



CITY OF BEAVERTON
Planning Division
Community Development Department
Tel: 503-526-2420
www.beavertonoregon.gov

STAFF REPORT

Report date: April 27, 2022

Application/project name: Downtown Automotive Uses

Application Numbers: TA2021-0006

Proposal: The applicant, Lanphere Enterprises, proposes to amend the Beaverton Development Code to change three “Vehicle” use sub-categories — “Automotive service, major,” “Automotive service, minor” and “Sales or Lease” —to Conditional in the Regional Center-Beaverton Central (RC-BC), Regional Center-Mixed Use (RC-MU) and Regional Center-Old Town (RC-OT) zones if they comply with a new Footnote 14. Footnote 14 allows existing uses established prior to Jan. 8, 2021, to rebuild structures and operate on the same site if destroyed by a disaster. Conditional uses in the same category could occupy space vacated by those uses if the vacancy is one year or less. Other new uses in those sub-categories would remain Prohibited.

Proposal location: Regional Center – Old Town, Regional Center – Beaverton Central, and Regional Center – Multiple Use zoning districts.

Applicant: Lanphere Enterprises

Approval Criteria: Development Code Section 40.85.15.1.C.

Recommendation: Staff recommend the Planning Commission review the proposal, take public testimony, deliberate on the proposal, and make a recommendation to City Council.

Hearing information: 6:30 p.m. May 4, 2022, at City Hall, 12725 SW Millikan Way

Notice: Public hearings are held remotely and can be viewed at the following link: <https://www.beavertonoregon.gov/291/Agendas-Minutes>

Contact information:

City staff representative:

Kate McQuillan, Senior Planner

503-526-2427

kmcquillan@BeavertonOregon.gov

Brian Martin, Long Range Planning Manager

971-708-8894

bmartin@beavertonoregon.gov

Anna Slatinsky, Planning Division Manager
(971) 330-1419
aslatinsky@beavertonoregon.gov

Applicant: Lanphere Enterprises
Contact: Robb Walther
12505 SW Broadway Street
Beaverton, OR 97005

Applicant representative: Jeff Bachrach, Bachrach Law P.S.
921 SW Washington Street, Suite 320
Portland, OR 97205

Co-applicant 1: Washington County Investments
Contact: Brett Francis

Co-applicant 1 representative Michael C. Robinson, Schwabe, Williamson and Wyatt
1211 SW Fifth Avenue, Suite 1900
Portland, OR 97204

Co-applicant 2: Damerow Ford Co., dba Damerow Ford
Co-applicant 2 representative Wendie Kellington, Kellington Law Group
P.O. Box 159
Lake Oswego, OR 97034

Co-applicant 3: Canyon Plaza Associates, LLC
Co-applicant 2 representative Timothy J. Fransen, Cosgrave Vergeer Kester LLP
900 SW Fifth Avenue, 24th Floor
Portland, OR 97201

Background

The Downtown Design District, adopted in December 2020 and effective on January 8, 2021, implements longtime policy goals to make Downtown Beaverton a more vibrant, pedestrian-friendly place with housing, jobs, and services located in a walkable environment.

The Development Code amendments approved as part of the Downtown Design District changed the Automobile Service, Minor and Vehicle Sales or Lease categories to Prohibited and retained a prohibition on Automobile Service, Major. Businesses in these categories already located Downtown are now treated as non-conforming uses by the Development Code, which allows them to continue operating under certain circumstances but not expand or rebuild after destruction of the structures containing the uses. These include businesses such as car dealerships, gas stations, and businesses that do car repair, tire sales, or oil changes.

Under the current Development Code, if a building containing these uses incurs damage representing more than 50 percent of the value of the building, a new building could be constructed on the site but would no longer be able to contain a vehicle service, sales or lease business.

The applicants applied for the proposed text amendment to change how the Development Code handles these uses. The application proposes adding a Conditional Uses “C” notation with a footnote 14 superscript to nine cells in Table 70.15.20.A and adding footnote 14 below the table.

The proposed changes are shown below, with additions to current Development Code text shown in double-underline:

(Note: The Downtown Design District has been renumbered since the applicants submitted their application. The following amendments are shown with the current numbering of Chapter 70, which can be found at <http://www.BeavertonOregon.gov/DevelopmentCode>.)

Applicant submitted text amendment language

CHAPTER 70 - DOWNTOWN DESIGN DISTRICT

70.15 Downtown Zoning and Streets

70.15.20. Downtown Use Regulations

The following Land Uses are classified in the following three categories: Permitted (P) including their accessory uses and structures, Conditional Uses (C), or Prohibited (N) uses as identified in

the table below for all four Zoning Districts. All superscript notations refer to applicable regulations or clarifications as noted in footnotes below.

Table 70.15.20.A Commercial - Category and Specific Use	RC-BC	RC-OT	RC-MU	RC-DT
--	--------------	--------------	--------------	--------------

P: Permitted C: Conditional N: Prohibited
Superscript Refers to Use Restrictions

Commercial					
21. Vehicles	A. Automotive Service, Major	N <u>C¹⁴</u>	N <u>C¹⁴</u>	N <u>C¹⁴</u>	N
	B. Automotive Service, Minor	N <u>C¹⁴</u>	N <u>C¹⁴</u>	N <u>C¹⁴</u>	N
	C. Bulk Fuel Dealerships	N	N	N	N
	D. Sales or Lease	N <u>C¹⁴</u>	N <u>C¹⁴</u>	N <u>C¹⁴</u>	N
	E. Rental	C ⁷	C ⁷	C ⁷	N

1. Detached dwellings in existence as of September 19, 2002, are Permitted. Replacement of detached dwelling permitted.
2. Buildings larger than 10,000 square feet are subject to approval of a Conditional Use.
3. Uses limited to 10,000 square feet per site.
4. Limited to uses of Boarding, Rooming, and Lodging House.
5. Food Cart Pods are exempt from the Site Development Standards of 70.15 but are subject to regulations in 60.11 of the Development Code.
6. Uses up to 10,000 square feet are permitted. Uses larger than 10,000 square feet are subject to a Conditional Use Permit.
7. Only as an accessory uses with no on-site storage of vehicle inventory.
8. Drive-through uses are Prohibited; walk-ups Permitted.
9. This activity is conducted wholly within an enclosed structure. Accessory open air sales or display related to the principal use may be permitted, provided that the outdoor space devoted to these uses does not occupy an area greater than the equivalent of 15 percent of the gross floor area. No outdoor sales or outdoor storage of animals or livestock are allowed with this use.
10. The maximum building footprint size for a building involving a single use shall be 10,000 square feet. In addition, the maximum square footage for these uses within a multiple use development shall be 25 percent of the total square footage of the development.

11. As an accessory use, not to exceed 25 percent of the primary use.
12. Indoor uses are limited to 10,000 square feet per site.
13. Uses subject to additional restrictions below.
 - Outdoor manufacturing activity, including but not limited to testing of products or processes, is prohibited.
 - Outdoor storage is prohibited, including both raw materials and finished products.
 - Movement of heavy equipment on and off the site, except truck deliveries, is prohibited.
 - Exterior display or storage of industrial equipment, such as tools, equipment, vehicles, products, materials, or other objects that are part of or used for the business operation is prohibited.
 - Processes involving live animals or the waste or by product of dead animals is prohibited.
 - Electrical disturbances that interfere with the normal operation of equipment or instruments on adjacent properties are prohibited.
 - Processes involving highly combustible, explosive or hazardous materials or waste is prohibited.
 - Potential nuisances are subject to Beaverton Code Chapter 5.05.IV Nuisances Affecting Public Health.

14. Uses lawfully established prior to Jan. 8, 2021, shall be limited to the floor area and land area occupied by that use on Jan. 8, 2021, except as provided in this footnote 14. New uses within this category are not permitted except as provided below.

This section supersedes Section 30.35, and these uses shall be considered conditional uses as described herein. If a conditional use lawfully established prior to Jan. 8, 2021, discontinues use of a structure or structures on the site for one year or less, a use in the same category shall be allowed to occupy the structure or structures as a conditional use. If the structure or structures are not occupied by a use in this category for more than one year for any reason except those described in the next paragraph, any subsequent use of land or structure by uses in this category shall be not permitted and not eligible to occupy the land or structure as a conditional use.

If a structure occupied by a conditional use lawfully established in this land use category prior to Jan. 8, 2021, or established as a conditional use to replace a conditional use lawfully established in this land use category prior to Jan. 8, 2021, consistent with the previous paragraph is damaged by an unintended event, including but not limited to a fire, flood, or earthquake to an extent of more than 50 percent of its replacement cost at the time of destruction, a new structure associated with this conditional use may be constructed on the site but there shall be no net increase in the total floor area of the use. A new structure associated with this use shall be constructed in conformity with the provisions of this ordinance, including but not limited to provisions regarding minimum floor area on the site, active ground-floor use regulations and all applicable development, site and building design standards in Chapter 70.

The first paragraph of proposed Footnote 14 is intended to prevent expansions of the lawfully established uses in the Automobile Service, Major¹; Automobile Service, Minor²; and Vehicle Sales or Lease³ categories and clarify that new uses in those categories are not allowed except as provided later in the footnote.

The second paragraph describes how uses in the Automobile Service, Major; Automobile Service, Minor; and Vehicle Sales or Lease categories that were established prior to Jan. 8, 2021, are considered conditional uses and describes whether and in what circumstances a use in the same category can occupy space vacated by one of these uses. The intent is that if one of the relevant uses occupies a structure but then vacates the structure, a use in the same category can then occupy that same structure if it has been vacant one year or less.

The third paragraph is intended to allow structures occupied by one of the uses in the Automobile Service, Major; Automobile Service, Minor; and Vehicle Sales or Lease categories to be rebuilt if they are destroyed by a disaster, referred to as an unintended event, greater than 50 percent of the replacement value. The same use would then be able to occupy the newly built structure(s).

In reviewing the proposed amendment, staff identified areas that would benefit from additional clarification and revisions that would better align with the intent of the Downtown code. Issues include that the applicant-submitted Footnote 14:

1. Does not address the variety of situations related to how a building is damaged and the extent of that damage. Table 1 shows that Footnote 14, Paragraph 3 specifically addresses an unintended event that causes more than 50 percent damage to a

¹ Definition of “Automobile Service, Major” in Chapter 90: [ORD 4542; June 2010] Service or repair to motorized vehicles, which affect the body or frame. This term includes: painting, bodywork, steam cleaning, tire recapping, major engine or transmission overhaul or repair involving removal of a cylinder head or crankcase, and mechanical car washes that are used by and open to the general public.

