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Planning and Sustainability Commission
1900 SW 4th Avenue
Portland, Oregon 97201-5380.

Request: Change the Proposed Commercial Zoning Designation from CM1 to CM2 for the New Seasons Market, 4500 SE Woodstock Boulevard

Dear PSC Commissioners:

The Bookin Group LLC (TBG) represents Mr. Bruce Ament, owner of the New Seasons Market building at 4500 SE Woodstock Boulevard (1S2E18CC 300). Under the proposed Mixed-Use Zoning Project (MUZP), Mr. Ament's property is proposed to be re-zoned to Commercial Mixed-Use 1 (CM1) Zone, as is the case for most of the Woodstock Commercial Corridor. Mr. Ament requests that the PSC recommend that this designation be changed to CM2 and for his property.

Background. *Completed in 2015, the Woodstock New Seasons Market is located on a 25,000-sf parcel at the corner of SE 45th Avenue stretching from the south side of SE Woodstock Boulevard to SE Harold Street. The building contains a total nearly 49,100 gross square feet, including 23,610 on the main floor and partial 2nd floor, and 25,480 gsf in the basement, primarily devoted to below-grade parking. The latter is accessible from a driveway the east side of the store via SE Harold Street. At its tallest point, in the northwest corner, the building rises 43'. A rendering of the building and site plan are contained in Figures 1 and 2, respectively.*

The parcel currently is zoned Commercial Storefront (CS), with the exception of the strip along the east side of the warehouse where the garage driveway is located, which is zoned R5. The building was designed to comply with the design standards in the CS zone for size, height, setbacks and FAR. The entire Woodstock Commercial Corridor from SE 41st to SE 50th Avenues on both sides of SE Woodstock Boulevard also is zoned CS with the exception of the two superblocks across the street from the site on either side of SE 44th Avenue, which are zoned Neighborhood Commercial 2 (CN2).

Planning Process. *To understand the history of the application of the MUZP to the Woodstock Commercial Corridor, we discussed the matter with the Bureau of Planning and Sustainability's (BPS) Barry Manning, MUZP's Project Manager, and Marty Stockton, BPS SE Community Planner. Based on these conversations:*

- *In the initial round of re-zoning, BPS proposed that the entire corridor be re-zoned to CM2, consistent with the established zoning conversion table ("cross-walk") that indicates that the existing CS, CO2, CM and CG are most like the proposed new CM2 or Commercial Employment (CE) zones, in terms of mix of uses, maximum height (45'), maximum FAR and other development standards.*
- *After the first round of reviews, apparently a coalition of neighborhood associations commented that the CM2 designation was too intense in terms of height and scale and that this would threaten the destruction of intact, low-rise streetcar-era commercial buildings.*
- *In response to this, BPS initiated the Low-Rise Commercial District study of 15 commercial corridors including Woodstock. As a result, in the second round of proposed re-zoning, all properties in the Woodstock Commercial Corridor including the New Seasons' property were re-designated from CM2 to CM1. The exception is the CN2-zoned two superblocks (Mart/Safeway strip center) across SW Woodstock Boulevard that are proposed to remain CM2. Ironically, in the zoning cross-walk described above, CN2 sites are to be converted to CM1.*
- *As proposed in the revised chapter on commercial zones, Chapter 33.130, retail uses in the CM1 zone are to be limited to 5,000 gsf/use with a maximum height of 35'. Other standards include various minimum setbacks, maximum lot coverage of 85%, maximum FAR of 1.5:1, and minimum landscaping of 15%, all of which are significantly less generous than the proposed CM2 zone.*

- To mitigate for some of the impacts of the re-designation, BPS now proposes a new overlay district, Centers Main Street Overlay Zone (Chapter 33.415). In Section 33.415.420, Development Standards in the CM1 Zone, new standards are proposed within the overlay, including increasing the maximum size per retail use to 40,000 gsf, increasing maximum FAR to 2:1, increasing maximum lot coverage to 100% and eliminating minimum landscaping. However, there is no relief from the maximum height in the CM1 zone of 35'. Thus, the new overlay designation "gives back" most of the development capacity to some of the affected neighborhood commercial corridors lost as part of the proposed re-designation from CM2 to CM1. This calls into question the purpose and utility of the re-designation itself.

Impact on the New Seasons Market Site

Proposed CM1 Zoning (Proposed Chapter 33.130): Under this proposed zoning designation, New Seasons Market, at 49,100 gsf, becomes non-conforming for size by nearly 10 times, maximum height by 7' (43'), and minimum landscaping (10%) by 5%. The project will remain in compliance with new minimum/ maximum setbacks, maximum FAR and maximum lot coverage.

