

John & Maile Bay  
1002 Olympia Avenue NE  
Olympia WA 98506

June 20, 2014

VIA E-MAIL

Keith Stahley  
Director  
Community Planning and Development Department  
City of Olympia  
601 4th Ave East,  
Olympia WA 98501

Re: Tanasse Mixed Used Building – 924 State Avenue NE  
File No. 14-0025

Dear Mr. Stahley:

As you may be aware, the above referenced project has raised considerable concern among its neighbors in the Bigelow neighborhood. To date, in various communications and documents, the Community Planning and Development Department (CPDD) staff have made a number of interpretations of the Olympia City Code that materially impact the Project application. We are concerned that these interpretations are erroneous and request your written response on the items noted below pursuant to OMC Section 18.02.080.

**Background**

The Project is for a three-story mixed-use office and residential building located on State Avenue between Quince and Pear. The commercial space will occupy the ground floor and half of the second floor. A two bedroom residential unit will share the second floor with the commercial use; the top floor will be a three-bedroom apartment which will be the residence for the primary owner of the chiropractic business. To quote the project narrative provided by the applicant, “This will be a true live-work project adding density and residential life to the downtown area.” Roof access is provided by stair and elevator for

the roof to be the “primary outdoor living space”. The project is located in the Professional Office/Residential Multifamily (PO/RM) zone. The rear lot line abuts the Bigelow Neighborhood Historic District which is zoned R 4-8. The lot is flanked by a multi-family residential building to the West and an office in a repurposed residential structure to the East.

### Building Details

- Lot size 6,300 SF
- Building foot print 2,931 SF, of this total approximately 800 SF is a single story garage
- Lot coverage 47% [2,931SF/6,300SF] 70% coverage allowed
- Development coverage 81% [5,087/6,300] 85% coverage allowed
- Side setbacks 8' on east side, 10' on west side
- Front setback 10',
- Rear setback 23' of parking area
- Building gross floor area 7,451 SF (3 floors including 800 SF garage)
- Building height to top of roof structure 33'-6"
- Building height to roof parapet 37'-0"
- Building height to elevator at tallest point 48'-0"
- Elevator building area on roof 150 SF
- Parking for 7 vehicles will be provided on the lot north of the structure with access from the alley.
- Parking for 3 vehicles is available at metered parking spaces on State Avenue.



### Overview

The project is located in the PO/RM zone. The intent of the zone is to “provide a transitional area, buffering residential areas from more intensive commercial uses. Development within this district should be compatible with residential uses and generate low vehicular traffic characteristic of less intrusive uses.” OMC: 18.06.020A.9. The zoning district is the primary governing standard for this project. The various provisions of the OMC and associated rules, regulations, and standards, applicable to projects in this zone must be interpreted and applied in the context of and consistent with the intent and purpose of the zone.

As discussed in more detail below, a critical issue with this project is the cumulative impact of a series of separate code interpretations made by the CPDD staff. Although we believe several of the individual interpretations are in error, even if one were to conclude otherwise, taken together, the result is a building that violates the intent of the PO/RM zone. It is not “compatible with residential uses” and is not appropriate for “a transitional area, buffering residential areas from more intensive commercial uses.” This project dwarfs the neighboring structures and makes no effort to reflect the character of the adjacent neighborhood. It is essentially the “more intensive commercial use” that the zone is supposed to protect the adjacent neighborhood from. It is too much development for a 6,300 square foot lot in a PO/RM zone.

## **Issues and Interpretations**

### **18.175 Residential Design Criteria – Infill and other residential.**

Section 18.175 provides that Sections 18.175.020 through 18.175.060 apply to “... duplexes, triplexes, fourplexes, and townhouse buildings of four (4) units or less throughout the city”. The proposed Tanasse project is such a building. Section 18.175 does not exempt residential units because the building also contains commercial units. To interpret the section as if it did ignores the import of these requirements as to their impact on the neighboring properties. The Tanasse project is a “duplex” as used in this section and is subject to Sections 18.175.020 through 18.175.060.

In the staff report to the Design Review Board (DRB) for the Conceptual Design Review and at the DRB meeting on May 15, 2014, the staff did not include any consideration of Sections 18.175.020 through 18.175.060 as applicable sections for the DRB to apply to the project, and, thus, the DRB did not apply them this project. This is a material omission.

Sections 18.175.020 states as a **REQUIREMENT**: “Minimize the appearance of building scale differences between proposed dwelling unit(s) and an existing residential structure.” The Tanasse building is adjacent to dwelling units on two sides and thus should be required to comply with Sections 18.175.020. The project must be sent back to the DRB for consideration using these criteria.

