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Planning Commission Packet

March 18, 2024

6:30 pm

STAFF REPORT

TO: Yamhill Planning Commission

FROM: Walt Wendolowski, Contract Planner

SUBJECT: Planning File DCA 24-01
Formula Business Code Amendments

DATE: March 11, 2024

I. BACKGROUND

- A. **APPLICANT:** City of Yamhill.
- B. **REQUEST:** The City seeks to amend the Yamhill Development Code by establishing regulations for Formula Business” locating within the Central Business District. Proposed language is found in Attachment “A.”
- C. **DECISION CRITERIA:** Yamhill Development Code; Section 10.132.060 to Section 10.320.100.

II. APPLICATION SUMMARY

- A. During their November meeting, the Commission directed planning staff to return with Code language to prohibit or restrict formula businesses within the City. The Commission reviewed this material at the December 2023 and February 2024 meetings with the Commission directing staff to prepare adoption language for the March public hearing.
- B. A formula business is a retail business, especially food service, which is required by contractual or other arrangement to maintain standardized services, merchandise, menus, ingredients, food preparation, uniforms, décor, logos, architecture, signs, or similar features. Starbucks and McDonalds are two prominent examples, but this definition may include financial services, dollar-type stores, and a wide range of retail chain businesses.
- C. As noted by the Institute for Local Self Reliance (ilsr.org), a growing number of cities and towns are enacting policies that restrict the proliferation of “formula businesses” — stores and restaurants that have standardized services, décor, and methods of operation that make them identical to businesses elsewhere. Formula retailers and restaurants are increasingly locating in downtowns and neighborhood business districts, squeezing out independents and causing a speculative run-up in rents. This can have long-term economic consequences as the downtown or neighborhood business district loses its distinctive appeal and no longer offers opportunities for independent entrepreneurs.

- D. To address this issue, the City is considering amendments to the Development Code (Title 10). Attachment “A” includes proposed amending language; the following reviews the material:
1. Definitions – Chapter 10.08 will contain a new definition. The definition is extremely thorough and clearly identifies a formula business. Please note the definition is applicable to the McDonalds and Dollar Trees but also applies to regional chains such as Black Bear Diners.
 2. C-3 Zone – The General Commercial zone will require conditional use approval to establish a formula business in the Central Business District (CBD). This requirement applies to all properties in the CBD.
 3. Chapter 10.108 includes special conditional use provisions with a new Section added to address formula businesses. The use must comply with existing conditional use decision criteria, be designed/situated to enhance the City’s rural character, and specifically avoid standard frontage designs and styling clues that alert the public to the purpose of the business. The revised proposal eliminates provisions regarding sign language as being too restrictive and possible unconstitutional.
- E. One item to note is the design requirements of the CBD (Chapter 10.46) remain in place. They do not appear to conflict with the purposes of the of the proposed revisions but may enhance their purpose.
- F. The City notified the Department of Land Conservation and Development of the proposed amendments and did not receive any comments as of the report date.

III. FINDINGS

- A. Section 10.132.060. Any amendment to the text shall be initiated by the governing body or by the Planning Commission by ordinance.

FINDINGS: Consistent with this requirement, the Planning Commission initiated the proposed text amendment with support from the community.

- B. Section 10.132.070 states the Planning Commission shall conduct a public hearing for a proposed Comprehensive Plan amendment and shall submit a recommendation to the City Council. The City Council shall then conduct a public hearing on the proposed Comprehensive Plan amendment. If the decision of the Council is contrary to the Planning Commission’s decision, the Council shall refer the proposal back to the Planning Commission for further review. The Planning Commission and Council must make written findings of its decision, and if the Council approves the Comprehensive Plan amendment, such action shall be confirmed by resolution.

FINDINGS: The amendment will follow the above noted procedure. The purpose of the hearing is for the Commission to review the request and provide a recommendation to the City Council.

- C. Section 10.132.080 outlines the application procedures, noting it must be filed in accordance with the provisions of Chapter 10.128 of this title.

FINDINGS: This application complies with the above noted requirements.

- D. Section 10.132.090 identifies the required findings (i.e., decision criteria) to support a proposed amendment. The Planning Commission and City Council shall analyze the following points and, in a written form, incorporate such findings in its decision:

1. 10.132.090(A) - That there is a public need for a Comprehensive Plan amendment.

FINDINGS: The Commission recognizes the importance of the downtown commercial area and determined limiting the influence of formula businesses to be appropriate and to be beneficial to the community.

2. 10.132.090(B) - That there was an error in the original Comprehensive Plan.

FINDINGS: No errors were identified in the Comprehensive Plan. However, the amendments support Economy of the City Policy #8(e) which states the following: "(I)dentify and promote industry and/or economic activity that will be compatible with, enhance, and maintain Yamhill's small-town character, quality of life, and identity."

3. 10.132.090(C) - That there is a need to change the currently adopted Comprehensive Plan.

FINDINGS: As noted, while no errors were identified, the amendments do forward Plan policies.

4. 10.132.090(D) - That there is an inadequacy of other comparatively planned and/or zoned land currently available to satisfy the public need.

FINDINGS: This subsection does not apply as the proposal does not alter existing zoning.

5. 10.132.090(E) - That the property proposed to be changed is the best property available for the Comprehensive Plan amendment.

