



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

MEMORANDUM

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

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

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

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

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

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

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

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

Regional Center - Old Town zone

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

Regional Center – Transit Oriented zone

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

General Commercial

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

Community Service

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

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

Scenario 1 – Proposed Downtown Code with no changes

Vehicle Sales	N
Major Auto Service	N
Minor Auto Service	N

Considerations

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

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

Vehicle Sales	N ¹
Major Auto Service	N
Minor Auto Service	N ¹

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

Considerations

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

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

Auto Sales	N ^{1 2}
Major Auto Service	N
Minor Auto Service	N ^{1 2}

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

Considerations

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

Scenario 4 – Existing Uses Treated as Conditionally Permitted

Auto Sales	N C ^{1 2 3 4 5}
Major Auto Service	N C ^{1 2 3 4 5}
Minor Auto Service	N C ^{1 2 3 4 5}

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

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

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

Considerations

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

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

Additional Issues

A. Minimum Floor Area

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

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

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

Considerations

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

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

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

Considerations

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

B. Active Ground Floor Rules

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

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

C. Government Action Removing a Building

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

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

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

Language: No change from language in current Development Code.

Considerations

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

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

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

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

Considerations

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