### **Height Limits**

The height limit for the Tanasse project lot is 35 feet with an allowance of up to 18 feet for additional structures such as mechanical rooms, “provided that no roof structure, feature or any other device above the prescribed height limit shall be allowed or used for the purpose of providing additional floor space...” according to Section 18.06.100.

The Tanasse building is 33 feet six inches at the roof and 37 feet tall at the parapet. There is a 150 square foot, 13-foot high structure on top of the roof that reaches a total height of nearly 48 feet according to their drawing. The structure houses the elevator shaft with an elevator door opening on to the rooftop and one presumes (although the drawings are not specific) that the building also includes storage facilities given its size at 150 square feet, much larger than an elevator shaft. When questioned by someone in the audience at the Design Review Board meeting on May 15, 2014, about why such a large structure was needed to house elevator mechanics for a three story elevator, the Tanasse’s architect, Gretchen Van Dusen, responded that the height was required because the structure was not

a mechanical room, but rather the elevator itself that would open on to the rooftop since the “roof top will be the families’ primary outdoor living space.”

The views may be stunning from the rooftop that rises above everything else around it (and blocks the Capitol views from Olympia Avenue), but creating rooftop living space by adding features in excess of the height limit is not allowed. The plan as submitted exceeds the allowable height limitation in the development standards under Sections 18.06.080 and 18.06.100

### **Side Yard Setbacks**

The Commercial District Development Standards set forth Section 18.06.080 provide for PO/RM zoning district that the side yard set back is 15’ minimum + 5’ for each building floor above 2 stories next to an R 4-8 district. The Tanasse project is next to and abuts the R 4-8 district. The various setback, density, and height limitations set forth in the Section 18.06.080 Table 6.02 should be applied on a lot basis. Thus, the proposed setbacks do not meet the development standards. CPDD staff has indicated that the ten-foot setback on the West side is adequate.

### **Shared Parking**

Under Section 18.38, a total of 13 parking spaces are required for the commercial activity in the building. Ten for commercial uses; four for residential, and a one space credit for being in the Downtown Parking district. Staff is requiring only 10 parking spaces stating that the Shared Use exception applies between the commercial use and the residential use. The parking calculation was set forth in the Project Narrative provided to the DRB and other places as:

#### **Parking calculation:**

- Business/General Office - 3035 Gross SF @ 1 stall per 300 SF = **10 stalls**

- Residential - Duplex stalls - 2 per unit = **4 stalls**
- Total Business + Residential:  $10 + 4 = 14$  maximum# required stalls
- 18.38.160 10 % reduction for Downtown zone =  $(1.4)$  stalls;  $14 - 1 =$  **13 stalls**
- 18.38.180 Shared Parking for two uses within building:
  - 2. Allocation
    - a. Shared parking.
    - When two (2) or more land uses, or uses within a building, have distinctly different hours of operation (e.g., office and church), such uses may qualify for a shared parking credit. Required parking shall be based on the use that demands the greatest amount of parking.
- Two uses, residential and business, with different hours of operation comprise this mixed use project. Business need is higher at 10 stalls.

The application of the Shared Use provision is discretionary by its terms using as the permissive word “may” for situations where there are “distinctly different hours of operation”. Thus, it should only be applied in instances where as a practical matter, not a formula matter, the uses are truly at different times.

In this instance the staff has no reason to conclude that all of the residential parking spaces will be empty during business all of the business hours. The Tanasse’s have on several occasions made it clear that they intend to occupy the building with their school-age children, i.e., live and work in the building. According to the Tansasse Chiropractic website, the business is open until 6:00pm Monday through Thursday. One must question whether, the parking stalls on the lot will be always be empty during the business hours and thus, in this instance, whether the commercial and residential uses will actually have distinctly different hours of operation”. Without the Shared Use exception, the parking is does not meet the City’s standards for these uses on such a small lot.

### **Minimum Lot Size**

Tanasse building is two residential units (duplex) plus two commercial units, the functional equivalent of a 4-unit (multi-family) residential structure. The original application filed

with the City in September 2013, included three residential units. The Commercial District Development Standards set forth in OMC Section 18.06.080 provide that for the PO/RM zoning district a duplex requires a minimum 6,000 square foot lot and multi-family (i.e., more than two units) requires a minimum of 7,200 square feet. There is no minimum for commercial buildings.

When applying the Development Standards to a mixed-use building, the most restrictive use should govern as is standard practice in overlay situations. In this case, the Tanasse's have cherry-picked the standards between residential and commercial to fit a structure that would not be allowed if it were either just residential (lot size) or just commercial (parking). In doing so, while they may have met the letter of the law, they violate its intention.

