

City of Portland
Noise Task Force

Meeting Minutes
Thursday, September 17, 2015

Members Present: Maryhelen Kincaid, Tina Penman, Jim Brunkhorst, Ryan Hyke, Doug Shapiro, Brad Nile

Members Absent: Ryan Pittel, Dick Roy, Melissa Stewart

Guests: Barry Manning (BPS), Nicholas Starin (BPS), Debbie Kitchin (Central Eastside Industrial Council), Peter Finley Frye (Central Eastside Industrial Council), Raihana Ansary (Portland Business Alliance), Mary Sipe (Community), Patrice Hanson (Community), Stan Penkin (Community).

Staff: Jasmine Wadsworth, Claire Adamsick, Paul van Orden, Theresa Marchetti, Kathy Couch

Welcome and minutes review

Members, staff and guests took turns introducing themselves.

Claire Adamsick shared the feedback she received from the public on the September 10 minutes, and asked for feedback from Task Force members, who had no additions. Task Force members supported Mary Sipe's amendments to clarify her public comment on proposed EX zone changes and the variance application process. Claire will make these changes and Kathy will post the minutes on the Task Force web page.

Agenda and overview of handouts

Task force members received material that was requested in previous meetings. Maryhelen Kincaid requested that additional material is posted online for the public. Claire and Noise Office staff will post meeting handouts electronically.

EX Zones in the context of the City's Mixed Use Zones Projects and Central City Plan District

Brad Nile volunteered to read the following problem statement aloud to start discussion with the Bureau of Planning and Sustainability (BPS) staff:

EX Zones are currently classified as "industrial" properties for purposes of enforcement of the Noise Code, which means the allowable decibel levels are much higher in these zones. At the time EX zoning was incorporated into the noise code, EX zoning was anticipated to maintain a higher concentration of industrial operations. The evolution of the EX zoning in Portland has yielded a mix of commercial and residential development, with very little actual industrial activity. In order to be consistent in the application of the noise code with the real activity at the property, the Noise Review Board proposed in July 2015 (??) changing the treatment of EX zones from industrial to commercial, in terms of enforcement of the allowable decibel levels. This provides equal protection for community members who live in these zones as well as for those who enjoy these zones for other uses.

Central Question: How can the Noise Code appropriately provide an exception for EX Zones that are hubs for industrial activity?

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Barry Manning and Nicholas Starin from the Bureau of Planning and Sustainability gave a brief overview of the Mixed Use Zones Project and Central City Plan.

Nicholas discussed the origin of the EX zoning designation and the major differentiators between industrial and commercial activities relative to zoning allowances. He described the current process of developing and finalizing the Central City Plan and corresponding Quadrant Plans, sharing maps which showed current EX zones throughout the Central City. Nicholas informed the Task Force that BPS is in the final stages of updating the Zoning Code, which is expected to be completed within the next year. Nicholas alerted the Task Force to recent conversations in the SE Quadrant Plan regarding protecting the industrial sanctuary in the Central Eastside.

Paul van Orden explained that the Noise Review Board (NRB) recommended in the summer that allowable decibel levels in EX zones shift from industrial to commercial to reflect current activity in these areas. The consensus at that time, based on feedback from Noise Office staff, the NRB chair, and the Central Eastside Industrial Council was that an EX Zones noise code change should not apply to the East side of the river due to the high industrial use in that area.

Nicholas informed Task Force members that EX Zoning will remain in the Gateway area and that there are EX zones elsewhere in the City that are being converted to commercial zones.

Maryhelen Kincaid asked whether it would make sense to adjust the Noise Code based on the percentage of industrial uses relative to residential, i.e. that a code change might make more sense on the West side than on the East side.

Discussion of central question: How can the Noise Code appropriately provide an exception for EX Zones that are hubs for industrial activity?

Theresa Marchetti clarified that the goal of the Task Force is to establish the same protections that exist in residential communities for EX Zones that became residential-commercial abutting through the way the neighborhood developed. Task Force members discussed a general hesitancy to make decision in a short period of time, questioning whether or not they have enough background to make a decision.

Tina Penman asked if recommendations are long-term or if there is a possibility to revisit recommendations in five years. Maryhelen Kincaid believes issues regarding exceptions for EX zones need to be reviewed by the Noise Review Board and BPS, the entities that are the best position to be aware of potential impacts.

