

**2003-2004
Regulatory Improvement Workplan:**



Policy Package 3

Effective September 2004



CITY OF PORTLAND, OREGON
BUREAU OF
Planning

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I. Summary

This report includes revisions to the Zoning Code approved by the City Council as part of the Regulatory Improvement Workplan (RIW) for 2003-2004. RIW is a program to update and improve City building and land use regulations and procedures that hinder desirable development. This report presents several amendments to the Zoning Code that are grouped into what is referred to as “Policy Package 3.” The changes approved in Policy Package 3 are:

- **Land Division-Related Amendments:** Amendments to a series of land division-related code provisions identified as barriers to effective implementation of the July 1, 2002, Land Division Code Rewrite. These revisions mostly alter existing code but also include a new section for the legal status of lots.
- **Bed & Breakfast Facilities:** An amendment of the bed & breakfast regulations to provide flexibility in the operation of these businesses.
- **Archaeological Resources in Columbia South Shore:** Revisions to the *Archaeological Resources Protection Plan* and associated maps in the Columbia South Shore Plan District.
- **Historic Resources:** An amendment to the preamble for approval criteria that apply to certain historic resources.

The City Council took the following actions on this package:

- Adopted this report and ordinance as attached;
- Amended the Zoning Code as shown in this report;
- Amended the *Cultural (Archaeological) Resources Protection Plan for Columbia South Shore* as shown in this report; and
- Directed staff to continue any monitoring efforts, as necessary.

II. Background

On June 26, 2002, the Portland City Council approved Resolution No. 36080, which sought to “update and improve City building and land use regulations that hinder desirable development.” This was the beginning of the Council’s charge to build an effective process of continuously improving the City’s code regulations, procedures, costs and customer service.

One component of City Council’s Regulatory Improvement Workplan included the annual development of a “Top Ten” list of problematic code regulations. As a result of a second outreach program, held in early 2003, on August 13, 2003, City Council adopted the second annual “Top Ten” list as part of the 2003-2004 Regulatory Improvement Workplan. This second list resulted in 11 (not 10) items.

Policy Package 3 addresses two items identified in the 2003-2004 Regulatory Improvement Workplan: (1) The Land Division Monitoring Package; and (2) Gathering Restrictions for Bed & Breakfast Facilities. The Land Division Monitoring Package is a collection of amendments related to the implementation of the Land Division Code Rewrite that became effective on July 1, 2002. Since its implementation, a list of issues that impeded the efficient and comprehensive review of land divisions was created. These issues were further researched to determine if a potential code fix was attainable. Several of these issues were set aside for further monitoring or identified as affiliated with related Bureau of Planning projects such as the Environmental Code Improvement Project (a subset of the original Healthy Portland Streams project).

The Land Division Monitoring Package of amendments mostly consists of minor changes to existing language to clarify situations that have occurred during land divisions. In some situations, minor policy changes have been adopted. Other changes include a new section to determine the legal status of lots and the removal of the final development plan process for Planned Developments.

The Bed & Breakfast chapter of the Zoning Code has not undergone a significant review since its creation in 1991. Some operators requested that the restrictions to private and public functions be reviewed as part of the Regulatory Improvement Workplan. This package addresses their request.

Policy Package 3 also includes Zoning Code amendments conducted through two separate minor projects. These projects include a change to the Columbia South Shore Archaeological Plan report and Map 515-7 to address updates in the archaeological resources testing program, and a minor change to clarify the Historic Design Review Approval Criteria for historic reviews where specific ‘district criteria’ are not available.

Other items that are part of the 2003-2004 Regulatory Improvement Workplan, such as tree and landscape standards, parking lot paving, and recreational trails, are being led by other bureaus and are not included in this document.

The final adopted code language from this report is based on internal research and discussion by the Bureau of Planning, and incorporates comments received during the Planning Commission hearing process, from two open houses and from published drafts. The comment periods for the drafts occurred during the spring of 2004 and the Planning Commission hearing was held on May 25, 2004. The City Council held a hearing on the Planning Commission's recommendation on July 28, 2004, and voted to adopt the *Recommended Draft* essentially as proposed, with an effective date of September 3, 2004.

III. Impact Assessment

The Impact Assessment process is a subset of the Model Process for Consideration and Assessment of Land Use and Development Actions. See the chart on page 7 for an overview of this process. As part of the steps required for determining the worth of any land use process, the questions listed in the First and Second Stage Assessment are addressed. This package contains many references to other documents because it is one of many interrelated projects in the Regulatory Improvement Workplan. Many of the impact analysis steps were performed as part of the other related projects. More specific information is contained within the Background and Commentary sections for each amendment under consideration.

The Model Process for Impact Assessment

The Impact Analysis Workgroup developed a model process for impact assessment. Development of the model was part of the 2002-2003 Regulatory Improvement Workplan. The model recommends a two-stage assessment for all legislative projects; each stage includes a set of questions to be addressed.

The first stage is part of the initial phase of a project, and is incorporated into the scoping, problem definition, and other early project steps. The second stage is part of the development and analysis of a project, and includes considerations of alternatives. Policy Package 3 follows this two-stage assessment model.

First Stage Assessment

The model process recommends that the following questions be addressed in the initial phases of any legislative project:

1. *What is the issue or problem we are trying to address? Is there a mandate (state or federal) that requires a regulation or other non-regulatory response--and is there clear authority for its adoption?*
2. *What are the intended or desired outcomes? What community goals or aspirations are we trying to achieve? How will the outcomes advance and support the City's Comprehensive Plan?*
3. *Is the issue of sufficient magnitude to justify developing new regulations or other non-regulatory tools? Is the issue just the "crisis du jour" or something more substantial?*
4. *What entities will be affected by the potential proposed policies, requirements and/or regulations? Are there existing regulations and non-regulatory tools that affect the same entities? Are there existing policies, requirements and/or regulations that are duplicative, contradict, or overload the existing regulatory framework?*
5. *Why should this be a priority for action? How will the City staff and fund the project?*

Second Stage Assessment

The Second Stage Assessment consists of the following steps: Project Development and Analysis; Release of the Proposal including Impact Assessment; Consideration of the Proposal; and finally Adoption and Implementation. During the Second Stage Assessment, in addition to updating information prepared in the First Stage Assessment, several key questions are addressed. These questions are addressed under the specific proposals within the Background and Commentary sections for each item.

Question 1: What regulatory and non-regulatory alternatives were considered? Why is the proposal the preferred solution/response? How does the proposal best respond to the objectives and goals identified in the first stage of the project?

Question 2: How were stakeholders and the community consulted throughout the process? What were their responses to the proposed changes and the alternatives considered?

Question 3: How does the proposed policy, regulation or requirement provide sufficient flexibility to address a variety of circumstances?

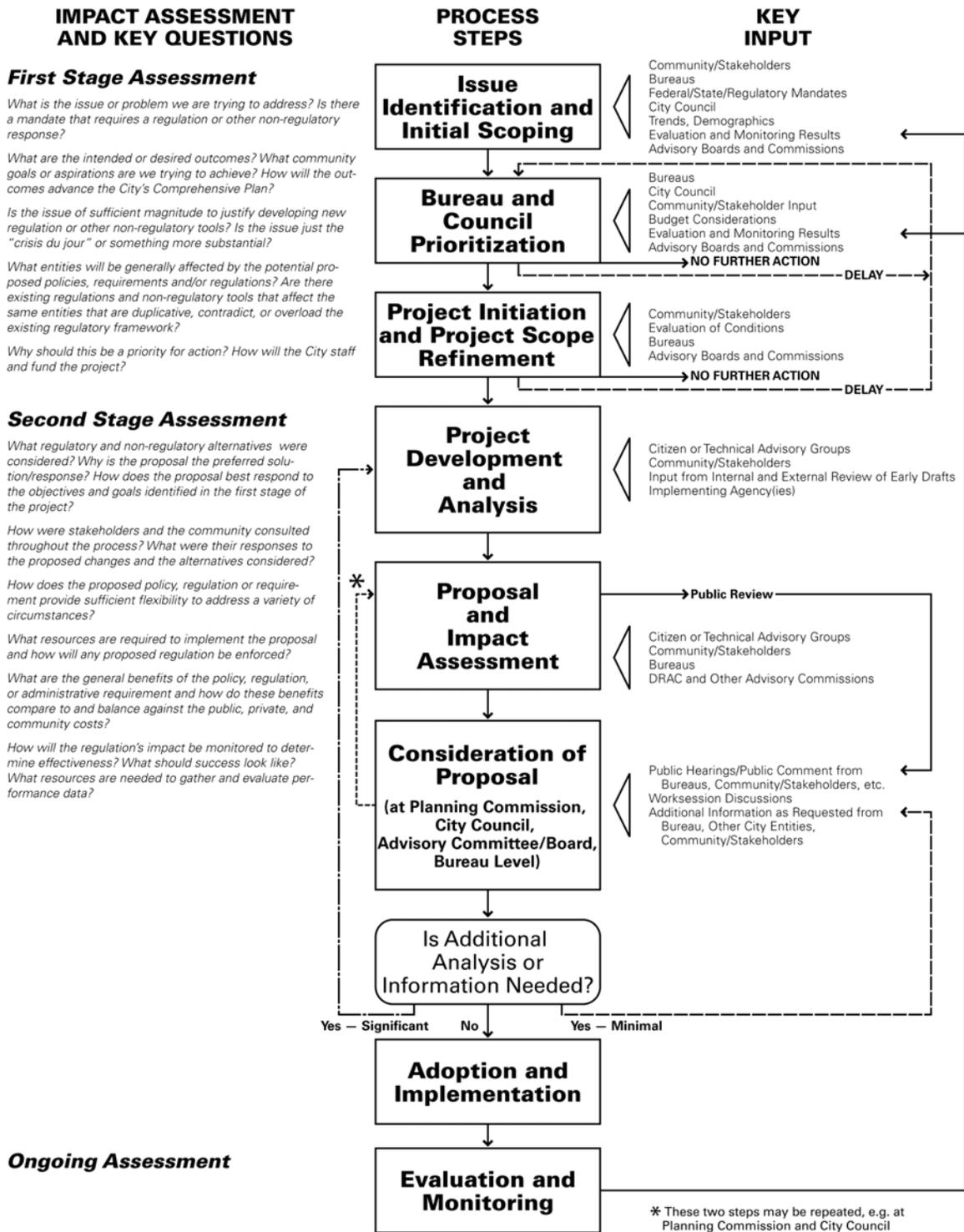
Question 4: What resources are required to implement the proposal and how will any proposed regulation be enforced?

Question 5: What are the general benefits of the policy, regulation, or administrative requirement, and how do these benefits compare to and balance against the public, private, and community costs?

Question 6: How will the regulation's impact be monitored to determine effectiveness? What should success look like? What resources are needed to gather and evaluate performance data?

In general, the Impact Assessment for this project is included in the Background and Commentary for each of the subject proposals in the body of the report. However, the two items that were identified in the 2003-2004 Regulatory Improvement Workplan (Land Divisions and Bed & Breakfasts) have already gone through the preliminary impact assessment. That assessment is included in a white paper for each of the items, located in the Appendices section of this report.

Model Process for Consideration and Assessment of Land Use and Development Actions



IV. Adopted Amendments to the Zoning Code

How changes are shown in this section

Language added to the Zoning Code is underlined; language deleted is shown in ~~striketrough~~.

The left-hand page provides written commentary for the adopted code language shown on the right-hand page.

In order to limit the size of this document and eliminate excessive printing, only those sections of the Zoning Code that are amended are included in this document. This document is not intended to replace the entire code. These changes are best understood if reviewed in conjunction with the Zoning Code in effect at the time the changes were adopted.

LAND DIVISION-RELATED AMENDMENTS **(Item 4, RIW 03-04)**

BACKGROUND

City Council adopted the Land Division Code Rewrite Project after many years of public outreach and hearings. The public involvement for this rewrite included meetings starting in 1994, with City Council hearings occurring from 2000-2002. The final language of this rewrite was effective July 1, 2002. As part of this process, City Council recommended that the Bureau of Planning work with the Office of Planning and Development Review (now Bureau of Development Services) to undertake a two-year work program to monitor implementation of the land division regulations. According to Council, "The monitoring process would include regular reporting to the Planning Commission, and could result in future code changes or changes to administrative processes."

The Bureau of Planning and the Bureau of Development Services began to track issues affecting development as soon as the Land Division Package was implemented. However, the weak economy and developers' unfamiliarity with the new Land Division Code resulted in a large reduction in the number of land division applications received during the first few months of implementation. Approximately 200 applications for partitions, subdivisions, planned unit and cluster developments were submitted in the first six months of 2002 (prior to implementation of the new code). In the second half of 2002, that total dropped to 37 applications. Of those, 33 were for partitions (3 lots or less) and no applications were received for Planned Developments. This reduction in the volume of cases during the early stages of implementation made it harder to spot potential problems or issues related to the new code.

At the first annual Planning Commission session on Land Division Code monitoring held during the summer of 2003, Bureau of Planning and Bureau of Development Services staff requested an extension for the monitoring period due to an inadequate sample of land division cases of varying degrees of complexity. At that time, only the smallest of the land divisions had been approved under the new code, and there had not been any build-out of projects completed under this code.

Staff from both bureaus recognized that there were some procedural items that needed review and potential change, as well as technical errors that needed to be corrected. During 2003, staff of both bureaus compiled a list of items that warranted review and assessment. This list was created from problems encountered by staff as well as through comments made by applicants and other members of the public. The list grew along with the number of cases that were received in 2003. Approximately 170 land division requests were received in 2003, including several Planned Development requests. This additional volume helped to solidify a list of issues to be addressed.

Many of the items that were identified were either small technical fixes (typographical errors, etc.) or were related to issues identified under other Regulatory Improvement Workplan issues (like the 'a' overlay items). Nearly a dozen of these issues were resolved in other packages of amendments including Code Maintenance and previous Policy Packages due to their simple nature or relationship to another set of amendments.

The remaining group of issues were collected and categorized based upon subject type including lots/flag lots, Planned Developments/Planned Unit Developments, environmental issues, trees, streets, etc. The issues were also categorized as process, service, or site design issues. Of these issues, approximately 17 issues and offshoots were identified as requiring additional monitoring, or better suited to be considered in conjunction with the Healthy Portland Streams project (now covered under several projects including the Environmental Code Improvement Project). The deferred items are described in more detail at the end of the Land Division Related Amendments section on Pages 114-116. The remaining items are reviewed as part of Policy Package 3. The Bureau of Planning presented these items to the Planning Commission at the public hearing on May 25, 2004, and to the City Council at their hearing on July 28, 2004. This package adds a new section to Chapter 33.700 addressing the legal status of existing lots. This section is introduced to align the Zoning Code with state law.

IMPACT ASSESSMENT

The Impact Assessment is divided into two stages, the first of which is an identification and categorization of the problem, its effect, and the determination of priority. The second stage reviews potential solutions, analyzes the cost and benefit of the solution, and involves the stakeholders within the solution process. As part of these assessments, a series of questions (listed on pages iv-vi of this report) are addressed. In this section, the questions are addressed in general. More specific analysis is found in the Commentary section of the code proposals.

First Stage Assessment

The Land Division Code Rewrite, effective July 1, 2002, was the end result of an eight-year process that involved a large number of internal and external stakeholders including members of the public and other City bureaus. Due to the resultant complexity of the final document and the new items to be reviewed as part of the land division, City Council requested that a monitoring process be established to identify implementation problems. Over the course of the next year, the Bureau of Planning in conjunction with the Bureau of Development Services, other bureaus, landowners and other members of the public identified several issues that were potentially unintended consequences of the land division code. This list was created so that solutions could be explored to help streamline some land division roadblocks while maintaining the original goals of the Land Division Code Rewrite Project. During the creation of this list, potential stakeholders were identified.

During this first stage assessment, Planning and Development Services staff reviewed the background information to determine whether the issues were significant enough to require new regulation. Items were placed into work categories such as simple fixes, minor research

Land Division-Related Amendments

BACKGROUND AND IMPACT ASSESSMENT

items, items related to other ongoing projects, and those requiring additional monitoring. Some items were discarded as not sufficient for requiring a change. Those related to other projects were reviewed through those procedures (Code Maintenance, Gateway Plan District, and Policy Packages 1 & 2) and are not included here. The remaining items were assigned for further review and the exploration of alternative proposals.

Second Stage Assessment

This report is the conclusion of the second stage assessment to determine if regulatory or non-regulatory alternatives are feasible, while also involving the various stakeholders identified in the First Stage Assessment. Since many of the issues have been raised as a result of a regulatory item, the best fix involves regulatory change. Many of the changes listed have resulted from the inflexibility of the new land division regulations to adequately address certain circumstances. Examples include large-scale Planned Development proposals or tree preservation on small infill lots. The City Council's approved changes are intended to provide the benefit of easier-to-use regulations while continuing the original benefits that the Land Division Code Rewrite Project envisioned.

To assemble the initial recommendations, the Bureau of Planning staff held meetings with members of the City Development Services staff, as well as with other Bureaus to ensure that City goals would be incorporated into the proposed changes. A *Discussion Draft* was published on March 16, 2004, to solicit comment and community participation. Staff attended the citywide land use chairs meeting on March 22. An initial notice of the proposal was mailed on March 18 to announce the availability of the *Discussion Draft* and the Open House on March 31. The notice was mailed to over 2,100 people who had expressed interest in a multitude of projects, including land divisions and regulatory reform. The comments received were considered, and, in some cases, incorporated into a *Proposed Draft*. Staff attended the Forestry Commission meeting on April 15 to discuss specific elements of the Land Division proposal that affect the tree preservation regulations.

A second notice announcing the *Proposed Draft* and the Planning Commission hearing was mailed out on April 22, 2004. Over 2,000 people received this notice. Planning staff attended the citywide land use chairs meeting on April 26, and held a second community open house on May 5. The Planning Commission held a public hearing on May 25. Several people submitted written testimony and six people testified at the hearing. Some of this testimony factored into the Planning Commission's recommendation forwarded to City Council.

A notice announcing the City Council hearing was mailed to all those who had participated in the Planning Commission hearing as well as those specifically interested in the Cultural Resources and Historic Amendments. The City Council held a hearing on July 28, 2004, to consider testimony on the project and voted on August 4, 2004, to adopt the Planning Commission's recommendation with only minor edits.

These regulations are to be incorporated into the current Land Division Review process, so that they will not require any additional City resources. Since the Land Division Monitoring project is expected to continue for another two years, these changes will be included in the overall

monitoring of the Land Division Code Rewrite Project. Ultimate success of this project will be determined as part of the overall Land Division Code Rewrite Project evaluation.

A summary of items held from immediate change is placed at the end of the Land Division Related Amendments section. The items include additional monitoring of certain flag lot, tree preservation, environmental zone provisions, and a lot replatting process. They will be incorporated into the ongoing Land Division Monitoring or through separate projects such as the Environmental Code Improvement Project. These projects will address the Impact Assessment for these items as part of their review process.

**CHAPTER 33.10
LEGAL FRAMEWORK AND RELATIONSHIPS**

33.10.030 When the Zoning Code Applies

- A. All land and water.** One of the major changes of the Land Division Code Rewrite was to eliminate Title 34, Subdivision and Partitioning Regulations, and incorporate land divisions into Title 33 Planning & Zoning. Although it is implied that land divisions are now reviewed under Title 33, the new reference was overlooked when the land division code was incorporated into Title 33. The creation of public streets is also included in the land division regulations so new references are needed for this action.
- B. Clarification for rights-of-way.** These changes clarify the relationship between Title 33, land divisions, and the creation of rights-of-way as a result of a land division. They do not alter existing policy and should have been part of the original Land Division Code Rewrite.

33.10.030.B.3(4). An additional housekeeping measure is provided in this section. We are revising the example given in 33.10.030.B.4 for projections into the right-of-way. Since projecting signs are now regulated through Title 32, this is not a good example for application of Title 17 and Title 33. A better example is an oriel window, which is a type of bay window that is not supported by a foundation and can project into the right-of-way.

CHAPTER 33.10
LEGAL FRAMEWORK AND RELATIONSHIPS

33.10.010 Purpose [No change]

33.10.020 Official Names [No change]

33.10.030 When the Zoning Code Applies

- A. All land and water.** The zoning code applies to all land and water within the City of Portland except as provided in Subsections B., C., and D. below. All land divisions, uses, and development must comply with all of the requirements specified in the zoning code for that location.
- B. Clarification for rights-of-way.** Land within private rights-of-way, including rail rights-of-way and utility rights-of-way, is regulated by Title 33. Land within public rights-of-way is regulated by Title 17, Public Improvements, and not by Title 33, except in the following situations where both Titles apply:
1. Rights-of-way in the greenway, environmental, and scenic resource overlay zones, including the creation of new rights-of-way and the expansion or vacation of existing rights-of-way;
 2. The act of creating or dedicating public rights-of-way through a land division;
 32. Development within design districts when specified in Chapter 33.825, Design Review;
 43. Structures that project from private property over rights-of way, such as oriel windows~~projecting signs~~; and
 54. Proposals for park-and-ride facilities for mass transit.
- C. Clarification for waterbodies. [No change]**
- D. Private rights-of-way. [No change]**

**CHAPTER 33.120
MULTI-DWELLING ZONES****33.120.210 Lot Size**

Prior to the Land Division Code Rewrite, the minimum lot size requirements were included in the multi-dwelling base zone chapter. The Land Division Code Rewrite created a new land division chapter (33.612) for the creation of lots within the multi-dwelling zones. This makes much of the Purpose statement and Land Division sections unnecessary, since an application for a land division is not subject to this chapter. This amendment eliminates the conflict with the land division chapter. However, there is some language within this section that is still applicable to reviewing development on existing lots.

This amendment changes the title of this section to "Development on Lots and Lots of Record." This amendment also changes the Purpose subsection (33.120.210.A) and the Land Division subsection (33.120.210.B) to reflect their current application. 33.120.210.B is renamed "Where these regulations apply". With the lot size requirements no longer included in this chapter, the remaining purpose of this section is to determine the buildability of existing lots and when an existing combination of lots can be separated. The new code clarifies the purpose and application of this section.

33.120.210.C. Ownership of multiple lots. This heading is changed to clarify its intent to apply to lots and lots of record.

33.120.210.D. New development on standard lots. This section is altered so that it includes 'lots of record' and matches the language in 33.120.210.E.

33.120.210.E. New development on substandard lots. This heading is changed to clarify its intent that it also applies to lots of record.

CHAPTER 33.120
MULTI-DWELLING ZONES

Sections:

Development Standards

33.120.210 ~~Lot Size~~ Development on Lots and Lots of Record

33.120.210 ~~Lot Size~~ Development on Lots and Lots of Record

- A. Purpose.** ~~The regulations of this section require lots and lots of record to be an adequate size so minimum lot size requirements for new lots ensure that development on a lot site will in most cases be able to comply with all site development standards, including density. The standards also prevent the creation of very small lots which are difficult to develop at their full density potential. Where more than one lot is in the same ownership, these standards prevent breaking up large vacant ownerships into small lots, which are difficult to develop in conformance with the development standards. However, where more than one lot is in the same ownership, and there is existing development, allowing the ownership to be separated may increase opportunities for residential infill while preserving existing housing.~~
- B. ~~Land divisions.~~ Where these regulations apply.** ~~These regulations apply to existing lots and lots of record in the multi-dwelling zones. The creation of All new lots created must comply with is subject to the lot size standards for the base zone listed in Chapter 33.612, Lots in Multi-Dwelling Zones. The existence of lots larger than the minimum is not a hardship, and does not justify their division into lots which are smaller than the minimum size allowed. The minimum lot size for institutional uses is stated in 33.120.275, Development Standards for Institutions, below.~~
- C. Ownership of multiple lots and lots of record.** Where more than one abutting lot or lot of record is in the same ownership, the ownership may be separated as follows:
- 1-2. [No Change].
- D. New development on standard lots and lots of record.** New development on lots and lots of record that comply with the lot size standards in Chapter 33.612, Lots in Multi-Dwelling Zones, is allowed by right subject to the development standards.
- E. New development on substandard lots and lots of record.** New development is allowed on lots and lots of record which do not conform to the lot size standards in Chapter 33.612, Lots in Multi-Dwelling Zones, if both of the following are met:
- 1-2. [No change].

**CHAPTER 33.248
LANDSCAPING AND SCREENING**

33.248.040 Installation And Maintenance

- E. Topping Prohibited.** Throughout Policy Package 3, all references to "certified arborist" are simplified by removing the word "certified." These changes are done in conjunction with a new definition for "arborist," which is provided in the Definitions Chapter, 33.910.

In addition, based upon input Planning staff received from the citywide land use chairs during the discussion phase, the paragraph is clarified to indicate that the trees "that are" required through provisions of the Zoning Code are prohibited from being topped.

The Urban Forestry Commission had requested that the Planning Commission and City Council amend the code to provide alternate language to the term "topping," and to limit topping further. This was not part of the original scope of the Land Division-Related Amendments, but warrants further study and review beyond land divisions and possible inclusion in a future Policy Package or as part of the Tree & Landscaping project headed up by Bureau of Development Services.

33.248.065 Tree Preservation Plans

- C. Alternative tree preservation plans.** All references to "certified arborist" are simplified by removing the word "certified." These changes are done in conjunction with a new definition for "arborist," which is provided in the Definitions chapter, 33.910.

CHAPTER 33.248
LANDSCAPING AND SCREENING

33.248.040 Installation and Maintenance

A-D. [No Change].

- E. Topping prohibited.** Topping of trees that are required by this Title is prohibited; required trees must be allowed to grow in their natural form. This prohibition does not apply to pruning performed to remove a safety hazard, to remove dead or diseased material, or to avoid overhead utilities.

If a tree smaller than 8 inches in diameter is topped, it must be replaced in kind. If a tree 8 inches or larger in diameter is topped, the owner must have an certified arborist develop and carry out a 5-year pruning schedule.

33.248.050 Landscaped Areas on Corner Lots

[No Change].

33.248.060 Landscape Plans

[No Change].

33.248.065 Tree Preservation Plans

A. [No change].

B. [No change].

- C. Alternative tree preservation plans.** If the requirements of Section 33.248.068, below, cannot be met, an alternative tree preservation plan may be submitted by an certified arborist or landscape architect. The alternative tree preservation plan must show alternative means for tree protection and preservation, and include a statement by the arborist or architect that the plan provides the same level of protection as the requirements of Section 33.248.068.

**CHAPTER 33.405
ALTERNATIVE DESIGN DENSITY OVERLAY ZONE**

33.405.060 Attached Residential Infill on Vacant Lots in the R5 Zone.

The regulations in this section allow for the provision of infill development at the R2.5 density in the R5a zone. This provision was reviewed as part of Policy Package 1 and was determined to be beneficial in the R5a zone to support urban infill projects that are well served by existing public services.

However, the current code section does not specify the density and lot size standards that apply. As an interim measure, staff has used the R2.5 lot size standards, since they match the intent of the other development standards. This change clarifies the maximum density that applies to the site and the lot size standards that are intended for this type of project and codifies current practice.

As a housekeeping measure, the language is revised to clarify that this bonus provision only allows someone to propose attached houses and not some other form of attached residential development.

CHAPTER 33.405
ALTERNATIVE DESIGN DENSITY OVERLAY ZONE

Sections:

General

Development Standards

33.405.060 Attached ~~Houses~~ Residential Infill on Vacant Lots in the R5 Zone

33.405.060 Attached ~~Houses~~ Residential Infill on Vacant Lots in the R5 Zone.

- A. Purpose.** The increased density permitted by this section encourages infill development in areas that are generally well served by existing public services. The increase allows the area to absorb additional growth without creating market pressure that might lead to the early removal of existing sound housing. The increased density will lower the cost of housing while increasing opportunities for owner-occupied housing. Required design review of new development ensures that the new housing will make a positive contribution to the neighborhood's character.
- B. Attached ~~houses~~ residential infill.** Attached ~~houses~~ residential development is allowed in the R5 zone if all of the following are met. Adjustments to this section ~~Paragraphs B.1 through B.4, below~~, are prohibited:
1. The proposed attached ~~housing~~ residential development will be on a lot or lot of record that was created at least five years ago;
 2. There has not been a dwelling unit on the lot or lot of record for at least five years;
 3. The density requirements of Chapter 33.611 must be met, and each attached house must be on a lot that meets the lot dimension standards of Chapter 33.611;
 4. Attached ~~houses~~ residential development must meet the following development standards:
 - a. Height and front setback standards. Attached ~~houses~~ residential development must meet the height and front setback standards of the R5 zone; and
 - b. All other development standards. The attached ~~house~~ proposed development must meet all other development standards for attached housing projects in the R2.5 zone;
 5. Design review required: [No Change]

Land Division-Related Amendments

COMMENTARY

33.405.070 Alternative Development Options in the R2 and R2.5 Zones

33.405.070.C. Flag lots averaging 2,500 square feet. The regulations in this subsection do not provide any standards for the width of the flag pole portion of the flag lot. The flag pole is the section of land that connects the lot to city services and the street. In practice, staff requires a 12' wide flag pole, which is the current requirement in the single-dwelling zones. This width is adequate to allow for vehicles, sanitary sewer, and water access to the lot.

Language is added to require a 12' pole width, to match current practice and similar requirements in the single-dwelling zones. This provision will be monitored in the future to determine whether the flag lot provision in the 'a' overlay is still a viable option. Policy Package 2 increased the flag lot options in R2.5 and reduced lot size requirements in the multi-dwelling zones, which may make this provision obsolete.

33.405.070 Alternative Development Options in the R2 and R2.5 Zones

A-B. [No change.]

C. Flag lots averaging 2,500 square feet. Lots in the R2 and R2.5 zone may be developed as flag lots with an average area of 2,500 square feet when the proposed development meets all of the following requirements:

1. Both attached and detached dwellings are allowed;
2. The average area of the lots created must be at least 2,500 square feet. Each must be at least 1,600 square feet;
3. The pole portion of the flag lot must be part of the flag lot, must connect to a street, and must be at least 12 feet wide for its entire length:
- ~~43.~~ Detached structures on a flag lot are required to have an eight foot setback from all lot lines. Attached structures on flag lots are required to have an eight foot setback along those lot lines that abut a lot that is not a part of the flag lot development; and
- ~~54.~~ Required setbacks must include a landscaped buffer area. The landscaped area must be at least 3 feet deep and be landscaped to at least the L3 standard. See Figure 405-1.

Land Division-Related Amendments

COMMENTARY

CHAPTER 33.430 ENVIRONMENTAL ZONES

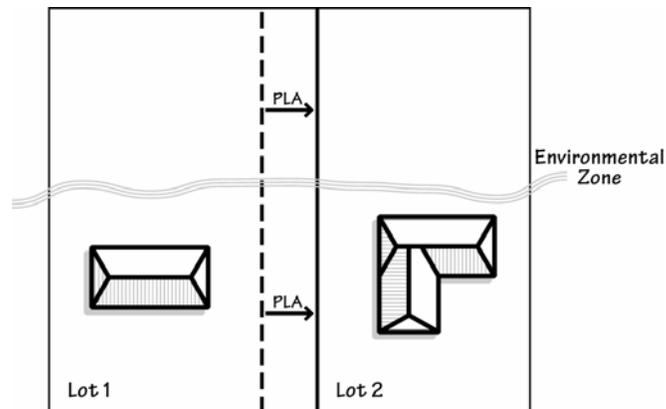
33.430.070 Where These Regulations Apply

33.430.070.B This change clarifies that Property Line Adjustments (like land divisions) are subject to the Environmental Regulations unless they are exempt in 33.430.080.

33.430.080 Items Exempt From These Regulations

33.430.080.C.5 All references to "certified arborist" are simplified by removing the word "certified." These changes are done in conjunction with the provision of a new definition for arborist, which is provided in the Definitions chapter, 33.910.

33.430.080.C.8 This change is made in conjunction with the Property Line Adjustment chapter, 33.675, to clarify the environmental provisions that should apply to property line adjustments. When a property line adjustment is proposed between two developed properties, and no additional development is proposed, the property line adjustment will be exempt from the environmental regulations. This is the current practice for land divisions of developed properties. The City Council agrees that if the land division to establish the property lines is exempt from the environmental regulations, a proposal to move one of the common property lines should also be exempt. (Illustration below.)



33.430.080.D.9

This change is needed to clarify the environmental provisions that apply to property line adjustments. It provides an option for a property line adjustment involving vacant property in the Environmental Overlay Zone to be exempt from the regulations. This exemption is the same exemption that applies to land divisions.

CHAPTER 33.430
ENVIRONMENTAL ZONES

Sections:

General [no change]

Development Standards

33.430.165 Standards for Property Line Adjustments

33.430.070 When These Regulations Apply

Unless exempted by Section 33.430.080, below, the regulations of this chapter apply to the following:

- A. Development;
- B. All land divisions and property line adjustments;
- C-F. [No change].

33.430.080 Items Exempt From These Regulations

The following items, unless prohibited by Section 33.430.090, below, are exempt from the regulations of this chapter:

- A-B. [No change].
- C. Existing development, operations, and improvements, including the following activities:
 - 1-4. [No change].
 - 5. Removing a tree listed on the Nuisance or Prohibited Plant Lists. Removing other trees or portions of trees when they pose an immediate danger, as determined by the City Forester or an certified arborist. Removing these portions is exempt only if all sections of wood greater than 12 inches in diameter remain, or are placed, in the resource area of the same ownership on which they are cut;
 - 6-7. [No change].
 - 8. Land divisions and partitions or Property Line Adjustments where all properties are developed, of developed properties where no additional building sites are created and no additional development is proposed.
- D. The following new development and improvements:
 - 1-8. [No change].;
 - 9. All land divisions with tentative plans, final plans, and recorded plats showing all of the following for every lot created or adjusted; and Property Line Adjustments with plans showing all of the following for each lot adjusted:
 - a-c. [No change].;

Land Division-Related Amendments

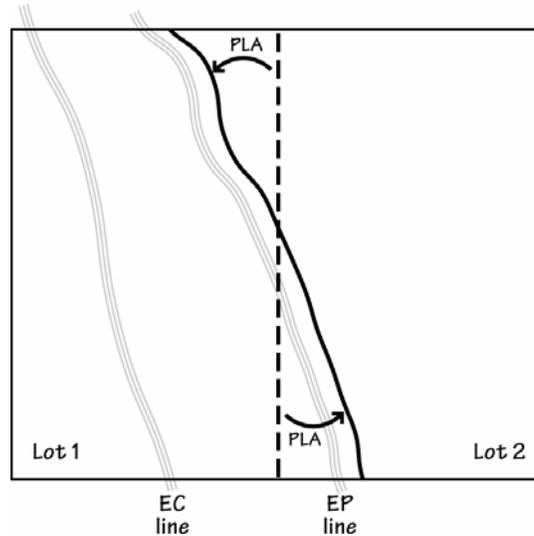
COMMENTARY

33.430.165 Standards for Property Line Adjustments

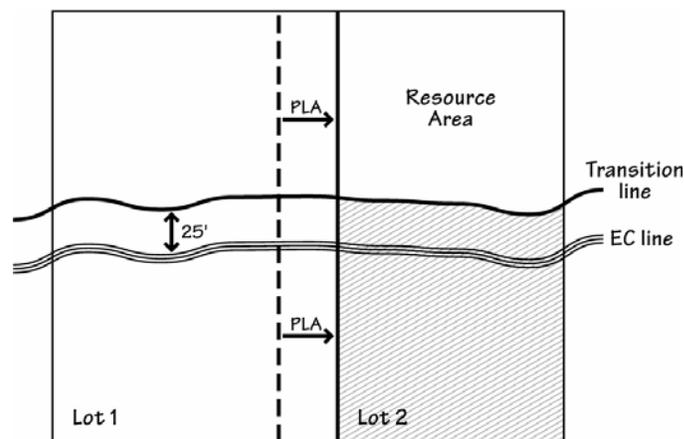
This is a new section that is provided in conjunction with the exemptions and review procedures to provide clarity in reviewing Property Line Adjustments (PLAs) in environmental zones.

