

Thomas Karwaki

#335070 | July 17, 2024

Testimony to **Portland City Council** on the **Land Division Code Update, Recommended Draft**

The University Park Neighborhood Association Land Use Committee commends and supports this Draft. Our concern is about the Willamette Bluff and Railroad Cut which are unstable. Several areas that moving are in the original striped area and not in the new purple zones determined by a new uniform and more scientific method. This is of concern near Cary + Willamette Blvd near the bridge where one or two lots might be eligible to be divided under the new proposed system because most of the lot which was striped (currentl approach) are not in the purple zone. However Staff informs us they would still have to do a Geotechnical review. So we support the proposed approach.

Testimony is presented without formatting.

Steven Pfeiffer

#335069 | July 16, 2024

Testimony to **Portland City Council** on the **Land Division Code Update, Recommended Draft**

See attached testimony.

Testimony is presented without formatting.

July 16, 2024

Steven L. Pfeiffer
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VIA EMAIL

Mayor Ted Wheeler
City of Portland
1900 SW Fourth Avenue
Portland, OR 97201

Re: Land Division Code Update - Angel Request to Include Amendment to PCC 33.563.410

Dear Mayor Wheeler and fellow Commissioners:

This office represents Mr. Joseph W. Angel regarding his property located at 5100 NW Skyline Blvd. (“the Property”), which lies within the Northwest Hills Plan District and outside of the Metro urban growth boundary (“UGB”). In response to the opportunity to provide comments during the recent RICAP 10 Code Amendment proceedings, we submitted the attached letters to the Bureau of Planning and Sustainability, the Planning Commission and the City Council requesting an additional amendment to PCC 33.563.410(B)(1) for the reasons stated therein. Unfortunately, we note that our requested revisions are not included in the final RICAP Code Amendments adopted by the Council.

We now understand that the City Council is considering additional amendments to the Land Division Code and related provisions in Title 33 which are applicable to land divisions within the City. We respectfully request that the City Council review and include the above-referenced requested Code revisions, as discussed in the attached correspondence, in the final Land Division Code Update now pending before the Council. While we appreciate that the proposed overlay zone map amendment also discussed in the attached correspondence may suggest a policy change beyond the scope of the Land Division update, we continue to believe that our request for modification of PCC 33.563.410(B)(1) to limit the current requirement for public sewer and water service to lands within the UGB proposed for land division within the Skyline subdistrict uniquely is required to conform to current law and to achieve otherwise allowed residential densities on the Property. As such, we understand that this specific type of amendment constitutes a “technical fix” and code correction pertaining to the land division review process which the pending Land Division Update review is intended to accommodate.

For the reasons discussed in the attached correspondence, we respectfully request the City Council’s consideration and adoption of this requested revision to PCC 33.563.410(B)(1).

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Thank you for the opportunity to provide these comments.

Very truly yours,



Steven L. Pfeiffer

Enclosure

cc: Mr. Joseph W. Angel (via email)

May 29, 2024

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Mayor Ted Wheeler
City of Portland
1900 SW Fourth Avenue
Portland, OR 97201

**Re: Regulatory Improvement Code Amendment Package 10 (RICAP) Proposed Draft
Angel Request to Include Amendment to PCC 33.563.410 and Remove the Future
Urban (f) Overlay Zone Map Amendment**

Dear Mayor Wheeler and fellow Commissioners:

This office represents Mr. Joseph W. Angel regarding his property located at 5100 NW Skyline Blvd. (“the Property”), which lies within the Northwest Hills Plan District and outside of the Metro urban growth boundary (“UGB”). In response to the opportunity to provide comments on the earlier RICAP 10 Discussion Draft, we submitted the attached letters to the Bureau of Planning and Sustainability and the Planning Commission requesting (1) an additional amendment to PCC 33.563.410(B)(1) and (2) the removal of the current future urban (f) overlay zone designation from the property for the reason stated. Unfortunately, we note that our requested revisions are not included in the Recommended Draft now pending before the City Council.

We respectfully request that the City Council review and include our requested revisions as discussed in the attached correspondence in the final RICAP 10 package enacted by Council. While we appreciate the rationale offered by the Bureau that our proposed overlay zone map amendment may suggest a policy change beyond the scope of the RECAP review, we continue to believe that our request for modification of PCC 33.563.410(B)(1) to limit the current requirement for public sewer and water service to lands included within the UGB uniquely is required both to conform to current law and to achieve otherwise allowed residential densities on the Property. As such, we understand that this specific type of amendment constitutes a “technical fix” and code correction which the RICAP process is intended to accommodate, and, accordingly, we respectfully request the City Council’s consideration and inclusion of both requested revisions, and particularly the requested correction of PCC 33.563.410(B)(1).

