From: Maureen Young
To: BPS Comprehensive Plan Testimony
Subject: Comp plan implementation- Parking for apt buildings
Date: Thursday, October 13, 2016 1:56:14 PM

Minimum parking requirements in mixed use zones are a barrier for more affordable housing in this city. We need more housing so much more desperately than we need parking spaces for cars.

Maureen Andersen
503 583 7628

Sent from my iPhone

October 13, 2016

VIA EMAIL (CPUTESTIMONY@PORTLANDOREGON.GOV)

Portland City Council
Attn: Ms. Karla Moore-Love, Council Clerk
City of Portland
1221 SW Fourth Avenue
Portland, OR 97204

Re: Comprehensive Plan Implementation
Joseph W. Angel's Testimony and Request for Amendments to the Comprehensive Plan Early Implementation Package

Dear Mayor Hales and City Council Members:

This office represents Joseph W. Angel with regard to his property located at 5100 NW Skyline Road (the "Property") within the Northwest Hills Plan District. For over six years we have worked with the City to find a solution to long-standing regulatory uncertainty surrounding this specific Property, and believe that the Early Implementation Package is the appropriate code amendment tool. Mr. Angel requests:

1. Amend PCC 33.563.410 so that "Rural Lands Outside of the Urban Services Boundary" that are divided may be served by septic systems and private water sources; and

2. Remove the future urban (f) overlay from the Property.

Requested Amendment to PCC 33.563.410

The Property is one of relatively few properties within the City's boundaries but outside of the Urban Growth Boundary ("UGB"). The 2035 Comprehensive Plan characterizes the Property as "Rural Lands Outside of the Urban Services Boundary." See Figure 8-1. Urban, Urbanizable, and Rural Lands, attached.

The code requires all land divisions in the Northwest Hills Plan District to be served by public sewer, but state law prohibits the extension of public sewer outside of the UGB. *Compare* PCC 33.563.410 and Goal 11. This discord between regulations can be resolved by allowing properties within the City limits but outside of the UGB to be served by septic systems and private water sources.

The following amendment to an existing regulation in the Northwest Hills Plan District solves the issue (deletion in ~~strikethrough~~, additions underlined):

> **"33.563.410 Land Divisions and Planned Developments**
> The following regulations apply to land divisions that will create four or more lots and to all Planned Developments within the Skyline subdistrict. Adjustments are prohibited.
>
> * * * * * *
>
> **B. Additional requirements for approval.** In order to be approved, proposed land divisions and Planned Developments must meet the following requirements:
>
> 1. Public sewer and water service must be available to ~~the~~ sites located within the Urban Growth Boundary; and"

The requested amendment is consistent with many elements of the 2035 Comprehensive Plan, including (emphasis added):

> **Policies -- Service provision and urbanization**
>
> The policies in this section support the maintenance of an urban services boundary to coordinate planning and provision of public facilities. These policies also identify which urban facilities and services are and will be provided by the City of Portland within this boundary. This section supports Statewide Planning Goal 11 — Public Facilities.
>
> The Portland Comprehensive Plan addresses three distinct types of land: rural, urbanizable, and urban. Some rural land is within the City Limits, having been annexed prior to establishment of the Regional Urban Growth Boundary. This land must maintain its rural character, and public facilities and services in this area should be planned accordingly. Urbanizable land is beyond the City Limits, within the Regional Urban Growth Boundary and within the City's Urban Services Boundary. Urbanizable land will eventually be annexed to the City of Portland, and full urban services may then be extended. Urban land is within the City Limits, the Regional Urban Growth Boundary, and the City's Urban Services Boundary.
>
> **Policy 8.2 Rural, urbanizable, and urban public facility needs.** Recognize the different public facility needs in rural, urbanizable and urban land as defined by the Regional Urban Growth Boundary, the City Urban Services Boundary, and the City Boundaries of Municipal Incorporation. *See Figure 8-1 — Urban, Urbanizable, and Rural Lands.*

Policy 8.19 Rural service delivery. Provide the public facilities and services identified in Policy 8.3 in rural areas only at levels necessary to support designated rural residential land uses and protect public health and safety. Prohibit sanitary sewer extensions into rural land and limit other urban services.

Requested Removal of Future Urban (f) Overlay

Because the Property is not designated as an Urban Reserve, it is unlikely to be included in the Urban Growth Boundary ("UGB") in the next fifty years, if ever. Therefore, the future urban (f) overlay zone should be removed from the Property.

Background

The history of the circumstances involving the Property provides useful context for these requests. The Property consists of 48 contiguous acres comprised of five parcels in single ownership located entirely within the City of Portland, with only a limited portion of the Property located within the UGB. Starting in 1965, the City of Portland began providing water service to the Property, replacing well water as the source of water to the Property. In 1971, the Property was annexed to the City of Portland at the request of the City based, in large part, upon the City's commitment to provide additional City services. At the time, we understand the Property was designated to accommodate residential densities of 4.5 units per gross acre, or 10,000 square foot lots, and such zoning remained in place until 1977.

At the time Mr. Angel purchased the Property in 1978, the applicable zone map designation was Farm/Forest, which allows a minimum lot size of two (2) acres. In 1981, a new Natural Resources (NR) overlay zone was adopted by the City, which required a 20-acre minimum lot size. The NR overlay zone applied to the part of the Property located outside of the UGB. In 1991, an exception to Statewide Planning Goal 4 was taken for four of the five lots to allow continuation of the 2-acre residential zoning of the Property through the Northwest Hills Natural Areas Protection Plan, which also applied the Environmental overlay zone designation to limited portions of the Property. Also in 1991, the City of Portland required that all NR zoned land be changed to a future urban (f) overlay zone. It is worth noting that the future urban overlay zone has the sole effect of increasing the minimum lot size applicable to the Property under the acknowledged comprehensive plan and zoning designations from 2 acres to 20, thereby reducing the number of available lots from approximately 24 to 2 notwithstanding the base zone density allowance and availability of City water. The stated basis for this mapping was to retain the potential for future urbanization of the property through inclusion within the Urban Growth Boundary.

Metro included the Property within its Urban Reserve areas designated to be future locations for UGB expansion in 1997. In 2002, Metro voted to include all of the Property within the UGB and

the Land Conservation and Development Commission ("LCDC") affirmed Metro's decision; but in 2005, the Court of Appeals remanded Metro's decision for reasons wholly unrelated to the Property. Since Metro declined to respond to the Court's ruling through readoption of the amendment, the Property has yet to be addressed again by Metro. Thus, the bulk of the Property remains outside of the UGB notwithstanding the earlier policy choice of Metro and LCDC. Further, the Property is not included as an Urban Reserve area, so it is unlikely to be included in the UGB for decades, if ever. Obviously, this fact further underscores the inappropriateness today of the (f) overlay designation.

In order to reconcile the Property's regulatory history and resolve the regulatory uncertainty surrounding the property, Mr. Angel requests that the future urban (f) overlay zone be removed from the Property because it is highly unlikely that the Property will be included within the UGB.

Following the removal of the future urban overlay, Mr. Angel intends to apply for a land division or planned development establishing the specific development plan for the Property, consistent with the existing RF base zone designation. In addition, Mr. Angel has worked over the years with Metro to undertake a land trade or acquisition to facilitate improvements to the Saltzman Road frontage and enhance this key access portal to Forest Park. Further, previously the Portland Parks Bureau was interested in acquiring a portion of the Property as a neighborhood park. However, it is necessary to resolve the final development scenario of the Property through this Early Implementation Package and subsequent land division prior to incorporating proposed acquisitions by Metro and the Parks Bureau.

Thank you for your consideration of these requests.

Very truly yours,

Steven L. Pfeiffer

SLP:crl
Enclosure

cc: Mr. Joseph W. Angel (with enc.) (via email)

PERKINSCOIE

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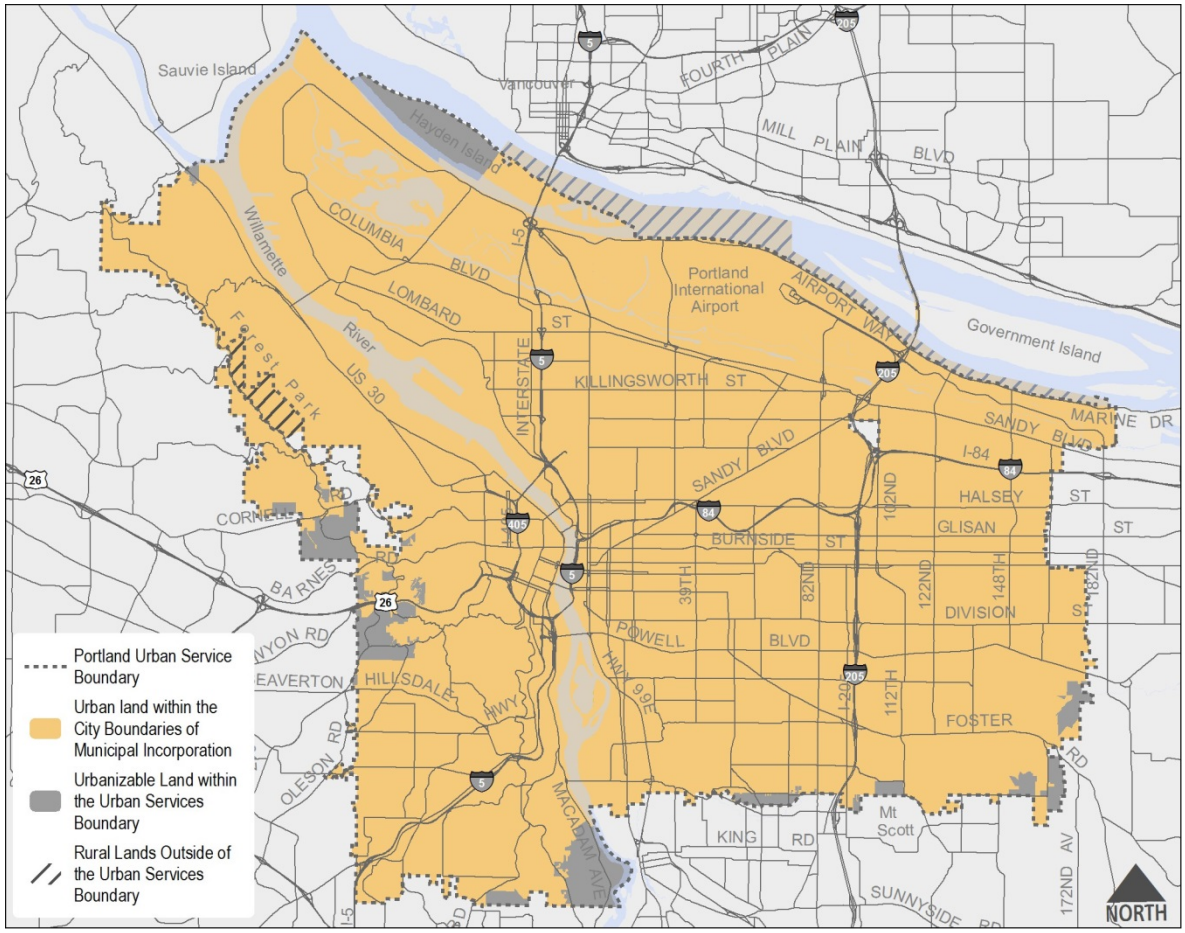
Figure 8-1. Urban, Urbanizable, and Rural Lands



From:	Mary Daly
To:	BPS Comprehensive Plan Testimony
Subject:	Comprehensive Plan Implementation
Date:	Thursday, October 13, 2016 1:48:36 PM

Hello,

As a neighbor living on the section of N Greeley between Rosa Parks and Lombard the past 13 years, I have witnessed ***frightening traffic violations*** on a daily basis- some examples:

*SPEEDING – cars, beer trucks, fedex, semis, motorcycles

*Drivers going around the medium at the Greeley /Dekum intersection into the oncoming lane of traffic as they do not want to wait for Trimet buses to load, or unload.

*Once drivers pass Rosa Parks they pick up speed for a full run down to Lombard

*A crosswalk hit & run that resulted in the death of a neighbor (Aug. 30, driver still at large).

*5 accidents where cars have taken out telephone poles, damaged cars parked on the street, and two instances where the cars ended up on sidewalks and front lawns.

*Cars do not slow down or stop in the Greeley/Dekum crosswalk – bear in mind this crosswalk leads to the popular Arbor Lodge Park & Harper's Playground as well as Chief Joseph School. It gets a LOT of activity. The crosswalks along Greeley and the intersections at both Rosa Parks and Lombard are high impact, confusing, chaotic, and consistently busy.

The southern section of Greeley from Killingsworth to Rosa Parks is designated as a "Community Collector" and has seen improvements along with that status. From Rosa Parks to Lombard, the street has no special designation.

I am aware that the City has made recent investments in North Lombard through the Lombard Reinvestment Strategy and urge you to extend the Greeley's Community Collector status all the way North to Lombard to connect with the streetscape improvements there.

This section of Greeley, between Rosa Parks and Lombard hosts two major crossroads for the neighborhood – at North Buffalo and North Bryant – that bring people of all ages and abilities to Gammans Park, Arbor Lodge Park, Harper's Playground and Chief Joseph School. As well as east and west to the Interstate Lightrail transit centers at Rosa Parks and Lombard.

Extending the collector status through the Rosa Parks and Lombard intersections with Greeley will assist people in travelling east and west, but also encourage connections to the burgeoning commercial center at Greeley/Portsmouth/Lombard with many new small businesses like Green Zebra, Fang and Feather, Bandinis Pizza, VCA Veterinary Hospital, King Burrito, Arts and Craftsman Supply and more. As this area of Lombard continues to develop, I want to see it well connected and safe for all users.

Please consider making all of N. Greeley Ave. safer!

Regards,

Mary Daly

From:	Gwenn Baldwin
To:	BPS Comprehensive Plan Testimony
Subject:	Comprehensive Plan Implementation--Oregon LOCUS written testimony re: proposed NW District downzoning 10-13-16
Date:	Thursday, October 13, 2016 1:48:01 PM
Attachments:	Oregon LOCUS Letter re Comp Plan Implementation 10-13-16.pdf

Attached please find Oregon LOCUS' written testimony on the Agenda Item 1152 before Council this afternoon.

Oregon LOCUS, a local affiliate of Smart Growth America's coalition of responsible developers and investors, urges City Council to retain the existing density potential in this high opportunity area in Portland.

Thank you. gb

Gwenn A. Baldwin
Baldwin Consulting LLC

503-975-9517 (o)
gwenn@baldwinconsulting.biz

OREGON LOCUS

Responsible Real Estate Developers and Investors

an affiliate of Smart Growth America's national developer coalition

October 13, 2016

Portland City Council
1221 SW Fourth
Portland, OR 97204

Re: Comprehensive Plan Implementation--proposed NW District downzoning

Dear Mayor Hales and Commissioners Fish, Fritz, Novick and Saltzman:

Oregon LOCUS appreciates the opportunity to briefly comment on the proposed reduction in the FAR in the Alphabet Historic District and urges you to retain the existing 4:1 FAR.

The Alphabet Historic District is a high opportunity area, with excellent walkability and significant transit investments. This is exactly where the City should be meeting housing needs, especially affordable housing, yet the proposed reduction could reduce housing potential by 2 million square feet and 1,500-2,000 units.

While we appreciate the proposed increased density in several new opportunity areas of the city, as well as the desire to protect historic resources within the Alphabet Historic District, we do not believe that reducing the FAR in approximately half this district is warranted nor is the existing FAR automatically at odds with an historic district. The area proposed for FAR reduction includes higher density zoning along the eastern edge of the district and specific locations proximate to existing higher buildings where development at 4:1 makes perfect sense. The reality is that most development will be reviewed by the Historic Landmarks Commission to evaluate context within the historic district.

As an affiliate of Smart Growth America's coalition of responsible developers and investors, we look forward to working with the City on a wide range of smart, sustainable, walkable and affordable development public policies. As noted in the recent White House Housing Development Toolkit (September 2016), even well-intentioned policies can lead to housing development barriers and reduce affordable options in the prime opportunity areas.

Oregon LOCUS urges you to retain the existing 4:1 residential FAR in the Alphabet District.

Sincerely,

Mike Kingsella
Executive Director

From:	Michael Harrison
To:	BPS Comprehensive Plan Testimony
Cc:	Brian Newman; Alice Cuprill Comas; Cole, Roger
Subject:	Testimony on 2035 Comprehensive Plan: Major Public Trails
Date:	Thursday, October 13, 2016 1:47:56 PM

Dear Mayor and City Commissioners,

I am writing today to request an amendment to the Proposed 2035 Comprehensive Plan. The Plan identifies the future locations of Major Public Trails, with the Comprehensive Plan Map App identifying a new Major Public Trail segment through the center of our Marquam Hill Campus. The Map App mistakenly identifies this segment, #82, as being built on "existing public ROW," however, it is shown as being on a combination of our private street network and a ravine behind existing buildings. OHSU formally requests the removal of Major Public Trail Segment #82 from the Proposed 2035 Comprehensive Plan.

The safety and security of our patients, students, employees and visitors is of paramount importance to OHSU. In order to ensure their safety and to foster an atmosphere in which OHSU's educational and health care missions can be carried out, OHSU must be able to control its property. In some instances this may require OHSU to issue temporary trespass warnings or exclude individuals from OHSU owned or controlled facilities and/or property. It appears the Major Public Trail element of the Proposed 2035 Comprehensive Plan would negatively impact OHSU's right to control access to its property in this way and to preclude persons that may present a risk.

While safety is paramount, there are a number of reasons why Major Public Trail Segment #82 is not needed:

1) Trail Segment #82 is Duplicative. Existing Major Public Trail routes are already identified in the Comprehensive Plan to the immediate south and north of our Marquam Hill Campus. Similar to Segment #82, these existing routes allow travel from SW Terwilliger Boulevard to SW Fairmount. These other routes are more scenic than Segment #82, as a significant portion of those routes travel through the Marquam Hill Nature Park.

2) Existing Campus Trails are in Place for Recreational Users. OHSU owns and maintains an existing trail through our Marquam Hill Campus (SW Trail #1), meeting the needs of the public at large. Notably, our existing trail is used by the public as an alternative route for the 4T trail, on Sundays when the tram is not running. Building this alternate 4T route to Major Public Trail standards seems excessive. To borrow phrasing from the Proposed Comprehensive Plan, the role of this existing trail is not diminished by not being designated a Major Public Trail.

3) The Topography is a Challenge for OHSU Users. Given the footprints of existing buildings, much of Segment #82 would likely go through a steep ravine, and as such, would not be a well-used route for our employees, students or patients. The vast majority of OHSU users seeking to travel from SW Sam Jackson Park Road to SW Campus Drive travel via building hallways and elevators. This would not change, regardless of the degree of improvement a Major Public Trail would bring.

4) Nexus and Proportionality are Unclear. The Proposed Comprehensive Plan says that Major Public Trail "...regulations apply when a proposed development will increase the use of the trail system or will contribute to the need for additional trail facilities and application of the regulations is determined to be roughly proportional to the impacts of the proposed development." For many of the reasons outlined above, we don't believe the City would be able to establish the required nexus or proportionality to require OHSU to replace our existing trail with a Major Public Trail.

5) A Major Public Trail, if built, would be replaced by SW Corridor Project improvements. OHSU is working with our neighbors, Metro and TriMet to develop concepts for an ADA connection from future light rail along SW Barbur Boulevard to buildings within our Marquam Hill Campus. Should OHSU be required to construct a Major Public Trail on our campus, within the next twenty years its function would largely be replaced by a new Marquam Hill Connection.

Thank you for considering our concerns. We would welcome the opportunity to work with City staff to identify common goals and understanding surrounding the development of a Major Public Trails system in our area.

Sincerely,

Brian Newman
Associate Vice President for Campus Planning, Development and Real Estate

October 13, 2016

VIA EMAIL (CPUTESTIMONY@PORTLANDOREGON.GOV)

Portland City Council
Attn: Ms. Karla Moore-Love, Council Clerk
City of Portland
1221 SW Fourth Avenue
Portland, OR 97204

Re: Comprehensive Plan Implementation
Oregon Racing, Inc.'s Testimony and Request for Amendments to the Comprehensive Plan Early Implementation Package

Dear Mayor Hales and City Council Members:

This office represents Oregon Racing, Inc., the operator and part owner of Portland Meadows, which is located at 1001 N. Schmeer Road (the "Property"). Please include this testimony in the record of the Comprehensive Plan Early Implementation Package proceedings, and provide us with notice of the final decision.

We request a minor amendment to the new Prime Industrial Overlay Zone (PCC 33.475) so that the new overlay zone does not convert the existing facility into a nonconforming use.

Portland Meadows pre-dates City zoning, and currently operates pursuant to a conditional use permit. The race track portion of the facility is characterized as a Major Event Entertainment use, and the now-dormant golf facilities were a Parks and Open Space use. The Early Implementation Package proposes to impose the new Prime Industrial Overlay zone on the Property. The overlay zone prohibits Major Event Entertainment uses and Parks and Open Spaces over 2 acres, so the existing facility would become nonconforming.

Converting Portland Meadows to a nonconforming use would be a significant limitation on not only its business, but the rural and urban businesses that support horse racing (horse breeders, jockeys etc.). A 2010 analysis of the economic impact found that Oregon's horse racing industry contributed more than $202.6 million in output to Oregon's economy, of which Portland Meadows was responsible for $6.4 million in labor income and 176 jobs. Simply stated, Portland Meadows is the economic engine that drives Oregon's horse racing industry, and it enjoys the support of a broad coalition of groups such as the Oregon Racing Commission and the Oregon Horsemen's Organization.

It is more difficult, and expensive, for a use that is considered nonconforming to obtain financing, attract investors and sometimes to obtain insurance. The primary reason is that if the

use is damaged or destroyed, in some circumstances the use cannot be reconstructed. Under Portland's current code, the right to continue a nonconforming use is lost if the cost to repair a damaged structure exceeds 75% of its value. The assessed value of the improvements on the Property is approximately $318,000 so if repairs to the grandstand or track exceeded $238,500, the right to continue the use would be lost. In its 71-year history, portions of Portland Meadows have been damaged or destroyed by flood and fire, so Oregon Racing, Inc. takes the casualty risk seriously.

Portland Meadows will not become a nonconforming use if the use limitations in the new Prime Industrial Overlay Zone are applied only to new Major Event Entertainment and Parks and Open Space uses. Limiting the prohibition to only prospective uses is consistent with Metro's Title 4, pursuant to the attached correspondence with a Metro Attorney. Specifically, Metro key findings were:

> "Title 4 is forward-looking and does not include restrictions or prohibitions on existing uses. The RSIA protections in Title 4 require cities to prohibit "new buildings" for retail, commercial, and other non-industrial uses, but do not include restrictions on existing buildings or uses.
>
> ***
>
> To summarize, I do not believe there would be a conflict with Title 4 if the city elected to adopt prime industrial overlay prohibitions on Commercial Outdoor Recreation uses and Major Event Entertainment uses that apply only to new facilities, while allowing existing facilities to continue to operate as a conditional use."

As proposed, the Prime Industrial Overlay Zone exceeds Metro Title 4 requirements. Metro's code does not require that Portland Meadows become a nonconforming use; the City has exercised a policy choice to convert Portland Meadows to a nonconforming use. We request a minor amendment so that the prohibition on uses is applied prospectively only.

Very truly yours,

Dana L. Krawczuk

DLK:crl
Enclosure
cc: Scott Daruty (with enc.) (via email)
Mike Rogers (with enc.) (via email)
Karsten Hennze (with enc.) (via email)

From:	Roger Alfred
To:	Krawczuk, Dana (POR)
Cc:	Armstrong, Tom; Kountz, Steve; Ted Reid
Subject:	RE: Follow up on vmail re NCUs in RSIAs
Date:	Tuesday, March 01, 2016 1:48:03 PM

Hi Dana – as requested, I am responding to this inquiry to confirm our conversation regarding the extent to which Title 4 of Metro's Urban Growth Management Functional Plan is relevant to existing uses at Portland Meadows under the city's proposed new "prime industrial" overlay zone that is part of its Employment Zoning Project. I understand that Portland Meadows is seeking to be allowed to continue as a conditional use rather than being made a nonconforming use under the new overlay zone. I am writing only to address the question of whether there is anything in Title 4 that would prevent the city from leaving Portland Meadows as a conditional use; Metro is not weighing in on the city's policy decision regarding your client's request.

I agree with your conclusion that Title 4 does not *require* the city to amend its code to make the existing Portland Meadows site a nonconforming use. Title 4 is forward-looking and does not include restrictions or prohibitions on existing uses. The RSIA protections in Title 4 require cities to prohibit "new buildings" for retail, commercial, and other non-industrial uses, but do not include restrictions on existing buildings or uses. Under Section 3.07.420.E, the city may not amend its code to allow new commercial or retail uses that were not allowed prior to 2004.

I also note that the Portland Meadows clubhouse facility is located in the Title 4 Employment Area portion of the split-zoned site, which is subject to less stringent requirements than the RSIA. Thus, if the clubhouse falls within the meaning of a "place of assembly larger than 20,000 square feet" under 3.07.420.D, that restriction does not apply outside of the RSIA. Similar to the RSIA provisions, the Employment Area protections prohibit the city from approving new commercial retail uses larger than 60,000 square feet, but do not create restrictions on existing uses.

To summarize, I do not believe there would be a conflict with Title 4 if the city elected to adopt prime industrial overlay prohibitions on Commercial Outdoor Recreation uses and Major Event Entertainment uses that apply only to new facilities, while allowing existing facilities to continue to operate as a conditional use.

Let me know if I can provide any additional assistance. Thanks,

Roger

Roger Alfred
Office of Metro Attorney
600 NE Grand Ave. | Portland, Oregon 97232 | (503) 797-1532
roger.alfred@oregonmetro.gov

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From: Krawczuk, Dana (Perkins Coie) [mailto:DKrawczuk@perkinscoie.com]
Sent: Friday, January 29, 2016 2:28 PM
To: Roger Alfred
Subject: Follow up on vmail re NCUs in RSIAs

Roger,

This email follows up on the voicemail I just left you. I'd like to set up a time to talk.

The background is Portland Meadows operates as a conditional use on their split zoned (EG2/IG2) site. The race track (and associated uses) is considered a Major Event Entertainment Use and the golf course is a Commercial Outdoor Recreation Use. The track pre-dates City annexation and zoning.

The City's new "Prime Industrial" overlay zone prohibits Commercial Outdoor Recreation uses over 20k sf and all Major Event Entertainment uses, so Portland Meadows would become a nonconforming use. We are exploring ways to avoid the NCU status for the use, which as you know, can be very difficult from a financing perspective. Our proposal to the City is to have the overlay zone's prohibition apply to new COR and MEE uses, but to allow existing uses to continue as a CU. Based upon our understanding, Portland Meadows is the only existing MEE and COR use in the new overlay zone.

One of BPS staffs' questions related to Title 4 compliance. The EG2 portion of the site is an "Employment Area" and the IG2 portion is a RSIA on the Title 4 map.

As for the RSIA, I read MC 3.07.420 to be focused primarily on new retail and service commercial uses. It is noteworthy that Title 4 doesn't directly address a use like Portland Meadows, so one could conclude that Title 4 includes no limitations on Portland Meadows' use. Alternatively, Portland Meadow's use may be analogous to the category of uses is MC 3.07.420(d), which limits the siting of new parks, schools etc. Unlike for new retail and service commercial uses (MC 3.07.420(b) uses), Title 4 does not prescribe any limitations on parks (or similar uses) that predate Title 4. Therefore, if the City allowed Portland Meadows to continue as a CU in the RSIA, I don't think that there would be a Title 4 issue.

The analysis for the Employment Area portion of the site is less nuanced. The limitations in MC 3.07.440 for Employment Area are less restrictive than those for RSIAs. The only use that is limited in an Employment Area is commercial retail. Because Portland Meadows' use is not commercial retail, any revisions the City makes to the proposed overlay zone related to Portland Meadows use on the Employment Area portion of the site will not have a Title 4 compliance issue.

From a policy perspective, Portland Meadows' requested carve out would continue to support employment uses and the region's economy. At stake is not only the ability of Portland Meadows to continue to attract capital, but the impact that it's health has on rural and urban businesses that support horse racing (horse breeders, veterinarians, jockeys etc.). A 2010 analysis of the economic impact found that Oregon's horse racing industry contributed more than $202.6 million in output to Oregon's economy, of which Portland Meadows we responsible for $6.4 million in labor income and 176 jobs. Simply stated, Portland Meadows in the economic engine that drives Oregon's horse racing industry, and it enjoys the support of a broad coalition of groups such as the Oregon Racing Commission and the Oregon Horsemen's Organization.

Are you around next week to discuss?

Dana

Dana Krawczuk | **Perkins Coie LLP**
SENIOR COUNSEL
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Portland, OR 97209-4128
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E. DKrawczuk@perkinscoie.com

From:	Evan Heidtmann
To:	BPS Comprehensive Plan Testimony
Subject:	Comprehensive Plan Implementation
Date:	Thursday, October 13, 2016 1:34:12 PM

Commissioners,

In light of our city's need for more housing that's affordable to more Portlanders, I'm writing to ask Council to eliminate minimum parking requirements in Mixed-Use zones.

I've lived in Portland my whole life, and it's been really a great time. But in the last couple of years, nearly all my friends have moved away because they can't afford to live here any more. I love this city deeply, which is why it's so hard to watch the damage wrought by the housing crisis.

And in this context, it's irresponsible to require new parking spaces when we're short on housing. Finding a place to park my car is a very minor concern compared to watching my friends move to Reno or Kennewick. Please eliminate minimum parking requirements in Mixed-Used zones and move the focus where it should be: on building more housing that's affordable to regular people across the city.

Evan Heidtmann

4906 NE Grand Ave
503-504-2818

From: Jo Zettler
To: BPS Comprehensive Plan Testimony
Subject: Proposed zone changes to the South Portland Historic District
Date: Thursday, October 13, 2016 1:27:45 PM

I own property at 3132 SW 2nd Ave in Portland. I'm a little shocked at the proposed changes for the South Portland Historic District (AKA Lair Hill). While I agree with the need to increase density throughout the city, there are reasons why this is an historic district. Because the area is historic (Jewish community then other immigrants then African American working in the WWII shipyards then families seeking low cost housing close in). Because the current structures are historic (mine was built in 1911). Because the purpose of an historic district is to preserve historic homes and places.

And parking lots? Auto repair shop?

I demand equity. If we're doing this to Lair Hill, let's also do it to Irvington, where I live, about the same distance from downtown as Lair Hill. Let's put in 60 foot buildings and some parking lots and some auto repair shops, on Knott, maybe. What say you?

Jo Zettler
1800 NE 17th #9
Portland OR 97212

From:	JD Dinh
To:	BPS Comprehensive Plan Testimony
Subject:	"Comprehensive Plan Implementation"
Date:	Thursday, October 13, 2016 1:20:17 PM

To: cputestimony@portlandoregon.gov

From: Mo Dinh & son, Joshuan(JD) D. Dinh

Home Address: 6703 SE 83rd Ave, Portland, OR, 97266

Phone: 971-717-5623

Subject: "***Comprehensive Plan Implementation***"

October 12th, 2016

Dear City of Portland Mayor and City Council Representatives:

My name is (JD)Joshuan D. Dinh, and am representing on behalf of my Mother, Mo T. Dinh, who owns a corner home that's located in the current R1 District of the SE block between SE 82nd and 83rd Avenues that's between SE Bybee Street and SE Glenwood.

This proposed Zoning and Map Code Changes from R1 to EG1 has her fellow neighbors and herself very concern in how it would affect them as Non-Conformists from January 1st, 2018 and on these key areas:

- a) Would this change from Zoning change from R1 to EG1 put the non-conformist home owners at risks for higher Property taxation from our Local County Tax Commissioner and Local Tax Regulators? If So, please enact "Grandfather-in" legal measures to protect the existing resident and nonconformists from being affected by higher Property taxation under the new EG1 designation.
- b) This change would potentially impact the existing residential citizens and non-conformists to higher risks for facing Industrial hazards such as fire, chemical, traffic and noise pollution to the community. If so, please enact measures to protect the existing residential citizens and non-conformists in the new EG1 designation.
- c) The effects of possibly losing Residential home values to us and our neighbors, as well as to the neighbors in the adjacent block east of us. Please consider these issues in making non-conformists policies more liberal in protecting the interests and values of existing residents. We appeal to your empathy to our concerns.

ThankYou,

Sincerely and Respectfully,

Mo Dinh and son, JD Dinh

From: cpdchall@comcast.net
To: BPS Comprehensive Plan Testimony
Subject: Comprehensive Plan Implementation
Date: Thursday, October 13, 2016 1:18:06 PM

Following are my comments on the proposed zoning changes (R5 to R1) to my neighborhood.

I have three points of serious concern with the proposal.

1. Parking – not sustainable:
With the description provided for R1, it is difficult to see how the residential parking needs arising from an increase in housing density can be accommodated within the proximity of the new "one to four story condominiums, apartments, duplexes and townhouses" without significant disruption to current residence.
- This area is close to the NE60th Street Max Station. As a result we already get people parking in this neighborhood and leaving their car for the work day or in some cases the work week. This already consumes available car parking spaces limiting parking spaces for current residents. Increasing the number of residents and cars in this area will considerably compound this issue.
- NE 60th Avenue is a Trimet bus route with a bus stop at NE Wasco & 60th. Maintaining the bus stop on this street restricts this space for residential parking, which will compound the problem of limited space for increased parking needs. This bus stop provides is a key stop for the residents of this neighborhood.
- Commercial Vehicle Access: Increased parking density on surrounding streets, e.g. NE Wasco, will make commercial vehicle access to the industrial area increasing more difficult. Many trucks including large semi-trucks use NE Wasco to access the industrial area. Turing in from NE60th will become near impossible with cars parked up to the corners. This will result in traffic congestion and invariably lead to accidents.
- Bicycle access – with greater car parking density on NE60th, a main route to the Max station, this will restrict the available width of NE60th, therefore making cycling along this key route more difficult and dangerous.
- Egress from side streets (NE Wasco & NE Hassalo) to NE60th will become more dangerous for drivers and cyclists due to increased parking density and cars parking up to street corners.
- Egress from current residential drive ways onto streets that have many more cars parked either side of driveways will cause pedestrian issues and possible accidents due to oncoming traffic being obscured by parked cars.

2. Pedestrian Access – increased traffic increasing possibility of accidents:
As mentioned above, NE60th is a main route to the Max Station and as such is a well-used pedestrian thoroughfare. The increase in parking will make visibility for pedestrians crossing the cross streets (NE Wasco & NE Hassalo) more difficult and dangerous resulting in more traffic accidents and potential injuries.
The proximity to Rose City Park School will mean likely increase in children walking to school. With pedestrian access being constricted by increased car parking density, and more residential traffic, possibility for children being hurt will exist.

The above are general concerns for the good of the neighborhood, my third point is of a more personal nature.

3. Livability and impact to my property: Having just finished a significant renovation and remodel to the home we have lived in for the last 20 years, it is very worrying that the current aspect/view and available sunlight might be totally obscured by a 4 story dwelling.
It goes without saying, the possible negative impact to the value of my property a change of this magnitude may have is also of serious concern to a current tax paying resident.

I can be contacted to discuss the points in further detail if required.

Regards

Douglas Challenor
1304 NE 59th Ave, Portland OR 97213
Telephone: 503 249 3269

From:	Tamara DeRidder, AICP
To:	cputestimony@portlandoregon.gov.
Cc:	Anderson, Susan; Treat, Leah; Zehnder, Joe; Wagner, Zef; Stark, Nan
Subject:	Comprehensive Plan Implementation - Recommend Continuance of Public Hearing to address need for "adequate" off-street parking implementation language
Date:	Thursday, October 13, 2016 1:17:48 PM
Attachments:	New- Portland Title 33 Zoning Code Changes Parking Mins. - No "adequate" parking analysis.pdf

Dear City Council Clerk,

Please forward the attached document to the City Council for their public hearing taking place today on the Comprehensive Plan Implementation package. In this document I recommend the City Council call and approve a 'continuance of the public hearing' to a time and date certain in order to address missing implementation language that needs to apply for the 2035 Comprehensive Plan Policy 9.58 Off -street parking.

Thank you for your consideration.

My best,

Tamara DeRidder, AICP
Chair, RCPNA
&
Principal, TDR & Associates
1707 NE 52nd Ave.
Portland, OR 97213

Oct. 13, 2016 <sent this date to the email address cited below>

City of Portland
Attn. City Council <cputestimony@portlandoregon.gov.>
1221 SW 4th Ave.
Portland, OR

Subject: Comprehensive Plan Implementation – Request a Continuance of the Public Hearing

Dear Mayor Charlie Hales and Portland City Commissioners:

I want to alert you to a missing element in the proposed Title 33 Zoning Code. It fails to include any language regarding a determination of 'Adequate' parking, as stated in the policy of the recently approved Comprehensive Plan. This is of major concern for our RCPNA area since the NE Sandy Blvd. Corridor contains only a block of depth in the Mixed Use Commercial with elevations that could reach up to 8 stories. The reduced parking min. within 500' of frequent transit corridors, as is the case with NE Sandy Blvd. will become a first come, first served with on-street parking for the new residents and businesses. This leaves absolutely no on or off-street parking to support the neighborhood businesses and, thereby, will impact on-street parking in neighboring residential areas as well.

Therefore, as a resident, business owner, and Chairwoman of RCPNA I urge you to continue this public hearing to a date and time certain. This time period prior to the final hearing needs to be long enough to provide staff and the public the opportunity to address the implementation language for 'adequate parking'.

Analysis.
Strategies need to be in place now, prior to new mixed use construction, that predicts the 80% parking capacity mark and how much need there is at 70% build out based on the 2035 land use plan. Then all development should participate in providing a public parking fee for future constructed parking.

As it is currently, and with the proposed parking minimums, the 6- story mixed used proposed by Vic Remmers on the corner of NE 51st and Sandy Blvd. will provide NO off-street parking for the commercial tenant on the bottom floor of the structure.

This is an equity issue. I am not opposed to parking permits for on-street parking to make the fee for constructed parking viable. What I am opposed to is for the folks who develop in 5 years to get stuck paying most of the costs for off street parking for their commercial area just because the city let the early developers skate on this responsibility.

In addition, strategies such as limiting the number of vehicles registered by DMV for a Mixed Use Commercial site will go a long way with the neighborhoods in helping support new residential dwellings in mixed use commercial.

The following citations highlight the applicable language for RCPNA regarding this issue out of

the Title 33 amendments posted here: https://www.portlandoregon.gov/bps/article/588570
P 166. (Mixed Use Commercial)
33.130.205 Floor Area Ratio
P. 292. - 295 (Off Street Parking Requirements)
33.266.110. B Minimum number of required parking spaces.

TriMet identifies frequent transit street (every 20 min) at this website:
https://trimet.org/schedules/frequentservice.htm
>The frequent transit street in the Rose City Park neighborhood is NE Sandy Blvd. So, anything within 500 ft of this street is to receive reduced min. parking.
>The Transit Station is located at 60th Ave. and I-84. Properties within 1,500 feet of this station also received reduced min. parking requirements.

Nothing in the proposed zoning code I have reviewed so far includes an option to determine 'adequate' off-street parking as was included in the policy of Council-adopted Comprehensive Plan. See page 17 in this document adopted in the Transportation Element of the 2035 Comprehensive Plan at this link: http://www.portlandoregon.gov/bps/article/579174

Plan Policy reads as follows:
"Policy 9.58 Off -street parking.
Limit the development of new parking spaces to achieve land use, transportation, and environmental goals, especially in locations with frequent transit service. Regulate off - street parking to achieve mode share objectives, promote compact and walkable urban form, encourage lower rates of car ownership, and promote the vitality of commercial and employment areas. Use transportation demand management and pricing of parking in areas with high parking demand. **Strive to provide adequate but not excessive off- street parking where needed <emphasis added>**, consistent with the preceding practices."

In conclusion, the Early Implementation language of the Title 33 implementing ordinances needs to comply with transportation chapter polices of the 2035 Comprehensive Plan. With the failure of the Title 33 language, Recommended by the PSC, to address the important policy 'adequate' off street parking the document fails to satisfy compliance with the 2035 Comprehensive Plan.

Please let me know if you have any questions or I can be of further assistance in this matter

Best,

Tamara DeRidder, AICP
Chair, RCPNA
&
Principal, TDR & Associates
1707 NE 52nd Ave.
Portland, OR 97213
503-706-5804

From:	Doug Larson
To:	BPS Comprehensive Plan Testimony; Jennifer Vitello; Liz Smith; Bruce Franklin; jené despain; Dan Riordan
Subject:	Cathedral Park Neighborhood comment on the Transportation Plan
Date:	Thursday, October 13, 2016 1:03:34 PM
Attachments:	Cathedral Park Transportation Plan Comment

Attached is the neighborhood request that a truck bridge be constructed in Rivergate to relieve stress in the neighborhood and on the St Johns Bridge. Thank you for consideration.

Respectfully,
Doug Larson, Chairman of Cathedral Park Neighborhood Association

Cathedral Park Neighborhood Association

Public Comment

Transportation System Plan Update

On behalf of the Cathedral Park Neighborhood Association, we endorse the reinstatement of language supporting the North Willamette River Crossing in the Transportation Plan .

The Comprehensive Plan anticipates 60% population growth in North Portland in the near future, much of which is expected to occur near the east end of the St Johns Bridge. In Cathedral Park alone, between the bridge and Willamette Cove, over 1000 new units of housing are presently in permitting and planning stages. This increasing population density is a consequence of the Urban Growth Boundary and will overwhelm the historic truck route designations. Already traffic is backing up onto Highway 30 from the west end bridge ramps during rush hour.

Diesel Particulates are attracting attention as one of the most dangerous forms of air pollution. Traffic studies show more that 2000 trucks a day cross the bridge at St Johns and pass down neighborhood streets. As increased layers of population are added to this neighborhood more and more people are at risk from breathing dirty air. This will manifest as increasing health care costs to the State of Oregon as people struggle with the diesel particulates accumulating in their lungs.

The St Johns Bridge has become an iconic symbol of Portland. Heavy truck traffic will accelerate the degradation of the bridge. Begin the planning that will save this bridge and the health of our community.

Doug Larson Chairman, Cathedral Park Neighborhood Association

From: Jeannie Modd
To: BPS Comprehensive Plan Testimony
Subject: N Greeley Ave
Date: Thursday, October 13, 2016 1:00:49 PM

To Whom it May Concern:
As a neighbor living on the section of N Greeley between Rosa Parks and Lombard, I have witnessed countless commuters ignore children attempting to cross in marked crosswalks to and from their way to school. Almost nightly reckless speeding, aggressive motorcycle and muscle car races.

Also, the traffic pattern of heavy north and southbound traffic, drivers speeding up to race the light at Lombard, drivers whipping dangerously around TriMet buses stopped to drop off and pick up passengers, a hit and run that resulted in the death of a neighbor in the same crosswalk my children cross each day to go to school, and our neighborhood park.

multiple instances of property damage to cars, including ours totaled in 2009, trees, telephone poles.

The southern section of Greeley from Killingsworth to Rosa Parks is designated as a “Community Collector” and has seen improvements along with that status. From Rosa Parks to Lombard, the street has no special designation.

I am aware that the City has made recent investments in North Lombard through the Lombard Reinvestment Strategy and urge you to extend the Greeley's Community Collector status all the way North to Lombard to connect with the streetscape improvements there.

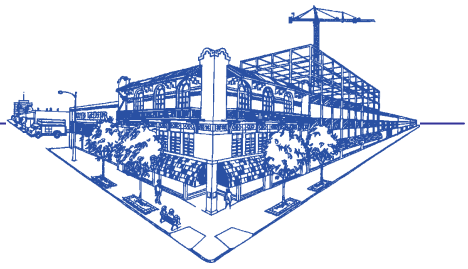
This section of Greeley, between Rosa Parks and Lombard hosts two major crossroads for the neighborhood – at North Buffalo and North Bryant – that bring people of all ages and abilities to Gammans Park, Arbor Lodge Park, Harper's Playground and Chief Joseph School. As well as east and west to the Interstate Lightrail transit centers at Rosa Parks and Lombard. The crosswalks along Greeley and the intersections at both Rosa Parks and Lombard are high impact, confusing, chaotic, and consistently busy. Extending the collector status through the Rosa Parks and Lombard intersections with Greeley will assist people in travelling east and west, but also encourage connections to the burgeoning commercial center at Greeley/Portsmouth/Lombard with many new small businesses like Green Zebra, Fang and Feather, Bandinis Pizza, VCA Veterinary Hospital, King Burrito, Arts and Craftsman Supply and more. As this area of Lombard continues to develop, I want to see it well connected and safe for all users.

