

## MEMORANDUM

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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

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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.

## 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 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:

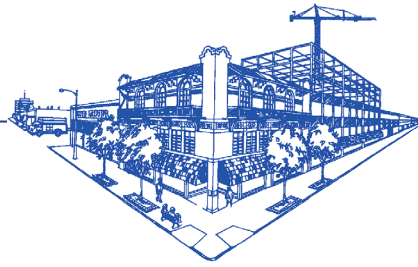
- Spot zoning effect – where one part of a development may be subject to CMSO while others are exempt, greatly increasing the complexity and cost of development.
- Prohibition of quick vehicle servicing and drive-through facilities at sites that may have transit service but are primarily auto reliant – 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



## MEMORANDUM

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To: Mayor Hales and City Council  
From: Eric Hovee - Principal  
Subject: Portland and Pattern Area Retail Demand and Sales Analysis  
Date: April 22, 2016

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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). By memorandum dated April 19, BPS staff responded to material I submitted at the initial April 14 City Council hearing titled *Retail Performance by Pattern Area* (as a draft document initially prepared January 14, 2016).

The purpose of this memorandum is to respond to the BPS analysis with supplemental discussion which is requested to be made part of the open record. The April 19 BPS memo makes two overall points summarized with our response as follows:

- 1) BPS staff does not think there is a need to amend the Economic Opportunities Analysis (EOA) to address retail capacity issues raised in testimony of Mark Whitlow and Eric Hovee on April 14 on behalf of the Retail Task Force (RTF) and International Council of Shopping Centers (ICSC).**

Response: While we raised the need for EOA revisions in earlier discussions with BPS, we have not made this request in oral testimony to the City Council as policy revisions (item #2) represent the greater RTF/ICSC priority for Council support. However, we ask that the written record include a request for Council consideration of substantive but minimal retail-related revisions to the EOA (per the Appendix to this memorandum).<sup>1</sup>

- 2) BPS supports amending or adding policies to the Comprehensive Plan in support of retail development, especially grocery stores – but takes exception to our supporting retail analysis.**

Response: These policies have been requested by Commissioner Saltzman and are supported as part of the BPS staff recommendation which is most appreciated. However, we would also take this opportunity to respond to specific concerns raised by the BPS memorandum.

The remainder of this memo provides additional detail regarding these two items.

# 1) AMENDING THE EOA

Reasons for requesting EOA amendments as manner proposed by the Appendix are three-fold:

- a) To establish the most succinct, yet clear linkage between supporting Comp Plan documentation and resulting retail-related policies as currently proposed** – better assuring compliance with state Goal 9 requirements. Mark Whitlow has submitted testimony expressing the concern that rezoning away from general commercial (CG) will greatly reduce the supply of sites suitable for auto-accommodating retail, which is untenable when more 80% of trips outside the Central City are still made by automobile. For example, the City is required to include findings explaining how new proposed site development restrictions, such as those imposed with the Centers Main Street Overlay (CMSO), will not adversely impact its Goal 9 inventory. A related concern is that new site development constraints (as with the Mixed Use Zones proposal) will further undermine the buildable land/commercial supply analysis in the EOA. Commercially designated lands that currently support larger-format and value-oriented neighborhood commercial uses and drive-through facilities may no longer serve this function if proposed site development standards will prove either too physically constraining or too expensive for many lower-margin businesses – including grocery stores – to be feasibly sustainable. In effect, the City is proposing new and stringent site development standards that seriously limit the ability to the full range of neighborhood commercial uses – but without analyzing how such site development standards impact Portland’s new effective inventory of commercial land. In the absence of a revised inventory or appropriate policy guidance, the EOA appears vulnerable to falling short of the requirement that the plan accommodate “the widest range of retail” as defined by OAR 660-009-005(6).<sup>2</sup>
- b) To reference more detailed retail analysis than has been included with the EOA** – the initial preparation of which dates to 2009. Of particular importance is the need to evaluate retail sales and leakage patterns by geographic (or “pattern areas”) of the city – as now proposed with Mixed Use Zones Project that will be considered by City Council following Comp Plan adoption – but not envisioned at the time the EOA retail analysis was conducted. Also relevant is the request to reference subsequent analysis for PDC indicating a “lack of available sites” for grocery stores. While it can be methodologically challenging to distinguish short term from long-term availability, this is an issue that nonetheless warrants Goal 9 consideration per OAR 660-009-0025(7).
- c) To occur concurrently with other EOA revisions being requested by BPS** – while avoiding the need to have the EOA revised or amended in more comprehensive fashion. The relatively minor but substantive retail revisions being requested are consistent with though less significant than the EOA revisions being made by BPS to amend the Harbor forecast. Our understanding is that while BPS would prefer to minimize EOA revisions, these requested retail-specific additions could readily be made if so directed by City Council.