² Definition of “Automobile Service, Minor” in Chapter 90: [ORD 4542; June 2010] Service or repair to motorized vehicles, which do not affect the body or frame. This term includes: retail and wholesale fuel sales; tire sales or installation, glass installation, oil changes and lubrications, general engine maintenance and repair, radiator repair, detail shops, mechanical car washes solely used by on-site employees as part of retail vehicle sales, or other similar service or repair.

³ Chapter 90 of the Development Code combines Vehicle Rental into a shared definition with Vehicle Sales or Lease. Note that for this text amendment, the Vehicle Rental use is not proposed to change. The following is the shared definition for Vehicle Sales, Lease or Rental within Chapter 90: [ORD 4058; September 1999] The sale, lease or rental of new or used automobiles, boats, motorcycles, or other motorized vehicles that require a license or registration to own or operate. This use classification includes, but is not limited to: Car Rentals, Vehicular Dealerships, Dealerships, Vehicle Sales, Vehicle Sales Lots, Travel Trailers, Recreation Vehicles, Manufactured Homes, Boat Sales or other similar uses, not located in residential zones.

structure, but the table also shows that the other three situations are not addressed directly, which might mean the desired outcome would not be what was intended.

Table 1: Applicant’s proposed amendment: Footnote 14 applicable language based on type and amount of damage

	Type of damage: Damage caused by an unintended event	Type of damage: Damage caused by other than an unintended event
Amount of damage: 50 percent or less damage	No specific provisions. Paragraph 1 prohibits new uses. Paragraph 2 specifies that if structures do not contain the uses for more than one year, the uses cannot occupy the structure or land.	No specific provisions. Paragraph 1 prohibits new uses. Paragraph 2 specifies that if structures do not contain the uses for more than one year, the uses cannot occupy the structure or land.
Amount of damage: More than 50 percent damage	Footnote 14, Paragraph 3	No specific provisions. Paragraph 1 prohibits new uses. Paragraph 2 specifies that if structures do not contain the uses for more than one year, the uses cannot occupy the structure or land.

2. Refers to “land area,” which is not defined in the Development Code and might be misunderstood.
3. Provides limited information about what is meant by “unintended event,” referring to examples by saying, “including but not limited to a fire, flood, or earthquake.” This could lead to future debates about what counts as an unintended event and if any action by the applicant would count.
4. Does not address what happens when an “unintended event” causes damage but intentional demolition is required to repair the building.
5. Paragraph 2 describes a situation where an existing auto-related conditional use can be replaced by another auto-related use in the same category in the structure or structures on the site but does not use the word “existing” to further clarify that the replacement cannot occur in a new building

Staff-recommended amendment language

Considering the issues described above, staff prepared alternative code language that would achieve the intent of the application while addressing the identified issues. While preparing this alternative code language, staff noticed that the footnote was difficult to read because it was

written as one long footnote rather than with the Development Code structure in outline form that allows easy referencing of other sub-sections. The proposed amendment proposes that Footnote 14 reference a new Development Code Section 70.15.22.

The proposed Section 70.15.22 would address the above issues in the following ways:

1. Address the variety of situations related to how a building is damaged and the extent of that damage. Table 2 shows the parts of Section 70.15.22 that would apply in each of the situations below. Section 70.15.22.G does not allow uses in the Automobile Service, Major; Automobile Service, Minor; and Vehicle Sales or Lease categories to occupy any structure rebuilt to replace all or part of the structure damaged “by events other than unintended events,” such as demolitions.

Table 2: Staff-recommended amendment: Applicable sub-sections based on type and amount of damage

	Type of damage: Damage caused by an unintended event	Type of damage: Damage caused by other than an unintended event
Amount of damage: 50 percent or less damage	70.15.22.F.1 (although 70.15.22.F.2 clarifies situations additional demolition means damage is more than 50 percent)	70.15.22.G
Amount of damage: More than 50 percent damage	70.15.22.F.3	70.15.22.G

2. Replace “land area” with “developed surface area occupied by that use” to clarify. This is found in sub-section C, which reads: “C. Area limits. Uses lawfully established prior to Jan. 8, 2021, shall be limited to the floor area occupied by that use and developed surface area devoted to the use on Jan. 8, 2021, except as provided below in Section 70.15.22.F.3.”
3. Provide clarity on the meaning of “unintended event.” Sub-section D now reads: D. Unintended event. For the purposes of Section 70.15.22, an unintended event is an event outside of the control of the property or business owner, including but not limited to a fire, flood, storm, or earthquake that damages a structure.” This specifies that the event is outside the control of the property or business owner and provides examples of natural disasters that are normally considered unintended events.
4. Specifies what happens when an “unintended event” causes damage but intentional demolition is required to repair a structure. Section 70.15.22.F.2 says that if an unintended event causes damage at 50 percent or less the value of the structure, if additional demolition is required that would make the damage of the building exceed

50 percent of the value, then it is treated as if an unintended event caused damage exceeding 50 percent of the value. That means Section 70.15.22.F.3 applies.

5. Adds the word “existing” to Section 70.15.22.E.1 to clarify that an existing auto-related conditional use can be replaced by another auto-related use in the same category, but it can only occupy the existing structure or structures on the site – not new structures.
6. Clarification that use of the term demolition in section G does not apply to demolition related to minor internal renovation.
7. Addition of section H to address scenario where government action destroys or renders uninhabitable a building associated with the use. This addition is substantively similar to 30.25.2, which would not apply under the proposed text amendment since the uses would no longer be considered non-conforming, but rather conditional. Ordinarily, conditional uses do not require specific provisions in case of government actions. However, since these uses may only be altered and replaced under very narrow circumstances, staff proposes that the provisions in 30.25.2 be applied.

The staff-recommended amendment is below, with additions to current Development Code text shown in double-underline.

CHAPTER 70 - DOWNTOWN DESIGN DISTRICT

70.15 Downtown Zoning and Streets

70.15.20. Downtown Use Regulations

The following Land Uses are classified in the following three categories: Permitted (P) including their accessory uses and structures, Conditional Uses (C), or Prohibited (N) uses as identified in the table below for all four Zoning Districts. All superscript notations refer to applicable regulations or clarifications as noted in footnotes below.

Table 70.15.20.A Commercial - Category and Specific Use	RC-BC	RC-OT	RC-MU	RC-DT
--	--------------	--------------	--------------	--------------

P: Permitted C: Conditional N: Prohibited
 Superscript Refers to Use Restrictions

Commercial					
21. Vehicles	A. Automotive Service, Major	N <u>C¹⁴</u>	N <u>C¹⁴</u>	N <u>C¹⁴</u>	N
	B. Automotive Service, Minor	N <u>C¹⁴</u>	N <u>C¹⁴</u>	N <u>C¹⁴</u>	N
	C. Bulk Fuel Dealerships	N	N	N	N
	D. Sales or Lease	N <u>C¹⁴</u>	N <u>C¹⁴</u>	N <u>C¹⁴</u>	N
	E. Rental	C ⁷	C ⁷	C ⁷	N

Footnote 14: Section 70.15.22 applies to these conditional uses.

Section 70.15.22 Automobile Service, Major; Automobile Service, Minor; and Vehicle Sales or Lease uses lawfully established prior to Jan. 8, 2021

A. Conditional uses. This section supersedes Section 30.35, and Automobile Service, Major; Automobile Service, Minor; and Vehicle Sales or Lease uses lawfully established prior to Jan. 8, 2021, shall be considered conditional uses as indicated in Table 70.15.20.A by Footnote 14.

B. Use limits. New uses within this category are not permitted except as provided in Section 70.15.22.E and F.

C. Area limits. Uses lawfully established prior to Jan. 8, 2021, shall be limited to the floor area occupied by that use and developed surface area devoted to the use on Jan. 8, 2021, except as provided below in Section 70.15.22.F.3.

D. Unintended event. For the purposes of Section 70.15.22, an unintended event is an event outside of the control of the property or business owner, including but not limited to a fire, flood, storm, or earthquake that damages a structure.

E. Continuation of conditional uses.

1. If a conditional use lawfully established prior to Jan. 8, 2021, discontinues use of a structure or structures on the site for one year or less, a use in the same category shall be allowed to occupy the existing structure or structures as a conditional use.
2. If the structure or structures are not occupied by a use lawfully established prior to Jan. 8, 2021, or a use in the same category that occupies the structure or structures

consistent with Section 70.15.22.E.1. for more than one year for any reason except those described in the Section 70.15.22.F, any subsequent use of that land or structure by uses in the Automobile Service, Major; Automobile Service, Minor; and Vehicle Sales or Lease categories shall be not permitted and not eligible to occupy the land or structure as a conditional use.

F. Structures damaged by unintended event.

1. If a structure occupied by a conditional use lawfully established in this land use category prior to Jan. 8, 2021, or established as a conditional use to replace a conditional use lawfully established in this land use category prior to Jan. 8, 2021, is damaged by an unintended event to an extent of 50 percent or less of its replacement cost at the time of destruction, the structure and surface area associated with the use may be repaired and subsequently occupied by a use in this same category if the use occupies the structure within three years of the date of the unintended event that damaged the structure and the use does not occupy additional square footage in the structure or additional developed surface area devoted to the use on the site over what it lawfully occupied before the damage occurred.
2. If damage from the unintended event in Section 70.15.22.E.1 plus demolition necessary to effectuate required repairs damages the structure for a total of more than 50 percent of the replacement cost of the structure at the time of the destruction caused by the unintended event, the structure shall be considered damaged by an unintended event at more than 50 percent of its replacement cost and shall comply with Section 70.15.22.F.3 rather than Section 70.15.22.E.1.
3. If a structure occupied by a conditional use lawfully established in this land use category prior to Jan. 8, 2021, or established as a conditional use to replace a conditional use lawfully established in this land use category prior to Jan. 8, 2021, is damaged by an unintended event to an extent of more than 50 percent of its replacement cost at the time of destruction or damaged by an unintended event and demolition per Section 70.15.22.E.2, a new structure associated with this conditional use may be constructed on the site but there shall be no net increase in the total floor area of the use. A new structure associated with this use shall be constructed in conformity with the provisions of this ordinance, including but not limited to provisions regarding minimum floor area on the site, active ground-floor use regulations and all applicable development, site and building design standards in Chapter 70.

