoo train station by the Rose Garden is at a high enough elevation that structures within the Central City boundary, even if built to their allowed heights, will not block the view of Mt St Helens. However, vegetation is beginning to obscure the view of Mt St Helens. This is also one of the only views of Mt St Helens where Mt Rainier is identifiable. Therefore, the recommendation is to prohibit conflicting structures and vegetation to maintain a view of Mt St Helens and Mt Rainier (shown in red).



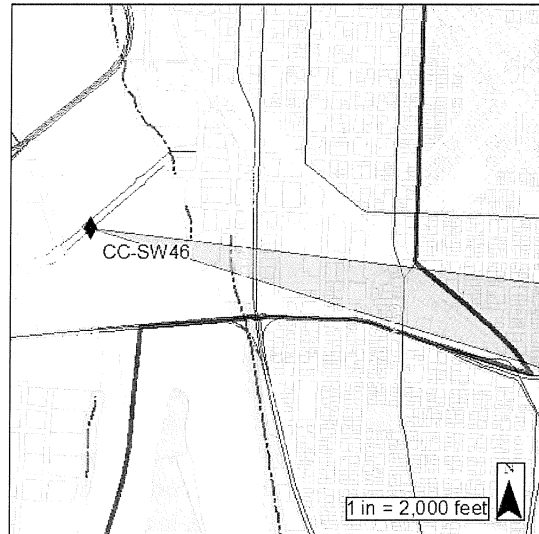
CCSW46: TILIKUM CROSSING – SOUTH SIDE, WEST

Site-Specific ESEE Decision: The ESEE decision is to:

1. *Prohibit* conflicting structures and vegetation within view corridor to Mt Hood.
2. *Limit* conflicting structures and vegetation within view corridor to Willamette River, Ross Island Bridge, and South Waterfront skyline.

Protected focal feature(s) of the view: Willamette River, Ross Island Bridge, South Waterfront skyline, Mt Hood

Explanation: This view from the western bump-out on the south side of Tilikum Crossing looks south up the Willamette River toward the Ross Island Bridge. Mt Hood is also visible. Ross Island, the South Waterfront, the West Hills, multiple buttes, and the riverbank are secondary focal features. Tilikum Crossing is one of the few bridges with separated bicycle and pedestrian lanes as well as pedestrian bump-outs, creating a safe place for viewers to stop and enjoy the view. The view from CCSW46 is ranked Group A.



The general ESEE recommendation for Group A views is to prohibit conflicting structures and vegetation within view corridors to Mt Hood, Mt St Helens, or bridges, and to limit conflicting structures and vegetation within view corridors to other primary focal features. Due to the location of this viewpoint on Tilikum Crossing out over the Willamette River, there's no potential for structures or vegetation to block the view of the Willamette River, Ross Island Bridge, or the South Waterfront skyline. However, structures or vegetation on the east side of the river have the potential to block a view of Mt Hood. This viewpoint was included in the larger analysis of views of Mt Hood from bridges and the Greenway Trail. The results of that economic analysis for views of Mt Hood from the Willamette River results in a ESEE recommendation for CCSW46 to prohibit conflicting uses within the view corridor to Mt Hood (shown in red). The general ESEE recommendation stands for the river, bridge, and skyline (shown in yellow).



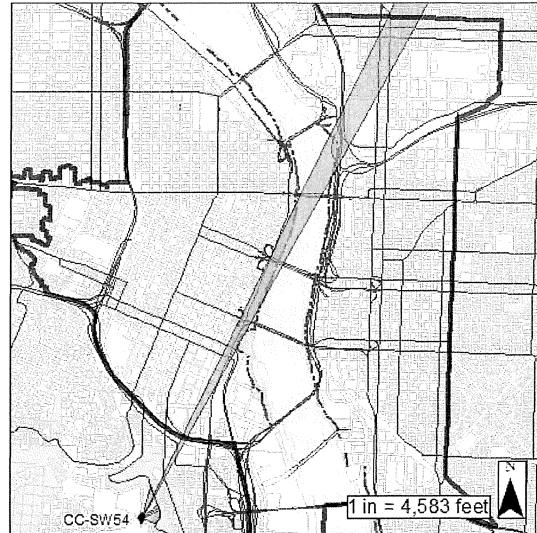
CCSW54: OHSU PETER O. KOHLER PAVILION – LOWER LEVEL

Site-Specific ESEE Decision: The ESEE decision is:

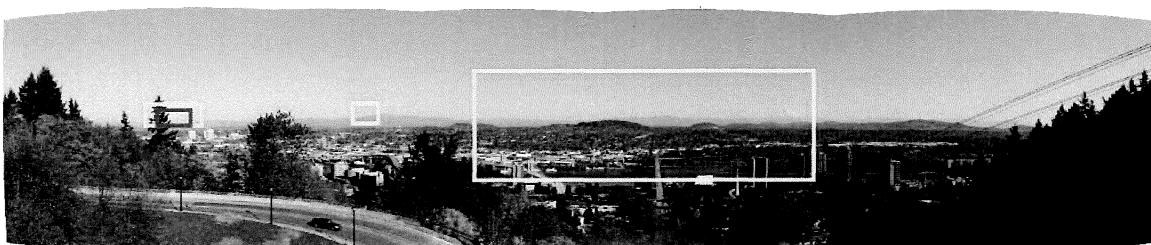
1. *Prohibit* conflicting structures within view corridor to Mt St Helens.
2. *Defer* to South Waterfront Public Views and Visual Permeability Assessment (2006) regarding ESEE decision for conflicting structures within view corridor to Mt Hood.
3. *Limit* conflicting vegetation within view corridors to Mt St Helens, Mt Hood, Mt Adams and Tilikum Crossing with the Willamette River below.

Protected focal feature(s) of the view: Mt St Helens, Mt Hood, Mt Adams, Tilikum Crossing, Willamette River

Explanation: Two pavilions are located at the Oregon Health and Sciences University Peter O. Kohler Pavilion that are developed as viewpoints, this lower pavilion and an upper one (see CCSW55). The lower pavilion provides a wide panoramic view of Mt St Helens, Mt Adams, Mt Hood, the Willamette River, Rocky Butte, Kelly Butte, Powell Butte, Mt Tabor, Mt Scott, the eastern foothills, South Waterfront, Tilikum Crossing, and the Lloyd District. While the lower deck of the OHSU pavilion offers a nice view, it is not easily accessible by the general public. The view from CCSW54 is ranked Tier I.



The general ESEE recommendation for a Tier I view is to prohibit conflicting structures and vegetation within view corridors where Mt Hood, Mt St Helens, or bridges are primary focal features, and to limit conflicting structures and vegetation within view corridors to all other primary focal features. Because there are two viewpoints with views of area mountains, the upper level rather than the lower level is recommended for protection. Vegetation should be maintained to protect the view of the City Skyline; of particular note is a tall Douglas fir that is partially obscuring Mt St Helens. There are no existing or foreseeable building conflicts blocking this view of Mt Hood and, as South Waterfront continues to develop, all new buildings will be held to the *South Waterfront Public Views and Visual Permeability Assessment*, which considers east-west visibility through the developed area. The ESEE decision is to defer to the 2006 *South Waterfront Public Views & Visual Permeability Assessment* for height and massing restrictions within the view corridor to Mt Hood, to limit conflicting structures and vegetation Mt Adams, Mt Hood, Mt St Helens, and Tilikum Crossing with the Willamette River below (shown in yellow).



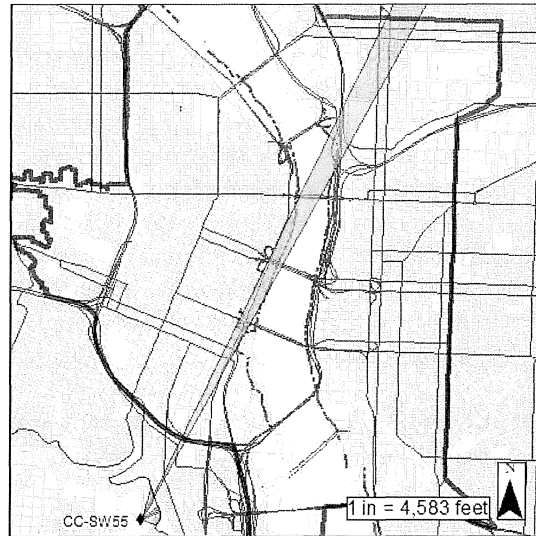
CCSW55: OHSU PETER O. KOHLER PAVILION – UPPER LEVEL

Site-Specific ESEE Decision: The ESEE decision is to:

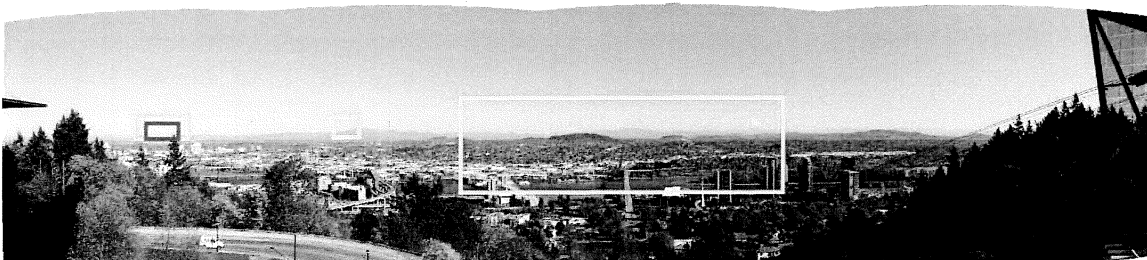
1. *Prohibit* conflicting structures within view corridor to Mt St Helens.
2. *Defer* to South Waterfront Public Views and Visual Permeability Assessment (2006) regarding ESEE decision for conflicting structures within view corridor to Mt Hood.
3. *Limit* conflicting vegetation within view corridors to Mt St Helens, Mt Hood, Mt Adams, and Tilikum Crossing with the Willamette River below.

Protected focal feature(s) of the view: Mt Hood, Mt St Helens, Mt Adams, Tilikum Crossing, Willamette River

Explanation: Two pavilions are located at the Oregon Health and Sciences University Peter O. Kohler Pavilion that are developed as viewpoints, this upper pavilion and a lower one (see CCSW54). Showcasing all three of Portland's iconic mountains and many buttes, this is one of the best views Portland has to offer. This wide panoramic view includes Mt Hood, Mt St Helens, Mt Adams, the Willamette River, Rocky Butte, Kelly Butte, Powell Butte, Mt Tabor, Mt Scott, the eastern foothills, South Waterfront, Tilikum Crossing, and the Lloyd District. While the upper level of the OHSU pavilion is developed as a viewpoint and offers a nice view, it is not easily accessible by the general public. The view from CCSW55 is ranked Tier I.



The general ESEE recommendation for a Tier I view is to prohibit conflicting structures and vegetation within view corridors where Mt Hood, Mt St Helens, or bridges are primary focal features, and to limit conflicting structures and vegetation within view corridors to all other primary focal features. Building heights and vegetation may block the view of Mt St Helens. There are no existing or foreseeable building conflicts blocking this view of Mt Hood and, as South Waterfront continues to develop, all new buildings will be held to the *South Waterfront Public Views and Visual Permeability Assessment*. Though not primary focal features, Mt Adams and multiple bridges are visible and add to the scenic quality of this view. The ESEE decision is to defer to the 2006 *South Waterfront Public Views & Visual Permeability Assessment* for height and massing restrictions within the view corridor to Mt Hood, to prohibit conflicting structures to maintain a view of Mt St Helens (shown in red), and to limit conflicting vegetation to maintain views of Mt Adams, Mt Hood, Mt St Helens, and Tilikum Crossing with the Willamette River below (shown in yellow).



CCSW56: PORTLAND AERIAL TRAM OHSU TERMINAL – NORTH PLATFORM

Site-Specific ESEE Decision: The ESEE decision is:

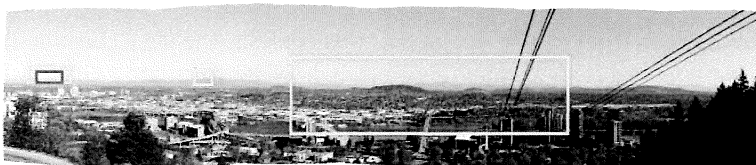
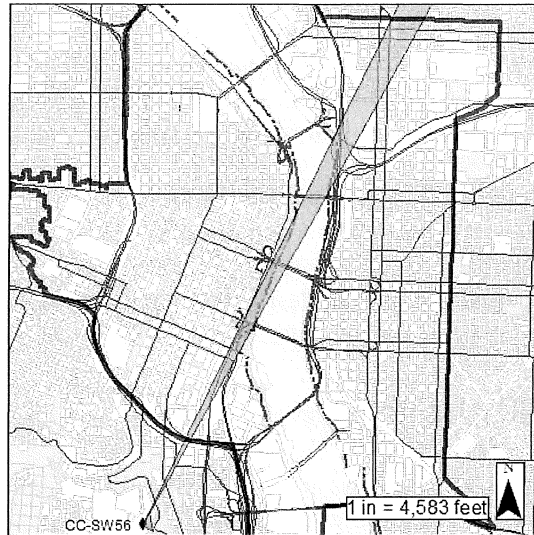
1. *Prohibit* conflicting structures within view corridor to Mt St Helens.
2. *Defer* to South Waterfront Public Views and Visual Permeability Assessment (2006) regarding ESEE decision for conflicting structures within view corridor to Mt Hood.
3. *Limit* conflicting vegetation within view corridors to Mt St Helens, Mt Hood, Mt Adams and Tilikum Crossing with the Willamette River below.

Protected focal feature(s) of the view: Mt St Helens, Mt Hood, Mt Adams

Explanation: The view from the north platform of the Portland Aerial Tram Oregon Health and Science

University terminal includes elements of the most iconic views in Portland: Mt Hood, Mt St Helens, and Mt Adams, seven bridges (Ross Island, Tilikum Crossing, Marquam, Hawthorne, Morrison, Burnside, and Steel), the Willamette River, the eastern foothills, South Waterfront, Ross Island, the Convention Center spires, and the Lloyd District. (See CCSW60 for view from south platform.) The view is bounded on the left by the tram platform structure and on the right by vegetation. The tram cables create a strong linear element that draws the viewer's eye down toward the water and South Waterfront development but also obstructs a clean view of the horizon and ridgeline. Though at the top of the tram, this viewpoint is not easily accessible by any means other than the tram. The view from CCSW56 is ranked Tier I.

The general ESEE recommendation for a Tier I view is to prohibit conflicting structures and vegetation within view corridors where Mt Hood, Mt St Helens, or bridges are primary focal features, and to limit conflicting structures and vegetation within view corridors to all other primary focal features. Building heights and vegetation may block the view of Mt St Helens. There are no existing or foreseeable building conflicts blocking this view of Mt Hood and, as South Waterfront continues to develop, all new buildings will be held to the *South Waterfront Public Views and Visual Permeability Assessment*. The view of Mt Adams and glimpses of the Willamette River and bridges are also important to the character of this view. Vegetation could grow up and block views of the mountains or river. The ESEE decision is to defer to the 2006 *South Waterfront Public Views & Visual Permeability Assessment* for height and massing restrictions within the view corridor to Mt Hood, to prohibit conflicting structures to maintain a view of Mt St Helens (shown in red), and to limit conflicting vegetation to maintain views of Mt Adams, Mt Hood, Mt St Helens and Tilikum Crossing with the Willamette River below (shown in yellow).



Appendix A: View Corridor Building Height Modeling and Economic Analysis

View corridors that cross the Central City may be impacted by construction of new buildings. In order to protect the views, some maximum building heights could be limited to keep the buildings from entering into the view corridor. However, limiting building heights can have economic impacts.

The purpose of this modeling is to understand the potential impacts of building heights and massing on views from viewpoints that are recommended for a limit or prohibit decision. The economic analysis then takes those results and evaluates the impact of protecting a view on potential development. This chapter does not address impacts on views from vegetation, above-ground utilities, permanent fencing or other conflicting uses – those conflicting uses are addressed in Chapter 4.

Methodology

The following views and viewpoints are evaluated to understand the relationship between the view corridors and allowed building heights:

- Tier I Upland views and Group A River views of Mt Hood, Mt St Helens and bridges
- Tier I Upland views to other primary focal features
- Tier II Upland and Group B River views of Mt Hood and Mt St Helens
- Views unique to a neighborhood
- View Streets where the street is not linear

These views were ranked relatively high in the Central City Scenic Resources Inventory (CCSRI) and the focal features of the views are iconic and part of Portland' imageability.

The exception to the above list of views that were evaluated are view corridors that cross South Waterfront. In 2006, scenic resource protections were updated through the *South Waterfront Urban Design and Development Update Project: Public Views and Visual Permeability Assessment*. The assessment studied the impact of future development in South Waterfront on views from five viewpoints. The result is that applicants for development in South Waterfront must consider views from those five locations when designing buildings. The views are from both the east and west sides of the Willamette River and address both preserving views of Mt Hood from the west side and maintaining visibility to the West Hills from the east side. There are building height and massing restrictions within the South Waterfront zoning code. Because considerable work and public process went into creating the recent rules, view corridors crossing South Waterfront are excluded from this evaluation.

The evaluation is a multi-step process where each step builds on the previous.

Step One – Refining View Corridors

A view corridor is the extent of the view as seen from the viewpoint. For this analysis, the view corridors were refined to better represent the primary focal features identified CCSRI. In order to create a GIS model, four spatial points were set for each of the views and focal features:

1. **Elevation of the viewpoint** – this is the elevation of the land at the viewpoint plus 5ft 6in, which is the average eye level and the height at which the pictures of the view were taken.

2. **Elevation of the focal feature** – this is the lowest elevation that needs to be seen to preserve the view:
 - a. **Mt Hood** – elevation 5,000 ft. This is approximately 1,000 ft below the timberline. The timberline is a defining feature and creates the contrast in the mountain. There are two exceptions:
 - i. The view from Vista Bridge to Mt Hood is partially blocked by buildings and the timberline is not visible across the entire view. The elevation was adjusted based on the Congress Building and the Mark O. Hatfield Federal Courthouse, which form the bottom of the view of Mt Hood from Vista Bridge. The remaining portion of the view cone, south of the Mark O. Hatfield Federal Courthouse, remains at 1,000 feet below timberline.
 - ii. The view from Salmon Springs to Mt Hood is partially blocked by the Interstate-5 ramps and the timberline is not visible. The elevation was adjusted based on the ramps, which form the bottom of the view of Mt Hood from Salmon Springs.
 - b. **Mt St Helens** – elevation 3,800 ft. This is approximately 1,000 ft below the timberline. The timberline is a defining feature and creates the contrast in the mountain. There is one exception:
 - i. The view from SW Terwilliger Boulevard (SW49) crosses over the recently approved Multnomah County Courthouse location. The view corridor was split into two and the elevation of the sliver that passes over the courthouse was set at the elevation of the proposed courthouse roof (this translates to an elevation on Mt St Helens of approximately 6,500 ft).
 - c. **Central City Skyline** – elevation 135 ft for views from the east side and 285 ft for views from the West Hills. The four tallest buildings – US Bancorp Tower, Wells Fargo Center, Park Avenue West Tower and KOIN Center – were used as focal points that represent the Central City skyline.
 - d. **Tilikum Crossing Bridge** – elevation 85 ft. This is the approximate elevation of the deck at the center of the bridge.
 - e. **Broadway Bridge** – elevation 102 ft. This is the elevation of the deck at the center of the bridge.
 - f. **Fremont Bridge** – elevation 225 ft. This is the elevation of the deck at the center of the bridge.
 - g. **Hawthorne Bridge** – elevation 50 ft. This is the approximate elevation of the deck at the center of the bridge.
 - h. **Vista Bridge** – elevation 215 ft. This elevation was based on The Jefferson Condominiums at 1234 SW 18th as this is the tallest building in the view corridor from SW Jefferson Street and SW 14th Avenue and partially encroaches on a full view of the arch.
3. **The width of the focal features(s)** (two points) – this is how wide the view corridor needs to be to see the full extent of the focal feature(s). This was determined using a mix of digital elevation modeling and aerial photography. There are two spatial points associated with the width. The widths were adjusted based on photographs taken from each viewpoint to represent the actual width of the view.

Using these four spatial points, a view corridor elevation surface was created in GIS emanating from each viewpoint. The view corridor elevation surface represents a continuum of the lowest elevation necessary to preserve the view of a particular focal feature. Some of the view corridors were modified based on existing development. When an existing building is already impeding a view corridor, the view corridor elevation was adjusted above the existing building. This was done because the analysis is

considering the economic impact of preserving existing views, not re-establishing pre-development views.

Step Two – Establishing Allowable Building Heights

This step in the analysis is to compare the impacts of the view corridors on the existing allowed building heights with the proposed allowed building heights in the Central City.

The existing allowed buildable heights were established through previous planning efforts and are set in zoning code Map 510-3, Base Heights. As part of the Central City 2035 Plan there were recommendations through each quadrant that related to height. Those recommendations were used to create a proposed Map 510-3, Base Heights. Although there were changes in the base height proposed, the majority of the base heights in the Central City were retained from the existing Map 510-3.

Both the existing and proposed base heights cover most of the Central City. However, some areas do not have a base height set and rely on the base zone. In order to perform the modeling, assumptions were made and heights assigned in the following geographies:

1. **Central Eastside:** There are two areas in the Central Eastside that have unique building heights.
 - a. There are sites that are zoned IG1 with a Comprehensive Plan designation of EX. This means that property owners have the right to request to be rezoned from IG1 to EX. If they asked to be rezoned, the EX comes with a base height limit of 275 feet. Therefore, 275 feet is the base height used for those sites in both the existing and proposed analysis.
 - b. The portions of the Central Eastside zoned IG1 do not have base heights. Historically these areas were developed with traditional industrial uses in low-rise buildings (less than five stories). The new Central City 2035 Plan proposes to allow IG1 areas develop with industrial office uses in taller buildings. For this analysis, it is assumed that the typical industrial office building in the Central Eastside will not exceed 90 feet. This is based on 4:1 FAR and 80% lot coverage. The following are exceptions to the assumption:
 - i. In the geography known as the *Southern Triangle* there are larger “super” blocks and it would be possible to reconfigure these sites to have tall towers on portions of the site. The Southern Triangle is bound by the railroad to the north and east, SE Powell Boulevard to the south and the Willamette River to the west. A base height of 200 feet is applied to the Southern Triangle.
 - ii. There are three blocks bound by SE Taylor Street to the north, SE Madison Street to the south, SE Water Avenue to the east, and the Willamette River Greenway to the west, which are owned by the Portland Development Commission and are referred to as the *ODOT Blocks* (because portions of the blocks are in the Interstate 5 right-of-way and managed by OR Department of Transportation). These blocks are larger than the typical blocks in the Central Eastside and may have taller buildings. A base height of 175 feet is applied to the ODOT Blocks.
2. **Lower Albina:** Most of Lower Albina is zoned for industrial uses and does not have base heights, except where there are previously protected view corridors. Staff chose to use the tallest industrial structures in the subdistrict, the grain elevators, to set a base height of 150 feet across the district.
3. **Pearl District:** Most of the Pearl District has base heights; however, there is a small section of the district with no height restrictions. The area is located along I-405 and NW 15th Avenue, between NW Naito Parkway and NW Lovejoy Street. A base height of 325 feet was applied.

4. **Open Space:** Land zoned open space cannot be developed with tall buildings. Although some structures could be built, the modeling assumes a base height limit of zero feet for OS zoned land in the Central City.

Step Three – Identifying Buildable Lands

As part of the Comprehensive Plan update, the City produced a buildable lands inventory (BLI). Buildable lands are vacant or underutilized sites that are likely to redevelop by 2035. It is understood that non-BLI sites may also redevelop by 2035; however, the BLI models the best assumption of redevelopment within the planning horizon.

In the Central Eastside there are sites zoned IG1 with a Comprehensive Plan designation of EX. This means that property owners have the right to request to be rezoned from IG1 to EX. This change to EX comes with a base height increase to 275 feet. These sites, although current developed, are considered BLI sites because the rezoning increases their potential to redevelop by 2035.

Some of the BLI sites that were identified by the Comprehensive Plan are already redeveloping. For sites that are under construction, have obtained a building permit or have completed land use review, the BLI designation was removed. These sites are treated like other already developed sites in the Central City and had the base height applied.

Step Four – Incorporating Floor to Area Ratio

Base heights and floor-to-area ratio (FAR) work together to create a diversity of building sizes and shapes in the Central City. Applying FAR to sites can restrict building height to something less than the base height. FAR can result in wide podiums and skinny towers, which creates visual permeability between taller buildings.

Staff created a set of rules regarding site size and FAR to determine which BLI sites would not be able to achieve existing base heights set in Step 2. The rules, called building typologies, are detailed in Attachment 1 of this document. For each BLI site that is a typical city block (200 feet by 200 feet) or smaller, the rules were applied.

- If the resulting built height was less than the base height, the FAR-restricted height was used in the modeling instead of base height.
- For BLI sites located in the Central Eastside or Lower Albina, where an assumed base height was applied, if the FAR-restricted height was higher than the assumed base height, the taller FAR-restricted height was used.
- For BLI sites larger than a typical city block or irregular sites, the base height was used except in the Southern Triangle of the Central Eastside.
- For the Southern Triangle, a FAR of 3:1 was used rather than the base height. This FAR applies to entire sites, but it is not known if portions of sites would be taller and other portions shorter. Therefore, the 3:1 FAR was applied to entire sites, not just the portion of the site located within the view corridor. This is a conservative approach that attempts to recognize that a reduction in height on any portion of the site will have an economic impact on the entire site.

In the Central City, there are provisions that allow bonuses and transfers of FAR. Developers can acquire bonus FAR, above the entitled FAR, if they include a public benefit in the building. The benefits are listed in the zoning code. For example, if the developer includes a day care in the building, they can acquire addition FAR and build a taller building. The code also allows the transfer of unused FAR from one site to another. For example, if there is available FAR on a historic building site, in order to help preserve that historic building, the FAR can be transferred to another site. While these bonuses and transfers are

expected, it is not known when or where they will occur. Therefore, neither bonuses nor FARs transfer were not included in this analysis.

Step Five – Determining BLI Building Height Conflicts

The GIS model maps the view corridors and the base height or FAR-restricted heights. All BLI sites that have a view corridor where the surface elevation intersects with a base height or FAR-restricted height were identified to be carried forward to Step 6. The difference between the view corridor surface elevation and the total base or FAR-restricted height was determined. For example, if the view corridor crosses through a BLI site at elevation 250ft and the base height of the site is 300ft, then there is 50ft of potential building height that exceeds the view corridor and would block or partially block the view.

Figure 1 shows a representation of the modeling.

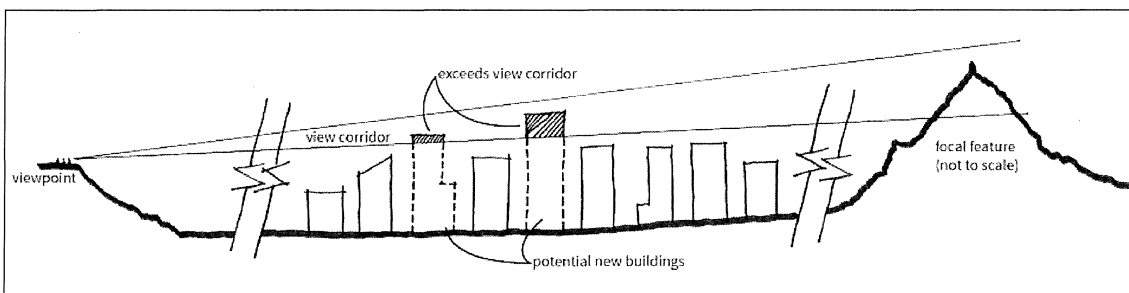


Figure 1: Example of BLI Building Height Conflicts

The results of this step were used in step 6 to estimate the economic impacts of protecting a view corridor.

Step 6 – Analyzing Economic Impacts

The economic analysis focused on the BLI sites that have an identified conflict with a view corridor. The BLI sites include both vacant and underutilized sites and represent the best assumption of redevelopment by 2035. In order to understand the economic impacts of protecting or not protecting the view corridors, the following analysis was run:

1. Translate the difference between the base height or FAR-restricted height and the view corridor surface elevation into building stories. It was assumed that residential buildings have a 14 foot tall ground-floor story and 10 foot tall stories above that and commercial buildings have 14 foot tall stories. For buildings in the Central Eastside District, it was assumed that all floors would be 15ft tall, which reflects the current building typology being constructed within the district. Applying these assumptions allowed staff to determine how many stories would not be allowed if the height restrictions were put in place.
2. Assume a building lot coverage for each site. A GIS analysis was run to determine the average lot coverage within each district (see Table 1). For the area known as the Southern Triangle (bound by the railroad to the north and east, SE Powell Boulevard to the south and the Willamette River to the west), which is comprised of large sites, an estimate of 80% lot covered was assumed.
3. Reflect what could likely be built on a BLI site. All "irregularly-shaped" BLI lots, BLI lots less than 10,000 sq ft, and BLI lots greater than 51,600 sq ft used maximum height. For the economic analysis, BLI lots less than 14,910 were all considered part of the 10,000 sq ft typology and BLI lots greater than 51,600 were given custom typologies.
4. Assign a dollar and jobs per square foot value to sites. For the Central City the assumed average is \$36 per square foot and 128 jobs per square acre.

Table 1. Average Building Lot Coverage, by district

District/Area	Average Building Lot Coverage*
Lower Albina	66%
Lloyd	60%
Central Eastside	47-70%
Southern Triangle	80%
Pearl	85%
Old Town/Chinatown	88%
Goose Hollow	66-73%
West End	77-93%
Downtown	81-92%
South Downtown/University	56-65%

*Average building coverage is based on existing conditions (2015)

The results are the reduction of potential future development measured in both dollars and jobs. These were added together to give the economic impact on potential future development within the view corridor.

Results

The analysis described above produced two results that inform the ESEE decisions.

The first results are the economic impacts of protecting views with a conflict with a BLI site. The amount of conflict was translated into a reduction of development value and reduction of job capacity if the view were to be fully protected. Table 2 summarizes those results. Where there are multiple focal features within one view corridor, only the focal feature that has conflicts with base height or FAR-restricted height is listed.

In some situations the proposed building heights necessary to protect the views are actually taller than the existing base heights. This means that base heights could be increased. The analysis for these views instead considered the impacts of the view corridor on the potential of not continuing to protect the view. For example, there is a view looking west along the Interstate 84 right of way that is a view of the Central City Skyline. The viewpoint is proposed to be relocated to a yet-to-be-constructed bicycle and pedestrian overpass. The economic analysis used the existing base heights, which include limited building heights to protect the view, and a proposed base height if the view were no longer to be protected.

Table 2 includes describes the economic impacts if the view were to be fully protected. For views with existing protections the base heights may be adjusted. For views with no protections, new base height limits could be applied.

Table 2: Economic Impacts of Protecting Views

		Existing Heights (base + FAR-restricted heights)			Proposed Heights (base + FAR-restricted heights)			
VP	Location	Focal Features	Square Feet of Conflict within View Corridor [1]	Reduction in Development Value within View Corridor [2]	Reduction in Job Capacity within View Corridor [2]	Square Feet of Conflict within View Corridor [1]	Reduction in Development Value within View Corridor [2]	Reduction in Job Capacity within View Corridor [2]
Views Proposed for Protection								
N04	Lillis Albina Park	Central City				60,000 [3]	\$2,160,000 [3]	300 [3]
NE01	I-84 Overpass (bike/ped)	Central City				451,455 [3]	\$16,252,380 [3]	2,261[3]
SW02	Washington Park - Lewis and Clark Monument	Mt Hood						
SW04	Rose Garden - Telescopes	Mt Hood						
View Street	Jefferson St Overpass	Vista Bridge				20,846 [3]	\$750,445 [3]	105 [3]
SW15	Vista Bridge	Mt Hood						
SW16	SW Vista Ave	Mt St Helens						
SW17a	Salmon Springs	Mt Hood	416,715	\$15,001,740	2,085	432,915	\$15,584,940	2,166
SW24	Upper Hall	Mt St Helens Mt Adams						
SW31	SW Cardinell	Mt St Helens						
SW46	Tilikum Crossing - West	Mt Hood	294,828	\$10,613,808	1,476	218,168	\$7,854,048	1,093
SW49	SW Terwilliger Blvd	Mt St Helens						
SW50	SW Terwilliger Blvd	Mt St Helens						
SW55	OHSU Viewing Platform	Mt Hood Mt St Helens						
SW56	OHSU Tram - North	Mt Hood Mt St Helens						
SW61	OHSU Tram - South	Mt Hood Mt St Helens						
SW64	SW Terwilliger Blvd	Mt St Helens						

			Existing Heights (base + FAR-restricted heights)		Proposed Heights (base + FAR-restricted heights)			
VP	Location	Focal Features	Square Feet of Conflict within View Corridor [1]	Reduction in Development Value within View Corridor [2]	Reduction in Job Capacity within View Corridor [2]	Square Feet of Conflict within View Corridor [1]	Reduction in Development Value within View Corridor [2]	Reduction in Job Capacity within View Corridor [2]
Views Evaluated for Comparison (NOT proposed for protection)								
NW14	Broadway Bridge	Mt Hood	2,607,772	\$93,879,792	13,044	2,607,772	\$93,879,792	13,044
SE07	Morrison Bridge	Mt Hood	437,537	\$15,751,332	2,192	437,537	\$15,751,332	2,192
SE21	Tilikum Crossing - East	Mt Hood	223,000	\$8,028,000	1,115	223,000	\$8,028,000	1,115
SW01	Greenway Trail at SW Ankeny	Mt Hood	966,497	\$34,792,812	4,837	986,467	\$35,512,812	4,937
SW11	Greenway Trail at SW Morrison	Mt Hood	886,694	\$31,920,984	4,436	838,994	\$30,203,784	4,197
SW13	SW Vista Ave	Mt St Helens						
SW26	Hawthorne Bridge	Mt Hood	700,441	\$25,214,796	3,506	743,279	\$26,758,044	3,720
SW34	Lovejoy Fountain	Mt Hood	174,000	\$6,264,000	870	174,000	\$6,264,000	870
SW33	SW Rivington Dr	Mt Hood						
SW36	Greenway Trail - Montgomery St Gardens	Mt Hood	1,141,098	\$41,079,528	5,709	981,598	\$35,337,528	4,912
SW38	Greenway Trail - Pedestrian Trail	Mt Hood	1,192,198	\$42,919,128	5,965	1,026,698	\$36,961,128	5,138

BOLD text = New view and viewpoint

Italicized text = Existing view with existing protections in the form of building height limits. The proposal may alter the protections.

Regular text = Existing viewpoint but the view is not currently protected by limiting building heights.

[1] If a view corridor crosses any portion of a BLI site, the entire BLI site is treated as if it were within the view corridor.

[2] Assumes \$36/sq ft and 1 job/200 sq ft.

[3] The proposed heights are taller than existing base heights. For these views, the proposed heights are compared against not continuing to protect the view.

and access through the district for residents, workers, and visitors. They represent an overview of the key ideas with more details found in the chapters that follow.

Strengthen Places

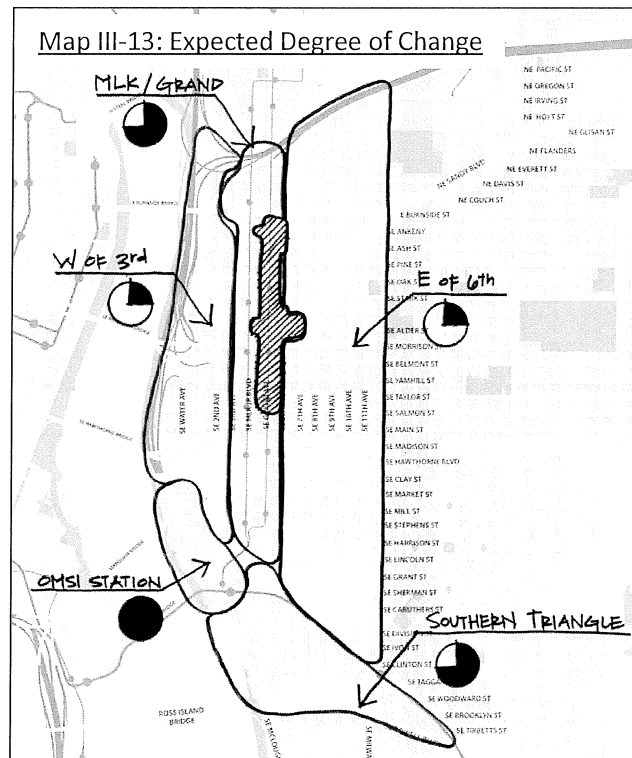
While the Central Eastside is a robust, unified district within the Central City, it contains five unique geographies each with their own characteristics and opportunities resulting from the blend of uses, the general age of the development, the potential for change, and different levels of access to surrounding residential neighborhoods, the Willamette River, and major transportation infrastructure. These areas are shown in the map below along with the expected degree of change (shown as pie charts) and are briefly described in the text that follows.

West of SE 3rd Avenue: This area contains some of the oldest industrial structures in the district and the majority of its multi-story building stock. These buildings, the existing rail line on 1st Avenue, numerous loading docks, and portions of cobble stone streets contribute to the unique character of this area. There is a unique opportunity to develop the long-vacant ODOT-owned blocks along Water Avenue with uses that further activate Water Avenue and facilitate access to the Willamette River.

East of 6th Avenue: This area is the most connected, and visible to the rest of the city, especially through its east-west main streets of E Burnside, SE Sandy, SE Morrison, SE Belmont, SE Hawthorne, SE Madison and SE Division. The eclectic mix of buildings and businesses presents benefits and challenges. The interface between new development within the mixed-use zoning areas and adjacent industrial uses needs to be addressed so that both areas can function successfully.

MLK/Grand Corridor: These streets are the mixed use “bones” of the Central Eastside and were established as East Portland’s main commercial streets over 100 years ago. MLK and Grand not only have great capacity for increased employment, residential, and retail development, but also serve as the primary streets carrying auto, freight and transit north-south through the district. As the area develops, MLK and Grand warrant a stronger priority for tree canopy, parks, open space, and recreation opportunities to increase the area’s livability long-term and overcome long-standing deficiencies in these areas.

Southern Triangle: This area, located primarily between SE Division and SE Powell, is characterized by its large blocks and parcels, many of which are vacant or underutilized. The largest industrial use is Darigold, but there is also a small collection of industrial businesses dispersed throughout the area. These large blocks are likely to continue to attract industrial uses, but may also represent a unique opportunity in the Central City for institutions and businesses seeking to establish a multiple building campus within a stone’s throw of the Willamette River and downtown.

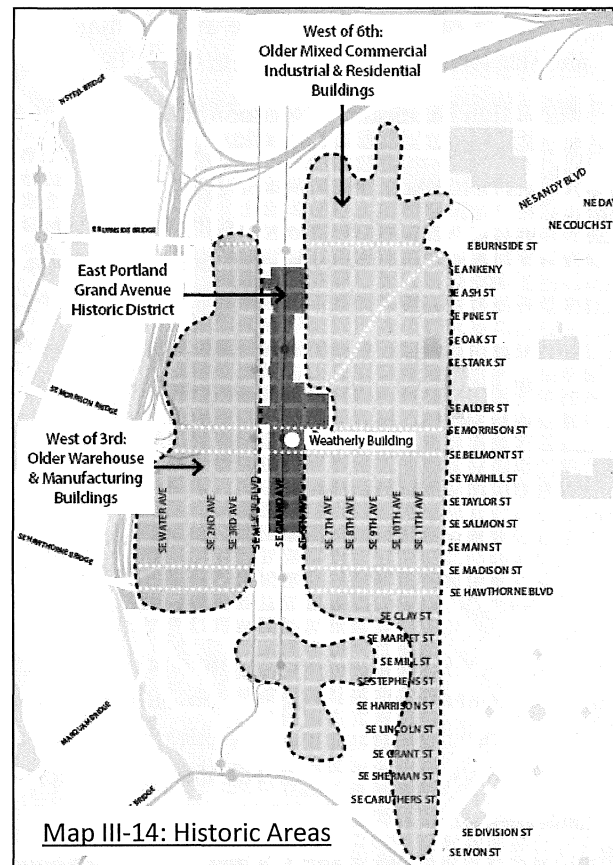


OMSI Station Area: The OMSI Station Area includes attractions such as the Oregon Museum of Science and Industry (OMSI), Portland Community College's CLIMB Center (PCC), the Oregon Rail Heritage Foundation (ORHF), Portland Spirit, and the main office and practice facilities for Portland Opera. The opening of the Tilikum Crossing and Orange Line through the OMSI station will increase the visibility of these attractions for thousands of daily riders. During the SE Quadrant Plan process, Portland Opera described a desire to locate a performance theater at their site in collaboration with the Oregon Ballet, the Maritime History Museum announced their interest in relocating to the eastside waterfront, and OMSI, ORHF and PCC all discussed expanding their respective operations. Finally, Portland Spirit is considering the feasibility of developing a terminal on its current site to establish a regional ferry service.

Strengthen Historic Character

Within the Central Eastside, there are three main groupings of historic areas: the historic warehouse area west of 3rd, the East Portland Grand Avenue Historic District, and the mixed use mosaic of historic buildings east of 6th. New provisions allowing extensive adaptive reuse in these areas will encourage historic buildings to remain while increasing jobs and attracting new businesses. Within areas of change, particularly along Grand Avenue, development should sensitively integrate into the historic context of the area.

Historic Warehouse Area: Within the area west of 3rd, many historic structures and buildings have remained intact even though the area has not received a specific historic designation. Often overlooked historic main streets, such as SE Morrison and Hawthorne, are buried under viaducts that bisect the area, but contain a rich collection of buildings with intact detailing, windows, main entrances, and in some cases interior staircases and other original interior features and materials. This rich architectural heritage could be restored and populated with active ground floor uses that open onto improved streetscapes protected from weather and lit from overhead for uses such a nighttime markets that showcase the manufacturers in the district and provide amenities to employees and residents. This activity would return the historic main streets to their original roles as centers of commerce, community, and connections between MLK/Grand and the riverfront.



The historic character of the Central Eastside can be divided into three areas: The largely intact historic warehouse and manufacturing district west of 3rd Ave, the late 19th century East Portland Grand Avenue Historic District along Grand and MLK, and the diverse mix of industrial, commercial, and

Policies

1. **Central Eastside Industrial / Employment Sanctuary.** Maintain and enhance zoning tools, supportive infrastructure and other services that support the continuation of the Central Eastside as a prime location for investment in existing and new industrial businesses.
2. **Central Industrial Diversification.** Support growth of new industrial sectors, protect existing sectors, and protect the Central Eastside as a place where startups and incubators can transition to mature and established businesses and sectors.
3. **Workforce Development.** Support institutions such as Benson High School, Portland Community College's CLIMB Center, OMSI, and others in their unique roles associated with workforce development through programs and partnerships that prepare Portlanders at different education and skill levels for employment in Central Eastside industries.
4. **Innovation Quadrant.** Build upon the physical connections created by the Tilikum Crossing to connect Central Eastside industries with west side institutional assets such as Oregon Health Science University (OHSU) and Portland State University (PSU). Facilitate the growth of traditional and emerging industries in service to the Innovation Quadrant and encourage venues such as the Oregon Museum of Science and Industry (OMSI) to showcase the diversity of research, economic development, and educational activities occurring within the quadrant.
5. **Southern Triangle.** Encourage redevelopment of large sites to include employment opportunities such as industrial office, headquarters, and creative office opportunities, and invest in new infrastructure to address transportation constraints in the area. Promote bioscience and high technology sectors in the district, facilitated by the connection of the Tilikum Crossing to South Waterfront and Downtown.
 - a. **Clinton Station Area.** Facilitate the development of employment and residential, as well as neighborhood serving retail and community service at the Clinton Station that serve the Central Eastside and Inner SE Portland neighborhoods.
 - b. **OMSI Station Area.** Create a major and active riverfront station area that includes land and water based transportation, educational and recreational opportunities. Promote visitor-serving attractions, amenities, and retail, as well as a mix of high-density commercial office, institutional and industrial employment uses.
6. **Mixed-Use Corridors.** Enhance the vibrancy of major mixed-use corridors to optimize their potential to attract investment and the development of new retail, commercial office, and residential uses that complement and serve employees and businesses in the Central Eastside.
7. **The East Portland Grand Avenue Historic District.** Promote the rehabilitation of existing and historic buildings in the Grand Avenue Historic District through enhanced design guidelines and regulations that incent rehabilitation and reuse over demolition. Protect the historic character and architecturally significant resources within the district by encouraging adaptive reuse of existing structures.
8. **River Economy.** Leverage the Willamette River as an important component of the Southeast Quadrant's local economy by supporting river dependent and river related commercial and mixed uses that bring more people to and on the river.

CENTRAL EASTSIDE

Central Eastside Block Size



September 21, 2009 City of Portland | Bureau of Planning and Sustainability | Geographic Information System

The information on the map was derived from digital databases on the City of Portland, Bureau of Planning and Sustainability GIS. Care was taken in the creation of this map but it is provided "as is". The City of Portland cannot accept any responsibility for error, omissions, or positional accuracy, and therefore, there are no warranties which accompany this product. However, notification of any errors will be appreciated.

have focused on developing housing and retail near light rail stations — an approach that may not be appropriate in these predominantly industrial station areas. Instead, this process seeks to create a new model — one that increases density of employment uses near the light rail stations in a way that encourages investment in the area and boosts transit ridership, while also complementing adjacent residential neighborhoods.

Planning for the station areas is occurring in two stages. Initial work took place during the summer of 2013 to engage the community about their vision for the station areas and develop preliminary ideas and concepts about land use mix, development character and infrastructure needs. This report summarizes the input from this initial stage of work.

The concepts presented in this report will be further explored and refined in separate, coordinated tracks. The OMSI and Clinton station areas are located within the **SE Quadrant Plan** area of the Central City. Detailed planning for this area is currently underway as part of the Central City 2035 project (CC2035), a long-range planning effort in the Central City to guide development and investment through the coming decades. Preliminary concepts for the Rhine and Holgate stations will be further refined through the **Brooklyn Station Areas Project** and incorporated into the Comprehensive Plan Update.

Planning Process

The Inner SE Station Areas project kicked off in summer 2013 with outreach and conceptual work. The process was guided by a Station Area Working Group, an open-membership group of interested parties and key community members. Staff conducted extensive outreach to ensure that interested community members knew about the project and the multiple opportunities for input. The Working Group met three times between June and September 2013 to consider the existing conditions within the study area, provide input on area issues and opportunities, and review draft concepts for urban design, land use and transportation ideas.

Staff also hosted community walks at the start of the project, where community members shared their knowledge of the station areas and discussed issues, opportunities and constraints, which provided valuable background for the subsequent concept development process.

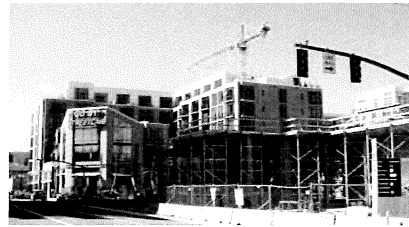
A key public event for the Inner SE Station Areas process was a charrette that took place August 20-22, 2013. During the three-day event, more than 80 attendees representing area businesses, neighborhoods, institutions and other interests worked with staff and consultants to generate ideas about the future character of the four new light rail station areas.

The charrette included two public work sessions, where the project team and consultants worked with the community to develop corridor-wide concepts and explore ideas for each of the four station areas. The preliminary results of the work sessions were presented at an open house on August 22, where participants viewed drawings and offered feedback, and at a Working Group meeting in mid-September. Feedback from those meetings led to additional staff refinements to the concepts, which are presented in this summary report.



CITY OF PORTLAND ECONOMIC OPPORTUNITIES ANALYSIS:

Section 1. Trends, Opportunities & Market Factors



Prepared for:

City of Portland Bureau of Planning & Sustainability

As Adopted, June 2016

This EOA report has been funded through a grant from the State of Oregon Department of Land Conservation and Development.

E. D. Hovee & Company, LLC

Economic & Development Services

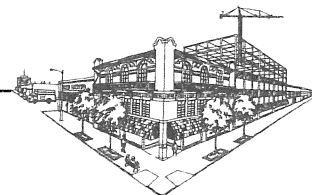


Figure 36. Floor Area Ratios**2010 Base Floor Area Ratios (FARs)**

Employment Geography	General					
	Industrial	Warehouse	Flex/BP	Office	Retail	Institution
Central City Commercial	5.00	5.00	5.00	7.00	3.00	5.00
Central City Industrial	1.00	1.00	2.00	2.00	0.50	2.00
Harbor & Airport Districts	0.35	0.35	0.35	0.35	0.35	0.35
Harbor Access Lands	0.35	0.35	0.35	0.35	0.35	0.35
Columbia East	0.40	0.40	0.40	0.40	0.40	0.40
Dispersed Employment	0.35	0.35	0.35	0.35	0.35	0.35
Gateway Regional Center	0.60	0.60	1.50	1.50	0.35	1.50
Town Centers	0.50	0.50	0.50	0.60	0.30	0.60
Neighb. Centers and Corridors	0.30	0.25	0.30	0.60	0.50	0.60
Residential	0.40	0.40	0.40	0.55	0.40	0.55
Institutions	0.50	0.50	0.50	0.80	0.50	0.80

2035 Floor Area Ratios (FARs)

Employment Geography	General					
	Industrial	Warehouse	Flex/BP	Office	Retail	Institution
Central City Commercial	5.79	5.79	5.79	9.38	3.47	5.79
Central City Industrial	1.16	1.16	2.32	2.68	0.58	2.32
Harbor & Airport Districts	0.35	0.35	0.35	0.41	0.35	0.35
Harbor Access Lands	0.40	0.40	0.40	0.46	0.40	0.40
Columbia East	0.40	0.40	0.40	0.46	0.40	0.40
Dispersed Employment	0.35	0.35	0.35	0.41	0.35	0.35
Gateway Regional Center	0.69	0.69	1.74	2.01	0.41	1.74
Town Centers	0.58	0.58	0.58	0.80	0.35	0.69
Neighb. Centers and Corridors	0.35	0.29	0.35	0.80	0.58	0.69
Residential	0.46	0.46	0.46	0.74	0.46	0.64
Institutions	0.58	0.58	0.58	1.07	0.58	0.93

Source: Metro, Portland Bureau of Planning & Sustainability, and E. D. Hovee & Company, LLC.

EXECUTIVE SUMMARY

The EOA is an analysis of the 20-year supply and demand for employment land in the city. It is prepared according to State Administrative Rule OAR 660-09-0015 and consists of four sections:

1. Trends, Opportunities & Market Factors
2. Long Range Employment Land Forecast (Demand)
3. Buildable Land Inventory (Supply)
4. Community Choices

This report is the fourth section of the EOA. It assesses the likely development capacity of the community choices proposed in the updated Comprehensive Plan map, policies, and investments to support and meet the employment land needs identified in Sections 1-3. Section 4 also summarizes additional implementation strategies expected to implement the proposed policies and meet identified employment land needs.

KEY FINDINGS

- The 2012 Metro regional employment forecast allocates 141,600 new jobs to the City of Portland by 2035.
- This forecast job growth translates to a demand for 2,895 acres of employment land by 2035.
- The 2035 Comprehensive Plan provides for adequate development capacity to meet this employment land demand, meeting current shortfalls identified in the EOA Section 2-3 Report, through:
 - 431 acres of additional development capacity in existing industrial districts, as a result of map changes, public infrastructure investments (for example, transportation access improvements near vacant land), and strategies to improve industrial land retention, brownfield redevelopment, intensified use of developed land, and expansion. Taken together, these actions primarily make it possible to use the existing gross land supply more efficiently by removing existing constraints.
 - 216 acres of additional development capacity for major campus institutions.
 - 123 acres of additional capacity in the Central City industrial areas (Central Eastside and Lower Albina).
 - 335 acres or more of total land capacity for marine terminals, rail yards, and airport facilities.

KEY OPPORTUNITIES

The 2035 Comprehensive Plan includes key opportunities to support forecast job growth and meet employment land needs. The Comprehensive Plan provides a broader framework for

steep slopes.⁸ The BLI identifies lands that could potentially be available for development should a market demand exist.

Residential Capacity

The BLI shows that under the current Comprehensive Plan and existing zoning, Portland's estimated residential capacity is 230,000 dwelling units, which is more than sufficient capacity to accommodate Metro's 2035 housing growth forecast of 123,000 households for Portland.

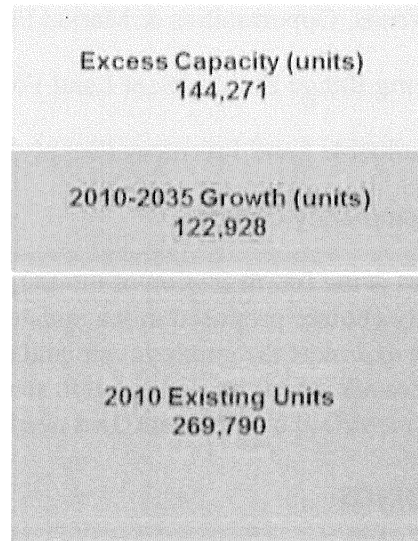
With the Proposed Comprehensive Plan, the estimated residential capacity is 267,000 dwelling units⁹. The increase in total residential capacity in the Proposed Comprehensive Plan is the result of land use changes identified in the mixed use zones in some centers and corridors, a variety of community map changes, and the removal of development constraints that occurred as the result of infrastructure planned with the TSP and CSP.

The surplus capacity enables Portland to accommodate and manage growth and support a development pattern that helps to achieve the goals and objectives. The scenarios explore different ways to use that development capacity to accommodate 25 years of future growth.

Most of this capacity (70 percent) is in mixed-use corridors and neighborhood centers. The Central City (with capacity for 32,000 additional dwellings) has significant growth capacity. Other areas with high growth capacity are the Gateway Regional Center, North Interstate Corridor, the Lents Town Center and some parts of East Portland.

Areas with the least capacity for additional growth are parts of Northeast Portland and most of West Portland. Portland's predominantly single family residential neighborhoods (the areas outside of the centers and corridors) will see limited new housing development, and will remain single family residential neighborhoods. About 11 percent of the development capacity is in land available for single-dwelling residential development (detached or attached homes on their own lot).

Figure 5: Residential Development Capacity (Proposed Plan).



⁸ City of Portland, Bureau of Planning and Sustainability, [Buildable Land Inventory](#) (2012).

⁹ This is the capacity of the Comprehensive Plan designations – not all zoning matches these designations. Some areas are zoned for less intensive development than the Comprehensive Plan would allow.

SUBSTITUTE

189002

ORDINANCE No.

Adopt the Central City 2035 Plan, Volume 2A, Part 3, Environmental and Scenic: amend the Portland Zoning Map, and Portland Zoning Codes for Environmental Overlay Zones, and Scenic Resources, and amend the Scenic Resources Protection Plan (Ordinance; amend Code Chapters 33.430 and 480)

The City of Portland Ordains:

Section 1. The Council finds:

1. In 1974, the State of Oregon adopted two statewide planning goals that require the protection of scenic resources; State Goal 7, Recreational Needs and State Goal 5, Open Spaces, Scenic and History Areas, and Natural Resources. State Goal 7 requires jurisdictions to satisfy the recreational needs of citizen of the state and visitors. Recreational opportunities include scenic landscapes and scenic roads and travelways. State Goal 5 requires jurisdictions to conserve open space and protection natural and scenic resources.
2. In 1979, scenic resources were first designated and protected through building height limits as part of the implementation of the *Downtown Plan*. (The *Downtown Plan* was adopted as a policy statement to guide public and private decision-making in the Downtown area; adopted by Motion on agenda item 3958, December 28, 1972). Additional scenic resources were identified and protected through the adoption of area plans between 1979 and 1988.
3. In 1980, Portland's first *Comprehensive Plan* was adopted by the Portland City Council and was acknowledged as complying with Oregon's Statewide Planning Goals by the Land Conservation and Development Commission (LCDC) in May 1981. The 1980 *Comprehensive Plan* was again deemed in compliance with the Statewide Planning Goals at the conclusion of Portland's first Periodic Review in January 2000. The 1980 plan was also incrementally updated by post-acknowledgement plan amendments through November 2011. In June 2016, as part of Task IV of Portland's second Periodic Review, the Portland City Council completely replaced the 1980 plan by the adoption of Portland's new 2035 *Comprehensive Plan*, but delayed the effective date of the new plan to allow the LCDC sufficient time to review and acknowledge the new plan. During the delay between adoption and effect dates, the 1980 plan continued to serve as the City's comprehensive plan. Portland's 2035 *Comprehensive Plan* became effective on May 24, 2018. Because this ordinance is adopted after the effective date of the 2035 *Comprehensive Plan*, its provisions are gauged against the applicable provisions of the 2035 *Comprehensive Plan* not the 1980 Comprehensive Plan.
4. In 1991, the Portland City Council adopted the Scenic Resources Protection Plan (SRPP), which consolidated scenic resource designations and protection from previous plans, and updated the citywide inventory of scenic resources (Ordinance No. 163957, 1991). The SRPP implemented new zoning codes (Code Chapter 33.480) to protect designated scenic resources. The SRPP also amended the environmental zoning codes (Code Chapter 33.430)

to allow for scenic resource management when the scenic and environmental resources overlap.

5. The SRPP includes an inventory of scenic resources and an Economic, Social, Environmental and Energy Analysis (ESEE) as required by OAR 660-16-000 through 660-16-025. The Department of Land Conservation and Development found the SRPP to be in compliance with Oregon State Land Use Goal 5, Open Spaces, Scenic and History Areas, and Natural Resources.
6. The SRPP Economic, Social, Environmental and Energy Analysis (ESEE) recommendations are to prohibit and limit conflicting uses. Vegetation, when it grows and blocks a view, is a conflicting use. The SRPP ESEE recommendations intended that within designated viewpoints and views, vegetation should be limited or prohibited to protect the view. Code Chapter 33.430, Environmental Overlay Zones, has an exemption for tree and vegetation removal within a viewpoint and requires review for removal of trees and vegetation within a view corridor.
7. The scenic (s) overlay zones were removed from the official zoning maps where the scenic (s) overlay zones overlapped as the environmental conservation (c) or protection (p) overlay zones through area-specific natural resources protection plans. This was done because language in zoning code 33.430, Environmental Overlay Zones, requires that scenic resources be considered as part of an environmental review. The zoning code relied on the SRPP to show where scenic resources are relevant.
8. Since 1991, vegetation and trees have grown and partially or fully block view corridors that are designated in the SRPP and are within conservation or protection overlay zones. Removal of the vegetation or trees within a view corridor requires an environmental review. Adding the scenic (s) overlay zones back to the maps where the view corridors overlap with conservation (c) or protection (p) overlay zones and creating a new standard that allows for removal of vegetation and trees, along with required mitigation, within the scenic (s) overlay zone will meet the legislative intent of the SRPP.
9. Reapplication of the scenic (s) overlay zones and creation of a vegetation and tree removal standard was proposed as part of the Central City 2035 Plan. The problem of trees blocking view corridors was first identified during development of the *Central City Scenic Resources Protection Plan*, which is an update to the SRPP for the Central City (SRPP remains in effect outside of the Central City). Public involvement has been an integral part of the Central City 2035 planning process. The public involvement process is summarized in CC2035 Plan, Volume 6, Public Involvement, attached as Exhibit F.
10. On June 20, 2016, BPS staff released the *Central City 2035 Proposed Draft* report, which included the proposed scenic (s) overlay zone map and the proposed zoning code amendments to Code Chapter 33.430, Environmental Overlay Zones, and Code Chapter 33.480, Scenic Resources. Code Chapter 33.480 applies to all scenic resources in Portland. Code Chapter 33.430 generally applies to scenic resources outside of the Central City. However, there is some overlap between scenic resources that are within the Central City

and the environmental overlay zones. Specifically, the regulations of Code Chapter 33.430, Environmental Overlay Zones, apply to viewpoints and view corridors within the Viewpoint Boundary but outside of the Central City Boundary, as shown in Map 1 on page 6 of the *Central City Scenic Resources Protection Plan, Part 1: Summary, Results and Implementation*, attached as Exhibit C. Scenic resources in the Central City are addressed in a separate ordinance.

11. On June 24, 2016, notice of the *Central City 2035 Plan Proposed Draft* and Planning and Sustainability Commission hearing were sent to all property owners potentially affected by proposed zoning map and code changes, as required by ORS 227.186. The draft plan included draft Code Chapter 33.480, Scenic Resources and Chapter 33.430, Environmental Overlay Zones (Volume 2A, Part 3), and *Central City Scenic Resources Protection Plan* (Volume 3A, Part 1-3).
12. On July 26, 2016 and August 9, 2016, the Planning and Sustainability Commission (PSC) held a hearing on the Proposed Draft. Staff from the Bureau of Planning and Sustainability presented the proposal and public testimony was received.
13. The PSC held work sessions between September 2016 and May 2017. Scenic resources were discussed at the work session held on September 27, 2016 and February 14, 2017.
14. On May 5, 2017, BPS staff released the *Central City 2035: Revised Staff-Proposed Draft*. This draft updated the previous draft to address issues brought up during the PSC work sessions.
15. On May 23, 2017, the PSC held a final work session and voted to recommend the *Central City 2035 Plan* to City Council.
16. On June 22, 2017, the PSC released the *Central City 2035 Plan Recommended Draft* to the Portland City Council. The plan contains the following elements, some of which were amended by City Council.
 - Volume 2A, Zoning Code & Map Amendments, Part 3: Environmental and Scenic, contains the zoning map and code amendments for Code Chapter 33.480, Scenic Resources, and Code Chapter 33.430, Environmental Overlay Zones and the amendments to the official zoning map. These add the scenic (s) overlay zones back to the official zoning maps where the view corridors overlap with conservation (c) or protection (p) overlay zones and create a new standard that allows for removal of vegetation and trees, along with required mitigation, within the scenic (s) overlay zone. Volume 2A, Part 3, as amended by City Council and dated May 2018, is attached as Exhibit B.
 - Volume 3A, Scenic Resources Protection Plan, Part 1: Summary, Results and Implementation, Part 2: Scenic Resources Inventory, and Part 3: Economic, Social, Environmental and Energy Analysis. These documents update the inventory and ESEE for scenic resources within the Central City. Volume 3A,

Part 1, as amended by City Council and dated May 2018, is attached as Exhibit C. Volume 3A, Part 2, was not amended by City Council and is dated June 2017, May 2018, is attached as Exhibit D. Volume 3A, Part 3, as amended by City Council and dated May 2018, is attached as Exhibit E.

17. A public notice of the September 14, 2017 Portland City Council public hearing on Volume 2A, Zoning Code & Map Amendments, Part 3: Environmental and Scenic and Volume 3A, Scenic Resource Protection Plan, Parts 1 through 3, of the *Central City 2035 Plan*, was sent on August 28, 2017 to all property owners potentially affected by proposed zoning map and code changes, those who testified to the Planning and Sustainability Commission, individuals and organizations who requested such notice and other interested parties.
18. The City has prepared the Scenic and Environmental Resources Findings of Fact Report, attached as Exhibit A, which addresses findings for Statewide Planning Goals and Oregon Administrative Rules, Metro Urban Growth Management Functional Plan, and the City of Portland's 2035 Comprehensive Plan policies and goals.

NOW, THEREFORE, the Council directs:

- a. Amend the official Zoning Map to apply scenic (s) overlay zones as shown on pages 30 to 66 of Exhibit B (Volume 2A, Zoning Code & Map Amendments, Part 3: Environmental and Scenic);
- b. Amend Title 33, Planning and Zoning, of the Municipal Code of the City of Portland, as shown on pages 2 to 24 of Exhibit B (Volume 2A, Zoning Code & Map Amendments, Part 3: Environmental and Scenic);
- c. Amend the Scenic Resources Protection Plan (1991), as shown in Exhibit D.
- d. Adopt Exhibit C (Volume 3A, Scenic Resources Protection Plan, Part 1: Central City Scenic Resources Protection Plan), Exhibit D (Volume 3A, Scenic Resources Protection Plan, Part 2: Scenic Resources Inventory) and Exhibit E (Volume 3A, Scenic Resources Protection Plan, Part 3: Economic, Social, Environmental and Energy Analysis).
- e. Adopt Exhibit A (Scenic and Environmental Resources Findings of Fact Report) and Exhibit F (Public Involvement) as further findings of fact.
- f. Adopt the commentary of Exhibit B (Volume 2A, Zoning Code & Map Amendments, Part 3: Environmental and Scenic), as further findings and legislative intent.

Section 2. The directives of this ordinance will take effect on July 9, 2018.

189002

Section 3. If any section, subsection, sentence, clause, phrase, diagram, designation, or drawing contained in this Ordinance, or the plan, map or code it adopts or amends, is held to be deficient, invalid or unconstitutional, that shall not affect the validity of the remaining portions. The Council declares that it would have adopted the plan, map, or code and each section, subsection, sentence, clause, phrase, diagram, designation, and drawing thereof, regardless of the fact that any one or more sections, subsections, sentences, clauses, phrases, diagrams, designations, or drawings contained in this Ordinance, may be found to be deficient, invalid or unconstitutional.

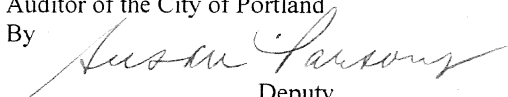
Passed by the Council: JUN 06 2018

Mayor Ted Wheeler
Prepared by: Mindy Brooks
Date Prepared: May 17, 2018

Mary Hull Caballero

Auditor of the City of Portland

By


Deputy

S-528 612

SUBSTITUTE

Agenda No.
ORDINANCE NO.
 Title

189002

Adopt the Central City 2035 Plan, Volume 2A, Part 3, Environmental and Scenic, amend the Portland Zoning Map, and Portland Zoning Codes 33.430, Environmental Overlay Zones, and 33.480; Scenic Resources, and amend the Scenic Resources Protection Plan (Ordinance; Amend Code Chapters 33.430 and 480)

INTRODUCED BY Commissioner/Auditor: Ted Wheeler	CLERK USE: DATE FILED <u>MAY 17 2018</u>
COMMISSIONER APPROVAL Mayor—Finance and Administration - Wheeler <i>KC</i> Position 1/Utilities - Fritz Position 2/Works - Fish Position 3/Affairs - Saltzman Position 4/Safety - Eudaly	Mary Hull Caballero Auditor of the City of Portland By: <i>[Signature]</i> Deputy
BUREAU APPROVAL Bureau: Planning and Sustainability Bureau Head: Susan Anderson <i>[Signature]</i> Prepared by: Mindy Brooks Date Prepared: May 16, 2018 Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/> Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> City Auditor Office Approval: required for Code Ordinances City Attorney Approval: <i>Law</i> required for contract, code, easement, franchise, comp plan, charter Council Meeting Date June 6, 2018	ACTION TAKEN: MAY 24 2018 PASSED TO SECOND READING JUN 06 2018 2 P.M. <i>Time Certain</i>

AGENDA TIME CERTAIN <input checked="" type="checkbox"/> Start time: 2:10 Total amount of time needed: _____ (for presentation, testimony and discussion) CONSENT <input type="checkbox"/> REGULAR <input type="checkbox"/> Total amount of time needed: _____ (for presentation, testimony and discussion)	<table border="1"> <tr> <th>FOUR-FIFTHS AGENDA</th> <th colspan="2">COMMISSIONERS VOTED AS FOLLOWS:</th> </tr> <tr> <th></th> <th>YEAS</th> <th>NAYS</th> </tr> <tr> <td>1. Fritz</td> <td></td> <td><input checked="" type="checkbox"/></td> </tr> <tr> <td>2. Fish</td> <td><input checked="" type="checkbox"/></td> <td></td> </tr> <tr> <td>3. Saltzman</td> <td><input checked="" type="checkbox"/></td> <td></td> </tr> <tr> <td>4. Eudaly</td> <td><input checked="" type="checkbox"/></td> <td></td> </tr> <tr> <td>Wheeler</td> <td><input checked="" type="checkbox"/></td> <td></td> </tr> </table>	FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:			YEAS	NAYS	1. Fritz		<input checked="" type="checkbox"/>	2. Fish	<input checked="" type="checkbox"/>		3. Saltzman	<input checked="" type="checkbox"/>		4. Eudaly	<input checked="" type="checkbox"/>		Wheeler	<input checked="" type="checkbox"/>	
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Wheeler	<input checked="" type="checkbox"/>																					

October 18, 2017

that, not knowing where it might actually be designed, but we do use GIS to set coordinates for that point, and an elevation for that point, so we're pretty confident in how it affects heights emanating from there to the skyline. So, today's existing height limitation, and I have indicated where we received testimony from the property that we received testimony from, today there is an 80-foot height limit over most of that site to protect the view from 12th. Moving that view to the bike/ped bridge actually reduces impacts to the northern property, expands impacts a little bit to the southern property, but the property in question, the northern half of that property would go to 250 with an option to bonus to 325, while the southern portion drops to a 70-foot height limit. So again, we picked a centered alignment. You could certainly pick another alignment on here. The question was: "Why we would do this when we don't know exactly where the alignment would be?" And, so, you certainly could look at different alignments along that bridge. The other option would be to keep the viewpoint on 12th Avenue until the bridge is actually done and the viewpoint is put, and then move the viewpoint, which would mean retaining the 80-foot height limit over that property until the bridge is constructed. And I'll turn it over to Saltzman.

Saltzman: Well, I think that's the intent of my amendment, isn't that correct? Keep it at 12th Avenue until we know where the alignment for the pedestrian bridge actually is? And then re-establish?

Brooks: So, we can do that, mm-hmm, or yeah, we can wait and then reestablish or reassess, once we know where the point is, and adjust heights at that time.

Saltzman: Yeah, that would be what I'm recommending.

Fritz: And that's keeping the existing view corridor that's been there since 1991, is that right?

Brooks: That's what we would be doing there.

Fritz: Do we even need to have a discussion on that? Or...

Brooks: Yes. Because we did propose to change it so we would need to make an amendment to go back to the existing height limits.

Fritz: Okay. Then I'll second that.

Wheeler: Any further discussion on that? I just want to say, I think that's entirely appropriate, and I'll obviously support that as well. C2.

Brooks: Okay. This is a view of Mount Hood from Tillicum Crossing. Like the riverfront, there are five locations on bridges where you can see Mount Hood today, and all those, again, would be blocked by development in the future. This one from Tillicum, protecting it has the least impacts to development than all of the views from the bridges. We heard from one property owner where this view corridor crosses, and there would be a height limitation. We call this the Ivon Street Property. Today, this whole site is an I-H, heavy industrial use, it's being rezoned to an EX, so, it has no height limitations because it's a heavy industrial sight. The EX, then, we would apply height limits to it. Within the view corridor, it would be 60 feet; outside the view corridor, it would be a 100-foot base with an option to bonus to 250. You also see, on this map, the river environmental overlay zone that would be applied to all sites along the riverfront including this one. The area is circled in red, which is outside of the overlay zone and the view corridor is about .9 acres, it's larger than a standard city block, so we feel there's a lot of space on this site to get to those taller heights and be able to protect that view corridor. So, we recommend keeping the view corridor and height limits on the site. And I'll turn it over to commissioner Saltzman for that one.

Saltzman: Well, I think you made a pretty persuasive case just now. I proposed this amendment because it was, I felt, a piece of property that has some potential development, for what, I'm not quite sure. But it could be residential, it could be commercial. I think the owner has some interesting visions for that property, and that he

October 18, 2017

felt limited by this proposal, so that's why I put forward the amendment. But I can't say that I'm in it 100%. I just --

Edmunds: Commissioner, we don't have an amendment specifically from you on this. Is it to not propose this view corridor? Is that your amendment?

Saltzman: I think that's what it would be. Yeah.

Wheeler: So, I'll chime in on this one. I actually was persuaded by the staff work that we should maintain this view corridor. What ultimately persuaded me was the demonstration that these sites are still highly developable even with the view corridor remaining intact.

Saltzman: And I can't say I disagree with that, having heard your presentation.

Zehnder: So, if there's no second it stays as staff recommended.

Wheeler: Are you okay with that?

Saltzman: Mm-hmm.

Wheeler: Okay. Very good. Next item, please, is C3: View of the Vista Bridge. This is also commissioner Saltzman.

Brooks: So today, there is an existing view from 18th avenue and height limits associated with that of about 30 to 45 feet along the northern side of Jefferson Street. The recommendation coming out of Planning and Sustainability Commission was to go to 75 feet along the northern side of the street because Jefferson Street is a commercial corridor along a light rail stop. Going to 75 feet does impact the view from 14th Avenue there, it would have some intrusion into the view. This view from 14th is a view from a car or bicycle. You can't see the bridge from the sidewalk, and there isn't an opportunity to develop a viewpoint here. So, Planning and Sustainability Commission also entered a new viewpoint in addition to the view from 14th. And that new viewpoint would be at Collins Circle which is at 18th, and this is a public open space next to the light rail stop where a viewpoint could be developed, and this 75 feet does not impact that view. So that's what Planning and Sustainability recommended and staff would continue to make that recommendation. And I'll turn that over to you for discussion.

Saltzman: I didn't actually offer that amendment.

Fritz: I think it was the mayor --

Eudaly: I raised it.

Edmunds: There were three commissioners were interested in discussing it. There weren't any amendments put on the table. That's the Mayor, Commissioner Fish, and Commissioner Eudaly.

Eudaly: Could we get that photo back, by any chance? Or did something just...

Fritz: Well, it's written in our script, what their amendment is.

Eudaly: Right, I need to see the image. I am confused by these images because, don't they both depict what the view would look like with possible development? Neither of them are current.

Brooks: That's right. This is - both of these depict what it would look like with 75 feet allowed along the northern portion. The top view is from 14th Avenue, which is where you cross I-405. The bottom view is then down at 18th, at Collins Circle.

Eudaly: And this is the same building in both...?

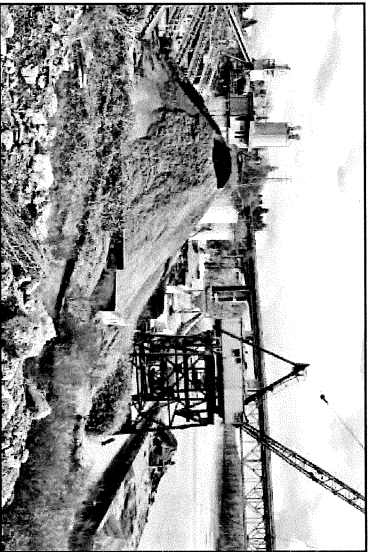
Brooks: So, the building that you see, if you look at the top picture, the building that is encroaching, then, upon the view, is then, in the lower picture, the one that is immediately to the right.

Eudaly: Okay. I mean, I raised this out of all the view corridors that were in play, I felt like this was the most unique one because unlike the mountain, which you can see from a very -- a variety of vantage points throughout the city, you really only have one opportunity to see the bridge, and it's a beautiful bridge, and it's an iconic view, so -- do we have any before photos to compare? I mean, I'm just finding this a little challenging to...

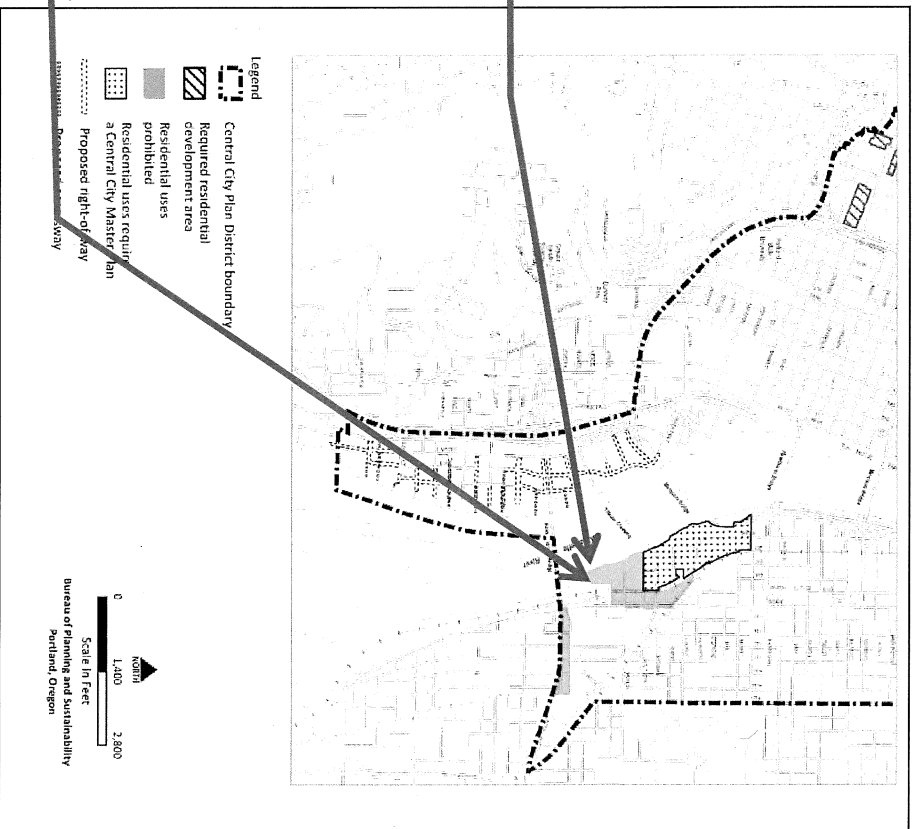
Request to Allow Housing at Ivon Street

The owner of a site located at south end of the OMSI Station Area has requested that housing be allowed as a conditional use at their site, as it is at OMSI.

Ivon Street Site



Ross Island Sand and Gravel



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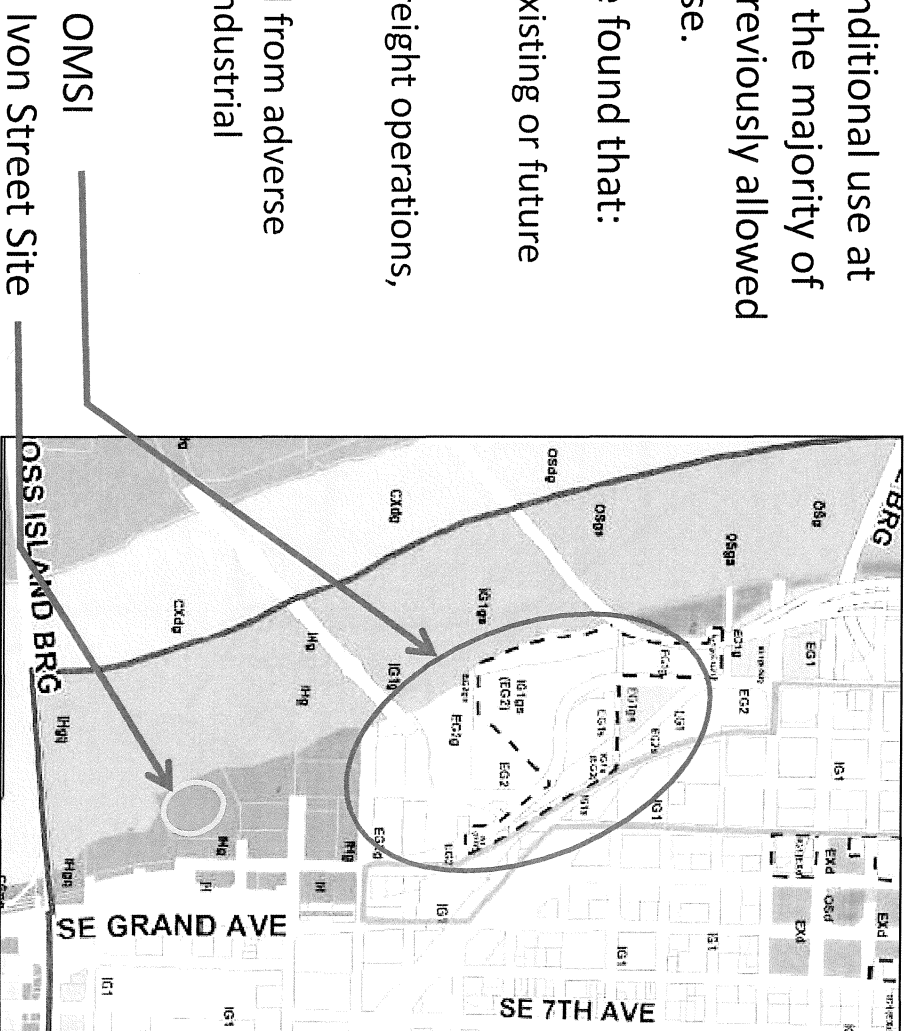


Request to Allow Housing at Ivon Street

Housing is allowed as a conditional use at OMSI only on areas where the majority of the prior zoning allowed previously allowed housing as a conditional use.

To be approved, it must be found that:

- Housing will not impact existing or future industrial uses
- Housing will not impact freight operations, and
- Housing can be separated from adverse impacts associated with industrial operations



Request to Allow Housing at Ivon Street

The Ivon Street property is currently zoned IH (Heavy Industrial). In this base zone, housing is a prohibited use to protect both industrial operations and potential residents.

Further, the Ivon Street property is:

- Located directly adjacent to Ross Island Sand and Gravel's concrete batch plant (zoned IH)
- Access to the site runs across the main access point into the batch plant and trailhead for the OMSI/Spring Water Trail



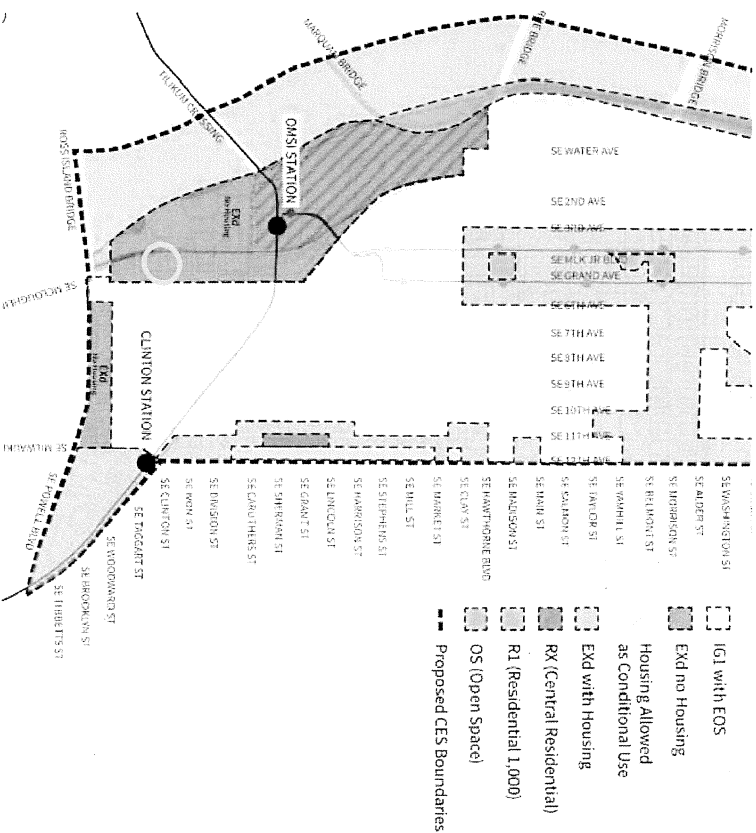
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Request to Allow Housing at Ivon Street

Thus, staff recommends:

- Retain proposed rezone to EX from IH (which will allow all uses but housing).
- This rezone significantly expands the development potential of the site, while ensuring that industrial and freight operations in the area are not adversely impacted by residential uses.
- This also ensures residents are no placed in harms way.



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January 19, 2018

Dana L. Krawczuk
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D. +1.503.727.2036
F. +1.503.346.2036

VIA EMAIL (CC2035@PORTLANDOREGON.GOV)

Mayor Ted Wheeler
Portland City Council
1221 SW 4th Avenue, Room 340
Portland, OR 97204

Re: Central City 2035 Proposed Amendments – 306 SE Ivon Street

Dear Mayor Wheeler and City Council Members:

This office represents OSB2LAN IVON, LLC, the owner of the three-acre property located at 306 SE Ivon Street (the "Property"). The Property is proposed to be rezoned EXd under the Central City 2035 Recommended Draft ("CC 2035") in alignment with the Comprehensive Plan designation approved by the City Council. The Property will have a 100-foot base and 250-foot bonus height limit. As we have noted in previous submissions, we strongly support this change and it is appropriate for the Property which is a five-minute walk from a new light rail and streetcar station.

Support for Amendment 1

The proposed Amendment 1 to CC 2035 Volume 2A, Part 1 will exclude hotel uses from the size limits on retail sales and service uses for this Property and others. This change would allow a hotel development on the Property and we urge the City Council to adopt Amendment 1.

Further Amendments to CC2035 Are Needed to Allow Full Height and Residential Development

We continue to urge the City to amend CC 2035 to remove new regulations which render this Property undevelopable. As we have explained in previous submittals, the Property requires substantial environmental remediation for development of any kind. Development will occur on the Property only if it is of a scale (full height potential) and type (some housing) that can absorb these costs. Further, the City is experiencing a housing crisis, so prohibiting housing in a transit-rich area is a missed opportunity.

- We request that the City Council amend CC2035 to remove the height limits associated with viewpoint CC-SW46 which impact this Property.
- We further request that the City Council amend CC2035 to allow residential development, either outright or through a master planning process, on the Property.

Mayor Ted Wheeler
Portland City Council
January 19, 2018
Page 2

Attached to this letter are exhibits that support our requests in this and previous submissions.

Very truly yours,

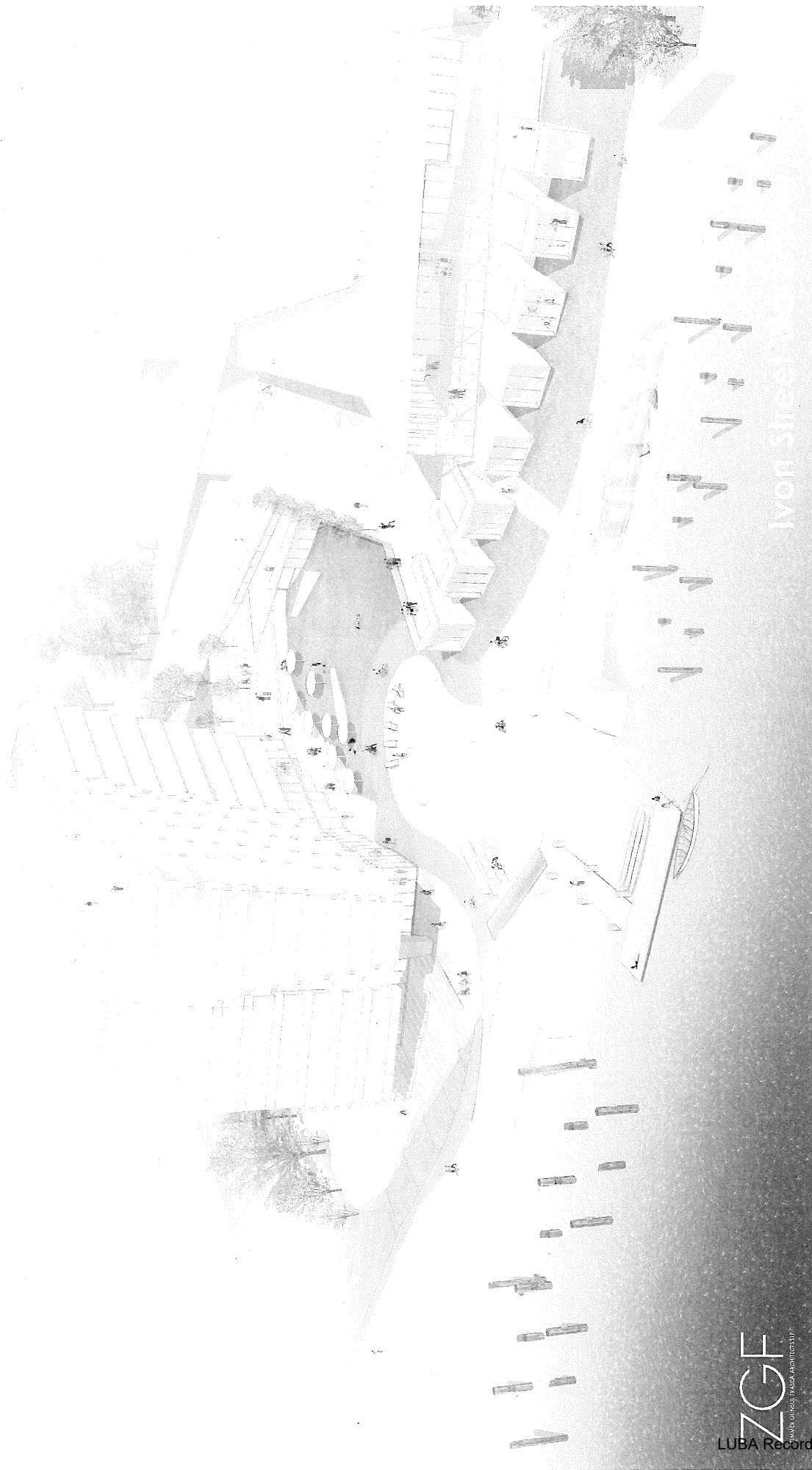
A handwritten signature in dark ink, appearing to read "Dana L. Krawczuk", with a stylized, flowing script.

Dana L. Krawczuk

DLK:rsr

Exhibits A-PP

cc: Haithem Toulou (via email)



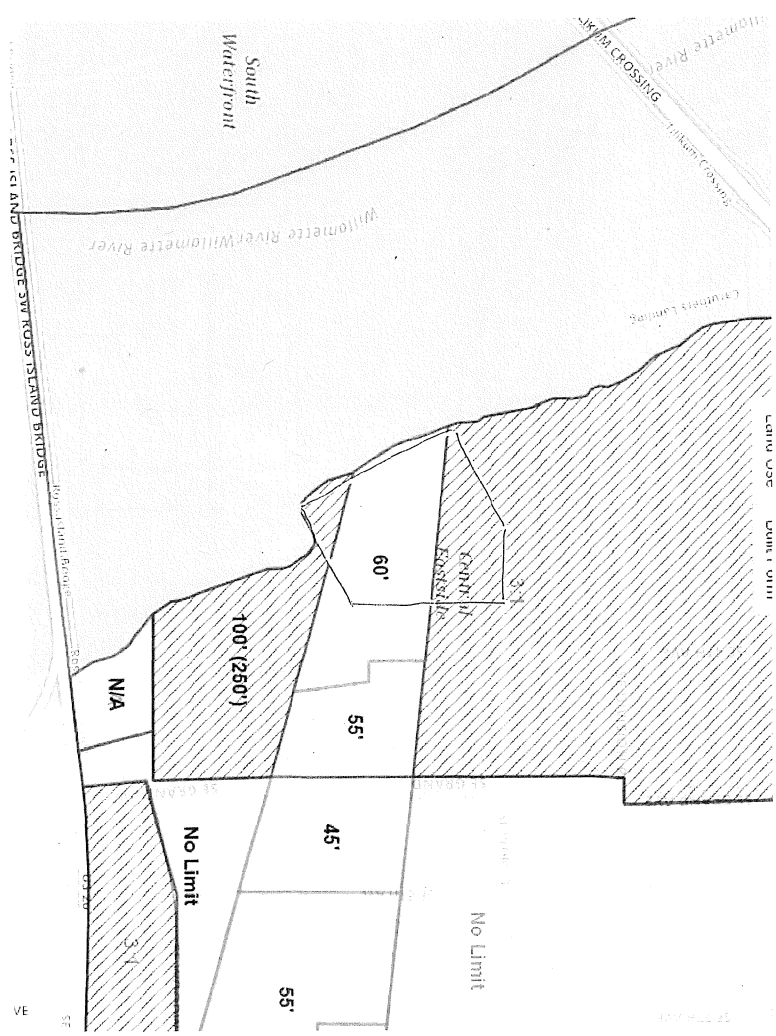
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ivor street waterfront

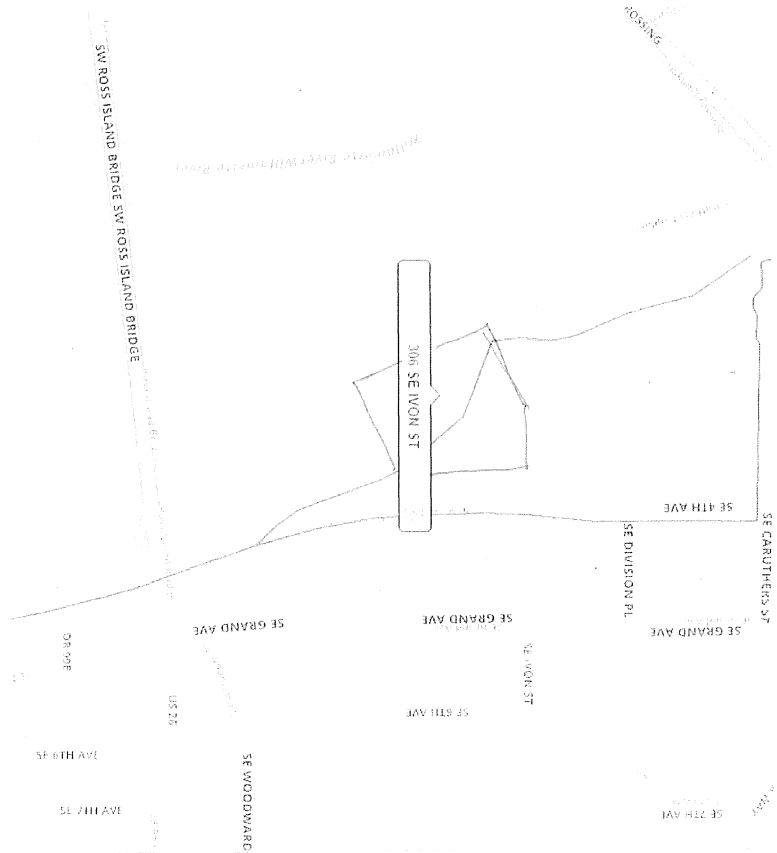
CENTRAL CITY 2035 DISCUSSION DRAFT ANALYSIS
ZGF ARCHITECTS / AUGUST 2016

12287



CENTRAL CITY 2035

The City of Portland's Bureau of Planning & Sustainability is updating the Central City Plan, dubbed Central City 2035 (CC2035). CC2035 will update plans and policies governing development and public investments in the Central City, addressing "challenges and opportunities... to ensure this unique economic, transportation, cultural and educational hub will be a vibrant resource for all Portlanders over the next 25 years."

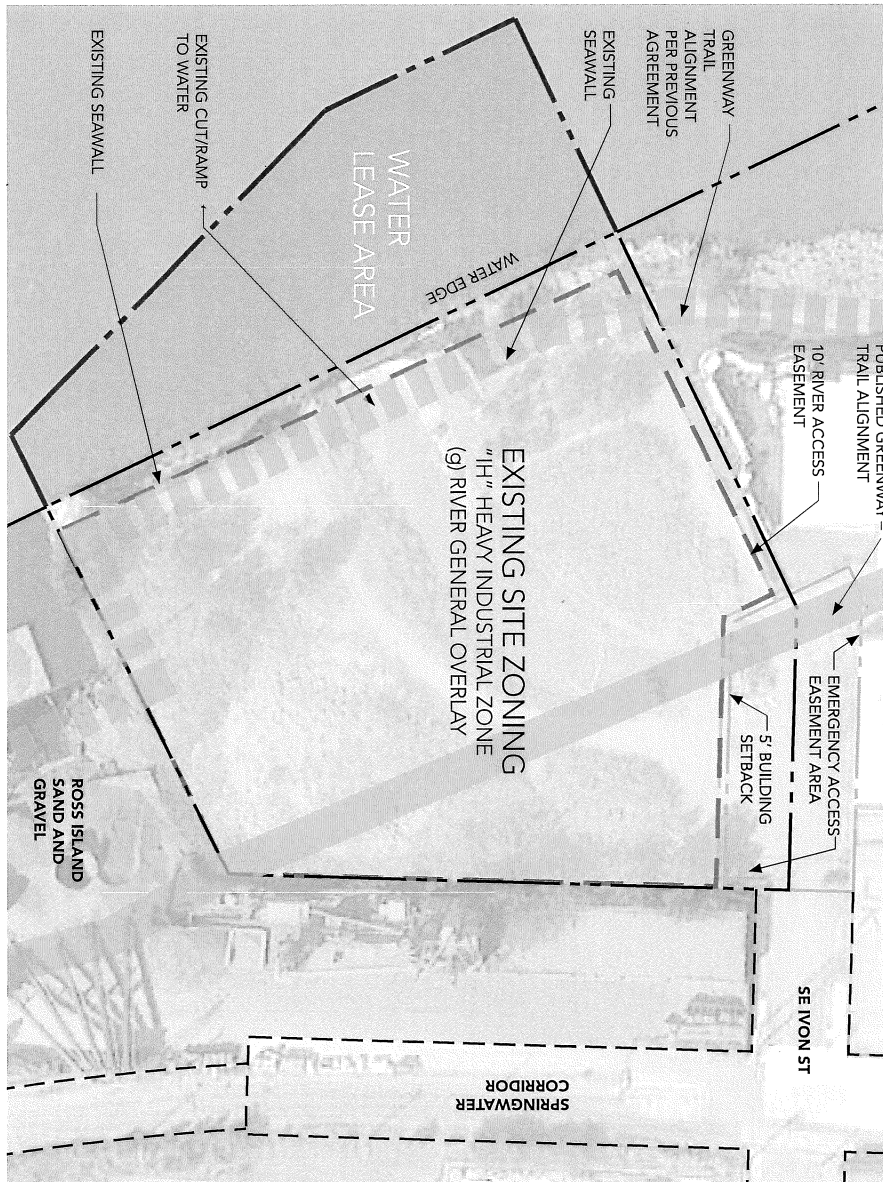


PLAN PROCESS

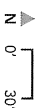
The Discussion Draft of the plan was published February 2016. Public input was solicited as part of the process with the comment period ending March 31, 2016. This input will inform the Proposed Draft, set to be published June 28, 2016. The Proposed Draft will go before the Planning and Sustainability Commission who, with further input from the public, will forward a Recommended Draft to the City Council for hearings in early 2017. The adopted plan is to be effective early 2018.

DISCUSSION DRAFT ANALYSIS

The CC2035 Discussion Draft proposes changes to the comprehensive plan. This document outlines how the proposed changes affect the Ivon Street Waterfront site and shows how they impact options for future development.



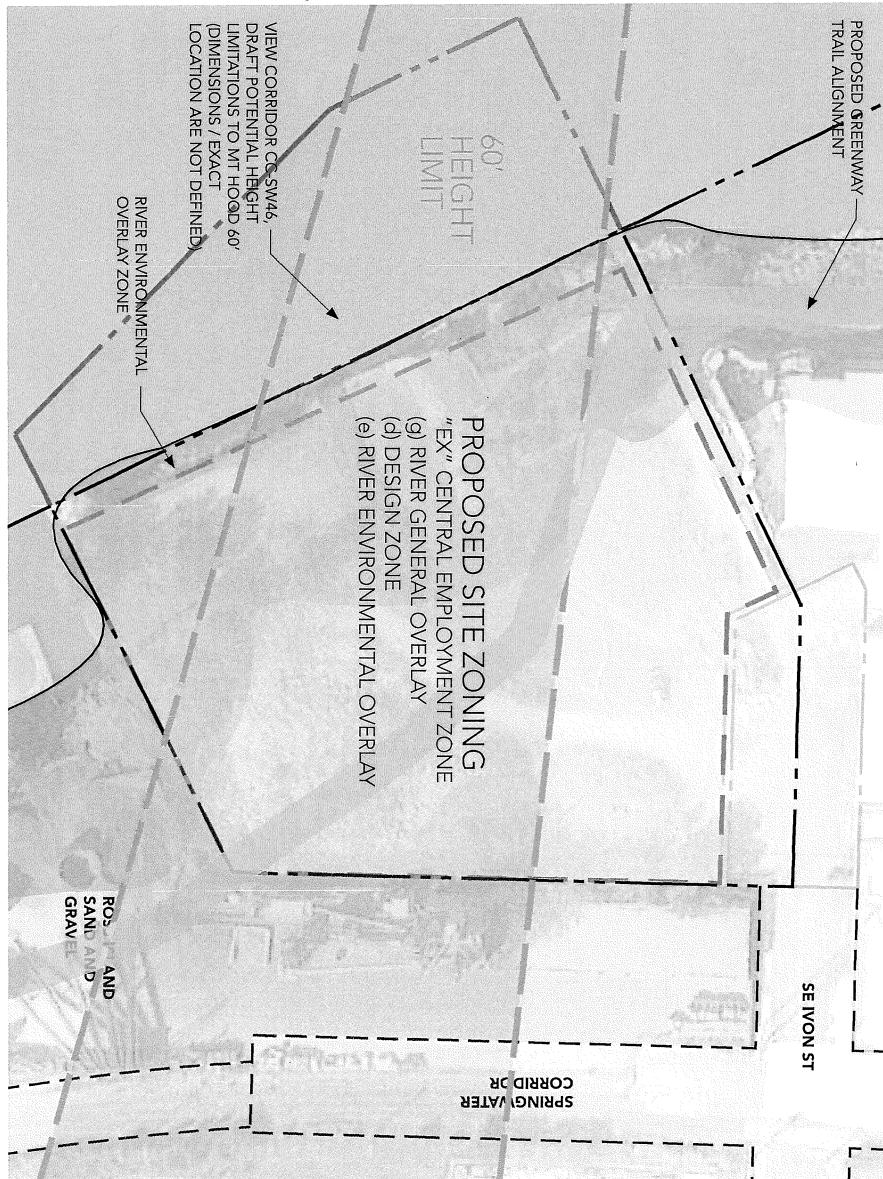
- + IHg Zoning, non-inhibiting uses for "typical" industrial and heavy industrial uses.
- + 12,000 sf maximum for commercial/office/retail.
- + Height limit is 100' with eligible height increase up to 250' for the whole site.
- + Current greenway trail alignment is as shown on current zoning maps.



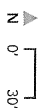
IWON STREET // EXISTING SITE

ZGF ARCHITECTS / AUGUST 29, 2016

12290



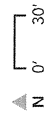
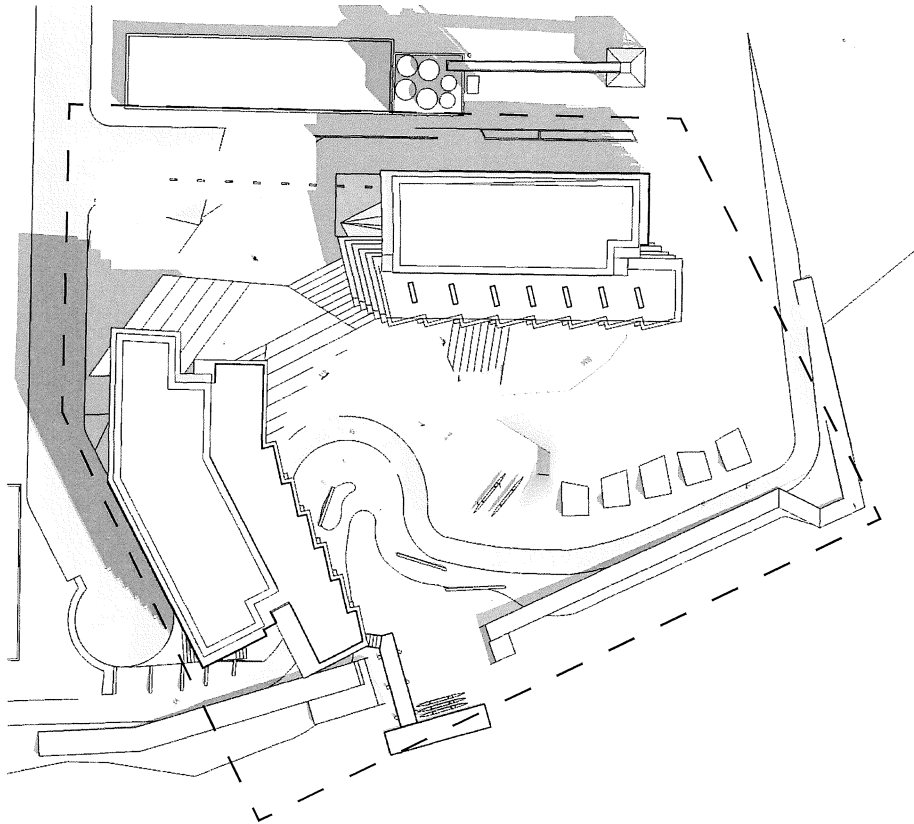
- + Exdeg Zoning, central employment zone allows for mixed-uses and allows industrial and commercial uses. Residential uses are prohibited.
- + No maximum for commercial/office/retail.
- + Height limit is 100' with eligible height increase up to 250' for the areas outside of view corridor CC-SW46. Inside view corridor height limit is 60'.
- + Proposed greenway trail alignment as shown on the CC2035 Major Public Trails Map.





12292

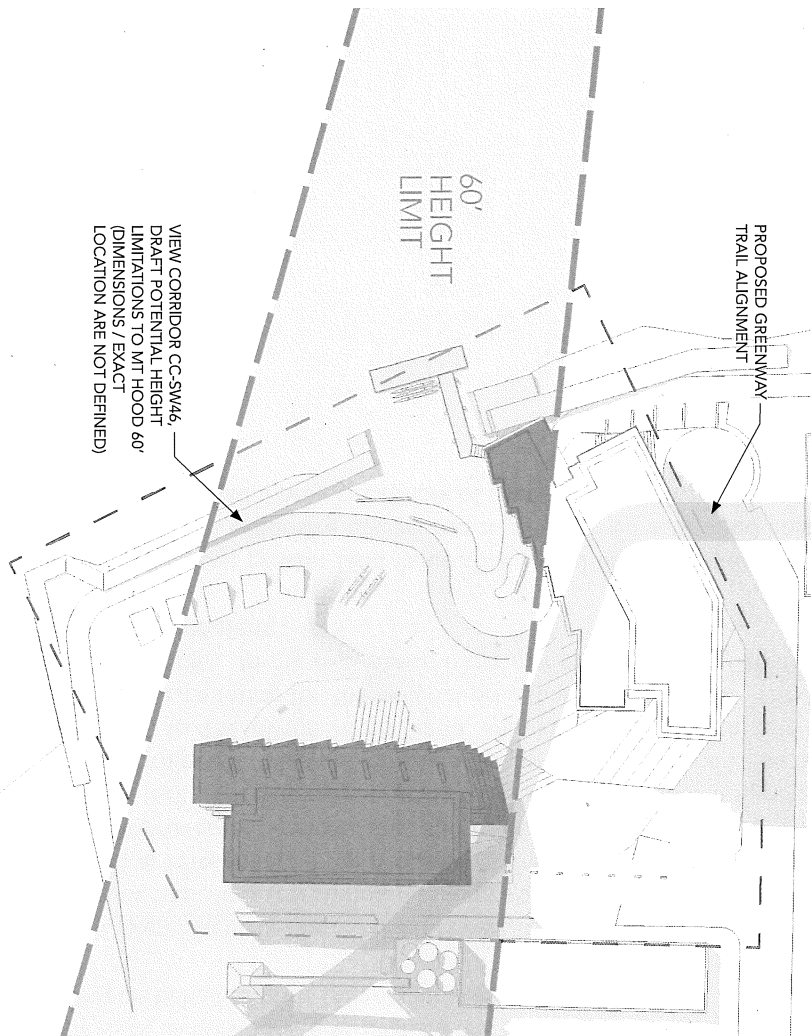
ZGF ARCHITECTS / AUGUST 29, 2016



IVON STREET // PROPOSED DESIGN

ZGF ARCHITECTS / AUGUST 29, 2016

12293



IVON STREET // CC2035 IMPACT

ZGF ARCHITECTS / AUGUST 29, 2016

12294

APEXREALESTATE

P A R T N E R S

To Whom it May Concern;

OSB2LANIVON, LLC owns property at 313 SE Ivon Street in the City of Portland and requested that I conduct an analysis of the feasibility of development on this site based on the cost of development and market-rate returns. The estimates I have provided are based on a variety of different projects I have been involved with over the last few years, my knowledge of the site, and the estimated escalations in construction costs. Apex is a minority business enterprise and is in its 14th year of business. In March 2018, I will have been in the business for 20 years. Apex and I have been involved in numerous developments, redevelopments, acquisitions and dispositions of both developable land, investment-grade properties, and leasing on behalf of both Tenants and Landlords.

Enclosed is an analysis of SE Ivon Street Property which shows the feasibility of building a multi-story office building on the site. Using basic industry standard assumptions and estimated construction costs, I estimate the value of the land at zero dollars if the property as developed were to earn current market rents, accounting for tenant improvement concessions, and capital market investment returns. Please note the cost estimates do not include a parking garage below grade, which adds a significant cost, but would likely be necessary for a project of this type and size or larger. A residual land value of zero dollars means that OSB2LANIVON, LLC, as the owner of the land, should expect to earn zero dollars from developing the project, without accounting for the original price paid for the land. This represents a significant loss of value to the owner. In my experience most owners facing this situation would not choose to move forward with development.

In my opinion, the best way to achieve greater land value that would allow development on this site would either be (1) to engineer a less expensive design and to drive down estimated costs associated with the proposed project, or (2) to build a project capable of capturing greater market rents, such as a taller building with residential units.

Sincerely,

Apex Real Estate Partners



Nathan Sasaki
Executive Director

September 22, 2017

Dana L. Krawczuk
DKrawczuk@perkinscoie.com
D. +1.503.727.2036
F. +1.503.346.2036**VIA EMAIL (CC2035@PORTLANDOREGON.GOV)**Mayor Ted Wheeler
Portland City Council
1221 SW 4th Avenue, Room 340
Portland, OR 97204**Re: Haithem Toulou's Testimony Regarding 306 SE Ivon Street:
Central City 2035 (Recommended Draft, June 2017)**

Dear Mayor Wheeler and City Council Members:

This office represents Haithem Toulou, owner of the three-acre property located at 306 SE Ivon Street (the "Property"). The Property is proposed to be rezoned EXd under the Central City 2035 Recommended Draft ("CC 2035") in alignment with the Comprehensive Plan designation approved by the City Council. The Property will have a 100-foot base and 250-foot bonus height limit. We strongly support this change and it is appropriate for the Property which is a five-minute walk from a new light rail and streetcar station.

Unfortunately, the following changes are also proposed which will effectively eliminate the possibility to redevelop the Property, particularly when the Property's approximately five million dollars in environmental remediation costs are considered.

A development plan showing one of many options to develop the Property, if these constraints are removed, is shown in Figure 1. This development plan maximizes interaction with the River, provides public open space and would leverage the City's investment in adjacent public transportation.

These proposed changes, shown on Figure 2, make redevelopment of the Property, including the above referenced potential development plan, infeasible:

- 60-foot scenic view height limit through the center of the Property under Viewpoint SW 46
- Prohibition on housing
- Prohibition on single retail sales and service uses over 40,000 square feet (effectively prohibiting a hotel)
- 50-foot River setback
- New River Environmental overlay covering almost half of the Property

We urge the City Council to take the following steps to make redeveloping the Property possible:

1. Remove the draconian height limits associated with Scenic Viewpoint CC-SW46 (view of Mount Hood from Tilikum Crossing) or allow flexibility on the height limit in order to allow development while preserving views. This flexibility could allow elliptical shaped development or other property-by-property solutions.
2. Allow housing uses on the Property under the master planning requirements proposed for station areas, since the Property is within a five-minute walk from both a Streetcar and MAX station.
3. Exempt hotels from the prohibition on retail sales and service uses over 40,000 square feet, as is done elsewhere in the Central City.

Please include this testimony in the record of the Central City proceedings, and provided us with notice of the final decisions.

Remove Scenic Viewpoint CC-SW46 Height Limits

CC 2035 proposes to update the existing Scenic Resources Protection Plan and add additional viewpoints with height limits that severely constrain development. Two of the most impactful view limits are proposed across the Central Eastside, where many sites are being up-zoned or allowed more floor area for employment uses to help satisfy the City's demand for projected employment uses. One of these, viewpoint CC-SW46 bisects the Property and limits height to 60 feet, which is *190 feet lower than the Property's maximum height*. We request that the City eliminate the height limits for the Property imposed by viewpoint CC-SW46 to allow heights in accordance with the base zone.

CC-SW46 is one of two viewpoints that showcase a view of Mount Hood from Tilikum Crossing. The City's ESEE analysis states that the views from the bridge are particularly important due to the cultural significance of Tilikum Crossing and Mount Hood to native tribes. While we do not dispute that both landmarks may be significant, the viewpoints themselves were established in 2015 and should not necessarily be prioritized over other viewpoints without a stronger linkage.

According to the ESEE analysis, CC-SW46 was chosen for protection through height reduction over CC-SE21, the other view of Mt. Hood from Tilikum, because it impacts portions of larger properties. In theory, these larger sites could maximize development potential on their unrestricted portions leading to lower levels of economic impact. At least with regards to the Property, the view limit cuts the full-height portion of the Property into two smaller pieces (see Figure 2), neither of which is well-suited to full height buildings.

As noted above, the Property requires environmental remediation that will cost approximately five million dollars for any structural development on site. Redevelopment will only be possible if this large cost can be absorbed. Therefore, by restricting the size of development, the view limits will

effectively *prohibit* development on the site because 60-foot limits do not allow for development that could carry the costs of remediation. The ESEE analysis does not account for the height limits fully eliminating development on sites like the Property and therefore appears to be deficient. It is also unclear if the ESEE analysis accounts for the zone changes on sites like the Property. Under the current IH zoning, the Property's height is unlimited, but, as a general matter, an allowed industrial development is unlikely to be built to 250 feet. Under the proposed EX zoning, which allows a variety of uses including office and retail, a 250-foot development is much more likely. This is especially true in the case of the Property which is a key waterfront site adjacent to public transportation. The ESEE analysis does not appear to account for the up-zoned potential of sites like the Property and their likelihood of redevelopment with full-height buildings.

The Property and other sites north of it are close to the new MAX line and streetcar stations. Development in these station areas was expected to be full height and density in order to maximize the value of the new transit infrastructure. The proximity to these new transit lines was the reason for up-zoning the Property and others like it nearby. Location of the viewpoint over newly-up-zoned sites frustrates the steps toward redevelopment. We urge the City Council to consider the impacts of undeveloped and underdeveloped sites adjacent to costly infrastructure and to adjust or remove the view height limits to safeguard development potential on these sites.

Allow Housing to Maximize Use of Transit Infrastructure Near the Property

The Property is a three-acre site within a five-minute walk of the SE Water transit station, served by the MAX Orange Line, streetcar and bus lines. A City Bikeway is also proposed for 9th Avenue near the Property. We understand that through the SE Quadrant planning process, the City determined that the area owned by OMSI on the other side of this transit station would be appropriate for housing if approved through a Central City Master Plan ("CCMP"). This would require the applicant to provide sufficient evidence that the housing use "would not impact the local transportation system or conflict with the surrounding uses." This CCMP requirement is carried forward in the CC 2035 Recommended Draft and we request that this CCMP option for housing be extended to the Property. As noted above, the Property requires environmental remediation at a high cost which can only be offset by high value land uses. Housing is the highest value land use in the City and can uniquely carry the cost of remediation for a large site like the Property. Without the potential to build at least some housing on the site, it is unlikely that the Property can be redeveloped due to the cost of cleanup.

The Property has direct, easy access to downtown via Tilikum Crossing through all of Portland's public transportation options (MAX, streetcar and bus). These multi-million dollar infrastructure projects were constructed under the assumption that sites near station areas would redevelop with intense uses, and indeed, the Property and nearby sites are being up-zoned to stimulate just this type of mixed-use redevelopment. Development of large, vacant sites near the stations is crucial to maximizing the millions in public funds spent on transit infrastructure. It is important to allow a broad mix of uses (with appropriate checks, like the CCMP process) near stations to ensure that these sites do actually develop. Leaving the land near stations vacant is arguably the worst possible

outcome. We urge the City Council to allow housing on the Property in order to make redevelopment possible.

Allow Hotels as an Exception to Limited Retail Sales and Service Uses

The Recommended Draft contains a new prohibition on retail sales and service uses over 40,000 square feet that extends to the Property and other nearby sites. Unlike this prohibition elsewhere in the Central City, the limit burdening the Property does not contain an exception for hotels. Although not as high value as housing, a hotel use is also a viable redevelopment option for the Property, especially in conjunction with a mix of other uses, including housing, retail and maker space. Like housing, a hotel would maximize use of the transportation infrastructure adjacent to the Property. We request that the City Council either remove the 40,000 square foot limit on retail sales and service uses for this area, or, alternatively, add an exception to this limit for hotel uses.

River Overlay Considerations

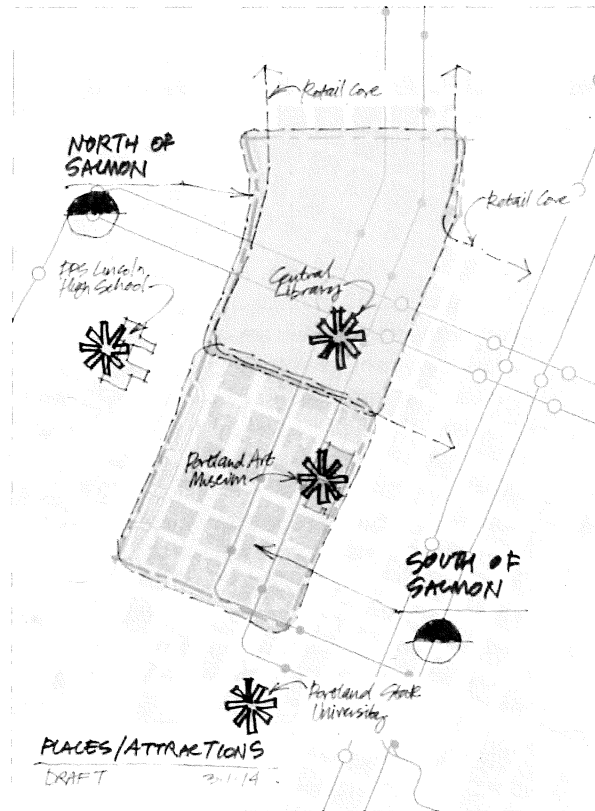
The River setback is being increased to 50 feet within the Central City and a new River Environmental overlay is mapped on the Property. While the new setback will further limit the amount of buildable land on the Property, Mr. Toulon does not specifically object to this increase. The Riverward portion of the Property is well-suited for beach and other River-related uses which are allowed within the River setback.

The large amount of the Property within the River Environmental overlay is surprising, given the site's contamination, lack of upland vegetation and elevation difference from the River. The Property is essentially on a cliff, and does not slope toward the River like most of the Central Reach. We believe that a finer grain analysis of the actual resources located on the Property and their functions and values should occur; either as a part of the overlay mapping or at the time of development upon the request of the Property owner.

In sum, the CC 2035 proposal stacks a number of unrelated regulations on the Property that will effectively prohibit redevelopment. Redevelopment will be possible, even with the required environmental remediation, if the scenic view height limits, housing ban and hotel limitations are eliminated.

Places and Attractions Concept Diagram

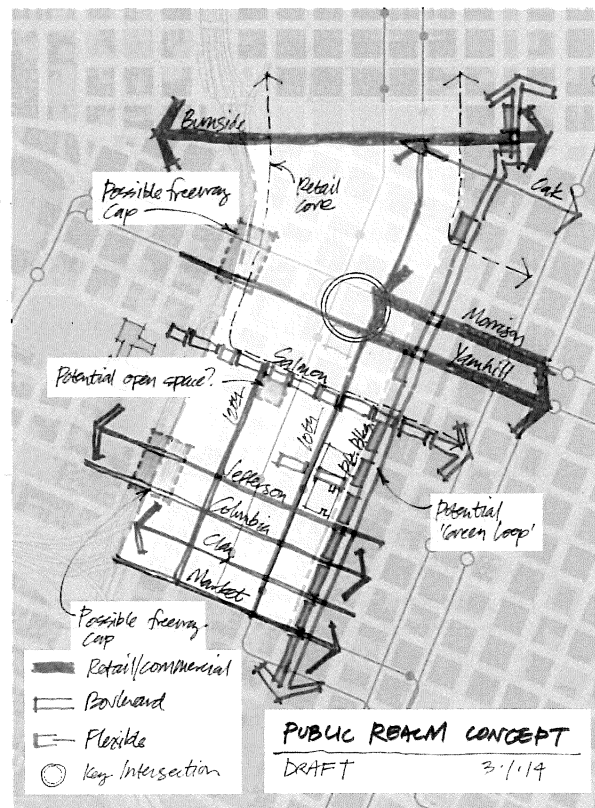
This diagram shows a predominantly residential character south of Salmon and a more mixed use place north of the street. While there is a considerable amount of redevelopment possible in the district, there is also a collection of existing buildings, many of which are older and add architectural texture and variety to the district. The darker the circle, the more change is expected in this part of the district.



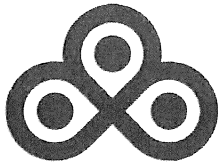
Public Realm Concept Diagram

The public realm concept describes the character of existing and potential new public spaces in the district – its system of streets, parks and other open spaces. It locates existing parks and open spaces, suggests possible sites for new ones, and identifies possible connections between them. This concept also illustrates a “street and development character” concept for the district – a way of being more intentional about the desired design and function of both the streetscape and the ground floors of adjacent buildings.

The three main street types, Retail/Commercial, Boulevard and Flexible, are described in Chapter 3 on pages 29 and 30.



Implementation Actions: Regional Center: Economy and Innovation						
#	Action	Timeline				Implementers (lead in bold)
		CC2035 (2016)	2 – 5 Years	6 – 20 Years	Ongoing	
RC4*	Rezone the OMSI station area from a mix of industrial and employment zones to Central Employment (EXd) – no housing (except as noted in Action RC5). Set a base entitlement of 1:1 FAR and a maximum height of 100 feet. Require a master plan process for development on parcels larger than 40,000 sq. ft. or for development in excess of 60,000 sq. ft. as a means to address urban design and site programming, including publicly accessible open space, street connectivity and as a means to earn additional FAR and height when specific criteria are met. Master plan process can allow structures to a maximum height of 250 feet and 5:1 FAR.	X				BPS
RC5*	Allow housing as a conditional use on sites within the OMSI station area having a Comprehensive Plan designation of EG. Develop conditional use criteria that ensures housing would: <ul style="list-style-type: none"> ▪ Not have an adverse impact on truck and freight movement; ▪ Be supported by transportation system in addition to other uses allowed in area; ▪ Preserve designated scenic resources; ▪ Be designed to buffer housing from nuisance impacts of adjacent uses and not create adverse impacts on uses allowed by right in the zone; and ▪ Be developed as part of a master plan that demonstrates how urban design, landscaping, building massings, accessways, and other design features will limit conflicts between housing and other uses allowed by right. 	X				BPS
RC6*	Amend the existing use allowances and development standards of the Employment Opportunity Overlay (EOS) to allow increased employment densities in industrial employment.	X				BPS
RC7*	Expand the EOS to all IG1 zoned parcels in the Central Eastside District to provide opportunities to increase employment densities.	X				BPS



Bureau of Planning and Sustainability
Innovation. Collaboration. Practical Solutions.

MEMO

DATE: December 20, 2016

TO: Planning and Sustainability Commission

FROM: Troy Doss, Senior Planner, Central City 2035

CC: Susan Anderson, Director; Joe Zehnder, Chief Planner; Sallie Edmunds, Central City Planning Manager

SUBJECT: **Attachment to Decision Table I: Zoning Requests - Analysis Regarding Increased Housing Potential Resulting in Rezoning RX to CX in Central City**

BPS staff have received questions regarding the potential impact to housing production if areas currently zoned Central Residential (CX) are rezoned to Central Commercial (CX). To better understand the relationship between these and other Central City zones in producing housing, staff identified all housing projects and the total number of units created in each zone since 1990 when the zoning for the 1988 Central City Plan was adopted.

Table 1 of this memorandum summarizes the housing projects and total units created each year since 1990 in the RX and CX zones, as well as the Central Employment (EX) and High Density Residential (RH) zone, all of which allow for housing. It should be noted that the RX and RH zones focus on housing as the primary use and contains development standard that significantly limits the amount of commercial and other uses allowed by right; whereas the CX and EX zones allow housing, commercial, and even some industrial uses with relatively no limitations by individual use.

Despite the intent and protections offered by these zones, the analysis presented in summary Table 2 demonstrates that the CX and EX zones, have produced more housing projects, more units, and housing at a higher density than the either the RX or RH zones. To provide an example of where these zones have been applied, the Pearl District and mixed-use corridors of the Central Eastside are zoned EX, and the Lloyd District, River Place, and South Waterfront are zoned CX. Conversely, the West End, University District, and portions of Goose Hollow contain the majority of lands zoned as RX and RH. These districts have also produced the least housing over the last 26 years despite the intent of the zones, and other tools, such as the Required Residential Overlay Zone which was often applied to the CX portions of these districts.



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Table 1: Total number of housing projects and units by Central City base zone between 1990 - 2016.

Year Approved	CX Zone		EX Zone		RX Zone		RH Zone		All Zones	
	Projects	Units	Projects	Units	Projects	Units	Projects	Units	Projects	Units
1990	1	110	0	0	0	0	0	0	1	110
1991	0	0	0	0	1	132	0	0	1	132
1992	1	60	2	42	0	0	0	0	3	102
1993	2	288	1	86	2	148	0	0	4	522
1994	0	0	2	121	0	0	0	0	2	121
1995	1	30	5	127	1	39	1	90	8	286
1996	3	151	1	199	1	114	0	0	5	464
1997	8	1,085	1	6	1	202	0	0	15	1,293
1998	2	85	3	257	3	326	0	0	8	668
1999	1	60	3	457	0	0	0	0	4	517
2000	2	74	6	610	0	0	0	0	8	684
2001	2	166	4	563	4	442	0	0	8	1,171
2002	0	0	5	894	2	569	0	0	8	1,463
2003	1	38	3	571	3	437	0	0	7	1,046
2004	5	864	0	0	1	2	0	0	6	866
2005	5	1,290	9	1,366	1	74	0	0	13	2,736
2006	3	794	0	0	2	354	0	0	5	1,148
2007	3	513	0	0	0	0	0	0	3	513
2008	1	176	1	152	0	0	0	0	2	328
2009	1	220	2	288	2	101	0	0	5	609
2010	0	0	0	0	1	283	0	0	1	283
2011	4	200	1	70	0	0	0	0	5	270
2012	3	187	1	177	0	0	0	0	4	364
2013	3	1,038	8	1,575	0	0	0	0	11	2,613
2014	6	587	3	487	4	649	0	0	13	1,723
2015	1	417	5	776	0	0	0	0	6	1,193
2016	3	1,998	5	755	1	114	0	0	9	2,867
Proposed	6	844	7	1,251	0	0	0	0	13	2,095
Totals	68	11,275	78	10,830	30	3,986	1	90	178	26,181

Table 2: Summary of housing data 1990 – 2016.

Zone	Total Acres	Percentage of Central City Land Area	Total Number of Units	Percentage of All Units	Average Density / Total Acreage of Zone	Average Density / Acre
CX	668.9	44.4%	11,275	43%	16.86 units/acre	165.8 units
EX	229.3	15.2%	10,830	41%	47.23 units/acre	152.5 units
RX	102.8	6.8%	3,986	15%	38.77 units/acre	132.9 units
RH	27.7	1.8%	90	<1%	3.25 units/acre	90 units
Totals	1,028.7	68.20%	26,181	100.00%	NA	NA



Ref #	Comment #	Comment(s)	Topic	Proposed draft	Request(s)	Staff recommendation	Staff rationale	Discuss?	PSC decision
B6 and Memo	20333, 20355, 20379, 20506,	Dana Krawczuk-Perkins Cole LLP, on behalf of Hatthem Toulon Dana Krawczuk on behalf of Hatthem Toulon Peter Fry-Central Eastside Industrial Council Jonathan Maisin-BEAM Development Eric Cress- Urban Development Partners Elizabeth Cooksey Brad Maisin Peter Fry--Central Eastside Industrial Council	View of Mt Hood from Tilikum Crossing	Designate a new viewpoint on Tilikum Crossing and establish height limits to protect the view of Mt Hood	Do not protect the view of Mt Hood from Tilikum Crossing. Protecting the view of Mt Hood from Tilikum Crossing will have negative economic impacts that outweigh the value of the view.	Retain Proposed Draft version	Tilikum Crossing was designed with two bumpouts that allow people to move out of traffic and enjoy the views. Of the two views of Mt Hood the one proposed for protection has the least economic impacts and a slightly higher ranked view. Most of the sites impacted by heights are large and can move the FAR on their site to realize heights outside of the view corridor. The property in question has more than 40,000sf (a city block) outside of the view corridor where FAR can be used.	<input type="checkbox"/>	<input type="checkbox"/> Support staff rec. <input type="checkbox"/> Other
B7 and Memo	20663	Greg Goodman Downtown Development Group	View of Mt Hood and Mt St Helens from Upper Hall	Keep the current viewpoint designation but remove protection of the view of Mt Hood and apply new protections of the views of Mt St Helens and Mt Adams	Do not protect the view of Mt Hood from Upper Hall. The viewpoint is not used by the general public, it is not easily accessible and reduces development capacity on properties in the West End and Downtown Districts.	Retain Proposed Draft version	There are few protected views of Mt St Helens and Mt Adams and most are from Washington Park. This view, although from a neighborhood street that is not used much by the general public, provides a panoramic view of the mountains and the skyline. Few BL sites are impacted by the height limits. The height limits mostly impact bonus height, not base height, and are set at 350 ft to 440 ft which still allows for bonuses and tall buildings. In addition, very little vegetation would need to be pruned or removed to keep the views.	<input type="checkbox"/>	<input type="checkbox"/> Support staff rec. <input type="checkbox"/> Other
B8 and Memo	20301, 20321, 20400	Tracy/Prince-Goose Hollow Foothills League Rod & Susan Reid Tracy/Prince	General views from West Hills	Of the 11 viewpoints in the West Hills, 3 have a limit or prohibit decision, 3 are not significant, 5 have an allow decision and 1 is retired.	1. Keep at least a limit decision for all views in the West Hills. 2. Keep the view from SW14. 3. General support for maintaining tree canopy. SW14 is located at the top of public staircase and other viewpoints at top of staircases have a limit decision. Generally, the historic views should be protected and maintained.	Retain Proposed Draft version	The proposal balances the value of the views and the value of trees. In order to keep these views, trees on steep slopes would have to be removed. Trees provide important functions including slope stability, stormwater management, air cooling, wildlife habitat and access to nature. Maintaining and increasing tree canopy is one of the primary goals of the Central City 2035 Plan. Although SW14 is at the top of a public staircase it is a Tier III view. All Tier III views are not significant due to the poor quality of the view (based on the expert panel review).	<input type="checkbox"/>	<input type="checkbox"/> Support staff rec. <input type="checkbox"/> Other

4. *Develop a program* – The final step is to develop a program that implements the ESEE decisions. Portland has an existing program that includes building height limitations, scenic resources (s) overlay zones and zoning codes. The *Proposed Draft Central City 2035 Plan, Volume 2A, Part 1* and *Part 2* include updates to the zoning maps and codes to implement the ESEE decisions.

Buildings can have a very big impact on views. Likewise, protecting views can have very big impacts on development and employment potential. Therefore, staff chose to perform a detailed economic analysis of views that could be impacted by buildings – meaning the existing allowed maximum heights or updated heights being considered in CC2035 could result in a building that would block the view.

Appendix A of the ESEE (Volume 3A, Part 3) explains the analysis in detail. Here is a brief summary of the steps in the analysis:

1. Create three-dimensional planes that represent the view corridor elevation from the viewpoint and the lowest elevation on the focal feature that should be seen. For example, the general policy for protecting views of Mt Hood is to keep all structures from impeding the view above 1,000 feet below the timberline.
2. Compare the view corridor elevation to allowed building heights (existing and proposed), taking into consideration FAR, on sites identified in the Buildable Lands Inventory (BLI) as vacant or underutilized. Figure 1 is an illustration of the view corridor elevation and buildings.

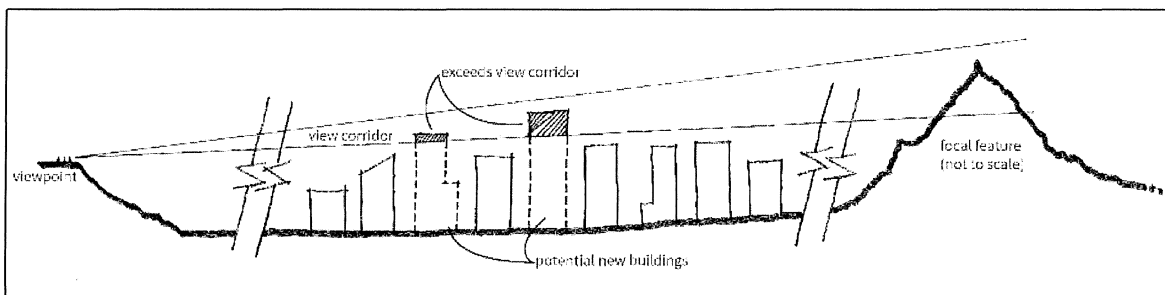


Figure 1: Illustration of a View Corridor in Relation to Building Heights and the Focal Feature

3. For each BLI site where allowed building height is taller than the view corridor elevation, determine:
 - a. Building height limits needed to protect the view
 - b. Number of stories of the potential buildings that would to be allowed in order to protect the view
 - c. Development value and job allocation associated with the stories not allowed

This economic analysis was performed for the following views and viewpoints:

- Tier I Upland views
- Group A River views of Mt Hood
- Tier II Upland and Group B River views of Mt Hood and Mt St Helens
- Views unique to a neighborhood

B6. View of Mt Hood from Tilikum Crossing

Existing Protections

None.

Inventory Results

Staff inventoried the newly constructed Tilikum Crossing to determine if viewpoints should be designated on the bridge. (Every other bridge, except the Marquam Bridge, in the Central City has at least two designated viewpoints.) Four viewpoints have been designated on Tilikum Crossing—two are on the south side of the bridge and both include a view of Mt Hood, the Willamette River and Ross Island. Viewpoint SW46 is a Group A river view and viewpoint SE21 is a Group B. SW46 scored higher because more of the river is in the foreground of the view.

ESEE Decision and Protection Tools

Both SW46 and SE21 have views of Mt Hood and protecting the views by limiting building height has similar impacts on development and job potential. Because SW46 received a higher rank than SE21 and the impacts are slightly less, the ESEE decision is to prohibit structures and vegetation that would block the view of Mt Hood and the Willamette River from viewpoint SW46. Building height limits are proposed that will protect the view.

When compared to the views of Mt Hood from other bridges, the views from Tilikum Crossing have significantly less impact on development and jobs potential. The views of Mt Hood from the Broadway, Morrison and Hawthorne bridges have an impact ranging from \$15.7M/2,192 jobs to \$93.9M/13,044 jobs. Tilikum Crossing views have impacts of \$7.8M/1,093 jobs (SW46) and \$8M/1,115 jobs (SE21).

Public Comment

Testimony was submitted regarding a property located at 306 SE Ivon Street. The testimony stated that the 60-foot height limit, plus other restrictions of the proposal (Greenway Trail, river setback, river overlay and prohibition on housing) would make it impossible to redevelop the property.

Other testimony stated that views across the Central Eastside should not be protected due to the significant impact on future development.

Staff Recommendation

Retain Proposed Draft version (Figure 19).

The property is located along the Willamette River with access from SE Ivon Street. The site is 2.8 acres in size. The view corridor crosses the middle to southern portion of the site. The area outside of the view corridor and outside of the river e-zone is 0.9 acres (40,370 square feet). For reference, a typical city block in the Central City is 40,000 square feet.

The portion of the site outside of the view corridor and river e-zone is zoned IH today and proposed to be zoned EX. The height limit is currently based on the base zone. The proposed height limit is 100 feet with 3:1 FAR and an option to bonus up to 250 feet. The development could move the unused FAR from within the view corridor to outside the view corridor on the site and then bonus whatever else is needed to get the desired height outside the view corridor.

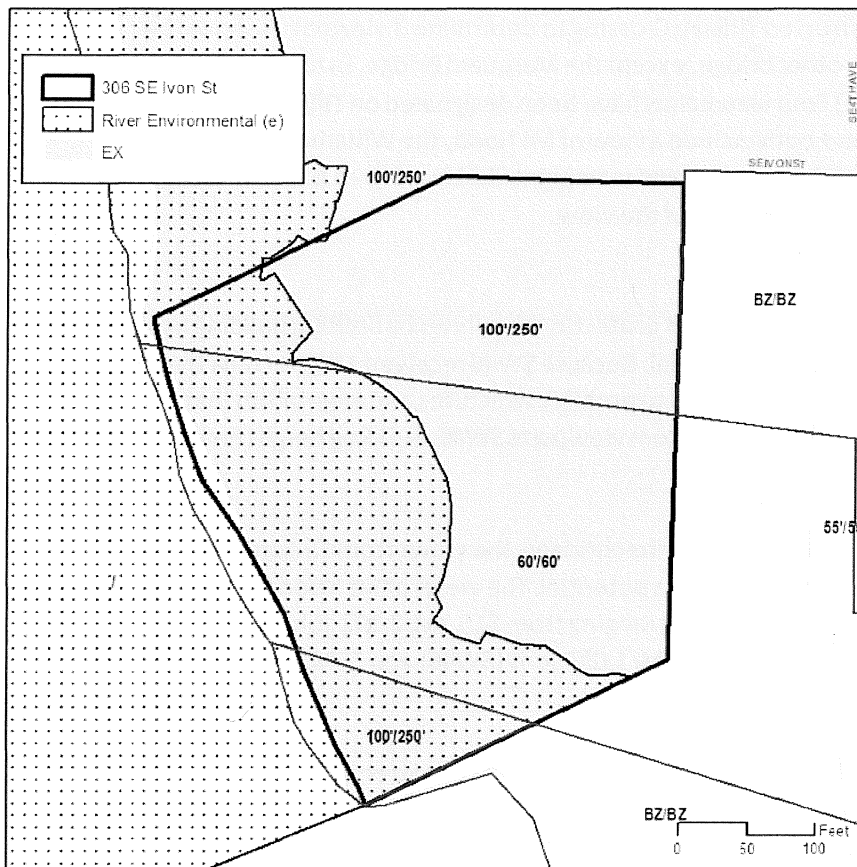
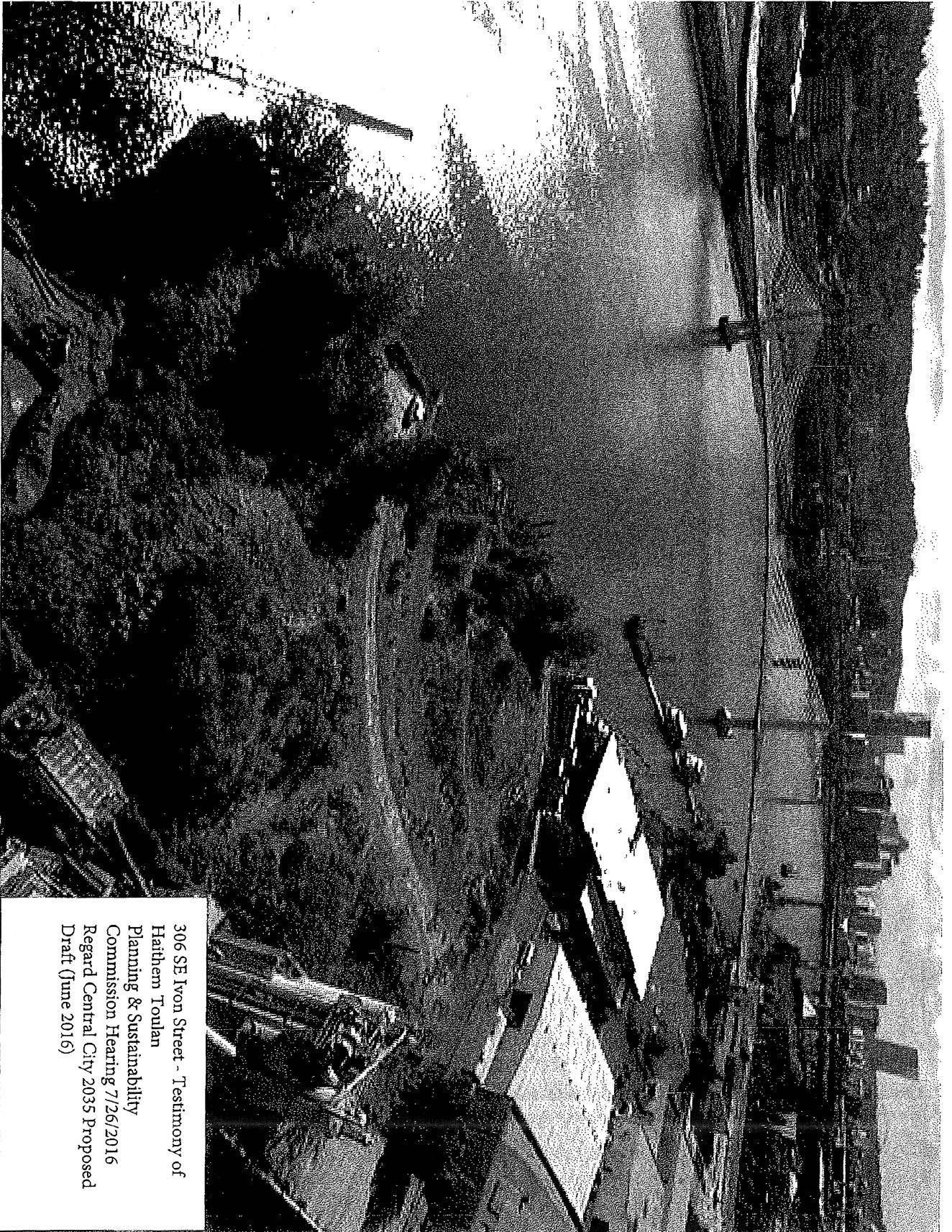


Figure 19: Proposed Height Limit at 306 SE Ivon Street

B7. View of Mt St Helens and Mt Adams from SW Upper Hall

Existing Protections

The 1991 *Scenic Resources Protection Plan* designated a viewpoint at SW Upper Hall. The view included Mt Hood, Mt St Helens, Mt Adams and the downtown skyline. Height restrictions were applied to protect the view of Mt Hood and the downtown skyline. No height restrictions were applied to protect the view of Mt St Helens or Mt Adams.



306 SE Ivon Street - Testimony of
Haithem Toulan
Planning & Sustainability
Commission Hearing 7/26/2016
Regard Central City 2035 Proposed
Draft (June 2016)

Ms. Katherine Schultz, Chair
Planning and Sustainability Commission
City of Portland
July 26, 2016
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development while preserving views. This flexibility could allow elliptical shaped development or other property-by-property solutions.

2. Specify in the Code that the Major Public Trail Alignment can be placed anywhere within a site and is not required to follow the lines on the zoning map, consistent with the Bureau of Development Service's current practice.

3. Allow housing uses on the Property under the master planning requirements proposed for station areas, since the Property is within a five-minute walk from both a Streetcar and MAX station.

Please include this testimony in the record of the Central City 2035 and Miscellaneous Zoning Amendments Project proceedings, and provided us with notice of the final decisions.

Remove Scenic Viewpoint CC-SW46 Height Limits

CC 2035 proposes to update the existing Scenic Resources Protection Plan and add additional viewpoints with height limits that severely constrain development. Two of the most impactful view limits are proposed across the Central Eastside, where many sites are being up-zoned or allowed more floor area for employment uses to help satisfy the City's demand for projected employment uses. One of these, viewpoint CC-SW46 bisects the Property and limits height to 60 feet, which is *190 feet lower than the Property's maximum height*. We request that the City either eliminate the height limits for the Property imposed by viewpoint CC-SW46 to allow heights in accordance with the base zone, so long as development take steps to be compatible with preserving views, such as elliptical shaped buildings or building orientation changes.

CC-SW46 is one of two viewpoints that showcase a view of Mount Hood from Tilikum Crossing. The City's ESEE analysis states that the views from the bridge are particularly important due to the cultural significance of Tilikum Crossing and Mount Hood to native tribes. While we do not dispute that both landmarks may be significant, the viewpoints themselves were established in 2015 and should not necessarily be prioritized over other viewpoints without a stronger linkage.

According to the ESEE analysis, CC-SW46 was chosen for protection through height reduction over CC-SE21, the other view of Mt. Hood from Tilikum, because it impacts portions of larger properties. In theory, these larger sites could maximize development potential on their unrestricted portions leading to lower levels of economic impact. At least with regards to the Property, the view limit cuts the full-height portion of the property into two smaller pieces (see Figure 1), neither of which is well-suited to full height buildings.

As noted above, the Property requires environmental remediation that will cost approximately five million dollars for any structural development on site. Redevelopment will only be possible if this large cost can be absorbed. Therefore, by restricting the size of development, the view limits will

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effectively *prohibit* development on the site because 60-foot limits do not allow for development that could carry the costs of remediation. The ESEE analysis does not account for the height limits fully eliminating development on sites like the Property and therefore appears to be deficient.

The Property and other sites north of it are close to the new MAX line and streetcar stations. Development in these station areas was expected to be full height and density in order to maximize the value of the new transit infrastructure. The proximity to these new transit lines was the reason for up-zoning the Property and others like it nearby. Location of the viewpoint over newly-up-zoned sites frustrates the steps toward redevelopment. We urge the Commission to consider the impacts of undeveloped and underdeveloped sites adjacent to costly infrastructure and to adjust or remove the view height limits to safeguard development potential on these sites.

Clarify Major Public Trail Alignment

The current “greenway trail” is being renamed a “major public trail” and map alignments for this trail are proposed to change. While the changes to the trail section of the Code appear to be proposed as part of the CC 2035 revisions (Chapter 33.270), the mapping of the trail itself appears to be part of the Miscellaneous Zoning Amendments Project. To ensure that our comments are included in the appropriate discussion, we request that this letter be added to the record for both zoning projects.

The Property is undeveloped and therefore the trail has not been dedicated or constructed. As shown on Figure 1, the trail is mapped through the center of the Property. If the trail were required to be located at the mapped position, it would further shrink and constrain the development potential of the Property and would make development infeasible even absent the Property’s other constraints. Mr. Toulon has always envisioned that when redeveloped, the Property would have gracious public access and recreational opportunities, including a trail. Therefore, he does not object to the requirement that a trail be located on the Property. Rather, the proposed *location* of the trail is problematic.

City staff have assured us that their current practice is to require that the trail be located somewhere on an encumbered site, and not necessarily along the mapped line. We agree that this is the most reasonable approach to locating the trail. However, the Zoning Code does not specifically state this policy, so we are concerned that this interpretation may be lost in the future when different staff members interpret the Code. The proposed Code update frequently references “the trail” and “the location” in reference to the zoning maps, which might lead an unfamiliar applicant or staff member to assume that the line on the zoning maps requires the trail to be placed in that location.

To allow necessary flexibility in locating the trail and provide certainty regarding this flexibility to property owners, we ask that the Commission add specific language to Section 33.270 allowing the trail to be located on site in a position of the property owner’s choosing.

Allow Housing to Maximize Use of Transit Infrastructure Near the Property

The Property is a three-acre site within a five-minute walk of the SE Water transit station, served by the MAX Orange Line, streetcar and bus lines. A City Bikeway is also proposed for 9th Avenue near the Property. We understand that through the SE Quadrant planning process, the City determined that the area owned by OMSI on the other side of this transit station would be appropriate for housing if approved through a Central City Master Plan (“CCMP”). This would require the applicant to provide sufficient evidence that the housing use “would not impact the local transportation system or conflict with the surrounding uses.” This CCMP requirement is carried forward in the CC 2035 Proposed Draft and we request that this CCMP option for housing be extended to the Property. As noted above, the Property requires environmental remediation at a high cost which can only be offset by high value land uses. Housing is the highest value land use in the City and can uniquely carry the cost of remediation for a large site like the Property. Without the potential to build at least some housing on the site, it is unlikely that the Property can be redeveloped due to the cost of cleanup.

The Property has direct, easy access to downtown via Tilikum Crossing through all of Portland’s public transportation options (MAX, streetcar and bus). These multi-million dollar infrastructure projects were constructed under the assumption that sites near station areas would redevelop with intense uses, and indeed, the Property and nearby sites are being up-zoned to stimulate just this type of mixed-use redevelopment. Development of large, vacant sites near the stations is crucial to maximizing the millions in public funds spent on transit infrastructure. It is important to allow a broad mix of uses (with appropriate checks, like the CCMP process) near stations to ensure that these sites do actually develop. Leaving the land near stations vacant is arguably the worst possible outcome. We urge the Commission to allow housing on the Property in order to make redevelopment possible.

River Overlay Considerations

The River setback is being increased to 50 feet within the Central City and a new River Environmental overlay is mapped on the Property. While the new setback will further limit the amount of buildable land on the Property, Mr. Toulon does not specifically object to this increase. The Riverward portion of the Property is well-suited for beach and other River-related uses which are allowed within the River setback.

The large amount of the Property within the River Environmental overlay is surprising, given the site’s contamination, lack of upland vegetation and elevation difference from the River. The Property is essentially on a cliff, and does not slope toward the River like most of the Central Reach. We believe that a finer grain analysis of the actual resources located on the Property and their functions and values should occur; either as a part of the overlay mapping or at the time of development upon the request of the Property owner



CENTRALCITY 2035

Volume 3A SCENIC RESOURCES PROTECTION PLAN

Part 1: Summary, Results
and Implementation

Proposed Draft
June 20, 2016



Bureau of Planning and Sustainability
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City of Portland, Oregon
Charlie Hale, Mayor • Susan Anderson, Director



ESEE Economic Analysis – Scenarios Assumptions

Updated 06-02-16

Purpose of this analysis:

1. Determine what height limits would need to be set at to fully protect any given view
2. Evaluate the economic impact of protecting any given view

Overarching Assumptions

The economic analysis is using BLI sites. It is also run using entitled height, not bonusable height. When there is a BLI that has a view corridor that crosses the site and the view corridor is lower than the entitled height, then there is a conflict and the economic analysis is run to determine the amount of conflict.

The economic analysis does not consider non-BLI site that may redevelop by 2035. It also does not consider that sites that can bonus have a lost economic potential if the bonus option is removed to protect the view.

When a view crosses a portion of a BLI site, but not the full site, the economic analysis is run as if the entire site were in the view corridor. It is not possible to determine how a developer will build on a site that is partially within a view corridor. It is assumed that if part of the site is in a view corridor, the entire site will be built to the height that protects the view.

Scenario 1a: Existing Entitled Height and Existing Zoning

Compare the view corridor elevation against the existing 510-3 map of heights and existing FAR.

In Central Eastside where there is no maximum height, IG1 is set at 90 feet of height - 4:1 FAR, 15ft floors and 80% lot coverage.

Scenario 1b: Existing Entitled Height and Comprehensive Plan Designations

Compare the view corridor elevation against the existing 510-3 map of heights and existing FAR.

In Central Eastside where there is no maximum height, IG1 is set at 90 feet of height - 4:1 FAR, 15ft floors and 80% lot coverage – except IG1 **with** EX Comp Plan Designations:

1. All EX Comp Plan sites are treated as BLI sites in Option B
2. See existing map 510-3, heights range 100ft-200ft

Scenario 2: EOA

Compare the view corridor elevation against the EOA as amended using Southeast Quad Plan scenario.

Heights are based on the proposed 510-3 map without updates to view corridors (pre Discussion Draft) and proposed FAR without bonuses. FARs adjust the maximum height based on typologies for different sized lots

In Central Eastside where there is no maximum height

1. Site rezoned from IG1 to EX are treated like BLI sites
2. IG1 is set at 90ft except in the Southern Triangle set height at 200ft (3:1 FAR, 15ft floors and 80% lot coverage with custom typologies)

Scenic Resources ESSE - Economic Analysis Results (Updated 06-01-16)

VP	Location	Focal Features	Scenario 1a - Existing Zoning & S10-3	Scenario 1b - Existing Comp Plan [1]	Scenario 2 - Proposed Zoning & S10-3	Notes						
			Square Feet of Conflict with View Corridor [2]	Lost Value within View Corridor [3]	Lost Jobs within View Corridor [3]							
Views Proposed for Protection												
N04	Lillis Albina Park	Central City				The proposed heights are taller than existing. Scenario 2 is based on rezoning some IG1 sites to EX and adjusting the view corridor slightly. The proposed heights are taller than existing. Scenario 2 is compared against not protecting the view.						
NE01c	I-84 Overpass (bike/ped)	Central City			60,000		\$2,160,000	300				
SW02	Washington Park - Lewis and Clark Monument	Mt Hood			451,455		\$16,252,380	2,261				
SW04	Rose Garden - Telescopes	Mt Hood						No BU conflicts with entitled height [4]				
SW114a	Jefferson St Overpass	Vista Bridge			20,846		\$750,445	105				
SW15	Vista Bridge	Mt Hood						The proposed heights are taller than existing. Scenario 2 is compared against not protecting the view.				
SW17a	Salmon Springs	Mt Hood	334,003	\$12,024,108	1,672		699,315	\$25,175,340	3,498	No BU conflicts with entitled height [4]		
SW24	Upper Hall	Mt St Helens						No BU conflicts with entitled height [4]				
SW31	SW Cardinal	Mt St Helens						No BU conflicts with entitled height [4]				
SW46	Tillikum Crossing - West	Mt Hood	294,828	\$10,613,808	1,476				218,168	\$7,854,048	1,093	No BU conflicts with IG1 sites and one site that went from IG1 to EX; however the proposed height limit on the EX lot is 100ft.
SW49	SW Terwilliger Blvd	Mt St Helens									No BU conflicts with entitled height [4]	
SW50	SW Terwilliger Blvd	Mt Hood									No BU conflicts with entitled height [4]	
SW55	OHSU Viewing Platform	Mt St Helens									No BU conflicts with entitled height [4]	
SW56	OHSU Tram - North	Mt Hood									No BU conflicts with entitled height [4]	
SW61	OHSU Tram - South	Mt Hood									No BU conflicts with entitled height [4]	
SW64	SW Terwilliger Blvd	Mt St Helens									No BU conflicts with entitled height [4]	
Views Evaluated for Compensation (NOT proposed for protection)												
NW14	Broadway Bridge	Mt Hood	2,686,998	\$96,731,928	13,441	2,686,998	\$96,731,928	13,441	2,607,772	\$93,879,792	13,044	
SE07	Morrison Bridge	Mt Hood	278,582	\$10,028,952	1,387	437,537	\$15,751,332	2,192	223,000	\$8,028,000	1,115	BU conflicts are only with IG1 sites.
SE21	Tillikum Crossing - East	Mt Hood	223,000	\$8,028,000	1,115				223,000	\$8,028,000	1,115	
SW01	Greenway Trail at SW Ankeny	Mt Hood	895,939	\$32,289,804	4,490	966,497	\$34,792,812	4,837	986,467	\$35,512,812	4,937	
SW11	Greenway Trail at SW Morrison	Mt Hood	685,896	\$24,691,284	3,433	886,694	\$31,920,984	4,436	838,994	\$30,203,784	4,197	
SW13	SW Vista Ave	Mt St Helens										No BU conflicts with entitled height [4]
SW26	Hawthorne Bridge	Mt Hood	584,575	\$21,044,700	2,928				743,279	\$26,758,044	3,720	
SW34	Lovely Fountain	Mt Hood	174,000	\$6,264,000	870				174,000	\$6,264,000	870	
SW33	SW Rivington Dr	Mt Hood										No BU conflicts with entitled height [4]
SW36	Greenway Trail - Montgomery St Gardens	Mt Hood	1,141,098	\$41,079,528	5,709				981,598	\$35,337,528	4,912	View does not cross IG1 (EX) sites. View in Southern Triangle that is BZ is set at 200ft. In the Proposed Draft, an area that was BZ now has a 100ft entitled height limit.
SW38	Greenway Trail - Pedestrian Trail	Mt Hood	1,192,198	\$42,919,128	5,965				1,026,698	\$36,961,128	5,138	View does not cross IG1 (EX) sites. View in Southern Triangle that is BZ is set at 200ft. In the Proposed Draft, an area that was BZ now has a 100ft entitled height limit.

BOID = New view. The viewpoint may have been protected previously but the view itself was never protected (no height limits applied).

Italicized = Existing view with existing protections in the form of height limits. The proposal may alter the protections.

[1] The difference between Scenario 1a and 1b are sites in the Central Eastside zoned IG1 with a Comp Plan designation of EX. Those sites are treated like EX in 1b.

[2] If a view corridor crosses any portion of a BU site, the entire BU site is treated as if it were within the view corridor.

[3] Assumes \$36/sq ft and 1 job/200 sq ft

[4] The economic analysis is based on comparing BU sites with height on existing S10-3 and proposed S10-3 maps and the view corridors. There may be views with BU conflicts based on the S10-4 map, which is why they are proposed for protection.

Scenic Resources – Economic Analysis methodology

The python script used for the economic analysis has the same methodology as the ESEE analysis, just different inputs.

All BLI lots that are intersected by cones are considered (except for slivers of 5' or less).

Typologies developed by Marc Asnis used to determine loss of square footage, using tower/lot sqft ratio to determine the square footage of upper floors (rather than the standard 10,000; 20,000; 30,000 classifications). EX and CX were both grouped under "commercial" for the typologies

Superblocks (taxlots exceeding 51,600 sqft) were defined by modeling the podium height/sqft and tower height/sqft (by Marc A.)

Non-Superblock IG1 sites in the Southern Triangle had these assumptions:

- 1) 80% site coverage
- 2) 3:1 FAR
- 3) 15' floors
- 4) Entire lot considered affected (not just area intersected by view corridor)
- 5) Query: Zoning = 'IG1' AND S_triangle IS NULL AND superblocks IS NULL (def. query: BLI_lot = 'Y')

Non-Superblock IG1 outside of the Southern Triangle had these assumptions:

- 1) 100% site coverage
- 2) 15' floors
- 3) 6-story buildings
- 4) Entire lot affected
- 5) Query: Zoning = 'IG1' AND S_triangle = 'Y' AND superblocks IS NULL (def. query: BLI_lot = 'Y')

New EX in Central East Side currently at 1:1 FAR is being changed to 3:1 FAR (Clinton Triangle and OMSI Master Plan area)

*All taxlots that coincide with the two preserved viewpoints from 1991 in N and NE (coinciding with N04 and NE01) were given their appropriate max height limit (50' and 80')

Calculate lost square footage (python parser)

Tower (Commercial):

$(\text{math.ceil}(!\text{lost_ht_tower!}/14)) * !\text{upper_stry_sqft!}$

Tower (Residential):

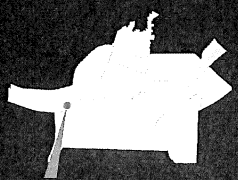
$(\text{math.ceil}(!\text{lost_ht_tower!}/10)) * !\text{upper_stry_sqft!}$

Podium (Commercial):

$(\text{math.ceil}(!\text{lost_ht_podium!}/14)) * !\text{lower_stry_sqft!}$

Podium (Residential):

$(\text{math.ceil}(!\text{lost_ht_podium!}/10)) * !\text{lower_stry_sqft!}$



0 100 200 Feet

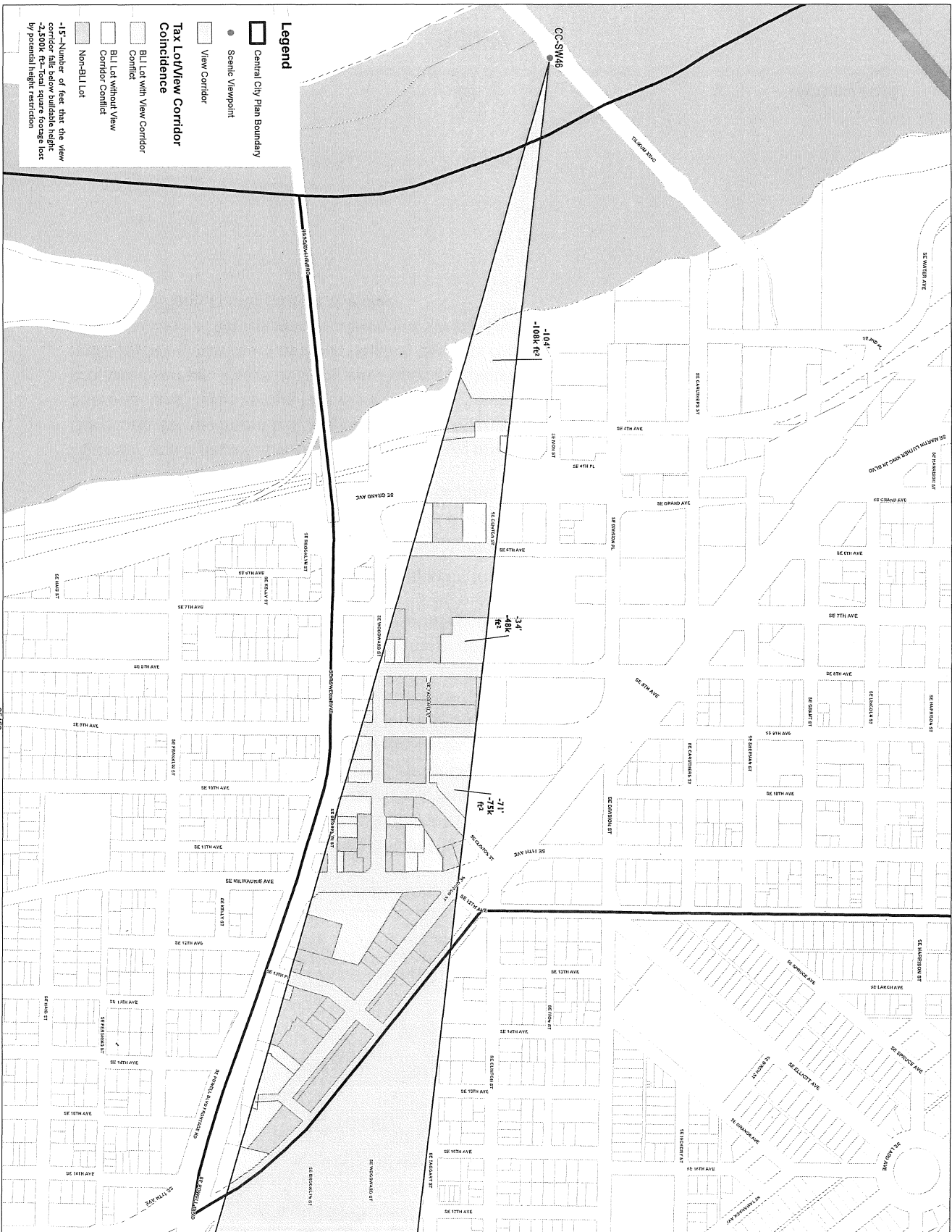
The information on this map was derived from City of Portland GIS databases. Data was taken to the City of Portland under license. The City of Portland is not responsible for errors, omissions or positional inaccuracy.