Because PLAs by themselves do not create land disturbance, the issue is whether the new lot configuration creates future problems with development of the property.

The change establishes two standards for PLAs in environmental zones. These standards allow PLAs if they do not create new unbuildable properties or create the potential for additional disturbance in the environmental zones.



In the figure above, the PLA would result in Lot 2 being entirely within the Environmental Protection Zone. The above would not be allowed unless the PLA included a deed restriction limiting the property only to uses allowed in the Open Space zone or if it was dedicated to a public agency for use as an open space area.



This figure shows what will be reviewed under 33.430.165.B if a PLA is proposed on sites where at least one of the lots is vacant. In this case, Lot 2 is getting smaller, so it could only be approved if the area shaded in Lot 2 is not being reduced below Table 430-5, shown on the next page (i.e. in the R7 zone, the shaded area must be at least 3,500 square feet).

33.430.165 Standards for Property Line Adjustments

The following standards apply to Property Line Adjustments (PLAs) in the environmental overlay zones that do not meet one of the exemptions in 33.430.080.C.8 or 33.430.080.D.9. All of the standards must be met. Modification of any of these standards requires approval through environmental review described in Sections 33.430.210 to 33.430.280. For purposes of this section, the site of a Property Line Adjustment is the two properties affected by the relocation of the common property line.

- A.** A Property Line Adjustment may not result in any property being entirely in the environmental protection zone, unless that property is entirely in the environmental protection zone before the PLA, or the property will be dedicated or limited by deed restriction to the uses allowed in the OS zone.

- B.** The amount of area on each property that is outside of the resource area of the environmental overlay zone may not be reduced below the square footage in Table 430-5. A property that contains less than the area listed in Table 430-5 outside of the resource area of the environmental overlay zone may not move further out of conformance with Table 430-5.

Table 430-5				
Minimum Area Required Outside of Resource Area				
	<u>OS through R10 Zones</u>	<u>R7 Zone</u>	<u>R5 Zone</u>	<u>All Other Zones</u>
<u>Minimum Area Required</u>	<u>5,000 sq. ft.</u>	<u>3,500 sq. ft.</u>	<u>2,500 sq. ft.</u>	<u>50% of the base zone building coverage or 1 acre, whichever is less</u>

Environmental Review

33.430.230 Procedure

This change establishes the environmental review procedure for Property Line Adjustments. If a Property Line Adjustment (PLA) within an Environmental Overlay Zone does not meet one of the listed exemptions or development standards, it would be subject to Environmental Review. As approved, PLAs would go through a Type I procedure, unless the PLA is done in conjunction with development that requires a higher review. In that case, the higher review process for the development would include the proposed PLA in its review.

33.430.250 Approval Criteria

A Property Line Adjustment (PLA) may be proposed within environmental zones, where the exemptions or standards stated earlier in this chapter cannot be met. In this case, an Environmental Review would be required. With this change, Property Line Adjustments that need Environmental Review follow the same approval criteria specified for Land Divisions and Planned Developments, since a Property Line Adjustment involves the location of lots and lot lines.

The Land Division Code Rewrite replaced Planned Unit Developments with a new chapter called "Planned Development." The Environmental Review section of Chapter 33.430 was changed to provide approval criteria for Planned Developments in environmental zones. However, many existing Planned Unit Developments exist that were approved under the previous code provisions. These older Planned Unit Developments can request amendments to their original plans. If they are in environmental zones and require an environmental review, it is not clear which approval criteria apply. This change is needed to treat Amendments to Planned Unit Developments the same as land divisions and Planned Developments.

33.430.230 Procedure

Environmental reviews are processed through the following procedures:

- A. Property Line Adjustments and Resource enhancement activities are processed through the Type I procedure.
- B. The following are processed through the Type II procedure: [No change.]
- C. The following are processed through the Type III procedure: [No change.]

33.430.250 Approval Criteria

An environmental review application will be approved if the review body finds that the applicant has shown that all of the applicable approval criteria are met. When environmental review is required because a proposal does not meet one or more of the development standards of Section 33.430.140 through .170, then the approval criteria will only be applied to the aspect of the proposal that does not meet the development standard or standards.

- A. **Public safety facilities, roads, driveways, walkways, outfalls, utilities, land divisions, Property Line Adjustments, and Planned Developments, and Planned Unit Developments.** Within the resource areas of environmental zones, the applicant's impact evaluation must demonstrate that all of the general criteria in Paragraph A.1 and the applicable specific criteria of Paragraphs A.2, 3, or 4, below, have been met:
 - 1. General criteria for public safety facilities, roads, driveways, walkways, outfalls, utilities, land divisions, Property Line Adjustments, and Planned Developments, and Planned Unit Developments;
 - a. Proposed development locations, designs, and construction methods have the least significant detrimental impact to identified resources and functional values of other practicable and significantly different alternatives including alternatives outside the resource area of the environmental zone;
 - b. There will be no significant detrimental impact on resources and functional values in areas designated to be left undisturbed;
 - c. The mitigation plan demonstrates that all significant detrimental impacts on resources and functional values will be compensated for;
 - d. Mitigation will occur within the same watershed as the proposed use or development and within the Portland city limits except when the purpose of the mitigation could be better provided elsewhere; and
 - e. The applicant owns the mitigation site; possesses a legal instrument that is approved by the City (such as an easement or deed restriction) sufficient to carry out and ensure the success of the mitigation program; or can demonstrate legal authority to acquire property through eminent domain.

Land Division-Related Amendments

COMMENTARY

This is a continuation of the Environmental Review Approval Criteria discussed on the previous commentary page.

2. Public safety facilities. (No Change);
3. Roads, driveways, walkways, outfalls, and utilities;
a-c. (No Change).
4. Land divisions, Property Line Adjustments, ~~and~~ Planned Developments, and Planned Unit Developments:
 - a. Proposed uses and development must be outside the resource area of the Environmental Protection zone except as provided under Paragraph A.3 above. Other resource areas of Environmental Protection zones must be in environmental resource tracts;
 - b. There are no practicable arrangements for the proposed lots, tracts, roads, or parcels within the same site, that would allow for the provision of significantly more of the building sites, vehicular access, utility service areas, and other development on lands outside resource areas of a conservation zone; and
 - c. Development, including building sites, vehicular access and utilities, within the resource area of a conservation zone must have the least amount of detrimental impact on identified resources and functional values as is practicable. Significantly different but practicable development alternatives, including alternative housing types or a reduction in the number of proposed or required units or lots, may be required if the alternative will have less impact on the identified resources and functional values than the proposed development.

Land Division-Related Amendments

COMMENTARY

33.430.280 Modifications Which Will Better Meet Environmental Review Requirements

The recent Land Division Code Rewrite provides some limited flexibility to individual lot size standards, but it does not allow any deviation from the standards, unless it is reviewed in conjunction with a Planned Development. When an applicant applies for a land division in an environmental zone, the lot size minimums can cause a conflict with the Environmental Review criteria, which require the applicant to minimize the disturbance area as much as possible. It is difficult to meet the Environmental Review criteria without forcing the applicant into an additional Planned Development Review.

This change provides an option for applicants seeking to divide land within Environmental Zones. It gives applicants a chance to apply for modifications to the lot dimension standards as part of the Environmental Review. The applicant must show that the modification would result in greater protection of the resources and still be consistent with the purpose of the regulation being modified.

During the review of the *Discussion Draft*, members of the Citywide Land Use Group expressed concern over the provision of modifications to lot size and how this may conflict with existing neighborhood livability. To address these concerns, Planning staff added new criteria that must be met for modifications to lot sizes. This condition is modeled after the adjustment approval criteria, and is similar to criteria for Planned Developments. However, the intent is not to have new development mimic existing development in the neighborhood, especially in instances where the existing neighboring development doesn't meet environmental goals. Rather, the goal is for the new development to emulate the good aspects of the surrounding neighborhood as it relates to environmental protection.

Environmental Review

33.430.280 Modifications Which Will Better Meet Environmental Review Requirements

The review body may consider modifications adjustments for lot dimension standards or site-related development standards as part of the environmental review process. These modifications are done as part of the environmental review process and are not required to go through the adjustment process. Adjustments to use-related development standards (such as floor-area ratios, intensity of use, size of the use, number of units, or concentration of uses) are subject to the adjustment process of Chapter 33.805. In order to approve these modifications, the review body must find that the development will result in greater protection of the resources and functional values identified on the site and will, on balance, be consistent with the purpose of the applicable regulations. For modifications to lot dimension standards, the review body must also find that the development will not significantly detract from the livability or appearance of the area.

**CHAPTER 33.480
SCENIC RESOURCE ZONE**

33.480.040 Development Standards

33.480.040.B Scenic Corridors

33.480.040.B.2.g (1) & (2) Preservation of trees

All references to "certified arborist" are simplified by removing the word "certified." These changes are done in conjunction with a new definition for "arborist," which is provided in the Definitions chapter, 33.910.

CHAPTER 33.480
SCENIC RESOURCE ZONE

33.480.040 Development Standards

The development standards of the Scenic Resource zone apply based on the mapping designations shown in the *Scenic Resources Protection Plan*. The standards for each subsection below apply only to areas with that designation in the Plan. The resource is defined as the width of the right-of-way or top of bank to top of bank for scenic corridors. Setbacks are measured from the outer boundary of the right-of-way unless specified otherwise in the ESEE Analysis and as shown on the Official Zoning Maps. In some cases, more than one development standard applies. For example, within a scenic corridor, a view corridor standard will apply where a specific view has been identified for protection.

A. View Corridors. [No change].

B. Scenic Corridors. All development and vegetation with a scenic corridor designation in the *Scenic Resources Protection Plan* are subject to the regulations of this Subsection.

1. Purpose. [No change].

2. Standards.

a-f. [No change].

g. Preservation of trees. The provisions of Chapter 33.248, Landscaping and Screening, apply to this subsection. This provision does not apply if the property is regulated by state statutes for forest management practices. All trees over 6 inches in diameter that are within the street setback (or first 20 feet if no setback exists) must be retained unless removal conforms to one or more of the following standards:

(1) The tree is located within the footprint of proposed structures, within 5 feet of a structure, or an ~~an~~ certified arborist finds, through root exploration, that the location of a proposed structure will cause the tree to die;

(2) The tree is determined by an ~~an~~ certified arborist to be dead or diseased and needs to be removed, or it constitutes an immediate hazard to life or property;

(3-7 [No change];

h. [No change].

**CHAPTER 33.508
CASCADE STATION/PORTLAND INT'L CENTER PLAN DISTRICT**

Environmental Zones

33.508.314 Items Exempt from these Regulations

33.508.314.L Removing a tree listed on the Nuisance or Prohibited Plant Lists.
All references to "certified arborist" are simplified by removing the word "certified."
These changes are done in conjunction with a new definition for "arborist," which is
provided in the Definitions chapter, 33.910.

CHAPTER 33.508
CASCADE STATION/PORTLAND INTERNATIONAL CENTER (CS/PIC)
PLAN DISTRICT

Environmental Zones

33.508.314 Items Exempt From These Regulations

The following are exempt from the development standards and required reviews stated in this section:

A-K.[No change.]; and

- L.** Removing a tree listed on the Nuisance or Prohibited Plant Lists. Removing other trees or portions of trees when they pose an immediate danger, as determined by the City Forester or an certified arborist. Removing these portions is exempt only if all sections of wood greater than 12 inches in diameter remain, or are placed, in the resource area of the same ownership on which they are cut.

**CHAPTER 33.515
COLUMBIA SOUTH SHORE PLAN DISTRICT**

Environmental Regulations

33.515.274 Items Exempt from These Regulations

33.515.274.L Removing a tree listed on the Nuisance or Prohibited Plant Lists.
All references to "certified arborist" are simplified by removing the word "certified."
These changes are done in conjunction with a new definition for "arborist," which is
provided in the Definitions chapter, 33.910.

CHAPTER 33.515
COLUMBIA SOUTH SHORE PLAN DISTRICT

Environmental Regulations

33.515.274 Items Exempt From These Regulations

The following are exempt from the development standards and required reviews stated in this section:

A-K.[No change].

- L.** Removing a tree listed on the Nuisance or Prohibited Plant Lists. Removing other trees or portions of trees when they pose an immediate danger, as determined by the City Forester or an certified arborist. Removing these portions is exempt only if all sections of wood greater than 12 inches in diameter remain, or are placed, in the resource area of the same ownership on which they are cut.

**CHAPTER 33.537
JOHNSON CREEK BASIN PLAN DISTRICT**

33.537.110 Transfer of Development Rights

33.537.110B Regulations. This section is revised in conjunction with the changes made to Planned Developments and Final Development Plans discussed on pages 84-85. Since the Final Development Plan requirement (mentioned here as "final plans") for a Planned Development is eliminated with this package, we no longer need the reference here. However, we do still need a mechanism for recording covenants to transfer development rights for Planned Developments that do not involve a concurrent land division. This change requires the covenant to be recorded within 90 days of the Planned Development approval. Please note that nearly all Planned Developments are done in conjunction with a Land Division, and that Land Divisions require a final plat to be filed. In those cases, the covenants will be required prior to the Final Plat approval made by the Director for the Bureau of Development Services (BDS).

33.537.130 Springwater Corridor Standards

33.537.130.C.1.c Retain Existing Trees

33.537.130.C.1.c.(1)

All references to "certified arborist" are simplified by removing the word "certified." These changes are done in conjunction with a new definition for "arborist," which is provided in the Definitions chapter, 33.910.

CHAPTER 33.537
JOHNSON CREEK BASIN PLAN DISTRICT

33.537.110 Transfer of Development Rights

- A. Purpose.** [No change.]
- B. Regulations.** Transfer of development rights between sites in the plan district is allowed as follows. "Development rights" are the number of potential dwelling units that would be allowed on the site. Bonus density is not transferable.

1-3. [No change.]

4. Transfer procedure. Transfer of development rights is allowed as follows:

- a. Planned Development (PD) required. [No change.]
- b. Sending site included. [No change.]
- c. Covenant required. The owner of the sending site must execute a covenant with the City that reflects the reduced development potential on the sending site. The covenant must meet the requirements of 33.700.060. The covenant must be recorded ~~before approval of the final plan~~ within 90 days of the PD approval, or if the PD includes a land division, before the Director of BDS's approval of the final plat.

5-6. [No change.]

33.537.120 Bonus Density [No change.]

33.537.130 Springwater Corridor Standards

A-C. [No change].

C. Standards.

1. General standards.

a-b. [No change].;

c. Retain existing trees. Trees within 20 feet of a lot line abutting the Springwater Corridor that are more than 6 inches in diameter must be retained unless:

- (1) The tree is determined by an ~~certified~~ arborist to be dead or diseased and needs to be removed, or it constitutes an immediate hazard to life or property; or

(2-3)[No change].

2. Special setback standards. [No change].

Land Division-Related Amendments

COMMENTARY

33.537.140 South Subdistrict Development Standards

33.537.140.C Tree removal.

33.537.140.C.2

All references to "certified arborist" are simplified by removing the word "certified". These changes are done in conjunction with a new definition for "arborist", which is provided in the Definitions chapter, 33.910.

33.537.150 Floodplain Standards

33.537.150.D Tree removal

33.537.150.D.2

All references to "certified arborist" are simplified by removing the word "certified." These changes are done in conjunction with a new definition for "arborist," which is provided in the Definitions chapter, 33.910.

33.537.140 South Subdistrict Development Standards

A-B. [No change].

C. Tree removal. Trees greater than six inches in diameter may be removed only in the following situations:

1. [No change];
2. When they are diseased or pose an immediate danger, as determined by the City Forester or an an ~~certified~~ arborist; or
3. [No change].

D-E. [No change].

33.537.150 Floodplain Standards

A-C. [No change].

D. Tree removal. Trees greater than six inches in diameter may be removed only in the following situations:

1. [No change];
2. When they are diseased or pose an immediate danger, as determined by the City Forester or an an ~~certified~~ arborist; or
3. [No change].

E. Impervious surface. [No change].

**CHAPTER 33.570
ROCKY BUTTE PLAN DISTRICT**

33.570.040 Tree Removal

33.570.040.C.1 & C.2

All references to "certified arborist" are simplified by removing the word "certified."
These changes are done in conjunction with a new definition for "arborist," which is provided in the Definitions chapter, 33.910.

CHAPTER 33.570
ROCKY BUTTE PLAN DISTRICT

33.570.040 Tree Removal

- A. Purpose.** [No change].
- B. Tree removal review.** [No change].
- C. Exempt from review.** The following are exempt from tree removal review:
1. The tree is located within the footprint of a proposed building, within 5 feet of a building, or an certified arborist finds, through root exploration, that the location of a proposed building will cause the tree to die;
 2. The tree is determined by an certified arborist to be dead or diseased and needs to be removed, or it constitutes an immediate hazard to life or property;
 - 3-4. [No change].

**CHAPTER 33.610
LOTS IN RF THROUGH R5 ZONES**

33.610.200 Lot Dimension Standards

33610.200.D. Minimum lot width. Lots created under this provision must meet the minimum width standard of Table 610-2. An exception to this width can be made if several conditions are met; one of which is that there must be least 15 contiguous feet of uninterrupted curb space for each lot being created. Lots that have vehicle access from an alley are exempt from this requirement. The intent is to ensure some on-street vehicle parking can be located between curb cuts.

33610.200.D.2.b

Lots that have access from a *Common Green* or *Pedestrian Connection*, without also providing an alley, are not exempt from the continuous curb provision, even though most lots do not have curbs. This forces all curb space to be measured along the one lot bordering the street. When the code was written, it was anticipated that all common green projects would also have alley access to meet parking requirements, and that projects with common greens or pedestrian connections would not be subject to the uninterrupted curb requirement. Since parking requirements have been reduced for sites well served by transit, parking alleys are not always required. This amendment allows pedestrian-oriented projects to be exempt from this requirement regardless of the provision of an alley.

CHAPTER 33.610
LOTS IN RF THROUGH R5 ZONES

33.610.200 Lot Dimension Standards

Lots in the RF through R5 zones must meet the lot dimension standards of this section.

A-C. [No change.]

D. Minimum lot width. For the purposes of this subsection, width is measured at the minimum front building setback line. Where this setback line is curved, width is measured from the intersection points of the setback line with the side lot lines. Each lot must meet one of the following standards. Lots that do not meet these standards may be requested through Planned Development Review. Adjustments to the standards are prohibited.

1. Each lot must meet the minimum lot width standard stated in Table 610-2; or
2. There is no minimum lot width for lots that meet all of the following:
 - a. If the lot abuts a public alley, then vehicle access must be from the alley;
 - b. There must be at least 15 contiguous feet of uninterrupted curb space for each lot being created under these provisions. This distance is measured along the face of the curb, or along the edge of the roadway pavement if there is no curb. Each lot's space must be located along the street that the lot's front lot line abuts, and must abut the land division site; however, each space does not have to be located directly in front of its associated lot. See Figure 610-1. Lots that abut a pedestrian connection, common green or have vehicle access from an alley are exempt from this standard;
 - c-e. [No change].

Land Division-Related Amendments

COMMENTARY

CHAPTER 33.611 LOTS IN THE R2.5 ZONE

33.611.200 Lot Dimension Standards

33.611.200.C Minimum lot width See the Commentary for 33.610.200. This is the same exception as described on the previous page, but applies to the R2.5 zone.

CHAPTER 33.611
LOTS IN THE R2.5 ZONE

33.611.200 Lot Dimension Standards

A-B [No change]

C. **Minimum lot width.** For the purposes of this subsection, width is measured at the minimum front building setback line. Where the setback line is curved, width is measured from the intersection points of the setback line with the side lot lines. Each lot must meet one of the following standards. Lots that do not meet these standards may be requested through Planned Development Review. Adjustments to the standards are prohibited.

1. Each lot must be at least 36 feet wide; or
2. There is no minimum lot width for lots that meet all of the following:
 - a. If the lot abuts a public alley, then vehicle access must be from the alley;
 - b. There must be at least 15 contiguous feet of uninterrupted curb space for each lot being created under these provisions. This distance is measured along the face of the curb, or along the edge of the roadway pavement if there is no curb. Each lot's space must be located along the street that the lot's front lot line abuts, and must abut the land division site; however each space does not have to be located directly in front of it's associated lot. See Figure 611-1. Lots that abut a pedestrian connection, common green or have vehicle access from an alley are exempt from this standard;
 - c-e. [No change.]

**CHAPTER 33.614
LOTS IN EMPLOYMENT ZONES**

33.614.100 Minimum Lot Dimension Standards

- A. Minimum size and shape.** A typographical error was made to the minimum size standards during the Land Division Code Rewrite. This error changed the standard shape requirements in the EG1 zone, which was not intended. This code change provides the correct reference for new lots in the EG1 zone. We also are eliminating the wording "size and shape" and using "lot dimensions," since that term is used elsewhere in the code.

- B. Minimum Front Lot Line.** The minimum front lot line in commercial zones was reduced from 25 feet to 10 feet through Policy Package 1. This was because the 25-foot minimum created a barrier to a form of desirable development - small individual live/work rowhouse developments. Since these types of uses and development are also allowed and desirable in the EX zone, we are modifying the front lot line standard in the EX zone to match the current minimums in commercial zones. We also are simplifying this section so that the applicable lot dimension standards are all located in Table 614-1.

CHAPTER 33.614
LOTS IN EMPLOYMENT ZONES

33.614.100 Minimum Lot Dimension Standards.

~~**A. Minimum size and shape.**~~ All lots must meet the following minimum size and shape dimension standards. An exception is allowed under the provisions of Section 33.614.200.

~~**A.1. EG1 zone.**~~ All lots in the EG1 zone must meet Standard BA stated in Table 614-1.

~~**B.2. EG2 zone.**~~ The following standards apply in the EG2 zone.

~~1a.~~ For land divisions of 10 or more lots, at least 80 percent of the lots must meet Standard A stated in Table 614-1 and the remainder must meet Standard B.

~~2b.~~ For land divisions of less than 10 lots, all but one lot must meet Standard A stated in Table 614-1. One lot may meet Standard B. The lots that meet Standard A may not be redivided unless they continue to meet Standard A.

~~**C.3. EX zone.**~~ Each lot must have a front lot line that is at least 10 feet long. There are no other required minimum lot dimensions for lots in the EX zone.

Table 614-1			
Minimum Lot Size and DimensionsShape in Employment Zones			
	Minimum Lot Area	Minimum Dimension	<u>Minimum Front Lot Line</u>
Standard A	20,000 sq. ft.	100 ft x 100 ft	<u>35 ft</u>
Standard B	10,000 sq. ft.	75 ft. x 75 ft.	<u>35 ft</u>

~~**B. Minimum Front Lot Line.**~~ Each lot must have a front lot line that is at least 35 feet long. ~~Lots that will be developed with detached or attached houses are exempt from this standard.~~

**CHAPTER 33.615
LOTS IN INDUSTRIAL ZONES**

33.615.100. Minimum Lot Dimension Standards

- A. Minimum size and shape.** A typographical error was made to the minimum size standards during the Land Division Code Rewrite. This error changed the standard shape requirements in the IG1 zone, which was not intended. This code change provides the correct reference for new lots in the IG1 zone. We also are eliminating the wording "size and shape" and using "lot dimensions" since that term is used elsewhere in the code. Lastly, we are simplifying this section so that the applicable lot dimension standards are all located in Table 615-1. This matches the changes recommended in Chapter 33.614.

CHAPTER 33.615
LOTS IN INDUSTRIAL ZONES

33.615.100 Minimum Lot Dimension Standards

~~**A. Minimum size and shape.**~~ All lots must meet the following minimum size and shape dimension standards. An exception is allowed under the provisions of Section 33.615.200.

~~**A.1. IG1 zone.**~~ All lots in the IG1 zone must meet Standard ~~BA~~ stated in Table 615-1.

~~**B.2. IG2 and IH zones.**~~

~~1a.~~ For land divisions of 10 or more lots, at least 80 percent of the lots must meet Standard A stated in Table 615-1 and the remainder must meet Standard B.

~~2b.~~ For land divisions of fewer than 10 lots, all but one lot must meet Standard A stated in Table 615-1. One lot may meet Standard B. The lots that meet Standard A may not be redivided unless they continue to meet Standard A.

Table 615-1			
Minimum Lot Size and Dimension-Shape in Industrial Zones			
	Minimum Lot Area	Minimum Dimension	<u>Minimum Front Lot Line</u>
Standard A	40,000 sq. ft.	150 ft. x 150 ft.	<u>35 ft</u>
Standard B	10,000 sq. ft.	75 ft. x 75 ft.	<u>35 ft</u>

~~**B. Minimum front lot line.**~~ Each lot must have a front lot line that is at least 35 feet long.

**CHAPTER 33.630
TREE PRESERVATION**

There are a few aspects of the Tree Preservation Chapter that have created confusion with implementation. The area that has caused the greatest amount of confusion is in determining when the chapter applies and when a proposal is exempt. Another provision that causes confusion is in determining the trees to count for total tree diameter. Lastly, the preservation requirements have caused many problems with smaller infill lots that have very few trees, and cannot meet mitigation options. The following changes help clarify these items, while still meeting the chapter's original goals.

33.630.020 Where These Regulations Apply

This section describes two main instances where the chapter applies: when a lot has one tree at least 6 inches in diameter, or when it contains at least one significant tree. Much of the remaining code language in this section lists situations where the code doesn't apply. Consolidating all exemptions under 33.630.030 improves the clarity of this chapter.

Please note, there is currently a project underway to revise the Portland Plant List. As part of the revision, it is expected that there will be some changes proposed to the Significant Tree List, Table 630-1. We anticipate that this section of code may further change during these revisions.

33.630.030 Exempt From These Regulations

33.630.030.B-D All references to "certified arborist" are simplified by removing the word "certified." These changes are done in conjunction with a new definition for "arborist," which is provided in the Definitions chapter, 33.910.

33.630.030.F-G These two subsections exempt trees within environmental zones and trees with trunks that are not entirely within the subject site from the tree preservation chapter. These exemptions mirror the existing wording in section 33.630.020, *Where these regulations apply*. The right-of-way exemption is added based upon a request of Portland Transportation. Trees in the right-of-way are reviewed by the Urban Forester under Chapter 20.40, *Street Trees*. Placement of these items within the Exemption section clarifies which trees should count towards tree preservation requirements.

33.630.030.H There is currently confusion on how total tree diameter is applied towards tree preservation. This exemption eliminates the confusion. Currently, the chapter does not apply unless a significant tree or a tree greater than 6 inches in diameter is on site. However, the code is not clear on what diameter of trees should be counted towards total tree preservation, leading to inconsistent application. This provision makes it clear that trees less than 6 inches in diameter are exempt from all provisions of the tree chapter. However, they may count towards alternate mitigation measures provided in 33.630.300.F

CHAPTER 33.630
TREE PRESERVATION

33.630.020 Where These Regulations Apply

Unless exempted by Section 33.630.030, ~~This chapter applies to land divisions in all zones where:~~

- A.** There is at least one significant tree on the site that is not in an Environmental Overlay Zone; or
- B.** There is at least one tree that is at least 6 inches in diameter on the site that is not in an Environmental Overlay Zone.

~~This chapter does not apply to the portions of the site in an Environmental Overlay Zone.~~

~~Tree preservation requirements apply to the trees on the site other than those listed in Section 33.630.030, Exempt From These Regulations. The percentage of total tree diameter to be preserved is based on the total diameter of the trees on the portion of the site that is not in an Environmental Overlay Zone after the total diameter of exempt trees is subtracted.~~

~~In addition, the tree requirements of this chapter only apply to trees where the primary trunk is located entirely on the land division site.~~

33.630.030 Exempt From These Regulations

The following trees are exempt from the regulations of this chapter:

- A.** Trees that are listed as nuisance or prohibited on the Portland Plant List;
- B.** Trees that pose an immediate danger to life and safety as determined by the City Forester or an certified arborist;
- C.** Trees that are dead, as determined by the City Forester or an certified arborist;
- D.** Trees that are diseased in a manner that threatens their continued viability, or represents a significant threat to the health of surrounding trees, as determined by the City Forester or an certified arborist; ~~and~~
- E.** Trees that are within 10 feet of an existing building that will remain on the site;;
- F.** Trees where the primary trunk is partially located in the right-of-way or on an adjoining site that is not part of the land division site;
- G.** Trees where the primary trunk is located partially within Environmental Zones are instead subject to the regulations of Chapter 33.430 Environmental Zones; and
- H.** Trees that are less than 6 inches in diameter, and not listed as a Significant Tree at a smaller diameter than 6 inches in Table 630-1.

Land Division-Related Amendments

COMMENTARY

33.630.100 Tree Preservation Standards

33.630.100.A. This change clarifies the diameter of trees required to be preserved. Trees that are exempt from the tree regulations by 33.630.030 are not to be counted towards meeting these tree preservation standards. *(Note: In the interest of preserving paper, not all of the Tree Preservation chapter is being shown. The Zoning Code in effect at the time of these changes should be reviewed in conjunction with this document to find the complete tree preservation requirements of a land division.)*

33.630.200 Tree Preservation Methods

33.630.200.B. Tree preservation plan. All references to "certified arborist" are simplified by removing the word "certified," These changes are done in conjunction with a new definition for "arborist," which is provided in the Definitions chapter, 33.910.

33.630.100 Tree Preservation Standards

- A.** Existing trees must be preserved. The total tree diameter on the site is the total diameter of all trees on the site, minus the diameter of trees that are listed in Section 33.630.030, Exempt From These Regulations. The applicant must choose one of the following options. Significant trees are listed in Table 630-1:
1. Option 1: Preserve at least 35 percent of the total tree diameter on the site;
 2. Option 2: Preserve at least 50 percent of the significant trees on the site and at least 30 percent of the total tree diameter on the site;
 3. Option 3: Preserve at least 75 percent of the significant trees on the site and at least 25 percent of the total tree diameter on the site; ~~or~~
 4. Option 4: Preserve all of the significant trees on the site and at least 20 percent of the total tree diameter on the site; or
 5. Option 5: If the site is larger than one acre, preserve at least 35 percent of the total tree canopy area on the site.

B-D. [No change.]

33.630.200 Tree Preservation Methods

Trees must be preserved either in a tract or by use of a tree preservation plan.

- A. Tree preservation tracts.** [No change].
- B. Tree preservation plan.** Trees that will be preserved on individual lots must be permanently preserved through a tree preservation plan, as specified in Section 33.248.065, Tree Preservation Plans. Trees to be preserved must be healthy and the tree, including the root protection zone, must be outside of areas proposed for structures, services, and utilities. For the purposes of this chapter, the tree preservation plan must be completed by an certified arborist or landscape architect.

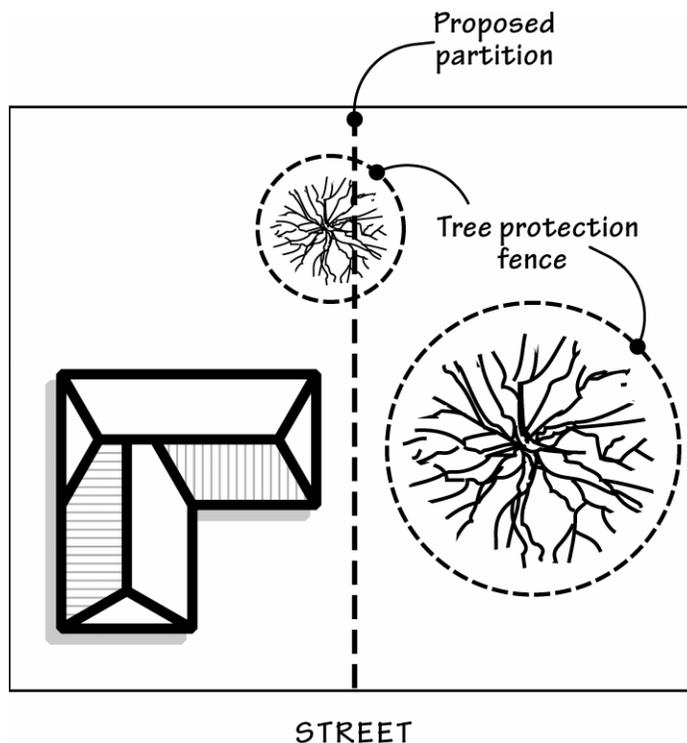
Land Division-Related Amendments

COMMENTARY

33.630.300 Mitigation Option

33.630.300.C.4

A common problem has arisen from the new tree preservation regulations where a land division site contains only one or two trees situated on the lot so that they preclude allowing any land division. (See the illustration below for an example.) The original intent of the code language was not to prohibit land divisions, but to protect trees where it is feasible to do so. We are providing a new mitigation option to address this situation. This allows applicants to apply for the tree removal mitigation option when they have a smaller land division site (15,000 square feet), and they are not able to both develop the property to allowed densities and meet the tree protection requirements. Reasonable scenarios for mitigation would be cases where the tree canopy or root zone is located in the middle of the lot or in the pole location of a flag lot. In addition, this provision allows the applicant to propose preserving stands of smaller diameter trees (i.e. less than 6" diameter) as a mitigation option under Subsection B.