G. Structures damaged by events other than unintended events. If a structure is damaged by means other than an unintended event, including demolitions not necessary for the repair of a structure damaged by an unintended event, any structure rebuilt to replace all or part of that structure shall not be occupied by a use in the Automobile Service, Major; Automobile Service, Minor; and Vehicle Sales or Lease categories, including any conditional uses lawfully established in this land use category prior to Jan. 8, 2021, or established as a conditional use to replace a conditional use lawfully established in this land use category

prior to Jan. 8, 2021. This provision does not apply to demolition associated with minor interior renovation such as demolition of internal partition walls, flooring, and fixtures.

H. Structures impacted by government agency action. If a structure occupied by a conditional use lawfully established in this land use category prior to Jan. 8, 2021, or established as a conditional use to replace a conditional use lawfully established in this land use category prior to Jan. 8, 2021, would be destroyed or rendered unoccupiable as a result of a government agency action, such as where the agency takes property through its exercise of eminent domain, requires dedication of property for public purposes, or restricts the use of property by requiring a reservation of property for right-of-way purposes, a structure associated with this conditional use may be constructed on the same lot or an abutting lot in the same ownership, but building floor area occupied by that use and developed surface area devoted to that use shall not exceed the floor area and surface area occupied on Jan. 8, 2021. If such structure is non-conforming, it may be reconstructed provided that the resulting placement of the structure does not increase the nonconformity of the structure. Land use applications for reconstruction of such structures pursuant to this section must be submitted within one year of the date of the government agency action and the use must reoccupy the replacement structure and surface area within three years.

Public Comment

Staff received two emails from members of the public regarding TA2021-0006: One email in support of the proposed text amendment, and one email opposed the proposed text amendment. An email from Mr. Barker received March 22, 2022, in support of the proposed text amendment states that businesses should not be required to relocate in the event of an emergency. The second email received March 24, 2022, from Ms. Peter, objects to the proposed text amendment in that it may further encourage downtown properties currently occupied with automobile-related uses to not redevelop to their full potential as allowed under the Development Code. Copies of the public comment are attached to this staff report as Exhibit C.

Table of Contents

STAFF REPORT.....	1
Background.....	3
Public Comment.....	12
TA2021-0006 ANALYSIS AND FINDINGS FOR TEXT AMENDMENT.....	14
Section 40.85.05 Purpose.....	14
Section 40.85.15.1.C Approval Criteria:	14
Section 40.85.15.1.C.1.....	14
Section 40.85.15.1.C.2	14
Section 40.85.15.1.C.3.....	15
Section 40.85.15.1.C.4.....	16
Section 40.85.15.1.C.5.....	38
Section 40.85.15.1.C.6.....	38
Section 40.85.15.1.C.7	39
Other applicable approval criteria.....	39
Statewide Planning Goals.....	39
Conclusion and recommendation	45

Exhibits

Exhibit A: Text Amendment Application with exhibits

Exhibit B: Downtown Automotive Use Text Amendment Narrative submitted Feb. 11, 2022

Exhibit C: Public Comment

 C.1: Email from Mr. Barker dated 3/22/22

 C.2: Email from Ms. Peter dated 3/24/22

Exhibit D: Staff Report dated March 30, 2022

TA2021-0006 ANALYSIS AND FINDINGS FOR TEXT AMENDMENT

Recommendation: Based on the facts and findings presented below, staff recommends the Planning Commission review the proposal, take public testimony, deliberate on the proposal, and make a recommendation to City Council.

Section 40.85.05 Purpose

The purpose of a text amendment application is to provide a mechanism for legislative amendments to the Development Code. It is recognized that such amendments may be necessary from time to time to reflect changing community conditions, needs, and desires, to fulfill regional obligations, and to address changes in the law. This Section is carried out by the approval criteria listed herein.

Section 40.85.15.1.C Approval Criteria:

Section 40.85.15.1.C of the Development 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 the criteria specified in Section 40.85.15.1.C.1-7 are satisfied.

Section 40.85.15.1.C.1

Approval Criterion: The proposal satisfies the threshold requirements for a Text Amendment application.

FINDING:

Section 40.85.15.1.A specifies that an application for a text amendment shall be required when there is a proposed change to the Development Code, excluding changes to the zoning map. TA2021-0006 proposes to make changes to Development Code Chapter 70, as shown in Exhibit A. In addition, the applicant states: "The applicant has satisfied the threshold submittal requirements for a Text Amendment application by providing all the required materials. A pre-application conference was held on July 28, 2021, and the meeting notes are attached to this application as Exhibit B. Findings of compliance with the applicable review criteria, policies, and standards are included in the land use narrative. The requisite application fees have been submitted with the application."

Conclusion: Therefore, staff finds the amendment meets the criterion for approval.

Section 40.85.15.1.C.2

Approval Criterion: All City application fees related to the application under consideration by the decision making authority have been submitted.

FINDING:

The applicant submitted fees related to this application on Nov. 13, 2021.

Conclusion: Therefore, staff finds the amendment meets the criterion for approval.

Section 40.85.15.1.C.3

Approval Criterion: The proposed text amendment is consistent with the provisions of the Metro Urban Growth Management Functional Plan.

FINDING:

Functional Plan Title 1: Housing Capacity. The applicant submitted the following information:

The purpose of Title 1 is to address how the City maintains or increases housing capacity. The proposed text amendment is limited to the reclassification of legally established vehicle-oriented uses within the City's newly established Downtown Mixed-Use area. This area is meant to allow for a mix of high intensity commercial and residential development. This amendment will not allow for the establishment of any new uses within the vehicle use category. The existing uses would be allowed to continue. Therefore, the proposed amendment will have no impact on housing capacity.

Title 3: Water Quality and Flood Management. The applicant submitted the following information:

The purpose of Title 3 is to address water uses, water quality resources, and flood management areas. The proposed text amendment is limited to the reclassification of legally established uses on developed properties. Suggested language will not allow for new development or the establishment of new uses. Therefore, the amendment will not affect water uses, water quality resources, or flood management areas.

Title 6: Centers, Corridors, Station Communities and Main Streets. The applicant submitted the following information:

The City of Beaverton has a defined Regional Center recognized by Metro. Although the proposed amendment will impact properties in the within Beaverton's Regional Center, this text amendment is limited to changing the classification of existing specific uses within the Vehicle Use Category for the RC-BC, RC-OT, and RC-MU zoning districts. This proposal does not include changes to the Regional Center Boundary and will not impact the areas eligibility for Regional Center status. No changes in the current use of land or impacts the existing activity level of this area are anticipated.

Title 7: Housing Choice. The applicant submitted the following information:

Title 7 identifies goals and incentives to help establish affordable housing. The proposed amendment is limited to lawfully established uses on developed properties. Suggested language will not allow for any new uses or developments to be established. Therefore, the policies of this title are not impacted by the proposed amendment.

Title 8: Compliance Procedures. Section 3.07.820 Review by the Chief Operating Officer, the Functional Plan states that: “(a) A city or county proposing an amendment to a comprehensive plan or land use regulation shall submit the proposed amendment to the COO at least 35 days prior to the first evidentiary hearing on the amendment. The COO may request, and if so the city or county shall submit, an analysis of compliance of the amendment with the functional plan. If the COO submits comments on the proposed amendment to the city or county, the comment shall include analysis and conclusions on compliance and a recommendation with specific revisions to the proposed amendment, if any, that would bring it into compliance with the functional plan. The COO shall send a copy of comment to those persons who have requested a copy.”

The city provided notice to Metro on March 1, 2022, meeting the requirement to provide notice at least 35 days prior to the first evidentiary hearing on the amendment. The city received no comments from Metro.

Title 12: Protection of Residential Neighborhoods. The applicant submitted the following information:

Title 12 focuses on providing protection to existing residential neighborhoods. The proposed amendment is limited to commercial uses within a mixed-use area. Therefore, the proposed changes will not impact the Beaverton Comprehensive Plan’s compliance with this title.

Title 13: Nature in Neighborhoods. The applicant submitted the following information:

Title 13 focuses on the protection, conservation and ecological viability of stream and river corridors. The proposed amendment is limited to legally established uses that are located on developed properties. Suggested language will not allow for the expansion of these existing uses or the establishment of new uses in these categories. Therefore, the proposal will not impact the Beaverton Comprehensive Plan’s compliance with this title.

Conclusion: Therefore, staff finds the amendment meets the criterion for approval.

Section 40.85.15.1.C.4

Approval Criterion: The proposed text amendment is consistent with the City’s Comprehensive Plan.

FINDING:

Chapter Three: Land Use. 3.1 Land Use and Transportation Connections

Goal 3.1.1. Encourage development and land use patterns that support a variety of transportation options

Applicant response: As proposed, the text amendment will allow established uses within the “Vehicle Services, major”, “Vehicles Services, minor”, and “Sales or Lease” specific use categories to continue as a conditional use within the RC-BC, RC-OT, and RC-MU zoning districts. The amendment will include a footnote which prohibits the establishment of new uses within these categories and limits existing uses from expanding beyond their established floor area. The proposed text amendment will support the policies of this goal by limiting new uses in these categories from being established and ensuring that existing nonconforming uses (and structures) will not be modified in a manner that would increase the nonconformity of the development.

Staff response: The footnote in the staff-recommended amendment refers to Section 70.15.22, which proposes to prohibit new uses (except those replacing existing uses in the same building if vacant for one year or less) and limits existing uses from expanding beyond their established floor area. In cases where Section 70.15.22 allows structures to be rebuilt and allow the automotive uses to occupy the structures, Development Code standards that support a variety of transportation options, such as those for sidewalk connections and bike parking, would apply.

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

Applicant response: When legally established auto-centric uses within the applicable zoning districts are updated and/or redeveloped, they will be required to be consistent with the Downtown Design District Development Code 70.04 to the extent required under the BDC 30.25 and 30.40. Consistent with 70.01.1, the Downtown Design District provisions are designed to emphasize pedestrian convenience and safety consistent with this policy.

Staff response: Updates to structures occupied by such legally established uses would only be permitted consistent with the current Development Code, including requirements that the use is not enlarged and any such updates do not increase non-conformance of non-conforming structures. Redevelopment of structures could occur, but Footnote 14 and Section 70.15.22 limit the situations where the legally established auto-centric uses would be able to occupy the new buildings constructed through a redevelopment,

The reference to Development Code Section 70.04 refers to the Downtown Design Guidelines and Standards, including both site design and building design standards and guidelines. The current numbering for that section is Section 70.20. Staff finds that the entire Chapter 70 applies, not just the Downtown Design Guidelines and Standards

section. Section 70.15.22 also clarifies that: “A new structure associated with this use shall be constructed in conformity with the provisions of this ordinance, including but not limited to provisions regarding minimum floor area on the site, active ground-floor use regulations and all applicable development, site and building design standards in Chapter 70.”