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 Charlie Beck, Mayor
 Susan M. McLean, Director

35448



- Legend**
- Central City Plan Boundary
 - Scenic Viewpoint
 - View Corridor
 - Tax Lot/View Corridor Coincidence
 - BLI Lot with View Corridor
 - BLI Lot without View Corridor
 - BLI Lot
 - Non-BLI Lot
- 15'-Number of feet that the view corridor falls below buildable height
 -2,500K ft²-Total square footage lost by potential height restriction

to be below 60 ft or a 5 story building. Inland, building heights would need to be below 45 ft (4 stories) to 95 ft (8 stories).

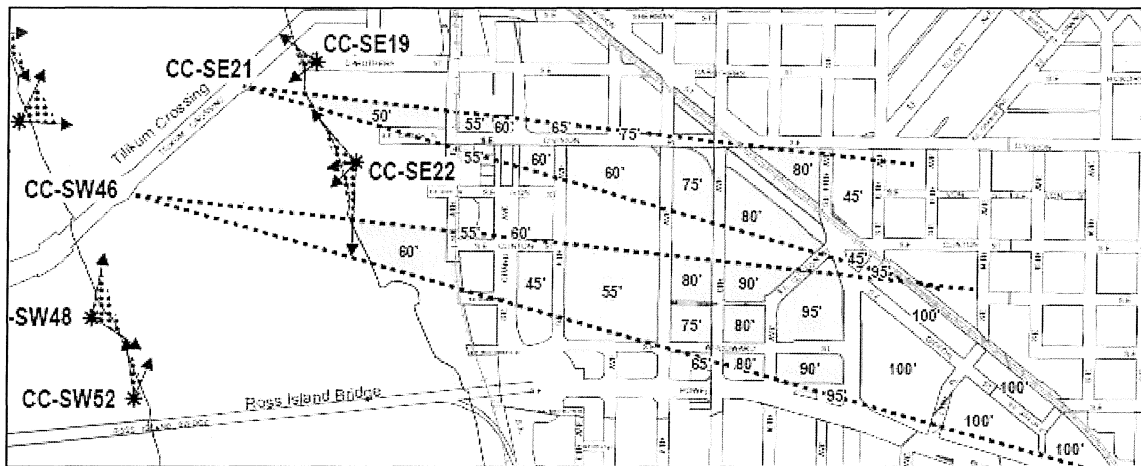


Figure 6: Draft potential height limitations from viewpoints SE21 and SW46 to Mt Hood.

The economic impacts of protecting one of the views ranges from \$1.7M to \$3M in lost potential development and 240 to 420 lost potential jobs. However, the real impact would be much less because the impacted blocks are very large, ranging from 50,000 sq ft to 200,000 sq ft. (For comparison, a typical city block in the Central City is 40,000 sq ft.) Typically, the view corridor occupies between 2% and 50% of any given site. That means that there is sufficient space outside of the view corridors on nearly all of the impacted sites to transfer the height from within the view corridor to outside of the view corridor. In other words, the development and jobs potential could be made up on the same sites immediately outside of the view corridors. Of the two views, the view from SW46 crosses larger sites providing more potential for transferring floor area ratios outside of the view corridors and thus has less potential economic impacts.

The recommendation is to set building heights in the Southern Triangle to protect the view of Mt Hood from SW46, the south western viewpoint located on the Tilikum Crossing. The view from SE21, the south eastern viewpoint, should be maintained as a view of the Willamette River, the Ross Island Bridge, Ross Island, and the Central Eastside skyline, and not as a view of Mt Hood.

Figures 7 and 8 depict how the view may change under the existing maximum building heights and the proposed maximum building heights. The figures show each vacant or underutilized lot with a potential building envelope that is extruded to the maximum height allowed under the existing or proposed zoning. Those building envelopes are shown in yellow. What these figures show is that under existing maximum building heights, two lots could be built with buildings that would partially block the view of Mt Hood from viewpoint SW46. The proposed maximum building heights would reduce the heights and protect the view.

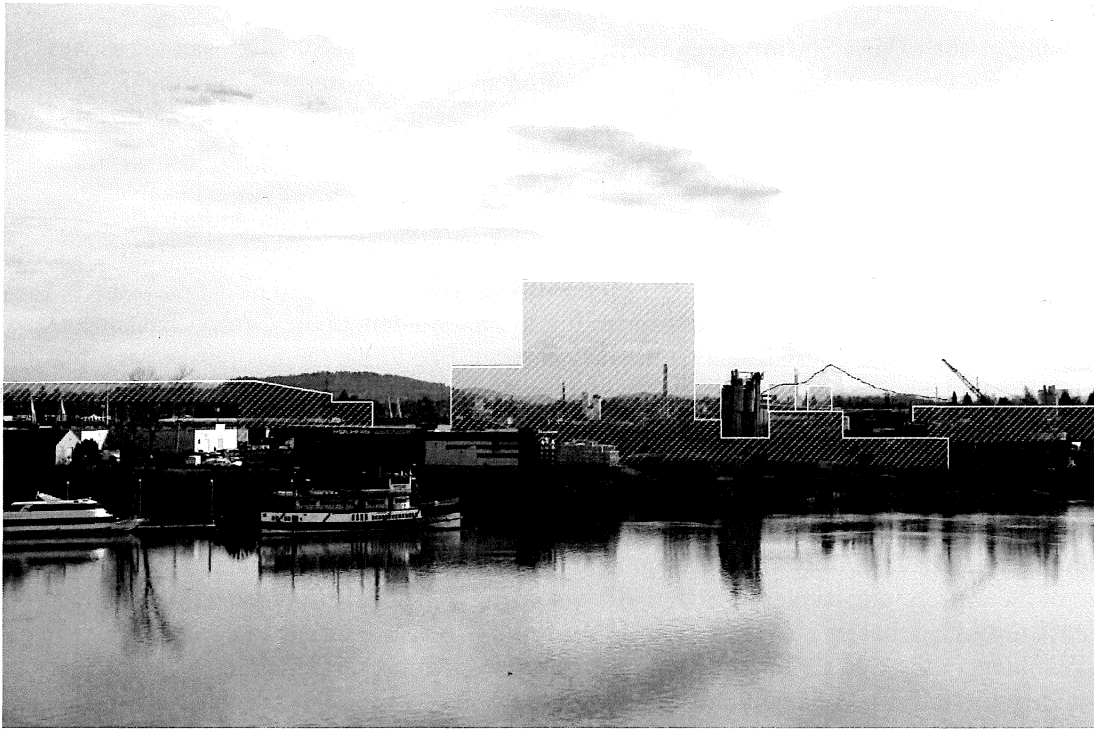


Figure 7: View of Mt Hood from SW46 – Existing Maximum Building Heights

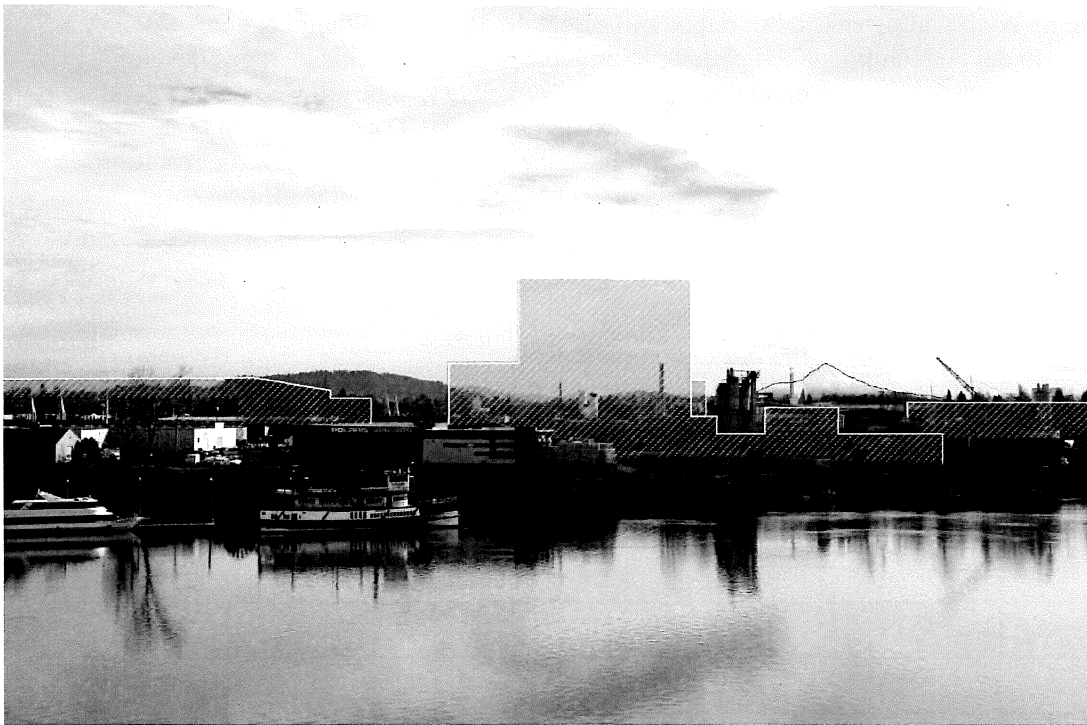


Figure 8: View of Mt Hood from SW46 – Proposed DRAFT Maximum Building Heights

2. **Housing at the OMSI Station Area.** The plan presented to the PSC proposed to convert lands around the new OMSI MAX light rail station area from General Employment (EG2) and General Industrial (IG1) to Central Employment (EXd) with the limitation that housing, typically allowed by right in EXd zoned areas elsewhere in the Central City, would not be allowed here. The EXd zone is one of the most flexible zone types possible and would allow a wide range of uses including nearly all of the uses in the Industrial category, most of the Commercial categories (including Office and Retail Sales and Services), and all Institutional uses. The proposal was to allow all EXd uses except for housing. This approach has been very appealing to stakeholders in the Central Eastside Industrial District and consistent with the City's recent Economic Opportunities Analysis which showed that Portland is at risk of providing less employment capacity than is needed by 2035 and should therefore make all efforts to maintain existing employment lands and increase employment capacity through more dense uses.

The Oregon Museum of Science and Industry (OMSI) advocated for housing at the Planning and Sustainability Commission's public hearing and after considerable debate five of the nine commissioners voted to allow housing as a conditional use with stringent criteria through a master plan provision for the station area. We expect that many stakeholders in the Central Eastside will testify for and against this amendment. Staff can provide more information about this topic as desired.

As you know, Council action adopting the Southeast Quadrant Plan now will not immediately change existing zoning allowances, but rather will direct the Bureau of Planning and Sustainability to develop an integrated plan with implementing tools. This includes developing the master plan provision and the conditions to be met for housing to be allowed at the OMSI Station Area, and also the mechanisms needed to expand the EOS. The Planning and Sustainability Commission and City Council will have the opportunity to review the resulting proposal as part of the final CC2035 Plan before any changes are implemented.

Budgetary Impact Worksheet

Does this action change appropriations?

- ☐ **YES:** Please complete the information below.
☒ **NO:** Skip this section

Fund	Fund Center	Commitment Item	Functional Area	Funded Program	Grant	Sponsored Program	Amount

Existing Conditions

The information provided in this section offers a snapshot of existing conditions in the district and begins to daylight issues and problems being addressed by this plan. Staff have more detailed research on specific topics and produced Bulletins to inform discussions with our stakeholder advisory committee to support policy and action development for this plan. These bulletins can all be found on the project website at <http://www.portlandoregon.gov/bps/62131>.

Land Uses

The Central Eastside is generally known as being an industrial/employment district; however, the 588 acres that comprise the district contain a broad mix of industrial, office, retail, residential, visitor attraction, and institutional.

Zoning Pattern

The Central Eastside has been primarily zoned to serve as an employment district. Thus, the General Industrial zone (IG1), which is focused on light industrial uses, is the most commonly applied zone in the district at 64.8% of the land area. The Central Employment (EX) is the next most common zone with 22.2% of the district being zoned as such. The EX zone allows for taller and denser development than the IG1 zone. These zone also allows a broadest mix of uses of all zones applied in Portland, including residential, commercial office, retail, institutional, as well as light industrial uses. Due to the intensity and diversity of uses allowed by this zone it is currently applied primarily along main street corridors with good access to transit and the regional transportation system. The current zoning map including existing Comprehensive Plan map designations is presented at the end of this section.

Various zones originally intended to incent and in some cases protect industrial and industry supporting employment uses have been adopted for this area. These zones include the General Industrial (IG1) zone, General Employment (EG1 and EG2) zones, Heavy Industrial (IH) and Central Employment (EX) zone. In total, 97.3 percent of the district is zoned for these purposes. The intended character of each of these, as described by the Zoning Code, is summarized below:

General Industrial (IG1): The IG1 zone is one of three zones that implement the Industrial Sanctuary map designation and policy of Portland's Comprehensive Plan (the other two being the IG2 and IH zones). In this zone most industrial uses are allowed while uses that might present potential conflicts with industrial uses are restricted (such as office and retail uses) and others are prohibited (such as residential development). The IG1 zone is intended for areas with small lots within a grid pattern. Approximately 64.8% of the Central Eastside is zoned as IG1 and the zone has been applied districtwide, including in some areas that have larger block sizes (most notably the areas between SE Division and SE Powell).

General Employment (EG1 and EG2): The General Employment zones are intended to implement the Mixed Use Employment map designation of Portland's Comprehensive Plan and allow for a wide range of employment opportunities without potential conflicts from interspersed residential uses. The zones were intended to promote industrial and industrially related land uses and there are provisions associated with both zones to allow residential development only as a conditional use and retail and office uses as a limited

Goal 2, as it applies to CC2035, requires the development of a process and policy framework that acts as a basis for all land use decisions and assures that decisions and actions are based on an understanding of the facts relevant to the decision. The amendments support this goal because CC2035 was developed consistent with State-wide Planning Goals, the Metro Urban Growth Management Functional Plan, and 2035 Comprehensive Plan, as detailed in this ordinance. Further, the Central City 2035 Concept Plan, created with a stakeholder committee and approved by the PSC and City Council, established an additional policy framework to guide the development of subsequent quadrant plans, and the Recommended Draft of CC2035.

The plan was also developed in consultation and in partnership with all applicable City of Portland bureaus, state agencies, such as the Oregon Department of Transportation, Department of Land Conservation and Development, and local agencies, such as TriMet, Metro, and Multnomah County. Lastly, two agencies, the Port of Portland, and Portland Public Schools, testified on different elements of the recommended amendments to the Zoning Code. Thus, CC2035 is consistent with the requirements of Statewide Planning Goal 2.

3. **Goal 5, Open Space, Scenic and Historic Areas, and Natural Resources.** To protect natural resources and conserve scenic and historic areas and open spaces.

Scenic Resources

- a) The plan includes an updated inventory of scenic resources in the Central City, which was developed based on the procedures and requirements for complying with Goal 5. The policies and development standards in the plan protect significant scenic resources identified in the adopted *Central City Scenic Resources Protection Plan*, Volume 3A, Part 1 and Part 3;
- b) The plan includes an economic, social, environmental and energy analysis (ESEE) for the scenic resources, Volume 3A, Part 2. The ESEE analysis was developed based on the procedures and requirements for complying with Goal 5. The ESEE includes identification of conflicting uses, determination of the impact area, analysis of the ESEE consequences of allowing, limiting, or prohibiting conflicting uses, and development of a program to protect and conserve specified resources identified in the inventory;
- c) Scenic resource (s) overlay zones have been applied to significant scenic resources and limit development and vegetation within views. The river overlay zoning regulations, found in 33.475, require that viewpoints associated with designated views be developed to provide public access to the scenic resource;
- d) Building heights in portions of the Central City, shown on Map 510-3 and 510-4, have been updated to preserve significant views of and across the Central City. Projections are prohibited above the height if in a scenic view corridor.

Historic Resources. The plan includes new incentives to seismically improve historic landmarks and to transfer un-used floor area from sites with historic landmarks to provide greater long-term protect of these resources. The plan also lowers the maximum allowable height in some historic districts, and generally removes height bonus allowances within all historic districts, with the exception of ½ block in New Chinatown/Japantown, to ensure new development in these areas is compatible with the massing of adjacent contributing structures and the character of the district.

Natural Resources. Per OAR 660-023-0240(2) Goal 15 supersedes the requirements of Goal 5 for natural resources also subject to and regulated under Goal 15. The only Goal 5 natural resources in the CC2035 Plan area are located within the Willamette Greenway and therefore are regulated by Goal 15.

Open Spaces. See findings for Goal 8, Recreational Needs.

Thus, CC2035 is consistent with the requirements of Statewide Goal 5.

4. **Goal 6, Air, Water, and Land Resource Quality.** To maintain and improve the quality of the air, water and land resources of the state.

Goal 6, Air, Water and Land Resource Quality, requires the maintenance and improvement of the quality of air, water, and land resources. The amendments are consistent with this goal because they:

- a) Maintain existing natural resource function by applying new River Environmental overlay zoning for identified natural resource areas in the Central City, including resources located on the land and in the water. The plan includes a natural resource inventory that identifies riparian and wildlife habitat resources and functional values, and special habitat areas. The environmental zoning will protect and conserve the identified resources by limiting development within natural resource areas, will encourage environmentally sensitive development, and will require mitigation when development has a detrimental impact on the functions and values;
- b) Clarify the City's regulations for the removal and remediation of hazardous substances. The clarifications will ensure that clean-up of hazardous substances in the Central City occurs in a way that meets City goals and policies including goals related to the conservation of existing natural resources, and the use of natural bank treatments in the final design of clean up actions;
- c) Existing regulations including City Zoning Title 10, Erosion Control, and the Stormwater Management Manual will remain in effect and are applicable to future development. These regulations will maintain and improve water quality;
- d) Reduce the maximum allowed parking ratios for most land uses and zones and prohibit new surface parking which improves air quality by encouraging less vehicle trips into the Central City;
- e) Improve air quality through identifying a public trail alignment for the Central City on the zoning maps, clarifying the Zoning Code regulations requiring development of the public trail, and identifying and prioritizing trail development capital improvement projects that the City should implement. The public trail alignment will connect the neighborhoods and work centers in the Central City to other parts of the city with a route that is safe and convenient, and encourage energy efficiency using bicycles and walking as a transportation mode. Increasing the number of trips by bike or walking will reduce vehicle miles traveled and reduce air pollution;
- f) Require that new buildings larger than 20,000 square feet install an ecoroof. There was significant testimony provided in support of ecoroofs. City Council finds that ecoroofs are vegetated features that reduce heat island effects and filter the air, improving air quality. City Council also finds that ecoroofs reduce energy consumption within the building, which reduces carbon dioxide emissions and improves air quality.
- g) Allow for increased building / landscaped setbacks in some part of the Central City, and new policies, actions, and development standards of the plan call for the expansion of tree canopy in the Central City, both of which will increase the amount of vegetation in the plan district which will help to improve air quality.

2. Maintain a residential *Buildable Lands Inventory* (BLI) with sufficient land to meet identified needs;
3. Adopt land use maps, public facility plans and policies to accommodate needed housing (housing capacity, as well as type, tenure and affordability);
4. Meet minimum density and housing mix requirements (including the Metropolitan Housing Rule); and
5. Adopt clear and objective standards for needed housing.

The findings below respond to these five requirements.

Identification of Needed Housing and Adoption of a BLI

The City satisfactorily completed the first two requirements of Goal 10 with its Task II periodic review submittal adopted by Ordinance 185657, and as updated and revised with Ordinance 187831 (Exhibits F and G of that ordinance), and acknowledged on April 25, 2017. The housing needs analysis adopted with these ordinances provided a specific estimate of the types of households (by size and income) likely to be in Portland by 2035, and provided additional facts describing housing need by type, tenure and affordability. The BLI identified the supply of land available to provide this needed housing. The first two parts of Goal 10 have been met for the reasons stated in findings prepared with those ordinances, which also pertained to the housing strategies for the Central City Plan District, as presented in CC2035.

Accommodation of Needed Housing

Ordinance 187832 addressed the third and fourth of these requirements by adopting a new *Comprehensive Plan Map* and new housing policies. In conjunction with the adoption of that ordinance the City documented that the new land use map and policies provide for needed housing. The findings below will review the relevant facts again, this time through the lens of the *Zoning Map* and regulations being adopted with this ordinance. The findings below address Goal 10 requirements that the *Zoning Map* and associated regulations accommodate 20-years of forecast growth at urban densities, and provide the opportunity for a variety of housing types and tenures, with a variety of affordability levels. Several aspects of the Metropolitan Housing Rule are addressed directly.

First overall housing capacity is considered.

With Ordinance 187831 the City adopted a revised inventory of vacant and underutilized land (Exhibits F and G of Ordinance 187831). Using this revised inventory of land, and the same GIS methods acknowledged with LCDC Order No. 001850, the City estimated that the 2035 *Comprehensive Plan Map* provides a capacity of 247,000 additional units,² still well beyond the estimated need. Using the revised inventory of land adopted with Ordinance 187831, and the same GIS methods acknowledged with LCDC Order No. 001850, the City estimates that the *Zoning Map* provides a capacity of 201,000 additional units,³ still well beyond the estimated need (123,000 units).

As for CC2035, the BLI found that the existing zoning in the Central City can provide capacity to meet the housing projections for the year 2035. However, the plan results in the rezoning of former employment land in the Central Eastside to a mixed-use land (EX) that has produced thousands of

² Buildable Lands Inventory and Growth Allocation GIS Model (model run 5/24/16)

³ Buildable Lands Inventory and Growth Allocation GIS Model (model run 9/07/16).

units in the Pearl and elsewhere in the Central Eastside. The plan also proposes rezoning Central Residential (RX) zoned land to Central Commercial (CX) which has produced far more housing than the RX zone over the last 25 years. Analysis demonstrated that these amendments will be sufficient to allow approximately 39,500 units to be developed through the life of the plan. Thus, both with the *Comprehensive Plan Map* and *Zoning Map*, this ordinance is consistent with the Goal 10 requirement to accommodate needed housing.

Second, allowed density is considered.

The Metropolitan Housing Rule (OAR 660-007-0035) states that cities “***must provide for an overall density of ten or more dwelling units per net buildable acre***”. This applies to land within the Urban Growth Boundary.⁴ Buildable is defined to include vacant and re-developable land, excluding land constrained by natural hazards, steep slopes, or land subject to natural resource protection measures.

In practice, most residential development in Portland occurs on land designated for mixed use development. This is particularly true within the Central City Plan District. The rule also allows consideration of mixed use areas as “residentially-designated” (OAR 660-07-0018 (1)). The findings on Title 1, Housing Capacity, found in the “Findings on Metro Urban Growth Management Functional Plan” demonstrate how mixed-use zones in the Central City produced more housing per acre than high-density residential zones have over the last 25-years. This analysis served as a basis for CC2035 amending the base zone of RX to CX in various location in the Central City.

The Metropolitan Housing Rule applies only to new construction on vacant and re-developable land. Including mixed use zoning, and residential zoning, the Buildable Lands Inventory contains about 9,888 acres of residentially-zoned vacant and re-developable land.

Regarding the Central City Plan District, this analysis found that the plan area contained 21,800 households in 2010, and the capability of producing an additional 32,773 units with the applied Comprehensive Plan and Zoning Map designations. Further, the total acreage of residential and mixed-use residential zoned land, as well as development bonuses for commercial and residential development that support the creation of affordable housing units, are projected to result in the development of 39,500 affordable and market rate units between 2015 – 2035.

Clear and Objective Standards

ORS 197.307(4) requires that jurisdictions “may apply only clear and objective standards, conditions and procedures regulating the development of needed housing on buildable lands” ...and these provisions...” may not have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay.” However, ORS 197.307(5) states that proposals for residential development “in a formal adopted central city plan, or regional center as defined by Metro, in a city with a population of 500,000 or more.” Therefore, the Central City Plan District and CC2035 are exempt from the requirements of ORS 197.307(4).

Goal 10 Conclusions

For the reasons stated above, CC2035 meets the applicable requirements of Goal 10. The 2035 *Comprehensive Plan Map* and *Zoning Map* provide a City supply of residential land that is sufficient to meet identified housing needs within the meaning of ORS 197.307(3), Goal 10 and OAR Chapter

⁴ Because Portland was incorporated before the creation of the UGB, there is a small area (about 440 acres) of residentially-zoned land in Portland that is outside the UGB, which is zoned for rural farm and forest uses with a 20-acre minimum lot size. This land has been excluded from the analysis of this section.

Streets. There is a limited set of circumstances when down-zoning within these 2040-defined places may occur, including changes to address Title 4 (Industrial and Other Employment Areas), to add medical or educational facilities, and to protect natural resources.

For purposes of this title, Metro measures "minimum zoned capacity." The title is clear that individual parcels may be down-zoned, provided the impact on the citywide minimum zoned capacity is negligible.

Method of Analysis: To evaluate compliance with Title 1, GIS analysis was performed to calculate the total acreage of rezoning from a "residential" base zone designation to another base zone that does not have a minimum zoned residential capacity. The total acreage of overlays applied to mixed-use zoning in the Central City was also calculated to determine the minimum housing projected within these overlays. Lastly, an analysis was conducted identifying the housing production within all the base zones applied to the Central City between 1990 and 2016, and analysis of production per acre of zone was conducted to compare housing production in zones with and without a minimum zoned residential capacity.

Proposed Zoning Map Amendments. CC2035 proposes a modest amount of amendments to the Zoning Map. With regards to Title 1 compliance, the plan proposes to rezone 41.4 acres of land zoned as Central Residential (RX) to Central Commercial (CX). The RX zone is highest density multi-family residential zone applied within the City of Portland, and applied to the Central Residential Comprehensive Plan Map designation, described as follows by the 2035 Comprehensive Plan.

***Central Residential.** This designation allows the highest density and most intensely developed multi- dwelling structures. Limited commercial uses are also allowed as part of new development. The designation is intended for the Central City and Gateway Regional Center where urban public services are available or planned including access to high-capacity transit, very frequent bus service, or streetcar service. Development will generally be oriented to pedestrians. Maximum density is based on a floor area ratio, not on a units-per-square-foot basis. Densities allowed exceed 100 units per acre. The corresponding zone is RX. This designation is generally accompanied by a design overlay zone.*

The rezoning from RX to CX will occur in the Goose Hollow, West End, and University/South Downtown Districts. However, the basis for this rezoning is in part to stimulate residential mixed-use development in areas where residential development has been slow to respond to the RX zone. An analysis of housing production between 1990 (the year the zoning implementing the 1988 Central City Plan became effective) and 2016 found that more housing has been created in the portions of the Central City zoned CX (62 projects containing 10,431 units) but that the density per project (most located on sites of an acre or less) is 168.24 units (see Table 1). In comparison, the RX zone over the same period produced 30 projects containing only 3,986 units, for an average density of 132.9 units per project.

It should be noted that 15.7 acres of RH (High Density Residential) land will also be rezoned to CX as part of CC2035 for the same reasons a cited for the RX rezones based on the analysis shown in Table 1.

Table 1 - Housing Totals: Total number of housing units by year and base zone since adoption of 1988 Central City Plan and implementing base zones.

Year Approved	CX Zone	EX Zone	RX Zone	RH Zone	All Zones
1990	110	0	0	0	110
1991	0	0	132	0	132
1992	60	42	0	0	102
1993	288	86	148	0	522
1994	0	121	0	0	121
1995	30	127	39	90	286
1996	151	199	114	0	464
1997	1,085	6	202	0	1,293
1998	85	257	326	0	668
1999	60	457	0	0	517
2000	74	610	0	0	684
2001	166	563	442	0	1,171
2002	0	894	569	0	1,463
2003	38	571	437	0	1,046
2004	864	0	2	0	866
2005	1,290	1,366	74	0	2,736
2006	794	0	354	0	1,148
2007	513	0	0	0	513
2008	176	152	0	0	328
2009	220	288	101	0	609
2010	0	0	283	0	283
2011	200	70	0	0	270
2012	187	177	0	0	364
2013	1,038	1,575	0	0	2,613
2014	587	487	649	0	1,723
2015	417	776	0	0	1,193
2016	1,998	755	114	0	2,867
Totals	10,431	9,579	3,986	90	24,092

CC2035 also results in rezoning that will add an additional 59.3 acres of Central Employment (EX) zoned land in the Central Eastside. The 2035 Comprehensive Plan describes the Central Employment designation as follows:

***Central Employment.** The designation allows for a full range of commercial, light-industrial, and residential uses. This designation is intended to provide for mixed-use areas within the Central City and Gateway Regional Center where urban public services are available or planned including access to high-capacity transit or streetcar service. The intensity of development will be higher than in other mixed-use land designations. The corresponding zone is Central Employment (EX). This designation is generally accompanied by a design overlay zone.*

The EX zone is the same base zone applied to the Pearl District, the Central City's densest residential neighborhood, and since 1990 a total of 71 residential projects have been developed in this zone, containing 9,579 housing units, for an average density of 134.92 units per project.

Although Title 1 does not require that minimum residential densities be applied to residential mixed use zones, Table 2 illustrates that the CX and EX zones have produced more housing, and

housing projects at a greater density than the RX or other residential base zones applied to the Central City.

Table 2 - Housing Production and Density: Total average production and density by base zone.

Zone	Total Acres	Percentage of Central City Land Area	Total Number of Units	Percentage of All Units	Average Density / Total Acreage of Zone	Average Density / Project
CX	668.9	44.4%	10,431	43.28%	15.59 units/acre	168.24 units
EX	229.3	15.2%	9,579	39.34%	41.77 units/acre	134.92 units
RX	102.8	6.8%	3,986	15.22%	38.77 units/acre	132.9 units
RH	27.7	1.8%	90	0.34%	3.25 units/acre	90 units
RI	11.0	0.7%	16	0.06%	1.45 units/acre	16 units
R2	1.4	0.1%	0	0.0%	0.0 units/acre	0 units
Totals	1041.1	69.00%	24,102	100.00%	NA	NA

In addition to these the amendments noted above, CC2035 maintains approximately 12 acres of CX and RH zoned land within an overlay where Section 33.510.230 of the Zoning Code requires new development produce at least 15 units per acre. Thus, this development standard alone will require that at least 188 units could be developed if the entire area affected by this regulation were developed, which is well under the unit per acre average of development in the CX zone.

This analysis demonstrates that the rezoning of RX to CX, combined with the up zoning of land to EX, and the application of the "required residential development area" allows CC2035 to remain consistent with Title 1.

15. **Title 2, Regional Parking Policy**, regulated the amount of parking permitted by use for jurisdictions in the region; however, this title was repealed and the former Title 2 no longer applies to this ordinance.
16. **Title 3, Water Quality and Flood Management**. To protect the beneficial water uses and functions and values of resources within the Water Quality and Flood Management Areas by limiting or mitigating the impact on these areas from development activities and protecting life and property from dangers associated with flooding.

Title 3 calls for the protection of the beneficial uses and functional values of resources within Metro-defined Water Quality and Flood Management Areas by limiting or mitigating the impact of development in these areas. Title 3 establishes performance standards for 1) flood management; 2) erosion and sediment control; and 3) water quality. In 2002 Metro deemed the City of Portland in full substantial compliance with the requirements of Title 3 based on adoption of Title 10 Erosion Control, balanced cut-and-fill standards in Title 24 Building Regulations, and the Willamette Greenway Water Quality Zone, or "q" overlay zone. The Central City 2035 amendments for the Willamette River Central Reach maintain and support compliance with Title 3 because:

- a) City programs deemed in compliance with Title 3 requirements for flood management, and erosion and sediment control (i.e., Title 10 Erosion Control, and the balanced cut and fill requirements of Title 24), are unchanged. The Central Reach amendments, including proposed River Environmental overlay zones, increased river setback, and updated landscaping standards will support goals for flood management and erosion control;

underutilized lands zoned for lower density employment and light industry use have been up-zoned to allow for these uses, as well as a mix of office, retail, and housing as a conditional use. This area now also enjoys greater maximum FAR and heights, which will allow a denser and greater mix of uses to exist in the TOD at this station.

148. **Policy 3.54, Community connections.** Integrate transit stations into surrounding communities and enhance pedestrian and bicycle facilities (including bike sharing) to provide safe and accessible connections to key destinations beyond the station area.

149. **Policy 3.55, Transit station area safety.** Design transit areas to improve pedestrian, bicycle, and personal safety.

The station areas of the Central City are well connected to the multimodal network of bike and pedestrian routes that serve the city center, and CC2035 maintains and proposes to expand this network. The plan also proposes TOD at higher densities, and development standards that create active pedestrian oriented uses at and adjacent to stations to increase safety of transit riders and other users of these station areas, consistent with Policies 3.54 – 3.55.

150. **Policy 3.56, Center stations.** Encourage transit stations in centers to provide high density concentrations of housing and commercial uses that maximize the ability of residents to live close to both high-quality transit and commercial services.

151. **Policy 3.57, Employment stations.** Encourage concentrations of jobs and employment-focused land uses in and around stations in employment-zoned areas.

CC2035 addresses the objectives of Policies 3.56 and 3.57 in several ways. Along the transit mall and at key station areas, FAR and height allowances have been applied to mixed-use zoned areas where a higher density of uses and development may now occur in response to the transit that has been expanded in the Central City over the last decade. In the Central Eastside, two new station areas located in underutilized low density industrial/employment land have been rezoned to mixed employment, with higher FAR and height allowances. One of these, the Clinton Station, is intended for a mix of residential and employment uses, whereas, the OMSI station area is intended for Employment Transit-Oriented Development (ETOD) and housing is only allowed as a conditional use where it can be found to not erode the viability of industrial employment uses on adjacent parcels.

152. **Policy 3.58, Transit neighborhood stations.** Encourage concentrations of mixed-income residential development and supportive commercial services close to transit neighborhood stations. Transit neighborhood stations serve mixed-use areas that are not in major centers.

153. **Policy 3.59, Destination stations.** Enhance connections between major destinations and transit facilities and strengthen the role of these station areas as places of focused activity.

Many of the existing stations in the Central City are located at areas with key regional attractions, such as OMSI, the Moda Center, and the Saturday Public Market. Some of these stations have long enjoyed high-density mixed-use zoning, that includes affordable and market rate housing as well as mix of retail and employment uses. However, in situations where redevelopment around these stations has been slow to occur, or where zoning limitations restricted TOD at these locals, CC2035 proposes new base zones, higher development entitlements, and sometimes the creation of Central City Master Plans, that will in part be used to leverage the development of a dense mix of uses at and adjacent to these stations, consistent with Policy 3.58 and 3.59.

senior and student housing, and family compatible housing at all income levels, as well as neighborhood amenities and essential public services that allow for sustained community development by providing for the needs of people at all ages, income levels, and abilities.

Specific Zoning Code amendments, such as development standard 3.510.200.E, which provides floor area bonuses when public services and amenities are developed as part of a mixed-use project, help to implement different desired outcomes of these goals. Also, during the review of the Recommended Draft of CC2035, Council received testimony both for and against the maximum heights proposed by the plan, and considered various amendments to increase heights at different locations throughout the Central City. In most cases, Council noted a desire to allow increased heights as a way to incent new residential development throughout the Central City, expand the supply of housing and reduce pressure on increased housing costs.

These and other elements of the plan ensure that CC2035 is consistent with Goals 5.A – 5.E, and the following applicable policies.

Housing: Policies

Diverse and expanding housing supply

- 268. **Policy 5.1, Housing supply.** Maintain sufficient residential development capacity to accommodate Portland's projected share of regional household growth.
- 269. **Policy 5.2, Housing growth.** Strive to capture at least 25 percent of the seven-county region's residential growth (Multnomah, Washington, Clackamas, Yamhill, Columbia, Clark, and Skamania counties).
- 270. **Policy 5.3, Housing potential.** Evaluate plans and investments for their impact on housing capacity, particularly the impact on the supply of housing units that can serve low- and moderate-income households, and identify opportunities to meet future demand.

Most the base zones in the Central City allow housing by right, and over 1,100 acres of the plan district have such zoning applied to it. These include the RH and RX zones, which focus on housing production, but also the CX and EX zones, commercial and employment mixed use zones where historically the most housing has been created since 1990. CC2035 maintains this supply of land zoned for these purposes and expands the total area of mixed-use zoning allowing housing outright or as a conditional use in the Central City by over 100 acres.

Further, during the review of the Recommended Draft of CC2035, Council received testimony for and against the maximum heights proposed by the plan, as well as various amendments by Council to increase heights at different locations throughout the Central City. In most cases, Council noted a desire to allow increased heights as a way to incent new residential development throughout the Central City, expand the supply of housing and reduce pressure on increased housing costs. These amendments to the Zoning Code are consistent with and further the objectives of Policies 5.1 - 5.3.

- 271. **Policy 5.5, Housing in centers.** Apply zoning in and around centers that allows for and supports a diversity of housing that can accommodate a broad range of households, including multi-dwelling and family-friendly housing options.

The zoning pattern for the Central City is intended to produce high-density, multifamily housing. The applicable development standards do not focus on any specific tenure, unit type, or intended user. However, CC2035 contains policies that support the development and additional efforts to monitor housing supply through the life of the plan to ensure that Central City housing production

The Central Commercial Comprehensive Plan and Zoning Map designation is the predominately used designation in the Central City. The designation allows for a vibrant mix of retail, institutional, office, and residential uses. Although the zone is described as a commercial mixed use zone, there are more mixed-use residential projects and more housing units per residentially developed acre in the CX than any other zone applied within the Central City. CC2035 results in approximately 728 acres of CX zoned land throughout the Central City Plan District.

Consistent with Policy 10.1, the CX zone continues to be used to further Comprehensive Plan goals and policies regarding housing production, economic development, and job creation and retention.

5. **Central Employment.** The designation allows for a full range of commercial, light-industrial, and residential uses. This designation is intended to provide for mixed-use areas within the Central City and Gateway Regional Center where urban public services are available or planned, including access to high-capacity transit or streetcar service. The intensity of development will be higher than in other mixed-use land designations. The corresponding zone is Central Employment (EX).

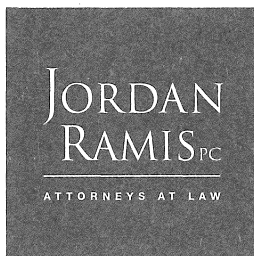
The Central Employment Comprehensive Plan and Zoning Map designation is the second most used designation in the Central City. The designation allows for a vibrant mix of retail, institutional, office, residential, and industrial uses. This zone is usually applied to areas where existing industrial operations are intended to be phased out over time to become more residential/commercial mix (as in the Pearl District), or where mixed-use commercial and residential projects are expected to exist near industrial zoned lands and operations and where the preservation of the Industrial Sanctuary is key objective (such as the Central Eastside District). The CC2035 Plan will result in 669 acres of EX zoned land throughout the Central City Plan District.

Consistent with Policy 10.1, the EX zone continues to be used to further Comprehensive Plan goals and policies regarding housing production, economic development, job creation and retention, and inclusion of industrial uses and services in the Central City.

6. **Industrial Sanctuary.** This designation is intended to reserve areas that are attractive for manufacturing and distribution operations and encourage the growth of industrial activities in the parts of the city where important freight and distribution infrastructure exists, including navigable rivers, airports, railways, and pipelines. A full range of industrial uses are permitted and encouraged. Nonindustrial uses are significantly restricted to facilitate freight mobility, retain market feasibility for industrial development, prevent land use conflicts, reduce human exposure to freight traffic and potential air quality, noise, and pedestrian safety impacts, and to preserve land for sustained industrial use. The corresponding zones are General Industrial 1 (IG1), General Industrial 2 (IG2), and Heavy Industrial (IH).

In the Central City, the Industrial Sanctuary Comprehensive Plan Map designation is implemented through the IG1 and IH zones. These two zones are used only within the Lower Albina and Central Eastside Subdistricts, which, despite containing some mixed-use employment zoning, the districts primarily maintain an Industrial Sanctuary designation.

The IH zone is used in areas that maintain heavy industrial uses as well as uses that still rely on rail and river/marine connections. The Lower Albina Subdistrict continues to contain approximately 15 acres of IH zoned land located adjacent to the Union Pacific Albina Yard facility. In the Central Eastside, only 2 acres remain, and this is only applied to the existing



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June 14, 2019

Oregon Land Use Board of Appeals
DSL Building
775 Summer St. NE Ste 330
Salem OR 97301

Re: *OSB2LAN Ivon, LLC, et al. v. City of Portland, et al.*
LUBA Case Nos. 2018—073/086/087

Dear Board Clerk:

Enclosed for filing are an original and four copies of Intervenor-Respondent's Response Brief. Please call if you have any questions. Thank you.

Sincerely,

Timothy V. Ramis

Enclosures

cc: Linly Rees
Daniel Kearns
E. Michael Connors

BEFORE THE LAND USE BOARD OF APPEALS
FOR THE STATE OF OREGON

RESTORE OREGON, BOSCO-MILLIGAN
FOUNDATION/ARCHITECTURAL
HERITAGE CENTER, OREGON NIKKEI
ENDOWMENT, PORTLAND CHINATOWN
HISTORY FOUNDATION/PORTLAND
CHINATOWN MUSEUM, and PEGGY G.
MORETTI,

Petitioners,

v.

CITY OF PORTLAND,

Respondent,

GUARDIAN REAL ESTATE SERVICES,
LLC,

Intervenor-Respondent.

OSB2LAN IVON, LLC and HAITHEM
TOULAN,

Petitioners,

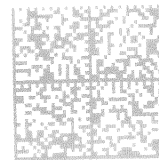
v.

CITY OF PORTLAND,

Respondent.

LUBA No. 2018-072
LUBA Nos. 2018-073/086/087
(Consolidated)

06/17/19 PM 12:02 LUBA



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INTERVENOR-RESPONDENT'S RESPONSE BRIEF

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INTERVENOR-RESPONDENT'S RESPONSE BRIEF

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<i>Redland/Viola CPO v. Clackamas County</i> , 27 Or LUBA 560, 563-64 (1994)	21
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1 **I. STANDING**

2 Intervenor-Respondent Guardian Real Estate Services, LLC (“Intervenor-
3 Respondent”) agrees the Petitioners have standing.

4 **II. STATEMENT OF THE CASE**

5 **A. Nature of the Legislative NC/JT Amendment and Relief Sought by**
6 **Petitioners**

7 The Portland City Council legislatively adopted zoning code amendments
8 for the Central City Plan District (“CC 2035”), which applies to the New
9 Chinatown/Japantown Historic District (“NC/JT”). CC 2035 decreases the
10 maximum building height for four blocks in NC/JT, and increases height for
11 just one block, Block 33 (the “NC/JT Amendment”).

12 Petitioners Restore Oregon, et al (“Petitioners”) appeal CC 2035’s
13 ordinance (Ordinance No. 189000, As Amended) and seek remand of the
14 NC/JT Amendment and lower building height for five blocks within NC/JT.

15 The other petitioners in this consolidated case, OSB2LAN IVON, LLC
16 and Haithem Toulou, present different assignments of error regarding a
17 different neighborhood that do not concern Intervenor-Respondent. Therefore
18 those assignments are not addressed in this brief.

19 **B. Nature of Relief Sought**

20 Intervenor-Respondent requests that LUBA affirm CC 2035.

21 **C. Summary of Arguments**

22 Intervenor-Respondent agrees with, and adopts as its own, the arguments
23 of Respondent City of Portland regarding why CC 2035 satisfies all relevant
24 legal standards.

25 ////

1 **1. Response to the First Assignment of Error**

2 The legislative decision adopting CC 2035, including the NC/JT
3 Amendment, generally reduced the maximum height standard in the NC/JT, and
4 eliminated most options for bonus height. The record contains substantial
5 expert and lay evidence that supports the adopted height limits within NC/JT.
6 Relying on that adequate factual base, the City Council adopted extensive
7 findings demonstrating consistency with the comprehensive plan.

8 This assignment alleges violations of plan policies regarding historic
9 preservation, because the NC/JT Amendment purportedly failed “to consider
10 the character, preserve, and complement the historic resources of this Historic
11 District” (Petition for Review, line 23, page 11). The assignment is
12 contradicted by the record which demonstrates that the City did consider the
13 historic resources of NC/JT, but disagreed with Petitioners’ claims. The NC/JT
14 Amendment substantially reduced height limits for four blocks in NC/JT from
15 350 feet to 200 feet, and raised the height limit on one vacant block to catalyze
16 redevelopment and thereby support NC/JT as a whole. (Rec. AR-75, App. 1).
17 Much of this evidence was produced in the analysis of NC/JT that occurred
18 within the West Quadrant Plan. (Rec. 48031-50249). The City carefully
19 analyzed the historic resources of NC/JT, and reduced the height limits for new
20 buildings expressly for the purpose of complementing the existing buildings in
21 NC/JT. (Rec. AR-75, App. 1).

22 The City Council expressly evaluated and rejected Petitioners’ allegation
23 that the designation of NC/JT as a historic district is jeopardized by the NC/JT
24 Amendment. Petitioners and the State Historic Preservation Office (SHPO)
25 were unable to identify any designated historic district or designated historic

1 resource anywhere in the country that had lost its historic status because of the
2 scale of development permitted on a block nearby. (Rec. 7743-7744).

3 **2. Response to Second Assignment of Error**

4 The City followed an exhaustive public process with adequate notice and
5 numerous public hearings, consistent with Portland City Code (PCC) 33.740
6 Legislative Procedure, Comprehensive Plan Chapter 2: Community
7 Involvement (2016 version), and the state statutory requirements for post-
8 acknowledgement plan amendments in ORS 197.610 et seq.

9 The Petition for Review does not identify a provision of PCC 33.740
10 Legislative Procedure or ORS 197.610 et seq that was not satisfied. There is no
11 local or state land use regulation that prohibits revisions to the text of a draft
12 zoning code following the closing of public testimony in a legislative
13 proceeding, and Petitioners cite no authority to the contrary.

14 The Petition for Review does not identify any facts or arguments that the
15 Petitioners were unable to present, or otherwise demonstrate substantial
16 prejudice. Petitioners are not entitled to relief for the alleged procedural errors.

17 **D. Summary of Material Facts**

18 Petitioners' summary of material facts fails to include important aspects
19 of the record. Intervenor-Respondent offers the following.

20 **1. New Chinatown/Japantown Historic District**

21 This case involves the height limits for buildings in an historic district.
22 In 1989 the City of Portland created the Portland New Chinatown/Japantown
23 Historic District ("District") resulting in the application of multiple Goal 5
24 protections limiting development, including height limits, demolition permit
25

1 limitations, design guidelines, design review and FAR caps.¹ The nomination
2 statement justifying inclusion of NC/JT on the National Register of Historic
3 Places, approved by the National Park Service, described why the District and
4 its context met all listing requirements. (Rec. 50014-50022, App. 38).

5 The District was included on the National Register on November 21,
6 1989 based on the findings of compliance, including recognition of zoning for
7 “high rise development.”² The maximum base height in NC/JT at the time of
8 nomination was 350 feet with opportunities for additional bonus height of 75
9 feet. (Rec. 14974, App. 18).

10 NC/JT comprises ten square blocks within Portland’s larger Central City
11 Plan District. Intervenor-Respondent owns Block 33. (Rec. 6453). Prior to the
12 NC/JT Amendment, the maximum height for Block 33 was 100 feet. (Rec.
13 588). The NC/JT Amendment increased the maximum base height to 125 feet,
14 with potential bonus height up to 200 feet on the west half of the block adjacent
15 to the MAX light rail station. (Rec. 660). For Blocks 25, 26, 35 and 36, the
16 NC/JT Amendment reduced maximum height from 350 feet to 200 feet. (Rec.
17 AR-75, App. 1). The height limit for the other five blocks was unchanged at 75
18 feet and 100 feet. (Rec. 654).

19 Block 33 is currently a full block surface parking lot. It has a long
20 history of contributing to blight in the neighborhood and neighbors testified
21 about lawless behavior, such as drug dealing. (Rec. 6459-6460). Block 36

22

23 ¹ See PCC 33.445, Historic Resource Protection Overlay Zone; PCC 33.846.060
24 Historic Resource Review; PCC 33.846.080 Demolition Review.

25 ² “The Chinatown Historic District is zoned CIZ, which allows for many
commercial uses; mid to high rise development[.]” (Rec. 50020, App. 38).

1 consists of several buildings designated as contributing structures in the NC/JT
2 on the City's Goal 5 historic resource inventory.³ (Rec. 48177). Removal of
3 these structures is subject to stringent demolition permit requirements,
4 including Historic Landmarks Commission review, and a public hearing and
5 decision by the City Council. PCC 33.730.031.E; 33.846.080.

6 **2. Early Steps in Refining NC/JT Height Limits: West Quadrant** 7 **Plan**

8 Prior to the legislative process under review in this case, the City of
9 Portland conducted an exhaustive land use planning exercise to develop a
10 neighborhood plan for the New Chinatown/Japantown area and surrounding
11 neighborhoods called the West Quadrant Plan. (Rec. 20600-20629, 20689-
12 20739, 41536-50249). The City's extensive public involvement for this plan is
13 well documented. (Rec. 47249-47718). The City analyzed the historic
14 resources of the Chinatown neighborhood in great detail, for which the record
15 exceeds 2000 pages. (Rec. 48031-50249). The City created detailed maps of
16 historic resources (Rec. 48177), historic ethnic diversity (Rec. 48241), historic
17 land uses (Rec. 48280), historic aerial photos (Rec. 48316-48318), historic
18 construction (Rec. 48199) and existing building heights (Rec. 48188), among
19 other maps. It reviewed data on properties with a special historic tax
20 assessment. (Rec. 48221-48222).

21 The process included participation by a broad spectrum of stakeholders,
22

23 ³ Contributing resources in historic districts are protected by Goal 5 regulations,
24 including PCC 33.846.060 Historic Resource Review; PCC 33.846.080
25 Demolition Review; and the New Chinatown/Japantown Historic District
Design Guidelines.

1 and each Petitioner participated on multiple occasions, including Petitioner
2 Restore Oregon (Rec. 6462-6463, 7034, 7726, 7771-7772, 15009, S-3, S-9 to S-
3 10), Petitioner Bosco-Milligan Foundation/Architectural Heritage Center (Rec.
4 7087-7088, 7720, 7722, 15354, 15356, 25216, 25355, 31317), Petitioner
5 Oregon Nikkei Endowment (Rec. 46250, S-5 to S-6), Petitioner Portland
6 Chinatown History Foundation/Portland Chinatown Museum (Rec. 6462, 6973-
7 6974, 7729, 7826), and Petitioner Peggy Moretti (Rec. 25109, 31156).

8 The record of the planning process includes specific focus on Block 33
9 and the resulting West Quadrant Plan called for future review of building height
10 maximums and for catalytic redevelopment of Block 33 as an Implementation
11 Action. “Study zoning transfer incentives that would allow additional height
12 for new construction on the non-contributing (non-historic) Block 33
13 property[.]” (parenthesis original) (Rec. 41662, App. 35).

14 The supporting record contains the recommendation of the Old Town
15 Chinatown Community Association to study an additional height allowance on
16 Block 33. (Rec. S-11 and S-12, App. 23-24). And the February 25, 2013 staff
17 Summary of Issues and Opportunities emphasized several factors:

18 “The overall direction for the New Chinatown/Japantown Historic
19 District is not as clear. The identity of the district is more tied to its
20 ethnic and cultural significance, as opposed to historic buildings
21 per se, and it continues to face long-term challenges including
22 disinvestment, lack of infill, complicated ownership structures, and
the shift of Portland’s Asian communities away from the area...It’s
not clear how these concepts fit with a more traditional approach to
historic preservation and they could imply the need for changes to
the regulatory framework in the district....

23 “Surface parking lots consume a significant portion of the two
24 historic districts. These ‘missing teeth’ in the built fabric reduce
25 street-level activity and negatively impact the area’s identity and
sense of place....Redevelopment of vacant and surface parking lots

1 is an important component for revitalizing the area. Additional
2 strategies and incentives may be needed to encourage
3 redevelopment of these lots while also addressing the parking
4 needs of local businesses....

4 “[P]roperty owners have indicated that existing entitlements within
5 the historic districts are too low to justify new development on
6 vacant parcels, many of which produce stable income streams as
7 parking lots....

6 “Block 33 (Jack’s Chinatown Parking site) is a full-block
7 redevelopment site in the center of New Chinatown/Japantown.
8 New development on this lot could have a catalytic impact on
investment in the district.” (Rec. 48189-48190).

9 Finally, planning included a March 15, 2013 charrette that was attended
10 by a wide variety of neighborhood residents, businesses, social service
11 providers, property owners, historic preservationists, and cultural leaders. (Rec.
12 48371-48372). The charrette notes include the comment: “Block 33 as catalyst
13 – height needed, maybe zoning should look at per project basis.” (Rec. 48270,
14 App. 36). The Summary of Key Points for the Old Town Chinatown
15 Community Planning Forum identified several “Tools”, including: “In New
16 Chinatown/Japantown Historic District, consider different approach: cultural
17 and use approach to whole district, building approach only to select set of
18 buildings to preserve.” (Rec. 50149).

19 **3. Hearings and Decision on Revised Height Maximums**

20 Building on the policy work in the West Quadrant Plan, the City
21 considered changes to the height maximums in NC/JT as a part of the
22 legislative update to the zoning code for the Central City Plan District (PCC
23 33.510).

24 Notice of the proposed changes to the City’s land use regulations was
25 sent to DLCD on June 20, 2016. (Rec. 25421). The Measure 56 Notice of the

1 initial public hearing (Rec. 27037-27040) was sent to all property owners.
2 Advertisements were published in numerous neighborhood newspapers. (Rec.
3 32485-32497). The public engagement summary for CC 2035 details hundreds
4 of outreach events. (Rec. 5413-5441). The City Council adopted extensive
5 findings regarding Goal 1. (Rec. AR-2 to AR-5).

6 The initial public hearing on this legislative matter was held by the
7 Planning and Sustainability Commission (PSC) on July 26, 2016, which also
8 held a second public hearing on August 9, 2016. (Rec. AR-3). Testimony was
9 provided by Petitioners Restore Oregon and Architectural Heritage Center, as
10 well as from property owners who requested that existing height limits be
11 retained. (Rec. 24048). Following nine subsequent work sessions, the PSC
12 forwarded their Recommended Draft Central City 2035 Plan to the City Council
13 on May 23, 2017. (Rec. AR-3 and AR-4). A revised notice reflecting
14 additional proposed changes was sent to DLCD on March 13, 2018. (Rec.
15 25422).

16 During multiple hearings in 2017 and 2018, several iterations of the CC
17 2035 were proposed by staff, the Planning and Sustainability Commission, the
18 Historic Landmarks Commission, property owners, citizen advocates and City
19 Commissioners. (Rec. AR-4, 7710-13487, 14674-15883). These proposals
20 were considered by the City Council during three distinct hearing segments.
21 (The prior planning and citizen involvement period is described in Section 2 on
22 pages 5-7 above.) First, beginning in August 2017, attention was focused on
23 Blocks 25, 26, 35 and 36. The City Council held its first public hearing on
24 NC/JT building heights on September 7, 2017 which included testimony from
25 Kristen Minor of the Historic Landmarks Commission, and from approximately

1 fifty members of the public. (Rec. 7071-7103). At a subsequent hearing on
2 September 14, 2017, Christe White, attorney for the property owner, testified
3 before the City Council that:

4 “[t]he height was 350 feet at the time of [NC/JT] nomination...The
5 city found that the current height and density of 350 feet and 9-to-1
6 was consistent with the historic district and its preservation when it
7 was nominated and established....the PSC recommendation is not
consistent with the history of the historic designation, the planning
exercises under that designation, or the future of the site as
envisioned by the city[.]” (Rec. 7026, App. 9).

8 Also submitted into the record was a letter from Tim Eddy of Hennebery
9 Eddy Architects, which gave his professional opinion that:

10 “[m]ore than 60% of the 10-block Chinatown/Japantown district is
11 occupied by parking lots and non-contributing buildings...The
12 objective should be to design new buildings to relate well to
13 architecturally significant, historic structures while bringing
economic vitality and people to take advantage of the public
investment in the transit mall, festival streets, and other
infrastructure in the district.” (Rec. 15023, App. 30).

14

15 Petitioner Peggy Moretti, speaking for Petitioner Restore Oregon,
16 presented contrary oral and written testimony on these blocks later in the same
17 hearing. (Rec. 7034, 15009). Another City Council hearing was held on
18 January 18, 2018, where seventy-four members of the public signed up to
19 testify. (Rec. 6655-6662). Testimony regarding maximum height in NC/JT
20 was provided by a member of the Historic Landmarks Commission and counsel
21 for a property owner. (Rec. 6605, 6628-6629). After the hearing, the record
22 was left open for written testimony. (Rec. 6642).

23 Second, in March and April of 2018, primary attention was given to
24 Block 33. Finally, in May 2018, both the northern four blocks and Block 33
25 were evaluated in the context of the larger NC/JT. (Rec. 6348-6595). The

1 deliberations reflected shifting positions by some City Council members as
2 additional evidence was submitted during and between the evidentiary portions
3 of the legislative hearings. (Rec. 6601-6642).

4 Each segment of the hearings on the competing height proposals included
5 multiple opportunities to submit exhibits and testimony. (Rec. AR-4).
6 Opponents of the NC/JT Amendment expressed fear that new buildings
7 consistent with the proposed zoning might harm the district.

8 “The overwhelming mass of substantially larger structures adversely
9 affects a district’s historic integrity, or historic appearance, by
10 replacing historic buildings and places with new construction and
11 introducing visual impacts throughout the district that negatively
12 affects [sic] a district’s setting, feeling, association and design. Such
impacts may result in a district losing so much of its historic
character that it no longer qualifies for listing in the National
Register, or for the associated state and federal tax benefit and grant
programs.” (Rec. 7755).

13 The opposing perspective, represented by the Old Town Chinatown
14 Neighborhood Association, and property owners, made the case that lower
15 heights were undesirable and would fail to create needed housing. (Rec. S-11
16 to S-12, App. 23-24). The City Council found the preservationists’ claims of
17 inevitable loss of the historic district listing to be unfounded. (Rec. 6319-6322,
18 App. 2-5). The final decision adopted a height map which substantially reduced
19 maximum building height for the northern four blocks in NC/JT, although not
20 as dramatically as Petitioners’ had advocated. (Rec. 6339, App. 34). The
21 proceedings are described in more detail below.

22 ////

23 ////

24 ////

25 ////

1 Petitioner Restore Oregon submitted oral and written testimony
2 supporting the reduced maximum height of 125 feet for the four blocks in the
3 northern section of NC/JT.⁴ The property owners contended that reduction
4 from 350 feet was unnecessary to protect the District, significantly devaluing
5 the block and also undermined the opportunity for needed redevelopment.⁵ The
6 Council initiated deliberations and on October 18, 2017 passed a motion which
7 sided with advocates of a lower height limitation.⁶

8 In the second stage of the proceedings beginning on March 22, 2018, the
9 Council revisited the NC/JT height question in deliberation which followed
10 substantial written and oral testimony. This included letters from supporters of
11 the NC/JT Amendment, such as the new letter from the Old Town Chinatown
12 Community Association co-signed by eleven members (Rec. 7790-7794), and
13 letters from the owner of Block 33 (Rec. 7782-7789) and from the owner's
14 counsel (Rec. 7795-7797). Competing evidence from opponents included
15 letters from Petitioner Restore Oregon (Rec. 7771-7772) and from Historic
16 Landmarks Commission member Matthew Roman (Rec. 7769-7770).

17 _____
18 ⁴ "Despite what some may claim, it is particularly essential you approve the
19 proposed height reductions in Chinatown/Japan Town, Portland's only historic
20 district, as we heard earlier, that's designated for its ethnic history." (Rec.
21 7034).

22 ⁵ Property owner counsel testified on September 14, 2017 that: "The stated
23 purpose of this significant height reduction is preservation of the historic
24 district. That reasoning just can't pass muster...The city found that the current
25 height and density of 350 feet and 9-to-1 was consistent with the historic district
and its preservation when it was nominated and established. It can't be made
inconsistent now." (Rec. 7026, App. 9).

26 ⁶ Motion B1 to reduce building height from 350 feet to 160 feet was moved by
Mayor Wheeler and seconded by Commissioner Fish. (Rec. 6814, 6821-6822).

1 Commissioner Saltzman moved to increase the height on Block 33 to 200 feet.
2 (Rec. 7738). He stated he was persuaded by testimony “to maximize the
3 number of affordable housing units in this proposal 200 feet does that...the
4 issue of height and far [sic] are necessary to maximize the affordable housing
5 units that would be developed under this proposal.” (Rec. 6465, App. 8).

6 This outcome left the matter open for further consideration. The parties,
7 including the Block 33 owner (Rec. 6453-6457), the Old Town Chinatown
8 Neighborhood Association (Rec. 6458-6460), Portland Chinatown Museum
9 (Rec. 6462), Restore Oregon (Rec. 6462-6463), and Architectural Heritage
10 Center (Rec. 6464) testified and continued to submit additional evidence in
11 support of their positions.

12 During the third stage, a public hearing was held on April 4, 2018, where
13 additional testimony was taken. The Council considered and rejected the claim
14 by Restore Oregon and others that lesser height reductions would undermine the
15 continued existence of the District.⁷

16 The motion to adopt the NC/JT Amendment as written in Attachment A,
17 Part II of the May 24, 2018 BPS memo was moved by Commissioner Saltzman
18 and seconded by Mayor Wheeler on May 24, 2018. It included Block 33 and
19 the four blocks at the north end of the district and addressed height.⁸ (Rec.
20 6310, 6314-6315). The final version of CC 2035 made changes to height

21
22 ⁷ Mayor Wheeler commented: “[s]o it doesn’t seem to me that there’s any
23 definitive evidence or even any anecdotal evidence that we would be putting the
historic district at risk.” (Rec. 6392.)

24 ⁸ “Increase bonus height to 200’ on western 1/2 block; affordable housing bonus
25 required to access bonus height; Increase FAR to 9:1 on full block if all floors
above ground floor on western 1/2 block are in residential use.” (Rec. 6338).

1 standards in and around NC/JT. To the south and west of the District allowable
2 heights were generally retained. Notably, blocks abutting the District on the
3 west were assigned building heights of up to 460 feet.⁹ Within NC/JT for
4 Blocks 25, 26, 35 and 36 the NC/JT Amendment reduced the maximum height
5 from 350 feet with bonus potential up to 425 feet down to 200 feet. (Rec. AR-
6 75, App. 1). Block 33, located at the west edge of the District, was given a split
7 height limit. The east half block, facing the buildings with lesser heights on
8 NW 4th Ave., was increased from 100 to 125 feet. (Rec. AR-75, App. 1). The
9 west half, abutting blocks with allowable height of 460 feet, was also limited to
10 125 feet and may be increased to 200 feet if affordable housing requirements
11 are met and the upper floors of the building are residential.¹⁰ Central City
12 Planning Manager Sallie Edmunds and Chief Deputy City Attorney Linly Rees
13 noted the approved height limits were different than in materials provided to the
14 City Council earlier. (Rec. 6324). Therefore the City Council voted to adopt
15 the revised findings. (Rec. 6325).

16 _____
17 ⁹ The Recommended Draft Central City 2035 Plan dated June, 2017 (the
18 “Recommended Draft”) proposed lower maximum heights and maximum floor
19 area ratios for this neighborhood than were approved in the NC/JT Amendment.
20 (Rec. 16880). Following City Council public hearings, the CC 2035 retained
21 the 460 foot maximum height for Blocks 40 through 45 (immediately west of
22 the Historic District) even though the Recommended Draft proposed reducing
23 the height to 250 feet. (Rec. AR-75, App. 1). For Blocks 37, 38, 47 and 48
24 (also immediately west of the Historic District). CC 2035 set the maximum
25 height at 425 feet, roughly seven stories above the prior zoning code of 350
feet, and well above the 250 feet in the 2016 Draft.

23 ¹⁰ To earn bonus height, all floors above ground level on the western half of the
24 block must be residential. *See* PCC 33.510.D.3.b and Map 510-4. Providing
25 that residential space also earns a FAR bonus, from 6:1 to 9:1. *See* PCC
33.510.200.C.2 and Map 510-2. Affordable housing requirements apply. *See*
PCC 33.245.020.A.

1 The City Council explained the policy basis for the NC/JT Amendment
2 in legislative Finding 228:

3 “Following Council proposing this amendment, testimony was
4 received for and against the increased height. Some testifying
5 was [sic] concerned that these heights would not be consistent
6 with the rest of the scale of development elsewhere in the district.
7 However, others noted that the block in question had long been
8 underutilized and that redevelopment of the site would be a
9 catalyst for investment throughout the district, following decades
10 of neglect. In the end, council decided: 1) the heights proposed
11 would still result in a step down from the urban form surrounding
12 the district; 2) the increased height was necessary to incent
13 redevelopment of a catalytic site; and 3) the issue of consistency
14 was best left to the Landmarks Commission who remain charged
15 with reviewing future development proposals on that site and
16 elsewhere in the historic district.

17 “Thus, on balance, these amendments in New Chinatown
18 /Japantown Historic District and all other Central City Historic
19 Districts further the objectives of Policy 4.48 above.” (Rec. AR-75,
20 App. 1).

21 **III. JURISDICTION**

22 LUBA has statutory jurisdiction. ORS 197.825(1).

23 **IV. ARGUMENT**

24 **A. Response to Petitioners’ First Assignment of Error**

25 **1. Preservation**

26 CC 2035 is a legislative decision and therefore the preservation
27 requirement does not apply. *Parmenter v. Wallowa County*, 21 Or LUBA 490,
28 492 (1991).

29 **2. Standard of Review**

30 Petitioners fail to address the Standard of Review. The Board reviews to
31 determine if:

- 32 • The regulation is not in compliance with the comprehensive
33 plan and land use regulations. ORS 197.835(7)(a);
34 ORS 197.835(8).

- 1 • The comprehensive plan contains specific policies or other
2 provisions providing the basis for the regulation.
 ORS 197.835(7)(b).
- 3 • The local government improperly construed the applicable
4 law. ORS 197.835(9)(a)(D).

5 ORS 197.835(7)(a) requires this legislative amendment to Portland’s land
6 use regulations to be “in compliance with the comprehensive plan.” The
7 standard of review for compliance with comprehensive plan policies in a
8 legislative decision requires a petitioner to demonstrate that the challenged
9 provisions are facially inconsistent with applicable law and are incapable of
10 being applied consistently with controlling law. *Hatley v. Umatilla County*, 68
11 Or LUBA 264, 271 (2013).

12 The standard of review for legislative findings is quite limited because
13 “[T]here is no statute, goal or rule that generally requires that legislative
14 decisions must in all cases be supported by findings[.]” *Port of St. Helens v.*
15 *City of Scappoose*, 58 Or LUBA 122, 132 (2008). Nevertheless, “[t]here must
16 be enough in the way of findings or accessible material in the record of the
17 legislative act to show that applicable criteria were applied and that required
18 considerations were indeed considered.” *Citizens Against Irresponsible Growth*
19 *v. Metro*, 179 Or App 12, 16, n 6, 38 P3d 956 (2002).

20 Goal 2 requires that legislative decisions must be supported by an
21 adequate factual base. OAR 660-015-0000(2). The standard of review for
22 adequate factual base is equivalent to the requirement for substantial evidence
23 in the whole record. *1000 Friends of Oregon v. City of North Plains*, 27 Or
24 LUBA 372, 377-78 (1994). Substantial evidence supports a finding of fact
25 when the record, viewed as a whole, would permit a reasonable person to make

1 that finding. *Dodd v. Hood River County*, 317 Or 172, 179, 855 P2d 608
2 (1993). Mere speculation that a legislative decision will have adverse effects is
3 insufficient to demonstrate the decision lacks an adequate factual base. *West*
4 *Hills Development Co. v. Washington County*, 37 Or LUBA 46, 63 (1999).
5 When the legislative record is voluminous, a petitioner must explain why the
6 record is inadequate. *Hubenthal v. City of Woodburn*, 39 Or LUBA 20, 30
7 (2000).

8 **3. Argument**

9 **The City correctly interpreted and applied the comprehensive plan**
10 **and adopted adequate findings supported by an adequate factual base.**

11 **a. The City Council adopted adequate findings.**

12 Although not required to do so, the City Council adopted extensive
13 findings in support of CC 2035, including findings on historic and cultural
14 resources.¹¹ (Rec. AR-74 to AR-76). These include specific findings in
15 paragraphs 227 and 228 regarding the height limits of the NC/JT Amendment.
16 (Rec. AR-75, App. 1). Petitioners assert violation of five comprehensive plan
17 policies and argue that the findings are “unresponsive” to those policies.
18 (Petition for Review, page 27, lines 24-25). The adopted findings and the
19 record show that the applicable criteria were applied and that the required
20 considerations were considered, and address those five policies as follows. The
21 legal standard of *Citizens Against Irresponsible Growth* is satisfied.

22 ////

23 _____

24 ¹¹ There is no statutory or administrative law requirement that all legislative
25 amendments be supported by findings. *Foster v. Coos County*, 28 Or LUBA
609 (1995).

1 i. **PCP 4.48**

2 PCP Policy 4.48 is styled as “continuity with established patterns.”¹² The
3 City Council adopted five paragraphs of findings on this policy, numbered 224-
4 228. (Rec. AR-75, App. 1). The specific findings in paragraphs 224-226
5 address rehabilitation of historic structures, historic district protection measures,
6 financial incentives for seismic upgrades including FAR transfers and a historic
7 tax credit, general reduction of height limits and repeal of most bonus height
8 provisions. Paragraph 227 summarizes the NC/JT amendment, and paragraph
9 228 is the finding regarding Block 33 quoted above. These extensive findings
10 evaluate Policy 4.48, explain the elements of CC 2035 which support the
11 policy, and explain why, despite Petitioners’ opposition, the City Council
12 decided to adopt NC/JT Amendment. The applicable criteria were applied and
13 required elements of those criteria, and Petitioners’ testimony, were considered,
14 consistent with *Citizens Against Irresponsible Growth*.

15 Petitioners argue that the Policy 4.48 findings fail to address their
16 “focused expert testimony[.]” The record is to the contrary, and shows this
17 testimony was expressly considered by the City Council on several occasions.
18 At the April 4, 2018 hearing, Commissioner Saltzman spoke about the claim
19 that a height increase on Block 33 would be incompatible and concluded “I
20 don’t think it will detract from the historic district.” (Rec. 6396). During
21 deliberations on May 24, 2018 Commissioner Eudaly spoke to the testimony

22 _____
23 ¹² Policy 4.48 requires: “**Continuity with established patterns.** Encourage
24 development that fills in vacant and underutilized gaps within the established
25 urban fabric, while preserving and contemplating historic resources.”
(Emphasis in original).

1 cited by Petitioners and explained her rejection of it. She first read from expert
2 testimony in support of the NC/JT Amendment.

3 “The first aspect I would like to comment on is the question of the
4 national register district being delisted. It’s put out every time
5 there’s a major change proposed in an historic district. You will
6 recall that the same people today saying the district will be delisted
said the same ... in 2010. To the best of my knowledge no
national register district in the country has ever been delisted.”
(Rec. 6320, App. 3).

7 The Commissioner noted that “[w]e are actually significantly reducing the
8 [height] on most of these blocks.” (Rec. 6322, App. 5). Mayor Wheeler
9 acknowledged the opposition testimony and concluded: “but I don’t buy a lot of
10 it.” (Rec. 6319, App. 2). Moments later, Commissioner Eudaly responded to
11 the mayor: “I’m not buying many of these arguments either.” (Rec. 6320, App.
12 3). Commissioner Fish spoke to “conflicting testimony about whether we
13 should allow the additional height and there were eloquent concerns raised,
14 cases made on both sides of that issue.” He respectfully acknowledged
15 “neighborhood folks who testified in support of the additional height,” and
16 characterized the decision as “a close call”. (Rec. 6390, App. 6). The findings
17 on this policy are adequate because they demonstrate the City Council
18 understood the policy, considered the competing testimony, and made the
19 decision based on substantial evidence in the record. These cited record items
20 further demonstrate an adequate consideration of the policy.

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1 ii. **Policy 4.49**

2 Policy 4.49’s mandate to “[r]efine base zoning in historic districts”¹³ is
3 addressed by the finding in paragraph 226 that “maximum heights within
4 historic districts have generally been reduced, and in most cases bonus height
5 provisions have been repealed[.]” (Rec. AR-75, App. 1). That Petitioners
6 desire to see further height reductions does not mean this policy is not advanced
7 by CC 2035. The City Council had the legislative authority to determine how
8 much of a reduction was appropriate for various historic districts in the Central
9 City Plan District, and also the responsibility to weigh the advocacy for smaller
10 buildings along with competing policies, such as curing blight, increasing
11 density adjacent to a light rail station and providing affordable housing.

12 LUBA considered the balancing of competing plan policies in *Shamrock*
13 *Homes LLC v. City of Springfield*, 68 Or LUBA 1, 21 (2013).

14 We generally agree with respondents that the city is not required to
15 consider Policy A.25 in isolation from other applicable policies, and
16 it is possible the city could conclude, after balancing all applicable
17 policy requirements, that making the existing manufactured dwelling
18 parks non-conforming uses is an acceptable sacrifice to give as
19 much effect as possible to all applicable comprehensive plan policy
20 objectives.

21 In this case, the staff summarized this balancing for the City Council
22 packet:

23 “The intent is to increase housing adjacent to the Max station...
24 The Old Town Chinatown Neighborhood Association supports the
25

23 ¹³ Policy 4.49 requires: “**Resolution of conflicts.** Adopt and periodically
24 update design guidelines for unique historic districts. Refine base zoning in
25 historic districts to consider the character of the historic resources in the
district.” (Emphasis in original).

1 proposal as a means to catalyze redevelopment of this struggling
2 area....The Historic Landmarks Commission opposes this,
3 however to date it has not articulated alternative solutions to the
4 lack of market feasibility for smaller scale redevelopment on this
parking lot, to declining transit ridership, or to the shortage of
housing in this ebbing neighborhood[.]

5 “Block 33 lies in a neighborhood confronting increasing crime and
6 diminishing pedestrian activity, especially after hours. Both the
7 neighborhood association and independent community leaders seek
a larger scale project to replace the parked cars with people in a
mixed use development that will be active throughout the day and
week.” (Rec. 7268-69).

8 The NC/JT Amendment presents the same balancing of competing plan
9 policies approved by LUBA in *Shamrock*. The comprehensive plan includes an
10 action item for an update of historic design guidelines, and this task was
11 completed with the adoption of the New Chinatown/Japantown Historic District
12 Design Review Guidelines in 2017. The findings on this policy are adequate
13 because they demonstrate the City Council understood the policy, considered
14 the competing testimony, and made the decision based on substantial evidence
15 in the record. Petitioners make no effort to explain why the record is
16 inadequate as required by *Hubenthal*.

17 **iii. Policies 5.19, 1.OT-3 and 5.OT-1**

18 These policies are satisfied as demonstrated by evidence in the record,
19 and the City Council deliberations, as described below. The City did not
20 include findings on these policies because they were not yet in effect when CC
21 2035 was adopted (including the NC/JT Amendment); and there was no
22 requirement to adopt findings on these policies. *Port of St. Helens v. City of*
23 *Scappoose*, 58 Or LUBA 122, 132 (2008). Nevertheless, the policies are very
24 similar to policies 4.48 and 4.49, and therefore the findings and evidence in the
25 record that demonstrate compliance with policies 4.48 and 4.49 also support the

1 conclusion that these policies are satisfied for the reasons that follow.

2 Policy 5.19 requires promotion of “contextually-sensitive infill
3 development on vacant and surface parking lots.” Petitioners allege there are
4 no findings on how 200 foot tall buildings will enhance historic buildings
5 consistent with Policy 5.19. To the contrary, the findings on Block 33 do
6 address this point: “the block in question had long been underutilized and that
7 redevelopment of the site would be a catalyst for investment throughout the
8 district, following decades of neglect.” (Rec. AR-75, App. 1). The City
9 Council found that investment and redevelopment, with affordable housing, is a
10 net benefit. In deliberation on an earlier draft of the CT/JT Amendment,
11 Commissioner Fish noted:

12 “[T]his additional height and the benefit we’re giving an owner is
13 treated just as we would treat any other development within the
14 downtown outside of the historic district, subject to a bonus system
15 and we would have the benefit of some affordable housing. (Rec.
6394, App. 7).

16 The City Council found that the Historic Landmarks Commission’s
17 discretionary historic design review was a reliable process to review
18 development proposals and ensure compliance with historic design guidelines:
19 “the issue of consistency was best left to the Landmarks Commission who
20 remain charged with reviewing future development proposals on that site and
21 elsewhere in the historic district.” (Rec. AR-75, App. 1).

22 Findings are not required for a legislative decision, when argument in
23 respondents’ briefs and citations to facts in the record are adequate to
24 demonstrate compliance with applicable legal standards. *Redland/Viola CPO v.*
25 *Clackamas County*, 27 Or LUBA 560, 563-64 (1994). This extensive record

1 demonstrates that compliance.

2 Policy 1.0T-3 supports the “protection and enhancement of the rich
3 cultural and multi-ethnic history and diversity of Old Town/Chinatown,
4 including its unique physical characteristics, cultural and arts institutions,
5 community organizations, and mix of businesses.” Many of these institutions,
6 community organizations and businesses expressly supported increased height
7 on Block 33. The most recent letter from the Old Town Community
8 Association is one of the first items in the land use record. (Rec. S-1 and S-2,
9 App. 10-11). “We are writing to reiterate our support for the height and density
10 increase on Block 33[.]” The letter was signed by leaders of the following local
11 cultural and arts institutions: Oriental College of Medicine; University of
12 Oregon; Roseland Theatre; and Lan Su Chinese Garden. It was signed by
13 leaders of the community organizations Old Town Community Association and
14 Central City Concern. It was signed by businesses Cal Skate Skateboards, The
15 Society Hotel, Deadstock Coffee, Cycle Portland, Fortune, and Venture
16 Hospitality. (Rec. S-1 and S-2, App. 10-11). Their consistent support over the
17 years (Rec. S-11 to S-15, App. 23-27; Rec. 7792-7794, App. 14-16) is
18 substantial evidence that the NC/JT Amendment supports the rich cultural and
19 multi-ethnic history and diversity of NC/JT.

20 Policy 5.0T-1 is also specific to New Chinatown/Japantown. “Protect
21 significant resources and enhance the historic multi-cultural significance of the
22 New Chinatown/Japantown Historic District. Support the district’s historic
23 character, multi-ethnic history and today’s Pan-Asian culture.” Protection of
24 the resources is a concern to the City Council and reflected in the record by the
25 adoption of the New Chinatown/Japantown Historic District Design Guidelines.

1 The guidelines “are adopted land use approval criteria that protect the
2 architectural integrity and cultural significance of Portland’s New
3 Chinatown/Japantown Historic District.” (Intervenor-Respondent joins the City
4 of Portland in requesting that LUBA take judicial notice of the adoption of
5 these guidelines by Ordinance 188623.) The significance of NC/JT is
6 demonstrated by the time and attention the City devoted to this small
7 neighborhood in CC 2035. (Rec. 7710-7774, App. 28-29; 42995-42999, 43122-
8 43123, 43360, 48031-50248). Petitioners do not address the City’s extensive
9 study of this significance, or this voluminous record evidence that the best
10 method to support NC/JT is to catalyze redevelopment of Block 33 and other
11 vacant parcels.

12 A petitioner must demonstrate that the challenged provisions are facially
13 inconsistent with applicable law and are incapable of being applied consistently
14 with controlling law. *Hatley v. Umatilla County*, 68 Or LUBA 264, 271 (2013).
15 There is no state or local law that specifies the maximum height for new
16 development on a vacant block in an historic district, and Petitioners present no
17 alternate legal theory for their argument that CC 2035 and the CT/JT
18 Amendment conflict with this policy. And they again make no effort to explain
19 why the record is inadequate as required by *Hubenthal*.

20 **b. The NC/JT Amendment did not violate applicable**
21 **policies.**

22 **i. Policy 4.48**

23 PCP Policy 4.48 is styled as “continuity with established patterns”, and is
24 to “[e]ncourage development that fills in vacant and underutilized gaps within
25 the established urban fabric, while preserving and complementing historic

1 resources.” The NC/JT Amendment is consistent with this policy because it
2 encourages redevelopment of Block 33, currently a surface parking lot which is a
3 “vacant and underutilized gap[]” in NC/JT. (Rec. AR-74).

4 The record establishes there are no historic resources on Block 33 to
5 preserve, but the amendment complements neighborhood historic resources in two
6 ways. First, it incentivizes new development. The City Council concluded the
7 “height was necessary to incent redevelopment” and it found that the code changes
8 “result in new development that is compatible with the existing scale and
9 character[.]” (Rec. AR-75, App. 1). Second, CC 2035 findings on Policy 4.48 in
10 paragraphs 223-228 address rehabilitation of historic structures, historic district
11 protection measures, financial incentives for seismic upgrades including FAR
12 transfers and a historic tax credit, general reduction of height limits and repeal
13 of most bonus height provisions. (Rec. AR-74 to AR-75, App. 1).

14 Paragraph 227 summarizes the NC/JT Amendment, and paragraph 228 is
15 the finding regarding Block 33 quoted above. These extensive findings
16 evaluate Policy 4.48, explain the elements of CC 2035 which support the
17 policy, and explain why, despite Petitioners’ opposition, the City Council
18 decided to adopt NC/JT Amendment. The applicable criteria were applied and
19 the required elements of those criteria, and Petitioners’ competing testimony,
20 were considered, consistent with *Citizens Against Irresponsible Growth*. (Rec.
21 AR-75, App. 1). These elements of the City Council’s legislative decision
22 support Policy 4.48.

23 ii. Policy 4.49

24 PCP Policy 4.49 was also adequately addressed in CC 2035. The first
25 element of this policy, to update historic design guidelines, was previously

1 completed with the 2017 approval of the New Chinatown/Japantown Historic
2 District Design Guidelines. (Rec. 6319, App. 2). Those guidelines remain in
3 effect and were not revised by CC 2035 or the NC/JT Amendment. The second
4 element of this policy is to refine the base zoning, which is accomplished by CC
5 2035 and the NC/JT Amendment. In the ten block district, on four blocks the
6 base height is reduced 43% (from 350 feet to 200 feet) if height bonuses are not
7 utilized, and 53% (from 425 feet to 200 feet) if the bonus option for 425 feet
8 was utilized. On Block 33, the base height is increased 25% (from 100 feet to
9 125 feet), with a potential bonus height on the west half of the block up to 200
10 feet. The height standards for the remaining five blocks of the district are
11 unchanged. The general reduction in building height is precisely the type of
12 refinement this policy calls for, and therefore CC 2035 supports this policy.

13 c. **The NC/JT Amendment is supported by an adequate**
14 **factual base.**

15 Statewide Planning Goal 2 requires that legislative planning decisions
16 and actions have an adequate factual base, which is equivalent to the
17 requirement for substantial evidence in the whole record. *1000 Friends of*
18 *Oregon v. City of North Plains*, 27 Or LUBA 372, 377-378 (1994). The NC/JT
19 Amendment is supported by an extensive record that provides an adequate
20 factual base. NC/JT is addressed throughout the more than 2000 pages of the
21 record under the heading Old Town/Chinatown. (Rec. 48031-52048). It is also
22 addressed in the earlier staff work for the Planning and Sustainability
23 Commission. (Rec. 42995). The record is replete with neighborhood support
24 for increased height limits to support redevelopment of Block 33, as shown in
25 correspondence from civic groups and individual civic leaders. (Rec. S-1 to S-

1 2, App. 10-11, and S-11 to S-12; App. 23-24). Lastly, the NC/JT Amendment
2 is supported by written testimony from John Tess of Heritage Consulting, a
3 historic preservation expert, which Commissioner Eudaly found so compelling
4 that she read it to the public during deliberation. (Rec. 7734-7735, App. 12-13;
5 Rec. 6320, App. 3).

6 When the legislative record is voluminous, a petitioner must explain why
7 the record is inadequate. *Hubenthal, supra*. The First Assignment of Error
8 does not address the supportive record evidence at all, and therefore fails this
9 requirement when the record is viewed as a whole.

10 The record supports the City Council's decision. The height map
11 supports the conclusion that the NC/JT Amendment mandates a step down from
12 the taller urban form surrounding NC/JT, thereby preserving the district's
13 character. (Rec. 6339, App. 34).

14 The importance of the step down in height is well illustrated by the
15 perspective drawing of Maximum Allowable Building Heights prepared for the
16 West Quadrant Plan. (Rec. 48336, App. 37). The blocks to the west of NC/JT
17 have base heights of 460 feet and 425 feet stepping down to 100-200 feet in
18 NC/JT; the blocks to the north have a base height of 250 feet stepping down to
19 200 feet in NC/JT; the blocks to the east of the northern portion of the district
20 have base height of 250 feet stepping down to 200 feet in NC/JT; the blocks to
21 the east of the southern portion of the district are in the Old Town Historic
22 District with base heights of 100 feet and 75 feet which are the same heights as
23 in the abutting blocks of NC/JT; and the blocks to the south have base heights
24 of 460 feet and 130 feet stepping down to 75-100 feet in NC/JT. *See* Map 510-
25 3 of PCC 33.510.

1 Evidence also supports the conclusion that redevelopment of this parking
2 lot would be a catalyst for additional investments in NC/JT, that the NC/JT
3 Amendment's height bonus for residential use will support the City's housing
4 goals, and that other Goal 5 regulatory requirements protecting historic
5 resources remain in effect.¹⁴

6 Additional evidence supporting the residential height bonus on Block 33,
7 is a table found at Record 7742, listing the number of housing units and
8 affordable housing units under different building scenarios. Commissioner Fish
9 observed "the fact that block 33 [sic] is essentially blighted" and introduced an
10 amendment to ensure: "that this additional height and the benefit we're giving
11 an owner is treated just as we would treat any other development within the
12 downtown outside of the historic district, subject to a bonus system and we
13 would have the benefit of some affordable housing." (Rec. 6394, App. 7). The
14 amendment passed. This strategy is supported in the record by the 2015 letter
15 from twelve civic leaders from the Old Town Chinatown Community
16 Association which supported height increases for Block 33 "that would meet
17 our district goals of housing and preservation". (Rec. S-11 to S-15, App. 23-
18 27).

19 The Old Town Chinatown Community Association leaders continued to
20 support the concept. On March 19, 2018 they wrote "[t]his is more height than
21 the neighborhood has ever discussed previously, but the consistent obstacle that
22

23 ¹⁴ For example, the New Chinatown/Japantown Historic District Design
24 Guidelines "are adopted land use approval criteria that protect the architectural
25 integrity and cultural significance of Portland's New Chinatown/Japantown
Historic District." (Guidelines Page 4).

1 had been presented for every development opportunity to date has been height
2 and density. We need a successful, catalytic development on this block and we
3 have a willing, capable developer that can deliver a feasible project with this
4 additional height and FAR.” (Rec. 7793).

5 The staff report for the March 22, 2018 City Council meeting addressed
6 the Block 33 proposal as well.

7 “The intent is to increase housing adjacent to the Max
8 station...The Old Town Chinatown Neighborhood Association
9 supports the proposal as a means to catalyze redevelopment of this
10 struggling area....The Historic Landmarks Commission opposes
11 this, however to date it has not articulated alternative solutions to
12 the lack of market feasibility for smaller scale redevelopment on
this parking lot, to declining transit ridership, or to the shortage of
housing in this ebbing neighborhood[.]

13 “Block 33 lies in a neighborhood confronting increasing crime and
14 diminishing pedestrian activity, especially after hours. Both the
15 neighborhood association and independent community leaders seek
16 a larger scale project to replace the parked cars with people in a
mixed use development that will be active throughout the day and
week.” (Rec. 7268-7269).

17 Finally, the record is clear that the NC/JT Amendment does not alter the
18 other regulatory requirements that protect historic resources. A development
19 proposal for a new building must go through historic resource review, for which
20 the New Chinatown/Japantown Historic Design Guidelines are mandatory
21 approval criteria. PCC 33.846.060.F.1.a. The Historic Landmarks Commission
22 is the review body. PCC 33.720.020.D.2. There is no evidence that any
23 application or process is planned to delist NC/JT as required by PCC
24 33.846.040, and no indication such a proposal could satisfy the criteria for
25 delisting. Mere speculation regarding the perils of the NC/JT Amendment does

1 not meet the legal standard for demonstrating that CC 2035 lacks an adequate
2 factual base. *West Hills Development Co. v. Washington County*, 37 Or LUBA
3 46, 58 (1999).

4 Because CC 2035 and includes adequate findings regarding consistency
5 of the NC/JT Amendment with applicable comprehensive plan policies that are
6 supported by an adequate factual base, and because additional comprehensive
7 plan policies raised in the Petition for Review are addressed in the response
8 briefs and citations to the record, the First Assignment of Error should be
9 denied.

10 **B. Response to Petitioners' Second Assignment of Error**

11 **1. Preservation**

12 CC 2035 is a legislative enactment and therefore the preservation
13 requirement does not apply. *Parmenter v. Wallowa County*, 21 Or LUBA 490,
14 492 (1991).

15 **2. Standard of Review**

16 Petitioners do not identify the Standard of Review. LUBA shall reverse
17 or remand a legislative decision for procedural error when the local government
18 “[f]ailed to follow the procedures applicable to the matter before it in a manner
19 that prejudiced the substantial rights of the petitioner[.]” ORS
20 197.835(9)(a)(B).

21 The City adopted the Community Involvement Program (CIP) in 2010
22 pursuant to Goal 1 and it’s implemented, in part, through the requirements set
23 for legislative procedures out in PCC 33.740. “Goal 1 is satisfied when the
24 local government adheres to the provisions in its acknowledged CIP.”
25 *Deumling v. City of Salem*, 76 Or LUBA 99, 124 (2017).

1 **3. Argument**

2 **Respondent City of Portland made no procedural error in its**
3 **deliberation and decision.**

4 **Introduction**

5 As a threshold matter, the Petition for Review fails to assert the necessary
6 claim that Petitioners suffered substantial prejudice resulting from the alleged
7 procedural errors, and it fails to describe facts in the record which demonstrate
8 actual prejudice. When a petitioner fails to allege the procedural error
9 prejudiced petitioner's substantial rights, petitioner fails to allege a basis for
10 reversal or remand. *Deumling*, at 125. On this basis, LUBA should reject this
11 assignment.

12 This assignment claims that several specific features of the City
13 Council's deliberation and decision violated procedural requirements:

- 14 • Failing to provide notice and allow testimony on
15 amendments offered by decision makers during deliberation.
16 • Allowing ex parte communication with decision makers.
17 • Passing a final motion after passing earlier motions and
18 rejecting other motions on the same subject.
19 • Considering the building height for the District's northern
20 four blocks for the first time on May 24, 2018.
 • Ignoring expert testimony supporting Petitioners' desired
 policy outcome.

21 None of these claims are well founded.

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24 ////

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1 a. **There is no requirement to interrupt City Council**
2 **deliberation to provide notice and testimony as each new motion is offered**
3 **by decision makers.**

4 Petitioners cite Goal 1 and several comprehensive plan policies for the
5 proposition that the City Council must stop deliberations when a new motion is
6 offered by a Council member, provide notice of the motion, and then reopen the
7 record to provide an opportunity for additional testimony. The specific
8 argument is that this process is mandated to satisfy the requirement for
9 meaningful participation at “all stages” of the planning process. The only
10 authority cited is the case of *Rajneesh Medical Corporation v. Wasco County*,
11 12 Or LUBA 219 (1984), *aff’d 1000 Friends of Oregon v. Wasco County Court*,
12 68 Or App 765, 686 P2d 375 (1984), *aff’d* as modified, 300 Or 107, 706 P2d
13 948 (1985), where the local government failed to seek Citizen Advisory
14 Committee review of a comprehensive plan amendment even though its zoning
15 code expressly required it. The case says nothing about requiring testimony
16 during the deliberative stage of the hearing process or issuance of a new notice
17 each time a motion is offered.

18 A recent case with closer facts is *VanNatta v. City of St. Helens*, __ Or
19 LUBA __, (LUBA No. 2018-128, April 9, 2019) where the petitioners objected
20 to the city council reconvening deliberations, after a continuance which
21 followed a tie vote, without first providing formal notice and an opportunity for
22 additional public testimony. As in the present case, the petition for review
23 failed to identify text in any applicable code provision which expressly required
24 the unusual notice and testimony procedure advocated by the petitioners.

25 ////

1 In both *VanNatta* and the present case, Petitioners confuse and conflate
2 the function of the evidentiary phase and the deliberation phase of the hearing
3 process. During the deliberative stage the decision maker is considering
4 options and is weighing the evidence and arguments previously submitted
5 during the evidentiary phase, which is closed. There is no requirement in
6 Goal 1 or the City's policies requiring the merger of the record making and
7 deliberation functions of the hearing process.

8 **b. The City Council did not violate any prohibition on ex**
9 **parte communication.**

10 Petitioners ask LUBA to infer from the record that the challenged
11 decision was the product of ex parte briefing and lobbying of Mayor Ted
12 Wheeler, Commissioner Dan Saltzman and Commissioner Chloe Eudaly by the
13 owners of Blocks 33 and 36. Calling the alleged communications "unseemly",
14 they ask LUBA to invalidate the hearing process. Petitioners identify no
15 precedent applying the ex parte communication provision of ORS 197.835 to
16 legislative decisions. The statute on its face applies only to quasi-judicial cases.
17 *See also Fasano v. Washington Co. Comm.*, 264 Or 574, 588, 507 P2d 23
18 (1973).

19 Neither does this argument explain why LUBA must draw the inferences
20 that ex parte communication actually took place and that improper influence
21 resulted. Petitioners apparently expect LUBA to accept the allegation as true
22 because Petitioners said so. However, LUBA does not infer the existence of
23 bias on the part of a decision maker. *Kittleson v. Lane County*, 20 Or LUBA
24 286, 295 (1990). It should decline to do so in this case as well.

25 ////

1 **c. The City Council’s evolving view of the correct policy**
2 **decision violated no procedural requirement.**

3 Petitioners fault the Council for passing and rejecting multiple motions
4 which differed from the motion passed in the initial stage of its deliberations.
5 Like the petitioners in *VanNatta*, who challenged the same pattern of evolving
6 decision making, Petitioners identify no requirement that the deliberations must
7 cease after passage of the first motion.

8 **d. The City Council did not ignore expert testimony**
9 **supporting Petitioners’ desired policy.**

10 Petitioners assert that expert testimony offered by themselves and others
11 was ignored by the City Council in violation of Goal 2.C.: “Value Community
12 Wisdom and Participation.” This claim is contrary to the record. As discussed
13 in more detail in the Response to the First Assignment of Error (*See* Section
14 IV(3)(a)(i), *supra*) the City Council deliberated on the issue raised by
15 Petitioners’ testimony and on the competing expert testimony. At the April 4,
16 2018 hearing Mayor Wheeler noted “the fairly mushy response back from the
17 state [SHPO] when we put this question to them.” (Rec. 6391-6392).
18 Speculation about adverse effects is insufficient to demonstrate the decision
19 lacks an adequate factual base. *West Hills Development Co., supra*. CC 2035
20 rejected Petitioners’ recommendations as a valid basis for the Council’s policy
21 decision.

22 Far from giving short shrift to expert testimony on height and
23 compatibility, the council engaged in lengthy debate on the topic, ultimately
24 siding with expert testimony contrary to the opinions cited by Petitioners. (Rec.
25 6312-6325). After the Mayor discussed and evaluated the opinions offered by

1 Petitioners, he concluded, “I’m not buying it.” (Rec. 6319, App. 2). With the
2 other members of the Council divided 2-2, Commissioner Eudaly held the
3 deciding vote. She decided the matter, beginning her remarks by saying, “I’m
4 not buying many of these arguments either.” (Rec. 6320, App. 3). While
5 Petitioners watched in the audience (Petition for Review, page 37, lines 2-8),
6 Commissioner Eudaly read to them the letter from historic building
7 preservation expert John Tess, which explained why claims of dire
8 consequences from taller buildings were not credible. (Rec. 6320-6321, App. 3,
9 4). This record makes clear that the claim made in Petitioners’ Second
10 Assignment of Error is plainly wrong. The Council weighed the evidence
11 offered by both sides and made clear to Petitioners why their arguments were
12 rejected.

13 **e. The claim that the City Council considered the building**
14 **height for the District’s northern four blocks for the first time on May 24,**
15 **2018, after the record was closed is a misstatement of the facts.**

16 In this subassignment Petitioners made a claim based on an incorrect
17 presentation of the record to LUBA. Contrary to the assertion that the City
18 Council took up the issue of the height maximums for the northern four blocks
19 of NC/JT (Blocks 25, 26, 35 and 36) only after the record was closed on the
20 subject, in truth the City Council considered these blocks in September, 2017,
21 January, 2018 and March, 2018. During a public hearing on September 14,
22 2017, the City Council heard testimony on these blocks from Christe White, the
23 attorney for the property owner. (Rec. 7026, App. 9). Later in that same
24 hearing Petitioner Peggy Moretti, speaking for Restore Oregon, presented
25 responsive oral testimony and written testimony. (Rec. 7034, 15009).

1 At a public hearing on January 18, 2018, testimony regarding maximum
2 height in the northern part of NC/JT was provided by a member of the
3 Landmarks Commission (Rec. 6605) and by Ms. White. (Rec. 6628-6629).

4 At a public hearing on March 7, 2018 the City Council voted 4 to 1 in
5 favor of agenda item “Historic Height 2A1 #18 New Chinatown/Japantown
6 height” which changed the height on these four blocks. (Rec. 6545-6546).

7 This subassignment of the Second Assignment of Error should be
8 rejected as a misrepresentation of the record.

9 **f. The City satisfied the requirements of its adopted Citizen**
10 **Involvement Program (“CIP”).**

11 Intervenor-Respondent agrees with Respondent City of Portland that the
12 City sought community participation and actually provided opportunities for
13 same, in compliance with the CIP. Citizen involvement began in 2007, with
14 meetings on the scope of the project and the scope of public involvement. (Rec.
15 63079-63089). Initial work included stakeholder interviews. (Rec. 63070-
16 63078). Advisory group meetings began in 2010. (Rec. 62850-62974). Two
17 historic resources symposiums were held by the City in 2011. (Rec. 62527-
18 62541). Public involvement then accelerated with innumerable public meetings
19 through final adoption in 2018. The City Council adopted findings on the entire
20 citizen involvement process (AR-2 to AR-3) which are supported by extensive
21 documentation in the record. (Rec. 5405-5468). Petitioners omit any mention
22 of this extensive record evidence of public involvement, and therefore the
23 argument fails under *Hubenthal*.

24 Petitioners argue that the City Council meeting of May 24, 2018, where
25 no public testimony was allowed because the record had previously been

1 closed, violated this policy. However, Petitioners cite no text from the CIP, nor
2 other legal authority, for the proposition that the public must be allowed to
3 participate during City Council deliberations after the record has been closed.
4 For these reasons, this subassignment lacks merit.

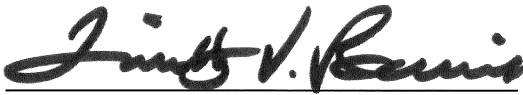
5 V. CONCLUSION

6 The City of Portland conducted an exhaustive land use planning process
7 that analyzed all aspects of the New Chinatown/Japantown Historic District.
8 The City Council decided to generally reduce the maximum building height and
9 eliminate most bonus height options, except for the vacant Block 33, where it
10 decided to balance historic preservation objections with the identified need for
11 redevelopment. Commissioner Fish concluded the block is “essentially
12 blighted” and emphasized: “this additional height and the benefit we’re giving
13 an owner is...subject to a bonus system and we would have the benefit of some
14 affordable housing.” (Rec. 6394, App. 7).

15 The City Council carefully considered Petitioners’ assertion that the
16 approved heights would imperil the historic designation of NC/JT, and in
17 reliance on competing expert and lay evidence, it exercised its legislative
18 authority to adopt the NC/JT Amendment. CC 2035 rests on a more than
19 adequate factual base, and therefore LUBA should affirm.

20 Dated this 14th day of June, 2019.

21
22 JORDAN RAMIS PC
Attorneys for Intervenor-Respondent

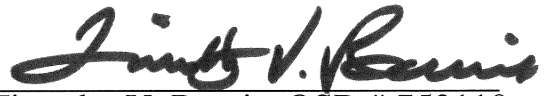
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CERTIFICATE OF COMPLIANCE

I certify that (1) this brief complies with the word-count limitation in OAR 661-010-0030(2) and (2) the word count of this brief as described in OAR 661-010-0030(2) is 9,531 words.

I certify that the size of the type in this brief is not smaller than 14 point for both the text of the brief and footnotes as required by OAR 661-010-0030(2).

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CERTIFICATE OF FILING AND SERVICE

I hereby certify that on the date shown below, I filed the original and four (4) copies of the foregoing **Intervenor-Respondent's Response Brief** by first class mail, postage prepaid, on:

Oregon Land Use Board of Appeals
DSL Building
775 Summer Street NE, Suite 330
Salem OR 97301-1283

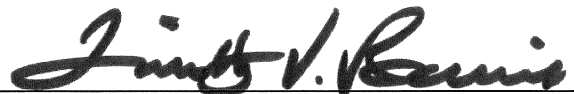
I further hereby certify that on the date shown below, I served a true and correct copy of the foregoing **Intervenor-Respondent's Response Brief** by first class mail, postage prepaid, on:

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Appendix

224. The Plan responds to the policy through new goals and policies specific to the Central City that call for: the rehabilitation and reuse of historic structures; historic district protection measures; and, incentives to encourage seismic upgrades and other rehabilitation measures for historic resources.
225. The Central City Plan District is proposed to be amended to include FAR transfer provisions that require seismic upgrades, but provide additional transferable floor area to provide a financial incentive to support these upgrades. The Plan also includes an action item calling for the City to advocate for the passage of a state historic tax credit.
226. The maximum heights within historic districts have generally been reduced, and in most cases bonus height provisions have been repealed to result in new development that is compatible with the existing scale and character of the Central City's historic districts.
227. For instance, in the New Chinatown / Japantown Historic District heights in the northern four blocks have been reduced from a maximum of 350 feet, and the ability to bonus an additional 75 feet in height to a maximum of 425 feet, has been eliminated. Now the maximum height in that area is 200 feet with no ability to bonus to a greater height. Although one block in the district received bonus height to a maximum of 200 feet on the west half of the block and 125 feet on the eastern half of the block, it should be noted that the greater heights allowed on the west half of the block are adjacent to parcels that may build to 460 feet. Further, the new maximum height limits create a step down from these greater height allowances to the west of the New Chinatown / Japantown Historic District down to 100 feet maximum to the east of the site in question, and then eventually down to 75 feet to the properties located just east of the district.
228. Following Council proposing this amendment, testimony was received for and against the increased height. Some testifying was concerned that these heights would not be consistent with the rest of the scale of development elsewhere in the district. However, others noted that the block in question had long been underutilized and that redevelopment of the site would be a catalyst for investment throughout the district, following decades of neglect. In the end, council decided: 1) the heights proposed would still result in a step down from the urban form surrounding the district; 2) the increased height was necessary to incent redevelopment of a catalytic site; and 3) the issue of consistency was best left to the Landmarks Commission who remain charged with reviewing future development proposals on that site and elsewhere in the historic district.

Thus, on balance, these amendments in New Chinatown / Japantown Historic District and all other Central City Historic Districts further the objectives of Policy 4.48 above.

Policy 4.49, Resolution of conflicts. Adopt and periodically update design guidelines for unique historic districts. Refine base zoning in historic districts to consider the character of the historic resources in the district.

Consistent with this policy, the plan includes an action item calling for an update of various district specific historic design guideline packages, including those for the East Portland/Grand Avenue and Russell Street Conservation Districts.

229. **Policy 4.50, Demolition.** Protect historic resources from demolition. Provide opportunities for public comment, and encourage pursuit of alternatives to demolition or other actions that mitigate for the loss.
230. **Policy 4.51, City-owned historic resources.** Maintain City-owned historic resources with necessary

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zoning?

Wheeler: I will answer that question for my part. I have not had such a conversation with the developer, but that's not my reason for voting for this and I'm listening to the conversation and I'm still persuaded. You mentioned the difference between and we were talking about a 40 foot difference here. We're talking about a practical decrease in the existing heights to the north, and let's not forget what block 33 is and has been for decades. It's a surface parking lot. This city went to Salem along with others for the purpose of declaring surface parking lots to be defined as blight and therefore something that is not desirable. So we have waited for decades for there to be development on this site and we have not seen it. We're now near the end of the development cycle that is broadly accepted. I believe with 200 feet based on what I understand to be the process and I'm going to ask a few follow-up questions in a moment, there's not a substantial difference in terms of impact yet there's potentially a significant difference in terms of affordable housing opportunities as well as housing generally in this area where currently people could build higher to the north and there's nothing built on block 33. So I want to go through a couple of these cause commissioner Fritz made some very compelling statements and she read what I thought was some really thoughtful and detailed testimony, but I don't buy a lot of it and so I guess I want to ask a couple of questions. Could you tell us what the process is if a developer decides they want to develop let's say on block 33, what is the process they go through with regard to historic district, with regard to shading, with regard to lan su, and its impact things like that.

Zehnder: Well on block 33 what is intended is that it's in the historic district. So we go through landmarks commission review that would review the proposed building in light of both the allowances on the site and the historic district guidelines that were recently adopted and developed and adopted as part of this project. So, that's the process it goes through. It's a type 3 I believe.

Wheeler: Sorry to interrupt. I want to jump to the punch here. If the historic landmarks commission decided that what was being proposed would jeopardize the historic district wouldn't that be an opportunity for them to intervene?

Zehnder: The landmarks commission indeed could determine that the plan as submitted is not acceptable and that it would be appealed.

Wheeler: Tell me about shade particularly on Lan Su. We all love Lan Su. I was engaged at Lan Su. [speaking simultaneously]

Zehnder: It would be affected by the menashe building, not block 33 and we have a height or shade study requirement that defines certain days of the year where you have to model the design and massing of the building and demonstrate whether or not a certain percent of the affected parcel, the park, is in shade. I don't know the exact times and dates but staff does.

Fritz: The council is very familiar with that because we just waived that on the Fremont apartments. So, there's absolutely no guarantee that would protect lan su.

Wheeler: Is there anything we would be voting on that would change that requirement with regards to shading?

Zehnder: Not the ability not to -- the appeal -- if it was -- if it did not meet the standard --

Fritz: The standard could be modified or adjusted, right?

Zehnder: The standard could be modified and adjusted.

Wheeler: We could do that regardless.

Zehnder: It could be modified or adjusted or it could be chosen not to be modified or adjusted and then it would be kicked back to city council.

Wheeler: Thank you.

Eudaly: Mayor.

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Wheeler: Commissioner Eudaly.

Eudaly: Thank you. Yeah I'm not buying many of these arguments either. First of all I just have to say, the raising the specter of Albina in this conversation is absurd. Albina was a thriving business and residential community, predominantly african-american, which was decimated by urban renewal and Emanuel hospital and the freeway and at the coliseum. Our Chinatown historic district unfortunately is not a thriving business or residential area. For anyone and businesses are struggling, and they could certainly use more housing. Secondly, I would never think that anyone who is remotely familiar with my position on housing would never think that the argument that we don't need affordable housing would fly with me. I frankly find that offensive. Market rate housing is affordable to people earning 120% or more of median income and when we're talking about affordable housing in regards to inclusionary zoning, we're talking about housing that's affordable to people at 60 and 80% of mfi, median family income. And those are many people who do vital work in our city and are not somehow less desirable neighbors than those who can afford market rate rents. Thanks for reading the letter, I'm going to read a letter from John Tuft from the heritage consulting group. Dear Mayor and Commissioners I welcome the opportunity to comment regarding the proposal to modify the height limit on block 33. As many of you know my company heritage consulting group is a national leader in cultural resource evaluation and particularly in securing rehabilitation tax credits in the redevelopment of historic buildings. We count among our clients individuals, local and national developers, affordable housing agencies as well as local, state and federal governments. I founded heritage in 1982, for many years my office was in the merchant hotel in old town. I was fortunate the Council, Naito and Bing Sheldon are personal friends have been involved in most major rehabilitation projects in Portland, our city hall, to the Multnomah hotel and the Benson house, Montgomery park. In total we evaluated thousands of buildings and have listed over 350 properties on the national register. The discussion before you is an interesting one. The first aspect I would like to comment on is the question of the national register district being delisted. It's put out every time there's a major change proposed in an historic district. You will recall that the same people today saying the district will be delisted said the same in the dirty discussion in 2010. To the best of my knowledge no national register district in the country has ever been delisted. Still there there have been individual properties removed from the national register. Only automatic removals are those situations where the building is removed from the national register. The only automatic removal are those situations where the building is moved or the entire resource is destroyed. I don't think a surface parking lot counts as a historic resource. The process to delist is a reverse of the listing process. Someone would need to proactively prepare a nomination that explains why the district no longer warrants historic designation. That nomination would be reviewed and commented on by the Portland Landmarks Commission, Oregon State Preservation Office and the Oregon State Advisory Committee. It would be unheralded for the National Park Service, the State Historic Preservation Office or the National Trust to undertake such an effort. I also want to remind you that the district was listed for its association with Japanese and Chinese communities in the city. Unlike a architectural resource the national register typically has greater flexibility when the site is important for its associative value. That's from the 16 story 160 foot Pacific Tower apartments was built in 2003. Later the State Historic Preservation Office, nor National Park Service felt compelled to question integrity or viability of the district. I can comfortably say I have never heard anyone denigrate the historic value of this district because of Pacific Tower. The second offset that I think is important here is that this development will not involve demolition or alteration of any historic building in the district specifically referring to block 33 to be cleared is not referring to the three other blocks. I just wanted to be fair and

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note that. The property of the surface parking lot is a plan the district restated and has been named so for the past three decades. I think there's general agreement that developing block 33 would be preferable to leaving it as a surface parking lot. There have been a number of development concepts explored but none have come to fruition. The way the reality is that the development cycle that the city has enjoyed for the past decade is trending down and that the cycle has a near term end. Put another way I believe this proposal is the best opportunity for this generation to see this site transformed for surface parking. Only specific to the question of height I would ask you to think specifically about how the district and neighborhood would be damaged by additional floors. Looking specifically at Pacific Towers would the district be any different if the towers were taller or shorter by a few floors? A need to impact the [in discernable] to actually distinct, rather the more important issue is to trust in the new design guidelines of how the subject connects to the surrounding street scape. I do believe that in granting a benefit the city could establish a higher bar in terms of lower level materials and design intergrading specifically the district and surrounding buildings. This project should not be an alternative architectural statement, but should integrate and promote the heritage and built environment of the district. In conclusion the fundamental question was whether the district on surrounding areas will benefit more or less by this project. It has been suggested that the height would be enjoyed less, Pacific Towers tells me that is not so. It's also been said that the district has suffered and continues to suffer from economic challenges. Since turning the surface parking lot into apartments and commercial use, would substantially build the critical mass necessary for a viable retail environment moving demands for the properties and making the district more valuable. The way the added height does no damage to the district, but makes the project viable and enlarges the critical mass to make this one thriving neighborhood successful again. Sincerely John Tuft. So really what remains for me, because we know that any development on these properties will go through landmark commission, and will very likely be appealed and come to us eventually, is the question about the Lan Su garden and I have been assured by bps staff that we can prevent any impact to the garden. That is absolutely my only consideration, I find it hard to believe as a sense of justice that the future councils would sacrifice a valuable property and cultural gift to the city by making exceptions to our shadow standards, which unlike the situation with Fremont apartments could truly harm that area in the garden. So, I would like to hear from staff I guess a stronger reassurance that the concerns we are hearing raised about the garden are not credible threats.

Zehnder: So to paraphrase the question, is the allowing of taller buildings on these blocks in the context of having to do a shadow analysis sufficient protection for the garden?

Eudaly: Sure, that sounds good.

Zehnder: Ok, well, the shadow study would set a standard that the building would be designed, have to be designed to meet unless that standard is modified through the -- in this case, I guess it would be the landmarks review process, or at city council on appeal. But what this does is we have not done extensive analysis to know that it's impossible at these heights to design a building that can meet the standard. That's part of what -- how the shadow analysis and these standards work. It could have problems getting through -- so let's just focus on the shadow analysis. If it needs some modification, landmarks could allow that. If they found that it was an acceptable impact and was mitigated in a way that met the purposes of the shadow study requirement, and it then got appealed to city council, that decision and evaluation would be put in front of city council. To do, and you all could find yes, it is an adequate mitigation or acceptable impact or that no, it's not. We just haven't really designed all the permutations of what these kind of height limits would allow on that site to do that. And you know the other part of this is that we were always operating

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from a context in which before we started the central city 2035, the allowances on these blocks was significantly taller than 160 or 200. So we were sort of counting on a version of this tool and this analysis to make the situation right anyway.

Eudaly: And that's something I think needs to be made clear to the public over and over again. We are actually significantly reducing the light on most of these blocks, and even with the increased height they were not redeveloped. I think it's also fair to say that even if we do grant 200 feet to block, is it 26 the Menashe building? They may not be able to fully realize that height. It might just not be possible to build that tall and comply with whatever the findings are through the shadow analysis. So I think that, that satisfies the remaining questions I have. I am sorry to hear that the association no longer supports this. They did support the increase on block 33, and I understand that they are concerned about the garden and concerned about the historic integrity of the district, and I certainly respect that. I do not, however, have not found compelling evidence proposed that the concerns are warranted.

Wheeler: Very good. Any further discussion, commissioner Fritz?

Fritz: Yes, I have a question for Joe, the height would be 200 feet by right would the shadow study even be required?

Zehnder: That's what the scurrying around right now that staff is doing is.

Wheeler: I'm gonna offer a technical amendment.

Zehnder: Right, we have a technical amendment to make it clear that it would apply to base height.

Fritz: Okay. Commissioner Eudaly thank you for reading that letter, that obviously just addressed block 33 and the four blocks that are additional all have contributing historic resources on them. So that is much more significant, that's half of the district.

Commissioner Saltzman, I am wondering if it might be worth spitting out your amendment and doing block 33 as one amendment and then the other four blocks as a second one? Which would then comport with what old town Chinatown community association is asking us and also allow more time for the study of what the impact might be.

Saltzman: You know, my original interest was in block 33, but I've been persuaded sort of by the I guess the equity arguments around the other three blocks that has been made by staff. And I think the feelings on others, including yourself about, you know, spot zoning being a bad thing, so this seems to be the right balance in my opinion.

Wheeler: Call the roll.

Fish: We've been at this for a long time, and it's only appropriate that we conclude this process with a little drama. I want to thank everybody that took time to reach out to our offices and to express your concerns. I can't identify everybody in this room or who sent a communication, but I particularly appreciated hearing from the historic landmarks commission, from restore Oregon, from the community association, and from people in the neighborhood who have spent a lifetime working to preserve the cultural history of this section of our city. I believe we're making a mistake today in adopting this amendment, and I can't support it. I have a number of reasons, but I've made clear previously when this came up, and we've had multiple discussions about this particular block, that I thought that 160 feet was the limit, and at one point that was actually an amendment of one of my colleagues, and I was persuaded that, that was the right compromise. I acknowledge that the reasonable people can agree or disagree on any of these issues, but I have found the concerns raised by the community compelling, I have not felt that there was much community support for the amendment. I am a little bit taken aback that in the name of equity at the 11th hour we are extending it to other portions of the district without really doing any analysis or having much of a conversation I think that that's unfortunate. I guess for me there is two categories of concern. One is what I have heard from key stakeholders

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project prior to it coming before it and that was wrong. What I heard was incorrect. I'm proposing to delete my exemption from the historic review process.

Wheeler: Very good. I will second that. We'll call this c2 as amended. Does anyone else have any further amendments that they want to add?

Eudaly: I feel a little left out, but no. I'm not going to add any amendments to this.

Fish: Now to this point. Mayor, can I ask staff to walk us through my amendment? It's on the -- because commissioner Saltzman I think is prepared to accept conceptually the same framework for his amendment I want to make sure we're talking apples and apples and have staff walk us through how this would work.

Rachael Hoy, Bureau of Planning and Sustainability: Rachel hoy with the bureau of planning and sustainability. I'm going to flip through a couple of slides to get to your proposed amendment, commissioner Fish. So the packet that we provided that you have cover page says block 33 city council amendments. There's a write-up of each amendment. Commissioner Fish's amendment starts on page 6 if you want to look at that as well. The commissioner Fish amendment is to similar to mayor wheeler's amendment, it maintains the height of 125 feet on the site. The difference is the increase in height that you're proposing to 160' on the west side of the block could be earned through bonus height. So that proposal as you said is consistent with the way we have increased height through the central city 2035 project when we increased height across the central city it's been through the bonus height system in an effort to ensure there's a public benefit associated with that increased height. So your amendment is increasing from 125' to 160' on the western side of the block using the bonus height system as well as the bonus that they would be required to use would be the affordable housing bonus. So there's an extra level. We have a very small number of bonuses. There's affordable housing bonus but also the option of transferring far from an historic resource. In this particular case this would ensure they would be using the affordable housing bonus to obtain that bonus height.

Fritz: They would not be able to use the historic resource bonus?

Hoy: The way it's proposed, no, they would be required to go to the affordable housing bonus first.

Fritz: Where is the bonus that transfers from historic resources, how far away is it allowed to be transferred to?

Hoy: Well, if they needed more far that would just be a secondary bonus or transfer that they could go to. For this particular case to obtain that bonus height up to the 160, the proposal just says you need to go to the affordable housing bonus first.

Fritz: They could go to the historic resource transfer beyond that?

Hoy: If they needed to.

Fritz: But for the transferring site, how far away from the transferring site can the bonus be transferred to?

Hoy: The way we set it up in central city 2035 the historic transfer there is no---it's anywhere in the central city. There's no distance parameter.

Fish: In our last hearing we had conflicting testimony about whether we should allow the additional height and there were eloquent concerns raised, cases made on both sides of that issue. What I also heard the neighborhood say to the extent they were neighborhood folks who testified in support of the additional height, that they wanted to see some development and they would prefer to see some residential development. As I tried to work through this what I think is a close call, I went to staff and got a little primer on what our rules are generally in the downtown, then learned that we don't have the same system that applies within an historic district. Because I think if we're going to increase height we need to have a clear public benefit that flows back I asked them to consider essentially doing a pilot where we applied the same rules that we apply throughout the district on this site as

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community after much discussion. This current proposal to increase the heights on the west side of block 33 circumvents the committee's original intent. While a developer has stated he's worked with the old town community association he's not convinced all the board members nor has he the full support of the full neighborhood that this plan as proposed meets the original intent of the board. I understand that the developer faces many challenges but so does the community for its preservation of time and place for the chinese and japanese community. Terry Chung says as part of the the community neighborhood revitalization i'm a founding member ever the Portland chinatown history foundation. We're in the midst of creating a museum at 3rd and davis. I have also heard from the director of the chinese garden and others in the district who are very concerned about the potential destruction to the cultural place in the historic district that is vital for the chinese and japanese communities here.

Fish: Mayor wheeler?

Wheeler: Commissioner Fish.

Fish: This is a continuation of what was a fascinating discussion and hearing last time and I thought one of the more interesting conversations we have had. I want to go back -- thank you, mayor, for the procedure that you've under your tenure you've established around land use decisions where we actually take time to discuss and debate actually before we take the vote. The vote is a blunt force instrument.

Wheeler: You mean before we could have just taken the vote? [laughter]

Fish: I appreciate you allow for the vote. It allows for a more transparent process.

Wheeler: Thanks, nick. I appreciate that.

Fish: I want to go back to the principles that framed my consideration of this. First we have an historic district that have set established guidelines for, and we have made commitments about what we are or are not going to do within the district. Two, we have the fact that block 33 is essentially blighted and has not been developed for a long time and there is a yearning not just from the people we heard testify but others that they would like to see some development on that site. I think we all share that. Number 3, when we are giving an owner a significant benefit, in this case additional height or far or both, I think we have a right to ask for some public benefit back. So my amendment, which I hope we can clarify would apply could be simply adopted as an amendment both to the wheeler amendment and the Saltzman amendment so we have the two choices before us, my amendment ensures that this additional height and the benefit we're giving an owner is treated just as we would treat any other development within the downtown outside of the historic district, subject to a bonus system and we would have the benefit of some affordable housing. Mayor, I hope you're not withdrawing the wheeler amendment because I found you very persuasive last week and we have not had a follow-up conversation but I intend to support the wheeler amendment as amended by the Fish amendment but I would ask that you clarify both your amendment and dan's are subject to the Fish amendment then the council has a choice to make.

Wheeler: I think that's right, commissioner.

Fish: Dan -- [speaking simultaneously] we need a vote to say Fish amendment amends both amendments before us, wheeler and Saltzman, then mayor, you decide the sequence of the vote.

Wheeler: In terms of sequence I think what I would do is offer up dan's first, which was c2. If that fails I would then offer -- i'm sorry, c2 as amended. I would then go back to mine, which was sort of the baseline, which was c1, and I would do yours last because if yours passes that would supersede mine in the process. Is that correct, legal counsel?

King: Not quite.

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March 21-22, 2018

Fish: Council is in effect -- we've already had testimony in support of that "amendment". That was some of the confusion because we have had people saying they support the amendment but they actually meant 200 feet not as written. So you could say that putting that amendment on the table conforms to the evidence we have already heard and give the council two options. I don't know that I support the amendment but we've already had testimony in support of the amendment in effect.

Rees: I'm not going to presume I know what commissioner Saltzman's amendment is.

Saltzman: My amendment would be to increase the height to 200 feet. Increase the far and to limit the discretionary review to contextual issues, but basically what Mr. Ramis suggested would be my proposed amendment.

Wheeler: So I have a question about the proposed amendment and I'm looking at legal counsel. I do not want to take my amendment off the table. So this would be separate amendment, it is not an amendment of my amendment. This would be a separate amendment.

Rees: Yes, it sounds as if you are not treating that as a friendly amendment to your amendment. So it would separately considered.

Wheeler: I want to keep mine alive, I want to keep my options opened. So commissioner Saltzman has moved. Is there a second? I'll move for discussion purposes. I'll second that.

Saltzman: Simply I would simply say that I was persuaded I think its pretty unusual for the landmark's commission to sort of announce ahead of time that they do not approve a proposal about higher height and I think that I'm persuaded by the testimony that in order to maximize the number of affordable housing units in this proposal 200 feet does that. I think it does provide a good taper down from the 460 feet proposal to 200 feet to then 125 feet. So I think that makes a lot of sense but I do think the issue of height and far are necessary to maximize the affordable housing units that would be developed under this proposal.

Fritz: We're not voting on the amendments today.

Wheeler: That's correct.

Fish: Mayor just so I can.

Wheeler: Commissioner Fish.

Fish: My understanding now since you seconded it is that when we come back to vote on c we'll have two amendments before us. Let's call them c1 which is the wheeler amendment and c2 which is the Saltzman, Joe is that correct?

Joe Zehnder, Bureau of Planning and Sustainability: Correct.

Wheeler: And to be clear just for the record I still like my amendment and I'm seconding commissioner Saltzman's amendment for discussion purposes.

Fish: Commissioner Fritz do you have a question for staff? I'd like to follow you.

Fritz: Thank you. So I understand that this amendment -- the mayor's amendment was just put on the table yesterday at 1:30 is that correct?

Sallie Edmunds, Bureau of Planning and Sustainability: Yes. We just published the amendment yesterday.

Fritz: So I and I had been getting testimony on it but I didn't know there was an amendment so I was frankly bemused and thought perhaps the block 33 discussion was for something else. I'm wondering half the property owners in the historic district, both the historic buildings and the contributing buildings, have they been notified of this amendment?

Edmunds: We did not send out any special notice to property owners. We did send to our central city 2035 mailing list, but we did send notices at the beginning of this process and so if they were following along.

September 13-14, 2017

is, why don't you try congestion pricing first, and if that does as much as you thought the freeway widening was going to do, let's spend the \$450 million dollars on something else. And we can spend it on a lot of other stuff. You heard, a couple of weeks ago, another explanation of the hundreds of millions of dollars we're behind in basic street maintenance. Um, there's hundreds of millions of dollars of traffic safety projects that we [inaudible] and bike/ped projects. There's huge needs for transportation dollars. Now I know that the city wouldn't necessarily get all of that \$450 million dollars if the state didn't spend it on this project. But let's say maybe we get half of it. Commissioner Saltzman, I suggest you ask PBOT to come up with the best combination of a bike/ped and maintenance projects they could for \$225 million dollars. And if that would have greater value than the bike/ped and the safety elements of the Rose Quarter project, then say "Hold on, don't do this project until you've done congestion pricing." That's what I would suggest. So that's my two cents. By the way, I also wanted to add that over the past eight months, I've had the opportunity to talk to many Portlanders for Justice, and all of those told me that Joe Walsh does not represent them in any way, shape or form. [Laughter]

Wheeler: Good afternoon.

Christe White: Good afternoon. I'm Christe White, representing Michael Menashi. We're asking the council to restore the height taken from Mr. Menashi's properties during the PSC hearings. There are two blocks at issue. Both are highlighted in the materials that were previously sent and are being handed out. Site 1 has a current base height of 350 feet with bonus to 425, and the same applies to Site 2. The PSC reduced those heights to 125 on Site 1 and 250 on Site 2, with no bonus on Site 1. This is a loss of 225 feet in base height alone. Side note, we're not in a view corridor. The Site 1 is surrounded on three sides with greater heights, leaving it in a bowl with very little opportunity to peak over and around the other sites. Significantly devaluing that block. The stated purpose of this significant height reduction is preservation of the historic district. That reasoning just can't pass muster. The district was nominated in 1989, as you heard earlier today. In the nomination paperwork, the zoning on Site 1 was recognized as mid to high-rise development and high-density apartments with allowable F.A.R. up to 9-to-1. The height was 350 feet at the time of nomination or shortly thereafter, based on the 1991 zoning maps. The city found that the current height and density of 350 feet and 9-to-1 was consistent with the historic district and its preservation when it was nominated and established. It can't be made inconsistent now. That would be to revise the very history and rationale that established the district in the first place. The city then went through a substantial planning exercise with a stakeholder committee to evaluate preferred redevelopment options in the district. The city's process identified site one as a, quote, primarily potential opportunity site, and modeled it with a slender tower over a podium. Importantly, the taller, slender form is also repeated and updated on page 98 of CC2035's recommended draft. So, the city's plan still recognizes the advantages of height and shaping a more delicate building form, but the language in that same plan takes that height away. So, the PSC recommendation is not consistent with the history of the historic designation, the planning exercises under that designation, or the future of the site as envisioned by the city, so we ask you kindly to restore the heights to Site 1 and Site 2.

Wheeler: Thank you both for your testimony.

White: You're welcome. I also – the next person you're gonna call is Tim Eddy from Hennebery Eddy Architects, who has an architectural analysis and opportunities for you. He had to leave, he was here last time, and didn't get through this time. Can I leave this letter with you, into the record?

Wheeler: Yeah. Absolutely. And for folks who don't want to testify in person, the record is open, so people can send email in lieu of public testimony.

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CHINATOWN JAPANTOWN ANKENY PLAZA SKIDMORE WATERFRONT

May 23, 2018

Mayor Ted Wheeler
Commissioner Amanda Fritz
Commissioner Chloe Eudaly
Commissioner Dan Saltzman
Commissioner Nick Fish
City of Portland
1221 SW 4th Avenue
Portland, OR 97204

RE: Central City 2035 Plan / Proposed Amendment - Height and FAR increases in New Chinatown/Japan town Historic District

Dear Mayor Wheeler and Commissioners:

We are writing to reiterate our support for the height and density increase on Block 33, located between NW 4th and NW 5th Avenues and NW Couch and NW Davis Streets, from 160 feet to 200 feet on the west half of the block and from 6:1 to 9:1 FAR across the entire block. Our support also continues to be contingent upon the development of housing and consideration of public parking. As mentioned in the letter that we submitted on March 19, 2018 (attached), development on Block 33 represents a potentially catalytic development site for our neighborhood. The community has been discussing the significance of this block for decades with several potential starts and stops with previous property owners and developers.

We were clear in our letter of support for the additional height and FAR for Block 33 is conditioned on the addition of much needed housing and assurance that the development supports the cultural intent of the New Chinatown/Japantown Historic District. We support the proposed amendment because it represents a creative approach that not only improves the odds we will see housing development occur in the near term, but it also addresses prior massing concerns previously expressed by the neighborhood and Landmarks Commission.

However, at this time we cannot support the blanket amendment for the four northern blocks in New Chinatown/Japantown Historic District that is being proposed this Thursday as we have had no opportunity to discuss the merits or concerns of these amendments.

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We have not learned of any planned developments for the other blocks being considered and have not had the opportunity to examine the impacts of the additional height on those blocks for the neighborhood. We have a very unique neighborhood with respect to cultural and historical aspects. Therefore, we do not subscribe to the "fairness" premise discussed by council and the Bureau of Planning & Sustainability. In this district each block should be evaluated uniquely with careful consideration of these matters. Of most interest is any impact on the Lan Su Garden, the protection of which may or may not be adequately addressed in the current or proposed zoning code. Therefore, our support for the height and density increase is only for Block 33 at this time.

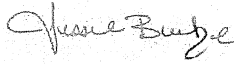
We would appreciate City Council's consideration of our concerns and approve the proposed height and FAR amendment for Block 33 only.

Thank you.

Sincerely,



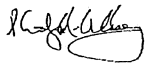
Helen Ying, Chair
Cal Skate Skateboards




Jessie Burke, Vice Chair
The Society Hotel, Partner



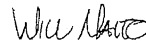
Peter Englander, Treasurer
Deadstock Coffee



Phil Lundberg, Secretary
Oregon College of
Oriental Medicine



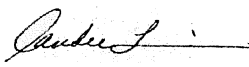
Evan Ross, Board Member
Cycle Portland, Owner



Will Naito, Board Member
Fortune



Dan Lenzen, Board Member
Venture Hospitality



Candee Wilson, Board Member
Resident



Jane Gordon, Board Member
University of Oregon



David Leiken, Board Member
Roseland Theater



Sharon Fitzgerald, Board Member
Central City Concern



Lisa James, Board Member
Lan Su Chinese Garden



April 3, 2018

RE: Block 33

Dear Mayor and Commissioners:

I welcome the opportunity to comment regarding the proposal to modify the height limit on Block 33.

As many of you know, my company – Heritage Consulting Group – is a national leader in cultural resource evaluation and particularly in securing rehabilitation tax credits in the redevelopment of historic buildings. We count among our clients individuals, local and national developers, affordable housing agencies, as well as local, state and federal governments. I founded Heritage in 1982. For many years, my office was in the Merchant Hotel in Old Town. I was fortunate to count Bill Naito and Bing Sheldon as personal friends and I have been involved in most major rehabilitation projects in Portland, from City Hall to the Multnomah Hotel, from the Benson House to Montgomery Park. In total, we evaluated thousands of buildings and have listed over 350 properties on the National Register.

The discussion before you is an interesting one.

The first aspect I would like to comment on is the question of a National Register district being de-listed. The menace of delisting is put out there every time there is a major change proposed in a historic district. You will recall that the same people today saying the district will be delisted said the same thing in the Dirty Duck discussion in 2010.

To the best of my knowledge, no National Register district in the country has ever been delisted. Though rare, there have been individual properties removed from the National Register. The only automatic removals are those situations where the building is moved or the entire resource is destroyed. The process to delist is the reverse of the listing process. Someone would need to pro-actively prepare a nomination that explained why the district no longer warranted historic designation. That nomination would be reviewed and commented on by the Portland Landmarks Commission, by the Oregon State Historic Preservation Office and the Oregon State Advisory Committee. It would be unheralded for the National Park Service, the State Historic Preservation Office or the National Trust to undertake such an effort.

I also want to remind you that the district was listed for its association with the Japanese and Chinese communities in the city. Unlike an architectural resource, the National Register typically has greater flexibility when a site is important for its associative values. Thus when the 16-story, 160-foot Pacific Tower Apartment was built in 2003, neither the State Historic Preservation Office nor National Park Service felt compelled to question the integrity or viability of the district. I can comfortably say that I have never heard anyone denigrate the historic value of this district because of Pacific Tower.

*Historic Rehabilitation
Development Planning*
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Block 33, Portland OR
Mayor & Commissioners
April 3, 2018
Page 2

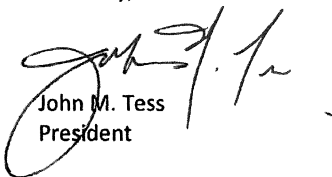
The second aspect that I think is important here is that this development will not involve the demolition or alteration of any historic building in the district. The property was a surface parking lot at the time the district was created and has remained so for the past three decades. I think there is general agreement that developing Block 33 would be preferable to leaving it as a surface parking lot. There have been a number of development concepts explored but none have come to fruition. To me, the reality is that the development cycle that this city has enjoyed for the past decade is trending down and that this cycle has a near-term end. Put another way, I believe this proposal is the best opportunity for this generation to see this site transformed from surface parking.

Finally, specific to the question of height, I would ask you to think specifically about how the district and neighborhood would be damaged by additional floors. Looking specifically at Pacific Towers, would the district be any different if the tower was taller or shorter by a few floors? To me, the impact is hard to actually distinguish.

Rather, the more important issue, as discussed in the new design guidelines, is how this project connects to the surrounding streetscape. I do believe that in granting a benefit, the City should establish a higher bar in terms of lower level materials and design, integrating specifically with the district and surrounding buildings. This project should not be an alternative architectural statement but should integrate and support the heritage and built environment of the district.

In conclusion, the fundamental question is whether the district and surrounding areas will benefit more or less by this project. It has been suggested that the height would be injurious; Pacific Tower tells me that is not so. It has also been said that the district has suffered and continues to suffer from economic challenges. Transforming this surface parking lot into apartments and commercial use will substantially build the critical mass necessary for a viable retail environment, building demand for the surrounding properties and making the district more valuable. To me, the added height does no damage to the district, but makes the project viable and enlarges the critical mass to make this once thriving neighborhood successful again.

Sincerely,



John M. Tess
President



CHINATOWN JAPANTOWN ANKENY PLAZA SKIDMORE WATERFRONT

March 19, 2018

Mayor Ted Wheeler
Commissioner Amanda Fritz
Commissioner Chloe Eudaly
Commissioner Dan Saltzman
Commissioner Nick Fish
City of Portland
1221 SW 4th Avenue
Portland, OR 97204

RE: Central City 2035 Plan / Proposed Amendment - Block 33

Dear Mayor Wheeler and Commissioners:

Block 33, located between NW 4th and NW 5th Avenues and NW Couch and NW Davis Streets, represents a potentially catalytic development site for our neighborhood. The community has been discussing the significance of this block for over a decade and have had several potential starts and stops with previous property owners and developers. The last real opportunity for this Block was the previous property owner's partnership with a developer to site an Uwajimaya market with housing above. It was clear that the success of that potential development was dependent on receiving additional height over the currently zoned height limit of 100'. All of the preliminary design drawings of Uwajimaya and before, had potential heights between 130' to 165' across the entire block to make projects financially feasible. Unfortunately, due to the timing of the project along with the downsizing of Uwajimaya, this project never materialized.

Understanding the significance of this block, the Community Association fought for additional height and FAR during the CC2035 West Quadrant process, which we knew were key to ensuring its success. We were clear that in exchange for this additional height and FAR, the developer needed to provide much needed market rate and middle-income housing units and ensure that the development helped protect preservation of the historic resources in the New Chinatown/Japantown Historic District. We felt so strongly about this that we tied our support for additional height and FAR to the development and implementation of design guidelines for the district. The district now has the adopted new design guidelines and the final draft CC2035 plan gives this block a height limit of 125' with a base FAR of 6:1 and available bonuses of 3:1 FAR.

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Tom Brenneke, the current developer and property owner of Block 33, recently approached the Community Association to discuss a request for an amendment to the Central City 2035 plan that would greatly increase his odds of creating an economically viable mixed-use housing development in the near term. In our discussions with Mr. Brenneke and his design team, we have come to appreciate that rising construction costs coupled with Inclusionary Housing requirements have created a set of circumstances that have once again rendered a potential development on Block 33 economically infeasible.

Mr. Brenneke and his team have proposed an amendment to the CC2035 plan that would provide for additional height on a portion of the block and additional FAR for the entire block. This would allow the height on the east ½ block along NW 4th Avenue to remain at 125', while the west ½ block along NW 5th Avenue would have a maximum height of 200'. The base FAR would increase to 9:1 across the entire block with a bonus allowance for housing and historic preservation of 3:1 for a total potential FAR of 12:1. This is more height than the neighborhood has ever discussed previously, but the consistent obstacle that had been presented for every development opportunity to date has been height and density. We need a successful, catalytic development on this block and we have a willing, capable developer that can deliver a feasible project with this additional height and FAR.

The Old Town Community Association has considered this proposed amendment to the height and FAR for this block and offer our support to ensure that this opportunity is not missed ... especially in this construction cycle that has quickly coming to a slow down with inclusionary housing requirements, skyrocketing construction costs increasing interest rates. The development opportunity and timing is now and we support giving Mr. Brenneke and his team the tools necessary to deliver this important project.

Included in the proposed amendment is a specific inducement to build housing. The amendment also contains language that would preclude the allowable height from being reduced during the city's design review process. This is an attempt to deliver some certainty to the development team that, while having to comply and respond to the newly adopted design guidelines for New Chinatown/Japantown through the Landmarks Commission review, the Commission won't be able to lower the buildings' maximum allowable height through the design review process. We have heard from developers that the uncertainty and risk involved in allowing the Landmarks Commission to make final design determinations that conflict with zoning entitlements exacerbates the financial and other challenges of developing in our neighborhood, the only Central City neighborhood that has not had a significant building boom during this upcycle. We have enclosed a letter of support in regards to this issue from neighborhood developer, Bob Naito, that provides additional perspective on this concern. We support the proposed amendment because it represents a creative approach that not only improves the odds we will see needed housing development occur in the near term, but it also addresses prior massing concerns previously expressed by the neighborhood and Landmarks Commission.

We are excited at the potential for future development on Block 33 and want to support this developer in any way we can. Our neighborhood constituents are deeply concerned about the lack of market rate and middle-income housing opportunities in Old Town/Chinatown. We have continually

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expressed our concerns and disappointment to the City about a variety of challenges we face as a neighborhood. Most recently, the decision to place a new city-sponsored homeless shelter in the neighborhood caused significant concern in our community. We view the development of new housing on Block 33 as a significant step in the right direction.

We have a solid, local housing developer who is willing to make a substantial investment in Old Town. This is exciting and encouraging for us. It is imperative that we do what is necessary to ensure he has the greatest odds of getting a successful development done.

We would appreciate City Council's consideration and approval of the proposed amendment.

Thank you.

Sincerely,



Helen Ying, Chair
Cal Skate Skateboards



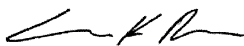
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Deadstock Coffee



Karen Bowler, Secretary
Tube and Fortune



Evan Ross, Board Member
Cycle Portland, Owner

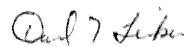
Will Naito, Board Member
Naito Development



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Venture Hospitality



Jane Gordon, Board Member
University of Oregon



David Leiken, Board Member
Roseland Theater



Sharon Fitzgerald, Board Member
Central City Concern



Zachary Fruchtengarten, Board Member
Gevurtz Menashe Fleischner Mayer

cc: Tom Brenneke

Enclosures - Proposed Amendment
Bob Naito letter

Christe C. White
cwhite@radlerwhite.com
971-634-0204
1882.001

August 17, 2017

VIA EMAIL

Mayor Ted Wheeler
1221 SW 4th Avenue, Room 340
Portland, OR 97204

Commissioner Nick Fish
1221 SW 4th Avenue, Room 240
Portland, OR 97204

Commissioner Chloe Eudaly
1221 SW 4th Avenue, Room 210
Portland, OR 97204

Commissioner Amanda Fritz
1221 SW 4th Avenue, Room 220
Portland, OR 97204

Commissioner Dan Saltzman
1221 SW 4th Avenue, Room 230
Portland, OR 97204

Re: Request to Restore Height in Central City Plan District

Dear Mayor Wheeler and Commissioners,

This office represents Michael Menashe. On May 23, 2017, the PSC voted to reduce the height allowance on Mr. Menashe's properties in the Central City Plan District by 225 feet and 100 feet respectively. The properties are located between NW 3rd and 4th, Everett and Flanders ("Site 1") and between 5th and 6th, Flanders and Glisan ("Site 2"). The current and PSC proposed heights are as follows:

	Current Code	Proposed Code	Lost Height
Site 1	Base Height 350 feet	Base Height 125 feet	225 feet
Site 2	Base Height 350 feet	Base Height 250 feet	100 feet

We request that the City Council restore the existing height allowance for the following reasons:

1. Site 1 is located in the New Chinatown/Japantown Historic District. Site 2 is not located in the Historic District and does not contain any historic resource. The Historic District was established in 1989. It appears that the Portland Development Commission was the lead agency and applicant on the nomination application. The nomination narrative responds in the following manner relative to zoning and size of buildings that will be permitted in the District post-nomination:

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"The Chinatown Historic District is zoned CIZ, which allows for many commercial uses; mid to high rise development, clean labor-intensive industry and manufacturing; and high-density apartments. Transit use is encouraged within the district and parking for development is not required. The allowable FAR (floor area ratio) is 4:1, 6:1 or 9:1 depending on where the building is located in the district." (Exhibit 1).

Consistent with this zoning description, Site 1 had a 9:1 base FAR on the 1991 zoning map and a base height allowance of 350 feet and was also located in an area eligible for height bonuses. The 1991 zoning map is attached as Exhibit 2. Site 1 was recognized in the nomination application itself as one of the sites that would be eligible for the highest density redevelopment. At the time the District was adopted, the City found that the currently zoned density was consistent with Historic District status.

2. Nothing has changed. The current code, just like the 1991 code, maintains a base height of 350 feet and an FAR of 9:1 and maintains the opportunity for bonus heights. The current height and FAR maps are attached as Exhibit 3. For 27 years post-nomination, the City has maintained allegiance to its position in 1989 and 1991; that is, the 9:1 FAR and 350-foot base height was consistent with the Historic District at the time of nomination and continues to be consistent with that nomination.

3. The City reconfirmed its objectives for Site 1 in 2006. In 2006, PDC led an update process to the OT/CT Vision Plan, Development Plan and Update 1997-2003. Relevant excerpts of the Update are attached as Exhibit 4. Site 1 is identified as Block 26 and again re-confirms the City's redevelopment parameters for the site as 9:1 base FAR, 3:1 bonus FAR, 350 feet in base height and bonus height opportunities to 425 feet. The very purpose of the Update was to highlight the redevelopment opportunities consistent with these development parameters and forward a strategy to implement those redevelopment options within the Historic District:

"Blocks 24, 25 26 show residential podiums with smaller slender towers in the core of the blocks. These might take advantage of view to Garden. Hotel in the upper stories of any of these towers might be appropriate." (Exhibit 4).

The precedent images and related narrative in the Update show a mix of building bulk, volume and articulation, with episodic towers over podiums. The narrative states that "living streets provide a means for social and commercial interaction in the neighborhood" and that density allows for a "critical mass of residents and shoppers" in a "layering of varying uses." (Exhibit 4). Lastly, the Key Elements from the Community Outreach Stakeholder Interviews establish an overall redevelopment strategy to "help create a vibrant, mixed-use, 24 hours/7-day week neighborhood, rooted in a rich historical past." (Exhibit 4). To accomplish this objective, the stakeholders directed to "develop workforce housing" and to address "the lack of area residents with discretionary income."

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Mayor Ted Wheeler & City Commissioners
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4. DAO Architecture visually illustrated the vertical form these various redevelopment objectives would take in the Historic District within the allowed FAR and height maps. Exhibit D provides a series of drawings completed by DAO. As shown, Block 26 contains a tower on top of a 4-story podium with "retail or anchor tenant space on podium floors, with Condos and Apartments above." (Exhibit 5).

What this history plainly illustrates is that the 9:1 FAR with 3:1 bonus option and the 350 feet in height with height bonus options was deemed consistent with the Historic District at the time of its nomination and adoption onto the National Register and consistent with the City's redevelopment objectives for 27 years post-adoption. Now today, the PSC recommendation to the City Council offers a dramatically different plan. The PSC has reduced this long-held base height from 350 feet to 125 feet and has taken away any bonus height potential. The stated rationale for this significant change is that reduced heights are required to protect the Historic District.

Given the history of the planning efforts, this explanation is not compelling. Is the city's rationale that height cannot be compatible with historic district preservation? How can that be? Site 1 had a 350-foot height limit before or immediately after it was nominated as part of the Historic District and that very nomination discussed the zoning of Site 1 with a 9:1 FAR. No agency, neither the City nor the National Park Service found that the height or FAR was inconsistent with the nomination or preservation of the Historic District. And the City re-affirmed this height in the 1991 zoning code amendments. To the contrary, height is not inconsistent with the vitality and preservation of Historic Districts. The City's own Update Study and redevelopment strategy and related DAO modeling demonstrates that height allowances offer flexibility in locating higher, more narrow towers atop lower podiums that are designed to complement and be compatible with the rich history of the area and the District.

To take this compatibility exercise a step further, Mr. Menashe asked Henneberry Eddy architects to evaluate precedent projects in, near and adjacent to lower height historic architecture and to model a variety of height options on Site 1 to illustrate the character and nature of the issue created by the proposed height reduction.

First, the precedent images from around the world aptly demonstrate the exciting potential for well-designed height adjacent to historic resources. (Exhibit 6).

- (a) Take the Hotel 50 Bowery in New York. The 22-story hotel is located in the historic heart of Chinatown and is adjacent to the landmarked Beaux-Arts style building designed in 1922. The building rises well above the surrounding historic resources but it does not crowd them and instead provides a backdrop that further highlights the rich history of the area;
- (b) Take the Quay in Sydney Australia. At 220 feet, it is in Haymarket which includes much of Sydney's Chinatown, Thai town and Railway Square. To integrate with the historic center, the project revived what remained of the ground level market to provide the historical context at the street level. Two towers make up the reminder of the development at 16 and 17 stories respectively;

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Mayor Ted Wheeler & City Commissioners
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- (c) Take City College of San Francisco. The 212-foot tower is located between the Financial District, Chinatown and Jackson Square Historic District. Again, there is an articulated street level podium with a tower setback on top of the podium providing the space to appreciate the much lower density adjacent and nearby resources.

These precedent images, and many more examples of their kind, demonstrate that compatibility with historic resources is not grounded in lower and restricted height; instead, it is based on high quality modeling and architecture that brings its own vitality to the district while leaving room to celebrate the historic and cultural history of the District's existing high value resources.

To that end, Henneberry Eddy also produced a comparative study on the value of retaining the current height limit versus the options under the much-reduced height recommended by the PSC. Excerpts of that study are found in Exhibit 7.

Henneberry Eddy modeled a development within the newly proposed height limit of 125 feet at 9:1 and compared it to the design options that would otherwise be available under the current height of 350 feet. A review of the massings results in a few findings:

- (a) The current height limit allows a greater number of design solutions, namely the ability to propose a narrower tower on top of a street level base. Like the precedent images shared above, the podium helps define and embrace the street level experience, while the narrower tower, setback from the street level, provides light, air and space between existing uses. Maintaining the current height allowance is not only consistent with all the prior planning efforts, including the initial historic district designation, but it also preserves the opportunity to investigate a potentially superior design approach; and
- (b) The massings that would be allowed under the proposed height restriction of 125 feet lead to a more muscular building form that provides less opportunity to create a tower-over-podium design. As the building envelope becomes more vertically restricted, the opportunity to pursue multiple form options is equally restricted, leading to lesser design compatibility alternatives within the District.
- (c) What does this loss of 225 feet in height mean to the property owner and to the City? Based on an approximately 35,000-square foot block and floorplate, 225 feet in base height results in about an 18-floor loss and a total of 630,000 square feet of lost development value. This significant reduction immediately devalues the property, eliminates significant housing potential in the downtown core, reduces the options for forwarding an elegant compatible design, reduces affordable units, reduces the tax and SDC revenues that the property would otherwise generate and devalues the significant investments in infrastructure that were made in reliance on meeting density goals in the Central City.

Mayor Ted Wheeler & City Commissioners
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5. The City does not need to decimate the height allowance on Site 1 to protect a non-Landmark contributing resource. The code already carries significant protections for these resources. PCC 33.445.330 requires demolition review for any contributing resource in an Historic District. Thus, the owner of Site 1 must first apply for and obtain approval to remove the existing warehouse-style building before the height could even be realized. The demolition review is a Type IV procedure with an advisory public hearing before the Landmarks Commission and a second hearing with a final decision before another City review body, such as a Hearings Officer or City Council. In that review, the applicant must demonstrate that either the denial of the demolition permit would effectively deprive the owner of all reasonable economic use of the site or demolition of the resource has been evaluated against and on balance has been found supportive of the goals and policies of the Comprehensive Plan and any relevant area plans. The City weighs the following factors:

- (a) The merits of the demolition;
- (b) The merits of the development that could replace the demolished resource;
- (c) The effect demolition would have on the area's desired character;
- (d) The merits of preserving the resource; and
- (e) Any proposed mitigation for the demolition.

The Type IV demolition review process and burden of proof provides a significant amount of protection for the contributing resource. If the applicant can meet these burdens, then site redevelopment will be justified and permitted. Further, site redevelopment will be subject to Landmarks Commission review. Anyone familiar with that process will attest that the Landmarks Commission will ensure that a proposed building on Site 1 is made to be compatible with the Historic District, even at its current allowed height.

6. Site 2 is not located in an historic district, yet the PSC has recommended a 100-foot reduction in the base height and the maximum bonus height has been reduced from 425 feet today to 325 feet. Again, it seems that being close to an historic district is punishing to density. Site 2 is across a City street from the historic district boundary and again was a site that was mapped for its current height and density either with, before or after the historic district was designated. Site 2 will also be subject to design review to ensure that the quality, permanence and character of a Site 2 development is compatible with its built environment.

A 100-foot reduction in height on Site 2 represents about 8 floors of development potential or about 300,000 square feet. At an average unit size of 800 square feet, the PSC height reduction could prevent about 375 housing units from coming to the market.

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Mayor Ted Wheeler & City Commissioners
August 17, 2017
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In sum, there is no compelling rationale for reducing the height on Site 1 and Site 2 under the general notion of historic district protection. The District was adopted contemporaneously with these height allowances and the heights allow flexibility in design that could better protect other historic resources in the District. The PSC proposal does not strike the right balance. We therefore request that the Council restore the heights that the PSC removed from both Site 1 and Site 2.

Best regards,

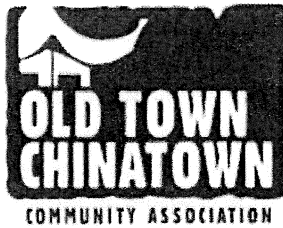


Christie C. White

cc via email: Michael Menashe
Joe Zehnder, Bureau of Planning and Sustainability
Troy Doss, Bureau of Planning and Sustainability
Kara Fioravanti, Bureau of Development Services
Maurice Henderson, Chief of Staff to Mayor Ted Wheeler
Sonia Schmanski, Chief of Staff to Nick Fish
Marshall Runkel, Chief of Staff to Chloe Eudaly
Tim Crail, Chief of Staff to Amanda Fritz
Brenden Finn, Chief of Staff to Dan Saltzman

{00702096;1}

App - 22



February 3, 2015

To: Mayor Charlie Hales

Commissioner Amanda Fritz

Commission Dan Saltzman

Commissioner Nick Fish

Commissioner Steve Novick

Re: Recommended Draft – West Quadrant Plan

Mayor Hales and Commissioners:

The Old Town Chinatown Community Association is submitting this letter in support of the Central City 2035 West Quadrant Recommended Final Draft Plan, specifically with respect to Old Town Chinatown. With the recent adoption and support of the 5-Year Action Plan for the neighborhood, Old Town Chinatown is finally a neighborhood on the brink of great progress and success. The long range planning, goals and actions in the recommended final draft of the West Quadrant Plan will be instrumental in creating sustainable, economic momentum and continued success for the revitalization of the entire district.

We strongly advocate that City Council and the Planning Bureau consider the following key planning objectives:

1. There has been much discussion about height adjustments in the district as a tool or incentive for new development. In 2008, this discussion focused on opportunity sites in the National Register Landmark District, the Skidmore Old Town historic district. Today there is agreement that height should remain at the current 75' in the Skidmore Old Town historic district. However, the final draft plan discusses studying additional height up to 150' in the New Chinatown Japantown historic district on the 3 blocks between West Burnside and NW Everett and between NW 4th and NW 5th Avenues. We feel that this is too much height and covers too many blocks. Within these 3 blocks, there are only two surface parking lots available for infill development. We feel that this study of additional height should be focused only on a single block, Block 33, the full block surface parking lot between NW Couch and

NW Davis/NW 4rd and NW 5th Avenues and that the height that is studied for this site should be no more than 150' as recommended in the final draft plan.

Block 33 is a catalytic opportunity site and has had several opportunities at real development. Despite \$12 million dollars of reserved TIF funding, the owner could not make this happen under the current 100' height limit. We were challenged to look at using height as a development tool and the neighborhood would like to explore additional height up to 150' for this site in bonuses that would meet our district goals of housing and preservation. **This block is too big to fail** and we must look at this opportunity and its impact to the district and the city.

2. We want to be very clear that there **cannot be a discussion of additional height without strong design guidelines** for the district. This is the only way the City can ensure compatible infill development in these historic districts while minimizing the uncertainty of developers undertaking the land use process to seek additional height. We strongly recommend that the sequencing of the recommended implementation actions, Actions RC4, UD3, UD4 and UD5, **be done concurrent with one another** and that these be done as part of the CC 2035 planning process. With some minor modifications to the work completed in 2008, we must move forward and adopt the already drafted Skidmore Old Town historic design guidelines and begin the work and development of **new and specific design guidelines for New Chinatown Japantown** as soon as possible. We would support the use of PDC TIF resources to ensure that this could be done in the expedited timing that we are recommending.

The Old Town Chinatown Community Association is in the process of learning more about a possible update to the National Register nomination for the New Chinatown Japantown historic district, but we have yet to achieve consensus on whether we support such a rewrite. Without additional information and time to hear from various stakeholder groups, particularly the Chinese and Japanese communities, we cannot support the rewrite at this time. That is not to say we would oppose it in the future, but we need more information about its purpose, goals, and the process for undertaking such an important task.

3. We are a neighborhood that is rooted in an incredibly rich historical past. The architectural and cultural history of this district is an asset to the entire City and helps shape and inform our neighborhood identity. It also can and should be an economic driver for the district. This, however, requires a stronger emphasis on the economic tools to support the rehabilitation of these significant historic resources. Unfortunately, the longer range 2035 planning and possible changes in the regulatory framework, including the Historic Resource Code Amendments (HRCA), may be too late for some of these properties. Restore Oregon is working hard on a long overdue State Historic Tax Credit and rebate program and we look for this City Council's support as this moves forward through the legislative process.

PDC's participation will be equally critical in mixed-use, market rate developments in targeted areas of the district where a combination of commercial and residential uses are needed to revitalize this neighborhood. With its many two-story, mixed-use historic properties, Old Town Chinatown is a perfect example of a district that desperately needs PDC to bring its resources to bear on both commercial and residential uses. This need was highlighted and prioritized by residents, stakeholders, and the Old Town/Chinatown Community Association during the development of PDC's 5-Year Action Plan for the neighborhood. PDC resources need to continue to support key, mixed-use projects in Old Town. We will continue to work with the Portland Development Commission on short term resources to help with the preservation of these buildings, but we need a long term plan that can ensure that these buildings are financially viable and continue to contribute to the history of the district for generations to come.

4. **Housing balance in the district continues to be challenging.** While we have done an extraordinary job preserving the affordable housing in the district with partners like Central City Concern, Innovative Housing, Blanchet House, Transition Projects and many other non-profit partners, we continue to have an imbalance of housing in the district. Over 66% of the housing in the district is at 60% MFI or below. **There is no better place in this city to target more diverse housing and incomes than in Old Town Chinatown.** Ensuring that new units constructed in the district serve households that earn between 50% - 120% MFI for workforce, student and market rate housing is critical to bringing this key Central City neighborhood into balance. This is the reason that we supported the SDC waiver incentive on up to 500 units of new housing as part of the 5-Year Action Plan. But SDC waivers are not enough.

We urge this City Counsel and the PDC to consider using **non-set aside TIF resources** to support the development of housing affordable to households earning between 60% and 120% of area median income (AMI). There has been discussion at City Hall and beyond over the last year about a gap in Portland for workforce, or middle-income, housing. Not everyone agrees that there is a shortage and, if there is one, it may exist only in certain neighborhoods. But it is a fact that the City of Portland currently lacks a toolkit to incentivize the creation of housing affordable above 60% AMI. The Portland Housing Bureau's funding sources, including TIF set-aside funds, are limited to serving 60% and below. The open market is booming, but the vast majority of new units coming online are not affordable to households that earn below 100-120% of AMI. Efforts are being made to increase the City's ability to support workforce housing, but there remains a space that PDC could fill. In 2015-16 it would be worthwhile for PDC to examine how middle-income, or workforce housing, could support PDC's goals around job creation, economic development, and place making and consider ways that PDC might participate in the creation of such housing.

We will continue to look at tools the help us meet the goals of changing this balance of housing for Old Town Chinatown.

5. **We do not support the closure or taxing of the surface parking lots in the district.** Closing surface parking lots will not stimulate development. In fact, it will create further challenges for the district as we try to attract more companies to move into the neighborhood. We support the Portland Development Commission's effort to create dedicated, shared parking opportunities that will satisfy requirements for preservation parking stalls for our many historic buildings and attract much-needed new construction and infill development on the surface lots in the district. We encourage the City and PDC to focus on identifying these types of tools, along with other subsidies, to incentivize new development on surface parking lots, rather than penalizing owners who are providing critical parking in the neighborhood.

We look forward to working with the BPS staff to ensure that this long term planning helps move Old Town Chinatown into the future as a vibrant, economically healthy and viable neighborhood. This is the time for Portland to realize that a healthy Old Town Chinatown is critical to the health and vibrancy of the entire Central City.

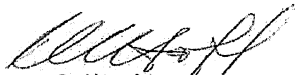
Thank you for your consideration of these comments.



Howard Weiner, Chair
Cal Skate Skateboards



Helen Ying, Vice Chair
Golden Horse Restaurant



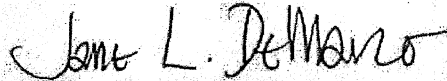
David Hooff, Treasurer
Northwest Health Foundation



Jacqueline Peterson-Loomis, Secretary
Old Town History Project, Principal




Patrick Gortmaker, Board Member
Kalberer Company



Jane DeMarco, Board Member
Lan Su Chinese Garden



Paul Verhoeven, Board Member
Portland Saturday Market



Zachary Fruchtgarten, Board Member
Gevurtz Menashe



Jessie Burke, Board Member
The Society Hotel, Partner

Fleischner Mayer Building Owner



Gloria Lee, Board Member
The Giving Tree & CCBA

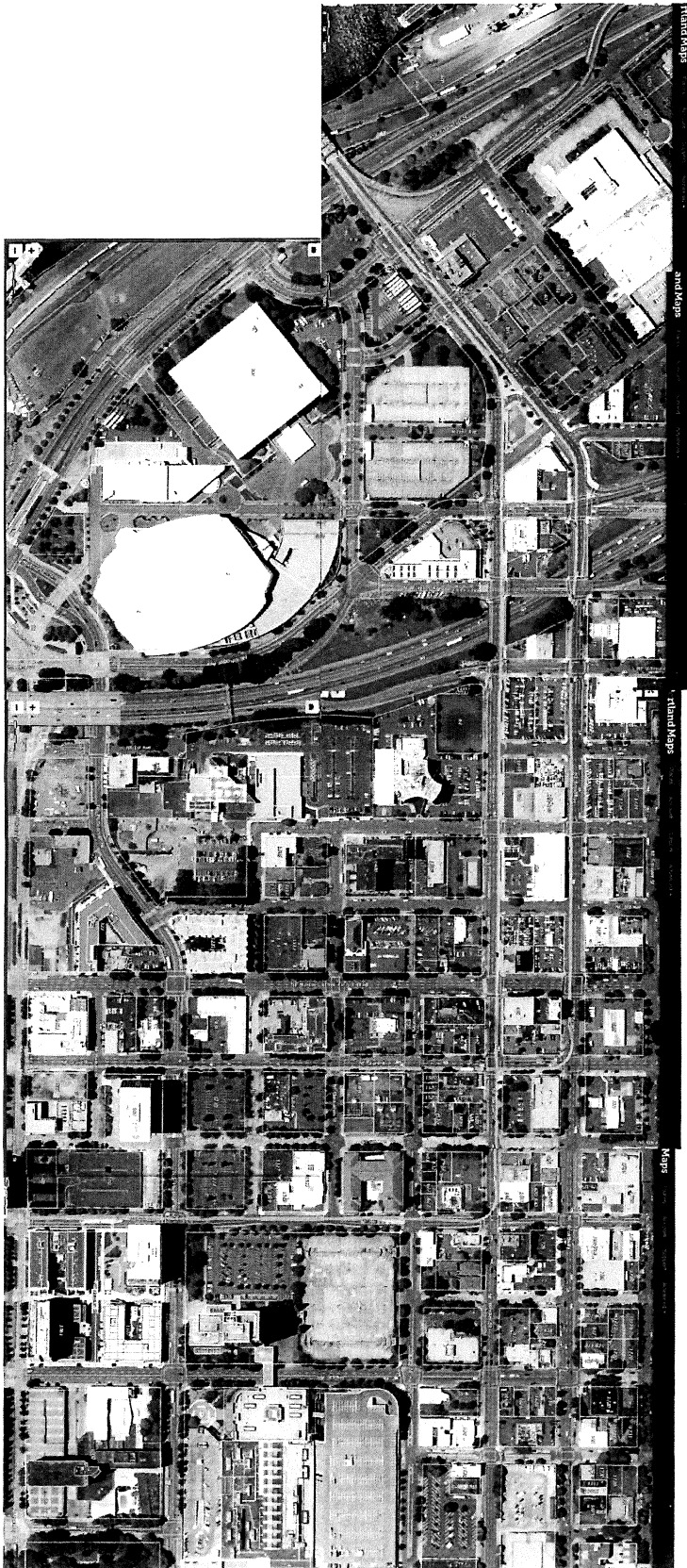


Dan Lenzen, Board Member
Concept Entertainment



Sarah Stevenson, Board Member
Innovative Housing, Inc.