May 29, 2024
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Thank you for the opportunity to provide these comments.

Very truly yours,

A handwritten signature in black ink, appearing to read "Steven L. Pfeiffer". The signature is fluid and cursive, with a prominent initial "S" and "P".

Steven L. Pfeiffer

Enclosure

cc: Mr. Joseph W. Angel (via email)

February 23, 2024

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Portland Planning Commission
Bureau of Planning and Sustainability
1810 SW Fifth Avenue, Suite 710
Portland, OR 97201

**Re: Regulatory Improvement Code Amendment Package 10 (RICAP) Proposed Draft
Angel Request to Include Amendment to PCC 33.563.410 and Remove the Future
Urban (f) Overlay Zone Map Amendment**

Dear Chair O’Meara and Fellow Commissioners:

This office represents Mr. Joseph W. Angel regarding his property located at 5100 NW Skyline Blvd. (“the Property”), which lies within the Northwest Hills Plan District and outside of the Metro urban growth boundary (“UGB”). In response to the opportunity to provide comments on the earlier RICAP 10 Discussion Draft, we submitted the attached letter to the Bureau of Planning and Sustainability requesting (1) an additional amendment to PCC 33.563.410(B)(1) and (2) the removal of the current future urban (f) overlay zone designation from the property for the reason stated. Unfortunately, we note that our requested revisions are not included in the Proposed Draft now pending before the Commission.

We respectfully request that the Commission review our requested revisions as discussed in the attached correspondence and include these revisions in your final RICAP 10 recommendation to the City Council. While we appreciate the rationale offered by the Bureau that our proposed overlay zone map amendment constitutes a policy change beyond the scope of the RECAP review, we continue to believe that our request for modification of PCC 33.563.410(B)(1) to limit the current requirement for public sewer and water service to lands included within the UGB uniquely is required both to conform to current law and to achieve otherwise allowed residential densities on the Property. As such, we understand that this specific type of amendment constitutes a “technical fix” and code correction which the RICAP process is intended to accommodate, and, accordingly, we respectfully request the Commission’s consideration and inclusion of both requested revisions, and particularly the requested correction of PCC 33.563.410(B)(1).

February 23, 2024
Page 2

Thank you for the opportunity to provide these comments.

Very truly yours,

A handwritten signature in black ink, appearing to read "Steven L. Pfeiffer". The signature is stylized with long, sweeping horizontal strokes.

Steven L. Pfeiffer

Enclosure

cc: Mr. Joseph W. Angel (via email)

Steven L. Pfeiffer
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December 28, 2023

VIA EMAIL (PSC@PORTLANDOREGON.GOV)

Mr. JP McNeil
Mr. Kevin Bond
Bureau of Planning and Sustainability
City of Portland
1900 SW Fourth Avenue, Suite 7100
Portland, OR 97201-5380

**Re: Regulatory Improvement Code Amendment Package 10 (RICAP) Discussion Draft
Angel Request to Include Amendment to PCC 33.563.410 and
Remove the Future Urban (f) Overlay Zone Map Amendment**

Dear Mr. McNeil and Mr. Bond:

This office represents Joseph W. Angel with regard to his property located at 5100 NW Skyline Road (the "Property"), which lies within the Northwest Hills Plan District and outside of the Metro Urban Growth Boundary ("UGB"). Mr. Angel has worked with the City since 2010 to resolve two specific and long-standing regulatory issues which are uniquely applicable to the Property due largely to its location within the City but outside the UGB. Based on prior discussions with Eric Engstrom and other Bureau representatives, we understand that the RICAP program is the appropriate and preferred legislative tool to address these specific text and map amendments. To this end, Mr. Angel requests that the following amendments be included in the RICAP 10 Draft recommendation to be forwarded to the Planning Commission:

1. Amend PCC 33.563.410(B)(C) to allow rural lands within the City lie outside the UGB and the adopted Urban Services Boundary to be served by private septic systems and private water service if existing public facilities are not available.
2. Remove the current future urban (f) overlay zone map designation (PCC 33.435) from the Property.

