



TELEVISED

*Revised - FINAL AGENDA

(*Indicates Items Added)

FORREST C. SOTH CITY COUNCIL CHAMBER
4755 SW GRIFFITH DRIVE
BEAVERTON, OR 97005

REGULAR MEETING
NOVEMBER 1, 2004
6:30 p.m.

CALL TO ORDER:

ROLL CALL:

CITIZEN COMMUNICATIONS:

COUNCIL ITEMS:

STAFF ITEMS:

WORK SESSION:

- 04212 Design Review Update Project (TA 2003-0005)
- 04213 An Ordinance Amending Provisions of Chapters Four and Five of the Beaverton City Code Relating to Nuisances Affecting the Public Health
- *04221 A Resolution Establishing City Annexation Policies

CONSENT AGENDA:

- Minutes of Regular Meeting of October 18, 2004
- 04214 Design Review Update Project (TA 2003-0005)
- 04215 Authorize the Mayor to Execute an Intergovernmental Agreement with Washington County for Utility Undergrounding Work on the Barnes Road Project, 119th Avenue to Saltzman Road
- *04220 A Resolution Establishing City Annexation Policies (Resolution No. 3785)

PUBLIC HEARING:

- 04216 Proposed Water Consumption Rate Increase for Operating the City's Water System (Resolution No. 3784)

ORDINANCES:

First Reading:

- 04217 An Ordinance Amending Ordinance No. 4187, Figure III-1, the Comprehensive Plan Land Use Map and Ordinance No. 2050, the Zoning Map for Property Known as Steele Park Located on the Eastside of SW 170th Avenue, Immediately South of Elmonica Elementary School; CPA 2004-0011/ZMA 2004-0011 (Ordinance No. 4327)
- 04218 An Ordinance Amending Ordinance No. 4187, Figure III-1, the Comprehensive Plan Land Use Map and Ordinance No. 2050, the Zoning Map for Peck Park/TVF&R Station 61 which is Nine Parcels Located Along SW Murray Blvd.; CPA 2004-0014/ZMA 2004-0014 (Ordinance No. 4328)
- 04219 An Ordinance Amending Ordinance No. 4187, Figure III-1, the Comprehensive Plan Land Use Map and Ordinance No. 2050, the Zoning Map for Property Located at 12030 SW Center Street; CPA 2004-0015/ZMA 2004-0015 (Ordinance No. 4329)

Second Reading:

- 04209 An Ordinance Amending Ordinance No. 4187, Figure III-1, the Comprehensive Plan Land Use Map and Ordinance No. 2050, the Zoning Map for Property Located at 15865 SW Division Street; CPA 2004-0010/ZMA 2004-0010 (Ordinance No. 4324)
- 04210 An Ordinance Amending Ordinance No. 4187, Figure III-1, the Comprehensive Plan Land Use Map and Ordinance No. 2050, the Zoning Map for Lilly K. Johnson Park which is Located North of SW Division Street and West of SW 153rd Avenue; CPA 2004-0012/ZMA 2004-0012 (Ordinance No. 4325)
- 04211 An Ordinance Annexing Property Located at 12030 SW Center Street to the City of Beaverton: Expedited Annexation 2004-0012 (Ordinance No. 4326)

EXECUTIVE SESSION:

In accordance with ORS 192.660 (1) (h) to discuss the legal rights and duties of the governing body with regard to litigation or litigation likely to be filed and in accordance with ORS 192.660 (1) (e) to deliberate with persons designated by the governing body to negotiate real property transactions and in accordance with ORS 192.660 (1) (d) to conduct deliberations with the persons designated by the governing body to carry on labor negotiations. Pursuant to ORS 192.660 (3), it is Council's wish that the items discussed not be disclosed by media representatives or others.

ADJOURNMENT:

This information is available in large print or audio tape upon request. In addition, assistive listening devices, sign language interpreters, or qualified bilingual interpreters will be made available at any public meeting or program with 72 hours advance notice. To request these services, please call 503-526-2222/voice TDD.

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

SUBJECT: Design Review Update Project (TA 2003-0005)

FOR AGENDA OF: 11-1-04 **BILL NO:** 04212

Mayor's Approval: Bob Drake

DEPARTMENT OF ORIGIN: CDD my

DATE SUBMITTED: 10-19-04

CLEARANCES: City Attorney AK
Devel. Serv. SS

PROCEEDING: Work Session

- EXHIBITS:**
1. Land Use Order #1736
 2. Planning Commission recommended text.
 3. Planning Commission meeting minutes

BUDGET IMPACT

EXPENDITURE REQUIRED \$0	AMOUNT BUDGETED \$0	APPROPRIATION REQUIRED \$0
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HISTORICAL PERSPECTIVE:

Beginning in December 2002, the Community Development Department began meeting with the Code Review Advisory Committee to discuss a comprehensive revision to the City's existing Design Review process. The Committee met 13 times between December 2002 and June 2003 and forwarded a consensus proposal to the Planning Commission for their consideration. On August 27, 2003, the Planning Commission held their first public hearing to consider the proposed text amendment (TA 2003-0005) of the Design Review process contained within the City's Development Code. After the August 27, 2003 meeting, staff met with representatives of commercial developers to discuss the proposed text. After meeting with the commercial developers, staff re-convened the Code Review Advisory Committee to review the changes to the proposed text requested by the commercial developers. The Commission next considered TA 2003-0005 at their October 22, 2003 public meeting and at subsequent public meetings which were held on July 7, 2004 and August 18, 2004. At the August 18, 2004 public meeting, the Commission voted 7-0 to recommend approval of the proposed text amendment as summarized in Land Use Order 1736.

INFORMATION FOR CONSIDERATION:

Attached to this Agenda Bill is Land Use Order 1736 which memorializes the Planning Commission recommendation of approval of the Development Code text amendment. The recommended text is attached. Due to the extensive Planning Commission record, the entire record has not been attached to this Agenda Bill, but is available upon request.

RECOMMENDED ACTION:

Staff recommend that the City Council conduct a work session with staff to answer any questions the Council may have on the recommended Development Code text amendment.

TA 2003-0005

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**BEFORE THE PLANNING COMMISSION
FOR THE CITY OF BEAVERTON, OREGON**

IN THE MATTER OF A REQUEST)	ORDER NO. 1736
)	
TO AMEND THE CITY'S CURRENT	)	TA 2003-0005
)	
DESIGN REVIEW PROCESS FOUND IN	)	RECOMMENDING
)	
SECTION 40.20 DESIGN REVIEW OF	)	TO CITY COUNCIL
)	
CHAPTER 40 (APPLICATIONS), STEVEN	)	APPROVAL OF
)	
SPARKS, CITY OF BEAVERTON,	)	TEXT AMENDMENTS
)	
APPLICANT.)	

The matter of TA 2003-0005 a comprehensive revision to Section 40.20, Design Review, of Chapter 40 (Applications) with affiliated amendments to Chapters 20, 50, 60, and 90 of the Code was initiated by the City of Beaverton, through the submittal of a text amendment application to the Beaverton Community Development Department.

TA 2003-0005 proposes a comprehensive update of the City's current design review process found in Section 40.20, Design Review of Chapter 40 (Applications). Amendments to other sections of the Code are necessary to achieve internal consistency with the primary amendment to the existing Design Review land use application process.

Pursuant to Ordinance 2050 (Development Code), Section 40.85 (Text Amendment) and Section 50.50 (Type 4 Application), the Planning

Commission conducted a public hearings on August 27, 2003, October 22, 2003, July 7, 2003, and August 18, 2004, and considered oral and written testimony and exhibits for the proposed amendment to the Beaverton Development Code. At the August 18, 2004, public hearing, staff identified additional recommended changes to the proposed text and the Commission requested additional changes to the proposed text amendments.

The Planning Commission moved to make the following amendments to the text proposed as a part of TA 2000-0003:

- ◆ Section 60.05.15.4.B. shall be modified to read as follows: “For conditional uses in residential zones and all uses in multiple-use, commercial and industrial zones, **except for manufacturing, fabricating, processing, packing, storage and wholesale and distribution facilities which is a principle use of the site in industrial zones**, a maximum of thirty (30) percent of each elevation that is visible from and within 200 feet of a public street or a public park, public plaza or other public open space, and on elevations that include a primary building entrance or multiple tenant entrances may be plain, smooth, unfinished concrete, concrete block, plywood and sheet pressboard. **In the case of manufacturing, fabricating, processing, packing, storage and wholesale and distribution facilities which is a principle use of the site in industrial zones**, this standard shall apply to the primary elevation that is visible from and within 200 feet of a public street or a public park, public plaza or other public open space. The remaining elevation area **for all applicable uses in all applicable zones** shall be architecturally treated. Appropriate methods of architectural treatment shall include, but are not limited to, scoring, changes in material texture, and the application of other finish materials such as wood, rock, brick or tile wall treatment.”
- ◆ Section 60.05.20.3.C. shall have the following sentence added to the end of the proposed paragraph: “This standard may be waived when topographic conditions, man-made features, natural areas, etc. preclude walkway extensions to adjacent properties.”

- ◆ The first sentence of Section 60.05.25.4 shall be modified to read as follows: “When—~~proposed~~, public open space **is proposed by an applicant**, it shall be designed to provide passive open space, active open space or both for the enjoyment of the general public unless otherwise indicated in an open space master plan approved by the City, THPRD or other jurisdiction.”
- ◆ Section 60.05.25.6.C. shall be modified to read as follows: “**Masonry walls shall be a minimum of six inches thick. All other walls shall be a minimum of three inches thick.**”
- ◆ Section 60.05.25.9. shall be modified to read as follows: “Development on sites with **City-adopted** natural resource features such as streams, wetlands, **and** rock outcroppings, ~~and mature trees whether included on a City Natural Resource Inventory or not~~ shall be preserved to maintain the ~~aesthetic quality of the resource~~ without encroachment into any required resource buffer standard ~~(e.g. 50-foot wetland buffer, drip line of protected trees)~~ **unless otherwise authorized by other City or CWS requirements.**”
- ◆ Section 60.05.35.1.F. shall be modified to read as follows: “Building elevations visible and within 200 feet of a street or major parking area **except for manufacturing, assembly, fabricating, processing, packing, storage and wholesale and distribution activities which are the principle use of a site in industrial districts where elevations visible from and within 100 feet of an adjacent public street**, should be articulated with architectural features such as windows, dormers, off-setting walls, alcoves, balconies or bays, or by other design features that reflect the building’s structural system. Undifferentiated blank walls facing a street or major parking area should be avoided. (Standards 60.05.15.1.B and C)”
- ◆ The word “stucco” contained in Sections 60.05.35.4.A. and C. shall be deleted.

The Planning Commission adopts by reference the August 11, 2004, staff report, as amended and all previous Staff Reports and Memorandums related to this Text Amendment in affirmative response to the approval criteria contained in Section 40.85.15.1.C.1-7 applicable to this request and findings thereon; now, therefore:

IT IS HEREBY ORDERED that pursuant to Section 50.50.7.C of the Beaverton Development Code, the Planning Commission RECOMMENDS APPROVAL of TA 2003-0005 (Design Review Update Text Amendment) to the Beaverton City Council. The Planning Commission finds that evidence has been provided demonstrating that all of the approval criteria specified in Section 40.85.15.1.C.1-7 are satisfied.

CARRIED by the following vote:

AYES: DeHarpport, Maks, Bliss, Johansen, Pogue, Winter, and Barnard.
NAYS: None
ABSTAIN: None.
ABSENT: None.

Dated this 26th day of August, 2004.

Appeals of a Type 4 decision are to be conducted in conformance to Section 50.75 of the Beaverton Development Code. To appeal the decision of the Planning Commission, as articulated in Land Use Order No. 1736 an appeal must be filed with the City of Beaverton Recorder's Office by no later than 5:00 p.m. on Monday, September 6, 2004.

PLANNING COMMISSION
FOR BEAVERTON, OREGON:

ATTEST:

APPROVED:



STEVEN SPARKS, AICP
Development Services Manager



BOB BARNARD
Chairman

Design Review Text Amendment Exhibits

The following text is the Planning Commission recommended text. The attached text retains the exhibit reference letter used by the Commission during its review of the proposed text. For the City Council's reference, the Commission's Exhibits A-I reference the following:

- Exhibit A - Chapter 40 / Design Review Application
- Exhibit B - Chapter 60 / Design Review Principles, Standards and Guidelines
- Exhibit C - Major Pedestrian Route Maps
- Exhibit D - Chapter 20 Amendments
- Exhibit E - Public Transportation Facilities Application - Chapter 40
- Exhibit F - Wireless Facilities Application - Chapter 40
- Exhibit G - Chapter 50 Amendments
- Exhibit H - Chapter 60 Amendments Chapter
- Exhibit I - 90 Amendments

EXHIBIT A

1 **40.20. DESIGN REVIEW**

2
3 **40.20.05. Purpose.**

4
5 The purpose of Design Review is to promote Beaverton’s commitment to the
6 community’s appearance, quality pedestrian environment, and aesthetic
7 quality. It is intended that monotonous, drab, unsightly, dreary and
8 inharmonious development will be discouraged. Design Review is also
9 intended to conserve the City's natural amenities and visual character by
10 insuring that proposals are properly related to their sites and to their
11 surroundings by encouraging compatible and complementary development.
12

13 To achieve this purpose, the Design Review process is divided into two major
14 components; Design Standards and Design Guidelines. Both standards and
15 guidelines implement Design Principles, which are more general statements
16 that guide development of the built environment. The Design Standards are
17 intended to provide a “safe harbor” approach to designing a project.
18 Depending on the design thresholds, designing a project to the standards
19 would result in an administrative review process. However, the applicant
20 may elect to bypass design review under the Design Standards and go
21 straight to Design Review under the Design Guidelines, at the applicant's
22 option.
23

24 An applicant for Design Review approval can address design review
25 requirements through a combination of satisfying certain Design Standards,
26 and in instances where it elects not to utilize Design Standards, satisfy
27 applicable Design Guidelines. In such a case, the public hearing and decision
28 will focus on whether or not the project satisfies the requirements of the
29 applicable Design Guidelines only.
30

31 Because the Design Standards are a “safe harbor”, there is no penalty for not
32 meeting the Design Standards. Rather, the public hearing process would be
33 required to consider the project by relying solely on the Design Guidelines.
34 The Design Guidelines are intended to maintain as much flexibility and
35 originality as desired. The project proponent will simply be required to
36 demonstrate how the project meets the Design Principles and Design
37 Guidelines at a public hearing. The decision making authority must make
38 findings how the guidelines are met or if they apply to the proposal.
39

40 The purpose of Design Review as summarized in this Section is carried out by
41 the approval criteria listed herein.
42
43
44

EXHIBIT A

40.20.10. Applicability.

1. The scope of Design Review shall be limited to the exterior of buildings, structures, and other development and to the site on which the buildings, structures, and other development is located.
2. Considering the thresholds for the Design Review Compliance Letter, Design Review Two, or Design Review Three and unless exempted by Section 40.20.10.3, Design Review approval shall be required for the following:
 - A. All uses listed as Conditional Uses in the RA, R10, R7, R5, and R4 zoning districts.
 - B. All uses listed as Permitted and Conditional Uses in the R3.5, R2, and R1 residential zoning districts.
 - C. All uses listed as Permitted and Conditional Uses in all commercial, industrial, and multiple use zoning districts.
 - D. Site grading.
3. Design Review approval shall not be required for the following:
 - A. All uses listed as Permitted Uses in the RA, R10, R7, R5, and R4 residential zoning districts.
 - B. Detached dwellings and related residential accessory structures in any zoning district.
 - C. Maintenance of a building, structure, or site in a manner that is consistent with previous approvals.
 - D. Painting of any building in any zoning district.
 - E. Wireless communication facilities.
4. Design review approval through one of the procedures noted in Section 40.20.15. will be required for all new development where applicable. The applicable design principles, standards or guidelines will serve as approval criteria depending on the procedure. Existing developments, and proposed additions, demolitions and redevelopments associated with them, will be treated according to the following principles:

EXHIBIT A

1 40.20.10.4.
2

3 A. Development constructed or approved prior to the effective date
4 of the ordinance adopting the design review update is not
5 subject to new principles, standards and guidelines, and is
6 considered fully conforming to the approvals issued at the time
7 the development was approved by the City. Existing
8 developments are not considered non-conforming if they do not
9 meet new design standards. If existing development is
10 structurally damaged or destroyed by casualty, replacement
11 shall occur as follows:
12

13 1. If structural damage or destruction is less than or equal
14 to fifty percent (50%) of the existing gross floor area of the
15 existing development, the area of damage or destruction
16 can be replaced as legally existed on the site before the
17 casualty loss.
18

19 2. If structural damage or destruction is more than fifty
20 percent (50%) of the existing gross floor area of the
21 existing development, the area of damage or destruction
22 must meet the provisions of this Code in every regard
23 unless otherwise authorized by the provisions of this
24 Code.
25

26 B. Proposed new free-standing building(s) within an existing
27 development will be subject to all applicable design standards.
28

29 C. Proposed redevelopment of existing structures, where demolition
30 of up to and including 25% of the area of the existing structure is
31 proposed, new design standards or design guidelines are not
32 applicable. If demolition is proposed greater than 25% up to and
33 including 50% of the existing structure, 10% of the overall
34 construction budget for new building improvements will be
35 required to be devoted to improving portions of the building so
36 as to meet applicable design standards or design guidelines. If
37 demolition is proposed greater than 50% of the area of the
38 existing structure, the full redevelopment project is subject to all
39 applicable design standards or design guidelines.
40
41
42
43
44

EXHIBIT A

1 40.20.10.

2
3 5. Design Review approval is required for all applicable new and existing
4 developments. The City recognizes, however, that meeting all
5 applicable design standards in an early phase of a multi-phased
6 development on a large site may be difficult. It also recognizes that
7 creating high quality pedestrian environments along Arterial Streets
8 poses many challenges. In recognition of these and other issues, the
9 following options are available.

10
11 A. Projects may use a Design Review Build-out Concept Plan
12 (DRBCP), approved through a Type 3 process, to develop a site
13 by demonstrating conceptually full compliance at build-out with
14 the design review standards established in Section 60.05. Such
15 projects must demonstrate in a DRBCP how future development
16 of the site, to the minimum applicable floor area development
17 standards contained in Chapter 20 of the Beaverton
18 Development Code and to the minimum applicable design
19 standards contained in Chapter 60.05 or greater, can be
20 achieved at ultimate build out of the DRBCP. A DRBCP shall:

- 21
22 1. Include an overall site area of at least three (3) acres;
23
24 2. Not rely on the removal of a structure greater than 20% of
25 the gross floor area of a development constructed in an
26 early phase in order to demonstrate compliance in later
27 phases.

28
29 B. When a development site abuts two (2) or more Arterial Streets
30 that are also designated a Major Pedestrian Routes, application
31 of the applicable design standards of may be moved from along
32 the Arterial Streets. This alternative is to provide parking lot
33 drive aisles developed as internal private streets, and to locate
34 buildings along the internal private streets, subject to the
35 following:

- 36
37 1. The internal private streets shall extend from the Arterial
38 Street to another public street, or back to an Arterial
39 Street in such a way that street continuity is maintained
40 along the entire internal street, and with abutting
41 properties.
42
43 2. A public access easement shall be required along the
44 internal private streets.

EXHIBIT A

1 40.20.10.5.B.
2

3 3. Buildings shall occupy a minimum percentage of the
4 frontage of the internal private streets that is equal to the
5 amount of lineal building frontage that would have been
6 required under the standards for the Major Pedestrian
7 Routes, and a minimum of 50% of the internal private
8 streets shall have building frontage on both sides of the
9 street.

10
11 4. All applicable design standards contained in Section
12 60.05, particularly 60.05.15.6 Building location and
13 orientation along streets in Multiple Use Districts,
14 60.05.15.7 Building scale along streets in Multiple Use
15 Districts, 60.05.20.9 Street frontages in Multiple Use
16 Districts, and 60.05.20.10 Ground floor uses in parking
17 structures shall be met by buildings along the internal
18 private streets.
19
20
21

EXHIBIT A

1 **40.20.15. Application.**
2

3 There are three (3) Design Review applications which are as follows: Design
4 Review Compliance Letter, Design Review Two, and Design Review Three.
5

6 **1. Design Review Compliance Letter.**
7

8 A. Threshold. An applicant may utilize the Design Review
9 Compliance Letter process when the application is limited to one
10 or more of the following categories of proposed action:
11

12 1. Minor design changes to existing building or site
13 including, but not limited to:
14

- 15 a. Façade changes, except changes in color.
- 16 b. Addition, elimination, or change in location of
17 windows.
- 18 c. Addition, elimination, or change in location of
19 person doors and loading doors.
- 20 d. Addition of new and change to existing awnings,
21 canopies, and other mounted structures to an
22 existing façade.
- 23 e. Demolition or other reduction of up to 25 percent of
24 the existing building square footage.
- 25 f. Modification of on-site landscaping with no
26 reduction in required landscaping.
- 27 g. Modification of off-street parking with no reduction
28 in required parking spaces or increase in paved
29 area.
- 30 h. Addition of new fences, retaining walls, or both.
- 31 i. Changing of existing grade.
32

33 2. Proposed additions of gross floor area to buildings in
34 residential, commercial, or multiple use zones up to and
35 including building area equal to 25% of the gross square
36 feet of floor area of the existing building, but not to exceed
37 2,500 gross square feet of floor area.
38

39 3. Proposed additions to buildings in industrial zones up to
40 and including building area equal to 15% of the gross
41 square feet of floor area of the existing building, but less
42 than 30,000 gross square feet of floor area.
43
44

EXHIBIT A

1 40.20.15.1.

2
3 B. Procedure Type. The Type 1 procedure, as described in Section
4 50.35 of this Code, shall apply to an application for Design
5 Compliance Letter. The decision making authority is the
6 Director.

7
8 C. Approval Criteria.

- 9
10 1. The proposal satisfies the threshold requirements for a
11 Design Compliance Review Letter.
12
13 2. All City application fees related to the application under
14 consideration by the decision making authority have been
15 submitted.
16
17 3. The proposal contains all applicable application submittal
18 requirements as specified in Section 50.25.1 of the
19 Development Code.
20
21 4. The proposal meets all applicable Site Development
22 Requirements of Sections 20.05.50, 20.10.50, 20.15.50,
23 and 20.20.50 of this Code unless the applicable provisions
24 are subject to an Adjustment, Planned Unit Development,
25 or Variance application which shall be already approved
26 or considered concurrently with the subject proposal.
27
28 5. The proposal is consistent with all applicable provisions of
29 Sections 60.05.15 through 60.05.30 (Design Standards).
30
31 6. If applicable, the proposed addition to an existing
32 building, and only that portion of the building containing
33 the proposed addition, complies with the applicable
34 provisions of Sections 60.05.15 through 60.05.30 (Design
35 Standards) as they apply to the following:
36
37 a. Building articulation and variety.
38 b. Roof forms.
39 c. Building materials.
40 d. Perimeter/foundation landscaping requirements.
41 e. Screening roof-mounted equipment requirements.
42 f. Screening loading areas, solid waste facilities and
43 similar improvements.
44 g. Lighting requirements.

EXHIBIT A

1 40.20.15.1.C.
2

3 7. The proposal complies with all applicable provisions in
4 Chapter 60 (Special Regulations).
5

6 8. The proposal does not modify any conditions of approval
7 of a previously approved Type 2 or Type 3 application.
8

9 9. Applications and documents related to the request, which
10 will require further City approval, shall be submitted to
11 the City in the proper sequence.
12

13 D. Submission Requirements. An application for a Design
14 Compliance Letter shall be made by the owner of the subject
15 property, or the owner's authorized agent, on a form provided by
16 the Director and shall be filed with the Director. The Design
17 Compliance Letter application shall be accompanied by the
18 information required by the application form, and by Section
19 50.25 (Application Completeness), and any other information
20 identified through a Pre-Application Conference.
21

22 E. Conditions of Approval. The decision making authority may
23 impose conditions on the approval of a Design Compliance
24 Letter application to ensure compliance with the approval
25 criteria.
26

27 F. Appeal of a Decision. Refer to Section 50.60.
28

29 G. Expiration of a Decision. Refer to Section 50.90.
30

31 H. Extension of a Decision. Refer to Section 50.93.
32
33

EXHIBIT A

1 40.20.15.
2

3 **2. Design Review Two.**
4

5 A. Threshold. An application for Design Review Two shall be
6 required when an application is subject to applicable design
7 standards and one or more of the following thresholds describe
8 the proposal:
9

10 1. New construction of up to and including 50,000 gross
11 square feet of floor area where the development does not
12 abut any residential zone.
13

14 2. New construction of up to and including 30,000 gross
15 square feet of floor area where the development abuts or
16 is located within any residential zone.
17

18 3. Additions to buildings in residential, commercial, or
19 multiple use zones exceeding 25% of the gross square feet
20 of floor area of the existing building(s), but less than
21 30,000 gross square feet of floor area.
22

23 4. Proposed additions to buildings in industrial zones
24 exceeding 15% of the gross square feet of floor area of the
25 existing building(s), but less than 30,000 gross square
26 feet.
27

28 5. Any change in excess of 15 percent of the square footage
29 of on-site landscaping or pedestrian circulation area.
30

31 6. Any new or change to existing on-site vehicular parking,
32 maneuvering, and circulation area which adds paving or
33 parking spaces.
34

35 7. New parks in non-residential zoning districts.
36

37 B. Procedure Type. The Type 2 procedure, as described in Section
38 50.40 of this Code, shall apply to an application for Design
39 Review Two. The decision making authority is the Director.
40
41
42
43
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EXHIBIT A

1 40.20.15.2.

2
3 C. Approval Criteria.

- 4
5 1. The proposal satisfies the threshold requirements for a
6 Design Review Two application.
7
8 2. All City application fees related to the application under
9 consideration by the decision making authority have been
10 submitted.
11
12 3. The proposal contains all applicable application submittal
13 requirements as specified in Section 50.25.1 of the
14 Development Code.
15
16 4. The proposal is consistent with all applicable provisions of
17 Sections 60.05.15 through 60.05.30 (Design Standards).
18
19 5. For additions to or modifications of existing development,
20 the proposal is consistent with all applicable provisions of
21 Sections 60.05.15 through 60.05.30 (Design Standards) or
22 can demonstrate that the additions or modifications are
23 moving towards compliance of specific Design Standards
24 if any of the following conditions exist:
25
26 a. A physical obstacle such as topography or natural
27 feature exists and prevents the full implementation
28 of the applicable standard; or
29
30 b. The location of existing structural improvements
31 prevent the full implementation of the applicable
32 standard; or
33
34 c. The location of the existing structure to be modified
35 is more than 300 feet from a public street.
36
37
38
39
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EXHIBIT A

1 40.20.15.2.C.5.
2

3 If the above listed conditions are found to exist and it is
4 not feasible to locate a proposed addition in such a way
5 that the addition abuts a street, then all applicable design
6 standards except the following must be met:
7

8 a. If in a Multiple-Use District, building location,
9 entrances and orientation along streets, and
10 parking lot limitations along streets (Standards
11 60.05.15.6 and 60.05.20.8)
12

13 b. If in a Multiple-Use or Commercial District, ground
14 floor elevation window requirements (Standard
15 60.05.15.8).
16

17 6. Applications and documents related to the request, which
18 will require further City approval, shall be submitted to
19 the City in the proper sequence.
20

21 D. Submission Requirements. An application for a Design Review
22 Two shall be made by the owner of the subject property, or the
23 owner's authorized agent, on a form provided by the Director
24 and shall be filed with the Director. The Design Review Two
25 application shall be accompanied by the information required by
26 the application form, and by Section 50.25 (Application
27 Completeness), and any other information identified through a
28 Pre-Application Conference.
29

30 E. Conditions of Approval. The decision making authority may
31 impose conditions on the approval of a Design Review Two
32 application to ensure compliance with the approval criteria.
33

34 F. Appeal of a Decision. Refer to Section 50.65.
35

36 G. Expiration of a Decision. Refer to Section 50.90.
37

38 H. Extension of a Decision. Refer to Section 50.93.

EXHIBIT A

1 40.20.15.
2

3 **3. Design Review Three.**
4

5 A. Threshold. An application for Design Review Three shall be
6 required when an application is subject to applicable design
7 guidelines and one or more of the following thresholds describe
8 the proposal:
9

- 10 1. New construction or addition of more than 50,000 gross
11 square feet of floor area where the development does not
12 abut any residential zone.
13
- 14 2. New construction or addition of more than 30,000 gross
15 square feet of floor area where the development abuts or
16 is located within any residential zone.
17
- 18 3. Additions to buildings in residential, commercial, or
19 multiple use zones exceeding 25% of the gross square feet
20 of floor area of the existing building(s) and more than
21 30,000 gross square feet of floor area.
22
- 23 4. Additions to buildings in industrial zones exceeding 15%
24 of the gross square feet of floor area of the existing
25 building(s) and more than 30,000 gross square feet.
26
- 27 5. Projects proposed utilizing the options described in
28 Section 40.20.10.5.
29
- 30 6. New parks in residential zoning districts.
31
- 32 7. A project meeting the Design Review Compliance Letter
33 thresholds which does not meet an applicable design
34 standard(s).
35
- 36 8. A project meeting the Design Review Two thresholds
37 which does not meet an applicable design standard.
38

39 B. Procedure Type. The Type 3 procedure, as described in Section
40 50.45 of this Code, shall apply to an application for Design
41 Review Three. The decision making authority is the Board of
42 Design Review.
43
44

EXHIBIT A

1 40.20.15.3.
2

3 C. Approval Criteria.
4

- 5 1. The proposal satisfies the threshold requirements for a
6 Design Review Three application.
7
- 8 2. All City application fees related to the application under
9 consideration by the decision making authority have been
10 submitted.
11
- 12 3. The proposal contains all applicable application submittal
13 requirements as specified in Section 50.25.1 of the
14 Development Code.
15
- 16 4. The proposal is consistent with all applicable provisions of
17 Sections 60.05.35 through 60.05.50 (Design Guidelines).
18
- 19 5. For additions to or modifications of existing development,
20 the proposal is consistent with all applicable provisions of
21 Sections 60.05.35 through 60.05.50 (Design Guidelines) or
22 can demonstrate that the additions or modifications are
23 moving towards compliance of specific Design Guidelines
24 if any of the following conditions exist:
25
- 26 a. A physical obstacle such as topography or natural
27 feature exists and prevents the full implementation
28 of the applicable guideline; or
29
- 30 b. The location of existing structural improvements
31 prevent the full implementation of the applicable
32 guideline; or
33
- 34 c. The location of the existing structure to be modified
35 is more than 300 feet from a public street.
36
37
38
39
40
41
42
43
44

EXHIBIT A

1 40.20.15.3.C.5.

2 If the above listed conditions are found to exist and it is
3 not feasible to locate a proposed addition in such a way
4 that the addition abuts a street, then all applicable design
5 standards except the following must be met:
6

7 a. If in a Multiple-Use District, building location,
8 entrances and orientation along streets, and
9 parking lot limitations along streets (Standards
10 60.05.15.6 and 60.05.20.8)

11
12 b. If in a Multiple-Use or Commercial District, ground
13 floor elevation window requirements (Standard
14 60.05.15.8).

15
16 6. For DRBCP proposals which involve the phasing of
17 required floor area, the proposed project shall
18 demonstrate how future development of the site, to the
19 minimum development standards established in this Code
20 or greater, can be realistically achieved at ultimate build
21 out of the DRBCP.

22
23 7. Applications and documents related to the request, which
24 will require further City approval, shall be submitted to
25 the City in the proper sequence.

26
27 D. Submission Requirements. An application for a Design Review
28 Three shall be made by the owner of the subject property, or the
29 owner's authorized agent, on a form provided by the Director
30 and shall be filed with the Director. The Design Review Three
31 application shall be accompanied by the information required by
32 the application form, and by Section 50.25 (Application
33 Completeness), and any other information identified through a
34 Pre-Application Conference.

35
36 E. Conditions of Approval. The decision making authority may
37 impose conditions on the approval of a Design Review Three
38 application to ensure compliance with the approval criteria.

39
40 F. Appeal of a Decision. Refer to Section 50.70.

41
42 G. Expiration of a Decision. Refer to Section 50.90.

43
44 H. Extension of a Decision. Refer to Section 50.93.

EXHIBIT B

1 **60.05 DESIGN REVIEW DESIGN PRINCIPLES, STANDARDS AND**
2 **GUIDELINES**

3
4 **60.05.05 Purpose.** The following design principles, standards and guidelines
5 shall be met by new development, and redevelopment where
6 applicable, throughout the City in the following zoning districts:
7

- 8 1. Attached residential developments in the R-3.5, R-2 and R-1 zones and
9 in planned unit developments in the R-10, R-7, R-5 and R-4 zones
10 when attached residential developments are proposed,
11
- 12 2. Conditional uses in residential zoning districts where a new building
13 or major remodeling of an existing building is proposed and public
14 parks,
15
- 16 3. Development in multiple-use districts,
17
- 18 4. Commercial office, retail, and service developments, and
19
- 20 5. Industrial developments.
21

22 **60.05.10. Design Principles.** The following design principles are general
23 statements to guide the development of the built environment, the
24 appearance of that development, and the affect of that development to
25 the existing surroundings. The design guidelines and standards
26 implement these principles.
27

- 28 1. **Building Design and Orientation.** Design buildings that enhance
29 the visual character of the community and take into account the
30 surrounding neighborhoods, provide permanence, and create a sense of
31 place. In residential, commercial and multiple-use districts, design
32 buildings that contribute to a safe, high quality pedestrian-oriented
33 streetscape.
34
- 35 2. **Multiple Use District Building Orientation and Design.** Locate
36 buildings so they are conveniently and safely accessible from on-site
37 and off-site sidewalks and streets, and so buildings near the edge of a
38 right of way provide a high quality, pedestrian oriented streetscape,
39 contribute to safety by offering “eyes on the street” and promote
40 pedestrian safety and use. Provide a pedestrian-friendly environment
41 through building and site design treatments that may vary in nature
42 and degree depending on the character of the urban area, the
43 characteristics of the street, and the type of use and development
44 proposed.

EXHIBIT B

1 60.05.10.
2

3 **3. Circulation and Parking Design.** Provide integrated multi-modal
4 circulation and parking improvements that are safe and convenient,
5 connect to surrounding neighborhoods and streets, and serve the needs
6 of development.
7

8 **4. Landscape, Open Space, and Natural Areas Design.** Create
9 landscape areas that contribute to the aesthetics of the community,
10 conserve, protect, enhance or restore natural features and the natural
11 environment, provide an attractive setting for buildings, and provide
12 safe, interesting outdoor spaces for residents, customers, employees,
13 and the community. Whenever possible, utilize native vegetative
14 species which are disease and drought tolerant.
15

16 **5. Lighting Design.** Provide exterior lighting for buildings, parking
17 lots, pedestrian pathways, vehicular areas, pedestrian plazas, public
18 open spaces to ensure public safety and convenience, and to minimize
19 excessive illumination on environmentally sensitive areas, adjoining
20 properties, and streets.
21

22 **60.05.15. Building Design and Orientation Standards.** Unless otherwise
23 noted, all standards apply in all zoning districts.
24

25 **1. Building articulation and variety.**
26

27 A. Residential buildings in residential zones shall be limited in
28 length to two hundred (200) feet.
29

30 B. Buildings visible from and within 200 feet of an adjacent public
31 street except for manufacturing, assembly, fabricating,
32 processing, packing, storage and wholesale and distribution
33 activities which are the principle use of a building in industrial
34 districts where elevations visible from and within 100 feet of an
35 adjacent public street, and elevations that include a primary
36 building entrance or multiple tenant entrances, excluding roofs,
37 shall have a minimum portion of the elevation devoted to
38 permanent architectural features designed to provide
39 articulation and variety. These permanent features include, but
40 are not limited to windows, bays and offsetting walls that extend
41 at least eighteen inches (18”), recessed entrances, loading doors
42 and bays, and changes in material types. Changes in material
43 types shall have a minimum dimension of two feet and
44 minimum area of 25 square feet. The percentage of the total
45 square footage of elevation area is:

EXHIBIT B

1 60.05.15.1.B.
2

3 1. Thirty (30) percent in residential zones, and all uses in
4 multiple-use and commercial zones.
5

6 2. Fifty (50) percent in commercial zones where glazing is
7 less than thirty five (35) percent pursuant to Section
8 60.05.15.8.A.3.
9

10 3. Fifteen (15) percent in industrial uses.
11

12 C. The maximum spacing between permanent architectural
13 features shall be no more than:
14

15 1. Forty (40) feet in residential zones, and all uses in
16 multiple-use, and commercial zones.
17

18 2. Sixty (60) feet in industrial zones.
19

20 **2. Roof forms.**
21

22 A. All sloped roofs exposed to view from adjacent public or private
23 streets and properties shall have a minimum 4/12 pitch.
24

25 B. Sloped roofs on residential uses in residential zones, and all uses
26 in multiple-use and commercial zones, shall have eaves,
27 exclusive of rain gutters, that must project from the building
28 wall at least twelve (12) inches.
29

30 C. All flat roofs with a slope of less than 4/12 pitch shall be
31 architecturally treated or articulated with a parapet wall that
32 must project vertically above the roof line at least twelve (12)
33 inches.
34

35 D. When an addition to an existing structure or a new structure is
36 proposed in an existing development, the roof forms for the new
37 structures shall have similar slope and be constructed of the
38 same materials as existing roofs.
39

40 E. Smaller feature roofs are not subject to the standards of this
41 Section.
42
43
44

EXHIBIT B

1 60.05.15.
2

- 3 **3. Primary building entrances.** Primary entrances, which are the
4 main point(s) of entry where the majority of building users will enter
5 and leave, shall be covered, recessed, or treated with a permanent
6 architectural feature in such a way that weather protection is
7 provided. The covered area providing weather protection shall be at
8 least six (6) feet wide and four (4) feet deep.
9

10 **4. Exterior building materials**
11

- 12 A. For residential uses in residential districts, a minimum of
13 seventy-five (75) percent of each elevation that is visible from
14 and within 200 feet of a public street or a public park, public
15 plaza or other public open space, and on elevations that include
16 a primary building entrance or multiple tenant entrances shall
17 be double wall construction.
18

- 19 B. For conditional uses in residential zones and all uses in
20 multiple-use, commercial and industrial zones, except for
21 manufacturing, fabricating, processing, packing, storage and
22 wholesale and distribution facilities which is a principle use of
23 the site in industrial zones, a maximum of thirty (30) percent of
24 each elevation that is visible from and within 200 feet of a public
25 street or a public park, public plaza or other public open space,
26 and on elevations that include a primary building entrance or
27 multiple tenant entrances may be plain, smooth, unfinished
28 concrete, concrete block, plywood and sheet pressboard. In the
29 case of manufacturing, fabricating, processing, packing, storage
30 and wholesale and distribution facilities which is a principle use
31 of the site in industrial zones, this standard shall apply to the
32 primary elevation that is visible from and within 200 feet of a
33 public street or a public park, public plaza or other public open
34 space. The remaining elevation area for all applicable uses in
35 all applicable zones shall be architecturally treated.
36 Appropriate methods of architectural treatment shall include,
37 but are not limited to, scoring, changes in material texture, and
38 the application of other finish materials such as wood, rock,
39 brick or tile wall treatment.
40
41
42
43
44

EXHIBIT B

1 60.05.15.4.
2

- 3 C. For conditional uses in residential zones and all uses in multiple
4 use and commercial districts, plain, smooth, exposed concrete
5 and concrete block used as foundation material shall not be
6 more than three (3) feet above the finished grade level adjacent
7 to the foundation wall, unless pigmented, textured, or both. In
8 industrial districts, foundations may extend up to four (4) feet
9 above the finished grade level.

10
11 **5. Roof-mounted equipment.**

- 12
13 A. All roof-mounted equipment shall be screened from view from
14 adjacent streets or adjacent properties in one of the following
15 ways:

- 16
17 1. A parapet wall; or
18
19 2. A screen around the equipment that is made of a primary
20 exterior finish material used on other portions of the
21 building; or
22
23 3. Setback from the street-facing elevation such that it is not
24 visible from the public street(s).

- 25
26 B. The vertical measuring distance for required screening shall be
27 measured at five (5) feet above the finished or existing grade of
28 the abutting property or public right-of-way adjacent to the
29 development site's front yard setback for a distance of one
30 hundred (100) lineal feet measured outward from the
31 development site's front property line. Once the vertical
32 measuring distance is established for the site's front yard, this
33 same vertical measuring distance shall be applied to all sides of
34 the development site's perimeter property lines.

- 35
36 C. Solar panels, dishes/antennas, pipes, vents, and chimneys are
37 exempt from this standard.
38
39
40
41
42
43
44

EXHIBIT B

1 60.05.15.
2

3 **6. Building location and orientation along streets in Multiple Use**
4 **and Commercial zoning districts.**
5

6 A. Buildings in Multiple Use zones shall occupy a minimum public
7 street frontage as follows:
8

9 1. 50 percent of the street frontage where a parcel abuts a
10 Class 1 Major Pedestrian Route.
11

12 2. 35 percent of the street frontage where a parcel abuts a
13 Class 2 Major Pedestrian Route.
14

15 B. Buildings in Commercial zones shall occupy a minimum of 35
16 percent public street frontage where a parcel exceeds 60,000
17 gross square feet. These buildings shall be located no further
18 than 20 feet from the property line. The area between the
19 building and property line shall be landscaped to standards
20 found in Section 60.05.25.3.B or 60.05.25.3.C.
21

22 C. Buildings on corner lots of multiple Major Pedestrian Routes
23 shall be located at the intersections of the Major Pedestrian
24 Routes. Where a site has more than one corner on a Major
25 Pedestrian Route, this requirement must be met at only one
26 corner.
27

28 D. All buildings that abut a Class 1 Major Pedestrian Route shall
29 have at least one primary building entrance oriented toward, or
30 with a direct pedestrian connection to an abutting street or
31 pedestrian way. Where there is more than one abutting Class 1
32 Major Pedestrian Route, the primary entrance shall have a
33 reasonably direct pedestrian connection to a minimum of one
34 abutting Class 1 Major Pedestrian Route or shall be oriented to
35 a Class 1 Major Pedestrian Route corner. Pedestrian
36 connections shall:
37

38 1. Be no more than 100 feet long (between the building
39 entrance and street), and
40

41 2. Shall not cross vehicular circulation and parking areas.
42

43 E. Secondary entrances may face on streets, off-street parking
44 areas, or landscaped courtyards.

EXHIBIT B

1 60.05.15.
2

3 **7. Building scale along Major Pedestrian Routes**
4

5 A. The height of any portion of a building at the property line as
6 measured from the finished grade at the property line abutting a
7 Major Pedestrian Route shall be a minimum of twenty- two (22)
8 feet and a maximum of sixty (60) feet. The City shall authorize
9 heights greater than sixty (60) feet if the portion of a building
10 that is greater than sixty (60) feet in height is twenty (20) feet
11 from the property line and the proposed height is consistent
12 with Section 20.20.50. for the specific zoning district.
13

14 B. The maximum heights specified in Section 20.20.50 shall not be
15 exceeded, unless separately authorized through an adjustment
16 or variance application.
17

18 **8. Ground floor elevations on commercial and multiple use**
19 **buildings.**
20

21 A. Except those used exclusively for residential use, ground floor
22 elevations visible from and within 200 feet of a public street,
23 Major Pedestrian Route, or a public park, public plaza or other
24 public open space, and elevations that include a primary
25 building entrance or multiple tenant entrances, shall have the
26 following minimum percent of the ground floor elevation area
27 permanently treated with windows, display areas or glass
28 doorway openings.
29

- 30 1. Class 1 Major Pedestrian Routes: Fifty (50) percent.
- 31 2. Class 2 Major Pedestrian Routes: Thirty-five (35) percent.
- 32 3. Buildings on parcels in excess of 25,000 gross square feet
33 within a Commercial zoning district: Thirty-five (35)
34 percent.
35

36 Less glazing may be provided in a commercial zoning
37 district when increased building articulation and
38 architectural variety is provided pursuant to Section
39 60.05.15.1.B.2 of this Code.
40

41 For the purpose of this standard, ground floor elevation area
42 shall be measured from three (3) feet above grade to ten (10) feet
43 above grade the entire width of the elevation. The ground floor
44 elevation requirements shall be met from grade to twelve (12)
45 feet above grade.

EXHIBIT B

1 60.05.15.8.

2
3 B. Except those used exclusively for residential use, ground floor
4 elevations that are located on a Major Pedestrian Route,
5 sidewalk, or other space where pedestrians are allowed to walk
6 shall provide weather protection to the following minimum
7 percent of the length of the elevation.
8

9 1. Class 1 Major Pedestrian Routes: Fifty (50) percent.

10
11 2. Class 2 Major Pedestrian Routes: Thirty-five (35) percent.
12

13
14 **60.05.20. Circulation and Parking Design Standards.** Unless otherwise
15 noted, all standards apply in all zoning districts.
16

17 1. **Connections to the public street system.** Connections shall be
18 provided between the on-site circulation system and adjacent existing
19 and planned streets as specified in Tables 6.1 through 6.6 and Figures
20 6.1 through 6.23 of the Comprehensive Plan Transportation Element.
21

22 2. **Loading areas, solid waste facilities and similar improvements.**
23

24 A. All on-site service areas, outdoor storage areas, waste storage,
25 disposal facilities, transformer and utility vaults and similar
26 activities shall be located in an area not visible from a public
27 street, or shall be fully screened from view from a public street.
28

29 B. Except for manufacturing, assembly, fabricating, processing,
30 packing, storage and wholesale and distribution activities which
31 are the principle use of a building in industrial districts, all
32 loading docks and loading zones shall be located in an area not
33 visible from a public street, or shall be fully screened from view
34 from a public street.
35

36 C. Screening from public view for service areas, loading docks,
37 loading zones and outdoor storage areas, waste storage, disposal
38 facilities, transformer and utility vaults and similar activities
39 shall be fully sight-obscuring, shall be constructed a minimum of
40 one foot higher than the feature to be screened, and shall be
41 accomplished by one or more of the following methods:
42

43 1. Solid screen wall constructed of primary exterior finish
44 materials utilized on primary buildings,

EXHIBIT B

1 60.05.20.2.
2

- 3 2. Solid hedge wall with a minimum ninety-five (95) percent
4 opacity within two (2) years.
5 3. Solid wood fence
6

7 D. Screening from public view by chain-link fence with or without
8 slats is prohibited.
9

10 E. Screening of loading zones may be waived in commercial and
11 multiple-use districts if the applicant demonstrates the type and
12 size of loading vehicles will not detract from the project's
13 aesthetic appearance and the timing of loading will not conflict
14 with the hours or operations of the expected businesses.
15

16 3. Pedestrian circulation. 17

18 A. Pedestrian connections shall be provided that link to adjacent
19 existing and planned pedestrian facilities as specified in Tables
20 6.1 through 6.6 and Figures 6.1 through 6.23 of the
21 Comprehensive Plan Transportation Element, and to the
22 abutting public street system and on-site buildings, parking
23 areas, and other facilities where pedestrian access is desired.
24 Pedestrian connections shall be provided except when one or
25 more of the following conditions exist:
26

- 27 1. Where physical or topographic conditions, such as a grade
28 change of ten (10) feet or more at a property line to an
29 adjacent pedestrian facility, make connections
30 impractical,
31
32 2. Where uses including manufacturing, assembly,
33 fabricating, processing, packing, storage and wholesale
34 and distribution activities which are the principle use of a
35 building in industrial districts occur,
36
37 3. Where on-site activities such as movement of trucks,
38 forklifts, and other large equipment would present
39 potential conflicts with pedestrians, or
40
41 4. Where buildings or other existing development on
42 adjacent lands physically preclude a connection now or in
43 the future.
44

EXHIBIT B

1 60.05.20.3.

- 2
- 3 B. A reasonably direct walkway connection is required between
- 4 primary entrances, which are the main point(s) of entry where
- 5 the majority of building users will enter and leave, and public
- 6 and private streets, transit stops, and other pedestrian
- 7 destinations.
- 8
- 9 C. A reasonably direct pedestrian walkway into a site shall be
- 10 provided for every 300 feet of street frontage or for every eight
- 11 aisles of vehicle parking if parking is located between the
- 12 building and the street. A reasonably direct walkway shall also
- 13 be provided to any accessway abutting the site. This standard
- 14 may be waived when topographic conditions, man-made
- 15 features, natural areas, etc. preclude walkway extensions to
- 16 adjacent properties.
- 17
- 18 D. Pedestrian connections through parking lots shall be physically
- 19 separated from adjacent vehicle parking and parallel vehicle
- 20 traffic through the use of curbs, landscaping, trees, and lighting,
- 21 if not otherwise provided in the parking lot design.
- 22
- 23 E. Where pedestrian connections cross driveways or vehicular
- 24 access aisles a continuous walkway shall be provided, and shall
- 25 be composed of a different paving material than the primary on-
- 26 site paving material.
- 27
- 28 F. Pedestrian walkways shall have a minimum of five (5) foot wide
- 29 unobstructed clearance.
- 30
- 31 G. Walkways shall be paved with scored concrete or modular
- 32 paving materials.
- 33
- 34 H. In the event that the Americans with Disabilities Act (ADA)
- 35 contains stricter standards for any pedestrian walkway, the
- 36 ADA standards shall apply.
- 37

38 **4. Street frontages and parking areas.**

39

- 40 A. Surface parking areas abutting a public street shall provide
- 41 perimeter parking lot landscaping which meets one of the
- 42 following standards:
- 43
- 44

EXHIBIT B

1 60.05.20.4.A.

- 2 1. A minimum five (5)-foot wide planting strip between the
3 right-of-way and the parking area. Pedestrian walkways
4 and vehicular driveways may cross the planting strip.
5 Trees shall be planted at a minimum 2 1/2 inch caliper at
6 a maximum of thirty (30) feet on center. Planting strips
7 shall be planted with an evergreen hedge that will
8 provide a 30-inch high screen and fifty (50) percent
9 opacity within two years. The maximum height shall be
10 maintained at no more than thirty-six (36) inches. Areas
11 not covered by trees or hedge shall be landscaped with
12 live ground cover. Bumper overhangs which intrude into
13 the planting strip shall not impact required trees or
14 hedge; or
15
16 2. A solid wall or fence 30 to 36 inches in height parallel to
17 and not nearer than four (4) feet from the right-of-way
18 line. The area between the wall or fence and the street
19 line shall be landscaped with live ground cover.
20 Pedestrian walkways and vehicular driveways may cross
21 the wall or fence.
22

23 5. Parking area landscaping.

- 24 A. Landscaped planter islands shall be required according to the
25 following:
26
27 1. Residential uses in residential zones, one for every eight
28 (8) contiguous parking spaces.
29 2. All uses in multiple-use and commercial zones, one for
30 every ten (10) contiguous parking spaces.
31 3. All conditional uses in residential zones and industrial
32 uses, one for every twelve (12) contiguous parking spaces.
33
34 B. The island shall have a minimum area of 70 square feet, and a
35 minimum width of 6 feet, and shall be curbed to protect
36 landscaping. The landscaped island shall be planted with a tree
37 having a minimum mature height of 20 feet. If a pole-mounted
38 light is proposed to be installed within a landscaped planter
39 island, and an applicant demonstrates that there is a physical
40 conflict for siting the tree and the pole-mounted light together,
41 the decision-making authority may waive the planting of the
42 tree, provided that at least seventy-five (75) percent of the
43 required islands contain trees. Landscaped planter islands shall
44 be evenly spaced throughout the parking area.
45

EXHIBIT B

1 60.05.20.5.
2

3 C. Linear raised sidewalks within the parking area connecting the
4 parking spaces and on-site building(s) may be counted towards
5 the total required number of landscaped islands, provided that
6 all of the following is met:
7

- 8 1. Trees are spaced a maximum of 30 feet on center on a
9 minimum of one side of the sidewalk.
- 10 2. The minimum unobstructed sidewalk width is five feet.
- 11 3. The sidewalk is separated from the parking area by curbs,
12 bollards, or other means on both sides.
- 13 4. Trees are located in planting area with groundcover or
14 planted in covered tree wells.
- 15 5. Trees within the linear sidewalk area shall constitute no
16 more than 50 percent of the total required number of
17 trees within required landscaped planter islands. All
18 remaining required trees shall be located within
19 landscaped planter islands.
20

21 D. Trees planted within required landscaped planter islands or the
22 linear sidewalk shall be of a type and species identified by the
23 City of Beaverton Street Tree List or an alternative approved by
24 the City Arborist.
25

26 **6. Off-Street parking frontages in Multiple-Use Districts.** Off-
27 street surface parking areas shall be located to the rear or side of
28 buildings. Surface parking areas located adjacent to public streets are
29 limited to a maximum of:
30

- 31 A. 50% of the street frontage along Class 1 Major Pedestrian
32 Routes, and
33
- 34 B. 65% along Class 2 Major Pedestrian Routes.
35

36 **7. Sidewalks along streets and primary building elevations in**
37 **Multiple-Use and Commercial Districts.**
38

- 39 A. A sidewalk is required on all streets. The sidewalk shall be a
40 minimum of ten (10) feet wide, and provide an unobstructed
41 path at least five (5) feet wide.
42
43
44

EXHIBIT B

1 60.05.20.7.
2

3 B. A sidewalk is required along building elevations that include a
4 primary building entrance, multiple tenant entrances or display
5 windows. The sidewalk shall be a minimum of ten (10) feet wide,
6 and provide an unobstructed path at least five (5) feet wide at
7 building entrances, and along elevations containing display
8 windows. Sidewalks shall be paved with scored concrete or
9 modular paving materials. If adjacent to parking areas, the
10 sidewalk shall be separated from the parking by a raised curb.

11
12 **8. Connect on-site buildings, parking, and other improvements**
13 **with identifiable streets and drive aisles in Residential,**
14 **Multiple-Use, and Commercial Districts.**
15

16 A. Parking lot drive aisles that link public streets and/or private
17 streets with parking stalls shall be designed as private streets,
18 unless one of the following is met:
19

- 20 1. The parking lot drive aisle is less than 100 feet long;
- 21 2. The parking lot drive aisle serves 2 or less residential
22 units; or
- 23 3. The parking lot drive aisle provides direct access to
24 angled or perpendicular parking stalls.
25
26
27

28 B. Private streets shall meet the following standards:
29

- 30 1. Private streets serving non-residential uses and
31 residential uses having five or more units shall have
32 raised curbs and minimum five (5) foot wide unobstructed
33 sidewalks on both sides.
34
- 35 2. Private streets serving less than five (5) units shall have
36 raised curbs and a minimum five (5) foot wide
37 unobstructed sidewalk on at least one side.
38
39
40
41
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EXHIBIT B

1 60.05.20.
2

- 3 **9. Ground floor uses in parking structures.** Parking structures
4 located on Major Pedestrian Routes shall incorporate one or more
5 active retail or commercial uses other than parking at ground level
6 along the entire portion of the structure fronting onto such routes.
7 Compliance to this standard is not required when a semi-subterranean
8 parking structure is proposed, provided that the height of such
9 structures, or portions thereof, is not greater than three and one-half
10 (3 1/2) feet above the elevation of the adjoining walkway or sidewalk.
11

12 **60.05.25. Landscape, Open Space, and Natural Areas Design Standards.**
13 Unless otherwise noted, all standards apply in all zoning districts.
14

15 **1. Minimum Common Open Space Requirements for Multi-Family**
16 **Development Consisting of ten (10) or more units.**
17

18 A. Common open space shall consist of active, passive, or both open
19 space areas, and shall be provided as follows:
20

21 1. One hundred fifty (150) square feet for each unit
22 containing 500 or less square feet of gross floor area.
23

24 2. Two hundred fifty (250) square feet for each unit
25 containing more than 500 square feet and up to 1200
26 square feet of gross floor area.
27

28 3. Three hundred fifty (350) square feet for each unit
29 containing more than 1200 square feet of gross floor area.
30

31 B. At least twenty-five (25) percent of the total required open space
32 area shall be active open space.
33

34 C. For the purposes of this Section, environmentally sensitive areas
35 shall be counted towards the minimum common open space
36 requirement. Aboveground landscaped water quality treatment
37 facilities shall be counted toward the minimum common open
38 space requirement.
39

40 D. For the purposes of this Section, vehicular circulation areas and
41 parking areas shall not be considered common open space.
42
43
44

EXHIBIT B

1 60.05.25.1.
2

3 E. For the purposes of this section, individual exterior spaces such
4 as outdoor patios and decks constructed to serve individual units
5 shall not be considered common open space.
6

7 F. Common open space shall not abut a collector or greater
8 classified street as identified in the City's adopted Functional
9 Classification Plan, unless that common open space shall be
10 allowed adjacent to these street classifications where separated
11 from the street by a constructed barrier at least three (3) feet in
12 height.
13

14 G. Common open space shall be no smaller than 400 square feet in
15 area, and shall have minimum length and width dimensions of
16 20 feet.
17

18 H. In phased developments, common open space shall be provided
19 in each phase of the development consistent with or exceeding
20 the requirements for the size and number of dwelling units
21 proposed.
22

23 I. Active common open spaces shall be included in all
24 developments, and shall include at least two (2) of the following
25 improvements:
26

- 27 1. A bench or other seating with a pathway or other
28 pedestrian way;
- 29 2. A water feature such as a fountain;
- 30 3. A children's play structure;
- 31 4. A gazebo;
- 32 5. Clubhouse;
- 33 6. Tennis courts
- 34 7. An indoor or outdoor sports court; or
- 35 8. An indoor or outdoor swimming and/or wading pool.
- 36 9. Plaza
37

38 J. The decision-making authority shall be authorized to consider
39 other improvements in addition to those provided under
40 subsection I, provided that these improvements provide a
41 similar level of active common open space usage.
42
43
44

EXHIBIT B

1 60.05.25.

2
3 **2. Minimum Landscaping Requirements for Required Front**
4 **Yards and Required Common Open Space in Multiple Family**
5 **Residential Zones**
6

7 A. All front yard areas in the R-3.5, R-2 and R-1 districts, and
8 required common open space areas in the R-2 and R-1 districts
9 not occupied by structures, walkways, driveways, plazas or
10 parking spaces shall be landscaped.

11
12 B. Landscaping shall include live plants or landscape features such
13 as fountains, ponds or other landscape elements. Bare gravel,
14 rock, bark and similar materials are not a substitute for plant
15 cover, and shall be limited to no more than twenty-five (25)
16 percent of the landscape area.

17
18 C. All street-facing elevations shall have landscaping along their
19 foundation. When a porch obstructs a foundation, landscaping
20 shall be installed along the outer edge of the porch. This
21 landscaping requirement shall not apply to portions of the
22 building facade that provide access for pedestrians or vehicles to
23 the building, or for plazas adjacent to the building. The
24 foundation landscaping shall meet the following minimum
25 standards:

26
27 1. The landscaped area shall be at least three (3) feet wide;
28 and,

29
30 2. For every three (3) lineal feet of foundation, an evergreen
31 shrub having a minimum mature height of twenty-four
32 (24) inches shall be planted; and,

33
34 3. Groundcover plants shall be planted in the remainder of
35 the landscaped area.
36

37 **3. Minimum Landscaping Requirements for Conditional Uses in**
38 **Residential Districts, and for Developments in Multiple-Use,**
39 **Commercial and Industrial Districts**
40

41 A. A minimum portion of the total gross lot area shall be
42 landscaped:
43
44

EXHIBIT B

1 60.05.25.3.A.

- 2 1. Conditional uses in residential districts, and all uses in
- 3 commercial and industrial districts, fifteen (15) percent;
- 4
- 5 2. All uses in multiple-use districts, ten (10) percent.
- 6
- 7 3. Environmentally sensitive areas shall be counted towards
- 8 the minimum landscape requirement. Aboveground
- 9 landscaped water quality treatment facilities shall be
- 10 counted toward the minimum landscape requirement.
- 11

12 B. The following minimum planting requirements for required

13 landscaped areas shall be complied with. These requirements

14 shall be used to calculate the total number of trees and shrubs to

15 be included within the required landscape area:

16

- 17 1. One (1) tree shall be provided for every eight hundred
- 18 (800) square feet of required landscaped area. Evergreen
- 19 trees shall have a minimum planting height of six (6) feet.
- 20 Deciduous trees shall have a minimum caliper of 1.5
- 21 inches at time of planting.
- 22
- 23 2. One (1) evergreen shrub having a minimum mature
- 24 height of forty-eight (48) inches shall be provided for
- 25 every four hundred (400) square feet of required
- 26 landscaped area.
- 27
- 28 3. Live ground cover consisting of low-height plants, or
- 29 shrubs, or grass shall be planted in the portion of the
- 30 landscaped area not occupied by trees or evergreen
- 31 shrubs. Bare gravel, rock, bark or other similar materials
- 32 may be used, but are not a substitute for ground cover
- 33 plantings, and shall be limited to no more than twenty-
- 34 five (25) percent of the required landscape area.
- 35

36 C. A hard surface pedestrian plaza or combined hard surface and

37 soft surface pedestrian plaza, if proposed shall be counted

38 towards meeting the minimum landscaping requirement,

39 provided that the hard-surface portion of the plaza shall not

40 exceed twenty-five (25) percent of the minimum landscaping

41 requirement for conditional uses in residential districts, and

42 shall be comprised of the following:

43

44

EXHIBIT B

1 60.05.25.3.C.
2

- 3 1. Brick pavers, or stone, scored, or colored concrete; and,
4
5 2. One (1) tree having a minimum mature height of twenty
6 (20) feet for every three hundred (300) square feet of plaza
7 square footage; and,
8
9 3. Street furniture including but not limited to benches,
10 tables, and chairs; and,
11
12 4. Pedestrian scale lighting consistent with the City's
13 Technical Lighting Standards; and,
14
15 5. Trash receptacles.

16
17 D. All building elevations visible from and within 200 feet of a
18 public street that do not have windows on the ground floor shall
19 have landscaping along their foundation, which shall be counted
20 toward the minimum landscaped requirement. This landscaping
21 requirement shall not apply to portions of the building facade
22 that provide access for pedestrians or vehicles to the building,
23 for plazas adjacent to the building, or when the building is
24 within three (3) feet of the property line. The foundation
25 landscaping shall be at least five (5) feet wide; and shall be
26 comprised of the following:

- 27
28 1. One (1) tree having a minimum planting height of six (6)
29 feet shall be planted for every thirty (30) lineal feet of
30 foundation.
31
32 2. One (1) shrub having a minimum mature height of
33 twenty-four (24) inches shall be planted for every three (3)
34 lineal feet of foundation and shall be planted between
35 required trees; and,
36
37 3. Groundcover plants shall be planted in the remainder of
38 the landscaped area not occupied by required trees and
39 shrubs, and shall not be planted in rows, but in a
40 staggered manner for more effective covering.
41
42
43
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EXHIBIT B

1 60.05.25.
2

3 4. **Public Open Space.** When, public open space is proposed by an
4 applicant, it shall be designed to provide passive open space, active
5 open space or both for the enjoyment of the general public unless
6 otherwise indicated in an open space master plan approved by the
7 City, THPRD or other jurisdiction. For the purposes of this Section,
8 public open space is defined as the portion of a site that is developed
9 for use by the general public, but is not dedicated and is kept under the
10 ownership and control of the private property owner. Passive open
11 space is where human activities are limited to defined walking and
12 seating areas. Active open space is where human activities include
13 recreational and social opportunities such as play fields, playgrounds,
14 swimming pools, plazas and other recreational facilities. Public open
15 space may be improved for passive or active recreational uses,
16 however, it shall not include environmentally sensitive areas such as a
17 wetland, riparian area, or significant tree grove. Public open space
18 may be counted towards the minimum landscape requirement,
19 provided the following is met unless otherwise approved in an open
20 space master plan:

- 21
- 22 A. The public open space is located at the perimeter of a parent
23 parcel abutting public right-of-way; or,
 - 24
 - 25 B. If not located at the perimeter of the parent parcel, the public
26 open space shall be visible from the public right-of-way, and
27 shall be accessible via a minimum five (5) foot wide pedestrian
28 pathway.
 - 29
 - 30 C. Pedestrian-scale lighting consistent with the City's Technical
31 Lighting Standards shall be provided.
 - 32

33 5. **Retaining Walls.** Retaining walls greater than six (6) feet in height
34 or longer than fifty (50) lineal feet used in site landscaping or as an
35 element of site design shall be architecturally treated with contrasting
36 scoring, or texture, or pattern, or off-set planes, or different applied
37 materials, or any combination of the foregoing, and shall be
38 incorporated into the overall landscape plan, or shall be screened by a
39 landscape buffer. Materials used on retaining walls should be similar
40 to materials used in other elements of the landscape plan or related
41 buildings, or incorporate other landscape or decorative features
42 exclusive of signs. If screening by a landscape buffer is utilized, a
43 buffer width of at least five (5) feet is required, landscaped to the B3-
44 High Screen Buffer standards.

EXHIBIT B

1 60.05.25.
2

3 **6. Fences and Walls**
4

5 A. Fences and walls shall be constructed of any materials
6 commonly used in the construction of fences and walls such as
7 wood, stone, rock, or brick, or other durable materials.
8

9 B. Chain link fences are acceptable as long as the fence is coated
10 and includes slats made of vinyl, wood or other durable
11 material. Slats may not be required when visibility into
12 features such as open space, natural areas, parks and similar
13 areas is needed to assure visual security, or into on-site areas in
14 industrial zones that require visual surveillance.
15

16 C. Masonry walls shall be a minimum of six inches thick. All other
17 walls shall be a minimum of three inches thick.
18

19 D. For manufacturing, assembly, fabricating, processing, packing,
20 storage and wholesale and distribution activities which are the
21 principle use of a building in industrial districts, the preceding
22 standards apply when visible from and within 200 feet of a
23 public street.
24

25 E. Fences and walls:
26

27 1. May not exceed three feet in height in a required front
28 yard along streets and eight feet in all other locations;
29

30 2. May be permitted up to six feet in a required front yard
31 along designated collector and arterial streets.
32

33 **7. Minimize significant changes to existing on-site surface**
34 **contours at residential property lines.**
35

36 A. When grading a site within twenty-five (25) feet of a property
37 line within or abutting any residentially zoned property, the on-
38 site surface contours shall observe the following:
39

40 1. 0 to 5 feet from property line. Maximum of two (2) foot
41 slope differential from the existing or finished slope of the
42 abutting property, whichever is applicable.
43
44

EXHIBIT B

1 60.05.25.7.A.

- 2
- 3 2. More than 5 feet and up to and including 10 feet from
- 4 property line. Maximum of four (4) foot slope differential
- 5 from the existing or finished slope of the abutting
- 6 property, whichever is applicable.
- 7
- 8 3. More than 10 feet and up to and including 15 feet from
- 9 property line. Maximum of six (6) foot slope differential
- 10 from the existing or finished slope of the abutting
- 11 property, whichever is applicable.
- 12
- 13 4. More than 15 feet and up to and including 20 feet from
- 14 property line. Maximum of eight (8) foot slope differential
- 15 from the existing or finished slope of the abutting
- 16 property, whichever is applicable.
- 17
- 18 5. More than 20 feet and up to and including 25 feet from
- 19 property line. Maximum of ten (10) foot slope differential
- 20 from the existing or finished slope of the abutting
- 21 property, whichever is applicable.
- 22

23 B. Notwithstanding the requirements of subsection A.1. above,

24 grading within 25 feet of a property line shall not change the

25 existing slopes by more than ten percent within a tree root zone

26 of an identified significant grove or tree, or an identified historic

27 tree located on an abutting property unless evidence provided by

28 a certified arborist supports additional grading that will not

29 harm the subject grove or tree.

30

31 8. **Integrate water quality, quantity, or both facilities.** Non-vaulted

32 surface stormwater detention and treatment facilities having a side

33 slope greater than 2:1 shall not be located between a street and the

34 front of an adjacent building.

35

36 9. **Natural Areas.** Development on sites with City-adopted natural

37 resource features such as streams, wetlands, and rock outcroppings,

38 shall be preserved to maintain the resource without encroachment into

39 any required resource buffer standard unless otherwise authorized by

40 other City or CWS requirements.

41

42

43

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EXHIBIT B

1 60.05.25.
2

3 **10. Landscape Buffering Requirements.** All new development and
4 redevelopment in the City subject to Design Review shall comply with
5 the landscape buffering requirements of Table **XXX** and the following
6 standards. For purposes of this Section, a landscape buffer is required
7 along the side and rear of properties between different zoning district
8 designations. A landscape buffer is required for non-residential land
9 uses and parks in residential zoning districts. Both buffering
10 standards and side and rear building setback requirements shall be
11 met. Only landscaping shall be allowed in the landscape buffer areas.
12 Buffer areas and building setback standards are measured from the
13 property line, they are not additive. Where a yard setback width is
14 less than a landscape buffer width, the yard setback width applies to
15 the specified buffer designation (B1, B2, or B3 as appropriate). A
16 landscape buffer width cannot exceed a minimum yard setback
17 dimension. In addition, the buffer area and landscape standard are
18 intended to be continuously applied along the property line, except as
19 authorized under Section 60.05.25.4.
20

21 **A. Applicability of Buffer Standards.**
22

- 23 1. The buffer standards shall not be applicable to individual
24 single-family buildings on individual parcels.
25
- 26 2. The buffer standards shall not apply to areas where
27 emergency access is required.
28
- 29 3. The buffer standards shall not apply to areas where a
30 public utility easement exists. This exemption only
31 applies to trees and does not exempt the requirement of
32 shrubs and ground cover.
33
- 34 4. The buffer standards shall not apply along property lines
35 where a non-residential use is already buffered by a
36 natural feature or an open space dedication, if such a
37 natural buffer or dedication is at least 40 feet in width, or
38 if the width of the natural feature or open space
39 dedication and the density and quality of landscaping
40 meet or exceed the applicable landscape buffer standard.
41
42
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EXHIBIT B

1 60.05.25.10.
2

3 **B. B1-Low Screen Buffer.** This buffer is intended to provide a
4 minimal amount of transitional screening between zones. This
5 buffer consists of one (1) tree having a minimum planting height
6 of six (6) feet for every thirty (30) lineal feet of buffer width; and
7 2) live ground cover consisting of low-height plants, or shrubs, or
8 grass proportionately spaced between the trees with actual
9 spacing for low height plants or shrubs dependent upon the
10 mature spread of the vegetation. Bare gravel, rock, bark or
11 other similar materials may be used, but are not a substitute for
12 ground cover plantings, and shall be limited to no more than
13 twenty-five (25) percent of the required buffer area. Deciduous
14 trees having a minimum two-inch caliper at time of planting
15 may be planted in the B1 buffer required for across the street.
16

17 **C. B2-Medium Screen Buffer.** This buffer is intended to provide
18 a moderate degree of transitional screening between zones. This
19 buffer consists of live ground cover consisting of low-height
20 plants, or shrubs, or grass, and 1) one (1) tree having a
21 minimum planting height of six (6) feet for every thirty (30)
22 lineal feet of buffer width; 2) evergreen shrubs which reach a
23 minimum height of four (4) to six (6) feet within two (2) years of
24 planting planted proportionately between the required
25 evergreen trees. Live ground cover consisting of low-height
26 plants, or shrubs, or grass shall be planted in the portion of the
27 landscaped area not occupied by trees or evergreen shrubs.
28 Actual spacing for low height plants or shrubs or evergreen
29 shrubs shall be dependent upon the mature spread of the
30 selected vegetation. Bare gravel, rock, bark or other similar
31 materials may be used, but are not a substitute for ground cover
32 plantings, and shall be limited to no more than twenty-five (25)
33 percent of the required landscape area. Deciduous trees having
34 a minimum two-inch caliper at time of planting may be planted
35 in the B2 buffer required for across the street.
36
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EXHIBIT B

1 60.05.25.10.
2

3 **D. B3-High Screen Buffer.** This buffer is intended to provide a
4 high degree of visual screening between zones. This buffer
5 consists of minimum six (6)-foot high fully sight obscuring fences
6 or walls with an adjoining landscape area on the interior of the
7 fence when the fence is proposed within three (3) feet of the
8 property line. If the fence is proposed to be setback from the
9 property line more than three feet, the landscaping shall be on
10 the exterior of the fence within a landscape area a minimum of
11 five (5) feet in width, with adequate provision of access and
12 maintenance of the landscaped area. The height of the fence
13 shall be measured from the property on which the fence is to be
14 located, and, if located on a wall, shall be in addition to the
15 height of the wall. The landscape area shall be planted with one
16 (1) tree having a minimum planting height of six (6) feet for
17 every thirty (30) lineal feet of buffer width, filled between with
18 evergreen shrubs which reach a minimum height of four (4) to
19 six (6) feet within two (2) years of planting. Live ground cover
20 consisting of low-height plants, or shrubs, or grass shall be
21 planted in the portion of the landscaped area not occupied by
22 trees or evergreen shrubs. Actual spacing for low height plants
23 or shrubs or evergreen shrubs shall be dependent upon the
24 mature spread of the selected vegetation. Bare gravel, rock, bark
25 or other similar materials may be used, but are not a substitute
26 for ground cover plantings, and shall be limited to no more than
27 twenty-five (25) percent of the required landscape area.
28

29 **E. Changes to Buffer Widths and Standards.** Required buffer
30 widths and buffer standards are the minimum requirements for
31 buffering and screening. Changes in buffer widths and
32 standards shall be limited to the following:
33

- 34 1. A request for a reduction in buffer width when a B3 buffer
35 standard is required shall be reviewed through the public
36 hearing process;
37
- 38 2. A request for a reduction in the buffer width when a B2 or
39 B1 buffer standard is required and the applicant does not
40 want to change the buffer standard, or when the
41 reduction in buffer width is greater than five (5) feet,
42 shall be reviewed through the public hearing process; and,
43
44

EXHIBIT B

1 60.05.25.10.E.
2

- 3 3. A request for a reduction in the buffer width when a B2 or
4 B1 buffer standard is required and the reduction in buffer
5 width is five (5) feet or less, shall be reviewed through
6 administrative authorization provided that the next
7 highest buffer standard is implemented.
8

9 Requests for changes in buffer widths and buffer standards shall
10 only be authorized because of physical site constraints, or
11 unique building or site design. An applicant shall be required to
12 provide an adequate detailed written and plan demonstration of
13 the physical site constraints or unique building or site design
14 including, but not limited to, an enhanced site plan, or cross-
15 section detail drawings, or manipulated aerial photography.
16

17 **F. Landscaping Buffering Installation.** All required buffering
18 shall be installed prior to occupancy permit issuance.
19

20 **G. Pedestrian Plazas in Required Buffer Areas for Non-**
21 **Residential Development.** For non-residential development
22 in non-residential zoning districts, in which the building is
23 proposed to be placed at the required front yard buffer line,
24 concrete or brick pavers shall be authorized in place of required
25 live groundcover, or bark, or grass, for the length of the building
26 for the front yard only; provided that required trees are still
27 installed, the paved area is connected to the public sidewalk,
28 and pedestrian amenities including but not limited to benches or
29 tables, are provided.
30

31
32 **60.05.30. Lighting Design Standards.** Unless otherwise noted, all standards
33 apply in all zoning districts.
34

35 1. **Adequate on-site lighting and minimize glare on adjoining**
36 **properties.**
37

38 A. Lighting shall be provided at lighting levels for development and
39 redevelopment in all zoning districts consistent with the City's
40 Technical Lighting Standards.
41

42 B. Lighting shall be provided in vehicular circulation areas and
43 pedestrian circulation areas.
44

EXHIBIT B

1 60.05.30.1.