Screenshot of the northern edge of Central City Plan District, East side



Submitted by
Kristin Minor
3-22-2018

From: [Spencer-Hartle, Brandon](#)
To: [Zehnder, Joe](#)
Cc: [Edmunds, Sallie](#); [Starin, Nicholas](#); [Hoy, Rachael](#)
Subject: FW: Height in Historic Districts, requested letter from Oregon SHPO
Date: Thursday, March 22, 2018 10:56:02 AM
Attachments: [image001.png](#)
[image002.png](#)
[20180322103153403.pdf](#)
Importance: High

Joe,

SHPO has provided BPS with an update to their 2008 advice on tall buildings in historic districts.

Brandon

From: JOHNSON Ian * OPRD [<mailto:Ian.Johnson@oregon.gov>]
Sent: Thursday, March 22, 2018 10:37 AM
To: Spencer-Hartle, Brandon <Brandon.Spencer@portlandoregon.gov>
Cc: CURRAN Chrissy * OPRD <Chrissy.Curran@oregon.gov>
Subject: RE: Height in Historic Districts, requested letter from Oregon SHPO
Importance: High

Brandon,

Here is the letter. The Oregon SHPO does not have any specific guidance on building heights in historic districts, but we find that NPS' guidance from 2008 is broadly applicable.

Ian



Ian P. Johnson | Associate Deputy State Historic Preservation Officer

Desk: 503.986.0678 cell: 971.718.1137

From: Spencer-Hartle, Brandon [<mailto:Brandon.Spencer@portlandoregon.gov>]
Sent: Wednesday, March 21, 2018 12:45 PM
To: JOHNSON Ian * OPRD
Cc: CURRAN Chrissy * OPRD
Subject: Height in Historic Districts

Hi Ian,

In 2008, the City of Portland received advice about the possible ramifications of increasing height limits in National Register districts (attached).

The Portland City Council is considering increasing height the height limit on a full block parcel in the 10-block New Chinatown/Japantown Historic District from 100' to 160' or 200'. Contributing buildings in this district range in height from 15' to 80'.

App - 29

Submitted by
Christe White
for Will Ines
9/14/2017

14 September City Council Testimony – Hennebery Eddy Architects

More than 60% of the 10-block Chinatown/Japantown district is occupied by parking lots and non-contributing buildings. The district's roots are cultural rather than architectural.

The objective should be to design new buildings to relate well to architecturally significant, historic structures while bringing economic vitality and people to take advantage of the public investment in the transit mall, festival streets, and other infrastructure in the district.

The standard for design must be high and the Historic District Guidelines are appropriate. But, we believe retaining the ability to design taller structures will help to better meet the guidelines.

An arbitrary height limit of 125' and under for most of the district will not bring back historic structures that don't exist.

It will restrict development to a predetermined a blocky, muscular 9:1 FAR building form built out to the property line ten to eleven stories tall. This will result in new buildings that will seem massive next to the existing historic buildings and will create broad shadows on adjacent public spaces.

And worse, economic motivation to develop even these projects may be lacking since the district is surrounded by areas with taller height limits, restricting the ability to capture regional views.

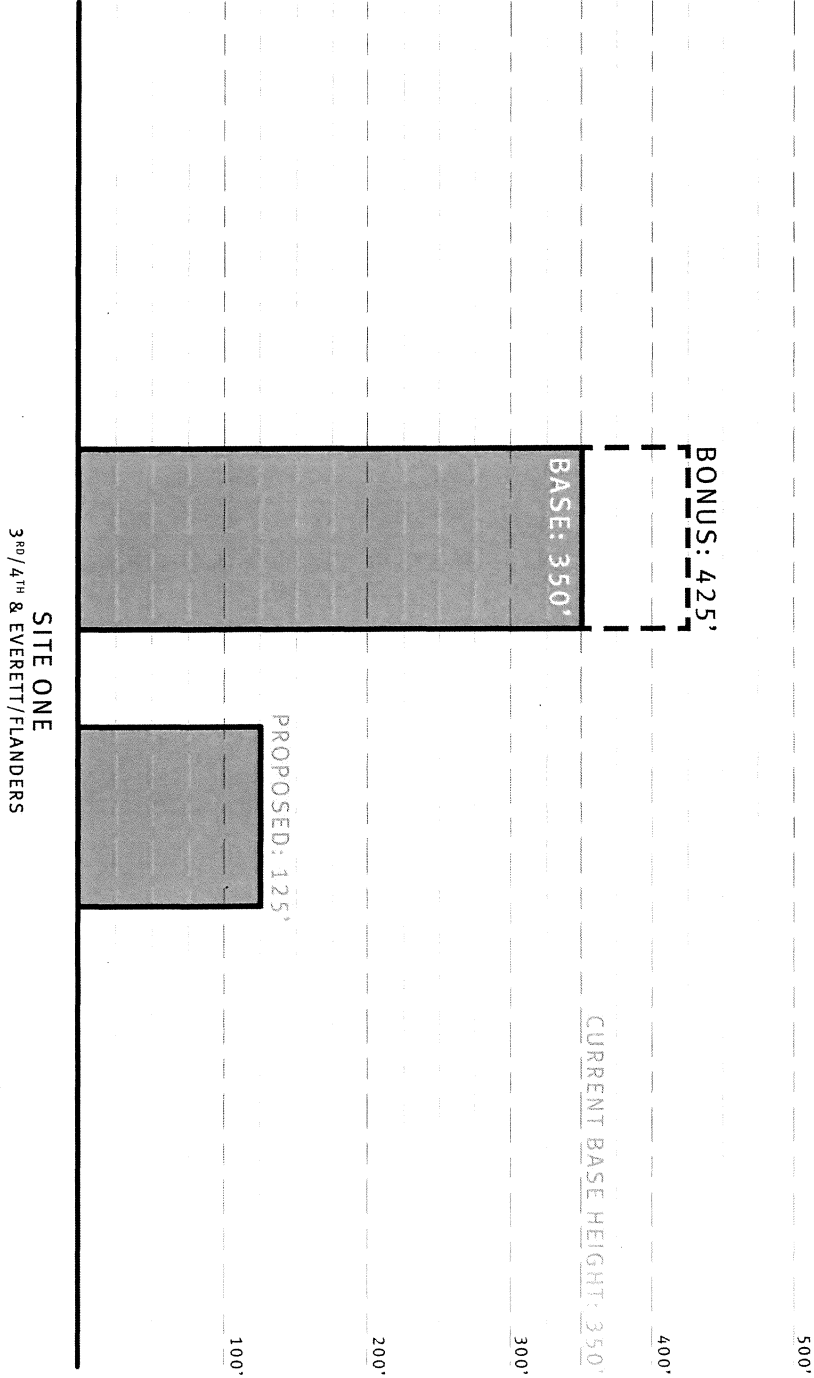
Taller buildings for Chinatown/Japantown will lead to greater compatibility if they:

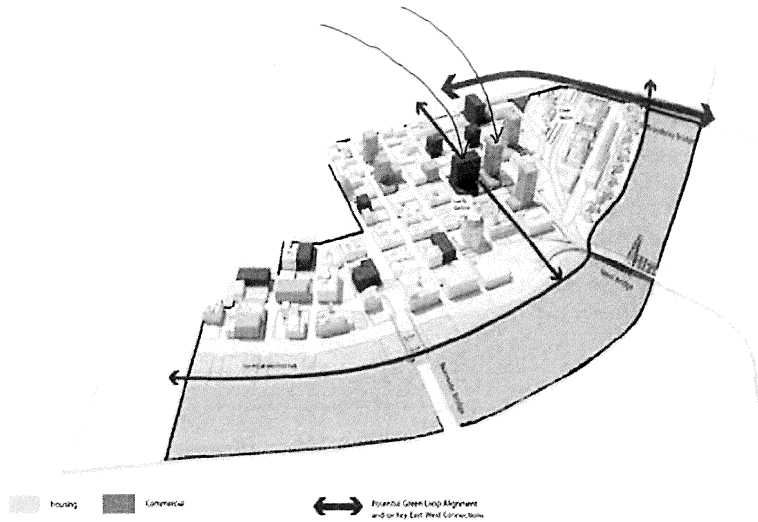
1. Establish a strong two to four story base that takes cues from adjacent historic structures.
2. Use contextually appropriate high quality permanent materials.
3. Create a vibrant human scaled, pedestrian environment at street level.
4. Include taller, slender towers above their bases, set back from the property line, and crafted to limit shadows on neighboring buildings and public open spaces like the Lan Su Chinese Garden. Director Park is a successful example of a public open space with tall buildings to its south, east and north.

This will respect the historic context, create economic potential for upper floors, and have the potential to keep the 3:1 FAR bonus and associated housing in the neighborhood.

SLIDE 1

Submitted
by
Christe
White
9/14/2017





Between 2010 and 2035, Old Town/Chinatown is expected to grow by 2,000 households and 3,000 jobs, for a total of 3,900 households and 8,200 jobs. This rendering illustrates a possible development scenario approximating future growth. The arrows illustrate a potential Green Loop alignment and key flexible street connections leading to the river and adjacent neighborhoods.

98 | CC 2035 RECOMMENDED DRAFT

Major Amendment

Height and FAR increases in New Chinatown/Japantown Historic District

1) Four northern blocks of the district: increase base height to 200 feet. No additional bonus height.

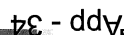
2) Block 33:

- Maintain base height at 125'
- Increase bonus height to 200' on western ½ block
- Affordable housing bonus required to access bonus height
- Increase FAR to 9:1 on full block if all floors above ground floor on western ½ block are in residential use.



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Implementation Actions: Old Town/Chinatown – Regional Center: Economy and Innovation						
#	Action	Timeline				Implementers (lead in bold)
		CC2035 (2016)	2 - 5 Years	6 – 20 Years	Ongoing	
RC1*	Implement the Old Town/Chinatown Five Year Action Plan.		X			PDC , City
RC2*	Develop and implement an on- and off-street parking strategy for OT/CT that encourages the redevelopment of surface parking lots, sharing of parking stalls and maintains sufficient parking to meet the districts' present and future needs.		X			PBOT , BPS, PDC
RC3	Support continued project and development opportunities and help fund development gaps that can bring transformative development on large opportunity sites.				X	PDC
RC4*	Study preservation zoning transfer incentives that would allow additional height for new construction on the non-contributing (non-historic) Block 33 property in exchange for preservation/rehabilitation of contributing historic properties in the New Chinatown/Japantown Historic District. A project that uses the preservation incentive could potentially build up to a maximum of 150'. Implement this incentive following the update of the historic district nomination and the development of new, culturally sensitive design guidelines and development standards.		X			BPS
RC5	Develop a preservation zoning incentive that allows contributing structures in historic districts to transfer unused development rights.	X				BPS
RC6	Reduce maximum height limits north of Burnside currently set at 425'-460' to 250-325'.	X				BPS
RC7	Implement the OT/CT Retail Program in coordination with cluster industry presence in the district.				X	PBA , OTCTCA , PDC
RC8	Actively pursue developers for City and PDC-owned properties, including Block 8, Block 25, Block A&N and Block R.		X			PDC , City
RC9	Explore the potential redevelopment of the Greyhound Terminal site by continuing to pursue moving bus operations onto Block Y.		X			PDC , Private

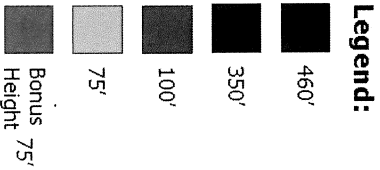
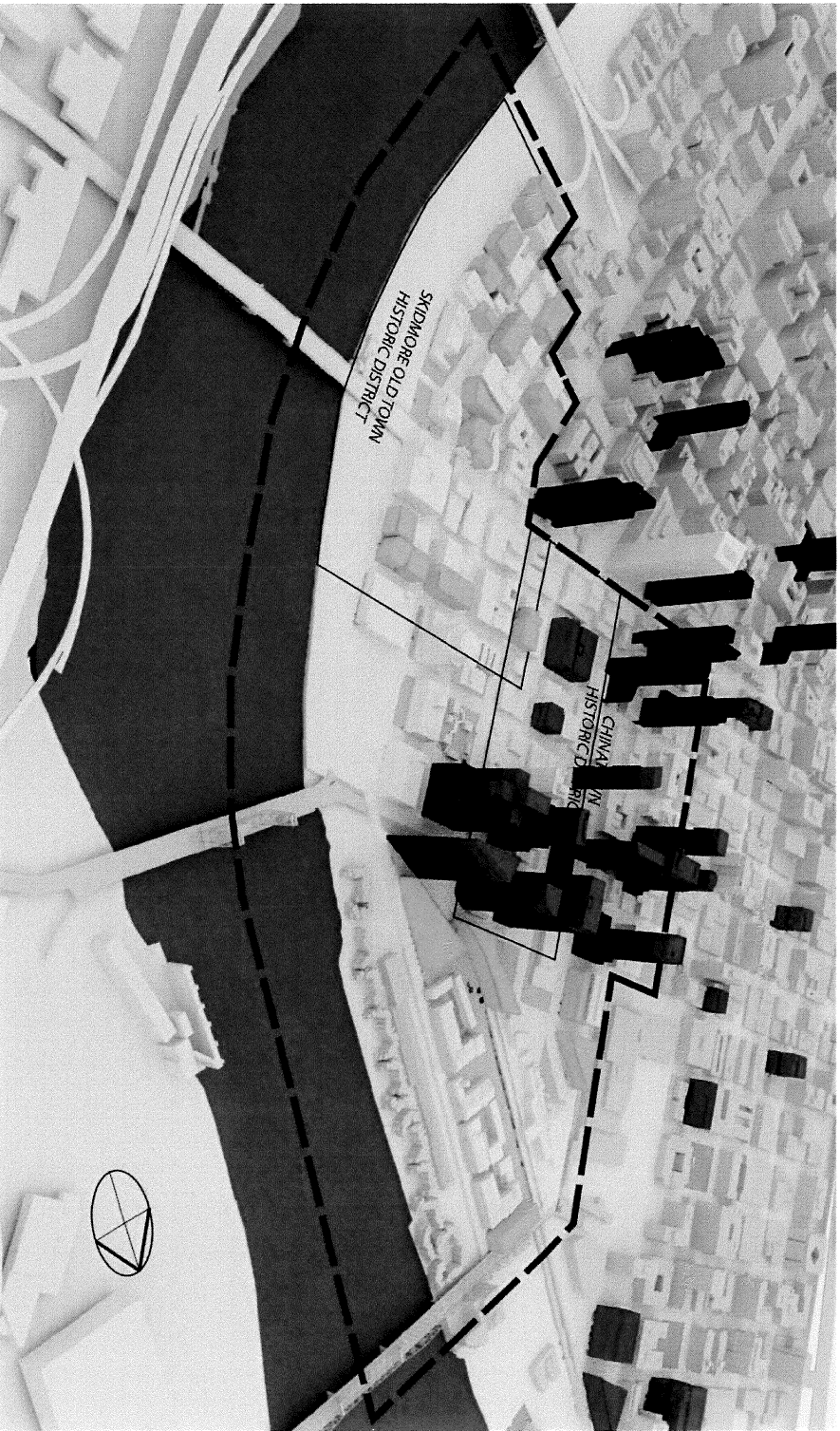
- Energy outside district North of Broadway – can help carryover near Union Station
- Design of buildings needs to be varied – don't want to look like Pearl District
- Consider equity, it is very limited, greenery serves that when it can be integrated
- Attention to pedestrian environment, considering homeless
- Block 33 as catalyst – height needed, maybe zoning should look at per project basis
- Big ideas from discussion:
 - Embrace Couch corridor – connected and energetic
 - Housing border to north and west – workforce
 - Provides central activity center – cultural hub, flexible
 - Green connections with N. Park Blocks
 - Strengthen connections within the district
 - Flexible parking in historic districts – new structure?
 - River to the mountain
 - Strengthen cultural/institutional: Lan Su to museum to 4th Ave string
- Lora's themes (for report back):
 - Couch corridor as active , connected with cultural, institutional, office
 - Lan Su to museum project, 3rd Avenue as people come out of museum, tie cultural uses together – cultural heritage hub, getting more restaurants along 4th Avenue
 - Glisan and N Park Blocks opportunity for high density housing – moderate income, student, workforces with heights
 - 4th Avenue from Pioneer Station to Chinatown Gateway (not all in agreement) closing 4th to Davis, more internal connections between assets
 - Waterfront connection from Davis creating anchors like SW Ankeny
 - Tools – flexibility in required for special catalytic sites, block 33, parking lots in historic districts can go beyond height limits

PART III: Small Area Concepts

Table Two: Broadway and New Chinatown/Japantown

1st Rotation Participants: Amy Chomowicz, Swen-Ho, Anne Naito-Campbell, Joann Hong, Jackie Peterson

- Broadway is impossible to cross and provides many opportunities
- Students need services to provide for their needs
- Bicycle connections – Flanders
- Festival Streets were supposed to link N. Park Blocks with Waterfront Park, bridge across Broadway – crossings need to fulfill that need
- Crossings at Broadway need much more pronounced pedestrian priority
- Need something at end of Broadway off ramp and Glisan for sense of arrival
- Two way streets integrated off Steel Bridge – provide visibility and access
- The area has been an island for so long, provide for a gateway to the neighborhood
- 4th is historically two-ways – pedestrian only thru-way could instigate more business activity.
 - However, this method has been historically unsuccessful. (i.e. Yamhill and Eugene)
- 3rd and Glisan is a moment of arrival – there needs to be proper signage for vehicles.
- There needs to be a much larger investment (3 to 4 million) for historical renovation/redevelopment.
 - Current Building codes are a hindrance toward penciling out developments.
- A question of leadership – is it public (the city) or private investment that leads to the needed redevelopment of blighted areas such as on 4th ave.



Maximum Allowable Building Heights:
Vacant and Underutilized Parcels

Skidmore Old Town/China Town

This diagram illustrate maximum allowable building heights. The building size and scale have not been calculated for allowable floor-area-ratio.

03/15/13



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48336

United States Department of the Interior
National Park Service

National Register of Historic Places Continuation Sheet

Section number 7 Page 3

ALTERATIONS

The type of alterations which have been made to structures within the district include changes to the first floor storefronts and the application of stucco to brick facades. Storefront windows have been replaced with large, single-paned, fixed glass windows and transom windows have been covered over with plywood or stucco. Recent changes to buildings within the district include the rehabilitation of historic buildings and the extensive remodeling of four buildings so that the original building is no longer recognizable. Although three of the extensively remodeled buildings are considered compatible with the historic architectural character of the district, these buildings are no longer considered "historic" in terms of classification.

ZONING

The Chinatown Historic District is zoned CIZ, which allows for many commercial uses; mid to high rise development, clean labor - intensive industry and manufacturing; and high density apartments. Transit use is encouraged within the district, and parking for development is not required. The allowable FAR (floor area ratio) is 4:1, 6:1 or 9:1 depending on where the building is located in the district.

PUBLIC IMPROVEMENTS

Public improvements such as water, roads, and sewers within the Chinatown Historic District were developed in conjunction with the rest of the downtown. More recent public improvements include the widening of Burnside Street in 1930, and, in the 1980's, the addition of oriental street lights and banners, bi-lingual street signs, and the Chinatown Gateway.

Although development plans for a "new" Chinatown, between SW Third and SW Front Avenue, and SW Ash and SW Washington streets, were revealed in 1961, they were never undertaken. In the mid 1970's, the Chinese Consolidated Benevolent Association (CCBA) committed itself to remaining in Chinatown and restoring its historic headquarters. CCBA also established a Chinatown Development Committee which completed the Chinatown Development Plan, which was officially adopted by the Portland City Council in December, 1984. It called for a number of public improvements to enhance Chinatown's cultural identity. Bi-lingual street signs with Chinese calligraphy were installed in May 1981 "to help maintain the historical and ethnic character of the area" (*Oregonian*, May 21, 1981) and to strengthen the Chinatown's identity, and visually demarcate the area as a special section of the City.

In 1984, 57 twin ornamental street lights on SW Morrison, along the light rail alignment, were removed, refurbished, and reinstalled in Chinatown. The lights were painted red with gold trim, the traditional Chinese colors of prosperity and good luck. Oriental banners were designed for the street lights by Wing Leong, and show the Chinese lunar calendar with the 12 lunar symbols and Chinese and Gregorian dates. The street lights and banners were dedicated on March 2, 1985.

Reeve Kearns PC

Attorneys at Law

510 American Bank Building
621 S.W. Morrison Street
Portland, Oregon 97205
Email: dan@reevekearns.com

Daniel H. Kearns
Direct Dial: 503-997-6032

May 24, 2019

Land Use Board of Appeals
775 Summer Street NE, Suite 330
Salem, OR 97301-1283

**Re: Restore Oregon, et al v. City of Portland, LUBA Nos. 2018-072/073/086/087
Petitioners' Motion to Amend the Caption of the Appeal**

Dear LUBA:

Please find enclosed for filing in the above-mentioned appeal the original and one copy of Petitioners' Motion to Amend the Caption of the Appeal. Thank you.

Sincerely,



Daniel Kearns

Enclosures

cc: Clients
Linly Rees, Esq.
Tim Ramis, Esq.
Mike Connors, Esq.

**BEFORE THE LAND USE BOARD OF APPEALS
FOR THE STATE OF OREGON**

RESTORE OREGON, BOSCO-MILLIGAN
FOUNDATION/ARCHITECTURAL HERITAGE
CENTER, NIKKEI LEGACY ENDOWMENT,
PORTLAND CHINATOWN MUSEUM and PEGGY
G. MORETTI – Petitioners,

v.

CITY OF PORTLAND – Respondent,

and

GUARDIAN REAL ESTATE SERVICES, LLC –
Intervenor Respondent.

OSB2LAN IVON, LLC and HAITHEM TOULAN -
Petitioners,

v.

CITY OF PORTLAND - Respondent.

**LUBA Nos. 2018-072/073
and 2018-086/087**

**PETITIONERS’
MOTION TO AMEND
THE CAPTION OF THE
APPEAL**

Pursuant to OAR 661-010-0065, Petitioners Restore Oregon. Bosco-Milligan Foundation/Architectural Heritage Center, Nikkei Legacy Endowment, Portland Chinatown Museum and Peggy Moretti hereby move the Board for an Order amending the caption of this appeal. In particular, the Portland Chinatown Museum has become Portland Chinatown History Foundation/Portland Chinatown Museum, and the Nikkei Legacy Endowment is actually the Oregon Nikkei Endowment. Thus, petitioners in LUBA Nos. 2018-072/073 should be: Milligan Foundation/Architectural Heritage Center, Oregon Nikkei Endowment, Portland Chinatown History Foundation/Portland Chinatown Museum and Peggy Moretti.

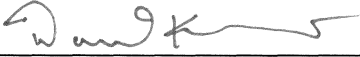
This requested change does not alter the standing, procedural or substantive arguments of any of the parties to this appeal. It also does not require amendment of petitioners’ Petition for

Review. If the Board is inclined to grant this motion, petitioners have included a new cover for the Petition for Review that petitioners filed last week in these consolidated appeals.

Petitioners' attorney contacted attorneys for all of the other parties in this appeal prior to filing this motion, and none objected to the motion.

Respectfully submitted this 24th day of May 2019.

REEVE KEARNS, PC

By: 
Daniel Kearns, OSB #89395
Attorney for petitioners Milligan Foundation/Architectural
Heritage Center, Oregon Nikkei Endowment, Portland
Chinatown History Foundation/Portland Chinatown
Museum and Peggy Moretti

CERTIFICATE OF FILING AND SERVICE

I hereby certify that on the date indicated below, I caused to be filed the original and one copy of the enclosed Petitioners' Motion to Amend the Caption of the Appeal in LUBA Nos. 2018-072/073/086/087 with the:

LAND USE BOARD OF APPEALS
775 Summer Street NE, Suite 330
Salem, OR 97301-1283

by First-Class U.S. mail, postage prepaid. On the same date, I caused to be served a true, complete and correct copy of the same document by First-Class U.S. mail, postage prepaid, on the following parties or attorneys:

Michael Connors, Esq.
Hathaway Larson LLP
1331 NW Lovejoy St., Suite 950
Portland, OR 97204

Linly Rees
Office of City Attorney
1221 SW 4th Ave., Suite 430,
Portland, OR 97204

Timothy Ramis
Jordan Ramis PC
Two Centerpoint Dr., 6th Floor
Lake Oswego, OR 97035

DATED: May 24, 2019.

REEVE KEARNS, PC



By: _____
Daniel Kearns, OSB #89395
Attorney for Petitioners



05/20/19 PM 2:24 LUBA

HATHAWAY LARSON

Koback · Connors · Heth

May 17, 2019

CERTIFIED MAIL RETURN RECEIPT

Land Use Board of Appeals
775 Summer Street NE, Suite 330
Salem, OR 97301-1283

Re: *Restore Oregon et al v. City of Portland* and *OSB2LAN IVON, LLC et al v. City of Portland*
LUBA Nos. 2018-072/073/086/087

Enclosed for filing, please find an original and four copies of OSB2LAN IVON, LLC's Petition for Review and Excerpt of Record in the above-referenced matter.

Thank you for your consideration.

Very truly yours,

HATHAWAY LARSON LLP

E. Michael Connors

EMC/pl
Enclosures

cc: Linly Rees, Chief Deputy City Attorney (w/ *encl.*)
Dan Kearns (w/ *encl.*)
Tim Ramis (w/ *encl.*)

E. Michael Connors
1331 NW Lovejoy Street, Suite 950
Portland, OR 97209
mike@hathawaylarson.com
(503) 303-3111 direct
(503) 303-3101 main

LUBA Record000746

BEFORE THE LAND USE BOARD OF APPEALS
FOR THE STATE OF OREGON

**RESTORE OREGON, BOSCO-
MILLIGAN FOUNDATION
ARCHITECTURAL HERITAGE
CENTER, NIKKEI LEGACY,
ENDOWMENT, PORTLAND
CHINATOWN MUSEUM, and
PEGGY G. MORETTI,**

Petitioners,

vs.

CITY OF PORTLAND,

Respondent,

and

**GUARDIAN REAL ESTATE
SERVICES, LLC,**

Intervenor-Respondent

**OSB2LAN IVON, LLC and
HAITHEM TOULAN,**

Petitioners,

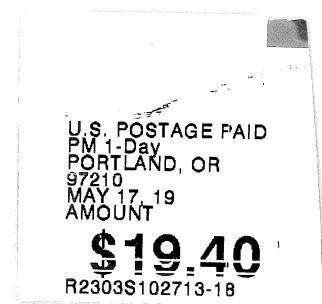
vs.

CITY OF PORTLAND,

Respondent.

LUBA No. 2018-072

 **ORIGINAL**



LUBA No. 2018-073/086/087

**OSB2LAN IVON, LLC & HAITHEM TOULAN'S
PETITION FOR REVIEW AND APPENDIX**

E. Michael Connors, OSB # 954956
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mike@hathawaylarson.com
*Attorney for Petitioners OSB2LAN IVON,
LLC and Haithem Toulan*

Daniel Kearns, OSB # 893952
Reeve Kearns PC
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1 **I. STANDING OF PETITIONERS**

2 Petitioners OSB2LAN IVON, LLC and Haithem Toulou (‐Petitioners‐)
3 appeared orally and in writing before the City of Portland (the ‐City‐) in this
4 matter. Rec. 8008-13129, 14760-66, 25221-22, 25280-87, 51537-42, 51571-79.
5 Petitioners filed a timely Notice of Intent to Appeal pursuant to ORS 197.830.
6 Therefore, Petitioners have standing to appeal the decision pursuant to
7 ORS 197.830(2).

8 **II. STATEMENT OF THE CASE**

9 **A. Nature of the Land Use Decision and Relief Sought.**

10 Petitioners are appealing the City Council’s approval and adoption of the
11 Central City 2035 Plan (the ‐CC2035 Plan‐). The CC2035 Plan updates the
12 City’s Comprehensive Plan and zoning code plans and policies for the Portland
13 downtown and central areas (the ‐Central City‐) and therefore is a legislative
14 land use decision. Petitioners are appealing two specific ordinances that adopt
15 and implement the CC2035 Plan. The first ordinance is Ordinance No. 189000,
16 which adopted the CC2035 Plan, amended the Comprehensive Plan,
17 Comprehensive Plan Map, Transportation System Plan, Willamette Greenway
18 Plan, Scenic Resources Protection Plan, Zoning Map, and Portland City Code
19 (‐PCC‐) Title 33, and repealed and replaced prior Central City plans and
20 documents. Rec. 1-10 & AR-1 – AR-153. The second ordinance is Ordinance
21 No. 189002, which adopted the CC2035 Plan and Volume 2A, Part 3,

1 Environmental and Scenic, amended the Portland Zoning Map, and the Portland
2 zoning codes for Environmental Overlay Zones, and Scenic Resources, and
3 amended the Scenic Resources Protection Plan. Rec. 5551-55 & 5584-95.
4 Petitioners request that LUBA reverse or remand the CC2035 Plan and
5 Ordinance Nos. 189000 and 189002 for the reasons stated herein.

6 **B. Summary of Arguments.**

7 1. First Assignment of Error.

8 The CC2035 Plan violates Statewide Planning Goal 5 and the regulations
9 that implement the Goal because the City's Scenic Resource Economic, Social,
10 Environmental, and Energy (the "Scenic Resources ESEE" or "ESEE") analysis
11 failed to comply with the requirements set forth in OAR 660-016-0000, et seq.
12 in several respects. The Scenic Resource ESEE used the same type of area-
13 wide approach the Supreme Court rejected in *Columbia Steel Castings Co. v.*
14 *City of Portland*, 314 Or 424, 840 P2d 71 (1992) and failed to provide an
15 adequate site-specific analyses of the consequences of limiting the building
16 heights on the affected properties, including Petitioners' property. The ESEE
17 erred by applying completely different standards to the Southern Triangle sub-
18 area than the standards applied to other sub-areas evaluated. The City failed to
19 consider relevant factors and evidence of additional constraints in the Southern
20 Triangle area raised during the CC2035 Plan process that demonstrate a more
21 significant economic impact from the Tilikum Crossing Scenic Resources

1 Viewpoint (“SW46”) than the City assumed. The City failed to consider, or
2 respond to, unrefuted evidence of a mapping error with the SW46 view corridor
3 and therefore, the City did not accurately evaluate the SW46 view corridor.

4 2. Second Assignment of Error.

5 The CC2035 Plan violates Statewide Planning Goal 10 and the
6 regulations that implement the Goal in several respects. The City’s decision
7 relies heavily on the Buildable Lands Inventory (“BLI”) but the BLI itself is not
8 part of the record and therefore cannot be used as a basis to support the City’s
9 Goal 10 findings. The City failed to adequately demonstrate that the Central
10 City can continue to meet the housing needs identified in the BLI given the
11 significant changes to the Central Eastside area zoning adopted as part of the
12 CC2035 Plan. The City failed to analyze or account for the impact of the SW46
13 view corridor height restriction on the BLI lands. The City failed to address or
14 account for the CC2035 Plan’s prohibition and significant restriction on
15 residential uses on certain EX zoned properties, including vacant or
16 underdeveloped property that the BLI relied on for fulfilling housing needs.
17 The City’s decision to prohibit residential uses on Petitioners’ property and
18 similar EX zoned properties is inconsistent with the City’s core Goal 10
19 findings and is not supported by substantial evidence.

1 3. Third Assignment of Error.

2 The CC2035 Plan is inconsistent with several transit-oriented
3 development Comprehensive Plan policies and the City failed to adopt adequate
4 findings in violation of Goal 2 and ORS 197.175(2)(d). The City findings in
5 response to these policies emphasize the CC2035 Plan's up-zoning and
6 increasing the FAR and height in areas near transit stations to accommodate
7 more dense mixed use development, in particular residential development. The
8 findings repeatedly reference and highlight the implementation of these policies
9 in the OMSI Station Area, noting that this area includes a number of vacant and
10 under-utilized properties in close proximity to transit stations. Although
11 Petitioners' property and surrounding properties are near transit stations and
12 adjacent to the OMSI Station Area, the CC2035 Plan takes the complete
13 opposite approach with respect to these properties by imposing significant
14 height restrictions, prohibition of residential uses and restrictions on retail uses.
15 The imposition of these severe development restrictions on Petitioners' property
16 and similarly situated surrounding properties is inconsistent with these
17 Comprehensive Plan policies and the findings fail to adequately address why
18 the City treated these similarly situated properties so differently from the OMSI
19 Station Area.

1 **C. Summary of Material Facts.**

2 1. The CC2035 Plan.

3 The CC2035 Plan updates the City’s Comprehensive Plan and zoning
4 code plans and policies for the Portland downtown and central areas (the
5 “Central City”). The CC2035 Plan will replace the 1988 Central City Plan as
6 the primary guiding policy document for the Central City. Rec. 9.

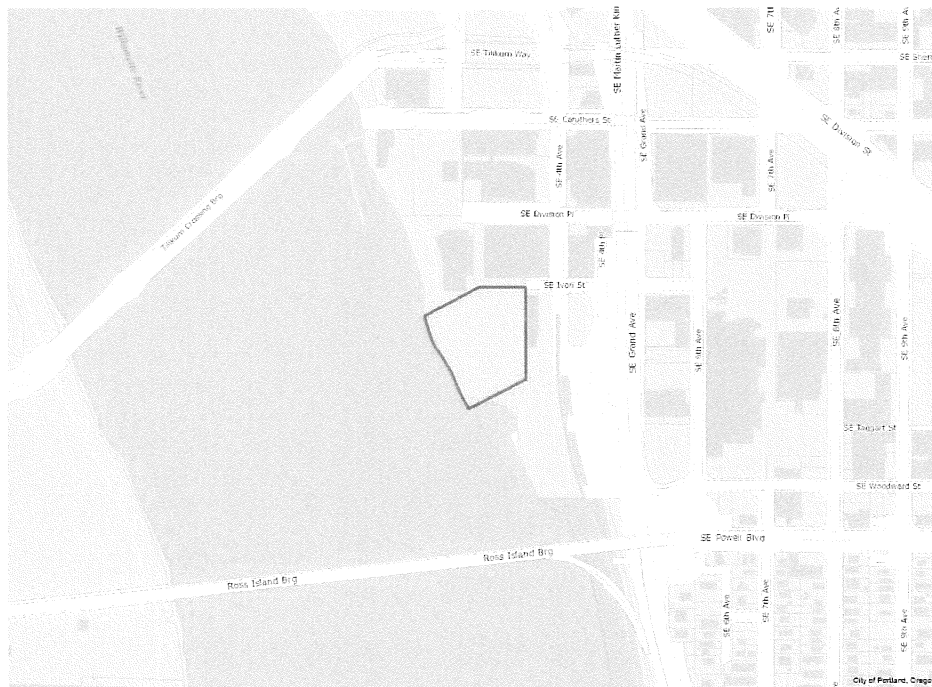
7 The City adopted the CC2035 Plan pursuant to two primary ordinances
8 that implement the CC2035 Plan. The first ordinance is Ordinance No. 189000,
9 which adopted the CC2035 Plan, amended the Comprehensive Plan,
10 Comprehensive Plan Map, Transportation System Plan, Willamette Greenway
11 Plan, Scenic Resources Protection Plan, Zoning Map, and PCC Title 33, and
12 repealed and replaced prior Central City plans and documents. Rec. 1-10 &
13 AR-1 – AR-153. The second ordinance is Ordinance No. 189002, which
14 adopted the CC2035 Plan and Volume 2A, Part 3, Environmental and Scenic,
15 amended the Portland Zoning Map, and the Portland zoning codes for
16 Environmental Overlay Zones, and Scenic Resources, and amended the Scenic
17 Resources Protection Plan. Rec. 5551-56 & 5584-95.

18 As part of the CC2035 Plan, the City adopted a new Scenic Resources
19 Protection Plan and considered the protection of various viewpoints or view
20 corridors pursuant to the Scenic Resources ESEE. The ESEE evaluated ten (10)
21 Mt. Hood view corridors along the Willamette River and recommended not

protecting the vast majority of these views due to significant economic impacts. Rec. 1170 & 1836. The City elected to protect only two of these viewpoints – Salmon Springs (“SW17”) and Tilikum Crossing (“SW46”). Rec. 1170-74.

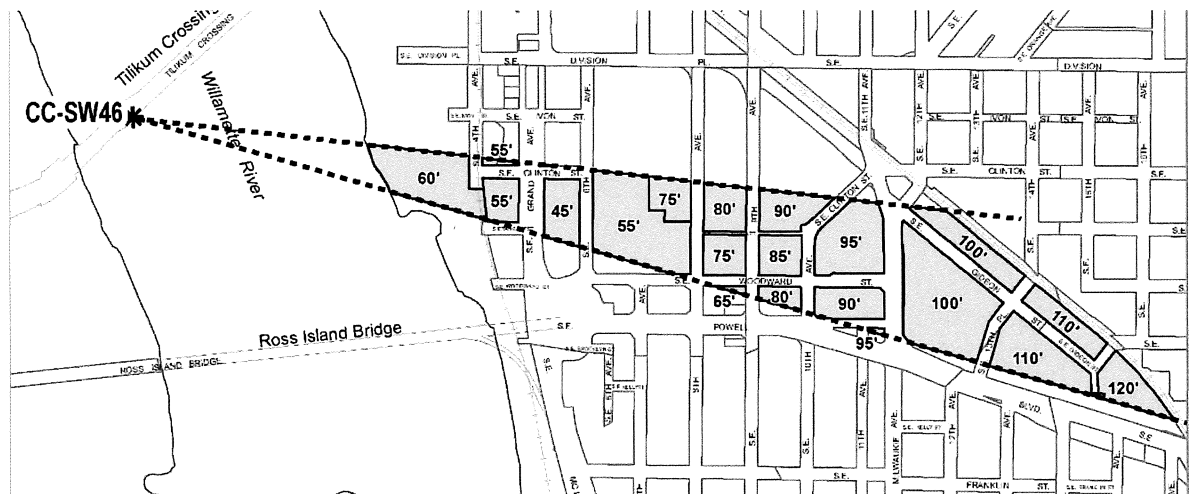
2. Petitioners’ Property.

Petitioners own an approximate three-acre property located at 306 SE Ivon Street adjacent to the Willamette River. The following map shows the location of Petitioners’ property outlined in blue:



The property is in a Central City sub-area known as the Southern Triangle, located in the Central Eastside District, adjacent to OMSI Station Area. Rec. 2735. The property is walking distance to the SE Water transit station and served by the MAX Orange Line, streetcar and several bus lines. Rec. 14762. Prior to the CC2035 Plan, the property was zoned Heavy Industrial (“HI”) with a Greenway overlay (“HIg”).

1 The CC2035 Plan imposes several changes to and development
2 restrictions on Petitioners' property. The CC2035 Plan rezoned the property
3 Central Employment ("EX"), with Design ("d"), River Environmental ("e"),
4 River General ("g") and Scenic Resources ("s") overlay zones. The SW46 view
5 corridor crosses a significant portion of Petitioners' property. Rec. 662 & 1173.
6 Although the property ordinarily would have a 250-foot bonus height limit
7 under the EX zone, the City's decision to protect the SW46 viewpoint resulted
8 in a building height restriction of 60 feet over a substantial portion of the
9 property and similar height restrictions on surrounding properties. Rec. 662 &
10 1173. The following figure illustrates the SW46 height restriction on the
11 surrounding area:



12 Rec. 1173.

13 Although the EX zone typically allows for residential uses, the CC2035
14 Plan prohibits residential uses on certain properties in the Central Eastside area.
15 Petitioners' property is one of those EX zoned properties in which residential

1 uses are prohibited. Rec. 369-70, 667, 670 & 2735. The CC2035 Plan also
2 limits the amount of retail use on Petitioners' property. Rec. 347-48 & 692.

3 III. JURISDICTION

4 LUBA has jurisdiction over this matter pursuant to ORS 197.825 because
5 the decision being appealed is a final land use decision and Petitioners timely
6 filed a Notice of Intent to Appeal.

7 IV. ARGUMENT

8 A. First Assignment of Error.

9 *The CC2035 Plan violates Goal 5 and the regulations that implement the*
10 *Goal because the City's ESEE analysis failed to comply with the*
11 *requirements set forth in OAR 660-016-0000 et seq.*

12 1. Preservation of the Argument.

13 Since the challenged decision is a legislative land use decision, the
14 principles of preservation that govern a quasi-judicial decision, e.g., the "raise it
15 or waive it" requirements of ORS 197.763(1), do not apply. *Columbia Pacific*
16 *Building Trades Council v. City of Portland*, __ Or LUBA __ (LUBA No.
17 2017-001, July 19, 2017), *rev'd and rem'd in part*, 289 Or App 739, 412 P3d
18 258 (2018); *DLCD v. Columbia County*, 24 Or LUBA 32, 36 (1992).

19 Nonetheless, Petitioners raised the issues and arguments set forth in this
20 assignment of error below. Rec. 8008-09, 14760-66, 25221-22, 25280-87,
21 51537-42, 51571-79.

1 2. Standard of Review.

2 LUBA's standard of review of a decision that amends a local
3 government's comprehensive plan and land use regulations is subject to ORS
4 197.835(6) and (7). ORS 197.835(6) provides: “[LUBA] shall reverse or
5 remand an amendment to a comprehensive plan if the amendment is not in
6 compliance with the goals.” ORS 197.835(7) provides: “[LUBA] shall reverse
7 or remand an amendment to a land use regulation or the adoption of a new land
8 use regulation if: (a) [t]he regulation is not in compliance with the
9 comprehensive plan; or (b) [t]he comprehensive plan does not contain specific
10 policies or other provisions which provide the basis for the regulation, and the
11 regulation is not in compliance with the statewide planning goals.”
12 Additionally, ORS 197.835(9) provides that LUBA shall reverse or remand a
13 land use decision if LUBA finds that the local government “[m]ade a decision
14 not supported by substantial evidence in the whole record,” or “[i]mproperly
15 construed the applicable law.” ORS 197.835(9)(a)(C) and (D).

16 Under ORS 197.829, LUBA shall affirm a governing body's
17 interpretation of its comprehensive plan or land use regulations unless the
18 interpretation is inconsistent with the express language, purpose or policy
19 underlying the local legislation under interpretation, or the interpretation is
20 contrary to a statewide planning goal, statute, or administrative rule that the
21 local legislation implements. ORS 197.829(1)(a)-(d). A local government's

1 interpretation of state law or a land use regulation that implements state law is
2 not entitled to any deference under ORS 197.829. *Gilmour v. Linn County*, 279
3 Or App 584, 589, 379 P3d 833 (2016); *Kenagy v. Benton County*, 115 Or App
4 131, 838 P2d 1076 (1992).

5 Whether a local government's interpretation of its own comprehensive
6 plan or land use regulation is “inconsistent with the express language” under
7 ORS 197.829(1)(a) “depends on whether the interpretation is plausible, given
8 the interpretive principles that ordinarily apply to the construction of ordinances
9 under the rules of *PGE [v. Bureau of Labor and Industries*, 317 Or 606, 610–
10 12, 859 P2d 1143 (1993),]” as modified by *State v. Gaines*, 346 Or 160, 171–
11 72, 206 P3d 1042 (2009). *Setniker v. Polk County*, 244 Or App 618, 633–34,
12 260 P3d 800, *rev. den.*, 351 Or 216, 262 P3d 402 (2011) (internal quotation
13 marks omitted; brackets in original). This inquiry includes an examination of
14 the text and context of the relevant provisions, applying the statutory
15 construction principles in ORS 174.010 and ORS 174.020(2) and other textual
16 canons of construction applied in the “first level” PGE analysis. *Western Land*
17 *& Cattle, Inc. v. Umatilla County*, 230 Or App 202, 209, 214 P3d 68 (2009).

18 An interpretation that is inconsistent with the purpose or underlying policy of
19 the provision provides an independent basis for rejecting the interpretation
20 irrespective of its consistency with the express language. ORS 197.829(1)(b)-

1 (c); *Keep Keizer Livable v. City of Keizer*, __ Or LUBA __ (LUBA No. 2011-
2 041, dated August 19, 2011), Slip Op. p.11.

3 Although legislative decisions are not subject to the same findings
4 requirement as quasi-judicial decisions, to allow LUBA and the appellate courts
5 to perform their review function there “must be enough in the way of findings
6 or accessible material in the record of the legislative act to show that applicable
7 criteria were applied and that required considerations were indeed considered.”

8 *Citizens Against Irresponsible Growth v Metro*, 179 Or App 12, 16 n 6, 38 P3d
9 956 (2002); *Waste Not of Yamhill County v. Yamhill County*, 65 Or LUBA 142,
10 154 (2012); *Oregon Coast Alliance v. City of Dunes City*, 65 Or LUBA 358,
11 366–67 (2012). The legislative decision must be supported by an “adequate
12 factual base,” which is equivalent to the requirement that a quasi-judicial
13 decision be supported by substantial evidence in the whole record. *Waste Not*
14 *of Yamhill County v. Yamhill County*, 65 Or LUBA at 154; *1000 Friends of*
15 *Oregon v. City of North Plains*, 27 Or LUBA 372, 378, *aff’d* 130 Or App 406,
16 882 P2d 1130 (1994).

17 Substantial evidence supports a finding of fact when the record, viewed
18 as a whole, would permit a reasonable person to make that finding. *Dodd v.*
19 *Hood River County*, 317 Or 172, 179, 855 P2d 608 (1993); *Younger v. City of*
20 *Portland*, 305 Or 346, 351–52, 752 P2d 262 (1988). The substantial evidence
21 standard is not satisfied when “the credible evidence apparently weighs

1 overwhelming in favor of one finding and the [decision maker] finds the other
2 without giving a persuasive explanation.” *Garcia v. Boise Cascade Corp.*, 309
3 Or 292, 295, 787 P2d 884 (1990).

4 3. Argument.

5 a. *Goal 5 requirements and the City’s Scenic Resources*
6 *ESEE analysis.*

7 Statewide Planning Goal 5 and its implementing administrative rules set
8 forth the process and requirements for addressing scenic resources. OAR 660-
9 015-0000(5); OAR 660–016. The Goal 5 process requires local governments to
10 perform three primary tasks. *Mark Latham Excavation, Inc. v. Deschutes*
11 *County*, 250 Or App 543, 546, 281 P3d 644, 646 (2012). First, the local
12 government must inventory significant resource sites. OAR 660–016–0000; *Id.*
13 Second, the local government must identify conflicts with the inventoried Goal
14 5 resource sites and determine “the Economic, Social, Environmental, and
15 Energy” (“ESEE”) consequences of prohibiting, limiting or allowing conflicting
16 uses.” OAR 660–016–0005(1); *Id.* Third, the local government must develop a
17 “program to achieve the Goal” based on the ESEE consequences and determine
18 if it will completely protect the resource, allow conflicting uses fully, or allow
19 the conflicting use in a limited way so as to protect the resource site. OAR 660–
20 016–0010(1)–(3); *Id.*

21 The ESEE performed under the second task is the most important
22 component of the Goal 5 analysis. *Columbia Steel Castings Co. v. City of*

1 *Portland*, 314 Or 424, 840 P2d 71 (1992). The ESEE provides the decision
2 maker the necessary information about the scenic resources and conflicting uses
3 to determine if it should protect the resource, allow the conflicting uses or adopt
4 a balance between protecting the resource and allowing conflicting uses. *Id.*
5 The ESEE requires a two-way analysis in which “[b]oth the impacts on the
6 resource site and on the conflicting use must be considered * * *.” OAR 660-
7 016-0005(3); *Hegele v. Crook County*, 190 Or App 376, 385-86, 78 P3d 1254
8 (2003). The ESEE analysis must address these impacts with enough specificity
9 to “explain why decisions are made for specific sites” and the conclusions must
10 be supported by “adequate information on the location, quality, and quantity of
11 the resource site as well as on the nature of the conflicting use and ESEE
12 consequences.” OAR 660-016-0005(3); OAR 660–016–0010; *Columbia Steel*
13 *Castings*, 314 Or at 431–32; *Hoffman v. Deschutes County*, 61 Or LUBA 173,
14 180 (2010). The ESEE analysis is an ongoing process that must take into
15 account public comments and make the necessary adjustments as new
16 information and evidence is obtained. OAR 660-016-0020(2); *Columbia Steel*
17 *Castings*, 314 Or at 431-32.

18 As part of the CC2035 Plan process, the City updated its scenic resources
19 plan by adopting the Central City Scenic Resources Protection Plan. Rec. AR-
20 6, 1100-2015. The City adopted the Central City Scenic Resources Protection
21 Plan based on the Scenic Resources ESEE analysis and recommendations. Rec.

1 AR-6. The primary way in which the Central City Scenic Resources Protection
2 Plan protects scenic resources or viewpoints is through the adoption of building
3 height limits on specific areas or properties in the Central City area.

4 Petitioners are challenging the Central City Scenic Resources Protection
5 Plan because the Scenic Resources ESEE upon which it is based is deeply
6 flawed and fails to comply with Goal 5 and its implementing rules. Petitioners
7 are challenging both the overall adequacy of the Scenic Resources ESEE and
8 the parts of the ESEE that relate specifically to the Southern Triangle where
9 Petitioners' property is located. These arguments are inter-related because the
10 general flaws with the ESEE undermine the analysis specific to Petitioners'
11 property and the flaws in the analysis related to Petitioners' property are an
12 indication of larger problems with the overall ESEE analysis.

13 The portion of the Scenic Resources ESEE that relates specifically to
14 Petitioners' property is the evaluation of the Willamette River viewpoints of
15 Mt. Hood and the recommendation to protect the Tilikum Crossing SW46
16 viewpoint. The Scenic Resources ESEE evaluated ten (10) Mt. Hood view
17 corridors along the Willamette River and recommended not protecting the vast
18 majority of these views because the economic impacts were too significant.¹

¹ The Scenic Resources ESEE concluded: "While it is a priority to protect views of Mt Hood, the economic impact of protecting views of Mt Hood from low elevation viewpoints along the river is high, ranging from \$8M to \$94M reduction in development value and 1,100 to 13,000 reduction in job capacity (see Table 4)." Rec. 1836.

1 Rec. 1836. SW46, which crosses the Southern Triangle and a significant
2 portion of Petitioners' property, was one of only two Mt. Hood scenic views
3 that the City elected to protect by imposing height limits. Rec. 1223 & 1836.
4 The Scenic Resources ESEE recommended protecting the SW46 view corridor
5 in large part because it determined this view corridor had the least economic
6 impact among the alternatives and the square footage and jobs "could be
7 redistributed on-site due to the larger block patterns." Rec. 1812, 1814, 1836 &
8 2003.

9 The Scenic Resources ESEE failed to comply with the Goal 5
10 requirements in several respects. It used an area-wide approach rejected in
11 *Columbia Steel Castings* and failed to provide an adequate site-specific
12 analyses of the ESEE consequences of protecting the scenic resource. The
13 Scenic Resources ESEE failed to adequately explain or justify the use of
14 different standards for evaluating conflicting use impacts in the Southern
15 Triangle sub-area in comparison to the other sub-areas. The City failed to
16 consider or address the resource site specific information Petitioners submitted,
17 which demonstrated major flaws in the City's methodology for the Scenic
18 Resources ESEE analysis.

1 b. *The City failed to provide an adequate site specific*
2 *analyses of the ESEE consequences of protecting*
3 *scenic resources.*

4 The Scenic Resources ESEE suffers from the same flaws as the ESEE the
5 Oregon Supreme Court rejected in *Columbia Steel Castings*. At issue in
6 *Columbia Steel Castings* was the City's Goal 5 ESEE analysis addressing the
7 impacts of applying conservation overlay zone designations to the Columbia
8 Corridor area. *Columbia Steel Castings*, 314 Or at 426. The ESEE analysis
9 divided the 14,000-acre Columbia Corridor area into five sub-areas and
10 analyzed the ESEE impacts on each of these sub-areas on an area-wide basis as
11 opposed to a resource-site-by-resource-site basis. *Id.* at 426-27. The ESEE
12 identified broad categories of conflicting uses and analyzed the impacts on a
13 more general basis. *Id.* The City argued that the area-wide ESEE findings and
14 more generalized analysis of the impacts were sufficient to satisfy Goal 5. *Id.* at
15 430-31.

16 The Oregon Supreme Court rejected the City's approach and concluded
17 that the ESEE analysis failed to satisfy Goal 5 because it lacked the required
18 level of specificity. The Court explained the need for a site-specific ESEE
19 analysis:

20 An ESEE analysis must consider the impact of the resource site on
21 the conflicting use and the impact of the conflicting use on the
22 resource site, it is true. OAR 660-16-005(2). But, *unless both the*
23 *resource site and the conflicting uses are described with sufficient*
24 *particularity, the ESEE analysis cannot begin.* And, even when the
25 resource site and the conflicting uses are independently and

1 adequately described, the result is not yet an ESEE analysis. An
2 ESEE analysis describes the interaction of the two phenomena, i.e.,
3 the impact that each has on the other.

4 * * * * *

5 As noted, the end result of the process is supposed to be a
6 balancing of the impacts that the resource site and the conflicting
7 use have on each other. Only then can a jurisdiction make a final
8 decision whether to protect a resource site totally, or partially, or
9 instead to allow the conflicting use without restriction. *See* OAR
10 660–16–010 (describing final evaluation and choices); *1000*
11 *Friends of Or. v. LCDC* (Tillamook Co.), *supra*, 303 Or. at 435,
12 737 P.2d 607 (same). *That balancing process cannot be adequate,*
13 *under the Goal 5 implementing rules, unless the identification of*
14 *actual and conflicting uses is specific to each resource site.” Id. at*
15 *431-32. (Emphasis added).*

16 Based on the Court’s interpretation of Goal 5 and the implementing rules, the
17 Court concluded that the City’s ESEE lacked sufficient site-specific information
18 to identify and balance the relevant impacts. *Id.* at 432-33.

19 The City used a similar area-wide approach for the Scenic Resources
20 ESEE and it suffers from the same lack of site-specificity as the Columbia
21 Corridor ESEE rejected by the Supreme Court. The Scenic Resources ESEE
22 divided the Central City area, a significantly larger, denser and more diverse
23 area than the Columbia Corridor, into ten sub-areas. Rec. 2002. The City
24 determined the impacts on conflicting uses within each of these sub-areas based
25 on three general factors: (1) base height and/or floor-area-ratio (“FAR”); (2)
26 building lot coverage; and (3) a dollar and jobs per square foot value. Rec.

1 2001. Most of these factors were determined based on general or average
2 numbers in the sub-area or the Central City area as a whole.

3 Although the Scenic Resource ESEE relied on some site specific base
4 heights and FARs for some of the sub-areas, it applied the same height and/or
5 FAR in the Southern Triangle and Lower Albina sub-areas. Rec. 1999-2000.
6 The ESEE used the same height and FAR for these sub-areas notwithstanding
7 the fact that the maximum floor area ratios, base height and bonus height maps
8 show different heights and FARs throughout these areas. Rec. 1999-2000. The
9 City's reliance on these general height and FAR characteristics in the Southern
10 Triangle is particularly problematic because it includes one of the Mt. Hood
11 viewpoints protected and some of the properties impacted by the SW46 view
12 corridor have different height and/or FAR than the general sub-area numbers.²

13 The Scenic Resource ESEE determined the lot coverage for each site
14 based solely on the *average* lot coverage within each sub-area. Rec. 2002. The
15 ESEE provides: "A GIS analysis was run to determine the *average* lot coverage
16 within each district (see Table 1)" and Table 1 lists the average lot coverage it

² For example, the Scenic Resource ESEE applied a 200-foot base height to the entire Southern Triangle even though the actual maximum height allowed for Petitioners' property is 250. Rec. 662, 1999 & 14761-62.

1 applied to each district.³ Rec. 2001. (Emphasis added). Half of the sub-areas
2 listed in Table 1 provide ranges of lot coverage, one of which ranges as widely
3 as 47-70%, so it is not clear how the City applied these ranges to specific sites
4 or areas. Rec. 2002. The City's reliance on these district averages is
5 particularly problematic because the lot coverage was a critical component in
6 determining the extent of the economic consequences of protecting a scenic
7 resource.

8 The Scenic Resource ESEE used the same dollar and jobs per square foot
9 value for the *entire* Central City area. The ESEE analysis does not explain how
10 it arrived at these values or why it applied the same values for the entire Central
11 City area. The only explanation provided in the Scenic Resource ESEE was the
12 following: "For the Central City the *assumed* average is \$36 per square foot and
13 128 jobs per square acre." Rec. 2001. (Emphasis added). The City provided no
14 explanation, justification or support for the use of the same *assumed* values
15 throughout the entire Central City. Nor does it make sense that the dollars and

³ The City determined the lot coverage for the Southern Triangle based on a totally different methodology. After explaining that the building lot coverage are based on the averages within each sub-area, the Scenic Resources ESEE noted an exception for the Southern Triangle area: "For the area known as the Southern Triangle (bound by the railroad to the north and east, SE Powell Boulevard to the south and the Willamette River to the west), which is comprised of large sites, an estimate of 80% lot covered was assumed." Rec. 2001. The Scenic Resources ESEE does not explain *why* it used a different approach for the Southern Triangle or the basis for using 80%.

1 jobs per square foot would be the same in the Lloyd and Lower Albina areas as
2 it is in the Pearl District or Downtown areas.

3 The City relied heavily on this general area-wide approach in
4 determining the SW46 impacts on the Southern Triangle sub-area. Instead of
5 using the actual base/bonus height, FAR and lot coverage that apply to the
6 various sites impacted by SW46, the City used the same numbers for *all* of the
7 properties in the Southern Triangle - 200-foot base height, 3:1 FAR and 80% lot
8 coverage. Rec. 1999-2000 & 2002. The Scenic Resource ESEE does not
9 explain why it ignored the site specific numbers and applied general numbers
10 throughout this sub-area. The City's heavy reliance on these general sub-area
11 numbers is particularly problematic because SW46 was one of only two scenic
12 corridors protected based on an assumption that the economic impacts will be
13 low. Rec. 2004.

14 The Scenic Resource ESEE analysis does not comply with Goal 5 and the
15 implementing rules because it used the same type of area-wide approach the
16 Supreme Court rejected in *Columbia Steel Castings* and failed to provide an
17 adequate site-specific analyses of the ESEE consequences of limiting the
18 building heights in this area.

19 *c. The Scenic Resources ESEE erred by applying*
20 *different standards to the Southern Triangle sub-area.*

21 As previously explained, the Scenic Resources ESEE's approach to the
22 Southern Triangle area is particularly significant in this appeal because that is

1 where the SW46 view corridor is located, one of only two the City decided to
2 protect. The ESEE recommended protecting the SW46 view corridor in large
3 part based on the assumption it had the least economic impact among the
4 alternatives and the square footage and jobs “could be redistributed on-site due
5 to the larger block patterns.” Rec. 1812, 1814, 1836 & 2003.

6 The Scenic Resources ESEE’s approach to the Southern Triangle sub-
7 area deviated from the approach for the remaining sub-areas in almost every
8 respect. The ESEE used a different approach for determining the base height.
9 Instead of using the zoning base height for the Southern Triangle, which the
10 Scenic Resources ESEE used for the other sub-areas with height restrictions,⁴
11 the Scenic Resources ESEE applied a 200-foot base height to the entire
12 Southern Triangle sub-area. Rec. 1999. This height is significantly less than
13 the 250-foot maximum height for Petitioners’ property and similarly zoned
14 properties in the area. Rec. 662, 14761 & 14766. The sole reason provided for
15 this deviation was as follows: “there are larger ‘super’ blocks and it would be
16 possible to reconfigure these sites to have tall towers on portions of the site.”
17 Rec. 1999. However, the City did not explain why larger blocks justify using
18 something other than the zoning code base height or a 200-foot base height in

⁴ The exception was those zones that do not have a specific height restriction and therefore the City applied the FAR. Rec. 2000.

1 particular. Nor did the City provide any evidence supporting the use of a
2 different approach based solely on block sizes.

3 The Scenic Resources ESEE also used a different approach in
4 determining whether to apply the base height and/or FAR in the Southern
5 Triangle. For all of the other sub-areas the ESEE adopted “a set of rules
6 regarding site size and FAR to determine which BLI sites would not be able to
7 achieve existing base heights.” Rec. 2000. For the Southern Triangle, however,
8 the Scenic Resources ESEE applied a FAR of 3:1 without explaining why it
9 was using a different set of rules or why it elected to apply a 3:1 FAR in
10 particular. Rec. 2000. Nor did the City submit any evidence to support a
11 different approach.

12 The Scenic Resources ESEE used a completely different approach for
13 determining the building lot coverage. For all of the other sub-areas, the ESEE
14 used a GIS analysis to determine the assumed building lot coverage. Rec. 2001.
15 For the Southern Triangle, “an *estimate* of 80% lot covered was assumed.” Rec
16 2001. (Emphasis added). Once again, the Scenic Resources ESEE does not
17 explain why it used an estimate rather than the GIS analysis or why it used
18 80%. Nor did the City submit any evidence supporting an 80% lot coverage.

19 The Scenic Resources ESEE also minimized the economic impacts of
20 protecting the SW46 view corridor based on a flawed *assumption* that the
21 height could easily be transferred outside the view corridor due to the large

1 blocks. Rec. 1173. The ESEE determined that the supposedly larger sites in
2 the Southern Triangle allowed for more flexibility to move the taller buildings
3 outside the view corridor because “the view corridor occupies between 2% and
4 50% of any given site.” Rec. 1173. This statement, however, is inconsistent
5 with Figure 8 on the same page and the View Corridors with Height Restriction
6 map. Rec. 1173 & 1223. As shown on Figure 8 and the View Corridors with
7 Height Restriction map, many of the parcels will be completely or
8 predominately covered by the SW46 view corridor. Rec. 1173 & 1223. *See*
9 *also* Figure 8 from the Statement of Facts herein. The City failed to provide
10 any evidentiary support for its claim that the view corridor only impacts small
11 portions of the affected sites or that the larger sites in the Southern Triangle
12 have more flexibility to accommodate the height restrictions.

13 Nor did the City explain why a large block size would allow for the
14 transfer of building height when many of the parcels sizes are smaller and under
15 different ownership. The parcel sizes, not the block sizes, have a more
16 significant impact on the ability to transfer height outside the view corridor.
17 The View Corridors with Height Restriction map shows that many of the blocks
18 within the SW46 view corridor contain multiple smaller parcels. Rec. 1223. The
19 City provided no evidence to support its claim that the economic impacts will
20 be mitigated due to larger block sizes when the individual parcels are under
21 different ownership.

1 The City's failure to adequately explain or submit evidence justifying a
2 completely different approach to the Southern Triangle sub-area is particularly
3 problematic because the City decided to protect the SW46 view corridor based
4 primarily on the claim that the economic impacts would be minimal and the
5 least among the Mt. Hood view corridors. Rec. 1812, 1814, 1836 & 2003. If
6 the economic impacts are artificially low due to the unique approach applied to
7 the Southern Triangle sub-area, which is the case, the City Council would likely
8 have changed its decision with respect to SW46 since it decided not to protect
9 the vast majority of the Mt. Hood view corridors due predominately to the loss
10 of too much building square footage and jobs. Rec. 1812 & 1814. At a
11 minimum, the City's decision must be remanded to require the City to justify
12 why it applied such a different methodology to the Southern Triangle and to
13 provide evidence supporting this disparate treatment and the underlying
14 assumptions.

15 *d. The City failed to consider relevant factors and*
16 *evidence of additional constraints in the Southern*
17 *Triangle that demonstrate a more significant*
18 *economic impact from SW46.*

19 As the Oregon Supreme Court noted in *Columbia Steel Castings*, the
20 Goal 5 implementing rules require the ESEE analysis to be an ongoing process
21 that takes into account public comments and makes adjustment as new
22 information and evidence is obtained. *Columbia Steel Castings*, 314 Or at 431-
23 32. OAR 660-016-0020(2) expressly requires an interactive public process:

1 “[a]s the Goal 5 process progresses and more specificity about the nature of
2 resources, identified conflicting uses, ESEE consequences and implementing
3 measures is known, notice and involvement of affected parties will become
4 more meaningful.” OAR 660-016-0020(2) emphasizes that “such notice and
5 landowner involvement, although not identified as a Goal 5 requirement is in
6 the opinion of the Commission, [is] imperative.” At a minimum, the local
7 government is required to consider relevant comments and evidence, and take
8 such information into account in evaluating the ESEE analysis.

9 Throughout the Central City 2035 process, Petitioners raised a number of
10 concerns with the Scenic Resources ESEE and submitted substantial evidence
11 demonstrating that the ESEE methodology underestimated the impacts of
12 protecting scenic view corridors, in particular SW46. Rec. 8008-13127, 14760-
13 66, 25221-22, 25282-87, 51537-41 & 51571-79. Petitioners demonstrated that
14 the Scenic Resources ESEE analysis failed to account for a number of
15 development constraints that will prohibit or significantly limit the ability to
16 develop the properties if the SW46 viewpoint height restriction is imposed. As
17 a result, the ESEE significantly underestimated the economic impacts of
18 protecting this scenic viewpoint because it failed to account for *any* constraints
19 on the affected properties other than the height restriction. Although
20 Petitioners’ comments were specific to their property and the SW46 viewpoint,

1 many of these same issues are applicable to other properties and viewpoints
2 addressed in the Scenic Resources ESEE.

3 Perhaps the most significant issue Petitioners raised was the Scenic
4 Resources ESEE's failure to consider the substantial environmental remediation
5 costs required to develop Petitioners' property. Petitioners submitted extensive
6 evidence demonstrating that the environmental remediation costs to develop the
7 property are approximately five million dollars (\$5,000,000) and the
8 redevelopment of the property is only feasible if those large costs can be
9 absorbed. Rec. 8044-12281, 12975, 13094-98, 14761-62. Petitioners provided
10 detailed analyses showing that the property cannot absorb these environmental
11 remediation costs if a 60-foot height limit is imposed to protect SW46. Rec.
12 12975, 13094-98, 14761-62. This evidence demonstrates that a 60-foot height
13 restriction will prohibit *any* development of the property because it will be cost
14 prohibitive in light of the environmental remediation costs. The City did not
15 refute or respond to this evidence.

16 The impact of prohibiting development on Petitioners' property alone
17 significantly changes the overall economic impacts of protecting the SW46
18 viewpoint. Using the ESEE methodology and the 3:1 FAR that the City applied
19 to properties in the Southern Triangle, the impact of prohibiting development
20 on Petitioners' property alone would result in the loss of 386,685 square feet of

1 building space, \$13,920,660 of development value and 1,933 jobs.⁵ These
2 numbers exceed the lost square footage, development value and jobs the ESEE
3 assumed for *all* of the properties impacted by the SW46 viewpoint by a
4 substantial margin.⁶ Rec. 2003.

5 Although Petitioners' evidence was specific to their property, the
6 potential for environmental remediation constraints on other properties
7 impacted by the SW46 viewpoint is high. The properties in the Southern
8 Triangle consists predominately of industrial land. Rec. 2748. The industrial
9 nature of this area make it more likely that the other affected properties have
10 similar environmental issues. At a minimum, the City was required to evaluate
11 if other impacted properties in the Southern Triangle have similar
12 environmental remediation issues that constrain their development or
13 redevelopment based on the information Petitioners submitted.

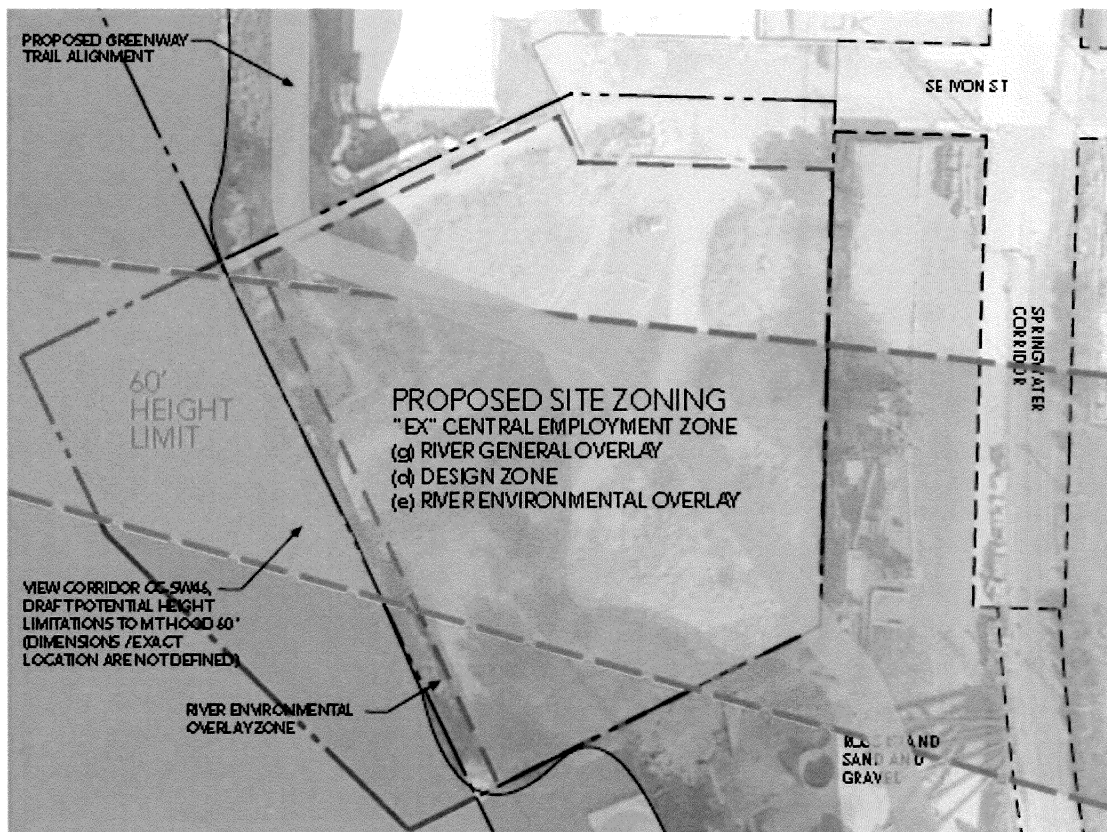
14 Notwithstanding this unrefuted evidence that environmental constraints
15 will significantly exacerbate the economic impacts of protecting the SW46
16 viewpoint, the City ignored this information and failed to look into it. The City

⁵ These numbers are based on the overall size of the property of 128,895 square feet and using the City's \$36 per square foot and 1 job per 200 square foot assumptions. Rec. 12312 & 13094.

⁶ The Scenic Resources ESEE assumed the overall impact of SW46 would result in the loss of 218,168 square feet of building space, \$7,854,048 development value and 1,093 jobs. Rec. 2003.

1 did not acknowledge, respond to or factor in this significant issue into the
2 Scenic Resources ESEE.

3 The City similarly ignored other property constraints that will limit the
4 ability to locate buildings outside the view corridor and/or develop Petitioners'
5 property in an economically feasible manner. Petitioners demonstrated that the
6 River Environmental Overlay zone and 50-foot Willamette River setback
7 imposed on the property as part of the CC2035 Plan will significantly limit the
8 ability to develop the riverside portion of the property. Rec. 12291, 14763 &
9 14766. The CC2035 Plan also imposed a major public trail or "greenway trail"
10 right through the center of Petitioners' property. Rec. 25284. The property also
11 has a number of access and utility easement that will further constrain
12 development. Rec. 8024-8026. Petitioner submitted the following graphic
13 showing the impact of the height restriction and all of these other constraints on
14 the property:



1

2 Rec. 12291. Once again, the City did not acknowledge, respond to or factor in
 3 any of these issues in determining the impact of protecting the SW46 viewpoint.
 4 Other properties affected by the SW46 viewpoint likely have similar
 5 development constraints which the Scenic Resources ESEE failed to take into
 6 account as well.

7 The City failed to consider relevant comments and evidence, and take
 8 such information into account in evaluating the Scenic Resources ESEE
 9 analysis. Petitioners demonstrated that the ESEE analysis failed to account for
 10 several development constraints and therefore significantly underestimated the
 11 economic impacts of protecting the SW46 scenic viewpoint. At a minimum,
 12 Goal 5 requires the City to consider this evidence and determine if it warrants

1 adjustments or a change to the ESEE recommendations. The City's failure to
2 even consider this evidence, let alone respond to it, is inconsistent with the Goal
3 5 requirement to consider public comments and make adjustments as new
4 information and evidence is obtained. *Columbia Steel Castings*, 314 Or at 431-
5 32; OAR 660-016-0020(2).

6 *e. The City failed to consider or respond to unrefuted*
7 *evidence of a mapping error with the SW46 view*
8 *corridor.*

9 Petitioners submitted unrefuted evidence that the Scenic Resources ESEE
10 evaluated the wrong location for the SW46 viewpoint area. ZGF Architects
11 identified significant discrepancies between the Mt. Hood view corridor and the
12 location of the SW46 view corridor adopted as part of the Scenic Resources
13 ESEE. Rec. 12976-85. ZGF Architects explained its analysis and conclusion
14 as follows:

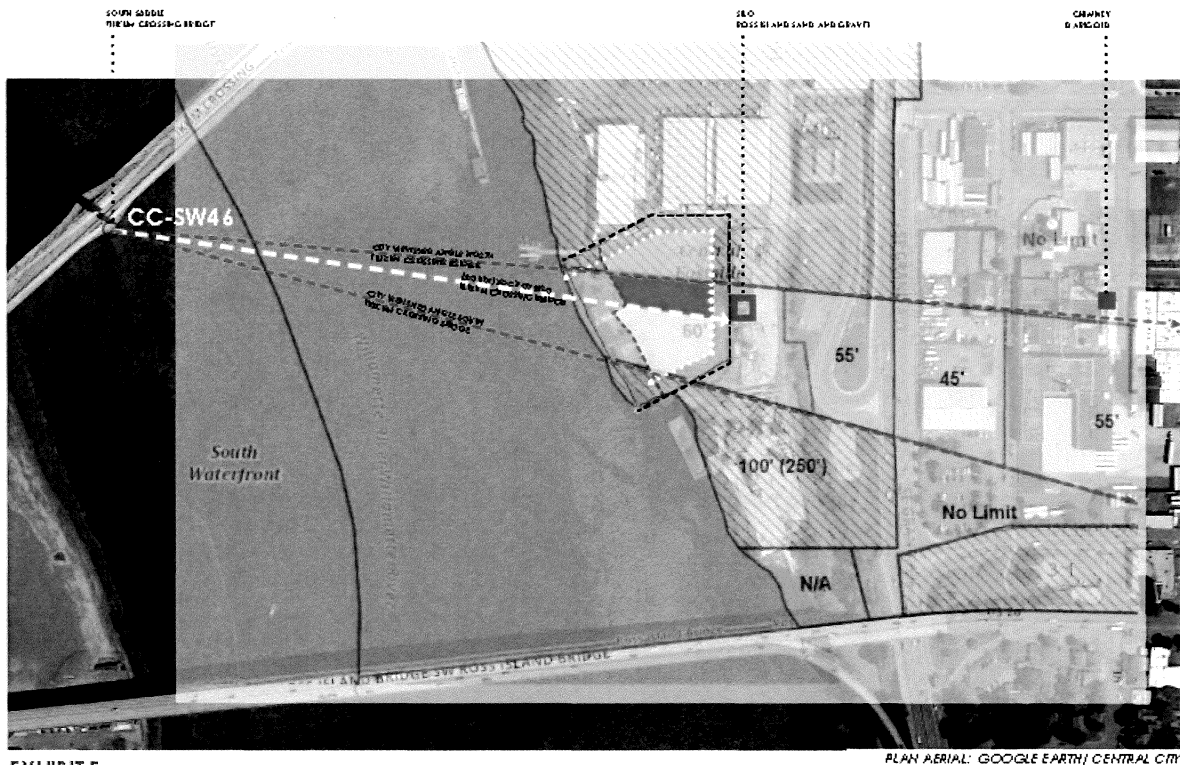
15 We have provided recent photos and a 3-D model view aligned
16 with SRPP views of Mount Hood to verify accuracy of the view of
17 Mount Hood from SW46. The locations of Mount Hood, Ross
18 Island Sand and Gravel silos, Darigold chimney tower and Esco
19 chimney tower from SW46 are aligned in all views. Using the
20 Darigold chimney tower and the Ross Island Sand and Gravel Silo
21 as datum points, we compared the view of Mount Hood that is
22 proposed for protection in the SRPP and the location of the
23 mapped height limits on the Chapter 510 maps that implement this
24 view protection. We found that the northern boundary of the view
25 corridor cone on the 510 maps appears to be approximately
26 midway between the Darigold tower and the Ross Island Sand and
27 Gravel Silos, significantly north of the edge of Mount Hood in this
28 view. *Due to what appears to be a potential mapping error, the*
29 *Chapter 510 mapped height restrictions for viewpoint SW46*
30 *appear to also protect a view of the Ross Island Sand and Gravel*

Silo, adjacent to Mount Hood. Because the view protection area stretches too far north, the proposed height limits appear to impact the Ivon Street property to a greater extent than is necessary to protect the intended view of Mount Hood from SW46.

* * * * *

The conflicting information relative to the view corridor has a meaningful influence on the future development at 306 SE Ivon Street and potentially other properties within the view shed.” Rec. 12976-12977. (Emphasis added).

As shown on the attached ZGF Architects' graphic, the mapping error is significant and will impact the development potential of the property substantially beyond the impact of the accurate SW46 view corridor:



Rec. 12984. The City did not respond to or refute ZGF Architects' analysis.

There is no evidence to the contrary. Notwithstanding this substantial evidence

1 that the City mapped the SW46 viewpoint in the wrong location, the City
2 ignored it and did not make any adjustment to the SW46 mapping.

3 The City's decision to protect the SW46 viewpoint cannot be supported
4 by substantial evidence if the City mapped the wrong location. Since there is
5 unrefuted evidence that the City mapped the wrong location and relied on this
6 error as part of the ESEE, the City's Scenic Resources determination must be
7 remanded.

8 The CC2035 Plan violates Goal 5 and the implementing regulations for
9 the reasons stated above, and is not supported by adequate findings or
10 substantial evidence in the record. Therefore, LUBA should reverse or remand
11 the City's decision for failing to comply with Goal 5.

12 **B. Second Assignment of Error**

13 *The CC2035 Plan violates Statewide Planning Goal 10 and the*
14 *regulations that implement the Goal in several respects.*

15 1. Preservation of Error.

16 Since the challenged decision is a legislative land use decision, the
17 principles of preservation that govern a quasi-judicial decision, e.g., the "raise it
18 or waive it" requirements of ORS 197.763(1), do not apply. *Columbia Pacific*
19 *Building Trades Council v. City of Portland, supra; DLCD v. Columbia County,*
20 *supra*, 24 Or LUBA at 36 (1992). Nonetheless, Petitioners raised the issues and
21 arguments set forth in this assignment of error below. Rec. 8008-09, 14760-66,
22 25221-22, 25280-87, 51537-42, 51571-79.

1 2. Standard of Review.

2 Petitioners incorporate the Standard of Review section in the First
3 Assignment of Error herein.

4 3. Argument.

5 Statewide Planning Goal 10 and its implementing administrative rules
6 require local governments to inventory the buildable residential lands within
7 their UGB's and ensure that the supply of such buildable lands is adequate to
8 meet the local government's anticipated housing needs. Goal 10; ORS 197.295-
9 197.314; OAR 660-008-0010; *Lengkeek v. City of Talent*, 50 Or LUBA 367,
10 371 (2005). For purposes of demonstrating that the CC2035 Plan complies with
11 Goal 10, the City relied on the Buildable Lands Inventory (“BLI”) previously
12 adopted by the City pursuant to Ordinance 187831. Rec. AR-14. The City
13 concluded that the CC2035 Plan complies with Goal 10 because the BLI
14 concluded that the Central City has adequate capacity to meet the housing
15 projections and the CC2035 Plan rezoned certain areas in the Central Eastside
16 from employment to Central Employment (“EX”) and from Central Residential
17 (“RX”) to Central Commercial (“CX”). Rec. AR-14 - AR-15. The relevant
18 City Council findings provided:

19 As for CC2035, the BLI found that the existing zoning in the
20 Central City can provide capacity to meet the housing projections
21 for the year 2035. However, the plan results in the rezoning of
22 former employment land in the Central Eastside to a mixed-use
23 land (EX) that has produced thousands of units in the Pearl and
24 elsewhere in the Central Eastside. The plan also proposes rezoning

1 Central Residential (RX) land to Central Commercial (CX) which
2 has produced far more housing than the RX zone over the last 25
3 years. Rec. AR-14 – AR-15.

4 There are several problems with the City’s rationale and findings.

5 First, the BLI is not part of the CC2035 Plan record and therefore cannot
6 be used as a basis to support the City’s Goal 10 findings. In order for the BLI
7 to be part of the record, it must have been “specifically incorporated into the
8 record or placed before, and not rejected by, the final decision maker, during
9 the course of the proceedings before the final decision maker.” *Bender v. City*
10 *of Nehalem*, 77 Or LUBA 592, 594 (2018). The mere fact that the City
11 referenced the BLI in its decision is insufficient to make that document part of
12 the evidentiary record. *Id.*; *Tualatin Riverkeepers v. ODEQ*, 51 Or LUBA 826,
13 829 (2006). The BLI is the primary basis for the City’s conclusion that the
14 CC2035 Plan satisfies Goal 10.⁷ Rec. AR-14. Since the primary evidentiary
15 support for the City’s Goal 10 determination it is not part of the record, the
16 City’s Goal 10 decision is not supported by substantial evidence in the record.
17 *Id.*

18 Second, the City failed to adequately demonstrate that the Central City
19 can continue to meet the housing needs identified in the BLI with the significant

⁷ The City’s findings also reference two GIS models, the Buildable Lands Inventory and Growth Allocation GIS Model 5/24/16 and 9/07/16, but neither of those documents are part of the record either. Rec. AR-14. The only GIS model in the record is the 4/22/16 GIS model. Rec. 4957.

1 changes to the zoning in the Central Eastside area. Because the City adopted
2 and relied on the BLI to ensure that its Comprehensive Plan and land use
3 regulations comply with Goal 10, it must ensure that the assumptions in the BLI
4 remain valid when it later amends its Comprehensive Plan and land use
5 regulations. *4-J Land Co., LLC v. City of Sandy*, 50 Or LUBA 525, 534-35
6 (2005). The City failed to do so. The City's rezone of residential properties
7 (RX) to commercial (CX) is particularly suspect since the presumption is that
8 the change from residential to commercial zoning would reduce the amount of
9 housing in these areas. Absent some evidence or analysis to prove otherwise,
10 the City cannot assume the opposite. The City's mere claim that EX and CX
11 zoned properties have "produced far more housing than the RX zone over the
12 last 25 years" is not supported by sufficient evidence or analysis in the record.
13 Rec. AR-15. Similarly, the City's mere statement that "[a]nalysis demonstrated
14 that these amendments will be sufficient to allow approximately 39,500 units to
15 be developed through the life of the plan" is insufficient. The City does not
16 identify what "analysis" it relied on and there is no such analysis in the record.

17 Third, the City failed to analyze or account for the impact of the SW46
18 view corridor height restriction and other scenic view corridors adopted as part
19 of the CC2035 Plan. As explained in the First Assignment of Error, the SW46
20 view corridor will significantly reduce the height of buildings in the affected
21 portion of the Central Eastside district. There is no indication or evidence that

1 the City considered the loss of this development opportunity into its housing
2 projections.

3 Fourth, the City failed to address or account for the fact that the CC2035
4 Plan prohibits or significantly restricts residential uses on certain EX zoned
5 properties, including vacant or underdeveloped property that the BLI relied on
6 for fulfilling housing needs. For example, Petitioners' property is specifically
7 listed in the BLI as a vacant land and assumed to provide for residential uses,
8 but it is one of the EX zoned properties in the Central Eastside area in which
9 residential uses are prohibited. Rec. 369-70, 667 & 670. Although residential
10 uses are allowed in the OMSI Station Area, they are only allowed through a
11 Central City Master Plan. Rec. 369. The City failed to analyze or account for
12 these residential prohibitions and restrictions in the Lower Albina and Central
13 Eastside subareas.

14 Fifth, the City's decision to prohibit residential uses on Petitioners'
15 property and similar EX zoned properties is inconsistent with some of the
16 City's core Goal 10 findings and is not supported by substantial evidence. The
17 City explained the rationale for restricting residential uses on these properties as
18 follows:

19 This provision establishes residential use restrictions in the EX
20 zone in portions of the Lower Albina and Central Eastside
21 subdistricts where an emphasis on employment uses is desired.
22 These restrictions reduce the chance for conflicts between
23 residential uses and industrial and employment uses. Rec. 369-70.

1 The City’s claim that these portions of the Central Eastside subdistrict are areas
2 “where an emphasis on employment uses is desired” totally contradicts the
3 City’s key Goal 10 finding that the EX zoning will produce more housing than
4 residential zoned property. The City’s claim that this prohibition against
5 residential uses is necessary to reduce conflicts with industrial and employment
6 uses is not supported by substantial evidence in the record. Petitioners’
7 property, one of the properties subject to this residential prohibition, is adjacent
8 to other EX zoned properties that were not similarly restricted. Rec. 667 & 670.
9 The City failed to explain or justify why it elected to prohibit residential uses on
10 Petitioners’ property and surrounding properties when it imposed no residential
11 restrictions on adjacent EX zoned properties.

12 The CC2035 Plan violates Goal 10 and the implementing regulations for
13 the reasons stated above, and is not supported by adequate findings or
14 substantial evidence in the record. Therefore, LUBA should reverse or remand
15 the City’s decision for failing to comply with Goal 10.

16 **C. Third Assignment of Error**

17 *The CC2035 Plan is inconsistent with several transit-oriented*
18 *development Comprehensive Plan policies and the City failed to adopt*
19 *adequate findings in violation of Goal 2 and ORS 197.175(2)(d).*

20 1. Preservation of Error.

21 Since the challenged decision is a legislative land use decision, the
22 principles of preservation that govern a quasi-judicial decision, e.g., the “raise it

1 or waive it” requirements of ORS 197.763(1), do not apply. *Columbia Pacific*
2 *Building Trades Council v. City of Portland, supra; DLCD v. Columbia County,*
3 *supra*, 24 Or LUBA at 36 (1992). Nonetheless, Petitioners raised the issues and
4 arguments set forth in this assignment of error below. Rec. 8008-09, 14760-66,
5 25221-22, 25280-87, 51537-42, 51571-79.

6 2. Standard of Review.

7 Petitioners incorporate the Standard of Review section in the First
8 Assignment of Error herein. Additionally, under Goal 2 and ORS
9 197.175(2)(d), the CC2035 Plan must be consistent with the existing goals and
10 policies of the Comprehensive Plan and applicable policies. *Neste Resins Corp.*
11 *v. City of Eugene*, 23 Or LUBA 55, 60 n.6 (1992); PCC 33.810.050(B).

12 3. Argument.

13 The Comprehensive Plan contains several transit-oriented development
14 policies that encourage dense mixed-use development in areas close to transit
15 stations, in particular residential development. Comprehensive Plan policies
16 3.2, 3.53, 3.58 & 3.59. Comprehensive Plan policy 3.2 requires the City to:

17 Direct the majority of growth and change to centers, corridors, and
18 transit station areas, allowing the continuation of the scale and
19 characteristics of Portland’s residential neighborhoods.

20 Comprehensive Plan policy 3.53 requires the City to:

21 Encourage transit-oriented development and transit-supportive
22 concentrations of housing and jobs, and multimodal connections at
23 and adjacent to high-capacity transit stations.

1 Comprehensive Plan policy 3.58 requires the City to:

2 Encourage concentrations of mixed-income residential
3 development and supportive commercial services close to transit
4 neighborhood stations. Transit neighborhood stations serve mixed-
5 use areas that are not in major centers.

6 Comprehensive Plan policy 3.59 requires the City to:

7 Enhance connections between major destinations and transit
8 facilities and strengthen the role of these station areas as places of
9 focused activity.

10 In response to all of these transit-oriented policies, the City findings
11 highlight the importance of up-zoning properties and allowing for increased
12 FAR and height in areas near transit stations to accommodate more dense
13 mixed uses development, in particular residential development. The findings
14 repeatedly reference and highlight the implementation of these policies in the
15 OMSI Station Area, noting that this area includes a number of vacant and
16 under-utilized properties. The City findings in response to policy 3.2 provide:

17 CC2035 proposed *FAR increases as well as height entitlements*
18 throughout the Central City, with an *emphasis on* the transit mall
19 and new University Place, *OMSI, Clinton station area*. These
20 amendments, as shown on Maps 510-2, 510-3, and 510-4 of the
21 Central City Plan District (Volume 2A, Part 1 of the revised
22 Recommended Draft of CC2035) were *specifically intended to*
23 *increase development densities in the Central City, with a further*
24 *emphasis on incenting residential densities*. During various points
25 in their review of CC2035, Council proposed *additional height and*
26 *FAR amendments* stating that these increased entitlements and
27 bonus opportunities could result in *additional housing that would*
28 *help to increase the supply of housing within the city*. Thus, these
29 amendments increasing development potential are consistent with
30 this policy direction. Rec. AR-50. (Emphasis added).

1 The City findings in response to policy 3.53 provide:

2 Nearly all districts in the Central City have key station areas that
3 are supported by transit-oriented development (TOD). CC2035
4 continues to support redevelopment in and near these station areas
5 with TOD, and *specifically addresses the inclusion of TOD at*
6 *recently created station areas along the Max Orange Line in the*
7 *University/South Downtown, South Waterfront, and Central*
8 *Eastside Districts. An example of this can be found within the*
9 *OMSI Station Area, where vacant and underutilized lands zoned*
10 *for lower density employment and light industry use have been up-*
11 *zoned to allow for these uses, as well as a mix of office, retail, and*
12 *housing as a conditional use. This area now also enjoys greater*
13 *maximum FAR and heights, which will allow a denser and greater*
14 *mix of uses to exists in the TOD at this station. Rec. AR-57.*
15 (Emphasis added).

16 The City findings in response to policies 3.58 and 3.59 provide:

17 Many of the existing stations in the Central City are located at
18 areas with key regional attractions, such as OMSI, the Moda
19 Center, and the Saturday Public Market. Some of these stations
20 have long enjoyed high-density mixed-use zoning, that includes
21 affordable and market rate housing as well as mix of retail and
22 employment uses. However, *in situations where redevelopment*
23 *around these stations has been slow to occur, or where zoning*
24 *limitations restricted TOD at these locals, CC2035 proposes new*
25 *base zones, higher development entitlements, and sometimes the*
26 *creation of Central City Master Plans, that will in part be used to*
27 *leverage the development of a dense mix of uses at and adjacent to*
28 *these stations, consistent with Policy 3.58 and 3.59. Rec. AR-58.*
29 (Emphasis added).

30 Although Petitioners' property and surrounding properties are near transit
31 stations, walking distance to the SE Water transit station and served by the
32 MAX Orange Line, streetcar and several bus lines, and adjacent to the OMSI
33 Station Area, the CC2035 Plan takes the complete opposite approach with
34 respect to these properties. Rec. 3943 & 14762. The CC2035 Plan imposes

1 severe building height restrictions on Petitioners' property and surrounding
2 properties, which will significantly limit the size and density of the
3 development that would otherwise be allowed on these properties. Rec. 1173.

4 The CC2035 Plan prohibits residential uses on Petitioners' property and
5 surrounding properties. Rec. 369-70 & 667, 670. The CC2035 Plan
6 significantly limits the amount of retail use on Petitioners' property and
7 surrounding properties. Rec. 347-48 & 692.

8 The City's imposition of severe development restrictions on these transit-
9 oriented development properties is inconsistent with these Comprehensive Plan
10 policies, and the findings are inadequate, for two reasons. First, the City's
11 imposition of significant development restrictions on these properties is
12 inconsistent with the express language of the policies because these properties
13 are near transit stations and the City's development restrictions are directly
14 contrary to the requirement to encourage dense mixed-use residential
15 development. The City findings for these policies do not acknowledge or
16 attempt to reconcile this inconsistency. At a minimum, the City was required to
17 explain why it did not adhere to these policies with respect to Petitioners'
18 property and surrounding properties and attempt to justify a deviation from
19 these policies.

20 Second, the City's findings are internally inconsistent. If a local
21 government's findings are internally inconsistent or conflict with one another,

1 and that inconsistency or conflict is not reconciled in the decision, the findings
2 are inadequate to support the local government's determinations of compliance
3 or consistency with the applicable criteria or policies. *Monogios v. City of*
4 *Pendleton*, 44 Or LUBA 576 (2003); *Doob v. Josephine County*, 27 Or LUBA
5 293 (1994). The City failed to reconcile the fact that it imposed substantial
6 development restrictions on properties that are adjacent to and similarly situated
7 to the area (OMSI Station Area) specifically referenced and highlighted in its
8 findings. At a minimum, the City must reconcile why it imposed development
9 restrictions on these similarly situated transit oriented properties that will result
10 in the opposite of what is called for in these policies in light of the findings
11 regarding the adjacent OMSI Station Area.

12 The imposition of severe development restrictions on Petitioners'
13 property and similarly situated surrounding properties is inconsistent with these
14 Comprehensive Plan policies and the City failed to adequately address this
15 inconsistency or discrepancy in the findings, and therefore the decision must be
16 remanded.

1

2

3

DATED this 17th day of May, 2019.

HATHAWAY LARSON LLP

By:

E. Michael Connors, OSB# 954956
Of Attorneys for Petitioners

**CERTIFICATE OF COMPLIANCE WITH BRIEF LENGTH
AND TYPE SIZE REQUIREMENTS**

Brief Length:

I certify that (1) this brief complies with the word-count limitation in OAR 661-010-0030(2) and (2) the word count of this brief as described in OAR 661-010-0030(2) is under 11,000 words.

Type Size:

I certify that the size of the type in this brief is not smaller than 14 point for both the text of the brief and footnotes as required by OAR 661-010-0030(2).

DATED this 17 day of May, 2019.



E. Michael Connors, OSB # 954956

Of Attorneys for Petitioners

APPENDIX

Volume 2A, Zoning Code and Map Amendments, Part 1, PCC 35.510 Commentary (Rec. 369-70)	App-1-2
Volume 2A, Zoning Code and Map Amendments, Part 1, Map 510-4 (Rec. 662)	App-3
Volume 2A, Zoning Code and Map Amendments, Part 1, PCC 33.510 Commentary (Rec. 667)	App-4
Volume 2A, Zoning Code and Map Amendments, Part 1, Map 510-6 (Rec. 670)	App-5
Volume 3A, Scenic Resources Protection Plan, Part 1 River Views (Rec. 1169-74)	App-6-11
Volume 3A, Scenic Resources Protection Plan, Part 1 Map A (Rec. 1223)	App-12
Volume 3A, Scenic Resources Protection Plan, Part 3 Table 2 (Rec. 1812-1814)	App-13-15
Volume 3A, Scenic Resources Protection Plan, Part 3 Table 4 (Rec. 1836)	App-16
Volume 3A, Scenic Resources Protection Plan, Part 3 Step 2 (Rec. 1999-2004)	App-17-22
SE Quadrant Plan, Map III-1 (Rec. 2735)	App-23
SE Quadrant Plan, Map III-13 (Rec. 2748)	App-24
ZGF Architects Ivon Street Impact Map (Rec. 12291)	App-25
ZGF Architects Exhibit E (Rec. 12984)	App-26

Commentary

33.510.120 Retail Sales And Service and Office Uses in Specified Historic Resources in the IH Zone. This section removes the reference to the IG2 zone, which no longer exists in the Central City.

33.510.121 Residential Use Restrictions in the EX zone

This provision establishes residential use restrictions in the EX zone in portions of the Lower Albina and Central Eastside subdistricts where an emphasis on employment uses is desired. These restrictions reduce the chance for conflicts between residential uses and industrial and employment uses.

Map 510-6 Special Residential Use Areas shows:

- 1) Residential Uses Prohibited.
Includes IG1 (EX) land in Lower Albina and EX zoned land in the OMSI Station Area south of Caruthers and west of OR-99E, properties bounded by SE Woodward and Powell Streets to the north and south and OR-99E and SE Milwaukie Ave to the west and east.
- 2) Residential Uses Allowed through a Central City Master Plan.
This includes the OMSI Station Area bounded by SE Caruthers and SE Clay St to the south and north and Water Ave/Union Pacific Rail Line/OR-99E to the east.

33.510.200-210. These sections have been reorganized as follows:

33.510.200 - Floor Area Ratios

22.510.205 - Floor Area Bonuses and Transfer Options

33.510.210 - Height

Floor area bonuses and transfers have been overhauled to focus on affordable housing and historic preservation. An explanation for the elimination of bonuses and transfers can be found on the strikethrough pages that follow the provisions.

33.510.200 Floor Area Ratios

A. Purpose. The purpose statement clarifies that maximum floor area ratios (FARs) are set based on balancing several different objectives that may vary in importance in different parts of the Central City. FAR is the relationship of building floor area

33.510.11920 Retail Sales And Service and Office Uses in Specified Historic Resources in the IG2 and IH Zones

- A. Where these regulations apply.** The regulations of this subsection apply in the IG2 and IH Zones to historic resources that are listed on the National Register of Historic Places or to structures or objects that are identified as contributing to the historic significance of a Historic District or a Conservation District.
- B. Allowed uses.** Up to 12,000 square feet on a site may be in Retail Sales And Service or Office use. The total amount of square footage includes net building area, exterior display, and storage area of all Retail Sales And Service and Office uses on the site. More than 12,000 square feet on a site in Retail Sales And Service uses is prohibited.
- C. Conditional uses.** More than 12,000 square feet on a site may be in Office uses if approved through a conditional use. The total amount of square footage includes net building area, exterior display, and storage area of Office uses on the site. If there are also Retail Sales And Service uses on the site, no more than 12,000 square feet may be in Retail Sales And Service use.

33.510.121 Residential Uses in the EX zone

- A. Purpose.** Residential uses are restricted in portions of the EX zone in the Lower Albina and Central Eastside subdistricts in order to avoid conflicts between residential and industrial activities.
- B. Residential use restrictions.**
 - 1. Residential uses are prohibited in the areas shown on Map 510-6.
 - 2. Residential uses are only allowed through a Central City Master Plan in the areas shown on Map 510-6.

Development Standards

33.510.200 Floor Area Ratios

- A. Purpose.** Floor area ratios (FARs) work with the height, setback, and building coverage standards to control the overall bulk of development. Generally, the highest FARs in Portland are applied in the Central City plan district to support its role as the region's premier center for jobs, health and human services, and urban living. The minimum FARs required in the Central City plan district are intended to ensure a minimum level of development on a vacant site, ensure that not all development potential is transferred off a site, and ensure redevelopment of under-utilized sites. The maximum FARs allowed in the Central City plan district balance multiple objectives of the Central City 2035 Plan including:
 - Locating the largest floor area ratios along the Transit Mall and high-capacity transit lines;

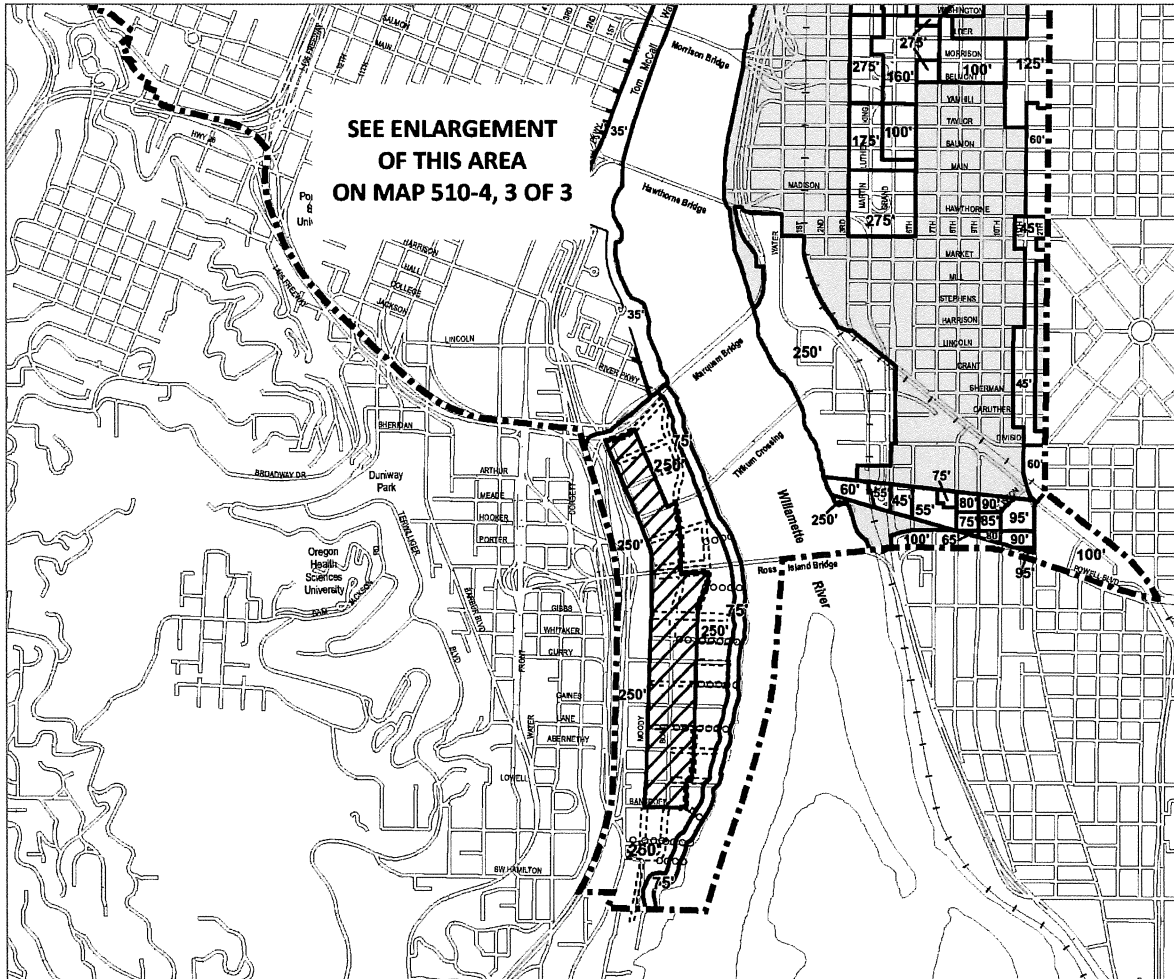
Chapter 33.510, Central City Plan District

Bonus Heights

Map 510-4

Map 2 of 3

Map Revised Xxxxx XX, 201X



Legend

- Central City Plan District boundary
- Maximum bonus height
- Areas where height is determined by base zone
- Area where residential required
- Proposed right-of-way
- Proposed accessways
- Areas where a shadow analysis is required
- Unlimited height allowed
- Area eligible for additional height under 33.510.210.D.2



Scale in Feet
Bureau of Planning and Sustainability
Portland, Oregon

Chapter 33.510, Central City Plan District

Commentary

Map 510-6 Special Residential Use Areas (Previously Map 510-5 Required Residential Development Areas)

Required Residential Development Areas

The required residential provision has been removed from portions of Goose Hollow, the Lloyd District and University District/South Downtown, to allow greater development flexibility in those area.

Other Residential Use Restrictions Added

The following regulations on residential uses were added to the map to promote employment uses and minimize land use conflicts:

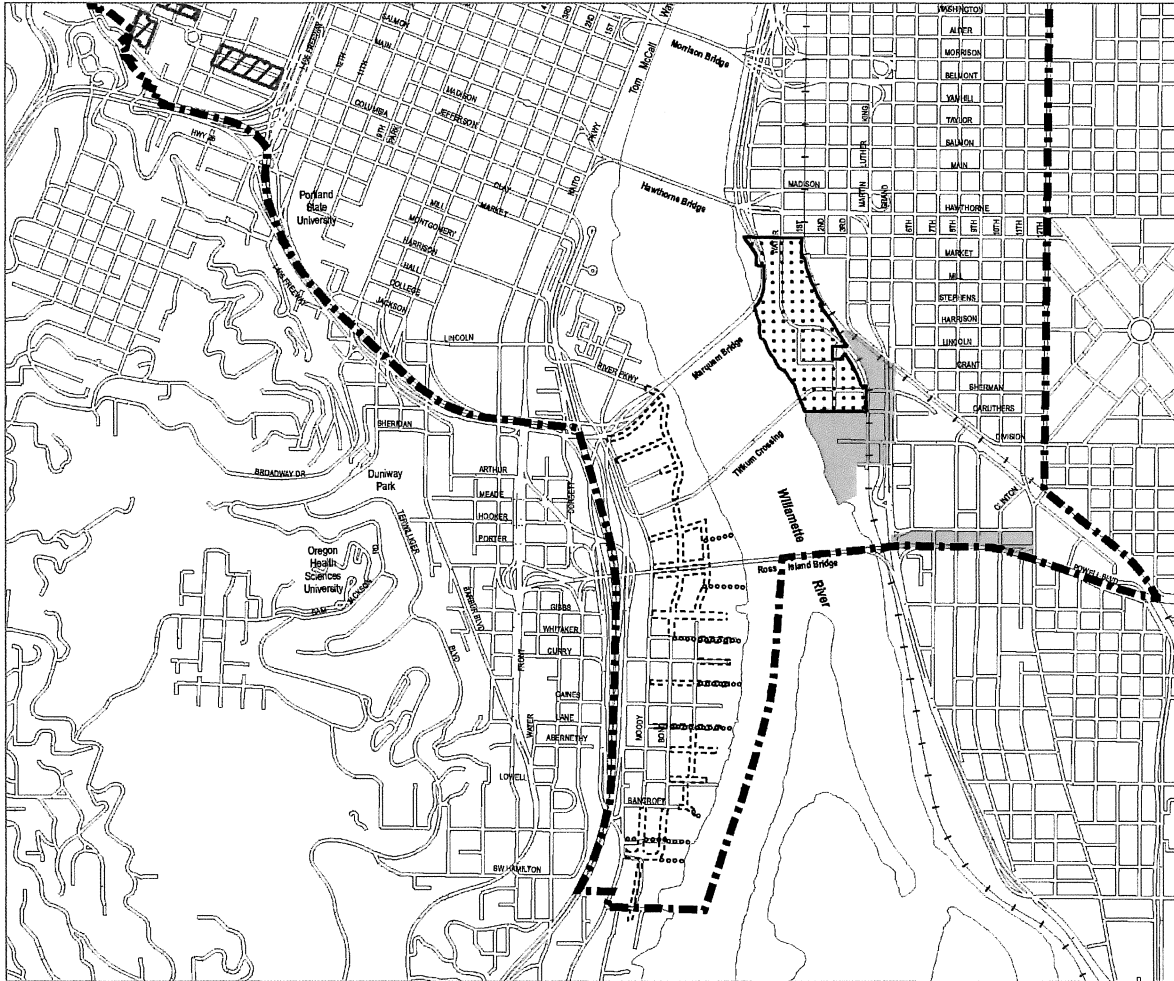
- "Residential uses prohibited" is applied to an area receiving an EX Comprehensive Plan designation in Lower Albina to prohibit residential uses when the area is rezoned to EX in order to minimize potential land use conflicts;
- "Residential uses prohibited" is applied to a portion of the area receiving EXd zoning in the Central Eastside in order to minimize potential land use conflicts; and
- "Residential uses require a Central City Master Plan" is applied to an area north of the new OMSI MAX light rail station that was previously designated EG.

Special Residential Use Areas







Map 510-6

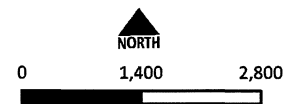
Map 2 of 2

Map Revised XXXXX XX, 201X



Legend

-  Central City Plan District boundary
-  Required residential development area
-  Residential uses prohibited
-  Residential uses require a Central City Master Plan
-  Proposed right-of-way
-  Proposed accessway



Scale in Feet
Bureau of Planning and Sustainability
Portland, Oregon

Chapter 33.510, Central City Plan District

C. River Views

River views are views where the Willamette River is a primary focal feature of the view. The view may also include other primary focal features, such as the Central City skyline. All river views received a high relative rank by the experts as part of the inventory. The recommendations for river views are summarized into the following categories:

1. Views of Mt Hood
2. Views of Willamette River Bridges and the Central City Skyline

Views of Mt Hood

There are multiple locations along the western riverbank where one can see Mt Hood. This occurs today because building heights in the Central Eastside have been historically low, supporting primarily industrial uses. It is anticipated that new development, with an evolving focus on high tech and creative industrial uses, will result in buildings that are taller. In addition, there is a lot of potential along Martin Luther King Jr. and Grand Boulevards for tall commercial buildings. Buildings located in the Central Eastside with heights more than three to four stories will have the potential of blocking a view from the western riverbank to Mt Hood.

Views of Mt Hood are a high priority for protection in the Central City. Mt Hood is a defining feature for Portland and views of Mt Hood attract tourists. There are a total of 10 viewpoints where there is a view of Mt Hood today – including five along the Greenway Trail and five located on bridges.

Staff performed an economic analysis of each of the views of Mt Hood from the Greenway Trail and bridges to determine if it would be possible to protect one or two views without creating a significant economic impact on redevelopment in the Central Eastside. The result of the economic analysis is that, due to the low elevation of the viewpoints along the riverbank, all of the view corridors would require significant limitations on building heights. The potential economic impact ranges from \$8M-\$37M and from 1,100 to 18,000 jobs per viewpoint (see Table 2).

Table 2: Economic Impact of Protecting Views of Mt Hood from the Willamette River

Viewpoint	Location	Focal Features	Square Feet of Conflict within View Corridor [1]	Reduction in Development Value within View Corridor [2]	Reduction in Job Capacity within View Corridor [2]
NW14	Broadway Bridge	Mt Hood	2,607,772	\$93,879,792	13,044
SE07	Morrison Bridge	Mt Hood	437,537	\$15,751,332	2,192
SE21	Tilikum Crossing - East	Mt Hood	223,000	\$8,028,000	1,115
SW01	Greenway Trail at SW Ankeny	Mt Hood	986,467	\$35,512,812	4,937
SW11	Greenway Trail at SW Morrison	Mt Hood	838,994	\$30,203,784	4,197
SW17	Salmon Springs	Mt Hood	302,150	\$10,877,400	1,512
SW26	Hawthorne Bridge	Mt Hood	743,279	\$26,758,044	3,720
SW36	Greenway Trail - Montgomery St Gardens	Mt Hood	981,598	\$35,337,528	4,912
SW38	Greenway Trail - Pedestrian Trail	Mt Hood	1,026,698	\$36,961,128	5,138
SW46	Tilikum Crossing - Southwest	Mt Hood	218,168	\$7,854,048	1,093

[1] If a view corridor crosses any portion of a BLI site, the entire BLI site is treated as if it were within the view corridor.

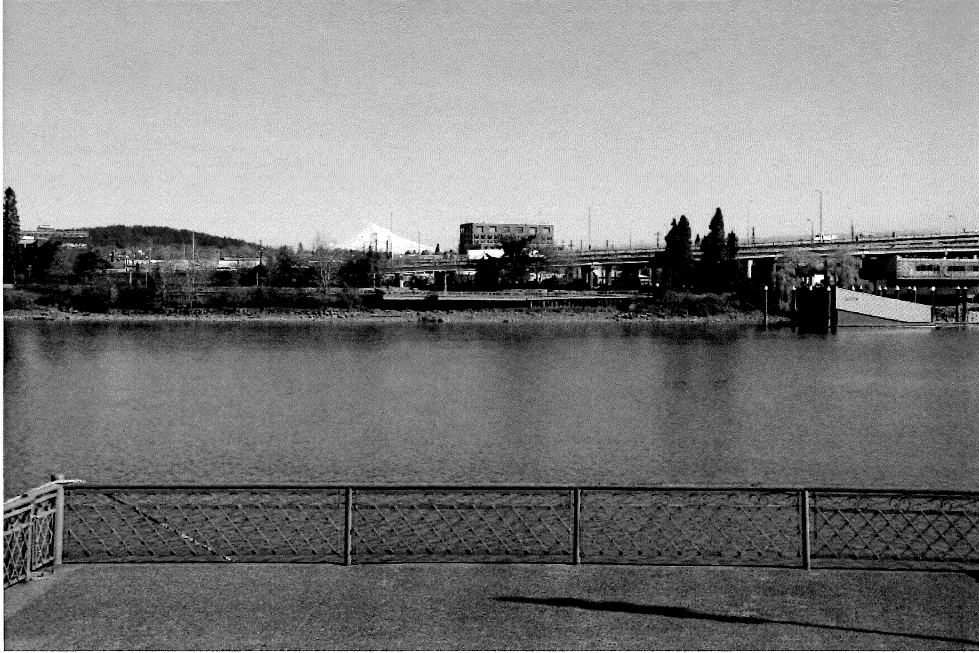
[2] Assumes \$36/sq ft and 1 job/200 sq ft

**The views highlighted in gray were further evaluated*

Three of the viewpoints, with the least economic impacts, warranted additional evaluation due to their location and high frequency of use: Salmon Springs and Tilikum Crossing (2 viewpoints).

Salmon Springs (SW17)

Salmon Springs is located at Governor Tom McCall Waterfront Park just north of the Hawthorne Bridge. This viewpoint was further evaluated because of the high volume and frequency of use.



Existing View of Mt Hood from viewpoint SW17

Salmon Springs is a regional tourist attraction. The viewpoint is developed with a wide seating area and two telescopes. The Salmon Springs fountain is a popular attraction in the summer. Multiple summer events at the Park result in tens of thousands of tourists visiting Salmon Springs every year. The Portland Spirit has a dock extending from Salmon Springs, which is the main boarding location for tours of the Willamette River. It is also located at the terminus of SW Salmon Street, which is a view street and river access way.



Salmon Spring Viewpoint (SW17)

The view from Salmon Springs extends across the Willamette River, the Interstate-5 (I-5) freeway and 13 blocks of the Central Eastside. Building heights within the view corridor would have to be no higher than 35 feet near I-5 to 50 ft along SE Martin Luther King Jr. (MLK) and SE Grand Boulevards. The current regulations would allow a 275 ft tall building along MLK and Grand. The economic impact of protecting the view of Mt Hood from Salmon Springs is a reduction of approximately \$10.9M in potential development value and approximately 1,512 reduction in jobs capacity. However, when compared to other potential viewpoints in Governor Tom McCall Waterfront Park, Salmon Springs has fewer economic impacts. The streetcar is also located on the MLK/Grand corridor and the reduction in development value and jobs capacity could impact ridership.

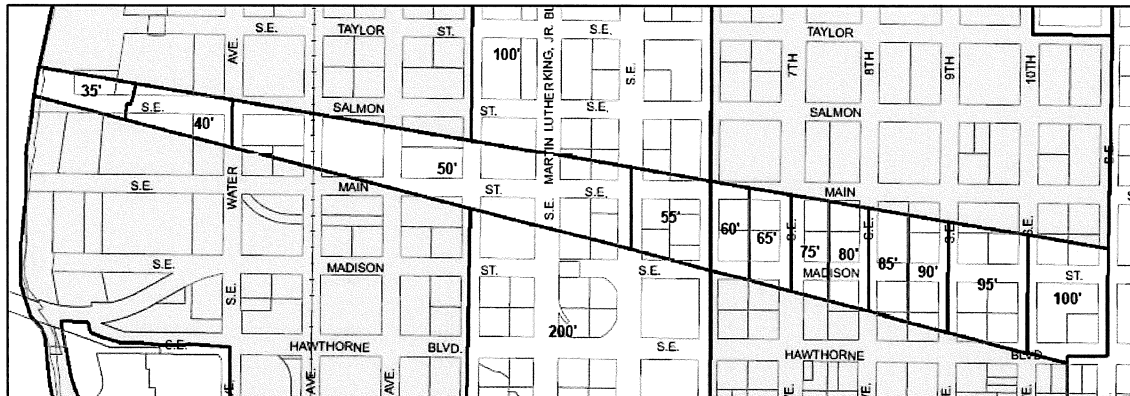


Figure 7: Draft Potential Height Limitations from Viewpoint SW17 to Mt Hood.

The recommendation is that although the view of Mt Hood from Salmon Spring is frequently visited and an important part of the park, the economic impacts on the MLK/Grand corridor of protecting the view of Mt Hood outweigh the value of the view. Full development along the SE MLK and SE Grand Blvd, which are the streetcar alignment, is a high priority for the Central Eastside and Portland.

Tilikum Crossing (SW46 and SE21)

Tilikum Crossing, also known as Bridge of the People, is the newest bridge crossing the Willamette River. The bridge was constructed for the MAX Orange Line light rail passenger trains and also serves city busses and the Portland Streetcar. There are large lanes for pedestrians and bicyclists. Private cars and trucks are not permitted on the bridge, although emergency vehicles can access the bridge if needed. Four viewpoints were constructed on the bridge – one at each of the cable-stayed towers. Both of the south side viewpoints offer panorama views of the Willamette River, Ross Island Bridge, and Ross Island, as well as a view east to Mt Hood. The viewpoints are wide locations where one can move out of the flow of traffic to enjoy the view.

The view of Mt Hood from this general area is culturally significant. During the opening ceremony for the Tilikum Crossing, a representative from the Confederated Tribes of Grand Ronde spoke about Mt Hood and the relationship to Tilikum Crossing. Protecting a view from the bridge would support the history and culture of the area.

The views from SW46 (south western viewpoint) and SE21 (south eastern viewpoint) to Mt Hood cross the portion of the Central Eastside known as the Southern Triangle. This area developed with industrial uses on sites larger than the typical Central City block pattern. Along the riverfront the

uses are commercial. Current building heights are relatively low, but there is potential for taller buildings with redevelopment. To protect the view, building heights along the riverfront would need to be below 60 ft or a 5 story building. Inland, building heights would need to be below 45 ft (4 stories) to 95 ft (8 stories).

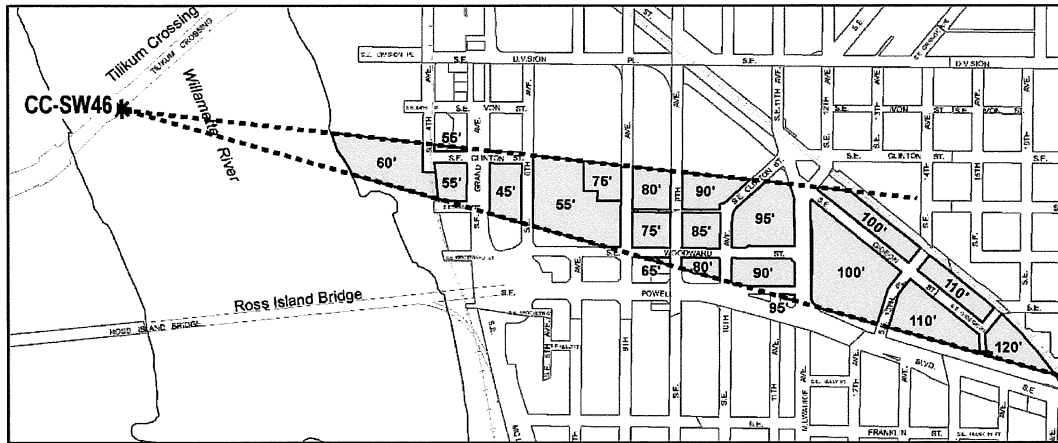


Figure 8: Draft Potential Height Limitations from Viewpoint SW46 to Mt Hood.

The economic impacts of protecting either one of the views is a reduction in potential development value approximately \$8M and roughly 1,100 reduction in job capacity. However, the real impact would likely be much less because the impacted blocks are very large, ranging from 50,000 sq ft to 200,000 sq ft. (For comparison, a typical city block in the Central City is 40,000 sq ft.) Typically, the view corridor occupies between 2% and 50% of any given site. That means that there is sufficient space outside of the view corridors on nearly all of the impacted sites to transfer the height from within the view corridor to outside of the view corridor.

Of the two views, the view from SW46 crosses larger sites providing more potential for transferring floor area ratios outside of the view corridors and thus has less potential economic impacts. In addition, the view from SW46 includes more of the Willamette River in the foreground of the view of Mt Hood. This increases the quality of the view from SW46, making it more scenic than the view from SE21.

The recommendation is to set building heights in the Southern Triangle to protect the view of Mt Hood from SW46, the south western viewpoint located on the Tilikum Crossing. The view from SE21, the south eastern viewpoint, should be maintained as a view of the Willamette River, the Ross Island Bridge, Ross Island, and the Central Eastside skyline, and not as a view of Mt Hood.

Figures 11 and 12 depict how the view may change. The figures show each Buildable Lands Inventory (BLI) site with a potential building envelope that is extruded to the maximum height (shown in yellow). There are two examples shown:

1. The first is based on the existing base heights. Two sites could be built with buildings that would partially block the view of Mt Hood.
2. The second example is based on limiting the base heights to the view corridor elevation. The proposed base building heights would protect the view of Mt Hood.

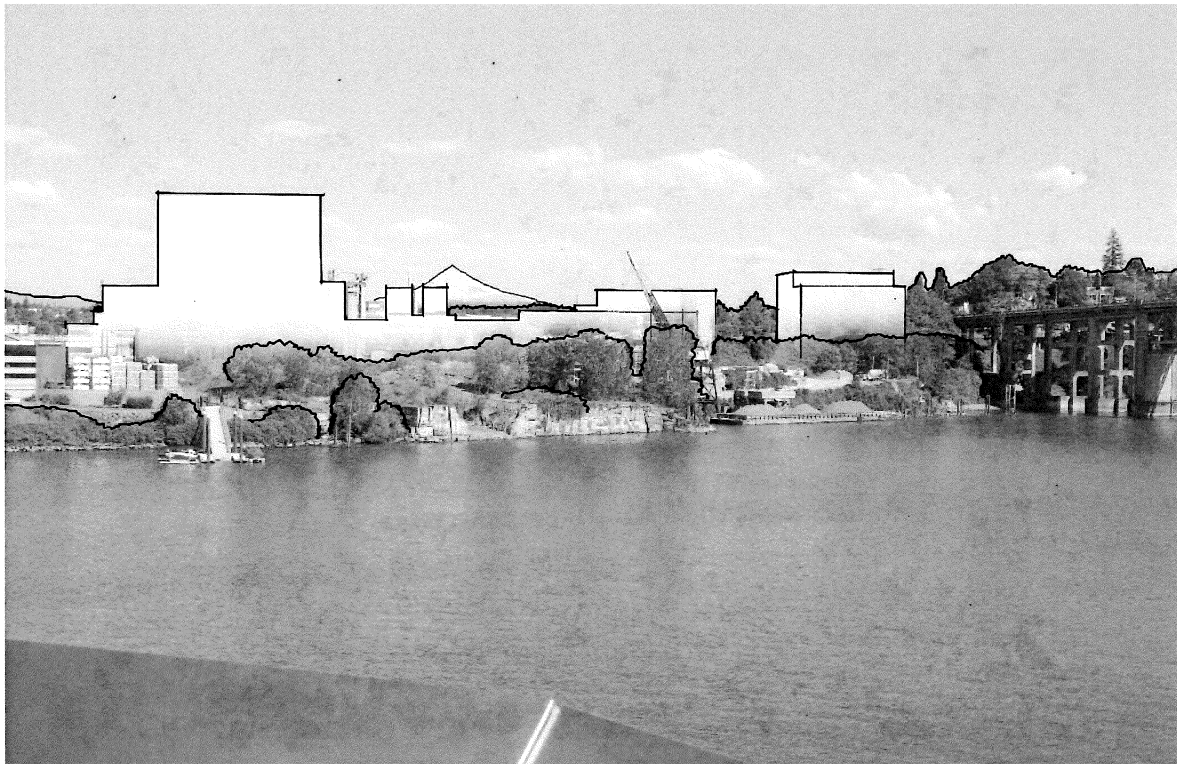


Figure 9: View of Mt Hood from SW46 – Existing Bonus Heights

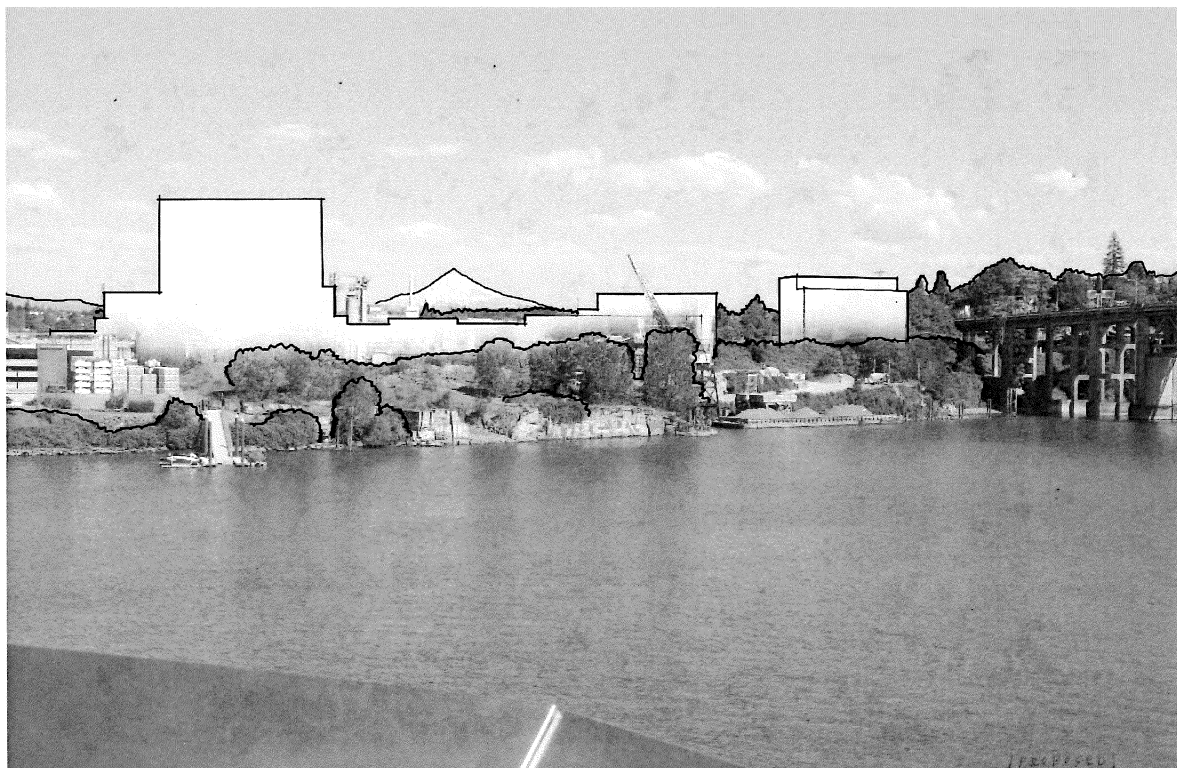


Figure 10: View of Mt Hood from SW46 – Proposed Bonus Heights

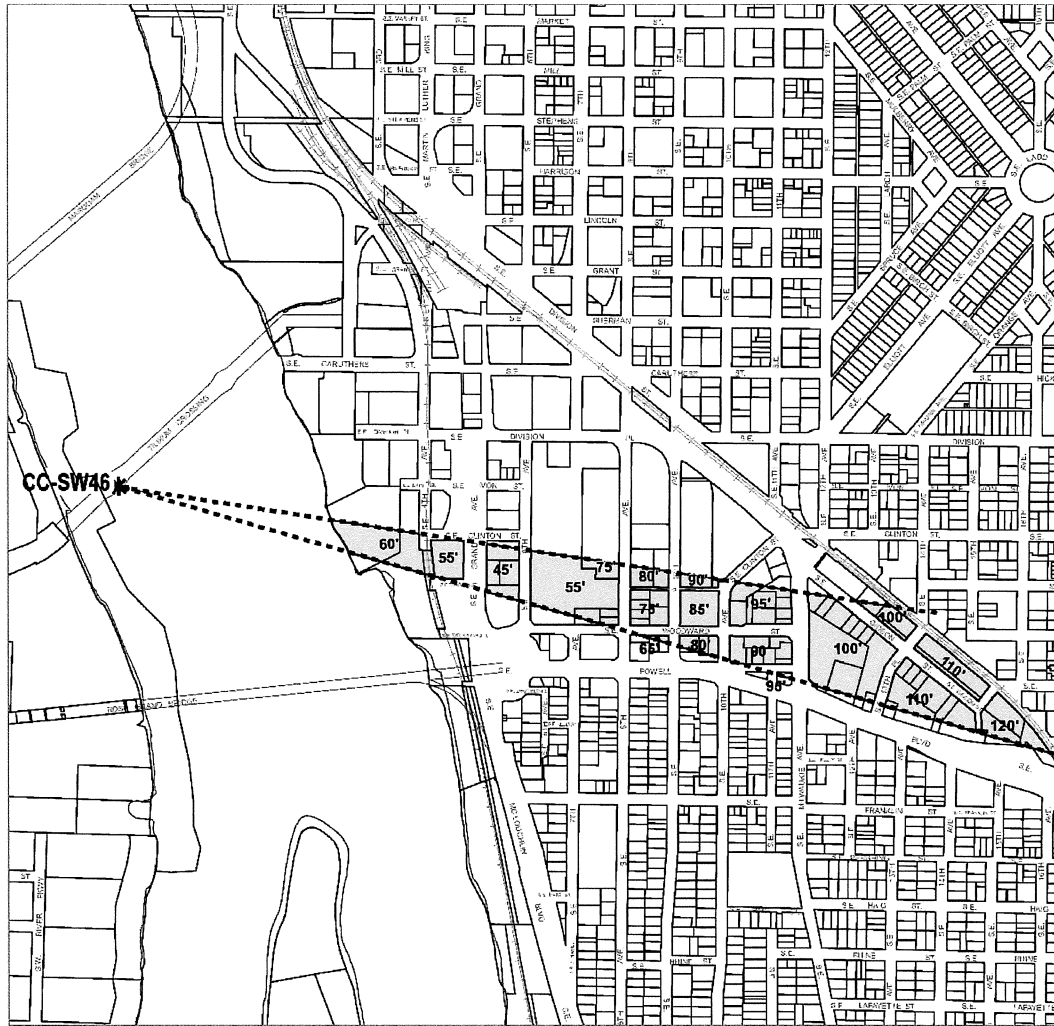
Central City Scenic Resources Protection Plan

View Corridors with Height Restrictions

Map A

Map 8 of 8

Map Revised XXXXX X, 201X



Legend

- City Boundary
- * Viewpoint
- 75'--- View corridors with height restrictions
- View Street



Table 2: Economic Impacts of Protecting Views

			Existing Heights (base + FAR-restricted heights)			Proposed Heights (base + FAR-restricted heights)		
VP	Location	Focal Features	Square Feet of Conflict within View Corridor [1]	Reduction in Development Value within View Corridor [2]	Reduction in Job Capacity within View Corridor [2]	Square Feet of Conflict within View Corridor [1]	Reduction in Development Value within View Corridor [2]	Reduction in Job Capacity within View Corridor [2]
Views Proposed for Protection								
N04	Lillis Albina Park	Central City				60,000 [3]	\$2,160,000 [3]	300 [3]
NE01	I-84 Overpass (bike/ped)	Central City				451,455 [3]	\$16,252,380 [3]	2,261[3]
SW02	Washington Park - Lewis and Clark Monument	Mt Hood						
SW04	Rose Garden - Telescopes	Mt Hood						
View Street	Jefferson St Overpass	Vista Bridge				20,846 [3]	\$750,445 [3]	105 [3]
SW15	Vista Bridge	Mt Hood						
SW16	SW Vista Ave	Mt St Helens						
SW17	Salmon Springs	Mt Hood	416,715	\$15,001,740	2,085	302,150	\$10,877,400	1,512
SW24	Upper Hall	Mt St Helens Mt Adams						
SW31	SW Cardinell	Mt St Helens						
SW46	Tilikum Crossing - West	Mt Hood	294,828	\$10,613,808	1,476	218,168	\$7,854,048	1,093
SW49	SW Terwilliger Blvd	Mt St Helens						
SW50	SW Terwilliger Blvd	Mt St Helens						
SW55	OHSU Viewing Platform	Mt Hood Mt St Helens						
SW56	OHSU Tram - North	Mt Hood Mt St Helens						
SW61	OHSU Tram - South	Mt Hood Mt St Helens						
SW64	SW Terwilliger Blvd	Mt St Helens						

		Existing Heights (base + FAR-restricted heights)		Proposed Heights (base + FAR-restricted heights)				
VP	Location	Focal Features	Square Feet of Conflict within View Corridor [1]	Reduction in Development Value within View Corridor [2]	Reduction in Job Capacity within View Corridor [2]	Square Feet of Conflict within View Corridor [1]	Reduction in Development Value within View Corridor [2]	Reduction in Job Capacity within View Corridor [2]
Views Evaluated for Comparison (NOT proposed for protection)								
NW14	Broadway Bridge	Mt Hood	2,607,772	\$93,879,792	13,044	2,607,772	\$93,879,792	13,044
SE07	Morrison Bridge	Mt Hood	437,537	\$15,751,332	2,192	437,537	\$15,751,332	2,192
SE21	Tilkum Crossing - East	Mt Hood	223,000	\$8,028,000	1,115	223,000	\$8,028,000	1,115
SW01	Greenway Trail at SW Ankeny	Mt Hood	966,497	\$34,792,812	4,837	986,467	\$35,512,812	4,937
SW11	Greenway Trail at SW Morrison	Mt Hood	886,694	\$31,920,984	4,436	838,994	\$30,203,784	4,197
SW13	SW Vista Ave	Mt St Helens						
SW26	Hawthorne Bridge	Mt Hood	700,441	\$25,214,796	3,506	743,279	\$26,758,044	3,720
SW34	Lovejoy Fountain	Mt Hood	174,000	\$6,264,000	870	174,000	\$6,264,000	870
SW33	SW Rivington Dr	Mt Hood						
SW36	Greenway Trail - Montgomery St Gardens	Mt Hood	1,141,098	\$41,079,528	5,709	981,598	\$35,337,528	4,912
SW38	Greenway Trail - Pedestrian Trail	Mt Hood	1,192,198	\$42,919,128	5,965	1,026,698	\$36,961,128	5,138

BOLD text = New view and viewpoint

Italicized text = Existing view with existing protections in the form of building height limits. The proposal may alter the protections.

Regular text = Existing viewpoint but the view is not currently protected by limiting building heights.

[1] If a view corridor crosses any portion of a BLI site, the entire BLI site is treated as if it were within the view corridor.

[2] Assumes \$36/sq ft and 1 job/200 sq ft

[3] The proposed heights are taller than existing base heights. For these views, the proposed heights are compared against not continuing to protect the view.

Many of the views included in the analysis are already protected by limits to building heights. The first two steps in the analysis revealed that some of those protected view corridors needed additional height limits to be fully protective. Therefore there are some economic impacts associated with continued protection of those views.

There are new view corridors that are included in the analysis. Because there are no current height limits associated with the views, the economic impacts of protecting those views are much higher than for existing view corridors. In particular, there are ten viewpoints located along the Willamette River and from bridges across the Willamette that are views of Mt Hood. (The ten viewpoints have an asterisk in Table 2.) While previous plans did identify most of these viewpoints of Mt Hood and other focal features, the view corridors were not protected with limits on building heights.

The ability to see Mt Hood from the Willamette River is unique to the Central City. These views help define Portland and are a tourist attraction. However, protecting views from the low elevation of the riverbank or from bridges up to the mountain would require significantly limiting building heights in the Central Eastside. The results of the analysis show that the employment impacts associated with these views range from 1,100-13,000 reduction in job capacity. The three viewpoints with the least impacts are at Salmon Springs (SW17) and Tilikum Crossing (SW46 and SE21).

Salmon Springs is located in the middle of Governor Tom McCall Waterfront Park. This large existing viewpoint is developed with a curved seating area, telescopes and informational signs. There is an interactive fountain and loading/unloading of regional passenger ships at this location. Tens of thousands of people visit Salmon Springs every year, especially during events like the Rose Festival. The view of Mt Hood in this location will continue to add to the tourism of the park, especially if many of the other views of Mt Hood from the park are eliminated due to development in the Central Eastside.

Protecting the view of Mt Hood from Salmon Springs could result in a reduction in job capacity of up to 2,166 potential jobs within the view corridor in the Central Eastside. The Central Eastside is an industrial and employment district that provides living wage jobs. The Central Eastside is currently home to more than 1,200 companies and 18,000 jobs. The District continued to thrive during the recession and has become the location of choice in Portland for many employers, who are drawn to its historic industrial architecture, affordable space, and close proximity to the city's business core. Forecasts indicate there is demand for an additional 9,000 jobs to locate within the Central Eastside from 2010 to 2035 including nearly 2,220 jobs in industrial sectors. The Central Eastside has capacity for approximately 12,000 jobs, meaning there is a surplus job capacity of roughly 3,000 jobs. Protecting the view of Mt Hood from Salmon Springs would reduce the amount of surplus job capacity but not impact the ability of the district to meet the job demand for 2035.

The other views of Mt Hood from the Willamette River with the least amount of economic impacts are located on Tilikum Crossing. Tilikum Crossing is the newest Willamette River Bridge. It is dedicated for transit, bicycles, pedestrians and emergency vehicles. There are four belvederes located on the bridge offering wide views of the river and city skyline, and two of the viewpoints provide a view of Mt Hood. The view from the western of the two views provides a slightly better view of Mt Hood because more of the river is seen in the foreground. Both views cross an area known as the Southern Triangle. Many of the BLI sites in the Southern Triangle are larger than the standard block size in Portland. This provides flexibility in designing buildings and moving the tallest parts of buildings outside of view corridors. While protecting the view of Mt Hood from Tilikum Crossing shows a reduction in job capacity of roughly 1,100 jobs, it is likely those jobs could be redistributed on-site due to the larger block pattern.

Mt Adams can also be seen from some upland viewpoints; however, Mt Adams is partially blocked by the foothills of the Cascades. Overall, views of Mt Adams are not a priority for protection. The exception is when there is a view of Mt Adams from an established and well visited viewpoint and the view has few conflicts with potential building height.

View of Mt Hood from River Viewpoints

There are multiple viewpoints located along the western riverbank of and bridges crossing the Willamette River that include a view of Mt Hood. This occurs today because building heights in the Central Eastside have been low historically, supporting primarily industrial uses. It is anticipated that new development, with an evolving focus on high tech and creative industrial uses, will result in buildings that are taller. While it is a priority to protect views of Mt Hood, the economic impact of protecting views of Mt Hood from low elevation viewpoints along the river is high, ranging from \$8M to \$94M reduction in development value and 1,100 to 13,000 reduction in job capacity (see Table 4). It is recommended that two of the ten viewpoints be protected and the remaining eight viewpoints result in an allow decision.

Table 4: Economic Impact of Protecting Views of Mt Hood from the Willamette River

Viewpoint	Location	Focal Features	Square Feet of Conflict within View Corridor [1]	Reduction in Development Value within View Corridor [2]	Reduction in Job Capacity within View Corridor [2]
NW14	Broadway Bridge	Mt Hood	2,607,772	\$93,879,792	13,044
SE07	Morrison Bridge	Mt Hood	437,537	\$15,751,332	2,192
SE21	Tilikum Crossing - East	Mt Hood	223,000	\$8,028,000	1,115
SW01	Greenway Trail at SW Ankeny	Mt Hood	986,467	\$35,512,812	4,937
SW11	Greenway Trail at SW Morrison	Mt Hood	838,994	\$30,203,784	4,197
SW17	Salmon Springs	Mt Hood	302,150	\$10,877,400	1,512
SW26	Hawthorne Bridge	Mt Hood	743,279	\$26,758,044	3,720
SW36	Greenway Trail - Montgomery St Gardens	Mt Hood	981,598	\$35,337,528	4,912
SW38	Greenway Trail - Pedestrian Trail	Mt Hood	1,026,698	\$36,961,128	5,138
SW46	Tilikum Crossing - Southwest	Mt Hood	218,168	\$7,854,048	1,093

[1] If a view corridor crosses any portion of a BLI site, the entire BLI site is treated as if it were within the view corridor.

[2] Assumes \$36/sq ft and 1 job/200 sq ft

Viewpoint SW46 is located on the newly constructed Tilikum Crossing. The bridge connects the South Waterfront innovation district at Oregon Health and Science University to the Central Eastside at the Oregon Museum of Science and Industry. Because it is at a high elevation there are fewer economic impacts that other views of Mt Hood from the Greenway Trail or other Willamette River bridges. SW46 is chosen over SE21, another view of Mt Hood from Tilikum Crossing, because SW46 provides a higher quality view due to the extent of the Willamette River seen in the foreground.

Views of Willamette River Bridges from Upland Locations

Portland is known as "Bridge City USA" because there are 12 bridges that cross the Willamette River, nine of which are located in the Central City. The Willamette River bridges can be seen in most views of and across the Central City. However, in many of the views bridges are contributing, not primary,

considering the economic impact of preserving existing views, not re-establishing pre-development views.

Step Two – Establishing Allowable Building Heights

This step in the analysis is to compare the impacts of the view corridors on the existing allowed building heights with the proposed allowed building heights in the Central City.

The existing allowed buildable heights were established through previous planning efforts and are set in zoning code Map 510-3, Base Heights. As part of the Central City 2035 Plan there were recommendations through each quadrant that related to height. Those recommendations were used to create a proposed Map 510-3, Base Heights. Although there were changes in the base height proposed, the majority of the base heights in the Central City were retained from the existing Map 510-3.

Both the existing and proposed base heights cover most of the Central City. However, some areas do not have a base height set and rely on the base zone. In order to perform the modeling, assumptions were made and heights assigned in the following geographies:

1. **Central Eastside:** There are two areas in the Central Eastside that have unique building heights.
 - a. There are sites that are zoned IG1 with a Comprehensive Plan designation of EX. This means that property owners have the right to request to be rezoned from IG1 to EX. If they asked to be rezoned, the EX comes with a base height limit of 275 feet. Therefore, 275 feet is the base height used for those sites in both the existing and proposed analysis.
 - b. The portions of the Central Eastside zoned IG1 do not have base heights. Historically these areas were developed with traditional industrial uses in low-rise buildings (less than five stories). The new Central City 2035 Plan proposes to allow IG1 areas develop with industrial office uses in taller buildings. For this analysis, it is assumed that the typical industrial office building in the Central Eastside will not exceed 90 feet. This is based on 4:1 FAR and 80% lot coverage. The following are exceptions to the assumption:
 - i. In the geography known as the *Southern Triangle* there are larger “super” blocks and it would be possible to reconfigure these sites to have tall towers on portions of the site. The Southern Triangle is bound by the railroad to the north and east, SE Powell Boulevard to the south and the Willamette River to the west. A base height of 200 feet is applied to the Southern Triangle.
 - ii. There are three blocks bound by SE Taylor Street to the north, SE Madison Street to the south, SE Water Avenue to the east, and the Willamette River Greenway to the west, which are owned by the Portland Development Commission and are referred to as the *ODOT Blocks* (because portions of the blocks are in the Interstate 5 right-of-way and managed by OR Department of Transportation). These blocks are larger than the typical blocks in the Central Eastside and may have taller buildings. A base height of 175 feet is applied to the ODOT Blocks.
2. **Lower Albina:** Most of Lower Albina is zoned for industrial uses and does not have base heights, except where there are previously protected view corridors. Staff chose to use the tallest industrial structures in the subdistrict, the grain elevators, to set a base height of 150 feet across the district.
3. **Pearl District:** Most of the Pearl District has base heights; however, there is a small section of the district with no height restrictions. The area is located along I-405 and NW 15th Avenue, between NW Naito Parkway and NW Lovejoy Street. A base height of 325 feet was applied.

4. **Open Space:** Land zoned open space cannot be developed with tall buildings. Although some structures could be built, the modeling assumes a base height limit of zero feet for OS zoned land in the Central City.

Step Three – Identifying Buildable Lands

As part of the Comprehensive Plan update, the City produced a buildable lands inventory (BLI). Buildable lands are vacant or underutilized sites that are likely to redevelop by 2035. It is understood that non-BLI sites may also redevelop by 2035; however, the BLI models the best assumption of redevelopment within the planning horizon.

In the Central Eastside there are sites zoned IG1 with a Comprehensive Plan designation of EX. This means that property owners have the right to request to be rezoned from IG1 to EX. This change to EX comes with a base height increase to 275 feet. These sites, although current developed, are considered BLI sites because the rezoning increases their potential to redevelop by 2035.

Some of the BLI sites that were identified by the Comprehensive Plan are already redeveloping. For sites that are under construction, have obtained a building permit or have completed land use review, the BLI designation was removed. These sites are treated like other already developed sites in the Central City and had the base height applied.

Step Four – Incorporating Floor to Area Ratio

Base heights and floor-to-area ratio (FAR) work together to create a diversity of building sizes and shapes in the Central City. Applying FAR to sites can restrict building height to something less than the base height. FAR can result in wide podiums and skinny towers, which creates visual permeability between taller buildings.

Staff created a set of rules regarding site size and FAR to determine which BLI sites would not be able to achieve existing base heights set in Step 2. The rules, called building typologies, are detailed in Attachment 1 of this document. For each BLI site that is a typical city block (200 feet by 200 feet) or smaller, the rules were applied.

- If the resulting built height was less than the base height, the FAR-restricted height was used in the modeling instead of base height.
- For BLI sites located in the Central Eastside or Lower Albina, where an assumed base height was applied, if the FAR-restricted height was higher than the assumed base height, the taller FAR-restricted height was used.
- For BLI sites larger than a typical city block or irregular sites, the base height was used except in the Southern Triangle of the Central Eastside.
- For the Southern Triangle, a FAR of 3:1 was used rather than the base height. This FAR applies to entire sites, but it is not known if portions of sites would be taller and other portions shorter. Therefore, the 3:1 FAR was applied to entire sites, not just the portion of the site located within the view corridor. This is a conservative approach that attempts to recognize that a reduction in height on any portion of the site will have an economic impact on the entire site.

In the Central City, there are provisions that allow bonuses and transfers of FAR. Developers can acquire bonus FAR, above the entitled FAR, if they include a public benefit in the building. The benefits are listed in the zoning code. For example, if the developer includes a day care in the building, they can acquire addition FAR and build a taller building. The code also allows the transfer of unused FAR from one site to another. For example, if there is available FAR on a historic building site, in order to help preserve that historic building, the FAR can be transferred to another site. While these bonuses and transfers are

expected, it is not known when or where they will occur. Therefore, neither bonuses nor FARs transfer were not included in this analysis.

Step Five – Determining BLI Building Height Conflicts

The GIS model maps the view corridors and the base height or FAR-restricted heights. All BLI sites that have a view corridor where the surface elevation intersects with a base height or FAR-restricted height were identified to be carried forward to Step 6. The difference between the view corridor surface elevation and the total base or FAR-restricted height was determined. For example, if the view corridor crosses through a BLI site at elevation 250ft and the base height of the site is 300ft, then there is 50ft of potential building height that exceeds the view corridor and would block or partially block the view. Figure 1 shows a representation of the modeling.

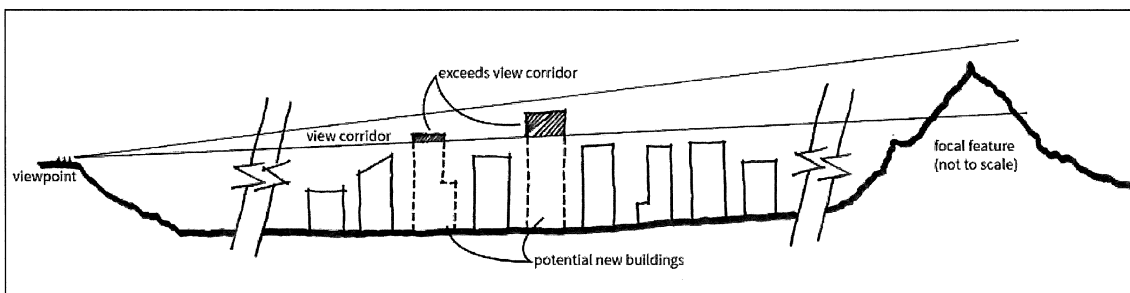


Figure 1: Example of BLI Building Height Conflicts

The results of this step were used in step 6 to estimate the economic impacts of protecting a view corridor.

Step 6 – Analyzing Economic Impacts

The economic analysis focused on the BLI sites that have an identified conflict with a view corridor. The BLI sites include both vacant and underutilized sites and represent the best assumption of redevelopment by 2035. In order to understand the economic impacts of protecting or not protecting the view corridors, the following analysis was run:

1. Translate the difference between the base height or FAR-restricted height and the view corridor surface elevation into building stories. It was assumed that residential buildings have a 14 foot tall ground-floor story and 10 foot tall stories above that and commercial buildings have 14 foot tall stories. For buildings in the Central Eastside District, it was assumed that all floors would be 15ft tall, which reflects the current building typology being constructed within the district. Applying these assumptions allowed staff to determine how many stories would not be allowed if the height restrictions were put in place.
2. Assume a building lot coverage for each site. A GIS analysis was run to determine the average lot coverage within each district (see Table 1). For the area known as the Southern Triangle (bound by the railroad to the north and east, SE Powell Boulevard to the south and the Willamette River to the west), which is comprised of large sites, an estimate of 80% lot covered was assumed.
3. Reflect what could likely be built on a BLI site. All “irregularly-shaped” BLI lots, BLI lots less than 10,000 sq ft, and BLI lots greater than 51,600 sq ft used maximum height. For the economic analysis, BLI lots less than 14,910 were all considered part of the 10,000 sq ft typology and BLI lots greater than 51,600 were given custom typologies.
4. Assign a dollar and jobs per square foot value to sites. For the Central City the assumed average is \$36 per square foot and 128 jobs per square acre.

Table 1. Average Building Lot Coverage, by district

District/Area	Average Building Lot Coverage*
Lower Albina	66%
Lloyd	60%
Central Eastside	47-70%
Southern Triangle	80%
Pearl	85%
Old Town/Chinatown	88%
Goose Hollow	66-73%
West End	77-93%
Downtown	81-92%
South Downtown/University	56-65%

*Average building coverage is based on existing conditions (2015)

The results are the reduction of potential future development measured in both dollars and jobs. These were added together to give the economic impact on potential future development within the view corridor.

Results

The analysis described above produced two results that inform the ESEE decisions.

The first results are the economic impacts of protecting views with a conflict with a BLI site. The amount of conflict was translated into a reduction of development value and reduction of job capacity if the view were to be fully protected. Table 2 summarizes those results. Where there are multiple focal features within one view corridor, only the focal feature that has conflicts with base height or FAR-restricted height is listed.

In some situations the proposed building heights necessary to protect the views are actually taller than the existing base heights. This means that base heights could be increased. The analysis for these views instead considered the impacts of the view corridor on the potential of not continuing to protect the view. For example, there is a view looking west along the Interstate 84 right of way that is a view of the Central City Skyline. The viewpoint is proposed to be relocated to a yet-to-be-constructed bicycle and pedestrian overpass. The economic analysis used the existing base heights, which include limited building heights to protect the view, and a proposed base height if the view were no longer to be protected.

Table 2 includes describes the economic impacts if the view were to be fully protected. For views with existing protections the base heights may be adjusted. For views with no protections, new base height limits could be applied.

Table 2: Economic Impacts of Protecting Views

			Existing Heights (base + FAR-restricted heights)			Proposed Heights (base + FAR-restricted heights)		
VP	Location	Focal Features	Square Feet of Conflict within View Corridor [1]	Reduction in Development Value within View Corridor [2]	Reduction in Job Capacity within View Corridor [2]	Square Feet of Conflict within View Corridor [1]	Reduction in Development Value within View Corridor [2]	Reduction in Job Capacity within View Corridor [2]
Views Proposed for Protection								
N04	Lillis Albina Park	Central City				60,000 [3]	\$2,160,000 [3]	300 [3]
NE01	I-84 Overpass (bike/ped)	Central City				451,455 [3]	\$16,252,380 [3]	2,261[3]
SW02	Washington Park - Lewis and Clark Monument	Mt Hood						
SW04	Rose Garden - Telescopes	Mt Hood						
View Street	Jefferson St Overpass	Vista Bridge				20,846 [3]	\$750,445 [3]	105 [3]
SW15	Vista Bridge	Mt Hood						
SW16	SW Vista Ave	Mt St Helens						
SW17a	Salmon Springs	Mt Hood	416,715	\$15,001,740	2,085	432,915	\$15,584,940	2,166
SW24	Upper Hall	Mt St Helens Mt Adams						
SW31	SW Cardinell	Mt St Helens						
SW46	Tilikum Crossing - West	Mt Hood	294,828	\$10,613,808	1,476	218,168	\$7,854,048	1,093
SW49	SW Terwilliger Blvd	Mt St Helens						
SW50	SW Terwilliger Blvd	Mt St Helens						
SW55	OHSU Viewing Platform	Mt Hood Mt St Helens						
SW56	OHSU Tram - North	Mt Hood Mt St Helens						
SW61	OHSU Tram - South	Mt Hood Mt St Helens						
SW64	SW Terwilliger Blvd	Mt St Helens						

			Existing Heights (base + FAR-restricted heights)		Proposed Heights (base + FAR-restricted heights)			
			Square Feet of Conflict within View Corridor [1]	Reduction in Development Value within View Corridor [2]	Reduction in Job Capacity within View Corridor [2]	Square Feet of Conflict within View Corridor [1]	Reduction in Development Value within View Corridor [2]	Reduction in Job Capacity within View Corridor [2]
Views Evaluated for Comparison (NOT proposed for protection)	VP	Location	Focal Features					
NW14	Broadway Bridge	Mt Hood	2,607,772	\$93,879,792	13,044	2,607,772	\$93,879,792	13,044
SE07	Morrison Bridge	Mt Hood	437,537	\$15,751,332	2,192	437,537	\$15,751,332	2,192
SE21	Tilkum Crossing - East	Mt Hood	223,000	\$8,028,000	1,115	223,000	\$8,028,000	1,115
SW01	Greenway Trail at SW Ankeny	Mt Hood	966,497	\$34,792,812	4,837	986,467	\$35,512,812	4,937
SW11	Greenway Trail at SW Morrison	Mt Hood	886,694	\$31,920,984	4,436	838,994	\$30,203,784	4,197
SW13	SW Vista Ave	Mt St Helens						
SW26	Hawthorne Bridge	Mt Hood	700,441	\$25,214,796	3,506	743,279	\$26,758,044	3,720
SW34	Lovejoy Fountain	Mt Hood	174,000	\$6,264,000	870	174,000	\$6,264,000	870
SW33	SW Rivington Dr	Mt Hood						
SW36	Greenway Trail - Montgomery St Gardens	Mt Hood	1,141,098	\$41,079,528	5,709	981,598	\$35,337,528	4,912
SW38	Greenway Trail - Pedestrian Trail	Mt Hood	1,192,198	\$42,919,128	5,965	1,026,698	\$36,961,128	5,138

BOLD text = New view and viewpoint

Italicized text = Existing view with existing protections in the form of building height limits. The proposal may alter the protections.

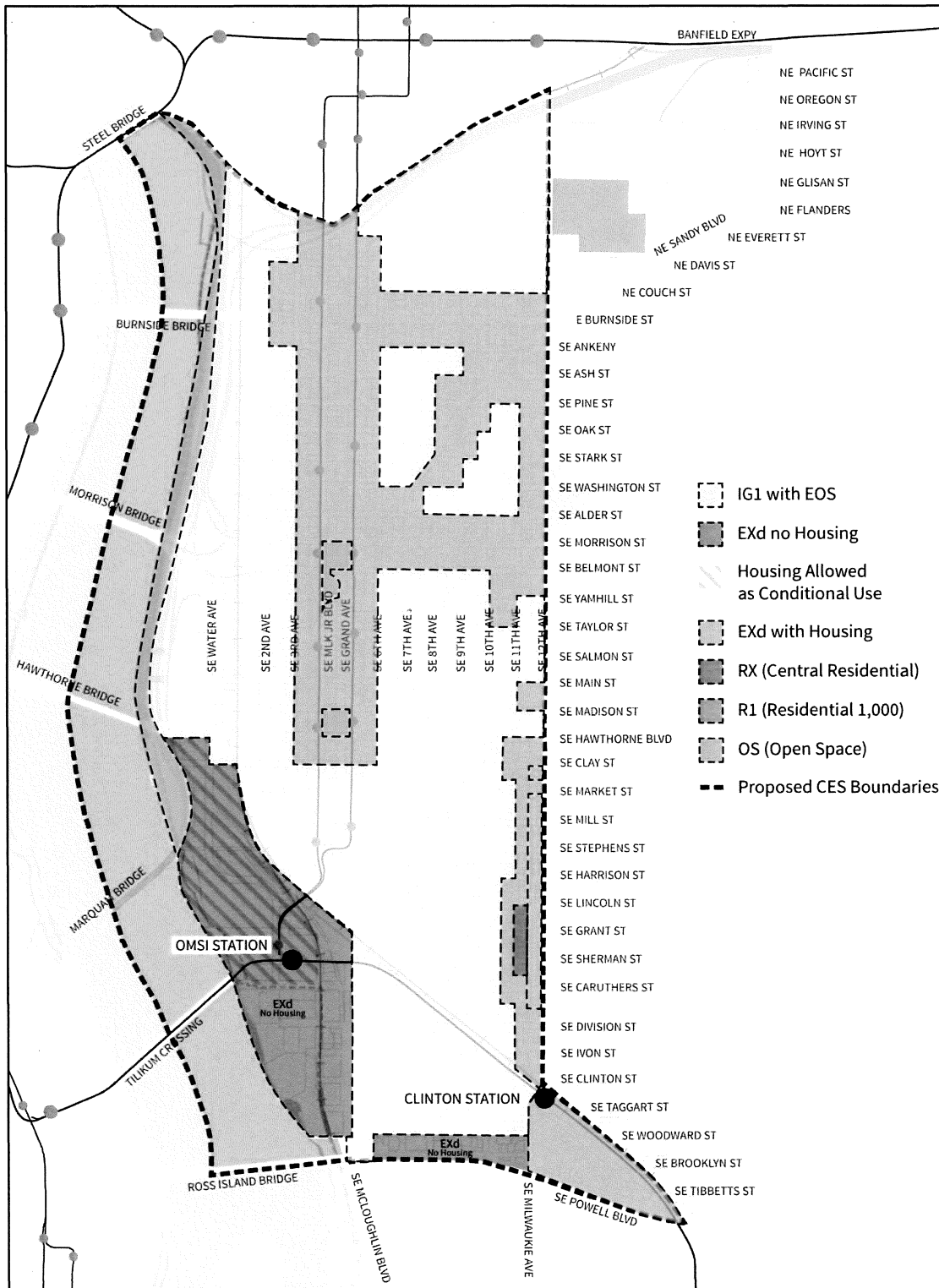
Regular text = Existing viewpoint but the view is not currently protected by limiting building heights.

[1] If a view corridor crosses any portion of a BLI site, the entire BLI site is treated as if it were within the view corridor.

[2] Assumes \$36/sq ft and 1 job/200 sq ft.

[3] The proposed heights are taller than existing base heights. For these views, the proposed heights are compared against not continuing to protect the view.

Map III-1: Land Use Proposals



This map shows the land use proposals for the SE Quadrant area. Most IG1 zoning is retained and receives additional flexibility for new industrial uses through the Employment Opportunity Subarea (EOS).

and access through the district for residents, workers, and visitors. They represent an overview of the key ideas with more details found in the chapters that follow.

Strengthen Places

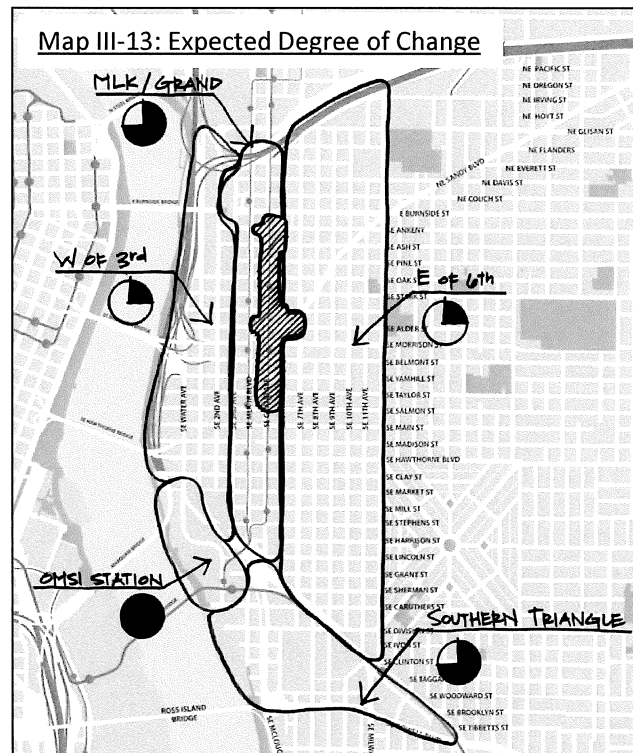
While the Central Eastside is a robust, unified district within the Central City, it contains five unique geographies each with their own characteristics and opportunities resulting from the blend of uses, the general age of the development, the potential for change, and different levels of access to surrounding residential neighborhoods, the Willamette River, and major transportation infrastructure. These areas are shown in the map below along with the expected degree of change (shown as pie charts) and are briefly described in the text that follows.