FINDINGS: This subsection also does not apply as the proposal does not alter existing zoning.

6. 10.132.090(F) - That the proposed Comprehensive Plan amendment is in conformance with all statewide goals, and any applicable street, highway and/or utility plans for the area.

FINDINGS: These are design regulations that address specific aesthetic concerns of the City and do not conflict with the statewide land use goals.

7. 10.132.090(G) - That the proposed property is adequate in size and shape to facilitate those uses allowed in the proposed zone upon adoption of the Comprehensive Plan amendment.

FINDINGS: This subsection does not apply as the proposal provides additional review requirements for certain businesses but does not change allowed uses within the various zones.

8. 10.132.090(H) - That the proposed property is properly related to streets and highways to adequately serve the type of traffic that will be generated by the uses in the proposed zone upon adoption of the Comprehensive Plan amendment.

FINDINGS: This subsection does not apply as the proposal does not change allowed uses within the Central Business District and therefore associated traffic impacts.

9. 10.132.090(I) - That the proposed Comprehensive Plan amendment will have no adverse effect on abutting property or the permitted uses thereof.

FINDINGS: Again, the proposal does not change allowed uses within the Central Business District but establishes an additional set of development requirements for certain business types.

- E. Section 10.132.100 notes the amendments shall be effective upon the passage of the ordinance by the City Council changing the Plan. This is a procedural matter that applies if the Council approves the changes.

IV. RECOMMENDATION

City staff finds the proposal complies with the identified criteria and recommends the Planning Commission recommend the City Council approve the proposed Development Code amendments contained in Attachment "A."

V. PLANNING COMMISSION ACTION

- A. The Planning Commission has the following options:

1. Recommend City Council approval of the proposed amendments, adopting findings contained in the staff report;
 2. Recommend City Council approval of the proposed amendments, adopting modified findings; or
 3. Recommend City Council reject the proposed amendments, establishing findings as to why the application fails to comply with the decision criteria.
 4. Continue the hearing to a date, time, and place certain.
- B. If the Commission makes a final decision, staff will prepare the appropriate Order for the Chair's signature.

ATTACHMENT “A”
Proposed Development Code Amendments

- A. Amend Chapter 10.08 General Definitions with the addition of the following new definition:

“Formula Business” means a type of commercial business establishment, retail sales or rental activity and retail sales or rental establishment, including restaurants, hotels and motels, which, along with ten (10) or more other establishments, maintains two (2) or more of the following features: (a) standardized array of merchandise or standardized menu; (b) standardized facade; (c) standardized décor or color scheme; (d) uniform apparel; (e) standardized signage; or (f) trademark or service mark; provided, however, a “formula business” shall not include an automated, standalone vending machine.

1. “Standardized array of merchandise” means fifty (50%) percent or more of in-stock merchandise from a single distributor bearing uniform markings.
 2. “Trademark” means a word, phrase, symbol or design, or a combination or words, phrases, symbols, or designs that identifies and distinguishes the source of the goods from one party from those of others.
 3. “Service mark” means a word, phrase, symbol or design, or a combination or words, phrases, symbols, or designs that identifies and distinguishes the source of a service from one party from those of others.
 4. “Decor” means the style of interior finishings, which may include, but is not limited to, style of furniture, wallcoverings, or permanent fixtures.
 5. “Color scheme” means selection of colors used throughout, such as on the furnishings, permanent fixtures, and wallcoverings, or as used on the façade.
 6. “Façade” means the face or front of a building, including awnings, looking onto a street or an open space.
 7. “Uniform apparel” means standardized items of clothing including, but not limited to standardized aprons, pants, shirts, smocks or dresses, hat, and pins (other than name tags) as well as standardized colors of clothing.
 8. “Signage” means a “business sign” as defined in Chapter 10.64 of this Code.
 9. “Standardized” does not mean identical but means “substantially the same.”
- B. Amend Section 10.28.030 (Conditional Use C-3 Zone) with the following new language:
- (C) Formula Business located within the Central Business District (Chapter 10.46) and subject to provisions in Chapter 10.108 Specific Conditional Uses.

Existing subsection item (C) becomes subsection (D).

C. Add the following new Section to Chapter 10.108 (Special Conditional Uses):

10.108.040 Formula Businesses.

In addition to the other provisions of Chapter 10.104, the following shall apply where formula businesses are permitted by conditional use procedures.

1. A formula business must demonstrate compliance with the criteria listed in this subsection in addition to all other applicable conditional use criteria contained in Section 10.104.030.
2. The applicant shall demonstrate in its application materials that:
 - a. The proposed formula business shall be designed to preserve and enhance the City's small-town character and to integrate existing community architectural and design features which will preserve such character for the City. This criterion is designed specifically to avoid standard frontage designs and styling clues that alert residents and visitors to the purpose of the business.
 - b. The building scale and mass as compared to surrounding development is compatible.
 - c. The developer shall establish provisions to minimize adverse impacts of development and operation on the natural setting and abutting properties.
3. In the event the City determines that a permit application or permit subject to this section is for a formula business, the permit applicant or holder bears the burden of proving to the City that the proposed or existing use does not constitute a formula business. This determination and challenge shall be in the form of a written staff decision that is appealable to the Planning Commission.