

**AGENDA BILL**

**Beaverton City Council  
Beaverton, Oregon**

**SUBJECT:** A Public Hearing to Consider Amending Ordinance 2050, the Development Code, TA2020-0004, Related to the Downtown Design Project and Active Ground-floor Use Requirements

**FOR AGENDA OF:** 11-17-20 **BILL NO:** \_\_\_\_\_

**MAYOR'S APPROVAL:** \_\_\_\_\_

**DEPARTMENT OF ORIGIN:** CDD

**DATE SUBMITTED:** 11-03-20

**CLEARANCES:** City Attorney \_\_\_\_\_

Mayor's Office \_\_\_\_\_

Finance \_\_\_\_\_

Planning \_\_\_\_\_

**PROCEEDING:** Public Hearing

- EXHIBITS:**
1. Land Use Order No. 2780
  2. Planning Commission Minutes from Sept. 23, 2020
  3. Planning Commission Minutes from Oct. 7, 2020
  4. Planning Commission Staff Report dated Sept. 16, 2020 and supplemental information, including Exhibits:
    1. Active Ground-floor Land Use Regulations
  5. Public comment (8.1 through 8.3)
  6. Supplemental memo providing additional public comments dated Sept. 21, 2020 (8.4 through 8.8)
  7. Supplemental memo providing additional public comments dated Sept. 23, 2020 (8.9 through 8.12)
  8. Staff memo regarding Vehicle Sales and Service Scenarios dated Oct. 2, 2020
  9. Supplemental memo providing additional public comments dated Oct. 7, 2020 (8.13 through 8.15)

**BUDGET IMPACT**

EXPENDITURE	AMOUNT	APPROPRIATION
REQUIRED \$0	BUDGETED \$0	REQUIRED \$0

**RECOMMENDED ACTION:**

City Council conducts a public hearing to consider adoption of TA2020-0004 related to the Downtown Design Project and Active Ground-floor Use Requirements. A summary of the amendment is provided below.

TA2020-0004 (Downtown Design District Development Code revisions related to active ground-floor use requirements)

**Agenda Bill No:** \_\_\_\_\_

Provides land use restrictions on ground-floor building spaces that front on specified streets in the Downtown core. These regulations focus on vibrancy and activity in Downtown. Three tiers of restrictions are included in these amendments. Each tier also includes a minimum percentage indicating how much of the building frontage at the street must be occupied by an active use. Buildings that do not front on an identified street, meaning the building façade is outside of the front yard setbacks, are not subject to these rules, nor are any upper-floor spaces.

### **HISTORICAL PERSPECTIVE:**

In 2016, the Beaverton Community Vision was updated, reinforcing the aspiration for Downtown Beaverton to be the social and cultural heart of the community. Soon thereafter, the city kicked off the Downtown Design Project.

The Downtown Design Project created a new and up-to-date Urban Design Framework to guide future development and inform a Development Code update to promote a more urban, vibrant Downtown.

After City Council approved the Urban Design Framework in October 2018, city implementation steps included preparing Development Code updates. Most of the updates to the Development Code are included in a concurrent text amendment (TA2020-0002) including updates to existing Chapters 10, 20, 40, 50, 60, and 90, as well as the introduction of a new Downtown Design District Code, Chapter 70.

This proposed text amendment intends to focus energy on key streets in Downtown Beaverton by requiring active uses to be located on the ground floor spaces of buildings. For commercial ground-floor spaces built at or near the sidewalk, this would allow a narrower set of uses to lease the space, as opposed to allowing every use that is allowed in the underlying zone. The intent is to encourage active uses that bring more customers and activity and promote more vibrant streets in Downtown activity areas.

Given the uncertainty inherent in a pandemic and the challenges currently facing restaurants, retail establishments and personal services businesses, the effective date is proposed to be July 1, 2021, for this text amendment to allow more time for public health strategies to address the pandemic and additional time for city staff to monitor the business environment and understand business needs.

### **INFORMATION FOR CONSIDERATION**

The purpose of this public hearing is to receive testimony and consider approval of the proposed legislative amendments

Section 40.97.15.2.C of the Development Code provides the following criteria applicable to legislative zoning map amendments:

- 15.2.C.1. The proposal satisfies the threshold requirements for a Legislative Zoning Map Amendment application.
- 15.2.C.2. The proposal conforms with applicable policies of the City's Comprehensive Plan.
- 15.2.C.3. All critical facilities and services are available or can be made available to an adequate capacity to serve the site and uses allowed by the proposed zoning designation.
- 15.2.C.4. Essential facilities and services are available or can be made available to serve the site and uses allowed by the proposed zoning designation.
- 15.2.C.5. The proposal is or can be made to be consistent with all applicable provisions of Chapter 20 (Land Uses).

The Planning Commission (with a 4-1 vote) recommended approval of the proposed amendments, on October 7, 2020. The Planning Commission recommendation included the July 1, 2021, effective date.

It also included modifications to exempt Vehicle Sales, Major Automotive Services and Minor Automotive Services from active ground-floor use rules. This modification was made after a discussion focused on balancing the vibrancy and urban design goals of the Downtown Design

Project with concerns about continued business operation expressed by automotive business owners and owners of properties upon which those businesses operate. The Planning Commission suggested City Council to consider the vehicle sales and service exemption to determine if this is an appropriate policy to implement the Urban Design Framework.

More information about changes described above are included in Exhibit 6, the staff memo regarding Vehicle Sales and Service Scenarios, which is dated Oct. 2, 2020; and the Land Use Order in Exhibits 1.

**STAFF RECOMMENDATIONS:**

Staff recommends the following steps for the November 10, 2020, public hearing for TA2020-0004 (Downtown Design District Development Code revisions related to active ground-floor use requirements):

- A. Open the public hearing.
- B. Receive all public testimony.
- C. Close the public hearing.
- D. Consider Planning Commission Land Use Order No.2780; public testimony; facts and findings presented in this agenda bill; and the September 23, 2020, Planning Commission staff report and supporting materials.
- E. Deliberate on the Planning Commission recommendation to approve the proposed legislative amendment.
- F. Approve the proposed legislative text amendment in TA2020-0004 as recommended by the Planning Commission in Land Use Order No. 2780, with an effective date of July 1, 2020.

**NEXT STEPS:**

If City Council approves the proposed amendment, an Ordinance will be prepared for Council's consideration and adoption. The tentative dates for first and second reading of the Ordinance are November 17 and December 1, 2020.

**BEFORE THE PLANNING COMMISSION FOR  
THE CITY OF BEAVERTON, OREGON**

**After recording return to:**

City of Beaverton, City Recorder:  
P.O. Box 4755  
Beaverton, OR 97076

IN THE MATTER OF A REQUEST FOR APPROVAL OF A TEXT	)	ORDER NO. 2780
AMENDMENT TO ADOPT ACTIVE GROUND-FLOOR USES	)	TA2020-0004 DOWNTOWN DESIGN PROJECT
WITHIN THE DOWNTOWN DESIGN DISTRICT. CITY OF	)	
BEAVERTON, APPLICANT.	)	
	)	

The matter came before the Planning Commission on September 23, 2020, on a request to amend the Beaverton Development Code to adopt Active Ground-floor Use regulations within the Downtown Design District. Amendments are proposed to Chapter 70 of the Development Code .

A staff memo dated October 2, 2020, prompted the Planning Commission to deliberate if lawfully established existing Vehicle Sales, Major Automotive Services, and Minor Automotive Services should be exempt from the Active Ground Floor Use rules, to reflect the findings made at the previous hearing for text amendment TA2020-0002. The Planning Commission was mixed in their findings, with the majority finding that this was a special consideration and existing Vehicle Sales, Major Automotive Services, and Minor Automotive Services should be exempt. Planning Commission urges City Council to consider this issue with greater scrutiny to determine if this is the appropriate policy to implement the Urban Design Framework.

Pursuant to Ordinance 2050 (Development Code) Section 50.45 the Planning Commission conducted a public hearing and considered testimony and exhibits on the subject proposal.

The Commission, after holding the public hearing and considering all oral and written testimony, adopts the Staff Report dated September 16, 2020, and the Staff Memorandums dated September 21, 2020, September 23, 2020, two memos dated October 2, 2020, and October 7, 2020, and the findings contained therein, as applicable to the approval criteria contained in Section 40.85.1.C of the Beaverton Development Code.

Therefore, **IT IS HEREBY ORDERED THAT TA2020-0004** is recommended for **APPROVAL** to City Council based on the testimony, reports and exhibits, and evidence presented during the public hearing on the matter and based on the facts, findings, and conclusions found in the Staff Report dated September 16, 2020, and the Staff Memorandums dated September 21, 2020, September 23, 2020, two memos dated October 2, 2020, and October 7, 2020, and this Land Use Order.

Motion **CARRIED**, by the following vote:

<b>AYES:</b>	Lawler, Overhage, Saldanha, Uba.
<b>NAYS:</b>	Nye.
<b>ABSTAIN:</b>	None.
<b>ABSENT:</b>	Brucker, Winter.

Dated this 15th day of October, 2020.

To appeal the decision of the Planning Commission, as articulated in Land Use Order No. 2780, an appeal must be filed on an Appeal form provided by the Director at

the City of Beaverton's Community Development Department's office by no later than 4:30 p.m. on October 26, 2020.

PLANNING COMMISSION  
FOR BEAVERTON, OREGON

ATTEST:



Steve Regner  
Senior Planner

APPROVED:



Jennifer Nye  
Chair

Digitally signed by Jennifer  
Nye  
Date: 2020.10.13  
10:08:13-07'00'

Anna Slatinsky

Digitally signed by Anna Slatinsky  
DN: C=US,  
E=aslatinsky@beavertonoregon.gov,  
O=City of Beaverton, OU=CDD Planning  
Division, CN=Anna Slatinsky  
Date: 2020.10.13 15:45:31-07'00'

ANNA SLATINSKY  
Planning Division Manager



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Planning Division  
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Beaverton, OR 97076  
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**CITY OF BEAVERTON  
STAFF REPORT**

**STAFF REPORT DATE:** Wednesday, Sept. 16, 2020

**HEARING DATE:** Wednesday, Sept. 23, 2020

**TO:** Planning Commission

**STAFF:** Steve Regner, Senior Planner

**PROPOSAL:** **TA2020-0004 Downtown Design District Active Ground Floor Use Text Amendment**

**SUMMARY:** The City of Beaverton proposes to amend the Development Code by adding additional provisions to Chapter 70 that will require active uses to occupy ground floor tenant spaces on certain streets. The proposed amendments will implement the Downtown Design Project, the 2018 Urban Design Framework and elements of the current the Downtown Regional Center Community Plan. These rules are proposed to be considered for approval concurrently with CPA 2020-0004, TA2020-0002 and ZMA2020-0004, but staff recommends a delayed effective date of July 1, 2021, in response to the economic and public health considerations of the COVID-19 pandemic.

**APPLICANT:** City of Beaverton

**APPLICABLE CRITERIA:** Development Code Section 40.85.15.1.C.1-7 (Text Amendment Approval Criteria)

**RECOMMENDATION:** Staff recommend the Planning Commission review the proposed amendment, hold a public hearing and recommend approval of TA2020-0004 to the City Council, with an effective date of July 1, 2021

## **1. Background**

In 2017, the Beaverton Community Vision was updated, reinforcing the aspiration for Downtown Beaverton to be the social and cultural heart of the community. Soon thereafter, the city kicked off the Downtown Design Project. In the past, many recently completed and adopted plans looked at portions of the Downtown area. The Downtown Design Project aimed to look comprehensively at the entirety of Downtown's two zoning districts, Regional Center-Transit Oriented (RC-TO) and Regional Center-Old Town (RC-OT), creating a new and up-to-date Urban Design Framework to guide future development and update the Development Code to create a more urban, vibrant Downtown.

After City Council approved the Urban Design Framework in October 2018, city implementation steps included preparing Development Code updates. Most of the updates to the Development Code are included in a concurrent text amendment (TA2020-0002) including updates to existing Chapters 10, 20, 40, 50, 60, and 90, as well as the introduction of a new Downtown Design District Code, Chapter 70.

This proposed text amendment intendeds to focus energy on key streets in Downtown Beaverton by requiring active uses to be located on the ground floor spaces of buildings. For commercial ground-floor spaces, this would allow a narrower set of uses to lease the space, as opposed to allowing every use that is allowed in the underlying zone. The intent it to encourage active uses that bring more customers and activity and promote more vibrant streets in Downtown activity areas.

Given the uncertainty inherent in a pandemic and the challenges currently facing restaurants, retail establishments and personal services businesses, the effective date is proposed to be July 1, 2021, for this text amendment to allow more time for public health strategies to address the pandemic and additional time for city staff to monitor the business environment and understand business needs.

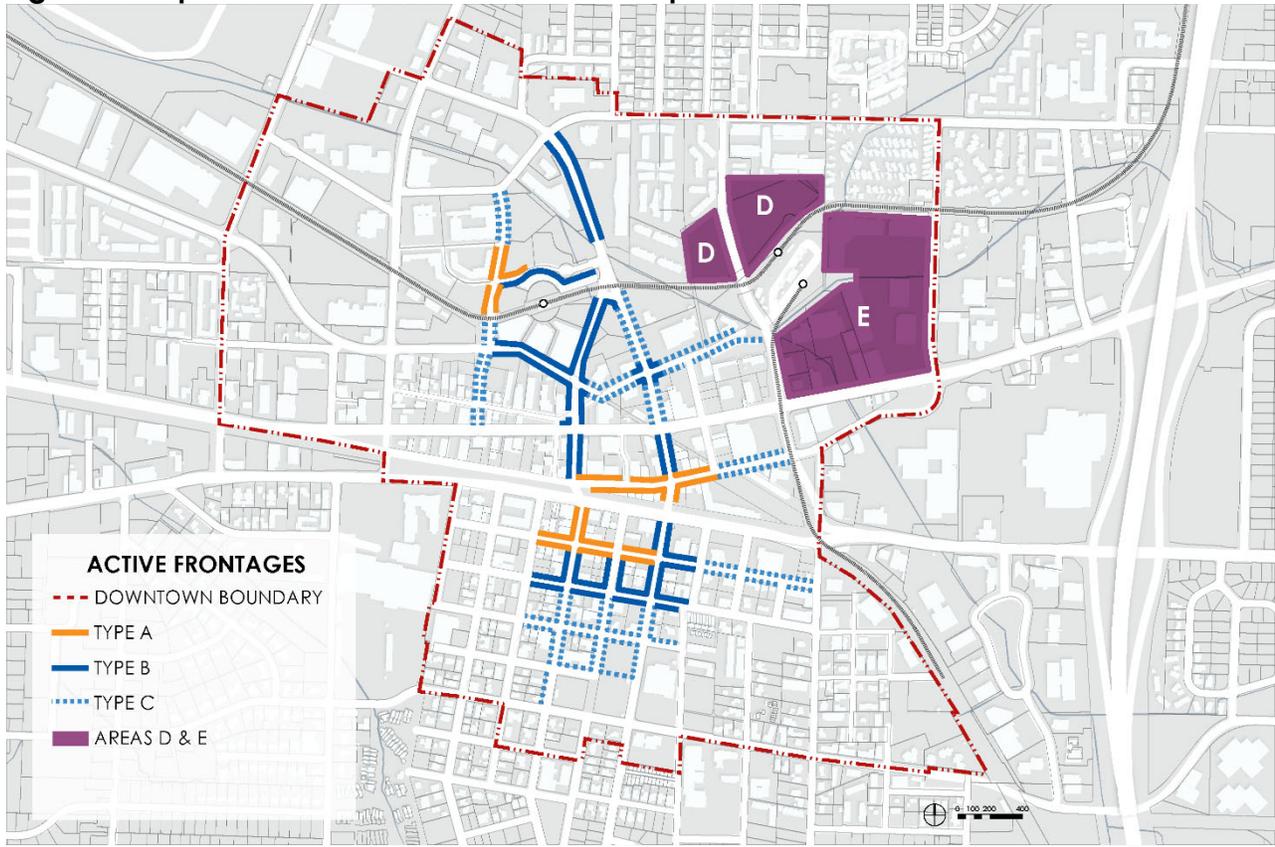
## **2. Summary of Proposed Amendment**

The proposed amendment would provide land use restrictions on ground-floor building spaces that front on specified streets in the Downtown core. These regulations are intended focus vibrancy and activity in Downtown. Three tiers of restrictions are included in these amendments, outlined in Table 1 below. Each tier also includes a minimum percentage indicating how much of the building frontage at the street must be occupied by an active use. For example, a building that fronts on a Tier A street must have 80 percent of its frontage occupied by a use allowed by the Tier A regulations. Buildings that do not front on an identified street, meaning the building façade is outside of the front yard setbacks, are not subject to these rules, nor are any upper-floor spaces.