There are at least two ways of addressing questions related to adequacy of the current EOA. One option would be delay Comp Plan adoption pending revision of the existing buildable land inventory to more directly assess supply suitable for grocery and other large format uses vis-à-vis the proposed new mixed use zones. A second option is to proceed with Comp Plan adoption as now proposed – but with policies and EOA inclusions that provide clear guidance for subsequent implementation actions including Mixed Use Zone consideration. This second option meets with RTF/ICSC concurrence subject to appropriate policy and EOA safeguards.

## 2) RETAIL LEAKAGE

There are a number of concerns related to our retail analysis that BPS raises with its April 19 memorandum that can be addressed point-by-point. Before proceeding with this detailed discussion, it is important to first highlight a pivotal area of agreement between the retail analyses provided both by our firm and BPS, namely that:

*Both the BPS and Hovee analyses agree that there is grocery sales leakage when considered on a city-wide basis as well as for the east, west and inner pattern areas of the City. Because we use different data sources, estimates of the degree to which these pattern areas are under-retailed vary – but there is virtual 100% alignment on which areas of the City are underserved. This common finding provides clear empirical support for the retail policies that have been recommended by BPS and which we support for Council adoption (P44, P51, and P60)*

We now proceed to consider some of the areas of BPS concern in more detail.

**Different Data Sources.** For this analysis, we have used the two of the most prominent private demographic and retail sales leakage data sources in the country:

- **BPS utilized ESRI** – a firm best known for its geographic information system (GIS) software but which has become an important provider of location-specific demographic and economic data.
- **EDH utilized Nielsen** – a firm perhaps best known at one time for television ratings but now (with the acquisition of Claritas) is a significant provider of customized market data.

As with many private proprietary data bases, the internal economic modeling mechanics of ESRI and Nielsen are essentially a *black box* system, with specific modeling formulations not readily divulged. Both firms are somewhat more clear about the data sources and both appear to draw from similar sources of data. As defined by Nielsen (with data sets as we have provided to BPS):

Nielsen's Retail Market Power data is derived from two major sources of information. The demand data is derived from the Consumer Expenditure Survey (CE Survey, or CEX), which is fielded by the U.S. Bureau of Labor Statistics (BLS). The supply data is derived from the Census of Retail Trade (CRT), which is made available by the U.S. Census. Additional data sources are incorporated to create both supply and demand estimates.

More detailed statements of Nielsen demographic and retail analytics are provided by the web site: <http://www.tetrad.com/demographics/usa/nielsen/>.

Areas of potential divergence are that ESRI appears to place more reliance on Dun and Bradstreet business information than Nielsen while Nielsen appears to place greater reliance on American Community Survey (ACS) data of the U.S. Census Bureau for estimating household income.

In any event, Nielsen estimates in-city consumer demand (and household incomes) to be higher than what ESRI estimates, while ESRI indicates actual spending in Portland to be higher than what is indicated by Nielsen modeling.

If BPS is interested, we would be prepared to cooperate in a more detailed review of the data sources and methodologies used by both of these national data providers. In the absence of what might be a considerable research project, an alternative approach is to use the two retail analyses to bracket the likely range of potential retail performance and sales leakage in Portland. This is the approach taken with this memorandum.

**Overall Sales Leakage or Surplus?** While both ESRI and Nielsen agree that Portland experiences sales leakage in grocery, there is disagreement between the data two sources as to whether Portland experiences net sales leakage or surplus when considered for *all retail store types* combined. Nielsen data indicates net leakage for all retail of 9% while BPS-cited ESRI figures indicate a net surplus of 10%.

Our initial draft working paper on Retail Performance by Pattern Area (of 1-14-16) cited just the Nielsen figure, as we did not have the counterpart BPS-ESRI data at that time. Based on the combined sources, it is reasonable to say that while it is not clear whether Portland experiences overall net sales leakage or surplus, the City appears to be roughly in balance (with a range of about +/- 10%).

