

April 10, 2016

Barry Manning  
Nan Stark  
Portland Bureau of Planning and Sustainability  
1900 SW 4th Ave, #7100  
Portland, OR 97201

**Re: Improper Zone Assignment, Mixed Use Zones Project on NE Killingsworth St**

Dear Nan and Barry:

Hello, I am a commercial property owner in NE Portland at 30th and Killingsworth and I am writing to testify against the proposed CM-1 Zoning designation at that intersection. I feel it is demonstrably inappropriate to zone this intersection at CM-1 for reasons that include the nature of the corridor, the nature of the surrounding zoning, and the nature of future growth. (For these same reasons, it is also inappropriate to take a portion of the development at 33rd and Killingsworth and zone it CM-2 and take another portion and assign it CM-1, which we will address herein, as well.)

I am requesting a CM-2 designation for these locations, which more closely translates to the old CS zone, which is most appropriate for these commercial nodes.

Please find my arguments in detail below:

**CS to CM-2.** The majority of Killingsworth’s commercial nodes are zoned CS, a few are CG, and a small number are CN-1/CN-2. The city’s stated intentions were to generally take existing CS zoning and convert it to CM-2 zoning. So let’s examine what happened to all CS zoning on all of Killingsworth as a part of the proposed rezone. As shown in the table below, **ALL of the CS zoned properties on Killingsworth were either cross-zoned to CM-2, expanded into residential zoning, or were up-zoned**, except for one case, the down-zone that happened at 30th and Killingsworth, see the table below.

LOCATION ON KILLINGSWORTH ST	EXISTING ZONING	NEW ZONING
Denver to Interstate	CS	CM-3 Up-Zone
Interstate to Kerby	CS	CM-2 Cross-Zone
Commercial to Mallory	CS	CM-2 Cross Zone Extended Further East into Residential Zoning
14th to 17th	CS	CM-2 Cross-Zone

LOCATION ON KILLINGSWORTH ST	EXISTING ZONING	NEW ZONING
30th	CS	CM-1 <b>Down-Zone</b>
Cully	CS	CM-2 Cross-Zone

Let's compare the commercial infrastructure on Killingsworth at 15th and at 30th, as an example. As you can see below, it's pretty much exactly the same. In fact, the commercial infrastructure at all of the nodes on Killingsworth is pretty much the same, so why should one be singled out for a down-zone?



Also, consider the cross-zone just 3 blocks away that occurred at NE 33rd and NE Emerson. The New Season's site went from CS to CM-2, even though it borders on R5 zoning. But the corner at 33rd and Killingsworth that serves as its gateway is zoned CM-1, even though it borders on more high density zoning and one corner is technically part of the CS-zoned development.

**The Corridor.** NE Killingsworth St. is one of our longest, continuous, in-city east-west corridors. It is not a neighborhood street, it is not a street zoned with R5, single family homes. It is a busy, cross-Portland serving arterial.

Consider city zoning descriptions for the new zones:

Language describing CM-1: *“This small-scale commercial mixed use zone is intended for...lower density residential areas...”*

Language describing CM-2: *“This medium-scale commercial mixed use zone is intended for sites in a variety of centers and corridors...or within an area zoned for multi-dwelling development...”*

It would seem that CM-2 describes the Killingsworth situation more closely because the majority of residential zoning on Killingsworth is listed as multi-dwelling zoning under current zoning code at the City of Portland.

Additionally, all surrounding residential at the intersections of 30th and 33rd have a bonus density overlay, which will bring even more people and concentration of activity. In the future, it will be a busy corridor with a lot of density.

### **Surrounding Scale.**

All of the zoning of the lots that immediately border on the commercial properties at the 30th and Killingsworth node are either R2.5a or R2a. Let’s look at what building height and lot coverage are like on those parcels:

R2: Allows for 40 foot height construction and 50% maximum lot coverage.

R2.5: Allows for 35 foot height construction and 50% maximum lot coverage.

Overlay (a): Allows for “bonus density,” as Portland code puts it, calling for: “Fifty percent more dwelling units than allowed by the base zone is granted.”

