

## Memorandum

**To:** Joe Turner, City of Woodland Land Use Hearings Examiner  
**From:** LeAnne M. Bremer, P.C.  
**Subject:** Logan's Landing Site Plan Approval Appeal (WLD-2023-006)  
**Date:** January 25, 2024

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The purpose of this Memorandum is to provide additional evidence and argument on Appeal Issue Nos. 1, 2 and 4, and respond to the Appeal Staff Report dated January 24, 2024. Appeal Issue No. 3 is addressed in a separate submittal.

### Argument

1. Parking.

Code. The Project is located in the City's C-2 zone, 17.36 WMC. On page 8 of the Notice of Decision, the City acknowledges that this application vested to the prior version of WMC 17.36.020. The allowed uses in the C-2 zone under the vested code include a number of uses, including all uses in the C-1 central business district:

**17.36.020 - Permitted uses.**

The following uses only are permitted in the C-2 districts; all other uses are not permitted or are permitted as a conditional use pursuant to this chapter.

\* \* \*

5. Commercial parking lots and garages;

\* \* \*

29. Uses permitted in the C-1 central business district[.]

Permitted uses in the C-1 central business district include the following:

**17.32.020 - Permitted uses.**

The following uses are permitted in the central business district (C-1). Other uses may require a conditional use or temporary use permit or be prohibited in the C-1 district.

\* \* \*

10. Dwelling units; provided residential uses are located above a permissible C-1 commercial use and adequate off-street parking is provided pursuant to [Chapter 17.56](#). Lobbies for residential uses on upper floors may be located on the ground floor;

\* \* \*

37. Public and private off-street parking facilities[.]

The proposed ground floor parking is a permitted use under the vested version of WMC 17.36.020 because it is a commercial parking garage *and* it is a “public and private off-street parking facility[y]”—though notably the proposed parking only needs to satisfy one of these two applicable uses. The City argues that Appellant’s plan does not fit under WMC 17.32.020(10) because ground-floor parking is not the type of commercial use that would allow residences on the upper floors. Secondly, even if parking were allowed on the ground floor, the City argues it would not count towards the parking requirements for the proposed uses because a “public and private off-street parking facilit[y]” must be a standalone use and not be used to satisfy a development standard. The code does not dictate either interpretation in support of the City’s position.

#### *Parking Facilities are a Permitted Use in C-2 Zone*

The appeal letter already details Appellant’s argument on this issue. In short, in the C-2 zone, commercial parking garages and all uses in the C-1 zone are permitted uses. In addition, residential uses are allowed above the ground floor if they are located above a permissible C-1 use. Public and private off-street parking facilities are a permissible C-1 use according to the use table in the zoning code. Staff has not adequately rebutted Appellant’s interpretation of the clear language of the code, only to say that is not what was intended, as revealed by Council’s subsequent amendment to the zoning code.

#### *The Proposed Parking Facility Can Serve the Proposed Uses*

On this issue, the City argues that there is a difference between a commercial parking facility and parking that is required by code to serve a use because the City cannot require a use, but it can require an applicant to comply with a development standard. This does not mean that the proposed parking facility cannot serve two purposes: both as an allowed use, and as a use that meets a development standard. For instance, in some cases the City might require a park or open space for a development to meet a development standard. The park or open space could also be listed as an allowed use in the zone the project is in. The park or open space should still count towards any requirement. An allowed use that can also meet a development standard is not prohibited by code.

Appellant has never argued that the City is *requiring* the proposed parking facility as use. Appellant agrees that this would not be allowed. Instead, Appellant’s argument is that the ground-floor parking counts for the required parking per the development standard

requirement, and in fact, it would be absurd if it did not. If the City's interpretation were valid, the proposed project would have a parking facility in addition to other parking needed to serve the proposed uses, resulting in a vastly disproportionate number of parking spaces compared to the need for parking spaces.

Staff points out that Appellant's interpretation leads to a situation where the City must require a commercial parking facility in conjunction with any proposed use, in their example, a McDonald's. Appellant is arguing no such thing. McDonald's can choose to meet its parking requirements by providing spaces on-site. They need not propose a separate parking facility. The Appellant's proposed commercial parking facility is presented as a use because the zoning code requires a commercial use on the ground floor of buildings with upper story residential units in the C-2 zone, and, importantly, public and private off-street parking facilities are an allowed use. This is purely a function of what the zoning code both allows and requires.

