



## Memo

Date: November 6, 2024

To: Mayor and City Commissioners

From: Patricia Diefenderfer, Chief Planner, Bureau of Planning and Sustainability (BPS)  
Ryan Singer, Principal Planner, BPS

CC: Donnie Oliveira, Deputy City Administrator, Community and Economic Development Service Area  
Eric Engstrom, Director, BPS

Re: Montgomery Park Area Plan – Potential Amendments

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On November 13, 2024, City Council will hold a hearing on the Montgomery Park Area Plan (MPAP).

This memo presents a number of potential City Council amendments to the Plan, including descriptions and draft language, that Mayor Wheeler and Commissioner Rubio will introduce at the November 13th hearing, prior to hearing public testimony. This memo describing the potential amendments is being provided prior to the hearing so that the public has an opportunity to be informed and provide testimony.

The amendments generally represent technical fixes to the plan and its related zoning regulations, including clarifying the intent of some regulations. These amendments are necessary to facilitate smooth implementation of the plan across the related implementation tools. Items 1 and 2 are technical amendments suggested by staff. Items 3 through 8 are potential Council amendments in response to testimony and community feedback.

A summary table of potential amendments is below, followed by descriptions and detailed amendment language. For amendments to Volume 2, gray shaded text indicates where the Recommended Draft code language would change to address the potential amendment.

#	Amendment	Sponsor
1	Technical Amendments to Volume 1 and Comprehensive Plan: a) Replace “Lewis and Clark Expedition” with “Corps of Discovery Expedition” in MPAP documents. b) Revise distance to existing parks text in MPAP Volume 1.	Mayor Wheeler

	c) Amend Comprehensive Plan Figure 3-1 and 3-8, to reclassify the area within the plan district boundary to the “Inner Neighborhoods” pattern area from the “Rivers” pattern area.	
2	Technical Amendments Volume 2: Clarify code language for Urban Green Features.	Mayor Wheeler
3	Volume 1 and 2: Change the name of the new plan district.	Commissioner Rubio
4	Volume 2: Clarification of nonconforming nonresidential use rights.	Mayor Wheeler
5	Volume 2: Allow required nonresidential use to be transferred from Subdistrict F to Subdistrict D.	Mayor Wheeler
6	Volume 2: Provide more specificity in references to the provisions of the public benefits agreement (improve cross-referencing with the plan district).	Mayor Wheeler
7	Volume 2: Allow floor area to be transferred from Subdistrict F to Subdistrict D.	Mayor Wheeler
8	Volume 2: Increase step-down height on NW Vaughn from 45’ to 55’.	Mayor Wheeler

**Amendment #1 – Technical Amendments to Volume 1 and Comprehensive Plan**

**1a: Replace “Lewis and Clark Expedition” with “Corps of Discovery Expedition” in MPAP documents**

*Explanation of the amendment: The term Lewis and Clark Expedition is cited several times within Volume 1 of the MPAP. The Lewis and Clark Expedition has also been referred to as the Corps of Discovery Expedition. Subsequent to the Planning Commission decision, community members have expressed a desire to use the term Corps of Discovery Expedition. Staff supports this change which responds to community requests.*

**1b: Revise distance to existing parks text in MPAP Volume 1, page 64**

*Explanation of the amendment: Revise text of Volume 1 to better reflect proximity of existing parks.*

Proposed text amendment: Parks in the ~~general~~ vicinity, such as The Fields Park, Wallace Park, and Couch Park, are ~~well~~ generally beyond the ½ mile target proximity, and all three are already heavily used and at capacity for serving existing residents living closer to those parks.

**1c: Amend Comprehensive Plan Figure 3-1, Urban Design Framework; and 3-8, Pattern Areas**

*Explanation of the amendment: The Comprehensive Plan identifies several “pattern areas” within the city that denote the different characteristics of the landscape and development features within Portland. These are shown on Figure 3-1 and 3-8 of the Comprehensive Plan. The MPAP area is currently within “Rivers” Pattern Area which includes significant industrial areas near the Willamette and Columbia rivers. The proposed change in land use designations in the MPAP area will allow a broader array of uses in a more intense, transit-oriented from that is more appropriately included in the “Inner Neighborhoods” pattern area. Staff supports an amendment to change the designation.*