- 2
- 3 C. Lighting shall be provided in pedestrian plazas, if any
- 4 developed.
- 5
- 6 D. Lighting shall be provided at building entrances.
- 7
- 8 E. Canopy lighting shall be recessed so that the bulb or lens is not
- 9 visible from a public right-of-way.

10

11 **2. Pedestrian-scale on-site lighting.**

12

13 A. Pole-mounted Luminaires shall comply with the City's Technical

14 Lighting Standards, and shall not exceed a maximum of:

15

16 1. Fifteen (15) feet in height for on-site pedestrian paths of

17 travel.

18

19 2. Twenty (20) feet in height for on-site vehicular circulation

20 areas for residential uses in residential zoning districts.

21

22 3. Thirty (30) feet in height for on-site vehicular circulation

23 areas in non-residential zoning districts.

24

25 4. Fifteen (15) feet for the top deck of non-covered parking

26 structures.

27

28 5. The height of the poles for on-site pedestrian ways and

29 on-site vehicular circulation areas shall be measured from

30 the site's finished grade.

31

32 6. The height of the poles on the top deck of non-covered

33 parking structures shall be measured from the finished

34 floor elevation of the top deck.

35

36 7. The poles and bases for pole-mounted luminaires shall be

37 finished or painted a non-reflective color.

38

39 B. Non-pole-mounted luminaires shall comply with the City's

40 Technical Lighting Standards.

41

42 C. Lighted bollards when used to delineate on-site pedestrian and

43 bicycle pathways shall have a maximum height of forty-eight

44 (48) inches.

EXHIBIT B

1 **60.05.35. Building Design and Orientation Guidelines.** Unless otherwise
2 noted, all guidelines apply in all zoning districts.
3

4 **1. Building Elevation Design Through Articulation and Variety**
5

6 A. Residential buildings should be of a limited length in order to
7 avoid undifferentiated building elevations, reduce the mass of
8 individual buildings, and create a scale of development that is
9 pedestrian friendly and allow circulation between buildings by
10 pedestrians. (Standard 60.05.15.1.A.)
11

12 B. Building elevations should be varied and articulated to provide
13 visual interest to pedestrians. Within larger projects, variations
14 in architectural elements such as: building elevations, roof
15 levels, architectural features, and exterior finishes should be
16 provided. (Standard 60.05.15.1.A and B)
17

18 C. To balance horizontal features on longer building elevations,
19 vertical building elements, such as building entries, should be
20 emphasized. (Standard 60.05.15.1.B)
21

22 D. Special attention should be given to designing a primary
23 building entrance that is both attractive and functional.
24 Primary entrances should incorporate changes in mass, surface,
25 or finish to emphasize the entrance. (Standard 60.05.15.1.B)
26

27 E. Excluding manufacturing, assembly, fabricating, processing,
28 packing, storage and wholesale and distribution activities which
29 are the principle use of a building in industrial districts,
30 buildings should promote and enhance a comfortable pedestrian
31 scale and orientation. (Standard 60.05.15.1.B)
32

33 F. Building elevations visible from and within 200 feet of an
34 adjacent street or major parking area should be articulated with
35 architectural features such as windows, dormers, off-setting
36 walls, alcoves, balconies or bays, or by other design features that
37 reflect the building's structural system. Undifferentiated blank
38 walls facing a street or major parking area should be avoided.
39 (Standards 60.05.15.1.B and C)
40
41
42
43
44

EXHIBIT B

1 60.05.35.1.
2

- 3 G. Building elevations visible from and within 100 feet of an
4 adjacent street where the principle use of the building is
5 manufacturing, assembly, fabricating, processing, packing,
6 storage and wholesale and distribution activities in an
7 industrial zoning district, should be articulated with
8 architectural features such as windows, dormers, off-setting
9 walls, alcoves, balconies or bays, or by other design features that
10 reflect the building's structural system. Undifferentiated blank
11 walls facing a street should be avoided. (Standards
12 60.05.15.1.B and C)
13

14 2. Roof Forms as Unifying Elements

- 15
16 A. Roof forms should be distinctive and include variety and detail
17 when viewed from the street. Sloped roofs should have a
18 significant pitch and building focal points should be highlighted.
19 (Standards 60.05.15.2.A and B)
20
21 B. Flat roofs should include distinctive cornice treatments.
22 (Standard 60.05.15.2.C)
23
24 C. Additions to existing structures which involve the addition of
25 new roof area should respect the roof form and material of the
26 existing structure. (Standard 60.05.15.2.D)
27

28 3. Primary building entrances.

- 29
30 A. Excluding manufacturing, assembly, fabricating, processing,
31 packing, storage and wholesale and distribution activities which
32 are the principle use of a building in industrial districts, the
33 design of buildings should incorporate features such as arcades,
34 roofs, porches, alcoves, porticoes, awnings, and canopies to
35 protect pedestrians from the rain and sun. (Standard 60.05.15.3)
36
37 B. Special attention should be given to designing a primary
38 building entrance that is both attractive and functional.
39 Primary entrances should incorporate changes in mass, surface,
40 or finish to emphasize the entrance. (Standard 60.05.15.3)
41
42
43
44

EXHIBIT B

1 60.05.35.
2

3 **4. Exterior Building Materials**
4

5 A. Exterior building materials and finishes should convey an
6 impression of permanence and durability. Materials such as
7 masonry, stone, wood, terra cotta, and tile are encouraged.
8 Windows are also encouraged, where they allow views to interior
9 activity areas or displays. (Standard 60.05.15.4.A)
10

11 B. Excluding development in Industrial zones, where masonry is
12 used for exterior finish, decorative patterns (other than running
13 bond pattern) should be considered, especially at entrances,
14 building corners and at the pedestrian level. These decorative
15 patterns may include multi-colored masonry units, such as
16 brick, tile, stone, or cast stone, in a layered or geometric pattern,
17 or multi-colored ceramic tile bands used in conjunction with
18 materials such as concrete. (Standards 60.05.15.4.B and C)
19

20 **5. Screening of Equipment.** All roof, surface, and wall-mounted
21 mechanical, electrical, communications, and service equipment should
22 be screened from view from adjacent public streets by the use of
23 parapets, walls, fences, enclosures, dense evergreen foliage, or by other
24 suitable means. (Standards 60.05.15.5.A through C)
25

26 **6. Building Location and Orientation in Multiple Use and**
27 **Commercial districts.**
28

29 A. Buildings should be oriented and located within close proximity
30 to public streets and public street intersections. The overall
31 impression, particularly on Class 1 Major Pedestrian Routes,
32 should be that architecture is the predominant design element
33 over parking areas and landscaping. (Standard 60.05.15.6.A and
34 B)
35

36 B. The design of buildings located at the intersection of two streets
37 should consider the use of a corner entrance to the building.
38 (Standard 60.05.15.6.B)
39

40 C. On Class 1 Major Pedestrian Routes, building entrances should
41 be oriented to streets, or have reasonably direct pedestrian
42 connections to streets and pedestrian and transit facilities.
43 (Standard 60.05.15.6.C)
44

EXHIBIT B

- 1 60.05.35.
2
3
4
- 5 **7. Building Scale along Major Pedestrian Routes.**
6
7 A. Architecture helps define the character and quality of a street.
8 Along Major Pedestrian Routes, low height, single story
9 buildings located at the right-of-way edge are discouraged.
10 (Standard 60.05.15.7.A)
11
12 B. Building heights at the right-of-way edge should help form a
13 sense of street enclosure, but should not create a sheer wall out
14 of scale with pedestrians. Building heights at the street edge
15 should be no higher than sixty (60) feet without the upper
16 portions of the building being set back from the vertical building
17 line of the lower building stories. (Standard 60.05.15.7.A)
18
- 19 **8. Ground Floor Elevations On Commercial And Multiple Use
20 Buildings.**
21
22 A. Excluding residential only development, ground floor building
23 elevations should be pedestrian oriented and provide views into
24 retail, office or lobby space, pedestrian entrances or retail
25 display windows. (Standard 60.05.15.8.A)
26
27 B. Except those used exclusively for residential use, ground floor
28 elevations that are located on a Major Pedestrian Route,
29 sidewalk, or other space where pedestrians are allowed to walk
30 should provide weather protection for pedestrians on building
31 elevations. (Standard 60.05.15.8.B)
32
- 33 **60.05.40. Circulation and Parking Design Guidelines.** Unless otherwise
34 noted, all guidelines apply in all zoning districts.
35
36 **1. Connections to public street system.** The on-site circulation
37 system and the abutting street system should provide for efficient
38 access and circulation, and should connect the project to abutting
39 streets. (Standard 60.05.20.1)
40
41 **2. Loading area, solid waste facilities, and similar improvements.**
42
43 A. On-site service, storage and similar activities should be designed
44 and located so that these facilities are screened from an abutting
public street. (Standard 60.05.20.2)

EXHIBIT B

1 60.05.40.2.
2

- 3 B. Except in industrial districts, loading areas should be designed
4 and located so that these facilities are screened from an abutting
5 public street, or are shown to be compatible with local business
6 operations. (Standard 60.05.20.2.)
7

8 **3. Pedestrian circulation.**
9

- 10 A. Pedestrian connections should be made between on-site
11 buildings, parking areas, and open spaces. (Standard
12 60.05.20.3.A)
13

- 14 B. Pedestrian connections should connect on-site facilities to
15 abutting pedestrian facilities and streets unless separated by
16 barriers such as natural features, topographical conditions, or
17 structures. (Standard 60.05.20.3.A)
18

- 19 C. Pedestrian connections should link building entrances to nearby
20 streets and other pedestrian destinations. (Standard
21 60.05.20.3.B)
22

- 23 D. Pedestrian connections to streets through parking areas should
24 be evenly spaced and separated from vehicles (Standard
25 60.05.20.3.C through E)
26

- 27 E. Excluding manufacturing, assembly, fabricating, processing,
28 packing, storage and wholesale and distribution activities which
29 are the principle use of a building in industrial districts,
30 pedestrian connections designed for high levels of pedestrian
31 activity should be provided along all streets. (Standard
32 60.05.20.3.A through H)
33

- 34 F. Pedestrian connections should be designed for safe pedestrian
35 movement and constructed of hard durable surfaces. (Standards
36 60.05.20.3.F through G)
37

- 38 **4. Street frontages and parking areas.** Landscape or other screening
39 should be provided when surface parking areas are located along
40 public streets. (Standard 60.05.20.4)
41

- 42 **5. Parking area landscaping.** Landscape islands and a tree canopy
43 should be provided to minimize the visual impact of large parking
44 areas. (Standard 60.05.20.5.A through D)

EXHIBIT B

1 60.05.40.
2

3 **6. Street frontages in Multiple Use districts.**
4

5 A. Surface parking should occur to the side or rear of buildings and
6 should not occur at the corner of two Major Pedestrian Routes.
7 (Standard 60.05.20.6)
8

9 B. Surface parking areas should not be the predominant design
10 element along Major Pedestrian Routes and should be located on
11 the site to safely and conveniently serve the intended users of
12 the development, without precluding future site intensification.
13 (Standard 60.05.20.6)
14

15 **7. Sidewalks along streets and primary building elevations in**
16 **Multiple Use and Commercial districts.**
17

18 A. Pedestrian connections designed for high levels of pedestrian
19 activity should be provided along all streets. (Standard
20 60.05.20.7.A)
21

22 B. Pedestrian connections should be provided along primary
23 building elevations having building and tenant entrances.
24 (Standard 60.05.20.7.B.)
25

26 **8. Connect on-site buildings, parking, and other improvements**
27 **with identifiable streets and drive aisles in Residential,**
28 **Multiple Use, and Commercial districts.**
29

30 A. On-site circulation should be easily recognized and identified,
31 and include a higher level of improvements such as curbs,
32 sidewalks, and landscaping compared to parking lot aisles.
33 (Standard 60.05.20.8)
34

35 B. Long, continuous parking aisles should be avoided if possible,
36 and landscaped as necessary to minimize the visual impact.
37 (Standard 60.05.20.8)
38

39 **9. Parking Structures in Multiple-Use Districts.** Active ground floor
40 uses should be incorporated in parking structures, particularly on
41 elevations facing Major Pedestrian Routes. (Standard 60.05.20.9)
42
43
44

EXHIBIT B

1 **60.05.45. Landscape, Open Space and Natural Areas Design Guidelines.**
2 Unless otherwise noted, all guidelines apply in all zoning districts.
3

4 **1. Common Open Space for Residential Uses in Residential**
5 **Districts**
6

7 A. Common open spaces should be provided that are sized and
8 designed for anticipated users, and are located within walking
9 distance for residents and visitors, and should be integrated into
10 the overall landscape plan. (Standard 60.05.25.1)
11

12 B. Common open spaces should be available for both passive and
13 active use by people of all ages, and should be designed and
14 located in order to maximize security, safety, and convenience.
15 (Standard 60.05.25.1)
16

17 C. Common open spaces should be free from all structural
18 encroachments unless a structure is incorporated into the design
19 of the common open space such as a play structure. (Standard
20 60.05.25.1)
21

22 D. Common open space should be located so that windows from
23 living areas, excluding bedrooms and bathrooms, of a minimum
24 of four (4) residences face on to the common open space.
25 (Standard 60.05.25.1)
26

27 **2. Minimum landscaping in Residential districts.**
28

29 A. Landscape treatments utilizing plants, hard-surface materials,
30 or both should be provided in the setback between a street and a
31 building. The treatment should enhance architectural elements
32 of the building and contribute to a safe, interesting streetscape.
33 (Standard 60.05.25.2.A through C)
34

35 B. Landscaping should soften the edges of buildings and parking
36 areas, add aesthetic interest, and generally increase the
37 attractiveness of a development and its surroundings. (Standard
38 60.05.25.2.A through C)
39
40
41
42
43
44

EXHIBIT B

1 60.05.45.
2

3 **3. Minimum landscaping for conditional uses in Residential**
4 **districts and for developments in Multiple Use, Commercial,**
5 **and Industrial Districts.**
6

7 A. Landscaping should soften the edges of buildings and parking
8 areas, add aesthetic interest and generally increase the
9 attractiveness of a development and its surroundings. (Standard
10 60.05.25.3.A, B, and D)
11

12 B. Plazas and common areas designed for pedestrian traffic should
13 be surfaced with a combination of landscape and decorative
14 pavers or decorative concrete. (Standard 60.05.25.3.C)
15

16 C. Use of native vegetation should be emphasized for compatibility
17 with local and regional climatic conditions. (Standard
18 60.05.25.3.A and B)
19

20 D. Existing mature trees and vegetation should be retained and
21 incorporated, when possible, into the site design of a
22 development. (Standard 60.05.25.3.A and B)
23

24 E. A diversity of tree and shrub species should be provided in
25 required landscaped areas. (Standard 60.05.25.3)
26

27 **4. Public Open Space.** Open space available for public use but in
28 private ownership should be accessible to the public, designed for
29 safety, include active, passive or both spaces and improvements, but
30 should not include environmentally sensitive areas. (Standard
31 60.05.25.4)
32

33 **5. Retaining Walls.** Retaining walls over six (6) feet in height or greater
34 than fifty (50) feet in length should be architecturally treated,
35 incorporated into the overall landscape plan, or screened by landscape
36 material. (Standard 60.05.25.5)
37

38 **6. Fences and Walls**
39

40 A. Fences and walls should be constructed of attractive, durable
41 materials. (Standard 60.05.25.6)
42
43
44

EXHIBIT B

1 60.05.45.6.
2

3 B. Fences and walls constructed in front yards adjacent to public
4 streets should provide the opportunity to view into the setback
5 from the street unless high traffic volumes or other conflicts
6 warrant greater security and protection. (Standard 60.05.25.6)
7

8 **7. Changes to existing on-site surface contours at residential**
9 **property lines.** The perimeters of properties should be graded in a
10 manner to avoid conflicts with abutting residential properties such as
11 drainage impacts, damage to tree root zones, and blocking sunlight.
12 (Standard 60.05.25.7)
13

14 **8. Integrate water quality, quantity, or both facilities.** Above-
15 ground stormwater detention and treatment facilities should be
16 integrated into the design of a development site and, if visible from a
17 public street, should appear as a component of the landscape design.
18 (Standard 60.05.25.8)
19

20 **9. Landscape Buffering and Screening**
21

22 A. A landscape buffer should provide landscape screening, and
23 horizontal separation between different zoning districts and
24 between non-residential land uses and residential land uses.
25 The buffer standards shall not be applicable along property lines
26 where existing natural features such as flood plains, wetlands,
27 riparian zones and identified significant groves already provide
28 a high degree of visual screening. (Standard 60.05.25.9)
29

30 B. When potential conflicts exist between adjacent zoning districts,
31 such as industrial uses adjacent to residential uses, landscape
32 screening should be dense, and the buffer width maximized.
33 When potential conflicts are not as great, such as a commercial
34 zoning district abutting an industrial zoning district, less dense
35 landscape screening and narrower buffer width is appropriate.
36 (Standard 60.05.25.9)
37

38 C. Landscape buffering should consist of a variety of trees, shrubs
39 and ground covers designed to screen potential conflict areas
40 and complement the overall visual character of the development
41 and adjacent neighborhood. (Standard 60.05.25.9)
42
43
44

EXHIBIT B

1 60.05.45.
2

3 **10. Natural Areas.** Natural features that are indigenous to a
4 development site, such as streams, wetlands, rock outcroppings, and
5 mature trees should be preserved, enhanced and integrated when
6 reasonably possible into the development plan. (No companion
7 standard)
8

9
10 **60.05.50. Lighting Design Guidelines.** Unless otherwise noted, all guidelines
11 apply in all zoning districts.
12

13 1. Lighting should be utilized to maximize safety within a development
14 through strategic placement of pole-mounted, non-pole mounted and
15 bollard luminaires. (Standard 60.05.30.1 and 2)
16

17 2. Pedestrian scale lighting should be an integral part of the design
18 concept except for industrial projects. Poles and fixtures for pole-
19 mounted lighting should be of a consistent type throughout the project.
20 The design of wall-mounted lighting should be appropriate to the
21 architectural design features of the building. (Standard 60.05.30.2)
22

23 3. Lighting should minimize direct and indirect glare impacts to abutting
24 and adjacent properties and streets by incorporating lens shields,
25 shades or other measures to screen the view of light sources from
26 residences and streets. (Standard 60.05.30.1 and 2)
27

28 4. On-site lighting should comply with the City's Technical Lighting
29 Standards. (Standard 60.05.30.1 and 2)

**TABLE YYY
TECHNICAL LIGHTING STANDARDS**

DRAFT TECHNICAL LIGHTING STANDARDS

A. Applicability

1. Types of Lighting

The Technical Lighting Standards Section shall apply to bollard luminaire, pole-mounted luminaire, and non-pole-mounted luminaire.

2. Areas to Be Applied

The roadways, access drives, parking lots, vehicle maneuvering areas, pathways and sidewalks of all new developments and building entrances shall be lighted in conformance to the standards of this Section. This Section is not intended to apply to public street lighting.

B. Conformity of Lighting Plans to this Section

All lighting plans submitted to the City shall comply with the standards of this Section.

C. Standards

The following standards are required of all exterior lighting:

1. When a bollard luminaire, or pole-mounted luminaire, or non-pole-mounted luminaire has total cutoff of an angle greater than ninety (90) degrees, the minimum required interior illumination, the maximum permitted illumination at the property line, and the maximum permitted height of Luminaires shall be as shown on Table YYY.
2. When a bollard luminaire, or pole-mounted luminaire, or non-pole-mounted luminaire has total cutoff of light at an angle less than ninety (90) degrees and is located so that the bare light bulb, lamp, or light source is completely shielded from the direct view of an observer five (5) feet above the ground at the point where the cutoff angle intersects the ground, then the minimum permitted interior illumination, the maximum permitted illumination within five (5) feet of any property line, and the maximum permitted height of Luminaires is also shown on Table YYY.

**TABLE YYY
TECHNICAL LIGHTING STANDARDS**

Zoning District Type	Minimum Required Illumination (internal) in Foot-candles		Maximum Permitted Internal Illumination in Foot-Candles		Maximum Permitted Illumination at property line in Foot-Candles	Maximum Permitted Height of Luminaires
	>90	<90	>90	<90		
Residential	1.0	0.7	TBD	TBD	0.5	Pole-mounted Luminaires (inclusive of above grade base and light fixture): <ul style="list-style-type: none"> ◆ 15 feet for on-site pedestrian ways ◆ 20 feet for on-site vehicular circulation areas Wall-mounted Luminaires for the lighting of pedestrian or vehicular circulation areas: <ul style="list-style-type: none"> ◆ 20 feet above building finished grade
Commercial and Industrial	1.5	1.0	TBD	TBD	0.5	Pole-mounted Luminaires (inclusive of above grade base and light fixture): <ul style="list-style-type: none"> ◆ 15 feet for on-site pedestrian ways ◆ 30 feet for on-site vehicular circulation areas ◆ 15 feet for the top deck of non-covered parking structures Wall-mounted Luminaires for the lighting of pedestrian or vehicular circulation areas: <ul style="list-style-type: none"> ◆ 15 feet above building finished grade for on-site pedestrian circulation areas ◆ 30 feet above building finished grade for on-site vehicular circulation areas

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**TABLE YYY
TECHNICAL LIGHTING STANDARDS**

Zoning District Type	Minimum Required Illumination (internal) in Foot-candles		Maximum Permitted Internal Illumination in Foot-Candles		Maximum Permitted Illumination at property line in Foot-Candles	Maximum Permitted Height of Luminaires
	>90	<90	>90	<90		
Multiple Use:			TBD	TBD	0.5 (all)	Pole-mounted Luminaires (inclusive of above grade base and light fixture): <ul style="list-style-type: none"> ◆ 15 feet for on-site pedestrian ways for residential only, multiple use with residential, multiple use non-residential development and non-multiple use/non-residential development ◆ 20 feet for on-site vehicular circulation areas for residential only and multiple use with residential ◆ 30 feet for on-site vehicular circulation areas for multiple use non-residential development and non-multiple use/non-residential development ◆ 15 feet for the top deck of non-covered parking structures ways for residential only, multiple use with residential, multiple use non-residential development and non-multiple use/non-residential development Wall-mounted Luminaires for the lighting of pedestrian or vehicular circulation areas: <ul style="list-style-type: none"> ◆ 20 feet above building finished grade for residential only and multiple use with residential ◆ 15 feet above building finished grade for multiple use non-residential development and non-multiple use/non-residential development
residential only		0.7				
multiple use with residential		0.7				
multiple use non-residential development	1.5	1.0				
non-multiple use/non-residential development	1.5	1.0				

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TABLE YYY
TECHNICAL LIGHTING STANDARDS

2. Exemption for Specified Public Outdoor Recreation Uses:
 - A. Because of their unique requirements for nighttime visibility, public ball diamonds, public playing fields, and public tennis courts only, inclusive of facilities located on school district properties, are exempted from the exterior lighting standards of Sections 1 through 2 above. These outdoor recreational uses must meet all other requirements for this Section and of the Code.
 - B. The outdoor recreational uses specified above shall not exceed a maximum permitted post height of eighty (80) feet.
 - C. The outdoor recreational uses specified above may exceed a total cutoff angle of ninety (90) degrees, provided that the luminaire is shielded to prevent light and glare spillover to adjacent properties. The maximum permitted illumination at the property line or, if required, the interior buffering line, shall not exceed two (2) foot-candles.
 - D. **General Provisions**

Notwithstanding any other provision of this Section to the contrary:

Design Standards for Residential, Commercial, Industrial and Multiple-Use Districts:

1. No flickering or flashing lights shall be permitted.
2. No bare bulb lights shall be permitted for single-family attached development and multi-family attached development.
3. No strobe lights shall be permitted.
4. Light sources or Luminaires shall not be located within areas identified for screening or buffering except on pedestrian walkways.

Special Design Standard for Residential Districts

1. No exterior neon lights shall be permitted.

Special Design Standard for Commercial and Multiple-Use Districts

1. Exterior neon lights shall only be permitted when incorporated into the architectural design of a building.

DRAFT TABLE XXX

District of Development	Minimum Landscape Buffer Requirements Between Contrasting Districts										
	Location	Urban Low (R-10)	Urban Standard (R-7, R-5)	Urban Medium (R-4, R-3.5, R-2)	Urban High Density (R-1)	Commercial (CS, CV, GC, NS, OC)	Industrial (CI, IP, LI)	Station Area (SA-MU, SA-HDR)	Station Community (SC-MU, SC-HDR, SC-E)	Town Center (TC-MU, TC-HDR)	Regional Center (RC-OT, RC-TO, RC-E)
Urban Low (R-10)	Abutting	CU	5'/B1 CU	10'/B2 CU	20'/B3 CU	20'/B3 CU	20'/B3 CU	20'/B3 CU	20'/B3 CU	20'/B3 CU	20'/B3 CU
	Across Street	N/A	5'/B1 CU	5'/B1 CU	10'/B1 CU	10'/B1 CU	10'/B1 CU	5'/B2 CU	5'/B2 CU	5'/B2 CU	5'/B2 CU
Urban Standard (R-7, R-5)	Abutting	5'/B1 CU	N/A	10'/B2 CU	20'/B3 CU	20'/B3 CU	20'/B3 CU	20'/B3 CU	20'/B3 CU	20'/B3 CU	20'/B3 CU
	Across Street	5'/B1 CU	N/A	5'/B1 CU	10'/B1 CU	10'/B1 CU	10'/B1 CU	10'/B2 CU	5'/B2 CU	5'/B2 CU	5'/B2 CU
Urban Medium (R-4, R-3.5, R-2)	Abutting	10'/B2 CU/R-4	10'/B2 CU/R-4	N/A	10'/B2 CU/R-4	20'/B3	20'/B3	10'/B2	10'/B2	10'/B2	10'/B2
	Across Street	5'/B1	5'/B1	N/A	5'/B1	10'/B1	10'/B1	5'/B2	5'/B2	5'/B2	5'/B2
Urban High Density (R-1)	Abutting	20'/B3	20'/B3	10'/B2	N/A	20'/B3	20'/B3	10'/B1	10'/B1	10'/B1	10'/B1
	Across Street	10'/B1	10'/B1	5'/B1	N/A	10'/B1	10'/B1	5'/B1	5'/B1	5'/B1	5'/B1
Commercial (CS, CV, GC, NS, OC)	Abutting	20'/B3	20'/B3	10'/B3	10'/B3	N/A	10'/B3	5'/B2	5'/B2	5'/B2	5'/B2
	Across Street	10'/B1	10'/B1	5'/B1	5'/B1	N/A	5'/B1	5'/B1	5'/B1	5'/B1	5'/B1

DRAFT TABLE XXX

District of Development	Minimum Landscape Buffer Requirements Between Contrasting Districts										
	Location	Urban Low (R-10)	Urban Standard (R-7, R-5)	Urban Medium (R-4, R-3.5, R-2)	Urban High Density (R-1)	Commercial (CS, CV, GC, NS, OC)	Industrial (CI, IP, LI)	Station Area (SA-MU, SA-HDR)	Station Community (SC-MU, SC-HDR, SC-E)	Town Center (TC-MU, TC-HDR)	Regional Center (RC-OT, RC-TO, RC-E)
Industrial (CI, IP, LI)	Abutting	20'/B3	20'/B3	20'/B3	20'/B3	10'/B3	N/A	20'/B3	20'/B3	20'/B3	20'/B3
	Across Street	10'/B2	10'/B2	10'/B2	10'/B2	5'/B2	N/A	10'/B2	10'/B2	10'/B2	10'/B2
Station Area (SA-MU, SA-HDR)	Abutting	20'/B3	20'/B3	10'/B3	10'/B3	10'/B3	20'/B3	N/A	10'/B2	10'/B2	10'/B2
	Across Street	10'/B2	10'/B2	5'/B2	5'/B2	5'/B2	10'/B2	N/A	5'/B1	5'/B1	5'/B1
Station Community (SC-MU, SC-HDR, SC-E)	Abutting	20'/B3	20'/B3	10'/B3	10'/B3	10'/B3	20'/B3	10'/B2	N/A	10'/B2	10'/B2
	Across Street	10'/B2	10'/B2	5'/B2	5'/B2	5'/B2	10'/B2	5'/B1	N/A	5'/B1	5'/B1
Town Center (TC-MU, TC-HDR)	Abutting	20'/B3	20'/B3	10'/B3	10'/B3	10'/B3	20'/B3	10'/B2	10'/B2	N/A	10'/B2
	Across Street	10'/B2	10'/B2	5'/B2	5'/B2	5'/B2	10'/B2	5'/B1	5'/B1	N/A	5'/B1
Regional Center (RC-OT, RC-TO, RC-E)	Abutting	20'/B3	20'/B3	10'/B3	10'/B3	10'/B3	20'/B3	10'/B2	10'/B2	10'/B2	N/A
	Across Street	10'/B2	10'/B2	5'/B2	5'/B2	5'/B2	10'/B2	5'/B1	5'/B1	5'/B1	N/A

DRAFT TABLE XXX

NOTES:

1. 5' / 10' / 20' = Buffer Width
2. B1 / B2 / B3 = Buffer Standard
3. N/A = Not Applicable
4. CU = Conditional Use

5. Buffering requirements are not in addition to building setback requirements.

6. *Buffering requirements for Urban Low & Urban Standard and the R-4 zoning district in Urban Medium shall only be applied when a Conditional Use (CU) is proposed.

7. A minimum 20 foot buffer developed to a B3 standard is required for non-residential land uses and parks in residential zoning districts. Parks in all other zoning districts shall observe the minimum buffer standard specified in the buffer matrix.

GEOGRAPHIC INFORMATION SYSTEM

Major Pedestrian Routes

Legend

<p>— Class 1 - Both Sides</p> <p>▲▲ Class 1 - One Side</p>	<p>●●● Class 2 - Both Sides</p> <p>■ Class 2 - One Side</p> <p>■ Future Class 1</p>
--	---

City of Beaverton

0 500 1,000 Feet

North

EXHIBIT C



Source Data
 City of Beaverton Community Development Department - Beaverton Zoning Data - Current as of January 2004
 Major Pedestrian Routes - Current as of March 2004
 METRO Regional Land Information System (RLIS) - Light Rail Line and Stations - Current as of October 2003
 Washington County Assessment and Taxation - Washington Co. Taxlots - Current as of February 2004

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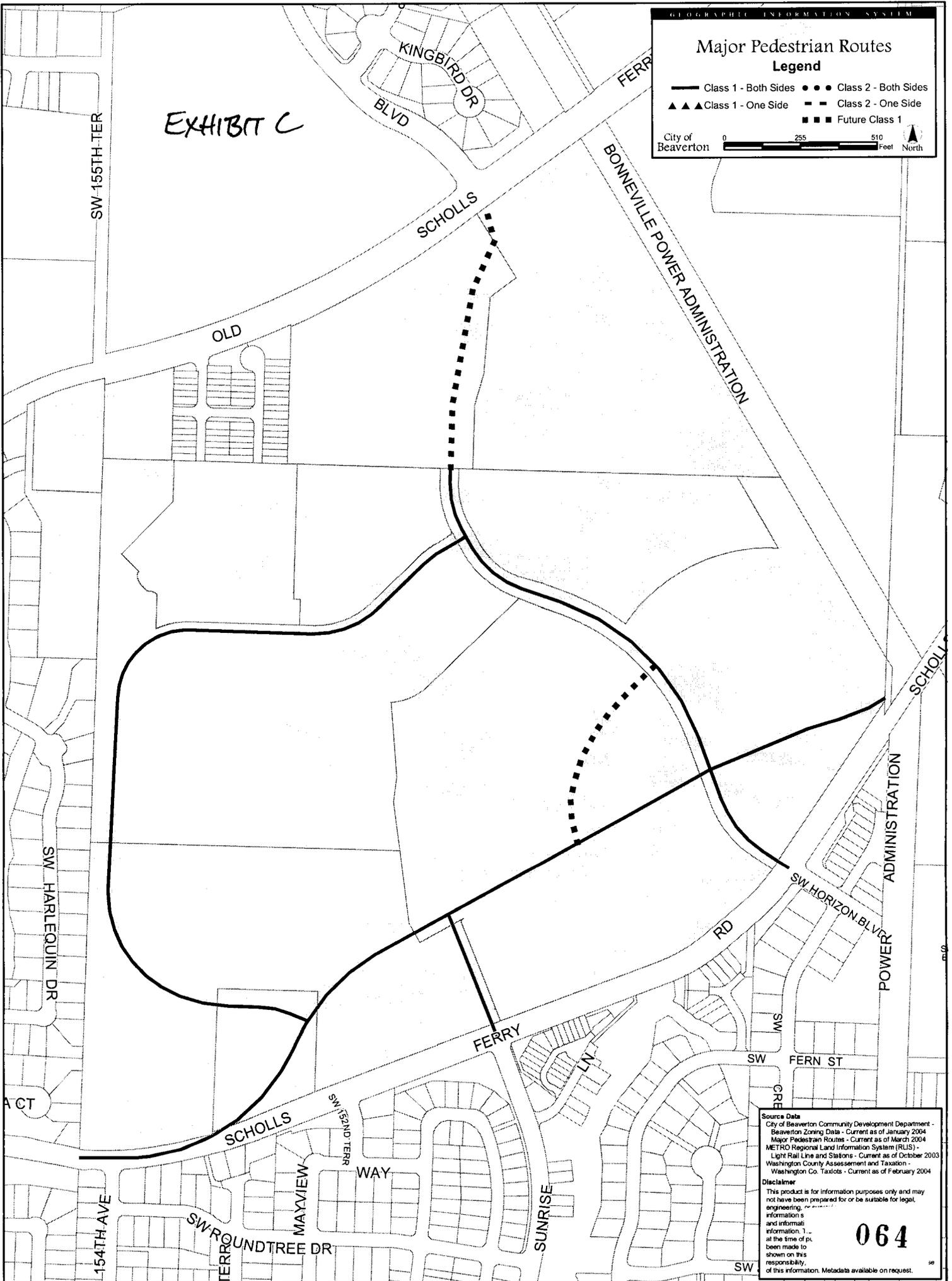
Major Pedestrian Routes

Legend

- Class 1 - Both Sides
- Class 2 - Both Sides
- ▲▲▲ Class 1 - One Side
- Class 2 - One Side
- ■ ■ Future Class 1



EXHIBIT C



Source Data
 City of Beaverton Community Development Department -
 Beaverton Zoning Data - Current as of January 2004
 Major Pedestrian Routes - Current as of March 2004
 METRO Regional Land Information System (RLIS) -
 Light Rail Line and Stations - Current as of October 2003
 Washington County Assessment and Taxation -
 Washington Co. Taxlots - Current as of February 2004

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EXHIBIT C

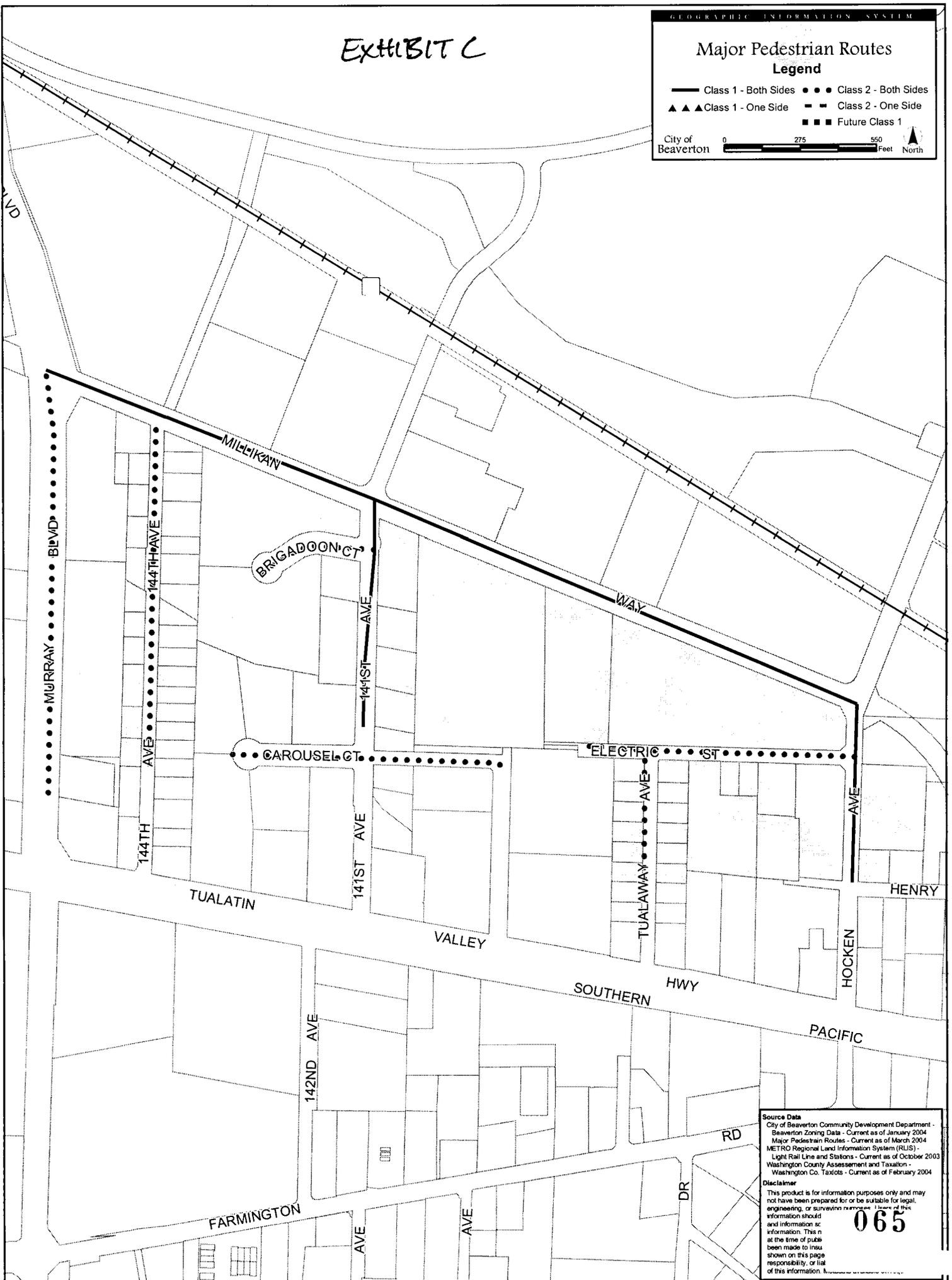
GEOGRAPHIC INFORMATION SYSTEM

Major Pedestrian Routes

Legend

<ul style="list-style-type: none"> — Class 1 - Both Sides ▲▲▲ Class 1 - One Side 	<ul style="list-style-type: none"> ●●● Class 2 - Both Sides ■ ■ ■ Class 2 - One Side ■ ■ ■ Future Class 1
--	--

City of Beaverton 0 275 550 Feet North



Source Data
 City of Beaverton Community Development Department -
 Beaverton Zoning Data - Current as of January 2004
 Major Pedestrian Routes - Current as of March 2004
 METRO Regional Land Information System (RLIS) -
 Light Rail Line and Stations - Current as of October 2003
 Washington County Assessment and Taxation -
 Washington Co. Taxlots - Current as of February 2004

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GEOGRAPHIC INFORMATION SYSTEM

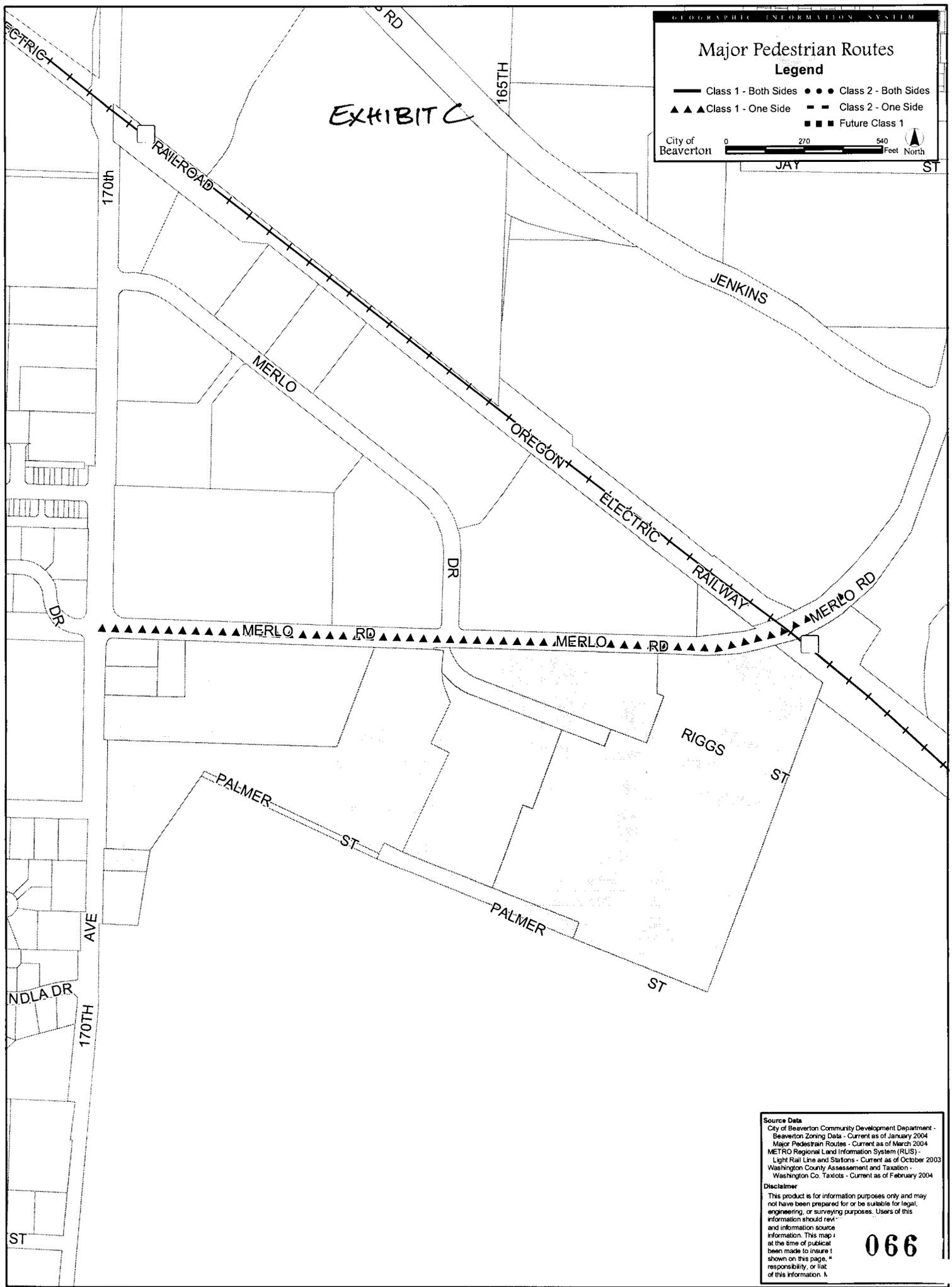
Major Pedestrian Routes

Legend

<ul style="list-style-type: none"> — Class 1 - Both Sides ▲▲ Class 1 - One Side 	<ul style="list-style-type: none"> ●●● Class 2 - Both Sides --- Class 2 - One Side ■ Future Class 1
---	--

City of Beaverton 0 270 540 Feet North

EXHIBIT C



Source Data
 City of Beaverton Community Development Department -
 Beaverton Zoning Data - Current as of January 2004
 Major Pedestrian Routes - Current as of March 2004
 METRO Regional Land Information System (RLIS) -
 Light Rail Line and Stations - Current as of October 2003
 Washington County Assessment and Taxation -
 Washington Co. Taxlots - Current as of February 2004

Disclaimer
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EXHIBIT D

1 **Section 1: The Development Code, Ordinance No. 2050, Chapter 20 –**
2 **Land Uses, Sections 20.05.05.2.B., 20.05.10.2.B., 20.05.15.2.B., 20.05.20.2.B.,**
3 **20.05.25.2.B., 20.05.30.2.B., 20.05.35.2.B., 20.05.40.2.B., 20.10.05.2.B.,**
4 **20.10.10.2.B., 20.10.15.2.B., 20.10.20.2.B., 20.10.25.2.B., 20.15.05.2.B.,**
5 **20.15.10.2.B., 20.15.15.2.B., 20.20.05.2.B., 20.20.10.2.B., 20.20.15.2.B.,**
6 **20.20.20.2.B., 20.20.25.2.B., 20.20.27.2.B., 20.20.30.2.B., 20.20.35.2.B.,**
7 **20.20.40.2.B., 20.20.43.2.B., 20.20.45.2.B., 20.20.47.2.B., will be amended to**
8 **read as follows:**

9
10 *****

11
12 B. Conditional Uses: (Subject to Section 40.15 or Section 40.96 as
13 applicable)

14
15 *****

16
17
18 **Section 2: The Development Code, Ordinance No. 2050, Chapter 20 –**
19 **Land Uses, Section 20.05.55, SUPPLEMENTAL DEVELOPMENT**
20 **REQUIREMENTS, will be amended to read as follows:**

21
22 **20.05.55. Supplemental Development Requirements**

23
24 *****

25
26 1. **Design Features:**

27
28 *****

29
30 **2.——Landseaping:**

31
32 A.——~~Required for front yard areas except for driveways or walkways~~
33 ~~in all R3.5, R2 and R1 Districts.~~

34
35 B.——~~Required open space and recreation areas except for paved or~~
36 ~~surfaced recreation space in all R2 and R1 Districts.~~

37
38 **2 3. Extension of Facilities. [ORD 4061; September 1999]**

39
40 *****

EXHIBIT D

1 **Section 3: The Development Code, Ordinance No. 2050, Chapter 20 –**
2 **Land Uses, Section 20.10.55, SUPPLEMENTAL DEVELOPMENT**
3 **REQUIREMENTS, will be amended to read as follows:**

4
5 **20.10.55. Supplemental Development Requirements [ORD 4224; August**
6 **2002]**

7
8 In addition to the site development requirements listed in Section 20.10.50,
9 development in commercial zoning districts shall be subject to the following
10 supplemental development requirements:

11
12 ~~1. **Landscaping:** Not less than 15% of the total lot area shall be~~
13 ~~landscaped.~~

14
15 **1 2. Extension of Facilities.**

16 *****

17
18
19 **2 3. Open Air Display:**

20 *****
21
22
23

24 **Section 4: The Development Code, Ordinance No. 2050, Chapter 20 –**
25 **Land Uses, Section 20.15.55, SUPPLEMENTAL DEVELOPMENT**
26 **REQUIREMENTS, will be amended to read as follows:**

27
28 **20.15.55. Supplemental Development Requirements [ORD 4224; August 2002]**
29

30 In addition to the site development requirements listed in Section 20.15.50,
31 development in industrial zoning districts shall be subject to the following
32 supplemental development requirements:

33
34 **1. Off Street Parking and Loading.**

35 *****

36
37
38 ~~2. **Landscaping:**~~

39 ~~A. Not less than 15% of the total lot area shall be landscaped.~~

40 ~~B. Fences, walls and hedges: Fencing shall be allowed inside a~~
41 ~~boundary planting screen.~~

42
43
44 **2 3. Extension of Facilities.**
45

EXHIBIT D

1 *****

2
3 **3 4. Adjacent Residential Zoning District(s).**

4
5 *****

6
7 **4-5. Required Conditions.**

8
9 *****

10
11 **Section 5: The Development Code, Ordinance No. 2050, Chapter 20 –**
12 **Land Uses, Section 20.20.50.E., SITE DEVELOPMENT REQUIREMENTS,**
13 **will be amended to read as follows:**

14
15 **20.20.50. Site Development Requirements**

16
17 **A. STATION AREAS [ORD 4224; August 2002]**

18
19 *****

20
21 **4. Building Height: (in feet)**

22
23 *****

24
25 **C. Refer to Section 60.05.15.7 for additional height requirements**
26 **for structures adjacent to Major Pedestrian Routes.**

27
28 **D. C.** The maximum height for wireless communication facilities
29 inclusive of antennas in all station areas zoning districts shall
30 be one hundred (100) feet. The maximum height of at-grade
31 equipment shelters for wireless communication facilities in all
32 industrial zoning districts shall be twelve (12) feet. [ORD 4248;
33 April 2003]

34
35 *****

36
37 **5. Floor Area:**

38
39 *****

40
41 **E. Projects may use the Final Planned Unit Development or the**
42 **Design Review Build-Out Concept Plan process to develop a site**
43 **in phases to achieve the minimum FAR established in this**
44 **subsection. Such projects must demonstrate in the plans how**

EXHIBIT D

1 future development of the site, to the minimum development
2 standards established in this ordinance or greater, can be
3 achieved at ultimate build out of the Planned Unit Development
4 or Design Review Build-Out Concept Plan. The Design Review
5 Build-Out Concept Plan may be used if the only Site
6 Development Requirement being phased, altered, or otherwise
7 varied is the minimum FAR. If any other Site Development
8 Requirement is being phased, altered, or otherwise varied, the
9 Planned Unit Development process is to be used.

10
11 **F. E.** Permitted Density (Floor Area Ratio FAR).

- 12
13 1. General. When a Planned Unit Development is approved,
14 phased development may be proposed, so long as each
15 phase complies with the minimum density of the site or
16 floor area ratio, or both.

17
18 Subsequent subsection numbering will be altered to reflect the change
19 in sequence.

20
21 *****

22
23 **B. STATION COMMUNITIES** [ORD 3998, December 1997] [ORD 4005,
24 January 1998] [ORD 4188; January 2002] [ORD 4224; August 2002]

25
26 *****

27
28 **4. Building Height:** (in feet)

29
30 *****

31
32 **C.** Refer to Section 60.05.15.7 for additional height requirements
33 for structures adjacent to Major Pedestrian Routes

34
35 **D. C.** The maximum height for wireless communication facilities
36 inclusive of antennas in all station communities zoning districts
37 shall be one hundred (100) feet. The maximum height of at-
38 grade equipment shelters for wireless communication facilities
39 in all industrial zoning districts shall be twelve (12) feet. [ORD
40 4248; April 2003]

41
42 *****

43
44 **5. Floor Area:**

EXHIBIT D

1
2 *****

3
4 E. Projects may use the Final Planned Unit Development or the
5 Design Review Build-Out Concept Plan process to develop a site
6 in phases to achieve the minimum FAR established in this
7 subsection. Such projects must demonstrate in the plans how
8 future development of the site, to the minimum development
9 standards established in this ordinance or greater, can be
10 achieved at ultimate build out of the Planned Unit Development
11 or Design Review Build-Out Concept Plan. The Design Review
12 Build-Out Concept Plan may be used if the only Site
13 Development Requirement being phased, altered, or otherwise
14 varied is the minimum FAR. If any other Site Development
15 Requirement is being phased, altered, or otherwise varied, the
16 Planned Unit Development process is to be used.

17
18 F. E. Permitted Density (~~Floor Area Ratio FAR~~).

- 19
20 1. General. When a Planned Unit Development is approved,
21 phased development may be proposed, so long as each
22 phase complies with the minimum density of the site or
23 floor area ratio, or both.

24
25 Subsequent subsection numbering will be altered to reflect the change
26 in sequence.

27
28 *****

29
30
31 C. CORRIDOR AND MAIN STREETS [ORD 4265; September 2003]

32
33 *****

34
35 4. **Maximum Building Height:** (in feet)

36
37 *****

38
39 B. Refer to Section 60.05.15.7 for additional height requirements
40 for structures adjacent to Major Pedestrian Routes.

41
42 *****

EXHIBIT D

1 **D. TOWN CENTERS** [ORD 4058, August 1999]

2
3 *****

4
5 **4. Building Height:** (in feet)

6
7 *****

8
9 C. Refer to Section 20.20.60.D.3 **60.05.15.7** for additional height
10 requirements for structures adjacent to Major Pedestrian
11 Routes.

12
13 *****

14
15 **5. Floor Area:**

16
17 *****

18
19 B. Minimum Floor Area Ratio 0.35 0.20 0.20
20 (FAR) for multiple use or non-
21 residential developments with a
22 Final Planned Unit
23 Development. **FPUD or DRBCP**
24 [ORD 4224; August 2002]

25 Projects that propose to utilize the Final Planned Unit
26 Development or **Design Review Build-Out Concept Plan** process
27 to develop a site at the minimum FAR established in subsection
28 20.20.50.D.5.B above must demonstrate in the **Planned Unit**
29 **Development** plans how, in all aspects of site development
30 requirements, future intensification of the site, to the minimum
31 FAR established in subsection 20.20.50.D.5.A or greater, can be
32 achieved at ultimate build out of the **Planned Unit Development**
33 or **Design Review Build-Out Concept Plan**. The **Design Review**
34 **Build-Out Concept Plan** may be used if the only **Site**
35 **Development Requirement** being phased, altered, or otherwise
36 varied is the minimum FAR. If any other **Site Development**
37 **Requirement** is being phased, altered, or otherwise varied, the
 Planned Unit Development process is to be used. [ORD 4224;
 August 2002]

EXHIBIT D

D. Maximum Floor Area Ratio 2.00 1.00 0.75
(FAR) for multiple use or non-
residential developments with a
~~Final Planned Unit~~
~~Development. FPUD or~~
~~DRBCP.~~ [ORD 4224; August
2002]

1
2 *****

3
4 **E. REGIONAL CENTERS** [ORD 4075; November 1999]

5
6 **3. Yard Setbacks:** (in feet)

7
8 *****

9
10 ~~G. Alternative Maximum Setback Large Retail Use.~~

11
12 1. ~~Purpose. Retail of at least 100,000 square feet located~~
13 ~~within the Regional Center district may be developed~~
14 ~~with an alternative maximum setback in exchange for~~
15 ~~pedestrian-oriented development. These large retail sites~~
16 ~~are to be pedestrian-oriented by placing smaller~~
17 ~~commercial buildings close to adjacent public streets and~~
18 ~~by creating an internal circulation system that is similar~~
19 ~~to streets in that they divide the parking area into blocks~~
20 ~~and provide pedestrian access. The intent is to encourage~~
21 ~~development that will, over time, form a pedestrian-~~
22 ~~oriented street along the perimeter of the parking blocks.~~
23 ~~In order to utilize this option, projects must use the Final~~
24 ~~Planned Unit Development process. [ORD 4224; August~~
25 ~~2002]~~

26
27 2. ~~Standards. The Alternative Maximum Setback standards~~
28 ~~are allowed, provided all the following are met:~~

29
30 a. ~~Buildings with at least 100,000 square feet of floor~~
31 ~~area in retail trade uses may utilize the alternative~~
32 ~~maximum setback standards of Section 20.20.50.E.3~~
33 ~~if all the following criteria are met:~~

34
35 b. ~~Other buildings on the site have ground floor walls~~
36 ~~within the maximum setback [20.20.50.E.3, (Yard~~
37 ~~Setbacks)] for at least 50 percent of the frontage~~

EXHIBIT D

1 along Major Pedestrian Routes, and for at least
2 25 percent of the frontage along other streets or
3 internal accessways. These buildings must be
4 constructed in accordance with the approved PUD.
5

6 e. Internal accessways that are similar to streets
7 must divide the site into parking areas or future
8 development sites that have block sizes no greater
9 than 330'.
10

11 d. Each internal accessway will have the following
12 minimum dimensions and features:
13

- 14 (1) Auto travel lanes with 10' minimum width with
15 curbing;
- 16 (2) Sidewalks at least 8' wide on both sides of the
17 internal accessway;
- 18 (3) Parallel or 60 degree angle parking outside of
19 travel lanes;
- 20 (4) Street trees along both sides (one per 30');
- 21 (5) Suitable landscaping.
22

23 4. Building Height: (in feet)

24 *****

25
26
27 D. Refer to Section 20.20.60.E.3 **60.05.15.7** for additional height
28 requirements for structures adjacent to Major Pedestrian
29 Routes.
30

31 *****

32 5. Floor Area:

33 *****

	<u>RC-TO</u>	<u>RC-OT</u>	<u>RC-E</u>
37			
38			
39 A. Minimum Floor Area Ratio	0.60	0.35	0.30
40 (FAR) for multiple use or			
41 non-residential developments.			
42			

43 Projects may use the Final Planned Unit Development **or the**
44 **Design Review Build-Out Concept Plan** process to develop a site

EXHIBIT D

1 in phases to achieve the minimum FAR established in this
2 subsection. Such projects must demonstrate in the ~~Planned~~
3 ~~Unit Development~~ plans how future development of the site, to
4 the minimum development standards established in this
5 ordinance or greater, can be achieved at ultimate build out of
6 the ~~Planned Unit Development or Design Review Build-Out~~
7 ~~Concept Plan~~. The ~~Design Review Build-Out Concept Plan~~ may
8 be used if the only Site Development Requirement being phased,
9 altered, or otherwise varied is the minimum FAR. If any other
10 Site Development Requirement is being phased, altered, or
11 otherwise varied, the ~~Planned Unit Development process is to be~~
12 ~~used~~. [ORD 4224; August 2002]

13 *****

14
15 D. Maximum Floor Area Ratio (FAR) Unlimited FAR in RC-E
for multiple use or non-residential zones.
developments with a Final
Planned Unit Development ~~FPUD~~
or ~~DRBCP~~. [ORD 4224; August
2002] [ORD 4259; August 2003]

16 *****

17
18
19 H. Permitted Density (Dwelling Units/Acre-Du/Ac) and (Floor Area
20 Ratio-FAR).
21
22 1. General. Except as otherwise approved through the Final
23 Planned Unit Development process, phased development
24 may be proposed, so long as each phase complies with the
25 minimum density or floor area ratio, or both. [ORD 4224;
26 August 2002]

27 *****

28
29
30 **6. — Design Features**

31 <Reserved>

32
33
34 **7. — Landscaping**

35 <Reserved>

36
37
38 *****

EXHIBIT D

1 **20.20.60 Supplementary Regulations**

2
3 **A. STATION AREAS [ORD 4224; August 2002]**

4
5 **1. ~~Development Standards.~~**

6
7 ~~The following supplementary development standards apply to all~~
8 ~~development within the Station Area Districts.~~

9
10 ~~A. Streets that form a boundary of a Station Area for which~~
11 ~~maximum front yard setbacks shall apply are:~~

12
13 ~~—— (reserved)~~

14
15 ~~B. All buildings shall have at least one primary building entrance~~
16 ~~oriented toward an abutting street, pedestrian way, or if~~
17 ~~available, a Major Pedestrian Route.~~

18
19 ~~C. Building entrances shall incorporate elements such as arcades,~~
20 ~~roofs, porches, alcoves, porticos, awnings, or any combination of~~
21 ~~the foregoing that protect pedestrians from the rain and wind.~~

22
23 ~~D. Sidewalks are required on all streets. On Major Pedestrian~~
24 ~~Routes, sidewalks shall provide an unobstructed path at least~~
25 ~~eight (8) feet wide. All other sidewalks or pedestrian ways shall~~
26 ~~provide an unobstructed path at least six (6) feet wide. Larger~~
27 ~~sidewalk dimensions up to twenty (20) feet are desirable in~~
28 ~~areas where pedestrian activity will be greatest or where~~
29 ~~outdoor seating is encouraged, or both.~~

30
31 ~~E. In residential only developments, a total area equal to at least~~
32 ~~fifteen (15) percent of site area shall be devoted to outdoor~~
33 ~~common area(s). This area may include decks, roofs, or~~
34 ~~balconies, provided such spaces are easily accessible to all~~
35 ~~residents and landscaped as appropriate for such uses.~~

36
37 ~~F. In Nonresidential and Multiple Use Developments, a total area~~
38 ~~equal to at least ten (10) percent of the site area shall be devoted~~
39 ~~to outdoor common area(s). This area may include public~~
40 ~~arcades, decks, or roof surfaces, provided such areas are easily~~
41 ~~accessible to the public (for developments that are open to the~~
42 ~~general public) or building tenants and landscaped as~~
43 ~~appropriate for such uses.~~

EXHIBIT D

1 ~~G. — Parking lots shall be placed behind buildings or behind a~~
2 ~~landscaped buffer with a minimum depth of eight (8) feet from~~
3 ~~adjacent streets or pedestrian ways.~~

4
5 ~~H. — Ground level off-street parking lots abutting a Major Pedestrian~~
6 ~~Route shall be screened from the street and pedestrian areas~~
7 ~~either by evergreen plant material, or by solid face walls, fences~~
8 ~~or berms not exceeding 3 and 1/2 feet in height.~~

9
10 ~~I. — Off-street loading spaces shall be placed behind or to the side of~~
11 ~~buildings to avoid blocking pedestrian connections. Loading~~
12 ~~areas shall be visually screened from the street or any~~
13 ~~pedestrian way by solid walls, or landscaping, or both.~~

14
15 ~~J. — Parking and service areas for nonresidential and multiple use~~
16 ~~developments shall be screened from adjacent residential areas.~~

17
18 ~~K. — Mechanical equipment shall be screened from view.~~

19 ~~1. 2.~~ **Specific District Development Approvals.**

20 (Reserved)

21 ~~3.~~ **Development Standards for Major Pedestrian Routes.**

22
23 The following standards shall apply to all development, or any
24 development phase, located on a site adjoining a designated Major
25 Pedestrian Route. Major pedestrian routes shall be identified for each
26 Multiple Use District established pursuant to this section.

27
28
29
30 A. — For all buildings in a development, or any development phase,
31 providing reasonably direct access to a Major Pedestrian Route:

32
33 1. — Secondary entries may face on other streets, off-street
34 parking areas or loading areas.

35
36 2. — Ground floor residential units fronting on a Major
37 Pedestrian Route shall have separate entries directly
38 from the Major Pedestrian Route. Upper story units may
39 share one or more entries.

40
41 3. — Nonresidential and multiple use buildings shall provide
42 direct public pedestrian access from the Major Pedestrian
43 Route to all businesses occupying fronting ground level
44 building space. All such entries shall be sheltered with

EXHIBIT D

1 ~~an element such as overhang, awning, or portico with a~~
2 ~~depth of at least four (4) feet.~~
3

4 4. ~~For Nonresidential and multiple use buildings, at least 50~~
5 ~~percent of the surface area of the ground floor elevation~~
6 ~~facing onto a Major Pedestrian Route, park, plaza or other~~
7 ~~public outdoor space shall be devoted to windows or doors.~~
8 ~~Provided that the total combined width of such glazed~~
9 ~~areas shall equal or exceed 50 percent of the total ground~~
10 ~~level width of the related building facade. For purposes of~~
11 ~~these requirements, the height of the ground floor~~
12 ~~elevation shall be measured from the interior finished~~
13 ~~ceiling of the fronting space or fourteen (14) feet above~~
14 ~~grade, which ever is less. Glazed areas shall provide~~
15 ~~views into retail, office, or lobby space, pedestrian~~
16 ~~entrances, or retail display windows.~~
17

18 B. ~~For development, or any development phase, which is adjacent~~
19 ~~to a Major Pedestrian Route, non-residential and non-residential~~
20 ~~multiple use buildings shall be located so that a minimum of 70~~
21 ~~percent of the frontage is occupied by one or more buildings~~
22 ~~lying within five (5) feet of the special setback line as specified~~
23 ~~in Section 20.20.50.A.3.D. Residential multiple use buildings~~
24 ~~with housing units at grade along such frontages shall have a~~
25 ~~maximum setback of twenty (20) feet along such frontages. A~~
26 ~~Variance to these standards for a parcel with a frontage width of~~
27 ~~less than 100 feet may be granted when access to required off-~~
28 ~~street parking must be located on the Major Pedestrian Route.~~
29

30 C. ~~Off street parking lots shall be located to the rear of buildings~~
31 ~~with no portion of the parking lot lying within fifty (50) feet of~~
32 ~~the right of way or easement of the Major Pedestrian Route.~~
33 ~~Where feasible, ingress and egress to parking shall be provided~~
34 ~~from side streets or alleys. When access must be provided~~
35 ~~directly from a Major Pedestrian Route, driveways for ingress~~
36 ~~and egress shall be limited to one per 150 feet. For lots with~~
37 ~~frontage of 150 feet or less, or lots abutting lots with a frontage~~
38 ~~of 150 feet or less, shared access shall be provided. In the event~~
39 ~~lot dimensions or the presence of multiple Major Pedestrian~~
40 ~~Route frontages make application of these standards~~
41 ~~impractical, a Variance may be granted. In such case, a~~
42 ~~landscape buffer with a depth of at least eight (8) feet shall be~~
43 ~~provided between the edge of the right of way and the parking~~
44 ~~lot.~~

EXHIBIT D

1
2 ~~D. Parking structures located on Major Pedestrian Routes shall~~
3 ~~incorporate one or more uses other than parking at ground level~~
4 ~~along that portion of the structure fronting onto such routes. A~~
5 ~~Variance may be granted for either 1) semi-subterranean~~
6 ~~parking structures, provided that the height of such structures,~~
7 ~~or portions thereof, is not greater than three and one half (3 1/2)~~
8 ~~feet above the elevation of the adjoining walkway or sidewalk~~
9 ~~and the structure is architecturally and functionally~~
10 ~~incorporated into the design of the street, or 2) where lot~~
11 ~~dimensions or presence of multiple Major Pedestrian Routes~~
12 ~~make application of this standard impractical.~~

13
14 *****

15 **B. STATION COMMUNITIES**

16 **1. Development Standards.**

17
18
19
20 The following supplementary development standards apply to all
21 development within the Station Community Districts.

22
23 A. Streets that form a boundary of a Station Community for which
24 maximum front yard setbacks shall apply are:

25
26 — (reserved)

27
28 B. All buildings shall have at least one primary building entrance
29 oriented toward an abutting street, pedestrian way, or if
30 available, a Major Pedestrian Route.

31
32 C. Building entrances shall incorporate elements that protect
33 pedestrians from the rain and wind, such as arcades, roofs,
34 porches, alcoves, porticos, awnings, or any combination of the
35 foregoing.