Section 70.01.1 refers to the subsection now numbered as Section 70.05.05. The applicant also refers to Section 30.25 Nonconforming Structures and Section 30.40 Non-conforming Parking, Loading, Signs or Other Characteristics of Use.

Policy b) Encourage development and programs that reduce the need for vehicle use and ownership.

Applicant response: When legally established auto-centric uses within the applicable zoning districts are updated and/or redeveloped, they will be required to be consistent with the Downtown Design District Development Code 70.04 to the extent required under the BDC 30.25 and 30.40. Consistent with 70.01.1, the Downtown Design District provisions encourage safe and comfortable frontage treatments to encourage non-vehicular travel.

Staff response: Updates to structures occupied by such legally established uses would only be permitted consistent with the current Development Code, including requirements that the use is not enlarged and any such updates do not increase non-conformance of non-conforming structures. Redevelopment of structures could occur, but Section 70.15.22 would limit the situations where the legally established auto-centric uses would be able to occupy the new buildings constructed through a redevelopment, specifically to cases where an unintended event, such as a disaster, damages the building to an extent representing greater than 50 percent of the replacement value of the structure.

The reference to Development Code Section 70.04 refers to the Downtown Design Guidelines and Standards, including both site design and building design standards and guidelines. The current numbering for that section is Section 70.20. Section 70.01.1 refers to the subsection now numbered as Section 70.05.05. The applicant also refers to Section 30.25 Nonconforming Structures and Section 30.40 Non-conforming Parking, Loading, Signs or Other Characteristics of Use.

Policy 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.

Applicant response: When legally established auto-centric uses within the applicable zoning districts are updated and/or redeveloped, they will be required to be consistent with the Downtown Design District Development Code 70.04 to the extent required under the BDC 30.25 and 30.40. Consistent with 70.01.1, the Downtown Design District

provisions encourage safe and comfortable frontage treatments to encourage non-vehicular travel which will facilitate accessibility to nearby points of interest.

Staff response: Updates to structures occupied by such legally established uses would only be permitted consistent with the current Development Code, including requirements that the use is not enlarged and any such updates do not increase non-conformance of non-conforming structures. Redevelopment of structures could occur, but Section 70.15.22 would limit the situations where the legally established auto-centric uses would be able to occupy the new buildings constructed through a redevelopment, such as cases where an unintended event, such as a disaster, damages the building to an extent representing greater than 50 percent of the replacement value of the structure.

The reference to Development Code Section 70.04 refers to the Downtown Design Guidelines and Standards, including both site design and building design standards and guidelines. The current numbering for that section is Section 70.20. Section 70.01.1 refers to the subsection now numbered as Section 70.05.05. The applicant also refers to Section 30.25 Nonconforming Structures and Section 30.40 Non-conforming Parking, Loading, Signs or Other Characteristics of Use.

Policy 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.

Applicant response: The proposed text amendment will not alter or modify any zoning designations as currently adopted in the City. Staff concurs with the applicant response.

Policy 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.

Applicant response: When legally established auto-centric uses within the applicable zoning districts are updated and/or redeveloped, they will be required to be consistent with the Downtown Design District Development Code 70.04 to the extent required under the BDC 30.25 and 30.40. Consistent with 70.01.1, the Downtown Design District provisions are designed to encourage increased intensity of development within the RC-BC, RC-OT, and RC-MU zoning districts as intended with this policy.

Staff response: Updates to structures occupied by such legally established uses would only be permitted consistent with the current Development Code, including requirements that the use is not enlarged and any such updates do not increase non-conformance of non-conforming structures. Redevelopment of structures could occur, but Section 70.15.22 would limit the situations where the legally established auto-centric uses would be able to occupy the new buildings constructed through a redevelopment, such as cases where an unintended event, such as a disaster, damages the building to an extent representing greater than 50 percent of the replacement value of the structure. The

proposed Section 70.15.22 also clarifies that when structures are rebuilt: “A new structure associated with this use shall be constructed in conformity with the provisions of this ordinance, including but not limited to provisions regarding minimum floor area on the site, active ground-floor use regulations and all applicable development, site and building design standards in Chapter 70.”

The reference to Development Code Section 70.04 refers to the Downtown Design Guidelines and Standards, including both site design and building design standards and guidelines. The current numbering for that section is Section 70.20. Section 70.01.1 refers to the subsection now numbered as Section 70.05.05. The applicant also refers to Section 30.25 Nonconforming Structures and Section 30.40 Non-conforming Parking, Loading, Signs or Other Characteristics of Use.

Policy f) Ensure that development adjacent to transit stops and stations is designed to provide direct, convenient and comfortable connections between buildings and the stop or station.

Applicant response: When legally established auto-centric uses within the applicable zoning districts are updated and/or redeveloped, they will be required to be consistent with the Downtown Design District Development Code 70.04 to the extent required under the BDC 30.25 and 30.40. Consistent with 70.01.1, the Downtown Design District provisions are designed to encourage safe and comfortable connectivity as intended with this policy.

Staff response: Updates to structures occupied by such legally established uses would only be permitted consistent with the current Development Code, including requirements that the use is not enlarged and any such updates do not increase non-conformance of non-conforming structures. Redevelopment of structures could occur, but Section 70.15.22 would limit the situations where the legally established auto-centric uses would be able to occupy the new buildings constructed through a redevelopment, such as cases where an unintended event, such as a disaster, damages the building to an extent representing greater than 50 percent of the replacement value of the structure.

The reference to Development Code Section 70.04 refers to the Downtown Design Guidelines and Standards, including both site design and building design standards and guidelines. The current numbering for that section is Section 70.20. Section 70.01.1 refers to the subsection now numbered as Section 70.05.05. The applicant also refers to Section 30.25 Nonconforming Structures and Section 30.40 Non-conforming Parking, Loading, Signs or Other Characteristics of Use.

Policy g) Encourage providing amenities for transit users at transit stops or stations, such as food carts and coffee stands, covered benches, trash/recycling receptacles, and lighting.

Applicant response: When legally established auto-centric uses within the applicable zoning districts are updated and/or redeveloped, they will be required to be consistent with the Downtown Design District Development Code to the extent required under the BDC 30.25 and 30.40. Consistent with 70.01.1, the Downtown Design District provisions are designed to encourage pedestrian-oriented amenities as intended with this policy.

Staff response: Updates to structures occupied by such legally established uses would only be permitted consistent with the current Development Code, including requirements that the use is not enlarged and any such updates do not increase non-conformance of non-conforming structures. Redevelopment of structures could occur, but Section 70.15.22 would limit the situations where the legally established auto-centric uses would be able to occupy the new buildings constructed through a redevelopment, such as cases where an unintended event, such as a disaster, damages the building to an extent representing greater than 50 percent of the replacement value of the structure.

The reference to Development Code Section 70.04 refers to the Downtown Design Guidelines and Standards, including both site design and building design standards and guidelines. The current numbering for that section is Section 70.20. Section 70.01.1 refers to the subsection now numbered as Section 70.05.05. The applicant also refers to Section 30.25 Nonconforming Structures and Section 30.40 Non-conforming Parking, Loading, Signs or Other Characteristics of Use.

Policy h) Allow use of private parking lots near transit stops and stations for park-and-ride facilities during hours when the parking spaces are not needed for on-site uses.

Applicant response: The proposed text amendment will not affect the ability to allow multi-use of private parking lots near transit stations consistent with this policy. Staff concurs with the applicant response.

Policy i) Encourage the use of innovative technologies that improve parking and transportation efficiency.

Applicant response: The proposed text amendment will not affect the use of technologies for parking and transportation efficiency.

Policy j) Encourage use of structured, underground, and/or tuck under parking for commercial, office, and multifamily development.

Applicant response: The proposed text amendment will not preclude future redevelopment of the sites to include structured, underground or tuck under parking, if desired. Staff concurs with the applicant response.

Policy k) Encourage shared parking agreements in all areas with significant volumes of surface parking lots.

Applicant response: The proposed text amendment will not affect the ability for property owners within the affected zones to enter into shared parking agreements. Staff concurs with the applicant response.

Policy I) Accommodate automobile access and parking in an efficient manner that does not detract from the desirability of other modes.

Applicant response: The proposed text amendment will not inhibit efficient automobile access and parking on sites affected by the change or more generally throughout the affected zoning districts.

Staff response: Staff finds that development or redevelopment of the sites would require compliance with Development Code Chapter 70, which along with the rest of the Development Code and Engineering Design Manual promotes efficient automobile access and parking on sites in a manner that does not detract from the desirability of other modes.

Conclusion: Therefore, staff finds the amendment meets the criterion for approval regarding Goal 3.1.1.

3.2 Infill and Redevelopment

Goal 3.2.1 Provide for thoughtful and strategic infill and redevelopment

Applicant response: The proposed text amendment will allow uses within the “Vehicle Services, major”, “Vehicles Services, minor”, and “Sales or Lease” specific use categories that were established prior to January 8, 2021 to continue as a conditional use within the RC-BC, RC-OT, and RC-MU zoning districts. Additional limitations for the existing uses are outlined in the proposed footnotes. The suggested language will restrict the expansion of any existing structures associated with these specific uses and require that any major redevelopment of properties engaged in these uses will be required to conform to the current development standards. Therefore, the proposed amendment will support the goals and policies of this section.

Staff response: In the staff-recommended amendments, Footnote 14 references Section 70.15.22, which contains the provisions mentioned in the applicant’s response. Section 70.15.22 requires new structures built on sites where these uses now exist to conform to current code requirements and in limited cases allows the auto-related uses to occupy those buildings. In general, the auto-related uses are only allowed to occupy new buildings when an unintended event causes significant damage. Because the Downtown Design District applies to these properties, new development will have to meet the thoughtful standards and guidelines in the Downtown code and other parts of the Development Code.

Policy a) Provide a set of residential infill guidelines and standards that encourage compatible infill development, consistent with the following principles:

i. Provide flexibility on development standards when it can help preserve trees and natural resources.