**Table 1: Proposed Active Frontages Table for Chapter 70**

	<b>Allowed Ground Floor Uses</b>	<b>Minimum Active Use Frontage</b>
Tier A	Eating and drinking establishments, retail trade, personal service businesses, food cart pods, brewery/distillery/winery with tasting room, and primary lobby access to other parts of the building.	80%
Tier B	Type A allowed ground floor uses, commercial amusements, medical clinics, office, meeting facilities, places of worship, service business/professional services, financial institutions, public services and uses, residential amenity spaces, hotels/temporary living quarters, recreational facilities, and commercial schools.	60%
Tier C	Uses allowed under Type A and Type B allowed ground floor uses and ground floor residential uses with primary access facing the right of way, served by a porch, stoop, patio, terrace, forecourt, or similar design element.	60%
Area D	At the time of development, a Type B frontage must be assigned along a public right of way or other publicly accessible space on the site that is equal in length to 1/2 of the longest diagonal measurement of the site.	N/A
Area E	When dedicated, the future extension of SW Millikan Way shall be designated a Type B frontage.	N/A

**Figure 1: Proposed Active Ground Floor Use Map**



## **Exhibits**

### **Exhibit 1. Proposed Development Code Amendments**

### **Exhibit 2. Public Comment**

No public comment submitted in regards to the provision proposed by this text amendment.

## **3. Fact and Findings**

Section 40.85.15.1.C of the Code specifies that in order to approve a Text Amendment application, the decision-making authority shall make findings of fact, based on evidence provided by the applicant, that all of the criteria specified in Section 40.85.15.1.C.1-7 are satisfied. The following are the findings of fact for TA2020-0004 (Downtown Design District Active Ground Floor Use Text Amendment):

### ***Text Amendment Approval Criteria***

#### ***1. The proposal satisfies the threshold requirements for a Text Amendment application.***

Section 40.85.15.1.A specifies that an application for a text amendment shall be required when there is proposed any change to the Code, excluding changes to the zoning map. TA2020-0004 proposes to add additional use regulations within Chapter 70 of the Development Code, as shown in as shown in Exhibit 1.

**Therefore, staff finds that the text amendment meets the criterion for approval.**

**2. All City application fees related to the application under consideration by the decision-making authority have been submitted.**

Policy Number 470.001 of the City's Administrative Policies and Procedures manual states that fees for a City-initiated application are not required where the application fee would be paid from the City's General Fund. The Planning Division, which is a General Fund program, initiated the application. Therefore, the payment of an application fee is not required.

**Therefore, staff finds that the criterion for approval for this text amendment is not applicable.**

**3. The proposed text amendment is consistent with the provisions of the Metro Urban Growth Management Functional Plan.**

Metro's 2040 Growth Concept establishes a vision for the preferred form of regional growth and development. To implement the 2040 Growth Concept, Metro established two functional plans – the Urban Growth Management Functional Plan (Functional Plan) and the Regional Transportation Functional Plan (RTFP). The Functional Plan is the general implementation tool for achieving the goals and objectives in the 2040 Growth Concept. The RTFP is the primary implementation tool for transportation-related policies.

As described in Section 5(e)(2) of the Metro Charter, the Functional Plan requires that cities update comprehensive plans and implementing regulations to comply with regional policies. The Functional Plan currently includes 11 Titles. The applicable Titles of the Functional Plan (Chapter 3.07) are addressed below. Findings for the RTFP can be found under the Comprehensive Plan Amendment (CPA2020-0004).

**Title 6: Centers, Corridors, Station Communities and Main Streets**

**Findings:** Title 6 calls for Centers, Corridors, Station Communities and Main Streets – a hierarchy of mixed-use, pedestrian-friendly centers, connected by high capacity transit and corridors - to be the principal centers of urban life in the region. The actions and investments of cities should enhance this role. Completing these actions and investments makes cities eligible for regional investments. Regional investments

include MAX light rail transit, WES commuter rail, bus service, pedestrian and bicycle access, and automobile travel options.

All mixed-use, pedestrian-friendly centers are shown on Metro's *2040 Regional Growth Concept Map and Centers, Corridors, Station Communities and Main Streets Map (Title 6 Map)*. The map indicates that Downtown Beaverton is designated as a Regional Center. Therefore, Title 6 applies to the proposed amendment. Relevant Title 6 policies include:

- **3.07.620.c.** "An assessment of a Center ... shall analyze the following: (1) physical and market conditions in the area; (2) physical and regulatory barriers to mixed-use, pedestrian-friendly and transit-supportive development in the area ... "
- **3.07.620.d.** "A plan of actions and investments to enhance the Center... shall consider the assessment completed under subsection (c) and include at least the following elements: (1) Actions to eliminate, overcome or reduce regulatory and other barriers to mixed-use, pedestrian-friendly and transit-supportive development; (2) Revisions to its comprehensive plan and land use regulations, if necessary, to allow ... in Regional Centers ... the mix and intensity of uses specified in section 3.07.640 ... "
- **3.07.640.b.** "Centers ... need a mix of uses to be vibrant and walkable. The following mix of uses is recommended for each: (1) The amenities identified in the most current version of the State of the Centers: Investing in Our Communities, such as grocery stores and restaurants; (2) Institutional uses, including schools, colleges, universities, hospitals, medical offices and facilities; (3) Civic uses, including government offices open to and serving the general public, libraries, city halls and public spaces."

Beaverton completed a Comprehensive Plan amendment in early 2020 that updated the Downtown Beaverton Regional Center Community Plan. The updates were based on the Beaverton Downtown Urban Design Framework, the major product of the Downtown Design Project.

The Downtown Design Project:

- Created an Urban Design Framework that acts as a roadmap to transform Downtown into the social, economic, and cultural heart of the city;
- Identified opportunities for the community to influence downtown design;
- Identified development obstacles;
- Completed new development rules to ensure the urban design framework can become a reality, and these new development rules are proposed for adoption as part of the subject Text Amendment and concurrent Text Amendment 2020-0004; and
- Created an action plan to implement the Urban Design Framework.

The study area for the project was based on the current Downtown Regional Center (RC) land use designation. The RC designation corresponds with three implementing zoning districts: Regional Center – Old Town (RC-OT), Regional Center – Transit Oriented (RC-TO), and Regional Center – East (RC-E). At the beginning of the project, the study area was defined as the joint outline of the RC-OT and RC-TO zones. This is because their development patterns, mostly small blocks with access to transit, were similar, as opposed to the currently more auto-oriented land use pattern where the RC-E zone applies. As the project progressed, the study area was expanded to include additional areas that were important to achieving the city's goals for a vibrant Downtown. This larger study area and the proposed new Regional Center boundary are in the current Downtown Regional Center Community Plan in Volume 5.

As required by Metro Policy 3.07.620.c, existing conditions analysis included an exploration of physical and market conditions, as well as physical and regulatory barriers to mixed-use, pedestrian-friendly and transit-supportive development. Opportunities were then explored that identified strategic locations for development intensification and/or revitalization. Supported by existing conditions, constraints, and opportunities, the project resulted in an Urban Design Framework that acts as a roadmap to transform Downtown into the principal center of urban life in the city.

To implement the Urban Design Framework, the proposed text amendment focuses active uses on ground-floors spaces in the core of Downtown. This collection of active uses will increase foot traffic and encourage trip chaining. Where ground-floor residential uses are permitted, primary entrances to each unit are required to face the public street, served by porches, patios or other spaces intended for use by the resident. These use and design regulations will increase vibrancy throughout the Downtown Core.

**Conclusion:** The proposed amendment is consistent and compatible with Metro Title 6.

### **Title 8: Compliance Procedures**

**Findings:** Section 3.07.810.A of Metro Title 8 establishes a process for determining whether city or county comprehensive plans and land use regulations substantially comply with requirements of the Functional Plan, and requires cities to submit proposed comprehensive plan amendments to Metro for their review. Metro requires the city to submit the proposed amendment to Metro at least 35 days before the first evidentiary hearing, which is the Planning Commission hearing. The city mailed the notice on Aug. 19, 2020, 35 days before the Planning Commission hearing. The city has not received comments from Metro.

**Conclusion:** The proposed amendment is consistent and compatible with Metro Title 8.

## **Regional Transportation Functional Plan**

**Findings:** Title 5 of the RTFP addresses the amendment of comprehensive plans. However, the proposed amendment does not include: (1) any proposed changes to the Transportation Element (Chapter 6), (2) any proposed changes to the Transportation System Plan (TSP), or (3) new development; therefore, approval criteria A-E in Title 5 are not applicable. In addition, the requirements and findings for Statewide Planning Goal 12 are applicable to the RTFP. As analyzed under the findings for CPA2020-0004, the TPR findings under Goal 12 describe how the establishment of the Multimodal Mixed-use Area exempts most of the Downtown Design District from state congestion standards. Findings are provided for two sites outside of the Multimodal Mixed-use Area, which demonstrate that the proposal will not significantly affect the transportation system.

The city's 2035 TSP was adopted in 2010 with full review by Metro for consistency with the 2035 Regional Transportation Plan (RTP). The Transportation Element will be amended in the next two to three years to ensure compliance with Metro's updated RTP, now known as the 2018 Regional Transportation Plan.

**Conclusion:** The proposed amendment is consistent and compatible with the Metro Regional Transportation Plan.

**Therefore, staff finds that the text amendment meets the criterion for approval.**

### ***4. The proposed text amendment is consistent with the City's Comprehensive Plan.***

Beaverton's Comprehensive Plan provides policy direction on matters related to future growth and physical development of the city including land use, economy, transportation, housing, natural resources, and other relevant topics. Oregon state law requires all cities and counties to prepare and adopt comprehensive plans that are consistent with Statewide Planning Goals. Some of the proposed changes under this amendment do not create any new policies or regulations, for those changes staff find that the no Comprehensive Plan Policies apply. However, where policy changes are proposed, the applicable goals and policies of Comprehensive Plan are addressed below. Categorized by Land Use Chapter, each proposed text change is bulleted below the applicable goal or policy (*italicized*). The following are staff's findings to these applicable goals and policies:

#### Chapter 3: Land Use

Goal 3.1.1 says, "Encourage development and land use patterns that support a variety of transportation modes." Policies include:

- a) Emphasize pedestrian convenience and safety in all developments and transportation facilities.

- b) Encourage development and programs that reduce the need for vehicle use and ownership.
- c) Ensure that new development is designed to provide safe, comfortable and direct pedestrian and bicycle connections for all, regardless of ability or age, to and through the development, including to reach nearby points of interest.
- d) Apply land use designations and development regulations that support high-density development near transit and services, in order to provide greater opportunities to live, work, and meet daily needs near transit.
- e) Encourage increased intensity of development within Mixed Use, Commercial, and Employment areas that are located within a half-mile of high capacity transit stops or stations, such as MAX and WES.

**Findings:** The proposed amendments are intended to focus activity within the Downtown Core by ensuring a variety of active uses that drive foot traffic within a close proximity to one another. This collection of active uses will encourage walking and trip chaining, as well as reduce dependence on vehicle use. The streets subject to the Active Ground-floor Use regulations are structured around the couplet of SW Watson Ave and SW Hall Blvd, referred to as “The Loop” in the Urban Design Framework. The Loop is envisioned to distinguish the core of Downtown through prominent bike and pedestrian enhancements, improved intersections and crossings, and a distinct palette of fixtures. The City is in the early design stages of a project to transform SW Watson Ave and SW Hall Blvd into corridors that prioritize bicycle and pedestrian access. The Active Ground-floor Use regulations will support the vision of The Loop by requiring active uses along the critical corridors of SW Watson Ave and SW Hall Blvd, and key streets that intersect The Loop. Staff finds the proposed amendments meet this policy.

Goal 3.6.1 says, “Support pedestrian-oriented mixed use areas.” Policies include:

- a) Provide for a mix of commercial, residential, employment, and civic uses at relatively high densities to create vibrant, walkable areas where many activities can be accomplished on foot or by bike or transit.
- b) Uses may be mixed vertically (i.e. within a single building on different floors) or horizontally (i.e. within different buildings) but should be mixed so that different uses are within easy walking distance of one another.
- c) Limit or prohibit auto-oriented commercial uses, including vehicle sales and services, drive-through uses, and uses requiring extensive outdoor storage, to enhance the pedestrian environment.
- d) Pedestrian-oriented design is a priority within mixed use areas. Pedestrian-oriented design generally includes:
  - i. Commercial and mixed use buildings located next to the sidewalk with windows, interesting facades, pedestrian-scale design features (e.g.

- lighting, awnings and signage), and a majority of parking located behind, above, or beneath development
- ii. Residential buildings with windows and doors facing the street, and privacy provided through landscaping, grade changes, and modest setbacks
- iii. Complete streets and sidewalks that provide high-quality space for pedestrians and protect pedestrians from fast-moving traffic (by using buffers such as curbside parking, landscaping, trees and street furniture)

**Findings:** The proposed amendments require active uses to be on the ground-floor spaces of buildings on key streets, promoting environments that are engaging for pedestrians and allow for many activities to occur within walking distance of one another. Upper-floor spaces are not regulated by these amendments, but by the underlying zone. This allows for vertical mixed-use where these rules apply. Automobile-oriented uses are not permitted in any of the Downtown Design District, including the Active Ground-floor Use regulations. Where residential development is allowed on the ground floor by these regulations, the ground-floor units are required to locate primary entries facing the street, increasing vibrancy and engagement. Staff finds the proposed amendments meet this policy.

Goal 3.6.2 says, "Downtown Regional Center: Create and strengthen a vibrant downtown and central area for Beaverton." Policies include:

- a) Tailor development regulations to the unique character and aspirations for the distinct areas within the Downtown Regional Center, taking into account form, scale, rhythm, and uses, through specialized zoning, overlay zones, or similar tools while also ensuring strong connections between these areas and throughout the Downtown Regional Center.
- i) Encourage an "18-hour" mix of uses, including retail, employment, civic, entertainment, and residential uses, that supports a diverse population that works, lives, and gathers downtown.
- j) Design places for people by promoting buildings and open spaces near sidewalks and streets that are interesting, enjoyable, and engaging for people passing by.
- k) Use a block-by-block approach to activate the ground floor of buildings and edges of public spaces to enhance street life, connecting pedestrians with activity along the street edge.

**Findings:** The proposed amendments provide an additional level of land use regulation, functioning similarly to an overlay zone. These regulations, while more limited than the underlying zone, still allow for a variety of uses, including retail, personal services, eating and drinking establishment, allowing for an 18-hour neighborhood. All spaces in the upper-floors of buildings are regulated by the underlying zone, which in all cases allows for a broad mix of uses. The Active Ground-floor Use regulations are developed to be implemented at a block-by-block scale. The result is more finer grain regulations that are more responsive to

the development history, opportunities, and constraints of small areas in the Downtown Core.

Staff finds the proposed amendments meet this policy.

#### Chapter 4 Housing

Goal 4.1.1 says "Provide an adequate supply of housing to meet future needs."

Policies include:

- b) Support higher density infill development that capitalizes on existing infrastructure and where impacts can be mitigated.
- c) Encourage high density residential development on mixed use and commercially zoned sites with proximity to transit and amenities with the objective of creating 18-hour neighborhoods.

**Findings:** The proposed amendments limit ground-floor residential uses along certain streets in downtown with the objective of focusing commercial uses with high foot traffic along key corridors. Residential development in upper-floors of buildings along these streets will be permitted outright. This will allow high densities of residential development to occur in the core Downtown area where and 18-hour neighborhood remains a key objective. Staff finds the proposed amendments meet this policy.

**Comprehensive Plan Compliance Summary:** Staff finds that the proposed amendment is consistent with the City's Comprehensive Plan.

**Therefore, staff finds that the text amendment meets the criterion for approval.**

#### **5. *The proposed text amendment is consistent with other provisions within the City's Development Code.***

The proposed text amendments are intended to complement the concurrently proposed text amendment (TA2020-0002) that will add the Downtown Design District Code (Chapter 70) into the Development Code. Staff has not identified any inconsistencies within the City's existing Development Code or the proposed regulations of TA2020-0002.

