



brentwood-darlington
neighborhood association

Letter to Portland Bureau of Development Services in Response to Comprehensive Plan Adjustments:

This letter is in regards to the property located at the address of 6912-6926 SE 52ND AVE in Portland, OR in the Brentwood-Darlington neighborhood. **The Brentwood-Darlington Neighborhood Association would like to express disapproval of modification of this property in current zoning to commercial during the current Comprehensive Planning procedure.** The reasons for disapproval are as follows:

1) Property History: The previous restaurant at this address, known as "Nancy's Eat & Browse", was a neighborhood establishment. According to the liquor license granted to Nancy's Eat and Browse, there were several restrictions put in place that limited the nature of that establishment. These restrictions forbade the establishment from opening past 10pm or from hosting live music.

The restrictions in the previous license to Nancy's Eat & Browse were established due to problems resulting from late night drinking activity at this location. Prior to Nancy's, the location was known as the Trocadero Inn. The Trocadero had a full late night license with live music and a full liquor menu. The result was a great disruption to the livability of the neighborhood. To limit this effect, the OLCC discontinued the Trocadero's license and worked with the Brentwood-Darlington Association to prevent future abuses and recognized the area as, to quote the OLCC investigator directly, 'a sensitive and challenging area in which to operate a tavern.'

When applying for the current liquor license for the Area 52 Bar and Grill, the current applicant originally requested hours that extend until 2:30am on Friday and Saturday, 2am on Wednesday & Thursday, and midnight on Sunday thru Tuesday. The current applicant also requested live music to play until 10pm most nights; 11pm on Thursday, and midnight on Friday and Saturday. The Brentwood-Darlington association opposed this initial request due to concerns over noise and other livability factors. The concerns over noise were based on property history and complaints from nearby residents. The Portland Police department also issued a 'no endorsement' ruling at the time for similar concerns, as is mentioned in the OLCC application.

Despite this opposition, however, the OLCC was not able to provide an unfavorable ruling even though they received seven letters from nearby residents that all mentioned late night noise as a concern. The following excerpt from the liquor application for Area 52 is evidence of this:

Our (the OLCC) investigation found no applicable state statute upon which to base an unfavorable recommendation. Jacob Sherman, the Board Chair of the Brentwood-Darlington Neighborhood addressed an email to OLCC and the City of Portland in opposition for this liquor application. The City of Portland, Office of Neighborhood Involvement (ONI) has received four letters in opposition from area residents and three letters not in opposition to this liquor application. All seven of the letters from area residents cite late night noise issues as their primary concern even those not opposed to granting the liquor license.

A revised application from the Area 52 applicant limited the hours to 11pm on all nights and limited live music until no later than 10pm on Friday and Saturday. At this point, seeing these terms as more compatible with the livability concerns of the surrounding residential neighborhood and after meeting with the Area 52 bar owner (a Mr. Robert Smith), the Brentwood-Darlington *Neighborhood Association* agreed to rescind its unfavorable ruling. The revisions to the hours were made by the Area 52 applicant because of the zoning code limiting grandfathered bars in residential areas from operating after 11pm. Without this zoning limitation, based on the OLCC ruling made above, it is likely that the current bar would be open past the 11pm hour despite concerns from the neighborhood association, the Portland Police, and several nearby neighbors (it should be emphasized that 4 neighbors outright opposed the application, and



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of the three the neighborhood members that did not oppose outright all three specifically mentioned loud music as a concern despite their lack of outright opposition).

2) Current Activity: The neighborhood association has received complaints recently that the current operators of the Area 52 Bar have operated beyond the restricted 11pm hour as recently as February 2015 and have at times been a considerable source of noise in the neighborhood. Complaints have mentioned noise complaints that have required police presence at least twice since the bar opened on August 24th of 2014. In the latest incident occurring early this year, a Portland police officer contacted a nearby resident after a noise complaint. The officer informed the resident that he would explain to the bar's staff that they must comply with the 11pm zoning code restrictions and noise ordinances. According to the nearby resident, the police showed up in person several minutes later and appeared to lecture the bar's staff and the band who were 'hanging out' outside the bar after midnight:

It should be noted that the nearby resident said that no additional late night noise or late night operating complaints have been required in the time frame since that incident. The nearby resident indicated that the zoning code requirement of 11pm closing time was 'extremely helpful' in alleviating livability concerns in that situation and that the zoning code requirements had been understood by the police officer.