Applicant response: The proposed text amendment will not alter or modify any residential infill guidelines or standards. Therefore, the proposed text amendment is unrelated to this policy.

ii. Allow a wider variety of housing choices that can accommodate a range of ages, household sizes and/or income levels while ensuring the new housing responds to the scale and form of the neighborhood.

Applicant response: The proposed text amendment will not alter or modify any residential infill guidelines or standards. Therefore, the proposed text amendment is unrelated to this policy.

ii. Manage transitions between different uses and housing types.

Applicant response: The proposed text amendment will not alter or modify any residential infill guidelines or standards. Therefore, the proposed text amendment is unrelated to this policy.

iv. In areas well-served by transit, amenities and services, offer more flexibility for infill housing and innovative housing types that meet city goals for affordability and livability, and provide housing for diverse household sizes, types, and age ranges.

Applicant response: The proposed text amendment will not alter or modify any residential infill guidelines or standards. Therefore, the proposed text amendment is unrelated to this policy.

v. Encourage site and building design features, including setbacks and sight lines, that minimize impacts to sunlight and privacy for existing adjacent homes.

Applicant response: The proposed text amendment will not alter or modify any residential infill guidelines or standards. Therefore, the proposed text amendment is unrelated to this policy. Staff concurs with the applicant response.

Policy b) Encourage and support quality redevelopment in target areas that is consistent with city goals.

Applicant response: When legally established auto-centric uses within the applicable zoning districts are updated and/or redeveloped, they will be required to be consistent with the Downtown Design District Development Code 70.04 to the extent required

under the BDC 30.25 and 30.40. Consistent with 70.01.1, the Downtown Design District provisions are designed to encourage and support quality redevelopment as intended with this policy.

Staff response: Updates to structures occupied by such legally established uses would only be permitted consistent with the current Development Code, including requirements that the use is not enlarged and any such updates do not increase non-conformance of non-conforming structures. Redevelopment of structures could occur, but Section 70.15.22 would limit the situations where the legally established auto-centric uses would be able to occupy the new buildings constructed through a redevelopment, such as cases where an unintended event, such as a disaster, damages the building to an extent representing greater than 50 percent of the replacement value of the structure.

The reference to Development Code Section 70.04 refers to the Downtown Design Guidelines and Standards, including both site design and building design standards and guidelines. The current numbering for that section is Section 70.20. Staff finds that the entire Chapter 70 applies, not just the Downtown Design Guidelines and Standards section. The proposed footnote 14 also clarifies that: "A new structure associated with this use shall be constructed in conformity with the provisions of this ordinance, including but not limited to provisions regarding minimum floor area on the site, active ground-floor use regulations and all applicable development, site and building design standards in Chapter 70."

Section 70.01.1 refers to the subsection now numbered as Section 70.05.05. The applicant also refers to Section 30.25 Nonconforming Structures and Section 30.40 Non-conforming Parking, Loading, Signs or Other Characteristics of Use.

Policy c) Work to reduce and mitigate displacement and loss of affordable housing and commercial/employment space when planning and implementing major capital investments that increase livability and desirability.

Applicant response: When legally established auto-centric uses within the applicable zoning districts are updated and/or redeveloped, they will be required to be consistent with the Downtown Design District Development Code 70.04 to the extent required under the BDC 30.25 and 30.40. Consistent with 70.01.1, the Downtown Design District provisions are designed to reduce and mitigate displacement and loss of affordable housing. Legally established auto-centric uses provide commercial/employment space as intended with this policy.

Staff response: Updates to structures occupied by such legally established uses would only be permitted consistent with the current Development Code, including requirements that the use is not enlarged and any such updates do not increase non-conformance of non-conforming structures. Redevelopment of structures could occur, but Section 70.15.22 would limit the situations where the legally established auto-centric uses would be able to occupy the new buildings constructed through a redevelopment, such as

cases where an unintended event, such as a disaster, damages the building to an extent representing greater than 50 percent of the replacement value of the structure.

The reference to Development Code Section 70.04 refers to the Downtown Design Guidelines and Standards, including both site design and building design standards and guidelines. The current numbering for that section is Section 70.20. Staff finds that the entire Chapter 70 applies, not just the Downtown Design Guidelines and Standards section. The proposed Section 70.22.15 also clarifies that: "A new structure associated with this use shall be constructed in conformity with the provisions of this ordinance, including but not limited to provisions regarding minimum floor area on the site, active ground-floor use regulations and all applicable development, site and building design standards in Chapter 70."

Section 70.01.1 refers to the subsection now numbered as Section 70.05.05. The applicant also refers to Section 30.25 Nonconforming Structures and Section 30.40 Nonconforming Parking, Loading, Signs or Other Characteristics of Use.

Policy d) Recognize the value of low-cost commercial space for supporting small businesses and start-ups.

Response: The proposed text amendment is not expected to affect the availability of low-cost commercial space for supporting small businesses and start-ups. Staff concurs with the applicant response.

Policy e) Maintain an equitable policy to allow food carts and other mobile eateries in strategic locations and provide support for siting at multiple venues citywide.

Response: The proposed text amendment will not affect the allowance of food carts in the City. Staff concurs with the applicant response.

Policy f) On underutilized property and excess parking areas, provide opportunities for interim uses, such as community gardens and food carts, that are appropriate for each plan designation.

Response: The proposed text amendment will not affect the availability of or access to underutilized property and parking areas for interim uses. Staff concurs with the applicant response.

Conclusion: Therefore, staff finds the amendment meets the criterion for approval regarding Goal 3.2.1.

3.3 Sustainability and Natural Resources

Goal 3.3.1 Promote sustainable development, resilience, and resource protection

Applicant response: The scope of the proposed text amendment is limited to changes to use classifications in the RC- BC, RC-OT, and RC-MU zoning districts and will not interfere with the City's achievement of sustainable development, resilience, or resource protection.

Staff response: Staff concurs with the applicant response and notes that city Development Code provisions related to resource protection would still apply to development on sites where these uses now exist.

Conclusion: Therefore, staff finds the amendment meets the criterion for approval regarding Goal 3.3.1.

3.4 Planning and Development Review

Goal 3.4.1 Provide effective and inclusive planning and development review services

Applicant response: The proposed text amendment will be reviewed and processed in accordance with the applicable requirements outlined in the Beaverton Development Code. Suggested language will not result in changes to the planning and development review services provided by the City of Beaverton. Staff concurs with the applicant response.

Conclusion: Therefore, staff finds the amendment meets the criterion for approval regarding Goal 3.4.1.

3.6 Mixed Use Areas

Goal 3.6.1 Support pedestrian-oriented mixed-use areas.

Policy 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.

Applicant response: When legally established auto-centric uses within the applicable zoning districts are updated and/or redeveloped, they will be required to be consistent with the Downtown Design District Development Code to the extent required under the BDC 30.25 and 30.40. Consistent with 70.01.1, the Downtown Design District provisions are designed to encourage high density and walkable areas as intended with this policy.

Staff response: Updates to structures occupied by such legally established uses would only be permitted consistent with the current Development Code, including requirements

that the use is not enlarged and any such updates do not increase non-conformance of non-conforming structures. Redevelopment of structures could occur, but Section 70.15.22 would limit the situations where the legally established auto-centric uses would be able to occupy the new buildings constructed through a redevelopment, such as cases where an unintended event, such as a disaster, damages the building to an extent representing greater than 50 percent of the replacement value of the structure.

The proposed Section 70.15.22 clarifies that: “A new structure associated with this use shall be constructed in conformity with the provisions of this ordinance, including but not limited to provisions regarding minimum floor area on the site, active ground-floor use regulations and all applicable development, site and building design standards in Chapter 70.”

Section 70.01.1 refers to the subsection now numbered as Section 70.05.05. The applicant also refers to Section 30.25 Nonconforming Structures and Section 30.40 Nonconforming Parking, Loading, Signs or Other Characteristics of Use.

Policy 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.

Applicant response: The proposed text amendment is unrelated to this particular policy which provides clarity and flexibility regarding the orientation of mixed uses. Staff concurs with the applicant response.

Policy 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.

Applicant response: By prohibiting the establishment of any new uses in the vehicle use category, the proposed amendment will continue to limit the auto-oriented commercial uses in mixed use areas. Additionally, the suggested language will ensure any proposed modifications to the structures or sites with established auto-oriented uses will not increase the nonconformity of the development. Therefore, the proposed amendment will support this policy and continue to limit or prohibit auto oriented commercial uses.

The proposed text amendment would allow “Automotive service, major”, “Automotive service, minor”, and “Sales or lease” uses located in the Regional Center-Beaverton Central (RC-BC), Regional Center-Old Town (RC-OT), and Regional Center- Mixed-Use (RC-MU) zoning districts and in operation prior to January 8, 2021 to continue to exist as Conditional uses. This text change would not affect future uses in these zoning districts and would not have limited effects throughout the City. Furthermore, when such legally established auto-centric uses are updated and/or redeveloped, they will be required to meet the Downtown Design District Development Code to the extent required under the BDC 30.25 and 30.40, thereby ensuring that any properties affected by the text

amendment will progressively conform to design standards, including those intended to enhance the pedestrian environment, as redevelopment occurs.

Staff response: Updates to structures occupied by such legally established uses would only be permitted consistent with the current Development Code, including requirements that the use is not enlarged and any such updates do not increase non-conformance of non-conforming structures. Redevelopment of structures could occur, but Section 70.15.22 would limit the situations where the legally established auto-centric uses would be able to occupy the new buildings constructed through a redevelopment, such as cases where an unintended event, such as a disaster, damages the building to an extent representing greater than 50 percent of the replacement value of the structure.

Staff would like to provide clarification about the following sentence in the applicant's response: "This text change would not affect future uses in these zoning district and would not have limited effects throughout the City." The proposed amendment would affect future uses, but only new conditional uses in the three vehicle categories that would replace existing uses that were lawfully established prior to Jan. 8, 2021, as long as the spaces are not vacant for more than one year. Although these would not be considered non-conforming uses, that is consistent with how non-conforming uses are handled in the Development Code. It is also consistent with the policy direction to limit or prohibit auto-oriented commercial uses. Staff also assumes the second half of the sentence was intended to indicate the amendment would have limited effects throughout the city. That is true because these amendments only apply to three Downtown zoning districts and only uses that already existed on Jan. 8, 2021.

Section 30.25 is Nonconforming Structures, and Section 30.40 is Non-conforming Parking, Loading, Signs or Other Characteristics of Use.