**Therefore, staff finds that the text amendment meets the criterion for approval.**

#### **6. *The proposed amendment is consistent with all applicable City ordinance requirements and regulations.***

Staff has not identified any other applicable City ordinance requirements and regulations that would be affected by the proposed changes.

**Therefore, staff finds that the text amendment meets the criterion for approval.**

**7. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.**

The City of Beaverton is proposing three additional land use applications related to the Downtown Design District Code, CPA2020-0004, TA2020-0002 and ZMA2020-0004. Staff have determined that there are no other applications and documents related to the request that will require further City approval.

**Therefore, staff finds that the text amendment meets the criterion for approval.**

**Other applicable approval criteria**

As a post-acknowledgement amendment to the City's Code, the proposed text amendment is subject to ORS 197.175(2), which requires that the City demonstrate that the proposed text amendment be consistent with the relevant Statewide Planning Goals. Staff have determined that the following goals apply:

Of the 19 Statewide Planning Goals, staff finds that the following goals are directly relevant to the proposed amendment: Goal 1 (Citizen Involvement), Goal 2 (Land Use Planning), Goal 10 (Housing), and Goal 12 (Transportation).

**Goal 1 - Citizen Involvement**

**Findings:** The Beaverton Citizen Involvement Program adopted by Resolution 2229 in 1980 established a formalized public participation program for the BCCI that provides a method by which the committee and other community members can communicate their opinions and inquiries about city matters, including the planning process.

The Downtown Design Project included significant public engagement over a two-year period – five open houses, 15 meetings with advisory or decision making bodies, and 10 meetings with stakeholder groups. Information related to TA2020-0002 also was presented at the following meetings:

- Feb. 24, 2020, Beaverton Committee for Community Involvement
- March 2, 2020, Urban Redevelopment Advisory Committee meeting.
- June 10, July 21 August 12, and Aug. 26, 2020, Planning Commission work sessions.

The proposed amendment is subject to the public notice requirements of the Development Code. At the public hearing, the Planning Commission will consider written or oral testimony before making a recommendation to City Council.

The amendment procedures outlined in Chapter 50 of the Development Code allow for proper notice and public comment opportunities as required by Statewide Planning Goal 1. These procedures have been determined to be consistent with Goal 1 in the past and have been followed.

**Conclusion:** The proposed amendment is consistent and compatible with Statewide Planning Goal 1.

### **Goal 2 – Land Use Planning**

**Findings:** Statewide Planning Goal 2 requires local governments to establish a land use planning process and policy framework as a basis for all decisions and actions related to land use. The Urban Design Framework, approved on Oct. 9, 2018, by the City Council:

1. Analyzes existing conditions in Downtown Beaverton; and
2. Identifies opportunities and constraints; and
3. Outlines framework concepts and alternatives; and
4. Presents a final framework that considers social, economic, energy, and environmental needs by promoting a mixed-use, compact urban form with multimodal streets. The Urban Design Framework provides the factual basis for the proposed amendment to Volume 1 and Volume 5 of the Comprehensive Plan.

Section 40.85.1.C of the Development Code describes the approval criteria for legislative amendments. The findings and conclusions in the Staff Report explain how the proposed text changes are consistent with the approval criteria and procedural requirements for amending the Development Code.

**Conclusion:** The proposed amendment is consistent and compatible with Statewide Planning Goal 2.

### **Goal 10 – Housing**

**Findings:** In 2015, the city added the Housing Strategies Report to Volume II of the Comprehensive Plan (Background and Supporting Material) in conjunction with the amendment to the Housing Element. The report was reviewed by DLCD, which found it to be consistent with the requirements of Statewide Planning Goal 10.

Beaverton's Housing Needs Analysis (HNA) was published in October 2015. It demonstrated a need for all housing types in the 20-year period ending in 2035. This was true both for the current Beaverton city limits as well as the city limits plus the assumed urban service area, which is an area where it is assumed Beaverton will provide governance in the future. The state Department of Land Conservation and Development (DLCD) found it to be consistent with the requirements of Statewide

Planning Goal 10. See Table 2 for the number of housing units projected to be needed.

**Table 2: Projected Future Need for New Housing Units (2035)**

	SF detached	SF attached	Duplex	3 or 4 units	5+ units
Current city limits (2015)	5,767	1,542	295	718	3,866
City limits plus assumed urban service boundary	14,001	2,626	958	718	3,886

Source: Beaverton Housing Needs Analysis (part of the city's Housing Strategies Report) Figure 5.3 and Figure 10.3. <https://www.beavertonoregon.gov/DocumentCenter/View/10322>. Accessed April 14, 2020.

Based on the findings in Beaverton's Housing Strategies Report in Volume II of the Comprehensive Plan, which includes the city's Buildable Lands Inventory and Housing Needs Analysis, Beaverton updated its Comprehensive Plan's Housing Element and Land Use Element to address the identified housing needs. DLCD also found these Comprehensive Plan changes consistent with the Statewide Planning Goals.

The proposed Development Code amendments require that ground-floor spaces with frontages on certain streets be occupied by active uses of commercial nature. The active commercial use restriction affects approximately 95 the 558 tax lots within the Downtown Design District. Upper-floor spaces in these buildings, as well as spaces not fronting on the identified streets, will permit residential uses outright. These commercial requirements have the potential to reduce the overall capacity of the residential development. The amount is limited an unknown because applicants often choose to put ground-floor commercial space in Downtown buildings. However, the concurrently proposed text amendments in TA2020-0004 will more than offset any potential reduction through the increase of maximum building heights in certain zones, the removal of a residential density maximum of residential-only buildings, and the reduction of off-street parking requirements through multiple methods. Overall the text amendments in TA2020-0002 and TA2020-004 will considerably increase potential housing capacity within the Downtown Design District.

## **Goal 12 - Transportation**

**Findings:** OAR (Oregon Administrative Rules) 660-012-000 through 660-012-0070, referred to as the Transportation Planning Rule<sup>1</sup> (TPR), provide guidance on compliance with Statewide Planning Goal 12. A Transportation System Plan (TSP), adopted pursuant to OAR Division 12, fulfills the requirements for public facilities planning required under ORS (Oregon Revised Statute) 197.712(2)(e), Goal 11 and OAR Chapter 660, Division 12 as they relate to transportation facilities. Volume IV of the Comprehensive Plan contains the City's adopted TSP, effective October 21, 2010.

**Significant effects.** The TPR states that "if an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule."

"A plan or land use regulation significantly affects a transportation facility if it would:

- Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);
- Change standards implementing a functional classification system; or
- Result in ... types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;
- Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or
- Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan."

The proposed text amendment is not expected to result in "significant effects" to a transportation facility, defined by OAR 660-012-0060, as the amendments do not increase the allowed densities or intensities, or permit additional uses not proposed under the concurrently proposed text amendment TA2020-0002. However, OAR 660-012-0060(10)(e) states: "A local government may designate an MMA on an area where comprehensive plan map designations or land use regulations do not meet the definition, if all of the other elements meet the definition, by concurrently adopting comprehensive plan or land use regulation amendments necessary to meet the definition. Such amendments are not subject to performance standards related to motor vehicle traffic congestion, delay or travel time."

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<sup>1</sup> The Transportation Planning Rule requires local governments to review Comprehensive Plan and land use regulation amendments and contains standards by which to review the effect of the proposed amendment on existing or planned transportation facilities.

The concurrently proposed Comprehensive Plan Amendment (CPA2020-0004) establishes an MMA, as shown in Figure 4 of that staff report by adopting the findings in Downtown Regional Center Community Plan and concurrently adopting changes to Beaverton's Comprehensive Plan Land Use Element (CPA2020-0004) and Development Code (ZMA2020-0004 and TA2020-0002), including Development Code changes to establish a Downtown Design District. The definition of MMA referred to in OAR 660-012-0060(10)(e) above requires findings for OAR 660-012-0060(10)(b), which can be found in the findings for CPA2020-0004.

**State Land Use Goal Compliance Summary:** Therefore, staff finds that the proposed text amendment complies with all of the applicable Statewide Planning Goals.

#### **4. Conclusions**

Based on the facts and findings presented, staff conclude that the proposed amendment to the Code is consistent with all the text amendment approval criteria of Section 40.85.15.1.C.1-7.

#### **5. Staff Recommendation(s)**

Staff offers the following recommendation for the conduct of the September 23, 2020 public hearing for TA2020-0004 (Downtown Design District Text Amendment):

- A. Conduct the public hearing and receive all public testimony relating to the proposal.
- B. Considering the public testimony and the facts and findings presented in the staff report, deliberate on policy issues and other issues identified by the Commission or the public.
- C. Recommend **APPROVAL** of text amendment application TA2020-0004 (Downtown Design District Text Amendment) to the City Council, with an effective date of July 1, 2021.

## 70.03.4.2 Active Ground-floor Land Use Regulations

## EXHIBIT 1

## 70.03.4.2 Active Ground-floor Land Use Regulations

Buildings fronting on streets identified in Figure 70.03.4.2.1 shall have uses occupying ground-floor spaces consistent with the designated frontage type. Only tenant spaces fronting the designated streets shall be subject to these rules. For a tenant space to be considered fronting a street, the facade must be located within the minimum and maximum setback as defined by the underlying zone. Ground-floor spaces not fronting on streets designated in Figure 70.03.4.2.1, as well as all upper-floor and below-grade uses, shall be regulated by the underlying zone.

Buildings subject to the Active Ground-floor Land Use Regulations shall comply with the following provisions:

- a. Ground floor uses in buildings with facades within the maximum setback of frontages identified in Figure 70.03.4.2.1 shall be consistent with the land uses listed per each frontage type.
- b. Active ground floor uses shall occupy the minimum percentage of the building frontage for each frontage type identified.
- c. Active ground floor uses shall have a minimum depth of 25 feet measured from the street-facing facade.
- d. Buildings with facades within the maximum setback of frontages identified in Figure 70.03.4.2.1 shall meet all applicable regulations of Section 70.04.2.3 Active Ground Floor Design.
- f. Tax lots 1S110CC00400, 1S110CC01300, and 1S110CC01303 are designated Area D and shall be subject to the rules of Figure 70.03.4.2.2 Active Frontages Table.
- g. Tax lots 1S110CD00900, 1S110CD01300, 1S110CD00790, 1S110CD01301, 1S115BB00203, and 1S115BB00200 are designated Area E and shall be subject to the rules of Figure 70.03.4.2.2 Active Frontages Table.

## Active Residential Frontage (Portland, OR)

*Ground floor residential units create an active ground floor. Units are elevated from the sidewalk grade and include individual entries, landscaping to create privacy and a transition from the street, and weather protected front porches.*



## Active Restaurant Frontage (Seattle, WA)

*Non-Residential buildings can create active ground floors through using transparent glazing and locating uses that provide visual interest to enhance the pedestrian experience through visual connections between inside and outside spaces.*



70.03.4.2 Active Ground-floor Land Use Regulations

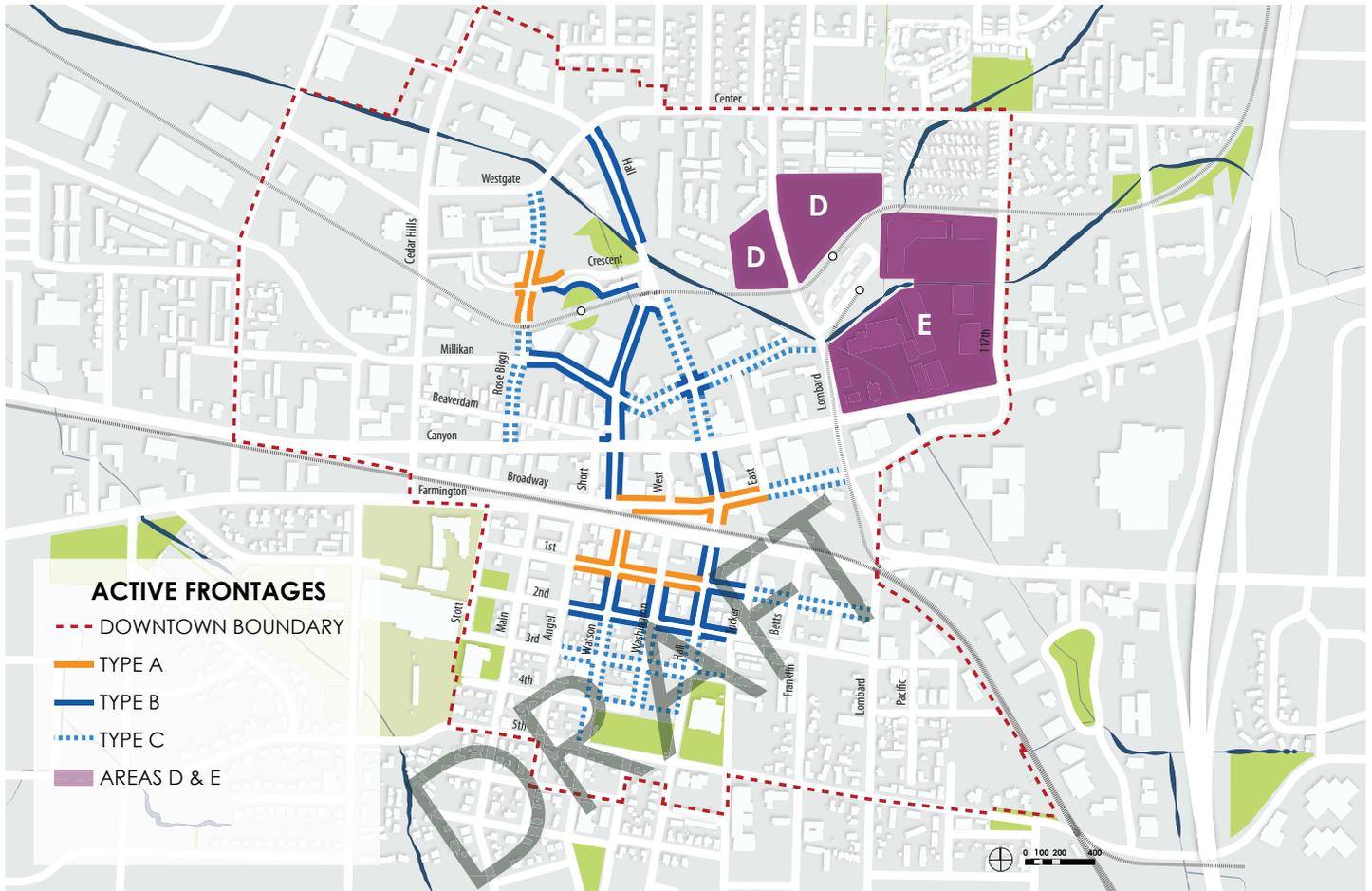


Figure 70.03.4.2.1 Active Frontages Map

Figure 70.03.4.2.2 Active Frontages Table

Street Type	Minimum Active Use Frontage	Allowed Ground Floor Uses
TYPE A	80%	Eating and drinking establishments, retail trade, personal service businesses, food cart pods, brewery/distillery/winery with tasting room, and primary lobby access to other parts of the building.
TYPE B	60%	Type A allowed ground floor uses, commercial amusements, medical clinics, office, meeting facilities, places of worship, service business/professional services, financial institutions, public services and uses, residential amenity spaces, hotels/temporary living quarters, recreational facilities, and commercial schools.
TYPE C	60%	Uses allowed under Type A and Type B allowed ground floor uses and ground floor residential uses with primary access facing the right of way, served by a porch, stoop, patio, terrace, forecourt, or similar design element, elevated or at grade.
AREA D	N/A	At the time of development, a Type B frontage must be assigned along a public right of way or other publicly accessible space on the site that is equal in length to 1/2 of the longest diagonal measurement of the site.
AREA E	N/A	When dedicated, the future extension of SW Millikan Way shall be designated a Type B frontage.

Francis Family and associated LLC's

September 11<sup>th</sup>, 2020

PO Box 744

Beaverton OR 97075

Ms. Jennifer Nye, Chair

City of Beaverton Planning Commission

The Beaverton Building

City Council Chambers

12725 SW Millikan Way

Beaverton, Oregon 97005

Re: Re: Downtown Design Project: Development Code Adoption, City of Beaverton File Numbers TA 2020-0021/CPA 2020-004/ZMA 2020-004; Testimony by the Francis Family Concerning the Impact of the Proposed Amendments on their Property

Dear Chair Nye and Planning Commission Members,

This letter is submitted on behalf of the Francis family, who own 13 properties containing 8.79 acres in central Beaverton that accommodates Damerow Ford and NW College Beauty School. We have submitted this letter to the Planning Commission because these proposed legislative amendments to the Beaverton Development Code and the implementing map amendments will make it very difficult for Damerow Ford and its 100 employees to continue operating on this property due to the increasing restrictions to maintain and modernize the dealership's buildings. The Francis family asks that the Planning Commission not adopt the proposed amendments that will adversely affect our family's property and instead adopt the changes that we will propose in a subsequent letter so that

Damerow Ford can continue serving the public as it has for almost 70 years and making a significant contribution to the City's economy.

