

## Manning, Barry

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**From:** Nielsen, Benjamin  
**Sent:** Thursday, May 6, 2021 4:48 PM  
**To:** Manning, Barry  
**Cc:** Tallant, Kimberly; BDS LUS Supervisors  
**Subject:** Comments on Vaughn-Nicolai PD In-House Draft Code Amendments  
**Attachments:** BDS Memo to BPS - Vaughn-Nicolai PD - In-house Draft - May 2021.pdf

Hello, Barry:

Thank you for the opportunity to review and comment on the In-House Review Draft Code Amendments for the Vaughn-Nicolai Plan District. Please see the attached PDF with BDS Land Use Services' comments.

Since I was out of the office when this draft was sent and I had less time to coordinate with other sections, I may have one or two additional comments to send to you after today. The attached PDF covers the big issues we have identified, however.

Thanks,

**Benjamin Nielsen** – Senior City Planner  
(pronouns: he/him/his)  
Design Review & Historic Resource Review Section  
Land Use Services Division

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# City of Portland, Oregon

## Bureau of Development Services

### Land Use Services

#### MEMO

**Date:** May 6, 2021  
**To:** Barry Manning, BPS  
**From:** Kimberly Tallant  
Benjamin Nielsen  
Bureau of Development Services  
**Re:** BDS Comments on Vaughn-Nicolai Plan District – In-House Review Draft Code Amendments

Thank you for the opportunity to review and comment on the In-House Review Draft Code Amendments for the Vaughn-Nicolai Plan District.

We look forward to working with BPS staff to address our concerns and to providing additional feedback as the project develops. Please direct questions about these comments Benjamin Nielsen, BDS planner.

#### Detailed Comments

We offer the following detailed comments:

Item No.	Page	Code Section	Comment
1.	27	Map 562-7	It is a little challenging to read that NW 23 <sup>rd</sup> Ave has both the Main Street and Streetcar Alignment symbols on it, and architects/developers not paying close attention may easily miss this. Is there a way to provide some visual separation or greater clarity here?
2.	31	33.590.010	The last sentence is a bit cumbersome. Should it read: "The floor area, use limits, height allowances, and bonuses also promote development that provides public benefits"? Can the desired "public benefits" be specifically identified?
3.	31	33.590.030.A	Where is the information for the applicant on the Industrial Supply Mitigation Fund, and the formula that is used to determine the amount that must be paid into that fund? How does paying into the fund balance with the Comp. Plan Amendment approval criteria for Industrial Sanctuary properties in 33.810.050? Section 33.590.030 reads that if you pay into the fund you are good to go, whereas the approval criteria in 33.810.050 are much more rigorous (and quantitative) and are intended to

			discourage changing properties out of the Industrial Sanctuary.
4.	33	33.590.120.B	A definition for “grocery store” should be included as part of the project to aid applicants and staff in identifying that use as distinct from other retail uses.
5.	35	33.590.200	There is not much in the purpose statement to guide the applicant or planner in reviewing Adjustments to maximum height. Suggest more descriptive language similar to what is in Section 33.140.210.A.
6.	35	33.590.210.C	The area limitation on commercial uses should be stated under the Use Regulations section of the code, as this seems to be more consistent with other code chapters.
7.	35	33.590.220.A & B	Should Adjustments to maximum height be prohibited given there are bonus heights allowed through 33.590.230? Why go for the bonus if you can get an Adjustment?
8.	35-37	33.590.210.C & 33.590.230	<p>The terminology in this section is confusing, particularly when read along with section 33.590.230.A.</p> <ul style="list-style-type: none"> <li>• The term “overall maximum FAR with inclusionary housing bonus” in 33.590.210.C seems misleading, when 33.590.230.A.2 suggests that the full bonus of 2:1 may be earned by providing affordable commercial space.</li> <li>• 33.590.210.C says that the maximum FAR with inclusionary housing bonus in Subdistrict B is 4:1, but 33.590.230.A seems to contradict that; it states that “more than one bonus option may be used up to the maximum FAR with inclusionary housing bonus stated in Table 140-2”, which is 5:1.</li> <li>• 33.590.230.A may be better written as: “The following bonus options apply in addition to the FAR bonus option of the base zone and allow additional overall site FAR and additional height. More than one bonus option may be used, up to the maximum FAR with inclusionary housing bonus stated in Table 140-2 or as stated below, except that the maximum FAR with bonuses may not exceed 4:1 in Subdistrict B,” if that is the desired outcome.</li> </ul>
9.	39	33.590.230.B.2.b	<p>Consider omitting the following language from the paragraph – “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.”</p> <p>That PHB determines the fee is stated in the preceding sentence. Information about the location of</p>

			the fee schedule (PHB rather than BDS?) and the update frequency seems better suited to the eventual program admin rule than the zoning code.
10.	39	33.590.230.B.3	It needs to be clarified that this triggers a Type III PD review. Ideally, 33.270 and 33.854 would be updated to reflect the addition of PD allowances in this chapter because I think that the specific reference in 33.854.200.B, which specifically only says bonus for 33.130.212.E, will cause confusion for customers thinking that they could use the Type IIx procedure.
11.	43	33.590.250.B.3	<p>The Optional Artwork code language of 33.510 is difficult to work with, as planning staff are not necessarily qualified to determine the quality or public value of proposed artworks, particularly when working with only the Adjustment approval criteria. The Regional Arts &amp; Culture Council are much more qualified in this respect, and the "Exception for Public Art" in the base zone is a better template.</p> <p>Also, the language states Adjustments can be requested to use art in lieu of meeting the window standards. There are qualifications listed for when this option can be used for Design Review but no qualifications for when it can be used for Adjustments. Is the intent to also apply the same qualifications to Adjustments?</p>
12.	45	33.590.260.C	Although this code is clearly copied from the Northwest Plan District chapter, it may make sense to update the "ground floor wall area" to start from 10 feet above grade to better align with the Ground Floor Windows standards (and potentially making the same change in 33.562).
13.	45	33.590.260.E.2.b	Consider raising the height of structured parking floors from 9 feet or more above grade to at least 10 feet above grade and closer to 15 feet to more closely align with the 12-foot clear depth in 33.590.260.D.1 and best practices in urban design.
14.	45 & 47	Figure 590-1 33.590.260.E.1	33.590.260.E.1 states that surface parking is not allowed, but Figure 590-1 shows an area on the site where surface parking is allowed. Should this diagram be showing only options for structured parking?