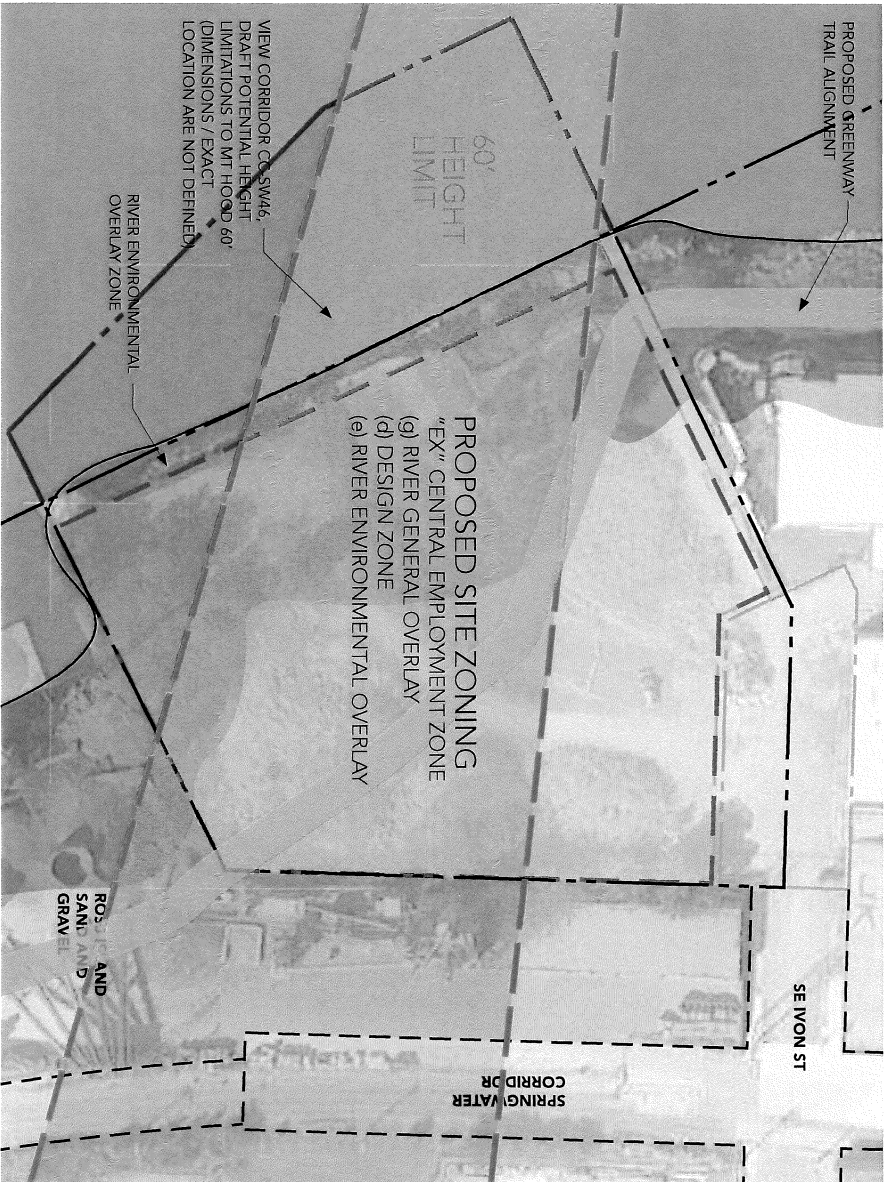
West of SE 3rd Avenue: This area contains some of the oldest industrial structures in the district and the majority of its multi-story building stock. These buildings, the existing rail line on 1st Avenue, numerous loading docks, and portions of cobble stone streets contribute to the unique character of this area. There is a unique opportunity to develop the long-vacant ODOT-owned blocks along Water Avenue with uses that further activate Water Avenue and facilitate access to the Willamette River.

East of 6th Avenue: This area is the most connected, and visible to the rest of the city, especially through its east-west main streets of E Burnside, SE Sandy, SE Morrison, SE Belmont, SE Hawthorne, SE Madison and SE Division. The eclectic mix of buildings and businesses presents benefits and challenges. The interface between new development within the mixed-use zoning areas and adjacent industrial uses needs to be addressed so that both areas can function successfully.

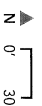
MLK/Grand Corridor: These streets are the mixed use “bones” of the Central Eastside and were established as East Portland’s main commercial streets over 100 years ago. MLK and Grand not only have great capacity for increased employment, residential, and retail development, but also serve as the primary streets carrying auto, freight and transit north-south through the district. As the area develops, MLK and Grand warrant a stronger priority for tree canopy, parks, open space, and recreation opportunities to increase the area’s livability long-term and overcome long-standing deficiencies in these areas.

Southern Triangle: This area, located primarily between SE Division and SE Powell, is characterized by its large blocks and parcels, many of which are vacant or underutilized. The largest industrial use is Darigold, but there is also a small collection of industrial businesses dispersed throughout the area. These large blocks are likely to continue to attract industrial uses, but may also represent a unique opportunity in the Central City for institutions and businesses seeking to establish a multiple building campus within a stone’s throw of the Willamette River and downtown.





- + Exdeg Zoning, central employment zone allows for mixed-uses and allows industrial and commercial uses. Residential uses are prohibited.
- + No maximum for commercial/office/retail.
- + Height limit is 100' with eligible height increase up to 250' for the areas outside of view corridor CC-SW46. Inside view corridor height limit is 60'.
- + Proposed greenway trail alignments as shown on the CC2035 Major Public Trails Map.



IVON STREET // CC2035 IMPACT
ZGF ARCHITECTS / AUGUST 29, 2016

12291

SOUTH SADDLE
TILKUM CROSSING BRIDGE

SILLO
ROSS ISLAND SAND AND GRAVEL

CHIMNEY
DARGOLD

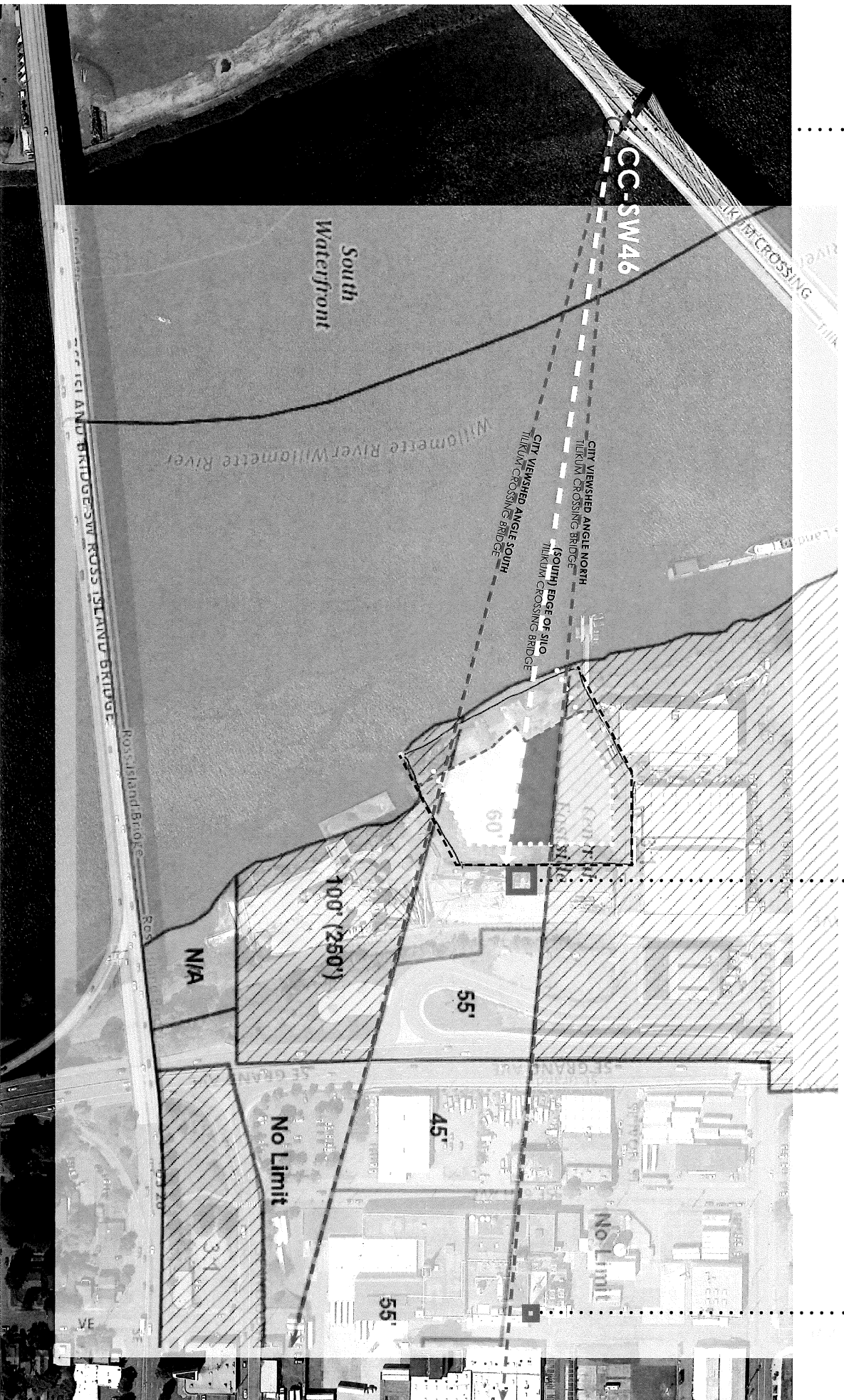


EXHIBIT E

CENTRAL EASTSIDE BUILDING HEIGHT-LIMITS OVERLAY

PLAN AERIAL: GOOGLE EARTH/ CENTRAL CITY

01/17/18

ZGF

1223 9th WASHINGTON STREET
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PORTLAND, OR 97205
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BEFORE THE LAND USE BOARD OF APPEALS
FOR THE STATE OF OREGON

**RESTORE OREGON, BOSCO-
MILLIGAN FOUNDATION
ARCHITECTURAL HERITAGE
CENTER, NIKKEI LEGACY,
ENDOWMENT, PORTLAND
CHINATOWN MUSEUM, and
PEGGY G. MORETTI,**

Petitioners,

vs.

CITY OF PORTLAND,

Respondent,

and

**GUARDIAN REAL ESTATE
SERVICES, LLC,**

Intervenor-Respondent

**OSB2LAN IVON, LLC and
HAITHEM TOULAN,**

Petitioners,

vs.

CITY OF PORTLAND,

Respondent.

LUBA No. 2018-072



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AMOUNT

\$19.40

R2303S102713-18

LUBA No. 2018-073/086/087

**OSB2LAN IVON, LLC & HAITHEM TOULAN'S
EXCERPT OF RECORD**

EXCERPT OF RECORD

- | | | |
|----|--|-------------------|
| 1. | Ordinance No. 189000 (Rec. 1-10)..... | ER-1-10 |
| 2. | Central City Findings of Fact Report, dated May 24, 2018
(Rec. AR-1-AR-153) | ER-11-163 |
| 3. | Ordinance No. 189002 (Rec. 5551-55)..... | ER-164-168 |
| 4. | Scenic and Environmental Resources Findings of Fact Report
(Rec. 5584-5595) | ER-169-180 |

SUBSTITUTE

ORDINANCE No. **189000** As Amended

Adopt the Central City 2035 Plan; amend the Comprehensive Plan, Comprehensive Plan Map, Transportation System Plan, Willamette Greenway Plan, Scenic Resources Protection Plan, Zoning Map, and Title 33; authorize adoption of administrative rules; repeal and replace prior Central City plans and documents. (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

General Findings

1. In 1972, the Portland City Council adopted the *Planning Guidelines/Downtown Plan* as a policy statement to guide public and private decision-making in the Downtown area (adopted Motion on agenda item 3958, December 28, 1972). The plan addressed issues related to the loss of retail and housing, parking and the general character, livability and prosperity of Portland's downtown core. The plan included provisions to enhance the pedestrian environment, preserve and develop new housing, improve air quality, reinforce the retail core, preserve historic landmarks and districts, protect views and vistas, develop public transportation infrastructure, and recapture and reconnect the urban environment with the Willamette River waterfront. In 1980, the City Council updated and retitled the plan *Goals and Policies/Downtown Plan* (Resolution No. 32772).
2. In 1979, scenic resources were first designated and protected through building height limits as part of the implementation of the *Downtown Plan*. Additional scenic resources were identified and protected through the adoption of area plans between 1979 and 1988.
3. Portland's first *Comprehensive Plan* was adopted by the Portland City Council in October 1980 and was acknowledged as complying with Oregon's Statewide Planning Goals by the Land Conservation and Development Commission (LCDC) in May 1981. The 1980 *Comprehensive Plan* was again deemed in compliance with the Statewide Planning Goals at the conclusion of Portland's first Periodic Review in January 2000. The 1980 plan was incrementally updated by post-acknowledgement plan amendments through November 2011. In June 2016, as part of Task IV of Portland's second Periodic Review, the Portland City Council completely replaced the 1980 plan by the adoption of Portland's new *2035 Comprehensive Plan*, but delayed the effective date of the new plan to allow the LCDC sufficient time to review and acknowledge the new plan. During the delay between adoption and effect, the 1980 plan continued to serve as the City's comprehensive plan. Portland's *2035 Comprehensive Plan* was approved by the LCDC on March 15, 2018 and became effective on May 24, 2018. Because this ordinance is adopted after the effective date of the *2035 Comprehensive Plan*, its provisions are gauged against the applicable provisions of the *2035 Comprehensive Plan*, not the 1980 plan.

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4. In 1988, the City Council adopted the *Central City Plan*, which expanded the approach of the *Downtown Plan* to areas north of East Burnside (the Pearl and Old Town/Chinatown districts), west and south of Interstate 405 (the Goose Hollow and South Waterfront districts), and to the east side of the Willamette River (Lower Albina, Lloyd, and Central Eastside districts) (Ordinance No. 160606 and Resolution No. 34417). This plan addressed the preservation and development of new housing, expansion of transit, and other multi-modal improvements, enhancement of the Willamette River waterfront, views, the role of social services and affordable housing and environmental health, among other critical issues.
5. In 1987, the City Council adopted the *Willamette Greenway Plan* (Ordinance No. 160237). This plan implemented and was consistent with Statewide Planning Goal 15, Willamette River, for the City of Portland. This plan included goals, objectives, mapped boundaries with an inventory of property characteristics, Zoning Code regulations and special design guidelines that apply to properties along the Willamette River, including the Central City, and a list of public acquisition areas. The plan also updated information and regulations for scenic resources along the Willamette River.
6. In 1991, City Council adopted the *Scenic Resources Protection Plan* (SRPP) (Ordinance No. 163957). The SRPP includes a citywide inventory of scenic resources and an Economic, Social, Environmental and Energy Analysis (ESEE) as required by OAR 660-16-000 through 660-16-025. The SRPP consolidated and updated information about scenic resources from previous plans, including the *Downtown Plan*, *Central City Plan* and *Willamette Greenway Plan*. The SRPP implemented new regulations (Zoning Code Chapter 33.480) to protect designated scenic resources. The SRPP also amended the environmental regulations (Zoning Code Chapter 33.430) to allow for scenic resource management when the scenic and environmental resources overlap.
7. Following adoption and implementation of the *Central City Plan*, subsequent plans amended the policy and regulatory framework of the plan. These plans include, but are not limited to: *University District Plan* (1995); *River District Plan* (1995); *Goose Hollow Station Community Plan* (1996); *Downtown's West End* (2002); *South Waterfront Plan* (2002); and *North Pearl District Plan* (2008). These plans also provided the opportunity to address new and emerging issues not addressed by the Downtown and Central City plans, such as stormwater management, the enhancement of endangered species habitat, green building design, family compatible housing supply, and the role of bike and pedestrian infrastructure to support active transportation alternatives.
8. In 1995, the City Council adopted the *Central City Transportation Management Plan* (Ordinance No. 169535 and Resolution No. 35472). This plan amended the Central City's transportation and parking policies and regulations in order to maintain air quality, promote economic development, support an efficient transportation system and encourage the use of alternative modes of travel.

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9. Recognizing a need to create a new long-range plan for the Central City, the Bureau of Planning and Sustainability, in collaboration with other City bureaus and public agencies, initiated the *Central City 2035 Plan* project (CC2035) in 2010. The goal of the project was to create a comprehensive new policy and regulatory framework for the Central City, including the Central Reach of the Willamette River, taking into consideration new and emerging issues such as sustainable development, climate change, resiliency and equity.
10. The first product was the *Central City 2035 Concept Plan*, which provided an overarching policy framework intended to guide the development of subsequent, more detailed quadrant plans, as well as updates to the Portland Zoning Code, *Willamette Greenway Plan* and *Transportation Systems Plan* (TSP). The *Central City 2035 Concept Plan* contained a new vision statement identifying the Central City as a regional asset and a center of "Innovation and Exchange." The plan also contained goals and policies addressing the following topics: Regional Center – Economy and Innovation; Housing and Neighborhoods; Willamette River; Urban Design; and, Health and the Environment. Lastly, the plan contained an Urban Design Concept and Framework. This plan was adopted by City Council on October 24, 2012 (Resolution No. 36970).
11. On October 25, 2012, Council adopted the CC2035 *N/NE Quadrant Plan* (Resolution No. 36972). This was the first of three quadrant plans that would identify more detailed and specific land use, urban design, and transportation policies and implementing actions, including potential zoning proposals, for specific parts of the CC2035 plan area. The *N/NE Quadrant Plan* covered the Lloyd and Lower Albina districts. This plan, created in partnership with the Oregon Department of Transportation (ODOT), also included the *I-5 Broadway/Weidler Interchange Improvements Facility Plan*, which identifies improvements to safety and operations on the Interstate 5 freeway and multimodal local transportation facilities in the vicinity of the Broadway/Weidler interchange.
12. In October 2014, the City Council adopted the *Willamette River Greenway Inventory* (Ordinance No. 186858). The *Willamette River Greenway Inventory* is an update to the inventory contained in the *Willamette Greenway Plan* and is consistent with Statewide Planning Goal 15. The updated inventory provides information about public recreation, historic and archaeological sites, significant natural and scenic areas, vegetative cover, fish and wildlife habitats, floodplains and flooding, hydrologic conditions, ecologically fragile areas, land uses and zoning, agricultural lands, timer resources, aggregate resources, property ownership and acquisition areas.
13. On March 5, 2015, Council adopted the CC2035 *West Quadrant Plan* (Resolution No. 37115). This plan identified more detailed and specific land use, urban design, and transportation policies and implementing actions, including potential zoning proposals, for the western half of the Central City. One of the outcomes of this plan was a reorganization of the area into seven districts, including: Downtown; West End; Goose Hollow; Pearl District; Old Town/Chinatown; South Waterfront; and, University District/South Downtown.

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14. On July 29, 2015, Council adopted the CC2035 *Southeast Quadrant Plan* (Resolution No. 37147), which focused on the Central Eastside District. As with the other plans, it addressed land use, urban design, and transportation, and also expanded the Central City to include the new Clinton Station Area located on the far southeast corner of the plan area.
15. The *Concept Plan* and three quadrant plans also contained policy guidance and other recommendations for a comprehensive update of the *Willamette Greenway Plan* for the Central Reach of the Willamette River.
16. Guided by the policies, urban design diagrams, code concepts and other elements of the *Concept Plan* and three quadrant plans, the Bureau of Planning and Sustainability, in collaboration with other City bureaus, developed the *Discussion Draft Central City 2035 Plan*, released for public review on February 8, 2016. Additional guidance for the development of the *Discussion Draft Central City 2035 Plan* came from the *Central Reach Urban Design Concept* (2014), updates to the Natural and Scenic Resource inventories (2015), the *Central City Floor Area Ratio Bonus and Transfer Study* (2015), and other studies. A review period of approximately four months included open houses and presentations to interested groups, organizations, and appointed commissions. Written and verbal comments and proposed amendments were reviewed and considered by staff.
17. The *Proposed Draft Central City 2035 Plan* was released on June 20, 2016 for review by the public and the Portland Planning and Sustainability Commission (PSC). The PSC conducted an extensive review and plan revision process, including public hearings on July 26 and August 9, 2016 and work sessions on September 27 and November 16, 2016 and January 10, January 24, February 14, February 28, March 14, April 11 and May 23, 2017. The PSC voted on May 23, 2017 to forward to City Council their *Recommended Draft Central City 2035 Plan*.
18. On June 20, 2016 notice of the *Proposed Draft Central City 2035 Plan* was mailed to the Department of Land Conservation and Development in compliance with the post-acknowledgement review process required by OAR 660-18-020. A revised notice, reflecting Planning and Sustainability Commission and City Council amendments to the plan, was sent to the Department of Land Conservation and Development on March 13, 2018.
19. On June 24, 2016, a notice of the July 26, 2016 Planning and Sustainability public hearing on the *Proposed Draft Central City 2035 Plan* was sent to the project's mailing list, individuals and organizations who requested such notice, and other interested parties.
20. On June 24, 2016, approximately 21,000 notices of the *Proposed Draft Central City 2035 Plan* and Planning and Sustainability Commission hearing were sent to all property owners potentially affected by proposed zoning map and code changes, as required by ORS 227.186. Property owners received a separate notice for each property potentially affected by the proposal.

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21. On June 22, 2017, BPS published the Planning and Sustainability Commission's *Recommend Draft Central City 2035 Plan*. The plan contains the following elements, some of which were amended by City Council:
- Volume 1, Goals and Policies. This document includes the policies and goals for the Central City as a whole, and each individual district within the Central City. The document also contains a vision statement and urban design concept diagrams. Volume 1, as amended by City Council and dated May 2018, is attached as Exhibit B. The urban design diagrams will be adopted by a separate Resolution.
 - Volume 2A, Zoning Code & Map Amendments, Part 1: Central City Plan District. This document includes amendments to Title 33, Planning and Zoning, that implement the land use and transportation policies of the plan. It also contains amendments to the Comprehensive Plan Map and official Zoning Map for the CC2035 plan area. Volume 2A, Part 1, as amended by City Council and dated May 2018, is attached as Exhibit C.
 - Volume 2A, Part 1 contains new Zoning Code provisions that require certain new development and alteration projects to use bird-safe glazing treatment patterns and application techniques (33.510.223, Bird-Safe Exterior Glazing) and register for an approved green building certification program (33.510.244, Low-Carbon Buildings). The Bureau of Planning and Sustainability will adopt, administer and periodically amend Administrative Rules that identify objective standards, including specific products or programs that can be used, to meet the code requirements.
 - Volume 2A, Zoning Code & Map Amendments, Part 2: Willamette River and Trails. This document includes amendments to Title 33, Planning and Zoning, related to the Central Reach of the Willamette River, along with miscellaneous citywide code amendments related to trails, definitions and measurements. It also contains amendments to the overlay zones shown on the official Zoning Map. Volume 2A, Part 2, as amended by City Council and dated May 2018, is attached as Exhibit D.
 - Volume 2A, Zoning Code & Map Amendments, Part 3: Environmental and Scenic Overlay Zones. This document includes amendments to Title 33, Planning and Zoning, and the official Zoning Map related to the environmental and scenic resource overlay zones. These amendments apply outside the Central City and will be adopted by a separate ordinance.
 - Volume 2B, Transportation System Plan Amendments. This document includes amendments to the *Transportation System Plan*, including amendments to policies, project and study lists, and street classification maps. The document also includes the *Portland Central City Multimodal Mixed Use Area Agreement between the City of Portland and the Oregon Department of Transportation*, dated June 15, 2016. Also included is a letter dated June 15, 2016 from the Oregon Department of Transportation to the Portland Bureau of Transportation providing written concurrence with the designation of the Central City as a Multi-Modal Mixed-Use Area (MMA), subject to

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City adoption of the agreement. Volume 2B, as amended by City Council and dated May 2018, is attached as Exhibit E.

- Volume 3A, Scenic Resources Protection Plan, Part 1: Summary, Results and Implementation. This document includes a summary of the Scenic Resources Inventory, a summary of the Economic, Social, Environmental and Energy analysis, and a description of the Zoning Code changes and maps that implement the CC2035 Scenic Resources Protection Plan. Volume 3A, Part 1, as amended by City Council and dated May 2018, is attached as Exhibit F.
- Volume 3A, Scenic Resources Protection Plan, Part 2: Scenic Resources Inventory. This document is an updated inventory of views, viewpoints, view streets, scenic corridors, focal points and scenic sites in the Central City and an updated inventory of views and viewpoints surrounding the Central City for which buildings in the Central City could block the view. The inventory includes maps and descriptions of the location, geometry and relative quality of the scenic resources. Volume 3A, Part 2 is attached as Exhibit G.
- Volume 3A, Scenic Resources Protection Plan, Part 3: Economic, Social, Environmental & Energy Analysis. This document includes a trade-off analysis of the relative economic, social, environmental and energy consequences associated with different levels of scenic resources protection. This document includes maps and descriptions of the recommendations to protect specific scenic resources. Volume 3A, Part 3, as amended by City Council and dated May 2018, is attached as Exhibit H.
- Volume 3B, Willamette River Central Reach Natural Resources Protection Plan. This document presents an overview of the regulatory context for the river, an inventory approach and methodology, an analysis of protection options and recommendations, inventory results, and implementation tools. Volume 3B is attached as Exhibit I.
- Volume 4, Background Materials. This document references a number of background reports and documents used to develop the *Central City 2035 Plan*, including the *CC2035 Concept Plan*, the three quadrant plans, *Willamette River Greenway Inventory* and other studies and planning documents. Volume 4 is attached as Exhibit J.
- Volume 5A, Implementation: Performance Targets and Action Plans. This document includes performance targets that provide aspirational objectives by which to measure progress towards achieving the goals and policies of the *Central City 2035 Plan*. This document also includes action items that describe future projects and programs that will help implement the goals and policies of the plan. The performance targets and action items in Volume 5A will be adopted by a separate Resolution.
- Volume 5B, Implementation: The Green Loop. This document contains the Green Loop Concept Report, describing a proposed six-mile linear park that invites residents, employees, and visitors to experience the Central City by foot and by bicycle. The document includes key objectives, alignment options, design principles, and precedents

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of how the concept could be realized. Volume 5B will be adopted by a separate resolution.

- Volume 6, Public Involvement. This document presents a summary of public engagement activities during the CC2035 planning process, an outreach activities log, and materials related to an ethics complaint regarding the *West Quadrant Plan*. Volume 6 is attached as Exhibit K.
22. A public notice of the September 7, 2017 Portland City Council public hearing on the *Recommended Draft Central City 2035 Plan* was sent on August 23, 2017 to the project's mailing list, those who testified to the Planning and Sustainability Commission, individuals and organizations who requested such notice and other interested parties.
 23. A public notice of the January 18, 2018 Portland City Council public hearing on potential City Council amendments to the *Recommended Draft Central City 2035 Plan* was sent on December 29, 2017 to the project's mailing list, those who testified at the September 7, 2017 City Council public hearing and its continuations on September 14 and 20, 2017, and to property owners potentially affected by the amendments. Additional public hearings on potential amendments were held on March 7 and 22, 2018 and April 4, 2018. These additional hearings were announced on the CC2035 project web site and through the project's email distribution list.
 24. The Central City 2035 Findings of Fact Report, attached as Exhibit A, includes additional findings demonstrating consistency with the State-wide Planning Goals, Metro Urban Growth Management Functional Plan, and the City of Portland *2035 Comprehensive Plan*.

NOW, THEREFORE, the Council directs:

- a. Amend the *2035 Comprehensive Plan* to add the goals and policies of the *Central City 2035 Plan*, as shown in Exhibit B (Volume 1, Goals and Policies).
- b. Amend Policy 9.51, Multimodal Mixed-Use Area, and Figure 9-2 of the *2035 Comprehensive Plan*, as shown on pages 35 and 36 of Exhibit E (Volume 2B, Transportation System Plan Amendments).
- c. Amend the *2035 Comprehensive Plan* to reflect the adoption of the *Central City 2035 Plan*, as shown in Exhibit L (Additional Amendments to the 2035 Comprehensive Plan), attached.
- d. Amend the definition of "Neighborhoods" in the Glossary of the *2035 Comprehensive Plan* as follows:

Neighborhoods: Broad areas of the city that typically include residential, commercial, and mixed-use areas. Neighborhoods are physical communities located outside of the Central City and large industrial areas. The term "neighborhoods" may, but is not always intended to, refer to specific Neighborhood Association geographies.

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- e. Replace 2035 Comprehensive Plan Map CON-05, Significant Scenic Resources, with CON-05-A, Significant Scenic Resources, and CON-05-B, Significant Scenic Resources in the Central City, as shown on Exhibit M, attached.
- f. Amend the Comprehensive Plan Map as shown on page 519 of Exhibit C (Volume 2A, Zoning Code & Map Amendments, Part 1: Central City Plan District).
- g. Amend the official Zoning Map to apply base zones as shown on page 515 of Exhibit C (Volume 2A, Zoning Code & Map Amendments, Part 1: Central City Plan District).
- h. Amend the official Zoning Map to apply overlay zones as shown on pages 194 to 206 of Exhibit D (Volume 2A, Zoning Code & Map Amendments, Part 2: Willamette River and Trails).
- i. Amend Title 33, Planning and Zoning, as shown in Exhibit C (Volume 2A, Zoning Code & Map Amendments, Part 1: Central City Plan District) and Exhibit D (Volume 2A, Zoning Code & Map Amendments, Part 2: Willamette River and Trails).
- j. Amend the *Transportation System Plan* to add the policies, amend the transportation projects and studies lists, and amend the project and street classification maps, as shown in Exhibit E (Volume 2B, Transportation System Plan Amendments).
- k. Adopt the *Central City 2035 Scenic Resources Protection Plan*, contained in Exhibit F (Volume 3A, Scenic Resources Protection Plan, Part 1: Summary, Results and Implementation), Exhibit G (Volume 3A, Scenic Resources Protection Plan, Part 2: Scenic Resources Inventory) and Exhibit H (Volume 3A, Scenic Resources Protection Plan, Part 3: Economic, Social, Environmental & Energy Analysis).
- l. Adopt the *Willamette River Central Reach Natural Resources Protection Plan*, contained in Exhibit I (Volume 3B, Willamette River Central Reach Natural Resources Protection Plan).
- m. Adopt the *Portland Central City Multimodal Mixed Use Area Agreement between the City of Portland and the Oregon Department of Transportation*, dated June 15, 2016, as shown on pages 32 to 35 of Exhibit E (Volume 2B, Transportation System Plan Amendments).
- n. Adopt Exhibit A (Central City 2035 Findings of Fact Report), as amended by City Council and dated May 2018, Exhibit J (Volume 4, Background Materials), and Exhibit K (Volume 6, Public Involvement) as further findings.
- o. Adopt the Introduction section, commentary to the Central City Goals and Policies section, and the Central City Districts section of Exhibit B (Volume 1, Goals and Policies) as further findings.

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- p. Adopt the commentary in Exhibit C (Volume 2A, Zoning Code & Map Amendments, Part 1: Central City Plan District) and Exhibit D (Volume 2A, Zoning Code & Map Amendments, Part 2: Willamette River and Trails) as legislative intent and further findings.
- q. Adopt Chapter 4: Analysis of Protection Options and General Recommendations, and Chapter 5: Results of Exhibit I (Volume 3B, Willamette River Central Reach Natural Resources Protection Plan) as further findings.
- r. The *Central City 2035 Plan* elements adopted by directives a. through q., above, repeal and replace the following:
 - 1. The *Planning Guidelines/Portland Downtown Plan*, adopted by City Council in December 1972, as updated.
 - 2. Ordinance No. 160606, as amended, which adopted the *Central City Plan* goals and policies.
 - 3. Resolution No. 34417, as amended, which adopted the *Central City Plan* action charts, functional maps and urban design plans.
 - 4. Ordinance No. 169535, as amended, which adopted the goals, policies and objectives of the *Central City Transportation Management Plan*.
 - 5. Resolution No. 35472, which adopted the action items and other components of the *Central City Transportation Management Plan*.
 - 6. Resolution No. 36970, which adopted the *Central City 2035 Concept Plan*.
 - 7. Resolution No. 36972, which adopted the *N/NE Quadrant Plan*.
 - 8. Resolution No. 37115, which adopted the *West Quadrant Plan*.
 - 9. Resolution No. 37147, which adopted the *Southeast Quadrant Plan*.
- s. Amend Ordinance No. 160237, as amended, to no longer apply the provisions of the *Willamette Greenway Plan* within the Central Reach River Overlay Boundary as shown on Map 475-1 on page 78 of Exhibit D (Volume 2A, Zoning Code & Map Amendments, Part 2: Willamette River and Trails).
- t. Amend Ordinance No. 163957, as amended, to no longer apply the provisions of the *Scenic Resources Protection Plan* to any and all scenic resources within the Central City Boundary or to viewpoints and view corridors within the Viewpoint Boundary as shown on Map 1 on page 6 of Exhibit F (Volume 3A, Scenic Resources Protection Plan, Part 1: Summary, Results and Implementation).

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- u. Authorize the Director of the Bureau of Planning and Sustainability or designee to adopt, administer and periodically amend Administrative Rules for 33.510.223, Bird-Safe Exterior Glazing and 33.510.244, Low-Carbon Buildings. The adoption or amendment of these rules must include a public comment period.
- v. Direct the Bureau of Planning and Sustainability to update the 2014 *Willamette River Greenway Inventory* (adopted by Ordinance No. 186858) based on the adoption of the *Central City 2035 Plan*.
- w. Direct the Portland Bureau of Transportation to work with the Portland Public School District on a Memorandum of Understanding for the redevelopment of the Lincoln High School property to ensure that specific programming and security needs for the facility are appropriately balanced with a north-south public access connection through the site that serves the pedestrian and bicycle connectivity needs of Goose Hollow, consistent with the directives of the *Central City 2035 Plan*.

Section 2. Effect

The directives of this ordinance will take effect on July 9, 2018.

Section 3. Severability

If any section, subsection, sentence, clause, phrase, diagram or drawing contained in this ordinance, or the map, report, inventory, analysis, or document it adopts or amends, is held to be deficient, invalid or unconstitutional, that shall not affect the validity of the remaining portions. The Council declares that it would have adopted the map, report, inventory, analysis, or document each section, subsection, sentence, clause, phrase, diagram and drawing thereof, regardless of the fact that any one or more sections, subsections, sentences, clauses, phrases, diagrams or drawings contained in this Ordinance, may be found to be deficient, invalid or unconstitutional.

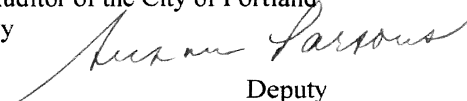
Passed by the Council: JUN 06 2018

Mayor Ted Wheeler
Prepared by: Troy Doss and Nicholas Starin
Date Prepared: May 15, 2018

Mary Hull Caballero

Auditor of the City of Portland

By



Deputy

Exhibit A:

Central City 2035 Findings of Fact Report

May 24, 2018

Findings on Statewide Planning Goals

State planning statutes require cities to adopt and amend comprehensive plans and land use regulations in compliance with state land use goals. The Statewide Planning Goals addressing citizen involvement and coordination apply to all legislative reviews. Many of the other goals focus on the assembly of information, proper analysis, and policy decisions.

The Statewide Planning Goals that apply to Portland are:

- Goal 1, Citizen Involvement
- Goal 2, Land Use Planning
- Goal 5, Natural Resources, Scenic and Historic Areas, and Open Spaces
- Goal 6, Air, Water and Land Resource Quality
- Goal 7, Areas Subject to Natural Hazards
- Goal 8, Recreational Needs
- Goal 9, Economic Development
- Goal 10, Housing
- Goal 11, Public Facilities and Services
- Goal 12, Transportation
- Goal 13, Energy Conservation
- Goal 14, Urbanization
- Goal 15, Willamette River Greenway

There are approximately 560 acres of land both within Portland's municipal boundaries and beyond the regional urban growth boundary that can be classified as rural land. In 1991, as part of Ordinance 164517, the City Council took an exception to Goal 3 and 4, the agriculture and forestry goals, in the manner described and authorized by state law and Goal 2. Because of the acknowledged exception, **the following goals do not apply:**

- Goal 3, Agricultural Lands
- Goal 4, Forest Lands

Other Statewide Planning Goals apply only within Oregon's coastal zone. The Statewide Planning Goal Glossary defines "Coast Zone" as "The area lying between the Washington border on the north to the California border on the south, bounded on the west by the extent of the state's jurisdiction, and in the east by the crest of the coastal mountain range, with the exception of: (a) The Umpqua River basin, where the coastal zone shall extend to Scottsburg; (b) The Rogue River basin, where the coastal zone shall extend to Agness; (c) The Columbia River basin, where the coastal zone shall extend to the downstream end of Puget Island. (Formerly ORS191.110)." Since Portland is not within Oregon's coastal zone, **the following goals do not apply to this decision:**

- Goal 16, Estuarine Resources
- Goal 17, Coastal Shorelands
- Goal 18, Beaches and Dunes

Goal 19, Ocean Resources

1. **Goal 1, Citizen Involvement.** To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

Goal 1 applies to all legislative land use decisions. Administrative rules under Goal 1 further require cities to:

- Designate a committee for citizen involvement;
- Provide for widespread citizen involvement with an opportunity for citizens to be involved in all phases of the planning process (developing, evaluating, and amending plans; and in the development, adoption, and application of legislation to carry out the plan - the subject of periodic review Task V);
- Adopt and publicize a program for citizen involvement that is appropriate to the scale of Portland's *Central City 2035 Plan* process;
- Provide the opportunity for the public to be involved in data collection;
- To assure that technical information is available in an understandable form;
- Assure effective two-way communication with citizens, including feedback mechanisms; and
- Assure a sufficient level of funding and human resources are allocated to the citizen involvement program to make citizen involvement an integral part of the planning process.

Each of the three primary phases in the development of CC2035 involved a detailed approach to addressing the requirements of Goal 1. The entire public involvement process of CC2035 is detailed in Volume 6 – Public Involvement, and is also summarized in this ordinance as follows:

Phase 1: Central City 2035 Concept Plan. The development of the concept began by establishing an 18-member Advisory Group (AG) representing stakeholders and interest groups with experience in different issues related to the Central City and its future. This group, appointed by Mayor Sam Adams, served for one year, and participated in a series of public meetings, including workshops and topic specific symposiums, that included additional experts on different topic areas. These events, which approximately 425 people attended, were used to develop strategies and objectives in the creation of a new framework of goals, policies, and actions intended to guide the development of CC2035.

Next a 17-member Steering Committee met eight times over a year to guide staff in the development of policy and urban design framework presented by the Central City 2035 Concept Plan. As with the earlier efforts, these meetings were open to the public and attendees were provided an opportunity at each meeting to provide input to the committee as part of that process.

Phase 2 – Quadrant Plans

N/NE Quadrant Plan. A 30-member stakeholder advisory committee (SAC) met 19 times and held an additional 14 subcommittee meetings. All meetings were open to the public and opportunities to provide direct input to the SAC were provided. In support of outreach on the plan, staff attended 100 community meetings attended by more than 1,100 people; hosted 10 public events attended by more than 600 people; and, used web based tools that an additional 140 people used to provide input.

West Quadrant Plan. A 33-member SAC met 16 times. All meetings were open to the public and opportunities to provide direct input to the SAC were provided. In support of outreach on the

plan, staff attended 100 community meetings attended by more than 1,100 people; hosted 12 public events attended by more than 400 people; and, used web based tools, mailers and surveys that an additional 700 people used to provide input.

Southeast Quadrant Plan. A 30-member SAC met 14 times. All meetings were open to the public and opportunities to provide direct input to the SAC were provided. In support of outreach on the plan, staff attended 93 community meetings attended by more than 500 people; hosted 15 public events attended by more than 500 people; and, used web based tools and mailers that an additional 1,000 people used to provide input.

Phase 3 – Discussion, Proposed, and Recommended Draft Development. This phase of CC2035 involved several topic specific efforts conducted in support of CC2035 development. These efforts used a combination of committees, public open house events, and meetings with community based organizations to provide additional opportunities to influence the final recommendations to CC2035. They included the following:

- **Central City Parking Policy Update** (30-member SAC, open house event, online surveys, community meetings)
- **Central City Scenic Resources Protection Plan** (Technical Advisory Committee, Panel of Experts, Public Review Draft, community meetings, open house events)
- **River Planning** (Central Reach Working Group, 2-Day Public Workshop, Public River Walks, community meetings, open house events)

Additionally, as a final version of CC2035 was being produced, additional opportunities to give input into the plan were provided as follows:

- **Discussion Draft.** Release on February 8, 2016, this draft of the plan presented preliminary zoning amendments and policy for CC2035. Open house events attended by more than 70 were held, and staff attended over 40 community meetings related to this draft. Public input on this first draft closed on March 31, 2016, and over 200 written comments were submitted.
- **Proposed Draft.** On June 20, 2016, the Proposed Draft of CC2035 was released in preparation for the PSC review of the plan. This draft of the plan was amended from the earlier Discussion Draft based on much of the public input provided during the review period of that draft. Prior to the first PSC public hearing, held on July 26, 2016, open house events were conducted to provide those who may testify before the PSC with more specific information about plan elements.

The PSC held public hearings and work sessions between June 2016 and April 2017. During these meetings, testimony was received on the Proposed Draft, amendments were proposed during work sessions, and an additional hearing was held to receive testimony on PSC proposed amendments before the PSC voted on the final Recommended Draft to be forwarded to City Council. The PSC held meetings for the plan on the following dates:

- Briefing: June 28, 2016
- Hearing: July 26, 2016
- Hearing: August 9, 2016
- Work Session: September 27, 2016
- Work Session: November 16, 2016
- Work Session: January 10, 2017

- Work Session: January 24, 2017
- Work Session: February 14, 2017
- Work Session: February 28, 2017
- Work Session: March 14, 2017
- Work Session: April 11, 2017
- Work Session & Vote: May 23, 2017

- **Recommended Draft.** On June 22, 2017, the Recommended Draft of CC2035 was released in preparation of City Council review of the plan. This draft of the plan was amended from the earlier Proposed Draft and presents the recommendation of the PSC to City Council.

City Council held public hearings and work sessions between August 2017 and May 2018. During these meetings, testimony was received on the Recommended Draft, amendments were proposed during deliberations, and additional hearings were held to receive testimony on Council proposed amendments before the Council voted on the final As Adopted Central City 2035 Plan. The Council held meetings for the plan on the following dates:

- Work Session: August 15, 2017
- Hearing: September 7, 2017
- Hearing: September 14, 2017
- Hearing: September 20, 2017
- Deliberation: October 18, 2017
- Deliberation: November 29, 2017
- Deliberation: December 6, 2017
- Hearing: January 18, 2018
- Hearing: March 7, 2018
- Hearing: March 22, 2018
- Hearing: April 4, 2018
- Deliberation: April 11, 2018
- Deliberation & Initial Vote: May 24, 2018
- Final Vote: June 6, 2018

The events and outreach strategies summarized here, and detailed in Volume 6, Public Involvement of the Central City 2035 Plan demonstrate consistency with the requirements of Statewide Planning Goal 1.

As noted above, the process leading to the final Recommended Draft of Central City 2035 included the development of four initial concept plans (the CC2035 Concept Plan, North/Northeast, West, and South East Quadrant Plans) and included a detailed public engagement process that provided repeated and numerous opportunities for all interested parties to shape and influence the final recommended draft.

For instance, each of the four noted plans were initially developed with the assistance of a Stakeholder Advisory Committee (SAC), specifically developed for each plan area. These SAC's include a diverse membership, including representatives from under-represented communities who have been impacted by past planning decisions. SAC meetings were open to the public, and public comment periods were a part of each meeting.

In addition to the SAC's, open house events, meetings with neighborhood and business associations, and meetings with numerous interest based organizations were held, to ensure all interested parties and organizations had a chance to learn about and provide input on the plan.

Further, the BPS website had pages dedicated to each plan effort, and tools such as a Map App page, and contact information for a Central City 2035 help line, each providing additional opportunities to learn about the plan effort, review back ground reports, meeting notes, and numerous ways to comment on the plan.

Once a SAC endorsed plan was created for the Concept Plan and all three quadrant plans, briefings were held with the Planning and Sustainability Commission (PSC), Design Commission, and Landmarks Commission. These meetings were open to the public and PSC meetings were televised and available to review online. Then a public hearing on each plan was held with the PSC, who heard testimony and reviewed written testimony on each plan. These hearings were followed by a series of work sessions where the PSC revised the plan based on their and public input, and a formal PSC Recommended Draft was forwarded to the Portland City Council, where a similar series of briefings, hearings, and work sessions were held on each plan before Council adopted each after making amendments based in part on public testimony.

On June 12, 2015, the Portland Office of the Ombudsman received a complaint noting that West Quadrant Plan SAC members did not disclose conflicts of interest, and asking that the SAC recommendations be invalidated. On October 21, 2015, the Ombudsman responded to this complaint by noting that the Oregon Government Ethics Commission makes a distinction between actual and potential conflicts of interest, stating:

"An actual conflict of interest occurs when an action taken by the official would directly and specifically affect the financial interest of the official, the official's relative or a business with which the official or a relative of the official is associated. A potential conflict of interest exists when an official takes action the could have a financial impact on that official, a relative or a business with which the official or the relative of the official is associated."

The Ombudsman found that SAC members did not face "actual" conflicts of interest, citing that the Oregon Government Ethics Commission, because "actual conflicts of interest cannot occur where an advisory committee makes non-binding recommendations (Advisory Opinion No. 07A-1001, page 3)." However, the Ombudsman indicated that SAC members could have faced a "potential" conflict, and although that "does not preclude anyone from being a member of the SAC or voting on a recommendation, the Ombudsman, prior to review of the CC2035 Plan by the PSC, recommended that BPS contact SAC members with a request to disclose any conflicts they may have had.

The public was then provided opportunities to discuss concerns and suggest amendments in front of both the PSC and Council in response to the potential conflict disclosures. Several members of the public took that opportunity.

The public engagement process conducted throughout the development of CC2035, provided numerous and repeated opportunities to address any input, concerns, or suggested amendments from all stakeholders of the plan.

Therefore, the plan and this public engagement process are consistent with Goals 2.A – 2.G of the 2035 Comprehensive Plan.

2. **Goal 2, Land Use Planning.** To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.

Goal 2, as it applies to CC2035, requires the development of a process and policy framework that acts as a basis for all land use decisions and assures that decisions and actions are based on an understanding of the facts relevant to the decision. The amendments support this goal because CC2035 was developed consistent with State-wide Planning Goals, the Metro Urban Growth Management Functional Plan, and 2035 Comprehensive Plan, as detailed in this ordinance. Further, the Central City 2035 Concept Plan, created with a stakeholder committee and approved by the PSC and City Council, established an additional policy framework to guide the development of subsequent quadrant plans, and the Recommended Draft of CC2035.

The plan was also developed in consultation and in partnership with all applicable City of Portland bureaus, state agencies, such as the Oregon Department of Transportation, Department of Land Conservation and Development, and local agencies, such as TriMet, Metro, and Multnomah County. Lastly, two agencies, the Port of Portland, and Portland Public Schools, testified on different elements of the recommended amendments to the Zoning Code. Thus, CC2035 is consistent with the requirements of Statewide Planning Goal 2.

3. **Goal 5, Open Space, Scenic and Historic Areas, and Natural Resources.** To protect natural resources and conserve scenic and historic areas and open spaces.

Scenic Resources

- a) The plan includes an updated inventory of scenic resources in the Central City, which was developed based on the procedures and requirements for complying with Goal 5. The policies and development standards in the plan protect significant scenic resources identified in the adopted *Central City Scenic Resources Protection Plan*, Volume 3A, Part 1 and Part 3;
- b) The plan includes an economic, social, environmental and energy analysis (ESEE) for the scenic resources, Volume 3A, Part 2. The ESEE analysis was developed based on the procedures and requirements for complying with Goal 5. The ESEE includes identification of conflicting uses, determination of the impact area, analysis of the ESEE consequences of allowing, limiting, or prohibiting conflicting uses, and development of a program to protect and conserve specified resources identified in the inventory;
- c) Scenic resource (s) overlay zones have been applied to significant scenic resources and limit development and vegetation within views. The river overlay zoning regulations, found in 33.475, require that viewpoints associated with designated views be developed to provide public access to the scenic resource;
- d) Building heights in portions of the Central City, shown on Map 510-3 and 510-4, have been updated to preserve significant views of and across the Central City. Projections are prohibited above the height if in a scenic view corridor.

Historic Resources. The plan includes new incentives to seismically improve historic landmarks and to transfer un-used floor area from sites with historic landmarks to provide greater long-term protect of these resources. The plan also lowers the maximum allowable height in some historic districts, and generally removes height bonus allowances within all historic districts, with the exception of ½ block in New Chinatown/Japantown, to ensure new development in these areas is compatible with the massing of adjacent contributing structures and the character of the district.

Natural Resources. Per OAR 660-023-0240(2) Goal 15 supersedes the requirements of Goal 5 for natural resources also subject to and regulated under Goal 15. The only Goal 5 natural resources in the CC2035 Plan area are located within the Willamette Greenway and therefore are regulated by Goal 15.

Open Spaces. See findings for Goal 8, Recreational Needs.

Thus, CC2035 is consistent with the requirements of Statewide Goal 5.

4. **Goal 6, Air, Water, and Land Resource Quality.** To maintain and improve the quality of the air, water and land resources of the state.

Goal 6, Air, Water and Land Resource Quality, requires the maintenance and improvement of the quality of air, water, and land resources. The amendments are consistent with this goal because they:

- a) Maintain existing natural resource function by applying new River Environmental overlay zoning for identified natural resource areas in the Central City, including resources located on the land and in the water. The plan includes a natural resource inventory that identifies riparian and wildlife habitat resources and functional values, and special habitat areas. The environmental zoning will protect and conserve the identified resources by limiting development within natural resource areas, will encourage environmentally sensitive development, and will require mitigation when development has a detrimental impact on the functions and values;
- b) Clarify the City's regulations for the removal and remediation of hazardous substances. The clarifications will ensure that clean-up of hazardous substances in the Central City occurs in a way that meets City goals and policies including goals related to the conservation of existing natural resources, and the use of natural bank treatments in the final design of clean up actions;
- c) Existing regulations including City Zoning Title 10, Erosion Control, and the Stormwater Management Manual will remain in effect and are applicable to future development. These regulations will maintain and improve water quality;
- d) Reduce the maximum allowed parking ratios for most land uses and zones and prohibit new surface parking which improves air quality by encouraging less vehicle trips into the Central City;
- e) Improve air quality through identifying a public trail alignment for the Central City on the zoning maps, clarifying the Zoning Code regulations requiring development of the public trail, and identifying and prioritizing trail development capital improvement projects that the City should implement. The public trail alignment will connect the neighborhoods and work centers in the Central City to other parts of the city with a route that is safe and convenient, and encourage energy efficiency using bicycles and walking as a transportation mode. Increasing the number of trips by bike or walking will reduce vehicle miles traveled and reduce air pollution;
- f) Require that new buildings larger than 20,000 square feet install an ecoroof. There was significant testimony provided in support of ecoroofs. City Council finds that ecoroofs are vegetated features that reduce heat island effects and filter the air, improving air quality. City Council also finds that ecoroofs reduce energy consumption within the building, which reduces carbon dioxide emissions and improves air quality.
- g) Allow for increased building / landscaped setbacks in some part of the Central City, and new policies, actions, and development standards of the plan call for the expansion of tree canopy in the Central City, both of which will increase the amount of vegetation in the plan district which will help to improve air quality.

- h) Expand access of non-automotive and active transportation options, such as cycling, walking, transit, and the Green Loop, will help to reduce total miles traveled by car as well as single occupancy trips;
- i) Support the Broadway/Weidler (Rose Quarter) Interchange Project, Central Eastside Access and Circulation project, N River St Reconstruction, Yamhill & Water Traffic Improvements, I-405/Glisan Traffic Improvements, SW Broadway Traffic Improvements, and Southern Triangle Access Improvements. The Rose Quarter project was previously adopted by City Council; however, this project will improve air quality in the Central City by reducing idle times.

5. Goal 7, Areas Subject to Natural Disasters and Hazards. To protect people and property from natural hazards.

Goal 7, Areas Subject to Natural Hazards, requires the protection of life and property from natural hazards. The amendments are consistent with this goal because:

- a) City programs that are deemed in compliance with Title 3 requirements for flood management, and erosion and sediment control (i.e., Title 10 Erosion Control, and the balanced cut and fill requirements of Title 24), are unchanged;
- b) The Health and Environment Goal and related policies and actions provide for resilience to climate change impacts and natural hazards including flooding and earthquakes, through planning, design, education and implementation of green infrastructure and infrastructure retrofits;
- c) A new River Environmental overlay zone is applied to significant natural resource areas including areas subject to natural hazards such as steep slopes and portions of the floodplain. The overlay zoning will guide development away from these areas, thereby protecting public health and safety and property from natural disasters and hazards; and,
- d) Development that is not river-dependent or river-related is required to setback 50 feet from the top of bank of the Willamette River in the River General overlay zone. The setback will limit development within areas that are often subject to flooding thereby protecting people and property.

6. Goal 8, Recreational Needs. To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

Goal 8, Recreational Needs, requires satisfaction of the recreational needs of both citizens and visitors to the State. The amendments are consistent with this goal by:

- a) The City's *Vision 2020 Plan* (2001) is a comprehensive long-range citywide assessment and plan of parks, recreation and open space land, facilities and services. It sets targets for land acquisition and services to be provided throughout the City including the Central City; and considers existing and future population and corresponding recreational demands. The CC2035 Plan is consistent with and updates the *Vision 2020 Plan* for the Central City. The Housing and Neighborhoods and Willamette River goals, policies and related actions support meeting recreational needs in the Central City through establishing complete neighborhoods and a Willamette riverfront that provide park, recreation and open space opportunities. Specific actions include activities to develop a community center or neighborhood park, improve existing recreational facilities or make connections to

recreational facilities like the Willamette Greenway Trail. Public-private partnerships are identified to develop recreational resources in the Central City;

- b) Retaining existing open space zoning in the Central Reach and allowing a limited amount of new retail development within Open Spaces in the Central City. Small retail, such as bike or kayak rentals, will enhance the recreational experience;
- c) Requiring developers who utilize a Central City Master Plan to include open space in development plans;
- d) Expanding a riverfront open space bonus option for more publicly accessible open space provided with new development/redevelopment;
- e) Identifying and facilitating the completion of the major public trail along the Willamette River (Greenway Trail), plus pedestrian paths connecting public rights-of-way to the trail. The trail will increase public access to and along the Willamette River and provide opportunities for active and passive recreation;
- f) Expanding the river setback to 50 feet from top of bank. The standard requires that non-water-dependent and non-water-related development in the River General overlay zone set back from the Willamette River. The setback will not apply to water-related or water-dependent uses (the City uses the term river-related and river-dependent and the definitions of those terms include the state definitions of water-related and water-dependent). Testimony was received that supported and opposed the expanded setback. City Council finds that the expansion is appropriate because the purpose of the river setback is to reserve space for the conservation and enhancement of natural resources and to provide an opportunity for public access where appropriate ;
- g) Designating viewpoints along the Willamette river and upland areas and allowing for maintenance of vegetation within the view corridors to protect visual access to the Willamette River and to surrounding natural features (e.g., Mt Hood). The river overlay zoning regulations, found in 33.475, require that viewpoints associated with designated views along the Willamette River be developed to provide public access to the scenic resource;
- h) Adding a new standard in the River Environmental overlay zone to allow up to four new floating structures (aka swimming platforms) within the Willamette River during the summer months;
- i) The proposed Green Loop will provide a new facility that is designed to provide active recreation, such as cycling, walking, and running, as well as passive recreation opportunities by provide seating and gathering places for people along the loop's alignment. Further, the loop is intended to provide a safe and direct path between the greenway and various parks in the Central City.

7. **Goal 9, Economic Development.** To provide adequate opportunities throughout the state for a variety of economic activities vital to health, welfare, and prosperity of Oregon's citizens.

The recently adopted *2035 Comprehensive Plan* conducted extensive city-wide analysis, including the Central City Plan District, to demonstrate compliance with Goal 9. It should be noted that the intensification of industrial uses on industrial lands within the Central City, especially within the Central Eastside District, was an important part in meeting city-wide compliance with Goal 9, and Task V of *2035 Comprehensive Plan* made these changes to Central City Industrial Land prior to the

adoption of CC2035. The findings below summarize the work relevant to CC2035 and add additional details specific to the Central City Plan District.

Summary:

Goal 9 requires cities to consider economic activities vital to the health, welfare, and prosperity of Oregon's citizens. Comprehensive plans for urban areas are required to include, among other things: an analysis of economic patterns, potentialities, strengths, and deficiencies; policies concerning economic development; and land use maps that provide for at least an adequate supply of sites for a variety of industrial and commercial uses.

Land needs for a variety of industrial and commercial uses are identified in the *Economic Opportunities Analysis* (EOA), which was adopted as Exhibits L1, L2, L3, and L4 with periodic review Task III (Ordinance 187831). How these needs are met is explained in the findings contained within Exhibit A of that ordinance.

A new *Comprehensive Plan Map* was adopted with periodic review Task IV (Exhibit C of Ordinance 187832). Exhibit A of Ordinance 187832 contains findings explaining how the various land use designations on the new *Comprehensive Plan Map* meet the categories of industrial and commercial uses identified as needed within the *Economic Opportunities Analysis*.

Changes to both the *Zoning Map* and *Zoning Code* resulting from the 2035 *Comprehensive Plan* take initial steps to advance the goals of the plan.

- All zone changes were made to a base zone permitted by the new *Comprehensive Plan Map* as provided by Policies 10.1, 10.2, 10.3, and 10.4 of the 2035 *Comprehensive Plan*, and as described in the "Corresponding and Allowed Zone" table, which is Figure 10-1 of the 2035 *Comprehensive Plan*. These zone changes were adopted as Exhibit D-1 of Ordinance. The CC2035 zone changes will not go into effect until after the 2035 *Comprehensive Plan* goes into effect.
- The *Zoning Code* amendments adopted with Ordinance 188177, Chapters 33.130, 33.140, and 33.150 of the as-amended *Zoning Code*, each contain a table of various commercial, industrial, and institutional uses derived from the EOA, and each of these uses are identified as allowed, limited, conditional, or prohibited by the land use regulations within these chapters.

Supply of Industrial Employment Land

The question of employment land supply was addressed by the EOA adopted with periodic review Task III (Ordinance 187831) and acknowledged on April 25, 2017 and the land use designations on the *Comprehensive Plan Map* adopted with Task IV (Ordinance 187832). The purpose of Ordinance 188177 was to carry out the decisions made by the previous stages of periodic review, not to revisit them. This ordinance similarly does not seek to revisit the decisions of these prior ordinances, but is intended to put the final zoning proposals addressing Central City industrial and employment lands in place.

The acknowledged EOA analyzed adequate growth capacity for a diverse range of employment uses by distinguishing several geographies and analyzing growth capacity at each one. The relevant industrial geographies were Harbor and Airport, Harbor Access, Columbia East, Dispersed Employment, and Central City Industrial. Each of these industrial employment geographies represented a different mix of industrial and related employment sectors, building types, and densities. The EOA included a buildable land inventory and capacity analysis in each of the

geographies. That capacity analysis specifically considered a range of site sizes, infrastructure and service deficiencies, and various other development constraints.

The EOA included a summary of how the new *Comprehensive Plan Map* provided at least a twenty-year growth capacity in these geographies (Exhibit L of Ordinance 187831 - Figure 2 of Volume 4). That table described the constrained supply of land, described how additional capacity could be made available through investments in infrastructure and brownfield cleanup (the "With Other Gains" column), and described the impact of an "Integrated Strategy", which also accounted for anticipated additional environmental protections in the future. The conclusion was that on balance there was an adequate 20-year supply provided within the *Comprehensive Plan Map*.

Ordinance 188177 adopted *Zoning Map* amendments to begin implementing the recently adopted *Comprehensive Plan Map*, including changes to the IG1 zones of the Central Eastside District of the Central City, in advance of CC2035.

The tables below identify the how industrial lands within the Central City, and CC2035, contribute to meeting the requirements of Goal 9.

Goal 9 – Table 1: Industrial Employment Demand and Supply Reconciliation

<u>Employment Geography</u>	20-Year Land Demand (acres)	Land Supply (acres)				Short Term Land Demand (acres)	Surplus/ Deficit
		Existing Comp Plan	2035 Comp Plan	With Other Gains	New Zoning		
Harbor and Airport	1013	774	900	1067	1011	659	+352
Harbor Access	192	113	136	167	144	82	+62
Columbia East	350	356	346	416	388	279	+109
Dispersed Emp.	130	121	146	146	369	109	+260
Central City Industrial	90	65	188	188	188 ¹ +	75	+113

¹ In this geography, consistent with the EOA/BLI methodology used in Task II and IV, this figure includes both re-developable and vacant land. In other geographies, the EOA/BLI assumes only vacant land as available supply. This was done because industrial employment uses often involve large outdoor storage and work areas, and formulas that are typically used to identify under-utilized land based on building coverage or improvement to land value ratios do not work well for those land uses. The 188-acre figure also includes the 123 acres of supply gained by expansion of the EOS zoning, as described in the EOA, Section IV, page 12.

Goal 9 – Table 2: Land Supply in Central City Industrial EOA Geography

		Occupied	BLI Redevelopment or Vacant	TOTAL
CENTRAL CITY INDUSTRIAL		422	65	487
	CX	1	3	4
	EG1	1	6	7
	EX	135	40	175
	IG1	266	15	281
	IH	19	1	20

The supply in the Central City Industrial Geography (The Central Eastside Industrial District) is in-effect further increased by code changes made in the Central City Plan District to expand the Economic Opportunity Subarea (EOS) subarea to encompasses the broader district. This code change implements recommendations from Section 2/3 of the EOA, Chapter III (see Section 33.510.119.C of the Zoning Code), that change enables more intensive employment density in that district. Industrial Office uses are allowed in this expanded area, and Retail Sales and Service and Traditional Offices uses are limited. The changes are intended to provide a balanced approach that supports industrial retention and industrial office job growth.

The existing EOS area has been very successful at increasing employment densities, especially those in industrial office space, while retaining existing industrial operations. As described in the EOA, industrial office uses are limited primarily to information sector businesses, such as graphics and software. This zoning innovation helped accelerate job growth in the Central Eastside by reuse of underutilized second-floor space. The predominant industrial zoning in this geography has created an affordable environment for robust job growth by cost-conscious office tenants. Continued growth in this market appears to be reliant on hybrid zoning that retains industrial sanctuary cost levels while expanding development capacity of Class C office tenants. Expanding this allowance has the effect of allowing more intensive job density in the district because the types of industries that use an industrial flex format, rather than a traditional flex format, on average have much higher employment densities per square foot. Modeling estimated found that these allowances are equivalent to adding of 123 acres of industrial zoned land to the district.

Protection of Prime Industrial Lands

Statewide Planning Goal 9 is implemented by OAR Chapter 660, Division 9 (the Goal 9 Rule). In addition to requiring the identification and designation of an adequate supply of employment land, this rule has special provisions for the identification and protection of “prime” industrial land. The rule describes this type of land as possessing site characteristics that are difficult or impossible to replicate in the planning area or region, particularly lands having access to transportation and freight infrastructure “including, but not limited to, rail, marine ports and airports, multimodal freight or transshipment facilities, and major transportation routes.”

Subsection (8) requires the City to adopt zoning map amendments and land use regulations to identify and protect prime industrial land. The City has responded to these mandates by amending the Official City Zoning Map to add an “I” (this is a lower case “L”) overlay zone, titled the “Prime Industrial Overlay” (Exhibit D-2). This overlay maps prime industrial land, and the regulations associated with the overlay

prohibit the re-designation of prime industrial land to any other use through any quasi-judicial procedure, and reduces the number of non-industrial uses allowed in the overlay. These reductions are in addition to already stringent use restrictions associated with the also-applicable industrial base zones. The Central City Plan District contains lands with this designation in the Lower Albina District.

The I overlay and its associated land use regulations meet the requirements of the Goal 9 Rule for prime industrial land.

Adequate Supply of Commercial Land

Most the Central City is zoned as either Central Commercial (CX) or Central Employment (EX). Both zones allow for commercial uses, as is identified in the table below:

Use Categories	EX	CX
Commercial Categories		
Retail Sales and Service	Y	Y
Office	Y	Y
Quick Vehicle Servicing	N	N
Vehicle Repair	Y	L
Commercial Parking	CU	CU
Self-Service Storage	L	L
Commercial Outdoor Recreation	Y	Y
Major Event Entertainment	CU	Y

Y = Yes, Allowed

CU = Conditional Use Review Required (see Zoning Code for applicable conditions)

L = Allowed, But Special Limitations (see Zoning Code for limitations)

N = No, Prohibited

These zones combined with the relatively high floor area ratios set for the Central City provide for the highest density of commercial uses in Portland, as well as the State of Oregon. Thus, the amendments made to the IG1 zone, Central City Industrial Lands, and the continued allowances for higher density employment, commercial, and industrial zoned lands assure CC2035 is consistent with Statewide Planning Goal 9.

8. Goal 10, Housing. To provide for the housing needs of citizens of the state.

The recently adopted *2035 Comprehensive Plan* conducted city-wide analysis, including the Central City Plan District, to demonstrate compliance with Goal 10. The findings below summarize the work relevant to CC2035 and add additional details specific to the Central City Plan District.

Summary:

Goal 10 specifies that each city must plan for and accommodate needed housing types, such as multifamily and manufactured housing. It requires each city to inventory its buildable residential lands, project future needs for such lands, and plan and zone enough buildable land to meet those needs. It also prohibits local plans from discriminating against needed housing types.

Goal 10 and its implementing administrative rules contain the following specific requirements:

1. Identify future housing needs by amount, type, tenure and affordability;

2. Maintain a residential *Buildable Lands Inventory* (BLI) with sufficient land to meet identified needs;
3. Adopt land use maps, public facility plans and policies to accommodate needed housing (housing capacity, as well as type, tenure and affordability);
4. Meet minimum density and housing mix requirements (including the Metropolitan Housing Rule); and
5. Adopt clear and objective standards for needed housing.

The findings below respond to these five requirements.

Identification of Needed Housing and Adoption of a BLI

The City satisfactorily completed the first two requirements of Goal 10 with its Task II periodic review submittal adopted by Ordinance 185657, and as updated and revised with Ordinance 187831 (Exhibits F and G of that ordinance), and acknowledged on April 25, 2017. The housing needs analysis adopted with these ordinances provided a specific estimate of the types of households (by size and income) likely to be in Portland by 2035, and provided additional facts describing housing need by type, tenure and affordability. The BLI identified the supply of land available to provide this needed housing. The first two parts of Goal 10 have been met for the reasons stated in findings prepared with those ordinances, which also pertained to the housing strategies for the Central City Plan District, as presented in CC2035.

Accommodation of Needed Housing

Ordinance 187832 addressed the third and fourth of these requirements by adopting a new *Comprehensive Plan Map* and new housing policies. In conjunction with the adoption of that ordinance the City documented that the new land use map and policies provide for needed housing. The findings below will review the relevant facts again, this time through the lens of the *Zoning Map* and regulations being adopted with this ordinance. The findings below address Goal 10 requirements that the *Zoning Map* and associated regulations accommodate 20-years of forecast growth at urban densities, and provide the opportunity for a variety of housing types and tenures, with a variety of affordability levels. Several aspects of the Metropolitan Housing Rule are addressed directly.

First overall housing capacity is considered.

With Ordinance 187831 the City adopted a revised inventory of vacant and underutilized land (Exhibits F and G of Ordinance 187831). Using this revised inventory of land, and the same GIS methods acknowledged with LCDC Order No. 001850, the City estimated that the 2035 *Comprehensive Plan Map* provides a capacity of 247,000 additional units,² still well beyond the estimated need. Using the revised inventory of land adopted with Ordinance 187831, and the same GIS methods acknowledged with LCDC Order No. 001850, the City estimates that the *Zoning Map* provides a capacity of 201,000 additional units,³ still well beyond the estimated need (123,000 units).

As for CC2035, the BLI found that the existing zoning in the Central City can provide capacity to meet the housing projections for the year 2035. However, the plan results in the rezoning of former employment land in the Central Eastside to a mixed-use land (EX) that has produced thousands of

² Buildable Lands Inventory and Growth Allocation GIS Model (model run 5/24/16)

³ Buildable Lands Inventory and Growth Allocation GIS Model (model run 9/07/16).

units in the Pearl and elsewhere in the Central Eastside. The plan also proposes rezoning Central Residential (RX) zoned land to Central Commercial (CX) which has produced far more housing than the RX zone over the last 25 years. Analysis demonstrated that these amendments will be sufficient to allow approximately 39,500 units to be developed through the life of the plan. Thus, both with the *Comprehensive Plan Map* and *Zoning Map*, this ordinance is consistent with the Goal 10 requirement to accommodate needed housing.

Second, allowed density is considered.

The Metropolitan Housing Rule (OAR 660-007-0035) states that cities “***must provide for an overall density of ten or more dwelling units per net buildable acre***”. This applies to land within the Urban Growth Boundary.⁴ Buildable is defined to include vacant and re-developable land, excluding land constrained by natural hazards, steep slopes, or land subject to natural resource protection measures.

In practice, most residential development in Portland occurs on land designated for mixed use development. This is particularly true within the Central City Plan District. The rule also allows consideration of mixed use areas as “residentially-designated” (OAR 660-07-0018 (1)). The findings on Title 1, Housing Capacity, found in the “Findings on Metro Urban Growth Management Functional Plan” demonstrate how mixed-use zones in the Central City produced more housing per acre than high-density residential zones have over the last 25-years. This analysis served as a basis for CC2035 amending the base zone of RX to CX in various location in the Central City.

The Metropolitan Housing Rule applies only to new construction on vacant and re-developable land. Including mixed use zoning, and residential zoning, the Buildable Lands Inventory contains about 9,888 acres of residentially-zoned vacant and re-developable land.

Regarding the Central City Plan District, this analysis found that the plan area contained 21,800 households in 2010, and the capability of producing an additional 32,773 units with the applied Comprehensive Plan and Zoning Map designations. Further, the total acreage of residential and mixed-use residential zoned land, as well as development bonuses for commercial and residential development that support the creation of affordable housing units, are projected to result in the development of 39,500 affordable and market rate units between 2015 – 2035.

Clear and Objective Standards

ORS 197.307(4) requires that jurisdictions “may apply only clear and objective standards, conditions and procedures regulating the development of needed housing on buildable lands” ...and these provisions...” may not have the effect, either in themselves or cumulatively, of discouraging needed housing through unreasonable cost or delay.” However, ORS 197.307(5) states that proposals for residential development “in a formal adopted central city plan, or regional center as defined by Metro, in a city with a population of 500,000 or more.” Therefore, the Central City Plan District and CC2035 are exempt from the requirements of ORS 197.307(4).

Goal 10 Conclusions

For the reasons stated above, CC2035 meets the applicable requirements of Goal 10. The 2035 *Comprehensive Plan Map* and *Zoning Map* provide a City supply of residential land that is sufficient to meet identified housing needs within the meaning of ORS 197.307(3), Goal 10 and OAR Chapter

⁴ Because Portland was incorporated before the creation of the UGB, there is a small area (about 440 acres) of residentially-zoned land in Portland that is outside the UGB, which is zoned for rural farm and forest uses with a 20-acre minimum lot size. This land has been excluded from the analysis of this section.

660, Division 7. The *Zoning Map* provides a variety for allowed densities. Thus, CC2035 is expected to contribute to a city-wide housing mix that is more diverse than it is today.

9. **Goal 11, Public Facilities and Services.** To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

As part of the development of the *2035 Comprehensive Plan*, Ordinance 187831, *Citywide Systems Plan*, was adopted. The plan, that also addressed the CC2035 plan area, ensures that CC2035 is consistent with the requirements of Statewide Planning Goal 11.

10. **Goal 12, Transportation.** To provide and encourage a safe, convenient and economic transportation system.

The Oregon Transportation Planning Rule (TPR) was adopted in 1991 and amended in 1996 and 2005 to implement State Goal 12. The TPR requires certain findings if the proposed [Comprehensive Plan Map amendment, Zone Change, regulation] will significantly affect an existing or planned transportation facility.

Section 660-012-0045 of the TPR requires local governments to adopt land use regulations that designate "types and densities of land uses adequate to support transit" and those that "reduce reliance on the automobile and allow transit-oriented developments on land along transit routes." These amendments support these requirements because the proposed changes

Section 660-012-0060(1) of the TPR requires "amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation that would significantly affect an existing or planned transportation facility," to ensure that allowed land uses are consistent with the identified function, capacity and performance standards of the affected facility. This requirement can be met by "adopting measures that demonstrate allowed land uses are consistent with the planned function, capacity, and performance standards of the transportation facility." These amendments support these requirements in the following manner:

- A. (1)(c). Significant transportation demand management, as defined in this rule, are present in the Central City 2035 Plan, including a rewrite of parking and transportation demand management policies and new zoning code regulations that significantly limit new parking allowed to be built in the Central City. These changes eliminate the significant effect of the amendment by reducing auto trips because of the plan to below the number of trips in the "base case", which is the model run for the 2016 adopted Comprehensive Plan.
- B. (8)(a)(B). MMA's are required to be designated as a "central city, regional center, town center or main street in the Portland Metropolitan 2040 Regional Growth Concept." The Central City is designated under the Metro 2040 Regional Growth Concept as its own category, "central city", thus qualifying as part of this rules as a "mixed use, pedestrian-friendly center or neighborhood".
- C. (8)(b)(A). An MMA is required to "allow a concentration of a variety of uses." The Central City Plan district is largely designated as Central Commercial (CX) and Central Employment (EX). These two base zones allow for high density development that allows for commercial office, institutions, residential, and retail uses. Further, even the industrial portions of the plan district allow for high density employment uses. Thus, this MMA requirement is met.
- D. (8)(b)(C). To qualify as an MMA's the Central City Plan District should allow for "a commercial core area with multi-story buildings." Most the Central City is, or has major

corridors, designated as Central Commercial (CX) and Central Employment (EX). These two base zones allow for high density development that allows for commercial office, institutions, residential, and retail uses. Thus, this MMA requirement is met.

- E. (10) (a)(A). The MMA Rule (OAR 660-12-0060(10) notes that a proposed amendment qualifies to be an MMA if the amendment is: "a map or text amendment affecting only land entirely within" a MMA; is consistent with the definition of an MMA; is entirely within an urban growth boundary with adopted plans and development regulations; in an area that does not require off-street parking; and, located in one or more of specific ODOT classifications regarding intersections and interchanges. The Central City qualifies as a Multimodal Mixed-use Area under this section of 060, and meets the definition stated in (10) (b) (A through E) as noted below:
 - 1) (10) (a)(A): Page 36 of Volume 2B contains a map of the MMA boundary
 - 2) (10) (a)(B): The study area is consistent with the definition of an MMA.
 - 3) (10) (b) (A): MMA boundary provided in Volume 2B
 - 4) (10) (b)(B) MMA is located within the region's UGB.
 - 5) (10) (b)(D): Within an MMA "buildings and building entrances" are required "to be oriented to streets." The development standard of the Central City Plan District requires that buildings be oriented toward streets, and contain main entrances and active ground floor uses to support a pedestrian and transit oriented public realm. Thus, this MMA requirement is met.
 - 6) (10) (b)(E)(i): There are several interchanges within one-quarter mile, including I-5, HWY 26, HWY 30, I-205 and I-84.
 - 7) (10) (b)(E)(iii): Within one-quarter mile of facilities owned by ODOT. The City has a letter of concurrency from ODOT for the Central City to designated as an MMA, found in Vol 2B, p38.
- F. (10) (c). Section (10) (c) of the MMA Rule required consideration of various safety factors. In response to this, regarding the Central City, there are several mainline facilities owned by the Oregon Department of Transportation (ODOT) within and near, as defined in this rule, the study area. The City of Portland has worked with ODOT to designate the Central City as an MMA area. As such, analysis to address (10) (c) (A) has been conducted and the City and ODOT have addressed effects via an agreement (p 33-35) to manage interchanges in the future. The agreement is found in Volume 2B, along with TSP projects and studies (pp13-29) that improve safety for interchanges ringing the Central City, and an ODOT letter on p38 that provides written concurrence for the Central City to become an MMA.
- G. (10) (d) and (e). The MMA Rule states that "a local government may designate an MMA by adopting an amendment to the comprehensive plan or land use regulations to delineate the boundary following an existing zone, multiple zones, an urban renewal area, or other exiting boundary." The Central City 2035 Plan (pp 36-7) as well as the City's Comprehensive Plan include language designating the Central City as an MMA by adopting an amendment to the City's Comprehensive Plan, including establishing a new boundary.
- H. (10) Under 660-012-0005 "Definitions" under "demand management" it lists "actions which are designed to change travel behavior to improve performance of transportation facilities and to reduce need for additional road capacity. Methods may include, but are not limited

to, the use of alternative modes, ride-sharing and vanpool programs, trip-reductions ordinances, shifting to off-peak periods, and reduced or paid parking." The Central City 2035 contains a multitude of policies (pp.2-5), actions (in the form of TSP projects and studies (pp 13-29), and regulations (see parking regulations in Volume 2A pp.223-253). These address other transportation performance standards or policies that apply to safety for all modes, network connectivity for all modes and accessibility for freight vehicles of a size and frequency required by the development.

11. Goal 13, Energy Conservation. To conserve energy.

Goal 13 requires that land use plans contribute to energy conservation. The *Growth Scenario Report* adopted with periodic review Task IV of the *2035 Comprehensive Plan* (Ordinance 187831) contains information about how energy conservation was considered in the development of the comprehensive plan. The CC2035 plan includes zoning amendments that require new development to pursue certification from a low carbon building program, such as Leadership in Energy and Environmental Design (LEED), and an effort to create an urban form that reduced energy usage. This and other green building development standards, as well as new multimodal transportation elements of the plan intended to reduce single occupancy vehicle trips (SOV), and reduced parking ratios each contribute to creating and Central City consistent with Statewide Planning Goal 13.

12. Goal 14, Urbanization. To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

Statewide Planning Goal 14, Urbanization, has several purposes, including:

- Providing orderly and efficient transitions from rural to urban land uses;
- Accommodating urban population and urban employment inside urban growth boundaries;
- Ensuring efficient use of land; and
- Providing for livable communities.

Goal 14 and its administrative rule assign most of these functions to Metro rather than the City. The City's role is limited to accepting the share of regional household and employment growth allocated by Metro, and demonstrating that this growth can be accommodated in an orderly and efficient manner that preserves and enhances livability. The template for this desired development pattern is the *Region 2040 Growth Concept*, which is carried out by Metro's *Urban Growth Management Functional Plan* (UGMFP). The growth concept emphasizes development within designated centers and corridors.

The Goal 2 analysis performed for the *Growth Scenarios Report* adopted by periodic review Task III (Ordinance 187831) provided substantial evidence that the spatial development pattern of urban jobs and housing allowed by the *2035 Comprehensive Plan Map* is compatible with the *Region 2040 Growth Concept*, ensures efficient use of urban land through infill and redevelopment opportunities, and will provide for more complete and livable communities.

CC2035 is consistent with the *2035 Comprehensive Plan* as the plan continues to manage the Central City Plan District as a high-density center intended for residential and employment growth in a manner consistent with the *2035 Comprehensive Plan* and Statewide Planning Goal 14.

13. Goal 15, Willamette River Greenway. To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.

Goal 15, Willamette River Greenway, requires the protection, conservation, enhancement, and maintenance of the natural, scenic, historic, agricultural, economic, and recreational qualities of land along the Willamette River. The City's Willamette Greenway Plan was first adopted in October 1979 (Ordinance 148537). The Willamette Greenway Plan was acknowledged by reference when the Oregon Land Conservation and Development Commission (LCDC) acknowledged Portland's Comprehensive Plan in May 1981. The Willamette Greenway Plan was updated in November 1987 (Ordinance 160237) and acknowledged by LCDC as a post-acknowledgement plan amendment. The Central City 2035 Plan is a further update of the Willamette Greenway Plan for the area within the Central Reach boundary (Central City). The amendments are consistent with this goal because:

- A. The CC2035 Plan's Willamette River goals, policies and actions protect, conserve, enhance and maintain the natural, scenic, historical, economic and recreational qualities of land along the Willamette River in the Central Reach. Policies and actions promote the multifunctional river/riverfront that provides safe and enjoyable recreation, a prosperous and vibrant riverfront, supports river transportation, improves watershed health and native species recovery, encourages context-sensitive riverfront development and promotes improvements and activities that strengthen the physical, visual, and historic/cultural connections of the river to the rest of the Central City.
- B. Inventories: The *Willamette River Greenway Inventory* was completed in October 2014 and acknowledged by LCDC in 2014. The inventory includes existing conditions information on agricultural lands, aggregate excavation and processing, public recreation and access, recreational needs, timber resources, industrial uses, commercial uses, residential uses, significant natural areas and vegetative cover, fish and wildlife habitat, hydrologic conditions, ecologically fragile areas, acquisition area, scenic area, and historic and archaeological sites.

Inventories of natural resource and scenic resources have been updated as part of Central City 2035. The *Willamette River Natural Resources Protection Plan* (June 12, 2017) includes information about the location, quantity and quality of identified natural resources for the Central Reach and for specified inventory sites. The *Central City Scenic Resources Protection Plan* (June 12, 2017) includes information about views and viewpoints, view streets, scenic corridors, scenic sites and visual focal points.
- C. Boundaries: There are no proposed amendments to the Willamette River Greenway boundaries in the Central Reach, which are shown on the City's zoning maps. The boundary's extent is land and river area designated with the River General overlay zone and the River Environmental overlay zone. The zoning ordinance also refers to the boundaries of the Willamette River Greenway and is the area that must be consistent with and implement the purpose and intent of Statewide Planning Goal 15. The Greenway boundary in the Central Reach includes all lands within 150 feet of the ordinary low water line on each side of the channel of the river in the Central Reach, and the total area within the boundary does not exceed, on average, 320 acres per river mile.
- D. Uses: Uses within the Willamette River Greenway in the Central Reach are managed as follows:
 - 1) There are no agricultural lands within the Greenway in the Central Reach, therefore there is no exclusive farm zoning;
 - 2) There are no timber resources or no known aggregate deposits within the Greenway in the Central Reach;

- 3) Open space areas continue to have Open Space (OS) zoning applied at these locations. Additionally, an expanded riverfront open space bonus provides opportunities for more publicly accessible open space within the Greenway. Another open space use allowance in the Zoning Code allows a limited amount of retail structures in the OS zone outside of the river setback to support riverfront recreation and enjoyment, such as bike or kayak rentals and cafes.
- 4) The River General overlay zone will continue to include the river setback standard that requires all non-water-dependent and non-water-related development to be set back from the Willamette River. The setback is increasing from 25 feet to 50 feet from the top of bank of the river. Testimony was received that both supported and opposed the expanded setback. City Council finds that the expansion is appropriate because a wider setback is needed to meet the purpose of the river setback to preserve space for the conservation and enhancement of natural resources and to provide the opportunity for public access and appreciation, where appropriate. The setback will not apply to water-related or water-dependent uses (the City uses the term river-related and river-dependent and the definitions of those terms include the state definitions of water-related and water-dependent), and non-conforming development can continue to locate within the greenway setback but cannot expand further into the river setback;
- 5) Significant fish and wildlife habitats have been identified in the *Willamette River Central Reach Natural Resource Protection Plan* (NRPP). The NRPP includes:
 - An updated inventory with information about the location, quantity and quality of identified natural resources for the Central Reach and for specified inventory sites;
 - An evaluation of alternatives and recommendations for protecting significant natural resources. The evaluation includes identification of conflicting uses, analysis of the consequences of allowing, limiting, or prohibiting conflicting uses, and development of a program to protect and conserve specified resources identified in the inventory; and
 - Updates to the River General overlay zone include an increase in the width of the river setback to limit the impacts of development on natural resources;
 - Application of a new River Environmental overlay zone to significant natural resources. The zoning regulations will limit or strictly limit development within the significant resource areas including rivers, streams, wetlands, flood areas and riparian vegetation. The regulations will encourage environmentally sensitive development that has fewer impacts on natural resource function than traditional development and will require mitigation for unavoidable adverse impacts on significant natural resources.
 - Goals, policies and actions in the plan provide guidance and specific actions for protection and enhancement of significant fish and wildlife habitat resources.
- 6) Areas subject to flooding and erosion are included within the River Environmental overlay zone, and/or the areas are subject to the City's balanced cut and fill requirements;
- 7) Recreational needs have been identified, and zoning use allowances that require water-dependent recreational uses in certain locations have been maintained in the Central Reach. Public access opportunities will be provided through maintenance of the existing major public trail and development of connecting trail segments, as well as development of

public viewpoints, in the Central Reach. The amendments identify and facilitate development of the trail and viewpoints which will provide public access to and along the Willamette River. Action items identify specific plans, park and open space and operational improvements to activate and improve the greenway area and connections to it, for in-water and on-land recreation;

- 8) Protection and safety along the Willamette River greenway area is addressed through zoning standards and design guidelines that address building orientation to the river, ground floor windows and pedestrian access and connections to the greenway trail, activating the riverfront through recreational improvements and a limited amount of retail near riverfront will bring more “eyes on the riverfront”, along with actions that support programs that increase safety including safety improvements through building and site design;
- 9) The vegetative fringe along the Willamette River in the Central Reach will be protected and enhanced in the following ways by application of the River Environmental overlay to conserve and enhance natural vegetation and require a minimum amount of landscaping to be planted on all sites in the Central Reach. The purpose of the landscaping standard is to enhance the natural qualities of lands along the Willamette River in the Central Reach and will result in an increase in the quality, quantity and diversity of vegetation; and
- 10) The regulations for removal and remediation of hazardous substances have been clarified, and they will encourage the use of biotechnical techniques for bank stabilization, and the planting of native vegetation on the river bank.

- E. **Greenway Compatibility Review:** Intensifications and changes of use or development within the Central Reach Greenway boundary will be reviewed for compatibility with the Willamette River Greenway regulations established in the CC2035 Plan including compliance with River General and River Environmental overlay zone requirements, public trail development standards and other applicable regulations and design guidelines. In most cases, intensifications and changes of use or development will trigger a discretionary land use review with public hearings through a Type III Design review process. If certain Central Reach greenway regulations cannot be met, a Type II administrative River Review process may be required, with some public notice.

The development standards associated with the River General and River Environmental overlay zones in the Central Reach have been written to provide a landscaped riparian area, open space, or vegetation between the development and the river, and to provide necessary public access to and along the river. The standards are also compatible with the Greenway statutes. The Central Reach is primarily zoned for commercial mixed-use zoning that allows housing and open space zoning along with some mixed-use employment zoning. Most the riverfront is preserved for water-dependent and water-related uses. Development standards include:

- a) Greenway setback. OAR 660-015-0005.C.3(k) states that “A setback line will be established to keep structures separate from the river to protect, maintain, preserve and enhance the natural, scenic, historic and recreational qualities of the Willamette River Greenway, as identified in Greenway Inventories. The setback line shall not apply to water-related or water-dependent uses.” OAR 660-015-0005.C.3(j) states that “Developments shall be directed away from the river to the greatest possible degree; provided, however lands committed to urban uses within the Greenway shall be permitted to continue as urban uses...” Consistent with these requirements, zoning code 33.475.210, River Setback, requires that non-water-dependent and non-water-related development in the River

General overlay zone be set back 50 feet from the top of bank of the Willamette River unless the development is a Historic or Conservation landmark, is approved through a Greenway Goal Exception or meets the Encroachment into the setback standards. This is an expansion of the current setback which is 25 feet from top of bank, Zoning Code 33.440.210. Testimony was received that both supported and opposed the expanded setback. City Council finds that to reserve space for the conservation and enhancement of natural resources and to provide an opportunity for public access where appropriate, expanding the setback is needed. The setback will not apply to water-related or water-dependent uses (the City uses the term river-related and river-dependent and the definitions of those terms include the state definitions of water-related and water-dependent).

- a) The definition of top of bank, which is the feature from which the setback is measured, is being updated to clarify that the top of bank is the first decrease in the slope of the incline that is greater than ten percent. A new measurement section is added to 33.930 providing direction to applicants when identifying the top of bank. The updated definition and addition of measurements in the zoning code ensure that the code is applied consistently and accurately to all riverfront properties. Testimony was received that supported the clarified definition and measurements and testimony was received that opposed the application of the measurements to the Willamette River North Reach. City Council finds that the definition of top of bank is a technical measurement and the clarifications are appropriate for all waterbodies in Portland. City Council also finds that the new measurements section, 33.930, provides the adequate direction regarding how to measure top of bank under and around structures and that the measurements are appropriate for all waterbodies in Portland. Specifically, top of bank should be measured from the ground surface underlying structures such as docks, wharves or bridges;
- b) Minimum vegetated area. A natural vegetative fringe along the Willamette River shall be enhanced and protected to the maximum extent practicable in accordance with OAR 660-015-0005.C.3(g). The planting or maintaining of vegetation will be required on all sites with river frontage in the Central Reach. The landscaping standard requires a mix of vegetation types and densities including trees, shrubs and ground cover. The purpose of the landscaping standard is to enhance the natural qualities of lands along the Willamette River in the Central Reach, and application of the standard will result in an increase in the quality, quantity and destiny of vegetation within the greenway and improve the visual diversity along major public trails;
- c) Public access to and along the river. Intensification projects and changes of use or development must comply with the zoning code and the Central City Fundamental Design Guidelines (for most cases). Base zone and other development standards within the zoning code and design guidelines address public access and pedestrian connections to the riverfront and the major public trails are addressed. This is consistent with OAR 660-015-0005.C.3(b) and (c) which requires that local, regional and state recreational needs and adequate public access to the river be provided for, with emphasis on urban area. I;
- d) Major public trails. The public trail standards require that a trail easement be dedicated and possibly developed when the impacts of the new development are roughly proportional to the impacts on the adjacent trail system. The requirement for a trail easement dedication is consistent with OAR 660-015-0005.C.3(b) and (c). Council finds the requirement of rough

proportionality is consistent with established case law and creates a standardized approach and methodology;

- e) River Environmental overlay zone development standards. OAR 660-015-0005.C.3(d) states that “significant fish and wildlife habitats shall be protected.” OAR 660-015-0005.C.3(f) states “the natural vegetation fringe along the River shall be enhanced and protected to the maximum extent possible.” Consistent with these requirements, the River Environmental overlay zone will apply to significant natural resources in the Central Reach. The overlay zone will apply to the Willamette River and to areas along the riverbank adjacent to the river that have medium or high ranked resources. Intensifications and changes of use or development will trigger compliance with standards aimed at maintaining the natural qualities of the Willamette River and riparian area by encouraging sensitive development, providing clear limitations on disturbance, and maintaining existing vegetation. The standards limit the amount of disturbance allowed in the overlay zone and require mitigation in form of replanting within or adjacent to the overlay zone.

When intensifications and changes of use or development cannot meet the River Environmental overlay zone development standards, a discretionary land use review is required. As with the development standards described above, the discretionary approval criteria are aimed at maintaining as much of the natural quality of the Willamette River Greenway as practicable. The criteria require that alternative locations and construction methods that have fewer detrimental impacts on the resource area be evaluated, and that the most practicable alternative that has the least amount of significant impact be chosen. The criteria also require that any loss of resource area is mitigated by in-kind replacement of the lost functional values. The criteria will result in the maximum possible landscaping, vegetation or open space between the use and the river within the context of allowing water-dependent and water-related uses, and continuing to allow urban uses. The City’s discretionary review procedures require that adjacent property owners and any individual or group requesting notification be notified of the proposal, allow for the possibility of a public hearing where any interested party can testify, and allow the imposition of conditions on the permit to carry out the purpose and intent of the review.

- f) Removal and remediation of hazardous substances. The regulations that apply to the removal and remediation of hazardous substances encourage the use of biotechnical techniques for bank stabilization, and the planting of native vegetation on the river bank; and,
- g) The Oregon Department of Land Conservation and Development was notified of the Central City 2035 Plan and the plan has been the subject of more than one public hearing. Based on the findings in this subparagraph (Greenway Compatibility Review), the amendments are consistent with OAR 660-015-005.F.3.a-f.

Findings on Metro Urban Growth Management Functional Plan

14. **Title 1, Housing Capacity.** The Regional Framework Plan calls for a compact urban form and a “fair-share” approach to meeting regional housing needs. It is the purpose of Title 1 to accomplish these policies by requiring each city and county to maintain or increase its housing capacity except as provided in section 3.07.120.

This element of the regional plan limits down-zoning in the Central City and other 2040 places – specifically Regional Centers, Town Centers, 2040 Corridors, Station Communities, and 2040 Main

Streets. There is a limited set of circumstances when down-zoning within these 2040-defined places may occur, including changes to address Title 4 (Industrial and Other Employment Areas), to add medical or educational facilities, and to protect natural resources.

For purposes of this title, Metro measures “minimum zoned capacity.” The title is clear that individual parcels may be down-zoned, provided the impact on the citywide minimum zoned capacity is negligible.

Method of Analysis: To evaluate compliance with Title 1, GIS analysis was performed to calculate the total acreage of rezoning from a “residential” base zone designation to another base zone that does not have a minimum zoned residential capacity. The total acreage of overlays applied to mixed-use zoning in the Central City was also calculated to determine the minimum housing projected within these overlays. Lastly, an analysis was conducted identifying the housing production within all the base zones applied to the Central City between 1990 and 2016, and analysis of production per acre of zone was conducted to compare housing production in zones with and without a minimum zoned residential capacity.

Proposed Zoning Map Amendments. CC2035 proposes a modest amount of amendments to the Zoning Map. With regards to Title 1 compliance, the plan proposes to rezone 41.4 acres of land zoned as Central Residential (RX) to Central Commercial (CX). The RX zone is highest density multi-family residential zone applied within the City of Portland, and applied to the Central Residential Comprehensive Plan Map designation, described as follows by the 2035 Comprehensive Plan.

***Central Residential.** This designation allows the highest density and most intensely developed multi-dwelling structures. Limited commercial uses are also allowed as part of new development. The designation is intended for the Central City and Gateway Regional Center where urban public services are available or planned including access to high-capacity transit, very frequent bus service, or streetcar service. Development will generally be oriented to pedestrians. Maximum density is based on a floor area ratio, not on a units-per-square-foot basis. Densities allowed exceed 100 units per acre. The corresponding zone is RX. This designation is generally accompanied by a design overlay zone.*

The rezoning from RX to CX will occur in the Goose Hollow, West End, and University/South Downtown Districts. However, the basis for this rezoning is in part to stimulate residential mixed-use development in areas where residential development has been slow to respond to the RX zone. An analysis of housing production between 1990 (the year the zoning implementing the 1988 Central City Plan became effective) and 2016 found that more housing has been created in the portions of the Central City zoned CX (62 projects containing 10,431 units) but that the density per project (most located on sites of an acre or less) is 168.24 units (see Table 1). In comparison, the RX zone over the same period produced 30 projects containing only 3,986 units, for an average density of 132.9 units per project.

It should be noted that 15.7 acres of RH (High Density Residential) land will also be rezoned to CX as part of CC2035 for the same reasons as cited for the RX rezones based on the analysis shown in Table 1.

Table 1 - Housing Totals: Total number of housing units by year and base zone since adoption of 1988 Central City Plan and implementing base zones.

Year Approved	CX Zone	EX Zone	RX Zone	RH Zone	All Zones
1990	110	0	0	0	110
1991	0	0	132	0	132
1992	60	42	0	0	102
1993	288	86	148	0	522
1994	0	121	0	0	121
1995	30	127	39	90	286
1996	151	199	114	0	464
1997	1,085	6	202	0	1,293
1998	85	257	326	0	668
1999	60	457	0	0	517
2000	74	610	0	0	684
2001	166	563	442	0	1,171
2002	0	894	569	0	1,463
2003	38	571	437	0	1,046
2004	864	0	2	0	866
2005	1,290	1,366	74	0	2,736
2006	794	0	354	0	1,148
2007	513	0	0	0	513
2008	176	152	0	0	328
2009	220	288	101	0	609
2010	0	0	283	0	283
2011	200	70	0	0	270
2012	187	177	0	0	364
2013	1,038	1,575	0	0	2,613
2014	587	487	649	0	1,723
2015	417	776	0	0	1,193
2016	1,998	755	114	0	2,867
Totals	10,431	9,579	3,986	90	24,092

CC2035 also results in rezoning that will add an additional 59.3 acres of Central Employment (EX) zoned land in the Central Eastside. The 2035 Comprehensive Plan describes the Central Employment designation as follows:

Central Employment. *The designation allows for a full range of commercial, light-industrial, and residential uses. This designation is intended to provide for mixed-use areas within the Central City and Gateway Regional Center where urban public services are available or planned including access to high-capacity transit or streetcar service. The intensity of development will be higher than in other mixed-use land designations. The corresponding zone is Central Employment (EX). This designation is generally accompanied by a design overlay zone.*

The EX zone is the same base zone applied to the Pearl District, the Central City's densest residential neighborhood, and since 1990 a total of 71 residential projects have been developed in this zone, containing 9,579 housing units, for an average density of 134.92 units per project.

Although Title 1 does not require that minimum residential densities be applied to residential mixed use zones, Table 2 illustrates that the CX and EX zones have produced more housing, and

housing projects at a greater density than the RX or other residential base zones applied to the Central City.

Table 2 - Housing Production and Density: Total average production and density by base zone.

Zone	Total Acres	Percentage of Central City Land Area	Total Number of Units	Percentage of All Units	Average Density / Total Acreage of Zone	Average Density / Project
CX	668.9	44.4%	10,431	43.28%	15.59 units/acre	168.24 units
EX	229.3	15.2%	9,579	39.34%	41.77 units/acre	134.92 units
RX	102.8	6.8%	3,986	15.22%	38.77 units/acre	132.9 units
RH	27.7	1.8%	90	0.34%	3.25 units/acre	90 units
RI	11.0	0.7%	16	0.06%	1.45 units/acre	16 units
R2	1.4	0.1%	0	0.0%	0.0 units/acre	0 units
Totals	1041.1	69.00%	24,102	100.00%	NA	NA

In addition to these the amendments noted above, CC2035 maintains approximately 12 acres of CX and RH zoned land within an overlay where Section 33.510.230 of the Zoning Code requires new development produce at least 15 units per acre. Thus, this development standard alone will require that at least 188 units could be developed if the entire area affected by this regulation were developed, which is well under the unit per acre average of development in the CX zone.

This analysis demonstrates that the rezoning of RX to CX, combined with the up zoning of land to EX, and the application of the “required residential development area” allows CC2035 to remain consistent with Title 1.

15. **Title 2, Regional Parking Policy,** regulated the amount of parking permitted by use for jurisdictions in the region; however, this title was repealed and the former Title 2 no longer applies to this ordinance.
16. **Title 3, Water Quality and Flood Management.** To protect the beneficial water uses and functions and values of resources within the Water Quality and Flood Management Areas by limiting or mitigating the impact on these areas from development activities and protecting life and property from dangers associated with flooding.

Title 3 calls for the protection of the beneficial uses and functional values of resources within Metro-defined Water Quality and Flood Management Areas by limiting or mitigating the impact of development in these areas. Title 3 establishes performance standards for 1) flood management; 2) erosion and sediment control; and 3) water quality. In 2002 Metro deemed the City of Portland in full substantial compliance with the requirements of Title 3 based on adoption of Title 10 Erosion Control, balanced cut-and-fill standards in Title 24 Building Regulations, and the Willamette Greenway Water Quality Zone, or “q” overlay zone. The Central City 2035 amendments for the Willamette River Central Reach maintain and support compliance with Title 3 because:

- a) City programs deemed in compliance with Title 3 requirements for flood management, and erosion and sediment control (i.e., Title 10 Erosion Control, and the balanced cut and fill requirements of Title 24), are unchanged. The Central Reach amendments, including proposed River Environmental overlay zones, increased river setback, and updated landscaping standards will support goals for flood management and erosion control;

- b) The CC2035 Plan's policy framework contains goals, policies and actions that achieve a Willamette River that is healthy and supports fish and wildlife and improves the quality, quantity, connectivity and overall function of the ecological system including upland, riparian and in-water habitat as well as improve the ability of floodplains to store water and provide habitat functions;
- c) The River General overlay zone amendments increase the river setback to 50 feet from top of bank on Central Reach properties that have river frontage. Only river-dependent and river-related uses may encroach into the setback without a Greenway Goal Exception. Testimony was received that both supported and opposed the expanded setback. City Council finds that the expansion is appropriate because the setback ensures that adverse impacts on river functions, including water quality, flooding and fish and wildlife habitat are minimized. Exterior lighting standards help to minimize the impacts of light, glare and spill on fish and wildlife and their habitats;
- d) The River General overlay zone also includes updates to the landscaping standards that apply within the river setback. The landscaping standard requires a mix of vegetation types and densities including trees, shrubs and ground cover. The purpose of the landscaping standard is to enhance the quality, quantity and diversity of vegetation in the riparian area. This will minimize the impacts of adjacent development on water quality and improve habitat for fish and wildlife; and
- e) The River Environmental overlay zone will be applied to high and medium ranked natural resources, which includes rivers, streams, wetlands, flood areas and riparian habitat, identified in the *Willamette River Central Reach Natural Resource Protection Plan* (NRPP). The River Environmental overlay zone supports Title 3 goals to protect water quality, flooding and fish and wildlife habitat. The River Environmental overlay zone is designed to prevent adverse impacts on the features and functions of riparian corridors and the Willamette River by establishing new standards intended to encourage sensitive development while providing clear limitations on disturbance, including tree removal, and minimizing impacts on resources and functional values. Development that meets these standards may be approved without a review. Development that does not meet the standards would be subject to a River Review and where discretionary criteria are applied to ensure that adverse impacts on natural resource values and functions, including water quality, are avoided, minimized and/or mitigated.

17. **Title 4, Industrial and Other Employment Areas.** The Regional Framework Plan calls for a strong regional economy. To improve the economy, Title 4 seeks to provide and protect a supply of sites for employment by limiting the types and scale of non-industrial uses in Regionally Significant Industrial Areas (RSIAs), Industrial and Employment Areas. Title 4 also seeks to provide the benefits of "clustering" to those industries that operate more productively and efficiently in proximity to one another than in dispersed locations. Title 4 further seeks to protect the capacity and efficiency of the region's transportation system for the movement of goods and services and to encourage the location of other types of employment in Centers, Corridors, Main Streets and Station Communities. The Metro Council will evaluate the effectiveness of Title 4 in achieving these purposes as part of its periodic analysis of the capacity of the urban growth boundary.

The purpose of Title 4 is to maintain a regional supply of existing industrial and employment land by limiting competing uses for this land. Metro has not adopted a Statewide Planning Goal 9 economic opportunities analysis for the region, so Title 4 is not based on an assessment of the land needed for various employment types, nor do the Title 4 maps necessarily depict lands most suitable to

accommodate future job growth. Rather, Title 4 seeks to protect the manufacturing, warehousing, and distribution of goods within three types of mapped areas by limiting competing uses. These three areas are Regionally Significant Industrial Areas (RSIAs), Industrial Areas, and Employment Areas. Each of these designations can be found in either the Lower Albina or Central Eastside Districts of the Central City. These areas were identified in 2004 from clusters of existing industrial and employment uses. Industrial clusters with multi-modal freight handling infrastructure were designated as RSIAs.

Identified competing uses include retail commercial uses (such as stores and restaurants), and retail and professional services that cater to daily customers (such as financial, insurance, real estate, legal, medical, and dental offices, schools, places of assembly, and parks). Limitations on competing uses are most strict within RSIAs, slightly less strict within the Industrial Areas, and least stringent within Employment Areas. Title 4 places no limitations on residential, farm, forest or open space uses in any of the three mapped areas, provided designated open spaces are not developed into parks, schoolyards or athletic fields.

Title 4 encourages the location of retail and commercial uses in Centers, Corridors, Main Streets and Station Communities, and thus works in tandem with Title 6 to support the desired future settlement pattern depicted in the *Region 2040 Growth Concept*. Title 4 was adopted in 2004 and required Portland to achieve initial compliance by 2007 and by 2010 for additional restrictions on parks and places of assembly.

All previous Metro compliance reports have determined that land in Portland within an “Industrial Sanctuary” *Comprehensive Plan Map* designation meets all Title 4 requirements for mapped RSIA Land and Industrial Land. Similarly, all land in Portland within a General Employment *Comprehensive Map* designation meets Title 4 requirements for Employment Areas. The annual Metro compliance reports for 2010 through 2015 were included in the record for periodic review Task IV (Ordinance 187832). The last report for 2015 was prepared in March of 2016. Each of these reports finds Portland’s *Zoning Map* and *Zoning Code* complies with Title 4, with its existing *Zoning Map* and *Zoning Code*.

A new *Comprehensive Plan Map* was adopted with periodic review Task IV. Exhibit A of Ordinance 187832 contained findings explaining how the various land use designations shown in the new *Comprehensive Plan Map* comply with Title 4, provided the zones adopted by this ordinance either correspond or are otherwise allowed by the designations on new *Comprehensive Plan Map*. The distinction between plan and zone designations was made in the earlier findings because the Metro compliance reports were based on zone rather than plan designations and on land use regulations rather than plan policy.

The Metro compliance determinations examined whether City land use regulations limited retail and certain commercial uses to the extent required by Title 4. Metro evaluated whether certain uses identified in Title 4 as competing or interfering with employment and industrial uses were sufficiently limited by land use regulations associated with the City’s industrial and general employment zones.

Like the *Zoning Map*, the land use regulations associated with the City’s industrial and employment zones were determined to comply with Title 4 in the annual Metro compliance reports for 2010 through 2015. None of the amended land use regulations for the industrial and general employment zones within the Central City allow uses that are either not allowed by Title 4 or allowed in amounts greater than those allowed by Title 4. In many cases the City’s regulations are more protective of industrial employment land than Title 4. For example, residential uses are not

explicitly restricted in Metro employment areas (although arguably contrary to the purpose of Title 4). Under the City's amended regulations residential uses in the general employment zones are explicitly no longer allowed. Similarly, retail facilities up to 60,000 square feet are expressly allowed in Metro employment areas, but under the City's amended regulations for its general employment zones retail facilities larger than 20,000 square feet are no longer allowed. These changes were made, going beyond Title 4 requirements, to ensure an adequate land supply under Goal 9.

Although only a small portion of the Central City located within the Lower Albina District is designated as Prime Industrial Land, the recently adopted 2035 Comprehensive Plan exceeds the requirements of Title 4 by adopting a "Prime Industrial Land" overlay zone. The overlay regulations prohibit quasi-judicial *Comprehensive Plan Map* amendments in prime industrial areas and reduce the type and amount of non-industrial uses allowed in the prime industrial areas. These restrictions apply in addition to the regulations of the base zones. The additional overlay regulations restrict parks to no more than two acres, restrict commercial outdoor recreation to no more than 20,000 square feet, and prohibit major event entertainment and self-service storage. These overlay regulations both exceed the requirements of Title 4 help assure that there is no inconsistency between the industrial zones and Title 4.

For the facts and reasons stated above, the *Zoning Map* and the *Zoning Code*, as amended by this ordinance, continue to comply with Title 4 of the regional *Urban Growth Management Functional Plan*.

18. **Title 5, Neighboring Cities**, addressed neighbor cities and rural reserves in the region; however, this title was repealed and the former Title 5 no longer applies to this ordinance.
19. **Title 6, Centers, Corridors, Station Communities and Main Streets**. The Regional Framework Plan identifies Centers, Corridors, Main Streets and Station Communities throughout the region and recognizes them as the principal centers of urban life in the region. Title 6 calls for actions and investments by cities and counties, complemented by regional investments, to enhance this role. A regional investment is an investment in a new high-capacity transit line or designated a regional investment in a grant or funding program administered by Metro or subject to Metro's approval.

Title 6 establishes eligibility criteria for certain regional investments, and the use of more flexible trip generation assumptions when evaluating transportation impacts. Title 6 also contains aspirational activity level targets for different Metro 2040 place types. Although there are no specific mandatory compliance standards in Title 6 that apply to this ordinance, The Central City is a designated center and the zoning, actions, and policy framework of CC2035 ensure the ability of plan area to remain the highest density center with the Metro 2040 Framework Plan boundary.

20. **Title 7, Housing Choice**. The Regional Framework Plan calls for establishment of voluntary affordable housing production goals to be adopted by local governments and assistance from local governments on reports on progress towards increasing the supply of affordable housing. It is the intent of Title 7 to implement these policies of the Regional Framework Plan.

Title 7 addresses housing choice. Metro adopted voluntary affordable housing goals for each city and county in the region for the years 2001 to 2006, but never updated them. Since this ordinance adopts implementation measures for the planning period of 2015 to 2035, Title 7 does not apply. Nevertheless, the recently adopted 2035 *Comprehensive Plan* adopts city-wide affordable housing production goals that greatly exceed those adopted by the outdated Title 7 (Ordinance 178832).

21. **Title 8, Compliance Procedures**. Title 8 addresses compliance procedures. This Title requires the City to notify Metro of pending land use decisions by providing Metro a copy of the 35-day notice

required by the DLCD for proposed completion of a periodic review task. This notice was provided to Metro. Title 8 also requires the City to provide findings of compliance with the *Urban Growth Management Functional Plan*. The findings in this ordinance were also provided to Metro. All applicable requirements of Title 8 have been met.

22. **Title 9, Performance Measures.** Title 9 addressed performance measures, but was repealed. The former Title 9 does not apply to this ordinance.
23. **Title 10, Functional Plan Definitions.** Title 10 contains definitions. Whenever the City had a question about a term in the *Urban Growth Management Functional Plan*, the definition in Title 10 was applied. When the measures adopted by this ordinance use a term found in Title 10, either the term has the same meaning found in Title 10 or the difference is explained in these ordinance findings. All applicable requirements of Title 10 requirements have been met.
24. **Title 11, Planning for New Urban Areas.** Title 11 addresses planning for new urban areas. Since no areas added to the urban growth boundary or designated as urban reserves have been assigned to Portland by Metro for planning, Title 11 does not apply to this ordinance.
25. **Title 12, Protection of Residential Neighborhoods.** Existing neighborhoods are essential to the success of the 2040 Growth Concept. The intent of Title 12 of the Urban Growth Management Functional Plan is to protect the region's residential neighborhoods. The purpose of Title 12 is to help implement the policy of the Regional Framework Plan to protect existing residential neighborhoods from air and water pollution, noise, and crime and to provide adequate levels of public services.

Title 12 addresses protection of residential neighborhoods. This title largely restricts Metro's authority to plan and regulate, but does allow City designation of "Neighborhood Centers." The City has not exercised the option to designate neighborhood centers within the meaning of Title 12, but has employed the same term with a different meaning. The areas designated as a Neighborhood Center on the recently adopted *2035 Comprehensive Plan* map are functionally equivalent to a "Main Street" designation within Title 6. However, no Neighborhood Centers are located within the Central City, and, since the City has not employed any of the optional provisions of Title 12, the title does not apply to this ordinance.

26. **Title 13, Nature in Neighborhoods.** The purposes of this program are to (1) conserve, protect, and restore a continuous ecologically viable streamside corridor system, from the streams' headwaters to their confluence with other streams and rivers, and with their floodplains in a manner that is integrated with upland wildlife habitat and with the surrounding urban landscape; and (2) to control and prevent water pollution for the protection of the public health and safety, and to maintain and improve water quality throughout the region.

Title 13 is expressly intended to provide a minimum baseline level of protection for identified Habitat Conservation Areas. Local jurisdictions may achieve substantial compliance with Title 13 using regulatory and/or non-regulatory tools. Title 13 also allows local jurisdictions to establish "district plans" to achieve compliance on an area-specific basis. Title 13 district plans may apply to areas within a common watershed or within adjoining watersheds that "share an interrelated economic infrastructure and development pattern." Cities and counties must demonstrate that the district plan will provide a similar level of protection and enhancement for Habitat Conservation Areas as would be achieved by applying Metro's model code or other regulations that meet Title 13 performance standards and best management practices.

The CC2035 Plan is intended to support and incorporate the basics of Title 13, and has been designed to serve as a Title 13 district plan for the Willamette River Central Reach. CC2035, Volume 3B, Willamette River Central Reach Natural Resources Protection Plan (NRP), and Volume 2A Part 2, Willamette River and Trails, will:

- a) Recognize and address the unique and interrelated ecological, economic, social, and recreational characteristics of the Central Reach using updated technical information and through the development of a customized combination of tools;
- b) Update the Title 13 Inventory of Regionally Significant Riparian Corridors and Wildlife Habitat for the Central Reach to address specific inventory sites and to incorporate more current, detailed data and refined analytical criteria. The NRPP includes an inventory of natural resources that better reflects the level of ecological function and relative quality of resources in the Willamette River Central Reach, such as the impacts associated with extensive riverbank hardening and vegetation removal;
- c) Supplement the Title 13 Economic, Social, Environmental, and Energy (ESEE) Analysis to address the consequences of conflicting uses for specific inventory sites in the Central Reach. Per OAR 660-023-0240(2) Goal 15 supersedes the requirements of Goal 5 for natural resources also subject to and regulated under Goal 15. The only Goal 5 natural resource in the CC2035 Plan area are located within the Greenway and therefore are regulated by Goal 15. Therefore, an ESEE Analysis is not required within the Greenway. However, the NRPP includes an evaluation of the trade-offs associated with protecting significant natural resources and addresses similar economic, social and environmental consequences as the Title 13 ESEE. The NRPP makes recommendations intended to optimize economic, social and environmental values in the Portland Harbor, watershed health, and neighborhood livability in the North Reach;
- d) Replace zoning code 33.440, Greenway Overlay Zones, with new 33.475, River Overlay Zones, for the Central reach. The new code establishes environmental overlay zoning on high and medium ranked resources in the Willamette River Greenway. These overlay zones will apply to the Willamette River and land within 50 feet of the top of bank, which are designated HCAs in Title 13. The overlay zone regulations meet the fundamental requirements of Title 13, including exemptions, clear and objective development standards, and discretionary criteria to avoid, minimize, and mitigate adverse impacts on Habitat Conservation Areas and water quality. The overlay zones provide a process for verifying the overlay zone based on site specific information provided at the time a development is proposed;
- e) Clarify the City's regulations for the removal and remediation of hazardous substances. The clarified regulations will reduce barriers to habitat-friendly development by encouraging the retention of existing natural resources and the use of natural bank treatments in the final design of clean up actions.

27. **Title 14, Urban Growth Management Plan.** Title 14 addresses the regional urban growth boundary. Since this ordinance does not require, nor initiate, a boundary change, Title 14 does not apply.

Findings on Portland's Comprehensive Plan, Goals and Policies

The Plan: Guiding Principles

The 2035 Comprehensive Plan adopted five “guiding principles” in addition to the goals and policies typically included in a comprehensive plan. These principles were adopted to reinforce that implementation of the plan needs to be balanced, integrated and multi-disciplinary, and the influence of each principle helps to shape the overall all policy framework of the plan. The Central City 2035 Plan furthers these guiding principles as described below.

28. Economic Prosperity. Support a low-carbon economy and foster employment growth, competitiveness and equitably distributed household prosperity.

This guiding principle of the 2035 Comprehensive Plan is characterized by the following key objectives that support a robust and resilient regional economy, thriving local businesses and growth in living-wage jobs and household prosperity.

- **Re-invest in Brownfields.** Although brownfield conditions likely exist at different sites within the Central City, these are not a constraint to redevelopment activities. Over the last two-decades significant brownfield remediation efforts were conducted at large redevelopment sites within the Pearl District and South Waterfront. Further, recent efforts at sites in the Central Eastside and Lloyd have not found brownfield conditions to be a constraint limiting redevelopment activities, and where such conditions arise, the Zoning Code provides a high level of development potential to assist in cost recovery of cleaning or capping a site.
- **Increase sites for business and employment opportunities, especially in East Portland.** Much of the Central City is zoned for mixed-use commercial/employment uses, and several hundred acres are zoned for industry. Through base zone amendments, and increased floor area allowances, CC2035 increases the development potential for commercial and employment uses, and adds some additional acreage into the Central City at the Clinton Station Area for these purposes. The plan further increases the maximum FAR ratios along the Transit Mall, and at key station areas, some specifically zoned for Employment Oriented Transit Development.
- **Preserve existing industrial sites and intensify the level of use and development of sites.** CC2035 includes use allowances that allowed for higher density industrial development within the Central Eastside District, while reducing the amount of non-industrial retail and traditional offices once allowed in the approximately 240 acres of IG1 zoned land in the district.
- **Provide for employment growth at colleges and hospitals.** The Central City is home to both Portland State University (PSU) and Oregon Health Sciences University (OHSU). CC2035 promotes continued growth at these and other health and educational facilities in the Central City by maintaining the development potential at key locations in the South Waterfront and University / South Downtown districts, as well as increasing the maximum FAR ratios at key station areas at PSU and the Oregon Museum of Science and Industry (OMSI). The plan also rezones RX properties within PSU to CX, to allow for more institutional as well as residential uses. The plan further supports the growth of the Innovation Quadrant that links PSU, OHSU, and OMSI with Portland Community College's CLIMB Center, and large developable parcels in the Central Eastside and South Waterfront.
- **Recognize prosperity is about more than job growth.** CC2035 includes elements to enhance and expand the amount of affordable housing, community assets and services, parks and open space amenities, access to public schools, the amount of green-infrastructure, and multimodal transportation options over the life of the plan. These efforts, as well as a focus on new civic, cultural, educational, retail, and entertainment options, will continue to support the Central

City as the regional center for the Portland Metropolitan area, but as a location that is attractive for new development and investment.

29. **Human Health.** Avoid or minimize negative health impacts and improve opportunities for Portlanders to lead healthy, active lives.

Consistent with the 2035 Comprehensive Plan, CC2035 furthers the following objectives which are intended to avoid or minimize negative health impacts and improve opportunities for Portlanders to lead healthy active lives.

- **Increase access to complete neighborhoods.** Since the adoption of the 1988 Central City Plan, the city center has transformed from a downtown with housing dispersed unevenly, to a center with distinct residential neighborhoods. The Pearl, South Waterfront, Goose Hollow, University District, and West End continue to mature after 15 plus years of residential growth, while new significant housing growth is now occurring in the Lloyd and Central Eastside for the first time in decades. Despite this growth, and new inclusionary housing requirements, the Central City still needs greater access to family compatible housing, housing affordable at all income levels, and greater access to public amenities and services, such as schools, daycare, community centers, libraries, and grocery stores.

CC2035 addresses these continuing needs by expanding the pattern of mixed-use zoning that allows for neighborhood commercial retail and services, as well as institutional uses such as schools. The plan further recommends tracking the development of affordable housing and suggesting midcourse corrections should housing units supportive of the growing number of families with children not be produced in sufficient quantities. The plan also includes development incentives for affordable housing and the inclusion of neighborhood serving services and amenities as part of new development.

- **Strengthen consideration of environmental justice.** The 2035 Comprehensive Plan describes environmental justice as “the equitable treatment and meaningful involvement of all people in public decision making as it applies to who benefits and who bears the cost of development and growth.” The CC2035 Plan engaged neighborhood associations in and adjacent to the Central City, conducted numerous open house events, neighborhood meetings and events, coalition offices and staff, and conducted online surveys and outreach to engage as many Central City residents, and others effected by growth of the Central City, as possible. This outreach was critical in shaping and refining the Concept Plan, all three quadrant plans, and the final recommended Central City 2035 Plan.
- **Build City Greenways.** CC2035 contains many elements that address expansion and enhancement of the existing Willamette Greenway Trail, active multimodal transportation connections, and a new element, the Green Loop. The latter is designed to provide a new type of greenway that addresses the safety and skill level of curious, but cautious cyclists and pedestrians, and provides links to transit, the Willamette River, parks and open space areas, and major attractors within the Central City. This and other greenway proposals of the plan will result in an integrated system that helps to reduce auto trips, reduce associated pollution, and improve human and environmental health.

30. **Environmental Health.** Weave nature into the city and foster a healthy environment that sustains people, neighborhoods, and fish and wildlife. Recognize the intrinsic value of nature and sustain the ecosystem services of Portland’s air, water and land.

The objectives of this guiding principle are to expand the public space system, increase mobility and access to services through low-carbon transportation, and avoid, minimize, and mitigate the impact of development on natural resource systems. CC2035 responds to these objectives as follows:

- **Design development to work with nature.** CC2035 includes new development standards that require ecoroofs and the pursuit of green building certification for most new and redevelopment projects. The plan further encourages the use of living walls and other green elements to reduce energy usage and carbon output, improve air and water quality, and address heat island effect.
- **Support nature-friendly infrastructure.** The plan proposes an expanded use of green-infrastructure in the public right-of-way, new landscaped setbacks, expanded greenway setback, new open space features, and expansion of the tree canopy throughout the Central City to improve the health and function of the urban forest and ecosystem.
- **Preserve and enhance Urban Habitat Corridors.** Elements of CC2035, such as an expanded greenway setback, new parks and open space features, ecoroofs, bird safe glazing, an expanded urban forest, and the Green Loop, will help to improve connectivity and the amount of habitat for urban wildlife.

31. **Equity.** Promote equity and environmental justice by reducing disparities, minimizing burdens, extending community benefits, increasing the amount of affordable housing, affirmatively furthering fair housing, proactively fighting displacement, and improving socio-economic opportunities for under-served and under-represented populations. Intentionally engage under-served and under-represented populations in decisions that affect them. Specifically recognize, address and prevent repetition of the injustices suffered by communities of color throughout Portland's history.

This guiding principle of the 2035 Comprehensive Plan provides a framework to ensure Portlanders more equitably share in the benefits and burdens of growth and development. CC2035 furthers these objectives in the Central City as follows:

- **Invest to reduce disparities and minimize burdens.** In 2008, 8,535 of the Central City's 22,994 households were affordable to people earning 80% of the median family income. This is equal to 37 percent of the housing stock of the Central City. Although the percentage of units affordable at these levels has dropped slightly in the following decade, new inclusionary housing requirements and a development bonus focused on affordable unit creation and retention will help to increase the overall supply of such housing through the life of the plan.

Residents of this housing, as well as market rate housing, depend on access to public schools, parks, community centers, and libraries to fulfill some of their basic needs. These residents also need access to safe and affordable transportation options. In response to these needs, CC2035 proposed incentives and strategies to increase access to these essential public services, and proposed multimodal transportation enhancements, such as transit and the Green Loop, to better connect people with limited access to a car to the services and amenities they depend upon.

- **Make infrastructure decisions that advance equity.** The infrastructure investments proposed by CC2035 will benefit all affected groups, but those more reliant on affordable transportation investment, may receive the most benefit. As noted, the Central City has a large and growing number of residents reliant on affordable housing. Many also have small children. Greater access to transit, as well as safe active transportation solutions, such as the Green Loop, will

provide these residents with greater access between employment, housing, and neighborhood serving services and amenities.

- **Include under-served and under-represented populations in decisions that affect them.** CC2035 was developed over six years and the community engagement process contacted renters as well as owners of residential properties in and around the city center. The plan also made strides to seek input from employees as well as people who visit, but may not live or work within the Central City. Great care was taken to do extensive outreach because the Central City is the region's center, not just Portland's.
- **Address displacement of residents to address and prevent repetition of injustices.** Unlike other areas of the city where there is a threat of redevelopment displacing lower density, new housing development in the Central City has a greater ability to displace those reliant on affordable housing, and rising housing costs combined with a lack of family compatible units and access to services and amenities that serve families with children, can combine to displace families that start in the Central City for other parts of the region where their needs can be better met. CC2035 contains elements to incent the creation of housing and neighborhood amenities and services to provide greater opportunities for residents to remain and thrive in the Central City.
- **Provide for on-going affordability.** Recently adopted inclusionary housing requirements, combined with new development bonus standards that will support the creation of affordable housing will help address on-going affordability issues regarding housing supply. Further, the plan will result in the ability to create higher density industrial uses, and contains incentives to create and retain traditional industrial space which should help to stabilize lease rates for industrial businesses in the inner city.
- **Create regulations that acknowledge that one size does not fit all.** CC2035 strives to address the different character and purpose of the unique districts within the Central City, and between the Central City and adjacent parts of the city, through policies, investments, use regulations, development standards, and design guidelines crafted to each area and how they intersect with other parts of the city.

32. **Resilience. Reduce risk and improve the ability of individuals, communities, economic systems, and the natural and built environments to withstand, recover from, and adapt to changes from natural hazards, human-made disasters, climate change, and economic shifts.**

The 2035 Comprehensive Plan describes resilience as “reducing the vulnerability of our neighborhoods, businesses, and built and natural infrastructure to withstand challenges – environmental, economic and social – that may result from major hazardous events.” CC2035 responds to these objectives as follows:

- **Prosperity, human health, environmental health and equity are all essential components of resilience.** The 2035 Comprehensive Plan notes that an integrated policy framework works to “improve Portland’s resilience – growth in compact centers and corridors, provision of City Greenways and Urban Habitat Corridors, expansion of living-wage employment opportunities, investments to fill the infrastructure gaps in under-represented and under-served communities, and responsiveness to the differences among Portland’s neighborhoods.”

It is in this context that the policy framework for CC2035 was developed. This approach began with the Concept Plan and followed through the quadrant plans and into final adopted version of CC2035. Further, the implementing volumes of the plan provide code amendments, new actions, and other measures intended to address multiple objectives and result in multiple

outcomes to improve environmental and economic conditions and the quality of life for all Portlanders.

- **Portland faces many natural and human-caused risks, which can have environmental economic and social impacts.** The 2035 Comprehensive Plan notes that some of the most significant risks facing Portland are: floods and landslides; earthquake; climate change; extreme heat events; and economic and energy shocks. In response, the Comprehensive Plan identifies five key strategies to address these risks, which CC2035 responds to as follows:
 - **Direct growth in lower-risk areas.** Although no area of the city is immune to the threats facing the city, most of the Central City is located on fairly level terrain, is out of the flood plan of the Willamette River, and its built form is increasingly built to the latest seismic standards, incorporates green infrastructure, and energy efficient design in both the public and private realm.
 - **Invest to reduce risks.** The plan includes strategies to remap the flood plain, expand green infrastructure, retrofit buildings at risk to seismic activity, and other measures to address natural hazards and increase the resiliency of city center when disaster strikes.
 - **Neighborhood resilience.** CC2035 includes development incentives to incent the development of new schools, community centers, libraries, and other facilities that may provide shelter and emergency services in the event of a natural disaster.
 - **Low-carbon economy.** The green building requirements, parking reductions, and multimodal transportation elements of the plan, as well as the economic development policies and actions, will help to further enhance and expand low-carbon businesses and technologies in Portland.
 - **Resilience in Natural Systems.** Plan elements that address an expanded greenway setback, expanded tree canopy, new open space features, and greater use of green infrastructure in public and private development will allow the Center City to be more resilient to climate change and natural hazards threatening the city.

The Plan: Goals

33. **Goal 1.A: Multiple goals.** Portland's Comprehensive Plan provides a framework to guide land use, development, and public facility investments. It is based on a set of Guiding Principles that call for integrated approaches, actions, and outcomes that meet multiple goals to ensure Portland is prosperous, healthy, equitable, and resilient.
34. **Goal 1.B: Regional partnership.** Portland's Comprehensive Plan acknowledges Portland's role within the region, and it is coordinated with the policies of governmental partners.
35. **Goal 1.C: A well-functioning plan.** Portland's Comprehensive Plan is effective, its elements are aligned, and it is updated periodically to be current and to address mandates, community needs, and identified problems.
36. **Goal 1.D: Implementation tools.** Portland's Comprehensive Plan is executed through a variety of implementation tools, both regulatory and non-regulatory. Implementation tools comply with the Comprehensive Plan and are carried out in a coordinated and efficient manner. They protect the public's current and future interests and balance the need for providing certainty for future development with the need for flexibility and the opportunity to promote innovation.
37. **Goal 1.E: Administration.** Portland's Comprehensive Plan is administered efficiently and effectively and in ways that forward the intent of the Plan. It is administered in accordance with regional plans and state and federal law.

The CC2035 Plan is an amendment to the 2035 Comprehensive Plan. Yet, the plan operates as mini comprehensive plan for the Central City. The plan was developed consistent with the framework of the *2035 Comprehensive Plan*. CC2035 contains a policy framework, Comprehensive Plan Map and Zoning Map amendments, Zoning Code amendments, and list of actions and list of projects necessary to implement the plan over the life of the plan. As noted above, CC2035 is consistent with the guiding principles of the *2035 Comprehensive Plan*, and the plan was developed and will be implemented by a variety of public and private partners, including numerous bureaus of the City of Portland, ODOT, TriMet, Metro, Multnomah County, community organizations, and development entities. These agencies were represented on a Technical Advisory Committee (TAC) that met regularly during the development of the Concept and quadrant plans. As such, the plan is consistent with and furthers the objectives of Goals 1.A – 1.E of the *2035 Comprehensive Plan*. For further information regarding how the CC2035 Plan is consistent with and furthers applicable state and regional goals, see “Findings on Statewide Planning Goals” and “Findings on Metro Urban Growth Management Functional Plan” sections, located earlier in this findings report.

The Plan: Policies

The Comprehensive Plan

38. **Policy 1.1, Comprehensive Plan elements.** Maintain a Comprehensive Plan that includes these elements:

- **Vision and Guiding Principles.** The Vision is a statement of where the City aspires to be in 2035. The Guiding Principles call for decisions that meet multiple goals to ensure Portland is prosperous, healthy, equitable, and resilient.
- **Goals and policies.** The goals and policies of the Comprehensive Plan, including the Urban Design Framework, provide the long-range planning direction for the development and redevelopment of the city.
- **Comprehensive Plan Map.** The Comprehensive Plan Map is the official long-range planning guide for spatially defining the desired land uses and development in Portland. The Comprehensive Plan Map is a series of maps, which together show the boundaries of municipal incorporation, the Urban Service Boundary, land use designations, and the recognized boundaries of the Central City, Gateway regional center, town centers, and neighborhood centers.
- **List of Significant Projects.** The List of Significant Projects identifies the public facility projects needed to serve designated land uses through 2035, including expected new housing and jobs. It is based on the framework provided by a supporting Public Facilities Plan (PFP). The Citywide Systems Plan (CSP) is the City’s public facilities plan. The Transportation System Plan (TSP) includes the transportation-related list of significant projects. The list element of the TSP is also an element of the Comprehensive Plan.
- **Transportation policies, street classifications, and street plans.** The policies, street classifications, and street plan maps contained in the Transportation System Plan (TSP) are an element of the Comprehensive Plan. Other parts of the TSP function as a supporting document, as described in Policy 1.2.

Consistent with Policy 1.1, Volume 1, Goals and Policies, of CC2035 contains a vision, goals, and policies specific to the Central City Plan District, which as outlined above are consistent with the

guiding principles of the 2035 Comprehensive Plan. Volume 2A, Part 1, Zoning Code & Map Amendments, presents amendments to Comprehensive Plan Map and amendments to the Zoning Code Maps consistent with the Comprehensive Plan Map. Further, Volume 2B, Transportation System Plan Amendments, and Volume 5A, Implementation: Performance Targets and Action Plans, propose public facility projects and transportation system amendments to ensure that the land use designations resulting from CC2035, and resulting densities, will be supported consistent with this policy.

Supporting Documents

39. **Policy 1.2, Comprehensive Plan supporting documents.** Maintain and periodically update the following Comprehensive Plan supporting documents.
 1. **Inventories and analyses.** The following inventories and analyses are supporting documents to the Comprehensive Plan:
 - Economic Opportunities Analysis (EOA)
 - Buildable Lands Inventory (BLI)
 - Natural Resource Inventory (NRI)
 - Housing Needs Analysis (HNA)
 2. **Public Facilities Plan.** The Public Facilities Plan (PFP) is a coordinated plan for the provision of urban public facilities and services within Portland's Urban Services Boundary. The Citywide Systems Plan (CSP) is the City's public facilities plan.
 3. **Transportation System Plan (TSP).** The TSP is the detailed long-range plan to guide transportation system functions and investments. The TSP ensures that new development and allowed land uses are consistent with the identified function and capacity of, and adopted performance measures for, affected transportation facilities. The TSP includes a financial plan to identify revenue sources for planned transportation facilities included on the List of Significant Projects. The TSP is the transportation element of the Public Facilities Plan. Certain components of the TSP are elements of the Comprehensive Plan. *See Policy 1.1.*
 4. **School Facility Plans.** School facility plans that were developed in consultation with the City, adopted by school districts serving the City, and that meet the requirements of ORS 195 are considered supporting documents to the Comprehensive Plan.

CC2035 was developed consistent with the supporting documents of the recently adopted 2035 *Comprehensive Plan*, as well as the following: Willamette River Greenway Inventory; Willamette River/Central Reach Natural Resources Protection Plan (includes an inventory of natural resources); Central City Scenic Resources Inventory. The plan is also consistent with the PFP and CSP, amends the TSP consistent with 2035 *Comprehensive Plan*. Lastly, although Portland Public Schools (PPS) has not specifically amended its overall facilities plan, the proposed updates to Lincoln High School and facilities associated with Chapman Elementary School have been made in consultation with BPS to ensure consistency with the projections of CC2035.

Implementation tools

40. **Policy 1.3, Implementation tools subject to the Comprehensive Plan.** Maintain Comprehensive Plan implementation tools that are derived from, and comply with, the Comprehensive Plan. *Implementation tools include those identified in policies 1.4 through 1.9.*
41. **Policy 1.4, Zoning Code.** Maintain a Zoning Code that establishes the regulations that apply to

various zones, districts, uses, and development types.

42. **Policy 1.5, Zoning Map.** Maintain a Zoning Map that identifies the boundaries of various zones, districts, and other special features.

CC2035 includes numerous Zoning Code and Map amendments intended to implement the policy framework of the *2035 Comprehensive Plan* but also CC20305 Volume 1, Goals and Policies. Some of the map amendments are intended to address specific issues at the subdistrict level, some at a city-wide scale. Zoning Code amendments include the addition of new use allowances and development standards to address new policies of both plans, and amendments that enhance the ability of existing provisions, be they use allowances, development standards, or incentives, to achieve the goals and policies of these two plans. Lastly, some existing development bonuses in the Zoning Code are repealed by C2035 to ensure that the new bonus system is aligned with new Comprehensive Plan goals and policies aimed at incenting the development of affordable housing, and in support of new inclusionary housing requirements recently adopted by the Portland City Council. Thus, CC2035 is consistent with policies 1.3 – 1.5.

Administration

43. **Policy 1.10, Compliance with the Comprehensive Plan.** Ensure that amendments to the Comprehensive Plan's elements, supporting documents, and implementation tools comply with the Comprehensive Plan. "Comply" means that amendments must be evaluated against the Comprehensive Plan's applicable goals and policies and on balance be equally or more supportive of the Comprehensive Plan than the existing language or designation.
44. **1.10.a,** Legislative amendments to the Comprehensive Plan's elements and implementation tools must also comply with the Guiding Principles.
45. **1.10.b,** Legislative amendments to the Comprehensive Plan's elements should be based on the factual basis established in the supporting documents as updated and amended over time.
46. **1.10.c,** Amendments to the Zoning Map are in compliance with the Comprehensive Plan if they are consistent with the Comprehensive Plan Map.

The findings of this ordinance are intended in part to identify how the CC2035 is consistent with the *2035 Comprehensive Plan's* Guiding Principles, goals, policies, and maps, as detailed throughout this set of findings. Further, all Zoning Map amendments in CC2035 reflect amendments to the *2035 Comprehensive Plan Map* are therefore consistent with the that map.

47. **Policy 1.11, Consistency with Metro Urban Growth Management Functional Plan and Urban Growth Boundary.** Ensure that the Comprehensive Plan remains consistent with the Metro Urban Growth Management Functional Plan and supports a tight urban growth boundary for the Portland metropolitan area.
48. **Policy 1.12, Consistency with Statewide Planning Goals.** Ensure that the Comprehensive Plan, supporting documents, and implementation tools remain consistent with the Oregon Statewide Planning Goals.

As noted earlier in these findings, the CC2035 Plan was created consistent with and in a manner designed to further the applicable elements of the Metro Urban Growth Management Functional Plan and Statewide Planning Goals, consistent with the directives of policies 1.11 and 1.12.

49. **Policy 1.13, Consistency with state and federal regulations.** Ensure that the Comprehensive Plan remains consistent with all applicable state and federal regulations, and that implementation

measures for the Comprehensive Plan are well coordinated with other City activities that respond to state and federal regulations.

The CC2035 plan was developed to be consistent with applicable state and federal regulations, and all implementing actions of the plan although intended also to be consistent with such regulations will further need to provide consistency with all applicable state and federal requirements once the details of each is further outlined at the time of implementation.

50. **Policy 1.14, Public facility adequacy.** Consider impacts on the existing and future availability and capacity of urban public facilities and services when amending Comprehensive Plan elements and implementation tools. Urban public facilities and services include those provided by the City, neighboring jurisdictions, and partners within Portland's urban services boundaries, as established by Policies 8.2 and 8.6.

Although the only amendments of CC2035 related to the *2035 Comprehensive Plan* regard limited Comprehensive Plan Map amendments, these and the corresponding Zoning Map amendments are found to be capable of being served by existing public facilities and services or those proposed to be implemented in Volume 5, Implementation Plan.

51. **Policy 1.15, Intergovernmental coordination.** Strive to administer the Comprehensive Plan elements and implementation tools in a manner that supports the efforts and fiscal health of the City, county and regional governments, and partner agencies such as school districts and transit agencies.

A multi-agency Technical Advisory Committee (TAC) was established during the development of the CC2035 Concept Plan and continued to meet to advise the development of the three quadrant plans that lead to the *Proposed Draft* of the CC2035 package of documents. Further, City, state, and federal employees attended open house events, workshops, and participated in other committees and symposiums held in support of plan development. Further, many of these same agencies submitted comments, and some, such as Portland Public Schools and the Portland of Portland, testified before Council on different elements of the plan. This involvement helped to shape the final version of CC2035, consistent with Policy 1.15.

52. **Policy 1.16, Planning and Sustainability Commission review.** Ensure the Planning and Sustainability Commission (PSC) reviews and makes recommendations to the City Council on all proposed legislative amendments to Comprehensive Plan elements, supporting documents, and implementation tools. The PSC advises City Council on the City's long-range goals, policies, and programs for land use, planning, and sustainability. The membership and powers and duties of the PSC are described in the Zoning Code.

On June 20, 2016, the Proposed Draft of CC2035 was released in preparation for the PSC review of the plan. This draft of the plan was amended from the earlier Discussion Draft based on much of the public input provided during the review period of that draft. Prior to the first PSC public hearing, held on July 26, 2016, open house events were conducted to provide those who may testify before the PSC with more specific information about plan elements.

The PSC held public hearings and work sessions between June 2016 and April 2017. During these meetings, testimony was received on the Proposed Draft, amendments were proposed during work sessions, and an additional hearing was held to receive testimony on PSC proposed amendments before the PSC voted on the final Recommended Draft to be forwarded to City Council. The PSC held meetings for the plan on the following dates:

- Briefing: June 28, 2016
- Hearing: July 26, 2016
- Hearing: August 9, 2016
- Work Session: September 27, 2016
- Work Session: November 16, 2016
- Work Session: January 10, 2017
- Work Session: January 24, 2017
- Work Session: February 14, 2017
- Work Session: February 28, 2017
- Work Session: March 14, 2017
- Work Session: April 11, 2017
- Work Session & Vote: May 23, 2017

53. **Policy 1.17, Community Involvement Committee.** Establish a Community Involvement Committee to oversee the Community Involvement Program as recognized by Oregon Statewide Planning Goal 1 – Community Involvement and policies 2.15-2.18 of this Comprehensive Plan.

On December 15, 2010, the first of several briefings with the Citizen Involvement Committee was held regarding the CC2035 Plan. This version of the CIC was initially formed to advise on the development of the Portland Plan before shifting focus to the 2035 Comprehensive Plan. The CIC advise CC2035 staff, members participated in various CC2035 public events, and the committee was consulted in development of the plan.

54. **Policy 1.19, Area-specific plans.** Use area-specific plans to provide additional detail or refinements applicable at a smaller geographic scale, such as for centers and corridors, within the policy framework provided by the overall Comprehensive Plan.

55. **1.19.a,** Area-specific plans that are adopted after the effective date of the 2035 Comprehensive Plan should clearly identify which components amend Comprehensive Plan elements, supporting documents, or implementation tools. Such amendments should be appropriate to the scope of the Comprehensive Plan; be intended to guide land use decisions; and provide geographically-specific detail. Such amendments could include policies specific to the plan area, land use designation changes, zoning map changes, zoning code changes, and public facility projects necessary to serve designated land uses.
56. **1.19.b,** Area-specific plan components intended as context, general guidance, or directives for future community-driven efforts should not amend the Comprehensive Plan elements or implementation tools but be adopted by resolution as intent. These components include vision statements, historical context, existing conditions, action plans, design preferences, and other background information.
57. **1.19.c,** Community, area, neighborhood, and other area-specific plans that were adopted by ordinance prior to [date of Comp Plan adoption] are still in effect. However, the elements of this Comprehensive Plan supersede any goals or policies of a community, area, or neighborhood plan that are inconsistent with this Plan.

The CC2025 Plan is an “area-specific plan” as the plan focuses exclusively on the Central City Plan District, and proposes amendments to the Comprehensive Plan Map, Zoning Code and Map, TSP and numerous implementation actions that are consistent with and specifically intended to implement the 2035 Comprehensive Plan within the geography of the Central City, consistent with Policy 1.19.

Community Involvement: Goals

58. **Goal 2.A: Community involvement as a partnership.** The City of Portland works together as a genuine partner with all Portland communities and interests. The City promotes, builds, and maintains relationships, and communicates with individuals, communities, neighborhoods, businesses, organizations, institutions, and other governments to ensure meaningful community involvement in planning and investment decisions.
59. **Goal 2.B: Social justice and equity.** The City of Portland seeks social justice by expanding choice and opportunity for all community members, recognizing a special responsibility to identify and engage, as genuine partners, under-served and under-represented communities in planning, investment, implementation, and enforcement processes, particularly those with potential to be adversely affected by the results of decisions. The City actively works to improve its planning and investment-related decisions to achieve equitable distribution of burdens and benefits and address past injustices.
60. **Goal 2.C: Value community wisdom and participation.** Portland values and encourages community and civic participation. The City seeks and considers community wisdom and diverse cultural perspectives, and integrates them with technical analysis, to strengthen land use decisions.
61. **Goal 2.D: Transparency and accountability.** City planning and investment decision-making processes are clear, open, and documented. Through these processes a diverse range of community interests are heard and balanced. The City makes it clear to the community who is responsible for making decisions and how community input is considered. Accountability includes monitoring and reporting outcomes.
62. **Goal 2.E: Meaningful participation.** Community members have meaningful opportunities to participate in and influence all stages of planning and decision making. Public processes engage the full diversity of affected community members, including under-served and under-represented individuals and communities. The City will seek and facilitate the involvement of those potentially affected by planning and decision making.
63. **Goal 2.F: Accessible and effective participation.** City planning and investment decision-making processes are designed to be culturally accessible and effective. The City draws from acknowledged best practices and uses a wide variety of tools, including those developed and recommended by under-served and under-represented communities, to promote inclusive, collaborative, culturally-specific, and robust community involvement.
64. **Goal 2.G: Strong civic infrastructure.** Civic institutions, organizations, and processes encourage active and meaningful community involvement and strengthen the capacity of individuals and communities to participate in planning processes and civic life.

The process leading to the final Recommended Draft of Central City 2035 included the development of four initial concept plans (the CC2035 Concept Plan, North/Northeast, West, and South East Quadrant Plans) and included a detailed public engagement process that provided repeated and numerous opportunities for all interested parties to shape and influence the final recommended draft.

For instance, each of the four noted plans were initially developed with the assistance of a Stakeholder Advisory Committee (SAC), specifically developed for each plan area. These SAC's include a diverse membership, including representatives from under-represented communities

who have been impacted by past planning decisions. SAC meetings were open to the public, and public comment periods were a part of each meeting.

In addition to the SAC's, open house events, meetings with neighborhood and business associations, and meetings with numerous interest based organizations were held, to ensure all interested parties and organizations had a chance to learn about and provide input on the plan.

Further, the BPS website had pages dedicated to each plan effort, and tools such as a Map App page, and contact information for a Central City 2035 help line, each providing additional opportunities to learn about the plan effort, review back ground reports, meeting notes, and numerous ways to comment on the plan.

Once a SAC endorsed plan was created for the Concept Plan and all three quadrant plans, briefings were held with the Planning and Sustainability Commission (PSC), Design Commission, and Landmarks Commission. These meetings were open to the public and PSC meetings were televised and available to review online. Then a public hearing on each plan was held with the PSC, who heard testimony and reviewed written testimony on each plan. These hearings were followed by a series of work sessions where the PSC revised the plan based on their and public input, and a formal PSC Recommended Draft was forwarded to the Portland City Council, where a similar series of briefings, hearings, and work sessions were held on each plan before Council adopted each after making amendments based in part on public testimony.

On June 12, 2015, the Portland Office of the Ombudsman received a complaint noting that West Quadrant Plan SAC members did not disclose conflicts of interest, and asking that the SAC recommendations be invalidated. On October 21, 2015, the Ombudsman responded to this complaint by noting that the Oregon Government Ethics Commission makes a distinction between actual and potential conflicts of interest, stating:

"An actual conflict of interest occurs when an action taken by the official would directly and specifically affect the financial interest of the official, the official's relative or a business with which the official or a relative of the official is associated. A potential conflict of interest exists when an official takes action the could have a financial impact on that official, a relative or a business with which the official or the relative of the official is associated."

The Ombudsman found that SAC members did not face "actual" conflicts of interest, citing that the Oregon Government Ethics Commission, because "actual conflicts of interest cannot occur where an advisory committee makes non-binding recommendations (Advisory Opinion No. 07A-1001, page 3)." However, the Ombudsman indicated that SAC members could have faced a "potential" conflict, and although that "does not preclude anyone from being a member of the SAC or voting on a recommendation, the Ombudsman, prior to review of the CC2035 Plan by the PSC, recommended that BPS contact SAC members with a request to disclose any conflicts they may have had.

The public was provided opportunities to discuss concerns and suggest amendments in front of both the PSC and Council in response to the potential conflict disclosures. Several members of the public took that opportunity. Based on this testimony Council requested BPS staff to produce a height map of the West Quadrant, with properties owned by West Quadrant SAC members highlighted. Council made this request to determine if there was a basis for claims that SAC members disproportionately benefited from height amendments. Upon reviewing the ownership map, Council determined that no disproportionate benefits were gained by SAC members.

Further opportunities for the public to engage with the PSC and City Council in the legislative review of CC2035 are summarized in the Statewide Planning Goal 1, Citizen Involvement, earlier in these findings.

Therefore, the plan and this public engagement process are consistent with Goals 2.A – 2.G of the 2035 Comprehensive Plan.

Community Involvement: Policies

Partners in decision making

65. **Policy 2.1, Partnerships and coordination.** Maintain partnerships and coordinate land use engagement with:
 66. **2.1.a,** Individual community members.
 67. **2.1.b,** Communities of color, low-income populations, Limited English Proficient (LEP) communities, Native American communities, and other under-served and under-represented communities.
 68. **2.1.c,** District coalitions, neighborhood associations, and business district associations as local experts and communication channels for place-based projects.
 69. **2.1.d,** Businesses, unions, employees, and related organizations that reflect Portland's diversity as the center of regional economic and cultural activity.
 70. **2.1.e,** Community-based, faith-based, artistic and cultural, and interest-based non-profits, organizations, and groups.
 71. **2.1.f,** Institutions, governments, and Sovereign tribes.
72. **Policy 2.2, Broaden partnerships.** Work with district coalitions, neighborhood associations, and business district associations to increase participation and to help them reflect the diversity of the people and institutions they serve. Facilitate greater communication and collaboration among district coalitions, neighborhood associations, business district associations, culturally-specific organizations, and community-based organizations.

During the development of the CC2035 Plan, staff conducted SAC meetings (57), subcommittee meetings (21), attended community meetings and events (303), and held project specific public open house events and tours (53). All meetings and events were open to the public and included opportunities for public comment. These meetings included those held with neighborhood associations, business associations, district coalitions, City advisory groups, professional organizations, and specific interest groups. Contact and updates to these organizations and individual stakeholders was maintained via email and website updates regarding the plan. A series of Technical Advisory Committee (TAC) meetings were also conducted on the overall CC2035 Plan, and for each quadrant plan. These TAC meetings included representatives of City, regional, and state government. These efforts demonstrate consistency with Policies 2.1 and 2.2.

Environmental justice

73. **Policy 2.3, Extend benefits.** Ensure plans and investments promote environmental justice by extending the community benefits associated with environmental assets, land use, and public investments to communities of color, low-income populations, and other under-served or under-represented groups impacted by the decision. Maximize economic, cultural, political, and environmental benefits through ongoing partnerships.

74. **Policy 2.4, Eliminate burdens.** Ensure plans and investments eliminate associated disproportionate burdens (e.g. adverse environmental, economic, or community impacts) for communities of color, low-income populations, and other under-served or under-represented groups impacted by the decision.

75. **2.4.a, Minimize or mitigate disproportionate burdens in cases where they cannot be eliminated.**

76. **2.4.b, Use plans and investments to address disproportionate burdens of previous decisions.**

Because CC2035 is a plan for the regional center of the Portland Metropolitan Region, it was critical that the plan address how the economic, cultural, political, environmental benefits deriving from a successful regional center would be shared by all. Beyond these benefits, access to affordable housing, to transit and active transportation, to education, social services, recreation, and other assets was also addressed by the plan.

For instance, regarding housing, the plan contains policies, actions, and regulations that require the development of affordable housing that is also energy efficient, and has access to transit. Other elements of the Zoning Code promote housing for families with children, seniors, and students.

Other provisions address work force development, access to affordable work space, and increasing employment densities in Central City industrial districts to allow for a greater range of employment opportunities for people at a range of educational or skill levels providing access to jobs within incomes at lower and higher wage levels.

These elements of the plan ensure consistency with Policies 2.3 and 2.4.

Community assessment

77. **Policy 2.8, Channels of communication.** Maintain channels of communication among City Council, the Planning and Sustainability Commission (PSC), project advisory committees, City staff, and community members.

In support of CC2035, the project team conducted regular briefings with the PSC, Design Commission, Landmarks Commission, Portland Development Commission (now Prosper Portland Board), the CIC, TAC's created in support of CC2035 plan efforts, and local neighborhood and business associations, consistent with Policy 2.8.

78. **Policy 2.9, Community analysis.** Collect and evaluate data, including community-validated population data and information, to understand the needs, priorities, and trends and historical context affecting different communities in Portland.

79. **Policy 2.10, Community participation in data collection.** Provide meaningful opportunities for individuals and communities to be involved in inventories, mapping, data analysis, and the development of alternatives.

Numerous background analysis was conducted in support of CC2035, as identified in Volume 4. Reports such as the Central City 2035 Subdistrict Profiles presented demographic data, housing numbers, economic statistics, transportation, and environmental data, among other information. Other documents provided detailed information about parking or transportation issues associated with specific Subdistricts, while other documents provided detailed information about existing development, as well as unutilized development potential. Much of this data was also available in hard copies as well as online, and some of this data was also integrated into a Map App that

allowed individuals to focus on issues related to a single lot, or the Central City. The use of these tools ensure CC2035 was developed consistent with the objectives of Policies 2.9 – 2.10.

Transparency and accountability

80. **Policy 2.12, Roles and responsibilities.** Establish clear roles, rights, and responsibilities for participants and decision makers in planning and investment processes. Address roles of City bureaus, elected officials, and participants, including community and neighborhood leadership, business, organizations, and individuals.
81. **Policy 2.13, Project scope.** Establish clear expectations about land use project sponsorship, purpose, design, and how decision makers will use the process results.
82. **Policy 2.14, Community influence.** At each stage of the process, identify which elements of a planning and investment process can be influenced or changed through community involvement. Clarify the extent to which those elements can be influenced or changed.
83. **Policy 2.15, Documentation and feedback.** Provide clear documentation for the rationale supporting decisions in planning and investment processes. Communicate to participants about the issues raised in the community involvement process, how public input affected outcomes, and the rationale used to make decisions.

As noted, the process to develop the Recommended CC2035 Plan involved numerous plan efforts, some focusing on Central City-wide policy development, others on specific quadrants or subdistricts of the plan area. Each effort provided numerous opportunities to influence the next version of the plan to be presented to the eventual plans crafted by the PSC and then adopted by City Council.

Throughout these efforts, staff contacted, met with, and coordinated with stakeholders to inform them how to engage in the decision-making process, how the process was structured, and additional opportunities to participate when such opportunities existed.

Further opportunities to for the public to engage with the PSC and City Council in the legislative review of CC2035 are summarized in the Statewide Planning Goal 1, Citizen Involvement, earlier in these findings.

Thus, these efforts are consistent with Policies 2.12 – 2.15.

Process design and evaluation

84. **Policy 2.24, Representation.** Facilitate participation of a cross-section of the full diversity of affected Portlanders during planning and investment processes. This diversity includes individuals, stakeholders, and communities represented by race, color, national origin, English proficiency, gender, age, disability, religion, sexual orientation, gender identity, and source of income.
85. **Policy 2.25, Early involvement.** Improve opportunities for interested and affected community members to participate early in planning and investment processes, including identifying and prioritizing issues, needs, and opportunities; participating in process design; and recommending and prioritizing projects and/or other types of implementation.

The community involvement program conducted in support of CC2035 engaged thousands of stakeholders and hundreds of stakeholder organizations. Accommodations were made available for people with disabilities and those that were non-English speaking stakeholders to participate in events and access materials. Also, staff was available to meet with all interested parties, regardless of whether they were directly affected by the plan, or had a historic connection to the plan area. Many of these meetings were used to engage the public about issues to be addressed by the plan,

confirming existing conditions data, and to refine plan recommendations. These efforts were consistent with policy direction of 2.24 and 2.25.

86. **Policy 2.26, Verifying data.** Use data, including community-validated population data, to guide planning and investment processes and priority setting and to shape community involvement and decision-making efforts.
87. **Policy 2.27, Demographics.** Identify the demographics of potentially affected communities when initiating a planning or investment project.
88. **Policy 2.28, Historical understanding.** To better understand concerns and conditions when initiating a project, research the history, culture, past plans, and other needs of the affected community, particularly under-represented and under-served groups, and persons with limited English proficiency (LEP). Review preliminary findings with members of the community who have institutional and historical knowledge.
89. **Policy 2.29, Project-specific needs.** Customize community involvement processes to meet the needs of those potentially affected by the planning or investment project. Use community involvement techniques that fit the scope, character, and potential impact of the planning or investment decision under consideration.

Prior to initiating the overall CC2035 Plan effort, as well as the individual quadrant plans, a detailed existing conditions analysis was prepared that established baseline demographic data, built conditions, environmental conditions, transportation data, and other important facts regarding past, current, and projected conditions. Further, the policies and objectives of previous plans were analyzed to determine their effectiveness and applicability for CC2035. Lastly, staff engaged the public in open house and other community meetings to verify this data and to identify other data and issues important in the creation of a new plan for the Central City.

90. **Policy 2.30, Culturally-appropriate processes.** Consult with communities to design culturally-appropriate processes to meet the needs of those affected by a planning or investment project. Evaluate, use, and document creative and culturally-appropriate methods, tools, technologies, and spaces to inform and engage people from under-served and under-represented groups about planning or investment projects.
91. **Policy 2.31, Innovative engagement methods.** Develop and document innovative methods, tools, and technologies for community involvement processes for plan and investment projects.
92. **Policy 2.32, Inclusive participation beyond Portland residents.** Design public processes for planning and investment projects to engage affected and interested people who may not live in Portland such as property owners, employees, employers, and students, among others, as practicable.
93. **Policy 2.33, Inclusive participation in Central City planning.** Design public processes for the Central City that recognize its unique role as the region's center. Engage a wide range of stakeholders from the Central City and throughout the region including employees, employers, social service providers, students, and visitors, as well as regional tourism, institutional, recreation, transportation, and local/regional government representatives, as appropriate.

Consistent with Policies 2.30 – 2.33, throughout the development of CC2035, BPS maintained a webpage dedicated to the effort which provided constant updates including meeting announcements, meeting minutes, draft reports and analysis, links to video of PSC hearings, and the Central City Map App. These tools located on this site provided internet access for people to

learn about and provide comments throughout the development of the plan. Further, outreach materials were presented in ten different languages and accommodations were made available for people of those languages to provide comments or receive answers to questions in those languages. More information regarding the total number of meetings and organizations met with can be found in Volume 6, Public Involvement, of the plan.

94. **Policy 2.34, Accessibility.** Ensure that community involvement processes for planning and investment projects are broadly accessible in terms of location, time, and language, and that they support the engagement of individuals with a variety of abilities and limitations on participation.
95. **Policy 2.35, Participation monitoring.** Evaluate and document participant demographics throughout planning and investment processes to assess whether participation reflects the demographics of affected communities. Adapt involvement practices and activities accordingly to increase effectiveness at reaching targeted audiences.
96. **Policy 2.36, Adaptability.** Adapt community involvement processes for planning and investment projects as appropriate to flexibly respond to changes in the scope and priority of the issues, needs, and other factors that may affect the process.
97. **Policy 2.37, Process evaluation.** Evaluate each community involvement process for planning or investment projects from both the City staff and participants' perspectives, and consider feedback and lessons learned to enhance future involvement efforts.

The CC2035 process formally began in 2010 with the initiation of the CC2035 Concept Plan and N/NE Quadrant Plan. At that time information from the 2010 Census was being released and used as an initial baseline for the demographics of the Central City. However, throughout the life of the plan effort, demographic, development, and transportation data was updated and used to inform the final versions of the two plans noted above, as well as the subsequent West and Southeast Quadrant Plans, and final Recommended Draft of CC2035. This ensured that the plan reflected real-time conditions and evolving projects for the plan area, and the information was made available to plan stakeholders and decision makers, consistent with Policies 2.34 – 2.37.

Information design and development

98. **Policy 2.38, Accommodation.** Ensure accommodations to let individuals with disabilities participate in administrative, quasi-judicial, and legislative land use decisions, consistent with federal regulations.
99. **Policy 2.39, Notification.** Notify affected and interested community members and recognized organizations about administrative, quasi-judicial, and legislative land use decisions with enough lead time to enable effective participation. Consider notification to both property owners and renters.
100. **Policy 2.40, Tools for effective participation.** Provide clear and easy access to information about administrative, quasi-judicial, and legislative land use decisions in multiple formats and through technological advancements and other ways.
101. **Policy 2.41, Limited English Proficiency (LEP).** Ensure that limited English proficient (LEP) individuals are provided meaningful access to information about administrative, quasi-judicial, and legislative land use decisions, consistent with federal regulations.

Consistent with Policies 2.38 – 2.41, and BPS community involvement practices, meetings, open house events, and all public meetings, described in more detail in the findings for Statewide Goal 1, were held at locations that could accommodate people with disabilities, meetings were noticed,

information on the plan were provided to meeting participants as well as online, and accommodations were made to allow LEP individuals learn about and comment on the plan.

Urban Form: Goals

102. **GOAL 3.A: A city designed for people.** Portland's built environment is designed to serve the needs and aspirations of all Portlanders, promoting prosperity, health, equity, and resiliency. New development, redevelopment, and public investments reduce disparities and encourage social interaction to create a healthy connected city.
103. **GOAL 3.B: A climate and hazard resilient urban form.** Portland's compact urban form, sustainable building development practices, green infrastructure, and active transportation system reduce carbon emissions, reduce natural hazard risks and impacts, and improve resilience to the effects of climate change.
104. **GOAL 3.C: Focused growth.** Household and employment growth is focused in the Central City and other centers, corridors, and transit station areas, creating compact urban development in areas with a high level of service and amenities, while allowing the relative stability of lower-density single-family residential areas.
105. **GOAL 3.D: A system of centers and corridors.** Portland's interconnected system of centers and corridors provides diverse housing options and employment opportunities, robust multimodal transportation connections, access to local services and amenities, and supports low-carbon complete, healthy, and equitable communities.
106. **GOAL 3.E: Connected public realm and open spaces.** A network of parks, streets, City Greenways, and other public spaces supports community interaction; connects neighborhoods, districts, and destinations; and improves air, water, land quality, and environmental health.
107. **GOAL 3.F: Employment districts.** Portland supports job growth in a variety of employment districts to maintain a diverse economy.
108. **GOAL 3.G: Nature in the city.** A system of habitat corridors weaves nature into the city, enhances habitat connectivity, and preserves natural resources and the ecosystem services they provide.

The Urban Design chapter of the 2035 Comprehensive Plan contains goals and policies that view the city as if viewed from above. It considers the natural and urban conditions that shape the city, the unique districts that gives the city a diverse character, and considers the network of corridors that link the city internally and with the region. Viewed from this perspective, the CC2035 Plan is intended to shape systems that make up the densest urban center in the State of Oregon. The Central City is a regional hub for transportation, civic and cultural life, and government. Yet, it is also a collection of 10 individual districts, each with their own character and role, bound together by a close relationship with the Willamette River and a dynamic topography which further defines its character.

Consistent with Goals 3.A – 3.D, CC2035 contains goals, policies, and actions that support the Central City Plan District as the primary center for Portland, as well as the Portland Metropolitan Region. The plan's policy framework and implementation plan supports a city center that "is composed of diverse, high density districts that feature high-quality spaces and a character that facilitates social interaction" (Goal 5.B) that can provide "equitable benefits to human health, the natural environment and the local economy" (Goal 6.A). The framework further contains policies addressing natural hazard and climate change resiliency (Policies 6.1 and 6.2), and numerous goals,

policies, and actions supporting the Central City as the preeminent location for high-density focused growth in terms of economic development, housing, and access to government, cultural, and educational assets.

These goals, policies, and actions are further supported by Zoning Code amendments, such as development standards, development entitlements (FAR and height), and development incentives, that maximize the development potential of the Central City in the context of historic areas, open space, the riverfront, and public realm. These provisions also build upon past and anticipated public investments in transportation infrastructure, and respond to projections that the Central City will need to provide for 30% of Portland's projected growth by 2035.

The CC2035 Plan further contains several elements that further the objective of Goal 3.E. These include the proposed Green Loop, new development standards and actions addressing the use of green infrastructure, expanded tree canopy, and additional vegetated setbacks within and adjacent to the public realm. The plan also contains goals, policies, and actions that support new open space creation, expanded use of the public realm and open space areas for a diversity of uses that enhance social interaction and environmental health.

Beyond the CC2035 policy framework, the plan includes many elements promoting a high-density and diverse economic center. The plan allows for increased employment densities in the Central Eastside, along the transit mall, at key station areas, and at major bridgeheads, consistent with Goal 3.F.

And lastly, as the Willamette River, Sullivan's Gulch, and West Hills intersect with the Central City, combining with a public open space network that create corridors of habitat through the urban center of the city, CC2035 contains goals and policies promoting enhancement and expansion of these systems, as well as new development standards that require a greater setback from the Willamette River, improved enhancement requirements, greater open space areas at master plan sites, and bird safe design, are consistent with Goal 3.G.

Urban Form: Policies

Citywide design and development

109. **Policy 3.2, Growth and stability.** Direct most growth and change to centers, corridors, and transit station areas, allowing the continuation of the scale and characteristics of Portland's residential neighborhoods.

CC2035 proposed FAR increases as well as height entitlements throughout the Central City, with an emphasis on the transit mall and new University Place, OMSI, Clinton station area. These amendments, as shown on Maps 510-2, 510-3, and 510-4 of the Central City Plan District (Volume 2A, Part 1 of the revised Recommended Draft of CC2035) were specifically intended to increase development densities in the Central City, with a further emphasis on incenting residential densities. During various points in their review of CC2035, Council proposed additional height and FAR amendments stating that these increased entitlements and bonus opportunities could result in additional housing that would help to increase the supply of housing within the city. Thus, these amendments increasing development potential are consistent with this policy direction.