Background

Planning and Sustainability Commission

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The history of the circumstances involving the Property provides a useful context for these requests. The Property consists of 48 contiguous acres comprised of five parcels in single ownership located entirely within the City of Portland, with only a limited portion of the Property located within the UGB. Beginning in 1965, the City of Portland began providing water service to the Property, which replaced well water as the source of potable water to the Property. In 1971, the Property was annexed to the City of Portland at the request of the City based, in large part, in return for the City's commitment to provide additional City services. At the time, we understand the Property was designated to accommodate residential densities of 4.5 units per gross acre, or 10,000 square foot lots, and such zoning remained in place until 1977.

When Mr. Angel purchased the Property in 1978, the applicable zone map designation was Farm/Forest, which allows a minimum lot size of two (2) acres. In 1981, a new Natural Resources (NR) overlay zone was adopted by the City, which required a 20 acre minimum lot size. The NR overlay zone applied to the part of the Property located outside of the UGB in anticipation of future inclusion in the boundary by Metro. In 1991, an exception to Statewide Planning Goal 4 was taken for four of the five lots to allow continuation of the 2 acre residential zoning of the Property through the Northwest Hills Natural Areas Protection Plan, which also applied the Environmental overlay zone designation to limited portions of the Property. Also in 1991, the City of Portland required that all NR zoned land be changed to a future urban (f) overlay zone. It is worth noting that the future urban overlay zone has the effect of increasing the minimum lot size applicable to the Property under the acknowledged comprehensive plan and zoning designations from 2 acres to 20, thereby reducing the number of available lots from approximately 24 to 2 notwithstanding the base zone density allowance and availability of City water. The stated basis for this mapping was to retain the potential for future urbanization of the property through inclusion within the Urban Growth Boundary.

In 2002, Metro took final action to include all of the Property within the UGB and the Land Conservation and Development Commission ("LCDC") affirmed Metro's decision; but in 2005, the Court of Appeals remanded Metro's decision for reasons wholly unrelated to the Property. Since Metro declined to respond to the Court's ruling through readoption of the challenged UGB amendment, the Property has yet to be addressed again by Metro. Thus, the bulk of the Property remains outside of the UGB, and, as discussed below, the Property is not included as a designated Urban Reserve in conjunction with Metro's final adoption in June, 2017 applying this UR designation throughout the region. Consequently, the Property is highly unlikely to be included in the UGB for decades, if ever.

Requested Amendment to PCC 33.563.410(B)(1)

The Property is one of relatively few properties lying within the City's boundaries but outside of the Urban Growth Boundary ("UGB"). Accordingly, the 2035 Comprehensive Plan characterizes the Property as "Rural Lands Outside of the Urban Services Boundary," and Policies 8.2, 8.3, 8.19 confirm that urban services are to be confined to urban lands, i.e., lands

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Perkins Cole LLP

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located within the UGB and Urban Services Boundary. *See* Figure 8-1. Urban, Urbanizable, and Rural Lands Taken together, the location of the Property outside both adopted planning boundaries serves to confirm that the Property is limited to rural levels of use and that the extension of urban levels of new sewer and water service is prohibited while rural levels of such services is to be allowed and provided.

To the contrary, PCC 33.563.410(B)(1) requires all land divisions within the Skyline Subdistrict of the Northwest Hills Plan District to be served by public sewer despite controlling state law which prohibits the new extension of public sewer outside of the UGB. *See* Statewide Planning Goal 11, OAR 660-011-0060(2) and 0065; *Foland v. Jackson County*, 239 OR APP. 60.243 P3d, 830 (2010). The discord between this PCC provision and established state law can be resolved by allowing new land divisions located on properties within the Skyline subdistrict but outside of the UGB to be served by septic systems and private water sources, if pre-existing urban levels of public sewer and water service are unavailable.

Specifically, the following amendment to the subject PCC provision applicable in the Northwest Hills Plan District resolves the issue consistent with established state law (deletion in ~~strikethrough~~, additions underlined):

"33.563.410 Land Divisions and Planned Developments

The following regulations apply to land divisions that will create four or more lots and to all Planned Developments within the Skyline subdistrict. Adjustments are prohibited.

