

River Plan / North Reach
Planning Commission Worksession
Reponses to comments on the Proposed Draft
February 24, 2009

TOPIC: Prime Industrial Land / Comprehensive Plan Amendments

1. BRIEF SUMMARY OF COMMENTS ON THE TOPIC:

Several commentors are concerned about the prohibition against applicant-initiated (quasi-judicial) Comprehensive Plan map amendments, saying the move is unnecessary, inflexible, and undesirable because it does not account for change happening over time. Other comments relate to land along Linnton's waterfront. One commentor argues the Linnton Plywood site qualifies as Prime Industrial Land and the City is obligated to add it to our inventory. Other commentors are concerned about the additional regulations placed on the Linnton Plywood site by RICAP4 that add approval criteria and make it more difficult to take the Linnton Plywood site out of industrial zoning. They say such a move goes against previous agreements and will hinder desired restoration work on the site.

2. STAFF PROPOSED AMENDMENTS IN RESPONSE TO COMMENTS

a. Amendments for Discussion with Planning Commission

No amendments are proposed that staff believes Planning Commission needs to discuss.

b. Minor Amendments

No minor amendments are proposed.

c. Technical Amendments

No technical amendments are proposed.

3. COMMENTS THAT DO NOT REQUIRE AMENDMENTS

Comments and responses are attached.



3. PUBLIC COMMENTS THAT DO NOT REQUIRE AMENDMENTS



Report of River Plan Comments

<u>Topic 1:</u> Prime Industrial Land/Comp Plan amendments	<u>Topic 2:</u> All	<u>Topic 3:</u> All	<u>Comment Type:</u> No edit required
<u>Comment ID:</u> All	<u>Staff Entered:</u> All	<u>Commentor:</u> All	<u>Hearing Date:</u> All
<u>Geo Area:</u> All	<u>Volume:</u> All		<u>TOC Section:</u> All
<u>Staff Assigned:</u> All	<u>Comment Addressed?:</u> All	<u>Document Edited?:</u> All	<u>Individual Review:</u> All

Topic 1: Prime Industrial Land/Comp Plan amendments

Comment ID:	9	Commentor:	Kinder Morgan, BP, NuStar - Phil Grillo
Comment:		Identification and protection of Prime Industrial Land - Under new administrative rules that implement Statewide Planning Goal 9 Prime Industrial Land that must be inventoried and protected. In Linnton, approximately 35 acres of industrial land, zoned IH, has been excluded from the "Prime Industrial Land Retention Area" boundary shown on Map 4, without any relevant explanation. This is the area in Linnton that the Portland City Council recently voted not to rezone from industrial to residential use. This 35-acre industrially-zoned area in Linnton meets the definition of "Prime Industrial Land" and as a matter of law must be identified and protected as such. We therefore ask that you amend the Plan to show this land as Prime Industrial Land.	
Response:		The Linnton Plywood site is a large, redevelopable riverfront site with rail and water access in the heart of Portland's working harbor. The site has not been identified as Regionally Significant Industrial Area (RSIA) because a recent planning process was considering changing the property's zoning during the last RSIA inventory. Ultimately, City Council voted to maintain the industrial zoning on the site but did not indicate an interest in designating the property as RSIA. In light of the neighborhood's strong opposition to adding such a designation to the property, and without further direction from City Council, staff does not recommend adding this property to the inventory of RSIA or Prime Industrial Land.	
Comment ID:	11	Commentor:	Linnton Neighborhood Association - Ed Jones
Comment:		Section 33.810.020 in Volume 1B forecloses quasi-judicial Comprehensive Plan Amendments in Prime Industrial Areas. In our opinion this section fails to achieve the appropriate balance between the need for predictability and the need for flexibility. We are concerned that the elimination of quasi-judicial amendments will eliminate a substantial part of the flexibility that is essential to an effective plan. This is particularly true since the plan does not provide for either periodic review of the industrial zoning designations or assessment of the continued validity of the industrial zoning of particular sites. This restriction on quasi-judicial changes will lock the City into practices which may become counterproductive as those changes occur.	
Response:		The prohibition on applicant initiated quasi-judicial comprehensive plan map amendments in the Prime Industrial Areas (Map 810-1) is intended to reflect the importance of the harbor industrial district and to ensure that changes to the industrial zoning in the district do not take place in a piecemeal or isolated fashion. Changes to zoning within the working harbor industrial district could undermine the integrity of the district especially if they are done in isolation or if the change bifurcates the zoning pattern or reduces the amount of waterfront land available for river-dependent industrial uses. That said, the proposed regulation does not lock the City into the zoning as it stand today. Two avenues remain for amending the comprehensive plan map: (1) map amendments proposed as part of a legislative planning project; and (2) quasi-judicial map amendments initiated by the Planning Commission or City Council.	