**Additional Sales/Leakage Caveats.** Two additional items are of note:

- Based on what we see with data in hand at this time, it also appears to be the case that any net positive retail contributions may be attributable primarily to Portland's Central City area where sales far exceed what the Central City's residential population alone supports. Based on Nielsen data, the other pattern areas of the city show overall sales leakage not just for grocery but for other retail sales categories. It would be helpful if BPS were to provide the data to confirm whether this is the case or not with ESRI data, as well. *Note:* BPS has provided leakage data by pattern area for grocery retail but does not provide this level of geographic detail for all retail store types combined (with its April 19 memo).
- Our retail performance analysis indicates that about 18% of retail sales (especially large format) activity city-wide occurs outside of BPS defined pattern areas – primarily at Hayden Island/Meadows and Cascade Station. For total comparability, it would be



useful for BPS to provide ESRI estimates for this *outside of pattern area* geography – or indicate how these otherwise unaccounted for in-city retail sales have been allocated.

**Vacancy Rates & Rents.** BPS analysis suggests that our findings of a higher vacancy rate and lower rents in East Portland are an indicator of retail space availability – also that something other than zoning capacity/land development is at work – most likely insufficient demand and business support. BPS further asserts that rather than rezoning more land for commercial retail, the solution is to “support business growth through programs like PDC’s Neighborhood Prosperity Initiative.”

The BPS analysis appears to overlook three critical items:

- There is more East Portland demand than supply evidenced by apparent sales leakage. With grocery, the deficiency is met in part by residents traveling elsewhere out-of-distance to shop and by spending more at the nearby but less healthy convenience store alternative.
- With lower East Portland incomes, unmet demand is evident but is not being adequately addressed by retailers operating at lower price points with discount stores or entrepreneurial startups that require lower cost space, operating at narrow profit margins. Design requirements that can be afforded in higher income, higher cost locales (as with the inner area) render development infeasible when development requirements and associated costs exceed what low rental rates will support.
- PDC programs tend to be limited in scope, eligibility and funding availability. If these resources are to be viewed as a city-wide mechanism to fill the financial feasibility gap for grocery and other retail, further financial analysis should be provided with the EOA or other BPS analysis to demonstrate adequacy of resources required over the 20-year time horizon of the proposed Comprehensive Plan.

In effect, the issue appears not to be one primarily of demand or even available financial incentives, but of supply. Zoning and associated development regulations do directly affect the supply of sites sized to the market with design standards and associated costs that either meet or exceed what area rents will support. For East Portland, addressing the pricing aspect of supply will prove instrumental to better taking care of unmet resident demand both in the near term and over the 20-year horizon of the Comprehensive Plan.

**Food Deserts.** We would concur with much of the BPS discussion regarding difficulties faced by West Portland grocers due to topographical constraints. Resolving this will require much different approaches than in East Portland. Redevelopment with SW corridor high capacity transit may afford new opportunities but with recognition of continued need for auto accessibility for residents located away from major arterials on streets best accessed by car.

The grocery map for parts of Inner and East Portland indicate grocery gaps that extend beyond the Parkrose and 122<sup>nd</sup>/Foster areas – with additional coverage gaps extending beyond the 1+ mile walking distance – as in inner Southeast and east of 122<sup>nd</sup> Avenue. While reduced housing

density in East Portland may support less grocery retail than elsewhere in the city, further planning attention is suggested to better assure availability of adequately sized, auto-accommodating and competitively priced sites in these underserved submarkets of the city.

**Buildable Land Inventory.** Several responses to the BPS analysis are noted:

- The 2011 PDC/Leland study is most useful at addressing short-term land availability and suitability (or lack thereof) for consistency with OAR 660-009-0025 (7), topics which are not well covered by the EOA.
- Our firm was most directly involved with the buildable land inventory (BLI) with the initial EOA draft in 2009, less so with the 2012 EOA as adopted by City Council, and not at all with subsequent revisions including the August 2015 and March 2016 drafts. It also should be noted for the record that none of the City's draft or adopted EOAs considered the wholesale conversion of all of the City's commercial land to mixed use, both in the proposed comprehensive plan text and map and, again, in the text of the proposed Mixed Use Zones zoning code and related zoning map.
- Of most significance is that the breakout of sites for pattern areas can be useful as a means of better evaluating realistic commercial development capacity with both this Comp Plan update and the Mixed Use Zones Project proposal. Of less utility is the April 19 BPS breakout which is limited to less than three acre versus more than three acre sites. Based on prior discussions with BPS, RTF/ICSC interest is most focused on 3-10 acre sites which are especially important for viable grocery development.

