

January 14, 2021

Mr. Steve Bennett, Planning and Building Director
City of Lake Forest Park
17425 Ballinger Way NE
Lake Forest Park, WA 98155

RE: Town Center Code Update – Merlone Geir Partners’ Comments on Draft City Code –
Council 1/7 & 1/9 Special Work Session Drafts

Dear Steve:

Merlone Geir Partners (“MGP”) has provided many comments in the past urging the Planning Commission and City Council to avoid placing overly restrictive provisions in the Lake Forest Park Municipal Code (“Code”) as it relates to our property. We recognize the extensive effort that has gone into the preparation of these code changes, but continue to believe that the City has either chosen to ignore our comments calling for a balanced set of development standards for the Town Center, or has knowingly adopted a position that is fundamentally at odds with our ownership interests. With these latest proposed code amendments, your goal of achieving a set of reasonable development standards to guide potential redevelopment of the Town Center is becoming even more remote.

Following are our comments related to the “Draft Town Center Code –Track Changes” document posted for the City Council’s January 7 & 9, 2021 meeting of the Special Council Committee of the Whole. Again, we urge you to take our feedback into consideration. MGP will not invest further in the Town Center process unless and until there is some reasonable attention paid to the viewpoint of the property owner and what constitutes a reasonable balance between land use regulation, design, environmental protection, community amenities along with the market based realities of property ownership and redevelopment.

Significant Areas of Concern:

- Prohibition on Residential-only Structures/Maximum Density Limit

Proposed Code: *A. Residential uses are not permitted as separate projects; they must be developed in combination with commercial or nonresidential uses as part of a design review permit under LFPMC 18.42.160. Residential uses may not be developed at a density of greater than seven dwelling units per acre,*

unless the increase in density is included in a development agreement. The maximum density that may be included in a development agreement is 275 dwelling units for all of Town Center.

It is unclear to us why the City would adopt a blanket prohibition on residential-only structures at a site that is targeted not only for affordable housing, but also transit-oriented development. In our view, a mixture of residential-only development, commercial, and mixed-use development creates the aesthetic character and economic stimulus necessary for a vibrant town center.

A limit on density of 7 DU/Acre, as a matter of right, is unworkable in any Town Center residential redevelopment scenario.

As we have stated on numerous occasions, a maximum density of 275 units, as a matter of right, is also a non-starter as far as stimulating potential mixed use or single-purpose residential redevelopment at the Town Center. In a scenario where the maximum residential density of 275 units applies across the Town Center site, we will simply focus, instead, on re-leasing our property for the foreseeable future. If the intent is to force us into a Development Agreement, we simply will not pursue such a path given the significant difference between 275 and what would likely need to occur (400 units or more) to justify the significant costs and loss of existing leasable area.

- **Maximum Size of Retail – 35,000 sq. ft. Limit**

We cannot support a 35,000 sq. ft. limit on retail space. Most grocery stores require more than 40,000 sq. ft. footprints. Another potential conflict could be medical office. These anchor tenants and revenue generating opportunities are what allow other amenities desired by the City and the public to be implemented. The proposal to disallow any structure greater than 35,000 sq. ft., absent a development agreement, creates a significant hurdle and poses added risk to a prospective anchor tenant seeking to locate at the Town Center.

- **Maximum Structure Height**

Proposed Code: *Town Center Height. 1. The maximum building height limit in the TC zone is 38 feet above existing grade, measured from the lowest point of the existing grade. Existing grade means the elevation of the existing ground surface prior to proposed grading, excavation, or fill. 2. Maximum building height is inclusive of the height of parapet walls and similar features, unless associated with a rooftop use. 3. Maximum building height is exclusive of the following if approved as part of a Major TC Design Review application: a. Public viewing platforms and covered public use spaces on the structure rooftop, including required guardrails. b. Public art elements on the rooftop or along the sides of the building that otherwise are in compliance with the Town Center 32 F*

A 38' height limit effectively allows for no more than 2/1 one mixed use buildings given the market for ground floor retail. Coupled with the inclusion of such features as parapet walls, or similar features of any height, a 38' height limit will not permit viable 3/1 mixed use buildings. What's more, as was pointed out in Jae Hill's spot on presentation recently to the Council, ground floor retail is typically a loss-leader in mixed-use projects with the rents rarely being enough to justify the cost of construction.

- **New Town Center “Land Coverage” Limitations**

Proposed Code: *Land Coverage*. 1. *The maximum impervious surface area shall be no more than 65 percent of the total lot area.* 2. *Modification for Improvements to Lyon Creek Stream Buffer.* a. *Maximum impervious surface area may be increased when additional landscaping exceeding the minimum requirements set forth in LFPMC 11 18.42.130(A)(3) is provided along Lyon Creek. The maximum impervious surface area may be increased by two and one-half (2.5) percent for each additional five (5) feet of Stream landscape buffer provided with the project. To qualify for this increase, provided landscape buffer must meet the requirements for Stream landscaping set forth in LFPMC 18.62.080(D).* b. *When soft-surface walking paths within the additional buffer area set forth in subsection (a) of this section are provided, the maximum impervious surface area may be increased by an additional five (5) percent. The planting standards set forth in LFPMC 18.62.080(D) may be modified by the City Arborist if necessary to accommodate the soft-surface walking path.* c. *In no case shall the maximum impervious surface area exceed 75 percent of the total lot area.*

This new standard is a profound departure from existing Code limits applicable to buildings only. Simply put, a maximum impervious surface limit of 65% for the Town Center is infeasible. The proposed Code already imposes significant setbacks from residentially-zoned areas, significant setbacks for parking garages and critical area setbacks for Lyon Creek. The resulting developable footprint, coupled with an overreaching limit on residential density cannot result in a viable site plan.

As mentioned previously, you received an excellent presentation from Jae Hill earlier this month and chose to ignore the key points of his message:

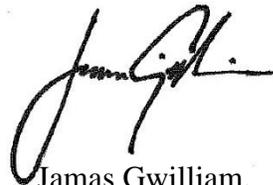
- New multifamily projects currently cost more than \$500 per sq. ft. to construct making it difficult to achieve feasibility even without onerous public benefits being required.
- Lumber has increased in cost more than 80% in the past 12 months.
- Most jurisdictions stay away from “mandatory” affordability to avoid a taking of private property.
- The 12 year MFTE program with 20% of the units set aside at 80% AMI is the market standard...and he could have added...when the underlying zoning already allows 5 over 2 construction to begin with which is not what you are offering in LFP.

The facts that are shared from professionals such as Jae, the data that resulted from your Non-Project SEPA, the best practices of other cities with similar underlying assumptions as LFP – these should be the basis for the creation of your code rather than arbitrary wishful thinking.

While we have other concerns related to affordable housing at 50% AMI, open space requirements, requiring a DA for projects over 3 acres, displaced parking language ignoring existing lease obligations, and overly low bar for triggering design review and a Development Agreement.

To date we have invested considerable time and resources, provided input at countless meetings and provided thoughtful, cooperative feedback. For that effort to be met with the code you are producing is disappointing to say the least. Unless a change of direction occurs to bring your code more in line with market standards, informed by objective, non-biased data and based on realistic assumptions, I fear this will be another document that sits on the shelf of the City for many years to come.

Respectfully,



James Gwilliam,
Vice President, Development
Merlone Geier Partners

cc: Jeff Johnson, Mayor
Philip Hill, City Manager
Catherine Stanford, Deputy Mayor
Tom French, Councilmember
Phillippa Kassoover, Councilmember
Mark Phillips, Councilmember
Semra Riddle, Councilmember
John Wright, Councilmember
John Resha, Councilmember