This is an example where an applicant may request an alternative mitigation plan. In this instance, it may not be possible to propose a building site and provide additional development such as a driveway and parking, without infringing on the tree protection area. Alternatively, protection of the tree may trigger adjustments to other development standards, such as maximum setbacks from the street. In those cases the preservation of the tree may violate other city goals. The applicant could propose to save the smaller tree in back and provide mitigation for the larger tree as part of a land division mitigation plan.

33.630.300 Mitigation Option

As an alternative to meeting Section 33.630.100, approval of a mitigation plan may be requested. The review body will approve the mitigation plan where the applicant has shown that the applicant has met criteria AD, and BE, and either one of the criteria in A., B., or C., below:

- ~~A.~~ It is not possible under any reasonable scenario to meet Section 33.630.100, and meet minimum density;
- ~~B.~~ It is not possible under any reasonable scenario to meet Section 33.630.100, and meet all of the service requirements of Chapters 33.651 through 33.654, including connectivity;
- ~~C.~~ It is not possible under any reasonable scenario to meet Section 33.630.100, and implement an adopted street plan;
- AD. As many trees as possible are preserved; and
- BE. The applicant has submitted a mitigation plan that adequately mitigates for the loss of trees, and shows how the mitigation plan equally or better meets the purpose of this chapter. Mitigation can include tree planting, preservation of groups of smaller trees, eco-roof, porous paving, or pervious surface permanently preserved in a tract.
- C. It is not possible under any reasonable scenario to meet Section 33.630.100 and meet one of the following:
 - 1. Minimum Density;
 - 2. All service requirements of Chapters 33.651 through 33.654, including connectivity;
 - 3. Implementation of an adopted street plan; or
 - 4. On sites 15,000 square feet or less in area, a practicable arrangement of lots, tracts, and streets within the site that would allow for the division of the site with enough room for a reasonable building site on each lot.

**CHAPTER 33.634
REQUIRED RECREATION AREA**

33.634.100 Where These Regulations Apply

There is a discrepancy between this chapter and 33.660, Review of Land Divisions. Chapter 33.660 states that the Recreation Area chapter applies for proposals of over 40 lots. The purpose statement for this chapter also refers to land divisions that "create" a minimum of 40 new dwelling units. However, 33.634.100 states that the chapter only applies to those areas where the minimum required density is 40 dwelling units. The required residential area should be based upon the actual proposal, since it is the proposed number of units that has the actual effect on recreation areas. Therefore, we are changing this section so that it refers to the proposed density, consistent with the other areas of the code.

33.634.200 Required Recreation Area Standards

33.634.200.D.5 Improvements. This standard currently requires that all improvements proposed for a recreation tract be installed before the first pavement lift for any street that is proposed on a site. However, grading and street installation at a land division site creates a considerable amount of construction activity. This activity is detrimental to the health of plant life and/or damaging to recreational facilities. This change modifies the requirement so that the facility is built in accordance with a construction timing agreement and surety that has been reviewed with the land division.

33.634.300 Required Recreation Area Approval Criteria

33.634.300.C Improvements. Additional approval criteria language is provided to cover the timing of the recreation area. Details of the timing are worked out with the land division review.

CHAPTER 33.634
REQUIRED RECREATION AREA

33.634.010 Purpose

Providing area for recreation ensures that the recreational needs of those who will live on the site will be accommodated. Large land divisions—those that will create a minimum of 40 new dwelling units—create a neighborhood that is big enough to warrant a recreation area that is accessible to all in the new community. Creating the space for recreation at the time of the land division is the most efficient way to ensure that the space is created. The land division process provides the opportunity to design the recreation area so that it relates to the lot and street pattern of the land division.

33.634.100 Where These Regulations Apply

The regulations of this chapter apply to land divisions in residential zones when the proposed ~~minimum required~~ density is 40 or more dwelling units. In multidwelling zones, where no development is specifically proposed with the land division, the regulations of this chapter apply when the minimum required density for the site is 40 or more units.

33.634.200 Required Recreation Area Standards

The following standards must be met:

A-C. [No change.]

D. Recreation area tracts. Recreation area tracts required by this chapter must meet the following standards:

1-4. [No change.]

5. Improvements. The applicant must submit a surety and construction timing agreement prior to final plat approval. The construction timing agreement will specify the installation schedule of all improvements must be installed in each tract prior to the first pavement lift on the site or, if no streets are created, prior to the issuance of the first foundation.

33.634.300 Required Recreation Area Approval Criteria.

All of the following approval criteria must be met:

- A.** Location. Each recreation area must be located on a part of the site that can be reasonably developed for recreational use;
- B.** Accessibility. Each recreation area must be reasonably accessible to all those who will live on the land division site; and
- C.** Improvements. Each recreation area must be improved in order to meet the recreational needs of those who will live on the land division site. Provision for both active and passive recreation must be included. Where there is more than one recreation area, not all areas must be improved for both active and passive recreation. Recreation areas may include improvements such as children's play equipment, picnic areas, open lawn, benches, paved walkways or trails, gardens, or organized sport fields or courts. Surety may be required which specifies the timing of recreation area improvements. The recreation area improvements should be installed before any of the dwelling units on the site have received final inspection.

33.636

TRACTS AND EASEMENTS

33.636.100 Requirements for Tracts and Easements

33.636.100.B Maintenance Agreements This section is revised to address the changes affecting planned developments and final development plans discussed in pages 84-85. Since we are eliminating the final development plan requirement for a planned development, a reference to final development plans is not required. However, a mechanism for recording maintenance agreements for planned developments that do not involve a concurrent land division is still needed. This change requires the maintenance agreement to be recorded before the first building permit is issued. Please note that nearly all planned developments are done in conjunction with a land division, and land divisions require a final plat to be filed. In those cases, the maintenance agreements will be required prior to the approval of the final plat.

CHAPTER 33.636
TRACTS AND EASEMENTS

33.636.100 Requirements for Tracts and Easements

- A. Ownership of tracts.** [No change.]
- B. Maintenance agreement.** The applicant must record with the County Recorder a maintenance agreement that commits the owners or owners' designee to maintain all elements of the tract or easement; however, facilities within the tract or easement that will be maintained by a specified City agency may be recorded in a separate maintenance agreement. The maintenance agreement must be approved by BDS and the City Attorney in advance of Final Plat approval and must be submitted to the County Recorder to be recorded with the Final Plat ~~or Final Development Plan within 90 days of the final decision.~~ For a Planned Development not done in conjunction with a land division, the maintenance agreement must be submitted to the County Recorder to be recorded prior to issuance of the first building permit related to the development.

**CHAPTER 33.653
STORMWATER MANAGEMENT**

33.653.030 Stormwater Management Standards

33.653.030.C Ownership and Maintenance The current provision requires all stormwater facilities to be placed within tracts, except in very limited situations. This is difficult for applicants of land divisions involving existing development, where it may be infeasible to place the existing stormwater facility in a tract. Likewise, for small residential land divisions, such as infill row houses, it is difficult to fit a separate stormwater tract within proposed lot configurations. This change provides an option for these facilities to be placed within easements. This provision would be limited to private facilities. These facilities, whether within a tract or within an easement, would require the same review by the Bureau of Environmental Services and would contain the same maintenance provisions. Therefore, the effect on the landscape is considered negligible.

CHAPTER 33.653
STORMWATER MANAGEMENT

33.653.030 Stormwater Management Standards

Stormwater management facilities must meet the following standards. Adjustments are prohibited.

A-B. [No change.]

C. Ownership and maintenance.

1. Generally, a~~A~~ stormwater facility that serves more than one lot must be in a tract or within the right of way; except as allowed by C.2. below. ~~however, it may be in an easement where the location of the tract would preclude compliance with the front lot line requirements of Chapters 33.610 through 33.615.~~ If the facility is in a tract, it must be either owned in common by all of the owners of the lots served by the facility, by a Homeowners' Association, by a public agency, or by a non-profit organization.

2. Exceptions.

a. A private stormwater facility may be in an easement if the location of the tract would preclude compliance with the front lot line requirements of Chapters 33.610 through 33.615;

b. An existing private stormwater facility may be in an easement, if there is a recorded maintenance agreement, or if the maintenance is addressed in the CC&Rs.

c. A private stormwater facility serving up to five dwelling units may be in an easement, if there is a recorded maintenance agreement, or if the maintenance is addressed in the CC&Rs.

D. Driveways may cross stormwater tracts and easements.

Chapter 33.654 RIGHTS-OF-WAY

BACKGROUND

The Rights-of-Way chapter contains many new ideas that were not previously part of the City's land division code. Some of these new ideas include revised connectivity criteria and public-private ownership provisions for streets. These standards were adopted to address alternatives to the provision of vehicle streets, such as common greens and pedestrian connections. After implementing the standards for approximately 1½ years, BDS staff has encountered several instances where the new standards have had unintended consequences or are in conflict with the policies of Portland Transportation. There have been conflicts over the Zoning Code provision for Public Streets, as well as the approval and maintenance of common greens and pedestrian connections. The changes provided here are intended to address these issues.

In order to understand the adopted changes, it is important to understand some of the terminology being used in the following pages. The following descriptions are to help clarify word usage. You should also view the changes to the Definitions chapter that are shown later in this document.

Street: A street is a right-of-way created to handle motor vehicle and/or pedestrian travel and access. Streets can be public (i.e., dedicated to the City) or private (placed in a tract that is commonly owned by the adjoining landowners).

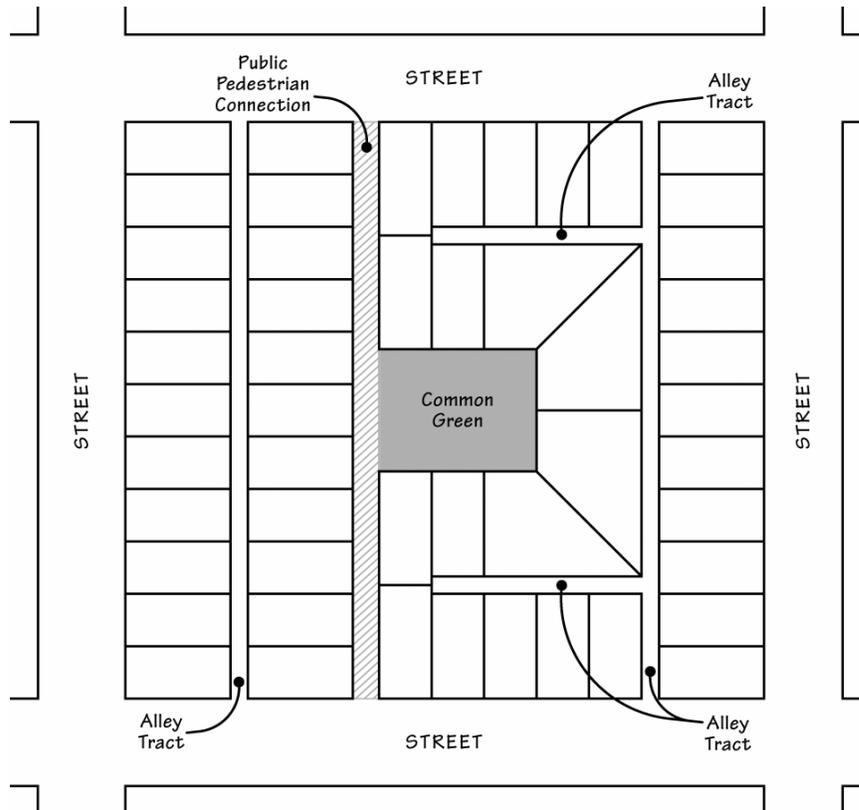
Common Green: A common green is a type of street that provides pedestrian and bicycle travel routes and access into a site, but not vehicle access. A common green may also provide amenities such as landscaping or recreational features and can function as a stormwater facility for the adjoining lots. These additional roles for common greens make it difficult for Transportation to accept responsibility for maintenance. As a result, they do not wish to have common greens as a part of the public street network. Since common greens are not expected to meet Transportation's pedestrian connectivity goals, we do not expect the Common Green to provide through pedestrian access across a site. Instead, Pedestrian Connections listed below will serve that purpose.

Pedestrian Connections: The following changes allow the pedestrian connection to be either the pedestrian access portion of a street or a separate street solely for pedestrian and bicycle travel. The reason for allowing a pedestrian connection to be defined as a street is so that lot frontage along this connection can be considered its legal frontage. The main difference between a pedestrian connection and a common green is that the pedestrian connection can be public or private, and is used to help meet Transportation's connectivity standards. A pedestrian connection is not expected to provide some of the additional uses that a common green can provide.

Although many of these changes are confusing on the surface, their main purpose is to provide the flexibility needed when an applicant proposes a project with alternative lot frontage. The few projects that have been reviewed that contained common greens and pedestrian

connections have run into regulations that do not implement stated goals and which do not encourage the provisions of alternative methods of lot connectivity. The following changes are an attempt to correct the issues that have arisen during the first 18 months of implementation of new rights-of-way provisions.

Below is a sample development that would utilize the pedestrian connections, common greens and alley tracts in accordance with the recommended code provisions. This is, in essence, the type of infill development that would be preferred in cases where it may be difficult to run full street access, such as for rowhouse-style developments.



Commentary for 33.654 begins on the next page.

Chapter 33.654 RIGHTS-OF-WAY

33.654.020 Where these Regulations Apply

This is a new section that is added to the beginning of the chapter. It is placed at the beginning of the chapter to provide clarification to applicants working on land divisions that they may be required to incorporate a right-of-way into their proposal.

33.654.110 Connectivity and Location of Rights-of-Way

33.654.110.B. Where these regulations apply. This provision is removed because we are already notifying the reader that a land division is subject to this Chapter with the reference above. The additional reference here becomes repetitive.

33.654.120 Design of Rights-of-Way

33.654.120.D. Common green approval criteria and standards. The current land division provisions require common greens to be dead end streets. This has caused problems when applicants have proposed a common green used to connect two streets. The end result has been that land division proposals have modified their common greens and pedestrian connections in ways that meet the Zoning Code, but do not clearly expand on our connectivity goals.

In theory, common greens could be publicly or privately owned. However, it is difficult to have common greens in the public street system, because they often include stormwater, landscaping and recreational facilities specific to the development, that should not be publicly maintained by the City. This has placed a greater importance on pedestrian connections, and limited common greens to private ownership.

These changes clarify the roles of common greens and pedestrian connections by revising the design criteria, as well as the ownership criteria listed on the following pages. Some design standards for common greens adjacent to pedestrian connections are added to provide clarity to the street elements that are under public maintenance, versus those elements under private maintenance.

As a housekeeping measure the word "size" under D.1.a.(1) replaces "width" to acknowledge that common greens may not always be linear.

**CHAPTER 33.654
RIGHTS-OF-WAY**

Sections:

- 33.654.010 Purpose
- 33.654.020 Where these Regulations Apply
- 33.654.110 Connectivity and Location of Rights-of-Way
- 33.654.120 Design of Rights-of-Way
- 33.654.130 Additional Approval Criteria for Rights-of-Way
- 33.654.150 Ownership, Maintenance, and Public Use of Rights-of-Way
- 33.654.160 Street Classification

33.654.010 Purpose

[No change.]

33.654.020 Where These Regulations Apply

The regulations of this chapter apply to all land divisions.

33.654.110 Connectivity and Location of Rights-of-Way

A. Purpose. [No change.]

~~**B. Where these regulations apply.** The following approval criteria apply to all local streets, alleys, and pedestrian connections within the land division site.~~

BC. Approval criteria. [No change.]

33.654.120 Design of Rights-of-Way

A-C. [No change.]

D. Common green approval criteria and standards. The following approval criteria and standards apply to common greens:

1. Right-of-way.

a. Approval ~~criteria~~ criterion for width of the right of way.

(1) ~~The size width~~ of the common green right-of-way must be sufficient to accommodate expected users and uses. The ~~size~~width must take into consideration the characteristics of the site and vicinity, such as the ~~existing~~ pedestrian system, ~~whether a through pedestrian connection will be provided~~, structures, natural features, and the community activities that may occur within the common green~~street~~.

Land Division-Related Amendments

COMMENTARY

33.654.120.D.b.(1)&(2)

See the previous commentary for information on these changes.

- (2) Generally, common greens should be dead-end streets. However, common greens may be through streets if a public pedestrian connection is provided directly abutting the common green, or in close proximity. See Figure 654-1. Common greens may also have frontage on more than one intersecting street, if the green is located at the corner of the intersecting streets. See Figure 654-2.
- (3) Where a common green abuts a public pedestrian connection, the green must include design features that distinguish the common green from the pedestrian connection, such as perimeter landscaping, low decorative fencing, or paving materials.
- (4) Where a common green is a through street, the design of the green should encourage through pedestrian and bicycle traffic to use nearby public pedestrian connections, rather than the common green.

b. Standards for configuration of elements within the right-of-way.

- (1) ~~For common greenspublic streets, the Office of Transportation has approved the configuration of elements within the street right-of-way. For private streets, the Bureau of Development Services has approved the configuration of elements within the street right-of-way.~~
- (2) Turnarounds are not required for common greens. Common greens must be dead-end streets. Through common greens are prohibited.

~~e. Standards for turnarounds. Turnarounds are not required for a common green.~~

2. Standards for land divisions with common greens. [No change.]

E. Pedestrian connections. [No change.]

F. Alleys. [No change.]

Land Division-Related Amendments

COMMENTARY

33.654.120.D. Common green approval criteria and standards.

These figures relate to the code provision 33.654.120.D.1.(2), which states when common greens can be through streets.

Figure 654-1. This illustration is added to show how a common green can be incorporated into sites with a pedestrian connection.

Figure 654-2. The second illustration shows how a common green can be placed on a corner to facilitate alternate lot configurations onto an open area.

Figure 654-1
Blocks with Through Common Green

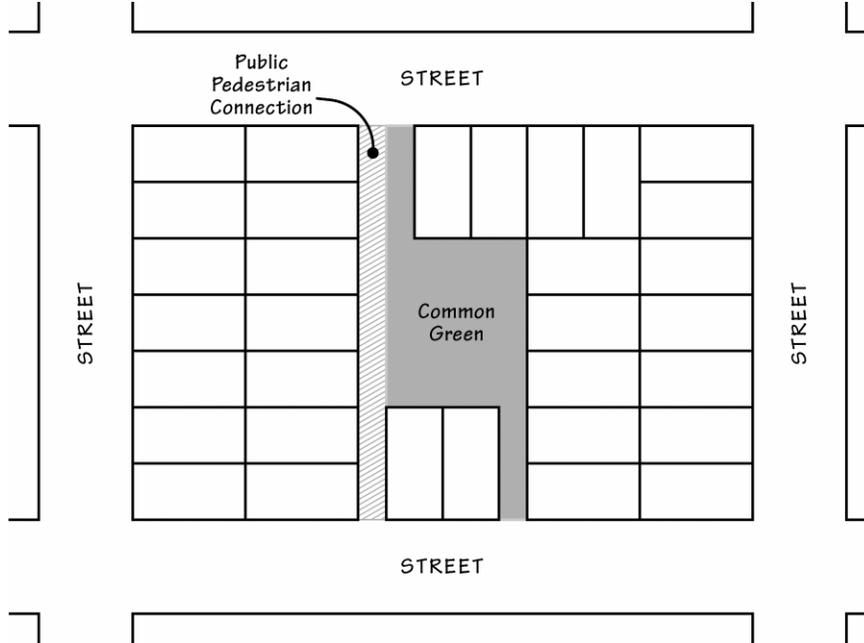
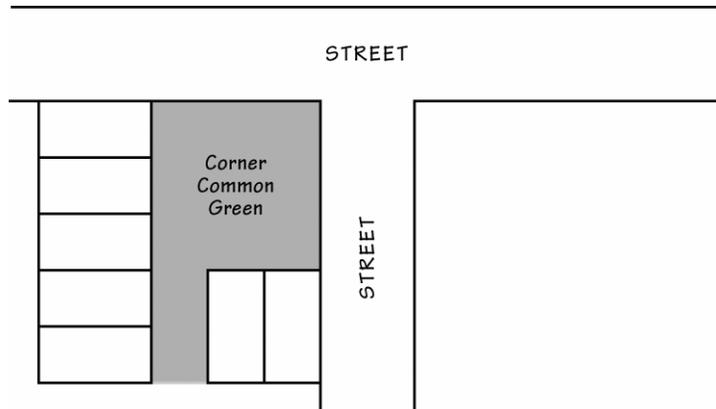


Figure 654-2
Corner Common Green



33.654.130 Additional Approval Criteria for Rights-of-Way

33.654.130.C Future extension of proposed dead-end streets and pedestrian connections. The expansion of this section is intended to clarify when the land division staff can request the extension of dead-end streets and pedestrian connections to the edge of the boundary. This has often been the cause of interpretive debate between applicants and staff. The changes will eliminate the confusion.

33.654.130.D Partial rights-of-way. This section is changed to clarify when staff can request the provisions of partial rights-of-way and street improvements.

33.654.130 Additional Approval Criteria for Rights-of-Way

- A. Utilities.** [No change.]
- B. Extension of existing public dead-end streets and pedestrian connections.** [No change.]
- C. Future extension of proposed dead-end streets and pedestrian connections.**
Where the land division site is adjacent to sites that may be divided under current zoning, dead-end streets and pedestrian connections must be extended to the boundary of the site as needed to provide future access to the adjacent sites. The following factors are considered when determining if there is a need to make provisions for future access to adjacent sites. A need may exist if:
1. The site is within a block that does not comply with the spacing standards or adopted street plan of the Transportation Element of the Comprehensive Plan;
or
 2. The full development potential of adjacent sites within the block will not be realized unless a more complete street system is provided to improve access to those sites.
- D. Partial rights-of-way.** Partial rights-of-way and street improvements may be appropriate where the proposed right-of-way and street improvements are expected to be provided by the owner of the adjacent property. Partial rights-of-way and street improvements may also be required where needed to provide future access to adjacent sites. The Office of Transportation must approve the configuration of a partial right-of-way or public street improvement.

33.654.150 Ownership, Maintenance, and Public Use of Rights-Of-Way

33.654.150.B. Ownership. The Bureau of Planning and Portland Transportation have created specific ownership standards to help guide applicants in determining whether a proposed street will be public or private. However, the standards have proven to be too rigid. An example of this is a case where the Zoning Code requires a street to be public, but a public street creates operational issues with the City Engineer.

The intent of these changes is to continue to require public streets in situations where they further the City's connectivity goals, but allow for some flexibility depending on the existing street network. This is mostly an issue with dead-end streets. This change clarifies the ownership of dead-end streets and common greens. However, we are eliminating the condition that adjustments to the standards are prohibited in order to allow the flexibility to deviate from the standards in special situations. The Purpose statement is revised to strengthen our objectives for connectivity. Applicants who request an adjustment to the ownership or maintenance standards must address the Purpose statement.

33.654.150 Ownership, Maintenance, and Public Use of Rights-Of-Way

- A. Purpose.** To protect long-term access and both public and private investment in the street system, the rights and responsibilities for the street system must be clear. Public ownership of streets is preferred to provide long term access to sites and meet connectivity goals. However, where a dead-end street serves a limited number of units, the public benefit may be very limited and the maintenance costs may be relatively high. In that limited situation, private streets may be appropriate. Where public ownership is not feasible, pProperty owners must know their maintenance responsibilities and what public use to expect on rights-of-way.
- B. Ownership.** Ownership of rights-of-way is determined through tThe following standards. ~~must be met. Adjustments are prohibited.~~
1. Through streets. Through streets must be dedicated to the public.
 2. Partial streets. Partial streets must be dedicated to the public.
 3. ~~Dead end streets and turnarounds.~~
 - a. ~~Dead end streets, including the turnarounds, that serve or have the potential to serve nine or more lots on site and off site, must be dedicated to the public.~~
 - b. ~~Dead end streets, including the turnarounds, that serve or have the potential to serve up to eight lots on site and off site, may be dedicated to the public or may be privately owned in common by the owners of property served by the street or by the Homeowners' Association. If the street is not dedicated to the public, it must be in a tract.~~
 - c. ~~Exceptions for common greens. Common greens may be dedicated to the public with consent of the City Engineer or may be privately owned in common by the owners of property served by the street, or by the Homeowners' Association. If the common green is not dedicated to the public, it must be in a tract.~~
 - ed. ~~Exception for temporary turnarounds. Temporary turnarounds may be in an easement.~~
 3. Dead-end streets. In general, dead-end streets and turnarounds must be dedicated to the public. A dead-end street may be privately owned if the street will abut no more than eight lots within the land division site, and the street is not proposed as, or required to be a partial street. If the street is not dedicated to the public, it must be in a tract, and owned in common by the owners of property served by the street or by the Homeowners' Association.
 4. Exception for temporary turnarounds. Temporary turnarounds may be in an easement.
 5. Exceptions for common greens. Common greens must be privately owned. They must be in a tract, and owned in common by the owners of property served by the common green or by the Homeowners' Association.

New ownership language is continued.

33.654.150.B.7 & 9 The changes in this section allow a greater number of units to use an easement for vehicle access. The requirement that vehicle access serving more than 2 lots be in a separate alley tract has proven to be a disincentive for applicants wishing to provide rear loaded parking, especially with attached houses. The requirement to provide vehicle access in a separate tract has precluded infill projects from meeting some of our setback and coverage limitations. Allowing a larger number of units to share a common rear driveway for vehicle access will allow greater incentive to create rowhouse developments without a garage dominated street elevation. As an example, a 10,000 square foot lot in the R2 zone could subdivide into five lots with rear vehicle access, without having to dedicate the alley to the public or place it in a separate tract. Five is chosen as the maximum limit, because access to more than five lots creates greater complexity in coordinating easements between all the property owners. This complexity is best addressed by creating a separate tract.

64. Pedestrian connections.

- a. Pedestrian connections that connect or are intended to eventually connect two through streets must be dedicated to the public.
- b. Pedestrian connections that connect or are intended to eventually connect to a public school, park or library, must be dedicated to the public.
- c. Pedestrian connections that are not dedicated to the public may be privately owned in common by the owners of the property within the land division site or the Homeowners' Association. If the pedestrian connection will not be dedicated to the public, it must be in a tract.

75. Alleys. Alleys may be dedicated to the public or owned in common by the owners of property within the land division site, or the Homeowners' Association. If the alley is not dedicated to the public and it will serve more than ~~5~~ lots, it must be in a tract.

86. Public rights-of-way. All elements of public rights-of-way must be dedicated to the public, except as allowed by paragraph B.~~108.~~, below.

97. Private rights-of-way. For rights-of-way held in common ownership or owned by the Homeowners' Association, all elements of the right-of-way must be in a tract, except as allowed by paragraph B.~~108.~~, below. This standard does not apply to alleys serving five or fewer ~~one or two~~ lots.

108. Right-of-way elements in easements. [No change.]
(note reference to Figure 654-1 is changed to 654-3 due to the addition of two new figures earlier in this Chapter.)

Chapter 33.660

REVIEW OF LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

Review of Final Plat

33.660.220 Approval Standards

33.660.220.A Conformance with Preliminary Plan. The second provision in this subsection allows lot widths on the final plat to vary up to 5 percent from the preliminary plan. The language states that width is measured at the minimum front building setback line. This is true in the single-dwelling zones, but is incorrect in the multi-dwelling residential zones. Since this approval standard applies to all residential zones, the reference to how lot width is measured should be removed. Lot width will continue to be addressed under the individual land division chapters, and does not need to be mentioned here.

CHAPTER 33.660
REVIEW OF LAND DIVISIONS IN OPEN SPACE AND RESIDENTIAL ZONES

Review of Final Plat

33.660.220 Approval Standards

The Final Plat for land divisions will be approved if the Director of BDS finds that the applicant has shown that all of the approval standards have been met. The approval standards are:

- A. Conformance with Preliminary Plan.** The Final Plat must conform to the approved Preliminary Plan. The Preliminary Plan approval, through its conditions of approval, may provide for a specific range of variations to occur with the Final Plat. If the Preliminary Plan does not state otherwise, and the regulations of this Title continue to be met, variations within the following limits are allowed and are considered to be in conformance with the Preliminary Plan. Allowed variations are:
1. A decrease in the number of lots by one, if minimum density requirements continue to be met;
 2. A increase or decrease in the width or depth of any lot by less than 5 percent-
~~Width is measured at the minimum front building setback line;~~
 - 3-14. [No change.]

**CHAPTER 33.665
PLANNED DEVELOPMENT REVIEW**

BACKGROUND

The Land Division Code Rewrite project made three distinct changes that have resulted in a large reduction in the submission of planned developments since it went into effect on July 1, 2002. One of the changes of the rewrite is to allow a wider range of lot sizes within land division proposals as long as overall density goals are met. This allows many projects to proceed as standard land divisions instead of requiring a Planned Development Review. The second change affecting planned developments is to require specific development information such as building elevations for the proposed development. The third change is the addition of new approval criteria, which differ by zone. The latter two changes require a level of up-front detail not previously required. Although smaller planned development proposals are generally made by a developer/builder who may have complete development plans, larger projects are often speculative, multi-phase developments, and involve many developers who are not involved in the land division. As a result, applicants have resisted proposing Planned Developments, even if they would better meet the development goals of the City.

In response we are making changes to the Planned Development chapter in order to provide greater flexibility in the review process, as well as to create some efficiencies in the review process where staff find the existing reviews to be unnecessary.

33.665 Table of Contents

The table of contents is altered to reflect the changes and removal of specific sections within the chapter. These changes are discussed in greater detail on the following pages.

33.665.010 Purpose

With the removal of the final development plan discussed later, there will only be one phase to a Planned Development Review, so the reference to phases is not needed.

Review of Preliminary Development Plan is being changed to "Review of Planned Development" to reflect the reduced requirement that the planned development go through only one review, rather than both a preliminary and final review. Further discussion on this item is given in the commentary for the removal of the final development plan review on pages 84-85.

Commentary for 33.665.200 is on next commentary page.

CHAPTER 33.665
PLANNED DEVELOPMENT REVIEW

(Added by: Ord. Nos. 175965 and 176333, effective 7/1/02.)

Sections:

General

33.665.010 Purpose

Review of ~~Preliminary~~ Planned Development Plan

33.665.200 Review Procedures

33.665.250 Supplemental Application Requirements

33.665.300 Approval Criteria in General

33.665.310 Approval Criteria for Planned Developments In All Zones ~~Except the R2.5 Zone~~

~~33.665.315 Approval Criterion for Planned Developments in the R2.5 Zone~~

33.665.320 Additional Approval Criteria for Modifications of Development Standards

33.665.330 Commercial Uses in Residential Zones

33.665.340 Proposals Without a Land Division

~~Review of Final Development Plan~~

~~33.665.400 Where Review is Required~~

~~33.665.410 Review Procedure~~

~~33.665.420 Application Requirements~~

~~33.665.430 Approval Standards~~

Changes to an Approved Planned Development

33.665.500 Types of Changes

33.665.510 Review Procedure

33.665.520 Approval Criteria

General

33.665.010 Purpose

These regulations assign ~~each phase of a~~ Planned Development Reviews to an appropriate procedure type. The approval criteria ensure that innovative and creative development is encouraged when it is well-designed and integrated into the neighborhood.

Review of Preliminary Planned Development Plan

33.665.200 Review Procedures

A. Concurrent reviews required. [No change.]

Land Division-Related Amendments

COMMENTARY

33.665.200 Review Procedures

Planned developments can be proposed with or without a land division, although the vast majority are done in conjunction with land divisions. The Bureau of Development Services raised a concern that planned development reviews that include the alternate development scenarios allowed by right in single-dwelling zones are forced into the higher Type III review procedure. This creates a greater cost burden on the applicant. Some of the alternate development options that are allowed by right in the single-dwelling zones include duplexes on corners, attached housing and duplexes. Although proposals involving these development types could be proposed by right as part of a standard land division, their proposal through a planned development requires a higher level of review than a proposal with only single detached housing.

Often, this type of development better meets the purpose of planned developments as well as preserving open space. Therefore, we are altering the thresholds of Type III reviews for planned developments in the single-dwelling zones (RF-R2.5) to allow limited flexibility in creating alternate development options within a planned development. A Type III review will still be required for proposals that include attached duplexes, multi-dwelling development or structures, since there are no instances where these housing types are allowed by right in the single-dwelling zones. Please note that planned developments reviewed in conjunction with a land division will continue to be subject to the review procedure required for land divisions. That procedure requires a Type III review whenever 11 or more lots are proposed, or 4 or more lots are proposed within a landslide hazard area.

A similar set of changes is recommended for planned developments not done in conjunction with a land division. However, unless the site encompassing the planned development is already platted into separate lots, any proposal for multiple units within one lot would have to be reviewed as multi-dwelling development, requiring a Type III review.

A minor change is also required to provide a cross-reference ensuring that all Type IIx planned developments follow the neighborhood contact requirement for land divisions.

B. Review in conjunction with a land division. When a Planned Development is requested in conjunction with a land division, the review will be processed as follows:

1. Type III review. ~~The following Proposals in the RF through R2.5 zones that include attached duplexes, multi-dwelling structures, or multi-dwelling development~~ are processed through a Type III procedure, but with the additional steps required under Subsection 33.730.035, Neighborhood Contact Required for Land Divisions and Planned Developments. Additional Steps Required For A Land Division:
 - a. ~~Proposals in the RF through R5 zones that include attached houses, duplexes, attached duplexes, multi dwelling structures, or multi dwelling development; and~~
 - b. ~~Proposals in the R2.5 zone that include duplexes, attached duplexes, multi dwelling structures, or multi dwelling development.~~
2. Type Iix review. All other proposals are processed through the Type Iix procedure, but with the additional steps required under Subsection 33.730.035, Neighborhood Contact Required for Land Divisions and Planned Developments.

C. Review not in conjunction with a land division. When a Planned Development is not in conjunction with a land division, the review will be processed as follows:

1. Type III. Planned Developments that include any of the following elements are processed through a Type III procedure, but with the additional steps required under Subsection 33.730.035, Neighborhood Contact Required for Land Divisions and Planned Developments. Additional Steps Required For A Land Division:
 - a. ~~Attached houses, duplexes, A~~attached duplexes, multi-dwelling structures, or multi-dwelling development in the RF through R2.5 zones;
 - b. ~~Duplexes, attached duplexes, multi dwelling structures, or multi dwelling development in the R2.5 zone;~~
 - be. Eleven or more units;
 - ce. Four or more units where any building location, utility, or service is proposed within a Potential Landslide Hazard Area;
 - de. Environmental review;
 - ef. Any portion of the site is in an Open Space zone.
2. Type Iix. All other proposals not assigned to a Type III in Paragraph C.1, above, are processed through a Type Iix procedure, but with the additional steps required under Subsection 33.730.035, Additional Steps Required For A Land Division.

