



FINAL AGENDA

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

REGULAR MEETING
OCTOBER 10, 2005
6:30 P.M.

CALL TO ORDER:

ROLL CALL:

PROCLAMATIONS:

Breast Cancer Awareness Month: October 2005

National Arts and Humanities Month: October 2005

PRESENTATIONS:

05175 Recognizing June Bass for Receiving the Northwest Oregon Volunteer Administrators Association's 2005 Lucke Award

05176 Bicycle Friendly Community Award Renewal by the League of American Bicyclists

VISITOR COMMENT PERIOD:

COUNCIL ITEMS:

STAFF ITEMS:

CONSENT AGENDA:

Minutes for the Regular Meetings of September 19 and October 3, 2005

05177 Liquor Licenses: New Outlet - Assaggio Restaurant

05178 Traffic Commission Issue No. TC 580

05179 Approval of a Transit Oriented Development Agreement between Metro, DPP Beaverton Commercial Investments LLC and the City to Provide Metro Funds for Improvements to the Transit Plaza, Entrance Plaza and Associated Pedestrian Improvements

Contract Review Board:

05180 Bid Award - Janitorial Services for City Buildings

WORK SESSION:

05181 An Ordinance Amending Provisions of Chapter Five of the Beaverton City Code Relating to Abatement Procedures and Liens (Ordinance No. 4369)

ORDINANCES:

First Reading:

05182 An Ordinance Amending Provisions of Chapter Five of the Beaverton City Code Relating to Abatement Procedures and Liens (Ordinance No. 4369)

05183 An Ordinance Annexing Two Parcels, and Associated Right-of-Way, Located at 10845 SW Walker Road to the City of Beaverton: Expedited Annexation 2005-0008 (Ordinance No. 4370)

EXECUTIVE SESSION:

In accordance with ORS 192.660 (2) (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 (2) (e) to deliberate with persons designated by the governing body to negotiate real property transactions and in accordance with ORS 192.660 (2) (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.

PROCLAMATION

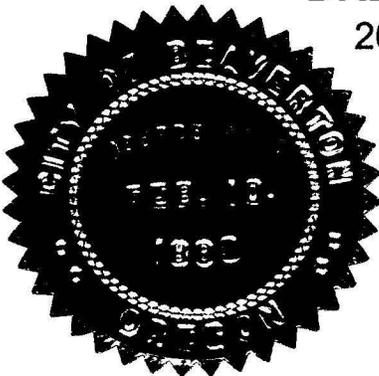
OFFICE OF THE MAYOR
CITY OF BEAVERTON



- WHEREAS,** October 2005 is National Breast Cancer Awareness Month and October 21, 2005 is National Mammography Day; and
- WHEREAS,** breast cancer is the most common cancer among women, except for nonmelanoma skin cancers; and
- WHEREAS,** breast cancer is the second leading cause of cancer death in women, exceeded only by lung cancer; and
- WHEREAS,** the chance of developing invasive breast cancer at some time in a woman's life is about 1 in 7; and
- WHEREAS,** African American women are disproportionately affected by breast cancer deaths; and
- WHEREAS,** an estimated 211,240 new cases of female invasive breast cancer will be diagnosed in 2005 and 40,410 will die from the disease; and
- WHEREAS,** an estimated 1,690 new cases of male breast cancer will be diagnosed in 2005 and close to 460 will die of the disease; and
- WHEREAS,** death rates from breast cancer have been declining, and this change is believed to be the result of earlier detection and improved treatment; and
- WHEREAS,** mammography, an "x-ray" of the breast, is recognized as the single most effective method of detecting breast changes that may be cancer, long before physical symptoms can be seen or felt; and

NOW, THEREFORE, I, ROB DRAKE, MAYOR, City of Beaverton, Oregon, do hereby proclaim the month of October 2005 as:

BREAST CANCER AWARENESS MONTH and October 21, 2005 as **MAMMOGRAPHY DAY** in the City of Beaverton.



Rob Drake
Mayor

PROCLAMATION

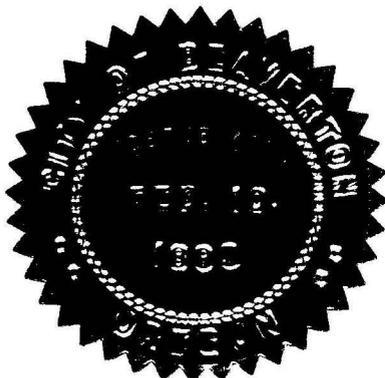
OFFICE OF THE MAYOR CITY OF BEAVERTON



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- WHEREAS,** the month of October has been recognized as National Arts and Humanities Month by thousands of arts and cultural organizations, communities, and states across the nation as well as by the White House and Congress for several years;
- WHEREAS,** the arts and humanities embody much of the accumulated wisdom, intellect, and imagination of humankind;
- WHEREAS,** the arts and humanities enhance and enrich the lives of every American;
- WHEREAS,** arts education research findings suggest the arts help close the achievement gap, improve academic skills, advance the motivation to learn and promote positive social development;
- WHEREAS,** the nonprofit arts industry also strengthens our economy by generating \$134 billion in economic activity annually and by supporting the full-time equivalent of 4.85 million jobs;
- NOW, THEREFORE,** I, ROB DRAKE, MAYOR, City of Beaverton, Oregon, do hereby proclaim the month of October as:

National Arts and Humanities Month

in Beaverton, Oregon, and urge all citizens to celebrate arts and culture in our city.




Rob Drake
Mayor

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

SUBJECT: Recognizing June Bass for receiving the Northwest Oregon Volunteer Administrators Association's 2005 Lucke Award

FOR AGENDA OF: 10/10/2005 **BILL NO:** 05175

Mayor's Approval: 

DEPARTMENT OF ORIGIN: Library 

DATE SUBMITTED:

CLEARANCES: None

PROCEEDING: Presentation

EXHIBITS:

BUDGET IMPACT

EXPENDITURE REQUIRED \$/A	AMOUNT BUDGETED \$/A	APPROPRIATION REQUIRED \$/A
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HISTORICAL PERSPECTIVE:

The Northwest Oregon Volunteer Administrator's Association (NOVAA) annually recognizes a member through their Lucke Award for his or her leadership, vision and contribution to the profession of volunteer administration.

INFORMATION FOR CONSIDERATION:

June Bass, Volunteer Coordinator for the Beaverton City Library was selected to receive the 2005 Lucke Award from NOVAA. Ms. Bass officially received the award at the annual NOVAA Conference on September 30, 2005. During her four and one-half years at the Beaverton City Library Ms. Bass has overseen the work of 750 volunteers contributing 58,637 hours for a total value of \$1,007,970.

RECOMMENDED ACTION:

Recognize and acknowledge June Bass for her hard work and dedication to the volunteer administration profession and her service to the City of Beaverton.

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

SUBJECT: Bicycle Friendly Community Award Renewal by the League of American Bicyclists **FOR AGENDA OF:** 10-10-05 **BILL NO:** 05176

Mayor's Approval: *[Signature]*

DEPARTMENT OF ORIGIN: Engineering *[Signature]*

DATE SUBMITTED: 09-20-05

CLEARANCES: Transportation *[Signature]*

PROCEEDING: Presentation

EXHIBIT: A: Letter of Congratulations

BUDGET IMPACT

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

The League of American Bicyclists (LAB) recently designated the 2005 recipients of its Bicycle Friendly Community awards. The award is presented only to communities with remarkable commitments to bicycling. The City of Beaverton was renewed as a Bronze Award recipient for 2005. Initially the City was one of only fourteen communities nationwide to receive this award in 2003. The award recognizes communities that provide safe accommodation and facilities for bicyclists. For the 2005 renewal, the City provided updated information and was reevaluated on its continued planning efforts, engineering, education, encouragement, enforcement, and overall efforts toward promoting bicycling.

INFORMATION FOR CONSIDERATION:

The LAB Bicycle Friendly Community Campaign is a growing national grassroots effort to increase the number of trips made by bicycle, to promote physical fitness, and to help make communities more livable.

RECOMMENDED ACTION:

Presentation of Bicycle Friendly Community Bronze Award certificate.

EXHIBIT A



LEAGUE OF AMERICAN BICYCLISTS
1612 K St., NW, Suite 800
Washington, DC 20006-2850
WEBSITE www.bicyclefriendlycommunity.org
EMAIL bikeleague@bikeleague.org
PHONE 202.822.1333
FAX 202.822.1334

May 20, 2005

Ms. Margaret Middleton
Senior Planner
City of Beaverton
4755 Griffith Drive
P.O. Box 4755
Beaverton, OR 97076

Dear Margaret:

Congratulations! The League has renewed the designation of Beaverton as a Bicycle Friendly Community at the Bronze level. This decision involved careful review of your application and consultation with local cyclists.

I encourage you to consider an appropriate event or occasion when we can officially present the award to your community or its leaders. We will provide a press release specifically for your community after the details on your local awards presentation are finalized.

Enclosed is your renewal Bicycle Friendly Community decal, award certificate, and a copy of our national news release. If you would like to order additional Bicycle Friendly Community road signs, please complete the enclosed order form and return it to the League.

Your designation will be due for renewal in May of 2007. At that point your award level will be reevaluated so we urge you to make as many improvements as possible in the meantime!

Once again, congratulations on your tremendous efforts to create a community that is truly bicycle-friendly.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bill Nesper', with a long horizontal line extending to the right.

Bill Nesper
League of American Bicyclists

DRAFT

BEAVERTON CITY COUNCIL
REGULAR MEETING
SEPTEMBER 19, 2005

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, September 19, 2005, at 6:35 p.m.

ROLL CALL:

Present were Mayor Drake, Couns. Catherine Arnold, Betty Bode, Dennis Doyle and Fred Ruby. Coun. Cathy Stanton was excused. 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, Police Chief David Bishop and City Recorder Sue Nelson.

PROCLAMATIONS:

Mayor Drake proclaimed September 17 – 23, 2005 as Constitution Week.

PRESENTATIONS:

05169 Washington County Historical Society and Museum Presentation

Mark Granlund, Executive Director, Washington County Historical Society and Museum (WCHS), said he had been with the WCHS for four years. He updated the Council on the programs, projects and activities of the WCHS. He said the Washington County Museum was located on the Rock Creek Campus of Portland Community College and was open Monday through Saturday from 10:00 a.m. to 4:30 p.m. He said admission for the Museum was \$3.00 for adults and \$2.00 for seniors and children 17 and under; Mondays were free to everyone. He said the Museum had a new exhibit about the logging and timber industry in Washington County; this \$40,000 exhibit was sponsored by the logging and timber companies in the area. He said the exhibit includes the Washington County log jail, one of the oldest buildings in Oregon. He said they have an extensive archive library, with over 20,000 photographic images. He said over 400 researchers come to Museum annually to research records from the 1800's to the present.

Mayor Drake asked if that site was an official archive for Washington County.

Granlund said the WCHS was the official historian for Washington County and they were stewards over the public records. He said the Museum was a non-profit organization funded from public funds, private donations, fund raising and grants. He said their mission was to preserve and interpret the history of Washington County, and to educate citizens and students on the history of the County through a menu of classes available through several outreach programs. He said last year they gave over 330 presentations to over 10,000 students in Washington County. He reviewed several outreach programs provided by the Museum, including a Boy and Girl Scout Saturday program and a monthly lecture series called Cross Roads Lectures. He said the most popular event was the Draft Horse Plowing Exhibition, an annual event for forty years; it attracts several thousand people each year. He said information was available on their Web site at www.washingtoncounty.org. He said the City of Beaverton sponsored their Web page and he thanked the Council and the City for the sponsorship.

He said future plans include the expansion of the Museum; they had raised \$1.2 dollars (toward a two million dollar goal) for that expansion. He said the expansion would increase the building's floor space from 5,000 to 12,000 square feet. He reviewed the expansion plan layout which would provide space for traveling exhibits, would double the collection space, would provide needed work space, and would allow for the addition of a genealogical society. He said they were working on increasing their private, public and corporate memberships to sustain the WCHS.

Coun. Bode asked what was the long term arrangement for the property and who owned the building.

Granlund said they moved to the Rock Creek Campus 22 years ago. He said they had a 50-year lease on one and one-quarter acre, at a rate of one dollar per year. He said Portland Community College was going to give them an additional acre and a quarter, so they would have two and one-half acres. He said the building was paid for and owned by the WCHS, though it was not capitalized.

Coun. Doyle asked how long the capital campaign for the expansion had been going on.

Granlund replied they had been working on it for four years. He said four years ago they started by developing the plan for the remodel and expansion, and they have been working since then to raise the funds. He said they still needed to raise about \$800,000 for they hoped to start construction next spring.

Coun. Doyle asked if they had received any gifts from substantial corporations.

Granlund said Reisers Foods had given them a six-figure gift.

Coun. Doyle asked how they determined what they would accept for the collection.

Granlund said the Museum had a collection policy which they re-evaluate and update regularly.

Coun. Arnold said how many staff and volunteers worked at the museum.

Granlund said they had 3.8 part-time; two full-time staff, a part-time education coordinator, a part-time membership coordinator, and a staff research assistant. He said they also had educators and a grant writer on contract, and hundreds of volunteers.

Coun. Doyle said Granlund's enthusiasm would make this project happen.

Coun. Ruby asked if they had ties to students at the Community College and if college students ever used the Museum's resources to do their research.

Granlund said the college students do use the facilities at the Museum and they also have writing class projects at the Museum. He said the new Interim President of the College and the Deans were working to increase the utilization of the Museum by the College. He stressed the Museum was an educational institution and they felt the Museum fit well into the higher-education venue. He said the programs at the K-12 level were extremely strong. He said they want to maximize their relationship with the college and also with the Tualatin Hills Park & Recreation District.

05170 Building Division Business Process Report

Mayor Drake said several years ago a management audit was performed on the Community Development Department. He said one of the areas audited was the Building Services Division. He said this presentation was an update on the Building Division's process improvements from 2003 to the present.

Building Official Brad Roast described the process review conducted over the past two years. He said staff recognized that as times changed customers' needs also changed and improvements were needed to meet those changing needs. He said building codes have existed since the 17th Century to protect people from environmental hazards and poor building practices and he reviewed how current codes evolved in Oregon.

Roast reviewed the Building Services Division Progress Report on Process Improvement 2003-Present (in the record). He said when the process improvement project started, staff surveyed citizens and customers to obtain feedback on the City's building services. He said from this feedback staff determined improvements were needed in the areas of: Access to staff and timely response; Consistent Code interpretation; Access to information, including posting more information on the City's Web site; Streamlining processes to shorten the time it takes to go through plan review or inspections; Infill revisions; Empowering staff to make decisions in the field; and Developing a cooperative atmosphere to work together.

Roast reviewed the changes made to the Building Division's procedures, as presented in the Progress Report (in the record). Improvements he noted were: Inspectors were empowered to make decisions in the field; Code interpretation was applied consistently throughout all the cities and counties in the region; Improved staff availability; and Building information/services on the City's Web site have increased. He said through a Tri-County Group of building officials, all the cities and counties in the region established consistency in procedures, forms and information, so that all the cities and counties interpret the Codes the same way and use the same formats and procedures.

Roast reviewed the Building Division's services available on the City's Web site. He said in the future staff would continue to monitor feedback and review procedures to ensure the Building Division was meeting customers' needs.

Coun. Bode noted the Report stated customers wanted more Web-based services. She asked if they wanted a particular program to allow submitting forms by computer or over the phone.

Roast replied the citizens wanted more Building information on the City's Web site. He said the Web now had information on plan review, fees, design criteria and City Codes. He said it was more efficient for this information to be available on the Web.

Coun. Bode asked if the City could send out PDF Files of blueprints for buildings.

Roast said the City was not able to do that yet, but within the next five years that would be available.

Coun. Doyle referred to page 2 of the Progress Report which noted problems with inconsistent Code interpretation between inspectors. He said the Report stated organizational changes since the surveys had removed most of these problems. He asked if there was a factual basis for that statement; or was it based on observations from customers.

Roast said it was based on customer observations. He said the groups they interviewed initially were also interviewed in follow-up to ensure consistency. He said that was done to be sure they were addressing customers' concerns.

Mayor Drake said the customers were coldly honest on what they liked and disliked about the Department. He said in the audit the clients and surveys were anonymous and the responses were frank and honest.

Coun. Doyle referred to a comment in the Report on page 2, section 2 that "Employees agree that the work culture of Beaverton has been characterized by a high degree of risk avoidance. Managers and staff have grown accustomed to referring issues up the ladder." He asked if the recommendations acknowledged the problem and worked to eliminate it in a positive way.

Roast replied they implemented those changes. He said the recommendations included providing direct customer access to technical staff through the telephone and Web site; also, staff has been empowered to make decisions when possible and communication between staff has been improved.

Coun. Doyle said approaching this on a Tri-County basis, to ensure all counties were consistent, was essential and he was glad it was being done this way. He referred to section 2, page 9, which referred to using computers to track assignments and projects. He asked who was leading the search for these new software programs.

Roast said the City's Information System Department was working on this and would be bringing a new program to the Council in the future.

Coun. Doyle referred to section 2, pages 10 and 11 of the Report, which said staff was looking into multiple inspection certifications for its inspectors. He confirmed the Human Resources Department was studying this and said he felt it would serve the City well.

Roast said when an issue arises with Code interpretation or procedures he takes the issue to the Tri-County Group for a consensus decision with the group. He said he then takes that decision back to the customer; this ensures region-wide consistency in interpretations, forms and procedures. He said the customers were happy with that approach.

Roast said Beaverton was one of six cities that volunteered to participate in a pilot project for electronic permits. He said this system allows contractors to apply for, pay for and obtain certain permits on the Web. He said this has been on line and working since May, 2005. He demonstrated to Council how the electronic permit system works. He said this has been very helpful to contractors. He said other cities have expressed an interest in the program and this will eventually go State-wide.

Mayor Drake asked Roast to explain how the Minor Label electrical permit was issued.

Roast said minor electrical projects were processed through the Minor Label program. He said Minor Labels could only be purchased by electrical contractors; each Minor Label had a corresponding number on the Minor Label form. Contractors could purchase ten labels at one time and when they had used the ten labels they send the corresponding form to the Tri-County Service Center in Portland. He said one out of ten labels was inspected and if the work was done correctly it passed. He said the other nine labels were then considered to be correct and were approved without an inspection. He said the cities were notified of the permits and approvals, so they could include them in the City's Building records. He said the Minor Labels program was an excellent service to the industry.

Coun. Doyle said he appreciated the serious efforts put in by staff to make the City permit business friendly.

RECESS:

Mayor Drake called for a brief recess at 7:40 p.m.

RECONVENED:

Mayor Drake reconvened the meeting at 7:56 p.m.

VISITOR COMMENT PERIOD:

Henry Kane, Beaverton, said on September 21, 2005, the Highway 217 Advisory Committee would make a preliminary recommendation for improving Highway 217. He said the recommendation would be to either add two general purpose lanes or two toll road lanes to Highway 217. He spoke at length on funding to improve Highway 217. He said the toll road figures were inaccurate and toll lanes would require considerable reconstruction of ramps on Highway 217. He said he hoped the Committee would find the toll lane option was unworkable.

COUNCIL ITEMS:

Coun. Bode thanked all the volunteers who worked on the Beaverton Parade held on September 17, 2005. She said they started on time and the high school bands were a welcomed addition. She said the parade route was a great way to show the cultural and economic diversity in Beaverton. She said it was a great event and she heard many positive comments. She thanked the community for their participation.

Mayor Drake said the parade started a few minutes late because of a missing Boy Scout; the Scout was found and the parade began.

STAFF ITEMS:

There were none.

CONSENT AGENDA:

Coun. Bode MOVED, SECONDED by Coun. Doyle, that the Consent Agenda be approved as follows:

Minutes for the Regular Meeting of September 12, 2005

05171 A Resolution of Intent to Condemn Property Located at 12750 SW Farmington Road, Beaverton, Washington County, Oregon for Public Use (Resolution No. 3831)

05172 Intergovernmental Agreement Between TriMet and the City of Portland for Transit Policing

Contract Review Board:

05173 Revised Bid Award - Bel Aire Storm Drain and Sanitary Sewer Improvements, Project No. 8049

Mayor Drake said over the years the City had very sparingly used its condemnation authority granted by State law. He said in this case it was a willing seller and this was a friendly condemnation because it gave the seller tax advantages that they would not get otherwise.

Question called on the motion. Couns. Arnold, Bode, Doyle, Ruby and voting AYE, the MOTION CARRIED unanimously. (4:0)

ORDINANCES:

Second Reading:

City Attorney Alan Rappleyea read the following ordinances for the second time by title only:

05164 TA 2005-0001 (2005 Omnibus) (Ordinance No. 4365)

05165 An Ordinance Relating to the Emergency Management Code, Amending Beaverton Code Section 2.01.020 (Ordinance No. 4366)

05166 An Ordinance Annexing One Parcel Located at 11915 Walker Road to the City of Beaverton: Annexation 2005-0007 (Ordinance No. 4367)

05167 An Ordinance Amending Beaverton City Code Chapter 5 by Adding Provisions Memorializing the City of Beaverton Police Department and Establishing the Department within the City Code (Ordinance No.4368)

Coun. Ruby MOVED, SECONDED by Coun. Doyle that the ordinances embodied in Agenda Bills 05164, 05165, 05166 and 05167, now pass. Roll call vote. Couns. Arnold, Bode, Doyle and Ruby voting AYE, the MOTION CARRIED unanimously. (4:0)

ADJOURNMENT

There being no further business to come before the Council at this time, the meeting was adjourned at 8:10 p.m.

Sue Nelson, City Recorder

APPROVAL:

Approved this day of , 2005.

Rob Drake, Mayor

DRAFT

BEAVERTON CITY COUNCIL
REGULAR MEETING
OCTOBER 3, 2005

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 3, 2005, at 6:35 p.m.

ROLL CALL:

Present were Mayor Drake, Couns. Catherine Arnold, Betty Bode, Dennis Doyle, and Fred Ruby. Couns. Cathy Stanton was excused. Also present were City Attorney Alan Rappleyea, Chief of Staff Linda Adlard, 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, Police Chief David Bishop and City Recorder Sue Nelson.

PRESENTATIONS:

Economic Development Presentation

Mayor Drake said this would be Economic Development Manager Janet Young's last presentation as she was moving on to a new position at the City of Gresham.

Young updated the Council on the Economic Development Strategic Plan (Plan) adopted by the Council in July, 2000. She said the Plan recognized Beaverton was mostly built out and future change would be through redevelopment and additional density. She said the Plan emphasized building on the strength of the local knowledge-based economy.

Young said the first goal of the Plan was to Foster Entrepreneurial Networks that Promote Innovative and Healthy Businesses in Beaverton; this included building a software focused business incubator. She reviewed how the business incubator, now called the Open Technology Business Center (OTBC), was established. She said the OTBC currently housed four startup companies, two innovators and a number of other companies. She said the State continues to work in the Open Technology industry as Oregon has unique strengths in this industry. She said the State awarded the OTBC a \$150,000 grant for a program to provide intensive counseling services to the companies in the OTBC. She said this would be an incentive for businesses to locate in the OTBC; it was strongly endorsed by the State. She said the OTBC established Beaverton as a global center in the open source software and related industries. She said the Council's

willingness to step outside the box of normal City programs has a real potential to payoff for the City in the long run.

Young said the Plan also called for the City to be involved in regional business organizations and regional economic development efforts. She said in the last five years the City has joined the Software Association of Oregon, the Oregon Entrepreneurs Forum, and has sponsored a Regional Resource Directory through the Oregon Bioscience Association. She said Beaverton has become more visible in the business community and in the region. She said Mayor Drake has also taken a number of steps to increase the City's visibility in regional economic development efforts; he was the Chair of the Metropolitan Economic Policy Task Force in 2003, and he currently Chairs an Economic Development District in this area.

Young said another goal of the Plan was to Develop Business Districts that Are Accessible and Provide Job and Business Opportunities, and Determine Appropriate Redevelopment Tools for Each District. She said as they looked at how to facilitate redevelopment of certain districts, it was clear the Greenfield area developments were well handled. She said extra effort was needed in downtown Beaverton, so that was where Economic Development efforts were focused. She said the obvious place to start the redevelopment was The Round. She said the efforts of the City Council and Mayor's Office to get The Round project moving were instrumental in going forward with the revitalization of the downtown. She said they also worked with the Oregon Legislature to change State law to facilitate downtown redevelopment. She said the Vertical Housing Tax Abatement Program and changes to the rules on City and County redevelopment projects that allow sale of non-recourse revenue bonds for certain Economic Development projects were tools now used to assist the redevelopment of downtown Beaverton.

Young said the Plan confirmed that rents and parking requirements for the downtown area often blocked redevelopment projects. She said in recognition of this and other cost premiums in regional centers, Metro has allocated two million dollars to be used in a transit oriented project near The Round. She said staff was working with Metro to use these funds to further the success that has begun at The Round. She said the Hall/Watson Redevelopment Plan was also a result of the Plan and work was continuing on the improvements to Watson Street, both north and south of Canyon Road.

Young said another goal of the Plan was to capture the opportunities of a new knowledge-based economy by having a skilled work force and strong connections between business and education. She said the City worked with a number of agencies in Washington County to create the Work Force Alliance to make the work force system more accessible to employers. She said they continue to work with employment agencies to refine the system. She said she participated on the Multnomah Washington Regional Investment Board; the Board receives lottery dollars to be used for creating jobs in these two counties. She said as a result of this work the employers in Beaverton have a clearer way to access work force issues.

Young concluded by thanking the Council for its foresight in establishing the Plan five years ago. She also thanked the City for providing the leadership required to move the Plan forward on a number of different fronts. She said it had been a pleasure to work in

the dynamic environment at the City. She thanked Chief of Staff Linda Adlard and Mayor Drake for their leadership and for their confidence in her.

Mayor Drake thanked Young for the presentation.

Coun. Doyle said it was a treat to serve on the Committee that put the Plan together. He said the best part was watching how Young managed to heavily involve the private sector in every aspect. He said he thought there was three of her when he looked at all her remarkable accomplishments. He said she would be missed and he appreciated her work. He said this was a tremendously positive action and she was a major player accomplishing a great deal of good for the City of Beaverton.

Young thanked Coun. Doyle for his comments and said this was a team effort. She recognized her staff; Jennifer Polley, Michael Parkhurst and Christy Herr who assisted in all phases economic development.

Coun. Ruby thanked Ms. Young for the innovative programs and speakers she brought to the economic development presentations and forums in the City.

Coun. Bode said she wished to acknowledge Young's generosity in sharing her development knowledge and skills in the assessment of the City's strengths. She also acknowledged Young's graciousness in her professional approach to developing relationships with the building communities and the developers in the City and region. She assured Young that her vision, work and commitment enriched the City. She thanked Young on behalf of the City and Council, and presented her with a floral bouquet.

Coun. Doyle presented Young with a shirt.

Mayor Drake thanked Young and said he looked forward to working with her on a regional level.

VISITOR COMMENT PERIOD:

Henry Kane, Beaverton, said the Highway 217 Project Advisory Committee's recommendations were currently being circulated for comment. He said this was one of the most important issues the City must address. He said there was pressure to support the toll lane option. He said if the consultants could not demonstrate the toll lane option was economical, then the Council should make a decision that it is not economical and then it should concentrate on obtaining funds to improve Highway 217 to six full lanes before the Year 2089. He said there was funding available to do this and he would provide the Council with additional information.

COUNCIL ITEMS:

There were none.

STAFF ITEMS:

There were none.

CONSENT AGENDA:

Coun. Bode MOVED, SECONDED by Coun. Ruby that the Consent Agenda be approved as follows:

05174 Transfer of Two Properties from Washington County with Stormwater Quality Structures

Question called on the motion. Couns. Arnold, Bode, Doyle, and Ruby voting AYE, the MOTION CARRIED unanimously. (4:0)

ADJOURNMENT

There being no further business to come before the Council at this time, the meeting was adjourned at 7:00 p.m.

Sue Nelson, City Recorder

APPROVAL:

Approved this day of , 2005.

Rob Drake, Mayor

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

SUBJECT: LIQUOR LICENSES

FOR AGENDA OF: 10/10/05 **BILL NO:** 05177

NEW OUTLET

Assaggio Restaurant
14500 Murray Scholls Drive #103

MAYOR'S APPROVAL: 

DEPARTMENT OF ORIGIN:

Police 

DATE SUBMITTED:

09/27/05

PROCEEDING: Consent Agenda

EXHIBITS: None

BUDGET IMPACT

EXPENDITURE	AMOUNT	APPROPRIATION
REQUIRED \$ 0	BUDGETED \$ 0	REQUIRED \$ 0

HISTORICAL PERSPECTIVE:

A background investigation has been completed and the Chief of Police finds that the applicant meets the standards and criteria as set forth in B.C. 5.02.240. The City has published in a newspaper of general circulation a notice specifying the liquor license request.

INFORMATION FOR CONSIDERATION:

Amy's Two, Inc. has made application for a Full On-premises sales license under the trade name of Assaggio Restaurant. The establishment will serve Italian food. It will operate seven days a week, serving lunch from 11:00 a.m. to 2:30 p.m., and dinner from 5:00 p.m. to 11:00 p.m. There will be live bands offered a few times a year as entertainment. A Full On-Premises Sales License allows the sale of distilled spirits, malt beverages, wine and cider for consumption at the licensed business.

RECOMMENDED ACTION:

The Chief of Police for the City of Beaverton recommends City Council approval of the OLCC license.

