

MOUNT-TABOR

NEIGHBORHOOD ASSOCIATION

August 1, 2025

Breah Pike-Salas
Portland Permitting and Development
1900 SW Fourth Avenue, Ste. 5000
Portland, OR 97201

Dear Breah Pike-Salas:

I am writing on behalf of the Mt. Tabor Neighborhood Association (MTNA) to express the MTNA's strong opposition to the proposed reactivation of a drive-through facility at the CM2-zoned parcel at 5605 SE Division St associated with permit numbers 2018-210965-000-00-CO and 2018-210965-REV-01-CO.

(Please let us know if we should be addressing our concern to someone else in the bureau.)

This site is located directly along the FX2-Division high-capacity transit corridor, a major public investment intended to support walkability, reliable transit service, and a shift away from car dependency. Reintroducing a drive-through in this context is not only out of alignment with adopted city policy, but also appears to be in direct violation of the Portland Zoning Code.

Per Chapter 33.130.260.C.2: "If the use with the drive-through facility is discontinued for 3 continuous years, reestablishment of the drive-through facility is prohibited. If the use ceases operation, even if the structure or materials related to the use remain, the use has been discontinued."

Based on aerial imagery, public records, and community knowledge, the drive-through at this location ceased operation in 2019, and the building was demolished in August 2020. No new use was established in the intervening years. As of today, there is no standard evidence in the permit record to demonstrate continuous use, and no Determination of Legal Nonconforming Status has been issued as required under 33.258.038.B.

The continued processing of this permit, absent such evidence or determination, would appear to contradict the zoning code and undermine the City's own policy goals around transportation safety, climate action, and land use planning.

In addition to the legal concern, our association is deeply troubled by the implications of this reactivation:

- The approval of the permits would permanently reintroduce auto-oriented design to a major transit corridor.
- The drive-through would create new conflicts between turning vehicles, pedestrians, and buses, degrading FX2 reliability and increasing risk for the students of Atkinson Elementary.
- The approval of the permits would set a damaging precedent for the informal reactivation of expired nonconforming uses elsewhere in the city.
- The combination of a fast-food restaurant and drive-through would create a unique pedestrian hazard by providing a draw for students of Franklin High School to cross Division St, while at the same time introducing increased vehicle activity.
- The approval of the permits, in contradiction the to current zoning code and without further information to the public (i.e., a Determination of Legal Nonconforming Status and/or written explanation as to why the zoning coding is being applied inconsistently) creates the impression of an opaque system of permitting that is not applied equitably to all.

We urge the Bureau of Permitting and Development to enforce the 3-year discontinuation rule as written and deny any attempt to reinstate the drive-through without proper legal substantiation. Our community has spent years advocating for a more walkable, transit-supportive Division corridor; and this project directly threatens that progress.

If the Bureau does intend to proceed with approving this permit, we ask that the Bureau provide a written statement explaining why it has granted approval without a Determination of Legal Nonconforming Status.

Thank you for your attention to this matter. Please let us know that you received this letter. We are available for further discussion and hope to see the City uphold both its code and its commitments to livability and climate action.

Sincerely,



Paul Leistner, president
Mt. Tabor Neighborhood Association

2350 SE 57th Ave.
Portland, OR 97215
503-953-6536
prleistner@gmail.com
(he/him)

Cc: City Council Members Angelita Morillo, Tiffany Koyama Lane, Steve Novick.