Land Division-Related Amendments

COMMENTARY

33.665.250 Supplemental Application Requirements

We are adding an option to the supplemental application requirements. This option will allow the applicant to propose a set of design standards that will be applicable to the development. These standards will be allowed in lieu of proposed building elevations at the time of the planned development review. The standards will still need to meet approval criteria of 33.665.310, but are intended to provide larger and phased projects the option of creating a set of satisfactory standards to apply at the building permit stage. Larger projects often do not have individual building detail, either because the lots will be sold to individual developers who have not been identified yet, or the life of the project is so long that later phases may not have the detail to be able to provide individual elevations. This option allows for a set of standards to be provided which will still meet the purpose that the development be well-designed and integrated into the neighborhood. For small proposals, the provision of elevations will probably be favored over the creation of a set of standards.

33.665.300 Approval Criteria in General

This change is made in conjunction with the changes to 33.665.315 shown on the next page.

33.665.250 Supplemental Application Requirements

In addition to the application requirements of Section 33.730.060.D, the following information is required for a Planned Development application:

- ~~A.~~ Proposed building elevations and locations with enough detail to show that all of the approval criteria are met; and,
- ~~AB.~~ Photographs that show the characteristics of surrounding neighborhood; and,
- B. Either B.1 or B.2 below must be submitted with the application:
 - 1. Proposed building elevations and locations with enough detail to show that all of the approval criteria are met; or,
 - 2. Proposed standards regulating setbacks, building coverage, landscaping, vehicle areas, materials, and design of structures. The proposed standards must be clear and objective, and specific enough to show how all of the approval criteria are met. Proposed standards may not conflict with the regulations of this Title, except where a modification is requested as part of the Planned Development application. If approved, the standards will apply, in addition to regulations of this Title to all development on the site.

33.665.300 Approval Criteria in General

The approval criteria for Planned Developments are stated below. Planned Developments in all zones, ~~except the R2.5 zone,~~ must meet the criteria in Section 33.665.310. ~~Planned Developments in the R2.5 zone must meet the criteria in Section 33.665.315.~~ Some proposals must also meet additional approval criteria, as follows:

- A-C. [No change.]

33.665.310 Approval Criteria for Planned Developments in All Zones Except the R2.5 Zone

This modification is a result of the changes in 33.665.315 below. As a housekeeping feature, we are also changing item F so that adequate outdoor space is provided in the R2.5 zones.

33.665.315 Approval Criterion for Planned Developments in the R2.5 Zone

When a planned development is proposed on a site with both R2.5 and other zones, the project must meet two separate approval criteria. This can create confusion and potential conflict. The *Community Design Guidelines*, which would apply in most situations, contain many specific guidelines that are suited to identified conservation and plan districts, but may not work out in standard infill situations outside of the design overlay zone. The *Community Design Guidelines* will also be difficult to implement in conjunction with the development standards options listed on the previous page.

To ensure consistency for projects that straddle zones, we are requiring all planned developments to meet the set of six criteria that are listed in 33.665.310, and eliminating the separate criteria under 33.665.315. The six criteria (shown on the next page for illustration) address the main issues of integration and compatibility, while still allowing for some flexibility in appearances. These criteria should be sufficient in regulating a planned development in all zones. Please note that planned developments proposed in design overlay zones would still need to attain design approval, either through a review or through meeting the standards.

33.665.310 Approval Criteria for Planned Developments in All Zones ~~Except the R2.5 Zone~~

- A. Visually integrate the development into the surrounding area;
- B. Include architectural features that complement positive characteristics of surrounding development, such as similar building scale and style, building materials, setbacks, and landscaping;
- C. Mitigate differences in appearance through means such as setbacks, screening, landscaping, and other design features;
- D. Minimize potential negative effects on surrounding residential uses;
- E. Preserve any City-designated scenic resources; and
- F. If the proposal is in the RF through R2.5 zones and includes attached houses, duplexes, attached duplexes, or multi-dwelling structures, adequate open space will be provided. Open space does not include vehicle areas.

~~33.665.315 Approval Criterion for Planned Developments in the R2.5 Zone~~

~~Planned Developments in the R2.5 zone must comply with the adopted guidelines specific to the design district in which the proposal is located, as shown on maps 420-1 through 420-3. For all other areas, Planned Developments in the R2.5 zone must comply with the Community Design Guidelines.~~

33.665.340.E Clearing, grading, and land suitability. This change removes the distinction between a preliminary and final development plan, since the requirement for a final development plan is being eliminated (see pages 84-85).

33.665.340 Proposals Without a Land Division

The approval criteria of this section apply to Planned Developments that do not include a land division. The approval criteria are:

A-D. [No change.]

E. Clearing, grading, and land suitability.

1. [No change.];
2. Clearing and grading should be sufficient for construction of development shown on the ~~Preliminary~~ Clearing and Grading Plan;
3. Clearing and grading should be limited to areas of the site that are reasonably necessary for construction of development shown on the ~~Preliminary~~ Clearing and Grading Plan;
- 4-6. [No change.].

F-G. [No change.]

REVIEW OF FINAL DEVELOPMENT PLAN**33.665.400-430**

The final development plan provisions are a remnant of the Planned Unit Development section from the old land division procedures. At that time, the tentative plans for land divisions and planned unit developments required much less detail for the initial stages of the review. The final development plan was needed to verify that the planned unit development was consistent with the surveyed plat, if done with a land division, which was the case for nearly all planned unit developments.

The new planned development review provides a greater amount of detail up front, and if done in conjunction with a land division, the corresponding land division must also include a survey, tree preservation plan and other details. Bureau of Development Services staff have found that the review of the final development plan is little more than a reiteration of the preliminary plan and does not warrant an additional review. If an applicant wishes to make changes to an approved planned development, they can go through the amendment process rather than attempting to make changes to the final development plan. As a result, the final development plan has become unnecessary and the review process can be eliminated. Plan developments that are done in conjunction with a land division will still need to apply for a final plat to receive final approval for the lot configuration.

Review of Final Development Plan

~~33.665.400 Where Review is Required~~

~~Review of the Final Development Plan is required for all Planned Developments.~~

~~33.665.410 Review Procedure~~

~~Final development plans are reviewed through a Type I procedure.~~

~~33.665.420 Application Requirements~~

~~Unless stated elsewhere in this Title, a complete application for final development review must include the following:~~

- ~~A. All drawings, maps, and plans provided for the Preliminary Development Plan review. The drawings, maps, and plans must be drawn with enough specificity that the Director of BDS can determine whether the approval standards are met;~~
- ~~B. All Performance Guarantees, maintenance agreements, and Conditions, Covenants and Restrictions (CC&Rs); and~~
- ~~C. Other materials required by the Director of BDS to show that the approval standards are met.~~

~~33.665.430 Approval Standards~~

~~The Final Development Plan for a Planned Development will be approved if the Director of BDS finds that the applicant has shown that all of the following approval standards are met:~~

- ~~A. The Final Development Plan must conform to the approved Preliminary Development Plan;~~
- ~~B. The Final Development Plan must comply with all conditions or approval that apply to the Final Development Plan. All other conditions of approval remain in effect;~~
- ~~C. All services must meet the requirements of the City Code;~~
- ~~D. **Sureties.** All sureties, including performance guarantees and improvement guarantees, required by the Portland City Code must be approved by the appropriate City bureau prior to final development plan approval; and~~
- ~~E. **Maintenance Agreements and CCRs.** All maintenance agreements and Conditions, Covenants and Restrictions must be reviewed and approved by the Bureau of Development Services and the City Attorney prior to final development plan approval, and must be submitted to the County Recorder to be recorded with the final development plan within 90 days of the final development plan approval.~~

Changes to an Approved Planned Development**33.665.500 Types of Changes**

33.665.500.H Changes within 50 feet of the perimeter of the planned development where the perimeter abuts a residential zone.

The code currently provides for changes to an approved planned development. Descriptions of what constitutes a major change are listed in 33.665.500. This list was incorporated from the pre-Land Division Code Rewrite Planned Unit Development chapter. However, the old list was suggestive rather than required, giving a reviewer the option to determine if the particular change warranted a major change or a minor change review. As an example, a proposal to change the window pattern on a structure would have been considered a minor change even if it was within 50 feet of the planned unit development perimeter.

With the Land Division Code Rewrite Project, this suggested list became mandatory. While the changes listed in items A through G are still considered major changes to a Planned Development, a change within 50 feet of the perimeter shouldn't be considered a major change unless a change listed in A through G is also proposed. In standard land divisions, alterations to a structure that do not conform to the development standards may be requested through a Type II adjustment review. A similar change in a planned development should be subject to a similar level of review (TypeIIx) if the only consideration is its proximity to the border of the planned development. The larger issues are covered under thresholds A-G. This change removes the 'change within 50 feet of the perimeter of the Planned Development' provision from the list of major changes. The neighborhood association will still receive advance notice through the neighborhood contact provision required through a Type IIx planned development.

33.665.520 Approval Criteria.

This change is to remove the distinction between a preliminary and final development plan, since we are eliminating the requirement for a final development plan (see pages 84-85).

Changes to an Approved Planned Development

33.665.500 Types of Changes

There are two types of changes; major and minor. A major change is one that will have significant impacts on the development in the PD, or on the site surrounding the PD. Major changes include:

- A.** An increase in the site area of more than 5 percent;
- B.** An increase in density, including the number of housing units;
- C.** In residential zones, a change in the mix of single-dwelling and multi-dwelling structures;
- D.** An increase in the amount of land in nonresidential uses;
- E.** A reduction in the amount of open space;
- F.** Deleting or changing the purpose of flood hazard or landslide hazard easements; or
- G.** Changes to the vehicular system which result in a significant change in the amount or location of streets and shared driveways, common parking areas, circulation patterns, and access to the PD; ~~or~~
- ~~**H.** Changes within 50 feet of the perimeter of the PD where the perimeter abuts a residential zone.~~

33.665.510 [No change.]

33.665.520 Approval Criteria

The approval criteria for changes to a Planned Development are those used for approval of a ~~Preliminary~~ Development Plan.

**CHAPTER 33.667
PROPERTY LINE ADJUSTMENT**

33.667.200 Application Requirements

33.667.200.B Surveys This section is changed to reflect current practices of the Development Services Center. While they currently require four copies of the survey, one of the four copies should be an 8 ½" x 11" reduction, which is used for correspondence and microfilming.

33.667.300 Regulations

33.667.300.A Properties Changes to this section clarify the conditions required for the approval of a property line adjustment, including the environmental provisions. In conjunction with these changes, the Environmental chapter is changed to clarify the review process for property line adjustments occurring in Environmental Zones. The changes also reinforce the definition that a property line adjustment does not result in the creation of a lot.

CHAPTER 33.667
PROPERTY LINE ADJUSTMENT

33.667.200 Application Requirements

No more than three property line adjustments may be requested on a site within one calendar year. The application must contain the following:

A. Application form. [No change]

B. Surveys.

1. ~~Three~~ Four paper copies of a property line survey. The survey must be prepared, stamped and signed by a registered land surveyor to meet ORS 92.050. The survey must show all existing and proposed property lines and all existing lot lines. The survey may not be larger than 18 inches by 24 inches in size. The survey must be drawn to a scale no less than 1 inch = 200 feet, and no greater than 1 inch = 20 feet; ~~and~~
2. One copy of the property line survey that is 8 ½ by 11 inches in size; and
- ~~3.~~ One paper copy of a survey of the proposed PLA prepared, stamped, signed, and attested to for accuracy by a registered land surveyor, showing the location, dimensions and setbacks of all improvements on the site. This survey map must be drawn to a scale at least 1 inch = 200 feet.

C. Legal description. [No change.]

33.667.300 Regulations

A request for a Property Line Adjustment will be approved if all of the following are met:

A. Properties. For purposes of this subsection, the site of a Property Line Adjustment is the two properties affected by the relocation of the common property line.

1. [No change.]
2. The Property Line Adjustment will not configure either property as result in the creation of a flag lot, unless the property was already a flag lot;
3. The Property Line Adjustment will not result in the creation of street frontage for a land-locked property;
4. If any portion of ~~the site~~ either property is within an environmental overlay zone, ~~the Property Line Adjustment may not create a situation where either property cannot meet the development standards of Section 33.430.140, General Development Standards. If this requirement cannot be met, an Environmental Review as described in Sections 33.430.210 through 33.430.280 must be completed before the Property Line Adjustment is requested~~ the provisions of Chapter 33.430 must be met; and
5. The Property Line Adjustment will not result in ~~the creation of a property lot that is in more than one base zone, unless that property was already in more than one base zone.~~

B-C.[No change.]

**CHAPTER 33.668
REVIEW OF CHANGES TO AN APPROVED PLANNED UNIT DEVELOPMENT**

33.668.050 Types of Changes

33.668.050.H Changes within 50 feet of the perimeter of the PD where the perimeter abuts a residential zone.

This change is the same as the change to 33.665.500. See the commentary for that section (page 86).

33.668.170 Development Standards

This new section clarifies the development standards that apply to an amendment to a planned unit development. This section also provides a method to calculate allowed density if an amendment is proposed for an existing Planned Unit Development.

CHAPTER 33.668
REVIEW OF CHANGES TO AN APPROVED PLANNED UNIT DEVELOPMENT

Sections:

33.668.170 Development Standards

33.668.050 Types of Changes

There are two types of changes; major and minor. A major change is one that will have significant impacts on the development in the PUD, or on the site surrounding the PUD. Major changes include:

- A.** An increase in the site area of more than 5 percent;
- B.** An increase in density, including the number of housing units;
- C.** In residential zones, a change in the mix of single-dwelling and multi-dwelling structures;
- D.** An increase in the amount of land in nonresidential uses;
- E.** A reduction in the amount of open area;
- F.** Deleting or changing the purpose of flood hazard or landslide hazard easements; or
- G.** Changes to the vehicular system which result in a significant change in the amount or location of streets and shared driveways, common parking areas, circulation patterns, and access to the PUD; ~~or.~~
- ~~**H.** Changes within 50 feet of the perimeter of the PUD where the perimeter abuts a residential zone.~~

33.668.170 Development Standards

The current development standards of this title apply unless other standards are requested in the proposed amendment or the previously approved Planned Unit Development. Density calculations are based upon the gross site area as approved in the original PUD, after subtracting out streets and land set aside for schools, religious institutions, and commercial uses or land donated for parks.

**Chapter 33.700
ADMINISTRATION AND ENFORCEMENT**

Table of Contents

The table of contents for Chapter 33.700 is revised to list the new code section under the Timeliness of Regulations. The section is discussed below.

Timeliness of Regulations

33.700.130 Legal Status of Lots

This is a new section of the Administration and Enforcement Chapter to clarify questions that have arisen regarding the legal status of previously platted lots. This provision is a reiteration of State law regarding lots. Its function is to point out what processes may have affected the legal status of a lot. It does not create new policy but provides a section to list existing policy that has not been in the Zoning Code.

CHAPTER 33.700
ADMINISTRATION AND ENFORCEMENT

Sections:

Implementing the Code

- 33.700.005 Building Permit Required
- 33.700.010 Uses and Development Which Are Allowed By Right
- 33.700.015 Review of Land Divisions
- 33.700.020 Uses and Development Which Are Not Allowed By Right.
- 33.700.030 Violations and Enforcement
- 33.700.040 Reconsideration of Land Use Approvals
- 33.700.050 Performance Guarantees
- 33.700.060 Covenants with the City
- 33.700.070 General Rules for Application of the Code Language
- 33.700.075 Automatic Changes to Specified Dollar Thresholds

Timeliness of Regulations

- 33.700.080 Regulations that Apply at the Time of an Application
- 33.700.090 Regulations that Apply After Approval
- 33.700.100 Transfer of Approval Rights
- 33.700.110 Prior Conditions of Land Use Approvals
- 33.700.120 Status of Prior Revocable Permits
- 33.700.130 Legal Status of Lots

Timeliness of Regulations

33.700.130 Legal Status of Lots

- A.** A lot shown on a recorded plat remains a legal lot except as follows:
 - 1. The plat has been vacated as provided by City Code;
 - 2. The lot has been further divided, or consolidated, as specified in the 600 series of chapters in this Title, or as allowed by the former Title 34;
 - 3. The lot as originally platted is no longer whole and consists of individual property remnants. These remnants are not considered legal lots. However they may still be considered lots of record. See the definition of "lot of record" in Chapter 33.910, Definitions.

- B.** Where a portion of the lot has been dedicated for public right-of-way, the remaining portion retains its legal status as a lot, unless it has been further altered as specified in Subsection A. above.

- C.** The determination that a lot has legal status does not mean that the lot may be developed, unless all requirements of this Title are met.

**CHAPTER 33.730
QUASI-JUDICIAL PROCEDURES**

33.730.060 Application Requirements

33.730.060.D Required information for land divisions. There is a discrepancy between our application requirements for land divisions and what the County Surveyor requires for recording. The Surveyor no longer requires plats to contain block numbers, as most plats and subdivisions use only lot numbers for recording. Therefore, we are changing the Zoning Code to request only lot number information, since block numbers are no longer used.

33.730.130 Expiration of an Approval

The change to remove the requirement for final development plans for planned developments (pages 84-85) has an effect on the Expiration portion of the Quasi-Judicial Procedures chapter, because the final development plan is referred to often in this section. In addition, the current format has proven to be confusing. Therefore, 33.730.130.B, "When approved decisions expire," is rewritten to attempt to clarify the expiration provision for each type of land use review.

CHAPTER 33.730
QUASI-JUDICIAL PROCEDURES

33.730.060 Application Requirements

A-C. (No change)

D. Required information for land divisions. [No change.]

1. Preliminary Plan for all sites except those taking advantage of Chapter 33.664, Review of Large Sites in I Zones. An application for Preliminary Plan for all sites except those taking advantage of Chapter 33.644, Review of Large Sites in I Zones, must include all of the following:

a-c. (No change).

d. [No change to this paragraph.]:

- (1) Base map. The following information must be on all maps:

Surveyed information: [No change.]

Additional information:

- Proposed lot layout with sizes, dimensions, and lot ~~and block~~ numbers;
- [No other changes.]

33.730.130 Expiration of an Approval

A. Expiration of unused land use approvals issued prior to 1979. [No change.]

B. When approved decisions expire.

1. Land use approvals, except as otherwise specified in this section, expire if:
 - a. Within 3 years of the date of the final decision a City permit has not been issued for approved development; or
 - b. Within 3 years of the date of the final decision the approved activity has not commenced.
2. Zoning map and Comprehensive Plan map amendments do not expire.
3. Conditional Use Master Plans and Impact Mitigation Plans expire as specified in Chapters 33.820 and 33.848, or in the plans themselves.
4. Multiple developments. Where a site has received approval for multiple developments, and a City permit is not issued for all development within 3 years of the date of the final decision, the approval does not expire but no additional development may occur without another review. All conditions of approval continue to apply. Examples of multiple developments include phased development and multi-building proposals.

Land Division-Related Amendments

COMMENTARY

New language for 33.730.130.B continues.

5. Planned Developments. Where a Planned Development (PD) has been approved, and a building permit is not issued for all development within 10 years of the date of the final decision, the approval does not expire but no additional development may occur without another review. All conditions of approval continue to apply.
6. Preliminary plans. Approved preliminary plans for land divisions expire if within 3 years of the date of the final decision an application for approval of Final Plat has not been submitted.
7. Final Plats. Final Plats expire if they are not submitted to the County Recorder to be recorded within 90 days of the final decision.
8. Large industrial sites. Where the Preliminary Plan is approved under the provisions of Chapter 33.664, Review of Land Divisions On Large Sites In Industrial Zones, the following applies:
 - a. The approved Preliminary Plan expires if within 3 years of the final decision an application for approval of a Final Plat for part or all of the site has not been submitted.
 - b. Applications for approval of a Final Plat for the entire site must be submitted within 5 years of the date of final approval of the Preliminary Plan. Where Final Plat approval has not been requested for portions of the site within this time limit, the Preliminary Plan approval does not expire, but can no longer be used as a basis for Final Plats; all conditions continue to apply, but no new lots may be created without another Preliminary Plan Review.
9. Staged Final Plats. Where the Preliminary Plan is approved under the provisions of Sections 33.633.200 through .220, Staged Final Plats, the following applies:
 - a. The approved Preliminary Plan expires if within 3 years of the final decision an application for approval of a Final Plat for part or all of the site has not been submitted.
 - b. Applications for approval of a Final Plat for the entire site must be submitted within 5 years of the date of submittal of the first Final Plat application. Where Final Plat approval has not been requested for portions of the site within this time limit, the Preliminary Plan approval does not expire, but can no longer be used as a basis for Final Plats; all conditions continue to apply, but no new lots may be created without another Preliminary Plan Review.
10. Land use approvals in conjunction with a land division. Land use approvals reviewed concurrently with a land division do not expire if they meet all of the following. This includes Planned Unit Developments (PUDs) and Planned Developments (PDs) reviewed in conjunction with a land division. This also includes amendments made to land use approvals where the original approval was reviewed concurrently with a land division:
 - a. The decision and findings for the land division specify that the land use approval was necessary in order for the land division to be approved;
 - b. The final plat of the land division has not expired; and

Land Division-Related Amendments

COMMENTARY

New language for 33.730.130.B continues.

c. Development or other improvements have been made to the site. Improvements include buildings, streets, utilities, grading, and mitigation enhancements. The improvements must have been made within three years of approval of the final plat;

11. Land use approvals in conjunction with a Planned Unit Development (PUD) or Planned Development (PD). Land use approvals reviewed concurrently with a PUD or PD do not expire if they meet all of the following. If the PUD or PD is as described in Paragraph B.5, the land use approvals reviewed in conjunction with the PUD or PD do not expire, but no additional development may occur without another review

Land use approvals reviewed in conjunction with a PUD or PD and a land division are subject to Paragraph B.10 rather than the regulations of this Paragraph:

a. The decision and findings for the PUD or PD specify that the land use approval was necessary in order for the PUD or PD to be approved;

b. The PUD or PD has not expired;

c. Development or other improvements have been made to the site. Improvements include buildings, streets, utilities, grading, and mitigation enhancements. The improvements must have been within three years of final approval of the PUD or PD;

12. Expedited Land Divisions. Land Divisions reviewed through the Expedited Land Division procedure in 33.730.013, are subject to the regulations of ORS 197.365 through .375. When the regulations of ORS 197.365 through .375 conflict with the regulations of this section, the regulations in ORS supersede the regulations of this section.

~~1. The following apply to all land use approvals, except for zoning map or Comprehensive Plan map amendments, land divisions, planned unit developments, and Planned Developments, and conditional use master plans and impact mitigation plans:~~

~~a. Land use approvals except those listed in B.1.b., below expire under any of the following circumstances:~~

~~(1) If within 3 years of the date of the final decision a City permit has not been issued for approved development. Where a site has received approval for multiple developments, and a City permit is not issued for all development within this time limit, all conditions of approval continue to apply to the site. No additional development may occur without another review. Examples of multiple developments include phased development plans and multi-building proposals; or~~

~~(2) If within 3 years of the date of the final decision the approved activity has not commenced.~~

Land Division-Related Amendments

COMMENTARY

33.730.130.B is replaced with new language. See previous commentary.

~~b. Exception. Land use approvals do not expire if they meet all of the following:~~

~~(1) The land use approval was reviewed concurrently with a land division, planned unit development, or Planned Development;~~

~~❖ The decision and findings for the land division, Planned Development, or planned unit development specify that the land use approval was necessary in order for the land division, Planned Development, or planned unit development to be approved;~~

~~(3) The final plat of the land division or final development plan of the Planned Development or planned unit development has not expired; and~~

~~(4) Development or other improvements have been made to the site within three years of approval of the final plat or final development plan. Improvements include buildings, streets, utilities, grading, and mitigation enhancements;~~

~~2. Land divisions, planned unit developments and Planned Developments. Land division, planned unit development and Planned Development approvals become void under any of the following circumstances:~~

~~a. Preliminary plans and preliminary development plans.~~

~~(1) Generally. Approved preliminary plans and approved preliminary development plans become void if within 3 years of the date of the final decision an application for approval of Final Plat or final development plan has not been submitted.~~

~~(2) Exception for large industrial sites. Where the Preliminary Plan is approved under the provisions of Chapter 33.664, Review of Land Divisions On Large Sites In Industrial Zones, the following applies:~~

~~• The approved Preliminary Plan will become void if within 3 years of the final decision an application for approval of a Final Plat for part or all of the site has not been submitted.~~

~~• Applications for approval of a Final Plat for the entire site must be submitted within 5 years of the date of final approval of the Preliminary Plan. Where Final Plat approval has not been requested for portions of the site within this time limit, the Preliminary Plan approval is not void, but can no longer be used as a basis for Final Plats; all conditions continue to apply, but no new lots may be created without another Preliminary Plan Review.~~

~~(3) Exception for staged Final Plats. Where the Preliminary Plan is approved under the provisions of sections 33.633.200 through .220, Staged Final Plats, the following applies:~~

~~• The approved Preliminary Plan will become void if within 3 years of the final decision an application for a Final Plat for part or all of the site has not been submitted.~~

Land Division-Related Amendments

COMMENTARY

33.730.130.B is replaced with a new section. See previous commentary.

CHAPTER 33.750 FEES

33.750.050 Fee Waivers

- A. Recognized organization waiver.** The fee waiver option was inadvertently not extended to the Type IIx Review. It was left off in error with the Land Division Code Rewrite Project. This change is made to add the Type IIx Review to the Type II fee waiver procedure.

- ~~Applications for approval of a Final Plat for the entire site must be submitted within 5 years of the date of submittal of the first Final Plat application. Where Final Plat approval has not been requested for portions of the site within this time limit, the Preliminary Plan approval is not void, but can no longer be used as a basis for Final Plats; all conditions continue to apply, but no new lots may be created without another Preliminary Plan Review.~~

- b. ~~Final Plats and final development plans. Final Plats and final development plans expire if they are not submitted to the County Recorder to be recorded within 90 days of the final decision.~~

- e. ~~Exception for Expedited Land Divisions. Land Divisions reviewed through the Expedited Land Division procedure in 33.730.013, are subject to the regulations of ORS 197.365 through .375. When the regulations of ORS 197.365 through .375 conflict with the regulations of this section, the regulations in ORS supersede the regulations of this section.~~

CHAPTER 33.750
FEES

33.750.050 Fee Waivers

The Director of BDS may waive land use review fees in the following situations. The decision of the Director of BDS is final. An application for a fee waiver may be filed concurrently with the land use review application or appeal form.

A. Recognized organization waiver.

1. Type II and Type IIx Procedure. No appeal fee is charged for recognized organizations.
2. Type III Procedure. (No change).

**CHAPTER 33.853
TREE REVIEW**

33.853.020 When Review Is Required

33.853.020.C Changing the approved method of tree preservation or mitigation for a platted land division. This change makes it clear that when individual elements of a tree preservation plan or tract are changing, the provisions of this section apply.

33.853.040 Approval Criteria

33.853.040.B Changes to a tree preservation plan or to the approved method of tree preservation or mitigation. The intent of the Tree Review chapter is to provide a single review process for tree preservation methods, regardless of the initial submission of the tree preservation method. However, the approval criteria do not make sense for tree preservation plans that are part of land divisions or planned unit developments submitted prior to the Land Division Code Rewrite. It may be impossible for an old tree preservation plan to meet the specifics of the tree preservation chapter (33.630) if the original plan didn't follow those criteria. However, it is possible to provide findings that the purpose of the Tree Preservation chapter(33.630) is being met. Therefore, we are providing two separate approval criteria for this section, depending on the timing of the original proposal.

In addition, the title and wording of the approval criteria is changed to match the wording used in 33.853.020.C.

CHAPTER 33.853
TREE REVIEW

33.853.010 Purpose [No change.]

33.853.020 When Review Is Required

Tree review is required in the following situations:

- A. **Scenic Overlay Zone.** [No change.]
- B. **Rocky Butte plan district.** [No change.]
- C. **Changing the approved method of tree preservation or mitigation methods for a platted land division.** Changes to the approved method of tree preservation or mitigation method, including a tree preservation plan, tree preservation tract, or mitigation plan, may be approved through tree review if for a land division, where the Final Plat of the land division has been approved and recorded, may be approved through tree review. However, if the tree preservation or mitigation was required through environmental review, changes are subject to Chapter 33.430, Environmental Overlay Zones. Changes to tree preservation or mitigation methods where the Final Plat has not been approved and recorded are reviewed under the 600 series of chapters of this Title for Land Divisions and Planned Developments.
- D. **Violations.** [No change.]

33.853.030 Procedure

[No change.]

33.853.040 Approval Criteria

- A. **Trees in the Scenic Overlay Zone or Rocky Butte plan district.** [No change.]
- B. **Changes to a tree preservation plan or to the approved method of tree preservation or mitigation methods.** The approval criteria for changes to tree preservation or mitigation methods, including a tree preservation plan, tree preservation, tree preservation tract, or mitigation plan are:
 - 1. If the A request to change a tree preservation plan, the approved method of tree preservation or mitigation method of a land division was approved under the provisions of Chapter, 33.630, where the Final Plat of the land division has been approved and recorded, the requested change will be approved if the review body finds that the applicant has shown that the revised method plan will continue to meet Chapter 33.630, Tree Preservation.
 - 2. If the tree preservation or mitigation method was not approved under the provisions of Chapter 33.630, the requested change will be approved if the review body finds that the applicant has shown that the revised method better meets the purpose of Chapter 33.630, Tree Preservation, stated in Section 33.630.010.
- C. **Corrections to violations.** [No change.]

**CHAPTER 33.900
LIST OF TERMS**

33.900.010 List of Terms

The following are a list of new terms added to this section. They will be placed in alphabetical order on the List of Terms, and their definitions will be contained in 33.910.

CHAPTER 33.900
LIST OF TERMS

33.900.010 List of Terms

The following terms are defined in Chapter 33.910, Definitions, unless indicated otherwise.

Arborist

Land Division

Plat

Residential Structure Type

- Triplex

Triplex. See Residential Structure Types

**33.910
DEFINITIONS**

33.910.030 Definitions

Additional definitions are provided to clarify processes and development that need identifying.

Arborist. Throughout the current code the term "certified arborist" is used. This has created confusion, as a "certified arborist" is not the only standard for an arborist to be professionally recognized. There are currently two accreditation programs, one which results in being identified as a "certified" arborist and one which results in a "registered consulting" arborist. A standard, centrally located definition is added, which clarifies our intent to include all arborists that have a nationally recognized accreditation.

Grading. This definition is expanded to apply to more than just a land division site. There are references to grading made in the Environmental Zone chapter that do not apply to land divisions. This change will eliminate confusion regarding grading.

Land Division. This definition is added to provide a formal description for the separation of property and to provide the mechanism for illustrating that a formal Land Division process is required for separating out a single unit of land into two or more distinct parcels or lots.

Plat. This definition is added at the request of the Bureau of Development Services to help illustrate what makes up the submission of a plat per State definition.

CHAPTER 33.910
DEFINITIONS

33.910.030 Definitions

The definition of words with specific meaning in the zoning code are as follows:

Arborist: A professional listed as a certified arborist or a registered consulting arborist.

Development-Related Definitions

- **Grading.** All cuts, fills, embankments, stockpile areas, and equipment maneuvering areas associated with development ~~of the land division site~~.

Land Division. The act of dividing land to create new lots or tracts, or to reconfigure lots or tracts within a recorded land division. The result of a land division is a subdivision plat or partition plat. Actions that are exempt from the State law definitions of partition or subdivision (i.e. property line adjustment) are not considered land divisions. See also Lot, Tract, Plat, and Property Line Adjustment.

Plat. Diagrams, drawings and other writing containing all the descriptions, locations, dedications, provisions, and information concerning a land division. This term includes the State law definitions of “partition plat” and “subdivision plat”.

Residential Structure Type

- **Triplex.** Although this development option is referred to in many places in the Zoning Code, there has never been a definition for it. The Bureau of Development Services has interpreted a triplex to mean three units on one lot that are connected through shared walls or ceilings. To clarify, we are defining a triplex as a type of multi-dwelling structure where each unit of the three shares a wall or ceiling with one or more of the other units. This will help to distinguish a single building on a lot with three units, from three detached structures on a lot, which we refer to as multi-dwelling development.

Tract. This definition is expanded to provide a cleaner distinction between a tract and an easement and also to illustrate that a tract provides for a greater variety of uses.

Transportation-Related Definitions

- **Pedestrian Connection.** This definition is changed to be defined as a type of street that provides only pedestrian and bicycle access and connectivity. However, its listing as a street provides additional flexibility for the location of lots fronting on it. In this definition, it can perform some of the same functions as a *Common Green* street (introduced with the Land Division Code Rewrite), but it also contains specific dimensional criteria, which will allow it to be dedicated to the public, similar to a street for vehicle use. The Bureau of Development Services requested this provision, because not allowing lots to front on a through pedestrian connection proved to be a limitation to desirable development.

Residential Structure Types

- **Triplex.** A multi-dwelling structure that contains three primary dwelling units on one lot. Each unit must share a common wall or common floor/ceiling with at least one other unit.

Tract. ~~A tract is a~~ A piece of land created and designated as part of~~within~~ a land division site that is not a lot, lot of record, or a public right-of-way. Tracts are created and designated for have a specific purpose ~~and limited development potential.~~ Land uses within a tract are restricted to those uses consistent with the stated purpose as described on the plat, or in the maintenance agreements, or through Conditions, Covenants and Restrictions (CC&Rs). Examples include stormwater management tracts, private street or alley tracts, ~~of purposes of tracts include access, tree preservation tracts, and environmental resource tracts, and open space tracts.~~

Transportation-Related Definitions

- **Pedestrian Connection.** A pedestrian connection generally provides a through connection for bicyclists and pedestrians between two streets or two lots. It may be a sidewalk that is part of a street that also provides vehicle access, or may be separate from the roadway or it may be a self contained street created solely for pedestrians and bicyclists.