36
37 D. Sidewalks are required on all streets. On Major Pedestrian
38 Routes, sidewalks shall provide an unobstructed path at least
39 eight (8) feet wide. All other sidewalks or pedestrian ways shall
40 provide an unobstructed path at least six (6) feet wide. Larger
41 sidewalk dimensions up to twenty (20) feet are desirable in
42 areas where pedestrian activity will be greatest or where
43 outdoor seating is encouraged, or both.
44

EXHIBIT D

1 ~~E. In residential only developments, a total area equal to at least~~
2 ~~fifteen (15) percent of site area shall be devoted to outdoor~~
3 ~~common area(s). This area may include decks, roofs, or~~
4 ~~balconies, provided such spaces are easily accessible to all~~
5 ~~residents and landscaped as appropriate for such uses.~~

6
7 ~~F. In Nonresidential and Multiple Use Developments, a total area~~
8 ~~equal to at least ten (10) percent of the site area shall be devoted~~
9 ~~to outdoor common area(s). This area may include public~~
10 ~~arcades, decks, or roof surfaces, provided such areas are easily~~
11 ~~accessible to the public (for developments that are open to the~~
12 ~~general public) or building tenants and landscaped as~~
13 ~~appropriate for such uses.~~

14
15 ~~G. Parking lots shall be placed behind buildings or behind a~~
16 ~~landscaped buffer with a minimum depth of eight (8) feet from~~
17 ~~adjacent streets or pedestrian ways.~~

18
19 ~~H. Ground level off-street parking lots abutting a Major Pedestrian~~
20 ~~Route shall be screened from the street and pedestrian areas~~
21 ~~either by evergreen plant material, or by solid face walls, fences~~
22 ~~or berms not exceeding 3 and 1/2 feet in height.~~

23
24 ~~I. Off-street loading spaces shall be placed behind or to the side of~~
25 ~~buildings to avoid blocking pedestrian connections. Loading~~
26 ~~areas shall be visually screened from the street or any~~
27 ~~pedestrian way by solid walls, or landscaping, or both.~~

28
29 ~~J. Parking and service areas for nonresidential and multiple use~~
30 ~~developments shall be screened from adjacent residential areas.~~

31
32 ~~K. Mechanical equipment shall be screened from view.~~

33
34 **2. Specific District Development Approvals.**

35 *****

36
37
38 **3. Development Standards for Major Pedestrian Routes.**

39
40 ~~The following standards shall apply to all development, or any~~
41 ~~development phase, located on a site adjoining a designated Major~~
42 ~~Pedestrian Route. Major Pedestrian Routes shall be identified for each~~
43 ~~Multiple Use District established pursuant to this section.~~
44

EXHIBIT D

1 ~~Consistent with the definition of Major Pedestrian Route in Chapter~~
2 ~~90, the Major Pedestrian Routes in the South Tektronix zoning district~~
3 ~~are identified in the attached map of Major Pedestrian Routes. Major~~
4 ~~Pedestrian Routes includes all existing and future public streets and~~
5 ~~access easements in the South Tektronix SC MU and SC HDR zone~~
6 ~~and along all existing and future public transit routes. The designated~~
7 ~~routes shall provide connectivity to the Millikan Way and Beaverton~~
8 ~~Central light rail stations and provide east west movement through~~
9 ~~the interior portion of the station community. [ORD 4121; August~~
10 ~~2000]~~

11
12 ~~A. For all buildings in a development, or any development phase,~~
13 ~~providing reasonably direct access to a Major Pedestrian Route:~~

14
15 ~~1. Secondary entries may face on other streets, off street~~
16 ~~parking areas or loading areas.~~

17
18 ~~2. Ground floor residential units fronting on a Major~~
19 ~~Pedestrian Route shall have separate entries directly~~
20 ~~from the Major Pedestrian Route. Upper story units may~~
21 ~~share one or more entries.~~

22
23 ~~3. Nonresidential and multiple use buildings shall provide~~
24 ~~direct public pedestrian access from the Major Pedestrian~~
25 ~~Route to all businesses occupying fronting ground level~~
26 ~~building space. All such entries shall be sheltered with~~
27 ~~an element such as overhang, awning, or portico with a~~
28 ~~depth of at least four (4) feet.~~

29
30 ~~4. For Nonresidential and multiple use buildings, at least 50~~
31 ~~percent of the surface area of the ground floor elevation~~
32 ~~facing onto a Major Pedestrian Route, park, plaza or other~~
33 ~~public outdoor space shall be devoted to windows or doors.~~
34 ~~Provided that the total combined width of such glazed~~
35 ~~areas shall equal or exceed 50 percent of the total ground~~
36 ~~level width of the related building facade. For purposes of~~
37 ~~these requirements, the height of the ground floor~~
38 ~~elevation shall be measured from the interior finished~~
39 ~~ceiling of the fronting space or fourteen (14) feet above~~
40 ~~grade, which ever is less. Glazed areas shall provide~~
41 ~~views into retail, office, or lobby space, pedestrian~~
42 ~~entrances, or retail display windows.~~

EXHIBIT D

1 ~~B. For development, or any development phase, which is adjacent~~
2 ~~to a Major Pedestrian Route, non-residential and non-residential~~
3 ~~multiple use buildings shall be located so that a minimum of 70~~
4 ~~percent of the frontage is occupied by one or more buildings~~
5 ~~lying within five (5) feet of the special setback line as specified~~
6 ~~in Section 20.20.50.B.3.D. Residential multiple use buildings~~
7 ~~with housing units at grade along such frontages shall have a~~
8 ~~maximum setback of twenty (20) feet along such frontages. A~~
9 ~~Variance to these standards for a parcel with a frontage width of~~
10 ~~less than 100 feet may be granted when access to required off-~~
11 ~~street parking must be located on the Major Pedestrian Route.~~

12
13 ~~C. Off-street parking lots shall be located to the rear of buildings~~
14 ~~with no portion of the parking lot lying within fifty (50) feet of~~
15 ~~the right-of-way or easement of the Major Pedestrian Route.~~
16 ~~Where feasible, ingress and egress to parking shall be provided~~
17 ~~from side streets or alleys. When access must be provided~~
18 ~~directly from a Major Pedestrian Route, driveways for ingress~~
19 ~~and egress shall be limited to one per 150 feet. For lots with~~
20 ~~frontage of 150 feet or less, or lots abutting lots with a frontage~~
21 ~~of 150 feet or less, shared access shall be provided. In the event~~
22 ~~lot dimensions or the presence of multiple Major Pedestrian~~
23 ~~Route frontages make application of these standards~~
24 ~~impractical, a Variance may be granted. In such case, a~~
25 ~~landscape buffer with a depth of at least eight (8) feet shall be~~
26 ~~provided between the edge of the right of way and the parking~~
27 ~~lot. [ORD 4224; August 2002]~~

28
29 ~~D. Parking structures located on Major Pedestrian Routes shall~~
30 ~~incorporate one or more uses other than parking at ground level~~
31 ~~along that portion of the structure fronting onto such routes. A~~
32 ~~Variance may be granted for either 1) semi-subterranean~~
33 ~~parking structures, provided that the height of such structures,~~
34 ~~or portions thereof, is not greater than three and one-half (3 1/2)~~
35 ~~feet above the elevation of the adjoining walkway or sidewalk~~
36 ~~and the structure is architecturally and functionally~~
37 ~~incorporated into the design of the street, or 2) where lot~~
38 ~~dimensions or presence of multiple Major Pedestrian Routes~~
39 ~~make application of this standard impractical. [ORD 4224;~~
40 ~~August 2002]~~

EXHIBIT D

4. ~~Phasing of Development Standards.~~

~~Projects in the South Tektronix Station Community area may use the Final Planned Unit Development process to develop a site by phasing compliance with the development standards established in this ordinance. Such projects must demonstrate in the Planned Unit Development plans how future development of the site, to the minimum development standards established in this ordinance or greater, can be achieved at ultimate build out of the Planned Unit Development. [ORD 4224; August 2002]~~

C. CORRIDOR DISTRICTS [ORD 4265; September 2003]

~~1. **Landscaping:** Not less than 15% of the total lot area shall be landscaped.~~

~~1. 2. **Extension of Facilities.**~~

~~2. 3. **Open Air Display:**~~

~~3. 4. **Method for Calculating Minimum Residential Density.**~~

D. TOWN CENTER DISTRICTS

~~1. **Development Standards.** The following supplementary development standards apply to all development within the Town Center Districts.~~

~~A. All buildings shall have at least one primary building entrance oriented toward an abutting street, pedestrian way, or if available, a Major Pedestrian Route.~~

~~B. Building entrances shall incorporate elements that protect pedestrians from the rain and wind, such as arcades, roofs, porches, alcoves, porticos, awnings, or any combination of the foregoing.~~

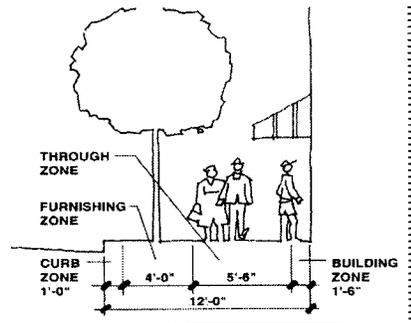
EXHIBIT D

1
2 C. ~~Sidewalks are required on all streets. On Major Pedestrian~~
3 ~~Routes, sidewalks shall be at least twelve (12) feet wide and~~
4 ~~provide an unobstructed path at least eight (8) feet wide. All~~
5 ~~other sidewalks or pedestrian ways shall be at least ten (10) feet~~
6 ~~wide and provide an unobstructed path at least six (6) feet wide.~~
7 ~~Larger sidewalk dimensions up to twenty (20) feet are desirable~~
8 ~~in areas where pedestrian activity will be greatest or where~~
9 ~~outdoor seating is encouraged, or both.~~

10
11 D. ~~Street Trees will typically be planted in the curb strip along all~~
12 ~~streets. This width includes zones for pedestrian, street trees,~~
13 ~~and building entries as follows:~~

14
15 ~~Minimum Sidewalk Standards~~ *Typical side walk configuration*
16 ~~Major Pedestrian Routes:~~

- 17
- 18 4' 0" Furnishing Zone.
- 19 1' 0" Curb Zone.
- 20 5' 6" Through Zone.
- 21 1' 6" Building zone.
- 22
- 23



24 E. ~~Bus Stops may be required~~
25 ~~on Major Pedestrian Routes and, if required, shall include the~~
26 ~~curb and sidewalk that will extend into the parking lane of the~~
27 ~~roadway to make a queuing area for bus riders. Shelters,~~
28 ~~kiosks, benches, or other rider amenities will be required at park~~
29 ~~and ride facilities or on transit mall streets where many riders~~
30 ~~are served. At minor bus stops, a bus stop sign and route~~
31 ~~information will be provided.~~

32
33 F. ~~Pathways are to be used primarily by bicycles and pedestrians~~
34 ~~but in some instances they may be used by emergency vehicles.~~
35 ~~The purpose of pathways is to provide pedestrian oriented~~
36 ~~connections between nearby developments and the Town Center.~~
37 ~~They can be as narrow as a 5' 0" wide walkway between existing~~
38 ~~buildings, as wide as 14' 0" wide recreational trail through park~~
39 ~~areas and setbacks, or may be the connection of two existing~~
40 ~~parking drive aisles.~~

41
42 G. ~~Walkways are small scale pathways intended for local~~
43 ~~neighborhood use, providing connections between developed and~~
44 ~~developing areas. Walkways may be enlarged by connecting the~~

EXHIBIT D

1 ~~walkways of two existing planned unit developments. Attention~~
2 ~~will be given to the visibility of walkways from nearby land uses.~~

3
4 ~~H. — Recreational Trails. In park areas, power line easements, and~~
5 ~~flood plain areas, it is desirable to have an interconnected route~~
6 ~~of trails linking the neighborhood for transportation and~~
7 ~~recreational purposes. Standard: 14' 0" clear zone with 12' 0"~~
8 ~~paved area. If approved as a part of the development review~~
9 ~~process, trails may be reduced in width when connecting to~~
10 ~~existing trails that are dimensioned less than 12 feet.~~

11
12 ~~I. — Drive Aisles. Pathways may be made by connecting existing~~
13 ~~automobile drive aisles together between nearby properties or~~
14 ~~connecting the parking of two existing developments together.~~
15 ~~In some cases, it may be appropriate to align drive aisles across~~
16 ~~streets to make safe connections across roadways that are~~
17 ~~clearly visible to vehicles, bicycles, and pedestrians using the~~
18 ~~crossing. The intention is to use every opportunity to expand~~
19 ~~the local circulation network so that convenience and safety are~~
20 ~~maximized.~~

21
22 ~~J. — In residential only developments, a total area equal to at least~~
23 ~~fifteen (15) percent of site area shall be devoted to outdoor~~
24 ~~common area(s). This area may include decks, balconies,~~
25 ~~including rooftop balconies, and other landscape and water~~
26 ~~features provided such spaces are easily accessible to all~~
27 ~~residents and landscaped as appropriate for such uses.~~

28
29 ~~K. — Parking lots shall be placed at the side or behind buildings or~~
30 ~~behind a landscaped buffer with a minimum depth of eight (8)~~
31 ~~feet from adjacent streets or pedestrian ways. Pedestrian access~~
32 ~~from the parking lots to adjacent streets or pedestrian way shall~~
33 ~~be provided as deemed appropriate within the development~~
34 ~~review process.~~

35
36 ~~L. — Off street loading spaces shall be placed behind or to the side of~~
37 ~~buildings to avoid blocking pedestrian connections. Loading~~
38 ~~areas should be visually screened from the street or any~~
39 ~~pedestrian way by solid walls, or landscaping, or both.~~

40
41 ~~M. — Parking and service areas for nonresidential and multiple use~~
42 ~~developments shall be screened from adjacent residential areas.~~

43
44 ~~N. — Mechanical equipment shall be screened from view.~~

EXHIBIT D

1
2 **2. Specific District Development Approvals.**
3

4 A. Murray Scholls Town Center Development Standards. The
5 following standards shall apply to all development, or any
6 development phase, located within the Murray Scholls Town
7 Center.

8
9 1. Demonstrate by the submittal of a General Site Plan as
10 defined in Chapter 90 that compliance with the required
11 minimum of 1,050 residential units either: 1) has
12 previously been achieved within the district, 2) will be
13 achieved as a result of the proposed development, or 3)
14 can still be achieved within the district after completion of
15 the proposed development.

16
17 2. Demonstrate by the submittal of a General Site Plan as
18 defined in Chapter 90 that compliance with the required
19 maximum of 2,500 residential units either: 1) has not
20 been achieved within the district, or 2) will not be
21 achieved as a result of the proposed development.

22
23 ~~3. Major Pedestrian Routes within the Murray Scholls Town~~
24 ~~Center are shown on Map 20.20.60 1. Within the Murray~~
25 ~~Scholls Town Center, Major Pedestrian Routes are~~
26 ~~divided into two types: Pedestrian Streets and Transit~~
27 ~~Streets. These two types of Major Pedestrian Routes,~~
28 ~~while subject to the requirements for Major Pedestrian~~
29 ~~Routes, serve different purposes. The Transit Street is~~
30 ~~distinguished by an emphasis on transit facilities and~~
31 ~~services.~~

32
33 ~~3. Development Standards for Major Pedestrian Routes. The~~
34 ~~following standards shall apply to all development, or any development~~
35 ~~phase, located on a site adjoining a designated Major Pedestrian~~
36 ~~Route. Major pedestrian routes shall be identified for each Multiple~~
37 ~~Use District established pursuant to this section.~~

38
39 ~~Consistent with the definition of Major Pedestrian Route in Chapter~~
40 ~~90, the Major Pedestrian Routes in the Town Center zoning districts~~
41 ~~are identified in the attached map of Major Pedestrian Routes in the~~
42 ~~Town Center zoning districts.~~

EXHIBIT D

1 A. ~~Streetscapes for Pedestrians.~~ Development along Major
2 Pedestrian Routes shall be designed to encourage use by
3 pedestrians by providing a safe, comfortable and interesting
4 walking environment. The standards in this section are
5 intended to enhance street safety and pedestrian comfort by
6 providing ground level features of interest to pedestrians, and
7 by creating an urban streetscape appropriate for a Town Center.

8
9 ~~Architecture helps define the character and quality of a street
10 and can make a strong statement about the overall city at large.
11 The placement and design of buildings provide the framework
12 for the streetscape and defines the edges of street space.~~

13
14 1. ~~For Nonresidential and multiple use buildings, at least 50
15 percent of the surface area of the ground floor elevation
16 facing onto a Major Pedestrian Route, park, plaza or other
17 public outdoor space shall be devoted to windows or doors.
18 Provided that the total combined width of such glazed
19 areas shall equal or exceed 50 percent of the total ground
20 level width of the related building facade. For purposes of
21 these requirements, the height of the ground floor
22 elevation shall be measured from the interior finished
23 ceiling of the fronting space or fourteen (14) feet above
24 grade, which ever is less. Glazed areas shall provide
25 views into retail, office, or lobby space, pedestrian
26 entrances, or retail display windows. Mirrored or
27 obscured windows are not acceptable.~~

28
29 2. ~~For development, or any development phase, which is
30 adjacent to a Major Pedestrian Route, non-residential and
31 non-residential multiple use buildings shall be located so
32 that a minimum of 70 percent of the frontage is occupied
33 by one or more buildings lying within five (5) feet of the
34 special setback line as specified in Section 20.20.50.D.3.D.~~

35
36 3. ~~Building(s) shall be located at public street intersections
37 with the building(s) fronting the streets forming the
38 intersection.~~

39
40 B. ~~Building Entrances.~~ Provide for safe, convenient, direct and
41 identifiable access for pedestrians between Major Pedestrian
42 Routes and adjacent buildings.

43

EXHIBIT D

1. ~~For all buildings in a development, or any development phase, provide a reasonably direct access to a Major Pedestrian Route.~~
2. ~~Secondary entries may face on other streets, off street parking areas or loading areas.~~
3. ~~Ground floor residential units fronting on a Major Pedestrian Route shall have separate entries directly from the Major Pedestrian Route. Upper story units may share one or more entries.~~
4. ~~Nonresidential and multiple use buildings shall provide direct public pedestrian access from the Major Pedestrian Route to all businesses occupying fronting ground level building space. All such entries shall be sheltered with an element such as overhang, awning, or portico with a depth of at least four (4) feet. The sheltering element shall be architecturally integrated into the design of the structure(s).~~

C. ~~Building Heights~~ ~~The minimum and maximum building height standards are used to establish building scales along Major Pedestrian Routes in order to achieve a pedestrian friendly character which supports a wide variety of residential and commercial uses in combination. Buildings which are compatible in terms of scale help to create a harmonious visual setting which enhances the livability of a district and helps to bring about the successful mixing of diverse land uses and activities.~~

1. ~~The height of any portion of a building lying within twenty (20) feet of a Major Pedestrian Route shall not be less than twenty four (24) feet or greater than forty five (45) feet at finished grade of the required twelve (12) foot sidewalk.~~
2. ~~The height of any portion of a building located within 20 feet of a Major Pedestrian Route shall not exceed a height greater than one half the width of the abutting right-of-way of the Major Pedestrian Route.~~
3. ~~The maximum heights specified by Sections 20.20.60.D.3.C.1 and .2 can be further adjusted an~~

EXHIBIT D

1 additional twelve (12) feet in excess of the maximum
2 building height for any portion of a building located above
3 the coping, eave or deck line and beneath a plane
4 extending back from the coping, eave or deckline at an
5 angle of thirty (30) degrees from a horizontal plane equal
6 to the height of the coping, eave or deckline. The point
7 from which the thirty (30) degree angle shall be measured
8 is at the highest permitted elevation at twelve (12) feet
9 from the face of curb.

10
11 ~~D. — Parking Areas and Garages —~~ Garages and off-street surface
12 parking areas shall be designed to be as unobtrusive and as
13 attractive in appearance, as possible. There shall be low bushes
14 or a low wall or berm at the perimeter of surface parking lots to
15 reduce their visibility from the surrounding area. Barriers
16 around the perimeter of a parking lot shall not be so high,
17 however, that it becomes a safety or security problem. Trees
18 shall be used extensively at the perimeter and in the interior of
19 surface parking lots to break up large parking areas and provide
20 shade. Accessways through surface parking lots shall be clearly
21 identifiable through use of different paving materials, grade
22 separation, or landscaping, well lighted, and as short as
23 practicable.

24
25 1. — Off street parking lots shall be located to the rear of
26 buildings. Where feasible, ingress and egress to parking
27 shall be provided from side streets or alleys. When access
28 must be provided directly from a Major Pedestrian Route,
29 driveways for ingress and egress shall be limited to one
30 per 150 feet. For lots with frontage of 150 feet or less, or
31 lots abutting lots with a frontage of 150 feet or less,
32 shared access shall be provided. In the event lot
33 dimensions or the presence of multiple Major Pedestrian
34 Route frontages make application of these standards
35 impractical and notwithstanding the adjustment process,
36 a Variance may be granted. [ORD 4224; August 2002]

37
38 2. — Off street parking lots shall provide perimeter parking lot
39 landscaping adjacent to Major Pedestrian Routes which is
40 an eight (8) foot wide planting strip between the right-of-
41 way or easement and the parking area. Planting strips
42 shall be planted with trees at a minimum of 3 ½ inch
43 caliper and at a maximum of 30 feet on center. Additional
44 landscaping shall contain evergreen plants, a solid fence

EXHIBIT D

1 ~~or wall, or both which are not less than thirty-six (36)~~
2 ~~inches or more that forty-two (42) inches in height as~~
3 ~~measured from the sidewalk elevation. Other evergreen~~
4 ~~and deciduous plants and architectural features may be~~
5 ~~approved at any height. The planting strip may be~~
6 ~~designed to allow adequate access by pedestrians and~~
7 ~~vehicles.~~

8
9 3. ~~Parking structures located on Major Pedestrian Routes~~
10 ~~shall incorporate one or more retail or commercial uses~~
11 ~~other than parking at ground level along that portion of~~
12 ~~the structure fronting onto such routes. Notwithstanding~~
13 ~~the adjustment process, a Variance may be granted for~~
14 ~~either: [ORD 4224; August 2002]~~

15
16 a. ~~Semi-subterranean parking structures, provided~~
17 ~~that the height of such structures, or portions~~
18 ~~thereof, is not greater than three and one half (3~~
19 ~~1/2) feet above the elevation of the adjoining~~
20 ~~walkway or sidewalk and the structure is~~
21 ~~architecturally and functionally incorporated into~~
22 ~~the design of the street, or~~

23
24 b. ~~Where lot dimensions or presence of multiple Major~~
25 ~~Pedestrian Routes make application of this~~
26 ~~standard impractical.~~

27 *****

28
29 **E. REGIONAL CENTER [ORD 4075; November 1999]**

30 *****

31
32
33 **1. Development Standards.**

34
35 The following supplementary standards apply to all development
36 within the Regional Center.

37
38 A. Streets that form a boundary of a Multiple Use District for
39 which maximum front yard setbacks shall apply are:

40
41 1. Cedar Hills Boulevard

42
43 2. Farmington Road

44

EXHIBIT D

1 ~~B. All buildings shall have at least one primary building entrance~~
2 ~~oriented toward an abutting street, pedestrian way, or, if~~
3 ~~available, a Major Pedestrian Route.~~

4
5 ~~C. Building entrances shall incorporate elements that protect~~
6 ~~pedestrians from the rain and wind, such as arcades, roofs,~~
7 ~~porches, alcoves, porticos, awnings, or any combination of the~~
8 ~~foregoing.~~

9
10 ~~D. Sidewalks are required on all streets. On Major Pedestrian~~
11 ~~Routes, sidewalks shall be at least ten (10) feet wide and provide~~
12 ~~an unobstructed path at least six (6) feet wide. All other~~
13 ~~sidewalks or pedestrian ways shall be at least eight (8) feet wide~~
14 ~~and provide an unobstructed path at least four (4) feet wide.~~
15 ~~Larger sidewalk dimensions up to twenty (20) feet are desirable~~
16 ~~in areas where pedestrian activity will be greatest or where~~
17 ~~outdoor seating is encouraged, or both.~~

18
19 ~~E. In residential only developments, a total area equal to at least~~
20 ~~fifteen (15) percent of site area shall be devoted to outdoor~~
21 ~~common area(s). This area may include decks, roofs, or~~
22 ~~balconies, provided such spaces are easily accessible to all~~
23 ~~residents and landscaped as appropriate for such uses.~~

24
25 ~~F. In Nonresidential and Multiple Use Developments, a total area~~
26 ~~equal to at least ten (10) percent of the site area shall be devoted~~
27 ~~to outdoor common area(s). This area may include public~~
28 ~~arcades, decks, or roof surfaces, provided such areas are easily~~
29 ~~accessible to the public (for developments that are open to the~~
30 ~~general public) or building tenants and appropriately~~
31 ~~landscaped for such uses.~~

32
33 ~~G. Parking lots shall be placed at the side of or behind buildings or~~
34 ~~behind a landscaped buffer with a minimum depth of five (5)~~
35 ~~feet from adjacent streets or pedestrian ways. Pedestrian access~~
36 ~~from the parking lots to adjacent streets or pedestrian way shall~~
37 ~~be provided as deemed appropriate within the development~~
38 ~~review process.~~

39
40 ~~H. Off street loading spaces shall be placed behind or to the side of~~
41 ~~buildings to avoid blocking pedestrian connections. Loading~~
42 ~~areas should be visually screened from the street or any~~
43 ~~pedestrian way by solid walls, or landscaping, or both.~~

44

EXHIBIT D

1 I. ~~Parking and service areas for nonresidential and multiple use~~
2 ~~developments shall be screened from adjacent residential areas.~~

3
4 J. ~~Mechanical equipment shall be screened from view.~~

5
6 **2. Specific District Development Approvals.**

7
8 *****

9
10 **3. ~~Development Standards for Development along Major~~**
11 **~~Pedestrian Routes.~~**

12
13 ~~The following standards shall apply to all development, or any~~
14 ~~development phase, located on a site adjoining a designated Major~~
15 ~~Pedestrian Route. Major pedestrian routes shall be identified for each~~
16 ~~Multiple Use District established pursuant to this section.~~

17
18 ~~Consistent with the definition of Major Pedestrian Route in Chapter~~
19 ~~90, the Major Pedestrian Routes in the Regional Center zoning~~
20 ~~districts are identified in the map entitled "Regional Center Major~~
21 ~~Pedestrian Routes," dated 9/30/98, in the Regional Center zoning~~
22 ~~districts. Major Pedestrian Routes include all existing and future~~
23 ~~public streets and easements in the Regional Center Transit Oriented~~
24 ~~zone, along all existing and future transit routes in the three (3)~~
25 ~~Regional Center zoning districts, and on both sides of Canyon Road~~
26 ~~and SW 117th Avenue.~~

27
28 A. ~~Streetscapes for Pedestrians.~~ ~~Development along Major~~
29 ~~Pedestrian Routes shall be designed to encourage use by~~
30 ~~pedestrians by providing a safe, comfortable and interesting~~
31 ~~walking environment. The standards in this section are~~
32 ~~intended to enhance street safety and pedestrian comfort by~~
33 ~~providing ground level features of interest to pedestrians, and~~
34 ~~by creating an urban streetscape appropriate for a Regional~~
35 ~~Center.~~

36
37 ~~Architecture helps define the character and quality of a street~~
38 ~~and can make a strong statement about the overall city at large.~~
39 ~~The placement and design of buildings provide the framework~~
40 ~~for the streetscape and defines the edges of street space.~~

41
42 1. ~~For Nonresidential and multiple use buildings at least 50~~
43 ~~percent of the surface area of the ground floor elevation~~
44 ~~facing onto a Major Pedestrian Route, park, plaza or other~~

EXHIBIT D

1 public outdoor space shall be devoted to windows or doors
2 provided that the total combined width of such glazed
3 areas shall equal or exceed 50 percent of the total ground
4 level width of the related building facade. For purposes of
5 these requirements, the height of the ground floor
6 elevation shall be measured from the interior finished
7 ceiling of the fronting space or ten (10) feet above grade,
8 whichever is less. Glazed areas shall provide views into
9 retail, office, or lobby space, pedestrian entrances, or
10 retail display windows. For parcels with frontage on more
11 than one Major Pedestrian Route, park, plaza or other
12 public outdoor space, the standards of this section shall
13 only apply to one of the multiple frontages, with the other
14 frontages devoted to articulated facades, balustrades or
15 other treatments of architectural interest for the
16 combined width otherwise required for glazed areas.
17

18 2. — ~~For development, or any development phase, which is~~
19 ~~adjacent to a Major Pedestrian Route, non-residential and~~
20 ~~non-residential multiple use buildings shall be located so~~
21 ~~that a minimum of 50 percent of the frontage is occupied~~
22 ~~by one or more buildings lying within five (5) feet of the~~
23 ~~special setback line as specified in Section 20.20.50.E.3.D.~~
24

25 3. — ~~A building shall be located at public street intersection~~
26 ~~with the building fronting the streets forming the~~
27 ~~intersection.~~
28

29 ~~B. — Building Entrances. Provide for safe, convenient, direct and~~
30 ~~identifiable access for pedestrians between Major Pedestrian~~
31 ~~Routes and adjacent buildings.~~
32

33 1. — ~~For all buildings in a development, or any development~~
34 ~~phase, provide a reasonably direct access to a Major~~
35 ~~Pedestrian Route.~~
36

37 2. — ~~For those parcels with frontage on more than one Major~~
38 ~~Pedestrian Route, any new structure shall have an~~
39 ~~entrance on at least one frontage or one entrance at the~~
40 ~~corner of the structure facing the intersection of the Major~~
41 ~~Pedestrian Routes.~~
42

43 3. — ~~Secondary entries may face on other streets, off street~~
44 ~~parking areas or loading areas.~~

EXHIBIT D

1
2 4. ~~Nonresidential and multiple use buildings shall provide~~
3 ~~reasonably direct public pedestrian access from the Major~~
4 ~~Pedestrian Route. All such entries shall be sheltered with~~
5 ~~an element such as overhang, awning, or portico with a~~
6 ~~depth of at least four (4) feet. The sheltering element~~
7 ~~shall be architecturally integrated into the design of the~~
8 ~~structure(s).~~

9
10 C. ~~Building Heights. The minimum and maximum building height~~
11 ~~standards are used to establish building scales along Major~~
12 ~~Pedestrian Routes in order to achieve a pedestrian friendly~~
13 ~~character which supports a wide variety of residential and~~
14 ~~commercial uses in combination. Buildings which are compatible~~
15 ~~in terms of scale help to create a harmonious visual setting~~
16 ~~which enhances the livability of a district and helps to bring~~
17 ~~about the successful mixing of diverse land uses and activities.~~

18
19 1. ~~The height of any portion of a building lying within~~
20 ~~twenty (20) feet of a Major Pedestrian Route shall not be~~
21 ~~less than twenty four (24) feet or greater than forty five~~
22 ~~(45) feet at finished grade of the required ten (10) foot~~
23 ~~sidewalk. An adjustment of an additional twelve (12) feet~~
24 ~~in excess of the maximum 45 foot building height is~~
25 ~~permitted for any portion of a building located above the~~
26 ~~coping, eave or deck line and beneath a plane extending~~
27 ~~back from the coping, eave or deckline at an angle of~~
28 ~~thirty (30) degrees from a horizontal plane equal to the~~
29 ~~height of the coping, eave or deckline. The point from~~
30 ~~which the thirty (30) degree angle shall be measured is at~~
31 ~~the 45 foot maximum height, twelve (12) feet from the~~
32 ~~face of curb.~~

33
34 2. ~~The height of any portion of a building located within 20~~
35 ~~feet of a Major Pedestrian Route shall not exceed a height~~
36 ~~greater than one half the width of the abutting~~
37 ~~right-of-way of the Major Pedestrian Route. An~~
38 ~~adjustment of an additional twelve (12) feet in excess of~~
39 ~~the maximum building height is permitted for any portion~~
40 ~~of a building located above the coping, eave or deck line~~
41 ~~and beneath a plane extending back from the coping, eave~~
42 ~~or deckline at an angle of thirty (30) degrees from a~~
43 ~~horizontal plane equal to the height of the coping, eave or~~
44 ~~deckline. The point from which the thirty (30) degree~~

EXHIBIT D

1 ~~angle shall be measured is at the highest permitted~~
2 ~~elevation at twelve (12) feet from the face of curb.~~

3
4 ~~D. — Parking Areas and Garages. — Garages and off street surface~~
5 ~~parking areas shall be designed to be as unobtrusive and as~~
6 ~~attractive in appearance, as possible. There shall be low bushes~~
7 ~~or a low wall or berm at the perimeter of surface parking lots to~~
8 ~~reduce their visibility from the surrounding area. — Barriers~~
9 ~~around the perimeter of a parking lot shall not be so high,~~
10 ~~however, that it becomes a safety or security problem. Trees~~
11 ~~shall be used extensively at the perimeter and in the interior of~~
12 ~~surface parking lots to break up large parking areas and provide~~
13 ~~shade. Access ways through surface parking lots shall be clearly~~
14 ~~identifiable through use of different paving materials, grade~~
15 ~~separation, or landscaping, well lighted, and as short as~~
16 ~~practicable.~~

17
18 1. — ~~Off street parking lots shall be located to the rear or side~~
19 ~~of buildings. — Where feasible, ingress and egress to~~
20 ~~parking shall be provided from side streets or alleys.~~
21 ~~When access must be provided directly from a Major~~
22 ~~Pedestrian Route, driveways for ingress and egress shall~~
23 ~~be limited to one per 75 feet. For lots with frontage of 75~~
24 ~~feet or less, or lots abutting lots with a frontage of 75 feet~~
25 ~~or less, shared access shall be provided. In the event lot~~
26 ~~dimensions or the presence of multiple Major Pedestrian~~
27 ~~Route frontages make application of these standards~~
28 ~~impractical and notwithstanding the adjustment process,~~
29 ~~a Variance may be granted. [ORD 4224; August 2002]~~

30
31 2. — ~~Off street parking lots shall provide perimeter parking lot~~
32 ~~landscaping adjacent to Major Pedestrian Routes which is~~
33 ~~a five (5) foot wide planting strip between the right of way~~
34 ~~or easement and the parking area. Planting strips shall~~
35 ~~be planted with trees at a minimum of 3" inch caliper and~~
36 ~~at a maximum of 30 feet on center. Additional~~
37 ~~landscaping shall contain evergreen plants, a solid fence~~
38 ~~or wall, or both which are not less than thirty six (36)~~
39 ~~inches or more than forty two (42) inches in height as~~
40 ~~measured from the sidewalk elevation. Other evergreen~~
41 ~~and deciduous plants and architectural features may be~~
42 ~~approved at any height. — The planting strip may be~~
43 ~~designed to allow adequate access by pedestrians and~~
44 ~~vehicles.~~

EXHIBIT D

1 3. ~~Parking structures located on Major Pedestrian Routes~~
2 ~~shall incorporate one or more uses, excluding parking, at~~
3 ~~ground level along that portion of the structure fronting~~
4 ~~onto such routes. Notwithstanding the adjustment~~
5 ~~process, a Variance may be granted for either: [ORD 4224;~~
6 ~~August 2002]~~

7
8 a. ~~Semi-subterranean parking structures, provided~~
9 ~~that the height of such structures, or portions~~
10 ~~thereof, is not greater than three and one half (3~~
11 ~~1/2) feet above the elevation of the adjoining~~
12 ~~walkway or sidewalk and the structure is~~
13 ~~architecturally and functionally incorporated into~~
14 ~~the design of the street, or~~

15
16 b. ~~Where lot dimensions or the presence of multiple~~
17 ~~Major Pedestrian Routes make application of this~~
18 ~~standard impractical.~~

19
20 4. ~~Phasing of Development Standards. Projects may use the Final~~
21 ~~Planned Unit Development process to develop a site by phasing~~
22 ~~compliance with the development standards established in this Code.~~
23 ~~Such projects must demonstrate in the Planned Unit Development~~
24 ~~plans how future development of the site, to the minimum~~
25 ~~development standards established in this ordinance or greater, can be~~
26 ~~achieved at ultimate build out of the Planned Unit Development. [ORD~~
27 ~~4224; August 2002]~~

28
29 *****

30
31 The Major Pedestrian Maps referenced as Map 20.20.60-1, 20.20.60-2, 20.20.60-3,
32 and 20.20.60-4 are also deleted.

33
34 *****

EXHIBIT E

1 **Section 1: The Development Code, Ordinance No. 2050, Chapter 40 –**
2 **Applications, will be amended to add Section 40.87. which will read as**
3 **follows:**

4
5 **40.87. PUBLIC TRANSPORTATION FACILITY**

6
7 **40.87.05 Purpose**

8
9 The purpose of the Public Transportation Facility application is to identify
10 development review standards and procedures for the review of public
11 transportation improvements that are subject to such review.

12
13 **40.87.10 Applicability**

- 14
15 1. This Section applies to the design and construction of public
16 transportation facilities including roadways and bridges, and transit,
17 bicycle and pedestrian facilities within public rights-of-way and the
18 areas adjacent to the rights-of-way where physical changes occur as a
19 result of such design and construction. Unless exempted by Section
20 40.87.10.2, Public Transportation Facility application approval shall be
21 required for Collectors, Arterials, Principal Arterials, and Freeways.
22
23 2. Unless specified in the applicable thresholds for Public Transportation
24 Facility, approval shall not be required for the following:
25
26 A. Local and Neighborhood Route streets.
27
28 B. Public transportation facility improvements which were
29 required as a part of another development application.
30
31 C. Maintenance, preservation, and repair of existing public roads,
32 transportation facilities and structures within all existing
33 rights-of-way and easements.
34
35 D. Modifications within all existing rights-of-way and easements
36 including, but not limited to striping, addition of curbs or
37 medians, sidewalks speed humps, curb extensions, street
38 lighting, signalization, reflectors, buttons, signs, flashing
39 beacons, or other similar modifications.
40
41 E. Bus turnouts within all existing rights-of-way.
42
43
44

EXHIBIT E

- 1 F. Reconstruction or matching replacement of a public
2 transportation facility within all existing rights-of-way,
3 including the enlargement or removal of culverts, pilings or
4 similar structures, provided they are not located in a floodplain,
5 special flood hazard area, or Significant Natural Resource Area.
6
- 7 G. Contractor construction staging areas and stockpiling of
8 materials within all public rights-of-way or easements.
9
- 10 H. Repairs, improvements, detours and traffic pattern changes that
11 are made in response to an emergency.
12
- 13 I. Private Streets
14

15 40.87.15 Application.

16
17 There is a single Public Transportation Facility application which is subject
18 to the following requirements.
19

20 1. Public Transportation Facility.

- 21
22 A. Threshold. An application for Public Transportation Facility
23 shall be required when the applicability statements listed in
24 Section 40.87.10.1 apply, none of the exemptions listed in
25 Section 40.87.10.2 apply, and one or more of the following
26 thresholds describe the proposal:
27

- 28 1. New transportation facilities which:
29
30 a. Require the acquisition of right-of-way, or
31
32 b. Are located within existing public right-of-way
33 where no transportation facility currently exists.
34
- 35 2. The extension or widening of existing transportation
36 facilities which:
37
38 a. Require the acquisition of right-of-way, or
39
40 b. Are located within an existing public right-of-way.
41
42 c. Increases the combined width of existing street
43 improvements by six (6) feet or more.
44

EXHIBIT E

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3. Construction activities including contractor construction staging areas and stockpiling of materials outside a public right-of-way or easement.
 4. Transit shelters.
- B. Procedure Type. The Type 2 procedure, as described in Section 50.40 of this Code, shall apply to an application for Public Transportation Facility. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Public Transportation Facility application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Public Transportation Facility application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code.
 4. The proposal meets all applicable design standards for the classification of the subject road as specified by the *Engineering Design Manual and Standard Drawings* unless the applicable provisions have been modified by the City Engineer by separate process.
 5. The alignment of the new or extended transportation facility is consistent with the general location shown in the Comprehensive Plan Transportation Element.
 6. Any interim improvements have been designed to accommodate future improvement of the facility to ultimate standards.
 7. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

EXHIBIT E

- 1 D. Submission Requirements. An application for a Public
2 Transportation Facility shall be made by the City Engineer or
3 an authorized agent of a public agency with jurisdiction, on a
4 form provided by the Director and shall be filed with the
5 Director. The Public Transportation Facility application shall
6 be accompanied by the information required by the application
7 form, and by Section 50.25 (Application Completeness), and any
8 other information identified through a Pre-Application
9 Conference.
- 10
- 11 E. Conditions of Approval. The decision making authority may
12 impose conditions on the approval of a Public Transportation
13 Facility application to ensure compliance with the approval
14 criteria.
- 15
- 16 F. Appeal of a Decision. Refer to Section 50.60.
- 17
- 18 G. Expiration of a Decision. Refer to Section 50.90.
- 19
- 20 H. Extension of a Decision. Refer to Section 50.93.
- 21

EXHIBIT F

1 **Section 1: The Development Code, Ordinance No. 2050, Chapter 40 –**
2 **Applications, Section 40.15.15., will be amended to read as follows:**

3
4 **40.15. CONDITIONAL USE**

5
6 *****

7
8 **40.15.15. Application.**

9
10 *****

11
12 **3. Administrative Conditional Use.**

13
14 A. Threshold. An application for Administrative Conditional Use
15 shall be required when one or more of the following thresholds
16 apply:

- 17
18 1. Placement of one or more portable classroom on a public
19 or private school site.
- 20
21 2. ~~In industrial zoning districts, attachment of a wireless~~
22 ~~communication facility to an existing or new building or~~
23 ~~structure not utilizing stealth design. [ORD 4248; April~~
24 ~~2003]~~
- 25
26 3. ~~In industrial zoning districts, three (3) and up to and~~
27 ~~including five (5) satellite antennas greater than five (5)~~
28 ~~meters in diameter on one (1) lot. [ORD 4248; April 2003]~~
- 29
30 4. ~~In commercial zoning districts, up to and including five (5)~~
31 ~~satellite antennas greater than two (2) meters in diameter~~
32 ~~on one (1) lot. [ORD 4248; April 2003]~~
- 33
34 5. ~~In commercial and industrial zoning districts, direct to~~
35 ~~home satellite service having antennas greater than one~~
36 ~~(1) meter in diameter. [ORD 4248; April 2003]~~
- 37
38 6. ~~In multiple use zoning districts, up to and including three~~
39 ~~(3) satellite antennas greater than two (2) meters in~~
40 ~~diameter on one (1) lot. [ORD 4248; April 2003]~~

41
42 *****

EXHIBIT F

4. Conditional Use.

A. Threshold. An application for Conditional Use shall be required when the following threshold applies:

1. A new conditional use is proposed.
- ~~2. In any zoning district, construction of a wireless communication facility tower. [ORD 4248; April 2003]~~
- ~~3. In commercial zoning districts, more than five (5) satellite antennas greater than two (2) meters in diameter on one (1) lot. [ORD 4248; April 2003]~~
- ~~4. In residential and multiple use zoning districts, direct to-home satellite service having antennas greater than one (1) meter in diameter. [ORD 4248; April 2003]~~
- ~~5. In multiple use zoning districts, more than three (3) satellite antennas greater than two (2) meters in diameter on one (1) lot. [ORD 4248; April 2003]~~
- ~~6. In industrial zoning districts, more than five (5) satellite antennas greater than five (5) meters in diameter on one (1) lot. [ORD 4248; April 2003]~~

EXHIBIT F

1 **Section 2: The Development Code, Ordinance No. 2050, Chapter 40 –**
2 **Applications, will be amended to add Section 40.96. which will read as**
3 **follows:**

4
5 **40.96 WIRELESS FACILITY**

6
7 **40.96.05. Purpose.**

8
9 The purpose of the wireless facility application is to ensure the review and
10 implementation of the regulations for the construction and use of wireless
11 communication facilities in the City of Beaverton. The section is consistent
12 with the federal Telecommunications Reform Act of 1996 and is intended to
13 minimize potential adverse visual, aesthetic, and safety impacts of wireless
14 communication facilities on residential neighborhoods, and on the community
15 as a whole by establishing review standards for the use, placement, and
16 design of wireless communication facilities. This Section is carried out by the
17 approval criteria listed herein.

18
19 **40.96.10. Applicability.**

20
21 The development, installation, and modification of wireless facilities listed in
22 Chapter 20 (Land Uses) for each zoning district shall be subject to the
23 provisions of this section.

24
25 **40.96915. Application.**

26
27 There are three (3) Wireless Facility applications which are as follows:
28 Wireless Facility One, Wireless Facility Two, and Wireless Facility Three.

29
30 **1. Wireless Facility One.**

31
32 A. Threshold. An application for Wireless Facility One shall be
33 required when one or more of the following thresholds apply:

34
35 1. In any zoning district, collocation of a new wireless
36 communication facility on an existing wireless
37 communication tower that does not exceed the maximum
38 height standard for wireless communications facilities of
39 the underlying zoning district.

40
41 2. In any zoning district, incorporation of wireless
42 communication facilities into the architectural features of
43 existing or new buildings or structures that are not
44 exclusively used for single-family residential or multi-

EXHIBIT F

1 family residential purposes, and that utilize stealth
2 design.

- 3
4 3. In any zoning district, attachment of wireless
5 communications facilities to existing structures consistent
6 with the provisions of Section 60.70.35.13.
7
8 4. In industrial zoning districts, up to and including two (2)
9 satellite antennas less than five (5) meters in diameter on
10 one (1) lot.
11
12 5. In commercial zoning districts, up to and including two (2)
13 satellite antennas more than two (2) meters in diameter
14 on one (1) lot.
15
16 6. In any zoning district, installation of one (1) replacement
17 tower on a parent parcel containing an existing tower
18 supporting one (1) carrier for the purpose of providing
19 collocation opportunity consistent with previous land use
20 approvals.
21
22 7. In any zoning district, attachment of antennas to tower
23 structures or pole structures other than those used for
24 cellular phone service.
25

26 B. Procedure Type. The Type 1 procedure, as described in Section
27 50.35 of this Code, shall apply to an application for Wireless
28 Facility One. The decision making authority is the Director.
29

30 C. Approval Criteria. In order to approve a Wireless Facility One
31 application, the decision making authority shall make findings
32 of fact based on evidence provided by the applicant
33 demonstrating that all the following criteria are satisfied:
34

- 35 1. The proposal satisfies the threshold requirements for a
36 Wireless Facility One application.
37
38 2. All City application fees related to the application under
39 consideration by the decision making authority have been
40 submitted.
41
42 3. The proposal contains all applicable application submittal
43 requirements as specified in Section 50.25.1 of the
44 Development Code.

EXHIBIT F

1 4. The proposal meets all applicable Site Development
2 Requirements of Sections 20.05.50, 20.10.50, 20.15.50,
3 and 20.20.50 of this Code unless the applicable provisions
4 are subject to an Adjustment, Planned Unit Development,
5 or Variance application which shall be already approved
6 or considered concurrently with the subject proposal.
7

8 5. The proposal complies with all applicable provisions in
9 Chapter 60 (Special Regulations).
10

11 6. Applications and documents related to the request, which
12 will require further City approval, shall be submitted to
13 the City in the proper sequence.
14

15 D. Submission Requirements. An application for a Wireless
16 Facility One shall be made by the owner of the subject property,
17 or the owner's authorized agent, on a form provided by the
18 Director and shall be filed with the Director. The Wireless
19 Facility One application shall be accompanied by the
20 information required by the application form, and by Section
21 50.25 (Application Completeness), and any other information
22 identified through a Pre-Application Conference.
23

24 E. Conditions of Approval. The decision making authority may
25 impose conditions on the approval of a Wireless Facility One
26 application to ensure compliance with the approval criteria.
27

28 F. Appeal of a Decision. Refer to Section 50.60.
29

30 G. Expiration of a Decision. Refer to Section 50.90.
31

32 H. Extension of a Decision. Refer to Section 50.93.
33
34

EXHIBIT F

2. Wireless Facility Two.

A. Threshold. An application for Wireless Facility Two shall be required when one or more of the following thresholds apply:

1. In all industrial zoning districts, construction of a wireless communication facility tower.
2. In any zoning district, attachment of a new wireless communication facility to existing or new buildings or structures provided that these buildings and structures are not exclusively used for single-family or multi-family residential purposes, and stealth design is utilized.
3. In industrial zoning districts, attachment of a wireless communication facility to an existing or new building or structure not utilizing stealth design.
4. In commercial and industrial zoning districts, direct-to-home satellite service having antennas greater than one (1) meter in diameter.
5. In multiple use zoning districts, up to and including three (3) satellite antennas greater than two (2) meters in diameter on one (1) lot.
6. In industrial zoning districts, three (3) and up to and including five (5) satellite antennas greater than five (5) meters in diameter on one (1) lot.
7. In commercial zoning districts, up to and including five (5) satellite antennas greater than two (2) meters in diameter on one (1) lot.
8. In any zoning district, and subject to the approval of an Adjustment or Variance, collocation of a new wireless communication facility inclusive of antennas on an existing wireless communication facility tower that exceeds the maximum height standard for wireless communications facilities of the underlying zoning district.

EXHIBIT F

1 9. In any zoning district, above-ground installation of
2 equipment for wireless communication facilities on
3 streetlights, or traffic signal lights, or high voltage power
4 utility poles, within the road right-of-way of designated
5 Freeways and Arterial streets.
6

7 B. Procedure Type. The Type 2 procedure, as described in Section
8 50.40 of this Code, shall apply to an application for Wireless
9 Facility Two. The decision making authority is the Director.
10

11 C. Approval Criteria. In order to approve a Wireless Facility Two
12 application, the decision making authority shall make findings
13 of fact based on evidence provided by the applicant
14 demonstrating that all the following criteria are satisfied:
15

16 1. The proposal satisfies the threshold requirements for a
17 Wireless Facility Two application.
18

19 2. All City application fees related to the application under
20 consideration by the decision making authority have been
21 submitted.
22

23 3. The size, dimensions, configuration, and topography of
24 the site and natural and man-made features on the site
25 can reasonably accommodate the proposal.
26

27 4. The proposal will not obstruct any existing or approved
28 vehicular, pedestrian, or bicycle connection identified in
29 the Comprehensive Plan.
30

31 5. That the development has been designed to, where
32 possible, incorporate and preserve existing trees and
33 vegetation of significant size and species.
34

35 6. That grading of the site shall take place with particular
36 attention to minimizing the possible adverse effect of
37 grading on the natural vegetation and physical
38 appearance of the site.
39

40 7. That the quality, location, size and aesthetic design of
41 walls, fences, berms, hedges, screen planting and
42 landscape areas have minimal adverse effect on existing
43 or approved abutting land uses.
44

EXHIBIT F

1 8. Applications and documents related to the request, which
2 will require further City approval, shall be submitted to
3 the City in the proper sequence.
4

5 D. Submission Requirements. An application for a Wireless
6 Facility Two shall be made by the owner of the subject property,
7 or the owner's authorized agent, on a form provided by the
8 Director and shall be filed with the Director. The Wireless
9 Facility Two application shall be accompanied by the
10 information required by the application form, and by Section
11 50.25 (Application Completeness), and any other information
12 identified through a Pre-Application Conference.
13

14 E. Conditions of Approval. The decision making authority may
15 impose conditions on the approval of a Wireless Facility Two
16 application to ensure compliance with the approval criteria.
17

18 F. Appeal of a Decision. Refer to Section 50.70.
19

20 G. Expiration of a Decision. Refer to Section 50.90.
21

22 H. Extension of a Decision. Refer to Section 50.93.

EXHIBIT F

3. Wireless Facility Three.

A. Threshold. An application for Wireless Facility Three shall be required when the following threshold applies:

1. In all zoning districts, except industrial, construction of a wireless communication facility tower.
2. A wireless communication facility tower proposed to be set back less than fifty (50) feet from abutting residential, or multiple use zoning districts.
3. In industrial zoning districts, attachment of a new wireless communication facility to an existing or new building or structure that does not utilize stealth design.
4. In residential and multiple use zoning districts, direct-to-home satellite service having antennas greater than one (1) meter in diameter.
5. In multiple use zoning districts, more than three (3) satellite antennas greater than two (2) meters in diameter on one (1) lot.
6. In commercial zoning districts, more than five (5) satellite antennas greater than two (2) meters in diameter on one (1) lot.
7. In industrial zoning districts, more than five (5) satellite antennas greater than five (5) meters in diameter on one (1) lot.
8. In any zoning district, above-ground installation of equipment for wireless communication facilities on streetlights, or traffic signal lights, or high voltage power utility poles within the road right-of-way of designated Collector Streets, Neighborhood Route Streets, or Local Streets.

B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for Wireless Facility Three. The decision making authority is the Planning Commission.

EXHIBIT F

1 C. Approval Criteria. In order to approve a Wireless Facility Three
2 application, the decision making authority shall make findings
3 of fact based on evidence provided by the applicant
4 demonstrating that all the following criteria are satisfied:
5

- 6 1. The proposal satisfies the threshold requirements for a
7 Wireless Facility Three application.
8
- 9 2. All City application fees related to the application under
10 consideration by the decision making authority have been
11 submitted.
12
- 13 3. In relationship to the existing surroundings and future
14 allowed uses, the location, size, shape, height, spatial and
15 visual arrangement of the use and structure is
16 compatible.
17
- 18 4. The size, dimensions, configuration, and topography of
19 the site and natural and man-made features on the site
20 can reasonably accommodate the proposal.
21
- 22 5. The proposal will not obstruct any existing or approved
23 vehicular, pedestrian, or bicycle connection identified in
24 the Comprehensive Plan.
25
- 26 6. That the development has been designed to, where
27 possible, incorporate and preserve existing trees and
28 vegetation of significant size and species.
29
- 30 7. That grading of the site shall take place with particular
31 attention to minimizing the possible adverse effect of
32 grading on the natural vegetation and physical
33 appearance of the site.
34
- 35 8. That the quality, location, size and aesthetic design of
36 walls, fences, berms, hedges, screen planting and
37 landscape areas have minimal adverse effect on existing
38 or approved abutting land uses.
39
- 40 9. Applications and documents related to the request, which
41 will require further City approval, shall be submitted to
42 the City in the proper sequence.
43

EXHIBIT F

- 1 D. Submission Requirements. An application for a Wireless
2 Facility Three shall be made by the owner of the subject
3 property, or the owner's authorized agent, on a form provided by
4 the Director and shall be filed with the Director. The Wireless
5 Facility Three application shall be accompanied by the
6 information required by the application form, and by Section
7 50.25 (Application Completeness), and any other information
8 identified through a Pre-Application Conference.
9
- 10 E. Conditions of Approval. The decision making authority may
11 impose conditions on the approval of a Wireless Facility Three
12 application to ensure compliance with the approval criteria.
13
- 14 F. Appeal of a Decision. Refer to Section 50.70.
15
- 16 G. Expiration of a Decision. Refer to Section 50.90.
17
- 18 H. Extension of a Decision. Refer to Section 50.93.
19
20

EXHIBIT G

1 **Section 1: The Development Code, Ordinance No. 2050, Chapter 50 -**
2 **Procedures, Section 50.30.2., will be amended to read as follows:**

3
4 **50.30. Neighborhood Review Meeting**

5
6 *****

- 7
8 2. Prior to submittal of an application subject to a Type 3 procedure, the
9 applicant shall provide an opportunity to meet with neighboring
10 property owners, residents and businesses (hereinafter collectively
11 referred to as “neighbors”) as well as representatives from the NAC
12 within whose boundaries the site is located or within the notice radius
13 to review the proposal. The applicant shall not be required to hold
14 more than one Neighborhood Review Meeting provided such meeting is
15 held within six-months prior to submitting an application for one
16 specific site. This requirement does not apply to applications required
17 by Design Review Three threshold number 7 (Section 40.20.15.3.A.7)
18 or applications for Quasi-Judicial Zoning Map Amendment (Section
19 40.97.15.1) or Discretionary Annexation Related Zoning Map
20 Amendment (Section 40.97.15.4).

21
22 *****

23
24
25 **Section 2: The Development Code, Ordinance No. 2050, Chapter 50 -**
26 **Procedures, Section 50.90.1., will be amended to read as follows:**

27
28 **50.90. Expiration of a Decision**

- 29
30 1. Except as otherwise specifically provided in a specific decision or in
31 this Code, a final decision made pursuant to this Chapter shall expire
32 automatically on the following schedule unless the approval is enacted
33 either through construction or establishment of use within the
34 specified time period.

35
36 *****

- 37
38 B. Two (2) years from the effective date of decision:

39
40 Accessory Dwelling Unit (40.05.15.1)
41 Administrative Conditional Use (40.15.15.3)
42 Alteration of a Landmark (40.35.15.1)
43 Conditional Use (40.15.15.4)
44 Demolition of a Landmark (40.35.15.3)

EXHIBIT G

- 1 ~~Design Review One (40.20.15.1)~~
- 2 Design Review Two (40.20.15.2)
- 3 Design Review Three (40.20.15.3)
- 4
- 5 *****
- 6
- 7 C. One (1) year from the effective date of the decision:
- 8
- 9 Design Review Compliance Letter (40.20.15.1)
- 10 Home Occupation One (Section 40.40.15.1)
- 11 Home Occupation Two (Section 40.40.15.2)
- 12 Loading Determination (Section 40.50.15.1)
- 13 Parking Requirement Determination (Section 40.55.15.1)
- 14 Shared Parking (Section 40.55.15.2)
- 15 Signs (Section 40.60.15.1)
- 16 Solar Access (Section 40.65.15.1)
- 17 Use of Excess Parking (Section 40.55.15.3)
- 18
- 19 *****
- 20
- 21 *****
- 22

EXHIBIT H

1 **Section 1: The Development Code, Ordinance No. 2050, Chapter 60 -**
2 **Special Regulations, Section 60.05. Drive-Up Window Facilities, will be**
3 **renumbered to 60.07. Subsection .10, will be amended to read as follows:**

4
5 **60.07.10 Standards.** The decision making authority shall review proposed
6 drive-up window facilities to determine that the following standards
7 are addressed in the design:

- 8
9 1. Drive-through uses shall be located so that access and egress to
10 the drive-through features are from an on-site drive aisle or
11 other on-site circulation facility, not a public street.

12
13 *****

14
15 Subsequently listed standards will be renumbered to reflect the addition of
16 the new standard number 3.

17
18
19 **Section 2: The Development Code, Ordinance No. 2050, Chapter 60 -**
20 **Special Regulations, Section 60.15.10., will be amended to read as follows:**

21
22 **60.15.10. General Provisions.**

23
24 *****

- 25
26 3. **Improvement Requirements.** The improvements that are
27 reasonably related and roughly proportional to the impacts of the
28 proposed development that shall be installed at the expense of the
29 developer are as follows:

30
31 *****

32
33 I. Pedestrian Circulation.

- 34
35 1. Walkways are required between parts of a site where the
36 public is invited or allowed to walk.

- 37
38 2. A walkway into the site shall be provided for every 300
39 feet of street frontage. A walkway shall also be provided
40 to any accessway abutting the site.

EXHIBIT H

1 3. Walkways shall connect building entrances to one another
2 and from building entrances to adjacent public streets
3 and existing or planned transit stops. On-site walkways
4 shall connect with walkways, sidewalks, bicycle facilities,
5 alleyways and other bicycle or pedestrian connections on
6 adjacent properties used or planned for commercial,
7 multifamily, institution or park use. The City may
8 require connections to be constructed and extended to the
9 property line at the time of development.

10
11 4. Walkways shall be reasonably direct between pedestrian
12 destinations and minimize crossings where vehicles
13 operate.

14
15 5. Walkways shall be paved and shall maintain at least four
16 feet of unobstructed width. Walkways bordering parking
17 spaces shall be at least seven feet wide unless concrete
18 wheel stops, bollards, curbing, landscaping, or other
19 similar improvements are provided which prevent parked
20 vehicles from obstructing the walkway. Stairs or ramps
21 shall be provided where necessary to provide a reasonably
22 direct route. The slope of walkways without stairs shall
23 conform to City standards.

24
25 6. The Americans with Disabilities Act (ADA) contains
26 different and stricter standards for some walkways. The
27 ADA applies to the walkway that is the principal building
28 entrance and walkways that connect transit stops and
29 parking areas to building entrances. Where the ADA
30 applies to a walkway, the stricter standards of ADA shall
31 apply.

32
33 7. On-site walkways shall be lighted to an average 0.5 foot-
34 candle level. Lighting shall have cut-off fixtures so that
35 no glare is emitted beyond the property line or onto the
36 public right of way.

37
38 J. I. Other improvements reasonably related to the impacts of the
39 development which may be required in rough proportion to the
40 impacts of the proposed development at the partial or total
41 expense of the developer.

42
43 *****
44

EXHIBIT H

1 K. J. Street Lights. Street lights shall be installed in accordance with
2 City standards.

3
4 L. K. Curb cuts and driveway installations are not required of the
5 developer but, if installed, shall comply with City standards.

6
7 *****

8 9 **5. Grading.**

10
11 A. When grading a site within twenty-five (25) feet of a property
12 line within or abutting any residentially zoned property, the on-
13 site surface contours shall observe the following:

14
15 1. 0 to 5 feet from property line. Maximum of two (2) foot
16 slope differential from the existing or finished slope of the
17 abutting property, whichever is applicable.

18
19 2. More than 5 feet and up to and including 10 feet from
20 property line. Maximum of four (4) foot slope differential
21 from the existing or finished slope of the abutting
22 property, whichever is applicable.

23
24 3. More than 10 feet and up to and including 15 feet from
25 property line. Maximum of six (6) foot slope differential
26 from the existing or finished slope of the abutting
27 property, whichever is applicable.

28
29 4. More than 15 feet and up to and including 20 feet from
30 property line. Maximum of eight (8) foot slope differential
31 from the existing or finished slope of the abutting
32 property, whichever is applicable.

33
34 5. More than 20 feet and up to and including 25 feet from
35 property line. Maximum of ten (10) foot slope differential
36 from the existing or finished slope of the abutting
37 property, whichever is applicable.

38
39 B. Notwithstanding the requirements of subsection A.1. above,
40 grading within 25 feet of a property line shall not change the
41 existing slopes by more than ten percent within a tree root zone
42 of an identified significant grove or tree, or an identified historic
43 tree located on an abutting property unless evidence provided by
44 a certified arborist supports additional grading that will not

EXHIBIT H

1 harm the subject grove or tree. For the purpose of this standard,
2 the tree root zone extends the same distance from a tree trunk
3 as the tree canopy.
4

5 *****

6
7
8 **Section 3: The Development Code, Ordinance No. 2050, Chapter 60 -**
9 **Special Regulations, Section 60.20., will be amended to read as follows:**

10
11 **60.20. MOBILE AND MANUFACTURED HOME REGULATIONS**

12 *****

13
14
15 **60.20.10. Mobile Home Subdivisions.**

16 *****

17
18
19 H. The mobile home shall have a roof with a minimum slope of
20 sixteen percent (16%) (2:12), and have composite or shake roof,
21 or other roofing materials approved by the **Director** Design
22 Review.
23

24 *****

25
26 **60.20.15. Mobile Home Park Regulations.**

27
28 1. Mobile home parks are permitted uses in the R-5 zone. They are
29 conditional uses in the R-2 zone, subject to Section 40.15 (ORD 3739).
30 Density for the mobile home parks shall be compatible with the zone in
31 which they are located and calculated according to Chapter 90. Mobile
32 home parks shall be subject to the following standards:
33

34 ~~A. The design for the proposed mobile home park shall be~~
35 ~~submitted to the Director. The design for the proposal shall~~
36 ~~include all documents specified in Section 40.20.15.2. and 3.~~
37 ~~The Director shall coordinate and assemble, through the~~
38 ~~Facilities Review process, the reports and data submitted by the~~
39 ~~applicant, affected City departments and any governmental~~
40 ~~agency having an interest in the proposal.~~

41
42 ~~B. The Board of Design Review shall review the design of the~~
43 ~~proposed mobile home park and make the necessary~~
44 ~~recommendations as authorized by Section 40.20. of this~~
45 ~~ordinance.~~

EXHIBIT H

1 A. C. The design for the mobile home park shall conform to all
2 applicable State standards established by the State of Oregon,
3 Department of Commerce mobile home park standards (effective
4 - February 1, 1979).

5
6 B. D. All mobile homes shall have an Oregon insignia. (ORD 3739)
7 No reconstruction or equipment installation shall be made to a
8 mobile home unless it has been approved by the State as
9 evidenced by the appropriate insignia.

10
11 C. E. The mobile home park shall occupy at least one acre.

12
13 D. F. Evidence shall be provided that the park will be eligible for a
14 certificate of sanitation as required by State Law.

15
16 E. G. Each mobile home shall be connected to a public water supply
17 and sewer disposal system.

18
19 F. H. A mobile home and any attached accessory structure shall not
20 be located closer than:

- 21
22 1. Fifteen (15) feet from any other mobile home.
23
24 2. Ten (10) feet from any detached accessory building or
25 other building located within the mobile home park.
26
27 3. Five (5) feet from a mobile home park property line.

28
29 G. I. Except for a structure which conforms to the State definition of a
30 mobile home accessory structure, no extension shall be attached
31 to a mobile home.

32
33 H. J. Mobile homes shall be installed under the provisions of the
34 administrative rules adopted by the Oregon Department of
35 Commerce (adopted February 1, 1979).

36
37 I. K. A mobile home shall have continuous perimeter skirting
38 installed pursuant to State regulations. Skirting shall be of the
39 same material and finish as the exterior of the mobile home or
40 otherwise approved by the ~~Director Board of Design Review~~.

41
42 J. L. Except for non-conforming mobile homes as described in 2.,
43 below, a mobile home shall contain a minimum floor area of 800
44 square feet of gross floor area. The size shall exclude the tongue
45 of the mobile home.

EXHIBIT H

1 ~~K. M.~~ The wheels, tongue and traveling lights of the mobile home shall
2 be removed.

3
4 ~~L. N.~~ The underside of the floor area shall be a minimum of 18 inches
5 above ground level at any point.

6
7 ~~M. O.~~ The internal street system shall conform to the standards
8 specified by the City Engineering Design Manual and Standard
9 Drawings. [ORD 4224; August 2002]

10
11 ~~N. P.~~ ~~Minimum front yard~~ Setbacks for a mobile home park property
12 shall be the same as the zone in which it is located.—~~Side and~~
13 ~~rear yard setbacks shall be approved by the Board of Design~~
14 ~~Review as appropriate to the design of the park and to protect~~
15 ~~adjacent properties.~~

16
17 ~~O. Q.~~ Landscaping shall be equivalent to 15% of the area of the park
18 or as otherwise required by the Board of Design Review.

19 *****

20
21
22 **Section 4: The Development Code, Ordinance No. 2050, Chapter 60 -**
23 **Special Regulations, Section 60.30.20., will be amended to read as follows:**

24
25 **60.30.20 Off-Street Parking Lot Construction**

26
27 1. Every parcel of land hereafter developed for use as a parking area
28 shall conform to ~~the following requirements and~~ the requirements of
29 the *Engineering Design Manual and Standard Drawings*. (ORD 3293;
30 November 1982)

31
32 A.—~~For other than single detached dwelling development, parking~~
33 ~~areas shall be reviewed as per Section 40.20.15. (ORD 3739)~~
34 ~~[ORD 4224; August 2002]~~

35
36 B.—~~Parking areas for more than five vehicles shall be effectively~~
37 ~~screened from public right of way and surrounding property by a~~
38 ~~fence, hedge, or planting. Screening shall meet City visibility~~
39 ~~standards.~~

40 *****

EXHIBIT H

1 **Section 5: The Development Code, Ordinance No. 2050, Chapter 60 -**
2 **Special Regulations, Section 60.40., will be amended to read as follows:**

3
4 **60.40.15. Signs Subject to Ordinance Regulation - No Permit Required.**
5 No permit is necessary before placing, constructing or erecting the
6 following signs; however, such signs shall conform to the regulations as
7 specified.

8
9 *****

10
11 6. Banners. One (1) banner will be allowed either from the date of
12 issuance of building permits until four (4) weeks after issuance of
13 certificates of occupancy, or if no building permit is issued, for four (4)
14 weeks from occupancy of a new business. One banner shall be allowed
15 for multi-family developments, ~~processed as any Design Review action~~
16 ~~as determined by Section 40.20.15.~~ Such banners shall be allowed for
17 no more than four (4) weeks after the final certificate of occupancy for
18 the project. (ORD 3726)

19
20 All banners shall be affixed to exterior wall(s) of the building so as to
21 lie flat. Banners shall not exceed thirty-two (32) square feet in size.
22 [ORD 4139; January 2001]

23
24 *****

25
26 **60.40.35. Commercial, Industrial, and Multiple Use Zones.** In commercial,
27 industrial, and multiple use zones, as defined in Sections 20.10, 20.15,
28 and 20.20, the following regulations apply: [ORD 4111; June 2000]

29
30 *****

31
32 3. Freestanding Sign. Freestanding signs as defined in Chapter 90 shall
33 be allowed per business establishment or tax lot, whichever is less.
34 Tax lots created by fee simple land division and contiguous tax lots
35 under the one ownership shall be considered one tax lot for the
36 purposes of calculating the number of freestanding signs allowed.
37 (ORD 3494) [ORD 4058, August 1999]

38
39 *****

40
41 K. Master Sign Program. For developments containing three or
42 more businesses, a master sign program may be ~~proposed by the~~
43 ~~property owner, required by the Board of Design Review. The~~
44 ~~decision to require a master sign plan shall be made at the time~~

EXHIBIT H

1 ~~the development is reviewed by the Board.~~ Master sign
2 programs shall contain the proposed colors, lettering styles,
3 sizes and the location of wall and freestanding signs for tenants
4 in the development. The general allowance of twenty percent
5 (20%) of exterior wall area for wall signs will be used with the
6 allowable square footage divided among lessees ~~in a manner~~
7 ~~approved by the Board of Design Review.~~ It shall be the
8 responsibility of the development to administer and control any
9 aspect of a master sign program that is more restrictive than the
10 City's sign regulations. Individual business signs which are part
11 of a master sign program are subject to the permit application
12 process. (ORD 3494) [ORD 4139; January 2001]
13

14 *****

15 **60.40.45. Nonconforming Signs.**

16 *****

17 3. Extension for Conformance.

18 A. ~~The Board of Design Review~~ ~~Director through Section 40.25~~
19 ~~(Director's Interpretation)~~ may authorize an extension of no
20 more than one (1) year where it can be shown that special and
21 unusual circumstances related to a specific piece of property
22 make application of the conformance schedule an undue
23 hardship. This hardship shall not result from the actions of the
24 applicant and shall not merely constitute pecuniary hardship or
25 inconvenience.
26

27 B. ~~The Board of Design Review~~ ~~Director through Section 40.25~~
28 ~~(Director's Interpretation)~~ shall ~~may~~ authorize an exemption
29 from the conformance schedule when it can be shown that the
30 sign is within ten percent (10%) of the combined required size
31 and height limitations of this ordinance. (ORD 3374)
32

33 *****
34
35
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EXHIBIT H

1 **Section 6 The Development Code, Ordinance No. 2050, Chapter 60 -**
2 **Special Regulations, Section 60.50.25.2., will be amended to read as follows:**

3
4 **60.50.25. Uses Requiring Special Regulation.** In addition to other standards
5 and requirements by this ordinance, all uses included in this section
6 shall comply with the provisions stated herein. Should a conflict arise
7 between the requirements of this section and other requirements of
8 this ordinance, the more restrictive provision shall control.

9
10 *****

11
12 2. Animal Hospitals. An animal hospital shall not be located within 100
13 feet of a lot in any Residential District. The applicant ~~as an additional~~
14 ~~requirement of the Design Review process~~ shall provide information
15 which describes the measures and controls to be taken that are
16 intended to prevent offensive noise and odor. No incineration of refuse
17 shall be permitted on the premises.

18
19 *****

20
21
22 **Section 7: The Development Code, Ordinance No. 2050, Chapter 60 -**
23 **Special Regulations, Section 60.55.25., will be amended to read as follows:**

24
25 **60.55.25. Streets and Bicycle and Pedestrian Connection Requirements.**

26
27 *****

28
29 9. Accessways are one or more connections that provide bicycle and
30 pedestrian passage between streets or a street and a destination.
31 Accessways shall be provided as required by this Code and where full
32 street connections are not possible due to conditions described in
33 60.55.25.13.

34
35 *****

36
37 A. Accessways shall be provided as follows:

38
39 *****

40
41 B. Accessway Design Standards.

42
43 *****

44

EXHIBIT H

1 3. ~~Accessways through parking lots shall be physically~~
2 ~~separated from adjacent vehicle parking and parallel~~
3 ~~vehicle traffic through the use of curbs, landscaping,~~
4 ~~trees, and lighting, if not otherwise provided in the~~
5 ~~parking lot design.~~

6
7 4. ~~Accessways shall be lighted either by street lights on~~
8 ~~adjacent streets or by pedestrian scale lighting to a~~
9 ~~minimum level of 0.5 foot candle along the connection.~~
10 ~~Lighting shall have cut off fixtures so that no glare is~~
11 ~~emitted beyond the pedestrian connection and onto~~
12 ~~adjacent properties.~~

13
14 10. ~~Internal Pedestrian Circulation.~~

15
16 A. ~~All development in commercial and multiple use zoning districts~~
17 ~~and other development for which a conditional use approval is~~
18 ~~required, shall provide a system of internal pedestrian~~
19 ~~connections that encourages safe and convenient pedestrian~~
20 ~~movement within the site. Internal pedestrian connections shall~~
21 ~~also link the site with the public street sidewalk system.~~

22
23 B. ~~Walkways are required between parts of a site where the public~~
24 ~~is invited or allowed to walk. Walkways are required as part of~~
25 ~~office/warehouse and retail/warehouse combinations. Walkways~~
26 ~~are not required between buildings or portions of a site such as~~
27 ~~truck loading docks and warehouses that are not intended or~~
28 ~~likely to be used by pedestrians. [ORD 4224; August 2002]~~

29
30 1. ~~Location: A walkway into the site shall be provided for~~
31 ~~every 300 feet of street frontage or for every eight aisles of~~
32 ~~vehicle parking if parking is located between the building~~
33 ~~and the street. A walkway shall also be provided to any~~
34 ~~accessway abutting the site. [ORD 4224; August 2002]~~

35
36 2. ~~Connections: Walkways shall connect building entrances~~
37 ~~to one another and from building entrances to adjacent~~
38 ~~public streets and existing or planned transit stops. On-~~
39 ~~site walkways shall connect with walkways, sidewalks,~~
40 ~~bicycle facilities, alleyways and other bicycle or~~
41 ~~pedestrian connections on adjacent properties used or~~
42 ~~planned for commercial, multifamily, institution or park~~
43 ~~use. The City may require connections to be constructed~~
44 ~~and extended to the property line at the time of~~
45 ~~development.~~

EXHIBIT H

3. ~~Routing: Walkways shall be reasonably direct. Driveway crossings shall be minimized. Internal parking lot circulation and design shall provide reasonably direct access for pedestrians from streets and transit stops.~~
4. ~~Design: Walkways shall be paved and shall maintain at least four feet of unobstructed width. Walkways bordering parking spaces shall be at least seven feet wide unless concrete wheel stops, bollards, curbing, landscaping, or other similar improvements are provided which prevent parked vehicles from obstructing the walkway. Stairs or ramps shall be provided where necessary to provide a reasonably direct route. The slope of walkways without stairs shall conform to City standards. Walkways shall be differentiated from parking areas and circulation aisles by grade, different paving material, landscaping or other similar method.~~
5. ~~ADA Compliance: The Americans with Disabilities Act (ADA) contains different and stricter standards for some walkways. The ADA applies to the walkway that is the principal building entrance and walkways that connect transit stops and parking areas to building entrances. Where the ADA applies to a walkway, the stricter standards of ADA shall apply.~~
6. ~~Lighting: On-site walkways shall be lighted to an average 0.5 foot candle level. Lighting shall have cut-off fixtures so that no glare is emitted beyond the property line or onto the public right of way.~~

Section 8: The Development Code, Ordinance No. 2050, Chapter 60 – Special Regulations, Section 60.55.40., will be amended to read as follows:

60.55.40. Transit Facilities.

- 1. Transit Shelters. All transit shelters and sidewalk furniture shall meet the following standards.**

EXHIBIT H

- 1
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23
- A. The proposal is located entirely within the existing public right-of-way, public access easement, or property owned by a public agency.
 - B. The proposal maintains an unobstructed path of travel of no less than six feet (6') unless a greater unobstructed path is required by this code for a specific sidewalk.
 - C. The proposal is not located within eight feet (8') of a point of ingress or egress of an existing structure.
 - D. The proposal is not located within a vision clearance area for a street, driveway, or other facility where vehicles regularly travel.
 - E. The proposal is not located within twelve feet (12') of a window display area.
 - F. The proposal does not consist of solid panels other than what is required to post transit schedules.