I would like to give some background on the property that Damerow Ford and NW College Beauty School now occupy. Damerow Ford was started in 1953 by Herb Damerow. This was long before Hall Boulevard and Watson existed, but there was a dirt road a bit further to the west. The original Damerow ended at Beaverdam Road, which is now Millikan. Everything to the north was swamp and farmland. The creek was a drainage ditch for the swamp. In fact, the old timers, my father George included, still call it the "ditch."

My father purchased Damerow from Herb in the Late 50's or early 60's. As the business grew, he purchased adjacent properties to handle the increase in business, many times laying it all on the line and taking massive risks to afford his business' expansion. As his business grew, so did the city and its population. Over the years, he has given up too many square feet of property to count to accommodate the city's growth. This includes Hall Boulevard and Watson along with their widening of the street and sidewalks, new sidewalks north of our body shop building, a sewer easement that runs under the triangle between Hall and Watson, and most recently a new easement on the triangle for the surface water filtering system. Sometimes he was happy to help, other times, not so much.

One item I am reminded of over and over is Damerow offering career education to the students at Beaverton High School. He provided after school jobs, training, and ultimately employment opportunities to the students. George has also donated thousands of dollars to the mayor and some of the city council members when they sought reelection. He also donates \$1,000 every year to the Oregon Technology Business Center and is working on a very large donation to the Beaverton Arts Center. Although George can be difficult at times and slow to make decisions, he has been very generous to the city, his friends, family and acquaintances. He has been a good partner for the city and does have a love for Beaverton.

Right now, I feel that the city of Beaverton is not being a good partner to George. For myself, I truly noticed this inequity when the city proposed running the

Millikan extension through one of our buildings. There is a current road with sidewalks already in place, so it seems reasonable to just extend that road, but I also understand the connection on Lombard needs to make sense. Hopefully we can find a middle ground.

After receiving the Public hearing notice this week, I asked questions and dug further into what might lie ahead for Damerow. I was told by Steven Regner and Brian Martin about the Chapter 30 nonconforming uses section of the building code and that I should be familiar with its contents. I never knew of its existence and was shocked at how detrimental it is to Damerow Ford, its employees, and the Francis family who still owns the property. It is beyond me that such a thing exists and that property owners were not informed when it was under consideration by the city years ago. This is not being a good partner to your business' and property owners. Several items are extremely detrimental to Damerow Ford. My first concern is whether we are truly conforming or not conforming and if an upcoming zoning change will flat out drive Damerow Ford out of the city. Clever people can make changes and lay groundwork for consequences that only the author of the document can foresee. My second concern is section 3 of 30.20 which will not allow the replacement of our body shop if the city decides to run Millikan through that piece of property. Two of the 4 sides are roads, which create a barrier, another side has different owners not related to the Francis family, and the 4<sup>th</sup> side has different ownership within our family, Washington County Investments LLC. The third concern is not being allowed to improve our buildings beyond a certain percentage of their assessed value, 50% I was told by our tenant. I have not researched this rule, but for our tenant to make the needed improvements to his parts and service building, \$300,000 does not go very far.

The fourth and most damaging rule is not being able to replace a building that has been 50% or more destroyed by fire, flood, vandalism, or other acts of mother nature. If this happens to the showroom/office building or the parts and service building, Damerow is not just out a building, they are done. No value for the business, no relocating, just dust in the wind. Ford Motor company has strict rules regarding territory and will not allow a dealer to relocate if it infringes upon

another dealer. If Damerow go out of business, so do 100 jobs for its employees, the state and federal revenue from taxes on nearly 6 million in payroll and income tax, and the state of Oregon's sales tax on all new vehicles. We are in difficult times right now and any legal business providing income for working families is good. Picture yourself in someone else's shoes, searching for a job while trying to provide for your family. It can lead to disaster very quickly.

So, if Damerow is forced to go by major damage to a building, what happens to the property where Damerow sits? The answer is that it will be vacant, and probably for years. We would be forced to redevelop the land. This would require a massive loan (of which we would not qualify due to the property not having enough collateral to cover the loan). Even the slightest hiccup would be a disaster, putting us into bankruptcy. So, our next choice is to go into partners with a developer to hopefully keep a portion of the property. Once you head down this road of "business," you are opening yourself up to be taken advantage of by clever accounting to decrease ownership, unnecessary billings by the developers own maintenance services, loan fees, and inspections. At some point you would be forced to sell for pennies on the dollar due to an underperforming property in which you have no control. This is "business" which is another term for legal theft.

At some point Damerow may find a suitable location that passes Ford Motor Company's territory and minimum acreage requirements. Several years ago, they did try to relocate to the old K-Mart property, but were unable to due so because of territory restrictions. Car sales and service may also change, but as long as we continue to drive to the grocery store, shuttle our kids to their activities, go on local trips/vacations, go to doctor appointments, and drive to and from work, cars and trucks are necessary to our current existence. Cars are not the enemy and are vital to our lives. Try living without your personal transportation for a week, it would be similar, if not worse than losing your cell phone.

We have talked to Steven Regner and Brian Martin about our family's concerns with these amendments and have told them that we will propose amendments to

the RCBC zoning district provisions to allow Damerow Ford to remain as a conforming use or to make the dealership a conforming use and to be able to make improvements to existing buildings and to replace buildings with new buildings. These amendments are necessary to allow the dealership to continue to be a viable use in Beaverton as it has been for many years. When the time comes for the use to on the property to change, that can occur but until then, these proposed amendments will prematurely drive the dealership out of business and leave a vacant shell in the heart of Beaverton without any planned replacement.

Thank you for considering this letter. We plan to testify at the September 23 Planning Commission public hearing.

Please provide me with notice of the Planning Commission's recommendation to the Beaverton City Council.

A handwritten signature in blue ink, appearing to read "Brett Francis", written over a horizontal line.

Brett Francis

A handwritten signature in blue ink, appearing to read "John L. Francis", written over a horizontal line.

John Francis

cc; Michael Robinson, Steven Regner, and Brian Martin

**From:** [johnjl44@aol.com](mailto:johnjl44@aol.com)  
**To:** [Steven Regner](#)  
**Cc:** [johnjl44@aol.com](mailto:johnjl44@aol.com)  
**Subject:** Old town Beaverton Rezoning  
**Date:** Friday, September 11, 2020 1:05:50 PM

---

To whom it may concern:

My name is John Caffee. I reside at 5025 SW Hall Blvd. just South of 5th Ave. I would like to be included in the rezoning, as would my adjacent neighbor, Joe Russo. We would be interested in the possibility of a building project which would be much more likely under the new zoning plan

I had a 25 condo project in 2008 which included the corner property at 5th & Hall, my property, and the 2 properties South of mine. It had been "approved" by the city of Beaverton. The project had to be scrapped due to the poor economic times.

I would appreciate being given the opportunity to be in a better zoning situation for high density development.

Thanks again for considering this request. John Caffee

Sent from AOL Mobile Mail  
Get the new AOL app: [mail.mobile.aol.com](http://mail.mobile.aol.com)

**From:** [JOE RUSSO Russo Real Estate](#)  
**To:** [Steven Regner](#)  
**Subject:** Re: Proposed Updates & Zoning Map Amendment  
**Date:** Friday, September 11, 2020 2:15:48 PM

---

Steven thank you for your time to respond these past few days.

As I've stated I bought my house at 5030 sw Washington Ave. last year with the intention to be included in future rezoning efforts.

Looking at the proposed changes on the map it seems clear that my property along with possibly 5025 and 5075 sw Hall Blvd should be incorporated in the new Regional Center - Old Town Zoning.

Thanks Again I look forward to further discussion and inclusion in this exciting new plan!

Best Regards,

Joe Russo

## **JOE RUSSO**

**Real Estate Broker**

*Licensed in the State of Oregon*

**24/7 Properties**

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West Linn, OR 97068

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O: 503.482.0500

F: 503.208.7157

[www.247prop.com](http://www.247prop.com)



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. 21, 2020  
SUBJECT: Downtown Design Project – Additional Written Testimony

---

This memo is intended to supplement the staff report dated Sept. 16, 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 11, 2020, deadline to be included in the staff report and is being provided with this memo.

Exhibit 8.4 Letter received September 18, from Robert Lanphere, President, Lanphere Enterprises, Inc; Property Owner

### 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.

### 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 8.5 Letter received September 18, 2020, from Ben Sturtz, Project Manager, BRIDGE Housing Corporation

Exhibit 8.6 Letter received September 18, 2020, from Travis Henry, President, Henry Point Development LLC; Property Owner

Exhibit 8.7 Letter received September 21, 2020, from Kevin Teater, Executive Director, Beaverton Downtown Association

Comment Summary

Letters express support for the proposed amendments.

Exhibit 8.8 Letter received September 21, 2020, from Stanley V. Piha, Canyon Place Associates LLC; Property Owner

Comment Summary

Letter expresses concern regarding the effects of a vehicle service use prohibition on existing operations of vehicle service uses currently operating on the property owned by Canyon Place Associates LLC. The property owner requests that the subject property be removed from the proposal. Alternatively, the property owner requests that the proposed amendments are revised to allow vehicle service uses. Finally, the property owner requests delaying the public hearing until a time where an in-person meeting can be held.

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. Staff recommends that the hearing remain as scheduled, held virtually, consistent with Planning Commission by-laws.

Lanphere Enterprises, Inc  
12505 SW Broadway St  
Beaverton, OR 97005

Ms. Jennifer Nye, Chair  
City of Beaverton Planning Commission  
The Beaverton Building  
City Council Chambers  
12725 SW Millikan Way  
Beaverton, OR 97005

Dear Chair Nye and Planning Commission Members;

This letter is submitted on behalf of Lanphere Enterprises, Inc. and the Lanphere Family who has owned and operated an automotive Dealership (Sales and Service) for over 55 years in Downtown Beaverton.

While we appreciate the city's efforts to plan ahead for what the Downtown District could become in the future, the proposed changes to Development Code will have a devastating impact on our business today. We urge the planning staff and commissioners to consider amendments to the proposal that will allow the Lanphere dealership to remain a viable business and retain land-use rights it has today. We believe those proposed amendments can be crafted in a manner that is compatible with the city's long-term vision for Downtown.

On September 15, 2020 we had a zoom call with planning staff members Anna Slatinsky, Steven Regner and Brian Martin. That was the first direct outreach to us about the proposed zoning changes affecting our property in the Old Town District and Historic Overlay. During that call we first realized, and staff confirmed, what a detrimental impact the city's proposal would have on the Lanphere property and our business operation. .

The call was very informative, but also very disturbing. We learned, for example, that the proposed zoning code changes would make our operations a "not allowed use", vs the permitted use for automotive services and sales we are currently allowed. . One harmful consequence would be that we could not re-build a building damaged by more than 50% of its value due to a fire or any other reason. In that event, we would be out of business.

The new code also does not allow for changes to happen on the property. We are held to certain standards by the Manufacturer to maintain a certain capacity and image. Both

of these requirements could necessitate changes to our property in order to keep our franchise. Not being able to make these changes would also put us out of business.

Lanphere Enterprises has been a long-time valued partner to the City of Beaverton, and we hope to be treated as such when you consider changes to the proposal. We have been in this location for over 55 years. Between Lanphere Corporate and our Kia Dealership that currently sits on the property, we employ over 100 people. Those same people support the local downtown businesses. We don't believe it is the City's intent to put us out of business, but nonetheless, that's what may well happen if the proposal is adopted without any changes. We understand the Planning Commission's desire to propose changes to the zoning code to support the long term plans for the Downtown Beaverton District. But these changes should not be imposed at the detriment to existing businesses. These plans are long term (10-20 years or more away) and will require significant investment by developers to make them happen. When the time is right developers will make it attractive for businesses like us to sell our property. In the meantime, we need to continue to operate and help support our employees and community.

We look forward to working with staff to craft appropriate amendments to the proposal that will be before you on September 23 so that when the proposal is before City Council it will include revised language that will allow the Lanphere business to continue without all the impediments to our operation that the current package of code amendments will impose.

Thank you for your consideration of this letter/testimony. We plan to testify on the phone at the September 23, 2020 Planning Commission public hearing.

Sincerely,



Robert D Lanphere Jr  
President Lanphere Enterprises, Inc

cc; Anna Slatinsky via email



BUILDING SUSTAINING LEADING

BRIDGE HOUSING  
CORPORATION

BRIDGE PROPERTY  
MANAGEMENT COMPANY

BRIDGE ECONOMIC  
DEVELOPMENT CORPORATION

September 9, 2020

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

Dear Steve Regner and Planning Commissioners,

I would like to express my support for the Beaverton Downtown Design District Development Code changes and related applications (CPA2020-0004, TA-2020-0002, TA2020-0004, ZMA-2020-0004). BRIDGE housing is the largest nonprofit affordable housing developer on the West Coast operating since 1983 as a mission-driven organization. We feel these adopted changes present the most opportunity to explore development options for an affordable rental development which would increase density and height limits in the downtown area of Beaverton. As we review the proposed changes to the Downtown Design District Development Code, we feel the proposed changes provides some much needed clarity in the code that outlines our options in helping to add to a more a vibrant downtown. The proposed code:

- Reduces minimum parking requirements especially near transit, which may assist us in adding more units in a potential development
- Increases height limits in part of Old Town
- Provides flexible standards that will enable our design team to be more creative in developing a design for a site
- Offers early design advice opportunities with the Planning Commission to greatly assist our planned development
- Allows some discretionary decisions to be handled by staff, which can often save time and money in adapting our designs to meet the requirements
- Provides the ability for Planning Commission to waive guidelines when those guidelines don't quite fit the situation.

In short, the updated code meets the approval criteria identified by staff and helps implement the Urban Design Framework. I encourage the Planning Commission and City Council to approve the applications.

Sincerely

A handwritten signature in black ink that reads "Ben Sturtz".

Ben Sturtz  
Project Manager  
BRIDGE Housing Corporation

600 CALIFORNIA STREET, SUITE 900, SAN FRANCISCO, CA 94108 TEL: 415.989.1111 FAX: 415.495.4898 BRIDGEHOUSING.COM

2202 30TH STREET, SAN DIEGO, CA 92104 TEL: 619.231.6300 FAX: 619.231.6301

1301 DOVE STREET, SUITE 920, NEWPORT BEACH, CA 92660 TEL: 949.229.7070 FAX: 949.274.7688

38 NW DAVIS STREET, SUITE 450, PORTLAND, OR 97209 TEL: 503.360.1828 FAX: 503.961.8897

1000 SECOND AVENUE, SUITE 1610, SEATTLE, WA 98104 TEL: 206.456-6100

BRIDGE HOUSING IS A NOT-FOR-PROFIT, PUBLIC-BENEFIT CORPORATION

September 16, 2020

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

Dear Steve and Planning Commissioners,

I would like to express my support for the Beaverton Downtown Design District Development Code changes and related applications (CPA2020-0004, TA-2020-0002, TA2020-0004, ZMA-2020-0004). The proposed changes to the Development Code are needed to help implement the Community Vision's goal of a vibrant downtown, and to update existing standards and guidelines that are unclear, outdated and counterproductive.

The proposed changes to the Downtown Design District Development Code will facilitate quality, people focused design and development by 1). clarifying building design standards 2). making discretionary reviews easier and faster, and 3). removing rules not needed for a vibrant downtown, such as requirements for depth of commercial storefronts, bulkheads, a 16-foot first floor height limits on parking structures, etc.

The proposed code also strikes a good balance between removing obstacles to development and encouraging feasibility while ensuring quality projects. It 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.

