



Community Development Department / Planning Division
12725 SW Millikan Way / PO Box 4755
Beaverton, OR 97076
General Information: 503-526-2222 V/TDD
www.BeavertonOregon.gov

MEMORANDUM

TO: Planning Commission
FROM: Steve Regner, Senior Planner
DATE: Sept. 23, 2020
SUBJECT: Downtown Design Project – Additional Written Testimony

This memo is intended to supplement the staff report dated Sept. 16, 2020 and supplemental memo dated September 21, 2020 for the Downtown Design Project hearing regarding CPA2020-0004, TA2020-0002 and ZMA2020-0004 scheduled for Sept. 23, 2020. It addresses additional written testimony received by staff. This written testimony was received after the September 21, 2020, supplemental memo was provided to Planning Commission.

Exhibit 8.9 Letter received September 21, from Jeff Bachrach, representing Lanphere Enterprises, Inc

Comment Summary

Letter expresses concern regarding the effects of a vehicle sales and service use prohibition on existing operations of vehicle sales and service uses currently operated by Lanphere Enterprises, Inc. Testimony requests to either delay a Planning Commission recommendation or modify the proposal to recommend that staff continue to work property owners prior to a decision made by City Council.

Staff's Response

Staff acknowledges the concerns expressed regarding impacts to existing vehicle sales and service uses. Staff is preparing a set of alternatives for the Planning Commission to review and consider at Wednesday's public hearing.

Exhibit 8.10 Letter received September 22, 2020, from Sarah Zahn, Director of Development, Urban Development Partners

Exhibit 8.11 Letter received September 23, 2020, from Louise Dix, AFFH Specialist, Fair Housing Council of Oregon

Comment Summary

Letters express support for the proposed amendments.

Exhibit 8.12 Letter received September 21, 2020, from Mike Robinson, representing the Francis Family

Comment Summary

Letter expresses concern regarding the effects of a vehicle sales and service use prohibition on existing operations of vehicle sales and service uses currently operated by Lanphere Enterprises, Inc. Testimony requests delay a Planning Commission recommendation and suggests language to alleviate concerns regarding the impacts of a non-conforming use status.

Staff's Response

Staff acknowledges the concerns expressed regarding impacts to existing vehicle sales and service uses. Staff is preparing a set of alternatives for the Planning Commission to review and consider at Wednesday's public hearing.

Jeff Bachrach
Bachrach.Law P.C.

Received
Planning Division
9/21/20

The Pittock Block, Suite 320
921 SW Washington Street
Portland, Oregon 97205

(o) 503.295.7797
(c) 503.799.0242
jeffb@bachrachlaw.com

September 21, 2020

Ms. Jennifer Nye, Chair
Beaverton Planning Commission

VIA EMAIL

Re: Downtown District Development Amendments
CPA2020-0004, TA2020-0002, TA2020-0004, ZMA2020-0004
Lanphere Property

Dear Chair Nye and Commissioners,

I represent Lanphere Enterprises, Inc, which owns an approximately 3-acre parcel located in the Old Town District within the Historic Overlay. It houses, among other uses, the corporate headquarters for the Lanphere Auto Group, and sales and service uses in conjunction with the Beaverton Kia dealership. The Lanphere family has owned and operated dealerships on the property for 55 years.

Bob Lanphere Jr has submitted a letter on behalf of the company explaining the detrimental impact the proposed code changes will have on the business. In a meeting with staff last week, they acknowledged that the changes to the Downtown District would indeed have an enormous impact on the site – an outcome that was never made apparent in any public outreach or notice or anywhere in the public documents about the proposal - and staff agreed to work with Lanphere to draft possible amendments to the proposed code changes that would preserve at least some (hopefully all) of the land-use rights the current code provides for the Lanphere property.

On behalf of my client, I request that the Planning Commission take one of two actions at your hearing Wednesday evening:

1. Delay voting on your recommendation until we can work with staff to prepare and present to the commission amendments to the current proposal that will allow for the business operations on the property to continue and remain viable.

Or in the alternative:

2. If you vote to send the package to the City Council, include a recommendation that, before the council considers adoption of the proposal, staff should work with Lanphere to prepare and present to council alternative code language.

The 452-page staff report and exhibits that support the proposed amendments package describe a compelling vision for the Downtown District, but as the consultant report, "Beaverton Downtown Design Project" (Exhibit 5) authored by Sera Architects and ECONorthwest, acknowledges, it is a long-term vision and a lot of changes in the marketplace and economics of Downtown development will have to happen before the vision can start to become real.

What's missing from all the supporting documentation is any mention of an economic transition plan. There is no recognition of or any accommodation for the businesses that are currently operating Downtown. There's no discussion about what happens to a site like Lanphere's if the code changes drive businesses away before the market can support the kind of expensive mixed-use housing and commercial development envisioned in the plan.