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

SUBJECT: Traffic Commission Issue No. TC 580

FOR AGENDA OF: 10-10-05 **BILL NO:** 05178

Mayor's Approval: *Bob Drake*

DEPARTMENT OF ORIGIN: Engineering *TR*

DATE SUBMITTED: 9-27-05

CLEARANCES: Transportation *PLW*
City Attorney *MP*

PROCEEDING: Consent

- EXHIBITS:**
1. Vicinity Map
 2. City Traffic Engineer's report on Issue TC 580
 3. Written testimony received at the hearing
 4. Final written order of the Commission on Issue TC 580
 5. Draft minutes of the meeting of September 1, 2005 (excerpt)

BUDGET IMPACT

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

On September 1, 2005, the Traffic Commission considered the following issue:

- TC 580, Truck Parking on SW Cascade Avenue

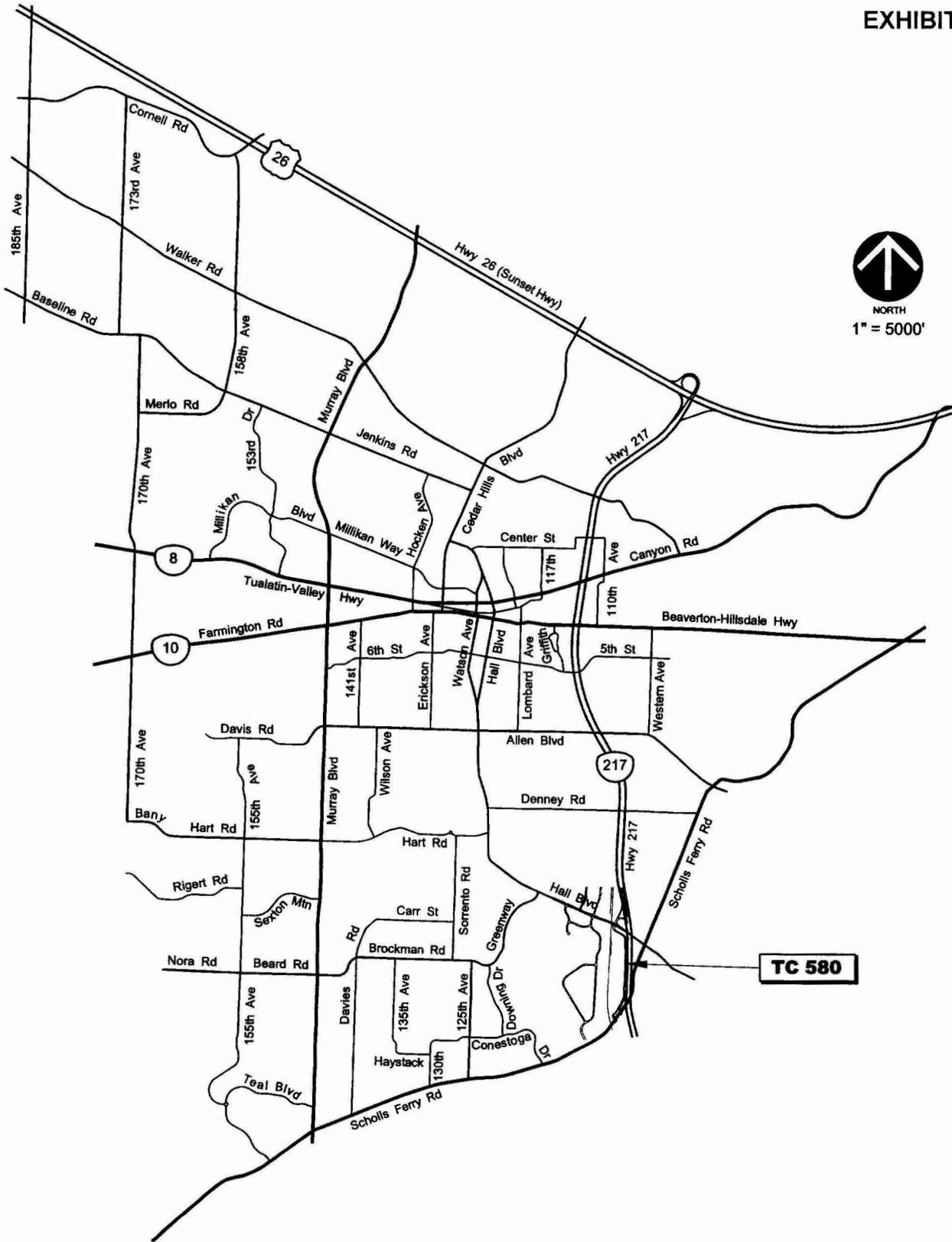
The staff report for Issue TC 580 is attached as Exhibit 2.

INFORMATION FOR CONSIDERATION:

A hearing was held on Issue TC 580. Following the hearing, the Commission recommended that truck parking be prohibited on Cascade Avenue and that a four-hour parking limit be established.

RECOMMENDED ACTION:

Approve the Traffic Commission recommendations on Issue TC 580.



Y:\Traffic\Drawings\TC Vicinity Map\VICINITY MAP TC 580 9-01-05.dwg



City of Beaverton

Vicinity Map for September 2005
TC Issue: 580

ENGINEERING DEPARTMENT
TRANSPORTATION DIVISION

Drawn By: MC Date: 8/10/05
Reviewed By: _____ Date: _____
Approved By: _____ Date: 8-10-05

MEMORANDUM
City of Beaverton

DATE: August 22, 2005

TO: Traffic Commission

FROM: Randy Wooley, City Transportation Engineer 

RE: **Traffic Commission Issue No. TC 580**
REVISED REQUEST

Harsch Investment Properties, representing Cascade Plaza, has amended their request for parking restrictions on Cascade Avenue. They are now requesting two restrictions for the street:

- A 4-hour parking limit.
- Prohibition of parking for trucks over 20,000 pounds.

They request that the parking restrictions would be in effect at all times and all days.

Under their proposal, large trucks could not be parked on Cascade at any time. Other vehicles could be parked on the street for up to 4 hours.

Please see the original staff report for background on this issue.

In the draft final written order, language related to the 4-hour limit has been shown in bold italics. If the 4-hour limit is not approved, the language in bold italics should be deleted from the order.

CITY TRAFFIC ENGINEER'S REPORT

ISSUE NO. TC 580

(Truck Parking on SW Cascade Avenue)

August 12, 2005

Background Information

Harsch Investment Properties, representing Cascade Plaza shopping center, has requested parking restrictions on Cascade Avenue to remove truck parking from the street. Their original letter of July 11, 2005, (attached) requested a two-hour parking limit. After additional discussion, they revised the request in the letter of July 25, 2005 (also attached). The revised letter requests prohibition of truck parking rather than a time limit.

The letter requests that the truck parking restrictions be applied to trucks over 10,000 pounds. This is an error caused by information supplied by staff. The request should be for 20,000 pounds (or 10 tons). The intent is to allow parking by pickups, delivery vans and other small trucks but to prohibit the parking of semi trucks and trailers. The limit of 10 tons gross vehicle weight registered is generally the division between two-axle trucks and the larger trucks.

Cascade Avenue in Beaverton (between Hall Boulevard and Scholls Ferry Road) is designated as a collector street. The fully-improved portions of the street are designed to be marked with a center turn lane. However, currently the street is only marked with a centerline and parking is allowed in the widened areas. The speed limit is 30 mph. The average traffic volume on Cascade is approximately 3100 vehicles per day. Five collisions have been reported on Cascade Avenue within the past three years. Two collisions were driveway related. The remaining three collisions were run-off-the-road type collisions that occurred at the curves on the north end of the street.

In the future, traffic is expected to increase on Cascade. At some time in the future, it will likely become appropriate to remove parking and to stripe a center turn lane. However, with current traffic volumes, a two-lane street is adequate.

Along the frontage of Cascade Plaza, the street is 42 feet wide, which is wide enough to allow for two-way traffic plus parking on both sides. To the north of Cascade Plaza, the street is striped as three lanes, leaving no room for on-street parking. To the south of Cascade Plaza, the street is not wide enough for on-street parking. Signing is already in place prohibiting all parking in the areas where street width is inadequate. In addition, signing is already in place prohibiting parking near driveways in order to maintain adequate sight distance. A two hour parking restriction between 8 am and 2:30 pm is posted on the west side of Cascade between the two northern driveways to the shopping center.

Under the proposal, the existing parking restrictions would remain and would apply to all vehicles. The truck parking restrictions would be in addition to existing restrictions.

Staff proposes that any truck restrictions be applied to the entire street between Hall Boulevard and Scholls Ferry Road. As additional portions of Cascade are widened with future development,

the truck parking restrictions would automatically extend to any new areas where on-street parking becomes available.

The applicant argues that the trucks parked on the street are unsightly and also present safety problems. The safety issues relate to damage the trucks have caused to electrical facilities and to occasional lane restrictions that occur as the trucks are loaded or unloaded on the street.

Police parking enforcement personnel have suggested that two-hour time limits would have the following advantages:

- A two-hour limit would lead to higher penalties for violators, increasing the incentives for compliance.
- A two-hour limit would remove the smaller trucks that are sometimes parked along Cascade solely for the purpose of displaying advertising painted on the side of the truck.

The applicants would rather avoid the two-hour limit so that Cascade could remain available for all-day employee parking during times when the shopping center parking lots are busy.

Discussions between staff and applicants are continuing. There may be a revised recommendation at the hearing.

Applicable Criteria

- 1a (provide for safe vehicle, bicycle and pedestrian movements);
- 1b (help ensure orderly and predictable movement of vehicles, bicycles and pedestrians);
- 1d (accommodate the parking needs of residents and businesses in a safe and equitable fashion).

Conclusions:

- Elimination of truck parking will reduce safety concerns related to the maneuvering and loading of large vehicles on the street, thereby satisfying Criteria 1a and 1b.
- There are no residential uses on adjoining properties. The owners of adjoining businesses have expressed support for the truck parking restrictions, satisfying Criterion 1d.

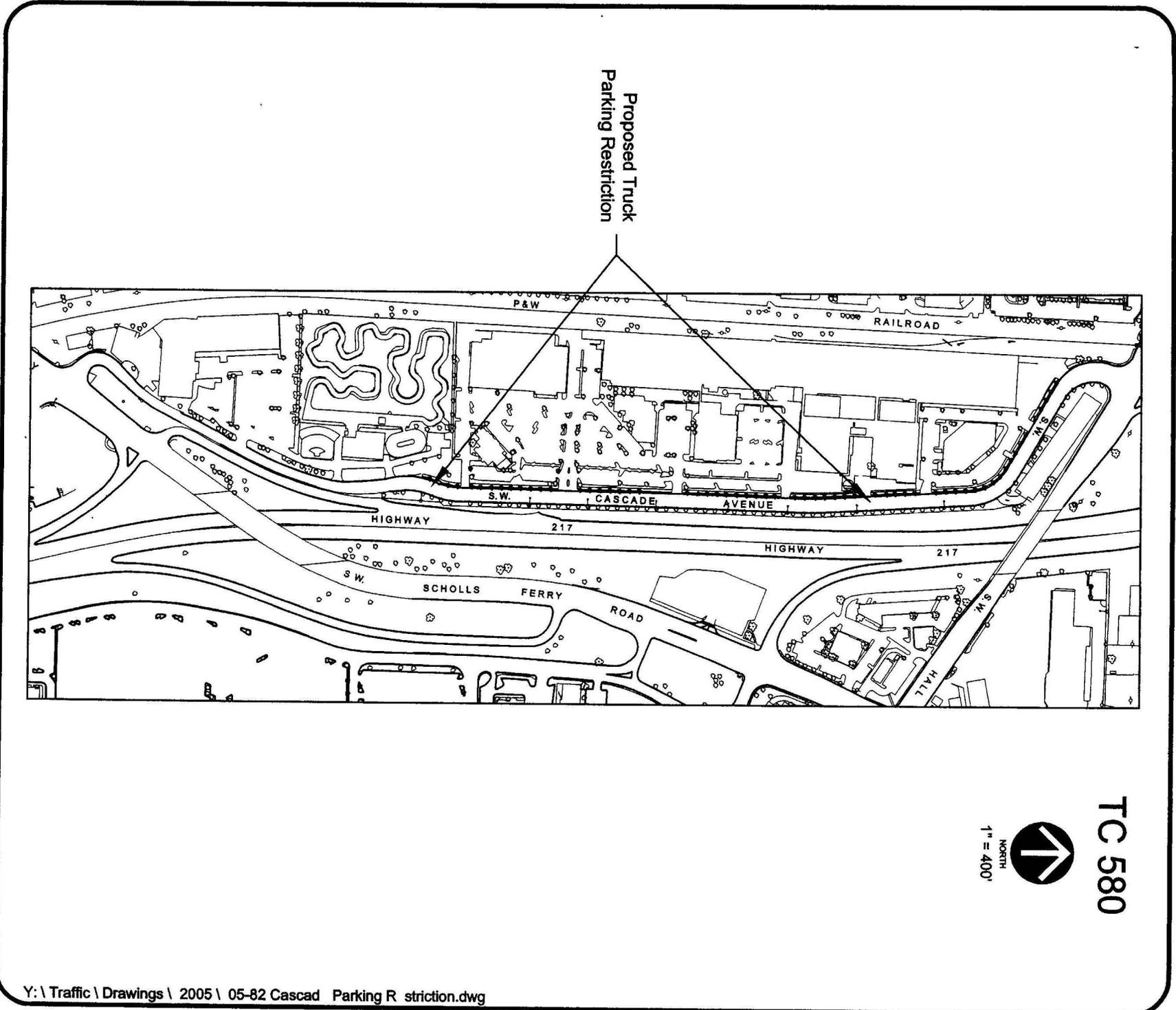
Recommendation:

- On SW Cascade Avenue between Hall Boulevard and Scholls Ferry Road, prohibit the parking of trucks that have a registered gross vehicle weight in excess of 20,000 pounds.



TC 580
 Truck Parking on SW Cascade Avenue
EN INEERIN DEPARTMENT
TRANSP RTATION DIVISION

Drawn By: MC Date: 8/12/05
 Reviewed By: Date:
 Approved By: Date: 05





RECEIVED

JUL 1 2 2005

ENGINEERING DEPT.

July 11, 2005

Mr. Randy Wooley
Beaverton Traffic Control Commission
P.O. Box 4755
Beaverton, Oregon 97076

RE: Traffic Commission Approval Request

Dear Mr. Wooley:

The East side of Cascade Avenue between Hall Boulevard and Scholls Ferry has over time become a storage and long-term parking area, as well as a loading and unloading zone for semi-trucks and delivery vans. This constant activity is obscuring the visibility of the retail tenants from passersby on Hwy. 217 and damaging public, as well as private properties. The semi-trucks not only cause economic damage to local businesses, but also create a safety risk for passing vehicles when lanes are blocked off to load and unload goods and connect and/or disconnect tractors from their trailers. In addition, Portland General Electric has recently notified us that the conduit between transformer boxes on Cascade Avenue and our center has been severely damaged by these same trucks. This has resulted in the need to disconnect power to Cascade Plaza for several hours on two occasions for repairs. Enclosed you will find a letter from PGE documenting the problems that have occurred.

As you are probably aware, we are in the process of expanding and re-developing this center bringing new businesses and jobs to Beaverton and the subsequent addition of tenants and customers to this area will only increase the need for more appropriate parking and visibility in this area.

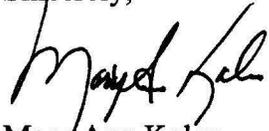
We are enclosing several photographs that were taken recently as further evidence of the parking problem, which seems to peak during the weekends.

We are requesting permission to place two hour customer parking and employee parking restriction signs down the East side of Cascade Avenue to provide more parking for our customers and employees and remedy the negative effects of the vehicles continued presence. Harsch will pay all costs for the signs, installation and any necessary striping and future maintenance.

006

If you have any questions, or would like to discuss this matter further, please contact me at 503.973.0248. We appreciate your consideration and look forward to hearing from you.

Sincerely,

A handwritten signature in black ink, appearing to read "Mary Ann Kolen". The signature is fluid and cursive, with the first name "Mary" and last name "Kolen" clearly distinguishable.

Mary Ann Kolen
Retail Portfolio Manager

Cc: Ethan Edwards, Planner, City of Beaverton
Randy Kyte, Senior Vice President, Harsch Investment Properties
James Pate, Senior Vice President, Harsch Investment Properties



Portland General Electric Company
9480 SW Boeckman Road • Wilsonville, Oregon 97070

July 5, 2005

Julie Ranseth
Harsh Investment Properties
PO Box 2708
Portland, Or., 97208

WR #397124

Julie,

Thanks for all your help in coordinating the shut downs for your tenants on Cascade Drive, Beaverton. We should be done with the shut downs for now until the new mall addition is up and running in the future. A new 4-inch conduit will be installed in the future to the existing transformer that serves Burlington Coat etc., which at that time will require another shut down. The reason for the other shut downs was due to a truck or trailer hitting PGE's existing conduits at pole #3879 on Cascade Drive causing damage to the 4-inch pole conduit runs from overhead to underground. PGE had to cut open the road in front of pole #3879 in order to repair the damage and reroute to the pole again.

If you have any questions, please call me at 503-570-4414.

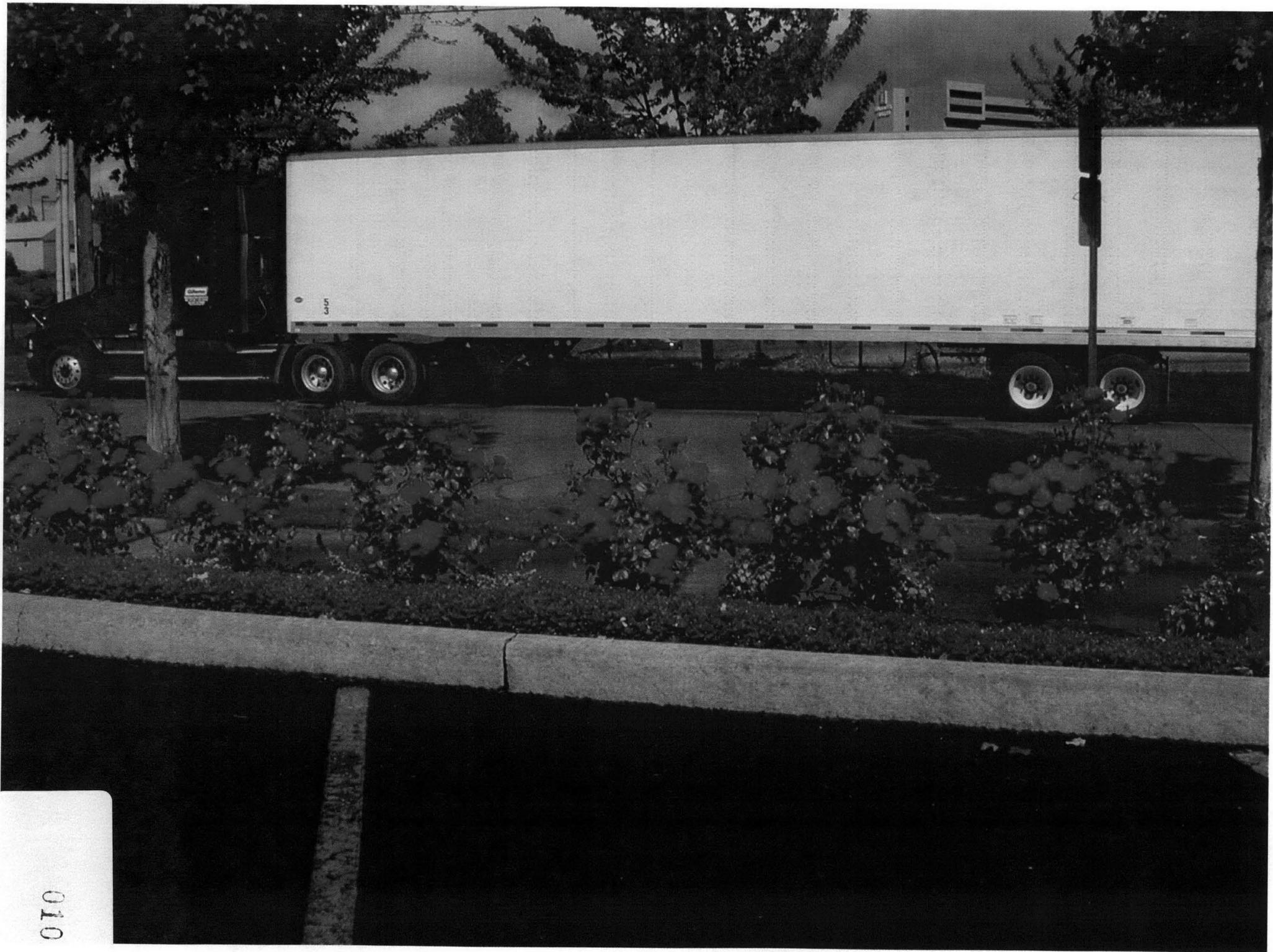
Thank you,

A handwritten signature in black ink that reads 'Milo Starr'. The signature is written in a cursive, flowing style.

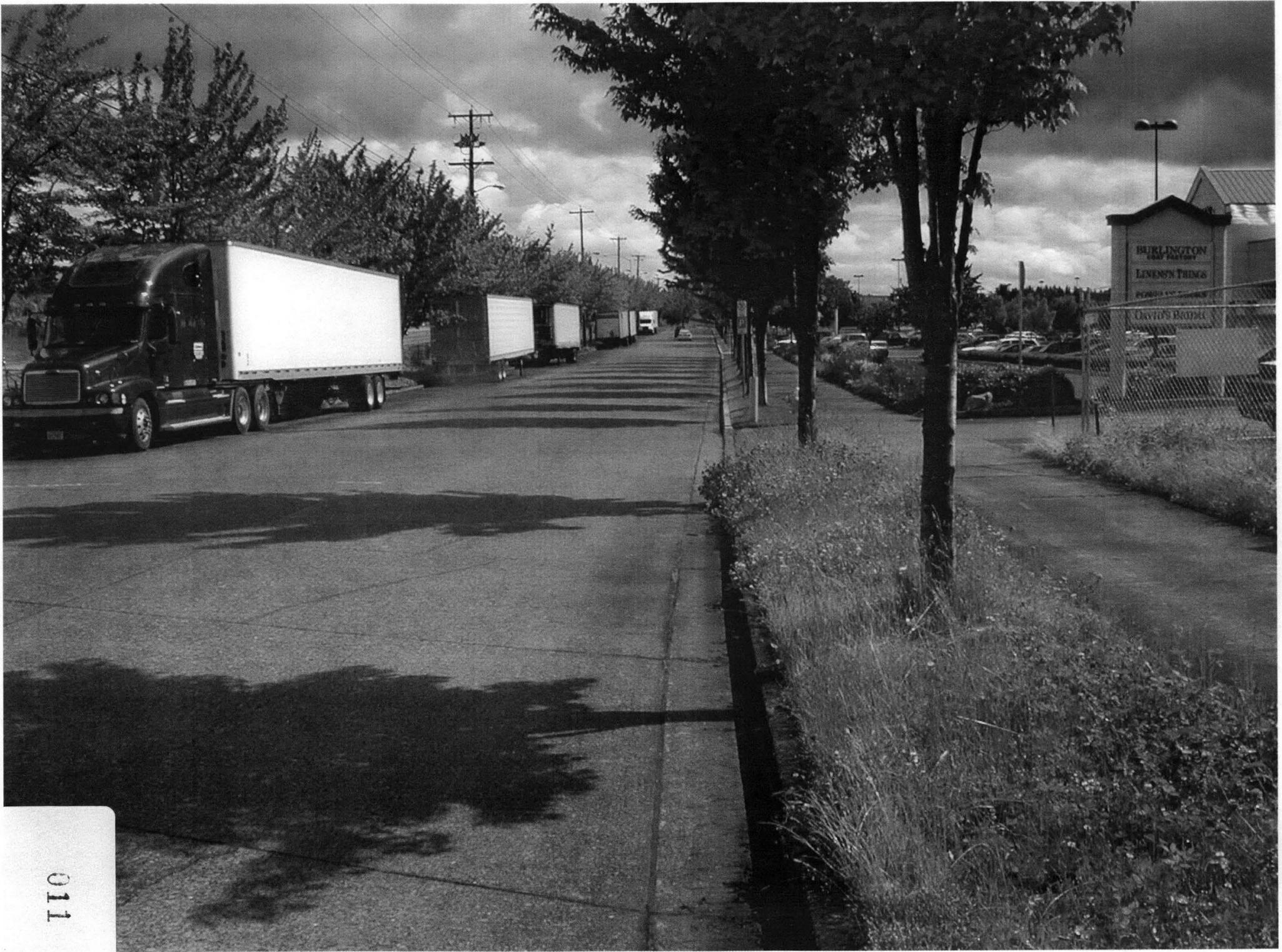
Milo Starr
PGE – Service Design Consultant
9480 SW Boeckman Road
Wilsonville, Oregon 97070



609



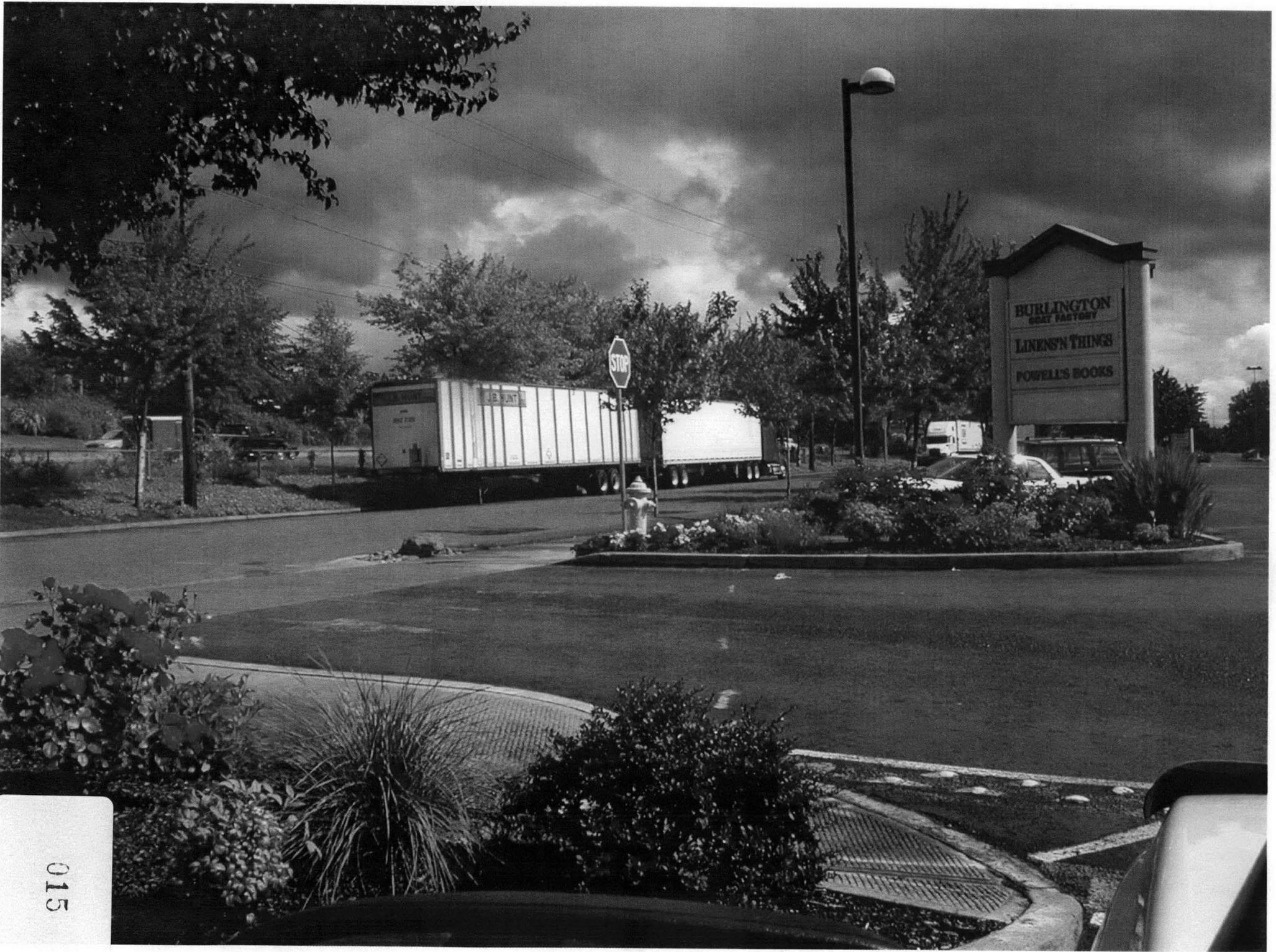
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RECEIVED
JUL 27 2005
ENGINEERING DEPT.

July 25, 2005

Mr. Randy Wooley
Beaverton Traffic Control Commission
P.O. Box 4755
Beaverton, OR 97076

Re: Traffic Commission Approval Request
Cascade Avenue

Dear Mr. Wooley:

I am writing this letter as a follow up to the July 11, 2005 request letter you received from Mary Ann Kolen, Retail Portfolio Manager, regarding the parking issue on Cascade Avenue.

Based upon our on-site review of the situation, we have determined that it would be in the best interest of the property to request a "no truck parking over (10,000) pounds" stipulation. It is my further understanding that our request will be on the September 1, 2005 Traffic Commission hearing docket. A representative from Harsch will be in attendance. Lastly, pursuant to our conversation regarding the length of the parking on Cascade Avenue, the street width will not accommodate parking past our south property line. I have attached a site plan which indicates the length and areas we are requesting the parking signage.

If you have any questions, or need more information, please do not hesitate to call me at 503.973.0244. Thank you for your assistance in this matter.

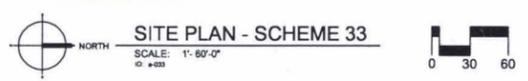
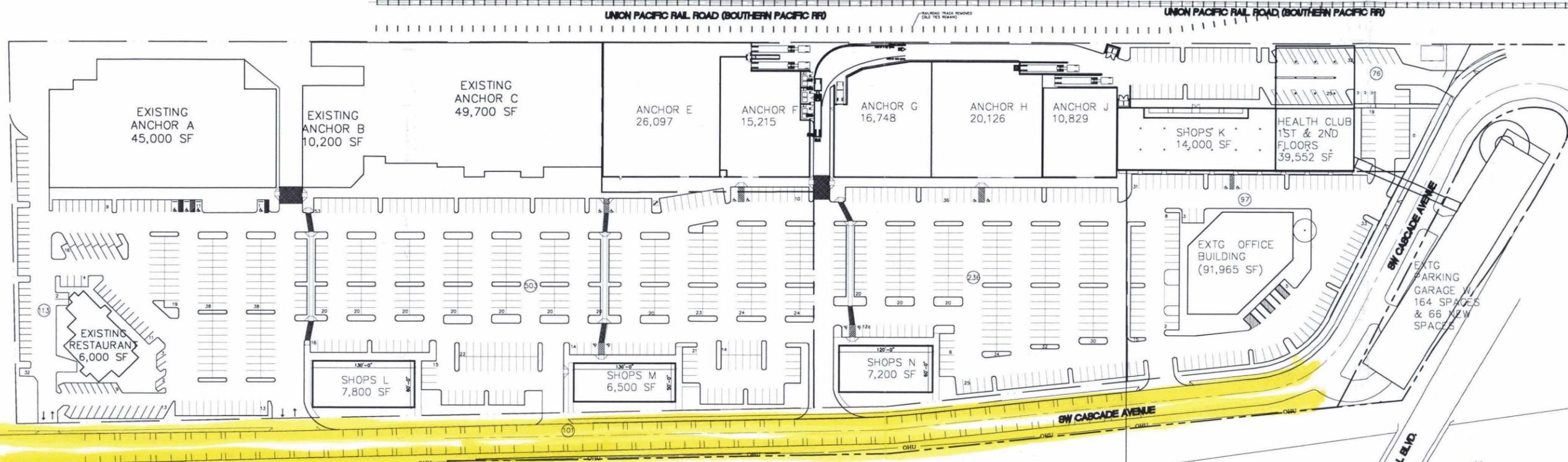
Respectfully,

A handwritten signature in cursive script that reads 'Colleen S. Duncan'.