One area that needs additional work, however, is related to the proposed minimum parking requirements. In particular, how minimum parking requirements unfairly impact smaller scale infill, and mixed-use projects. Unfortunately, the current and proposed parking ratios (0.6-0.7 stalls p/unit) continue to be a major hurdle for small and mid-scale infill development, which are critical elements for a balanced and vibrant downtown. 'Small-scale' projects (quarter-block and smaller) simply do not have the land space to accommodate the current required parking ratios (even with the proposed changes/incentives), or are forced to contemplate solutions such as mechanical parking ('stackers') which are prohibitively expensive. In my opinion, the City needs to promote the development of a variety of project sizes, and not just 'large-scale' (half and full block) developments that can accommodate the parking ratios by virtue of their size.

Scale matters. The City needs more than just large-scale mixed-use projects. Minimizing, or in some cases, eliminating required parking ratios for small scale projects will promote a diversity of development sizes and scales, enhancing the fabric of downtown, and will help to incentivize small and local developers be able to compete in a marketplace.

Parking issues aside, I applaud the efforts of Brian Martin and the entire Beaverton Staff who worked tirelessly (throughout very challenging times) to solicit community input and then to draft thoughtful and much needed revisions to the Code that I believe will facilitate quality, people focused design and development.

I encourage the Planning Commission and City Council to approve the applications.

Sincerely,

A handwritten signature in black ink, appearing to read "Travis Henry". The signature is fluid and cursive, with the first name "Travis" written in a larger, more prominent script than the last name "Henry".

Travis Henry  
President  
Henry Point Development LLC

September 21, 2020

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



Dear Steve Regner and the Beaverton Planning Commissioners,

The Beaverton Downtown Association would like to express our support of the Beaverton Downtown Design District Development Code changes and related applications, because we believe it is a key framework forming the foundation of downtown's continued growth. With how quickly downtown has been growing over the past few years, it has become even more essential to have that growth be done well and be done right.

There are several components of this code that we see has being incredibly valuable:

- It removes obstacles to development and makes projects more feasible through actions like reducing parking requirements near transit and increasing height limits. We are pleased with how the height limits will also prevent monolithic buildings from overshadowing historic buildings while also allowing for more incremental development, which we see as being more sustainable.
- It allows for and encourages diverse building types.
- It prioritizes locations for active building frontages. The efforts to preserve the downtown environment and improve the "Main Street" feel will be aided by having denser development with active sidewalk frontage. A walking downtown is a healthier downtown.

We are confident in the community outreach and administrative leadership of City staff, and are excited that this code helps implement the Urban Design Framework.

We highly encourage Planning Commission and City Council to approve the applications.

Thank you for your support of downtown!

*Kevin Teater*

Kevin Teater  
Executive Director  
Beaverton Downtown Association  
[www.downtownbeaverton.org](http://www.downtownbeaverton.org)  
12625 SW Broadway Street, Suite 200  
Beaverton, OR 97005  
(503) 332-5419



September 21, 2020

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

Re: Case File Nos. CPA2020-0004, TA2020-0002, TA2020-0004, ZMA2020-0004  
13175 SW Henry Street/13203 SW Canyon Road (The Standard Center)

Dear Planning Commission:

Canyon Plaza Associates, LLC (Canyon Plaza) objects to the proposed zoning change along Southwest Canyon Road between Southwest Cedar Hills Boulevard and Southwest Hocken Avenue, from General Commercial (“GC”) to Mixed Use (“RC-MU”).

Canyon Plaza owns two of the three buildings of the Standard Center (13203 and 13227 SW Canyon Road) at the corner of SW Canyon Road and Lloyd Avenue. These are commercial buildings with nine spaces, and six current tenants – Sameday Auto Scratch & Dent Repair, Meineke, Clutch & Brake Doctors, Safelite Auto Glass, H & R Block, DreamMaker and Tasty Pot Restaurant. Most of these businesses are independently owned, or franchisees. These businesses are important components of Beaverton’s economy and many are directly threatened by the proposed zoning changes – specifically, the ban on minor automotive uses.

As permitted by the City, the area surrounding the Canyon Plaza property and west of Cedar Hills Boulevard is an automotive-centered area. The dealerships, service stations, and associated businesses (like those in the Standard Center) are important to customers, and the proposed change will inappropriately restrict the economic development of both Beaverton and the individual business and landowners. Most of the Standard Center, specifically, is configured for minor automotive use with drive through service bays with large overhead doors, and would be inappropriate for other uses without significant reconfiguration.

A zoning change, and Beaverton’s nonconforming use rules, will put these small businesses on a knife-edge: unable to expand, replace non-automotive tenants with automotive ones, or potentially even meaningfully remodel for fear of losing any grandfathered status. The inability to promise a lender or an insurer that a building can be rebuilt if destroyed by fire may lead businesses to be uninsurable or unsustainable. The nonconforming use rules also interfere with contracts between building owners, such as common area agreements that were approved by the City when the project was developed, making it possible that a landowner will be unable to fulfill its legal and contractual obligations due to reasons beyond its control.

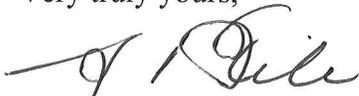
Moreover, given the economic ripples that will continue to spread from the Covid-19 pandemic, it is quite likely that some commercial spaces will go vacant for more than a year (ending the grandfathered status) not because the use is no longer economically favored, but because initiating leases under these circumstances, including government mandated restrictions will be extremely difficult.

Perhaps most importantly to the Commission's purpose, the majority of the businesses in the Standard Center are appropriate to their highway-adjacent location along Canyon Road, which is far from the downtown core of Beaverton. Moreover, the configuration of the highway in that location will *not* be compatible with the kind of dense downtown core the Commission seeks to encourage. This change will damage businesses without even achieving the benefit the Commission seeks. In fact, it seems as though these factors have been recognized by the Commission, as the parcels immediately south of the Standard Center, located on Canyon Road and Farmington Road, are not in the proposed expansion of the downtown area. Canyon Plaza requests that at a minimum, the parcels along the north side of Canyon Road and west of Lloyd Avenue should be excluded from the proposed expansion, similar to those on the south side.

In the alternative, Canyon Plaza has reviewed the submitted testimony of the Francis family which proposes changes to the zoning code to allow for automotive sales use. If the commission is not willing to reconsider rezoning the Standard Center, Canyon Plaza requests the opportunity to submit proposed revisions to the minor automotive use standards, which are likely to be similar to those requested by the Francis family.

Finally, Canyon Plaza objects to the procedure being used to promote the proposed changes. Covid-19 presents unique challenges. Given the importance and permanence of the proposed changes to the individual economic stakeholders, making such a decision via virtual session is inappropriate and unprecedented. This decision should be delayed until an in-person hearing can be held.

Very truly yours,



Stanley V. Piha  
Canyon Plaza Associates, LLC



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

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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](mailto: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. Robinson**Admitted 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



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](http://www.BeavertonOregon.gov)

## MEMORANDUM

TO: Planning Commission  
 FROM: Steve Regner, Senior Planner  
 DATE: Oct. 2, 2020  
 SUBJECT: Downtown Design Project – Vehicle Sales and Automotive Service Options

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The purpose of this memo is to summarize potential scenarios regarding the regulation of Vehicle Sales and Automotive Services within the Downtown Design District.

Following the September 23, 2020 Downtown Design Project Planning Commission Hearing, staff held multiple meetings representatives of property owners and businesses who would be directly impacted by proposed regulations regarding vehicle sales and automotive services in the Downtown Design District. Many of these representatives provided written or oral testimony at the hearing. Based on the testimony provided and the subsequent conversations the representatives staff has provided a revised set of policy scenarios for Planning Commission to consider, as well as specific code language to implement each scenario.

The testimony provided raised concerns on the proposed prohibition of Vehicle Sales and Automotive Services, specifically how it would impact existing uses within the District. Under the proposed Development Code language, existing Vehicle Sales and Automotive Services would become non-conforming uses, subject to the provisions of Chapter 30 of the Development Code. Based on testimony provided as well as the conversations following the public hearing, staff has identified the following issues of concern:

- Structures containing non-conforming uses could not be rebuilt if the building was destroyed. This restriction could have impacts to business stability and may influence the rates and availability of insurance for the properties.
- Structures containing non-conforming uses could not be expand floor area. This may restrict dealerships from complying with standards set by vehicle manufacturers.
- Clarifying how the minimum floor area requirements reconciled If a vehicle sales or automobile service can be rebuilt, if destroyed, with some size limitation, and cannot meet the minimum floor area requirements.
- How the active ground floor use regulations proposed in TA2020-0004 may affect the ability for these uses to expand or rebuilt if destroyed.

- Ability to reconstruct a building across the street if the were property under same ownership.

Several scenarios are provided below for how the new Downtown Code could address auto-related uses, and the issues identified above. Additionally, several issues identified above are addressed individually in this memo under the heading “Additional Issues”, and can be combined with multiple scenarios described in the memo

For context, the current code regulates the three relevant uses in the following ways:

### **Regional Center - Old Town zone**

- Vehicle Sales or Lease: Allowed with a Conditional Use (C)
- Major Automotive Services: Prohibited (N)
- Minor Automotive Services: Permitted (P)

### **Regional Center – Transit Oriented zone**

- Vehicle Sales or Lease: Allowed with a Conditional Use (C)
- Major Automotive Services: Prohibited (N)
- Minor Automotive Services: Permitted (P), except vehicle gas stations are allowed with a Conditional Use (C)

### **General Commercial**

- Vehicle Sales or Lease: Permitted (P)
- Major Automotive Services: Allowed with a Conditional Use (C)
- Minor Automotive Services: Permitted (P)

### **Community Service**

- Vehicle Sales or Lease: Permitted (N)
- Major Automotive Services: Allowed with a Conditional Use (C)
- Minor Automotive Services: Permitted (P)

In the proposed amendments considered at Sept. 23 Planning Commission hearing, all three uses were proposed to be Prohibited (N) in all four Downtown zones: Regional Center – Old Town, Regional Center – Beaverton Central, Regional Center – Mixed Use and Regional Center – Downtown Transition.

## Scenario 1 – Proposed Downtown Code with no changes

Vehicle Sales	N
Major Auto Service	N
Minor Auto Service	N

### Considerations

- Prohibits new uses entering the Downtown Design District
- Existing uses in all three categories would become non-conforming and subject to Chapter 30
- Prohibits expansion of structure and of site use
- Prohibits reconstruction in case of over 50% value damage
- Façade improvements and some interior renovations would be permitted
- Consistent with the Urban Design Framework objective of a more densely developed, active, mixed-use Downtown with less space occupied by vehicle storage.
- New development would have to meet other proposed amendments regarding site and building design, such as requiring a certain amount of street frontage to be occupied by a building, minimum floor-area ratio requirements (or residential densities), building design requirements and ground-floor active use rules.
- Existing auto-related businesses have provided testimony that the limitations could affect their ability to operate and update their businesses.
- Property and business owners have expressed that insurance could be more difficult or expensive to acquire if the structures could not be rebuilt and occupied by the uses if destroyed.

**Scenario 2 – Proposed Downtown Code with provision that allows non-conforming businesses to rebuild if severely damaged**

Vehicle Sales	N <sup>1</sup>
Major Auto Service	N
Minor Auto Service	N <sup>1</sup>

1. Structures associated with uses lawfully established prior to <CODE EFFECTIVE DATE> that are damaged greater than 50% of the replacement value, as described in Section 30.25.1.B, may be rebuilt on-site, no larger than the floor area of the damaged structure on <CODE EFFECTIVE DATE>, consistent with all applicable regulations of this ordinance and may continue to contain the lawfully established use.

Considerations

- Prohibits new uses entering the Downtown Design District
- Existing uses in all three categories would become non-conforming and subject to Chapter 30
- Prohibits expansion of structure and of site use
- Allows reconstruction in cases of over 50% value damage
- Façade improvements and some interior renovations would be permitted
- Mostly consistent with the Urban Design Framework objective of a more densely developed, active, mixed-use Downtown with less space occupied by vehicle storage, but could mean automotive uses with less development and more space occupied by vehicle storage for a longer period of time.
- New development would have to meet other proposed amendments regarding site and building design, such as requiring a certain amount of street frontage to be occupied by a building, minimum floor-area ratio requirements (or residential densities), building design requirements and ground-floor active use rules.
- Addresses property and business owner concerns that insurance could be more difficult or expensive to acquire if the structures could not be rebuilt and occupied by the uses if destroyed.
- Because expansions are not allowed, does not address testimony that the limitations will affect automotive businesses' ability to operate and update their businesses.

**Scenario 3 – Proposed Downtown Code with provisions that allows limited expansions to non-conforming uses and allows non-conforming businesses to rebuild if severely damaged**

Auto Sales	N <sup>1 2</sup>
Major Auto Service	N
Minor Auto Service	N <sup>1 2</sup>

1. Structures associated with uses lawfully established prior to <CODE EFFECTIVE DATE> that are damaged greater than 50% of the replacement value, as described in Section 30.25.1.B, may be rebuilt on-site, no larger than 20% greater than the floor area of the damaged structure on <CODE EFFECTIVE DATE>, consistent with all applicable regulations of this ordinance, and may continue to contain the lawfully established use.
2. Structures associated with uses lawfully established prior to <CODE EFFECTIVE DATE> may expand the floor area to 20% greater than the size of the structure on <CODE EFFECTIVE DATE>. *Optional:* Land use applications for the floor area expansion shall be received by the City no later than five years past <CODE EFFECTIVE DATE>.

Considerations

- Prohibits new uses entering the Downtown Design District
- Existing uses in all three categories would become non-conforming and subject to Chapter 30
- Allows expansion of structure up to 20% over existing size
- Allows reconstruction in cases of over 50% value damage, built up to 20% larger than size prior to destruction
- Façade improvements and some interior renovations would be permitted
- Optional choice to add five-year time limit to expansion.
- Somewhat consistent with the Urban Design Framework objective of a more densely developed, active, mixed-use Downtown with less space occupied by vehicle storage. Allowing both expansions and rebuilding could mean automotive uses with less development and more space occupied by vehicle storage for a longer period of time.
- New Development would have to meet other proposed amendments regarding site and building design, such as requiring a certain amount of street frontage to be occupied by a building, minimum floor-area ratio requirements (or residential densities), building design requirements and ground-floor active use rules.
- Addresses property and business owner concerns that insurance could be more difficult or expensive to acquire if the structures could not be rebuilt and occupied by the uses if destroyed.
- Addresses business owner concerns that expansion limitations could affect automotive businesses' ability to operate and update their businesses.

## Scenario 4 – Existing Uses Treated as Conditionally Permitted

Auto Sales	N C <sup>1 2 3 4 5</sup>
Major Auto Service	N C <sup>1 2 3 4 5</sup>
Minor Auto Service	N C <sup>1 2 3 4 5</sup>

1. Uses lawfully established prior to <CODE EFFECTIVE DATE> shall be considered Conditionally Permitted.
2. Structures associated with uses lawfully established prior to <CODE EFFECTIVE DATE> may be Conditionally Permitted to expand the floor area to 20% greater than the size of the structure lawfully constructed by <CODE EFFECTIVE DATE>.
3. Structures associated with uses lawfully established prior to <CODE EFFECTIVE DATE> may be Conditionally Permitted to reconstruct the building if damaged by any means to a size no larger than 20% greater than the size of the structure lawfully constructed by <CODE EFFECTIVE DATE>.
4. Any structure or use lawfully established prior to <CODE EFFECTIVE DATE> that would be impacted or destroyed as a result of a government action may be moved to or reconstructed on the same lot, and if necessary, may be extended to an abutting lot in the same ownership, or a lot that is a part of a site under same ownership separated only by public right of way. Said site shall be no more than 100 feet from the site of the impacted use or structure.
5. Accessory open-air sales or display may not be expanded to areas not already lawfully established prior to <CODE EFFECTIVE DATE>.

