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G A R V E Y S C H U B E R T B A R E R

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July 26, 2016

Via E-Mail: Rachael.Hoy@portlandoregon.gov

Portland Planning and Sustainability Commission
c/o Rachael Hoy, City Planner
1900 SW 4th Ave, Suite 7100
Portland, OR 97201

Re: Comments on Height Restrictions Proposed in 2035 Central City Plan
Roseland Theater – 8-10 NW 6th Ave

Dear Chair Schultz and Commissioners:

This firm represents Con Da LLC and David T. Leiken, the owners of property located at 8-10 NW 6th Ave, also known as the Roseland Theater. This letter is submitted in opposition to the proposed severe height restrictions that would reduce the existing building heights from 460 feet to 250 feet within a six block area within the Old Town / Chinatown Neighborhood north of West Burnside Street. Slashing the allowed building height would significantly compromise the potential for long-term retention and redevelopment of this site, which may include retaining the long-standing, iconic entertainment venue that contributes to the community fabric of the City.

Background Facts

The original quarter-block theater brick structure was constructed in 1922 and operated as a church and meeting house for the Apostolic Faith Church. The Roseland Theater building is located outside of the New Chinatown/ Japantown Historic District and the building has not been listed either nationally or locally as a historic resource, although it would qualify. The back of house, the dressing rooms, and the supporting offices are contained in a two-story adjacent structure located on the quarter-block facing NW 6th Avenue and Couch. If considered for historic designation, this theater office building housing would not qualify. The NW 6th Avenue frontage is adjacent to the Tri-Met Max light rail line with the NW 6th and Davis station located one half a block away. Maintaining frontage along West Burnside, this building is highly transit serviceable and is directly adjacent to the tallest building in the City, the US Bank Building. In 1995, both buildings were purchased by Mr. Leiken and fully renovated to include a complete seismic retrofit.



The theater started being used as a public entertainment venue in the early 1980s. Since its purchase by Mr. Leiken, the Roseland Theater has become a Portland staple in the live-music scene, hosting 150 to 175 multi-generational concerts annually presenting small local bands to huge national icons. Performers have included Ray Charles, Tina Turner, Bob Dylan, Prince, Eminem, Miles Davis, Bonnie Raitt, and the Red Hot Chili Peppers. The all-ages venue is known for its smaller size, accommodating up to 1,400 people in two separate theaters: a 1,000 standing-only main floor and a more intimate showcase venue that seats 400. The Roseland has been ranked among the top 15 venues for 1500 capacity and smaller venues in the world for almost all of the last 20 plus years, according to POLLSTAR, the pre-eminent trade publication for the concert industry.

The Proposed Reduction in Building Height is Not Justified

In the commentary portion of the draft plan, city staff explains the rationale for proposing reductions in building heights as: (1) necessary to preserve view corridors in some areas or (2) to retain the character and scale of historic districts in other areas. The Roseland Theater property along with the six blocks adjacent to it are not located within any scenic corridor and are located outside of any historic district and height reductions are proposed. The staff commentary fails to identify any explanation of why height reductions were proposed in this area when reductions do not confer any public benefit.

In discussions with staff, we have learned that the Central City NW Quadrant work group recommended height restrictions for these six blocks because this area has not be redeveloped with buildings taking advantage of the existing 460-foot allowed height. In their opinion, reducing the building height would more accurately reflect the existing building stock. Staff also suggested that reducing the building height is appropriate given the quarter-block ownerships that are typical of this area, making building to the existing 460-foot height challenging. Finally, the work group believed that reducing the building height to reflect current building heights makes it more likely that the existing historic structures would be preserved.

There are a number of errors in this explanation. First, simply because no building has been built maximizing the 460-foot height limit does not mean that the existing height limits need to be reduced. The lack of redevelopment, resulting in the construction of taller buildings, can be explained by the fact that property owners in this area have suffered a larger proportion of criminal, homelessness and drug-related activity than properties located in other parts of the City. As a result, it should be expected that redevelopment of these blocks would move at a slower pace. This condition was not helped by the Great Recession, leading to greater displacement, which has only recently begun to turn around.

Second, sound principles of land use planning require identification of some public benefit before imposing such a harsh interference with the investment backed expectations of the property owners in this area. However, no such public benefit has been identified to date. When



Mr. Leiken bought the property in 1995, he did so with the expectation that he would be able to redevelop the property subject to a 460-foot building height limitation.

To make matters worse, the draft plan contains no opportunities for these property owners to transfer air rights or otherwise compensate for the loss, either through bonus FAR or height. Such draconian regulations should be contrasted with the height restrictions applicable to historic districts. In historic districts, height restrictions necessary for the preservation of the character and scale of buildings provide a clear community benefit and in exchange for imposing such a burden, bonus, transferrable FAR is available. The same is true in areas of the Pearl District, located just to the west and north of the subject property. Yet, this proposal provides no opportunities for Mr. Leiken to recoup the loss in value by allowing him to transfer the building heights currently allowed, even though city staff is asking him to bear a comparable burden.

Third, although there may be some cases where the ownership interests are broken into less than one-quarter blocks, Mr. Leiken owns the entire half block. The other half of this block is largely held by Studio Arts, LLC, managed by Mr. David Gold. The Goodman family owns the half-block between NW Couch and Davis and the full block between NW Davis and Everett contains a single structure owned Pendleton Woolen Mills. Therefore, it is incorrect to suggest that these property ownerships are predominately chopped up into small parcel ownerships. Moreover, the trend in downtown development, notwithstanding ownership, is for multiple owners to work together to redevelop a full block. Mr. Leiken and Mr. Gold have been in discussions about such full-block redevelopment options. The existing 460 foot height is going to be critical for joint redevelopment of the entire block that will include a hotel or office space that retains the existing entertainment venue.