110. **Policy 3.3, Equitable development.** Guide development, growth, and public facility investment to reduce disparities, ensure equitable access to opportunities, and produce positive outcomes for all Portlanders.

- 111. **3.3.a,** Anticipate, avoid, reduce, and mitigate negative public facility and development impacts, especially where those impacts inequitably burden communities of color, under-served and under-represented communities, and other vulnerable populations.
- 112. **3.3.b,** Make needed investments in areas that are deficient in public facilities to reduce disparities and increase equity. Accompany these investments with proactive measures to avoid displacement and increase affordable housing.
- 113. **3.3.c,** Encourage use of community benefit agreements to ensure equitable outcomes from development projects that benefit from public facility investments, increased development allowances, or public financial assistance. Consider community benefit agreements as a tool to mitigate displacement and housing affordability impacts.
- 114. **3.3.d,** Consider use of exactions imposed on development and other tools to capture value created by plans and investments, to reduce or mitigate displacement and housing affordability impacts.
- 115. **3.3.e,** Coordinate housing, economic development, and public facility plans and investments to create an integrated community development approach to restore communities impacted by past decisions.

- 116. **Policy 3.4, All ages and abilities.** Strive for a built environment that provides a safe, healthful, and attractive environment for people of all ages and abilities.

The CC2035 Plan expands the boundaries of the existing plan district to include the new Clinton station area, an underutilized industrial area of about 12 acres in size which is now zoned for a mix of residential and employment uses. Other than that, the plan focuses redevelopment of existing underutilized and vacant areas of the Central City, and with uses of a similar character but at higher densities. This approach avoids displacement of existing populations. The plan further contains policies, actions, and development standards that promote housing and essential services for people of different ages and abilities to ensure that Central City neighborhoods are complete and sustainable communities, consistent with Policies 3.3 – 3.4.

- 117. **Policy 3.5, Energy and resource efficiency.** Support energy-efficient, resource-efficient, and sustainable development and transportation patterns through land use and transportation planning.
- 118. **Policy 3.6, Land efficiency.** Provide strategic investments and incentives to leverage infill, redevelopment, and promote intensification of scarce urban land while protecting environmental quality.
- 119. **Policy 3.7, Integrate nature.** Integrate nature and use green infrastructure throughout Portland.
- 120. **Policy 3.8, Leadership and innovation in design.** Encourage high-performance design and development that demonstrates Portland's leadership in the design of the built environment, commitment to a more equitable city, and ability to experiment and generate innovative design solutions.

Consistent with the objectives of Policies 3.5 – 3.8, CC2035 promotes high-density and efficient land uses that are constructed to be energy efficient and that incorporate green infrastructure. The plan contains new zoning standards that introduce minimum density requirements in mixed use zones, and require new development pursue energy efficient certification and include ecoroofs.

The plan also proposes expansion of transit and active transportation facilities, while reducing allowable parking ratios throughout the Central City.

121. **Policy 3.9, Growth and development.** Evaluate the potential impacts of planning and investment decisions, significant new infrastructure, and significant new development on the physical characteristics of neighborhoods and their residents, particularly under-served and under-represented communities, with attention to displacement and affordability impacts. Identify and implement strategies to mitigate the anticipated impacts.

While CC2035 promotes infill over displacement in existing Central City neighborhoods, the plan also promotes greater access to affordable housing and work space, public schools, community centers, and other amenities that serve under served and growing populations in the city center.

122. **Policy 3.11, Significant places.** Enhance and celebrate significant places throughout Portland with symbolic features or iconic structures that reinforce local identity, histories, and cultures and contribute to way-finding throughout the city. Consider these especially at:

- High-visibility intersections
- Attractions
- Schools, libraries, parks, and other civic places
- Bridges
- Rivers
- Viewpoints and view corridor locations
- Historically or culturally significant places
- Connections to volcanic buttes and other geologic and natural landscape features
- Neighborhood boundaries and transitions

CC2035 takes various tacks at addressing the objectives of Policy 3.11. The plan promotes the bridgeheads of bridges crossing the Willamette River as key locations of some of the taller and densest developing along the Central Reach of the river. The plan also promotes development of a similar scale along the transit mall. Conversely, the plan increases the protection of public view corridors within and through the city center, promotes solar access to public park spaces, such as the Park Blocks, and appropriate scale transitions to adjacent residential neighborhoods and historic district in and outside of the Central City.

Centers

123. **Policy 3.12, Role of centers.** Enhance centers as anchors of complete neighborhoods that include concentrations of commercial and public services, housing, employment, gathering places, and green spaces.
124. **Policy 3.13, Variety of centers.** Plan for a range of centers across the city to enhance local, equitable access to services, and expand housing opportunities.

The Central City is the largest center on the 2035 Comprehensive Plan Map, a place that is intended to contain government services, civic amenities, a central business district, major institutions, diverse residential neighborhoods, the regional transportation hub, and a center for innovation and exchange. The CC2035 Plan addresses the multiple roles through an integrated policy framework that address economic development, housing opportunities, community development,

environmental enhancement, multimodal transportation options, and a public realm and other features that provide for public gathering, discourse and events that benefit typical Central City users, but also the region.

The plan further supports this framework through actions that support new community centers, public schools, diversity of housing types and affordability, and the development and maintenance of essential public services that support residents. Employees, and visitors of the city center. Zoning amendments that address the creation of affordable housing, public open space, multimodal transportation, and essential public services directly implement the objectives of Policies 3.12 and 3.13.

125. **Policy 3.14, Housing in centers.** Provide housing capacity for enough population to support a broad range of commercial services, focusing higher-density housing within a half-mile of the center core.

126. **Policy 3.15, Investments in centers.** Encourage public and private investment in infrastructure, economic development, and community services in centers to ensure that all centers will support the populations they serve.

The CC2035 Plan projects that 30 percent of the city's growth by 2035 will occur in the Central City. This includes 38,000 new households and 51,000 new jobs. The floor area entitlements and use allowances of the Zoning Code proposed by the plan are modest, as the existing entitlements come close to being able to accommodate these projections, based on analysis included in the buildable lands inventory (BLI). However, beyond capacity alone, the plan includes actions, development standards, and development incentives that address the inclusion of services and amenities that will support this continued growth and allow the Central City to sustain growth and the needs of residents and employees through the life of the plan and beyond. Specifically, new Central City Master Plan standards (Section 33,510.255 of the Zoning Code) requires the development of publicly accessible open space at key large development sites, and Section 33.510.2.E of the Zoning Code contains floor area allowance incentives when public services such as schools, community centers, libraries, and daycare are developed. These various elements of the plan are consistent with policies 3.14 and 3.15.

127. **Policy 3.16, Government services.** Encourage the placement of services in centers, including schools and colleges, health services, community centers, daycare, parks and plazas, library services, and justice services.

In direct response to this directive, the policy framework and implementation plan for CC2035 call for the development of new community centers, daycare, public open space, educational facilities, and other essential public services. Development incentives have also been included that encourage the development of such facilities as part of new mixed-use development and as standalone development.

128. **Policy 3.17, Arts and culture.** Ensure that land use plans and infrastructure investments allow for and incorporate arts, culture, and performance arts as central components of centers.

The role and importance of arts and culture to the economy and livability of the Central City is addressed in the policy framework and actions of the plan. The zoning strategy of the plan also supports this directive through the expansion of mixed-use zoning at key station areas where such amenities exist and where additional amenities are proposed, such as the OMSI station area in the Central Eastside.

129. **Policy 3.18, Accessibility.** Design centers to be compact, safe, attractive, and accessible places, where the street environment makes access by transit, walking, biking, and mobility devices such as wheelchairs, safe and attractive for people of all ages and abilities.
130. **Policy 3.19, Center connections.** Connect centers to each other and to other key local and regional destinations, such as schools, parks, and employment areas, by frequent and convenient transit, bicycle sharing, bicycle routes, pedestrian trails and sidewalks, and electric vehicle charging stations.

The existing conditions of the Central City may present the best example of how to address the objectives of Policies 3.18 and 3.19. However, the CC2035 Plan proposes enhancing the accessibility of the city center through additional transit connections, and multimodal infrastructure, like the Green Loop, that offer greater safety and separation for cyclists and pedestrians while connecting key service and destinations throughout the Central City.

131. **Policy 3.20, Green infrastructure in centers.** Integrate nature and green infrastructure into centers and enhance public views and connections to the surrounding natural features.

The policies, actions, and development standards of the plan address this policy by supporting and often requiring the development of energy efficient buildings, ecoroofs, use of green infrastructure on private land and in the public right-of-way, and expansion of greenway setbacks and tree canopy throughout the Central City.

Central City

132. **Policy 3.21, Role of the Central City.** Encourage continued growth and investment in the Central City, and recognize its unique role as the region's premier center for jobs, services, and civic and cultural institutions that support the entire city and region.

The CC2035 Plan proposed modest increases in FAR, as the plan district already contains a significant amount of growth potential through current zoning. However, significant growth is proposed for the transit mall and key station areas. CC2035 amendments increasing FAR and height allowances are shown on Maps 510-2, 510-3, and 510-4 of the Central City Plan District (Volume 2A, Part 1 of the revised Recommended Draft of CC2035). These were specifically intended to increase development densities in the Central City.

The plan also includes Zoning Code development standards allowing higher density employment in the Central Eastside industrial sanctuary. Lastly, the plan focuses on the redevelopment of vacant and under-utilized parcels throughout the city center, and places minimum density requirements for new development in mixed zones, consistent with this policy.

133. **Policy 3.22, Model Urban Center.** Promote the Central City as a living laboratory that demonstrates how the design and function of a dense urban center can concurrently provide equitable benefits to human health, the natural environment, and the local economy.

This policy calls for the Central City to be developed as a vibrant mixed-use center, that includes dense development that contributes to human and environmental health. CC2035 addresses these multiple objectives through elements that require the use of green infrastructure and energy efficient buildings. Additional elements that address environmental enhancement standards, expansion of non-automotive transportation options, a diverse mix of housing and essential public

services, and an integrated approach toward transportation, urban design, development, and environmental enhancement, each contribute to the objectives of Policy 3.22.

134. **Policy 3.23, Central City employment.** Encourage the growth of the Central City's regional share of employment and continue its growth as the region's unique center for innovation and exchange through commerce, employment, arts, culture, entertainment, tourism, education, and government.

By the year 2035, the Central City is anticipated to add 51,000 new jobs to the more than 135,000 jobs that already exist. CC2035 contains numerous goals, policies, and actions that directly address expanded employment opportunities, but the plan most directly encourages growth by increasing FAR entitlements along the transit mall, at key station areas, and by increasing FAR allowances for higher density employment in the Central Eastside. These and similar elements of the plan ensure that CC2035 increase the Central City's share of regional job growth through the life of the plan, consistent with Policy 3.23.

135. **Policy 3.24, Central City housing.** Encourage the growth of the Central City as Portland's and the region's largest center with the highest concentrations of housing and with a diversity of housing options and services.

Over the life of the CC2035 Plan, the Central City is projected to grow by 38,000 households, and most of this growth will continue in existing districts such as the Pearl, West End, Goose Hollow, and South Waterfront. However, emerging residential neighborhoods in the Lloyd, Old Town/Chinatown, and other districts are expected to densify as well. The plan supports this direction through increased FAR allowances at key station areas, the rezoning of some areas to base zones that have demonstrated the ability to produce more housing, policies supporting a mix of housing types, and through development incentives that encourage affordable housing, as well as community supporting services and amenities, consistent with Policy 3.24.

136. **Policy 3.25, Transportation hub.** Enhance the Central City as the region's multimodal transportation hub and optimize regional access as well as the movement of people and goods among key destinations.

CC2035 amends the City's Transportation Systems Plan (TSP) to add a new goal and 16 new policies addressing various transportation issue, including Policy 9.40 which states:

***Regional transportation hub.** Strengthen the Central City as the highly accessible and multimodal hub for moving people and goods, reinforcing its regional center roles, enabling successful high density employment and housing development, and thereby affirming its role in Metro's Regional 2040 Framework Plan.*

The plan also contains over 100 transportation related action items that address transit improvements, enhance freight mobility, expand and increase the safety of pedestrian and bicycle facilities, improve intersections and turn movements to the benefit of all modes, and consider the use of the Willamette River for regional transit options, such as high speed ferry service. These and other actions are intended to support and enhance the role of the Central City as the regional transportation hub, consistent with Policy 3.25. For more information regarding how the CC2035 Plan is consistent with all applicable transportation related Comprehensive Plan goals and policies, review "Transportation" findings located later in this findings report.

137. **Policy 3.26, Public places.** Promote public places and the Willamette River waterfront in the

Central City as places of business and social activity and gathering for the people of its districts and the broader region.

The CC2035 Plan promotes the role and importance of the Willamette River, public right-of-way, and parks and open space areas in making the Central City a civic and cultural center for innovation and exchange. The plan's policy framework and implementation plan contain elements supporting enhancement and expansion of public open space and gathering places, such as community centers and allowing limited retail uses in OS zones. The zoning amendments from the plan further provide development incentives to create greater setbacks from the Willamette River than those required by the plan, and require that public open space be a part of large master plan sites. The plan contains additional elements that protect solar access from public spaces, promote expanded use of the right-of-way, and support the creation of the Green Loop, a key pedestrian and bicycle access way that links key public places throughout the Central City.

Corridors

- 138. **Policy 3.44, Growth and mobility.** Coordinate transportation and land use strategies along corridors to accommodate growth and mobility needs for people of all ages and abilities.
- 139. **Policy 3.45, Connections.** Improve corridors as multimodal connections providing transit, pedestrian, bicycle, and motor vehicle access and that serve the freight needs of centers and neighborhood business districts.
- 140. **Policy 3.46, Design.** Encourage street design that balances the important transportation functions of corridors with their roles as the setting for commercial activity and residential living.
- 141. **Policy 3.47, Green infrastructure in corridors.** Enhance corridors with distinctive green infrastructure, including landscaped stormwater facilities, extensive tree plantings, and other landscaping that both provide environmental function and contribute to a quality pedestrian environment.

The Central City contains several designated Civic Corridors and Neighborhood Corridors. These tend to be major streets that extend from the city center outward into the rest of the city, such as Burnside, Martin Luther King Jr., Naito Parkway, and Broadway, among others. Within the Central City, these streets, their design, and their function may seem very like any number of other streets. However, once these corridors leave the city center, they often serve as both a major route to and from the Central City, but also a local node of high-density, mixed-use development for the neighborhoods they serve.

That said, the role of these corridors as routes that connect the Central City with other corridors and town centers is an important one. Although these densities, mix of uses, use of green infrastructure, and inclusion of active transportation facilities and transit is not unique to these streets in the city center, the character of development and design and programming of these streets is what often makes them different. The CC2035 plan addresses the unique character of these corridors through Transportation Systems Plan (TSP) designations that address the multiple roles these corridors play. The plan also enhances development standards and use allowances that focus on ground floor activation, glazing standards, building setbacks, landscaping, green infrastructure and other elements that support the objectives of Policies 3.44 – 3.47.

Civic Corridors

- 142. **Policy 3.48, Integrated land use and mobility.** Enhance Civic Corridors as distinctive places that are models of ecological urban design, with transit-supportive densities of housing and employment, prominent street trees and other green features, and high-quality transit service and pedestrian and bicycle facilities.
- 143. **Policy 3.49, Design great places.** Improve public streets and sidewalks along Civic Corridors to support the vitality of business districts, create distinctive places, provide a safe, healthy, and attractive pedestrian environment, and contribute to quality living environments for residents.
- 144. **Policy 3.50, Mobility corridors.** Improve Civic Corridors as key mobility corridors of citywide importance that accommodate all modes of transportation within their right-of-way or on nearby parallel routes.
- 145. **Policy 3.51, Freight.** Maintain freight mobility and access on Civic Corridors that are also Major or Priority Truck Streets.

The following streets are designated Civic Corridors within the Central City: Burnside, Broadway, Sandy, Naito Parkway, MLK Jr., SE Powell, and SE Hawthorne. The policies above identify key objectives for designated Civic Corridors. These include integrating freight, transit, and active transportation capacity, and green infrastructure, within a well-designed public realm that promotes human interaction and health. The CC2035 Plan promotes these objectives through development standards that require adjacent development to activate the public realm with a mix of uses and greater amounts of windows. Other Zoning Code standards provide incentives to setback development to create an expanded pedestrian experience. The plan also includes updated classification to the Transportation Systems Plan (TSP) that denote the multiple roles these various streets are required to plan as routes for transit, freight, bike commuting, and general circulation.

Neighborhood Corridors

- 146. **Policy 3.52, Neighborhood Corridors.** Enhance Neighborhood Corridors as important places that support vibrant neighborhood business districts with quality multi-family housing, while providing transportation connections that link neighborhoods.

The following streets are designated Neighborhood Corridors within the Central City: NW Lovejoy, East Burnside, SE Belmont, and SE Division. Consistent with the above policy, the plan approach toward the designated Neighborhood Corridors in the Central City is to maintain mixed use zoning along these streets that requires active ground floor uses, such as retail sales and service, offices, and other uses, with upper stories available for residential, offices, and along the south side of SE Belmont, industrial office uses.

Transit Station Areas

- 147. **Policy 3.53, Transit-oriented development.** Encourage transit-oriented development and transit-supportive concentrations of housing and jobs, and multimodal connections at and adjacent to high-capacity transit stations.

Nearly all districts in the Central City have key station areas that are supported by transit-oriented development (TOD). CC2035 continues to support redevelopment in and near these station areas with TOD, and specifically addresses the inclusion of TOD at recently created station areas along the Max Orange Line in the University/South Downtown, South Waterfront, and Central Eastside Districts. An example of this can be found within the OMSI Station Area, where vacant and

underutilized lands zoned for lower density employment and light industry use have been up-zoned to allow for these uses, as well as a mix of office, retail, and housing as a conditional use. This area now also enjoys greater maximum FAR and heights, which will allow a denser and greater mix of uses to exist in the TOD at this station.

148. **Policy 3.54, Community connections.** Integrate transit stations into surrounding communities and enhance pedestrian and bicycle facilities (including bike sharing) to provide safe and accessible connections to key destinations beyond the station area.
149. **Policy 3.55, Transit station area safety.** Design transit areas to improve pedestrian, bicycle, and personal safety.

The station areas of the Central City are well connected to the multimodal network of bike and pedestrian routes that serve the city center, and CC2035 maintains and proposes to expand this network. The plan also proposes TOD at higher densities, and development standards that create active pedestrian oriented uses at and adjacent to stations to increase safety of transit riders and other users of these station areas, consistent with Policies 3.54 – 3.55.

150. **Policy 3.56, Center stations.** Encourage transit stations in centers to provide high density concentrations of housing and commercial uses that maximize the ability of residents to live close to both high-quality transit and commercial services.
151. **Policy 3.57, Employment stations.** Encourage concentrations of jobs and employment-focused land uses in and around stations in employment-zoned areas.

CC2035 addresses the objectives of Policies 3.56 and 3.57 in several ways. Along the transit mall and at key station areas, FAR and height allowances have been applied to mixed-use zoned areas where a higher density of uses and development may now occur in response to the transit that has been expanded in the Central City over the last decade. In the Central Eastside, two new station areas located in underutilized low density industrial/employment land have been rezoned to mixed employment, with higher FAR and height allowances. One of these, the Clinton Station, is intended for a mix of residential and employment uses, whereas, the OMSI station area is intended for Employment Transit-Oriented Development (ETOD) and housing is only allowed as a conditional use where it can be found to not erode the viability of industrial employment uses on adjacent parcels.

152. **Policy 3.58, Transit neighborhood stations.** Encourage concentrations of mixed-income residential development and supportive commercial services close to transit neighborhood stations. Transit neighborhood stations serve mixed-use areas that are not in major centers.
153. **Policy 3.59, Destination stations.** Enhance connections between major destinations and transit facilities and strengthen the role of these station areas as places of focused activity.

Many of the existing stations in the Central City are located at areas with key regional attractions, such as OMSI, the Moda Center, and the Saturday Public Market. Some of these stations have long enjoyed high-density mixed-use zoning, that includes affordable and market rate housing as well as mix of retail and employment uses. However, in situations where redevelopment around these stations has been slow to occur, or where zoning limitations restricted TOD at these locals, CC2035 proposes new base zones, higher development entitlements, and sometimes the creation of Central City Master Plans, that will in part be used to leverage the development of a dense mix of uses at and adjacent to these stations, consistent with Policy 3.58 and 3.59.

City Greenways

154. **Policy 3.60, Connections.** Create a network of distinctive and attractive City Greenways that link centers, parks, schools, rivers, natural areas, and other key community destinations.
155. **Policy 3.61, Integrated system.** Create an integrated City Greenways system that includes regional trails through natural areas and along Portland's rivers, connected to neighborhood greenways, and heritage parkways.
156. **Policy 3.62, Multiple benefits.** Design City Greenways that provide multiple benefits that contribute to Portland's pedestrian, bicycle, green infrastructure, and parks and open space systems.
157. **Policy 3.63, Design.** Use design options such as distinctive street design, motor vehicle diversion, landscaping, tree plantings, scenic views, and other appropriate design options, to create City Greenways that extend the experience of open spaces and nature into neighborhoods, while improving stormwater management and calming traffic.

The Central City contains two primary City Greenways: The Green Loop and Willamette Greenway Trail. CC2035 continues to address the completion of the greenway trail as new and redevelopment activities that trigger trail construction occur along its alignment. As for the Green Loop, designated as an "enhanced greenway corridor," this is a significant new greenway that will pass through most of the districts in the Central City and furnishes a new type of pedestrian and bicycle infrastructure designed for more cautious riders who prefer a separation from automobile traffic. The loop will provide connections to other pedestrian, bicycle, and transit alignments, and connect various public parks, visitor attractions, and institutions. The distinctive character of the loop, its integration with the multimodal network, and connections to key Central City destinations ensure consistency with the objectives of Policies 3.60 – 3.63.

Urban habitat corridors

158. **Policy 3.64, Urban habitat corridors.** Establish a system of connected, well-functioning, and diverse habitat corridors that link habitats in Portland and the region, facilitate safe fish and wildlife access and movement through and between habitat areas, enhance the quality and connectivity of existing habitat corridors, and establish new habitat corridors in developed areas.
159. **Policy 3.65, Habitat connection tools.** Improve habitat corridors using a mix of tools including natural resource protection, property acquisition, natural resource restoration, tree planting and landscaping with native plants, and ecological design integrated with new development.
160. **Policy 3.66, Connect habitat corridors.** Ensure that planned connections between habitat corridors, greenways, and trails are located and designed to support the functions of each element, and create positive interrelationships between the elements, while also protecting habitat functions, fish, and wildlife.

The CC2035 amendments are consistent with Policies 3.64, 3.65 and 3.66 in the following ways:

- A. The *Willamette River Central Reach Natural Resources Protection Plan* (NRPP) identifies features including the 187-mile long Willamette River and riparian area which connects 11,500 square miles of land to the Columbia River and Pacific Ocean. The Willamette River is a migratory corridor for fish and wildlife. Chapter 5, Results, includes recommendations for protecting and maintaining natural resource features and functions and enhancing the resources to improve quality, quantity and connectivity of habitats.

- B. Zoning code 33.475, River Overlay Zones, and 33.865, River Review, will protect and conserve the Willamette River, floodplains and riparian areas by limiting development within natural resource areas, encouraging environmentally sensitive development and requiring mitigation when development has a detrimental impact on the resources. The mitigation requirements include planting of native vegetation and a mix of trees, shrubs and groundcover, which will improve habitat quality, quantity and connectivity along the Willamette River.
- C. The River setback is increased. The setback requires that development that is not river-dependent or river-related be setback 50 feet from the top of bank of the Willamette River. There is a landscaping requirement for the setback that requires native plants to be installed with development. Testimony was received that both supported and opposed the expanded setback. City Council finds that the expansion and updated landscaping requirement is appropriate because they will improve habitat quality, quantity and connectivity for fish and wildlife.
- D. The regulations for removal and remediation of hazardous substances require the use of biotechnical techniques for bank stabilization and the planting of native vegetation on the river bank. This will enhance fish and wildlife habitat in the Willamette River and riparian areas.
- E. The major trail alignment and completion of the Greenway Trail along the Willamette River will include landscaping that incorporates native vegetation and a mix of trees, shrubs and groundcover, which will improve habitat quality, quantity and connectivity along the Willamette River.
- F. C2035 includes a range of policies that will ensure the City continues progress toward incorporating tree canopy with redevelopment throughout the Central City. Specifically, the Plan contains tree canopy targets for all ten Central City subdistricts. Nine out of the 10 subdistricts are expected to experience increases in tree canopy over the life of the plan. Additional tree canopy will create new habitat connectivity corridors that allow wildlife to move across the urban landscape.
- G. The Green Loop is a multimodal transportation corridor that incorporates green infrastructure including trees and other vegetation into the design. The vegetation included in the Green Loop will create a new habitat connectivity corridor for wildlife to move through the Central City and connect to the Willamette River.
- H. A new standard for the Central City requires that new buildings over 20,000 square feet in net size must install an ecoroof over 60% of the roof area. Ecoroofs provide multiple functions including habitat for avian species. Ecoroofs will improve habitat connectivity for birds and insects throughout the urban landscape.

Employment areas

- 161. **Policy 3.67, Employment area geographies.** Consider the land development and transportation needs of Portland's employment geographies when creating and amending land use plans and making infrastructure investments.
- 162. **Policy 3.68, Regional Truck Corridors.** Enhance designated streets to accommodate forecast freight growth and support intensified industrial use in nearby freight districts. *See Figure 3-7 — Employment Areas.* Designated regional truckways and priority truck streets (Transportation System Plan classifications are shown to illustrate this network).

The Central City contains two urban industrial districts: Central Eastside and Lower Albina Districts. Both are predominately zoned for a mix of freight dependent industrial employment uses, both are designated freight districts, and both include mixed-use corridors and major transit stations. CC2035 results in modest changes to the Lower Albina District; however, the plan significantly increases allowed employment densities in the Central Eastside, the rezoning of industrial to mixed use development at light rail stations, while increasing the designation of key freight routes to a higher classification and proposing new couplets and signalization improvements intend to enhance freight mobility and the viability of industrial employment throughout the district, consistent with Policies 3.67 and 3.68.

Rivers Pattern Area

163. **Policy 3.69, Historic and multi-cultural significance.** Recognize, restore, and protect the historic and multi-cultural significance of the Willamette and Columbia Rivers, including current activities such as subsistence fishing of legally-permitted fish species.

The amendments are consistent with this policy because Willamette River goals, policies and actions promote the Willamette River's historic and cultural significance, economy, and river recreation including fishing. Specifically:

- A. Willamette River goals state the river's significant role in the environmental health, economy, recreation and character, that the river is healthy for fish, wildlife and people and the river and adjacent public areas are connected;
- B. Policies 4.1 and district policies 1.SW-2, 4.DT.1 and UD 18, for example, speak to improvements and activities that strengthen the physical, visual and cultural connections to the river and increase awareness of the river's history, economy and ecological importance;
- C. Other policies focus on river-dependent and river-related uses, improved access to the river and to docks, and safe and enjoyable recreation including fishing such as Policy 4.3, Central Eastside Policy 4.CE-1 and South Waterfront policies 4.SW.1;
- D. Specific Central Citywide actions such as WR5 and district actions such as Old Town/Chinatown action UD53, call for installation of art, signage and attractions along the riverfront to showcase the river's past including highlighting Native American and maritime history; and
- E. Specific Central Citywide and district actions call for improved access to the river and to docks (Central Citywide WR4) and district actions promote low impact recreation including fishing (University District/South Downtown action UD62 and South Waterfront action UD 75 and 76).

164. **Policy 3.70, River transportation.** Recognize and enhance the roles of the Willamette and Columbia rivers as part of Portland's historic, current, and future transportation infrastructure, including for freight, commerce, commuting, and other public and private transportation functions.

The amendments are consistent with this policy because a Transportation goal, along with policies and actions recognize and enhance the role of the Willamette River as part of Portland's historic, current and future transportation infrastructure through:

- A. Transportation Goal 3A maintains that the Central City has a safe, affordable, efficient and accessible transportation system that prioritizes transit (including river transit in transportation system diagram) and Transportation Policy 3.10 includes exploring river transit;
- B. Numerous policies (e.g. Willamette River 4.4) and actions call for preserving, improving and promoting infrastructure that support commercial and marine freight (e.g. Lower Albina Policy 3.LA-3), river transit (e.g. Central City actions TR4 and TR5), individual watercraft and boating uses (e.g. Downtown TR41); and
- C. See above findings for Policy 3.69, Historic and Cultural Significance, for findings that relate to maritime history.
- D. The Transportation Studies list in CC2035 include a River Transit Study to assess the feasibility of a river transit system.

165. **Policy 3.71, Recreation.** Improve conditions along and within the Willamette and Columbia rivers to accommodate a diverse mix of recreational users and activities. Designate and invest in strategically-located sites along the length of Portland's riverfronts for passive or active recreation activities that are compatible with nearby land uses, historically and culturally important sites, significant habitat areas, restoration sites, and native fish and wildlife usage.

The CC2035 Plan is consistent with this policy because:

- A. Numerous goals, policies and actions related to the Willamette River accommodate a diverse mix of recreational users and activities. Examples are Willamette River Goals 4A and 4C, Policies 1.5, 4.2 and 4.5, and actions WR 4, WR8 and WR14;
- B. The amendments also designate and include investments in strategically-located sites along the riverfront for recreation that is compatible with nearby land uses and other significant sites. Examples are: Policy 4.11 calls for low impact dock design, Downtown Policy 4.DT-1 addresses diverse recreation and habitat at Central City's riverfront Governor Tom McCall Waterfront Park, EN17, EN 19 and EN21;
- C. Two Zoning Code use allowances in the Central City Plan District also support improving conditions along the Willamette River for recreational users. One allows a limited amount of retail structures in Open Space zoned properties outside of the river setback, to support parks users and activities. This includes specific OS zoned locations along the riverfront. Portland Parks and Recreation anticipates retail development to serve parks users with food and drink vendors and recreation rentals such as kayaks. The other Zoning Code development standard is for a Riverfront Open Space Bonus that entails a developer dedicating additional open space area adjacent to the river setback to provide more open space opportunities in exchange for additional development potential; and
- D. The new River Overlays Chapter in the Zoning Code includes an expanded river setback of 50' as measured from top of bank, for new development and redevelopment along the riverfront. This increase from the existing 25' setback provides more land area for recreation and other objectives of the Willamette River Greenway.

166. **Policy 3.73, Habitat.** Enhance the roles of the Willamette and Columbia rivers and their confluence as an ecological hub that provides locally and regionally significant habitat for fish and wildlife and habitat restoration opportunities.

The amendments support enhancing the role of the Willamette River as an ecological hub that provides locally and regionally significant fish and wildlife habitat and habitat restoration opportunities. See findings for Statewide Planning Goals 5, 6 and 15, Metro Urban Growth Management Functional Plan Title 3, 2035 Comprehensive Plan Goal 7B and policies: 3.64, 3.65 and 3.66, 7.8, 7.9, 7.10 among other policy findings in Chapter 7 Environment and Watershed Health.

167. Policy 3.74, Commercial activities. Enhance the roles of the Willamette and Columbia rivers in supporting local and regional business and commerce, including commercial fishing, tourism, recreation, and leisure.

The CC2035 Plan is consistent with this policy through goals, policies, actions, zoning code and map changes that enhance the role of the Willamette River in supporting local and regional business and commerce, tourism, recreation and leisure.

- A. Goals 4A and 4B state that the Willamette River plays a significant role in diverse aspects including economy and recreation and the river is healthy and supports fish, wildlife and people.
- B. Regional Center policies and actions seek enhancement of the riverfront as a city-wide and regional destination by encouraging shops, restaurants, other attractions and recreation, and support opportunities for river tours, river transit and regional cruises. See policies 1.5, 1-PL.3, 1-CE.3, 1-SW-2 and actions RC20, RC60, and RC63 as examples.
- C. Willamette River policies and actions call for a prosperous and vibrant riverfront with a variety of businesses and attractions that provide jobs and serve riverfront visitors. See policies 4.1, 4.3, 4.4, 4.9, 4-LA.1, and 4-CE-1 and actions TR20, TR74, UD18, UD22, UD55 and UD72.
- D. A Central City Plan District zoning provision also supports commercial activities in the riverfront area. It allows a limited amount of retail structures in Open Space zoned properties outside of the river setback, to support parks users and activities. This includes a sizable amount of OS zoned locations along the riverfront. It is anticipated that retail development will be food and drink vendors and recreation rentals such as kayaks.
- E. The plan includes a zoning map change for the riverfront area in the Central Eastside by the Oregon Museum of Science and Industry (OMSI) that will allow more opportunities for commerce, tourism, recreation and leisure. The new zoning map changes zoning around the OMSI light rail station area from industrial to Central Employment (EX) zone. This zoning map amendment will allow greater opportunities for commercial uses near the river.
- F. A River Overlay Zones development standard expands river-related development in the 50' river setback for Marine Passenger Terminals but limits this activity to a 5,000-square foot building footprint within the setback to balance this development with other Willamette Greenway goals including habitat conservation. Allowed river-related development associated with Marine Passenger Terminals can happen in a multi-story building within the maximum building footprint allowance and can also locate outside the river setback.

168. Policy 3.75, River neighborhoods. Enhance the strong river orientation of residential areas that are located along the Willamette and Columbia Rivers.

The amendments support this policy through the CC2035 Plan policy framework that enhance the strong river orientation of river neighborhood developments to/along the Willamette River.

- A. Goals 5A and 4C address a well-designed built environment with views to the surrounding landscape, building orientation and east/west connectivity to the Willamette River;

- B. Central City-wide Policy 4.8 along with specific district policies such as 4.OT-1 and 4CE-2 call for development projects along the riverfront that improve the physical and visual relationship of buildings and activities to the river including the orientation of doors and windows to the river; and
- C. A few actions seek to have new developments connect to the river (see findings for Policy 3.76 below), and direct staff to update the Central City Fundamental Design Guidelines (action UD1), which includes a guideline on the Willamette River that supports this policy.

169. Policy 3.76, River access. Enhance and complete Portland's system of river access points and riverside trails, including the Willamette Greenway Trail, and strengthen active transportation connections between neighborhoods and the rivers.

The CC2035 Plan is consistent with this policy through numerous goals, policies and actions and through zoning code implementation.

- A. Goals 3.A, 4.C and 5A prioritize active transportation, east-west access (to the river) and make public areas accessible and connected, e.g. Governor Tom McCall Waterfront Park;
- B. Numerous policies relate to visual and physical connections to the riverfront including to river transportation and improvements to streets and trails such as the Willamette Greenway Trail that connect people to the river, including the following examples of Central City-wide policies: 4.4, 4.5, and 5.12 and specific district policies: 3.DT-1, 3PL-1, 5.OT-3, 5.CE-2 and 3SW-1.
- C. There are numerous Transportation actions that enhance and complete river access and riverside trails and strengthen active transportation connections to the river, examples are: TR44, TR74, TR94, TR107, TR114, UD 25, and UD 77.
- D. Action TR118 states that the Bureau of Development Services will adopt and implement a proposed administrative rule that establishes a formula for determining rough proportionality for major public trail (e.g. Willamette Greenway Trail) exactions from specific proposed developments; to clarify when dedication of trail construction and/or dedication of easements would be required of a proposed development based on impacts to the trail system.

170. Policy 3.77, River management and coordination. Coordinate with federal, state, regional, special districts, and other agencies to address issues of mutual interest and concern, including economic development, recreation, water transportation, flood and floodplain management and protection, regulatory compliance, permitting, emergency management, endangered species recovery, climate change preparation, Portland Harbor Superfund, brownfield cleanup, and habitat restoration.

The CC2035 Plan includes numerous actions that involve coordination with federal, state, regional, special districts and other agencies to address issues of mutual interest and concern related to the Willamette River/riverfront's environment, recreation, transportation and commerce. Action item examples for each topic area follow:

- A. WR7 develops an action plan to enhance and restore habitat throughout the Central Reach;
- B. UD55 improves and enhances boater access to/from the Willamette River at Waterfront Park;
- C. TR51 explores funding mechanisms, phasing and implementation of downtown river transit; and
- D. TR20 supports the creation of privately operated river transit services in the Central Eastside.

171. **Policy 3.80, Willamette River Central Reach.** Enhance the role of the Willamette River Central Reach as the Central City and region's primary riverfront destination for recreation, history and culture, emergency response, water transportation, and as habitat for fish and wildlife.

The CC2035 Plan updates the *Willamette Greenway Plan* (1987) for the Central Reach. The policy framework, zoning map and zoning code regulations and implementation actions enhance the role of the Central Reach as the Central City and region's primary riverfront destination for diverse purposes including recreation, history and culture, water transportation and fish and wildlife habitat. See findings for Statewide Planning Goals 5, 8 and 15, Metro Title 3, and numerous Comprehensive Plan findings such as the following examples: Policy 3.69, 3.70, 3.71, 3.73, 4.41 and 7.1.

172. **Policy 3.82, Willamette River Greenway.** Maintain multi-objective plans and regulations to guide development, infrastructure investments, and natural resource protection and enhancement within and along the Willamette Greenway.

The amendments support maintaining multi-objective plans and regulations to guide development, infrastructure investments and natural resource protection and enhancement within and along the Willamette River in the Central Reach. See findings for Policy 3.80 above.

Central City Pattern Area

173. **Policy 3.83, Central City districts.** Enhance the distinct identities of the Central City's districts.

Since the adoption of the 1988 Central City Plan, numerous changes occurred to the urban form of the Central City, including entirely new neighborhoods such the Pearl and South Waterfront Districts. To reflect how the districts evolved, and continue to, CC2035 results in a city center with 10 unique districts, each with a unique identity that results from the mix of uses allowed (and often prohibited), block structure, adjacency to the Willamette River, built form, and density of uses. Consistent with Policy 3.83, CC2035 proposes an urban design concept for each area, applies development standards and use allowance that reinforce each concept, and proposes new design guidelines that address the specific desired character for each district.

174. **Policy 3.84, Central City river orientation.** Enhance and strengthen access and orientation to the Willamette River in the Central City and increase river-focused activities.

The 1972 Downtown and 1988 Central City Plans both included elements striving to better connect the Central City with the Willamette River. Because of these efforts, improvements such as Governor Tom McCall Waterfront Park and the Eastbank Esplanade came to be, as well as visions for new waterfront districts such as South Waterfront and the River District (now the Pearl and Old Town/Chinatown). CC2035 includes numerous additional ways to better connect with the river. These include greater setbacks from the river's edge to provide areas for riparian enhancement, public trails, and gathering spaces. The plan also allows for limited visitor serving retail uses in public parks along the waterfront to attract and support visitor enjoyment of these assets. The plan also allows for a higher density and mix of uses at the OMSI Station Area, the only location on the eastside of the Willamette in the Central City where the urban form of the city and people can directly interface with the Willamette. These and other elements of the plan will enhance the urban cores relationship with the Willamette, consistent with Policy 3.84.

175. **Policy 3.85, Central City pedestrian system.** Maintain and expand the Central City's highly interconnected pedestrian system.

176. Policy 3.86, Central City bicycle system. Expand and improve the Central City's bicycle system.

CC2035 results in several TSP amendments and new projects that expand and enhance the existing network of pedestrian and bike routes through the Central City. These include elements such as new traffic signals at key intersections throughout the Central Eastside and improvements along SE Salmon street intended to better connect that district and residential neighborhoods to the east with the Central City and Willamette River. Other elements, such as the Green Loop, attempt to provide routes that separate pedestrians and cyclists from traffic, while providing a safe connection to transit, bikeways, trails, and major Central City destinations, consistent with Policy 3.85 and 3.86.

Projects and studies in the plan increase walking and bicycling opportunities and infrastructure. 64% of TSP projects support pedestrian use and 74% support bicycle use. Policies and actions to develop the Green Loop, design streets as public spaces and enhance the Willamette for people also meet this policy.

	Bike	Ped	Auto, Freight	Transit	Safety	Total
# of projects	87	76	41	8	85	118
% total	73.7%	64.4%	34.7%	6.8%	72.0%	
Cost of projects	\$ 962,419,223	\$ 954,169,223	\$ 563,352,391	\$ 302,000,000	\$ 784,581,249	\$ 1,169,907,301
% total	82.3%	81.6%	48.2%	25.8%	67.1%	

Design and Development: Goals

- 177. Goal 4.A: Context-sensitive design and development.** New development is designed to respond to and enhance the distinctive physical, historic, and cultural qualities of its location, while accommodating growth and change.
- 178. Goal 4.B: Historic and cultural resources.** Historic and cultural resources are integral parts of an urban environment that continue to evolve and are preserved.
- 179. Goal 4.C: Human and environmental health.** Neighborhoods and development are efficiently designed and built to enhance human and environmental health: they protect safety and livability; support local access to healthy food; limit negative impacts on water, hydrology, and air quality; reduce carbon emissions; encourage active and sustainable design; protect wildlife; address urban heat islands; and integrate nature and the built environment.
- 180. Goal 4.D: Urban resilience.** Buildings, streets, and open spaces are designed to ensure long-term resilience and to adjust to changing demographics, climate, and economy, and withstand and recover from natural disasters.

Whereas the Urban Design chapter of the 2035 Comprehensive Plan takes a bird's eye view of the city's systems and layout, the Design and Development chapter focuses on the specifics of the built environment. Issues such as site design, pedestrian realm, transitions between districts, place making, and scenic and historic resources are considered in fine detail, among other issues. As the CC2035 plan area includes 10 distinct districts, as well as 5 historic districts, each with their own

identity, opportunities, and constraints, the plan strives to address the goals and policies of Chapter 4 at both the macro and micro level.

For instance, to ensure that the plan is sensitive to the unique context and character of each district, CC2035 includes: policies specific to these 15 individual districts; proposes development standards regarding height, floor area ratios, and the pedestrian environment responsive to the distinct character of these areas; and, proposes actions to amend applicable design guidelines to encourage new development that responds to the desire character, context, and historic and cultural resources of these different areas. Further, the plan requires that seismic upgrades to historic structures are a precondition before FAR can be transferred from sites with designated landmarks. These elements of the plan respond to the direction of Goals 4.A and B above.

Consistent with Goal 4.C, C2035 also promotes human and environmental health through new policies, development standards and actions that focus on enhancing human health through the creation of a walkable, safe urban form that provides access to parks, natural areas, community gardens, and full-service grocery stores, among other amenities and services. Further, the plan proposes enhancing the environmental health of the Central City through new development standards that will over time establish an urban form that reduces stormwater discharges, improve air quality, reduce heat island effect and carbon emissions, utilize green infrastructure, and minimize impacts to wildlife. These new regulations include those requiring the development of ecoroofs, energy efficient buildings, bird safe development, and others.

Lastly, the plan includes new policies, standards, and actions intended to enhance the ability of the Central City to: withstand impacts from natural disasters such as earthquakes and flooding; respond to the effects of climate changes while reducing impacts that might contribute to climate change; and continue to serve as the regional center for the Portland Metropolitan Area as population, demographic changes, and the economy of the region evolves through the life of the plan. These elements of CC2035 also ensure that the plan is consistent with Goal 4.D.

Design and Development: Policies

Context

181. **Policy 4.1, Pattern areas.** Encourage building and site designs that respect the unique built, natural, historic, and cultural characteristics of Portland's five pattern areas described in Chapter 3: Urban Form.
182. **Policy 4.2, Community identity.** Encourage the development of character-giving design features that are responsive to place and the cultures of communities.
183. **Policy 4.3, Site and context.** Encourage development that responds to and enhances the positive qualities of site and context — the neighborhood, the block, the public realm, and natural features.

The CC2035 Plan focuses on the entire Central City Pattern Area, as well as the Willamette River Central Reach of the Rivers Pattern Area. As such, the plan contains numerous elements addressing these two pattern areas, and where they overlap, balancing the policy provisions of each through development standards and actions intended to reflect the characteristics unique to both. These include, generally reduced maximum heights in historic districts by eliminating height bonuses, creating height setbacks adjacent to some public parks, increase building setbacks along the Willamette River (except at key bridgehead locations), and street/public realm standards intended to enhance the pedestrian environment in response to specific conditions with the Central City's 10

different districts. These elements of the plan respond to Policies 4.1, 4.2 and 4.3 above.

184. **Policy 4.4, Natural features and green infrastructure.** Integrate natural and green infrastructure such as trees, green spaces, ecoroofs, gardens, green walls, and vegetated stormwater management systems, into the urban environment. Encourage stormwater facilities that are designed to be a functional and attractive element of public spaces, especially in centers and corridors.

The plan includes new development standards requiring the development of ecoroofs on new development, as well as energy efficient development that often utilizes green infrastructure. The plan also contains new standards, actions, and policies intended to increase tree canopy and vegetative stormwater treatment facilities throughout the Central City.

185. **Policy 4.5, Pedestrian-oriented design.** Enhance the pedestrian experience throughout Portland through public and private development that creates accessible, safe, and attractive places for all those who walk and/or use wheelchairs or other mobility devices.

The new Zoning Code provisions and TSP amendments proposed by the plan include regulations that implement this plan by creating new building setbacks in some situations, for instance at sites along the Park Blocks, reducing building heights in others, encouraging the enhancement of the public realm to include new landscape and recreational amenities, among others. The plan also proposes projects, such as the Green Loop, intended to increase pedestrian safety and expand access to areas not currently well served by pedestrian connections.

186. **Policy 4.6, Street orientation.** Promote building and site designs that enhance the pedestrian experience with windows, entrances, pathways, and other features that provide connections to the street environment.

187. **Policy 4.7, Development and public spaces.** Guide development to help create high-quality public places and street environments while considering the role of adjacent development in framing, shaping, and activating the public space of streets and urban parks.

The plan responds to this policy direction by proposing development standards that activate the public realm with active uses, building massing requirements along the public open space features, and ground floor window standards, which are intended to result in building massing and programing that positively influence the experience in the public realm. These elements of the plan are consistent with Policies 4.6 and 4.7 above.

188. **Policy 4.9, Transitional urbanism.** Encourage temporary activities and structures in places that are transitioning to urban areas to promote job creation, entrepreneurship, active streets, and human interaction.

Although the Central City is a fairly established urban area, there remain places where through a combination of under-utilization or a low-density of uses where opportunities exist to increase the use and density of uses. CC2035 contains policies and actions, such as the Green Loop, and the ability to allow limited retail uses in open space area, in response to this policy direction.

Health and safety

189. **Policy 4.10, Design for active living.** Encourage development and building and site design that promotes a healthy level of physical activity in daily life.

CC2035 contains many elements that promote active living and health. These include but are not limited to the Green Loop, publicly accessible open space features within large master plan sites, an

expanded greenway setback, connections to the Willamette River for swimming and boating, the exploration of sites for community centers, and numerous active transportation projects.

190. **Policy 4.11, Access to light and air.** Provide for public access to light and air by managing and shaping the height and mass of buildings while accommodating urban-scale development.
191. **Policy 4.12, Privacy and solar access.** Encourage building and site designs that consider privacy and solar access for residents and neighbors while accommodating urban-scale development.

In response to Policies 4.11 and 4.12, new development standards are proposed for the Central City Plan District that require shade analysis and public view corridor analysis for projects that could have an adverse impact on views or solar access if these factors were not considered during the design of building massing. Specifically, Section 33.510.211 of the Zoning Code has been added, which requires that structures more than 100 feet in height along the eastside of the North and South Park Blocks undergo a shadow analysis to ensure that shadows cast on the blocks do not cover more than 50 percent of any individual block. Additionally, the Zoning Code continues to require small floor plates for taller tower constructed in the North Pearl, South Waterfront, and portions of RiverPlace. These standards ensure consistency with Policy 4.12.

192. **Policy 4.13, Crime-preventive design.** Encourage building, site, and public infrastructure design approaches that help prevent crime.

The new and enhanced ground activation requirements, Central City Master Plan regulations, and actions addressing updates to the Central City Fundamental Design Guidelines and new lighting strategies for public parks and the public right-of-way respond to this policy direction.

193. **Policy 4.14, Fire prevention and safety.** Encourage building and site design that improves fire prevention, safety, and reduces seismic risks.

Although the building code addresses measures to improve fire prevention and safety, and CC2035 remains consistent with this direction, the plan also proposes new measures to encourage and in some cases, require seismic upgrades, especially to structures with historically significant structures.

Residential areas

194. **Policy 4.15, Residential area continuity and adaptability.** Encourage more housing choices to accommodate a wider diversity of family sizes, incomes, and ages, and the changing needs of households over time. Allow adaptive reuse of existing buildings, the creation of accessory dwelling units, and other arrangements that bring housing diversity that is compatible with the general scale and patterns of residential areas.

The plan contains policy language that encourages the development of units having two or more bedrooms to support the rapidly growing number of families with children living in the Central City. The Plan includes actions calling for the monitoring of unit and bedroom development going forward, and recommends that new incentives or standards be considered by the City if the development of family compatible housing starts to decline. This will help to ensure that studio and single bedroom units are not the only residential options available to Central City residents.

195. **Policy 4.16, Scale and patterns.** Encourage design and development that complements the general scale, character, and natural landscape features of neighborhoods. Consider building forms, scale, street frontage relationships, setbacks, open space patterns, and landscaping. Allow for a range of architectural styles and expression.

In response to this policy direction, CC2035 proposes new building massing and master plan standards, as well as greenway setbacks, building setbacks, and scenic view corridors each intended to address the unique characteristic that exists where the urban environment interfaces with adjacent neighborhoods, the Willamette Greenway, public parks, and regionally significant landscape features. For instance, the amended Central City Master Plan regulations (Section 33.510.255 of the Zoning Code) contain approval criteria regarding establishing building pads and an orientation that complements and does not adversely impact public views, parks, the Willamette Riverfront, and adjacent urban form and character that is to be preserved.

196. **Policy 4.19, Resource efficient and healthy residential design and development.** Support resource efficient and healthy residential design and development.

The Plan proposes new standards requiring that new development pursue certification of different energy efficiency and green building certification criteria. This includes residential projects throughout the Central City.

Design and development of centers and corridors

197. **Policy 4.20, Walkable scale.** Focus services and higher-density housing in the core of centers to support a critical mass of demand for commercial services and more walkable access for customers.

198. **Policy 4.21, Street environment.** Encourage development in centers and corridors to include amenities that create a pedestrian-oriented environment and provide places for people to sit, spend time, and gather.

Consistent with Policies 4.20 and 4.21, the plan proposes new Urban Design Policies, including urban design diagrams, that focus on the street hierarchy and development character along key street in the Central City. The plan also includes new development standards intended to implement this urban design direction, as well as actions calling for an update to applicable design guidelines to further respond to this direction. Lastly the Central City Plan District has been amended to expand restrictions to vehicle service and sales uses in transit areas with high pedestrian traffic, and prohibits new drive-through facilities throughout the Central City.

199. **Policy 4.22, Relationship between building height and street size.** Encourage development in centers and corridors that is responsive to street space width, thus allowing taller buildings on wider streets.

The Central City has an existing ubiquitous grid pattern of streets typically between 60 and 80 feet in width, most framed by taller and denser development than found in other corridors and centers. However, CC2035 proposes reduced building heights and/or building setbacks along key streets and adjacent to many public open space features to establish an urban form the enhances the public realm and allow access to light and air.

200. **Policy 4.23, Design for pedestrian and bicycle access.** Provide accessible sidewalks, high-quality bicycle access, and frequent street connections and crossings in centers and corridors.

CC2035 proposes numerous new projects, such as the Green Loop, multiple active transportation infrastructure projects, new signals at key intersections, and new trail alignments and connections consistent with this policy directive.

201. **Policy 4.24, Drive-through facilities.** Prohibit drive through facilities in the Central City, and limit new development of new ones in the Inner Ring Districts and centers to support a pedestrian-oriented environment.

CC2035 directly responds to this policy by proposing a prohibition on all new drive-through facilities throughout the Central City Plan District.

202. **Policy 4.25, Residential uses on busy streets.** Improve the livability of places and streets with high motor vehicle volumes. Encourage landscaped front setbacks, street trees, and other design approaches to buffer residents from street traffic.

CC2035 proposes a new street hierarchy that identifies key streets where different public right-of-way treatments should be pursued, in response to traffic volumes and the uses most likely to be located along these streets. The plan proposes to implement this new hierarchy through various measures such as encouraging building setbacks on key streets, expanded landscape setbacks and street trees, and new design guidelines that address the appropriate interface of residential uses with the public right-of-way.

203. **Policy 4.26, Active gathering places.** Locate public squares, plazas, and other gathering places in centers and corridors to provide places for community activity and social connections. Encourage location of businesses, services, and arts adjacent to these spaces that relate to and promote the use of the space.

The Plan contains policies, such as Policy 2.1, Complete Neighborhoods, and Policy 2.2, Promote healthy active living, that support the creation of new public open space features in park deficient areas. The plan also includes a new Central City Master Plan, code section 33.510.255, that require the development of publicly accessible parks and plazas within master plan sites. Lastly, a key element of the proposed Green Loop project is to connect existing and new open space amenities along the alignment of the loop, allowing the alignment to serve as a location where new public spaces and new businesses can be sited.

204. **Policy 4.27, Protect defining features.** Protect and enhance defining places and features of centers and corridors, including landmarks, natural features, and historic and cultural resources.

205. **Policy 4.28, Historic buildings in centers and corridors.** Protect and encourage the restoration and improvement of historic resources in centers and corridors.

206. **Policy 4.29, Public art.** Encourage new development and public places to include design elements and public art that contribute to the distinct identities of centers and corridors, and that highlight the history and diverse cultures of neighborhoods.

The Central City has long featured public art, cultural landmarks, signage and gateways, and incorporated historically significant buildings and building remnants as important elements to enliven of the public realm. CC2035 contains actions to complete the Park Avenue Vision project, Green Loop, and to establish special design guidelines and streetscape improvements for the Cultural District, which would include art and other elements that establish a distinct character in these areas, including historic and cultural aspects of these places, consistent with Policy 4.29.

Transitions

207. **Policy 4.30, Scale transitions.** Create transitions in building scale in locations where higher-density and higher-intensity development is adjacent to smaller-scale single-dwelling zoning. Ensure that new high-density and large-scale infill development adjacent to single dwelling zones incorporates design elements that soften transitions in scale and limit light and privacy impacts on adjacent

residents.

- 208. **Policy 4.31, Land use transitions.** Improve the interface between non-residential uses and residential uses in areas where commercial or employment uses are adjacent to residentially-zoned land.
- 209. **Policy 4.32, Industrial edge.** Protect non-industrially zoned parcels from the adverse impacts of facilities and uses on industrially zoned parcels using a variety of tools, including but not limited to vegetation, physical separation, land acquisition, and insulation to establish buffers between industrial sanctuaries and adjacent residential or mixed-use areas to protect both the viability of long-term industrial operations and the livability of adjacent areas.

CC2035 responds to this policy direction by proposing or maintains lower maximum heights and floor area ratios where the Central City transitions with adjacent Central City neighborhoods such as those located outside of the Lloyd and Central Eastside Districts. The Plan also contains development standards for the Central Eastside and OMSI Station Area requiring that residential development, within an area predominately used for industry and employment, be designed to minimize exposure to industrial operations to protect residents and the long-term viability of industrial operations. Lastly, new Zoning Code regulations in PCC 33.510 requiring that non-industrial development record an Industrial Disclosure Statement that acknowledges that lawful impacts related to noise, glare, odors, and freight operations should be expected, regardless of the impact on non-industrial uses also allowed within the Central Eastside. These various elements of the plan are consistent with the policy directives of Policies 4.30 – 4.31 above.

Off-site impacts

- 210. **Policy 4.33, Off-site impacts.** Limit and mitigate public health impacts, such as odor, noise, glare, light pollution, air pollutants, and vibration that public facilities, land uses, or development may have on adjacent residential or institutional uses, and on significant fish and wildlife habitat areas. Pay attention to limiting and mitigating impacts to under-served and under-represented communities.

CC2035 responds to this policy primarily by not allowing the expansion of residential development in areas zoned for industrial use. However, in the Central Eastside where industrial zone land directly abuts areas zone for residential and mixed-use development, either by right or as a conditional use, new Plan District zoning regulations require the recording of the Industrial Disclosure Statement noted above. Further, where residential uses are allowed as a conditional use as part of the amended Central City Master Plan section of the Zoning Code (33.510.255), the new development standards require housing be designed to minimize exposure to industry to protect residents and the long-term viability of industrial operations.

- 211. **Policy 4.34, Auto-oriented facilities, uses, and exterior displays.** Minimize the adverse impacts of highways, auto-oriented uses, vehicle areas, drive-through areas, signage, and exterior display and storage areas on adjacent residential uses.

The Plan responds to this policy in several ways, such as restricting vehicle service and sales uses near transit station areas planned for high-density residential uses, prohibiting the creation of new drive-through facilities Central City-wide, establishing minimum density requirements for new development to discourage the under-utilization of land, and land use allowances and building massing limitations where the Central City has a direct interface with residential zoned areas.

212. **Policy 4.35, Noise impacts.** Encourage building and landscape design and land use patterns that limit and/or mitigate negative noise impacts to building users and residents, particularly in areas near freeways, regional truckways, major city traffic streets, and other sources of noise.
213. **Policy 4.36, Air quality impacts.** Encourage building and landscape design and land use patterns that limit and/or mitigate negative air quality impacts to building users and residents, particularly in areas near freeways, regional truckways, high traffic streets, and other sources of air pollution.
214. **Policy 4.37, Diesel emissions.** Encourage best practices to reduce diesel emissions and related impacts when considering land use and public facilities that will increase truck or train traffic.
215. **Policy 4.38, Light pollution.** Encourage lighting design and practices that reduce the negative impacts of light pollution, including sky glow, glare, energy waste, impacts to public health and safety, disruption of ecosystems, and hazards to wildlife.

In addition to the provisions noted above, CC2035 addresses potential impacts associated with noise, air quality and pollution, and light and glare on building tenants and natural areas through development standards including, but not limited to: wider setbacks for new development along the Willamette riverfront; lighting standards within and adjacent to the river setback; enhanced building setbacks on key streets; and new design guidelines that will address means to design new buildings to shield tenants from these potential impacts. The plan also includes measures to reduce the source of impacts where possible. Lastly, elements of the plan that prohibit new surface parking

Scenic resources

216. **Policy 4.41, Scenic resources.** Enhance and celebrate Portland's scenic resources to reinforce local identity, histories, and cultures and contribute toward way-finding throughout the city. Consider views of mountains, hills, buttes, rivers, streams, wetlands, parks, bridges, the Central City skyline, buildings, roads, art, landmarks, or other elements valued for their aesthetic appearance or symbolism.

CC2035 includes the Central City Scenic Resources Protection Plan (CCSRPP), which identifies the scenic resources in and surrounding the Central City. The views addressed in the CCSRPP include views of mountains, hills, buttes, rivers, parks, bridges, skyline, buildings, roads, art and landmarks. The plan includes an economic, social, environmental and energy analysis (ESEE) for the scenic resources. The ESEE includes evaluation of the contribution that scenic resources make towards a sense of place and identify, history and cultures of Portland, and way-finding throughout the city. The results of the CCSRPP are recommendations for when and how to protect and maintain significant scenic resources.

217. **Policy 4.42, Scenic resource protection.** Protect and manage designated significant scenic resources by maintaining scenic resource inventories, protection plans, regulations, and other tools.

The Central City Scenic Resources Protection Plan (CCSRPP) is an update of the 1991 Scenic Resources Protection Plan and includes three parts:

- Part 1 – Summary, Results and Implementation – Includes recommended amendments to the regulations and maps to implement the results of the inventory and ESEE Analysis
- Part 2 – Scenic Resources Inventory – Documentation of the scenic resources located within and surrounding the Central City. Includes views, viewpoints, view streets, scenic corridors, scenic sites and visual focal points.
- Part 3 – Economic, Social, Environmental and Energy Analysis – Provides an analysis and makes recommendations regarding which resources to protect and maintain.

The CCSRPP is implemented through updates to the zoning code including:

1. 33.510, Central City – Map 510-3, Base Heights, is adjusted and a new Map 510-4, Bonus Heights, is added to be protective of views.
2. 33.475, River Overlay Zones – Standards allow for removal of trees, with replacement, and removal of other vegetation from view corridors to maintain views. Requires that when the Greenway Trail is developed, designated viewpoints must also be developed.

Testimony was received that both supported and opposed protecting certain views. City Council finds that protecting scenic resources, including views, is important and maintained protections for almost all of the recommended views. Council finds that the view of Mt Adams from viewpoint SW24, Upper Hall, is not significant enough to warrant protection by limiting heights on many properties in the Central City. Council finds that the view of Vista Bridge from SW Jefferson Street can be adequately protected while allowing building heights of 75 feet along the north side of the street.

218. **Policy 4.43, Vegetation management.** Maintain regulations and other tools for managing vegetation in a manner that preserves or enhances designated significant scenic resources.

CC2035 includes Zoning Code Chapter 33.475, River Overlay Zones. New standards allow for removal of trees, with replacement, and removal of other vegetation from view corridors to maintain views. Landscaping standards allow flexibility, such as different tree sizes and locations, to allow for maintenance of views.

219. **Policy 4.44, Building placement, height, and massing.** Maintain regulations and other tools related to building placement, height, and massing to preserve designated significant scenic resources.

CC2035 includes Zoning Code Chapter 33.510, Central City. Map 510-3, Base Heights, is adjusted and a new Map 510-4, Bonus Heights, is added to be protective of views.

220. **Policy 4.45, Future development.** Encourage new public and private development to create new public viewpoints providing views of Portland's rivers, bridges, surrounding mountains, hills and buttes, the Central City skyline, and other landmark features.

CC2035 includes Zoning Code Chapter 33.475, River Overlay Zones. The code requires that when the Greenway Trail is developed, designated viewpoints must also be developed to create formal places where the public can view Portland's rivers, bridges, mountain, hills, buttes, skyline and other landmarks. The *Central City Scenic Resources Protection Plan* includes management recommendations to improve ADA accessibility to all designated viewpoints and add amenities such as benches, informational signs or lighting.

Historic and cultural resources

221. **Policy 4.46, Historic and cultural resource protection.** Protect and encourage the restoration of historic buildings, places, and districts that contribute to the distinctive character and history of Portland's evolving urban environment.

222. **Policy 4.47, State and federal historic resource support.** Advocate for state and federal policies, programs, and legislation that would enable stronger historic resource designations, protections, and rehabilitation programs.

223. **Policy 4.48, Continuity with established patterns.** Encourage development that fills in vacant and underutilized gaps within the established urban fabric, while preserving and complementing historic resources.

224. The Plan responds to the policy through new goals and policies specific to the Central City that call for: the rehabilitation and reuse of historic structures; historic district protection measures; and, incentives to encourage seismic upgrades and other rehabilitation measures for historic resources.
225. The Central City Plan District is proposed to be amended to include FAR transfer provisions that require seismic upgrades, but provide additional transferable floor area to provide a financial incentive to support these upgrades. The Plan also includes an action item calling for the City to advocate for the passage of a state historic tax credit.
226. The maximum heights within historic districts have generally been reduced, and in most cases bonus height provisions have been repealed to result in new development that is compatible with the existing scale and character of the Central City's historic districts.
227. For instance, in the New Chinatown / Japantown Historic District heights in the northern four blocks have been reduced from a maximum of 350 feet, and the ability to bonus an additional 75 feet in height to a maximum of 425 feet, has been eliminated. Now the maximum height in that area is 200 feet with no ability to bonus to a greater height. Although one block in the district received bonus height to a maximum of 200 feet on the west half of the block and 125 feet on the eastern half of the block, it should be noted that the greater heights allowed on the west half of the block are adjacent to parcels that may build to 460 feet. Further, the new maximum height limits create a step down from these greater height allowances to the west of the New Chinatown / Japantown Historic District down to 100 feet maximum to the east of the site in question, and then eventually down to 75 feet to the properties located just east of the district.
228. Following Council proposing this amendment, testimony was received for and against the increased height. Some testifying was concerned that these heights would not be consistent with the rest of the scale of development elsewhere in the district. However, others noted that the block in question had long been underutilized and that redevelopment of the site would be a catalyst for investment throughout the district, following decades of neglect. In the end, council decided: 1) the heights proposed would still result in a step down from the urban form surrounding the district; 2) the increased height was necessary to incent redevelopment of a catalytic site; and 3) the issue of consistency was best left to the Landmarks Commission who remain charged with reviewing future development proposals on that site and elsewhere in the historic district.

Thus, on balance, these amendments in New Chinatown / Japantown Historic District and all other Central City Historic Districts further the objectives of Policy 4.48 above.

Policy 4.49, Resolution of conflicts. Adopt and periodically update design guidelines for unique historic districts. Refine base zoning in historic districts to consider the character of the historic resources in the district.

Consistent with this policy, the plan includes an action item calling for an update of various district specific historic design guideline packages, including those for the East Portland/Grand Avenue and Russell Street Conservation Districts.

229. **Policy 4.50, Demolition.** Protect historic resources from demolition. Provide opportunities for public comment, and encourage pursuit of alternatives to demolition or other actions that mitigate for the loss.
230. **Policy 4.51, City-owned historic resources.** Maintain City-owned historic resources with necessary

upkeep and repair.

- 231. **Policy 4.52, Historic Resources Inventory.** Maintain and periodically update Portland's Historic Resources Inventory to inform historic and cultural resource preservation strategies.
- 232. **Policy 4.53, Preservation equity.** Expand historic preservation inventories, regulations, and programs to encourage historic preservation in areas and in communities that have not benefited from past historic preservation efforts, especially in areas with high concentrations of under-served and/or under-represented people.
- 233. **Policy 4.54, Cultural diversity.** Work with Portland's diverse communities to identify and preserve places of historic and cultural significance.
- 234. **Policy 4.55, Cultural and social significance.** Encourage awareness and appreciation of cultural diversity and the social significance of historic places and their roles in enhancing community identity and sense of place.
- 235. **Policy 4.56, Community structures.** Encourage the adaptive reuse of historic community structures, such as former schools, meeting halls, and places of worship, for arts, cultural, and community uses that continue their role as anchors for community and culture.

The plan includes an action item calling for an update of the Historic Resources Inventory in the next 2-5 years, consistent with this policy. This process will engage the public at-large as well as stakeholders involved in cultural and historic resource preservation. The process will likely also identify additional publicly and privately-owned structures to be added to the historic inventory and some that will qualify for historic landmark status and by extension the protections and incentives contained in the Zoning Code. Thus, these measures are consistent with Policies 4.50 – 4.56 above.

- 236. **Policy 4.57, Economic viability.** Provide options for financial and regulatory incentives to allow for the productive, reasonable, and adaptive reuse of historic resources.

The Plan includes an action item calling for the City to advocate for the passage of a state historic tax credit. The Zoning Code amendments in 33.510 include new Historic Resource FAR Transfer provision that allows unused FAR to be transferred from sites with a historic resource, and that awards bonus FAR as well, all to provide an incentive to conduct seismic and other upgrades to these structures.

- 237. **Policy 4.58, Archaeological resources.** Protect and preserve archaeological resources, especially those sites and objects associated with Native American cultures. Work in partnership with Sovereign tribes, Native American communities, and the state to protect against disturbance to Native American archaeological resources.

The goals, policies, actions, and implementation tools of the Central City 2035 plan remain consistent with this direction and do not conflict with existing measures to protect archaeological resources or to coordinate with Sovereign tribes, and Native American communities.

Public art

- 238. **Policy 4.59, Public art and development.** Create incentives for public art as part of public and private development projects.

CC2035 contains policies and actions calling for an expanded presence of public art in the Central City. These include pursuing opportunities to place art in public parks, sections of the Willamette Greenway, and within the public realm.

Resource-efficient design and development

239. **Policy 4.60, Rehabilitation and adaptive reuse.** Encourage rehabilitation and adaptive reuse of buildings, especially those of historic or cultural significance, to conserve natural resources, reduce waste, and demonstrate stewardship of the built environment.

A key response of CC2035 to this policy direction is a new floor area transfer provision that allows unused floor area to be transferred from sites with a designated historic landmark so long as the landmark has or will be subject to seismic upgrades. The Plan further requires that major new development or alterations that increase floor area pursue green building certification, which typically encourages reduced construction waste, and incentive for adaptive reuse.

240. **Policy 4.61, Compact housing.** Promote the development of compact, space- and energy-efficient housing types that minimize use of resources such as smaller detached homes or accessory dwellings and attached homes.

CC2035 is consistent with this policy as the Central City is zoned for high-density development, including mixed-use residential development. Specifically, the Plan District proposes maintaining, and in some case introducing new, maximum floor area allowances, provides incentives to create denser development, and establishes minimum density requirements.

241. **Policy 4.62, Seismic and energy retrofits.** Promote seismic and energy-efficiency retrofits of historic buildings and other existing structures to reduce carbon emissions, save money, and improve public safety.

Consistent with this policy, CC2035 contains new FAR transfer regulations that incent the transfer of unused floor area from sites with a designated historic resource; however, seismic upgrades necessary to protect the structure and occupants are required as part of the FAR transfer process. Additionally, when new development adds 50,000 sq. ft. or more to an existing development, the Zoning Code amendments require such projects to pursue green building / energy efficient certification.

242. **Policy 4.63, Life cycle efficiency.** Encourage use of technologies, techniques, and materials in building design, construction, and removal that result in the least environmental impact over the life cycle of the structure.

The CC2035 plan includes zoning amendments that require new development to pursue certification from a low carbon building program, such as Leadership in Energy and Environmental Design (LEED), which considers life cycle efficiency to reduce environmental impacts. CC2035 also requires that new buildings larger than 20,000 square feet install an ecoroof. There was significant testimony provided in support of ecoroofs. City Council finds that ecoroofs are vegetated features that have a longer life expectancy than traditional roofs and reduce heat island effects and filter the air, improving air quality. City Council also finds that ecoroofs reduce energy consumption within the building, which reduces carbon dioxide emissions and improves air quality.

243. **Policy 4.64, Deconstruction.** Encourage salvage and reuse of building elements when demolition is necessary or appropriate.

244. **Policy 4.65, Materials and practices.** Encourage use of natural, resource-efficient, recycled, recycled content, and non-toxic building materials and energy-efficient building practices.

245. **Policy 4.66, Water use efficiency.** Encourage site and building designs that use water efficiently and manage stormwater as a resource.

- 246. **Policy 4.67, Optimizing benefits.** Provide mechanisms to evaluate and optimize the range of benefits from solar and renewable resources, tree canopy, ecoroofs, and building design.
- 247. **Policy 4.68, Energy efficiency.** Encourage and promote energy efficiency significantly beyond the Statewide Building Code and the use of solar and other renewable resources in individual buildings and at a district scale.
- 248. **Policy 4.69, Reduce carbon emissions.** Encourage a development pattern that minimizes carbon emissions from building and transportation energy use.
- 249. **Policy 4.70, District energy systems.** Encourage and remove barriers to the development and expansion of low-carbon heating and cooling systems that serve multiple buildings or a broader district.
- 250. **Policy 4.71, Ecodistricts.** Encourage ecodistricts, where multiple partners work together to achieve sustainability and resource efficiency goals at a district scale.
- 251. **Policy 4.72, Energy-producing development.** Encourage and promote development that uses renewable resources, such as solar, wind, and water to generate power on-site and to contribute to the energy grid.

Consistent with Policies 4.63 – 4.72, CC2035 contains policies addressing: energy efficient buildings design and development; use of green infrastructure; low-carbon district energy systems, and other measure to reduce carbon emission, reduce energy usage, encourage recycling of building materials, and other practices to reduce waste and the carbon footprint of new development. The plan also contains actions directing the City to: develop new regulatory tools and incentives to increase use of green building technologies; encourage the use of solar energy; seek opportunities for water capturing and reuse; and preserve and expand the urban forest. Lastly, the Plan District will be amended to require the use of ecoroofs and for new and significant rehabilitations to pursue green building certification.

Designing with nature

- 252. **Policy 4.73, Design with nature.** Encourage design and site development practices that enhance, and avoid the degradation of, watershed health and ecosystem services and that incorporate trees and vegetation.
- 253. **Policy 4.74, Flexible development options.** Encouraging flexibility in the division of land, the siting and design of buildings, and other improvements to reduce the impact of development on environmentally-sensitive areas and to retain healthy native and beneficial vegetation and trees.

The CC2035 amendments are consistent with Policy 4.73 and 4.74 in the following ways:

- A. Zoning code 33.475, River Overlay Zones, and 33.865, River Review, will protect and conserve the existing natural resources identified in the *Willamette River Central Reach Natural Resources Protection Plan* (NRPP), by avoiding impacts on natural resources, limiting development within natural resource areas, encouraging environmentally sensitive development and requiring mitigation when development has a detrimental impact on the resources. The mitigation requirements include planting of native vegetation and a mix of trees, shrubs and groundcover, which will improve watershed health and ecosystem services.
- B. The River setback is increased. The setback requires that development that is not river-dependent or river-related be setback 50 feet from the top of bank of the Willamette River. There is a landscaping requirement for the setback that requires native plants to be installed

with development but allows flexibility in the size and location of trees to be compatible with adjacent development. Testimony was received that supported and opposed the expanded setback. City Council finds that the expansion is appropriate because the setback and landscaping will improve watershed health and ecosystem services.

- C. The regulations for removal and remediation of hazardous substances, the use of biotechnical techniques for bank stabilization and the planting of native vegetation on the river bank to improve watershed health and ecosystem services.
- D. CC2035 includes a range of policies that will ensure the City continues progress toward incorporating tree canopy with redevelopment throughout the Central City. Specifically, the Plan contains tree canopy targets for all ten Central City subdistricts. Nine out of the 10 subdistricts are expected to experience increases in tree canopy over the life of the plan.
- E. The Green Loop is a multimodal transportation corridor that incorporates green infrastructure including trees and other vegetation into the design. The vegetation included in the Green Loop will create new habitat for wildlife alongside development.
- F. The street setback requirements in some parts of the Central City are updated to allow for additional space between buildings and the public rights-of-way for installation of vegetation including trees.
- G. A new standard for the Central City requires that new buildings over 20,000 square feet in net size must install an ecoroof over 60% of the roof area. Ecoroofs provide multiple ecosystem services.

254. Policy 4.75, Low-impact development and best practices. Encourage use of low-impact development, habitat-friendly development, bird-friendly design, and green infrastructure.

The CC2035 amendments are consistent with this policy in the following ways:

- A. A new standard for the Central City requires that new buildings over 20,000 square feet in net size must install an ecoroof over 60% of the roof area. Ecoroofs are a type of green infrastructure and provide multiple ecosystem services including providing habitat for avian species.
- B. A new standard for bird-friendly development requires that windows in the first 60 feet of new developments and major remodels be treated with a bird-safe glaze or pattern to reduce the risk of bird-to-building collisions.
- C. The street setback requirements in some parts of the Central City are updated to allow for additional space between buildings and the public rights-of-way for installation of vegetation including trees.
- D. Existing regulations including the Stormwater Management Manual are applicable to future development. The regulations require that new impervious surfaces be treated for stormwater runoff quantity and/or quality. The manual requires onsite infiltration to the maximum extent possible through green infrastructure techniques.

255. Policy 4.76, Impervious surfaces. Limit use of and strive to reduce impervious surfaces and associated impacts on hydrologic function, air and water quality, habitat connectivity, tree canopy, and urban heat island effects.

The CC2035 amendments are consistent with this policy in the following ways:

- A. Existing regulations including the Stormwater Management Manual are applicable to future development. The regulations encourage reduction of impervious surfaces and require that new impervious surfaces be treated for stormwater runoff quantity and/or quality. The manual requires onsite infiltration to the maximum extent possible through green infrastructure techniques. This includes tree canopy, ecoroofs, bioswales and pervious paving. Green infrastructure that includes vegetation also improves air quality and reduce heat island effects.
- B. A new standard for the Central City requires that new buildings over 20,000 square feet in net size must install an ecoroof over 60% of the roof area. Ecoroofs are a type of green infrastructure that reduces impervious surface area and provides multiple ecosystem services including managing stormwater runoff for quantity and quality, improving air quality and reducing heat island effects.
- C. C2035 includes a range of policies that will ensure the City continues progress toward incorporating tree canopy with redevelopment throughout the Central City. Specifically, the Plan contains tree canopy targets for all ten Central City subdistricts. Nine out of the 10 subdistricts are expected to experience increases in tree canopy over the life of the plan. One way the targets can be attained is by planting more trees along public rights-of-way. Some street setback requirements throughout the Central City are updated to allow for additional space between buildings and the public rights-of-way for installation of vegetation including trees.

256. Policy 4.77, Hazards to wildlife. Encourage building, lighting, site, and infrastructure design and practices that provide safe fish and wildlife passage, and reduce or mitigate hazards to birds, bats, and other wildlife.

The CC2035 amendments are consistent with this policy in the following ways:

- A. Zoning code 33.475, River Overlay Zones, and 33.865, River Review, will protect and conserve the existing wildlife by limiting development within natural resource areas, encouraging environmentally sensitive development and requiring mitigation when development has a detrimental impact on the resources. The mitigation requirements include planting of native vegetation and a mix of trees, shrubs and groundcover, which will improve fish and wildlife safe passage along and to the river.
- B. The River setback is increased. The setback requires that development that is not river-dependent or river-related be setback 50 feet from the top of bank of the Willamette River. There is a landscaping requirement for the setback that requires native plants to be installed with development but allows flexibility in the size and location of trees to be compatible with adjacent development. Testimony was received that both supported and opposed the expanded setback. City Council finds that the expansion is appropriate because the setback and landscaping will improve fish and wildlife safe passage along and to the river.
- C. New standards for lighting along the Willamette River will require lighting to be located away from the natural resource areas except when associated with trails, docks and public roads. In all situations lighting must be directed down, limiting impacts to birds, bats and other wildlife, and cannot shine directly into the water, limiting impacts on fish.
- D. A new standard for bird-friendly development requires that windows in the first 60 feet of new developments and major remodels be treated with a bird-safe glaze or pattern to reduce the risk of bird-to-building collisions.

257. Policy 4.78, Access to nature. Promote equitable, safe, and well-designed physical and visual

access to nature for all Portlanders, while also maintaining the functions and values of significant natural resources, fish, and wildlife. Provide access to major natural features, including:

- Water bodies such as the Willamette and Columbia rivers, Smith and Bybee Lakes, creeks, streams, and sloughs.
- Major topographic features such as the West Hills, Mt. Tabor, and the East Buttes.
- Natural areas such as Forest Park and Oaks Bottom.

The CC2035 amendments are consistent with this policy in the following ways:

- A. The River setback is increased. The setback requires that development that is not river-dependent or river-related be setback 50 feet from the top of bank of the Willamette River. Testimony was received that both supported and opposed the expanded setback. City Council finds that the expansion is appropriate because the setback maintains space for public access to the Willamette River, including a major public trail and viewpoints, and natural resource enhancement.
- B. The major trail alignment and completion of the Greenway Trail along the Willamette River will improve public access along and to the Willamette River.
- C. The Green Loop is a multimodal transportation corridor that will improve public access around all the Central City, as well as to and across the Willamette River.
- D. The Central City Scenic Resources Protection Plan (CCSRPP) and zoning code amendments in 33.475, River Overlay Zones, protect view corridors and maintain the visual access to the Willamette River, major topographic features including mountains and buttes, and natural areas including parks.

Hazard-resilient design

258. **Policy 4.79, Natural hazards and climate change risks and impacts.** Limit development in or near areas prone to natural hazards, using the most current hazard and climate change-related information and maps.

The amendments are consistent with this policy in the following ways:

- A. The Health and Environment Goal and related policies and actions provide for resilience to climate change impacts and natural hazards including flooding and earthquakes, through planning, design, education and implementation of green infrastructure and infrastructure retrofits.
- B. The *Willamette River Central Reach Natural Resources Protection Plan* (NRPP) includes an updated inventory of natural resource features and functions in the Central City. The NRPP evaluates the functions above and the ecosystem services (e.g., natural hazard management, public health, climate resiliency, etc.) provided by those features in Chapter 4, Analysis of Protection Options and General Recommendations. Chapter 5, Results, includes recommendations for maintaining natural resource features and functions.
- C. Zoning code 33.475, River Overlay Zones, and 33.865, River Review, will protect and conserve the identified resource features and functions by limiting development within natural resource areas, encouraging environmentally sensitive development and requiring mitigation when development has a detrimental impact on the resources. By applying new River Environmental overlay zoning for identified natural resource areas in the Central City, including resources

located in the water, in the floodplain and on land, the plan reduces risks associated with flooding, landslides and wildfire.

- D. The River setback is increased. The setback requires that development that is not river-dependent or river-related be setback 50 feet from the top of bank of the Willamette River. Testimony was received that both supported and opposed the expanded setback. City Council finds that the expansion is appropriate because it reduces the risk of flooding and landslide on development near the river. In addition, there is a landscaping requirement for the setback that requires additional native plants to be planted. The setback and landscaping retain space that mitigates the risks associated with river flooding. Landscaping also sequesters carbon, reduces the heat island effect and helps improve air quality.
- E. Actions call for partnerships between local, regional, state and federal regulatory, Sovereign nations, non-profit organization, neighborhoods and property owners. One action is to work with FEMA to address the NOAA Fisheries biological opinion regarding the floodplain development and impacts on species listed under the Endangered Species Act. This will include a remapping of the floodplain in the Central City. Another action is to amend the flood-related regulations and other guidelines to, a) help prevent or minimize the risk of flood damage to new, redeveloped and rehabilitated buildings located in the 100-year floodplain; b) avoid, minimize and mitigate the impacts of such development on floodplain functions; and, c) comply with updated NFIP requirements.
- F. Increasing the resiliency of the urban forest is a critical component of the CC2035 Plan. Maintaining and increasing the number of native species underlies the CC2035 tree planting strategy. For example, Policy 6.9, Strategic tree canopy enhancement, of the Plan encourages the planting of Northwest native and climate change-resilient trees. The Plan also includes strategies to expand efforts to reestablish and expand native, large canopy tree species in Portland's parks and natural areas.
- G. A new standard for the Central City requires that new buildings over 20,000 square feet in net size must install an ecoroof over 60% of the roof area. Ecoroofs provide multiple functions including sequestering carbon, reducing heat island impacts and managing stormwater runoff – all of which makes development more resilient to climate change.
- H. Existing regulations though City Code Title 24, Building Regulations, are also applicable to future development. These regulations require review of impacts within the river and floodplain including a test of no net rise and balancing of fill placed in the floodplain with an equal cut.
- I. CC2035 maintains existing Environmental conservation overlay zones on Sullivan's Gulch. The regulations limit development on the steep slope and reduce risk of landslides and wildfire on development.

259. Policy 4.80, Geological hazards. Evaluate slope and soil characteristics, including liquefaction potential, landslide hazards, and other geologic hazards.

The amendments are consistent with this policy in the following ways:

- A. The Health and Environment Goal and related policies and actions provide for resilience to climate change impacts and natural hazards including flooding and earthquakes, through planning, design, education and implementation of green infrastructure and infrastructure retrofits.

- B. The *Willamette River Central Reach Natural Resources Protection Plan* (NRPP) includes an updated inventory of natural resources features and functions in the Central City. The NRPP evaluates the functions above and the ecosystem services (e.g., natural hazard management, public health, climate resiliency, etc.) provided by those features in Chapter 4, Analysis of Protection Options and General Recommendations. Chapter 5, Results, includes recommendations for maintaining natural resource features and functions.
- C. Zoning code 33.475, River Overlay Zones, and 33.865, River Review, will protect and conserve the identified resource features and functions by limiting development within natural resource areas, encouraging environmentally sensitive development and requiring mitigation when development has a detrimental impact on the resources. By applying new River Environmental overlay zoning for identified natural resource areas in the Central City, including resources located in the water, in the floodplain and on land, the plan reduces risks associated with flooding, landslides and wildfire.
- D. The River setback is increased. The setback requires that development that is not river-dependent or river-related be setback 50 feet from the top of bank of the Willamette River. Testimony was received that both supported and opposed the expanded setback. City Council finds that the expansion is appropriate because it reduces the risk of flooding and landslide on development near the river. In addition, there is a landscaping requirement for the setback that requires additional native plants to be planted. The setback and landscaping retain space that mitigates the risks associated with river flooding. Landscaping also sequesters carbon, reduces the heat island effect and helps improve air quality.
- E. Actions call for partnerships between local, regional, state and federal regulatory, Sovereign nations, non-profit organization, neighborhoods and property owners. One action is to work with FEMA to address the NOAA Fisheries biological opinion regarding the floodplain development and impacts on species listed under the Endangered Species Act. This will include a remapping of the floodplain in the Central City. Another action is to amend the flood-related regulations and other guidelines to: a) help prevent or minimize the risk of flood damage to new, redeveloped and rehabilitated buildings located in the 100-year floodplain; b) avoid, minimize and mitigate the impacts of such development on floodplain functions; and, c) comply with updated NFIP requirements.
- F. Increasing the resiliency of the urban forest is a critical component of the CC2035 Plan. Maintaining and increasing the number of native species underlies the CC2035 tree planting strategy. For example, Policy 6.9, Strategic tree canopy enhancement, of the Plan encourages the planting of Northwest native and climate change-resilient trees. The Plan also includes strategies to expand efforts to reestablish and expand native, large canopy tree species in Portland's parks and natural areas.
- G. A new standard for the Central City requires that new buildings over 20,000 square feet in net building area must install an ecoroof over 60% of the roof area. Ecoroofs provide multiple functions including sequestering carbon, reducing heat island impacts and managing stormwater runoff – all of which makes development more resilient to climate change.
- H. Existing regulations though City Code Title 24, Building Regulations, are also applicable to future development. These regulations require review of impacts within the river and floodplain including a test of no net rise and balancing of fill placed in the floodplain with an equal cut.

- I. CC2035 maintains existing Environmental conservation overlay zones on Sullivan’s Gulch. The regulations limit development on a steep slope and reduce the risk of landslides and wildfire on development.

260. **Policy 4.81, Disaster-resilient development.** Encourage development and site-management approaches that reduce the risks and impacts of natural disasters or other major disturbances and that improve the ability of people, wildlife, natural systems, and property to withstand and recover from such events.

Consistent with the policy direction of Policies 4.79 – 4.81, Volume 1, Goals and Policies, of CC2035 contains a chapter on Health and Environment that includes goals and policies address the following topics: natural hazard resilience; climate change resilience; and flood ready development. The Plan District also contains new development incentives intended to encourage seismic upgrades for historic structures, and the Plan includes various actions that call for: amending flood-related regulations and guidelines; new development to include early warning systems regarding fire protection; and revising seismic upgrade standards.

Policy 4.83, Urban heat islands. Encourage development, building, landscaping, and infrastructure design that reduce urban heat island effects.

CC2035 contains policies that call for site and building designs that incorporate vegetation to address urban heat island effect. Further, the Plan District contains a new development standard that requires that ecoroofs be constructed on buildings having a net-building area of at least 20,000 sq. ft., and that new development of at least 50,000 sq. ft. and rehabilitations that add 50,000 sq. ft. of floor area must pursue green building certification, which could include other design elements that address heat island effect.

Policy 4.84, Planning and disaster recovery. Facilitate effective disaster recovery by providing recommended updates to land use designations and development codes, in preparation for natural disasters.

As noted above, the Plan includes various actions directing the City to update flood plain management and seismic standards enforced by the City, and to implement new fire early warning systems in new development, consistent with this policy.

Healthy food

261. **Policy 4.85, Grocery stores and markets in centers.** Facilitate the retention and development of grocery stores, neighborhood-based markets, and farmer’s markets offering fresh produce in centers.

Policy 4.86, Neighborhood food access. Encourage small, neighborhood-based retail food opportunities, such as corner markets, food co-ops, food buying clubs, and community-supported agriculture pickup/drop-off sites, to fill in service gaps in food access across the city.

The zoning pattern for most of the Central City, especially those areas where residential mixed-use development is allowed, also allow for retail uses, such as grocery stores, and temporary activities such as farmers markets and other fresh food distribution activities. CC2035 continues to support this zoning pattern, and furthers the directives of Policies 4.85 and 4.86 through policies, such as 2.1, Complete Neighborhoods, and 2.2, Promote healthy active living, that promote new grocery store development and publicly accessible locations for farmer’s markets and similar activities.

262. **Policy 4.87, Growing food.** Increase opportunities to grow food for personal consumption, donation, sales, and educational purposes.

Policy 4.88, Access to community gardens. Ensure that community gardens are allowed in areas close to or accessible via transit to people living in areas zoned for mixed-use or multi-dwelling development, where residents have few opportunities to grow food in yards.

Consistent with these policies 4.87 and 4.88, CC2035 contains policies calling for “access to locally grown and healthy foods,” while the Plan also calls for the expansion of publicly accessible open space and park amenities, including but not limited to community gardens, and the use of under-utilized public right-of-way and land for such uses.

Housing: Goals

- 263. **Goal 5.A: Housing diversity.** Portlanders have access to high-quality affordable housing that accommodates their needs, preferences, and financial capabilities in terms of different types, tenures, density, sizes, costs, and locations.
- 264. **Goal 5.B: Equitable access to housing.** Portland ensures equitable access to housing, making a special effort to remove disparities in housing access for people with disabilities, people of color, low-income households, diverse household types, and older adults.
- 265. **Goal 5.C: Healthy connected city.** Portlanders live in safe, healthy housing that provides convenient access to jobs and to goods and services that meet daily needs. This housing is connected to the rest of the city and region by safe, convenient, and affordable multimodal transportation.
- 266. **Goal 5.D: Affordable housing.** Portland has an adequate supply of affordable housing units to meet the needs of residents vulnerable to increasing housing costs.
- 267. **Goal 5.E: High-performance housing.** Portland residents have access to resource-efficient and high-performance housing for people of all abilities and income levels.

In 2016 there were approximately 24,092 housing units within the Central City Plan District. CC2035 is intended to support the development of an additional 39,500 units by the year 2035. This is a 165 percent increase, and accounts for 30 percent of city-wide projected housing growth, but in an area equal to only 3 percent of the city’s land mass. Further analysis of the existing housing stock reveals that 74 percent of it consists of studio and 1-bedroom units, even though between 2010 and 2015, an average of 231 children annually were born to families living in the Central City. This data suggests that the demographics of the Central City are changing faster than the housing that supports it. It also suggests that a greater array of essential public services, schools, play grounds, daycare, community centers, and libraries, will be needed during the life of the CC2035 Plan.

As for affordability, in 2015, approximately 7,978 units of regulated affordable housing was in the Central City, or 37.6 percent of all housing. However, most of these units are studio and 1-bedroom units, and with the median family income (MFI) for a family of two in Portland being \$53,230 and maximum monthly housing cost (considered affordable) for the same family being \$1,331, most market rate housing in the Central City is not affordable to the average Portland family with children.

Central City 2035 builds upon the recently adopted Inclusionary Housing Program adopted by the City of Portland, by including policies, such as 2.1, Complete Neighborhoods, and 2.2, Promote healthy active living, that address the need to provide affordable housing, middle income housing,

senior and student housing, and family compatible housing at all income levels, as well as neighborhood amenities and essential public services that allow for sustained community development by providing for the needs of people at all ages, income levels, and abilities.

Specific Zoning Code amendments, such as development standard 3.510.200.E, which provides floor area bonuses when public services and amenities are developed as part of a mixed-use project, help to implement different desired outcomes of these goals. Also, during the review of the Recommended Draft of CC2035, Council received testimony both for and against the maximum heights proposed by the plan, and considered various amendments to increase heights at different locations throughout the Central City. In most cases, Council noted a desire to allow increased heights as a way to incent new residential development throughout the Central City, expand the supply of housing and reduce pressure on increased housing costs.

These and other elements of the plan ensure that CC2035 is consistent with Goals 5.A – 5.E, and the following applicable policies.

Housing: Policies

Diverse and expanding housing supply

- 268. **Policy 5.1, Housing supply.** Maintain sufficient residential development capacity to accommodate Portland's projected share of regional household growth.
- 269. **Policy 5.2, Housing growth.** Strive to capture at least 25 percent of the seven-county region's residential growth (Multnomah, Washington, Clackamas, Yamhill, Columbia, Clark, and Skamania counties).
- 270. **Policy 5.3, Housing potential.** Evaluate plans and investments for their impact on housing capacity, particularly the impact on the supply of housing units that can serve low- and moderate-income households, and identify opportunities to meet future demand.

Most the base zones in the Central City allow housing by right, and over 1,100 acres of the plan district have such zoning applied to it. These include the RH and RX zones, which focus on housing production, but also the CX and EX zones, commercial and employment mixed use zones where historically the most housing has been created since 1990. CC2035 maintains this supply of land zoned for these purposes and expands the total area of mixed-use zoning allowing housing outright or as a conditional use in the Central City by over 100 acres.

Further, during the review of the Recommended Draft of CC2035, Council received testimony for and against the maximum heights proposed by the plan, as well as various amendments by Council to increase heights at different locations throughout the Central City. In most cases, Council noted a desire to allow increased heights as a way to incent new residential development throughout the Central City, expand the supply of housing and reduce pressure on increased housing costs. These amendments to the Zoning Code are consistent with and further the objectives of Policies 5.1 - 5.3.

- 271. **Policy 5.5, Housing in centers.** Apply zoning in and around centers that allows for and supports a diversity of housing that can accommodate a broad range of households, including multi-dwelling and family-friendly housing options.

The zoning pattern for the Central City is intended to produce high-density, multifamily housing. The applicable development standards do not focus on any specific tenure, unit type, or intended user. However, CC2035 contains policies that support the development and additional efforts to monitor housing supply through the life of the plan to ensure that Central City housing production

keeps pace with the diverse needs or the city center's increasingly diversifying population. This includes a focus on the total number of housing units compatible with families with children, senior units, student housing, and middle-income units, consistent with Policy 5.5.

- 272. **Policy 5.8, Physically-accessible housing.** Allow and support a robust and diverse supply of affordable, accessible housing to meet the needs of older adults and people with disabilities, especially in centers, station areas, and other places that are proximate to services and transit.
- 273. **Policy 5.9, Accessible design for all.** Encourage new construction and retrofitting to create physically-accessible housing, extending from the individual unit to the community, using Universal Design Principles.

Goal 2.A of CC2035 states: *"The Central City is a successful dense mixed-use center composed of livable neighborhoods with housing, services and amenities that support the needs of people of all ages, incomes, and abilities."* CC2035 further supports the objectives of Policies 5.8 – 5.9 by maintaining and expanding the supply of land zoned for high-density multifamily housing in the city center, much of which is designed for people at different ages and abilities, and is in areas well served by transit and a safe pedestrian environment.

Housing access

- 274. **Policy 5.11, Remove barriers.** Remove potential regulatory barriers to housing choice for people in protected classes to ensure freedom of choice in housing type, tenure, and location.
- 275. **Policy 5.12, Impact analysis.** Evaluate plans and investments, significant new infrastructure, and significant new development to identify potential disparate impacts on housing choice, access, and affordability for protected classes and low-income households. Identify and implement strategies to mitigate the anticipated impacts.

CC2035 promotes the development of studio, and 1-, 2-, and 3-bedroom units, to ensure that the housing needs for different household types, be they single occupant or families with children, are being met. The [plan further expands the amount of mixed-use zoned land in the Central City Plan District, and increases the floor area ratios applicable in parts of the Central City in areas with high levels of transit service. Further, in conjunction with the recently adopted inclusionary housing regulations and new development bonus system for commercial development, CC2035 will result in a more predictable ongoing supply of units affordable to people earning less than 80 percent median family income. These provisions are anticipated to result in greater diversity of unit type and increased access to affordable units, consistent with Policies 5.11 – 5.12.
- 276. **Policy 5.13, Housing stability.** Coordinate plans and investments with programs that prevent avoidable, involuntary evictions and foreclosures.
- 277. **Policy 5.14, Preserve communities.** Encourage plans and investments to protect and/or restore the socioeconomic diversity and cultural stability of established communities.
- 278. **Policy 5.15, Gentrification/displacement risk.** Evaluate plans and investments, significant new infrastructure, and significant new development for the potential to increase housing costs for, or cause displacement of communities of color, low- and moderate-income households, and renters. Identify and implement strategies to mitigate the anticipated impacts.
- 279. **Policy 5.16, Involuntary displacement.** When plans and investments are expected to create neighborhood change, limit the involuntary displacement of those who are under-served and under-represented. Use public investments and programs, and coordinate with nonprofit housing organizations (such as land trusts and housing providers) to create permanently-affordable

housing and to mitigate the impacts of market pressures that cause involuntary displacement.

CC2035 is consistent with Policies 5.13 – 5.16, as the plan proposes infill of vacant and under-utilized land in the Central City. Most of these sites do not currently contain housing or tenants that could be impacted by new housing. Further, the plan and new inclusionary housing program work together to promote the retention and expansion of affordable housing options throughout the city center, to prevent displacement and expand opportunities for vulnerable populations.

Housing location

280. **Policy 5.22, New development in opportunity areas.** Locate new affordable housing in areas that have high/medium levels of opportunity in terms of access to active transportation, jobs, open spaces, high-quality schools, and supportive services and amenities.

281. **Policy 5.23, Higher-density housing.** Locate higher-density housing, including units that are affordable and accessible, in and around centers to take advantage of the access to active transportation, jobs, open spaces, schools, and various services and amenities.

CC2035 is consistent with Policies 5.22 and 5.23 as the plan proposes housing development at higher levels than are achievable anywhere else in the city, and within an urban environment with the greatest access to transit, active transportation options, employment, and numerous open space amenities.

Also, as noted above, during the review of the Recommended Draft of CC2035, Council received testimony for and against the maximum heights proposed by the plan and considered various amendments to increase heights at different locations throughout the Central City. In most cases, Council noted a desire to allow increased heights as a way to incent new residential development throughout the Central City, expand the supply of housing and, reduce pressure on increased housing cost.

The plan further proposes working with PPS to expand access to K-12 public schools, and offers development incentives when these and other essential public services, such as libraries, community centers, and daycare, are included within mixed-use development projects.

282. **Policy 5.24, Impact of housing on schools.** Evaluate plans and investments for the effect of housing development on school enrollment, financial stability, and student mobility. Coordinate with school districts to ensure plans are aligned with school facility plans.

The entire Central City is located within Portland Public Schools (PPS) boundaries. PPS staff were consulted and were members of the Technical Advisory Committee (TAC) for CC2035. In this role, housing projections and where and how the plan proposes to encourage additional housing were shared with PPS staff. Thus, development incentives regarding the inclusion of public schools in mixed-use development were included, as well as actions calling for the City to work with PPS to expand access to public schools for families living in the Central City, consistent with this policy.

Housing affordability

283. **Policy 5.25, Housing preservation.** Preserve and produce affordable housing to meet needs that are not met by the private market by coordinating plans and investments with housing providers and organizations.

284. **Policy 5.26, Regulated affordable housing target.** Strive to produce at least 10,000 new regulated affordable housing units citywide by 2035 that will be affordable to households in the 0-80 percent MFI bracket.

285. **Policy 5.29, Permanently-affordable housing.** Increase the supply of permanently-affordable housing, including both rental and homeownership opportunities.

CC2035 proposes new FAR bonus allowances that award additional floor area for development when applicants for non-residential development pay into an affordable housing fund that will be used by the Portland Housing Bureau to create new affordable units or to preserve existing units for providing affordable units. This bonus and the new requirements for inclusionary housing are intended to secure at least 30 percent of the housing in the city center as affordable to people earning less than 80 percent MFI by 2035, consistent with Policies 5.25, 5.26, and 5.29.
286. **Policy 5.30, Housing cost burden.** Evaluate plans and investments for their impact on household cost, and consider ways to reduce the combined cost of housing, utilities, and/or transportation. Encourage energy-efficiency investments to reduce overall housing costs.
287. **Policy 5.31, Household prosperity.** Facilitate expanding the variety of types and sizes of affordable housing units, and do so in locations that provide low-income households with greater access to convenient transit and transportation, education and training opportunities, the Central City, industrial districts, and other employment areas.
288. **Policy 5.33, Central City affordable housing.** Encourage the preservation and production of affordable housing in the Central City to take advantage of the area's unique concentration of active transportation access, jobs, open spaces, and supportive services and amenities.
289. **Policy 5.34, Affordable housing resources.** Pursue a variety of funding sources and mechanisms including new financial and regulatory tools to preserve and develop housing units and various assistance programs for households whose needs are not met by the private market.
290. **Policy 5.35, Inclusionary housing.** Use inclusionary zoning and other regulatory tools to effectively link the production of affordable housing to the production of market-rate housing.
291. **Policy 5.36, Impact of regulations on affordability.** Evaluate how existing and new regulations affect private development of affordable housing, and minimize negative impacts where possible. Avoid regulations that facilitate economically-exclusive neighborhoods.
292. **Policy 5.38, Workforce housing.** Encourage private development of a robust supply of housing that is affordable to moderate-income households located near convenient multimodal transportation that provides access to education and training opportunities, the Central City, industrial districts, and other employment areas.

As noted, the City of Portland recently adopted inclusionary zoning regulations that apply to all projects that result in more than 20 new residential units. Due to the typical scale of development in the Central City, this means between 10 to 20 percent of nearly all new residential development will consist of housing affordable to people earning between 60 to 80 percent MFI. However, the previously noted floor area bonus for commercial development, and policies of the plan will further assist in expanding the supply of affordable housing, including workforce housing, throughout the city center. Thus, CC2035 is consistent with the above policies as follows:

- A. Policy 5.30, Housing cost burden: the plan requires new development to pursue green-building certification which should reduce the heating and energy costs for residents. The plan also expands access to transit and other multimodal transportation options, which should reduce household transportation expenses. Lastly, the plan includes development bonuses that will expand the supply of affordable housing in the Central City.

- B. Policy 5.31, Household prosperity: Policies, such as 2.8, Family-compatible housing, which support expanded access to units with 2 or more bedrooms, as well as action items calling for the monitoring of unit production for affordable housing, combined with the recently adopted inclusionary housing provisions of the Zoning Code ensure that CC2035 will expand “the variety of types and sizes of affordable units” in the Central City.
- C. Policy 5.33, Central City affordable housing, Policy 5.34, Affordable housing resources, and Policy 5.35, Inclusionary housing: The plan contains new development bonuses that provide additional floor area in exchange for a contribution to the City’s affordable housing fund. This combined with the recently adopted inclusionary housing regulations of the Zoning Code will expand the supply of affordable housing in the Central City.
- D. Policy 5.36, Impact of regulations on affordability, and Policy 5.38, Workforce housing: The recently adopted inclusionary housing provisions of the Zoning Code, and restructuring of the development bonuses allowances of the code to prioritize affordable housing are intended to significantly expand access to affordable housing, including workforce housing in the Central City. These provisions have also been crafted to minimize the impact of existing regulations and administrative costs, such as the cost of design review for affordable housing projects.

Homelessness

293. **Policy 5.46, Housing continuum.** Prevent homelessness and reduce the time spent being homeless by ensuring that a continuum of safe and affordable housing opportunities and related supportive services are allowed, including but not limited to Permanent Supportive Housing, transitional housing, self-built micro housing communities, emergency shelters, temporary shelters such as warming centers, and transitional campgrounds.

CC2035 addresses the objectives of Policy 5.46 by maintaining and expanding zoning that allows for shelters, transitional housing, and social services that support this population, while also expanding the number of affordable units Central City-wide. The plan also includes policies and actions that focus on job training, transitional housing, and human and health services to aid vulnerable populations within the Central City.

Health, safety, and well-being

294. **Policy 5.49, Housing quality.** Encourage housing that provides high indoor air quality, access to sunlight and outdoor spaces, and is protected from excessive noise, pests, and hazardous environmental conditions.
295. **Policy 5.50, High-performance housing.** Encourage energy efficiency, green building practices, materials, and design to produce healthy, efficient, durable, and adaptable homes that are affordable or reasonably priced.

CC2035 includes new development standards (33.510. 244) that require new development or redevelopment, that results in 50,000 square feet or more of new floor area, pursue low-carbon/green building certification. Buildings receiving such certification typically receive points for the use of materials and design elements that promote human health. Further, the plan contains approval criteria for the design and siting of some housing located in the Central Eastside Industrial District to minimize the impact of adjacent industrial uses on new housing (see Central City Master Plans, Section 33.510.255. These elements of the plan will further the objectives of Policies 5.49 and 5.50.

296. **Policy 5.51, Healthy and active living.** Encourage housing that provides features supportive of

healthy eating and active living such as useable open areas, recreation areas, community gardens, crime-preventive design, and community kitchens in multifamily housing.

297. **Policy 5.52, Walkable surroundings.** Encourage active transportation in residential areas through the development of pathways, sidewalks, and high-quality onsite amenities such as secure bicycle parking.
298. **Policy 5.53, Responding to social isolation.** Encourage site designs and relationship to adjacent developments that reduce social isolation for groups that often experience it, such as older adults, people with disabilities, communities of color, and immigrant communities.

CC2035 Policy 6.5 states:

***Human health.** Encourage the use of active modes of transportation by creating and enhancing a network of bike and pedestrian facilities that provide access to services and destinations including natural areas. Improve access for all people to locally grown and healthy foods. Encourage the use of building construction methods, materials and products that do not have harmful effects on human health and the environment. Encourage social health by fostering community in a hospitable public realm.*

Policies 5.51 – 5.53 are supported by amendments to the Zoning Code and Transportation Systems Plan that will modify the experience and range of uses allowed in the public realm, and expand the amount of publicly accessible open space in the Central City. These measures will also expand access to active transportation facilities and recreation opportunities. The plan further calls for a community center, community gardens, and new parks and open space features to be developed during the life of the plan to support the additional 38,000 households projected by the year 2035.

Economic Development: Goals

299. **Goal 6.A: Prosperity.** Portland has vigorous economic growth and a healthy, diverse economy that supports prosperity and equitable access to employment opportunities for an increasingly diverse population. A strong economy that is keeping up with population growth and attracting resources and talent can:

- Create opportunity for people to achieve their full potential.
- Improve public health.
- Support a healthy environment.
- Support the fiscal well-being of the city.

A healthy local economy, access to good, stable employment, and a stable and growing tax base, is important to the ability of the City to support its residents and businesses with the services they need to thrive. A strong local economy, also correlates to better health and educational outcomes for individuals. As such, the recently adopted 2035 Comprehensive Plan promotes the growth of 141,643 new jobs, 44,740 of which will be located with the Central City. This accounts for 32 percent of all projected job growth.

The job growth targeted by CC2035 to support these projections is addressed within the commercially as well as industrially zoned portions of the plan district, as well at institutions located within the Central City. A combination of base zone amendments, FAR increases, and development standards that will allow a broader and denser array of industrial jobs, will allow for employment

opportunities for people at various income, skill, and employment levels, allowing the plan to further the objectives of Goal 6.A.

300. **Goal 6.B: Development.** Portland supports an attractive environment for industrial, commercial, and institutional job growth and development by: 1) maintaining an adequate land supply; 2) a local development review system that is nimble, predictable, and fair; and 3) high-quality public facilities and services.

CC2035 is consistent with the objectives of this goal as follows:

- A. The plan increases the existing supply of mixed-commercial and mixed-employment lands, and allows for higher densities of industrial office uses in the Central Eastside, while offering development incentives for the creation of ground floor industrial uses. The plan also brings in approximately 12 acres at the Clinton Station Area into the Central Eastside and zones the area for high density mixed-employment uses. Lastly, the plan increases land use densities within mixed-use zones along the transit mall and at key station areas.
- B. The plan simplifies many preexisting development standards, land use allowances, and parking regulations, to create a more streamline and predictable development review system. The plan also contains actions calling for an update to the design guidelines applicable to the Central City, and the periodic review of different development standards and incentives.
- C. The plan proposes numerous projects to the transportation system, parks and open space network, and public infrastructure that support commercial office, retail, institutional, and other employment uses in the Central City. The plan also proposes strategies to seismically upgrade numerous structures for employment uses, promotes expansion of the amount of green-infrastructure, the creation of an Innovation Quadrant, a permanent location for a day laborer facility, and strategies to expand the skilled workforce, provide affordable workspace, and create new employment partnerships in the Central Eastside.

301. **Goal 6.C: Business district vitality.** Portland implements land use policy and investments to:

- Ensure that commercial, institutional, and industrial districts support business retention and expansion.
- Encourage the growth of districts that support productive and creative synergies among local businesses.
- Provide convenient access to goods, services, and markets.
- Take advantage of our location and quality of life advantages as a gateway to world-class natural landscapes in Northwest Oregon, Southwest Washington, and the Columbia River Basin, and a robust interconnected system of natural landscapes within the region's Urban Growth Boundary.

CC2035 addresses the objectives of Goal 6.C through support of the emerging Innovation Quadrant, located within the Central Eastside, South Waterfront, and University/South Downtown District and through potential investments in infrastructure and strategies that leverage employment and traded sector growth in the Central City. The plan also contains actions intended to address skill gaps within high-growth, high-demand occupations, the creation of a new business improvement district in the Central Eastside, and continued collaboration with existing business associations on infrastructure improvements and strategies that may affect the viability of member businesses.

Economic Development: Policies

Diverse, expanding city economy

- 302. **Policy 6.1, Diverse and growing community.** Expand economic opportunity and improve economic equity for Portland's diverse, growing population through sustained business growth.
- 303. **Policy 6.2, Diverse and expanding economy.** Align plans and investments to maintain the diversity of Portland's economy and status as Oregon's largest job center with growth across all sectors (commercial, industrial, creative, and institutional) and across all parts of the city.
- 304. **Policy 6.3, Employment growth.** Strive to capture at least 25 percent of the seven-county region's employment growth (Multnomah, Washington, Clackamas, Yamhill, Columbia, Clark, and Skamania counties).

Consistent with these policies, the plan proposes zone changes, increased FAR allowances, new use allowances, and development standards and bonuses, all of which are intended to facilitate new office development, new incubator industrial uses, and retail and other commercial service businesses and jobs to grow in all Central City districts. This approach does not target any one job sector, nor does it focus on jobs that require a specific skill level, or educational level. Rather, these elements of the plan seek to increase the supply of land and amount of multi-story buildings throughout the city center available for employment and industrial uses.

At the same time, the plan contains actions that focus on job/skill development, affordable work space, and partnerships between government and the private sector aimed at leveraging new job and industrial sector growth. These elements will allow the Central City to create upwards of 51,000 new jobs, and will contribute to the city's ability to capture 25 percent of the projected regional employment growth.

- 305. **Policy 6.4, Fiscally-stable city.** Promote a high citywide jobs-to-households ratio that supports tax revenue growth at pace with residential demand for municipal services.

CC2035 proposes several elements that are intended to result in an additional 51,000 new jobs and 38,000 new households within the Central City by the year 2035, which is 30 percent of the projected city-wide growth targeted by the 2035 Comprehensive Plan. If these targets are achieved, the Central City will contain approximately 174,565 jobs and 62,092 households, continuing to make it the densest center within the city, and a strong source of tax revenue supporting municipal services city-wide.

- 306. **Policy 6.5, Economic resilience.** Improve Portland's economic resilience to impacts from climate change and natural disasters through a strong local economy and equitable opportunities for prosperity.
- 307. **Policy 6.6, Low-carbon and renewable energy economy.** Align plans and investments with efforts to improve energy efficiency and reduce lifecycle carbon emissions from business operations. Promote employment opportunities associated with energy efficiency projects, waste reduction, production of more durable goods, and recycling.

CC2035 addresses Policies 6.5 and 6.6 as follows:

- A. The plan contains goals and policies that support continued investments that support the goal of making the Central City resilient to climate change and natural hazards. Further, the plan contains specific actions that address flood plain protection, seismic upgrades, green infrastructure, and green-development strategies.

- B. The Zoning Code amendments of the plan increase the setback for development along the Willamette River, require the inclusion of ecoroofs on new buildings, and that new development pursue green-building certification.

- 308. **Policy 6.7, Competitive advantages.** Maintain and strengthen the city's comparative economic advantages including access to a high-quality workforce, business diversity, competitive business climate, and multimodal transportation infrastructure.
- 309. **Policy 6.8, Business environment.** Use plans and investments to help create a positive business environment in the city and provide strategic assistance to retain, expand, and attract businesses.
- 310. **Policy 6.9, Small business development.** Facilitate the success and growth of small businesses and coordinate plans and investments with programs that provide technical and financial assistance to promote sustainable operating practices.

CC2035 responds to Policies 6.7 – 6.9 as follows:

- A. The plan promotes development of office, industrial, and institution uses throughout the Central City, and creates additional development capacity in areas targeted for high density employment. The plan also proposes numerous transportation improvements intended to facilitate freight mobility, and work force commutes by multiple means, including ground and river transit, active transportation, and through carpooling.
- B. The plan contains actions supporting the creation of a business improvement district for the Central Eastside, promotes district parking in underserved areas for employees and customers, and promotes the creation of affordable work space for new and emerging businesses.
- C. The plan seeks the creation of an Innovation Quadrant where institutions and the training, and research and development conducted can be commercialized by local businesses in the Central City. The plan also promotes skill development through programs and partnerships between business associations and PCC and PPS.

- 311. **Policy 6.10, Business innovation.** Encourage innovation, research, development, and commercialization of new technologies, products, and services through responsive regulations and public sector approaches.

In response to this goal, CC2035 promotes the creation of an Innovation Quadrant that links the research and development functions of PSU and OHSU with businesses operations in and around the Central City, with a focus on the University District/South Downtown, South Waterfront, and Central Eastside districts. The plan contains policies and actions supportive of this effort, as well as new development standards and use allowances that are intended to increase employment densities and diversify the range of industrial and high-tech businesses operating in the Central City.

- 312. **Policy 6.12, Economic role of livability and ecosystem services.** Conserve and enhance Portland's cultural, historic, recreational, educational, food-related, and ecosystem assets and services for their contribution to the local economy and their importance for retention and attraction of skilled workers and businesses.

The Central City has become a large draw for employers and residents because of the many amenities it contains. These include access to recreational, cultural, and educational assets including access to food, entertainment, and retail. For example, the river setback and Greenway Trail standards in 33.475, River Overlay Zones, ensure adequate land is available for public access to the Willamette River for recreation. Access to government services and a diverse multimodal

transportation network also attract skilled workers and businesses. CC2035 supports the objectives of this goal by: 1) maintaining the zoning and use allowances that have allowed these assets to flourish in the Central City; and 2) by expanding the zoning and supporting continued investment in the maintenance and enhancement of the Central City as the primary location where these assets and more can be found.

Land development

313. **Policy 6.13, Land supply.** Provide supplies of employment land that are sufficient to meet the long-term and short-term employment growth forecasts, adequate in terms of amounts and types of sites, available and practical for development and intended uses. Types of sites are distinguished primarily by employment geographies identified in the Economic Opportunities Analysis, although capacity needs for building types with similar site characteristics can be met in other employment geographies.

314. **Policy 6.15, Regionally-competitive development sites.** Improve the competitiveness of vacant and underutilized sites located in Portland's employment areas using incentives, and regional and state assistance for needed infrastructure and site readiness improvements.

The Economic Opportunity Analysis (EOS), adopted June 2016, considers the Central City as the location of two primary types of economic uses: commercial office, and close-in incubator industrial. The EOA found that of the 141,600 new jobs forecasted for the City of Portland by 2035, that 44,741 jobs (32 percent) will be generated in the Central City with 34,124 assigned to commercial uses, and 19,171 assigned to industrial uses. This forecast translates into a needed capacity of 60 acres of commercially zoned land, and 90 acres of industrial zoned land.

As for commercial land, the analysis found the Central City has 201-acre supply of land for these uses, or an excess capacity of 141 acres. Conversely, the same analysis found that there is a demand for 90 acres of industrial zoned land capacity, but only 65 acres of supply available for the industrial uses allowed in the Central City. This means the CC2035 Plan needed to develop a means to create additional capacity for close-in incubator industrial uses. As the ability to create new industrial supply in the land locked urban center was not a possibility, the only option was to incent ways to encourage denser, vertical industrial prototypes.

The primary two methods used by CC2035 to achieve this is by expanding the acreage where industrial office uses may be sited, and offering development incentives to create more industrial office uses when traditional industrial uses are located on the ground floor of industrial office projects. Thus, the plan modifies the use allowances for the IG1 (General Industrial 1) zone to include industrial office uses up to a maximum of 3:1 FAR per site in the Central Eastside District. This expands the ability to do such uses from a previous maximum of 60,000 sq. ft. per site, and from a subarea of only 48 acres to over 240 acres of IG1 zoned land. These new use allowances for the Central Eastside are intended to create much of the industrial demand noted by the EOA. The created capacity, as well as the untapped capacity of the Lower Albina District will allow the demand for close-in industrial uses to be met by the year 2035.

Further, the plan proposes freight and other infrastructure investments, as additional strategies to increase the density of jobs in both industrial districts to ensure the demand for industrial jobs is met and possibly exceeded, consistent with Policies 6.13 and 6.15.

315. **Policy 6.16, Regulatory climate.** Improve development review processes and regulations to encourage predictability and support local and equitable employment growth and encourage business retention, including:

- 316. **6.16.a,** Assess and understand cumulative regulatory costs to promote Portland’s financial competitiveness with other comparable cities.
- 317. **6.16.b,** Promote certainty for new development through appropriate allowed uses and “clear and objective” standards to permit typical development types without a discretionary review.
- 318. **6.16.c,** Allow discretionary-review to facilitate flexible and innovative approaches to meet requirements.
- 319. **6.16.d,** Design and monitor development review processes to avoid unnecessary delays.
- 320. **6.16.e,** Promote cost effective compliance with federal and state mandates, productive intergovernmental coordination, and efficient, well-coordinated development review and permitting procedures.

The Central City 2035 Plan includes numerous Zoning Code amendments that will provide more certainty for development proposals, while reducing the cost and time to review uses. For instance, as noted above, the ability to develop Industrial Office uses in the Central Eastside was once set at a maximum of 60,000 sq. ft. per site; however, there exists a demand to create much more of this use in the district, which previously was only possible through an uncertain, costly, and long conditional use review. CC2035 removes these barriers by increasing the amount of floor area that can be created for this use by-right. The plan also results in similar code amendments that simplify the review process for other land uses, and parking, throughout the Central City.

The plan further contains actions directing a review and amendments to the discretionary design review process applicable to most development in the Central City, to streamline and simplify the process currently in effect. These and other elements of the plan respond to the various objectives of Policy 6.16. Additional information regarding how the plan improves the conditions that affected under-utilized and vacant sites can be found under the “Goal 9, Economic Development” section of this findings report.

- 321. **Policy 6.17, Short-term land supply.** Provide for a competitive supply of development-ready sites with different site sizes and types, to meet five-year demand for employment growth in the Central City, industrial areas, campus institutions, and neighborhood business districts.

CC2035 contains new use allowance for industrial areas in the Central Eastside that will allow higher-density industrial uses to location throughout the district. Then plan also includes zone changes to some under-performing industrial sites located at transit station areas from low density light industrial zoning to high density, mixed-use employment zoning to increase employment growth. Analysis conducted in support of the 2035 Comprehensive Plan and CC2035 Plan (see “Goal 9, Economic Development” section of this findings report), demonstrated how these elements of the plan increase the acreage available for employment in the Central City.

- 322. **Policy 6.19, Corporate headquarters.** Provide land opportunities for development of corporate headquarters campuses in locations with suitable transportation facilities.

The mixed-use and industrial zoning found in the Central City allows for the siting of corporate headquarters, and over the last few years the number of headquarters in the city center has grown substantially. These businesses are served by numerous public and private assets attractive to employers and employees alike, including access to a diverse multimodal transportation network that connects the Central City to the regional, Oregon and Washington, and points beyond.

Traded sector competitiveness

323. **Policy 6.20, Traded sector competitiveness.** Align plans and investments with efforts to improve the city and regional business environment for traded sector and export growth. Participate in regional and statewide initiatives.
324. **Policy 6.21, Traded sector diversity.** Encourage partnerships to foster the growth, small business vitality, and diversity of traded sectors.
325. **Policy 6.22, Clusters.** Align plans and investments with efforts that direct strategic business development resources to enhance the competitiveness of businesses in traded sector clusters.

CC2035 has many elements that will strengthen the ability to retain and expanded traded sector businesses in the Central City. These include expanding the use allowances in the industrial districts to include a suite of new emerging industrial sectors previously prohibited from locating in close-in industrial areas. The plan also increases the FAR allowances for these and commercial office uses, and proposes a series of infrastructure and strategic investments that will benefit traded sector businesses.

326. **Policy 6.23, Trade and freight hub.** Encourage investment in transportation systems and services that will retain and expand Portland's competitive position as a West Coast trade gateway and freight distribution hub.

CC2035 strengthens classifications in the Transportation System Plan (TSP) regarding freight mobility and proposes system enhancements, including new traffic signals and a freight couplet, intended to improve freight operations in the Central City.

Further, CC2035 policies 3.1 and 3.2 address the Central City as a regional hub. In addition, policies 3.LA-2 and 3.CE-2 emphasize freight movement and access improvements in Lower Albina and the Central Eastside. There are also several freight-specific TSP projects and studies that will increase and protect freight movement and the Central City's role as a multimodal system and hub. Freight district and freight street classifications in the TSP also address this policy. Major freight-related projects in CC2035 include the Broadway/Weidler (Rose Quarter) Interchange Project (now an adopted element of the City's TSP), Central Eastside Access and Circulation, N River St Reconstruction, Yamhill & Water Traffic Improvements, I-405/Glisan Traffic Improvements, SW Broadway Traffic Improvements, and Southern Triangle Access Improvements.

327. **Policy 6.24, Traded sector land supply.** Foster traded sector retention, growth, and competitive advantages in industrial districts and the Central City. Recognize the concentration of traded-sector businesses in these districts.

The Central City has a concentration of traded sector businesses, and CC2035 maintains and expands the capacity of these businesses in the district by expanding zoning that allows employment, increases FAR allowances in areas targeted for employment growth, and expands the range of industrial uses allowed in the city center, consistent with Policy 6.24.

328. **Policy 6.26, Business opportunities in urban innovation.** Strive to have Portland's built environment, businesses, and infrastructure systems showcase examples of best practices of innovation and sustainability.

The Central City currently is home to many engineering, architectural, and development firms that have pioneered sustainable practices in the built environment, both for the public and private development. This work has also translated into the creation of many LEED certified buildings, district energy facilities, green infrastructure investments, and an expansive and growing active

transportation system. CC2035 continues this positive trend with a policy framework that supports further public investment in these areas, and proposes an expansion of green infrastructure throughout the Central City. Lastly, the plan includes Zoning Code amendments that make previous incentives to develop ecoroofs or pursue green building certification into requirements for most development and redevelopment projects. These plan elements are consistent with Policy 6.26.

Equitable household prosperity

- 329. **Policy 6.27, Income self-sufficiency.** Expand access to self-sufficient wage levels and career ladders for low-income people by maintaining an adequate and viable supply of employment land and public facilities to support and expand opportunities in Portland for middle- and high-wage jobs that do not require a 4-year college degree.
- 330. **6.27.a,** Support the role of industrial districts as a leading source of middle-wage jobs that do not require a 4-year college degree and as a major source of wage-disparity reduction for under-served and under-represented communities.
- 331. **6.27.b,** Evaluate and limit negative impacts of plans and investments on middle and high wage job creation and retention.
- 332. **Policy 6.29, Poverty reduction.** Encourage investment in, and alignment of, poverty-reduction efforts that address economic development, land use, transportation, housing, social services, public health, community development, and workforce development.

Consistent with Policies 6.27 and 6.29, CC2035 strategically maintains the industrial sanctuary zoning for the Central Eastside and Lower Albina industrial districts, while increasing the diversity of industrial uses allowed in the Central Eastside and offering incentives to create additional capacity for manufacturing, industrial service, wholesale sales, and warehouse uses. The plan further promotes expansion of the supply of affordable housing in the Central City, while expanding access to transit to areas outside of the city center where lower wage and lesser skill laborers may live. These elements of the plan are specifically intended to ensure that the Central City remains and expands its availability to workers at all skill and income levels.

Central City

- 333. **Policy 6.33, Central City.** Improve the Central City's regional share of employment and continue its growth as the unique center of both the city and the region for innovation and exchange through commerce, employment, arts, culture, entertainment, tourism, education, and government.

CC2035 is consistent with Policy 6.33 in several ways. The plan expands the amount of mixed-use zoning in the Central City, and increases FAR ratios in areas targeted for substantial employment growth. The plan expands protection of industrial zoned lands while allowing for increase employment densities in industrial districts. The plan also promotes public investment in new infrastructure and strategies intended to support the role of the Central City as the regional center for employment, governance, education, tourism, and arts, culture, and entertainment.

- 334. **Policy 6.34, Central City industrial districts.** Protect and facilitate the long-term success of Central City industrial districts, while supporting their evolution into places with a broad mix of businesses with high employment densities.

As noted below, CC2035 implements the objectives of Policy 6.34 through new use allowances that expand the diversity of industrial uses allowed in the Central Eastside, that promote higher density industrial uses, and incent the development of buildings that incorporate traditional and emerging industrial sectors. The plan also includes Zoning Code amendments that reduce the total amount of

non-industrial uses, such as Retail Sales and Service and Traditional Office uses allowed in the IG1 zone, the predominate industrial zone within the Central City. The plan lastly maintains existing prohibitions regarding the development of housing within industrial zoned land.

335. **Policy 6.35, Innovation districts.** Provide for expanding campus institutions in the Central City and Marquam Hill, and encourage business development that builds on their research and development strengths.

CC2035 responds to Policy 6.35 by increasing the maximum height and FAR allowances in and around PSU and the OMSI station area, maintains high density development allowances in South Waterfront where OHSU is expanding operations from the Marquam Hill campus to the new Schnitzer Campus, and through higher density industrial use provisions applicable to sites across the Tillikum Bridge in the Central Eastside.

Industrial and employment districts

336. **Policy 6.36, Industrial land.** Provide industrial land that encourages industrial business retention, growth, and traded sector competitiveness as a West Coast trade and freight hub, a regional center of diverse manufacturing, and a widely-accessible base of family-wage jobs, particularly for under-served and under-represented people.

337. **Policy 6.37, Industrial sanctuaries.** Protect industrial land as industrial sanctuaries identified on the Comprehensive Plan Map primarily for manufacturing and distribution uses and to encourage the growth of industrial activities in the city.

CC2035 maintains over 300 acres of IG1 zoned land, and 15.4 of IH zoned land that is considered prime industrial land. As the IG1 and IH zones are two of the three zones that implement industrial sanctuary policies, and CC2035 strengthens protections of the IG1 zone by reducing the amount of retail and traditional office uses allowed in the IG1 zoned portions of the Central Eastside, the plan is consistent with Policies 6.36 and 6.37.

338. **Policy 6.38, Prime industrial land retention.** Protect the multimodal freight-hub industrial districts at the Portland Harbor, Columbia Corridor, and Brooklyn Yard as prime industrial land that is prioritized for long-term retention.

339. **6.38.a,** Protect prime industrial lands from quasi-judicial Comprehensive Plan Map amendments that convert prime industrial land to non-industrial uses, and consider the potential for other map amendments to otherwise diminish the economic competitiveness or viability of prime industrial land.

340. **6.38.b,** Limit conversion of prime industrial land through land use plans, regulations, or public land acquisition for non-industrial uses, especially land that can be used by river-dependent and river-related industrial uses.

341. **6.38.c,** Limit regulatory impacts on the capacity, affordability, and viability of industrial uses in the prime industrial area while ensuring environmental resources are also protected.

342. **6.38.d,** Strive to offset the reduction of development capacity as needed, with additional prime industrial capacity that includes consideration of comparable site characteristics. Offsets may include but are not limited to additional brownfield remediation, industrial use intensification, strategic investments, and other innovative tools and partnerships that increase industrial utilization of industrial land.

343. **6.38.e,** Protect prime industrial land for siting of parks, schools, large-format places of

assembly, and large-format retail sales.

344. **6.38.f, Promote efficient use of freight hub infrastructure and prime industrial land by limiting non-industrial uses that do not need to be in the prime industrial area.**

The Central City contains a limited amount of prime industrial land, all of which is in the Lower Albina District surrounding the Albina Rail Yard. These lands have a stronger relationship with the Portland North Harbor area than the Central City, and thus, CC2035 preserves these lands for prime industrial uses by proposing no amendments to the protections, in terms of use allowance and development standards, that have been applicable to these lands prior to the adoption of CC2035.

345. **Policy 6.41, Multimodal freight corridors.** Encourage freight-oriented industrial development to locate where it can maximize the use of and support reinvestment in multimodal freight corridors.

The Central Eastside and Lower Albina Districts within the Central City are heavily reliant on freight to deliver supplies and distribute product made in these areas. Further, as major center, most uses in the Central City depend on freight deliveries be they commercial, industrial, residential, or institutional uses. Thus, CC2035 continues to support freight mobility in the city center by designating new freight routes, proposing new freight oriented infrastructure, and proposing strategies to enhance freight movement while expanding active transportation options, consistent with Policy 6.41.

346. **Policy 6.43, Dispersed employment areas.** Provide small, dispersed employment areas for a flexible and affordable mix of office, creative services, small-scale manufacturing, traded sector and distribution, and other small-format light industrial and commercial uses with access to nearby freeways or truck streets.

347. **Policy 6.44, Industrial land use intensification.** Encourage reinvestment in, and intensification of, industrial land use, as measured by output and throughput per acre.

As noted in the "Goal 9, Economic Development" section of this findings report, the recently adopted EOA identified a deficit of industrial land capacity necessary to meet projected demand. Thus, CC2035 includes measures that allow for denser industrial development, and a diversification of the types of industrial uses allowed in the Central City to meet and exceed the growth projected by 2035, consistent with Policy 6.44.

348. **Policy 6.46, Impact analysis.** Evaluate and monitor the impacts on industrial land capacity that may result from land use plans, regulations, public land acquisition, public facility development, and other public actions to protect and preserve existing industrial lands.

CC2035 contains actions calling for additional studies and analysis regarding jobs development and creation of an Innovation Quadrant in the Central Eastside. These actions will ensure that additional analysis of how CC2035 elements are affecting industry in the district will be conducted consistent with this policy. Further, this plan implements the Central City components of *the 2035 Comprehensive Plan*, and the development of that plan included numerous studies of industrial land capacity (see Findings for Statewide Planning Goal 9, Economic Development, earlier in these findings).

349. **Policy 6.47, Clean, safe, and green.** Encourage improvements to the cleanliness, safety, and ecological performance of industrial development and freight corridors by facilitating adoption of market feasible new technology and design.

CC2035 includes new requirements that new development construct ecoroofs and pursue green building certification, even in industrial districts. The plan also includes strategies to expand the use

of green infrastructure, and improve freight mobility by reducing cueing at intersections, consistent with the objectives of Policy 6.47.

350. **Policy 6.52, Residential and commercial reuse.** Facilitate compatible industrial or employment redevelopment on residential or commercial sites that become available for reuse if the site is in or near prime industrial areas, and near a freeway or on a freight street.

CC2035 is consistent with the directive of this policy as the zoning pattern implemented by the plan allows for employment and industrial uses on EX zoned lands where such uses occur, and because the EX zone is the primary mixed-use zone used within and adjacent to industrial districts in the Central City.

351. **Policy 6.55, Neighborhood park use.** Allow neighborhood park development within industrial zones where needed to provide adequate park service within one-half mile of every resident.

The existing zoning pattern in the Central City allows for the development of public parks and recreational assets within the Lower Albina and Central Eastside districts, and this pattern is maintained by CC2035. Further, the Plan and quadrant plans contain actions seeking opportunities to locate such facilities in and near these districts as they continue to densify through the life of the plan.

Campus institutions

352. **Policy 6.56, Campus institutions.** Provide for the stability and growth of Portland's major campus institutions as essential service providers, centers of innovation, workforce development resources, and major employers.

353. **Policy 6.57, Campus land use.** Provide for major campus institutions as a type of employment land, allowing uses typically associated with health care and higher education institutions. Coordinate with institutions in changing campus zoning to provide land supply that is practical for development and intended uses.

Portland State University and Oregon Health Sciences University have institutional campuses in the Central City. Additionally, Portland Community College, Pacific Northwest College of Art, the University of Oregon, and other colleges have facilities in the city center, as is Portland Public School's Lincoln High School campus. CC2035 contains some minor zoning amendments that will ensure these facilities are within mixed-use employment or commercial zones, where they are an allowed use. The plan also proposes continued work on the Innovation Quadrant, which seeks to leverage the educational training, research, and skill training that occurs at these institutions to create new jobs, job sectors, and businesses in the Central City, consistent with Policies 6.56 and 6.57.

354. **Policy 6.61, Satellite facilities.** Encourage opportunities for expansion of uses, not integral to campus functions, to locate in centers and corridors to support their economic vitality.

Portland Community College (PCC) and the University of Oregon (U of O) have satellite facilities in the Central City, both of which are located there as the programs they contain relate to skills and job sectors important to the economy of the city center. As noted above, the plan results in minor zoning amendments, that in the case of PCC allows it to enjoy the same zoning as U of O, whereby both are uses allowed outright, and thus have additional capacity to grow and densify within the Central City, consistent with this policy.

Neighborhood business districts

355. **Policy 6.62, Neighborhood business districts.** Provide for the growth, economic equity, and vitality of neighborhood business districts.

356. **Policy 6.63, District function.** Enhance the function of neighborhood business districts as a foundation of neighborhood livability.

The Central City Plan District is home to a few business districts and associations, including the Portland Business Alliance (PBA), Central Eastside Industrial Council (CEIC), Pearl District Business Association (PDBA). CC2035 is consistent with Policies 6.62 and 6.63 as the plan includes several actions that include these organizations as implementers and calls for additional strategies and partnerships between the City and these organizations in implementing different elements of the plan that address transportation and economic development.

357. **Policy 6.64, Small, independent businesses.** Facilitate the retention and growth of small and locally-owned businesses.

CC2035 includes actions calling for additional strategy development and new partnerships intended to support the retention of small incubator businesses in the Central Eastside, as well as strategies to expand the growth of such industries in the Central Eastside and Lower Albina industrial districts, consistent with this policy directive.

358. **Policy 6.67, Retail development.** Provide for a competitive supply of retail sites that support the wide range of consumer needs for convenience, affordability, accessibility, and diversity of goods and services, especially in under-served areas of Portland.

The mixed-use and industrial zoning found in the Central City allows for Retail Sales and Service uses outright. These allowances ensure that neighborhood as well as regional serving retail uses can locate throughout most of the Central City serving businesses, employees, residents, and visitors alike, consistent with Policy 6.67.

359. **Policy 6.70, Involuntary commercial displacement.** Evaluate plans and investments for their impact on existing businesses.

360. **6.70.a, Limit involuntary commercial displacement in areas at risk of gentrification, and incorporate tools to reduce the cost burden of rapid neighborhood change on small business owners vulnerable to displacement.**

361. **6.70.b, Encourage the preservation and creation of affordable neighborhood commercial space to support a broad range of small business owners.**

The objectives of this policy are perhaps most applicable to the close-in industrial districts of the Central City where land values and lease rates for commercial uses tend to be lower than in the mixed-use zoned portions of the Central City. CC2035 addresses these objectives by maintaining the zoning that implements the industrial sanctuary policies of the 2035 Comprehensive Plan. CC2035 also increases the amount of commercial development allowed in the Central Eastside by right, which may increase the supply of space available for such uses, and thus prevent excessive lease rate increases and displacement of commercial businesses.

362. **Policy 6.71, Temporary and informal markets and structures.** Acknowledge and support the role that temporary markets (farmer's markets, craft markets, flea markets, etc.) and other temporary or mobile-vending structures play in enabling startup business activity. Also, acknowledge that temporary uses may ultimately be replaced by more permanent development and uses.

CC2035 maintains and expands a zoning pattern where the uses mentioned by Policy 6.71 are typically allowed by right. The plan also includes new use allowances applicable to the Open Space zone, whereby a limited amount of retail activity is allowed. These elements of the plan ensure consistency with Policy 6.71.

363. **Policy 6.73, Centers.** Encourage concentrations of commercial services and employment opportunities in centers.
364. **6.73.a,** Encourage a broad range of neighborhood commercial services in centers to help residents and others in the area meet daily needs and/or serve as neighborhood gathering places.
365. **6.73.b,** Encourage the retention and further development of grocery stores and local markets as essential elements of centers.
366. **6.73.c,** Enhance opportunities for services and activities in centers that are responsive to the needs of the populations and cultural groups of the surrounding area.
367. **6.73.d,** Require ground-level building spaces in core areas of centers accommodate commercial or other street-activating uses and services.
368. **6.73.e,** Encourage employment opportunities as a key function of centers, including connections between centers, institutions, and other major employers to reinforce their roles as vibrant centers of activity.

CC2035 addresses the objectives of Policy 6.73 largely by maintaining and expanding the area of the Central City zoned for mixed-use development. The plan also refines development standards that require ground floor activation of buildings with uses, including commercial retail and office uses. These elements and the existing flexibility of Central City mixed-use zones ensure that the objectives of this policy will be met by the plan.

Environmental and Watershed Health: Goals

369. **Goal 7.A: Climate.** Carbon emissions are reduced to 50 percent below 1990 levels by 2035.

The amendments are consistent with this policy in the following ways:

- A. The Health and Environment Goal and related policies and actions provide for resilience to climate change impacts and natural hazards including flooding and earthquakes, through planning, design, education and implementation of green infrastructure and infrastructure retrofits.
- B. The *Willamette River Central Reach Natural Resources Protection Plan* (NRPP) identifies features and functions provided by the existing natural resources in the Central City. The NRPP evaluates the functions provided by those features in Chapter 4, Analysis of Protection Options and General Recommendations. The evaluation includes an assessment of how the natural resources improve the resiliency of the Central City and help manage risks, such as flooding and heat island, associated with Climate Change. Chapter 5, Results, includes recommendations for maintaining natural resource features and functions. Zoning code 33.475, River Overlay Zones, and 33.865, River Review, will protect and conserve the Willamette River, floodplains and riparian areas by limiting development within natural resource areas, encouraging environmentally sensitive development and requiring mitigation when development has a

detrimental impact on the resources. The mitigation requirement will ensure that overall there is no net loss of natural resources features or functions in the Central City.

- C. The River setback is increased. The setback requires that development that is not river-dependent or river-related be setback 50 feet from the top of bank of the Willamette River. There is a landscaping requirement for the setback that requires additional native plants to be planted. Testimony was received that both supported and opposed the expanded setback. City Council finds that the expansion is appropriate because the setback and landscaping retain space that mitigates the risks associated with river flooding. Landscaping also sequesters carbon, reduces the heat island effect and helps improve air quality.
- D. Some street setback requirements in the Central City are updated to allow for additional space between buildings and the public rights-of-way for installation of vegetation including trees. Increasing vegetation coverage and tree canopy in the Central City will sequester carbon, improve air quality and reduce heat island impacts.
- E. A new standard for the Central City requires that new buildings over 20,000 square feet in net building area must install an ecoroof over 60% of the roof area. Ecoroofs provide multiple functions including sequestering carbon and reducing heat island impacts.
- F. The major trail alignment and completion of the Greenway Trail along the Willamette River will reduce carbon emissions by establishing a public trail that serves as transportation corridors for pedestrians and cyclists and connecting people throughout the Central City and to adjacent neighborhoods. Increasing the number of trips conducted by bike or walking will reduce vehicle miles traveled and reduce air pollution.
- G. The Green Loop is a multimodal transportation corridor that will encourage trips conducted within the Central City to be by bike or walking, thus reducing vehicle miles traveled and reduce air pollution.
- H. The new Low-Carbon Building standard, Section 33.510.244, requires that green building certification be pursued for most new development in the Central City, and those that become certified or follow green building design and programming criteria, will result in reductions of carbon as compared to more traditional building methods.

370. Goal 7.B: Healthy watersheds and environment. Ecosystem services and ecosystem functions are maintained and watershed conditions have improved over time, supporting public health and safety, environmental quality, fish and wildlife, cultural values, economic prosperity, and the intrinsic value of nature.

The amendments are consistent with this policy in the following ways:

- A. The *Willamette River Central Reach Natural Resources Protection Plan* (NRPP) identifies features and functions provided by the existing natural resources in the Central City. The NRPP evaluates the services (e.g., environmental quality, fish and wildlife, public health, etc.) provided by those features in Chapter 4, Analysis of Protection Options and General Recommendations. The evaluation includes assessment of the contributions of services to public and ecological health and safety, cultural values and economic prosperity. Chapter 5, Results, includes recommendations for maintaining natural resource features and functions. Zoning code 33.475, River Overlay Zones, and 33.865, River Review, will protect and conserve the identified resource features and functions by limiting development within natural resource areas, encouraging environmentally sensitive development and requiring mitigation when

development has a detrimental impact on the resources. The mitigation requirement will ensure that overall there is no net loss of natural resource functions in the Central City.

- B. The River setback is increased. The setback requires that development that is not river-dependent or river-related be setback 50 feet from the top of bank of the Willamette River. Testimony was received that both supported and opposed the expanded setback. City Council finds that the expansion is appropriate because the setback is intended to preserve the in-water habitat, riverbanks (flood area, soils and vegetation) and riparian area (flood area, soils and vegetation) for enhancement of natural resource features and functions and for public uses such as a major public trail, scenic viewpoints and education.
- C. The regulations for removal and remediation of hazardous substances will ensure that the cleanup actions will occur in a way that improve environmental quality.
- D. Some street setback requirements in the Central City are updated to allow for additional space between buildings and the public right-of-way for installation of vegetation including trees. Increasing vegetation coverage and tree canopy in the Central City will improve environmental quality and public health.
- E. A new standard for the Central City requires that new buildings over 20,000 square feet in net building area must install an ecoroof over 60% of the roof area. Ecoroofs improve air and water quality and provide habitat for avian wildlife species.

371. Goal 7.C: Resilience. Portland's built and natural environments function in complementary ways and are resilient in the face of climate change and natural hazards.

The amendments are consistent with this goal because the amendments by:

- A. Applying a new River Environmental overlay zone to significant natural resources including rivers, streams, flood areas and riparian areas. The River Environmental overlay zone regulations will limit or strictly limit development, encourage environmentally sensitive development that has fewer impacts on natural resource function than traditional development and will require mitigation for unavoidable adverse impacts on significant natural resources;
- B. Retaining the river setback in the River General overlay zone, which requires all non-water-dependent and non-water-related development to be setback from the Willamette River. The setback is increasing to 50 feet from the top of bank of the river. **Testimony was received that both supported and opposed the expanded setback. City Council finds that the expansion is appropriate because** the purpose of the river setback is to reserve space for the conservation and enhancement of natural resources and to provide the opportunity for public access where appropriate;
- C. Update the River General overlay zone landscaping setback to require a minimum quantity and diversity of plantings on the riverbank and within the riparian area; and
- D. Maintaining regulations that require balanced cut and fill within areas subject to flooding.

372. Goal 7.D: Environmental equity. All Portlanders have access to clean air and water, can experience nature in their daily lives, and benefit from development designed to lessen the impacts of natural hazards and environmental contamination.

The amendments are consistent with this goal in the following ways:

- A. The *Willamette River Central Reach Natural Resources Protection Plan* (NRPP) evaluates the ecosystem services (e.g., water quality, flood management, public health, etc.) provided by natural resource features. Zoning code 33.475, River Overlay Zones, and 33.865, River Review, will protect and conserve the identified resource features and functions by limiting development within natural resource areas, encouraging environmentally sensitive development and requiring mitigation when development has a detrimental impact on the resources. The Willamette River is a regional natural resource that serves all of Portland. Ecological health is important to everyone who lives, works and recreates along and in the river. Protecting and enhancing the Willamette River and riparian areas contributes towards environmental equity in Portland.
- B. The city's requirements regarding clean-up of hazardous substances in the Central City have been clarified to ensure that cleanup occurs in a way that meets City goals and policies including goals related to the conservation of existing natural resources including water quality.
- C. Existing regulations though City Code Title 24, Building Regulations, are applicable to future development. These regulations require review of impacts within the river and floodplain including a test of no net rise and balancing of fill placed in the floodplain with an equal cut. These regulations ensure that future development will not increase risk to people or property from flooding.
- D. The major trail alignment and completion of the Greenway Trail along the Willamette River and the proposed Green Loop will improve air quality in the Central City by establishing a public trail that serves as transportation corridors for pedestrians and cyclists and connects people throughout the Central City and to adjacent neighborhoods.

373. Goal 7.E: Community stewardship. Portlanders actively participate in efforts to maintain and improve the environment, including watershed health.

The amendments are consistent with this goal in the following ways:

- A. CC2035 includes multiple goals, policies and actions that foster community stewardship. For example, additional residential and commercial development is encouraged along the frontage streets of the Willamette River to bring more people to the river's edge.
- B. The major trail alignment and completion of the Greenway Trail along the Willamette River and the proposed Green Loop will improve air quality by establishing a public trail that serves as a transportation corridor for pedestrians and cyclists and connects people throughout the Central City and to adjacent neighborhoods.
- C. Scenic viewpoints are identified along the Greenway Trail and the zoning code requires that when the trail is developed, formal viewpoints also be constructed. Scenic viewpoints offer places for people to see the Willamette River, riverbanks and city skyline. This will foster community stewardship.

Environmental and Watershed Health: Policies

Improving environmental quality and resilience

374. Policy 7.1, Environmental quality. Protect or support efforts to protect air, water, and soil quality, and associated benefits to public and ecological health and safety, through plans and investments.

The amendments are consistent with this policy in the following ways:

- A. The *Willamette River Central Reach Natural Resources Protection Plan* (NRPP) identifies features and functions provided by the existing natural resources in the Central City. The NRPP evaluates the services (e.g., water quality, air quality, heat island, public health, etc.) provided by those features in Chapter 4, Analysis of Protection Options and General Recommendations. The evaluation includes assessment of the contributions of services to public and ecological health and safety. Chapter 5, Results, includes recommendations for maintaining natural resource features and functions. Zoning code 33.475, River Overlay Zones, and 33.865, River Review, will protect and conserve the identified resource features and functions by limiting development within natural resource areas, encouraging environmentally sensitive development and requiring mitigation when development has a detrimental impact on the resources. The mitigation requirement will ensure that overall there is no net loss of natural resource functions in the Central City.
- B. The River setback is increased. The setback requires that development that is not river-dependent or river-related be setback 50 feet from the top of bank of the Willamette River. Testimony was received that both supported and opposed the expanded setback. City Council finds that the expansion is appropriate because the setback is intended to preserve the shallow water habitat, riverbanks (flood area, soils and vegetation) and riparian area (flood area, soils and vegetation) for enhancement of natural resource feature and functions and for public uses such as a major public trail and scenic viewpoints.
- C. The regulations for removal and remediation of hazardous substances ensure that the cleanup actions will occur in a way that improve environmental quality.
- D. Some street setback requirements in the Central City are updated to allow for additional space between buildings and the public rights-of-way for installation of vegetation including trees. Increasing vegetation coverage and tree canopy in the Central City will enhance air, water and soil quality and improve public and ecological health.
- E. A new standard for the Central City requires that new buildings over 20,000 square feet in net building area must install an ecoroof over 60% of the roof area. Ecoroofs improve air and water quality.
- F. The major trail alignment and completion of the Greenway Trail along the Willamette River and the proposed Green Loop will improve air quality by establishing a public trail that serves as a transportation corridor for pedestrians and cyclists and connects people throughout the Central City and to adjacent neighborhoods.

375. Policy 7.2, Environmental equity. Prevent or reduce adverse environment-related disparities affecting under-served and under-represented communities through plans and investments. This includes addressing disparities relating to air and water quality, natural hazards, contamination, climate change, and access to nature.

The amendments are consistent with this goal in the following ways:

- A. The *Willamette River Central Reach Natural Resources Protection Plan* (NRPP) evaluates the ecosystem services (e.g., water quality, flood management, public health, etc.) provided by natural resource features. Zoning code 33.475, River Overlay Zones, and 33.865, River Review, will protect and conserve the identified resource features and functions by limiting development within natural resource areas, encouraging environmentally sensitive development and requiring mitigation when development has a detrimental impact on the resources. The Willamette River is a regional natural resource that serves all of Portland.

Ecological health is important to everyone who lives, works and recreates along and in the river. Protecting and enhancing the Willamette River and riparian areas contributes towards environmental equity in Portland.

- B. The city's requirements regarding clean-up of hazardous substances in the Central City have been clarified to ensure that cleanup occurs in a way that meets City goals and policies including goals related to the conservation of existing natural resources including water quality.
- C. Existing regulations though City Code Title 24, Building Regulations, are applicable to future development. These regulations require review of impacts within the river and floodplain including a test of no net rise and balancing of fill placed in the floodplain with an equal cut. These regulations ensure that future development will not increase risk to people or property from flooding.
- D. The major trail alignment and completion of the Greenway Trail along the Willamette River and the proposed Green Loop will improve air quality in the Central City by establishing a public trail that serve as a transportation corridor for pedestrians and cyclists and connects people throughout the Central City and to adjacent neighborhoods.

376. Policy 7.3, Ecosystem services. Consider the benefits provided by healthy ecosystems that contribute to the livability and economic health of the city.

The amendments are consistent with this policy in the following ways:

- A. The *Willamette River Central Reach Natural Resources Protection Plan* (NRPP) identifies features and functions provided by the existing natural resources in the Central City. The NRPP evaluates the ecosystem services provided by those features in Chapter 4, Analysis of Protection Options and General Recommendations. The evaluation includes assessment of the contributions of ecosystem services to livability and economic health of the Central City. Chapter 5, Results, includes recommendations for maintaining natural resource features and functions. Zoning code 33.475, River Overlay Zones, and 33.865, River Review, will protect and conserve the identified resources and ecosystem services by limiting development within natural resource areas, encouraging environmentally sensitive development and requiring mitigation when development has a detrimental impact on the resources. The mitigation requirement will ensure that overall there is no net loss of ecosystem functions in the Central City.
- B. The River setback is increased. The setback requires that development that is not river-dependent or river-related be setback 50 feet from the top of bank of the Willamette River. Testimony was received that both supported and opposed the expanded setback. City Council finds that the expansion is appropriate because the setback is intended to preserve the shallow water habitat, riverbank and riparian area for enhancement of natural resources and ecosystem services and for public uses such as a major public trail and scenic viewpoints.
- C. The regulations for removal and remediation of hazardous substances ensure that the cleanup actions will occur in a way that meets the City's policies including protecting and enhancing natural resources and ecosystem services.
- D. Some street setback requirements in the Central City are updated to allow for additional space between buildings and the public rights-of-way for installation of vegetation including trees. Increasing vegetation coverage and tree canopy in the Central City will enhance ecosystem service and improve stormwater management and reduce heat island impacts.

- E. A new standard for the Central City requires that new buildings over 20,000 square feet in net building area must install an ecoroof over 60% of the roof area. Ecoroofs provide multiple ecosystem services including stormwater management, reducing heat island impacts and providing habitat for avian species. Ecoroofs can be designed as open space areas to improve livability.
- F. The major trail alignment and completion of the Greenway Trail along the Willamette River and the proposed Green Loop will improve air quality by establishing a public trail that serve as transportation corridors for pedestrians and cyclists and connects people throughout the Central City and to adjacent neighborhoods.

377. **Policy 7.4, Climate change.** Update and implement strategies to reduce carbon emissions and impacts, and increase resilience through plans and investments and public education.

378. **7.4.a, Carbon sequestration.** Enhance the capacity of Portland's urban forest, soils, wetlands, and other water bodies to serve as carbon reserves.

379. **7.4.b, Climate adaptation and resilience.** Enhance the ability of rivers, streams, wetlands, floodplains, urban forest, habitats, and wildlife to limit and adapt to climate-exacerbated flooding, landslides, wildfire, and urban heat island effects.

The amendments are consistent with this policy in the following ways:

- A. The Health and Environment Goal and related policies and actions provide for resilience to climate change impacts and natural hazards including flooding and earthquakes, through planning, design, education and implementation of green infrastructure and infrastructure retrofits.
- B. The *Willamette River Central Reach Natural Resources Protection Plan* (NRPP) identifies features and functions provided by the existing natural resources in the Central City. The NRPP evaluates the functions provided by those features in Chapter 4, Analysis of Protection Options and General Recommendations. The evaluation includes an assessment how the natural resources improve the resiliency of the Central City and help manage risks, such as flooding and heat island, associated with Climate Change. Chapter 5, Results, includes recommendations for maintaining natural resource features and functions. Zoning code 33.475, River Overlay Zones, and 33.865, River Review, will protect and conserve the Willamette River, floodplains and riparian areas by limiting development within natural resource areas, encouraging environmentally sensitive development and requiring mitigation when development has a detrimental impact on the resources. The mitigation requirement will ensure that overall there is no net loss of natural resource features or functions in the Central City.
- C. The River setback is increased. The setback requires that development that is not river-dependent or river-related be setback 50 feet from the top of bank of the Willamette River. There is a landscaping requirement for the setback that requires additional native plants to be planted. Testimony was received that supported and opposed the expanded setback. City Council finds that the expansion is appropriate because the setback and landscaping retain space that mitigates the risks associated with river flooding. Council also finds that landscaping sequesters carbon, reduces the heat island effect and helps improve air quality.
- D. Some street setback requirements in the Central City are updated to allow for additional space between buildings and the public rights-of-way for installation of vegetation including trees. Increasing vegetation coverage and tree canopy in the Central City will sequester carbon, improve air quality and reduce heat island impacts.

- E. A new standard for the Central City requires that new buildings over 20,000 square feet in net building area must install an ecoroof over 60% of the roof area. Ecoroofs provide multiple functions including sequestering carbon and reducing heat island impacts.
- F. The major trail alignment and completion of the Greenway Trail along the Willamette River will reduce carbon emissions by establishing a public trail that serves as a transportation corridor for pedestrians and cyclists and connecting people throughout the Central City and to adjacent neighborhoods. Increasing the number of trips conducted by bike or walking will reduce vehicle miles traveled and reduce air pollution.
- G. The Green Loop is a multimodal transportation corridor that will encourage trips conducted within the Central City to be by bike or walking, thus reducing vehicle miles traveled and reduce air pollution.

380. Policy 7.5, Air quality. Improve, or support efforts to improve, air quality through plans and investments, including reducing exposure to air toxics, criteria pollutants, and urban heat island effects. Consider the impacts of air quality on the health of all Portlanders.

The amendments are consistent with this policy in the following ways:

- A. The major trail alignment and completion of the Greenway Trail along the Willamette River will reduce air pollution by establishing a public trail that serves as a transportation corridor for pedestrians and cyclists and connect people throughout the Central City and to adjacent neighborhoods. Increasing the number of trips conducted by bike or walking will reduce vehicle miles traveled and reduce air pollution.
- B. The Green Loop is a multimodal transportation corridor that will encourage trips conducted within the Central City to be by bike or walking, thus reducing vehicle miles traveled and reduce air pollution.
- C. Some street setback requirements in the Central City are updated to allow for additional space between buildings and the public rights-of-way for installation of vegetation including trees. Increasing vegetation coverage and tree canopy in the Central City will improve air quality and reduce heat island impacts.
- D. A new standard for the Central City requires that new buildings over 20,000 square feet in net building area must install an ecoroof over 60% of the roof area. Ecoroofs provide multiple functions including sequestering carbon and reducing heat island impacts.
- E. The new River Environmental overlay zone will protect and maintain the Willamette River and vegetated riparian areas. Open water bodies and vegetated riparian corridors cool the air and reduce heat island impacts.

381. Policy 7.6, Hydrology. Through plans and investments, improve or support efforts to improve watershed hydrology to achieve more natural flow and enhance conveyance and storage capacity in rivers, streams, floodplains, wetlands, and aquifers. Minimize impacts from development and associated impervious surfaces, especially in areas with poorly-infiltrating soils and limited public stormwater discharge points, and encourage restoration of degraded hydrologic functions.

The amendments are consistent with this policy in the following ways:

- A. By applying new River Environmental overlay zoning for identified natural resource areas in the Central City, including resources located on the land and in the water, the plan maintains existing the hydrology of the Willamette River. The environmental zoning will protect and

conserve the hydrologic functions by limiting development within natural resource areas, will encourage environmentally sensitive development, and will require mitigation when development has a detrimental impact on the functions and values, including hydrology.

- B. Development that is not river-dependent or river-related is required to setback 50 feet from the top of bank of the Willamette River in the River General overlay zone. Testimony was received that both supported and opposed the expanded setback. City Council finds that the expansion is appropriate because the setback will limit development impacts on the Willamette River.
- C. Actions call for partnerships between local, regional, state and federal regulatory, Sovereign nations, non-profit organization, neighborhoods and property owners. One action is to work with FEMA to address the NOAA Fisheries biological opinion regarding the floodplain development and impacts on critical habitat for species listed under the Endangered Species Act. This will include a remapping of the floodplain in the Central City. Another action is to amend the flood-related regulations and other guidelines to, a) help prevent or minimize the risk of flood damage to new, redeveloped and rehabilitated buildings located in the 100-year floodplain; b) avoid, minimize and mitigate the impacts of such development on floodplain functions; and, c) comply with updated National Flood Insurance Program (NFIP) requirements.
- D. Existing regulations though City Code Title 24, Building Regulations, are also applicable to future development. These regulations require review of impacts within the river and floodplain including a test of no net rise and balancing of fill placed in the floodplain with an equal cut.
- E. Existing regulations including City Zoning Title 10, Erosion Control, and the Stormwater Management Manual are applicable to future development. These regulations will maintain and improve stormwater runoff.

382. Policy 7.7, Water quality. Improve, or support efforts to improve, water quality in rivers, streams, floodplains, groundwater, and wetlands through land use plans and investments, to address water quality issues including toxics, bacteria, temperature, metals, and sediment pollution. Consider the impacts of water quality on the health of all Portlanders.

The amendments are consistent with this policy in the following ways:

- A. By applying new River Environmental overlay zoning for identified natural resource areas in the Central City, including resources located on the land and in the water, water quality of the Willamette River will be maintained and improved. The plan includes a natural resource inventory that identifies riparian resources and functional values. The environmental zoning will protect and conserve the identified resources by limiting development within natural resource areas, will encourage environmentally sensitive development, and will require mitigation when development has a detrimental impact on the functions and values of the identified resource.
- B. The city's requirements regarding clean-up of hazardous substances in the Central City have been clarified to ensure that cleanup occurs in a way that meets City goals and policies including goals related to the conservation of existing natural resources including water quality.
- C. Existing regulations including City Zoning Title 10, Erosion Control, and the Stormwater Management Manual are applicable to future development. These regulations will maintain and improve water quality;
- D. A new standard for the Central City requires that new buildings over 20,000 square feet in net size must install an ecoroof over 60% of the roof area. Ecoroofs provide multiple functions

including sequestering carbon and reducing heat island impacts, while also reducing the flow of stormwater into city systems.

- E. The street setback requirements enacted in some sections of the Central City have been updated to allow for additional space between buildings and the public rights-of-way for installation of vegetation including trees. Increasing vegetation coverage and tree canopy in the Central City will manage stormwater and improve water quality.

383. Policy 7.8, Biodiversity. Strive to achieve and maintain self-sustaining populations of native species, including native plants, native resident and migratory fish and wildlife species, at-risk species, and beneficial insects (such as pollinators) through plans and investments.

The amendments are consistent with this policy in the following ways:

- A. A new River Environmental overlay zone is applied to high and medium ranked natural resources, which includes wildlife habitat and special habitat areas in the *Willamette River Central Reach Natural Resource Protection Plan* (NRPP). The plan includes an updated natural resources inventory that identifies significant features and functions including fish and wildlife habitat. The River Environmental overlay zone regulations will limit or strictly limit development, encourage environmentally sensitive development that has fewer impacts on natural resource functions than traditional development and will require mitigation for unavoidable adverse impacts on significant natural resources;
- B. The river setback in the River General overlay zone is retained. The setback requires all non-water-dependent and non-water-related development to be setback from the Willamette River. The setback is increased to 50 feet from the top of bank of the river. Testimony was received that both supported and opposed the expanded setback. City Council finds that the expansion is appropriate because the purpose of the setback is to reserve space for the conservation and enhancement of fish and wildlife habitat;
- C. The River General overlay zone also includes updates to the landscaping standards that apply within the river setback. The landscaping standard requires a mix of vegetation types and densities including trees, shrubs and ground cover. The purpose of the landscaping standard is to enhance the quality, quantity and diversity of vegetation in the riparian area. Diverse vegetation within the riparian area will support a diversity of fish and wildlife.
- D. The regulations that apply to the removal and remediation of hazardous substances encourage the use of biotechnical techniques for bank stabilization and the planting of native vegetation on the river bank.

384. Policy 7.9, Habitat and biological communities. Ensure that plans and investments are consistent with and advance efforts to improve, or support efforts to improve fish and wildlife habitat and biological communities. Use plans and investments to enhance the diversity, quantity, and quality of habitats habitat corridors, and especially habitats that:

- Are rare or declining.
- Support at-risk plant and animal species and communities.
- Support recovery of species under the Endangered Species Act, and prevent new listings.
- Provide culturally important food sources, including those associated with Native American fishing rights.

The amendments are consistent with this policy in the following ways:

- A. The *Willamette River Central Reach Natural Resources Protection Plan* (NRPP) identifies features and functions provided by the existing natural resources in the Central City. The NRPP recommends protection of habitats that support rare or declining species, supports at-risk species and supports recovery of species that are listed under the Endangered Species Act and aides in preventing new listings by applying zoning code 33.475, River Overlay Zones, and 33.865, River Review, to natural resources. The zoning code limits development within natural resource areas, encourages environmentally sensitive development and requires mitigation when development has a detrimental impact on the resources. The mitigation requirement will ensure that overall there is no net loss of natural resource functions in the Central City.
- B. The NRPP also recommends protection of the Willamette River and riparian areas as culturally important areas associated with Native American fishing rights.
- C. The River setback is increased. The setback requires that development that is not river-dependent or river-related be setback 50 feet from the top of bank of the Willamette River. Testimony was received that both supported and opposed the expanded setback. City Council finds that the expansion is appropriate because the setback is intended to preserve the shallow water habitat, riverbanks (flood area, soils and vegetation) and riparian area (flood area, soils and vegetation) to protect rare and declining species and support recovery of species listed under the Endangered Species Act.
- D. The regulations for removal and remediation of hazardous substances ensure that the cleanup actions will occur in a way that improve environmental quality and create habitat that supports rare and declining species and recovery of species listed under the Endangered Species Act.

385. **Policy 7.10, Habitat connectivity.** Improve or support efforts to improve terrestrial and aquatic habitat connectivity for fish and wildlife by using plans and investments, to:

- Prevent and repair habitat fragmentation.
- Improve habitat quality.
- Weave habitat into sites as new development occurs.
- Enhance or create habitat corridors that allow fish and wildlife to safely access and move through and between habitat areas.
- Promote restoration and protection of floodplains.