Centers Main Street Overlay Zone (Chapter 33.415) The proposed overlay provisions for the CM1 zone:

- Would cure the problem for minimum landscaping by reducing it from 15% to 0%.
- At more than 49,000 gsf, the building would still be 9,000 gsf out of conformance for maximum size even with the increase to 40,000 gsf. This includes underground parking that is both unusual and an asset in a neighborhood commercial corridor designed to be pedestrian- and transit-friendly.
- At 43' at its highest point, the building would remain nonconforming for maximum height.

Non-Conforming Development. Mr. Ament is concerned about the impact of having non-conforming development as it might affect the refinancing or sale of the building. Moreover, should the building be significantly damaged by fire, earthquake or other natural disaster, he is concerned about the potential constraints on replacement. With regard to the latter, according to Section 33.258.070(E)(2):

When a structure or other development that has nonconforming elements is removed or intentionally destroyed, replacement structures and other development must comply with the development standards of the base zone, overlay zone and plan district. When a structure that has non-conforming elements is partially or totally damaged by fire or other causes beyond the control of the owner, the structure may be rebuilt using the same structure footprint. An adjustment is required to allow the replacement structure to be more out of compliance with the development standards than the previous structure.

Under this provision, Mr. Ament could replace the total 49,100-gsf building by rebuilding "in the same building footprint". However, "building footprint" is not the same as "building envelope", so it is likely the building would still be non-conforming for height. He would then have to request an Adjustment to restore the non-conforming height or else the building would have to be re-designed to achieve its existing size.

Request. Mr. Ament contends that the reasons for justifying the change from the original proposed zoning, CM2, to CM1 for a majority of the entire Woodstock Commercial Corridor and his site specifically is based on flawed analysis and should be reconsidered.

Woodstock Commercial Corridor. Mr. Ament supports the request of his fellow property owners to re-designate the entire Woodstock Commercial Corridor from SE 42nd – 50th Avenues from CM1 to CM2 for many of the reasons that such a change is warranted on his specific property.

- The proposal is inconsistent with the zoning conversion table. Although advisory, the proposed zoning conversion table clearly equates the CS zone with CM2/CE in terms of range of uses, height, density and other development standards. The proposed down-zoning implicit in the CM1

designation in terms of maximum use, size and height clearly does not reflect existing development. It particularly rankles other owners that the two CN2-zoned superblocks immediately across the street from the site are being designated CM2 when according to the zoning conversion table they should be designated CM1.

- The creation of the Centers Main Street Overlay Zone (Chapter 33.415) gives almost everything back – maximum use size, maximum lot coverage, minimum landscaping – with the exception of maximum height, which will remain at 35'. If the CM1 zoning designation is appropriate to begin with, it would not be necessary to create an overlay zone. This seems a convoluted approach to justify the reduced maximum height.
- The Woodstock Commercial Corridor is dissimilar from other commercial districts included in the Low-Rise Commercial District Study in two important ways;
 - *Although developed along an early 20th century street-car line, Woodstock is no longer a typical street-car commercial district with “special character, which often includes many intact, low-rise streetcar-era commercial buildings”. [Page 49, Mixed Use Zones Project: Proposed Draft (3/16)]. Unlike Multnomah Village or the Hawthorne Commercial District for example, the district features a wide range of architectural building types built over several decades (Figure 3). In fact, the only building in the district that is even on the City’s 1980 Historic Building Inventory is the Ace Hardware Store at 4430 SE Woodstock Boulevard. Thus, as there are no historic buildings to save, the 35’ height limit is not necessary.*
 - *SE Woodstock Boulevard has an 80’ right-of-way (ROW), unlike Capitol Highway through Multnomah Village (60’) or Hawthorne Boulevard through the Hawthorne Commercial District (70’). A wider street ameliorates scale at the street edge. Thus, taller buildings are perfectly consistent from an urban design perspective.*
- The Woodstock Neighborhood Association was not among those neighborhood associations that requested the imposition of the CM1 zoning designation. In fact, it is our understanding that the WNA’s Land Use Committee is preparing a letter that supports the re-designation to CM2, based on a unanimous vote of the NA’s Board.

New Seasons Market Site. Even if it does not recommend the re-designation of the whole corridor based on the compelling justification presented above, Mr. Ament requests that the PSC recommend a request to re-designate his site from the proposed CM1 to CM2, as follows:

- Actual Harm. *Although most if not all of his neighboring property owners will lose potential development rights should the CM1 zoning be adopted, Mr. Ament has experienced actual loss of development capacity. Even with the proposed overlay, his property will still be substantially non-conforming for maximum size and height.*
- This is not spot-zoning *as the two superblocks across the street are proposed for CM2 zoning. The blocks between SE 43rd and SW 46th Avenues form the core of the corridor, so it is not inconsistent that there should be higher-zoned properties there*

Thank you for the opportunity to share our concerns with you in this important matter.

Sincerely,

Beverly Bookin

Beverly Bookin, AICP, Senior Principal

Attachments