Thank you for your time

Jeanne Modderman

Sent from my iPhone

E. D. Hovee
& Company, LLC
Economic and Development Services



MEMORANDUM

To:	Mark Whitlow, Perkins Coie
From:	Eric Hovee
Subject:	Retail Market Analysis – Background Documents
Date:	October 13, 2016

With this memorandum, I am providing a compilation of written testimony and analysis related to the Mixed Use Zone (MUZ) proposal being considered by the Portland City Council. This compendium consists of four documents:

- Exhibit A – Eric Hovee Retail Testimony to City Council (10-6-16)
- Exhibit B – Eric Hovee MUZ Amendment Testimony to PSC (5-17-16)
- Exhibit C – Memorandum regarding "Revisions to MUZ Proposed Draft to Address Portland Retail Needs" (May 17, 2016)
- Exhibit D – Retail Performance by Pattern Area (Draft 1-14-16)

Exhibits A and B are the substance of oral testimony provided to Portland City Council and the Planning and Sustainability Commission (PSC) on behalf of the Retail Task Force (RTF) and the Oregon Government Relations Committee of the International Council of Shopping Centers(ICSC). Exhibits C and D contain written documentation submitted in conjunction with PSC testimony.

I would be happy to address questions regarding any aspect of this prior testimony and documentation – including other retail related correspondence provided on behalf of RTF/ICSC in discussion with BPS staff.

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E-mail: edhovee@edhovee.com

Exhibit A

Eric Hovee Retail Testimony to City Council (10-6-16)

My name is Eric Hovee, economic and development consultant speaking on behalf of RTF/ICSC. Analysis that we have prepared and submitted in testimony to the Planning and Sustainability Commission yields three observations for consideration with your deliberations for Mixed Use Zones.

- First, outside the central city, Portland is under-retailed – especially in east Portland where grocery choices remain scarce and expensive for residents. The lack of adequate, affordable full service grocery means that residents must travel further to shop or use convenience stores as a less healthy alternative.
- Second, the city's *food deserts* are also the places where building rents are often sub-par, making it more challenging for investment in providing affordable goods and services to pencil. Especially for day-to-day needs like grocery, pharmacy, restaurants, banking and personal services, auto-accommodating use is important for customer convenience and for business viability.
- Third, while transit, walking and biking are on the rise, auto use still accounts for more than 80% of trips outside the central city. Development standards that work in higher density areas with good transit service run the risk of proving counterproductive for residents living in areas with the poorest access to quality, healthy and affordable shopping choices.

Expanding CE zoning for auto-accommodating development and phased implementation of MUZ is urged to avoid the risk of dis-investment in those areas of Portland where retail services are needed most. Phased implementation is pivotal to encourage investment *in sync* with what the market will support today – as well as over the next 20 years. Thank you for your consideration.

Exhibit B

Eric Hovee MUZ Amendment Testimony to PSC (5-17-16)

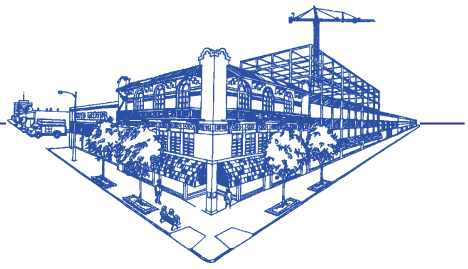
My name is Eric Hovee, economic and development consultant speaking on behalf of RTF/ICSC. As detailed by written testimony that I have also submitted today, we are requesting that the city's buildable lands inventory be refined in advance of proposed Mixed Use Zoning to better address Goal 9 concerns, that map changes to CE designation be made to assure continued availability of large site and auto-accommodating uses, that the Centers Main Street overlay be deferred pending realization of 15-minute frequent transit service and 50-50 mode split, and that code provisions addressing non-conforming development and use issues be addressed prior to Mixed Use Zone implementation.

There are three reasons for suggesting these revisions:

- First, outside the central city, Portland is under-retailed – especially in east Portland where grocery choices remain scarce and expensive for residents.
- Second, the city's *food deserts* are also the places where building rents are often sub-par, making it more challenging for investment in providing affordable goods and services to pencil.
- Third, while transit, walking and biking are on the rise, auto use still accounts for more than 80% of trips outside the central city.

Phased mixed use zone implementation is pivotal to encourage investment *in sync* with what the market will support today – as well as over the next 20 years. Thank you for your consideration.

E. D. Hovee
& Company, LLC (Exhibit C)
Economic and Development Services



MEMORANDUM

To:	Portland Planning & Sustainability Commission (PSC)
From:	Eric Hovee - Principal
Subject:	Revisions to MUZ Proposed Draft to Address Portland Retail Needs
Date:	May 17, 2016

On April 14 and 20, I provided testimony to the City Council supporting Comprehensive Plan policies related to retail development (P60), a full spectrum of grocery stores (P44), and development regulations that transition over time (P51). My oral comments were supplemented by transmittal of documents including discussion of *Retail Performance by Pattern Area* (as a draft document initially prepared January 14, 2016) and a memorandum titled *Portland and Pattern Area Retail Demand and Sales Analysis* (dated April 22, 2016).

This oral and written testimony was submitted on behalf of the Portland-based Retail Task Force (RTF) and International Council of Shopping Centers (ICSC). My understanding is that on May 9, the City Council approved inclusion of the three retail-related policies noted above.

SUMMARY OF COMMENTS – MUZ PROPOSED DRAFT

As stated by the proposed draft of March 2016, the *Mixed Use Zones Project* (MUZ) is intended to "implement Portland's new Comprehensive Plan." Consistent with approved plan policies, the purpose of this memorandum is to request that the PSC take actions with the MUZ to:

1) Refine the BPS buildable lands inventory to focus on vacant/redevelopment parcels with current CG versus proposed CE zoning (with and without CMSO) prior to MUZ adoption.
2) Make map changes per separate RTF testimony for continued auto-accommodating uses including grocery retail at locations now designated for CG or other large site use.
3) Defer Centers Main Street Overlay (CMSO) implementation at current CG locations pending prior realization of 15-minute frequent transit service and 50/50 mode split.
4) Concurrently amend the zoning code to mitigate likely non-conforming development and use issues anticipated to arise with MUZ implementation.

The rest of this memo provides background and rationale for the requested revisions.

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E-mail: edhovee@edhovee.com

BACKGROUND

In testimony before the City Council on April 14 and 20, several observations were made as pertinent to Comprehensive Plan policies and as also important for resulting MUZ consideration with Comprehensive Plan implementation: These observations were that:

- Outside of the Central City, Portland is under-retailed – not providing the widest range of retail as needed to conveniently meet the day-to-day needs the of city residents, especially for grocery retail.
- In parts of the city like east Portland, grocery choices remain scarce and expensive.
- The lack of adequate, affordable full service grocery means that residents must travel further to shop or use convenience stores as a less healthy alternative.
- The city's *food deserts* are also the places where building rents are sub-par, making it more challenging for investment in quality retail to support high costs of new development.
- While transit, walking and biking are on the rise, auto use still accounts for more than 80% of trips outside the central city.
- City-wide development standards that work in higher density areas with good transit service run the risk of proving counterproductive for residents living in areas that are still auto dependent and with lesser access to quality, healthy and affordable retail services.

Our bottom line conclusion is that encouraging investment requires development standards *in sync* with what the market will support today – as well as where it might evolve longer term. While development today should be expected to largely match the existing built environment; conditions may change especially in more active market subareas, less so in areas of the City that even today may be underserved for goods and services that area residents shop for on a regular basis.

What is important is to not get too far ahead of what market demand and rents will support. Otherwise, investment freezes and Portland will move further from rather than toward the type of full service community that the Comp Plan envisions over the next 20 years.

Development standards can become more aggressive in places that become more walkable as transit service improves and auto use declines. Retail will respond with less parking and greater development intensity – getting closer to the customer.

The MUZ revisions requested are intended to address these concerns – in conjunction with the Comprehensive Plan policy aimed to consider short-term market conditions and how development patterns will transition over time when creating new development regulations. This background provides the underlying rationale for four requested MUZ revisions detailed as follows.

1) Refine the Buildable Lands Inventory

General Commercial (CG) currently is the primary zone with the stated intent to "allow auto-accommodating commercial development." With the draft MUZ proposal, CG would be removed as a City zoning district. Over 600 acres (or nearly 40% of CG lands) would be re-designated from CG to less auto-accommodating zoning districts including CM1, CM2 CM3 and CX. Loss of auto-accommodating CG land and other non-CG zoned large sites may be further exacerbated with the proposed CMSO district overlay – affecting key development factors as for drive-throughs, minimum FARs, building design/orientation, and vehicle areas .

A related concern is that the fine-grained nature of the MUZ designations are reminiscent of *spot zoning* which greatly reduces the flexibility and incentives for development. This is especially the case when a single development may encompass two or more zone (plus CMSO) designations – greatly complicating and increasing both the cost and uncertainty associated with the development process. This will further accentuate challenges with meeting market demand in areas where commercial rental rates are not adequate to readily support the cost of new development – as in east Portland.

The extent of this reclassification and much more complex zone process potentially raises Goal 9 issues – especially as the buildable lands inventory included with the current Economic Opportunities Analysis (EOA) has not differentiated between auto-accommodating and other commercial uses. With respect to Goal 9 and associated EOA requirements, the most straightforward pathway to address this prospective *net loss* would be to refine the BLI by quantifying vacant and redevelopable auto-accommodating land area with CG as currently defined versus CE as proposed (with and without CMSO) in advance of MUZ adoption.

2) Facilitate Auto-Accommodating Commercial Use

A second recommendation is to consider and act on a series of location-specific re-designations as have been requested by individual retailers and on a coordinated basis via other RTF testimony. If the CG designation is to disappear, the overall thrust of these site specific requests is to:

- Most closely approximate the current zoning by having these properties (including many larger commercial sites) re-designated to CE – as the nearest comparable to existing CG.
- Not apply the CMSO overlay to these specific properties, providing greater flexibility and incentive for redevelopment that the market will support both now and over 20 years.

While this case-by-case approach will address some of the more significant issues currently identified (as with larger properties), it may not address situations not yet identified – including challenges as yet unforeseen for smaller site development as on commercial corridors with relatively limited parcel depth. Addressing as yet unforeseen consequences is a reason for considering a multi-prong approach – also involving recommendations #3 and #4.

3) Defer CMSO Implementation

As noted at the outset, RTF/ICSC recommends deferring CMSO implementation on proposed CE and other MUZ properties at current CG designated locations, pending prior realization of 15-minute frequent transit service and 50/50 mode split.

Recognizing that 80% of trips in Portland are still by auto, standards that impede auto accessibility and convenience will similarly impair retail development feasibility and sustainability. This is the case in virtually all areas of the city except those where strong transit service and a high non-auto mode split is currently in evidence – as in Portland's Central City.

While the CMSO proposal has been modified to better address these retail concerns, RTF/ICSC remains concerned that the current proposal will prove counterproductive. Specific concerns for CMSO proposed locations where auto use is still predominant relate to:

- Spot zoning effect – where one part of a development may be subject to CMSO while others are exempt, greatly increasing the complexity and cost of development.
- Prohibition of quick vehicle servicing and drive-through facilities at sites that may have transit service but are primarily auto reliant – at a time when drive-throughs are of increased importance not just to uses such as food service and banking but also in support of broader retail trends as with grocery and pharmacy.
- Minimum FARs that will be ahead of what the market supports – especially for sites and retail uses where parking demand remains high and structured parking is not feasible.
- Building design, orientation, minimum window area, and vehicular limitations – especially at sites situated on more than one transit street or adjoining residential neighborhoods with limited options for truck loading and back-of-house functions.

Transitioning to CMSO-related CMSO is requested to occur after rather than before demonstrated transit and related non-auto related benchmarks have been achieved. Otherwise, the effect will be to freeze much of the existing development pattern in place – with new investment required at much more rigorous standards deemed not feasible in the interim.

4) Address Non-Conforming Development & Use Issues

A final concern is that the MUZ program, as proposed, may result in creation of significant non-conforming issues that could serve as a disincentive to ongoing property reinvestment and associated business financing capacity. It is understood that BPS is working to address this issue in conjunction with the Comprehensive Plan update and the MUZ. Recommended is that MUZ adoption not occur until pertinent city codes are amended to mitigate likely non-conforming development and use issues anticipated to arise due to MUZ implementation.

c: Mark Whitlow, Perkins Coie LLP

Exhibit D

RETAIL PERFORMANCE BY PATTERN AREA (DRAFT 1-14-16)

At the end of 2015, the Retail Task Force (RTF) and Oregon Government Relations Committee of the International Council of Shopping Centers (ICSC) submitted testimony to Portland City Council members expressing concern that current proposals for commercial areas of the city "will make access to affordable goods and services, including healthy food, more difficult."

To understand the rationale for these concerns, RTF/ICSC has conducted in-depth evaluation of current patterns of retail sales and commercial real estate rental space city-wide. Principal findings are that:

- Portland is already under-retailed – especially lacking in meeting the day-to-day needs of city residents as for grocery retail.
- **Disparities are greatest for areas removed from the city core – to the east where commercial space rents lowest and least adequate to support high costs of new development and to the west where viable retail sites are limited due to topography and proximity to Beaverton retail.**
- City-wide imposition of development standards that may be workable in higher density areas with good transit service risk even greater shortfalls in retail availability for residents who already have the poorest access to quality, healthy and affordable retail services.

The remainder of this discussion paper details RTF/ICSC analysis and findings.

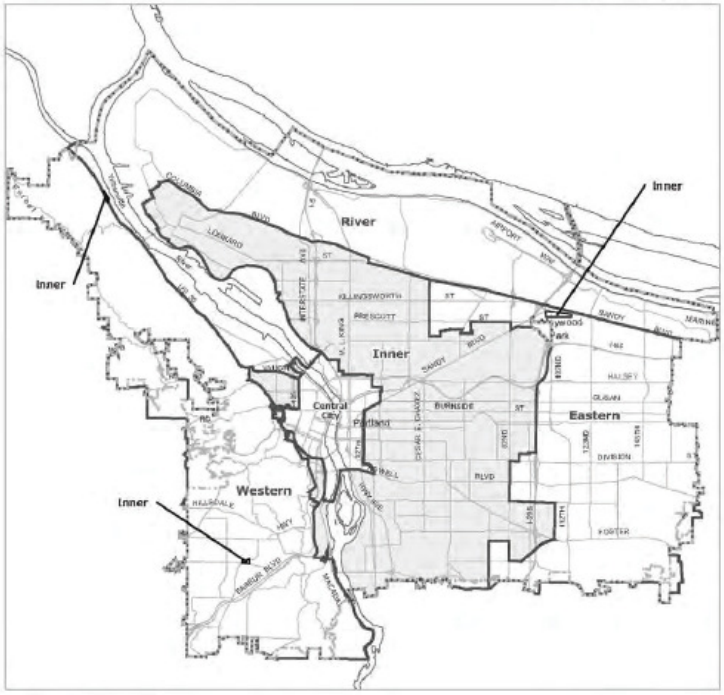
CITY PATTERN AREAS

As part of the BPS-prepared *Mixed Use Zones Project – Discussion Draft* report, "pattern areas" were identified for areas of the city being considered for added mixed use zoning (including replacement of existing commercial zone designations):

- **Central City** – not part of the mixed use zones project but shown with this analysis for comparative purposes
- **Inner** – an area extending east to about the I-205 freeway
- **Eastern** – from the Inner area to the eastern city limits
- **Western** – extending west of the Central City area

Not included within any of the City pattern areas are industrial and other land uses generally extending along the Columbia and Willamette Rivers (north of the Central City). While not included, it is noteworthy that about 18% of all retail sales in the city are generated from these other non-pattern areas.

Proposed City of Portland Pattern Areas



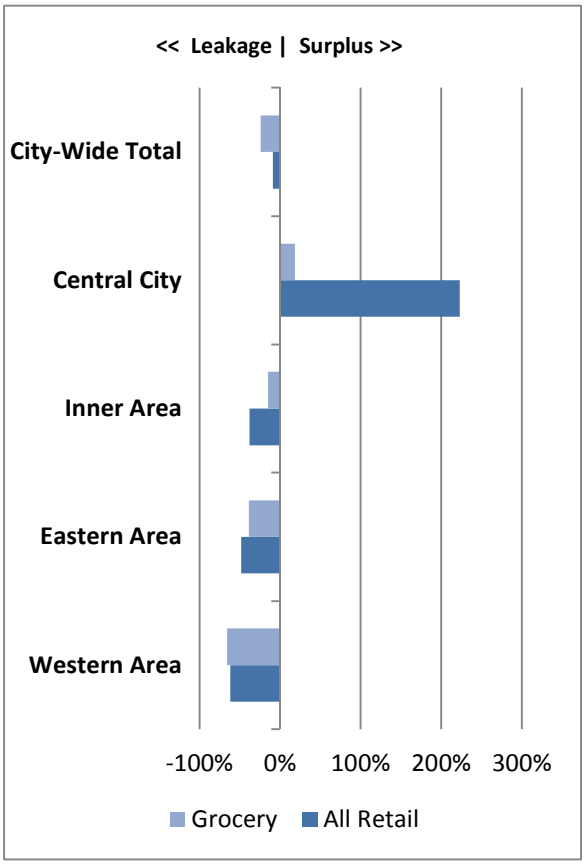
Source: City of Portland Bureau of Planning & Sustainability (BPS), *Mixed Use Zones Project – Discussion Draft,* September 2015.

RETAIL SALES & LEAKAGE

As a *first step*, 2015 retail sales patterns have been evaluated using nationally recognized Nielsen (formerly Claritas) data for the entire City of Portland and for the pattern areas roughly aligning with those defined by BPS. Sales leakage estimates are income-adjusted, with consumer spending measured as a % of resident demand. A synopsis of findings reflects RTF/ISCS concerns.

- **City-wide** sales leakage is about 9% of resident-generated demand – meaning that spending in Portland is about 9% less than one would expect based on resident household incomes and typical expenditure levels. Grocery leakage is about 24%. Surplus sales (greater than supported by resident demand alone) are found only with categories of home furnishings, electronics, apparel and dining – based on substantial support from other metro area residents and visitors as well as Portland residents.
- **Central City,** not surprisingly, is the exception to the rule for the rest of the City. Retail sales in the Central City are more than double what the purchasing power of Central City residents alone would support. The only categories of apparent leakage are with health/personal care products, gasoline stations and general merchandise (including discount stores). Grocery stores are above par (somewhat).
- **Inner** areas are indicated as having net sales leakage at about 38% of resident demand, including grocery leakage of 15%. Overall sales leakage is least of the pattern areas (except for Central City) – with the strongest performing retail generally west of César Chavez Blvd. Retail categories noted as "oversupplied" for residents alone are home furnishings and dining.

Retail Leakage by Pattern Area (2015)



- Source: E. D. Hovee & Company, LLC from Nielsen purchasing power and retail sales data.

- **Eastern** areas are indicated as having overall sales leakage at 48% of resident demand, including grocery leakage of 39%. Leakage is experienced across virtually all major categories. Interestingly, a couple of subcategories for which sales are indicated as above the norm are with convenience stores (a subset of grocery) and drinking places (a subcategory of food service/dining). Of Portland's pattern areas, the western area is the most racially and ethnically diverse, albeit with lowest average incomes and highest rates of family poverty.
- **Western** has the highest overall sales leakage of any pattern area at 61% and grocery even higher at 66% – as many residents go over the hill to Beaverton, especially for day-to-day convenience purchases. Subcategories performing above the norm are computer/software and camera sales (subsets of the overall electronics/appliances category) and limited service dining.

As noted, about 18% of retail sales activity occurs outside of BPS defined pattern areas. Retail categories with relatively high volumes of sales activity (at 25% or more of city-wide sales) including motor vehicle and parts dealers, furniture and home furnishings, building materials and garden supply, and general merchandise (notably discount) stores.

These sales are occurring within areas designated largely for industrial use (as with Hayden Meadows and the Columbia Corridor) or with commercially zoned property outside of the pattern areas (as at Jantzen Beach). The types of retail activity represented tend to be strongly oriented to large format users – requiring more substantial building floor area and/or site acreage.

Commercial Retail Space Rents

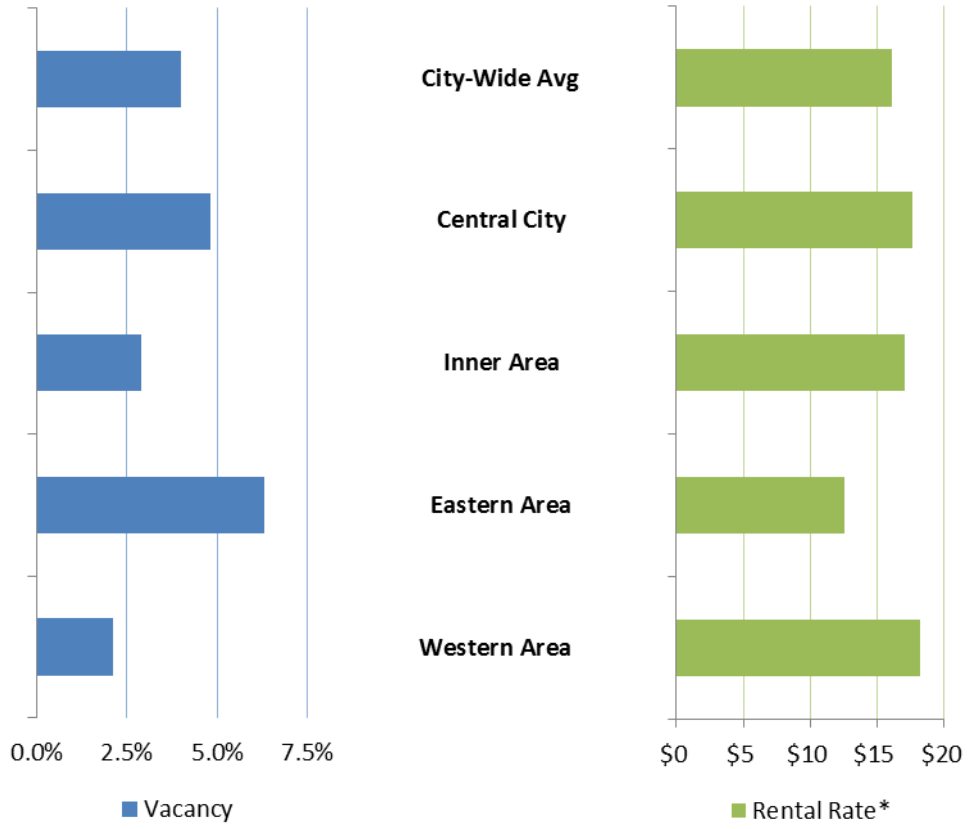
As a *second step* in evaluating retail performance, retail space leasing conditions also are compared for each of the BPS pattern areas – using data from the real estate information service CoStar.

The chart to the right provides a comparison for two important indicators of retail vitality – vacancy rates and rental rates.

As with the sales leakage analysis, this data shows considerable variation in retail performance between the BPS-designated pattern areas in Portland.

The eastern pattern area, in particular, is noted as having substantially higher retail vacancies and lower rental rates than the rest of the city.

Retail Vacancies & Rents by Pattern Area (end of 2015)



* Note: Rental rates are shown as annual averages by pattern area.

Source: E. D. Hovee & Company, LLC from CoStar as of year end 2015.

Retail leasing and occupancy observations by pattern area are noted as follows:

- **City-wide**, CoStar has inventoried 42.6 million square feet of retail space. As of year-end 2015, retail space was renting at an annual rate of just over $16 per square foot, typically quoted on a triple-net basis with tenants paying all expenses. Overall vacancy averaged just 4% city-wide.
- With about one-quarter of Portland's retail inventory, the **Central City** is experiencing rental rates above the city-wide average but also somewhat higher vacancies nearing 5%. Space absorption reportedly was negative in 2015 (meaning that more space was vacated than leased), although considerable added Central City construction is currently planned.
- The **Inner** area (including 23rd Avenue) accounts for the largest share of the city's retail space inventory, with above-average rental rates and below average vacancy under 3%. This area took a dominant share of retail space absorption in 2015 – with further planned construction ahead. *Note:* added analysis indicates rents are lower and space absorption slower in the portion of the Inner pattern area east of César Chavez Blvd than is the case going west to the City core.
- **Eastern** area rental rates average less than $13 per square foot, about 20% below the city-wide average. At over 6%, vacancy rates are more than 50% above the City-wide retail vacancy figure of 4%. CoStar data shows no new construction in 2015, with little new inventory planned ahead. A challenging conundrum for Portland's eastside pattern area is that despite substantial unmet retail demand, the economics of new store construction in a lower rent environment do not appear to readily support adding more retail commercial space to better meet local need.
- At just over 2%, the **Westside** area has the lowest vacancy rate combined with rents of $18+ that average the highest of Portland's pattern areas. Despite strong market pressure including substantial unmet local demand, delivery of new retail product is constrained by west hills topography, limited suitable retail sites, and substantial travel to shop in Beaverton (for day-to-day convenience goods) and Central City (for higher end, comparison goods). The challenge of finding suitable sites is highlighted by the fact that CoStar data indicates zero absorption of retail space in 2015 and no new construction in the pipeline as currently planned.

Implications for City Retail Policy & Proposed Mixed Use Zones

Two implications for City policy and planning deliberation are drawn from this analysis:

- City policy and zoning as proposed appears counterproductive for places like the Eastern pattern area that already are grocery and retail deserts, as retail rents will prove ever more challenged to meet design requirements and higher development costs with proposed added regulations.
- Providing adequate retail goods and services throughout Portland requires regulations that not only reduce the development cost burden but also provide sites adequate for grocery and other retail not well represented throughout the city, including even much of the Inner pattern area.

RTF/ICSC participants stand ready to assist in framing and reviewing policies supportive of City Comprehensive Plan objectives that also can be crafted as customer and retail friendly.

This analysis of Portland retail performance by *pattern area* has been prepared for the Retail Task Force (RTF) and Oregon Government Relations Committee of the International Council of Shopping Centers (ICSC)by the economic and development consulting firm E. D. Hovee & Company, LLC. For further information, contact firm principal Eric Hovee, phone: (503) 230-1414, email: ehovee@edhovee.com, or website: www.edhovee.com.

October 13, 2016

VIA EMAIL AND
HAND DELIVERY

Mayor Charles Hales
Portland City Council
City of Portland
1900 SW Fourth Avenue #7100
Portland, OR 97201

Re: MUZ Project - RTF/ICSC Request for Council Amendments to Provide Equitable Zoning for Auto-Accommodating Uses and Developments

Dear Mayor Hales and Council Members:

This letter expands upon and supplements our prior written and oral testimony in the record seeking Council amendments for equitable zoning for auto-accommodating businesses, in order to avoid nonconformity caused by the proposed Mixed Use Zones Project.

1. Avoid greater nonconformity for existing auto-accommodating developments through CE Zoning. The CE zone is the only mixed use zone deemed to be auto-accommodating. Existing auto-accommodating developments that are zoned CM1, CM2 or CM3 will become nonconforming developments. Nonconformity is bad for the business owner and the local economy, because nonconforming uses and developments are disfavored and the policy is to discontinue them, instead of modernizing them. Developments which can't be periodically remodeled and updated become stagnate and property values fall, making them harder to lease or sell. Because of that, the RTF/ICSC GR Committee submitted a proposed CE Zone Map based on specific site and area analyses requesting CE zoning for those based on existing site and area development (using Google Earth aerial photos), and the lack of feasibility for urban density development during the planning period.

Numerous retailers also submitted individual requests for CE zoning to recognize their long-term financial investments in auto-accommodating developments. They also asked that the purpose statement of the CE zone, a new mixed use zone, be refined to bolster its auto-accommodating component, to make it easier to get adjustments to redevelop and upgrade in the City's Nonconforming Situation Review process. See the attached May 17th letter to PSC. See also section 2) of the attached July 12th letter to PSC and the entirety of the attached July 19th letter to PSC regarding same. Further, see the attached copy of the CE zone purpose statement marked to show the requested auto-accommodating revisions.

Automobiles still dominate and will throughout the planning period. The City needs to accommodate them and the businesses that cater to them. It is inequitable to that sector of the retail industry to have commercial zoning suddenly eradicated from the Portland Zoning Code. The current mode split is 80/20 in favor of the automobile. PBOT projects that the split will not shift any greater than 76/24 over the next planning period. See the attached PBOT projections. See also the attached October 13th letter from Brent Ahrend of Mackenzie. The automobile is still needed as a mode of transportation and Portland still has a multimodal transportation system, so property needs to be zoned for auto-accommodating uses and developments, and the CE zone needs to be primarily auto-accommodating, not just mixed use with minor auto-accommodating language. The current CE zone lacks any real auto-accommodating development standards, as described in the current definition of "Auto-Accommodating Development". See the copy attached.

I submit another copy of the RTF/ICSC GR Committee's proposed CE Zone Map, with attachment, requesting CE zoning for specific sites and areas that are identified in the Map and the attachment to that Map, together with a copy of my May 17, 2016 letter to the PSC which forwarded the CE Map proposal, with narrative explanation.

I also attach the related letters seeking CE zoning from the retailers shown below, based on their existing auto-oriented developments in areas that will be slow to achieve urban densities. Their sites are included in the RTF's proposed CE Zone Map.

Albertsons/Safeway – 9 sites
McDonald's – 4 sites
Dutch Bros Coffee – 5 sites
Fred Meyer – 6 sites
Starbucks – 4 sites

Of the above 28 requested CE sites, PSC recommends that only 2 be made CE. See the attached matrix showing that all of the specific sites requesting CE zoning for those retailers have comprehensive plan designations that allow CE zoning. This letter requests that all 28 sites be made CE because:

- they are already developed as auto-oriented businesses in areas that will be slow to develop into urban densities over the planning period;

- BPS and PSC rejected many of the requested CE zone sites because they are in designated centers. However, the purpose statement of the CE zone says that the CE zone is the appropriate zone for such developments in those areas, even when the area is within a center: "The CE zone is generally not appropriate in designated centers, except

on a site that is currently developed in an auto-oriented manner and urban scale development is not economically feasible.";

- they will not be able to get adjustments to get nonconforming situation review to upgrade and remodel, because the purpose of their CM (Mixed Use) zoning will be inconsistent with their intended redevelopment, so the purpose statement of the CE zone needs to be refined to make it directly auto-accommodating. See requested CE zone Purpose Statement revisions attached (new language underlined).

The same is true for all the properties shown on the proposed CE Zone Map. We reiterate our request for CE zoning for those sites and areas.

2. Treat existing drive-through facilities as "allowed" instead of "nonconforming" to enhance redevelopment. The MUZ Project will zone many areas already having existing drive-throughs with mixed use zones that will prohibit new drive-throughs. Such areas should still treat existing drive-throughs as "allowed" instead of "nonconforming", to allow them to redevelop instead of stagnating.

Accordingly, we request that the PSC's recommendation that drive-through facilities be banned east of 80th be disregarded for that reason, among others. The primary reason is that they are needed by many Portland citizens who are disabled, elderly, or who have young children to get through the challenges of their everyday lives. See the attached copy of October 4, 2016 letter from USBLN adding additional testimony to that fact. Other reasons also include the work previously done based on the Mayor's comments to regulate drive-through development/redevelopment based on whether the area is "walkable" or "drivable". See also section 1) of the attached July 12th letter to PSC regarding same.

Please adopt the RTF/ICSC GR Committee's proposed Drive-Through Prohibition Map and make existing drive-throughs "allowed" in the "walkable" areas for purposes of redevelopment. See the copy attached. Numerous drive-through operators, including Dutch Bros Coffee, testified at the first round of City Council hearings on the proposed drive-through ban, the ban is misplaced because drive-through facilities are not unsafe.

Thank you for the opportunity to make comments on these important topics.

Respectfully submitted,

Mark D. Whitlow

MDW:sv
Enclosure
Cc: RTF/ICSC GR Committee

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May 17, 2016

VIA EMAIL

Portland Planning and Sustainability Commission
City of Portland
1900 SW 4th Avenue, Suite 7100
Portland, OR 97201

Re: MUZ Project - RTF/ICSC GR Committee Comments re CE Zoning

Dear Chair Schultz and Commissioners:

This letter is submitted on behalf of the Retail Task Force (RTF) and the Oregon Government Relations Committee for the International Council of Shopping Centers (ICSC) regarding the proposed Mixed Use Zones Project. Please make this letter a part of your hearing record.

We wish to thank planning staff; especially Barry Manning and Bill Cunningham, for the for the hours they have spent with us since first meeting with our interest group on November 19, 2015. See the copy of my attached confirming message to Barry Manning outlining our group's goals for the MUZ project.

AUTO-ACCOMMODATING ZONING NEEDED FOR MULTIMODAL SYSTEM

The proposed Mixed Use Zones ("MUZs") effectively eliminate the remaining auto-accommodating elements of Portland's Zoning Code by converting all of the commercial zones to mixed use zones that are not auto-accommodating[1]. That is neither fair, equitable, nor legally sustainable for a multimodal system. Millions of dollars have been invested by Portland business owners in long-term auto-oriented developments, which have useful lives of twenty (20) to forty (40) years, in good-faith reliance on the City's auto-accommodating commercial zones. That zoning inequity can be avoided by not making existing auto-accommodating developments nonconforming by zoning them CE and making the CE zone more auto-accommodating. The proposed zoning often overlooks the built environment and proposes urban densities that will not have market support within the planning period and which then create

[1] In the City's 1991 Zoning Code Rewrite Project, the City downzoned approximately 20% of its general commercial land inventory to pedestrian and transit-oriented zoning districts (the CS, CM, CO1/2 and CN1/2 zones).

nonconforming development sites that are not market-friendly and which will only impede and stifle redevelopment or upgrades. We have asked Suzannah Stanley of MacKenzie to prepare four case studies of built retail projects that are auto-oriented and superimpose the new mixed-use zoning standards to show how they are not feasible to redevelop under the new standards, and should therefore be zoned CE. See copies of the MacKenzie case studies attached.

As we testified to the City Council regarding the proposed 2035 Comprehensive Plan, we urge you to implement the portion of the Portland Plan calling for the eradication of Portland's food deserts, where great segments of the City are underserved by supermarkets offering affordable, healthy food choices. See copy of Portland Plan's Policy Conclusions and Key Findings attached, plus a copy of a map link to the areas of Portland's Food Deserts. The food desert issue, while recognized early in this legislative planning process, is now being virtually overlooked and disregarded. The problem can be addressed through a zoning solution, which is to provide an adequate inventory of commercial lands zoned for auto-accommodating supermarket development.

The only zone remotely suitable for that type of development under the Mixed Use Zones Project is the new CE zone, most similar to the old CG zone, both of which are auto-accommodating. However, the purpose statement for the new CE zone is for a mixed-use first, with auto-accommodation only a second thought. Accordingly, the MUZ project offers no purely auto-accommodating zone. We believe that the City should proceed in a two-step fashion to address that omission: 1) zone land CE that is now zoned CG or developed for auto-accommodation; and 2) make the CE zone more auto-accommodating. Unfortunately, approximately 40% of the land currently zoned CG and approximately 60% of the properties now zoned CG are being converted to zones other than the CE zone, thus dramatically reducing the City's inventory of auto-accommodating land zoned for grocery supermarket and other auto-accommodating development. See Figure VII-1 and Figure VII-2 attached.

The City should increase the amount of CE zoning where the property fits the locational criteria of the CE zone regarding existing auto-accommodating development, rather than decreasing it, for the above reasons. The City should do a bottom-up rather than a top-down zoning exercise, since the City is a built environment and not a blank planning slate. We have prepared and attached a proposed CE map to show existing commercial lands that need to be zoned CE in satisfaction of the locational standard of the CE zone paraphrased as: built as auto-oriented in an area not likely to urbanize soon.[2] It also appears that the areas for the new Comprehensive Plan designations allowing the CE zone as a corresponding zone should also be increased, an issue that we raised in our testimony to City Council, as well as our position that the City's Goal 9

[2] See copy of email correspondence with Tom Armstrong of March 8, 2016 regarding the need for an adequate inventory to work from, ground up.

analysis for retail is legally flawed.[3] See new Council Policy 4.79 (#P44), 6.17 (#P50) and new Policy after 6.65 (#P60) adopted by Council on May 10, 2016.[4] Policy 4.79 and the new Policy

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[3] The City is required to include findings explaining how new proposed site development restrictions will not adversely impact its Goal 9 inventory. Such inventory must be preserved or expanded based on an Economic Opportunities Analysis (EOA) that identifies the characteristics and types of "other employment uses" (OAR 660-009-0015), which are defined to include "all non-industrial employment activities *including the widest range of retail* (emphasis added), wholesale, service, non-profit, business headquarters, administrative and governmental employment activities." OAR 660-009-005(6). In addition, the EOA must identify sites that are expected to accommodate employment growth based on the site characteristics typical of expected uses. OAR 660-009-0015(2). The resulting plan must base its inventory of employment lands, in part, on the site characteristics of the various employment uses expected to generate employment growth. OAR 660-009-0025. Stated plainly, the EOA must analyze the need for, and inventory of, "other employment" uses based on their particular site characteristics, and must provide for such sites in the resulting plan.

Goal 9, subparagraph 3, requires that the City's inventory of suitable commercial sites be adequate not just in terms of total acreage, but also with regard to size, type, location, and service levels, to provide for a "variety of industrial and commercial uses consistent with the plan policies." When the City adopts site design and development regulations that limit the feasibility of commercial uses on such affected properties, the City is obligated to demonstrate how it remains in compliance with the Goal 9 requirement for an adequate inventory of commercial sites. *Opus Development Corp. v. City of Eugene*, 28 Or LUBA 670 (1995). In the relatively recent case of *Gunderson, LLC v. City of Portland* (62 Or LUBA 403 (2011)), LUBA held that the City erred when adopting greenway regulations that, while they did not include express use restrictions, effectively converted industrial land to open space by imposing extremely restrictive site development requirements. LUBA also found fault with the City's EOA because it categorized industrial uses by their geographical distribution rather than by site characteristics. *Id.* at 418.

The City's current EOA and its proposed amendments appear to take the same approach that LUBA rejected in *Gunderson* (it should be noted that the 2012 EOA was developed prior to the proposed zoning code amendments and therefore would not reasonably have evaluated such impacts). Even if the City decides to restrict the development of a certain type of commercial use, such as large format retail, it must at least demonstrate that it considered the impact on such retail uses before enacting such restrictions, and must demonstrate that it retains a sufficient supply of Goal 9 land, considering site characteristics, notwithstanding such restrictions. *Home Depot v. City of Portland*, 37 Or LUBA 870 (2000). The City's enactment of very stringent site development restrictions that would limit several commercial uses, including large format commercial and drive-throughs, was not critically evaluated in the of City's draft EOA. Thus, the City has failed to demonstrate that such site development restrictions will not adversely impact its supply of Goal 9 land, based on the site characteristics of certain use categories.

[4] Policy 4.79. Requested by Saltzman (Council agenda #P44).
Grocery stores and markets in centers. Facilitate the retention and development of grocery stores, neighborhood-based markets, and farmers markets offering fresh produce in centers. Provide adequate land supply to accommodate a full spectrum of grocery stores catering to all socioeconomic groups and providing groceries at all levels of affordability.

Policy 6.17 – New Sub-Policy. Requested by Saltzman (Council agenda #P51).
Consider short-term market conditions and how area development patterns will transition over time when creating new development regulations.

New Policy after 6.65. Requested by Saltzman (Council agenda #P61).

after 6.65 both adopt policy statements requiring that more land be devoted to the full spectrum of grocery store development, which requires auto-accommodating zoning. See letters to City Council from Bob LeFeber/CRA regarding the lack of adequately zoned land for auto-accommodating grocery supermarkets.

The City still needs to have an auto mode that is accommodated. Even if the mode split shift goes down on the east side past 39th and on the west side past the ridge, over the next 20 years the mode split is likely to still be 60% to 70% autos at 2035. See Metro's "A snapshot of how the Portland region gets around." We need areas for auto accommodating uses that do not have the FAR and building orientation limitations of the Storefront zones. See the definition of "Auto-Accommodating Development" in the Code below. By contrast, see the purpose statement for the new CE zone also printed below, but marked to show revisions to make it more auto-accommodating, where the CE zone is intended to be pedestrian and transit friendly first, with auto-accommodation only as an after-thought. The City's multimodal system will lack adequate accommodation for the auto mode if the 2035 Plan and the MUZ Project are approved. Most households make 9 plus trips a day but only travel 4.4 miles from their home. Travel to downtown will continue to make great strides in mode split, but other trips will take more time and density to evolve because of lack of transit choices and service times available. Auto-accommodating uses need equitable zoning treatment under the MUZ project.

Currently there is no auto-accommodating zone proposed to address the short term market needs as new areas of the City continue to urbanize and become more dense over the planning period. New council policy 6.17 seeks to allow interim market-based development to avoid nonconformity. The City needs to implement the new Council policy in the MUZ project. We have requested phasing of the application of the CMSO overlay until there is a realization of 15-minute frequent transit service and a 50/50 mode split in the proposed CMSO areas. Converting more land to CE zoning is another way to phase in the mixed use zones during the next planning period, with CE being a short-term market placeholder. We can discuss other ideas with staff after the hearing.

MAKE CE ZONE AND DEVELOPMENT STANDARDS MORE AUTO-ACCOMMODATING

We request amendments to the CE zone's purpose statement and standards to make them more auto-accommodating, as required for a multimodal system, and as described in the Zoning Code's definition of Auto-Accommodating Development:

Retail Development. Provide for a competitive supply of retail sites that support the wide range of consumer needs for convenience, affordability, accessibility and diversity of goods and services, especially in underserved areas of Portland.

"Auto-Accommodating Development. Development which is designed with an emphasis on customers who use autos to travel to the site, rather than those which have an emphasis on pedestrian customers. This type of development usually has more than the minimum required number of parking spaces. The main entrance is oriented to the parking area. In many cases, the building will have parking between the street and the building. Other typical characteristics are blank walls along much of the facade, more than one driveway, and a low percentage of the site covered by buildings."

1) Revise CE Zone Purpose statement to make more auto-accommodating (new language underscored):

D. Commercial Employment zone. The Commercial Employment (CE) zone is a medium-scale zone intended for sites along corridors in areas between designated centers, especially along Civic Corridors that are also Major Truck Streets or Priority Truck Streets. The zone allows a mix of commercial uses, as well as some light manufacturing and distribution uses that have few off-site impacts. The emphasis of this zone is on auto-accommodating commercial and employment uses, but residential use is also allowed. Buildings in this zone will generally be up to four stories tall. Development is intended to be auto-accommodating, as well as pedestrian-oriented, ~~as well as auto-accommodating,~~ and complement the scale of surrounding areas.

2) Provide development standards in CE zone for auto-accommodation (See marked copies of key standards attached, as summarized below):

- Allowance for parking between buildings and streets.
  - Section 33.130.215.C.1. & Table 130-2. Exempt street frontages in a CE zone abutting major city traffic streets on district collector streets in Section 33.130.215.C.1 attached. Change the Max. Building Setbacks in CE from 10'/20' to "NA" for sites adjacent to a Major City Traffic Street or a District Collector; add an exemption from the vehicle area frontage limitations of Section 33.266.130.C.3.b., for sites adjacent to a Major City traffic Street or a District Collector. Note: the pedestrian standard of Section 33.130.240 provide a safe and convenient crossing of these areas.
- Transit street main entrance location oriented to parking.
  - Section 33.130.242.B.3. Applicability – Add new subsection "3. This section does not apply to street frontages in a CE zone abutting Major City Traffic or District Collector streets."
- Allowance for blank walls.
  - Section 33.130.230.B.2.d. Ground Floor Window Standard Exemption

        - Revise subsection 2. to add a new subsection "d exemption." Retail store walls devoted to truck loading or external to interior areas used for storage, refrigeration or mechanical equipment, are exempt from this Section."
- Alternative maximum building setback for large retailers in mixed-use zones other than CE.
    - Section 33.130.215.E.2
        - Change 60,000 sq. ft. to 40,000 sq. ft.
- See copies of above code sections (except 33.130.215.E.2) marked to show proposed changes by underlining the new language.

DO NOT MAKE EXISTING DEVELOPMENTS NONCONFORMING

We are also concerned with the proposed prohibition of drive through facilities in many new locations. The Mayor's new policy provides for prohibition of new drive throughs in the Central City and for limitations in Ring Districts and centers. The proposed application was dropped in corridors. Accordingly, existing drive-through prohibitions in corridors should be changed by zoning those properties CE, which does not prohibit drive-throughs. Regardless of the ultimate area of prohibition, drive through facilities should not be made nonconforming, but should instead by deemed conforming as preexisting development. New Plan Policy 6.17 supports this approach.

The CE zone is also the only zone which does not prohibit drive-through facilities. Grocery supermarkets utilize drive-through facilities in their operations for on-site fuel stations, pharmacy pick-up windows, and grocery pick-up lanes. Drive-through facilities should not be prohibited in centers, corridors and other areas along Major City Traffic Streets and District Collectors suitable for auto-accommodating grocery store development for equitable zoning reasons.

It is important to be in the proper zone as a nonconforming development. The nonconforming situation review criteria require that "the new use or development will not detract from the desired function and character of the zone." See copy of Section 33.258.080.3. attached. Accordingly, auto-dependent development that is zoned anything but CE, the only auto-accommodating zone, will be found to be inconsistent with the purpose statements of any of the mixed-use zones, which would make the effort to obtain nonconforming situation review approval to modify an auto-oriented development in any new zone except CE unfeasible for that reason.

