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VIA EMAIL (PSC@PORTLANDOREGON.GOV)

Ms. Katherine Schultz, Chair
Planning and Sustainability Commission
City of Portland
1900 SW Fourth Avenue, Suite 7100
Portland, OR 97201-5380

**Re: SolTerra Testimony Requesting Zone Change to Prevent New Mixed Use
Developments from Becoming Non-Conforming**

Dear Chair Schultz and Members of the Planning and Sustainability Commission:

This office represents SolTerra Architecture, Inc. (“SolTerra”) which owns property located at 25 North Fargo Street (the “Woods Site”) and 3138 WI/North Vancouver Avenue (the “Strata Site”). SolTerra recently learned that the Composite Zoning Map changes for these properties will make its new mixed use developments non-conforming, both as to development and use.

SolTerra requests that the Commission retain the current zoning for these properties or, as an alternative, rezone both sites RH (at the 4:1 FAR and 75 foot height level) and provide for the ground floor retail to remain a conforming use.

Non-Conforming Use Issues:

Both the Woods and Strata Sites are located along the vibrant Vancouver-Williams corridor. Except for the two and one half blocks surrounding the Woods and Strata sites, this corridor will be rezoned commercial mixed use (CM2 and CM3). The character of the corridor supports ground floor commercial development and ground floor active uses will be required along the rest of the corridor for the six blocks north of SolTerra’s Sites.

In line with the City’s desired character for this corridor, SolTerra’s developments will contain ground floor retail uses. These are allowed by right in new developments in the RX zone. However, the RH zone (proposed for the Woods Site and requested for the Strata Site if RX zoning is not permitted), these commercial uses will become non-conforming uses. The R1 zone proposed for the Strata site also does not permit commercial. Limited retail and office use

is allowed in the RH zone as a conditional use only for sites within 1,000 feet of a transit station, which the Code defines as a light-rail station. Although the Vancouver-Williams corridor is well served by bus transportation, the City has not extended light-rail to this portion of Northeast Portland, meaning that the SolTerra properties could not conform to this requirement.

As the Commission knows, non-conforming uses, unlike non-conforming developments, are subject to much stricter rebuilding requirements and a non-conforming use designation can make financing, sale and insurance difficult for projects. SolTerra therefore requests that the Commission address this issue when converting properties from RX to RH. The Commission could do this in two ways: first, revise the Code to state that non-residential uses permitted in the RX zone under the previous Code will not become non-conforming uses under the new Code; and second, revise the RH zoning limitation on commercial uses to allow limited, conditional commercial use in areas served by bus, rail or streetcar transit. These options would allow mixed use developments that obtained permits under the previous Code to be treated as conforming uses under the Code changes.

Non-Conforming Development Issues:

Woods

The Woods Site is proposed to be down-zoned from RXd to RHd, which we understand is part of the City's effort to eliminate the RX zone outside of the Central City and Gateway Plan Districts. SolTerra's proposed development, which in the last stages of building permit review, and will be constructed before the Composite Zoning Map changes become effective, will conform to the Property's current RX zoning. The development will also conform to the RH development standards if the 4:1 FAR and 75 foot height limits are imposed. SolTerra requests that if the RH zoning is imposed, the Woods Site is allowed a 4:1 FAR and 75 foot height limit. The Woods Site is surrounded on three sides by commercial (CM2 and CM3) zoned properties which allow more intense commercial uses and high density residential. High density residential zoning is therefore appropriate for this Site.

Strata

The Strata Site is proposed to be down-zoned from RXd to R1d. We understand that this down-zone was requested by the Elliot Neighborhood Association as part of a comprehensive land use proposal. The down-zoning of this Site was adopted by the City because existing development on the block conforms to R1 zoning. However, the block has frontage on three sides in higher density zoning, including institutional campus, CM2 and CM3. As noted above, with the exception of the two and one-half blocks surrounding the Strata and Woods Sites, the entire Vancouver-Williams corridor is zoned for mixed use. This corridor boasts a New Seasons Market and many community-scale commercial uses, and a bike freeway. For these reasons, the

Strata Site is an appropriate location for higher density housing and mixed use development which will maximize City and private investment in this corridor area.

SolTerra began the permitting process for the Strata Site in 2015 and is in the midst of a conditional use review to allow development on the Site.¹ SolTerra has invested months of time and considerable financial resources permitting and designing the Strata Site for development that conforms to its current RX zoning and expects to submit its Design Review application within the next few weeks. The Strata development will be completed or well underway by the time the Composite Map Amendments become effective.

A down-zone to R1 will make the Strata project non-conforming as to almost every development standard. To avoid rendering a brand new mixed-use development non-conforming, we request that the Commission either retain the current RX zoning for the Site, or rezone the Site RH at the 4:1 FAR and 75 foot level.

SolTerra acknowledges that RH zoning for this Site is not compatible with the 2035 Comprehensive Plan recently adopted by the City Council, but requests that the Commission rezone the Site as a signal to the City Council to adopt higher density zoning. During the last round of City Council amendments, the Council made a large number of revisions to the Comprehensive Plan to avoid making new developments non-conforming. SolTerra plans to request this type of amendment for the Strata Site and asks the Commission to lead the way in requesting this change.

Thank you for your consideration of these requests.

Very truly yours,



Allison J. Reynolds

AJR:rsr

Enclosure: Figure 1

cc: Melynda Retallack (via email)
Andrea Wallace (via email)
Nate Ember (via email)

¹ The Vancouver Avenue First Baptist Church previously owned the Strata Site and during that ownership the Site was included in the conditional use for the Church. In order to develop the Property to its RX zoning, the conditional use must be revised.

Figure 1

Map colors show proposed zoning for the Sites and surrounding areas. Source: Portland Map App.