Finally, reducing the building heights will not increase the likelihood that the existing buildings or uses will be saved. Rather, it will put additional pressure on these property owners to demolish historic resources in order to maximize their significantly diminished return. This is particularly true in cases where that return may be realized on other less valuable portions of the site. As it stands right now, Mr. Leiken could retain the existing Roseland Theater quarter block structure, remove the structure facing NW Couch St. and build on his remaining quarter block to a height of 460 feet at a 9:1 FAR plus additional bonus FAR if he designated the Roseland Theater as a historic structure. The proposed height reductions set an absolute cap on building height in this area at 250 feet and, even with the 9:1 FAR, this reduces Mr. Leiken's return to a point where he will be less likely to preserve the Roseland and instead will elect to demolish the entire half-block and build out to the full 250 feet in height. In addition to maximizing a return in terms of square footage, Mr. Leiken may be forced to identify a more lucrative end-user of the building – trading away the much revered music venue in place of office space that could bring higher rental returns.



Reducing the Height is Not Consistent with Central City Plan Goals and Policies

A number of Central City Plan goals or policies are not satisfied by reducing the building height in this area which, as noted above, make it less likely that the music venue use will be able to continue. The Central City Plan includes the following policies that favor more intense development on the Roseland Theater property, including retaining the existing height, particularly as they relate to entertainment and tourism:

Policy 1.4 Tourism, retail and entertainment. Expand upon activities in the Central City that support tourism and complement economic success, vibrancy and livability, with a special focus on retail, cultural events and institutions, public spaces, arts and entertainment, urban design and transportation.

Policy 1.DT-4 Tourism, retail and entertainment.

b. Events. Encourage a wide range of entertainment opportunities and event venues including small-scale, more frequent events as well as large-scale episodic events.

Old Town / Chinatown Policy 1.OT-2 Tourism, retail and entertainment. Support unique attractions in the district, including: cultural institutions; Governor Tom McCall Waterfront Park; retail, dining, and performance venues; and nightlife attractions. Expand the festival and event programming of public spaces in the district; manage activities in a way that controls negative impacts.

The Plan contains policies encouraging the location of the most intensive development near the transit mall, where the Leiken property fronts on two sides. These policies include:

Downtown Policy 1.DT-1 – Office core. Maintain the Downtown office core as the region's preeminent office employment district. Encourage new office development, with the largest buildings near the Transit Mall.

Central City Policies: Urban Design Policy 5.3 Dynamic skyline. Encourage the tallest buildings to locate adjacent to transit hubs and corridors, generally stepping down in height to the Willamette River. Allow taller buildings at bridgeheads and encourage contextually sensitive heights within historic districts. Encourage heights and building forms that preserve sunlight on public open spaces and parks.

This proximity to transit, coupled with its adjacency to the US Bank building, make it an ideal site for a tall building. To reduce the height, again with no policy reason for doing so, makes no sense given it is hard to imagine a more transit serviceable location.



Additionally, the plan encourages redevelopment of properties into large sites with new compatible uses, while at the same time providing incentives to support historic preservation. These goals state:

Central City Policies: Urban Design Policy 5.5 Large site development.
Encourage redevelopment of large sites that includes new compatible uses, green buildings and equity considerations....

Policy 5.18 Rehabilitation and reuse. Encourage the use, preservation, and rehabilitation of historic buildings.

Policy 5.20 Preservation incentives. Provide financial and regulatory incentives that support the economic feasibility of the preservation, rehabilitation and seismic upgrade of historic resources.

Old Town / Chinatown Policy 1.OT-4 Strategic redevelopment. Encourage the reuse, rehabilitation and seismic upgrade of underutilized buildings to increase useable space and economic activity in the district. Support location of retail uses on the ground floors of buildings, including retail businesses that complement and enhance the cultural and historical significance of the area.

Taken together, these plan policies require the retention of development regulations that encourage the retention and development of entertainment venues that promote tourism, preservation of the historic structure as well as maximizes development intensity near transit. This proposed height reduction fails to satisfy any of these policies.

Conclusion

In closing, without a single public benefit or plan policy that would be furthered by imposing this requirement, reducing the building height from 460 feet to 250 feet makes no sense. Such a reduction significantly reduces the redevelopment options for Mr. Leiken, both with regard to the preservation of the music venue as well as the theater structure. Again, this property is NOT located within the New Chinatown / Japantown Historic District and yet, it is not given the same treatment - with the bonus FAR or height opportunities that are available to nearly every other block north of West Burnside. The property's central location, with regard to transit as well as a critical element of the entertainment offerings within the Old Town / Chinatown neighborhood, make it an ideal location for housing a two to three-story music venue plus a hotel or other tourist-related or office amenity above, which will not be possible if these height limits are reduced.

For these reasons, we ask that you reject staff's recommended reduction in building height and retain the existing 460 foot height limit.



GARVEY SCHUBERT BARER

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Sustainability Commission
c/o Rachael Hoy, City Planner
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Please place this letter in the record and provide me with written notice of your decision.

Sincerely,

GARVEY SCHUBERT BARER

By

Carrie A. Richter

cc: David Leiken

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