**Amendment #2 – Technical Amendment, Volume 2; 33.590.260.C.1**

*Explanation of the amendment: This amendment clarifies language in the option to remove confusion between landscaping required by other standards in this title and the requirements for meeting this option.*

1. Landscaped area. A minimum of 15 percent of a site area must be landscaped. Any required landscaping, such as for required setbacks or parking lots, applies towards meeting the minimum amount of landscaping required for this option. Sites developed with a house, attached house or duplex are exempt from the landscaped area option. The following apply:
  - a. Landscaped areas must be at ground level and comply with at least the L1 standard described in Chapter 33.248, Landscaping and Screening, or be a vegetated stormwater management facility that meets minimum Bureau of Environmental Services stormwater management requirements. Up to one-third of the landscaped area may be improved for active or passive recreational use. Examples of active or passive recreational use include walkways, play areas, plazas, picnic areas, garden plots, and unenclosed recreational facilities.
  - b. Landscaped areas raised above ground level may be used to meet the minimum landscaped area standard when landscaped to at least the L1 standard and soil depth is a minimum of 30 inches.
  - c. Up to 50 percent of the landscaped area may be improved for pedestrian use, such as walkways and plazas, if the area is surfaced with pervious pavement approved by the Bureau of Environmental Services as being in compliance with the Stormwater Management Manual. If this provision is used, no impervious surfaces can be counted toward meeting the minimum landscaped area standard.

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**Amendment #3 – Plan District Name Change**

*Explanation of the amendment: The plan area was in the general location of the Lewis and Clark Expedition Centennial Expo. York, William Clark’s enslaved servant, made significant contributions to the success of the Lewis and Clark Expedition, also known as the Corps of Discovery, and was the first known Black person in Oregon. Further, in 2002 City Council named NW York Street in this area in honor of York (due to the efforts of Ron Craig). This proposed plan district name change further acknowledges the significant contributions of York, and Black history in the area.*

**Change the name of the plan district (33.590) from Vaughn-Nicolai Plan District to York Plan District wherever the name appears in the MPAP Recommended Draft.**

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**Amendment #4 – Required Nonresidential Use; 33.590.135.B**

*Explanation of the amendment: This amendment adds a Subsection to the regulations to clarify how nonconforming use regulations will apply to existing sites that become nonconforming with the required nonresidential use regulations when the plan district goes into effect. As with all nonconforming uses, the nonconforming situation may continue. This amendment clarifies what happens when additional floor area is added to a site that is nonconforming with this regulation:*

- *If the new floor area that is added to the site will be used entirely for a nonresidential use, then the site can simply move closer to conformance with the regulations rather than having to come all the way into conformance. This will ensure that additions can be made to existing buildings without requiring the property owner to build more floor area than necessary for the planned expansion.*
- *However, if any of the new floor area will be in a residential use, then the site must come fully into conformance with the nonresidential use regulation. This will ensure that as residential uses are built in the plan district, the MPAP policies related to ensuring employment opportunities and jobs are met.*

**B. When this regulation applies.**

1. Generally. The required nonresidential use regulations apply to new development and alterations to existing development. Lots with houses are exempt from the required nonresidential use requirement.
2. Nonconforming situations. For sites that are nonconforming with the required nonresidential use regulations, meaning the site does not have the required amount of floor area in a nonresidential use, the following apply:
  - a. The nonconforming situation may continue;
  - b. There may not be a net decrease in the total amount of floor area on the site in a nonresidential use;
  - c. When additional floor area is added to the site the following apply:
    - (1) If all of the additional floor area will be in a nonresidential use, the site can move closer to compliance with the nonresidential use requirement but is not required to come fully into compliance;
    - (2) If any of the additional floor area will be in a residential use, the site must be brought into compliance with the required nonresidential use regulations of Paragraphs C.1., C.2., or C.3.