In addition to these incidents, it appears that the former bar 'Nancy's Eat and Browse' was operated at late night hours and with loud music for a period of a few months after Nancy's death. This is despite the fact that the liquor license for this establishment prohibited operation past 10pm. One nearby resident's letter to the OLCC states:

I found that the noise emanating from within as well as from around the building became much louder in the evenings during the last few months before Nancy's Eat and Browse closed down. I do not know if there was a change in management or some such thing, but it was my experience that the music, crowd noise, exuberant discussion - heated or friendly - in the parking lot, and so on became much more bothersome late in the evening in those final months of Nancy's operation.

This is one of seven letters sent to the OLCC that express similar noise/livability concerns. Based on witnessed activities at the bar observed by nearby residents after Nancy Damrill's death, it appears that the individuals who were responsible for running the bar after her death may have been staff at Nancy's Eat and Browse. It also appears that members of this former staff are currently involved renting the bar to the Area 52 bar owners and are not related to Nancy Damrill. The exact specifics of this situation, however, are difficult to determine for reasons discussed in the section of this document entitled 'Unknown Ownership'.

3) Unknown Ownership: City records indicate that Nancy Damrill is the current owner of the property. Nancy Damrill has been deceased since May 2013. During this almost two-year long period since her death, no records have been filed with the Multnomah County Probate Court as of March 9th 2015. Nancy has passed, people who may not have a legal claim to operate a business on her property are doing so, and BDNA does not believe zoning changes should be made until after questions of ownership have been resolved.

4) Market Conditions and Surrounding Residential Character of the Neighborhood: The property in question has direct adjacency to three residential zoned (R5a) properties. In addition, the commercially zoned areas on SE 52nd Ave have shown a stunted level of development. Of the 9 commercially zoned properties on 52nd Ave North of Rural Ave. and South of Cooper Ave., only 3 are use for commercial purposes. Five contain single family residential development and one is an abandoned lot -- a lot which has been listed as for sale for years and appears to have not yet sold. Other nearby commercial zones



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along 52nd near Flavel, Duke, and Woodstock show similar -- or worse-- levels of stunted development. Because of the low density residential character of the area and the lack of commercial development, the association feels that addition of more commercial acreage at this time is not prudent -- especially the addition of commercial property that poses a livability risk to the nearby neighborhood and would only further discourage future improvements.

In addition, residentially zoned R5 properties are in high-demand in our area. The 97206 zip code has repeatedly been the fastest selling zip code in the Portland Metro area for many quarters over the past several years according to bizjournals.portland.com. The website golocalpdx.com has stated that Brentwood-Darlington was the 'hottest' selling neighborhood in Portland in February of 2015 based on number of homes and 'percent of asking price' achieved over the previous 90 days. Redfin.com listed nearby Woodstock as the fastest selling neighborhood in the Portland metro area recently. Even on busy 52nd Ave, nearby homes have been selling quickly and at generous prices. The city must consider that it needs to find ways to increase the stock of R5 residential zones that are in character with the existing neighborhood when it is feasible to do so to meet demand -- removing the R5 designation on this lot when R5 is clearly needed in this area would be potentially irresponsible.

For these reasons, the eventual redevelopment of this lot to housing will do more to support local business as it will result in the cleanup of one of the 52nd Avenue's biggest eyesores and will send a clear signal to potential commercial investors that this portion of 52nd Ave is ready for investment. The continued presence of a tavern that presents an eyesore and has potential livability concerns will do the opposite.

Finally, for all of these reasons, the Brentwood-Darlington Neighborhood Association recommends that the City of Portland does not grant Commercial zoning status to the properties at 6912-6926 SE 52nd Ave during the upcoming Comprehensive Plan Update. The restrictions in place now play an important role in limiting the impact of livability concerns that nearby residents have complained about. In addition, the OLCC has historically shown itself to be incapable or unwilling to address these livability concerns in a reasonable timeframe -- it took almost one decade for the OLCC to shut down the previously troublesome Tracadero Inn despite numerous complaints by nearby residents. We do not wish to return to the troublesome days of the Tracadero Inn. Under Nancy Damrill's ownership, this was not the case. However, since Nancy's death, recent evidence has shown a willingness by subsequent managers and bar owners to create a late night disturbance once again. It appears that the grandfathered status and 11pm limits in the zoning code provide much better protection against these abuses than the OLCC can provide. Please, do not remove these protections by changing the zoning at this time. We have reason to believe that, based on past OLCC documents and neighbor complaints from the time before Nancy's ownership, the neighborhood fought hard to keep this property from being a commercially zoned late-night establishment.

Until a verifiable owner can be established who shows clear plans to improve the property in a manner that is compatible with the reasonable neighborhood livability desires to achieve peaceful sleep and safety, and this owner presents plans to develop a commercial design that is compatible with the neighborhood's ambitions for this intersection, we ask that the residential zoning be kept in place which currently makes current quality-of-life possible to monitor and maintain.

Thank you,
Brentwood-Darlington Neighborhood Association