Colleen S. Duncan
Project Manager

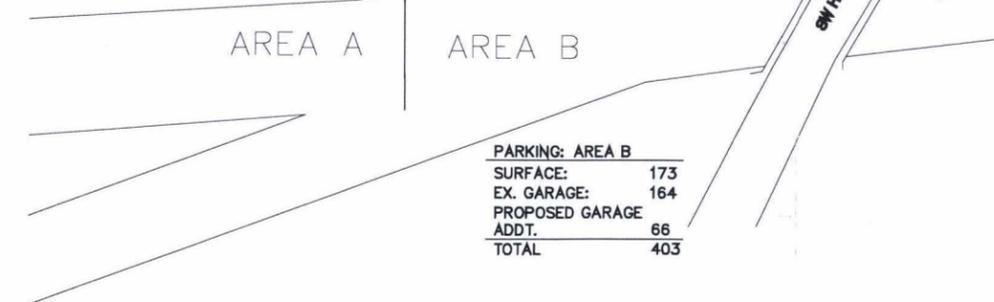
Attachment

016



SITE DATA:

SOUTH LOT	BUILDING	PARKING	RATIO
RESTAURANT	6,000 SF		
ANCHOR A	45,000 SF		
ANCHOR B	10,200 SF		
ANCHOR C	49,700 SF		
SHOPS L	7,800 SF		
SHOPS M	6,500 SF		
SUBTOTAL	125,200 SF	616	RATIO 4.9 / 1000
NORTH LOT			
ANCHOR E	26,097 SF		
ANCHOR F	15,215 SF		
ANCHOR G	16,748 SF		
ANCHOR H	20,126 SF		
ANCHOR J	10,829 SF		
SHOPS K	7,200 SF		
SUBTOTAL	96,215 SF	236	RATIO 2.5 / 1000
TOTAL NEW + EXIST RETAIL	221,415 SF	852	RATIO 3.8 / 1000
AREA B			
EXISTING REMODELED shops k	14,000		
EXISTING REMODELED health club	39,552		
EXISTING REMODELED OFFICE	91,965		
SUBTOTAL	145,517	403	2.8 / 1000
ON SITE TOTAL	366,932 SF	1255	RATIO 3.4 / 1000
ON STREET PARKING		101	
ON & OFF SITE TOTAL	366,932 SF	1356	RATIO 3.7 / 1000



PARKING: AREA B

SURFACE:	173
EX. GARAGE:	164
PROPOSED GARAGE	
ADDT.	66
TOTAL	403

HARCH INVESTMENT PROPERTIES LLC
 HA0353
CASCADE PLAZA

B
 BAYSINGER PARTNERS
 BAYSINGER PARTNERS ARCHITECTURE PC
 1006 SE Grand Ave., Suite 300, Portland, OR 97214
 Phone : 503-546-1600 Fax : 503-546-1601
 EMAIL : @BaysingerPartners.com

RECEIVED
 JUL 27 2005
 ENGINEERING DEPT.

REGISTERED ARCHITECT
 JERRY R. BAYSINGER
 PORTLAND, OREGON
 STATE OF OREGON

ISSUED / REVISED DATE
 ISSUED
 07-21-05

SITE PLAN
SCHEME 33



POWELL'S BOOKS

the legendary independent bookstore established 1971

powells
.com

July 14th, 2005

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JUL 18 2005

ENGINEERING DEPT.

CORPORATE OFFICES

7 NW Ninth Avenue
Portland OR 97209
503.228.4651
Fax: 503.228.1142

Randy Wooley
Beaverton Traffic Control Commission
P.O. Box 4755
Beaverton, Oregon 97076

POWELLS.COM

2720 NW 29th Avenue
Portland OR 97210
503.228.4651
Fax: 503.279.6375

Dear Mr. Wooley:

POWELL'S CITY OF BOOKS

1005 W Burnside Street
Portland OR 97209
503.228.4651
Fax: 503.228.4631

You are likely aware that Powell's Books has had a store at Cascade Plaza for many years. Over that time we have experienced varied challenges ranging from environmental cleanup to visibility & customer access. We have worked closely with Harsch Investment to improve the retail opportunities at this location, and we are anticipating further improvement as the current redevelopment matures.

POWELL'S BOOKS

IN BEAVERTON
8725 SW Cascade Avenue
Beaverton OR 97008
503.228.4651
Fax: 503.641.1554

While we have been very focused on what needs to be done on the Cascade Plaza property itself, we do occasionally gaze out to the east, beyond the boundary of the property. Often we see a line of large tractor-trailer rigs parked along the east side of Cascade Avenue, obscuring what visibility potential customers have of our store. In addition, Portland General Electric has notified us that damage to their infrastructure on Cascade is related to the large trucks parked along the curb.

POWELL'S BOOKS

ON HAWTHORNE
3723 SE Hawthorne Blvd.
Portland OR 97214
503.238.1668
Fax: 503.238.4427

We support the suggestion from Mary Ann Kolen of Harsch that these problems can easily be solved with parking restrictions on Cascade Avenue, limiting lengths of time vehicles can remain parked. We urge you to give Ms. Kolen's suggestion appropriate consideration.

POWELL'S BOOKS FOR

COOKS & GARDENERS
3747 SE Hawthorne Blvd.
Portland OR 97214
503.235.3802
Fax: 503.230.7112

Sincerely,

Michael Powell
President
Powells' Books, Inc.

POWELL'S
TECHNICAL BOOKS

33 NW Park
Portland OR 97209
503.228.3906
Fax: 503.228.0505

POWELL'S
BOOKS AT PDX
7000 NE Airport Way Suite 2250
Portland OR 97218
503.249.1950
Fax: 503.249.1935

**Linen's N Things # 487
9175 S.W. Cascade Ave
Beaverton, Oregon 97008**

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JUL 19 2005
ENGINEERING DEPT.

July 18, 2005

Mr. Randy Wooley
Beaverton Traffic Control Commission
P.O. Box 4755
Beaverton, Oregon 97076

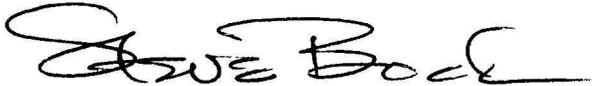
RE: Traffic Commission Approval Request

Dear Mr. Wooley;

The constant presence of the long term parking and maneuvering of semi-trucks in the street in front of our location has long been a nuisance and a safety concern. The proposed addition of signing would give a level of safety back to the average citizens traveling on Cascade Ave, as well as the visibility to our shopping center.

We appreciate your consideration, and would be happy to answer any questions that may arise in your decision.

Sincerely,



Steve Bock
General Manager



RECORD COPY

RECEIVED

AUG - 3 2005

ENGINEERING DEPT.

July 26, 2005

Mr. Randy Wooley
Beaverton Traffic Control Commission
P.O. Box 4755
Beaverton, Oregon 97076

RE: Traffic Commission Approval Request

Dear Mr. Wooley,

I am writing this letter in support of Harsch Investment Properties request to place two hour customer parking and employee parking restriction signs down the East side of Cascade Avenue to provide more parking for our customers and employees.

As you have been made aware, the East side of Cascade Avenue between Hall Boulevard and Scholls Ferry has over time become an area where semi-trucks and delivery vans congregate causing diminished visibility of the retail tenants and passersby on Hwy. 217. This leads to potential revenue loss. In addition, the safety risk for passing vehicles when these trucks are loading and unloading goods and tractors causes concern.

With the expansion and re-development of the center underway, this area will only increase the need for more appropriate parking and visibility.

Thank you for your time and consideration concerning this matter.

Sincerely,



Dana Bennett
District Manager
Burlington Coat Factory

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AUG 30 2005

ENGINEERING DEPT.

RECORD COPY

Aug. 30, 2005
Beaverton Traffic Commission
c/o Traffic Engineer
City of Beaverton
PO Box 4755
Beaverton, Oregon 97006-4755

Regarding: Prohibit Parking on SW Cascade Av.
Issue - TC 580

RECORD COPY

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AUG 30 2005

ENGINEERING DEPT.

08/30/05

Dear Sir,

My name is Betty Robinson and I am writing this letter because I will be unable to attend the hearing scheduled for 09/01/05 regarding truck parking on SW Cascade Avenue.

My husband, James Robinson, dba: Portland East Trucking Company, has parked on SW Cascade Av. for the past six years. While it is true truck parking has increased in this area, it is also true there is no other place to park. We live in the Greenway area just as many of the other Drivers. Many deliveries are made in the Beaverton area.

The City already has a forty-eight hour parking restriction which causes a hardship, but certainly it is understandable.

The cost of fuel is at an all time high. The closest truck stop is twenty miles away.

As you consider your decision, please understand that to prohibit parking (as proposed)

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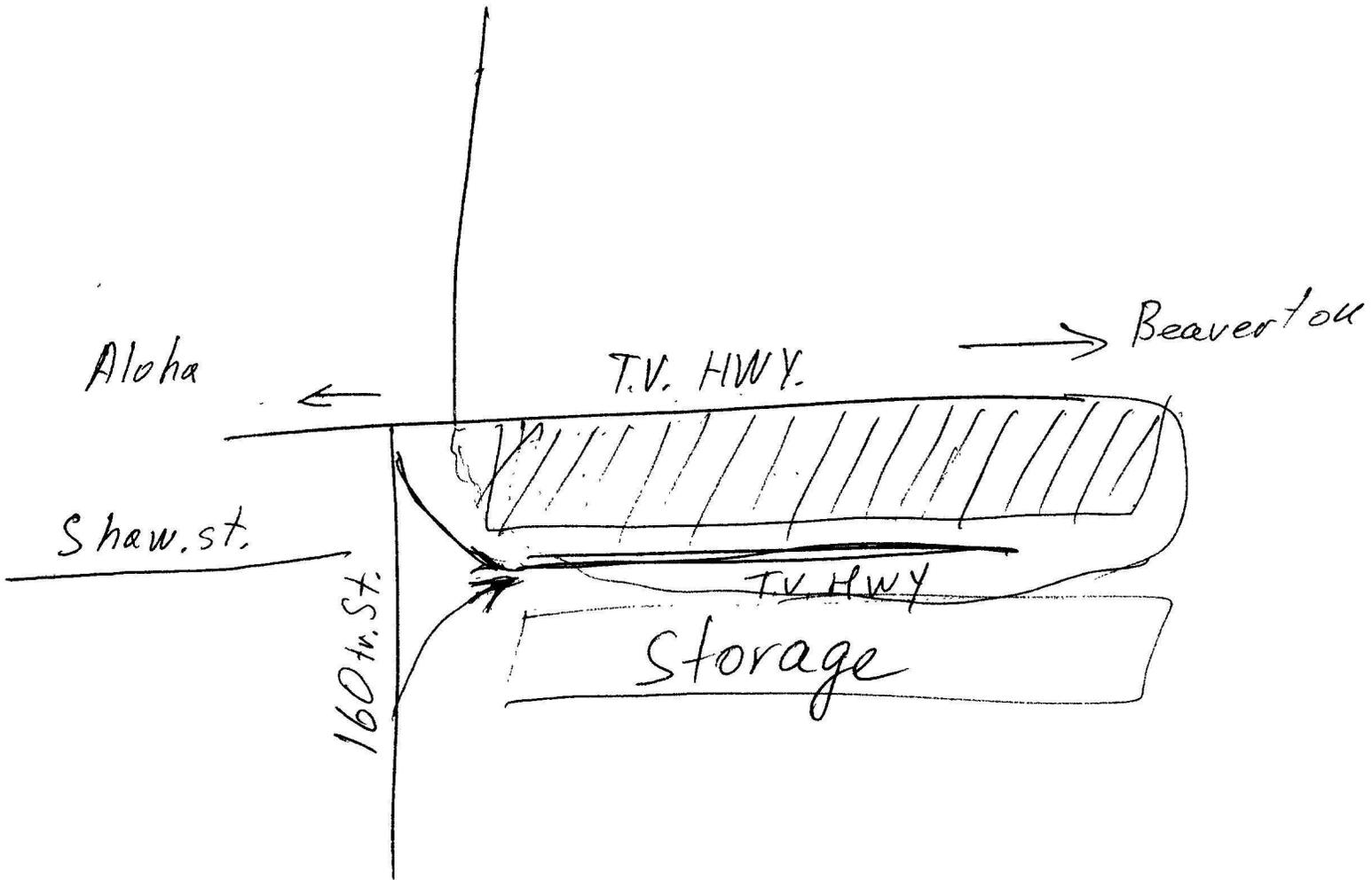
on SW Cascade Avenue will place an addition hardship on the Residence of this community and the small business owner/operators who are trying to make an honest living.

I hope you will give fair and honest consideration to keep truck parking as it is.

Sincerely
Betty J. Robinson
Portland East Trucking Company
11835 SW Robbins Dr.
Beaverton, OR 97008
(503) 524-9602

Drawing by Mrs. Rashid Kalinkin
showing potential truck parking location
in Beaverton.

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Legal ly

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CITY OF BEAVERTON

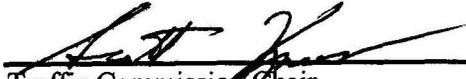
FINAL WRITTEN ORDER OF THE TRAFFIC COMMISSION

REGARDING ISSUE NUMBER TC 580
(Truck Parking on SW Cascade Avenue)

1. A hearing on the issue was held by the Traffic Commission on September 1, 2005.
2. The following criteria were found by the City Traffic Engineer to be relevant to the issue:
 - 1a (provide for safe vehicle, bicycle and pedestrian movements);
 - 1b (help ensure orderly and predictable movement of vehicles, bicycles and pedestrians);
 - 1d (accommodate the parking needs of residents and businesses in a safe and equitable fashion).
3. In making its decision, the Traffic Commission relied upon the following facts from the staff report and public testimony:
 - Harsch Investment Properties, representing Cascade Plaza shopping center, has requested parking restrictions on Cascade Avenue to remove truck parking from the street. They have requested that the parking restrictions be applied to large trucks and not to pickups or small delivery vehicles.
 - Currently, it is common for semi-trailer trucks to be parked on Cascade, especially on the east side of the street.
 - Cascade Plaza owners and tenants state that the trucks block visibility of the shopping center from traffic passing on Highway 217 and that the trucks are a safety hazard. Safety issues relate to truck loading that sometimes occurs, to the storage of dollies and other truck equipment on the street and to damage to utilities along the street.
 - Cascade Avenue has sufficient width to accommodate parking on both sides under the current two-lane striping configuration.
 - Signing currently exists that prohibits all parking near driveways for protection of sight distance.
 - Parking enforcement officers from the Beaverton Police indicate that enforcement could be more effective if parking time limits are established.
4. Following the public hearing, the Traffic Commission voted (5 aye, 1 nay) to recommend the following action:
 - On SW Cascade Avenue between Hall Boulevard and Scholls Ferry Road, prohibit the parking of trucks that have a registered gross vehicle weight in excess of 20,000 pounds.
 - On SW Cascade Avenue between Hall Boulevard and Scholls Ferry Road, restrict parking to a maximum duration of four hours.
5. The Traffic Commission decision was based on the following findings:
 - Elimination of truck parking will reduce safety concerns related to the maneuvering and loading of large vehicles on the street, thereby satisfying Criteria 1a and 1b.
 - There are no residential uses on adjoining properties. The owners of adjoining businesses have expressed support for the truck parking restrictions, satisfying Criterion 1d.
 - A four-hour parking limit will provide an additional tool to assist in the enforcement of the truck parking restrictions. The owners of adjoining businesses have expressed support for the four-hour time limit, satisfying Criterion 1d.

6. The decision of the Traffic Commission shall become effective upon formal approval of the City Council.

SIGNED THIS 1 DAY OF SEPTEMBER 2005



Traffic Commission Chair

DRAFT

City of Beaverton

TRAFFIC COMMISSION

Minutes of the September 1, 2005, Meeting

CALL TO ORDER

Chairman Scott Knees called the meeting to order at 7:05 p.m. in the Forrest C. Soth City Council Chamber at Beaverton City Hall, Beaverton, Oregon.

ROLL CALL

Traffic Commissioners Scott Knees, Holly Isaak, Carl Teitelbaum, Louise Clark, Tom Clodfelter, and Ramona Crocker constituted a quorum. Commissioner Kim Overhage was absent by prearrangement.

City Traffic Engineer Randy Wooley, Traffic Sergeant Jim Monger, and Recording Secretary Debra Callender represented City of Beaverton staff.

— EXCERPT START —

PUBLIC HEARING

ISSUE TC 580: TRUCK PARKING ON SW CASCADE AVENUE

Chairman Knees opened the public hearing on TC 580.

Staff Report

Mr. Wooley said there are typically two kinds of trucks that use on-street parking. One of these types is trucks that transport local deliveries from a warehouse. These trucks often pull two trailers and need a place to drop one trailer while they make local deliveries. They might drop one trailer along a street, make their deliveries, then return to pick up the dropped trailer. Sometimes dollies (a device to connect two trailers) are also left on the street. The complaint staff most frequently hears about these trucks is that equipment is left on the street with no lights or license plate. Mr. Wooley said the good thing is that drivers usually return the same day to collect their equipment.

Mr. Wooley said the other type of trucks parked along Cascade belong to long-haul truckers. Long-haul truckers use longer trailers and the cab and trailer

usually remain attached. Some of these trucks are owned and parked by drivers who live in Beaverton and who need a place to leave their truck while they are home for a few days. They might have dropped one load and are waiting to pick up another load. Many long-haul trucks have sleeping accommodations in the cab so the driver can rest when the truck is parked. These trucks might remain parked along a street for several days or longer.

Mr. Wooley said trucks park mainly on the east side of Cascade Avenue next to Highway 217. He said a short section of Cascade still has old two-hour parking signs.

Mr. Wooley said Harsch Investment Properties requested that the City post Cascade as a no truck parking zone. Cascade Plaza shopping center is located on the west side of Cascade Avenue and is owned by Harsch Investment. Mr. Wooley said the Harsch letter of July 25, 2005, asked for a truck parking restriction against vehicles weighing more than 10,000 pounds. He said this number is an error caused by incorrect information supplied by staff. Mr. Wooley said the request should apply to trucks weighing 20,000 pounds (10 tons). This would still allow pickups and delivery vans to park along Cascade.

The Harsch letter also requests a four-hour parking limit. After further discussion between staff and the Beaverton Police, Harsch revised their request and asked for a full prohibition on truck parking and also a time limit. Police had pointed out that the fine for a single parking ticket was fairly low and might not be enough to change parking behavior.

Mr. Wooley added that Harsch Investment included a site plan of the shopping center as an attachment to their July 25 letter. That site plan shows proposed modifications to the shopping center; it is not the building arrangement they saw when they visited the site.

Mr. Wooley said the street is wide enough that it could someday be striped with a center turn lane if traffic eventually increases. Currently, there is sufficient of room for two-way traffic and parking, even semi-truck parking. City standards also address "accommodating the needs of businesses." The Commission can decide how to treat all business equitably.

Mr. Wooley said the safety concerns involve trucks that load at the site, some double parking while doing so. Leaving dollies on the street also raises safety questions. He added that a letter from Portland General Electric (PGE) outlines damage to their utilities at this site. Trucks are blamed for the damage.

Commissioner Teitelbaum asked staff for details about how a two-hour parking request became a four-hour parking request.

Mr. Wooley said Harsch Investment's original request was for two-hour parking on Cascade. After more thought, Harsch decided they wanted truck parking

completely prohibited, with longer parking hours allowed so that employees and shoppers could park on the street. The second letter from Harsch requests truck parking restrictions instead of two-hour parking. Later, right before the staff report was distributed, Harsch modified their request and asked for no truck parking and a four-hour limit. That information was in Mr. Wooley's memo attached to the staff report.

Commissioner Teitelbaum asked if Harsch wants these restrictions on both sides of Cascade.

Mr. Wooley said he understands the request is to include both sides of Cascade, during all days and at all hours.

Commissioner Teitelbaum asked how long until Cascade will carry enough traffic to need a striped center lane.

Mr. Wooley said center striping will likely not happen with the current proposed changes to Cascade Plaza. He noted that shopping centers, in general, seem to be redeveloped every 10 to 20 years. Eventually the Washington Square Regional Center Plan will be zoned for higher density. That is when a striping change likely would occur.

Commissioner Clodfelter asked if staff knew of another area in Beaverton where large trucks can legally park.

Mr. Wooley answered that truck parking is allowed any place that on-street parking is allowed, with the restriction that trucks cannot park over night next to hotels or in residential areas where people might be sleeping. A few trucks still park on Arctic Drive and some park on Merlo near 170th. Trucks also park on 107th near Allen, but the limited spaces there are filled by trucks from the adjoining businesses. Mr. Wooley said there are a few truck stops in the greater Portland metropolitan area where drivers can temporarily leave their trucks. None of these are situated conveniently for Beaverton residents.

Chairman Knees asked if staff had any comments on how this change might affect pedestrians or bicyclists using Cascade.

Mr. Wooley said he has heard no comments on pedestrians or bicycles.

Public Testimony

The Commission received written testimony relating to this hearing from Traffic Sergeant Jim Monger, Betty J. Robinson of Portland East Trucking Company, Mary Ann Kolen of Harsch Investment Properties, Milo Starr of Portland General Electric, Colleen S. Duncan of Harsch Investment Properties, Michael Powell of Powell's Books, Steve Bock of Linen's N Things #487, and Dana Bennett of Burlington Coat Factory.

Colleen Duncan, Harsch Investment Properties, Portland, Oregon, is project manager for the redevelopment of Cascade Plaza shopping center.

In addition to the issues Mr. Wooley discussed, Ms. Duncan said there are also aesthetic issues. She said Harsch Investment has lost potential tenants when they saw the line of trucks parked along Cascade. They also lose potential business for their established tenants since drivers on Highway 217 cannot see the shopping center because the parked trucks block their view.

Ms. Duncan said a truck also damaged PGE property located in the public right of way. This resulted in a power shut down for the entire shopping center.

Ms. Duncan said her company is removing the abandoned View Master plant, which had become a Beaverton "eyesore." Harsch is replacing it with an attractive new shopping center that will bring more jobs and business to Beaverton. It would be a shame to have parked trucks blocking freeway visibility of the new shopping center.

Ms. Duncan said Harsch offered to pay for and maintain all signage and striping changes needed to remove the trucks; however, Mr. Wooley told her this would not be necessary.

Ms. Duncan thanked the Commission and asked for their support to permanently remove the parked trucks.

Commissioner Clark asked when the redeveloped shopping center will be complete.

Ms. Duncan said her goal is completion by the end of 2006. Powell's Books will be the first tenant to move into the redesigned space. Immediately afterwards, their old store will be demolished.

Chairman Knees asked how long the shopping center was without power after the PGE conduit was struck.

Ms. Duncan said PGE acted quickly and the power was back within a day. She said some trucks are parked on Cascade for days at a time. That must end.

Commissioner Isaak asked how the power loss affected the tenants, especially restaurants.

Ms. Duncan said she does not deal with the day-to-day operations of the shopping center; however, she imagines food and other inventory were lost.

Commissioner Teitelbaum said he drove down Cascade on a hot day and noticed that one of the trucks had its engine idling. He thought someone was "camping

out” in the truck cab. He asked if Ms. Duncan has noticed people living in the trucks.

Ms. Duncan said drivers often sleep in their parked trucks. She also described a smaller truck painted with a large sign advertising junk collection. That truck parks on Cascade solely to advertise to freeway traffic, much like a roadside billboard. This truck also blocks freeway drivers’ view of the shopping center and has become a nuisance.

Commissioner Clodfelter asked if the trucks parked on Cascade perhaps make deliveries to the shopping center from that location.

Ms. Duncan said they do not. She said one part of the shopping center project design is a requirement for a truck circulation plan. Trucks will generally unload from the back of the center. There would be no reason for trucks delivering to the shopping center to park on the street.

Chairman Knees noted that Linens ‘N Things is a large store. Is Ms. Duncan sure that their suppliers are not parking on the street?

Ms. Duncan is sure. She said Linens ‘N Things has truck access in the back of the store. Ms. Duncan thinks information about free truck parking along Cascade has spread among truckers via word of mouth.

Commissioner Crocker asked how much the ruined power conduit cost to repair.

Ms. Duncan did not have that information

Mrs. Rashid Kalinkin, Beaverton, Oregon, said her husband is a truck owner and driver. They are Beaverton residents and this is their family business. They need a legal place to park their truck between jobs. Mrs. Kalinkin explained that the truck belongs to her husband, but the trailer belongs to another company.

Mrs. Kalinkin said they are willing to pay, and if there was another near-by location they would park there. She said Beaverton has many truck drivers who are honest business owners who need a legal place to park their truck. This is how they make their living.

Mrs. Kalinkin said they are currently looking for other legal places to park. Her husband has scouted one potential parking location on the south side of TV Highway at 160th. She handed the Commissioners a drawing of this location (*on file*). Mrs. Kalinkin asked for the Commission’s help to find legal truck parking.

Staff Comments

Chairman Knees asked if staff knew of any legal truck parking locations in the Beaverton area, either free or for a fee.

Mr. Wooley said he has looked around Beaverton to see if there is anyplace the City could designate for truck parking. So far, he has found none. He said the City now owns most of the park and ride lot at 160th and TV Highway. City management told him the property is not available for truck parking. Mr. Wooley said the only truck parking he knows of are in Gresham, Wilsonville, and Clackamas which are all quite a distance from Beaverton.

Mr. Wooley returned to Ms. Duncan's testimony about trucks parking along Cascade for advertising purposes. Some of those trucks are probably under 20,000 pounds gross vehicle weight. The request for no truck parking would not affect these trucks; however, they would be covered by the four-hour parking restriction.

Commissioner Teitelbaum asked why the requested parking restriction was written to enable trucks less than 20,000 to park there, even for four hours.

Mr. Wooley said 20,000 pounds is the dividing point used in City truck ordinances. This would allow smaller delivery trucks, such as FedEx and UPS, to park briefly along Cascade.

Chairman Knees asked staff if there were streets in Aloha or unincorporated Washington County where Beaverton truck owners might park.

Ms. Duncan returned to say she thought there might be a truck parking facility in the Jantzen Beach area.

Mr. Wooley said he is not aware of any legal truck parking locations in Washington County. Large trucks park on Barnes Road west of Cedar Hills Boulevard. This has also caused complaints.

Chairman Knees said that most likely the truckers who park on Cascade live in or around the Beaverton area. Reasonably, they want to find a legal parking space as close to home as possible.

Commissioner Isaak would like to see the City provide a truck parking lot and make it available on a permit basis for Beaverton residents only. Public testimony shows that local truckers would be willing to pay for a convenient place to park near Beaverton. She reasoned that permit fees could cover the cost of providing the parking. Commissioner Isaak said if City plans called for another use of that land in five to 10 years, the land would still be available.

Chairman Knees closed the public hearing.

Commission Deliberation

Commissioner Isaak said she has empathy for the truckers because they are also Beaverton business owners. She is frustrated by the truckers who use Cascade as a trailer drop spot. The Commissioner has driven Cascade and she said it is unsafe when trucks double park to unload. Harsch has made a major investment in Beaverton by redeveloping this shopping center. She will support the recommendation to restrict truck parking on Cascade.

Commissioner Isaak added that she will continue to advocate finding a legal location for Beaverton truck owners to park. The City provides public land for community gardens and other public special interest uses. It is equally reasonable that the City become involved in providing legal parking for tax-paying trucking business.

Commissioner Clark concurred. She too has empathy for the independent truckers who live in Beaverton and who want a legal place to park their trucks. On the other hand, the thought of truckers sleeping in their trucks appalls her because it brings to mind personal hygiene and sanitation issues. Commissioner Clark added that the area surrounding the shopping center looks much better now that Harsch Investment has demolished the dilapidated View Master/TYCO factory.

Commissioner Clodfelter thanked Ms. Duncan for providing a site plan of the redevelopment at the shopping center. He noted that the site plan shows new shops located along the west side of Cascade. This recommendation will still allow smaller trucks to park along Cascade for up to four hours. During that time they could still block the line of sight from the freeway to the shopping center. He supports the recommendation.

Commissioner Crocker supports the recommendation. She has empathy for the local truckers who need an appropriate place to park their trucks when they are home. There are a number of vacant properties in Beaverton that the owners might consider renting. She suggested that the truckers network. Commissioner Crocker is also concerned about damage to the PGE property.

Commissioner Teitelbaum also has empathy for local truck drivers, but he does not feel the City has an obligation to provide "campgrounds" for long-distance truckers. He would like the City to make parking available for Beaverton residents who need a legal place to park their trucks. The City could help these business owners by locating a piece of land that could be adapted for that purpose.

Commissioner Isaak interjected that a Metro study has shown product distribution is about to become one of the largest growth industries in this region. We should expect to see more large trucks in the Portland metro area because this is a major distribution hub.

Chairman Knees asked Sgt. Monger about the photos attached to the staff report. Several photos show trailers parked on the street and not attached to a truck. Is it legal to park a non-motorized trailer along a city street?

Sgt. Monger said trailers can only be parked for 48 hours on a city street.

Chairman Knees pointed out that some of the trucks and trailers in the photos are parked facing against the traffic flow.

Sgt. Monger said this would only be a violation if the truck and trailer are attached, not if a trailer is parked alone.

Commissioner Teitelbaum asked how the City's need for legal truck parking could best be brought to Council's attention. He specified this would only be for Beaverton truckers.

Chairman Knees and Mr. Wooley suggested that truck owners could take this issue directly to the Council by using the visitor's forum held at the beginning of each City Council meeting. Mr. Wooley added that the Councilors will also read the minutes of this meeting when considering the recommendation on TC 580. If the Commission feels strongly about this issue, they could make a separate recommendation to City Council.

Chairman Knees said he dislikes parking restrictions. In this case, all applicable City criteria could be met by restricting parking to one side of Cascade. Safety should be the Commission's primary focus, and the safety issue could be resolved by restricting parking to just one side of the street. Then, trucks could still park along Cascade with no effect on shoppers driving in and out of the shopping center.