WMC 17.56.010 states that, "All developments in all zoning districts shall provide a sufficient number of parking spaces to accommodate the number of vehicles that ordinarily are likely to be attracted to the development in question." Further, WMC 17.56.020 states that:

The city recognizes that, due to the particularities in any given development, the inflexible application of the parking standards set forth in Sections 17.56.030 through 17.56.050 may result in a development either with inadequate parking space or parking space far in excess of its needs. . . permit-issuing authority may permit deviations from the presumptive standards of Sections 17.56.030 through 17.56.050 and may require more parking or less parking whenever it finds that such deviations are more likely to satisfy the standard set forth in subsection 17.56.010(A).

In short, there is nothing in the code that states a use cannot also provide compliance with a development standard requirement. Further, even if the parking was inadequate, which it is not, the proposed parking facility more than satisfies the standards set forth in WMC 17.56.010 in that it can provide a "sufficient number of parking spaces to accommodate [the development]."

Case law. Under the plain meaning rule, "where statutory language is plain and unambiguous, a statute's meaning must be derived from the wording of the statute itself."<sup>1</sup> If there is no ambiguity or statutory definition, words are to be given their common and ordinary meaning.<sup>2</sup> A statute is ambiguous if "susceptible to two or more reasonable interpretations," but "a statute is not ambiguous merely because different interpretations are conceivable."<sup>3</sup>

Here, the vested version of code states that commercial parking lots or garages or public or private parking facilities are permitted uses in the C-1 zone, a use which is permitted under the

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<sup>1</sup> *HomeStreet, Inc. v. State, Dep't of Revenue*, 166 Wash. 2d 444, 451, 210 P.3d 297, 300 (2009)

<sup>2</sup> *Id.*

<sup>3</sup> *Id.* at 452.

C-2 zone. This is unambiguous and clear on its face: in WMC 17.32.020, parking is listed as permitted *use* twice. The City’s argument that parking is not an allowed commercial use under residential uses is in contradiction to the “common and ordinary meaning” of the code.

The City goes on at length in the Staff Report about what they would like to happen, but as they stated themselves, the City cannot mandate that Appellant provide certain uses. The City can only mandate that the project follows code, which it unequivocally does.

Appellant respectfully requests that Condition 12 be revised to remove the second sentence.

2. Façade. WMC 17.36.130.H.4 states that “[a] minimum of thirty percent of any ground floor facade that is visible from any public street, public space, or residential zone shall be comprised of windows with clear “vision” glass.” In the proposed project, the entire ground floor façade that is visible from the street comprises 18% clear vision glass for the retail/office portions, and 42% of openings with no windows to provide vent openings along the parking structure portion of the façade.

Here, unlike Appeal Issue #1, the intent of the provision is written right into code so intent becomes part of the development standard. Here, the relevant standard starts out by stating: “Intent: To provide visual connection between activities inside and outside of buildings, and encourage pedestrian activities on the fronting public streets,” before listing specific requirements. WMC 17.36.130.H.4. In addition, footnote 2 states “Clear “vision” glass shall be transparent, and shall not include translucent or reflective glass.”

The proposed façade contains not only a considerable percentage of vision glass but also openings that provide a visual break in the façade. The proposal would accomplish the exact same thing as 30% vision glass would do.

Further, the purpose of the architectural and site design standards are as follows:

1. Create a physical environment that emphasizes buildings and landscaping, rather than parking lots, driveways, or large signs.
2. Maintain the scale, texture, and architectural context of development.
3. Encourage creative and innovative designs for sites and building designs.
4. Allow for infill development that is sensitive to the existing urban design context.
5. Protect and enhance the business environment and property values within the city in manners that support and stimulate business and industry and also promote desirability of investment and occupancy in business and other properties.

17.36.130(A).

The proposed plan does not contradict any of these purposes, and in fact meets the purposes by providing a “creative and innovative” development for downtown Woodland with mixed elements that will be attractive to pedestrians and business investors alike. Additionally, placing

vision glass in the openings would address satisfy Staff's concerns, but which should be unnecessary because adding glass to an opening would make it no more transparent.

Appellant respectfully requests that the Hearings Examiner find that the proposal meets the requirements of the transparency rules.

3. Striping and Circulation Plan. For Appeal Issue #4, Appellant does not object to Staff's suggestion in the Appeal Staff Report where it states: "Staff is willing to consider the revised site plan and the accompanying final engineering plans as adequate in lieu of a specific striping and circulations plat if the final site plan and final engineering plans provide the detail needed to show that there will be adequate circulation for pedestrian and bikes." Appellant believes this can resolve this appeal issue.

Thank you for your consideration.