Policy 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 majority of parking located behind, above, or beneath development

Applicant response: When legally established auto-centric uses subject to the proposed text amendment are updated and/or redeveloped, they will be required to meet the Downtown Design District Development Code to the extent required under the BDC 30.25 and 30.40, thereby ensuring that any properties affected by the text amendment will progressively conform to design standards, including those intended to enhance the pedestrian environment, as redevelopment occurs.

Staff response: Updates to structures occupied by such legally established uses would only be permitted consistent with the current Development Code, including requirements that the use is not enlarged and any such updates do not increase non-conformance of non-conforming structures. Redevelopment of structures could occur, but Footnote 14 limits the situations where the legally established auto-centric uses would be able to occupy the new buildings constructed through a redevelopment, specifically to cases where an unintended event, such as a disaster, damages the building to an extent representing greater than 50 percent of the replacement value of the structure.

Staff response: Staff concurs with the applicant response, but adds that Footnote 14 in the staff-recommended amendment refers to Section 70.15.22, which proposes to limit the situations where the legally established auto-centric uses would be able to occupy the new buildings constructed through redevelopment, such as cases where an unintended event, such as a disaster, damages the structure to an extent representing greater than 50 percent of the replacement value of the structure. Section 30.25 is Nonconforming Structures, and Section 30.40 is Non-conforming Parking, Loading, Signs or Other Characteristics of Use.

ii. Residential buildings with windows and doors facing the street, and privacy provided through landscaping, grade changes, and modest setbacks

Applicant response: The proposed text amendment would not affect residential buildings. Staff concurs with the applicant response.

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)

Applicant response: The proposed text amendment will not affect the City's complete streets and sidewalk design standards. Staff concurs with the applicant response.

Conclusion: Therefore, staff finds the amendment meets the criterion for approval regarding Goal 3.4.1. **Goal 3.6.2 Downtown Regional Center: Create and strengthen a vibrant downtown and central area for Beaverton**

Applicant response: Currently, vehicle specific, auto-oriented commercial uses typically associated with car dealerships are prohibited on all properties within the Downtown Regional Center. This text amendment will allow uses within the "Vehicle Services, major", "Vehicles Services, minor", and "Sales or Lease" specific use categories that were established prior to January 8, 2021 to be reclassified as a conditional use within the RC-BC, RC-OT, and RC-MU zoning districts. Additionally, the suggested language requires that any modification or proposed redevelopment of properties with established

auto-oriented use be conducted in conformance with the current development code. Staff concurs with the applicant response.

Policy 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.

Applicant response: The proposed text amendment will not alter the City's development regulations.

Staff response: Staff finds that the proposed text amendment will alter the City's development regulations because the city's development regulations include the Development Code. Staff also finds that the text amendment is intended to address certain limited Vehicle uses that were lawfully established as of Jan. 8, 2021, and does not affect the city's development regulations regarding the form, scale, rhythm for future development, particularly site and building design. The text amendment only affects future uses because it allows the relevant Vehicle uses that existed as of Jan. 8, 2021, to be replaced by uses in the same category if the space is not vacant more than one year, similar to how non-conforming uses are handled citywide. Staff also finds that this policy is intended to direct the city to create custom development regulations for the Downtown Regional Center, which the city completed through the creation of Chapter 70.

Policy b) Celebrate and enhance the diversity, cultural and natural history, and geographic importance of the city to establish an overall sense of place that is uniquely Beaverton.

Applicant response: The proposed text amendment applies to a small and discrete set Automotive service, major", "Automotive service, minor", and "Sales or lease" uses that were in existence in the Regional Center-Beaverton Central (RC-BC), Regional Center-Old Town (RC-OT), and Regional Center- Mixed-Use (RC-MU) zoning districts prior to January 8, 2021. Given the limited applicability of the proposed text amendment no impact is anticipated to the policy of celebrating and enhancing the City's diversity, culture, natural history and geographic importance that lend to the City's sense of place. Staff concurs with the applicant response.

Policy c) New development, redevelopment, and public investments in this area should prioritize transit and multimodal street networks to create a welcoming environment that increases social interaction, commerce, creativity and fun.

Applicant response: The proposed text amendment applies to a small and discrete set Automotive service, major", "Automotive service, minor", and "Sales or lease" uses that were in existence in the Regional Center-Beaverton Central (RC-BC), Regional Center-

Old Town (RC-OT), and Regional Center- Mixed-Use (RC-MU) zoning districts prior to January 8, 2021. No impacts are anticipated that could interfere with the City's desire to enhance transit and ensure a multimodal street network. Staff concurs with the applicant response.

Policy d) Encourage higher intensity development near MAX and WES stations, creating mixed-use station communities that locate housing, jobs, and services near transit.

Applicant response: The proposed text amendment applies to a small and discrete set Automotive service, major", "Automotive service, minor", and "Sales or lease" uses that were in existence in the Regional Center-Beaverton Central (RC-BC), Regional Center-Old Town (RC-OT), and Regional Center- Mixed-Use (RC-MU) zoning districts prior to January 8, 2021. Such uses do not predominate areas adjacent to MAX and WES stations and no impacts to this policy are anticipated.

Staff response: Staff finds that large areas currently occupied by auto-oriented uses, particularly the large areas used for inventory storage and customer vehicles, do discourage higher-intensity development near MAX and WES stations, including the Beaverton Transit Center and the Beaverton Central MAX station. However, staff also finds that Chapter 70 prohibits the three Vehicle use sub-categories that are the subject of this text amendment and allows for intense, mixed-use development near MAX and WES stations. The proposed text amendment addresses existing uses in the three sub-categories, changing them from Prohibited uses to Conditional Uses; allowing other uses in the same category to replace them if the space is not vacant for more than one year; and allowing them to rebuild consistent with the Development Code if they are destroyed by an unintended event, such as a disaster. Chapter 70 with this amendment included would still encourage higher intensity development near MAX and WES stations because new uses in these categories are prohibited and developments/redevelopments on the site would need to comply with the most current Development Code rules, which do encourage higher intensity development.

Policy e) Ensure that redevelopment intensifies land use, with less land dedicated to surface parking and more land occupied by multistory buildings along walkable streets.

Applicant response: The proposed text amendment applies to a small and discrete set Automotive service, major", "Automotive service, minor", and "Sales or lease" uses that were in existence in the Regional Center-Beaverton Central (RC-BC), Regional Center-Old Town (RC-OT), and Regional Center- Mixed-Use (RC-MU) zoning districts prior to January 8, 2021. The proposed amendment would not have broad impacts across the City. Furthermore, when legally established auto-centric uses within the applicable zoning districts are updated and/or redeveloped, they will be required to be consistent with the Downtown Design District Development Code 70.04 to the extent required under the BDC 30.25 and 30.40. Consistent with 70.01.1, the Downtown Design District provisions include provisions intended to enhance pedestrian access and amenities.

Staff response: Updates to structures occupied by such legally established uses would only be permitted consistent with the current Development Code, including requirements that the use is not enlarged and any such updates do not increase non-conformance of non-conforming structures. Redevelopment of structures could occur, but Section 70.15.22 would limit the situations where the legally established auto-centric uses would be able to occupy the new buildings constructed through a redevelopment, such as cases where an unintended event, such as a disaster, damages the building to an extent representing greater than 50 percent of the replacement value of the structure.

The reference to Development Code Section 70.04 refers to the Downtown Design Guidelines and Standards, including both site design and building design standards and guidelines. The current numbering for that section is Section 70.20. Staff also finds that the entire Chapter 70 would apply to development/redevelopment. Section 70.01.1 refers to the subsection now numbered as Section 70.05.05. The applicant also refers to Section 30.25 Nonconforming Structures and Section 30.40 Non-conforming Parking, Loading, Signs or Other Characteristics of Use.

Policy f) Provide safe and comfortable connectivity that prioritizes active transportation (such as walking, jogging, running, cycling, wheelchair use, in-line skating or skateboarding) in public and private spaces. Incorporate context sensitive design in public spaces, streets, sidewalks, paths and other infrastructure that helps move people around Downtown.

Applicant response: The proposed text amendment will not alter any public infrastructure design standards. When legally established auto-centric uses within the applicable zoning districts are updated and/or redeveloped, they will be required to be consistent with the Downtown Design District Development Code 70.04 to the extent required under the BDC 30.25 and 30.40. Consistent with 70.01.1, the Downtown Design District provisions are designed to enhance on-site design and orientation to encourage non-vehicular travel to and through these sites.

Staff response: Updates to structures occupied by such legally established uses would only be permitted consistent with the current Development Code, including requirements that the use is not enlarged and any such updates do not increase non-conformance of non-conforming structures. Redevelopment of structures could occur, but Section 70.15.22 would limit the situations where the legally established auto-centric uses would be able to occupy the new buildings constructed through a redevelopment, such as cases where an unintended event, such as a disaster, damages the building to an extent representing greater than 50 percent of the replacement value of the structure.

The reference to Development Code Section 70.04 refers to the Downtown Design Guidelines and Standards, including both site design and building design standards and guidelines. The current numbering for that section is Section 70.20. Staff also finds that the entire Chapter 70 would apply to development/redevelopment. Section 70.01.1 refers to the subsection now numbered as Section 70.05.05.

Policy g) Implement programs and incentives that facilitate relocation of uses with land-intensive development patterns, such as large-format retail stores and car dealerships that have large surface parking lots, to more appropriate land use designations.

Applicant response: The proposed text amendment would not affect or inhibit the City's implementation of incentive-based programs to encourage the relocation of land-intensive uses. Staff concurs with the applicant response.

Policy h) The city should consider the potential of policies, incentives, and investments to cause physical or economic displacement of vulnerable residents and businesses and identify strategies to prevent or mitigate displacement.

Applicant response: The proposed text amendment applies to a small and discrete set "Automotive service, major", "Automotive service, minor", and "Sales or lease" uses that were in existence in the Regional Center-Beaverton Central (RC-BC), Regional Center-Old Town (RC-OT), and Regional Center- Mixed-Use (RC-MU) zoning districts prior to January 8, 2021. Such changes are not expected to directly or indirectly cause physical or economic displacement. Staff concurs with the applicant response.

Policy i) Encourage a variety of Downtown housing options to reach the critical mass of people needed to support downtown businesses and increase mixed-use vibrancy.