We propose the following pre-existing code language for commercial land:

> *"At the time an area now zoned commercial is zoned for a CM, CM2 or CM3 base zone or a CMSO overlay, existing auto-oriented development which was allowed by a former*

commercial zone covering the site and which would otherwise become non-conforming by the mixed use zoning, shall be allowed to continue as allowed developments."

Limit Areas of Prohibition of Drive-Through Facilities. Drive-through facilities are important adjuncts to grocery supermarket store development, both for their own drive-throughs (for pharmacy and grocery pick-up and for fuel stations) and for their pad users to help spread the cost of development. They do not generate traffic as a destination, as operate off pass-by traffic. They operate safely and do not have a history of unsafe operations in the City. Therefore, drive-throughs should not be prohibited broadly, but only in special areas such as the areas now proposed for CMSO zones west of 39th Avenue and the areas mapped to recognize the City's Low-Rise "Trolley Car Era" Commercial Storefront areas. See attached map. The CE zone's use limitations for drive throughs should be removed. In the small block areas of Portland, all CE sites will be within 50' of an R zone. The buffer standards should be re-imposed as a flexible way to address the issue instead of a prohibition "overkill".

We propose the following language to create preexisting development status for existing drive throughs, as follows:

33.130.260 Drive-Through Facilities
New drive-through facilities are allowed in the zones which are intended for auto-accommodating development. Existing, legally established facilities in all commercial/mixed use zones are allowed outright. The standards for drive-through facilities are stated in Chapter 33.224, Drive-Through Facilities.

A. CM1, CM2, CM3, CX, and CE zones. In the CM1, CM2, CM3, CX, and CE zones, all legally established drive-through facilities in existence as of the effective date of the code, are allowed outright and are not subject to Chapter 33.258, Nonconforming Situations.

B. CM1, CM2, CM3, and CX zones. Establishment of new drive-through facilities is prohibited in the CM1, CM2, CM3, and CX zones.

C. CE zone. Establishment of new drive-through facilities is allowed in the CE zone, subject to the following:

1. New drive-through facilities within 50 feet of a residential zone boundary must incorporate landscaping to the L2 standard between the drive-through facility and the residential zone.

We very much appreciate the time that staff has taken to work with us to date. We offer to continue to work with staff through the hearing process on our proposed revisions to the code requested above and we request the formation of a PSC approved workshop for that purpose.

Respectfully submitted,

Mark Whitlow

Mark D. Whitlow

MDW:sv
Enclosures

CE ZONE & NON-CMSO RECOMMENDATIONS
Portland, Oregon

LEGEND

- Recommended CE Areas
- Recommended CMSO removals
- Proposed CMSO
- Proposed Zones
  - CM1 - Mixed Commercial
  - CM2 - Commercial Mixed Use 2
  - CM3 - Commercial Mixed Use 3
  - CE - Commercial Employment
- Current Zones
  - CG (if no hatch, changing to other comp plan desig.)
- Traffic Classifications
  - Regional Trafficway
  - Regional Trafficway & Major City Traffic Street
  - Major City Traffic Street
  - Traffic Access Street
  - District Collector
  - Neighborhood Collector
- Freight Classifications
  - Major Truck Street
  - Priority Truck Street

33 130 030 D:
The Commercial Employment (CE) zone is a medium scale zone intended for sites along corridors with a Neighborhood Collector or higher traffic classification, especially along civic corridors that are also Major Truck Streets or Priority Truck Streets. This zone is generally not appropriate in designated centers, except on a site that is currently developed in an auto-oriented manner and urban scale development is not economically feasible.

MACKENZIE.

503 224 9560 · 503 228 1285 · MCKNZE.COM

Whitlow, Mark (Perkins Coie)

From: Whitlow, Mark (Perkins Coie)
Sent: Thursday, December 24, 2015 10:36 AM
To: Manning, Barry (Barry.Manning@portlandoregon.gov)
Cc: 'RTF Participants'; Vogel, Stephanie (Perkins Coie)
Subject: Portland Mixed Use Zones Project - RTF/ICSC GR Committee Preliminary Comments II

Barry,

This message continues to follow-up from our meeting with you and your staff on November 18th and provides additional preliminary comments from the first set provided in my email to you on November 19th. Since then we have hired consultants and are preparing a detailed set of industry comments and market analyses to send to you as soon as possible. In the interim on December 1st, I provided you with the packet of prior RTF communications with the Planning Director, Portland Planning Commission and Portland City Council circa 1989-1991, with the comment that the issues of concern then are essentially the same as the ones the retail segment of the industry has now:

- rampant down-zoning of general commercial land;
- over-application of building orientation standards for pedestrian and transit-oriented development in areas not suitable for that type of use or development
- resulting nonconformity of existing commercial uses and developments based on the above, which impedes economic growth and development; and
- general lack of any city-wide economic commercial retail policy to ensure an adequate inventory of commercial land to serve the City's wide spectrum of retail shopping needs, especially grocery, at all economic levels of the community.

You have asked me to provide as much detail as I can as soon as I can regarding what we are concerned about and what we need to see changed. We will take the basic position that:

- the new overlay should be applied when the subject area is served with 15 minute transit service with a demonstrated 50/50 mode split, with the overlay standards being revised to prevent non-conformity when applied
- CG land should only be converted to CE land (general commercial to commercial employment)
- CE purpose statement and standards should be revised to be more auto-oriented
- In all commercial zones, building orientation standards should only be applied to areas having 15 minute transit service, so we request a roll-back of the areas that are subject to building orientation, consistent with our testimony 20 years ago.
- we will offer specific case studies of why the proposed zoning doesn't work, including the existing Safeway store development at 221 NE 122nd & and the existing Albertsons store development at 5850 NE Prescott

We will provide more detail as soon as we can. In the interim, I would appreciate your early feedback. Thank you again for your time.

Best, Mark

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MIXED USE ZONES PROJECT

CASE STUDIES

February 16, 2016

Mark Whitlow, Perkins Coie
Eric Hovee, E.D. Hovee
Suzannah Stanley, Mackenzie

Introduction

FOUR CASE STUDIES

The following document presents four existing or recently permitted retail sites providing affordable and/or value-based grocery in northeast and southeast Portland. The sites were analyzed for their compliance with the proposed zoning language of the Mixed Use Zones project.

Applicable code sections with changes proposed are addressed. Code sections with which each site would not comply as built or recently permitted are shown in red.

GLISAN STREET STATION

POWELL DEVELOPMENT
2625 Northup Way
Bellevue, WA 98004
p.425.828.4444
WWW.POWELLDEV.COM

1: Safeway: 221 NE 122nd (Glisan Street Station)

Existing retail development

Current Zone: CX (Central Commercial)
Proposed Zone: CM3m (Commercial Mixed Use - 3), Centers Main Street Overlay zone (CMSO)
Site Area: 768,629 SF (seven tax lots in development)
Building Area: 330,949 SF (all buildings)

SUMMARY

The existing development does not meet several of the proposed standards for the new base zone or CMSO. From the proposed base zone standards, maximum setbacks of 20' are allowed and setbacks must be improved for pedestrian use. Additionally, transit street main entrances are required for all buildings, at no more than 200' apart (none are currently provided). To meet CMSO standards, development at this site would have to have 70% of building facades to be within 20' of streets, with no more than 40% of the site's frontages for vehicle areas. At least 60% of facades must be windows. Additionally, a minimum FAR of 0.5 is required (currently there is 0.43 across the buildings and lots).

Also per the CMSO, vehicle access would be prohibited from transit streets (both 122nd and Glisan), meaning the site would be required to be accesses from NE Davis St, an approximately 30'-45' wide local street south of the Safeway building which currently only provides access to the private parking for the apartment development on the site.

ANALYSIS

Proposed base zone CM3:

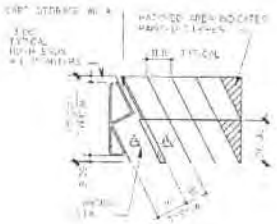
- 33.130.205 Maximum FAR changing from 4:1 to 3:1 or 5:1 with bonuses
- 33.130.210 Maximum height decreasing from 75' to 65' before bonuses
- 33.130.215.C. Maximum Building Setbacks. 10' for zone but 20' for both 122nd and Glisan ("Civic Corridors" per Map 130-1). At least 50% of street-facing facades at ground level must meet max setback. (These must be met on two out of the three streets the site fronts—122nd and Glisan, since they are the highest classifications.) Existing buildings are within 20' of both streets at some locations, but less than 50% of all street-facing facades are within 20' (particularly western large building).
- 33.130.215.C. at least 50% of complying maximum setback areas must be improved for pedestrian use. Existing site does not meet this. Small plaza area at northeast corner of Safeway building on 122nd, two walkways to buildings on Glisan. New buildings would be required to be closer to frontages and setbacks improved for pedestrians.
- 33.130.222.B. Maximum building length: 110' per building (multiple buildings within 20' of street must be at least 20' apart when on same site). Existing Safeway building within 10' of 122nd is approx. 194' (not met). Street-facing façade on Glisan is approximately 374' long and set back approximately 426'. Smaller buildings at northeast corner are approximately 82' and 98' long within maximum setback.
- 33.130.222.C. Façade articulation. Applies to buildings 45'+ high—at least 25% of each façade within 20' of street must be divided into façade planes that are off-set by at least 2'. (Assumed does not apply to subject site building, likely less than 45' high.).
- 33.130.230.B. Ground floor window standard: 40% of street-facing façade within 20' of street must be windows (2-10 above-grade area). (Formerly this was 25% of the area between 2-9' above grade.) Less than 40% of 122nd façade or Glisan-facing façade of large building contain windows.
- 33.130.242.C. Transit Street Main Entrance location—no changes to commercial building standards. No main entrances provided on either transit street frontage, for any buildings (including smaller buildings on Glisan).
- 33.130.242.D. Transit Street Main Entrance distance between entrances—one entrance required for every 200' of building length within the maximum setback. Existing buildings do not meet setback or transit street main entrance locations, so cannot meet this standard.
- 33.130.260 Drive-Through Facilities: Prohibited in CM1, CM2, and CM3 zones. There is an A&W/KFC on corner of 122nd and Glisan.

Proposed Centers Main Street Overlay:

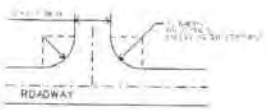
- 33.415.100 Quick-vehicle servicing (fuel stations) would be prohibited. (Note: these are currently permitted by way of a specific exception in the existing East Corridor Plan District).
- 33.415.200 Active ground floor uses are required within 100' of a transit street (Glisan and 122nd) and must consist of 50% of the ground floor area. Met with retail uses.
- 33.415.300 Drive-through windows are prohibited. There is an A&W/KFC on corner of 122nd and Glisan.
- 33.415.310 A minimum FAR of 0.5:1 is required for all new development. (Existing: 0.43)
- 33.415.320 Maximum Building Setbacks. At least 70% of street-facing façade at ground level must meet max setback of the base zone. (On two out of the three streets the site fronts—122nd and Glisan, since they are the highest classifications.) Neither this nor the base zone standard of 50% is met.
- 33.415.330.B. Frontage limitation. No more than 40% of frontage of transit street can be used for vehicle areas or exterior display. Subject site has approx. 857' of drive or parking area on approx. 1,719' of frontage (50%). Not met.
- 33.415.330.C. Access to "on-site parking" or "vehicle areas" prohibited on 122nd and Glisan, which are transit streets. The site currently takes access from those two streets and Davis (to the apartments only).
- 33.415.340 Ground Floor Windows. On transit streets, 60% of street-facing façade must be windows. Less than 60% of 122nd façade or Glisan-facing façade of large building contain windows.
- 33.415.350.B. Transit street entrance frequency: 1 entrance per 100' of building length. No existing buildings have transit street entrances.

33.130.260 would allow drive-through facilities to be rebuilt if demolished under the following circumstances:

- *The new drive-through must be part of a development with an FAR of at least 1:1.*
- *Only one drive-through would be permitted.*
- *The replacement drive-through must be built on the same lot.*
- *A replacement drive through is not permissible if the original has been disused for 2 years or more.*



A PARKING DETAIL



B CURB CUT DETAIL

NORTH

SCALE: 1"=100'-0"

LEGEND

PROPERTY LINE

PARCEL LINE

BUILDING AREA

GENERAL NOTES

DRAWN WITH OUT BENEFIT OF SURVEY
NO TRUCK WELLS, NATURAL DOCK ONLY
PARKING REQUIREMENTS:
BUILDING SETBACK REQUIREMENTS:
LANDSCAPE REQUIREMENTS
ZONING REQUIREMENTS:
EXISTING:
REQUIRED:

EXHIBIT "A" SITE PLAN

TOTAL GROSS BUILDING AREA	
TOTAL CARPARKS REQUIRED	
TOTAL CARPARKS PROVIDED	
TOTAL CARPARKS W/IN 200' RAD.	
TOTAL SITE AREA	

APPROVED BY:		DATE
CHAIRMAN	SIGNED	
PRESIDENT	SIGNED	11-8-91
EXEC V P - S P	SIGNED	11-8-91
SR V P - CONSTR		
SR V P - REG	SIGNED	11-8-91

ALBERTSONS NO. 575 (504)
S.W.C. N.E. PRESCOTT STREET & N.E. CULLY BLVD. PORTLAND, OR

Albertsons

EXHIBIT "A" SITE PLAN

1

2: Albertsons: 5850 NE Prescott

Existing retail development

Current Zone: CGh (General Commercial w/ Aircraft Landing overlay)
Proposed Zone: CM2m (Commercial Mixed Use - 2), CMSO
Site Area: 160,675 SF (Albertson's lot only, 1N2E19DA 11500)
Building Area: 47,600 SF

SUMMARY

The existing 47,600 Albertson's store does not comply with several of the proposed base zone and overlay standards. Per the proposed base zone, the building would be required to be within 10' of both Prescott and Cully with building design (articulation, windows, transit street main entrances, building length) and site design standards (setbacks improved for pedestrian use). Per the CMSO, the minimum FAR would be 0.5 (currently the lot has 0.3) and no vehicle access would be allowed from either Prescott or Cully. On those streets, no more than 40% of the frontages could be for parking/vehicle areas. Additional ground floor window and transit street entrance standards would apply.

ANALYSIS

Proposed base zone CM2:

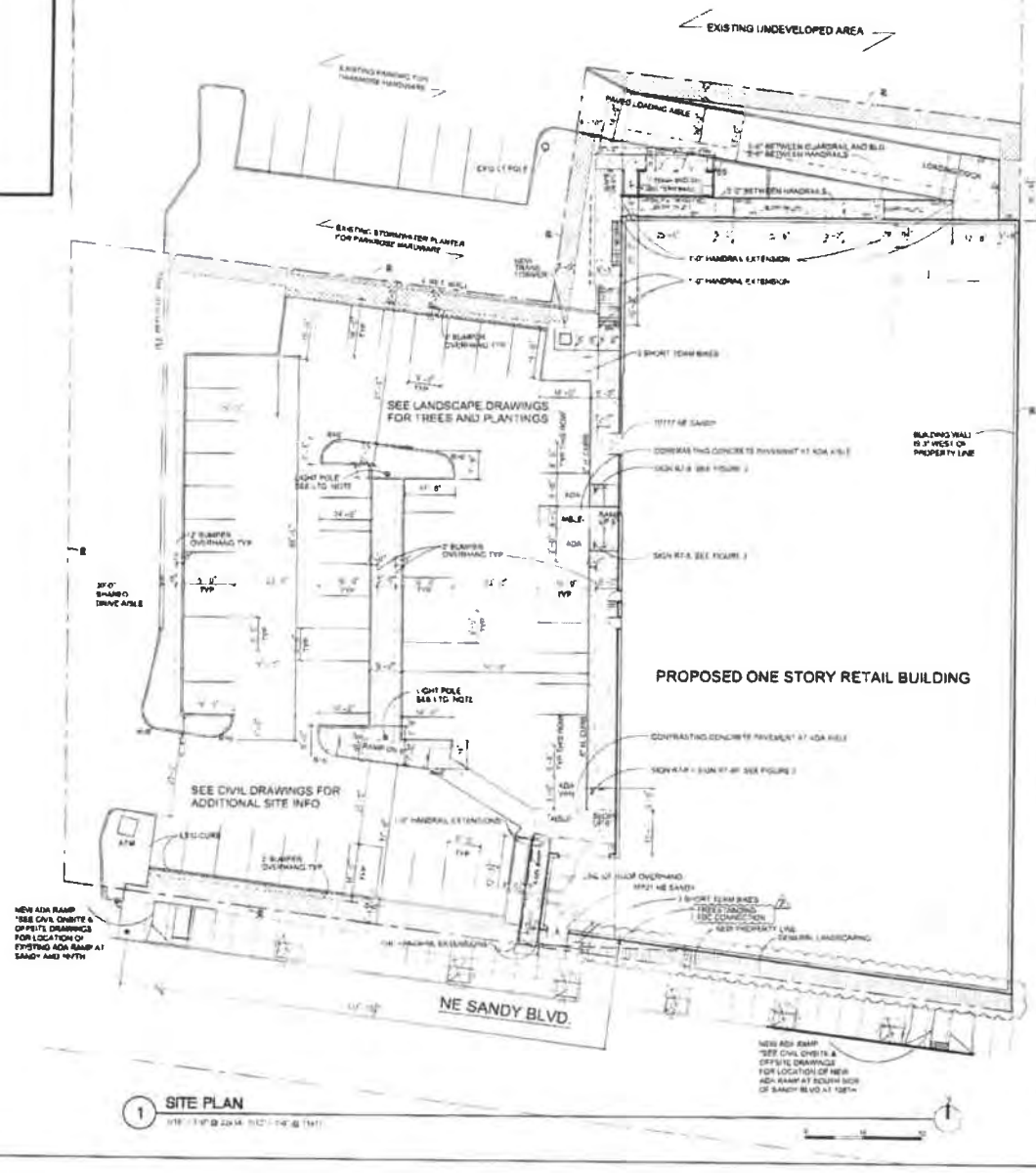
- No significant changes to height or maximum FAR (went from 3:1 to 2.5:1)
- 33.130.215.C. Maximum Building Setbacks: 10'. At least 50% of street-facing façade at ground level must meet max setback. (These must be met on two out of the three streets the site fronts—Prescott and Cully, since they are the highest classifications.) Existing building is within 10' from Cully at corner, but less than 50% of Cully street-facing façade is within 10' and none of façade facing Prescott is within 10'.
- 33.130.215.C. at least 50% of complying maximum setback areas must be improved for pedestrian use. Existing site does not meet this—only landscape area is provided.
- 33.130.222.B. Maximum building length: 110' per building (multiple buildings within 20' of street must be at least 20' apart when on same site). Existing building is approx. 175' long along Cully.
- 33.130.222.C. Façade articulation: Applies to buildings 35'+ high—at least 25% of each façade within 20' of street must be divided into façade planes that are off-set by at least 2'. (Assumed does not apply to subject site building, likely less than 35' high.)
- 33.130.230.B. Ground floor window standard: 40% of street-facing façade within 20' of street must be windows (2-10' above-grade area). (Formerly this was 25% of the area between 2-9' above grade.) Existing building has no windows on either street-facing façade and minimal windows on the northern façade that is required to face Prescott.
- 33.130.242.C. Transit Street Main Entrance location—no changes to commercial building standards. The building does not have a main entrance on either transit street (Cully or Prescott).
- 33.130.242.D. Transit Street Main Entrance distance between entrances—one entrance required for every 200' of building length within the maximum setback. Existing building does not meet setback or transit street main entrance locations, so cannot meet this standard.
- 33.130.260 Drive-Through Facilities: Prohibited in CM1, CM2, and CM3 zones. None exist.

Proposed Centers Main Street Overlay:

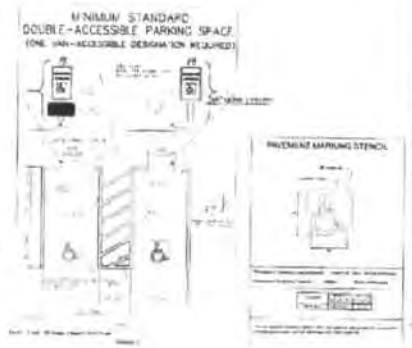
- 33.415.100 Quick-vehicle servicing (i.e. fuel stations) would be prohibited. (These are currently permitted outright.) Existing development on site includes a Mobil fuel center.
- 33.415.200 Required Ground Floor Active Use. If building is within 100' of a transit street (Prescott and Cully), 50% of ground floor area must be an active use such as retail. Existing building meets this with Retail use.
- 33.415.300 Drive-through windows, including replacement drive-throughs, are prohibited.
- 33.415.310 A minimum FAR of 0.5:1 is required for all new development. (Current is 0.3.)
- 33.415.320 Maximum Building Setbacks: At least 70% of street-facing façade at ground level must meet max setback of the base zone. (On two out of the three streets the site fronts—Prescott and Cully, since they are the highest classifications.) Neither this nor the base zone standard of 50% is met.
- 33.415.330.B. Frontage limitation: No more than 40% of frontage of transit street can be used for vehicle areas or exterior display. Subject site has approx. 167' of parking area on approx. 364' of frontage (45%). Not met.
- 33.415.330.C. Access to "on-site parking" or "vehicle areas" prohibited on Prescott and Cully, which are transit streets. The site currently takes access from those two streets and Skidmore.
- 33.415.340 Ground Floor Windows: On transit streets, 60% of street-facing façade must be windows. No windows exist on Cully façade.
- 33.415.350.B. Transit street entrance frequency: 1 entrance per 100' of building length. Existing building has no transit street entrances.

33.130.260 would allow drive-through facilities to be rebuilt if demolished under the following circumstances:

- *The new drive-through must be part of a development with an FAR of at least 1:1.*
- *Only one drive-through would be permitted.*
- *The replacement drive-through must be built on the same lot.*
- *A replacement drive through is not permissible if the original has been disused for 2 years or more.*



TITLE 33 PARKING LOT SUMMARY



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T 503.222.9099

REGISTERED ARCHITECT STATE OF OREGON

PARKROSE
SHOPPING CENTER
10721 NE SANDY BLVD
PORTLAND, OR 97220

DEVELOPMENT COMPANY OF THE WEST

PERMIT# 15-204803-CO
ISSUE Plan Check Revisions
ISSUE DATE 08/10/16
DRAWN BSC
APPROVED BJS
REVISIONS
1 09-17-15 Plan Check Rev
2 10-23-15 Plan Check 2

SCALE AS NOTED
SITE PLAN

A1.0

3: Grocery Outlet/Dollar Tree: 10721 NE Sandy (Parkrose)

Shell recently permitted

Current Zone: CGhx (General Commercial), (Aircraft Landing Zone, PDX Noise Impact Zone overlays)
Proposed Zone: CM2hxm (Aircraft Landing Zone, PDX Noise Impact Zone, CMSO overlays)
Site Area: 54,338 SF
Building Area: 22,860 SF

SUMMARY

The recently approved site plan does not comply with several of the proposed code changes—specifically, improving areas within the maximum setback for pedestrian use, maximum building length, ground floor window standards (of the base zone or overlay), minimum FAR in overlay, or vehicle frontage limitation in overlay.

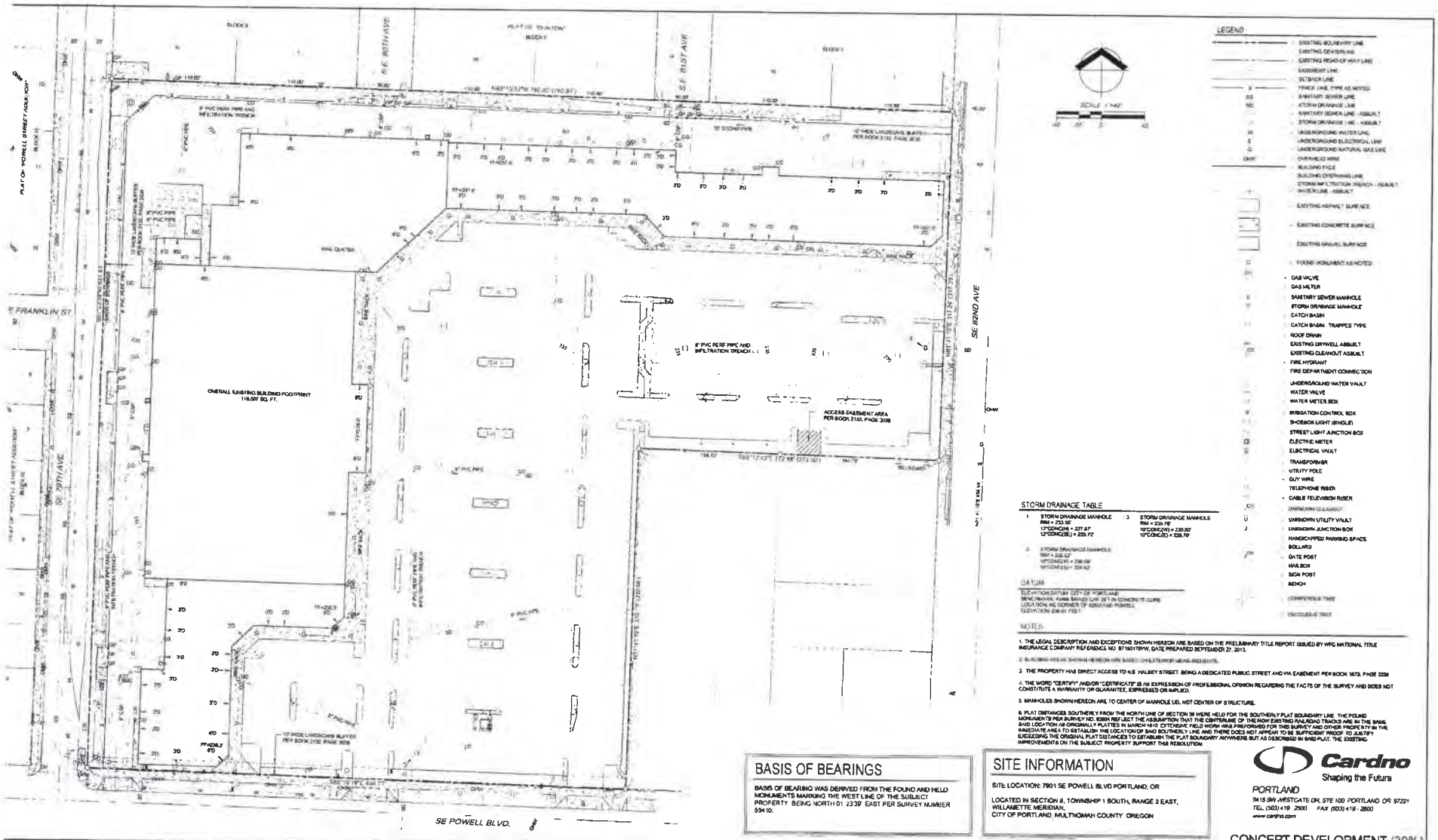
ANALYSIS

Proposed base zone CM2:

- No significant changes to height or maximum FAR (went from 3:1 to 2.5:1)
- 33.130.215.C. Maximum Building Setbacks: 10' for zone but 20' for this portion of Sandy Blvd ("Civic Corridor" per Map 130-1). At least 50% of street-facing façade at ground level must meet max setback.
- 33.130.215.C. at least 50% of complying maximum setback areas must be improved for pedestrian use. Current site plan does not meet this. (4'10" landscape area is provided)
- 33.130.222.B. Maximum building length: 110' per building (multiple buildings within 20' of street must be at least 20' apart when on same site). Current site plan building is approx. 130' long within 20' of Sandy
- 33.130.222.C. Façade articulation: Applies to buildings 35'+ high—at least 25% of each façade within 20' of street must be divided into façade planes that are off-set by at least 2'. (Assumed does not apply to subject site building, likely less than 35' high.)
- 33.130.230.B. Ground floor window standard: 40% of street-facing façade within 20' of street must be windows (3-10' above-grade area). (Formerly this was 25% of the area between 2-8' above grade.) Elevations not provided for Dollar Tree/Grocery Outlet building but may not meet this standard.
- 33.130.242.C. Transit Street Main Entrance location—no changes to commercial building standards
- 33.130.242.D. Transit Street Main Entrance distance between entrances—one entrance required for every 200' of building length within the maximum setback. Current site plan meets this with one entrance and approx. 130' of building length on the transit street
- 33.130.260 Drive-Through Facilities: Prohibited in CM1, CM2, and CM3 zones.

Proposed Centers Main Street Overlay:

- 33.415.200 Required Ground Floor Active Use: If building is within 100' of a transit street, 50% of ground floor area must be an active use such as retail. Site plan meet this.
- 33.415.310 Minimum FAR: 0.5:1. For 54,338 SF site: that's 27,168 SF of building. Approved building is only 22,860 SF or 0.42:1. Not met.
- 33.415.320 Maximum Building Setbacks: At least 70% of street-facing façade at ground level must meet max setback of the base zone.
- 33.415.350.B. Frontage limitation: No more than 40% of frontage of transit street can be used for vehicle areas or exterior display. Subject site has approx. 130' of parking area on approx. 260' of frontage (50%). Not met
- 33.415.340 Ground Floor Windows: On transit streets, 60% of street-facing façade must be windows. Elevations not provided for Dollar Tree/Grocery Outlet building but may not meet this standard.)
- 33.415.350.B. Transit street entrance frequency: 1 entrance per 100' of building length. Subject site plan has 1 entrance per 130' of building (met).



4: Winco: 7901 SE Powell Blvd (Powell Street Station)

Tenant improvement for Winco recently permitted; permit for site upgrades recently permitted

Current Zone: CG (General Commercial)
Proposed Zone: CM2 (Commercial Mixed Use - 2)
Site Area: 393,889 SF
Building Area: 117,766 SF

SUMMARY

The existing building does not meet maximum setback standards of new base zone; due to site configuration in L-shape around another site, these would be difficult to meet even for new development. Additionally, the existing building does not meet the new pedestrian improvement area standards, building length, or transit street main entrance standards.

ANALYSIS

Proposed base zone CM2:

- No significant changes to height or maximum FAR (went from 3:1 to 2.5:1)
- 33.130.215.C. Maximum Building Setbacks: 10' for zone but 20' for both 82nd and Powell ("Civic Corridors" per Map 130-1). At least 50% of street-facing façade at ground level must meet max setback. (These must be met on two out of the three streets the site fronts—82nd and Powell since they are the highest classifications.) Existing building is within 20' of both streets at corners, but less than 50% of either street-facing façade is within 20'.
- 33.130.215.C. at least 50% of complying maximum setback areas must be improved for pedestrian use. Existing site does not meet this—no walkways or pedestrian plazas between street and building (and no complying setback areas).
- 33.130.222.B. Maximum building length: 110' per building (multiple buildings within 20' of street must be at least 20' apart when on same site). Existing building within setback is approx. 90' maximum, but building does not meet maximum setback requirements. Street-facing façade on Powell is approximately 580' long.
- 33.130.222.C. Façade articulation: Applies to buildings 35'+ high—at least 25% of each façade within 20' of street must be divided into façade planes that are off-set by at least 2'. (Assumed does not apply to subject site building, likely less than 35' high.)
- 33.130.230.B. Ground floor window standard: 40% of street-facing façade within 20' of street must be windows (2-10' above-grade area). (Formerly this was 25% of the area between 2-9' above grade.) Both façades along streets are close to 100% windows, but the building does not meet the street-facing façade requirement.
- 33.130.242.C. Transit Street Main Entrance location—no changes to commercial building standards. Entrance on SE Powell is at a 45 degree angle (meets standard), but no entrance provided on 82nd.
- 33.130.242.D. Transit Street Main Entrance distance between entrances—one entrance required for every 200' of building length within the maximum setback. Existing building does not meet setback or transit street main entrance locations, so cannot meet this standard.
- 33.130.260 Drive-Through Facilities: Prohibited in CM1, CM2, and CM3 zones. None exist on subject site but there is an A&W/KFC on corner of Powell and 82nd.

33.130.260 would allow drive-through facilities to be rebuilt if demolished under the following circumstances:

- *The new drive-through must be part of a development with an FAR of at least 1:1.*
- *Only one drive-through would be permitted.*
- *The replacement drive-through must be built on the same lot.*
- *A replacement drive through is not permissible if the original has been disused for 2 years or more.*

POLICY CONCLUSIONS

Key Findings

The City of Portland currently lacks a Comprehensive Plan goal regarding food systems.

The City of Portland can influence food systems through the consideration of food issues during the planning process and through support of policies, programs, and investment priorities conducive to expanding food access, urban agriculture and encouraging healthy behavior choices.

The Bureau of Planning and Sustainability can focus efforts for the Portland Plan to direct urban development in a manner supportive of providing opportunities to access healthful food and grow food locally. A planning goal describing our commitment to food access and urban agriculture would support community values around this issue and bring food into the City's comprehensive planning framework.

Without food systems as a consideration within planning, future decisions made through the Portland Plan may cause unintended consequences that work counter to our community's physical health. Food is related to many issues of importance that the Portland Plan is undertaking: climate change, affordability, human health, neighborhood health, urban form and more, and decisions made in these areas will impact the food environment.

The City's current Comprehensive Plan does not include policies related to healthful food access.

Access to healthful food is one of the most significant health-related policy gaps in the City's current Comprehensive Plan.

Potential policy areas to promote greater access to healthful foods should center on improving walkability and access to healthy food outlets; removing zoning and land use barriers that restrict the siting of healthful food outlets; removing obstacles to the growing and sale of food in urban areas; providing land for growing food in appropriate locations; encouraging the planting of fruit and nut trees in appropriate locations; and utilizing incentives, economic development tools, and education to support the expansion of local producers, processors, distributors, and retailers.

Food comes up as a major component to several issues under exploration in the Portland Plan.

- **20-minute neighborhoods**: Grocery access has already been identified as a key feature of the 20-minute neighborhood. In early outreach, the public has suggested community gardens as being important. Programming urban plazas, or community gathering places, with events like farmers markets, can also contribute to walkable, vibrant communities.
- **Growth**: In many U.S. cities, urban agriculture (UA) is thriving where cities are in decline and there is much vacant land available. We have an opportunity with the Portland Plan to define UA for a growing, largely land-locked city. There are many creative ideas for providing more of our food without expanding the urban growth boundary or losing growth potential within the boundary.
- **Affordability**: As housing costs rise, less money is available for other basic needs like food. While transportation is certainly key and accounts for a larger proportion of the household budget, food costs are significant and are often the expenditure that gets reduced when other costs rise. Key to the affordability discussion is the ability to meet all basic needs, including healthful food.
- **Community resiliency**: There is growing interest in preparing communities to face unexpected turmoil or deep changes due to climate change, peak oil, and a changing economy. As we seek to address these challenges and prepare for an uncertain future, food is a key issue in the discussion.

(http://www.oregonlive.com/)

Portland-area food deserts

Below is a map of low-income census tracts in the Portland metro area where the U.S. Department of Agriculture has determined that a significant number or share of residents is more than a half-mile or a mile from the nearest supermarket in urban areas or more than 10 miles from the nearest supermarket in rural areas. For a nationwide map, see the USDA site. (http://www.ers.usda.gov/data-products/food-access-research-atlas/go-to-the-atlas.aspx) Read more: Grocery Outlet's opening in east Portland brings promise to an area lacking supermarkets (http://www.oregonlive.com/portland/index.ssf/2013/09/grocery_outlets_opening_in_eas.html)

New Grocery Outlet store

(https://maps.google.com/maps?ll=45.52,-122.78&z=11&hl=en-US&gl=US&mapclient=apiv3)

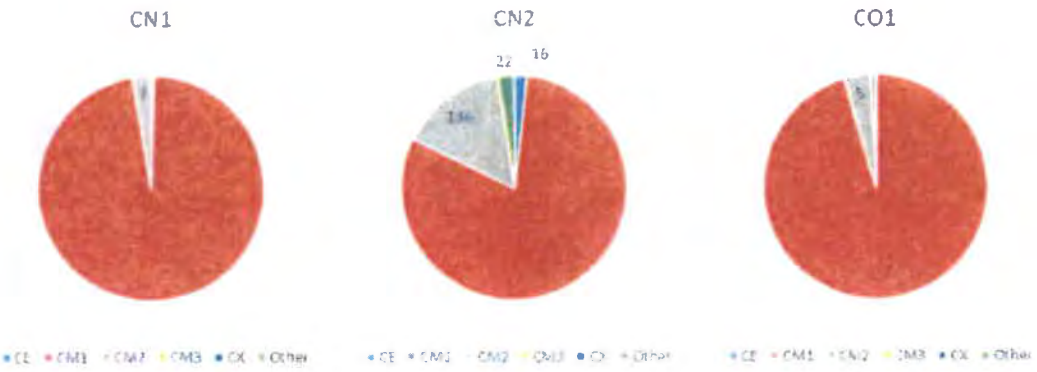
Map data ©2016 Google

Sources: U.S. Department of Agriculture, U.S. Census Bureau; Map: Mark Friesen/The Oregonian

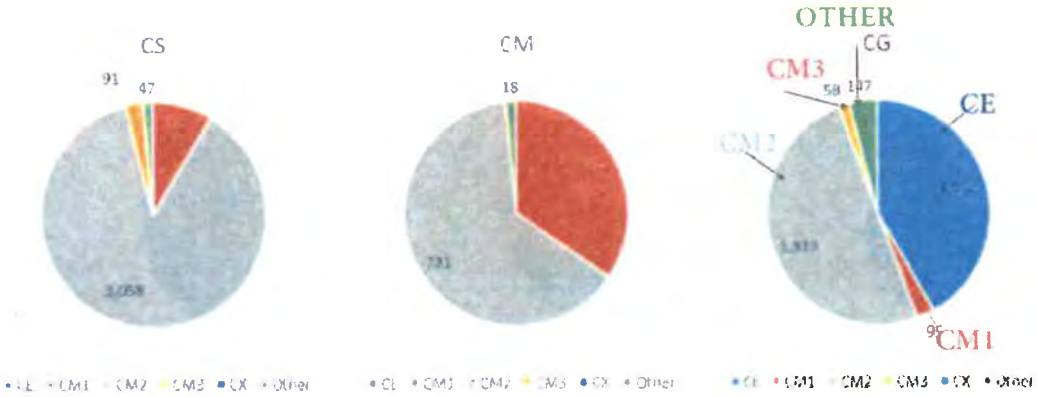
Figure VII-1: Commercial/Mixed Use Rezoning Summary

Number of properties assigned to each new zone, by old zones. Other = non Commercial/Mixed Use (EG1, EG2, R1, etc.)

Small scale commercial zones



Medium scale commercial zones



Medium and large scale commercial zones

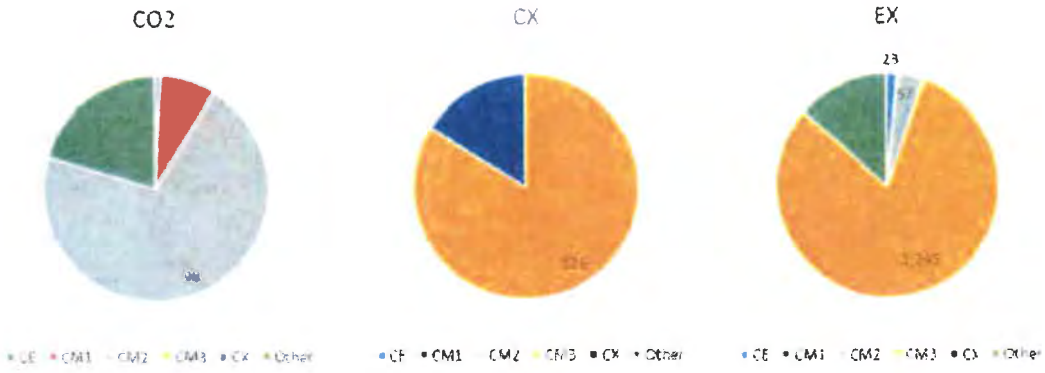
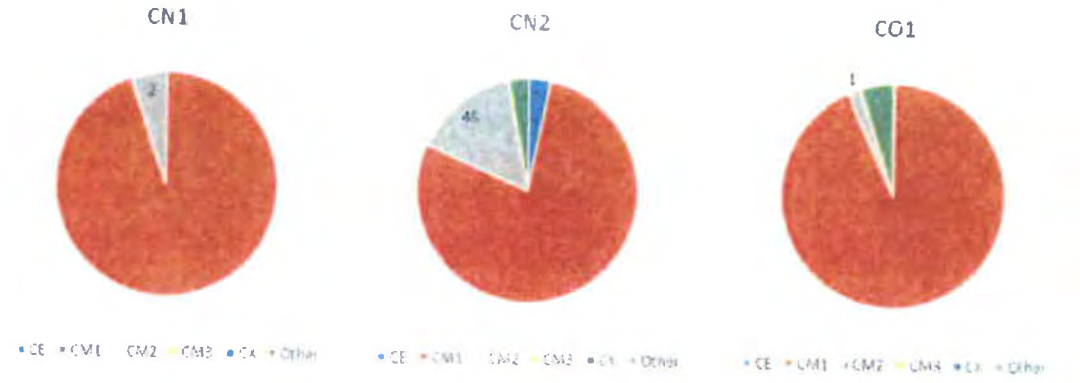


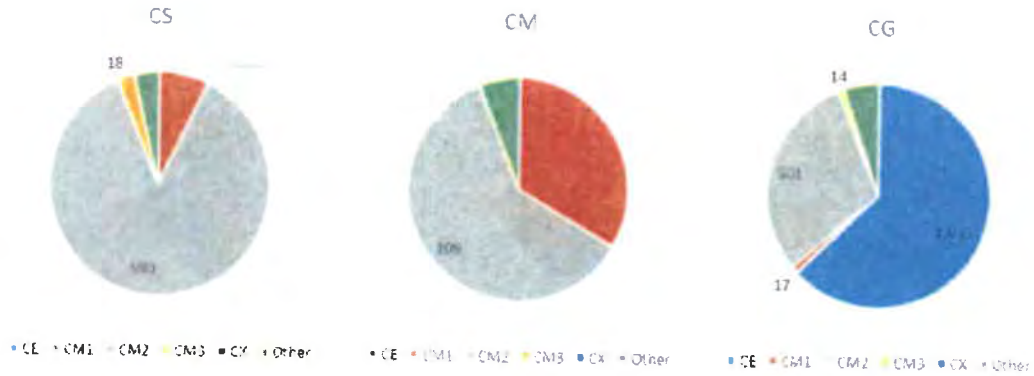
Figure VII-2: Commercial/Mixed Use Rezoning Summary

Number of acres assigned to each new zone, by old zones. Other = non Commercial/Mixed Use (EG1, EG2, R1, etc.)

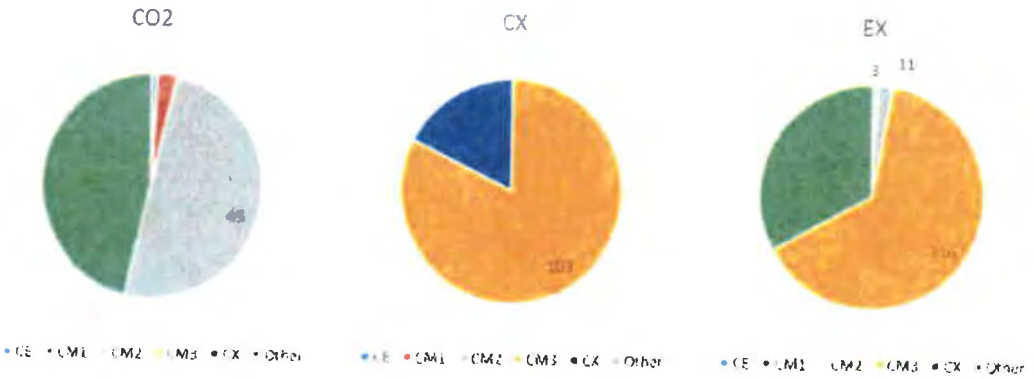
Small scale commercial zones



Medium scale commercial zones



Medium and large scale commercial zones



Whitlow, Mark (Perkins Coie)

From: Whitlow, Mark (Perkins Coie)
Sent: Tuesday, March 08, 2016 2:20 PM
To: 'Armstrong, Tom'
Cc: Engstrom, Eric; Kountz, Steve; Manning, Barry; Cunningham, Bill; Buono, Shannon; Dunphy, Jamie; Grumm, Matt; Eric Hovee (eric@edhovee.com); Suzannah Stanley (SStanley@mcknze.com); 'Gary Oxley'; 'Bob LeFeber'; 'Joseph Angel'; Vogel, Stephanie (Perkins Coie)
Subject: RE: Retail policies in Comp Plan

Follow Up Flag: Follow up
Flag Status: Flagged

Tom,

We wish to thank you and your BPS colleagues for being generous with your time to work with us since late last year. BPS has made some helpful changes based on our comments, for which we also thank you.