EXHIBIT I

Section 1: The Development Code, Ordinance No. 2050, Chapter 90 – Definitions, will be amended to add the following terms:

Architectural Treatment. Architectural treatment shall include, but is not limited to, scoring, changes in material texture, and the application of other finish materials such as wood, rock, brick or tile wall treatment.

Bollard Luminaires. A luminaire that is attached to or incorporated into the design of bollards and are primarily used for the lighting of non-vehicular circulation areas, including but not limited to pedestrian pathways and bicycle pathways.

Candle Power. The amount of light that will illuminate a surface one (1) foot distant from a light source to an intensity of one (1) foot candle. Maximum (peak) candle power is the largest amount of candlepower emitted by any lamp, light source, or luminaire.

Cutoff. The point at which all light rays emitted by a lamp, light source or luminaire are completely eliminated (cutoff) at a specific angle above the ground.

Cutoff angle. The angle formed by a line drawn from the direction of light rays at the light source and a line perpendicular to the ground from the light source, above which no light is emitted.

Cutoff-type luminaire. A luminaire with elements such as shields, reflectors, or refractor panels which direct and cut off the light at a cutoff angle that is less than ninety (90) degrees.

Double wall construction. Where an interior wall is separated from the exterior wall with framing. The exterior wall has plywood bracing weather proofed with an exterior finishing material such as but not limited to lap siding, brick, or metal.

EXHIBIT I

Emergency work. The definition of this term, as it applies to the Transportation Facilities application, is located in the *Engineering Design Manual and Standard Drawings*.

Feature roof. A roof which is a unique roof form calling attention to a particular part of a building such as an entrance, building corners, a steeple, a cupola, or other similar focal points of a building.

Foot-candle. A unit of illumination produced on a surface, all points of which are one (1) foot from a uniform point source of (1) candle.

Glare. The brightness of a light source, which may cause eye discomfort.

Luminaire. A complete lighting unit consisting of a light source and all necessary mechanical, electrical, and decorative parts.

Maintenance. As this term is applied to transportation facilities, the term shall mean the preservation of and care for a facility or system component, condition or area so that it remains safely operable and carries out the purposes for which it was installed, constructed or created without increasing its height, width, length, weight, location or elevation. Maintenance includes inspection, operational testing, replacement of a worn, deteriorated, malfunctioning or failed part with a matching part, painting with matching paint, resurfacing with matching surfacing, waterproofing and sealing with joint-filling materials, and restoring an existing part or facility to its original condition without changing its size. Resurfacing of existing pavement by pavement overlays and other forms of pavement rehabilitation using any pavement material that adds to the thickness of the pavement but does not increase the area of the rehabilitated pavement by more than one-tenth (0.1) percent is considered to be maintenance.

EXHIBIT I

Maximum permitted illumination. The maximum illumination measured in foot-candles at the property line or, if required, at the interior buffering line at ground level.

Minimum Permitted Illumination. The minimum permitted illumination measured in foot-candles within the interior of a site to provide adequate illumination for public safety purposes.

Natural areas. Natural areas may include, but are not limited to, wetlands, riparian areas, Significant Natural Resource Areas, and significant groves of trees.

Non-Pole-Mounted Luminaires. Non-pole mounted Luminaires consists of Luminaires vertically or horizontally attached to building or structural wall elevations, soffit Luminaires, recessed Luminaires, access Luminaires, and ground-mounted Luminaires.

Open Space, Active. Open space where human activities include recreational and social opportunities such as play fields, playgrounds, swimming pools, plazas and other recreational facilities.

Open Space, Passive. Open space where human activities are limited to defined walking and seating areas. Does not include environmentally sensitive areas such as a wetland.

Permanent Architectural Features. Permanent architectural features include, but are not limited to windows, bays and offsetting walls that extend at least eighteen inches (18"), recessed entrances, loading doors and bays, and changes in material types.

Pole-Mounted Luminaires. Luminaires that are attached to a vertical pole to provide illumination in non-vehicular and vehicular circulation areas.

EXHIBIT I

Primary entrance. A building entry where a majority of building users, including employees, customers and visitors, enter the structure. A primary entry is typically differentiated from other entries by weather protection, directional signage, special features such as lobbies, reception areas, and other semi-public interior spaces designed to receive building users.

Public view. As it is applied to Design Review issues, this term is a viewpoint from a public area such as a sidewalk, right of way, public plaza, etc. measured from the closest point to the subject of the view, five (5) feet above the grade of the viewpoint. A subject is not visible from a viewpoint unless there is a direct, unobstructed line of sight between the viewpoint and subject.

Repair and Replacement. The definition of both of these terms, as it applies to the Transportation Facilities application, is located in the *Engineering Design Manual and Standard Drawings*.

Secondary entrance. A building entry designed for limited use by building users, such as employee-only access. A secondary entry is typically not used by the public or building visitors.

1 NEW BUSINESS:

2
3 Chairman Barnard opened the Public Hearing and read the format for
4 Public Hearings. There were no disqualifications of the Planning Com-
5 mission members. No one in the audience challenged the right of any
6 Commissioner to hear any of the agenda items, to participate in the
7 hearing or requested that the hearing be postponed to a later date. He
8 asked if there were any ex parte contact, conflict of interest or disquali-
9 fications in any of the hearings on the agenda. There was no response.

10
11 PUBLIC HEARING:

12
13 I. TA 2003-0005 – SECTION 40.20 (DESIGN REVIEW) UPDATE

14 Substantive update to Section 40.20 (Design Review) of the Beaverton
15 Development Code to delete the current design review thresholds and
16 approval criteria and replace with performance oriented design
17 principles, design standards, and design guidelines that will act as the
18 approval criteria. New application thresholds, buffering and screening
19 standards and requirements, and technical lighting requirements are
20 also proposed. In addition, existing design standards in Section
21 20.20.60 (Supplementary Regulations) of Chapter 20 (Land Uses) will
22 be struck and incorporated into the proposed amendments to Section
23 40.20 (Design Review).

24
25 In response to the pink notice that had been received by all property
26 owners within the City of Beaverton, Mr. Sparks explained that this
27 notification is required by State statute when there is a proposal to
28 change land use regulations. Observing that the text at the top portion
29 of the notice states: "This is to notify you that the City shall consider a
30 proposed land use regulation that will affect the permissible use of
31 your land", he pointed out that Ballot Measure No. 56 requires this
32 notice that includes what he referred to as rather inflammatory words.
33 Noting that the proposed text involves amending the Design Review
34 section of the Development Code, he emphasized that single-family
35 homes and duplexes are exempt from this process which would not
36 affect these property owners. He introduced John Spencer, Principal of
37 *Spencer and Kupper*, who has been retained as a consultant for the
38 purpose of providing assistance in redesigning this text.

39
40 Mr. Sparks discussed last year's substantial update to the Develop-
41 ment Code, in particular the Applications section, noting that the
42 Design Review approval criteria section had not been reviewed at that
43 time. Observing that State statute requires applications that contain
44 clear and objective approval criteria, he explained that the Design

1 Review involved such a large section that staff had made a strategic
2 decision to postpone the review for this future date. He noted that the
3 proposed text is intended to completely replace the existing Design
4 Review section, adding that 12 individuals who are stakeholders
5 involving different areas of the City of Beaverton and representatives
6 of different organizations had participated in preparing this proposal.
7

8 John Spencer, Principal of *Spencer and Kupper*, explained that he has
9 been assisting in this Design Review process over the past six months.
10 He explained that there are basically three levels of standards or
11 direction on a number of design issues, as follows:
12

- 13 • Design Principles, which are broad statements with regard to
14 the intent of Design Standards and Design Guidelines;
- 15 • Design Standards, which are quantifiable, and any
16 application meeting the standard passes the test with regard
17 to the design of a project; and
- 18 • Design Guidelines, which are more qualitative, not as
19 specific as standards, and any applicant choosing not to meet
20 a Design Standard would then be required meet the Design
21 Guideline, which is slightly more open-ended and allows for a
22 broader interpretation for consideration by the review
23 authority.
24

25 Mr. Spencer described four categories involving Design Principles,
26 Standards, and Guidelines, as follows:
27

- 28 1. Building Orientation and Design, which involves the appearance
29 of the building and in some cases, the specific location on a site;
- 30 2. Circulation and Parking, which involves internal circulation,
31 pedestrian circulation, and how this circulation works and is
32 connected to surrounding neighborhoods;
- 33 3. Landscape, Open Space, and Natural Environment, which
34 involves open space requirements, landscaping requirements,
35 natural resources, site grading, and certain buffering
36 requirements; and
- 37 4. Technical Lighting Standards.
38

39 Mr. Spencer discussed issues with regard to the level of review and
40 decision involving certain projects, observing that there are three
41 levels of review, as follows:
42

- 43 1. Board of Design Review, in a public hearing, with notification,
44 involving larger projects of 30,000 square feet in size or greater.

1 Certain applications and conditional uses, such as schools,
2 churches, or parks, would automatically be required to be
3 reviewed by this Board. Any applicant who chooses not to or
4 does not meet a specific standard and meets all other standards
5 is eligible for a Type 2 process would be required to submit those
6 standards that are not met before the Board;

- 7 2. Administrative Review, through the Planning Director, involves
8 the smaller projects, generally less than 30,000 square feet in
9 size, with a less significant impact than the larger project and
10 could be appealed through the Board, with notice; and
- 11 3. Design Review Compliance Letter, which is a new level of
12 review, and involves an application for a relatively minor
13 revision such as moving a window or door, or the species of
14 landscaping. This would be a sort of an over-the-counter plan
15 check level of review, and should be issued within approximately
16 five days and would not involve any public process.

17
18 With regard to building orientation and design, Mr. Spencer noted that
19 there are certain design standards that apply to all buildings in all
20 applicable zones, with the exception of single-family and duplex struc-
21 tures. He explained that these standards basically limit the size and
22 length of building elevations, and also address articulation of building
23 walls, adding that that the idea is to avoid monumental, unadorned
24 and large elevations that front and face onto public rights-of-way.

25
26 Mr. Spencer discussed standards that address roof forms, adding that
27 the intent is to create either pitched roofs or flat roofs that provide a
28 certain dimensional standard. He noted that a flat roof should include
29 some sort of parapet or termination to the building wall that is a part
30 of the roof design. He pointed out that these standards are intended to
31 make certain that high quality materials are utilized, both in
32 residential and non-residential structures, adding that a number of
33 standards address this issue.

34
35 Mr. Spencer mentioned the screening of roof-mounted equipment on
36 the top of buildings, noting that a number of options are provided. He
37 explained that there are certain design standards that exist within
38 Multiple-Use districts, adding that these include basically existing
39 standards that are within the Multiple-Use Sections that have been
40 relocated to the Design Review section. He pointed out that this
41 addresses building scale along streets, in Multiple-Use districts,
42 adding that the idea is to locate buildings fairly close to the street in
43 order to provide the predominant physical element in the streetscape,
44 as opposed to exposed parking lots.

1 Mr. Spencer discussed standards specific to Multiple-Use and
2 Commercial districts that address the ground floor elevation,
3 emphasizing that this is an attempt to make those elevations
4 pedestrian-friendly by prescribing some window and other treatments
5 that would be part of the ground floor building elevation. He described
6 standards with regard to outdoor seating, noting that this is
7 encouraged in Multiple-Use and Commercial districts, and pointed out
8 that this seating would likely be located within the public right-of-way.
9

10 Mr. Spencer discussed issues with regard to circulation and parking,
11 noting that the base Design Standards involve vehicular design,
12 essentially requiring that a project provide connections both internally
13 and to surrounding streets and areas for their internal circulation to
14 make certain that projects and developments are connected to their
15 surrounding neighborhoods. He mentioned a requirement for either
16 locating or screening solid waste facilities and loading facilities from a
17 public street so that those utility elements are located toward the back
18 of a development project, rather than up front.
19

20 Mr. Spencer noted that there are standards that deal with pedestrian
21 circulation and pedestrian facilities, specifically connecting both
22 elements within a development and to surrounding streets and
23 neighborhoods. Referring to circulation and parking, he explained that
24 any parking lot adjacent to a street should include some screening
25 from the public right-of-way. He mentioned standards for landscape
26 screening or fence screening along the property line, emphasizing that
27 this is an attempt to limit the visual impact of large parking areas.
28

29 Referring to Landscape, Open Space and Natural Environment, Mr.
30 Spencer noted that there are base Design Standards for residential
31 uses in residential districts, observing that this applies to projects of
32 ten units or greater. He discussed minimum landscape requirements
33 with regard to front yards within residential developments, adding
34 that this basically involves landscaping along building elevations and
35 foundation walls.
36

37 Mr. Spencer mentioned that another set of standards applies to non-
38 residential developments, specifically Commercial, Industrial, and
39 Multiple-Use development within those zones. He pointed out that
40 this establishes a particular method with regard to calculating the
41 amount of open space that is provided and also pertains to minimum
42 requirements with regard to open space, specifically pertaining to
43 trees, shrubs, and ground cover within those landscaped areas.
44

1 Mr. Spencer discussed standards applicable to retaining walls that are
2 greater than a certain size, noting that this is an attempt to minimize
3 the scale of large retaining walls through the surface treatment that
4 would be applied to these large walls. He pointed out that there are
5 certain standards applicable to fences and other small walls
6 throughout the areas.

7
8 Mr. Spencer mentioned that the final issue involves lighting design,
9 observing that the most significant are technical lighting standards
10 that address maximum lighting levels at the property line as well as
11 maximum lighting levels internal to a specific project, with the
12 variable involving the type of illumination device that is provided.

13
14 Mr. Spencer reiterated that if an applicant chooses not to meet a
15 standard or is unable to meet a standard, the option is to move to the
16 next highest level of review.

17
18 Mr. Sparks entered several documents into the record, as follows:

- 19
20 1. Letter from Matt Grady, *Gramor Development*, dated August
21 27, 2003;
22 2. E-mail from Mark Whitlow, representing *Fred Meyer Stores*,
23 dated August 26, 2003;
24 3. Document from Mark Whitlow providing comments from *Fred*
25 *Meyer Stores*, dated August 27, 2003;
26 4. Letter from Mark Perniconi, *C. E. John Company*, dated August
27 25, 2003; and
28 5. Comments from Commissioner Bliss, dated August 25, 2003.

29
30 Mr. Sparks reiterated that tonight's public hearing does not involve
31 any new development within the City of Beaverton, emphasizing that
32 no zone change is proposed and that there is no proposal to take any-
33 body's property, construct any roads, or build a new City Hall. Observ-
34 ing that he had received numerous telephone calls from individuals
35 who are concerned with the possibility of their home becoming a non-
36 conforming structure with the adoption of this text, he pointed out that
37 Mr. Spencer has reviewed and described the purpose of these proposed
38 standards. He emphasized that it is important to understand that a
39 structure would not be deemed non-conforming on the basis of design,
40 adding that every structure in the City has some level of Design
41 Review approval. Concluding, he explained that staff intends to accept
42 public testimony, discuss the text, that the Commission should then
43 direct staff to respond to certain issues, as appropriate, and that the
44 hearing should be continued to a date certain.

1 PUBLIC TESTIMONY:

2

3 MARK PERNICONI, representing *C. E. John Company*, discussed

4 what he described as a problem with the current Development Code

5 and an even worse problem with this proposal, emphasizing that there

6 is no scalability with regard to this Development Code. He mentioned

7 that the same standards apply to any building adjacent to a major

8 public street, whether this building is two feet or 500 feet from this

9 street. Expressing his opinion that this is dangerous, he pointed out

10 that some of these issues are not relevant when a building is located a

11 distance of greater than 50 feet from the roadside. He noted that this

12 issue has come up repeatedly, noting that this is a problem with the

13 Sign Code and many other sections of the Development Code. He

14 explained that within a Community Service zoning district, a 50-acre

15 site with 600,000 square feet of buildings should not be subject to the

16 same guidelines as 2,500 square foot taco stand. He pointed out that

17 some of the issues, such as Tree Plans, are disastrous to this type of

18 development, emphasizing that they have great impact issues when

19 located within 15 feet of the street front.

20

21 Mr. Perniconi mentioned what he considers to be alarming issues,

22 observing that while 15% landscaping on the site is a design guideline,

23 specifying what tree is a conifer or a what-kind-of-tree on private

24 property is a design specification. Emphasizing that a guideline is a

25 guideline, he pointed out that the language is far too specific with

26 regard to issues such as the size of the islands, landscaping, and

27 foundations, adding that this involves specific design criteria, not

28 guidelines. He pointed out that architects, landscape architects, and

29 engineers attend school for a lot of years to acquire skills that they

30 ought to have the opportunity to apply creatively on an individual

31 project design, not mandated by this design language.

32

33 Mr. Perniconi stated that he has observed what he referred to as some

34 backdoor methods of controlling zoning issues through Design Review.

35 He pointed out that one in particular involves the maximum building

36 elevation adjacent to a public street, expressing his opinion that this is

37 just a backdoor way of limiting building size, emphasizing that this

38 should be done outright and not in this underhanded way through the

39 design guidelines.

40

41 Observing that redevelopment involves other issues, Mr. Perniconi

42 expressed concern with how to apply these guidelines in redevelop-

43 ment, which is not well-addressed at all. He pointed out that the City

44 of Beaverton has a dysfunctional planning process, adding that it is

1 costly to do business here and extremely difficult to invest in Beaver-
2 ton, which has what he referred to as a hostile business climate. He
3 expressed his opinion that redevelopment needs to be feasible, noting
4 that most activity in the next 15 years would involve redevelopment.

5
6 Commissioner Maks advised Mr. Perniconi that he or his repre-
7 sentative should be involved to represent commercial issues on the
8 next CRAC Committee, adding that he noticed his written comments
9 with regard to the proposed Design Review Compliance Letter.

10
11 Mr. Perniconi mentioned that he had only had adequate time to
12 comment on some issues.

13
14 Commissioner Maks pointed out that Mr. Perniconi had expressed his
15 approval of the proposed Design Review Compliance Letter, and
16 requested clarification with regard to the problem with Development
17 Code Section 1.A.1.F.

18
19 Mr. Perniconi noted that he is concerned with no threshold with regard
20 to a modification to on-site landscaping.

21
22 Commissioner Maks explained that the Design Review Compliance
23 Letter is a positive approach and should make some issues easier.

24
25 Mr. Perniconi agreed with Commissioner Maks with regard to the
26 Design Review Compliance Letter, observing that he is concerned with
27 some of the design criteria.

28
29 Observing that his remarks with regard to Mr. Perniconi serving on
30 CRAC, Commissioner Maks pointed out that the committee has made
31 a great deal of effort with regard to this proposal and that he takes a
32 little bit of umbrage with regard to some of Mr. Perniconi's comments.
33 For the benefit of the audience, he explained that CRAC stands for the
34 Code Review Advisory Committee.

35
36 Mr. Sparks noted that CRAC is an unfortunate acronym, adding that
37 staff is open to suggestions for another name for this committee.

38
39 Commissioner Maks mentioned that Mr. Perniconi would come up with
40 a new name his first meeting.

41
42 MATT GRADY, representing *Gramor Development*, mentioned the
43 letter he had distributed to members of the Commission, adding that
44 he would not go into the details of this information that has been

1 provided. Observing that the State of Oregon currently has one of the
2 highest unemployment rates in the nation, he pointed out that it is
3 necessary to create as much employment as possible. He discussed
4 several areas of concern, expressing his opinion that the design stand-
5 ards are so narrow that the City of Beaverton might as well just design
6 the project and eliminate the need to retain an architect. Referring to
7 the preferred colors for building finishes, specifically "subtle earth
8 tones", he pointed out that high intensity colors are not allowed, add-
9 ing that maybe only neon colors should not be allowed. He suggested
10 that the language be revised to allow for other color schemes, hues, or
11 tones. He discussed building heights, observing that single-story
12 buildings located at the street are discouraged, and requested
13 clarification with regard to whether a single-story building is bad.

14
15 Commissioner Voytilla questioned Mr. Grady's opinion with regard to
16 lighting issues.

17
18 Mr. Grady advised Commissioner Voytilla that he had focused mainly
19 on circulation and building issues, noting that while he has concerns
20 with regard to both landscaping and lighting, he has not had adequate
21 time to review these issues.

22
23 Commissioner Maks instructed Mr. Grady to join Mr. Perniconi on the
24 CRAC Committee, emphasizing that the commercial interests need to
25 be represented as well. Observing that he has been addressing land
26 use issues in the City of Beaverton in various capacities for a period of
27 20 years, he pointed out that the most consistent complaint involves
28 the lack of quantifiable standards that an applicant can meet and go
29 through the process. He explained that any application that meets
30 these quantifiable standards is not required to go through the public
31 hearing process, adding that this eliminates the possibility of revisions
32 at the level of the Board of Design Review or Planning Commission,
33 and questioned whether there is an issue with this concept:

34
35 Mr. Grady mentioned that while he appreciates this concept, he would
36 find it difficult to create a proposal that would meet all of the
37 applicable criteria.

38
39 Commissioner Maks pointed out that creativity and subjectivity
40 basically defeats the concept of quantifiable and measurable
41 standards. Expressing his appreciation to Mr. Grady for his
42 comments, he mentioned that he loves the pictures and examples he
43 had provided.

44

1 BARRY CAIN, representing *Gramor Development*, stated that he
2 supports measures that legislates better quality, emphasizing that his
3 firm always provides quality projects. He expressed concern with
4 eliminating the public hearing from the process, pointing out that
5 subjectiveness is good for quality and that it is difficult to regulate
6 beauty, and requested the opportunity to work with staff to propose
7 some criteria that could create an improved retail environment.

8
9 MARK WHITLOW, representing *Fred Meyer Stores*, echoed comments
10 made by those who previously testified, particularly those of Mr. Cain,
11 adding that he appreciates efforts to streamline the process to be as
12 quick and painless as possible. Noting that he prefers to avoid a homo-
13 genous landscape and that everything should not look the same, he
14 pointed out that he intends to provide additional testimony in writing.

15
16 Commissioner Maks referred to page 1 of Mr. Whitlow's document
17 containing Fred Meyer's comments, specifically with regard to design
18 principles, standards and guidelines and the following statement:

19
20 *"The scope of the applicability of the proposed standards should*
21 *be narrowed to apply only to special areas where high frequency*
22 *and sustained transit service exists in close proximity to high*
23 *density residential development."*

24
25 Commissioner Maks pointed out that he disagrees, observing that
26 while he understands Mr. Whitlow's perspective, these design
27 standards should apply.

28
29 Mr. Whitlow expressed his opinion that this depends upon the intent,
30 observing that if the intent is just to make it more attractive,
31 addressing pure aesthetics is subjective.

32
33 Commissioner Maks noted that he believes that the overall goal was
34 aesthetics.

35
36 Mr. Whitlow pointed out that this discourages redevelopment.

37
38 CHRISTOPHER KOPCA, representing the *Downtown Development*
39 *Group* of Portland, pointed out that they have an interest in one piece
40 of property, specifically the Chrysler warehouse at SW Arctic and SW
41 Allen. Observing that the group he represents has some experience in
42 development, though not in the City of Beaverton, he noted that they
43 would like to expand and utilize the rest of that property. He
44 explained that while the primary function of this industrial warehouse

1 is to move trucks in and out on a daily basis, some of these functions
2 need to be visible and should not have to be screened in areas that are
3 not readily visible to the public. He emphasized that many of these
4 industrial uses are attempting to address issues with regard to
5 security and truck maneuvering, pointing out that it is necessary to
6 move items in and out of a building efficiently.

7
8 Commissioner Maks urged Mr. Kopca to submit his comments in
9 written form.

10
11 RACHEL NETTLETON, Chairman of the Five Oaks/Triple Creek
12 NAC, observed that she is basically here for the learning experience
13 and has no testimony at this time.

14
15 No additional members of the public testified with regard to this
16 application.

17
18 Emphasizing that design review is a subjective procedure, Mr. Sparks
19 agreed with Mr. Cain's statement that it is not necessarily possible to
20 regulate good taste or good design. Noting that he agrees with a great
21 deal of the testimony that has been provided, he stated that rather
22 than responding to these issues, staff would like to take the oppor-
23 tunity to meet with those who have requested to meet with staff. He
24 mentioned that staff is committed to a project time line with the
25 administration to process this application, adding that without appro-
26 priate direction it is not possible to call a time out at this time. Noting
27 that one other hearing item with regard to a day care in a residential
28 area is scheduled for September 17, 2003, he pointed out that this
29 would be an appropriate date for the continuance. He suggested that
30 interested individuals sit down and discuss their issues with staff this
31 week, who would then prepare a Staff Report for September 10, 2003.

32
33 Chairman Barnard noted that he would like to address four or five
34 specific issues at this time.

35
36 Referring to the last paragraph of page 7, Chairman Barnard
37 requested input with regard to the concept of a conflicting zone.

38
39 Commissioner Winter pointed out that this issue had been discussed at
40 a previous Work Session.

41
42 Mr. Sparks noted that while some of these issues have been reviewed,
43 nothing has been decided at this time, expressing his opinion that the

1 conversations that occurred at the Work Sessions should be at least
2 briefly reviewed for the benefit of those who were not in attendance.

3
4 Commissioner Maks observed that the issue of conflicting zones
5 involves a new planning concept, adding that he disagrees with this
6 entire concept when both the Comprehensive Plan Map and Zoning
7 Map establish and clearly identify these zones.

8
9 Commissioners Voytilla, Bliss, Pogue, and Winter, and Chairman
10 Barnard expressed their agreement with the statements made by
11 Commissioner Maks.

12
13 Chairman Barnard referred to the third paragraph on page 8 which
14 addresses elevation, specifically the question: "How could the staff
15 conclude with a Design Review Two application that the applicable
16 design standard is being met?" He questioned whether only one level
17 would be elevated if an applicant does not comply.

18
19 Commissioner Maks noted that he is undecided regarding this issue.

20
21 Observing that he had inadvertently omitted one sentence in that
22 paragraph, Mr. Sparks pointed out that basically the only way that
23 decision could be made would be through the appeal process, which
24 would involve a Type 3 hearing, expressing his opinion that this is not
25 the best idea. Noting that every site is different and involves different
26 issues, he stated that the current process involves a Type 1
27 application, which is basically meeting or not meeting the
28 Development Code with no discretion.

29
30 Chairman Barnard requested input regarding wall articulation.

31
32 Commissioner Maks indicated that he prefers to obtain additional
33 examples with regard to this issue from Mr. Grady prior to a decision.

34
35 Commissioner Voytilla expressed his opinion that Mr. Grady brought
36 up a very valid point, observing that there are treatments available
37 that serve to make a masonry wall more interesting. Noting that even
38 massive concrete can be addressed, he pointed out that it is necessary
39 to clarify what we are specifically attempting to avoid.

40
41 Chairman Barnard referred to the last paragraph of page 9 which
42 addresses Special Design Standards in Multiple Use Districts, and
43 page 5 of 35, requesting clarification with regard to the difference
44 between 1.a.i. and 1.a.ii. He pointed out that it appears that both

1 sections require a building to be located 80-feet from the right-of-way,
2 noting that while this is explained on page 5 of 35 it is also described
3 in the last paragraph of page 9.

4
5 Mr. Sparks explained that a structure ranging from 24 to 60 feet in
6 height must be either on the property line or at the prescribed
7 maximum setback, adding that any structure greater in height must
8 be set back proportionally in a manner resembling a wedding cake.

9
10 Referring to page 10 which addresses the screening of transformers
11 and utility vaults, Mr. Sparks pointed out that this basically involves a
12 new standard that is not regulated within the existing Development
13 Code. He pointed out that Portland General Electric (PGE) frequently
14 objects to requirements which will hinder their service vehicles from
15 direct access to these facilities, expressing his opinion that it should be
16 possible to provide screening without hindering access.

17
18 Observing that he had recently dealt with this particular situation,
19 Commissioner Voytilla explained that PGE has equipment that needs
20 adequate room in order to prevent accidents or injury.

21
22 Commissioner Bliss pointed out that he has also been involved in this
23 situation, adding that Verizon has the same issue.

24
25 Mr. Sparks discussed the transformers located at The Round and
26 mentioned that there have been numerous complaints with regard to
27 these unattractive utility structures which are increasing in size,
28 emphasizing that he has no solution to this issue.

29
30 Commissioner Voytilla questioned at which point it would be
31 appropriate to stop utilizing utility easements on property and move
32 these facilities to the rights-of-way and underground, with standards
33 providing more organized placement of the transformers.

34
35 Mr. Sparks advised Commissioner Voytilla that this involves a major
36 policy issue the City of Beaverton would have to make a decision on,
37 observing that unfortunately, the issue is cost, rather than access.

38
39 On question, Chairman Barnard received no input with regard to
40 entrances located on street corners.

41
42 Chairman Barnard requested input with regard to grading up to
43 property lines.

44

1 Commissioner Voytilla expressed his opinion that there are some very
2 creative architectural solutions to address this issue, adding that he is
3 not comfortable with applying regulations that are too stringent.

4
5 Commissioner Maks noted that this had been an extremely sensitive
6 issue with CRAC and the Committee for Citizen Involvement (CCI).

7
8 Commissioner Bliss emphasized that it is necessary to address ADA
9 requirements, which only serves to make land more expensive.

10
11 Mr. Sparks discussed the issue from the perspective of staff, noting
12 that while the discussion with CRAC had been pretty heated with
13 regard to this issue, many people were pointing out specific examples.
14 He pointed out that some members of CRAC had expressed a
15 preference for grading to occur throughout a site and that they did not
16 want mass grading to occur without the benefit of any type of review.

17
18 Chairman Barnard mentioned conforming and non-conforming
19 limitations or remodels based on redevelopment, and questioned
20 whether stronger language is necessary and when an application
21 should be exempt.

22
23 Mr. Sparks interjected that it is necessary to provide clarification with
24 regard to applicability statements, adding that staff could draft
25 appropriate text in order for the Commission to determine whether or
26 not this addresses their concerns.

27
28 Chairman Barnard requested input with regard to whether commer-
29 cial cloth and/or vinyl awning should be considered for entrances.

30
31 All Commissioners with the exception of Commissioner Maks
32 expressed their approval of allowing both commercial cloth and vinyl
33 awning for entrances.

34
35 Observing that an awning serves a purpose, Commissioner Maks
36 pointed out that it can be both unattractive and leaky if it is not
37 properly maintained by the property owner.

38
39 Commissioner Bliss pointed out that there had been no conversation
40 with regard to the lighting standards.

41
42 Mr. Sparks advised Commissioner Bliss that while lighting standards
43 is not a dead issue, observing that staff had run out of time to address
44 Mr. Bliss' comments in the Staff Report.

1 Commissioner Maks questioned when the issue of what would be
2 considered big would be discussed.

3
4 Commissioner Pogue requested clarification with regard to Design
5 Review 2 and Design Review 3, specifically whether the difference
6 involves 50,000 square feet and 30,000 square feet.

7
8 Mr. Sparks clarified that while a development not abutting a
9 conflicting zone is 50,000 square feet, a development abutting a
10 conflicting zone is only 30,000 square feet. He pointed that two very
11 important words are missing in this text, emphasizing that a Type 2
12 application would be up to and including 50,000 square feet when the
13 development does not abut a conflicting zone.

14
15 Commissioner Voytilla suggested that this issue should be discussed
16 between staff and those individuals who testified this evening.

17
18 Chairman Barnard pointed out that he would like to impose a limit of
19 30,000 to 35,000 square feet, rather than 50,000 square feet

20
21 Commissioner Bliss expressed his opinion that a developer would avoid
22 developing in this area if it is perceived as too restrictive.

23
24 Observing that he would like to continue this hearing until September
25 17, 2003, Mr. Sparks suggested that staff could meet with those who
26 provided testimony this evening from 8:30 a.m. until 12:30 p.m. on
27 Thursday, September 4, 2003. He requested that these individuals
28 submit their comments in writing ahead of time by end of business on
29 Tuesday, September 2, 2003, in order to allow staff sufficient time to
30 review and understand their concerns and comments to provide for a
31 meaningful conversation. He pointed out that it would be necessary to
32 finish on that date to allow staff adequate time to prepare the Staff
33 Report in time, adding that staff would coordinate this meeting with
34 all involved parties.

35
36 Commissioner Voytilla **MOVED** and Commissioner Winter
37 **SECONDED** a motion to **CONTINUE** TA 2003-0005 – Section 40.20
38 Design Review Update to a date certain of September 17, 2003.

39
40 Motion **CARRIED**, unanimously.

41
42 Mr. Sparks observed that the new business would be addressed first on
43 September 17, 2003.

44

1 **PLANNING COMMISSION MINUTES**

2
3 **October 22, 2003**

4
5
6 **CALL TO ORDER:**

Chairman Bob Barnard called the meeting to order at 7:00 p.m. in the Beaverton City Hall Council Chambers at 4755 SW Griffith Drive.

7
8
9
10
11 **ROLL CALL:**

Present were Chairman Bob Barnard, Planning Commissioners Gary Bliss, Eric Johansen, Dan Maks, Shannon Pogue, and Scott Winter. Planning Commissioner Vlad Voytilla was excused.

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Development Services Manager Steven Sparks, Senior Planner Colin Cooper, Associate Planner Sambo Kirkman, Senior Planner Alan Whitworth, Senior Transportation Engineer Don Gustafson, Planning Intern Jennifer Browning, Planning Consultant John Spencer, City Attorney Bill Kirby, and Recording Secretary Sandra Pearson represented staff.

The meeting was called to order by Chairman Barnard, who presented the format for the meeting.

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II. TA 2003-0005 – SECTION 40.20 DESIGN REVIEW UPDATE
(Continued from September 17, 2003)

Substantive update to Section 40.20 Design Review of the Beaverton Development Code to delete current design review thresholds and approval criteria and replace with performance oriented design principles, design standards, and design guidelines that will act as the approval criteria. New application thresholds, buffering and screening standards and requirements, and technical lighting requirements are also proposed. In addition, existing design standards in Section 20.20.60 (Supplementary Regulations) of Chapter 20 (Land Uses) will be struck and incorporated into the proposed amendments to Section 40.20 (Design Review).

Chairman Barnard briefly described the public hearing process that would be followed for this issue.

1 Development Services Manager Steven Sparks introduced himself and
2 Planning Consultant John Spencer and reintroduced Colin Cooper,
3 who has accepted former Senior Planner Kevin Snyder's position and
4 will be addressing Development Code issues. He mentioned several
5 late communications that have been submitted, as follows:
6

- 7 • From Mark Perniconi, *C. E. John Company, Inc.*, dated October
8 21, 2003;
- 9 • From Mark Perniconi, *C. E. John Company, Inc.*, dated October
10 22, 2003;
- 11 • From Mark Perniconi, *C. E. John Company, Inc.*, dated October
12 17, 2003;
- 13 • Matt Grady, *Gramor Development, Inc.*, dated October 22, 2003;
- 14 • Havlin G. Kemp, *VLMK Consulting Engineers*, dated October
15 22, 2003; and
- 16 • Jack Orchard, *Ball Janik LLP*, dated October 22, 2003.

17
18 Mr. Sparks pointed out that staff would be providing a slide show
19 presentation, adding that he would like to discuss some of the major
20 points of the Staff Report first. Observing that this hearing has been
21 continued from August 27, 2003, he explained that since that time he
22 and Mr. Spencer had met twice with local representatives of the
23 commercial and industrial development communities (aka CIS group)
24 who had testified at the previous hearing. Noting that the suggestions
25 provided by these individuals had been presented to the Code Review
26 Advisory Committee (CRAC) at the request of Mayor Drake, he
27 mentioned that the Staff Report summarizes the results of those
28 meetings and identifies certain changes to the text.
29

30 Mr. Sparks identified the first issue as the applicability statements, in
31 Section 40.20, noting that staff had worked extensively with the CIS
32 group to define how the Development Code would apply to existing
33 development. He explained that staff had prepared a concept that
34 would provide for the addition of a certain percentage of existing floor
35 area to a site without being subject to certain provisions of the
36 proposed text, while others such as landscaping and lighting would
37 apply. He pointed out that the CIS group had expressed a reasonable
38 concern, specifically how to encourage redevelopment or at least not to
39 discourage economic growth. He explained that staff has proposed an
40 alternative that would limit an expansion to 2,500 square feet,
41 emphasizing that this option would not entirely address the concerns
42 expressed by the CIS group. Observing that the CIS group and CRAC
43 had not agreed with regard to the concept of grading, he pointed out
44 that the text proposes to create a buffer zone of slopes, rather than a

1 retaining wall, and explained that this standard had been designed for
2 the purpose of protecting the compatibility with residential properties.

3
4 Planning Consultant John Spencer clarified that the highlighted text
5 within the Staff Report is text that resulted from the meeting with the
6 CIS group, emphasizing that it had been determined that it is
7 necessary to at least retain the same level of design review that
8 currently exists, particularly within the multiple-use districts. He
9 discussed the concept of shadow platting, to indicate how a
10 development site could potentially meet the applicable standards,
11 emphasizing that this might not necessarily occur during the first
12 phase of a development.

13
14 Mr. Sparks introduced Planning Intern Jennifer Browning who
15 assisted with the presentation, and explained that there are a variety
16 of ways to implement standards for architectural treatments. He
17 discussed and provided visual illustrations of numerous structures
18 throughout the City of Beaverton that indicate various treatment
19 options available and have been utilized to meet standards, including
20 *Home Depot, Chuck E. Cheese, Krispy Kreme*, the Harvest Court
21 Building, and the Round South Office Building. Concluding, he offered
22 to respond to questions.

23
24 Commissioner Maks requested clarification with regard to the
25 conflicting zone issue within the application thresholds, observing that
26 he had thought that this issue had been resolved.

27
28 Mr. Sparks explained that his recollection of the issue is that no
29 decision had been made to drop the conflicting zone, adding that staff
30 would take care of this if it is the consensus of the Commission to do
31 so, and was advised by Commissioner Maks that the Commission had
32 provided this consensus.

33
34 Commissioner Maks pointed out that cloth and vinyl awnings need to
35 be addressed. He requested clarification with regard to Development
36 Code Section 60.05.20.11.

37
38 Mr. Sparks advised Commissioner Maks that this involves the concept
39 of shadow platting that exists in the current RC zoning districts,
40 emphasizing that this text is not in the Development Code at this time.
41 He discussed the various issues involved with shadow platting,
42 observing that this could occur through the Planned Unit Development
43 (PUD) process.
44

1 Commissioner Maks requested an explanation of the positives and
2 negatives involved in shadow platting, observing that this provides
3 some flexibility to the developer.
4

5 Mr. Sparks observed that within the existing multiple-use districts,
6 there are a variety of site development standards (building height,
7 setbacks, etc.), explaining that the most difficult standard to meet is
8 the floor area requirements.
9

10 Commissioner Maks referred to page 2 of 8, Section F, and requested
11 clarification with regard to the 10%.
12

13 Mr. Spencer clarified that this concept is currently applied in the City
14 of Portland, explaining that while an applicant might not meet all
15 applicable standards, they would be contributing financially to
16 addressing standards in either the subject portion of the building or
17 other areas of the site. He noted that this would serve as a commit-
18 ment to meeting the standards more closely with a particular project.
19

20 Chairman Barnard noted that he understands this to mean that 10%
21 of the construction budget is spent on attempting to meet applicable
22 design standards without being fully obligated to meet all standards.
23

24 Commissioner Maks referred to page 7 of 38, observing that the
25 outdoor seating area is being eliminated and put into the Municipal
26 Code, and questioned whether this should not still be in the
27 Development Code in some fashion.
28

29 Mr. Sparks advised Commissioner Maks that because this involves
30 encroachments within the right-of-way this issue would not be
31 included in the Development Code.
32

33 Commissioner Maks discussed pages 8 and 9 of 38 which address
34 parking areas, emphasizing that it should be possible for an 8th grader
35 to read and comprehend this text, and pointed out that the average Joe
36 Six-Pack does not read this Development Code overnight.
37

38 Chairman Barnard expressed his opinion that this describes more than
39 just the dominant portion of the parking area.
40

41 Commissioner Maks referred to page 18 of 38, specifically Section 7,
42 which addresses grading within 25 feet of the property line, and
43 suggested that R-4 zoning should be included.
44

1 Mr. Sparks pointed out that page 11 of the Staff Report provides the
2 suggested change.

3
4 Commissioner Bliss discussed the grading issue, observing that he is
5 concerned with raising this standard to a level that is difficult for a
6 developer to meet in an area where there is no flat land left.

7
8 Commissioner Bliss referred to page 22 of 38, Section 11, observing
9 that the word "be" should not be eliminated from the fourth line.

10
11 Chairman Barnard mentioned that while Mr. Sparks has indicated
12 that there are a few unresolved questions, in his opinion there are
13 numerous unanswered questions.

14
15 Mr. Sparks advised Chairman Barnard that he fully expects to address
16 and resolve these issues to a point where the Commission is content
17 with compromises and decisions on the text prior to submitting the
18 final text.

19
20 Emphasizing that the text of this document is quite extensive,
21 Chairman Barnard pointed out that he would like staff to attempt to
22 iron out the majority of the differences prior to submittal to the
23 Commission.

24
25 Observing that this issue involves a continuous attempt to address a
26 moving target, Commissioner Maks explained that this is difficult for
27 both staff and the Commission.

28
29 Mr. Sparks noted that this direction is different than what had been
30 received in the past, where the Commission wants to determine the
31 direction, adding that concerns with moving target situation could be
32 addressed through the public hearing process followed by a decision by
33 the Commission.

34
35 Chairman Barnard reiterated that he would like staff to resolve as
36 many issues as possible prior to presentation to the Commission.

37
38 PUBLIC TESTIMONY:

39
40 MARK WHITLOW, representing *Fred Meyer Stores, Inc.*, submitted a
41 letter dated October 22, 2003, discussed the 330-foot building façade
42 limitation, observing that adequate articulation and treatments should
43 eliminate the need for design review. He pointed out that this proposal
44 changes everything by providing standards to measure design review

1 again, expressing his opinion that it would create many situations
2 where adjustments are necessary. He noted that design review should
3 be neutral, adding that it is difficult to meet both applicable standards
4 and design review. He explained that he is looking for administrative
5 relief, adding that this proposal involves a double process. He de-
6 scribed the paradigm that is currently offered in Portland, adding that
7 this does allow shadow platting in Portland without requiring a PUD.
8 He mentioned the 50% rule, emphasizing that this is far too much for
9 glazing and frontage and suggested that this should be reduced to 35%
10 or 25% to be consistent with other jurisdictions. He pointed out that
11 drive aisles should not be required to be private streets, adding that if
12 it is built like a street and has the appearance of a street, people have
13 a tendency to treat it like a street. He explained that the guidelines
14 state how to create an environment, while the standards state how to
15 do it, expressing his opinion that it does not make sense for the
16 building orientation along all streets to be the same. He pointed out
17 that there had been some good meetings with staff and that while
18 some good ideas had been offered, these ideas are not incorporated into
19 this proposal, adding that there is potential for an appeal.

20
21 Commissioner Bliss pointed out that building orientation does make
22 sense in downtown Portland where there are parking lots, adding that
23 while he appreciates Mr. Whitlow's comments, he had gotten lost.

24
25 MARK PERNICONI, representing *C. E. John Company*, emphasized
26 that he would like to discuss the big picture, adding that he respects
27 the mandate from the State of Oregon to take action on this issue. He
28 pointed out that design guidelines would serve to add a whole new
29 layer of process, adding that he is not certain that this is actually
30 necessary at this time. He questioned whether the major pedestrian
31 areas throughout the City of Beaverton involve a lack of design guide-
32 lines or a lack of investment, expressing his opinion that not enough
33 reinvestment is occurring. He emphasized that the current proposal
34 would serve to exacerbate rather than help that problem. Observing
35 that City staff is competent, extremely conscientious and would enforce
36 this code as it is written, he pointed out that there is also paranoia
37 with regard to freestanding signs. He explained that preventing these
38 businesses from creating the type of establishment necessary for their
39 business will cause them to locate elsewhere, leaving these parcels to
40 be utilized by those who are at the bottom rung of the retail ladder,
41 such as gentleman's clubs or adult book stores, which is detrimental to
42 surrounding businesses. He suggested that it is time to quit making
43 things more difficult and dictating to people what they can and can not
44 do on their private property, expressing his opinion that this is a

1 hostile act. He noted that it is necessary to consider the type of busi-
2 ness climate that is presented to outside world, emphasizing that his
3 company has a significant investment in this community, and pointed
4 out that some of the best intentions result in unintended consequences.
5

6 CHRISTOPHER KOPKA introduced himself as the owner of the
7 Chrysler Warehouse Building, noting that Mr. Orchard, Mr. Kemp and
8 himself would like to discuss industrial use from a global perspective.
9

10 JACK ORCHARD, representing Downtown Development, noted that
11 he had submitted a letter to Mr. Spencer and Mr. Sparks suggesting
12 some specific language. Observing that he had spent numerous
13 evenings in design review hearings, he expressed his opinion that
14 lawyers do not belong at these hearings.
15

16 Chairman Barnard requested copies of the letter that Mr. Orchard had
17 referenced for the Commission.
18

19 Noting that he would distribute copies of this letter to the Commission,
20 Mr. Orchard explained that it is necessary to go through this process to
21 avoid the unintended consequences of establishing multiple processes
22 that include what he referred to as multiple trap doors. He pointed out
23 that his letter addresses three specific issues, as follows:
24

- 25 1. It is necessary to define when we can actually use the Design
26 Review Compliance Letter process.
- 27 2. There is a conflict between several sections of the existing
28 Development Code text, specifically in Section 40.20.10.2.g,
29 adding that there is no design process that applies when dealing
30 with 15% or less of the site.
- 31 3. It is necessary to address public access across industrial
32 property.
33

34 HAVLIN KEMP, with *VLMK Consulting Engineers*, representing
35 Downtown Development, referred to Development Code Section
36 60.05.20.4.a, which indicates that pedestrian connections shall be pro-
37 vided that link to adjacent, existing, and planned pedestrian facilities
38 as specified in Tables 6.1 through 6.6 and Figures 6.1 through 6.23 of
39 the Comprehensive Plan Transportation Element and to the abutting
40 street system. He expressed concern with site security, and referred to
41 Development Code Section 60.05.25.6.b, which addresses chain link
42 fences, observing that while they can not be used for screening, this
43 section indicates that it is acceptable as long as the fence is coated and
44 includes slats of vinyl, wood, or other durable materials.

1 Commissioner Maks referred to page 3 of 8, with regard to
2 Applications (Section 40.20.15), which addresses the Design Review
3 Compliance Letter and thresholds, adding that he appreciate
4 comments with regard to understanding and supporting the move for
5 clear and objective standards because of what has occurred.
6

7 Observing that he is a resident of the Royal Woodlands Neighborhood
8 and had served as chairman for several years, Commissioner Winter
9 pointed out that his home backs up to the industrial area near The
10 Hoop, adding that many consumers visit that particular office park.
11

12 Referring to testimony with regard to public access to industrial
13 property, Mr. Sparks emphasized that the intent is not to have public
14 access cross industrial properties.
15

16 MATT GRADY, representing *Gramor Development*, explained that he
17 would like to discuss three specific issues, specifically applicability,
18 design standards, and design guidelines. Referring to the issue of
19 freestanding buildings, he expressed his opinion that staff's proposal
20 did not seem to address this issue. He discussed issues pertaining to
21 facing a public street, building orientation, pedestrian locations,
22 entrances located at major pedestrian routes, ground floor elevations,
23 and 50% window glazing requirements. He pointed out that his final
24 issue involves Development Code Section 60.05.40.3.c and e., which
25 addresses landscaping and parking areas, expressing his opinion that
26 this pertains to large parking areas or continuous parking aisles.
27

28 BARRY CAIN, representing *Gramor Development*, discussed the
29 loading area at their site, emphasizing that there are not a great deal
30 of deliveries at that location.
31

32 Commissioner Maks pointed out that a loading dock would require a
33 higher level of review.
34

35 Mr. Grady mentioned that there are regulations with regard to
36 building size.
37

38 Mr. Sparks mentioned Mr. Grady's reference to the photographs,
39 pointing out that a power point visual photograph is not going to
40 provide an accurate representation, emphasizing that this illustration
41 merely serves to provide an example.
42

43 Mr. Cain noted that retail and mixed development creates a
44 complicated issue, adding that the same regulations do not work for

1 both types of development. He expressed his opinion that the
2 Commission would not like development to occur in this manner,
3 adding that his company would not have the tenants they currently
4 have. Observing that Mr. Perniconi is correct, he noted that the new
5 development is what the Commission wants.
6

7 Mr. Sparks paraphrased the last concept expressed by Mr. Cain,
8 asking if new development is better than it was ten years ago, empha-
9 sizing that in order to attract tenants and clients, it is necessary to do
10 more, because the expectation of tenants and customers is greater.
11

12 Mr. Cain agreed that the competition in the industry is greater than in
13 the past.
14

15 Mr. Sparks questioned whether Mr. Cain feels that there is greater
16 competition in the current economy.
17

18 Mr. Cain explained that it is now important to provide pedestrian
19 amenities, better landscaping, and more interesting buildings.
20

21 Mr. Sparks questioned whether Mr. Cain feels that local economy
22 affects the competition for tenants and customers.
23

24 Mr. Cain pointed out that it has taken a long time to develop centers in
25 the Portland area, emphasizing that this totally transcends the
26 economic environment.
27

28 Mr. Sparks suggested that Mr. Spencer and himself review and
29 consider the correspondence and comments and return on November
30 19, 2003 with a clean version of the text, emphasizing that they would
31 simplify and resolve as many issues as possible and return with a
32 recommendation.
33

34 Commissioner Maks requested that the issues be identified by section
35 at that time.
36

37 Observing that he has had to take care of some unexpected issues in
38 his department, Mr. Sparks explained that if this hearing is continued
39 to November 19, 2003, although he would attempt to provide
40 information by November 7, 2003, the latest it would be available
41 would be November 12, 2003.
42

1 Commissioner Pogue **MOVED** and Commissioner Winter **SECONDED**
2 to **CONTINUE** TA 2003-0005 – Section 40.20 Design Review Update to
3 a date certain of November 19, 2003.

4
5 Motion **CARRIED**, unanimously.

6
7 **MISCELLANEOUS BUSINESS:**

8
9 The meeting adjourned at 10:47 p.m.

1 **PLANNING COMMISSION MINUTES**

2
3 July 7, 2004

4
5 **CALL TO ORDER:**

6 Chairman Bob Barnard called the meeting to
7 order at 6:30 p.m. in the Beaverton City Hall
8 Council Chambers at 4755 SW Griffith
9 Drive.

10 **ROLL CALL:**

11 Present were Chairman Bob Barnard,
12 Planning Commissioners Gary Bliss, Eric
13 Johansen, Dan Maks, Alan DeHarpport, and
14 Scott Winter. Planning Commissioner
15 Shannon Pogue was excused.

16 Development Services Manager Steve
17 Sparks, AICP, Planning Consultant John
18 Spencer, Assistant City Attorney Ted
19 Naemura, and Recording Secretary Sheila
20 Martin represented staff.

21
22
23 The meeting was called to order by Chairman Barnard, who presented
24 the format for the meeting.

25
26 **VISITORS:**

27
28 Chairman Barnard asked if there were any visitors in the audience
29 wishing to address the Commission on any non-agenda issue or item.
30 There were none.

31
32 **STAFF COMMUNICATION:**

33
34 Staff indicated that there were no communications at this time.

35
36 **OLD BUSINESS:**

37
38 Chairman Barnard opened the Public Hearing and read the format for
39 Public Hearings. There were no disqualifications of the Planning
40 Commission members. No one in the audience challenged the right of
41 any Commissioner to hear any of the agenda items, to participate in
42 the hearing or requested that the hearing be postponed to a later date.
43 He asked if there were any ex parte contact, conflict of interest or

1 disqualifications in any of the hearings on the agenda. There was no
2 response.

3
4 CONTINUANCES:

5
6 A. TA2003-0005 – SECTION 40.20 (DESIGN REVIEW) UPDATE

7 (Continued from May 12, 2004)

8 Substantive update to Section 40.20 (Design Review) of the Beaverton
9 Development Code to delete the current design review thresholds and
10 approval criteria and replace with performance oriented design
11 principles, design standards and design guidelines that will act as the
12 approval criteria. New application thresholds, buffering and screening
13 standards and requirements, and technical lighting requirements are
14 also proposed. In addition, existing design standards in Section
15 20.20.60 (Supplementary Regulations) of Chapter 20 (Land Uses) will be
16 stuck and incorporated into the proposed amendments to Section 40.20
17 (Design Review).

18
19 Chairman Barnard briefly described the hearing process.

20
21 Development Services Manager Steven Sparks introduced Planning
22 Consultant John Spencer and provided a brief history of the proposed
23 text amendment, observing that staff has been working for several
24 months in cooperation with what he referred to as a Retail Task Force,
25 which is comprised of local commercial development stakeholders.
26 Observing that not all of the revisions requested by the commercial
27 developers have been included in the text proposed by staff, he pointed
28 out that staff is unable to support some of the requested changes,
29 adding that Mr. Spencer would summarize the major changes that
30 have occurred.

31
32 Planning Consultant John Spencer mentioned correspondence that had
33 been provided by the retailers and several Work Sessions that had
34 been held, observing that several major concerns had been
35 summarized, as follows:

- 36
- 37 • Limiting how the building orientation and building design
38 standards are applied.
 - 39 • Refining the draft language that was included in the earlier
40 draft that dealt with the ability to phase or time meeting some
41 of the design standards.
 - 42 • Exempting certain amounts of existing development or
43 modifications to existing development from the standards.

- 1 • Strengthening the clear and objective language that applies to
2 large, "big box" development within Regional Centers.
3

4 Mr. Sparks explained that in addition to the major amendments to
5 Chapter 40 (threshold and applicability statements) and Chapter 60
6 (principles, standards, and guidelines), staff has also included a
7 number of additional amendments for consideration, observing that
8 many of these small changes serve to provide internal consistency
9 throughout the Development Code. Referring to Exhibit "E", which is
10 the Public Transportation Facilities Application, he mentioned that
11 while streets are currently subject to Design Review, the structure of
12 the new Development Code does not adequately accommodate the
13 issue of streets. He noted that a new Street Application has been
14 developed in conjunction with the transportation planning section of
15 the Engineering Division, adding that this basically designates
16 Transportation Facilities as a Type 2 application. He further stated
17 that a new application has been created for Wireless Communication
18 Facilities (WCF).
19

20 Referring to page 13 of 42 of Exhibit "A", Mr. Sparks amended line 41,
21 as follows: "...Routes, and ~~35%~~ 65% along Class 2 Major Pedestrian
22 Routes."
23

24 Referring to page 5 of 13 of Exhibit "A", Commissioner Bliss amended
25 line 11, as follows: "...applicable design standards ~~of~~ may be moved
26 from along the..."
27

28 Referring to Section B.3 of page 5 of 13 of Exhibit "A", Commissioner
29 Bliss expressed concern numerous building on both sides of the street,
30 and specifically with parking issues.
31

32 Mr. Sparks responded that an example would be the Gramor
33 Development located at SW Murray Boulevard and SW Scholls Ferry
34 Road, observing that this involves private streets through a larger
35 parcel, including buildings along 50% of those frontages. He explained
36 that the parking would be located to the rear of the buildings or within
37 the interior of the site, between the buildings, adding that 50% of the
38 parking could be located up against the street.
39

40 Commissioner Bliss pointed out that he has a problem with the failure
41 of Gramor Development to comply with this standard, and requested
42 clarification with regard to the purpose of the double frontage and the
43 coverage of an internal street.
44

1 Mr. Sparks explained that as an alternative to constructing buildings
2 and creating a pedestrian environment out on an arterial roadway,
3 there is an option of creating the pedestrian environment by
4 essentially relocating the pedestrian route standards obligations to the
5 internal street on the property.

6
7 Commissioner Maks referred to the McCormick and Schmidt property
8 on SW Canyon Road and requested clarification with regard to the
9 requirements for building orientation if it became necessary to replace
10 the building.

11
12 Observing that this property is located within a Commercial zone, Mr.
13 Sparks explained that the building orientation on that site would be
14 dependent upon the size of the parcel. He pointed out that it is not
15 necessary to meet any building orientation or pedestrian access
16 standards on a parcel that is less than 60,000 square feet in size.

17
18 Mr. Sparks discussed Floor Area Ratios (FARs), and their relationship
19 to the proposed Design Build Out concept Plan and the PUD process
20 observing that while this involves a development standard, rather than
21 a design standard, there is a potential relationship of the FAR with the
22 design of a site.

23
24 Chairman Barnard pointed out that it is necessary to build a
25 consensus with regard to issues within the Staff Report, including the
26 FAR (page 6), building wall articulation (page 8), and the building
27 scale along major pedestrian routes in multiple use districts (page 9).

28
29 Commissioner Maks explained that he agrees that we should not have
30 commercial developments because it is necessary to phase these
31 developments in order to meet the Planned Unit Development (PUD)
32 requirements that are specifically designed for those unique situations
33 (difficult lots, etc.), although he wants to make certain that the
34 developers are not able to avoid the phasing and FAR requirements.

35
36 Mr. Sparks responded that the Development Code only addresses FAR
37 minimums and phasing in the Multiple Use zoning districts, adding
38 that phasing is not required. Referring to the last paragraph of page 9,
39 he expressed his opinion that building heights should not be included
40 in the concept plan.

41
42 At the request of Commissioner Maks, Mr. Sparks explained that the
43 glazing standards are currently applicable only on the Major
44 Pedestrian Routes within the Multiple-Use zoning districts,

1 emphasizing that this is not applicable within the Commercial zoning
2 districts. He pointed out that the Code Review Advisory Committee
3 (CRAC) included Commercial zoning districts in many of the similar
4 standards that are applied in the Multiple-Use zoning districts.
5

6 Observing that the Commission would now hold the Public Hearing on
7 the Casthart Preliminary Partition, Chairman Barnard noted that the
8 Section 40.20 Design Review Update would continue following that
9 hearing.
10

11 **NEW BUSINESS:**
12

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Chairman Barnard announced that the Commission would now continue with the Section 40.20 Design Review Update.

OLD BUSINESS:

A. TA2003-0005 – SECTION 40.20 (DESIGN REVIEW) UPDATE

Substantive update to Section 40.20 (Design Review) of the Beaverton Development Code to delete the current design review thresholds and approval criteria and replace with performance oriented design principles, design standards and design guidelines that will act as the approval criteria. New application thresholds, buffering and screening standards and requirements, and technical lighting requirements are also proposed. In addition, existing design standards in Section 20.20.60 (Supplementary Regulations) of Chapter 20 (Land Uses) will be struck and incorporated into the proposed amendments to Section 40.20 (Design Review).

Commissioner DeHarpport questioned whether a parcel that is 60,100 square feet in size could be addressed through a variance or a minor modification procedure, observing that he is specifically concerned with applications that are very close to meeting the established standard.

Mr. Sparks explained that an applicant submitting a proposal for 60,001 square feet or 100,000 square feet who does not to meet the standard would be required to complete a Type 3 Design Review process and not a Variance of Adjustment.

Commissioner Maks clarified that this would only involve a Type 3 process (public hearing) with regard to the standards that the applicant could not meet. He expressed his opinion that it is necessary to indicate that an applicant would not be encountering a prejudice if they are unable to meet a standard.

Mr. Sparks responded that Mr. Perniconi of *CE John Company* has indicated that staff considers and interprets the Development Code very narrowly and that he is concerned that staff would tend to be too Draconian in its interpretation of the design guidelines if the design standards are not met. This is not staff's intent. Observing that standards are not the same as requirements, he pointed out that

1 alternative design options are generally available and appropriate. He
2 noted that the guidelines and principles that have been established
3 provide any necessary flexibility, emphasizing that it is up to the
4 decision-making body to determine whether an applicant has
5 adequately addressed the appropriate approval criteria.

6
7 Commissioner DeHarpport pointed out that it is necessary to clarify
8 whether the 60,000 square feet involves net developable acreage
9 following right-of-way dedication or gross site area prior to the right-of-
10 way dedication.

11
12 Mr. Sparks responded that staff's intent is that the area will be based
13 upon the net.

14
15 Referring to the last paragraph on page 9 of the Staff Report,
16 Commissioner DeHarpport questioned why the height standard is the
17 only design standard that is subject to the Adjustment/Variance
18 process.

19
20 Mr. Sparks advised Commissioner DeHarpport that within the current
21 Development Code, the building heights within 20 feet of a Major
22 Pedestrian Route were adjustable through the Adjustment or Variance
23 process, adding that this provides consistency with the existing
24 Development Code.

25
26 Observing that he is not real familiar with glazing, Commissioner
27 DeHarpport requested further clarification with regard to the opacity
28 issue.

29
30 Mr. Sparks explained that the glazing standard had first been adopted
31 with the City adopted the text for the Regional Center in 1998, noting
32 that it has since been added to the other Multiple-Use zoning districts.
33 He pointed out that the purpose of the glazing is to provide a
34 pedestrian friendly environment in these areas, creating a more active
35 streetscape where it is possible to see into and out of the buildings.

36
37 Mr. Spencer noted that the 35% glazing standard is applicable only to
38 the ground floor level of a building.

39
40 Commissioner Maks expressed his opinion that any street that reaches
41 five lanes is generally not going to be considered pedestrian friendly
42 and would not be utilized as a Pedestrian Route, emphasizing that an
43 additional requirement should not be imposed along these roadways
44 for the purpose of pedestrian access.

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Mr. Sparks responded that he is aware of several examples of big blank walls that are aesthetically unattractive.

Commissioner Maks stated that there are many commercial developments that do not warrant this 35% glazing requirement, observing that there are options available other than the glazed glass.

Observing that City Hall has walls behind the glass, Chairman Barnard questioned whether this option would meet the 35% glazing requirement.

Mr. Sparks responded that while 35% glazing requirement would be met, he does not believe that a 50% glazing requirement would be met, because a great deal of this is Spandrel glass, which is basically a glass front with backing. He pointed out that it is possible to see through much of the City Hall glass, although it is tinted.

Mr. Spencer mentioned that there would be pedestrians on these streets that provide them with access to public transportation.

Commissioner Maks disagreed with Mr. Spencer, emphasizing that while pedestrians walk on SW Lombard Avenue, nobody walks on SW Canyon Road.

Mr. Spencer pointed out that the bus routes are on SW Canyon Road.

Commissioner Maks advised Mr. Spencer that pedestrians are walking across SW Lombard Avenue and do not use SW Canyon Road.

Commissioner DeHarpport discussed development standards pertaining to grading and slope.

Mr. Spencer responded that the standards are applicable only to grading activity.

Referring to the landscape buffering, Commissioner DeHarpport expressed his opinion that the standards are too restrictive, adding that people should have the option to landscape their property as they wish and work their differences out with their neighbors without interference by the City.

Mr. Sparks addressed the buffer standard, observing that through the Code Review process, staff had attempted to provide standards that

1 would address issues that are currently reviewed by the Board of
2 Design Review. He pointed out that the CRAC feels strongly about
3 protecting the residences of neighboring developments. Concluding, he
4 explained that staff would like to accept public testimony, receive
5 direction from the Commission, and return on August 18, 2004 with
6 the final version of the text for the entire Development Code for a
7 decision at that time.

8

9 Commissioner Maks complimented staff for their efforts on these text
10 amendments.

11

12 **PUBLIC TESTIMONY:**

13

14 **CHRISTOPHER KOPCA** discussed whether Industrial should be
15 required to comply with public accessibility standards, expressing his
16 opinion that the situation has deteriorated, rather than improved. He
17 pointed out that Industrial does require some special consideration and
18 is not the same as Commercial, adding that he hopes to provide some
19 guidance to staff with regard to policy.

20

21 **JACK ORCHARD**, representing *Ball Janik LLP* on behalf of
22 Downtown Development, referred to a letter, dated July 6, 2004, that
23 he had submitted to Mr. Sparks. He pointed out that all of the
24 industrial land within the City is being utilized at this time, adding
25 that the only industrial opportunities in the future would involve re-
26 development of existing industrial property and changes to existing
27 uses. Expressing his opinion that it is necessary to evaluate what
28 industrial property is and is not, he observed that it is not a public-
29 related use and involves security, rather than fencing, parking, and
30 circulation issues.

31

32 Chairman Barnard interjected that he is quite certain that the
33 Commission had intended for industrial property to be handled
34 differently.

35

36 Commissioner Maks agreed that industrial uses are significantly
37 different from other uses, adding that certain design standards that
38 are specific to industrial property should still apply.

39

40 Mr. Orchard explained that the text that he had suggested takes into
41 consideration the unique industrial design issues that must be
42 addressed as well as cost, emphasizing that this use is different from
43 commercial and residential uses.

44

1 Commissioner Maks questioned whether Mr. Orchard believes that the
2 standards for Industrial and Light Industrial should be different.

3
4 Observing that this had been discussed in the past, Mr. Orchard
5 pointed out that there are variations between the different industrial
6 uses.

7
8 Commissioner Maks expressed his opinion that the variations between
9 the different industrial uses necessitate different design standards.

10
11 Mr. Orchard noted that all of the owners of industrial property located
12 on the west side of SW Allen Boulevard are being asked to dedicate
13 right-of-way for the Fanno Creek trail system, emphasizing that this
14 dedication is intended to serve as an amenity to the community and a
15 buffer and that these property owners should be given some
16 consideration in return for their generosity.

17
18 HAVIN KEMP, representing *VLMK Consulting Engineers* on behalf of
19 Downtown Development, expressed his opinion that staff's proposal
20 with regard to industrial development is not an improvement. He
21 discussed issues involving certain property and apologized for not
22 providing comments to staff in a timely manner.

23
24 On question, Mr. Sparks advised Commissioner Winter that the City
25 has three industrial zoning designations, specifically: 1) Industrial
26 Park (IP); 2) Light Industrial (LI); and 3) Campus Industrial (CI). He
27 briefly described the various industrial zoning designations, observing
28 that they are not limited solely to true industrial uses. Noting that
29 uses change over time, he pointed out that a process should be
30 established to regulate these changes.

31
32 Chairman Barnard commented that this situation is not unique to the
33 City of Beaverton.

34
35 Expressing his opinion that industrial use is the cornerstone of
36 Beaverton, Commissioner Winter emphasized that this is not
37 something that should be phased out.

38
39 Mr. Orchard expressed concern with issues pertaining to industrial
40 use, noting that these issues would have to be resolved at some level.

41
42 Commissioner Maks discussed the possibility of creating a new
43 industrial zone.

44

1 Mr. Sparks suggested that a new zone is not feasible at this point, and
2 offered to draft appropriate language based upon use, rather than
3 zone, noting that this would serve to apply what he referred to as
4 several discreet standards that can be discussed prior to consensus and
5 a decision on August 18, 2004.

6
7 Commissioner Winter expressed his opinion that screening and opacity
8 issues should not be applicable to industrial use.

9
10 Commissioner Bliss observed that most of the industrially zoned land
11 in Beaverton is actually manufacturing conceived as being industrial,
12 rather than true industrial land, adding that heavy industrial use has
13 basically been eliminated.

14
15 Commissioner Johansen expressed concern with imposing conditions
16 on zoning districts.

17
18 MATT GRADY, representing *Gramor Development*, expressed his
19 appreciation of staff for their efforts at working with the development
20 community. Noting that he approves of the Compliance Letter, he
21 discussed several of the options that are available with regard to
22 standards and guidelines. He emphasized that all streets are not the
23 same and some are not and would never be Major Pedestrian Routes.
24 Concluding, he discussed glazing issues, and suggested that other
25 options such as building articulation be considered, and pointed out
26 that flexibility is vital to the development community.

27
28 Commissioner Maks reminded Mr. Grady that any standards that can
29 not be met provide an opportunity to be addressed through a Type 3
30 application.

31
32 Observing that staff would be working on the issues that had been
33 discussed, Mr. Sparks explained that he would like to receive further
34 direction from the Commission at this time in order to provide an
35 updated version of the proposed Text Amendment for the meeting on
36 August 18, 2004.

37
38 Chairman Barnard requested consensus on the second paragraph of
39 page 6, specifically whether to consider on the Design Review Build-out
40 Concept Plan (DRBCP) process and to include the FAR in the review.

41
42 Observing that he approves of the concept, Commissioner Maks
43 expressed his opinion that staff needs to continue working on this
44 issue.

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Commissioner Johansen concurred with Commissioner Maks' comment.

Commissioner DeHarport pointed out that this simply reaffirms what was originally approved at the Site Development level.

Chairman Barnard requested consensus on the last paragraph of page 7 and first paragraph of page 8, specifically with regard to the Design Review Compliance Letter.

Commissioner Maks stated that any standards that can not be met would necessitate a Type 3 application.

Chairman Barnard requested consensus on the second to last paragraph of page 8, specifically with regard to the most effective method for measuring building wall articulation.

Mr. Sparks referred to the initial draft that had been shared with the CRAC, observing that this draft included a formula that would determine these calculations.

Commissioner Maks suggested that the Commission follow the recommendation proposed by staff with regard to the most effective method for measuring building wall articulation.

Chairman Barnard requested consensus on the second to last paragraph of page 9, specifically with regard to the building scale along major pedestrian routes in multiple-use districts, expressing his opinion that staff has agreed with staff's recommendation for design review for this issue.

Commissioner Maks pointed out that he still believes that awnings should be permitted over main or primary entrances.

Chairman Barnard advised Commissioner Maks that the Commission has agreed with this in the past, noting that consensus has been reached.

Following a brief discussion, Mr. Sparks agreed that the last paragraph of page 8 of the Staff Report would be amended to eliminate the statement that "commercial cloth or vinyl awnings are not considered permanent architectural features".

1 Commissioner Maks discussed glazing issues, emphasizing that he is
2 reluctant to single out small businesses and force them to submit a
3 Type 3 application.

4
5 Commissioner DeHarpport stated that he supports Commissioner
6 Maks' comments and does not support the glazing.

7
8 Commissioner Johansen observed that it is necessary to create an
9 environment, noting that articulation is not the same as glazing.

10
11 Mr. Sparks briefly summarized the consensus issues that had been
12 addressed, as follows:

- 13
14 1. FARs would be a part of the concept plan and would include
15 some approval criteria specific to the FAR concern.
16 2. A Compliance Letter would require a Type 3 application if the
17 standards are not met.
18 3. Height on a Major Pedestrian Route could be addressed through
19 a Design Review rather than through an Adjustment or
20 Variance.
21 4. Awnings could be considered a permanent architectural feature.
22 5. Glazing in commercial areas would remain as is, at this time,
23 but alternatives, such as increased articulation, would be added
24 to the text.