Chairman Knees said it would be good if Beaverton truckers had a better place to park; however, in this case, there is a serious lack of available truck parking in Beaverton. He believes the public right-of-way should be available to the public. That includes truck owners.

Commissioner Clark said it is critical for retail business to have their storefronts and signs in clear public view. That is what the requestor meant when she spoke about line of sight.

Chairman Knees countered that it is not the City's responsibility to provide a line of visibility for retail business.

Commissioner Teitelbaum said, while it could be true that the City does not have to provide line of sight view for the shopping center, it is equally true that the City has no responsibility to provide truck parking. He might agree with Chairman

Knees if there was a way to provide parking for only trucks owned by Beaverton residents.

Commissioner Clark **MOVED** and Commissioner Teitelbaum **SECONDED** a **MOTION** to approve TC 580 as written including a four-hour parking restriction and the draft final written order with no changes.

There was no further discussion. The **MOTION CARRIED 5:1**. Chairman Knees voted “nay.” Commissioners Clark, Clodfelter, Crocker, Isaak and Teitelbaum voted “aye.”

Commissioner Teitelbaum **MOVED** and Commissioner Isaak **SECONDED** a recommendation to City Council that the City investigate providing legal, local parking for large trucks belonging to City of Beaverton residents.

On discussion, Commissioner Teitelbaum said this parking need not be owned and managed by the City of Beaverton.

Chairman Knees said this could be an opportunity for a local entrepreneur to create a new business servicing customers who are eager to pay money for this service.

Commissioner Teitelbaum agreed, saying someone could solve a community problem and make money at the same time. He noted that truck parking issues have come before the Commission several times recently.

Commissioner Isaak agreed the truck parking should pay its own way.

Other Commissioners agreed. Several thought working out a solution would reduce the number of times staff and the Commission had to deal with truck parking issues in the future.

Commissioner Clodfelter suggested a “by permit only” system.

The **MOTION CARRIED** unanimously, 6:0.

— EXCERPT END —

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

SUBJECT: Approval of a Transit Oriented Development Agreement between Metro, DPP Beaverton Commercial Investments LLC and the City to Provide Metro Funds for Improvements to the Transit Plaza, Entrance Plaza and Associated Pedestrian Improvements.

FOR AGENDA OF: 10-10-05 **BILL NO:** 05179

Mayor's Approval: 

DEPARTMENT OF ORIGIN: City Attorney 

DATE SUBMITTED: 10-03-05

CLEARANCES: Finance 

PROCEEDING: Consent Agenda

EXHIBITS: Development Agreement and Exhibits

BUDGET IMPACT

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

Metro's Transit Oriented Development (TOD) program was adopted to encourage higher density and mixed-use development at transit stations. This helps to increase light rail ridership and reinforces Metro's Region 2040 Growth Concept. Metro adopted Resolution No. 00-22906 to facilitate TOD projects with site improvements, including The Round. On December 5, 2002 the TOD program steering committee approved TOD funding for The Round. This agreement had been held up while the City and the Developer settled the litigation over the development at The Round.

INFORMATION FOR CONSIDERATION:

The proposed agreement approves the disbursement of the first \$200,000 of the \$600,000 in funding approved for The Round by the TOD program steering committee. In exchange for this funding, DPP Beaverton has to provide TOD easements to Metro. The money will be used to fund improvements to the Transit Plaza and the Entrance Plaza as shown on Exhibit B of the agreement and as described in the DDA between the City and the Developer. DPP must also construct other pedestrian improvements connecting The Round to the transit station as approved by the City and Metro.

RECOMMENDED ACTION:

Authorize the Mayor to sign the Development Agreement.

DEVELOPMENT AGREEMENT

Lot 7, Office Building #2 THE ROUND AT BEAVERTON CENTRAL

This Transit-Oriented Development Agreement ("Agreement") is entered into and is effective this ____ day of _____, 2005 (the "Effective Date"), by and between the City of Beaverton ("City"), a municipal corporation; DPP Beaverton Commercial Investments LLC, a Delaware Limited Liability Company ("Developer" or "Owner"); and Metro, a municipal corporation and political subdivision of the State of Oregon ("Metro") to govern the use of TOD Program Funds, as hereafter defined, to provide assistance in the development of a portion of The Round at Beaverton Central ("The Round"), which is to be constructed in multiple phases.

Recitals

- A. By Metro Resolution No. 95-2176B on July 27, 1995, Surface Transportation Program funds were allotted for establishment of a Transit-Oriented Development Implementation Program ("TOD Program"). The funds were supplemented by "Priorities 2000" federal flexible funds by Resolution No. 99-2791 on May 27, 1999, an MTIP allocation by Resolution 01-3098A on September 20, 2001, and on June 19, 2003, MTIP allocation by Resolution No. 03-3284, approved on February 27, 2003.
- B. The TOD Program will encourage higher density and mixed-use development at the transit stations, which will reinforce light rail ridership and help implement Metro's Region 2040 Growth Concept.
- C. The Federal Transit Administration ("FTA") issued regulations in the Federal Register (March 14, 1997) that encourage joint development "to help shape the community that is being served by transit" and approved Metro's grant request for the TOD Implementation Program in 1998.
- D. The Metro Council authorized TOD Program start-up activities by Resolution No. 98-2619 on April 9, 1998, which: 1) established the TOD Program, 2) authorized a request for proposals from developers ("RFP"), 3) designated a TOD Steering Committee for oversight of the TOD Program and to approve project sites and projects for implementation and 4) authorized execution of agreements with developers on selected projects.
- E. The federally funded TOD Program generates local revenues from developer and local government contributions and other means that may be used as local matching funds or to fund local TOD projects such as The Round.
- F. TriMet and Metro executed an Intergovernmental Agreement by Resolution Nos. 99-2858 (November 18, 1999), 01-3114A (November 8, 2001), and 03-3314 (May 15, 2003) which provided for improving the efficiency of governments and provided additional local funds for TOD Program projects.
- G. The TOD Program procedures were amended by Resolution No. 00-2906 on March 9, 2000, to facilitate TOD projects with site improvements including The Round.

H. On December 5, 2002, the TOD Program Steering Committee approved TOD funding for The Round, a mixed-use development built around the Beaverton Central light rail station, subject to certain conditions. This Agreement provides for the disbursement of the first \$200,000 of the \$600,000 in funding approved for the Round by the TOD Program Steering Committee ("TOD Program Funds").

1. PURPOSE

1.1 PURPOSE OF TOD PROGRAM

The TOD Program is a Metro program financed with federal and local funds to encourage the construction by the private sector through public/private partnerships of transit-supportive development projects, including higher density housing, mixed-use projects (i.e., housing over retail, office over retail) and destination uses that have a physical or functional connection to transit. Metro's Travel Behavior Survey of 1994 indicated that areas of mixed-use combined with improved transit service resulted in a ten-fold increase in transit ridership as compared to areas in the remainder of the region. Walking, biking and transit combined for 40% of all trips in these mixed-use areas in contrast to 8% in the remainder of the region. The TOD Program seeks to increase transit ridership and provide incentives to developers to construct TOD projects by reducing the risks and costs to developer associated with the construction of TOD Program projects. To meet these goals and ensure the highest and best transit use, funding will be provided to assist in offsetting extraordinary costs that are associated with the higher density, mixed-use and/or strong pedestrian amenities, that are required by this Agreement.

1.2 PURPOSE OF AGREEMENT

This Agreement provides for and governs TOD Program participation in the development of a portion of The Round set forth in this section, for the purpose of producing a project with certain transit-supportive design features, including higher density and mixed-use components (the "Project"). These design features will increase the efficiency of the transit system and the modal share of non-auto trips, ease regional congestion, and help improve regional air quality. However, said design features also impose extraordinary costs on the Project, such as structured parking, more complex fire sprinkler systems; elevator; fire wall separations between differing uses, structural platforms or podiums supporting taller construction, geo-piers and other site preparation to support a more dense development on poor soil conditions; and enhanced pedestrian amenities and site improvements creating an environment more attractive and amenable to transit patrons and increasing the physical connection of transit to the development. Given present land economics in the City of Beaverton, these added costs are not offset by premium rents or sales. To account for the extraordinary costs of these features and to ensure the Project retains these features for at least 30 years, this Agreement provides for compensation to Owner in consideration for agreement to the terms and conditions contained herein and for the recording of a Declaration of Transit-Oriented Development Deed Restrictions ("TOD Easement"). When completed in accordance with this Agreement, the Project will further establish The Round as a regional center and hub for the City's downtown that integrates transit and development, placing transit as a focal point surrounded by an interactive mix of uses.

2. PROJECT INFORMATION

Legal Description of Property: attached as Exhibit A

Project Improvements: (to be constructed as set forth below and in accord with Exhibits B and C, attached hereto)

- Office Building #2 Lot 7 - The Round at Beaverton Central ("Office #2")
- Transit Plaza
- Entrance Plaza
- Associated Pedestrian Improvements

Location: Site area north and south of the Beaverton Central Light Rail Station, located west of SW Hall Boulevard, east of SW Cedar Hills Boulevard, south of SW Westgate Drive and north of SW Milliken Way in Beaverton, Oregon ("Project Site" or "Property")

Site Area: This Agreement applies only to the Transit Plaza (tracts A and B of the Round at Beaverton Central), Lot 5 of the Round and Lot 7 of The Round..

Project Managers:

Beaverton: __Janet Young_____

Developer: __John Morrow_____

Metro: Phil Whitmore

3. CONSIDERATION

Metro shall provide TOD Program Funds to Developer in the amount of TWO HUNDRED THOUSAND DOLLARS (\$200,000.00), under the terms and conditions set forth herein, in consideration for the Declaration of TOD Easement, and the extraordinary costs incurred as a result of the inclusion of transit-supportive design features and pedestrian amenities into the Project Improvements, , Plaza Improvements and Pedestrian Improvements as set forth in Section 4 below.

4. CONDITIONS PRECEDENT TO FUNDING

The following conditions precedent must be satisfied prior to Metro's obligation to provide TOD Program Funds. These conditions are intended solely for Metro's benefit and Metro shall have the sole right and discretion to waive, by written notice, any of the conditions:

4.1 OFFICE #2 , LOT 7

Office #2 shall be completed consisting of the following components:

- Five-story building height;
- ~~38,600~~ 37,000 square feet of fitness club space on lower two floors;

- ^{77,777} 86,750 square feet of office space on upper three floors;
- An entrance facing the transit station and transit plaza; and
- Exterior design consistent with schematics shown on Exhibit C

4.2 DECLARATION OF TOD EASEMENT

Upon completion of construction of Office #2, the Developer shall execute and deliver to Metro a TOD Easement in the form attached as Exhibit D hereto, which encumbrance Metro shall record against the title to the Property.

4.3 PLAZA AND PEDESTRIAN IMPROVEMENTS

Developer shall construct improvements to the Transit Plaza and Entrance Plaza depicted in the Site Plan attached as Exhibit B ("Plaza Improvements"), and other pedestrian amenities and mixed-use project elements ("Pedestrian Improvements") that will connect The Round to the transit station, contributing increased transit ridership and pedestrian travel, as pre-approved in writing by Metro and the City in accord with Section 5, below. Upon completion, the Plaza Improvements and Pedestrian Improvements shall be either dedicated to the City or encumbered by grant of Transit Plaza Easement to the City and Metro in a form substantially as set forth in Exhibit E, attached hereto.

5. SPECIAL METRO ACCOUNT

Upon satisfaction of the conditions precedent to funding set forth in subsections 4.1 and 4.2 above, \$200,000 in TOD Program Funds shall be set aside by Metro into a Special Metro Account. Developer shall submit proposals to Metro and the City with specific design descriptions of the Plaza and Pedestrian Improvements to be funded through the Special Metro Account and the amount of funding needed. The City and Metro project managers will review proposals and a decision to fund will be made within two (2) weeks of receipt of any proposal. Funding decisions must be unanimous by Metro and the City and shall be final. Upon completion of said approved Plaza Improvements and/or Pedestrian Improvements by Developer to the satisfaction of Metro and the City, funds shall be paid to the Developer from the Special Metro Account in the amounts approved in each proposal. Any funds not disbursed as set forth herein will be withdrawn by Metro at the expiration or termination of this Agreement.

6. TERM OF AGREEMENT

The term of this Agreement shall commence upon the last date of execution set forth below and expire when all of the TOD Program Funds provided for herein above have been paid to Developer, or June 30, 2007, whichever occurs first, unless expressly modified in writing signed by both parties.

7. DEVELOPMENT OF SITE

7.1 DILIGENT COMPLETION

The Developer covenants to complete the construction of the Project in accord with the term of the agreement listed above and to operate and manage the Project in a professional manner.

7.2 INSPECTION RIGHTS

Developer grants the Metro Project Manager the right to inspect and photocopy at all reasonable times and at the Metro Project Manager's expense, any of Developer's books and records that relate to TOD Program Funds provided through this Agreement, and the right to inspect, photograph and otherwise document the construction progress of the Project.

7.3 PERIODIC REPORTING

Developer and the Metro Project Manager shall meet monthly during the term of this Agreement. The Metro Project Manager may elect to receive monthly written progress reports from Developer in lieu of monthly meetings.

8. USE OF THE SITE

8.1 PLAZA IMPROVEMENTS AND PEDESTRIAN IMPROVEMENTS

Developer shall grant and the City shall obtain and maintain control of the Transit Plaza, Entrance Plaza and other pedestrian passage ways between buildings connecting to the Transit Plaza, via dedication to the City or grant of Transit Plaza Easement by Developer to the City and Metro, subject only to encumbrances approved by the City and Metro.

8.2 LAND USE

Developer, for itself, its successors-in-interest and assigns, as part of the consideration for this Agreement, covenants and agrees as a covenant running with the land which is for the benefit of Metro, that in order to protect the transit-supportive use of the Project, for a period of 30 years after the recording date of the TOD Easement, the Property will not be used in any manner that materially impedes or negates the transit-supportive requirements of this Agreement, including but not limited to the following uses: car washes; cemeteries; cold storage plants; drive-through and drive-in facilities not allowed unless the drive-through or drive-in component of the operation or service is not the primary method of selling or servicing; farm machinery, equipment or implement sales or service; fuel dealerships and storage yards (including card locks); junk yards and motor vehicle wrecking yards; manufactured home sales lots; mini-warehouses and/or mini-storage units as the primary use; motor vehicle service, maintenance or repair facilities; motor vehicle, recreational vehicle, boat and travel trailer sales, leasing, rental or storage lots; recreational vehicle parks and campgrounds; and solid waste transfer stations and truck stops.

8.3 NONDISCRIMINATION

In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, § 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, § 202 of the American Disabilities Act of 1990, 42 U.S.C. § 12132 and Federal transit law at 49 U.S.C. § 5332, the Developer agrees that it will not discriminate against any employee, tenant, patron or buyer of Project improvements because of race, color, creed, national origin, sex, age or disability.

9. REPRESENTATIONS AND WARRANTIES OF DEVELOPER

Developer warrants and represents to Metro and the City that the following matters are true and correct, and shall remain true and correct through the termination or expiration of this Agreement. Developer acknowledges that the warranties and representations set forth herein are material inducements to Metro and the City to enter into this Agreement. Developer agrees to indemnify, defend and hold Metro and the City harmless from and against and to reimburse Metro and the City with respect to any and all claims, demands, causes of action, loss, damage, liabilities, costs and expenses (including attorney's fees and court costs) asserted against or incurred by Metro and the City by reason of or arising out of the breach of any representation or warranty as set forth herein.

9.1 AUTHORITY

Developer has duly and validly authorized and executed this Agreement and Developer has full power to enter into and to perform this Agreement according to its terms. The execution and the delivery of this Agreement and the consummation of the transactions contemplated hereby will not constitute a default under any indentures, agreements, mortgages or any other instruments to which Developer is a party or the Property is subject, and is not in contravention of any law, order, ordinance or regulation by which Developer is bound or subject. No further consent of any partner, shareholder, creditor, investor, judicial or administrative body, governmental authority, or other party is required.

9.2 HAZARDOUS SUBSTANCES

For purposes of this Agreement, the phrase "Hazardous Substances" shall include but not be limited to the substances defined in ORS 465.200. Developer warrants, represents and covenants that, to the knowledge of Developer:

- 9.2.1 There are no Hazardous Substances in, upon, or buried on or beneath the Property and no Hazardous Substances have been emitted or released from the Property in violation of any environmental laws of the federal or state government;
- 9.2.2 No Hazardous Substances have been brought onto, stored on, buried, used on, emitted or released from, or allowed to be brought onto, stored on, buried, used on, emitted, released from, or produced or disposed of, from or on the Property, in violation of any environmental laws of the federal or state government;

- 9.2.3 No underground storage tanks are located on the Property, including (without limitation) any storage tanks that contain, or previously contained, any Hazardous Substances, and Developer agrees not to cause or permit any such tanks to be installed in the Property before funding of the second payment;
- 9.2.4 The Property is materially in compliance with applicable state and federal environmental standards and requirements affecting it;
- 9.2.5 Developer has not received any notices of violation or advisory action by regulatory agencies regarding environmental control matters or permit compliance with respect to the Property;
- 9.2.6 Developer has not transferred Hazardous Substances from the Property to another location that is not in compliance with applicable environmental laws, regulations, or permit requirements; and
- 9.2.7 There are no proceedings, administrative actions, or judicial proceedings pending or contemplated under any federal, state, or local laws regulating the discharge of hazardous or toxic materials or substances into the environment.

9.3 CONTRACTS, LEASES, RIGHTS, ENCUMBRANCES AFFECTING PROPERTY

There are no rights of first refusal, options to purchase the Property, leases, mortgages, licenses, easements, encumbrances, prescriptive rights, permits, or other rights or agreement, written or oral, express or implied, which in any way affect or encumber the Project, or any portion thereof, and there will be no such rights or encumbrances at the time the TOD Easement and Transit Plaza Easement are recorded, with the exception of the encumbrances listed on Exhibit F.

9.4 NO LEGAL PROCEEDINGS

To the Developer's knowledge, there is no suit, action, arbitration, judgment, legal, administrative, or other proceeding, claim, lien, or inquiry pending or threatened against the Property, or any portion thereof, or pending or threatened against Developer which could affect the Developer's right or title to the Property, or any portion thereof, affect the value of the Property or any portion thereof, or subject an owner of the Property, or any portion thereof, to liability.

9.5 BANKRUPTCY PROCEEDINGS

To Developer's actual knowledge, no attachments, execution proceedings, assignments for the benefit of creditors, insolvency, bankruptcy, reorganization, or other proceedings are pending or threatened against Developer, nor are any such proceedings contemplated by Developer.

9.6 CHANGED CONDITIONS

If Developer discovers any information or facts that would materially change the foregoing warranties and representations ("Changed Conditions"), Developer shall promptly provide written notice to Metro and the City of said facts and information. Thereafter, Developer has 30 days in which to remedy the Changed Conditions. If Developer fails to do so within 30 days, Metro may at its sole discretion elect to declare

a default and terminate this Agreement. Metro's election in this regard shall not constitute a waiver of Metro's rights in regard to any loss or liability suffered as a result of a representation or warranty not being true, nor shall it constitute a waiver of any other remedies provided in this Agreement or by law or equity.

10. DEVELOPER INDEMNITY

10.1 GENERAL INDEMNIFICATION

Developer agrees to defend (using legal counsel reasonably acceptable to Metro), indemnify and hold Metro and its agents, employees and elected officials, harmless from and against any and all actual or alleged claims, damages, expenses, costs, fees (including, but not limited to, attorney, accountant, paralegal, expert, and escrow fees), fines, and/or penalties (collectively, "costs"), which may be imposed upon or claimed against Metro and which, in whole or in part, directly or indirectly, arise from or are in any way connected with: (i) the act, omission or negligence of Developer or Developer's partners, officers, directors, agents, employees, invitees, contractors or subcontractors; (ii) the use, occupation, management or control of the Project or portions thereof by Developer, whether or not due to Developer's own act or omission and whether or not occurring on the Property; (iii) any condition created on the Property by any party, other than Metro or an agent of Metro; (iv) misrepresentation or the breach of any warranty set forth herein; and/or (v) any breach, violation or nonperformance of any of Developer's obligations under this Agreement.

10.2 ENVIRONMENTAL INDEMNIFICATION

DEVELOPER HEREBY AGREES AND COVENANTS TO INDEMNIFY, DEFEND AND HOLD METRO, ITS ELECTED OFFICIALS, AND EMPLOYEES, SUCCESSORS AND ASSIGNS, HARMLESS FROM AND AGAINST ALL ENVIRONMENTAL COSTS RELATING TO THE PROJECT OR PROPERTY, UNLESS SOLELY CAUSED BY INDEPENDENT ACTION OF METRO. "ENVIRONMENTAL COSTS" SHALL BE INTERPRETED IN THE BROADEST SENSE TO INCLUDE, BUT SHALL NOT NECESSARILY BE LIMITED TO: (I) COSTS OR EXPENSES RELATING TO ANY ACTUAL OR CLAIMED VIOLATION OF OR NONCOMPLIANCE WITH ANY ENVIRONMENTAL LAW; (II) ALL CLAIMS OF THIRD PARTIES, INCLUDING GOVERNMENTAL AGENCIES, FOR DAMAGES, RESPONSE COSTS OR OTHER RELIEF RELATING TO HAZARDOUS SUBSTANCES, AS THAT TERM IS DEFINED UNDER ORS CHAPTER 465; (III) THE COST, EXPENSE OR LOSS TO METRO AS A RESULT OF ANY INJUNCTIVE RELIEF, INCLUDING PRELIMINARY OR TEMPORARY INJUNCTIVE RELIEF, APPLICABLE TO THE PROPERTY; (IV) ALL REASONABLE EXPENSES OF EVALUATION, TESTING, ANALYSIS, CLEANUP, REMEDIATION, REMOVAL AND DISPOSAL OF HAZARDOUS SUBSTANCES, INCLUDING REASONABLE FEES OF ATTORNEYS, ENGINEERS, CONSULTANTS, PARALEGALS AND EXPERTS; (V) ALL EXPENSES OF REPORTING THE EXISTENCE OF HAZARDOUS SUBSTANCES OR THE VIOLATION OF ENVIRONMENTAL LAWS TO ANY AGENCY OF THE STATE OF OREGON OR THE UNITED STATES AS REQUIRED BY APPLICABLE ENVIRONMENTAL LAWS; AND (VI) ANY AND ALL EXPENSES OR OBLIGATIONS, INCLUDING ATTORNEYS' AND PARALEGAL FEES, INCURRED AT, BEFORE AND AFTER ANY TRIAL OR APPEAL

THEREFROM OR ANY ADMINISTRATIVE PROCEEDING OR APPEAL THEREFROM WHETHER OR NOT TAXABLE AS COSTS, INCLUDING, WITHOUT LIMITATION, ATTORNEYS' AND PARALEGAL FEES, WITNESS FEES (EXPERT AND OTHERWISE), DEPOSITION COSTS, COPYING, TELEPHONE AND TELEFAX CHARGES AND OTHER EXPENSES. METRO SHALL NOTIFY THE DEVELOPER OF ANY NOTICE OF ANY CLAIMS ASSERTED AGAINST METRO RELATING TO ENVIRONMENTAL COSTS. UPON SUCH NOTICE, DEVELOPER SHALL UNDERTAKE COMMERCIALY REASONABLE ACTIONS TO CHALLENGE SUCH CLAIMS, IF DEVELOPER DETERMINES IN GOOD FAITH THAT SUCH CHALLENGE IS WARRANTED, OR WORK WITH THE APPROPRIATE PARTIES AND AUTHORITIES TO DEVELOP AN ACCEPTABLE ACTION PLAN WITH RESPECT TO SUCH MATTERS AND TO IMPLEMENT OR PARTICIPATE IN THE IMPLEMENTATION OF SUCH PLAN, INCLUDING, IF APPROPRIATE, ANY REQUIRED REMEDIATION. FOR THE PURPOSES OF THIS INDEMNITY, "ENVIRONMENTAL CONDITION" SHALL BE INTERPRETED IN ITS BROADEST SENSE, INCLUDING BUT NOT LIMITED TO THE RELEASE OF OR CONTAMINATION BY ANY HAZARDOUS SUBSTANCE(S) AS THAT TERM IS DEFINED IN ANY APPLICABLE FEDERAL OR STATE ENVIRONMENTAL STATUTE, RULE, REGULATION OR ORDINANCE NOW OR HEREAFTER IN EFFECT.

11. DEFAULTS AND REMEDIES

11.1 DEVELOPER DEFAULT

If the Developer fails or refuses to perform any obligation, term, condition or covenant set forth in this Agreement, the Metro Project Manager shall give written notice of the failure of compliance, specifically describing the failure of performance. Developer shall cure any failure to perform within ten (10) days of receipt of the notice given by Metro; provided that, if the failure cannot reasonably be cured within such 10-day period, Developer shall not be deemed in default if Developer undertakes curative action within such 10-day period and diligently pursues the same to completion. If Developer does not cure the failure, Metro may extend the period for cure for a reasonable period of time, at its sole discretion, by written reply to Developer's written request. If Developer fails to request said extension, or Metro refuses to grant said extension, Metro may, at its sole discretion, declare a default.

11.2 DEVELOPER DEFAULT OF DISPOSITION AND DEVELOPMENT AGREEMENT

Any City declaration of Developer default of the Third Amendment to the Disposition and Development Agreement between Developer and the City of Beaverton dated June 6, 2005 shall also be an event of default under this Agreement.

11.3 METRO'S REMEDIES

In the event that a Developer default is declared, this Agreement, and the obligations of Metro to the Developer and the City hereunder, shall terminate, and any funds remaining in the Special Metro Account shall be withdrawn by Metro. Metro's election in this regard shall not constitute a waiver of Metro's rights in regard to any loss or liability suffered as a result of the default, nor shall it constitute a waiver of any other remedies

provided in this Agreement or by law or equity. Waiver by Metro of strict performance of any provision of this Agreement shall not be deemed a waiver of or prejudice Metro's right to require strict performance of the same provision in the future or of any other provision of this Agreement.

11.4 METRO DEFAULT

If Metro fails or refuses to timely perform or refuses to carry out any obligation, term, condition or covenant set forth in this Agreement, the Developer shall give written notice of the failure of compliance, specifically describing the failure of performance. Metro shall cure any failure to perform within 10 days of receipt of the notice given by Developer; provided that, if the failure cannot reasonably be cured within such 10-day period, Metro shall not be deemed in default if Metro undertakes curative action within such 10-day period and diligently pursues the same to completion. If Metro does not cure the failure, Developer may declare default on the 11th day after Metro's receipt of notice, unless Developer extends the period for cure by a second written notice to Metro.

11.5 DEVELOPER REMEDIES

In the event that a Metro default is declared, Developer's sole remedy shall be to enforce the specific performance of this Agreement. In no event shall Metro be liable to Developer for any lost or prospective profits or any other special, punitive, exemplary consequential, incidental or indirect losses or damages under or in respect of this agreement or for any failure of performance related hereto, howsoever caused.

12. ASSIGNMENT

The Developer may not assign its rights, duties, and obligations provided in this Agreement without the written approval of Metro and the City, which approval may be withheld at either party's sole discretion. No assignment shall relieve Developer of its liability under this Agreement, and Developer must guarantee the performance of any Metro-approved assignor. Subject to the foregoing, this Agreement shall inure to the benefit of, and shall be enforceable by and binding upon, the parties hereto and their respective heirs, administrators, executors, representatives, successors and assigns. Notwithstanding anything to the contrary set forth above, Metro may assign the enforcement powers provided Metro under the TOD Easement to any local or regional municipal corporation, or state or federal agency having a TOD function.

13. SUBORDINATION OF TOD EASEMENT

Notwithstanding anything to the contrary contained herein, the TOD Easement recorded by Developer shall be, and remain, subordinate to current and future deeds of trust and related security agreements needed to obtain construction and permanent financing.

14. NOTICES

All notices or other communications required or permitted hereunder shall be in writing and shall be personally delivered (including by means of professional messenger service) or sent by certified mail, postage prepaid, return receipt requested and shall be

deemed received on the earlier of: 1) date of actual delivery; or 2) three (3) days after deposit in the United States mail.

To Metro: Metro – Planning Department
Attn: Phil Whitmore
600 N.E. Grand Avenue
Portland, OR 97232-2736

To Developer: DPP Beaverton Commercial Investments LLC
Dorn-Platz & Company
Attn: John Morrow
344 North Central Avenue
Glendale, CA 91203

To Beaverton: City of Beaverton
Attn: Janet Young
PO Box 4755
Beaverton, OR 97076-4755

15. GENERAL & MISCELLANEOUS PROVISIONS

15.1 CONFLICT OF INTERESTS; METRO REPRESENTATIVES NOT INDIVIDUALLY LIABLE

No officer, director or employee of Metro shall have any personal interest, direct or indirect, in the Agreement, nor shall any such officer, director, or employee participate in any decision relating to the Agreement which affects his or her personal interest or the interests of any corporation, partnership, or association in which he or she is, directly or indirectly, interested. No officer, director or employee of Metro shall be personally liable to the Developer, or successors-in-interest, in the event of any default or breach by Metro or for any amount, which may become due to the Developer or successor or on any obligations under the terms of the Agreement.

15.2 COUNTERPARTS

This Agreement may be executed in four (4) counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

15.3 WAIVERS

No waiver made by any party with respect to the performance, or manner or time thereof, of any obligation of another party or any condition inuring to its benefit under this Agreement shall be considered a waiver of any other rights of the party making the waiver. No waiver by Metro or the Developer of any provision of this Agreement, or any breach thereof, shall be of any force or effect unless in writing; and no such waiver shall be construed to be a continuing waiver.

15.4 MERGER, MODIFICATIONS, SURVIVABILITY

All understandings and agreements, verbal or otherwise, heretofore existing between the parties are hereby merged in this Agreement which alone fully and completely expresses their agreement. This Agreement may not be modified or terminated, nor may any obligations under it be waived, except by written instrument signed by the party to be charged or by its agent duly authorized in writing or as otherwise expressly permitted herein. The covenants, agreements, representations and warranties made herein shall be continuing, shall survive the recording of the TOD Easement and shall not merge into the grant of TOD Easement at recording.

15.5 TIME OF ESSENCE

Developer and Metro hereby acknowledge and agree that time is strictly of the essence with respect to every term, condition, obligation, and provision of this Agreement.

