



101 SW Main Street, Suite 1100  
Portland, Oregon 97204

balljanik.com

t 503.228.2525  
f 503.295.1058

May 10, 2016

Damien R. Hall  
Also Admitted in California and Washington  
503.944.6138  
dhall@balljanik.com

Portland Planning and Sustainability Commission  
City of Portland  
1900 SW 4<sup>th</sup> Ave, Suite 1700  
Portland, OR 97201

Re: Rezoning 12225 N Jantzen Drive  
Mixed Use Zones Project

Dear Commissioners:

This firm represents Mr. Joseph Angel, owner of the real property at 12223 N Jantzen Drive ("Site"). The current draft of the Mixed Use Zones Project proposes to rezone the Site from CN2 to CM1, thereby rendering the existing drive-through facility on the property non-conforming. Under the current MUZP draft, the sole zone that does not expressly prohibit drive-through facilities is the CE zone. In order to maintain the conforming status of the use, it is requested that the PSC apply CE zoning to the Site.

Address	Current Zone	MUZP Draft Zone	Requested Zone
12225 N Jantzen Dr	CN2	CM1	CE

The current use of the site as a restaurant with a drive-through operates under a long-term lease that allows for modernization and remodeling of the restaurant building every ten years, as is typical of agreements with similar franchises throughout the City. Under the currently proposed zoning designation, the ability to make remodeling and modernization related improvements will be impaired. This would operate as a disincentive to invest in the Site, as well as the immediately adjacent properties which house a restaurant and service station. All of these businesses are reliant on drive-through patronage of I-5 motorists. Revenue from the residences of Hayden Island is insufficient to viably operate these businesses.

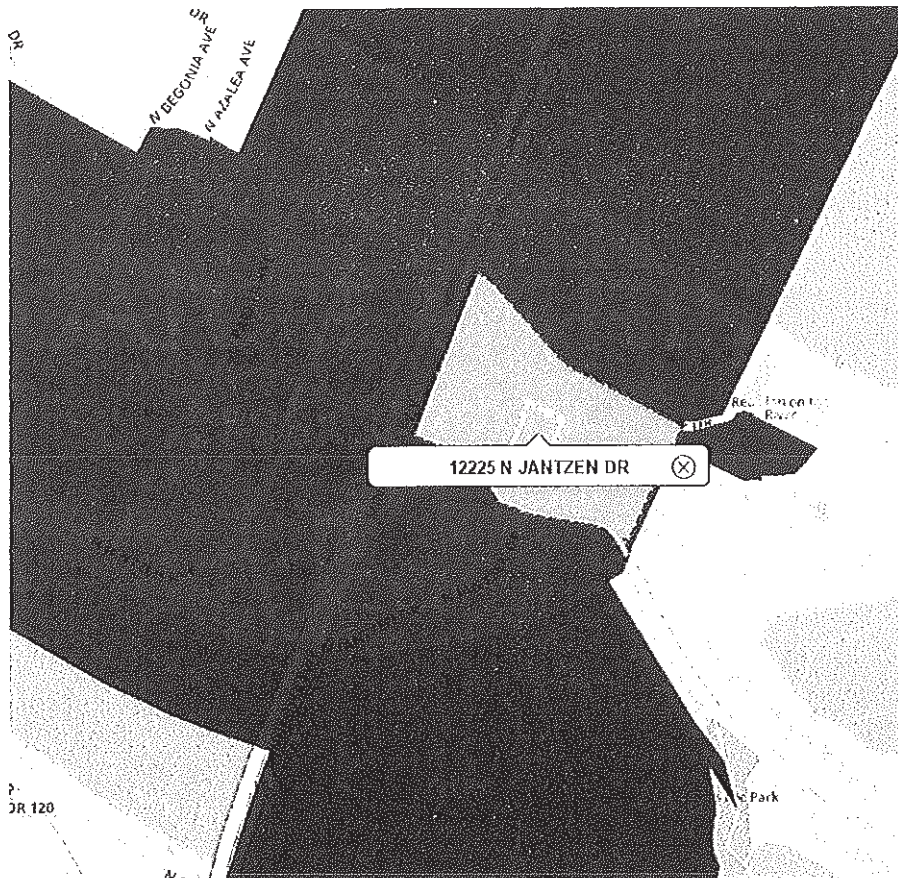
The use of the Site matches the stated characteristics of the CE zone (a copy of PMC 33.130.030 identifying characteristics of the CE zone is included as Attachment 1 to this letter). The Site has the following characteristics consistent with the CE zone:

- Located on two District Collector Streets;
- Houses a drive-through facility, an auto-accommodating use;
- Primarily serves I-5 traffic, a regional Trafficway and trucking corridor;  
and

- Is not adjacent to residential uses.