* * * * *

B. Additional requirements for approval. In order to be approved, proposed land divisions and Planned Developments must meet the following requirements:

1. Public sewer and water service must be available to the sites located within the Urban Growth Boundary and Urban Services Boundary; and"

In addition to ensuring compliance with Goal 11 and applicable implementing administrative regulations, the requested amendment is consistent with many elements of the 2035 Comprehensive Plan, including the following adopted Public Facilities and Services Policies:

"Public Facilities and Services

Policies -- Service provision and urbanization

The policies in this section support the maintenance of an urban services boundary to coordinate planning and provision of public facilities. These policies also identify which urban facilities and services are and will be provided by the City of Portland within this boundary. These policies support the City, acknowledgment as compliant with Statewide Planning Goal 11 — Public Facilities.

The Portland Comprehensive Plan addresses three distinct types of land: rural, urbanizable, and urban. Some rural land is within the City Limits, having been annexed prior to establishment of the Regional Urban Growth Boundary. This land must maintain its rural character, and public facilities and services in this area should be planned accordingly. Urbanizable land is beyond the City Limits, within the Regional Urban Growth Boundary and within the City's Urban Services Boundary. Urbanizable land will eventually be annexed to the City of Portland, and full urban services may then be extended. Urban land accurately and exclusively lies within the City Limits, the Regional Urban Growth Boundary, and the City's Urban Services Boundary." (emphasis added)

Applicable comprehensive plan policies which further support this proposed RICAP Amendment include the following:

***Policy 8.1 Urban Services Boundary.** Maintain an Urban Services Boundary for the city of Portland that is consistent with the regional urban growth policy, in cooperation with neighboring jurisdictions. The Urban Services Boundary is shown on the Comprehension Plan map.*

***Policy 8.2 Rural, urbanizable, and urban public facility needs.** Recognize the different public facility needs in rural, urbanizable and urban land as defined by the Regional Urban Growth Boundary, the City Urban Services Boundary, and the City Boundaries of Municipal Incorporation. See Figure 8-1 — Urban, Urbanizable, and Rural Lands.*

***Policy 8.3 Urban Service Delivery.** Provide the following public facilities and services at urban levels of service to urban lands within the City's boundaries of incorporation.*

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Policy 8.19 Rural service delivery. Provide the public facilities and services identified in Policy 8.3 in rural areas only at levels necessary to support designated rural residential land uses and protect public health and safety. Prohibit sanitary sewer extensions into rural land and limit other urban services." (emphasis added)

Requested Removal of Future Urban (f) Overlay

On remand from the Oregon Court of Appeals, Metro took final action on June 15, 2017 to adopt urban and rural reserves for the Metro region, and the Property did not receive the Urban Reserve designation required for inclusion within the UGB during the next fifty years. Consequently, it is now apparent as a matter of public policy and it is legally required that the Property not be included with the UGB for a minimum of fifty years, if ever. Therefore, since the primary purpose of the future urban overlay zone designation as stated in PCC 33.455.010 is to "... limit(s) development in future urban areas," the continued application of the future urban (f) overlay zone to the Property is inappropriate and wholly unnecessary, as well as inconsistent with the above-referenced public facilities policies and the stated purpose of the zone (PCC 33.455.010). Accordingly, the current overlay zone designation should be removed from the Property.

Thank you for your consideration of these requests.