15.6 ATTORNEYS' FEES

In the event of a suit, action, arbitration or other proceeding of any nature whatsoever, including, without limitation, any proceeding under U.S. Bankruptcy Code, is instituted to interpret or enforce any provision of this Agreement, or with respect to any dispute relating to this Agreement, including, without limitation, any action in which a declaration of rights is sought or an action for rescission, the prevailing party shall be entitled to recover from the losing party its reasonable attorneys', paralegals', accountants', other experts' fees and all other fees, costs and expenses actually incurred and reasonably necessary in connection therewith, as determined by the judge or arbitrator at trial or arbitration, as the case may be, or on any appeal or review, in addition to all other amounts provided by law. This provision shall cover costs and attorney fees related to, or with respect to, proceedings in Federal Bankruptcy Courts, including those related to issues unique to bankruptcy law.

15.7 CHOICE OF LAW, FORUM

The parties acknowledge that this Agreement has been negotiated and entered into in the State of Oregon. The parties expressly agree that this Agreement shall be governed by and interpreted in accordance with the laws of the State of Oregon. Any action or suit to enforce or construe any provision of this Agreement by any party shall be brought in the Circuit Court of the State of Oregon for Multnomah County or the United States District Court for the District of Oregon.

15.8 CALCULATION OF TIME

All periods of time referred to herein shall include Saturdays, Sundays and legal holidays in the State of Oregon, except that if the last day of any period falls on any Saturday, Sunday or such holiday, the period shall be extended to include the next day which is not a Saturday, Sunday or such a holiday.

15.9 CONSTRUCTION

The captions and headings of the various sections of this Agreement are for convenience only and are not to be construed as defining or as limiting in any way the scope or intent of the provisions hereof. Wherever the context requires or permits, the

singular shall include the plural, the plural shall include the singular and the masculine, feminine and neuter shall be freely interchangeable.

15.10 LEGAL PURPOSE: COMPLIANCE WITH LAWS

Developer agrees that it shall use the Property solely for lawful purposes. Developer shall comply with all applicable laws in the construction and operation of the Project.

15.11 PARTIAL INVALIDITY

If any clause, sentence or any other portion of the terms and conditions of this Agreement becomes illegal, null or void for any reason, the remaining portions will remain in full force and effect to the fullest extent permitted by law.

15.12 CONSENTS AND APPROVALS

Whenever consent or approval by Metro is required under the terms of this Agreement, all such consents or approvals shall be given in writing from the Metro Project Manager. Where approvals of Metro are required, Metro will approve or disapprove within 15 business days after receipt of the material to be approved, except where a longer or shorter time period is specifically provided to the contrary in this Agreement. Failure by Metro to approve or disapprove within said period of time shall be deemed an approval. Any disapproval shall state in writing the reasons for such disapproval. Approvals will not be unreasonably withheld, except where rights of approval are reserved to Metro's sole discretion.

15.13 NO PARTNERSHIP

Neither anything in this Agreement contained nor any acts of the parties hereby shall be deemed or construed by the parties, or by any third person, to create the relationship of principal and agent, or of partnership, or of joint venture or any association between any of the parties and Metro.

15.14 EXCLUSIVE REMEDIES

The rights and remedies expressly afforded under the provisions of this Agreement shall not be deemed exclusive, except where otherwise indicated, and shall be in addition to and cumulative with any and all rights otherwise available at law or in equity, and the exercise by either party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other such remedies for the same default or breach of any of its remedies for any other default or breach by the other party.

15.15 GOOD FAITH AND REASONABLENESS

The parties intend that the obligations of good faith and fair dealing apply to this Agreement generally and that no negative inferences be drawn by the absence of an explicit obligation to be reasonable in any portion of this Agreement. The obligation to be reasonable shall only be negated if arbitrariness is clearly and explicitly permitted as to the specific item in question, such as in the case of a party being given "sole discretion" or being allowed to make a decision in its "sole judgment."

15.16 PREVAILING WAGE LAWS.

The parties to this Agreement hereby acknowledge that uncertainty exists as to the applicability of prevailing wage rate laws, including ORS 279C.800-870 and related regulations, to this Agreement and the Project Improvements. Developer shall comply with all said laws if applicable, and agrees to indemnify Metro and the City in accord with Section 10 for Developer's failure to so comply.

IN WITNESS WHEREOF, the parties have executed this Agreement on the dates herein after indicated as follows:

CITY OF BEAVERTON

METRO

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

**DPP BEAVERTON COMMERCIAL
INVESTMENTS, LLC
a Delaware Limited Liability
Company**

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

LIST OF EXHIBITS

- Exhibit A** Legal Description of Property

- Exhibit B** Description of the Transit Plaza and Entrance Plaza Improvements

- Exhibit C** Elevations of Office #2, Lot 7

- Exhibit D** Form of TOD Easement

- Exhibit E** Form of Transit Plaza Easement

- Exhibit F** Exception of Encumbrances

Exhibit A
Legal Description of Project

PARCEL I:

Lots 5 and 6, THE ROUND AT BEAVERTON CENTRAL, in the City of Beaverton,
County of Washington and State of Oregon.

PARCEL II:

Tracts A and B, THE ROUND AT BEAVERTON CENTRAL, in the City of Beaverton,
County of Washington and State of Oregon.

Site Plan for The Round at Beaverton Central

THE ROUND AT BEAVERTON CENTRAL

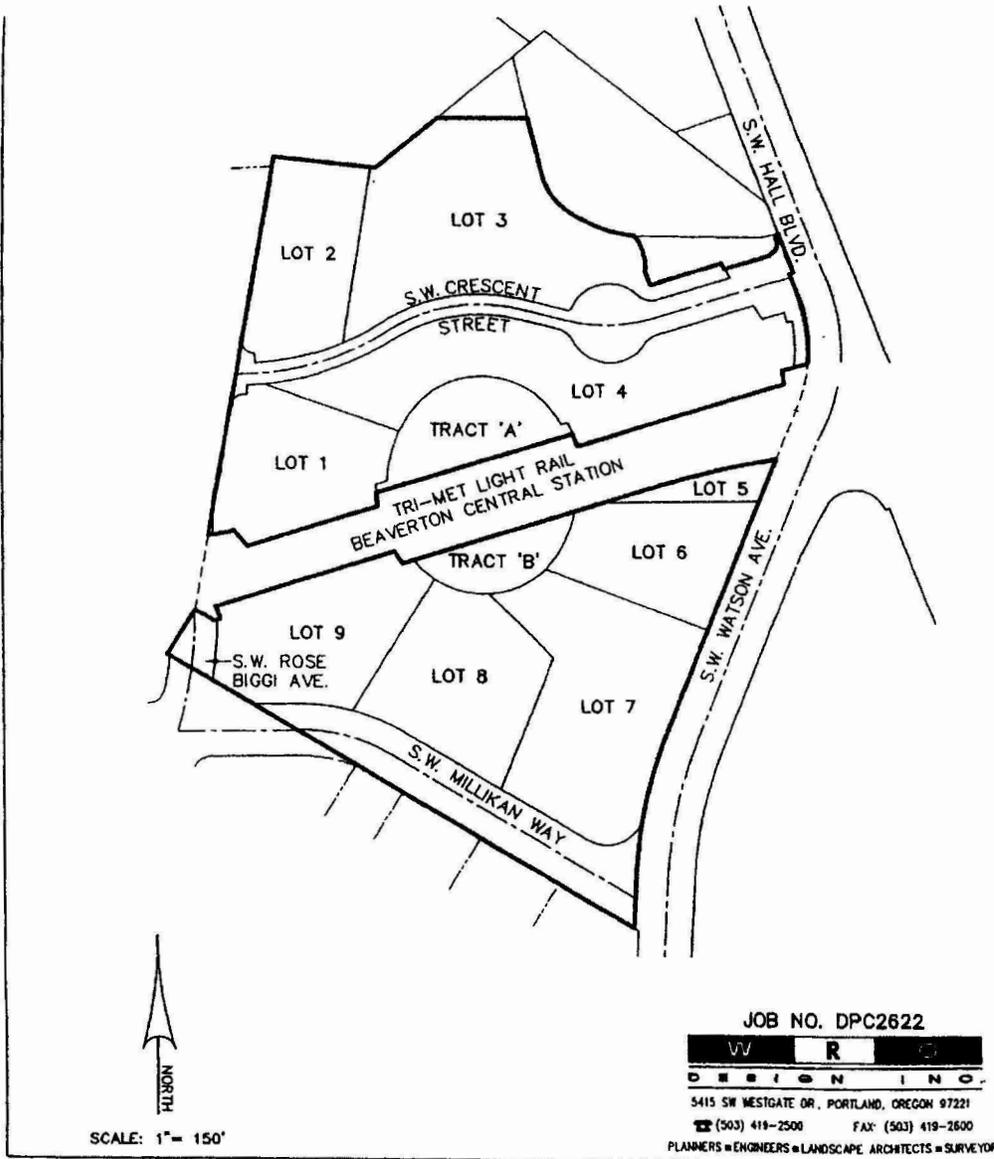


Exhibit B – Description of Improvements

Improvements to be funded with this Agreement include some or all of the following, subject to pre-approval in writing by Metro and the City in accord with Section 5 of this Agreement:

- improvements to the fountain wall on Tract A of the Round
- improvements to the Entrance Plaza on Lot 5 of the Round. The improvements to be funded by this Agreement are described in Exhibit F, Section III.1.3 of the Disposition and Development Agreement between the City of Beaverton and the Developer.
- Other improvements to public spaces as approved in accord with Section 5 of this Agreement.

EXHIBIT C

Elevations – see attached drawing

The Round - Elevation Drawing for
Sports Club/Apartments at Beaverton
Central

Drawing Located in: Council Packet
File of 10/10/2005 Meeting

Due to the size of this document, it
was not scanned into this electronic
packet. Copies are available for
review in the Office of the City
Recorder at the City of Beaverton,
4755 SW Griffith Drive, Beaverton,
Oregon. The City Recorder's Office
is open Monday through Friday, from
8:00 a.m. to 5:00 p.m.

Form of TOD Easement

After Recording Return to:
Phil Whitmore
TOD Program Manager
Metro
600 N.E. Grand Avenue
Portland, OR 97232-2736

After Recording, Return a copy to:

**DECLARATION OF TRANSIT-ORIENTED DEVELOPMENT EASEMENT
CONSISTING OF DEED RESTRICTIONS AND COVENANTS**

THIS DECLARATION OF TRANSIT-ORIENTED DEVELOPMENT EASEMENT CONSISTING OF DEED RESTRICTIONS AND COVENANTS ("Declaration") is made this _____ day of _____, 200__, by DPP Beaverton Commercial Investments LLC, a Delaware Limited Liability Company ("Declarant" and/or "Owner"), the owner of certain real property located in the City of Beaverton, Oregon, more particularly described in Exhibit A attached hereto ("Property"); and

WHEREAS, Declarant executed a Development Agreement, dated _____, 2005, with Metro and the City of Beaverton, wherein Metro agreed to pay Declarant the sum of \$200,000, conditioned on the development of the Property with certain transit-oriented features, the recording of this Declaration limiting the use of the Property to transit-supportive uses, and the development of a transit plaza and other pedestrian amenities;

NOW THEREFORE, in consideration for \$200,000, and other good and valuable consideration, Owner hereby declares that the Property subject to this Declaration shall be held, sold and conveyed subject to the following restrictions and covenants, which shall run with the Property and shall be binding on all parties having or acquiring any right, title or interest in the Property or any part thereof, and shall inure to the benefit of Metro.

SECTION 1.
PROPERTY USE RESTRICTIONS

- 1.1 Land Use. The Property shall be developed in accord with the Development Agreement between the Declarant, Metro, and the City of Beaverton, and used in a manner that supports transit use. The development permitted for construction under City of Beaverton Building Permit #B2003-1277 is designed to support transit use. Transit supportive uses include, but are not limited to: bakery; bank; bookstore; camera store; clothing store; collectible shop; day-care center; deli; drugstore; dry cleaner; florist; food vendor; gallery; grocery store; gift shop; hardware store; health club; housing, rental or for sale; hotel; instruction studio; laundromat; personal service shop; pet store; post office; professional office; media store; restaurant or bar; shoe store; small appliance repair; theater and cinema; specialty food; sporting goods; and tailor. Examples of non-transit-supportive uses include, but are not limited to the following uses: book bindery; building materials, sales and supplies, excluding hardware stores; bulk retail uses; car washes; cold storage plants; drive-through and drive-in facilities, unless the drive-through or drive-in component of the operation is not the primary method of selling or servicing; electrical power generator; fuel dealerships and storage lots (including card locks); junk yards and motor vehicle wrecking yards; manufactured home sales lots; mini-warehouses and/or mini-storage units as the primary use; motor vehicle, boat and travel trailer sales, leasing, rental or storage; recreational vehicle parks and campgrounds; solid waste transfer stations; tel-co hotels; and truck stops.
- 1.2 Nondiscrimination. In accordance with Title VI of the Civil Rights Act, as amended; 42 U.S.C. Section 2000d; Section 303 of the Age Discrimination Act of 1975, as amended; 42 U.S.C. Section 6102; Section 202 of the Americans With Disabilities Act of 1990; 42 U.S.C. Section 12132, no owner of the Property shall discriminate against any employee, tenant, patron or buyer of the Property improvements because of race, color creed, national origin, sex, age or disability. In addition, any such owner shall comply, to the extent applicable to the Property, with the applicable federal implementing regulations of the above-cited laws. "Owner" shall mean the fee simple title holder to the Property or any part thereof, including contract buyers, but excluding those having such interest merely as security for the performance of an obligation.

SECTION 2.
GENERAL PROVISIONS

- 2.1 Enforcement. Metro shall have standing to enforce, by proceeding at law or equity, all restrictions and covenants established by this Declaration. The failure to enforce any provision shall in no event be deemed a waiver of the right to do so thereafter. If legal proceedings of any type are begun by Metro so as to enforce these covenants and restrictions or to seek damages for violations of these covenants and restrictions, the prevailing party shall recover reasonable attorney's fees, including attorney fees on appeal, as determined by the trial or appellate courts.

- 2.2 Duration. The restrictions established by this Declaration shall run with the land and bind the Property, Declarant, its successors and assigns, and shall inure to the benefit of and be enforceable by Metro, its legal representative, successors and assigns for a term of thirty (30) years from the date this Declaration is executed. Notwithstanding the above, in the case the Development Agreement is terminated by Metro prior to the completion of construction of the Project defined in the Development Agreement, this Declaration shall also terminate on the same date. Metro and its representatives, successors and assigns, shall thereafter have no further right to enforce any restriction or covenant of this Declaration.
- 2.3 Subordination. This Declaration is not intended to supersede, modify, amend, or otherwise change the provisions of any prior instrument affecting the land burdened hereby. The easements, covenants and restrictions in this Agreement are subject and subordinate to any prior recorded existing liens and encumbrances, and shall, without further documentation, automatically be subject and subordinate to any future liens and encumbrances recorded in connection with any financing obtained by Declarant or its successors and assigns for which the Property is used as collateral. Notwithstanding the fact that this Agreement shall automatically be subject and subordinate to any future liens and encumbrances recorded in connection with any financing obtained by Declarant or its successors and assigns for which the Property is used as collateral, Metro, and its successors and assigns, will, upon written request, execute and deliver any documents required by any lender to document and effectuate such subordination to any ground lease, mortgage, deed of trust or other financing instruments, in the form required by Declarant or its lender.
- 2.4 Amendment. This Declaration may not be amended or revoked except by written amendment executed by Metro and Owner, recorded in the manner then provided for by law.
- 2.5 Limitation of Liability of Metro. Under no circumstances shall Metro have any liability to Owner or any future owner, or other user or tenant, lessee, guest or invitee of such owner or user by virtue of Metro's enforcement of, or failure to enforce, the right established by this Declaration.
- 2.6 Severability. Invalidation of any of these provisions, by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.
- 2.7 Governing Law. This Declaration shall be construed and interpreted in accordance with the laws of the State of Oregon.

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DATED this _____ day of _____, 200____.

DECLARANT:
DPP BEAVERTON COMMERCIAL INVESTMENTS, LLC
A Delaware Limited Liability Company

By: _____

By: _____

Its: _____

Its: _____

EXHIBIT A
Legal Description of Property

PARCEL I:

Lots 5 and 6, THE ROUND AT BEAVERTON CENTRAL, in the City of Beaverton, County of Washington and State of Oregon.

Approved as to form and content and accepted by Metro.

METRO, a municipal corporation

By: _____
Chief Operating Officer

State of Oregon)
 ss.
County of _____)

On this _____ day of _____, 2005, before me _____,
the undersigned Notary Public, personally appeared _____, as
Chief Operating Officer of Metro, a municipal corporation, personally known to me (or
proved to be on the basis of satisfactory evidence) to be the person whose name is
subscribed to this instrument, and acknowledged that he executed it.

My commission expires: _____

Form of Transit Plaza Easement

After Recording Return to:
Phil Whitmore
TOD Program Manager
Metro
600 N.E. Grand Avenue
Portland, OR 97232-2736

After Recording, Return a copy to:

Four horizontal lines for return address information.

DECLARATION OF EASEMENT WITH COVENANTS AND RESTRICTIONS AFFECTING LAND

THIS DECLARATION OF EASEMENTS CONSISTING COVENANTS AND RESTRICTIONS AFFECTING LAND ("Declaration") is made this ____ day of ____, 200__, by DPP Beaverton Commercial Investments LLC, a Delaware Limited Liability Company ("Declarant" and/or "Owner"), the owner of certain real property located in the City of Beaverton, Oregon, more particularly described in Exhibit A attached hereto (the "Plaza Property");

WHEREAS, Declarant executed a Development Agreement, dated ____, 2005, with Metro and the City of Beaverton ("City"), wherein Metro agrees to pay Declarant the sum of \$200,000, conditioned in part on the development of the Plaza Property into a permanent public transit plaza, including pedestrian amenities and mixed-use project elements connecting The Round to the Beaverton Central Light Rail Station ("Beaverton MAX Station"), in order to foster increased transit ridership and pedestrian travel, as pre-approved in writing by Metro and the City of Beaverton; and

WHEREAS, Declarant desires to establish an easement over, along and across the Plaza Property, to provide for unimpeded access for transit patrons in and through the Transit Plaza, in order to allow unimpeded pedestrian access to the Beaverton MAX Station, said pedestrian access easement to be in the location legally described and depicted on the attached Exhibit B, incorporated by this reference;

NOW THEREFORE, in consideration for \$200,000, and other good and valuable consideration, Declarant hereby declares that the Plaza Property shall be held, sold and conveyed subject to the following easements, restrictions and covenants, which shall

run with the Plaza Property and shall be binding on all parties having or acquiring any right, title or interest in the Plaza Property or any part thereof, and shall inure to the benefit of Metro and the City.

SECTION 1.
PROPERTY USE RESTRICTIONS

- 1.1 Development. The Plaza Property shall be developed in accord with the Development Agreement between the Declarant, Metro and the City. All future maintenance, repair and renovation must not interfere with and be consistent with the use of the Plaza Property as a pedestrian access way for transit riders.
- 1.2 Land Use. The Plaza Property shall be used as a public pedestrian area for access by transit-riders to the Beaverton MAX Station. Declarant shall, at all times and without restriction, have the right to use the Plaza Property for any purpose that does not interfere with and is consistent with the use of the Plaza Property as a pedestrian access way for transit riders in accordance with the City of Beaverton rules for the use of public spaces.
- 1.3 Nondiscrimination. In accordance with Title VI of the Civil Rights Act, as amended; 42 U.S.C. Section 2000d; Section 303 of the Age Discrimination Act of 1975, as amended; 42 U.S.C. Section 6102; Section 202 of the Americans With Disabilities Act of 1990; 42 U.S.C. Section 12132, no owner of the Plaza Property shall discriminate against any employee, tenant, patron or buyer of the Plaza Property improvements because of race, color creed, national origin, sex, age or disability. In addition, any such owner shall comply, to the extent applicable to the Plaza Property, with the applicable federal implementing regulations of the above-cited laws. "Owner" shall mean the fee simple title holder to the Plaza Property or any part thereof, including contract buyers, but excluding those having such interest merely as security for the performance of an obligation.
- 1.4 Not A Public Dedication. Nothing in this Declaration shall be deemed to be a gift or dedication of any portion of the Plaza Property to the general public or for the general public or for all public purposes. The right of the public or any person to use the Plaza Property, or any portion thereof, is limited to pedestrian access for transit riders, as provided for in this Declaration. The right of the public or any person to make any other use whatsoever of the Plaza Property, or any portion thereof, is by permission, and subject to the control of the Declarant. Declarant reserves the right from time to time, if necessary to temporarily block the entrances to the Plaza Property to perform required maintenance, repair and renovation.

SECTION 2.
GENERAL PROVISIONS

- 2.1 Enforcement. Metro or the City shall have standing to enforce, by proceeding at

law or equity, all restrictions and covenants established by this Declaration. The failure to enforce any provision shall in no event be deemed a waiver of the right to do so thereafter. If legal proceedings of any type are begun by Metro or the City so as to enforce these covenants and restrictions or to seek damages for violations of these covenants and restrictions, the prevailing party shall recover reasonable attorney's fees, including attorney fees on appeal, as determined by the trial or appellate courts.

- 2.2 Duration. The restrictions established by this Declaration shall run with the land and burden the Plaza Property, bind Declarant, its successors and assigns, and shall inure to the benefit of and be enforceable by Metro and the City, their legal representatives, successors and assigns, for a term of 30 years from the date this Declaration is executed. Notwithstanding the above, in the case the Development Agreement is terminated by Metro and the City prior to the completion of construction of the Project defined in the Development Agreement, this Declaration shall also terminate on the same date. Metro and its representatives, successors and assigns, shall thereafter have no further right to enforce any restriction or covenant of this Declaration.

- 2.3 Amendment. This Declaration may not be amended or revoked except by written amendment executed by Metro, the City and Declarant, recorded in the manner then provided for by law.

- 2.4 Limitation of Liability of Metro and the City. Under no circumstances shall Metro or the City have any liability to Declarant or any future owner, or other user or tenant, lessee, guest or invitee of such owner or user by virtue of Metro's enforcement of, or failure to enforce, the right established by this Declaration.

- 2.5 Severability. Invalidation of any of these provisions, by judgment or court order shall in no way affect any other provisions, which shall remain in full force and effect.

- 2.6 Governing Law. This Declaration shall be construed and interpreted in accordance with the laws of the State of Oregon.

DATED this _____ day of _____, 200__.

DECLARANT:
DPP Beaverton Commercial Investments LLC,
A Delaware Limited Liability Company

By: _____

By: _____

Its: _____

Its: _____

EXHIBIT A
Legal Description of Plaza Property

Approved as to form and content and accepted by Metro.

METRO, a municipal corporation

By: _____
Chief Operating Officer

State of Oregon)
 ss.
County of _____)

On this _____ day of _____, 2005, before me _____,
the undersigned Notary Public, personally appeared _____, as
Chief Operating Officer of Metro, a municipal corporation, personally known to me (or
proved to be on the basis of satisfactory evidence) to be the person whose name is
subscribed to this instrument, and acknowledged that he executed it.

My commission expires: _____



Chicago Title Insurance Company of Oregon

® 10135 SE Sunnyside Road, Suite 200
Clackamas, OR 97015
Phone No: (503)653-7300

STATUS OF RECORD TITLE

September 9, 2005

Order No.: 415055

Customer Ref.: The Round at Beaverton

Charge: \$200.00

We have searched our Tract Indices as to the following described real property:

See Legal Description Attached Hereto

*Vestee: DPP Beaverton Commercial Investments LLC, a Delaware limited liability company, as to
Parcels I, II and III;
DPP Beaverton Commercial Investments LLC, a Delaware limited liability company as to an
undivided 89.4% interest and RMJ Enterprises LLC, a California limited liability company, as to
an undivided 10.6% interest, together as tenants in common as to Parcels IV and V;
DPP Beaverton Condominiums LLC, a Delaware limited liability company as to an undivided
58% interest and Chelsica Portland, LLC, an Oregon limited liability company, as to an
undivided 42% interest, together as tenants in common as to Parcel VI;
DPP Beaverton Condominiums LLC, a Delaware limited liability company as to an undivided
16% interest and Chelsica Portland, LLC, an Oregon limited liability company as to an
undivided 84% interest, together as tenants in common as to Parcel VII; and
DPP Beaverton Condominiums LLC, a Delaware limited liability company as to Parcel VIII*

Dated as of: August 31, 2005 at 08:00 AM

**CHICAGO TITLE INSURANCE COMPANY OF
OREGON**

By: *Marianne Styles*
Authorized Officer

THIS REPORT IS TO BE UTILIZED FOR INFORMATION ONLY. ANY USE OF THIS REPORT AS A BASIS FOR TRANSFERRING, ENCUMBERING OR FORECLOSING THE REAL PROPERTY DESCRIBED WILL REQUIRE PAYMENT IN THE AMOUNT EQUIVALENT TO APPLICABLE TITLE INSURANCE PREMIUM AS REQUIRED BY THE RATING SCHEDULE ON FILE WITH THE OREGON INSURANCE DIVISION.

The liability of Chicago Title Insurance Company of Oregon is limited to the addressee and shall not exceed the fee paid therefor.

LEGAL DESCRIPTION:

PARCEL I:

Lots 1, 2, 3, 5, 6 and 9, THE ROUND AT BEAVERTON CENTRAL, in the City of Beaverton, County of Washington and State of Oregon.

PARCEL II:

Lot 8, THE ROUND AT BEAVERTON CENTRAL, in the City of Beaverton, County of Washington and State of Oregon.

EXCEPTING THEREFROM that portion of said Lot 8, described as follows:

Beginning at a point on the Easterly line of said Lot 8, said point bears along said Easterly line North 21°11'37" East, 162.34 feet and North 43°23'39" West, 4.81 feet from the most Southerly corner of said Lot 8; thence leaving said Easterly line South 21°08'37" West, 163.66 feet to the Northeasterly right of way line of SW Millikan Way, being 30.00 feet Northeasterly of the centerline thereof, when measured perpendicular thereto; thence along said Northeasterly right of way line South 58°49'31" East, 4.27 feet to the most Southerly corner of said Lot 8; thence leaving said Northeasterly right of way line along the Easterly line of said Lot 8 North 21°11'37" East, 162.34 feet to an angle point in said Easterly line; thence continuing along said Easterly line North 43°23'39" West, 4.81 feet to the point of beginning.

BUT TOGETHER WITH that portion of Lot 7, THE ROUND AT BEAVERTON CENTRAL, in the City of Beaverton, County of Washington and State of Oregon, more particularly described as follows:

Beginning at a point on the Westerly line of said Lot 7, said point bears along said Westerly line North 21°11'37" East, 162.34 feet and North 43°23'39" West, 4.81 feet from the most Southwesterly corner of said Lot 7; thence leaving said Westerly line North 21°08'37" East, 17.11 feet; thence North 43°10'00" West, 79.23 feet to the Northwesterly line of said Lot 7 and a point of cusp; thence along the arc of a 94.50 foot radius curve concave Northerly, through a central angle of 11°29'25" (the long chord bears South 80°10'33" West, 18.92 feet) an arc distance of 18.95 feet to the Northwesterly corner of said Lot 7 and a point of cusp; thence leaving said Northwesterly line along the Westerly line of said Lot 7 South 43°23'39" East, 97.05 feet to the point of beginning.

PARCEL III:

The following unit of a condominium, more fully described in Declaration of Unit Ownership for said condominiums as set forth below, **TOGETHER WITH** an undivided percentage of ownership in the general common elements appertaining to said unit as described in said Declaration of Unit Ownership, **ALSO TOGETHER WITH** those limited common elements appertaining to said unit as described in said Declaration of Unit Ownership.

Condominium Name: PLAZA AT THE ROUND CONDOMINIUM
Units No.: 1, 2, 3 and 4
Located in Section: 16
Township: 1 South
Range: 1 West
Willamette Meridian, Washington County, State of Oregon
Declaration Recorded: June 30, 2005
Recorders Fee No.: 2005-075530

PARCEL IV:

The following unit of a condominium, more fully described in Declaration of Unit Ownership for said condominiums as set forth below, **TOGETHER WITH** an undivided percentage of ownership in the general common elements appertaining to said unit as described in said Declaration of Unit Ownership, **ALSO TOGETHER WITH** those limited common elements appertaining to said unit as described in said Declaration of Unit Ownership.

Condominium Name: Lofts at the Round Condominium
Unit No.: 101
Located in Section: 16
Township: 1 South
Range: 1 West
Willamette Meridian, Washington County, State of Oregon
Declaration Recorded: April 22, 2003

LEGAL DESCRIPTION
(Continued)

Recorders Fee No.: 2003-062646

PARCEL V:

The following unit of a condominium, more fully described in Declaration of Unit Ownership for said condominiums as set forth below, TOGETHER WITH an undivided percentage of ownership in the general common elements appertaining to said unit as described in said Declaration of Unit Ownership, ALSO TOGETHER WITH those limited common elements appertaining to said unit as described in said Declaration of Unit Ownership.

Condominium Name: Lofts at the Round Condominium, Supplemental Plat No. 1: Annexation of Stage 2
Unit No.: 102
Located in Section: 16
Township: 1 South
Range: 1 West
Willamette Meridian, Washington County, State of Oregon
Declaration Recorded: April 22, 2003
Recorders Fee No.: 2003-062646

Supplemental Declaration:
Recorded: June 30, 2003
Recorder's Fee No.: 2003-106489

PARCEL VI:

The following units of a condominium, more fully described in Declaration of Unit Ownership for said condominiums as set forth below, TOGETHER WITH an undivided percentage of ownership in the general common elements appertaining to said unit as described in said Declaration of Unit Ownership, ALSO TOGETHER WITH those limited common elements appertaining to said unit as described in said Declaration of Unit Ownership.

Condominium Name: Lofts at the Round Condominium
Unit No.: 202 and 205
Located in Section: 16
Township: 1 South
Range: 1 West
Willamette Meridian, Washington County, State of Oregon
Declaration Recorded: April 22, 2003
Recorders Fee No.: 2003-062646

AND:

The following units of a condominium, more fully described in Declaration of Unit Ownership for said condominiums as set forth below, TOGETHER WITH an undivided percentage of ownership in the general common elements appertaining to said unit as described in said Declaration of Unit Ownership, ALSO TOGETHER WITH those limited common elements appertaining to said unit as described in said Declaration of Unit Ownership.