Our goal is to reestablish the commercial zoning and commercial development standards needed for the continued viability of the automobile mode of Portland's multimodal system, consistent with the Portland Zoning Code's definition of "auto-accommodating":

> *Auto-Accommodating Development. Development which is designed with an emphasis on customers who use autos to travel to the site, rather than those which have an emphasis on pedestrian customers. This type of development usually has more than the minimum required number of parking spaces. The main entrance is oriented to the parking area. In many cases, the building will have parking between the street and the building. Other typical characteristics are blank walls along much of the facade, more than one driveway, and a low percentage of the site covered by buildings.*

We look forward to the next draft, and we will take you up on the offer to work with BPS in the following months to seek an accord wherever possible.

Mapping is as important to us as the text, so we will urge owners of commercial land to make their mapping requests to the PSC in May. We do believe that the CE zone should be made more auto-accommodating along Major City Traffic Streets and District Collectors and that more land should be zoned CE, especially land heavily populated with existing drive-through developments.

Regarding our EOA concerns, the state's administrative rule to Goal 9 includes "the full spectrum of retail" as "other employment". We think that the term "full spectrum" has meaning and creates an obligation to conduct a layered analysis of at least the different basic types of land inventories needed for auto-accommodating versus transit & pedestrian-oriented retail development opportunities. Providing an adequate inventory of buildable commercial land zoned for "retail" does not satisfy the Goal 9 requirement to provide an adequate inventory of land zoned for the "full spectrum of retail". We look forward to your response on this issue.

Thank you, again, for your time and constructive comments.

Best, Mark

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COMMERCIAL REALTY ADVISORS NORTHWEST, LLC

Mayor Charles Hales
Portland City Council
c/o Council Clerk
1221 SW 4th Avenue, Room 130
Portland, OR 972014

January 4, 2016

VIA EMAIL

Re: 2035 Comprehensive Plan Testimony

Dear Mayor Hales and Council Members:

I have been a retail broker active in the Portland region for almost 20 years. I have been fortunate to represent some great retailers over these years, including large-format operators selling affordable groceries. These grocery operators need properly zoned commercial sites with access in the close-in urban area to allow their loyal customers to shop local and not have to drive out to their stores in the suburbs to save on their shopping. Appropriate zoning for these grocery operators would allow traditional horizontal development with ample off-street parking and convenient access. There are few, if any, sites in Portland that are large enough with appropriate zoning to accommodate traditional grocery stores.

It would be great if in this round of amendments to the Comprehensive Plan a concise retail policy could also be adopted to provide better direction in the zoning code implementation, especially now that the Zoning Code is also being amended without that needed guidance. With appropriate retail zones that allow market-based development, land within existing centers and commercial strips might be assembled into sites large enough to accommodate grocers providing affordable food to customers using all modes of transportation, including the auto. The City needs to create some retail zones with safe harbors for auto-oriented grocery store and related pad development in the city's commercial zoning regulations that make development or redevelopment within those zones affordable for these grocery operators.

For the above reasons, I urge you to adopt the retail policy proposed by the RTF and ICSC into the City's Comprehensive Plan to give better guidance to the City in adopting new amendments to the city's Zoning Code. Thank you for the opportunity to comment.

Sincerely,

Robert L. LeFeber
Principal Broker
cc: Tom Anderson, Eric Engstrom, and Susan Anderson, BPS
RTF/ICSC GR Committee

733 SW 2nd Ave., Suite 200 • Portland, OR 97204 • 503-274-0211 • Fax 503-274-0985

COMMERCIAL REALTY ADVISORS NORTHWEST, LLC

Mayor Charles Hales
Portland City Council
c/o Council Clerk
1221 SW 4th Avenue, Room 130
Portland, OR 972014

April 22, 2016

VIA EMAIL

Re: 2035 Comprehensive Plan Testimony

Dear Mayor Hales and Council Members:

This letter supplements my January 4th letter and verbal testimony on April 14th. As stated at the hearing, I urge you to: oppose P32 the proposed policy on drive-thrus; support P44 on grocery stores; support P51 the proposed policy to consider the market when proposing new development regulations; and support P60 the proposed policy to provide an adequate supply of land for all types of retail.

CRA represents great retailers including higher end grocers and larger format grocers selling more affordable goods. Grocery operators need auto-accommodating commercial sites of sufficient size in convenient locations with good auto and transit access to satisfy "the widest range of retail" from upper end to value-based grocery. People need a wide range of goods to truly make Portland a complete community. If they can not get what they want in Portland evidence shows they will travel to the suburbs or outer regions of Portland to get what they need. This adds unnecessary trips and disadvantages those without cars or direct transit access who then resort to unhealthy food choices.

Appropriate zoning for grocery stores would allow traditional horizontal development, drive-thrus, ample off-street parking and convenient access. There are few, if any, undeveloped sites in Portland that are large enough with appropriate zoning to accommodate traditional grocery stores. The problem is particularly acute with larger format affordable grocers. Larger format discount grocery customers typically travel from a greater distance and stay longer thus requiring more parking. Preferred parking ratios are at least 4 spaces per 1,000 sf of building and preferable 5 spaces per 1,000 sf. They have lower profit margins in order to offer lower prices. They can not afford higher land values, expensive design requirements and especially structured parking. A 50,000 sf store needs around 5 acres for parking, circulation, pedestrian connections and landscaping. Hopefully these new comprehensive plan policies will lead to more appropriate sites. Thank you again for the opportunity to comment.

Sincerely,

Robert L. LeFeber, Principal Broker
cc: Tom Anderson, Eric Engstrom, and Susan Anderson. BPS
RTF/ICSC GR Committee

733 SW 2nd Ave., Suite 200 • Portland, OR 97204 • 503-274-0211 • Fax 503-274-0985

C. Maximum building setbacks. Except as stated in Subsection E., the maximum building setback standards are stated below.

1. Maximum setback standards. Unless otherwise specified, the maximum a building can be set back from a street lot line is 10 feet, except on Civic Corridors shown on Map 130-1, where the maximum set back is 20 feet, and street frontages in a CE zone abutting Major City Traffic or District Collector streets, where there is no maximum setback. At least 50 percent of the length ofthe ground level street-facing facade of the building must meet the maximum setback standard.

2. Applying the standard.

   a. Where an existing building is being altered, the standards apply to the ground level, street-facing fa<ade of the entire building. See Figures 130-4 and 130-5.

   b. Where there is more than one building on the site, the standards of this paragraph apply to the combined ground level, street-facing facades of all of the buildings. See Figures 130-6 and 130-7.

   c. In the CM1, CM2, CM3, and CX zones, and in the CE zone within a Pedestrian District, if the site has street lot lines on three or more streets, the maximum setback standard only applies to two of the streets. When this occurs, the standard must be applied to the streets with the highest transit street classifications. If the site is a through lot, the maximum setback standard only applies to the street with the highest transit street classification. If multiple streets have the same highest transit street classification, the applicant may choose which street or streets to apply the standard.

   d. In the CE zone outside of pedestrian districts, the maximum setback standard only applies to transit streets unless the site does not have a street lot line on a transit street. If the site does not have a street lot line on a transit street, then the maximum setback standard applies to one street, and if there is more than one street, the applicant may choose which street to apply the standard. If the site has street lot lines on three or more transit streets, the maximum setback standard applies only to two of the streets. When this occurs, the standard must be applied to the streets with the highest transit classification. If multiple transit streets have the same highest street classification, the applicant may choose which streets to apply the standard.

   e. For buildings where all of the floor area is in residential use, the street-facing fa<ade of an open porch that meets the following standards is included as part of the ground level, street-facing fa<ade of the building:

      (1) For houses, attached houses, manufactured homes and duplexes, the porch must be at least 25 square feet in area. For multi-dwelling structures, the porch must be at least 9 feet wide and 7 feet deep;

      (2) The porch must have at least one entrance facing the street; and

Table 130-2
Summary of Development Standards in Commercial/Mixed Use Zones

Standards	CM1	CM2	CM3	Cx	CE
Maximum FAR (see 33.130.205, and 33.130.212 [bonus FAR])	1.5 to 1	2.5 to 1	3 to 1	4 to 1	2.5 to 1
Base Height (see 33.130.210.B.1)	35 ft.	45 ft.	65 ft.	75 ft.	45 ft.
Step-down Height (see 33.130.210.B.2)					
- Within 10 ft. of street lot line adjacent to street < 70 ft. wide	NA	NA	55 ft.	NA	NA
- Within 25 ft. of lot line abutting RF - R2.5 Zones	35 ft.	35 ft.	35 ft.	35 ft.	35 ft.
- Within 25 ft. of lot line abutting R3, R2, R1 Zones	NA	45 ft.	45 ft.	45 ft.	45 ft.
- Within 15 ft. of lot line across a local service street from RF - R2.5 Zones	35 ft.	35 ft.	35 ft.	35 ft.	35 ft.
- Within 15 ft. of lot line across a local service street from R3, R2, R1 Zones	NA	45 ft.	45 ft.	45 ft.	45 ft.
Bonus Height (see 33.130.212)	See Table 130-3	See Table 130-3	See Table 130-3	See Table 130-3	See Table 130-3
Min. Building Setbacks					
- Street Lot Line	none	none	none	none	none
- Street Lot Line abutting selected Civic Corridors	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.
- Street Lot Line across a local street from an RF - R1 Zone	none	5 or 15 ft.	5 or 15 ft.	5 or 15 ft.	5 or 15 ft.
- (see 33.130.215.B)					
Min. Building Setbacks					
- Lot Line Abutting OS, RX, C, E, or I Zoned Lot	none	none	none	none	none
- Lot Line Abutting RF - RH Zoned Lot (see 33.130.215.B)	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.
Max. Building Setbacks					
- Street Lot Line	10 ft.	10 ft.	10 ft.	10 ft.	10 ft.
- Street Lot Line Abutting Selected Civic Corridors	20 ft.	20 ft.	20 ft.	20 ft.	20 ft.
- Lots Abutting Major City Traffic or District Collector Streets (see 33.130.215.C)	NA	NA	NA	NA	none
Max. Building Coverage (% of site area)					
- Inner Pattern Area	85%	100%	100%	100%	85%
- Eastern, Western, and River Pattern Areas (see 33.130.220)	75%	85%	85%	100%	75%
Min. Landscaped Area (% of site area) (see 33.130.225)	15%	15%	15%	none	15%
Landscape Buffer Abutting an RF - RH Zoned Lot (see 33.130.215.B)	10 ft. @ L3	10 ft. @ L3	10 ft. @ L3	10 ft. @ L3	10 ft. @ L3
Required Residential Outdoor Area (see 33.130.228)	Yes	Yes	Yes	No	Yes
Ground Floor Window Standards (see 33.130.230)	Yes	Yes	Yes	Yes	Yes

C. On-site locations of vehicle areas.

1. Location of vehicle areas. The allowed on-site location of all vehicle areas is stated in Table 266-3.

2. Building setbacks for structures that contain vehicle areas.

   a. Structures that contain vehicle areas are subject to the building setbacks of the base zone, where exiting in a forward motion is provided.

   b. Structured parking that does not allow exiting in a forward motion in R Zones is subject to the garage entrance setback standard of the base zone.

   c. Structured parking that does not allow exiting in a forward motion in C, E, or I Zones must be set back 18 feet from the street lot line.

3. Frontage limitation.

   a. The standard of this subparagraph applies outside the Central City plan district in the R3, R2 and R1 zones. No more than 50 percent of the frontage on a street may be used for vehicle areas. On sites with more than one street frontage, this standard applies to the street with the highest transit designation. If two streets have the same highest transit classification, the applicant may choose on which street to meet the standard. Sites where there is less than 100 square feet of net building area are exempt from this standard.

   b. The standard of this paragraph applies outside the Central City plan district in the RH, RX, IR, CM1, CM2, CM3, CE, ~~CN, CO, CG,~~ CX, EG1, and EX zones. Where vehicle areas are adjacent to a transit street or a street in a Pedestrian District, no more than 50 percent of the frontage on the transit street or street in a Pedestrian District may be used for vehicle areas. Sites where there is less than 100 square feet of net building area and street frontages in a CE zone abutting Major City Traffic or District Collector streets are exempt from this standard.

33.130.242 Transit Street Main Entrance

A. Purpose. Locating the main entrance to a use on a transit street provides convenient pedestrian access between the use and public sidewalks and transit facilities, and so promotes walking and the use of transit.

B. Applicability.

1. Generally. All sites with at least one frontage on a transit street, and where any of the floor area on the site is in nonresidential uses, or residential use in a multi-dwelling structure, must meet the following standards. If the site has frontage on more than one transit street, the standards of Subsection C, below, must be met on at least one of the transit streets;

2. Houses, attached houses, manufactured homes, and duplexes. Houses, attached houses, manufactured homes, and duplexes must meet the standards of 33.130.250.C, Residential Main Entrance, instead of the requirements of this section.

3. This section does not apply to street frontages in a CE zone abutting Major City Traffic or District Collector streets.

C. Location. For portions of a building within the maximum building setback, at least one main entrance for each nonresidential tenant space on the ground floor, and one main entrance to a multi-dwelling structure must meet the standards of this section. The ground floor is the lowest floor of the building that is within four feet of the adjacent transit street grade. The main entrance must:

1. Be within 25 feet of the transit street;

2. Allow pedestrians to both enter and exit the building; and

3. Meet one of the following:

a. Face the transit street;

b. Be at an angle of up to 45 degrees from the transit street, measured from the street property line, as shown in Figure 130-13; or

c. If it is an entrance to a multi-dwelling structure:

(1) Face a courtyard that is adjacent to the transit street and that is landscaped to at least the L1 level, or hard-surfaced for use by pedestrians; and

(2) Be within 50 feet of the transit street.

D. Distance between entrances. For portions of a building with any nonresidential uses within the maximum building setback, a minimum of one entrance is required for every 200 feet of building length.

33.130.230 Ground Floor Windows

A. Purpose. In the commercial/mixed use zones, blank walls on the ground level of buildings are limited in order to:

- Provide a pleasant, rich, and diverse pedestrian experience by connecting activities occurring within a structure to adjacent sidewalk areas, or allowing public art at the ground level;
- Encourage continuity of retail and service uses;
- Encourage surveillance opportunities by restricting fortress-like facades at street level; and
- Avoid a monotonous pedestrian environment.

B. Ground floor window standard.

1. General standard.

   a. Windows must cover at least 40 percent of the ground level wall area of street-facing facades that are 20 feet or closer to a street lot line or a publicly-accessible plaza. For the purposes of this standard, ground level wall areas include all exterior wall areas from 2 feet to 10 feet above the finished grade. See Figure 130-11.

   b. If the lot has more than one street frontage, then the ground floor window standard in Subparagraph B.1.a. applies to the facade that faces the highest transit street classification. All other ground level street-facing facades that are 20 feet or closer to the street lot line must have windows that cover 25 percent of the ground level wall area. If two or more streets have the same highest transit street classification, then the applicant may choose on which of those street to meet the higher standard. Transit street classifications are identified in the Transportation Element of the Comprehensive Plan.

2. Exemptions:

   a. Houses, attached houses, manufactured homes, and duplexes are exempt from this Section;

   b. Ground floor street-facing walls of dwelling units are exempt from Paragraph B.1., but the walls must meet one of the standards in Subsection D.; and

   c. The walls of structured parking that face a secondary street frontage are exempt from the 25 percent standard in Subparagraph B.1.b. if the facade is set back at least 5 feet and landscaped to the L2 standard.

   d. <u>Retail store walls devoted to truck loading or external to interior areas used for storage, refrigeration or mechanical equipment, are exempt from this Section.</u>

33.258.075 Determination of Legal Nonconforming Status Review

A. Purpose. This review will determine if a use or site has legal nonconforming situation rights. In addition, it will determine what the current legal use is, based on the use categories in Chapter 33.920.

B. When this review is required. Determination of Legal Nonconforming Status Review is required where a land use review or building permit is requested, and the applicant does not provide standard evidence or the Director of BDS does not find the evidence to be satisfactory. (See 33.258.038). This review also may be requested by an applicant when it is not required.

C. Procedure. Determination of Legal Nonconforming Status Reviews are processed through a Type II procedure.

D. Approval criteria.

1. The legal status of the nonconforming situation will be certified if the review body finds that:

   a. The nonconforming situation would have been allowed when established; and

   b. The nonconforming situation has been maintained over time.

2. The review body will determine, based on the evidence, what the current legal use is, using the definitions in Chapter 33.910 and the use categories in Chapter 33.920.

33.258.080 Nonconforming Situation Review

A. Procedure. A nonconforming situation review is processed through a Type II procedure.

B. Approval criteria. The request will be approved if the review body finds that the applicant has shown that all of the following approval criteria are met:

1. With mitigation measures, there will be no net increase in overall detrimental impacts (over the impacts of the last legal use or development) on the surrounding area taking into account factors such as:

   a. The hours of operation;

   b. Vehicle trips to the site and impact on surrounding on-street parking;

   c. Noise, vibration, dust, odor, fumes, glare, and smoke;

   d. Potential for increased litter; and

   e. The amount, location, and nature of any outside displays, storage, or activities; and

2. If the nonconforming use is in an OS or R zone, and if any changes are proposed to the site, the appearance of the new use or development will not lessen the residential character of the OS or R zoned area. This is based on taking into account factors such as:

a. Building scale, placement, and facade;

b. Parking area placement;

c. Buffering and the potential loss of privacy to abutting residential uses; and

d. Lighting and signs; and

3. If the nonconforming use is in a C, E, or I zone, and if any changes are proposed to the site, the appearance of the new use or development will not detract from the desired function and character of the zone.

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July 12, 2016

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VIA EMAIL

Portland Planning and Sustainability Commission
City of Portland
1900 SW Fourth Avenue #7100
Portland, OR 97201

Re: Proposed Drive-Through (DT) Map & CE Zone Request Map

Dear Chair Schultz and Commissioners:

This letter is written on behalf of the Retail Task Force (RTF) and the Oregon Government Relations Committee for the International Council of Shopping Centers (ICSC). Please make this letter a part of your record in the above matter.

Map Requests:

1) Prohibit drive-throughs by the area of town (walkable versus drivable) per proposed DT Map (attached), to implement the Mayor's new Comp Plan drive-through Policy[1]

- We worked with the Mayor during the adoption of his new drive-through Plan Policy to decide where drive-throughs should be prohibited (walking areas) and where drive-throughs should be allowed (driving areas).
- We agreed that the Central City and similar intensely developed areas (Pedestrian Districts; Inner-Ring District and adopted Centers & Plan Districts) were "walkable" areas where *new* DTs should be prohibited.
- The base zones don't identify those walkable versus drivable areas, so prohibiting DTs in the CM zones regardless of area of town isn't workable to pick the right places.
- Walkable areas can be mapped as areas inside the Central City and other adopted Centers and Districts, including the Inner-Ring Districts, Pedestrian Districts & Plan Districts where intensification of development is feasible.
- Drivable areas are the other areas outside and between the walkable areas where urban scale development is futuristic, but where drive-through development is already adequately regulated by Chapter 33.224, Drive-Through Facilities.

[1] Drive through facilities. Prohibit new drive through facilities in the Central City, and limit new development in the Inner Ring Districts and centers in order to support a pedestrian-oriented environment.

- Drive-through facilities should not be prohibited east of Cesar Chavez Boulevard, except in adopted Centers, Plan Districts, Pedestrian Districts and CMSOs.
- See proposed DT prohibition map attached.
- Amend Central City Plan District and CM base zones accordingly.

2) Use CE Zoning to Implement New Comp Plan Policies: As Short-Term Market Placeholder under Comp Plan Policy 6.17[2]; to Facilitate Affordable Grocery Supermarket Development under Comp Plan Policy 4.79[3]

- Auto-accommodating (CE) zoning and development standards are a solution to the Food Desert problem in the eastern portion of the City to allow the widest range of grocery supermarket development under policy 4.79.
- Sites planned for mixed use zoning can be zoned in the interim as CE to address the short-term market under Policy 6.17, until the sites are feasible for urban scale development in the future.
- CE zoning allows drive-through facilities which are needed to accomplish affordable grocery supermarket development, as grocers use drive-through facilities on site for fuel, pharmacy pick-up windows and grocery pick-up lanes.
- Revise purpose statement for CE zone to make more auto-accommodating.
- We request the above as equitable commercial zoning and development standards for auto-accommodating businesses, where the current and projected transportation mode split was 80.5% auto in 2010 is and is to remain 74.50% % auto by 2035. See City of Portland mode share analysis attached.

---

[2] Policy 6.17 - New Sub-Policy. Requested by Salzman (Council agenda #P51).
Consider short-term market conditions and how area development patterns will transition over time when creating new development regulations.

[3] Policy 4.79. Requested by Salzman (Council agenda #P44).
Grocery stores and markets in centers. Facilitate the retention and development of grocery stores, neighborhood-based markets, and farmers markets offering fresh produce in centers. Provide adequate land supply to accommodate a full spectrum of grocery stores catering to all socioeconomic groups and providing groceries at all levels of affordability.

Please adopt the mapping approach to the prohibition of new drive-through facilities. Please adopt CE zoning in commercial areas not ready for mixed use development.

Respectfully submitted,

Mark D. Whitlow

MDW:sv
Enclosure
Cc: Eric Engstrom
Barry Manning
Bill Cunningham
RTF/ICSC GR Committee

Mode % calculation are based on 2010/2035 RTP model.

Table 1. 2010 daily mode split

	CBD	River Dist	L Albina	Lloyd	SEID	SW WatFront	Goose Hollow	N Portland	NE Portland	SE Portland	FNE Portland	FSE Portland	SW Portland	NW Portland	C-City	City	Sub	Region
auto P	55.0%	56.9%	86.1%	81.3%	84.9%	83.9%	73.4%	85.1%	84.1%	82.0%	87.3%	84.9%	85.4%	82.5%	67.2%	80.5%	84.4%	81.4%
Transit	19.5%	13.4%	5.9%	8.7%	6.1%	6.9%	8.9%	6.7%	6.8%	7.8%	6.8%	7.9%	6.5%	6.3%	14.3%	8.1%	6.3%	6.9%
Bike	5.5%	5.8%	3.2%	3.4%	3.3%	3.7%	3.3%	2.2%	3.2%	3.5%	2.1%	2.5%	3.1%	2.8%	4.5%	3.1%	2.2%	2.8%
Walk	19.9%	23.9%	4.8%	6.7%	5.7%	5.5%	14.5%	5.9%	5.9%	6.7%	3.7%	4.7%	5.1%	8.4%	14.0%	8.3%	7.1%	8.9%
SOV %	30.5%	30.1%	51.3%	43.0%	49.6%	48.2%	39.7%	49.9%	47.5%	45.6%	49.5%	47.0%	47.8%	46.3%	37.3%	45.2%	46.2%	44.4%
HOV %	24.6%	26.8%	34.8%	38.3%	35.4%	35.8%	33.7%	35.2%	36.6%	36.3%	37.8%	37.9%	37.6%	36.2%	29.9%	35.4%	38.2%	37.0%
Non-SOV	69.5%	69.9%	48.7%	57.0%	50.4%	51.8%	60.3%	50.1%	52.5%	54.4%	50.5%	53.0%	52.2%	53.7%	62.7%	54.8%	53.8%	55.6%

Table 2. 2010 daily HBW mode split

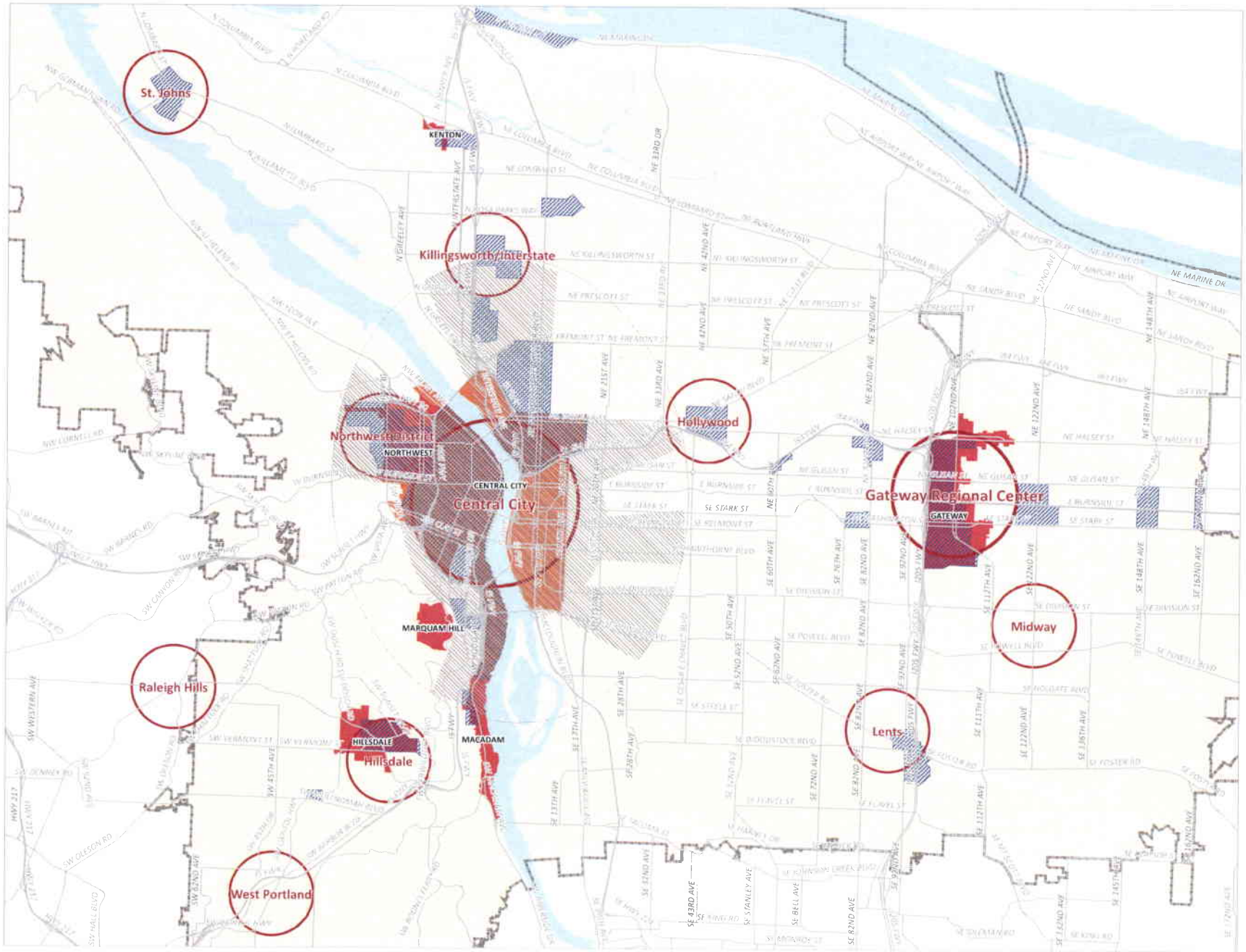
	CBD	River Dist	L Albina	Lloyd	SEID	SW WatFront	Goose Hollow	N Portland	NE Portland	SE Portland	FNE Portland	FSE Portland	SW Portland	NW Portland	C-City	City	Sub	Region
auto P	38.3%	43.2%	78.0%	62.6%	77.8%	77.5%	61.5%	84.3%	80.9%	76.1%	85.1%	82.2%	78.9%	80.8%	50.6%	75.7%	86.8%	82.3%
Transit	43.6%	35.2%	14.6%	27.4%	14.5%	12.5%	21.8%	10.8%	11.1%	13.9%	10.3%	11.9%	12.4%	10.5%	34.6%	16.0%	7.6%	9.6%
Bike	11.6%	10.3%	4.9%	7.5%	5.4%	7.5%	5.1%	3.4%	6.1%	7.6%	3.6%	4.5%	7.3%	4.8%	9.5%	5.4%	3.1%	4.6%
Walk	6.5%	11.4%	2.4%	2.5%	2.3%	2.5%	11.5%	1.5%	1.9%	2.4%	1.0%	1.4%	1.3%	3.9%	5.3%	2.9%	2.6%	3.5%
SOV %	29.4%	34.1%	68.3%	51.6%	67.0%	67.5%	52.6%	72.4%	69.9%	65.5%	73.5%	71.0%	66.6%	68.9%	40.9%	64.2%	74.0%	70.4%
HOV %	9.0%	9.2%	9.8%	11.0%	10.9%	10.0%	9.0%	12.0%	11.1%	10.6%	11.6%	11.2%	12.3%	12.0%	9.8%	11.6%	12.7%	11.9%
Non-SOV	70.6%	65.9%	31.7%	48.4%	33.0%	32.5%	47.4%	27.6%	30.1%	34.5%	26.5%	29.0%	33.4%	31.1%	59.1%	35.8%	26.0%	29.6%

Table 3. 2035 daily mode split

	CBD	River Dist	L Albina	Lloyd	SEID	SW WatFront	Goose Hollow	N Portland	NE Portland	SE Portland	FNE Portland	FSE Portland	SW Portland	NW Portland	C-City	City	Sub	Region
auto P	47.0%	48.2%	76.8%	69.5%	72.6%	72.8%	60.4%	80.8%	80.5%	78.0%	83.3%	82.4%	81.7%	78.4%	59.2%	75.9%	83.2%	79.4%
Transit	24.1%	19.0%	10.7%	14.2%	13.0%	10.2%	15.8%	9.6%	9.2%	10.5%	9.2%	9.1%	8.9%	8.7%	18.7%	10.7%	6.6%	7.8%
Bike	6.4%	6.8%	5.0%	5.1%	5.4%	8.0%	4.9%	2.8%	3.7%	4.0%	2.6%	3.0%	3.9%	3.5%	5.8%	3.7%	2.5%	3.2%
Walk	22.5%	26.0%	7.4%	11.2%	9.0%	9.0%	18.9%	6.8%	6.7%	7.4%	4.8%	5.5%	5.4%	9.4%	16.3%	9.6%	7.7%	9.6%
SOV %	24.5%	23.5%	43.0%	34.6%	38.0%	37.6%	28.3%	47.0%	45.4%	43.0%	47.4%	45.9%	45.5%	43.7%	30.5%	42.1%	45.9%	43.4%
HOV %	22.5%	24.7%	33.9%	34.9%	34.6%	35.1%	32.1%	33.9%	35.1%	35.0%	35.9%	36.6%	36.2%	34.7%	28.7%	33.9%	37.3%	35.9%
Non-SOV	75.5%	76.5%	57.0%	65.4%	62.0%	62.4%	71.7%	53.0%	54.6%	57.0%	52.6%	54.1%	54.5%	56.3%	69.5%	57.9%	54.1%	56.6%

Table 4. 2035 daily HBW mode split

	CBD	River Dist	L Albina	Lloyd	SEID	SW WatFront	Goose Hollow	N Portland	NE Portland	SE Portland	FNE Portland	FSE Portland	SW Portland	NW Portland	C-City	City	Sub	Region
auto P	25.1%	28.9%	58.7%	42.1%	48.4%	51.6%	32.2%	77.6%	75.2%	69.2%	78.8%	78.4%	72.1%	74.7%	35.7%	68.1%	85.2%	79.1%
Transit	51.2%	43.3%	28.6%	38.9%	34.4%	22.8%	41.7%	15.8%	15.3%	19.2%	15.1%	14.2%	16.9%	14.6%	43.3%	20.9%	7.9%	11.1%
Bike	13.1%	11.6%	9.5%	12.0%	12.2%	20.5%	9.6%	4.6%	7.2%	8.8%	4.5%	5.6%	9.4%	6.1%	12.5%	6.8%	3.8%	5.5%
Walk	10.6%	16.3%	3.2%	7.0%	5.0%	5.1%	16.5%	2.0%	2.4%	2.8%	1.7%	1.8%	1.6%	4.6%	8.6%	4.2%	3.0%	4.3%
SOV %	18.0%	21.6%	47.6%	31.9%	37.2%	38.1%	23.5%	65.2%	63.9%	58.7%	67.5%	67.1%	60.2%	62.7%	26.4%	56.5%	72.3%	67.2%
HOV %	7.2%	7.3%	11.1%	10.3%	11.3%	13.5%	8.7%	12.4%	11.2%	10.5%	11.3%	11.2%	11.9%	12.0%	9.2%	11.5%	12.9%	11.9%
Non-SOV	82.0%	78.4%	52.4%	68.1%	62.8%	61.9%	76.5%	34.8%	36.1%	41.3%	32.5%	32.9%	39.8%	37.3%	73.6%	43.5%	27.7%	32.8%



COMP PLAN DRIVE-THROUGH POLICY PROHIBITION AREAS MAP
Portland, Oregon

LEGEND

- Regional Centers
- Town Centers

New Drive-Throughs Prohibited:

- Central City Plan District
- Other Plan Districts Where Prohibited
- Pedestrian Districts
- Inner Ring Districts

Notes:
DTs prohibited in mapped areas
DTs allowed elsewhere per Chap 33.224

Prepared for the RTF/ICSC GR Committee 7/12/16

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July 19, 2016

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VIA EMAIL

Portland Planning and Sustainability Commission
City of Portland
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Re: RTF CE Map: Why Auto-Oriented Development Needs CE Zoning to Develop/Redevelop; RTF DT Map: Why Drive-Throughs Are Needed

Dear Chair Schultz and Commissioners:

This letter supports the previous mapping requests made by the RTF/ICSC GR Committee in prior testimony (CE Zone Map submitted 6/28/16; DT Prohibition Map submitted 7/12/16).

Supplemental information in support of RTF's proposed CE Zone Map.

If land previously developed for auto-oriented uses is zoned other than CE (somewhat auto-accommodating under the current CE zone purpose statement), then the land would not be likely to receive any of the land use approvals needed to upgrade the existing auto-oriented development or redevelop it with a new auto-accommodating development, because:

- **Unfeasible Nonconforming Situation Review for Nonconforming QVS Uses.** In other than a CE zone, an existing gasoline service station or fuel station will become a nonconforming use (Quick Vehicle Servicing or QVS) and a nonconforming development (Drive-Through Facility or DT). The applicable review criteria would automatically disfavor expansions of nonconforming gas and fuel stations (QVSs & DTs) when they are placed in mixed use zones, where they would have appearances that arguably would "detract from the desired function and character of the zone." Unless zoned CE, existing gas stations and fuel stations will not be able to expand or upgrade:
    - Under Section 33.258.050 C. 2. a. expansions of building area and exterior improvements for nonconforming uses and developments may be allowed under the nonconforming situation review procedures of 33.258.080.
    - Section 33.258.080 B.3. contains the impossible approval criterion for a nonconforming gas station or fuel station. As stated above, the applicable review criteria disfavor expansions of nonconforming uses and developments which have appearances that "detract from the desired function and character of the zone."

The function and character of the proposed CM zones is pedestrian and transit oriented development. Redeveloping a gas or fuel station built in an old CG in a new mixed use CM1, CM2, or CM3 zone, or in a CMSO overlay, will not be feasible because the required finding is unlikely, based on anticipated comments from neighbors and/or staff. Only CE zoning would be deemed appropriate and, even then the CE zone purpose statement should be revised to make the CE zone primarily auto-accommodating, instead of only incidentally auto-accommodating as now written. See attached proposed Revised CE Zone Purpose Statement in a copy of an email message to the Mayor's Policy Advisor, Camille Trummer.

- **Unfeasible Adjustment Approval for Nonconforming DT Developments.** Likewise, the applicable review criteria disfavor expansions of nonconforming developments which do not any longer fit the character of the new mixed use zone they are in:
    - Under 33.258.070 C. "proposed changes that are not in conformance or do not move closer to conformance, are subject to the adjustment process unless prohibited."
        - Prohibiting DTs in the CM zones and CMSOs makes it legally impossible to get an adjustment to upgrade or remodel one in any zone except the CE zone. Even then, the purpose statement of the CE zone should be revised, as requested above.
        - Staff suggests saying they are considering changing "prohibited" to "not allowed" to avoid that result, but the two terms are synonymous, so LUBA would likely disagree. Further, existing Sections 33.805.030 B. 1.&2. State that uses "not allowed" by the regulations, and restrictions on uses or developments which contain the word "prohibited", are ineligible regulations for adjustments.
    - Under 33.805.040 B. a requested adjustment may be approved in a C zone if the proposal will be consistent with the classifications of the adjacent streets and the desired character of the area", a criteria that an existing auto-oriented drive-through facility development will not be able to satisfy in one of the new mixed use pedestrian-friendly zones that are not auto-accommodating. It will not be feasible to obtain adjustments to redevelop drive-through facilities in any of the new mixed use zones.

Supplemental Information in Support of RTF's Proposed DT Prohibition Map.

As submitted in my oral testimony to PSC during the last hearing, the RTF/ICSC GR Committee worked closely with the Mayor's office in discussing the Mayor's proposed drive-through prohibition policy during the public hearings on the proposed 2035 Comprehensive Plan, resulting in a tacit agreement reflected in the Mayor's revised drive-through policy that drive-through facilities should be prohibited in "walkable areas", while being allowed in other areas which are yet "driveable". Absent this type of input from the RTF, the PSC would not have the benefit of those talks within the related, yet separate legislative process, where the new 2035 Comprehensive Plan policies, including the new drive-through policy, must be implemented now by PSC.

As a result of those negotiations, the proposed drive-through ban policy was revised significantly to remove corridors from the areas of prohibition for new drive-throughs and to clarify that the prohibitions apply only to new drive-through facilities. The following show the initially proposed drive-through policy, followed by the adopted drive-through policy:

> **Proposed** – Drive through facilities. Prohibit drive through facilities in the Central City, and limit them in centers and corridors in order to support a pedestrian-oriented environment and reduce conflicts between automobiles and pedestrians and bicyclists.
>
> **Approved** – Drive through facilities. Prohibit new drive through facilities in the Central City, and limit new development in the Inner Ring Districts and centers in order to support a pedestrian-oriented environment.

DT Prohibition Map Allows New Drive-Throughs Where Needed by Elderly, Disabled & People with Children.

It is often difficult to spot unintended consequences of legislative proceedings where many significant changes are being considered simultaneously. A dense urban form can mistakenly seek to remove development patterns deemed inconsistent in form, which are yet needed by the populace as to function. Such is the story of the much maligned drive-through facility. Accused of being unsafe (which they are not unsafe as provided to the City Council in evidence submitted in opposition to the Mayor's proposed policy to ban drive-throughs city-wide), or inconsistent with a pedestrian environment, drive-through facilities are very much needed by a significant segment of the populace in their daily lives, as attested to by the individuals shown in the video clips contained in the following links to the related Portland Tribune online newspaper articles: Portland Tribune Article and Portland Tribune Article 2.

I attach a further email message to Mayor Hale's Policy Advisor, Camille Trummer, outlining that approach, which was to utilize areas of the City rather than base zones to regulate drive-

through facilities, where many of the existing CM base zones proposed to prohibit drive-through facilities are clearly within "driveable" areas of town, where drive-through facilities should continue to be allowed.

In conclusion, the RTF/ICSC GR Committee requests PSC to implement the City's new drive-through policy through mapped areas instead of base zones to distinguish between "walkable" and "driveable" areas of the City. In addition, we request that PSC adopt the RTF's proposed CE zone map. Unless zoned CE, existing auto-dependent facilities will not be able to upgrade or redevelop in the new mixed use CM zones and CMSO overlay. That is because the proposed expansion or redevelopment of an auto-accommodating use and development would be deemed inconsistent with the character and identity of any of the new mixed use zones. Accordingly, the ability to obtain necessary approvals from nonconforming use review or applications for adjustments in the course of such remodels/redevelopments will be unlikely, thus stagnating the ability to accommodate short-term economic development opportunities and preserving the status quo - an unintended consequence to be avoided that is required by new Plan Policy 6.17 which requires PSC to consider the short-term market when transitioning new development regulations.

Thank you for the ability to supplement our prior testimony regarding proposed CE zone and drive-through prohibition maps.

Respectfully submitted,

Mark D. Whitlow

MDW:sv
Enclosure
Cc: Eric Engstrom
Barry Manning
Bill Cunningham
RTF/ICSC GR Committee

Camille,

We request amendments to the CE Zone purpose statement and standards to make them more auto-accommodating, as required for a multimodal system and as described in the Zoning Code's definition of Auto-Accommodating Development.

> "Auto-Accommodating Development. Development which is designed with an emphasis on customers who use autos to travel to the site, rather than those which have an emphasis on pedestrian customers. This type of development usually has more than the minimum required number of parking spaces. The main entrance is oriented to the parking area. In many cases, the building will have parking between the street and the building. Other typical characteristics are blank walls along much of the facade, more than one driveway, and a low percentage of the site covered by buildings."

1) Revise CE Zone Purpose statement to make more auto-accommodating:

> **D. Commercial Employment zone.** The Commercial Employment (CE) zone is a medium-scale zone intended for sites along corridors in areas between designated centers, especially along Civic Corridors that are also Major Truck Streets or Priority Truck Streets. The zone allows a mix of commercial uses, as well as some light manufacturing and distribution uses that have few off-site impacts. The emphasis of this zone is on auto-accommodating commercial and employment uses, but residential use is also allowed. Buildings in this zone will generally be up to four stories tall. Development is intended to be auto-accommodating, as well as pedestrian-oriented, ~~as well as auto accommodating,~~ and complement the scale of surrounding areas.

2) We propose the following revised development standards to match the above definition:

- allowance for parking between buildings and streets
  - Section 33.130.205 B. & Table 130-2 - Change the Max. Building Setbacks in CE from 10'/20' to Exempt, and add an exemption from the vehicle area frontage limitations of Section 33.266.130. C.3, subject to the modified standards of Section 33.130.215 E. (Alternative maximum building setback for large retailers – we need to revise to fit our needs for smaller sites)
- transit street main entrance location oriented to parking
  - Section 33.130.242 B. Applicability – Add new subsection "3. Does not apply to sites in the CE zone abutting auto traffic streets designated as a Major City Traffic Street or a District Collector Street."
- allowance for blank walls
  - Section 33.130.230 Ground Floor Windows
    - revise subsection 2. Exemptions to add new "d. Retail store walls devoted to truck loading or external to interior areas used for storage or refrigeration, are exempt from this Section."

We are also drafting language that we will share now to create preexisting development status for existing DTs, as follows:

> **33.130.260 Drive-Through Facilities**
> New drive-through facilities are allowed in the zones which are intended for auto accommodating development. Existing, legally established facilities in all commercial/mixed use zones are allowed outright. The standards for drive-through facilities are stated in Chapter 33.224, Drive-Through Facilities.

A. **CM1, CM2, CM3, CX, and CE zones.** In the CM1, CM2, CM3, CX, and CE zones, all legally established drive-through facilities in existence as of **[INSERT EFFECTIVE DATE OF CODE]**, are allowed outright and are not subject to Chapter 33.258, Nonconforming Situations.

B. **CM1, CM2, CM3, and CX zones.** Establishment of new drive-through facilities is prohibited in the CM1, CM2, CM3, and CX zones.

C. **CE zone.** Establishment of new drive-through facilities is allowed in the CE zone, subject to the following:

1. New drive-through facilities within 50 feet of a residential zone boundary must incorporate landscaping to the L2 standard between the drive-through facility and the residential zone.

We thank you for your continued assistance with the 2035 Plan and the MUZ Code amendments.

Mark

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Vogel, Stephanie (Perkins Coie)

From: Whitlow, Mark (Perkins Coie)
Sent: Tuesday, April 26, 2016 4:54 PM
To: camille.trummer@portlandoregon.gov
Cc: Joseph Angel; Merrill, Melinda S; Joshua L. Lute - Dutch Bros. Coffee (jlute@dutchbros.com); LeFeber Bob; Oxley Gary; Evyan Jarvis (evyanandries@oxleyandassociatesinc.com)
Subject: FW: Draft Meeting with Mayor Notes - Please Comment
Attachments: 26042016[Filename].pdf; Color Figure VII-2.pdf; Auto-Accommodation_001.pdf; PBA-Proposed_MUZ_4-19-16_reduced.pdf

Dear Camille, thank you very much for your time and assistance yesterday. We felt that our meeting with Mayor Hales was a good exchange of ideas and comments. We are prepared to work with you quickly to move forward, so we are providing you with additional information with this message, as well as a standing offer to come in and meet with you in person for additional background or clarity. The bolded captions provide an issue outline.

The following are our notes on the meeting, with related comments regarding next steps.

- **Pre-Existing Status for Existing Auto-Accommodating Uses & Developments**. Don't make existing auto-accommodating commercial developments nonconforming under the new mixed use zones, which do not provide for new auto-accommodating uses or developments, except in a limited way in the CE zone. Even then, 60% of the parcels and 40% of the CG land was converted to zones other than CE, which is a huge downzone for commercial land. See attached Figure VII-1 and Figure VII-2 attached. There is no more auto-accommodating zone or zoning standards being offered by the City for auto-accommodating uses and developments. Out of fairness, the City needs to make existing auto-accommodating developments pre-existing instead of nonconforming, where they will be treated as conforming until the market conditions are right for them to redevelop under the new zone. Pre-existing use or development would mean: *Any lawful use or activity, located in an area that has been legislatively rezoned to a less permissive zone, that is not listed as a permitted principal or conditional use in the less permissive zone.* (Borrowed from 1985 Zone Code). This treatment is consistent with the Policy 6.17 proposed by the RTF/ICSC (to avoid nonconformity).