Transportation-Related Definitions

- **Street.** This definition is changing to reflect the expanded role that many streets in the city can have. Streets are not always “primarily” intended for motor vehicle travel, but may be create solely for pedestrian and bicyclists, or they may be a combination of all three.

Triplex. This is a reference to the new triplex definition, which is in the Residential Structure types.

- **Street.** A right-of-way that is ~~primarily~~ intended for motor vehicle, pedestrian or bicycle travel or for motor vehicle, bicycle or pedestrian access to abutting property. ~~Streets are also intended for pedestrian or bicycle travel, or access to abutting property.~~ For the purposes of this Title, street does not include alleys, rail rights-of-way that do not also allow for motor vehicle access, or the interstate freeways and the Sunset Highway including their ramps.
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Triplex. See Residential Structure Types.

ADDITIONAL LAND DIVISION ITEMS RECOMMENDED FOR MONITORING

Several items were originally included in the list of potential Land Division Amendments. These items were included in initial discussions with internal stakeholders to determine the extent of the problem. However, some of the items tend to fall into one of the following categories:

- 1.) The issues are based on observations that do not have enough background information to warrant a change at this time;
- 2.) The issues would best be reviewed through other Bureau of Planning projects;
- 3.) The issues are a potential outcome of recent code changes (i.e., previous Policy Packages or other code changes) and they need to be monitored first.
- 4.) The issues are more complex than originally anticipated and need more comprehensive study before a formal recommendation can be made.

These items can also be sorted into the following general categories: Lots/flag lots, Environmental Zones, Tree Preservation, Streets and Miscellaneous. A brief review of these categories follows.

Lots & Flag Lots

Two issues related to lot configurations will require additional monitoring. The first is the situation where an existing site proposed for a land division does not meet the lot depth minimum, making it impossible for the proposed lot to be able to meet lot depth. As a result, the land division is required to go through a Planned Development, because of the pre-existing lot configuration. This situation has come up once, and the Bureau of Planning feels that the number of potentially dividable lots that do not meet current lot depth standards is so small that no change may be necessary. Therefore, continued monitoring is needed. The second issue is the idea that the land division code should include language that new lots be 'regularly' shaped, to prevent oddly shaped lots from being proposed. However, this issue should also include a review of our current method of measuring lot width and depth in the various zones, and it warrants further study before an informed recommendation can be made.

Several flag lot issues remain. These include a review of the qualifying situations for when flag lots are allowed. A second suggestion involves revisiting our definition of a flag lot, to determine if it is still applicable within the various residential zones. A third item involves the potential for unintended flag lots created in the multi-dwelling zones, based upon the new lot size standards for detached houses approved in Policy Package 2-B. All of these items revolve around the general concern about the effect of flag lots on existing neighborhoods, balanced against the desire to provide flexibility in the division of properties to meet our housing goals. This larger issue needs further monitoring of existing and recently proposed regulations to determine the extent of the problem.

The issue of how to reconfigure existing platted lots was also part of the original proposal. Currently, a replat of an existing set of lots must either go through a full land division process, or, in limited situations, a smaller number of lots may be able to go through a series of property line adjustments to achieve a new configuration. The initial proposal was to create a simpler approach than the two-step land division process to reconfigure existing platted lots. However, this proposal, made by the Bureau of Planning, was not entirely consistent with State law and

the requirements of the County Surveyor. This item will need further research, including working with the State Department of Land Conservation and Development and the Multnomah County Surveyor, to ensure that a proposal consistent with all State and local regulations can be made.

Environmental Zones

Several requests for land division-related items involved land divisions in environmental zones, and/or environmental review. While some of the more procedural issues, such as the handling of property line adjustments in environmental zones are reviewed under this package, there are several issues that would benefit from inclusion under the more comprehensive Environmental Code Improvement Project (a subset of the original Healthy Portland Streams Project). Land division-related environmental issues that are being deferred to the Environmental Code Improvement Project include a review of current standards clarifying disturbance areas for land divisions, reviewing current definitions of disturbance areas and how they relate to vegetation removal, tree preservation for environmental zones and land divisions, and maximum rights-of-way standards for streets in environmental zones. The suggestion that alternative housing types be allowed in environmental zones as part of an environmental review is also deferred. Lastly, the Columbia South Shore environmental planting standards that are part of land divisions will be deferred for further monitoring and inclusion in either the Environmental Code Improvement Project or a similar Columbia South Shore project.

Tree Preservation

The Tree Preservation chapter has been in place since July 2002, and several items are being cleaned up under this policy package. However, there are additional issues which require more time to address the extent of the potential problem before a solution can be recommended. The following items will either be addressed through a future policy package or as part of a related project (i.e., Environmental Code Improvement): 1) Alternatives to preservation may be needed for existing trees that are in poor condition or have been topped in the past. These trees may not be worth saving, but may not be immediately dangerous. (2) We may encounter future problems if a land division is proposed on a site with mature trees planted as parking lot landscaping or as part of a nursery. This item needs to be further monitored since no actual examples have been identified since 2002. (3) The discrepancy between tree preservation within environmental zones and areas outside of environmental zones should be further monitored, and perhaps included with the Environmental Code Improvement project.

Streets

In addition to the standards for streets mentioned above under environmental zones, monitoring is needed to address a potential issue regarding thresholds triggering a public street. Currently, the threshold is based upon the number of lots. A suggestion has been made to base it on the number of dwelling units. This could result in a public street requirement for small land divisions in high-density areas. It needs further study and coordination with Portland Transportation to determine if the current threshold for creating public streets is insufficient.

The Bureau of Planning originally proposed to exempt standard private streets that meet the technical standards of the Bureau of Development Services from design review. This was worded in a similar fashion to the public street standard. However, the Design Commission had

Land Division-Related Amendments

MONITORING COMMENTARY

grave concerns about this provision, which had not been addressed. Further monitoring and research into alternative proposals is needed before an adequate provision can be provided.

Other/Miscellaneous

Four additional miscellaneous items warrant further study. The first is a review of our Landslide Hazard area to see if a more detailed mapping effort can be made to achieve greater certainty in the hazards of specific sites. This would help to justify the increased review procedures for land use reviews in the landslide hazard areas. A related item involves review of thresholds for pre-application conferences. Policy Package 2 eliminated pre-application conferences for Type IIx land divisions. With the recent change to this requirement, the Planning Commission requested that the threshold be monitored to see if it is sufficient. Since this provision became effective on March 5, 2004, additional time is needed to adequately monitor its effect. The third issue involves current procedures for calculating density. For land divisions with streets, staff calculates density differently in single-dwelling and multi-dwelling zones. It is not known whether this creates a significant problem, as there have been few land divisions split between single- and multi-dwelling zones. Further monitoring is required before we can advise that a solution is needed.

The last miscellaneous item that needs more research is the proposal to exempt certain simple stormwater management facilities from design review. Like the street issue listed above, the Design Commission had concerns with a blanket exemption on all facilities provided in the manual. There are many instances where the manual may allow similar facilities to be proposed, but one may be much better from a design and aesthetic perspective. In order to come up with a solution, further analysis is needed to create an exemption that encourages these facilities but also provides adequate checks and balances so that it is an asset to the project and to the area's livability.

BED AND BREAKFAST REGULATIONS **(Item 10, RIW 03-04)**

BACKGROUND AND IMPACT ASSESSMENT

Prior to 1991, the City did not have regulations that specifically applied to bed and breakfast (B&B) facilities in residential zones. During the mid-80s, City Council allowed B&B-like facilities using the provisions for Rooming Houses. The Rooming House provisions were not completely applicable to bed & breakfast facilities in that rooming houses had less guest turnover. Also during the late 1980's, neighbors of some bed & breakfast facilities expressed concern over the lack of regulations for these facilities. Many B&B facilities were operating out of large houses within single-dwelling residential areas, and the facilities were increasingly being used for public gathering functions such as weddings, business luncheons and parties. Although some of these functions were similar to functions taking place at schools and churches, B&B sites were smaller and did not have the meeting and parking facilities. Therefore, gatherings at B&B facilities had a greater impact on neighborhood traffic, parking, and noise because it was difficult to contain these impacts on site. These issues resulted in a moratorium on new B&B facilities in the late 1980's.

The B&B regulations were adopted with the Zoning Code Rewrite and made effective on 1/1/91. The Zoning Code Rewrite included a considerable amount of public outreach to address neighborhood concerns. As a result of these concerns, the regulations for new facilities imposed strict limitations. These limitations included allowing a maximum of five bedrooms for guests and a maximum of six guests per night. It was prohibited for a B&B to be rented for any kind of meeting, wedding or other social gathering. The permanent residents of a B&B facility were also limited to four private gatherings for more than four people per year. The restrictions on private gatherings were much more restrictive than those applied to a standard single-dwelling house. The reasoning behind this restriction was that the B&B operator would be receiving a considerable benefit by renting some rooms to paying guests. The effect of these guests on the neighborhood had to be mitigated by restricting other activities such as private gatherings that would normally be allowed by right in a single-dwelling house. B&Bs were considered a Home Occupation rather than a business, and thus required their net effect to be similar to other uses in the neighborhood. However, a review of the proposed Zoning Code Rewrite documents has not revealed the methodology behind the limitation of private gatherings.

After the new code adoption in 1991, B&B facilities were required to go through a conditional use review. Some provisions were made for facilities that had operated prior to 1988. Since 1991, there have been very few changes made to the B&B provisions. The only significant revision was to change the type of review for B&B facilities from a Type III to a Type II conditional use review. This change was adopted in 1995. Applications for new B&B facilities have been averaging about one per year for the last four years.

In 2003, a request was made on behalf of B&B owners to review the current limitations on gatherings. There were two main concerns that were voiced. First the limitation prohibited an

Bed and Breakfast Regulations

BACKGROUND AND IMPACT ASSESSMENT

owner from having events that could benefit the surrounding neighborhood such as neighborhood association meetings. Second, the limitation to 4 private gatherings for more than 4 guests was too restrictive. After discussion at the Planning Commission and City Council hearings, the item was added to the 2003-2004 Regulatory Improvement Workplan.

These changes try to limit the impact of the facilities based upon the type of neighborhood they are in, while still providing the facility operators more flexibility than they currently have in the operation of their facility.

IMPACT ASSESSMENT

The Impact Assessment is divided into two stages, the first of which is an identification and categorization of the problem, its effect, and the determination of the priority. The second stage is to review potential solutions, analyze the cost and benefit of the proposed solution, and involve the stakeholders within the solution process. As part of these assessments, a series of questions (listed on page iv and v of this report) must be addressed. The answers to the questions are addressed in general below. More specific analysis may also be found in the Commentary section of the code proposals.

First Stage Assessment

The B&B regulations have not undergone a review since they were first adopted in 1991. City staff and the Council were made aware of regulations which might be overly prescriptive and limiting. The issue was brought before the Planning Commission and City Council as part of the Regulatory Improvement Workplan, where it was approved for the action list. The intent of this workplan is to find solutions to regulations that may impede desirable development, while balancing the needs of the neighborhood. Approximately 20 B&B facilities are in operation citywide. There has been increased interest in B&B facilities, especially as a preservation mechanism for large older homes. However, these facilities are located throughout the city, and changes could affect a significant proportion of the city's neighborhoods. This review is funded as part of the Regulatory Improvement Workplan.

Second Stage Assessment

The *As Adopted Report* is the conclusion of the second stage assessment to determine if regulatory or non-regulatory alternatives may be feasible, while also involving the various B&B operators and neighbors identified in the First Stage Assessment. In general, since this issue has been raised as a result of a regulatory item, the best fix to the problem involves regulatory change. The changes on the following pages primarily address how we restrict public and private gatherings while clarifying some confusing references. The City Council's approved changes are intended to provide the benefit of easier-to-use regulations while maintaining the balance between B&Bs and the surrounding neighborhood.

Several methods were used to involve stakeholders in the decision process. A notice of the proposal was sent to over 2,100 people on March 18 to notify them of the availability of the *Discussion Draft* and the first community open house held on March 31. Included in this number were B&B operators as well as surrounding neighbors. Staff attended the citywide

Land Use Chairs meeting on March 22. Comments from these meetings and with other City staff resulted in Planning staff's formal proposal, illustrated in the *Proposed Draft*.

The list of persons who own property within 150 feet of B&B facilities was updated for the second notice sent on April 22, which provided information on the *Proposed Draft*, second open house and Planning Commission hearing. Staff attended the citywide Land Use Chair meeting for a second consecutive month on April 26. The second open house was held on May 5 and attended by four members of the public. The Planning Commission hearing was held on May 25. At the hearing, six members of the public testified, mostly related to the bed and breakfast provision. Several items of written testimony were also received prior to the Planning Commission hearing, and the record for written testimony was held open an additional week so that all concerns regarding the bed and breakfast provisions could be addressed. A notice announcing the City Council hearing was mailed to all those who had participated in the Planning Commission hearing. The City Council held a hearing on July 28, 2004, to consider testimony on the project, and they voted to adopt the Planning Commission's recommendation with only minor edits on August 4, 2004.

These regulations are to be incorporated into the current Bed and Breakfast Facilities chapter. The implementation of the regulations will not require any additional City resources. Staff will monitor the implementation to determine the success of the new provisions. There may be a temporary increase in the number of conditional use reviews received by staff if existing bed & breakfast facilities in the multi-dwelling zones wish to take advantage of the ability to hold commercial meetings.

**CHAPTER 33.212
BED AND BREAKFAST FACILITIES**

The intent of these revisions is to allow for added flexibility in operating a facility while maintaining a Bed And Breakfast's (B&B) residential appearance and not increasing its impact. There currently are no restrictions on the number of parties, dinners and other gatherings that a household may have in their dwelling. However, B&B facilities have the added impact of a continuous number of overnight guests, which is not typical for most dwelling units. As a result, a middle ground needs to be established that would allow some flexibility for the B&B residents to invite others to enjoy their house while not allowing an excessive number of events. The adopted changes chiefly address the meeting and social gathering section, but also provide some clarification for other sections.

33.212.020 Description

33.212.020.A Bed and breakfast facility. The description of a B&B facility is changed to allow nonresident employees and nonovernight guests to be at the facility. The number of nonresident employees and nonovernight guests will depend on the conditional use review.

An additional change is needed to use the term 'house' instead of 'home.' 'House' is defined in the Zoning Code and is consistent with the rest of the code.

33.212.040 Use-Related Regulations

33.212.040.A Accessory Use. This section is not changing but is included to show what is allowed.

33.212.040.B Maximum Size. This change removes the limitation on the number of guests. The limitation on the number of rooms for guests is adequate in limiting the size of these facilities and eliminates the unreasonable scenario where an operator cannot rent out vacant rooms because they are already at the guest limit. In addition, current building code defines a rooming house (5 or fewer guestrooms) as a R3 occupancy (one dwelling structure) rather than as a commercial occupancy. Therefore, this change is consistent with the provisions of the building code.

33.212.040.C Employees. This section is changing slightly to allow nonresident employees to help with food preparation for meetings and gatherings.

33.212.040.D Services to Guests and Visitors. The current provision on food and alcohol, if interpreted literally, would only allow food and alcohol to be served to overnight guests. Guests, as part of a private gathering hosted by the residents, would not be able to eat or drink, even if it was at one of the approved gatherings. This change removes the limitation, so that the residents can entertain nonovernight guests like any other person living in a house.

CHAPTER 33.212
BED AND BREAKFAST FACILITIES

33.212.010 Purpose [No change.]

33.212.020 Description

- A. Bed and breakfast facility.** A bed and breakfast facility is one where an individual or family resides in a househome and rents bedrooms to overnight guests. A bed and breakfast facility may also have visitors and non-resident employees.
- B. Retail Sales And Service use.** In zones where Retail Sales And Service uses are allowed, limited or conditional uses, a bed and breakfast facility is defined as a hotel and is included in the Retail Sales And Service category.

33.212.030 Where These Regulations Apply [No change.]

33.212.040 Use-Related Regulations

- A. Accessory use.** A bed and breakfast facility must be accessory to a Household Living use on a site. This means that the individual or family who operate the facility must occupy the house as their primary residence. The house must be at least 5 years old before a bed and breakfast facility is allowed.
- B. Maximum size.** Bed and breakfast facilities are limited to a maximum of 5 bedrooms for guests ~~and a maximum of 6 guests per night~~. In the single-dwelling zones, a bed and breakfast facilityies over thiese size limits areis prohibited.
- C. Employees.** Bed and breakfast facilities may have nonresident employees for ~~the lodging activity~~ such activities as booking rooms and food preparation, if approved as part of the conditional use review. Hired service for normal maintenance, repair and care of the residence or site such as yard maintenance may also be approved. The number of employees and the frequency of employee auto trips to the facility may be limited or monitored as part of a conditional use approval.
- D. Services to guests and visitors.** Serving alcohol and food to guests and visitors is allowed.
 - ~~1. Food services may only be provided to overnight guests of a bed and breakfast facility.~~
 - ~~2. Serving alcohol to overnight guests is allowed.~~ The proprietor may need Oregon Liquor Control Commission approval to serve alcohol at a bed and breakfast facility.

Bed and Breakfast Regulations

COMMENTARY

33.212.040 Use-Related Regulations (cont'd.)

33.212.040.E Meetings and social gatherings. Currently, a resident proprietor cannot have any commercial meetings for direct or indirect compensation. An original proposal suggested allowing unlimited commercial gatherings for fewer than 10 people. However, there was concern that this could inadvertently result in nightly dining or afternoon teas, which shifts the facility into a retail operation. Currently, incidental sales of souvenirs to overnight guests is not considered a retail use. Therefore, commercial and private gathering are still regulated separately. A moderate amount of testimony was received from B&B operators and some neighbors, mostly in support of allowing B&B's to apply for additional commercial meetings. The Planning Commission recommended a higher than proposed maximum number of commercial meetings in multi-dwelling zones through the Conditional Use Review, partially based upon the testimony heard. City Council agrees with the recommendation of the Planning Commission.

The proprietor is also limited to four private social gatherings (such as parties) per year that are attended by more than four guests. Intimate private social gatherings for four or fewer guests are not limited. Although the private gathering limitation is more restrictive than a typical household living use, it must offset the ongoing effect that making rooms available to overnight guests has on the surrounding neighborhood.

33.212.040.E.1 Commercial meetings. Commercial meetings in B&Bs are currently prohibited in all zones. This change allows a limited number of commercial meetings in B&B facilities located in multi-dwelling zones. Since multi-dwelling zones have a mixture of housing types, lot sizes, and are also located closer to services than facilities in single-dwelling zones, commercial meetings in these zones have a more limited impact. The hosting of the events may also help to preserve B&B facilities in a multi-dwelling zone, where there may be added pressure to demolish the structure and build to full density. Since the area is still a residential area, the number of events will be limited to no more than 24 per year. For added flexibility, there is no additional limitation on the number of commercial events per month. However, facilities requesting these events may need to go through a higher level of review, described under 33.212.060.

33.212.040.E.2 Private social gatherings. Currently, facilities are limited to four private gatherings per year of more than four guests. This limits the owner from hosting larger gatherings or meetings, and is considered overly restrictive by some operators. There have been no complaints regarding any existing gatherings currently taking place at B & Bs. Thus changes are adopted to increase the number of private social gatherings to 12 per year, and the threshold triggering an event to eight guests or visitors. This allows for greater flexibility. An owner/operator may request more than twelve private gatherings per year through a Type II adjustment review.

33.212.040.E.3 Historical landmarks. This section does not change.

33.212.040.E.4 This provision requires the B&B operator to log all commercial meetings and all private gatherings for more than eight guests or visitors, similar to current log requirements.

E. Meetings and social gatherings.

1. Commercial meetings. Commercial meetings Activities including luncheons, banquets, parties, weddings, meetings, charitable fund raising, commercial or advertising activities, or other gatherings for direct or indirect compensation, Commercial meetings in bed and breakfast facilities are regulated as follows:
 - a. In the single-dwelling zones, commercial meetings are prohibited at a bed and breakfast facility.
 - b. In the multi-dwelling zones, the residents of a bed and breakfast facility may request up to 24 commercial meetings per year as part of a Conditional Use Review. The maximum number of visitors or guests per event will be determined through the Conditional Use Review. Adjustments to the maximum number of meetings per year are prohibited.
2. Private social gatherings. The residents of a bed and breakfast facilities are allowed to have only ~~124~~ private social gatherings, parties, or meetings per year, for more than ~~84~~ guests or visitors. The private social gatherings must be hosted by and for the enjoyment of the residents. ~~The bed and breakfast operator must log the dates these social gatherings are held.~~ Private social gatherings for ~~84~~ or fewer guests are allowed without limit as part of a normal Household Living use at the site. ~~All participants in the social gathering are counted as guests except for residents.~~
3. Historical landmarks. A bed and breakfast facility which is located in a historical landmark and which receives special assessment from the State, may be open to the public for 4 hours one day each year. This does not count as either a commercial meeting or a private social gathering.
4. The bed and breakfast operator must log the dates that private social gatherings for more than 8 visitors or guests are held, and the number of visitors or guests at each event. The operator must also log the dates of all commercial meetings held, and the number of visitors or guests at each event.

33.212.050 Site-Related Standards

No changes are made to this section. It is included here to illustrate the existing requirements applicable to B&B facilities. B&B operators that wish to take advantage of the other code changes proposed within this chapter will still need to meet these site and appearance standards.

33.212.060 Conditional Use Review

Most B&B facilities will be subject to a Type II conditional use review. However, those facilities in the multi-dwelling zones requesting to have commercial meetings such as weddings or other gatherings for compensation will be subject to a Type III conditional use review. Since commercial meetings are likely to draw a larger number of people, the parking and noise impacts may stretch further into the adjoining neighborhood. The Type III process increases project notification for the surrounding neighborhood from 150 feet to 400 feet. The Type III process also requires a hearing, providing another level of public testimony on a project.

Please note, Historic Landmarks can use a Historic Preservation Incentive to lower the level of the review to a Type II process. This incentive currently requires a separate historic incentive review and a covenant requiring any future demolition to go through a demolition review. The Historic Resource Code Rewrite is currently looking at eliminating the incentive review portion, leaving the covenant as the only requirement for lowering the review. The City Council feels that this incentive is adequate enough for B&Bs that are also landmark properties. Nonlandmark B&B facilities in multi-dwelling zones will still need to go through a Type III procedure to request commercial meetings.

33.212.050 Site-Related Standards

- A. Development standards.** Bed and breakfast facilities must comply with the development standards of the base zone, overlay zone, and plan district, if applicable.
- B. Appearance.** Residential structures may be remodeled for the development of a bed and breakfast facility. However, structural alterations may not be made which prevent the structure being used as a residence in the future. Internal or external changes, which will make the dwelling, appear less residential in nature or function are not allowed. Examples of such alterations include installation of more than three parking spaces, paving of required setbacks, and commercial-type exterior lighting.
- C. Signs.** The sign standards are stated in Title 32, Signs and Related Regulations.
- D. Accessory dwelling units.** Accessory dwelling units must meet all requirements of Chapter 33.205, Accessory Dwelling Units.

33.212.060 Conditional Use Review

Bed and breakfast facilities require a conditional use review. A facility that proposes commercial meetings as provided in 33.212.040.E.1.b is processed through a Type III procedure. The review for all other facilities is processed through a Type II procedure. The approval criteria are stated in 33.815.105, Institutional and other uses in R Zones.

33.212.070 Monitoring

All bed and breakfast facilities must maintain a guest log book. It must include the names and home addresses of guests, guest's license plate numbers if traveling by car, dates of stay, and the room number of each guest. The log must be available for inspection by City staff upon request.

33.212.080 Pre-Established Bed and Breakfast Facilities [No change.]

ARCHAEOLOGICAL RESOURCES IN COLUMBIA SOUTH SHORE PLAN AMENDMENTS & ZONING CODE AMENDMENTS

AMENDMENTS TO INVENTORY OF ARCHAEOLOGICAL PLAN

Original plan

In April 1996, the City adopted the *Cultural [Archaeological] Resources Protection Plan for Columbia South Shore* (hereafter, "archaeological plan"). The plan's objective is to protect sites in the Columbia South Shore that show evidence of use by American Indians from the pre-contact period. The Oregon Department of Land Conservation and Development (DLCD) approved this plan as fulfilling a required work task for periodic review (State Goal 5).

The archaeological plan uses the Zoning Code to protect nine sites, and requires additional subsurface testing on certain properties not adequately tested during the City's areawide investigation. The City coordinates with the Oregon State Historic Preservation Office (SHPO), which issues permits to qualified archaeologists and maintains official site records.

The City's original plan used the term "cultural" to reflect State Goal 5 administrative rule. More commonly, the term "archaeological" is used. To remove confusion, the City's plan moves to using "archaeological" as the term throughout the document and the Zoning Code.

For site boundaries, the City uses the SHPO site boundaries, then adds a five-foot vertical buffer and a five-foot horizontal buffer. The extra buffer accounts for the occasional construction equipment and other activities that stray beyond the areas approved for excavation. As with the environmental zones, a transition area extends above and sideways from the archaeological resource for a specified distance. Most archaeological resources are seasonal campsites, and require a 50-foot wide transition area.

Daily administration of plan

For eight years, the archaeological plan has coexisted with substantial development activity in the Columbia South Shore. Through a collaborative effort, Bureau of Development Services and Bureau of Planning staff evaluate the potential impact of development permits on archaeological resources on two levels.

- In the Development Services Center, development proposals are checked for overlap with Zoning Code Map 515-6, Areas of Cultural [Archaeological] Interest, and Zoning Code Map 515-7, Areas of Required Confirmation Testing. For areas of archaeological interest, the applicant submits a request for records check.
- The request is forwarded to the Bureau of Planning, who reviews the confidential site records and issues a zoning confirmation response to the applicant, with a copy held in the Development Services Center. Some properties need additional auger probes to complete the required confirmation testing. A few other properties have recorded archaeological sites, which require some level of protection. The Bureau of Planning maintains a collection

of archaeological reports for the Columbia South Shore and manages a GIS map layer with the testing and site data. Staff also processes public requests to view site records on a need-to-know basis.

Provision for future amendments to plan

The archaeological plan is, by design, dynamic. It anticipates new archaeological studies, both required and voluntary. Required studies are called confirmation testing and are shown on Zoning Map 515-7. Whether required or voluntary, new studies may warrant amending the archaeological plan.

Possible outcomes of amending the archaeological plan include:

- Updating Zoning Code Map 515-7 to remove areas designated as "confirmation testing required" once the Bureau of Planning has certified through a zoning confirmation letter that adequate confirmation testing has occurred.
- Changing SHPO-recognized site boundaries. From an archaeological perspective, a site is never fully investigated. The SHPO archaeological permit process includes notification to recognized tribes.
- Newly discovered archaeological sites (guidance provided by SHPO archaeologist as to significance and site boundaries). If an archaeological site is discovered from required confirmation testing, the archaeological plan will protect that archaeological site. If an archaeological site is discovered as part of permitted construction activities, the archaeological site may be protected by state and/or federal requirements. The City's archaeological plan will not protect that site.
- Removing archaeological sites that are determined by SHPO to not be eligible for listing on the National Register of Historic Places (i.e., not significant). The City also recognizes traditional, sacred or cultural use sites as documented in writing by an appropriate Oregon tribe through a SHPO permit.

To amend the City's archaeological plan, the City Attorney advises that all of these situations require a legislative procedure. The archaeological plan consists of an inventory, an analysis and a recommended program.

New information prompting amendments

Through the year 2003, there have been required and voluntary archaeological studies in the archaeological plan area. The required confirmation testing has occurred on six properties. Another two archaeological studies have occurred on a voluntary basis, affecting two ownerships. These new studies, collectively, provide important new information. It is timely to consider responsive amendments to the archaeological plan.

Archaeological plan amendments

The City Council adopts Planning Commission's recommendation to replace the term "cultural" with "archaeological" throughout the City's archaeological plan. Those changes will be made now with the Zoning Code, and at the earliest practicable time with the full archaeological plan.

Archaeological Resources in Columbia South Shore

BACKGROUND AND IMPACT ASSESSMENT

More substantive amendments to the archaeological plan follow, in Chapters 1, 7, 8, 9, and 10. By chapter, those changes are:

<u>Chapter</u>	<u>changes</u>
1, Introduction	Describe process for inventory update
7, Archaeological Investigations	Describe methods and coverage for update
8, Goal 5 Inventory Sites	Amend list of confirmed archaeological sites
9, Analysis of Economic, Social, Environmental and Energy Consequences	Amend site-specific ESEE for Historic Lakes
10, Protection Plan Measures	Amend conclusion, make two minor code changes, and update Map 515-7

Zoning code amendments

The amendments to Chapter 10 will appear as text and map changes to Chapter 33.515 of the Zoning Code.

IMPACT ASSESSMENT FOR ARCHAEOLOGICAL PLAN AMENDMENTS

First Stage Assessment

The 2004 archaeological (cultural) plan amendments respond to important new information from archaeological studies. For two recorded archaeological sites, the Lead Archaeologist at SHPO concurs that changes should be made to site boundaries (for one site) and site significance (for the other site). It is timely to consider corresponding changes to the City's archaeological plan, to keep the state and city inventories in sync.

The archaeological plan amendments address new archaeological reports solicited by two property owners and a response letter from the lead archaeologist of Oregon SHPO. Both archaeological reports recommend changes to the archaeological sites, and the SHPO concurs with them both. This is also a good opportunity to make minor code amendments for clarity.

The archaeological plan amendments add to the resource inventory and directly affect development rules for several vacant industrial properties. The archaeological amendments will affect two property owners, three recognized Oregon tribes, the Oregon State Historic Preservation Office, and the Bureau of Development Services. The SHPO provided notice to the tribes of the two archaeological studies.

The archaeological amendments are a priority for action because the SHPO and City inventories are no longer in sync, and vacant industrial properties are affected. This is consistent with Comprehensive Plan Policy 5.10, which encourages economic development while protecting significant natural resources, including archaeological resources. The amendments will refresh the City's archaeological plan inventory and code, thereby saving staff time in plan review.

Second Stage Assessment

A regulatory fix is needed to fully respond to the two new archaeological studies. SHPO has concurred with the study recommendations, so the City's inventory should shift to match the changes. Staff presented two interim solutions to the owners, but the interim solutions do not

Archaeological Resources in Columbia South Shore

BACKGROUND AND IMPACT ASSESSMENT

maintain the correspondence between SHPO and City inventories. One interim solution is for each owner to negotiate a resource recovery plan with a tribe. Resource recovery plans involve a memorandum of understanding, as outlined in the Columbia South Shore Plan District.

To bridge the time until the legislative amendments become effective, the City has presented an acknowledgement of risk. This holds the City harmless until and if the legislative amendments take effect. These changes have had the same opportunity for public review that the rest of this policy package has had, including two sets of noticing, open houses and drafts. Additional noticing above and beyond normal noticing requirements was provided for the City Council hearings.

The archaeological amendments retain flexibility of the City's archaeological plan, including the resource recovery option. No additional staff resources are required to implement the amendments. In fact, the amendments may save staff time by refreshing the archaeological plan and clarifying code language. Stakeholders involved in the Archaeological Resources Plan have been notified of all open houses and hearings as part of the Policy Package #3 public outreach. A team of Bureau of Development Services and Bureau of Planning staff has and will continue to monitor the plan's implementation.

CHAPTER 1, INTRODUCTION

A new section is added to describe the public process used to update the archaeological plan through December 2003. As with the plan's original adoption, this update uses the City's legislative process.

CHAPTER 1: INTRODUCTION

PURPOSE [no change]

CULTURALARCHAEOLOGICAL RESOURCES DEFINED

[no change]

RELATION TO OTHER RESOURCE PLANNING PROJECTS

[no change]

PLAN AREA IN TRANSITION [no change]

AREAWIDE INVENTORY [no change]

USE OF CULTURALARCHAEOLOGICAL SITE RECORDS

[no change]

PUBLIC REVIEW PROCESS (FOR ORIGINAL PLAN)

[no change]

UPDATE PROCESS [new section]

In Spring 2004, an update of the archaeological plan was adopted using the City's legislative procedure (PCC 33.740). As part of Regulatory Improvement workplan: Policy Package 3, the amendments were discussed at two open houses (March 31, 2004 and May 5, 2004), and public hearings before the Planning Commission and City Council. Public notice was mailed to over 2,100 persons and three recognized tribal governments. In addition to the legislative notice list, the bureau sent notice to members of the original Cultural Resources Advisory Committee and Cultural Resources Technical Committee. On May 25, 2004, the Planning Commission heard from six persons.

City Council held a public hearing on July 28, 2004 to receive the Planning Commission recommendation and take public testimony. 8 persons provided testimony at the hearing, mostly about other subjects.

A unique feature of archaeological resources is the need to limit disclosure of site records (site boundaries and artifacts found). As with the archaeological plan's original adoption, the 2004 adoption involved review and adoption without viewing confidential site records.

ORGANIZATION OF THE PLAN [no change]

CHAPTER 7, ARCHAEOLOGICAL INVESTIGATIONS

Two of five sections change. A new section is added.

From page 85 of the original plan, add a subsection to describe the methods and coverage of confirmation testing and voluntary work on two known archaeological resource sites. The new archaeological work was conducted between April 3, 1996, and December 31, 2003. The work includes confirmation testing on six properties and voluntary archaeological work on two known archaeological resource sites.

Page 144 commentary

Amend Figure 9, Archaeological Testing Status Map, to reflect the updated confirmation testing areas. Six properties move from "Priority Locations for Confirmation Testing" to "Surface and/or Subsurface Testing July 1994 - December 2003."

Page 145 commentary

Amend Management Recommendations to reflect changes to the two archaeological sites as a result of the voluntary archaeological work of late 2003.

CHAPTER 7: ARCHAEOLOGICAL INVESTIGATIONS

This chapter presents an overview of archaeological research, field investigations, a land use model and general findings for the Columbia South Shore (plan area). The data is general in nature, in order to protect archaeological site locations. Recorded archaeological sites are identified by Smithsonian number system used by the State Historic Preservation Office (SHPO). For instance, 35 MU 70 refers to the 70th site to be recorded in Multnomah County (MU), in the state of Oregon (35). For more detailed findings of the areawide investigation, see the Goal 5 inventory descriptions (Chapter 8).