25
26 Commissioner Winter suggested that there should be some exemption
27 form for the landscape buffering on differing zones such as CI and LI
28 or IP, adding that this could be similar to a Flexible Setback form.

29
30 Commissioner DeHarpport **MOVED** and Commissioner Winter
31 **SECONDED** a motion to **CONTINUE** TA 2003-0005 – Section 40.20
32 Design Review Update to a date certain of August 18, 2004.

33
34 Motion **CARRIED**, unanimously.

35
36 **APPROVAL OF MINUTES:**

37
38 Minutes of the meeting of June 16, 2004, submitted. Commissioner
39 Maks **MOVED** and Commissioner Bliss **SECONDED** a motion that
40 the minutes be approved as written.

41
42 Motion **CARRIED**, unanimously.

43
44

1 **MISCELLANEOUS BUSINESS:**

2

3 The meeting adjourned at 9:48 p.m.

4

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1 Chairman Barnard concurred with Staff's recommendation to hear the
2 New Business portion of the agenda, following up with the Old
3 Business portion.

4

5 NEW BUSINESS:

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7:54 p.m. to 7:59 p.m. – recess.

OLD BUSINESS:

CONTINUANCE:

A. TA2003-0005 – SECTION 40.20 (DESIGN REVIEW) UPDATE

Substantive update to Section 40.20 (Design Review) of the Beaverton Development Code to delete the current design review thresholds and approval criteria and replace with performance oriented design principles, design standards and design guidelines that will act as the approval criteria. New application thresholds, buffering and screening standards and requirements, and technical lighting requirements are also proposed. In addition, existing design standards in Section 20.20.60 (Supplementary Regulations) of Chapter 20 (Land Uses) will be struck and incorporated into the proposed amendments to Section 40.20 (Design Review).

Development Services Manager Steven Sparks introduced Planning Consultant John Spencer and Senior Planner Colin Cooper. He provided the Staff Report and discussed the distributed items as follows:

- Exhibit C: includes maps for the major pedestrian route areas. He explained that the Staff Report identifies a couple of minor changes on two of these maps.
- Exhibit I: includes a two-sided text amendment that was inadvertently left out of the Staff Report.

Concluding, he stated that Mr. Spencer and Mr. Cooper will address the changes in the text amendment, reflective of their conversations between the representatives from the industrial group that testified at the July 7th meeting, and offered to respond to questions.

Planning Consultant John Spencer discussed the revisions for the proposed text in response to comments received from staff's conversations with the industrial development stakeholders that testified at the July 7, 2004, meeting. He explained the changes that were made specifically to the industrial use standards and guidelines, and pointed out that some of the text was either exempt or backed off.

1 He also identified three minor changes to Exhibit B, Chapter 60, pages
2 4, 21 and 27 of 44, as follows:

- 3
- 4 • Referring to Section 4.B, page 4 of 44, Mr. Spencer pointed out
5 the proposed modifications as follows: "For conditional uses in
6 residential zones and all uses in multiple-use, commercial and
7 industrial zones, except for manufacturing, fabricating,
8 processing, packing, storage and wholesale and distribution
9 facilities which is a principle use of the site in industrial zones, a
10 maximum of thirty (30) percent of each elevation that is visible
11 from and within 200 feet of a public street or a public park,
12 public plaza or other public open space, and on elevations that
13 include a primary building entrance or multiple tenant
14 entrances may be plain, smooth, unfinished concrete, concrete
15 block, plywood and sheet pressboard. In the case of
16 manufacturing, fabricating, processing, packing, storage and
17 wholesale and distribution facilities which is a principle use of
18 the site in industrial zones, this standard shall apply to the
19 primary elevation that is visible from and within 200 feet of a
20 public street or a public park, public plaza or other public open
21 space. The remaining elevation area for all applicable uses in
22 applicable zones shall be architecturally treated. Appropriate
23 methods of architectural treatment shall include, but are not
24 limited to, scoring, changes in material texture, and the
25 application of other finish materials such as wood, rock, brick or
26 tile wall treatment."
27
- 28 • Page 21 of 44, No. 9 Natural Areas: Mr. Spencer acknowledged
29 that this was unrelated to the industrial uses, but it was
30 suggested that it be amended by staff, as follows: No 9. Natural
31 Areas. Development on sites with a City adopted natural
32 resource inventory features (such as streams, wetlands, rock
33 outcroppings, etc.) ~~and mature trees whether included on a City~~
34 ~~Natural Resource Inventory or not~~ shall be preserved to
35 maintain the aesthetic quality of the resource without
36 encroachment into any required resource buffer standard (i.e.
37 50-foot wetland buffer, drip line of protected trees) unless
38 otherwise authorized by other City of CWS requirements.
39

40 Commissioner Maks pointed out that delineated wetlands change and
41 are found; adding that they are possibly adopted by CWS before they
42 are adopted by the City. He questioned if this should read, "City or
43 Governing Agency".
44

1 Mr. Sparks explained that the city has an intergovernmental
2 agreement with CWS, and pointed out that the city recognizes these
3 wetlands as city adopted; therefore, this wouldn't need to be included.
4

5 Commissioner Moks pointed out that an applicant could come forward
6 through a public involvement process and has found and determined
7 through an engineer that there's a delineated wetland by WRG or
8 whoever, and CWS hasn't recognized it yet and neither has the Corp.
9

10 Mr. Sparks responded that CWS would recognize this through the
11 permitting process. He explained that through the sequence of the
12 processing, the application would have to be submitted to the city
13 before it goes onto CWS.
14

15 Following up on Commissioner Moks' statement, Commissioner
16 DeHarpport questioned if a CWS service provider letter would then
17 become a city adopted natural resource.
18

19 Mr. Sparks explained that because we have an intergovernmental
20 agreement with CWS, their standards are the City's standards, and
21 the city enforces their standards. He explained that if i.e., CWS turned
22 around and said that this is acceptable with our regulations, the city
23 would concur.
24

25 Assistant City Attorney Ted Naemura expressed his opinion that the
26 maintenance of the aesthetic quality seemed to be lacking in standard
27 and requested that staff consider expanding on this term. He
28 explained i.e., if it's just limiting some kind of physical encroachment
29 of the development or it goes to some kind of visual characteristics.
30

31 Mr. Sparks stated that this is more of a principal type statement than
32 a standard.
33

34 Mr. Naemura responded that the statement seemed open-ended to
35 penetrating what the aesthetic qualities are.
36

37 Commissioner Moks suggested removing "aesthetic" since it affects the
38 tree and wetlands, adding that it's quantifiable.
39

40 A discussion ensued and the consensus was to remove ". . . the
41 aesthetic quality of . . ."
42

1 Mr. Sparks pointed out “. . . and mature trees whether included on a
2 City Natural Resource Inventory or not . . .” was struck because the
3 City does have a tree plan process.
4

5 Mr. Spencer referred to the Building Design and Orientation
6 Guidelines on page 27 of 44, Section 1.F. He noted that language was
7 inadvertently left out for the manufacturing uses, limiting the use to
8 100 feet, which was included in the standard. The amendment should
9 read as follows: “Building elevations visible and within 200 feet of a
10 street or major parking area except for manufacturing, assembly,
11 fabricating, processing, packing, storage and wholesale and
12 distribution activities which are the principle use of a site in industrial
13 districts where elevations visible from and within 100 feet of an
14 adjacent public street, should be articulated with architectural
15 features such as windows, dormers, off-setting walls, alcoves, balconies
16 or bays, or by other design features that reflect the building’s
17 structural system. Undifferentiated blank walls facing a street or
18 major parking area should be avoided. (Standards 60.05.15.1.B and
19 C)”
20

21 Referring to page 8 of 44, Section 2.B, Commissioner DeHarpport
22 questioned the intent of requiring storefronts to put on weather
23 protection.
24

25 Mr. Sparks explained that this requirement is specific to certain design
26 applications that are on major pedestrian routes. Using “The Round”
27 as an example, he noted that an important design feature of this
28 project were the canopies and the awnings that are on the sidewalk
29 areas, which proved to be a pedestrian oriented feature.
30

31 Referring to page 10 of 44, lines 13 through 16, of Exhibit B,
32 Commissioner DeHarpport expressed concern with the issue
33 pertaining to walkway extensions to adjacent properties. He
34 questioned if the text could be amended to indicate the location of
35 routes for undeveloped properties.
36

37 Mr. Spencer explained that Metro's requirement does have some
38 instances where this standard doesn't have to meet that standard, for
39 example, if there's a difference in grade or natural features.
40

41 Referring to page 19 of 44, lines 11 through 15, of Exhibit B, that
42 define passive and active spaces, Commissioner DeHarpport suggested
43 that these definitions should be inserted into Section 90 for active and
44 passive open space.

1 Mr. Sparks concurred with Commissioner DeHarpports' suggestion
2 and noted that on page 19 of 44, lines beginning with 11 and ending
3 with 12, defining passive open space will be added to Exhibit H; and
4 for active open space, lines beginning with 12 and ending on 15 will be
5 added to Exhibit H as well. He commented that applicant's have been
6 advised in the past that passive open space by the city's working
7 definition includes anything where people don't go in and actively use
8 the space. He suggested that the definition be expanded to include
9 other passive things.

10
11 Mr. Naemura questioned if this would be the city's interpretation of
12 where people may be permitted in open space.

13
14 Mr. Sparks responded that this would be limited to public open space
15 not private space.

16
17 Mr. Spencer added that the purpose of this standard is to govern where
18 that open space is and if it is safe, adding that it's an option for a
19 developer or a property owner, if they choose, to create a place where
20 the public is invited, and the property owner would maintain the
21 space.

22
23 Commissioner Bliss expressed his opinion that he can understand
24 defining open space for the purposes of a PUD or whatever is required,
25 but feels the standard should be deleted if it's not applicable.

26
27 Mr. Sparks responded that an amendment to page 19 of 44, Section B,
28 the first sentence will be modified to read, "When a public open space
29 *is proposed by an applicant . . .*"

30
31 Referencing page 20 of 44, lines 16 and 17, Commissioner DeHarpport
32 questioned why this is limited to 6 inches, and expressed his opinion
33 that it seems onerous to put an applicant through a Type 3 if they
34 want to put in a 3 inch wall. He suggested that it be changed to two
35 inches to provide more options.

36
37 Mr. Spencer suggested modifying the amendment to stipulate that
38 masonry walls should be a minimum of six inches thick and all other
39 walls shall be a minimum of three inches.

40 Referring to page 29 of 44, line 7, Commissioner DeHarpport suggested
41 removing the word "stucco"; adding that "stucco" could be interpreted
42 as efface, which is a different product that looks like stucco that is
43 riddled with problems. He stated that efface, stucco is the next LP,
44 and suggested to remove it based on the potential liability.

1 Mr. Sparks responded that nothing will be lost if an applicant chooses
2 to use stucco, and agreed to strike the word "stucco" from the text.
3

4 PUBLIC TESTIMONY:
5

6 Christopher Kopca discussed issues from the previous meeting,
7 relative to industrial and kinds of industrial development. He
8 expressed his opinion that the text changes presented in the previous
9 Staff Reports and the supplemental Staff Report were responsive to
10 the question of the direction in policy with regard to industrial. He
11 acknowledged that staff did responsible work on trying to reach an
12 accord, and indicated that this is a positive reflection of where the
13 standard should be.
14

15 The public portion of the Public Hearing was closed.
16

17 Mr. Sparks commented that it is unnecessary for the Commission to
18 identify the edits that were made to the text amendment, adding that
19 they've been noted and an agreement can be based on tonight's
20 discussion. He requested the Commission to consider one issue on
21 page 3 of the Staff Report, pertaining to the Design Compliance Letter
22 application, stating that staff feels that this is not necessary and would
23 like the commission to share their opinions.
24

25 Commissioner's Maks, Johansen, DeHarpport, Bliss, Winter, Pogue
26 and Chairman Barnard expressed their support of staff's
27 recommendation.
28

29 Commissioner DeHarpport MOVED and Commissioner Maks
30 SECONDED a motion for approval of TA2003-0005 Design Review
31 Update Text Amendment based upon the testimony, reports and
32 exhibits and new evidence presented during the Public Hearings on the
33 matter, and upon the background facts, findings and conclusions found
34 in the Staff Report dated August 11, 2004, as amended and all
35 previous Staff Reports and Memorandums related to this Text
36 Amendment.
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AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

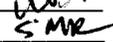
SUBJECT: An Ordinance Amending Provisions of Chapters Four and Five of the Beaverton City Code Relating to Nuisances Affecting the Public Health

FOR AGENDA OF: 11-01-04 **BILL NO:** 04213

Mayor's Approval: 

DEPARTMENT OF ORIGIN: Code Services 

DATE SUBMITTED: 10-14-04

CLEARANCES: City Attorney 
Solid Waste 

PROCEEDING: Work Session

- EXHIBITS:**
1. Ordinance
 2. Comparison of Existing Code to Proposed Code
 3. Beaverton Code Sections 5.05.075 - 5.05.095 "Nuisances Affecting Public Safety"
 4. Beaverton Code Chapter 4.08 "Solid Waste and Recycling"
 5. Rules of Operation for Solid Waste & Recycling, July 1, 2002
 6. Proposed Revised Rule "Responsibility of Customers"

BUDGET IMPACT

EXPENDITURE REQUIRED \$0	AMOUNT BUDGETED \$0	APPROPRIATION REQUIRED \$0
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HISTORICAL PERSPECTIVE:

The city has the legal authority to enact and enforce reasonable regulations to preserve and protect the public safety and health. This authority derives from city's police power, which relates to the authority a government has to enact and enforce regulations intended to safeguard the health, safety, welfare and aesthetics of a community.

INFORMATION FOR CONSIDERATION:

The proposed ordinance changes four sections of the Beaverton Code dealing with rubbish and solid waste. The first change is to the description of rubbish contained in Beaverton Code section 5.05.095, paragraph A. The description of rubbish has been expanded to include carpet, upholstered furniture, and household appliances stored out-of-doors for more than 72 hours. This change is intended to make it abundantly clear that it is not acceptable to store these types of items outdoors for any extended period. (No change to paragraph B of section 5.05.095 is proposed - it reads the same as it did before.)

The remainder of proposed changes are to the Solid Waste and Recycling Ordinance of the Beaverton Code -- Chapter 4.08. This ordinance establishes the framework for the city's franchise system for the collection of refuse, yard debris and recycling, and was most recently revised in May of 2002. Administrative rules were also adopted in conjunction with the May 2002 revision of the Solid Waste and Recycling Ordinance. The administrative rules took effect July 1, 2002.

Now that we have had some time to work with the new ordinance and rules, some opportunities for improvements have become apparent. In particular, the rules described "Customer Responsibilities," but neither the ordinance nor the rules contained any enforcement or penalty provisions for customers who violated the rules.

The proposed ordinance improves the existing Solid Waste and Recycling Ordinance by:

- A. Adding section 4.08.205 "Rulemaking Authority for Administration and Enforcement." This section clarifies that the Mayor's rulemaking authority regarding solid waste and recycling applies to both city franchisees and their customers.
- B. Amending section 4.08.210 "Enforcement of Standards: Customers." This section establishes that violation of the ordinance or the rules by a customer constitutes a Class 1 Civil Infraction, and that each new day of violation by a customer constitutes a separate civil infraction.
- C. Adding section 4.08.215 "Enforcement of Standards: Franchisees." This section restates the enforcement provisions for franchisees previously contained in section 4.08.210.

After the adoption of this proposed ordinance, the promulgation of new rules will be recommended to make the language of the rules consistent with the language of this ordinance. The proposed new rules for customers have been drafted and will be finalized through the rulemaking process. Until then, section five of the proposed ordinance provides that the city's existing administrative rules regarding solid waste and recycling remain in full force and effect.

RECOMMENDED ACTION:

Work Session.

EXHIBIT 1

ORDINANCE

AN ORDINANCE AMENDING PROVISIONS OF
CHAPTERS FOUR AND FIVE OF THE BEAVERTON CITY CODE
RELATING TO NUISANCES AFFECTING THE PUBLIC HEALTH.

WHEREAS, the City has the legal authority to and currently does regulate rubbish and solid waste collection; and

WHEREAS, the City seeks to amend the code prohibition against rubbish to include, without limitation, household appliances and upholstered furniture, carpet or cardboard stored out-of-doors for more than 72 hours; and

WHEREAS, the City seeks to require that all residents dispose of their rubbish and solid waste in an appropriate and timely fashion. Now therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

Section 1. BC 5.05.095 is amended by striking the existing text and inserting:

“5.05.095 Rubbish.

A. No person shall cause to be placed upon public or private property any kind of rubbish, trash, debris, refuse, or other substance that mars the property’s appearance, creates a stench or a fire hazard, detracts from the cleanliness or safety of the property, or constitutes an unreasonable danger to human life or property. Substances that mar the appearance of property, create a stench or a fire hazard, detract from the cleanliness or safety of property, or constitute an unreasonable danger to human life or property include, but are not limited to, the following items stored out-of-doors for more than 72 hours:

1. carpet,
2. upholstered furniture (unless designed and manufactured for outdoor use and impervious to rain), and
3. household appliances (including, but not limited to, clothes dryers, washing machines, ovens and stoves).

B. No person shall cause rubbish, trash, debris, or refuse to be placed in a dumpster, dropbox, garbage can, or other container unless the person either owns or has authority to use the container.”

Section 2. BC 4.08.205 is enacted to read:

“4.08.205 Rulemaking Authority for Administration and Enforcement. The Mayor may promulgate such rules and regulations to promote recycling and proper disposal of solid waste as are necessary for the administration and enforcement of this ordinance, including but not limited to additional definitions, fee collection requirements, service standards, franchisee responsibilities, customer responsibilities, forms and procedures to implement the provisions of

this ordinance, and a process for notice and comment regarding such rules and regulations prior to their adoption.”

Section 3. BC 4.08.210 is amended by striking the existing text and inserting:

“4.08.210 Enforcement of Standards: Customers.

A. A violation of a provision of this ordinance or of a rule duly promulgated under authority of this ordinance by a franchise customer shall constitute a Class I Civil Infraction and shall be processed according to the procedure set forth in BC 2.10.010 - 2.10.050.

B. Each violation of this ordinance or of a rule duly promulgated under authority of this ordinance relating to the responsibilities of a franchise customer shall constitute a separate civil infraction. Each day that a violation of a provision of this ordinance or of a rule promulgated under authority of this ordinance is committed or is permitted to continue shall constitute a separate civil infraction.

C. Any penalty imposed pursuant to this ordinance or a rule duly promulgated under authority of this ordinance is in addition to, and not in lieu of, any other civil, criminal or administrative penalty or sanction otherwise authorized by law.”

Section 4. BC 4.08.215 is enacted to read:

“4.08.215 Enforcement of Standards: Franchisees.

A. A violation by a franchisee of a provision of this ordinance or of a rule duly promulgated under authority of this ordinance shall constitute an infraction and shall be processed according to the procedure set forth in this ordinance.

B. Infractions under this ordinance and under any rules duly promulgated under authority of this ordinance are classified by an Enforcement Code consisting of two letters.

1. The first letter identifies the severity of the infraction (“A” being the most severe, “B” being the second most severe, “C” being the third most severe and “D” being the least severe).

2. The second letter identifies whether the infraction is measured “Per Day” (referred to as D), "Per Class" (referred to as C), or "Per Incident" (referred to as I).

C. Violation of this ordinance or of a rule duly promulgated under authority of this ordinance by a franchisee is punishable as provided in BC 4.08.420.

D. Any penalty imposed pursuant to this ordinance or a rule duly promulgated under authority of this ordinance is in addition to, and not in lieu of, any other civil, criminal or administrative penalty or sanction otherwise authorized by law.

E. Upon recommendation of the Mayor, the Council may declare a franchisee who fails to abide by the rules to be in default.”

Section 5. Those administrative rules duly promulgated under authority of Ordinance No. 4203 and now in effect shall survive the enactment of this ordinance and remain in full force and effect until otherwise repealed or amended.

First reading this ___ day of _____, 2004.

Passed by the Council this ___ day of _____, 2004.

Approved by the Mayor this ___ day of _____, 2004.

ATTEST:

APPROVED:

SUE NELSON, City Recorder

ROB DRAKE, Mayor

EXHIBIT 2

COMPARISON OF EXISTING CODE TO PROPOSED CODE

EXISTING CODE

PROPOSED CODE

5.05.095 Rubbish.

5.05.095 Rubbish.

A. No person shall cause to be placed upon public or private property any kind of rubbish, trash, debris, refuse, or other substance that would mar the appearance, create a stench or fire hazard, detract from the cleanliness or safety of the property, or would be likely to cause injury to a person or property.

A. No person shall cause to be placed upon public or private property any kind of rubbish, trash, debris, refuse, or other substance that mars the property's appearance, creates a stench or a fire hazard, detracts from the cleanliness or safety of the property, or constitutes an unreasonable danger to human life or property. Substances that mar the appearance of property, create a stench or a fire hazard, detract from the cleanliness or safety of property, or constitute an unreasonable danger to human life or property include, but are not limited to, the following items stored out-of-doors for more than 72 hours:

1. carpet,

2. upholstered furniture (unless designed and manufactured for outdoor use and impervious to rain), and

3. household appliances (including, but not limited to, clothes dryers, washing machines, ovens and stoves).

B. No person shall cause rubbish, trash, debris, or refuse to be placed in a dumpster, dropbox, garbage can, or other container unless the person either owns or has authority to use the container.

B. No person shall cause rubbish, trash, debris, or refuse to be placed in a dumpster, dropbox, garbage can, or other container unless the person either owns or has authority to use the container.

[BC 5.05.095, amended by Ordinance No. 3872, 11/1/93]

EXISTING CODE

4.08.200 Responsibility of City. Franchisees are subject to the exercise of the police power of the City and to such regulations as the City may provide by resolution, ordinance, rule or regulation. [BC 4.08.200, added by Ordinance No. 4203, 5/6/02]

4.08.210 Enforcement of Standards.

A. The Mayor shall enforce this ordinance and pursue remedies for non-compliance as laid out within this ordinance.

1. The Mayor shall adopt rules, including a process for notice and comment prior to adoption, for collection responsibility and customer service standards as well as procedures and forms to implement the provisions of this ordinance.

PROPOSED CODE

4.08.205 Rulemaking Authority for Administration and Enforcement. The Mayor may promulgate such rules and regulations to promote recycling and proper disposal of solid waste as are necessary for the administration and enforcement of this ordinance, including but not limited to additional definitions, fee collection requirements, service standards, franchisee responsibilities, customer responsibilities, forms and procedures to implement the provisions of this ordinance, and a process for notice and comment regarding such rules and regulations prior to their adoption.

4.08.210 Enforcement of Standards: Customers.

A. A violation of a provision of this ordinance or of a rule duly promulgated under authority of this ordinance by a franchise customer shall constitute a Class 1 Civil Infraction and shall be processed according to the procedure set forth in BC 2.10.010 - 2.10.050.

EXISTING CODE

2. These rules shall be enforceable with penalties allowed in this ordinance.

3. Upon recommendation by the Mayor, the Council may declare a franchisee who fails to abide by the rules to be in default.

B. Each franchise provision, including rules adopted hereunder, is assigned an Enforcement Code consisting of two letters, such as (A/I).

1. The first letter represents the severity of the infraction (A, being the most severe), and the second identifies the incident definition.

2. Incident definitions indicate whether the infraction is measured "Per Day," referred to as D, "Per Class," referred to as C, or "Per Incident," referred to as I.

3. Penalties are further described in section 4.08.420 of this ordinance.

[BC 4.08.210, added by Ordinance No. 4203, 5/6/02]

PROPOSED CODE

B. Each violation of this ordinance or of a rule duly promulgated under authority of this ordinance relating to the responsibilities of a franchise customer shall constitute a separate civil infraction. Each day that a violation of a provision of this ordinance or of a rule promulgated under authority of this ordinance is committed or is permitted to continue shall constitute a separate civil infraction.

C. Any penalty imposed pursuant to this ordinance or a rule duly promulgated under authority of this ordinance is in addition to, and not in lieu of, any other civil, criminal or administrative penalty or sanction otherwise authorized by law.

4.08.215 Enforcement of Standards: Franchisees.

A. A violation by a franchisee of a provision of this ordinance or of a rule duly promulgated under authority of this ordinance shall constitute an infraction and shall be processed according to the procedure set forth in this ordinance.

PROPOSED CODE

B. Infractions under this ordinance and under any rules duly promulgated under authority of this ordinance are classified by an Enforcement Code consisting of two letters.

1. The first letter identifies the severity of the infraction ("A" being the most severe, "B" being the second most severe, "C" being the third most severe and "D" being the least severe).

2. The second letter identifies whether the infraction is measured "Per Day" (referred to as D), "Per Class" (referred to as C), or "Per Incident" (referred to as I).

C. Violation of this ordinance or of a rule duly promulgated under authority of this ordinance by a franchisee is punishable as provide in BC 4.08.420.

D. Any penalty imposed pursuant to this ordinance or a rule duly promulgated under authority of this ordinance is in addition to, and not in lieu of, any other civil, criminal or administrative penalty or sanction otherwise authorized by law.

E. Upon recommendation of the Mayor, the Council may declare a franchisee who fails to abide by the rules to be in default.

EXHIBIT 3

**BEAVERTON CODE SECTIONS
5.05.075 – 5.05.095
“NUISANCES AFFECTING PUBLIC SAFETY”**

Beaverton Code

H. Cesspools. Cesspools or septic tanks that are in an unsanitary condition or which cause an offensive odor for which a special permit has not been obtained pursuant to BC 4.04.035.

I. Failure to Connect to City Sewer System. Failure to connect to City sewer system when the property requires sewage disposal pursuant to BC 4.04.030.

J. Slaughterhouses, Tanneries, and the Like. A slaughterhouse, tannery, rendering plant, glue manufacturing plant, or any other establishment that causes offensive odors.

(Reserved)

NUISANCES AFFECTING PUBLIC SAFETY

5.05.075 Abandoned Iceboxes. No person shall leave in a place accessible to children an abandoned or discarded icebox, refrigerator, or similar container which seals essentially air tight without first removing the door.

5.05.080 Attractive Nuisances.

A. No owner or person in charge of property shall permit on the property:

1. unguarded machinery, equipment, or other devices which are attractive, dangerous, and accessible to children;

2. lumber, logs, building material or piling placed or stored in a manner so as to be attractive, dangerous, and accessible to children; or

3. an open pit, quarry, cistern, or other excavation without safeguards or barriers to prevent such places from being used by children.

4. an exposed foundation or portion of foundation, any residue, debris or any other building or structural remains for more than 30 days after the destruction, demolition or removal of any building or portion of the building. [BC 5.05.080 A4, added by Ordinance No. 3364, 4/9/84]

B. This section shall not apply to authorized construction projects with reasonable safeguards to prevent injury or death to children. [BC 5.05.080B amended by Ordinance No. 3872, 11/1/93.]

Beaverton Code

5.05.085 Snow and Ice Removal. No owner or person in charge of property abutting on a public sidewalk shall permit:

A. Snow to remain on the sidewalk for a period longer than the first four hours of daylight after the snow has fallen; or

B. Ice to cover or remain on the sidewalk for more than four hours of daylight after the ice has formed without removing the ice or covering it with sand, ashes, or other suitable material to assure safe travel.

5.05.090 Noxious Vegetation.

A. The term "noxious vegetation" does not include vegetation that constitutes an agricultural crop, unless that vegetation is a health hazard or a fire or traffic hazard within the meaning of subsection B. [BC 5.05.090A amended by Ordinance No. 3872, 11/1/93.]

B. The term Noxious Vegetation includes:

1. weeds more than 12 inches high and/or that are going to seed;

2. grass more than 12 inches high and not within the exception stated in subsection A of this section;

3. poison oak;

4. poison ivy;

5. blackberry bushes that extend into a public thoroughfare or across a property line;

6. vegetation that is:

a. a health hazard;

b. a traffic hazard because it impairs the view of a public thoroughfare or otherwise makes use of the thoroughfare hazardous.

7. the types of vegetation as defined in Chapter 90 of the Development Code as noxious as applicable of significant natural resource areas. [BC 5.05.090B amended by Ordinance No. 4224, 8/19/02]

C. No owner or person in charge of property shall allow noxious vegetation to be on the property or in the right of way of a public thoroughfare abutting on the property. [BC 5.05.090C amended by Ordinance No. 3872, 11/1/93; BC 5.05.090D repealed by Ordinance No. 3872, 11/1/93]

5.05.095 Rubbish.

A. No person shall cause to be placed upon public or private property any kind of rubbish, trash, debris, refuse, or other substance that would mar the appearance, create a stench or fire hazard, detract from the cleanliness or safety of the property, or would be likely to cause injury to a person or property.

B. No person shall cause rubbish, trash, debris, or refuse to be placed in a dumpster, dropbox, garbage can, or other container unless the person either owns or has authority to use the container. [BC 5.05.095, amended by Ordinance No. 3872, 11/1/93]

EXHIBIT 4

**BEAVERTON CODE CHAPTER 4.08
"SOLID WASTE AND RECYCLING"**

Beaverton Code

4.07.090 Credit for Qualified Improvement. The Council may grant credits against the storm water conveyance systems development charge imposed by this ordinance for qualified public improvements as defined in ORS 223.304 on certification by the city engineer that the improvement(s) qualify for that credit. [BC 4.07.090, added by Ordinance No. 3910, 8/22/94]

SOLID WASTE AND RECYCLING

4.08.010 Short Title. BC 4.08.010-.470 shall be known and may be cited as the "Solid Waste and Recycling Ordinance" and may also be referred to as "this ordinance." [BC 4.08.010, added by Ordinance No. 4203, 5/6/02]

4.08.020 Purpose, Policy and Scope.

A. It is the policy of the City to reduce the amount of solid waste generated and disposed per capita by undertaking aggressive source reduction and recycling activities.

1. The City shall promote the development of environmentally sound and efficient practices regarding the collection of solid waste, recyclable material, and compostable material.

2. In order to attain these goals and protect public health and the environment, the City shall regulate collection of solid waste, recyclable material and yard debris within the city limits.

B. In carrying out this policy, the goals of this ordinance are:

1. To reduce the amount of solid waste generated, as measured on a per capita basis.

2. To achieve a goal of a 56% recovery rate from the solid waste stream by 2005.

3. To ensure the safe and sanitary collection, transportation and recovery of solid waste, recyclables, and yard debris materials.

4. To provide Beaverton residents and businesses the opportunity to recycle more materials through convenient on-site, curbside and depot collection programs.

5. To establish and enforce solid waste recyclable material and yard debris collection standards to ensure uniform, cost effective and high quality service delivery to all customers.

6. To establish rates that are fair to the public, the franchisee and the City, encourage waste reduction, and promote safe, efficient collection.

Beaverton Code

7. To promote community awareness in order to achieve the highest participation possible in the solid waste and recycling collection system. [BC 4.08.020, added by Ordinance No. 4203, 5/6/02]

4.08.030 Definitions. For the purpose of this ordinance, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

Affiliated company - Any company that shares expenses and/or revenues with the franchisee with respect to the services under this agreement and is: 1) the parent company (corporation, partnership or limited liability company) of the franchisee; or, 2) any subsidiary of such parent company; or, 3) any company of which 30% or more of the common stock or control is owned or controlled by the franchisee or the franchisee's shareholders. Examples of such shared costs include, but are not limited to: labor, equipment, vehicles, insurance, or administrative costs.

Allowable expenses - Those expenses incurred by franchisee in the performance of this agreement that are allowed by the City as reimbursable by the ratepayer as enumerated below. Allowable expenses are allowable only to the extent that such expenses are known and measurable, calculated according to generally accepted accounting principles (GAAP) on an accrual basis and, when applicable, prorated or allocated to the franchisee's operations within the City, do not exceed the fair market value of comparable goods or services, and are commercially reasonable and prudently incurred by the franchisee solely in the course of performing its obligations under the franchise. Allowable expenses shall include, but not be limited to, the following:

1. The costs of complying with all laws, regulations or orders applicable to the obligations of franchisees under federal, state or local law, including this ordinance, as now or hereafter amended;
2. Disposal costs;
3. Labor costs, including operational and supervisory labor, payroll taxes, workers' compensation, and benefits;
4. Vehicle and equipment expenses, including vehicle registration fees, motor fuel, oil, tires, rental charges and/or operating lease payments and repairs and maintenance;
5. Expenses of maintaining other capital assets, including rental charges and/or operating lease payments and repair and maintenance;

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6. Performance bonds and insurance in at least the amounts and coverages required by the City;

7. Administrative expenses related to data processing, billing and supplies, finance and accounting, franchise administration, human resource and labor management, rate analysis, and regulatory compliance;

8. Compensation paid to officers, up to limits set by City rule, based upon total revenues managed by the officers;

9. Utilities;

10. Training and worker safety expenses;

11. Promotion and public education costs;

12. Depreciation and amortization of capital assets, including any necessary stand-by or back-up equipment used on a regular and ongoing basis in the provision of services under this franchise over standardized economic useful lives of the various assets.

13. Outside professional fees and costs, limited to two percentage points of revenue, unless an extraordinary circumstance exists;

14. Interest expense, other than interest paid with respect to route or franchise acquisition, that is not in excess of market rates ordinarily charged for the various types of financing required for purchases or leases;

15. All surcharges, taxes or fees, other than state or federal income taxes or franchise fees that are imposed upon the franchisee or levied by federal, state or local government in connection with franchisee's provision of collection services under this franchise;

16. Direct write-off charges for bad debts; and

17. Franchise fees assessed by the City.

Automated collection system - A type of refuse or recycling collection system that uses roll carts and mechanically assisted collection equipment mounted on a truck such that the driver can operate the equipment from the cab of the vehicle to grasp, lift, empty and replace the roll cart at curb or road side.

Bulky wastes - Large items of solid waste, such as appliances, furniture, large auto parts, trees, branches greater than four inches in diameter and 36 inches in length, stumps and other oversized wastes whose large size precludes or complicates their handling by normal collection, processing or disposal methods.

Commercial - Stores; offices, including manufacturing and industrial offices; restaurants; warehouses; schools; colleges, universities; hospitals; and other non-manufacturing entities; manufacturing entities, but not including multi-family or residential condominium complexes.

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Compactor - Any self-contained, power-driven, mechanical equipment designed for the containment and compaction of solid waste, waste or recyclable materials.

Compensation - Includes any type of consideration paid for service, including but not limited to, rent, the sale of recyclable materials, and any other direct or indirect provisions for payment of money, goods or benefits by property owners, tenants, members, franchisees, and similar persons. It shall also include any exchange of services, including the hauling of solid waste and waste. Compensation includes the flow of consideration from the person owning or possessing the solid waste or waste to the person collecting, sorting, transporting, or disposing of the solid waste or waste.

Construction and demolition debris - Used or discarded construction materials removed from a premise during construction, demolition or renovation of a structure.

Container - A receptacle used to store solid waste or recyclable materials that is designed for on-site unloading into a closed-bodied collection vehicle in which the contents of the receptacle are mixed with the contents of other similar receptacles.

Curbside/roadside - A location within three feet of public right-of-way. This does not allow the garbage or recycling receptacle to be placed on the inside of a fence or enclosure even if the receptacle is within three feet of said road or roads. For residences on "Flag Lots," private roads or driveways, curbside/roadside shall be the point where the private road or driveway intersects a city road, public access road, state road or federal road.

Customer - The person that enters into an agreement with a franchisee for the collection of solid waste, mixed loads of solid waste and recyclable materials, source-separated recyclable materials, and/or yard debris.

Depot - A facility for transferring containerized solid waste, recyclable materials or yard debris from one mode of transportation to another. The term also refers to a place for receiving source-separated recyclable materials.

Disabled customer - A customer in which all adult household members possess a D.M.V.-issued handicapped parking sticker.

Disposal or dispose - Includes accumulations, storage, collection, transportation and eventual landfilling, incineration or other treatment or neutralization that finally disposes of solid waste.

Disposal costs - For the purpose of this agreement, disposal costs shall mean the total allowable expense incurred

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by the franchisee for the disposal of solid waste collected under this agreement at a disposal site permitted by the appropriate government authority.

Disposal site - Land and facilities used for the disposal, handling or transfer of, or resource recovery from solid wastes, including but not limited to dumps, landfills, sludge lagoons, sludge treatment facilities, disposal sites for septic tank pumping or cesspool cleaning service, transfer stations, resource recovery facilities, incinerators for solid waste delivered by the public or by a solid waste collection service, composting plants and land and facilities previously used for solid waste disposal at a land disposal site. Disposal site does not include the following: a facility authorized by a permit issued under ORS 466.005 to 466.385 to store, treat or dispose of both hazardous waste and solid waste; a facility subject to permit requirements of ORS 468B.050 or 468B.053; a landfill site used by the owner or person in control of the premises to dispose of soil, rock, concrete or other similar non-decomposable material, unless the site is used by the public either directly or through a solid waste collection service; or a site operated by a wrecker issued a certificate under ORS 822.110.

Drop box - A single receptacle used to store solid waste or recyclable materials that is designed to be removed from the generator's site on the back of an open truck for unloading at a disposal site, material recovery facility, or other storage or processing facility. The contents of the receptacle are not mixed with the contents of other similar receptacles until delivery to a disposal site.

Force majeure - Acts of God, fire, landslides, lightning, storms, floods, freezing, earthquakes, epidemics, volcanic eruptions, public riots, civil disturbances, acts of the public enemy, wars, blockades, embargoes, or acts of civil or military authority, breakage, explosions or accident to machines or other materials, pipelines or materials, governmental restraint, unavailability of a disposal site, and any other event that could not with reasonable diligence be controlled or prevented by the party affected by the event.

Franchise - A contract with the City allowing the use of public rights-of-way to collect and transport solid waste.

Generator - A person who last uses a material and then makes it available for disposal or recycling.

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Gross revenue - For any period shall mean:

1. Gross accrual-based billings by the franchisee to customers for services provided under this agreement; and,

2. The allocated gain on the sale of fixed assets, the depreciation or amortization from which was an allowable expense under the terms of this ordinance, and refunds, sales proceeds or other reimbursements for any other expense that was an allowable expense under this ordinance; and

3. The accrual-based proceeds from the sales of recycled material collected within the franchise.

Hazardous waste - Solid waste or waste that may, by itself or in combination with other waste, be explosive, poisonous, caustic or toxic, or otherwise dangerous or injurious to human, plant or animal life, as defined by ORS 466.055.

Household hazardous waste - Any discarded, useless or unwanted chemical, material, substance, or product that is or may be hazardous or toxic to the public or the environment and is commonly used in or around households. Household hazardous waste includes, but is not limited to, some cleaners, solvents, pesticides, automotive and paint products.

Infectious waste - Biological waste, cultures and stocks, pathological waste, and sharps, as defined in ORS 459.386 and 459.387.

Material recovery facility - A solid waste management facility that separates material for the purpose of recycling from an incoming recoverable mix of non-putrescible waste by using manual and/or mechanical methods and achieves a verifiable minimum 25% recovery rate. It also means a facility that primarily accepts previously separated recyclables.

Mayor - The Mayor of the City of Beaverton or the Mayor's designee.

Multifamily - Any multi-dwelling building or group of buildings that: 1. contain(s) five or more dwelling units on a single lot, such as apartments, condominiums and mobile home parks; and 2. receives services on a per lot or per building basis, as opposed to a per unit basis. Multifamily complex also includes certified or licensed residential care housing, such as group homes and adult foster care homes. Multifamily accounts are determined to be a residential waste stream.

Operating margin - For a period shall mean gross revenues minus allowable expenses.

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Organic waste - Materials that: 1. can be biologically synthesized by plants or animals from simpler substances; 2. are no longer suited for their intended purpose; and 3. are readily broken down by biological processes into soil constituents. Examples include, but are not limited to, food waste, yard debris, contaminated paper, and putrescible materials that are generally a source of food for bacteria.

Per class - Used in reference to the imposition of an infraction, it refers to an infraction that applies to more than one customer (e.g., failure to distribute required promotional material to 2,000 customers would constitute one class infraction).

Per day - Used in reference to the imposition of an infraction, it refers to an infraction that may apply to one or more customers on the day the infraction occurs (e.g., an uncovered truck would generate one infraction for each day it operated without a cover).

Per incident - Used in reference to the imposition of an infraction, it refers to a franchisee's failure to comply with the ordinance on an individual act, occurrence, or customer basis. (e.g., failure to deliver two recycling bins to a customer within seven days.)

Processing - An operation where collected source-separated recyclable materials are sorted, graded, cleaned, identified or otherwise prepared for end use markets.

Putrescible waste - Waste, including: bones; meat and meat scraps; fat; grease; fish and fish scraps; food containers or products contaminated with food wastes, particles or residues; prepared vegetable and fruit food wastes or scraps; manure; feces; sewer sludge; dead animals or similar wastes that cause offensive odors, create a health hazard, or are capable of attracting or providing food for potential disease carriers, such as birds, rodents, flies and other vectors.

Receptacle - A can, cart, container, drop box, compactor or recycling bin or any other means of containment of solid waste, waste or recyclable materials.

Recyclable material, recyclable, recyclables - Material that has or retains useful physical, chemical, or biological properties after serving its original purpose(s) or function(s), and is separated from solid waste by the generator or at a material recovery facility.

Recycling - Any process by which waste materials are transformed into new products in such a manner that the original products may lose their identity.

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Residence, residential - Refers to any dwelling unit where at least 50% of the use of the entire building is for home use. For purposes of this ordinance, residence does not include "multifamily" dwellings, as defined in this section.

Return on revenues - The quotient of the operating margin divided by the gross revenues.

Self-haul - Means the collection and transportation of solid waste from a commercial, multifamily, or residential entity by the generator, owner or occupant of the property, rather than by a third party hired to perform this function.

Solid waste management - The management of the accumulation, storage, collection, transportation, treatment, processing and final disposal or utilization of solid waste and waste, or resource recovery from solid waste, and facilities necessary or convenient to those activities. The franchisee may contract with another person to provide service of any type under the franchisee's service franchise, but the franchisee shall remain ultimately responsible for solid waste and waste management in the franchisee's franchised service area.

Solid waste or waste - The terms solid waste and waste are interchangeable. Solid waste shall include all putrescible and non-putrescible waste, including but not limited to, garbage; compost; organic waste; yard debris; brush and branches; land-clearing debris; sewer sludge; residential, commercial and industrial building demolition or construction waste; discarded residential, commercial and industrial appliances, equipment and furniture; discarded, inoperable or abandoned vehicles or vehicle parts and vehicle tires; manure; feces; vegetable or animal solid and semi-solid waste and dead animals; and infectious waste. Waste shall mean useless, unwanted or discarded materials. The fact that materials, which would otherwise come within the definition of solid waste, may, from time to time, have value and thus be utilized shall not remove them from the definition. The terms solid waste or waste do not include:

1. Environmentally hazardous wastes as defined in ORS 466.055;
2. Materials used for fertilizer or for other productive purposes on land in agricultural operations in the growing and harvesting of crops or the raising of fowl or animals;
3. Septic tank and cesspool pumping or chemical toilet waste;
4. Source separated, principal recyclable materials, as defined in ORS 459A and the rules

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promulgated thereunder and under this ordinance, which have been purchased or exchanged for fair market value, unless the City declares a site of uncollected principal recyclable materials to be public nuisance;

5. Applications of industrial sludges or industrial waste by-products authorized through a land use compatibility statement or management plan approval and that have been applied to agricultural lands according to accepted agronomic practices or accepted method approved by the land use compatibility statement or management plan, but not to exceed 100 dry tons per acre annually;

6. Stabilized municipal sewage sludge applied for accepted beneficial uses on land in agricultural, non-agricultural, or silvicultural operations. Sludge-derived products applied for beneficial uses on land in landscaping projects.

Source separated materials - Recyclable materials that have been separated by type of recyclable material and removed from the solid waste stream by the person who last used the recyclable materials.

Unallowable expenses - Shall include the following:

1. All charitable and political contributions;
2. Fines and penalties, including without limitation judgments incurred by a franchisee for violation of applicable laws;
3. Payments for services provided by individuals related by blood or marriage or by affiliated companies to a franchisee to the extent that such payments exceed the reasonable cost that would be charged by an independent third party to provide the substantially equivalent service;
4. Accruals for future unknown regulatory changes;
5. Costs associated with purchase of other companies including, but not limited to, employee stock ownership plan payments, goodwill, amortization of goodwill and premiums on key-person life insurance policies;
6. Principal or interest payments on the acquisition of solid waste, recyclable materials and yard debris collection routes; the purchase of equipment and/or facilities to the extent that the price includes goodwill or a premium in excess of fair market value at the time of acquisition;
7. State and federal income taxes;
8. Fees paid to a franchisee's board of directors;
9. Advertising expenses beyond basic collection and recycling promotion and education, and minimal

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telephone listings under "Garbage Collection" or "Recycling Collection." Display advertisements and entertainment expenses are specifically excluded;

10. Attorney's fees and related expenses resulting from:

a. Any judicial proceeding in which the City and a franchisee are adverse parties, unless the franchisee is the prevailing party;

b. Any judicial proceeding in which a franchisee is ruled to be liable due to willful misconduct or gross negligence or in violation of law or regulation;

11. Any other expenses defined as unallowable and approved by the council.

Utilization - The terms utilize, utilization or utilization of solid waste or waste shall mean productive use through recycling; reuse; salvage; resource recovery; energy recovery; or land filling for reclamation, habitation, or rehabilitation of land.

Waste evaluation - An evaluation completed by the City or a franchisee of a commercial entity's waste management practices, for the purpose of providing guidance to the commercial entity on effective means to reduce waste, increase recycling, and purchase recycled products.

White goods - Kitchen or other large appliances that are bulky wastes.

Yard debris - Grass clippings, leaves, tree and shrub prunings of no greater than four inches in diameter, or similar yard and garden vegetation. Yard debris does not include such items as: dirt, sod, stumps, logs, tree and shrub prunings greater than four inches in diameter, rocks, plastic, animal waste or manure, cat litter, potting soil, prepared food wastes or non-putrescible material. [BC 4.08.020, added by Ordinance No. 4203, 5/6/02]

(Reserved)

4.08.100 Non-Exclusive Franchise.

A. No person shall do business in the collection and transport of solid waste generated within the City without a current, valid city franchise.

B. A franchise to provide collection service for solid waste, recyclable materials and yard debris in a service area of the City shall be granted only after a determination of need for the service.

Beaverton Code

C. The determination of need is the responsibility of the City Council, which will seek the best balance of the following objectives:

1. To insure safe, efficient, economical and comprehensive solid waste service;
2. To avoid duplication of service that will cause inefficiency, excessive use of fuel, increased traffic, and greater wear on streets;
3. To provide service in areas of marginal return;
4. To promote and encourage recycling and resource recovery;
5. To improve the likelihood of the franchise holder making a reasonable profit, thereby encouraging investment in modern equipment;
6. To cooperate with other governmental bodies by recognizing their service arrangements; and
7. To otherwise provide for the service in a manner appropriate to the public interest.

D. In granting a franchise renewal or a new franchise due to an annexation, termination, or revocation of a franchise, the Council shall, in addition to the above, consider the following factors in selecting a new or replacement franchisee:

1. The candidate's prior service record in the same or a related industry, and its professional relationships with other corporate entities and local, regional and/or state jurisdictions;
2. The candidate's financial ability to perform the obligations of a franchise holder;
3. The candidate's equipment and personnel available to meet current and future needs of a franchise holder;
4. The candidate's ability to provide all services to customers within the geographic boundaries of the designated franchise area, including every residential, multifamily and commercial customer;
5. The candidate's exercise of the burden of proof, demonstrating a proposed franchise area is being or has been underserved by the existing or previous franchise holder; and
6. The candidate's good moral character as is relevant to a franchised provider's customer relations, namely any unpaid judgments against the applicant (whether doing business under the same or another name) and any judgments for civil fraud or for a crime of dishonesty.

Beaverton Code

E. Franchises granted by the City shall be non-exclusive.

1. However, it is understood that during the term of franchises granted under this ordinance, the City shall not grant any other person a franchise for solid waste management, unless there is a showing by the applicant of the need for such additional service in the proposed service area.

2. As to such application(s), the Council may consider whether a current franchisee is capable of providing the additional service.

F. In evaluating whether a need exists for additional service, the City Council may consider, among any other criteria it deems relevant, the following items:

1. An increase in the population of the City;

2. An extension of the boundaries of the City;

3. Intensive residential, commercial or industrial development within the boundaries of the City;

4. Changes in solid waste technology and/or recycling collection technology that could substantially improve collection service or reduce collection costs to residents of the City;

5. The effect that an additional franchise would have on each existing franchisee's ability to meet the City's service standards and maintain a fair return on its investment;

6. The number of existing collection franchisees or drop box service franchisees, as applicable, providing service in the area of the City in which the applicant wishes to provide service; and

7. Changes in federal or state laws, rules or regulations that substantially affect solid waste or recycling collection requirements.

G. This ordinance does not prohibit any person from self-hauling solid waste and/or recyclables. A generator may self-haul his or her own material, and a generator's contractor may haul materials that are generated as a direct result of the service-provider's activity. For example, landscapers, roofers, and remodelers may self-haul materials, but may not contract with third parties other than franchisees for collection and transport. [BC 4.08.100, added by Ordinance No. 4203, 5/6/02]

4.08.110 Term of Franchise.

A. A franchise to provide collection service for solid waste, recyclable materials and yard debris in a portion of the City shall be granted for a period of seven years, beginning July 1, 2002.

Beaverton Code

1. The determination of need is the responsibility of the Council, which will seek the best balance of franchise objectives.

2. The City shall review franchises annually to evaluate rates, customer service and franchisee performance issues.

B. The Mayor shall report to the Council a comprehensive review of the rates, customer service, franchise performance based on criteria described in B.C. 4.08.100, and overall state of the franchise system based on the first 42 months of the franchise term.

1. As part of that review, at the request of a franchisee, the Mayor may make a recommendation to renew or not renew, and the Council may consider renewing that person's franchise for an additional three and one-half years to be added to the end of the existing term for a total of seven years.

2. Any such extension shall be granted only after the notice to all interested parties and a public hearing.

C. Nothing in this section restricts the Council from suspending, modifying or revoking the franchise for cause pursuant to Section 4.08.430 of this subchapter.

1. A franchisee who desires to terminate its rights and obligations under a franchise shall give not less than 90 days' notice of its intent.

2. Upon receipt of such notice, the Council shall initiate proceedings to consider applications by any other person for a franchise to serve the same area. [BC 4.08.110, added by Ordinance No. 4203, 5/6/02]

4.08.120 Notice Request for Franchise Applications.

A. 1. Prior to the end of a franchise term, notice that the City intends to solicit applications for solid waste franchises shall be published in a newspaper of general circulation within the City.

2. Notice shall also be sent to all holders of Beaverton solid waste franchises.

3. The Mayor may keep a list of interested persons who will also be provided notice.

B. The Mayor shall establish forms and deadlines. [BC 4.08.120, added by Ordinance No. 4203, 5/6/02]

4.08.130 Description of Franchise Areas. A city solid waste franchise service area shall include single-unit residential customers and any multifamily residential, commercial and industrial customers within that service area. The service areas shall be determined by Council resolution.

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The franchise areas and the franchisees serving such areas shall be indicated on a map entitled "Solid Waste Franchise Service Areas of the City of Beaverton" (the "Map"). A copy of the Map shall be dated with the effective date of the Council resolution and maintained in the Office of the Mayor. Amendments to the Map may be made by Council resolution, and copies of amendments shall be kept on file by the City Recorder. [BC 4.08.130, added by Ordinance No. 4203, 5/6/02]

4.08.140 Transfer of Franchise.

A. An assignment or transfer of a franchise shall include, but not be limited to:

1. A sale, exchange or other transfer of 50% or more of a franchisee's assets dedicated to service in the City;

2. A sale, exchange, or other transfer of 50% or more of the outstanding common stock of a franchisee;

3. Any reorganization, consolidation, merger, recapitalization, voting trust, pooling agreement, escrow arrangement, liquidation or other transaction to which the franchisee or any of its shareholders is a party that results in a change of ownership or control of 50% or more of the value or voting rights in the stock of the franchisee; and

4. Any combination of the foregoing that has the effect of a transfer or change of ownership and control.

B. The franchisee shall provide no less than 60 days' advance written notice to the City of any proposed transfer or assignment.

1. Except as specifically authorized by the City, the franchisee shall not assign any of its rights or delegate or otherwise transfer any of its obligations to any other person without the prior consent of the City Council.

2. Any such assignment without the consent of City Council shall be void and any such attempted assignment shall constitute default and grounds for termination of the franchise.

C. If a franchisee requests the City's consent to transfer the franchise, the City shall act on such request within 60 days of the receipt of the franchisee's written request together with all information, as set forth below, required for the City's action on the request.

D. The City shall not unreasonably refuse to consent to an assignment of the franchise to a proposed assignee that has sufficient knowledge, experience, and financial resources so

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as to be able to meet, to the satisfaction of the City Council, in its sole discretion, all obligations of the franchisee hereunder.

E. An application to the City to consider a sale or other transfer of a franchise shall include the following:

1. A nonrefundable application fee of \$2000 payable at the time of application to the City in advance to defray the City's anticipated expenses and costs resulting from the franchisee's request;

2. Financial statements audited or reviewed by a certified public accountant of the proposed assignee's operations for the three immediately preceding operating years together with any additional evidence of financial ability to perform its franchise obligations; and

3. A showing that the proposed assignee meets all City criteria for the grant of a franchise as are set out in section 4.08.100 of this subchapter. [BC 4.08.140, added by Ordinance No. 4203, 5/6/02]

(Reserved)

4.08.200 Responsibility of City. Franchisees are subject to the exercise of the police power of the City and to such regulations as the City may provide by resolution, ordinance, rule or regulation. [BC 4.08.200, added by Ordinance No. 4203, 5/6/02]

4.08.210 Enforcement of Standards.

A. The Mayor shall enforce this ordinance and pursue remedies for non-compliance as laid out within this ordinance.

1. The Mayor shall adopt rules, including a process for notice and comment prior to adoption, for collection responsibility and customer service standards as well as procedures and forms to implement the provisions of this ordinance.

2. These rules shall be enforceable with penalties allowed in this ordinance.

3. Upon recommendation by the Mayor, the Council may declare a franchisee who fails to abide by the rules to be in default.

B. Each franchise provision, including rules adopted hereunder, is assigned an Enforcement Code consisting of two letters, such as (A/I).

1. The first letter represents the severity of the infraction (A, being the most severe), and the second identifies the incident definition.

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2. Incident definitions indicate whether the infraction is measured "Per Day," referred to as D, "Per Class," referred to as C, or "Per Incident," referred to as I.

3. Penalties are further described in section 4.08.420 of this ordinance. [BC 4.08.210, added by Ordinance No. 4203, 5/6/02]

4.08.220 Uniform Rate Setting.

A. The City Council may review and set rates on an annual basis by Council resolution that considers the following goals:

1. Rates shall be established to the greatest extent practicable on a cost of service basis.

2. Rates shall be adequate to provide an operating margin equal to nine percent (9%) of franchise-wide gross revenues.

a. However, the City shall not be required to change rates if the expected operating margin in the current year falls between seven and eleven percent (7-11%) of gross revenues.

b. The nine percent (9%) target return on gross revenues is considered sufficient to reflect the level of business risk assumed by the franchisee, to allow investment in equipment, and to ensure quality collection service.

B. Accordingly, the City shall have the authority to commission audits, reviews, or analysis of franchisee annual reports to validate hauler submissions.

C. The expected operating margin in a future year would incorporate expected inflation factors, and the effect of known or expected increases or decreases in expenses or revenues.

1. The rates charged by franchisees shall conform to the most current Council resolution.

2. Prior to implementation, the Council must approve any interim rate for services not included in the current resolution.

3. If the haulers for the majority of the franchise areas within the City notify the Mayor in writing that they believe a material change outside the franchisees' control has occurred, and the change will have an adverse effect on operating margins such that current year operating margins will be less than seven percent (7%), a material change will be deemed to have occurred.

a. At that time, the City may undertake any type of review it finds necessary to validate the

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existence of the material change and estimate its effect on the operating margin.

b. If the results of the review are such that no rate adjustment is warranted, persons requesting the review shall reimburse the City for reasonable costs incurred during the investigation at the time the next payment of franchise fees is due.

c. If the City believes that a material change has occurred that will result in current year operating margins falling under seven percent (7%) or over eleven percent (11%), the City may undertake an abbreviated rate review at its own expense.

4. A change in tipping fee will be evaluated by the Mayor to determine its effect upon rates and services. [BC 4.08.220, added by Ordinance No. 4203, 5/6/02]

4.08.230 Imposition of Franchise Fees.

A. For the privilege of using the City's streets and other facilities and for the purpose of defraying the City's regulatory expenses, each franchisee shall pay a franchise fee to the City equal to 4% of cash receipts on residential service and 4.5% on commercial and drop box service, net of material sales revenue.

1. The franchise fee shall be computed and collected on a calendar quarterly basis.

2. The fee shall be paid by the franchisee not later than the last day of the month immediately following the end of the quarter.

3. A franchise fee payment shall become delinquent if not paid by the last day of the month immediately following the end of the quarter.

4. A simple interest charge of 18% shall be charged against the entire delinquent balance until the balance is paid.

B. At the time of payment of the quarterly fee, each franchisee shall file with the Mayor a verified statement of quarterly cash receipts for the period covered by the tendered fee.

1. Such statements shall be public records.

2. Each franchisee shall maintain books and records disclosing the cash receipts derived from business conducted within the City, which shall be open at reasonable times for audit by the Mayor.

3. The City may require a uniform system of bookkeeping and record keeping to be used by all franchisees.

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4. Material misrepresentation of cash receipts by a franchisee constitutes cause for revocation of the franchise.

C. The franchise fee imposed by this section is in addition to and not in lieu of any other fee, charge, or tax imposed by the City.

D. The obligation to pay franchise fees on cash receipts generated from services performed under a City franchise shall survive termination of the franchise no matter how terminated.

E. The City Council by resolution may change the amount and computation of franchise fees from time to time.

F. The Council by resolution may reallocate the franchise fee percentages for different customer groups, such as residential or commercial, if such a reallocation mitigates a cost of service disparity that is not fully corrected through the rate-setting process.

1. In order to do so, the Mayor must be able to demonstrate that overall equity among the franchisees is improved.

2. Such a reallocation may not materially reduce the amount of total franchise fee revenue obtained by the City. [BC 4.08.230, added by Ordinance No. 4203, 5/6/02]

(Reserved)

Reporting Responsibilities.

4.08.310 Monthly Informational Reports. Each franchisee shall provide the Mayor by the last day of each month for the previous month:

A. A monthly report listing:

1. The quantities or recyclable materials collected within the City during the previous calendar month;

2. The locations to which these materials were delivered;

3. The number of customer accounts; and

4. Other information as required by the Mayor.

(E/D)

B. A monthly report listing the names and addresses of commercial customers that:

1. Were offered waste evaluations during the reported month; and

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2. Received waste evaluations from the franchisee during the reported month. (E/D) [BC 4.08.230, added by Ordinance No. 4203, 5/6/02]

4.08.320 Quarterly Franchise Fee Reports.

A. Each franchisee shall complete and remit to the City a quarterly franchise fee report not later than the last day of the month immediately following the end of the quarter.

B. At the time of payment of the quarterly franchise fees, the franchisee shall file with the Mayor a sworn and verified statement of quarterly gross revenues for the period covered by the tendered fee.

1. Such statements shall be public records.

2. Each franchisee shall maintain books and records disclosing the gross receipts derived from business conducted within the City, which shall be open at reasonable times for audit by the Mayor.

3. The City may require a uniform system of bookkeeping and record keeping to be used by all franchisees. (D/D)

4. Misrepresentation of cash receipts shall be deemed:

a. Material and a breach of the franchise contract; and

b. Cause to initiate the process to terminate the franchise. [BC 4.08.320, added by Ordinance No. 4203, 5/6/02]

4.08.330 Annual Franchise Reports.

A. An annual financial/operational report in a format approved by the Mayor that identifies revenues, expenses, and selected program data for the previous calendar year, specifically associated with or allocated to the City is due on or before March 15 of each year. (D/D)

B. Specifically, franchisees shall report revenues and expenses (allowable and unallowable), in an income statement format, and provide a variety of information about customer counts, service levels, disposal volumes, and recycling activities.

1. While direct charge of allowable expenses is preferred, it is understood that many franchisees provide service in areas outside the City.

2. Consequently, allocations to franchise operations within the City are necessary for most allowable expenses.

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C. In addition to the results of operations within the City, franchisees shall report totals for all operations, both within and outside the City, that share significant operational, management, and administrative expenses with the Beaverton franchise.

1. Resources allocated from regional or corporate offices or affiliates shall be distributed to appropriate expense line items, and shall also be disclosed in a schedule describing total allocations and their distribution to individual expense line items.

2. All allocations from affiliated companies must be described and must be equal to or less than the fair market value of similar goods and services purchased from a non-affiliated company.

D. The report will also include a synopsis of the operating year, a description of the measures each franchisee has taken in the preceding year to make its operation more efficient, a listing of the efficiency measures that each franchisee proposes to take in the next year, a composite table showing the type and number of customer service complaints, a description of the measures that the franchisee has taken or is planning to take to correct the cause of commonly reported complaints, and such other information as requested by the Mayor.

1. All report information shall be presented on a calendar year basis.

2. The report shall contain detailed information on education and promotion activities, and other information as required by the Mayor. (D/D)

E. Franchisees may identify information submitted to the City in the annual report as confidential.

1. The City shall treat any information marked "Confidential" as such, and shall not subject the confidential information to public disclosure except as required by law.

2. If the City receives a request for disclosure of confidential information, the Mayor shall notify the franchisee within a reasonable time after receiving the request so as to allow the franchisee a reasonable opportunity to defend against the requested disclosure through appropriate legal process. [BC 4.08.330, added by Ordinance No. 4203, 5/6/02]

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4.08.340 Subcontracting Services.

A. A franchisee may contract with another person to provide service within the franchisee's service area with the written approval of the Mayor, provided that:

1. The subcontract does not amount to a transfer of the collection franchise; and

2. The subcontracting party agrees to:

a. Abide by the conditions of this ordinance; and

b. In written application to the City, show how they will meet the criteria applying to the current franchise.

B. A franchisee may subcontract all drop box and medical/infectious waste collection, but may not otherwise subcontract more than 25% of the remaining franchised services, except during an emergency, with the approval of the Mayor, for a period of not more than 60 days. (A/I) [BC 4.08.340, added by Ordinance No. 4203, 5/6/02]

4.08.350 Access for Inspections and Delivery of Notices.

A. Franchisees shall make all company premises, facilities and records related to their solid waste, recyclable materials and yard debris collection services (including, but not limited to: offices, storage areas, financial records, non-financial records, records pertaining to the origin of any solid waste collected by the franchisee, receipts for sale or delivery of collected recyclable materials, customer lists, and all vehicle maintenance and safety records required under ODOT motor carrier requirements and regulations and ORS 767) available for inspection by the Mayor within 24 hours of notice by registered mail.

1. Such inspections are only for purposes of enforcing this ordinance, and are restricted to normal business hours.

2. During normal business hours, the franchisee shall make all company premises and facilities accessible to City employees for delivery of any written notices. (A/I)

B. 1. Collection vehicles must be accessible for inspection during the normal operating hours for collection, in addition to normal business hours.

2. Where receptacles are stored in the public right-of-way or when the City is inspecting a situation where the franchisee is allegedly commingling recyclable materials or yard debris with solid waste, the need for 24-hour notice does not apply to inspection of receptacles or vehicles. (A/I) [BC 4.08.350, added by Ordinance No. 4203, 5/6/02]

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4.08.360 Indemnification, Bond and Insurance.

A. Indemnification.

1. A franchisee shall pay, save harmless and indemnify the City from any loss, damage, penalty or claim against the City on account of, or in connection with, any activity of the franchisee in the operation of the franchisee's solid waste collection business, including activity by any contract hauler under BC 4.08.055 D.

2. If such suit shall be filed against the City, either independently or jointly with the franchisee or its contract hauler to recover for any claim or damages, the franchisee, upon notice to it by the City, shall defend the City against the action.

3. In the event of a final judgment being obtained against the City, either independently or jointly with the franchisee or its contract hauler, the franchisee will pay said judgment and all costs and hold the City harmless therefrom. (A/I)

B. Bond.

1. Each collection franchisee and drop box franchisee shall furnish a performance bond, in a form approved by the City Attorney, by an acceptable surety company in the amount of \$25,000, but may, in lieu of a bond, furnish an irrevocable letter of credit or assign a savings account or deposit in any federally insured financial institution in the amount of \$25,000 on a form approved by the City Attorney.

2. The security shall guarantee faithful performance of all the obligations contained herein, with the premium for such bond or cost of such assignment to be paid by the collection franchisee or drop box franchisee furnishing the bond or letter of credit, or making the assignment. (A/I)

C. Insurance.

1. A franchisee shall maintain commercial general liability insurance on an occurrence basis, which will cover the franchisee's business operation, including each vehicle it operates, in such forms and with such companies as shall be approved by the City Attorney.

2. The insurance coverage shall include not less than \$100,000 for one person, nor less than \$300,000 for bodily injury due to each occurrence, and not less than \$100,000 for damage to property due to each occurrence, and coverage of at least \$1,000,000 in the aggregate per occurrence.

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3. All such insurance coverage shall provide a 30-day notice to the Mayor in the event of material alteration or cancellation of any coverage afforded in the policies prior to the date the material alteration or cancellation shall become effective.

4. Copies of all policies required hereunder shall be furnished to and filed with the Mayor prior to the commencement of operations or the expiration of prior policies, as the case may be.

5. The franchisee shall furnish proof annually to the Mayor that the insurance remains in effect. (A/I)

D. Good Faith and Liability of Franchisee. The provisions of this section, any bonds accepted by the City pursuant thereto, and any damage recovered by the City hereunder shall not be construed to excuse unfaithful performance by the franchisee or limit the liability of the franchisee under this ordinance or the franchisee for damages, either to the full amount of the bond or otherwise. [BC 4.08.360, added by Ordinance No. 4203, 5/6/02]

(Reserved)

Enforcement Actions, Suspension or Termination of Franchise.

4.08.410 Initiation of Enforcement Actions. In addition to enforcement under State law, the City may prosecute any infraction as defined in this ordinance or the rules issued hereunder, based on any information coming to the City, in Beaverton Municipal Court. The burden of proof is on the City to prove an infraction by a preponderance of the evidence. [BC 4.08.410, added by Ordinance No. 4203, 5/6/02]

4.08.420 Penalties for Infractions.

A. Each franchise provision, including rules adopted hereunder, is assigned an enforcement code consisting of two letters, such as (A/I).

1. The first letter represents the severity of the infraction (A, being the most severe), and the second identifies the incident definition.

2. Incident definitions indicate whether the infraction is measured "Per Day," referred to as D, "Per Class," referred to as C, or "Per Incident," referred to as I.

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B. The severity of the infraction is described in the following table:

Category	First Infraction	Second Infraction	Third and Subsequent Infractions
A	\$500	\$1,000	\$1,500
B	\$400	\$800	\$1,200
C	\$300	\$600	\$900
D	\$200	\$400	\$600
E	Warning	Warning	Treat as D

C. 1. In addition to monetary penalties and upon recommendation by the Mayor, the City Council may terminate for default a franchise held by a person who is assessed more than \$2,000 in penalties per 1,000 customers in any 365-day period.

2. In the event a franchise is sold, the infraction record of the previous owner will remain with the new owner, if the previous owner maintains any ownership or control of the new owner of the franchise.

D. Penalties not paid within the allotted time are subject to interest charges at the statutory rate of interest. [BC 4.08.420, added by Ordinance No. 4203, 5/6/02]

4.08.430 Termination of Franchise for Default.

A. 1. In addition to default for accrued penalties, upon recommendation by the Mayor, the City Council may terminate a franchise for the franchise holder's default in performing any material term or condition of the franchise.

2. An event of default also shall include, but not be limited to, entry of a judgment against the franchise holder for material misrepresentation or deceit committed against the City or a customer, or entry of a judgment of conviction (including conviction on a plea of no contest) against the franchise holder or any principal of same for a crime involving dishonesty.

B. 1. Notice to a franchisee of default shall be delivered to the franchisee by certified mail requiring the franchisee to show cause in a public hearing before the City Council at a place and time to be stated in the notice, but no earlier than 14 days from the date the

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notice is mailed, why the franchise should not be terminated.

2. At the hearing the franchisee shall demonstrate the measures it has taken or commenced to cure the default. [BC 4.08.430, added by Ordinance No. 4203, 5/6/02]

4.08.440 Service Interruption.

A. Except for the right to refuse service for nonpayment as set forth in this ordinance, franchisees shall not interrupt service unless:

1. Access roads, streets and highways necessary for collection operations are unusable or unsafe, and there are no alternative routes. Franchisees shall resume service within 24 hours after access is restored.

2. A force majeure event occurs.

B. Upon the occurrence of a force majeure event that prevents or impairs a franchisee's ability to perform any of its franchise obligations, the franchisee shall:

1. Provide immediate notice, either verbal or written, to the Mayor of the nature of the event, and the extent and anticipated duration of franchisee's inability to perform any obligation under this agreement. If verbal notice is given, then written notice must be delivered to the City within 24 hours of verbal notice;

2. Commence immediately to develop, in communication and cooperation with the City, an interim plan for the restoration of full performance; and

3. Take all such other reasonable actions requested by the City to assist the City in protecting the public health and safety, and to restore service as soon as practicable.

C. Labor unrest, including but not limited to, strike, work stoppage or slowdown, sick-out, picketing, or other concerted job action conducted by franchisee employees or directed at the franchisee is not an event of force majeure, and the franchisee shall be obligated to continue to provide service, notwithstanding the occurrence of any or all of such events. [BC 4.08.440, added by Ordinance No. 4203, 5/6/02]

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4.08.450 City's Right to Perform Service.

A. 1. In the event that a franchisee, for any reason whatsoever, fails, refuses or is unable to collect or transport any or all solid waste for a period of more than 48 hours, and if, as a result thereof, solid waste or recyclable materials should accumulate in the City to such an extent that the City finds that such accumulation endangers the public health, safety or welfare, then the City shall have the right, but not the obligation, upon 24-hour prior written notice to the franchisee, to perform or cause to be performed collection services with its own or other personnel at the franchisee's expense.

2. This right shall be in addition to and not in lieu of any other remedy available to the City.

B. If necessary and until such time as the emergency is resolved, the City may take temporary possession of, and a franchisee shall peacefully surrender, any or all the franchisee's land, equipment, and other property used or useful in the collection of solid waste or recyclable materials. [BC 4.08.450, added by Ordinance No. 4203, 5/6/02]

4.08.460 Dispute Resolution with Customers.

A. 1. Upon receipt of any notice of dispute from a customer about any bill, charge, or service, the franchisee shall thoroughly investigate the matter and promptly report the results of its investigation to the customer.

2. A franchisee shall not refuse service to any customer during a time of dispute.

B. If the franchisee is not able to resolve a dispute with the customer, the customer may contact the Mayor.

1. The Mayor or delegate will act as an informal arbitrator in an attempt to resolve the matter.

2. The Mayor may formally resolve a dispute of \$500 or on the basis of evidence presented by the franchisee and the customer.

C. For matters in excess of \$500, the parties may mutually agree to abide by the City's recommended resolution, or pursue the matter in any court with jurisdiction.

[BC 4.08.460, added by Ordinance No. 4203, 5/6/02]

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4.08.470 Dispute Resolution with City.

A. 1. During all disputes arising under this franchise, the City and franchisee shall continue performance of their respective obligations under this franchise, unless and until the franchisee is terminated for default.

2. In which case, the franchisee's obligation to pay a franchise fee based on cash receipts generated from services provided under the franchise during said dispute shall survive such termination.

B. In addition to and without waiving any rights and remedies under civil or common law, in the event of a dispute under this franchise, the parties may mutually agree to arbitration.

1. Within 15 days after agreement to arbitration has been reached, each party shall submit the name of its own arbitrator, selected from a panel of persons qualified with the Arbitration Service of Portland, Inc., or the American Arbitration Association, whichever organization is specified in the written notice of request for arbitration.