Comment ID:	237	Commentor:	NAIOP - Mike Wells
Comment:	Quasi-judicial zone changes not allowed for sites considered "prime industrial land", of which NAIOP is supportive. However, the definition of prime industrial land should not be restricted by use type based upon proximity to the river without an identified need for such lands.		
Response:	The Prime Industrial Lands identified on proposed Map 810-1 correspond with industrial sanctuary land in the North Reach and with Metro identified Regionally Significant Industrial Areas. In the working harbor, these lands are where Oregon's primary rail, highway, water and pipeline infrastructures converge. The prime industrial land in the working harbor functions as intact, buffered districts and supports a significant share of the region's economic base and reduces freight transportation costs for Oregon consumers and exporters. While the prime industrial land shown on Map 810-1, and subject to the proposed comprehensive plan map amendment restriction, is industrial in nature and much of it is proximate to the river, the prime industrial lands were identified for the reasons stated above.		
Comment ID:	333	Commentor:	Central Eastside Industry Council - Peter F. Fry
Comment:	The City is taking an extraordinary and dangerous move to prohibit property owners from even requesting a quasi-judicial change to the plan or zoning map. There are plenty of safeguards already in place to protect industrial land. There are other mechanisms, such as a "no net loss" for industrial land or covenants such as environmental easements. We are reviewing the legal implications and suspect that this regulation is not only ill conceived, but illegal as well. The City should not take this extraordinary step.		
Response:	The River Industrial Zoning Task Group studied and discussed the issues surrounding conversion of industrial land in the working harbor industrial district and came to the conclusion that there are not enough safe guards in place in the existing zoning code to adequately protect prime industrial land from converting to uses that would undermine the viability of industrial development in the harbor district. Staff discussed the idea of applying a no net loss approval criterion as an additional safe guard, however such a criterion would require that the waterfront industrial land that is converting to another zone be replaced with new waterfront land somewhere else in the city. Because it will be impossible to meet this criterion (because creating new waterfront land is impossible), staff feels that applying a no net loss criterion is misleading and therefore has chosen to prohibit conversion in the interest of being clear and above board. We have reviewed this policy and zoning provision with our City Attorney, and have confirmed that it is legally defensible.		