Alternate Text: Footnotes 2 and 3 could be rewritten to consider aggregate floor area instead of each building. This could allow for the combination of building floor area in the case of multiple buildings needed to be rebuilt. The replacement language would be as follows:

Structures associated with uses lawfully established prior to <CODE EFFECTIVE DATE> may be expanded or reconstructed to a size such that the total site floor area is up to 120% of the lawfully established floor area present on <CODE EFFECTIVE DATE>

### Considerations

- Prohibits new uses entering the Downtown Design District
- Lawfully established existing uses would become Conditional Permitted
- Changes rules for many properties to make lawfully established existing Automotive Sales, Major, uses allowed with a Conditional Use (C)
- Allows expansion of structure up to 20%, with a Conditional Use Permit
- Allows reconstruction in cases of over 50% value damage, built up to 20% larger than size prior to destruction Conditional Use Permit

- Allows conditionally permitted buildings or uses impacted by government action to located or reconstructed on site or site directly across the street. See Additional Issue C starting on page 9 of this memo for more background
- Façade improvements and some interior renovations would be permitted.
- Interior renovations that generate new trips would require a Conditional Use Permit
- Prohibits the expansion of outdoor vehicle storage, even for established use
- Potentially less consistent with the Urban Design Framework objective of a more densely developed, active, mixed-use Downtown with less space occupied by vehicle storage. Allowing both expansions and rebuilding could mean automotive uses with less development and more space occupied by vehicle storage for a longer period of time. The prohibition of open air sales and display prevents additional land from being used as vehicle storage.
- New Development would have to meet other proposed amendments regarding site and building design, such as requiring a certain amount of street frontage to be occupied by a building, minimum floor-area ratio requirements (or residential densities), building design requirements and ground-floor active use rules.
- Removes non-conforming status and:
  - Addresses property and business owner concerns that insurance could be more difficult or expensive to acquire if the structures could not be rebuilt and occupied by the uses if destroyed.
  - Addresses business owner concerns that expansion limitations could affect automotive businesses' ability to operate and update their businesses.

## **Additional Issues**

### **A. Minimum Floor Area**

Issue: Must sites with reconstructed buildings containing Vehicle Sales and Automotive Services meet minimum FAR? *One of these options should be selected if decision-makers recommend Scenario 2, 3 or 4 above.*

**OPTION 1:** Where structures are rebuilt, minimum FAR must be met. Any floor area required above what is allowed for vehicle sales and service must be an unrelated, allowable use. A Phased Downtown Development Plan (DPPD) may be utilized. Depending on site size and zone, floor area in the first phase could be 66%, 75%, or 85% of minimum floor area required.

**Language:** In cases where a structure associated with this use is rebuilt, and is limited in total floor area by this ordinance, the minimum floor area required in Section 70.02 must be provided, and the additional floor area must not be occupied by vehicles sales or automotive services. A Phased Downtown Development Plan may be utilized if the site meets the appropriate criteria.

## Considerations

- Requires sites being redeveloped with vehicle sales and/or automotive service to meeting minimum FAR.
- Consistent with how other uses with size limitations would be regulated.
- Ensures that minimum floor area requirements are met, or at least a high percentage is met if the PDDP is utilized.
- May require sites redeveloped as vehicle sales and automotive services to include other uses on-site to meet minimum required floor area.
- More consistent with the Urban Design Framework objective of a more densely developed, active, mixed-use Downtown with less space occupied by vehicle storage.

**OPTION 2:** Where structures are rebuilt, minimum FAR not required to be met. Where FAR is not met, applicant must demonstrate how the site can accommodate future development.

**Language:** In cases where a structure associated with this use is rebuilt, and is limited in total floor area by this ordinance, the minimum floor area required in Section 70.02 is not required. When the required amount of floor area is not provided the applicant shall demonstrate how future development can meet the minimum FAR. This shall be demonstrated by providing a plan and narrative addressing feasibility of constructing future phases, consistent with the applicable provisions of the Development Code within the total site area where the project is proposed, and may include abutting properties if under same ownership.

## Considerations

- Exempts sites being redeveloped with vehicle sales and/or automotive service from be required to meet minimum FAR.
- Inconsistent with how other uses with size limitations would be regulated.
- Although minimum floor area would not be met, site plan would still demonstrate how future development could be accommodated in future phases to meet floor area requirements.
- Sites redeveloped as vehicle sales and automotive services could remain single use sites.
- Less consistent with the Urban Design Framework objective of a more densely developed, active, mixed-use Downtown with less space occupied by vehicle storage. Sites would be allowed to be built back at current intensity levels.

## B. Active Ground Floor Rules

Issue: Active Ground Floor Use rules in TA2020-0004 would have similar implications for non-conforming use restrictions for any structures built at the front property line along certain streets. These rules are intended be no more permissive or restrictive concerning lawfully established non-conforming vehicle sales and automotive service uses than what is allowed in the overall scenarios above. *This language is recommended if decision-makers recommend Scenario 2, 3 or 4 above.*

**Language:** Vehicle Sales and Automotive Service uses lawfully established on-site prior to <CODE EFFECTIVE DATE> that are inconsistent with these provisions shall not be considered non-conforming, and instead shall be regulated by the provisions of the underlying zone.

## C. Government Action Removing a Building

**Issue:** If a non-conforming structure or use is impacted or destroyed by a government action, Sections 30.20.3 and 30.25.2 provides the ability for the structure or use to be re-established on the same lot or abutting lot under same ownership. Representatives of Damerow Ford have testified that a planned extension of Millikan Way has the potential to impact or destroy an existing body shop operated by Damerow Ford.

Staff notes that uses typical of body shop generally fall under the Major Automotive Services land use category, which is currently a prohibited use in Beaverton's Development Code. Under the current Development Code, if this body shop were impacted by the Millikan Way extension, it could only be rebuilt on the existing lot, as other properties operated by Damerow Ford are separated by public right of way. Damerow Ford has indicated a preference to be able to rebuild on sites across the street from its existing location if the body shop is impacted by a road expansion. Staff reiterates that the concerns expressed by Damerow Ford on this issue are in regard to Development Code policies currently enforced by the City of Beaverton, and it not currently proposed to be modified by the language in the proposed Text Amendment. *One of these options should be selected if decision-makers recommend Scenario 1, 2 or 3 above.*

**OPTION 1:** Remain limited to reconstruction on same or abutting lot.

**Language:** No change from language in current Development Code.

### Considerations

- Continues to regulate non-conforming uses and structures as described in Chapter 30.

- Limits reconstruction of use currently regulated as non-conforming to the existing or abutting site.

**OPTION 2:** Allows non-conforming structures or uses to be reestablished on abutting lot or lot across the street.

**Language:** Notwithstanding Section 30.25, any structure in the Downtown Design District associated with a vehicle sales or automotive service use lawfully established prior to <CODE EFFECTIVE DATE> that would be adversely impacted or destroyed as a result of a government agency action, may be moved or reconstructed on the same lot, and if necessary, may be extended to an abutting lot in the same ownership, or a lot that is a part of a site under same ownership separated only by public right of way. Said site shall be no more than 100 feet from the site of the impacted use or structure.

#### Considerations

- Creates special circumstance for non-conforming vehicle sales and automotive services in the Downtown Design District
- Provides flexibility sought by business owners to reestablish a non-conforming use on a different site if impacted by Millikan Way expansion
- Addresses an existing Development Code concern, is not responding to an issue introduced by the Downtown Design Project text amendments.



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: Oct. 07 2020  
SUBJECT: Downtown Design Project – Additional Written Testimony

---

This memo is intended to supplement the staff report dated Sept. 16, 2020 and supplemental memos dated September 21, September 23, and October 2, 2020 for the Downtown Design Project hearing regarding CPA2020-0004, TA2020-0002 and ZMA2020-0004, first held Sept. 23, 2020, continued to Oct. 7, 2020. It addresses additional written testimony received by staff. This written testimony was received after the September 23, 2020 hearing.

Exhibit 8.13 Letter received October 5, from Jeff Bachrach, representing Lanphere Enterprises, Inc

### Comment Summary

Letter expresses support for Scenario 4 regarding vehicle sales and service regulations, as well as greater flexibility in reconstructing sites, including not being required to meet minimum floor area.

Exhibit 8.14 Letter received October 5, 2020, from Mike Robinson, representing the Francis Family

### Comment Summary

Letter expresses support for Scenario 4 regarding vehicle sales and service regulations, as well as greater flexibility in reconstructing sites, including not being required to meet minimum floor area.

Exhibit 8.15 Letter received October 6, 2020, from Melissa Thompson, representing the Standard Center

Comment Summary

Letter requests to have property removed from the Downtown Design District. Alternatively, the letter expresses support for Scenario 4 regarding vehicle sales and service regulations, as well as greater flexibility in reconstructing sites, including not being required to meet minimum floor area.

**Jeff Bachrach**  
**Bachrach.Law P.C.**

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

**Received**  
**Planning Division**  
10/05/2020

(o) 503.295.7797  
(c) 503.799.0242  
[jeffb@bachrachlaw.com](mailto:jeffb@bachrachlaw.com)

October 5, 2020

Ms. Jennifer Nye, Chair  
Beaverton Planning Commission

**VIA EMAIL**

Re: Downtown Design Project  
Support for Staff Scenario 4  
Lanphere Property

Dear Chair Nye and Commissioners,

On behalf of my client, Lanphere Enterprises, Inc (“Lanphere”), we appreciated the Planning Commission’s unanimous vote to continue the hearing on the Downtown Design Project to allow time for Lanphere and Damerow Ford to work with staff on code language that would maintain the economic viability of the dealerships.

Working in collaboration, the parties have come up with a proposed amendment to the code that allows the existing operations to stay in business for the foreseeable future, while also supporting the longer-term vision for the Downtown District, which will ultimately result in the replacement of the dealerships with more compatible uses.

Scenario 4 in the staff memorandum to the Planning Commission of October 2, 2020 achieves that balance. Lanphere urges the Planning Commission to vote in favor of including the code language in Scenario 4 as part of the package of amendments to the code you will be forwarding to the city council for its final approval.

As part of Scenario 4, staff has suggested alternative language for Footnotes 2 and 3. Lanphere supports the alternative language due the slightly greater flexibility it provides.

Also, staff has proposed on page 7 of their memorandum two options under the heading “Minimum Floor Area” for how to address the code’s new minimum FAR standards in the event a building is rebuilt after being destroyed by fire or other cause. Lanphere supports Option 2 on page 8.

Finally, I wanted to thank staff for their willingness to discuss all these issues and the time and effort they devoted to crafting the compromise language in Scenario 4.

I plan to testify at your hearing Wednesday evening and thus will be available to answer any questions.

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  
Lyndsey Lanphere, Lanphere Enterprises  
Mike Robinson,

**Received**  
**Planning Division**  
10/05/2020

October 5, 2020

**Michael C. Robinson**

Admitted 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, Beaverton Planning Commission (the “Planning Commission”) October 7, 2020 Continued Public Hearing, Old Business Agenda Item; Letter on behalf of the Francis Family

Dear Chair Nye and Members of the Beaverton Planning Commission:

This office represents the Francis Family (the “Francis Family”). This letter is submitted on behalf of the Francis Family.

The Francis Family appreciates the Planning Commission continuing the public hearing from September 23, 2020 to October 7, 2020 so that the Francis Family and other interested persons could meet with City staff and discuss further changes to the proposed amendments to the Beaverton Development Code (the “BDC”). As explained below, following several meetings with City staff, the Francis Family supports Scenario 4 and certain of the Alternative Issues as described in Mr. Regner’s October 2, 2020 Memorandum (the “Memorandum”) to the Planning Commission.

The Memorandum contains four Scenarios. The Francis Family supports Scenario 4 at Memorandum Pages 6 and 7 because it allows a reasonable opportunity for the Francis Family’s tenant, Damerow Ford, to continue operating while providing the opportunity to rebuild in the event of destruction and a limited ability to expand buildings to meet the franchisor’s requirements. Scenario 4 addresses the majority of issues raised by the Francis Family and, out of the four Scenarios presented in the Memorandum, Scenario 4 is the most effective and fairest way to address those issues.

The Memorandum also discusses three Additional Issues. The Additional Issues each address an issue raised by the Francis Family and Damerow Ford. The Francis Family supports the addition of Additional Issue A, Option 2, Additional Issue B and Additional Issue C, Option 3.

Ms. Jennifer Nye, Chair  
October 5, 2020  
Page 2

The Francis Family requests that the Planning Commission recommend adoption of Scenario 4, Additional Issue A, Option 2, Additional Issue B and Additional Issue C, Option 2 and the specific BDC language under each to the Beaverton City Council.

The Francis Family and Mr. Garrett Stephenson of this office will be available at the October 7, 2020 public hearing to testify in support of their request and to answer any questions that the Planning Commission may have.

Very truly yours,

A handwritten signature in blue ink that reads "Michael C. Robinson". The signature is written in a cursive, flowing style.

Michael C. Robinson

MCR/jmhi

cc: Mr. Brett Francis (*via email*)  
Mr. John Francis (*via email*)  
Mr. Dan Kaiser (*via email*)  
Mr. Jeff Bachrach (*via email*)  
Ms. Anna Slatinsky (*via email*)  
Mr. Steve Regner (*via email*)  
Mr. Brian Martin (*via email*)  
Mr. Peter Livingston (*via email*)  
Mr. Garrett Stephenson (*via email*)

PDX\110800\257727\MCR\29126613.1

Melisa K. Thompson  
mthompson@cosgravelaw.com  
(503) 323-9000  
Admitted in Oregon, Washington and Idaho

Received  
Planning Division  
10/06/20



October 6, 2020

**VIA U.S. MAIL**

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

RE: Case File Nos. CPA2020-0004, TA2020-0002, TA2020-0004, ZMA2020-0004  
13175 SW Henry Street/13203 SW Canyon Road (The Standard Center)

Dear Planning Commission:

We represent Canyon Plaza Associates, LLC (Canyon Plaza), which owns the northerly portion of the Standard Center Shopping Center (Standard Center) at the corner of SW Canyon Road and SW Lloyd Avenue. Canyon Plaza submitted written testimony to the September 23, 2020 hearing, objecting to the proposed rezoning on several bases, and requested that if zoning changes were made along the lines contemplated prior to that hearing, that the Standard Center be omitted from the proposed rezoning to RC-MU.

From discussions with staff, we understand that Canyon Plaza's parcel was not included in the original 2018 study, and was added about 1/3 of the way through the planning process, driven in part by a desire to add additional area to the downtown core, without meaningfully exceeding the prior westernmost boundary (Hocken Avenue). Notably, we have found no record of any notice received by Canyon Plaza, prior to the September 4, 2020 notice of hearing, that the Standard Center was to be included in the expanded Downtown core. Canyon Plaza was therefore denied an opportunity to participate in the planning process.

Inclusion in this process would have allowed Canyon Plaza to point out to staff the biggest problem with the proposed zoning change: that it conflicts with existing contractual obligations Canyon Plaza has to its southern neighbor. As discussed in Section A below, it is clear that this conflict would render Canyon Plaza's parcel undevelopable for any use if the buildings were destroyed by fire or earthquake. Unfortunately, this puts Canyon Plaza in the position of having to object to any of the scenarios put forward by staff, without another change.

This conclusion is unfortunate, because Canyon Plaza appreciates the work of the Commission and staff to address some of the concerns raised in testimony on September 23, both by Canyon Plaza and the other automotive users. We have reviewed the memoranda produced by staff following the continued September 23 hearing, and – in the absence of the contractual limitation -- find that while many of the issues raised by this rezoning are addressed by Scenario 3 *or* 4, Scenario 4 *and* Option 2 for Additional Issue A is the combination of provisions which would come closest to feasible for Canyon Plaza.

## **A. Contractual Restriction**

More than 30 years ago, Canyon Plaza's predecessor entered a reciprocal agreement with its southern neighbor that it would not expand or relocate the footprint of its buildings for any use. It's important that the Commission understand that this type of agreement was not only typical at the time it was formed, but it was actively encouraged by the City of Beaverton as a method of development in the area. Parcels were subdivided and developed as a way of collecting retail, minor automotive, and dining uses into areas serviced by common parking lots and driveways.

To promote this common usage, property owners (including Canyon Plaza's predecessor) were encouraged to sign agreements that were aimed at protecting their interests in their neighbors' common areas. Provisions that were promoted by the City at the time, without foreseeing changes such as street frontage requirements, were established via contract.

It is unlikely that Canyon Plaza will be the only property owner affected by the proposed rezoning who finds that this type of agreement, entered in good faith, will now prevent them from rebuilding, even given the more lenient scenarios proposed by staff, because it will simply be impossible to meet new design requirements on existing footprints.

## **B. Vacancy Clause**

Putting aside the contractual barriers, Canyon Plaza would also note that while Scenario 3 addresses some of the concerns identified in September 23's testimony, it fails to address the unique problems and uncertainties which face commercial landlords like Canyon Plaza in the wake of the current Covid-19 pandemic. It is, arguably, customary for development code to establish that a leased premises or building, which remains vacant for more than a year, loses its legal non-conforming status. After all, available space or buildings standing vacant for extended period may represent an opportunity to a property owner to review changed conditions influencing the highest and best use of its property. On the other hand, occurrences such as a global pandemic and/or recession caused by such an event may have no bearing on long-term highest and best use, and simply be a reflection of the current economic conditions. Property owners should not be penalized for such unanticipated impacts and the zoning code should not force changes to use when such conditions occur.