PREVIOUS ARCHAEOLOGICAL RESEARCH

~~This section describes the extent of knowledge about archaeological resources in the plan area prior to the City's 1994 investigation. Archaeological investigations were in this area have been carried out by archaeologists affiliated with Portland State University (PSU), the Oregon State Museum of Anthropology at the University of Oregon (OSMA), Heritage Research Associates, Inc. (HRA), and Archaeological Investigations Northwest (AINW). This section summarizes the extent of knowledge about archaeological resources in the plan area prior to the City's 1994 investigation.~~

~~The There have been~~ archaeological projects in the plan area that represent the three successive stages. The stages (site discovery, evaluation, and mitigation) are briefly described below. Appendix E provides more details on site discovery techniques.

1. Site discovery
Site discovery, also referred to as an archaeological survey, generally involves a systematic walkover of a property to locate evidence of past activity exposed on the ground surface. As evidence of occupation on floodplains tends to become obscured by deposition of sediments during seasonal floods, it has become common practice to supplement surface surveys with auger excavations in an effort to locate buried archaeological deposits.
2. Evaluation
Once archaeological materials and associated archaeological deposits are located, their definition and evaluation usually require controlled test pit excavations.
3. Mitigation
While conservation of archaeological resources is always the most desirable option, in cases where impacts to significant sites are unavoidable, these impacts may be mitigated through data recovery excavations.

Archaeological Resources in Columbia South Shore

ADOPTED PLAN LANGUAGE

The plan area received two large-scale archaeological surveys (in 1979 and 1989). More recent research has been initiated by property owners or developers. These project-driven projects involve surface surveys and testing to determine the significance of any archaeological resources identified. Some surveys led directly into testing and, in two cases, resulted in data recovery excavations.

The City's consultant reviewed data on all recorded sites and all site investigations conducted in the plan area prior to 1994. To place the plan area in its context, the consultant reviewed site investigations for the Blue Lake vicinity (to the east).

FINDINGS [no change]

LAND USE MODEL [no change]

1994 AREAWIDE FIELD INVENTORY

[no change]

FIELD INVENTORIES THROUGH 2003

[new section]

Provision for new studies

The archaeological plan anticipates that new information on the inventoried sites may be provided over time. Situations that may yield new information include:

- Results of confirmation testing, and
- Results of voluntary archaeological testing.

Either action may or may not identify new archaeological resource sites to receive protection by the archaeological plan. And, once confirmation testing is complete, Zoning Map 515-7 should be updated accordingly. This 2004 update of the archaeological plan reflects new information that was obtained in both types of ~~involves both~~ situations.

Confirmation testing

Between the archaeological plan's first adoption in April 1996 and December 2003, the Bureau of Planning issued zoning confirmation letters on six properties to recognize the completion of required auger testing. This confirmation testing accomplished requirements for 47 auger probes. There are 53 auger probes still to be completed. The proposed changes to Map 515-7 reflect this change.

Voluntary testing

In addition to required confirmation testing, two owners hired archaeological consultants to perform voluntary archaeological testing, resulting in recommended changes to two known archaeological resource sites in the archaeological plan. The archaeological resource sites are 35MU82 and 35MU26. Details of these studies are found in Chapter 8, Goal 5 Inventory Sites.

Due to the sensitive nature of archaeological site records, detailed site maps are kept confidential. However, the City shares site records on a need-to-know basis. Individual requests to view site records follow a non-disclosure agreement process.

Figure 9: Archaeological Testing Status Map [to be inserted in revised
Archaeological Resources Protection Plan for Columbia South Shore]

[This map to be updated to show confirmation testing completed through December 2003
and placed in the revised plan.]

UPDATED MANAGEMENT RECOMMENDATIONS

The archaeological investigations through December 2003 ~~1994 investigation~~ brings forward new information on the patterning and extent of archaeological sites in the plan area. The sum of these investigations yield these ~~Given this new information and existing state cultural resources law, the consultant makes six~~ observations and recommendations to the City of Portland:

1. Likelihood of site discovery. Most, if not virtually all, of the surface-evident archaeological sites within the project area have been discovered. Most of the sites remaining to be discovered within the South Shore will consist of buried ~~cultural~~ archaeological deposits.

Overall, the chance of encountering an archaeological site on any given acreage in the South Shore is relatively low. The nine confirmed sites are situated within a total of 13 acres, or 1.2 percent of the 1,100 acres between NE 138th and 185th Avenues. If the existing site inventory and the declining yield of discovered sites in recent years is representative, the likelihood of encountering a previously unrecorded site on any particular acre in the South Shore by archaeological sampling method would appear to be significantly less than 1 percent. This likelihood drops to well below 0.5 percent for the entire project area. While the presence of an archaeological site does not appear to be an imminent likelihood for most properties within the project area, the need for vigilance in the discovery and protection of archaeological sites remains.

2. Surface survey. It is estimated that less than 600 of the 1,700 undeveloped acres within the project area have not been covered by a pedestrian archaeological survey. In the rapidly developing eastern portion between NE 138th and 185th Avenues, approximately 200 acres remain unsurveyed. Roughly 70 percent of the 574 acres projected for development by the year 2015 have been surveyed. The source of this buildout schedule is the draft *Airport Way Secondary Infrastructure Plan*. The consultant recommendeds that previously unsurveyed parcels receive surveys on a lot-by-lot basis. These surveys may either be initiated during a property transaction or as a part of the City's permit review process.
3. Site discovery methods. Surface survey by itself is not an adequate method for site discovery. Nearly half of the confirmed archaeological sites in the South Shore were not marked by any surface evidence. Subsurface site discovery can be addressed 1) in advance of project disturbances (during a survey/site discovery project carried out by archaeologists), and/or 2) in the course of project implementation. It can be disruptive and expensive to discover a site after a development project has commenced. As a result, recent developments in the plan area have conducted surface surveys and auger probes at the front end. This approach is the best way to discover archaeological sites as early in the process as possible, so that significant ~~cultural~~ archaeological resources can be avoided or mitigated prior to initiation of project disturbances.

The auger and coring instruments commonly used by archaeologists can penetrate to a depth of approximately 2 meters (8 feet) from the ground surface, and are generally adequate for site discovery purposes. Any attempts to dig deeper using more sophisticated equipment (such as drill rigs and backhoes) would not only be more costly but would necessarily have to deal with the water table. Likewise, scanning techniques are generally quite costly, often provide ambiguous results, require additional subsurface testing for verification, and would most likely be foiled by the geologic composition of the floodplain. While it has been suggested that cultural archaeological remains as much as 6,000 years old could potentially be found in this area, it is speculated that such evidence would be deeply buried beyond the reach of standard archaeological discovery techniques, possibly lying as deep as 10-30 meters (33 to 99 feet) below the present surface.

Depths of 10-30 meters are occasionally reached during the course of project disturbances, including geotechnical borings, backhoe trenching, and site preparation. Monitoring of these disturbances by an archaeologist or other informed monitor after site construction has begun would provide an opportunity to supplement a pre-project survey. Although the monitoring of drilling and backhoe trenching has been conducted to a limited extent in the South Shore, the presence of cultural archaeological deposits below 8 feet has not yet been confirmed. If deeply buried sites are present, they are expected to be uncommon, but construction personnel and others should be alert to their possible occurrence.

4. Discovery probing. During the 1994 investigation, a number of tracts within the project area were intensively surveyed and probed for archaeological sites. The consultant ~~has~~ delivered to the Bureau of Planning a set of maps, east of NE 138th Avenue, (1 inch = 200 feet) that locate each probe excavated to date and confirmed site areas. Due to nonparticipating owners and budget constraints, some parcels were not intensively tested by subsurface means.

The consultant ~~recommendeds~~ small-scale probing of partially developed and/or partially investigated lots, depending on the nature and specific setting of future undertakings. The consultant ~~recommendeds~~ that the Bureau of Planning 1) consult the detailed maps of probe and site locations, and 2) consider subsurface probing of certain untested landforms. Three landforms to test include:

- a. areas within 100 feet of an historic slough bank;
- b. areas within 100 feet of Marine Drive; and
- c. areas within Zone 2 (15-20 feet elevation), particularly along historic ponds, lakes, or marshes

Further, the consultant recommends that any parcels excluded from the survey requirement (e.g., less than 5 acres undeveloped) should be monitored during ground disturbance activities to ensure that any unearthened archaeological sites are recorded.

5. Site discovery during project implementation. Project development will expose far more ground area than archaeologists can feasibly probe. Sites may be exposed during project construction. As a result, the Bureau of Planning should consider drafting, in consultation with the appropriate Tribes, measures similar in form and scope to those set forth in the "Memorandum of Understanding (MOU) for Interim Voluntary Cultural Resource Protection Measures" recently agreed to by the Columbia Corridor Association and the Confederated Tribes of the Grand Ronde Community. Elements of this MOU include an advance survey and discovery probing as appropriate, evaluation of identified resources, formulation of mitigation/avoidance options, education of in-field project personnel, and proper handling of Indian burial sites. These measures are intended to evaluate and protect or mitigate potentially significant resources that may be uncovered once a project is underway, as set forth in the Oregon statutes (Chapter 2, pages 16-18).
6. Protection of confirmed archaeological resources. As of February 2004, nineteen archaeological sites had been recorded in the Columbia South Shore. The site records vary in level of detail, and are refreshed as new archaeological work occurs. Before 1994, the primary method of study was surface surveys. Since 1994, the focus has been on subsurface studies (auger probes and trenches). Work has been conducted as part of the City's 1994 areawide investigation, more recent confirmation testing, and two voluntary studies conducted in late 2003.

For purposes of protection, the SHPO now considers seven of those sites to be significant or potentially significant (that is, they may qualify for listing on the National Register of Historic Places). Another two recorded sites (35 MU 57 and 35 MU 97) were determined to be significant, but no longer need protection because data was recovered and removed.

Seventeen of the recorded archaeological sites in Columbia South Shore came from archaeological work conducted before 1994. Since 1994, two new sites have been recorded—35 MU 103 and 35 MU 106. Nine of the original seventeen recorded sites are now considered non-significant sites (not eligible for federal listing). The two recent voluntary studies concluded that one recorded site (35 MU 26) is a non-site, and that site boundaries of another recorded site (35 MU 82) should change.

- ~~6. Protection of confirmed archaeological resources. Of seventeen known archaeological sites prior to this work, nine were confirmed. Of the nine confirmed archaeological sites within the plan area, the consultant considers one site (35 MU 99) to be non-significant due to lack of physical evidence. Of the remaining eight sites, one (35 MU 57) has been recorded and destroyed, and three (35 MU 97, 35 MU 58 and 35 MU 82) are within environmental protection zones. Only four potentially significant sites that remain in the Columbia South Shore are within undeveloped tracts: 35 MU 26, 35 MU 70, 35 MU 79, and 35 MU 103. In addition to private development, all four sites may be affected by municipal undertakings, such as road construction.~~

Although available data are limited, it appears that 35 MU 70 is of National Register quality. The auger probing suggests that 35 MU 70 has a significantly greater ~~cultural~~ density of artifacts than other sites investigated during the 1994 investigation. Further archaeological documentation will be necessary in order to formally assess this site. Of the nine confirmed sites in the plan area, this site appears to have the greatest potential for public interpretation of archaeological resources.

~~Two~~ ~~The remaining three~~ sites, while potentially significant, also require further archaeological testing in order to determine their integrity, extent, and significance. ~~Site 35 MU 26 is the largest site documented in the project area to date, but the integrity of its somewhat shallow deposit has been compromised to an unknown extent by cultivation.~~ Sites 35 MU 79 and 35 MU 103 appear to be quite small in area (0.1 acre each), but they may contain intact ~~cultural~~ archaeological features pertaining to task-specific activities that would make them significant.

~~If archaeological testing confirms their significance, it is recommended that steps be taken to maximize the protection of these four sites as appropriate to the fullest extent possible. Where protection in place is not feasible or appropriate, development of a data recovery plan by a qualified archaeologist is recommended, in consultation with the appropriate Tribes, the State Historic Preservation Office, the Bureau of Planning, and the property owner.~~

~~In summary, the consultant views~~ Extensive archaeological work, including the 1994 areawide inventory, confirmation testing, and two voluntary archaeological studies, have occurred in the Columbia South Shore. The City can manage some situations, but not discovery situations. The 1994 consultant recommends that developers contact the appropriate American Indian Tribes and the qualified archaeological community prior to ground disturbance.

TECHNICAL REVIEW

Original plan

~~The~~ For the original archaeological plan, the Bureau of Planning asked members of the Cultural Resources Technical Committee, the state archaeologist and participating Tribal governments to review preliminary work of the consultant. The technical committee includes an anthropology professor (Dr. Kenneth Ames), two federal archaeologists (Dr. Richard Hanes, Bureau of Land Management, and Lynda Waski-Walker, U. S. Army Corps of Engineers), two cultural resource advisors (Judith Basehore-Alef, consultant, and Lawrence Watters, counsel to Columbia River Gorge Commission) and representatives of City departments. Participating City departments include Portland Development Commission, Portland Office of Transportation, Bureau of Environmental Services and Bureau of Water Works.

The state SHPO archaeologist (Dr. Leland Gilson/SHPO) issued the areawide archaeological permit and maintains official site records. Current Tribal government representatives include Louie Pitt, Jr./Warm Springs, Robert Kentta/Siletz, and Janis Searles for Grand Ronde.

2004 update

To satisfy the City's requirements for confirmation testing, applicants submit reports from qualified archaeologists. The Bureau of Planning reviews the archaeological reports against the zoning code requirements for the number and spacing of auger probes. For certain developments, the applicant also secures an archaeological permit from SHPO. Such reports involve notice and review by the SHPO Lead Archaeologist and affected Oregon Tribes.

Both voluntary reports received SHPO archaeological permits. On January 27, 2004, Dennis Griffin, SHPO's Lead Archaeologist, issued a letter concurring with both report recommendations. In the case of site 35 MU 82, Mr. Griffin concurred with the amended recommendations of the contract archaeologist. Details of these reports, and SHPO's concurrence letter, are found in Chapter 8 of the archaeological plan.

CHAPTER 8, GOAL 5 INVENTORY SITES

One of six sections of this chapter changes.

From page 102 of the original plan, the inventory of Resource Site 1, Historic Lakes, is updated to reflect the SHPO concurrence for two archaeological resource sites—35 MU 82 and 35 MU 26.

Resource Location and Description

This is the eastern end of the Columbia South Shore, within the City of Portland. Across NE 185th Avenue (east) is the City of Gresham. Two other Goal 5 ~~archaeological~~cultural resource sites (identified in this report) abut this resource site. To the north is Area 2, River's Edge. Along the northwest boundary is Area 3, Columbia Slough. The northern boundary of Area 1 between NE 185th Avenue and the north-south section of Columbia Slough follows the current "sec" zone line.

Since 1917, the eastern slough arm has been disconnected from the Columbia River, and a number of marsh/meadow and grassland areas have been filled. Fields have been drained and filled to support agricultural crops, build the extension of NE Airport Way, and prepare buildable sites for industrial or commercial development. The Portland Office of Transportation (PDOT) built a wetland mitigation facility in a portion of the forested area north of Airport Way.

The impact area for Area 1 is the same as its boundary. Most of the site boundaries follow natural or manmade features that limit impacts from or to outside properties. The Columbia Slough is a natural feature which is also protected with one of the City's environmental zones. Manmade features include NE 185th Avenue (east), the Union Pacific railroad tracks (south), and property lines along the west (south of NE Airport Way).

Resource Quantity and Quality

At the beginning of the current project, the Historic Lakes contained ten recorded sites. This represents a majority of confirmed sites in the plan area. These early site recordings were based primarily on surface reconnaissance work, limited subsurface testing and historical accounts. It is now believed that there are ~~six-five~~ archaeological sites that meet SHPO guidelines--35 MU 57, 35 MU 58, 35 MU 79, 35 MU 82, and 35 MU 84.

The 1994 areawide investigation confirmed five archaeological sites in the Historic Lakes which meet SHPO guidelines. One of these confirmed sites (35 MU 26) is now considered non-significant. On November 25, 2003, Applied Archaeological Research issued Report No. 369. This evaluative study found the archaeological deposits "...are not significant or potentially significant and not eligible for listing in local, state or national registers." The Smithsonian numbers for confirmed sites follow: 35 MU 26, 35 MU 57, 35 MU 58, 35 MU 79, and 35 MU 84.

Another previously-recorded site, 35 MU 82, received new archaeological information in late 2003. On November 12, 2003, Archaeological Investigations Northwest issued Report No. 1235. The new work involves a review of previous archaeological studies of 35 MU 82 and the placement of fourteen auger probes. The AINW report recommends changes in the boundaries. On January 10, 2004, AINW amended the recommended site boundaries, in response to comments from SHPO's Lead Archaeologist, Dennis Griffin. ~~was not tested as part of the 1994 investigation because it was considered protected (zoned "p", for environmental protection).~~ This represents a majority of confirmed sites in the plan area.

The 1994 consultant found little or no evidence of subsurface ~~cultural~~archaeological materials on four other sites recorded in earlier surveys. For lack of subsurface evidence, previously-recorded sites 35 MU 35, 35 MU 77 and 35 MU 99 were determined ineligible for listing in the National Register of Historic Places. Site 35 MU 97 was found not intact, and not considered significant.

Conclusion

Sensitivity Area #1 contains significant cultural/archaeological resources and should be included in the City's Goal 5 Inventory. Five archaeological sites have been confirmed within the site, ~~and another site was not evaluated because it is presumed to be protected.~~ Individually, each site is just one component of a web of interconnected activities that are tied directly to the natural environment. As such, they impart a sense of what life was like in the past and how peoples adapted to their environment. As a collective, the cultural/archaeological resources in Site #1 provide an overall cultural context within which to understand how the individual sites relate to one another.

The site contains several key landform features that give it high probability for supporting traditional use practices. For example, the abundance and availability of subsistence resources exploited by American Indian peoples varied geographically and seasonally. Secondary sites (seasonal campsites) often served as extensions to villages for purposes of resource extraction and processing. Scientific and heritage resource values have been confirmed in the Historic Lakes. Based on the decision factors discussed earlier in this chapter, significant resources are located throughout Sensitivity Area 1.

Resource Site 2: River's Edge <i>[no change]</i>	Maps: 2240, 2241, 2341, 2342, 2443, 2444, 2445, 2545, 2546, 2547, 2548, 2549
Resource Site 3: Columbia Slough <i>[no change]</i>	Maps: 2439 - 43, 2542 - 8, 2646 - 9.

INVENTORY DECISIONS *[no change]*

SUMMARY *[no change]*

CHAPTER 9, ANALYSIS OF ECONOMIC, SOCIAL, ENVIRONMENTAL AND ENERGY
CONSEQUENCES

Two of five sections of this chapter change.

From pages 187 - 196 and 222 of the original plan, the analysis of Resource Site 1, Historic Lakes, is updated to reflect the SHPO concurrence for two archaeological resource sites—35 MU 82 and 35 MU 26. Specifically, references to site 35 MU 26 are dropped because the new archaeological report considers it not eligible for listing with the National Register of Historic Places.

**CHAPTER 9: ANALYSIS OF ECONOMIC, SOCIAL,
ENVIRONMENTAL AND ENERGY CONSEQUENCES OF
CULTURALARCHAEOLOGICAL RESOURCE PROTECTION**

CONFLICTING USES *[no change]*

THE ESEE PROCESS *[no change]*

**GENERAL ESEE CONSEQUENCES OF
PERMITTING, LIMITING OR PROHIBITING
CONFLICTING USES** *[no change]*

SITE SPECIFIC ESEE (BY SENSITIVITY AREAS)

The previous analyses considered general ESEE consequences common to all inventoried sites, both to the resource and to existing or potential land uses throughout the Columbia South Shore plan district. The next section provides a discussion of site-specific ESEE consequences for each of the three sensitivity areas identified in the Goal 5 culturalarchaeological resources inventory (Chapter 8).

The combination of these general and site-specific consequences is used to resolve conflicts between culturalarchaeological resource protection and other urban development. The conflict resolution is then used to arrive at conclusions regarding the level of resource protection needed for each identified culturalarchaeological sensitivity area. The conclusion provides the reasons to explain why decisions are made with regard to culturalarchaeological resource protection for inventoried sites in the Columbia South Shore.

SENSITIVITY AREA #1: THE HISTORIC LAKES
Economic, Social, Environmental and Energy Consequences

This section analyzes the consequences of protecting significant culturalarchaeological resources in Sensitivity Area 1 (Historic Lakes), and the consequences of allowing these resources to be degraded or destroyed. The analysis addresses four types of consequences: economic, social, environmental and energy. The general ESEE analyses found earlier in this chapter also apply to this sensitivity area, and are sharpened with this site analysis.

The Historic Lakes contains the following zoning categories: General Industrial (IG2), General Industrial zoning with Mixed Employment Comprehensive Plan Map designation, and General Employment (EG2). Environmental overlay zones also apply to many of the properties within the sensitivity area, including the more restrictive environmental protection ("p") zone. As stated in the conflicting use analysis, the "p" zoned areas and building setback areas limit potential conflicting uses.

As described in the inventory section (Chapter 8), this site contained a direct slough connection to the Columbia River, two large lakes surrounded by marsh/meadow areas, and open woodlands. Within a short distance of relatively high, open ground (grasslands), there was a diversity of productive habitats (riverine, riparian, lacustrine/palustrine, grasslands and brush). The diversity of habitat types suggests a broad range of house-building materials and food sources were available in close proximity. Watercourses (the slough system and Columbia River) connected the resource site with other habitat areas downstream of the Columbia Slough and to points up and down the Columbia River. Heritage and scientific values are supported throughout the Historic Lakes.

Of the three Goal 5 sensitivity areas, the Historic Lakes has received the most archaeological testing in terms of participating properties and extent of testing detail. As shown on Figure 9 of this report, all vacant properties in the Historic Lakes have been tested. For purposes of this analysis, no further confirmation testing is needed in Sensitivity Area 1. Further testing may be warranted for ground disturbance activities that alter, remove or destroy an archaeological site, and a state archaeological permit may be needed.

As a result of archaeological studies through 2003, The the City's consultant, Heritage Research Associates (HRA), concluded that the Historic Lakes contains seven archaeological sites of potential National Register status, a nationally-recognized measure of relative archaeological significance. Another four archaeological sites have been recorded within that area, but HRA does not consider these sites as significant. Of the seven "potentially significant" sites, one site was recorded and destroyed. The property owner repatriated the cultural/archaeological materials to the associated tribe.

Among the "significant" or "potentially significant" sites, five sites are seasonal campsites/task-specific activity areas and one site is a residential site/activity area. American Indian peoples may have been attracted to the Historic Lakes for ease of access to the Columbia River (using the Columbia Slough travel route), and the apparent abundance of subsistence resources in and around Duck Lake and Egg Lake. Burial sites may also exist within the Historic Lakes, although no human remains have been reported to date in this area.

The confirmed archaeological sites have been recorded at depths of between 30 centimeters (1-foot) and 200 centimeters (just over 6 - 1/2 feet). This vertical band of recorded cultural/archaeological material should not be construed as fully representative of all archaeological sites that may exist in Sensitivity Area 1. However, confirmation testing, combined with appropriate management of confirmed archaeological sites, serves to reduce the likelihood that an archaeological site is encountered by ground disturbance activities.

Auger testing provides only a sample of subsurface conditions, both horizontally and vertically throughout the sensitivity area. For instance, the typical horizontal spacing between auger probes is 30 meters (approximately 100 feet), although some probes were doubled up in certain locations. In addition, the hand-held auger probes most often used in this area do not extend beyond 8 feet in depth. Therefore, the range of recorded depths may elude some archaeological sites.

ECONOMIC CONSEQUENCES

This analysis considers the economic consequences of prohibiting, limiting or allowing conflicting uses within Sensitivity Area 1. The analysis takes into account several points.

First, there is a higher level of certainty about site locations here than in the two other sensitivity areas. In relative terms, the site boundaries are well-established. No further confirmation testing is recommended in Sensitivity Area 1.

Second, because no further confirmation testing is recommended, the upfront cost to an owner or prospective developer is reduced relative to other parcels where confirmation testing is needed. An owner has access to confidential archaeological site records at minimal cost. Sources for that information include the State Historic Preservation Office (SHPO), the Portland Bureau of Planning and qualified archaeologists. The SHPO archaeologist keeps the official site records for the state of Oregon. The Bureau of Planning holds a copy of the areawide archaeological inventory and individual investigations that have been submitted in the interim before this plan is adopted. Qualified archaeologists maintain archaeological reports and data from investigations, and can access SHPO records directly. The owner should expect to show evidence of current ownership and be prepared to sign a nondisclosure agreement, to verify the owner's intent and discourage the looting or destruction of archaeological sites.

Third, confirmation testing through the City's areawide inventory has resulted in redrawing previously-recorded site boundaries or redefining the potential significance of an archaeological site on the basis of limited subsurface testing. In some cases, new site boundaries are smaller than the original site boundaries. For example, Site #35 MU 79 dropped in size from approximately three acres to one-tenth of an acre. Not all sites experienced this drastic shrinkage, though, and the potential exists for enlarging old site boundaries or even discovering a new archaeological site. Either way, confirmation testing serves to give a more accurate picture of the presence of ~~cultural~~archaeological resources on a given property.

Fourth, confirmation testing may help to define what Indian use pattern the archaeological site represents. For purposes of this plan, sites are classified into burial sites, village sites and seasonal campsites/activity areas. By knowing the type of archaeological site, the owner will know better how to manage that resource.

Fifth, several confirmed archaeological sites in the Historic Lakes are entirely zoned for environmental protection ("p" zone) or environmental conservation ("c" zone). ~~Three~~ Two confirmed archaeological sites have the "p" zone, which provides a high level of protection and limits the potential conflicting uses. Another confirmed archaeological site falls entirely within the "c" zone which provides partial protection to archaeological sites by limiting conflicting uses. The "c" zone allows development with some limitations.

In summary, the Historic Lakes holds the majority of confirmed, potentially significant archaeological sites of the plan district. Of seven archaeological sites that are potentially significant, ~~three~~ two sites have "p" zone protection and one site was recorded and destroyed. The three other sites include a site that is entirely zoned for environmental conservation ("c" zone).

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A brief profile of the one "c" zoned site and ~~two-one~~ "unprotected" site within Sensitivity Area 1 follows. To ensure confidentiality of the archaeological sites, affected development sites are not identified by owner or legal description. The Bureau of Planning has offered to show the results of the City's archaeological investigation to owners who provided access for the fieldwork.

35 MU 79

As described above, the City's areawide investigation resulted in new site boundaries for the archaeological site known as 35 MU 79. The 0.1-acre site lies entirely in a "c" zone, and is not close to streets identified in the *Airport Way Secondary Infrastructure Plan* (SIP). ~~Cultural~~Cultural/Archaeological materials have been identified at depths of 30 to 50 centimeters (approximately 1 foot to 2 - 1/2 feet). Therefore, the site is vulnerable to most ground disturbance activities.

35 MU 84

This 1.0-acre archaeological site is zoned IG2 and is not protected with the "p" zone. Based on the SIP, no secondary streets are planned in the vicinity of this archaeological site.

35 MU 26

~~This 4.5-acre archaeological site is zoned IG2 and is not protected with the "p" zone. As indicated in Chapter 7, this archaeological site has been altered by cultivation activities that have compromised the site's integrity. The SIP shows that a secondary road bisects this site. The SIP was adopted by resolution with the understanding that more archaeological work is needed for any public facilities that impact an archaeological site. The staff report on SIP stated that the proposed alignments of two secondary roads impact archaeological sites. Affected City service bureaus are aware of the state archaeological permit law and have reviewed results of the City's areawide archaeological investigation.~~

Full Protection of Significant Resources

Of the ~~six-five~~ intact, significant archaeological sites in the Historic Lakes, ~~four-three~~ are already fully or partially protected with an environmental zone. Full resource protection will not reduce the development potential or market value of the affected properties, but will ensure protection of significant ~~cultural~~cultural/archaeological resources. From the resource standpoint, full protection of a ~~cultural~~cultural/archaeological resource site within the Historic Lakes has incalculable ~~cultural~~cultural/archaeological economic value. ~~Cultural~~Cultural/Archaeological resource sites from the pre-contact period are irreplaceable. Their integrity is diminishing as historic use areas in the lower Columbia River basin are destroyed with development. The closest form of replacement value comes with detailed archaeological investigation and recording, and possible repatriation of ~~cultural~~cultural/archaeological materials to the appropriate tribe.

As stated earlier, full protection means completing archaeological "confirmation testing" for that development site; no ground disturbance of confirmed archaeological sites; and some level of protection for adjacent transition areas. It should be noted, no further confirmation testing is required within the Historic Lakes.

The two other archaeological sites, currently unprotected by City zoning, involve economic tradeoffs. In the case of 35 MU 84, full resource protection involves either followup archaeological testing (intensive, small area) or the design of a project to incorporate the archaeological site into required on-site landscaping. Site 35 MU 84 is located near significant natural resources (zoned "p"), which adds to its heritage value. Full resource protection may ensure site protection rather than destruction. In short, full protection of 35 MU 84 has slightly negative effects on the conflicting use but strongly positive effects on the resource.

~~As for Site 35 MU 26, the potential economic effects on conflicting uses are neutral to negative. Potential conflicting uses include a secondary road (that would extend street and other utilities to development sites) and industrial uses. The ultimate alignment of the secondary road affects the possible layout of buildings, parking lots, utility extensions and other ground disturbance activities on affected development sites. In this particular case, it would be hard to realign the planned secondary road to fully avoid site boundaries. Instead, followup archaeological work is needed, with possible recovery of cultural materials to make way for the roadway. The economic effect of full protection (avoidance) is strongly negative on the conflicting use, but positive on the resource.~~

No Protection of Significant Resources

As stated earlier, no protection means no further archaeological confirmation testing for development sites, no special restrictions on ground disturbance activities, and no special restrictions on adjacent transition areas.

With no ~~cultural~~ archaeological resource protection, the ~~four~~ three environmental zoned archaeological sites would still receive protection for natural resource values. The economic effect on the remaining ~~three~~ four sites is to diminish open space and tourism-related benefits because the heritage information would be lost, and could not be used as a marketing tool by businesses and industries. For the conflicting use, no ~~cultural~~ archaeological resource protection has neutral effects.

Limited (Partial) Protection of Significant Resources

As stated earlier, partial protection means completing archaeological "confirmation testing" for that development site; partial ground disturbance of confirmed archaeological sites and/or recovery of associated ~~cultural~~ archaeological materials; and some level of protection for adjacent transition areas. The environmental zoning that covers ~~four~~ three archaeological sites in the Historic Lakes reflects a City policy decision to protect significant natural resource values. There are limited conflicting uses allowed in the environmental zones, and the economic benefits on the resource outweigh any economic benefits to conflicting uses.

For the currently unprotected sites (35 MU 84 ~~and 35 MU 26~~), partial protection recognizes the need for a flexible approach to site management while retaining some resource values. Partial protection allows an applicant to place some ground disturbance activities near or over the archaeological site, which moderates the economic effects on conflicting uses. Both unprotected sites in the Historic Lakes are seasonal campsites or activity areas.

Economic Recommendations for the Historic Lakes

From an economic standpoint, full protection of archaeological sites with a "p" or "c" zone supports open space and tourism while presenting minimal economic effect on conflicting uses that are already limited by environmental zoning designations. For sites 35 MU 84 and 35 MU 26, partial protection will retain some resource-related economic values while allowing development flexibility for conflicting uses.

SOCIAL CONSEQUENCES

This analysis considers the social consequences of prohibiting, limiting or allowing conflicting uses within Sensitivity Area 1 (the Historic Lakes). All intact archaeological sites in this area are described as seasonal campsites or activity areas.

Full Protection of Significant Resources

Full resource protection means completing archaeological confirmation testing for the development sites identified above, no ground disturbance of confirmed archaeological sites, and some level of protection for adjacent transition areas. This action protects significant ~~cultural~~archaeological resources and associated heritage and scientific values identified in the site inventory. The social consequences on the resource are strongly positive. From the conflicting use standpoint, full protection has positive effects for adding to the quality of life for employees and providing an identity of place. Certain target industries and marketing plans are attracted by natural and recreational amenities as described in the general economic analysis earlier. Such attractions include the Columbia Slough and associated recreational trail system, which are found in the Historic Lakes.

No Protection of Significant Resources

As stated earlier, no protection means no further archaeological confirmation testing for development sites, no special restrictions on ground disturbance activities, and no special restrictions on adjacent transition areas. No protection results in the loss of significant ~~cultural~~archaeological resources and associated heritage and scientific values identified in the site inventory (Chapter 8). The social consequences on the resource are strongly negative. For conflicting uses, there is a loss of social connection to the work environment and associated open space.

Limited (Partial) Protection of Significant Resources

Limited (or partial) protection means completing archaeological confirmation testing on development sites, allowing partial ground disturbance of confirmed archaeological sites and/or recovery of associated ~~cultural~~cultural/archaeological materials, and some level of protection for adjacent transition areas. The limited (partial) protection option does not match the ~~four~~three sites already fully zoned for environmental protection or conservation. There are limited conflicting uses allowed in the environmental zones, and the social benefits accrue to the resource and to conflicting uses.

For ~~the two~~ unprotected site (35 MU 84 ~~and 35 MU 26~~), partial protection recognizes the need for a flexible approach to site management while retaining some resource values. Partial protection allows an applicant to place some ground disturbance activities near or over the archaeological site, given that both unprotected sites in the Historic Lakes are seasonal campsites or activity areas.

Social Recommendations for the Historic Lakes

The net social consequences of ~~cultural~~cultural/archaeological resource protection in the Historic Lakes are positive for the resource and for conflicting uses. All intact archaeological sites in this area benefit from full or limited protection. To fully protect heritage values, the owner or developer should consult with the associated tribes when intending to recover or remove ~~cultural~~cultural/archaeological materials. Federal and State statutes may also apply. ~~Partial protection of site 35 MU 26 is appropriate because the heritage and scientific values associated with the site have been compromised by past cultivation practices. The no protection option has a strong negative effect on the resource, and is not needed to allow reasonable development potential.~~

ENVIRONMENTAL CONSEQUENCES *[no change]*

ENERGY CONSEQUENCES *[no change]*

Figure 18: Conflict Resolution Summary Table for the Historic Lakes Sensitivity Area

**Recommended Level of Protection
Based on ESEE Factors**

Goal 5 Sensitivity Area	Location	Economic	Social	Environmental	Energy	Decision
Area 1: Historic Lakes	Areas within environmental protection ("p") zone	Full	Full	Full	Full	Full ¹
	Areas within conservation ("c") zone	Partial	Full	Full	Full	Partial
	Site 35 MU 84	Partial	Full	Full	Full	Partial
	Site 35 MU 26 82	Partial	Partial Full	Full	Partial Full	Partial

¹ Areas with environmental protection, "p" zone" already receive full protection.