Condominium Name: Lofts at the Round Condominium, Supplemental Plat No. 1: Annexation of Stage 2
Unit No.: 218, 222, 224, 309, 326, 418 and 426
Located in Section: 16
Township: 1 South
Range: 1 West
Willamette Meridian, Washington County, State of Oregon
Declaration Recorded: April 22, 2003
Recorders Fee No.: 2003-062646

Supplemental Declaration:
Recorded: June 30, 2003
Recorder's Fee No.: 2003-106489

LEGAL DESCRIPTION

(Continued)

PARCEL VII:

The following units of a condominium, more fully described in Declaration of Unit Ownership for said condominiums as set forth below, TOGETHER WITH an undivided percentage of ownership in the general common elements appertaining to said unit as described in said Declaration of Unit Ownership, ALSO TOGETHER WITH those limited common elements appertaining to said unit as described in said Declaration of Unit Ownership.

Condominium Name: Lofts at the Round Condominium
Unit No.: 303
Located in Section: 16
Township: 1 South
Range: 1 West
Willamette Meridian, Washington County, State of Oregon
Declaration Recorded: April 22, 2003
Recorders Fee No.: 2003-062646

AND:

The following units of a condominium, more fully described in Declaration of Unit Ownership for said condominiums as set forth below, TOGETHER WITH an undivided percentage of ownership in the general common elements appertaining to said unit as described in said Declaration of Unit Ownership, ALSO TOGETHER WITH those limited common elements appertaining to said unit as described in said Declaration of Unit Ownership.

Condominium Name: Lofts at the Round Condominium, Supplemental Plat No. 1: Annexation of Stage 2
Unit No.: 216, 221, 311, 409, 413, 416, 420 and 424
Located in Section: 16
Township: 1 South
Range: 1 West
Willamette Meridian, Washington County, State of Oregon
Declaration Recorded: April 22, 2003
Recorders Fee No.: 2003-062646

Supplemental Declaration:
Recorded: June 30, 2003
Recorder's Fee No.: 2003-106489

PARCEL VIII:

The following units of a condominium, more fully described in Declaration of Unit Ownership for said condominiums as set forth below, TOGETHER WITH an undivided percentage of ownership in the general common elements appertaining to said unit as described in said Declaration of Unit Ownership, ALSO TOGETHER WITH those limited common elements appertaining to said unit as described in said Declaration of Unit Ownership.

Condominium Name: Lofts at the Round Condominium
Unit No.: 305, 307 and 405
Located in Section: 16
Township: 1 South
Range: 1 West
Willamette Meridian, Washington County, State of Oregon
Declaration Recorded: April 22, 2003
Recorders Fee No.: 2003-062646

AND:

The following units of a condominium, more fully described in Declaration of Unit Ownership for said condominiums as set forth below, TOGETHER WITH an undivided percentage of ownership in the general common elements appertaining to said unit as described in said Declaration of Unit Ownership, ALSO TOGETHER WITH those limited common elements appertaining to said unit

LEGAL DESCRIPTION
(Continued)

as described in said Declaration of Unit Ownership.

Condominium Name: Lofts at the Round Condominium, Supplemental Plat No. 1: Annexation of Stage 2

Unit No.: 210, 226 and 227

Located in Section: 16

Township: 1 South

Range: 1 West

Willamette Meridian, Washington County, State of Oregon

Declaration Recorded: April 22, 2003

Recorders Fee No.: 2003-062646

Supplemental Declaration:

Recorded: June 30, 2003

Recorder's Fee No.: 2003-106489

Order No.: 415055

Said property is subject to the following on record matters:

1. Taxes for the fiscal year 2005-2006, a lien but not yet payable.
2. City liens, if any, of the City of Beaverton.
3. The premises herein described are within and subject to the statutory powers including the power of assessment of Clean Water Services.
4. Installation, repair and maintenance provisions contained in instrument, including the terms and provisions thereof;
Recorded: October 1, 1998
Recorder's Fee No.: 98109553

NOTE: Said easement is also delineated upon the recorded plat.

5. An easement created by instrument, including terms and provisions thereof;
Dated: March 22, 2002
Recorded: April 2, 2002
Recorder's Fee No.: 2002-038461
In Favor Of: MicroClimates, Inc.
For: Public utility
Affects: Lots 1, 2 and 3, The Round at Beaverton Central and the common element of Lofts at the Round Condominium, Stage 2

NOTE: Said easement is also delineated upon the recorded plats of The Round at Beaverton Central and Lofts at the Round Condominium, Stage 2.

6. Revocable License, including the terms and provisions thereof;
Recorded: April 2, 2002
Recorder's Fee No.: 2002-038472
7. Easements as dedicated or delineated on the recorded plat of The Round at Beaverton Central.
8. Covenants, conditions and restrictions as shown on the recorded plat of The Round at Beaverton Central.
9. Covenants, conditions, restrictions and easements, but omitting covenants or restrictions, if any, based on race, color, religion, sex, sexual orientation, familial status, marital status, disability, handicap, national origin, ancestry, or source of income, as set forth in applicable state or federal laws, except to the extent that said covenant or restriction is permitted by applicable law, imposed by instrument, including the terms and provisions thereof.
Recorded: February 24, 2003
Recorder's Fee No.: 2003-026206

Said covenants, conditions and restrictions contain among other things provisions for levies and assessments of Beaverton - The Round Owners Association, Inc.

10. (Amended and) Restated ByLaws for Beaverton - The Round Owners Association, Inc., including the terms and provisions thereof;
Recorded: February 24, 2003
Recorder's Fee No.: 2003-026207
11. Lease, including the terms and provisions thereof.
Dated: August 9, 2002
A memorandum of which was:
Recorded: March 12, 2003
Recorder's Fee No.: 2003-036354
Lessor: LDP Beaverton, LLC
Lessee: CBB Portland, Inc., a Washington corporation

The present ownership of said leasehold and other matters affecting the interest of the lessee are not shown herein.

12. Declaration of Unit Ownership and By-Laws, including the terms and provisions thereof and all Covenants, Conditions, Restrictions and Easements contained therein, which Condominium Declaration subjects said land and improvements to the provisions of the Oregon Unit Ownership Laws
For: Lofts at the Round Condominium
Dated: January 30, 2003
Recorded: April 22, 2003
Recorder's Fee No.: 2003-062646
(Affects Parcels IV, V, VI, VII and VIII)

Said Declaration contains among other things, provisions for levies and assessments of the Lofts at the Round Condominium Association.

Said covenants, conditions, restrictions and easements were amended by Supplemental Declaration Submitting Stage 2, including the terms and provisions thereof;

Recorded: June 30, 2003
Recorder's Fee No.: 2003-106489

13. Memorandum of Disposition and Development Agreement, including the terms and provisions thereof;
Dated: July 30, 2001
Recorded: August 10, 2001
Recorder's Fee No.: 2001-080956
By and Between: The City of Beaverton, MicroClimates, Inc. and Beaverton-DPP, LLC

Memorandum of First Amendment to Disposition and Development Agreement, including the terms and provisions thereof;

Dated: March 18, 2002
Recorded: April 2, 2002
Recorder's Fee No.: 2002-038459

Memorandum of Second Amendment to Disposition and Development Agreement, including the terms and provisions thereof;

Recorded: September 12, 2003
Recorder's Fee No.: 2003-155608

Memorandum of Third Amendment to Disposition and Development Agreement, including the terms and provisions thereof;

Recorded: June 6, 2005
Recorder's Fee No.: 2005-063670

The lien of the above Disposition and Development Agreement was subordinated to the lien of the Trust Deed shown as Exception No. 22, by instrument.

Dated: June 3, 2005
Recorded: June 8, 2005
Recorder's Fee No.: 2005-064598

14. Declaration of Parking Easement Agreement, including the terms and provisions thereof;
Dated: April 7, 2003
Recorded: April 22, 2003
Recorder's Fee No.: 2003-062647
By and Between: LDP Beaverton LLC, a Delaware limited liability company and the owners of each of the residential units in Stage 1 at Lofts at the Round Condominium
(Affects: Lots 2 and 3, The Round at Beaverton Central)
15. Declaration of Easements, including the terms and provisions thereof;
Recorded: June 13, 2003
Recorder's Fee No.: 2003-095730
(Affects: Lots 5, 6 and 8, The Round at Beaverton Central)

Order No.: 415055

16. Lease, including the terms and provisions thereof.
Dated: March 5, 2003
A memorandum of which was:
Recorded: October 10, 2003
Recorder's Fee No.: 2003-174102
Lessor: LDP Beaverton, LLC, a Delaware limited liability company
Lessee: Open Source Development Labs, Inc., an Oregon non-profit mutual benefit corporation,
formerly Open Source Development Labs, Inc., a California non-profit mutual benefit corporation
(Affects Lot 9, The Round at Beaverton Central)

The present ownership of said leasehold and other matters affecting the interest of the lessee are not shown herein.

17. Lease, including the terms and provisions thereof.
Dated: June 30, 2003
A memorandum of which was:
Recorded: October 10, 2003
Recorder's Fee No.: 2003-174104
Lessor: LDP Beaverton, LLC, a Delaware limited liability company
Lessee: Tocchini-Cronan, LLC, an Oregon limited liability company
(Affects Parcels IV and V)

The present ownership of said leasehold and other matters affecting the interest of the lessee are not shown herein.

18. An easement created by instrument, including terms and provisions thereof;
Dated: July 7, 2004
Recorded: July 23, 2004
Recorder's Fee No.: 2004-085100
In Favor Of: City of Beaverton
For: Machinery, equipment, fixtures, pumps, tanks, plumbing, pipes, conduits, electrical wiring
and conductors, controls, meters, switches, junction boxes, electrical service panels and other devices
Affects: Parcels IV, V, VI, VII and VIII
19. Covenants, conditions, restrictions and easements, but omitting restrictions, if any, based on race, color, religion, sex,
handicap, familial status or national origin, unless and only to the extent that said covenants, (a) is exempt under Chapter 42,
Section 3607 of the United States Code or (b) relates to handicap but does not discriminate against handicapped persons, as
contained in Order No. 1781, DR 2004-0080, Order Approving Request with Conditions
Recorded: March 4, 2005
Recorder's Fee No.: 2005-023179
(Affects Parcel II)
20. Covenants, conditions, restrictions and easements, but omitting restrictions, if any, based on race, color, religion, sex,
handicap, familial status or national origin, unless and only to the extent that said covenants, (a) is exempt under Chapter 42,
Section 3607 of the United States Code or (b) relates to handicap but does not discriminate against handicapped persons, as
contained in Order No. 1782, ADJ 2004-0013, Order Approving Adjustments with Conditions
Recorded: March 4, 2005
Recorder's Fee No.: 2005-023180
(Affects Parcel II)
21. Memorandum of Heating and Cooling Services Agreement; and Domestic Hot Water Services Agreement, including the terms
and provisions thereof;
Recorded: June 6, 2005
Recorder's Fee No.: 2005-063671
22. Deed of Trust, Security Agreement and Assignment of Leases and Rents, including the terms and provisions thereof, given to
secure an indebtedness with interest thereon and such future advances as may be provided therein;
Dated: June 6, 2005

Order No.: 415055

Recorded: June 6, 2005
Recorder's Fee No.: 2005-063673
Amount: \$40,300,000.00
Grantor: DPP Beaverton Bommercial Investments LLC, a Delaware limited liability company
Trustee: Chicago Title Insurance Company of Oregon
Beneficiary: Fortress Credit Corp. a Delaware corporation
(Affects Parcels I, II, III, IV and V)

The beneficial interest under said Trust Deed was assigned by instrument;

Recorded: July 14, 2005
Recorder's Fee No.: 2005-082022
To: Drawbridge Special Opportunities Fund LP

23. Financing Statement:

Recorded: June 6, 2005
Recorder's Fee No.: 2005-063674
Debtor: DPP Beaverton Commerical Investments LLC
Secured Party: Fortress Credit Corp
(Affects Parcels I, II, III, IV and V)

Said Financing Statement was assigned by instrument,

Recorded: August 30, 2005
Recorder's Fee No.: 2005-105541
To: Drawbridge Special Opportunities Fund LP

24. Memorandum of Co-Tenancy Agreement, including the terms and provisions thereof;

Dated: May 31, 2005
Recorded: June 6, 2005
Recorder's Fee No.: 2005-063676
By and Between: DPP Beaverton Commercial Investments LLC and RMJ Enterprises LLC
(Affects Parcels IV and V)

25. Assumption Agreement, including the terms and provisions thereof;

Dated: June 6, 2005
Recorded: June 6, 2005
Recorder's Fee No.: 2005-063677
By and Between: DPP Beaverton Commercial Investments LLC, a Delaware limited liability company, as Transferor; RMJ Enterprises LLC, a California limited liability company, as Transferee; and Fortress Credit Corp, a Delaware corporation, as lender
(Affects Parcels IV and V)

26. Lease, including the terms and provisions thereof.

Dated: June 3, 2005
A memorandum of which was:
Recorded: June 7, 2005
Recorder's Fee No.: 2005-064292
Lessor: DPP Beaverton Commercial Investments LLC
Lessee: City of Beaverton
(Affects Boiler Plant - Parcels IV and V)

The lien of the above Lease was subordinated to the lien of the Trust Deed shown as Exception No. 22, by instrument.

Recorded: July 7, 2005
Recorder's Fee No.: 2005-064293

27. Lease, including the terms and provisions thereof.

Dated: June 3, 2005

Order No.: 415055

A memorandum of which was:

Recorded: June 7, 2005
Recorder's Fee No.: 2005-064294
Lessor: DPP Beaverton Commercial Investments LLC
Lessee: City of Beaverton
(Affects Central Plant - Lot 9, The Round at Beaverton Central)

The lien of the above Lease was subordinated to the lien of the Trust Deed shown as Exception No. 22, by instrument.

Recorded: June 7, 2005
Recorder's Fee No.: 2005-064295

28. Lease, including the terms and provisions thereof.

Dated: June 6, 2005

A memorandum of which was:

Recorded: June 7, 2005
Recorder's Fee No.: 2005-064296
Lessor: DPP Beaverton Commercial Investments LLC, a Delaware limited liability company
Lessee: The City of Beaverton, a municipal corporation of the State of Oregon
(Affects Pump Room in Plaza at the Round Condominium - exact location not disclosed)

The lien of the above Lease was subordinated to the lien of the Trust Deed shown as Exception No. 22, by instrument.

Dated: June 6, 2005
Recorded: June 7, 2005
Recorder's Fee No.: 2005-064297

29. Deed of Trust, Assignment of Rents, Security Agreement and Fixture Filing, including the terms and provisions thereof, given to secure an indebtedness with interest thereon and such future advances as may be provided therein;

Dated: May 31, 2005
Recorded: June 9, 2005
Recorder's Fee No.: 2005064993
Amount: \$3,080,000.00
Grantor: DPP Beaverton Condominiums LLC, a Delaware limited liability company
Trustee: Valerie Tomasi Auerbach
Beneficiary: Bank of the West, a California banking corporation
(Affects Parcels VI, VII and VIII)

30. Memorandum of Co-Tenancy Agreement, including the terms and provisions thereof;

Dated: June 15, 2005
Recorded: June 17, 2005
Recorder's Fee No.: 2005-068931
By and Between: DPP Beaverton Condominiums LLC, a Delaware limited liability company and Chelsica Portland, LLC, an Oregon limited liability company
(Affects Parcels VI, VII and VIII)

Amended and Restated Memorandum of Co-Tenancy Agreement, including the terms and provisions thereof;

Dated: August 8, 2005
Recorded: August 11, 2005
Recorder's Fee No.: 2005-095721
By and Between: DPP Beaverton Condominiums LLC, a Delaware limited liability company and Chelsica Portland, LLC, an Oregon limited liability company

31. Declaration of Unit Ownership and By-Laws, including the terms and provisions thereof and all Covenants, Conditions, Restrictions and Easements contained therein, which Condominium Declaration subjects said land and improvements to the provisions of the Oregon Unit Ownership Laws

For: Plaza at the Round Condominium
Dated: June 21, 2005

Order No.: 415055

Recorded: June 30, 2005
Recorder's Fee No.: 2005-075530
(Affects Parcel III)

Said Declaration contains among other things, provisions for levies and assessments of the Plaza at the Round Condominium Association.

32. Matters disclosed by survey,
Dated: May 27, 2005
Surveyor: WRG Design Inc.
As follows: a. Adjacent property owners are using the Westerly portion of Lot 2, The Round at Beaverton Central for pedestrian and vehicle access
33. Construction Lien for the amount herein stated including costs;
Recorded: August 22, 2005
Recorder's Fee No.: 2005-100441
Amount: \$208,695.76
Claimant: Linc Facility Services, LLC
(Affects Lot 9, The Round at Beaverton Central)
34. Construction Lien for the amount herein stated including costs;
Recorded: August 22, 2005
Recorder's Fee No.: 2005-100442
Amount: \$208,695.76
Claimant: Linc Facility Services, LLC
(Affects Plaza at the Round Condominium)
35. Construction Lien for the amount herein stated including costs;
Recorded: August 22, 2005
Recorder's Fee No.: 2005-100443
Amount: \$208,695.76
Claimant: Lonc Facility Services, LLC
(Affects Lot 8, The Round at Beaverton Central)

NOTE: Taxes for the fiscal year 2004-2005, paid in full;
Amount: \$4,444.51
Levy Code: 051-58
Account No.: R2117007
Map No.: 1S116AA
Tax Lot No.: 08100
(Affects: Lot 1, The Round at Beaverton Central)

NOTE: Taxes for the fiscal year 2004-2005, paid in full;
Amount: \$4,163.26
Levy Code: 051-58
Account No.: R2117008
Map No.: 1S19DD
Tax Lot No.: 03300
(Affects: Lot 2, The Round at Beaverton Central)

NOTE: Taxes for the fiscal year 2004-2005, paid in full;
Amount: \$8,293.76
Levy Code: 051-58
Account No.: R2117009
Map No.: 1S19DD
Tax Lot No.: 03400

Order No.: 415055

(Affects: Lot 3, The Round at Beaverton Central)

NOTE: Taxes for the fiscal year 2004-2005, paid in full;

Amount: \$890.70
Levy Code: 051-58
Account No.: R2117011
Map No.: 1S116AA
Tax Lot No.: 08300

(Affects: Lot 5, The Round at Beaverton Central)

NOTE: Taxes for the fiscal year 2004-2005, paid in full;

Amount: \$3,823.72
Levy Code: 051-58
Account No.: R2117012
Map No.: 1S116AA
Tax Lot No.: 08400

(Affects: Lot 6, The Round at Beaverton Central)

NOTE: Taxes for the fiscal year 2004-2005, paid in full;

Amount: \$5,112.75
Levy Code: 051-58
Account No.: R2117014
Map No.: 1S116AA
Tax Lot No.: 08600

(Affects: Lot 8, The Round at Beaverton Central)

NOTE: Taxes for the fiscal year 2004-2005, paid in full;

Amount: \$151,211.15
Levy Code: 051-58
Account No.: R2117015
Map No.: 1S116AA
Tax Lot No.: 08700

(Affects Lot 9, The Round at Beaverton Central)

NOTE: Taxes for the fiscal year 2004-2005, paid in full;

Amount: \$150,833.85
Levy Code: 051-58
Account No.: R2117013
Map No.: 1S116AA
Tax Lot No.: 08500

(Affects Parcel III - the entire plat of Plaza at the Round Condominium)

NOTE: Taxes for the fiscal year 2004-2005, paid in full;

Amount: \$15,347.94
Levy Code: 051-58
Account No.: R2119802
Map No.: 1S116AA
Tax Lot No.: 91011

(Affects: Unit 101, Lofts at the Round Condominium)

NOTE: Taxes for the fiscal year 2004-2005, paid in full;

Amount: \$2,731.42
Levy Code: 051-58
Account No.: R2119804
Map No.: 1S116AA
Tax Lot No.: 92022

Order No.: 415055

(Affects: Unit 202, Lofts at the Round Condominium)

Note: Taxes for the fiscal year 2004-2005, paid in full;

Amount: \$2,593.33
Levy Code: 051-58
Account No.: R2119807
Map No.: 1S116AA
Tax Lot No.: 92052

(Affects: Unit 205, Lofts at the Round Condominium)

NOTE: Taxes for the fiscal year 2004-2005, paid in full;

Amount: \$2,728.76
Levy Code: 051-58
Account No.: R2119813
Map No.: 1S116AA
Tax Lot No.: 93033

(Affects: Unit 303, Lofts at the Round Condominium)

NOTE: Taxes for the fiscal year 2004-2005, paid in full;

Amount: \$2,849.94
Levy Code: 051-58
Account No.: R2119815
Map No.: 1S116AA
Tax Lot No.: 93053

(Affects: Unit 305, Lofts at the Round Condominium)

NOTE: Taxes for the fiscal year 2004-2005, paid in full;

Amount: \$2,732.35
Levy Code: 051-58
Account No.: R2119817
Map No.: 1S116AA
Tax Lot No.: 93073

(Affects: Unit 307, Lofts at the Round Condominium)

NOTE: Taxes for the fiscal year 2004-2005, paid in full;

Amount: \$2,677.84
Levy Code: 051-58
Account No.: R2119823
Map No.: 1S116AA
Tax Lot No.: 94054

(Affects: Unit 405, Lofts at the Round Condominium)

NOTE: Taxes for the fiscal year 2004-2005, paid in full;

Amount: \$11,720.78
Levy Code: 051-58
Account No.: R2121435
Map No.: 1S116AA
Tax Lot No.: 91021

(Affects: Unit 102, Lofts at the Round Condominium, Stage 2)

NOTE: Taxes for the fiscal year 2004-2005, paid in full;

Amount: \$1,974.71
Levy Code: 051-58
Account No.: R2121437
Map No.: 1S116AA
Tax Lot No.: 92102

Order No.: 415055

(Affects: Unit 210, Lofts at the Round Condominium, Stage 2)

NOTE: Taxes for the fiscal year 2004-2005, paid in full;

Amount: \$2,955.50
Levy Code: 051-58
Account No.: R2121442
Map No.: 1S116AA
Tax Lot No.: 92162

(Affects: Unit 216, Lofts at the Round Condominium, Stage 2)

NOTE: Taxes for the fiscal year 2004-2005, paid in full;

Amount: \$2,513.15
Levy Code: 051-58
Account No.: R2121444
Map No.: 1S116AA
Tax Lot No.: 92182

(Affects: Unit 218, Lofts at the Round Condominium, Stage 2)

NOTE: Taxes for the fiscal year 2004-2005, paid in full;

Amount: \$2,576.04
Levy Code: 051-58
Account No.: R2121447
Map No.: 1S116AA
Tax Lot No.: 92212

(Affects: Unit 221, Lofts at the Round Condominium, Stage 2)

NOTE: Taxes for the fiscal year 2004-2005, paid in full;

Amount: \$2,514.40
Levy Code: 051-58
Account No.: R2121448
Map No.: 1S116AA
Tax Lot No.: 92222

(Affects: Unit 222, Lofts at the Round Condominium, Stage 2)

NOTE: Taxes for the fiscal year 2004-2005, paid in full;

Amount: \$2,529.67
Levy Code: 051-58
Account No.: R2121450
Map No.: 1S116AA
Tax Lot No.: 92242

(Affects: Unit 224, Lofts at the Round Condominium, Stage 2):

NOTE: Taxes for the fiscal year 2004-2005, paid in full;

Amount: \$2,375.56
Levy Code: 051-58
Account No.: R2121452
Map No.: 1S116AA
Tax Lot No.: 92262

(Affects: Unit 226, Lofts at the Round Conoominium, Stage 2)

NOTE: Taxes for the fiscal year 2004-2005, paid in full;

Amount: \$2,509.89
Levy Code: 051-58
Account No.: R2121453
Map No.: 1S116AA
Tax Lot No.: 92272

Order No.: 415055

(Affects: Unit 227, Lofts at the Round Condominium, Stage 2)

NOTE: Taxes for the fiscal year 2004-2005, paid in full;

Amount: \$2,072.90
Levy Code: 051-58
Account No.: R2121454
Map No.: 1S116AA
Tax Lot No.: 93093

(Affects: Unit 309, Lofts at the Round Condominium, Stage 2)

NOTE: Taxes for the fiscal year 2004-2005, paid in full;

Amount: \$2,719.57
Levy Code: 051-58
Account No.: R2121455
Map No.: 1S116AA
Tax Lot No.: 93113

(Affects: Unit 311, Lofts at the Round Condominium, Stage 2)

NOTE: Taxes for the fiscal year 2004-2005, paid in full;

Amount: \$2,943.62
Levy Code: 051-58
Account No.: R2121458
Map No.: 1S116AA
Tax Lot No.: 93263

(Affects: Unit 326, Lofts at the Round Condominium, Stage 2)

NOTE: Taxes for the fiscal year 2004-2005, paid in full;

Amount: \$2,165.68
Levy Code: 051-58
Account No.: R2121459
Map No.: 1S116AA
Tax Lot No.: 94094

(Affects: Unit 409, Lofts at the Round Condominium, Stage 2)

NOTE: Taxes for the fiscal year 2004-2005, paid in full;

Amount: \$2,175.93
Levy Code: 051-58
Account No.: R2121461
Map No.: 1S116AA
Tax Lot No.: 94134

(Affects: Unit 413, Lofts at the Round Condominium, Stage 2)

NOTE: Taxes for the fiscal year 2004-2005, paid in full;

Amount: \$1,957.09
Levy Code: 051-58
Account No.: R2121464
Map No.: 1S116AA
Tax Lot No.: 94164

(Affects: Unit 416, Lofts at the Round Condominium, Stage 2)

NOTE: Taxes for the fiscal year 2004-2005, paid in full;

Amount: \$2,022.53
Levy Code: 051-58
Account No.: R2121466
Map No.: 1S116AA
Tax Lot No.: 94184

Order No.: 415055

(Affects: Unit 418, Lofts at the Round Condominium, Stage 2)

NOTE: Taxes for the fiscal year 2004-2005, paid in full;

Amount: \$2,034.61
Levy Code: 051-58
Account No.: R2121468
Map No.: 1S116AA
Tax Lot No.: 94204

(Affects: Unit 420, Lofts at the Round Condominium, Stage 2)

NOTE: Taxes for the fiscal year 2004-2005, paid in full;

Amount: \$2,055.97
Levy Code: 051-58
Account No.: R2121472
Map No.: 1S116AA
Tax Lot No.: 94244

(Affects: Unit 424, Lofts at the Round Condominium, Stage 2)

NOTE: Taxes for the fiscal year 2004-2005, paid in full;

Amount: \$2,278.97
Levy Code: 051-58
Account No.: R2121474
Map No.: 1S116AA
Tax Lot No.: 94264

(Affects: Unit 426, Lofts at the Round Condominium, Stage 2)

NOTE: Property address is identified as:

12700 SW Crescent Street, Beaverton, Oregon 97005 (Affects: Lot 1, The Round at Beaverton Central)

NOTE: Property address is identified as:

12625 SW Crescent Street, Beaverton, Oregon 97005 (Affects: Lots 2 and 3, The Round at Beaverton Central)

NOTE: Property address is identified as:

4105 SW Watson Avenue, Beaverton, Oregon 97005 (Affects: Lot 6, The Round at Beaverton Central)

NOTE: Property address is identified as:

12655 SW Millikan Way, Beaverton, Oregon 97005 (Affects: Lot 8, The Round at Beaverton Central)

NOTE: Property address is identified as:

12725 SW Millikan Way, Beaverton, OR 97005 (Affects Lot 9, The Round at Beaverton Central)

NOTE: Property address is identified as:

4145 SW Watson Avenue, Beaverton, OR 97005 (Affects: Plaza at the Round Condominium)

NOTE: Property address is identified as:

12600 SW Crescent Street, Beaverton, Oregon 97005 (Affects: Lofts at the Round Condominiums)

NOTE: Property address is identified as:

As of the date of this report, a situs address has not been assigned to Lot 5, The Round at Beaverton Central.

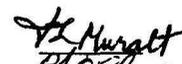
END OF REPORT

ml/ml

September 9, 2005

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AGENDA BILL**Beaverton City Council
Beaverton, Oregon****SUBJECT:** Bid Award – Janitorial Services for City Buildings**FOR AGENDA OF:** 10-10-05 **BILL NO:** 05180**Mayor's Approval:** 
DEPARTMENT OF ORIGIN: Operations **DATE SUBMITTED:** 8-29-05**CLEARANCES:** Purchasing 
Finance 
City Attorney **PROCEEDING:** Consent Agenda
(Contract Review Board)**EXHIBITS:** Funding Plan
Revised Technical Specifications**BUDGET IMPACT**

EXPENDITURE	AMOUNT	APPROPRIATION
REQUIRED \$118,304	BUDGETED \$109,748*	REQUIRED \$11,795*

Please see attached Funding Plan

*Account Number 001-13-0003-511 General Fund -City Hall, City Park Restrooms and Community Center

*Account Number 001-13-0003-352 General Fund -Resource Center

*Account Number 001-60-0621-511 General Fund - Police Support Services Harvest Court

*Account Number 115-35-0551-511 Library Fund – Library Building

*Account Number 605-85-0681-511 Operations Administration Fund – Operations Complex

HISTORICAL PERSPECTIVE:

The five-year contract for janitorial services with ServiceMaster of Tigard expired on June 30, 2005. Due to the "Products of Disabled Individuals" act (ORS 279.835 to 279.855) passed by the Oregon legislature, the City is obliged to purchase services, with exemption from competitive bidding, from "Qualified Rehabilitation Facilities" (QRF's) when those services can meet our requirements, regardless of cost. As this process is taking more time than anticipated, ServiceMaster has agreed to continue the service on a month-to-month basis until we choose a new janitorial service vendor. With the City Attorney's approval, it was agreed to give ServiceMaster a 60-day notice of termination once a vendor was chosen.

INFORMATION FOR CONSIDERATION:

A Request for Proposal was mailed to seven QRF's on May 31, 2005. The proposal specifications included mandatory attendance at a pre-proposal meeting on June 8, 2005 to walk-through all seven City buildings/sites (City Hall, City Library, Operations Center, Resource Center, Community Center, storage/evidence building, and City Park/restrooms). Five QRF's attended the pre-proposal meeting. Two (2) proposals were received and opened on June 21, 2005 in the Finance Department conference room. The proposals were received and evaluated on four criteria: Business Profile, Experience, References, and Cost, and both were found to meet our specifications. Portland Habilitation Center (PHC) of Portland, Oregon scored higher on experience than did Wellspring Services of Portland, Oregon, although the price was higher (PHC \$358,889; Wellspring \$315,470). Following the Department of Administrative Services (DAS) rules, City staff began negotiations with PHC to lessen

the budget impact of the original cost. As a result of these negotiations, PHC decreased some daily and weekly tasks in order to reduce costs: office trash removal and spot vacuuming from five times a week to three times a week (7 times a week at the Library); general dusting and thorough vacuuming from weekly to monthly; sweeping and mopping offices from daily to weekly (for detailed information, please see the attached Revised Technical Specifications). PHC's revised cost of \$331,272 was still significantly over our budget. Staff then decided to begin negotiations with the second QRF, Wellspring Services. Wellspring reduced the daily tasks to twice a week, and moved some weekly tasks to monthly, resulting in a new proposal of \$289,467. City Staff would like Council's approval to enter into a contract with Wellspring Services for a one year contract with a six month formal review period using an anticipated start date of February 1, 2006. At the end of the six months, City staff will evaluate the service received to determine whether to extend the contract for additional contract years or seek some other type of procurement. If service is found satisfactory, staff will return to Council for approval to extend the contract.