As is most apparent, these are not "normal" times, and we are learning that events affect the real estate market in ways we hadn't imagined possible. Businesses are at the whim of factors for which we have no frame of reference. It is difficult or impossible to say, at the moment, that a failure to re-rent a vacant property is the equivalent of a conclusion that the property is no longer economically viable. At this time, making a change which increases the burden on property owners faced with non-conforming uses runs counter to current conditions.

For that reason, Canyon Plaza could accept Scenario 4, which makes automotive uses conditionally permitted (and therefore not subject to the one-year vacancy clause), if it were altered to allow rebuilding on the same footprint, as further discussed in Sections A and C.

### **C. FAR**

Additional Issue A addresses the problem that arises if an automotive user seeks to rebuild a structure following fire, earthquake, or other disaster. Under Option 1, an automotive user would be required to either meet the updated FAR requirements of its zoning (in the case of RC-MU, 1.0), or under certain circumstances, a “phased” FAR between 66% and 85% of the zone’s requirements.

Option 1 would challenge Canyon Plaza, even in the absence of a contractual barrier, because achieving an FAR between .66 and 1.0 – that is, between 2.5 and 3.5 times the current square footage of the Standard Center – would inevitably require building upwards, an economically unlikely proposition above a minor automotive service center. Option 2, on the other hand, addresses most of those concerns, with the understanding that (at least under current economic conditions) “feasibility of constructing future phases” is as discussed above.

### **D. Highway Use**

The Standard Center Shopping center is oriented to SW Canyon Road, which is also recognized as OR 8, an Oregon highway that transitions into the SW Tualatin Valley Highway. The Oregon Department of Transportation has no plans that we are aware of to minimize the use of this heavily traveled highway. Proposing mixed use zoning on a busy highway runs counter to proper planning theory for safe, quiet and walkable development. This is, presumably, what the City recognized when it encouraged the current development, including the type of contract that solidified the footprints of the various buildings. This is just one reason why throwing a RC-MU blanket over the area of the Canyon Plaza property is misdirected, and why this area should be omitted from the proposed zone.

### **E. Conclusion**

Canyon Plaza renews its request to be removed from the proposed rezoning. If not, Scenario 4 with Option 2, with an additional provision that a destroyed building could be built on the same footprint, would best avoid causing severe economic harm to small businesses near Beaverton’s core, and should be the Scenario chosen by the Commission.

Very truly yours,



Melisa K. Thompson  
Cosgrave Vergeer Kester LLP

MKT:ab  
cc: Stanley Piha (via email)

1 **PLANNING COMMISSION MINUTES**  
2 **REGULAR MEETING**  
3 **SEPTEMBER 23, 2020**

4  
5  
6 **CALL TO ORDER:**

7  
8 The Regular Meeting of the Beaverton Planning Commission was called to  
9 Order by Chair Nye in the Beaverton Building City Council Chamber  
10 At 12725 SW Millikan Way, on Wednesday, September 23, 2020, at 6:30 p.m.

11  
12 Commissioner Lawler **MOVED** and Commissioner Saldanha **SECONDED** a motion  
13 to suspend the by-laws and the rules and procedure of section 9(E).

14  
15 Motion **CARRIED** 4:0:1:2

- 16 **AYES:** Lawler, Overhage, Nye, Saldanha,.
- 17 **NAYS:** None.
- 18 **ABSTAIN:** Uba.
- 19 **ABSENT:** Brucker, Winter.

20  
21  
22 **ROLL CALL:**

23  
24 Present were Chair Jennifer Nye; Planning Commissioners Gerry Uba, Terry  
25 Lawler, Kim Overhage, and Victor Saldanha.

26  
27 Commissioners Scott Winter and Charles Brucker were absent and excused.

28  
29 Planning Division Manager Anna Slatinsky, Long Range Planning Manager Brian  
30 Martin, Current Planning Manger Jana Fox, Senior Planner Steve Regner, Senior  
31 Planner Sambo Kirkma, Assistant Planner Josef Judy, Assistant City Attorney  
32 Peter Livingston, and Recording Secretary Carmin Ruiz represented staff.

33  
34 The meeting was called to order by Chair Nye who presented the format for the  
35 meeting.

36  
37 **VISITORS:**

38  
39 Chair Nye asked if there were any visitors in the audience wishing to address the  
40 Commission on any non-agenda issue or item.

41  
42 **COMMISSION COMMUNICATION:**

43 Vice Chair Lawler shared information regarding the Voter’s Forum to be held on  
44 Wednesday, October 14<sup>th</sup>.

1 Chair Nye shared the current Boards and Commissions recruitment with emphasize on  
 2 Planning Commission.

3  
 4 **STAFF COMMUNICATION:**

5 No comments.

6  
 7 **NEW BUSINESS**

8  
 9 **1. DOWNTOWN DESIGN PROJECT: DEVELOPMENT CODE ADOPTION**

- 10 a. CPA2020-0004  
 11 b. TA2020-0002  
 12 c. ZMA2020-0004  
 13

14 **Comprehensive Plan Update**

15 The Comprehensive Plan sets land use policy and implementation strategies for  
 16 the City of Beaverton. The City of Beaverton is initiating amendments to the  
 17 Comprehensive Plan to help implement the Downtown Urban Design  
 18 Framework, adopted in 2018, and the proposed Development Code changes  
 19 discussed below.  
 20

21 **Development Code Update**

22 The Development Code is the main tool for implementing land use regulations in  
 23 the City of Beaverton. The City of Beaverton is initiating amendments to the  
 24 Development Code and Zoning Map to implement the Downtown Urban Design  
 25 Framework adopted in 2018.  
 26

27 **Proposed Changes**

28 Proposed amendments to the Comprehensive Plan and Development Code  
 29 include but are not limited to:

- 30 • Expansion of the Downtown Regional Center land use designation.  
 31 • Addition of a new Comprehensive Plan policy supporting improved bicycle  
 32 and pedestrian facilities.  
 33 • New zoning and allowed uses for properties in the Downtown District.  
 34 • New design regulations for development of properties within the Downtown  
 35 District.  
 36 • Off-street parking and off-street loading requirements within the Downtown  
 37 District.  
 38 • Adoption of a Multimodal, Mixed-Use Area designation covering a majority  
 39 of the Downtown District. This will allow proposed changes to the  
 40 Development Code and Comprehensive Plan to be exempt from statewide  
 41 traffic congestion standards. Traffic congestion standards set by the City of  
 42 Beaverton will still apply.  
 43

44 Chair Nye opened the public hearing and read the format for hearings.

1 There were no disqualifications of the Planning Commission members.

2  
3 Commissioner Saldanha works with many of the auto dealerships in the  
4 community but is certain he can make a fair and partial decision.

5  
6 Chair Nye stated that, on occasion, she work with one of the attorneys making  
7 public comment but will not impact her decision.

8  
9 The Chair briefly described the hearing process and applicable approval criteria  
10 for this proposal.

11  
12 **STAFF REPORT**

13 Steve Regner, Senior Planner, gave an overview of the project.

14  
15 The agenda included background summary of three proposed amendments and  
16 changes since August 26<sup>th</sup> and responses to public comment.

17  
18 Supplemental memos dated September 21<sup>st</sup> and 23<sup>rd</sup> were addressed.

19  
20 Covered in staff's presentation were: project objectives, urban design  
21 framework, urban design framework outreach, comprehensive plan changes,  
22 comprehensive plan changes – multi-modal mixed use area, zoning map  
23 amendment (4 zones being affected), design rules, building placement, setback  
24 design, massing, modulation, articulation, ground floor design – Active streets,  
25 changes in allowed uses, parking, development code updates: phased  
26 development, landscaping and exceeding maximum height.

27  
28 **New language proposed**

29 **RC-BC Zone (120+ Feet)**

- 30
- 31 • Reduce the sense of enclosure for pedestrians along at least one street
  - 32 • Increase access to light as sky views for people on abutting streets and
  - 33 • Increase access to light for people inside current or future buildings across  
the street from the proposed development.

34 Development applying for this Design Guideline shall also provide at-grade  
35 publicly accessible open space or on-site creek access and enhancements to  
36 improve the pedestrian experience.

37 Similar rules are proposed for RC-MU and RC-OT.

38  
39 Also covered were the written testimony covering vehicle sales and service  
40 prohibition and additional lots included in downtown district.

41  
42 Scenarios for vehicle sales and service include:

43 **Scenario 1**

44 Proceed with proposed amendments as is

- 1 • No new uses enter Downtown
- 2 • Structures cannot expand
- 3 • Structures cannot be rebuilt if significantly damaged

#### 4 Scenario 2

5 Modify proposed amendments as follows:

- 6 • No new uses enter Downtown
- 7 • Structures cannot expand
- 8 • Structures can be rebuilt if destroyed at previously approved floor area
- 9 • Must conform with new design rules.

#### 10 Scenario 3

11 Modify proposed amendments as follows:

- 12 • No new used enter downtown
- 13 • Structures can expand 20% of floor area
- 14 • Structures can be rebuilt, if destroyed, up to 20% larger than previous
- 15 floor area
- 16 • Must conform with new design rules

#### 17 Scenario 4

18 Modify proposed amendments as follows:

- 19 • No new used enter downtown
- 20 • Structures can expand 20% of floor area within five years
- 21 • Structures can be rebuilt, if destroyed, up to 20% larger than previous
- 22 floor area
- 23 • Must conform with new design rules
- 24 • No time restriction

25

#### 26 **PLANNING COMMISSION QUESTIONS OF STAFF**

27 Questions focused on the following:

- 28 • Two lots asking to be included
- 29 • Noticing
- 30 • Scenario differences and frequency
- 31 • Ownership transfer
- 32 • Limits on scenarios
- 33 • Active businesses – Brian Martin Long Range planning manager
- 34 addressed code stating what merits an active business
- 35 • Parking
- 36 • Urban design outcome with rebuilt auto dealerships
- 37 • 20% Expansion – Site or Building
- 38 • Building height shadow language concerns – may not be correct language
- 39 • Design requirements and rules for vehicle sales
- 40 • Rebuilt conforming uses that don't meet FAR

41

42

1 Anna Slatinsky, Planning Division Manager, stated that because of the  
2 challenging questions surrounding the vehicle sales use should be handled it was  
3 suggested that Planning Commission should focus on providing some direction in  
4 their recommendation to council which will give staff an opportunity to further  
5 develop some of those options reflecting planning commission guidance  
6 between the Planning Commission and City Council hearing scheduled for  
7 November 2nd.

8

9 Brian Martin, Long Range Planning Manager, addressed the previous comment  
10 about the guideline for the shadow language and pointed to page 9 of staff  
11 memorandum from the 16<sup>th</sup> and clarified that it is the guideline and stated that  
12 planning commission will use discretion when using that guideline. Massing  
13 changes on upper floors shall and bullet point states "...increase access to light."  
14 Asked commission if that language is clear enough as the language links the light  
15 directly to the massing changes.

16

17 **PUBLIC TESTIMONY**

18 Brett Francis – represents Francis family who owns land leased by Damerow Ford  
19 - Provided a historic overview of family and the land and business.

20

21 Dan Kaiser – Managing partner of Damerow Ford – Feels language is a potential  
22 threat to business. Is amenable to scenario 3.

23 **Commission question**

24 Were scenarios captured?

25

26 Maggie Meyer – Beaverton Resident – tree removal in order to expand  
27 construction and development and wasted space. Assurance that proposed  
28 amendments to development code does not include removing healthy, mature  
29 and old growth trees and increasing land use districts from 2 to 4 doesn't mean  
30 just expanding the amount of land available for commercial development. City  
31 needs to consider any future development through the lens of mitigating climate  
32 change.

33

34 Michael Robinson – represents Francis family – would like to continue meeting  
35 to further discuss language regarding auto dealerships. If use would stay as  
36 confirming use be able to re-establish destroyed buildings more than 50% of  
37 their value.

38 **Planning Commission Question**

39 What would you like to discuss with staff?

40

41 Lindsey Lanphere – Represents Lanphere Enterprises – gave a history of family  
42 business in Beaverton. Supporters of local businesses.

43

1 Rob Walter – CFO for Lanphere Enterprise – asks that zoning remain an allowed  
 2 use.

3  
 4 Jeff Bachrach – represents Lanphere Enterprises – would like a little more time  
 5 to talk to staff about language. Hold off on auto use component and allow for  
 6 questions to be raised and come back to planning commission.

7  
 8 Five minute recesses was taken  
 9

10 **FINAL COMMENTS FROM STAFF**

11 Staff addressed verbal testimony, specifically:

- 12 • Public noticing and outreach
- 13 • Tree preservation and sustainability
- 14 • Moving forward based on testimony and conversation

15

16 **FINAL COMMENTS FROM CITY ATTORNEY**

17 Procedurally you have the choices already discussed to continue the hearing  
 18 while the representatives of the auto dealerships rest their case to staff and  
 19 allow staff to respond by suggesting other options and continue the hearing and  
 20 address those options and make a decision of how to proceed with your  
 21 recommendation.

22

23 d. Commissioner Lawler **MOVED** and Commissioner Overhage **SECONDED** a  
 24 motion to **CONTINUE** – CPA2020-0004, TA2020-0002, ZMA2020-0004  
 25 Beaverton Downtown Design District Amendments to a date certain of  
 26 October 7, 2020

27

28 Motion **CARRIED** 5:0:0:2

- 29 **AYES:** Lawler, Uba, Nye, Saldanha, Overhage.
- 30 **NAYS:** None.
- 31 **ABSTAIN:** None.
- 32 **ABSENT:** Brucker, Winter.

33

34 **2. DOWNTOWN DESIGN DISTRICT ACTIVE GROUND FLOOR USE TEXT**  
 35 **AMENDMENT**

36 a. TA2020-0004

37

38 The City of Beaverton proposes to amend the Development Code by adding  
 39 additional provisions to Chapter 70 that will require active uses to occupy ground  
 40 floor tenant spaces on certain streets. The proposed amendments will  
 41 implement the Downtown Design Project, the 2018 Urban Design Framework  
 42 and elements of the current Downtown Reginal Center Community Plan. These  
 43 rules are proposed to be considered for approval concurrently with CPA2020-  
 44 0004, TA2020-0002 and ZMA2020-0004, but staff recommends a delayed

1 effective date of July 1, 2021, in response to the economic and public health  
 2 considerations of the COVID-19 pandemic.

3  
 4 Chair Nye opened the public hearing and read the format for hearings.  
 5 There were no disqualifications of the Planning Commission members.  
 6

7 The Chair briefly described the hearing process and applicable approval criteria  
 8 for this proposal.  
 9

10 **STAFF REPORT**

11 Steve Regner, Senior Planner, gave an overview of the text amendment  
 12 proposal.  
 13

14 The agenda covers the background and proposed text amendment.  
 15

16 Items covered were project objectives, urban design framework, urban design  
 17 framework outreach, active ground floor use rules, path to adoption.  
 18

19 **PLANNING COMMISSION QUESTIONS OF STAFF**

20 None  
 21

22 **PUBLIC TESTIMONY**

23 None  
 24

25 **FINAL COMMENTS FROM STAFF**

26 None  
 27

28 **FINAL COMMENTS FROM CITY ATTORNEY**

29 None  
 30

31 Commissioner Lawler **MOVED** and Commissioner Uba **SECONDED** a motion to  
 32 **CONTINUE – TA2020-0004** Downtown Design District Active Ground Floor Use  
 33 Text Amendment to a date certain of October 7, 2020.  
 34

35 Motion **CARRIED** 5:0:0:2

36 **AYES:** Lawler, Uba, Nye, Saldanha, Winter.

37 **NAYS:** None.

38 **ABSTAIN:** None.

39 **ABSENT:** Brucker, Overhage.  
 40  
 41  
 42  
 43  
 44

1 **MISCELLANEOUS**

2 MOTION TO APPROVE LAND USE ORDER 2776 – APPEAL OF DIRECTOR’S DECISION TO  
3 APPROVE THE PUBLIC TRANSPORTATION FACILITY APPLICATION FOR THE WALKER  
4 MURRAY ROAD IMPROVEMENTS PROJECT

5

6 Commissioner Lawler **MOVED** and Commissioner Overhage **SECONDED** a motion  
7 to **APPROVE** the Public Transportation Facility Application for the Walker Murray  
8 Road Improvements Project.