Our understanding of the current BLI is that 3-10 acre neighborhood commercial sites are in extremely limited supply, meaning that land shortages will need to be offset by parcelization of larger 10 – 50+ acre properties – if suitable and feasible. The BPS analysis would be far more useful if: a) the inventory would be disaggregated to separate 3-10 acre sites from other size classes; and b) the inventory in this size class and the larger size classes were mapped to better ascertain locational suitability for retail development near- and long-term.

## CONCLUSION

The following observations are offered by way of summary:

- RTF/ICSC may be in less disagreement about overall sales leakage than what the BPS report indicates. Given the two data sources now available, the range of retail performance city-wide could be anywhere +/- 10% net leakage or surplus – or roughly in balance.
- Of greater importance for the policy discussion, both Hovee and BPS analysis indicates that Portland experiences net grocery sales leakage that warrants appropriate Comprehensive Plan retail-focused policies – across all pattern areas except the Central City. And our understanding is that RTF/ICSC and BPS staff are both in support of policy amendments P44, P51 and P60.

- Council adoption of the above policies plus RTF/ICSC requested denial of adoption of P32 (regarding drive-through facilities as also pivotal to providing the widest range of retail possible) represent the highest priorities for RTF/ICSC. We also strongly urge City Council consideration of refining the EOA as outlined by the Appendix to this memorandum. This approach assures a better linkage between Comp Plan supporting documentation and policy, as data rather than policy-driven, and as representing a path that offers less risk of Goal 9 non-compliance.
- Whether now or subsequent to Comp Plan adoption (but prior to Mixed Use Zone adoption), we would urge BPS to refine and revise the buildable lands inventory as needed to better address proposed zoning changes and resulting retail suitability with transition from current general commercial to mixed use designations.

Bottom line, RTF/ICSC is prepared to work with the Council and BPS with final Comp Plan policy and ensuing inventory refinements with Mixed Use Zone discussions – together with on-going plan monitoring post-adoption.

Council and BPS considerations of this supplemental written testimony is most appreciated.

c: Mark Whitlow, Perkins Coie LLP

## APPENDIX. RETAIL-RELATED REVISIONS TO PORTLAND EOA (DRAFT 2-24-16)

As a result of meetings involving the Retail Task Force (RTF) and Oregon Government Relations Committee of the International Council of Shopping Centers (ICSC) with the City of Portland Bureau of Planning and Sustainability (BPS), policy revisions are proposed to strengthen Comprehensive Plan provisions to more clearly encourage grocery stores and retail development, especially in underserved areas of Portland. RTF/ICSC also recommends that the following minimal revisions be included with supporting documents of the City of Portland Economic Opportunities Analysis (EOA), August 2015 draft.

**EOA Section 1 Trends Opportunities and Market Factors.** The August 2015 EOA provides retail sales and leakage analysis based on now dated 2008 data at pages 60-67. Suggested for insertion (at page 62 of the Section 1 draft EOA document) is the following update paragraph:

Updated retail sales and leakage data (as of 2015) confirms initial 2008 EOA analysis that that Portland generally appears adequately retailed, when considered for all retail sectors combined. This is due in large part to the high retail volumes of the Central City attracting spending from both City and non-City residents. However, much of Portland outside the Central City area experiences significant sales leakage with retail sales not fully serving resident demand. 2015 retail sales data indicates that sales leakage is particularly pronounced for grocery stores, causing in-city residents to make longer trips outside of their immediate neighborhoods and even out of Portland to meet these daily needs.

**EOA Section 2/3 Employment Land Needs and Supply.** Page 39 of the existing Section 2/3 EOA document notes that: “As with the Town Centers geography, most of the Neighborhood Commercial capacity is in smaller, underutilized, redevelopable sites.” Suggested clarification would read as follows:

The ability to reduce sales leakage and better serve neighborhood business needs may be particularly limited for store types that require larger sites – as with grocery – and in parts of the city where building rents are not adequate to support redevelopment. Also noted is that more recent analysis conducted for PDC (Leland 2011) indicates that a current “lack of available sites” makes it difficult to facilitate grocery store development in underserved areas.