- **Limit Areas of Prohibition of Drive-Through Facilities**. It was recognized that drive-through facilities are important adjuncts to grocery supermarket store development, both for their own drive-throughs (for pharmacy and grocery pick-up and for fuel stations) and for their pad users to help spread the cost of development. They do not generate traffic as a destination, as operate off pass-by traffic. They operate safely and do not have a history of unsafe operations in the City. Therefore, drive-throughs should not be prohibited broadly, but only in special areas such as the areas now proposed for CMSO zones and the areas mapped to recognize the City's Low-Rise "Trolley Car Era" Commercial Storefront areas. See attached message from Barry Manning with BPS's PowerPoint presentation to PBA containing maps of Low-rise Commercial Storefront Areas.

- **Create Auto-Accommodating Zone(s).** As the meeting progressed, the realization that the City no longer has an auto-accommodating zone (even the CE is a mixed use zone) prompted the Mayor to suggest that we create one now, or draft a new policy that would evolve into one, or make the CE and MU1 zones more auto-accommodating. It was agreed that the City still needs to have an auto mode that is accommodated, even if the mode split shift goes down on the east side past 39th and on the west side past the ridge, over the next 20 years the mode split is likely to be 60 to 70% autos at 2035. See Metro's "A snapshot of how the Portland region gets around". We need areas for auto accommodating uses, that do not have the FAR and building orientation limitations of the Storefront zones. See the definition of "Auto-Accommodating Development" in the Code (attached). By contrast, see the purpose statement for the new CE zone also attached, where the CE zone is intended to be pedestrian and transit friendly first, with auto-accommodation only as an after-thought. The City's multimodal system will lack adequate accommodation for the auto mode if the 2035 Plan and the MUZ Project are approved. See copies of prior message to BPS request auto-accommodating zoning regarding 12/24/15 email message to Barry Manning, 3/8/16 email message to Tom Armstrong and 3/23/16 email message to Barry Manning. Most households make 9 plus trips a day but only travel 4.4 miles from their home. Travel to

downtown will continue to make great strides in mode split but other trips will take more time and density to evolve because of lack of transit choices and service times available. Auto-accommodating uses need equitable zoning treatment under the MUZ Project.

- **Auto-Accommodating Retail Policies.** We didn't go over the specific policies that are being proposed/opposed by the RTF/ICSC GR Committee, but we list them below, with comments. We assume that the wording of the new policy after policy 4.23 would be changed to reflect our agreement. We would appreciate the Mayor's support of our other proposed policies and would welcome your insight on them, as well as the need for a new auto-accommodation policy and zone.

    - New Policy after 4.23 **Drive-through Facilities**. We are signed up to oppose this policy. This policy has several oversights:
        - drive-through facilities are needed in the daily lives of people with disabilities, the elderly and mothers with children & should be accommodated, not prohibited, by the City's commercial zones and development standards
        - drive-through facilities are an integral component of grocery supermarkets, with their on-site fuel stations, pick-up pharmacy department windows, and drive isles for pick-up of groceries ordered online
        - multimodal mixed-use commercial zones & development standards still need to accommodate the auto mode for grocery stores, banks, dry cleaners, restaurants, pharmacies, car washes, coffee kiosks and fuel stations
    - Policy 4.79 **Grocery Stores.** We proposed this policy language to address the need to provide enough commercial land adequately zoned to allow the continued development and operation of a "full spectrum" of grocery stores, including those offering affordable groceries. This is a commercial gentrification policy to counter the notion that providing upper-end grocery stores is a win for the City's food desert problem. See attached Portland Area Food Desert Map. It also relates to the carbon footprint problem. We have startling statistics showing the large % of Portlanders who drive out of distance to shop for groceries on the fringe of town, or out of town. The City needs to provide traditional zoning to also allow the lower-end grocery store development (e.g., WinCo & Grocery Outlet, etc.), which can't afford structured parking and high rents. The new mixed use zones make the existing problem even worse, instead of fixing it. We are using this policy to also request the City to amend the EOA for "the full spectrum of retail" that wasn't considered when the EOA was adopted. In that same year PDC received a study from Leland Consulting that the City has an inadequate land inventory for auto-accommodating large format retail.
    - Policy 6.17 **Avoid Nonconformity.**. We proposed this new policy. You can't immediately tell at the first reading, but that is the intent behind this vague language finally approved by BPS. We call it the anti-nonconformity policy. Basically, it provides policy authority to phase-in new mixed-use development regulations over time when the long-range market shifts, to avoid creating unnecessary short-term market nonconformity now which stagnates redevelopment. For example, we are asking the City to avoid adopting the CMSO until there is 15 minute frequent transit service and a greater transit ridership than there is now outside the central city. The BPS staff handling the Code amendments were not interested in listening to our phasing requests unless the Plan contained a related policy to avoid creating nonconformity by phasing in regulations over time to match the market. However, the new idea to treat existing auto-accommodating developments as preexisting developments that are conforming instead of nonconforming developments would seem to work as an alternative solution.
    - New Policy after 6.65. **Retail Development**. We proposed this policy. It is related in concept to the Grocery Store Policy 4.79. It is another policy basis to advocate for amending the EOA to provide a sufficient land inventory for the "widest range of retail" that are "affordable" in "underserved areas of the City". There really isn't any land available to develop grocery stores even though the existing EOA says that Portland has an adequate land inventory for retail development, but it does not distinguish auto-accommodating from pedestrian/transit friendly retail which have different land needs and development formats. We need more retail land for traditional grocery store development to reduce VMTs. We have assembled a traffic analysis on that point. We are taken by the Mayor's suggestion that we should create a new auto-accommodating policy and zone or make the CE and CM1 and CM2 zones more auto-accommodating

We appreciate the opportunity to work with you to find the proper balance between planning and the reality of the marketplace.

Best, Mark

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Portland-area food deserts

Below is a map of low-income census tracts in the Portland metro area where the U.S. Department of Agriculture has determined that a significant number or share of residents is more than **a half-mile** or **a mile** from the nearest supermarket in urban areas or more than 10 miles from the nearest supermarket in rural areas. For a nationwide map, **see the USDA site. (http://www.ers.usda.gov/data-products/food-access-research-atlas/go-to-the-atlas.aspx)** **Read more: Grocery Outlet's opening in east Portland brings promise to an area lacking supermarkets (http://www.oregonlive.com/portland/index.ssf/2013/03/grocery_outlets_opening_in_eas.html)**

New Grocery Outlet store

(https://maps.google.com/maps?ll=45.52,-122.7&z=11&hl=en-US&gl=US&mapclient=apiv3)

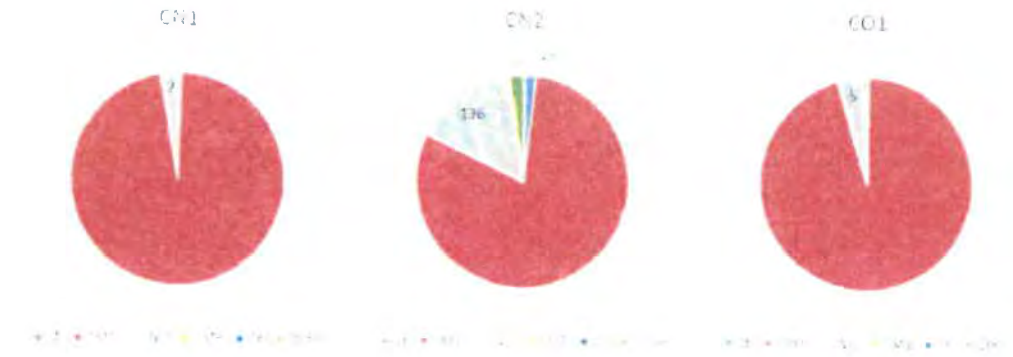
Map data ©2016 Google

Sources: U.S. Department of Agriculture, U.S. Census Bureau; Map: Mark Friesen/The Oregonian

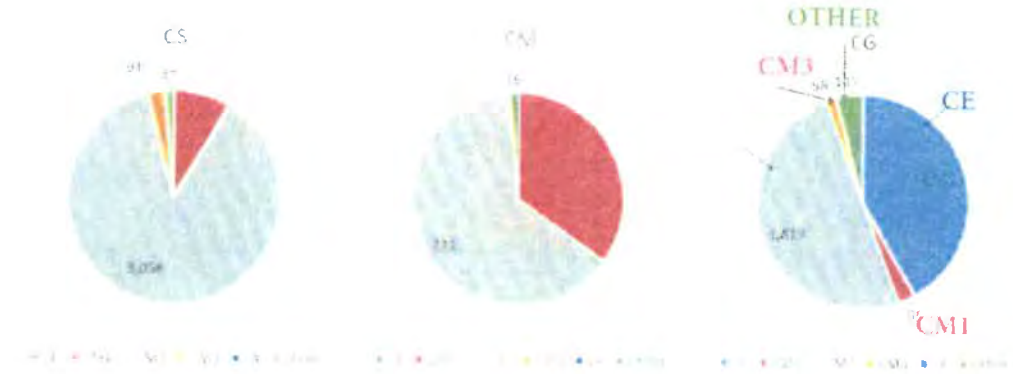
Figure VII-1: Commercial/Mixed Use Rezoning Summary

Number of properties assigned to each new zone, by old zones. Other = non Commercial/Mixed Use (EG1, EG2, R1, etc.)

Small scale commercial zones



Medium scale commercial zones



Medium and large scale commercial zones

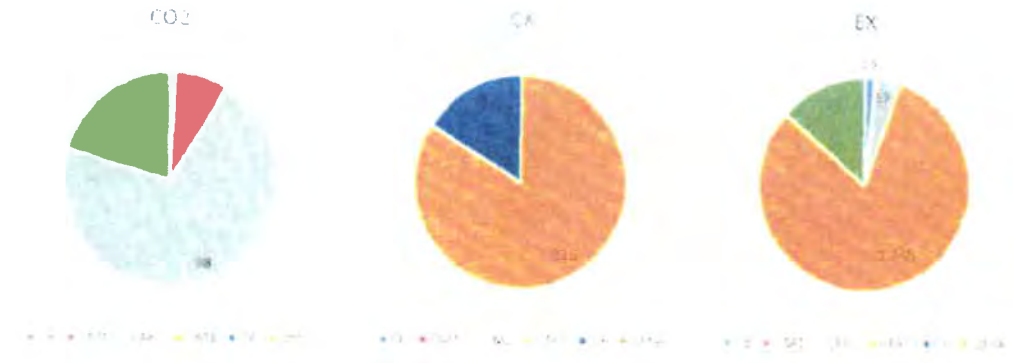
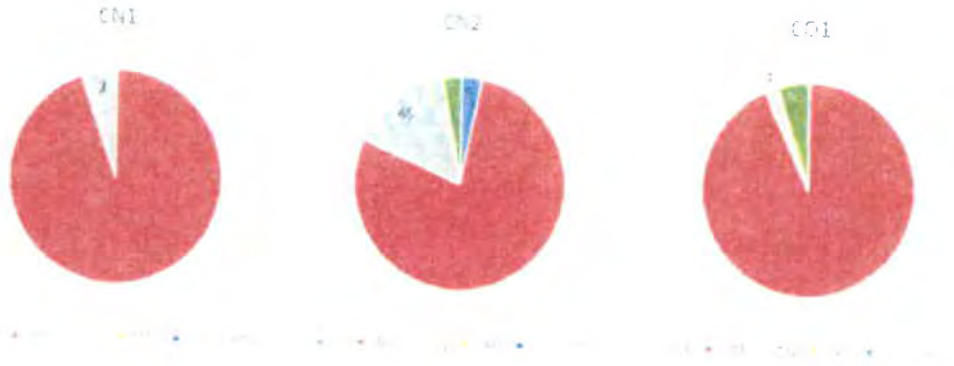


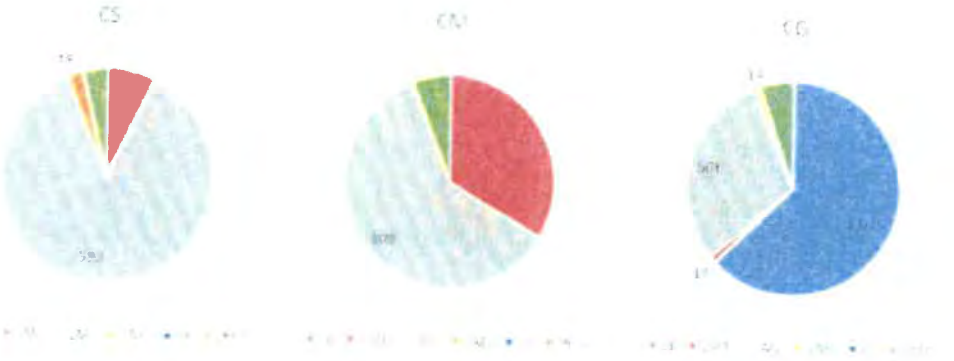
Figure VII-2: Commercial/Mixed Use Rezoning Summary

Number of acres assigned to each new zone, by old zones. Other = non Commercial/Mixed Use (EG1, EG2, R1, etc.)

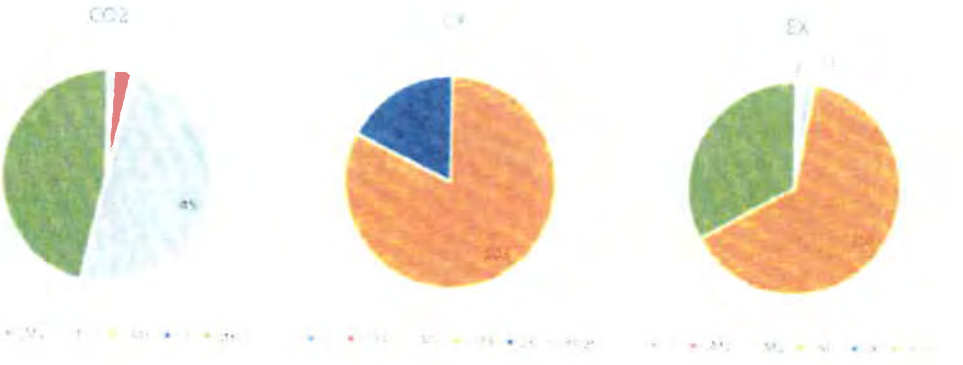
Small scale commercial zones



Medium scale commercial zones



Medium and large scale commercial zones



Proposed Revision to CE Zone Purpose Statement

Marked:

D. Commercial Employment zone. The Commercial Employment (CE) zone is a medium-scale zone intended for sites along corridors in areas between designated centers, especially along Civic Corridors that are also Major Truck Streets or Priority Truck Streets. The zone allows a mix of commercial uses, as well as some light manufacturing and distribution uses that have few off-site impacts. The emphasis of this zone is on auto-accommodating commercial and employment uses, but residential use is also allowed. Buildings in this zone will generally be up to four stories tall. Development is intended to be auto-accommodating, as well as pedestrian-oriented, ~~as well as auto-accommodating,~~ and complement the scale of surrounding areas.

Clean:

D. Commercial Employment zone. The Commercial Employment (CE) zone is a medium-scale zone intended for sites along corridors in areas between designated centers, especially along Civic Corridors that are also Major Truck Streets or Priority Truck Streets. The zone allows a mix of commercial uses, as well as some light manufacturing and distribution uses that have few off-site impacts. The emphasis of this zone is on auto-accommodating commercial and employment uses, but residential use is also allowed. Buildings in this zone will generally be up to four stories tall. Development is intended to be auto-accommodating, as well as pedestrian-oriented, and complement the scale of surrounding areas.

PBOT Mode Split Analysis

mode% sum pdf

Mode % calculation are based on 2010/2035 RTP model.

Table 1. 2010 daily mode split

	CBD	River Dist	L Albina	Lloyd	SEID	SW WatFront	Goose Hollow	N Portland	NE Portland	SE Portland	FNE Portland	FSE Portland	SW Portland	NW Portland	C-City	City	Sub	Region
auto P	55.0%	56.9%	86.1%	81.3%	84.9%	83.9%	73.4%	85.1%	84.1%	82.0%	87.3%	84.9%	85.4%	82.5%	67.2%	80.5%	84.4%	81.4%
Transit	19.5%	13.4%	5.9%	8.7%	6.1%	6.9%	8.9%	6.7%	6.8%	7.8%	6.8%	7.9%	6.5%	6.3%	14.3%	8.1%	6.3%	6.9%
Bike	5.5%	5.8%	3.2%	3.4%	3.3%	3.7%	3.3%	2.2%	3.2%	3.5%	2.1%	2.5%	3.1%	2.8%	4.5%	3.1%	2.2%	2.8%
Walk	19.9%	23.9%	4.8%	6.7%	5.7%	5.5%	14.5%	5.9%	5.9%	6.7%	3.7%	4.7%	5.1%	8.4%	14.0%	8.3%	7.1%	8.9%
SOV %	30.5%	30.1%	51.3%	43.0%	49.6%	48.2%	39.7%	49.9%	47.5%	45.6%	49.5%	47.0%	47.8%	46.3%	37.3%	45.2%	46.2%	44.4%
HOV %	24.6%	26.8%	34.8%	38.3%	35.4%	35.8%	33.7%	35.2%	36.6%	36.3%	37.8%	37.9%	37.6%	36.2%	29.9%	35.4%	38.2%	37.0%
Non-SOV	69.5%	69.9%	48.7%	57.0%	50.4%	51.8%	60.3%	50.1%	52.5%	54.4%	50.5%	53.0%	52.2%	53.7%	62.7%	54.8%	53.8%	55.6%

Table 2. 2010 daily HBW mode split

	CBD	River Dist	L Albina	Lloyd	SEID	SW WatFront	Goose Hollow	N Portland	NE Portland	SE Portland	FNE Portland	FSE Portland	SW Portland	NW Portland	C-City	City	Sub	Region
auto P	38.3%	43.2%	78.0%	62.6%	77.8%	77.5%	61.5%	84.3%	80.9%	76.1%	85.1%	82.2%	78.9%	80.8%	50.6%	75.7%	86.8%	82.3%
Transit	43.6%	35.2%	14.6%	27.4%	14.5%	12.5%	21.8%	10.8%	11.1%	13.9%	10.3%	11.9%	12.4%	10.5%	34.6%	16.0%	7.6%	9.6%
Bike	11.6%	10.3%	4.9%	7.5%	5.4%	7.5%	5.1%	3.4%	6.1%	7.6%	3.6%	4.5%	7.3%	4.8%	9.5%	5.4%	3.1%	4.6%
Walk	6.5%	11.4%	2.4%	2.5%	2.3%	2.5%	11.5%	1.5%	1.9%	2.4%	1.0%	1.4%	1.3%	3.9%	5.3%	2.9%	2.6%	3.5%
SOV %	29.4%	34.1%	68.3%	51.6%	67.0%	67.5%	52.6%	72.4%	69.9%	65.5%	73.5%	71.0%	66.6%	68.9%	40.9%	64.2%	74.0%	70.4%
HOV %	9.0%	9.2%	9.8%	11.0%	10.9%	10.0%	9.0%	12.0%	11.1%	10.6%	11.6%	11.2%	12.3%	12.0%	9.8%	11.6%	12.7%	11.9%
Non-SOV	70.6%	65.9%	31.7%	48.4%	33.0%	32.5%	47.4%	27.6%	30.1%	34.5%	26.5%	29.0%	33.4%	31.1%	59.1%	35.8%	26.0%	29.6%

Table 3. 2035 daily mode split

	CBD	River Dist	L Albina	Lloyd	SEID	SW WatFront	Goose Hollow	N Portland	NE Portland	SE Portland	FNE Portland	FSE Portland	SW Portland	NW Portland	C-City	City	Sub	Region
auto P	47.0%	48.2%	76.8%	69.5%	72.6%	72.8%	60.4%	80.8%	80.5%	78.0%	83.3%	82.4%	81.7%	78.4%	59.2%	75.9%	83.2%	79.4%
Transit	24.1%	19.0%	10.7%	14.2%	13.0%	10.2%	15.8%	9.6%	9.2%	10.5%	9.2%	9.1%	8.9%	8.7%	18.7%	10.7%	6.6%	7.8%
Bike	6.4%	6.8%	5.0%	5.1%	5.4%	8.0%	4.9%	2.8%	3.7%	4.0%	2.6%	3.0%	3.9%	3.5%	5.8%	3.7%	2.5%	3.2%
Walk	22.5%	26.0%	7.4%	11.2%	9.0%	9.0%	18.9%	6.8%	6.7%	7.4%	4.8%	5.5%	5.4%	9.4%	16.3%	9.6%	7.7%	9.6%
SOV %	24.5%	23.5%	43.0%	34.6%	38.0%	37.6%	28.3%	47.0%	45.4%	43.0%	47.4%	45.9%	45.5%	43.7%	30.5%	42.1%	45.9%	43.4%
HOV %	22.5%	24.7%	33.9%	34.9%	34.6%	35.1%	32.1%	33.9%	35.1%	35.0%	35.9%	36.6%	36.2%	34.7%	28.7%	33.9%	37.3%	35.9%
Non-SOV	75.5%	76.5%	57.0%	65.4%	62.0%	62.4%	71.7%	53.0%	54.6%	57.0%	52.6%	54.1%	54.5%	56.3%	69.5%	57.9%	54.1%	56.6%

Table 4. 2035 daily HBW mode split

	CBD	River Dist	L Albina	Lloyd	SEID	SW WatFront	Goose Hollow	N Portland	NE Portland	SE Portland	FNE Portland	FSE Portland	SW Portland	NW Portland	C-City	City	Sub	Region
auto P	25.1%	28.9%	58.7%	42.1%	48.4%	51.6%	32.2%	77.6%	75.2%	69.2%	78.8%	78.4%	72.1%	74.7%	35.7%	68.1%	85.2%	79.1%
Transit	51.2%	43.3%	28.6%	38.9%	34.4%	22.8%	41.7%	15.8%	15.3%	19.2%	15.1%	14.2%	16.9%	14.6%	43.3%	20.9%	7.9%	11.1%
Bike	13.1%	11.6%	9.5%	12.0%	12.2%	20.5%	9.6%	4.6%	7.2%	8.8%	4.5%	5.6%	9.4%	6.1%	12.5%	6.8%	3.8%	5.5%
Walk	10.5%	16.3%	3.2%	7.0%	5.0%	5.1%	16.5%	2.0%	2.4%	2.8%	1.7%	1.8%	1.6%	4.6%	8.6%	4.2%	3.0%	4.3%
SOV %	18.0%	21.6%	47.6%	31.9%	37.2%	38.1%	23.5%	65.2%	63.9%	58.7%	67.5%	67.1%	60.2%	62.7%	26.4%	56.5%	72.3%	67.2%
HOV %	7.2%	7.3%	11.1%	10.3%	11.3%	13.5%	8.7%	12.4%	11.2%	10.5%	11.3%	11.2%	11.9%	12.0%	9.2%	11.5%	12.9%	11.9%
Non-SOV	82.0%	78.4%	52.4%	68.1%	62.8%	61.9%	76.5%	34.8%	36.1%	41.3%	32.5%	32.9%	39.8%	37.3%	73.6%	43.5%	27.7%	32.8%

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DESIGN DRIVEN | CLIENT FOCUSED

October 13, 2016

Mayor Charlie Hales
Portland City Council
1221 SW 4th Avenue, Room 130
Portland, OR 97214

Re: **2035 Comprehensive Plan - Mixed Use Zones**
Need for Auto-Accommodating Uses
Project Number 2160034.01

Dear Mayor Hales and Council Members:

I am providing this letter in support of the Retail Task Force (RTF) and the International Council of Shopping Centers (ICSC) request to provide an auto accommodating zone and development standards in the Mixed Use Zones (MUZ) currently being considered. I have spent the last 25 years preparing traffic impact analyses for projects throughout the metro area including residential, industrial, and retail developments. I have also seen the increase in bicycle use and pedestrian activity through investments in facilities and development. I also recognize that the automobile is still the primary mode of transportation by far, and will continue to be for the foreseeable future.

Many of my clients provide necessary goods and services to their customers who rely on automobiles for their trips. As I testified before the City Council and Planning and Sustainability Committee earlier this year, the lack of available development opportunities in the central areas of Portland drive larger retailers to the fringes. I used the example of Costco, and the denial of their proposal to locate a store in northwest Portland years ago. Their current customers must drive to Beaverton, Tigard, Clackamas, or far NE Portland for shopping, which increases vehicle miles traveled, congestion, and pollution. For most customers, alternate modes are not reasonable for these trips where a large number of goods are purchased.

Discount grocers need larger buildings, and therefore larger sites with convenient parking areas appropriate for their size. The larger stores provide economies of scale and allow for a wider range of products. For example, Fred Meyer provides a wide range of products and services in stores that typically are 90,000 sf or larger, and the vast majority of customers arrive by automobile. Where densities and land values are higher, we often see retailers with less parking and a smaller range of products and services.

As the City of Portland continues to grow, and densities increase, many of these retail areas will also increase density and adapt to changes in travel modes over time. The current MUZ proposal would be mandating these changes much earlier, and cause many owners to simply not improve or redevelop their retail sites.

I would also note that demand for drive-through restaurants remains high, even as the City has restricted the addition of new ones. In my experience, a reduction in the number of drive-through facilities will only increase demand, traffic, and queuing at and around the few remaining facilities.

In summary, we request Council reconsider allowing auto accommodating development in areas where there is both a need and demand from residents. Over time, the demand will change, but limiting the ability to provide these services in the short term will only increase VMT and limit choices for residents.

Sincerely,

Brent Ahrend, PE
Traffic Engineer | Senior Associate

Zoning Code Definition of Auto-Accommodating Development

Auto-Accommodating Development. Development which is designed with an emphasis on customers who use autos to travel to the site, rather than those which have an emphasis on pedestrian customers. This type of development usually has more than the minimum required number of parking spaces. The main entrance is oriented to the parking area. In many cases, the building will have parking between the street and the building. Other typical characteristics are blank walls along much of the facade, more than one driveway, and a low percentage of the site covered by buildings.

CE ZONE & NON-CMSO RECOMMENDATIONS
Portland, Oregon

LEGEND

- Recommended CE Areas
- Recommended CMSO removals
- Proposed CMSO

Proposed Zones

- EM1 - Mixed Commercial
- EM2 - Commercial Mixed Use 2
- EM3 - Commercial Mixed Use 3
- CE - Commercial Employment

Current Zones

- CG (if no hatch - changing to other comp plan desig.)

Traffic Classifications

- Regional Trafficway
- Regional Trafficway & Major City Traffic Street
- Major City Traffic Street
- Traffic Access Street
- District Collector
- Neighborhood Collector

Freight Classifications

- Major Truck Street
- Priority Truck Street

33.130.030 D:
The Commercial Employment (CE) zone is a medium-scale zone intended for sites along corridors with a Neighborhood Collector or higher traffic classification, especially along civic corridors that are also Major Truck Streets or Priority Truck Streets. This zone is generally not appropriate in designated centers, except on a site that is currently developed in an auto-oriented manner and urban scale development is not economically feasible.

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Recommendations per RTF/ICSC participants Bob LeFeber of Commercial Realty Advisors, Joe Angel of Pacific Star, McDonald's, Albertsons/Safeway, Dutch Bros Coffee, and Fred Meyer Stores. The recommendations are based on a review of the existing built environment, TSP traffic classifications, and the locational criteria of the CE Zone. These state that the CE zone is "...intended for sites along corridors with a Neighborhood Collector or higher traffic classification, especially along civic corridors that are also Major Truck Streets or Priority Truck Streets..." and is appropriate on "...a site that is currently developed in an auto-oriented manner and urban scale development is not economically feasible."

Recommended CE Areas

1) N Richmond and Ivanhoe: The Safeway property at the SEC should be CE.
2) N Lombard, between Tyler and Polk: The Grocery Outlet and Dollar Tree should be CE zoning.
3) The Hayden Meadows Shopping Center: This area is currently proposed to be EG2, but was redeveloped with a number of large retail stores (Lowe's, Dick's, Walmart) and serves North Portland & Vancouver residents as well as travelers along the I-5 corridor. CE is most appropriate for the current use, and the area is anticipated to remain serving this purpose.
4) N Lombard and Interstate: The Fred Meyer at the SEC, and the NEC and SWC corners should all be CE. The SWC has a very successful gas station.
5) NE Ainsworth and MLK Blvd: At the SEC of Ainsworth you have a Safeway that should be CE, a Walgreen at the NEC that has a drive-thru. The NWC & SWC corner also have drive-throughs.
6) NE Killingsworth & 33rd Ave: At the SEC is a very successful New Seasons. These should be rezoned to CE so they can be rebuilt if necessary.
7) NE Killingsworth & 42nd Ave: The NEC and the SEC should be zoned CE. There is a former grocery store on the NEC currently owned by PCC that could redevelop one day.
8) NE Cully and 57th: The Albertsons should be CE.
9) NE Freemont and Sandy: The Safeway at the SWC should be CE.
10) NE Schuyler and 33rd: At the NWC is a QFC. This should be rezoned to CE so they can be rebuilt if necessary.
11) SE Hawthorne and 39th Ave: Fred Meyer is at the NWC. This site unlikely to be torn down given its success, but could be rebuilt.
12) Burnside and 55th Ave: The SEC where QFC is should be CE.
13) NE Glisan and 67th Ave: The Fred Meyer at the NWC should be CE.
14) SE Stark and 82nd Ave: The McDonalds at the NWC & gas station at the SWC should be CE.
15) Burnside and 82nd Ave: The SWC has an old Safeway that was re-tenanted by an Asian market called Hong Phat. The CE zoning should continue to Ash.
16) NE Halsey and 102nd Ave: The McDonald's at the NEC should be CE.
17) NE Glisan to SE Stark and 122nd Ave: At the SW Corner of 122nd and Glisan, where Safeway is located and the former Target has been re-tenanted, should be CE. Going South, on the Eastside of 122nd there are a number of car dealerships that are more likely to redevelop with CE zoning. At the corners of Stark and 122nd there are old shopping centers including a gas station, bank and Burgerville right on the corners. Part of this is CE, but all 4 corners should all be CE.
18) SE Stark and 148th Ave: There are old shopping centers that can be redeveloped at this corner. While the land was not CG before, it would be easier to redevelop as CE
19) SE Stark and 162nd Ave: The old shopping center at the SW corner of Stark with Perry's Dollar Store and neighboring automotive uses should be CE.

20) SE Powell Blvd and 39th Ave: At the corner of Powell you have Safeway at the SEC and the NEC is redeveloping to accommodate Natural Grocers. Both corners should be CE.
21) SE Schiller St and 39th Ave: A very successful Trader Joes is at the NWC with Schiller, this area should be CE.
22) SE Woodstock Blvd. between 43rd and 46th: The Bi-Mart and Safeway should be CE zoned. It appears that the frontage of these lots may be CMSO too.
23) SE Foster Rd and 67th Ave: The old shopping center at the SEC of 67th and Foster that used to have a grocery store should be CE down to 70th.
24) SE Powell Blvd and 82nd Ave: The 4 corners of 82nd and Powell should all be zoned CE. There are a number of drive-throughs and the large shopping center on the NW corner recently had a vacant grocery store that was just re-tenanted with WinCo.
25) SE Foster RD and 82nd Ave: The 4 corners should also be zoned CE and the CMSO overlay removed. There is a Fred Meyer at the NWC, Big 5 at the NEC (former Safeway) and several drive-throughs and gas stations in the area.
26) SE Division and 122nd Ave: Where there are a number of older shopping centers, all of this should be CE. The largest center at the SW Corner is a well-maintained larger center with a Rite Aid and a closed Albertsons that was recently re-tenanted with a Grocery Outlet. The center also has a Burger King. The NEC has a gas station. These are appropriate for this node in this area and far more likely to be improved and re-tenanted with CE zoning.
27) SE Division and 136th Ave: There are Dutch Bros and Dairy Queen drive-throughs on the SEC and a Drive in Diner on the SWC of the intersection that should be zoned CE.
28) SW Capital Hwy and Barbur Blvd: There is a Barbur Foods, Walgreens, an auto service center, gas station, McDonalds and other auto oriented uses. This area should be CE and the CMSO overlay removed.
29) SW Barbur Blvd and Multnomah Blvd: The Safeway should be CE.
30) SW Barbur Blvd and Bertha Blvd: The Fred Meyer should be CE.

CMSO Removal Recommendations

A) N Richmond and Ivanhoe: The CMSO within the proposed CE next to the Safeway at N Richmond and Ivanhoe should be removed.
B) NE Killingsworth & 42nd Ave: The NEC and the SEC should be zoned CE. There is a former grocery store on the NEC currently owned by PCC that could redevelop one day. The CMSO within this CE should be removed.
C) NE Cully and 57th: The CMSO should be removed around the Albertsons on this corner.
D) NE Freemont and Sandy: The CMSO should be removed at the Safeway located on the SWC.
E) SE Hawthorne and 39th Ave: The CMSO should be removed over the Fred Meyer at the NWC.
F) SE Powell Blvd and 39th Ave: At the corner of Powell you have Safeway at the SEC and the NEC is redeveloping to accommodate Natural Grocers. The CMSO should be removed over both of these corners.
G) SE Woodstock Blvd between 43rd and 46th: The frontage of the Bi-Mart and Safeway in this area both have a CMSO overlay that should be removed.
H) SE Foster Rd and 82nd Ave: The CMSO overlay should be removed for all four corners of this intersection. There is a Fred Meyer at the NWC, Big 5 at the NEC (former Safeway) and several drive-throughs and gas stations in the area.

I) NE Glisan and 122nd Ave: At the SW Corner of 122nd and Glisan, where Safeway is located and the former Target has been re-tenanted, this are should have the CMSO overlay removed.

J) SE Stark St and 122nd Ave: The CMSO should be removed at the corners of Stark and 122nd, where there are old shopping centers including a gas station, bank and Burgerville right on the corners.

K) SE Division St and 122nd Ave: Where there are a number of older shopping centers, all of this should have the CMSO overlay removed. The largest center at the SW Corner is a well-maintained larger center with a Rite Aid and a closed Albertsons that was recently re-tenanted with a Grocery Outlet. The center also has a Burger King. The NEC has a gas station. These are appropriate for this node in this area and far more likely to be improved and re-tenanted with CE zoning.

L) SE Stark St and 148th Ave: The CMSO overlay should be removed over this intersection. There are old shopping centers that can be redeveloped at this corner.

M) SE Stark St and 162nd Ave: The proposed CMSO dropped for the old shopping center at the SW corner of Stark with Perry's Dollar Store and neighboring automotive uses.

N) SE Division St and 162nd Ave: The intersection is proposed to be CE around the Ross, Rite Aid, Regal properties and other corners, but there is a proposed CMSO overlay. The overlay should be removed.

O) SW Capital Hwy and Barbur Blvd: There is a Barbur Foods, Walgreens, an auto service center, gas station, McDonalds and other auto oriented uses. This area should have the CMSO overlay removed.

Albertsons Companies

February 29, 2016

Barry Manning
Senior Planner
Portland Bureau of Planning and Sustainability
1900 SW Fourth Avenue #7100
Portland, OR 97201

Re: Mixed Use Zones Project
Request for CE Zoning for Albertsons/Safeway Stores

Dear Mr. Manning:

I am the Real Estate Manager for Albertsons/Safeway and wish to comment on the proposed zoning for the Albertsons and Safeway stores in the areas of Portland subject to the proposed mixed use zones. Our stores are all "auto-accommodating", as defined in the Portland Zoning Code (copy attached). None of the proposed mixed use zones provide development standards which are as auto-accommodating as the development standards (for access, parking and main entrance locations) contained in the definition, but the CE zone comes the closest. Also, we notice that the CE zone is the only new zone that doesn't prohibit drive-through facilities, which are part of our grocery supermarket operations. Therefore, we request that our store sites be zoned CE, without the CMSO overlay, because we need auto-accommodating development standards to continue to operate, modernize and grow our grocery supermarket business in Portland. A list of our existing Albertsons and Safeway stores impacted by the Mixed Use Zones Project is attached.

We are also concerned about the high degree of nonconformity which will be created for our existing Portland stores if they are zoned anything but CE. Nonconformity lowers market value, makes it more difficult to obtain financing and to sell and, finally, makes it difficult if not impossible to maintain and upgrade in the interim. Zoning the Albertsons and Safeway stores to CE, with no CMSO overlay, will be necessary to avoid excess nonconformity.

We are also concerned that the proposed CE zone is not truly "auto-accommodating". Accordingly, we would ask that consideration be given to softening the main entrance and glazing requirements of the CE zone's development standards to be consistent with the Code's definition of "auto-accommodating".

Finally, we are concerned with the City's proposal to greatly reduce, if not effectively eliminate, drive-through facilities in the City. Please remember that grocery supermarkets consist of a variety of drive-through facilities, including those for fuel, pharmacy and grocery pickup. In addition, grocery supermarkets frequently have pad users with drive-through facilities for restaurants, banks and coffee shops. Elderly citizens and people with disabilities rely on drive-

through facilities to assist them in obtaining their daily goods and services. We request that fuel stations in conjunction with grocery supermarkets be exempted from any prohibition of drive-through facilities in any of the zones, especially the CE zone.

Thank you for the opportunity to present written comments. We would appreciate an opportunity to further discuss our recommendations with you prior to the issuance of your next staff report.

Yours truly,

Eric Holzer

Enclosure
cc: RTF/ICSC GR Committee

Store			Current Zoning		Proposed Zoning	
Banner	Street Address	Sq. Ft.	Zoning	Zoning	Comp Plan	Overlay Zone
Safeway	3527 SE 122nd Ave	48,564	CG	CE	MU-C	No
Albertsons	5415 SW Beav.-Hillsdale Hwy	37,547	CG	CE	MU-C	No
Safeway	5920 NE Martin Luther King Blvd	39,064	CG	CM2	MU-C	No
Albertsons	5850 NE Prescott St	48,754	CG	CM2	MU-N	CMSO
Safeway	11919 North Jantzen Ave	54,975	CG	CE	MU-D	No
Safeway	6901 NE Sandy Blvd	51,602	CG	CM2	MU-C	CMSO
Safeway	221 NE 122nd Ave	52,568	CX	CM3	MU-C	CMSO
Safeway	4515 SE Woodstock	54,689	CN2	CM2	MU-N	CMSO
Safeway	3930 SE Powell Blvd	47,248	CG	CM2	MU-C	CMSO
Safeway	8336 N. Ivanhoe St	56,536	CN2	CM2	MU-UC	No
Safeway	2800 SE Hawthorne Blvd	55,787	CS	CM2	MU-UC	Design
Safeway	8145 SW Barbur Blvd	62,925	CG	CM2	MU-C	No

McDonald's USA, LLC
12131 - 113th Avenue NE, #103
Kirkland, WA 98034

May 9, 2016

Portland Planning and Sustainability Commission
1900 SW 4th Avenue, Suite 7100
Portland, OR 97201

Re: Portland Mixed Use Zones Project

Dear Chair Schultz and Members of the Commission:

I am the Pacific Northwest Regional Property Manager for McDonald's Corporation ("McDonald's"). McDonald's owns or holds ground leases on several properties in the City of Portland that are proposed to be rezoned under the City's Mixed Use Zones Project. This letter is respectfully submitted to request that these sites are zoned Commercial Employment ("CE") and not subjected to the Centers Main Street Overlay ("CMSO") zone during this rezoning process. We also recommend that the CE zone be revised to better acknowledge existing auto-accommodating development.

Our primary concern with the City's proposed re-zonings on our sites is that they will expressly or effectively prohibit drive-through uses. McDonald's business model has depended on drive-through and drive-up business since its earliest days, and few of its locations can be considered solely sit-down restaurants. On average, a McDonald's restaurant achieves 72% of its gross sales through its drive-through window. This obviously means that preserving existing drive-throughs is a paramount concern for us. It is similarly important that we have the ability to expand, remodel, and reconstruct our existing restaurants. This ability becomes much more difficult when our restaurants have significant areas of non-conformity with Portland City Code.

The City proposes to rezone four of our locations as mixed-use zones and apply the Centers Main Street Overlay ("CMSO"). These are summarized in the table below:

Exhibit Number	Restaurant Location	Existing Base Zone	Existing Overlay Zone	Existing Plan District	Proposed Base Zone	Proposed Overlay Zone	Plan District Changes
1.	12109 NE Glisan St.	CS	(d)	N/A	CM2	CMSO, (d)	N/A
2.	5613 SE 82nd Ave.	EX	(d)	N/A	CM3	CMSO, (d)	N/A
3.	10050 SW Barbur Blvd.	CG	N/A	N/A	CM2	CMSO, (d)	N/A
4.	8149 SE Stark St.	CG-CS	N/A	N/A	CM2	CMSO	N/A

Once this new zoning is in effect, the very linchpin of these stores' success—their drive-through windows—will be unlawful. This will present very real problems when McDonald's operators seek to remodel their restaurants. For example, depending on the remodel plan, the City may require the drive-through to be removed.

Of the proposed zones, only CE without the CMSO will allow drive-throughs. Applying this zone at these locations is appropriate because they are outside of the Central City and already committed to auto-accommodating development, consistent with the following statement in the Proposed Draft of the mixed-use zones: "[The CE zone] is generally not appropriate in designated centers, except on a site that is currently developed in an auto-oriented manner and urban scale development is not economically feasible." In our experience, areas such as these are slow to redevelop and we do not anticipate them doing so in the foreseeable future.

Although we understand the City's goal of making existing neighborhoods more walkable, the prohibition on drive-throughs will not do that; only changed market conditions and increased residential density will substantially change the character of outer-Portland neighborhoods. Drive-throughs are not inconsistent with walkability. Most McDonald's drive-through trips are "pass-by" trips, meaning that McDonald's restaurants have a relatively low traffic impact. To the extent that curb cuts and vehicle queuing are a concern, such issues can be addressed through site design of new and remodeled stores.

McDonald's is committed to operating and improving these restaurants. The proposed zoning, and in particular the CMSO, will make this substantially more difficult. Moreover, the policy of prohibiting drive-throughs will make life harder for those who rely on the convenience of drive-throughs, such as the elderly, disabled, and those with a number of small children, for whom sit-down restaurant dining is difficult or inconvenient.

Finally, even if our stores are zoned CE, we are concerned that the existing CE zone is not truly auto-accommodating, as currently defined in Portland Zoning Code:

> "Auto-Accommodating Development. Development which is designed with an emphasis on customers who use autos to travel to the site, rather than those which have an emphasis on pedestrian customers. This type of development usually has more than the minimum required number of parking spaces. The main entrance is oriented to the parking area. In many cases, the building will have parking between the street and the building. Other typical characteristics are blank walls along much of the facade, more than one driveway, and a low percentage of the site covered by buildings."

Please consider a reduction of the pedestrian and transit oriented development standards in the new CE zone, to make it more auto-accommodating to better implement the existing "auto-accommodating" definition. For example, the City should consider allowing vehicle circulation areas in front setbacks and allowing dense landscaping in lieu of the 50-foot setback proposed to be required between drive-through uses and adjacent residential zones.

We sincerely appreciate the Commission's consideration of our request.

Best regards,

Glenda Hollenbeck

Glenda Hollenbeck
Enclosures

cc: Ms. Stephanie Hipp
Mr. Harlan Levy
Mr. Mark Whitlow

Google earth feet 400 meters 100

Google earth feet 300 meters 100

Google earth feet 300 meters 100

Google earth feet 300 meters 90

PERKINSCOIE

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Portland, OR 97209-4128

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May 17, 2016

Mark D. Whitlow
MWhitlow@perkinscoie.com
D. +1.503.727.2073
F. +1.503.346.2073

Katherine Schultz, Chair
Portland Planning and Sustainability Commission
1900 SW 4th Avenue, Suite 7100
Portland, OR 97201

Re: Powell-Glisan Associates' Request for CE Zoning at Glisan Street Station

Dear Chair Schultz and Members of the Commission:

This office represents Powell-Glisan Associates ("Powell"), owner of several properties located within Glisan Street Station at the southwest corner of NE 122nd Ave. and NE Glisan Street. These are specifically identified as tax lots 101, 102, 105, and 106 of Multnomah County Assessor's Map 1N2E34DA. **Exhibit 1**. This letter is submitted to respectfully request that these individual properties, as well as the other lots within Glisan Street Station, be zoned Commercial Employment (CE) and without the Centers Main Street Overlay Zone (CMSO) as part of the City's Mixed-Use Zoning project.

These properties include commercial spaces abutting the existing Safeway store, two existing out-parcel commercial buildings with various tenants, and a KFC restaurant. These are zoned CX and CS. **Exhibit 2**. These businesses depend on convenient auto access to operate and in the case of the KFC restaurant, an operational drive-through window.

The proposed Commercial-Mixed Use 2 and 3 (CM2 and CM3) zoning of these properties, as well as application of the CMSO, will substantially reduce Powell's tenants' ability to operate their businesses and will reduce the future development potential of Powell's properties by reducing the amount of available floor area ratio ("FAR"). In particular, this new zoning will have the following substantial adverse effects on Powell's properties:

- The maximum FAR of CS-zoned property will be reduced from 3:1 to 2.5:1 when it is rezoned CM2. PCC 33.130, Table 130-2.
- The maximum FAR of CX-zoned property will be reduced from 4:1 to 3:1 when it is rezoned CM3. PCC 33.130, Table 130-2.
- Drive-through uses will be prohibited. PCC 33.130.260.
- The CMSO would require the following additional development restrictions:
    - A minimum .25:1 FAR is required.