2. The two arbitrators shall select a third arbitrator from such panel within 15 days, or in case of a disagreement concerning the appointment of the third arbitrator, the third arbitrator shall be appointed from such panel by the presiding judge for the Circuit Court of the State of Oregon for Washington County.

3. During such time that the arbitrators are being selected or appointed, the parties shall continue to negotiate in good faith to resolve their dispute in a cooperative manner.

4. Arbitration shall be conducted in the City in accordance with the then-effective rules of the arbitration service/association.

5. The decision of the arbitrators in the matter shall be final and binding on the parties, and any judgment upon the award rendered pursuant to such arbitration may be entered in any court having jurisdiction thereof.

(Reserved)

EXHIBIT 5

**RULES OF OPERATION FOR SOLID WASTE
& RECYCLING, JULY 1, 2002**

CITY OF BEAVERTON
Rules of Operations for Solid Waste & Recycling

Effective July 1, 2002

A. ADOPTION AND REVISION OF RULES:

1. Under authority of the City Code, Chapter 4.08.210, the Mayor is authorized to adopt rules, procedures and forms to implement provisions of that Chapter which regulate the collection and disposal of Solid Waste, Recycling and Yard Debris within the City of Beaverton.

2. Any rule adopted or revised according to the authority of the City Code shall require a public review process. Not less than ten nor more than thirty days before such public review process, notice shall be given by publication in a newspaper of general local circulation. Such notice shall include the place, time and purpose of the public review process and the location at which copies of the full set of the proposed rules may be obtained.

3. During the public review, the Mayor or the Mayor's designee shall hear testimony or receive written comment concerning the proposed rules. The Mayor shall review the recommendations; taking into consideration the comments received during the public review process and shall either adopt the proposal, modify or reject it.

4. Notwithstanding paragraphs B and C of this section, an interim rule may be adopted by the Mayor without prior notice upon a finding that failure to act promptly will result in serious prejudice of the public interest of the affected parties, including the specific reasons for such prejudice. Any rule adopted pursuant to this paragraph shall be effective for a period of not longer than 180 days.

B. ENFORCEMENT OF RULES

1. The Solid Waste and Recycling Ordinance of the City of Beaverton authorizes the Mayor to enforce the ordinance and to adopt rules for collection responsibility and customer service standards. These rules shall be enforceable with penalties according to the penalty structure described in section 4.08.420 of the Solid Waste Ordinance. Franchisees who fail to abide by these rules may be declared in default.

2. Each Franchise provision, including rules adopted hereunder, is assigned an Enforcement Code consisting of two letters, such as (A/I). The first letter represents the severity of the infraction (A, being the most severe), and the second

identifies the incident definition. Incident definitions indicate whether the infraction is measured “Per Day,” referred to as D, “Per Class,” referred to as C, or “Per Incident,” referred to as I. Penalties are further described in section 4.04.420 of the Solid Waste Ordinance.

Category	First Infraction	Second Infraction	Third and Subsequent Infractions
A	\$500	\$1,000	\$1,500
B	\$400	\$800	\$1,200
C	\$300	\$600	\$900
D	\$200	\$400	\$600
E	Warning	Warning	Treat as Violation D

3. The Mayor may recommend that the City Council terminate for default a franchise held by a person who is assessed more than \$2,000 in penalties per 1,000 customers in any 365-day period. In the event a Franchise is sold, the violation record of the previous owner will remain with the new owner if the previous owner maintains any ownership or control of the new owner of the Franchise.

C. GENERAL COLLECTION RESPONSIBILITIES

1. **Solid Waste Subscription.** Franchisees shall make available for subscription all levels of Solid Waste Collection service for which the City sets rates to every customer, subject to the limitation under “Refusal of Service.” A Franchisee that does not comply has 10 days from a date of infraction to accommodate the customer request with an equivalent level of service at or below the published rates for the requested service. (C/I)

2. **Automated Collection System.** Franchisees with more than 550 residential customers shall be required to provide residential service through the use of an automated collection system no later than January 31, 2003. The Franchisee shall provide, and retain ownership of, the roll carts to be used for such service. (D/C)

3. **Collection Schedule**

a. **Collection Days.** Residential service shall occur Monday through Friday, except during holiday weeks, and times of hazardous weather conditions. All collection services shall be offered on the same day(s) of the week for a given customer. Franchisees shall not provide service in residential or multifamily areas prior to 6:00 am or after 6:00 pm. Except as otherwise limited by the terms of any City land use or development permit, there shall be no limit on the hours of collection activity for any solid waste, recycling and yard debris materials in predominately commercial and industrial areas. Franchisees may offer and furnish

Saturday and/or Sunday collection service to commercial, multi-family and drop box customers. If weekend service is not made available, the Franchisee must provide sufficient receptacles to accommodate commercial customer needs throughout weekends. (D/D)

b. Change of Schedule for Solid Waste/Recycling/Yard Debris Day. A Franchisee may periodically change a customer's designated collection day. No later than seven days prior to the change, a Franchisee shall give written notice to a customer indicating the intent to change the Customer's designated collection day and inform the customer of the new collection day. Notice must also be given to all service addresses if different than billing addresses. Each multifamily unit must be notified of the change in collection day, if each unit receives individualized can/cart service. (D/I)

c. Collection on Holidays. There will be no collection on Christmas or New Year's Day. During weeks in which Christmas and New Year's Day fall on a Monday through Friday, pick-up shall occur on the established pick-up day, unless that day is Christmas or New Year's Day, in which case pick-up will occur on the following day. Each regular pick-up day for the remainder of those weeks shall thereafter shift back one day with regular Friday service occurring on Saturday. (D/D)

d. Hazardous Weather Conditions. Collection Schedules may be adjusted due to hazardous weather conditions. Hazardous weather conditions generally exist on any day in which the Beaverton Public School District cancels classes due to weather conditions, or on portions of routes that are located on steep hills where a driving hazard may exist even though local public schools are open. When weather conditions make driving or collection hazardous, Franchisees may postpone collection, as provided below. The Franchisee shall notify the Mayor by phone message or facsimile transmission no later than noon on the day hazardous weather conditions day exist, if collection schedules are expected to change. This information supplied to the Mayor must include geographic areas affected and the anticipated make-up day or schedule. If the affected geographic area(s) or make-up schedule changes, then the Franchisee shall update the information furnished to the Mayor as well as the outgoing message on their telephone answering machine or service. In the case of solid waste collection, the Franchisee shall make a reasonable effort to pick up prior to the next regular collection day. Yard debris and recyclable materials collection may be postponed until the next regular collection day. (C/D) If collection is delayed more than two days, collection will be delayed to the next regular collection day, with an extra container being accepted by the Franchisee at no additional charge.

e. **Will-Call Collection.** Will-Call collection shall include the collection of Solid Waste, Recycling bins and a Yard Debris cart. Will-Call collection service is available only on the day in which regularly scheduled service is provided to the neighborhood in which the Will-Call customer resides. Additional fees may be charged to Will-Call customers who exceed the weight and/or volume limitations that are in place for all weekly service customers, according to the City approved rate structure.

4. **Missed Collections**

a. **Missed Collection for Solid Waste Customers.** The Franchisee shall respond promptly to reports of missed collections. Franchisees shall collect missed materials within 24 hours (excluding weekends, Christmas Day, and New Year's Day) of receipt of a complaint from the City or the customer. The 24-hour deadline does not apply where the missed collection occurred due to late or improper setout by the customer. Each improper setout by a customer must be documented by the Franchisee through a verifiable means, such as setout logbook and the dispensation of a City-approved notice to the customer. (D/I)

If a customer did not set out or improperly placed the container, the Franchisee shall offer the customer the following options:

- (1) Immediate collection of the materials for the City-approved Go-back Rate.
- (2) Collection of the material at no extra charge the following week on the designated collection day.

b. **Hazardous Weather Missed Collections.** Collections that are missed due to hazardous weather conditions, where postponements have been reported to the City as required in this ordinance, are not considered "missed collections."

5. **Point of Collection**

a. **Point of Collection: Single Family Dwelling.** For single-family dwellings, the Franchisee may require that the collection of solid waste, recyclables and yard debris be placed at the curb or roadside in such a fashion so as to enhance efficiency of the collection system and may assess an extra fee, as established in the approved rate structure, if a customer fails to present the roll cart at a location reasonably serviceable by the automated collection truck. Disabled customers shall not be charged an extra fee and the franchisee must arrange for a mutually convenient system for refuse, yard debris and recycling collection.

b. **Point of Collection: Disabled Customers.** Disabled customers will be provided non-Curbside collection of all materials. The customer

and the Franchisee must mutually agree upon a setout location. In most cases, the preferred location will be visible from the street. If not, the customer must provide the Franchisee with a signal that is visible from the street that there are materials to be collected. (C/I)

c. Collection on a private street. For collection to be made at Curbside on a **private street**, the street must meet the following standards: access may not be limited by a gate; it must be named and posted with a street sign, it must be paved to a width of at least 12 feet, exclusive of any areas where parking is permitted, and if dead-end, the turnaround must have a 60 foot diameter or a “hammerhead” or other feature which provides adequate turnaround space for standard collection vehicles. There must be at least 14 feet of vertical clearance. On such private streets, customers entitled to Curbside service must have their address on the private street. If these criteria are not met, customers must bring their materials to the intersection of the private street and the closest public street. Containers must be marked with the appropriate customer address. (C/I)

d. Collection from Public Alleys. Collection from public alleys is at the discretion of the Franchisee.

e. Collection from In-Ground Cans. Collection from in-ground cans is prohibited.

f. Location of Empty Cans/Carts/Containers/Bins. The Franchisee shall return all cans, carts, and bins to the location where the customer places them. (D/I)

6. Ownership of Collected Materials. All materials placed or deposited in a receptacle provided by the Franchisee or left in place by the customer for collection by the Franchisee are the property of the Franchisee. It shall be unlawful for any person other than the appropriate Franchisee to remove any material from such receptacles, though this prohibition does not apply to bona fide law enforcement activity. Any person removing such materials in violation of this section shall be subject to the penalties set out in BC 4.08.110. Ownership shall not transfer to the Franchisee until the Franchisee takes physical possession of the collected materials.

7. Improperly Placed or Overweight Materials. The Franchisee is not required to collect materials that are not properly prepared or are overweight, as defined in the Customer Responsibility Section. The Franchisee is required to complete a notice describing the problem and leave it securely attached to the customer’s receptacle or a fence or front door. The date and service address shall be provided on the notice, as well as the Franchisee’s name and phone number. The Franchisee shall retain a copy of the notice and support documentation. (E/I)

If a customer did not set out or improperly placed the container, the Franchisee shall offer the following options:

- (1) Immediate collection of the materials at a City-approved rate.
- (2) Collection of the material as one free extra the following week on the designated collection day.

8. **Clean Up on Route.** The Franchisee shall make a reasonable effort to pick up all material blown or littered during the course of collection subsequent to being set out by the customer and prior to pickup, unless the problem is a recurring one. If material is blown or littered prior to pick-up at a particular customer's address on a recurring basis, the Franchisee may leave the blown or littered material at the Point of Collection with a notice describing the problem. The date, and address shall be specified on the notice. In the case of a business, the Franchisee may charge a clean-up or extra yardage charge, and collect the material. (D/I)

D. **RESIDENTIAL COLLECTION STANDARDS** The following Residential Collection Standards are specific to residential collection, and are in addition to the general collection standards outlined in the previous section.

1. **Residential Containers.** Beginning no later than January 31, 2003, the Franchisee shall provide roll carts to all residential regular service and will-call customers. The carts should be designed for safe handling and shall be non-absorbent, watertight, vector-resistant, durable, easy to clean, and provided with lids or covers that can be readily removed or opened. Roll carts shall be clearly identified by displaying the Franchisee name and telephone number prominently and conspicuously on the container. Roll carts must be clean when delivered to the customer. (D/I)

2. **Roll Cart Deposit.** Franchisees may not charge a deposit for roll carts for any level of service, except as provided in Special Billing for Credit Risks. (D/I)

3. **Replacement of Lost/Stolen Roll Cart.** Franchisees may charge customers for lost, stolen, or damaged carts at 100% of the bulk purchase price of a new roll cart most recently paid by the Franchisee. The Franchisee is responsible for replacement of carts damaged in the course of normal wear and tear.

4. **Damage to Customer Cans.** Franchisees are not responsible for normal wear and tear on reusable cans and lids provided by customers. Damage caused by Franchisee negligence to cans and lids shall be reimbursed to the customer. The age and previous condition of the customer's equipment shall be considered.

5. **Residential Recycling Collection Standards.** The following Residential Recycling Collection Standards are specific to residential collection, and are in addition to the general collection standards outlined in a previous section.

a. **Opportunity to Recycle.** The Franchisee shall provide a notice to all residential customers of the opportunity to recycle including recycling information, clear instructions on preparation of recyclables for curbside collection and a telephone number to call for information regarding recycling collection service. Reminder notices shall be given to all residential solid waste collection service customers every six (6) months. (E/I)

b. **Residential Recycling Containers.** The Franchisee shall deliver two recycling bins to the customer within seven business days after a customer initiates service and indicates that the previous resident has not left bins. The City shall approve the type and style of all bins. (D/I)

c. **Deposit for Bins/Lost or Stolen Bins.** Franchisees may not charge a deposit for the two recycling bins. Franchisees may, however, charge customers an approved replacement fee for lost or stolen bins. (D/I)

6. **Transportation and Marketing of Recyclable Materials.** The Franchisee is responsible for transporting and marketing source-separated materials for recycling by ensuring that all collected recyclables are delivered to a processor or broker of Recyclable Materials or to an end-use market. The Franchisee shall be prohibited from delivering or causing to be delivered any collected recyclable material for disposal, except by prior approval by the Mayor. Placement of properly prepared recyclables into any container currently being used to contain Solid Waste, including the Solid Waste compartment of a collection vehicle, shall constitute a failure to comply with this standard. (A/I)

7. **Collection of Approved Source-Separated Recyclable Material**

a. **Source-Separated Materials.** The Franchisee shall collect the following source separated recyclable materials set out for collection, so long as the materials are properly prepared, separated from solid waste and yard debris, and placed at the appropriate point of collection (D/I):

Aerosol Cans	Gable-top paper cartons	Phone Books
Aluminum cans, containers, and organic-free foil	Glass	Plastic Bottles with necks, including milk jugs
Aseptic Packaging (Drink Boxes)	Magazines	Scrap Paper
Corrugated Cardboard	Newspapers	Tin Cans
Ferrous Scrap Metal (Maximum height plus	Non-Ferrous Scrap Metal (Maximum height plus	Used Motor Oil (in leak proof, see-through plastic.

width of 30 inches in size and 30 lbs. Weight)	width of 30 inches in size and 30 lbs. Weight)	containers with a screw cap)
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b. The Mayor may add or delete materials to or from the above list after performing studies to determine the impact on rates and adjusting rates accordingly, if needed.

8. Residential Yard Debris Collection Standards. The following Residential Yard Debris Collection Standards are specific to residential collection, and are in addition to the general collection standards outlined in a previous section.

a. **Yard Debris Collection Schedule.** Beginning July 1, 2002, Franchisees shall provide year-round automated yard debris collection service at the same frequency as a customer's subscription to solid waste collection service. Service shall be provided on the same collection day as recycling and solid waste collection. (D/C)

b. **Yard Debris Containers.** Franchisees shall collect all properly prepared yard debris in either a Franchisee-provided 60-gallon roll cart, a 30-gallon kraft bag, or in bundles that are securely tied to support the bundle when lifted. Containers or methods of fastening must be designed and used so that scatting by normal wind conditions is minimized. Yard debris must comply with the material and preparation standards outlined in the definition of Yard Debris. The Franchisee shall not collect yard debris placed in a plastic bag. All customers receiving weekly or will-call solid waste collection service shall receive a 60-gallon yard debris cart provided by the Franchisee at no additional charge. Amounts collected in addition to material included in the roll cart are subject to "extra" fees, as prescribed in the rate schedule. (D/I)

c. Franchisees may not charge a deposit for roll carts for any level of service, except as provided in Special Billing for Credit Risks. (D/I)

d. Franchisees may charge customers for lost, stolen, or damaged carts at 100% of the bulk purchase price of a new roll cart most recently paid by the Franchisee. The Franchisee is responsible for replacement of carts damaged in the course of normal wear and tear.

e. Franchisees are not responsible for normal wear and tear on reusable cans and lids provided by customers. Franchisees are responsible for damage to reusable cans and lids caused by Franchisee negligence and shall reimburse the customer, considering the age and previous condition of the customer's equipment

9. Transportation and Marketing of Yard Debris. The Franchisee shall transport and market source-separated yard debris for recycling by ensuring that all yard debris is delivered to a City-approved yard debris processor. The Franchisee shall not deliver or cause to be delivered any collected yard debris material for disposal, except by prior approval of the Mayor. A Franchisee's placement of source separated yard debris into any container then containing Solid Waste, including the Solid Waste compartment of a collection vehicle, shall constitute a failure to comply with this standard. (A/I)

10. Improperly Prepared Solid Waste. When the Franchisee encounters improperly prepared garbage, such as garbage which contains hazardous or otherwise unacceptable material, garbage which is too tightly packed to fall from the roll car, or unbagged animal waste or kitty litter, the Franchisee shall collect only properly prepared garbage if feasible and leave the improperly prepared material. The Franchisee shall complete a City provided notice describing the problem and leave it securely attached to the Customer's can/roll cart/container or a fence or front door. The date and service address shall be provided on the notice as well as the Franchisee's name and phone number. The Franchisee shall maintain documentation of the required notice and provide such documentation to the City upon request. Failure to provide a copy of such notice to the Customer or the City shall be an infraction. (D/I)

11. Improperly Prepared Recyclable Materials.

a. Collect Only Properly Prepared Materials. A Franchisee shall collect only properly prepared recyclable material placed at Curbside, and shall leave at curbside the improperly prepared material or materials.

b. Customer Notification. When a Franchisee encounters improperly prepared recyclable materials, the Franchisee shall complete a City provided notice describing the problem and leave it securely attached to the Customer's can/roll cart/container or a fence or front door. The date and service address shall be provided on the notice as well as the Franchisee's name and phone number. The Franchisee shall maintain documentation of the required notice and provide such documentation to the City upon request. Failure to provide a copy of such notice to the Customer or the City shall be an infraction. (D/I)

c. Disposal of Improperly Prepared Recyclable Materials at Customer Request. Except at the request of the Customer, the Franchisee shall not mix with Solid Waste any materials placed out as recycling in or next to the recycling bin. (C/I)

12. Improperly Prepared Yard Debris.

a. Customer Notification. The Franchisee shall complete a City provided notice describing the problem and leave it securely attached to the Customer's can/roll cart/container or a fence or front door. The date and service address shall be provided on the notice as well as the Franchisee's name and phone number. The Franchisee shall maintain documentation of the required notice and provide such documentation to the City upon request. Failure to provide a copy of such notice to the Customer or the City shall be an infraction. (D/I)

b. Disposal of Improperly Prepared Yard Debris at Customer Request. Except at the request of the Customer, the Franchisee shall not mix with Solid Waste any source-separated Yard Debris that was improperly prepared. If the Yard Debris is mixed with Solid Waste at the Customer's direction, then it may be charged as extra solid waste if the volume causes the Customer's next solid waste pick up to exceed the Customer's existing level of service. (A/I)

13. Will Call Service. Franchisees shall provide roll carts for the collection of solid waste, bins for recycling, and a 60-gallon roll cart for yard debris at no charge to Will-Call customers, provided that such customers obtain service at least four times in any twelve month period or once every twelve-weeks. Will-Call customers who desire service less frequently shall have the option of purchasing roll carts and/or bins from the Franchisee or providing for their own receptacles.

E. OTHER RESIDENTIAL COLLECTION ACTIVITIES

1. White Goods and Bulky Wastes. Franchisees shall provide for the collection of White Goods or Bulky Wastes within seven business days of a customer's request. Rates shall not exceed the maximum rates set by the Council. (D/I)

2. Neighborhood Cleanups. Upon request by the Mayor or a City-recognized neighborhood association, each Franchisee shall participate in official neighborhood cleanup events at least once per year. The Mayor will specify materials required to be collected at such events. Expenses incurred in the course of conducting cleanup activities are allowable costs for rate review. (B/C)

3. Tire Collection. Franchisees shall provide for the collection of tires, on or off-rim, within seven business days of a customer's request. . Tires may be placed in the Solid Waste Collection vehicle. However, Franchisee shall not dispose of tires at any facility other than a facility authorized by the DEQ for the storage of waste tires. (D/I)

F. COMMERCIAL COLLECTION STANDARDS. The following Commercial Collection Standards are specific to commercial collection, and are in addition to the general collection standards outlined in the previous section.

1. Waste Evaluation. When a commercial or multi-family customer initiates service, the Franchisee shall perform an assessment of the customer's needs to assist the customer in choosing an optimal combination of solid waste disposal and recycling programs, keeping in mind the City's recovery goals. The assessment should involve questions about the business size, and specific queries to identify recycling waste streams. The results of the assessment should be reflected in the services selected. Assessments should be maintained and updated at least every three years. Franchisees shall have three years from the ratification of this ordinance to establish an assessment for each existing commercial customer. (D/I)

2. Commercial Containers

a. The Franchisee is required to provide roll carts or containers to all commercial customers. In the rare occasion that a customer wishes to provide his or her own container, and the container is compatible with the Franchisee's equipment, the Franchisee is permitted, but not required, to negotiate a rate at or below the Council-approved rates to provide the service without the container. When a customer initiates service, the Franchisee shall provide containers to a customer no later than five business days from the time of the customer request. Receptacles should be designed for safe handling and shall be durable, easy to clean, and be provided with lids or covers that can be readily opened. Receptacles shall be clearly identified by displaying the Franchisee name and telephone number prominently and conspicuously on the container. Receptacles must be clean when delivered to the customer. (D/I)

b. Franchisees may not charge a deposit for carts and containers, except as provided in Special Billing for Credit Risks. (D/I)

c. Franchisees may charge customers for lost, stolen, or damaged receptacles at 100% of the bulk purchase price of a new receptacle most recently paid by the Franchisee. The Franchisee is responsible for replacement of receptacles damaged in the course of normal wear and tear.

3. Scheduling. The Franchisee and the customer should mutually agree on the collection day(s) and frequency of collection that meets the customer's needs and work into the Franchisee's established routing.

4. Access. Containers shall be placed in a readily accessible location on a hard, level surface extending to the street. An enclosure must be unlocked at the

time of collection. The driver should not have to push containers more than 25 feet in order to attach them to the collection vehicle for dumping. The Franchisee may cumulatively add City-approved extra distance, gate, or access charges for difficult to reach receptacles.

5. Commercial Recycling Collection Standards. The following Commercial Recycling Collection Standards are specific to commercial collection, and are in addition to the general collection standards outlined in a previous section.

a. Commercial Recycling Containers. The Franchisee shall deliver appropriate recycling receptacles to the customer within five business days after a customer initiates service. The solid waste container rates include a recycling component, and recycling service is therefore provided to the customer at no additional charge. (D/I)

b. Commercial Waste Evaluation. The waste evaluation may involve the provision of waste paper collection boxes/bins, roll carts, caged containers, or other standardized receptacles in order to optimize separation of materials for recycling. The Franchisee is required to provide adequate training to assist the customer in making best use of the recycling collection system. (D/I)

The evaluation may indicate that recyclables are best captured by commingling the waste stream and collecting it on a route destined for a material recovery facility. In such a case, no separate recycling containers are necessary, but the Franchisee should provide information to the customer and educate the customer about the recycling to be performed through commingling. (D/I)

6. Transportation and Marketing of Recyclable Materials. The Franchisee shall transport and market source-separated materials for recycling by ensuring that all collected recyclables are delivered to a processor or broker of Recyclable Materials or to an end-use market. The Franchisee shall not deliver or cause to be delivered any collected source-separated recyclable material for disposal, except by prior approval by the Mayor. A franchisee's placement of properly prepared recyclables into any container then containing Solid Waste, including the Solid Waste compartment of a collection vehicle, shall be a failure to comply with this standard. (A/I)

If a customer is on a 100% commingled solid waste and recyclables service program, loads carrying the customer's waste stream must be delivered to a Material Recovery Facility for separation of the recyclables. (A/I).

G. Multifamily Collection Standards. The following Multifamily Collection Standards are specific to multifamily collection, and are in addition to the general collection standards outlined in the previous section.

1. Waste Evaluation. When a customer initiates service, the Franchisee shall perform an assessment of the customer's needs, and assist the customer in choosing an optimal combination of solid waste disposal and recycling programs, keeping in mind the City's recovery goals. The assessment should involve questions about the size of the complex, and specific queries to identify the best location for recycling collection sites or depots. The results of the assessment should be reflected in the services selected. Assessments should be maintained and updated at least every three years. Franchisees shall have three years from the ratification of this ordinance to establish an assessment for each existing multifamily customer.

2. Multifamily Containers

a. The Franchisee is required to provide roll carts or containers to all multifamily customers. In the rare occasion that a customer wishes to provide his or her own container, and the container is compatible with the Franchisee's equipment, the Franchisee is permitted, but not required, to negotiate a rate at or below the Council-approved rates to provide the service without the container. When a customer initiates service, the Franchisee shall provide containers to a customer no later than five business days from the time of the customer request. Receptacles should be designed for safe handling and shall be durable, easy to clean, and provided with lids or covers that can be readily opened. Receptacles shall be clearly identified by displaying the Franchisee name and telephone number prominently and conspicuously on the container. Receptacles must be clean when delivered to the customer. (D/I)

b. Franchisees may not charge a deposit for carts and containers, except as provided in Special Billing for Credit Risks. (D/I)

c. Franchisees may charge customers for lost, stolen, or damaged receptacles at 100% of the bulk purchase price of a new receptacle most recently paid by the Franchisee. The Franchisee is responsible for replacement of receptacles damaged in the course of normal wear and tear.

3. Scheduling. The Franchisee and the customer should mutually agree on the collection day(s) and frequency of collection that meet the customer's needs and work into the Franchisee's established routing.

4. Access. Container rates assume that containers are located in a readily accessible location or enclosure that is unlocked. The driver should not have to push containers more than 25 feet in order to attach them to the collection vehicle for dumping. The Franchisee may cumulatively add City-approved extra distance, gate, or access charges for difficult to reach receptacles.

5. Multifamily Recycling Collection Standards. The following Multifamily Recycling Collection Standards are specific to multifamily collection, and are in addition to the general collection standards outlined in a previous section.

a. Multifamily Recycling Containers. The Franchisee shall deliver appropriate recycling receptacles to the customer within five business days after a customer initiates service. The solid waste container rates include a recycling component, and recycling service is therefore provided to the customer at no additional charge. (D/I)

b. Waste Evaluation. The Waste Evaluation may involve the provision of collection boxes/bins, roll carts, caged containers, drop boxes, or other standardized receptacles in order to optimize separation of materials for recycling. The Franchisee is required to provide adequate training to assist the customer in making best use of the recycling collection system. (D/I)

6. Transportation and Marketing of Recyclable Materials. The Franchisee shall transport and market source-separated materials for recycling by ensuring that all collected recyclables are delivered to a processor or broker of Recyclable Materials or to an end-use market. The Franchisee shall not deliver or cause to be delivered any collected source-separated recyclable material for disposal, except by prior approval by the Mayor. A Franchisee's placement of properly prepared recyclables into any container then containing Solid Waste, including the Solid Waste compartment of a collection vehicle, shall be a failure to comply with this standard. (A/I)

7. Collection of Approved Source-Separated Recyclable Material.

a. The Franchisee shall collect the following materials set out for collection at multifamily complexes, so long as the materials are properly prepared, separated from solid waste and yard debris, and placed at the appropriate point of collection (D/I):

Aerosol Cans	Gable-top paper cartons	Phone Books
Aluminum cans, containers, and organic-free foil	Glass	Plastic Bottles with necks, including milk jugs
Aseptic Packaging (Drink Boxes)	Magazines	Scrap Paper
Corrugated Cardboard	Newspapers	Tin Cans
Ferrous Scrap Metal (Maximum height plus width of 30 inches in size and 30 lbs. Weight)	Non-Ferrous Scrap Metal (Maximum height plus width of 30 inches in size and 30 lbs. Weight)	Used Motor Oil (in leak proof, see-through plastic containers with a cap)

b. The Mayor has the authority to add or delete materials to or from the above list after performing studies to determine the impact on rates and adjusting rates accordingly, if needed.

H. SYSTEM AND EQUIPMENT STANDARDS

1. **Vehicle Condition and Maintenance.** All collection equipment must be maintained and operated in compliance with all local and state statutes, ordinances, and regulations including compliance with regulations related to the safety of the collection personnel and the public.

2. **Prevention of Leaking and Spilling Loads.** All vehicles shall be constructed, loaded, operated and maintained in a manner to reduce, to the greatest extent practicable, the dropping of, leaking, blowing, sifting or escaping of Solid Wastes, Recyclable Materials, liquids, vehicle fluids, or lubricants from the vehicle, except the normal leakage of fluids typically associated with property maintained vehicles. Leaks due to equipment failure shall be immediately contained and remedied as soon as practicable. (D/I)

3. **Vehicle Inventory.** The Franchisee shall provide the Mayor with an inventory of vehicles used within the City. The list shall include vehicle ODOT and Oregon plate numbers. (D/I)

4. **Vehicle Covers.** All open-body collection vehicles shall have a cover, which may be either an integral part of the vehicle or a separate cover. These covers shall be used while in transit, except during the transportation of Bulky Wastes or White Goods. (B/D)

5. **Vehicle Identification.** All collection vehicles shall bear a unique identifying number, and shall clearly display the company name and telephone number prominently and conspicuously on both sides of the vehicle. Before a new or used vehicle is put into service the vehicle must include all required identifications. All vehicles shall have current, valid registration with the State of Oregon and all drivers shall possess a current, valid commercial driver's license if required for the vehicle type. (D/D)

6. **Compliance with Law.** The Franchisee shall comply with all applicable federal, state, and local laws and regulations relating to driving, transportation, and Waste and Recyclable Material collection and disposal.

7. **Processing and Storage Yards.** Any processing and storage of collected materials shall be undertaken in a location suitable and adequate for such activity. Processing and storage facilities shall comply with all applicable zoning ordinances and any other applicable local and state statutes, ordinances and regulations.

8. Facilities for Storage, Maintenance and Parking. Facilities for storage, maintenance, and parking of any collection vehicles, receptacles, or other equipment shall comply with all applicable zoning ordinances and any other applicable local and state statutes, ordinances and regulations.

9. Compactors. Stationary compactors for handling solid waste shall comply with applicable federal, state and local safety regulations. No such compactor shall be loaded so as to exceed the safe loading design or operation limits of the collection vehicles used by the Franchisee. Compactors shall comply with all local, state and federal weight regulations or standards. A person who wishes services for a compactor should, prior to acquisition of such compactor, inquire of the Franchisee as to compatibility with the Franchisee's equipment or equipment that the Franchisee is willing to acquire. In the event a weight violation occurs, all costs associated with such violation shall be the individual responsibility of both the generator and the owner of the compactor. The generator shall be responsible for insuring compatibility with the Franchisee's equipment and all cost of retrofitting any collection equipment shall be the responsibility of the owner of the compactor.

I. INFECTIOUS AND HAZARDOUS WASTE

1. The Franchisee shall provide for collection of medical and infectious waste either through its own forces or by subcontract with a qualified disposal firm for this service. In either case, the Franchisees and their subcontractors shall conform to all rules and laws including, but not limited to, those of the State of Oregon applying to the collection, transportation, storage, treatment, and disposal of medical and infectious wastes. (D/D)

2. The Franchisee is not required to collect hazardous wastes from customers. If a Franchisee identifies a hazardous waste that the customer has placed for collection with solid waste, recyclable materials, or yard debris collection, the Franchisee shall leave the material along with a notice indicating the presence of the hazardous material. The Franchisee shall retain a copy of the notice and deliver a copy to the Mayor. (D/I)

3. When the Franchisee refuses to pickup due to the presence of a hazardous substance, the Franchisee shall offer the following options once the hazardous materials are removed completely from the Solid Waste, Recyclable Materials and/or Yard Debris:

Immediate collection of the Solid Waste, Recyclable and/or Yard Debris for the City-approved Go-back Rate.

Collection of the Solid Waste, Recyclable and/or Yard Debris as one free extra container the following week on the designated collection day. (D/I)

J. CUSTOMER SERVICE STANDARDS

1. **Office Requirements.** Franchisees shall have office staff or an answering machine or service available to accept Customer calls and complaints at all times. Phone lines must be dedicated customer service phone lines with the Franchisee's business name listed as a business in the telephone directory. A Franchisee must maintain at least one dedicated telephone line for every 2,000 customers (or fraction exceeding 10%). All Franchisees must have facsimile capability not requiring advance notice of transmission. (B/I)

2. Resolution of Customer Complaints and Inquiries

a. **Response Time.** Calls left on a Franchisee's answering machine or forwarded to the Franchisee from the Mayor shall be returned within one business day. (E/I)

b. **Complaint Log.** Each Franchisee shall maintain a record of all complaints made to that Franchisee regarding service. This record or complaint log shall include at a minimum the following information: the name, address, and phone number of the complainant, if known; the date of receipt of the complaint; the manner of receipt of the complaint, i.e., telephone, letter, etc.; the subject matter of the complaint, the disposition of the complaint; the date of disposition of the complaint, the date and method of notification to the complainant of the disposition. The records of complaints shall be available to the Mayor for inspection at any time during the normal business hours. If a customer requests it, they shall provide the Mayor or the Mayor's designee's telephone number. A copy of the complaint log for the calendar quarter shall be submitted to the City with the franchise payment for that calendar quarter. Complaint records shall be maintained on the Franchisee's premises for two years. (E/I)

3. **Franchisee Demeanor.** The Franchisee and its employees shall always be courteous in its interactions with customers, and shall not use foul or abusive language. In evaluating complaints regarding discourteous behavior, the Mayor may base his or her decision on whether or not a reasonable person would find the actions or response of the Franchisee to violate community standards for courtesy. (D/I)

4. Billing Standards.

a. **Billing Period.** Except in cases of customers that qualify as credit risks, Franchisees shall bill customers not more than 60 days in advance of the end of the service period or sixty days in arrears of the beginning of the service period. Payments shall not be due more than 31 days before

the end of the service period being billed, nor less than fourteen days after the date of the postmark of the billing. (C/C)

b. Billing Contents. Billings shall contain the following minimum elements: service address, coverage of dates being billed, and the billing rate for the customer's service level. The bill will also contain an aggregated total of all additional charges during a period. (C/C)

c. New Customers or Customers to Whom Service Has Been Suspended. New customers that do not meet the credit guidelines submitted by the Franchisee and approved by the City, and customers who require suspension of service for non-payment of account three or more times within a calendar year may be considered credit risks. The Franchisee is responsible to select a credit policy that complies with all laws, and to apply the policy uniformly throughout its customer base. (C/I)

d. Credit Risk Customers: Franchisees may handle credit risk customers in one of two ways:

Advance Billing: Franchisees may bill credit risks up to two months in advance of service, and continue to perform service for prepaid service up to one year. After one year of prompt payment, the customer must be reclassified to regular status.

Deposit: A Franchisee may charge a deposit of two month's revenue. The deposit must be returned to the customer after twelve months of consistent prompt payment.

e. Late Fees/Service Charges. Franchisees may assess late fees and service charges, including interest and other charges related to the cost of collecting overdue payments on accounts not paid by their due dates. Such charges shall be reasonable and approved by the Mayor in advance. Charges may not be imposed earlier than ten days before the end of the service period being billed, or ten days after the due date, whichever is later. (D/C)

5. Refusal of Service. Franchisees may refuse collection service to any customer if the customer has not paid a bill unless the customer has initiated a formal dispute within thirty (30) days of the billing due date. In no event, however, shall a Franchisee suspend service without first notifying the customer in writing not less than seven business days prior to the date of intended suspension of service. The Franchisee may assess and receive City-approved re-start and collection fees from the customer prior to resuming service.

6. Responsibilities for Customer Education/Promotion. The Franchisee shall participate in City directed promotion and education efforts as outlined below. All information on preparation of recyclables shall be provided by the Mayor or reviewed and approved by the Mayor.

7. New Customer Information. Franchisees shall provide each new customer with information that is reasonable to permit the customer to make a reasoned choice of service. Franchisees shall actively assist the customer in making the final selection. Within seven business days of a customer's initial call, a Franchisee shall provide the customer with printed material describing the levels of service and rates.

8. Distribution of City-provided Informational/Educational Materials. Franchisees shall distribute City-provided information and education notices to all customers including customers whose service is provided monthly, on-call and to residents of rental property. The notices shall be distributed within a reasonable time specified by the City, and according to delivery instructions provided by the Mayor. Franchisees are responsible for printing their name and telephone number on City-provided materials that are created with a space dedicated for that purpose. (B/C)

9. Notice of Change in Schedule. Franchisees shall provide notice of changes in regular collection schedules or any other pertinent information with a minimum notice of seven business days. Notice shall be in the form of written material sent via regular first class postal service or personal delivery to all affected service addresses. Personal delivery means notices are securely fastened to containers, fence-posts, or doors in a conspicuous location. They shall be packaged in a manner that protects them from the elements for a reasonable period of time. (B/C)

10. Coordination with City. Franchisees shall notify the City when considering Franchise-wide promotional or educational activities, and provide the Mayor with advance copies of materials to be distributed to customers. Franchisees must receive the Mayor's approval prior to distribution in order to assure consistency with citywide policy. (C/C)

K. CUSTOMER RESPONSIBILITIES

1. General Customer Requirements.

a. All residential, multi-family and commercial properties in the city shall provide for collection of solid waste, recyclable materials and yard debris in accordance with this ordinance.

b. Except as otherwise provided by a written agreement between the landlord and tenant, the owner of any residential or multi-family dwelling complex who rents, leases or lets dwelling units for human habitation shall:

- (1) Subscribe to and pay for collection service with the franchisee on behalf of his/her tenants or, if the dwelling complex contains four or fewer units, self-haul solid waste from tenants to a Metro approved disposal facility;
- (2) Provide a sufficient number of receptacles of adequate size to prevent the overflow of solid waste, recyclable materials and yard debris from occurring. Receptacles shall be placed in a location accessible to all dwelling units;
- (3) Provide for sufficiently frequent, but at least weekly, collection of solid waste and recyclable materials, except for compactors, which shall be collected at least every fourteen (14) days; and
- (4) If the dwelling complex has four or fewer units and the owner is self-hauling tenants' solid waste, provide for the same level and frequency of collection of recyclable materials and yard debris as are required of licensees serving residential customers. Upon request by the Mayor, the owner shall provide proof of compliance with this requirement.

2. Residential Placement of Receptacles and Materials. Residential customers are required to place materials for collection at the appropriate point of collection as described in the Hauler Collection Standards section. Customers should place receptacles so that they do not block sidewalks, driveways, public streets, or other rights of way. Residential receptacles must be placed prior to 6:00am on their collection days. Customers in areas where Franchisees have automated collection shall be expected to make reasonable accommodations to place carts and park cars so as to reduce interference with automated collection equipment. It is the Franchisee's responsibility to educate customers about the necessary accommodations. Receptacles must be removed from the curb and into the customer's yard area within 24 hours from the time of collection.

3. Commercial Set Out Location. Commercial and multifamily customers shall set solid waste, recyclable materials, and yard debris receptacles at a location that is readily accessible and safe to empty or load, that does not require a Franchisee to go up and down stairs, and that is agreed upon by the Franchisee and the customer.

4. Recycling to Set Out in Recycling Bins. Recyclable materials shall be placed in hauler-provided bins, containers or in separate bags and boxes that clearly segregate them from Solid Waste or other materials the customer does not want to discard.

5. Secure Lightweight Materials. Lightweight materials such as ashes, Styrofoam "peanuts", kitty litter, and sawdust shall be placed securely within a closed container to minimize dispersion prior to and during dumping into the collection vehicle or container.

6. Contents of Carts/Containers Must Fall Freely. Contents of Solid Waste or Yard Debris carts/containers must fall freely. The Franchisee shall not be responsible for digging the contents out of a cart or container.

7. Weight Limits. Contents of receptacles must fall freely. Franchisees are not responsible for digging the contents out of receptacles. The following table describes approved weight limits:

Size/Type	Maximum Weight (Including Container)
Up to and including 20 Gallons	35 lbs.
Over 20 Gallons, up to and including 40 Gallons	60 lbs.
Yard Debris kraft Bags	40 lbs.
Franchisee-provided, up to and included 40 gallon carts	75 lbs.
Franchisee-provided carts over 40, up to and including 65 Gallons	100lbs.
Franchisee-provided carts over 65, up to and including 96 Gallons	145 lbs.
Containers equal to or greater than 1 cubic yard and less than 10 cubic yards	250 lbs. Per cubic yard
Containers greater than 10 cubic yards	Weights subject to Franchisee Truck Capacity
Compacted Containers	500 lbs. Per cubic yard

8. Responsibility to Separate Overweight Contents. When containers are overweight, it is the customer's responsibility to separate wastes into additional receptacles or bags so that weight limits are observed. The additional receptacles or bags are subject to extra charges as applicable.

9. Preparation of Recyclable Materials. Customers shall prepare recyclables in accordance with City-approved instructions provided by the Franchisees. The Mayor shall be responsible for publishing guidelines on the proper preparation of recyclable materials that are consistent with industry practice and the collection equipment used by the Franchisees.

10. Preparation of Yard Debris. The customer may place yard debris in 32-gallon cans or hauler-provided carts, in kraft type paper bags, or in bundles. Bundles must be securely tied with string or twine to support the bundle when lifted. Bundles may be no greater than 48 inches in length and 18 inches in diameter.

11. Infectious Waste Setout. Infectious wastes, including hypodermic needles, must be placed in appropriately marked containers. Customers shall not place these items into roll carts or containers for collection of Solid Waste,

Recyclables or Yard Debris. Customers must contact the Franchisee to determine proper disposal options.

12. Hazardous Waste. Customers shall take appropriate actions to ensure that hazardous materials, chemicals, paints, corrosive materials and hot ashes are not put into a receptacle for solid waste collection.

13. Unacceptable Waste. The customer shall not place unacceptable materials in solid waste receptacles. Unacceptable materials include: oils, fats, and other liquids generated by commercial entities, semi-solid wastes, hazardous wastes, and flammable materials. The customer should contact their Franchisee for information on proper disposal.

14. Payment Responsibility. Customers must pay their invoices within the due dates specified by the Franchisee, as long as the Franchisee has submitted a collection plan with the City and has received the City's approval of the plan. Customers who do not pay the amount due within terms are subject to stopped service and collection actions.

15. Notification of Missed Collection or Billing Errors. Customers are responsible for prompt notification of the Franchisee when problems arise such as apparent missed collections or billing errors. Customers must notify the Franchisee regarding obvious billing errors, such as improperly charged extras, within 60 days of receipt of an original invoice in order to receive credit. Customers may not deduct from payment for past missed pickups.

16. Vacation Credit. The customer is responsible for requesting a vacation credit from the Franchisee. Vacation credits are available only for periods of at least two weeks, and must be requested at least 48 hours in advance of the first pickup that is scheduled during the vacation period.

L. REPORTING TO THE CITY

1. Equipment and Depreciation. The City shall set the standard economic lives of equipment by Rule based upon industry input and prevailing practices.

2. Annual Reports. The Annual Report will ask Franchisees to detail Revenues and Expenses (allowable and unallowable), in an income statement format, and provide a variety of information about customer counts, service levels, disposal volumes, and recycling activities. While direct charge of allowable expenses is preferred, it is understood that many Franchisees provide service in areas outside the City of Beaverton. Consequently, allocations to the City are necessary for most allowable expenses. The majority of expenses incurred by a collection company can be associated with one of the following key allocation bases:

- a. Truck Hours—The number of hours that collection vehicles are operated within an area throughout the year.
- b. Labor Hours—The number of paid hours for collection personnel.
- c. Customer Count—The number of customers at each Service level. The Mayor may reasonably weight customer Counts for particular expense items to better reflect the cost of service. For example, a drop box customer with on-call service utilizes more administrative time than a typical commercial customer. In another example, commercial sales support teams spend no time on residential customers, and more time in competitive markets than in franchised markets.
- d. Disposal Volume—The number of yards or tons collected within an area.
- e. Revenue—The amount of revenues generated within an area.

3. Quarterly Studies. At a minimum, Franchisees will be required to conduct quarterly studies of each route for two weeks to determine relative truck, labor, and disposal amounts or ratios to be used in allocating expenses to the Franchisees' various operating areas. Franchisees must make these studies or ongoing allocation programs available for inspection by the City per the Access For Inspection provision of this ordinance. Franchisees will use the key allocation information to allocate shared allowable expenses to Beaverton. The City will determine the revenue and expense detail items and the associated allocation bases to be used for allocation of each item.

4. Allocated Operations. In addition to the results of operations within the City of Beaverton, Franchisees shall report totals for all operations that share significant operational, management, and administrative expenses with the Beaverton Franchise. Resources allocated from regional or corporate offices or affiliates shall be distributed to appropriate expense line items, and shall also be disclosed in a schedule describing total allocations and their distribution to individual expense line items. All allocations from Affiliated Companies must be described and must be equal to or less than the fair market value of similar goods and services purchased from a third party.

5. Program Meetings. As scheduled by the Mayor, Franchisees shall attend program status meetings. The City will provide reasonable advance notice of required meetings by facsimile, email, or mailed notices.

Approved by the Mayor this 28th day of June, 2002.

EXHIBIT 6

**PROPOSED REVISED RULE
"RESPONSIBILITY OF CUSTOMERS"**

REVISED RULE

Responsibility of Customers.

A. All property owners shall provide for the collection of solid waste, recyclable materials and yard debris at such frequency that the solid waste, recyclable materials and yard debris stored on the property do not mar the property's appearance, create a stench or a fire hazard, detract from the cleanliness or safety of the property, or constitute an unreasonable danger to human life or property.

B. An owner of a rented, leased or let residential dwelling unit shall:

1. Provide tenants with a sufficient number of receptacles of adequate size to prevent the overflow onto the ground of solid waste, recyclable materials or yard debris.

2. Enter into an agreement with a franchisee for the weekly collection of the tenants' solid waste, recyclable materials and yard debris; provided, however, that if the owner provides a compactor for storage of solid waste, the owner may enter into an agreement with a franchisee for collection of the tenants' solid waste, recyclable materials and yard debris every other week.

C. An owner of a rented, leased or let multi-family dwelling unit shall:

1. Provide tenants with a sufficient number of receptacles of adequate size to prevent the overflow onto the ground of solid waste, recyclable materials or yard debris.

2. Enter into an agreement with a franchisee for the weekly collection of the tenants' solid waste; provided, however, that if the owner provides a compactor for storage of solid waste, the owner may enter into an agreement with a franchisee for collection of the tenants' solid waste, recyclable materials and yard debris every other week.

3. Enter into an agreement with a franchisee for the regular collection of the tenants' recyclable materials on an "as needed" basis.

D. An owner of a rented, leased or let residential dwelling unit may self-haul the solid waste generated by the owner's tenants to a Metro-approved disposal facility, provided:

1. The dwelling building or group of buildings contains four or fewer dwelling units on a single lot;

2. The owner provides the affected tenants with the same level and frequency of collection of yard debris and source-separate recyclable materials as required of a franchisee serving similarly-situated residential customers; and

3. Upon request of the City, the owner provides the City with proof of compliance with these requirements.

E. Violation of this section constitutes a Class 1 Civil Infraction and shall be processed according to the procedure set forth in BC 2.10.010 - 2.10.050.

F. Each violation of a separate provision of this rule shall constitute a separate civil infraction. Each day that a violation of a provision of this ordinance or of a rule promulgated under authority of this ordinance is committed or is permitted to continue shall constitute a separate civil infraction.

G. Any penalty imposed pursuant to this rule is in addition to, and not in lieu of, any other civil, criminal or administrative penalty or sanction otherwise authorized by law.

H. A requirement to abate a nuisance is not a penalty for violating this section, but is an additional remedy. The imposition of a penalty does not relieve a person of the duty to abate the nuisance.

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

SUBJECT: A Resolution Establishing City Annexation Policies

FOR AGENDA OF: 11-1-04 **BILL NO:** 04221

Mayor's Approval: *Bob Water*

DEPARTMENT OF ORIGIN: CDD *JMG*

DATE SUBMITTED: 10-29-04

CLEARANCES:

PROCEEDING: WORK SESSION

EXHIBITS:

BUDGET IMPACT

EXPENDITURE REQUIRED \$0	AMOUNT BUDGETED \$0	APPROPRIATION REQUIRED \$0
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HISTORICAL PERSPECTIVE:

The City of Beaverton presently has a relatively passive approach to annexation. Almost all annexations in the recent past have been by "consent", whereby the owner(s) of and at least half the registered voters (if any) residing on a parcel or parcels to be annexed sign a petition for annexation. The most recent exception to the use of consent annexations occurred in the mid 1990s when residents of parts of the West Slope, Raleigh Hills and Garden Home neighborhoods petitioned to annex into the City primarily to avoid what they perceived as a threat of annexation by the City of Portland. These annexations were accomplished through a "double majority" process, whereby petitions were signed by owners of a majority of the land acreage in the area and by a majority of the registered voters in the area.

INFORMATION FOR CONSIDERATION:

It is unlikely that the conditions that led to the 1990s double majority annexations will be repeated in the foreseeable future. Staff supports use of an annexation method that would allow annexation of selected properties without property owner or voter approval. Under state law, properties within areas surrounded by a city's boundaries can be annexed after a city council conducts a public hearing on the proposed annexation. On this Council agenda is consideration of adoption of a proposed resolution that sets City policies for annexation, distinguishing between (1) unincorporated properties that are not islands within the City but are within the City's assumed urban services area, and (2) those that are within islands, as defined by state law. The purpose of this worksession is to allow for a brief discussion of the proposed resolution.

RECOMMENDED ACTION:

Conduct the work session.

DRAFT

BEAVERTON CITY COUNCIL
REGULAR MEETING
OCTOBER 18, 2004

CALL TO ORDER:

The Regular Meeting of the Beaverton City Council was called to order by Mayor Rob Drake in the Forrest C. Soth City Council Chamber, 4755 SW Griffith Drive, Beaverton, Oregon, on Monday, October 18, 2004, at 6:33 p.m.

ROLL CALL:

Present were Mayor Drake, Couns. Betty Bode, Dennis Doyle, Fred Ruby, Forrest Soth and Cathy Stanton. Also present were City Attorney Alan Rappleyea, Finance Director Patrick O'Claire, Community Development Director Joe Grillo, Engineering Director Tom Ramisch, Operations/Maintenance Director Gary Brentano, Library Director Ed House, Human Resources Director Nancy Bates, City Engineer Terry Waldele and Deputy City Recorder Catherine Jansen.

PROCLAMATIONS:

Mayor Drake proclaimed October 25, 2004, Make a Difference Day and October 18-22, 2004, Race Equality Week.

CITIZEN COMMUNICATIONS:

Pavel Goberman, Beaverton, said he was a write-in candidate for State Representative for District 28. He said his civil rights were violated by not being able to speak at the Voters Forum. He said he attended the forum and submitted a question for Representative Barker regarding campaign funding and the narrator did not ask Barker the question. He said this was censorship, not democracy.

Mayor Drake explained the narrator was not hired by the City. He said this event was staffed by volunteers; the narrator and the members of the Beaverton Committee for Citizen Involvement volunteered their time to organize this event. He said he and the Council were not involved in organizing the event.

Goberman said he felt people from the audience should be able to ask questions without going through a narrator.

Coun. Soth explained he had been a narrator in many similar functions over the years. He said it was impossible to have all the questions answered because of the volume and limited time. He said the narrator must choose carefully which questions to ask to both or all candidates. He said this was a judgment call and it was important to keep to the time schedule in order for everyone to be heard.

Ann Jacks, Aloha, said she was a mentor for a 13-year-old girl; recently she became aware that minors were able to check out R-rated movies from the library without parental permission. She said she called Library Director Ed House and he explained it was not the library's responsibility to monitor this activity. She said as a concerned citizen and a member of the School Board, she thought this was an issue of great concern to the community. She said unsupervised students at the library should not be checking out R-rated movies. She said Hollywood Video and Blockbuster Video did not allow minors to check out R-rated movies and movie theaters did not allow admittance to the movies unless teenagers were 17; yet a child of any age could check out an R-rated video. She said she understood the censorship issue but she felt this should be looked at more closely. She said she testified in front of the Library Commission last week and also contacted the Washington County Board of Commissioners.

Mayor Drake asked Library Director, Ed House to comment on this issue. He said this was not the first time this had been brought up and it was a tough issue.

House said this was an important subject to librarians across the community and he appreciated Jacks' comments. He said it was important that parents oversee what their children checked out at the library. He said there were many items in the library that people did not like depending on their religious, political or moral views; however, this was a public library that served all ages. He said one issue of concern was that a child needed to adhere to the wishes of their parents or guardian and it was the responsibility of the parents or guardian to express this to the child. He said they did not want to have librarians telling children what they could view, read or hear. He used the analogy of a 16-year-old whose car keys were taken away for driving recklessly. He said if a child did not follow their parent's guidelines for using the card, it should be taken away. He explained the library had self-checkout machines so a person did not interact with a library staff person when checking out items. He said the final issue was that of the "slippery slope" and he used the example of Harry Potter. He said when Harry Potter came out as a book and movie, there were people all over the country who felt it was inappropriate for children to read and see. He asked at what point one would say this was appropriate or inappropriate to check out. He said this brought the issue back to the parent and parents needed to decide for themselves what their child could see or read.

City Attorney Alan Rappleyea explained there was much litigation regarding library regulations and internet filters. He said the City could legally impose regulations for young children, but there are no filters on young adults. He said per City decision, middle school children had full access to the internet. He said while the City could impose some restrictions, the larger issues were the administrative difficulties, such as deciding at what age restrictions were imposed and how guardianship was checked. He noted there were many issues to explore if Council wished to establish restrictions.

Coun. Soth stated this was discussed many times since he had been on the Council. He said it boiled down to whether it was the library's or parent's responsibility to watch what children checked out. If it was the Library's responsibility, then guidelines from the parents were needed. He said this depended on the degree of trust established between parent and child, rather than placing this responsibility on library staff. He said in his view, it was the parent's responsibility. He commented if there was a way to filter this activity, without running into charges of censorship, then the City might look at it.

Coun. Stanton said she agreed with Jacks. She said in smaller communities she was sure library staff worked in partnership with parents and community in maintaining standards. She said the Beaverton Library was too big to do that; the logistics would be difficult, if not impossible. She asked if House could bring to Council any data on what other libraries do in this situation. She explained library staff and hours were just cut back because of the failure of the serial levy, and this kind of operation would be labor intensive. She said it was timely that Jacks brought this issue forward.

Mayor Drake asked House if other libraries in the County limited access.

House replied there weren't any libraries in the County that limited access. He said the American Library Association (ALA) wrestled with this question for many years. He said the ALA concluded it was the parent's who should have the responsibility of watching what their children checked out at the libraries.

Mayor Drake said he had his own experience guiding his son's use of the Web. He said within reason, he did not know where the slope was on balancing guidelines and First Amendment issues. He said this was balancing what the courts allowed and having a free and open society. He said he agreed youth should be guided in what they see and read. He said he believed the City had collectively tried to find the right balance.

Jacks asked if the legal issues the library dealt with were different than public schools. She said the schools had filters on what youth could view on the Internet. She said commercially (Blockbuster, Hollywood Videos and Regal Cinemas) were more restrictive than the City. She asked why a commercial business would be more restrictive than a public entity. She stated there were many unsupervised children at the library because it was considered a safe place and she wanted it to remain that way. She said, in her opinion, children should not see many of the items available to them at the library until they were much older.

Coun. Ruby stated there was a big difference between a movie and a book. He noted there was no way to screen a minor from checking out a book that had vulgar elements in it; but there was a big difference between a graphic display of violence in a movie and printed text of a book. He said the real difference to him was why movies of that nature were in the library. He questioned why there were R-rated films in the library, unless they were documentaries. He said he would like more information.

Coun. Stanton noted there were many CD's at the Library which were also inappropriate. She said she was not sure they would find an answer to this but she felt the City needed to explore its options.

Mayor Drake suggested if the City did anything, it should do it collectively at the County and County Library Advisory Board level. He agreed Jacks was a well-intentioned citizen. He noted for every person she brought to support this issue, there were just as many others against censorship and in support of the First Amendment. He said it was a tough issue and he recommended that staff check information from around the County.

Jacks asked if there were State guidelines the library had to follow.

Mayor Drake explained there were no State guidelines. He said he thought the difference between a school and a public library was that schools dealt with youngsters but a public library served people of all ages and walks of life, with different viewpoints.

Coun. Bode thanked Jacks for coming. She said this went back to educating families and the School Board might want to undertake additional parent training on guiding children's use of the library. She said it was better to educate families and let them make the choice. She said as soon as a public body setup guidelines or restrictions, it would impinge on someone's rights.

Jacks said she spoke with several parents who were shocked to learn youth under 18 could check out R-rated movies at Library.

Coun. Doyle stated he shared her frustrations and understood her position. He said public bodies operated under different standards than private business, which was frustrating for Council and citizens. He said he felt there was a need to inform parents and citizens, and thanked her for bringing this matter forward. He said there was a need to repeat the message often, in hopes that someone would look after the children.

Jacks said she also wished to speak about having a smoke-free environment in clubs, restaurants and bars. She said in San Francisco all these businesses were now smoke free and she would like the City to move toward that direction.

Mayor Drake explained the Legislature dealt with this issue and the State law was just changed. He said she could get the new statute on the State's Web site and the change in the law made it better for everyone.

Coun. Stanton noted the Mayor had asked staff to look at what was happening in the County on the issue of restricting youth access. She asked that staff look beyond the County and State at what others had done.

Mayor Drake explained Oregon's State Court interpreted the First Amendment more liberally than any other state. He said as result of that, Oregon had the highest number of per capita adult businesses than any state.

Coun. Stanton said she was suggesting that the Library Director conduct a wide search for information, rather than just checking at County or State levels.

Mayor Drake said staff would check what was available.

Henry Kane, Beaverton, said on October 11, 2004, he distributed to Council a six-page analysis of the City's proposed Civil Rights Ordinance and he was following it up with four pages of further analysis. He said the analysis contained suggestions he felt the City should follow when considering the proposed ordinance. The suggestions included: 1) Meeting with the City Attorney in executive session to discuss the issues Kane raised in his analysis; 2) Advertising the public hearing, including what was in the ordinance; 3) Council should decide what it wants to do and put in exemptions and penalties, other than sending it to Circuit Court or the Oregon Labor Commissioner. He concluded by stating he wanted the City to do this correctly.

Mayor Drake asked the City Attorney to briefly respond to Kane's comments.

Rappleyea explained that Oregon State Statutes (ORS) did not regulate sexual orientation or gender identity, but case law did. He said case law said that the ORS which regulated sexual discrimination encompassed sexual orientation and gender identity in the State and Federal Courts. He said the proposed ordinance was not a huge leap of law. He said there were questions about the administrative provisions which he discussed with the Mayor. He said the provisions call for an intergovernmental agreement with the Bureau of Labor and Industries, which provided the enforcement mechanism. He said the enforcement was through the court system, so if anyone felt they were discriminated against they had a cause of action.

Mayor Drake explained at the November 8, 2004, public hearing, the City Attorney would present an overview of what the ordinance would and wouldn't do prior to taking public testimony. He said the ordinance did not blaze new legal trail; it summarized current State and case law.

Coun. Doyle asked if staff could provide information on what the neighboring cities have experienced with this ordinance.

COUNCIL ITEMS:

Coun. Stanton reminded Council that on October 21, 2004, the speakers for the Westside Economic Alliance would be David Bragdon, Metro Council President and Lane Shetterly, Director of the Oregon Department of Land Conservation and Development. She also noted that on October 28, 2004, Metro and the Oregon Department of Transportation would hold a "Speak Out" at the Beaverton Resource Center, from 5:00 p.m. to 8:00 p.m., to solicit citizen comments on projects in the region.

STAFF ITEMS:

There were none.

CONSENT AGENDA:

Coun. Soth MOVED, SECONDED by Coun. Stanton, that the Consent Agenda be approved as follows:

Minutes of the Regular Meeting of October 11, 2004

Coun. Stanton noted she had corrections to the minutes of October 11, 2004, which she gave to the Deputy City Recorder.

Coun. Bode stated she would abstain from voting on the October 11 minutes as she was not at that meeting.

Question called on the motion. Couns. Bode, Doyle, Ruby, Soth and Stanton voting AYE, the MOTION CARRIED unanimously. (5:0) Coun. Bode abstained from voting on the October 11, 2004 Minutes as she was not at that meeting.

PUBLIC HEARINGS:

04208 Adopt Resolution Setting Fees for Appeals of Penalties for Violations of the Site Development Ordinance and the Engineering Design Manual and Standard Drawings, and for Appeals of Actions, Decisions and Interpretations of the City Engineer (Resolution No. 3783)

Mayor Drake noted City Engineer Terry Waldele was present if Councilors had any questions.

There were none.

Mayor Drake opened the public hearing.

There was no one present who wished to testify.

Mayor Drake closed the public hearing.

Coun. Soth **MOVED, SECONDED** by Coun. Stanton, that Council approve Agenda Bill 04208 and adopt the Resolution Setting Fees for Appeals of Penalties for Violations of the Site Development Ordinance and the Engineering Design Manual and Standard Drawings, and for Appeals of Actions, Decisions and Interpretations of the City Engineer.

Coun. Soth stated it was interesting to note that after one-and-one-half years, the City retained the same fee. He said that indicated the City was doing the right thing; when circumstance had not changed a great deal, the City retained what it had rather than arbitrarily trying to do something different.

Coun. Stanton asked why Beaverton had ten appeals in the past ten years but other jurisdictions had not had any appeals. She questioned what may have caused Beaverton's appeal rate.

City Engineer Terry Waldele said the City had some strict requirements, some difficult building conditions and some developers were on the cutting edge with new types of developments. He said there wasn't one root cause for the violations.

Mayor Drake said it would be interesting to look at how many projects in the past ten years required a Site Development Permit, and what percentage appealed. He said he suspected the number would be small; for in most cases it was a misunderstanding of the Code and he felt people wanted to do the right thing.

Question called on the motion. Couns. Bode, Doyle, Ruby, Stanton and Soth voting **AYE**, the **MOTION CARRIED** unanimously. (5:0)

ORDINANCES:

Suspend Rules:

Coun. Doyle **MOVED, SECONDED** by Coun. Soth, that the rules be suspended, and that the ordinances embodied in Agenda Bills 04209, 04210 and 04211 be read for the first time by title only at this meeting, and for the second time by title only at the next

regular meeting of the Council. Couns. Bode, Doyle, Soth, Ruby and Stanton voting AYE, the MOTION CARRIED unanimously. (5:0)

First Reading:

Rappleyea read the following ordinances for the first time by title only:

- 04209 An Ordinance Amending Ordinance No. 4187, Figure III-1, the Comprehensive Plan Land Use Map and Ordinance No. 2050, the Zoning Map for Property Located at 15865 SW Division Street; CPA 2004-0010/ ZMA 2004-0010 (Ordinance No. 4324)
- 04210 An Ordinance Amending Ordinance No. 4187, Figure III-1, the Comprehensive Plan Land Use Map and Ordinance No. 2050, the Zoning Map for Lilly K. Johnson Park which is Located North of SW Division Street and West of SW 153rd Avenue; CPA 2004-0012/ZMA 2004-0012 (Ordinance No. 4325)
- 04211 An Ordinance Annexing Property Located at 12030 SW Center Street to the City of Beaverton: Expedited Annexation 2004-0012 (Ordinance No. 4326)

Second Reading:

Rappleyea read the following ordinance for the second time by title only:

- 04207 An Ordinance Annexing Property Located at 15865 SW Division Street to the City of Beaverton: Expedited Annexation 2004-0011 (Ordinance No. 4323)

Coun. Soth MOVED, SECONDED by Coun. Doyle, that the ordinance embodied in Agenda Bill 04207, now pass. Roll call vote. Couns. Bode, Doyle, Ruby, Soth and Stanton voting AYE, the MOTION CARRIED unanimously. (5:0)

ADJOURNMENT

There being no further business to come before the Council at this time, the meeting was adjourned at 7:31 p.m.

Catherine Jansen, Deputy City Recorder

APPROVAL:

Approved this _____ day of _____, 2004.

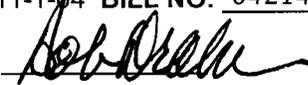
Rob Drake, Mayor

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

SUBJECT: Design Review Update Project (TA 2003-0005)

FOR AGENDA OF: 11-1-04 **BILL NO:** 04214

Mayor's Approval: 

DEPARTMENT OF ORIGIN: CDD 

DATE SUBMITTED: 10-19-04

CLEARANCES: City Attorney 
Devel. Serv. 

PROCEEDING: Consent

EXHIBITS: 1. Land Use Order #1736
2. Planning Commission recommended text.

BUDGET IMPACT

EXPENDITURE REQUIRED \$0	AMOUNT BUDGETED \$0	APPROPRIATION REQUIRED \$0
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HISTORICAL PERSPECTIVE:

Beginning in December 2002, the Community Development Department began meeting with the Code Review Advisory Committee to discuss a comprehensive revision to the City's existing Design Review process. The Committee met 13 times between December 2002 and June 2003 and forwarded a consensus proposal to the Planning Commission for their consideration. On August 27, 2003, the Planning Commission held their first public hearing to consider the proposed text amendment (TA 2003-0005) of the Design Review process contained within the City's Development Code. After the August 27, 2003 meeting, staff met with representatives of commercial developers to discuss the proposed text. After meeting with the commercial developers, staff re-convened the Code Review Advisory Committee to review the changes to the proposed text requested by the commercial developers. The Commission next considered TA 2003-0005 at their October 22, 2003 public meeting and at subsequent public meetings which were held on July 7, 2004 and August 18, 2004. At the August 18, 2004 public meeting, the Commission voted 7-0 to recommend approval of the proposed text amendment as summarized in Land Use Order 1736.

INFORMATION FOR CONSIDERATION:

Attached to this Agenda Bill is Land Use Order 1736 which memorializes the Planning Commission recommendation of approval of the Development Code text amendment. The recommended text is attached. Due to the extensive Planning Commission record, the entire record has not been attached to this Agenda Bill, but is available upon request.

RECOMMENDED ACTION:

Staff recommend that the City Council approve the recommendation of the Planning Commission as set forth in Land Use Order 1736. Staff further recommend that the City Council direct the City Attorney to prepare an ordinance adopting the recommended Development Code text amendment.

The exhibits for this Agenda Bill are attached to Agenda Bill No. 04212 which was the subject of a Work Session with staff at the beginning of the November 1, 2004 Council meeting.

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

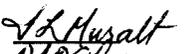
SUBJECT: Authorize the Mayor to Execute an Intergovernmental Agreement with Washington County for Utility Undergrounding Work on the Barnes Road Project, 119th Avenue to Saltzman Road

FOR AGENDA OF: 11-01-04 **BILL NO:** 04215

Mayor's Approval: 

DEPARTMENT OF ORIGIN: Engineering 

DATE SUBMITTED: 10-19-04

CLEARANCES: Purchasing 
Finance 
City Attorney 
Capital Proj. 

PROCEEDING: Consent

- EXHIBITS:**
1. Project Location Map
 2. Utility Undergrounding Cost Estimate

BUDGET IMPACT

EXPENDITURE	AMOUNT	APPROPRIATION
REQUIRED \$160,000*	BUDGETED \$40,000 FY 2004-05*	REQUIRED \$120,000*

*Account Number 310-75-3226-682 Capital Projects Fund Miscellaneous Transportation Improvement Project – Construction Account. The \$160,000 is payable in four annual installments of \$40,000 beginning with FY 2004-05. The payment for future years will be included with each subsequent annual budget process.

HISTORICAL PERSPECTIVE:

Washington County has initiated the Barnes Road widening project between 119th Avenue and Saltzman Road. It consists of roadway widening from two lanes to five lanes (including a center turn lane), bike lanes, street lighting, sidewalks, and pavement resurfacing. The County is funding the Barnes Road project with money collected from the Major Streets Transportation Improvement Program (MSTIP) 3.

The City's Development Code requires the undergrounding of utilities when existing overhead utilities are relocated in new developments. However, policies approved by the Washington County Coordinating Committee for expenditure of MSTIP 3 funds prohibit the use of such funds for relocating existing overhead utilities underground.

INFORMATION FOR CONSIDERATION:

For the Barnes Road project, the County's design consultant, David Evans and Associates, estimated the cost of undergrounding existing utility lines at \$160,000 (Exhibit 2). In order for the utility undergrounding work to proceed without the City paying the entire amount beforehand, the County has tentatively agreed to allow the City to pay in four equal installments of \$40,000 annually, even though the project will likely be complete in less than two years (anticipated May 1, 2006).

If the actual cost of the utility undergrounding work is less than the estimate, the County will bill the City the actual cost. Also, the County has tentatively agreed to pay utility undergrounding costs in excess of \$160,000, if the actual cost of the work exceeds the cost estimate. The final payment to the County in fiscal year 2008/09 will be lower, if the actual costs are less than \$160,000.

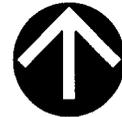
County staff will be the construction contract administrators and lead in the inspection of the construction project. However, the City will be given the opportunity to review and inspect the contractor's utility undergrounding work.

Staff recommends that the City agree to pay up to the amount of \$160,000, with the understanding that, if the actual cost is less than \$160,000, the City's final payment to the County will be less than \$40,000. If the actual cost exceeds \$160,000, the County will absorb the increased cost.

RECOMMENDED ACTION:

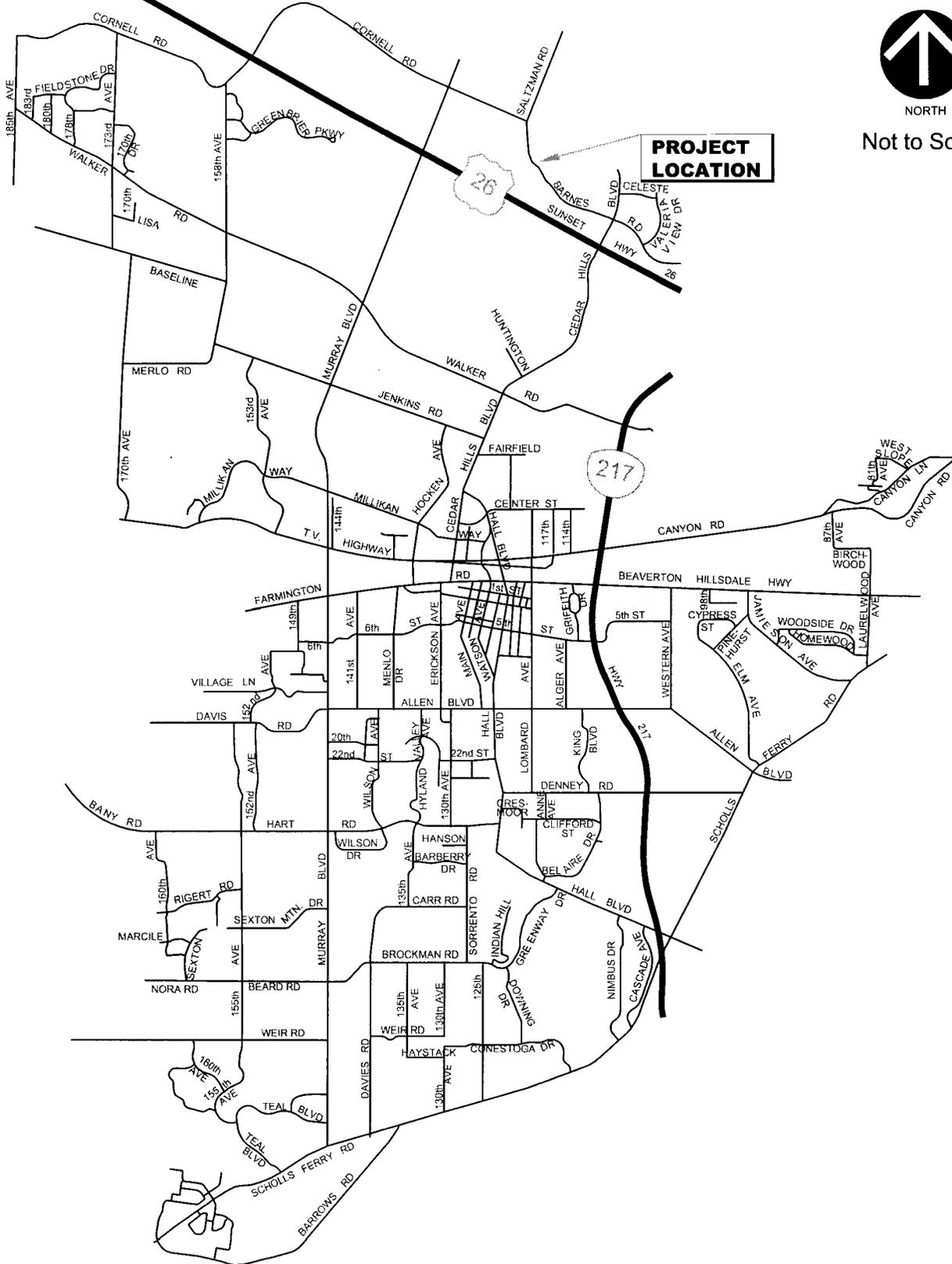
Council authorize the Mayor to execute an intergovernmental agreement with Washington County, in a form acceptable to the City Attorney, up to the amount of \$160,000 for utility underground work on the Barnes Road project in accordance with the aforementioned terms of the agreement.

