

City of Portland Bureau of Planning and Sustainability  
Attn: Mixed Use Zones Project  
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[psc@portlandoregon.gov](mailto:psc@portlandoregon.gov)

Re: PSC Mixed Use Zones Testimony

May 9th, 2016

Dear Planning & Sustainability Commission Members,

First, I want to express that this Mixed Use Zones Project has resulted in a proposal that would seem to result in higher-quality buildings than we are currently seeing built in the zoned areas that will become the set of mixed-use zones.

Second, I want to express that the Mixed Use Zoning project is inextricably intertwined with something else that sounds very similar, the concept of Missing Middle Housing. Now, Missing Middle Housing types are, by definition, those types that are neither the single-family homes directly abutting the mixed use zones, nor are these the types that are most likely to be constructed in the mixed use zones. The Missing Middle types are called that precisely because they are missing; because there is no zone tailor-made to accommodate them; and therefore, they are unlikely to be constructed in large numbers anywhere in the city under our existing zoning code. And yet, with this new Mixed Use Zoning code, it is exactly those Missing Middle types that we are likely to need more of. This Mixed Use Zoning project has resulted, effectively, in a down-zoning of our centers and corridors. It is reducing the capacity, both in terms of dwelling units and in floorspace of non-residential space, of our future city. This is precisely why we will need to figure out a way, as a city, to accommodate large numbers of new Missing Middle housing types in areas that are currently zoned for single-family homes.

If we can collectively agree that we will do this, that we will find a way to say yes to Missing Middle housing types, all of them, somewhere within the lands currently zoned single-family, then I think it's actually a good thing that we adopt this set of policies for our centers and corridors, as it will likely lead to a higher-quality built environment.

That being said, I do have some suggestions for improvements to make to this proposal, as I do not yet believe that it is perfect. There is still room for improvement. Here is what I see.

**Transportation: Relationship between new TDM requirements and LOS**

(Page 3)<sup>1</sup>: While the document lays out new requirements for Transportation Demand Management (TDM) for residential projects, it does not lay out any relationship to Level of Service (LOS). City staff have told me that Portland is committed to moving away from LOS, which is primarily an automobile-oriented metric, to some sort of replacement. Yet, I have not seen even a draft proposal as to what that replacement might be. The State of California, led by

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<sup>1</sup> All page references are to the March, 2016 Mixed Use Zones Project — Proposed Draft document.

the Governor's Office of Planning and Research (OPR), has shifted away from LOS and towards Vehicle Miles Traveled (VMT) as the primary transportation metric, with the goal for each project of reducing VMT (or reducing VMT per capita by at least 15% from the average for the region or city). I recommend that the City of Portland do something similar; I see no reason why the Mixed Use Zones project should not pilot this effort, by requiring all new developments in Mixed Use Zones to achieve at least a 22% reduction in VMT per capita over the citywide average (or perhaps an even higher number that corresponds with the thresholds/goals in Metro's Climate Smart Communities project).

**Penthouses:**

(Drawing on Page 2) The currently-proposed height standards appear to provide for stepping-back the top level of a building once. However, it seems that the code could provide for a second step, to allow for penthouse-level development atop buildings, as long as those roof-level structures are stepped back even further and thus do not contribute to the shadow cast by the building or the street presence of the building. Perhaps a 10' height bonus for rooftop structures with at least a 10' setback from all roof edges?

**Awnings:**

(Drawing on Page 2; requirement for ground floor windows on Page 36) Currently, there is nothing in this proposal related to awnings or providing shade and shelter for pedestrians. Awnings are a time-tested solution to provide shade from the sun and shelter from the rain for pedestrians. Within centers and corridors, it thus makes sense to require awnings on all new buildings, to provide for the public policy goal of encouraging pedestrian activity. The co-benefits of awnings include reduced energy consumption for cooling in the summer, by reducing solar gain through plate-glass windows. Since awnings are more effective if every building has them, it is not sufficient to leave the choice to provide awnings up to the private sector, as the choice will invariably be to avoid the excess cost of the awning if it is not required.