Barry Manning, BPS, presented a map showing the proposed conversion of EX Zones and CX zones outside of the Central City into Commercial Mixed Use Zones (CM3). He informed the Task Force that the zoning changes are based on development trends in certain areas. BPS will be releasing a discussion draft in a couple of weeks, and will take informal comments through October. The proposed draft will be reviewed by the Planning and Sustainability Commission in January, with a target of submitting the final proposal to City Council in late Spring or Fall 2016 with the rest of the Comprehensive Plan Project.

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Task Force members asked questions regarding CM3 zoning, discussing the potential impact that zoning changes will have on the Noise Code.

Barry Manning suggested that the Task Force differentiate between EX zones in different parts of the City, adding that the Task Force should look at the CM3 zoning designation to consider whether the Noise Code needs CM3-specific amendments down the road.

50:44 Public Comments

Raihana Ansary, Portland Business Alliance, encouraged the Task Force to focus any proposed changes on areas with high concentration of industrial versus focusing on an “Eastside vs. Westside conversation” – keeping in mind the equity issues that could emerge. She also commented that this issue is of concern to a lot of Portland Business Alliance and Central Eastside Industrial Council members. Since none of those members are formally on the Task Force, Raihana suggested that an additional meeting be convened to further discuss the EX Zone issue.

Stan Penkin asked for clarification on if EX Zones are changed to commercial per the Noise Code, would existing industrial uses be grandfathered in (i.e. the new code would not apply). Paul answered that the Noise Code would not limit what is allowed to operate in a given area, it can only address how loud a given use could be allowed to operate. Task Force members discussed decibel level requirements and whether or not it would be reasonable to ask existing industrial sites to modify their operations to meet new decibel level requirements.

Mary Sipe referenced the table in the Noise Code that shows current allowable decibel levels according to type of use. She asked and received clarification from Paul van Orden that if the Task Force were to propose decibel level changes for EX or CM3 zones, the definitions section in Title 18 would be amended to include CM3 (it already includes EX). Mary requested a side-by-side comparison of allowable decibel levels according to current and proposed zoning designation changes.

Patrice Hanson commented that since Pearl is no longer primarily an industrial area, it makes sense to change the zoning. She stressed that this conversation does not address the impacts of pile hammer driver, which is her primary concern.

Debbie Kitchin, Central Eastside Industrial Council, commented that the CEIC is concerned about allowable noise levels being modified on Central Eastside, particularly as most of the area is predominantly industrial is not anticipated to be converted to residential. She added that a provision in the SE Quadrant Plan requires new property owners to sign a disclosure agreement that recognizes that they are in an industrial sanctuary. She commented that the CEIC does not want to have commercial sound levels applied to EX Zones in the Central Eastside. She stressed the need for better data on industrial uses outside of the Central City and on the impact that a change in the Noise Code would have if it were to limit the operations of existing industrial properties. People who could be impacted by a proposed change of this nature should be properly notified.

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Stan Penkin said that there are very few industrial uses left in the Pearl, but that there are other noise concerns in the Pearl such as entertainment venues, garbage and recycling trucks. Lowering the allowed decibel levels in the Pearl would address a number of noise concerns beyond noise generated by industry.

In regard to Stan's concern about event or entertainment-related noise, Mary Sipe clarified that most event-related variances have a variance which would temporarily override existing (or future modified) Noise Code re: allowable decibel levels.

Task Force members discussed how the Pearl boundaries would determine Noise Code amendments, asking whether they are in the best position to make a decision on this topic without a full picture of which industrial businesses and adjacent residents/uses in the Pearl would be impacted by a code change.

Claire reviewed questions that she heard from the discussion thus far: Is it appropriate for the Noise Task Force to recommend setting maximum decibel levels in EX zones? If so, would the recommendations would be specific to only one part of the City? What would be the impact to existing industrial uses within current EX zones? Paul explained that in terms of area-specific Noise Code designations, a noise overlay zone has been used in the past, for example with the Portland International Raceway.

Doug Shapiro felt that the Task Force could put forth a recommendation to change the EX zones as per the recently adopted West Quadrant Plan to Commercial, leaving the Central Eastside untouched, but he agreed that further evaluation is needed regarding the impacts. Maryhelen Kincaid commented that she would support an informed change, and the changes need to come from the NRB working with BPS.

Claire acknowledged guests' requests for additional time to review proposed changes, as well as the Task Force's apparent hesitancy to vote on proposed changes without a full picture of the potential impacts. She will share the group's feedback with Commissioner Fritz before the next Task Force meeting on October 1, and provide the Commissioner's input on next steps at that time.

The meeting adjourned at 5:30 p.m.