RECOMMENDED ACTION:

Council, acting as Contract Review Board, recommend that City staff proceed with a janitorial services contract to Wellspring Services of Portland, Oregon, in the amount of \$118,304 for the remainder of FY 2005-06 and direct the Finance Director to include additional appropriations as identified in the attached Funding Plan in the next Supplemental Budget.

City of Beaverton
Funding Plan for Janitorial Services
Fiscal Year 2005-06

	FY 2005-06 Adopted Budget	Service Master Contract Costs July 2005 Through January 2006		Remaining Budgeted Appropriation	Wellspring Contract Costs February Through June 2006		Additional Appropriation Required
		Monthly Cost	Total Cost		Monthly Cost	Total Cost	
General Fund - Non-Departmental							
City Hall	\$ 107,637.00	\$ 8,666.01	\$ 60,662.07	\$ 46,974.93	\$ 8,608.54	\$ 43,042.70	\$ 0.00
Community Center	17,432.00	1,403.47	9,824.29	7,607.71	1,714.74	8,573.70	0.00
City Park	3,564.00	575.66	2,302.64	1,261.36	659.15	988.73	0.00
Subtotal Non-Departmental	<u>\$ 128,633.00</u>	<u>\$ 10,645.14</u>	<u>\$ 72,789.00</u>	<u>\$ 55,844.00</u>	<u>\$ 10,982.43</u>	<u>\$ 52,605.13</u>	<u>\$ 0.00</u>
General Fund - Resource Center	22,860.00	1,918.01	13,426.07	9,433.93	2,152.18	10,760.90	(1,326.97)
General Fund - Police							
Harvest Court	1,368.00	108.00	756.00	612.00	184.70	923.50	(311.50)
Library Building	83,411.00	6,715.54	47,008.78	36,402.22	8,747.78	43,738.90	(7,336.68)
Operations Complex	17,082.00	1,375.14	9,625.98	7,456.02	2,055.15	10,275.75	(2,819.73)
Total Janitorial Services	<u>\$ 253,354.00</u>	<u>\$ 20,761.83</u>	<u>\$ 143,605.83</u>	<u>\$ 109,748.17</u>	<u>\$ 24,122.24</u>	<u>\$ 118,304.18</u>	<u>\$ (11,794.88)</u>

Number of Months For Service Master Contract 7
Number of Months For Wellspring's Contract 5

**SECTION 5
TECHNICAL SPECIFICATIONS**

1. GENERAL OFFICE AREAS

This service to be all-inclusive. Frequencies are minimum requirements, as service may be greater dependant on building needs. INCLUDES, BUT NOT LIMITED TO: ADMINISTRATIVE OFFICES, CONFERENCE/ MULTIPURPOSE ROOMS, CLASSROOMS, AUDITORIUMS, CORRIDORS; LOBBIES; STAIRWELLS; ELEVATORS; ENTRYWAYS, HANDICAP RAMPS, EMPLOYEE BREAK ROOMS, LOUNGES, STORAGE ROOMS, GARAGES:

<u>Original Specs</u>	<u>Revised Specs</u>	
Daily	Exception: offices/cubicles 2 times a week	Empty waste receptacles. Replace plastic liners as needed. Place in designated area for disposal.
Daily		Damp clean lunch and conference room tables, removing spills and stains.
Daily		Sanitize and polish all drinking fountains.
Daily		Clean, sanitize and polish kiosk (building directory) in the lobby of City Hall.
Daily	OMIT	Dump plan barrel located in CDD workroom (2 nd floor of City Hall).
Daily		Wash and clean interior and exterior glass on all building entrances.
Daily	2 x a week	At the City Library, clean sinks in Technical Services and the Children's Librarian office. Dust computer area, tables and front counter.
Daily	2 x a week in traffic areas; 1 x a week non-traffic areas	Vacuum carpets to remove all visible dirt, dust and soil including all staples and paperclips from carpet fabric. In heavy traffic areas use a two-motor upright pile lifter with good brushing and airflow.
Daily	2 x a week	Spot clean areas where spills or crud are present. In the Operations Center, remove all tar and oil from tile and concrete floors.
Daily	As needed	During the blacktopping season (summer months) the floors at Operations will require special care because of excessive tar accumulation.
Daily	2 x a week, or as needed	Empty all ashtrays. In entrance areas where there are sand urns, sift and remove all debris; replace sand as needed.
Daily		City Park – from the 2 nd weekend in May through the last weekend in October, dump all trash cans (interior of park restrooms and exterior throughout park), including weekends and holidays.
Daily		Day Porter at Library (afternoon business hours): clean staff and public restrooms; restock paper dispensers; clean glass doors of smudges; clean (vacuum) with hokey broom; empty trash cans outside the front of the Library; clean up bodily waste as necessary (urine, feces, vomit); and take care of the City Park restrooms during the summer season.
Weekly	OMIT	Flatten cardboard and take to designated area for disposal.
Weekly	Monthly	Clean and polish bright metalwork on wall partitions and doors such as, but not limited to, nameplates, trim and handles.
Weekly	OMIT	Clean to remove stains and all visible soil on desks from which paperwork and documents have been removed.
Weekly		Dust all horizontal surfaces on fixtures, equipment and accessories, which are not furniture such as, but not limited to, window and counter ledges, using a treated cloth.
Weekly		Clean all stair surfaces.
Weekly	As needed	Clean all protectors under desks, as needed.
Weekly	Monthly	Using a tank vacuum or pack, vacuum all edges and corners.
Weekly	Monthly	Full vacuum all carpet wall-to-wall.
Weekly	Monthly	Vacuum carpeted moldings.
Weekly		Remove black marks and scuffs from floors.
Monthly	6 x a year	Dust or vacuum and spot clean all supply and return air grilles and diffusers, high or low, to remove all visible dust and dirt and fingerprints.
Monthly	6 x a year	Dust and clean all high and low reach areas such as, but not limited to, the tops of doorframes, windowsills, etc. Dust bookshelves at City Library.
Monthly	Quarterly	At City Library, clean all wood furniture with lemon oil.

Monthly		Machine shampoo first floor lobby of City Hall, Council Chambers, and First Floor Conference Room.
Monthly		First Friday of each month at City Hall: empty and clean 1 st floor south break room refrigerator.
Monthly		Last Friday of each month at Operations Bldg A: empty and clean lunchroom refrigerator in bldg A.
Quarterly		Scrub clean all tile and resilient floors, apply three coats of floor finish (Johnson's "Complete" or other approved type). All floors to be dry before each step is implemented.
Quarterly	Twice a year	Machine shampoo all carpeted areas including elevators.
Quarterly	Twice a year	Spray mildewcide uniformly after shampooing, using "Microban-Hospital Spray," by Microban Systems or approved equal.
Semi-annual	Annual	Dust or vacuum all suspended ceiling lighting fixtures. Dust and spot clean covers.
Semi-annual	Annual	Dust or vacuum, and clean all mini blinds to remove all visible grime and dust.
Annual		Strip all tile, resilient, and hard floor surfaces (move furniture as needed; lockers and appliances to remain unless requested to be moved); removing all floor finish including on edges. Follow directions on application of all products used. Seal with minimum two coats of approved sealer. Apply three coats of approved floor finish.
Annual	As needed; separate P.O.	At City Library, perform high dusting using an electric man-lift. Areas include: wall sconces, art lighting on 2 nd floor, approx. 12' from floor; 2 nd floor book stack tops approx. 10' in height; GlueLam tree columns/roof supports and associated lighting fixtures on 2 nd floor, approx. 12'-25' in height; building exhaust louvers on 2 nd floor, approx. 12'-20' in height; ceiling corners, 10'-15' in height; and the top shelves of the built-in wooden shelves on both floors, approx. 8'-12' in height.

NO CHANGES TO THE RESTROOM CLEANING SCHEDULE!

2. RESTROOM AREAS; SHOWERS; AND LOCKER ROOMS

This service to be all-inclusive. Frequencies are minimum requirements, as service may be greater dependant on building needs.

NOTE: CLEANING TOOLS USED IN RESTROOMS SHALL NOT BE UTILIZED IN GENERAL OFFICE AND OTHER AREAS (i.e., rags, mops, sponges, gloves, etc.)

DAILY:

1. Using a germicidal cleaner, clean and sanitize all restroom/locker room fixtures including, but not limited to, toilets, urinals, showers and sinks.
2. Clean shower and floor drain screens removing hair, soap and other debris.
3. Damp wipe and polish all mirrors.
4. Clean all bright work fixtures, fittings and dispensers.
5. Damp wipe all counters, doors, desks, etc. using a germicidal cleaner.
6. Damp mop all floors using a germicidal cleaner.
7. Spot clean all walls, doors and partitions.
8. Clean and refill all dispensers from City stock.
9. Empty all waste receptacles, replace all liners.
10. Pay particular attention to stains under urinals when cleaning the grout and tile.
11. Clean and service outside ash cans.
12. Note City Park Restrooms – open daily from 2nd weekend in May through last weekend in October.

MONTHLY:

1. Wash all partitions and walls.
2. Machine scrub all floors using a detergent.

QUARTERLY:

1. Top to bottom cleaning of all restrooms.
2. Wipe all painted walls with a disinfectant made for painted walls.

AGENDA BILL

**Baverton City Council
Beaverton, Oregon**

SUBJECT: An Ordinance Amending Provisions of Chapter Five of the Beaverton City Code Relating to Abatement Procedures and Liens

FOR AGENDA OF: 10-10-05 **BILL NO:** 05181

Mayor's Approval: 

DEPARTMENT OF ORIGIN: Code Services 

DATE SUBMITTED: 09-21-05

CLEARANCES: City Attorney 
Finance

PROCEEDING: Work Session

EXHIBITS: Ordinance
Redline Version
B. C. Sections 5.05.200 - 215
PowerPoint Slides

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 public safety and health. This authority derives from the 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. Chapter 5 of the Beaverton Code is titled "Public Protection" and specifies many conditions that the City Council has decided are public nuisances and the due process for the City to abate those nuisances, if necessary. This includes the process for the City to recover the costs of abating nuisances on private property by placing liens on private property.

INFORMATION FOR CONSIDERATION:

The proposed ordinance changes Section 5.05.215 of the Beaverton Code dealing with assessment of costs and entry of liens for nuisance abatements. The proposed changes will improve the process as follows:

1. Specifies that the code enforcement officer will notify the property owner or the person responsible for the nuisance, such as a tenant, of the total cost of the abatement instead of the finance director providing such notification. It is better for code enforcement to handle this task because code enforcement is more familiar with the case and can explain what costs were incurred and why.
2. Allows a temporary lien to be placed on the City's lien docket during the 30-day lien notification process. This is necessary to protect the City in the event the property is sold before the City's lien is perfected.

3. Provides that the property owner or the person responsible for the nuisance may object to the cost of the abatement by filing a written notice with the finance director, instead of with the city recorder. It is the finance director who maintains the lien docket, not the city recorder.
4. States that the finance director shall hear any timely objections and determine the costs to be assessed by written order, instead of the first hearing going before the City Council. This will streamline the procedure in the vast majority of cases. If the property owner or person responsible wants to appeal the finance director's decision, that appeal would be heard by the City Council. Staff's experience indicates that few property owners object to the costs of abating nuisances or the filing of abatement liens against their property. However, having the appeal process in place satisfies the due process requirement.
5. If the costs of the abatement are not appealed in a timely manner and not paid within 30 days, then an assessment of the costs shall be entered into the City's permanent lien docket and shall become a final lien on the property from which the nuisance was removed or abated.

The placing of liens on real property to secure the payment of past-due amounts owed to the City for cleaning up private property is an ordinary business activity of debt collection for the City. The proposed changes will make the process more efficient by assigning responsibility for the various steps to the appropriate departments within the City.

RECOMMENDED ACTION:

Work Session.

**AN ORDINANCE AMENDING PROVISIONS OF
CHAPTERS FIVE OF THE BEAVERTON CITY CODE
RELATING TO ASSESSMENT OF COSTS AND ENTRY OF LIEN**

WHEREAS, the City has the legal authority to and currently does enact and enforce reasonable regulations to preserve and protect the public safety and health; and

WHEREAS, Chapter 5 of the Beaverton Code is titled “Public Protection” and specifies many conditions that the City Council has decided are public nuisances and the due process for the City to abate those nuisances, if necessary; and

WHEREAS, Section 5.05.215 of the Beaverton Code provides the process for the City to recover the costs of abating nuisances on private property by placing liens on private property; and

WHEREAS, the City seeks to make certain changes to this process in order to make it more efficient and effective by assigning responsibility for the various steps in the process to the most appropriate departments in the City that can best carry out those steps, while still providing adequate due process for parties affected; Now therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

Section 1. BC 5.05.215 is amended by striking the existing text and inserting:

5.05.215 Assessment of Costs and Entry of Lien.

A. The code enforcement officer, by certified mail and regular first class mail, postage prepaid, shall send to the owner and the person responsible a notice stating:

1. the total cost of abatement pursuant to BC 5.05.015 including the cost of administrative overhead minus any salvage value pursuant to BC 5.05.210, subsection B;
2. that the cost as indicated will be assessed to and become a final lien against the property unless paid within 30 days of the date of mailing of the notice;

3. that for the period until the 30 day notice has lapsed, the finance director shall temporarily enter the cost of abatement into the City's lien docket;

4. that if the property owner or the person responsible objects to the cost of the abatement as indicated, a written notice of objection may be filed with the City finance director not more than ten days after the date the notice was mailed.

In the event that the certified mail and regular first class mail, postage prepaid, is returned to the City by the postal service, then the code enforcement officer shall post the notice on the property in question or publish the notice two times in a newspaper of general circulation.

B. If an objection is received on or before the expiration of ten days after the date the notice was mailed, or the date the notice was posted or published, whichever is later, the finance director, in the regular course of business, shall hear any timely objection and determine the costs to be assessed. The finance director's determination shall be by written order.

C. The property owner or person responsible may appeal the finance director's decision to the City Council by making a written request to the city recorder within ten days of the finance director's determination. If the costs of the abatement are not appealed in a timely manner and not paid within 30 days from the date the notice was mailed, or the date the notice was posted or published, whichever is later, then an assessment of the costs of abatement shall be entered into the City's permanent lien docket and shall become a final lien on the property from which the nuisance was abated. In the event of a timely objection or appeal, the assessment, if any, shall be entered upon conclusion of the objection or appeal process.

D. The lien shall be enforced in the same manner as liens for street improvements and shall bear interest at the rate established by Council resolution pursuant to BC 1.01.020. The interest shall begin to run from the date of the entry of the lien in the lien docket.

E. The City may include in one foreclosure proceeding as many accounts as the City may have against separate properties for abating nuisances pursuant to this chapter and may proceed to assess and collect single lot assessments against each of them in a single proceeding.

F. An error in the name of the person responsible shall not void the assessment, nor will a failure to receive the notice of the total cost of abatement render the assessment void, but it shall remain a valid lien against the property.

First reading this ___ day of _____, 2005.

Passed by the Council this ___ day of _____, 2005.

Approved by the Mayor this ___ day of _____, 2005.

ATTEST:

APPROVED:

SUE NELSON, City Recorder

ROB DRAKE, Mayor

COPY

Redline Version of Beaverton Code Section 5.05.215
Assessment of Costs and Entry of Lien

5.05.215 Assessment of Costs and Entry of Lien.

A. The ~~finance director~~ **code enforcement officer**, by ~~registered or~~ certified mail **and regular first class mail**, postage prepaid, shall ~~forward~~ **send** to the owner and the person responsible a notice stating:

1. the total cost of abatement pursuant to BC 5.05.015 including the cost of administrative overhead minus any salvage value pursuant to BC 5.05.210, subsection B;

2. that the cost as indicated will be assessed to and become a **final** lien against the property unless paid within 30 days ~~from~~ **of** the date of **mailing** the notice;

3. that for the period until the 30 day notice has lapsed, the finance director shall temporarily enter the cost of abatement into the City's lien docket;

~~34.~~ that if the **property owner or the** person responsible objects to the cost of the abatement as indicated, a written notice of objection may be filed with the ~~city recorder~~ **City finance director** not more than ten days ~~from~~ **after** the date ~~of~~ the notice **was mailed**.

In the event that the certified mail and regular first class mail, postage prepaid, is returned to the City by the postal service, then the code enforcement officer shall post the notice on the property in question or publish the notice two times in a newspaper of general circulation.

B. **If an objection is received on or before** ~~on~~ the expiration of ten days after the date ~~of~~ the notice **was mailed, or the date the notice was posted or published, whichever is later,** ~~the Council~~ **finance director**, in the regular course of business, shall hear any timely objection and determine the costs to be assessed. The ~~Council~~ **finance director**'s determination shall be by written order.

Redline Version of Beaverton Code Section 5.05.215
Assessment of Costs and Entry of Lien

C. The property owner or person responsible may appeal the finance director's decision to the City Council by making a written request to the city recorder within ten days of the finance director's determination. —If the costs of the abatement are not appealed in a timely manner and not paid within 30 days from the date ~~of the notice~~ was mailed, or the date the notice was posted or published, whichever is later, then an assessment of the costs of abatement ~~as determined by the Council's written order~~ shall be entered in the City's permanent lien docket and shall ~~constitute~~ become a final lien on the property from which the nuisance was ~~removed or~~ abated. In the event of a timely objection or appeal, the assessment, if any, shall be entered upon conclusion of the objection or appeal process.

D. The lien shall be enforced in the same manner as liens for street improvements and shall bear interest at the rate established by Council resolution pursuant to BC 1.01.020. The interest shall begin to run from the date of the entry of the lien in the lien docket.

E. The City may include in one foreclosure proceeding as many accounts as the City may have against separate properties for abating nuisances pursuant to this chapter and may proceed to assess and collect single lot assessments against each of them in a single proceeding.

F. An error in the name of the person responsible shall not void the assessment, nor will a failure to receive the notice of the ~~proposed assessment~~ total cost of abatement render the assessment void, but it shall remain a valid lien against the property.

Beaverton Code

ABATEMENT PROCEDURES

5.05.200 Abatement Notice.

A. If the City representative is satisfied that a nuisance as defined by this Code or any other City ordinance exists, the representative shall cause a notice to be posted on the premises or at the site of the nuisance directing the person responsible to abate the nuisance.

B. At the time of posting, a copy of the notice shall be forwarded to the person responsible at the person's last known address. [BC 5.05.200B, amended by Ordinance No. 3872, 11/1/93]

C. The notice to abate shall contain:

1. a description of the real property by street address or otherwise, on which the nuisance exists;

2. a direction to abate the nuisance within ten days from the date of posting;

3. a description of the nuisance and a reference to the ordinance or Code section number involved;

4. a statement that, unless the nuisance is removed, the City may abate the nuisance and the cost of abatement shall be charged to the person responsible or assessed against the property, or both;

5. a statement that the person responsible may protest the order to abate by giving written notice to the recorder within ten days from the date of posting;

6. a statement that failure to abate a nuisance may result in abatement by the City and/or the issuance of a civil infraction citation; [BC 5.05.200C6, amended by Ordinance No. 3872, 11/1/93]

7. if the person responsible is not the owner, an additional notice shall be sent to the owner, stating that all or part of the abatement costs not paid by the person responsible will be assessed to and become a lien on the property.

D. On completion of the posting and mailing, the persons posting and mailing shall execute and file certificates stating the date and place of the mailing and posting.

E. An error in the notice mailed shall not make the notice void and in such a case the posted notice shall be sufficient. [BC 5.05.200, amended by Ordinance No. 3451, 6/18/85]

5.05.205 Abatement by A Person Responsible.

A. Within ten days after the posting and mailing of the notice as provided in BC 5.05.200, a person responsible shall remove the nuisance or show that no nuisance exists.

Beaverton Code

B. A person responsible, protesting that no nuisance exists, shall, within ten days after posting, file with the city recorder a written statement specifying the basis for protesting. The city recorder shall give the person responsible who files a written protest notice of the date and time when the Council will consider the abatement. The notice from the recorder shall be mailed by regular mail at least five days prior to the Council hearing. The failure to file a written statement waives any objection that the person may have to the finding that a nuisance exists or to the abatement of the nuisance by the City.

C. The statement shall be referred to the Council as part of the Council's regular agenda at its next succeeding meeting or at such time as may be convenient. At the time set for the public hearing the Council will hear the matter de novo and may consider any material it deems relevant and probative. The Council shall allow argument by a person responsible or their legal representative and by the City representative. The Council shall make its decision based upon a determination of whether the thing, substance or act is offensive, injurious or detrimental to the public health, safety or welfare of the City. The Council, after hearing the matter, may determine that no nuisance exists, determine that a nuisance exists and order its abatement, impose conditions on the person responsible, or delay the time for abatement of the nuisance. The Council shall make written findings in support of its decision when a nuisance is determined to exist, and its decision shall be final. Council determination shall be required only in those cases where a written statement has been filed as provided.

D. If the Council determines that a nuisance does in fact exist, a person responsible shall abate the nuisance within ten days after the Council's determination, unless the Council has delayed the time pursuant to subsection C. [BC 5.05.205, amended by Ordinance No. 3451, 6/18/85]

5.05.210 Abatement by the City.

A. If the nuisance has not been abated by a person responsible within the time allowed, the City may abate the nuisance or cause it to be abated. [BC 5.05.210A, amended by Ordinance No. 3872, 11/1/93]

B. The City representative charged with abatement of the nuisance shall have the right at reasonable times to enter into or upon property in accordance with law to investigate or cause the removal of a nuisance. The City representative shall have the authority to dispose of all seized property in any manner deemed suitable and shall, if practical, attempt to

Beaverton Cod

obtain salvage value for material which per item has a fair market value in excess of \$25.00 as determined by the City representative. Disposition of vehicles shall be in accordance with BC 5.05.165.

C. The finance director shall keep an accurate record of the costs incurred by the City in physically abating the nuisance. [BC 5.05.210, amended by Ordinance No. 3451, 6/18/85]

5.05.215 Assessment of Costs and Entry of Lien.

A. The finance director, by registered or certified mail, postage prepaid, shall forward to the owner and the person responsible a notice stating:

1. the total cost of abatement pursuant to BC 5.05.015 including the cost of administrative overhead minus any salvage value pursuant to BC 5.05.210, subsection B;

2. that the cost as indicated will be assessed to and become a lien against the property unless paid within 30 days from the date of the notice;

3. that if the person responsible objects to the cost of the abatement as indicated, a written notice of objection may be filed with the city recorder not more than ten days from the date of the notice.

B. On the expiration of ten days after the date of the notice, the Council, in the regular course of business, shall hear any timely objection and determine the costs to be assessed. The Council's determination shall be by written order.

C. If the costs of the abatement are not paid within 30 days from the date of the notice, an assessment of the costs as determined by the Council's written order shall be entered in the City lien docket and shall constitute a lien on the property from which the nuisance was removed or abated.

D. The lien shall be enforced in the same manner as liens for street improvements and shall bear interest at the rate established by Council resolution pursuant to BC 1.01.020. The interest shall begin to run from the date of the entry of the lien in the lien docket.

E. The City may include in one foreclosure proceeding as many accounts as the City may have against separate properties for abating nuisances pursuant to this chapter and may proceed to assess and collect single lot assessments against each of them in a single proceeding.

F. An error in the name of the person responsible shall not void the assessment, nor will a failure to receive the notice of the proposed assessment render the assessment void, but it shall remain a valid lien against the property. [BC 5.05.215, amended by Ordinance No. 3451, 6/18/85]

Assessment of Costs & Entry of Liens

B.C. 5.05.215

Presentation to the
Beaverton City Council
October 10, 2005

Abatement Procedures

BC 5.05.200 Abatement Notice

BC 5.05.205 Abatement by Person
Responsible

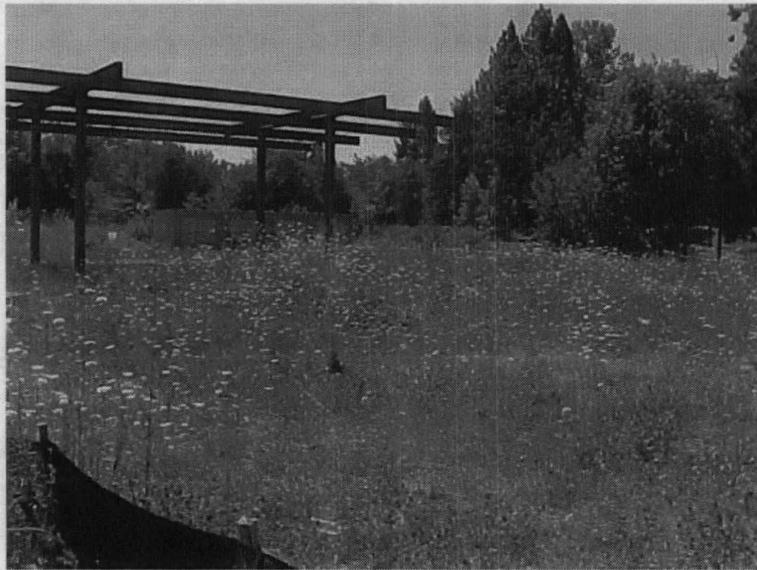
BC 5.05.210 Abatement by the City

BC 5.05.215 Assessment of Costs and
Entry of Lien

Rubbish, Debris, etc.



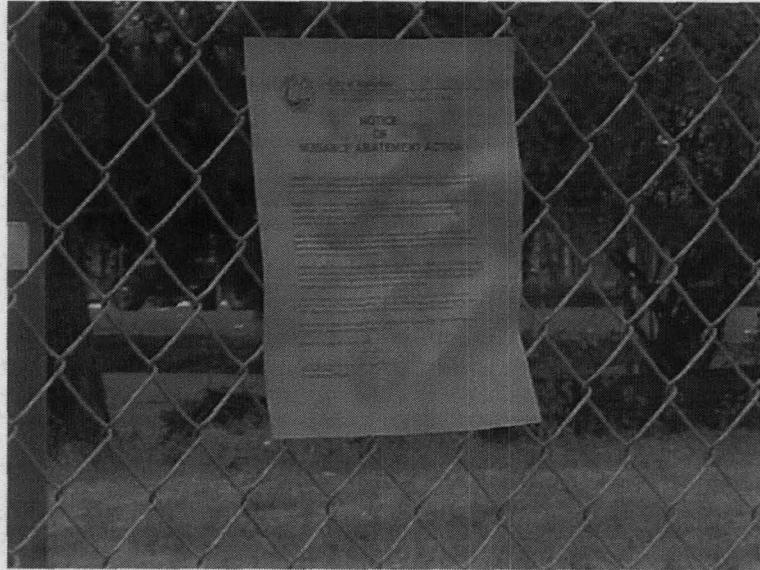
4925 SW Angel



13660 SW Farmington

BC 5.05.200 Abatement Notice

1. Post Property
2. Mail Notice to Property Owner
3. File Certificate of Posting and Mailing



BC 5.05.205 Abatement by Person Responsible

- Remove Nuisance Within 10 Days
of Notice**
- File Protest Within 10 Days**
 - Hearing Before City Council**



13660 SW Farmington - Before



13660 SW Farmington - After

BC 5.05.210 Abatement by the City

- If Not Abated or Protested
- Administrative Warrant to Enter
- Track Costs of Abatement



4925 SW Angel



4925 SW Angel - Before



4925 SW Angel - After



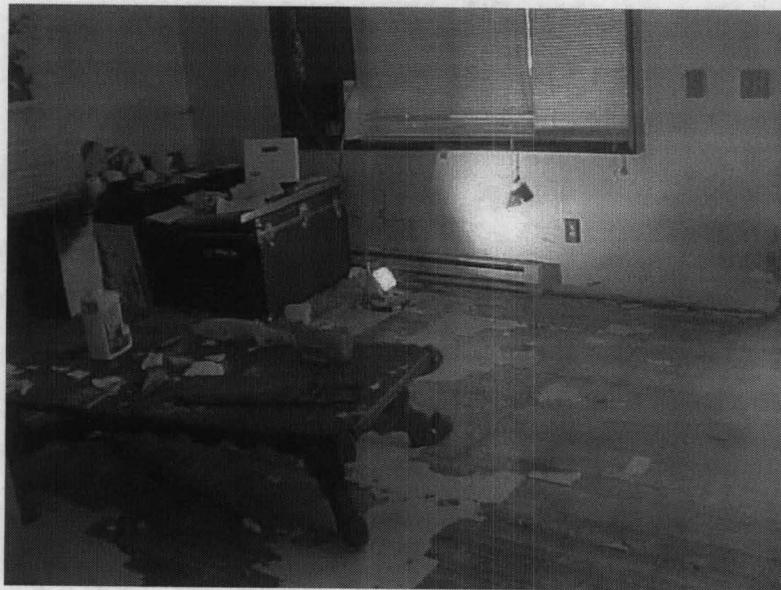
4925 SW Angel - Before



4925 SW Angel - After



4925 SW Angel - Before



4925 SW Angel - After

BC 5.05.215 Assessment of Costs and Entry of Lien

- A. Finance Director...shall forward notice of costs to property owner and person responsible
- B. Council...shall hear any timely objections and determine the costs to be assessed

BC 5.05.215 Assessment of Costs and Entry of Lien

- A. Finance Director...shall forward notice of costs to property owner and person responsible

becomes:

Code Enforcement Officer shall send notice of costs...

BC 5.05.215.A

2. Notice states that the amount assessed will become a lien against the property unless paid within 30 days.
3. New provision: *until the 30 day notice has lapsed, the finance director shall temporarily enter the cost of abatement into the City's lien docket*

B. 10 Days after notice, Council shall hear any timely objections and determine the costs to be assessed

becomes:

Finance Director shall hear any timely objections and determine the costs to be assessed...

*C. Parties may appeal finance
director's decision to the City
Council.*

If no appeal, the lien becomes final
after 30 days.