**Rooftop uses requirement:**

(Drawing on Page 2) While it is laudable to include bonuses to encourage affordable housing and affordable commercial space, it is also important to think holistically about how the next generation of mixed-use buildings will help the City achieve its greenhouse gas reduction goals for the performance of the structures of the built environment. To this end, and following the lead of San Francisco, which recently required the installation of solar panels on new buildings, I propose a requirement for active rooftop uses. This requirement could be met using either intensive or extensive green roofs; through the installation of photovoltaic, thermal, or photovoltaic-thermal (PVT) solar panels; or through the installation of non-vegetated roof-top decks to provide additional useable outdoor space for building residents, tenants and visitors. (While rooftop decks might not directly relate to GHG emissions in the manner of the other options for rooftop uses, they would satisfy an alternate public policy goal, of providing sufficient outdoor space for residents).

**Flexible Ground Floor Space**

(Ground Floor Residential Development on Page 36) Since the set of Mixed Use Zones is invariably applied in locations where pedestrian activity is expected and encouraged, and throughout our system of Centers and Corridors, it makes sense to provide for the changes in use that will occur over the century-plus of life that we should expect from the next generation of buildings. This means that the ground floors of these buildings should all have, if not retail space, at least flexible space with direct entrances to the outdoors at grade, so that those

spaces would have the ability to adapt to changing market conditions over time. The same space could thus be a live/work unit, retail or other non-residential space, or an entirely residential unit. The requirement should relate to ensuring that the built form allows for this adaptability, rather than to the proposed initial use of the space.

### **Outdoor Space**

(Outdoor Space, Page 36) The requirement of 48 square feet per unit of private or shared outdoor space for residents is, in my view, too vague. Further, it is confusing. Why would a household of human beings within a single-family zone require a minimum of 144 square feet of outdoor space (the 12'x12' area proposed as a part of the Residential Infill Project), but a household of human beings in a mixed-use zone only require 48 square feet, which could be part of an area shared with other people? It seems to me that there should be some requirement for private outdoor space for each unit. I propose that 96 square feet of private outdoor space be required for each unit, in addition to 48 square feet of public / shared outdoor space. 96 square feet roughly corresponds to a single 8' x 12' balcony, large enough for two people to sit around a table and enjoy a meal together. It is somewhat smaller than the front porch on my single-family house, but would provide about the same level of functionality. Developers could choose to provide one balcony per unit, or a patio, or a porch, or a small yard, or a rooftop deck, or any number of other variations on this theme. It would be very intriguing to watch the design solutions that our city's talented architects would develop over time in response to this new requirement!

### **Flexible-Use Parking Spaces**

(Shared Parking, Page 37) Off-street parking should look more like garages than parking stalls, and should include: walls, utility connections, and garage doors. Parking spaces should be decoupled (sold/leased) from the units in each building, and sold/leased separately, either to building residents, tenants, or others outside the building in need of such a space. Use should be flexible: park a car, play in a garage band, park bicycles & snowboards, repair bikes, engage in woodworking projects, have an art studio, etc.

### **Coalition-level Design Standards and Review**

(Design Overlay, Page 39) In addition to the blanket requirement for Design Review within the D overlay, residents in single-family homes adjacent to mixed-use zones should have the right to request design review for developments proposed adjacent to their property; this should be enforced via notification as a part of the pre-approval process. Such design review should be conducted, within Coalition boundaries outside of the Central City, by Coalition-level Design Review committees. NECN, for instance, would be empowered to conduct Design Review within its borders, and would form a new Design Review Committee for this purpose, under the guidance of City or Coalition staff. Coalitions should then also have a process to develop and maintain their own variations on citywide design standards. This will help to address Comprehensive Plan goals for variations between different areas of the city.