EXHIBIT 1



NORTH

Not to Scale



Y:\Traffic\Drawings\TC VICINITY MAP\ VICINITY MAP TC 565-567 10-04.dwg



City Of Beaverton

LOCATION MAP for BARNES RD PROJECT

ENGINEERING DEPARTMENT
CAPITAL PROJECTS DIVISION

Drawn By: JRH Date: 10/18/04

Reviewed By: Date:

Approved By: Date: **1**

**UTILITY UNDERGROUNDING COST ESTIMATE
SW BARNES ROAD PROJECT**

SW Barnes Road												
		Utility Trench Excavation, Bedding, Backfill (Total)	155 mm Electrical Conduit (per meter)	103 mm Electrical Conduit (per meter)	5106 - PGE Vault (Each)	600 - PGE Vault (Each)	612 - PGE Vault (Each)	Cost Subtotal	Share of Mobilization, Traffic Control, etc.	Engineering	Contingency	Total
Item	Unit Cost	Estimate	\$ 14.60	\$ 8.70	\$ 4,800.00	\$ 3,000.00	\$ 4,590.00					
Power	Quantity		2090	1183	1	5	4		15%	20%	30%	
	Cost	\$ 16,754.00	\$ 30,514.00	\$ 10,292.10	\$ 4,800.00	\$ 15,000.00	\$ 18,360.00	\$ 95,720.10	\$ 14,358.02	\$ 19,144.02	\$ 28,716.03	\$ 157,938.17

Round to nearest (\$10,000) - Total: \$ 160,000

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

SUBJECT: A Resolution Establishing City Annexation Policies

FOR AGENDA OF: 11-1-04 **BILL NO:** 04220

Mayor's Approval: 

DEPARTMENT OF ORIGIN: CDD 

DATE SUBMITTED: 11-26-04

CLEARANCES: City Attorney 
Planning 

PROCEEDING: CONSENT AGENDA

EXHIBITS: 1. Draft Resolution

BUDGET IMPACT

EXPENDITURE REQUIRED \$0	AMOUNT BUDGETED \$0	APPROPRIATION REQUIRED \$0
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HISTORICAL PERSPECTIVE:

The City of Beaverton presently has a relatively passive approach to annexation. Almost all annexations in the recent past have been by "consent", whereby the owner(s) of and at least half the registered voters (if any) residing on a parcel or parcels to be annexed sign a petition for annexation. This type of annexation does not require a public hearing by the Council prior to adoption of an ordinance to finalize the annexation, unless requested by a provider of services in the area (defined by Metro as a necessary party). Property owners petition to annex to the City either because (1) they need to connect to City utility lines or (2) they perceive they will receive a higher level of and/or less costly service from the City than from the County. (The City has entered into annexation agreements with some property owners to reduce certain building fees.)

The most recent exception to the use of consent annexations occurred in the mid 1990s when residents of parts of the West Slope, Raleigh Hills and Garden Home neighborhoods petitioned to annex into the City primarily to avoid what they perceived as a threat of annexation by the City of Portland. These annexations were accomplished through a "double majority" process, whereby petitions were signed by owners of a majority of the land acreage in the area and by a majority of the registered voters in the area.

INFORMATION FOR CONSIDERATION:

It is unlikely that the conditions that led to the 1990s double majority annexations will be repeated in the foreseeable future. Most property owners are not willing to pay the higher tax rate that comes with annexation into the City. (Presently, for properties that are subject to taxation, the differential between

what is paid in the urban unincorporated area and in the City is approximately \$2.50 per thousand dollars of assessed value.) The City does have the option, under State law, to tax newly annexed properties at a reduced property tax rate for up to ten years after annexation, as an inducement to annex. Use of this option, however, is not recommended by staff unless it can be determined that the newly annexed property would not demand significant additional City services, would generate other revenues (e.g. franchise fees) and would eventually add significantly to the City's tax base, thereby allowing for either a reduction of the City's property tax rate while service levels remain stable or a relatively stable property tax rate while service levels increase.

Over the last decade, through series of annexations, an odd city boundary has been created. This boundary resulted from annexations of public right-of-way to reach properties that requested annexation. Until recently, these annexations of right-of-way were authorized by the controlling public agency, either Washington County or the Oregon Department of Transportation. In 2003, however, Washington County withdrew its support for these "cherry stem" annexations.

The County's withdrawal of support for annexation of their right-of-way reflected differences of opinion between the two agencies about the best means of annexing unincorporated areas near the City. The County has long supported adoption of annexation plans by service providers in Washington County after agreement is reached on the ultimate urban service area for each. An annexation plan would be subject to a combined, single majority vote of those living in the annexing city and those living in the area to be annexed. An annexation plan would typically be defined for an area with fewer unincorporated area voters than city voters, thereby making approval of the annexation plan very likely. The City has been reluctant to use this approach because (1) it is perceived by many unincorporated area residents as unfair, in that they could be forced to annex even though only a minority of their number supports annexation, (2) to work in Beaverton this approach would require the time-consuming and costly preparation of multiple annexation plans with separate votes on each, because of the large unincorporated residential areas around the city, and (3) even if the City succeeded in phased annexation of surrounding unincorporated areas through approvals of a series of annexation plans, the many people involuntarily annexed into the City could express their dislike of being annexed by opposing future City initiatives. Results of recent consideration by the City of Tigard and the Tualatin Hills Park and Recreation District of the use of single majority votes on annexation plans have confirmed for City staff that this annexation approach is not appropriate for the City of Beaverton.

There is, however, another approach to annexation that staff believes is deserving of consideration. This approach could have positive long-term results for existing city property owners. In suggesting this approach, it should be kept in mind that the city's present mix of land uses is not conducive to being able to provide urban services at a reasonable cost. Much of the land in the city is developed with moderate value residences that create a reasonable tax base, but not enough of a tax base to provide urban services at a low cost. Yet, just outside the city are many high value properties that could add significantly to the City's tax base if they were annexed. Instead, these properties are within two special districts established by Washington County in the 1980s as interim service providers for unincorporated areas until they were annexed. These properties have added significantly to the tax bases for these interim special districts, the Enhanced Sheriff's Patrol District (ESPD) and the Urban Road Maintenance District (URMD), to the point that property tax rates paid by property owners in these districts are so much lower than taxes paid by City residents that they have little incentive to annex. Although part of this tax rate differential is due to higher levels of service provided to City residents, especially police patrol services, much of it is because the owners of high value non-residential properties just outside the city have resisted annexation. If these high value properties are annexed, then their property tax revenues now going to the ESPD and the URMD would go to the City and could potentially reduce tax rates for City property owners.

Staff supports use of an annexation method that would allow annexation of selected properties without property owner or voter approval. Under state law, properties within areas surrounded by a city's boundaries can be annexed after a city council conducts a public hearing on the proposed annexation. According to Metro Code, notice must be mailed and posted at least 45 days prior to the date of decision.

The attached draft resolution sets City policies for annexation, distinguishing between (1) unincorporated properties that are not islands within the City but are within the City's assumed urban services area, and (2) those that are within islands, as defined by state law. In the first case, the policy would continue the City's relatively passive approach to annexation, focusing on annexation methods that would not force annexation against the will of a majority of voters in larger unincorporated residential neighborhoods. The City would remain open to annexation supported by a majority of an area's voters and/or property owners, and would be open to pursuing infrastructure/service planning for these areas. The policy for unincorporated islands gives priority to annexing non-residential properties, developable residential properties, and smaller groupings of developed property zoned residential within a neighborhood that is inside the City, by use of the island annexation method. The policy defines five reasons for use of this method. The policy does not give priority to annexation of larger unincorporated neighborhoods using the island annexation method.

RECOMMENDED ACTION:

Approve the attached resolution by consent.

RESOLUTION NO. 3785

A RESOLUTION ESTABLISHING CITY OF BEAVERTON URBAN SERVICE AREA AND CORPORATE LIMITS ANNEXATION POLICIES

WHEREAS, the City of Beaverton presently has no defined policies regarding annexation of adjacent urban unincorporated areas, including unincorporated islands; and

WHEREAS, the City's progress toward annexing its assumed urban services area has been slow; and

WHEREAS, previous incremental annexations have resulted in City limits that are odd and create confusion about their location, with many unincorporated "islands" surrounded by properties within the City; and

WHEREAS, the City desires to create more logical boundaries and create complete incorporated neighborhoods; and

WHEREAS, a more assertive policy toward annexation of certain types of properties could improve the City's ability to provide services to its residents efficiently and at a reasonable cost; and

WHEREAS, a more assertive annexation policy could result in more City control of development in adjacent unincorporated areas that could affect the City; and

WHEREAS, the Washington County 2000 policy is to have all urban unincorporated areas annexed by cities over time; now, therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF BEAVERTON, OREGON

Council directs the Mayor to pursue the annexation of properties in adjacent urban unincorporated areas in accordance with the policies in Attachment A to this resolution.

Adopted by the Council this ____ day of _____, 2004.

Approved by the Mayor this ____ day of _____, 2004.

Ayes: _____

Nays: _____

ATTEST:

APPROVED:

SUE NELSON, City Recorder

ROB DRAKE, Mayor

City of Beaverton Urban Service Area and Corporate Limits Annexation Policies

A. City of Beaverton Urban Service Area Policy

The City remains committed to annexing its urban services area over time, but the City will be selective regarding the methods of annexation it chooses to use. The City of Beaverton prefers to avoid use of annexation methods that may force annexation against the will of a majority of voters in larger unincorporated residential neighborhoods. The City is, however, open to annexation of these areas by other means where support for annexation is expressed, pursuant to a process specified by State law, by a majority of area voters and/or property owners. The City is open to pursuing infrastructure/service planning for the purposes of determining the current and future needs of such areas and how such areas might best fit into the City of Beaverton provided such unincorporated residents pursue an interest of annexing into the City.

B. City of Beaverton Corporate Limits Policy

The City of Beaverton is committed to annexing those unincorporated areas that generally exist inside the City's corporate limits. Most of these areas, known as "islands", generally receive either direct or indirect benefit from City services. The Washington County 2000 Policy, adopted in the mid-1980s, recognizes that the County should not be a long-term provider of municipal services and that urban unincorporated areas including unincorporated islands should eventually be annexed to cities. As such, primarily through the use of the 'island annexation method', the City's objectives in annexing such areas are to:

- Minimize the confusion about the location of City boundaries for the provision of services;
- Improve the efficiency of city service provision, particularly police patrols; and
- Control the development/redevelopment of properties that will eventually be within the City's boundaries;
- Create complete neighborhoods and thereby eliminate small pockets of unincorporated land.
- Increase the City's tax base and minimize increasing the City's mill rate;

In order to achieve these stated objectives, the City chooses to generally pursue the following areas for 'island annexation' into the City of Beaverton:

- Undeveloped property zoned for industrial, commercial uses or mixed uses;
- Developed or redevelopable property zoned for industrial, commercial or mixed uses;
- Undeveloped or redevelopable property zoned for residential use;
- Smaller developed property zoned residential (within a neighborhood that is largely incorporated within the City of Beaverton).

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

SUBJECT: Proposed Water Consumption Rate Increase for Operating the City's Water System

FOR AGENDA OF: 11/01/04 **BILL NO:** 04216

Mayor's Approval: 

DEPARTMENT OF ORIGIN: Finance 

DATE SUBMITTED: 10/18/04

CLEARANCES: City Attorney 
Engineering 

PROCEEDING: Public Hearing

EXHIBITS: Resolution
Agenda Bill 03278
Agenda Bill 94187
Agenda Bill 04200

BUDGET IMPACT

EXPENDITURE	AMOUNT	APPROPRIATION
REQUIRED \$-0-	BUDGETED \$-0-	REQUIRED \$-0-

HISTORICAL PERSPECTIVE:

The City's current rate for water consumption (water use) is \$1.79 per 100 CCF (cubic feet) of water, which is equivalent to approximately 748 gallons. The water consumption rate was last increased in January 2004 by 1.7% from \$1.76 to \$1.79 (copy of Agenda Bill 03278 and Resolution 3745 attached). The January 2004 increase was the second annual increase since implementing the series of five annual rate increases that began in August 1994 and ended in August 1998 (copy of Agenda Bill 94187 and Resolution 3275 attached).

In addition to the water consumption rate, the City also charges a monthly demand charge (sometimes called a meter charge or a base charge), which is based upon the meter size. The standard meter size for a single-family residence is a 3/4 inch meter and the associated monthly meter charge is \$7.27. The demand charges were last increased in August 1998 under Resolution 3275 and revised in October 2004 under Resolution 3781 to include a rate for an eight inch meter (copy of Agenda Bill 04200 and Resolution 3781 attached).

INFORMATION FOR CONSIDERATION:

The FY 2004-05 Adopted Budget includes a proposed three-cent increase in the water consumption rate from \$1.79 to \$1.82 per CCF beginning January 1, 2005 (there is no proposed increase to the various monthly meter charges). The proposed three-cent water consumption rate increase represents a 1.7% increase over the current charge, and it will produce an additional \$55,000 in operating revenue for the remaining six months of FY 2004-05. The effect of the increase on the average single-family residence that consumes eight CCF of water per month would be 24 cents a month or \$2.88 on an annual basis.

In total, the Water Fund's budget is expected to generate revenues of \$6,566,610 for water consumption charges (this figure includes the additional \$55,000 from the proposed rate increase), \$1,646,502 for demand charges, and \$337,345 in other revenues for a combined revenue stream of \$8,550,457 for FY 2004-05. The Water Fund's revenues provide the resources for the water system's operating costs, which for FY 2004-05 are as follows:

Personal Services	\$1,300,742
Materials and Services	2,473,189

Capital Outlay	1,045,814	(Equipment and Maintenance and Replacement projects)
Transfers	712,631	(The transfer amount does not include a \$500,000 contribution to the Water Construction Fund for capacity improvement projects funded from cash reserves)
Debt Service	<u>3,050,239</u>	
Total Expenses	\$8,582,615	

Based upon FY 2004-05's revenues of \$8,550,457 and expenditures of \$8,582,615, the proposed three-cent increase will maintain the Water Fund's revenue stream in line with its expenditure stream.

Beaverton's City Code 4.02.150 provides that the City's water rates and charges be established by Council resolution. Attached is a resolution that establishes the new water consumption rate of \$1.82 per CCF and retains the various demand charges (by meter size) that were last established under Resolution 3275 and were continued in Resolution 3781.

RECOMMENDED ACTION:

Council

- Conduct a Public Hearing on the proposed three-cent increase to the water consumption rate from \$1.79 to \$1.82 per CCF; and,
- Adopt the attached resolution that establishes the \$1.82 CCF water consumption rate and retains the various demand charges that were last established in Resolution 3275 and were continued in Resolution 3781.

RESOLUTION NO. 3784

A RESOLUTION ESTABLISHING A NEW WATER CONSUMPTION RATE FOR THE CITY OF BEAVERTON AND REPEALING RESOLUTION 3781

WHEREAS, the City's water system has experienced increased expenditure requirements for operations, maintenance and capital construction; and,

WHEREAS, the Water Fund's FY 2004-05 Adopted Budget included a proposed three-cent increase in the water consumption (use) rate beginning January 1, 2005 and the revenues associated with the increased water consumption rate was included in the FY 2004-05 Adopted Budget in order to maintain a balance between the Water Fund's revenues and expenditures; and,

WHEREAS, Beaverton City Code Section 4.02.150 provides that the rates and charges for City water services be established by Council resolution; now therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF BEAVERTON, OREGON:

Section 1. Water Rate Structure: The City's charges for domestic water effective January 1, 2005 are as follows:

Water Consumption (Use) Rate \$1.82

Demand (Meter) Charges:

3/4" Meter	\$ 7.27 (No change from Resolution 3781)
1" Meter	\$ 11.45 (No change from Resolution 3781)
1-1/2" Meter	\$ 18.42 (No change from Resolution 3781)
2" Meter	\$ 26.80 (No change from Resolution 3781)
3" Meter	\$ 46.32 (No change from Resolution 3781)
4" Meter	\$ 74.24 (No change from Resolution 3781)
6" Meter	\$143.99 (No change from Resolution 3781)
8" Meter	\$176.57 (No change from Resolution 3781)

Section 2. Resolution 3781 establishing the old rates is hereby repealed.

Adopted by the Council this _____ day of _____, 2004.

Approved by the Mayor this _____ day of _____, 2004

Ayes: _____

Nays: _____

ATTEST:

APPROVED:

SUE NELSON, City Recorder

ROB DRAKE, Mayor

RESOLUTION NO. 3784

AGENDA BILL

Beaverton City Council
Beaverton, Oregon

SUBJECT: Proposed Water Consumption Rate
Increase for Operating the City's
Water System

FOR AGENDA OF: 12/15/03 **BILL NO:** 03278

Mayor's Approval: *[Signature]*

DEPARTMENT OF ORIGIN: Finance *[Signature]*

DATE SUBMITTED: 11/20/03

CLEARANCES: City Attorney *[Signature]*
Engineering *[Signature]*

PROCEEDING: Public Hearing

EXHIBITS: Resolution
Agenda Bill 02353
Agenda Bill 94187

BUDGET IMPACT

EXPENDITURE REQUIRED \$-0-	AMOUNT BUDGETED \$-0-	APPROPRIATION REQUIRED \$-0-
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HISTORICAL PERSPECTIVE:

The City's current rate for water consumption (water use) is \$1.76 per 100 CCF (cubic feet) of water, which is equivalent to approximately 748 gallons. The water consumption rate was last increased in January 2003 by 2.9% from \$1.71 to \$1.76 (copy of Agenda Bill 02353 and Resolution 3696 attached). The January 2003 increase was the first increase since implementing the series of five annual rate increases that began in August 1994 and ended in August 1998 (copy of Agenda Bill 94187 and Resolution 3275 attached).

In addition to the water consumption rate, the City also charges a monthly demand charge (sometimes called a meter charge or a base charge), which is based upon the meter size. The standard meter size for a single-family residence is a 3/4" meter and the associated monthly meter charge is \$7.27. The demand charge was last increased in August 1998 under Resolution 3275.

INFORMATION FOR CONSIDERATION:

The FY 2003-04 Adopted Budget includes a proposed three-cent increase in the water consumption rate from \$1.76 to \$1.79 per CCF beginning January 1, 2004 (there is no proposed increase in the monthly meter charge). The proposed three-cent water consumption rate increase represents a 1.7% increase over the current charge, and it will produce an additional \$70,000 in operating revenue for the remaining six months of FY 2003-04. The effect of the increase on the average single-family residence that consumes eight CCF of water per month would be 24 cents a month or \$2.88 on an annual basis.

In total, the Water Fund's budget is expected to generate revenues of \$6,279,000 for water consumption charges (this figure includes the additional \$70,000 from the proposed rate increase), \$1,618,184 for demand charges, and \$558,572 in other revenues for a combined revenue stream of \$8,455,756 for FY 2003-04. The Water Fund's revenues provide the resources for the water system's operating costs, which for FY 2003-04 are as follows:

Personal Services	\$1,272,316
Materials and Services	2,595,473
Capital Outlay -Current	810,717 (does not include prior year carryover appropriations)
Transfers	657,755
Debt Service	<u>3,108,991</u>
Total Expenses	<u>\$8,445,252</u>

Based upon FY 2003-04's revenues of \$8,455,756 and expenditures of \$8,445,252, the proposed three-cent increase will maintain the Water Fund's revenue stream in line with its expenditure stream.

Beaverton's City Code 4.02.150 provides that the City's water rates and charges be established by Council resolution. Attached is a resolution that establishes the new water consumption rate of \$1.79 per CCF and retains the various demand charges (by meter size) that were last established under Resolution 3275 and were continued in Resolution 3696.

RECOMMENDED ACTION:

Council

- Conduct a Public Hearing on the proposed three-cent increase to the water consumption rate from \$1.76 to \$1.79 per CCF; and,
- Adopt the attached resolution that establishes the \$1.79 CCF water consumption rate and retains the various demand charges that were last established in Resolution 3275 and were continued in Resolution 3696.

RESOLUTION NO. 3745

A RESOLUTION ESTABLISHING A NEW WATER CONSUMPTION RATE FOR THE CITY OF BEAVERTON AND REPEALING RESOLUTION 3696

WHEREAS, the City's water system has experienced increased expenditure requirements for operations, maintenance and capital construction; and,

WHEREAS, the Water Fund's FY 2003-04 Adopted Budget included a proposed three-cent increase in the water consumption (use) rate beginning January 1, 2004 and the revenues associated with the increased water consumption rate was included in the FY 2003-04 Adopted Budget in order to maintain a balance between the Water Fund's revenues and expenditures; and,

WHEREAS, Beaverton City Code Section 4.02.150 provides that the rates and charges for City water services be established by Council resolution; now therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF BEAVERTON, OREGON:

Section 1. Water Rate Structure: The City's charges for domestic water effective January 1, 2004 are as follows:

Water Consumption (Use) Rate \$1.79

Demand (Meter) Charges:

¾" Meter	\$ 7.27 (No change from Resolution 3696)
1" Meter	\$ 11.45 (No change from Resolution 3696)
1-1/2" Meter	\$ 18.42 (No change from Resolution 3696)
2" Meter	\$ 26.80 (No change from Resolution 3696)
3" Meter	\$ 46.32 (No change from Resolution 3696)
4" Meter	\$ 74.24 (No change from Resolution 3696)
6" Meter	\$143.99 (No change from Resolution 3696)

Section 2. Resolution 3696 establishing the old rates is hereby repealed.

Adopted by the Council this 15th day of December, 2003.

Approved by the Mayor this 17th day of DECEMBER, 2003

Ayes: 5

Nays: 0

ATTEST:



Sue Nelson, City Recorder

APPROVED:



ROB DRAKE, Mayor

RESOLUTION NO. 3745

Agenda Bill No. 03278

AGENDA BILL

Beaverton City Council
Beaverton, Oregon

SCANNED

SUBJECT: A resolution establishing a new water rate structure for the City

FOR AGENDA OF: 06-27-94 BILL NO: 94-187

Mayor's Approval: [Signature]

DEPARTMENT OF ORIGIN: Finance [Signature]

DATE SUBMITTED: June 17, 1994

CLEARANCES: Finance [Signature]
City Attorney [Signature]

PROCEEDING: PUBLIC HEARING

EXHIBITS: Water Rate Structure For
FY95 - FY99

BUDGET IMPACT

EXPENDITURE REQUIRED \$0	AMOUNT BUDGETED \$0	APPROPRIATION REQUIRED \$0
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HISTORICAL PERSPECTIVE:

The City's water system faces increased expenditure requirements for operation and maintenance, and one consulting firm of CH2M Hill has updated and reviewed the City's water rates, using the water rate model they developed in 1992.

INFORMATION FOR CONSIDERATION:

Beaverton Code Section 4.02.150 provides that the rates and charges for City water services be established by Council resolution.

RECOMMENDED ACTION:

Hold a public hearing regarding new water rates.

RESOLUTION NO. 3275

A RESOLUTION ESTABLISHING A NEW WATER RATE STRUCTURE FOR
THE CITY OF BEAVERTON AND REPEALING RESOLUTION 3192

WHEREAS, the City's water system faces increased expenditure requirements for operation and maintenance; and,

WHEREAS, the consulting firm of CH2M Hill has updated and reviewed the City's water rates using the water rate model they developed in 1992; and,

WHEREAS, Beaverton Code Section 4.02.150 provides that the rates and charges for City water services be established by Council resolution; and,

THEREFORE, be it resolved by the Council of the City of Beaverton, Oregon:

Section 1. Water Rate Structure. The City's charges for domestic water and the effective dates for those charges are those shown on Exhibit A, attached hereto and incorporated as part of this resolution.

Section 2. Resolution No. 3192 establishing the old rates hereby is repealed.

Adopted by the Council this 11th day of ~~June~~ ^{July} 1994.

Approved by the Mayor this 13th day of ~~June~~ ^{July} 1994.

Ayes: 5

Nays: 0

ATTEST:

APPROVED:

Darleen Cogburn
Darleen Cogburn, City Recorder

Rob Drake
Rob Drake, Mayor

Resolution No. 3275

EXHIBIT "A"

Item	FY1995	FY1996	FY1997	FY1998	FY1999
Effective Date:	1-Aug-94	1-Jul-95	1-Jul-96	1-Jul-97	1-Jul-98
Meter Charge:					
3/4" Meter	\$5.57	\$6.10	\$6.53	\$6.92	\$7.27
1"	8.78	9.62	10.29	10.91	11.45
1-1/2"	14.13	15.47	16.55	17.54	18.42
2"	20.55	22.51	24.08	25.53	26.80
3"	35.52	38.90	41.62	44.12	46.32
4"	56.93	62.34	66.70	70.70	74.24
6"	110.42	120.91	129.37	137.14	143.99
Volume Charge:	\$1.31	\$1.44	\$1.54	\$1.63	\$1.71

AGENDA BILL

Beaverton City Council
Beaverton, Oregon

SUBJECT: Establish Monthly Water Meter
Demand Charge for an 8 Inch Water
Meter

FOR AGENDA OF: 10/04/04 **BILL NO:** 04200

Mayor's Approval: *[Signature]*

DEPARTMENT OF ORIGIN: Finance *[Signature]*

DATE SUBMITTED: 09/27/04

CLEARANCES: City Attorney *[Signature]*
Engineering *[Signature]*

PROCEEDING: Consent Agenda

EXHIBITS: Resolution
Agenda Bill 94187 and Resolution
3275
Agenda Bill 03278 and Resolution
3745
Demand Charge Calculation

BUDGET IMPACT

EXPENDITURE	AMOUNT	APPROPRIATION
REQUIRED \$-0-	BUDGETED \$-0-	REQUIRED \$-0-

HISTORICAL PERSPECTIVE:

The City's current rate structure for water services includes a Water Consumption Rate which is currently \$1.79 per CCF (100 cubic feet) and a Demand Charge, which includes meter sizes from ¾ inch to 6 inch meters. The current Demand Charges have been in existence since August 1998 (Agenda Bill 94187 and Resolution 3275 copy attached). They have been re-established (with no changes or modifications) with each subsequent increase to the Water Consumption Rate, which was most recently enacted on Agenda Bill 03278 and Resolution 3745 (copy attached).

With the recent water system work performed at the Cedar Hills Crossing properties, the City will begin providing water service to this property (located at 3205 SW Cedar Hills Boulevard), which up until this time had been served by the Tualatin Valley Water District (TVWD). The change in water service was contemplated in the latest amendment to the intergovernmental agreement with TVWD in March 2002. City staff are working with TVWD staff and the affected businesses to coordinate the water service change over. The water service to the property requires two 8 inch meters; however our current rate structure (see attached Resolution 3745) does not currently include a Demand Charge for an 8 inch meter. The City needs to establish a demand charge rate for an 8 inch meter.

INFORMATION FOR CONSIDERATION:

The firm of Integrated Utilities Group, Incorporated of Portland, Oregon, a financial consultant specializing in utilities rates and charges has completed the calculation for an 8 inch water meter based upon our demand charges currently in existence (report attached). The firm has established \$176.57 as the monthly demand charge for an 8 inch meter.

Beaverton's City Code 4.02.150 provides that the City's water rates and charges be established by Council resolution. Attached is a resolution that establishes the rate for an 8 inch water meter and retains the current Water Consumption Rate and the various existing Demand Charges (by meter size) that were last established under Resolution 3275 and were continued in Resolution 3745.

RECOMMENDED ACTION:

Council adopt the attached resolution that establishes a Demand Charge for an 8 inch meter.

RESOLUTION NO. 3781

A RESOLUTION ESTABLISHING A NEW WATER CONSUMPTION RATE FOR THE CITY OF BEAVERTON AND REPEALING RESOLUTION 3745

WHEREAS, the City's water system has established monthly Demand Charge rates for water meter sizes 3/4 inch to 6 inch; and,

WHEREAS, the water system now needs to provide water service through an 8 inch water meter and a monthly Demand Charge for an 8 inch water meter needs to be established; and ,

WHEREAS, the consulting firm of Integrated Utilities Group, Incorporated has calculated the demand charge for an 8 inch water to be \$176.57; and,

WHEREAS, Beaverton City Code Section 4.02.150 provides that the rates and charges for City water services be established by Council resolution; now therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF BEAVERTON, OREGON:

Section 1. Water Rate Structure: The City's charges for domestic water effective October 15, 2004 are as follows:

Water Consumption (Use) Rate \$1.79 (No change from Resolution 3745)

Demand (Meter) Charges:

3/4" Meter	\$ 7.27 (No change from Resolution 3745)
1" Meter	\$ 11.45 (No change from Resolution 3745)
1-1/2" Meter	\$ 18.42 (No change from Resolution 3745)
2" Meter	\$ 26.80 (No change from Resolution 3745)
3" Meter	\$ 46.32 (No change from Resolution 3745)
4" Meter	\$ 74.24 (No change from Resolution 3745)
6" Meter	\$143.99 (No change from Resolution 3745)
8" Meter	\$176.57

Section 2. Resolution 3745 establishing the old rates is hereby repealed.

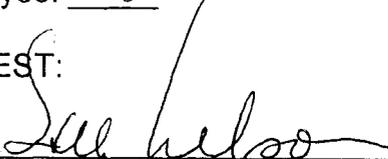
Adopted by the Council this 4th day of October, 2004.

Approved by the Mayor this 5th day of OCTOBER 2004.

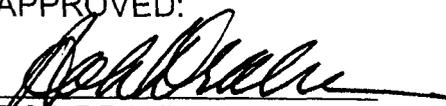
Ayes: 5

Nays: 0

ATTEST:


SUE NELSON, City Recorder

APPROVED:


ROB DRAKE, Mayor



TO: David Winship, City of Beaverton
FROM: Paul L. Matthews
DATE: September 20, 2004
SUBJECT: Calculation of 8-inch Meter Charge
PROJECT: P108.041.RS

This technical memorandum estimates the appropriate fixed monthly charge for an 8-inch meter connecting to the City of Beaverton's water system. The fixed monthly charge for an 8-inch meter was estimated by examining the current fixed monthly charges for other meter sizes and comparing those to the equivalent meter ratios published in the Manual of Water Supply Practices, AWWA M1, *Principles of Water Rates, Fees, and Charges*.¹

Fixed monthly charges can consist of multiple cost items. In general, the cost items recovered by a fixed monthly charge include:

- Costs that vary by meter size. These costs recover the cost of owning and maintaining meters and services, and
- Charge per billing cycle to recover the cost of customer accounting, meter reading, etc. that do not vary by meter size or the amount of water consumed.

IUG completed an empirical analysis of Beaverton's fixed monthly charges to determine the composition of the costs that vary by meter size versus the costs associated with customer accounting. IUG's analysis determined that a monthly accounting charge of \$0.5727 per bill resulted in the closest relationship of the resulting meter charge to those based on the equivalent meter ratios published by the AWWA in its M1 Manual. Table 1 presents an overview of the results.

IUG estimated the fixed monthly charge for the 8-inch meter by applying the published value for the equivalent meter ratio to the estimate of the equivalent meter cost assuming the customer accounting charge equals \$0.5727 per month. Therefore, the fixed monthly charge for an 8-inch meter would equal \$6.70 times the equivalent meter ratio of 26.36 plus \$0.5727 for the customer accounting charge. The fixed monthly charge for an 8-inch meter, therefore, would be \$176.57.

¹ *Principles of Water Rates, Fees, and Charges, Manual of Water Supply Practices—M1*, Fifth Edition. American Water Works Associates, 2000, page 67.

TECHNICAL MEMORANDUM

Page 2

September 20, 2004

P108.041.RS

Table 1
Empirical Analysis of Fixed Monthly Charges

Meter Size	AWWA 5/8 x 3/4 Eq. Meter	Equivalent Mtr based on 3/4	Current Charges			Resulting Implied Eq. Meter Charge	Difference
			Assumed Account Charge	Assumed Meter charge	Total		
3/4-inch	1.10	1.00	\$0.57	\$6.70	\$7.27	1.00	0.00
1-inch	1.40	1.27	0.57	10.88	11.45	1.62	(0.35)
1 1/2-inch	1.80	1.64	0.57	17.85	18.42	2.66	(1.03)
2-inch	2.90	2.64	0.57	26.23	26.80	3.92	(1.28)
3-inch	11.00	10.00	0.57	45.75	46.32	6.83	3.17
4-inch	14.00	12.73	0.57	73.67	74.24	11.00	1.73
6-inch	21.00	19.09	0.57	143.42	143.99	21.41	(2.32)
8-inch	29.00	26.36	0.57	175.99	176.57	26.28	0.09
Total							(0.00)

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

SUBJECT: An Ordinance Amending Ordinance No. 4187, Figure III-1, the Comprehensive Plan Land Use Map and Ordinance No. 2050, the Zoning Map for Property Known as Steele Park Located on the Eastside of SW 170th Avenue Immediately South of Elmonica Elementary School; CPA 2004-0011/ZMA 2004-0011

FOR AGENDA OF: 11/01/04 **BILL NO:** 04217

Mayor's Approval: [Signature]

DEPARTMENT OF ORIGIN: CDD [Signature]

DATE SUBMITTED: 10/15/04

CLEARANCES: City Attorney [Signature]
Planning Services [Signature]

PROCEEDING: First Reading

EXHIBITS: Ordinance
Exhibit A – Map
Planning Commission Order No. 1746
Draft PC Minutes of 09/29/04 Hearing
Staff Report Dated 09/13/04

BUDGET IMPACT

EXPENDITURE REQUIRED \$0	AMOUNT BUDGETED \$0	APPROPRIATION REQUIRED \$0
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HISTORICAL PERSPECTIVE:

On September 29, 2004, the Planning Commission held a public hearing on the request to assign a Comprehensive Plan Land Use Map designation and Zoning Map designation to property previously annexed to the City through a different process. The request is to designate this parcel Neighborhood Residential – Standard Density (NR-SD) on the City's Comprehensive Plan Land Use Map and to designate it Residential – 7,000 square feet of land area minimum per unit (R-7) on the Zoning Map. The Planning Commission voted to approve the requests as submitted. These decisions have not been appealed.

The City land use designations will take effect 30 days after Council approval and the Mayor's signature on this ordinance.

INFORMATION FOR CONSIDERATION:

These Comprehensive Plan Land Use Map and Zoning Map Amendments are to assign designations for a parcel that has been annexed into the City and are governed by the Washington County – Beaverton Urban Planning Area Agreement (UPAA). In this case, the UPAA was not specific as to the appropriate Land Use Map and Zoning Map designations and discretion was necessary to assign our most similar designations to the County's designations.

This ordinance makes the appropriate changes to Ordinance No. 4187, Figure III-1, the Comprehensive Plan Land Use Map and Ordinance No. 2050, the Zoning Map.

RECOMMENDED ACTION:

First Reading

ORDINANCE NO. 4327

AN ORDINANCE AMENDING ORDINANCE NO. 4187, FIGURE III-1, THE COMPREHENSIVE PLAN LAND USE MAP AND ORDINANCE NO. 2050, THE ZONING MAP FOR PROPERTY KNOWN AS STEELE PARK LOCATED ON THE EASTSIDE OF SW 170TH AVENUE IMMEDIATELY SOUTH OF ELMONICA ELEMENTARY SCHOOL; CPA 2004-0011/ZMA 2004-0011

WHEREAS, The intent of the proposed amendments to the Comprehensive Plan Land Use Map and Zoning Map is to assign appropriate City land use designations to a parcel annexed into the City through a different process; and

WHEREAS, On September 29, 2004, the Planning Commission held a public hearing to consider these amendments to the Comprehensive Plan Land Use and Zoning Maps and voted to recommend approval of the Neighborhood Residential – Standard Density Comprehensive Plan Land Use Map designation and the Residential – 7,000 square feet of land area minimum per unit (R-7) Zoning Map designation in place of the County designation of Transit Oriented: Residential 9-12 units per acre (TO: R 9-12); and

WHEREAS, The Council incorporates by reference the Community Development Department staff report on CPA 2004-0011/ZMA 2004-0011 by Senior Planner Alan Whitworth, dated September 13, 2004; now, therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

Section 1. Ordinance No. 4187, the Comprehensive Plan Land Use Map, is amended to designate the subject property known as Steele Park (Tax Map 1S106AD, Tax Lot 22700), Neighborhood Residential – Standard Density (NR-SD) on the Comprehensive Plan Land Use Map, as shown on Exhibit “A”, in accordance with the Washington County - Beaverton Urban Planning Area Agreement (UPAA).

Section 2. Ordinance No. 2050, the Zoning Map, is amended to zone the same property specified in Section 1 Residential – 7,000 of square feet of land per dwelling unit (R-7), as shown on Exhibit “A”, in accordance with the UPAA.

First reading this _____ day of _____, 2004.
Passed by the Council this _____ day of _____, 2004.
Approved by the Mayor this _____ day of _____, 2004.

ATTEST:

APPROVED:

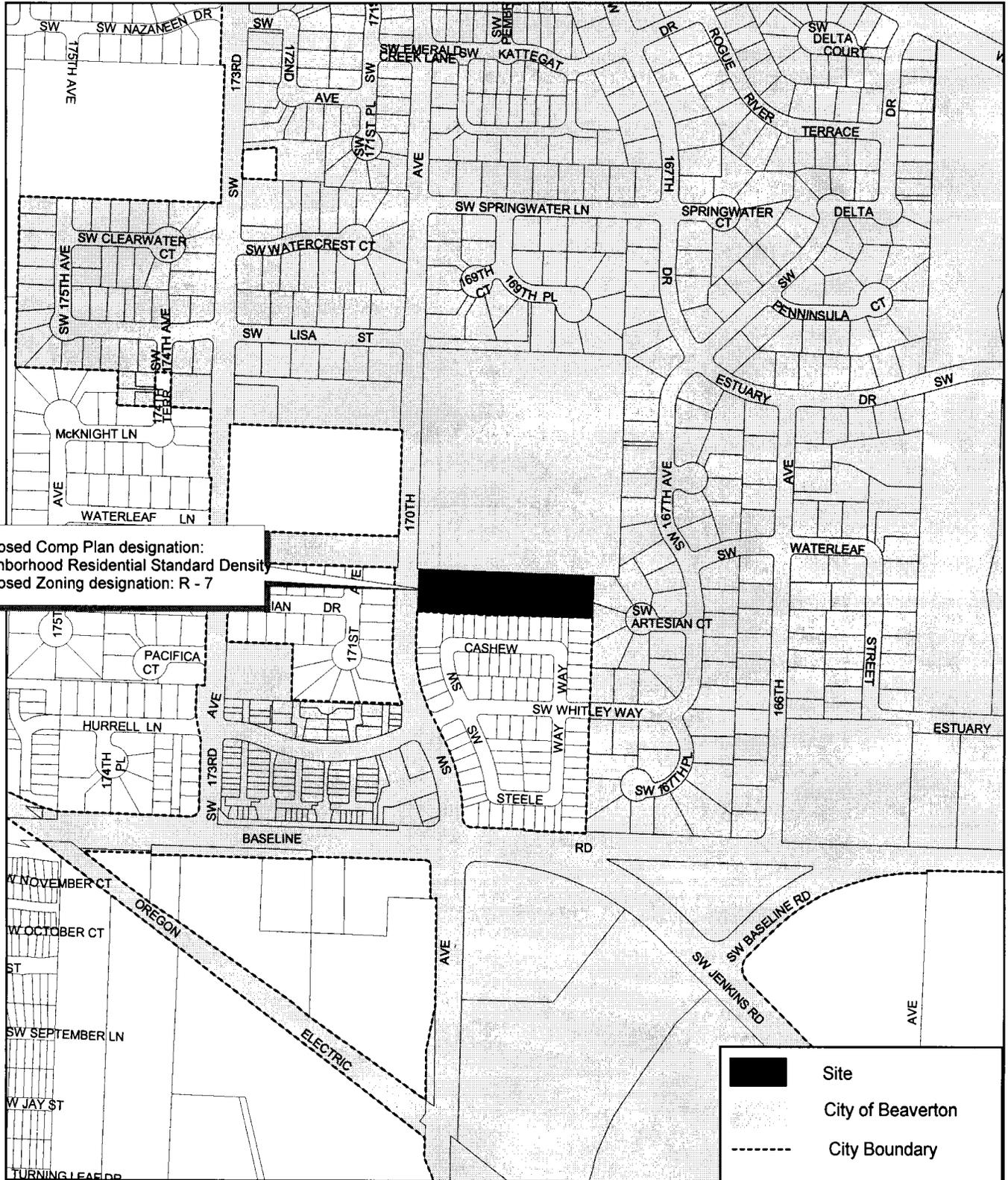
SUE NELSON, City Recorder

ROB DRAKE, Mayor

CPA/ZMA MAP

Ordinance No. 4327

Exhibit "A"



City of Beaverton

Steele Park Comprehensive Plan Land Use Map
 Amendment & Zoning Map Amendment
COMMUNITY DEVELOPMENT DEPARTMENT
 Planning Services Division

7/29/04
 Map #
 1s106ad22700



Application #
 CPA 2004-0011/
 ZMA 2004-0011

**BEFORE THE PLANNING COMMISSION
FOR THE CITY OF BEAVERTON, OREGON**

IN THE MATTER OF A REQUEST TO)	
	)	ORDER NO. 1746
AMEND THE CITY COMPREHENSIVE)	
	)	CPA 2004-0011
PLAN LAND USE MAP AND ZONING)	
	)	ZMA 2004-0011
MAP APPLICABLE TO ONE PROPERTY)	
	)	ORDER APPROVING
LOCATED IMMEDIATELY SOUTH OF)	
	)	REQUEST
ELMONICA ELEMENTARY SCHOOL ON)	
)	
THE EAST SIDE OF SW 170 TH AVENUE)	
)	
(STEELE PARK), ALAN WHITWORTH,)	
)	
CITY OF BEAVERTON, APPLICANT)	

The matter came before the Planning Commission on September 29, 2004, on a request for an amendment to the City Comprehensive Plan Land Use Map to designate as Neighborhood Residential – Standard Density (NR-SD), and an amendment to the Zoning Map to designate as Residential – 7,000 square feet minimum per lot (R-7), in place of the current Washington County designation of Transit Oriented Residential: 9-12 units to the acre (TO: R 9-12) with a Station Community design type, one lot that is being annexed into the City through a separate process. The proposal would apply these changes to one property located immediately south of Elmonica Elementary School on the east side of SW 170th Avenue and more specifically identified as Tax Lot 22700 on Washington County Tax Assessor’s Map 1S1-6AD.

Pursuant to Ordinance 4187 (Comprehensive Plan), Sections 1.3.1 Ordinance 2050 (Development Code), Sections 50.55 and 50.58, the Planning Commission conducted a public hearing and considered testimony and exhibits.

The Planning Commission adopts the Staff Report dated September 13, 2004 as to applicable criteria contained in Section 1.3.1 of the Comprehensive Plan and Section 40.97.15.4.C of the Development Code and findings thereon; now, therefore:

IT IS HEREBY ORDERED that CPA 2004-0011 is **APPROVED**, based on the facts and findings of the Planning Commission on September 29, 2004.

IT IS HEREBY ORDERED that ZMA 2004-0011 is **APPROVED**, based on the facts and findings of the Planning Commission on September 29, 2004.

Motion **CARRIED** by the following vote:

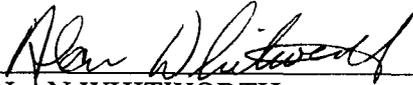
AYES: Pogue, DeHarpport, Johansen, Winter, and Maks.
NAYS: None.
ABSTAIN: None.
ABSENT: Bliss, and Barnard.

Dated this 1ST day of October, 2004.

To appeal the decision of the Planning Commission, as articulated in Order No. 1746, an appeal must be filed with the City of Beaverton Recorder's Office by no later than 5:00 p.m. on October 1ST, 2004.

PLANNING COMMISSION
FOR BEAVERTON, OREGON

ATTEST:



ALAN WHITWORTH
Senior Planner



HAL BERGSMA
Planning Services Manager

APPROVED:



DAN MAKS
Vice-Chairman

1 any Commissioner to hear any of the agenda items, to participate in
2 the hearing or requested that the hearing be postponed to a later date.
3 He asked if there were any ex parte contact, conflict of interest or
4 disqualifications in any of the hearings on the agenda. There was no
5 response.

6
7 With the Planning Commission's permission, Vice-Chairman Maks
8 noted that the order of the agenda will begin with the CPA2004-
9 0011/ZMA2004-0011 application.

10
11 **1. CPA2004-0011/ZMA2004-0011 – STEELE PARK LAND USE MAP**
12 **AMENDMENT**

13 This proposal is to amend the Land Use Map in the Comprehensive
14 Plan and Zoning Map to designate one parcel that has been annexed
15 into the City, by a separate process, Neighborhood Residential –
16 Standard Density on the Land Use Map and Residential – 7,000
17 square feet per lot (R-7) on the Zoning Map in place of the current
18 Washington County designation of Transit Oriented Residential: 9-12
19 units to the acre (TO: R 9-12) with a Station Community design type.
20 These are Beaverton's most compatible land use and zoning
21 designations to those that exist on surrounding properties. The parcel
22 is located immediately south of Elmonica Elementary School on the
23 east side of SW 170th Avenue. The parcel does not have an assigned
24 address, but is identified on tax map 1S106AD as lot 22700.

25
26 Senior Planner Alan Whitworth submitted the Staff Reports and
27 offered to respond to questions.

28
29 **PUBLIC TESTIMONY:**

30
31 No member of the public testified with regard to this proposal.

32
33 The public testimony portion of the Public Hearing was closed.

34
35 Observing that the proposal meets applicable approval criteria,
36 Commissioner's Johansen, DeHarpport, Winter, Pogue, and Vice-
37 Chairman Maks expressed their support of both applications.

38
39 Commissioner Pogue **MOVED** and Commissioner DeHarpport
40 **SECONDED** a motion for approval of CPA2004-0011 Steele Park
41 Land Use Map Amendment based upon the testimony, reports and
42 exhibits, and new evidence presented during Public Hearings on the
43 matter, and upon the background facts, findings and conclusions found
44 in the Staff Report dated September 13, 2004.
45

1 Commissioner Pogue **MOVED** and Commissioner DeHarpport
2 **SECONDED** a motion for approval of ZMA2004-0011 Steele Park
3 Land Use Map Amendment based upon the testimony, reports and
4 exhibits, and new evidence presented during Public Hearings on the
5 matter, and upon the background facts, findings and conclusions found
6 in the Staff Report dated September 13, 2004.

7
8 Motion **CARRIED** by the following vote:

9
10 **AYES:** Pogue, DeHarpport, Johansen, Winter, and Maks.

11 **NAYS:** None.

12 **ABSTAIN:** None.

13 **ABSENT:** Bliss, and Barnard.

14
15 Motion **CARRIED** unanimously.
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CITY of BEAVERTON

4755 S.W. Griffith Drive, P.O. Box 4755, Beaverton, OR 97076 General Information (503) 526-2222 V/TDD

STAFF REPORT

TO: Planning Commission

FROM: Alan Whitworth, Senior Planner *Alan*

REPORT DATE: September 13, 2004

HEARING DATE: September 29, 2004

REQUEST: CPA2004-0011/ZMA2004-0011 (Steele Park Land Use Map Amendment and Zoning Map Amendment) Quasi-judicial plan and zoning map amendments to add a City Comprehensive Plan Land Use Map designation of Neighborhood Residential – Standard Density (NR-SD) and Zoning designation of Residential – 7,000 square feet minimum per lot (R-7) to one lot that has been annexed into the City, through a different process. Involves tax lot 1S106AD 22700 that is shown on the attached map and described by the attached legal description.

APPLICANT: City of Beaverton

APPROVAL CRITERIA: Comprehensive Plan Section 1.3.1 and Development Code Section 40.97.15.4.C.

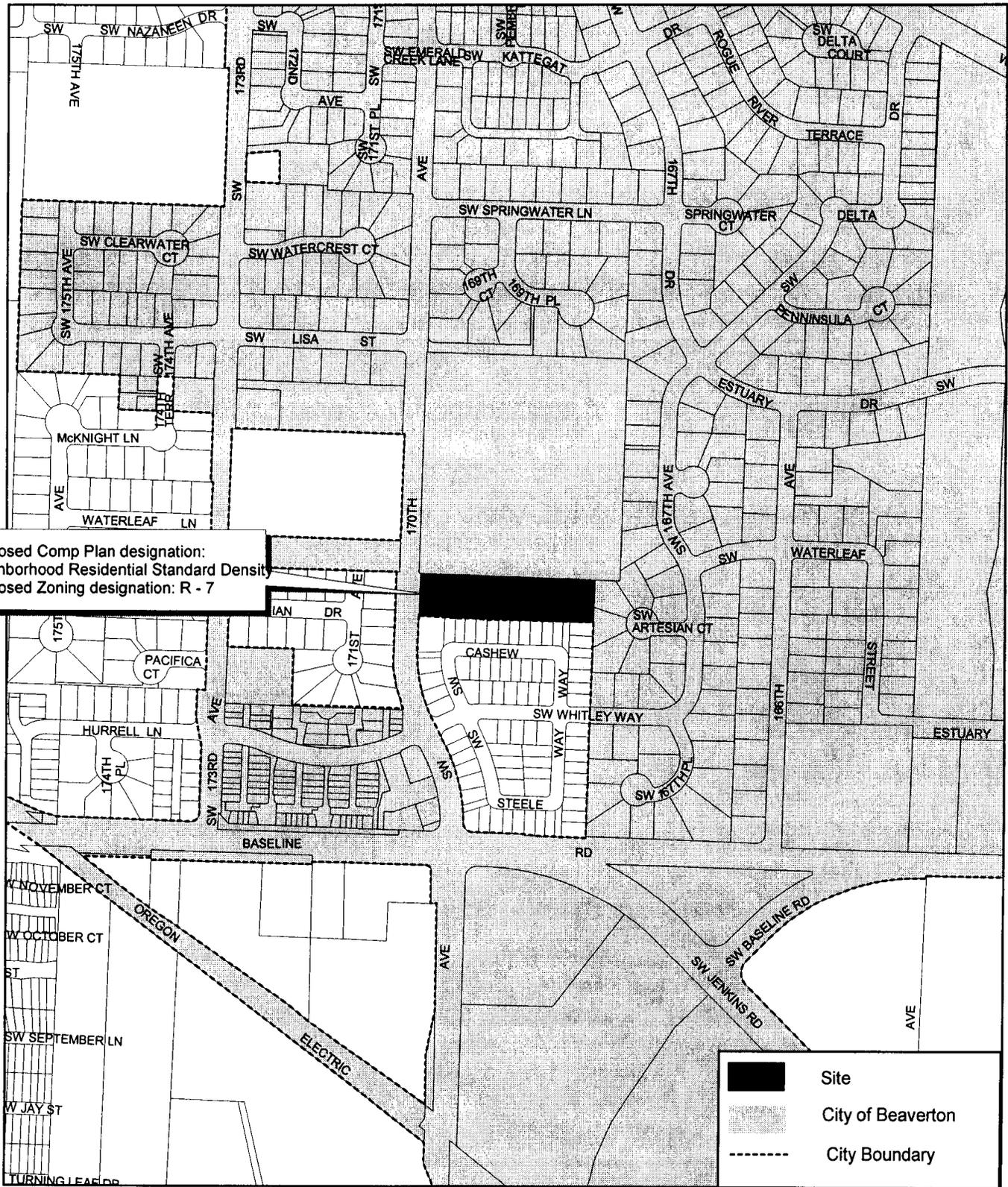
LOCATION: There is no assigned street address. The property is located on the east side of SW 170th Avenue north of Baseline Road and immediately south of Elmonica Elementary School.

EXISTING USE: The property is approximately 1.5 acres and is a nature preserve owned by the Tualatin Hills Park and Recreation District (THP&RD).

RECOMMENDATION

Based on findings in this report that the criteria contained in Comprehensive Plan Section 1.3.1 and Development Code Section 40.97.15.4.C. are met, staff recommends approval of the Neighborhood Residential – Standard Density (NR-SD) Comprehensive Plan Land Use Map designation and Residential – 7,000 square feet minimum per lot (R-7) on the Zoning Map for tax lot 1S106AD 22700 that is shown on the attached map and described by the attached legal description.

CPA/ZMA MAP



Proposed Comp Plan designation:
 Neighborhood Residential Standard Density
 Proposed Zoning designation: R - 7

	Site
	City of Beaverton
	City Boundary



City of Beaverton

Steele Park Comprehensive Plan Land Use Map
 Amendment & Zoning Map Amendment
 COMMUNITY DEVELOPMENT DEPARTMENT
 Planning Services Division

7/29/04
 Map #
 1s106ad22700
 Application #
 CPA 2004-0011/
 ZMA 2004-0011



ANALYSIS OF COMPREHENSIVE PLAN AMENDMENT

The purpose of the proposed amendments to the Comprehensive Plan Land Use Map and Zoning Map is to assign appropriate City Land Use and Zoning designations to a parcel that has been annexed into the City of Beaverton through a different process. The Washington County - Beaverton Urban Planning Area Agreement (UPAA) calls for the City to assign our most similar Land Use Map and Zoning Map designations to those of the County's. Washington County has designated this property Transit Oriented: Residential 9-12 units to the acre (TO: R 9-12). In 2000, the County amended their Comprehensive Framework Plan to place a Station Community design type on this property. The UPAA does not require us to comply with their Framework Plan. The UPAA is not specific as to the correct Comprehensive Plan designation because these designations did not exist when the UPAA was adopted. The Metro 2040 Growth Concept Map shows this property as Park but surrounded by Station Community. The County does not have a Park designation in its Framework Plan nor does the City have a Park designation in its Comprehensive Plan. The County and the City adopted the Station Community designation to comply with Metro's designations of Station Community and Station Community Core.

Beaverton does not have a comparative designation to Washington County's TO: R 9-12 but according to the UPAA we should apply the most similar City designation. Our lowest density Station Community zoning designation is Station Area - Medium Density Residential (SA-MDR) which has a minimum density requirement of 24 units to the acre which is twice the maximum density of TO: R 9-12. The County adopted the Elmonica/Merlo Station Area Plan in November of 1997, which assigned this designation. We first look at the fact that Metro has placed a Park design type on this property. This property is a tract that has been taken over by THP&RD and developed as a resources based park. The County normally zones park property Institutional. THP&RD acquired this property in December of 1997 and the annexation petition was submitted December 5, 2001. If the County had gotten around to zoning this property Institutional, the UPAA would be specific that this parcel should go to Urban Residential - Standard Density. For these reasons, staff recommends the Comprehensive Plan Land Use Map be amended to show this parcel as Neighborhood Residential - Standard Density.

ANALYSIS OF ZONING MAP AMENDMENT

Washington County has designated this property Transit Oriented Residential: 9-12 units per acre (TO: R 9-12). The UPAA is not specific as to our appropriate zoning designation because this zoning designation did not exist when the UPAA was adopted. Washington County adopted the Transit Oriented zoning districts to implement the Station Community and Regional Center designations of their Framework Plan. Beaverton does not have a zoning district to match the County's

TO: R 9-12 district. The lowest density allowed by the four zoning districts listed in the Comprehensive Plan and Zoning District Matrix (Section 3.14 of Beaverton's Comprehensive Plan) as appropriate within the Station Community designation is 24 to 30 units to the acre in the Station Area – Medium Density Residential (SA-MDR). The minimum density required in the SA-MDR district is twice the maximum density allowed in the TO: R 9-12 and, therefore, these two districts are not similar. Steele Park is shown on Metro's 2040 Growth Concept Map as a Park design type, is owned by the Park District and developed as a nature park. The County normally zones parks Institutional but this one is not. As discussed above, Washington County rezoned this parcel to TO: R 9-12, as part of the adoption of the Elmonica/Merlo Station Area Plan, shortly before it was acquired by the Park District. The County normally zones park properties Institutional but this property was annexed into the City before the County rezoned it. If this property was Institutional, the UPAA is clear that the appropriate zoning would be Residential – 7,000 square feet minimum per lot (R-7). For these reasons, staff recommends that this property be zoned R-7.

The UPAA requires the City to review the relevant Community Plan, which in this case is the Sunset West Community Plan. This parcel is not in an area of special concern and no special policies apply to it.

COMPREHENSIVE PLAN AMENDMENT FINDINGS

Adoption by the City Council and Planning Commission of an amendment to the Plan must be supported by findings of fact, based on the record, that demonstrate the criteria of Comprehensive Plan Section 1.3.1 (Amendment Criteria) have been met. The City Council and Planning Commission may adopt by reference facts, findings, reasons, and conclusions proposed by the City staff or others. Affirmative findings to the following criteria are the minimum requirements for Land Use Map amendments.

Compliance with Plan Amendment Criteria:

1.3.1.1. The proposed amendment is consistent and compatible with the Statewide Planning Goals.

Of the 19 Statewide Planning Goals, Goal One: Citizen Involvement and Goal Two: Land Use Planning are applicable to the proposed map amendments.

Goal One: Citizen Involvement

To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

This proposed application for a Comprehensive Plan Land Use Map amendment and zone change is subject to the public notice requirements of the City Charter,

Comprehensive Plan Section 1.3.4.3 and Development Code Section 50.45. The following summarizes public involvement opportunities and notification requirements specified in these sections:

- Mailing notice to DLCD, Metro, the City's Neighborhood Office and the CCI Chair at least forty-five days prior to the public hearing.
- A Public Hearing before the Planning Commission that must be advertised 20 days in advance in the Valley Times and posted in three conspicuous places. Thirty days prior to the hearing, notice must be mailed to the owners of the subject property by certified mail and twenty days prior to the hearing notice must be mailed to residents and owners of property within 500 feet of the subject property.

The Planning Commission at their hearing considers written comments and oral testimony before they make a decision. The procedures outlined in Comprehensive Plan Section 1.3.4.3 and Development Code Section 50.45 allow for proper notice and public hearing opportunities on the proposed Comprehensive Plan Land Use Map amendment and zone change as required by this Statewide Planning Goal. These procedures have been followed.

Finding: *Staff finds that the City through its Charter, Comprehensive Plan and Development Code and the State through numerous statutes have created proper procedures to insure citizens the opportunity to have input in these proposed Comprehensive Plan Map amendments and that those procedures have been or will be complied with.*

Goal Two: Land Use Planning

To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.

The City of Beaverton adopted a Comprehensive Plan, which includes text and maps, in a three-part report (Ordinance 1800) along with implementation measures, including the Development Code (Ordinance 2050) in the late 1980's. The City adopted a new Comprehensive Plan (Ordinance 4187) in January of 2002 that was prepared pursuant to a periodic review work program approved by the State Department of Land Conservation and Development (DLCD). The proposed Plan, including a new Land Use Map, was the subject of numerous public hearings and considerable analysis before being adopted. The adopted Plan and findings supporting adoption were deemed acknowledged pursuant to a series of Approval Orders from the Department of Land Conservation and Development, the last of which was issued on December 31, 2003. In 1989, the City and Washington County adopted the Washington County - Beaverton Urban Planning Area Agreement (UPAA), which is now section 3.15 of the Comprehensive Plan. The land use planning processes and policy framework described in the UPAA, Development

Code and Comprehensive Plan form the basis for decisions and actions, such as the subject amendments. In addition, both the Development Code and the Comprehensive Plan provide procedures to follow when assigning land use designations and zoning related to annexations.

Section II.D. of the UPAA states:

The CITY and the COUNTY agree that when annexation to the CITY takes place, the transition in land use designation from one jurisdiction to another should be orderly, logical and based upon a mutually agreed upon plan. Upon annexation, the CITY agrees to convert COUNTY plan and zoning designations to CITY plan and zoning designations which most closely approximate the density, use provisions and standards of the COUNTY designations. Such conversions shall be made according to the tables shown on Exhibit "B" to this agreement.

This property is currently designated Transit Oriented Residential: 9-12 units per acre (TO: R 9-12). The City does not have a comparable zoning designation to TO: R 9-12. The Washington County Comprehensive Framework Plan places the property within a Station Community design type. The UPAA does not reference either of these designations because they did not exist when it was written. The Metro 2040 Growth Concept Plan designates this parcel Park. Washington County normally zones parks Institutional but this park was annexed to the City prior to the County rezoning it. If this park was zoned Institutional, the UPAA is clear that the appropriate Land Use Map designation would be Neighborhood Residential – Standard Density.

Washington County's Comprehensive Framework Plan is implemented by ten Community Plans. County Community Plan documents consist of both adopted Land Use District Maps and related Plan text. Each Community Plan Map shows the adopted land use designation for each parcel within the planning area. The Community Plan text provides a written description of the Community Plan Map, Community Design Elements and Areas of Special Concern. Individual, site-specific policy design elements are sometimes included in the Community Plan text. City staff has reviewed the Sunset West Community Plan for relevant site-specific policies. The subject parcel is not identified as being within an Area of Special Concern.

Finding: *Staff finds that the City and Washington County have established a land use planning process and policy framework as basis for assigning land use and zoning designations for recently annexed land. This amendment complies with Goal Two.*

SUMMARY FINDING: *Staff finds that the requested Comprehensive Plan change to Neighborhood Residential – Standard Density is consistent with*

the Statewide Planning Goals and the requirements of Criterion 1.3.1.1 are met.

1.3.1.2. The proposed amendment is consistent and compatible with Metro Regional Urban Growth Goals and Objectives and the Metro Regional Framework Plan.

Metro's Urban Growth Management Functional Plan Section 3.07.830 requires that any Comprehensive Plan change must be consistent with the requirements of the Functional Plan. The City is only required to address provisions in the Urban Growth Management Functional Plan, which is an Element of the Framework Plan. The Regional Framework Plan (which includes the RUGGOs and the Urban Growth Management Functional Plan) does not contain policies or criteria directly applicable to decisions of this type.

The Metro 2040 Growth Concept Map shows this property as a Park design type. Parks are an allowed use in the Neighborhood Residential – Standard Density Land Use Map designation.

FINDING: Staff finds that the requested Land Use Map designation of Neighborhood Residential – Standard Density is consistent and compatible with regional plans and guidelines. The requirements of Criterion 1.3.1.2 are met.

1.3.1.3 The proposed amendment is consistent and compatible with the Comprehensive Plan and other applicable local plans.

Section 2.6.3 of the City Comprehensive Plan addresses Annexation Related Map Amendments. This section explains that Comprehensive Plan and Zoning map amendments of annexed properties are subject to the provisions of the UPAA (the UPAA is Section 3.15 of the Plan). The UPAA does not reference TO: R 9-12 because this designation did not exist when it was written. Washington County has placed a Station Community (SC) design type on this property and even though we are not required to comply with their framework plan we try to use it as guidance. The SC designation was placed on this parcel when it was part of the larger parcel to the south which has since been developed at 9 to 12 units to the acre. Steele Park is a tract that has become the property of the Park District. The property to the north and east are in the City and designated Neighborhood Residential – Standard Density (NR-SD) and the property to west across SW 170th Avenue has a Neighborhood design type by the County. Metro has placed a Park design type designation on Steele Park. The County normally designates parks Institutional and if this were Institutional the UPAA would require us to designate it NR-SD. Since we do not have an equivalent district to their TO: R 9-12, we are required to assign a similar and appropriate designation. Staff recommends the Neighborhood Residential – Standard Density as the most appropriate Comprehensive Plan Land Use Map designation.

Finding: Staff finds that the requested Comprehensive Plan change to Neighborhood Residential – Standard Density is consistent and compatible with Comprehensive Plan Sections 2.6.3 and 3.15 (UPAA), which are the relevant sections of the Plan. The requirements of Criterion 1.3.1.3 are met.

1.3.1.4 Potential effects of the proposed amendment have been evaluated and will not be detrimental to quality of life, including the economy, environment, public health, safety or welfare.

It is the intent of the UPAA to provide for a smooth transition from County designations to City designations by adopting designations that most closely approximate the County's designations. The transition does not significantly impact public services, economic factors or environmental elements. Residents and business owners may benefit from the application of City designations to their property when applying for development services since City employees are more familiar with City regulations than County regulations. Staff finds that the proposed amendments will not be detrimental to quality of life, including the economy, environment, public health, safety or welfare.

FINDING: Staff finds that the potential effects of the proposed amendment will not be detrimental to quality of life, including the economy, environment, public health, safety or welfare. Criterion 1.3.1.4 is met for the annexation related Comprehensive Plan Land Use Map amendment of Neighborhood Residential – Standard Density as proposed in this staff report.

1.3.1.5 The benefits of the proposed amendment will offset potential adverse impacts on surrounding areas, public facilities and services.

The UPAA was developed to ensure that City designation of annexed parcels would have minimal impact to surrounding areas, public facilities and services. The assumption behind this is that the County went through a proper planning, evaluation and review process prior to assigning plan designations and issuing development approvals. The City reviewed impacts on public facilities and services as part of the annexation review process prior to approving the annexation. No adverse impacts on public facilities and services were identified.

FINDING: Staff finds the benefits of the proposed Land Use Map amendment will offset potential adverse impacts on surrounding areas, public facilities and services. Criterion 1.3.1.5 is met for the proposed Comprehensive Plan Land Use Map amendment.

1.3.1.6 *There is a demonstrated public need, which will be satisfied by the amendment as compared with other properties with the same designation as the proposed amendment.*

This amendment is associated with an annexation that has added property to the City. It is necessary for property within the City to have City Comprehensive Plan and zoning designations in place of the County designations.

FINDING: Criterion 1.3.1.6 does not apply to annexation related Comprehensive Plan Land Use Map amendments.

ZONING MAP AMENDMENT FINDINGS

Adoption by the City Council and Planning Commission of an amendment to the Zoning Map must be supported by findings of fact based on the evidence provided by the applicant demonstrating the criteria of the Development Code Section 40.97.15.4.C (Discretionary Annexation Related Zoning Map Amendment - Approval Criteria) have been met. The City Council and Planning Commission may adopt by reference facts, findings, reasons, and conclusions proposed by the City staff or others. Affirmative findings to the following criteria are the minimum requirements for Zoning Map amendments.

40.97.15.4.C.1. *The proposal satisfies the threshold requirements for a Discretionary Annexation Related Zoning Map Amendment application.*

There is one threshold requirement that is "The change of zoning to a City zoning designation as a result of annexation of land to the City and the Urban Planning Area Agreement (UPAA) does not specify a particular corresponding City zoning designation and discretion is required to determine the most similar City zoning designation." The UPAA does not list TO: R 9-12 because the designation did not exist at the time it was written.

FINDING: Staff finds that the proposed request satisfies the threshold requirement for a Discretionary Annexation Related Zoning Map Amendment application.

40.97.15.4.C.2. *All City application fees related to the application under consideration by the decision making authority have been submitted.*

FINDING: Since there are no fees for annexation related Land Use Map and Zoning Map Amendments. Staff finds that this criterion is not applicable.

40.97.15.4.C.3. *The proposed zoning designation most closely approximates the density, use provisions, and development standards of the Washington County designation which applied to the subject property prior to annexation.*

Washington County zoned this parcel TO: R 9-12 with a Station Community design type. These designations are not listed in the UPAA because they did not exist when the UPAA was written. Washington County normally zones parks Institutional. The Park District acquired this parcel in December of 1997 a month after the County had adopted a plan and rezoned much of the Elmonica area. The parcel was annexed to the City before the County rezoned this park to Institutional. If this parcel was designated Institutional the UPAA would be specific that the appropriate zoning would be Residential – 7,000 square feet minimum per lot (R-7).

FINDING: Staff finds that the proposed zoning designation is the most appropriate district to the County's as specified by the UPAA.

40.97.15.4.C.4 The proposed zoning designation is consistent with any guidance contained within the UPAA concerning the application of non-specified zoning district designations.

The UPAA does not reference the current County zoning designation of TO: R 9-12 but does require that we assign our most similar zoning designation to the one assigned by the County. The zoning matrix contained in section 3.14 of the Comprehensive Plan allows four zoning districts in the Station Community Land Use Category those being SC-HDR, SC-MU, SA-MDR, and SA-MU. The SC-MU and SA-MU are primarily retail/commercial in nature and are not appropriate matches for a primarily residential district. The SC-HDR and SA-MDR require a minimum of 24 units to the net acre, which is twice the maximum allowed in their TO: R 9-12 and are not compatible. Washington County normally zones parks Institutional but this park annexed to the City before the County rezoned it. If this park had been rezoned to Institutional prior to annexing, the UPAA is specific that the appropriate City zoning would be Residential – 7,000 square feet minimum per lot (R-7).

FINDING: Staff finds that the proposed zoning designation is our most appropriate designation to that applied by the County as specified by the UPAA and, therefore, is consistent with it.

40.97.15.4.C.5. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

The City processes Land Use Map and Zoning Map Amendments (CPA/ZMA) for property being annexed into the City and there are no further City approvals related to this request other than the Planning Commission, City Council and Mayor's approvals of this CPA/ZMA. The property owner may, in the future, submit a request to the City for modification or redevelopment of the property, but that is not related to this request.

FINDING: *Staff finds that there are no proposals related to this request that will require further City approvals and, therefore, no additional applications or documents are required.*

PROCESS

Submission Requirements: An application for a Discretionary Annexation Related Zoning Map Amendment shall be made by the submittal of a valid annexation petition or an executed annexation agreement. An annexation petition has been submitted and the property has been annexed.

Public Hearing: Annexation Related Land Use Map amendments follow the procedures in the Comprehensive Plan and Annexation Related Zoning Map amendments follow the procedures in the City Charter and the Development Code. When the UPAA is not specific as to exactly which designations to assign, both processes require a public hearing before the Planning Commission. In this case the UPAA is not specific about either the Land Use Map or Zoning Map designations. This circumstance requires the Land Use Map and Zoning Map amendments to have a public hearing before the Planning Commission. The Zoning Map amendment will be processed as a Type 3 application. A public hearing has been scheduled before the Planning Commission on September 29, 2004 for the proposed amendments.

Public Notice: Section 43 of the City Charter, Section 1.3.4.3(a) of the Comprehensive Plan and Section 50.45.2 of the Development Code prescribe the notice to be provided for a public hearing on these types of applications.

Notice as described below for hearings on annexation related CPA's must be provided not less than twenty (20) calendar days prior to the City Planning Commission hearing and notice for hearings on annexation related rezones must be provided not less than seven (7) days prior to the hearing with the exception of the property owner who must, as required by the City Charter, be sent notice by certified mail at least thirty (30) calendar days prior to the hearing.

1. Legal notice was published in the Beaverton Valley Times on September 9, 2004.
2. Notice was posted at the Post Office, Beaverton Library and City Hall on or before 9, 2004.
3. Notice was mailed to the Five Oaks/Triple Creek Neighborhood Association Committee and the Sunset West/Rock Creek/Bethany Citizen Participation Organization and persons within 500 feet of the proposed rezones on or before September 9, 2004.
4. Notice was mailed to the property owner by certified mail on or before August 30, 2004.

