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Portland City Council
1221 SW 4th Avenue
Portland, OR 97204

**RE: Design Overlay Zone Amendments
Height and FAR During Design Review
& Character and Local Identity Definition**

Dear Honorable Mayor and Commissioners,

We appreciate the opportunity to comment on two specific changes included in the recommend draft of the Design Overlay Zone Amendments (DOZA) pending before the City Council. First, we urge the Council to adopt language in the Recommended Draft codifying that neither height nor floor area ratio (FAR) can be reduced during design review. Second, we offer suggested changes to the language added to Portland Citywide Design Guideline 01, Volume 3 of the Recommended Draft, which dictates how character and local identity are defined.

Factors Reviewed During Design Review

Volume 2 of the Recommended Draft adds a provision to PCC 33.825.035, Factors Reviewed During Design Review, that codifies that neither height nor FAR can be reduced during design review except when the height being proposed includes bonus height and that bonus height specifically requires approval through design review or a modification through design review. This exception would not apply to bonus height earned through the FAR bonuses which do not require discretionary review, such as the Inclusionary Housing Bonus, Affordable Housing Fund, or the Historic Resource Transfer. This codification is consistent with the plain language and hierarchy of the current code and consistent with state law. Additionally, we agree with staff that the overall height and density permitted in an area is properly established during the legislative policy discussions that occur when establishing the development standards applicable to a base zone, an overlay zone, or a plan district. If permitted height

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and FAR were instead unknown and only determined through the discretionary design review process, it would completely undermine the certainty a project requires in the early phases of design development where critical decisions are made concerning the engineering, floorplate size, design, programming, and financial feasibility of a building.

An earlier version of the amendment considered and appropriately rejected by the Planning and Sustainability Commission and the Design Commission allowed for reduction in floor area through the design review process if the additional floor area were the result of a FAR transfer within a transfer sector. In addition to undermining required certainty, the previously proposed version would have thoroughly undermined the carefully crafted policies in the FAR transfer system that encourage affordable housing and seismic upgrades of historic structures, particularly in the Central City.

For these reasons, we request that City Council approve the recommended codification and reject any calls for returning to the previous language or alternative language that creates more uncertainty in the development review process at a time when we simply cannot afford more uncertainty. The City Council adopted objective standards to encourage important policy objectives; there is no compelling reason to backtrack on those objectives now.

Character and Local Identity Definition

Proposed Portland Citywide Design Guideline 01 states “build on the character, local identity, and aspiration of the place.” Guideline 01 includes a box titled “how are character and local identity defined?” The Proposed Draft included the following answer to that question, “applicants, decision-makers, and the public can rely on several sources to draw inspiration, information and guidance,” followed by a list of sources that includes the character statement, the Urban Design Framework, site and area observations, adopted city policies and plans, and designated historic and natural resources. We support the guidance on the specific sources for defining character and local identity.

Recommended Draft Volume 3, however, adds the following sentence prior to the list of sources, “these sources should be balanced with community voices that engage throughout the design process.”

We fully support community engagement in the design review process. However, as currently written the added sentence creates significant uncertainty for an applicant related to compliance with the guideline and for the City in writing decisions which clearly address the guideline. To demonstrate compliance with the guideline an applicant must design a project that builds on the character and local identity of the place. The character and local identity of the place is defined by fixed sources identified in the definition guidance. The concern is that if you add community voices as a separate source, instead of an important input, the definition of Character may not be defined and remain unknown until mid-way through the design process or even at the end of the design process and may not even be connected to the other identified sources. In addition, if “community voices” is treated as a source or an approval standard instead of an important input, it will create legal complications in review and on appeals outside the City. In essence the City could be applying a standard that was not identified or defined when the application was submitted but instead emerged during the review process in violation of ORS 227.173 and 227.178.

Community input is critical when discussing the character of the area. Therefore, we propose the following as a replacement for the new sentence included in the Recommended Draft:

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Applicants and decision makers should consider community input on the interpretation and relevance of the identified sources in defining the local character and identity for purposes of this guideline.

The proposed change still places an appropriate emphasis on the role of public input in determination of the character and local identity for a specific project and requires the applicant and decision makers to consider that input in the design and the decision. However, that input must be tied to the identified list of sources. This change is needed to prevent a continually shifting definition of character and local identity throughout the design review process.

Again, we appreciate the opportunity to provide these comments and thank you for your consideration.

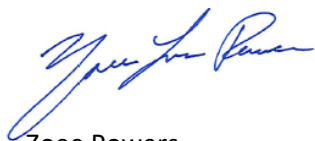
Respectfully submitted,



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