The amendments are consistent with this policy in the following ways:

- A. The *Willamette River Central Reach Natural Resources Protection Plan* (NRPP) recommends protection of the Willamette River and land within at least 50 feet of top of bank as a habitat connectivity corridor. The River Environmental and River General overlay zone require development to be setback from the river, natural resources to be maintained and native vegetation to be planted. Testimony was received that both supported and opposed the expanded setback. City Council finds that the expansion is appropriate because the setback will improve habitat connectivity and habitat quality over time.
- B. Existing regulations though City Code Title 24, Building Regulations, are also applicable to future development. These regulations require review of impacts within the river and floodplain including a test of no net rise and balancing of fill placed in the floodplain with an equal cut.

- C. The Green Loop is a multimodal transportation corridor that will incorporate vegetation into design and development. Trees and vegetation along the Green Loop will serve to improve habitat connectivity throughout the urban landscape.
- D. A new standard for the Central City requires that new buildings over 20,000 square feet in net size must install an ecoroof over 60% of the roof area. Ecoroofs provide multiple functions including habitat for avian species. Ecoroofs will improve habitat connectivity for birds and insects throughout the urban landscape.

386. **Policy 7.11, Urban forest.** Improve, or support efforts to improve the quantity, quality, and equitable distribution of Portland's urban forest through plans and investments.

387. **7.11.a, Tree preservation.** Require or encourage preservation of large healthy trees, native trees and vegetation, tree groves, and forested areas.

CC2035 encourages the preservation of medium- and large-form native trees throughout the Central City, wherever possible. Policies specifically aimed at preserving these types of trees include the following:

- Policy 6.9, Strategic tree canopy enhancement, encourages the preservation of large, healthy, non-nuisance and native trees.
- Policy 6.10, Effective tree planting, includes policy directives to encourage wider sidewalk corridors to better accommodate larger canopy trees, as well as innovative design strategies that accommodate healthy trees already on site.

CC2035 also applies a new River Environmental overlay zone (river e-zone) to tree canopy that is located on the Willamette riverbank or contiguous to the riverbank. The river e-zone generally requires that existing trees be protected. If trees must be removed for development, there are tree replacement standards to ensure no net loss of tree canopy over time.

388. **7.11.b, Urban forest diversity.** Coordinate plans and investments with efforts to improve tree species diversity and age diversity.

An underlying aim of the CC2035 Plan is to encourage or mandate the incorporation of a variety of trees species and ages. Examples of policies and regulations to that end include the following:

- Policy 6.9, Strategic tree canopy enhancement, b. Tree Diversity, specifically sets a goal to "improve tree species and age diversity throughout the Central City."
- Policy 6.3, Multiple Functions, and Policy 6.12, City investment in street trees, directs the City to plant, and encourage the planting of, street trees that provide multiple benefits, such as stormwater management and, urban heat island reduction. These policies are expected to expand the number of tree species planted within the Central City.
- Policy 4DT-1b, Governor Tom McCall Waterfront Park, directs the Parks and Recreation bureau to incorporate large trees within the park and along public ROW adjacent to the park.

Central City Master Plan code (33.510.255) encourages the incorporation of medium- and large-form trees by providing additional flexibility in the tree density standard for these larger sites. This option is expected to significantly increase the diversity of new trees planted, when compared to a traditional master plan development.

389. **7.11.c, Tree canopy.** Support progress toward meeting City tree canopy targets.

CC2035 includes a range of policies that will ensure the City continues progress toward its overall tree canopy targets. Specifically, the Plan contains tree canopy targets for all ten Central City subdistricts. Nine out of the 10 subdistricts are expected to experience increases in tree canopy over the life of the plan. The low end of the range for the South Downtown/University subdistrict projects a slight reduction in tree canopy but the high end projects an increase.

390. **7.11.d, Tree planting. Invest in tree planting and maintenance, especially in low-canopy areas, neighborhoods with under-served or under-represented communities, and within and near urban habitat corridors.**

CC2035 includes a few policies focused on ensuring tree planting in mixed-use commercial areas, along rights-of-way, and other areas with limited existing canopy. The CC2035 canopy targets incorporate the expectation that the Bureau of Environmental Services (BES) will double its current street tree planting frequency to increase canopy in the Central City, especially low-canopy areas and in historically under-served neighborhoods. Additionally, Policy 6.8, Upland habitat connections, specifically aims to create “an upland wildlife habitat corridor using trees, native vegetation in landscaping” and ecoroofs.

391. **7.11.e, Vegetation in natural resource areas. Require native trees and vegetation in significant natural resource areas.**

CC2035 applies a new River Environmental overlay zone (river e-zone) to vegetated riverbanks and riparian areas within a minimum of 50 feet from top of bank. The regulations of the river e-zone minimize removal of vegetation and require replacement plants to ensure no net loss of riparian vegetation over time. In addition, the River General overlay zone also includes updates to the landscaping standards that apply within the river setback. The landscaping standard requires a mix of vegetation types and densities including trees, shrubs and ground cover. The purpose of the landscaping standard is to enhance the quality, quantity and diversity of native vegetation in the riparian area.

392. **7.11.f, Resilient urban forest. Encourage planting of Pacific Northwest hardy and climate change resilient native trees and vegetation generally, and especially in urban habitat corridors.**

Increasing the resiliency of the urban forest is critical component of the CC2035 Plan. Maintaining and increasing the number of native species underlies the CC2035 tree planting strategy. For example, Policy 6.9, Strategic tree canopy enhancement, of the Plan encourages the planting of Northwest native and climate change-resilient trees. The Plan also includes strategies to expand efforts to reestablish and expand native, large canopy tree species in Portland’s parks and natural areas.

393. **7.11.g, Trees in land use planning. Identify priority areas for tree preservation and planting in land use plans.**

The CC2035 Plan utilized a detailed and comprehensive methodology to develop aspirational, yet achievable, tree canopy targets. As a part of this effort, specific areas within the Central City expected to maintain or accommodate new trees were identified. Detailed analyses of tree canopy were completed on a variety of areas within the Central City, including:

1. Existing parcels likely to be developed or redeveloped, including trees planted within optional Central City building setbacks;

2. Trees placed on upper floors of new buildings, as a part of ecoroofs or rooftop gardens;
3. Future planting of currently vacant planting strips;
4. Changes in tree canopy in existing parks;
5. New trees planted within the expanded Willamette River setback;
6. Future enhancements to the Willamette riverbank resulting from public and private investment.

Collectively, these represent priority areas within the Central City that can reach tree canopy targets over the life of the plan.

Specifically, CC2035 applies a new River Environmental overlay zone to trees identified in the NRPP as providing natural resource functions. The regulations require that trees be preserved when possible and tree replacement occur when trees must be removed. In addition, the River General overlay requires landscaping of the riverbank and riparian area, including planting a diversity of tree species.

394. 7.11.h, Managing wildfire risk. Address wildfire hazard risks and management priorities through plans and investments.

The River overlay zones applies to areas of natural vegetation on steep slopes; these areas are susceptible to wildfire risk. The River Environmental overlay zone regulates removal of native plants along the Willamette River and requires replanting disturbance areas with native vegetation. The River General overlay zone require landscaping that includes removal of non-native and invasive species along with planting of native vegetation. Native vegetation is less susceptible to wildlife risk than non-native and invasive species.

CC2035 maintains the existing regulations applied to Sullivan's Gulch, including the Environmental conservation overlay zone (c-zone). The c-zone regulations encourage maintenance of native vegetation and removal of invasive species. In addition, an action in CC2035 calls for developing a multi-objective management strategy for enhancing Sullivan's Gulch that includes trail development, removal of invasive species and revegetation. Landscaping associated with completion of the trail will include native vegetation.

395. Policy 7.12, Invasive species. Prevent the spread of invasive plants, and support efforts to reduce the impacts of invasive plants, animals, and insects, through plans, investments, and education.

The regulations of the River Environmental and River General overlay zones require removal of invasive species and planting of native vegetation on the riverbank and riparian area of the Willamette River. In addition, the City of Portland maintains a list of invasive plant species that must be removed whenever identified. The requirement is intended to eradicate these invasive species.

396. Policy 7.13, Soils. Coordinate plans and investments with programs that address human-induced soil loss, erosion, contamination, or other impairments to soil quality and function.

The amendments are consistent with this policy in the following ways:

- A. The River Environmental overlay zone applies to riverbanks and riparian areas along the Willamette River. The regulations maintain soil by limiting development, including ground disturbance, and requiring mitigation for unavoidable impacts, including application of top soil before planting. The River Environmental overlay zone also includes regulations for removal and remediation of hazardous substances ensure that the cleanup actions will occur in a way that improve soil structure and soil quality.

- B. The River General overlay zone requires that non-river-dependent or river-related development be setback 50 feet from the top of bank of the Willamette River. This will reduce impacts of development on the soil and reduce erosion. The regulations also require landscaping the setback with native plants, which will retain soil structure and improve soil quality over time.
- C. Existing regulations including City Zoning Title 10, Erosion Control, and the Stormwater Management Manual are applicable to future development. These regulations require erosion control during development activities and maintain and improve stormwater runoff.

397. Policy 7.14, Natural hazards. Prevent development-related degradation of natural systems and associated increases in landslide, wildfire, flooding, and earthquake risks.

The amendments are consistent with this policy in the following ways:

- A. By applying new River Environmental overlay zoning for identified natural resource areas in the Central City, including resources located in the water, in the floodplain and on land, the plan reduces risks associated with flooding, landslides and wildfire. The environmental zoning will protect and conserve the natural functions by limiting development within natural resource areas, will encourage environmentally sensitive development, and will require mitigation when development has a detrimental impact on the functions and values.
- B. Development that is not river-dependent or river-related is required to setback 50 feet from the top of bank of the Willamette River in the River General overlay zone. This reduces the risk of flooding and landslide on development near the river.
- C. Actions call for partnerships between local, regional, state and federal regulatory, Sovereign nations, non-profit organization, neighborhoods and property owners. One action is to work with FEMA to address the NOAA Fisheries biological opinion regarding the floodplain development and impacts on species listed under the Endangered Species Act. This will include a remapping of the floodplain in the Central City. Another action is to amend the flood-related regulations and other guidelines to, a) help prevent or minimize the risk of flood damage to new, redeveloped and rehabilitated buildings located in the 100-year floodplain; b) avoid, minimize and mitigate the impacts of such development on floodplain functions; and, c) comply with updated NFIP requirements.
- D. Existing regulations through City Code Title 24, Building Regulations, are also applicable to future development. These regulations require review of impacts within the river and floodplain including a test of no net rise and balancing of fill placed in the floodplain with an equal cut.
- E. CC2035 maintains existing Environmental conservation overlay zones on Sullivan's Gulch. The regulations limit development on the steep slope and reduce risk of landslides and wildfire on development.

398. Policy 7.15, Brownfield remediation. Improve environmental quality and watershed health by promoting and facilitating brownfield remediation and redevelopment that incorporates ecological site design and resource enhancement.

The River Environmental overlay zone regulations for removal and remediation of hazardous substances ensure that the cleanup actions will occur in a way that improves environmental quality and public health and create habitat.

399. **Policy 7.16, Adaptive management.** Evaluate trends in watershed and environmental health using current monitoring data and information to guide and support improvements in the effectiveness of City plans and investments.

The *Willamette River Central Reach Natural Resources Protection Plan* (NRPP) evaluates trends in watershed and environmental health using best available science, current monitoring data and information and new technological advances to produce the inventory of natural resources and assess the tradeoffs associated with protecting those natural resources. The NRPP pulls together information from many other sources and background documents. The outcome is recommended protections for natural resources. The NRPP supports City plans, including CC2035, and investments, such as environmental restoration projects.

400. **Policy 7.17, Restoration partnerships.** Coordinate plans and investments with other jurisdictions, air and water quality regulators, watershed councils, soil and water conservation districts, Sovereign nations, and community organizations and groups including under-served and under-represented communities, to optimize the benefits, distribution, and cost-effectiveness of watershed restoration and enhancement efforts.

The amendments are consistent with this policy in the following ways:

- A. The *Willamette River Central Reach Natural Resources Protection Plan* (NRPP) and the *Riverbank Restoration Target* memo identified opportunities for natural resource enhancement and restoration actions.
- B. Actions call for partnerships between local, regional, state and federal regulatory, Sovereign nations, non-profit organization, neighborhoods and property owners. Examples of those actions include:
 - Work with FEMA to address the NOAA Fisheries biological opinion regarding the floodplain development and impacts on species listed under the Endangered Species Act.
 - Explore concepts and partnerships to enhance fish and wildlife habitat along the Eastbank Esplanade.
 - Coordinate system planning efforts among city bureaus and potential private investors for green infrastructure improvements.
 - Identify tree preservation and planting opportunities and implement strategies that meet multiple objectives including reducing heat island, improving air quality and intercepting rainfall.
 - Improve water quality by integrating green infrastructure with streetscape improvements in areas served by the separated storm system.
 - Evaluate options to increase property owner interest in street tree plantings.

401. **Policy 7.18, Community stewardship.** Encourage voluntary cooperation between property owners, community organizations, and public agencies to restore or re-create habitat on their property, including removing invasive plants and planting native species.

The amendments are consistent with this goal in the following ways:

- A. CC2035 includes multiple goals, policies and actions that foster community stewardship. For example, additional residential and commercial development is encouraged along the frontage streets of the Willamette River to bring more people to the river's edge.

- B. The major trail alignment and completion of the Greenway Trail along the Willamette River and the proposed Green Loop will improve air quality by establishing a public trail that serve as transportation corridor for pedestrians and cyclists and connects people throughout the Central City and to adjacent neighborhoods.
- C. Scenic viewpoints are identified along the Greenway Trail and the zoning code requires that when the trail is developed, formal viewpoints also be constructed. Scenic viewpoints offer places for people to see the Willamette River, riverbanks and city skyline. This will foster community stewardship.

Planning for natural resource protection

402. **Policy 7.19, Natural resource protection.** Protect the quantity, quality, and function of significant natural resources identified in the City's natural resource inventory, including:

- Rivers, streams, sloughs, and drainageways.
- Floodplains.
- Riparian corridors.
- Wetlands.
- Groundwater.
- Native and other beneficial vegetation species and communities.
- Aquatic and terrestrial habitats, including special habitats or habitats of concern, large anchor habitats, habitat complexes and corridors, rare and declining habitats such as wetlands, native oak, bottomland hardwood forest, grassland habitat, shallow water habitat, and habitats that support special-status or at-risk plant and wildlife species.
- Other resources identified in natural resource inventories.

The *Willamette River Central Reach Natural Resources Protection Plan* (NRPP) includes an updated inventory of natural resources features and functions in the Central City. The NRPP documents the quantity and quality of the following features: river, streams, drainageways, wetlands, flood areas, riverbank treatments, forests, woodlands, shrublands, herbaceous vegetation, steep slopes and special habitat areas, which are unique, rare or declining habitats and habitats that support special status or at-risk fish, wildlife and plant species. The functions evaluated in the inventory include: microclimate and shade; stream flow moderation and water storage; bank function, and sediment, pollution and nutrient control; large wood and channel dynamics; organic inputs, food web and nutrient cycling; riparian wildlife movement corridor; habitat patch size and interior area; connectivity between habitat patches; and proximity to water.

The NRPP evaluates the functions above and the ecosystem services (e.g., natural hazard management, public health, climate resiliency, etc.) provided by those features in Chapter 4, Analysis of Protection Options and General Recommendations. The evaluation also includes assessment of the contributions of services to cultural values and economic prosperity. Chapter 5, Results, includes recommendations for maintaining natural resource features and functions.

Zoning code 33.475, River Overlay Zones, and 33.865, River Review, will protect and conserve the identified resource features and functions by limiting development within natural resource areas, encouraging environmentally sensitive development and requiring mitigation when development has a detrimental impact on the resources. The mitigation requirement will ensure that overall there is no net loss of natural resource functions in the Central City.

403. **Policy 7.20, Natural resource inventory.** Maintain an up-to-date inventory by identifying the location and evaluating the relative quantity and quality of natural resources.

The *Willamette River Central Reach Natural Resources Protection Plan* (NRPP) includes an up-to-date inventory, based on best available sciences, of relative quantity and quality of natural resource features and functions in the Central City.

404. **Policy 7.21, Environmental plans and regulations.** Maintain up-to-date environmental protection plans and regulations that specify the significant natural resources to be protected and the types of protections to be applied, based on the best data and science available and on an evaluation of cumulative environmental, social, and economic impacts and tradeoffs. *See Figure 7-2 — Adopted Environmental Plans.*

405. **7.21.a,** Improve the effectiveness of environmental protection plans and regulations to protect and encourage enhancement of ecological functions and ecosystem services.

The *Willamette River Central Reach Natural Resources Protection Plan* (NRPP) includes recommendations to protect and enhancement natural resource features and functions. The NRPP is based on best available data and sciences. The NRPP includes an assessment of the environmental, social and economic impacts and tradeoffs associated with protecting the natural resource features and functions. Zoning code 33.475, River Overlay Zones, and 33.865, River Review, will protect and conserve the identified resource features and functions by limiting development within natural resource areas, encouraging environmentally sensitive development and requiring mitigation when development has a detrimental impact on the resources. The mitigation requirement will ensure that overall there is no net loss of natural resource functions in the Central City.

406. **Policy 7.22, Land acquisition priorities and coordination.** Maintain a land acquisition program as a tool to protect and support natural resources and their functions. Coordinate land acquisition with the programs of City bureaus and other agencies and organizations.

CC2035 includes actions to increase public parks, open space and recreation opportunities through acquisition. Parks and open spaces in the Central City typically include natural resources such as trees and shrubs and provide opportunities for additional green infrastructure to provide functions like reducing heat island effects and managing stormwater runoff.

Protecting natural resources in development situations

407. **Policy 7.23, Impact evaluation.** Evaluate the potential adverse impacts of proposed development on significant natural resources, their functions, and the ecosystem services they provide to inform and guide development design and mitigation consistent with policies 7.24-7.26, and other relevant Comprehensive Plan policies.

The *Willamette River Central Reach Natural Resources Protection Plan* (NRPP) evaluates relative impacts of different development (called conflicting uses) on the natural resource features and functions in the Central City. The River Environmental overlay zone includes exemptions for some necessary development, such as maintenance, repair and replacement of existing structures, standards for environmental sensitive development and river review for more impactful development. Mitigation for unavoidable negative impacts on natural resource features and functions is required.

Zoning code 33.865, River Review, regulations require the following information:

- Existing conditions site plan that documents the existing natural resource features; and

- Proposed site development plan that depicts the natural resource feature impacted including temporary and permanent disturbance areas.

408. **Policy 7.24, Regulatory hierarchy: avoid, minimize, mitigate.** Maintain regulations requiring that the potential adverse impacts of new development on significant natural resources and their functions first be avoided where practicable, then minimized, then lastly, mitigated.

Zoning code 33.475, River Environmental overlay zones, includes standards that avoid and minimize impacts of development on natural resource features and function. The standards also include a requirement for unavoidable impacts on natural resource features and functions to be mitigated. Development that cannot meet the standards must go through River Review. Zoning code 33.865, River Review includes the following approval criteria:

- Proposed development minimizes the loss of identified natural or scenic resources and functional values consistent with the uses that are generally permitted or allowed in the base zone without a land use review, or permitted or allowed by an approved conditional use review;
- Proposed development locations, designs, and construction methods are less detrimental to identified natural and scenic resources and functional values than practicable and significantly different alternatives, including alternatives on the same site, but outside of the River Environmental overlay zone;
- There will be no significant detrimental impact on areas of the site reserved for mitigation, areas within the River Environmental overlay zone not proposed for development now, downstream river habitat within the Central Reach, or other sites in the Central Reach where environmental restoration is in progress or complete; and
- The mitigation plan demonstrates that there will be compensation for all significant detrimental impacts on identified scenic and natural resources and functional values.

409. **Policy 7.25, Mitigation effectiveness.** Require that mitigation approaches compensate fully for adverse impacts on locally and regionally significant natural resources and functions. Require mitigation to be located as close to the impact as possible. Mitigation must also take place within the same watershed or portion of the watershed that is within the Portland Urban Services Boundary, unless mitigating outside of these areas will provide a greater local ecological benefit. Mitigation will be subject to the following preference hierarchy:

- On the site of the resource subject to impact with the same kind of resource; if that is not possible, then
- Off-site with the same kind of resource; if that is not possible, then
- On-site with a different kind of resource; if that is not possible, then
- Off-site with a different kind of resource.

Zoning code 33.865, River Review includes the following approval criteria:

- To the extent practicable, the natural and scenic resources and functional values restored or enhanced as mitigation must be the same kind of resource, performing the same functions as the lost resource;
- The amount of natural resource mitigation due as compensation must be based on the amount and relative condition of the resources and functional values impacted by the

proposal. The amount of natural resource mitigation required will be at a ratio of no less than 1.5:1 of mitigation area to project impact area;

- Mitigation must occur on-site when practicable, and ecologically beneficial;
- If on-site mitigation is not practicable or ecologically beneficial, the applicant may perform mitigation off-site. The off-site mitigation must meet all other approval criteria in this Subparagraph and the following:
 - Mitigation must occur at a minimum 3:1 FAR ratio of mitigation area to protect the impact area; and,
 - The mitigation area must be located within the Willamette River Central Reach.

410. Policy 7.26, Improving environmental conditions through development. Encourage ecological site design, site enhancement, or other tools to improve ecological functions and ecosystem services in conjunction with new development and alterations to existing development.

Zoning code 33.475, River General overlay zone, regulations require that at the time of development the river setback, which includes the riverbank and land within 50 feet of the top of bank, be landscaped with a mix of native vegetation. The landscaping standard allows for flexibility in the mix of tree sizes and requires that a diversity of trees, shrubs and ground cover be planted. This will improve ecological functions and ecosystem services over time.

Zoning code 33.475, River Environmental overlay zone, and Zoning code 33.865, River Review, regulations require that site development be designed to avoid impacts on protected natural resources and mitigate for unavoidable negative impacts. There are also clear and objective standards for site enhancement and for remediation and cleanup of hazardous substances. These regulations will improve ecological functions and ecosystem services during development.

Willamette River Watershed

The findings under Statewide Goal 15, Willamette Greenway, also demonstrate that the amendments are consistent with these policies and goals

411. Policy 7.33, Fish habitat. Provide adequate intervals of ecologically-functional shallow-water habitat for native fish along the entire length of the Willamette River within the city, and at the confluences of its tributaries.

The amendments are consistent with this policy in the following ways:

- A. The River setback is increased. The setback requires that development that is not river-dependent or river-related be setback 50 feet from the top of bank of the Willamette River. Testimony was received that supported and opposed the expanded setback. City Council finds that the expansion is appropriate because the setback is intended to preserve the shallow water habitat, riverbanks (flood area, soils and vegetation) and riparian area (flood area, soils and vegetation) to protect fish habitat and support recovery of species listed under the Endangered Species Act.
- B. The River Environmental overlay zone is applied to the Willamette River, riverbanks and riparian areas. The overlay zone protects the eight existing shallow water habitats in the Central Reach by limited development and requiring mitigation for negative impacts to natural resource features and functions. The regulations will result in no net loss of fish habitat over time and support recovery of species listed under the Endangered Species Act.

- C. CC2035 includes an action to restore five shallow water habitat areas and to enhance 12,600 linear feet of riverbanks in the Central Reach. The actions will improve fish habitat and support recovery of species listed under the Endangered Species Act.

412. Policy 7.34, Stream connectivity. Improve stream connectivity between the Willamette River and its tributaries.

There are no surface tributary streams to the Willamette River in the Central Reach. However, regulations and actions to protect and enhance in-water and riparian habitat in the Central Reach support fish that migrate from tributary streams through the Central Reach to the Columbia River and back.

413. Policy 7.35, River bank conditions. Preserve existing river bank habitat and encourage the rehabilitation of river bank sections that have been significantly altered due to development with more fish and wildlife friendly riverbank conditions.

The amendments are consistent with this policy in the following ways:

- A. The River setback is increased. The setback requires that development that is not river-dependent or river-related be setback 50 feet from the top of bank of the Willamette River. Testimony was received that both supported and opposed the expanded setback. City Council finds that the expansion is appropriate because the setback is intended to preserve the shallow water habitat, riverbanks (flood area, soils and vegetation) and riparian area (flood area, soils and vegetation) to protect fish habitat and support recovery of species listed under the Endangered Species Act.
- B. The River Environmental overlay zone is applied to the Willamette River, riverbanks and riparian areas. The overlay zone protects the eight existing shallow water habitats by limited development and requiring mitigation for negative impacts to natural resource features and functions. The regulations will result in no net loss of fish habitat over time and support recovery of species listed under the Endangered Species Act.
- C. CC2035 includes an action to restore five shallow water habitat areas and to enhance 12,600 linear feet of riverbanks in the Central Reach. The actions will improve fish habitat and support recovery of species listed under the Endangered Species Act.

414. Policy 7.37, Contaminated sites. Promote and support programs that facilitate the cleanup, reuse, and restoration of the Portland Harbor Superfund site and other contaminated upland sites.

The Portland Harbor Superfund site is not within the Central Reach. The River Environmental overlay zone regulations for removal and remediation of hazardous substances ensure that the cleanup actions in the Central Reach will occur in a way that improves environmental quality and public health and creates habitat.

415. Policy 7.38, Sensitive habitats. Protect and enhance grasslands, beaches, floodplains, wetlands, remnant native oak, bottomland hardwood forest, and other key habitats for native wildlife including shorebirds, waterfowl, and species that migrate along the Pacific Flyway and the Willamette River corridor.

The *Willamette River Central Reach Natural Resources Protection Plan* (NRPP) includes an updated inventory of natural resources features and functions in the Central City. The NRPP documents the quantity and quality of special habitat areas. Special habitat areas include: areas containing sensitive or unique plant populations, wetlands and associated seeps, spring and streams that are part of the wetland complex; native oaks; bottomland hardwood forests; riverine islands; river

deltas; migratory stopover habitat; habitat corridors between patches or habitats; areas that support at-risk fish and wildlife species; elk migratory corridors; upland habitats or landscape features important to grassland-associated species; and unique resources or structures that provide critical or unique habitat functions (such as bridges).

Zoning code 33.475, River Overlay Zones, and 33.865, River Review, will protect and conserve the identified resource features and functions by limiting development within natural resource areas, encouraging environmentally sensitive development and requiring mitigation when development has a detrimental impact on the resources. The mitigation requirement will ensure that overall there is no net loss of natural resource functions in the Central City.

416. Policy 7.39, Riparian corridors. Increase the width and quality of vegetated riparian buffers along the Willamette River.

Zoning code 33.475, River General overlay zone, increases the width of the river setback from 25 feet to 50 feet from the top of bank. Development that is not river-dependent or river-related must be setback. This increases the width of the riparian area. The River General overlay zone also includes a landscaping standard that requires that at the time of development or alterations to development, the river setback be landscaped with native vegetation. Testimony was received that both supported and opposed the expanded setback. City Council finds that the expansion is appropriate because this will improve the quality of the riparian area.

Zone code 33.475, River Environmental overlay zone, protects the Willamette River, riverbanks and riparian areas by limiting development and requiring unavoidable impacts to natural resource features and functions to be mitigated.

417. Policy 7.40, Connected upland and river habitats. Enhance habitat quality and connectivity between the Willamette riverfront, the Willamette's floodplain, and upland natural resource areas.

The amendments are consistent with this policy in the following ways:

- A. Zoning code 33.475, River Environmental overlay zone, applies to the Willamette River and its undeveloped floodplain. The regulations protected the habitat and connectivity between the in-water and floodplain habitats by limiting development and requiring mitigation for unavoidable negative impacts on natural resource features and functions, including habitat connectivity. The River General overlay zone requires that the river setback, which includes the riverbank and land within 50 feet of the top of bank, be landscaped, which enhances the habitat quality and connectivity between the riparian areas and the Willamette River.
- B. The Green Loop is a multimodal transportation corridor that will incorporate vegetation into design and development. Trees and vegetation along the Green Loop will serve to improve habitat connectivity between uplands and the Willamette River.
- C. A new standard for the Central City requires that new buildings over 20,000 square feet in net size must install an ecoroof over 60% of the roof area. Ecoroofs provide multiple functions including habitat for avian species. Ecoroofs will improve habitat connectivity for birds and insects between uplands and the Willamette River.

418. Policy 7.41, River-dependent and river-related uses. Develop and maintain plans and regulations that recognize the needs of river-dependent and river-related uses, while also supporting ecologically-sensitive site design and practices.

The amendments are consistent with this policy in the following ways:

- A. Zoning code 33.910.030. Definitions, maintains the definition of river-dependent and includes uses which can only be carried out on, in or adjacent to the river. The definition is updated to clarify that a dock or gangway is river-dependent because it can only be built on, in or over the river.
- B. Zoning code 33.910.030, Definitions, maintains the definition of river-related and includes uses that while not directly dependent on river access are uses that provide goods or services directly associated with river-dependent uses or development. There is a list of uses that are not river-related, such as residences, parking areas, restaurants, and businesses. There is a list of uses that are considered river-related, such as trails and viewpoints adjacent to the river, bridge exist and entrance ramps and removal or remediation of hazardous substances. The river-related definition is updated to include resource enhancement projects and passenger waiting and queuing areas, security checkpoints and machine shops associated with marine passenger docks for sub-regional travel and marine passenger terminals for regional travel. The update to include some uses for marine passenger travel supports river-dependent uses.
- C. Zoning code 33.475, River Environmental overlay zones, limits the footprint of the area that can be developed for river-related uses associated with marine passenger docks and terminals to no more than 5,000 square feet. Mitigation for impacts to natural resources is required. This supports river-dependent and river-related uses in the Central City while also supporting ecological site design.

Public Facilities and Services: Goals

- 419. **Goal 8.A: Quality public facilities and services.** High-quality public facilities and services provide Portlanders with optimal levels of service throughout the city, based on system needs and community goals, and in compliance with regulatory mandates.
- 420. **Goal 8.B: Multiple benefits.** Public facility and service investments improve equitable service provision, support economic prosperity, and enhance human and environmental health.
- 421. **Goal 8.C: Reliability and resiliency.** Public facilities and services are reliable, able to withstand or recover from catastrophic natural and manmade events, and are adaptable and resilient in the face of long-term changes in the climate, economy, and technology.
- 422. **Goal 8.D: Public rights-of-way.** Public rights-of-way enhance the public realm and provide a multi-purpose, connected, safe, and healthy physical space for movement and travel, public and private utilities, and other appropriate public functions and uses.
- 423. **Goal 8.E: Sanitary and stormwater systems.** Wastewater and stormwater are managed, conveyed, and/or treated to protect public health, safety, and the environment, and to meet the needs of the community on an equitable, efficient, and sustainable basis.
- 424. **Goal 8.F: Flood management.** Flood management systems and facilities support watershed health and manage flooding to reduce adverse impacts on Portlanders' health, safety, and property.
- 425. **Goal 8.G: Water.** Reliable and adequate water supply and delivery systems provide sufficient quantities of high-quality water at adequate pressures to meet the needs of the community on an equitable, efficient, and sustainable basis.

- 426. **Goal 8.H: Parks, natural areas, and recreation.** All Portlanders have safe, convenient, and equitable access to high-quality parks, natural areas, trails, and recreational opportunities in their daily lives, which contribute to their health and well-being. The City manages its natural areas and urban forest to protect unique urban habitats and offer Portlanders an opportunity to connect with nature.
- 427. **Goal 8.I: Public safety and emergency response.** Portland is a safe, resilient, and peaceful community where public safety, emergency response, and emergency management facilities and services are coordinated and able to effectively and efficiently meet community needs.
- 428. **Goal 8.J: Solid waste management.** Residents and businesses have access to waste management services and are encouraged to be thoughtful consumers to minimize upstream impacts and avoid generating waste destined for the landfill. Solid waste — including food, yard debris, recyclables, electronics, and construction and demolition debris — is managed, recycled, and composted to ensure the highest and best use of materials.
- 429. **Goal 8.K: School facilities.** Public schools are honored places of learning as well as multifunctional neighborhood anchors serving Portlanders of all ages, abilities, and cultures.
- 430. **Goal 8.L: Technology and communications.** All Portland residences, businesses, and institutions have access to universal, affordable, and reliable state-of-the-art communication and technology services.
- 431. **Goal 8.M: Energy infrastructure and services.** Residents, businesses, and institutions are served by reliable energy infrastructure that provides efficient, low-carbon, affordable energy through decision-making based on integrated resource planning.

The CC2035 Plan is intended to result in the creation of: 51,000 new jobs; 39,500 new housing units; 12,600 linear feet of riverbank enhancement; between 386 and 456 acres of tree canopy; and, increase the time people spend in Central City public spaces by 20 percent. Although the Central City is well served by existing public facilities, infrastructure, and services, as the density of uses and people in the city center intensify over time there will be a need to expand access to services and to create additional infrastructure to support this projected growth.

As such, the plan proposes increases in floor area ratios for office, industrial, and residential uses, new development standards requiring ecoroofs development; new river/environmental standards addressing riverbank enhancement, provisions and actions seeking to increase public open space and access to open space amenities, and revised landscaping and tree canopy requirements. The plan also requires seismic upgrades to historic landmarks when certain development incentives are pursued, a greater setback for new development from the Willamette River, and the development of “green” energy efficient buildings. Further, the plan includes numerous actions over the life of the plan to develop new and rehab existing public infrastructure to be resilient to natural disaster and climate change. These elements of the plan are consistent with Goals 8.A – 8.C.

Because the public right-of-way covers nearly 40 percent of the landscape of the Central City, and is by far the most dominate factor influencing the character of the urban environment, the plan seeks to utilize this feature for multiple purposes and to achieve multiple benefits. Thus, consistent with Goal 8.D, the plan proposes numerous improvements to public right-of-way intended to improve mobility and safety for all modes, the expansion of green infrastructure to enhance environmental health, and greater use of the right-of-way for uses other than transportation alone.

In response to the sanitary and stormwater objectives of Goal 8.E, CC2035 proposes new requirements regarding the development of ecoroofs and “green” energy efficient buildings, and includes actions to expand the use of green infrastructure in the public right-of-way and in private development, all to support better stormwater management among other goals. And, consistent with Goal 8.F, the plan increases the setback for development along the Willamette River, requires riverbank enhancement, and includes stormwater regulations that are intended to decrease runoff to the river. Additionally, the plan supports continued collaboration between the city, state, and federal agencies in working to create new flood-related regulations as a follow-up to recent litigation regarding the impacts of development within the 100-year flood plain and impacts on listed threatened and endangered species.

Regarding the parks, natural areas, and recreation objectives of Goal 8.H, the plan contains new development standards and incentives to increase the amount of setback along the Willamette River to, in part, create expanded places for passive and active recreation. The plan also proposes actions to expand greater use of the public right-of-way for recreational and active transportation uses, most notably through the creation of the Green Loop which is a dedicated active transportation facility that would also link to public parks and open space features. The plan further proposes actions to create new public park and recreation services in the Central City, including a new Community Center.

Lastly, CC2035 calls for continued coordination with emergency service providers, waste management providers, Portland Public Schools, and utility providers, as the Central City population grows and diversifies, consistent with Goals 8.I – 8.M.

Public benefits

432. **Policy 8.31, Application of Guiding Principles.** Plan and invest in public facilities in ways that promote and balance the Guiding Principles established in The Vision and Guiding Principles of this Comprehensive Plan.

CC2035 and the proposed investments in public facilities made by the plan are summarized as follows:

- **Economic Prosperity.** Support a low-carbon economy and foster employment growth, competitiveness and equitably distributed household prosperity.

The plan promotes: growth on former brownfields, at major institutions (such as PSU and OHSU); the creation of a new Innovation Quadrant that links institutions to industrial sector job creation; intensification of industrial uses; and a significant expansion of green buildings, green infrastructure, and active transportation options.

- **Human Health.** Avoid or minimize negative health impacts and improve opportunities for Portlanders to lead healthy, active lives.

The plan supports the growth of essential public services, such as schools, parks, community centers, and libraries as the residential population of the Central City grows, to provide essential services and amenities to the broader community. The plan also proposes new recreational facilities, bike and pedestrian trails, and access to the Willamette River for swimming and non-motorized boating.

- **Environmental Health.** Weave nature into the city and foster a healthy environment that sustains people, neighborhoods, and fish and wildlife. Recognize the intrinsic value of nature and sustain the ecosystem services of Portland’s air, water and land.

The plan proposes an expansion of the urban tree canopy, a wider and more vegetated river setback, the use of green infrastructure, and additional landscaped setbacks and open space areas, to expand the urban forest and the many benefits it provides to the Central City.

- **Equity.** Promote equity and environmental justice by reducing disparities, minimizing burdens, extending community benefits, increasing the amount of affordable housing, affirmatively furthering fair housing, proactively fighting displacement, and improving socio-economic opportunities for under-served and under-represented populations. Intentionally engage under-served and under-represented populations in decisions that affect them. Specifically recognize, address and prevent repetition of the injustices suffered by communities of color throughout Portland's history.

The plan includes new development bonuses to create affordable housing, some which may be publicly owned, expand essential public services that would benefit Central City residents, especially families with children, and expand transit and active transportation facilities to provide non-auto transportation options.

- **Resilience.** Reduce risk and improve the ability of individuals, communities, economic systems, and the natural and built environments to withstand, recover from, and adapt to changes from natural hazards, human-made disasters, climate change, and economic shifts.

The plan includes incentives to seismically retrofit at-risk buildings, study a possible expansion of the flood plain, expand the use of green buildings and infrastructure, and study how public facilities can be used following major natural disasters, all to improve the resiliency of the Central City.

433. **Policy 8.32, Community benefit agreements.** Encourage the use of negotiated community benefit agreements for large public facility projects as appropriate to address environmental justice policies in Chapter 2: Community Involvement.

434. **Policy 8.33, Community knowledge and experience.** Encourage public engagement processes and strategies for larger public facility projects to include community members in identifying potential impacts, mitigation measures and community benefits.

The environmental justice policies of Chapter 2 of the Comprehensive Plan call for plans and investments to *"promote environmental justice by extending the community benefits associated with environmental assets, land use, and public investments to communities of color, low-income populations, and other under-served or under-represented groups impacted by the decision. Maximize economic, cultural, political, and environmental benefits through ongoing partnerships."* These policies also call for: the elimination of associated disproportionate burdens for communities of color, low-income populations, and other under-served or under-represented groups impacted by decisions; the minimization or mitigation of disproportionate burdens in cases where they cannot be eliminated; and, the use of plans and investments to address disproportionate burdens of previous decisions.

CC2035 establishes a policy framework to guide future planning efforts and decision making. Policies of the plan addressing economic development and housing will support "access to and expansion of economic opportunities in the Central City for all groups facing longstanding disparities, including education, housing and employment barriers" (Policy 1.9), and the maintenance of "economic and cultural diversity of established communities in and around the

Central City” (Policy 2.7). Additionally, the plan contains policies addressing diverse community structure, access to social services, housing affordability, and access to essential public services.

Further, the plan contains actions that support worker/day laborers rights, employment skills and career training, and the creation of affordable work spaces. The plan also has actions supporting investment in affordable housing, public schools and parks in areas where there is and will be a growing population of residents who depend on affordable housing.

Projects and plans implementing these policies and actions, will including public engagement elements that address the community benefits that are desired and appropriate because of land public facility projects, consistent with Policies 8.23 and 8.33, as well as the environmental justice policies of the Comprehensive Plan.

435. **Policy 8.34, Resource efficiency.** Reduce the energy and resource use, waste, and carbon emissions from facilities necessary to serve designated land uses to meet adopted City goals and targets.

436. **Policy 8.35, Natural systems.** Protect, enhance, and restore natural systems and features for their infrastructure service and other values.

CC2035 contains elements that address resource efficiency and natural systems in many ways. For instance, the plan contains new development standards that require that ecoroofs be incorporated into new development and that development 50,000 sq. ft. or larger pursue green building certification. The plan also proposes new active transportation and transit facilities, the use of green infrastructure in the public right-of-way, expansion of the urban forest, river bank habitat restoration, including wider setbacks from the Willamette River, and bird safe development requirements. These amendments to the Zoning Code and Transportation Systems Plan, as well as numerous goals, policies, and actions addressing resource efficiency, resiliency, and environmental enhancements, respond to the direction of Policies 8.34 and 8.35.

437. **Policy 8.36, Context-sensitive infrastructure.** Design, improve, and maintain public rights-of-way and facilities in ways that are compatible with, and that minimize negative impacts on, their physical, environmental, and community context.

One of the “Big Ideas” emerging from CC2035 is a reexamination of the street hierarchy and development character resulting from how the public right-of-way is designed and used. This is because approximately 40 percent of the land area of the Central City consists of public right-of-way. The plan seeks to integrate active transportation and recreational infrastructure, including major projects such as the Green Loop, in a manner that allows this infrastructure to complement but not conflict with adjacent land uses, and other key purposes for the right-of-way, such as auto and freight mobility, and improve the local environment and health of its users, consistent with Policy 8.36.

438. **Policy 8.38, Age-friendly public facilities.** Promote public facility designs that make Portland more age-friendly.

Consistent with Policy 8.38, CC2035 contains policies and actions calling for new public services and amenities that serve the needs of residents, employees, and visitors of all ages and abilities. Although not all facilities may meet the needs of any one group, CC2035 proposes new facilities where a greater variety of abilities and needs are addressed, such as the Green Loop meeting the abilities of pedestrians and cyclists with more flexibility than a standard bike land or sidewalk improvement.

Public rights-of-way

- 439. **Policy 8.39, Interconnected network.** Establish a safe and connected rights-of-way system that equitably provides infrastructure services throughout the city.
- 440. **Policy 8.40, Transportation function.** Improve and maintain the right-of-way to support multimodal transportation mobility and access to goods and services as is consistent with the designated street classification.

Consistent with Policies 8.39 and 8.40, CC2035 strives to expand and enhance existing elements of the public right-of-way to provide safe routes for all modes with an emphasis on the street network, street diversity and amenities in the street. For instance, policies, such as Optimized Street Network (Policy 3.3), Transportation System Plan (Policy 3.4), Street Diversity (Policy 3.6), and Streetscapes (Policy 3.7), all support the objectives of the policies above. Further, TSP elements addressing the Central Eastside propose numerous new signalized intersections, and the reconfiguration of certain streets to be more attractive to freight, while others are improved for cycling, and others for general auto traffic. These actions will address all mode by providing safer and preferred routes for each, while enhancing mobility and safety for all types of users.

Further, there are several freight specific TSP projects and studies that will increase and protect freight movement and the Central City's role as a multimodal system and hub. TSP Freight district and freight street classifications also address this policy. Major freight-related projects in CC2035 include the Broadway/Weidler (Rose Quarter) Interchange Project (now an adopted element of the City's TSP), Central Eastside Access and Circulation, N River St Reconstruction, Yamhill & Water Traffic Improvements, I-405/Glisan Traffic Improvements, SW Broadway Traffic Improvements, and Southern Triangle Access Improvements.

- 441. **Policy 8.42, Stormwater management function.** Improve rights-of-way to integrate green infrastructure and other stormwater management facilities to meet desired levels-of-service and economic, social, and environmental objectives.
- 442. **Policy 8.43, Trees in rights-of-way.** Integrate trees into public rights-of-way to support City canopy goals, transportation functions, and economic, social, and environmental objectives.
- 443. **Policy 8.44, Community uses.** Allow community use of rights-of-way for purposes such as public gathering space, events, or temporary festivals, if the community uses are integrated in ways that balance and minimize conflict with the designated through movement and access roles of rights-of-ways.

As noted above, the sheer extent of the amount of right-of-way, and open space, in the Central City requires it to serve a multitude of functions beyond allowing people to get from one location to another. The right-of-way must also be where most public and private utilities are located, where stormwater is treated, where street trees and most of the other landscaping that constitutes the urban forest is planted, and furnishings, amenities, and services that enliven the public realm are located.

CC2035 contains the following policies, to ensure the Central City's right-of-way will continue to serve multiple functions, and that opportunities to expand these functions are pursued through the life of the plan:

- Policy 5.8, Public realm. *Enhance the character and function of the public realm through design standards, guidelines, amenities and land uses that activate the pedestrian environment and encourage community gathering.*

- Policy 6.3, Multiple functions. *Encourage green infrastructure, parks, open space, and recreation opportunities in the Central City that serve multiple functions to provide capacity during flood event, improve stormwater management, reduce heat island effects, create pockets of fish and wildlife refuge, and provide places of respite and recreation for employees, residents, and visitors.*
- Policy 6.4, Green infrastructure. *Increase the use of trees, ecoroofs, vertical gardens, sustainable site development, landscaped setbacks and courtyards, living walls and other vegetated facilities to manage stormwater, improve the pedestrian environment, reduce heat island effects, improve air and water quality and create habitat for birds and pollinators.*

444. **Policy 8.45, Pedestrian amenities.** Encourage facilities that enhance pedestrian enjoyment, such as transit shelters, garbage containers, benches, etc. in the right-of-way.
445. **Policy 8.46, Commercial uses.** Accommodate allowable commercial uses of the rights-of-way for enhancing commercial vitality, if the commercial uses can be integrated in ways that balance and minimize conflict with the other functions of the right-of-way.
446. **Policy 8.47, Flexible design.** Allow flexibility in right-of-way design and development standards to appropriately reflect the pattern area and other relevant physical, community, and environmental contexts and local needs.
447. **Policy 8.48, Corridors and City Greenways.** Ensure public facilities located along Civic Corridors, Neighborhood Corridors, and City Greenways support the multiple objectives established for these corridors.

CC2035 is consistent with Policies 8.45 – 8.48, CC2035 contains policies that support a walkable pedestrian environment in the Central City, such as Policy 3.7, Streetscape, and Policy 3.8, Walking. Further, policies such as 5.7, which states “Enhance the character and function of the public realm through design standards, guidelines, amenities and land uses that activate the pedestrian environment...”, and actions such as TR32, which states “lighting within public realm and ground floor programming will be designed to create a safe and attractive environment for pedestrians...”, and amended development standard 33.510.215, Required Building Lines, that has the stated purpose to “create diverse street character based street hierarchy...that promote active uses, pedestrian movement, and opportunities for stopping and gathering...”. Also, the optimized street network policies in each Central City district emphasize and recognize unique features on Civic Corridors and City Greenways for infrastructure improvements.

Trails

448. **Policy 8.53, Public trails.** Establish, improve, and maintain a citywide system of public trails that provide transportation and/or recreation options and are a component of larger network of facilities for bicyclists, pedestrians, and recreational users.
449. **Policy 8.54, Trail system connectivity.** Plan, improve, and maintain the citywide trail system so that it connects and improves access to Portland’s neighborhoods, commercial areas, employment centers, schools, parks, natural areas, recreational facilities, regional destinations, the regional trail system, and other key places that Portlanders access in their daily lives.
450. **Policy 8.55, Trail coordination.** Coordinate planning, design, improvement, and maintenance of the trail system among City agencies, other public agencies, non-governmental partners, and adjacent landowners.

451. **Policy 8.56, Trail diversity.** Allow a variety of trail types to reflect a trail's transportation and recreation roles, requirements, and physical context.

The Central City, with its proximity to the Willamette River, and nexus for most regional transportation options, all contribute to it also being a major hub for the city's pedestrian and bicycle trail network. The CC2035 Plan contains policies that support continued enhancement and improvements to the existing network, while proposing new connections and new infrastructure, such as the Green Loop. The plan also contains new master plan standards that require the design of circulation on large master plan sites to connect with trails, and to enhance those sections of the network that bypass these sites. The plan also calls for coordination between PBOT, Parks, and other entities responsible for maintaining the city's part of the regional trail network. These elements of the plan ensure CC2035 is consistent with Policies 8.53 – 8.56.

452. **Policy 8.57, Public access requirements.** Require public access and improvement of public trails along the future public trail alignments shown in Figure 8-2 — Future Public Trail Alignments.
453. **Policy 8.58, Trail and City Greenway coordination.** Coordinate the planning and improvement of trails as part of the City Greenways system.
454. **Policy 8.59, Trail and Habitat Corridor coordination.** Coordinate the planning and improvement of trails with the establishment, enhancement, preservation, and access to habitat corridors.

CC2035 includes amendments to Section 33.272, Public Trails, of the Zoning Code that clarify the role of the City in requiring trail easements and improvements to trails found on figure 8-2 of the 2035 Comprehensive Plan. Specifically, that figure identifies trails, such as the Willamette Greenway Trail, Sullivan's Gulch Trail, and OMSI – Springwater Trail, that bisect the Central City Plan District. As such, the development of segments of those trails may be required to be constructed when certain development actions occur. CC2035 clarifies that "when a proposed development will increase the use of the trail system or will contribute to the need for additional trail facilities, and application of the regulations is determined to be roughly proportional to the impacts of the proposed development" provisions of the code requiring trail easements and development may be applied. These standards allow the integrated regional trail network within the Central City to be completed to the benefit of trail users and sites near the trail network to benefit visitors, employees, residents, and customers, consistent with Policies 8.57 – 8.59.

455. **Policy 8.60, Intertwine coordination.** Coordinate with the Intertwine Alliance and its partners, including local and regional parks providers, to integrate Portland's trail and active transportation network with the bi-state regional trail system.

The City of Portland is a member of the Intertwine Alliance, and additional work to complete and coordinate with other alliance partners to complete and connect unfinished segments of the "Intertwine" within the Central City Plan District will be coordinated, consistent with Policy 8.60 above.

Stormwater Systems

456. **Policy 8.68, Stormwater facilities.** Provide adequate stormwater facilities for conveyance, flow control, and pollution reduction.
457. **Policy 8.69, Stormwater as a resource.** Manage stormwater as a resource for watershed health and public use in ways that protect and restore the natural hydrology, water quality, and habitat of Portland's watersheds.

CC2035 contains several elements that respond to Policies 8.68 and 8.69. Policies 3.CE-3, Green Streets, and 5.UD-3, Montgomery Green Street, support the incorporation of green facilities in the public right-of-way. Also, the Zoning Code amendments include requirements to incorporate ecoroofs into new development, and the plan contains provisions incenting the use of green infrastructure on private property and within public right-of-way.

458. **Policy 8.71, Green infrastructure.** Promote the use of green infrastructure, such as natural areas, the urban forest, and landscaped stormwater facilities, to manage stormwater.

Policy 6.4 of CC2035 calls for increasing “the use of trees, ecoroofs, vertical gardens, sustainable site development, landscaped setbacks and courtyards, living walls and other vegetated facilities to manage stormwater...” The plan also contains Zoning Code regulations requiring the use of ecoroofs, and contains incentives to create vegetated setbacks on key streets in the Central City. These elements of the plan further the objectives of Policy 8.71.

Flood management

459. **Policy 8.76, Flood management.** Improve and maintain the functions of natural and managed drainageways, wetlands, and floodplains to protect health, safety, and property, provide water conveyance and storage, improve water quality, and maintain and enhance fish and wildlife habitat.
460. **Policy 8.77, Floodplain management.** Manage floodplains to protect and restore associated natural resources and functions and to minimize the risks to life and property from flooding.
461. **Policy 8.78, Flood management facilities.** Establish, improve, and maintain flood management facilities to serve designated land uses through planning, investment and regulatory requirements.

The amendments are consistent with Policies 8.76, 8.77 and 8.78 in the following ways:

- A. The Health and Environment Goal and related policies and actions provide for resilience to climate change impacts and natural hazards including flooding through planning, design, education and implementation of green infrastructure and infrastructure retrofits.
- B. The *Willamette River Central Reach Natural Resources Protection Plan* (NRPP) includes an updated inventory of natural resources features and functions in the Central City. The NRPP evaluates the functions above and the ecosystem services, including floodplain and flood management, provided by those features in Chapter 4, Analysis of Protection Options and General Recommendations. Chapter 5, Results, includes recommendations for maintaining natural resource features and functions.
- C. Zoning code 33.475, River Overlay Zones, and 33.865, River Review, will protect and conserve the identified resource features and functions by limiting development within natural resource areas, encouraging environmentally sensitive development and requiring mitigation when development has a detrimental impact on the resources. By applying the new River Environmental overlay zoning for identified natural resource areas in the Central City, including resources located in the water, in the floodplain and on land, the plan reduces risks to people and property from flooding.
- D. The River setback is increased. The setback requires that development that is not river-dependent or river-related be setback 50 feet from the top of bank of the Willamette River. Testimony was received that both supported and opposed the expanded setback. City Council finds that the expansion is appropriate because this reduces the risk of flooding impacts on development near the river. In addition, there is a landscaping requirement for the setback

that requires additional native plants to be planted. The setback and landscaping retain space that mitigate the risks associated with river flooding.

- E. Actions call for partnerships between local, regional, state and federal regulatory, Sovereign nations, non-profit organization, neighborhoods and property owners. One action is to work with FEMA to address the NOAA Fisheries biological opinion regarding the floodplain development and impacts on species listed under the Endangered Species Act. This will include a remapping of the floodplain in the Central City. Another action is to amend the flood-related regulations and other guidelines to, a) help prevent or minimize the risk of flood damage to new, redeveloped and rehabilitated buildings located in the 100-year floodplain; b) avoid, minimize and mitigate the impacts of such development on floodplain functions; and, c) comply with updated NFIP requirements.
- F. A new standard for the Central City requires that new buildings over 20,000 square feet in net building area must install an ecoroof over 60% of the roof area. Ecoroofs provide multiple functions including managing stormwater runoff. This reduces localized flooding.
- G. Existing regulations through City Code Title 24, Building Regulations, are also applicable to future development. These regulations require review of impacts within the river and floodplain including a test of no net rise and balancing of fill placed in the floodplain with an equal cut.

Parks and recreation

- 462. **Policy 8.92, Acquisition, development, and maintenance.** Provide and maintain an adequate supply and variety of parkland and recreational facilities to serve the city's current and future population based on identified level-of-service standards and community needs.
- 463. **Policy 8.93, Service equity.** Invest in acquisition and development of parks and recreation facilities in areas where service-level deficiencies exist.
- 464. **Policy 8.95, Park planning.** Improve parks, recreational facilities, natural areas, and the urban forest in accordance with current master plans, management plans, or adopted strategies that reflect user group needs, development priorities, development and maintenance costs, program opportunities, financing strategies, and community input.
- 465. **Policy 8.96, Recreational trails.** Establish, improve, and maintain a complete and connected system of public recreational trails, consistent with Portland Parks & Recreation's trail strategy.

The goals and policies, Volume 1, and action items, Volume 5 (Implementation Plan) of CC2035 support Policies 8.92 – 8.96 by supporting new public park development and planning, as well as the maintenance and enhancement of new park assets to support current Central City residents, employees, and visitors, as well as projected growth in the Central City through the life of the plan. The proposed Green Loop elements of the plan also further the objectives of these two policies by providing a new urban trail that provides for passive and active transportation opportunities, and an alignment that links trail users to numerous other trails and parks within the Central City.

- 466. **Policy 8.97, Natural resources.** Preserve, enhance, and manage City-owned natural areas and resources to protect and improve their ecological health, in accordance with both the natural area acquisition and restoration strategies, and to provide compatible public access.
- 467. **Policy 8.98, Urban forest management.** Manage urban trees as green infrastructure with associated ecological, community, and economic functions, through planning, planting, and maintenance activities, education, and regulation.

CC2035 contains elements calling for increased street tree planting, expansion of tree canopy on public and private property, an increased setback from the Willamette River, and establishing new targets for river bank enhancement, consistent with Policies 8.97 and 8.98.

468. **Policy 8.99, Recreational facilities.** Provide a variety of recreational facilities and services that contribute to the health and well-being of Portlanders of all ages and abilities.

Volume 1 and Volume 5, Implementation Plan, of CC2035 contain policies and actions pursuing the use of green infrastructure in the right-of-way, a public community center, new restrooms in parks, additional trails, play areas, and other recreational amenities and services, consistent with Policy 8.99.

School facilities

469. **Policy 8.113, School district capacity.** Consider the overall enrollment capacity of a school district – as defined in an adopted school facility plan that meets the requirements of Oregon Revised Statute 195 – as a factor in land use decisions that increase capacity for residential development.
470. **Policy 8.114, Facilities Planning.** Facilitate coordinated planning among school districts and City bureaus, including Portland Parks and Recreation, to accommodate school site/facility needs in response to most up-to-date growth forecasts.
471. **Policy 8.115, Co-location.** Encourage public school districts, Multnomah County, the City of Portland, and other providers to co-locate facilities and programs in ways that optimize service provision and intergenerational and intercultural use.
472. **Policy 8.116, Community use.** Encourage public use of public school grounds for community purposes while meeting educational and student safety needs and balancing impacts on surrounding neighborhoods.
473. **Policy 8.117, Recreational use.** Encourage publicly-available recreational amenities (e.g. athletic fields, green spaces, community gardens, and playgrounds) on public school grounds for public recreational use, particularly in neighborhoods with limited access to parks.
474. **Policy 8.118, Schools as emergency aid centers.** Encourage the use of seismically-safe school facilities as gathering and aid-distribution locations during natural disasters and other emergencies.
475. **Policy 8.119, Facility adaptability.** Ensure that public schools may be upgraded to flexibly accommodate multiple community-serving uses and adapt to changes in educational approaches, technology, and student needs over time.
476. **Policy 8.120, Leverage public investment.** Encourage City public facility investments that complement and leverage local public school districts' major capital investments.
477. **Policy 8.122, Private institutions.** Encourage collaboration with private schools and educational institutions to support community and recreational use of their facilities.

Consistent with Policies 8.113 – 8.122, CC2035 contains elements that encourage coordination with Portland Public Schools, and private education providers, that consider how to address the growing school age population within the Central City, and as it grows over time, address the capacity of their programs, and the diversity of programming needs. Specifically, the plan considers these facilities as essential public services that beyond education have the capacity to serve community gathering functions, and areas where additional recreational needs can be provided. As such, the plan contains policies and actions encouraging cooperation between PPS and the City when existing

facilities are upgraded and new facilities planned. Further, the plan promotes the development of public school facilities, among other essential services, and provides a floor area ratio (FAR) bonus when such facilities are included in a development project. Lastly, Goal 3.1 of the plan emphasizes walking and biking as the preferred means of transportation in the district to increase safe access to schools.

Energy infrastructure

478. **Policy 8.125, Energy efficiency.** Promote efficient and sustainable production and use of energy resources by residents and businesses, including low-carbon renewable energy sources, district energy systems, and distributed generation, through land use plans, zoning, and other legislative land use decisions.

CC2035 contains goals and policies that support actions like and consistent with Policy 8.125, and the Zoning Code amendments further this direction by requiring that new development with a net building area of at least 50,000 sq. ft. pursue low-carbon, energy efficient certification.

Transportation: Goals

479. **GOAL 9.A: Safety.** Transportation safety impacts the livability of a city and the comfort and security of those using City streets. Comprehensive efforts to improve transportation safety through engineering, education, enforcement and evaluation will be used to eliminate traffic-related fatalities and serious injuries from Portland's transportation system.

CC2035 meets this goal with the plan's emphasis on a safe affordable, efficient and accessible transportation system that prioritizes walking, bicycling and transit (Goal 3.A). Further, the Broadway/Weidler (Rose Quarter) Interchange Project (now an adopted element of the City's TSP), is an ODOT project, created in partnership with the City of Portland, intended to reduce collisions on a section of Interstate 5 (I-5) that has the highest collision count of anywhere in the State of Oregon.

During City Council review of the CC2035 Plan there was a significant amount of testimony on this project, much suggesting the project was intended solely to increase capacity and decrease congestion. Conversely, Council received testimony in support of the project from the various stakeholders who depend on reliable freight delivery, delivery often impacted when collisions in this section of I-5 halt or significantly slow traffic.

As result of this testimony, Council sought input from PBOT and ODOT staff who noted that the project was intended to reduce congestion and improve safety on I-5, but would also result in new overpasses with improved pedestrian and bicycle facilities over I-5 in the Rose Quarter, an area of concern to PBOT with regard to pedestrian and cycling safety. After considering the testimony, and staff input on the project, Council decided to continue supporting the Broadway/Weidler Interchange Project, which had previously been added to the TSP project list by City Council through adoption of the *2035 Comprehensive Plan* (Ordinance 187832) prior to its review of the CC2035 Plan.

480. **Goal 9.B: Multiple goals.** Portland's transportation system is funded and maintained to achieve multiple goals and measurable outcomes for people and the environment. The transportation system is safe, complete, interconnected, multimodal, and fulfills daily needs for people and businesses.

CC2035 meets this goal with the plan's emphasis on a safe affordable, efficient and accessible transportation system that prioritizes walking, bicycling and transit (Goal 3.A) along with goals and

policies that emphasize green infrastructure, nature, connections to the river and the development of the Green Loop.

481. **GOAL 9.C: Great places.** Portland's transportation system enhances quality of life for all Portlanders, reinforces existing neighborhoods and great places, and helps make new great places in town centers, neighborhood centers and corridors, and civic corridors.

CC2035 meets this goal with the policies and actions emphasizing the development of the Green Loop, celebrating Portland's civic and cultural life, and designing streets to be great places. Policies related to streetscapes, optimized street networks, street diversity and street policies specific to the different districts in the Central City address this policy as well.

482. **GOAL 9.D: Environmentally sustainable.** The transportation system increasingly uses active transportation, renewable energy, or electricity from renewable sources, achieves adopted carbon reduction targets, and reduces air pollution, water pollution, noise, and Portlanders' reliance on private vehicles.

CC2035 meets this goal with the policies and actions emphasizing the development of the Green Loop, decreases in parking, an emphasis on green streets, transportation demand management and on walking, bicycling and transit in the central city. In addition, Zoning Code updates establish lower maximum parking ratios and encourage the shared use of existing and new parking facilities.

Transportation modeling of the elements of this plan indicate that, compared with a base scenario (using as a base case the 2016 adopted Portland Comprehensive Plan), the Central City in 2035 because of CC2035 is expected to have fewer single-occupancy vehicle trips and more walking, biking and transit trips, with the result that by 2035 the model indicates that the commute mode split would be 80.2%, meeting the transportation performance target set by this plan and found in Volume 5A.

483. **GOAL 9.E: Equitable transportation.** The transportation system provides all Portlanders options to move about the city and meet their daily needs by using a variety of safe, efficient, convenient, and affordable modes of transportation. Transportation investments are responsive to the distinct needs of each community.

CC2035 meets this goal with the plan's emphasis on a safe affordable, efficient and accessible transportation system that prioritizes walking, bicycling and transit (Goal 3.A). Street optimization policies in each district are responsive to the distinct needs of the community. Studies that are a part of the plan will also address distinct needs in each community. Example studies include the Goose Hollow Access and Circulation Plan, Old Town Chinatown Access and Circulation Plan, and University District Access and Circulation Plan.

484. **GOAL 9.F: Positive health outcomes.** The transportation system promotes positive health outcomes and minimizes negative impacts for all Portlanders by supporting active transportation, physical activity, and community and individual health.

CC2035 meets this goal with the plan's emphasis on a safe affordable, efficient and accessible transportation system that prioritizes walking, bicycling and transit (Goal 3.A). Transportation modeling of the elements of this plan indicate that, compared with a base scenario (using as a base case the 2016 adopted Portland Comprehensive Plan), the Central City in 2035 as a result of CC2035 is expected to have fewer single-occupancy vehicle trips and more walking, biking and transit trips, with the end result that by 2035 the model indicates that the commute mode split would be 80.2%, meeting the transportation performance target set by this plan and found in

Volume 5A. The project list also includes 109 projects that are primarily focused on active transportation.

Lastly, Council support of the Broadway/Weidler Interchange Project also further supports this Goal, as ODOT has previously noted that the project is expected to reduce collisions in the Rose Quarter section of I-5, resulting in reduced emissions from vehicle idling.

485. **GOAL 9.G: Opportunities for prosperity.** The transportation system supports a strong and diverse economy, enhances the competitiveness of the city and region, and maintains Portland's role as a West Coast trade gateway and freight hub by providing efficient and reliable goods movement, multimodal access to employment areas and educational institutions, as well as enhanced freight access to industrial areas and intermodal freight facilities. The transportation system helps people and businesses reduce spending and keep money in the local economy by providing affordable alternatives to driving.

CC2035 meets this goal with transportation policies that support a regional hub (Policy 3.1 and 3.2); support loading of goods in the Central City (Policy 3.15); enhance freight movement in the Central Eastside (Policy 3.CE-2); and support institutional and visitor parking (Policy 3.SW-3). Projects and studies will also address this policy. The project list includes 9 projects that are primarily focused on freight access and mobility, and 85 projects that provide affordable alternatives to driving.

Further, Council received testimony from stakeholders including the Port of Portland, Central Eastside Industrial Council, trades groups, and ODOT, in support of the Broadway/Weidler Interchange Project as necessary to improve safety and ensure freight and employees were less impacted by collisions in this section of I-5 in the Rose Quarter. As a result of this testimony and input from PBOT and ODOT staff, Council decided to continue supporting this project, previously adopted via the *2035 Comprehensive Plan* (Ordinance 187832).

Transportation: Policies

Designing and planning

486. **Policy 9.1, Street design classifications.** Maintain and implement street design classifications consistent with land use plans, environmental context, urban design pattern areas, and the Neighborhood Corridor and Civic Corridor Urban Design Framework designations.

CC2035 meets this policy as TSP Street Design Classification descriptions were adopted in the Comprehensive Plan Task 5 (December 2016) and are consistent with land use plans, environmental context, urban design pattern areas, and were not changed as part of the CC2035. CC2035 includes an update to the street design classification map in the Central City.

487. **Policy 9.2, Street policy classifications.** Maintain and implement street policy classifications for pedestrian, bicycle, transit, freight, emergency vehicle, and automotive movement, while considering access for all modes, connectivity, adjacent planned land uses, and state and regional requirements.

CC2035 meets this policy because TSP Classification descriptions were updated in Comp Plan Task 5 (December 2016) and TSP Stage 3 (in process) and are consistent with land use plans, environmental context, urban design pattern areas, and were not changed as part of CC2035. CC2035 includes updates to the modal classification maps in the Central City.

488. **9.2.a, Designate district classifications that emphasize freight mobility and access in industrial and employment areas serving high levels of truck traffic and to accommodate the**

- needs of intermodal freight movement.
- CC2035 meet this policy because Freight districts were adopted as part of the Freight Master Plan and the Southeast quadrant plan and reflects this policy.
489. **9.2.b, Designate district classifications that give priority to pedestrian access in areas where high levels of pedestrian activity exist or are planned, including the Central City, Gateway regional center, town centers, neighborhood centers, and transit station areas.**
- CC2035 meets this policy because Pedestrian Districts were adopted as part of the 2007 TSP and were not changed as part of the CC2035 plan.
490. **9.2.c, Designate district classifications that give priority to bicycle access and mobility in areas where high levels of bicycle activity exist or are planned, including Downtown, the River District, Lloyd District, Gateway Regional Center, town centers, neighborhood centers, and transit station areas.**
- CC2035 meets Policy 9.2.c because Bicycle Districts were created in the non-industrial areas of the Central City as part of the plan. Bicycle Districts were developed as part of the adopted Portland Bicycle Plan for 2030, and were expanded to additional areas as part of CC2035.
491. **Policy 9.3, Transportation System Plan. Maintain and implement the Transportation System Plan (TSP) as the decision-making tool for transportation-related projects, policies, programs, and street design.**
- CC2035 meets this policy because the TSP will be updated as part of the CC2035 legislative process with an updated projects list and street classification maps.
492. **Policy 9.4, Use of classifications. Plan, develop, implement, and manage the transportation system in accordance with street design and policy classifications outlined in the Transportation System Plan.**
- CC2035 meets Policy 6.4 because it is consistent with the updated TSP classifications from Comp Plan Task 5 and the existing TSP 2007 classification descriptions.
493. **Policy 9.5, Mode share goals and Vehicle Miles Travelled (VMT) reduction. Increase the share of trips made using active and low-carbon transportation modes. Reduce VMT to achieve targets set in the most current Climate Action Plan and Transportation System Plan, and meet or exceed Metro's mode share and VMT targets.**
- CC2035 meets this policy with a target (Volume 5A) that at least 80% of commute trips to and from the Central City will be made by non-single occupancy vehicles. Transportation modeling of the elements of this plan indicate that, compared with a base scenario (using as a base case the 2016 adopted Portland Comprehensive Plan), the Central City in 2035 because of CC2035 is expected to have fewer single-occupancy vehicle trips and more walking, biking and transit trips, with the result that by 2035 the model indicates that the commute mode split would be 80.2%.
494. **Policy 9.6, Transportation strategy for people movement. Design the system to accommodate the most vulnerable users, including those that need special accommodation under the Americans with Disabilities Act (ADA). Implement a prioritization of modes for people movement by making transportation system decisions per the following ordered list:**
- Walking
 - Bicycling
 - Transit

- Taxi / commercial transit / shared vehicles
- Zero emission vehicles
- Other single-occupancy vehicles
- When implementing this prioritization ensure that:
 - The needs and safety of each group of users are considered, and changes do not make existing conditions worse for the most vulnerable users.
 - All users' needs are balanced with the intent of optimizing the right of way for multiple modes on the same street.
 - When necessary to ensure safety, accommodate some users on parallel streets as part of multi-street corridors.
 - Land use and system plans, network functionality for all modes, other street functions, and complete street policies, are maintained.
 - Policy-based rationale is provided if modes lower in the ordered list are prioritized.

CC2035 meets this policy because Goal 3.A prioritizes walking, bicycling and transit. Active transportation policies (Policies 3.5 – 3.11) prioritize walking, bicycling, and transportation demand management. Projects and studies in the plan increase walking and bicycling opportunities and infrastructure. Policies and actions to develop the Green Loop, design streets as public spaces and enhance the Willamette for people also meet this policy. Most proposed TSP projects have a bicycle, pedestrian and transit component, such as the Broadway/Weidler Interchange Project, and only about a third have an auto component.

	Bike	Ped	Auto, Freight	Transit	Safety	Total
# of projects	87	76	41	8	85	118
% total	73.7%	64.4%	34.7%	6.8%	72.0%	
Cost of projects	\$ 962,419,223	\$ 954,169,223	\$ 563,352,391	\$ 302,000,000	\$ 784,581,249	\$ 1,169,907,301
% total	82.3%	81.6%	48.2%	25.8%	67.1%	

495. **Policy 9.7, Moving goods and delivering services.** In tandem with people movement, maintain efficient and reliable movement of goods and services as a critical transportation system function. Prioritize freight system reliability improvements over single-occupancy vehicle mobility where there are solutions that distinctly address those different needs.

CC2035 meets this policy with an emphasis on supporting the Central City as a regional hub (policies 3.1-3.2) as well as supporting loading (Policy 3.15); enhancing the freight system in the Central Eastside (Policy 3.CE-2) and Lower Albina (Policy 3.LA-2) and preserving rail and inter modal access in the Albina Yards (Policy 3.LA-3).

Further, there are several TSP freight specific projects and studies that will increase and protect freight movement and the Central City's role as a multimodal system and hub. TSP Freight district and freight street classifications also address this policy. Major freight-related projects in CC2035 include the Broadway/Weidler (Rose Quarter) Interchange Project (now an adopted project in the City's TSP), Central Eastside Access and Circulation project, N River St Reconstruction, Yamhill &

Water Traffic Improvements, I-405/Glisan Traffic Improvements, SW Broadway Traffic Improvements, and Southern Triangle Access Improvements.

496. **Policy 9.8, Affordability.** Improve and maintain the transportation system to increase access to convenient and affordable transportation options for all Portlanders, especially those who have traditionally been under-served or under-represented or have historically borne unequal burdens.

CC2035 proposes an expansion of new, and enhancement of existing transit options and active transportation infrastructure between the Central City and other areas of the city, including those that have historically been under-represented, to provide better access to affordable multimodal transportation options, consistent with Policy 9.8.

497. **Policy 9.9, Accessible and age-friendly transportation system.** Ensure that transportation facilities are accessible to people of all ages and abilities, and that all improvements to the transportation system (traffic, transit, bicycle, and pedestrian) in the public right-of-way comply with the Americans with Disabilities Act of 1990. Improve and adapt the transportation system to better meet the needs of the most vulnerable users, including the young, older adults, and people with different abilities.

CC2035 meets this policy with Goal 3.A's emphasis on walking, bicycling and transit plus streetscape and optimized street network policies in each district.

498. **Policy 9.10, Geographic policies.** Adopt geographically-specific policies in the Transportation System Plan to ensure that transportation infrastructure reflects the unique topography, historic character, natural features, system gaps, economic needs, demographics, and land uses of each area. Use the Pattern Areas identified in Chapter 3: Urban Form as the basis for area policies.

CC2035 meets this policy since it is a geographically specific plan that also has district policies that reflect unique topography, historic character, natural features, system gaps, economic needs, demographics, and land uses of each area.

Land use, development, and placemaking

499. **Policy 9.11, Land use and transportation coordination.** Implement the Comprehensive Plan Map and the Urban Design Framework through coordinated long-range transportation and land use planning. Ensure that street policy and design classifications and land uses complement one another.

CC2025 meets this policy since BPS and PBOT worked cooperatively on the CC2035 plan and Chapter 3. Transportation of the CC2035 has an emphasis on transportation supporting different land uses in the districts/quadrants. Further, the plan proposes significant FAR increases at key station areas where various connections to the Central City's multimodal network exists.

500. **Policy 9.12, Growth strategy.** Use street design and policy classifications to support Goals 3A-3G in Chapter 3: Urban Form. Consider the different design contexts and transportation functions in Town Centers, Neighborhood Centers, Neighborhood Corridors, Employment Areas, Freight Corridors, Civic Corridors, Transit Station Areas, and Greenways.

CC2035 meets this policy by including street classification policy descriptions and maps that were adopted in 2007 or as part of the Comp Plan in 2016.

501. **Policy 9.13, Development and street design.** Evaluate adjacent land uses to help inform street classifications in framing, shaping, and activating the public space of streets. Guide development

and land use to create the kinds of places and street environments intended for different types of streets.

CC2035 meets this policy with the inclusion of the street classification, streetscape and optimized street network policies; street diversity policies as well as projects that reflect the classifications and additional studies to refine projects.

Streets as public spaces

502. **Policy 9.14, Streets for transportation and public spaces.** Integrate both placemaking and transportation functions when designing and managing streets by encouraging design, development, and operation of streets to enhance opportunities for them to serve as places for community interaction, environmental function, open space, tree canopy, recreation, and other community purposes.

503. **Policy 9.15, Repurposing street space.** Encourage repurposing street segments that are not critical for transportation connectivity to other community purposes.

CC2035 meets this goal with the policies and actions emphasizing the development of the Green Loop, celebrating Portland's civic and cultural life, and designing streets to be great places. Policies related to streetscapes, optimized street networks, street diversity and street policies specific to the different districts in the Central City address this policy as well. There are also projects and studies that will create additional connections with transportation and public spaces. Major projects that meet this policy include the Burnside/10th Pedestrian Improvements, Burnside/Broadway Pedestrian Improvements, Burnside/20th Pedestrian Improvements, Collins Circle Public Space Improvements, Firefighters Park Public Space Improvements, Clackamas Flexible Street Strategy, Cultural District Streetscape Plan.

504. **Policy 9.16, Design with nature.** Promote street alignments and designs that respond to topography and natural features, when feasible, and protect streams, wildlife habitat, and native trees.

CC2035 meets this goal with the policies and actions emphasizing the development of the Green Loop, celebrating Portland's civic and cultural life, and designing streets to be great places. Additional policies support connections to the river; green streets and connections to parks.

Modal policies

505. **Policy 9.17, Pedestrian transportation.** Encourage walking as the most attractive mode of transportation for most short trips, within and to centers, corridors, and major destinations, and as a means for accessing transit.
506. **Policy 9.18, Pedestrian networks.** Create more complete networks of pedestrian facilities, and improve the quality of the pedestrian environment.
507. **Policy 9.19, Pedestrian safety and accessibility.** Improve pedestrian safety, accessibility, and convenience for people of all ages and abilities.

CC2035 meets these policies because Goals 3.A and 3.8 prioritize walking. Projects and studies in the plan increase walking opportunities and infrastructure. The policies and actions relate to developing the Green Loop, designing streets as public spaces and enhancing the Willamette for people also meet this policy. Optimized street network policies in each district, street diversity policies and green street policies also enhance the pedestrian network. Pedestrian street

classifications and Pedestrian Districts increase the emphasis on walking in the Central City. CC2035 has 85 projects that focus on pedestrian safety and access.

508. **Policy 9.20, Bicycle transportation.** Create conditions that make bicycling more attractive than driving for most trips of approximately three miles or less.

509. **Policy 9.21, Accessible bicycle system.** Create a bicycle transportation system that is safe, comfortable, and accessible to people of all ages and abilities.

CC2035 meets these policies because Goals 3.A and 3.9 prioritizes bicycling. Projects and studies in the plan that increase bicycling opportunities and infrastructure. The policies and actions related to developing the Green Loop, designing streets as public spaces and enhancing the Willamette for people also meet this policy. Optimized street network policies in each district, street diversity policies and green street policies also enhance the bicycling network. Bicycle street classifications and Bicycle Districts increase the emphasis on bicycling in the Central City. CC2035 has 85 projects that focus on bicycle safety and access.

510. **Policy 9.22, Public transportation.** Coordinate with public transit agencies to create conditions that make transit the preferred mode of travel for trips that are not made by walking or bicycling.

511. **Policy 9.23, Transportation to job centers.** Promote and enhance transit to be more convenient and economical than the automobile for people travelling more than three miles to and from the Central City and Gateway. Enhance regional access to the Central City and access from Portland to other regional job centers.

512. **Policy 9.24, Transit service.** In partnership with TriMet, develop a public transportation system that conveniently, safely, comfortably, and equitably serves residents and workers 24 hours a day, 7 days a week.

513. **Policy 9.25, Transit equity.** In partnership with TriMet, maintain and expand high-quality frequent transit service to all Town Centers, Civic Corridors, Neighborhood Centers, Neighborhood Corridors, and other major concentrations of employment, and improve service to areas with high concentrations of poverty and historically under-served and under-represented communities.

514. **Policy 9.26, Transit funding.** Consider funding strategies and partnership opportunities that improve access to and equity in transit service, such as raising metro-wide funding to improve service and decrease user fees/fares.

515. **Policy 9.27, Transit service to centers and corridors.** Use transit investments to shape the city's growth and increase transit use. In partnership with TriMet and Metro, maintain, expand, and enhance Portland Streetcar, frequent service bus, and high-capacity transit, to better serve centers and corridors with the highest intensity of potential employment and household growth.

CC2035 meets these policies because Goal 3.A and Policy 3.10 prioritizes transit. Incorporated TriMet service enhancement plans and there are projects and studies in the plan increase transit opportunities and infrastructure. Major transit-related studies include the Central City Transit Network Study, Central City Light Rail Stations Study, Central City Transit Capacity Study, and the River Transit Feasibility Study. Major transit-related projects include the Portland Streetcar Operational Improvements, SW Main/Madison Bikeway and Transit Improvements, Oregon/Grand and Grand/Weidler Streetcar Turnarounds, and Steel Bridge Transit Improvements.

516. **Policy 9.28, Intercity passenger service.** Coordinate planning and project development to expand intercity passenger transportation services in the Willamette Valley, and from Portland to Seattle and Vancouver, BC.

CC2035 meets this policy through Policy 3.OT-2, Union Station multi-modal hub which calls for enhancing Union Station and there is also a project for upgrading Union Station.

517. **Policy 9.29, Regional trafficways and transitways.** Maintain capacity of regional transitways and existing regional trafficways to accommodate through-traffic.

CC2035 meets this policy with policies 3.1 and 3.2 related to the Central City as a regional hub.

518. **Policy 9.30, Multimodal goods movement.** Develop, maintain, and enhance a multimodal freight transportation system for the safe, reliable, sustainable, and efficient movement of goods within and through the city.

519. **Policy 9.31, Economic development and industrial lands.** Ensure that the transportation system supports traded sector economic development plans and full utilization of prime industrial land, including brownfield redevelopment.

520. **Policy 9.32, Multimodal system and hub.** Maintain Portland's role as a multimodal hub for global and regional movement of goods. Enhance Portland's network of multimodal freight corridors.

521. **Policy 9.33, Freight network.** Develop, manage, and maintain a safe, efficient, and reliable freight street network to provide freight access to and from intermodal freight facilities, industrial and commercial districts, and the regional transportation system. Invest to accommodate forecasted growth of interregional freight volumes and provide access to truck, marine, rail, and air transportation systems. Ensure designated routes and facilities are adequate for over-dimensional trucks and emergency equipment.

522. **Policy 9.34, Sustainable freight system.** Support the efficient delivery of goods and services to businesses and neighborhoods, while also reducing environmental and neighborhood impacts. Encourage the use of energy efficient and clean delivery vehicles, and manage on- and off-street loading spaces to ensure adequate access for deliveries to businesses, while maintaining access to homes and businesses.

CC2035 meets this policy with policies 3.1 and 3.2 related to the Central City as a regional hub. In addition, policies 3.LA-2 and 3.CE-2 are to emphasize freight movement and access improvements in Lower Albina and the Central Eastside. There are also several freight specific projects and studies that will increase and protect freight movement and the Central City's role as a multimodal system and hub. Freight district and freight street classifications also address this policy. Major freight-related projects in CC2035 include the Broadway/Weidler (Rose Quarter) Interchange Project, Central Eastside Access and Circulation, N River St Reconstruction, Yamhill & Water Traffic Improvements, I-405/Glisan Traffic Improvements, SW Broadway Traffic Improvements, and Southern Triangle Access Improvements.

523. **Policy 9.35, Freight rail network.** Coordinate with stakeholders and regional partners to support continued reinvestment in, and modernization of, the freight rail network.

CC2035 meets this policy with policy 3.LA-3, Rail and Marine in Lower Albina. In addition, there is a Central Eastside quiet zone study.

524. **Policy 9.37, Portland Heliport.** Maintain Portland's Heliport functionality in the Central City.

CC2035 is consistent with this policy as nothing in the plan, projects or studies, impedes maintaining Portland's Heliport functionality in the Central City.

525. **Policy 9.38, Automobile transportation.** Maintain acceptable levels of mobility and access for

private automobiles while reducing overall vehicle miles traveled (VMT) and negative impacts of private automobiles on the environment and human health.

Modeling indicates that the Central City will maintain acceptable levels for automobiles. Further, consistent with Policy 9.38, there are projects and studies that assist to maintain these levels.

526. **Policy 9.39, Automobile efficiency.** Coordinate land use and transportation plans and programs with other public and private stakeholders to encourage vehicle technology innovation, shifts toward electric and other cleaner, more energy-efficient vehicles and fuels, integration of smart vehicle technology with intelligent transportation systems, and greater use of options such as car-share, carpool, and taxi.

Modeling indicates that the Central City will maintain acceptable levels for automobiles, and there are ITS projects in the plan that assist to maintain efficiency, including I-405 Corridor ITS and Central City TSM. The plan also contains policies and actions to support the use of electric vehicles and development of charging stations in the Central City.

527. **Policy 9.40, Emergency response.** Maintain a network of accessible emergency response streets to facilitate safe and expedient emergency response and evacuation. Ensure that police, fire, ambulance, and other emergency providers can reach their destinations in a timely fashion, without negatively impacting traffic calming and other measures intended to reduce crashes and improve safety.

CC2035 meets this policy with the incorporation of the new Secondary Emergency Response Routes and all other Emergency Response Route Classifications as proposed on TSP Stage 3. Emergency Response classification maps have been updated in CC2035.

System management

528. **Policy 9.45, System management.** Give preference to transportation improvements that use existing roadway capacity efficiently and that improve the safety of the system for all users.
529. **Policy 9.46, Traffic management.** Evaluate and encourage traffic speed and volume to be consistent with street classifications and desired land uses to improve safety, preserve and enhance neighborhood livability, and meet system goals of calming vehicle traffic through a combination of enforcement, engineering, and education efforts.
530. **Policy 9.47, Connectivity.** Establish an interconnected, multimodal transportation system to serve centers and other significant locations. Promote a logical, direct, and connected street system through street spacing guidelines and district-specific street plans found in the Transportation System Plan, and prioritize access to specific places by certain modes in accordance with policies 9.6 and 9.7.

CC2035 meets these policies with an emphasis in Goal 3.A on an efficient and accessible transportation that prioritizes walking, bicycling and transit and addresses district and street specific needs in projects and studies.

During City Council review of this plan, there was extensive testimony in opposition to the proposed I-5 Broadway/Weidler Interchange Improvements Facility Plan. That plan is a joint City of Portland and Oregon Department of Transportation project to improve bicycle, pedestrian, and automobile safety in the vicinity of the I-5 and I-84 interchange, Broadway/Weidler off-ramps, and Broadway/Weidler street over passes. Many, but not all, who testified stated an opposition to the project and characterized it as a freeway widening project designed to increase capacity of the freeway system.

Much of this testimony was presented during CC2035 hearings because this project was initially addressed during the N/NE Quadrant Plan process. However, since the adoption of that plan by City Council on October 25, 2012, the I-5 Broadway/Weidler Interchange Improvements Facility Plan and its associated transportation projects were adopted as part of the City of Portland's Transportation Systems Plan (TSP) and it is no longer an element of the Central City 2035 Plan. The TSP amendments were adopted by Ordinance 187832.

531. **Policy 9.51, Multimodal Mixed-Use Area.** Designate a Central City Multimodal Mixed-Use Area (MMA) in the geography indicated in Figure 9-2, which will render state congestion / mobility standards inapplicable to proposed plan amendments under OAR 660-0012-0060(10), subject to ODOT concurrence and execution of an agreement between ODOT and the City of Portland. The agreement should emphasize potential safety and operational impacts.

A Central City MMA has been established, consistent with this policy, in coordination between the City of Portland and Oregon Department of Transportation. Specific MMA findings are presented earlier in this report under Goal 12, Transportation in the "Findings on Statewide Planning Goals" section of these findings.

Additionally, Central City 2035 Policy 3.5, Regional multimodal access, calls for the City to *"Work with the Oregon Department of Transportation on improvements to 1-405, 1-5 and US Highway 26 to enhance regional access to the Central City. Minimize through traffic on Central City streets, improve pedestrian and bicycle connectivity across freeways and create opportunities for capping freeways to lessen the barrier effect of the freeway and open new areas for potential development and/or parks, open space, and recreational opportunities."* Thus, these elements of the plan are consistent with Policy 9.51, and others related to coordinating efforts to increase multimodal access to and through the Central City.

Transportation Demand Management

532. **Policy 9.52, Outreach.** Create and maintain TDM outreach programs that work with Transportation Management Associations (TMA), residents, employers, and employees that increase the modal share of walking, bicycling, and shared vehicle trips while reducing private vehicle ownership, parking demand, and drive-alone trips, especially during peak periods.
533. **Policy 9.53, New development.** Create and maintain TDM regulations and services that prevent and reduce traffic and parking impacts from new development and redevelopment. Encourage coordinated area-wide delivery of TDM programs. Monitor and improve the performance of private-sector TDM programs.
534. **Policy 9.54, Projects and programs.** Integrate TDM information into transportation project and program development and implementation to increase use of new multimodal transportation projects and services.

CC2035 meets these policies with an emphasis in Goal 3.A on an efficient and accessible transportation that prioritizes walking, bicycling and transit and policy 3.11 transportation demand management. There are also policies and actions to study and implement TDM. The plan also contains reduced parking ratios for the Central City, encourages shared parking or existing and new parking facilities, and prohibits the development of new surface parking in most of the plan area.

Parking management

535. **Policy 9.55, Parking management.** Reduce parking demand and manage supply to improve pedestrian, bicycle and transit mode share, neighborhood livability, safety, business district

vitality, vehicle miles traveled (VMT) reduction, and air quality. Implement strategies that reduce demand for new parking and private vehicle ownership, and that help maintain optimal parking occupancy and availability.

- 536. **Policy 9.56, Curb Zone.** Recognize that the Curb Zone is a public space, a physical and spatial asset that has value and cost. Evaluate whether, when, and where parking is the highest and best use of this public space in support of broad City policy goals and local land use context. Establish thresholds to utilize parking management and pricing tools in areas with high parking demand to ensure adequate on-street parking supply during peak periods.
- 537. **Policy 9.57, On-street parking.** Manage parking and loading demand, supply, and operations in the public right of way to achieve mode share objectives, and to encourage safety, economic vitality, and livability. Use transportation demand management and pricing of parking in areas with high parking demand.
- 538. **Policy 9.58, Off-street parking.** Limit the development of new parking spaces to achieve land use, transportation, and environmental goals, especially in locations with frequent transit service. Regulate off-street parking to achieve mode share objectives, promote compact and walkable urban form, encourage lower rates of car ownership, and promote the vitality of commercial and employment areas. Use transportation demand management and pricing of parking in areas with high parking demand.
- 539. **Policy 9.59, Share space and resources.** Encourage the shared use of parking and vehicles to maximize the efficient use of limited urban space.
- 540. **Policy 9.60, Cost and price.** Recognize the high public and private cost of parking by encouraging prices that reflect the cost of providing parking and balance demand and supply. Discourage employee and resident parking subsidies.

CC2035 meets parking policies through many policies and code changes. Shared parking is encouraged and the use of new technologies such as dynamic pricing and balancing other needs of the curb zone further meet these policies. (policies 3.12 – 3315; 3.DT-2; 3.SW-3). The plan and changes to the zoning code, found in the parking section of the Central City Plan District (Volume 3A) emphasize limiting the overall growth of parking while maximizing joint use. The zoning code amendments maintains no minimum auto parking requirements and sets maximums on all uses. It allows for commercial share of parking that is expected to result in better use of existing parking assets and less new parking being built. In addition, the zoning code includes new prohibitions on surface parking lots (except for allowing up to 20 stalls for surface parking for industrial uses only). Transportation modeling done by Metro indicates that the parking policies in the plan lead to a reduction of auto trips and increase in non-auto trips, supporting many City and Central City goals.

- 541. **Policy 9.61, Bicycle parking.** Promote the development of new bicycle parking facilities including dedicated bike parking in the public right-of-way. Provide sufficient bicycle parking at high-capacity transit stations to enhance bicycle connection opportunities. Require provision of adequate off-street bicycle parking for new development and redevelopment. Encourage the provision of parking for different types of bicycles. In establishing the standards for long-term bicycle parking, consider the needs of persons with different levels of ability.

CC2035 meets this policy through Policy 3.13 which encourages bike parking to serve additional bike trips in the Central City.

Finance, programs, and coordination

542. **Policy 9.62, Coordination.** Coordinate with state and federal agencies, local and regional governments, special districts, other City bureaus, and providers of transportation services when planning for, developing, and funding transportation facilities and services.
543. **Policy 9.63, New development impacts.** Prevent, reduce, and mitigate the impacts of new development and redevelopment on the transportation system. Utilize strategies including transportation and parking demand management, transportation system analysis, and system and local impact mitigation improvements and fees.
544. **Policy 9.64, Education and encouragement.** Create, maintain, and coordinate educational and encouragement programs that support multimodal transportation and that emphasize safety for all modes of transportation. Ensure that these programs are accessible to historically under-served and under-represented populations.
545. **Policy 9.65, Telecommuting.** Promote telecommuting and the use of communications technology to reduce travel demand.

CC2035 meets this policy through Policy 3.11 Transportation Demand Management which includes encouragement of telecommuting.

546. **Policy 9.66, Project and program selection criteria.** Establish transportation project and program selection criteria consistent with goals 9A through 9I, to cost-effectively achieve access, placemaking, sustainability, equity, health, prosperity, and safety goals.

CC2035 met this policy when the project team used the TSP Project Selection Criteria (based on this policy and the TSP Outcomes) to choose and prioritize projects to be included in the plan and the TSP.

547. **Policy 9.67, Funding.** Encourage the development of a range of stable transportation funding sources that provide adequate resources to build and maintain an equitable and sustainable transportation system.

CC2035 meets this policy through funding coordination in studies and project implementation with partners such as ODOT, TriMet, and BES. The new proposed TSP projects found in Volume 2B amount to \$47 million, and are within a budget allocation for the entire TSP that is financially constrained, being based on assumptions for future funding from past trends and likely sources of revenue.

Land Use Designations and Zoning: Goals

548. **Goal 10.A: Land use designations and zoning.** Effectively and efficiently carry out the goals and policies of the Comprehensive Plan through the land use designations, Zoning Map, and the Zoning Code.

The CC2035 Plan is consistent with this goal as the plan use land used designations, development standards, use allowances and prohibitions, development incentives, and design guidelines to maintain and guide the development of a Central City urban form that is consistent with and furthers the goals and policies of the different applicable chapters of the Comprehensive Plan, as detailed by the findings of this ordinance.

Land Use Designations and Zoning: Policies

Land use designations

549. **Policy 10.1, Land use designations.** Apply a land use designation to all land and water within the City's Urban Services Boundary. Apply the designation that best advances the Comprehensive Plan goals and policies. The land use designations are shown on the adopted Land Use Map and on official Zoning Maps.

1. **Open Space.** This designation is intended for lands that serve a recreational, public open space, or ecological function, or provide visual relief. Lands in this designation are primarily publicly-owned but can be in private ownership. Lands intended for the Open Space designation include parks, public plazas, natural areas, scenic lands, golf courses, cemeteries, open space buffers along freeway margins, railroads or abutting industrial areas, and large water bodies. The corresponding zone is OS.

The CC2035 Plan continues to apply to OS zoned land for these purposes, and amendments to 33.510, Central City Plan District, allow for limited Retail Sales and Service Uses on OS properties in the Central City. Section 33.510.115, Additional Uses Allowed in the Open Space Zone provides that up to 1,000 sq. ft. of such uses are allowed on OS sites 5 acres or less in size, and no more than 10,000 sq. ft. of such uses are allowed on sites larger than 5 acres.

2. **High-Density Multi-Dwelling.** This designation is intended for the Central City, Gateway Regional Center, Town Centers, and transit station areas where a residential focus is desired and urban public services including access to high-capacity transit, very frequent bus service, or streetcar service are available or planned. This designation is intended to allow high-density multi-dwelling structures at an urban scale. Maximum density is based on a floor-area-ratio, not on a unit-per-square-foot basis. Densities will range from 80 to 125 units per acre. The corresponding zone is RH.
3. **Central Residential.** This designation allows the highest density and most intensely developed multi-dwelling structures. Limited commercial uses are also allowed as part of new development. The designation is intended for the Central City and Gateway Regional Center where urban public services are available or planned including access to high-capacity transit, very frequent bus service, or streetcar service. Development will generally be oriented to pedestrians. Maximum density is based on a floor area ratio, not on a units-per-square-foot basis. Densities allowed exceed 100 units per acre. The corresponding zone is RX.

Although analysis has demonstrated that these two land use designations and their corresponding Zoning Map designations have not historically produced as much residential units as the CX and EX zones, the RH and RX zones do work to preserve a primarily residential character where applied. This is because these two zones allow for limited uses outside of housing and set limits on the extent that retail or office uses may be developed. For this reason, these designations continue to be used especially in targeted areas of the Goose Hollow and West End Subdistricts.

4. **Central Commercial.** This designation is intended to provide for commercial development within Portland's Central City and Gateway Regional Center. A broad range of uses can reflect Portland's role as a commercial, cultural, and governmental center. Development is intended to be very intense with high building coverage, large buildings, and buildings placed close together along a pedestrian-oriented, safe, and attractive streetscape. The corresponding zone is Central Commercial (CX).

The Central Commercial Comprehensive Plan and Zoning Map designation is the predominately used designation in the Central City. The designation allows for a vibrant mix of retail, institutional, office, and residential uses. Although the zone is described as a commercial mixed use zone, there are more mixed-use residential projects and more housing units per residentially developed acre in the CX than any other zone applied within the Central City. CC2035 results in approximately 728 acres of CX zoned land throughout the Central City Plan District.

Consistent with Policy 10.1, the CX zone continues to be used to further Comprehensive Plan goals and policies regarding housing production, economic development, and job creation and retention.

5. **Central Employment.** The designation allows for a full range of commercial, light-industrial, and residential uses. This designation is intended to provide for mixed-use areas within the Central City and Gateway Regional Center where urban public services are available or planned, including access to high-capacity transit or streetcar service. The intensity of development will be higher than in other mixed-use land designations. The corresponding zone is Central Employment (EX).

The Central Employment Comprehensive Plan and Zoning Map designation is the second most used designation in the Central City. The designation allows for a vibrant mix of retail, institutional, office, residential, and industrial uses. This zone is usually applied to areas where existing industrial operations are intended to be phased out over time to become more residential/commercial mix (as in the Pearl District), or where mixed-use commercial and residential projects are expected to exist near industrial zoned lands and operations and where the preservation of the Industrial Sanctuary is key objective (such as the Central Eastside District). The CC2035 Plan will result in 669 acres of EX zoned land throughout the Central City Plan District.

Consistent with Policy 10.1, the EX zone continues to be used to further Comprehensive Plan goals and policies regarding housing production, economic development, job creation and retention, and inclusion of industrial uses and services in the Central City.

6. **Industrial Sanctuary.** This designation is intended to reserve areas that are attractive for manufacturing and distribution operations and encourage the growth of industrial activities in the parts of the city where important freight and distribution infrastructure exists, including navigable rivers, airports, railways, and pipelines. A full range of industrial uses are permitted and encouraged. Nonindustrial uses are significantly restricted to facilitate freight mobility, retain market feasibility for industrial development, prevent land use conflicts, reduce human exposure to freight traffic and potential air quality, noise, and pedestrian safety impacts, and to preserve land for sustained industrial use. The corresponding zones are General Industrial 1 (IG1), General Industrial 2 (IG2), and Heavy Industrial (IH).

In the Central City, the Industrial Sanctuary Comprehensive Plan Map designation is implemented through the IG1 and IH zones. These two zones are used only within the Lower Albina and Central Eastside Subdistricts, which, despite containing some mixed-use employment zoning, the districts primarily maintain an Industrial Sanctuary designation.

The IH zone is used in areas that maintain heavy industrial uses as well as uses that still rely on rail and river/marine connections. The Lower Albina Subdistrict continues to contain approximately 15 acres of IH zoned land located adjacent to the Union Pacific Albina Yard facility. In the Central Eastside, only 2 acres remain, and this is only applied to the existing

concrete batch plant operated by Ross Island Sand and Gravel who requested this area remain in that designation despite an earlier proposal to rezone the area to EX.

The Zoning Map and the Zoning Code

550. **Policy 10.2, Relationship of land use designations to base zones.** Apply a base zone to all land and water within the City's urban services boundary. The base zone applied must either be a zone that corresponds to the land use designation or be a zone that does not correspond but is allowed per Figure 10-1 — Corresponding and Less-Intense Zones for Each Plan Map Designation. In some situations, there are long-term or short-term obstacles to achieving the level of development intended by the land use designation (e.g., an infrastructure improvement to serve the higher level of development is planned but not yet funded). In these situations, a less intense zone (listed in Figure 10-1) may be applied. When a land use designation is amended, the zone may also have to be changed to a corresponding zone or a zone that does not correspond but is allowed.

As part of CC2035, the Comprehensive Plan Map and Zoning Map designations have been amended to be consistent with corresponding designations. Prior to the adoption of CC2035 there were a few areas where the designations did not match, mostly a few properties along SE 3rd Avenue and SE 6th Avenue where properties long were within the Central Employment Comprehensive Map designation, but were zoned IG1, implementing the Industrial Sanctuary designation. The areas up-zoned to these more intense Comprehensive Plan Map designations have been found to be capable to handle the resulting intensification of uses due to improvements that have already been made or those proposed by CC2035. Thus, CC2035 is consistent with Policy 10.2.

551. **Policy 10.3, Amending the Zoning Map.**

552. **10.3.a,** Amending a base zone may be done legislatively or quasi-judicially.
553. **10.3.b,** When amending a base zone quasi-judicially, the amendment must be to a corresponding zone (*see Figure 10-1 — Corresponding and Allowed Zones for Each Land Use Designation*). When a designation has more than one corresponding zone, the most appropriate zone, based on the purpose of the zone and the zoning and general land uses of surrounding lands, will be applied.
554. **10.3.c,** When amending a base zone legislatively, the amendment may be to a corresponding zone or to a zone that does not correspond but is allowed (*see Figure 10-1 — Corresponding and Allowed Zones for each Land Use Designation for zones that are allowed*). A legislative Zoning Map amendment may not be to a zone that is not allowed.
555. **10.3.d,** An amendment to a base zone consistent with the land use designation must be approved when it is found that current public services can support the uses allowed by the zone, or that public services can be made capable by the time the development is complete. The adequacy of services is based on the proposed use and development. If a specific use and development proposal is not submitted, services must be able to support the range of uses and development allowed by the zone. For the purposes of this requirement, services include water supply, sanitary sewage disposal, stormwater management, transportation, school district capacity (where a school facility plan exists), and police and fire protection.
556. **10.3.e,** An amendment to apply or remove an overlay zone or plan district may be done legislatively or quasi-judicially, and must be based on a study or plan document that identifies a specific characteristic, situation, or problem that is not adequately addressed by the base zone or other regulations.

As noted, CC2035 results in the rezoning of a limited amount of the Central City from one zone to another, and most of the existing zoning has been retained, although various land use regulations and development standards have been amended by the plan. Specifically, the table below identifies the total amount of one land use designation shifting from one to another designation:

Existing Being Rezoned	New OS	New CX	New EX
OS	NA	NA	0.4 acres
RH	NA	15.7 acres	NA
RX	NA	41.4 acres	NA
CG	NA	NA	1.7 acres
CX	2.3 acres	NA	NA
EG1	NA	1.8 acres	9.9 acres
EG2	NA	NA	12.9 acres
EX	NA	0.1 acres	NA
IH	0.8	17.6	NA
IG1	NA	0.3 acres	47.2 acres
Total	3.1 acres	76.9 acres	72.1 acres

These amendments are legislative in nature, and the analysis and background reports of CC2035 support current public services can support the uses allowed by the zone, or that public services can be made capable by the time the development is complete, consistent with Comprehensive Plan Policy 10.3.

557. **Policy 10.4, Amending the Zoning Code.** Amendments to the zoning regulations must be done legislatively and should be clear, concise, and applicable to a broad range of development situations faced by a growing city. Amendments should:

558. **10.4.a, Promote good planning:**

- Effectively and efficiently implement the Comprehensive Plan.
- Address existing and potential land use problems.
- Balance the benefits of regulations against the costs of implementation and compliance.
- Maintain Portland's competitiveness with other jurisdictions as a location in which to live, invest, and do business.

559. **10.4.b, Ensure good administration of land use regulations:**

- Keep regulations as simple as possible.
- Use clear and objective standards wherever possible.
- Maintain consistent procedures and limit their number.
- Establish specific approval criteria for land use reviews.
- Establish application requirements that are as reasonable as possible, and ensure they are directly tied to approval criteria.
- Emphasize administrative procedures for land use reviews.
- Avoid overlapping reviews.

560. **10.4.c**, Strive to improve the code document:

- Use clear language.
- Maintain a clear and logical organization.
- Use a format and layout that enables use of the document by lay people as well as professionals.
- Use tables and drawings to clarify and shorten the document.
- Identify and act on regulatory improvement suggestions.

Volumes 2A, Parts 1-3, of CC2035 present legislative amendments to the Zoning Code proposed to implement the goals and policies for the Central City, presented in Volume 1 of this ordinance. These amendments have been made in some cases to correct or update existing regulations to be consistent with the direction of CC2035, or to include new regulations and standards to allow implementation of CC2035 as no other provisions may exist to accomplish that task. In all cases, the Zoning Code amendments are presented in as clear and objective of a way possible to ensure the intended uses will be able understand and utilize the Zoning Code as it applies to their development proposals, land use, and properties, consistent with Comprehensive Plan Policy 10.4.

SUBSTITUTE

189002

ORDINANCE No.

Adopt the Central City 2035 Plan, Volume 2A, Part 3, Environmental and Scenic: amend the Portland Zoning Map, and Portland Zoning Codes for Environmental Overlay Zones, and Scenic Resources, and amend the Scenic Resources Protection Plan (Ordinance; amend Code Chapters 33.430 and 480)

The City of Portland Ordains:

Section 1. The Council finds:

1. In 1974, the State of Oregon adopted two statewide planning goals that require the protection of scenic resources; State Goal 7, Recreational Needs and State Goal 5, Open Spaces, Scenic and History Areas, and Natural Resources. State Goal 7 requires jurisdictions to satisfy the recreational needs of citizen of the state and visitors. Recreational opportunities include scenic landscapes and scenic roads and travelways. State Goal 5 requires jurisdictions to conserve open space and protection natural and scenic resources.
2. In 1979, scenic resources were first designated and protected through building height limits as part of the implementation of the *Downtown Plan*. (The *Downtown Plan* was adopted as a policy statement to guide public and private decision-making in the Downtown area; adopted by Motion on agenda item 3958, December 28, 1972). Additional scenic resources were identified and protected through the adoption of area plans between 1979 and 1988.
3. In 1980, Portland's first *Comprehensive Plan* was adopted by the Portland City Council and was acknowledged as complying with Oregon's Statewide Planning Goals by the Land Conservation and Development Commission (LCDC) in May 1981. The 1980 *Comprehensive Plan* was again deemed in compliance with the Statewide Planning Goals at the conclusion of Portland's first Periodic Review in January 2000. The 1980 plan was also incrementally updated by post-acknowledgement plan amendments through November 2011. In June 2016, as part of Task IV of Portland's second Periodic Review, the Portland City Council completely replaced the 1980 plan by the adoption of Portland's new 2035 *Comprehensive Plan*, but delayed the effective date of the new plan to allow the LCDC sufficient time to review and acknowledge the new plan. During the delay between adoption and effect dates, the 1980 plan continued to serve as the City's comprehensive plan. Portland's 2035 *Comprehensive Plan* became effective on May 24, 2018. Because this ordinance is adopted after the effective date of the 2035 *Comprehensive Plan*, its provisions are gauged against the applicable provisions of the 2035 *Comprehensive Plan* not the 1980 *Comprehensive Plan*.
4. In 1991, the Portland City Council adopted the Scenic Resources Protection Plan (SRPP), which consolidated scenic resource designations and protection from previous plans, and updated the citywide inventory of scenic resources (Ordinance No. 163957, 1991). The SRPP implemented new zoning codes (Code Chapter 33.480) to protect designated scenic resources. The SRPP also amended the environmental zoning codes (Code Chapter 33.430)

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to allow for scenic resource management when the scenic and environmental resources overlap.

5. The SRPP includes an inventory of scenic resources and an Economic, Social, Environmental and Energy Analysis (ESEE) as required by OAR 660-16-000 through 660-16-025. The Department of Land Conservation and Development found the SRPP to be in compliance with Oregon State Land Use Goal 5, Open Spaces, Scenic and History Areas, and Natural Resources.
6. The SRPP Economic, Social, Environmental and Energy Analysis (ESEE) recommendations are to prohibit and limit conflicting uses. Vegetation, when it grows and blocks a view, is a conflicting use. The SRPP ESEE recommendations intended that within designated viewpoints and views, vegetation should be limited or prohibited to protect the view. Code Chapter 33.430, Environmental Overlay Zones, has an exemption for tree and vegetation removal within a viewpoint and requires review for removal of trees and vegetation within a view corridor.
7. The scenic (s) overlay zones were removed from the official zoning maps where the scenic (s) overlay zones overlapped as the environmental conservation (c) or protection (p) overlay zones through area-specific natural resources protection plans. This was done because language in zoning code 33.430, Environmental Overlay Zones, requires that scenic resources be considered as part of an environmental review. The zoning code relied on the SRPP to show where scenic resources are relevant.
8. Since 1991, vegetation and trees have grown and partially or fully block view corridors that are designated in the SRPP and are within conservation or protection overlay zones. Removal of the vegetation or trees within a view corridor requires an environmental review. Adding the scenic (s) overlay zones back to the maps where the view corridors overlap with conservation (c) or protection (p) overlay zones and creating a new standard that allows for removal of vegetation and trees, along with required mitigation, within the scenic (s) overlay zone will meet the legislative intent of the SRPP.
9. Reapplication of the scenic (s) overlay zones and creation of a vegetation and tree removal standard was proposed as part of the Central City 2035 Plan. The problem of trees blocking view corridors was first identified during development of the *Central City Scenic Resources Protection Plan*, which is an update to the SRPP for the Central City (SRPP remains in effect outside of the Central City). Public involvement has been an integral part of the Central City 2035 planning process. The public involvement process is summarized in CC2035 Plan, Volume 6, Public Involvement, attached as Exhibit F.
10. On June 20, 2016, BPS staff released the *Central City 2035 Proposed Draft* report, which included the proposed scenic (s) overlay zone map and the proposed zoning code amendments to Code Chapter 33.430, Environmental Overlay Zones, and Code Chapter 33.480, Scenic Resources. Code Chapter 33.480 applies to all scenic resources in Portland. Code Chapter 33.430 generally applies to scenic resources outside of the Central City. However, there is some overlap between scenic resources that are within the Central City

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and the environmental overlay zones. Specifically, the regulations of Code Chapter 33.430, Environmental Overlay Zones, apply to viewpoints and view corridors within the Viewpoint Boundary but outside of the Central City Boundary, as shown in Map 1 on page 6 of the *Central City Scenic Resources Protection Plan, Part 1: Summary, Results and Implementation*, attached as Exhibit C. Scenic resources in the Central City are addressed in a separate ordinance.

11. On June 24, 2016, notice of the *Central City 2035 Plan Proposed Draft* and Planning and Sustainability Commission hearing were sent to all property owners potentially affected by proposed zoning map and code changes, as required by ORS 227.186. The draft plan included draft Code Chapter 33.480, Scenic Resources and Chapter 33.430, Environmental Overlay Zones (Volume 2A, Part 3), and *Central City Scenic Resources Protection Plan* (Volume 3A, Part 1-3).
12. On July 26, 2016 and August 9, 2016, the Planning and Sustainability Commission (PSC) held a hearing on the Proposed Draft. Staff from the Bureau of Planning and Sustainability presented the proposal and public testimony was received.
13. The PSC held work sessions between September 2016 and May 2017. Scenic resources were discussed at the work session held on September 27, 2016 and February 14, 2017.
14. On May 5, 2017, BPS staff released the *Central City 2035: Revised Staff-Proposed Draft*. This draft updated the previous draft to address issues brought up during the PSC work sessions.
15. On May 23, 2017, the PSC held a final work session and voted to recommend the *Central City 2035 Plan* to City Council.
16. On June 22, 2017, the PSC released the *Central City 2035 Plan Recommended Draft* to the Portland City Council. The plan contains the following elements, some of which were amended by City Council.
 - Volume 2A, Zoning Code & Map Amendments, Part 3: Environmental and Scenic, contains the zoning map and code amendments for Code Chapter 33.480, Scenic Resources, and Code Chapter 33.430, Environmental Overlay Zones and the amendments to the official zoning map. These add the scenic (s) overlay zones back to the official zoning maps where the view corridors overlap with conservation (c) or protection (p) overlay zones and create a new standard that allows for removal of vegetation and trees, along with required mitigation, within the scenic (s) overlay zone. Volume 2A, Part 3, as amended by City Council and dated May 2018, is attached as Exhibit B.
 - Volume 3A, Scenic Resources Protection Plan, Part 1: Summary, Results and Implementation, Part 2: Scenic Resources Inventory, and Part 3: Economic, Social, Environmental and Energy Analysis. These documents update the inventory and ESEE for scenic resources within the Central City. Volume 3A,

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Part 1, as amended by City Council and dated May 2018, is attached as Exhibit C. Volume 3A, Part 2, was not amended by City Council and is dated June 2017, May 2018, is attached as Exhibit D. Volume 3A, Part 3, as amended by City Council and dated May 2018, is attached as Exhibit E.

17. A public notice of the September 14, 2017 Portland City Council public hearing on Volume 2A, Zoning Code & Map Amendments, Part 3: Environmental and Scenic and Volume 3A, Scenic Resource Protection Plan, Parts 1 through 3, of the *Central City 2035 Plan*, was sent on August 28, 2017 to all property owners potentially affected by proposed zoning map and code changes, those who testified to the Planning and Sustainability Commission, individuals and organizations who requested such notice and other interested parties.
18. The City has prepared the Scenic and Environmental Resources Findings of Fact Report, attached as Exhibit A, which addresses findings for Statewide Planning Goals and Oregon Administrative Rules, Metro Urban Growth Management Functional Plan, and the City of Portland's 2035 Comprehensive Plan policies and goals.

NOW, THEREFORE, the Council directs:

- a. Amend the official Zoning Map to apply scenic (s) overlay zones as shown on pages 30 to 66 of Exhibit B (Volume 2A, Zoning Code & Map Amendments, Part 3: Environmental and Scenic);
- b. Amend Title 33, Planning and Zoning, of the Municipal Code of the City of Portland, as shown on pages 2 to 24 of Exhibit B (Volume 2A, Zoning Code & Map Amendments, Part 3: Environmental and Scenic);
- c. Amend the Scenic Resources Protection Plan (1991), as shown in Exhibit D.
- d. Adopt Exhibit C (Volume 3A, Scenic Resources Protection Plan, Part 1: Central City Scenic Resources Protection Plan), Exhibit D (Volume 3A, Scenic Resources Protection Plan, Part 2: Scenic Resources Inventory) and Exhibit E (Volume 3A, Scenic Resources Protection Plan, Part 3: Economic, Social, Environmental and Energy Analysis).
- e. Adopt Exhibit A (Scenic and Environmental Resources Findings of Fact Report) and Exhibit F (Public Involvement) as further findings of fact.
- f. Adopt the commentary of Exhibit B (Volume 2A, Zoning Code & Map Amendments, Part 3: Environmental and Scenic), as further findings and legislative intent.

Section 2. The directives of this ordinance will take effect on July 9, 2018.

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Section 3. If any section, subsection, sentence, clause, phrase, diagram, designation, or drawing contained in this Ordinance, or the plan, map or code it adopts or amends, is held to be deficient, invalid or unconstitutional, that shall not affect the validity of the remaining portions. The Council declares that it would have adopted the plan, map, or code and each section, subsection, sentence, clause, phrase, diagram, designation, and drawing thereof, regardless of the fact that any one or more sections, subsections, sentences, clauses, phrases, diagrams, designations, or drawings contained in this Ordinance, may be found to be deficient, invalid or unconstitutional.

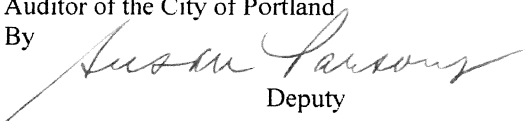
Passed by the Council: JUN 06 2018

Mayor Ted Wheeler
Prepared by: Mindy Brooks
Date Prepared: May 17, 2018

Mary Hull Caballero

Auditor of the City of Portland

By



Deputy

Exhibit A: Scenic and Environmental Resources

Findings of Fact Report

Findings on Statewide Planning Goals

State planning statutes and Portland City Code require cities to adopt and amend comprehensive plans and land use regulations in consistent with state land use goals. Only the stated goals addressed below apply.

1. **GOAL 1, CITIZEN INVOLVEMENT.** Goal 1 requires development of a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process. Goal 1 applies to all legislative land use decisions.

The amendments to 3.430, Environmental Overlay zones, and 33.480, Scenic Recourses, were proposed through the Central City 2035 Plan (CC2035) and followed the city's citizen involvement process. Each of the three primary phases in the development of CC2035 involved a detailed approach to addressing the requirements of Goal 1. Although the entire public involvement processed of CC2035 is detailed in Volume 6 – Public Involvement (see Exhibit F of this ordinance), it is also summarized in this ordinance as follows:

The CC2035 involved a number of topic specific based efforts. These efforts used a combination of committees, public open house events, and meetings with community based organizations to provide additional opportunities to influence the final recommendations to CC2035. They included the following:

- **Discussion Draft.** Released on February 8, 2016, this draft of the plan presented preliminary zoning amendments and policy for CC2035, including zoning amendments for 33.430, Environmental Overlay zones, and 33.480, Scenic Resources. Open house events attended by more than 70 were held, and staff attended over 40 community meetings related to this draft. Public input on this first draft closed on March 31, 2016, and over 200 written comments were submitted.
- **Proposed Draft.** On June 20, 2016, the Proposed Draft of CC2035, including zoning amendments for 33.430, Environmental Overlay zones, and 33.480, Scenic Resources, was released in preparation of the Planning and Sustainability Commission (PSC) review of the plan. Notice of the Proposed Draft was sent to all property owners with proposed scenic (s) overlay zones. This draft of the plan was amended from the earlier Discussion Draft based on much of the public input provided during the review period of that draft. Prior to the first PSC public hearing, held on July 26, 2016, additional open house events were held.
- **Recommended Draft.** On June 22, 2017, the Recommended Draft of CC2035, including zoning amendments for 33.430, Environmental Overlay zones, and 33.480, Scenic Resources, was released in preparation of City Council review of the plan. A public notice of the September 14, 2017 Portland City Council public hearing on Volume 2A, Zoning Code & Map Amendments, Part 3: Environmental and Scenic and Volume 3A, Scenic Resource Protection Plan, Parts 1 through 3, of the *Central City 2035 Plan*, was sent on August 28, 2017 to all property owners potentially

affected by proposed zoning map and code changes, those who testified to the Planning and Sustainability Commission, individuals and organizations who requested such notice and other interested parties. This draft of the plan was amended from the earlier Proposed Draft and presents the recommendation of the PSC to City Council. Prior to the first Council public hearing additional open house events were held.

2. **GOAL 2, LAND USE PLANNING.** Goal 2, Land Use Planning, requires the development of a process and policy framework that acts as a basis for all land use decisions and assures that decisions and actions are based on an understanding of the facts relevant to the decision.

The amendments support this goal because zoning amendments for 33.430, Environmental Overlay zones, and 33.480, Scenic Resources, were developed consistent with State-wide Planning Goals, the Metro Urban Growth Management Functional Plan, and 2035 Comprehensive Plan, as detailed in this ordinance. The plan was development in consultation and partnership with all applicable City of Portland bureaus, such as Portland Parks and Recreation and the Portland Bureau of Transportation, state agencies, such as Department of Land Conservation and Development, and local agencies, such as Metro. The amendments are made based on an adequate factual basis as discussed in these findings and as shown by the record for CC2035. These amendments were developed in coordination with the partners listed above and they received notice of the amendments. One affected government unit, the Port of Portland, testified that the City should not regulate dredging in the North Reach of the Willamette River through the Central City Plan. The City responded by including an amendment to make it clear that the regulations in Code Chapter 33.10.030 only applied to dredging in the Willamette River Central Reach. The City considered the Port's needs and accommodated them as much as possible in conformance with Goal 2.

3. **GOAL 5, NATURAL RESOURCES, SCENIC AND HISTORIC AREAS AND OPEN SPACES.** Goal 5, Natural Resources, Scenic and Historic Areas, Natural Resources and Open Spaces requires the protection of natural resources and the conservation of scenic and historic resources and open spaces. The amendments are consistent with this goal in the following ways:

- A. **Scenic Resources.** Chapter 33.480, Scenic Resources, as show in Exhibit B (Volume 2A, Zoning Code & Map Amendments, Part 3: Environmental and Scenic), includes zoning regulations for viewpoints, view corridors, scenic sites and scenic corridors. Many of the view corridors coincide with environmental overlay zones. These view corridors, where they overlap with environmental overlay zones, are added to the official zoning map as scenic (s) overlay zones. The application of the scenic (s) overlay zone to view corridors that overlap with environmental overlay zones is not a change in legislative intent adopted by the 1991 *Scenic Resources Protection Plan*. Rather, adding the scenic (s) overlay zones to the zoning maps makes the relationship between the scenic (s) overlay zone and the environmental overlay zones clearer and ensures that natural and scenic resources are protected and maintained appropriately.

The zoning code regulations are updated to state that tree preservation is not required if the tree is located within a view corridor designated in the 1991 *Scenic Resources Protection Plan*. This is not a change in the legislative intent adopted in 1991 *Scenic Resources Protection Plan* because the plan recommended a limit or prohibit decision for significant view corridors and allowing tree removal within view corridors supports protecting the significant views. The updated zoning code regulations allows removal of trees and vegetation within view corridors as

long as the trees are replaced, either outside of the view corridor or within the view corridor if the replacement trees are a species that at maturity will not be tall enough to block the view, and areas of vegetation removal are replanted with lower structure native vegetation.

- B. Natural Resources.** Chapter 33.430, Environmental Zones, as show in Exhibit B (Volume 2A, Zoning Code & Map Amendments, Part 3: Environmental and Scenic), is updated to allow vegetation maintenance within view corridors. There are viewpoints and view corridors within environmental overlay zones. The view corridors will have a scenic (s) overlay zone applied as described above. Some of these view corridors have vegetation, particularly trees, which are blocking or partially blocking views that are designated as significant in the 1991 *Scenic Resources Protection Plan*. Currently, in Chapter 33.430 there is an exemption for vegetation removal within a viewpoint; however, tree removal in a view corridor requires an Environmental Review. A new standard has been added to allow removal of trees, up to 12 inches diameter for a native tree and any size non-native tree, within scenic (s) overlay zones; provided that the trees are replaced. If the standard cannot be met, an applicant must go through Environmental Review to remove trees and the trees must be replaced, either outside of the view corridor or within the view corridor if the replacement trees are a species that at maturity will not be tall enough to block the view.

The addition of a standard does not change legislative intent adopted in the 1991 *Scenic Resources Protection Plan* because the plan recommended a *limit* decision for view corridors without special height restrictions. A standard that allows tree removal with replacement implements the *limit* decision.

In addition, Title 11, Trees, also applies to trees within view corridors. No changes are proposed to Title 11. Trees located in view corridors may be removed provided the regulations of Title 11 are met.

The Recommended Draft of CC2035, Volume 2A, Part 3, released on June 22, 2017, included zoning amendments for Code Chapter 33.430, Environmental Overlay zones. One of those amendments was a new exemption for some dredging within waterbodies in the conservation (c) or protection (p) overlay zones. This exemption was included because Volume 2A, Part 2 of the CC2035 Plan proposed to regulate dredging in all waterbodies in the city (Proposed PCC 33.10.030). Testimony was received from the Port of Portland stating that the City should not regulate dredging in the North Reach of the Willamette River through the Central City Plan. The City responded by including an amendment to make it clear that the regulations in Code Chapter 33.10.030 only applied to dredging in the Willamette River Central Reach, not all waterbodies in the city. Because of this amendment clarifying that dredging is not regulated in the c- or p-zone, the exemption in Chapter 33.430 became unnecessary. Therefore, Council amended Chapter 33.430 to remove the exemption for dredging.

- C. Open Space.** The amendments are consistent with protection of open spaces because the new standard in Chapter 33.430, Environmental Overlay zones, simplifies the process for removing trees within significant view corridors while also requiring trees to be replaced. Views are a primary feature of many open spaces.

4. **GOAL 6, AIR, WATER AND LAND RESOURCE QUALITY.** Goal 6, Air, Water and Land Resource Quality, requires the maintenance and improvement of the quality of air, water, and land resources.

The amendments are consistent with this goal because trees that are removed using the new standards in Chapter 33.430, Environmental Overlay zones, must be replaced. This maintains the functions that trees provide for air, water and land resource quality.

See also finding under State Goal 5, Natural Resources, Scenic and Historic Areas and Open Spaces

5. **GOAL 7, AREAS SUBJECT TO NATURAL HAZARDS.** Goal 7, Areas Subject to Natural Hazards, requires the protection of life and property from natural hazards.

The amendments are consistent with this goal because the existing regulations of Title 10, Erosion Control, and Title 24, balanced cut and fill in the floodplains, are unchanged. In addition, the amendment requires that trees removed using the new standards in Chapter 33.430, Environmental Overlay zones, must be replaced. This maintains the functions that trees provide for slope stability and stormwater management.

See also finding under State Goal 5, Natural Resources, Scenic and Historic Areas and Open Spaces

6. **GOAL 8, RECREATIONAL NEEDS.** Goal 8, Recreational Needs, requires satisfaction of the recreational needs of both citizens and visitors to the State.

The amendments are consistent with this goal because the new standard in Chapter 33.430, Environmental Overlay zones, simplifies the process for removing trees within significant view corridors while also requiring trees to be replaced.

See also finding under State Goal 5, Natural Resources, Scenic and Historic Areas and Open Spaces.

7. **GOAL 15, WILLAMETTE RIVER GREENWAY.** To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.

The amendments are consistent with Goal 15 because the scenic (s), conservation (c) and protection (p) overlay zones are all located outside of the Willamette Greenway Boundary and therefore these amendments do not affect Goal 15 resources.

Findings on Metro Urban Growth Management Functional Plan

The following Urban Growth Management Functional Plan Titles are applicable to the Environmental and Scenic Zoning Code and Map amendments.

8. **Title 3, Water Quality, Flood Management and Fish and Wildlife Conservation,** calls for the protection of the beneficial uses and functional values of resources within Metro-defined Water Quality and Flood Management Areas by limiting or mitigating the impact of development in these areas. Title 3 establishes performance standards for 1) flood management; 2) erosion and sediment control; and 3) water quality. In 2002 Metro deemed the City of Portland in full substantial compliance with the requirements of Title 3 based on adoption of Title 10 Erosion Control, balanced

cut-and-fill provisions in Title 24 Building Regulations, and the Willamette Greenway Water Quality Zone, or “q” overlay zone.

The amendments for zoning code Chapter 33.430, Environmental Overlay zones, and Chapter 33.480, Scenic Resources, maintain and support compliance with Title 3 because the City programs deemed in compliance with Title 3 requirements for flood management, and erosion and sediment control (i.e., Title 10 Erosion Control, and the balanced cut and fill requirements of Title 24), are unchanged.

See also finding under State Goal 5, Natural Resources, Scenic and Historic Areas and Open Spaces

9. **Title 13, Nature in Neighborhoods**, is intended to (1) conserve, protect, and restore a continuous ecologically viable streamside corridor system, from the streams’ headwaters to their confluence with other streams and rivers, and with their floodplains in a manner that is integrated with upland wildlife habitat and with the surrounding urban landscape; and (2) to control and prevent water pollution for the protection of the public health and safety, and to maintain and improve water quality throughout the region.

The amendments to zoning code Chapter 33.430, Environmental Overlay Zones and Chapter 33.480, Scenic Resources, maintain and support compliance with Title 13. The amendments maintain habitat and the functions they provided within the urban landscape by requiring that trees that are removed within a view corridor be replaced. In addition, Title 11, Trees, also applies to trees within view corridors. No changes are proposed to Title 11. Trees located in view corridors may be removed provided the regulations of Title 11 are met.

See also finding under State Goal 5, Natural Resources, Scenic and Historic Areas and Open Spaces

Findings on Portland’s 2035 Comprehensive Plan, Goals and Policies

The following principles, goals, policies, and objectives of the Portland Comprehensive Plan are relevant and applicable to the Environmental and Scenic Zoning Code and Map amendments.

10. **Goal 1.C: A well-functioning plan.** Portland’s Comprehensive Plan is effective, its elements are aligned, and it is updated periodically to be current and to address mandates, community needs, and identified problems.

In general, the amendments are consistent with this goal because they do not change the policy or intent of existing regulations related Comprehensive Plan elements for natural and scenic resources.

11. **Goal 1.D: Implementation tools.** Portland’s Comprehensive Plan is executed through a variety of implementation tools, both regulatory and non-regulatory. Implementation tools comply with the Comprehensive Plan and are carried out in a coordinated and efficient manner. They protect the public’s current and future interests and balance the need for providing certainty for future development with the need for flexibility and the opportunity to promote innovation.

The amendments are consistent with this goal because they protect natural and scenic resources in a coordinated and efficient manner by clearly identifying where protected scenic resources are located in relationship with protected natural resources.

- 12. Goal 1.E: Administration.** Portland's Comprehensive Plan is administered efficiently and effectively and in ways that forward the intent of the Plan as a whole. It is administered in accordance with regional plans and state goals and federal law.

The amendments are consistent with the relevant state and regional plans as described in the previous sections including Statewide Planning Goals 1, 2, and 5-8 and Metro Urban Growth Management Functional Plan Titles 3 and 13.

- 13. Policy 1.3, Implementation tools subject to the Comprehensive Plan.** Maintain Comprehensive Plan implementation tools that are derived from, and comply with, the Comprehensive Plan.

The amendments maintain Portland zoning maps and codes in compliance with the Comprehensive Plan.

- 14. Policy 1.4, Zoning Code.** Maintain a Zoning Code that establishes the regulations that apply to various zones, districts, uses, and development types.

The amendments update the official zoning maps to apply the scenic (s) overlay zones to view corridors designed in the adopted Scenic Resources Protection Plan (SRPP) where the view corridors overlap with conservation (c) or protection (p) overlay zones. This will clarify where standards and environmental review for scenic resources are applicable.

- 15. Policy 1.5, Zoning Map.** Maintain a Zoning Map that identifies the boundaries of various zones, districts, and other special features.

The amendments update the official zoning maps to apply the scenic (s) overlay zones to view corridors designated in the adopted Scenic Resources Protection Plan (SRPP) where the view corridors overlap with conservation (c) or protection (p) overlay zones. This will clarify where standards and environmental review for scenic resources are applicable.

- 16. Policy 1.10, Compliance with the Comprehensive Plan.** Ensure that amendments to the Comprehensive Plan's elements, supporting documents, and implementation tools comply with the Comprehensive Plan. "Comply" means that amendments must be evaluated against the Comprehensive Plan's applicable goals and policies and on balance be equally or more supportive of the Comprehensive Plan as a whole than the existing language or designation. The findings establish that the amendments are consistent with the applicable Comprehensive Plan goals and policies.

On-balance the amendments are equally or more supportive than the existing zoning code and zoning map because the amendments clarify where view corridors need to be considered as part of a land use review and make management of vegetation to protect views more efficient. By more effectively implementing the intent of the City Adopted Scenic Resources Protection Plan, while ensuring natural resource protection through replacement and Title 11 regulations, the amendments are more supportive of the Comprehensive Plan as a whole than existing language and designations.

- 17. Policy 1.11, Consistency with Metro Urban Growth Management Functional Plan and Urban Growth Boundary.** Ensure that the Comprehensive Plan remains consistent with the Metro Urban Growth Management Functional Plan and supports a tight urban growth boundary for the Portland metropolitan area.

The amendments are consistent with the Metro Urban Growth Management Functional Plan. See findings under Metro Urban Growth Management Functional Plan.

- 18. Policy 1.12, Consistency with Statewide Planning Goals.** Ensure that the Comprehensive Plan, supporting documents, and implementation tools remain consistent with the Oregon Statewide Planning Goals.

The amendments are consistent with Statewide Planning Goals. See findings under Statewide Planning Goals.

- 19. Policy 1.16, Planning and Sustainability Commission review.** Ensure the Planning and Sustainability Commission (PSC) reviews and makes recommendations to the City Council on all proposed legislative amendments to Comprehensive Plan elements, supporting documents, and implementation tools. The PSC advises City Council on the City's long-range goals, policies, and programs for land use, planning, and sustainability. The membership and powers and duties of the PSC are described in the Zoning Code.

Consistent with this policy, the amendments for zoning code 33.430, Environmental Overlay Zones, 33.480, Scenic Resources, and the official zoning maps were reviewed by the Planning and Sustainability Commission over a year period between 2016 and 2017, which included a briefing, two public hearings, and nine work sessions. On May 23, 2017, the PSC adopted a Recommended Draft of the Plan that was then forwarded to the Portland City Council for their review.

- 23. Goal 2.E: Meaningful participation.** Community members have meaningful opportunities to participate in and influence all stages of planning and decision making. Public processes engage the full diversity of affected community members, including under-served and under-represented individuals and communities. The City will seek and facilitate the involvement of those potentially affected by planning and decision making.

Consistent with this goal, the amendments for zoning code 33.430, Environmental Overlay Zones, 33.480, Scenic Resources, and the official zoning maps were part of the Central City 2035 Plan and benefited from the public involvement process for that plan. See Exhibit C of this ordinance for the description of the public involvement process.

- 24. Policy 3.66, Connect habitat corridors.** Ensure that planned connections between habitat corridors, greenways, and trails are located and designed to support the functions of each element, and create positive interrelationships between the elements, while also protecting habitat functions, fish, and wildlife.

There are no amendments to the following natural resources inventories or protection plans that were adopted through previous planning efforts:

- Natural Resources Inventory
- Balch Creek Watershed Protection Plan
- Columbia Corridor Industrial and Environmental Mapping Project
- East Buttes, Terraces and Wetlands Conservation Plan
- Fanno Creek and Tributaries Conservation Plan
- Johnson Creek Basin Protection Plan
- Northwest Hills Natural Areas Protection Plan
- Skyline West Conservation Plan
- Southwest Hills Resource Protection Plan
- ESEE Analysis and Recommendation for Natural, Scenic and Open Space Resources within Multnomah County Unincorporated Areas
- Middle Columbia Corridor/Airport Economic, Social, Environmental and Energy (ESEE) Analysis
- Scenic Resources Protection Plan

The amendments are consistent with this policy 3.66 in the following ways:

- A. Code Chapter 33.480, Scenic Resources, includes zoning regulations for viewpoints, view corridors, scenic sites and scenic corridors. Many of the view corridors coincide with environmental overlay zones. These view corridors, where they overlap with environmental overlay zones, are added to the official zoning map as scenic (s) overlay zones.
 - B. Code Chapter 33.430, Environmental Zones, is updated to allow vegetation maintenance within view corridors. There are viewpoints and view corridors within environmental overlay zones. The view corridors will have a scenic (s) overlay zone applied as described above. Some of these view corridors have vegetation, particularly trees, which are blocking or partially blocking views that are designated as significant in the 1991 *Scenic Resources Protection Plan*. Currently, in Chapter 33.430 there is an exemption for vegetation removal within a viewpoint; however, tree removal in a view corridor requires an Environmental Review. A new standard has been added to allow removal of trees, up to 12 inches diameter for a native tree and any size non-native tree, within scenic (s) overlay zones; provided that the trees are replaced. If the standard cannot be met, an applicant must go through Environmental Review to remove trees and replace the trees either outside of the view corridor, but within environmental overlay zones, or within the view corridor with tree species that upon maturity will not be tall enough to block the view. Areas of vegetation removal must also be replanted with lower structure native vegetation. By requiring tree replacement and replanting, habitat corridors protected by the environmental overlay zones will be maintained.
 - C. Title 11, Trees, also applies to trees within view corridors. No changes are proposed to Title 11. Trees located in view corridors may be removed provided the regulations of Title 11 are met.
25. **Policy 4.41, Scenic resources.** Enhance and celebrate Portland's scenic resources to reinforce local identity, histories, and cultures and contribute toward way-finding throughout the city. Consider views of mountains, hills, buttes, rivers, streams, wetlands, parks, bridges, the Central City skyline, buildings, roads, art, landmarks, or other elements valued for their aesthetic appearance or symbolism.

The Scenic Resources Protection Plan (SRPP), 1991, designated and protected scenic resources throughout Portland. The SRPP includes mountains, hills, buttes, rivers, streams, wetlands, parks, bridges, the Central City skyline, landmarks and other scenic resources. The amendments to Code Chapter 33.430, Environmental Overlay Zones, and Chapter 33.480, Scenic Resources, are consistent with this policy because they clarify where the zoning code regulations overlap and that vegetation and tree removal are allowed within scenic (s) overlay zone to maintain the views as long as tree are replaced either outside of the view corridor, but within environmental overlay zones, or within the view corridor with tree species that upon maturity will not be tall enough to block the view; and areas of vegetation removal must also be replanted with lower structure native vegetation.

The 2035 Comprehensive Plan, effective on May 24, 2018, rezoned the Broadmoor Golf Course to industrial use to support the industrial job needs identified in the acknowledged Economic Opportunities Analysis. Typically, viewpoints (the location from which a person can take in the view) are located on public property and accessible to the general public. The Broadmoor Golf Course is a private golf course and a future industrial development will also be a private business; therefore, the viewpoint is not accessible to the general public. When the site is developed with industrial uses, the view will be blocked. To reconcile the 2035 Comprehensive Plan zoning with the SRPP views, the SRPP is amended to remove view corridor VP 12-02 at the Broadmoor Golf Course as shown in Exhibit G of this ordinance.

26. **Policy 4.42, Scenic resource protection.** Protect and manage designated significant scenic resources by maintaining scenic resource inventories, protection plans, regulations, and other tools.

The amendments are consistent with this policy because zoning code Chapter 33.430, Environmental Overlay Zones, is amended to allow tree removal within the scenic (s) resource zone in order to protect and maintain the view. The trees must be replaced outside of the view corridor. The Official Zoning Maps are updated to add the scenic (s) resource zone to view corridors designated in the SRPP (1991).

27. **Policy 4.43, Vegetation management.** Maintain regulations and other tools for managing vegetation in a manner that preserves or enhances designated significant scenic resources.

The amendments are consistent with this policy because chapter 33.430, Environmental Zones, is updated to allow vegetation maintenance within view corridors. There are viewpoints and view corridors within environmental overlay zones. The view corridors will have a scenic (s) overlay zone applied as described above. Some of these view corridors have vegetation, particularly trees, which are blocking or partially blocking views that are designated as significant in the 1991 *Scenic Resources Protection Plan*. Currently, in Chapter 33.430 there is an exemption for vegetation removal within a viewpoint; however, tree removal in a view corridor requires an Environmental Review. A new standard has been added to allow removal of trees, up to 12 inches diameter for a native tree and any size non-native tree, within scenic (s) overlay zones; provided that the trees are replaced. If the standard cannot be met, an applicant must go through Environmental Review to remove trees. In addition, Title 11, Trees, also applies to trees within view corridors. No changes are proposed to Title 11. Trees located in view corridors may be removed provided the regulations of Title 11 are met.

28. **Policy 4.73, Design with nature.** Encourage design and site development practices that enhance, and avoid the degradation of, watershed health and ecosystem services and that incorporate trees

and vegetation.

The amendments are consistent with this policy because Code Chapter 33.430, Environmental Zones, is updated to allow tree and vegetation removal within view corridors, if trees are replaced either outside of the view corridor or within the view corridor with tree species that upon maturity will not be tall enough to block the view. The area of vegetation must also be replanted with lower structure native vegetation. These amendments allow better site design that meets multiple goals for scenic and natural resources while maintaining the natural resource functions provided by trees and vegetation. In addition, Title 11, Trees, also applies to trees within view corridors. No changes are proposed to Title 11. Trees located in view corridors may be removed provided the regulations of Title 11 are met.

29. **Policy 4.78, Access to nature.** Promote equitable, safe, and well-designed physical and visual access to nature for all Portlanders, while also maintaining the functions and values of significant natural resources, fish, and wildlife. Provide access to major natural features, including:

- Water bodies such as the Willamette and Columbia rivers, Smith and Bybee Lakes, creeks, streams, and sloughs.
- Major topographic features such as the West Hills, Mt. Tabor, and the East Buttes.
- Natural areas such as Forest Park and Oaks Bottom.

The amendments are consistent with this policy because views from designated viewpoints provide access to nature including views of Mt Hood, Mt St Helens, West Hills, Willamette River, Columbia River and other features. Code Chapter 33.430, Environmental Zones, is updated to allow tree and vegetation removal within view corridors, if trees are replaced either outside of the view corridor or within the view corridor with tree species that upon maturity will not be tall enough to block the view. The area of vegetation must also be replanted with lower structure native vegetation. These amendments allow better site design that meets multiple goals for scenic and natural resources while maintain the natural resource functions provided by trees and vegetation. In addition, Title 11, Trees, also applies to trees within view corridors. No changes are proposed to Title 11. Trees located in view corridors may be removed provided the regulations of Title 11 are met.

30. **Goal 7.B: Healthy watersheds and environment.** Ecosystem services and ecosystem functions are maintained and watershed conditions have improved over time, supporting public health and safety, environmental quality, fish and wildlife, cultural values, economic prosperity, and the intrinsic value of nature.

The amendments are consistent with these goals and policies of this chapter in the following ways:

- A. Code Chapter 33.480, Scenic Resources, includes zoning regulations for viewpoints, view corridors, scenic sites and scenic corridors. Many of the view corridors coincide with environmental overlay zones. These view corridors, where they overlap with environmental overlay zones, are added to the official zoning map as scenic (s) overlay zones.
- B. Code Chapter 33.430, Environmental Zones, is updated to allow vegetation maintenance within view corridors. There are viewpoints and view corridors within environmental overlay zones. The view corridors will have a scenic (s) overlay zone applied as described above. Some of these view corridors have vegetation, particularly trees, which are blocking or partially blocking views that are designated as significant in the 1991 *Scenic Resources Protection Plan*. Currently, in

Chapter 33.430 there is an exemption for vegetation removal within a viewpoint; however, tree removal in a view corridor requires an Environmental Review. A new standard has been added to allow removal of trees, up to 12 inches diameter for a native tree and any size non-native tree, within scenic (s) overlay zones; provided that the trees are replaced. If the standard cannot be met, an applicant must go through Environmental Review to remove trees. By allowing some vegetation management to be done through a standard instead of review, more view corridors can be maintained. View corridors contribute to Portland's economic prosperity by attracting tourists to public areas like the Washington Park International Rose Test Garden, Japanese Garden, Pittock Mansion and other similar destinations.

- C. The amendments maintain habitat and the functions they provide (e.g., water quality, stormwater management, hazard mitigation, biodiversity, air quality, habitat connectivity, carbon sequestration, etc.) within the urban landscape by requiring that trees that are removed within a view corridor be replaced. In addition, Title 11, Trees, also applies to trees within view corridors. No changes are proposed to Title 11. Trees located in view corridors may be removed provided the regulations of Title 11 are met.
- D. Title 10 Erosion Control, and the balanced cut and fill requirements of Title 24 apply to dredging activities with streams, rivers and wetlands. No changes are proposed to Title 10 or Title 24. These regulations mitigate risks due to natural hazards including flooding and erosion.
- E. The amendments support access to nature for all residents and visitors of Portland by allowing designated view corridors to be maintained. All designated viewpoints are publicly owned or operated and open to the general public. This supports equity and community stewardship.

Findings under State Goal 5, Natural Resources, Scenic and Historic Areas, also demonstrate that the amendments are consistent with these policies and goals.

31. **Policy 7.19, Natural resource protection.** Protect the quantity, quality, and function of significant natural resources identified in the City's natural resource inventory, including:
- Rivers, streams, sloughs, and drainageways.
 - Floodplains.
 - Riparian corridors.
 - Wetlands.
 - Groundwater.
 - Native and other beneficial vegetation species and communities.
 - Aquatic and terrestrial habitats, including special habitats or habitats of concern, large anchor habitats, habitat complexes and corridors, rare and declining habitats such as wetlands, native oak, bottomland hardwood forest, grassland habitat, shallow water habitat, and habitats that support special-status or at-risk plant and wildlife species.
 - Other resources identified in natural resource inventories.

The amendments are consistent with policy 7.19 because there are no amendments to the natural resources protection plans that were adopted through previous planning efforts:

- Natural Resources Inventory
- Balch Creek Watershed Protection Plan
- Columbia Corridor Industrial and Environmental Mapping Project

- East Buttes, Terraces and Wetlands Conservation Plan
- Fanno Creek and Tributaries Conservation Plan
- Johnson Creek Basin Protection Plan
- Northwest Hills Natural Areas Protection Plan
- Skyline West Conservation Plan
- Southwest Hills Resource Protection Plan
- ESEE Analysis and Recommendation for Natural, Scenic and Open Space Resources within Multnomah County Unincorporated Areas
- Middle Columbia Corridor/Airport Economic, Social, Environmental and Energy (ESEE) Analysis
- Scenic Resources Protection Plan

Findings under State Goal 5, Natural Resources, Scenic and Historic Areas, also demonstrate that the amendments are consistent with these policies and goals.

32. **Policy 7.21, Environmental plans and regulations.** Maintain up-to-date environmental protection plans and regulations that specify the significant natural resources to be protected and the types of protections to be applied, based on the best data and science available and on an evaluation of cumulative environmental, social, and economic impacts and tradeoffs.

The amendments update the zoning codes and maps to clarify that vegetation and tree removal is allowed with view corridors in the scenic (s) overlay zone. Tree replacement outside of the view corridor is required. This is consistent with the adopted ESEE analysis of the adopted plans.

Findings under State Goal 5, Natural Resources, Scenic and Historic Areas, also demonstrate that the amendments are consistent with these policies and goals.

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May 17, 2019

Land Use Board of Appeals
775 Summer Street NE, Suite 330
Salem, OR 97301-1283

**Re: Restore Oregon, et al v. City of Portland, LUBA Nos. 2018-072/073/086/087
Petition for Review and Petitioners' Brief**

Dear LUBA:

Please find enclosed for filing in the above-mentioned appeal the original and 4 copies of the Petition for Review and Opening Brief of Petitioners Restore Oregon, Bosco-Milligan Foundation/Architectural Heritage Center, Nikkei Legacy Endowment, Portland Chinatown History Foundation/Portland Chinatown Museum and Peggy Moretti. Thank you.

Sincerely,



Daniel Kearns

Enclosures

cc: Clients
Linly Rees, Esq.
Tim Ramis, Esq.
Mike Connors, Esq.

**BEFORE THE LAND USE BOARD OF APPEALS
FOR THE STATE OF OREGON**

RESTORE OREGON, BOSCO-MILLIGAN
FOUNDATION/ARCHITECTURAL
HERITAGE CENTER, NIKKEI LEGACY
ENDOWMENT, PORTLAND CHINATOWN
HISTORY FOUNDATION/PORTLAND
CHINATOWN MUSEUM and PEGGY G.
MORETTI – Petitioners,

v.

CITY OF PORTLAND – Respondent,

and

GUARDIAN REAL ESTATE SERVICES,
LLC – Intervenor-Respondent.

OSB2LAN IVON, LLC and HAITHEM
TOULAN - Petitioners,

v.

CITY OF PORTLAND - Respondent.

**LUBA Nos. 2018-072, 2018-
073/086 & 2018-087
(consolidated)**



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**PETITION FOR REVIEW AND PETITIONERS' BRIEF
of Restore Oregon, Bosco-Milligan Foundation/Architectural
Heritage Center, Nikkei Legacy Endowment, Portland
Chinatown History Foundation/Portland Chinatown Museum
and Peggy Moretti**

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PETITIONERS' FIRST ASSIGNMENT OF ERROR	11
<p>Respondent misapplied and misinterpreted the applicable law and rendered a decision that is contrary to PCP Policies 4.48 & 4.49 and Central City Policies 5.19, 1.OT-3 & 5.OT-1, regarding preservation of historic resources, in violation of ORS 197.835(7)(a) and State-wide Planning Goal 2's requirement for an adequate factual base. The council's last-minute building height increase to 200' in nearly 50% of the New Chinatown/Japantown Historic District violates these policies that require new development and regulations to consider the character, preserve and complement the historic resources of this Historic District.</p>	
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<p>Respondent violated State-wide Planning Goal 1 and PCP Goal 1 and 2 policies designed to ensure meaningful public participation at <u>all stages</u> of the land use process when the City Council took-up, deliberated and decided Major Amendments on May 24 to significantly increase building height in the New Chinatown/Japantown Historic District without any notice or public testimony, when the Mayor and at least two Commissioners clearly had been briefed and lobbied by property owners to initiate and pass this significant building height increase to 200' in nearly 50% of the District.</p>	
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Appendix 1 - The challenged decision: Ordinance No. 189000 (June 6, 2018) adopting the Central City 2035 Plan, amending the Comprehensive Plan, Comprehensive Plan Map, Transportation System Plan, Willamette Greenway Plan, Scenic Resources Protection Plan, Zoning Map, and Title 33, authorizing adoption of administrative rules, repealing and replacing prior Central City plans and documents (Rec 1-10).

Appendix 2 – Adopted Findings for Historic and Cultural Resources: (AR-74 to AR-76).

Appendix 3 – Adopted building heights in the New Chinatown/Japantown Historic District: - PZC 33.510.210 and Maps 510-3 and 510-4.

TABLE OF AUTHORITIES

Appellate Cases

<i>Rajneesh Medical Corporation v. Wasco County</i> , 12 Or. LUBA 219, 224-225 (1984), <i>aff'd</i> 1000 Friends of Oregon v. Wasco County Court, 68 Or App 765, 686 P2d 375, <i>aff'd as modified</i> , 300 Or 107, 706 P2d 948 (1985)	35
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INTRODUCTION TO PETITIONERS' BRIEF

Petitioners Restore Oregon, Bosco-Milligan Foundation/Architectural Heritage Center, Nikkei Legacy Endowment, Portland Chinatown Museum and Peggy Moretti are historic preservation advocates persistently and deeply involved in the ~10-year process leading to a new Central City Plan ("CC2035 Plan"). Their focus was to ensure the CC2035 Plan and its implementing regulations protected, enhanced and reflected the character of the historic districts and historic resources in the Central City. This appeal focuses on the building heights the CC2035 Plan allows in the New Chinatown/Japantown Historic District (the "District"). *See* PZC 33.510.210, Maps 510-3 & 510-4 (App 3).

The District is small at 2x5 blocks; the tallest building is 7 stories. Unfortunately for petitioners and the District, developers of two blocks in the District saw the CC2035 Plan as an opportunity for expansive (tall) development in one of the last underdeveloped downtown districts. After 10 years of process, they waited until the penultimate council hearing when no public testimony was allowed to press for building height increases from the 125' recommended by the Planning and Sustainability Commission ("PSC") to 200'. In a classic "back-room deal," with no notice or public testimony, the council took-up and passed a stunning height increase for nearly half the District contrary to PCP Policies 4.48 & 4.49 and Central City Plan Policies 5.19, 1.OT-3 and 5.OT-1.

PETITIONERS' STANDING

Petitioners have standing to appeal pursuant to ORS 197.830(2) because all of them participated throughout the nearly 10-year long proceeding that gave rise to the challenged legislative decision (Rec 15009, 25109, 25216, 31156, 46250), and they participated before the Portland City Council (Rec 7720, 7726, 7771, S-3, S-4, S-5, S-7, S-9). Petitioners filed a Notice of Intent to Appeal within 21 days of respondent's June 6, 2018 final decision (Rec 1-10); therefore, petitioners have standing to appeal.

STATEMENT OF THE CASE

A. Nature of the Local Decision and Requested Relief: Petitioners appeal a legislative land use decision of the City of Portland adopting a the CC2035 Plan and revisions to the Portland Zoning Code (PZC), in particular building heights in the New Chinatown/Japantown Historic District (PZC 33.510.210, Maps 510-3 & 510-4). The challenged decision consists of Ordinance No. 189000 (Rec 1-10), Exhibit A Findings of Fact (Rec AR-1 to AR-153) and supporting Exhibits B-M (Rec 171-5479). Petitioners seek remand of the challenged decision.

B. Summary of Petitioners' Arguments: Petitioners raise the following arguments in this appeal:

1. The decision, especially amendments to PZC 33.510.210 and Maps 510-3 & 510-4 (App 3), is not supported by an adequate factual base to

1 demonstrate compliance with, and in fact it violates, PCP Policies 4.48 and 4.49
2 and Central City Policies 5.19, 1.OT-3 and 5.OT-1. These policies require
3 regulations that protect and enhance the historic character of established historic
4 districts, such as the New Chinatown/Japantown Historic District. Abundant,
5 credible and expert testimony from petitioners and the City's Historic Landmarks
6 Commission document that the maximum building heights allowed by this
7 decision on the west half of Block 33 and the 4 northern blocks of this 10 square
8 block District, in fact, violate these policies.

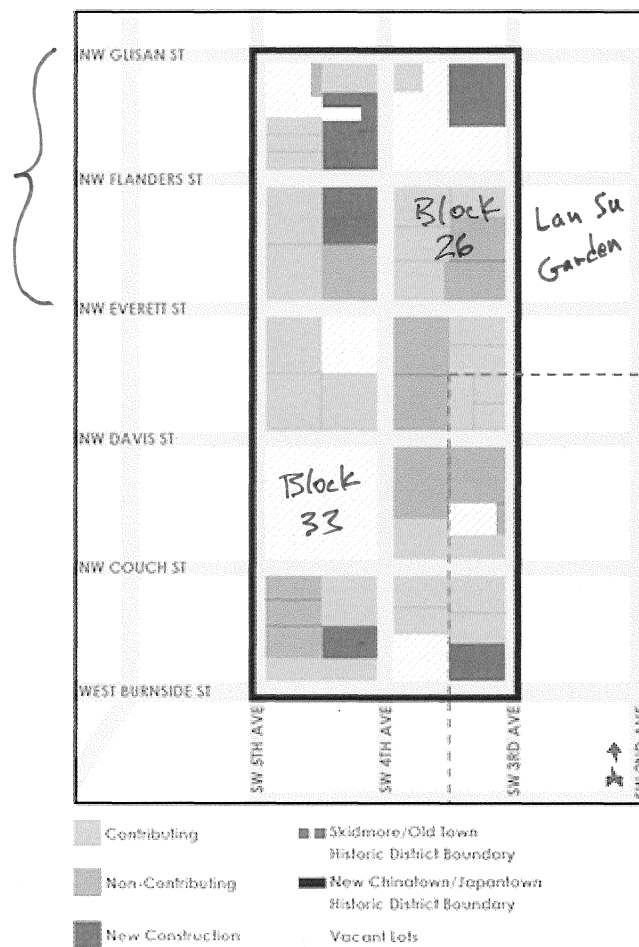
9 **2.** The PSC had recommended 100' and 125' maximum building heights
10 in the District. Before the city council, while public testimony was still allowed,
11 the council amended the CC2035 Plan package to allow a 160' maximum building
12 height on the west half of Block 33. At the next meeting, however, after public
13 testimony was no longer allowed and without any prior notice to the participants,
14 the council again took-up the issue of the Block 33 building height. This time, and
15 without benefit of any public in-put except from the owners/developers of Block
16 33 and 26, the Council quickly boosted the maximum building height on Block 33
17 to 200' and, for the first time, increased the maximum base building height on the
18 northern 4 blocks, which include Block 26, to 200'. This classic back-room deal
19 between the developers of Blocks 33 and 26, the Mayor and Commissioner
20 Saltzman, denied petitioners the ability to participate (at least testify) on this last-

1 minute major amendment in violation of the City's public involvement program
2 (PCP Goals 1 & 2), especially PCP Goal 2E, which guarantees petitioners
3 "meaningful opportunities to participate in and influence all stages of planning and
4 decision making."

5 **C. Summary of Material Facts.**

6 The challenged decision is huge, as was the multi-year process that produced
7 it. Thankfully, this appeal focuses on a single narrow issue of the maximum
8 building heights that the CC2035 Plan allows in the New Chinatown/Japantown
9 Historic District – a tiny national historic district, just 10 square blocks (2x5
10 blocks), established in 1989, and located north of West Burnside, south of NW
11 Glisan Street between NW 5th and NW 3rd Avenues. The District was placed on
12 the National Register of Historic Places for its cultural and historical significance
13 in the areas of Asian Ethnic Heritage, Industry, Commerce, and Architecture from
14 the primary period of 1880-1909 and the secondary period of 1910-1943. Primary
15 architectural styles include Italianate, 19th & 20th Century Commercial, Moderne,
16 Half Modern, Mediterranean, and Industrial. The District was found nationally
17 significant under Criterion A "for its history as the largest and most intact
18 Chinatown in Oregon." It is locally significant "as the largest remaining and most
19 viable Chinese ethnic community in Portland." Designation of the District under
20 Criterion C, for the architectural significance of the buildings in the district, was

N 4
Blocks



New Chinatown/Japantown Historic District

1 added by amendment after the District was approved by the National Parks
2 Service. At the time of its designation, the District included 45 buildings, 2
3 objects, and 6 vacant lots. Of the 45 buildings surveyed, 29 were considered
4 contributing, and 16 were considered non-contributing to the significance of the
5 District. Currently, the tallest building in the District is only 7 stories (~75') (Rec
6 6822, 6449).

7 Since before the District's designation in 1989 until adoption of the CC2035
8 Plan, the maximum allowed building height in the District was 350' with the
9 possibility of a 75-foot bonus for a total maximum of 425'. This maximum
10 building height predated the District and was not reflective of the District's historic
11 and cultural character. All new construction and exterior alterations in the District
12 have been subject to historic review by the City's Historic Landmarks
13 Commission, which has prevented excessive building heights on a case-by-case
14 basis, subject to City Council appeal. However, there has been little new
15 development in the District, and today it is "at the tipping point" with barely 50%
16 of the structures in the District contributing (Rec 7769-70). Many of the District's
17 property owners, city planners, and indeed the city council, saw the CC2035 Plan
18 as an opportunity to revitalize the District and incentivize new development that
19 complimented, protected and enhanced its historic resources as required by PCP
20 Policies 4.48 & 4.49.

1 Petitioners, the Historic Landmarks Commission and other historic
2 preservation groups, however, feared erosion of this tiny District's historic
3 character through incompatible and out-of-scale new development without strict
4 criteria, especially maximum building heights. While generally supportive of the
5 revitalization objectives, petitioners were consistent throughout the CC2035
6 Planning process in advocating for clear and objective building height limits that
7 reflected, protected, and maintained consistency with the historic character of the
8 District's contributing structures.

9 The CC2035 Planning process began in 2010 with scoping through advisory
10 groups (Rec 2272), then a protracted multi-year public process before the PSC
11 (Rec 5405-5473), which produced a recommended draft CC2035 Plan in June
12 2017 (Rec 13488-14673). With regard to an up-dated and relevant maximum
13 building height for the District, the PSC recommended 125' maximum building
14 heights in the District, no height bonuses, and retention of Landmarks Commission
15 review for all new development (Rec 13559-60). The PSC found 125' consistent
16 with the historic and cultural character of the District as required by PCP Policy

1 4.48;¹ although, “even at 125’, designing a building that is compatible with the
 2 district and tells its story will be very challenging.” Rec 7771.²

3 The process continued before the city council with a series of public
 4 hearings beginning September 7, 2017 continuing to the end of March with public
 5 testimony, then no public testimony at the meetings on April 4, May 24 or 30,
 6 2018, and a final vote to adopt a new CC2035 Plan on June 6, 2018 (Rec 7106).
 7 The maximum building height in the District, however, did not become actively
 8 discussed until the March 22nd council meeting (Rec 6438-39), when Mayor

1 **“Policy 4.48, Continuity with established patterns.** Encourage development that fills in vacant and underutilized gaps within the established urban fabric, while preserving and complementing historic resources.”

“The Plan responds to the policy through new goals and policies specific to the Central City that call for: the rehabilitation and reuse of historic structures; historic district protection measures; and, incentives to encourage seismic upgrades and other rehabilitation measures for historic resources. The Central City Plan District is proposed to be amended to include FAR transfer provisions that require seismic upgrades, but provide bonus floor area above that available on-site to provide a financial incentive to support these upgrades. Further, the maximum height within historic districts have been reduced, and bonus height provisions have been repealed to result in new development that is compatible with the existing scale and character of the Central City’s historic districts. Lastly, the Plan includes an action item calling for the City to advocate for the passage of a state historic tax credit.” (Rec 13559)

2 Restore Oregon continued “[t]his is a tiny district – basically just two blocks by 5 blocks. At 125’ Block 33 will literally overshadow the historic buildings. To go even taller will swallow them whole!” (Rec 7771)

Wheeler, introduced Major Amendment C1 to increase maximum building height on the west half of Block 33 in the District from 125' to 160'.

C1 Wheeler Amendment: Block 33 (NW Couch, Davis, 4th and 5th in New Chinatown/Japantown Historic District):

- Increase maximum building height from 125' to 160' on the western half of the block. Eastern half block retains recommended 125' height.
- Maintain FAR at 6:1
- Maintain Historic Resource Review

(Rec 6482, 6496, 7268-71). Based on the agenda, petitioners and other historic interest groups, the Old Town Community Association, and the Landmarks Commission submitted letters (Rec 7710-7798, S3, S5-S6) and testified against the C1 Amendment. *See* relevant March 22nd meeting minutes at Rec 6442-68.

At the meeting, commissioner Saltzman made a completely surprising additional floor amendment to the Mayor's amendment to further increase the maximum building height on Block 33 from 125' up to 200':

C2 Saltzman Amendment: Block 33 (NW Couch, Davis, 4th and 5th in New Chinatown/Japantown Historic District):

- Increase maximum building height from 125' to 200' on the western half of the block. Eastern half block retains recommended 125' height.
- Increase FAR from 6:1 to 9:1 .
- Exempt property from Historic Resource Review for FAR and

No vote was called on either motion at the March 22nd meeting.

1 The Block 33 building height issue and the two motions from the prior
2 meeting returned to council on April 4, 2018, plus a third amendment from
3 Commissioner Fish (Rec 7191-7202):

4 C3 Fish Amendment: Block 33 (NW Couch, Davis, 4th and 5th in New
5 Chinatown/Japantown Historic District):

- 6 • Allow the height increase to 160' on the western half of the
- 7 block through bonus height
- 8 • Require the owner to use the affordable housing bonus .

9 No public testimony was allowed at the April 4th meeting, but council discussed all
10 three amendments. *See* relevant April 4th meeting minutes at Rec 6388-97. In the
11 end, the Saltzman's 200' building height C2 Amendment was defeated;
12 Commissioner Fish withdrew his C3 Amendment, and the Mayor's C1
13 Amendment passed, increasing the maximum building height on the west half of
14 Block 33 to 160' (Rec 6386). Everyone believed the issue was concluded.

15 Then, without warning and without opportunity for public in-put, the
16 building height issue in the District was back on the council's May 24th meeting
17 agenda with a new Major Amendment to increase the maximum building height on
18 the west half of Block 33 from the previously approved 160' up to 200' with an
19 affordable housing bonus, and for the first time, a new proposal to increase base
20 building height for the northern 4 blocks in the District to 200':

21 Saltzman Amendment: Block 33 (NW Couch, Davis, 4th and 5th in
22 New Chinatown/Japantown Historic District):

- 23 • 4 northern blocks of the New Chinatown/Japantown Historic
- 24 District: Increases the base heights to 200 feet on the 4 blocks.

- 1 • Block 33:
 - 2 o Increases the bonus height on the western ½ of the block to
 - 3 200 feet. The base height remains at 125 feet for the full
 - 4 block. The affordable housing bonus is required to be used if
 - 5 the bonus height is used.
 - 6 o Increases base FAR to 9:1 on the full block if all floors above
 - 7 the ground floor on the western ½ of the block are in a
 - 8 residential use.

9 Rec 5566-68.

10 While no public testimony was allowed at the May 24th council meeting,
11 several historic preservation advocates and Landmarks Commission members
12 learned of the proposal, and submitted opposition letters (Rec 7712-17, 7720-30).
13 Many attended the May 24th meeting to protest in silence the amendment and the
14 process by which it came to council, but none were allowed to testify. *See* relevant
15 May 24th meeting minutes at Rec 6314-24. The surprise May 24th Major
16 Amendment significantly increasing building height in the District with no public
17 testimony, passed on a 3:2 vote (Rec 5560).