Further, the Hayden Island Plan District supports designation of the Site as CE, stating that "The area east of Center Avenue is not designated as a pedestrian district and is appropriate for auto-oriented uses, based on the current uses and the proximity to the bridge ... " and specifying the purpose to "preserve the ability of existing and future businesses [east of Center Avenue] to have drive-through facilities." PMC 33.532.270.A.2.

As such, zoning the Site anything other than CE would put in question the future of the drive-through facility and conflicts with the stated purpose of the area. This is an instance where following the standardized conversion chart does not result in the correct, site-specific zoning designation. As you can see from the, the current MUZP zoning map results in a small island of CM1 surrounded by CE zoning.



There is no policy rational underlying this zoning pattern. The PSC should consider the site characteristics and context, decline to rotely follow the conversion chart, and apply the CE zone.



Planning & Sustainability Commission  
May 10, 2016  
Page 3

In any event, the Hayden Island Plan District should be amended to reflect the zone that the PSC applies to the site. PMC 33.532.270.B.2, specifically allows drive-through facilities zoned CN2 and located east of Center Avenue. The Site is currently zoned CN2 and is located east of Center Avenue. The text of PMC 33.532.270.B.2 should be amended to apply to the new zone applied to the Site, in order to ensure ongoing consistency with the Hayden Island Plan District.

In sum, we request that the Site be zoned CE, and that PMC 33.532.270.B.2 be revised to read, "East of Center Avenue, drive-through facilities are allowed on the portion of a site within a CE zone." Thank you in advance for your consideration of this request.

Sincerely,

Damien R. Hall

DRH:DRH  
encs  
cc: Client

- B. Commercial/Mixed Use 2 zone.** The Commercial/Mixed Use 2 (CM2) zone is a medium-scale zone intended for sites in a variety of centers, along corridors, and in other mixed use areas that have frequent transit service. The zone allows a wide range and mix of commercial and residential uses, as well as employment uses that have limited off-site impacts. Buildings in this zones will generally be up to four stories tall unless height and floor area bonuses are used, or plan district provisions specify other height limits. Development is intended to be pedestrian-oriented, provide a strong relationship between buildings and sidewalks, and complement the scale of surrounding residentially zoned areas.
- C. Commercial/Mixed Use 3 zone.** The Commercial/Mixed Use 3 (CM3) zone is a large-scale zone intended for sites in high-capacity transit station areas, in town centers, along streetcar alignments, along civic corridors, and in locations close to the Central City. It is intended to be an intensely urban zone and is not appropriate for sites where adjacent properties have single-dwelling residential zoning. The zone allows a wide range and mix of commercial and residential uses, as well as employment uses that have limited off-site impacts. Buildings in this zone will generally be up to six stories tall unless height and floor area bonuses are used, or plan district provisions specify other height limits. Development is intended to be pedestrian-oriented, with buildings that contribute to an urban environment with a strong street edge of buildings. The scale of development is intended to be larger than what is allowed in lower intensity commercial/mixed use and residential zones. Design review is typically required in this zone.
- D. Commercial Employment zone.** 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. The zone allows a mix of commercial uses, as well as some light manufacturing and distribution uses that have few off-site impacts. The zone allows drive-through uses and is appropriate for sites of sufficient size to provide transitions to areas with residential zoning. The emphasis of this zone is on commercial and employment uses, but residential uses are also allowed. Buildings in this zone will generally be up to four stories tall. Development is intended to be pedestrian-oriented, as well as auto-accommodating, and complement the scale of surrounding areas.
- E. Central Commercial zone.** The Central Commercial (CX) zone is intended to provide for commercial and mixed use development within Portland's most urban and intense areas, specifically the Central City and Gateway Regional Center areas. A broad range of uses are allowed to reflect Portland's role as a commercial, cultural, residential, and governmental center. Development is intended to be very intense with high building coverage, large buildings, and buildings placed close together. Development is intended to be pedestrian-oriented with a strong emphasis on a safe and attractive streetscape.