Now let’s compare that to the allowances for CM-1, the proposed plan for 30th and Killingsworth:

CM-1: Allows for a 35 foot height building, and 50% lot coverage at maximum height.

This means that eventually, everything around the commercial node on 30th and Killingsworth is going to potentially be 35 to 40 feet covering half the lot. But under the

CM-1 zoning, with a base FAR of 1:1.5, if I was to maximize the 35 foot height limit, I would only be allowed to have 50% lot coverage. So new commercial development would be ***at or below*** the same density as the residential, which makes no sense. Usually, commercial nodes are taller and more dense than surrounding residential zoning, which is appropriate.

In fact, in the proposed zoning report issued by the city to describe these zone changes, there are four examples of projects that are shown as examples for CM-1 zoning, which are pictured below. All of these buildings appear to have at least between 75%-100% lot coverage. If that is true, then none of these buildings except the single story Umpqua Bank building in the upper left corner would be able to be constructed under CM-1 zoning.



On 33rd and Killingsworth, a similar thing is happening. That node is surrounded by R2, R2.5, and R5, all of which have the (a) overlay allowing for more density. And, it is the gateway for the heavily used CS-zoned commercial development immediately to the south, which includes the grocery store anchor. It makes much more sense for that entire

node to be a single zone so future commercial development is at an appropriate, and consistent scale.

### **Historic Preservation.**

It is not uncommon for communities to want to use down-zoning to try to preserve historic infrastructure. However, it is a heavy handed tool that has unintended consequences, and besides, it doesn't work.

The market, and people's desire to live in Portland, are what are driving changes to the built environment. Not owners of properties wanting to tear down historic buildings. The city is going to have to become more dense to accommodate population growth because it has an urban growth boundary.

An increase in density and a replacement of buildings has always been a part of a growing city's urban landscape for as long as we have built cities. For instance, Portland's population tripled between 1900 and 1937 — it would be interesting to look at a time lapse photograph of the buildings that got replaced to bring more density throughout Portland during that time!

If this down-zone is being used as a means of historic preservation at the corner of NE 30th & NE Killingsworth, why is just this corner being singled out? Does that mean that the buildings in other commercial nodes along Killingsworth are not worth saving? Are the buildings on the corner of 30th and Killingsworth more special, or more historic than elsewhere on Killingsworth? I would answer "no" to all of these questions.

The bottom line is that generally, buildings that have good lot coverage, that cash flow well, have high value tenants, and exist as a part of a commercial node with a strong brand identity — the very buildings the neighborhood likes — probably aren't going to flip to a new, denser construction project over the next few years. Why? Because the amount of money that a developer would have to pay for a high-performing property, and then be able to build something on it that would achieve a return, is a real estate market that does not reflect current realities in NE Portland.

In the meantime, for the properties that are not well tenanted, or that don't have good lot coverage, don't we want those to be replaced with denser buildings that have appropriate lot coverage for a commercial district that are of a scale in line with where the city is going, instead of the scale this neighborhood was designed for one hundred years ago? For example, the Northeast corner of 30th and Killingsworth, or the two auto focused large lot/small building sites on the northern corners of 33rd and Killingsworth. These are places that feature very auto focused, low density development. They are exactly the candidates we should be looking toward to introduce much needed density, which calls for CM-2 zoning.

Down-zoning as a means of historic preservation won't stop buildings from being torn down — eventually that will happen, but only when the market supports rents that justify tearing down a building that cash flows. When, or if that time comes to these nodes, a CM-1 zone will mean that the neighborhood will end up with product that is not as nice as other areas of the city because owners will have less money to spend on construction/ finishes since they will have less of an economy of scale to their building site. And, the neighborhood will end up with product that is inappropriately sized compared to the surrounding residential projects that will arise around it. Lastly, when new construction comes to these nodes, developers will likely try to assemble lots in order to achieve a better economy of scale, which will result in larger structures to overcome the lower density restrictions. This will ruin the small lot appeal of these commercial nodes, and the very ambiance the neighborhood likes so much.

Regards,

Elisa Smith ELISA SMITH (30TH AVE LLC)  
Owner (Signature/Print)

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Owner (Signature/Print)

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Owner (Signature/Print)

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