RESOURCE SITE #2: THE RIVER'S EDGE [no change]
Economic, Social, Environmental and Energy Consequences

RESOURCE SITE #3: COLUMBIA SLOUGH [no change]
Economic, Social, Environmental and Energy Consequences

CONFLICT RESOLUTION AND RECOMMENDATIONS

[no change]

This chapter discussed the significant culturalarchaeological resources and associated resource values within the Columbia South Shore plan district. There are important culturalarchaeological resource values area-wide (common to all culturalarchaeological resource sites or multiple sites) as well as site specific (limited to individual resource sites).

Protection of area-wide values would require more than one site to be protected. Examples of area-wide values are heritage values, scientific values, recreational opportunities, flood storage and wildlife corridors. Site-specific values are local in nature. Examples of site-specific values include environmental setting, heritage and scientific values associated with individual sites and natural resource functions.

Protection of a culturalarchaeological resource value can apply to a single site or a group of sites, depending on the type of value and balancing of conflicts between a resource site and conflicting uses through the analysis of economic, social, environmental and energy consequences as summarized in the previous sections. The preceding analyses provide the rationale for decisions made regarding culturalarchaeological resource protection for inventoried sites and sensitivity areas in the Columbia South Shore. Any of the following three decisions can be made for culturalarchaeological resource sites identified within each sensitivity area:

- 1. Protect the resource fully.** This action occurs in areas where the resource, relative to conflicting uses, is sufficiently important that the resource should be protected. Conflicting uses are allowed elsewhere on the development site.
- 2. Limit the conflicting uses in a manner which protects the resource.** This action occurs in areas where both the resource and conflicting uses are important relative to each other, and restrictions are placed on conflicting uses which would protect identified resource values while at the same time allowing some or all conflicting uses on the development site.
- 3. Allow the conflicting use fully.** This action occurs in areas where conflicting uses, notwithstanding the impact on the resource, are sufficiently important to warrant being allowed fully and without culturalarchaeological resource-related restrictions.

Figure 22 lists the sensitivity area sites, their location and a summary of the conclusions and decision on each culturalarchaeological sensitivity area regarding culturalarchaeological resource protection. The recommendations for each of the four ESEE factors considered are listed. "Full" designates full protection, "limited" designates limited protection and "none" indicates no protection. The final column lists the recommended decision on the level of culturalarchaeological resource protection for each sensitivity area. Figure 22 serves as the basis for the culturalarchaeological resource protection plan contained in Chapter 10.

CHAPTER 10, PROTECTION PLAN MEASURES

Figure 22 displays results of the Goal 5 analysis, called "conflict resolution". Two 2003 archaeological studies affect Resource Site 1, Historic Lakes.

Figure 22: Conflict Resolution Summary Table for Cultural Archaeological Resources in the Columbia South Shore
Recommended Level of Protection Based on ESEE Factors

Sensitivity Area	Location	Economic	Social	Environmental	Energy	Decision
1: Historic Lakes	Sites 35 MU 58, 35 MU 82, and 35 MU 97 (All within "p" zone)	Full	Full	Full	Full	Full ¹
	Site 35 MU 79 (All within "c" zone)	Partial	Full	Full	Full	Partial
	Site 35 MU 84	Partial	Full	Full	Full	Partial
	Site 35 MU 82 & 26	Partial	Full Partial	Full	Full Partial	Partial
2: River's Edge	Columbia River frontage (north of Marine Drive)	Partial	Full/burial, villages, and traditional, sacred or cultural use sites Partial/seasonal sites	Full	Full	Full/burial Partial/all other cultural resources
	Marine Drive levee	Full	Full/burial, villages, and traditional, sacred or cultural use sites Partial/seasonal sites	Full	Full	Full/burial Partial/all other cultural resources ²
	Areas south of levee toe of slope	Full or partial	Full/burial, villages, and traditional, sacred or cultural use sites Partial/seasonal sites	Full	Full	Full/burial Partial/all other cultural resources ²
3: Columbia Slough	Areas within environmental protection ("p") zone	Full	Full	Full	Full	Full ¹
	Areas within environmental conservation ("c") zone	Full	Full/burial, villages, and traditional, sacred or cultural use sites Partial/seasonal sites	Full	Full	Full/burial Partial/all other cultural resources ²
	Areas adjacent to "p" or "c" zone	Full or partial	Full/burial, villages, and traditional, sacred or cultural use sites Partial/seasonal sites	Full	Full	Full/burial Partial/all other cultural resources ²

¹ Areas with environmental protection ("p") zone already receive full protection.

² Partial protection involves consultation with appropriate tribes.

CHAPTER 10, PROTECTION PLAN MEASURES

Two of seven sections change.

From pages 229, 230, 253 and 255 of the original plan, three types of changes are made to reflect the archaeological work between 1996 and 2003:

- Updating the number of properties that are affected by the archaeological plan (per the ESEE analysis--still needing confirmation testing or with a archaeological resource);
- Making two minor code changes; and
- Updating Map 515-7.

CHAPTER 10: PROTECTION PLAN MEASURES

INTRODUCTION *[no change]*

GENERAL SUMMARY OF GOAL 5 PROCESS

The Columbia South Shore plan district contains three identified cultural sensitivity areas. Development pressure is high in the district and threatens to degrade identified cultural resource sites and their associated heritage and scientific values. Measures are needed to limit and in certain areas prohibit conflicting uses so that development can be allowed to continue without degradation or loss of identified cultural resources.

Statewide Planning Goal 5 requires that jurisdictions protect cultural resources found to be significant. The administrative rule for Goal 5 requires that the jurisdiction conduct an inventory to determine the location, quality and quantity of such resources. Chapter 8 of this report provides the results of the inventory conducted in the Columbia South Shore plan district.

Next, local governments are required to analyze economic, social, environmental and energy consequences of resource protection. Chapter 9 provides a detailed analysis of the economic, social, environmental and energy consequences of permitting, limiting or prohibiting conflicting uses. Impacts on both the resource by conflicting uses, and conflicting uses by the resource, are considered and resolved. The chapter concludes with a discussion of recommendations for each of the four ESEE factors considered, including the level of resource protection needed for each cultural sensitivity area.

The program recommendations addressed in this chapter are intended to meet Goal 5 requirements. This chapter contains the policies, objectives and regulations necessary to implement the required protection of significant Goal 5 resources within the Columbia South Shore plan district. This protection plan is based on resolution of the conflicts between uses as identified in the detailed ESEE analysis.

~~The *Cultural Resource Protection Plan for the Columbia South Shore* (CRPP) serves as a local resource plan intended to complement~~ archaeological plan complements the state archaeological program, and provides more certainty ~~of cultural resource protection in the Columbia South Shore~~ than occurs with the state archaeological process. The state archaeological process is permit oriented whereas the ~~CRPP~~ archaeological plan is outcome oriented. The ~~CRP~~ archaeological plan provides a decision making framework for levels of cultural resource protection and balances the impacts of protecting a cultural resource site with the impacts of allowing a conflicting use.

Owners and developers are encouraged to consult early with state and federal agencies, and with affected tribes. Some state and federal requirements exceed the City's archaeological plan. Due to constraints imposed by the current Goal 5 administrative rule, this plan does not address discovery situations. A discovery situation occurs when cultural materials are encountered during project construction. For example, a backhoe operator might unearth bones or a band of charcoal with stone flakes. Currently, the state archaeological permit program provides guidance for discovery situations. ~~However, with revisions to the Goal 5 administrative rule pending, local governments may have a role in discovery.~~

The Oregon archaeological permit program has undergone changes through the last few years such that private lands are now subject to the permit process. During the last

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legislative session, the program was further modified to apply the permit process upon disturbance of an archaeological site, whether intentional or not.

Given the context of the changing regulatory permit process, the Cultural Resources Protection Plan adds value by:

- 1) bringing together disparate stakeholders to increase understanding and forging work relationships;
- 2) adding to the knowledge base of archaeological sites and past Indian use; and
- 3) providing more certainty of archaeological site locations and their management because the City is a source of site records and this plan sets out clear and objective standards.

PROGRAM OPTIONS *[no change]*

CONCLUSION

The ESEE analysis states that full and partial protection levels are needed for the ~~cultural~~ archaeological resources program. From the conflicting use analysis, it is clear that the City cannot rely on acquisition to protect all archaeological sites. Since this plan limited to the Columbia South Shore plan district, the most direct way to tailor zoning regulations is to amend the plan district zoning regulations. Plan district amendments address the environmental zones, particularly the effect of "p" zone boundary changes that would remove current protection to archaeological sites. The code amendments may make use of conservation easements to assure certain protections without disclosing site locations. The City should also encourage acquisition as a means to limit conflicting uses.

In addition, a concern about ~~cultural~~ archaeological resource protection has been what would be the economic impact on affected properties within the plan district. This concern comes from two perceived uncertainties with regard to the Columbia South Shore. First, how many properties require further confirmation testing and, second, how will the plan address management of properties with confirmed archaeological sites. Figure 24, shown below, addresses each uncertainty and quantifies the actual number of affected properties.

It is important to note that the areawide archaeological investigation has been able to reduce the areas subject to Goal 5 analysis and possible resource protection. The resulting three sensitivity areas cover approximately 600 acres (out of a possible 2,800 acres). Some of this acreage is excluded from further analysis if fewer than five acres of vacant land is available. Thus, close to 2,200 acres of the plan district lie outside the sensitivity areas, and are excluded from further analysis.

Furthermore, the figure identifies the overlap between confirmed archaeological sites, environmental ("p" or "c") zones and properties subject to proposed ~~cultural~~ archaeological resource protection measures. Protection measures include confirmation testing to fill in gaps in subsurface probes and protection measures that address management of confirmed archaeological sites. As can be seen in Figure 24, a total of ~~8~~ 13 properties need further confirmation testing and only nine properties contain confirmed archaeological sites, for a total of ~~17~~ 22 affected properties. In summary, the ESEE analysis establishes the importance of providing some level of protection for affected properties while allowing substantial development opportunities.

Figure 24: Properties Affected by Cultural Archaeological Resources Protection Plan

Sensitivity Area	Properties ¹ Needing Further Confirmation Testing			Properties With Confirmed Archaeological Sites ²		
	All "p" zone ³	Partial "p" zone	No "p" zone	All "p" zone	Partial "p" zone	No "p" zone
Area #1 Historic Lakes	0	0	0	0 3	1 0	3 4
Area #2 River's Edge	0	0	1 4	0	0	2 1
Area #3 Columbia Slough	3 4	4	1	0	1 0	0 1
Totals	3 4	4	2 5	0 3	2 0	5 6

- 1 "Properties" means development sites, or platted parcels with 5 or more acres of undeveloped area.
- 2 "Confirmed archaeological sites" means sites identified by Heritage Research Associates as containing evidence of Indian use and having potential National Register status.
- 3 "P" zone refers to the environmental protection zone, as shown on official zoning maps.

The City's archaeological plan should closely correspond with the state archaeological inventory. The City's protection measures should make use of SHPO's recorded site records.

This plan anticipates new archaeological studies, and periodic updates of the plan to maintain the close correspondence between state and City inventories. Some of the studies may be required to complete a minimum level of subsurface testing in high probability areas. Other archaeological studies may be initiated voluntarily. A first step is for the SHPO archaeologist to issue a letter concurring with recommended changes to an archaeological site's status—its significance or site boundaries.

The implementation measures addressed in this chapter include:

- **An amendment to Portland's Comprehensive Plan Goals and Policies**, to reflect completion of the Cultural Archaeological Resources Protection Plan;
- **Adoption of the Cultural Archaeological Resources Protection Plan Policies and Objectives**;
- **Amendments to Title 33, Planning and Zoning**, to implement the Cultural Archaeological Resources Protection Plan; and
- **Amendments to the Official Zoning Maps**, to apply the cultural archaeological resources protection zones to designated resource areas and to remove the Interim Resource Protection Zone ("sec").

**AMENDMENTS TO COMPREHENSIVE PLAN
GOALS AND POLICIES** *[no change]*

AMENDMENTS TO OFFICIAL ZONING MAPS *[no change]*

Zoning Code Amendments Commentary follows on next page.

ZONING CODE AMENDMENTS - CASCADE STATION 33.508 AND COLUMBIA SOUTH SHORE 33.515

In both Chapter's 33.508 and 33.515 and any maps within those sections, the word "cultural" is replaced with the word "archaeological," which better defines the resource being protected.

The code changes address two situations in Columbia South Shore:

- 33.515.262.G.4.j deleting Item j, which appears to conflict with Table 515-1. The archaeological plan intended to allow parking lots and vehicle circulation areas in transition areas of certain archaeological sites (seasonal campsites and activity areas), but not in the resource areas of those sites.
- 33.515.262.G.6.c. clarifying that resource recovery plans are flexible enough to remove archaeological materials, or to build closer to the archaeological resource areas than otherwise allowed. To qualify, the applicant must sign a memorandum of understanding with a tribe.

Note that map 515-7 (2 of 2) is also changing within the Zoning Code.

AMENDMENTS TO TITLE 33, PLANNING AND ZONING *[excerpt
of proposed 2004 code amendments, below]*

**AMEND CHAPTER 33.508, CASCADE STATION/PORTLAND INTERNATIONAL CENTER
PLAN DISTRICT**

AMEND CHAPTER 33.515, COLUMBIA SOUTH SHORE PLAN DISTRICT

*Within Chapters 33.508 and 33.515, replace the word “Cultural” with the word
“Archaeological”.*

33.515.262 Cultural Resource Protection

A-F [No change.]

G. Protection of identified cultural resources.

- 1 – 3. [no change.]
4. Except for cultural resource areas of burials, the following ongoing and low-impact activities are allowed in cultural resources and transition areas:
 - a. Maintenance, repair, and replacement of existing structures, exterior improvements, roads, and utilities when the activity does not enlarge the ground disturbance area horizontally or vertically;
 - b. Lawns and landscape areas, including the installation of new irrigation and drainage facilities, and new erosion control features;
 - c. Change of crop type or farming technique on land currently in agricultural use;
 - d. Alterations of buildings which do not increase building coverage and meet all development standards of the base zone;
 - e. Operation, maintenance, and repair of the following existing facilities: irrigation systems, drainage facilities and conveyance channels, stormwater detention areas, pumping stations, erosion control and soil stabilization features, and pollution reduction facilities. Maintenance of drainage facilities includes the dredging and channel cleaning of existing drainage facilities and vegetative maintenance within the minimum floodway cross section of drainageways where all spoils are placed outside environmental zones and sensitivity areas;
 - f. Removing a tree listed on the Nuisance or Prohibited Plant Lists;
 - g. Construction of the Columbia Slough recreational trail, as identified in Section 33.515.260 of this chapter;
 - h. Planting of native vegetation listed on the Portland Plant List when planted with hand-held equipment; and
 - i. Public street and sidewalk improvements that do not enlarge the ground disturbance area horizontally or vertically; ~~and~~
 - j. ~~Placement of new fill material and construction of a parking lot or vehicle circulation area provided only prior fill material is removed and spill containment is provided.~~
5. [no change.]

Archaeological Resources in Columbia South Shore

COMMENTARY

See previous Commentary page for explanation.

6. Cultural resource recovery. This regulation applies to all cultural resource and transition areas of Table 515-1 that have an "MOU." For villages; seasonal campsites; activity areas; and traditional, sacred, or cultural use sites, the applicant must protect the cultural resource areas either by prohibiting all ground disturbance activities or complying with a private agreement for cultural resource recovery, as stated in this paragraph.
- a-b. [No change.]
- c. A cultural resource recovery plan ~~involves~~ allows for the removal of cultural materials following an archaeological evaluation, a consultation process with appropriate Oregon tribes, and a private agreement (Memorandum of Understanding) between the applicant and tribes. Each step is described below.
- (1) Archaeological evaluation. A detailed archaeological evaluation must be completed. The evaluation must be conducted by a qualified archaeologist. The evaluation must meet standards of the SHPO for cultural resource recovery projects.
 - (2) Consultation with appropriate tribes.
 - The applicant must contact the appropriate tribes for the area, by registered or certified mail, to request comments on archaeological testing and offer a meeting. The Commission on Indian Services determines the appropriate Oregon tribes to be consulted.
 - The tribes should reply to the contact within 14 days and hold a meeting within 30 days of the date of the initial contact. If the appropriate tribes do not reply within 30 days, the applicant may apply for a state archaeological permit and implement the terms of that permit without further delay. The tribes may schedule the meeting with a tribal council, one of its committees, or designee.
 - The purpose of the meeting is to allow tribal representatives and the applicant to review archaeological test results and discuss the cultural resource recovery plan. More than one meeting may be held.
 - After the meetings, and before applying for a building permit, the applicant must send a letter to the tribal governments. The letter will explain any changes in the project's design and cultural_resource recovery plan since the date of the last meeting.
 - (3) Development of a Memorandum of Understanding (MOU). The applicant must develop a Memorandum of Understanding (MOU) signed by the applicant, the property owner, and at least one appropriate Oregon tribe. The MOU must specify the care and disposition of any cultural materials recovered on the site. The MOU must also specify how the parties will communicate and how on-site monitoring will proceed during project construction.

H. Application, Review, and Inspection. [No change.]

AMEND MAP 515-7, FOR THE COLUMBIA SOUTH SHORE PLAN DISTRICT

2b) Adopt new Maps 515-6 and 515-7 for the Columbia South Shore Plan District

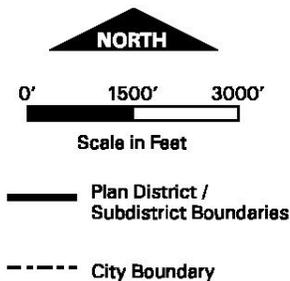
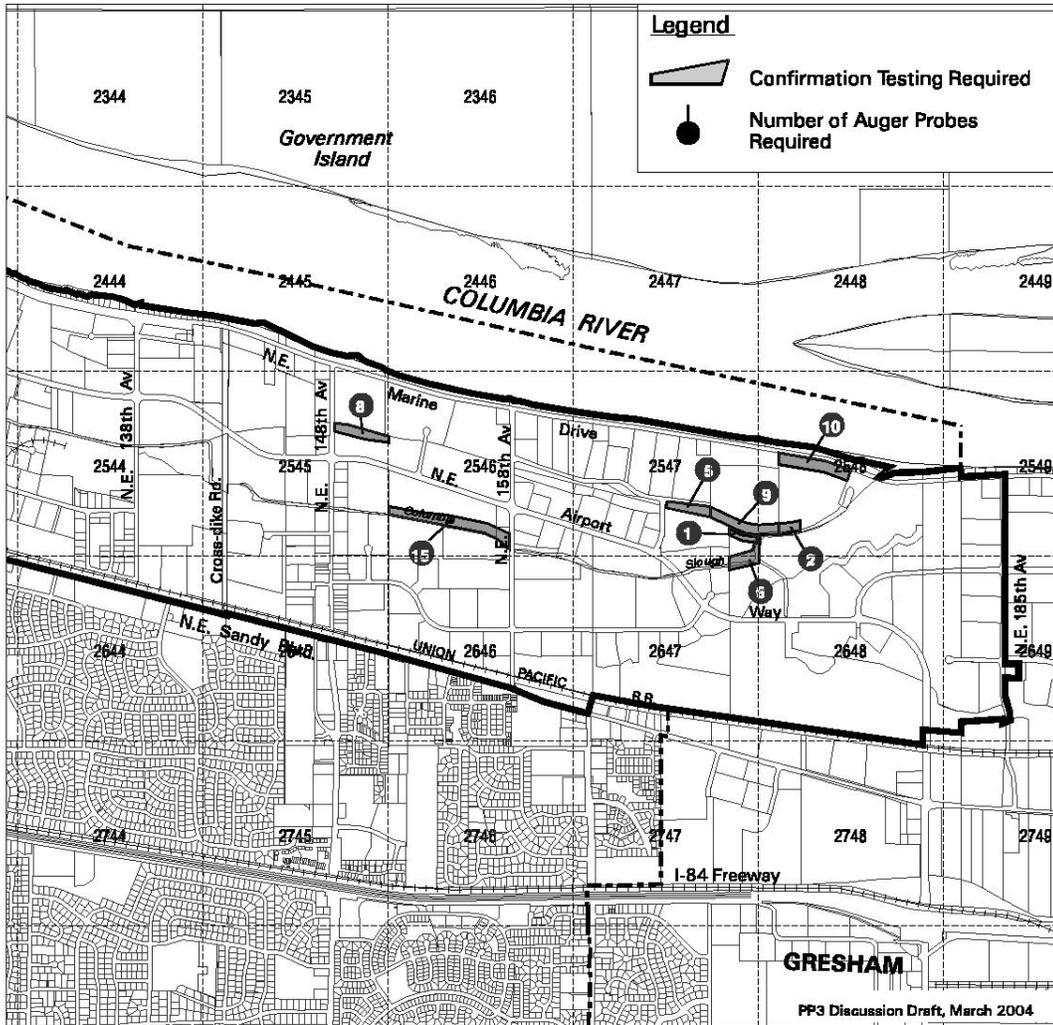
As a result of City Council adoption of the *Cultural (Archaeological) Resources Protection Plan for Columbia South Shore*, the following two maps appear at the end of the Columbia South Shore plan district. Map 515-6 shows areas within the plan district of relatively high probability of encountering a archaeological resource (Indian use site) during project construction. Properties in the archaeological sensitivity areas either contain an identified archaeological resource, areas needing further confirmation testing, or are located so close to an identified archaeological resource on nearby property that removal of the property from the archaeological sensitivity areas would jeopardize resource locations. For more details of archaeological sensitivity areas, see Chapter 8 of this report. The only change affecting Map 515-6 is the replacement of the word "cultural" with "archaeological."

Map 515-7 identifies areas that need further archaeological testing to assess the presence of archaeological resources. For each area, the number of subsurface auger probes is shown in a black circle. The Bureau of Planning will keep track of confirmation testing and remove the map designations upon completion of recommended confirmation testing requirements in the plan district (PCC 33.515.262.D.6).

On June 5, 1996, City Council amended Map 515-7 to recognize the completion of confirmation testing which was in progress on two properties. Sample testing on those properties occurred during the later stages of public review of this plan. Map 515-7 reflects this amendment.

Between June 1996 and December 2003, confirmation testing was completed on six properties. Map 515-7 also reflects this new work.

Note: Map 515-7 (page 1 of 2) does not change; only the second page is changing, shown on the next page.



Map 515-7

Columbia South Shore Areas Where Confirmation Testing is Required

Map 2 of 2

Bureau of Planning • City of Portland, Oregon

HISTORIC DESIGN REVIEW APPROVAL CRITERIA

BACKGROUND

The intent of this alteration is to change the title of **PCC 33.846.060.G, Approval criteria based on the Standards of the Secretary of the Interior**, and to add introductory language to the beginning of the subsection. The changes are required for clarification purposes. The following discussion provides a context for understanding The City Council's decision.

In 1991, the City of Portland's Comprehensive Plan went under mandated periodic review for compliance with statewide planning Goal 5, which addresses the inventory and conservation of open spaces, scenic and historic areas and natural resources. As part of the review, the City began work to update its regulations for historic resources.

Goal 5 rules were revised in 1996. Changes under Goal 5 that pertain to this discussion included the requirement that local governments review applications for major exterior alterations of designated historic sites and that ordinances meet US government-recommended standards (OAR 660-023-0200).

Portland followed the requirement for meeting US government-recommended standards when the City applied for and received Certified Local Government (CLG) status from the State Historic Preservation Office (SHPO) in May 1996. Certified Local Government status conferred certain requirements. As outlined in the *Historic Preservation Fund Grants Manual*, these requirements include "maintaining standards consistent with the National Historic Preservation Act and the Secretary of the Interior's 'Standards and Guidelines for Archaeology and Historic Preservation.'" SHPO's *Certified Local Government Program Annotated Performance Standards* noted that proposed major alterations to properties listed in the National Register of Historic Places must be reviewed under OAR 660-23-200. The *Historic Preservation Fund Grants Manual* prepared by SHPO clarified this requirement as follows: "Locally developed standards and guidelines governing CLG activities are acceptable if they are consistent with the Secretary of the Interior's 'Standards' even though they may not specifically cite them or contain identical wording. However, local guidelines that are not in accord with the Secretary's Standards and/or specifically recommend or require action clearly in conflict with these Standards are not acceptable."

The City's Historic Resource Protection Amendments became effective in July 1996. The Zoning Code incorporated approval criteria under 33.846.060.G that are based on the standards, although the criteria language does not mimic the standards. The Bureau of Planning's findings in support of adopting the Historic Resource Protection Amendments emphasized that the amendments are consistent with the approval standards set by the Secretary of the Interior for review of National Register Landmarks and National Register Districts.

The approval criteria under 33.846.060.G have been considered to be complete since their adoption in 1996, and applicants are not required to reference the Standards for further information. To clarify this, and to describe how the criteria are applied, we are changing the title of 33.846.060.G and adding introductory language.

IMPACT ASSESSMENT

First Stage Assessment

There are two issues/problems. The first is the lack of clarity in the title of a code subsection, and the second is a need for prefatory language that clarifies the application of that criteria. Because there is a mandate requiring the existing regulation, no new regulation or non-regulatory response is needed. The regulation was adopted in 1996 as part of the Historic Resource Protection Amendments and is required under Goal 5 and the City of Portland's Certified Local Government agreement with the State Historic Preservation Office (SHPO).

There are two intended outcomes. The first is a new, more appropriate title for the code subsection; and the second is clarification of how historic design review proposals can successfully meet the criteria under 33.846.060.G. By clarifying the regulation, the review process should be more straightforward and not burdensome to proponents or opponents.

The outcomes will advance and support the Comprehensive Plan as follows. Comprehensive Plan Policy 10.9, Land use Approval Criteria and Decisions, requires that the approval criteria that are stated with a specific land use review reflect the findings that must be made to approve the request. With these changes, approval criteria required for historic design review will better reflect the findings that must be made to approve the request because the introductory language explains how compliance with the review criteria is evaluated. Policy 12.3, Historic Preservation, calls for enhancing the City's identity through the protection of Portland's significant historic resources, for preserving and reusing historic artifacts as part of Portland's fabric, and for encouraging development to sensitively incorporate preservation of historic structures and artifacts. Changes that clarify how compliance with the existing approval criteria can be achieved will further the intent of this policy.

The entities that will be affected by the proposal are applicants with proposals that are required to go through a historic review process that uses the criteria under 33.846.060.G. The existing regulations affect the same entities under the same circumstances noted above. There appear to be no existing policies, requirements and/or regulations that are duplicative, contradict, or overload the existing regulatory framework.

This change should be a priority for action because it clarifies the content and intent of an existing regulation and potentially makes the review process more timely and straightforward and not overly burdensome to proponents or opponents. This action will not require additional staffing or funding.

Historic Design Review Approval Criteria

BACKGROUND AND IMPACT ASSESSMENT

Second Stage Assessment

Because these changes pertain to an existing regulation that is required under State law and the City's Certified Local Government agreement with the State Historic Preservation Office (SHPO), non-regulatory alternatives were not considered. This language is the preferred solution because it will clarify an existing regulation and help make an existing review process more straightforward and not overly burdensome to proponents or opponents. The outcomes will advance and support Comprehensive Plan Policy 10.9, Land Use Approval Criteria and Decisions, which requires that the approval criteria stated with a specific land use review reflect the findings that must be made to approve the request. With these changes, the approval criteria required for historic design review will better reflect the findings that must be made to approve the request because the introductory language clarifies how compliance with the review criteria is evaluated.

Stakeholders and the community currently had the opportunity to review and comment on proposed changes, through the public outreach of Policy Package 3, mentioned elsewhere in this document. Included in this outreach are the owners of all historic properties affected by the change. They were provided notice of all open houses and hearings, including the final City Council hearing. The interested parties include the Historic Landmarks Commission, which is very familiar with the regulation under discussion, and the State Historic Preservation Office, which oversees the Certified Local Government program that requires Portland to adopt regulations consistent with US Government-recommended standards, per OAR 660-023-0200. The Development Review Advisory Committee (DRAC) and chairpersons of neighborhood associations are also being consulted and given the opportunity to comment on proposed regulations.

The changes to the regulation provide flexibility to address a variety of circumstances in that the changes clarify that criteria used for historic design review under PCC 33.846.060.G are applied in a flexible manner. Although some flexibility already exists in how the criteria are applied, there is no such acknowledgement in the regulatory language. The changes acknowledge that compliance with the regulation can be achieved by meeting all the applicable criteria rather than requiring each criterion to be met individually. This change conveys that there is some flexibility in how the criteria are applied and potentially addresses a variety of circumstances.

This change does not require a significant use of resources because it only changes a subsection title and introductory language. Some training time will be required to explain the changes to staff so they can effectively interpret the revised regulation. However, the required training should not be extensive. The regulation will be enforced the same way the previous regulation was enforced.

In general, the benefit of the regulation change will be to simplify and clarify the existing regulation. By clarifying the regulation, we hope to make an existing review process more straightforward and not overly burdensome to proponents or opponents. This action will not require additional staffing or funding, nor is it expected to incur any community costs.

It is expected that the regulation's impact will be monitored through feedback from staff and applicants to determine effectiveness. A successful outcome should be perceptible by those

(i.e., staff and review body) who currently evaluate historic design review proposals subject to this regulation.

Historic Design Review Approval Criteria

COMMENTARY

33.846.060.G, Other approval criteria.

The City Council approves a new title and introductory language for existing subsection 33.846.060.G. The approval criteria under 33.846.060.G are generally required for reviewing proposals for resources such as historic landmarks, conservation landmarks, and properties in historic districts. Additional historic design review approval criteria may also apply to those resources, depending on where a proposal is located. For example, district-specific guidelines may be applied in addition to these special approval criteria.

A new section title is needed because the existing title refers to the Secretary of the Interior's Standards, which is unnecessarily confusing. The new title no longer implies that applicants need to reference the Secretary of the Interior's Standards for guidance in their review process. No change is needed for the review criteria, which are based on and consistent with US government-recommended standards as required in OAR 660-023-0200.

We also approve adding introductory language to the subsection to clarify how the review criteria are applied. The review criteria are stated in absolute terms because they are derived from the Secretary of the Interior's Standards, which pertain to a wide range of historic resource types. However, since the criteria were adopted in 1996, implementers have recognized that it isn't possible for most projects to achieve all of the absolutes stated in the criteria. The new introductory language explains in general terms how compliance with the review criteria is evaluated. This change allows consideration of whether a project can meet all of the criteria, given the nature of the project, and it clarifies that projects are reviewed using the applicable criteria.

33.846.060 Historic Design Review

A-F. [No change.]

G. Other A approval criteria. ~~based on the Standards of the Secretary of the Interior:~~ Requests for historic design review will be approved if the review body finds that the applicant has shown that all of the applicable approval criteria have been met. The approval criteria are:

1-10. [No change.]