**EOA Section 4 – Community Choices.** Introductory text to existing EOA discussion of Neighborhood Business Districts (EOA Section 4, page 29) describes the importance of these neighborhood business district geographies to the city. Either here or in conjunction with text related to the proposed policies regarding grocery stores and/or retail development, insert a new paragraph as follows:

**Serving unmet neighborhood retail and service needs.** With the exception of Portland’s Central City area, retail needs generated by local residents are generally underserved, especially for grocery that often serves as a neighborhood business anchor use. Providing a diversity of goods and services that are convenient, affordable and accessible will better fulfill objectives of 20-minute neighborhoods, reduced auto use, healthy food choices and improved resident livability.

This listing of potential retail-related revisions to Portland EOA documentation 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](mailto:ehovee@edhovee.com), or website: [www.edhovee.com](http://www.edhovee.com).

## END NOTES

<sup>1</sup> By email dated February 29, 2016, Mark Whitlow transmitted the 1-page of *Retail-Related Revisions to Portland EOA* (draft of 2-24-16) to Steve Kountz and Tom Armstrong with the request that “we would like to continue (our) conversation about the need to amend the EOA in a very minor way as proposed by Eric Hovee in the attachment. Please consider it, as we think it is an important factual base that should be in the EOA.”

<sup>2</sup> As provided via email dated, April 6, 2016 from Mark Whitlow, Perkins Coie, LLP, to Tom Armstrong, BP: “... 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, 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.” Where a 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 due 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 appears to take the same approach that LUBA rejected in *Gunderson* (I should note 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). As we discussed, 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. “

This review of *Portland and Pattern Area Retail Demand and Sales Analysis* has been prepared for RTF/ICSC by the economic and development consulting firm E. D. Hovee & Company, LLC with input from Perkins Coie, LLP. . On behalf of the Bureau of Planning and Sustainability E. D. Hovee was responsible for initial drafting of the City of Portland *Economic Opportunities Analysis* (EOA) in 2008-2009, with updated analysis made as part of the EOA document adopted by Portland City Council in 2012. E. D. Hovee has not been directly involved with the more recent EOA draft documents dated August 2015 and March 2016.

Since 1984, E. D. Hovee has provided economic and development consulting services for a range of public, non-profit and private clients – focused in the states of Oregon and Washington. In addition to Portland, EOAs and related Goal 9 analyses have been prepared for communities as diverse as Beaverton, McMinnville, Cascade Locks, Wilsonville, Forest Grove, Hood River County, Medford, Phoenix, and Ashland. E. D. Hovee has also conducted assignments elsewhere across the U.S. – particularly with respect to downtown/neighborhood business district revitalization and transit supportive development.

# 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.

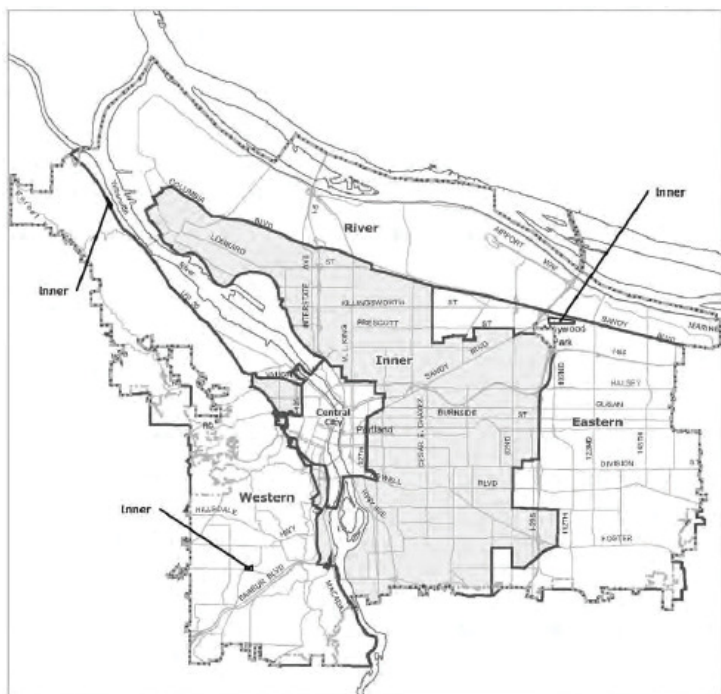
## CITY PATTERN AREAS

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.