Notice was also mailed to Metro and the State Department of Land Conservation and Development on August 12, 2004 more than the 45 days in advance of the initial hearing as required by the Metro Code and Section 660-018-0020 of the Oregon Administrative Rules.

The Planning Commission has not directed staff to provide additional notice for this amendment beyond the notices described above. The notice requirements for this CPA/ZMA will be met.

Decision: Following a Planning Commission action, a Planning Commission order will be prepared and mailed to the property owner and any person submitting written comments prior to or at the hearing or testifying before the Planning Commission during the hearing.

Appeals: Appeals of the Commission decision regarding CPA's and rezones are made to the City Council. The procedure for filing such an appeal and the manner of the hearing is governed by Section 1.3.6 of the Comprehensive Plan for the CPA and Section 50.70 of the Development Code for the ZMA. The appeal request must be made in writing and delivered to the City within 10 calendar days of the land use order date. In addition, there is a non-refundable \$638.00 fee, which must accompany the request for hearing.

120-Day Rule: This rezone request is quasi-judicial. The applicant (City of Beaverton) has waived the 120-day rule (Oregon Revised Statutes Chapter 227 Section 178). The CPA is not subject to the 120-day rule.

FINDING: *Applicable procedural requirements have been met for these proposed Land Use Map and Zoning Map amendments.*

Based on the findings in this report, staff concludes amending the Land Use Map to show Neighborhood Residential – Standard Density, and the Zoning Map to show Residential – 7,000 square feet minimum per lot (R-7), is appropriate.

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

SUBJECT: An Ordinance Amending Ordinance No. 4187, Figure III-1, the Comprehensive Plan Land Use Map and Ordinance No. 2050, the Zoning Map for Peck Park/TVF&R Station 61 which is Nine Parcels Located Along SW Murray Blvd.; CPA 2004-0014/ZMA 2004-0014

FOR AGENDA OF: 11/01/04 **BILL NO:** 04218

Mayor's Approval: [Signature]

DEPARTMENT OF ORIGIN: CDD [Signature]

DATE SUBMITTED: 10/04/04

CLEARANCES: City Attorney [Signature]
Planning Services HB

PROCEEDING: First Reading

EXHIBITS: Ordinance
Exhibit A - Map
Exhibit B - Staff Report Dated 09/23/04

BUDGET IMPACT

EXPENDITURE REQUIRED \$0	AMOUNT BUDGETED \$0	APPROPRIATION REQUIRED \$0
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HISTORICAL PERSPECTIVE:

This ordinance is before the City Council to assign City Comprehensive Plan Land Use Map and Zoning designations for the subject parcels, replacing the Washington County land use designations.

The Urban Planning Area Agreement (UPAA) is specific on the appropriate Land Use Map and Zoning Map designations for these nine parcels, thus no public hearing is required. The appropriate Land Use Map designation is Neighborhood Residential – Standard Density (NR-SD), and the appropriate Zoning Map designation is Residential – 7,000 square foot minimum per dwelling unit (R-7). The City land use designations will take effect 30 days after Council approval and the Mayor's signature on this ordinance.

INFORMATION FOR CONSIDERATION:

This ordinance makes the appropriate changes to Ordinance No. 4187, Figure III-1, the Comprehensive Plan Land Use Map and Ordinance No. 2050, the Zoning Map.

RECOMMENDED ACTION:

First Reading

ORDINANCE NO. 4328

AN ORDINANCE AMENDING ORDINANCE NO. 4187, FIGURE III-1, THE COMPREHENSIVE PLAN LAND USE MAP AND ORDINANCE NO. 2050, THE ZONING MAP FOR PECK PARK/TVF&R STATION 61 WHICH IS NINE PARCELS LOCATED ALONG SW MURRAY BLVD.; CPA 2004-0014/ZMA 2004-0014

WHEREAS, These parcels have been annexed to the City of Beaverton, thus they are being redesignated in this ordinance from the County's land use designations to the closest corresponding City designations as specified by the Urban Planning Area Agreement (UPAA); and

WHEREAS, Since the UPAA is specific on the appropriate designations for these parcels, no public hearing is required; and

WHEREAS, The Council adopts as to criteria applicable to this request and findings thereon the Community Development Department staff report by Senior Planner Alan Whitworth, dated September 23, 2004, attached hereto as Exhibit B; now, therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

Section 1. Ordinance No. 4187, the Comprehensive Plan Land Use Map, is amended to designate the subject parcels that are identified on tax map 1S104AC as lot 2600; tax map 1S104BA as lots 8200, 8300 and 8400; tax map 1S104BD as lots 7300 and 7400; and tax map 1S104CB as lots 100, 601 and 1300; Neighborhood Residential - Standard Density on the City of Beaverton Comprehensive Plan Land Use Map, as shown on Exhibit "A" and in accordance with the UPAA.

Section 2. Ordinance No. 2050, the Zoning Map, is amended to designate the same properties in Section 1 Residential - 7,000 square foot minimum of land area per dwelling unit (R-7) on the City of Beaverton Zoning Map, as shown on Exhibit "A" and in accordance with the UPAA.

First reading this _____ day of _____, 2004.
Passed by the Council this _____ day of _____, 2004.
Approved by the Mayor this _____ day of _____, 2004.

ATTEST:

APPROVED:

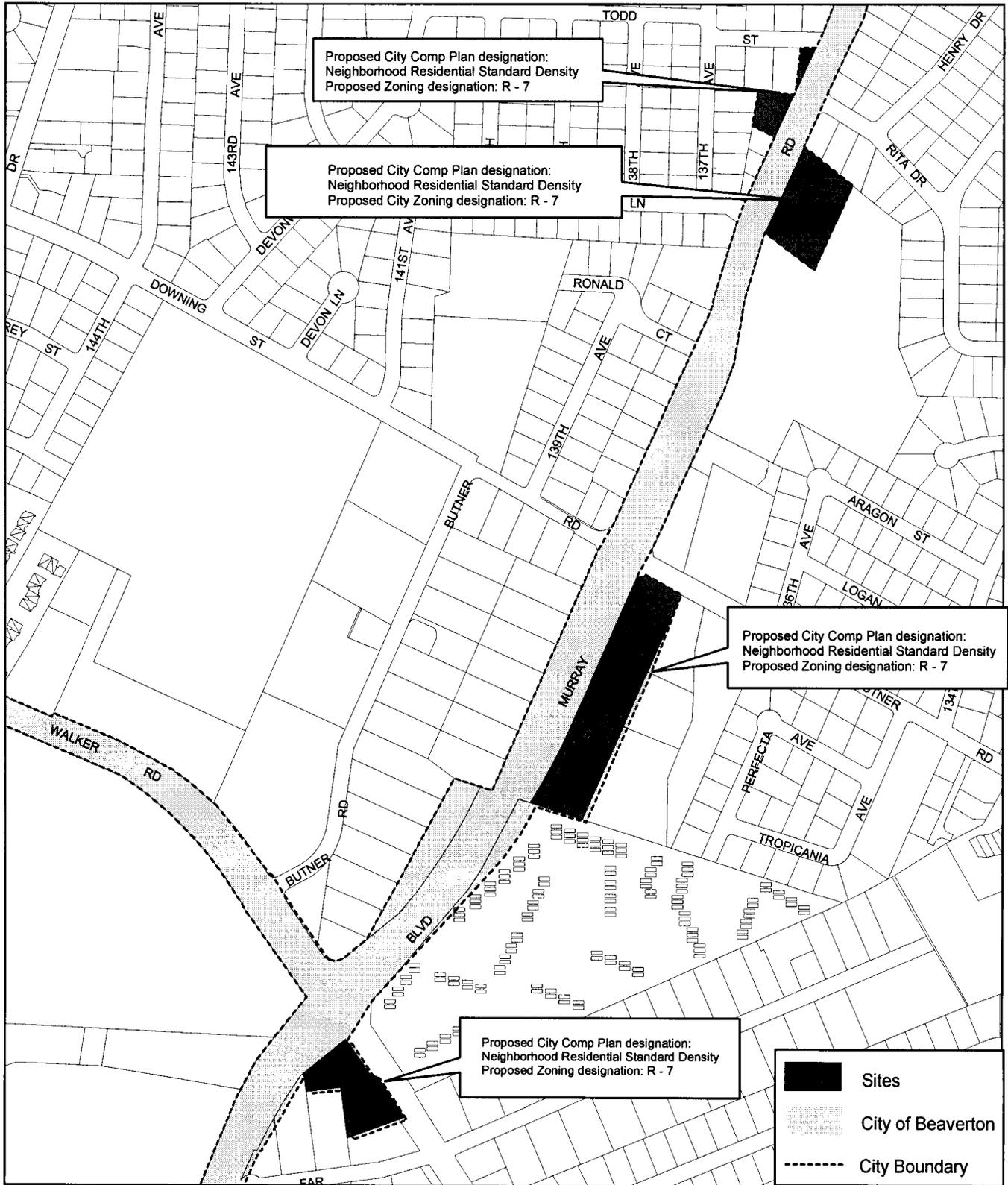
SUE NELSON, City Recorder

ROB DRAKE, Mayor

CPA/ZMA MAP

Ordinance No. 4328

Exhibit "A"



City of Beaverton

Peck Park/Tualatin Valley Fire & Rescue Station 61 Comprehensive Plan Land Use Map Amendment & Zoning Map Amendment

COMMUNITY DEVELOPMENT DEPARTMENT

Planning Services Division

08/10/04

Map #

various

N



Application #

CPA 2004-0014/
ZMA 2004-0014

**CITY of BEAVERTON**

4755 S.W. Griffith Drive, P.O. Box 4755, Beaverton, OR 97076 General Information (503) 526-2222 V/TDD

STAFF REPORT

TO: City Council

AGENDA DATE: November 1, 2004

REPORT DATE: September 23, 2004

FROM: Alan Whitworth, Senior Planner, Community Development Department

SUBJECT: To assign City Land Use Map (CPA2004-0014) and Zoning Map (ZMA2004-0014) designations to nine parcels that have been annexed to the City through a different process. The parcels are identified on tax map 1S104AC as lot 2600; tax map 1S104BA as lots 8200, 8300 and 8400; tax map 1S104BD as lots 7300 and 7400; and tax map 1S104CB as lots 100, 601 and 1300.

ACTIONS: Amend the City's Comprehensive Plan Land Use Map to show Neighborhood Residential Standard Density and the Zoning Map to show Residential – 7,000 square foot minimum per unit (R-7).

APPLICANT: City of Beaverton

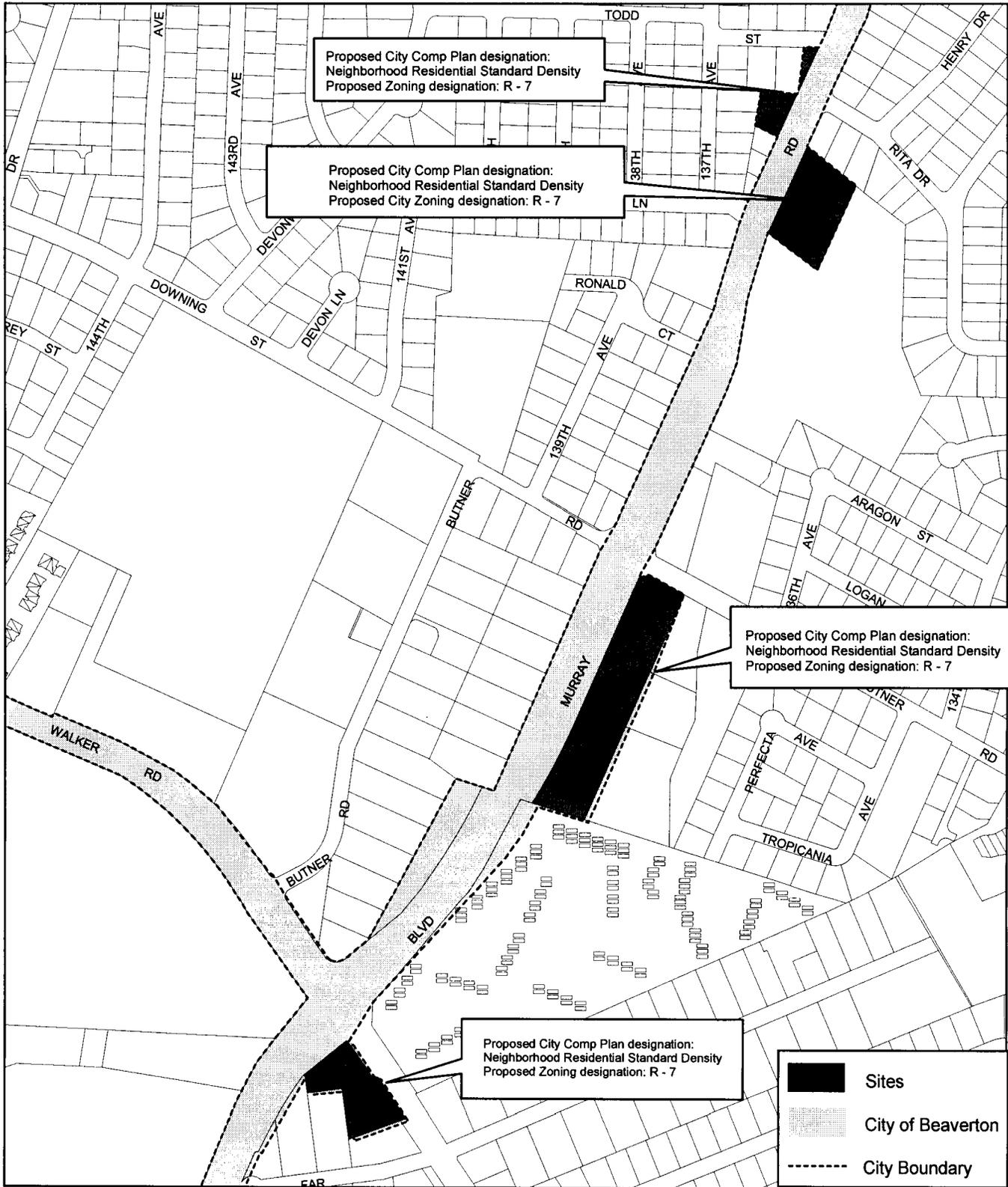
APPROVAL CRITERIA: Comprehensive Plan Section 1.3.1 and the Development Code Section 40.97.15.3.C

SUMMARY AND RECOMMENDATION

Eight of the parcels are zoned Residential – 5 units to the acre and one (the Pioneer Catholic Cemetery of St. Anthony of Padua) is zoned Institutional. The City assigns Comprehensive Plan and Zoning designations to property being annexed into the City as prescribed by the Washington County – Beaverton Urban Planning Area Agreement (UPAA). The UPAA is specific that the appropriate City Land Use Map designation for these parcels is Neighborhood Residential - Standard Density and the appropriate zoning district is Residential – 7,000 square foot minimum per unit (R-7). No Public Hearing is required because the UPAA is specific as to the Comprehensive Plan Land Use Plan and Zoning Map designations, no discretion is required and, therefore, these are not land use decisions.

Staff recommends the City Council adopt the ordinance assigning the Neighborhood Residential – Standard Density Land Use and R-7 Zoning designations for the subject parcels that are shown on the attached map and more particularly described by the attached legal description, effective thirty days after the Mayor's signature.

CPA/ZMA MAP



City of Beaverton

Peck Park/Tualatin Valley Fire & Rescue Station 61 Comprehensive
Plan Land Use Map Amendment & Zoning Map Amendment

COMMUNITY DEVELOPMENT DEPARTMENT

Planning Services Division

08/10/04

Map #

various

N



Application #

CPA 2004-0014/
ZMA 2004-0014

EXISTING CONDITIONS

Eight of the parcels are presently under Washington County's Residential – 5 units to the acre designation and one (the Pioneer Catholic Cemetery of St. Anthony of Padua) is designated Institutional. The properties total approximately 5.6 acres and are developed as a public park, a fire and rescue station, a pioneer cemetery and the remainder are currently undeveloped.

COMPREHENSIVE PLANNING AND ZONING

The purpose of the proposed amendments to the Comprehensive Plan Land Use Map and Zoning Map is to assign appropriate City Land Use and Zoning designations to property that has been annexed into the City of Beaverton through a different process. The Washington County - Beaverton Urban Planning Area Agreement (UPAA) calls for the City to assign our most similar Land Use Map and Zoning Map designations to those of the County's. Eight of the parcels are zoned Residential – 5 units to the acre (R-5) and one (the Pioneer Catholic Cemetery of St. Anthony of Padua) is zoned Institutional (INS). The UPAA is clear that their R-5 translates to City of Beaverton Neighborhood Residential – Standard Density Comprehensive Plan Land Use Map designation and Residential – 7,000 square feet per unit (R-7) Zoning Map designation. The UPAA requires the City to rezone properties designated INS to the most restricted abutting zone. The most restrictive abutting zoning to the cemetery is Washington County R-5, and as stated above their R-5 translates to our Neighborhood Residential – Standard Density and R-7.

CRITERIA FOR APPROVAL

COMPREHENSIVE PLAN AMENDMENT CRITERIA

Comprehensive Plan Section 1.3.1 includes the following minimum criteria for amendment decisions:

1.3.1.1. The proposed amendment is consistent and compatible with the Statewide Planning Goals; and

Of the 19 Statewide Planning Goals, Goal Two: Land Use Planning is applicable to the proposed map amendment.

Goal Two: Land Use Planning

To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.

The City of Beaverton adopted a Comprehensive Plan, which includes text and maps, in a three-part report (Ordinance 1800) along with implementation measures, including the Development Code (Ordinance 2050) in the late 1980's. The City adopted a new Comprehensive Plan (Ordinance 4187) in January of 2002 that was prepared pursuant to a periodic review work program approved by the State Department of Land Conservation and Development (DLCD). The proposed Plan, including a new Land Use Map, was the subject of numerous public hearings and considerable analysis before being adopted. The adopted Plan and findings supporting adoption were deemed acknowledged pursuant to a series of Approval Orders from the Department of Land Conservation and Development, the last of which was issued on December 31, 2003. In 1989, the City and Washington County adopted the Urban Planning Area Agreement (UPAA), which is now section 3.15 of the Comprehensive Plan. The land use planning processes and policy framework described in the UPAA, Development Code and Comprehensive Plan form the basis for decisions and actions, such as the subject amendments. In addition, both the Development Code and the Comprehensive Plan provide procedures to follow when assigning Land Use designations and zoning related to annexations.

Findings: Staff finds that the City and Washington County have established a land use planning process and policy framework as basis for assigning land use and zoning designations for recently annexed land. The proposed actions are those specified by the acknowledged Urban Planning Area Agreement between the City and Washington County. This amendment complies with Goal Two and criterion 1.3.1.1 is met.

1.3.1.2. The proposed amendment is consistent and compatible with Metro Regional Urban Growth Goals and Objectives and the Metro Regional Framework Plan; and

The City is only required to address provisions in the Urban Growth Management Functional Plan (UGMFP), which is an Element of the Framework Plan. Section 3.07.830 of the UGMFP requires that any Comprehensive Plan change must be consistent with the requirements of the Functional Plan. Section 3.07.130 of the UGMFP states:

“For each of the following 2040 Growth Concept design types, city and county comprehensive plans shall be amended to include the boundaries of each area, determined by the city or county consistent with the general locations shown on the 2040 Growth Concept Map...”

The 2040 Growth Concept Plan map designates all of these parcels as Corridor design types except for Wanda L. Peck Park that has a Public Park designation. Section 3.07.130 of the UGMFP states that Corridors are: "Along good quality transit lines, corridors feature a high-quality pedestrian environment, convenient access to transit, and somewhat higher than current densities." No description is given for the Public Park designation. The introduction to Section 3.07.130 states: "For each of the following 2040 Growth Concept design types, city and county comprehensive plans shall be amended to include the boundaries of each area, determined by the city or county consistent with the general location shown on the 2040 Growth Concept Map...". The UPAA does not address the design types because they did not exist at the time that it was written. The UPAA is specific that the Comprehensive Plan designation should be Neighborhood Residential – Standard Density. Metro's design types are intended to be guidelines: not rigid inflexible rules. Each local government is to apply them to specific properties after careful study and review. Even if the UPAA was not specific as to the Land Use Map designation, staff does not believe that these parcels should be Corridor. The west side of Murray Blvd. between Walker Road and the Sunset Highway is primarily zoned Washington County R-5 and developed with single-family houses that do not front onto Murray. Much of the east side of Murray in this area is in a flood plain and not suitable for high density development. The City does not have a "park" Comprehensive Plan designation.

Findings: 2040 Growth Concept design types are meant as guidelines and Criterion 1.3.1.2 is met for the proposed amendment.

1.3.1.3. The proposed amendment is consistent and compatible with the Comprehensive Plan and other applicable local plans; and

Applicable Comprehensive Plan procedures are found in Sections 1.3 (Amendment Procedures) and 2.6.3 (Annexation Related Map Amendments). These Sections require that annexation related Comprehensive Plan and Zoning Map amendments should be those stipulated by the UPAA.

Findings: This amendment is consistent with the Urban Planning Area Agreement and therefore Criterion 1.3.1.3 is met.

1.3.1.4. Potential effects of the proposed amendment have been evaluated and will not be detrimental to quality of life, including the economy, environment, public health, safety or welfare; and

It is the intent of the UPAA to provide for a smooth transition from County designations to City designations by adopting designations that most closely approximate the County's designations. The transition does not significantly impact public services, economic factors or environmental elements. Property owners may benefit from the application of City designations to their property when applying for

development services since City employees are more familiar with City regulations than County regulations. Staff finds that the proposed amendments will not be detrimental to quality of life, including the economy, environment, public health, safety or welfare.

Findings: Criterion 1.3.1.4 is met for the proposed amendment.

1.3.1.5. The benefits of the proposed amendment will offset potential adverse impacts on surrounding areas, public facilities and services; and

The UPAA was developed to ensure that City designation of annexed property would have minimal impact to surrounding areas, public facilities and services. Existing public facility capacity is addressed in the separate annexation process and adequate public facility capacity for any proposed development will be addressed in the development review process. No adverse impacts on public facilities and services have been identified.

Findings: Criterion 1.3.1.5 is met for the proposed amendment.

1.3.1.6 There is a demonstrated public need, which will be satisfied by the amendment as compared with other properties with the same designation as the proposed amendment.

This amendment is associated with an annexation that added property to the City. Annexation amendments are governed by the UPAA, which stipulates that the City designation most similar to the County designation, at the time of annexation, will be applied.

Findings: Criterion 1.3.1.6 does not apply to Comprehensive Plan map amendments associated with an annexation.

ZONING MAP AMENDMENT CRITERIA

Adoption by the City Council of an amendment to the Zoning Map must be supported by findings of fact based on the evidence provided by the applicant demonstrating the criteria of the Development Code Section 40.97.15.3.C (Non-Discretionary Annexation Related Zoning Map Amendment - Approval Criteria) have been met. The City Council may adopt by reference facts, findings, reasons, and conclusions proposed by the City staff or others. Affirmative findings to the following criteria are the minimum requirements for Zone Map amendments.

40.97.15.3.C.1. *The proposal satisfies the threshold requirements for a Non-Discretionary Annexation Related Zoning Map Amendment application.*

There are two threshold requirements with the first requiring that “The change of zoning to a city zoning designation be the result of annexation of land to the City”, which it is. The other requires that the UPAA be specific as to the City zoning designations to be applied and does not allow for discretion, and the UPAA is specific that Washington County Residential five units to the acre (R-5) goes to City Residential 7,000 square foot minimum per unit (R-7) and no discretion is required. The UPAA is also specific that Institutional is to be rezoned to the most restrictive abutting zone, which in this case is County R-5. As stated above their R-5 goes to our R-7.

FINDING: Staff finds that the proposed request satisfies the threshold requirements for a Non-Discretionary Annexation Related Zoning Map Amendment application.

40.97.15.3.C.2. All City application fees related to the application under consideration by the decision making authority have been submitted.

FINDING: Since there are no fees for annexation related Land Use Map and Zoning Map Amendments staff finds that this criterion is not applicable.

40.97.15.3.C.3. The proposed zoning designation is consistent with the Washington County - Beaverton UPAA.

The UPAA is specific that County Residential five units to the acre (R-5) goes to City Residential 7,000 square foot minimum per unit (R-7) and County Institutional goes to the most restrictive abutting zone. The most restrictive abutting zone is County R-5, which goes to City R-7 as stated above. The proposed changes are consistent with the UPAA.

FINDING: Staff finds that the proposed zoning designation is that specified by the UPAA and is, therefore, consistent with it.

40.97.15.3.C.4. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

The City processes Land Use Map and Zoning Map Amendments (CPA/ZMA) for property being annexed into the City and there are no further City approvals related to this request other than City Council and Mayor’s approvals of this CPA/ZMA. The property owner may, in the future, submit a request to the City for redevelopment of the property, but that is not related to this request.

FINDING: Staff finds that there are no proposals related to this request that will require further City approvals and, therefore, no additional applications or documents are required.

PROCESS

Submission Requirements: An application for a Non-Discretionary Annexation Related Comprehensive Plan Land Use Map and Zoning Map Amendment shall be made by the submittal of a valid annexation petition, an executed annexation agreement, or letter. Valid annexation petitions and a letter have been submitted.

Public Notice: Section 1.3.4.3(c) of the Comprehensive Plan prescribes the notice to be provided for these types of applications.

Notice on non-discretionary annexation related CPA's must be provided not less than twenty (20) calendar days prior to the item first initially appears on the City Council's agenda.

1. Legal notice will be published in the Beaverton Valley Times on October 7, 2004.
2. Notice will be mailed to the Five Oaks/Triple Creek Neighborhood Association Committee, Cedar Hills/Cedar Mill Citizen Participation Organization, Beaverton Neighborhood Office, and Chair of the Committee for Citizen Involvement (CCI) on or before October 12, 2004.
3. Notice will be mailed to the property owners by certified mail on or before October 2, 2004.

The City Council has not directed staff to provide additional notice for this amendment beyond the notices described above, however, notice and this staff report will be posted on the City of Beaverton's public web site. The notice requirements for this CPA/ZMA will be met.

FINDING: *Applicable procedural requirements have been met for these proposed Land Use Map and Zoning Map amendments.*

Based on the findings in this report, staff concludes amending the Land Use Map to show Neighborhood Residential - Standard Density, and the Zoning Map to show R-7, is appropriate.

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

SUBJECT: An Ordinance Amending Ordinance No. 4187, Figure III-1, the Comprehensive Plan Land Use Map and Ordinance No. 2050, the Zoning Map for Property Located at 12030 SW Center Street; CPA 2004-0015/ZMA 2004-0015

FOR AGENDA OF: 11/01/04 **BILL NO:** 04219

Mayor's Approval: 

DEPARTMENT OF ORIGIN: CDD 

DATE SUBMITTED: 10/04/04

CLEARANCES: City Attorney 

Planning Services 

PROCEEDING: First Reading

EXHIBITS: Ordinance
Exhibit A - Map
Exhibit B - Staff Report Dated 09/23/04

BUDGET IMPACT

EXPENDITURE REQUIRED \$0	AMOUNT BUDGETED \$0	APPROPRIATION REQUIRED \$0
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HISTORICAL PERSPECTIVE:

This ordinance is before the City Council to assign City Comprehensive Plan Land Use Map and Zoning designations for the subject property, replacing the Washington County land use designations.

The Urban Planning Area Agreement (UPAA) is specific on the appropriate Land Use Map and Zoning Map designations for this parcel, thus no public hearing is required. The appropriate Land Use Map designation is Neighborhood Residential - High Density (NR-HD), and the appropriate Zoning Map designation is Residential - 1,000 square foot minimum land area per dwelling unit (R-1). The City land use designations will take effect 30 days after Council approval and the Mayor's signature on this ordinance.

INFORMATION FOR CONSIDERATION:

This ordinance makes the appropriate changes to Ordinance No. 4187, Figure III-1, the Comprehensive Plan Land Use Map and Ordinance No. 2050, the Zoning Map.

RECOMMENDED ACTION:

First Reading

ORDINANCE NO. 4329

AN ORDINANCE AMENDING ORDINANCE NO. 4187, FIGURE III-1, THE COMPREHENSIVE PLAN LAND USE MAP AND ORDINANCE NO. 2050, THE ZONING MAP FOR PROPERTY LOCATED AT 12030 SW CENTER STREET; CPA 2004-0015/ZMA 2004-0015

- WHEREAS,** This property is being annexed to the City of Beaverton, through a separate process, thus the property is being redesignated in this ordinance from the County's land use designations to the closest corresponding City designations as specified by the Urban Planning Area Agreement (UPAA); and
- WHEREAS,** Since the UPAA is specific on the appropriate designations for this parcel, no public hearing is required; and
- WHEREAS,** The Council adopts as to criteria applicable to this request and findings thereon the Community Development Department staff report by Senior Planner Alan Whitworth, dated September 23, 2004, attached hereto as Exhibit B; now, therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

- Section 1.** Ordinance No. 4187, the Comprehensive Plan Land Use Map, is amended to designate the subject property located at 12030 SW Center Street (Tax Map 1S110CC, Lot 00100) Neighborhood Residential - High Density on the City of Beaverton Comprehensive Plan Land Use Map, as shown on Exhibit "A" and in accordance with the UPAA.
- Section 2.** Ordinance No. 2050, the Zoning Map, is amended to designate the same property in Section 1 Residential – 1,000 square foot minimum per dwelling unit (R-1) on the City of Beaverton Zoning Map, as shown on Exhibit "A" and in accordance with the UPAA.

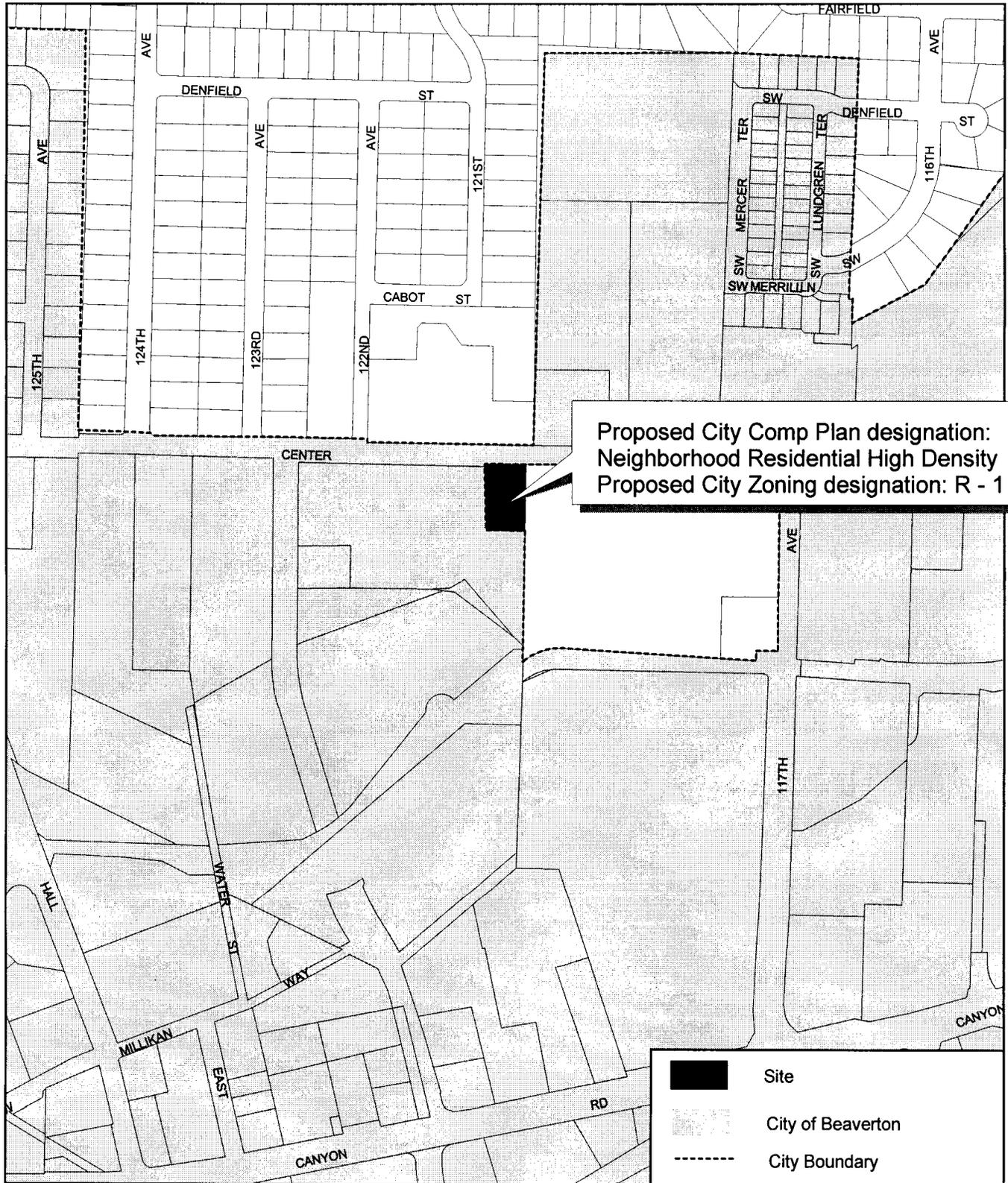
First reading this _____ day of _____, 2004.
Passed by the Council this _____ day of _____, 2004.
Approved by the Mayor this _____ day of _____, 2004.

ATTEST:

APPROVED:

SUE NELSON, City Recorder

ROB DRAKE, Mayor



Proposed City Comp Plan designation:
 Neighborhood Residential High Density
 Proposed City Zoning designation: R - 1

-  Site
-  City of Beaverton
-  City Boundary



City of Beaverton

12030 SW Center Street Comprehensive Plan Land Use Map Amendment & Zoning Map Amendment

COMMUNITY DEVELOPMENT DEPARTMENT

Planning Services Division

08/25/04

Map #

1s110cc00100



Application #

CPA 2004-0015/
 ZMA 2004-0015

**CITY of BEAVERTON****Exhibit "B"**

4755 S.W. Griffith Drive, P.O. Box 4755, Beaverton, OR 97076 General Information (503) 526-2222 V/TDD

STAFF REPORT

TO: City Council

AGENDA DATE: November 1, 2004

REPORT DATE: September 23, 2004

FROM: Alan Whitworth, Senior Planner, Community Development Department

SUBJECT: To assign City Land Use Map (CPA2004-0014) and Zoning Map (ZMA2004-0014) designations to nine parcels that have been annexed to the City through a different process. The parcels are identified on tax map 1S104AC as lot 2600; tax map 1S104BA as lots 8200, 8300 and 8400; tax map 1S104BD as lots 7300 and 7400; and tax map 1S104CB as lots 100, 601 and 1300.

ACTIONS: Amend the City's Comprehensive Plan Land Use Map to show Neighborhood Residential Standard Density and the Zoning Map to show Residential – 7,000 square foot minimum per unit (R-7).

APPLICANT: City of Beaverton

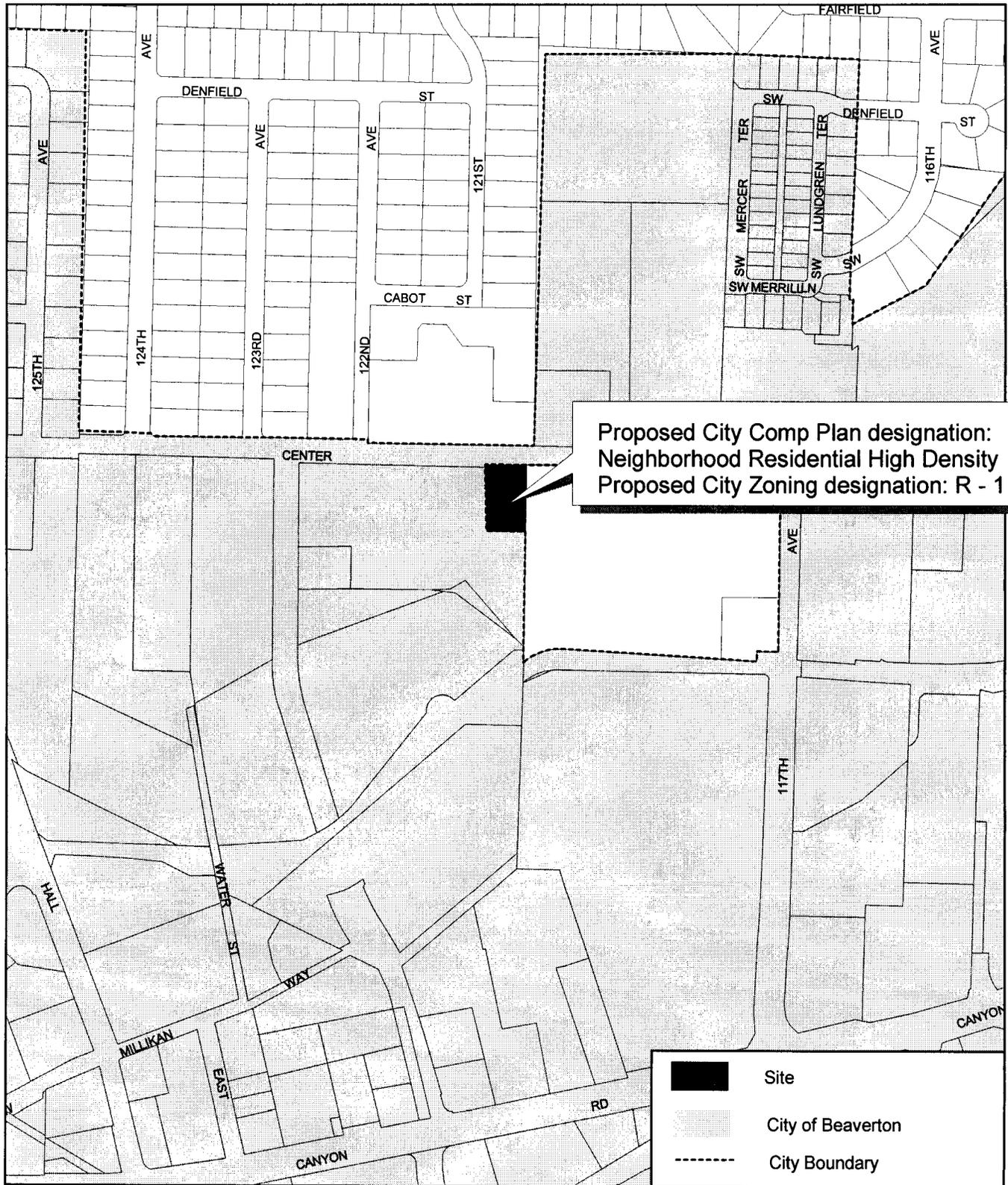
APPROVAL CRITERIA: Comprehensive Plan Section 1.3.1 and the Development Code Section 40.97.15.3.C

SUMMARY AND RECOMMENDATION

Eight of the parcels are zoned Residential – 5 units to the acre and one (the Pioneer Catholic Cemetery of St. Anthony of Padua) is zoned Institutional. The City assigns Comprehensive Plan and Zoning designations to property being annexed into the City as prescribed by the Washington County – Beaverton Urban Planning Area Agreement (UPAA). The UPAA is specific that the appropriate City Land Use Map designation for these parcels is Neighborhood Residential - Standard Density and the appropriate zoning district is Residential – 7,000 square foot minimum per unit (R-7). No Public Hearing is required because the UPAA is specific as to the Comprehensive Plan Land Use Plan and Zoning Map designations, no discretion is required and, therefore, these are not land use decisions.

Staff recommends the City Council adopt the ordinance assigning the Neighborhood Residential – Standard Density Land Use and R-7 Zoning designations for the subject parcels that are shown on the attached map and more particularly described by the attached legal description, effective thirty days after the Mayor's signature.

CPA/ZMA MAP



City of Beaverton

12030 SW Center Street Comprehensive Plan Land Use Map Amendment & Zoning Map Amendment

COMMUNITY DEVELOPMENT DEPARTMENT

Planning Services Division

08/25/04

Map #

1s110cc00100

N



Application #

CPA 2004-0015/
ZMA 2004-0015

EXISTING CONDITIONS

Eight of the parcels are presently under Washington County's Residential – 5 units to the acre designation and one (the Pioneer Catholic Cemetery of St. Anthony of Padua) is designated Institutional. The properties total approximately 5.6 acres and are developed as a public park, a fire and rescue station, a pioneer cemetery and the remainder are currently undeveloped.

COMPREHENSIVE PLANNING AND ZONING

The purpose of the proposed amendments to the Comprehensive Plan Land Use Map and Zoning Map is to assign appropriate City Land Use and Zoning designations to property that has been annexed into the City of Beaverton through a different process. The Washington County - Beaverton Urban Planning Area Agreement (UPAA) calls for the City to assign our most similar Land Use Map and Zoning Map designations to those of the County's. Eight of the parcels are zoned Residential – 5 units to the acre (R-5) and one (the Pioneer Catholic Cemetery of St. Anthony of Padua) is zoned Institutional (INS). The UPAA is clear that their R-5 translates to City of Beaverton Neighborhood Residential – Standard Density Comprehensive Plan Land Use Map designation and Residential – 7,000 square feet per unit (R-7) Zoning Map designation. The UPAA requires the City to rezone properties designated INS to the most restricted abutting zone. The most restrictive abutting zoning to the cemetery is Washington County R-5, and as stated above their R-5 translates to our Neighborhood Residential – Standard Density and R-7.

CRITERIA FOR APPROVAL

COMPREHENSIVE PLAN AMENDMENT CRITERIA

Comprehensive Plan Section 1.3.1 includes the following minimum criteria for amendment decisions:

1.3.1.1. The proposed amendment is consistent and compatible with the Statewide Planning Goals; and

Of the 19 Statewide Planning Goals, Goal Two: Land Use Planning is applicable to the proposed map amendment.

Goal Two: Land Use Planning

To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.

The City of Beaverton adopted a Comprehensive Plan, which includes text and maps, in a three-part report (Ordinance 1800) along with implementation measures, including the Development Code (Ordinance 2050) in the late 1980's. The City adopted a new Comprehensive Plan (Ordinance 4187) in January of 2002 that was prepared pursuant to a periodic review work program approved by the State Department of Land Conservation and Development (DLCD). The proposed Plan, including a new Land Use Map, was the subject of numerous public hearings and considerable analysis before being adopted. The adopted Plan and findings supporting adoption were deemed acknowledged pursuant to a series of Approval Orders from the Department of Land Conservation and Development, the last of which was issued on December 31, 2003. In 1989, the City and Washington County adopted the Urban Planning Area Agreement (UPAA), which is now section 3.15 of the Comprehensive Plan. The land use planning processes and policy framework described in the UPAA, Development Code and Comprehensive Plan form the basis for decisions and actions, such as the subject amendments. In addition, both the Development Code and the Comprehensive Plan provide procedures to follow when assigning Land Use designations and zoning related to annexations.

Findings: Staff finds that the City and Washington County have established a land use planning process and policy framework as basis for assigning land use and zoning designations for recently annexed land. The proposed actions are those specified by the acknowledged Urban Planning Area Agreement between the City and Washington County. This amendment complies with Goal Two and criterion 1.3.1.1 is met.

1.3.1.2. The proposed amendment is consistent and compatible with Metro Regional Urban Growth Goals and Objectives and the Metro Regional Framework Plan; and

The City is only required to address provisions in the Urban Growth Management Functional Plan (UGMFP), which is an Element of the Framework Plan. Section 3.07.830 of the UGMFP requires that any Comprehensive Plan change must be consistent with the requirements of the Functional Plan. Section 3.07.130 of the UGMFP states:

“For each of the following 2040 Growth Concept design types, city and county comprehensive plans shall be amended to include the boundaries of each area, determined by the city or county consistent with the general locations shown on the 2040 Growth Concept Map...”

The 2040 Growth Concept Plan map designates all of these parcels as Corridor design types except for Wanda L. Peck Park that has a Public Park designation. Section 3.07.130 of the UGMFP states that Corridors are: "Along good quality transit lines, corridors feature a high-quality pedestrian environment, convenient access to transit, and somewhat higher than current densities." No description is given for the Public Park designation. The introduction to Section 3.07.130 states: "For each of the following 2040 Growth Concept design types, city and county comprehensive plans shall be amended to include the boundaries of each area, determined by the city or county consistent with the general location shown on the 2040 Growth Concept Map...". The UPAA does not address the design types because they did not exist at the time that it was written. The UPAA is specific that the Comprehensive Plan designation should be Neighborhood Residential – Standard Density. Metro's design types are intended to be guidelines: not rigid inflexible rules. Each local government is to apply them to specific properties after careful study and review. Even if the UPAA was not specific as to the Land Use Map designation, staff does not believe that these parcels should be Corridor. The west side of Murray Blvd. between Walker Road and the Sunset Highway is primarily zoned Washington County R-5 and developed with single-family houses that do not front onto Murray. Much of the east side of Murray in this area is in a flood plain and not suitable for high density development. The City does not have a "park" Comprehensive Plan designation.

Findings: 2040 Growth Concept design types are meant as guidelines and Criterion 1.3.1.2 is met for the proposed amendment.

1.3.1.3. The proposed amendment is consistent and compatible with the Comprehensive Plan and other applicable local plans; and

Applicable Comprehensive Plan procedures are found in Sections 1.3 (Amendment Procedures) and 2.6.3 (Annexation Related Map Amendments). These Sections require that annexation related Comprehensive Plan and Zoning Map amendments should be those stipulated by the UPAA.

Findings: This amendment is consistent with the Urban Planning Area Agreement and therefore Criterion 1.3.1.3 is met.

1.3.1.4. Potential effects of the proposed amendment have been evaluated and will not be detrimental to quality of life, including the economy, environment, public health, safety or welfare; and

It is the intent of the UPAA to provide for a smooth transition from County designations to City designations by adopting designations that most closely approximate the County's designations. The transition does not significantly impact public services, economic factors or environmental elements. Property owners may benefit from the application of City designations to their property when applying for

development services since City employees are more familiar with City regulations than County regulations. Staff finds that the proposed amendments will not be detrimental to quality of life, including the economy, environment, public health, safety or welfare.

Findings: Criterion 1.3.1.4 is met for the proposed amendment.

1.3.1.5. The benefits of the proposed amendment will offset potential adverse impacts on surrounding areas, public facilities and services; and

The UPAA was developed to ensure that City designation of annexed property would have minimal impact to surrounding areas, public facilities and services. Existing public facility capacity is addressed in the separate annexation process and adequate public facility capacity for any proposed development will be addressed in the development review process. No adverse impacts on public facilities and services have been identified.

Findings: Criterion 1.3.1.5 is met for the proposed amendment.

1.3.1.6 There is a demonstrated public need, which will be satisfied by the amendment as compared with other properties with the same designation as the proposed amendment.

This amendment is associated with an annexation that added property to the City. Annexation amendments are governed by the UPAA, which stipulates that the City designation most similar to the County designation, at the time of annexation, will be applied.

Findings: Criterion 1.3.1.6 does not apply to Comprehensive Plan map amendments associated with an annexation.

ZONING MAP AMENDMENT CRITERIA

Adoption by the City Council of an amendment to the Zoning Map must be supported by findings of fact based on the evidence provided by the applicant demonstrating the criteria of the Development Code Section 40.97.15.3.C (Non-Discretionary Annexation Related Zoning Map Amendment - Approval Criteria) have been met. The City Council may adopt by reference facts, findings, reasons, and conclusions proposed by the City staff or others. Affirmative findings to the following criteria are the minimum requirements for Zone Map amendments.

40.97.15.3.C.1. *The proposal satisfies the threshold requirements for a Non-Discretionary Annexation Related Zoning Map Amendment application.*

There are two threshold requirements with the first requiring that “The change of zoning to a city zoning designation be the result of annexation of land to the City”, which it is. The other requires that the UPAA be specific as to the City zoning designations to be applied and does not allow for discretion, and the UPAA is specific that Washington County Residential five units to the acre (R-5) goes to City Residential 7,000 square foot minimum per unit (R-7) and no discretion is required. The UPAA is also specific that Institutional is to be rezoned to the most restrictive abutting zone, which in this case is County R-5. As stated above their R-5 goes to our R-7.

FINDING: Staff finds that the proposed request satisfies the threshold requirements for a Non-Discretionary Annexation Related Zoning Map Amendment application.

40.97.15.3.C.2. All City application fees related to the application under consideration by the decision making authority have been submitted.

FINDING: Since there are no fees for annexation related Land Use Map and Zoning Map Amendments staff finds that this criterion is not applicable.

40.97.15.3.C.3. The proposed zoning designation is consistent with the Washington County - Beaverton UPAA.

The UPAA is specific that County Residential five units to the acre (R-5) goes to City Residential 7,000 square foot minimum per unit (R-7) and County Institutional goes to the most restrictive abutting zone. The most restrictive abutting zone is County R-5, which goes to City R-7 as stated above. The proposed changes are consistent with the UPAA.

FINDING: Staff finds that the proposed zoning designation is that specified by the UPAA and is, therefore, consistent with it.

40.97.15.3.C.4. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

The City processes Land Use Map and Zoning Map Amendments (CPA/ZMA) for property being annexed into the City and there are no further City approvals related to this request other than City Council and Mayor’s approvals of this CPA/ZMA. The property owner may, in the future, submit a request to the City for redevelopment of the property, but that is not related to this request.

FINDING: Staff finds that there are no proposals related to this request that will require further City approvals and, therefore, no additional applications or documents are required.

PROCESS

Submission Requirements: An application for a Non-Discretionary Annexation Related Comprehensive Plan Land Use Map and Zoning Map Amendment shall be made by the submittal of a valid annexation petition, an executed annexation agreement, or letter. Valid annexation petitions and a letter have been submitted.

Public Notice: Section 1.3.4.3(c) of the Comprehensive Plan prescribes the notice to be provided for these types of applications.

Notice on non-discretionary annexation related CPA's must be provided not less than twenty (20) calendar days prior to the item first initially appears on the City Council's agenda.

1. Legal notice will be published in the Beaverton Valley Times on October 7, 2004.
2. Notice will be mailed to the Five Oaks/Triple Creek Neighborhood Association Committee, Cedar Hills/Cedar Mill Citizen Participation Organization, Beaverton Neighborhood Office, and Chair of the Committee for Citizen Involvement (CCI) on or before October 12, 2004.
3. Notice will be mailed to the property owners by certified mail on or before October 2, 2004.

The City Council has not directed staff to provide additional notice for this amendment beyond the notices described above, however, notice and this staff report will be posted on the City of Beaverton's public web site. The notice requirements for this CPA/ZMA will be met.

FINDING: *Applicable procedural requirements have been met for these proposed Land Use Map and Zoning Map amendments.*

Based on the findings in this report, staff concludes amending the Land Use Map to show Neighborhood Residential - Standard Density, and the Zoning Map to show R-7, is appropriate.

Exhibit: Legal Description

LEGAL DESCRIPTION
ANX 2004-0012
12030 SW CENTER STREET EXPEDITED ANNEXATION

A parcel of land (consisting entirely of tax lot 1S 1 10CC 100) situated in the Southwest 1/4 of Section 10, Township 1 South, Range 1 West, Willamette Meridian, Washington County, Oregon; more particularly described as follows:

Beginning at a point on the South line of SW Center Street, said point bears South 01° 11' East, a distance of 20.00 feet from the Northwest corner of the Lockerman DLC No. 45; thence South 01° 11' East, a distance of 180.00 feet; thence South 88° 44' West, a distance of 100.00 feet; thence North 01° 11' West, a distance of 180.00 feet, to a point on said South line; thence along said South line, North 88° 48' East, a distance of 100.00 feet to the point of beginning.

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

SUBJECT: An Ordinance Amending Ordinance No. 4187, Figure III-1, the Comprehensive Plan Land Use Map and Ordinance No. 2050, the Zoning Map for Property Located at 15865 SW Division Street; CPA 2004-0010/ZMA 2004-0010

11/1/04
FOR AGENDA OF: ~~10/18/04~~ **BILL NO:** 04209
Mayor's Approval: 
DEPARTMENT OF ORIGIN: CDD 
DATE SUBMITTED: 09/21/04
CLEARANCES: City Attorney 
Planning Services HB

PROCEEDING: Second Reading and Passage
First Reading

EXHIBITS: Ordinance
Exhibit A - Map
Exhibit B – Staff Report Dated 09/09/04

BUDGET IMPACT

EXPENDITURE REQUIRED \$0	AMOUNT BUDGETED \$0	APPROPRIATION REQUIRED \$0
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HISTORICAL PERSPECTIVE:

This ordinance is before the City Council to assign City Comprehensive Plan Land Use Map and Zoning designations for the subject property, replacing the Washington County land use designations.

The Urban Planning Area Agreement (UPAA) is specific on the appropriate Land Use Map and Zoning Map designations for these parcels, thus no public hearing is required. The appropriate Land Use Map designation is Neighborhood Residential – Standard Density (NR-SD), and the appropriate Zoning Map designation is Residential – 5,000 square foot minimum per dwelling unit (R-5). The City land use designations will take effect 30 days after Council approval and the Mayor's signature on this ordinance.

INFORMATION FOR CONSIDERATION:

This ordinance makes the appropriate changes to Ordinance No. 4187, Figure III-1, the Comprehensive Plan Land Use Map and Ordinance No. 2050, the Zoning Map.

RECOMMENDED ACTION:

First Reading
Second Reading and Passage

ORDINANCE NO. 4324

AN ORDINANCE AMENDING ORDINANCE NO. 4187, FIGURE III-1, THE COMPREHENSIVE PLAN LAND USE MAP AND ORDINANCE NO. 2050, THE ZONING MAP FOR PROPERTY LOCATED AT 15865 SW DIVISION STREET; CPA 2004-0010/ZMA 2004-0010

WHEREAS, A separate companion ordinance annexing this same property is set to be approved by the City Council, thus the property is being redesignated in this ordinance from the County's land use designations to the closest corresponding City designations as specified by the Urban Planning Area Agreement (UPAA); and

WHEREAS, Since the UPAA is specific on the appropriate designations for these parcels, no public hearing is required; and

WHEREAS, The Council adopts as to criteria applicable to this request and findings thereon the Community Development Department staff report by Senior Planner Alan Whitworth, dated September 9, 2004, attached hereto as Exhibit B; now, therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

Section 1. Ordinance No. 4187, the Comprehensive Plan Land Use Map, is amended to designate the subject property located at 15865 SW Division Street (Tax Map 1S117AC, Lot 11400) Neighborhood Residential - Standard Density on the City of Beaverton Comprehensive Plan Land Use Map, as shown on Exhibit "A" and in accordance with the UPAA.

Section 2. Ordinance No. 2050, the Zoning Map, is amended to designate the same property in Section 1 Residential – 5,000 square foot minimum per dwelling unit (R-5) on the City of Beaverton Zoning Map, as shown on Exhibit "A" and in accordance with the UPAA.

First reading this 18th day of October, 2004.
Passed by the Council this _____ day of _____, 2004.
Approved by the Mayor this _____ day of _____, 2004.

ATTEST:

APPROVED:

SUE NELSON, City Recorder

ROB DRAKE, Mayor



Proposed Comp Plan designation:
Neighborhood Residential Standard Density
Proposed Zoning designation: R - 5

-  Site
-  City of Beaverton
-  City Boundary



15865 SW DIVISION STREET COMPREHENSIVE PLAN
LAND USE MAP AMENDMENT & ZONING MAP AMENDMENT
COMMUNITY DEVELOPMENT DEPARTMENT
Planning Services Division

09/14/04	
Map # 1s117ca11400 1s117ca11500	
Application # CPA 2004-0010/ ZMA 2004-0010	

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

11/1/04

SUBJECT: An Ordinance Amending Ordinance No. 4187, Figure III-1, the Comprehensive Plan Land Use Map and Ordinance No. 2050, the Zoning Map for Lilly K. Johnson Park which is Located North of SW Division Street and West of SW 153rd Avenue; CPA 2004-0012/ZMA 2004-0012

FOR AGENDA OF: ~~10/18/04~~ **BILL NO:** 04210

Mayor's Approval: 

DEPARTMENT OF ORIGIN: CDD 

DATE SUBMITTED: 09/21/04

CLEARANCES: City Attorney 
Planning Services 

PROCEEDING: ~~First Reading~~ Second Reading and Passage

EXHIBITS: Ordinance
Exhibit A - Map
Exhibit B - Staff Report Dated 09/10/04

BUDGET IMPACT

EXPENDITURE REQUIRED \$0	AMOUNT BUDGETED \$0	APPROPRIATION REQUIRED \$0
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HISTORICAL PERSPECTIVE:

This ordinance is before the City Council to assign City Comprehensive Plan Land Use Map and Zoning designations for the subject property, replacing the Washington County land use designations.

The Urban Planning Area Agreement (UPAA) is specific on the appropriate Land Use Map and Zoning Map designations for this parcel, thus no public hearing is required. The appropriate Land Use Map designation is Neighborhood Residential - Standard Density (NR-SD), and the appropriate Zoning Map designation is Residential - 5,000 square foot minimum per dwelling unit (R-5). The City land use designations will take effect 30 days after Council approval and the Mayor's signature on this ordinance.

INFORMATION FOR CONSIDERATION:

This ordinance makes the appropriate changes to Ordinance No. 4187, Figure III-1, the Comprehensive Plan Land Use Map and Ordinance No. 2050, the Zoning Map.

RECOMMENDED ACTION:

~~First Reading~~
Second Reading and Passage

ORDINANCE NO. 4325

AN ORDINANCE AMENDING ORDINANCE NO. 4187, FIGURE III-1, THE COMPREHENSIVE PLAN LAND USE MAP AND ORDINANCE NO. 2050, THE ZONING MAP FOR LILLY K. JOHNSON PARK WHICH IS LOCATED NORTH OF SW DIVISION STREET AND WEST OF SW 153RD AVENUE; CPA 2004-0012/ZMA 2004-0012

WHEREAS, This property has been annexed to the City of Beaverton, thus the property is being redesignated in this ordinance from the County's land use designations to the closest corresponding City designations as specified by the Urban Planning Area Agreement (UPAA); and

WHEREAS, Since the UPAA is specific on the appropriate designations for this parcel, no public hearing is required; and

WHEREAS, The Council adopts as to criteria applicable to this request and findings thereon the Community Development Department staff report by Senior Planner Alan Whitworth, dated September 10, 2004, attached hereto as Exhibit B; now, therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

Section 1. Ordinance No. 4187, the Comprehensive Plan Land Use Map, is amended to designate the subject property known as Lilly K. Johnson Park (Tax Map 1S117AC, Lot 11400) Neighborhood Residential - Standard Density on the City of Beaverton Comprehensive Plan Land Use Map, as shown on Exhibit "A" and in accordance with the UPAA.

Section 2. Ordinance No. 2050, the Zoning Map, is amended to designate the same property in Section 1 Residential – 5,000 square foot minimum per dwelling unit (R-5) on the City of Beaverton Zoning Map, as shown on Exhibit "A" and in accordance with the UPAA.

First reading this 18th day of October, 2004.
Passed by the Council this _____ day of _____, 2004.
Approved by the Mayor this _____ day of _____, 2004.

ATTEST:

APPROVED:

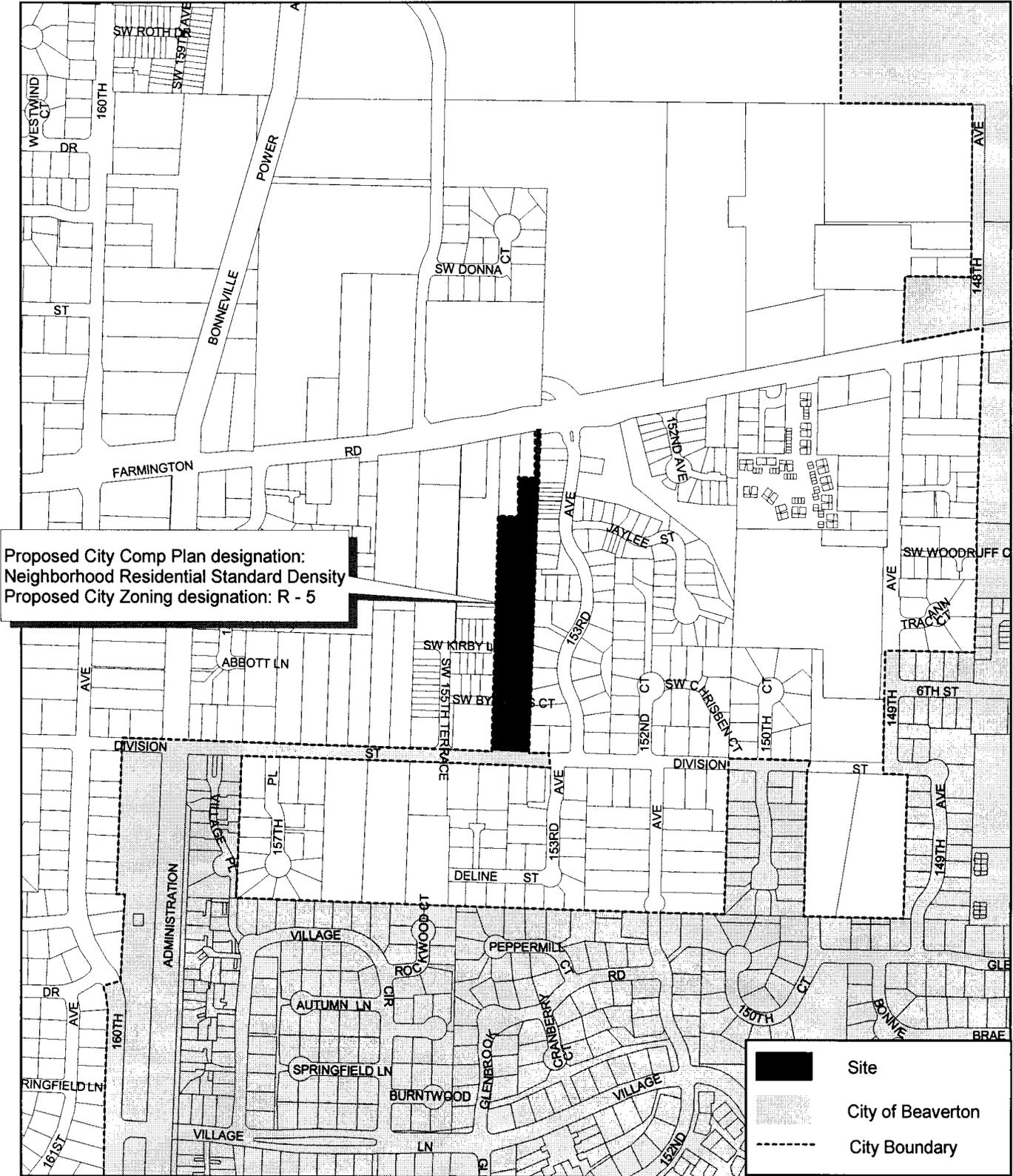
SUE NELSON, City Recorder

ROB DRAKE, Mayor

CPA/ZMA MAP

ORDINANCE NO. 4325

Exhibit "A"



City of Beaverton

Lilly K Johnson Park Comprehensive Plan Land Use
Map Amendment & Zoning Map Amendment
COMMUNITY DEVELOPMENT DEPARTMENT
Planning Services Division

7/29/04

Map #

1s117ac11400

N



Application #
CPA 2004-0012/
ZMA 2004-0012

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

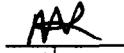
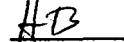
SUBJECT: An Ordinance Annexing Property Located at 12030 SW Center Street to the City of Beaverton: Expedited Annexation 2004-0012

FOR AGENDA OF: ^{11/1/04}~~10/18/04~~ **BILL NO:** 04211

Mayor's Approval: 

DEPARTMENT OF ORIGIN: CDD 

DATE SUBMITTED: 10/04/04

CLEARANCES: City Attorney 
Planning Services 

PROCEEDING: ~~First Reading~~ Second Reading and Passage

EXHIBITS: Ordinance
Exhibit A - Map
Exhibit B - Legal Description
Exhibit C - Staff Report Dated 09/23/04

BUDGET IMPACT

EXPENDITURE REQUIRED \$0	AMOUNT BUDGETED \$0	APPROPRIATION REQUIRED \$0
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HISTORICAL PERSPECTIVE:

This request is to annex one tax parcel located at 12030 SW Center Street. The property is approximately 0.4 acres and currently has a single family house on it. No one resides on the property. The property owner also owns the adjacent Beaver Creek Apartments. The property owner has consented to the annexation. His consent allows this to be processed as an expedited annexation under ORS 222.125 and Metro Code 3.09.045 and no public hearing is required.

INFORMATION FOR CONSIDERATION:

This ordinance and the attached staff report address the criteria for annexation in Metro Code Section 3.09.

Beaverton Code Section 9.06.035A provides the City Council the option of adding this property to an appropriate Neighborhood Association Committee (NAC) at the time of annexation. The Neighborhood Office recommends adding this parcel to the Central Beaverton Neighborhood Association Committee (NAC) boundaries.

Staff recommends the City Council adopt an ordinance annexing the referenced property and adding it to the Central Beaverton NAC, effective 30 days after Council approval and the Mayor's signature on this ordinance.

RECOMMENDED ACTION:

~~First Reading~~
Second Reading and Passage

ORDINANCE NO. 4326

AN ORDINANCE ANNEXING PROPERTY LOCATED AT 12030
SW CENTER STREET TO THE CITY OF BEAVERTON:
EXPEDITED ANNEXATION 2004-0012

WHEREAS, This expedited annexation was initiated under authority of ORS 222.125, whereby the owners of the property and a majority of the electors have consented to annexation; and

WHEREAS, This property is in Beaverton's Assumed Urban Services Area and Policy 5.3.1.d of the City's acknowledged Comprehensive Plan states: "The City shall seek to eventually incorporate its entire Urban Services Area."; and

WHEREAS, City policy as adopted in Resolution No. 2660, Sections 2 and 4, is to extend City services to properties through annexation; now, therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

Section 1. The property shown on Exhibit A and more particularly described in Exhibit B is hereby annexed to the City of Beaverton, effective 30 days after Council approval and signature by the Mayor.

Section 2. Pursuant to Beaverton Code Section 9.06.035A, this property shall be added to the Central Beaverton Neighborhood Association boundaries.

Section 3. The Council accepts the staff report, dated September 23, 2004, attached hereto as Exhibit C, and finds that:

- a. There are no provisions in urban service provider agreements adopted pursuant to ORS 195.065 that are directly applicable to this annexation; and
- b. This annexation is consistent with the City-Agency agreement between the City and Clean Water Services in that partial responsibility for sanitary and storm sewer facilities within the area annexed will transfer to the City upon this annexation.

Section 4. The Council finds this annexation will promote and not interfere with the timely, orderly, and economic provision of public facilities and services, in that:

- a. The part of the property that lies within the Washington County Urban Road Maintenance District will be withdrawn from the district; and
- b. The part of the property that lies within the Washington County Street Lighting District #1 will be withdrawn from the district; and
- c. The part of the property that lies within the Washington County Enhanced Sheriff Patrol District will be withdrawn from the district; and
- d. The City having annexed into the Tualatin Valley Fire and Rescue District in 1995, the property to be annexed by this Ordinance shall be annexed to or remain within that district; and
- e. The territory will remain within boundaries of the Tualatin Valley Water District.

Section 5. The Council finds that this annexation complies with all other applicable criteria set out in Metro Code Chapter 3.09 as demonstrated in the staff report attached as Exhibit C.

Section 6. The City Recorder shall place a certified copy of this Ordinance in the City's permanent records, and the Community Development Department shall forward a certified copy of this Ordinance to Metro and all necessary parties within five days of the effective date.

Section 7. The Community Development Department shall transmit copies of this Ordinance and all other required materials to all public utilities and telecommunications utilities affected by this Ordinance in accordance with ORS 222.005.

First reading this 18th day of October, 2004.

Passed by the Council this ___ day of _____, 2004.

Approved by the Mayor this ___ day of _____, 2004.

ATTEST:

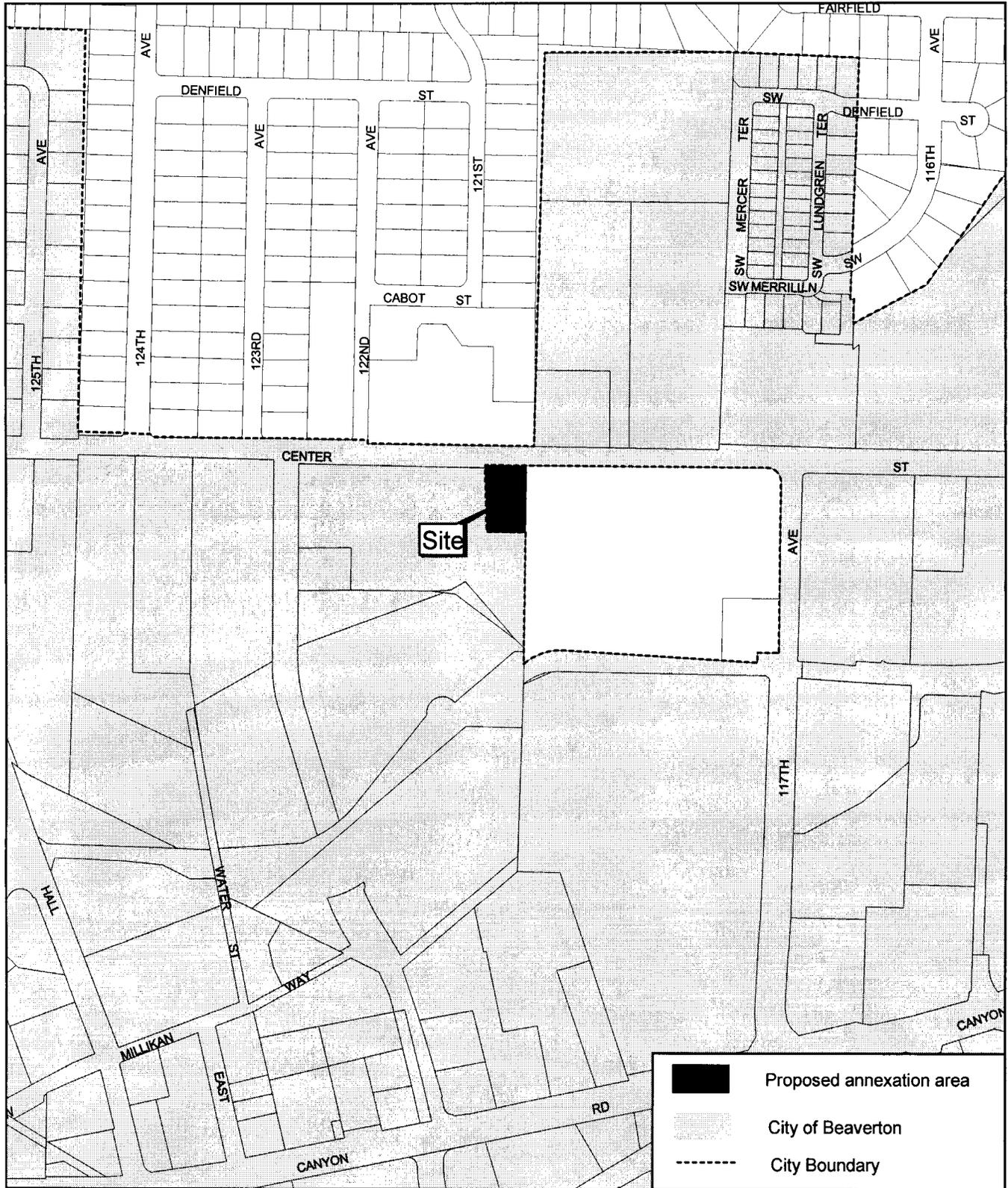
APPROVED:

SUE NELSON, City Recorder

ROB DRAKE, Mayor

ANNEXATION MAP

ORDINANCE NO. 4326 Exhibit "A"



City of Beaverton

12030 SW Center Street Expedited Annexation
 COMMUNITY DEVELOPMENT DEPARTMENT
 Planning Services Division

08/25/04

Map #

1s110cc00100

Application #

ANX 2004-0012