As a long-time business owner in and supporter of the Downtown District, my client urges the Planning Commission to hold off advancing staff's proposal, not only to have time to consider amendments affecting the Lanphere property, but also consider what other unanticipated changes in downtown development may take place post-Covid and how those changes might impact the vision for downtown set out in the proposal now before you.

Thank you for your consideration.

Very truly yours,

Jeff Bachrach

Jeff Bachrach

Cc: Steve Regner, Senior Planner
Anna Slatinsky, Planning Division Manager
Bob Lanphere Jr, President, Lanphere Enterprises
Robb Walther, COO, Lanphere Enterprises

Received
Planning Division
9/22/20

September 22, 2020

Steve Regner, Senior Planner
City of Beaverton
PO Box 4755
Beaverton, OR 97076

Dear Steve and Beaverton Planning Commissioners,

We would like to express our support for the new Beaverton Downtown Design District Development Code changes and related applications (CPA2020-0004, TA-2020-0002, TA2020-0004, ZMA-2020-0004.

Your planning department has shown an extraordinary level of outreach and interest seeking the input of experienced developers and designers of quality urban projects.

It is clear from the evolution of the code drafts that your team wishes to set a firm foundation of basic requirements to ensure quality urban architecture but also allowing flexibility for design teams to suggest alternative means to meet the intent of the code while innovating. This flexibility is the most forward-looking approach to ensure creativity and richness in Beaverton's urban fabric.

The Development Code proposes to replace current city standards and guidelines that were sometimes unclear, outdated or did not promote a vibrant downtown. The proposed code:

- Strikes a good balance between removing obstacles to development and encouraging feasibility while ensuring quality projects. For example, the proposed code reduces minimum parking requirements especially near transit, reduces loading expectations in an area where space is at a premium and increases height limits in part of Old Town.
- Allows a variety of building types and architectural approaches.
- Provides clear, achievable and flexible standards and guidelines that allow more creative and flexible designs.
- Sets up a process that promotes good customer service, such as offering optional early design advice opportunities with the Planning Commission, allowing some discretionary decisions to be handled by staff and providing the ability for Planning Commission to waive guidelines so they can approve quality projects in unusual cases where the standards and guidelines don't quite fit the situation.

In addition, the code meets the approval criteria identified by staff and helps implement the Urban Design Framework. We strongly encourage the Planning Commission and City Council to approve the applications and appreciate the opportunity to engage in this process.

Sincerely,

Sarah Zahn
Director of Development
Urban Development Partners

Scott Barton-Smith
Associate Principal
Hacker Architects



Received
Planning Division
9/23/20

June 27, 2020

City of Beaverton Planning Commission
12725 SW Millikan Way
Beaverton, OR 97005

RE: CPA2020-0004, TA2020-0002, ZMA2020-00

The City proposes to amend the Beaverton Development Code and Comprehensive Plan to update development regulations in Downtown Beaverton. Expected Development Code updates include new zoning, which regulates permitted height, density, setbacks, and permitted uses; new design rules that regulate site and building design; revised on-site parking requirements; and revised on-site loading requirements. Expected Comprehensive Plan Updates include a new policy promoting improved bicycle and pedestrian facilities, and the addition of a Multimodal, Mixed-use Area designation.

Dear Commissioners:

This letter is submitted jointly by Housing Land Advocates (HLA) and the Fair Housing Council of Oregon (FHCO). Both HLA and FHCO are non-profit organizations that advocate for land use policies and practices that ensure an adequate and appropriate supply of affordable housing for all Oregonians.

Both HLA and FHCO are supportive of CPA2020-0004, TA2020-0002, and ZMA2020-00, the Beaverton Development Code and Comprehensive Plan development regulation update in Downtown Beaverton. The changes included within these amendments such as allowing further growth and density within the downtown district, maintaining or eliminating the maximum density and maximum floor area, reducing parking minimums, and establishing Multimodal Mixed-use Area, will greatly help the City achieve its housing needs. Additionally, the staff report in its entirety was both thorough and thoughtful in its analysis. Good luck with the continuation of this project!

Thank you for your consideration of our comments.

Sincerely,

A handwritten signature in cursive script that reads "Louise Dix".

