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**Sent:** Wednesday, May 04, 2016 10:54 PM

**To:** Planning and Sustainability Commission <psc@portlandoregon.gov>

**Cc:** Stockton, Marty <Marty.Stockton@portlandoregon.gov>

**Subject:** Treatment of Isolated CM1 Parcels - Mixed Use Zones Proposed Draft Testimony

Dear Members of the PSC,

The purpose of this letter is to provide testimony regarding treatment of small (less than 7500 sq. ft.) isolated Commercial Mixed Use 1 (CM1) zoned parcels contemplated under the Mixed Use Zones Project. City code section 33.130.100 B 2 c, adds a limitation to the CM1 zone for sites less than 7,500 sq. ft. that abut properties that are in a single family zone, and are operating as Retail Sales and Service, limiting hours of operation to 6AM - 11PM. Additional specific limitations for small isolated commercial zoned parcels in primarily residential areas need to be codified to make the Mixed Use Zones Project consistent with the intent of the proposed 2035 Comprehensive Plan update.

Section II of the Mixed Use Zones Project Proposed Draft (March 2016) describes the relationship of this project to the comprehensive plan. Specifically, Goal 10.1 (Land Use Designation) part 13 expresses the intent of a CM1 land use designation that I believe would be applicable to isolated commercially zoned parcels in residential neighborhoods as follows:

***13. Mixed Use — Dispersed.** This designation allows mixed use, multi-dwelling, or commercial development that is small in scale, has little impact, and provides services for the nearby residential areas. Development will be similar in scale to nearby residential development to promote compatibility with the surrounding area. This designation is intended for areas where urban public services are available or planned. Areas within this designation are generally small nodes rather than large areas or corridors. The corresponding zones are Commercial Mixed Use 1 (CM1) and Commercial Employment (CE).*

I believe the intent of this element of Goal 10.1 is clear:

- small in scale
- has little impact
- provides services for the nearby residential areas

Under current CM1 zoning up to 29 micro housing units could be constructed on a parcel less than 7500 sq. ft. with no consideration of scale, impact or provision of services that I believe are inconsistent with the intent of the goals of the 2035 Comprehensive Plan.

Our residence is located across SE 21<sup>st</sup> Ave from Peoples Food Co-op (3029 SE 21<sup>st</sup>, Portland, OR), an isolated commercial site, which for 45 years has operated a retail grocery on a non-conforming residential parcel which is likely being rezoned as CM1. As a neighbor of this site and under current non-conforming use provisions - we currently are afforded protections against noise, redevelopment, and increased impacts that they stand to lose under the new rules and which are inconsistent with the intent of the planning goal described above. To address this inconsistency, I request consideration that code section 33.130.100 B 2 c be expanded to accommodate the following issues consistent with Goal 10.1 part 13.

1. **Loss of Neighborhood Commercial Resources:** With commercial zoning, it would be possible to redevelop these sites for high-density residential use with no commercial elements at all. This is in contrast to the stated reason for making these isolated non-conforming use sites commercial is to retain commercial use on these sites so they can continue providing services to the surrounding residential areas. *The zoning rules need to require that, at a minimum, the ground floor must remain in commercial use should the site be redeveloped.* An alternative might be to specify that should these sites be developed as entirely residential, the permitted density would be that of the highest density adjacent residential zone. *Without one of these proposals,*

*we fear development pressure might cause the loss of the commercial function that is critical to maintaining a livable community.*

2. **Change of Use:** There are currently restrictions on change-of-use that would trigger review if the cumulative impacts of a site increase. This restriction is important to ensure a change in use would remain compatible with a neighborhood setting. *This existing review mechanism should be added back to the zoning code.* As an example, nearby residents are concerned that the quiet natural food grocery on SE 21<sup>st</sup> Ave currently in non-conforming use might someday be bought and converted into a bar, which would be possible under the proposed rules. This highlights the significant impact that a single isolated commercial property can have on its neighbors.
3. **Applicability of Use:** The proposed rules should apply to all commercial uses, not just Retail Sales and Service. The intent here is to limit nighttime noise and activity and to limit other impacts to neighbors from these sites; I believe these rules should apply to all commercial uses.
4. **Noise:** Existing regulations limit daytime noise emitted from non-conforming residential sites as measured on the property line of the nearest residential receiver to 55dBA (nighttime noise limits are lower) [City of Portland Charter Chapter 18.10.010], however if these properties are granted commercial status, permissible noise levels will increase to 60dBA. Given that a 10dBA increase represents a doubling of perceived volume, 5dBA is a significant increase. The code should specify that isolated commercial sites such as these have the same noise emission limits as residential sites, which is the rule today for non-conforming properties.

One other major shortcoming of the proposal as it stands is that it only affects properties adjacent to single family zones. This should be changed to include *any* residential zone; all residential uses should enjoy the protections this rule is intended to convey, especially now that home ownership is financially out of reach for many households in Portland.

I am not opposed to commercial uses' being interspersed throughout residential neighborhoods. I appreciate the benefit that commercial properties can provide to our neighborhoods, and the role they play in helping to create livable neighborhoods. These isolated commercial properties need to exist harmoniously with their residential neighbors, and are proposing these rule changes toward meeting that goal.

Proposed zoning code should be updated to include the additional restrictions that are in place today for non-conforming residential parcels that will be re-zoned to commercial parcels consistent with Goal 10.1 (Land Use Designation) part 13. The unique relationship between residential areas and the isolated commercial parcels embedded within them requires code modification to preserve the fabric of our neighborhoods.

Thank you for your consideration.

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