18 Following the May 24, 2018 approval of Saltzman's Major Amendment to
19 increase building height on the west half of Block 33 to 200' through an affordable
20 housing bonus, and increase the base building height on the 4 north blocks in the
21 District to 200', the issue was finished. Although, at the May 30 meeting, the
22 council discussed the degree to which 200-foot tall buildings on the 4 north blocks
23 in the District would shade the Lan Su Chinese Garden on the adjacent block to the
24 east (Rec 6276, 6284-88). Notwithstanding that discussion, building height was

not discussed again, and the Council voted to approve the CC2035 Plan package on June 6, 2018. In its final form, the CC2035 Plan consisted of Ordinance 189000 (Rec 1-10) and 13 supporting Exhibits A-M (Rec 17-5479). This appeal followed. When issued, the challenged decision was supported by Exhibit A findings that addressed only the 160' building height on Block 33 (Rec 17-170), but were subsequently replaced after this appeal was filed with findings that simply changed the height to 200' and added a reference to the District's 4 northern blocks at 200' (AR-1 to AR-153). It is not clear which findings the city council saw or adopted.

D. LUBA's Jurisdiction: LUBA has exclusive jurisdiction to hear this appeal because it challenges a final "land use decision" by respondent's city council approving the CC20135 Plan and amending the PZC. Petitioners participated in the local process and appealed within 21 days of the final decision.

FIRST ASSIGNMENT OF ERROR

Respondent misapplied and misinterpreted the applicable law and rendered a decision that is contrary to PCP Policies 4.48 & 4.49 and Central City Policies 5.19, 1.OT-3 & 5.OT-1, regarding preservation of historic resources, in violation of ORS 197.835(7)(a) and State-wide Planning Goal 2's requirement for an adequate factual base. The council's last-minute building height increase to 200' in nearly 50% of the New Chinatown/Japantown Historic District violates these policies that require new development and regulations to consider the character, preserve and complement the historic resources of this Historic District.

Preservation: The preservation requirement of ORS 197.763(1) does not apply to appeals of legislative amendments. *Columbia Pacific Building Trades*

1 *Council v. City of Portland*, __ Or. LUBA __ (LUBA No. 2017-01, July 19,
2 2017), *rev'd on other grounds* 289 Or App 739, 412 P3d 258 (2018).

3
4 Implementing Goal 5 with regard to historic resources, and relevant to the
5 preservation and continuity of established development patterns, PCP Policy 4.48
6 and 4.49, respectively, require:³

7 Policy 4.48, Continuity with established patterns. Encourage
8 development that fills in vacant and underutilized gaps within the
9 established urban fabric, while preserving and complementing historic
10 resources.

11
12 Policy 4.49, Resolution of conflicts. Adopt and periodically update
13 design guidelines for unique historic districts. Refine base zoning in
14 historic districts to consider the character of the historic resources in the
15 district.

16
17 *See also* Central City Plan Policies 5.19, 1-OT-3 & 5-OT-1.⁴

18 Petitioners advocated tirelessly throughout the decade-long process for
19 several historic district protections, especially in the New Chinatown/Japantown
20 Historic District and most notably retention of Landmarks Commission review for
21 all new development and a low maximum building height in this extremely small
22 District. The PSC agreed and recommended a 125-foot maximum building height
23 limit for nearly all parts of the District. That changed at the last minute at the

3 The Portland Comprehensive Plan goals and policies are found at:
<https://www.portlandoregon.gov/bps/70936>

4 The CC2035 Plan policies are found at:
<https://www.portlandoregon.gov/bps/article/644114>

1 council level with little notice, after the opportunity for public testimony was
2 terminated, and with virtually no public input.

3 As a starting point to understanding these criteria in the context of the
4 District, it is important to note that the District was established as both a cultural
5 and a historic preservation district in 1989, with barely 50% of the structures being
6 contributing. The 425' maximum building height limit that applied in the District
7 prior to adoption of the CC2035 Plan predated its 1989 establishment and was
8 never intended as a measure to preserve the District's character, development
9 pattern or historic resources. Instead, since its establishment, development
10 proposals have been decided by the Historic Landmarks Commission under the
11 City's general historic design guidelines, and through that process building sizes
12 have generally been limited to protect and maintain consistency with the historic
13 District's relatively low – 75' tall – buildings, with appeals going to the city
14 council. When the issue of building height in the District arose during the PSC
15 proceedings, the Historic Landmarks Commission testified that a 160' building
16 height enshrined in the Zoning Code would be decidedly incompatible and
17 inconsistent with the established pattern in the District:

18 Amendment #18, which proposes to increase heights in the New
19 Chinatown/Japantown historic district from 125' to 160' is particularly
20 troubling, as existing structures in this fragile district for which design
21 guidelines were recently adopted are significantly shorter, and thus
22 compatible infill development would be challenging at the proposed
23 heights. ...We write to you today to oppose these proposed

1 amendments as written, for the reasons described below.

2
3 PHLC has previously written to you about its concerns regarding
4 proposed heights and FAR allowances and transfers in historic districts
5 within the Central City Plan District-Chapter 510 of the Portland
6 Zoning Code (CC2035), which may be in conflict with the goals and
7 policies of the 2035 Comprehensive Plan adopted by City Council in
8 June 2016. Such conflict increases cost and uncertainty for applicants
9 and challenges PHLC to approve proposed projects that meet zoning
10 limits, but that are out of scale and thus un-approvable under Historic
11 Review approval criteria.

12
13 *Right-Sizing*

14 The 2035 Comprehensive Plan requires right-sizing zoning in historic
15 districts to resolve the conflict described above. Specifically, Policy
16 4.49, titled "Resolution of conflicts in historic districts" directs: "Refine
17 base zoning in historic districts to take into account the character of the
18 historic resources in the district." PHLC has thus repeatedly requested
19 that Council reduce heights in some historic districts to better match the
20 character of the existing built environment and to provide consistency
21 with historic review criteria which require that infill be compatible with
22 existing resources. For instance, last year, the PHLC requested that the
23 height limitations for East Portland Grand Avenue, New
24 Chinatown/Japantown, and NW 13th Avenue historic districts be
25 revised to 75' maximum and 4:1 maximum FAR, like those in the
26 Yamhill Historic District and Skidmore/ Old Town District, where
27 existing structures are of similar height and bulk.

28
29 In addition, PHLC has requested that height limits within historic
30 districts be consistent so as to ensure cohesion of a historic district's
31 component parts. One should be able to visibly see a relationship of the
32 collection of structures to each other within a historic district, which is
33 the resource PHLC is charged with protecting when reviewing
34 applications for new development. As such, PHLC has requested that
35 the height limits at the north end of New Chinatown/Japantown match
36 those at the south end of the district and that the East Portland/Grand
37 Avenue districts reflect consistent compatible height limits rather than
38 the 100'-200' range of height limits currently proposed.

Facilitating Approvals Applicants are frequently frustrated because of misaligned expectations about the development potential of a particular parcel, resulting in time-consuming and expensive review processes requiring multiple hearings. It is important to provide realistic expectations under the zoning code to applicants before they reach the PHLC for historic resource review. As described above, the maximum height and FAR described in the proposed zoning maps are in many cases taller and bulkier than would be approvable on a given site within a historic district when applying the prescribed approval criteria. Some applicants do not seem to understand that proposals in historic districts meeting maximum heights and density (FAR) allowances in the base zone are nonetheless subject to discretionary land use review and are not “entitlements” under the application of zoning rules prescribed by the code. Section 33.700.020 of the code points to quasi-judicial procedures such as those employed by the PHLC to review “Uses and Development Which Are Not Allowed by Right.”

In addition to “right-sizing” zoning heights and FAR, in order to facilitate approvals of historic resource review applications, PHLC has previously requested that notes be added to the proposed CC2035 zoning maps covering historic resources or design overlay areas: “Maximum heights as shown may be subject to land use approval.” That said, right-sizing within historic districts may make such statements unnecessary. ...

Such requests are consistent with recently adopted State legislation [ORS 227.175(4)(d)] that allows local jurisdictions to limit height or density of certain housing developments, “to comply with a protective measure adopted pursuant to a statewide land use planning goal.” Here, the Statewide land use planning goal in question is Goal 5, which dictates: “Local governments shall adopt programs that will protect natural resources and conserve scenic, historic, and open space resources for present and future generations. These resources promote a healthy environment and natural landscape that contributes to Oregon's livability.”

Historic District Property Owners

In addition to the challenges faced by applicants and the PHLC that are caused by the proposed heights and FAR in historic districts within the CC2035, PHLC has previously expressed concern about the impact of

development on other property owners. Incompatible development may cause a district to be ultimately de-listed, thus depriving existing property owners of any benefits derived from historic designation such as State or Federal tax abatements. The cohesion of an entire historic district can be negatively affected by a single development that is significantly out of scale with the others, thus jeopardizing the historic status of all properties within the district.

Rec 13295-96.

The 125' building height recommended by the PSC was still 50' taller than any structure in the District, and designing a compatible building would be "very challenging" in the context of the historic design guidelines. At 125', a building on Block 33, for example, would "literally overshadow the historic buildings" of this tiny District (Rec 7771). When the unexpected major amendment to increase building height on the west half of Block 33 to 160' appeared on the March 22nd council agenda (Rec 6482, 6494-96), the Historic Landmarks Commission and several of its members provided written and oral testimony about the practical problems the proposal would create and how even a 160' height limit was not compatible with the District's historic resources and did not preserve or compliment the District's resources:

The approval criteria for historic review according to the National Park Service, in Oregon and adopted specifically in Portland, take compatibility into account. **Compatibility must include height, form, and bulk.** In 2008, a letter from the National Park Service to Portland City Council [Rec 31098-31100] spoke out against heights then being considered of 130' on certain sites within the Skidmore/Old Town historic district. To quote from that letter, "We do not believe that buildings of the proposed new height, regardless of being stepped back

1 from street facades, can be designed in ways to be compatible with
 2 buildings within the NHL district and would impact the integrity of the
 3 district's setting, feeling, association and design." Please also see the
 4 letter recently submitted from the State Historic Preservation Office
 5 [Rec 31097]. [ORS 227.175(4)(e)] removed the right of local
 6 jurisdictions to limit height or density of certain housing developments,
 7 except if "the reduction is necessary to resolve a health, safety or
 8 habitability issue or to comply with a protective measure adopted
 9 pursuant to a statewide land use planning goal." [ORS 227.175(4)(e)]
 10 recognizes protection of historic resources as one such example of
 11 allowing local jurisdictions to limit height and density.

- 12
 13 4. Idea of a transition in height on this single block being authentic
 14 or appropriate
 15

16 The City has very recently allocated time and money to completing a
 17 new set of Historic District Design Guidelines for the time, 10-block
 18 historic district in question. **A "stepping" in height is not part of the**
 19 **district pattern, nor is it appropriate for a district that is ONLY**
 20 **TWO BLOCKS WIDE.** Again, we note with irony that the other
 21 blocks along 5th aren't being re-zoned to support some kind of step up
 22 in height along 5th Avenue, because there is no supportable reason or
 23 precedent for this move. A historic district should maintain a visible
 24 degree of compatibility within the district boundaries. Big disparities
 25 in height should occur outside the district, visually reinforcing its
 26 boundary.

- 27
 28 5. Claim that the PHLC has said definitively that we would not
 29 approve a project at 160'
 30

31 The PHLC does not believe anything of the sort was said or written.
 32 **We have voiced doubt that 160' or 200' development could be**
 33 **compatible or approvable under the recently adopted guidelines.**
 34 We have been appointed by the Mayor in order to protect historic
 35 resources, including historic districts. As noted by BPS staff in the
 36 hearing, the maximum allowable height and bulk were never calibrated
 37 or right-sized for the historic district.
 38

- 39 6. Claim or implication that the historic designation of the district
 40 and restrictive review process are the reason no development has

1 occurred on the property, supposedly from a desire of
2 preservationists to “freeze” the district in time.

3
4 **The Portland Historic Landmarks Commission has approved**
5 **numerous housing projects on vacant lots in historic districts**
6 **across the city within the last 2 or 3 years alone.** For example, at 3rd
7 and Ash a project was approved with 133 residential units, 20% of
8 which will be reserved for people earning no more than 80% of Area
9 Median Income. ... Other examples include WorldMark, Pearl East,
10 Grand Belmont, and Block 8L (University of Oregon) Building. In
11 addition to providing increased housing, these buildings have another
12 thing in common: they are all highly compatible buildings albeit taller
13 than most of the other contributing buildings in their respective
14 districts. Also, they were all approved in most cases with just one or
15 two Land Use Hearings. Developers listened to the advice given to
16 them during the Design Advice Review and responded in most cases
17 by studying the district’s context and guidelines in order to design a
18 project that better responded to the needs of the district as a whole.
19 These development teams understood that in historic areas, **context**
20 **must drive the design in order to protect the continuity of the**
21 **district as a whole.** The process becomes difficult when developer’s
22 expectations for overall height don’t take into account all the other
23 regulations which must legally be applied. It is really just a simple
24 application of Oregon Land Use law which governs the process and the
25 approval criteria.

26
27 Finally, the Comprehensive Plan must be respected as the backbone of
28 our legislative and quasi-judicial decision making. Policy 4.49,
29 Resolution of conflicts in historic districts, reads, “Adopt and
30 periodically update design guidelines for unique historic districts.
31 **Refine base zoning in historic districts to take into account the**
32 **character of the historic resources in the district.”**

33
34 Rec 7752-54 (bold and italic emphasis in the original, underline emphasis
35 added).

36
37 The above-mentioned 2008 National Park Service comments on proposed
38 building height increases in the Skidmore/Old Town historic District are relevant

1 here and to the final 200' building heights the CC2035 Plan allowed:

2 It is this very scale, created by buildings generally 40 to 60-feet
3 tall with simple mass and volume characteristics – features that
4 we feel define the district – that would be severely compromised
5 by allowing building heights to go from the current allowable 75'
6 to 130'... We do not believe that buildings of the proposed new
7 height, regardless of being stepped back from street facades,
8 can be designed in ways to be compatible with buildings within
9 the NHL district and would impact the integrity of the district's
10 setting, feeling, association, and design. We believe that the
11 building forms created, with their imposing mass and scale
12 alongside existing structures in the district, will adversely affect
13 the overall integrity of the district.

14 Rec 31099, emphasis added.

15 Based on this National Park Service advice on a proposal to increase
16 building height in historic districts, Oregon SHPO said the following about Mayor
17 Wheeler's C1 Amendment to increase building heights in the District to 160':

18 In the late-nineteenth and early-twentieth centuries, most commercial
19 buildings were masonry construction with commercial storefronts at the
20 ground floor and commercial or residential space above. These
21 buildings rarely exceeded four or five stores in height. This pattern
22 holds true in Portland as well.

23
24 While the December 4, 2008 letter from the National Park Service
25 refers specifically to the Skidmore/Old Town National Historic
26 Landmark District, the comments regarding building height are
27 relevant to the discussion regarding any designated commercial historic
28 district. The overwhelming mass of substantially larger structures
29 adversely affects a district's historic integrity, or historic appearance,
30 by replacing historic buildings and spaces with new construction and
31 introducing visual impacts throughout the district that negatively
32 affects a district's setting, feeling, association, and design. Such
33 impacts may result in a district losing so much of its historic character
34 that it no longer qualifies for listing in the National Register, or for the

1 associated state and federal tax benefit and grant programs. It is our
2 experience that the use of compatible materials, confining large
3 buildings to the edges or a district, or stepping the building back from
4 the street does not mitigate the impact of locating a much larger
5 building within a commercial historic district composed of substantially
6 smaller buildings.

7
8 Rec 7755, emphasis added.

9 The Architectural Heritage Center/Bosco Milligan Foundation also testified
10 that a 160' or 200' tall building would be completely out of scale and character
11 with the District and would negatively impact the District's cultural and historic
12 resources:

13 1). The proposed project is right in the heart of the
14 Chinatown/Japantown National Historic District and is surrounded on
15 all sides by historic buildings of 2-3 stories high. To allow a building
16 that could be 16-20 stories high would be completely out of scale and
17 context with the surrounding architecture and would have negative
18 impacts on light and views for the entire area. Any new building in this
19 National Historic District should be built to an appropriate scale and in
20 a style that harmonizes with the historic character of the neighborhood.
21 We as Portlanders pride ourselves on being good neighbors and
22 anything less would not be in the spirit of a good neighbor.

23
24 2). To offer an exception on the height limits to a single developer is a
25 form of "spot zoning" that sets a dangerous precedent and threatens to
26 weaken zoning rules throughout the city and the entire Center City 2035
27 Plan. If any developer can ask for a large variance in the height or the
28 FAR for any single new development, the very foundation of zoning
29 and master planning of our city may be undermined.

30
31 6.) Good development that is sensitive to the historic context of the area
32 has already happened or is in the development stage right now in Old
33 Town/Chinatown. I would point your attention to two projects. First,
34 you have the 5th Avenue Court Apartments located directly to the
35 northwest of Block 33. This is a mixed-used 5-6 story building with

1 residential housing on the upper floors and commercial retail space on
2 the main. The height and the architectural style of the building with its
3 use of brick, iron railings and decorative concrete harmonize nicely
4 with the surrounding historic buildings. And this was done in a block
5 zoned CX. The second project is the proposed development on the
6 Goodman parking lot at SW 3rd & Ash. Here the building of a handsome
7 6 story brick building with an emphasis on affordable housing above
8 and retail on the main has passed review by the landmarks commission
9 and is moving forward. See attached pics of both projects for reference.

10
11 In conclusion, nobody at the AHC thinks that a parking lot is the best
12 use of land in the heart of the center city. We also feel the frustration of
13 the neighbors and businesses in the area that have been dealing directly
14 with the blight, crime and lack of improvement for years. But a bad
15 development that is completely out of scale, architectural style and
16 context to the neighborhood, and one that does not offer the promise of
17 any affordable housing is worse than no development at all right. You
18 as council members and we as a city have the collective brains, talent
19 and vision to do a something special to preserve the New
20 Chinatown/Japantown Historic District, honor its Asian American
21 heritage, and create a vibrant and thriving quarter. We can build
22 something that looks beautiful, fits in with the character of the district,
23 provides affordable housing and lifts up the neighborhood. Let's put our
24 heads together and do this!!

25
26 Rec 7722-23, emphasis added.

27 Matthew Roman, member of the Historic Landmarks Commission also
28 testified against the 160' and 200' height limits at the March 22 council hearing:

29 Previous councils have recognized the restorative approach is more in
30 keeping with our overall values than the clear-cut approach. That was
31 demonstrated with the investment the City made developing and
32 adopting the design guidelines. If you now change direction, consider
33 the honest approach is to go through the process of demolition review
34 and declare the district dead. That is the de facto result of this proposed
35 amendment. I believe the viability of the district will be called into
36 question if this site not treated appropriately.

1 More than anything on this site we need wholly compatible design.
 2 What that means is laid out entirely in the guidelines you approved.
 3 And an appropriate developer with a good architect can make a
 4 wonderful building work on that site within the 125-foot limit.
 5

6 Finally, while I very much doubt this is some kind of political deal,
 7 keep in mind how it can appear that way to the public. The idea of equal
 8 protection under the law runs contrary to spot zoning individual
 9 properties. Take caution the road you are going down will only bring
 10 more requests in the future. And the potential for corruption can be
 11 avoided altogether if we just say no to the concept in general.
 12

13 Rec 7769-70, emphasis added.
 14

15 The Portland Chinatown History Foundation testified against the 160'

16 proposal in the C1 and C2 Amendments:

17 The proposed development on Block 33 would be the tallest building
 18 on Fifth avenue at 160 feet, and would overshadow the surrounding
 19 buildings. Allowing this development to increase height up to 200 ft
 20 creates a pinnacle in the sky and not in character with the heights of the
 21 adjacent and surrounding buildings. This also would cast a permanent
 22 shadow over much of the historic district. Please reconsider the
 23 allowance of this taller height.

24 Rec 7729, emphasis added.

25 Consistent with SHPO and National Park Service comments, Restore

26 Oregon testified that:

- 27 • Claims that the developer cannot make money at the current 125' height
 28 lacks credibility. Numerous other projects have been able to pencil out
 29 at even lower heights - such as the Goodman's project about to break
 30 ground just a few blocks away - a project that was enthusiastically
 31 supported by the Landmarks Commission at 75', and includes
 32 significant numbers of affordable and market rate housing.
 33
- 34 • Even at 125', designing a building that is compatible with the district

and tells its story will be very challenging. This is a tiny district - basically just two blocks by 5 blocks. At 125' Block 33 will literally overshadow the historic buildings. To go even taller will swallow them whole!

- It is not possible to design a 160' or 200' building to be compatible with two and three-story historic buildings, or to incorporate design elements that reflect the district's cultural history.

Rec 7771, emphasis added.

Restore Oregon is aware of the unrelenting pressure that the development team for Block 33 are applying to further raise the height on and spot-zone Block 33. At a time when Portland's historic character has never been under greater threat, we sincerely hope you will rise above the nonsense and scare tactics being employed here.

Asserting that its 200' or nothing will ever be built on the block is ridiculous – especially when there are so many examples to the contrary. Taking a broader, longer view, we urge Council to consider both the immediate consequences to this fragile historic district and the terrible precedent being set. I am attaching again our previous letter of testimony and reiterate three points that bare repeating:

2. It is not possible to design a historically compatible building at 200 feet. Period. That architectural super-power does not exist. Especially with a firm that has ZERO experience designing within a historic district. Don't throw your Landmarks Commission "under the bus." The development team simply plans to go through the motions with Landmarks and then appeal their inevitable rejection to City Council, assuming you'll have no alternative but to reverse the decision.

Rec S-3, bold emphasis in the original, underline emphasis added.

In Japan Town-China Town we have one of Oregon's Most Endangered Places (the Wong Laundry Building – presenting an opportunity for reuse as a cultural history center), and other examples of demolition-by-neglect. This historic district includes an incredibly rich cultural history whose story is not currently well-told. The Plan calls for

1 preservation while proposed zoning increases the allowable height for
2 new development.

3
4 We appreciate that preservation is represented in the West Quadrant
5 Plan. But generally, the Plan gets specific on heights, but is pretty vague
6 on the implementation of its other aspirational goals. And it does not
7 assess how livability will be impacted by significantly increased
8 heights. As those are fleshed out, please consider these points:

9
10 When zoning increases the allowable height, you doom the more
11 modest, human-scaled historic buildings – the financial gain from
12 replacing them is just too great. We're especially concerned with the
13 West End in this regard. While we struggle to balance density with
14 preservation, we need to ensure there are sufficient economic incentives
15 in place for preservation.

16
17 Rec S-9, emphasis added.

18 Restore Oregon strongly urges city council to reject the proposed
19 zoning amendments for Block 33 in Portland's new Chinatown
20 Japantown historic district. ... This is a tiny district, basically just two
21 blocks by five blocks. At 125 feet, Block 33 will over shadow historic
22 buildings, to go even taller will swallow them whole. It is not possible
23 to design a 160 foot or 200 foot building to be compatible with two and
24 three story buildings or to incorporate design elements that reflect the
25 district's cultural identity.

26
27 Rec 6462-63.

28 Kristin Minor, vice chair of the Historic Landmarks Commission testified at
29 the council's March 22nd meeting against the proposed increase from 125' to 160'
30 maximum building height, again based on the incompatibility of the proposed
31 standard with the character of District's historic resources and how buildings 50'
32 taller than any structure in the District did not compliment and would not preserve
33 its historic resources:

1 "...we all want to see development on surface parking lots. Especially
2 in an historic district. This has really been a blight and one that we
3 would like to see filled. The height amendment, though, it is reduced
4 on the half block but it is still out of scale with the historic contributing
5 buildings. So the tallest historic contributing building in the district is
6 the mason Ehrman, which is seven stories high and it's approximately
7 90 feet, I don't know exactly how tall that is. The idea that the 160 on
8 the west half of the block offers a transition is really not appropriate.
9 What we would like to see in the historic district is for taller
10 development to actually define the edge of the district. To keep that it's
11 only two blocks wide so again we're talking about an historic district
12 that is ten blocks, its very tiny and it is as commissioner Eudaly
13 mentioned it is threatened.

14
15 Rec 6449, emphasis added.

16
17 ...the landmarks commission would certainly try to fit in as much
18 height as we could find compatible within our criteria and the
19 guidelines that we have to work with. I am not sure 160 feet would fit
20 within that and if it seems in the ends that the historic district should be
21 jettisoned, there's actually a process for that. And maybe as a city we
22 should look at that instead of kind of eroding it until somebody else has
23 to step in and say, you don't have a district anymore. Let's give certainty
24 to all those owners who are relying on -- they get historic tax credits,
25 tax freeze benefits from being a contributing building and without that,
26 they wouldn't have those funds.

27
28 Rec 6450, emphasis added, *see also* testimony of Landmarks Commissioner
29 Matthew Roman (Rec 6450-52) and Landmarks Commissioner Maya Forty
30 (Rec 6452-53) and Landmarks Commission comments on the building height
31 increase proposal generally (Rec 31091-94, 13295-96).

32
33 This testimony apparently was compelling enough for the council to
34 reject Saltzman's March 22nd floor amendment (C2) to increase building height
35 on the west half of Block 33 to 200', but the council still approved Wheeler's

1 C1 Amendment on April 4th increasing building height on the west half of
2 Block 33 to 160' (Rec 6386).

3 No public testimony was allowed on the CC2035 Plan at the April 4th
4 council meeting or at any meeting thereafter. There also was no mention of the
5 northern 4 blocks in the District until the May 23rd meeting when building
6 heights on Block 33 and the northern 4 blocks suddenly appeared on the council
7 agenda without warning. Despite focused testimony at the March 22nd council
8 meeting that 160' building heights would not compliment or preserve the
9 District's historic resources, were out of character with the buildings in the
10 District, and in fact "adversely affects the district's historic integrity [and]
11 historic appearance," (Rec 7755) the council voted to increase building heights
12 on Block 33 and the northern 4 blocks to 200' based on the findings (Rec 17-
13 170) that were subsequently replaced after this appeal was filed (AR- to AR
14 153). *See* App 2 especially AR-74 to AR 76.

15 The CC2035 Plan contains policies specifically designed to protect and
16 enhance cultural and historic resources and the characteristics of this historic
17 district:

18 Historic Preservation. The Central City is rich with designated historic
19 landmarks and historic districts that help create a sense of place,
20 contribute to neighborhood character and recognize Portland's history.
21 These policies support the protection and preservation of historic and
22 culturally significant resources in the city as it continues to grow and
23 change.

1
2 POLICY 5.19 Historic resources and districts. Enhance the identity of
3 historically, culturally and architecturally significant buildings and
4 places, while promoting contextually-sensitive infill development on
5 vacant and surface parking lots

6
7 POLICY 1.OT-3 Cultural assets. Support the protection and
8 enhancement of the rich cultural and multi-ethnic history and diversity
9 of Old Town/Chinatown, including its unique physical characteristics,
10 cultural and arts institutions, community organizations, and mix of
11 businesses.

12
13 POLICY 5.OT-1 New Chinatown/Japantown. Protect significant
14 resources and enhance the historic multi-cultural significance of the
15 New Chinatown/Japantown Historic District. Support the district's
16 historic character, multi-ethnic history and today's Pan-Asian culture.

17
18 Goal 2 requires all land use decisions to be supported by an adequate factual
19 basis, which is not demonstrably different than the substantial evidence test. *1000*
20 *Friends of Oregon v. City of North Plains*, 27 Or. LUBA 372, 377-378 (1994),
21 citing *League of Women Voters v. Klamath County*, 16 Or LUBA 909, 914
22 (1988). Moreover, ORS 197.835(7)(a) requires legislative amendments of the
23 local land use regulations to be compliant with the comprehensive plan.

24 The 200' building heights violate, and these findings are unresponsive to,
25 Policy 4.48, 4.49, Central City Policies 5.19, 1.OT-3 or 5.OT-1 and the focused
26 expert testimony of the Historic Landmarks Commission, its members, SHPO, the
27 National Park Service, and petitioners who are experts and advocates in historic
28 preservation about the damaging effect that increased building heights would have
29 on the District, its preservation and the character of its historic resources. The 200'

1 building heights and these findings ignore SHPO's negative comments on the C1
2 Amendment (Rec 7755), SHPO's comments on the 2015 proposal to rebuild the
3 Grove Hotel within the District at a significantly taller height (Rec 31097), and
4 National Park Service comments, upon which both were based, that increasing
5 building heights from 75' up to 130' would adversely affect the integrity of a
6 historic district (Rec 31099). These comments were specifically cited by the
7 Landmarks Commission and its members opposing the C1 and C2 Amendments to
8 increase building height on Block 33 (Rec. 7753, 6449) and to oppose prior height
9 increase proposals (Rec 31091-94, 13295-96). These comments explained how
10 building height and bulk define the character and physical context of an historic
11 district and how significantly taller buildings overwhelm historic buildings and
12 adversely impact the overall integrity and character of historic districts.

13 Respondent's conclusion that "on balance" the building height amendments
14 to the District "further the objectives of Policy 4.48" (Rec AR-75) is not a
15 responsive finding nor is it founded on an adequate factual base. In fact, the
16 evidence demonstrates, at a minimum, the opposite is true, and the findings fail to
17 address this focused expert testimony that, in fact, these building height increased
18 in the District, will not preserve and will not complement the historic resources it
19 contains. *Sage Equities v. City of Portland*, __ Or LUBA __ (LUBA No. 2015-
20 047, slip op. Sept 29, 2015). Moreover, in adopting the 200' building height in

1 nearly 50% of the District, there was no discussion, description or consideration of
2 the character of any of the District's historic resources, as Policy 4.49 requires.

3 Instead of considering the character of the District's historic resources,
4 respondent's findings focus on how 200' tall buildings are lower than the 350' and
5 425' building height theoretically allowed under the prior code that pre-date the
6 District's formation. This is not a substitute for a demonstration of compliance
7 with PCP Policies 4.48 or 4.49 or Central City Policies 5.19, 1.OT-3 or 5.OT-1.

8 Absent from these findings is any acknowledgement or description of the
9 "established urban fabric" of the District or surrounding area. Absent is any
10 description or discussion of how 200' tall buildings could or would preserve or
11 compliment the District's historic resources, as required by Policy 4.48. Absent is
12 any mention, description, or consideration of the character of the District's historic
13 resources, as required by Policy 4.49. Absent is any acknowledgement that
14 stepping-up of building height within a 2x5 block historic district is wholly
15 inappropriate and "does not mitigate the impact of locating a much larger building
16 within a commercial historic district composed of substantially smaller buildings"
17 (Rec. 7755, 7753, 31099). Absent is any mention or indication of how 200' tall
18 buildings will "support the protection and enhancement of the rich cultural and
19 multi-ethnic history and diversity of Old Town/Chinatown, including its unique
20 physical characteristics, cultural and arts institutions, community organizations or

1 mix of businesses” as required by Central City Policy 1.OT-3. Absent is any
2 mention or indication of how 200’ tall buildings will “enhance the identity of
3 historically, culturally and architecturally significant buildings,” the tallest of
4 which is only 7 stories, as required by Central City Policy 5.19. Absent is any
5 explanation of how 200’ tall buildings on nearly 50% of the District could possibly
6 “[p]rotect significant resources and enhance the historic multi-cultural significance
7 of the New Chinatown/Japantown Historic District [or] support the district’s
8 historic character, multi-ethnic history and today’s Pan-Asian culture” as required
9 by 5-OT-1. The findings are wholly inadequate, because these code changes
10 violate PCP Policies 4.48 & 4.49 and Central City Policies 5.19, 1.OT-3 & 5.OT-1.

11 The findings make only passing reference to the 200’ height increase for the
12 west half of Block 33, and end with the conclusory statement that the new height
13 within historic districts will “result in new development that [somehow] is
14 compatible with the existing scale and character of the Central City’s historic
15 districts” (Rec AR-75). Without any acknowledgement of the existing scale and
16 character of this 2x5 block historic District, where the tallest building is 7 stories
17 (75’), these findings are defective in their failure to acknowledge Landmarks
18 Commission, SHPO and National Park Service testimony that stepping-up building
19 heights does not mitigate for out-of-scale tall buildings (Rec 7753, 7755, 31099)
20 and, in fact, is inappropriate in an historic district only 2x5 blocks. Instead, the

1 findings say “the new maximum height limits create a step down from these
2 greater height allowances to the west of the [District] down to 100 feet maximum
3 to the east of the site” (Rec AR-75). There is no mention, findings or explanation
4 as to how a base height of 200’ on the northern 4 blocks is consistent with PCP
5 Policies 4.48 or 4.49.

6 The blunt instrument of a 200’ building height also violates CC2035 Policies
7 5.19, 1.OT-3 and 5.OT-1, which require regulations that promote “contextually-
8 sensitive infill development on vacant and surface parking lots” and the “protection
9 and enhancement of the rich cultural and multi-ethnic history and diversity of Old
10 Town/Chinatown, including its unique physical characteristics, cultural and arts
11 institutions, community organizations, and mix of businesses.” The above-quoted
12 testimony establishes (or at least creates the rebuttable presumption) that 200’ tall
13 buildings in nearly 50% of this microscopic historic district will “adversely affect
14 [the] district’s historic integrity, or appearance by replacing historic buildings and
15 spaces with new construction and introducing visual impacts throughout the
16 district that negatively affects [the] district’s setting, feeling, association, and
17 design.” Rec 7755 (SHPO 3/22/2018 comment letter), *see also* Landmarks
18 Commission letters at Rec 7752-54, 13295-96, 31091-94 & 7769-70.
19 Commissioner Fritz got it exactly right with her dissent at the June 6 final
20 adoption:

Council's decision to increase height on five of the ten historic district blocks undermines years of public process and recently developed design guidelines to right size the district, guidelines designed with 125 feet as the maximum height in mind. Thank you to the planning and sustainability commission for recommending the 125 feet. This action violates the comprehensive plan policies regarding historic and cultural resources specifically or including policy 4.48, encourages development that fills in vacant and underutilized gaps within the established urban fabric while preserving and complementing historic resources. 4.49, refine base zoning in historic districts to take into account the character of the historic resources of the district. It also violates number of central city policies including 5.19, historic resources in districts. Enhanced identity of historically, culturally and architecturally significant buildings and spaces while promoting conceptually sensitive infill development on vacant and surface parking lots. Old Town Chinatown district policy 1.0T-3, Cultural Assets, support protection and enhancement of the rich cultural and multiethnic history and diversity of Old Town Chinatown including its unique physical characteristics, cultural and arts institutions, community organizations and mix of businesses.

Rec 6266, emphasis added, *see also* Rec 6316-17.

Given the focus and repeated expert testimony from SHPO (Rec 7755, 31098-100), Restore Oregon (Rec 7771, 7726-28, 15009, 25109, 31156, S-3, S-5, S-7), the Architectural Heritage Center (Rec 7720-21), the Portland Chinatown History Foundation (Rec 7729-30), the Landmarks Commission (Rec 7712-13, 7752-54, 13295-96, 31091-94), the National Park Service (Rec 31099), and individual Landmarks Commission members (Rec 7769-70, 6449-53) about the damaging and certainly incompatible adverse effects that tall – 160' and 200' – buildings would have on the District's historic resources, there is no explanation in the record as to how the building height amendments meet the above-referenced

1 policies. The decision lacks an adequate factual basis (substantial evidence) as to
2 how 200' building heights on nearly 50% of this microscopic Historic District can
3 be compliant with PCP Policies 4.48 or 4.49 or Central City Policies 5.19, 1.OT-3
4 or 5.OT-1, as Goal 2 and ORS 197.835(7)(a) require.

5 In the final analysis, the council's adopted findings (Rec AR-74 to AR-75)
6 not only fail to acknowledge any of critical historic and cultural elements that PCP
7 Policies 4.48 and 4.49 and Central City Policies 5.19, 1.OT-3 and 5.OT-1 require
8 to be considered, protected and enhanced, but the 200' building heights violate
9 those policies. This omission is apparent when the prior findings prepared for the
10 council's April 4th decision to boost building height on the west half of Block 33 to
11 160' (Rec 74-75) are compared with the council's findings for the 200' building
12 heights (AR-74 to AR-75). The two sets of findings are identical except that the
13 first time the findings said that "on balance" the 160' building height on the west
14 half of Block 33 "further the objectives of Policy 4.48," and the final version says,
15 for exactly the same non-responsive reasons, 200' buildings on the western half of
16 Block 33 and on the northern 4 blocks "on balance ... further the objectives of
17 Policy 4.48." The fungible, meaningless nature of the council's findings illustrate
18 how the ends justified the means in this process. They do not demonstrate
19 compliance with PCP Policies 4.48 and 4.49 or Central City Policies 5.19, 1.OT-3
20 and 5.OT-1, but in fact, violate them.

SECOND ASSIGNMENT OF ERROR

Respondent violated State-wide Planning Goal 1 and PCP Goal 1 and 2 policies designed to ensure meaningful public participation at all stages of the land use process when the City Council took-up, deliberated and decided Major Amendments on May 24 to significantly increase building height in the New Chinatown/Japantown Historic District without any notice or public testimony, when the Mayor and at least two Commissioners clearly had been briefed and lobbied by property owners to initiate and pass this significant building height increase to 200' in nearly 50% of the District.

Preservation: Preservation requirements do not apply to an appeal of a legislative amendment.

Goal 1 and the PCP require measures to ensure meaningful public involvement and participation at all stages of the legislative land use process. See PCP Goals 1 & 2, Policy 1.17 (Community Involvement Committee), Policy 2.16 (Community Involvement Program), Policy 2.18 (Best practices engagement methods), Policy 2.20 (Review bodies), Goal 2.C (Value community wisdom and participation), and Goal 2.E (Meaningful participation),⁵ Goal 2.G (Strong civic infrastructure).⁶ *Rajneesh Medical Corporation v. Wasco County*, 12 Or. LUBA

⁵ Goal 2E: “Meaningful participation Community members have meaningful opportunities to participate in and influence all stages of planning and decision making. Public processes engage the full diversity of affected community members, including under-served and under-represented individuals and communities. The City will seek and facilitate the involvement of those potentially affected by planning and decision making.

⁶ Goal 2G: “Strong Civic Infrastructure: Civic institutions, organizations, and processes encourage active and meaningful community involvement and

219, 224-225 (1984), *aff'd 1000 Friends of Oregon v. Wasco County Court*, 68 Or App 765, 686 P2d 375, *aff'd as modified*, 300 Or 107, 706 P2d 948 (1985) (“Because we find the county failed to provide opportunity for meaningful citizen comment at all phases of the process leading to adoption of the challenged plan amendment, we also find the county failed to comply with statewide planning Goal 1.”)

PCP Goal 2.E, echoes State-wide Planning Goal 1 to require a public land use decision making process that ensures “[c]ommunity members have meaningful opportunities to participate in and influence all stages of planning and decision making.” Presumably, the council’s May 24th meeting, where no public testimony was allowed, still was part of the CC2035 Plan “planning and decision making” process. As the city council ignored the expert testimony of SHPO, Restore Oregon, the Architectural Heritage Center, the Portland Chinatown History Foundation, the Landmarks Commission, the National Park Service, and individual Landmarks Commission members to boost nearly 50% of the District’s total area up to 200’, the bitter irony of PCP Policy 2.C was not lost on the Nikkei Endowment’s Executive Director (S5-S6):

Goal 2.C: Value community wisdom and participation.

strengthen the capacity of individuals and communities to participate in planning processes and civic life.”

1 Portland values and encourages community and civic participation.
2 The City seeks and considers community wisdom and diverse cultural
3 perspectives, and integrates them with technical analysis, to strengthen
4 land use decisions.

5
6 In this case, it is clear that the 200' building height limits were the product
7 of a back-room deal with the Mayor, Commissioner Saltzman and then
8 Commissioner Eudaly, instigated by the owners of Blocks 33 and 26 that resulted
9 in the May 24th surprise Major Amendment (Rec 6310, 6338-42) after public
10 testimony was closed. The 160' max building height on the west side of Block 33
11 (C1 amendment) had been the subject of extensive public testimony and
12 deliberation at the March 22nd meeting (Rec 6439, 6494-96) and was then decided
13 at the April 4th meeting (Rec 6386, 6400-13, 7191-7102). At the same April 4th
14 meeting, Commissioner Saltzman's floor amendment to boost building height to
15 200' on the west half of Block 33 failed (Rec 6396-97). Everyone who had
16 testified on building height issue at the March 22nd meeting and witnessed the
17 defeat of Saltzman's C2 Amendment and passage of Wheeler's C1 Amendment on
18 April 4 justifiably thought the building height issue was concluded at 160'.

19 With the only notice being publication of the council's agenda for the May
20 24th meeting (Rec 6310) and with no public testimony, the council took up anew
21 the issue of increasing building height on Block 33 and for the first time the
22 northern 4 blocks in the District (Rec 6314-24). The discussion demonstrates
23 clearly that the Mayor and Commissioner Saltzman had been prepped by the

1 owners and would-be developers of Blocks 33 and 26 to initiate and advance this
2 major amendment on an already-decided issue (Rec 6314-15). Commissioners
3 Fritz and Fish acknowledged that petitioners and other members of the public were
4 in the audience that day protesting silently but were not allowed to speak (Rec
5 6315, 6317, 6322). Commissioner Fish walked-through the unseemly lobbying
6 efforts of the Block 33 and 26 developers to boost building height in Block 33 and
7 the northern 4 blocks in the District (Rec 6317-18) – a “participation” advantage
8 that no other member of the public had in this stage of the process. Increased
9 building height for the northern 4 blocks had never previously been discussed until
10 the May 24th major amendment to increase the max base building height there from
11 125’ up to 200’.


12 The lack of notice and the refusal to allow any public testimony violates the
13 City’s Community Involvement Program under Goals 1 and 2, most notably Goal
14 2.E, which requires “meaningful opportunities to participate in and influence all
15 stages of planning and decision making.” In this case, only the owners of Block 33
16 and Block 26 had that meaningful opportunity, and petitioners were denied that
17 opportunity otherwise required by Goals 1 and 2 and PCP Goals 2.C and 2.E.

CONCLUSION

For the foregoing reasons, LUBA should reverse and remand this decision.

Respectfully submitted this 17th day of May 2019.

REEVE KEARNS, PC

By: 
Daniel Kearns, OSB #89395
Attorney for petitioners

Appendix 1

The challenged decision

Ordinance No. 189000 (Rec 1 to 10).

SUBSTITUTE

ORDINANCE No. **189000** As Amended

Adopt the Central City 2035 Plan; amend the Comprehensive Plan, Comprehensive Plan Map, Transportation System Plan, Willamette Greenway Plan, Scenic Resources Protection Plan, Zoning Map, and Title 33; authorize adoption of administrative rules; repeal and replace prior Central City plans and documents. (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

General Findings

1. In 1972, the Portland City Council adopted the *Planning Guidelines/Downtown Plan* as a policy statement to guide public and private decision-making in the Downtown area (adopted Motion on agenda item 3958, December 28, 1972). The plan addressed issues related to the loss of retail and housing, parking and the general character, livability and prosperity of Portland's downtown core. The plan included provisions to enhance the pedestrian environment, preserve and develop new housing, improve air quality, reinforce the retail core, preserve historic landmarks and districts, protect views and vistas, develop public transportation infrastructure, and recapture and reconnect the urban environment with the Willamette River waterfront. In 1980, the City Council updated and retitled the plan *Goals and Policies/Downtown Plan* (Resolution No. 32772).
2. In 1979, scenic resources were first designated and protected through building height limits as part of the implementation of the *Downtown Plan*. Additional scenic resources were identified and protected through the adoption of area plans between 1979 and 1988.
3. Portland's first *Comprehensive Plan* was adopted by the Portland City Council in October 1980 and was acknowledged as complying with Oregon's Statewide Planning Goals by the Land Conservation and Development Commission (LCDC) in May 1981. The 1980 *Comprehensive Plan* was again deemed in compliance with the Statewide Planning Goals at the conclusion of Portland's first Periodic Review in January 2000. The 1980 plan was incrementally updated by post-acknowledgement plan amendments through November 2011. In June 2016, as part of Task IV of Portland's second Periodic Review, the Portland City Council completely replaced the 1980 plan by the adoption of Portland's new *2035 Comprehensive Plan*, but delayed the effective date of the new plan to allow the LCDC sufficient time to review and acknowledge the new plan. During the delay between adoption and effect, the 1980 plan continued to serve as the City's comprehensive plan. Portland's *2035 Comprehensive Plan* was approved by the LCDC on March 15, 2018 and became effective on May 24, 2018. Because this ordinance is adopted after the effective date of the *2035 Comprehensive Plan*, its provisions are gauged against the applicable provisions of the *2035 Comprehensive Plan*, not the 1980 plan.

4. In 1988, the City Council adopted the *Central City Plan*, which expanded the approach of the *Downtown Plan* to areas north of East Burnside (the Pearl and Old Town/Chinatown districts), west and south of Interstate 405 (the Goose Hollow and South Waterfront districts), and to the east side of the Willamette River (Lower Albina, Lloyd, and Central Eastside districts) (Ordinance No. 160606 and Resolution No. 34417). This plan addressed the preservation and development of new housing, expansion of transit, and other multi-modal improvements, enhancement of the Willamette River waterfront, views, the role of social services and affordable housing and environmental health, among other critical issues.
5. In 1987, the City Council adopted the *Willamette Greenway Plan* (Ordinance No. 160237). This plan implemented and was consistent with Statewide Planning Goal 15, Willamette River, for the City of Portland. This plan included goals, objectives, mapped boundaries with an inventory of property characteristics, Zoning Code regulations and special design guidelines that apply to properties along the Willamette River, including the Central City, and a list of public acquisition areas. The plan also updated information and regulations for scenic resources along the Willamette River.
6. In 1991, City Council adopted the *Scenic Resources Protection Plan* (SRPP) (Ordinance No. 163957). The SRPP includes a citywide inventory of scenic resources and an Economic, Social, Environmental and Energy Analysis (ESEE) as required by OAR 660-16-000 through 660-16-025. The SRPP consolidated and updated information about scenic resources from previous plans, including the *Downtown Plan*, *Central City Plan* and *Willamette Greenway Plan*. The SRPP implemented new regulations (Zoning Code Chapter 33.480) to protect designated scenic resources. The SRPP also amended the environmental regulations (Zoning Code Chapter 33.430) to allow for scenic resource management when the scenic and environmental resources overlap.
7. Following adoption and implementation of the *Central City Plan*, subsequent plans amended the policy and regulatory framework of the plan. These plans include, but are not limited to: *University District Plan* (1995); *River District Plan* (1995); *Goose Hollow Station Community Plan* (1996); *Downtown's West End* (2002); *South Waterfront Plan* (2002); and *North Pearl District Plan* (2008). These plans also provided the opportunity to address new and emerging issues not addressed by the Downtown and Central City plans, such as stormwater management, the enhancement of endangered species habitat, green building design, family compatible housing supply, and the role of bike and pedestrian infrastructure to support active transportation alternatives.
8. In 1995, the City Council adopted the *Central City Transportation Management Plan* (Ordinance No. 169535 and Resolution No. 35472). This plan amended the Central City's transportation and parking policies and regulations in order to maintain air quality, promote economic development, support an efficient transportation system and encourage the use of alternative modes of travel.

9. Recognizing a need to create a new long-range plan for the Central City, the Bureau of Planning and Sustainability, in collaboration with other City bureaus and public agencies, initiated the *Central City 2035 Plan* project (CC2035) in 2010. The goal of the project was to create a comprehensive new policy and regulatory framework for the Central City, including the Central Reach of the Willamette River, taking into consideration new and emerging issues such as sustainable development, climate change, resiliency and equity.
10. The first product was the *Central City 2035 Concept Plan*, which provided an overarching policy framework intended to guide the development of subsequent, more detailed quadrant plans, as well as updates to the Portland Zoning Code, *Willamette Greenway Plan* and *Transportation Systems Plan* (TSP). The *Central City 2035 Concept Plan* contained a new vision statement identifying the Central City as a regional asset and a center of "Innovation and Exchange." The plan also contained goals and policies addressing the following topics: Regional Center – Economy and Innovation; Housing and Neighborhoods; Willamette River; Urban Design; and, Health and the Environment. Lastly, the plan contained an Urban Design Concept and Framework. This plan was adopted by City Council on October 24, 2012 (Resolution No. 36970).
11. On October 25, 2012, Council adopted the CC2035 *N/NE Quadrant Plan* (Resolution No. 36972). This was the first of three quadrant plans that would identify more detailed and specific land use, urban design, and transportation policies and implementing actions, including potential zoning proposals, for specific parts of the CC2035 plan area. The *N/NE Quadrant Plan* covered the Lloyd and Lower Albina districts. This plan, created in partnership with the Oregon Department of Transportation (ODOT), also included the *I-5 Broadway/Weidler Interchange Improvements Facility Plan*, which identifies improvements to safety and operations on the Interstate 5 freeway and multimodal local transportation facilities in the vicinity of the Broadway/Weidler interchange.
12. In October 2014, the City Council adopted the *Willamette River Greenway Inventory* (Ordinance No. 186858). The *Willamette River Greenway Inventory* is an update to the inventory contained in the *Willamette Greenway Plan* and is consistent with Statewide Planning Goal 15. The updated inventory provides information about public recreation, historic and archaeological sites, significant natural and scenic areas, vegetative cover, fish and wildlife habitats, floodplains and flooding, hydrologic conditions, ecologically fragile areas, land uses and zoning, agricultural lands, timer resources, aggregate resources, property ownership and acquisition areas.
13. On March 5, 2015, Council adopted the CC2035 *West Quadrant Plan* (Resolution No. 37115). This plan identified more detailed and specific land use, urban design, and transportation policies and implementing actions, including potential zoning proposals, for the western half of the Central City. One of the outcomes of this plan was a reorganization of the area into seven districts, including: Downtown; West End; Goose Hollow; Pearl District; Old Town/Chinatown; South Waterfront; and, University District/South Downtown.

14. On July 29, 2015, Council adopted the CC2035 *Southeast Quadrant Plan* (Resolution No. 37147), which focused on the Central Eastside District. As with the other plans, it addressed land use, urban design, and transportation, and also expanded the Central City to include the new Clinton Station Area located on the far southeast corner of the plan area.
15. The *Concept Plan* and three quadrant plans also contained policy guidance and other recommendations for a comprehensive update of the *Willamette Greenway Plan* for the Central Reach of the Willamette River.
16. Guided by the policies, urban design diagrams, code concepts and other elements of the *Concept Plan* and three quadrant plans, the Bureau of Planning and Sustainability, in collaboration with other City bureaus, developed the *Discussion Draft Central City 2035 Plan*, released for public review on February 8, 2016. Additional guidance for the development of the *Discussion Draft Central City 2035 Plan* came from the *Central Reach Urban Design Concept* (2014), updates to the Natural and Scenic Resource inventories (2015), the *Central City Floor Area Ratio Bonus and Transfer Study* (2015), and other studies. A review period of approximately four months included open houses and presentations to interested groups, organizations, and appointed commissions. Written and verbal comments and proposed amendments were reviewed and considered by staff.
17. The *Proposed Draft Central City 2035 Plan* was released on June 20, 2016 for review by the public and the Portland Planning and Sustainability Commission (PSC). The PSC conducted an extensive review and plan revision process, including public hearings on July 26 and August 9, 2016 and work sessions on September 27 and November 16, 2016 and January 10, January 24, February 14, February 28, March 14, April 11 and May 23, 2017. The PSC voted on May 23, 2017 to forward to City Council their *Recommended Draft Central City 2035 Plan*.
18. On June 20, 2016 notice of the *Proposed Draft Central City 2035 Plan* was mailed to the Department of Land Conservation and Development in compliance with the post-acknowledgement review process required by OAR 660-18-020. A revised notice, reflecting Planning and Sustainability Commission and City Council amendments to the plan, was sent to the Department of Land Conservation and Development on March 13, 2018.
19. On June 24, 2016, a notice of the July 26, 2016 Planning and Sustainability public hearing on the *Proposed Draft Central City 2035 Plan* was sent to the project's mailing list, individuals and organizations who requested such notice, and other interested parties.
20. On June 24, 2016, approximately 21,000 notices of the *Proposed Draft Central City 2035 Plan* and Planning and Sustainability Commission hearing were sent to all property owners potentially affected by proposed zoning map and code changes, as required by ORS 227.186. Property owners received a separate notice for each property potentially affected by the proposal.

21. On June 22, 2017, BPS published the Planning and Sustainability Commission's *Recommend Draft Central City 2035 Plan*. The plan contains the following elements, some of which were amended by City Council:

- Volume 1, Goals and Policies. This document includes the policies and goals for the Central City as a whole, and each individual district within the Central City. The document also contains a vision statement and urban design concept diagrams. Volume 1, as amended by City Council and dated May 2018, is attached as Exhibit B. The urban design diagrams will be adopted by a separate Resolution.
- Volume 2A, Zoning Code & Map Amendments, Part 1: Central City Plan District. This document includes amendments to Title 33, Planning and Zoning, that implement the land use and transportation policies of the plan. It also contains amendments to the Comprehensive Plan Map and official Zoning Map for the CC2035 plan area. Volume 2A, Part 1, as amended by City Council and dated May 2018, is attached as Exhibit C.
- Volume 2A, Part 1 contains new Zoning Code provisions that require certain new development and alteration projects to use bird-safe glazing treatment patterns and application techniques (33.510.223, Bird-Safe Exterior Glazing) and register for an approved green building certification program (33.510.244, Low-Carbon Buildings). The Bureau of Planning and Sustainability will adopt, administer and periodically amend Administrative Rules that identify objective standards, including specific products or programs that can be used, to meet the code requirements.
- Volume 2A, Zoning Code & Map Amendments, Part 2: Willamette River and Trails. This document includes amendments to Title 33, Planning and Zoning, related to the Central Reach of the Willamette River, along with miscellaneous citywide code amendments related to trails, definitions and measurements. It also contains amendments to the overlay zones shown on the official Zoning Map. Volume 2A, Part 2, as amended by City Council and dated May 2018, is attached as Exhibit D.
- Volume 2A, Zoning Code & Map Amendments, Part 3: Environmental and Scenic Overlay Zones. This document includes amendments to Title 33, Planning and Zoning, and the official Zoning Map related to the environmental and scenic resource overlay zones. These amendments apply outside the Central City and will be adopted by a separate ordinance.
- Volume 2B, Transportation System Plan Amendments. This document includes amendments to the *Transportation System Plan*, including amendments to policies, project and study lists, and street classification maps. The document also includes the *Portland Central City Multimodal Mixed Use Area Agreement between the City of Portland and the Oregon Department of Transportation*, dated June 15, 2016. Also included is a letter dated June 15, 2016 from the Oregon Department of Transportation to the Portland Bureau of Transportation providing written concurrence with the designation of the Central City as a Multi-Modal Mixed-Use Area (MMA), subject to

City adoption of the agreement. Volume 2B, as amended by City Council and dated May 2018, is attached as Exhibit E.

- Volume 3A, Scenic Resources Protection Plan, Part 1: Summary, Results and Implementation. This document includes a summary of the Scenic Resources Inventory, a summary of the Economic, Social, Environmental and Energy analysis, and a description of the Zoning Code changes and maps that implement the CC2035 Scenic Resources Protection Plan. Volume 3A, Part 1, as amended by City Council and dated May 2018, is attached as Exhibit F.
- Volume 3A, Scenic Resources Protection Plan, Part 2: Scenic Resources Inventory. This document is an updated inventory of views, viewpoints, view streets, scenic corridors, focal points and scenic sites in the Central City and an updated inventory of views and viewpoints surrounding the Central City for which buildings in the Central City could block the view. The inventory includes maps and descriptions of the location, geometry and relative quality of the scenic resources. Volume 3A, Part 2 is attached as Exhibit G.
- Volume 3A, Scenic Resources Protection Plan, Part 3: Economic, Social, Environmental & Energy Analysis. This document includes a trade-off analysis of the relative economic, social, environmental and energy consequences associated with different levels of scenic resources protection. This document includes maps and descriptions of the recommendations to protect specific scenic resources. Volume 3A, Part 3, as amended by City Council and dated May 2018, is attached as Exhibit H.
- Volume 3B, Willamette River Central Reach Natural Resources Protection Plan. This document presents an overview of the regulatory context for the river, an inventory approach and methodology, an analysis of protection options and recommendations, inventory results, and implementation tools. Volume 3B is attached as Exhibit I.
- Volume 4, Background Materials. This document references a number of background reports and documents used to develop the *Central City 2035 Plan*, including the *CC2035 Concept Plan*, the three quadrant plans, *Willamette River Greenway Inventory* and other studies and planning documents. Volume 4 is attached as Exhibit J.
- Volume 5A, Implementation: Performance Targets and Action Plans. This document includes performance targets that provide aspirational objectives by which to measure progress towards achieving the goals and policies of the *Central City 2035 Plan*. This document also includes action items that describe future projects and programs that will help implement the goals and policies of the plan. The performance targets and action items in Volume 5A will be adopted by a separate Resolution.
- Volume 5B, Implementation: The Green Loop. This document contains the Green Loop Concept Report, describing a proposed six-mile linear park that invites residents, employees, and visitors to experience the Central City by foot and by bicycle. The document includes key objectives, alignment options, design principles, and precedents

of how the concept could be realized. Volume 5B will be adopted by a separate resolution.

- Volume 6, Public Involvement. This document presents a summary of public engagement activities during the CC2035 planning process, an outreach activities log, and materials related to an ethics complaint regarding the *West Quadrant Plan*. Volume 6 is attached as Exhibit K.
22. A public notice of the September 7, 2017 Portland City Council public hearing on the *Recommended Draft Central City 2035 Plan* was sent on August 23, 2017 to the project's mailing list, those who testified to the Planning and Sustainability Commission, individuals and organizations who requested such notice and other interested parties.
 23. A public notice of the January 18, 2018 Portland City Council public hearing on potential City Council amendments to the *Recommended Draft Central City 2035 Plan* was sent on December 29, 2017 to the project's mailing list, those who testified at the September 7, 2017 City Council public hearing and its continuations on September 14 and 20, 2017, and to property owners potentially affected by the amendments. Additional public hearings on potential amendments were held on March 7 and 22, 2018 and April 4, 2018. These additional hearings were announced on the CC2035 project web site and through the project's email distribution list.
 24. The Central City 2035 Findings of Fact Report, attached as Exhibit A, includes additional findings demonstrating consistency with the State-wide Planning Goals, Metro Urban Growth Management Functional Plan, and the City of Portland *2035 Comprehensive Plan*.

NOW, THEREFORE, the Council directs:

- a. Amend the *2035 Comprehensive Plan* to add the goals and policies of the *Central City 2035 Plan*, as shown in Exhibit B (Volume 1, Goals and Policies).
- b. Amend Policy 9.51, Multimodal Mixed-Use Area, and Figure 9-2 of the *2035 Comprehensive Plan*, as shown on pages 35 and 36 of Exhibit E (Volume 2B, Transportation System Plan Amendments).
- c. Amend the *2035 Comprehensive Plan* to reflect the adoption of the *Central City 2035 Plan*, as shown in Exhibit L (Additional Amendments to the 2035 Comprehensive Plan), attached.
- d. Amend the definition of "Neighborhoods" in the Glossary of the *2035 Comprehensive Plan* as follows:

Neighborhoods: Broad areas of the city that typically include residential, commercial, and mixed-use areas. Neighborhoods are physical communities located outside of the Central City and large industrial areas. The term "neighborhoods" may, but is not always intended to, refer to specific Neighborhood Association geographies.

- e. Replace 2035 Comprehensive Plan Map CON-05, Significant Scenic Resources, with CON-05-A, Significant Scenic Resources, and CON-05-B, Significant Scenic Resources in the Central City, as shown on Exhibit M, attached.
- f. Amend the Comprehensive Plan Map as shown on page 519 of Exhibit C (Volume 2A, Zoning Code & Map Amendments, Part 1: Central City Plan District).
- g. Amend the official Zoning Map to apply base zones as shown on page 515 of Exhibit C (Volume 2A, Zoning Code & Map Amendments, Part 1: Central City Plan District).
- h. Amend the official Zoning Map to apply overlay zones as shown on pages 194 to 206 of Exhibit D (Volume 2A, Zoning Code & Map Amendments, Part 2: Willamette River and Trails).
- i. Amend Title 33, Planning and Zoning, as shown in Exhibit C (Volume 2A, Zoning Code & Map Amendments, Part 1: Central City Plan District) and Exhibit D (Volume 2A, Zoning Code & Map Amendments, Part 2: Willamette River and Trails).
- j. Amend the *Transportation System Plan* to add the policies, amend the transportation projects and studies lists, and amend the project and street classification maps, as shown in Exhibit E (Volume 2B, Transportation System Plan Amendments).
- k. Adopt the *Central City 2035 Scenic Resources Protection Plan*, contained in Exhibit F (Volume 3A, Scenic Resources Protection Plan, Part 1: Summary, Results and Implementation), Exhibit G (Volume 3A, Scenic Resources Protection Plan, Part 2: Scenic Resources Inventory) and Exhibit H (Volume 3A, Scenic Resources Protection Plan, Part 3: Economic, Social, Environmental & Energy Analysis).
- l. Adopt the *Willamette River Central Reach Natural Resources Protection Plan*, contained in Exhibit I (Volume 3B, Willamette River Central Reach Natural Resources Protection Plan).
- m. Adopt the *Portland Central City Multimodal Mixed Use Area Agreement between the City of Portland and the Oregon Department of Transportation*, dated June 15, 2016, as shown on pages 32 to 35 of Exhibit E (Volume 2B, Transportation System Plan Amendments).
- n. Adopt Exhibit A (Central City 2035 Findings of Fact Report), as amended by City Council and dated May 2018, Exhibit J (Volume 4, Background Materials), and Exhibit K (Volume 6, Public Involvement) as further findings.
- o. Adopt the Introduction section, commentary to the Central City Goals and Policies section, and the Central City Districts section of Exhibit B (Volume 1, Goals and Policies) as further findings.

- p. Adopt the commentary in Exhibit C (Volume 2A, Zoning Code & Map Amendments, Part 1: Central City Plan District) and Exhibit D (Volume 2A, Zoning Code & Map Amendments, Part 2: Willamette River and Trails) as legislative intent and further findings.
- q. Adopt Chapter 4: Analysis of Protection Options and General Recommendations, and Chapter 5: Results of Exhibit I (Volume 3B, Willamette River Central Reach Natural Resources Protection Plan) as further findings.
- r. The *Central City 2035 Plan* elements adopted by directives a. through q., above, repeal and replace the following:
 - 1. The *Planning Guidelines/Portland Downtown Plan*, adopted by City Council in December 1972, as updated.
 - 2. Ordinance No. 160606, as amended, which adopted the *Central City Plan* goals and policies.
 - 3. Resolution No. 34417, as amended, which adopted the *Central City Plan* action charts, functional maps and urban design plans.
 - 4. Ordinance No. 169535, as amended, which adopted the goals, policies and objectives of the *Central City Transportation Management Plan*.
 - 5. Resolution No. 35472, which adopted the action items and other components of the *Central City Transportation Management Plan*.
 - 6. Resolution No. 36970, which adopted the *Central City 2035 Concept Plan*.
 - 7. Resolution No. 36972, which adopted the *N/NE Quadrant Plan*.
 - 8. Resolution No. 37115, which adopted the *West Quadrant Plan*.
 - 9. Resolution No. 37147, which adopted the *Southeast Quadrant Plan*.
- s. Amend Ordinance No. 160237, as amended, to no longer apply the provisions of the *Willamette Greenway Plan* within the Central Reach River Overlay Boundary as shown on Map 475-1 on page 78 of Exhibit D (Volume 2A, Zoning Code & Map Amendments, Part 2: Willamette River and Trails).
- t. Amend Ordinance No. 163957, as amended, to no longer apply the provisions of the *Scenic Resources Protection Plan* to any and all scenic resources within the Central City Boundary or to viewpoints and view corridors within the Viewpoint Boundary as shown on Map 1 on page 6 of Exhibit F (Volume 3A, Scenic Resources Protection Plan, Part 1: Summary, Results and Implementation).

189000

- u. Authorize the Director of the Bureau of Planning and Sustainability or designee to adopt, administer and periodically amend Administrative Rules for 33.510.223, Bird-Safe Exterior Glazing and 33.510.244, Low-Carbon Buildings. The adoption or amendment of these rules must include a public comment period.
- v. Direct the Bureau of Planning and Sustainability to update the 2014 *Willamette River Greenway Inventory* (adopted by Ordinance No. 186858) based on the adoption of the *Central City 2035 Plan*.
- w. Direct the Portland Bureau of Transportation to work with the Portland Public School District on a Memorandum of Understanding for the redevelopment of the Lincoln High School property to ensure that specific programming and security needs for the facility are appropriately balanced with a north-south public access connection through the site that serves the pedestrian and bicycle connectivity needs of Goose Hollow, consistent with the directives of the *Central City 2035 Plan*.

Section 2. Effect

The directives of this ordinance will take effect on July 9, 2018.

Section 3. Severability

If any section, subsection, sentence, clause, phrase, diagram or drawing contained in this ordinance, or the map, report, inventory, analysis, or document it adopts or amends, is held to be deficient, invalid or unconstitutional, that shall not affect the validity of the remaining portions. The Council declares that it would have adopted the map, report, inventory, analysis, or document each section, subsection, sentence, clause, phrase, diagram and drawing thereof, regardless of the fact that any one or more sections, subsections, sentences, clauses, phrases, diagrams or drawings contained in this Ordinance, may be found to be deficient, invalid or unconstitutional.

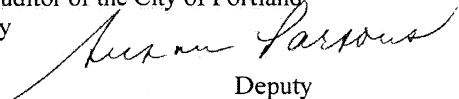
Passed by the Council: JUN 06 2018

Mayor Ted Wheeler
Prepared by: Troy Doss and Nicholas Starin
Date Prepared: May 15, 2018

Mary Hull Caballero

Auditor of the City of Portland

By



Deputy

Appendix 2

Adopted Findings for Historic and Cultural Resources

(AR-74 to AR-76)

The CCSRPP is implemented through updates to the zoning code including:

1. 33.510, Central City – Map 510-3, Base Heights, is adjusted and a new Map 510-4, Bonus Heights, is added to be protective of views.
2. 33.475, River Overlay Zones – Standards allow for removal of trees, with replacement, and removal of other vegetation from view corridors to maintain views. Requires that when the Greenway Trail is developed, designated viewpoints must also be developed.

Testimony was received that both supported and opposed protecting certain views. City Council finds that protecting scenic resources, including views, is important and maintained protections for almost all of the recommended views. Council finds that the view of Mt Adams from viewpoint SW24, Upper Hall, is not significant enough to warrant protection by limiting heights on many properties in the Central City. Council finds that the view of Vista Bridge from SW Jefferson Street can be adequately protected while allowing building heights of 75 feet along the north side of the street.

218. **Policy 4.43, Vegetation management.** Maintain regulations and other tools for managing vegetation in a manner that preserves or enhances designated significant scenic resources.

CC2035 includes Zoning Code Chapter 33.475, River Overlay Zones. New standards allow for removal of trees, with replacement, and removal of other vegetation from view corridors to maintain views. Landscaping standards allow flexibility, such as different tree sizes and locations, to allow for maintenance of views.

219. **Policy 4.44, Building placement, height, and massing.** Maintain regulations and other tools related to building placement, height, and massing to preserve designated significant scenic resources.

CC2035 includes Zoning Code Chapter 33.510, Central City. Map 510-3, Base Heights, is adjusted and a new Map 510-4, Bonus Heights, is added to be protective of views.

220. **Policy 4.45, Future development.** Encourage new public and private development to create new public viewpoints providing views of Portland's rivers, bridges, surrounding mountains, hills and buttes, the Central City skyline, and other landmark features.

CC2035 includes Zoning Code Chapter 33.475, River Overlay Zones. The code requires that when the Greenway Trail is developed, designated viewpoints must also be developed to create formal places where the public can view Portland's rivers, bridges, mountain, hills, buttes, skyline and other landmarks. The *Central City Scenic Resources Protection Plan* includes management recommendations to improve ADA accessibility to all designated viewpoints and add amenities such as benches, informational signs or lighting.

Historic and cultural resources

221. **Policy 4.46, Historic and cultural resource protection.** Protect and encourage the restoration of historic buildings, places, and districts that contribute to the distinctive character and history of Portland's evolving urban environment.
222. **Policy 4.47, State and federal historic resource support.** Advocate for state and federal policies, programs, and legislation that would enable stronger historic resource designations, protections, and rehabilitation programs.
223. **Policy 4.48, Continuity with established patterns.** Encourage development that fills in vacant and underutilized gaps within the established urban fabric, while preserving and complementing historic resources.

224. The Plan responds to the policy through new goals and policies specific to the Central City that call for: the rehabilitation and reuse of historic structures; historic district protection measures; and, incentives to encourage seismic upgrades and other rehabilitation measures for historic resources.
225. The Central City Plan District is proposed to be amended to include FAR transfer provisions that require seismic upgrades, but provide additional transferable floor area to provide a financial incentive to support these upgrades. The Plan also includes an action item calling for the City to advocate for the passage of a state historic tax credit.
226. The maximum heights within historic districts have generally been reduced, and in most cases bonus height provisions have been repealed to result in new development that is compatible with the existing scale and character of the Central City's historic districts.
227. For instance, in the New Chinatown / Japantown Historic District heights in the northern four blocks have been reduced from a maximum of 350 feet, and the ability to bonus an additional 75 feet in height to a maximum of 425 feet, has been eliminated. Now the maximum height in that area is 200 feet with no ability to bonus to a greater height. Although one block in the district received bonus height to a maximum of 200 feet on the west half of the block and 125 feet on the eastern half of the block, it should be noted that the greater heights allowed on the west half of the block are adjacent to parcels that may build to 460 feet. Further, the new maximum height limits create a step down from these greater height allowances to the west of the New Chinatown / Japantown Historic District down to 100 feet maximum to the east of the site in question, and then eventually down to 75 feet to the properties located just east of the district.
228. Following Council proposing this amendment, testimony was received for and against the increased height. Some testifying was concerned that these heights would not be consistent with the rest of the scale of development elsewhere in the district. However, others noted that the block in question had long been underutilized and that redevelopment of the site would be a catalyst for investment throughout the district, following decades of neglect. In the end, council decided: 1) the heights proposed would still result in a step down from the urban form surrounding the district; 2) the increased height was necessary to incent redevelopment of a catalytic site; and 3) the issue of consistency was best left to the Landmarks Commission who remain charged with reviewing future development proposals on that site and elsewhere in the historic district.

Thus, on balance, these amendments in New Chinatown / Japantown Historic District and all other Central City Historic Districts further the objectives of Policy 4.48 above.

Policy 4.49, Resolution of conflicts. Adopt and periodically update design guidelines for unique historic districts. Refine base zoning in historic districts to consider the character of the historic resources in the district.

Consistent with this policy, the plan includes an action item calling for an update of various district specific historic design guideline packages, including those for the East Portland/Grand Avenue and Russell Street Conservation Districts.

229. **Policy 4.50, Demolition.** Protect historic resources from demolition. Provide opportunities for public comment, and encourage pursuit of alternatives to demolition or other actions that mitigate for the loss.
230. **Policy 4.51, City-owned historic resources.** Maintain City-owned historic resources with necessary

upkeep and repair.

- 231. **Policy 4.52, Historic Resources Inventory.** Maintain and periodically update Portland's Historic Resources Inventory to inform historic and cultural resource preservation strategies.
- 232. **Policy 4.53, Preservation equity.** Expand historic preservation inventories, regulations, and programs to encourage historic preservation in areas and in communities that have not benefited from past historic preservation efforts, especially in areas with high concentrations of under-served and/or under-represented people.
- 233. **Policy 4.54, Cultural diversity.** Work with Portland's diverse communities to identify and preserve places of historic and cultural significance.
- 234. **Policy 4.55, Cultural and social significance.** Encourage awareness and appreciation of cultural diversity and the social significance of historic places and their roles in enhancing community identity and sense of place.
- 235. **Policy 4.56, Community structures.** Encourage the adaptive reuse of historic community structures, such as former schools, meeting halls, and places of worship, for arts, cultural, and community uses that continue their role as anchors for community and culture.

The plan includes an action item calling for an update of the Historic Resources Inventory in the next 2-5 years, consistent with this policy. This process will engage the public at-large as well as stakeholders involved in cultural and historic resource preservation. The process will likely also identify additional publicly and privately-owned structures to be added to the historic inventory and some that will qualify for historic landmark status and by extension the protections and incentives contained in the Zoning Code. Thus, these measures are consistent with Policies 4.50 – 4.56 above.

- 236. **Policy 4.57, Economic viability.** Provide options for financial and regulatory incentives to allow for the productive, reasonable, and adaptive reuse of historic resources.

The Plan includes an action item calling for the City to advocate for the passage of a state historic tax credit. The Zoning Code amendments in 33.510 include new Historic Resource FAR Transfer provision that allows unused FAR to be transferred from sites with a historic resource, and that awards bonus FAR as well, all to provide an incentive to conduct seismic and other upgrades to these structures.

- 237. **Policy 4.58, Archaeological resources.** Protect and preserve archaeological resources, especially those sites and objects associated with Native American cultures. Work in partnership with Sovereign tribes, Native American communities, and the state to protect against disturbance to Native American archaeological resources.

The goals, policies, actions, and implementation tools of the Central City 2035 plan remain consistent with this direction and do not conflict with existing measures to protect archaeological resources or to coordinate with Sovereign tribes, and Native American communities.

Public art

- 238. **Policy 4.59, Public art and development.** Create incentives for public art as part of public and private development projects.

CC2035 contains policies and actions calling for an expanded presence of public art in the Central City. These include pursuing opportunities to place art in public parks, sections of the Willamette Greenway, and within the public realm.

Appendix 3

Adopted building heights
in the New Chinatown/Japantown Historic District

PZC 33.510.210 and Maps 510-3 and 510-4.

- b. If bonus floor area is included in the transfer, the public benefit to be provided in exchange for the bonus floor area must be completed in advance or at the time of issuing any occupancy permit on the receiving site taking advantage of the bonus floor area; and
- c. The property owner(s) must execute a covenant for both sites. The covenants must comply with the regulations of 33.700.060, must be recorded with the deeds for each site, and must reflect the existing floor area on each site and the respective increase and decrease of potential floor area.

33.510.210 Height

A. Purpose. The building height standards are intended to implement and balance multiple objectives of the Central City 2035 Plan. Generally, the tallest heights in the Portland region are applied in the Central City to support its role as the region's premier center for jobs, services, and urban living. Other objectives include:

- Locating the tallest building heights along the Transit Mall and high-capacity transit lines;
- Protecting designated public views;
- Varying building height across the Central City;
- Generally, stepping down height to the Willamette River and neighborhoods adjacent to the Central City;
- Emphasizing bridgehead locations with taller buildings;
- Limiting shadows on public open spaces; and
- Ensuring building height compatibility within historic districts.

B. Base height.

1. Base heights are shown on Map 510-3. Heights greater than shown on Map 510-3 are allowed through the bonus height or height transfer options specified in Subsections D. and E. Adjustments to height limits shown on Map 510-3 are prohibited.
2. Exceptions to base height. Generally, the following minor projections are allowed to extend above the base heights shown on Map 510-3. However, in a view corridor shown on Map 510-20, if the site is not eligible for a height increase, projections above the height limit shown on Map 510-3 are prohibited. Eligibility for a height increase is shown on Map 510-3. In a view corridor shown on Map 510-20, if the site is eligible for a height increase, the following minor projections are allowed, but the projection must not extend above the height limit shown on Map 510-4. Small wind turbines are subject to the standards of Chapter 33.299:
 - a. Chimneys, vents, flag poles, satellite receiving dishes, and other similar items that are attached to a building and have a width, depth or diameter of 5 feet or less may extend 10 feet above the base height limit, or 5 feet above the highest point of the roof, whichever is greater. If the item is more than 5 feet wide, deep, or tall, it is subject to the height limit;

- b. Parapets and railings. Parapets and rooftop railings may extend 4 feet above the base height limit;
 - c. Walls or fences located between individual rooftop decks may extend 6 feet above the base height limit if the wall or fence is set back at least 4 feet from the edges of the roof;
 - d. Rooftop mechanical equipment and any required screening for the mechanical equipment, and stairwell enclosures that provide rooftop access may extend above the base height limit as follows. The equipment and enclosures must be set back at least 15 feet from roof edges on street facing facades:
 - (1) Elevator mechanical equipment may extend up to 16 feet above the base height limit; and
 - (2) Other mechanical equipment, required screening, and stairwell enclosures may extend up to 10 feet above the base height limit if the equipment or enclosures do not cumulatively cover more than 10 percent of the roof area;
 - e. Roof mounted solar panels may extend above the height limit as follows:
 - (1) On flat roofs and on the horizontal portion of mansard roofs, solar panels may extend up to 5 feet above the top of the highest point of the roof; and
 - (2) On pitched, shed, hipped or gambrel roofs, solar panels must be mounted no more than 12 inches from the surface of the roof at any point, and may not extend above the ridgeline of the roof. The 12 inches is measured from the upper side of the solar panel; and
 - f. Antennas, power poles and public safety facilities.
- C. Shadow study.** Sites shown on Map 510-3 as requiring a shadow analysis must provide a shadow study that shows that the shadow cast by the proposed buildings or other structures does not cover more than 50 percent of the adjacent open space at noon on March 21, June 21 and September 21, and not more than 75 percent of the adjacent open space at noon on December 21, and 3:00 pm on March 21, June 21, and September 21. Adjacent includes open space across a right-of-way from the site subject to the shadow study standard.
- D. Bonus height options.** Bonus height can be achieved through the following options:
- 1. Bonus height in the South Waterfront subdistrict. Within the South Waterfront subdistrict, buildings that include any floor area achieved through bonuses or from transfers onto the site earn a height bonus as follows:
 - a. In the area located between 125 feet to 150 feet landward of the South Waterfront height reference line shown on Map 510-16, buildings may earn a height bonus of 25 feet if approved as a modification through design review. Projections above 150 feet are prohibited.
 - b. In the area located between 150 feet landward of the South Waterfront height reference line shown on Map 510-16 and the western boundary of the

subdistrict, buildings earn a height bonus of 125', up to a maximum building height of 250 feet. Adjustments are prohibited.

2. South Waterfront height opportunity area.

- a. Purpose. In the core of the South Waterfront subdistrict, additional building heights may be appropriate to support the goals of the South Waterfront Plan. The regulations of this subsection are intended to:
 - Support the growth of an Innovation Quadrant in the Central City;
 - Provide diverse housing opportunities;
 - Support the density goals of the subdistrict while ensuring quality design;
 - Create additional opportunities for visual access through the subdistrict;
 - Promote the development of slender towers with an east-west orientation;
 - Develop an exceptional and varied skyline enhancing the district's setting against the Tualatin Hills to the west and the Cascade Range to the east;
 - Establish and maintain a pedestrian environment with access to sunlight;
 - Contribute to the district's urban variety, adding visual interest at the pedestrian level and from vantage points outside of the district;
 - Create an urban form that is visually permeable; and
 - Continue to maintain all protected public views and view corridors, on the east and west side of the Willamette River, as identified in adopted plans.
- b. Additional building height may be requested as a modification through design review as follows:
 - (1) The site must be in the South Waterfront height opportunity area shown on Map 510-16;
 - (2) The maximum height that may be approved is 325 feet, including projections, roof top mechanical equipment, and any other structures that project above the roof of the building;
 - (3) One of the following must be met:
 - The average floor-to-floor height in the building must be at least 16 feet and floors of the building above 75 feet must be 25,000 square feet in area or less; or
 - Floors of the building above 75 feet must be 10,000 square feet in area or less;
 - Adjustments to the standards of this subsubparagraph are prohibited; however, modifications through design review may be requested as follows:
 - A modification to the 25,000 square foot limitation may be requested;
 - A modification to the 10,000 square foot limitation may be requested if the north-south dimension of the building above 75 feet is 112 feet or less. The north-south dimension is measured as specified in 33.510.251.A.3.e. However, modifications to allow floors larger than 12,500 square feet are prohibited;

(4) The portion of the proposed building that is greater than 250 feet in height must be at least 200 feet from the portion of any other existing or approved building that is greater than 250 feet in height, and that used the provisions of this subsection to achieve additional height. Approved buildings are those with an unexpired design review approval. Adjustments to this standard are prohibited; however, modifications to the 200 foot minimum distance requirement may be requested through design review. In reviewing such a request, the review body will consider the results of the South Waterfront Public Views and Visual Permeability Assessment for the proposal;

(5) Where a block is less than 80,000 square feet in area, only one building on the block may use the provisions of this subsection. Where a block is at least 80,000 square feet in area but less than 120,000, only two buildings on the block may use the provisions of this subsection. Where a block is at least 120,000, only three buildings on the block may use the provisions of this subsection.

Applications for land divisions of sites that include a building that has used the provisions of this subsection must show how the land division will not move the site out of conformance with this subsection;

(6) The applicant must contribute \$11.90 to the South Waterfront Public Open Space Fund (SWPOSF) for every square foot of floor area over 250 feet in height. The contribution to the SWPOSF must be made before the building permit is issued for the building. Contributions to the fund used to earn bonus floor area under 33.510.205.C.2.f, Open space fund bonus option, do not count towards meeting this requirement. Adjustments to this standard are prohibited; and

(7) The applicant must request advice from the Design Commission as described in 33.730.050.F. The design advice request must be submitted before the request for a pre-application conference. In providing their advice to the applicant, the Design Commission will consider protection and enhancement of public views from both the east and west, as identified in adopted plans; development of a diverse, varied and visually interesting skyline; and creation of a district that is visually permeable. These factors will be considered at different scales, including the site of the proposal, the site and adjacent blocks, and the subdistrict as a whole.

3. Bonus height earned through an FAR bonus or transfer. Except for sites in the South Waterfront height opportunity area, the bonus heights shown on Map 510-4, or allowed by Subparagraph D.3.e, are allowed when the following are met. Projections above the height limits shown on Map 510-4, or allowed by Subparagraph D.3.e are prohibited:

- a. The site must be shown on Map 510-3 as eligible for a height increase;
- b. The proposal must earn an additional FAR of at least 1 to 1 through use of one of the following FAR bonus or transfer options. The site shown on Map 510-4 as

requiring residential is only allowed to earn the additional 1 to 1 through the bonus option listed in D.3.b (1):

- (1) The inclusionary housing bonus option of Subparagraph 33.510.205.C.2.a;
 - (2) The Affordable Housing Fund bonus option of Subparagraph 33.510.205.C.2.b; or
 - (3) The historic resource transfer of Paragraph 33.510.205.D.1.
- c. Limit shadow. The following additional shadow standard and approval criterion are intended to limit the effects of shadow cast by buildings using bonus height. The shadow study standard applies to sites shown on Map 510-4 as requiring a shadow study. The shadow approval criterion applies to sites within 500 feet of a residential zone located outside of the Central City when more than 75 feet of bonus height is proposed:
- (1) Shadow study standard. When bonus height will be used on a site shown on Map 510-4 as requiring a shadow study, the shadow study must show that the shadow cast by the proposed buildings or other structures does not cover more than 50 percent of the adjacent open space at noon on March 21, June 21 and September 21, and not more than 75 percent of the adjacent open space at noon on December 21, and 3:00 pm on March 21, June 21, and September 21. Adjacent includes open space across a right-of-way from the site subject to the shadow study standard.
 - (2) Shadow approval criterion. A proposal for more than 75 feet of bonus height on a site that is within 500 feet of a residential zone located outside of the Central City plan district will be approved if the review body finds that shadow cast by the proposed building will not have a significant negative impact on dwelling units located outside the Central City plan district in an R zone within 500 feet of the site.
- d. North Pearl Height Opportunity Area. The following additional standards apply when bonus height will be used in the North Pearl Height Opportunity area shown on Map 510-16:
- (1) When bonus height will be used on sites located entirely between NW Naito Parkway and the Willamette River, building façades above 100 feet that face NW Naito Parkway or the Willamette River must not exceed 120 feet in length; and
 - (2) When bonus height will be used on sites that are not located between NW Naito Parkway and the Willamette River the following must be met:
 - The building must not be taller than 175 feet; or
 - If the building is taller than 175 feet, the floors of the building above 100 feet must not be more than 12,500 square feet each.
- e. RiverPlace Height Opportunity Area. Up to 325 feet of height is allowed in the RiverPlace height opportunity area shown on Map 510-16 when the following standard is met:

- (1) Purpose. In the RiverPlace height opportunity areas, additional building heights may be appropriate to meet density goals as well as:
 - Provide diverse housing opportunities;
 - Support high quality design;
 - Create additional opportunities for visual access through the area;
 - Promote the development of slender towers with an east-west orientation;
 - Establish and maintain a pedestrian environment with access to sunlight;
 - Create open space amenities connecting to the riverfront;
 - Contribute to the area's urban variety, adding visual interest at the pedestrian level and from vantage points outside of the area;
 - Create an urban form that is visually permeable and maintains all protected public views and view corridors.
- (2) Standard. If the building is taller than 75 feet, the floors of the building above 100 feet must not be more than 10,000 square feet each. Adjustments are prohibited, however modification through design review may be requested if the north-south dimension of the building above 75 feet is 112 feet or less. The north-south dimension is measured as specified in 33.510.251.A.3.e.

E. Open space height transfers.

1. Purpose. These regulations provide an incentive for the creation and development of needed open space in the Central City plan district.
2. Requirements for open space areas eligible for the height transfer.
 - a. The proposed open space area must be in the Central City plan district outside of the South Waterfront subdistrict. The site is subject to the review requirements stated in Paragraph E.4.
 - b. The area designated for the open space must be dedicated to the City as a public park. The minimum size of the open space must be a full block at least 35,000 square feet in size. However, the open space may be 20,000 square feet in size if located along the alignment of the North Park Blocks.
 - c. All park improvements must be made by the applicant prior to dedication to the City. The improvements to the park are subject to a design review using the specific area's design guidelines.
3. Amount of height potential that can be transferred. The allowed height at the proposed open space site may be transferred within the Central City plan district consistent with the limits stated below.
 - a. The maximum amount of height that may be transferred is 100 feet. The transfer may only be to a site eligible for additional height as shown on Map 510-3. Increases in height that result in buildings greater than the maximum height shown on Map 510-4 are prohibited. The transferred height may not be used in addition to any bonus heights allowed by Paragraph D.3.

- b. The open space site must be dedicated to the City before the issuance of building permits for the building receiving the increased height.
- 4. Design Review.
 - a. Procedure. The review is processed with a Type III procedure. The Parks Bureau will provide advice to the Design Commission.
 - b. Approval criteria. The proposed open space site will be approved for the height transfer if the review body finds that the applicant has shown that all of the following approval criteria are met:
 - (1) The proposed site will help to alleviate an area's identified projected future open space deficiency. This determination is based on such things as proximity to parks, proximity to people living or working in the Central City plan district, and how the site relates to the Central City 2035 Plan's park and open space policies;
 - (2) The proposed improvements on the open space site are consistent with the design guidelines for the area; and
 - (3) The Parks Bureau approves of the site.

33.510.211 Shadow Study Required

A shadow study is required for new structures that are 100 feet or more in height on sites shown on Map 510-11, and for major remodels to existing structures that increase the height of the existing structure to 100 feet or higher on sites that are shown on Map 510-11. The shadow study must show that the shadow cast by the new or remodeled structure does not cover more than 50 percent of the adjacent open space at 10 am on March 21. Adjacent includes open space located across a right-of-way from the site. Adjustments are prohibited.

33.510.215 Required Building Lines

- A. Purpose.** The required building line standards ensure that buildings in certain parts of the Central City are built to the sidewalk's edge unless landscaping or an extension of the sidewalk is provided. The standards support the street and development character objectives of the Central City 2035 Plan by creating diverse street character, promoting active uses, pedestrian movement, and opportunities for stopping and gathering. Extensions of the sidewalk may incorporate trees, landscape planters, groundcover, and areas for stormwater management between the building and the sidewalk.
- B. Required building line standards.**
 - 1. General Standards. Unless otherwise specified in Paragraphs B.2. through B.5., new development and major remodels in the RX, CX and EX zones must meet one of the following standards. Exterior walls of buildings designed to meet the requirements of this Paragraph must be at least 15 feet high measured from the finished sidewalk at the building's edge:
 - a. The building must extend to the street lot line along at least 75 percent of the lot line; or

Base Heights

Map 510-3

Map 1 of 3

Map Revised July 9, 2018



Legend



Central City Plan District boundary



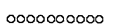
Base building height



Areas where height is determined by base zone



Proposed right-of-way



Proposed accessways



Area eligible for height increase



Base height limit of 75' for first 125 feet from top of bank



Areas where a shadow analysis is required



0 1,400 2,800

Scale in Feet

Bureau of Planning and Sustainability
Portland, Oregon

LUBA Record001079

Bonus Heights

Map 510-4

Map 1 of 3

Map Revised July 9, 2018



Legend



Central City Plan District boundary



Maximum bonus height



Areas where height is determined by base zone



Area where residential required



Unlimited height allowed



Areas where a shadow analysis is required



Area eligible for additional height under 33.510.210.D.2

----- Proposed right-of-way

oooooo Proposed accessways



0 1,400 2,800

Scale in Feet

Bureau of Planning and Sustainability
Portland, Oregon

LUBA Record001080

**CERTIFICATE OF COMPLIANCE
WITH BRIEF LENGTH AND TYPE SIZE REQUIREMENTS**

Brief Length: I certify that this brief complies with the word-count limitation in OAR 661-010-0030(2), and the word count of this brief as described in OAR 661-010-0030(2) is 9,962 words.

Type Size: I certify that the size of the type in this brief is not smaller than 14 point for both the text of the brief and footnotes as required by OAR 661-010-0030(2).

CERTIFICATE OF FILING AND SERVICE

I hereby certify that on the date indicated below, I caused to be filed the original and four copies of the enclosed PETITION FOR REVIEW AND PETITIONERS' BRIEF in LUBA Nos. 2018-072, 2018-073/086 & 2018-087 with the:

LAND USE BOARD OF APPEALS
775 Summer Street NE, Suite 330
Salem, OR 97301-1283

by First-Class U.S. mail. On the same date, I caused to be served a true, complete and correct copy of the same document by First-Class U.S. mail, postage prepaid on the following parties or attorneys:

Michael Connors, Esq.
Hathaway Larson LLP
1331 NW Lovejoy St., Suite 950
Portland, OR 97204

Linly Rees
Office of City Attorney
1221 SW 4th Ave., Suite 430,
Portland, OR 97204

Timothy Ramis
Jordan Ramis PC
Two Centerpoint Dr., 6th Floor
Lake Oswego, OR 97035

DATED: May 17, 2019.

REEVE KEARNS, PC

By: _____



Daniel Kearns, OSB #89395
Attorney for Petitioners

1 BEFORE THE LAND USE BOARD OF APPEALS

2 OF THE STATE OF OREGON

3
4 RESTORE OREGON,
5 BOSCO-MILLIGAN FOUNDATION
6 ARCHITECTURAL HERITAGE CENTER,
7 NIKKEI LEGACY ENDOWMENT,
8 PORTLAND CHINATOWN MUSEUM,
9 and PEGGY G. MORETTI,
10 *Petitioners,*

11
12 vs.

13
14 CITY OF PORTLAND,
15 *Respondent,*

16
17 and

18
19 GUARDIAN REAL ESTATE SERVICES, LLC,
20 *Intervenor-Respondent.*

21
22 LUBA No. 2018-072

23
24 OSB2LAN IVON, LLC,
25 and HAITHEM TOULAN,
26 *Petitioners,*

27
28 vs.

29
30 CITY OF PORTLAND,
31 *Respondent.*

32
33 LUBA Nos. 2018-073/086/087

34
35 ORDER

1 On April 5, 2019, the board received the Supplemental Respondent's
2 Record, consistent with our March 25, 2019 order. Accordingly, the record is
3 settled as of the date of this order.

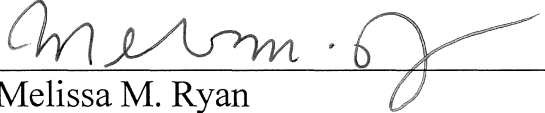
4 **BRIEFING SCHEDULE**

5 The parties have previously agreed to a stipulated briefing schedule. The
6 petitions for review are due not later than May 17, 2019, and the response briefs
7 due not later than June 14, 2019. The Board's final opinion and order is due not
8 later than July 19, 2019.

9 **ORAL ARGUMENT**

10 We previously allowed a 40-minute oral argument for these consolidated
11 appeals. As stated in our March 25, 2019 Order, petitioners shall share 20
12 minutes, and respondent and intervenor-respondent shall share 20 minutes. Oral
13 argument is scheduled for Thursday, June 27, 2019 at 11 a.m., in the Land Board
14 Room, Main Floor, Department of State Lands Building, 775 Summer Street, NE,
15 Salem, Oregon 97301.

16 Dated this 19th day of April, 2019.
17
18

19 
20 _____
21 Melissa M. Ryan
22 Board Chair

Certificate of Mailing

I hereby certify that I served the foregoing Order briefing schedule & oral argument for LUBA No. 2018-072/073/086/087 on April 19, 2019, by mailing to said parties or their attorney a true copy thereof contained in a sealed envelope with postage prepaid addressed to said parties or their attorney as follows:

Daniel Kearns
Reeve Kearns PC
621 SW Morrison Street Suite 510
Portland, OR 97205

E. Michael Connors
Hathaway Larson LLP
1331 NW Lovejoy Street Suite 950
Portland, OR 97209

Linly F. Rees
Deputy City Attorney
City Attorney's Office
1221 SW 4th Avenue Suite 430
Portland, OR 97204

Timothy V. Ramis
Jordan Ramis PC
Two Centerpoint Drive 6th Floor
Lake Oswego, OR 97035

Dated this 19th day of April, 2019.

Kelly Burgess
Paralegal



Dottie Hook
Executive Support Specialist



Oregon

Kate Brown, Governor

Land Use Board of Appeals

775 Summer Street NE, Suite 330

Salem, OR 97301-1283

(503) 373-1265

April 8, 2019

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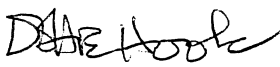
Timothy V. Ramis
Jordan Ramis PC
Two Centerpoint Drive 6th Floor
Lake Oswego, OR 97035

RE: Restore Oregon et al v. City of Portland
LUBA No. 2018-072/073/086/087

We are in receipt of the supplemental record for the above-captioned appeal. We will refer to the Board's Procedural Rules for the calculation of the briefing schedule.

The petition for review is due twenty-one days after receipt of the supplemental record. The respondent's brief is due forty-two days after receipt of the supplemental record. The supplemental record was received by the Board on April 05, 2019.

Very truly yours,


for Kelly Burgess
Paralegal





CITY OF
PORTLAND, OREGON
OFFICE OF THE CITY ATTORNEY

Tracy Reeve, City Attorney
1221 S.W. 4th Avenue, Suite 430
Portland, Oregon 97204
Telephone: (503) 823-4047
Fax: (503) 823-3089

April 4, 2019

04/05/19 PM 2:14 LUBA

Land Use Board of Appeals
DSL Building
775 Summer Street NE, Suite 330
Salem, OR 97301-1283

Re: *Restore Oregon and OSB2LAN IVON, LLC v. City of Portland*
LUBA No. 2018-072/073

Dear LUBA Administrator:

Pursuant to LUBA's March 25, 2019 Order on record objections in the above appeal, the enclosed Supplemental Respondent's Record contains the following documents:

- Revised pages 41 and 183 of Index of Record, resolving objections B7 and E1;
- Letter from 12 Business and Community Leaders in Old Town Chinatown to City Council dated 05/23/2018, resolving objection F.5;
- Letter from Peggy Moretti, Restore Oregon, to City Council dated 04/10/2018, resolving objection B.10;
- Email from Lynn Fuchigami Parks, Oregon Nikkei Endowment dated 04/04/2018, with two attached letters, resolving objections D.6 and D.7;
- Testimony from Peggy Moretti, Restore Oregon, to City Council on West Quadrant Plan dated 02/04/2015, resolving objection B.1; and
- Letter from Old Town Chinatown Community Association to City Council Regarding West Quadrant Plan dated 02/03/2015, resolving objection F.4.

Pursuant to OAR 661-010-0025(2)(b), the record is in electronic format.

We request that LUBA declare the record settled and set the briefing schedule pursuant to the parties' previously agreed upon extensions of time (28 days from date record settled for Petitions for Review and 56 days from date record settled for Response Briefs). Thank you for your courtesies.

Sincerely,

Linly F. Rees

Chief Deputy City Attorney

LFR/am
Enclosures

- c. E. Michael Connors (w/ enclosures)
Daniel Kearns (w/ enclosures)
Timothy V. Ramis (w/ enclosures)

BEFORE THE LAND USE BOARD OF APPEALS
OF THE STATE OF OREGON

03/25/19 AM 11:44 LUBA

RESTORE OREGON,
BOSCO-MILLIGAN FOUNDATION
ARCHITECTURAL HERITAGE CENTER,
NIKKEI LEGACY ENDOWMENT,
PORTLAND CHINATOWN MUSEUM,
and PEGGY G. MORETTI,
Petitioners,

vs.

CITY OF PORTLAND,
Respondent,

and

GUARDIAN REAL ESTATE SERVICES, LLC,
Intervenor-Respondent.

LUBA No. 2018-072

OSB2LAN IVON, LLC,
and HAITHEM TOULAN,
Petitioners,

vs.

CITY OF PORTLAND,
Respondent.

LUBA Nos. 2018-073/086/087

ORDER

On January 9, 2019, the approximately 63,000-page electronic record was received by the board. The record index consists of 208 pages. On January 14, 2019, a Supplemental Record was received by the board. On January 29, 2019, petitioners filed objections to the record. On February 11, 2019, the city filed a response to the record objections. On February 28, 2019, petitioners filed a reply to the city's response. Petitioners' reply includes a motion to take evidence not in the record pursuant to OAR 661-010-0045(1) "to resolve disputes regarding the content of the record[.]" We now resolve the objections.

RECORD OBJECTIONS

A. Conceded Objections

In objections B1, B10, F4, and F5 petitioners argue that a number of items were improperly excluded from the record. OAR 661-010-0025(1)(b) (the record shall include "[a]ll written testimony and all exhibits, maps, documents or other materials specifically incorporated into the record or placed before, and not rejected by, the final decision maker, during the course of the proceedings before the final decision maker"). The city concedes petitioners' record objections B1, B10, F4, and F5, and agrees to provide a Second Supplemental Record and Revised Index that includes these additional items.

Accordingly, objections B1, B10, F4, and F5 are resolved.

B. Documents Included in the Record

Petitioners' record objections B4, B9, C3, C5, C8, C9, C10, E2, E3, and F3 argue that various items are missing from the record. For these objections, the

city responds that those items are included in the record as follows: B4 (Record 25109), B9 (Record 7726), C3 (Record 31317), C5 (Record 25355), C8 (Record 25182), C9 (Record 15845), C10 (Record 15354), E2 (Record 24979), E3 (Record 24797), and F3 (Record 46246).

Accordingly, objections B4, B9, C3, C5, C8, C9, C10, E2, E3, and F3 are denied.

With respect to petitioners' objection B7 (Record 15009, mis-dated in the index as 09/14/17, rather than 09/07/17) and E1 (Record 55013-15, incorrectly identified at the index as 55011), the city responds that the record includes these documents, but that the index references to them contain typographical errors (as noted). The city agrees to correct these mistakes in its submission of the Revised Index.

Accordingly, objections B7 and E1 are sustained.

C. Petitioners' Remaining Record Objections A-F

Petitioners object that various items submitted by or on behalf of the Coalition for Historic Resources and Northwest District Association (NWDA) (Objection A), Restore Oregon (Objection B), Architectural Heritage Center and Bosco Milligan Foundation (Objection C), Nikkei Endowment (Objection D), Irvington Community Association (Objection E), and Old Town Chinatown Community Association (Objection F) were improperly omitted from the record.

The city offers several responses, which can be categorized as follows:

1 **1. Documents Not in the Record**

2 According to the city, the documents described in Objections A1-A3, B2,
3 B3, B6, B8, C1, C2, and C4 were not “placed before” the final decision maker.¹
4 OAR 661-010-00225(1)(b). The city takes the position that the majority of the
5 disputed materials relate to the city council’s adoption of Ordinance No. 188177
6 (adopted December 21, 2016), Ordinance No. 187832 (adopted June 15, 2016),
7 and Ordinance No. 188623 (adopted September 28, 2017), which are separate
8 decisions and not a part of this appeal. The city argues that absent reason to
9 question the city’s representation, LUBA generally defers to the city as custodian
10 of the record, unless petitioner supplies a sufficient reason to decide otherwise,
11 which the city argues petitioners have failed to do here. *Curl v. City of Bend*, 55
12 Or LUBA 719, 725 (2008).

13 Petitioners bear the burden of establishing that a document was made part
14 of the record. *Weeks v. City of Tillamook*, 23 Or LUBA 662, 663 (1992).
15 Petitioners’ assertion that the material was placed before the decision maker
16 during the proceedings leading to the final decision in this appeal is insufficient
17 to overcome the city’s representations, as custodian of the record, that the
18 documents were not made part of the record.

¹ The city argues that although the document referenced in objection C1 is not in the record because it was not placed before the final decision maker, a version of this document with an earlier date is located at Record 62534.

1 Accordingly, objections A1-A3, B2, B3, B6, B8, C1, C2, and C4 are
2 denied.

3 **2. Documents Summarizing Oral Testimony**

4 In objections C6, C7, D1, D2, D3, and D4 petitioners argue that written
5 scripts or notes for testimony that was presented orally to the city at various
6 public meetings during the proceedings that led to the final decision are missing
7 from the record. The city responds that these documents are not a part of the
8 record because they were not placed before the city during the course of the
9 proceedings. The city takes the position that the oral testimony was not submitted
10 in written form, and therefore petitioners' record objections should be denied.

11 In their reply, with respect to record objections C6 and C7, petitioners seek
12 to have these documents allowed into the record pursuant to OAR 661-010-
13 0045(1).² Petitioners argue that although it "is not clear that the[se] document[s]
14 [were] actually submitted, [the documents] reflect[] a verbatim transcript of the

² OAR 661-010-0045(1) provides:

"Grounds for Motion to Take Evidence Not in the Record: The Board may, upon written motion, take evidence not in the record in the case of disputed factual allegations in the parties' briefs concerning unconstitutionality of the decision, standing, ex parte contacts, actions for the purpose of avoiding the requirements of ORS 215.427 or 227.178, or other procedural irregularities not shown in the record and which, if proved, would warrant reversal or remand of the decision. *The Board may also upon motion or at its discretion take evidence to resolve disputes regarding the content of the record * * *.*" (Emphasis added.)

1 testimony actually delivered” during the city’s July 26, 2016 Planning and
2 Sustainability Commission hearing on the final decision. Reply 2. Further,
3 petitioners argue that it “appears to be virtually impossible to dig-out this
4 testimony” from the city’s voluminous 63,000-page record, and that LUBA
5 should therefore allow this document into the record “to resolve disputes
6 regarding the content of the record.” Reply 3 (quoting OAR 661-010-0045(1)).

7 Arguments that testimony is inadequately or inaccurately reflected in the
8 minutes of the local proceedings may be adequate to justify requiring a local
9 government prepare a transcript of the proceedings where the objecting party
10 demonstrates with particularity why the defect in the minutes are material. *West*
11 *Amazon Basin Land Owners v. Lane County*, 24 Or LUBA 597 (1992). However,
12 petitioners do not argue here that any minutes or summaries of testimony are
13 inaccurate or inadequate, or even that the disputed documents were “actually
14 submitted.” Instead, petitioners argue that it is challenging to identify the
15 testimony in the city’s voluminous record, and for that matter, LUBA should
16 allow the documents to “resolve disputes regarding the content of the record.”
17 There appears to be no dispute regarding whether the documents are part of the
18 record where petitioners state that it “is not clear that the document was actually
19 submitted.” Therefore, petitioners have not provided a basis for LUBA to allow
20 the documents to be part of the record pursuant to OAR 661-01-0045(1).

21 Accordingly, petitioners record objections’ C6, C7, D1, D2, D3, and D4
22 are denied.

1 **3. Undated and/or Unsigned Documents**

2 In response to record objections D5, D6, D7, F1, and F2, the city responds
3 these documents are not a part of the record because the city has not been able to
4 identify the documents as part of the record, and because the disputed document
5 is either unsigned (D5), or both unsigned and undated (D5-D7), or is undated and
6 without an addressee (F1 and F2), and therefore the city cannot ascertain or verify
7 when the document may have been submitted. With respect to record objections
8 D5, F1, and F2, we agree with the city, and these objections are denied.

9 With respect to objections D6 and D7, petitioners argue that Lynn
10 Fuchigami, a member of petitioner Oregon Nikkei Endowment, attached a cover
11 email to both these documents, and that cover email demonstrates she submitted
12 both documents to the mayor and all city commissioners via email on April 4,
13 2018. Petitioners argue that because the city's response to petitioners' objections
14 was based solely on the argument that the city could not verify that the documents
15 were part of the record due to the lack of a date, signature and/or addressee,
16 LUBA should conclude the documents described in D6 and D7 are part of the
17 record.

18 We agree with petitioners. Because petitioners have provided evidence
19 that petitioners sent these documents to all city commissioners in writing on April
20 4, 2018, prior to the final decision (which occurred in June 2018), the documents
21 are appropriately part of the record.

1 Petitioners' record objections D6 and D7 are sustained. The city shall
2 include the documents described in objections D6 and D7 in the Second
3 Supplemental Record

4 **4. Documents Sent to Staff and City Council**

5 In response to petitioners' record objection B5, the city responds that the
6 document appears to contain notes taken by an individual who had a meeting with
7 a city council person's staff, but nothing on the face of the document
8 demonstrates it was provided to the city council person. The city argues a
9 document does not become part of the record unless the document is physically
10 placed before the city council as a final decision maker, and that petitioners have
11 failed to meet their burden to prove the document was placed before the city
12 council. *Terrace Lakes Homeowners Assn. v. City of Salem*, 290 Or LUBA 600,
13 602 (1995); *Blatt v. City of Portland*, 20 Or LUBA 572 (1991). We agree with
14 the city, and record objection B5 is denied.

15 Similarly, in response to petitioners' record objection B11, the city argues
16 the document to which petitioners object is an email sent to some, but not all,
17 members of the city council, that no evidence in the record indicates that the
18 email was submitted into the record by any of the recipients, and therefore it was
19 not "placed before" the final decision maker pursuant to OAR 661-010-
20 0025(1)(b).

21 In reply, petitioners argue "[e]ven though this document was sent to fewer
22 than all of the city commissioners, it was nonetheless submitted to three

1 commissioners about this legislative proposal and was before at least those three
2 commissioners” and is therefore properly part of the record before LUBA. Reply
3 2. We disagree with petitioners. Documents presented to individual city council
4 members, but not to the entire city council, and which are not submitted into the
5 record by any of the individual recipients are not properly considered “placed
6 before” the final decision maker and are not part of the record.

7 Accordingly, objections B5 and B11 are denied.

8 **SECOND SUPPLEMENTAL RECORD**

9 Within 21 days after the date of this order, the county shall transmit to the
10 Board and the parties a Second Supplemental Record and Revised Index,
11 consistent with this order. Thereafter, LUBA will issue an order settling the
12 record and establishing a briefing schedule.

13 **EXTENDED ORAL ARGUMENT**

14 Pursuant to OAR 661-010-0040(3), the Board will allow a 40-minute oral
15 argument for these consolidated appeals. Petitioners shall share 20 minutes, and
16 respondent and intervenor-respondent shall share 20 minutes.

17 Dated this 25th day of March, 2019.



18
19
20 _____
21 Melissa M. Ryan
Board Chair

Certificate of Mailing

I hereby certify that I served the foregoing Order for LUBA No. 2018-072/073/086/087 on March 25, 2019, by mailing to said parties or their attorney a true copy thereof contained in a sealed envelope with postage prepaid addressed to said parties or their attorney as follows:

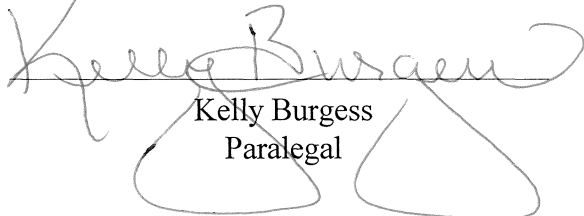
Daniel Kearns
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Timothy V. Ramis
Jordan Ramis PC
Two Centerpoint Drive 6th Floor
Lake Oswego, OR 97035

Dated this 25th day of March, 2019.



Kelly Burgess
Paralegal

Kristi Seyfried
Executive Support Specialist

Reeve Kearns PC

Attorneys at Law

510 American Bank Building
621 S.W. Morrison Street
Portland, Oregon 97205
Email: dan@reevekearns.com

Daniel H. Kearns
Direct Dial: 503-997-6032

February 26, 2019

Land Use Board of Appeals
775 Summer Street NE, Suite 330
Salem, OR 97301-1283

02/28/19 AM 10:38 LUBA

**Re: Restore Oregon, et al v. City of Portland, LUBA Nos. 2018-072/073/086/087
Petitioners' Reply to the city's Response to Record Objections and
Petitioners' Motion to Take Evidence Not in the Record**

Dear LUBA:

Please find enclosed for filing in the above-mentioned appeal the original and one copy of Petitioners' Reply to the city's Response to Record Objections and Petitioners' Motion to Take Evidence Not in the Record. Thank you.

Sincerely,



Daniel Kearns

Enclosures

cc: Clients
Linly Rees, Esq.
Tim Ramis, Esq.
Mike Connors, Esq.

**BEFORE THE LAND USE BOARD OF APPEALS
FOR THE STATE OF OREGON**

RESTORE OREGON, BOSCO-MILLIGAN
FOUNDATION/ ARCHITECTURAL HERITAGE
CENTER, NIKKEI LEGACY ENDOWMENT,
PORTLAND CHINATOWN MUSEUM and PEGGY
G. MORETTI – Petitioners,

v.

CITY OF PORTLAND – Respondent,

and

GUARDIAN REAL ESTATE SERVICES, LLC –
Intervenor Respondent.

OSB2LAN IVON, LLC and HAITHEM TOULAN -
Petitioners,

v.

CITY OF PORTLAND - Respondent.

**LUBA Nos. 2018-072/073
and 2018-086/087**

02/28/19 AM 10:38 LUBA

**PETITIONERS'
REPLY TO THE CITY'S
RESPONSE TO RECORD
OBJECTIONS**

**PETITIONERS'
MOTION TO TAKE
EVIDENCE NOT IN THE
RECORD**

Respondent filed the Record in this appeal, and it was received by the Board and the parties on January 8, 2019. Petitioners in LUBA Nos. 2018-072/073 (Restore Oregon, Bosco-Milligan Foundation/Architectural Heritage Center, Nikkei Legacy Endowment, Portland Chinatown Museum and Peggy Moretti) filed Record Objections on January 29, 2019. On February 11, 2019, respondent filed its response to the Record Objections. Petitioners disagree with respondent's grounds for rejecting 5 of these documents and renew and reiterate their prior record objections that the City rejected as set forth below. For some, petitioners move, in the alternative, to have the document allowed into the record for the reasons stated pursuant to OAR 661-010-0045. All of the documents referenced herein are attached and labeled.

By way of introduction, the record in this appeal is the largest that petitioners' attorney has ever attempted to navigate or work with, and it appears to be the largest LUBA record the City of Portland has ever filed. It is long, complicated, contains thousands of individual documents spanning approximately 10 years of local process, and the only real guide for finding documents in the 63,000+ page record is a 211-page index. In response to petitioners' Record Objections, respondent's attorneys and paralegals most familiar with the record were able to locate documents that petitioners could not. This illustrates (1) the difficulty of finding documents in the record and (2) the near-impossible task of verifying that a particular document was improperly omitted from the record. Moreover, because the record represents approximately 10 years of legislative process, involving approximately 67 separate public hearings, including 16 city council hearings and even more hearings of the Planning and Sustainability Commission, many of the documents were submitted directly to individual city councilors electronically and outside of a hearing, and thus were difficult for respondent to capture and include in the Record submitted to LUBA. Nonetheless, these documents are still part of the record of this long legislative proceeding.

Record Objection B-11: This document is a May 21, 2018 e-mail from Restore Oregon to three City Commissioners about a last-minute amendment to the CC2035 proposal that significantly increased building height for Block 33 in the Oldtown/Chinatown Historic District. Even though this document was sent to fewer than all of the city commissioners, it was nonetheless submitted to three commissioners about this legislative proposal and was before at least those three commissioners.

Record Objection C-6: As the City correctly surmises, this document is a script of testimony delivered by Fred Leeson to the Planning and Sustainability Commission (PSC) at its

July 26, 2016 hearing on the CC2035 package. It is not clear that the document was actually submitted, but it reflects a verbatim transcript of the testimony actually delivered by Fred Leeson. Because it appears to be virtually impossible to dig-out this testimony from the City's 63,000+ page digital record or the minutes of the July 26, 2016 PSC hearing (Rec 24316), petitioners request that LUBA allow this document into the record "to resolve disputes regarding the content of the record." The fact that the City was able to locate many of the documents in petitioners' original Record Objection, while petitioners could not, demonstrates the difficulty of navigating and searching this exceedingly large record and locating documents in it. If necessary, petitioners can obtain a sworn affidavit from Mr. Leeson attesting to the fact that he presented this testimony, but there is no reason to believe that Mr. Leeson did not present this testimony.

Record Objection C-7: As the City correctly surmises, this document is a script of testimony delivered by Deborah O'Neill to the PSC at its July 26, 2016 hearing on the CC2035 package. It is not clear that the document was actually submitted, but it reflects a verbatim transcript of the testimony actually delivered by Deborah O'Neill. Because it appears to be virtually impossible to dig-out this testimony from the City's 63,000+ page digital record or the minutes of the July 26, 2016 PSC hearing (Rec 24316), petitioners request that LUBA allow this document into the record "to resolve disputes regarding the content of the record." The fact that the City was able to locate many of the documents in petitioners' original Record Objection, while petitioners could not, demonstrates the difficulty of navigating and searching this exceedingly large record and locating documents in it. If necessary, petitioners can obtain a sworn affidavit from Ms O'Neill

attesting to the fact that he presented this testimony, but there is no reason to believe that Ms O'Neill did not present this testimony.

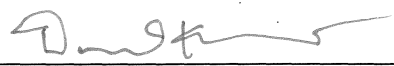
Record Objections D-6 & D-7: The first (D-6) is a letter from Lynn Fuchigami of the Oregon Nikkei Endowment to the Portland City Council objecting to a last-minute amendment to the CC2035 plan package that increased building height on Block 33 in the Old Town/Chinatown Historic District. The second (D-7) is a script of testimony that parallels the letter. Also attached is the cover e-mail that Ms Fuchigami used to send both documents to the Mayor and all City Commissioners on April 4, 2018, demonstrating the date and to whom they were sent. Accordingly, both documents were before all members of the decision making body at the time the challenged decision was rendered, neither was rejected, and both should be included in the Record of this appeal. The City's only basis for rejecting these documents is that it could not ascertain when they were sent or to whom. To the extent the City persists in rejecting these documents from the record because it cannot independently verify these facts, petitioners request that LUBA allow the documents into the record pursuant to OAR 661-010-0045 "to resolve disputes regarding the content of the record."

April 10, 2018 letter from Marleen Wallingford of the Portland JACL. This letter to the Portland City Council objects to the same last-minute amendment of the CC2035 plan package that increased building height on Block 33 in the Old Town/Chinatown Historic District. The cover e-mail shows that Ms Wallingford sent the letter to the Mayor and all City Commissioners on April 11, 2018, demonstrating the date and to whom they were sent. Accordingly, this document was before all members of the decision making body at the time the challenged decision was rendered, it was not rejected, and it should be

included in the Record of this appeal. Petitioners missed this document in their search for documents that were omitted from the record and failed to include it in their Record Objections. Petitioners hereby amend their earlier Record Objection to include this letter and seek its inclusion in the Record of this appeal. In the alternative, petitioners request that LUBA allow this document into the record pursuant to OAR 661-010-0045 “to resolve disputes regarding the content of the record.”

Respectfully submitted this 26th day of February 2019.

REEVE KEARNS, PC

By: 

Daniel Kearns, OSB #89395
Attorney for petitioners

Peggy Moretti

Subject: FW: NO to proposed (AGAIN!) height amendments in our Historic District
Attachments: Block 33 Testimony_Examples-Restore Oregon.pdf

Importance: High

From: Peggy Moretti

Sent: Monday, May 21, 2018 2:26 PM

To: chloe@portlandoregon.gov; marshall.runkel@portlandoregon.gov; amanda@portlandoregon.gov; nick@portlandoregon.gov; jamie.dunphy@portlandoregon.gov

Cc: Ranzetta, Kirk <kirk.ranzetta@aecom.com>; Annie Mahoney (anniem@gbdarchitects.com) <anniem@gbdarchitects.com>; Kristen Minor <KristenM@pmapdx.com>; 'Ernestina Fuenmayor Machado' <ernestinaf@gmail.com>; 'Matthew Roman' (mroman@roman-design.com) <mroman@roman-design.com>; Chung, Wendy <Wendy.Chung@CenturyLink.com>; Maya Foty (m.foty@arg-pnw.com) <m.foty@arg-pnw.com>

Subject: NO to proposed (AGAIN!) height amendments in our Historic District

Importance: High



Preserve, reuse, and pass forward the historic places that make our communities livable and sustainable.

Commissioner Cloe Eudaly
Commissioner Nick Fish
Commissioner Amanda Fritz

Dear Commissioners,

The fate of Portland's only historic district designated for its cultural significance is in your hands. Restore Oregon has learned that the Mayor and Commissioner Saltzman have proposed yet again to raise the allowed heights on Block 33 and the north end of our National Register-listed Japantown-Chinatown Historic District. **THIS WILL ABSOLUTELY DESTROY THE HISTORIC CHARACTER OF THE DISTRICT!**

I am not being overly dramatic here. It's a fact. You cannot design historically compatible buildings at 200 feet. A decision to further raise the heights opens the City up to a de-listing of the district (and the loss of federal historic tax credits and other financial incentives) and/or an appeal of the comprehensive plan.

The City just spent \$170,000 and months of volunteer time to develop and approve design guidelines for the historic district to protect its integrity while also providing ample flexibility for infill development. As a member of the committee that developed those guidelines, I know with certainty that the Landmarks Commission will not be able to apply the guidelines and approve projects at those heights. This is a virtual slap in their face and makes review of new projects in this district a waste of their valuable time.

Claims that the developer cannot make money at the current height utterly lacks credibility. Numerous other projects have been able to pencil out at even lower heights – such as the Goodman's project breaking ground just a few blocks away at Third & Ash – a project that was enthusiastically supported by the Landmarks Commission, and includes significant numbers of affordable and market rate housing. **Why should other developers have to follow the rules, but not the developer of Block 33??** (more examples from previous testimony are attached)

13-11

To let a few developers dictate zoning and decimate a truly unique historic district is BAD POLITICS, sets a BAD PRECEDENT, and is CONTRARY TO THE POLICY GOALS OF THE COMP PLAN.

Please don't let this happen. Thank you.

A handwritten signature in cursive script that reads "Peggy Moretti".

Peggy Moretti

Executive Director
503 243-1923 (main)
503 946-6446 (direct)
1130 SW Morrison Street, Suite 318
Portland, OR 97205

Fred Leeson (AHC Advocacy Committee)

Testimony to the Planning and Sustainability Commission

Date: 7-26-16

My name is Fred Leeson. I am board president of the Bosco-Milligan Foundation, which owns and operates the Architectural Heritage Center. You have detailed comments from us in writing, so I will not repeat those.

I trust you all care about Portland or you wouldn't be spending a big portion of your life sitting here. As you work through this process, I hope you will keep in mind what makes Portland a special place, and not automatically concur with the planning staff on all matters. We seem to be in such a huge rush to be just...like...every...other ... American city.

I ask you to pay attention in particular to view corridors and to the South park blocks. We will lose our sense of place if we destroy views of our natural beauty and if we block sunlight from a great and historic downtown park.

I don't know if any remember the view of Mt. Hood coming through the Vista tunnel on Highway 26. Our city planners intentionally let that view be blocked by a big tower...which now lets us see a blue metal shed that parodies the mountain we once enjoyed. If I recall correctly, we were actually told that the beautiful mountain view was a "distraction" to motorists.

If we continue to eliminate these "distractions," Portland will be a much less interesting place. I think losing just a few floors of developable space is a reasonable trade for preserving key elements of what make Portland special.

I'd also like to add a few words about height limits in historic districts. Great cities of the world protect their pasts as they move ahead. Historically, we have not done a good job of that in Portland. I would ask you to move gingerly on raising height limits in our historic districts without careful study of how greater cities in the world have dealt with it.

Thank you and best wishes.

C-6

July 26, 2016 testimony

Deborah O'Neill (AHC Advocacy committee)

Good Afternoon. My name is Deborah O'Neill. I am a resident of Portland and am here today to speak on behalf of the Architectural Heritage Center and its parent organization, the Bosco Milligan Foundation. The foundation strongly recommends that FAR and height limits in the West End be revised and lowered in order to maintain its historic character. Specifically, the foundation recommends that a base FAR of 7:1 and a maximum height of 100 feet be explored west of Park Avenue. To the East of Park Avenue, we recommend for one or two blocks a base of 9:1 FAR with a maximum building height of between 250 and 325 feet. In this way, the West End will continue to serve as a stepped-down, transition area between surrounding neighborhoods of lesser heights and FAR and the built-up downtown core.

In the northwest corner of the West End, we also oppose the change from RX to CX, which will only serve to incentivize demolition of many historic structures, a good number of which are being used for moderate and low income housing. An RX designation emphasizes the residential uses of these buildings as worthy of preservation. We recognize the need to increase the usable space and economic activity of this district. We believe, however, that by using bonus historic preservation allowances and the state special assessment for historic properties program historic rehabilitation tax credits to revitalize and seismically upgrade under-utilized buildings, it is possible to preserve and enhance the cultural and historical significance of the area and at the same time meet the Commission's goal of putting 6800 households in place by 2035. I thank you for your time and for this opportunity.



Daniel Kearns

From: Lynn Fuchigami <lynn@oregonnikkei.org>
Sent: Friday, February 15, 2019 6:03 PM
To: Peggy Moretti; Daniel Kearns; stephaniew@visitahc.org
Subject: FW: Urgent letter regarding proposed amendment for Block 33
Attachments: Dear Mayor Wheeler and Portland City Commissioners.docx; Letter to Mayor and Commissioners.pdf

Importance: High

Forwarding email and sending their responses.....

From: Lynn Fuchigami
Sent: Wednesday, April 04, 2018 8:52 AM
To: mayorwheeler@portlandoregon.gov; amanda@portlandoregon.gov; nick@portlandoregon.gov; chloe@portlandoregon.gov; dan@portlandoregon.gov
Subject: Urgent letter regarding proposed amendment for Block 33
Importance: High

Please read the attached letter regarding the amendment to increase building heights for Block 33.

Thank you,

Lynn Fuchigami Parks

Executive Director

Oregon Nikkei Endowment

121 NW 2nd Avenue

Portland, OR 97209



OREGON NIKKEI ENDOWMENT

Dear Mayor Wheeler and Portland City Commissioners:

My name is Lynn Fuchigami Parks and I'm the Executive Director of Oregon Nikkei Endowment whose major projects include a Japanese American history museum (Oregon Nikkei Legacy Center) and the Japanese American Historical Plaza (aka Bill of Rights Memorial), both located in Old Town which at one time was a large and vibrant Japantown. I also serve on the Board of Directors for the Portland JACL, the Japanese Ancestral Society of Portland and previously served on the Board for the Old Town Chinatown Community Association.

I strongly urge you to vote against the amendment to increase building heights from 125' to 200' on Block 33. Giving additional height and raising it to 200 feet is not compatible with the character and integrity of the neighborhood, and could possibly threaten its historic designation. In addition, proposed heights abutting the Skidmore Landmark District challenge the integrity of the Landmark District, and they purposefully denigrate the architectural and historical significance of the New Chinatown/Japantown National Historic District. During the development of the West Quadrant Plan, it was the only one of five national historic districts on the west side for height limitations to be lifted. This inequitable set of height recommendations sent a powerful and negative message to Portland's communities of color and members of the Japanese and Chinese communities that testified in past years to that effect.

Despite the recent support from the OTCTCA Board for this (which does not represent the consensus of the community), many of us as stakeholders, spent countless hours speaking out against raising the heights for the district at meetings, community hearings, and testifying in front of the Portland Bureau of Planning and Sustainability and their West Quadrant's Strategic Advisory Committee to have our voices heard as they worked mindfully and thoughtfully to complete the West Quadrant Plan for the 2035 Central City Plan.

The result of those efforts were incorporated in the language, strategies, and recommendations that reflect the majority of what the greater community expressed and what the Planning Bureau still stands behind today with regards to restricting heights. And yet here we are again, fighting the same fight with little regard to the public process that previously took place.

The 2035 Central City Plan says, "It is the City's responsibility to promote deep and inclusive community involvement in planning and investment decisions." Additional verbiage about the value of community wisdom and participation as well as equity include:

Goal 2.C: Value community wisdom and participation

Portland values and encourages community and civic participation. The City seeks and considers community wisdom and diverse cultural perspectives, and integrates them with technical analysis, to strengthen land use decisions.

D-6

121 NW 2nd Avenue Portland OR 97209 Tele 503.224.1458

The Oregon Nikkei Endowment (O.N.E.), a non-profit corporation, supports projects of Japanese American concern.
LUBA Record001109

Goal 2.E: Meaningful participation

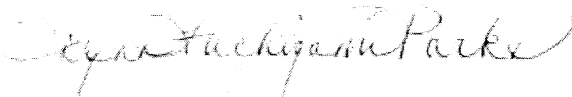
Community members have meaningful opportunities to participate in and influence all stages of planning and decision making. Public processes engage the full diversity of affected community members, including under-served and under-represented individuals and communities. The City will seek and facilitate the involvement of those potentially affected by planning and decision making.

Again, many of us showed up in the past years to give input and be heard, but the fact that we are once again having to address this issue shows that public process and voice have been ignored and undermined.

As someone who has been a part of this neighborhood for over 45 years, I am excited to see the positive changes and efforts to revitalize the district. There are many models throughout the country showing how cities have been able to successfully and respectfully preserve and invest in their historical districts to turn them into vibrant neighborhoods that attract residents, tourists and businesses *while maintaining its existing character and integrity*. Why can't Portland follow their example?

There is no other neighborhood that uniquely reflects the history of those communities whose backs the city was built on. It is the place where the city established its roots and where many important immigrant communities---Japanese, Chinese, Greek, Jewish and African American communities got their start. This rich cultural and multi-ethnic history is reflected in the identifying physical characteristics and human scale of the district. One cannot separate history, culture and the character of place----they are all integral parts of each other and it would be a shame if the leadership of our city does not respect nor recognize the value of protecting and preserving this neighborhood and its history that is truly unique to any other part of town. It's a part of Portland's past that once lost, can never be recreated. Are you willing to have a role in that loss?

Respectfully submitted,



Lynn Fuchigami Parks
Executive Director

The Board of Directors
Oregon Nikkei Endowment

Dear Mayor Wheeler and Portland City Commissioners:

My name is Lynn Fuchigami Parks and I'm the Executive Director of Oregon Nikkei Endowment whose major projects include a Japanese American history museum (Oregon Nikkei Legacy Center) and the Japanese American Historical Plaza (aka Bill of Rights Memorial), both located in Old Town which at one time was a large and vibrant Japantown. I also serve on the Board of Directors for the Portland JACL, the Japanese Ancestral Society of Portland and previously served on the Board for the Old Town Chinatown Community Association.

I strongly urge you to vote against the amendment to increase building heights from 125' to 200' on Block 33. Giving additional height and raising it to 200 feet is not compatible with the character and integrity of the neighborhood, and could possibly threaten its historic designation. In addition, proposed heights abutting the Skidmore Landmark District challenge the integrity of the Landmark District, and they purposefully denigrate the architectural and historical significance of the New Chinatown/Japantown National Historic District. During the development of the West Quadrant Plan, it was the only one of five national historic districts on the west side for height limitations to be lifted. This inequitable set of height recommendations sent a powerful and negative message to Portland's communities of color and members of the Japanese and Chinese communities that testified in past years to that effect.

Despite the recent support from the OTCTCA Board for this (which does not represent the consensus of the community), many of us as stakeholders, spent countless hours speaking out against raising the heights for the district at meetings, community hearings, and testifying in front of the Portland Bureau of Planning and Sustainability and their West Quadrant's Strategic Advisory Committee to have our voices heard as they worked mindfully and thoughtfully to complete the West Quadrant Plan for the 2035 Central City Plan.

The result of those efforts were incorporated in the language, strategies, and recommendations that reflect the majority of what the greater community expressed and what the Planning Bureau still stands behind today with regards to restricting heights. And yet here we are again, fighting the same fight with little regard to the public process that previously took place.

The 2035 Central City Plan says, "It is the City's responsibility to promote deep and inclusive community involvement in planning and investment decisions." Additional verbiage about the value of community wisdom and participation as well as equity include:

Goal 2.C: Value community wisdom and participation

Portland values and encourages community and civic participation. The City seeks and considers community wisdom and diverse cultural perspectives, and integrates them with technical analysis, to strengthen land use decisions.

D-7

Goal 2.E: Meaningful participation

Community members have meaningful opportunities to participate in and influence all stages of planning and decision making. Public processes engage the full diversity of affected community members, including under-served and under-represented individuals and communities. The City will seek and facilitate the involvement of those potentially affected by planning and decision making.

Again, many of us showed up in the past years to give input and be heard, but the fact that we are once again having to address this issue shows that public process and voice have been ignored and undermined.

As someone who has been a part of this neighborhood for over 45 years, I am excited to see the positive changes and efforts to revitalize the district. There are many models throughout the country showing how cities have been able to successfully and respectfully preserve and invest in their historical districts to turn them into vibrant neighborhoods that attract residents, tourists and businesses *while maintaining its existing character and integrity*. Why can't Portland follow their example?

There is no other neighborhood that uniquely reflects the history of those communities whose backs the city was built on. It is the place where the city established its roots and where many important immigrant communities---Japanese, Chinese, Greek, Jewish and African American communities got their start. This rich cultural and multi-ethnic history is reflected in the identifying physical characteristics and human scale of the district. One cannot separate history, culture and the character of place----they are all integral parts of each other and it would be a shame if the leadership of our city does not respect nor recognize the value of protecting and preserving this neighborhood and its history that is truly unique to any other part of town. It's a part of Portland's past that once lost, can never be recreated. Are you willing to have a role in that loss?

Respectfully submitted,

Lynn Fuchigami Parks
Executive Director

The Board of Directors
Oregon Nikkei Endowment

Daniel Kearns

From: Marleen Wallingford <marleenwong@comcast.net>
Sent: Tuesday, February 26, 2019 9:39 AM
To: Daniel Kearns; peggym@restoreoregon.org
Subject: FW: Planning in New Chinatown/Japantown
Attachments: Planning in New Chinatown Japantown.pdf

I found the email that I did send.

Marleen

From: Marleen Wallingford [mailto:marleenwong@comcast.net]
Sent: Wednesday, April 11, 2018 9:33 AM
To: 'dan@portlandoregon.gov'
Subject: FW: Planning in New Chinatown/Japantown

From: Marleen Wallingford [mailto:marleenwong@comcast.net]
Sent: Wednesday, April 11, 2018 9:32 AM
To: 'MayorWheeler@portlandoregon.gov'; 'amanda@portlandoregon.gov'; 'nick@portlandoregon.gov'; 'chloe@portlandoregon.gov'; 'dan@portlandoregon.gov'
Subject: Planning in New Chinatown/Japantown

Dear Mayor and City Commissioners,

Please read and consider the attached letter as you make decisions about the New Chinatown/Japantown National Historic District.

I am the president of the Portland JAACL which was founded in 1928 to help the young Nisei meet the challenges of American citizenship. We are the oldest Asian American civil rights organization in the nation.

Thank you for your attention to this.

Respectfully,

Marleen Wallingford
President Portland JAACL

April 10, 2018
Letter



PORTLANDJACL

SUPPORTING CIVIL RIGHTS SINCE 1928

April 10, 2018

Dear Mayor Wheeler and Portland City Commissioners

It has come to our attention that the Portland City Council is being asked to reconsider the building heights in the Old Town neighborhood. This is the New Chinatown/Japantown National Historic District. After two years of public meetings, testifying and planning with our communities, height restrictions were put in place to maintain the integrity of this unique area to our city. Not only did this have the support of our communities, we have spent many hours working with the Portland Bureau of Planning and Sustainability to develop the long term goals of the neighborhood. This area housed over 100 businesses owned and operated by Japanese immigrants. After the bombing of Pearl Harbor, the city of Portland immediately rescinded the business licenses of all businesses run by the Japanese. When people returned, the city required the Issei (Japanese immigrants) to come before the city council to request a license. The Japanese were the only group that was required to make the request in person. This neighborhood was one of the few areas that we were allowed to live because of redlining practices by the Board of Realtors. This neighborhood has a rich history which should be recognized and honored.

All too often, the voices of communities of color have been ignored or silenced in the name of economic progress. The vibrant Jewish and immigrant community was destroyed with the building of Keller Auditorium. Emanuel Hospital had hundreds of homes torn down in preparation for an expansion that never happened. Building the Memorial Coliseum and freeway also decimated the African American community in the Albina area. Those planning decisions of the past have completely changed the character of those neighborhoods. Your decision now will have a long lasting impact. Please do not ignore the voices and all the hard work of people who thought they were part of the planning process. We should make sure that the growth of our city follows a well thought out plan and not be swayed by special interests who want to deviate from that plan. If you make an exception for this project, it will open the doors to other exceptions. It does not meet the guidelines that have already been put in place for the neighborhood and will look completely out of character with the rest of the area. This is not the neighborhood that we had envisioned.

Respectfully,

Marleen Wallingford
President Portland JACL

CERTIFICATE OF FILING AND SERVICE

I hereby certify that on the date indicated below, I caused to be filed the original and one copy of the enclosed PETITIONERS' REPLY TO THE CITY'S RESPONSE TO RECORD OBJECTIONS and PETITIONERS' MOTION TO TAKE EVIDENCE NOT IN THE RECORD in LUBA Nos. 2018-072/073/086/087 with the:

LAND USE BOARD OF APPEALS
775 Summer Street NE, Suite 330
Salem, OR 97301-1283

by First-Class U.S. mail, postage prepaid. On the same date, I caused to be served a true, complete and correct copy of the same document by First-Class U.S. mail, postage prepaid, on the following parties or attorneys:


Michael Connors, Esq.
Hathaway Larson LLP
1331 NW Lovejoy St., Suite 950
Portland, OR 97204

Linly Rees
Office of City Attorney
1221 SW 4th Ave., Suite 430,
Portland, OR 97204

Timothy Ramis
Jordan Ramis PC
Two Centerpoint Dr., 6th Floor
Lake Oswego, OR 97035

DATED: February 26, 2019.

REEVE KEARNS, PC

A handwritten signature in black ink, appearing to read "Daniel Kearns", with a long horizontal flourish extending to the right.

By: _____
Daniel Kearns, OSB #89395
Attorney for Petitioners

BEFORE THE LAND USE BOARD OF APPEALS
OF THE STATE OF OREGON

RESTORE OREGON, BOSCO-
MILLIGAN FOUNDATION/
ARCHITECTURAL HERITAGE CENTER,
NIKKEI LEGACY ENDOWMENT,
PORTLAND CHINATOWN MUSEUM
and PEGGY G. MORETTI,

Petitioners,

and

OLD TOWN COMMUNITY
ASSOCIATION,

Intervenor-Petitioners,

v.

CITY OF PORTLAND,

Respondent,

and

GUARDIAN REAL ESTATE SERVICES,
LLC,

Intervenor-Respondent.

OSB2LAN IVON, LLC and HAITHEM
TOULAN,

Petitioners,

v.

CITY OF PORTLAND,

Respondent.

LUBA No. 2018-072/073
(Consolidated)

**RESPONSE TO RECORD
OBJECTIONS OF
PETITIONERS RESTORE
OREGON, BOSCO-MILLIGAN
FOUNDATION/
ARCHITECTURAL HERITAGE
CENTER, NIKKEI LEGACY
ENDOWMENT, PORTLAND
CHINATOWN MUSEUM and
PEGGY G. MORETTI**

In a motion mailed on January 29, 2019, Petitioners Restore Oregon, Bosco-Milligan Foundation/Architectural Heritage Center, Nikkei Legacy Endowment, Portland Chinatown Museum and Peggy Moretti objected to the record filed in this matter on the basis that they believe documents were

1 submitted to Respondent City of Portland during the proceeding on appeal and
2 not included in the record.

3 The record must include all written testimony and exhibits “specifically
4 placed before, and not rejected by, the final decision maker, during the course
5 of the proceedings before the final decision maker.” OAR 661-010-0025(1)(b).
6 Testimony may be placed before the decision maker by: (1) physically placing
7 the testimony before the decision maker; (2) submitting testimony through a
8 means specified in local regulations; or (3) through local regulations that
9 require an item to be placed before the decision maker. *Boyer v. Baker County*,
10 34 Or LUBA 758, 759 (1998); *McKenzie v. Multnomah County*, 30 Or LUBA
11 461, 462 (1996).

12 The city responds to each document petitioners ask to be added to the
13 record, using petitioners’ numbering system, as follows:

14 **A. Coalition for Historic Resources and NWDA’s documents**

- 15 1. Feb 8, 2016 – Portland Coalition for Historic Resources Proposal to
16 Portland City Council for Amendments to the Portland 2035
17 Comprehensive Plan.

18 Based on its title and the date on which it was submitted, this document
19 was prepared, and likely submitted, during the proceedings for adoption of the
20 2035 Portland Comprehensive Plan and the Early Implementation code
21 amendments. The Portland City Council considered the 2035 Comprehensive
22 Plan and Early Implementation code amendments as part of periodic review and
23 ultimately adopted them by Ordinance No. 188177 on December 21, 2016 and
24 Ordinance No. 187832 on June 15, 2016. The Land Conservation and
25 Development Commission’s decision approving the city’s periodic work tasks
26 is a separately reviewable decision that is currently on appeal to the Oregon

1 Court of Appeals. The Comprehensive Plan ordinances and the record
2 supporting those ordinances were not placed before the City Council during the
3 proceedings for, and therefore are not part of the record for, the Central City
4 2035 Plan ("CC2035").

5 According to city staff who compiled the record placed before the City
6 Council for CC2035, this Comprehensive Plan material was not placed before
7 city decision makers as part of the CC2035 process. Absent reason to question
8 the city's representation, this Board defers to the city as custodian of the
9 records. *Curl v. City of Bend*, 55 Or LUBA 719, 725 (2008). Petitioners bear
10 the burden of establishing that the document was made a part of the record.
11 *Weeks v. City of Tillamook*, 23 Or LUBA 662, 663 (1992); *see also Doherty v.*
12 *Morrow County*, 43 Or LUBA 627 (2002) (finding that when petitioner offers
13 no basis for questioning the local government's content that the disputed item
14 was not placed before the decision maker, the record objection will be denied).

15 Petitioners make an unsubstantiated assertion that the material was
16 placed before the decision maker in the CC2035 process but make no effort to
17 demonstrate that it actually was. An unsubstantiated assertion does not satisfy
18 the burden imposed by OAR 661-010-0025(1)(b). *Yeager v. Benton Co.*, 41 Or
19 LUBA 604, 606 (2002); *Boyer* at 759. The objection should be denied.

20 2. October 5, 2016 revised October 6, 2016 – Portland Coalition for
21 Historic Resources Written Testimony on the Early Implementation
22 Zoning Code Amendments: RH Zone FAR Changes in Historic Districts.

23 The title of this document states that it relates to the City Council's
24 separate ordinance to adopt the Early Implementation code amendments which
25 was part of Portland's periodic review process, discussed in A.1 above. In fact,
26 the date of the document correlates to a City Council hearing on the

1 Comprehensive Plan. The record placed before the City Council did not include
2 this document, and petitioners make only an unsubstantiated assertion that this
3 was placed before the city in the CC2035 proceedings. For the reasons stated in
4 response to Item A.1, petitioners have not met their burden of establishing that
5 this document was placed before the City Council as part of the CC2035
6 proceedings. The objection should be denied.

7 3. Jan 7, 2017 – Letter to City Council from Rod Merrie & Clark Nelson,
8 Land Use Co-Chairs for the Eastmoreland Neighborhood Association.

9 This document states that it relates to the City Council's separate
10 ordinance to adopt the Comprehensive Plan ("Specific suggestions for editing
11 the draft Comp Plan language are attached.") The record placed before the City
12 Council did not include this document, and petitioners make only an
13 unsubstantiated assertion that this was placed before the city in the CC2035
14 proceedings. For the reasons stated in response to Item A.1, petitioners have not
15 met their burden of establishing that this document was placed before the City
16 Council as part of the CC2035 proceedings. The objection should be denied.

17 **B. Restore Oregon's documents**

18 1. Feb 4, 2015 – Written testimony to city council re: West Quadrant Plan.

19 The city will include this document in the supplemental record.

20 2. Jan 25, 2016 – Written testimony to city council.

21 As discussed regarding Item A.1 above, this document states that it
22 relates to the City Council's separate ordinance to adopt the Comprehensive
23 Plan ("proposed amendments to the ...draft Comprehensive Plan.") The record
24 placed before the City Council did not include this document, and petitioners
25 make only an unsubstantiated assertion that this was placed before the city in
26 the CC2035 proceedings. For the reasons stated in response to Item A.1,

1 petitioners have not met their burden of establishing that this document was
2 placed before the City Council as part of the CC2035 proceedings. The
3 objection should be denied.

4 3. April 19, 2016 – Written testimony to city council.

5 As discussed regarding Item A.1 above, this document states that it
6 relates to the City Council's separate ordinance to adopt the Comprehensive
7 Plan ("Re: Letter of Testimony: Comprehensive Plan Amendments.") The
8 record placed before the City Council did not include this document, and
9 petitioners make only an unsubstantiated assertion that this was placed before
10 the city in the CC2035 proceedings. For the reasons stated in response to Item
11 A.1, petitioners have not met their burden of establishing that this document
12 was placed before the City Council as part of the CC2035 proceedings. The
13 objection should be denied.

14 4. Aug 5, 2016 –Written testimony to Planning & Sustainability
15 Commission.

16 This testimony is found in the record at page 25109. As a result, this
17 objection should be denied.

18 5. Oct 10, 2016 –Written materials for Camille Trummer & Mayor Hales re:
19 2017 Legislative Agenda and Current Issues Related to Historic
20 Resources.

21 This document appears to contain notes for a meeting with staff of an
22 elected official. Nothing on the face of the document demonstrates that it was
23 given to Ms. Trummer. Even if it had been, a document given to staff does not
24 become part of the record unless the document is physically placed before city
25 council as the decision maker. *Terrace Lakes Homeowners Assn. v. City of*
26 *Salem*, 290 Or LUBA 600, 602 (1995). The record that city staff placed before

1 the City Council did not include this document, and petitioners make only an
2 unsubstantiated assertion that this was placed before the decision makers.
3 Petitioners have not met their burden of establishing that this document was
4 placed before the City Council as part of the CC2035 proceedings. This record
5 objection should be denied.

6 6. Oct 13, 2016 – Written testimony on Comprehensive Plan Amendments
7 to align zoning with historic districts.

8 As discussed regarding Item A.1 above, this document states that it
9 relates to the City Council's separate ordinance to adopt the Comprehensive
10 Plan ("Re: Testimony: Comprehensive Plan Amendments to align zoning with
11 historic districts."). It was addressed to Council at a time they were considering
12 the Comprehensive Plan and Early Implementation code amendments, not
13 CC2035. The record placed before the City Council did not include this
14 document, and petitioners make only an unsubstantiated assertion that this was
15 placed before the city in the CC2035 proceedings. For the reasons stated in
16 response to Item A.1, petitioners have not met their burden of establishing that
17 this document was placed before the City Council as part of the CC2035
18 proceedings. The objection should be denied.

19 7. Sept 7, 2017 – Written testimony on CC2035 Plan.

20 This testimony is included the record at page 15009. The index
21 incorrectly dated it as 09/14/2017 rather than 09/07/2017. The city will submit a
22 revised index page reflecting the correct date when it submits the supplemental
23 record.

24 8. Sept 12, 2017 – Written testimony to city council re: historic guidelines
25 for New China Town/Japantown historic district.

26 Based on its title, this document appears to have been submitted

1 regarding council ordinance 188623 -- "Adopt the New Chinatown/Japantown
2 Historic Design Guidelines" -- which council adopted on September 28, 2017.
3 The record placed before council for the ordinances on appeal in this
4 proceeding did not include this document. This objection should be denied.

5 9. April 3, 2018 – Attachment to 3-22-2018 Testimony on Block 33 and
6 protecting historic districts.

7 This document is included in the record at page 7726. This objection
8 should be denied.

9 10. April 10, 2018 –Written testimony to city council re: Block 33, We've
10 already conceded enough! Don't further destroy the character of our
11 historic district.

12 The city will include this document in the supplemental record.

13 11. May 21, 2018 –Written testimony to city council re: NO to proposed
14 (AGAIN!) height amendments in our Historic District.

15 The email was not sent to all members of the city council and there is no
16 indication in city records that it was submitted into the record by any of the
17 recipients. As a result, the email was not placed before the decision maker as
18 required by OAR 661-010-0025(1)(b).

19 **C. Architectural Heritage Center & Bosco Milligan Foundation's**
20 **documents**

21 1. Aug 2011 – Platform for Preservation, Historic Preservation Goals and
22 Priorities for Portland's Central City 2035 Plan.

23 This document does not include an addressee and there is no evidence
24 that it was submitted into the record. The record placed before the city council
25 by staff did not include this document, and petitioners make only an
26 unsubstantiated assertion that this was placed before the city in the CC2035

1 proceedings. Petitioners have not met their burden of establishing that this
2 version of the document was placed before the city council as part of the
3 CC2035 proceedings. The objection should be denied.

4 A version of this document with an earlier date is included at page 62534
5 of the record.

6 2. Jan 12, 2016 – Written testimony to city council re: recommended
7 comprehensive plan.

8 As discussed regarding Item A.1 above, this document states that it
9 relates to the City Council’s separate ordinance to adopt the Comprehensive
10 Plan (“Thank you for the opportunity to testify on the CompPlan...”). The
11 record placed before the City Council did not include this document, and
12 petitioners make only an unsubstantiated assertion that this was placed before
13 the city in the CC2035 proceedings. For the reasons stated in response to Item
14 A.1, petitioners have not met their burden of establishing that this document
15 was placed before the City Council as part of the CC2035 proceedings. The
16 objection should be denied.

17 3. March 31, 2016 – Written testimony to city council re: AHC' s requested
18 changes to the draft CC2035 Plan.

19 This document is located at record page 31317. This objection should be
20 denied.

21 4. April 20, 2016 – Written testimony to city council re: recommended
22 amendments to comprehensive plan.

23 As discussed regarding Item A.1 above, this document states that it
24 relates to the City Council’s separate ordinance to adopt the Comprehensive
25 Plan (“advancing amendments to the Comprehensive Plan”). The record placed
26 before the City Council did not include this document, and petitioners make

1 only an unsubstantiated assertion that this was placed before the city in the
2 CC2035 proceedings. For the reasons stated in response to Item A.1, petitioners
3 have not met their burden of establishing that this document was placed before
4 the City Council as part of the CC2035 proceedings. The objection should be
5 denied.

6 5. July 22, 2016 – Written testimony to Planning and Sustainability
7 Commission re: height and zoning issues in Central City 2035 proposed
8 draft.

9 This testimony is located at record page 25355. This objection should be
10 denied.

11 6. July 26, 2016 – Written testimony to Planning and Sustainability
12 Commission from Fred Leeson.

13 The document appears to contain a script or notes for oral testimony.
14 The city files do not contain this document, and the city has no reason to
15 believe this testimony was submitted to the city in written form. The objection
16 should be denied.

17 7. July 26, 2016 – Written testimony to Planning and Sustainability
18 Commission from Deborah O'Neill.

19 The document appears to contain a script or notes for oral testimony.
20 The city files do not contain this document, and the city has no reason to
21 believe this testimony was submitted to the city in written form. The objection
22 should be denied.

23 8. Aug 2, 2016 – Written testimony to Planning and Sustainability
24 Commission from Wendy Rahm.

25 This testimony is located at record page 25182. The objection should be
26 denied.

- 1 9. Aug 10, 2017 – Written testimony to City Council re: Central City 2035
2 Plan, June 2017 draft from Wendy Rahm.

3 This testimony is located at record page 15845. The objection should be
4 denied.

- 5 10. Sept 7, 2017 – Written testimony to city council re: comments on
6 CC2035 Plan.

7 This document is located at record page 15354. The objection should be
8 denied.

9 **D. Nikkei Endowment's documents**

- 10 1. Nov 27, 2013 – Written testimony from Lynn Fuchigami Longfellow.

11 The document appears to contain a script or notes for oral testimony.
12 The written record placed before city council does not contain this particular
13 document. However, the same testimony, word for word, is included in the
14 record at page 46250 with a different date (November 18, 2013) and a heading
15 describing the speaker and meeting at which the testimony was submitted. The
16 city has no reason to believe the testimony dated November 27, 2013 was
17 submitted to the city in written form. The objection should be denied.

- 18 2. Jan 21, 2014 – Written testimony from Lynn Fuchigami Longfellow.

19 The document appears to contain a script or notes for oral testimony,
20 possibly for a West Quadrant Stakeholder meeting, though this is not clear from
21 the face of the document. The written record placed before city council does
22 not contain this document, and the city has no reason to believe this testimony
23 was submitted to the city in written form. The objection should be denied.

- 24 3. April 21, 2014 – Written testimony from Lynn Fuchigami Longfellow.

25 The document appears to contain a script or notes for oral testimony,
26 possibly for a West Quadrant Stakeholder meeting, though this is not clear from

1 the face of the document. The written record placed before city council does
2 not contain this document, and the city has no reason to believe this testimony
3 was submitted to the city in written form. The objection should be denied.

4 4. Sept 9, 2014 – Written testimony from Lynn Fuchigami Longfellow.

5 The document appears to contain a script or notes for oral testimony,
6 possibly for a West Quadrant Stakeholder meeting, though this is not clear from
7 the face of the document. The written record placed before city council not
8 contain this document, and the city has no reason to believe this testimony was
9 submitted to the city in written form. The objection should be denied.

10 5. Nov 4, 2014 – Written testimony to Planning and Sustainability
11 Commission.

12 The document appears to contain a script or notes for oral testimony,
13 possibly for a West Quadrant Stakeholder meeting, though this is not clear from
14 the face of the document. It is not even clear who is purported to have
15 submitted this document to the city. The written record placed before city
16 council does not contain this document, and the city has no reason to believe
17 this testimony was submitted to the city in written form. The objection should
18 be denied.

19 6. Undated – Written testimony to City Council from Lynn Fuchigami
20 Longfellow.

21 This objection asks the city to include an undated document into the
22 record. Because the written record placed before the city council did not
23 include this document and because the city cannot ascertain when the document
24 was submitted, the objection should be denied.

25 7. Undated – Written testimony to City Council from Lynn Fuchigami
26 Longfellow.

1 This objection asks the city to include an undated document in the record
2 that appears to be an unsigned version of Objection D.6. Because the record
3 placed before the city council did not include this document and because the
4 city cannot ascertain when that the document was submitted, the objection
5 should be denied.

6 **E. Irvington Community Association's documents**

- 7 1. Oct 24, 2012 – Written testimony to City Council Re: N/NE Quadrant
8 Plan Public Hearing at City Council.

9 This testimony is included at record page 55013-15. The index
10 incorrectly indicates that it is located at 55011. The city will submit a revised
11 index page reflecting the correct page number when it submits the supplemental
12 record.

- 13 2. Aug 8, 2016 – Written testimony re: Statistical arguments in support of
14 the Irvington Community Association's Request for more appropriate
15 zoning of the Broadway Corridor Strip in the Central City 2035 Plan.

16 This testimony is located at record page 24979. This objection should be
17 denied.

- 18 3. Aug 9, 2016 – Written testimony to Planning and Sustainability
19 Commission on Central City Plan

20 This testimony is located at record page 24797. The objection should be
21 denied.

22 **F. Old Town Chinatown Community Association's documents**

- 23 1. Undated – Written testimony to City Council from Terry Chung.

24 Because this document is undated and has no addressee, the city cannot
25 determine whether or when it was submitted to the city. From the lack of
26 reference to the CC2035 plan and discussion of the “vision of the PDC” which

1 was not a decision-maker for the CC2035 plan, the city concludes that this
2 document is related to a project other than CC2035. The objection should be
3 denied.

4 2. Undated – Written testimony to City Council from Terry Chung.

5 Because this document is undated and has no addressee, the city cannot
6 determine whether or when it was submitted to the city. From the lack of
7 reference to the CC2035 plan and discussion of the “vision of the PDC” which
8 was not a decision-maker for the CC2035 plan, the city concludes that this
9 document is related to a project other than CC2035. The objection should be
10 denied.

11 3. Nov 18, 2013 – Written testimony to City from Rebecca Liu

12 This testimony is located at record page 46246. The objection should be
13 denied.

14 4. Feb 3, 2015 – Written testimony to City Council Re: Recommended
15 Draft West Quadrant Plan.

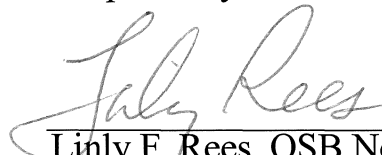
16 The city will include this document in the supplemental record.

17 5. May 23, 2018 – Written testimony to City Council from 12 business and
18 community leaders.

19 The city will include this document in the supplemental record.

20 DATED: February 11, 2019.

21 Respectfully submitted,

22 
23

24 Linly F. Rees, OSB No. 945098
25 Chief Deputy City Attorney
26 Email: linly.rees@portlandoregon.gov

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I served the foregoing RESPONSE TO RESTORE
3 OREGON'S RECORD OBJECTIONS on:

4 DANIEL KEARNS
5 REEVE KEARNS PC
6 ATTORNEYS AT LAW
7 621 SW MORRISON ST., STE. 1225
8 PORTLAND, OR 97205
9 *Attorney for Petitioners Restore*
10 *Oregon, et al.*

E. MICHAEL CONNORS
HATHAWAY LARSON
1331 NW LOVEJOY STREET, STE. 950
PORTLAND, OR 97209
Attorney for Petitioner OSB2LAN
IVON, LLC, et al.

8 TIMOTHY V. RAMIS
9 JORDAN RAMIS PC
10 TWO CENTERPOINTE DRIVE, 6TH
11 FLOOR
12 LAKE OSWEGO, OR 97035
13 *Attorney for Intervenor–*
14 *Respondent Guardian Real Estate*
15 *Services, LLC*

13 on February 11, 2019, by mailing to said person(s) a correct copy thereof,
14 contained in a sealed envelope, with postage paid, and deposited in the post office
15 at Portland, Oregon on said day.

16 I further certify that on February 11, 2019, I filed the original and one copy of the
17 RESPONSE TO RESTORE OREGON'S RECORD OBJECTIONS with the:

18 LAND USE BOARD OF APPEALS
19 DSL BUILDING
20 775 SUMMER STREET NE, SUITE 330
21 SALEM, OR 97301-1283

21 by mailing said document, contained in a sealed envelope, with first class postage
22 paid, and deposited with the post office at Portland, Oregon on said day.

23 
24 LINLY F. REES, OSB NO. 945098
25 Chief Deputy City Attorney
26

Reeve Kearns PC

Attorneys at Law

510 American Bank Building
621 S.W. Morrison Street
Portland, Oregon 97205
Email: dan@reevekearns.com

Daniel H. Kearns
Direct Dial: 503-997-6032

January 29, 2019

02/04/19 PM 2:24 LUBA

Land Use Board of Appeals
775 Summer Street NE, Suite 330
Salem, OR 97301-1283

Re: Restore Oregon, et al v. City of Portland, LUBA No. 2018-____
Petitioners' Record Objections

Dear LUBA:

Please find enclosed for filing in the above-mentioned appeal the original and one copy of Petitioners' Record Objections. Thank you.

Sincerely,



Daniel Kearns

Enclosures

cc: Clients
Linly Rees, Esq.
Tim Ramis, Esq.
Mike Connors, Esq.

**BEFORE THE LAND USE BOARD OF APPEALS
FOR THE STATE OF OREGON**

RESTORE OREGON, BOSCO-MILLIGAN
FOUNDATION/ ARCHITECTURAL HERITAGE
CENTER, NIKKEI LEGACY ENDOWMENT,
PORTLAND CHINATOWN MUSEUM and PEGGY
G. MORETTI – Petitioners,

v.

CITY OF PORTLAND – Respondent,

and

GUARDIAN REAL ESTATE SERVICES, LLC –
Intervenor Respondent.

OSB2LAN IVON, LLC and HAITHEM TOULAN -
Petitioners,

v.

CITY OF PORTLAND - Respondent.

**LUBA Nos. 2018-072/073
and 2018-086/087**

**PETITIONERS'
RECORD OBJECTIONS**

02/04/19 PM 2:24 LUBA

Respondent filed the Record in this appeal, and it was received by the Board and the parties on January 8, 2019. Pursuant to OAR 661-010-026 and the stipulation entered into by the parties in these consolidated appeals, petitioners in LUBA Nos. 2018-072/073 (Restore Oregon, Bosco-Milligan Foundation/ Architectural Heritage Center, Nikkei Legacy Endowment, Portland Chinatown Museum and Peggy Moretti) object to the Record.

The following documents were submitted to respondent – either to the Planning & Sustainability Commission or City Council – during the local process as part of the record of this proceeding. These documents were not rejected and were before and part of the record when the City Council rendered the challenged decision.

A. Materials submitted by/on behalf of Coalition for Historic Resources and NWDA to City:

1. Feb 8, 2016 – Portland Coalition for Historic Resources Proposal to Portland City Council for Amendments to the Portland 2035 Comprehensive Plan.
2. Oct 5, 2016, revised Oct 6, 2016 – Portland Coalition for Historic Resources Written Testimony on the Early Implementation Zoning Code Amendments: RH Zone FAR Changes in Historic Districts.
3. Jan 7, 2016 – letter to City Council from Rod Merric & Clark Nelson, Land Use Co-Chairs for the Eastmoreland Neighborhood Association.

B. Materials submitted by/on behalf of Restore Oregon to City:

1. Feb 4, 2015 – Written testimony to city council re: West Quadrant Plan.
2. Jan 25, 2016 – Written testimony to city council.
3. April 19, 2016 – Written testimony to city council.
4. Aug 5, 2016 – Written testimony to Planning & Sustainability Commission.
5. Oct 10, 2016 – Written materials for Camille Trummer & Mayor Hales re: 2017 Legislative Agenda and Current Issues Related to Historic Resources.
6. Oct 13, 2016 – Written testimony on Comprehensive Plan Amendments to align zoning with historic districts.
7. Sept 7, 2017 – Written testimony on CC2035 Plan.
8. Sept 12, 2017 – Written testimony to city council re: historic guidelines for New China Town/Japantown historic district.
9. April 3, 2018 – Attachment to 3-22-2018 Testimony on Block 33 and protecting historic districts.
10. April 10, 2018 – Written testimony to city council re: Block 33, We've already conceded enough! Don't further destroy the character of our historic district.
11. May 21, 2018 – Written testimony to city council re: NO to proposed (AGAIN!) height amendments in our Historic District.

C. Materials submitted by/on behalf of Architectural Heritage Center & Bosco Milligan Foundation to City:

1. Aug 2011 – Platform for Preservation, Historic Preservation Goals and Priorities for Portland’s Central City 2035 Plan.
2. Jan 12, 2016 - Written testimony to city council re: recommended comprehensive plan.
3. March 31, 2016 - Written testimony to city council re: AHC’s requested changes to the draft CC2035 Plan.
4. April 20, 2016 - Written testimony to city council re: recommended amendments to comprehensive plan.
5. July 22, 2016 - Written testimony to Planning and Sustainability Commission re: height and zoning issues in Central City 2035 proposed draft.
6. July 26, 2016 - Written testimony to Planning and Sustainability Commission from Fred Leeson.
7. July 26, 2016 - Written testimony to Planning and Sustainability Commission from Deborah O’Neill.
8. Aug 2, 2016 - Written testimony to Planning and Sustainability Commission from Wendy Rahm.
9. Aug 10, 2017 - Written testimony to City Council re: Central City 2035 Plan, June 2017 draft from Wendy Rahm.
10. Sept 7, 2017 - Written testimony to city council re: comments on CC2035 Plan.

D. Materials submitted by/on behalf of Nikkei Endowment:

1. Nov 27, 2013 - Written testimony from Lynn Fuchigami Longfellow.
2. Jan 21, 2014 - Written testimony from Lynn Fuchigami Longfellow.
3. April 21, 2014 - Written testimony from Lynn Fuchigami Longfellow.
4. Sept 9, 2014 - Written testimony from Lynn Fuchigami Longfellow.
5. Nov 4, 2014 - Written testimony to Planning and Sustainability Commission.
6. Undated - Written testimony to City Council from Lynn Fuchigami Longfellow.
7. Undated - Written testimony to City Council from Lynn Fuchigami Longfellow.

E. Materials submitted by/on behalf of Irvington Community Association:

1. Oct 24, 2012 - Written testimony to City Council Re: N/NE Quadrant Plan Public Hearing at City Council.
2. Aug 8, 2016 - Written testimony re: Statistical arguments in support of the Irvington Community Association's Request for more appropriate zoning of the Broadway Corridor Strip in the Central City 2035 Plan.
3. Aug 9, 2016 - Written testimony to Planning and Sustainability Commission on Central City Plan.


F. Materials submitted by/on behalf of Old Town Chinatown Community Association:

1. Undated - Written testimony to City Council from Terry Chung.
2. Undated - Written testimony to City Council from Terry Chung.
3. Nov 18, 2013 - Written testimony to City from Rebecca Liu
4. Feb 3, 2015 - Written testimony to City Council Re: Recommended Draft West Quadrant Plan.
5. May 23, 2018 - Written testimony to City Council from 12 business and community leaders

Petitioners' attorney called and e-mailed respondent's attorney and attempted to resolve these record objections but was unable to do so before the deadline for filing objections. If respondent cannot locate the above-listed documents, petitioners can provide them.