- No more than 50% of a transit street frontage (including both Glisan and NE 122nd) may consist of vehicle areas.
- A minimum 60% of a first-floor façade must be windows. PCC 33.415.340.
- At least one transit street entrance is required per 100 feet of building wall. PCC 33.415.350.

These properties do not meet many of the proposed regulations; therefore, application of the CM2 and CM3 zones and CMSO will cause significant nonconformity. A zoning analysis that identifies areas of potential nonconformity is attached as **Exhibit 3.** Nonconforming status lowers market value, makes it more difficult to obtain financing and sell, and makes it difficult if not impossible to maintain and upgrade the store. Zoning this site to CE, with no CMSO overlay, will be necessary to avoid excessive nonconformity. Also, market value of these properties will be further reduced by City's down-zoning through reduced FAR limits.

Glisan Street Station is "auto-accommodating" as defined in the Portland Zoning Code. None of the proposed mixed-use zones provide development standards which are as auto-accommodating as the development standards contained in the definition, but the CE zone comes closest. It is also the only new zone that does not prohibit drive-through facilities.

Powell needs auto-accommodating development standards to allow its tenants to operate and grow their businesses in Portland. Applying the CE zone to this site is appropriate because it is outside of the Central City and already committed to auto-accommodating development. The CE zone description in the Proposed Draft provides that such sites are appropriately zoned CE: "[The CE zone] is generally not appropriate in designated centers, except on a site that is currently developed in an auto-oriented manner and urban scale development is not economically feasible." In our experience, areas such as the one around Glisan Street Station are slow to redevelop and we do not anticipate it doing so in the foreseeable future.

We sincerely appreciate the Commission's consideration of this request.

Very truly yours,

Mark D. Whitlow

Cc: Mr. Peter Powell (via email) (w/encl.)

Exhibit 1
N 2E 34DA
PORTLAND

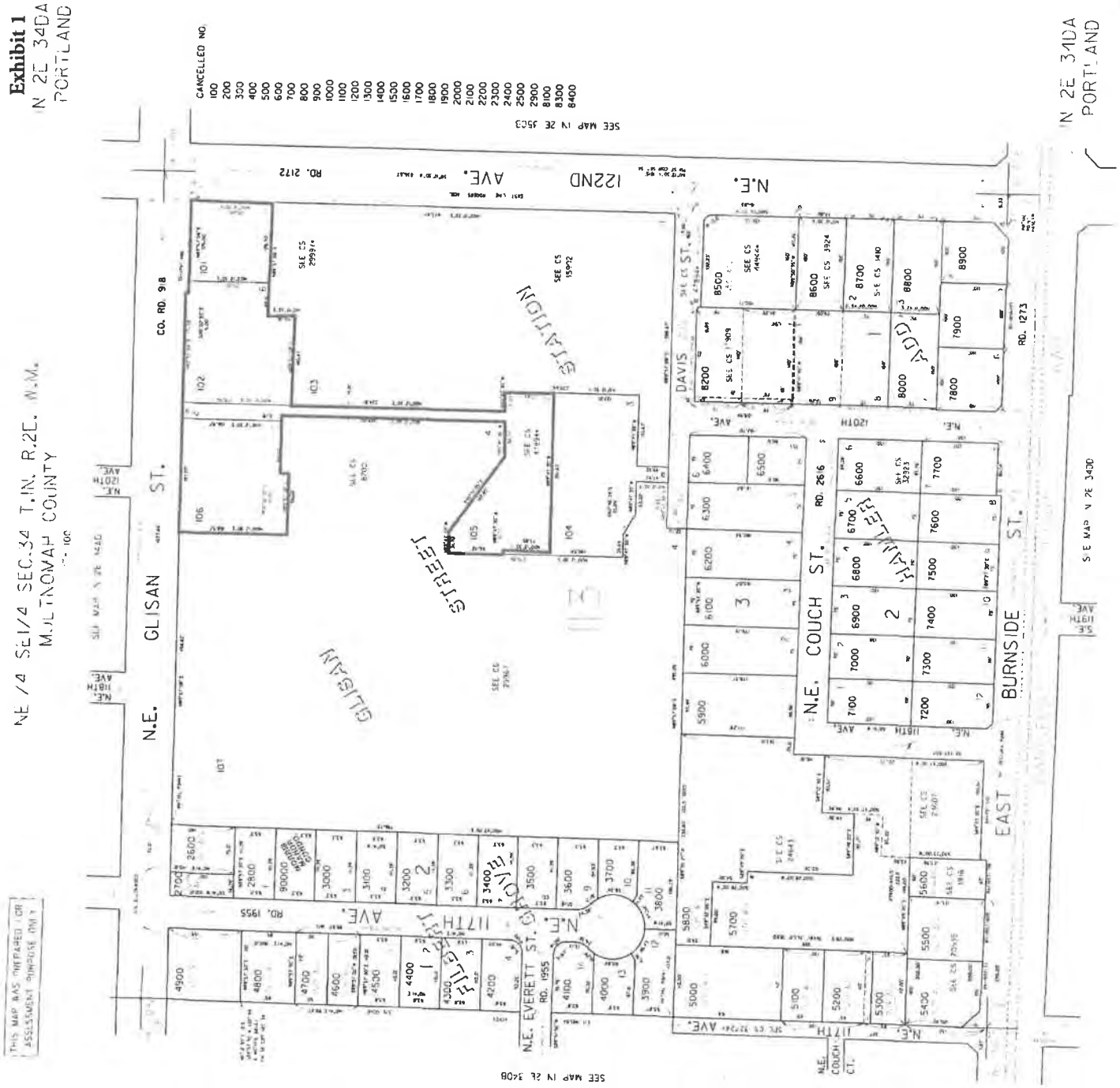


Exhibit 2

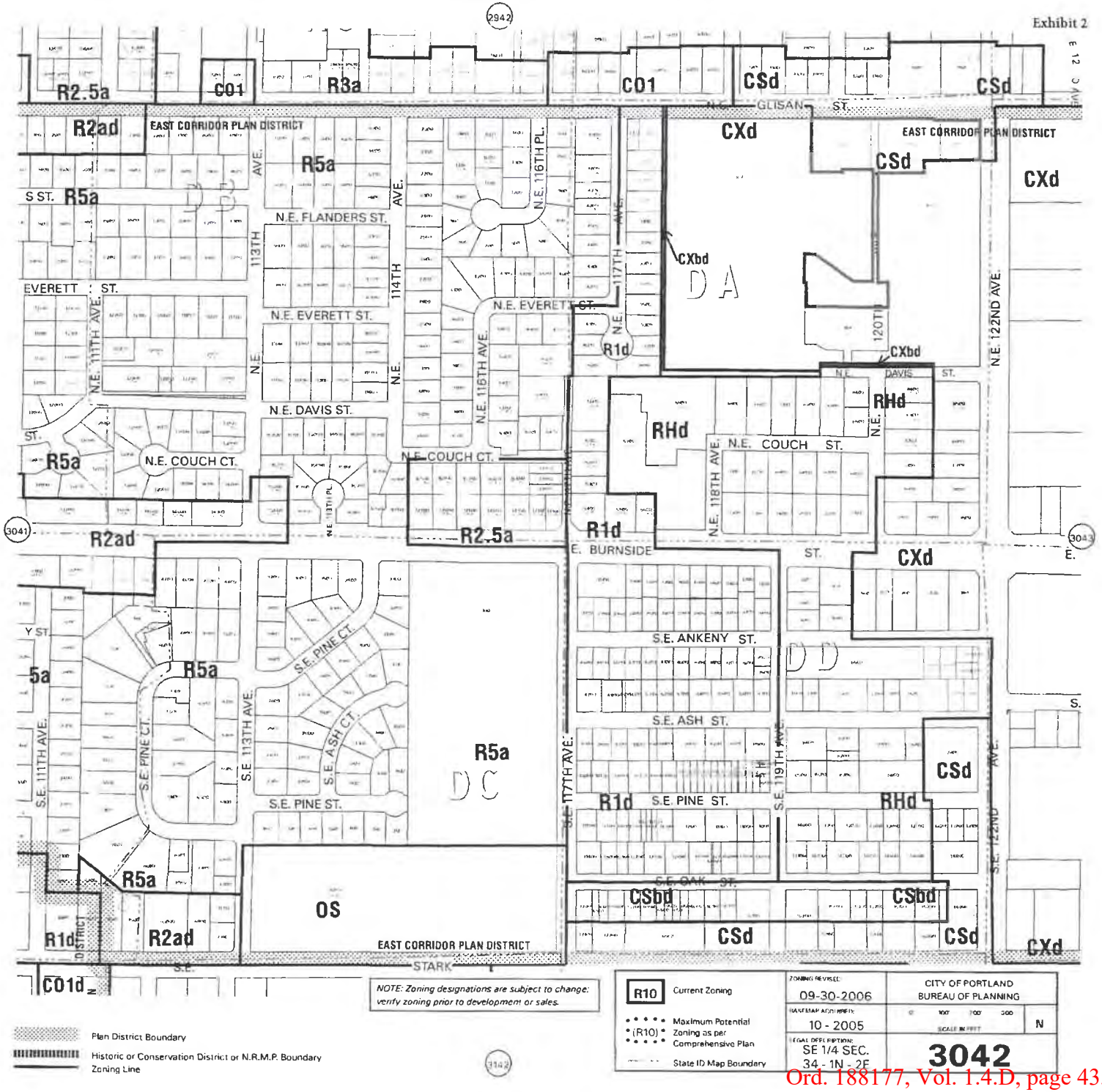


Exhibit 3

MIXED USE ZONES PROJECT

CASE STUDIES

February 16, 2016

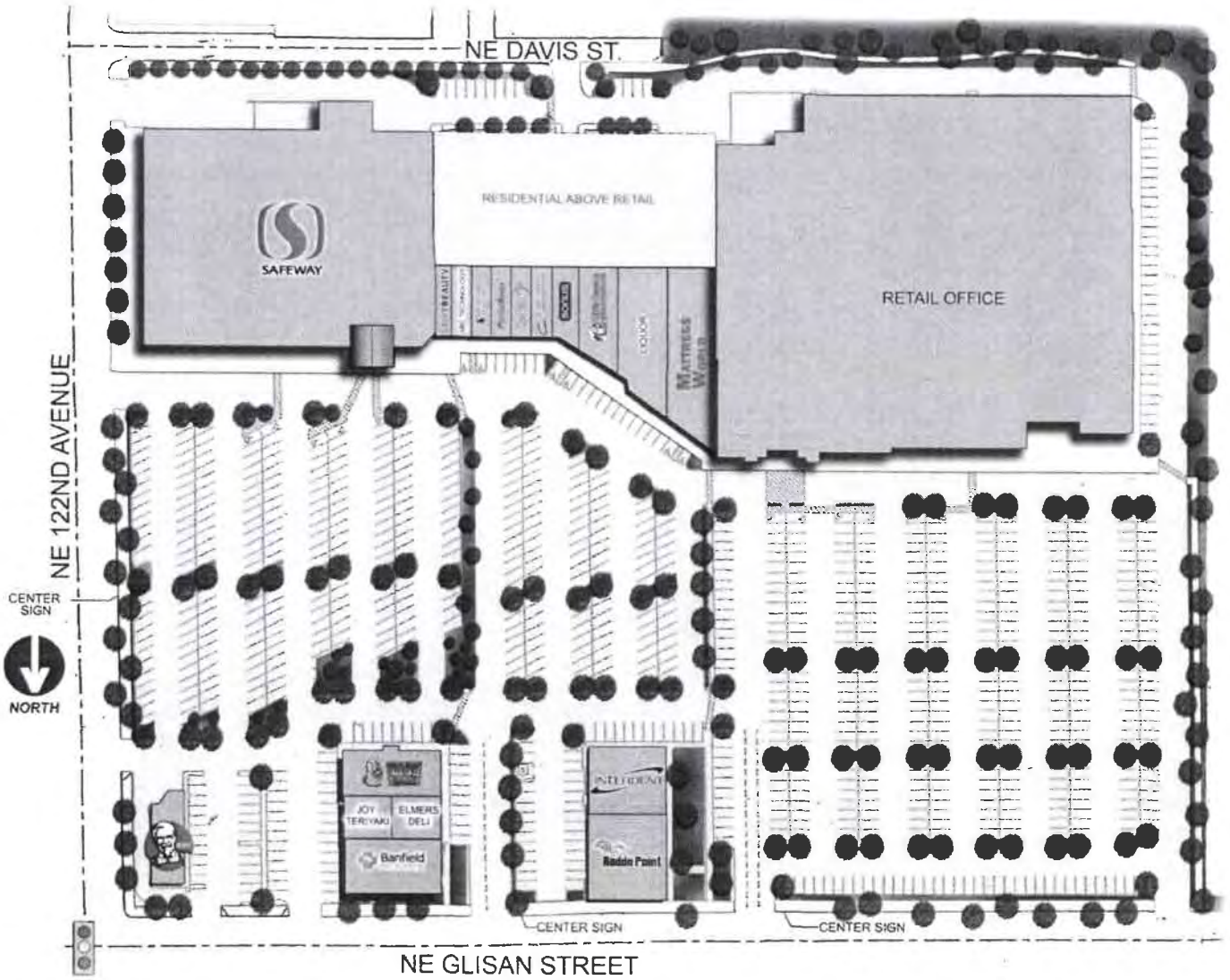
Mark Whitlow, Perkins Coie
Eric Hovee, E.D. Hovee
Suzannah Stanley, Mackenzie

Introduction

FOUR CASE STUDIES

The following document presents four existing or recently permitted retail sites providing affordable and/or value-based grocery in northeast and southeast Portland. The sites were analyzed for their compliance with the proposed zoning language of the Mixed Use Zones project.

Applicable code sections with changes proposed are addressed. Code sections with which each site would not comply as built or recently permitted are shown in red.



GLISAN STREET STATION

POWELL DEVELOPMENT

2625 Northup Way
Bellevue, WA 98004
p 425.828.4444
WWW.POWELLDEV.COM

1: Safeway: 221 NE 122nd (Glisan Street Station)

Existing retail development

Current Zone: CX (Central Commercial)
Proposed Zone: CM3m (Commercial Mixed Use – 3), Centers Main Street Overlay zone (CMSO)
Site Area: 768,629 SF (seven tax lots in development)
Building Area: 330,949 SF (all buildings)

SUMMARY

The existing development does not meet several of the proposed standards for the new base zone or CMSO. From the proposed base zone standards, maximum setbacks of 20' are allowed and setbacks must be improved for pedestrian use. Additionally, transit street main entrances are required for all buildings, at no more than 200' apart (none are currently provided). To meet CMSO standards, development at this site would have to have 70% of building façades to be within 20' of streets, with no more than 40% of the site's frontages for vehicle areas. At least 60% of façades must be windows. Additionally, a minimum FAR of 0.5 is required (currently there is 0.43 across the buildings and lots).

Also per the CMSO, vehicle access would be prohibited from transit streets (both 122nd and Glisan), meaning the site would be required to be accesses from NE Davis St, an approximately 30'-45' wide local street south of the Safeway building which currently only provides access to the private parking for the apartment development on the site.

ANALYSIS

Proposed base zone CM3:

- 33.130.205 Maximum FAR changing from 4:1 to 3:1 or 5:1 with bonuses
- 33.130.210 Maximum height decreasing from 75' to 65' before bonuses
- 33.130.215.C. Maximum Building Setbacks: 10' for zone but 20' for both 122nd and Glisan ("Civic Corridors" per Map 130-1). At least 50% of street-facing facades at ground level must meet max setback. (These must be met on two out of the three streets the site fronts—122nd and Glisan, since they are the highest classifications.) Existing buildings are within 20' of both streets at some locations, but less than 50% of all street-facing façades are within 20' (particularly western large building).
- 33.130.215.C. at least 50% of complying maximum setback areas must be improved for pedestrian use. Existing site does not meet this. Small plaza area at northeast corner of Safeway building on 122nd, two walkways to buildings on Glisan. New buildings would be required to be closer to frontages and setbacks improved for pedestrians.
- 33.130.222.B. Maximum building length: 110' per building (multiple buildings within 20' of street must be at least 20' apart when on same site). Existing Safeway building within 10' of 122nd is approx. 194' (not met). Street-facing façade on Glisan is approximately 374' long and set back approximately 428'. Smaller buildings at northeast corner are approximately 82' and 98' long within maximum setback.
- 33.130.222.C. Façade articulation: Applies to buildings 45'+ high—at least 25% of each facade within 20' of street must be divided into façade planes that are off-set by at least 2'. (Assumed does not apply to subject site building, likely less than 45' high.).
- 33.130.230.B. Ground floor window standard: 40% of street-facing façade within 20' of street must be windows (2-10' above-grade area). (Formerly this was 25% of the area between 2-9' above grade.) Less than 40% of 122nd façade or Glisan-facing façade of large building contain windows.
- 33.130.242.C. Transit Street Main Entrance location—no changes to commercial building standards. No main entrances provided on either transit street frontage, for any buildings (including smaller buildings on Glisan).
- 33.130.242.D. Transit Street Main Entrance distance between entrances—one entrance required for every 200' of building length within the maximum setback. Existing buildings do not meet setback or transit street main entrance location, so cannot meet this standard.
- 33.130.260 Drive-Through Facilities: Prohibited in CM1, CM2, and CM3 zones. There is an A&W/KFC on corner of 122nd and Glisan.

Proposed Centers Main Street Overlay:

- 33.415.100 Quick-vehicle servicing (fuel stations) would be prohibited. (Note: these are currently permitted by way of a specific exception in the existing East Corridor Plan District).
- 33.415.200 Active ground floor uses are required within 100' of a transit street (Glisan and 122nd) and must consist of 50% of the ground floor area. Met with retail uses.
- 33.415.300 Drive-through windows are prohibited. There is an A&W/KFC on corner of 122nd and Glisan.
- 33.415.310.A minimum FAR of 0.5:1 is required for all new development. (Existing: 0.43)
- 33.415.320 Maximum Building Setbacks. At least 70% of street-facing façade at ground level must meet max setback of the base zone. (On two out of the three streets the site fronts—122nd and Glisan, since they are the highest classifications.) Neither this nor the base zone standard of 50% is met.
- 33.415.330.B. Frontage limitation. No more than 40% of frontage of transit street can be used for vehicle areas or exterior display. Subject site has approx. 857' of drive or parking area on approx. 1,779' of frontage (50%). Not met.
- 33.415.330.C. Access to "on-site parking" or "vehicle areas" prohibited on 122nd and Glisan, which are transit streets. The site currently takes access from those two streets and Davis (to the apartments only).
- 33.415.340 Ground Floor Windows. On transit streets, 60% of street-facing façade must be windows. Less than 60% of 122nd façade or Glisan-facing façade of large building contain windows.
- 33.415.350.B. Transit street entrance frequency. 1 entrance per 100' of building length. No existing buildings have transit street entrances.

33.130.260 would allow drive-through facilities to be rebuilt if demolished under the following circumstances:

- *The new drive-through must be part of a development with an FAR of at least 1:1*
- *Only one drive-through would be permitted.*
- *The replacement drive-through must be built on the same lot*
- *A replacement drive through is not permissible if the original has been disused for 2 years or more.*

DUTCH BROS

GUARANTEED TO SATISFY

May 16, 2016

Portland Planning and Sustainability Commission
City of Portland
1900 SW 4th Avenue, Suite 7100
Portland, OR 97201

Re: Portland Mixed Use Zones Project

Dear Chair Schultz and Commission Members:

I am the General Counsel for DB Franchising USA, LLC ("Dutch Bros. Coffee") and wish to comment on the proposed zoning for the Dutch Bros. Coffee outlets located within the City of Portland. Dutch Bros. Coffee submits this letter requesting that the proposed zoning for all of Dutch Bros.'s existing stores subject to the mixed use zones project be CE.

We are first concerned that the proposed mixed use zones greatly reduce our ability to maintain, modernize and develop new drive-through facilities. As you could reasonably expect, our business model is almost exclusively the operation of the drive-through coffee kiosks. Without drive-through friendly zoning, our company could not develop and grow. The only proposed mixed use zone in the proposed 2035 Comprehensive Plan which does not expressly prohibit drive-through facilities is the new CE zone. For that reason alone, we hereby request that all existing Dutch Bros. stores be zoned CE. These locations include the Dutch Bros. Coffee outlets located at 5710 Foster Rd., Portland, OR and 13640 SE Division St., Portland, OR 97236. These were developed as drive-throughs in auto-oriented areas and would not be sustainable as part of an expensive mixed-use project.

Even if these Dutch Bros. outlets are zoned CE, we are concerned that the existing CE zone is not truly auto-accommodating, as currently defined in Portland Zoning Code:

> "Auto-Accommodating Development. Development which is designed with an emphasis on customers who use autos to travel to the site, rather than those which have an emphasis on pedestrian customers. This type of development usually has more than the minimum required number of parking spaces. The main entrance is oriented to the parking area. In many cases, the building will have parking between the street and the building. Other typical characteristics are blank walls along much of the facade, more than one driveway, and a low percentage of the site covered by buildings."

Please consider a reduction of the pedestrian and transit-oriented development standards in the new CE zone, to make it more auto-accommodating to better implement the existing "auto-accommodating" definition.

DB Franchising USA, LLC • P.O. Box 1929 • Grants Pass, OR 97528 • Phone: 541-955-4700

In addition, I am concerned that existing drive-through facilities will become nonconforming and thus unable to be updated or remodeled in accordance with obligations in long-term leases and franchise agreements. Therefore, I also request that all existing drive-throughs as of the effective date of the 2035 Comprehensive Plan that are placed into zoning that prohibits further drive-through development nevertheless be deemed a conforming use. In addition to the addresses above, additional drive-through Dutch Bros. outlets that are at risk of becoming nonconforming are located at: 430 NE Lloyd Blvd., Portland, OR; 514 SE Belmont St., Portland, OR 97214; 5482 SW Beaverton Hillsdale Hwy, Portland, OR (due to new residential set-back requirement). These locations will need to be able to remodel and update to comply with evolving system standards aimed at improving the look and function of the location. In the absence of a policy establishing existing drive-throughs as conforming uses, operators of Dutch Bros. outlets will be stuck between their legal obligations with their landlord and franchisor, and the City's stringent nonconforming development standards.

Yours truly,

Joshua L. Lute | General Counsel | Dutch Mafia, Inc.
Dutch Bros. Coffee | *300 North Valley Dr.| Grants Pass, OR 97526*
o: (541) 955-4700 | c: (541) 373-3254 | f: (541) 471-0330
jlute@dutchbros.com

Cc: RTF/ICSC GR Committee

What's on your list today? You'll find it at
FredMeyer

Corporate Real Estate
3800 SE 21st Ave.
Portland, OR 97202

Don Forrest
Division Real Estate Manger
don.forrest@kroger.com

(503) 797-3117
Fax (503) 797-3539

May 5, 2016

Portland Bureau of Planning and Sustainability Commission
1900 SW 4th Avenue #7100
Portland, OR 97201

Re: Portland Mixed Use Zones Project

Dear Commission Members:

I am the Division Real Estate Manager for Fred Meyer Stores, Inc. I write this letter in response to the City's proposed zoning for the Portland Fred Meyer grocery stores and fuel stations shown on the table below.

We request that the stores now zoned CG be zoned CE, as the most similar auto-accommodating zone. We also request that the other existing stores in the CS, CX and EX zones also be zoned CE, except for our Stadium store on NW 20th Place which was recently remodeled into a more urban footprint, to avoid nonconformity with the transit and pedestrian oriented purpose statement of the proposed CM2 or CM3 zones, which would impede auto-dependent store upgrades and re-developments. We note that the CE zone "is generally not appropriate in designated centers, except on a site that is currently developed in an auto-oriented manner and urban scale development is not economically feasible, so we believe that is the basis for changing the zoning on site nos. 1, 2, 3, 7 and 9 in the chart below to CE.

	Address	Existing Base Zone	Proposed Base Zone
1.	3805 SE Hawthorne Blvd.	CS	CM2
2.	6615 NE Glisan St.	CG	CM2
3.	7555 SW Barbur Blvd.	CG	CM2
4.	100 NW 20th Pl.	CX	CX
5.	3030 NE Weidler St.	CG	CE
6.	6850 N. Lombard St.	CG	CE
7.	7404 N. Interstate Ave.	CX	CM3
8.	14700 SE Division St.	CG	CE
9.	5253 SE 82nd Ave.	EX	CM3

What's on your list today? You'll find it at
Fred Meyer

Corporate Real Estate
3800 SE 21st Ave.
Portland, OR 97202

The list shows that not all of our stores are being comparably zoned "to the most similar new zone", or to zones that recognize nonconforming situations for our exiting grocery supermarkets that incorporate drive-through facilities in their store operations. For the six (6) Fred Meyer stores zoned CG, the "most similar" zone would be the new CE zone, which would be the current auto-accommodating CG zone converted to the new auto-accommodating CE zone as "the most similar". We request that all stores now zoned CG be zoned CE, except for the "Stadium" store at NW 20th Place.

The new zoning also needs to recognize the auto-accommodating nature of our existing store developments as existing nonconforming situations, which are inconsistent with the purpose of the pedestrian or transit oriented mixed use zones. For that reason, we request that the other stores now zoned CS, CX or EX should also be zoned CE.

For the stores being proposed for zoning as CM2 or CM3, the CM zoning will make them all more nonconforming to some degree, which will make grocery store or fuel station upgrades and remodels more difficult. Fred Meyer wishes to avoid mixed use zoning that will make its existing stores and fuel stations more non-conforming, as now proposed.

Further, all of the CM zones prohibit drive-through facilities. As you know, Fred Meyer offers fuel at many of its locations and would like to have the option of adding fuel to its other Portland stores in the future. Fred Meyer has recently initiated its ClickList program allowing customers to order online and pick-up their groceries at the store using a drive-through lane. Fred Meyer utilizes pick-up windows for its pharmacy department in various locations. Because of those operational features, Fred Meyer requests CE zoning (except for the Stadium store), the only new zone intended to be auto-accommodating, for its Portland stores. The CE zone does not prohibit drive-through facilities and has an appropriate purpose statement which is needed for expansions and store redevelopments.

If CE zoning is unavailable for all of Fred Meyer's existing auto-accommodating grocery store developments, to accommodate our need to expand or redevelop or add fuel or ClickList facilities, please exempt drive-through facilities in conjunction with grocery supermarkets in the mixed use zones. Grocery supermarkets routinely utilize drive-through facilities for fuel, pharmacy pick-up and grocery pick-up. Allowing multiple stops on one site in a single trip reduces vehicle trips and vehicle miles traveled.

Thank you for the opportunity to comment. Please make this letter a part of the hearing record.

What's on your list today? You'll find it at
Fred Meyer.

Corporate Real Estate
3800 SE 21st Ave.
Portland, OR 97202

We would appreciate the further opportunity to work with your staff at your direction regarding our issues. We remain available to answer their questions and to provide further comments.

Respectfully submitted,

Don Forrest

Cc: Mayor Charles A. Hales

July 8, 2016

Portland Planning and Sustainability Commission
City of Portland
1900 SW Fourth Avenue #7100
Portland, OR 97201

Re: Mixed Use Zones Project - Request for CE Zoning for Starbucks Stores

Dear Chair Schultz and Commissioners:

For more than 40 years, Starbucks has built a brand that is about fostering moments of connection between our customers. We have 73 company operated and 35 licensed stores in Portland, and are proud to employ 1,500 partners in the city.

With regard to the City's proposed rezone, we understand four Starbucks stores are slated to be rezoned for mixed-use. We respectfully request these stores be zoned Commercial Employment ("CE") and not subjected to the Centers Main Street Overlay ("CMSO") zone during this process.

In an effort to meet the evolving needs of our customers and to address normal 'wear and tear' on our stores, Starbucks regularly updates our locations with a refresh every five years and a remodel every ten years. Often these updates include a full 'reinvention' of the interior – and sometimes exterior – spaces to improve the customer experience and speed of service model, modernize wi-fi and technology elements, and comply with new ADA laws.

Once this new zoning is in effect, the very foundation of these stores' success – the drive-thru window – will be unlawful. This will present very real problems when Starbucks seeks to refresh or remodel these stores. Depending on the type of remodel, the City may also require the drive-through to be removed.

Therefore the rezone could effectively prohibit future drive-thru uses at our stores. Customers depend on drive-thru business for convenience, so preserving the existing use is a critical element of our business model. It's important to have the ability to expand, remodel, and reconstruct existing stores without being subject to significant areas of non-conformity with Portland City Code.

The City proposes to rezone four Starbucks locations as mixed-use zones and apply the Centers Main Street Overlay ("CMSO") at one of these locations, summarized below.

Exhibit Number	Store Location	Existing Base Zone	Existing Overlay Zone(s)	Existing Plan District	Proposed Base Zone	Proposed Overlay Zone
1.	6003 NE Martin Luther King Boulevard	EX	(d)(h)	N/A	CM3	(d)(h)
2.	2834 SE 82nd Avenue	CG	(b)	N/A	CM2	N/A
3.	3623 SE Powell	CG	N/A	N/A	CM2	CMSO
4.	12613 SE Division	CG	N/A	N/A	CM2	(d)

Of the proposed zones, only CE without the CMSO will allow drive-thrus. We believe applying this zone at these locations is appropriate because they are outside of the Central City and already committed to auto-accommodating development, consistent with the following statement in the Proposed Draft of the mixed-use zones: "[The CE zone] is generally not appropriate in designated centers, except on a site that is currently developed in an auto-oriented manner and urban scale development is not economically feasible." In our experience, areas such as these are slow to redevelop and we do not anticipate them doing so in the foreseeable future.

While Starbucks shares the City's goal of making existing neighborhoods more walkable, a prohibition on drive-thrus are not a means to this end. Most Starbucks drive-thru trips are convenience or pass-by visits and incur relatively low traffic impact. To the extent that curb cuts and vehicle queuing are a concern, we prefer to address these issues through site design and other compliance measures.

Starbucks is committed to operating responsibly in the communities we serve. The proposed zoning of the above stores will make this substantially more difficult to do business in Portland. We request that the locations noted above be zoned CE and without any Centers - Main Street Overlay Zone.

Thank you for your consideration.

Sincerely,

Jim Spillane
Vice President, Store Development
Starbucks Coffee Company

RTF/ICSC Retailers' Requests for CE Zoning

Requested	Site Address	Approved CE change?	Proposed base zone	Proposed Overlay	Will designation allow CE?	Is the store located in a center?
Starbucks	6003 NE Martin Luther King Blvd	N	CM3	None	Yes, all commercial comp plan designation except Central commercial will allow CE	N
Starbucks	2834 SE 82nd Avenue	Not shown on list	CM2 (per Portlandmaps)	None	Yes, all commercial comp plan designation except Central commercial will allow CE	Jade District Neighborhood Center
Starbucks	3623 SE Powell	N	CM2	CMSO	Yes, all commercial comp plan designation except Central commercial will allow CE	N
Starbucks	12613 SE Division	N	CM2	d	Yes, all commercial comp plan designation except Central commercial will allow CE	Midway Town Center
McDonalds	12109 NE Glisan St	N	CM2	CMSO/d	Yes, all commercial comp plan designation except Central commercial will allow CE	122nd & Hazelwood Neighborhood Center
McDonalds	5613 SE 82nd Ave	N	CM3	CMSO/d	Yes, all commercial comp plan designation except Central commercial will allow CE	Lents Town Center
McDonalds	10050 SW Barbur Blvd	N	CM2	CMSO/d	Yes, all commercial comp plan designation except Central commercial will allow CE	West Portland Town Center
McDonalds	8149 SE Stark St	N	CM2	CMSO	Yes, all commercial comp plan designation except Central commercial will allow CE	Montavilla Neighborhood Center
Fred Meyer	3805 SE Hawthorne Blvd	N	CM2	CMSO/d	Yes, all commercial comp plan designation except Central commercial will allow CE	Belmont/Hawthorne/Division Neighborhood Center
Fred Meyer	6615 NE Glisan St	Y	CE	None	N/A	N
Fred Meyer	100 NW 20th Pl	No proposed change	No proposed change	No proposed change	No, Central Commercial	N
Fred Meyer	3030 NE Weidler St	N	CM2	d	Yes, all commercial comp plan designation except Central commercial will allow CE	N
Fred Meyer	6850 N Lombard St	N/A, originally proposed CE	CE	None	N/A	N
Fred Meyer	7404 N Interstate Ave	N	CM3	CMSO/d	Yes, all commercial comp plan designation except Central commercial will allow CE	N
Fred Meyer	14700 SE Division St	N/A, originally proposed CE	CE	None	N/A	N
Fred Meyer	5253 SE 82nd Ave	N	CM3	CMSO/d	Yes, all commercial comp plan designation except Central commercial will allow CE	Lents Town Center
Dutch Bros	6710 SE Foster Rd? (letter said 5710 Foster Rd)	N	CM2	None	Yes, all commercial comp plan designation except Central commercial will allow CE	N
Dutch Bros	13640 SE Division	Y	CE	None	N/A	N
Powell Development	12124 NE Glisan St	N	CM2	CMSO/d	Yes, all commercial comp plan designation except Central commercial will allow CE	? 122nd & Hazelwood Neighborhood Center
Powell Development	12114 NE Glisan St	N	CM3	CMSO/d	Yes, all commercial comp plan designation except Central commercial will allow CE	? 122nd & Hazelwood Neighborhood Center
Powell Development	11930-11966 NE Glisan St	N	CM3	CMSO/d	Yes, all commercial comp plan designation except Central commercial will allow CE	? 122nd & Hazelwood Neighborhood Center
Powell Development	11980-11982 NE Glisan St	N	CM2	CMSO/d	Yes, all commercial comp plan designation except Central Commercial will allow CE	? 122nd & Hazelwood Neighborhood Center
Safeway	3527 SE 122nd Ave	Not shown on list	CE (per Portlandmaps)	None	N/A	Midway Town Center
Albertons	5415 SW Beaverton Hillsdale Hwy	Not shown on list	CE (per Portlandmaps)	None	N/A	N
Safeway	5920 NE Martin Luther King Blvd	N	CM2	None	Yes, all commercial comp plan designation except Central Commercial will allow CE	N
Albertons	5850 NE Prescott St	N	CM2	CMSO	Yes, all commercial comp plan designation except Central Commercial will allow CE	Cully Neighborhood Center
Safeway	11919 North Jantzen Ave	N/A, originally proposed CE	CE	None	N/A	N
Safeway	6901 NE Sandy Blvd	N	CM2	CMSO	Yes, all commercial comp plan designation except Central Commercial will allow CE	N
Safeway	221 NE 122nd Ave	N	CM3	None	Yes, all commercial comp plan designation except Central Commercial will allow CE	N
Safeway	4515 SE Woodstock	N	CM2	CMSO	Yes, all commercial comp plan designation except Central Commercial will allow CE	Woodstock Neighborhood Center

RTF/ICSC Retailers' Requests for CE Zoning

Safeway	1100 NE Broadway	N/A, no proposed change	No proposed change	No proposed change	No, Central Commercial	N
Safeway	3930 SE Powell Blvd	N	CM2	CMSO	Yes, all commercial comp plan designation except Central Commercial will allow CE	Powell/ Creston Neighborhood Center
Safeway	8336 N Ivanhoe	N	CM2	None	Yes, all commercial comp plan designation except Central Commercial will allow CE	St Johns Town Center
Safeway	1010 SW Jefferson	N/A, no proposed change	No proposed change	No proposed change	No, Central Residential	Central City Regional Center
Safeway	1303 NW Lovejoy	N/A, no proposed change	No proposed change	No proposed change	No, Central Employment	Central City Regional Center
Safeway	2800 SE Hawthorne Blvd	Not shown on list	CM2 (per Portlandmaps)	d	Yes, all commercial comp plan designation except Central Commercial will allow CE	N
Safeway	8145 SW Barbur Blvd	N	CM2	None	Yes, all commercial comp plan designation except Central Commercial will allow CE	Hillsdale Town Center

US Business Leadership Network (USBLN)
1310 Braddock Place, Suite 101
Alexandria, VA 22314
Phone: (800) 706-2710
Fax: (800) 706-1335
info@usbln.org
www.usbln.org

October 4, 2016

Re: Portland Comprehensive Plan Implementation – Please Remove the Drive-thru Prohibition

Dear Mayor Hales and Portland City Council:

The US Business Leadership Network (USBLN) urges you to reconsider their proposal to prohibit drive through facilities in much of the city. While the intent of the policy is admirable, it is shortsighted in recognizing the impact to people with disabilities.

Drive through allow people with disabilities access to a variety of businesses including restaurants, banks, and pharmacies. While it may seem like a matter of convenience to some, being able to access these and other establishments can often be challenging to people with a variety of disabilities, and a drive through can often be a solution. This policy would have a negative impact on people with mobility issues, including wheelchair users and senior citizens.

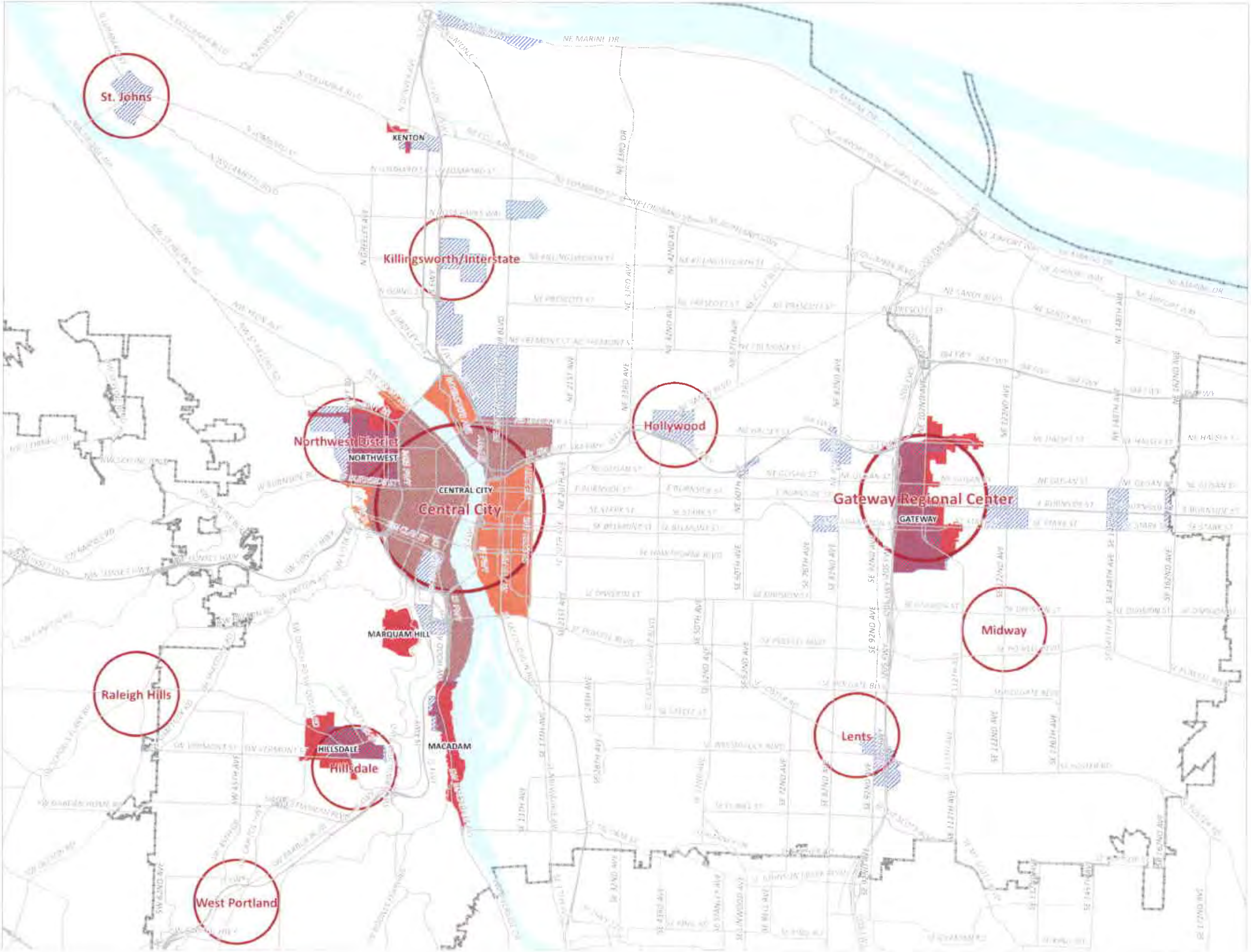
The USBLN opposes any action that would limit the accessibility of public accommodations to people with disabilities, and hopes you will work with the business community on an alternative solution.

Sincerely,

Jill Houghton
President and CEO

###

The US Business Leadership Network is a national non-profit that helps business drive performance by leveraging disability inclusion in the workplace, supply chain, and marketplace. The USBLN serves as the collective voice of nearly 50 Business Leadership Network affiliates across the United States, representing over 5,000 businesses. Additionally, the USBLN Disability Supplier Diversity Program (DSDP) is the nation's leading third party certification program for disability-owned businesses, including businesses owned by service-disabled veterans.



COMP PLAN DRIVE-THROUGH PROHIBITION AREAS Portland, Oregon

LEGEND

- Regional Centers
- Town Centers
- Drive-Throughs Limited per 33 224

New Drive-Throughs Prohibited:

- Central City Plan District
- Other Plan Districts Where Prohibited
- Pedestrian Districts

MACKENZIE.

From:	Kevin Rudiger
To:	BPS Comprehensive Plan Testimony
Subject:	Comprehensive Plan Implementation
Date:	Thursday, October 13, 2016 12:56:05 PM

Mayor Hales and City Commissioners:

I am writing to urge the Council to take this opportunity to trade minimum parking requirements for more affordable housing by eliminating minimum parking requirements in Mixed-Use zones.

Doing so, can help to support more affordable housing in our city at a time when it is critically needed, while also doing away with minimum parking requirements which aren't really an effective, efficient way of dealing with transportation problems in our increasingly dense city.

The arbitrary 30-unit+ threshold for required parking went into effect in much of Portland in 2013. Since 2013, a large number of developments have been built with exactly 30 apartments, just under the threshold for required parking. Why? The 31st apartment brings a mandate for 6 parking spaces. For underground parking, six stalls can cost more than $300,000 in construction and lost opportunity. Minimum parking requirements have worsened the housing crisis by suppressing housing supply.

I'm sympathetic to the real challenges as policy makers that you face in how to support real solutions to affordable housing with limited tools and budgets. But, honestly, this one is a pretty easy fix. It isn't going to solve the whole problem, but it is a significant step in the right direction.

Thanks for listening,
Kevin Rudiger
3575 SE Brooklyn Street.
Portland, OR 97202

From:	allenton.electra@gmail.com
To:	BPS Comprehensive Plan Testimony
Subject:	Comprehensive Plan Implementation
Date:	Thursday, October 13, 2016 12:46:22 PM

TL;DR: Please trade minimum parking requirements for more affordable housing by eliminating minimum parking requirements in Mixed-Use Zones.

Dear city council commissioners and aides,

I am not new to Portland but I am a transplant. I have lived here since 2001, and I have just finished two professional graduate degree programs in healthcare in Portland and hope to settle down in inner SE Portland as a tax-paying citizen invested in my community. My husband is self-employed as a mental health counselor and instructor at PSU, and happily pays taxes. Throughout this entire time, we have rented property, and we don't own a car. We make ample use of TriMet and the neighborhood greenways. I utilize car-sharing services like ZipCar and Car2Go to support our car-free.

Even though through my completion of education, we have the possibility to become more wealthy, it will be many years before we can afford to buy property, and the opportunities for starting a business or becoming employed are all centrally in Portland. As it happens, I have enjoyed renting, as it allows us to live in neighborhoods that we love (Hollywood/Rose City, Sunnyside, Humbolt, Alphabet District/Nob Hill, and now Brooklyn).

The arbitrary 30-unit+ threshold for required parking went into effect in much of Portland in 2013. Since 2013, a large number of developments have been built with exactly 30 apartments, just under the threshold for required parking. Why? The 31st apartment brings a mandate for 6 parking spaces. For underground parking, six stalls can cost more than $300,000 in construction and lost opportunity. Minimum parking requirements have worsened the housing crisis by suppressing housing supply. Suppressing housing supply pushes the low-income or low-middle income population such as ourselves to the outskirts of the city.

My husband and I have been recipients of food stamps, barely affording rent, as we are building businesses or completing education programs that serve our community. We're also moving into the professional and entrepreneurial class looking to invest in this area. We can't do that if we are pushed out of town because of rising rent due to policies that cater to car ownership and avoid providing affordable housing at the expense of the people who take advantage of Portland's livable, walkable public transit and alternative transit possibilities, and suppress sufficient housing to accommodate the people who love Portland and want to contribute to making it great.

Please eliminate the minimum parking requirements for new developments; stop chasing those who aren't wealthy or car-owners out of town.