Applicant response: The proposed text amendment applies to a small and discrete set Automotive service, major", "Automotive service, minor", and "Sales or lease" uses that were in existence in the Regional Center-Beaverton Central (RC-BC), Regional Center-Old Town (RC-OT), and Regional Center- Mixed-Use (RC-MU) zoning districts prior to January 8, 2021. The proposed change is not expected to impact the ability of the City to achieve a variety of downtown housing options as envisioned with this policy. Staff concurs with the applicant response.

Policy j) 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.

Applicant response: The proposed text amendment applies to a small and discrete set Automotive service, major", "Automotive service, minor", and "Sales or lease" uses that were in existence in the Regional Center-Beaverton Central (RC-BC), Regional Center-Old Town (RC-OT), and Regional Center- Mixed-Use (RC-MU) zoning districts prior to January 8, 2021. Due to the limited applicability of the changes, the proposed change would not discourage implementation of an "18-hour" mix of uses throughout these zoning districts as envisioned with this policy. Staff concurs with the applicant response.

Policy k) Design places for people by promoting buildings and open spaces near sidewalks and streets that are interesting, enjoyable, and engaging for people passing by.

Applicant response: When legally established auto-centric uses within the applicable zoning districts are updated and/or redeveloped, they will be required to be consistent with the Downtown Design District Development Code to the extent required under the BDC 30.25 and 30.40. Consistent with 70.01.1, the Downtown Design District provisions are designed to promote buildings and open spaces near sidewalks and streets that are interesting, enjoyable, and engaging or people passing by.

Staff response: Updates to structures occupied by such legally established uses would only be permitted consistent with the current Development Code, including requirements that the use is not enlarged and any such updates do not increase non-conformance of non-conforming structures. Redevelopment of structures could occur, but Section 70.15.22 would limit the situations where the legally established auto-centric uses would be able to occupy the new buildings constructed through a redevelopment, such as cases where an unintended event, such as a disaster, damages the building to an extent representing greater than 50 percent of the replacement value of the structure.

Section 70.01.1 refers to the subsection now numbered as Section 70.05.05.

Policy l) 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.

Applicant response: When legally established auto-centric uses within the applicable zoning districts are updated and/or redeveloped, they will be required to be consistent with the Downtown Design District Development Code to the extent required under the BDC 30.25 and 30.40. Consistent with 70.01.1, the Downtown Design District provisions are designed to enhance street life, connecting pedestrians with activity along the street edge.

Staff response: Updates to structures occupied by such legally established uses would only be permitted consistent with the current Development Code, including requirements that the use is not enlarged and any such updates do not increase non-conformance of non-conforming structures. Redevelopment of structures could occur, but Section 70.15.22 would limit the situations where the legally established auto-centric uses would be able to occupy the new buildings constructed through a redevelopment, such as cases where an unintended event, such as a disaster, damages the building to an extent representing greater than 50 percent of the replacement value of the structure.

Section 70.01.1 refers to the subsection now numbered as Section 70.05.05.

Policy m) Encourage buildings to include architectural features that are humanly scaled, especially at the ground floor of a building; and pedestrian-scaled places and streetscapes that are welcoming, safe, and enjoyable for people.

Applicant response: When legally established auto-centric uses within the applicable zoning districts are updated and/or redeveloped, they will be required to be consistent

with the Downtown Design District Development Code to the extent required under the BDC 30.25 and 30.40. Consistent with 70.01.1, the Downtown Design District provisions are designed to encourage architectural features that are humanly scaled, especially at the ground floor of a building and pedestrian-scaled places and streetscapes that are welcoming, safe, and enjoyable for people.

Staff response: Staff concurs with the applicant response but note that Section 70.01.1 refers to the subsection now numbered as Section 70.05.05.

Policy n) Provide welcoming places to gather and linger outdoors, such as parks, plazas, or street seats, which contribute to the vibrancy of Downtown Beaverton and promote social interaction among community members.

Applicant response: When legally established auto-centric uses within the applicable zoning districts are updated and/or redeveloped, they will be required to be consistent with the Downtown Design District Development Code to the extent required under the BDC 30.25 and 30.40. Consistent with 70.01.1, the Downtown Design District provisions are designed to encourage vibrant pedestrian-oriented and communal spaces as intended with this policy.

Staff response: Updates to structures occupied by such legally established uses would only be permitted consistent with the current Development Code, including requirements that the use is not enlarged and any such updates do not increase non-conformance of non-conforming structures. Redevelopment of structures could occur, but Section 70.15.22 would limit the situations where the legally established auto-centric uses would be able to occupy the new buildings constructed through a redevelopment, such as to cases where an unintended event, such as a disaster, damages the building to an extent representing greater than 50 percent of the replacement value of the structure.

Section 70.01.1 refers to the subsection now numbered as Section 70.05.05.

Policy o) For public agency projects, improve access to public spaces for cultural, ethnic, and socioeconomic groups that historically have not benefited from these resources due to physical, geographic, or transportation-related barriers.

Applicant response: The proposed text amendment does not involve any public agency project(s). Staff concurs with the applicant response.

Policy p) Ensure that public realm improvements support the creation of a vibrant, pedestrian- and transit-oriented Downtown and provide amenities that spur development.

Applicant response: When legally established auto-centric uses within the applicable zoning districts are updated and/or redeveloped, they will be required to be consistent with the Downtown Design District Development Code 70.04 to the extent required under the BDC 30.25 and 30.40. Consistent with 70.01.1, the Downtown Design District

provisions are designed to support the creation of vibrant, pedestrian-and transit-oriented Downtown and provide amenities that spur development.

Staff response: Updates to structures occupied by such legally established uses would only be permitted consistent with the current Development Code, including requirements that the use is not enlarged and any such updates do not increase non-conformance of non-conforming structures. Redevelopment of structures could occur, but Section 70.15.22 would limit the situations where the legally established auto-centric uses would be able to occupy the new buildings constructed through a redevelopment, such as cases where an unintended event, such as a disaster, damages the building to an extent representing greater than 50 percent of the replacement value of the structure.

The reference to Development Code Section 70.04 refers to the Downtown Design Guidelines and Standards, including both site design and building design standards and guidelines. The current numbering for that section is Section 70.20. Staff also finds that the entire Chapter 70 would apply to development/redevelopment. Section 70.01.1 refers to the subsection now numbered as Section 70.05.05.

Policy q) Preserve, enhance and engage nature and natural systems, including Downtown's creeks and trees to promote flood control, wildlife habitat, beauty and improved health for all community members.

Applicant response: When legally established auto-centric uses within the applicable zoning districts are updated and/or redeveloped, they will be required to be consistent with the Downtown Design District Development Code 70.04 to the extent required under the BDC 30.25 and 30.40. Consistent with 70.01.1, the Downtown Design District provisions are designed to preserve, enhance, and engage natural systems as intended with this policy.

Staff response: Updates to structures occupied by such legally established uses would only be permitted consistent with the current Development Code, including requirements that the use is not enlarged and any such updates do not increase non-conformance of non-conforming structures. Redevelopment of structures could occur, but Section 70.15.22 would limit the situations where the legally established auto-centric uses would be able to occupy the new buildings constructed through a redevelopment, such as cases where an unintended event, such as a disaster, damages the building to an extent representing greater than 50 percent of the replacement value of the structure.

The reference to Development Code Section 70.04 refers to the Downtown Design Guidelines and Standards, including both site design and building design standards and guidelines. The current numbering for that section is Section 70.20. Staff also finds that the entire Chapter 70 would apply to development/redevelopment. Section 70.01.1 refers to the subsection now numbered as Section 70.05.05.

Policy r) Ensure that developments at highly visible “gateways” have design features (e.g. height, mass, and building orientation) that enhance awareness of the Downtown Regional Center and Downtown Design District.

Applicant response: When legally established auto-centric uses within the applicable zoning districts are updated and/or redeveloped, they will be required to be consistent with the Downtown Design District Development Code 70.04 to the extent required under the BDC 30.25 and 30.40. Consistent with 70.01.1, the Downtown Design District provisions are designed to encourage design features (height, mass, and building orientation) that enhance awareness of the Downtown Regional Center and Downtown Design District as intended with this policy.

Staff response: Updates to structures occupied by such legally established uses would only be permitted consistent with the current Development Code, including requirements that the use is not enlarged and any such updates do not increase non-conformance of non-conforming structures. Redevelopment of structures could occur, but Section 70.15.22 would limit the situations where the legally established auto-centric uses would be able to occupy the new buildings constructed through a redevelopment, such as cases where an unintended event, such as a disaster, damages the building to an extent representing greater than 50 percent of the replacement value of the structure.

The reference to Development Code Section 70.04 refers to the Downtown Design Guidelines and Standards, including both site design and building design standards and guidelines. The current numbering for that section is Section 70.20. Staff also finds that the entire Chapter 70 would apply to development/redevelopment. Section 70.01.1 refers to the subsection now numbered as Section 70.05.05.

Policy s) The Downtown Regional Center designation is intended for areas within central Beaverton that have been designated in collaboration with Metro as a Regional Center in the Metro Regional Framework Plan and 2040 Growth Concept.

Applicant response: The proposed text amendment is not related to the City’s general assignment of its Downtown Regional Center designation. Staff concurs with the applicant response.

Conclusion: Therefore, staff finds the amendment meets the criterion for approval regarding Goal 3.6.2.

Chapter 9 Economy Element

Goal 9.2.1 Provide Programs and Services that Support Existing Businesses and Attract New Businesses

Applicant response: As proposed, this amendment will result in the reclassification of the “Vehicle Services, major”, “Vehicles Services, minor”, and “Sales or Lease” specific use categories within the RC-BC, RC-OT, and RC-MU zoning districts. The suggested

language will change the classification of these uses from Prohibited (N) to Conditional (C). A proposed footnote will limit the conditional use classification to existing uses that were established prior to January 8, 2021 and require that existing sites will be limited to their current floor area. Changes to these specific uses will allow for existing, well established businesses to continue operating as a conditional use and allow the owners a sense of security that they would be allowed to continue the use of their property without being limited by the constraints that come with a nonconforming use classification. Staff concurs with the applicant response.

Conclusion: Therefore, staff finds the amendment meets the criterion for approval regarding Goal 9.2.1.

Staff also finds the amendment meets the criterion for approval for Section 40.85.15.1.C.4, consistency with the Comprehensive Plan.