**Reletter C and D to D and E**

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**Amendment #5 – Allow nonresidential use to be transferred from subdistrict F to subdistrict D; 33.590.135.D.3.c(1)**

*Explanation of the amendment: Some properties in Subdistricts F and D are currently owned by the same entity. This amendment will allow required nonresidential use requirements to be transferred within the subdistricts and allow more flexibility to achieve desired plan employment goals.*

- c. Transfer of nonresidential use requirement. Some or all of the required nonresidential use can be transferred from one site to another site, or can be consolidated in another building on the same site, when the following are met:
  - (1) Receiving site:
    - If the sending site is in Subdistrict E, the receiving site must be Subdistrict E;
    - If the sending site is in Subdistrict F, the receiving site can be in Subdistrict F or Subdistrict D.
  - (2) The property owner must execute a covenant with the City that:
    - Meets the requirements of Section 33.700.060, Covenants with the City;
    - Is attached to and recorded with the deed of the site transferring and the site receiving the required nonresidential use;
    - Ensures the receiving site complies with its own nonresidential use requirement, if applicable, and the transferred nonresidential use requirement; and
    - Reflects the respective decrease and increase of nonresidential use requirement on each site, or when the transfer is to another building within the site, the states that the consolidated nonresidential requirement will be included in the next building to be built on the site.

**Amendment #6 – Provide more specificity in references to the adopted public benefits agreement; 33.590.135.D.1.b(1); 33.590.135.D.2.b(1); 33.590.210.D.1.b**

*Explanation of the amendment: This amendment clarifies which specific provisions of the public benefits agreement is being referenced rather than referring to the more general “applicable provisions”.*

**33.590.135.D.1**

- b. Exceptions.
  - (1) Public benefits agreement. The nonresidential use requirement is reduced to zero when the property is subject to, and in compliance with, Section 2: Middle Wage Jobs of the Montgomery Park Area Plan Public Benefits Agreement that as adopted by Portland City Council on [INSERT DATE OF ADOPTION]. To qualify for this exception the applicant must provide a letter from the Portland Bureau of Planning and Sustainability certifying that the property is subject to and in compliance with the public benefits agreement.

**33.590.135.D.2**

- b. Exceptions.
  - (1) Public benefits agreement. The nonresidential use requirement is reduced to 0.25 square feet for each one square foot of site area when the property is subject to, and is in compliance with, Section 2: Middle Wage Jobs of the Montgomery Park Area Plan Public Benefits Agreement that was adopted by Portland City Council on [INSERT DATE OF ADOPTION]. To qualify for the

exception the applicant must provide a letter from the Portland Bureau of Planning and Sustainability certifying that the property is subject to and in compliance with public benefits agreement.

### **33.590.210.D.1**

- b. A site, or a portion of a site, that is provided for a publicly accessible park or open space. To qualify for this transfer, the applicant must provide a letter from Portland Parks and Recreation (PP&R) verifying that the location of the park or open space has been approved by PP&R, and that the applicant is in compliance with Section 4: Park of the Montgomery Park Area Plan Public Benefits Agreement that was adopted by Portland City Council on [INSERT DATE OF ADOPTION].

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### **Amendment #7 – Allow floor area to be transferred from subdistrict F to subdistrict D; 33.590.210.D.2**

*Explanation of the amendment: Some properties in Subdistrict F and D are currently owned by the same entity. This amendment will allow floor area to be transferred between the subdistricts and allow more flexibility to achieve desired plan height and bulk goals.*

2. Receiving site.
  - a. Except as specified in Subparagraph D.2.b., the receiving site of a transfer from a site that is zoned EX can be:
    - (1) A site in Subdistrict B; or
    - (2) If the sending site is in Subdistrict F, the receiving site can be a site in Subdistrict D.
  - b. The receiving site of a transfer from a site, or portion of a site, that has been provided for a publicly accessible park or opens space in compliance with Subparagraph D.1.b, can be to a site zoned EX.

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### **Amendment #8 – Increase step-down height; 33.590.220.C.2**

*Explanation of the amendment: This amendment increases the allowed step-down height along the north side of NW Vaughn to match the allowed height in some CM2d zoned areas to the south. The original 45 foot step-down height did not take into account the fact that some of the neighborhood to the south is designated as mixed-use urban center with a 55 foot height limit.*

- C. **EX zone.** In the EX zone:
  1. Except as stated in Paragraph C.2., the maximum height allowed in the EX zone is the base zone maximum. Additional height may be allowed through the bonus options described in 33.590.230. Adjustments are prohibited;
  2. Within subdistricts B and F, the maximum height allowed within 20 feet of NW Vaughn is 55 feet. Adjustments to this are prohibited, however modifications may be requested through design review.