Louise Dix
AFFH Specialist
Fair Housing Council of Oregon



Cc: Gordon Howard, DLCD

1221 SW Yamhill Street, Portland, Oregon 97205

Received
Planning Division
9/23/20

September 23, 2020

Michael C. RobinsonAdmitted in Oregon
T: 503-796-3756
C: 503-407-2578
mrobinson@schwabe.com**VIA E-MAIL**Ms. Jennifer Nye, Chair
City of Beaverton Planning Commission
The Beaverton Building
12725 SW Millikan Way
Beaverton, OR 97005**RE: DOWNTOWN DESIGN PROJECT, City of Beaverton File Numbers, CPA2020-0004/TA2020-0002/ZMA2020-0004, Comprehensive Plan and Development Code changes to implement the Downtown Urban Design Framework adopted in 2018; Letter on behalf of Francis Family, Owner of Damerow Ford Properties**

Dear Chair Nye and Members of the Beaverton Planning Commission:

This law firm represents the Francis family (the “Francis Family”). I am writing on behalf of the Francis Family to explain why the Beaverton Planning Commission (the “Planning Commission”) should not approve the proposed amendments (the “Amendments”) to the Beaverton Comprehensive Plan (the “Plan”) and Beaverton Development Code (the “BDC”) and should continue the September 23, 2020 initial evidentiary hearing on the Amendments to the next public hearing so that the Francis Family can have an additional opportunity to work with the Beaverton Planning Department staff (the “Staff”) on amendments to address the issues raised in this letter and the two letters submitted on September 21, 2020 on behalf of Lanphere Enterprises, Inc. (“Lanphere”).

The Francis Family own several properties in downtown Beaverton which are occupied by its tenant, Damerow Ford. Damerow Ford has operated on these properties since 1953. The dealership has operated on this property for almost 70 years and has been a long-time steady employer and contributor to the City’s economy and the stability of downtown Beaverton. The success of the dealership has been due, in part, to the dealership’s ability to make changes required by the market and the Ford Motor Company.

My client and I discussed the proposed amendments with Mr. Regner and other Staff on September 10, 2020. The complexity and size of the Amendments mean that the Francis Family has not been able to fully review the Amendments, or discuss the proposed language with Staff to address the issues identified in this letter. The Francis Family told Mr. Regner that it would propose an amendment to the Amendments. This letter contains the proposed language.

The Amendments are complex and have the effect of making the uses on the Francis Family property a non-conforming use under BDC Chapter 30, “Non-Conforming Uses.” The effect of the Amendments on the Francis Family’s tenant will be highly damaging and will threaten its ability to continue to operate on the property. The tenant employs 100 people and has an annual payroll of \$6.0 million, as well as benefitting the near-by businesses.

The tenant’s lease on the property runs for up to another 18 years. Non-conforming uses and development are disfavored under Oregon law and the Amendments will prevent necessary improvements to the dealership. This will threaten the continued operation of the dealership and will harm the economy of the downtown specifically and the City generally.

All of this will occur without any guarantee that there is a market demand for a use or uses to replace the dealership if it should move. In fact, as Mr. Bachrach’s September 21, 2020 letter points out, the City’s own consultant acknowledges that there is no market demand for the kind of uses that the Amendments are intended to encourage. A vacant or deteriorating use on the property because the Amendments prohibit necessary improvements will not make the market respond sooner to redevelopment but will damage the downtown’s and the City’s economy.

The Francis Family recognizes that the Amendments are intended to benefit the City and, over time, downtown Beaverton will change but the Plan and the BDC need to preserve existing and vital businesses during what will surely be a slow change. Causing businesses to decline because they cannot make needed changes and improvements, or to prematurely close and put 100 people out of work in Beaverton, is contrary to the well-being of the City and its economy.

The Francis Family agrees with Mr. Bachrach’s request that the Planning Commission not make a recommendation to the City Council on September 23, 2020 but instead continue the hearing to allow additional time to consider language addressing the issues raised by the Amendments. There is no rush to adopt the Amendments before considering the Francis Family’s comments. A short continuance of the public hearing is appropriate where the Francis Family has had less than a month to review a complex application, whereas the City has had many months to prepare the Amendments.

While not final language because the Francis Family wants to engage the Staff and the Planning Commission in a discussion on the language, the following language is a starting point for addressing the Francis Family’s issues with the Amendments. This draft language would be placed in BDC Chapter 30:

“All uses lawfully established on [insert the date of the amendments] which are now listed as “Prohibited” (N) may be reestablished after complete destruction, or expanded with an approved conditional use permit, as long as the reestablished or expanded use is no less conforming with development standards in effect on [insert the date of the amendments]. The uses referred to herein shall be treated as

Ms. Jennifer Nye, Chair
September 23, 2020
Page 3

conforming uses for purposes of all applications for expansion of, or alteration to, existing buildings and construction of new buildings.”

The Francis Family appreciates the Planning Commission’s consideration of its request and will testify at the September 23, 2020 Planning Commission hearing. I have asked Mr. Regner to place this letter before you prior to the public hearing and in the official Planning Department file for this legislative amendment.

Very truly yours,



Michael C. Robinson

MCR/jmhi

cc: Mr. Brett Francis (*via email*)
Mr. John Francis (*via email*)
Mr. Jeff Bachrach (*via email*)
Mr. Steve Regner (*via email*)
Ms. Anna Slatinsky (*via email*)
Mr. Garrett Stephenson (*via email*)

PDX\110800\257727\MCR\29018342.1