V. Appendices

- A. Land Division Summary Spreadsheet
- B. White Papers for Regulatory Improvement Workplan Items
 - 1. White Paper No. 1 – Land Division Monitoring
 - 2. White Paper No. 2 – CU of Bed & Breakfast facilities. Etc
- C. Ordinance No. 178567 As Amended

Appendix A: Land Division Summary Spreadsheet

LAND DIVISION RELATED AMENDMENTS						
SUMMARY SPREADSHEET						
#	Page #	Code Section	Chapter Name	Section Name	Proposed Amendment	Relationship
1	7	33.10.030	Legal Framework and Relationships	When the Zoning Code Applies	Add <u>land divisions</u> to when Zoning Code applies	--
2	7	33.10.030	Legal Framework and Relationships	When the Zoning Code Applies	Clarify that right-of-way (r.o.w.) created with land division are subject to Zoning Code	Streets
3	7	33.10.030	Legal Framework and Relationships	When the Zoning Code Applies	Housekeeping amendment. Projecting signs no longer covered under Title 33.	
4	9	33.120.210	Multi-dwelling zones	Lot Size	Clarify that this chapter only covers development on existing lots, not new Land Divisions	--
5	11	33.248.040	Landscaping and Screening	Installation & Maint.	Clarify that topping section applies to trees required by zoning code	
6	11	33.248.040 & 065	Landscaping and Screening	Installation & Maint., Tree Preservation Plans	Change reference from 'certified arborist' to 'arborist'	Definition. of arborist
7	13	33.405.060	Alternative Design Density Overlay Zone	Attached Residential Infill on vacant lots in the R5 zone	Clarify density and minimum lot dimensions for attached housing in R5a using 'a' overlay provision	--
8	15	33.405.070	Alternative Design Density Overlay Zone	Alt. Development options in the R2 & R2.5 zones	Clarify pole dimension minimum for flag lot using the 'a' overlay provision	
9	17	33.430.070	Environmental Zones	When Regulations apply	Add Property Line Adjustments (PLAs) to type of procedure subject to environmental regulations	PLAs
10	17	33.430.080	Environmental Zones	Items Exempt from Regulations	Change reference from 'certified arborist' to 'arborist'	Definition. of arborist
11	17	33.430.080	Environmental Zones	Items Exempt from Regulations	Provide clarity on types of PLA that are exempt from Environmental regulations (mimic land divisions)	PLAs
12	19	33.430.165	Environmental Zones	Standards for Property Line Adjustments	<u>New</u> section to provide standards to review PLAs in environmental zones	PLAs
13	21	33.430.230	Environmental Zones	Procedures	Establish a Type I procedure for PLAs where environmental standards can't be met and no development is concurrently proposed	PLAs
14	21-23	33.430.250	Environmental Zones	Approval Criteria	Identify types of criteria to apply to PLAs	PLAs
15	21-23	33.430.250	Environmental Zones	Approval Criteria	Identify types of criteria to apply to Planned Unit Developments	Old PUDs

APPENDIX A: LAND DIVISION SUMMARY SPREADSHEET

LAND DIVISION RELATED AMENDMENTS						
SUMMARY SPREADSHEET						
#	Page #	Code Section	Chapter Name	Section Name	Proposed Amendment	Relationship
16	25	33.430.280	Environmental Zones	Modifications Which will Better Meet Environmental Review	Provide an option to allow adjustments to lot dimension standards for proposals (likely a land division) undergoing an environmental review. Would have to prove that smaller lots results in overall better protection of resource	Environmental
17	27	33.480.040	Scenic Resource Zone	Development Standards	Change reference from 'certified arborist' to 'arborist'	Definition. of arborist
18	29	33.515.274	Columbia South Shore Plan District	Items Exempt from Regulations - Environmental	Change reference from 'certified arborist' to 'arborist'	Definition. of arborist
19	31	33.537.110	Johnson Creek Basin Plan District	Transfer of Development Rights	Remove reference to final development plans	PD's Final Development Plan
20	31-33	33.537.130 & 140 & 150	Johnson Creek Basin Plan District	Springwater, South Subdistrict and Floodplain standards	Change reference from 'certified arborist' to 'arborist'	Definition. of arborist
21	35	33.570.040	Rocky Butte Plan District	Tree Removal	Change reference from 'certified arborist' to 'arborist'	Definition. of arborist
22	37-39	33.610.200 & 33.611.200	Lots in RF through R5 Zones & Lots in the R2.5 Zone	Lot Dimension Standards	Exempt lots fronting on common green from 15' continuous curb requirement, since they don't front on a vehicle street anyway	Streets
23	41	33.614.100	Lots in Employment Zones	Minimum Lot Dimension Standards	Clarify section and fix incorrect lot size requirement for EG1 zones	
24	41	33.614.100	Lots in Employment Zones	Minimum Lot Dimension Standards	Reduce front lot line requirement in EX zones to allow individual narrow lots for live/work situation	
25	43	33.615.100	Lots in Industrial Zones	Minimum Lot Dimension Standards	Clarify section and fix incorrect lot size requirement for IG1 zones	
26	45	33.630.020	Tree Preservation	Where These Regulations Apply	Clean up section by moving exemptions to 33.630.030 and provide reference to exemption section	Trees
27	45	33.630.030	Tree Preservation	Exempt From These Regulations	Add exemptions moved from 33.630.020 above and clarify that trees under 6" in diameter are exempt unless listed on Table 630-1 at a smaller diameter	Trees
28	47	33.630.100	Tree Preservation	Tree Preservation Standards	Clarify how the total tree diameter is calculated minus the exempt trees	Trees

APPENDIX A: LAND DIVISION SUMMARY SPREADSHEET

LAND DIVISION RELATED AMENDMENTS SUMMARY SPREADSHEET						
#	Page #	Code Section	Chapter Name	Section Name	Proposed Amendment	Relationship
29	47-49	33.630.030 & 33.630.200	Tree Preservation	Exempt from These Regualtions & Tree Preservation Methods	Change reference from 'certified arborist' to 'arborist'	Definition. of arborist
30	49	33.630.300	Tree Preservation	Mitigation Option	Provide a new mitigation option to allow smaller sites with poor tree placement to provide mitigation tree planting for trees needing removal. Allow smaller stands of trees to count towards mitigation	Trees
31	51	33.634.200 & 33.634.300	Required Recreation Area	Required Recreation Area Standards and Approval Criteria	Change timing requirements for construction of recreation tract improvements from specific time to a surety bonding.	
32	53	33.636.100	Tracts and Easements	Requirements for Tracts and Easements	Change requirements for PDs due to elimination of final development plan	PD's Final Development Plan
33	55	33.653.030	Stormwater Management	Stormwater Management Standards	Allow existing private stormwater facilities to be in easement	Stormwater
34	55	33.653.030	Stormwater Management	Stormwater Management Standards	Allow private stormwater facilities serving five or fewer residential units to be in easement	Stormwater
35	59	33.654.020, 33.654.110	Rights-Of-Way	Where These Regulations Apply, & Connectivity	Clarify that all land divisions are subject to this chapter	Streets
36	59-63	33.654.120	Rights-Of-Way	Design of Rights-of-Way	Change design criteria for common greens to allow through common greens in conjunction with public pedestrian connections	Streets, Common Greens
37	65	33.654.130	Rights-Of-Way	Additional Approval Criteria for Rights-of- Way (R.O.W.)	Clarify factors in determining a required a partial street or extension of a street	Streets
38	67-69	33.654.150	Rights-Of-Way	Ownership, Maintenance and Public Use of R.O.W	Clarify street ownership and strengthen ownership purpose.	Streets
39	67-69	33.654.150	Rights-Of-Way	Ownership, Maintenance and Public Use of R.O.W	State that Common Greens are privately owned per current practice.	Streets, Common Greens
40	69	33.654.150	Rights-Of-Way	Ownership, Maintenance and Public Use of R.O.W	Increase threshold for alley access through easements from 2 to 5 lots.	

APPENDIX A: LAND DIVISION SUMMARY SPREADSHEET

LAND DIVISION RELATED AMENDMENTS						
SUMMARY SPREADSHEET						
#	Page #	Code Section	Chapter Name	Section Name	Proposed Amendment	Relationship
41	71	33.660.220	Review of Land Divisions in OS and R zones	Approval Criteria	Fix incorrect reference for the measurement of lot width	
42	75	33.665.200	Planned Development Review	Review Procedures	Planned Developments (PDs) involving attached houses or duplexes in the RF through R2.5 zone reviewed under Type IIx instead of Type III, since these housing types may be allowed by right in certain situations	PD Review
43	77	33.665.250	Planned Development Review	Supplemental Application Requirements	Allow Design standards to substitute for actual elevations for a PD submission	PD Review
44	77-79	33.665.300,310, 315	Planned Development Review	Approval Criteria . . .	Remove separate approval criteria for R2.5 zone, all PD's subject to same criteria	PD Review
45	73, 81, 83	33.665.010, 340, 400-430	Planned Development Review	Final Development Plan	Remove requirement for final development plan - preliminary review provides enough detail, that final review not necessary	PD Final Development Plan
46	85, 89	33.665.500, 33.668.050	Planned Development Review, Changes to Approved Planned Unit Development	Types of Changes	Remove requirement that any change to a PD or PUD within 50' of perimeter automatically requires a Type III review	PD, PUD Review
47	87	33.667.200	Property Line Adjustment	Application Requirements	Revise to reflect current intake practice	PLAs
48	87	33.667.300	Property Line Adjustment	Regulations	Clarify approval properties to reflect that PLA does not create a lot, and also to clarify environmental referral	PLAs
49	89	33.668.170	Changes to Approved Planned Unit Development	Development Standards	Clarify what development standards should apply to Planned Unit Development (PUD) Amendments	PUDs
50	91	33.700.130	Administration and Enforcement	Legal Status of Lots	Create a new section to place state interpretation of lot status into our zoning code to clarify legal status of lots	Lots
51	93	33.730.060	Quasi Judicial Procedures	Application Requirements	Remove requirement for block number to match current county requirements	Lots
52	93-101	33.730.130	Quasi Judicial Procedures	Expiration of an Approval	Replace 33.730.130 "When approved decisions expire" with a new, clearer version. Change prompted by the removal of Final Development plans from Planned Developments. Review of section indicated other confusing elements	PD's Final Dev Plan & Expiration Procedure

APPENDIX A: LAND DIVISION SUMMARY SPREADSHEET

LAND DIVISION RELATED AMENDMENTS						
SUMMARY SPREADSHEET						
#	Page #	Code Section	Chapter Name	Section Name	Proposed Amendment	Relationship
53	101	33.750.050	Fees	Fee Waiver	Add Type IIx procedure for Fee Waiver option. - oversight from Land Division amendments	
54	103	33.853.020	Tree Review	When Review is Required	Clarify section stating what changes trigger a tree review	Trees
55	103	33.853.040	Tree Review	Approval Criteria	Provide criteria that can apply to both pre 7/1/02 preservations plans and post 7/1/02 preservation plans (before and after land division re-write)	Trees
56	105	33.900.010	List of Terms	List of Terms	List of new terms	
57	107	33.910.030	Definitions	Definitions	Create new definition for arborist to clear up confusion between 'certified' and 'registered consulting' arborists	Definition. of arborist
58	107	33.910.030	Definitions	Definitions	Create new definition for land division consistent with state definitions	Land Division Definitions
59	107	33.910.030	Definitions	Definitions	Revise grading definition to apply to more than just land divisions	Definitions
60	107	33.910.030	Definitions	Definitions	Create new definition for plat consistent with state definitions	Land Division Definitions
61	109-111	33.910.030	Definitions	Definitions	Create new definition for triplex for clarity	Definitions
62	109	33.910.030	Definitions	Definitions	Revise Tract definition to make it current with practice	Land Division Definitions
63	109	33.910.030	Definitions	Definitions	Revise Pedestrian Connection to make it a type of street which would allow lot frontage on it	Streets
64	111	33.910.030	Definitions	Definitions	Revise definition of street to take away primary emphasis from vehicle travel	Streets

Appendix B: White Papers

Annual Regulatory Improvement Work Program– Proposed Top Ten FY 03-04 Proposal for Code Improvement

White Paper No. 1

Bureaus: Planning and BDS	Code Item Title: Land Division Monitoring Code Improvement Items
Description of the Problem With the Code: When the Land Division Code was adopted by the City Council in 2002, staff was directed to monitor the application of the code for problems with implementation. While the City Council did not allocate funding for monitoring or evaluation, the Land Division Team in the Bureau of Development Services has tracked the problems encountered with applications for subdivision and partitions since the adoption of the code. BDS staff has developed this listing of 53 items.	
Possible Solution or Concept: The proposal is to review this package of changes that would provide for a second year technical update to the code and prevent further customer and staff problems. This would be the first monitoring effort undertaken on a recently adopted code package in which a comprehensive corrective action plan would be adopted within 12-24 months after code adoption. Only changes in keeping with the policies set by the new project should be considered at this stage of evaluation.	
Desired Outcome of Change: Improved processing of land division applications	
Process and Timeline for Changing the Code: This would require a revision of Title 33. A full legislative review process is required, including allowing public review of a draft proposal; hearing, review and recommendation by the Planning Commission, with final action by the City Council. Approximate timeline: 9-12 months. If the resources identified below are provided, the project could start as of mid-July.	
What resources are needed to process the code change and are they available? The Bureau of Planning estimates that the staff time necessary to undertake this project would be approximately 1.0 staff positions [1.0 full time equivalent – fte] for a year. The Bureau of Development Services estimates that this project will require BDS staff involvement up to .2 of a full time position.	
If this project is part of a phased program and there are other activities that would follow this FY 03-04 project that are needed to fully address the problem, please identify those future activities and the bureaus involved. Not applicable	
Who are the Stakeholders interested in this issue and how will they be involved in the code change process? Neighborhood residents Homebuilders Notices will be provided to interested parties, neighborhood associations, business associations and others encouraging participation in the project.	

**Annual Regulatory Improvement Work Program– Proposed Top Ten FY 03-04
Proposal for Code Improvement**

White Paper No. 2

<p>Bureau: Planning</p>	<p>Code Item Title: New item - Conditional Use of Bed & Breakfast facilities of historic significance to conduct social gatherings and commercial meetings.</p>
<p>Description of the Problem with the Code: Current state: Section 33.212.040(e) covering Bed and Breakfast Facilities <u>specifically prohibits any</u> bed & breakfast from conducting “commercial meetings” (including luncheons, banquets, parties, weddings, meetings, and charitable fund raising), and <u>prohibits any</u> social gatherings over 4 per year with not more than 4 non-resident visitors at each gathering. As written, this would prevent more than four family gathering for birthday dinners, holidays, etc. per year and also prevents use of the B&B for community meetings and charitable fundraising. Problem Statement: The B&B code as currently written is overly restrictive, limiting the property owner’s ability to respond to the expressed needs of their guests and their community – even though they may enjoy strong neighborhood support for seeking a conditional use to hold events. Unless amended, the current code jeopardizes the financial viability of the historic B&B as a small business and could lead to conversion of the property to condominium housing, a request for more intensive commercial use and/or demolition.</p>	
<p>Possible Solution or Concept: The city could consider easing the restriction to allow a limited number of additional meetings by right, be allowing for a conditional use permit for such gatherings provided that such use maintains the purpose of the existing Bed and Breakfast ordinance (Section 33.212.010) and includes as approval criteria a suitable plan to mitigate potential traffic, parking, or noise issues; or other options that might be developed by staff.</p>	
<p>Desired Outcome of Change: Some additional flexibility for Bed and Breakfast facilities to allow them to conduct social gatherings and commercial meetings at the bed and breakfast property, while maintaining and protecting the residential character of the surrounding neighborhood and ensuring appropriate community review.</p>	
<p>Process Timeline for Changing the Code: 6-9 months.</p>	
<p>What resources are needed to process the code change and are they available? Staff estimates this would take .1-.2 FTE if the scope remains narrowly focused.</p>	
<p>Who are the stakeholders interested in this issue and how will they be involved in the code change process? Requestors: Steve Unger, Owner, Lion and the Rose Victorian Bed & Breakfast; Stephen Holden and Lanning Blanks Owner, Portland’s White House Bed & Breakfast Other potential stakeholders: B&B owners, neighborhood associations, business associations, POVA, Historic Preservation advocates, the Portland Metro Innkeepers Association (PMIA)</p>	

Appendix C: Ordinance

ORDINANCE No. 178567 AS AMENDED

Amend Title 33, Planning and Zoning, and the Cultural Resources Protection Plan for Columbia South Shore to update and improve land use regulations and procedures (Ordinance; amend Title 33)

The City of Portland Ordains:

Section 1. The Council finds:

General Findings

1. On June 26th, 2002, the City Council adopted Resolution 36080, which authorized the Mayor to develop a process to streamline and update the City's building and land use regulations and to improve regulatory-related procedures and customer services.
2. This process, the Regulatory Improvement Workplan, includes several phases, and a number of projects assigned to several bureaus.
3. On August 13, 2003, Council adopted the FY 2003-2004 Regulatory Improvement Work Plan.
4. This workplan has been divided into several projects. The current proposal is named Policy Package 3 and includes items from the 2003-2004 Regulatory Improvement Workplan. It also includes two small projects not included in the Regulatory Improvement Workplan that the Bureau of Planning has added to allow for combined public involvement. The small projects are the changes to the *Cultural Resources Protection Plan* and Zoning Code for Columbia South Shore Plan District, and the change to clarify the Historic Design Review approval criteria.
5. The changes proposed affect Title 33, Planning and Zoning and the *Cultural Resources Protection Plan for Columbia South Shore*.
6. *The Cultural Resources Protection Plan for Columbia South Shore* was adopted by the City Council on April 3, 1996. The plan's purpose is to protect evidence of Indian use from the pre-contact era in the Columbia South Shore. The plan was implemented as part of a work task for periodic review of the Comprehensive Plan relating to Statewide Planning Goal 5.
7. *The Cultural Resources Protection Plan* and related Zoning Code pages are intended to be updated as new information and/or confirmation testing results of potential archeologically significant sites are completed. From 1996 through the end of 2003, six sites have undergone confirmation testing and two sites have undergone voluntary testing, resulting in updated findings to be added to the plan.
8. On April 2, 2004, notice of the proposed action was mailed to the Department of Land Conservation and Development in compliance with the post-acknowledgement review process required by OAR 660-18-020.
9. On May 25, 2004, the Planning Commission held a hearing on the proposal. Staff from the Bureau of Planning presented the proposal and an addendum, and public testimony was received.

APPENDIX C: ORDINANCE

10. On June 8, 2004 the Planning Commission held a work session to discuss the proposal and consider public testimony. The Commission voted to forward Policy Package 3 to City Council.
11. On July 28, 2004, City Council held a hearing on the Planning Commission recommendation for Policy Package 3. Staff from the Bureau of Planning presented the proposal, and public testimony was received.
12. On August 4, 2004 City Council voted to adopt the changes in Policy Package 3.

Statewide Planning Goals Findings

13. State planning statutes require cities to adopt and amend comprehensive plans and land use regulations in compliance with the state land use goals. The following goals and policies are relevant and applicable to Policy Package 3.
14. **Goal 1, Citizen Involvement**, requires provision of opportunities for citizens to be involved in all phases of the planning process. The preparation of these amendments has provided numerous opportunities for public involvement:
 - On August 13, 2003, the City Council voted to adopt the 2003-2004 Regulatory Improvement Workplan. This workplan included proposals to investigate potential issues related to Land Division Monitoring and to review current Bed and Breakfast regulations. Establishment of the list of items involved public outreach during the spring and summer of 2003.
 - On March 16, 2004, the Bureau of Planning published the *2003-2004 Regulatory Improvement Workplan: Policy Package 3 Discussion Draft*. The report was available to City bureaus and the public and mailed to all those requesting a copy. An electronic copy was posted to the Bureau's website.
 - On March 18, 2004, the Bureau of Planning sent notice to all neighborhood associations and coalitions, and business associations in the City of Portland, as well as owners of historic properties, owners and neighbors of bed and breakfast facilities and other interested persons, to inform them of publication of the *Discussion Draft* and a Community Open House.
 - On March 22, 2004, staff from the Bureau of Planning attended the City-Wide Land Use Group meeting to inform them of Policy Package 3, provide them with copies of the *Discussion Draft*, and invite them to the Community Open House.
 - On March 22, 2004, Planning staff presented the proposed changes to the Historic Design Review approval criteria to the Historic Landmarks Commission at their meeting.
 - On March 31, 2004, the Bureau of Planning held a Community Open House at which Planning staff were available to answer questions and copies of the Discussion Draft were available. The purpose of the open house was to allow the public the opportunity to review the proposed recommendations, and ask questions of staff. Ten citizens attended the open house.
 - On April 12, 2004, Planning staff discussed the proposed changes to the Historic Design Review approval criteria with the Historic Landmarks Commission.

- On April 15, 2004, Bureau of Planning staff discussed some of the Land Division-related amendments with the Urban Forestry Commission.
 - On April 20, 2004, the Bureau of Planning published the *2003-2004 Regulatory Improvement Workplan: Policy Package 3 Proposed Draft*. The report was available to City bureaus and the public, and mailed to all those requesting a copy. An electronic copy was posted to the Bureau's website.
 - On April 22, 2004, the Bureau of Planning sent a notice to all neighborhood associations and coalitions, and business associations in the City of Portland, as well as other interested persons, to inform them of a second Community Open House scheduled for May 5, 2004, and to notify them of the Planning Commission Hearing scheduled for May 25, 2004. The hearing was also advertised in the Oregonian.
 - On May 5, 2004, the Bureau of Planning held the second Community Open House on this project. Bureau of Planning staff were available to answer questions and copies of the Proposed Draft were available. Four citizens attended the open house.
 - On May 5, 2004, notice of the proposal was provided via e-mail to the Bosco-Milligan Foundation and the Historic Preservation League.
 - On May 10, 2004, Planning staff met again with the Historic Landmarks Commission to discuss the proposed changes to the Historic Design Review approval criteria.
 - On May 25, 2004, the Planning Commission held a public hearing during which citizens testified. The public record for written testimony was held open until June 1st.
 - On July 28, 2004, the City Council held a public hearing on this proposal, during which citizens provided oral and written testimony.
15. **Goal 2, Land Use Planning**, requires the development of a process and policy framework that acts as a basis for all land use decisions, and ensures that decisions and actions are based on an understanding of the facts relevant to the decision. The amendments are supportive of this goal because development of the recommendations followed established city procedures for legislative actions, while also improving the clarity and understandability of Title 33, Planning and Zoning.
16. **Goal 5, Open Space, Scenic and Historic Areas, and Natural Resources**, requires the conservation of open space and the protection of natural and scenic resources. In general, the amendments are supportive of this goal because they provide clarification to existing regulations pertaining to open space, scenic and historic areas, and natural resources, without changing policy or intent.

The following amendments are directly supportive of Goal 5:

- Land division-related amendments in the Environmental Zones. The amendments within the Environmental Zone section allow applicants to request modifications to lot sizes and dimensions as part of an Environmental Review. This specifically furthers Goal 5 by allowing an applicant to reduce lot sizes for development in order to set aside larger tracts to protect resource areas.
- Changes to Cultural Plan. The proposed changes to the Cultural Plan and related Zoning sections specifically further this goal by updating the plans and the related Zoning Code provisions to match recent archaeological studies and confirmation testing. The Cultural

Plan is an adopted Goal 5 project and the update makes the plan consistent with current plans on file with the State Historic Preservation Office.

- **Historic Design Review Approval Criteria.** The change to the Historic Design Review Approval Criteria specifically furthers this goal by clarifying the intent of historic design review criteria used on projects proposing alterations to historic structures throughout the city. These approval criteria are used to protect sites with local, state, regional or national historical significance.

17. **Goal 8, Recreational Needs,** requires satisfaction of the recreational needs of both citizens and visitors to the state. The amendments are consistent with this goal because they do not change policy or intent of any of the existing regulations pertaining to recreational needs.

One amendment specifically supports Goal 8 by clarifying the timing for the installation of required recreational areas for land divisions creating at least 40 dwelling units. The amendment alters the timing so that the recreation area improvements are installed prior to the occupancy of the first dwelling unit on the site.

18. **Goal 9, Economic Development,** requires provision of adequate opportunities for a variety of economic activities vital to public health, welfare, and prosperity.

All of the amendments support Goal 9 because they update and improve City land use regulations and procedures that hinder desirable development. Improving land use regulations to make them clear and easily implemented has positive effects on economic development.

The following amendments are directly supportive of Goal 9:

- **Land Division-Related Amendments.** The amendments clarify and simplify land division provisions. This group of amendments removes unwanted barriers to the effective division of land, while better achieving public goals such as access and connectivity.
- **Bed and Breakfast Regulations.** These amendments provide additional flexibility to the operators of Bed and Breakfast facilities in residential zones. This flexibility gives the operators the potential to serve more guests, and in certain situations, rent the facility out for special events.
- **Changes to the Cultural Resources Plan.** The archaeological amendments facilitate economic opportunities by recognizing and codifying the archaeological testing made between 1996 and 2003. The results of this testing clarifies the development opportunities on specific sites.

19. **Goal 10, Housing,** requires provision for the housing needs of citizens of the state. The amendments are consistent with this goal as they foster the provision of housing in the City of Portland and therefore support Goal 10 and its policies.

The following amendments are directly supportive of Goal 10:

- **Land Division-Related Amendments.** The amendments to the Land Division-related items directly support Goal 10 by clarifying and simplifying land division provisions. This group of amendments removes unwanted barriers to the effective division of land, while better achieving public goals such as access and connectivity. The majority of land divisions in the City are for residential development. As a result, these amendments will foster the provision of housing in the City of Portland.
- **Bed and Breakfast Regulations.** These amendments provide additional flexibility to the operators of Bed and Breakfast facilities in residential zones. This flexibility gives the operators the potential to serve more guests, and in certain situations, rent the facility out for special events. This flexibility helps provide the economic incentive to maintain an alternative housing situation and home occupation in larger, older houses in established neighborhoods.

20. **Goal 12, Transportation,** requires provision of a safe, convenient and economic transportation system. In general the amendments are consistent with this goal, because they do not change policy or intent of any of the existing regulations pertaining to transportation.

The Land Division-related amendments are directly supportive of this goal because they clarify and simplify land division provisions. This group of amendments will clarify the approval criteria for rights-of-way, including the provision of Common Greens and Pedestrian Connections, and the ownership of the rights-of-way.

Metro Urban Growth Management Functional Plan Findings

21. The following elements of the Metro Urban Growth Management Functional Plan are relevant and applicable to Policy Package 3.
22. **Title 1, Requirements for Housing and Employment Accommodation,** requires that each jurisdiction contribute its fair share to increasing the development capacity of land within the Urban Growth Boundary. This requirement is to be generally implemented through city-wide analysis based on calculated capacities from land use designations. As detailed above in addressing compliance with Statewide Goal 9 (Economic Development) and Goal 10 (Housing), several of the amendments in Policy Package 3 foster economic growth, and facilitate the development of housing within the City, in compliance with this Title.
23. **Title 3, Water Quality and Flood Management Conservation,** calls for the protection of the beneficial uses and functional values of resources within Metro-defined Water Quality and Flood Management Areas by limiting or mitigating the impact of development in these areas. The amendments are consistent with this Title because they do not change policy or intent of existing regulations relating to water quality and flood management conservation.

One amendment directly supports Title 3. The Land Division-related amendments within the Environmental Zone section allow applicants to request modifications to lot sizes and dimensions as part of an Environmental Review. This specifically supports Title 3 by allowing an applicant to reduce lot sizes for development in order to set aside larger tracts to protect functional resource areas.

24. **Title 7, Affordable Housing,** recommends that local jurisdictions implement tools to facilitate development of affordable housing. Generally the proposed amendments are consistent with this Title because they do not change policy or intent of existing regulations

relating to affordable housing. The Land Division-related amendments specifically support this Title by clarifying and simplifying land division provisions. This group of amendments removes unwanted barriers to the effective division of land, in conformance with the provision 3.07.730.D.6 of Title 7 addressing Local Regulatory Constraints.

Portland Comprehensive Plan Goals Findings

25. The City's Comprehensive Plan was adopted by the Portland City Council on October 16, 1980, and was acknowledged as being in conformance with the statewide planning goals by the Land Conservation and Development Commission on May 1, 1981. On May 26, 1995, the LCDC completed its review of the City's final local periodic review order and periodic review work program, and reaffirmed the plan's compliance with statewide planning goals.
26. The following goals, policies, and objectives of the Portland Comprehensive Plan are relevant and applicable to Policy Package 3.
27. **Goal 1, Metropolitan Coordination**, calls for the Comprehensive Plan to be coordinated with federal and state law and to support regional goals, objectives and plans. The amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to metropolitan coordination and regional goals.
28. **Goal 2, Urban Development**, calls for maintenance of Portland's role as the major regional employment and population center by expanding opportunities for housing and jobs, while retaining the character of established residential neighborhoods and business centers.

The amendments support this goal because they are aimed at updating and improving the City's land use regulations and procedures that hinder desirable development. By improving regulations, the City will better facilitate the development of housing and employment uses. The following amendments specifically support Goal 2 and its relevant policies by facilitating the development of housing and employment uses at appropriate locations and intensities:

- **Land Division-Related Amendments.** The amendments clarify and simplify land division provisions. This group of amendments removes unwanted barriers to the effective division of land, while better achieving public goals such as access and connectivity. The effective division of land aids in the development of housing and employment uses.
 - **Bed and Breakfast Regulations.** These amendments provide additional flexibility to the operators of Bed and Breakfast facilities in residential zones. This flexibility gives the operators the potential to serve more guests, and in certain situations, rent the facility out for special events.
 - **Changes to the Cultural Resources Plan.** The archaeological amendments facilitate urban development opportunities by recognizing and codifying the archaeological testing made between 1996 and 2003. The results of this testing clarifies the development opportunities on specific sites.
29. **Goal 3, Neighborhoods**, calls for preservation and reinforcement of the stability and diversity of the city's neighborhoods while allowing for increased density. In general, the amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to the stability and diversity of neighborhoods.

The following items are directly supportive of Goal 3.

- Land Division-Related Amendments. The amendments clarify and simplify land division provisions. This group of amendments removes unwanted barriers to the effective division of land, enabling the potential to increase density while still addressing the needs of the neighborhood, including compatibility.
- Bed and Breakfast Regulations. These amendments provide additional flexibility to the operators of Bed and Breakfast facilities in residential zones. This flexibility gives the residents the potential to serve more guests, and in certain situations, rent the facility out for special events. This flexibility helps provide the economic incentive to maintain the bed & breakfast facilities, which are often in larger, older houses in established neighborhoods.
- Historic Design Review Approval Criteria. The change to the Historic Design Review Approval Criteria specifically furthers this goal by clarifying the intent of historic design review criteria used on projects proposing alterations to historic structures throughout the city. These approval criteria are used to protect sites with local, state, regional or national historical significance, and are often an integral part of their neighborhood.

30. **Goal 4, Housing**, calls for enhancing Portland’s vitality as a community at the center of the region’s housing market by providing housing of different types, tenures, density, sizes, costs and locations that accommodates the needs, preferences, and financial capabilities of current and future households. The following amendments are consistent with this goal since they foster the provision of housing in the City of Portland and therefore support Goal 4 and its relevant policies.

The following amendments are directly supportive of Goal 4:

- Land Division-Related Amendments The amendments to the Land Division-related items support Goal 4 by clarifying and simplifying land division provisions. This group of amendments removes unwanted barriers to the effective division of land, while better achieving public goals such as access and connectivity. The majority of land divisions in the City are for residential development. As a result, these amendments encourage the provision of housing in the City of Portland, and address the Regulatory Costs of Goal 4.15.
- Bed and Breakfast Regulations. These amendments provide additional flexibility to the operators of Bed and Breakfast facilities in residential zones. This flexibility gives the operators the potential to serve more guests, and in certain situations, rent the facility out for special events. This flexibility helps provide the economic incentive to maintain an alternative housing situation and home occupation in larger, older house in established neighborhoods.

31. **Goal 5, Economic Development**, calls for promotion of a strong and diverse economy that provides a full range of employment and economic choices for individuals and families in all parts of the City. The amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to economic development.

In general, all of the amendments support Goal 5 because they update and improve City land use regulations and procedures that hinder desirable development. Improving land use regulations to make them clear and easily implemented has positive effects on economic development.

Specifically, the following amendments support of Goal 5:

- **Land Division-Related Amendments.** These amendments clarify and simplify land division provisions. This group of amendments removes unwanted barriers to the effective division of land, while better achieving public goals such as access and connectivity.
- **Bed and Breakfast Regulations.** These amendments provide additional flexibility to the operators of Bed and Breakfast facilities in residential zones. This flexibility gives the operators the potential to serve more guests, and in certain situations, rent the facility out for special events.
- **Changes to the Cultural Resources Plan.** The archaeological amendments facilitate urban development opportunities by recognizing and codifying the archaeological testing made between 1996 and 2003. The results of this testing clarifies the development opportunities on specific sites.

32. **Goal 6, Transportation,** calls for the development of a balanced, equitable, and efficient transportation system that provides a range of transportation choices; reinforces the livability of neighborhoods; supports a strong and diverse economy; reduces air, noise and water pollution; and lessens reliance on the automobile while maintaining accessibility. The amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to transportation.

The Land Division-related amendments are directly supportive of this goal because they clarify and simplify land division provisions. This group of amendments includes provisions to clarify the approval criteria for rights-of-way, including the provision of Common Greens and Pedestrian Connections, and the ownership of the resulting rights-of-way.

33. **Goal 8, Environment,** calls for maintenance and improvement of the quality of Portland's air, water, and land resources, as well as protection of neighborhoods and business centers from noise pollution. Generally, the amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to environment.

One of the Land Division-related amendments directly furthers Goal 8. The change to the Environment Zone section allows applicants to request modifications to lot size and dimensions as part of an Environmental Review. This specifically furthers Goal 8 by allowing an applicant to reduce lot sizes in order to set aside larger tracts to protect resource areas.

34. **Goal 9, Citizen Involvement,** calls for improved methods and ongoing opportunities for citizen involvement in the land use decision-making process. The amendments are consistent with this goal because the process provided opportunities for public input and followed adopted procedures for notification and involvement of citizens in the planning process as described under Statewide Planning Goal 1.

35. **Goal 10, Plan Review and Administration,** is broken down into several policies and objectives. Policy 10.9, Land Use Approval Criteria and Decisions, directs that approval criteria with specific land use reviews reflect the findings that must be made to approve the request. Policy 10.10, Amendments to the Zoning and Subdivision Regulations, directs that amendments to the zoning and subdivision regulations should be clear, concise, and applicable to the broad range of development situations faced by a growing, urban city.

These amendments are supportive of Policies 10.9 and 10.10 because they clarify the application of approval criteria for Historic Design Review and elements of Land Divisions, and because they clarify and streamline many of the regulations in the Zoning Code. They also respond to identified current and anticipated problems, including barriers to desirable development, and will help ensure that Portland remains competitive with other jurisdictions as a location in which to live, invest, and do business.

36. **Goal 11, Public Facilities** calls for a timely, orderly and efficient arrangement of public facilities and services to support existing and planned land use patterns and densities.

The Land Division-related amendments are directly supportive of this goal because they clarify and simplify land division provisions that affect the arrangement of public facilities. This group of amendments includes provisions to clarify the approval criteria for rights-of-way, including the provision of Common Greens and Pedestrian Connections, and the ownership of the resulting rights-of-way. These provisions also support Policy 11.10, Street Design and Right-of-Way Improvements.

37. **Goal 12, Urban Design**, calls for the enhancement of Portland as a livable city, attractive in its setting and dynamic in its urban character by preserving its history and building a substantial legacy of quality private developments and public improvements for future generations. Generally, the amendments are consistent with this goal because they do not change policy or intent of existing regulations relating to urban design.

The following amendments support Goal 12.

- Land Division-related amendments. The Land Division-related amendments affecting Planned Developments directly support this goal by clarifying the design criteria required for new Planned Developments as they relate to the surrounding area.
- Bed and Breakfast Regulations. These amendments provide additional flexibility to the operators of Bed and Breakfast facilities in residential zones. This flexibility gives the operators the potential to serve more guests, and in certain situations, rent the facility out for special events. This flexibility helps provide the economic incentive to maintain the bed & breakfast facilities, which are often in larger, older houses in established neighborhoods, supporting the goals for maintaining Portland's character, variety and the preservation of existing structures.
- Historic Design Review Approval Criteria. The change to the Historic Design Review Approval Criteria specifically furthers this goal by clarifying the intent of historic design review criteria used on proposed alterations to historic structures throughout the city. These approval criteria are used to protect sites with local, state, regional or national historical significance, and ensure that the integrity of their design is maintained.

APPENDIX C: ORDINANCE

NOW, THEREFORE, the Council directs:

- a. Exhibit A, *2003-2004 Regulatory Improvement Workplan: Policy Package 3 Recommended Draft*, dated July 6, 2004 is hereby adopted, as amended;
- b. Title 33, Planning and Zoning, is hereby amended as shown in Exhibit A, *2003-2004 Regulatory Improvement Workplan: Policy Package 3 Recommended Draft*, dated July 6, 2004, as amended;
- c. The *Cultural Resources Protection Plan for Columbia South Shore* is hereby amended as shown in Exhibit A, *2003-2004 Regulatory Improvement Workplan: Policy Package 3 Recommended Draft*, dated July 6, 2004;
- d. In addition to the changes identified in Exhibit A, the term “cultural” will be replaced with “archaeological” throughout the City’s adopted *Cultural (Archaeological) Resources Protection Plan for Columbia South Shore*, including in the report title; and
- e. The commentary and discussion in Exhibit A, *2003-2004 Regulatory Improvement Workplan: Policy Package 3 Recommended Draft*, dated July 6, 2004 are hereby adopted as legislative intent and further findings, as amended.



CITY OF PORTLAND, OREGON
BUREAU OF
Planning