Section 40.85.15.1.C.5

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

FINDING

Applicant response: The proposed text amendment would change the City's Development Code to allow specific uses defined as "Automotive service, major", "Automotive service, minor", and "Sales or lease" that were established prior to January 8th, 2021 be reclassified from a Prohibited (N) use to a Conditional (C) use within the RC-BC, RC-OT, and RC-MU zoning districts with some additional limitations. The primary goal of this amendment is to allow legally established auto-centric uses located in the newly established Downtown District some relief from the nonconforming use standard in BDC 30.25.1.B which limits the ability for nonconforming structures to be reconstructed if they are, "... damaged by any means to an extent of more than 50% of its replacement cost at time of destruction...". As noted in the proposed language, any reconstruction or redevelopment would be required to conform to the current standards of the Beaverton Development Code. This criterion is met. Staff concurs with the applicant response.

Conclusion: Therefore, staff finds the amendment meets the criterion for approval regarding Section 40.85.15.1.C.5.

Section 40.85.15.1.C.6

Approval Criterion: The proposed amendment is consistent with all applicable City ordinances.

FINDING

Applicant response: This amendment is limited to the reclassification of specific uses within the RC-BC, RC-OT, and RC- MU zoning districts that were legally established prior to January 8, 2021. Suggested language will change these specific uses from being classified as Prohibited (N) to being classified as Conditional (C). As a result, any changes or alterations to the site will be processed and reviewed based on the applicable criteria and standards of the Beaverton Development Code. As such, the proposed amendment is consistent with the applicable City ordinance requirements and regulations. Staff concurs with the applicant response.

Conclusion: Therefore, staff finds the amendment meets the criterion for approval regarding Section 40.85.15.1.C.6

Section 40.85.15.1.C.7

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

FINDING

Applicant response: There are no other applications related to the request that would require further City approvals. Staff concurs with the applicant response.

Conclusion: Therefore, staff finds the amendment meets the criterion for approval regarding Section 40.85.15.1.C.7.

Other applicable approval criteria

Statewide Planning Goals

Goal 1 Citizen Involvement

Goal text: To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process. The governing body charged with preparing and adopting a comprehensive plan shall adopt and publicize a program for citizen involvement that clearly defines the procedures by which the general public will be involved in the on-going land-use planning process. The citizen involvement program shall be appropriate to the scale of the planning effort. The program shall provide for continuity of citizen participation and of information that enables citizens to identify and comprehend the issues. Federal, state and regional agencies and special-purpose districts shall coordinate their planning efforts with the

affected governing bodies and make use of existing local citizen involvement programs established by counties and cities.

FINDING

Applicant response: Chapter Two of the City of Beaverton Comprehensive Plan outlines the concept and standards for a citizen involvement program. As specified in Chart 1: City Notice Standards, the citizen engagement effort is scaled to the potential impact of the proposal. The Beaverton Development Code (BDC) outlines that the proposed Text Amendment will be processed as a Type 4 (Legislative) application (BDC 40.85.15). Consistent with the procedures for a Type 4 application, the review of the proposed Text Amendment will incorporate the necessary public engagement actions outlined in BDC 50.50. Therefore, the proposed amendment is consistent with Statewide Planning Goal 1.

Staff response: Consistent with Statewide Planning Goal 1 and Development Code Section 50.50, public notice was provided on March 1, 2022, at least 35 days before the first evidentiary hearing, to Neighborhood Association Committee chairs, the chairs of relevant Washington County Community Participation Organizations, the Chair of the Beaverton Committee for Community Involvement, the Department of Land Conservation and Development, Metro and the Washington County Department of Land Use and Transportation. Notice was provided to the applicants between 20 and 40 days before the hearing. The notice provided the required information in Development Code Section 50.50.4. In addition, a notice was published at least 10 days before the Planning Commission's initial hearing and the staff report was published at least seven days before the initial Planning Commission hearing. A second staff report was published at least seven days before May 4, which is the date to which the hearing was continued.

Goal 2 Land Use Planning

Goal text: To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.

FINDING

Applicant response: Consistent with Statewide Planning Goal 2, the City of Beaverton maintains an adopted comprehensive plan with a land use element. Chapter 3 of the Beaverton Comprehensive Plan outlines goals with specific policies for land management within the City. Additionally, the City of Beaverton maintains an adopted development code which implements the goals and policies of the comprehensive plan. The scope of the proposed Text Amendment is limited to the classification of specific uses within the Beaverton Development Code. The above narrative demonstrates how the proposed amendment is consistent with the applicable goals and policies of the Land Use Element in Beaverton's Comprehensive Plan. The Text Amendment application will

be processed in accordance with the requirements of the Beaverton Development Code. Therefore, the proposed amendment is consistent with Statewide Planning Goal 2. Staff concurs with the applicant response.

Goal 9 Economic Development

Goal text: To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

FINDING

Applicant response: Consistent with the requirements in Statewide Planning Goal 9, the City maintains an established Economic Development Element in Chapter 9 of Beaverton's adopted Comprehensive Plan. The scope of the proposed text amendment is limited to changes to the classification of the "Vehicle Services, major", "Vehicles Services, minor", and "Sales or Lease" specific use categories within the RC-BC, RC-OT, and RC-MU zoning districts. The suggested language will change the classification of these uses from Prohibited (N) to Conditional (C). A proposed footnote will limit the conditional use classification to existing uses that were established prior to January 8, 2021. The proposed changes are limited to the classification of established uses that would be allowed to continue in a legally existing nonconforming status regardless of the proposed language. Suggested language will prohibit new uses from being established. As such, the proposed text amendment is consistent with the goals and policies of Beaverton's Comprehensive Plan and will not alter the Economic Development Element. Therefore, this proposal is consistent with Statewide Planning Goal 9. Staff concurs with the applicant response, with the additional information that Footnote 14 refers to Development Code Section 70.15.22 in the staff-recommended amendment.

Goal 10 Housing

Goal text: Buildable lands for residential use shall be inventoried and plans shall encourage the availability of adequate numbers of needed housing units at price ranges and rent levels which are commensurate with the financial capabilities of Oregon households and allow for flexibility of housing location, type and density.

FINDING

Applicant response:

Table 3: 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.

Beaverton's Housing Needs Analysis (HNA) was published in October 2015. It demonstrated a need for all housing types in the City of Beaverton and its assumed Urban Service Area over the 20-year period ending in 2035. The state Department of Land Conservation and Development (DLCD) found the 2015 HNA projected housing needs to be consistent with the requirements of Statewide Planning Goal 10 (See Table 3). 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 (BLI) 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 scope of the proposed text amendment is limited to changes to the classification of the "Vehicle Services, major", "Vehicles Services, minor", and "Sales or Lease" specific use categories within the RC-BC, RC-OT, and RC-MU zoning districts. The suggested language will change the classification of these uses from Prohibited (N) to Conditional (C). A proposed footnote will limit the conditional use classification to existing uses that were established prior to January 8, 2021.

The proposed changes are limited to the classification of established uses that would be allowed to continue in a legally existing nonconforming status regardless of the proposed language.

Additionally, the same number of residential units will be allowed on all of these sites after this text amendment is effective, and any units built will address the city's need for multi-family housing particularly in the "5+ units category" but also potentially in the "duplex" or "3 or 4 units" categories. This housing also will help the city meet state requirements for housing mix. Oregon Administrative Rule 660-007-030 requires the City of Beaverton to designate sufficient buildable land to provide the opportunity for at least 50-percent of new residential units to be attached single family housing or multiple family housing or justify an alternative percentage based on changing circumstances. The multi-family units allowed in these zones will help Beaverton to continue to exceed the 50-percent requirement.

Staff response:

Table 4 corrected: 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	2,107	7,999

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 Feb. 28, 2022.

Staff updated Table 4 to correct the two cells in bold. Staff provided the applicant with incorrect numbers for those two cells and discovered the error during the application review process. The change in numbers reflects needed housing outside Beaverton's city boundaries and does not change the conclusions stated above because the text amendment will not change the number of residential units allowed in the Downtown zoning districts.

Goal 12 Transportation

Goal text: To provide and encourage a safe, convenient and economic transportation system.

Transportation Planning Rule (OAR 660-012-0060): Plan and Land Use Regulation Amendments

- (1) 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, unless the amendment is allowed under section (3), (9) or (10) of this rule. A plan or land use regulation amendment significantly affects a transportation facility if it would:
 - (a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);
 - (b) Change standards implementing a functional classification system; or
 - (c) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to,

transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.

(A) Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;

(B) 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

(C) 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.

FINDING

Applicant response: Consistent with the requirements of Goal 12, the City of Beaverton has established and regularly updated the City's Transportation Plan. The proposed Text Amendment is limited to the changes in the classification of specific uses within the Beaverton Development Code. The impact will be limited to developed properties with lawfully established uses. No new developments or uses will be allowed by this change. As such, this amendment will not alter the City's existing Transportation Plan.

The scope of the proposed text amendment is limited to changes to the classification of the "Vehicle Services, major", "Vehicles Services, minor", and "Sales or Lease" specific use categories within the RC-BC, RC-OT, and RC-MU zoning districts. The suggested language will change the classification of these uses from Prohibited (N) to Conditional (C). A proposed footnote will limit the conditional use classification to existing uses that were established prior to January 8, 2021. The proposed changes are limited to the classification of established uses that would be allowed to continue in a legally existing nonconforming status regardless of the proposed language. Suggested language will prohibit new uses from being established. As such, this amendment will not impact existing or planned transportation facilities.

Staff response: In addition to applicant's finding above, most of RC-BC, RC-OT, and RC-MU are in an established Multimodal Mixed-Use Area (MMA), as shown in Figure 1. When Development Code changes are made with the MMA, the City is not required to complete the analysis outlined in OAR 660-024-0060(1) to determine if the proposed amendments would "significantly affect" the surrounding transportation network pursuant to OAR 660-012-0060(10)(e). The only portion of the three zones that are not inside the MMA boundary are at 3rd and Filbert in RC-OT and a shopping center on the northwest corner of Canyon and 117th.

Figure 1: Beaverton MMA boundary



Conclusion: Therefore, staff finds the amendment meets the criterion for approval regarding other applicable criteria.

Conclusion and recommendation

Based on the facts and findings presented, staff offers the following recommendation for the conduct of the public hearing for TA2021-0006 Downtown Auto Uses:

- A. Conduct the public hearing and receive all public testimony relating to the proposal.
- B. Consider the public testimony and the facts and findings presented in the April 27, 2022, staff report, deliberate on policy issues and other issues identified by the Commission or the public.
- C. Recommend **APPROVAL** of text amendment application TA2021-0006 Downtown Automotive Uses Text Amendments to City Council with staff-recommended language as written in the Background section of this staff report.