Comment ID:	371	Commentor:	Jan Segunda
Comment:	Linnton's agreement with NINA was proof of our opting out of the Industrial Sanctuary. At no time has Linnton been afforded an opportunity to revisit this issue in an open forum. At no time has there been any attempt on the part of Portland to come to an understanding with Linnton on this issue. Certainly there is no agreement about what transpired yet the subject is always skirted by Portland.		
Response:	<p>You're right that the City has not directly responded to Linnton's concerns on this topic. Here is a summary of the City's understanding with regard to Linnton's agreement with NINA:</p> <ol style="list-style-type: none"> 1. In 1999 the four northwest neighborhood associations with industrial zoning reached consensus on recommendations for criteria and boundaries of industrially zoned areas. The Northwest Industrial Sanctuary Working Group (SWG) agreement created a Northwest Industrial Plan District with a northern boundary of the St. Johns Bridge. 2. The boundaries of the Northwest Industrial Plan District were used to create a Guilds Lake Industrial Sanctuary (GLIS) with regulations intended to protect the viability of the industrial district. Two examples of the type of regulations included in the GLIS are: establishment of additional approval criteria for quasi-judicial Comprehensive Plan Map amendments from industrial designations to nonindustrial designations within the GLIS and prohibition and restriction of the size of non-compatible uses. 3. The Guilds Lake Industrial Sanctuary is the name of a particular plan district within the City of Portland's zoning code. The term "industrial sanctuary" is a broader term that is used for all land that is zoned Heavy Industrial (H) or General Industrial (IG). The land along Linnton's waterfront is zoned IH and therefore is in the City's industrial sanctuary, even though it is not within the Guilds Lake Industrial Sanctuary. 4. Metro updated Title 4, which are the regional regulations that ensure protection for industrial and other employment areas. The strictest protections are for Regionally Significant Industrial Areas, but there are also restrictions related to industrial and employment areas. 5. The City of Portland recognized a need to update its regulations for industrial and employment lands to ensure continued compliance with Metro's Title 4 regulations and so the Planning Bureau forwarded a proposal through the Regulatory Improvement Code Amendment Package 4 (RICAP 4) process. RICAP 4 proposed citywide changes to regulations governing industrial and employment lands, including: further limitations on the amount of retail and office space allowed in industrial zones, limitations on land divisions on large parcels, and changes to the conditions under which owners of industrial or employment lands may request a change from an industrial or employment Comprehensive Plan designation (a limit on the amount of land that may be included in the request and additional approval criteria for applicants to meet). 6. The proposed RICAP 4 changes for industrial and employment lands apply to Linnton's waterfront, which is not designated as Regionally Significant Industrial Area. 7. The end result is that additional regulations have been applied to Linnton's waterfront that seem similar to the regulations that apply in the Guilds Lake Industrial Sanctuary. However, this change does not violate the 1999 agreement forged by the four NW neighborhoods. The City did not extend the Guilds Lake Industrial Sanctuary north of the St. Johns Bridge. Rather, in response to a regional mandate, the City strengthened its protections for all industrial and employment lands citywide, Linnton's waterfront included. <p>Staff acknowledges that this response may not seem very satisfying, but it is true and it is the best answer we can give to the Linnton community. Linnton's dedication to community improvement is impressive. Through the River Plan / North Reach, staff has identified improvements for Linnton within the regulatory and policy context and plans to work with the community to take further positive steps.</p>		

Comment ID:	385	Commentor:	Art Wagner
Comment:	Extending the Guilds Lake industrial sanctuary rules outside its boundary is a violation of an agreement and unnecessary and a bad idea.		
Response:	While additional regulations have been applied to Linnton's waterfront that may seem similar to the regulations that apply in the Guilds Lake Industrial Sanctuary, the City did not extend the Guilds Lake Industrial Sanctuary north of the St. Johns Bridge. Rather, in response to a regional mandate, the City strengthened its protections for all industrial and employment lands citywide, Linnton's waterfront included.		
Comment ID:	399	Commentor:	Jan Secunda
Comment:	Linnton is not included in RSIA. Linnton challenged our inclusion in RSIA during our six month Linnton Action Team meetings at City Hall and we also pursued the subject with Metro until the RSIA designation was dropped for Linnton. At the previous Planning Commission meeting, when Linnton informed you that we believe the quasi-judicial piece refers to Linnton specifically and you followed up on that, you were told that it affects other sites but no other site was mentioned by name nor was it pointed out on any map. Further, no other affected community has come forward. I've asked to be shown exactly where any other specific sites are and haven't been shown any.		
Response:	The prohibition on applicant-initiated (quasi-judicial) comprehensive plan map amendments does not apply to Linnton because Linnton has not been designated RSIA or prime industrial land. However, this prohibition will apply to almost every other site in the harbor, including Schnitzer, Terminal 4, Oregon Steel, BP, Kinder Morgan, etc.		
Comment ID:	403	Commentor:	Jan Secunda
Comment:	If the River Team is truly working with NOAA then they need to exempt Linnton from the quasi-judicial change so that the NOAA plan for Linnton can go forward.		
Response:	The proposal to prohibit applicant-initiated quasi-judicial Comprehensive Plan map amendments in Prime Industrial Areas does not apply to Linnton because Linnton is not identified as a Prime Industrial Area. Additionally, the quasi-judicial change would not conflict with restoration activities. Restoration is an allowed use on industrially-zoned land.		