9

10 Motion **CARRIED** 5:0:0:2

11 **AYES:** Lawler, Uba, Nye, Saldanha, Winter.

12 **NAYS:** None.

13 **ABSTAIN:** None.

14 **ABSENT:** Brucker, Overhage.

15

16 **ADJOURN**

17 Adjourned at 9:31 pm

DRAFT

1 **PLANNING COMMISSION MINUTES**  
2 **REGULAR MEETING**  
3 **OCTOBER 7, 2020**  
4  
5

6 **CALL TO ORDER:**  
7

8 The Regular Meeting of the Beaverton Planning Commission was called to  
9 Order by Chair Nye in the Beaverton Building City Council Chamber  
10 At 12725 SW Millikan Way, on Wednesday, October 7, 2020, at 6:30 p.m.  
11

12 Commissioner Saldanha **MOVED** and Commissioner Overhage **SECONDED** a  
13 motion to suspend the by-laws and the rules and procedure of section 9(E).  
14

15 Motion **CARRIED** 4:0:1:2

16 **AYES:** Uba, Overhage, Nye, Saldanha, Winter.

17 **NAYS:** None.

18 **ABSTAIN:** None.

19 **ABSENT:** Brucker, Lawler.  
20

21 **ROLL CALL:**  
22

23 Present were Chair Jennifer Nye; Planning Commissioners Gerry Uba, Scott  
24 Winter, Kim Overhage, and Victor Saldanha.  
25

26 Commissioners Terry Lawler and Charles Brucker were absent and excused.  
27

28 Planning Division Manager Anna Slatinsky, Long Range Planning Manager Brian  
29 Martin, Current Planning Manger Jana Fox, Senior Planner Steve Regner,  
30 Assistant Planner Josef Judy, Assistant City Attorney Peter Livingston, and  
31 Recording Secretary Carmin Ruiz represented staff.  
32

33 The meeting was called to order by Chair Nye who presented the format for the  
34 meeting.  
35

36 **VISITORS:**  
37

38 Chair Nye asked if there were any visitors in the audience wishing to address the  
39 Commission on any non-agenda issue or item.  
40

41 **COMMISSION COMMUNICATION:**

42 Chair Nye reminded everyone of Voter Forum on October 14.  
43  
44

1 **STAFF COMMUNICATION:**

2 No comments.

3

4 **OLD BUSINESS**

5

6 **1. DOWNTOWN DESIGN PROJECT: DEVELOPMENT CODE ADOPTION**

- 7 a. CPA2020-0004
- 8 b. TA2020-0002
- 9 c. ZMA2020-0004

10

11 Comprehensive Plan Update

12 The Comprehensive Plan sets land use policy and implementation strategies for  
 13 the City of Beaverton. The City of Beaverton is initiating amendments to the  
 14 Comprehensive Plan to help implement the Downtown Urban Design  
 15 Framework, adopted in 2018, and the proposed Development Code changes  
 16 discussed below.

17

18 Development Code Update

19 The Development Code is the main tool for implementing land use regulations in  
 20 the City of Beaverton. The City of Beaverton is initiating amendments to the  
 21 Development Code and Zoning Map to implement the Downtown Urban Design  
 22 Framework adopted in 2018.

23

24 Proposed Changes

25 Proposed amendments to the Comprehensive Plan and Development Code  
 26 include but are not limited to:

- 27 • Expansion of the Downtown Regional Center land use designation.
- 28 • Addition of a new Comprehensive Plan policy supporting improved bicycle  
 29 and pedestrian facilities.
- 30 • New zoning and allowed uses for properties in the Downtown District.
- 31 • New design regulations for development of properties within the Downtown  
 32 District.
- 33 • Off-street parking and off-street loading requirements within the Downtown  
 34 District.
- 35 • Adoption of a Multimodal, Mixed-Use Area designation covering a majority  
 36 of the Downtown District. This will allow proposed changes to the  
 37 Development Code and Comprehensive Plan to be exempt from statewide  
 38 traffic congestion standards. Traffic congestion standards set by the City of  
 39 Beaverton will still apply.

40

41 Chair Nye opened the public hearing and read the format for hearings.

42 There were no disqualifications of the Planning Commission members.

43

1 Commissioner Saldanha works with many of the auto dealerships in the  
2 community but is certain he can make a fair and partial decision.

3  
4 The Chair briefly described the hearing process and applicable approval criteria  
5 for this proposal.

6  
7 **STAFF REPORT**

8 Steve Regner, Senior Planner, gave an overview of the project.

9  
10 The meeting is a continuation of a September 23<sup>rd</sup> meeting.

11  
12 The agenda included:

- 13 • Revised Massing Rules for Exceeding Maximum Height
- 14 • Additional Lots included in the District
- 15 • Vehicle Sales and Service Scenarios
- 16 • Next Steps

17  
18 Four supplemental memorandums were mentioned.

19  
20 **Revised Language for exceeding Maximum Height**

21 RC-BC, buildings may exceed the 120-foot height limit by reducing the building  
22 mass of upper floors to minimize impacts on surrounding streets and buildings,  
23 and by providing at-grade pedestrian improvements. The building mass of upper  
24 floors shall be reduced by stepping back facades, shortening façade lengths, or  
25 other methods that reduces the massing compared to lower floors which results  
26 in:

- 27 • Reduced sense of enclosure for pedestrians along at least one street
- 28 • Increased access to light or sky views for people on abutting streets and
- 29 • Increased access to light for people inside current or future buildings across  
30 the street from the proposed development.

31  
32 **Vehicle Sales and Service**

33 **Current Code**

34 Vehicle Sales – Permitted or Conditionally Permitted, depending on existing zone

35 Major Auto Service – Prohibited in RC zones, permitted in GC zones

36 Minor Auto Service – Permitted

37  
38 **Proposed Downtown Code**

39 Vehicle Sales – Prohibited

40 Major Auto Service – Prohibited

41 Minor Auto Service - Prohibited

42

43

1 Scenarios for vehicle sales and service include:

2

3

Scenario 1

4

Proceed with proposed amendments as is

5

- No new uses enter Downtown
- Structures cannot expand
- Structures cannot be rebuilt if significantly damaged
- Façade Improvements can occur
- Open air sales cannot expand

6

7

8

9

10

Scenario 2

11

Modify proposed amendments as follows:

12

- No new uses enter Downtown
- Structures cannot expand
- Structures can be rebuilt if significantly damaged
- Façade improvements can occur
- Open air sales cannot expand
- New construction consistent with design rules

13

14

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Scenario 3

20

Modify proposed amendments as follows:

21

- No new used enter downtown
- Structures can expand
- Structures can be rebuilt if significantly damaged
- Façade Improvements can occur
- Open air sales cannot expand
- New construction consistent with design rules

22

23

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Scenario 4

29

Modify proposed amendments as follows:

30

- No new uses enter downtown
- Existing use are conditionally permitted
- Structures can expand
- Structures can be rebuilt if significantly damaged
- Façade improvements can occur
- Open air sales cannot expand
- New construction consistent with design rules

31

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Additional Considerations

39

Requirement to meet minimum floor area

40

Active Ground Floor Uses

41

Government Action Removing a building if non-conforming

42

43

**Issues to consider**

Revised Design Rules for Exceeding Maximum Height  
Lots Requesting Inclusion in Downtown Design District  
Vehicle Sales and Auto Service

- Scenario 1, 2, 3 or 4
- Minimum FAR requirements
- Active Ground Floor Use (Action taken at next hearing)
- Government Impact on non-conforming use

**PLANNING COMMISSION QUESTIONS OF STAFF**

Questions focused on the following:

- Two lots excluded from downtown boundary
- Minor and Major services
- Active ground floor and vehicle sales
- Massing – qualitative language vs quantitative

**PUBLIC TESTIMONY**

Brett Francis – represents Francis family who owns land leased by Damerow Ford - Provided a historic overview of family and the land and business. Outlined the drawbacks of scenarios to their business. Suggests adoption of scenario 4, option 2 for both additional issues a and c and the language in additional issue b regarding active ground floor uses.

Dan Kaiser – Managing partner of Damerow Ford – Feels language is a potential threat to business. Suggests tenants and property owners get noticing. Suggests adoption of scenario 4, option 2 for both additional issues a and c and the language in additional issue b regarding active ground floor uses.

Garrett Stephenson – Filling in for Mike Robinson and representing Francis family and Damerow Ford. Wants to make sure there are protections in new zoning code that allow Damerow to continue being a business and contributor to economy. Suggests adoption of scenario 4.

Melissa Thompson – Cogrove – represents two lots not included in original boundary. States that owners were never noticed or part of plan or discussion.

Jeff Bachrach – represents Lanphere Enterprises – Scenario 4 is only one that protects economic viability of dealerships.

Rob Walter – CFO for Lanphere Enterprises – Scenario 4 works for Lanphere

**FINAL COMMENTS FROM STAFF**

Staff addressed verbal testimony, specifically:

- Public noticing and outreach
- Car lots across Westgate

**FINAL COMMENTS FROM CITY ATTORNEY**

None

**COMMISSION DISCUSSION AND DELIBERATION**

The Planning Commission discussed the various scenarios presented by staff regarding vehicle sales and service regulations.

Commissioner Winter – Agrees with staff’s vision but also agrees with statements made by existing vehicle sales and service use representatives. Believes that Scenario 4, treating existing uses a Conditionally permitted is a good compromise. Also believes that these uses should be exempt from minimum FAR requirements and supports Option 2.

Commissioner Overhage – Supports a vote on either Scenario 3 or Scenario 4 of vehicle sales and service regulations. Regarding FAR exemption, expresses a slight preference for Option 1, requiring the developments to meet minimum FAR, but is fully comfortable with Option 2, exempting the uses from minimum FAR requirements.

Commissioner Saldanha – Supports Scenario 4, regulating vehicle sales and service uses as conditionally permitted uses, and Option 2 which allows the uses to be exempt from FAR requirements. Can think of more businesses impacted by these rule changes than those that have testified. Believes in the vision, but does not want to hurt businesses along the way.

Commissioner Uba – Believes that Scenario 4 is very interesting. Appreciates the efforts from staff to work with the vehicle sales and service use representatives, and Scenario 4 accommodates the needs of the existing uses. Will support either Option 1 or Option 2 for minimum FAR regulations.

Char Nye – Appreciates staffs work on this this topic and pushing for the vision. The impacts of COVID may have made us more sensitive to finding ways to maintain existing businesses. Recognizes that car dealerships will one day find new homes or new structures that coexist with urban development. Supports Scenario 4 but believes that the uses should be required to meet minimum FAR, and does not support Option 2.

Commissioner Overhage – Clarified that the formal vote would be recommending Scenario 4, regulating existing vehicle sales and service uses as conditional, and FAR Option 2, which exempts theses uses from minimum floor

1 area ratio requirements. She further clarified that the Planning Commission  
 2 requests that City Council looks closer at this item.

3  
 4

5 Commissioner Overhage **MOVED** and Commissioner Saldanha **SECONDED** a  
 6 motion to **RECOMMEND APPROVAL TO CITY COUNCIL – CPA2020-0004**  
 7 Beaverton Downtown Design District Amendments based on the facts in the  
 8 staff memorandums dated October 7, 2020, September 16, 2020, September  
 9 21, 2020, September 23, 2020 and October 2, 2020.

10  
 11

Motion **CARRIED** 4:1:0:2

- 12 **AYES:** Winter, Uba, Saldanha, Overhage.
- 13 **NAYS:** Nye.
- 14 **ABSTAIN:** None.
- 15 **ABSENT:** Brucker, Lawler.

16  
 17

18 Commissioner Overhage **MOVED** and Commissioner Saldanha **SECONDED** a  
 19 motion to **RECOMMEND APPROVAL TO CITY COUNCIL – TA2020-0002**  
 20 Beaverton Downtown Design District Amendments, including Scenario Four  
 21 regulating vehicle sales and service, and Option Two, exempting those uses  
 22 from floor area ratio rules, based on the facts in the staff memorandums  
 23 dated October 7, 2020, September 16, 2020, September 21, 2020,  
 24 September 23, 2020 and October 2, 2020.

25  
 26

Motion **CARRIED** 4:1:0:2

- 26 **AYES:** Winter, Uba, Saldanha, Overhage.
- 27 **NAYS:** Nye.
- 28 **ABSTAIN:** None.
- 29 **ABSENT:** Brucker, Lawler.

30  
 31

32 Commissioner Overhage **MOVED** and Commissioner Saldanha **SECONDED** a  
 33 motion to **RECOMMEND APPROVAL TO CITY COUNCIL – ZMA2020-0004**  
 34 Beaverton Downtown Design District Amendments based on the facts in the  
 35 staff memorandums dated October 7, 2020, September 16, 2020, September  
 36 21, 2020, September 23, 2020 and October 2, 2020. Including the  
 37 supplemental list including two lots.

38  
 39

Motion **CARRIED** 5:0:0:2

- 39 **AYES:** Winter, Uba, Nye, Saldanha, Overhage.
- 40 **NAYS:** None.
- 41 **ABSTAIN:** None.
- 42 **ABSENT:** Brucker, Lawler.

43  
 44

1           **2. DOWNTOWN DESIGN DISTRICT ACTIVE GROUND FLOOR USE TEXT**  
 2           **AMENDMENT**

3           a. TA2020-0004

4  
 5           The City of Beaverton proposes to amend the Development Code by adding  
 6           additional provisions to Chapter 70 that will require active uses to occupy ground  
 7           floor tenant spaces on certain streets. The proposed amendments will  
 8           implement the Downtown Design Project, the 2018 Urban Design Framework  
 9           and elements of the current Downtown Reginal Center Community Plan. These  
 10          rules are proposed to be considered for approval concurrently with CPA2020-  
 11          0004, TA2020-0002 and ZMA2020-0004, but staff recommends a delayed  
 12          effective date of July 1, 2021, in response to the economic and public health  
 13          considerations of the COVID-19 pandemic.

14  
 15          Chair Nye opened the public hearing and read the format for hearings.  
 16          There were no disqualifications of the Planning Commission members.

17  
 18          The Chair briefly described the hearing process and applicable approval criteria  
 19          for this proposal.

20  
 21          **STAFF REPORT**

22          Steve Regner, Senior Planner, gave an overview of the text amendment  
 23          proposal.

24  
 25          The agenda covers the background and proposed text amendment.

26  
 27          Items covered were project objectives, urban design framework, urban design  
 28          framework outreach, active ground floor use rules, path to adoption.

29  
 30          **Vehicle Sales and Service Scenarios**

31          Active Ground Floor Uses Recommended language  
 32          70.04.XX.XX. Active Ground Floor Use Rules: Vehicle Sales and Automotive  
 33          Service uses lawfully established on-site prior to <CODE EFFECTIVE DATE> that  
 34          are inconsistent with these provisions shall not be considered non-conforming,  
 35          and instead shall be regulated by the provisions of the underlying zone.

36  
 37          **PLANNING COMMISSION QUESTIONS OF STAFF**

38          Questions and comments included:

- 39          • Language – dealerships are off the hook
- 40          • Conditional use thresholds
- 41          • Look at long term

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**PUBLIC TESTIMONY**

None

**FINAL COMMENTS FROM STAFF**

None

**FINAL COMMENTS FROM CITY ATTORNEY**

None

**COMMISSION DISCUSSION AND DELIBERATION**

Commissioner Uba – Expressed support for the amendments with the vehicle sales and service amendment.

Commissioner Saldanha – Expressed support for the amendments with the vehicle sales and service amendment.

Chair Nye – Stated that the proposed amendments regarding vehicle sales and service too easily lets car dealerships off the hook. Wonders if there was some middle ground language that let dealerships build back in case of a destroyed building or major renovation but meet some level of active use.

Commissioner Overhage **MOVED** and Commissioner Winter **SECONDED** a motion to **RECOMMEND APPROVAL TO CITY COUNCIL – TA2020-0004** Downtown Design District Active Ground Floor Use Text Amendment based on the facts and findings of the City of Beaverton staff report dated September 16, 2020 and memorandum dated October 2, 2020. Including language on page 9 of October 2 memorandum requesting City Council take a look and consider other preferred language and a delayed effective date of July 1, 2021 due to Covid-19.

Motion **CARRIED** 4:1:0:2

**AYES:** Overhage, Uba, Saldanha, Winter.

**NAYS:** Nye.

**ABSTAIN:** None.

**ABSENT:** Brucker, Lawler.

**ADJOURN**

Adjourned at 9:10 pm