Respectfully submitted this 29th day of January 2019.

REEVE KEARNS, PC

By: 
Daniel Kearns, OSB #89395
Attorney for petitioners

CERTIFICATE OF FILING AND SERVICE

I hereby certify that on the date indicated below, I caused to be filed the original and two copies of the enclosed PETITIONERS' RECORD OBJECTIONS with the:

LAND USE BOARD OF APPEALS
775 Summer Street NE, Suite 330
Salem, OR 97301-1283

by First-Class U.S. mail, postage prepaid. On the same date, I caused to be served a true, complete and correct copy of the same document by First-Class U.S. mail, postage prepaid, on the following parties or attorneys:

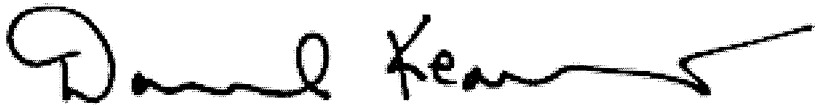
Michael Connors, Esq.
Hathaway Larson LLP
1221 SW 4th Ave, Ste. 430
Portland, OR 97204

Linly Rees
Office of City Attorney
1221 SW 4th Avenue, Suite 430,
Portland, OR 97204

Timothy Ramis
Jordan Ramis PC
Two Centerpoint Dr., 6th Floor
Lake Oswego, OR 97035

DATED: January 29, 2019.

REEVE KEARNS, PC

A handwritten signature in black ink, appearing to read "Daniel Kearns", with a long horizontal flourish extending to the right.

By: _____
Daniel Kearns, OSB #89395
Attorney for Petitioners



Oregon

Kate Brown, Governor

Land Use Board of Appeals

775 Summer Street NE, Suite 330

Salem, OR 97301-1283

(503) 373-1265

January 14, 2019

Daniel Kearns
Reeve Kearns PC
621 SW Morrison Street Suite 510
Portland, OR 97205

E. Michael Connors
Hathaway Larson LLP
1331 NW Lovejoy Street Suite 950
Portland, OR 97209


Linly F. Rees
City Attorney's Office
1221 SW 4th Avenue Suite 430
Portland, OR 97204

Timothy V. Ramis
Jordan Ramis PC
Two Centerpoint Drive 6th Floor
Lake Oswego, OR 97035

RE: Restore Oregon et al v. City of Portland
LUBA No. 2018-072/073/086/087

We are in receipt of the amended record for the above-captioned appeal. We will refer to the parties' stipulation for the calculation of the briefing schedule.

Very truly yours,



Kelly Burgess
Paralegal





CITY OF
PORTLAND, OREGON
OFFICE OF THE CITY ATTORNEY

Tracy Reeve, City Attorney
1221 S.W. 4th Avenue, Suite 430
Portland, Oregon 97204
Telephone: (503) 823-4047
Fax: (503) 823-3089

January 11, 2019

Land Use Board of Appeals
DSL Building
775 Summer Street NE, Suite 330
Salem, OR 97301-1283

01/14/19 AM 11:47 LUBA

Re: Restore Oregon et. al. v. City of Portland et. al. LUBA Case No. 2018-072/073

LUBA Administrator:

On January 8, the City filed the Respondent's Record in the above matter. After filing the Record, the City discovered that the Council adopted version of Exhibit A - Findings of Fact, to Portland City Council Ordinance 189000 was mistakenly omitted from the Record. The Exhibit A- Findings of Fact included at Record pages 17 to 169 was placed before the Council but was not the version that was ultimately adopted.

On May 24, Council voted to substitute Exhibit A currently found at Record pages 17-169 (see Record pages 6324- 6325 reflecting the vote to substitute Exhibit A). Enclosed for filing please find (1) a revised page 1 of the Table of Contents reflecting that the version of Exhibit A is not the final adopted version and (2) Amended Record pages AR-1-AR-153 reflecting the final Exhibit A as adopted by Council.

We anticipate that under OAR 661-010-0025(5), the record shall be considered filed on the date of this letter. Therefore, based on the parties' previous agreed upon timelines, this would extend record objections to February 1. If there are no record objections, petitions for review are due February 8 and response briefs are due March 8.

Thank you for your courtesies.

Sincerely,

Linly F. Rees
Chief Deputy City Attorney

LFR/am

cc E. Michael Connors
Daniel Kearns
Timothy V. Ramis

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on January 11, 2019, I served the foregoing AMENDED
3 RECORD on the following parties via the method indicated:

4 **VIA FIRST CLASS MAIL:**

5 DANIEL KEARNS
6 REEVE KEARNS PC
7 ATTORNEYS AT LAW
8 621 SW MORRISON ST., STE. 1225
9 PORTLAND, OR 97205
10 *Attorney for Petitioners Restore*
11 *Oregon, et al.*

VIA FIRST CLASS MAIL:

TIMOTHY V. RAMIS
JORDAN RAMIS PC
TWO CENTERPOINTE DRIVE, 6TH
FLOOR
LAKE OSWEGO, OR 97035
Attorney for Intervenor-Respondent
Guardian Real Estate Services, LLC

9 **VIA FIRST CLASS MAIL:**

10 E. MICHAEL CONNORS
11 HATHAWAY LARSON
12 1331 NW LOVEJOY STREET, STE. 950
13 PORTLAND, OR 97209
14 *Attorney for Petitioner OSB2LAN*
15 *IVON, LLC, et al.*

14 I further certify that on January 11, 2019, I filed two identical electronic
15 copies of the AMENDED RECORD with the:

16 LAND USE BOARD OF APPEALS
17 DSL BUILDING
18 775 SUMMER STREET NE, SUITE 330
19 SALEM, OR 97301-1283

19 by mailing said documents, contained in a sealed envelope, with first class postage
20 paid, and deposited with the post office at Portland, Oregon on said day.

21
22 

23 LINLY F. REES, OSB NO. 945098
24 Chief Deputy City Attorney
25
26



Oregon

Kate Brown, Governor

January 10, 2019

Land Use Board of Appeals

775 Summer Street NE, Suite 330

Salem, OR 97301-1283

(503) 373-1265

Daniel Kearns
Reeve Kearns PC
621 SW Morrison Street Suite 510
Portland, OR 97205

E. Michael Connors
Hathaway Larson LLP
1331 NW Lovejoy Street Suite 950
Portland, OR 97209

Jeffrey L. Kleinman
Attorney at Law
1207 SW Sixth Avenue
Portland, OR 97204

Linly F. Rees
City Attorney's Office
1221 SW 4th Avenue Suite 430
Portland, OR 97204

Timothy V. Ramis
Jordan Ramis PC
Two Centerpoint Drive 6th Floor
Lake Oswego, OR 97035


RE: Restore Oregon et al v. City of Portland
LUBA No. 2018-072/073/086/087

We are in receipt of the record transmittal for the above-captioned appeal. We will refer to the Board's Procedural Rules for the calculation of the briefing schedule.

The petition for review is due twenty-one days after receipt of the record by the Board. The respondent's brief is due forty-two days after receipt of the record. The record was received by the Board on January 09, 2019.

As a courtesy LUBA will email electronic copies of LUBA's Final Opinion and Order to the parties (or their attorneys if parties are represented) after it is issued. If you have not already done so, please call (503) 373-1265 and provide LUBA with your email address.

Very truly yours,



Kelly Burgess
Paralegal

Enclosure





CITY OF
PORTLAND, OREGON
OFFICE OF THE CITY ATTORNEY

Tracy Reeve, City Attorney
1221 S.W. 4th Avenue, Suite 430
Portland, Oregon 97204
Telephone: (503) 823-4047
Fax: (503) 823-3089

January 8, 2019

Land Use Board of Appeals
DSL Building
775 Summer Street NE, Suite 330
Salem, OR 97301-1283

01/09/19 PM 1:05 LUBA

Re: *Restore Oregon, et al. v. City /OSB2LAN Ivon LLC, et al. v. City of Portland*
LUBA Case No. 2018-072/073; 2018-087

LUBA Administrator:

Enclosed for filing is the Respondent's Record in the above matter. Pursuant to OAR 661-010-0025(2)(b), the record is in electronic format. Due to size, the record is contained on four separate discs. The full Record Index is located on Disc 1, but for ease of reference we have included the following guide describing the contents of each disc.

<u>Category</u>	<u>Disc No.</u>	<u>Page No.</u>
Council	Disc 1	1-16289
Planning and Sustainability Commission (PSC)	Disc 2	16290-31075
Discussion Draft	Disc 2	31076-33693
Bureau Review Draft	Disc 2	33694-34460
Scenic Resources	Disc 2	34461-37779
Central Reach	Disc 2	37780-41274
West Quadrant Plan	Disc 3	41275-51034
Southeast Quadrant Plan	Disc 4	51035-54676
North/Northeast Quadrant Plan	Disc 4	57677-57651
Technical Advisory Committee (TAC)	Disc 4	57652-57827
Special Topics a. Bird Safe Glazing	Disc 4	57828-58391

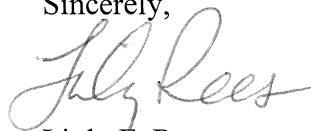
b. Ecoroofs c. Green Loop d. Transportation e. Tree Canopy		58392-59331 59332-59675 59676-61741 61742-61801
Concept Plan	Disc 4	61802-63094

For some Microsoft Excel files, the formatting of the tables may have been altered in the conversion to PDF; no information contained in the original files was omitted or altered. We will make the original Excel versions of any of these files available to review upon request.

Please be advised that Lauren King and I are the assigned attorneys on these consolidated appeals representing the City of Portland. Please forward all correspondence and notices to my attention.

Thank you for your courtesies.

Sincerely,



Linly F. Rees
Chief Deputy City Attorney

LFR/am

Enclosures

cc E. Michael Connors
Daniel Kearns
Timothy V. Ramis

1 **REVISED CERTIFICATE OF SERVICE**

2 I hereby certify that on January 8, 2019, I served the foregoing
3 RESPONDENT'S RECORD on the following parties via the method indicated:

4 **VIA FIRST CLASS MAIL:**

5 DANIEL KEARNS
6 REEVE KEARNS PC
7 ATTORNEYS AT LAW
8 621 SW MORRISON ST., STE. 1225
9 PORTLAND, OR 97205
10 *Attorney for Petitioners Restore*
11 *Oregon, et al.*

VIA FIRST CLASS MAIL:

TIMOTHY V. RAMIS
JORDAN RAMIS PC
TWO CENTERPOINTE DRIVE, 6TH
FLOOR
LAKE OSWEGO, OR 97035
Attorney for Intervenor-Respondent
Guardian Real Estate Services, LLC

9 **VIA HAND DELIVERY:**

10 E. MICHAEL CONNORS
11 HATHAWAY LARSON
12 1331 NW LOVEJOY STREET, STE. 950
13 PORTLAND, OR 97209
14 *Attorney for Petitioner OSB2LAN*
15 *IVON, LLC, et al.*

14 I further certify that on January 8, 2019, I filed two identical electronic
15 copies of the LUBA RECORD with the:

16 LAND USE BOARD OF APPEALS
17 DSL BUILDING
18 775 SUMMER STREET NE, SUITE 330
19 SALEM, OR 97301-1283

19 by mailing said documents, contained in a sealed envelope, with first class postage
20 paid, and deposited with the post office at Portland, Oregon on said day.

21 

22
23 LINLY F. REES, OSB NO. 945098
24 Chief Deputy City Attorney
25
26

JEFFREY L. KLEINMAN
ATTORNEY AT LAW
THE AMBASSADOR
1207 S.W. SIXTH AVENUE
PORTLAND, OREGON 97204
TELEPHONE (503) 248-0808
FAX (503) 228-4529
EMAIL KleinmanJL@aol.com

12/03/18 PM12:12 LUBA

November 30, 2018

Land Use Board of Appeals
775 Summer Street NE, Suite 330
Salem, OR 97301-1283

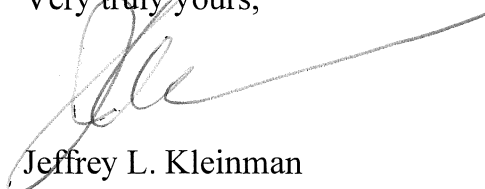
Re: Restore Oregon, et al. v. City of Portland
LUBA Nos. 2018-072, 2018-073, 2018-086, and 2018-087

Dear Board:

Enclosed for filing in the above matter please find original and one copy of Notice of Withdrawal of Motion to Intervene.

Thank you for your courtesies.

Very truly yours,



Jeffrey L. Kleinman

JLK:cme

Enclosures

cc: Daniel H. Kearns, Esq.
E. Michael Connors, Esq.
Linly F. Rees, Esq.
Timothy V. Ramis, Esq.
client

**BEFORE THE LAND USE BOARD OF APPEALS
FOR THE STATE OF OREGON**

RESTORE OREGON, BOSCO-MILLIGAN FOUNDATION/
ARCHITECTURAL HERITAGE CENTER, NIKKEI LEGACY
ENDOWMENT, PORTLAND CHINATOWN MUSEUM and
PEGGY G. MORETTI,

Petitioners,

and

OLD TOWN COMMUNITY ASSOCIATION,

Intervenor-Petitioner,

v.

CITY OF PORTLAND,

Respondent,

and

GUARDIAN REAL ESTATE SERVICES, LLC,

Intervenor-Respondent.

LUBA No. 2018-072

OSB2LAN IVON, LLC, and HAITHEM TOULAN,

Petitioners,

and

CITY OF PORTLAND,

Respondent.

LUBA Nos. 2018-073, 2018-086, and 2018-087

NOTICE OF WITHDRAWAL OF MOTION TO INTERVENE

///


///

///

///

1 Intervenor-Petitioner Old Town Community Association hereby gives
2 notice of withdrawal of its motion to intervene on the side of the petitioners in
3 LUBA No. 2018-072.

4 Dated: November 30, 2018.

5 
6 Jeffrey L. Kleinman, OSB #743726
7 Attorney for Intervenor-Petitioner
8 Old Town Community Association
9 1207 SW Sixth Avenue
10 Portland, OR 97204
11 Phone: (503) 248-0808
12 KleinmanJL@aol.com

1 **CERTIFICATE OF FILING**

2 I hereby certify that on November 30, 2018, I filed the original of this
3 NOTICE OF WITHDRAWAL OF MOTION TO INTERVENE, together with one
4 copy, with the Land Use Board of Appeals, 775 Summer Street NE, Suite 330,
5 Salem, OR 97301-1283, by first class mail.

6 DATED: November 30, 2018.

7
8 
9 Jeffrey L. Kleinman, OSB #743726
Attorney for Intervenor-Petitioner
Old Town Community Association

10 **CERTIFICATE OF SERVICE**

11 I hereby certify that I served the foregoing NOTICE OF WITHDRAWAL
12 OF MOTION TO INTERVENE in LUBA No. 2018-072 on November 30, 2018,
13 by mailing to said parties or their attorney a true copy thereof contained in a sealed
14 envelope with postage prepaid addressed to said parties or their attorney as
15 follows:

16 Daniel H. Kearns, Esq.
17 Reeve Kearns PC
510 American Bank Building
18 621 SW Morrison Street
Portland, OR 97205

Linly F. Rees, Esq.
Deputy City Attorney
City Attorney's Office
1221 SW Fourth Avenue, Suite 430
Portland, OR 97204

19 E. Michael Connors, Esq.
20 Hathaway Larson LLP
1331 NW Lovejoy Street, Suite 950
21 Portland, OR 97209

Timothy V. Ramis, Esq.
Jordan Ramis PC
Two Centerpoint Drive, 6th Floor
Lake Oswego, OR 97035

22 DATED: November 30, 2018.

23
24 
25 Jeffrey L. Kleinman, OSB #743726
Attorney for Intervenor-Petitioner
26 Old Town Community Association

BEFORE THE LAND USE BOARD OF APPEALS
OF THE STATE OF OREGON

RESTORE OREGON, BOSCO-MILLIGAN
FOUNDATION/ ARCHITECTURAL
HERITAGE CENTER, NIKKEI LEGACY
ENDOWMENT, PORTLAND
CHINATOWN MUSEUM and PEGGY G.
MORETTI,

Petitioners,

and

OLD TOWN COMMUNITY
ASSOCIATION,

Intervenor-Petitioners,

v.

CITY OF PORTLAND,

Respondent,

and

GUARDIAN REAL ESTATE SERVICES,
LLC,

Intervenor-Respondent.

OSB2LAN IVON, LLC, and HAITHEM
TOULAN,

Petitioners,

v.

CITY OF PORTLAND,

Respondent.

LUBA No. 2018-072; 2018-
0073/086; 2018-087 (Consolidated)

**MOTION FOR FURTHER
EXTENSION OF TIME TO FILE
RECORD, RECORD
OBJECTIONS, PETITIONS FOR
REVIEW, AND RESPONSE
BRIEFS**

Pursuant to OAR 661-10-0067(3), Respondent City of Portland respectfully
requests an order further extending the time for filing its consolidated record from
November 30, 2018, to and including, January 8, 2019. The basis for this request
remains the same as the previous two requests. That is, the City is working on

multiple LUBA appeals and the record materials are of significant length and require additional time to be organized and indexed. Attorneys for Petitioners and Intervenor-Respondent were contacted and do not object to this request.

As agreed to previously, the parties will have 21 days, until January 29, 2019 to file objections to the record. If no record objections are filed, the parties consent to extend the deadlines for filing Petitions for Review to February 5, 2019, and to March 5, 2019 for response briefs.

If record objections are filed, the deadline for filing the Petitions for Review will be 28 days from the date the record is settled. The Respondent and Intervenor-Respondent will have 56 days from the date the record is settled to file a response brief.

Furthermore, all parties agree that if the Respondent is prepared to file the record earlier than January 8, 2018, the Respondent will notify all parties one week prior to filing the record.

The proposed schedule for filing dates is as follows:

Record Due: January 8, 2019

Record Objections Due: January 29, 2019;

Petition for Review (No Record Objections): February 5, 2019;

Response Brief (No Record Objections): March 5, 2019;

Petition for Review (Record Objections): 28 days from date record is settled; and

Response Brief (Record Objections): 56 days from date record is settled.

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1 These extensions of time shall automatically extend all other time limits,
2 including an extension of time for issuance of the Board's final order.

3 DATED: November 30, 2018.

4
5 Respectfully submitted,

6
7 
8

9 Linly Rees, OSB No. 945098

10 Chief Deputy City Attorney

11 Email: linly.rees@portlandoregon.gov

12
13 **IT IS SO ORDERED**

14 This 4th day of December, 2018.

15
16 
17

18 BOARD MEMBER

CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing MOTION FOR EXTENSION OF TIME TO FILE RECORD, RECORD OBJECTIONS, PETITIONS FOR REVIEW, AND RESPONSE BRIEFS on:

DANIEL KEARNS
REEVE KEARNS PC
ATTORNEYS AT LAW
621 SW MORRISON ST., STE. 1225
PORTLAND, OR 97205
Attorney for Petitioners Restore Oregon, et al.

E. MICHAEL CONNORS
HATHAWAY LARSON
1331 NW LOVEJOY STREET, STE. 950
PORTLAND, OR 97209
Attorney for Petitioner OSB2LAN IVON, LLC, et al.

JEFFREY L. KLEINMAN
ATTORNEY AT LAW
1207 SW SIXTH AVENUE
PORTLAND, OR 97204
Attorney for Intervenor-Petitioners Old Town Community Association

TIMOTHY V. RAMIS
JORDAN RAMIS PC
TWO CENTERPOINTE DRIVE, 6TH FLOOR
LAKE OSWEGO, OR 97035
Attorney for Intervenor-Respondent Guardian Real Estate Services, LLC

on November 30, 2018, by mailing to said person(s) a correct copy thereof, contained in a sealed envelope, with postage paid, and deposited in the post office at Portland, Oregon on said day.

I further certify that on November 30, 2018, I filed the original and one copy of the MOTION FOR EXTENSION OF TIME TO FILE RECORD, RECORD OBJECTIONS, PETITIONS FOR REVIEW, AND RESPONSE BRIEFS with the:

LAND USE BOARD OF APPEALS
DSL BUILDING
775 SUMMER STREET NE, SUITE 330
SALEM, OR 97301-1283

by mailing said document, contained in a sealed envelope, with first class postage paid, and deposited with the post office at Portland, Oregon on said day.



LINLY REES, OSB # 945098
Chief Deputy City Attorney

Certificate of Mailing

I hereby certify that I served the foregoing Order for LUBA No. 2018-072/073/086/087 on December 4, 2018, by mailing to said parties or their attorney a true copy thereof contained in a sealed envelope with postage prepaid addressed to said parties or their attorney as follows:

Daniel Kearns
Reeve Kearns PC
621 SW Morrison Street Suite 510
Portland, OR 97205

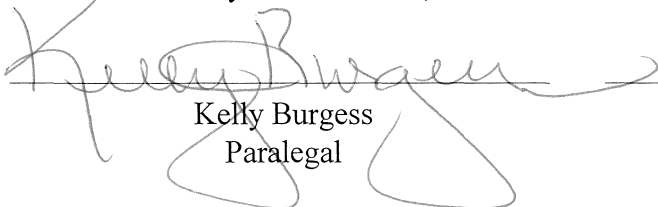
E. Michael Connors
Hathaway Larson LLP
1331 NW Lovejoy Street Suite 950
Portland, OR 97209

Jeffrey L. Kleinman
Attorney at Law
1207 SW Sixth Avenue
Portland, OR 97204

Linly F. Rees
Deputy City Attorney
City Attorney's Office
1221 SW 4th Avenue Suite 430
Portland, OR 97204

Timothy V. Ramis
Jordan Ramis PC
Two Centerpoint Drive 6th Floor
Lake Oswego, OR 97035

Dated this 4th day of December, 2018.



Kelly Burgess
Paralegal

Kristi Seyfried
Executive Support Specialist

BEFORE THE LAND USE BOARD OF APPEALS
OF THE STATE OF OREGON

RESTORE OREGON, BOSCO-MILLIGAN
FOUNDATION/ ARCHITECTURAL
HERITAGE CENTER, NIKKEI LEGACY
ENDOWMENT, PORTLAND
CHINATOWN MUSEUM and PEGGY G.
MORETTI,

and

OLD TOWN COMMUNITY
ASSOCIATION,

Intervenor-Petitioners,

v.

CITY OF PORTLAND,

Respondent,

and

GUARDIAN REAL ESTATE SERVICES,
LLC,

Intervenor-Respondent.

OSB2LAN IVON, LLC, and HAITHEM
TOULAN,

Petitioners,

v.

CITY OF PORTLAND,

Respondent.

LUBA No. 2018-072; 2018-
0073/086; 2018-087 (Consolidated)

**MOTION FOR FURTHER
EXTENSION OF TIME TO FILE
RECORD, RECORD
OBJECTIONS, PETITIONS FOR
REVIEW, AND RESPONSE
BRIEFS**

RECEIVED

OCT 30 2018

Land Use
Board of Appeals

Pursuant to OAR 661-10-0067(3), Respondent City of Portland respectfully
requests an order further extending the time for filing its consolidated record from
October 31, 2018, to and including, November 30, 2018. The basis for this request
remains the same as the first extension of time. That is, the City is working on

1 multiple LUBA appeals and the record materials are of significant length (an
2 estimated 75,000-100,000 pages) and require additional time to be organized and
3 indexed. Attorneys for Petitioners and Intervenor-Respondents were contacted and do not
4 object to this request.

5 As agreed to previously, the parties will have 21 days, until December 21,
6 2018 to file objections to the record. Pursuant to OAR 661-010-0067(2), due to
7 the potential conflicts with the holidays, the parties consent to extend the deadline
8 for filing Petitions for Review to 42 days, until January 11, 2019, if no record
9 objections are filed. The parties agree that the Respondent and Intervenor-
10 Respondent should have 84 days, until February 22, 2019, to file a response brief.

11 If record objections are filed, the previously agreed to timelines would
12 apply. The deadline for filing Petition for Review extends to 28 days from the date
13 the record is settled. The parties agree that the Respondent and Intervenor-
14 Respondent should also have 28 days from the date the record is settled to file a
15 response brief.

16 Furthermore, all parties agree that if the Respondent is prepared to file the
17 record earlier than November 30, 2018, the Respondent will notify all parties one
18 week prior to filing the record.

19 The proposed schedule for filing dates is as follows:

20 Record Due: November 30, 2018

21 Record Objections Due: December 21, 2018;

22 Petition for Review (No Record Objections): January 11, 2019;

23 Response Brief (No Record Objections): February 22, 2019;

24 Petition for Review (Record Objections): 28 days from date record is settled; and

25 Response Brief (Record Objections): 56 days from date record is settled.
26

1 These extensions of time shall automatically extend all other time limits,
2 including an extension of time for issuance of the Board's final order.

3 DATED: October 26, 2018.

5 Respectfully submitted,

7 
8

9 Lauren King, OSB No. 123632

10 Deputy City Attorney

11 Email: lauren.king@portlandoregon.gov

12
13 **IT IS SO ORDERED**

14 This 31 day of Oct, 2018.

15 
16

17 BOARD MEMBER

Certificate of Mailing

I hereby certify that I served the foregoing Order for LUBA No. 2018-072/073/086/087 on October 31, 2018, by mailing to said parties or their attorney a true copy thereof contained in a sealed envelope with postage prepaid addressed to said parties or their attorney as follows:

Daniel Kearns
Reeve Kearns PC
621 SW Morrison Street Suite 510
Portland, OR 97205

E. Michael Connors
Hathaway Larson LLP
1331 NW Lovejoy Street Suite 950
Portland, OR 97209

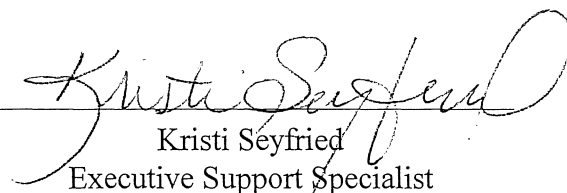
Jeffrey L. Kleinman
Attorney at Law
1207 SW Sixth Avenue
Portland, OR 97204

Linly F. Rees
Deputy City Attorney
City Attorney's Office
1221 SW 4th Avenue Suite 430
Portland, OR 97204

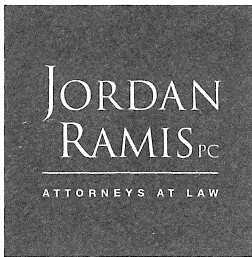
Timothy V. Ramis
Jordan Ramis PC
Two Centerpoint Drive 6th Floor
Lake Oswego, OR 97035

Dated this 31st day of October, 2018.

Kelly Burgess
Paralegal



Kristi Seyfried
Executive Support Specialist



Lake Oswego
Two Centerpointe Dr., 6th Floor
Lake Oswego, OR 97035
503-598-7070
www.jordanramis.com

Vancouver
1499 SE Tech Center Pl., #380
Vancouver, WA 98683
360-567-3900

Bend
360 SW Bond St., Suite 510
Bend, OR 97702
541-550-7900

August 28, 2018

Tod A. Basham
Land Use Board of Appeals
775 Summer St NE, Suite 330
Salem, OR 97301

08/30/18 am 10:57 LUBA

Re: *OSB2LAN Ivon, LLC, et al. v. City of Portland, et al.*
LUBA No. 2018-073/086/087

Dear Mr. Basham:

Thank you for the Order of August 2, 2018 regarding these appeals of Portland's Central City 2035 ordinances. My client Guardian Real Estate Services, LLC owns property within the New Chinatown/Japantown Historic District, and changes to the development standards for height and floor area ratio in portions of the district are the subject of the appeal filed by Petitioners Restore Oregon et al. (LUBA No. 2018-072) We promptly intervened in that appeal, and will continue to participate.

When OSB2LAN IVON, LLC filed their appeal of the same ordinance, we promptly intervened in that case as well. Subsequently, Mike Connors, the attorney for OSB2LAN IVON, LLC, advised us that his appeal regards property elsewhere in the Central City. Even though the two appeals are of the same omnibus ordinance(s), they have different subject matter, and Guardian Real Estate Services, LLC has no interest in the OSB2LAN IVON, LLC appeal. Therefore, in follow up to LUBA's Order on the Motions to Intervene, Guardian Real Estate Services, LLC submits the attached Notice of Withdrawal from the OSB2LAN IVON, LLC appeals.

Thank you for your assistance with these cases.

Sincerely,

JORDAN RAMIS PC

Timothy V. Ramis
Admitted in Oregon
tim.ramis@jordanramis.com
(503) 598-7070

Enclosures

cc w/encl: E. Michael Connors, Hathaway Larson
Linly Rees, City of Portland
Daniel Kearns, Reeve Kearns PC
Jeffrey L. Kleinman, Attorney at Law
Briana Murtaugh, Guardian Real Estate Services

BEFORE THE LAND USE BOARD OF APPEALS
FOR THE STATE OF OREGON

RESTORE OREGON, BOSCO-MILLIGAN FOUNDATION
ARCHITECTURAL HERITAGE CHECTER, NIKKEI LEGACY
ENDOWMENT, PORTLAND CHINATOWN MUSEUM, and PEGGY G.
MORETTI,
Petitioners,

v.

OLD TON COMMUNITY ASSOCIATION,
Intervenor-Petitioner,

CITY OF PORTLAND,
Respondent,

GUARDIAN REAL ESTATE SERVICES, LLC,
Intervenor-Respondent.

LUBA No. 2018-072

OSB2LAN IVON, LLC and HAITHEM TOULAN,
Petitioners,

v.

CITY OF PORTLAND,
Respondent,

GUARDIAN REAL ESTATE SERVICES, LLC,
Intervenor-Respondent.

LUBA No. 2018-073/086/087

NOTICE OF WITHDRAWAL

1 Intervenor-respondent Guardian Real Estate Services, LLC hereby
2 withdraws from LUBA Nos. 2018-073/086/087.

3 Dated this 28th day of August, 2018.

4 JORDAN RAMIS PC
5 Attorneys for Intervenor-Respondent
6 Guardian Real Estate Services, LLC

7 By: 
8 Timothy V. Ramis, OSB # 753110
9 tim.ramis@jordanramis.com
10
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CERTIFICATE OF FILING AND SERVICE

I hereby certify that on the date shown below, I filed the original and one (1) copy of the foregoing **Notice of Withdrawal** by first class mail, postage prepaid, on:

Oregon Land Use Board of Appeals
DSL Building
775 Summer Street NE, Suite 330
Salem OR 97301

I further hereby certify that on the date shown below, I served a true and correct copy of the foregoing **Notice of Withdrawal** by first class mail, postage prepaid, on:

E. Michael Connors
Hathaway Larson
1331 NW Lovejoy St, Ste 950
Portland, OR 97209
Attorney for Petitioner OSB2LAN
IVON, LLC, et al.

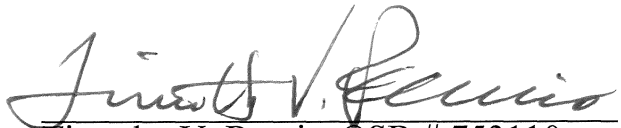
Daniel Kearns
Reeve Kearns PC
621 SW Morrison St Ste 510
Portland OR 97205
Attorney for Petitioner Restore
Oregon, et al.

Jeffrey L. Kleinman
Attorney at Law
1207 SW Sixth Ave
Portland OR 97204
Attorney for Intervenor-Petitioners
Old Town Community Association

Linly Rees
Portland Office of City Attorney
1221 SW Fourth Avenue, Suite 430
Portland, OR 97204
Attorney for Respondent City of
Portland

☒ by first class mail, postage prepaid.

DATED: August 28, 2018.


Timothy V. Ramis, OSB # 753110
Attorney for Intervenor-
Respondent Guardian Real Estate
Services, LLC

BEFORE THE LAND USE BOARD OF APPEALS
OF THE STATE OF OREGON

RESTORE OREGON, BOSCO-MILLIGAN
FOUNDATION/ ARCHITECTURAL
HERITAGE CENTER, NIKKEI LEGACY
ENDOWMENT, PORTLAND
CHINATOWN MUSEUM and PEGGY G.
MORETTI,

and

OLD TOWN COMMUNITY
ASSOCIATION,

Intervenor-Petitioners,

v.

CITY OF PORTLAND,

Respondent,

and

GUARDIAN REAL ESTATE SERVICES,
LLC,

Intervenor-Respondent.

OSB2LAN IVON, LLC, and HAITHAM
TOULAN,

Petitioners,

v.

CITY OF PORTLAND,

Respondent,

and

GUARDIAN REAL ESTATE SERVICES,
LLC,

Intervenor-Respondent.

LUBA No. 2018-072/073/086/087
(Consolidated)

**MOTION FOR EXTENSION OF
TIME TO FILE RECORD,
RECORD OBJECTIONS,
PETITIONS FOR REVIEW, AND
RESPONSE BRIEFS**

08/23/18 AM 11:22 LUBA

Pursuant to OAR 661-10-0067(3), Respondent City of Portland respectfully requests an order extending the time for filing its consolidated record from August 23, 2018, to and including, October 31, 2018. The basis for this request is that the record materials are of significant length (an estimated 75,000-100,000 pages) and will require extensive time to be organized and indexed. Attorneys for Petitioners and Intervenors were contacted and do not object to this request.

All parties agree that due to the length of the record, the parties will have 21 days, until November 21, 2018, to file objections to the record. Pursuant to OAR 661-010-0067(2), the parties consent to extend the deadline for filing Petitions for Review to November 28, 2018. *See* Exhibits 1-4. The parties agree that the Respondent and Intervenor-Respondent should also have 28 days, until December 26, 2018, to file a response brief.

All parties agree that, if there are record objections, once the record is settled, the time for filing briefs is extended from 21 days to 28 days. Furthermore, all parties agree that if the Respondent is prepared to file the record earlier than October 31, the Respondent will notify all parties one week prior to filing the record.

The proposed schedule for filing dates is as follows:

Record Due: Wednesday, October 31, 2018;

Record Objections Due: Wednesday, November 21, 2018;

Petition for Review (No Record Objections): Wednesday, November 28, 2018;

Response Brief (No Record Objections): Wednesday, December 26, 2018;

Petition for Review (Record Objections): 28 days from date record is settled; and

Response Brief (Record Objections): 56 days from date record is settled.

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These extensions of time shall automatically extend all other time limits, including an extension of time for issuance of the Board's final order.

DATED: August 22, 2018.

Respectfully submitted,


 Linly Rees, OSB No. 945098
 Chief Deputy City Attorney
 Email: linly.rees@portlandoregon.gov

IT IS SO ORDERED

This 23rd day of August, 2018.

BOARD MEMBER

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I served the foregoing MOTION FOR EXTENSION OF
3 TIME TO FILE RECORD, RECORD OBJECTIONS, PETITIONS FOR
4 REVIEW, AND RESPONSE BRIEFS on:

5 DANIEL KEARNS
6 REEVE KEARNS PC
7 ATTORNEYS AT LAW
8 621 SW MORRISON ST., STE. 1225
9 PORTLAND, OR 97205
10 *Attorney for Petitioners Restore*
11 *Oregon, et al.*

E. MICHAEL CONNORS
HATHAWAY LARSON
1331 NW LOVEJOY STREET, STE. 950
PORTLAND, OR 97209
Attorney for Petitioner OSB2LAN
IVON, LLC, et al.

9 JEFFREY L. KLEINMAN
10 ATTORNEY AT LAW
11 1207 SW SIXTH AVENUE
12 PORTLAND, OR 97204
13 *Attorney for Intervenor-Petitioners*
14 *Old Town Community Association*


TIMOTHY V. RAMIS
JORDAN RAMIS PC
TWO CENTERPOINTE DRIVE, 6TH
FLOOR
LAKE OSWEGO, OR 97035
Attorney for Intervenor-Respondent
Guardian Real Estate Services, LLC

13 on August 22, 2018, by mailing to said person(s) a correct copy thereof, contained
14 in a sealed envelope, with postage paid, and deposited in the post office at
15 Portland, Oregon on said day.

16 I further certify that on August 22, 2018, I filed the original and one copy of
17 the MOTION FOR EXTENSION OF TIME TO FILE RECORD, RECORD
18 OBJECTIONS, PETITIONS FOR REVIEW, AND RESPONSE BRIEFS with the:

19 LAND USE BOARD OF APPEALS
20 DSL BUILDING
21 775 SUMMER STREET NE, SUITE 330
22 SALEM, OR 97301-1283

22 by mailing said document, contained in a sealed envelope, with first class postage
23 paid, and deposited with the post office at Portland, Oregon on said day.

24
25 
26 LINLY REES, OSB #945098
Chief Deputy City Attorney

From: Kleinmanjl <kleinmanjl@aol.com>
Sent: Wednesday, August 15, 2018 3:27 PM
To: King, Lauren; Tim.Ramis@jordanramis.com; mike@hathawaylarson.com; dan@reevekearns.com
Cc: Rees, Linly; McCoppen, Allison
Subject: Re: Restore Oregon et al v. City of Portland (LUBA Nos 2018-072/073/086/087) Extension of time to file record

Hi Lauren,

My client, intervenor Old Town Community Association, has no objection to your proposed scheduling.

Jeffrey L. Kleinman
Attorney at Law
The Ambassador
1207 SW Sixth Avenue
Portland, OR 97204
Tel (503) 248-0808
Fax (503) 228-4529

In a message dated 8/15/2018 2:18:38 PM Pacific Standard Time, Lauren.King@portlandoregon.gov writes:

Good Afternoon,

As I discussed in the voicemail that I left each of you, the Central City record is extremely large. We will prepare the record as expeditiously as possible. At this time, we believe that we will need until October 31, 2018 to file the record.

If the record is complete earlier than October 31, the City will give all parties one week notice prior to filing the record. Additionally, due to the size of the record, the City agrees to give all parties a one-week extension to review the record—21 days to review the record and 28 days from record submission to file the petitioners' briefs. Likewise, the respondents will have 28 days from petitioners' filing to file respondents' briefs.

I would appreciate it if you would let me know by Tuesday, August 21, 2018 whether or not you object to the extension so that I can file the motion in a timely manner.

Lastly, please include both Linly Rees and me on any correspondence related to this appeal.

Exhibit 1
Page 1 of 2

Thank you,

LAUREN A. KING | Deputy City Attorney (She/Her)

PORTLAND OFFICE OF THE CITY ATTORNEY

1221 SW Fourth Avenue, Room 430

Portland, OR 97204

Voice: 503-823-3069 | Fax: 503-823-3089

lauren.king@portlandoregon.gov

***Equal Access Notice:** The City of Portland operates without regard to race, color, national origin, religion, sex, sexual orientation, gender identity, marital status, age or disability according to all applicable non-discrimination laws, Title VI of the Civil Rights Act, and Title II of the ADA. To help ensure equal access to City services, the City will provide translation and interpretation and will reasonably modify policies or procedures and provide auxiliary aids or services to persons with disabilities. For such requests please click [here](#) or call (503) 823-4047, TTY 503-823-6868 or Oregon Relay Service: 711.*

***Portland City Attorney Confidentiality Notice:** This message may contain confidential or legally privileged information belonging to the sender. If you have received this message by mistake, please immediately notify the sender, delete the original message, and destroy all copies.*

From: Daniel Kearns <dan@reevekearns.com>
Sent: Wednesday, August 15, 2018 4:16 PM
To: King, Lauren; Tim Ramis; Kleinmanjl; mike@hathawaylarson.com
Cc: Rees, Linly; McCoppen, Allison; Peggy Moretti
Subject: Re: Restore Oregon et al v. City of Portland (LUBA Nos 2018-072/073/086/087) Extension of time to file record

Lauren: Thanks for the clarification. Petitioners hereby agree/consent to the schedule you propose.

Daniel Kearns

REEVE KEARNS PC
621 SW Morrison Street
Suite 510
Portland, OR 97205
Telephone: (503) 997-6032

Voice Mail: (503) 225-1127

CONFIDENTIALITY NOTE: This e-mail message from the law offices of REEVE KEARNS PC is for the sole use of the intended recipient or recipients and may contain confidential and privileged information. Any unauthorized review, use, disclosure, distribution or other dissemination of this e-mail message and/or the information contained therein is strictly prohibited. If you are not the intended recipient of this e-mail message, please contact the sender by reply e-mail and destroy all copies of the original message. Thank you.

From: <King>, Lauren <Lauren.King@portlandoregon.gov>
Date: Wednesday, August 15, 2018 at 2:18 PM
To: Timothy Ramis <tim.ramis@jordanramis.com>, Jeffrey Kleinman <kleinmanjl@aol.com>, "mike@hathawaylarson.com" <mike@hathawaylarson.com>, Daniel Kearns <dan@reevekearns.com>
Cc: "Rees, Linly" <Linly.Rees@portlandoregon.gov>, "McCoppen, Allison" <Allison.McCoppen@portlandoregon.gov>
Subject: Restore Oregon et al v. City of Portland (LUBA Nos 2018-072/073/086/087) Extension of time to file record

Good Afternoon,

As I discussed in the voicemail that I left each of you, the Central City record is extremely large. We will prepare the record as expeditiously as possible. At this time, we believe that we will need until October 31, 2018 to file the record.

If the record is complete earlier than October 31, the City will give all parties one week notice prior to filing the record. Additionally, due to the size of the record, the City agrees to give all parties a one-week extension to review the record—21 days to review the record and 28 days from record submission to file the petitioners' briefs. Likewise, the respondents will have 28 days from petitioners' filing to file respondents' briefs.

I would appreciate it if you would let me know by Tuesday, August 21, 2018 whether or not you object to the extension so that I can file the motion in a timely manner.

Lastly, please include both Linly Rees and me on any correspondence related to this appeal.

Thank you,

LAUREN A. KING | Deputy City Attorney (She/Her)
PORTLAND OFFICE OF THE CITY ATTORNEY
1221 SW Fourth Avenue, Room 430
Portland, OR 97204
Voice: 503-823-3069 | Fax: 503-823-3089
lauren.king@portlandoregon.gov

***Equal Access Notice:** The City of Portland operates without regard to race, color, national origin, religion, sex, sexual orientation, gender identity, marital status, age or disability according to all applicable non-discrimination laws, Title VI of the Civil Rights Act, and Title II of the ADA. To help ensure equal access to City services, the City will provide translation and interpretation and will reasonably modify policies or procedures and provide auxiliary aids or services to persons with disabilities. For such requests please click [here](#) or call (503) 823-4047, TTY 503-823-6868 or Oregon Relay Service: 711.*

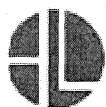
***Portland City Attorney Confidentiality Notice:** This message may contain confidential or legally privileged information belonging to the sender. If you have received this message by mistake, please immediately notify the sender, delete the original message, and destroy all copies.*

From: Mike Connors <mike@hathawaylarson.com>
Sent: Thursday, August 16, 2018 10:10 AM
To: King, Lauren; Tim Ramis; Kleinmanjl; dan@reevekearns.com
Cc: Rees, Linly; McCoppen, Allison
Subject: RE: Restore Oregon et al v. City of Portland (LUBA Nos 2018-072/073/086/087) Extension of time to file record

Lauren,

Thanks for sending the email. Petitioners OSB2LAN IVON, LLC and Haithem Toulam have no objection to the City's extension request subject to the conditions set forth in your email. Please let me know if you need anything else from me for the extension. Thanks, Mike

E. Michael Connors
Partner



Hathaway Larson LLP
1331 NW Lovejoy St., Suite 950
Portland, OR 97209
503-303-3111 (Direct)
503-303-3101 (Main)
503-781-0280 (Cell)
503-205-8406 (Fax)
Email: mike@hathawaylarson.com
Website: www.hathawaylarson.com

Named as one of "America's Leading Lawyers for Business" (Oregon)
by *Chambers USA* in Real Estate: Zoning/Land Use
Selected to "Oregon Super Lawyers" in Land Use/Zoning
Selected to "Best Lawyers in America" in Land Use/Zoning Law



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From: King, Lauren [mailto:Lauren.King@portlandoregon.gov]
Sent: Wednesday, August 15, 2018 2:19 PM
To: Tim Ramis <Tim.Ramis@jordanramis.com>; Kleinmanjl <kleinmanjl@aol.com>; Mike Connors <mike@hathawaylarson.com>; dan@reevekearns.com
Cc: Rees, Linly <Linly.Rees@portlandoregon.gov>; McCoppen, Allison <Allison.McCoppen@portlandoregon.gov>
Subject: Restore Oregon et al v. City of Portland (LUBA Nos 2018-072/073/086/087) Extension of time to file record

Exhibit 3
Page 1 of 2

Good Afternoon,

As I discussed in the voicemail that I left each of you, the Central City record is extremely large. We will prepare the record as expeditiously as possible. At this time, we believe that we will need until October 31, 2018 to file the record.

If the record is complete earlier than October 31, the City will give all parties one week notice prior to filing the record. Additionally, due to the size of the record, the City agrees to give all parties a one-week extension to review the record—21 days to review the record and 28 days from record submission to file the petitioners' briefs. Likewise, the respondents will have 28 days from petitioners' filing to file respondents' briefs.

I would appreciate it if you would let me know by Tuesday, August 21, 2018 whether or not you object to the extension so that I can file the motion in a timely manner.

Lastly, please include both Linly Rees and me on any correspondence related to this appeal.

Thank you,

LAUREN A. KING | Deputy City Attorney (She/Her)
PORTLAND OFFICE OF THE CITY ATTORNEY
1221 SW Fourth Avenue, Room 430
Portland, OR 97204
Voice: 503-823-3069 | Fax: 503-823-3089
lauren.king@portlandoregon.gov

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***Portland City Attorney Confidentiality Notice:** This message may contain confidential or legally privileged information belonging to the sender. If you have received this message by mistake, please immediately notify the sender, delete the original message, and destroy all copies.*

From: Tim Ramis <Tim.Ramis@jordanramis.com>
Sent: Thursday, August 16, 2018 10:14 AM
To: King, Lauren; Kleinmanjl; mike@hathawaylarson.com; dan@reevekearns.com
Cc: Rees, Linly; McCoppen, Allison
Subject: RE: Restore Oregon et al v. City of Portland (LUBA Nos 2018-072/073/086/087) Extension of time to file record

No objection from Guardian. Tim

From: King, Lauren <Lauren.King@portlandoregon.gov>
Sent: Wednesday, August 15, 2018 2:19 PM
To: Tim Ramis <Tim.Ramis@jordanramis.com>; Kleinmanjl <kleinmanjl@aol.com>; mike@hathawaylarson.com; dan@reevekearns.com
Cc: Rees, Linly <Linly.Rees@portlandoregon.gov>; McCoppen, Allison <Allison.McCoppen@portlandoregon.gov>
Subject: Restore Oregon et al v. City of Portland (LUBA Nos 2018-072/073/086/087) Extension of time to file record

Good Afternoon,

As I discussed in the voicemail that I left each of you, the Central City record is extremely large. We will prepare the record as expeditiously as possible. At this time, we believe that we will need until October 31, 2018 to file the record.

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I would appreciate it if you would let me know by Tuesday, August 21, 2018 whether or not you object to the extension so that I can file the motion in a timely manner.

Lastly, please include both Linly Rees and me on any correspondence related to this appeal.

Thank you,

LAUREN A. KING | Deputy City Attorney (She/Her)
PORTLAND OFFICE OF THE CITY ATTORNEY
1221 SW Fourth Avenue, Room 430
Portland, OR 97204
Voice: 503-823-3069 | Fax: 503-823-3089
lauren.king@portlandoregon.gov

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Certificate of Mailing

I hereby certify that I served the foregoing Order for LUBA No. 2018-072/073/086/087 on August 23, 2018, by mailing to said parties or their attorney a true copy thereof contained in a sealed envelope with postage prepaid addressed to said parties or their attorney as follows:

Daniel Kearns
Reeve Kearns PC
621 SW Morrison Street Suite 510
Portland, OR 97205

E. Michael Connors
Hathaway Larson LLP
1331 NW Lovejoy Street Suite 950
Portland, OR 97209

Jeffrey L. Kleinman
Attorney at Law
1207 SW Sixth Avenue
Portland, OR 97204

Linly F. Rees
Deputy City Attorney
City Attorney's Office
1221 SW 4th Avenue Suite 430
Portland, OR 97204

Timothy V. Ramis
Jordan Ramis PC
Two Centerpoint Drive 6th Floor
Lake Oswego, OR 97035

Dated this 23rd day of August, 2018.

Kelly Burgess
Paralegal



Kristi Seyfried
Executive Support Specialist

1 BEFORE THE LAND USE BOARD OF APPEALS
2 OF THE STATE OF OREGON
3

4 RESTORE OREGON,
5 BOSCO-MILLIGAN FOUNDATION
6 ARCHITECTURAL HERITAGE CENTER,
7 NIKKEI LEGACY ENDOWMENT,
8 PORTLAND CHINATOWN MUSEUM,
9 and PEGGY G. MORETTI,
10 *Petitioners,*
11

12 vs.
13

14 CITY OF PORTLAND,
15 *Respondent.*

08/02/18 AM 8:51 LUBA

16
17 LUBA No. 2018-072
18

19 OSB2LAN IVON, LLC
20 and HAITHEM TOULAN,
21 *Petitioners,*
22

23 vs.
24

25 CITY OF PORTLAND,
26 *Respondent.*
27

28 LUBA No. 2018-073/086/087
29

30 ORDER

31 **NOTICES OF INTENT TO APPEAL**

32 Four notices of intent to appeal have been filed in these proceedings. In
33 a previous order the Board consolidated LUBA No. 2018-072, which appeals
34 Ordinance 189000, with LUBA No. 2018-073, which also appeals Ordinance

1 189000. However, LUBA No. 2018-073 also identified four other related
2 decisions as possible subjects of the appeal.

3 In an order dated July 17, 2018, the Board suspended the deadline for
4 filing the record and ordered the petitioners in LUBA No. 2018-073OSB2LAN
5 IVON, LLC and Haithem Toulou (petitioners), to clarify which city decisions
6 they wished to appeal and to file separate notices of intent to appeal for each
7 decision. Subsequently, petitioners filed two notices of intent to appeal, which
8 have been assigned LUBA Nos. 2018-086 and 2018-087. The subject of
9 LUBA No. 2018-086 is Ordinance 18900. The subject of LUBA No. 2018-087
10 is a closely related decision, Ordinance 189002.

11 To summarize:

- 12 • LUBA No. 2018-072 appeals Ordinance 189000.
- 13 • LUBA Nos. 2018-073 and 2018-086 appeal Ordinance 189000.
- 14 • LUBA No. 2018-087 appeals Ordinance 189002.

15 Pursuant to OAR 661-010-0055, the foregoing appeals are hereby
16 consolidated for purposes of LUBA's review. The city shall submit a single
17 consolidated record for all appeals, although the city may request permission to
18 submit separate records in LUBA Nos. 2018-072/073/086 (Ordinance 189000)
19 and LUBA No. 2018-087 (Ordinance 189002). The consolidated record(s) are
20 due 21 days from the date of this order.

1 **MOTIONS TO INTERVENE**

2 Old Town Community Association moves to intervene on the side of
3 petitioners in LUBA No. 2018-072. There is no opposition to the motion and it
4 is granted. Note that pursuant to OAR 661-010-0050(4) intervention in one
5 appeal that is consolidated with other appeals does not constitute intervention
6 in the other appeals.

7 Guardian Real Estate Services, LLC, filed separate motions to intervene
8 on the side of the city in LUBA Nos. 2018-072 and 2018-073. There is no
9 opposition to either motion and they are granted. Because LUBA No. 2018-
10 073 and LUBA No. 2018-086 are essentially duplicate appeals of the same
11 decision, the Board will consider that Guardian's motion to intervene in LUBA
12 No. 2018-073 is also effective for LUBA No. 2018-086. If Guardian (or any
13 other party) wishes to intervene in LUBA No. 2018-087, a timely motion to
14 intervene must be separately filed in that appeal. OAR 660-010-0050(4).

15 Dated this 2nd day of August, 2018.

16 
17
18
19

20 _____
21 Tod A. Bassham
 Board Member

Certificate of Mailing

I hereby certify that I served the foregoing Order for LUBA No. 2018-072/073/086/087 on August 2, 2018, by mailing to said parties or their attorney a true copy thereof contained in a sealed envelope with postage prepaid addressed to said parties or their attorney as follows:

Daniel Kearns
Reeve Kearns PC
621 SW Morrison Street Suite 510
Portland, OR 97205

E. Michael Connors
Hathaway Larson LLP
1331 NW Lovejoy Street Suite 950
Portland, OR 97209


Jeffrey L. Kleinman
Attorney at Law
1207 SW Sixth Avenue
Portland, OR 97204

Timothy V. Ramis
Jordan Ramis PC
Two Centerpoint Drive 6th Floor
Lake Oswego, OR 97035

Tracy Pool Reeve
Portland Office of City Attorney
1221 SW Fourth Avenue, Suite 430
Portland, OR 97204

Dated this 2nd day of August, 2018.

Kelly Burgess
Paralegal



Kristi Seyfried
Executive Support Specialist



Oregon

Kate Brown, Governor

Land Use Board of Appeals

775 Summer Street NE, Suite 330

Salem, OR 97301-1283

(503) 373-1265

July 26, 2018

Tracy Pool Reeve
Portland Office of City Attorney
1221 SW Fourth Avenue, Suite 430
Portland, OR 97204

RE: OSB2LAN Ivon LLC et al v. City of Portland
LUBA No. 2018-087 (Ordinance No. 189002)


This is to advise you that a Notice of Intent to Appeal was sent certified mail on July 24, 2018 and received by the Board on July 26, 2018, in the above matter and that OAR 661-010-0015 requires that service of the notice of intent to appeal be made upon the respondent within 21 days after the date of the land use decision being appealed.

A copy of the record is to be prepared by respondent and transmitted to the Board within 21 days of the date of such service. Enclosed is a summary of the specifications for preparation of the record as set out in OAR 661-010-0025(4).

If the decision being appealed is on remand from LUBA and the record on remand incorporates the original record, you will need to refile a copy of the original record as we no longer maintain records from closed appeals.

Attached to this letter is a notice of the option to seek mediation in this matter.

Very truly yours,



Kelly Burgess
Paralegal

Enclosures

cc: E. Michael Connors





HATHAWAY LARSON

Koback · Connors · Heth

07/26/18 PM12:24 LUBA

July 24, 2018

CERTIFIED MAIL RETURN RECEIPT

Kelly Burgess, Paralegal
Land Use Board of Appeals
775 Summer Street NE, Suite 330
Salem, OR 97301-1283

Re: OSB2LAN IVON, LLC and Haithem Toulou v. City of Portland

Dear Kelly:

In response to the LUBA Order, dated July 17, 2018, in LUBA Nos. 2018-72/73, enclosed for filing are an original and two copies each of two new Notice of Intents to Appeal with regard to the above-referenced matter, appealing Ordinances 189000 and 189002 respectively. Also, enclosed are two checks, payable to the Land Use Board of Appeals, in the amount of \$400 each for the filing fees and costs.

Thank you for your consideration.

Very truly yours,

HATHAWAY LARSON LLP

E. Michael Connors

EMC/pl

Enclosures

cc: Tracy Pool Reeve, City Attorney (*w/ encl. via certified mail, return receipt*)
City of Portland, Bureau of Planning and Sustainability (*w/ encl. via certified mail, return receipt*)

E. Michael Connors
1331 NW Lovejoy Street, Suite 950
Portland, OR 97209
mike@hathawaylarson.com
(503) 303-3111 direct
(503) 303-3101 main

LUBA Record001178

BEFORE THE LAND USE BOARD OF APPEALS

OF THE STATE OF OREGON

07/26/18 PM12:24 LUBA

**OSB2LAN IVON, LLC and
HAITHEM TOULAN,**

Petitioners,

vs.

CITY OF PORTLAND,

Respondent.

LUBA No. 2018-087

NOTICE OF INTENT TO APPEAL

I.

Pursuant to the LUBA Order, dated July 17, 2018, in LUBA Nos. 2018-72/73 and OAR 661-010-0015(1)(d), NOTICE IS HEREBY GIVEN that Petitioners OSB2LAN IVON, LLC and Haithem Toulouan ("Petitioners") intend to appeal the land use decision of Respondent City of Portland ("Respondent") entitled Ordinance No. 189002 ("Adopt the Central City 2035 Plan, Volume 2A, Part 3, Environmental and Scenic: amend the Portland Zoning Map, and Portland Zoning Codes for Environmental Overlay Zones, and Scenic Resources, and amend the Scenic Resources Protection Plan (Ordinance; amend Code Chapters 33.430 and 480)", which became final on June 6, 2018. A copy of Respondent's notice of decision is attached as Exhibit "A".

II.

Petitioners are represented by:

E. Michael Connors, OSB # 954956
Hathaway Larson LLP
1331 NW Lovejoy Street, Ste. 950
Portland, OR 97209
Telephone: (503) 303-3101

III.

Respondent is the governing body, and has as its mailing address and
telephone number:

City of Portland
Bureau of Planning and Sustainability
1900 SW 4th Avenue, Ste. 7100
Portland, OR 97201
Telephone: (503) 823-7700

and has as its legal counsel:

Tracy Pool Reeve, City Attorney
City of Portland
1221 SW 4th Avenue, Suite 430
Portland, OR 97204
Telephone: (503) 823-4047

IV.

The challenged decision was a legislative action, for which there was no
applicant. Respondent's records indicate the following were sent notice of the
challenged decision and/or served our office with their motions to intervene in
LUBA Nos. 2018-072/073:

Oregon Dept. of Land Conservation and Development 635 Capitol St. NE, Suite 150 Salem, OR 97301-2540	MadAve LLC, ConDa LLC & David Leikin c/o Carrie Richter Bateman Seidel 888 SW 5th Avenue, Suite 1250 Portland, OR 97204
Unico Properties, LLC c/o Dana Krawczuk Stoel Rives 760 SW 9th Avenue, Suite 3000 Portland, OR 97205	Restore Oregon et al c/o Daniel Kearns Reeve Kearns, PC 621 SW Morrison Street, Ste. 510 Portland, OR 97205
Old Town Community Association Jeffrey L. Kleinman c/p 1207 SW Sixth Avenue Portland, OR 97204	Guardian Real Estate Services, LLC c/o Timothy V. Ramis Jordan Ramis PC Two Centerpointe Drive, 6 th Floor Lake Oswego, OR 97035

NOTICE:

Anyone designated in Paragraph IV of this Notice who desires to participate as a party in this case before the Land Use Board of Appeals must file with the Board a motion to intervene in this proceeding as required by OAR 661-10-0050.

DATED this 24th day of July, 2018.

HATHAWAY LARSON LLP

By: E. Michael Connors
E. Michael Connors, OSB # 954956
Of Attorneys for Petitioner

SUBSTITUTE

189002

ORDINANCE No.

Adopt the Central City 2035 Plan, Volume 2A, Part 3, Environmental and Scenic: amend the Portland Zoning Map, and Portland Zoning Codes for Environmental Overlay Zones, and Scenic Resources, and amend the Scenic Resources Protection Plan (Ordinance; amend Code Chapters 33.430 and 480)

The City of Portland Ordains:

Section 1. The Council finds:

1. In 1974, the State of Oregon adopted two statewide planning goals that require the protection of scenic resources; State Goal 7, Recreational Needs and State Goal 5, Open Spaces, Scenic and History Areas, and Natural Resources. State Goal 7 requires jurisdictions to satisfy the recreational needs of citizen of the state and visitors. Recreational opportunities include scenic landscapes and scenic roads and travelways. State Goal 5 requires jurisdictions to conserve open space and protection natural and scenic resources.
2. In 1979, scenic resources were first designated and protected through building height limits as part of the implementation of the *Downtown Plan*. (The *Downtown Plan* was adopted as a policy statement to guide public and private decision-making in the Downtown area; adopted by Motion on agenda item 3958, December 28, 1972). Additional scenic resources were identified and protected through the adoption of area plans between 1979 and 1988.
3. In 1980, Portland's first *Comprehensive Plan* was adopted by the Portland City Council and was acknowledged as complying with Oregon's Statewide Planning Goals by the Land Conservation and Development Commission (LCDC) in May 1981. The 1980 *Comprehensive Plan* was again deemed in compliance with the Statewide Planning Goals at the conclusion of Portland's first Periodic Review in January 2000. The 1980 plan was also incrementally updated by post-acknowledgement plan amendments through November 2011. In June 2016, as part of Task IV of Portland's second Periodic Review, the Portland City Council completely replaced the 1980 plan by the adoption of Portland's new *2035 Comprehensive Plan*, but delayed the effective date of the new plan to allow the LCDC sufficient time to review and acknowledge the new plan. During the delay between adoption and effect dates, the 1980 plan continued to serve as the City's comprehensive plan. Portland's *2035 Comprehensive Plan* became effective on May 24, 2018. Because this ordinance is adopted after the effective date of the *2035 Comprehensive Plan*, its provisions are gauged against the applicable provisions of the *2035 Comprehensive Plan* not the 1980 Comprehensive Plan.
4. In 1991, the Portland City Council adopted the Scenic Resources Protection Plan (SRPP), which consolidated scenic resource designations and protection from previous plans, and updated the citywide inventory of scenic resources (Ordinance No. 163957, 1991). The SRPP implemented new zoning codes (Code Chapter 33.480) to protect designated scenic resources. The SRPP also amended the environmental zoning codes (Code Chapter 33.430)

to allow for scenic resource management when the scenic and environmental resources overlap.

5. The SRPP includes an inventory of scenic resources and an Economic, Social, Environmental and Energy Analysis (ESEE) as required by OAR 660-16-000 through 660-16-025. The Department of Land Conservation and Development found the SRPP to be in compliance with Oregon State Land Use Goal 5, Open Spaces, Scenic and History Areas, and Natural Resources.
6. The SRPP Economic, Social, Environmental and Energy Analysis (ESEE) recommendations are to prohibit and limit conflicting uses. Vegetation, when it grows and blocks a view, is a conflicting use. The SRPP ESEE recommendations intended that within designated viewpoints and views, vegetation should be limited or prohibited to protect the view. Code Chapter 33.430, Environmental Overlay Zones, has an exemption for tree and vegetation removal within a viewpoint and requires review for removal of trees and vegetation within a view corridor.
7. The scenic (s) overlay zones were removed from the official zoning maps where the scenic (s) overlay zones overlapped as the environmental conservation (c) or protection (p) overlay zones through area-specific natural resources protection plans. This was done because language in zoning code 33.430, Environmental Overlay Zones, requires that scenic resources be considered as part of an environmental review. The zoning code relied on the SRPP to show where scenic resources are relevant.
8. Since 1991, vegetation and trees have grown and partially or fully block view corridors that are designated in the SRPP and are within conservation or protection overlay zones. Removal of the vegetation or trees within a view corridor requires an environmental review. Adding the scenic (s) overlay zones back to the maps where the view corridors overlap with conservation (c) or protection (p) overlay zones and creating a new standard that allows for removal of vegetation and trees, along with required mitigation, within the scenic (s) overlay zone will meet the legislative intent of the SRPP.
9. Reapplication of the scenic (s) overlay zones and creation of a vegetation and tree removal standard was proposed as part of the Central City 2035 Plan. The problem of trees blocking view corridors was first identified during development of the *Central City Scenic Resources Protection Plan*, which is an update to the SRPP for the Central City (SRPP remains in effect outside of the Central City). Public involvement has been an integral part of the Central City 2035 planning process. The public involvement process is summarized in CC2035 Plan, Volume 6, Public Involvement, attached as Exhibit F.
10. On June 20, 2016, BPS staff released the *Central City 2035 Proposed Draft* report, which included the proposed scenic (s) overlay zone map and the proposed zoning code amendments to Code Chapter 33.430, Environmental Overlay Zones, and Code Chapter 33.480, Scenic Resources. Code Chapter 33.480 applies to all scenic resources in Portland. Code Chapter 33.430 generally applies to scenic resources outside of the Central City. However, there is some overlap between scenic resources that are within the Central City

and the environmental overlay zones. Specifically, the regulations of Code Chapter 33.430, Environmental Overlay Zones, apply to viewpoints and view corridors within the Viewpoint Boundary but outside of the Central City Boundary, as shown in Map 1 on page 6 of the *Central City Scenic Resources Protection Plan, Part 1: Summary, Results and Implementation*, attached as Exhibit C. Scenic resources in the Central City are addressed in a separate ordinance.

11. On June 24, 2016, notice of the *Central City 2035 Plan Proposed Draft* and Planning and Sustainability Commission hearing were sent to all property owners potentially affected by proposed zoning map and code changes, as required by ORS 227.186. The draft plan included draft Code Chapter 33.480, Scenic Resources and Chapter 33.430, Environmental Overlay Zones (Volume 2A, Part 3), and *Central City Scenic Resources Protection Plan* (Volume 3A, Part 1-3).
12. On July 26, 2016 and August 9, 2016, the Planning and Sustainability Commission (PSC) held a hearing on the Proposed Draft. Staff from the Bureau of Planning and Sustainability presented the proposal and public testimony was received.
13. The PSC held work sessions between September 2016 and May 2017. Scenic resources were discussed at the work session held on September 27, 2016 and February 14, 2017.
14. On May 5, 2017, BPS staff released the *Central City 2035: Revised Staff-Proposed Draft*. This draft updated the previous draft to address issues brought up during the PSC work sessions.
15. On May 23, 2017, the PSC held a final work session and voted to recommend the *Central City 2035 Plan* to City Council.
16. On June 22, 2017, the PSC released the *Central City 2035 Plan Recommended Draft* to the Portland City Council. The plan contains the following elements, some of which were amended by City Council.
 - Volume 2A, Zoning Code & Map Amendments, Part 3: Environmental and Scenic, contains the zoning map and code amendments for Code Chapter 33.480, Scenic Resources, and Code Chapter 33.430, Environmental Overlay Zones and the amendments to the official zoning map. These add the scenic (s) overlay zones back to the official zoning maps where the view corridors overlap with conservation (c) or protection (p) overlay zones and create a new standard that allows for removal of vegetation and trees, along with required mitigation, within the scenic (s) overlay zone. Volume 2A, Part 3, as amended by City Council and dated May 2018, is attached as Exhibit B.
 - Volume 3A, Scenic Resources Protection Plan, Part 1: Summary, Results and Implementation, Part 2: Scenic Resources Inventory, and Part 3: Economic, Social, Environmental and Energy Analysis. These documents update the inventory and ESEE for scenic resources within the Central City. Volume 3A,

Part 1, as amended by City Council and dated May 2018, is attached as Exhibit C. Volume 3A, Part 2, was not amended by City Council and is dated June 2017, May 2018, is attached as Exhibit D. Volume 3A, Part 3, as amended by City Council and dated May 2018, is attached as Exhibit E.

17. A public notice of the September 14, 2017 Portland City Council public hearing on Volume 2A, Zoning Code & Map Amendments, Part 3: Environmental and Scenic and Volume 3A, Scenic Resource Protection Plan, Parts 1 through 3, of the *Central City 2035 Plan*, was sent on August 28, 2017 to all property owners potentially affected by proposed zoning map and code changes, those who testified to the Planning and Sustainability Commission, individuals and organizations who requested such notice and other interested parties.
18. The City has prepared the Scenic and Environmental Resources Findings of Fact Report, attached as Exhibit A, which addresses findings for Statewide Planning Goals and Oregon Administrative Rules, Metro Urban Growth Management Functional Plan, and the City of Portland's 2035 Comprehensive Plan policies and goals.

NOW, THEREFORE, the Council directs:

- a. Amend the official Zoning Map to apply scenic (s) overlay zones as shown on pages 30 to 66 of Exhibit B (Volume 2A, Zoning Code & Map Amendments, Part 3: Environmental and Scenic);
- b. Amend Title 33, Planning and Zoning, of the Municipal Code of the City of Portland, as shown on pages 2 to 24 of Exhibit B (Volume 2A, Zoning Code & Map Amendments, Part 3: Environmental and Scenic);
- c. Amend the Scenic Resources Protection Plan (1991), as shown in Exhibit D.
- d. Adopt Exhibit C (Volume 3A, Scenic Resources Protection Plan, Part 1: Central City Scenic Resources Protection Plan), Exhibit D (Volume 3A, Scenic Resources Protection Plan, Part 2: Scenic Resources Inventory) and Exhibit E (Volume 3A, Scenic Resources Protection Plan, Part 3: Economic, Social, Environmental and Energy Analysis).
- e. Adopt Exhibit A (Scenic and Environmental Resources Findings of Fact Report) and Exhibit F (Public Involvement) as further findings of fact.
- f. Adopt the commentary of Exhibit B (Volume 2A, Zoning Code & Map Amendments, Part 3: Environmental and Scenic), as further findings and legislative intent.

Section 2. The directives of this ordinance will take effect on July 9, 2018.

Section 3. If any section, subsection, sentence, clause, phrase, diagram, designation, or drawing contained in this Ordinance, or the plan, map or code it adopts or amends, is held to be deficient, invalid or unconstitutional, that shall not affect the validity of the remaining portions. The Council declares that it would have adopted the plan, map, or code and each section, subsection, sentence, clause, phrase, diagram, designation, and drawing thereof, regardless of the fact that any one or more sections, subsections, sentences, clauses, phrases, diagrams, designations, or drawings contained in this Ordinance, may be found to be deficient, invalid or unconstitutional.

Passed by the Council: **JUN 06 2018**

Mayor Ted Wheeler

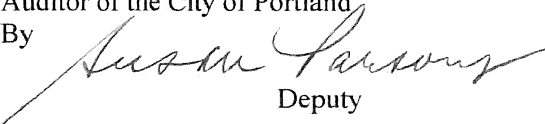
Prepared by: Mindy Brooks

Date Prepared: May 17, 2018

Mary Hull Caballero

Auditor of the City of Portland

By



Deputy

Agenda No.
ORDINANCE NO.
Title

189002

Adopt the Central City 2035 Plan, Volume 2A, Part 3, Environmental and Scenic, amend the Portland Zoning Map, and Portland Zoning Codes 33.430, Environmental Overlay Zones, and 33.480, Scenic Resources, and amend the Scenic Resources Protection Plan (Ordinance; Amend Code Chapters 33.430 and 480)

INTRODUCED BY Commissioner/Auditor: Ted Wheeler	CLERK USE: DATE FILED <u>MAY 17 2018</u>
COMMISSIONER APPROVAL	
Mayor—Finance and Administration - Wheeler <i>KC</i>	
Position 1/Utilities - Fritz	
Position 2/Works - Fish	
Position 3/Affairs - Saltzman	
Position 4/Safety - Eudaly	
BUREAU APPROVAL	
Bureau: Planning and Sustainability Bureau Head: Susan Anderson	
Prepared by: Mindy Brooks Date Prepared: May 16, 2018	
Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/>	
Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
City Auditor Office Approval: required for Code Ordinances	
City Attorney Approval: <i>Lax</i> required for contract, code, easement, franchise, comp plan, charter	
Council Meeting Date June 6, 2018	

Mary Hull Caballero
Auditor of the City of Portland

By: *[Signature]*
Deputy

ACTION TAKEN:

MAY 24 2018 PASSED TO SECOND READING JUN 06 2018 2 P.M.
Time Certain

AGENDA	FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
TIME CERTAIN <input checked="" type="checkbox"/> Start time: 2:10 Total amount of time needed: _____ (for presentation, testimony and discussion)		YEAS	NAYS
CONSENT <input type="checkbox"/> REGULAR <input type="checkbox"/> Total amount of time needed: _____ (for presentation, testimony and discussion)	1. Fritz		✓
	2. Fish	✓	
	3. Saltzman		
	4. Eudaly	✓	
	Wheeler	✓	

CERTIFICATE OF FILING

I hereby certify that I filed the original of the **NOTICE OF INTENT TO APPEAL**, together with two (2) copies thereof, with the Land Use Board of Appeals, 775 Summer Street NE, Suite 330, Salem, OR 97301-1283, on **July 24, 2018**, by certified mail, return receipt, to the Board at the above addresses.



E. Michael Connors, OSB# 954956
Of Attorneys for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on **July 24, 2018**, I served a true and correct copy of this **NOTICE OF INTENT TO APPEAL** on all persons listed in Paragraphs III and IV of this Notice, pursuant to OAR 661-10-015(2), by first class mail.



E. Michael Connors, OSB# 954956
Of Attorneys for Petitioner



Oregon

Kate Brown, Governor

Land Use Board of Appeals

775 Summer Street NE, Suite 330

Salem, OR 97301-1283

(503) 373-1265

July 26, 2018

Tracy Pool Reeve
Portland Office of City Attorney
1221 SW Fourth Avenue, Suite 430
Portland, OR 97204

RE: OSB2LAN Ivon LLC et al v. City of Portland
LUBA No. 2018-086 (Ordinance No. 189000)


This is to advise you that a Notice of Intent to Appeal was sent certified mail on July 24, 2018 and received by the Board on July 26, 2018, in the above matter and that OAR 661-010-0015 requires that service of the notice of intent to appeal be made upon the respondent within 21 days after the date of the land use decision being appealed.

A copy of the record is to be prepared by respondent and transmitted to the Board within 21 days of the date of such service. Enclosed is a summary of the specifications for preparation of the record as set out in OAR 661-010-0025(4).

If the decision being appealed is on remand from LUBA and the record on remand incorporates the original record, you will need to refile a copy of the original record as we no longer maintain records from closed appeals.

Attached to this letter is a notice of the option to seek mediation in this matter.

Very truly yours,



Kelly Burgess
Paralegal

Enclosures

cc: E. Michael Connors





HATHAWAY LARSON

Koback · Connors · Heth

07/26/18 PM 12:24 LUBA

July 24, 2018

CERTIFIED MAIL RETURN RECEIPT

Kelly Burgess, Paralegal
Land Use Board of Appeals
775 Summer Street NE, Suite 330
Salem, OR 97301-1283

Re: OSB2LAN IVON, LLC and Haithem Toulou v. City of Portland

Dear Kelly:

In response to the LUBA Order, dated July 17, 2018, in LUBA Nos. 2018-72/73, enclosed for filing are an original and two copies each of two new Notice of Intents to Appeal with regard to the above-referenced matter, appealing Ordinances 189000 and 189002 respectively. Also, enclosed are two checks, payable to the Land Use Board of Appeals, in the amount of \$400 each for the filing fees and costs.

Thank you for your consideration.

Very truly yours,

HATHAWAY LARSON LLP

E. Michael Connors

EMC/pl

Enclosures

cc: Tracy Pool Reeve, City Attorney (*w/ encl. via certified mail, return receipt*)
City of Portland, Bureau of Planning and Sustainability (*w/ encl. via certified mail, return receipt*)

E. Michael Connors
1331 NW Lovejoy Street, Suite 950
Portland, OR 97209
mike@hathawaylarson.com
(503) 303-3111 direct
(503) 303-3101 main

LUBA Record001190

BEFORE THE LAND USE BOARD OF APPEALS
OF THE STATE OF OREGON

07/26/18 PM12:24 LUBA

**OSB2LAN IVON, LLC and
HAITHEM TOULAN,**

Petitioners,

vs.

CITY OF PORTLAND,

Respondent.

LUBA No. 2018-086

NOTICE OF INTENT TO APPEAL

I.

Pursuant to the LUBA Order, dated July 17, 2018, in LUBA Nos. 2018-72/73 and OAR 661-010-0015(1)(d), NOTICE IS HEREBY GIVEN that Petitioners OSB2LAN IVON, LLC and Haithem Toulouan ("Petitioners") intend to appeal the land use decision of Respondent City of Portland ("Respondent") entitled Ordinance No. 189000 ("Adopt the Central City 2035 Plan: amend the Comprehensive Plan, Comprehensive Plan Map, Transportation System Plan, Willamette Greenway Plan, Scenic Resources Protection Plan, Zoning Map, and Title 33; authorize adoption of administrative rules; repeal and replace prior Central City plans and documents."), which became final on June 6, 2018. A copy of Ordinance No. 189000 is attached as Exhibit "A".

II.

Petitioners are represented by:

E. Michael Connors, OSB # 954956
Hathaway Larson LLP
1331 NW Lovejoy Street, Ste. 950
Portland, OR 97209
Telephone: (503) 303-3101

III.

Respondent is the governing body, and has as its mailing address and
telephone number:

City of Portland
Bureau of Planning and Sustainability
1900 SW 4th Avenue, Ste. 7100
Portland, OR 97201
Telephone: (503) 823-7700

and has as its legal counsel:

Tracy Pool Reeve, City Attorney
City of Portland
1221 SW 4th Avenue, Suite 430
Portland, OR 97204
Telephone: (503) 823-4047

IV.

The challenged decision was a legislative action, for which there was no
applicant. Respondent's records indicate the following were sent notice of the
challenged decision and/or served our office with their motions to intervene in
LUBA Nos. 2018-072/073:

Oregon Dept. of Land Conservation
and Development
635 Capitol St. NE, Suite 150
Salem, OR 97301-2540

MadAve LLC, ConDa LLC & David
Leikin
c/o Carrie Richter
Bateman Seidel
888 SW 5th Avenue, Suite 1250
Portland, OR 97204

Unico Properties, LLC
c/o Dana Krawczuk
Stoel Rives
760 SW 9th Avenue, Suite 3000
Portland, OR 97205

Restore Oregon et al
c/o Daniel Kearns
Reeve Kearns, PC
621 SW Morrison Street, Ste. 510
Portland, OR 97205

Old Town Community Association
c/o Jeffrey L. Kleinman
1207 SW Sixth Avenue
Portland, OR 97204

Guardian Real Estate Services, LLC
c/o Timothy V. Ramis
Jordan Ramis PC
Two Centerpointe Drive, 6th Floor
Lake Oswego, OR 97035

NOTICE:

Anyone designated in Paragraph IV of this Notice who desires to participate as a party in this case before the Land Use Board of Appeals must file with the Board a motion to intervene in this proceeding as required by OAR 661-10-0050.

DATED this 24th day of July, 2018.

HATHAWAY LARSON LLP

By: E. Michael Connors
E. Michael Connors, OSB # 954956
Of Attorneys for Petitioner

SUBSTITUTE

ORDINANCE No. **189000** As Amended

Adopt the Central City 2035 Plan; amend the Comprehensive Plan, Comprehensive Plan Map, Transportation System Plan, Willamette Greenway Plan, Scenic Resources Protection Plan, Zoning Map, and Title 33; authorize adoption of administrative rules; repeal and replace prior Central City plans and documents. (Ordinance)

The City of Portland ordains:

Section 1. The Council finds:

General Findings

1. In 1972, the Portland City Council adopted the *Planning Guidelines/Downtown Plan* as a policy statement to guide public and private decision-making in the Downtown area (adopted Motion on agenda item 3958, December 28, 1972). The plan addressed issues related to the loss of retail and housing, parking and the general character, livability and prosperity of Portland's downtown core. The plan included provisions to enhance the pedestrian environment, preserve and develop new housing, improve air quality, reinforce the retail core, preserve historic landmarks and districts, protect views and vistas, develop public transportation infrastructure, and recapture and reconnect the urban environment with the Willamette River waterfront. In 1980, the City Council updated and retitled the plan *Goals and Policies/Downtown Plan* (Resolution No. 32772).
2. In 1979, scenic resources were first designated and protected through building height limits as part of the implementation of the *Downtown Plan*. Additional scenic resources were identified and protected through the adoption of area plans between 1979 and 1988.
3. Portland's first *Comprehensive Plan* was adopted by the Portland City Council in October 1980 and was acknowledged as complying with Oregon's Statewide Planning Goals by the Land Conservation and Development Commission (LCDC) in May 1981. The 1980 *Comprehensive Plan* was again deemed in compliance with the Statewide Planning Goals at the conclusion of Portland's first Periodic Review in January 2000. The 1980 plan was incrementally updated by post-acknowledgement plan amendments through November 2011. In June 2016, as part of Task IV of Portland's second Periodic Review, the Portland City Council completely replaced the 1980 plan by the adoption of Portland's new *2035 Comprehensive Plan*, but delayed the effective date of the new plan to allow the LCDC sufficient time to review and acknowledge the new plan. During the delay between adoption and effect, the 1980 plan continued to serve as the City's comprehensive plan. Portland's *2035 Comprehensive Plan* was approved by the LCDC on March 15, 2018 and became effective on May 24, 2018. Because this ordinance is adopted after the effective date of the *2035 Comprehensive Plan*, its provisions are gauged against the applicable provisions of the *2035 Comprehensive Plan*, not the 1980 plan.

4. In 1988, the City Council adopted the *Central City Plan*, which expanded the approach of the *Downtown Plan* to areas north of East Burnside (the Pearl and Old Town/Chinatown districts), west and south of Interstate 405 (the Goose Hollow and South Waterfront districts), and to the east side of the Willamette River (Lower Albina, Lloyd, and Central Eastside districts) (Ordinance No. 160606 and Resolution No. 34417). This plan addressed the preservation and development of new housing, expansion of transit, and other multi-modal improvements, enhancement of the Willamette River waterfront, views, the role of social services and affordable housing and environmental health, among other critical issues.
5. In 1987, the City Council adopted the *Willamette Greenway Plan* (Ordinance No. 160237). This plan implemented and was consistent with Statewide Planning Goal 15, Willamette River, for the City of Portland. This plan included goals, objectives, mapped boundaries with an inventory of property characteristics, Zoning Code regulations and special design guidelines that apply to properties along the Willamette River, including the Central City, and a list of public acquisition areas. The plan also updated information and regulations for scenic resources along the Willamette River.
6. In 1991, City Council adopted the *Scenic Resources Protection Plan* (SRPP) (Ordinance No. 163957). The SRPP includes a citywide inventory of scenic resources and an Economic, Social, Environmental and Energy Analysis (ESEE) as required by OAR 660-16-000 through 660-16-025. The SRPP consolidated and updated information about scenic resources from previous plans, including the *Downtown Plan*, *Central City Plan* and *Willamette Greenway Plan*. The SRPP implemented new regulations (Zoning Code Chapter 33.480) to protect designated scenic resources. The SRPP also amended the environmental regulations (Zoning Code Chapter 33.430) to allow for scenic resource management when the scenic and environmental resources overlap.
7. Following adoption and implementation of the *Central City Plan*, subsequent plans amended the policy and regulatory framework of the plan. These plans include, but are not limited to: *University District Plan* (1995); *River District Plan* (1995); *Goose Hollow Station Community Plan* (1996); *Downtown's West End* (2002); *South Waterfront Plan* (2002); and *North Pearl District Plan* (2008). These plans also provided the opportunity to address new and emerging issues not addressed by the Downtown and Central City plans, such as stormwater management, the enhancement of endangered species habitat, green building design, family compatible housing supply, and the role of bike and pedestrian infrastructure to support active transportation alternatives.
8. In 1995, the City Council adopted the *Central City Transportation Management Plan* (Ordinance No. 169535 and Resolution No. 35472). This plan amended the Central City's transportation and parking policies and regulations in order to maintain air quality, promote economic development, support an efficient transportation system and encourage the use of alternative modes of travel.

9. Recognizing a need to create a new long-range plan for the Central City, the Bureau of Planning and Sustainability, in collaboration with other City bureaus and public agencies, initiated the *Central City 2035 Plan* project (CC2035) in 2010. The goal of the project was to create a comprehensive new policy and regulatory framework for the Central City, including the Central Reach of the Willamette River, taking into consideration new and emerging issues such as sustainable development, climate change, resiliency and equity.
10. The first product was the *Central City 2035 Concept Plan*, which provided an overarching policy framework intended to guide the development of subsequent, more detailed quadrant plans, as well as updates to the Portland Zoning Code, *Willamette Greenway Plan* and *Transportation Systems Plan* (TSP). The *Central City 2035 Concept Plan* contained a new vision statement identifying the Central City as a regional asset and a center of “Innovation and Exchange.” The plan also contained goals and policies addressing the following topics: Regional Center – Economy and Innovation; Housing and Neighborhoods; Willamette River; Urban Design; and, Health and the Environment. Lastly, the plan contained an Urban Design Concept and Framework. This plan was adopted by City Council on October 24, 2012 (Resolution No. 36970).
11. On October 25, 2012, Council adopted the CC2035 *N/NE Quadrant Plan* (Resolution No. 36972). This was the first of three quadrant plans that would identify more detailed and specific land use, urban design, and transportation policies and implementing actions, including potential zoning proposals, for specific parts of the CC2035 plan area. The *N/NE Quadrant Plan* covered the Lloyd and Lower Albina districts. This plan, created in partnership with the Oregon Department of Transportation (ODOT), also included the *I-5 Broadway/Weidler Interchange Improvements Facility Plan*, which identifies improvements to safety and operations on the Interstate 5 freeway and multimodal local transportation facilities in the vicinity of the Broadway/Weidler interchange.
12. In October 2014, the City Council adopted the *Willamette River Greenway Inventory* (Ordinance No. 186858). The *Willamette River Greenway Inventory* is an update to the inventory contained in the *Willamette Greenway Plan* and is consistent with Statewide Planning Goal 15. The updated inventory provides information about public recreation, historic and archaeological sites, significant natural and scenic areas, vegetative cover, fish and wildlife habitats, floodplains and flooding, hydrologic conditions, ecologically fragile areas, land uses and zoning, agricultural lands, timer resources, aggregate resources, property ownership and acquisition areas.
13. On March 5, 2015, Council adopted the CC2035 *West Quadrant Plan* (Resolution No. 37115). This plan identified more detailed and specific land use, urban design, and transportation policies and implementing actions, including potential zoning proposals, for the western half of the Central City. One of the outcomes of this plan was a reorganization of the area into seven districts, including: Downtown; West End; Goose Hollow; Pearl District; Old Town/Chinatown; South Waterfront; and, University District/South Downtown.

14. On July 29, 2015, Council adopted the CC2035 *Southeast Quadrant Plan* (Resolution No. 37147), which focused on the Central Eastside District. As with the other plans, it addressed land use, urban design, and transportation, and also expanded the Central City to include the new Clinton Station Area located on the far southeast corner of the plan area.
15. The *Concept Plan* and three quadrant plans also contained policy guidance and other recommendations for a comprehensive update of the *Willamette Greenway Plan* for the Central Reach of the Willamette River.
16. Guided by the policies, urban design diagrams, code concepts and other elements of the *Concept Plan* and three quadrant plans, the Bureau of Planning and Sustainability, in collaboration with other City bureaus, developed the *Discussion Draft Central City 2035 Plan*, released for public review on February 8, 2016. Additional guidance for the development of the *Discussion Draft Central City 2035 Plan* came from the *Central Reach Urban Design Concept* (2014), updates to the Natural and Scenic Resource inventories (2015), the *Central City Floor Area Ratio Bonus and Transfer Study* (2015), and other studies. A review period of approximately four months included open houses and presentations to interested groups, organizations, and appointed commissions. Written and verbal comments and proposed amendments were reviewed and considered by staff.
17. The *Proposed Draft Central City 2035 Plan* was released on June 20, 2016 for review by the public and the Portland Planning and Sustainability Commission (PSC). The PSC conducted an extensive review and plan revision process, including public hearings on July 26 and August 9, 2016 and work sessions on September 27 and November 16, 2016 and January 10, January 24, February 14, February 28, March 14, April 11 and May 23, 2017. The PSC voted on May 23, 2017 to forward to City Council their *Recommended Draft Central City 2035 Plan*.
18. On June 20, 2016 notice of the *Proposed Draft Central City 2035 Plan* was mailed to the Department of Land Conservation and Development in compliance with the post-acknowledgement review process required by OAR 660-18-020. A revised notice, reflecting Planning and Sustainability Commission and City Council amendments to the plan, was sent to the Department of Land Conservation and Development on March 13, 2018.
19. On June 24, 2016, a notice of the July 26, 2016 Planning and Sustainability public hearing on the *Proposed Draft Central City 2035 Plan* was sent to the project's mailing list, individuals and organizations who requested such notice, and other interested parties.
20. On June 24, 2016, approximately 21,000 notices of the *Proposed Draft Central City 2035 Plan* and Planning and Sustainability Commission hearing were sent to all property owners potentially affected by proposed zoning map and code changes, as required by ORS 227.186. Property owners received a separate notice for each property potentially affected by the proposal.

21. On June 22, 2017, BPS published the Planning and Sustainability Commission's *Recommend Draft Central City 2035 Plan*. The plan contains the following elements, some of which were amended by City Council:
- Volume 1, Goals and Policies. This document includes the policies and goals for the Central City as a whole, and each individual district within the Central City. The document also contains a vision statement and urban design concept diagrams. Volume 1, as amended by City Council and dated May 2018, is attached as Exhibit B. The urban design diagrams will be adopted by a separate Resolution.
 - Volume 2A, Zoning Code & Map Amendments, Part 1: Central City Plan District. This document includes amendments to Title 33, Planning and Zoning, that implement the land use and transportation policies of the plan. It also contains amendments to the Comprehensive Plan Map and official Zoning Map for the CC2035 plan area. Volume 2A, Part 1, as amended by City Council and dated May 2018, is attached as Exhibit C.
 - Volume 2A, Part 1 contains new Zoning Code provisions that require certain new development and alteration projects to use bird-safe glazing treatment patterns and application techniques (33.510.223, Bird-Safe Exterior Glazing) and register for an approved green building certification program (33.510.244, Low-Carbon Buildings). The Bureau of Planning and Sustainability will adopt, administer and periodically amend Administrative Rules that identify objective standards, including specific products or programs that can be used, to meet the code requirements.
 - Volume 2A, Zoning Code & Map Amendments, Part 2: Willamette River and Trails. This document includes amendments to Title 33, Planning and Zoning, related to the Central Reach of the Willamette River, along with miscellaneous citywide code amendments related to trails, definitions and measurements. It also contains amendments to the overlay zones shown on the official Zoning Map. Volume 2A, Part 2, as amended by City Council and dated May 2018, is attached as Exhibit D.
 - Volume 2A, Zoning Code & Map Amendments, Part 3: Environmental and Scenic Overlay Zones. This document includes amendments to Title 33, Planning and Zoning, and the official Zoning Map related to the environmental and scenic resource overlay zones. These amendments apply outside the Central City and will be adopted by a separate ordinance.
 - Volume 2B, Transportation System Plan Amendments. This document includes amendments to the *Transportation System Plan*, including amendments to policies, project and study lists, and street classification maps. The document also includes the *Portland Central City Multimodal Mixed Use Area Agreement between the City of Portland and the Oregon Department of Transportation*, dated June 15, 2016. Also included is a letter dated June 15, 2016 from the Oregon Department of Transportation to the Portland Bureau of Transportation providing written concurrence with the designation of the Central City as a Multi-Modal Mixed-Use Area (MMA), subject to

City adoption of the agreement. Volume 2B, as amended by City Council and dated May 2018, is attached as Exhibit E.

- Volume 3A, Scenic Resources Protection Plan, Part 1: Summary, Results and Implementation. This document includes a summary of the Scenic Resources Inventory, a summary of the Economic, Social, Environmental and Energy analysis, and a description of the Zoning Code changes and maps that implement the CC2035 Scenic Resources Protection Plan. Volume 3A, Part 1, as amended by City Council and dated May 2018, is attached as Exhibit F.
- Volume 3A, Scenic Resources Protection Plan, Part 2: Scenic Resources Inventory. This document is an updated inventory of views, viewpoints, view streets, scenic corridors, focal points and scenic sites in the Central City and an updated inventory of views and viewpoints surrounding the Central City for which buildings in the Central City could block the view. The inventory includes maps and descriptions of the location, geometry and relative quality of the scenic resources. Volume 3A, Part 2 is attached as Exhibit G.
- Volume 3A, Scenic Resources Protection Plan, Part 3: Economic, Social, Environmental & Energy Analysis. This document includes a trade-off analysis of the relative economic, social, environmental and energy consequences associated with different levels of scenic resources protection. This document includes maps and descriptions of the recommendations to protect specific scenic resources. Volume 3A, Part 3, as amended by City Council and dated May 2018, is attached as Exhibit H.
- Volume 3B, Willamette River Central Reach Natural Resources Protection Plan. This document presents an overview of the regulatory context for the river, an inventory approach and methodology, an analysis of protection options and recommendations, inventory results, and implementation tools. Volume 3B is attached as Exhibit I.
- Volume 4, Background Materials. This document references a number of background reports and documents used to develop the *Central City 2035 Plan*, including the *CC2035 Concept Plan*, the three quadrant plans, *Willamette River Greenway Inventory* and other studies and planning documents. Volume 4 is attached as Exhibit J.
- Volume 5A, Implementation: Performance Targets and Action Plans. This document includes performance targets that provide aspirational objectives by which to measure progress towards achieving the goals and policies of the *Central City 2035 Plan*. This document also includes action items that describe future projects and programs that will help implement the goals and policies of the plan. The performance targets and action items in Volume 5A will be adopted by a separate Resolution.
- Volume 5B, Implementation: The Green Loop. This document contains the Green Loop Concept Report, describing a proposed six-mile linear park that invites residents, employees, and visitors to experience the Central City by foot and by bicycle. The document includes key objectives, alignment options, design principles, and precedents

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of how the concept could be realized. Volume 5B will be adopted by a separate resolution.

- Volume 6, Public Involvement. This document presents a summary of public engagement activities during the CC2035 planning process, an outreach activities log, and materials related to an ethics complaint regarding the *West Quadrant Plan*. Volume 6 is attached as Exhibit K.
22. A public notice of the September 7, 2017 Portland City Council public hearing on the *Recommended Draft Central City 2035 Plan* was sent on August 23, 2017 to the project's mailing list, those who testified to the Planning and Sustainability Commission, individuals and organizations who requested such notice and other interested parties.
 23. A public notice of the January 18, 2018 Portland City Council public hearing on potential City Council amendments to the *Recommended Draft Central City 2035 Plan* was sent on December 29, 2017 to the project's mailing list, those who testified at the September 7, 2017 City Council public hearing and its continuations on September 14 and 20, 2017, and to property owners potentially affected by the amendments. Additional public hearings on potential amendments were held on March 7 and 22, 2018 and April 4, 2018. These additional hearings were announced on the CC2035 project web site and through the project's email distribution list.
 24. The Central City 2035 Findings of Fact Report, attached as Exhibit A, includes additional findings demonstrating consistency with the State-wide Planning Goals, Metro Urban Growth Management Functional Plan, and the City of Portland 2035 *Comprehensive Plan*.

NOW, THEREFORE, the Council directs:

- a. Amend the 2035 *Comprehensive Plan* to add the goals and policies of the *Central City 2035 Plan*, as shown in Exhibit B (Volume 1, Goals and Policies).
- b. Amend Policy 9.51, Multimodal Mixed-Use Area, and Figure 9-2 of the 2035 *Comprehensive Plan*, as shown on pages 35 and 36 of Exhibit E (Volume 2B, Transportation System Plan Amendments).
- c. Amend the 2035 *Comprehensive Plan* to reflect the adoption of the *Central City 2035 Plan*, as shown in Exhibit L (Additional Amendments to the 2035 *Comprehensive Plan*), attached.
- d. Amend the definition of "Neighborhoods" in the Glossary of the 2035 *Comprehensive Plan* as follows:

Neighborhoods: Broad areas of the city that typically include residential, commercial, and mixed-use areas. Neighborhoods are physical communities located outside of the ~~Central City~~ and large industrial areas. The term "neighborhoods" may, but is not always intended to, refer to specific Neighborhood Association geographies.

- e. Replace 2035 Comprehensive Plan Map CON-05, Significant Scenic Resources, with CON-05-A, Significant Scenic Resources, and CON-05-B, Significant Scenic Resources in the Central City, as shown on Exhibit M, attached.
- f. Amend the Comprehensive Plan Map as shown on page 519 of Exhibit C (Volume 2A, Zoning Code & Map Amendments, Part 1: Central City Plan District).
- g. Amend the official Zoning Map to apply base zones as shown on page 515 of Exhibit C (Volume 2A, Zoning Code & Map Amendments, Part 1: Central City Plan District).
- h. Amend the official Zoning Map to apply overlay zones as shown on pages 194 to 206 of Exhibit D (Volume 2A, Zoning Code & Map Amendments, Part 2: Willamette River and Trails).
- i. Amend Title 33, Planning and Zoning, as shown in Exhibit C (Volume 2A, Zoning Code & Map Amendments, Part 1: Central City Plan District) and Exhibit D (Volume 2A, Zoning Code & Map Amendments, Part 2: Willamette River and Trails).
- j. Amend the *Transportation System Plan* to add the policies, amend the transportation projects and studies lists, and amend the project and street classification maps, as shown in Exhibit E (Volume 2B, Transportation System Plan Amendments).
- k. Adopt the *Central City 2035 Scenic Resources Protection Plan*, contained in Exhibit F (Volume 3A, Scenic Resources Protection Plan, Part 1: Summary, Results and Implementation), Exhibit G (Volume 3A, Scenic Resources Protection Plan, Part 2: Scenic Resources Inventory) and Exhibit H (Volume 3A, Scenic Resources Protection Plan, Part 3: Economic, Social, Environmental & Energy Analysis).
- l. Adopt the *Willamette River Central Reach Natural Resources Protection Plan*, contained in Exhibit I (Volume 3B, Willamette River Central Reach Natural Resources Protection Plan).
- m. Adopt the *Portland Central City Multimodal Mixed Use Area Agreement between the City of Portland and the Oregon Department of Transportation*, dated June 15, 2016, as shown on pages 32 to 35 of Exhibit E (Volume 2B, Transportation System Plan Amendments).
- n. Adopt Exhibit A (Central City 2035 Findings of Fact Report), as amended by City Council and dated May 2018, Exhibit J (Volume 4, Background Materials), and Exhibit K (Volume 6, Public Involvement) as further findings.
- o. Adopt the Introduction section, commentary to the Central City Goals and Policies section, and the Central City Districts section of Exhibit B (Volume 1, Goals and Policies) as further findings.

- p. Adopt the commentary in Exhibit C (Volume 2A, Zoning Code & Map Amendments, Part 1: Central City Plan District) and Exhibit D (Volume 2A, Zoning Code & Map Amendments, Part 2: Willamette River and Trails) as legislative intent and further findings.
- q. Adopt Chapter 4: Analysis of Protection Options and General Recommendations, and Chapter 5: Results of Exhibit I (Volume 3B, Willamette River Central Reach Natural Resources Protection Plan) as further findings.
- r. The *Central City 2035 Plan* elements adopted by directives a. through q., above, repeal and replace the following:
 - 1. The *Planning Guidelines/Portland Downtown Plan*, adopted by City Council in December 1972, as updated.
 - 2. Ordinance No. 160606, as amended, which adopted the *Central City Plan* goals and policies.
 - 3. Resolution No. 34417, as amended, which adopted the *Central City Plan* action charts, functional maps and urban design plans.
 - 4. Ordinance No. 169535, as amended, which adopted the goals, policies and objectives of the *Central City Transportation Management Plan*.
 - 5. Resolution No. 35472, which adopted the action items and other components of the *Central City Transportation Management Plan*.
 - 6. Resolution No. 36970, which adopted the *Central City 2035 Concept Plan*.
 - 7. Resolution No. 36972, which adopted the *N/NE Quadrant Plan*.
 - 8. Resolution No. 37115, which adopted the *West Quadrant Plan*.
 - 9. Resolution No. 37147, which adopted the *Southeast Quadrant Plan*.
- s. Amend Ordinance No. 160237, as amended, to no longer apply the provisions of the *Willamette Greenway Plan* within the Central Reach River Overlay Boundary as shown on Map 475-1 on page 78 of Exhibit D (Volume 2A, Zoning Code & Map Amendments, Part 2: Willamette River and Trails).
- t. Amend Ordinance No. 163957, as amended, to no longer apply the provisions of the *Scenic Resources Protection Plan* to any and all scenic resources within the Central City Boundary or to viewpoints and view corridors within the Viewpoint Boundary as shown on Map 1 on page 6 of Exhibit F (Volume 3A, Scenic Resources Protection Plan, Part 1: Summary, Results and Implementation).

189000

- u. Authorize the Director of the Bureau of Planning and Sustainability or designee to adopt, administer and periodically amend Administrative Rules for 33.510.223, Bird-Safe Exterior Glazing and 33.510.244, Low-Carbon Buildings. The adoption or amendment of these rules must include a public comment period.
- v. Direct the Bureau of Planning and Sustainability to update the 2014 *Willamette River Greenway Inventory* (adopted by Ordinance No. 186858) based on the adoption of the *Central City 2035 Plan*.
- w. Direct the Portland Bureau of Transportation to work with the Portland Public School District on a Memorandum of Understanding for the redevelopment of the Lincoln High School property to ensure that specific programming and security needs for the facility are appropriately balanced with a north-south public access connection through the site that serves the pedestrian and bicycle connectivity needs of Goose Hollow, consistent with the directives of the *Central City 2035 Plan*.

Section 2. Effect

The directives of this ordinance will take effect on July 9, 2018.

Section 3. Severability

If any section, subsection, sentence, clause, phrase, diagram or drawing contained in this ordinance, or the map, report, inventory, analysis, or document it adopts or amends, is held to be deficient, invalid or unconstitutional, that shall not affect the validity of the remaining portions. The Council declares that it would have adopted the map, report, inventory, analysis, or document each section, subsection, sentence, clause, phrase, diagram and drawing thereof, regardless of the fact that any one or more sections, subsections, sentences, clauses, phrases, diagrams or drawings contained in this Ordinance, may be found to be deficient, invalid or unconstitutional.

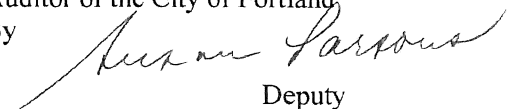
Passed by the Council: JUN 06 2018

Mayor Ted Wheeler
Prepared by: Troy Doss and Nicholas Starin
Date Prepared: May 15, 2018

Mary Hull Caballero

Auditor of the City of Portland

By



Deputy

S- 520 - 530 6 + 0 =

Exhibit A

Agenda No. *Substitute*
ORDINANCE NO. 189000 As Amended
Title

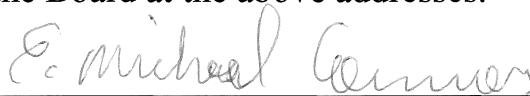
Adopt the Central City 2035 Plan; amend the Comprehensive Plan, Comprehensive Plan Map, Transportation System Plan, Willamette Greenway Plan, Scenic Resources Protection Plan, Zoning Map, and Title 33; authorize adoption of administrative rules; repeal and replace prior Central City plans and documents. (Ordinance)

INTRODUCED BY Commissioner/Auditor: Ted Wheeler	CLERK USE: DATE FILED <u>MAY 17 2018</u>
COMMISSIONER APPROVAL	Mary Hull Caballero Auditor of the City of Portland
Mayor—Finance and Administration - Wheeler <i>KC</i>	By: <i>[Signature]</i> Deputy
Position 1/Utilities - Fritz	ACTION TAKEN: MAY 24 2018 CONTINUED TO MAY 30 2018 10:15 <i>Time Certain</i> As Amended
Position 2/Works - Fish	
Position 3/Affairs - Saltzman	
Position 4/Safety - Eudaly	
BUREAU APPROVAL	
Bureau: Planning and Sustainability Bureau Head: Susan Anderson	
Prepared by: Nicholas Starin Date Prepared: 5/10/18	MAY 31 2018 <i>Passed to 2nd Reading</i> JUN 06 2018 2 P.M. <i>Time Certain</i> As Amended
Impact Statement Completed <input checked="" type="checkbox"/> Amends Budget <input type="checkbox"/>	
Portland Policy Document If "Yes" requires City Policy paragraph stated in document. Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	
City Auditor Office Approval: required for Code Ordinances	
City Attorney Approval: required for contract, code, easement, franchise, comp plan, charter <i>JMC</i>	
Council Meeting Date 5/24/18	

AGENDA	FOUR-FIFTHS AGENDA	COMMISSIONERS VOTED AS FOLLOWS:	
TIME CERTAIN <input checked="" type="checkbox"/> Start time: <u>2:30</u> Total amount of time needed: <u>1.5 hours</u> (for presentation, testimony and discussion)		YEAS	NAYS
CONSENT <input type="checkbox"/>	1. Fritz	1. Fritz	<input checked="" type="checkbox"/>
REGULAR <input type="checkbox"/> Total amount of time needed: _____ (for presentation, testimony and discussion)	2. Fish	2. Fish	<input checked="" type="checkbox"/>
	3. Saltzman	3. Saltzman	<input type="checkbox"/>
	4. Eudaly	4. Eudaly	<input checked="" type="checkbox"/>
	Wheeler	Wheeler	<input checked="" type="checkbox"/>

CERTIFICATE OF FILING

I hereby certify that I filed the original of the **NOTICE OF INTENT TO APPEAL**, together with two (2) copies thereof, with the Land Use Board of Appeals, 775 Summer Street NE, Suite 330, Salem, OR 97301-1283, on **July 24, 2018**, by certified mail, return receipt, to the Board at the above addresses.



E. Michael Connors, OSB# 954956
Of Attorneys for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on **July 24, 2018**, I served a true and correct copy of this **NOTICE OF INTENT TO APPEAL** on all persons listed in Paragraphs III and IV of this Notice, pursuant to OAR 661-10-015(2), by first class mail.



E. Michael Connors, OSB# 954956
Of Attorneys for Petitioner



Oregon

Kate Brown, Governor

Land Use Board of Appeals

775 Summer Street NE, Suite 330

Salem, OR 97301-1283

(503) 373-1265

July 19, 2018

Jeffrey L. Kleinman
Attorney at Law
1207 SW Sixth Avenue
Portland, OR 97204

RE: Restore Oregon et al v. City of Portland
LUBA No. 2018-072/073

This is to acknowledge that your motion to intervene on the side of the Petitioner in the above appeal was filed with LUBA on July 17, 2018.

Enclosed with this letter is a notice of the option to seek mediation in this matter.

Very truly yours,


Kristi Seyfried
Executive Support Specialist

Enclosure

cc w/o encl.: Tracy Pool Reeve, Daniel Kearns, Timothy V. Ramis, E. Michael Connors



JEFFREY L. KLEINMAN
ATTORNEY AT LAW
THE AMBASSADOR
1207 S.W. SIXTH AVENUE
PORTLAND, OREGON 97204
TELEPHONE (503) 248-0808
FAX (503) 228-4529
EMAIL KleinmanJL@aol.com

July 17, 2018

Land Use Board of Appeals
775 Summer Street NE, Suite 330
Salem, OR 97301-1283

07/19/18 PM 1:29 LUBA

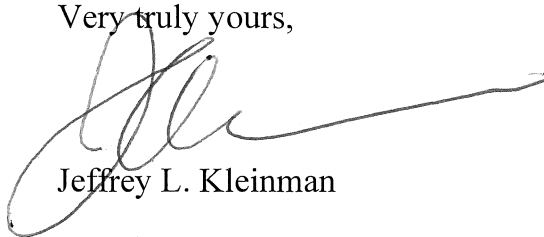
Re: Restore Oregon, et al. v. City of Portland
LUBA No. 2018-072

Dear Land Use Board of Appeals:

Enclosed for filing in the above matter please find original and one copy of Motion to Intervene of Old Town Community Association together with our check in the sum of \$100 for the filing fee.

Thank you for your courtesies.

Very truly yours,



Jeffrey L. Kleinman

JLK:cme
Enclosures

cc: Daniel H. Kearns, Esq.
Tracy Pool Reeve, Esq.
Carrie Richter, Esq.
Dana Krawczuk, Esq.
Mike Connors, Esq.
DLCD
client

**BEFORE THE LAND USE BOARD OF APPEALS
FOR THE STATE OF OREGON**

RESTORE OREGON, BOSCO-)
MILLIGAN FOUNDATION/)
ARCHITECTURAL HERITAGE)
CENTER, NIKKEI LEGACY)
ENDOWMENT, PORTLAND)
CHINATOWN MUSEUM and)
PEGGY G. MORETTI,)

Petitioners,)

and)

OLD TOWN COMMUNITY)
ASSOCIATION,)

Intervenor-Petitioner,)

v.)

CITY OF PORTLAND,)

Respondent.)

LUBA No. 2018-072

MOTION TO INTERVENE

07/19/18 PM 1:30 LUBA



I.

Old Town Community Association moves to intervene on the side of the petitioners in the above-captioned appeal. Intervenor is represented by Jeffrey L. Kleinman, 1207 SW Sixth Avenue, Portland, Oregon 97204, telephone (503) 248-0808, email: KleinmanJL@aol.com.


///

II.

The facts establishing intervenor's right to intervene are as follows:

Intervenor participated in writing in the proceeding of respondent which resulted in the land use decision from which the above-captioned appeal is taken, as explained in the Declaration of Peter Englander, attached hereto as Exhibit A and by this reference incorporated herein.

Dated: July 17, 2018.



Jeffrey L. Kleinman, OSB #743726
Attorney for Intervenor-Petitioner
Old Town Community Association

**BEFORE THE LAND USE BOARD OF APPEALS
FOR THE STATE OF OREGON**

RESTORE OREGON, BOSCO-
MILLIGAN FOUNDATION/
ARCHITECTURAL HERITAGE
CENTER, NIKKEI LEGACY
ENDOWMENT, PORTLAND
CHINATOWN MUSEUM and
PEGGY G. MORETTI,

Petitioners,

and

OLD TOWN COMMUNITY
ASSOCIATION,

Intervenor-Petitioner,

v.

CITY OF PORTLAND,

Respondent.

LUBA No. 2018-072

**DECLARATION OF PETER
ENGLANDER IN SUPPORT
OF MOTION TO INTERVENE**

I, Peter Englander, do declare and state:

1. I make this declaration based on personal knowledge. I am competent and willing to testify to the matters herein. I make this declaration in support of the Motion to Intervene of Old Town Community Association (the "Association").

2. The Association is an Oregon non profit community benefit corporation with members, and a recognized neighborhood association of

respondent City of Portland. I am its treasurer and a member of its board of directors.

3. Attached hereto as Exhibits 1 and 2, respectively, are letters from the Association to respondent's mayor and commissioners dated March 19 and May 23, 2018, demonstrating the Association's participation in the within matter before respondent.

I HEREBY DECLARE THAT THE ABOVE STATEMENTS ARE TRUE TO THE BEST OF MY KNOWLEDGE AND BELIEF, AND THAT I UNDERSTAND IT IS MADE FOR USE AS EVIDENCE IN COURT AND IS SUBJECT TO PENALTY FOR PERJURY.

Dated: July 17, 2018.



Peter Englander, Treasurer
Old Town Community Association



CHINATOWN JAPANTOWN ANKENY PLAZA SKIDMORE WATERFRONT

March 19, 2018

Mayor Ted Wheeler
Commissioner Amanda Fritz
Commissioner Chloe Eudaly
Commissioner Dan Saltzman
Commissioner Nick Fish
City of Portland
1221 SW 4th Avenue
Portland, OR 97204

RE: Central City 2035 Plan / Proposed Amendment - Block 33

Dear Mayor Wheeler and Commissioners:

Block 33, located between NW 4th and NW 5th Avenues and NW Couch and NW Davis Streets, represents a potentially catalytic development site for our neighborhood. The community has been discussing the significance of this block for over a decade and have had several potential starts and stops with previous property owners and developers. The last real opportunity for this Block was the previous property owner's partnership with a developer to site an Uwajimaya market with housing above. It was clear that the success of that potential development was dependent on receiving additional height over the currently zoned height limit of 100'. All of the preliminary design drawings of Uwajimaya and before, had potential heights between 130' to 165' across the entire block to make projects financially feasible. Unfortunately, due to the timing of the project along with the downsizing of Uwajimaya, this project never materialized.

Understanding the significance of this block, the Community Association fought for additional height and FAR during the CC2035 West Quadrant process, which we knew were key to ensuring its success. We were clear that in exchange for this additional height and FAR, the developer needed to provide much needed market rate and middle-income housing units and ensure that the development helped protect preservation of the historic resources in the New Chinatown/Japantown Historic District. We felt so strongly about this that we tied our support for additional height and FAR to the development and implementation of design guidelines for the district. The district now has the adopted new design guidelines and the final draft CC2035 plan gives this block a height limit of 125' with a base FAR of 6:1 and available bonuses of 3:1 FAR.

Exhibit 1 to Declaration of Peter Englander

Tom Brenneke, the current developer and property owner of Block 33, recently approached the Community Association to discuss a request for an amendment to the Central City 2035 plan that would greatly increase his odds of creating an economically viable mixed-use housing development in the near term. In our discussions with Mr. Brenneke and his design team, we have come to appreciate that rising construction costs coupled with Inclusionary Housing requirements have created a set of circumstances that have once again rendered a potential development on Block 33 economically infeasible.

Mr. Brenneke and his team have proposed an amendment to the CC2035 plan that would provide for additional height on a portion of the block and additional FAR for the entire block. This would allow the height on the east ½ block along NW 4th Avenue to remain at 125', while the west ½ block along NW 5th Avenue would have a maximum height of 200'. The base FAR would increase to 9:1 across the entire block with a bonus allowance for housing and historic preservation of 3:1 for a total potential FAR of 12:1. This is more height than the neighborhood has ever discussed previously, but the consistent obstacle that had been presented for every development opportunity to date has been height and density. We need a successful, catalytic development on this block and we have a willing, capable developer that can deliver a feasible project with this additional height and FAR.

The Old Town Community Association has considered this proposed amendment to the height and FAR for this block and offer our support to ensure that this opportunity is not missed ... especially in this construction cycle that has quickly coming to a slow down with inclusionary housing requirements, skyrocketing construction costs increasing interest rates. The development opportunity and timing is now and we support giving Mr. Brenneke and his team the tools necessary to deliver this important project.

Included in the proposed amendment is a specific inducement to build housing. The amendment also contains language that would preclude the allowable height from being reduced during the city's design review process. This is an attempt to deliver some certainty to the development team that, while having to comply and respond to the newly adopted design guidelines for New Chinatown/Japantown through the Landmarks Commission review, the Commission won't be able to lower the buildings' maximum allowable height through the design review process. We have heard from developers that the uncertainty and risk involved in allowing the Landmarks Commission to make final design determinations that conflict with zoning entitlements exacerbates the financial and other challenges of developing in our neighborhood, the only Central City neighborhood that has not had a significant building boom during this upcycle. We have enclosed a letter of support in regards to this issue from neighborhood developer, Bob Naito, that provides additional perspective on this concern. We support the proposed amendment because it represents a creative approach that not only improves the odds we will see needed housing development occur in the near term, but it also addresses prior massing concerns previously expressed by the neighborhood and Landmarks Commission.

We are excited at the potential for future development on Block 33 and want to support this developer in any way we can. Our neighborhood constituents are deeply concerned about the lack of market rate and middle-income housing opportunities in Old Town/Chinatown. We have continually

expressed our concerns and disappointment to the City about a variety of challenges we face as a neighborhood. Most recently, the decision to place a new city-sponsored homeless shelter in the neighborhood caused significant concern in our community. We view the development of new housing on Block 33 as a significant step in the right direction.

We have a solid, local housing developer who is willing to make a substantial investment in Old Town. This is exciting and encouraging for us. It is imperative that we do what is necessary to ensure he has the greatest odds of getting a successful development done.

We would appreciate City Council's consideration and approval of the proposed amendment.

Thank you.

Sincerely,



Helen Ying, Chair
Cal Skate Skateboards



Jessie Burke, Vice Chair
The Society Hotel, Partner



Peter Englander, Treasurer
Deadstock Coffee



Karen Bowler, Secretary
Tube and Fortune



Evan Ross, Board Member
Cycle Portland, Owner

Will Naito, Board Member
Naito Development



Dan Lenzen, Board Member
Venture Hospitality



Jane Gordon, Board Member
University of Oregon



David Leiken, Board Member
Roseland Theater



Sharon Fitzgerald, Board Member
Central City Concern



Zachary Fruchtengarten, Board Member
Gevurtz Menashe Fleischner Mayer

cc: Tom Brenneke

Enclosures - Proposed Amendment
Bob Naito letter



CHINATOWN JAPANTOWN ANKENY PLAZA SKIDMORE WATERFRONT

May 23, 2018

Mayor Ted Wheeler
Commissioner Amanda Fritz
Commissioner Chloe Eudaly
Commissioner Dan Saltzman
Commissioner Nick Fish
City of Portland
1221 SW 4th Avenue
Portland, OR 97204

RE: Central City 2035 Plan / Proposed Amendment - Height and FAR increases in New Chinatown/Japan town Historic District

Dear Mayor Wheeler and Commissioners:

We are writing to reiterate our support for the height and density increase on Block 33, located between NW 4th and NW 5th Avenues and NW Couch and NW Davis Streets, from 160 feet to 200 feet on the west half of the block and from 6:1 to 9:1 FAR across the entire block. Our support also continues to be contingent upon the development of housing and consideration of public parking. As mentioned in the letter that we submitted on March 19, 2018 (attached), development on Block 33 represents a potentially catalytic development site for our neighborhood. The community has been discussing the significance of this block for decades with several potential starts and stops with previous property owners and developers.

We were clear in our letter of support for the additional height and FAR for Block 33 is conditioned on the addition of much needed housing and assurance that the development supports the cultural intent of the New Chinatown/Japantown Historic District. We support the proposed amendment because it represents a creative approach that not only improves the odds we will see housing development occur in the near term, but it also addresses prior massing concerns previously expressed by the neighborhood and Landmarks Commission.

However, at this time we cannot support the blanket amendment for the four northern blocks in New Chinatown/Japantown Historic District that is being proposed this Thursday as we have had no opportunity to discuss the merits or concerns of these amendments.

Exhibit 2 to Declaration of Peter Englander

We have not learned of any planned developments for the other blocks being considered and have not had the opportunity to examine the impacts of the additional height on those blocks for the neighborhood. We have a very unique neighborhood with respect to cultural and historical aspects. Therefore, we do not subscribe to the "fairness" premise discussed by council and the Bureau of Planning & Sustainability. In this district each block should be evaluated uniquely with careful consideration of these matters. Of most interest is any impact on the Lan Su Garden, the protection of which may or may not be adequately addressed in the current or proposed zoning code. Therefore, our support for the height and density increase is only for Block 33 at this time.

We would appreciate City Council's consideration of our concerns and approve the proposed height and FAR amendment for Block 33 only.

Thank you.

Sincerely,



Helen Ying, Chair
Cal Skate Skateboards



Jessie Burke, Vice Chair
The Society Hotel, Partner



Peter Englander, Treasurer
Deadstock Coffee



Phil Lundberg, Secretary
Oregon College of
Oriental Medicine



Evan Ross, Board Member
Cycle Portland, Owner



Will Naito, Board Member
Fortune



Dan Lenzen , Board Member
Venture Hospitality



Candee Wilson , Board Member
Resident



Jane Gordon, Board Member
University of Oregon



David Leiken, Board Member
Roseland Theater



Sharon Fitzgerald, Board Member
Central City Concern



Lisa James, Board Member
Lan Su Chinese Garden

1 **CERTIFICATE OF FILING**

2 I hereby certify that on July 17, 2018, I filed the original of this MOTION
3 TO INTERVENE, together with one copy, with the Land Use Board of Appeals,
4 775 Summer Street NE, Suite 330, Salem, OR 97301-1283, by first class mail.

5 DATED: July 17, 2018.

6 
Jeffrey L. Kleinman, OSB #743726
Attorney for Intervenor-Petitioner
7

8 **CERTIFICATE OF SERVICE**

9 I hereby certify that I served the foregoing MOTION TO INTERVENE in
10 LUBA No. 2018-072 on July 17, 2018, by mailing to said parties or their attorney
11 a true copy thereof contained in a sealed envelope with postage prepaid addressed
12 to said parties or their attorney as follows:

13 Daniel H. Kearns, Esq.
14 Reeve Kearns PC
15 510 American Bank Building
621 SW Morrison Street
Portland, OR 97205

Tracy Pool Reeve, Esq.
Office of City Attorney
City of Portland
1221 SW 4th Avenue, Suite 430
Portland, OR 97204

16 MadAve LLC, ConDa LLC &
17 David Leikin
18 c/o Carrie Richter, Esq.
Bateman Seidel
888 SW 5th Ave, Ste. 1250
Portland, OR 97204

Haithem Toulon and OSB2LAN
Ivon, LLC
c/o Michael Connors, Esq.
Hathaway Larson, LLC
1331 NW Lovejoy St, Ste. 950
Portland, OR 97209

19 Unico Properties, LLC and
20 Haithem Toulon
21 c/o Dana Krawczuk, Esq.
Stoel Rives
760 SW 9th Ave, Ste. 3000
22 Portland, OR 97205

Oregon Dept. of Land Conservation
and Development
635 Capitol Street, NE, Suite 150
Salem, OR 97301-2540

23 DATED: July 17, 2018.

24 
Jeffrey L. Kleinman, OSB #743726
Attorney for Intervenor-Petitioner
25
26



Oregon

Kate Brown, Governor

Land Use Board of Appeals

775 Summer Street NE, Suite 330

Salem, OR 97301-1283

(503) 373-1265

July 19, 2018

Timothy V. Ramis
Jordan Ramis PC
Two Centerpoint Drive 6th Floor
Lake Oswego, OR 97035

RE: Restore Oregon et al v. City of Portland
LUBA No. 2018-072/073

This is to acknowledge that your motions to intervene on the side of the Respondent in the above appeal was filed with LUBA on July 17, 2019.

Enclosed with this letter is a notice of the option to seek mediation in this matter.

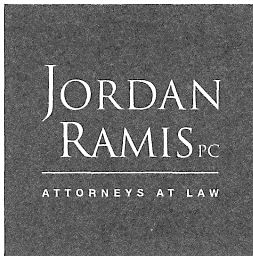
Very truly yours,


Kristi Seyfried
Executive Support Specialist

Enclosure

cc w/o encl.: Tracy Pool Reeve, Daniel Kearns, E. Michael Connors





Lake Oswego
Two Centerpointe Dr., 6th Floor
Lake Oswego, OR 97035
503-598-7070
www.jordanramis.com

Vancouver
1499 SE Tech Center Pl., #380
Vancouver, WA 98683
360-567-3900

Bend
360 SW Bond St., Suite 510
Bend, OR 97702
541-550-7900

VIA FIRST CLASS MAIL

July 17, 2018

Land Use Board of Appeals
Attn: Kelly Burgess
775 Summer Street NE, Suite 330
Salem OR 97301-1238

Re: *OSB2LAN Ivon, LLC, et al v. City of Portland, et al.*
LUBA No. 2018-073

07/19/18 PM 1:26 LUBA

Dear Kelly:

Enclosed for filing are an original and one copy of Intervenor-Respondent's Motion to Intervene and Affidavit of Timothy V. Ramis in Support. Also enclosed is a check for the filing fee.

Thank you for your assistance.

Sincerely,

JORDAN RAMIS PC

A handwritten signature of Timothy V. Ramis in cursive script, written in dark ink.

Timothy V. Ramis
Admitted in Oregon
tim.ramis@jordanramis.com
(503) 598-7070

Enclosures

cc: E. Michael Connors, Hathaway Larson
Linly Rees, City of Portland
Briana Murtaugh, Guardian

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3
4 BEFORE THE LAND USE BOARD OF APPEALS
5 FOR THE STATE OF OREGON

6 OSB2LAN IVON, LLC and HATHEM
7 TOULAN,

8 Petitioners,

9 v.

10 CITY OF PORTLAND,

11 Respondent,

12 and

13 GUARDIAN REAL ESTATE SERVICES,
14 LLC,

Intervenor-Respondent.

LUBA No. 2018-073

MOTION TO INTERVENE

07/19/18 PM 1:26 LUBA

15 Guardian Real Estate Services, LLC hereby moves to intervene on the
16 side of the Respondent, City of Portland, in the above-referenced appeal
17 recently received by LUBA. Guardian Real Estate Services, LLC is represented
18 by the law firm of Jordan Ramis PC and attorney Timothy V. Ramis. The
19 contact information for Mr. Ramis is as follows.

20 Timothy V. Ramis
21 Jordan Ramis PC
22 Two Centerpointe Drive, 6th Floor
23 Lake Oswego, OR 97035
Telephone: (503) 598-7070
Facsimile: (503) 598-7373
tim.ramis@jordanramis.com



U.S. POSTAGE >> PITNEY BOWES
ZIP 97035 \$ 001.42⁰
02 4W
0000350107 JUL 17 2018

24 The movant appeared before the City Council in writing and orally in the
25 legislative procedure that approved City of Portland Ordinance Nos. 189000,

1 189001 and 189002 and Resolution Nos. 37360 and 37361, on which this
2 appeal is based. These facts are supported by the attached affidavit of
3 Timothy V. Ramis. Accordingly, the movant has established standing to
4 intervene under ORS 197.830(7)(b)(A), 197.830(7)(b)(B), and OAR 661-010-
5 0050(1).

6 Dated this 17th day of July, 2018.

7

8

JORDAN RAMIS PC
Attorneys for Intervenor-Respondent
Guardian Real Estate Services, LLC

9

10

By: 
Timothy V. Ramis, OSB # 753110
tim.ramis@jordanramis.com

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CERTIFICATE OF FILING AND SERVICE

I hereby certify that on the date shown below, I filed the original and one (1) copy of the foregoing **Motion to Intervene** by first class mail, postage prepaid, on:

Oregon Land Use Board of Appeals
DSL Building
775 Summer Street NE, Suite 330
Salem OR 97301

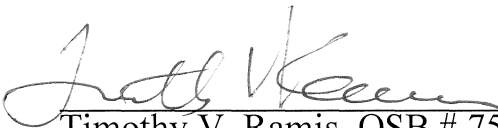
I further hereby certify that on the date shown below, I served a true and correct copy of the foregoing **Motion to Intervene** by first class mail, postage prepaid, on:

E. Michael Connors
Hathaway Larson
1331 NW Lovejoy Street, Suite 950
Portland, OR 97209
Attorney for Petitioners OSB2LAN IVON, LLC et al

Linly Rees
Deputy City Attorney
1221 SW Fourth Avenue, Suite 430
Portland, OR 97204
Attorney for Respondent City of Portland

☒ by first class mail, postage prepaid.

DATED: July 17, 2018.



Timothy V. Ramis, OSB # 753110
Attorney for Intervenor-
Respondent Guardian Real Estate
Services, LLC

1 within the Central City Plan District and is subject to Ordinance Nos. 189000,
2 189001 and 189002 and Resolution Nos. 37360 and 37361.

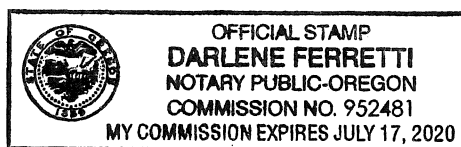
3 3. I submitted written and oral testimony to the City Council during
4 the legislative hearings which led to approval of Ordinance Nos. 189000,
5 189001 and 189002 and Resolution Nos. 37360 and 37361.

6 4. Petitioners initiated this proceeding before the Board to appeal
7 Ordinance Nos. 189000, 189001 and 189002 and Resolution Nos. 37360 and
8 37361.

9 5. Guardian Real Estate Services, LLC should be allowed to
10 intervene in this matter by virtue of participating in the City of Portland
11 proceedings below that resulted in this appeal.

12
13 
14 Timothy V. Ramis, OSB # 753110

15 SUBSCRIBED AND SWORN to before me this 17th day of July, 2018.



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NOTARY PUBLIC FOR OREGON
My Commission Expires: July 17, 2020


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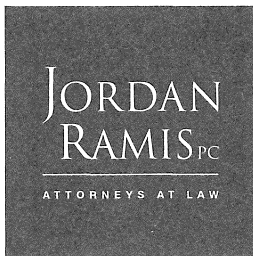
Oregon Land Use Board of Appeals
DSL Building
775 Summer Street NE, Suite 330
Salem OR 97301

E. Michael Connors
Hathaway Larson
1331 NW Lovejoy Street, Suite 950
Portland, OR 97209
Attorney for Petitioners OSB2LAN IVON, LLC, et al.

☒ by first class mail, postage prepaid.

DATED: July 17, 2018.


Timothy V. Ramis, OSB # 753110
Attorney for Intervenor-
Respondent Guardian Real Estate
Services, LLC



Lake Oswego
Two Centerpointe Dr., 6th Floor
Lake Oswego, OR 97035
503-598-7070
www.jordanramis.com

Vancouver
1499 SE Tech Center Pl., #380
Vancouver, WA 98683
360-567-3900

Bend
360 SW Bond St., Suite 510
Bend, OR 97702
541-550-7900

VIA FIRST CLASS MAIL

July 17, 2018

Land Use Board of Appeals
Attn: Kelly Burgess
775 Summer Street NE, Suite 330
Salem OR 97301-1238

07/19/18 PM 1:23 LUBA

Re: *Restore Oregon, et al v. City of Portland, et al.*
LUBA No. 2018-072

Dear Kelly:

Enclosed for filing are an original and one copy of Intervenor-Respondent's Motion to Intervene and Affidavit of Timothy V. Ramis in Support. Also enclosed is a check for the filing fee.

Thank you for your assistance.

Sincerely,

JORDAN RAMIS PC

Timothy V. Ramis
Admitted in Oregon
tim.ramis@jordanramis.com
(503) 598-7070

Enclosures

cc: Daniel Kearns, Reeve Kearns, PC
Linly Rees, City of Portland
Briana Murtaugh, Guardian

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3
4 BEFORE THE LAND USE BOARD OF APPEALS
5 FOR THE STATE OF OREGON

6 RESTORE OREGON, BOSCO-MILLIGAN
7 FOUNDATION/ARCHITECTURAL
8 HERITAGE CENTER, NIKKEI LEGACY
9 ENDOWMENT, PORTLAND
10 CHINATOWN MUSEUM and PEGGY G.
11 MORETTI,

12 Petitioners,

13 v.

14 CITY OF PORTLAND,

15 Respondent,

16 and

17 GUARDIAN REAL ESTATE SERVICES,
18 LLC,

19 Intervenor-Respondent.

LUBA No. 2018-072

MOTION TO INTERVENE

07/19/18 PM 1:23 LUBA

20 Guardian Real Estate Services, LLC hereby moves to intervene on the
21 side of the Respondent, City of Portland, in the above-referenced appeal
22 received by LUBA on June 29, 2018. Guardian Real Estate Services, LLC is
23 represented by the law firm of Jordan Ramis PC and attorney Timothy V.
24 Ramis. The contact information for Mr. Ramis is as follows.

25 Timothy V. Ramis
Jordan Ramis PC
Two Centerpointe Drive, 6th Floor
Lake Oswego, OR 97035
Telephone: (503) 598-7070
Facsimile: (503) 598-7373
tim.ramis@jordanramis.com



U.S. POSTAGE PITNEY BOWES
ZIP 97035 \$001.42⁰
02 4W
0000350107 JUL 17 2018

1 The movant appeared before the City Council in writing and orally in the
2 legislative procedure that approved City of Portland Ordinance No. 189000, on
3 which this appeal is based. These facts are supported by the attached affidavit
4 of Timothy V. Ramis. Accordingly, the movant has established standing to
5 intervene under ORS 197.830(7)(b)(A), 197.830(7)(b)(B), and OAR 661-010-
6 0050(1).

7 Dated this 17th day of July, 2018.

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JORDAN RAMIS PC
Attorneys for Intervenor-Respondent
Guardian Real Estate Services, LLC

By: 
Timothy V. Ramis, OSB # 753110
tim.ramis@jordanramis.com

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CERTIFICATE OF FILING AND SERVICE

I hereby certify that on the date shown below, I filed the original and one (1) copy of the foregoing **Motion to Intervene** by first class mail, postage prepaid, on:

Oregon Land Use Board of Appeals
DSL Building
775 Summer Street NE, Suite 330
Salem OR 97301

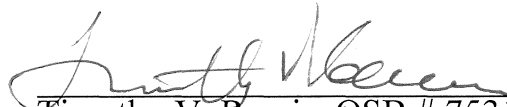
I further hereby certify that on the date shown below, I served a true and correct copy of the foregoing **Motion to Intervene** by first class mail, postage prepaid, on:

Daniel Kearns
Reeve Kearns, PC
621 SW Morrison Street, Suite 510
Portland, OR 97205
Attorney for Petitioners

Linly Rees
Deputy City Attorney
1221 SW Fourth Avenue, Suite 430
Portland, OR 97204
Attorney for Respondent City of Portland

☒ by first class mail, postage prepaid.

DATED: July 17, 2018.



Timothy V. Ramis, OSB # 753110
Attorney for Intervenor-
Respondent Guardian Real Estate
Services, LLC

1
2
3
4 BEFORE THE LAND USE BOARD OF APPEALS
5 FOR THE STATE OF OREGON

6 RESTORE OREGON, BOSCO-MILLIGAN
7 FOUNDATION/ARCHITECTURAL
8 HERITAGE CENTER, NIKKEI LEGACY
9 ENDOWMENT, PORTLAND
10 CHINATOWN MUSEUM and PEGGY G.
11 MORETTI,

12 Petitioners,

13 v.

14 CITY OF PORTLAND,

15 Respondent,

16 and

17 GUARDIAN REAL ESTATE SERVICES,
18 LLC,

19 Intervenor-Respondent.

LUBA No. 2018-072

AFFIDAVIT OF TIMOTHY V.
RAMIS IN SUPPORT OF
MOTION TO INTERVENE

07/19/18 PM 1:23 LUBA

20 STATE OF OREGON)

21) ss.

22 County of Clackamas)

23 I, Timothy V. Ramis, being first duly sworn, depose and say that:

24 1. I am the attorney for Guardian Real Estate Services, LLC in the
25 above referenced matter and make this Affidavit in support of Guardian Real
Estate Services, LLC's Motion to Intervene filed herewith.

2. On behalf of Guardian Real Estate Services, LLC, I assisted in the
advocacy to the City of Portland for zoning code changes for Block 33, a block

1 which is partially owned by Guardian Real Estate Services, LLC, that lies
2 within the Central City Plan District and is subject to Ordinance No. 189000.

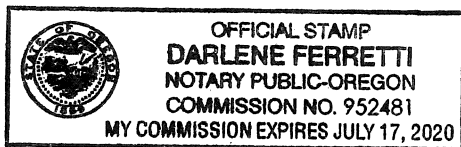
3 3. I submitted written and oral testimony to the City Council during
4 the legislative hearings which led to approval of Ordinance No. 189000.

5 4. Petitioners initiated this proceeding before the Board to appeal the
6 Ordinance No. 189000.

7 5. Guardian Real Estate Services, LLC should be allowed to
8 intervene in this matter by virtue of participating in the City of Portland
9 proceedings below that resulted in this appeal.

10
11 
12 Timothy V. Ramis, OSB # 753110

13 SUBSCRIBED AND SWORN to before me this 17th day of July, 2018.




NOTARY PUBLIC FOR OREGON
My Commission Expires: July 17, 2020

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Oregon Land Use Board of Appeals
DSL Building
775 Summer Street NE, Suite 330
Salem OR 97301

Daniel Kearns
Reeve Kearns, PC
621 SW Morrison Street, Suite 510
Portland, OR 97205
Attorney for Petitioners

Linly Rees
Deputy City Attorney
1221 SW Fourth Avenue, Suite 430
Portland, OR 97204
Attorney for Respondent City of Portland

☒ by first class mail, postage prepaid.

DATED: July 17, 2018.


Timothy V. Ramis, OSB # 753110
Attorney for Intervenor-
Respondent Guardian Real Estate
Services, LLC

1 BEFORE THE LAND USE BOARD OF APPEALS
2 OF THE STATE OF OREGON
3

4 RESTORE OREGON,
5 BOSCO-MILLIGAN FOUNDATION
6 ARCHITECTURAL HERITAGE CENTER,
7 NIKKEI LEGACY ENDOWMENT,
8 PORTLAND CHINATOWN MUSEUM,
9 and PEGGY G. MORETTI,
10 *Petitioners,*

11
12 vs.

07/17/18 AM 8:09 LUBA

13
14 CITY OF PORTLAND,
15 *Respondent.*

16
17 LUBA No. 2018-072

18
19 OSB2LAN IVON, LLC
20 and HAITHEM TOULAN,
21 *Petitioners,*

22
23 vs.

24
25 CITY OF PORTLAND,
26 *Respondent.*

27
28 LUBA No. 2018-073

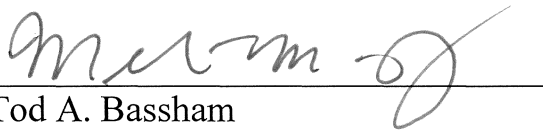
29
30 ORDER

31 OSB2LAN IVON, LLC and Haithem Toulou (petitioners), the petitioners
32 in LUBA No. 2018-073, filed a single Notice of Intent to Appeal (NITA) on
33 June 27, 2018. The NITA identifies three ordinances and two resolutions
34 adopted by the city council as the appealed decision. According to the city,

1 each of the ordinances and resolutions is a separate final decision for which
2 petitioners must file a separate notice of intent to appeal and pay a filing fee
3 and deposit for costs. The city moves for an order requiring petitioners to
4 submit a separate notice of intent to appeal, filing fee and deposit for costs for
5 each of the three ordinances and two resolutions adopted by the city that are
6 referenced in their NITA.

7 The record has not been received by the Board. All deadlines in the
8 appeals are suspended. OAR 661-010-0065(4). Petitioners shall have until July
9 26, 2018 to respond to the city's motion by either (1) explaining why the NITA
10 satisfies OAR 661-010-0015(a); (2) identifying which one of the three
11 ordinances and two resolutions described in petitioners' NITA that NITA is
12 intended to appeal; or (3) submitting a separate notice of intent to appeal, filing
13 fees, and deposits for costs for each decision they are appealing. After
14 petitioners' response is received, the Board will issue an order ruling on the
15 city's motion and establishing future deadlines for action in these appeals.

16 Dated this 17th day of July, 2018.
17
18

19 
20 _____
21 Tod A. Bassham
22 Board Member

Certificate of Mailing

I hereby certify that I served the foregoing Order for LUBA No. 2018-072/073 on July 17, 2018, by mailing to said parties or their attorney a true copy thereof contained in a sealed envelope with postage prepaid addressed to said parties or their attorney as follows:


Daniel Kearns
Reeve Kearns PC
621 SW Morrison Street Suite 510
Portland, OR 97205

E. Michael Connors
Hathaway Larson LLP
1331 NW Lovejoy Street Suite 950
Portland, OR 97209

Tracy Pool Reeve
Portland Office of City Attorney
1221 SW Fourth Avenue, Suite 430
Portland, OR 97204

Dated this 17th day of July, 2018.

Kelly Burgess
Paralegal



Kristi Seyfried
Executive Support Specialist

BEFORE THE LAND USE BOARD OF APPEALS
OF THE STATE OF OREGON

RESTORE OREGON, BOSCO-
MILLIGAN FOUNDATION/
ARCHITECTURAL HERITAGE
CENTER, NIKKEI LEGACY
ENDOWMENT, PORTLAND
CHINATOWN MUSEUM and PEGGY
G. MORETTI,

Petitioners,

v.

CITY OF PORTLAND,
Respondent,

OSB2LAN IVON, LLC and HAITHAM
TOULAN,

Petitioners,

v.

CITY OF PORTLAND,
Respondent.

LUBA No. 2018-072/073
(Consolidated)

**RESPONDENT'S MOTION
REQUESTING ORDER
PURSUANT TO OAR 661-010-
0015(1)(d)**

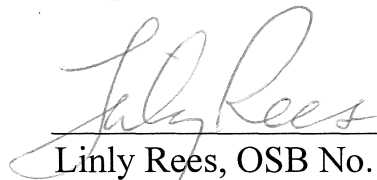
Respondent City of Portland moves the Land Use Board of Appeals
("LUBA") for an order directing petitioners OSB2LAN IVON, LLC and
Haithem Toulam (hereinafter "petitioners") to submit a separate Notice of Intent
to Appeal ("NITA"), filing fee and deposit for each final decision referred to in
the NITA for LUBA No. 2018-073.

1 The NITA filed by petitioners in LUBA No. 2018-073 identifies three
2 ordinances (Ordinance Nos. 189000, 189001 and 189002) and two resolutions
3 (Resolution Nos. 37360 and 37361) adopted by the Portland City Council as the
4 decisions petitioners intend to appeal. A separate NITA must be filed for each
5 local decision appealed. OAR 661-010-0015(1)(d) provides that if LUBA
6 determines a NITA identifies more than one final decision as the subject of
7 appeal, LUBA will notify the petitioners. LUBA must dismiss the appeal if
8 petitioners fail either to submit a written election to appeal only one decision or
9 to file a separate NITA with filing fee and deposit. *Id.*

10 Each of the ordinances and resolutions identified in petitioners' NITA
11 was adopted by separate vote of the Council with separate findings, and
12 therefore each is a separate final decision. Following the holding in *Woodard v.*
13 *City of Cottage Grove*, 225 Or App 282, 286, 201 P3d 210 (2009), the
14 appropriate remedy for petitioners' inclusion of multiple decisions in one NITA
15 is to follow the procedures in OAR 661-010-0015(1)(d).

16 DATED: July 12, 2018

17
18 Respectfully submitted,

19
20 

21 Linly Rees, OSB No. 945098

22 Chief Deputy City Attorney

23 Email: linly.rees@portlandoregon.gov
24
25
26

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I served the foregoing RESPONDENT'S MOTION TO
3 DISMISS on:

4 DANIEL KEARNS
5 REEVE KEARNS PC
6 ATTORNEYS AT LAW
7 621 SW MORRISON ST., STE 1225
8 PORTLAND, OR 97205
9 *Attorney for Restore Oregon, et al.*

10 E. MICHAEL CONNORS
11 HATHAWAY LARSON
12 1331 NW LOVEJOY STREET, STE 950
13 PORTLAND, OR 97209
14 *Attorney for OSB2LAN IVON, LLC, et al.*

15 on July 12, 2018, by mailing to said person(s) a correct copy thereof, contained in
16 a sealed envelope, with postage paid, and deposited in the post office at Portland,
17 Oregon on said day.

18 I further certify that on July 12, 2018, I filed the original and one copy of the
19 MOTION TO DISMISS with the:

20 LAND USE BOARD OF APPEALS
21 DSL BUILDING
22 775 SUMMER STREET NE, SUITE 330
23 SALEM, OR 97301-1283

24 by mailing said document, contained in a sealed envelope, with first class postage
25 paid, and deposited with the post office at Portland, Oregon on said day.

26

27 LINLY REES, OSB No. 945098
28 Chief Deputy City Attorney

1 BEFORE THE LAND USE BOARD OF APPEALS
2 OF THE STATE OF OREGON

3
4 RESTORE OREGON,
5 BOSCO-MILLIGAN FOUNDATION
6 ARCHITECTURAL HERITAGE CENTER,
7 NIKKEI LEGACY, ENDOWMENT,
8 PORTLAND CHINATOWN MUSEUM,
9 and PEGGY G. MORETTI,
10 *Petitioners,*

07/03/18 AM 9:27 LUBA

11
12 vs.

13
14 CITY OF PORTLAND,
15 *Respondent.*

16
17 LUBA No. 2018-072

18
19 OSB2LAN IVON, LLC
20 and HAITHEM TOULAN,
21 *Petitioners,*

22
23 vs.

24
25 CITY OF PORTLAND,
26 *Respondent.*

27
28 LUBA No. 2018-073

29
30 ORDER ON CONSOLIDATION

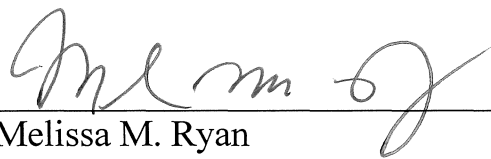
31 Under OAR 661-010-0055, LUBA:

32 “* * * may consolidate two or more proceedings, provided the
33 proceedings seek review of the same or closely related land use
34 decision(s) or limited land use decision(s).”

35 LUBA Nos. 2018-072 and 2018-073 seek review of the same decision.

1 Accordingly, LUBA Nos. 2018-072 and 2018-073 shall be consolidated
2 for LUBA review, and city of Portland shall submit a single consolidated
3 record. The record in this consolidated proceeding shall be transmitted to the
4 Board on or before July 23, 2018.

5 Dated this 3rd day of July, 2018.

6
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10 
11 Melissa M. Ryan
 Board Chair

Certificate of Mailing

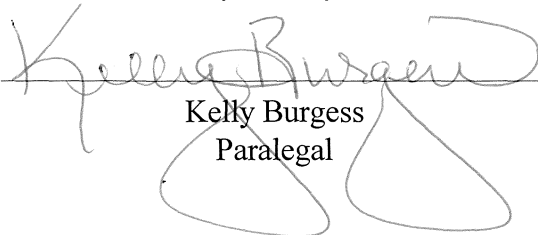
I hereby certify that I served the foregoing Order on Consolidation for LUBA No. 2018-072/073 on July 3, 2018, by mailing to said parties or their attorney a true copy thereof contained in a sealed envelope with postage prepaid addressed to said parties or their attorney as follows:

Daniel Kearns
Reeve Kearns PC
621 SW Morrison Street Suite 510
Portland, OR 97205

E. Michael Connors
Hathaway Larson LLP
1331 NW Lovejoy Street Suite 950
Portland, OR 97209

Tracy Pool Reeve
Portland Office of City Attorney
1221 SW Fourth Avenue, Suite 430
Portland, OR 97204

Dated this 3rd day of July, 2018.



Kelly Burgess
Paralegal

Kristi Seyfried
Executive Support Specialist



Oregon

Kate Brown, Governor

Land Use Board of Appeals

775 Summer Street NE, Suite 330

Salem, OR 97301-1283

(503) 373-1265

June 29, 2018

Tracy Pool Reeve
Portland Office of City Attorney
1221 SW Fourth Avenue, Suite 430
Portland, OR 97204

RE: OSB2LAN Ivon LLC v. City of Portland
LUBA No. 2018-073

This is to advise you that a Notice of Intent to Appeal was sent certified mail on June 27, 2018 and received by the Board on June 29, 2018, in the above matter and that OAR 661-010-0015 requires that service of the notice of intent to appeal be made upon the respondent within 21 days after the date of the land use decision being appealed.

A copy of the record is to be prepared by respondent and transmitted to the Board within 21 days of the date of such service. Enclosed is a summary of the specifications for preparation of the record as set out in OAR 661-010-0025(4).

If the decision being appealed is on remand from LUBA and the record on remand incorporates the original record, you will need to refile a copy of the original record as we no longer maintain records from closed appeals.

Attached to this letter is a notice of the option to seek mediation in this matter.

Very truly yours,


Kristi Seyfried
Executive Support Specialist

Enclosures

cc: E. Michael Connors





HATHAWAY LARSON

Koback · Connors · Heth

June 27, 2018

CERTIFIED MAIL RETURN RECEIPT

06/29/18 PM 1:13 LUBA

Kelly Burgess, Paralegal
Land Use Board of Appeals
775 Summer Street NE, Suite 330
Salem, OR 97301-1283

Re: OSB2LAN IVON, LLC and Haithem Toulon v. City of Portland

Dear Kelly:

2018-073

Enclosed for filing are an original and two copies of the Notice of Intent to Appeal with regard to the above-referenced matter. Also enclosed is our check, payable to the Land Use Board of Appeals, in the amount of \$400 for the filing fee and costs.

Thank you for your consideration.

Very truly yours,

HATHAWAY LARSON LLP

E. Michael Connors

EMC/mo
Enclosures

cc: Tracy Pool Reeve, City Attorney (w/ *encl. via certified mail, return receipt*)
City of Portland, Bureau of Planning and Sustainability (w/ *encl. via certified mail, return receipt*)

E. Michael Connors
1331 NW Lovejoy Street, Suite 950
Portland, OR 97209
mike@hathawaylarson.com
(503) 303-3111 direct
(503) 303-3101 main

LUBA Record001243

BEFORE THE LAND USE BOARD OF APPEALS
OF THE STATE OF OREGON

**OSB2LAN IVON, LLC and
HAITHAM TOULAN,**

Petitioners,

vs.

CITY OF PORTLAND,

Respondent.

LUBA No. 2018-073

06/29/18 PM 1:13 LUBA

NOTICE OF INTENT TO APPEAL

I.

NOTICE IS HEREBY GIVEN that Petitioners OSB2LAN IVON, LLC and Haithem Toulam ("Petitioners") intend to appeal the land use decision(s) of Respondent City of Portland ("Respondent") entitled "Central City 2035 Plan," which consists of Ordinance No. 189000 ("Adopt the Central City 2035 Plan: amend the Comprehensive Plan, Comprehensive Plan Map, Transportation System Plan, Willamette Greenway Plan, Scenic Resources Protection Plan, Zoning Map, and Title 33; authorize adoption of administrative rules; repeal and replace prior Central City plans and documents"); Ordinance No. 189001 ("Amend the Central City Plan District of the Zoning Code to increase bonus heights and impose master plan requirements in certain RiverPlace subareas (Ordinance; amend Code Sections 33.510.210.D and 33.510.255, and Maps 510-4, 510-16 and 510-19"); Ordinance No. 189002 ("Adopt the Central City 2035 Plan, Volume 2A, Part 3, Environmental and Scenic: amend the Portland Zoning Map, and Portland Zoning

BEFORE THE LAND USE BOARD OF APPEALS
OF THE STATE OF OREGON

OSB2LAN IVON, LLC and
HAITHAM TOULAN,

Petitioners,

vs.

CITY OF PORTLAND,

Respondent.

LUBA No. 2018-073

06/29/18 PM 1:13 LUBA

NOTICE OF INTENT TO APPEAL

I.

NOTICE IS HEREBY GIVEN that Petitioners OSB2LAN IVON, LLC and Haithem Toulam (“Petitioners”) intend to appeal the land use decision(s) of Respondent City of Portland (“Respondent”) entitled “Central City 2035 Plan,” which consists of Ordinance No. 189000 (“Adopt the Central City 2035 Plan: amend the Comprehensive Plan, Comprehensive Plan Map, Transportation System Plan, Willamette Greenway Plan, Scenic Resources Protection Plan, Zoning Map, and Title 33; authorize adoption of administrative rules; repeal and replace prior Central City plans and documents”); Ordinance No. 189001 (“Amend the Central City Plan District of the Zoning Code to increase bonus heights and impose master plan requirements in certain RiverPlace subareas (Ordinance; amend Code Sections 33.510.210.D and 33.510.255, and Maps 510-4, 510-16 and 510-19”); Ordinance No. 189002 (“Adopt the Central City 2035 Plan, Volume 2A, Part 3, Environmental and Scenic: amend the Portland Zoning Map, and Portland Zoning

Codes for Environmental Overlay Zones, and Scenic Resources, and amend the Scenic Resources Protection Plan (Ordinance; amend Code Chapters 33.430 and 480)”; Resolution No. 37360 (“Adopt the Central City 2035 Plan Action Charts, Performance Targets and Urban Design Diagrams”); and Resolution No. 37361 (“Adopt the Central City 2035 Plan Green Loop Concept Report”); which became final on June 6, 2018. A copy of Respondent’s notice of decision is attached as Exhibit “A”.

II.

Petitioners are represented by:

E. Michael Connors, OSB # 954956
Hathaway Larson LLP
1331 NW Lovejoy Street, Ste. 950
Portland, OR 97209
Telephone: (503) 303-3101

III.

Respondent is the applicant and the governing body, and has as its mailing address and telephone number:

City of Portland
Bureau of Planning and Sustainability
1900 SW 4th Avenue, Ste. 7100
Portland, OR 97201
Telephone: (503) 823-7700

and has as its legal counsel:

Tracy Pool Reeve, City Attorney
City of Portland
1221 SW 4th Avenue, Suite 430
Portland, OR 97204
Telephone: (503) 823-4047

IV.

Other persons mailed written notice of the land use decision by Respondent, as indicated by its records in this matter, are those shown on the attached Exhibit "B".

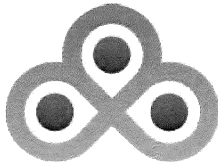
NOTICE:

Anyone designated in Paragraph IV of this Notice who desires to participate as a party in this case before the Land Use Board of Appeals must file with the Board a motion to intervene in this proceeding as required by OAR 661-10-0050.

DATED this 27th day of June, 2018.

HATHAWAY LARSON LLP

By: E. Michael Connors
E. Michael Connors, OSB # 954956
Of Attorneys for Petitioner



Bureau of Planning and Sustainability
Innovation. Collaboration. Practical Solutions.

June 12, 2018

Via Email (dkrawczuk@perkinscoie.com) and USPS Mail

Dana L. Krawczuk
Perkinscoie
1120 NW Couch St.
10th Floor
Portland OR 97209-4128

Dear Ms. Krawczuk,

This is to notify you and your client Haithem Toulam that the Portland City Council recently adopted the Central City 2035 Plan. The adopting ordinances and resolutions were passed by the City Council on June 6, 2018. They become effective on July 9, 2018.

Notice of Adoption of a Post Acknowledgement Plan Amendment for the project was filed with the Oregon Department of Land Conservation and Development on June 12, 2018.

The plan is available on the BPS web site: <https://www.portlandoregon.gov/bps/47907>. You may contact me or Nicholas Starin directly to review the adopting ordinances, resolutions, exhibits and findings:

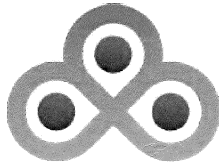
Sallie Edmunds
Bureau of Planning and Sustainability
1900 SW 4th Ave.
Suite 7100
Portland OR 97201
P: 971-823-6950
E: sallie.edmunds@portlandoregon.gov

Nicholas Starin
Bureau of Planning and Sustainability
1900 SW 4th Ave.
Suite 7100
Portland OR 97201
P: 971-823-5837
E: nicholas.starin@portlandoregon.gov



City of Portland, Oregon | Bureau of Planning and Sustainability | www.portlandoregon.gov/bps
1900 SW 4th Avenue, Suite 7100, Portland, OR 97201 | phone: 503-823-7700 | fax: 503-823-7800 | tty: 503-823-6868

Printed on 100% post-consumer waste recycled paper.



Bureau of Planning and Sustainability
Innovation. Collaboration. Practical Solutions.

City Council's decision is the final review process available through the City. You may appeal this decision to the Oregon Land Use Board of Appeals (LUBA) by filing a Notice of Intent to Appeal with LUBA within 21 days of the date of decision is mailed or otherwise submitted to parties entitled to notice under ORS 197.615, as specified in the Oregon Revised Statute (ORS) 197.830(9). Among other things, ORS 197.830 requires that a petitioner at LUBA must have appeared orally or in writing during the City's proceedings on this land review. LUBA's address is: DSL Building, 775 Summer Street NE, Suite 330, Salem, OR 97301-1283. You may call LUBA at 1-503-373-1265 or visit LUBA's website (www.oregon.gov/LUBA) for further information on filing an appeal.

Per ORS 197.830(9), copies of the notice of intent to appeal shall be served upon the City. The notice shall be served and filed in the form and manner prescribed by rule of the board and shall be accompanied by a filing fee of \$200 and a deposit for costs to be established by the board.

Please let me know if you have any questions.

Sincerely,

Sallie Edmunds, Supervising Planner

Cc: Nicholas Starin, BPS
Rachael Hoy, BPS
Allison Reynolds, Perkinscoie, AREynolds@perkinscoie.com



City of Portland, Oregon | Bureau of Planning and Sustainability | www.portlandoregon.gov/bps
1900 SW 4th Avenue, Suite 7100, Portland, OR 97201 | phone: 503-823-7700 | fax: 503-823-7800 | tty: 503-823-6868

Printed on 100% post-consumer waste recycled paper.

LUBA Record001249

Exhibit B

**Dana Krawczuk
Stoel Rives
760 SW 9th Avenue, Suite 3000
Portland, OR 97205**

**Carrie Richter
Bateman Seidel
888 SW 5th Avenue, Suite 1250
Portland, OR 97204**

**Oregon Department of Land
Conservation
and Development
635 Capitol St. NE, Suite 150
Salem, OR 97301-2540**

CERTIFICATE OF FILING

I hereby certify that I filed the original of the **NOTICE OF INTENT TO APPEAL**, together with two (2) copies thereof, with the Land Use Board of Appeals, 775 Summer Street NE, Suite 330, Salem, OR 97301-1283, on **June 27, 2018**, by certified mail, return receipt, to the Board at the above addresses.



E. Michael Connors, OSB# 954956
Of Attorneys for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on **June 27, 2018**, I served a true and correct copy of this **NOTICE OF INTENT TO APPEAL** on all persons listed in Paragraphs III and IV of this Notice, pursuant to OAR 661-10-015(2), by first class mail.



E. Michael Connors, OSB# 954956
Of Attorneys for Petitioner



Oregon

Kate Brown, Governor

Land Use Board of Appeals

775 Summer Street NE, Suite 330

Salem, OR 97301-1283

(503) 373-1265

June 29, 2018

Tracy Pool Reeve
Portland Office of City Attorney
1221 SW Fourth Avenue, Suite 430
Portland, OR 97204

RE: Restore Oregon et al v. City of Portland
LUBA No. 2018-072

This is to advise you that a Notice of Intent to Appeal was sent certified mail on June 27, 2018 and received by the Board on June 29, 2018, in the above matter and that OAR 661-010-0015 requires that service of the notice of intent to appeal be made upon the respondent within 21 days after the date of the land use decision being appealed.

A copy of the record is to be prepared by respondent and transmitted to the Board within 21 days of the date of such service. Enclosed is a summary of the specifications for preparation of the record as set out in OAR 661-010-0025(4).

If the decision being appealed is on remand from LUBA and the record on remand incorporates the original record, you will need to refile a copy of the original record as we no longer maintain records from closed appeals.

Attached to this letter is a notice of the option to seek mediation in this matter.

Very truly yours,


Kristi Seyfried
Executive Support Specialist

Enclosures

cc: Daniel Kearns



Reeve Kearns PC

Attorneys at Law

510 American Bank Building
621 S.W. Morrison Street
Portland, Oregon 97205
Email: dan@reevekearns.com

Daniel H. Kearns
Direct Dial: 503-997-6032

June 27, 2018

Land Use Board of Appeals
775 Summer Street NE, Suite 330
Salem, OR 97301-1283

SENT VIA CERTIFIED MAIL

**Re: Restore Oregon, et al v. City of Portland, LUBA No. 2018- 072
Notice of Intent to Appeal.**

06/29/18 PM 1:12 LUBA

Dear LUBA:

Please find enclosed for filing in the above-mentioned appeal the original and two copies of Petitioners' Notice of Intent to Appeal, along with a check for the filing fee and deposit for costs (\$400). Thank you.

Sincerely,



Daniel Kearns

Enclosures

cc: Clients
City of Portland
Tracy Reeve, Esq
Carrie Richter, Esq.
Dana Krawczuk, Esq.
Mike Connors, Esq.
DLCD

**BEFORE THE LAND USE BOARD OF APPEALS
FOR THE STATE OF OREGON**

RESTORE OREGON, BOSCO-
MILLIGAN FOUNDATION/
ARCHITECTURAL HERITAGE
CENTER, NIKKEI LEGACY
ENDOWMENT, PORTLAND
CHINATOWN MUSEUM and PEGGY G.
MORETTI - Petitioners,

v.

CITY OF PORTLAND - Respondent.

NOTICE OF INTENT TO APPEAL

LUBA NO. 2018-072

06/29/18 PM 1:12 LUBA

I

Notice is hereby given that petitioners intend to appeal that final land use decision of respondent, issued on June 6, 2018 as Ordinance No. 189000 by the Portland City Council:
“Adopt the Central City 2035 Plan; amend the Comprehensive Plan, Comprehensive Plan May, Transportation System Plan, Willamette Greenway Plan, Scenic Resources Protection Plan, Zoning Map, and Title 33; authorize adoption of administrative rules; repeal and replace prior Central City plans and documents.” Ordinance No. 189000 is the culmination of a multi-year legislative process to amend the Portland Central City Plan and related planning documents.

Petitioners have standing to appeal, and LUBA has jurisdiction to hear this appeal because petitioners filed it within 21 days of when respondent’s decision was adopted, reduced to writing and issued on June 6, 2018. The challenged decision is a final “land use decision” of respondent, as defined by ORS 197.015(10). All petitioners participated before the Portland City Council and/or the Portland Planning and Sustainability Commission during the process leading to the adoption of the challenged decision.

II

Petitioners are represented by Daniel Kearns (OSB #893952), REEVE KEARNS, PC, 621 SW Morrison Street, Suite 510, Portland, OR 97205, telephone number: (503) 225-1127, e-mail: dan@reevekearns.com.

III

Respondent, City of Portland, has as its mailing address: 1221 SW 4th Avenue, Room 110, Portland, OR 97204. City of Portland is represented by Tracy Pool Reeve (OSB #891123), Office of City Attorney, 1221 SW 4th Avenue, Suite 430, Portland, OR 97204, telephone number: (503) 823-4047, e-mail: tracy.reeve@portlandoregon.gov.

IV

The challenged decision was a legislative action, for which there was no applicant. Respondent's records indicate the following were sent notice of the challenged decision:

MadAve LLC, ConDa LLC & David Leikin
c/o Carrie Richter, Esq.
Bateman Seidel
888 SW 5th Ave, Ste. 1250
Portland, OR 97204

Unico Properties, LLC and Haithem Toulon
c/o Dana Krawczuk, Esq.
Stoel Rives
760 SW 9th Ave, Ste. 3000
Portland, OR 97205

Haithem Toulon and OSB2LAN Ivon, LLC
c/o Michael Connors, Esq.
Hathaway Larson, LLC
1331 NW Lovejoy St, Ste. 950
Portland, OR 97209

Oregon Dept. of Land Conservation and
Development
635 Capitol Street, NE
Suite 150
Salem, OR 97301-2540

NOTICE: Anyone designated in paragraph IV who desires to participate as a party in this case before the Land Use Board of Appeals must file with the Board a Motion to Intervene in this appeal proceeding as required by OAR 661-10-050.

Respectfully submitted this 27th day of June 2018.

REEVE KEARNS, PC

By: _____



Daniel Kearns, OSB #89395
Attorney for petitioners

CERTIFICATE OF FILING AND SERVICE

I hereby certify that on the date indicated below, I caused to be filed the original and two copies of the enclosed NOTICE OF INTENT TO APPEAL with the:

LAND USE BOARD OF APPEALS
775 Summer Street NE, Suite 330
Salem, OR 97301-1283

by certified First-Class U.S. mail, return receipt requested. On the same date, I caused to be served a true, complete and correct copy of the same document by certified First-Class U.S. mail, return receipt requested, on the following parties or attorneys:

City of Portland
1221 SW 4th Avenue
Room 110
Portland, OR 97204

Tracy Pool Reeve (OSB #891123),
Office of City Attorney
1221 SW 4th Avenue, Suite 430,
Portland, OR 97204

MadAve LLC, ConDa LLC & David Leikin
c/o Carrie Richter, Esq.
Bateman Seidel
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Portland, OR 97209

Oregon Dept. of Land Conservation and
Development
635 Capitol Street, NE
Suite 150
Salem, OR 97301-2540

DATED: June 27, 2018.

REEVE KEARNS, PC



By: _____
Daniel Kearns, OSB #89395
Attorney for Petitioners