### **Vintage Commercial Storefront Areas**

(Low-rise Commercial Storefront Areas, Page 40) The proposal to down-zone certain areas to CM1 with Centers Main Street overlay regulations seems logical. However, it should really be branded "Vintage Commercial Storefront Areas," to recognize that this proposal is as much about protecting historic character as it is anything else. Call it what it is.

### **Don't Pander to Automobile-Oriented Uses**

(Auto-Accommodation Issues, Page 42; Setbacks for Large Retailers, Page 43; 33.130.215.F, Page 112) I'm curious, what exactly is the public policy interest in protecting automobile-oriented land uses that would otherwise find it uneconomical to comply with our fair city's zoning regulations? We have an obesity epidemic, we have Vision Zero policy goals, and we have mode split goals, all of which point to reducing accommodations for the automobile, in favor of doing everything that we can to encourage walking, bicycling, transit use, skateboarding, etc. So, why should the City accommodate traditional auto-oriented developments in the Portland landscape? You need to break eggs to make an omelet. We will need, as a community, to make hard choices to achieve our broad policy goals. This is one of those hard choices. Except, it's not that hard, really. Just say no to auto-focused interests that find it hard to think outside of the business-as-usual box. Shouldn't large national big-box retailers have to change their format to fit our walkability goals, rather than the other way around? Specifically, drive-through developments should be prohibited in our mixed-use zones. The threshold for triggering alternative setback standards for large retail uses should not be reduced from 100,000 to 60,000 square feet. Instead, we should be looking to impose higher minimum FAR requirements on these sorts of businesses, to encourage a transition away from automobile-oriented development towards a built form that is more supportive of pedestrian activity by design. Further, East Portland already has enough big-box retail. What East Portland needs is more walkable, local-serving retail of the sort that encourages the use of non-automobile modes! This is an equity issue for folks who have been displaced to East Portland from the more walkable areas of inner Portland; the City has an obligation to repair East Portland after decades of neglect, to make it into a series of walkable, mixed-use communities. The City should actively reject those forces that seek to maintain East Portland as a mecca for the blight of excessive automobile-oriented uses.

### **Break up long building walls**

(Building Length and Facade Articulation, Page 43) 200 feet is way too long for a wall outside of the Central City with no articulation. It is true that in downtown, the blocks are 200 feet on a side. These regulations are for the centers and corridors outside of downtown, however. In most of Portland's traditional commercial areas, the average lot size is 50 feet or so. Therefore, the traditional character of the city is for buildings to be broken up in increments of no more than 50 feet along our main streets — not 200 feet. Even 110 feet was too high of a number. The threshold should thus be 50 feet to help preserve the character of our neighborhood commercial areas. This number can be higher in the single-use industrial sanctuary zones, but not our mixed-use zones.

### **Minimum Floor Area**

(Minimum Floor Area in Centers, Page 44) The minimum floor area changes seem to be headed in the wrong direction. We are talking about a city that will be growing and intensifying over the coming decades, as additional people and businesses find room to fit within the existing footprint of the city. We need to provide ample space for this to occur, especially in areas where there is a high potential to provide development with a lower per-capita VMT than the citywide average. Indeed, it is the fact of requiring a higher minimum FAR that will help to achieve the goal of lowering VMT per capita. Therefore, within all of our Centers and Corridors, we should require a minimum FAR of 1.0, with the ability to apply for an exception through the design review process to allow a minimum FAR of 0.75 in the Eastern and Western pattern areas. These zones are, after all, called the Mixed Use Zones, not the Single Use Automobile Oriented Zones. We need to encourage these places to change and to intensify over time. Change is the

only constant. A city that does not allow for, and encourage, change over time, will shut down the evolutionary processes that will lead to its future success.