Sincerely,
Electra Allenton

From: akubrom@gmail.com
To: BPS Comprehensive Plan Testimony
Subject: Comprehensive Plan Implementation
Date: Thursday, October 13, 2016 12:43:54 PM

I support building a non-commercial vehicle bridge in the St. Johns area; this would improve traffic
Sent from my iPhone

From:	Patrick Burke
To:	BPS Comprehensive Plan Testimony
Subject:	Comprehensive Plan Implementation
Date:	Thursday, October 13, 2016 12:40:47 PM

Support Entrepreneurs by Supporting House-to-Commercial Conversions

I would like to address my strong support for the rule in the current zoning code update that exempts minimum parking requirements in small mixed-use lots less than 7500 sq. ft. in area. This exemption will provide many benefits for Portland and its residents by encouraging entrepreneurs to preserve and update historical homes through converting them to storefronts.

While easily overlooked, house-to-storefront conversions are an important component in many of Portland's most successful and historical business districts. Examples of these include NW 23rd, SE 13th (Sellwood), Mississippi, Hawthorne, and Division Street districts. This pattern is particularly obvious at the corner of NW 23rd and NW Kearney where approximately half of all the storefronts on the nearby blocks occupy converted houses and are essential element of NW 23rd's unique historical and pedestrian-friendly atmosphere.

In addition to historical preservation, another major benefit for encouraging house-to-storefront conversion is to increase entrepreneurship and innovation. Many of Portland's most iconic and pioneering restaurants were started in converted houses. Pok Pok on Division, Teote on SE 13th, Por Que No on Mississippi, and Cha Cha Cha and The Bible Club in Sellwood, are just a few examples of such iconic businesses. In each of these cases, the result has been a community-embraced business that has either played a vital role in the early revitalization of a previously underinvested urban street or, otherwise, added a unique business to an established business district which was in danger of becoming monotonous as a result of the higher rents in newer, blander developments.

Based on these examples, it is safe to say that house-to-storefront conversions have been a critical component in Portland's success as a city. As such, any zoning laws ought not to discourage or prevent these types of conversions from happening, either intentionally or unintentionally, across the mixed-use zones in the city.

One regulation, in particular, that discourages or outright prevents these conversions are minimum parking requirements for commercial uses on small mixed-use lots. These requirements result in the need to pave the greenery for an added benefit of nothing more than a few additional parking spaces in most cases. Furthermore, the addition of these small parking lots destroys the pedestrian-friendly feel that commercial districts with converted houses can provide, and -- worst-of-all -- they may prevent entrepreneurs from creating the much needed outdoor spaces in commercial storefronts that Portlanders love so much.

Pok Pok is an example of the kind of outdoor space that has been created by turning a house's former front yard into a year-round, semi-outdoor seating area. Pok Pok's creative use of this space has become a major tourist attraction for Portland; as is evidenced by the following excerpt is a description of how Pok Pok started from the foodie web blog FoodForThoughtMiami.com: "Pok Pok started as a rotisserie grill take-out business in the driveway of a house, and over time expanded, in somewhat haphazard fashion, into an actual restaurant. "

Unfortunately, entrepreneurs who wish to replicate the Pok Pok model will likely discover that lots like the one Pok Pok occupies today are rare, expensive, and coveted by much larger developers because they are located on streets serviced by frequent transit. As a result, they will seek out less expensive areas which retain some of Division Street's pedestrian-friendly characteristics, but lack its immediate adjacency to frequent transit.

The 52nd Ave in the Brentwood-Darlington, the 72nd Ave area of Mt. Scott, and the Woodstock Blvd area of Lents (just East of 82nd) are all examples of several, reasonably affordable, pedestrian and bicyclist friendly business districts that fit this description. However, if this exemption were not passed into law, entrepreneurs would not be able to grow in the same 'haphazard fashion' as Pok Pok did as a byproduct of continually needing to add parking and having to pave over outdoor spaces as they expand.

The fact that all of these zones are pedestrian and bike friendly, while not being directly adjacent to frequent transit, is important to recognize because, when it comes to how people choose to access commercial storefronts, transit may not be as relevant of a factor as pedestrian friendliness and bikability. This is evidenced by Metro in the report *'You are here: A snapshot of how the Portland region gets around'*. In this report, Metro shows that people travel in very different ways when commuting to work versus performing other activities. In particular, this report shows that, when 'all trips' are considered in comparison to just commuting, 'driving alone' drops substantially as a means of transportation whereas walking increases over 300% and transit use drops by 33%.

This above Metro obtained result strongly implies that walkability, and not frequent transit access, should be the primary motivator for exempting parking in smaller commercial storefront areas.

Last but not least, city planners should also consider that not all entrepreneurs will be deterred by the requirement to add parking to small house conversions -- only those who wish to create aesthetically pleasing spaces like restaurateurs, small quirky shop owners, and coffee and tea purveyors would be affected. On the other hand, those who wish to establish potshops would,

in all likelihood, be completely undeterred by the need to '*pave over paradise and put up a parking lot*'.

It is for these reasons I believe the city should pass the 7500 sq. ft lot exemption across all mixed-use zones into law. Doing so will increase the supply of potential house conversions and allow entrepreneurs to take on early risks in lesser known areas which, otherwise, would be overlooked by larger developers for decades. In addition, it will also promote the creation of distinctive storefronts that increase walkability and reduce car usage in areas which are pedestrian friendly even when those areas do not have immediate frequent transit proximity.

Patrick Burke

7006 SE 52nd Ave.

Brentwood-Darlington

From: Brian K. Smith
To: BPS Comprehensive Plan Testimony
Subject: Comprehensive Plan Implementation
Date: Thursday, October 13, 2016 12:35:05 PM

Please trade minimum parking requirements for more affordable housing by eliminating minimum parking requirements in
Mixed-Use Zones.

We need to live in a world with fewer cars. I'd like to live in a city where more people can afford to live. I'll happily trade away things that make cars easier to use for things that make affordable housing easier to build, since we
need to do the former anyway if we don't want to live in a miserably hot dry hell climate (like much of the Southwest)
overrun by Southwesterners fleeing a lethally hot dry hell climate.

Cheers,
Brian K. Smith
924 NE 65th Ave.
Unit A
PDX, OR 97213

From: Lena Wood
To: BPS Comprehensive Plan Testimony
Subject: Comprehensive Plan Implementation
Date: Thursday, October 13, 2016 12:33:37 PM

To Whom It May Concern:

Please trade minimum parking requirements for more affordable housing by eliminating minimum parking requirements in Mixed-Use Zones.

Requiring off-street parking is ineffective at solving parking problems because as long as on-street parking is cheaply available, residents to a neighborhood will keep their cars and store them at the curb. Parking requirements can dramatically increase rents, congestion, and reduce housing supply. On-street parking management, such as market-rate permits, will have a greater impact on parking problems without exacerbating the housing crisis further.

Sincerely,

Lena Wood (A Concerned Portland Citizen)

_____
Lena Wood, MN, MEd, CNM
503.307.8614

From:	royhuggins@gmail.com on behalf of Roy Huggins
To:	BPS Comprehensive Plan Testimony
Subject:	Comprehensive Plan Implementation
Date:	Thursday, October 13, 2016 12:27:38 PM

Please trade minimum parking requirements for more affordable housing by eliminating minimum parking requirements in Mixed-Use Zones.

Thank you,
-Roy Huggins

--
-Roy Huggins, LPC NCC
Portland Counseling and Therapy, 日本語
All Japan Counseling
e: info@portland-counseling-therapy.com
p: (503) 839-4825

Director, Person-Centered Tech
www.personcenteredtech.com

City of Portland
Historic Landmarks Commission

1900 SW Fourth Ave., Suite 5000 / 16
Portland, Oregon 97201
Telephone: (503) 823-7300
TDD: (503) 823-6868
FAX: (503) 823-5630
www.portlandonline.com/bds

October 13, 2016

To: Mayor Hales and Portland City Council
Re: Floor-Area-Ratio (FAR) in Alphabet Historic District

The Portland Historic Landmarks Commission (PHLC) has been participating in ongoing reviews of the Miscellaneous Zoning project included as part of the larger Comprehensive Plan updates. We wish to comment on the application of 4:1 RH zone FAR in Alphabet and to provide our support for the staff-led partial revision that reduces the maximum allowance down to 2:1. The revision would apply only to those areas within the Alphabet Historic District that are north of NW Glisan Street, where smaller-scale, Victorian-era development is clustered. Areas south of Glisan would retain the originally-proposed 4:1 maximum FAR. The 2:1 revision would be more in keeping with the Comprehensive Plan Policies regarding Historic and Cultural Resources and would reduce development pressures upon historic buildings within the district. This would also still allow for a 5:1 ratio when considering the potential for FAR transfers.

The PHLC is supportive of this strategy as it will lessen potential conflicts during Historic Resource reviews and provide better guidance early in project planning, especially for those developers or owners who do not take advantage of a Design Advice Review prior to the Design Development stage. It is important to recognize that some sites cannot support the maximum allowable FAR without becoming over scaled when placed amidst much smaller volume buildings and thus creating a negative impact onto the Alphabet District as a whole. A project's design can sometimes mitigate for scale, but not always considering the historic architectural context of the district. The FAR changes to 2:1 maximum north of NW Glisan Street are well-crafted and targeted to those areas where historic development is inherently smaller.

We wish to remind the Council of its sound decision to deny the permit that would have demolished the Buck Prager Building in the Alphabet Historic District. Had that demolition been permitted it would have removed the opportunity to potentially incorporate the historic building into a new development thus falling short of the city's development objectives in the district (Objective 12.3.A) which is to "preserve and accentuate historic resources as a part of the urban environment that is being reshaped by new development projects." We fear that without the reduction of FAR, developers will be less likely to explore alternatives to demolition, thereby promoting projects that are not compatible with the district's historic fabric.

While METRO raises concerns that reductions in FAR will cause pressures on the Urban Growth Boundary, the amount of land reserved for historic resources within the city remains miniscule when considering the larger mosaic of the city's land use and its broader opportunities for development. Historic resources are increasingly becoming a rare commodity and thus conservation should remain a City priority. The PHLC continues to believe that a number of initiatives including the preferential permitting mechanisms for Accessory Dwelling Units, rehabilitation of historic residential apartments for affordable housing by the Portland Housing Bureau and private developers, and the "Internal Conversion Report" (which explores options for converting existing single family residences into multi-family uses) are having a positive impact on reducing development pressures by introducing density on a more human scale in historic districts and thus retaining the sense of place and community within the city's nationally renowned neighborhoods.

Thank you for your consideration of our comments on this important zoning project.

Sincerely,

Kirk Ranzetta
Chair

Paul Solimano
Vice Chair

cc
Brandon Spencer-Hartle, BPS
Hillary Adam, BDS

From:	J C
To:	BPS Comprehensive Plan Testimony
Subject:	Comprehensive Plan Implementation
Date:	Thursday, October 13, 2016 12:08:30 PM

Hi there,
I just wanted to say that I really hope you eliminate minimum parking requirements in mixed use zones in Portland.
Thanks for being visionary when considering Portland's long-term future,
John Paul Castiaux

HOSFORD-ABERNETHY
NEIGHBORHOOD DISTRICT ASSOCIATION

October 13, 2016

RE: Comprehensive Plan Implementation Package Testimony -- CR Zone

Dear Mayor and City Council,

The Hosford Abernethy Neighborhood District (HAND) is writing in support of the proposed CR zone that is intended to normalize non-conforming commercial uses in residential zones. The CR zone is much needed to allow continued low-impact commercial activities that have historically been embedded in residential communities while limiting the negative impacts these services can cause.

The CR zone is intended for isolated locations that are essentially surrounded by residential uses, and therefore contains restrictions that do not apply to other commercial uses, such as a restriction on hours of operation, intended to help properties zoned CR fit better in a residential context.

There is much to recommend the current proposal, including limitations on certain uses (such as vehicle servicing), limitations on hours of operation (matching current protections offered by non-conforming use rules), and height (to better fit into a residential context). However, it is still missing some fundamental protections that we would like to see addressed in the final proposal.

- **Multi-family Housing -** The current proposal only allows CR zoning for commercial properties surrounded by single-family zoned housing. We would like to see the zone be used in areas surrounded by multi-family housing; people living in dwellings zoned R2 and R1 are equally deserving of the protections against noise and other negative impacts as are people living in R2.5 and R5 zoned areas. While we support the limitations on height in the current proposal, we would support allowing structures in a CR zone to be taller if they are surrounded by multi-family housing if that would make it easier to extend the current proposal to include all residential zones.

  In particular, we would like to see the CR zone applied to the former NW Naturopath offices at 1540 SE Clinton St., which is one of three sites in the HAND neighborhood that we identified as being particularly well suited for CR zoning.

- **Noise -** Existing regulations limit daytime noise emitted from nonconforming residential sites to 55dBA (nighttime noise limits are lower). [Portland regulation 18.10.010], but under the CR proposal, they will attain full commercial status, and permissible noise levels will increase to 60dBA. Given that 10dBA represents a doubling of volume, 5dBA is a significant increase. The CR proposal needs to be updated to specify that sites zoned CR would have the same noise restrictions as the surrounding residential zones (and that they currently have).

- **Nighttime Trash Pickup -** Noise from trash pickup is a common complaint from those living near commercial areas. We ask that you restrict commercial trash pickup to the hours of 7AM to 10PM.

- **Continued Commercial Use -** Under the CR proposal, commercial properties could be converted to total residential use at a much higher density than would be allowed by the surrounding residential zoning, or that would be allowed under current rules for non-conforming uses. This creates a perverse incentive to redevelop CR properties, eliminating the commercial services they provide to the surrounding community (and their entire raison d'etre). We would ask that the CR zone require that the entire ground floor of properties zoned CR be required to remain in commercial use, even if the site is redeveloped, or, alternatively, that if a site is redeveloped to a pure residential use, the allowed intensity match that of the surrounding properties.

The HAND Board is pleased to see the CR zone created, and we feel it serves a purpose the other commercial zones do not. We support the current proposal to apply the CR zone to People's Coop and at 3029 SE 21st Ave., Palio's at 1996 SE Ladd Ave., and, as noted above, we want the CR zone be applied to the former NW Naturopath offices at 1540 SE Clinton St. as well.

As the city continues to grow, we need to find ways to provide more low-impact commercial services to residential areas, but to do so in a way that minimizes the negative impacts of commercial activities. We hope you will support the concept of the CR zone, as well as make the changes outlined above, which we feel will make the proposal stronger and work better for all Portlanders.

Thank you,

Susan E. Pearce
Chair of Hosford-Abernethy Neighborhood District (HAND)

HOSFORD-ABERNETHY
NEIGHBORHOOD DISTRICT ASSOCIATION

October 13, 2016

RE: Rezoning changes associated with the Comprehensive Plan 2035

Dear Mayor and City Council,

The Hosford-Abernethy Neighborhood District (HAND) Board has concerns about proposals in the Comprehensive Plan 2035 Portland Zoning Code Update to change the zoning of residential areas where the underlying Comprehensive Plan classification has changed. We do not support automatic rezoning at this time. Instead, we want the Council to use reduced or no-cost zoning changes as an incentive for developers to build affordable housing and preserve existing structures, perhaps by duplex conversion.

HAND has four primary areas slated for rezoning:

1. An area on the south side of Hawthorne, between 20th & 29th Avenues (hereafter referred to as "Hawthorne")
2. An area north of Division, between 24th & 29th Avenues ("Division")
3. An area south of Division, between 12th & 16th Avenues ("Clinton"), along with a small pocket of properties just west of SE 21st.
4. Isolated commercial uses - Three isolated parcels currently zoned residential, but in longstanding commercial use (1540 SE Clinton St., 1996 SE Ladd Ave. and 3029 SE 21st Ave.)

Before the city automatically changes the zoning on these properties, the process and impacts need to be considered. Outcomes should be equitable for all community members and we need to ensure that existing affordable rental and homeownership opportunities are not destabilized. We realize that adding density to our neighborhood is essential to absorbing a growing population city wide, but we are not convinced that the proposed changes will increase livability and equity without additional criteria to ensure those outcomes.

Our concerns include the following:

1. **Proper Notification** – A primary concern is that notification to residents that zoning changes are being proposed has been inadequate. The Bureau of Planning is doing the legal minimum notification, which we believe is not sufficient. Notices delivered to property owners throughout the process have been vague, notice is not provided to renters, and no notice of any form is provided to owners or residents of properties neighboring affected properties. HAND has raised this issue in the

past, and our residents have told us they feel strongly that the notification process has been inadequate.

2. **Unrealized Incentives** – Normally a zone change costs $18,000, a sum we're told reflects the actual cost of processing the change. In this case, the city is offering to pay for the zone change with nothing in return -- no promises of affordable housing, no design review, nothing. Instead of giving them away wholesale, the City should use the promise of reduced or waived fees as an incentive to get something in return for the public good. We believe the city has an opportunity to leverage the zone change fee waiver to encourage development that contributes to housing affordability and livability by offering property owners a menu of options in order to receive the waiver incentive. Options could include encouraging duplex conversions over demolition, or agreeing to build affordable housing. There is little evidence to suggest that waiving the zone change fees without concession would result in cheaper housing -- it is far more likely that developers will pocket the savings rather than pass them on to future tenants or homeowners.

3. **Proximity Dilemma** – The Clinton area was selected for rezoning because it is within ¼ mile of Clinton Light Rail Station. In reality, the actual distance residents need to walk to access light rail is significantly more than ¼ mile, because access is restricted by the railroad tracks and the removal of the Brooklyn Street pedestrian bridge. The justification of proximity to light rail as the driver for density in this area rings hollow if the much needed Clinton Station pedestrian bridge is not built. Build the bridge and then the case for density becomes much more compelling.

The properties just west of SE 21st were included because of proximity to the Rhine Street Station. Powell acts as a barrier, and the actual distance to the station is approximately ½ mile. These properties should be removed from the rezoning proposal for this reason alone.

4. **Isolated Commercial Uses** – The current conditional use status of the properties at 1540 SE Clinton St., 1996 SE Ladd Ave. and 3029 SE 21st Ave. serves the community well by providing residents the opportunity to bring problematic businesses to the negotiating table, and yet provides flexibility for building use based on the changing needs of the neighborhood. The CR zone proposed as part of the Mixed-Use zoning project looks promising, but still has some significant shortcomings (outlined in separate testimony). We want to see the rules finalized before we support changes to the current zoning status.

5. **Affordability Crisis** – The Clinton area under consideration for rezoning currently has many small single-family houses and shared rentals, and the zone change to R1 would encourage wholesale redevelopment of these properties. These houses include some of HAND's most affordable properties and there is little evidence that once redeveloped into new multi-unit buildings they would remain affordable. Recent experience has shown that most development is occurring at the top end of the market. We object to replacing opportunities for families to buy relatively affordable family houses with unaffordable rental units that will likely not support family housing, especially in an area so close to Abernethy Elementary School.

6. **Inadequate Infrastructure** – The HAND Board learned recently that there is poor sewer connectivity for the properties west of 21st. Several of these properties share a party sewer line,

contradicting earlier reports from the Comprehensive Plan process that these properties have modernized infrastructure.

7. **Little Community Support** – There seems to be little community support for rezoning at this time. Residents we have heard from are strongly opposed to the proposals, even when they stand to directly benefit by having the zoning on their properties intensified. Neighbors have expressed concerns that rezoning will destabilize their communities, and will lead to loss of affordable housing as the cheapest properties are redeveloped.

8. **Can Be Done Later** – This is not a one-time opportunity. Council could elect to grant the zoning changes at any time in the future. Once there is a path forward for stabilized rents, incentives for construction of affordable housing and family units, creative alternatives to demolition, and a bridge to Clinton station, the case for the city to make the proposed zoning changes will be more convincing.

For these reasons, we do not support the automatic rezoning of the Hawthorne, Division, Clinton or Isolated Commercial properties as currently proposed.

Thank you for considering these comments,

Susan E. Pearce
Chair of Hosford-Abernethy Neighborhood District (HAND)

From:	Joe Adreon Keller
To:	BPS Comprehensive Plan Testimony
Subject:	Comprehensive Plan Implementation
Date:	Thursday, October 13, 2016 11:52:17 AM

Dear Mayor Hales and City Commissioners,

We own property in the Alphabet Historic District, in an area zoned RH with an FAR of 4:1. We strongly urge you to reduce the FAR of all such properties in the Historic District to 2:1.

We have owned a condominium in the Alphabet Historic District since 2001. We value this area, particularly the distinct historic character. In recent years, we have seen a number of outsize buildings go up near us. Surrounded by buildings that are 2-3 stories and with typical FARs of 2:1 or less, they are rising to 5 and even 6 stories, with oversized ground floors giving them even greater height and bulk.

These new buildings are overwhelming and damaging the historic character of our neighborhood. When we bought property in a Historic District, we assumed the character would be maintained, but that is not happening.

You have heard from many people about the importance of preserving historic districts. With Portland's rapid recent growth, these areas may be all that reminds us of the origins of our city. They are a gift to the future. They are also an economic driver, as the many tours of historic districts show.

We understand and support the need for additional housing and increased density in Portland, but this is a National Register Historic District and already one of the densest neighborhoods in Portland.

A few numbers: The Alphabet Historic District is less than 16 percent of the Northwest District. The area that is zoned RH with an FAR of 4:1 within the Historic District is 19 blocks, or about 5 percent of our neighborhood. With 95 percent of our neighborhood available for higher-density housing (to say nothing of the rest of Portland), we urge you to change all of the area in the Alphabet Historic District that is RH with a 4:1 FAR to an FAR of 2:1.

Sincerely,

Joe & Myriam A Keller

1921 NW Hoyt Street, Portland, Oregon 97209

From:	Charlie Tso
To:	BPS Comprehensive Plan Testimony
Subject:	Comprehensive Plan Implementation - Northwest Portland
Date:	Thursday, October 13, 2016 11:50:46 AM

Dear Mayor and Commissioners,

My name is Charles Tso, I serve on the Boise Neighborhood Association, but I am writing this testimony as an individual. I would like to urge you to vote against down-zoning Northwest Portland as part of the Comprehensive Plan Zoning Map amendment.

Northwest Portland has a reputation for being the most walkable, transit-accessible, and economically diverse area in Portland. These qualities that make Northwest Portland a livable neighborhood are the results of density and different housing options.

The proposal would reduce the FAR in NW Portland in about ½ of the Alphabet Historic District. This is about 27 blocks. It is estimated that this might reduce the amount of potential amount of housing by 2 million square feet compared to what is possible under the existing FAR. That might equate to something like 1,500-2,000 units. There is a significant shortage of housing in Portland. This affects all households, but especially puts pressure on the housing needs of households with low and moderate incomes. NW Portland is a high opportunity area. To reduce housing capacity in this area, effectively pushes lower income housing into areas of lower opportunity and more concentrated poverty.

As a renter, I fear that down-zoning Northwest Portland will push housing demand and development pressure into other neighborhoods in the city, making housing more unaffordable and tenants more vulnerable to rising rents and evictions. At a time of housing shortage and diminishing affordability, City Council should support policy and actions that will add more housing options and not limit development of housing.

This down-zoning request will also prohibit the development of an affordable senior housing project, which will provide 160 units to seniors earning $15,000 or less a year. Our senior citizens are in need for affordable housing options in walkable and transit-accessible neighborhoods connected by social services. The proposed down-zoning in Northwest Portland will exclude senior citizens from living in a neighborhood of high opportunities, and push the vulnerable elderly into areas with limited mobility options and social services.

As a resident of Portland, a renter, and a neighborhood activist, I would like to urge you to not approve down-zoning Northwest Portland.

Sincerely,

Charlie Tso

From: Heather Stanley
To: BPS Comprehensive Plan Testimony
Subject: Comprehensive Plan Implementation
Date: Thursday, October 13, 2016 11:50:15 AM

To Whom it May Concern:

As a neighbor living on the section of N Greeley between Rosa Parks and Lombard, I have witnessed incredibly unsafe behavior by drivers, including a speeding motorcycle that routinely flies by at speeds that appear to be in excess of 60 mph, drivers failing to stop for pedestrians in a marked (but unlighted) crosswalk, drivers going around the median at Greeley/Dekum, and fatality caused by a hit-and-run driver.

The southern section of Greeley from Killingsworth to Rosa Parks is designated as a "Community Collector" and has seen improvements along with that status. From Rosa Parks to Lombard, the street has no special designation.

I am aware that the City has made recent investments in North Lombard through the Lombard Reinvestment Strategy and urge you to extend the Greeley's Community Collector status all the way North to Lombard to connect with the streetscape improvements there.

This section of Greeley, between Rosa Parks and Lombard hosts two major crossroads for the neighborhood – at North Buffalo and North Bryant – that bring people of all ages and abilities to Gammans Park, Arbor Lodge Park, Harper's Playground and Chief Joseph School, as well as east and west to the Interstate lightrail transit centers at Rosa Parks and Lombard. The crosswalks along Greeley and the intersections at both Rosa Parks and Lombard are high impact, confusing, chaotic, and consistently busy. Extending the collector status through the Rosa Parks and Lombard intersections with Greeley will assist people in traveling east and west and also encourage connections to the burgeoning commercial center at Greeley/Portsmouth/Lombard with many new small businesses such as Green Zebra, Fang and Feather, Bandinis Pizza, VCA Veterinary Hospital, King Burrito, Arts and Craftsman Supply and more. As this area of Lombard continues to develop, I want to see it well connected and safe for all users.

Sincerely,

Heather Stanley
6825 N. Greeley Ave.

From: Roger
To: BPS Comprehensive Plan Testimony
Subject: Comprehensive Plan Implementation
Date: Thursday, October 13, 2016 11:43:48 AM

Hello City Council,

I strongly urge you to eliminate minimum parking requirements in mixed-use zones. As you are well aware, we have a critical housing crisis, and Portland has already become unaffordable for many people, including some of my friends. We have limited space and we have to make tough decisions with how to use it. I believe parking requirements have encouraged lower density new housing than we could otherwise have - that density could provide much needed units and reduce some of the availability pressure. We should prioritize livable units over parking - which is a luxury. If we're to remain a vibrant city we need to embrace the density, as much as it feels like a new and different Portland than we remember. Parking is a luxury - housing is a necessity.

Thank you for considering my input.
Best,
Roger Braunstein

OREGON PROPERTY MANAGEMENT, LLC
8440 NE Alderwood Rd., Ste. A
Portland, OR 97218
(503) 731-7318
Erika.yoshida@yoshida.com

October 13, 2016

Portland Mayor and City Council
Attn: Camille Trummer

RE: WRITTEN TESTIMONY TO COUNCIL HEARING – OCTOBER 13, 2016
Mixed-Use Zones Project
Comprehensive Plan Amendment 2035

Dear Mayor and Commissioners,

I am a Commercial Real Estate Principal Broker who has specialized in the Portland metro market for over ten years and I appreciate the opportunity to share my serious concern with the down-zoning proposed specifically for the Marquam Hilll commercial corridor inclusive of 836 & 904 SW Gibbs Avenue. I represent both my immediately family, who is in the planning process of development for this commercial property on Marquam Hill, as well as my father-in-law who owns a small bed and breakfast on Marquam Hill, which caters to OHSU.

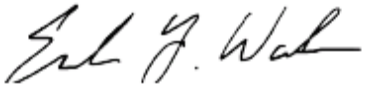
Through both my personal and professional experience it has been extremely apparent that there not only is a dramatic shortage of housing and parking within walking distance of OHSU, but I know first hand that there are very few options for short-term patients and their families, as well as medical staff/students in need of housing in close proximity to the hospital. My father-in-law has constantly had to turn away guests and medical staff/students in need of accommodations – a need my family has intended to address in our future development on Gibbs Avenue.

Since purchasing the property it has been our intention to create a well-designed mixed-use development that provides apartments, services, and parking for healthcare professionals, medical students, patients and their families in a unique location immediately adjacent to the OHSU campus. The parking we have planned to provide will also assist with the extreme parking shortage that exists in the Marquam Hill area, as expressed by hospital management and staff, while also reducing the number of traffic commuters that would then be able to walk to OHSU as a result of our development. Unfortunately, the recent proposed zoning change of our property from CS to CM1, would nearly cut in half the number of apartments and off-street parking that could be offered by our project. This also applies to the other property owners and future developers of the adjacent real estate who also face the proposed down-zoning. In addition, and equally as important, is the significant need for inclusive housing in the area, however, we would very likely be forced to alter plans to offer affordable housing within the future project, as it likely would no longer make financial sense to do so due to the proposed zoning FAR and height limitations.

For the above stated reasons, taking into consideration the immediate access to frequent public transit, and in order to coincide with the 2003 Marquam Hill "village" plan that intended "to create a more cohesive and integrated edge", I would respectfully request that the proposed down-zoning of the CS and CM parcels on Marquam Hill be reconsidered to either remain the same or to be up-zoned to CM3.

Thank you in advance for taking these facts and concerns into consideration and please feel free to contact me with any questions or for further discussion.

Sincerely,



Erika Yoshida Watson

CC: Mayor Charlie Hales
Commissioner Amanda Fritz
Commissioner Dan Saltzman
Commissioner Nick Fish
Commissioner Steve Novick

CARLETON HART ARCHITECTURE P.C.
830 sw 10th avenue #200 portland oregon 97205
503 243 2252 | www.carletonhart.com

October 13, 2016

Portland City Council
1221 SW 4th Ave, Room 130
Portland OR 97204

RE: Comprehensive Plan Implementation

Dear Honorable Mayor Hales and members of Portland City Council:

As both a Portland resident and architect, I oppose the proposed modifications to allowable Floor Area Ratios in the Alphabet District. While I am working with Northwest Housing Alternatives on a potential senior housing project in the area that would be stopped by down-zoning the district, my primary concern is for the greater impact that down zoning can have to this neighborhood and the resulting precedent it sets for other neighborhoods. Not only is promoting density within urban cores a staple of sustainable city development, but also we are in the midst of a City declared housing crisis. I fear neither of those issues is being given the weight they deserve. While it is never the right time to restrict access to neighborhoods that offer connections to jobs, public transit, shopping, etc, it is especially short-sided to do so at a time when our city is struggling to provide housing and so many could benefit from living in such a High Opportunity neighborhood.

In the analysis of a neighborhood's future development capacity, it is important to put that neighborhood into the context of the greater metropolitan fabric. It is critical to look at our entire region holistically and to look beyond the simple tally of acreage of zoned uses. How and where we drive development and encourage density is critical to the health of our City. As an established inner-city neighborhood, within walking distance of the City's core downtown, the Alphabet District provides a prime opportunity to demonstrate how we as a City are able to preserve our historic resources and community assets, while growing rationally within a structured plan. Every neighborhood throughout Portland should be prepared to take on growth and density. Inner city neighborhoods, such as the Alphabet District, have a specific role in the growth of the city. Our most intensive density should be in these close-in neighborhoods. As prescribed in Metro's 2040 Growth Concept, growth should target city centers and take advantage of existing city investments and infrastructure.

The Alphabet District is not only within walking distance of the City core and well served by multiple means of transportation, but is also rich in services and amenities within its own boundaries. The patterning of residential and commercial development throughout the neighborhood and greater NW District allows people to live, work, shop and recreate without getting into a car or onto a bus. It is, in fact, a model neighborhood for our City. This infrastructure has the capacity to accommodate more people and more development, and that additional development will only further the richness of the neighborhood.

High Opportunity Areas - neighborhoods that allow people to live in close proximity to job centers, commercial/retail districts, transportation hubs, and cultural districts – provide residents with far more than an address. Living in a vibrant community with access to city amenities, can impact health, job security, and finances. It is paramount that High Opportunity Areas, like the Alphabet District and other inner city neighborhoods, not be reserved for the wealthy. If the City limits growth to lower scale forms of housing, such as townhomes, row houses, or low scale lofts, only those that can afford the expense and inefficiency of those housing types will benefit and those that need "opportunities" the most will miss out. No neighborhood should have the right or ability to "opt out" of participating in the growth and contributing to the evolution of our City. Neighborhoods are not static entities. They will and must continue to evolve as a city evolves. Inner-city neighborhoods, in particular, must grow if the core of our city is to remain healthy, vibrant, and diverse.

Of course, a City known for its progressive planning practices understands this. It was that understanding that led City Planners to institute the 4:1 FAR overlay in the 1980 Comprehensive Plan, embracing the need to forecast growth and systematically direct development to areas of the city where it was most appropriate and the infrastructure available. In the 36 years since, the Alphabet District has seen a healthy combination of well managed development and the preservation of many historic resources. The assertion that the 4:1 FAR is out of keeping with or will encourage the demolition of contributing buildings within the Historic Alphabet District conflicts with the data.

- Since the 1980 zoning change, only three projects have been built in the Historic Alphabet District with more than 2.5:1 FAR adding to the seven historic contributing buildings within the District that have a 4:1 or higher FAR.
- Many lots have been developed in the past ten years and are unlikely to redevelop in the foreseeable future.
- There are currently 13 undeveloped lots of which seven are owned by a church or cultural center. That leaves only six lots left for new development.
- There are currently 17 lots with existing low-density structures that could potentially be redeveloped. Most of these lots are either low-density residential or commercial office space. It seems unlikely that they would all be redeveloped within the next 20 years.
- There are currently six lots with existing low-density structures that will most likely *not* be redeveloped. They either contain churches or newly-built townhouses.
- The number of lots containing contributing buildings vastly outweighs the number of redevelopable lots.
- The contributing buildings are preserved by the protections offered by the City's Historic Design Review process and Landmarks Commission.
- The City has permitted only one contributing building within a historic district building to be demolished.
- See attached map for additional information.

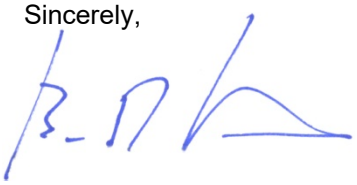
Based on the numbers above and the precedent set by The Historic Landmarks Commission and City Council to preserve historic buildings, I believe leaving the existing 4:1 FAR overlay in place will only lead to a sprinkling of residential infill consistent with the history of the area.

As recognized in the *Historic Alphabet District: Community Design Guidelines, "*Grand single-family homes sit next to first-class apartment buildings in a physical representation of the sociocultural transition experienced by one of Portland's oldest neighborhoods." The diversity of architecture in both style and scale is unique to the neighborhood. It is the blend of short and tall; new and old; residential; commercial & community facilities that provides neighborhood character. Existing historic fabric contains varying height levels, which adds to the richness of the building stock and the pedestrian experience. Precedents can be found of contributing and non-contributing high-density structures adjacent to contributing and non-contributing low-density structures and single family homes. Additionally, mature landscaping and street trees contribute to the neighborhood character but are often overlooked in the discussion of massing. However, they have a large impact on the perceived density of streets and often aid in the visual transition from low to high building masses.

As the owner of an architecture firm that has received numerous awards for our work in historic preservation, I care deeply about the historic fabric of our City and believe historic resources should be protected. I also believe history should be viewed inclusively and, in the case of the Historic Alphabet District, one cannot protect the District without protecting the architectural diversity. The mix of historic buildings ranges from two-story Victorian homes to six-story apartment buildings to various religious, cultural and commercial buildings. While scandalous when first introduced into the neighborhood in 1903, taller apartment buildings added to the richness of life in the neighborhood and opened it to a more economically diverse group of citizens. This is an ideal that we are struggling to realize throughout our city today. By reducing the FAR on the limited amount of redevelopable land and unreasonably restricting the density of future development, we will end up with a neighborhood scale that is counter to both the historical development pattern within the neighborhood and the very fundamental principles of urban design and managed growth. Returning this neighborhood to its roots as an enclave for the wealthy, will force low and moderate income citizens to move further from the city core and its opportunities in order to find affordable housing.

Preservation and development must not be at odds. Context appropriate, neighborhood friendly development at higher densities and scale is possible and Portland already has guidelines and review mechanisms in place to ensure new development is sensitive to the historic resources.

Sincerely,



Brian Carleton, AIA, Principal
Carleton Hart Architecture, PC

Precedent Images:
The following photographs were taken by Carleton Hart Architecture on October 10, 2016.

1. Precedent of a contributing high-density residential structure (2018 NW Everett St., built in 1910) adjacent to a contributing single-family residence (239 NW 20th Ave., built in 1890) located within the RH zone of the Alphabet District.

2. Precedent of a newer high-density residential structure (2041 NW Everett St., built in 1972) adjacent to a contributing single-family residence (311 NW 20th Ave., built in 1906) located within the RH zone of the Alphabet District.

3. Precedent of a newer high-density residential structure (824 NW 20th Ave., built in 1996) adjacent to a contributing single-family residence (1962 NW Kearny St., built in 1884) located within the RH zone of the Alphabet District. It should be noted that 824 NW 20th Ave. (The Kearney House) is listed as an example of high-density development fitting within the historic context of the area in the *Historic Alphabet District: Community Design Guidelines Addendum*, page 40.

4. Precedent of a newer high-density residential structure (824 NW 20th Ave., built in 1996) that reaches the maximum allowable height.

5. Precedent of a contributing high-density residential structure (410 NW 18th Ave., built in 1910) adjacent to a single-story commercial development (1740 NW Glisan St., built in 1927) located within the Alphabet District.

6. Precedent of a contributing high-density residential structure with no street setbacks and emphasis on verticality of massing (1983 NW Flanders St., built 1930).

Historic Fabric Images:
The following photographs were submitted as part of the application to the National Historic Register (archived on their website) as illustrations of the historic fabric and livability of the proposed Alphabet District.

7. The photograph illustrates the precedent of denser buildings adjacent to low-density development.

8. Another photograph illustrating the precedent of a denser building adjacent to a low-density development.

9. Another photograph illustrating the precedent of a denser building adjacent to a low-density development.

10. The photograph illustrates the precedent of a row of denser buildings along street frontage.

existing building FAR

- 0.000000 - 2.000000
- 2.000001 - 4.000000
- 4.000001 - 50.000000
- vacant parcels
- (e) low-density structure
- (e) low-density structure - redevelopment not likely
- contributing buildings

City of Portland Buildable Lands Inventory
Historic District FAR Analysis |

Feet
0 200 400
NORTH

From: Kate Gefroh
To: BPS Comprehensive Plan Testimony
Subject: Comprehensive Plan Implementation
Date: Thursday, October 13, 2016 11:39:05 AM

To Whom it May Concern:

As a neighbor living on the section of N Greeley between Rosa Parks and Lombard, I have witnessed on two occasions vehicles running off Greeley, up onto the sidewalk and into a parked car in a driveway. I have seen trees and signs with evidence they were hit with some force by a car (one example is my own parking strip tree that now leans inward and had a huge gouge in it). Many afternoons while working in the front yard I see motorcycles speeding well over the limit. There has been an increase of semi trucks using Greeley as well. As a mom I walk many times a week with my daughters in a double stroller. Frequently I must wait for car after car to stop at the designated cross walk on the corner of Greeley and Bryant. Most recently of course my husband actually WITNESSED (he was driving north and saw Stanley hit, saw him propelled into the air several feet, and finally land) the hit and run of a gentleman with a shopping cart crossing at this same DESIGNATED CROSSWALK just before dusk. He was the one who made the 911 call and quickly ran to stop oncoming traffic from Lombard to avoid another car striking this man. I too heard the hit and run and immediately ran there. Stanley was screaming in pain. He was bloody, battered, and broken. His shopping cart flew another 10 feet and only stopped because it hit a tree. Contrary to the news reports...the driver never stopped...not even for a moment. This event was tragic in so many ways. Both my husband and I have overwhelming sadness for having witnessed this. This man had a family and he was part of our community. He deserved better. We all do.

I attended the gathering at this same corner two weeks ago with my daughters to honor Stanley and to aid in community awareness. We all held signs and waved at drivers. During this time I couldn't help to think of what if one of my children were struck, what if a child walking or biking to school were to be hit. What if another senior (homeless or not!) were hit.....

I understand that Greeley experiences heavier traffic. I do not allow my children to play in the front yard for this very reason however I DO feel that we should be able to walk ourselves to the corner and across the street without worrying about a driver plowing into us.

The southern section of Greeley from Killingsworth to Rosa Parks is designated as a “Community Collector” and has seen improvements along with that status. From Rosa Parks to Lombard, the street has no special designation.

I am aware that the City has made recent investments in North Lombard through the Lombard

Reinvestment Strategy and urge you to extend the Greeley's Community Collector status all the way North to Lombard to connect with the streetscape improvements there.

This section of Greeley, between Rosa Parks and Lombard hosts two major crossroads for the neighborhood – at North Buffalo and North Bryant – that bring people of all ages and abilities to Gammans Park, Arbor Lodge Park, Harper's Playground and Chief Joseph School. As well as east and west to the Interstate Lightrail transit centers at Rosa Parks and Lombard. The crosswalks along Greeley and the intersections at both Rosa Parks and Lombard are high impact, confusing, chaotic, and consistently busy. Extending the collector status through the Rosa Parks and Lombard intersections with Greeley will assist people in travelling east and west, but also encourage connections to the burgeoning commercial center at Greeley/Portsmouth/Lombard with many new small businesses like Green Zebra, Fang and Feather, Bandinis Pizza, VCA Veterinary Hospital, King Burrito, Arts and Craftsman Supply and more. As this area of Lombard continues to develop, I want to see it well connected and safe for all users.

I appreciate your consideration of this matter.

Regards,

Kate Gefroh
6828 N Greeley Ave

From: Alan Costley
To: BPS Comprehensive Plan Testimony
Subject: Comprehensive Plan Implementation
Date: Thursday, October 13, 2016 11:35:40 AM

Comprehensive Plan Implementation October 13, 2016

To: Portland City Council
Mayor Charlie Hales, Commissioner Nick Fish, Commissioner Amanda Fritz, Commissioner Steve Novick, Commissioner Dan Saltzman

From:
Alan Costley
1711 NW Hoyt St
Portland OR 97209

Dear City Council

I am writing to oppose the proposed reduction in FAR in Northwest Portland.

I recently received the unexpected notification that my property at 1711 NW Hoyt St, and many others nearby, had a proposed change to the zoning standard that would reduce the FAR from 4:1 to 2:1. The property at 1711 NW Hoyt St is a 110 year old single family residence in the Alphabet Historic District in NW Portland. We value the historic neighborhood, the walkable amenities, and the investments that have been made in public transportation in our neighborhood.

Given the shortage of affordable housing in the city and the stated goal of increasing urban density, especially in areas with good transportation infrastructure, reducing density in this neighborhood seems shortsighted. The neighborhood is already a historic district, which protects many of the historic properties and places restrictions on new development. Further restrictions would only limit the addition of needed housing, especially affordable housing.

The reduction in FAR limits new development, but also would limit replacement construction. I and my family live in this single family house and intend to live in it and maintain it for as long as we are able. We have also made investment seismic upgrades to preserve our lives and the property in event of a major earthquake. However, if our property became uninhabitable from a natural disaster, reconstruction would be unduly restricted by this zoning change. Many current existing properties in the area could not be rebuilt as they are now. Adding more regulatory restrictions would further limit or delay rebuilding.

Please reject this proposed comprehensive plan change.

Respectfully

Alan Costley

Alan Costley
acost@teleport.com
503.222.2373

Dunn Carney Allen Higgins & Tongue LLP ATTORNEYS AT LAW

October 13, 2016

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Oregon and Washington

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INTERNET
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Via Email: cputestimony@portlandoregon.gov

Council Clerk
City of Portland
1221 SW Fourth Avenue, Room 130
Portland, OR 97204

Re: 6141 SW Canyon Court
Zoning Map Changes
Ordinance Nos. 165851, 177028, 187832 Testimony
Our File No.: RAS10-1

Dear Mayor and Council:

As you know, we represent Dr. Nader Rassouli, owner of the referenced property. Recall that Commissioner Novick proposed amendment of the Comp Plan designation of this site, from R20 to R5. Tim Ramis and I testified in support of that proposal.

After substantial deliberation, the Council approved Commissioner Novick's proposed amendment at its May 11 session. In doing so, the Council specifically considered, but ultimately rejected, the idea of requiring the property owner to separately apply for a quasi-judicial zone change.

My review of the proposed zoning map before you today[1] is that it fails to recognize the Council's prior decision. In contact with Commissioner Novick's staff, I understand this to constitute a simple mapping error that staff will correct. I write today simply to go on record with the need to make this correction, specifically that 6141 SW Canyon Court be rezoned from R20 to R5.

[1] Specifically, Exhibit D-1, "Recommended Zoning Map Changes (August 23, 2016)," to Agenda Item 1152.

Again, we appreciate your consideration and look forward to addressing any questions you may have.

Very truly yours,

Ty K. Wyman

TKW:car
cc: Nader M. Rassouli, DDS (via email)
Katie Shriver, Policy Director, Office of Commissioner Steve Novick (via email)
Tim Ramis (via email)
Mike McCulloch (via email)
DCAPDX_2186369_v1

Doug Klotz

1908 SE 35th Pl.

Portland, Or 97214

Oct. 13, 2016

Testimony on Comp Plan Implementation

Remove parking requirements in MUZ, but also in the interim as part of IH adoption

At the PSC briefing on Tuesday, we learned that the Inclusionary Housing proposal has less chance of penciling out in the Mixed Use zones than in Central City. Part of this is due to the lack of robust incentives, like full property tax exemption. Here is where the removal of all parking requirements in Mixed Use zones will help get more affordable housing built. Not only should this be adopted now as part of the 2035 plan, to be effective in 2018, but Council should consider an interim removal of the parking requirements in Mixed Use with the adoption of the Inclusionary Housing code, which is planned to go into effect on February 1st.