Very truly yours,

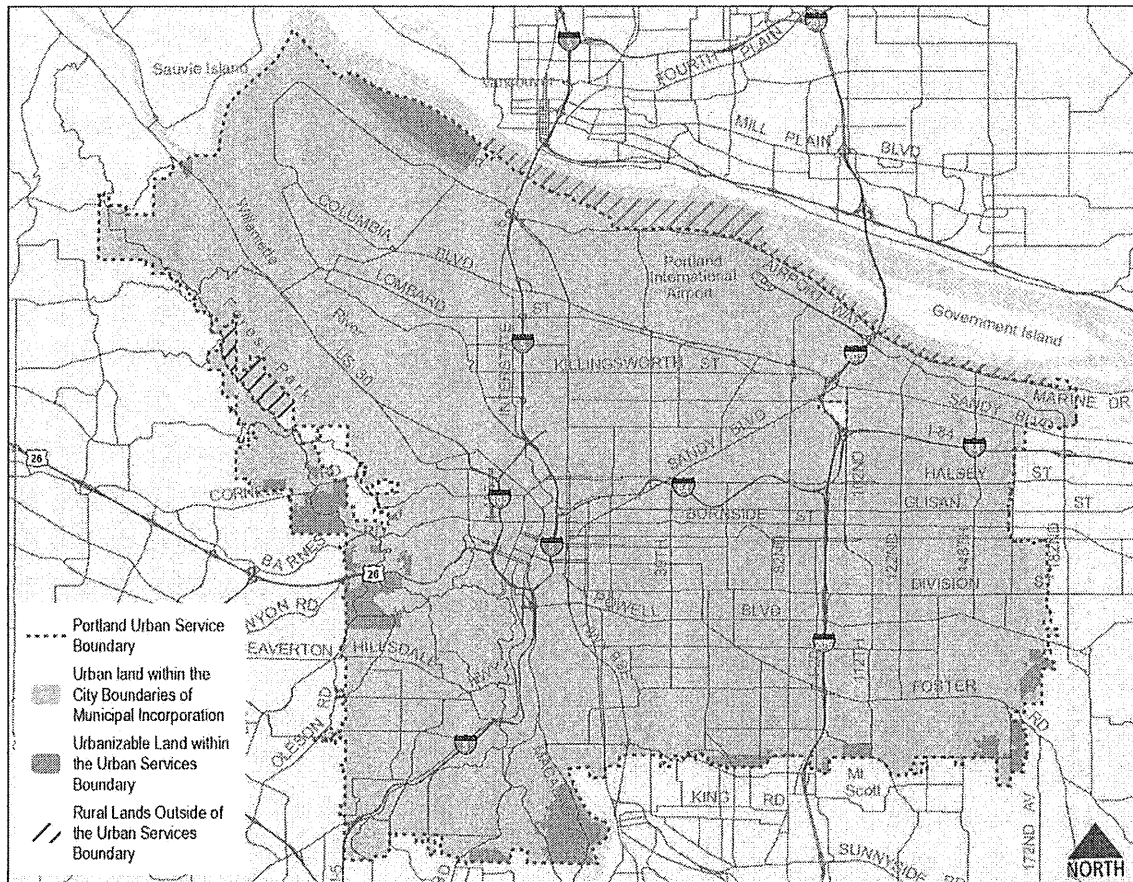


Steven L. Pfeiffer

Enclosure

cc: Mr. Joseph W. Angel (via email)

Figure 8-1. Urban, Urbanizable, and Rural Lands



164929180.1

David Schoellhamer

#335068 | July 1, 2024

Testimony to **Portland City Council** on the **Land Division Code Update, Recommended Draft**

The Sellwood Moreland Improvement League (SMILE) submits the attached testimony on the Land Division Code Update Project for your consideration.

Testimony is presented without formatting.

S·M·I·L·E

SELLWOOD MORELAND IMPROVEMENT LEAGUE
8210 SE 13th AVENUE, PORTLAND, OR 97202
STATION 503-234-3570 • CHURCH 503-233-1497

July 1, 2024

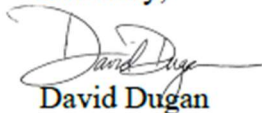
Portland City Council
Land Division Code Update testimony
1221 SW Fourth Avenue, Room 130
Portland, OR 97204

Dear Commissioners:

The Sellwood Moreland Improvement League (SMILE) is pleased that the Potential Landslide Area Hazard Map is being updated as part of the Project. The Sellwood bluff in Southeast Portland poses a significant landslide risk and had a large landslide 12 years ago and has had many smaller landslides since. The old 1997 map is obviously outdated. The new map is a huge improvement that appears to accurately depict our commonsense observations of where there have been landslides and where there is landslide risk. We fully support adopting it.

The City should fully implement this new landslide map by updating the Constrained Sites Overlay Zone (aka the z-overlay). An example of why the z-overlay should be updated is along the bluff between Knight and Yukon streets. Houses are in the proposed landslide zone (purple shading) but not in the z- Overlay Zone. An update would help protect the lives and safety of future residents by expanding the z-overlay where there is landslide risk and landslides, such as the Sellwood bluff. For updating the z-overlay, please note that the 50-foot buffer previously used was too large to accurately depict the landslide risk along the very steep Sellwood bluff. A smaller buffer should be used when using the new map to modify the z-overlay.

Sincerely,



David Dugan
President, Sellwood-Moreland Improvement League



Portland City Council Meeting
Wednesday, July 17, 2024 - 2:00 p.m.
Verbal Testimony

Agenda Item	Name
1 671	Justin Wood