### **Required Setbacks**

(Required Setbacks from a side lot line, Page 102) The requirement for a 10-foot setback for buildings adjacent to residentially-zoned lots should specifically be waived for existing buildings or adaptive re-use projects involving existing buildings. We only require a 5-foot setback between houses. Why should people in one type of building be forced further away from people in another type of building? If the people in one type of building have been living within a certain proximity of the people in the other type of building for the past century, why should that other type of building be forced to relocate once it is subject to incremental improvements? This should be a by-right allowance of the zoning code, not something requiring discretionary review.

### **Bay Windows**

(Extensions into required building setbacks, Page 105) The proposal to not allow bays or bay windows to extend into a required setback abutting an RF-RH zoned lot, is overkill. The requirements for extensions into side setbacks should match those of the facing property. For instance, if the adjacent property is R2.5, then the mixed-use building should only need to follow the requirements for extensions into setbacks of the R2.5 zone. We have a lot of small sites in Portland; we need to encourage thoughtful design of the buildings that will be placed on these sites. Placing too many poorly-conceived restrictions on the form of these buildings will stifle the creativity of design decisions that could lead to increased livability for their future users.

### **Native Plants for Screening Requirements**

(Garbage and recycling collection areas, Page 135) In my experience, the L3 standard for landscaping as screening is primarily met in Portland using non-native plant species. This standard itself should be changed to provide greater allowance for the use of native plant species to satisfy the screening requirement. This may include relaxing the requirement for evergreen shrubs, in favor of requiring perennial shrubs, whether deciduous, evergreen, or other. Nobody is going to die if they are able to see the cars in a parking lot during the winter, as opposed to having the view obstructed by an evergreen shrub. (On the contrary, they might be there to provide the eyes on the street that could help to prevent a crime, and thus potentially save a life!!)

### **Permeable Pavers**

(Paving, Page 145) The use of permeable pavers should be encouraged or required here.

### **Demolitions**

(33.130.275 Demolition, Page 165) Adjustment review should be required for any proposed demolition permit in the City of Portland. The purpose of the review should be to identify, and require, alternatives to demolition where possible. These alternatives could include moving the structure, adaptive re-use of the structure, or deconstruction of the structure if moving it or adaptive re-use of it are deemed impossible. It seems that the people of the city are very protective of the character provided by our older buildings; we should respect this by thoroughly evaluating a proposal to end a building's life prematurely, before approving it.

### **Centers Main Street Overlay Zone**

(Map, Page 220) The Centers Main Street overlay zone should be extended to include the areas of mixed-use zoning east of MLKjr, Blvd on Killingsworth and Dekum streets west of 42nd ave.

### **Design Review Overlay Zone**

(Map IV-2, Design Overlay Zone, Page 39) The 'D' overlay zone should be extended to include the areas of mixed-use zoning east of MLKjr, Blvd on Killingsworth and Dekum streets west of 42nd ave.

### **Building Height Increase for Ground-Floor Retail**

(Building Height, Page 229) The allowable increase in building height, and the thresholds, should have more variation. The proposal to allow a 3' increase in building height if at least 25% of the ground-floor area of the building is in the selected set of uses is fine, but overly reliant on a prescriptive set of uses. I would argue that if a ground-floor space is designed to allow for potential non-residential or live-work use by providing at-grade entrances facing the sidewalk, and meets the sidewalk-facing window coverage standard, then it should be eligible for this bonus regardless of the proposed use. Uses change with tenants. The built form of the building, especially its height, is a permanent feature of the landscape (at least as measured against a human life span). Further, if a building is proposed with a design including this sort of flexible space for at least 50% of the ground floor area, then it should be eligible for a 5' height bonus. Taller ceilings are good design; they are a timeless element that leads to more enjoyable, higher-quality spaces.

I thank you for your important work for the future of our city, and I appreciate your serious consideration of my comments.

Sincerely yours,



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<sup>2</sup> Speaking for myself only, as neither organization (CNA or NECN) had enough time during this comment period to properly review the full document, produce a set of comments, and have those comments reviewed & approved by committees & boards. While some of these ideas are mine, and some are from others, the task has fallen to me personally to compile them and send them.