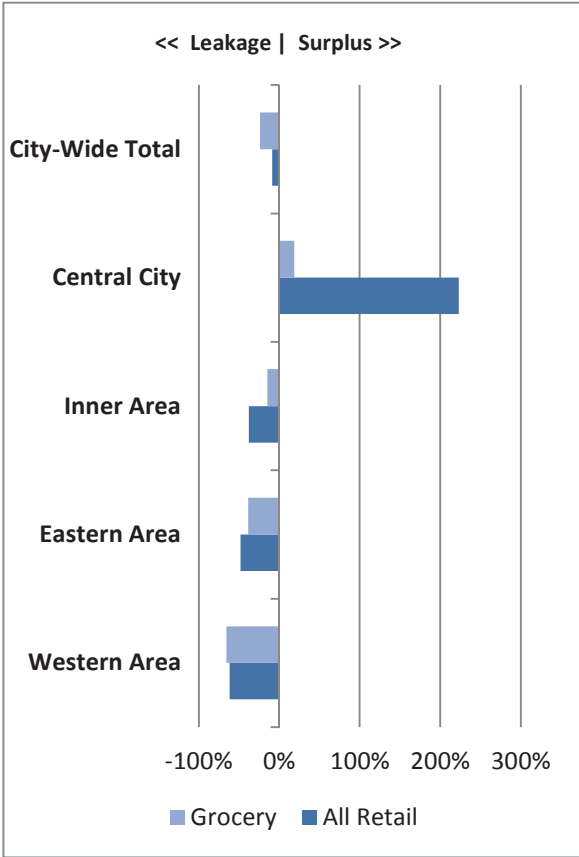


# RETAIL SALES & LEAKAGE

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.
- 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.

**Retail Leakage by Pattern Area (2015)**



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

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

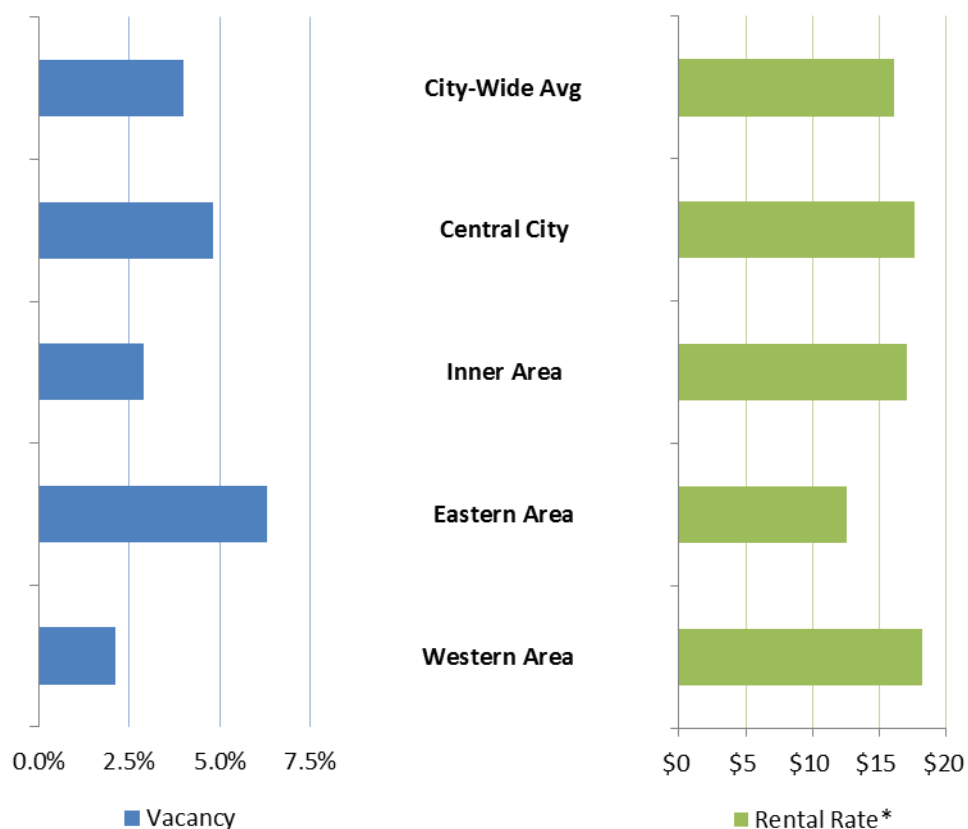
As a *second step* in evaluating retail performance, retail space leasing conditions also are compared for each of the BPS pattern areas – using data from the real estate information service CoStar.

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 23<sup>rd</sup> 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](mailto:ehovee@edhovee.com), or website: [www.edhovee.com](http://www.edhovee.com).