For example, if three of the units of the structure were designated "residential" as was originally the case, the lot would be too small, exceeding the minimum lot size of 7,200 square feet. If one or more of the existing residential units were designated commercial, the parking area would be too small, e.g., changing the smaller residential unit to commercial would add close to 1,000 square feet of office space would require 3 or more additional parking spaces, or a total of at least 13 commercial spaces plus 2 residential spaces. Even with the downtown credit and applying the Shared Use exception, and counting three spaces on State Avenue, the lot would have to accommodate ten parking spaces. This number of stalls cannot be found on this small lot with the current building footprint. The problem would get even worse if the entire building were commercial.

The bottom line is clear: the building is too large for the lot.

### **Development Area, Lot Density, Height Limits and Cumulative Impact**

PO/RM is intended to be a transition buffer zone between commercial and residential areas. The Lot Density standards for this zone require a minimum of 7,200 square feet for a three unit residential structure. The Tanasse building is a duplex plus two commercial units, the functional equivalent of a 4-unit residential structure. One must assume that the Lot Density standards reflect policy choices about appropriate living spaces in this zone, and it is ironic at best that labeling two units in the building commercial makes it appropriate where it would not be allowed if they were labeled residential and would likely not be allowed if labeled all commercial.

Now we add the Height Limits -- The Tanasse' have chosen to maximize the lot coverage in such a manner that there is little outdoor living space and indeed, given the parking requirements for the commercial uses, have little choice even using the Shared Use exception. Having done so, they also wish to have roof top outdoor living space adding 13 feet of building height to provide elevator access. This creates a structure that is considerably taller than any other in the vicinity and looms over the adjacent properties.

The cumulative effect of applying the building standards separately and in a vacuum results in a structure that is not consistent with the stated intent of the PO/RM zone to provide a transitional area, buffering residential areas from more intensive commercial uses.

Development within this district should be compatible with residential uses. When taken piece by piece, the Tanasse building arguably meets the staff interpretation of the code requirements (although the final Site Planning Review Committee approval has not been granted). However, when the pieces are put together the proposed building violates the zoning and thus should not be allowed.

We appreciate your consideration of these questions and look forward to receiving your opinion as to the proper application of these various code and regulatory provisions to the Tanasse Project.



Sincerely,

John & Maile Bay



City of Olympia | Capital of Washington State

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June 30, 2014

John Bay  
1002 Olympia Ave NE  
Olympia WA 98506

Dear Mr. Bay:

Thank you for your correspondence on June 20, 2014. I have had an opportunity to review the plans and the code sections that you reference. This project has been reviewed by the City's Design Review Board and they recommend approval of the project. While I understand your concerns I conclude that the plans are in compliance with our development regulations.

The PORM Zone as you note is indeed a transition zone and I believe that this project accommodates that transition from the intense commercial uses found along Fourth and State Avenues to the south and the historic homes to the north.

I will briefly address each of the significant points that you have raised.

### **Residential Design Criteria – Infill and Other Residential**

The proposed project is not a duplex defined as one building containing two single-family dwelling units totally separated from each other by a one-hour fire wall or floor. This project is considered a mixed use project defined as the development of a parcel or structure with two or more different land uses, such as a combination of residential, office, manufacturing, retail, public, or entertainment in a single or physically integrated group of structures. This project is also not subject to the infill and residential design requirements as it is within the Downtown Design Review Overlay (18.120) and must comply with the requirements found in that section.

### **Height Limits**

The building height is defined as the vertical distance from grade plane to the average height of the highest roof surface. In this case that would be 33 feet. The elevator shaft is allowed to project above that height a maximum of 18 feet. The exemption is for mechanical and elevator equipment and cannot be used to create storage space or any other habitable space.

**Side Yard Setbacks**

The front yard of the property is the southern property line fronting on State Avenue. The rear property line is the property line adjacent to the alley and the side property lines are those running perpendicular with the front and rear property lines. Required side setbacks in the PORM Zone for interior property lines such as this project are 0 feet. The proposed plans reflect a side setback of 10 feet on the western property line and 8 feet from the eastern property line. The rear setback is measured at 23 feet with an additional 20 feet to the main structure. All proposed setbacks exceed the minimum requirements of the zone.

**Shared Parking**

Shared parking is encouraged by the City to reduce the amount of paved area and number of parking stalls in our community. The project meets the definition of shared use and may take advantage of those regulations.

**Minimum Lot Size**

As noted previously, the subject property is a mixed use project and as such is only required to comply with the minimum lot area requirements for the zone and not the 6,000 square feet required for a duplex.

This project is on the Site Plan Review Committee's Agenda for July 2, 2014. Should they approve the project at that time you may wish to file an appeal of this decision. Appeals of administrative decisions are heard by the City's Hearing Examiner. Forms for filing an appeal are available at the Community Planning and Development Department's customer service counter.

Please feel free to contact me should you have any questions about this response.

Sincerely,



Keith Stahley, Director  
Community Planning and Development Department