Upzoning R-5 to R-2.5

I support the Upzoning of R-5 to R-2.5 where the Comprehensive Plan designation is R-2.5 I support all the locations staff has identified as appropriate for this, as Recommended by Planning and Sustainability Commission. All of these locations have been Designated R-2.5 for decades, and zone changes could have been sought. This change removes a barrier to increased housing along transit corridors and centers, where it will help achieve the Plan's goals.

MUZ Ground Floor height bonus

The Mixed Use Zones proposal adds a provision where, if the ground floor is 15' tall instead of the usual 12', the base height, the step-down height, and the bonus height may be increased by 5'. I support this provision, which provides more usable and light-filled ground floor spaces. I support the height increases on the rear stepdown (from 35 to 40 feet), as well as the increase on the rest of the building from 45' to 50', (or 55' to 60' if Affordable Housing bonuses are used).

Major City Bikeway designations in TSP

I support the designation of NE 7th from Broadway north to Fremont as Major City Bikeway. 7th is the best choice for a north-south route in this area.

I support the designation of Sandy Blvd. from NE 12th to NE 162nd as a Major City Bikeway. This designation will be important as the city looks at rebuilding Sandy to a more modern, multimodal street, as is being done on Foster Road now.

Support keeping FAR at 4:1 in NW Portland RH areas

Northwest Portland is the best neighborhood for alternative transportation outside Downtown. The low carbon footprint of these residents is outstanding. Allowing more housing to be built in this area is important to meet Comprehensive Plan goals. All the RH that has 4:1 FAR today should keep that rate.

Doug Klotz

1908 SE 35th Pl.

Portland, Or 97214

Oct. 13, 2016

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MUZ Ground Floor height bonus 33.130.210 C 8

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13 October 2016
Portland City Council
1221 SW Fourth Avenue
Portland, OR 97204

Re: Comprehensive Plan Implementation

I appreciate the opportunity to testify in favor of the proposed FAR reduction in the historic Alphabet district.

The subject line of a mass email message from a local law firm to potentially affected property owners in the Northwest on September 21 was "Portland proposes to downzone the Northwest District." The lawyer who sent the email is a partner in the law firm of one of the owners of the property in the Alphabet district involved in the matter under discussion today.

The email was a response to the City Council's plan to bring the base zoning provisions of the Alphabet district into compliance with the Historic Resource Review guidelines. The subject line of the mass mailing was misleading. The entire Northwest District is not involved. Only the Alphabet district, a small section of inner northwest that represents only 16% of the District, is involved. Eighty-four percent is not.

All of us who own property in this area are aware of the privileges and restrictions of living in a historic district. In the case involved here, two lawyer-owners of property in the Alphabet district are unhappy with the obligations that come with owning property in such a district. Their objection centers on the floor area ratio for new buildings, which means that they could not build the oversized, 160 unit apartment complex they have in mind. For several years they have been trying to build something on the property they own between Hoyt and Irving on 18th street. Their proposals have been opposed by the neighborhood because the building they want to construct, in order to maximize their investment, is blatantly out of scale with the surrounding historic neighborhood. They are asking to have their property exempted from the proposed zoning provisions. They have also threatened to sue the city if City Council refuses to grant this exemption.

Nor have they stopped with the threat of a lawsuit. They have cleverly attached their personal agenda to several real and difficult housing issues the city currently faces. They have woven the desire for personal gain into a narrative of affordable housing, gentrification, and not-in-my-backyardism. Because these are high-level housing agenda issues, their efforts have fallen on receptive ears. They have been able to enlist media outlets and two respectable non-profits to spread misleading information under the umbrella of their chosen narrative. Examples of this misinformation include 1) the claim that if the FAR reduction takes place, the city – that is, taxpayers - will possibly expose itself to as much as 30 million dollars in lawsuits under the takings provision of measure 49 while concealing the fact that taxpayers will be funding this project anyway by a combination of city, state, and federal taxes. And, in addition, the owners will receive at least 60 years of lease revenue, again subsidized by taxpayers! 2) the assertion that northwest Portland is resistant to affordable housing when in fact it has encouraged it; 3) the idea that it is elite, wealthy homeowners who oppose the FAR changes when in fact the median

income of individuals in the Alphabet district (as opposed to the much larger Northwest district) is modest; 4) creating a false dichotomy that asserts that historic preservation is incompatible with low-income housing; within seven blocks of our residence there are 370 units of low-income housing; 5) suggesting that thousands of apartments will not be built if the zoning alignment takes place when in fact this might only be true if the entire Northwest District is included; 6) giving the impression that the entire Northwest district in involved when only a small subsection of it is and exaggerating the number of blocks affected by the FAR reduction.

Threats and misinformation are not unique in public discourse, but it is our hope that your decision about this issue will be consistent with the provisions you adopted in June and not with the individuals who are asking for what amounts to a spot exemption for their property.

Sincerely,

Richard U'Ren
1735 NW Irving Street
Portland, OR 97209

From:	Robin Sullivan
To:	BPS Comprehensive Plan Testimony
Subject:	Comprehensive Plan Implementation
Date:	Thursday, October 13, 2016 10:47:25 AM

Hello,

I am writing to highly encourage the city to conduct a study of truck traffic and the potential for a new North Willamette River crossing for freight traffic moving to/from the terminals.

St Johns is still pretty affordable (compared to other neighborhoods) and will see more expansion as the city expands. For residents on N Lombard/N Ivanhoe west of St Louis Ave have dealt with the truck traffic for far too long. Residents have to cross the freight traffic to get to the downtown business district of St Johns whether as a pedestrian or in a vehicle. It is very unsafe. I have lived in the neighborhood near the intersection of N Lombard and N St Louis since 2006. The freight traffic has increased exponentially and is only going to get worse in the years to come as population explodes in the neighborhood.

Reasons for a new freight crossing across the N Willamette River near terminals:
1. Alleviate traffic and weight on the St Johns bridge.
2. This area is very much a residential part of St Johns and deserves to be treated as such. Freight traffic does not belong on these roads. I have seen many close calls between trucks/pedestrians, trucks/bicycles, and trucks/cars.
3. Not only is it an extremely unsafe intersection/route but traffic moves fast down N Lombard coming from and moving to the terminals. Traffic is not doing the speed limit nor is the speed limit posted here. I am pretty sure N Lombard between St Louis and Catlin is 20 or 25 mph, yet traffic is doing as much as 40mph down this stretch. Simply unsafe!
4. Alleviate noise and pollution. The noise starts at 5am and continues until 8-9pm at night every single day except Sundays. On top of that, you barely open windows because of the noise and exhaust fumes coming into homes.
5. I imagine the banging, vibrating, and rumbling of these huge trucks driving past residential houses/apartments/condos are doing damage to thebuilding foundations.
6. I cannot imagine that the truck drivers like or want to be driving on these small neighborhood roads to get to/from the terminals.

Thank you for listening!
Robin Sullivan
9221 N Lombard St
Portland, OR 97203
(503) 317-6397

From:	Christopher Eykamp
To:	BPS Comprehensive Plan Testimony; Hales, Mayor; Novick, Steve; Commissioner Fritz; Commissioner Fish; Commissioner Saltzman
Subject:	Comprehensive Plan Implementation
Date:	Thursday, October 13, 2016 10:33:43 AM

Dear Mayor and City Council Members,

I am writing to urge a cautious approach to eliminating parking requirements in new residential developments. Parking requirements are not driving rents higher. Large new residential developments without sufficient parking provide a way for developers to offload part of their cost structure onto the wider community. Unless there is a mechanism in place to ensure residents of these developments not park their cars in nearby residential areas, existing residents will bear the cost of insufficient parking in the form of increased hassle and reduced quality of life.

Affordability is a red herring. There is no evidence that reduced parking has any impact on housing prices; economics suggests developers will rent their units at the market rate regardless of development costs, and that any savings in these costs will not be reflected in lower rents. As long as street parking is available, residents of low-parking buildings will simply park on neighborhood streets rather than reduce their car use. In Portland's current housing market, it is unlikely that any significant projects are being canceled because of the incremental cost of parking provision.

It is not reasonable to ask existing neighborhood residents to bear the externalized costs of a developer providing insufficient parking for their residents. I would support reducing the parking requirement only if it is done in the context of a parking permit system, or other mechanism to ensure that those who choose to live in developments that do not have parking available do not park on neighborhood streets. I fully support efforts to reduce car ownership, so reducing parking provision in the context of a larger parking framework would be totally acceptable; I oppose it being done as an isolated action.

I would ask that you consider postponing reducing the parking requirements for new developments until you are able to implement a permit system or other scheme to ensure that more of the true costs of development is borne by the developer and not the community at large.

Thank you,

Chris Eykamp
2101 SE Tibbetts
Portland, OR 97202

From:	Christopher Eykamp
To:	BPS Comprehensive Plan Testimony; Hales, Mayor; Novick, Steve; Commissioner Fritz; Commissioner Fish; Commissioner Saltzman
Cc:	Stockton, Marty
Subject:	Comprehensive Plan Implementation Package Testimony -- CR Zone
Date:	Thursday, October 13, 2016 10:29:16 AM

Dear Mayor and City Council,

I am writing to comment on the proposed CR zone. This new zone is designed to fill the niche created as commercial properties are converted from non-conforming residential to proper commercial zoning. Most of the affected parcels are small, isolated commercial sites, surrounded by residential, such as People's Coop at 3029 SE 21st Ave. Due to the way they are situated, these properties pose challenges over noise, traffic generation, and redevelopment not faced my most other commercial properties. The embedded nature of these sites means they can provide essential commercial services, but also have the potential to be highly disruptive to the surrounding residential areas.

The proposed CR zone represents a good start, but it does not yet offer neighbors the same level of protection from negative impacts they currently have under the non-conforming use rules.

1.) Under regulation 18.10.010, non-conforming commercial properties in residential areas are limited to emitting 55dBA of noise. Under the CR zone, these limits would be increased to 60dBA. The CR zone should include language stating that, for noise purposes, they will be regulated as if they were residential.

2.) There is no requirement that CR properties remain in commercial use. They could be redeveloped as a purely residential use, leaving the neighborhood without the commercial services CR properties are intended to provide. The problem is that they can often be redeveloped at a higher density than the surrounding properties, making them attractive redevelopment targets. An easy fix would be to either require commercial services to be included in any redevelopment, or to limit density of a residential-only redevelopment to that of the surrounding neighborhood. It would be ironic if attempts to preserve neighborhood level commercial services led directly to their extinction.

3.) A final concern is nighttime trash pickup, which can present unique challenges to livability. If Portland is serious about maintaining livability while increasing density, we will have to confront this issue at some point. CR properties are not the only ones where late night/early morning trash pickup is a concern, but they seem a good place to start -- the zone is new, there are not many properties zoned CR, those that are have businesses accustomed to the close proximity of residences, and the embedded nature of CR zoned properties means that their noise affects many surrounding residents.

I support the creation of the CR zone, but it remains an unfinished work. I hope that you will see fit to address the shortcomings in the current proposal, and make it a model for how small-scale commercial properties can co-exist with residential uses, something that will become more important as Portland grows.

Thank you,

Chris Eykamp

2101 SE Tibbetts
Portland, OR 97202

October 13, 2016

Portland City Council
City of Portland, Oregon
1900 SW 4th Avenue
Suite 7100
Portland, Oregon 97201

Dear Portland City Council:

I am writing in regards to the property located at 8440 NE Halsey Street, Portland, OR 97232 (State ID: 1N2E33BB 2100) currently zoned CG and recommended for CE. The property is owned by Karamanos Holdings, Inc. the parent company of Sunshine Dairy Foods Management, LLC. The purpose of this letter is twofold. First, I would like to describe who Sunshine is and its history. Second, I hope to describe some of Sunshine's relevant concerns as they relate to the recommended Major Public Trail alignment located on our property.

With that said, Sunshine Dairy Foods was founded in Oregon on May 17, 1935; 81 years ago. Sunshine has continued its storied tradition of producing and serving the highest quality dairy products, and dairy alternatives, to local food service customers, food manufacturer partners, retailers and co-packing partners. The company has built its business around producing the highest quality, best tasting, and natural dairy and non-dairy products. Sunshine's products are produced at two separate facilities, both located in Portland, and products are generally distributed out of our warehousing facility in Clackamas.

With 81 years of history in Portland, Sunshine has become a large local employer and has given back to its community in a number of ways. Sunshine's dedication is to its hundreds of Portland-area consumers, thousands of hours of volunteer work by its employees and owners, tens of thousands of dollars in donated products to local charities and food banks, and community support through over 100 living-wage jobs. The history of Sunshine has helped to craft and solidify Portland's unique spirit.

Sunshine is unique in Portland because we use a cold bowl separation process for our fluid milk products that may take longer, but results in superior products since the milk is only heated at the pasteurization step. The taste is clean and fresh, never over processed. Sunshine's growing number of chefs, café owners, bakeries, hospitals, retailers and consumers who are concerned about the quality and source of their ingredients continue to choose Sunshine.

We have concerns about the recommended Major Public Trail alignment affecting our property. This specific property is the location of one of our processing plants. Our facilities in Portland, in total, handle five to seven tanker trucks of raw milk and 12 or more semi-truck loads of product in and out every day. This recommended trail alignment could have a material adverse effect on our ability to operate this processing plant if it is aligned in such a way that limits our operating capabilities or prohibits our ability to receive and/or load-out product. This property has many improvements along the south property line that are critical to our ongoing operations. These improvements include, but are not limited to the following.

- Receiving and load-out bay for tanker trucks and semi-trucks.
- Electrical hookups and parking lot for refrigerated delivery trucks
- Chill water equipment
- Electrical transformers and breaker boxes

Additionally, this recommended Major Public Trail alignment could have a material adverse effect on Sunshine's food safety procedures that are in effect at this processing facility.

Finally, and with all of that in mind, we respectfully request that the City Council carefully review and consider the financial, operational, and food safety impact that a Major Public Trail would have if located on, or in close proximity to, our property.

We appreciate your consideration of our request and recommendation. We look forward to your response.

Sincerely,

Jason M. Frank
Chief Operating Officer | Sunshine Dairy Foods
Executive Vice President | Karamanos Holdings, Inc.
(Email) jfrank@sunshinedairyfoods.com

"The Sun Tastes Better Here"

From:	Steven Cornils
To:	BPS Comprehensive Plan Testimony
Subject:	Comprehensive Plan Implementation
Date:	Thursday, October 13, 2016 9:53:23 AM

Regarding the classification of NE 9th as a Major City Bikeway:

Opposition to this decision still exists among the residents on both sides of NE 7th as well as all the streets that will be impacted by the reduction of traffic on NE 7th. Increased congestion on NE MLK and NE 15th is not optimal. Increased cut-through drivers at increased speed through the Irvington neighborhood and around Irvington Elementary is dangerous. Albina Headstart cannot be negatively impacted in any way, whatsoever.

Concerned residents about the impacts of NE 7th have been promised that their concerns would be addressed. Design work on this project cannot proceed without full integration of the residents in the neighborhoods impacted. I expect multiple meetings to be offered by PBOT as design work moves forward so that a solution can be designed that is pro-neighborhood.

PBOT, please do not go forward with this project unless you also have a plan to hold meetings with the public to ensure the many concerns already brought to you through the public testimony process are addressed.

Thank you.

Steven Cornils
2544 NE 8th Ave
Portland, OR 97212
503-347-1554

From:	Mike Connors
To:	BPS Comprehensive Plan Testimony
Subject:	Comprehensive Plan Implementation - Mixed Use Zoning - Space Age Fuel
Date:	Thursday, October 13, 2016 9:53:07 AM
Attachments:	image001.png City Council Ltr dated Oct. 13 2016 re Drive Through Amendments.pdf

This firm represents Pliska Investments, LLC and Space Age Fuel, Inc. ("Space Age Fuel"), which owns and operates several gas stations/convenience stores/service garages throughout the City. We will be submitting the attached letter to the City Council at their October 13, 2016 hearing for the Comprehensive Plan Implementation. To ensure that this letter is entered into the included in the record for this matter, we are submitting this letter via email as well. Please include this letter as part of the record for the City Council's consideration. Please provide E. Michael Connors written notice of the City Council's final decision at the address below. Thank you for your assistance.

E. Michael Connors
Hathaway Koback Connors LLP
520 SW Yamhill Street, Suite 235
Portland, OR 97204
503-205-8401 (direct)
503-205-8400 (main office)
503-781-0280 (mobile)
mikeconnors@hkcllp.com
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Hathaway Koback Connors LLP

520 SW Yamhill St.
Suite 235
Portland, OR 97204

E. Michael Connors
503-205-8400 main
503-205-8401 direct

mikeconnors@hkcllp.com

October 13, 2016

VIA HAND DELIVERY

City Council
City of Portland
1221 SW 4th Avenue
Portland, OR 97204

Re: Comprehensive Plan Early Implementation - Mixed Use Zones Project
Drive Through Facilities
Pliska Investments, LLC & Space Age Fuel, Inc.

Dear Mayor and Commissioners:

This firm represents Pliska Investments, LLC and Space Age Fuel, Inc. ("Space Age Fuel"), which owns and operates several gas stations/convenience stores/service garages throughout the City.[1] We are submitting this letter to express our serious concerns and strong opposition to the Planning & Sustainability Commission's recommended amendments to drive through facilities as part of the Mixed Use Zones project, in particular the recommendation to prohibit all drive through facilities in the City east of NE/SE 80th Avenue pursuant to the amendments to PCC 33.130.260.[2]

We request that the City Council adopt the Bureau of Planning & Sustainability staff's recommendations for addressing drive through facilities, which were developed after months of analysis and dialogue between the City staff and community members who submitted comments on this issue. We attached the relevant sections of both the Planning & Sustainability Commission's recommended amendments (Exhibit A) and the City staff's recommended amendments (Exhibit B). Additionally, we request that the City Council zone all of Space Age Fuel's properties CE.

[1] The Mixed Use Zones recommendations propose to rezone the following Space Age Fuel properties as follows: (1) 16431 SE Foster Rd. from CG to CE; (2) 8410 SE Foster Rd. from EX to CM3; (3) 12920 SE Stark St. from CG to CE; and (4) 11214 SE Powell Blvd. from CN2 to CM1.

[2] Gas stations qualify as "Quick Vehicle Servicing" uses under PCC 33.920.220(A) and are expressly included in the definition of Drive Through Facility under PCC 33.910.030.

A. The Planning & Sustainability Commission ignored the public testimony and staff recommendations, and adopted its own policy without any supporting evidence or analysis of its impact.

The Planning & Sustainability Commission's recommended amendments are inconsistent with the City staff's recommendations and the public testimony submitted on this issue. Space Age Fuel and several other parties submitted public testimony and worked with the City staff for months regarding the proper balance for regulating drive through facilities in the new mixed use zones. As a result of that extensive analysis and dialogue, the City staff recommended that new drive through facilities be allowed in the CE zone only and allow existing drive through facilities in the CM1, CM2 and CM3 zones to continue and/or redevelop under certain circumstances. While these amendments were not ideal for Space Age Fuel and other drive through operators, we supported this proposal as a workable compromise that balanced the competing interests.

The Planning & Sustainability Commission ignored this proposal and adopted its own proposal without any analysis or public input. After months of discussions and analysis on the appropriate balance for regulating drive through facilities in the new mixed use zones, Commissioner Baugh waited until *after* the public record was closed to propose a significant change - an amendment that prohibits all drive through facilities east of NE/SE 80th Avenue and renders all existing drive through facilities nonconforming uses. As a result, Space Age Fuel and the other affected parties had no opportunity to comment on this new proposal. Nor was any analysis performed to support this amendment or even to understand the implications of such a broad sweeping change. The City staff evaluated this new proposal and recommended that the Planning & Sustainability Commission not adopt it.

Even though a majority of the Planning & Sustainability Commission voted to forward this recommendation to the City Council, several Commissioners do not support this amendment and some were unclear about the implications. We strongly encourage the City Council to review the Planning & Sustainability Commission's August 23, 2106 deliberations for this amendment (*See* video of deliberations from 2:11:35 to 2:39:40). Several Commissioners voted against the amendment and two of the Commissioners (Commissioners Smith & Spevak) that voted to forward the amendment to the City Council stated that they did not support the actual policy change but voted for it solely to get the City Council to discuss this issue. (*See* video of deliberations from 2:35:00 to 2:39:40). Several Commissioners expressed concern that the proposed amendment was too broad to address Commissioner Baugh's main concern – too many fast food restaurants in this part of the City – since drive through facilities encompass a much broader group of uses. These issues were raised, but never resolved before the Planning & Sustainability Commission voted on the amendment. It appears from the deliberations, which focused on fast food restaurants, that the Planning & Sustainability Commission did not understand that the amendment would prohibit gas stations as well.

The City Council should not adopt a recommendation that is contrary to the City staff's recommendations and the public testimony submitted below, and that lacks any support or analysis of the implications of such a sweeping change.

B. The City Council should not adopt the proposed amendment for a variety of policy and legal reasons.

There are several policy and legal reasons why the City Council should not adopt the proposed amendment prohibiting drive through facilities east of NE/SE 80th Avenue. First and foremost, the amendment ignores the fact that there is a need for some drive through facilities in this part of the City, in particular, gas stations. While we understand that the mixed use zones are intended to be more pedestrian friendly, there is still a substantial public need for accessible gas stations since automobiles are the primary mode of transportation for the vast majority of Portland residents and will continue to be so for decades to come. Prohibiting all gas stations on properties in the City east of NE/SE 80th Avenue, roughly a quarter of the City, would require all of these residents to drive across town to get gas for their cars. The City staff proposal provides a better balance by allowing drive through facilities in the CE zone while restricting new drive through facilities on other mixed use zones.

The amendment would prohibit existing drive through facilities from upgrading and modernizing their facilities. The amendment would render all existing drive through facilities east of NE/SE 80th Avenue nonconforming uses and therefore prohibit these operators from making any significant changes to their facilities. Space Age Fuel wants to redevelop and modernize its facilities in the near-term future. Some of these facilities are older facilities that would greatly benefit from modernization. The City should encourage this type of investment and improvement to these facilities, not preclude it. The City staff proposal provides a better balance by allowing existing drive through facilities in the CM1, CM2 and CM3 zones to redevelop and upgrade these facilities under certain circumstances.

The amendment will not lead to the redevelopment of these properties with different uses. As the Planning & Sustainability Commission discussed at its July 12, 2016 work session, past experience shows that converting existing uses to nonconforming uses through these types of broad zoning amendments does not lead to redevelopment. Certainly not for such a large and diverse area as east of NE/SE 80th Avenue. New mixed use development is spurred largely by market conditions and the mere fact that existing drive through facilities will be nonconforming uses does not mean that developers will suddenly decide to redevelop these sites. That is particularly the case for a gas station site because it is extremely challenging and cost prohibitive to redevelop a former gas station use into another type of use due to environmental issues. Rather than spurring redevelopment, the amendment will simply incentivize these operators to continue with the existing development as is and not invest in improving the site.

This amendment would unfairly impact those business and property owners whom currently operate drive through facilities. The City should not adopt new regulations that undermine a specific category of uses and substantially reduce the property values of these properties. One of the stated goals of the Mixed Use Zones Project is to retain and match the use allowances of the zones being replaced and not cause existing uses to become nonconforming. The amendment is clearly contrary to this stated goal with respect to gas stations and other drive through facilities because they are one of the only use categories that will be converted to nonconforming uses on a broad scale. The amendments do not similarly restrict other automobile-intensive uses, including some uses that generate far more traffic than a gas station (i.e. big box retail, grocery store, etc.).

The amendment is inconsistent with a number of recently adopted 2035 Comprehensive Plan policies. Policy 4.24, which specifically addressed drive through facilities, provides: "Prohibit drive through facilities in the Central City, and limit new development of new ones in the Inner Ring Districts and centers in order to support a pedestrian-oriented environment." This particular policy was amended during the City Council process to reduce its scope in direct response to public comments during the Comprehensive Plan process. The amendment is inconsistent with this policy because it significantly expands the area where drive through facilities are prohibited. Policy 6.67 requires the following in neighborhood business areas such as those areas east of NE/SE 80th Avenue: "Provide for a competitive supply of retail sites that support the wide range of consumer needs for convenience, affordability, accessibility, and diversity of goods and services, especially in under-served areas of Portland." Prohibiting drive through facilities, especially gas stations, will not provide for convenient and accessible gas in this area. Policy 6.69 requires the City to "Limit non-conforming uses to reduce adverse impacts on nearby residential uses while avoiding displacement of existing neighborhood businesses." The amendment will create a whole new category of nonconforming uses and will cause the displacement of existing neighborhood businesses that would be rendered nonconforming by the amendment. Policy 4.68 requires the City to "Encourage a development pattern that minimizes carbon emissions from building and transportation energy use" and Policy 3.5 requires the City "Support energy-efficient, resource-efficient, and sustainable development and transportation patterns through land use and transportation planning." Prohibiting gas stations in such a large area of the City is not consistent with this policy because it will require residents and businesses in the affected area to drive across town to get gas for their cars.

The amendment is also inconsistent with Goal 9. Goal 9, subparagraph 3, requires that the City's inventory of suitable commercial sites be adequate not just in terms of total acreage, but also with regard to size, type, location, and service levels, to provide for a "variety of industrial and commercial uses consistent with the plan policies." When the City adopts regulations that prohibit or limit the feasibility of commercial uses on such affected properties, the City is obligated to demonstrate how it remains in compliance with the Goal 9 requirement for an adequate inventory of commercial sites. *Opus Development Corp. v. City of Eugene*, 28 Or LUBA 670 (1995). The City must at least demonstrate that it considered the impact on such retail uses before enacting such restrictions, and must demonstrate that it considered the impact on such retail uses before enacting such restrictions, and must demonstrate that it retains a sufficient supply of Goal 9 land, considering site characteristics. *Home Depot v. City of Portland*, 37 Or LUBA 870 (2000). Since no such analysis was performed as part of the Planning & Sustainability Commission's amendment, the City cannot demonstrate compliance with Goal 9 and this broad restriction was certainly not evaluated in the City's Economic Opportunities Analysis.

C. All of Space Age Fuel's properties should be zoned CE.

Although the Mixed Use Zones recommendations proposes a CE zone for two of Space Age Fuel's properties, Space Age Fuel requested that all of its properties be zoned CE. When selecting the appropriate mixed use zone for a particular property, the existing use should weigh heavily in that consideration and the City should avoid imposing a new mixed use zone that is out of character with the existing uses in the surrounding area. There are compelling reasons for changing the zoning of all of Space Age Fuel's properties to CE.

For the 11214 SE Powell Blvd. property, the CE zone is more appropriate than the proposed CM1 zone given the existing uses and the characteristics of the surrounding area. The proposed CM1 zoning applies to a small area around the intersection of SE Powell Blvd and SE 112th Ave. that has predominately auto-oriented uses. This small area includes Space Age Fuel's gas station and convenience store, a quick service automobile battery and repair shop across the street at 11207 SE Powell Blvd (Battery Specialist) and another gas station on the same block at 11421 SE Powell Blvd (Leather's Oil), as well as restaurants. Given the predominant auto-oriented uses in this area, the proposed CM1 zone is inappropriate since it is intended to accommodate small scale "pedestrian oriented" development. The City should not impose a new pedestrian-oriented zone on an area that is predominately auto-oriented. In contrast, the CE zone is "intended for sites along corridors in areas between designated centers, especially along Civic Corridors that are also major truck streets." This area is not within a town center, SE Powell Blvd. is a Civic Corridor and this section of SE Powell Blvd. is between designated centers, and therefore the CE zone is appropriate in this area.

For the 8410 SE Foster Rd. property, the CE zone is more appropriate than the proposed CM3 zone. The immediate surrounding area includes a number of automobile oriented uses, such as Space Age Fuel's gas station, convenience store and vehicle repair shop, an automobile tire service center at 8530 SE Foster Rd. (Premium Tire Service), an automobile service center at 8324 SE Foster Rd. (Automotive Outfitters), and a gas station at the corner of SE Foster Rd. and 82nd Ave. (Shell). Given the predominant auto-oriented uses in this area, the proposed CM3 zone is inappropriate since "development is intended to be pedestrian oriented." The City should not impose a new pedestrian-oriented zone on an area that is predominately auto-oriented. In contrast, the CE zone is "intended for sites along corridors in areas between designated centers, especially along Civic Corridors that are also major truck streets." SE Foster Rd. is a Civic Corridor and this section of SE Foster Rd. is between designated centers, and therefore the CE is appropriate in this area.

To the extent the City does not want to make larger changes to the proposed mixed use zoning in these areas, the City can and should change the proposed zoning for just Space Age Fuel's properties given the existing uses on those properties. The Mixed Use Zones Project is proposing single CE zoned properties that are surrounding by other mixed use zones in order to accommodate

existing uses in other instances.[3] The City should provide similar accommodations to Space Age Fuel's properties.

Conclusion

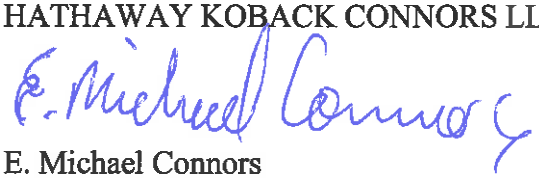
The Planning & Sustainability Commission's recommended amendment to drive through facilities is misguided and bad policy for the City as a whole. Space Age Fuel and other parties worked extensively with the City staff to strike a proper balance for regulating drive through facilities in the new mixed use zones. The Planning & Sustainability Commission ignored this extensive work and adopted a sweeping and unprecedented proposal without any supporting analysis or public input. The amendment would deprive those affected citizens of reasonable access to gas, preclude existing drive through facilities from upgrading and modernizing, and unfairly impact those business and property owners whom currently operate drive through facilities.

The City Council should instead adopt the Bureau of Planning & Sustainability staff's recommendations. These recommendations were developed after months of analysis and dialogue between the City staff and affected community members, and provide a more balanced approach to addressing this issue.

We appreciate your consideration of our comments. We look forward to working with the City further on this matter.

Very truly yours,

HATHAWAY KOBACK CONNORS LLP



E. Michael Connors

EMC/pl
Enclosures
cc: Clients

[3] The following are just examples of the City proposing a single CE zoned properties surrounding by other mixed use zones in order to accommodate an existing use. The Mixed Use Zones Project proposes a CE zone for the gas station and vehicle repair shop located at 9808 SE Division St., notwithstanding the fact that it is surrounded by CM1 and CM2 zoned properties. The Mixed Use Zones Project proposes a CE zone for the Fabric Depot property located at 700 SE 122nd Ave., notwithstanding the fact that it is surrounded by CM2 and CM3 zoned properties.

Commentary

33.130.260 Drive-Through Facilities

This section is being changed to treat existing drive through facilities in the CM1, CM2 and CM3 zones, in areas west of 80th Avenue, as allowed development to facilitate their continuation and improvement. New drive through facilities in these zones would remain prohibited, as is currently the case in the comparable existing zones (CN1, CO1, CO2, CM, CS, and CX). This allowance for the rebuilding of existing drive through facilities is intended to allow for the improvement of existing development, which would otherwise be regulated as non-conforming development, limiting the ability to rebuild or update facilities with this status. Continuing to prohibit new drive through facilities in these zones supports the intent of these zones in fostering development that contributes to creating pedestrian-oriented places. In the CM1, CM2 and CM3, when drive through facilities are rebuilt, they must meet the other standards in Chapter 33.130 and those in Chapter 33.224.

The CE zone will continue existing CG-zone allowances for drive-through facilities, except that such facilities will be prohibited east of 80th Avenue and within 25-feet of lot lines abutting a residential zone property. The latter limitation would serve together with other Chapter 33.130 regulations as a replacement to Buffer (b) Overlay provisions, applicable to some mapped areas adjacent to residentially-zoned areas, that are intended to limit negative impacts to residential areas. These new regulatory approaches will apply consistently whenever commercial/mixed use zoning is adjacent to residential zoning. Other new regulations providing a transition between commercial/mixed use zoning and residential zoning are requirements for:

- Height step downs (33.130.210.B.2),
- Landscaped setbacks (33.130.215.B.2.b),
- Required transition approaches across local service streets (33.130.215.B.1.b), and
- Limitations on exterior display and work activities (33.130.245).

In conjunction with these amendments, staff anticipates that the Buffer Overlay will be removed from the commercial/mixed use zones.

This section also includes a new prohibition on drive-through facilities in East Portland (east of 80th Avenue). In their consideration of the topic of drive-through facilities, the PSC sought to address issues related to the large numbers of drive throughs in eastern Portland, the negative impacts of fast food establishments and other drive through facilities on the area's residents, and barriers that Zoning Code allowances for drive throughs presented to achieving a healthier and more pedestrian-oriented urban environment in East Portland. The PSC recommends this new provision in order to limit the development of additional fast-food and other drive-through establishments in East Portland, and to instead encourage development of other locally-owned neighborhood serving businesses. The PSC was concerned that the proliferation of auto-oriented businesses in these areas would become a barrier to more locally-controlled economic development initiatives.

33.130.260 Drive-Through Facilities

A. **Purpose.** The drive-through facility regulations support the desired character of the commercial/mixed use zones that are intended to be pedestrian-oriented, while allowing the continuation and improvement of existing drive-through facilities in some of these zones. In zones intended for auto-accommodating development, these regulations allow for drive-through facilities, while limiting the impacts from drive-through facilities on adjacent residential zones, such as noise and air pollution from idling cars.

B. **CR and CX zones.** Drive-through facilities are prohibited in the CR and CX zones.

C. **CM1, CM2, and CM3 zones.** The following regulations apply to drive-through facilities in the CM1, CM2 and CM3 zones:

1. Drive-through facilities are prohibited in the area east of 80th Avenue shown on Map 130-3.

2. Drive-through facilities outside the area shown on Map 130-3:

   a. New drive-through facilities are prohibited; and

   b. Existing drive-through facilities are allowed. Existing facilities can be rebuilt or expanded, but adding additional drive-through facilities to the site is not allowed. The standards for drive-through facilities are stated in Chapter 33.224, Drive-Through Facilities. If an existing drive-through facility is unused for 3 continuous years, reestablishment of the drive-through facility is prohibited.

D. CE zone.

1. Drive-through facilities are prohibited in the area east of 80th Avenue shown on Map 130-3.

2. Drive-through facilities are allowed outside the area shown on Map 130-3, except that drive-through facilities are not allowed within 25 feet of a lot line that abuts a residential zone. The standards for drive-through facilities are stated in Chapter 33.224, Drive-Through Facilities.

33.130.265 Detached Accessory Structures

A. **Purpose.** These standards are intended to maintain separation and privacy to abutting residential zoned lots from nonresidential development.

B. **General standards.**

1. The regulations of this section apply only to detached accessory structures on sites with non-residential uses. For sites where all of the floor area is in residential use, detached accessory structures are subject to the standards of Section 33.120.280. Detached garages are also subject to the standards of 33.130.250, General Requirements for Residential and Mixed Use Developments.

2. The height and building coverage standards of the base zone apply to detached accessory structures.

Commentary

33.130.100.A. Allowed uses

The approach with the new zones is, to the extent possible, to retain and match the use allowances of the zones being replaced. There are some notable exceptions, for instance quick vehicle servicing – allowed in some CN2 situations - is not allowed in CM1, and the CM1 zone allows a broad array of uses beyond office in places where it replaces CO1.

33.130.100.B. Limited uses

Similar to allowed uses, the approach with the new zones was, to the extent possible, to retain and match the use limitations of the zones being replaced. Adjustments were made in some cases to respond to zones that had differing limitations, but which are now being combined into new zones (such as CN1 and CN2, to be combined into CM1).

Commercial size limitations in the CR and CM1 zones correspond in part to current limitations in the CN1 zone (such as the 5,000 square foot Retail Sales and Service limit), but in the CM1 zone provide allowances for larger sites on major streets (Neighborhood Collector streets or higher classification). These allowances for somewhat larger Commercial uses accommodate the fact that the CN2 zone (which did not have size limits) is being folded into the new CM1 zone. Overall, the CR and CM1 Commercial size limitations are intended to allow some Commercial uses in the dispersed locations where these zones are typically located, while encouraging larger uses to be located in centers and corridors where polices call for focusing commercial services.

The CR zone is typically applied to locations that are surrounded by single-dwelling residential zoning and has limitations on hours of operation to limit conflicts. This also responds to community concerns related to the rezoning of non-conforming commercial uses on some dispersed sites to CR zoning, which had sometimes operated under limitations on hours of operation as part of mitigation requirements related to their nonconforming status within residential zones.

In the CM1, CM2, and CM3 zones, new Quick Vehicle Servicing uses are not allowed. Quick Vehicle Servicing that existed as of the effective date of the new code are considered allowed uses and can be rebuilt unless the use is discontinued for more than a three-year period.

Use Regulations

33.130.100 Primary Uses

A. **Allowed uses.** Uses allowed in the commercial/mixed use zones are listed in Table 130-1 with a "Y". These uses are allowed if they comply with the development standards and other regulations of this Title. Being listed as an allowed use does not mean that a proposed development will be granted an adjustment or other exception to the regulations of this Title. In addition, a use or development listed in the 200s series of chapters is also subject to the regulations of those chapters.

B. **Limited uses.** Uses allowed that are subject to limitations are listed in Table 130-1 with an "L". These uses are allowed if they comply with the limitations listed below and the development standards and other regulations of this Title. In addition, a use or development listed in the 200s series of chapters is also subject to the regulations of those chapters. The paragraphs listed below contain the limitations and correspond with the footnote numbers from Table 130-1.

1. Group Living. This regulation applies to all parts of Table 130-1 that have a [1].

   a. General regulations. All Group Living uses, except for alternative or post incarceration facilities, are allowed by right subject to the regulations of Chapter 33.239, Group Living.

   b. Alternative or post incarceration facilities. Group Living uses that consist of alternative or post incarceration facilities are conditional uses. They are also subject to the regulations of Chapter 33.239, Group Living.

2. Commercial limitations. These regulations apply to all parts of Table 130-1 that have a [2].

   a. In the CR and CM1 zones, each individual Retail Sales and Service and Office use is limited to 5,000 square feet of net building area, except that in the CM1 zone on sites that are over 40,000 square feet in size and are located on a Neighborhood Collector or higher classification traffic street, each individual Retail Sales and Service or Office use is limited to 40,000 square feet of net building area; and

   c. In the CR zone, in addition to the size limitation specified in B.2.a., the hours when Retail Sales And Service uses can be open to the public are limited to 6:00 AM to 11:00 PM.

   d. In the CM1, CM2, and CM3 zones, Quick Vehicle Servicing uses that existed on [insert effective date] are allowed. New Quick Vehicle Servicing uses are prohibited. If a Quick Vehicle Servicing use that existed on [insert effective date] is discontinued for 3 continuous years, reestablishment of the use is prohibited. If the Quick Vehicle Servicing use ceases operations, even if the structure or materials related to the use remain, the use as been discontinued. If the Quick Vehicle Servicing use changes to another use without obtaining all building, land use, and development permits that would have been required at the time of the change, the use has been discontinued.

33.130.260 Drive-Through Facilities

A. **Purpose.** The drive-through facility regulations support the desired character of the commercial/mixed use zones that are intended to be pedestrian-oriented, while allowing the continuation and improvement of existing drive-through facilities in some of these zones. In zones intended for auto-accommodating development, these regulations allow for drive-through facilities, while limiting the impacts from drive-through facilities on adjacent residential zones, such as noise and air pollution from idling cars.

B. **CR and CX zones.** Drive-through facilities are prohibited in the CR and CX zones.

C. **CM1, CM2, and CM3 zones.** The following regulations apply to drive-through facilities in the CM1, CM2 and CM3 zones:

1. Existing drive-through facilities are allowed. Existing facilities can be rebuilt or expanded, but adding additional drive-through facilities to the site is not allowed. The standards for drive-through facilities are stated in Chapter 33.224, Drive-Through Facilities. If an existing drive-through facility is unused for 3 continuous years, reestablishment of the drive-through facility is prohibited.

2. New drive-through facilities are prohibited.

D. **CE zone.** Drive-through facilities are allowed in the CE zone, except that drive-through facilities are not allowed within 25 feet of a lot line that abuts a residential zone. The standards for drive-through facilities are stated in Chapter 33.224, Drive-Through Facilities.

33.130.265 Detached Accessory Structures

A. **Purpose.** These standards are intended to maintain separation and privacy to abutting residential zoned lots from nonresidential development.

B. **General standards.**

1. The regulations of this section apply only to detached accessory structures on sites with non-residential uses. For sites where all of the floor area is in residential use, detached accessory structures are subject to the standards of Section 33.120.280. Detached garages are also subject to the standards of 33.130.250, General Requirements for Residential and Mixed Use Developments.

2. The height and building coverage standards of the base zone apply to detached accessory structures.

From:	Tara Brock
To:	BPS Comprehensive Plan Testimony
Subject:	Comprehensive Plan Implementation
Date:	Thursday, October 13, 2016 9:46:57 AM

Trade minimum parking requirements for more affordable housing by eliminating minimum parking requirements in Mixed-Use Zones.

With the current housing crisis, we need to make affordable housing available to those that need it. Removing any obstacles or barriers to this objective is good policy and eliminating minimum parking requirements is a common sense solution I'd like to see the City Council take toward a better Portland for every citizen.

Thank you for considering these comments.

Sincerely,
Tara Brock
8228 SE 8th Ave
Portland, OR 97202

From:	Holger Zeipelt
To:	BPS Comprehensive Plan Testimony
Cc:	Maura Zeipelt; Carol L. Chesarek; Wilbur Widicus
Subject:	Fw: Comprehensive Plan Implementation
Date:	Thursday, October 13, 2016 9:44:47 AM
Attachments:	Trail Draft for NW Saltzman residents 101116.docx

Dear Mayor Hales and Commissioners,

I own property and live on NW Saltzman Road in Multnomah County.

I am writing to ask the city to remove the new trail segments shown on NW Saltzman Road (and NW Skyline Blvd) from your revised Major Trails Map (Figure 8.2 in the draft Transportation System Plan). Please find attached the full letter.

Thank you for your consideration.

Sincerely,
Holger and Maura Zeipelt

Holger and Maura Zeipelt
11175 NW Saltzman Rd
Portland OR, 97229

October 12, 2016

Mayor Hales and Portland City Council
1221 SW 4th Ave.
Portland, OR 97204

Re: Portland's Comprehensive Plan and Transportation System Plan

Dear Mayor Hales and Commissioners,

I own property and live on NW Saltzman Road in Multnomah County.

I am writing to ask the city to remove the new trail segments shown on NW Saltzman Road (and NW Skyline Blvd) from your revised Major Trails Map (Figure 8.2 in the draft Transportation System Plan). Taken with Comprehensive Plan Policy 8.57 (Public Access Requirements, requires public access and improvement of Major Public Trails), this map and policy would require development of these trail sections as shown without any further study.

This trail segment, if developed as shown on the Major Trails Map, would lead people down a steep on-street trail into a dead-end road surrounded by privately owned property. There is no public trail connection or public access outlet available from this privately maintained cul-de-sac in Multnomah County.

This dead-end road is maintained and surrounded by properties in the Skyline Meadows HOA. The Skyline Meadows CC&Rs explicitly forbid development of public trails on properties in the HOA. Our property owners unanimously oppose the Metro trail. The proposed Metro trail cannot connect from Washington County to NW Saltzman Road without passing through at least one of our properties in unincorporated Multnomah County.

We don't understand why the City of Portland would want to lead trail users into this dead-end situation, which can only lead to frustration for trail users and will encourage trespass onto our private property as those trail users search for a non-existent outlet or trail connection. We already have encountered trespassers on our property and are no longer willing to accept this, as it easily could be avoided by proposed action in this letter.

Metro's preliminary plan for the Westside Trail that shows a "preferred" trail alignment that includes this portion of NW Saltzman Road, but there are several serious problems with this trail alignment and Metro's trail plan[1] makes it clear that these are "conceptual," not final, trail alignments.

[1] Metro's Westside Trail Master Plan can be found at:
http://www.oregonmetro.gov/sites/default/files/06092014_westside_trail_master_plan.pdf

Other segments of Metro's proposed trail are (correctly) not included on the city's Major Trails Map, so we don't understand why this dead-end trail segment was added.

Multnomah County had so many concerns about this segment of Metro's proposed Westside Trail that their acknowledgement of Metro's Westside Trail Master Plan on April 24, 2014 (Multnomah County Resolution 2014-045) recommends that the county seek additional refinement to study and resolve potential impacts of the trail alignment prior to implementation. In response to these concerns, Metro modified their trail map to show that the alignment of the trail segment connecting to NW Saltzman Road is not final.

Please remove the trail segments shown on NW Saltzman Road and NW Skyline Blvd from your Major Public Trails map (Figure 8.2 in the TSP). Simply stated, the trail segment shown is a problematic dead-end that should not be developed without further study and identification of an achievable public trail connection.

Thank you for your consideration.

Sincerely,

Holger and Maura Zeipelt