AGENDA BILL

**Baverton City Council
Beaverton, Oregon**

SUBJECT: An Ordinance Amending Provisions of Chapter Five of the Beaverton City Code Relating to Abatement Procedures and Liens

FOR AGENDA OF: 10-10-05 **BILL NO:** 05182

Mayor's Approval: 

DEPARTMENT OF ORIGIN: Code Services 

DATE SUBMITTED: 09-21-05

CLEARANCES: City Attorney 
Finance 

PROCEEDING: First Reading

EXHIBITS: Ordinance

BUDGET IMPACT

EXPENDITURE REQUIRED \$0	AMOUNT BUDGETED \$0	APPROPRIATION REQUIRED \$0

HISTORICAL PERSPECTIVE:

The City has the legal authority to enact and enforce reasonable regulations to preserve and protect public safety and health. This authority derives from the 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. Chapter 5 of the Beaverton Code is titled "Public Protection" and specifies many conditions that the City Council has decided are public nuisances and the due process for the City to abate those nuisances, if necessary. This includes the process for the City to recover the costs of abating nuisances on private property by placing liens on private property.

INFORMATION FOR CONSIDERATION:

The proposed ordinance changes Section 5.05.215 of the Beaverton Code dealing with assessment of costs and entry of liens for nuisance abatements. The proposed changes will improve the process as follows:

1. Specifies that the code enforcement officer will notify the property owner or the person responsible for the nuisance, such as a tenant, of the total cost of the abatement instead of the finance director providing such notification. It is better for code enforcement to handle this task because code enforcement is more familiar with the case and can explain what costs were incurred and why.
2. Allows a temporary lien to be placed on the City's lien docket during the 30-day lien notification process. This is necessary to protect the City in the event the property is sold before the City's lien is perfected.

3. Provides that the property owner or the person responsible for the nuisance may object to the cost of the abatement by filing a written notice with the finance director, instead of with the city recorder. It is the finance director who maintains the lien docket, not the city recorder.
4. States that the finance director shall hear any timely objections and determine the costs to be assessed by written order, instead of the first hearing going before the City Council. This will streamline the procedure in the vast majority of cases. If the property owner or person responsible wants to appeal the finance director's decision, that appeal would be heard by the City Council. Staff's experience indicates that few property owners object to the costs of abating nuisances or the filing of abatement liens against their property. However, having the appeal process in place satisfies the due process requirement.
5. If the costs of the abatement are not appealed in a timely manner and not paid within 30 days, then an assessment of the costs shall be entered into the City's permanent lien docket and shall become a final lien on the property from which the nuisance was removed or abated.

The placing of liens on real property to secure the payment of past-due amounts owed to the City for cleaning up private property is an ordinary business activity of debt collection for the City. The proposed changes will make the process more efficient by assigning responsibility for the various steps to the appropriate departments within the City.

RECOMMENDED ACTION:

First reading.

**AN ORDINANCE AMENDING PROVISIONS OF
CHAPTERS FIVE OF THE BEAVERTON CITY CODE
RELATING TO ASSESSMENT OF COSTS AND ENTRY OF LIEN**

WHEREAS, the City has the legal authority to and currently does enact and enforce reasonable regulations to preserve and protect the public safety and health; and

WHEREAS, Chapter 5 of the Beaverton Code is titled “Public Protection” and specifies many conditions that the City Council has decided are public nuisances and the due process for the City to abate those nuisances, if necessary; and

WHEREAS, Section 5.05.215 of the Beaverton Code provides the process for the City to recover the costs of abating nuisances on private property by placing liens on private property; and

WHEREAS, the City seeks to make certain changes to this process in order to make it more efficient and effective by assigning responsibility for the various steps in the process to the most appropriate departments in the City that can best carry out those steps, while still providing adequate due process for parties affected; Now therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

Section 1. BC 5.05.215 is amended by striking the existing text and inserting:

5.05.215 Assessment of Costs and Entry of Lien.

A. The code enforcement officer, by certified mail and regular first class mail, postage prepaid, shall send to the owner and the person responsible a notice stating:

1. the total cost of abatement pursuant to BC 5.05.015 including the cost of administrative overhead minus any salvage value pursuant to BC 5.05.210, subsection B;
2. that the cost as indicated will be assessed to and become a final lien against the property unless paid within 30 days of the date of mailing of the notice;

3. that for the period until the 30 day notice has lapsed, the finance director shall temporarily enter the cost of abatement into the City's lien docket;

4. that if the property owner or the person responsible objects to the cost of the abatement as indicated, a written notice of objection may be filed with the City finance director not more than ten days after the date the notice was mailed.

In the event that the certified mail and regular first class mail, postage prepaid, is returned to the City by the postal service, then the code enforcement officer shall post the notice on the property in question or publish the notice two times in a newspaper of general circulation.

B. If an objection is received on or before the expiration of ten days after the date the notice was mailed, or the date the notice was posted or published, whichever is later, the finance director, in the regular course of business, shall hear any timely objection and determine the costs to be assessed. The finance director's determination shall be by written order.

C. The property owner or person responsible may appeal the finance director's decision to the City Council by making a written request to the city recorder within ten days of the finance director's determination. If the costs of the abatement are not appealed in a timely manner and not paid within 30 days from the date the notice was mailed, or the date the notice was posted or published, whichever is later, then an assessment of the costs of abatement shall be entered into the City's permanent lien docket and shall become a final lien on the property from which the nuisance was abated. In the event of a timely objection or appeal, the assessment, if any, shall be entered upon conclusion of the objection or appeal process.

D. The lien shall be enforced in the same manner as liens for street improvements and shall bear interest at the rate established by Council resolution pursuant to BC 1.01.020. The interest shall begin to run from the date of the entry of the lien in the lien docket.

E. The City may include in one foreclosure proceeding as many accounts as the City may have against separate properties for abating nuisances pursuant to this chapter and may proceed to assess and collect single lot assessments against each of them in a single proceeding.

F. An error in the name of the person responsible shall not void the assessment, nor will a failure to receive the notice of the total cost of abatement render the assessment void, but it shall remain a valid lien against the property.

First reading this ___ day of _____, 2005.

Passed by the Council this ___ day of _____, 2005.

Approved by the Mayor this ___ day of _____, 2005.

ATTEST:

APPROVED:

SUE NELSON, City Recorder

ROB DRAKE, Mayor

AGENDA BILL

**B eavert n City Council
B eaverton, Oreg n**

SUBJECT: An Ordinance Annexing Two Parcels, and Associated Right-of-Way, Located at 10845 SW Walker Road to the City of Beaverton: Expedited Annexation 2005-0008

FOR AGENDA OF: 10/10/05 **BILL NO:** 05183

Mayor's Approval: [Signature]

DEPARTMENT OF ORIGIN: CDD [Signature]

DATE SUBMITTED: 09/01/05

CLEARANCES: City Attorney [Signature]
Planning Services [Signature]

PROCEEDING: First Reading

EXHIBITS: Ordinance
Exhibit A - Map
Exhibit B - Legal Description
Exhibit C - Staff Report

BUDGET IMPACT

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

This request is to annex two tax parcels, plus associated right-of-way, located at 10845 SW Walker Road to the City of Beaverton. The parcels are approximately 0.8 acres and are developed with a single family house. The property owners (who are also electors) have consented to the annexation. This 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 staff report address the criteria for annexation in Metro Code Chapter 3.09.

Beaverton Code Section 9.06.035A provides the City Council the option of adding property to an appropriate Neighborhood Association Committee (NAC) area at the time of annexation. This parcel is not currently within a NAC. The Neighborhood Office is recommending that this property not be added to a NAC at this time.

Staff recommends that the City Council adopt an ordinance annexing the referenced property, effective 30 days after Council approval and the Mayor's signature on this ordinance or the date the ordinance is filed with the Secretary of State as specified by ORS 222.180, whichever is later.

RECOMMENDED ACTION:

First Reading

ORDINANCE NO. 4370

AN ORDINANCE ANNEXING TWO PARCELS, AND ASSOCIATED RIGHT-OF-WAY, LOCATED AT 10845 SW WALKER ROAD TO THE CITY OF BEAVERTON: EXPEDITED ANNEXATION 2005-0008

- WHEREAS,** This expedited annexation was initiated under authority of ORS 222.125, whereby all owners of the property and at least fifty percent 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,** This property is in area "A" as set forth in the "Beaverton-Washington County Intergovernmental Agreement Interim Urban Service Plan" and, as prescribed by the agreement, the Washington County Board of Commissioners has agreed not to oppose annexations in area "A"; and
- WHEREAS,** Council Resolution No. 3785 sets forth annexation policies for the City and this action implements those policies; 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 or the date the ordinance is filed with the Secretary of State as specified by ORS 222.180, whichever is later.
- Section 2.** The Council accepts the staff report attached hereto as Exhibit C, and finds that:
- a. This annexation is consistent with provisions in the agreement between the City and the Tualatin Valley Water District 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.
- Section 3.** 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 property will be withdrawn from the Washington County Urban Road Maintenance District and the Washington County Enhanced Sheriff Patrol District ;
 - b. The City having annexed into the Tualatin Valley Fire and Rescue District in 1995, the property to be annexed by this Ordinance shall remain within that district; and
 - c. The property will remain within the boundaries of the Tualatin Valley Water District.

- Section 4.** 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 5.** 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 working days of adoption.
- Section 6.** 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 _____
Date

Second Reading and Passed _____
Date

Approved by the Mayor _____
Date

ATTEST:

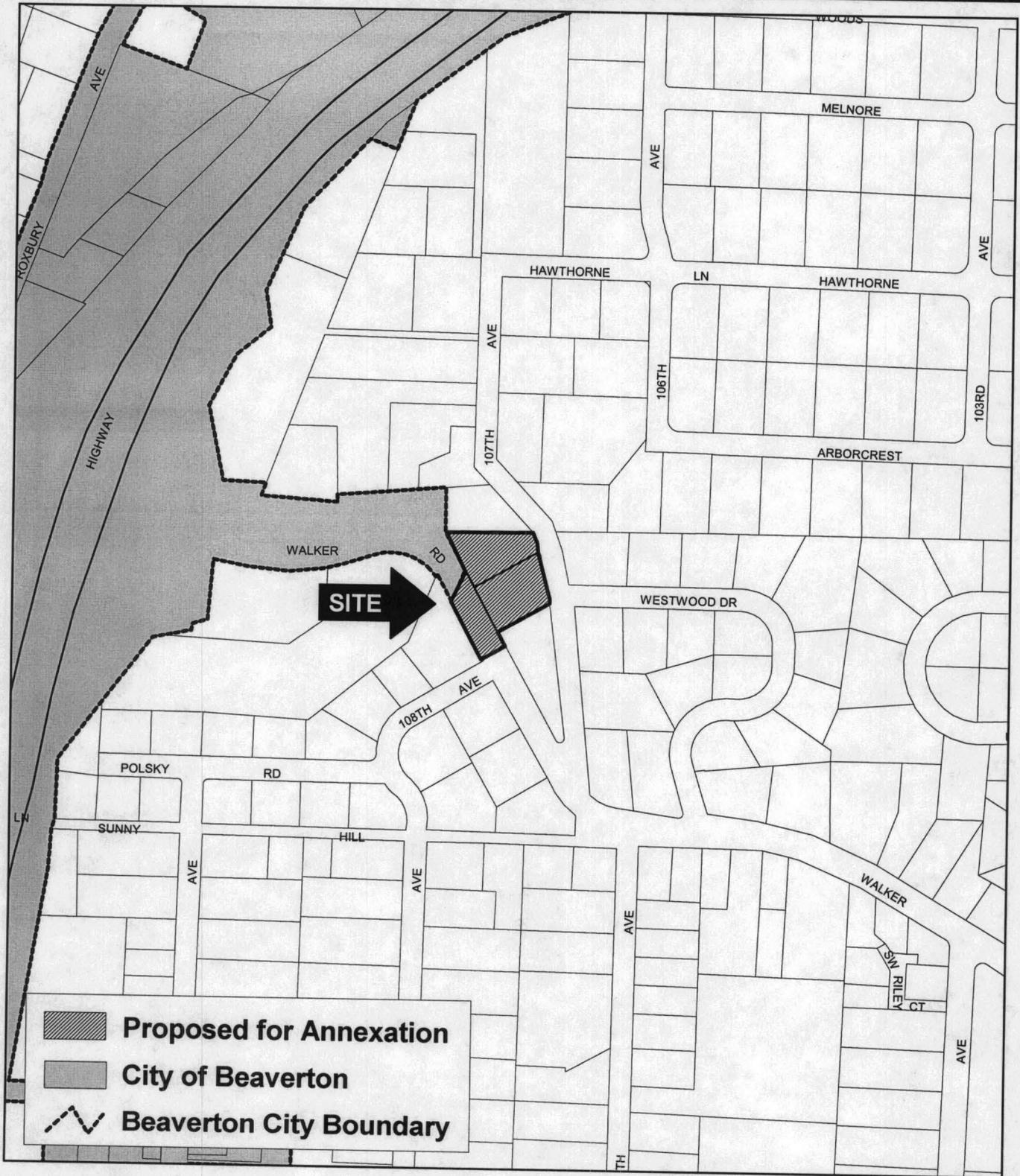
APPROVED:

SUE NELSON, City Recorder

ROB DRAKE, Mayor

VICINITY MAP

EXHIBIT "A"



CITY OF BEAVERTON

10845 SW Walker Road
 COMMUNITY DEVELOPMENT DEPARTMENT

Planning Services Division

7/8/05
 Map #
 1S110DA1802



Application #
 ANX2005-0008

EXHIBIT "B"

Ordinance No. 4370

LEGAL

ANX 2005-0008

A tract of land situated in the northeast quarter of the southeast quarter of Section 10, Township 1 South, Range 1 West, Willamette Meridian, Washington County, Oregon. Said tract of land being more particularly described as follows:

BEGINNING at the southeast corner of Lot 2 of SILVER SPRINGS PARK, said Point of Beginning being located at the intersection of the northerly right of way line of S.W. 108th Avenue and the westerly right of way line of S.W. Walker Road (County Road No. 215); Thence North 30°53' West along the easterly line of said Lot 2 for a distance of 90.00 feet to the northeast corner thereof; Thence, continuing North 30°53' West along the northeasterly line of Lot 1 of said SILVER SPRINGS PARK for a distance of 88.18 feet, more or less, to a point that is 495 feet easterly and perpendicular to the southerly projection of the east line of the A.C. Lassen Donation Land Claim No. 57, said point being on the existing city limits line for the City of Beaverton, Oregon; Thence, North 19°29'40" East along said city limit line for a distance of 77.17 feet , more or less, to a point of intersection with the easterly right of way line of S.W. Walker Road, said point of intersection also being a point on a curve on the southwesterly line of Lot 23 of SILVER SPRINGS PARK; Thence, Northwesterly along said right of way line of S.W. Walker Road 56.99 feet along the arc of a 189.26 foot radius curve to the left through a central angle of 17°15'06" and whose chord bears North 43°55'05" West for a distance of 56.71 feet to the most westerly northwest corner of said Lot 23; Thence, North 16°48' East along the west line of said Lot 23 for a distance of 40.46 feet to the most northerly northwest corner of said Lot 23; Thence, North 88°35' East along the north line of said Lot 23 for a distance of 185.00 feet to the north east corner of said Lot 23, said corner also being on the west right of way line of S.W. 107th Avenue; Thence, South 22°35' East along the east line of said Lot 23 for a distance of 53.96 feet to the southeast corner of said Lot 23, said corner also being the northeast corner of Lot 22 of SILVER SPRINGS PARK; Thence, South 12°07' East along the east line of said Lot 22 for a distance of 119.73 feet to the southeast corner of said Lot 22; Thence, South 59°07' West along the south line of said Lot 22 for a distance of 131.32 feet to the southwest corner of said Lot 22, said corner also being on the easterly right of way line of S.W. Walker Road; Thence, South 30°53' East along said right of way line, also being the westerly line of Lot 21 of SILVER SPRINGS PARK for a distance of 52.16 feet to a point of intersection on the easterly right of way line of S.W. Walker Road and the northeasterly projection of the southerly line of Lot 2 of SILVER SPRINGS PARK; Thence; South 59°07' West along said projection for a distance of 60 feet to the Point of Beginning.



CITY of BEAVERTON

EXHIBIT C

Ordinance No. 4370

4755 S.W. Griffith Drive, P.O. Box 4755, Beaverton, OR 97076 General Information (503) 526-2222 V/TDD

STAFF REPORT

TO: City Council **REPORT DATE:** August 30, 2005

AGENDA

DATE: October 10, 2005

FROM: Community Development Department
Alan Whitworth, Senior Planner

SUBJECT: 10845 SW Walker Road Expedited Annexation (ANX 2005-0008)

ACTIONS: Annexation to the City of Beaverton of two parcels located at 10845 SW Walker Road plus associated right-of-way. The parcels are shown on the attached map, identified on tax map 1S110DA as lots 01800 and 01802, and more particularly described by the attached legal description. The annexation of the property is owner initiated (petitions attached) and is being processed as an expedited annexation under ORS 222.125 and Metro Code 3.09.045.

NAC: This property is not currently within a Neighborhood Association Committee (NAC). The Neighborhood Office is recommending that this property not be added to a NAC at this time.

AREA: The two parcels total approximately 0.8 acres

TAXABLE BM 50 ASSESSED VALUE: \$ 304,550

ASSESSOR'S REAL MARKET VALUE: \$ 476,730

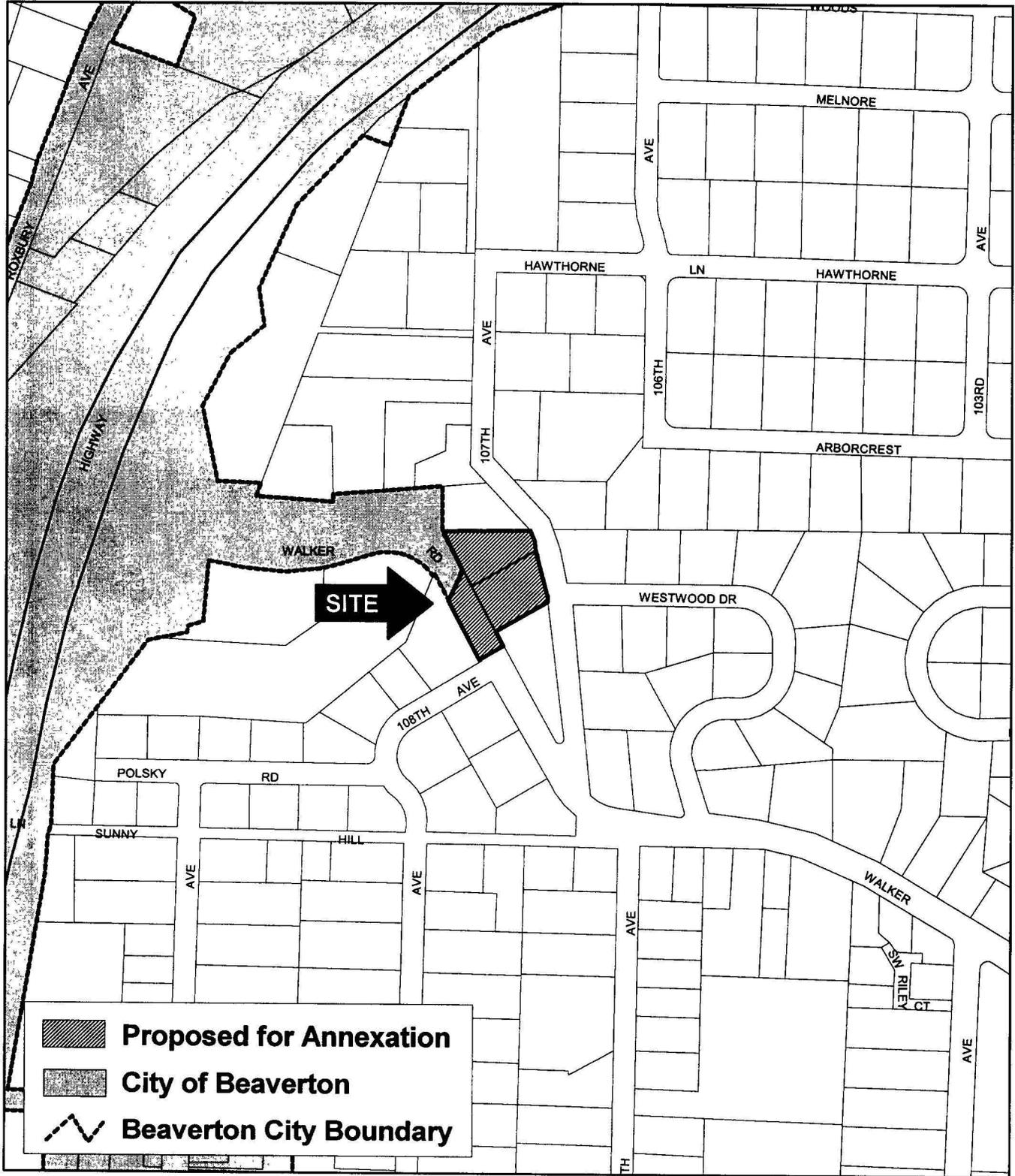
NUMBER OF LOTS: 2

EXISTING COUNTY ZONE: Residential - 5 units to the acre

RECOMMENDATION

Staff recommends the City Council adopt an ordinance annexing the referenced property, effective thirty days after the Mayor's signature or the date the ordinance is filed with the Secretary of State as specified by ORS 222.180, which ever is later.

VICINITY MAP



CITY OF BEAVERTON

10845 SW Walker Road
 COMMUNITY DEVELOPMENT DEPARTMENT
 Planning Services Division

7/8/05
 Map # 0
 1S110DA1802



Application #
 ANX2005-0008

BACKGROUND

The request is to annex two tax parcels located at 10845 SW Walker Road. The parcels are approximately 0.8 acres and are occupied by a single-family house. The property owners have consented to the annexation. Their 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. The property owners are requesting annexation because they believe they will receive better service from our Building Division they receive from Washington County.

The Neighborhood Office is recommending that this property not be added to a Neighborhood Association Committee at this time.

In December, the City and Washington County entered into an Intergovernmental Agreement that established an area "A", in which the City could proceed with annexations with County consent, and an area "B", in which the City would need to obtain County consent to proceed with annexation. This proposed annexation is in area "A".

EXISTING CONDITIONS

SERVICE PROVISION:

The following analysis details the various services available to the property to be annexed. Cooperative, urban service and intergovernmental agreements affecting provision of service to the subject property are:

- The City has entered into ORS Chapter 195 cooperative agreements with Washington County, Tualatin Valley Fire and Rescue District, Tualatin Hills Parks and Recreation District, Tualatin Valley Water District and Clean Water Services.
- The City has entered into an agreement with Tualatin Valley Water District that has been designated an ORS 195.065 Urban Service Agreement by the parties. (No other ORS Chapter 195 Urban Service Agreements have been executed that would affect this decision.)
- The City has entered into an ORS Chapter 190 intergovernmental agreement with Clean Water Services.
- The City has been a party to a series of ORS Chapter 190 intergovernmental agreements "for Mutual Aid, Mutual Assistance, and Interagency Cooperation Among Law Enforcement Agencies Located in Washington County, Oregon", the last of which was signed by Beaverton Mayor Rob Drake on August 9, 2004. This agreement specifies the terms under which a law enforcement agency may provide assistance in response to an emergency situation outside its jurisdiction when requested by another law enforcement agency.

- On December 22, 2004 the City entered into an intergovernmental agreement with Washington County defining areas that the City may annex for ten years from the date of the agreement without opposition by the County. The property proposed for annexation by this application is included in the areas the City may annex without County opposition.

This action is consistent with those agreements.

POLICE: The property to be annexed currently receives police protection from the Washington County Enhanced Sheriff's Patrol District (ESPD). The property will be withdrawn from the ESPD and the City will provide police service upon annexation. In practice whichever law enforcement agency is able to respond first, to an emergency, does so in accordance with the mutual aid agreement described above.

FIRE: Tualatin Valley Fire & Rescue (TVF&R) provides fire and ambulance service to the property. The City annexed its own fire services to TVF&R in 1995. TVF&R is designated as the long-term service provider to this area.

SEWER: There currently is an 8-inch sanitary sewer line in SW Walker Road that serves this property. Upon annexation the City will be responsible for billing.

WATER: Tualatin Valley Water District (TVWD) provides water service to the area. ORS 222.520 allows cities to assume water service responsibilities when annexing less than an entire district. However, the City entered into an intergovernmental agreement with TVWD in 2002 that we would not withdraw property from the District when we annex it. TVWD will continue to provide service, maintenance and perform billing.

STORM WATER DRAINAGE: The property currently has adequate drainage. If the property redevelops, storm drainage will be reviewed as part of the development review process. Upon annexation, billing responsibility will transfer to the City.

STREETS and ROADS: Access to this property is via SW Walker road, which is a County maintained arterial road.

PARKS and SCHOOLS: The proposed annexation is within both the Beaverton School District and the Tualatin Hills Parks and Recreation District. Neither services nor district boundaries associated with these districts will be affected by the proposed annexation.

PLANNING, Washington County currently provides long-range planning,

ZONING and BUILDING:

development review and building inspection for the property. Upon annexation, the City will provide those services. Pursuant to the Urban Planning Area Agreement (UPAA) between the City and County, City Comprehensive Plan and Zoning Designations should be applied to this parcel in a separate action within six months of annexation.

PUBLIC INVOLVEMENT

Consistent with Metro Code Section 3.09.045, the City will send notice of the proposed annexation on or before September 20, 2005 (20 days prior to the agenda date) to all necessary parties including Washington County, Metro, affected special districts and County service districts. Additionally, the City sent notice to the following parties:

- Kimberly and Bruce McBride, 10845 SW Walker Road Beaverton, OR, 97005, the property owners; and,
- The Central Beaverton Neighborhood Association Committee and the Cedar Hills/Cedar Mill and West Slope/Raleigh Hills/Garden Home Citizen Participation Organizations; interested parties as set forth in City Code Section 9.06.035.

The notice and a copy of this staff report will be posted on the City’s web page.

CRITERIA FOR APPROVAL

REGIONAL ANNEXATION CRITERIA:

In December 1998 the Metro Council adopted Metro Code Chapter 3.09 (Local Government Boundary Changes). Metro Code Section 3.09.050 includes the following minimum criteria for annexation decisions:

3.09.050 (d) An approving entity’s final decision on a boundary change shall include findings and conclusions addressing the following criteria:

- (1) Consistency with directly applicable provisions in an urban services provider agreement or annexation plan adopted pursuant to ORS 195.065;

Findings: This staff report addresses the provision of services in detail and the provision of these services is consistent with cooperative agreements between Beaverton and the service providers. The City has not yet entered into an urban services provider agreement under ORS 195.065 that relates to all potential urban service providers in and around the city, although

discussion with other urban services providers on the content of an agreement have occurred sporadically over the last several years, and the City has proposed an agreement that is acceptable to most of the parties. Because a comprehensive urban service agreement has not been completed, it is not possible to consider adoption of an annexation plan. The City has entered into one agreement that has been designated an ORS 195.065 Urban Service Agreement with Tualatin Valley Water District and this proposed action is consistent with that agreement, as explained in the findings above under existing conditions relating to water service .

As previously noted, On December 22, 2004 the City entered into an intergovernmental agreement with Washington County, titled the "Beaverton-Washington County Intergovernmental Agreement Interim Urban Services Plan" defining areas that the City may annex for ten years from the date of the agreement without opposition by the County, and referencing ORS 195.065(1). The property proposed for annexation by this application is within the ten year annexation area. No other ORS Chapter 195 Urban Service Agreements have been executed that would affect this proposed annexation.

(2) Consistency with directly applicable provisions of urban planning or other agreements, other than agreements adopted pursuant to ORS 195.065, between the affected entity and a necessary party;

Findings: The City has entered into an ORS Chapter 190 intergovernmental agreement with Clean Water Services, which was updated as of July 1, 2004. Exhibit 'A' to the new agreement defines areas within the "Beaverton Area of Assigned Service Responsibility" where, subsequent to annexation, specified maintenance responsibilities for sanitary sewer lines under 24 inches in diameter and for certain storm drainage facilities and surface water management functions would transfer to the City of July 1 of any year if so requested by the City by January 1 of that year. This property is currently served by an 8-inch sanitary sewer line in Walker Road, which is maintained by the Clean Water Services and part of it will be annexed with the right-of-way. An eight-inch storm sewer line empties into a culvert on this property.

The acknowledged Washington County - Beaverton Urban Planning Area Agreement (UPAA) does not contain provisions directly applicable to City decisions regarding annexation. The UPAA does address actions to be taken by the City after annexation, including annexation related Comprehensive Plan Land Use Map amendments and rezones. These actions will occur through a separate process.

(3) Consistency with specific directly applicable standards or criteria for boundary changes contained in comprehensive land use plans and public facilities plans;

Findings: Comprehensive Plans: The only relevant policy of the City of Beaverton's Comprehensive Plan is Policy 5.3.1.d, which states "The City shall seek to eventually incorporate its entire Urban Services Area." The subject territory is within Beaverton's Assumed Urban Services Area, which is Figure V-1 of the City of Beaverton's Acknowledged Comprehensive Plan.

After reviewing the Washington County Comprehensive Framework Plan for the Urban Area on the County's web site (reflecting changes through County Ordinance No. 598) as well as ordinances adopted subsequently up to the date of this staff report that amended the Comprehensive Framework Plan, staff finds that the following provisions may be applicable to this proposed annexation:

- ***A paragraph in the "County-Wide Development Concept" at the beginning of the Comprehensive Framework Plan which states:***

As development occurs in accordance with this development concept, issues of annexation or incorporation may arise. Annexation or incorporation issues will necessarily relate to various other planning issues such as community identity, fiscal impacts of growth and service provision, coordination between service providers to achieve efficiencies and ensure availability, etc. As such issues arise; the County should evaluate community identity as an issue of equal importance with public service provision issues when developing policy positions on specific annexation or incorporation proposals.

Staff views this statement as direction to the County itself in how to evaluate annexation proposals, and not guidance to the City regarding this specific proposal. As a necessary party, the County has an opportunity to comment on and appeal this proposed boundary change if they believe the boundary change is inconsistent with the approval criteria (see Metro Code section 3.09).

- ***Policy 15 of the Comprehensive Framework Plan, relating to Roles and Responsibilities for Serving Growth, says:***

It is the policy of Washington County to work with service providers, including cities and special service districts, and Metro, to ensure that facilities and services required for growth will be provided when needed by the agency or agencies best able to do so in a cost effective and efficient manner.

Two implementing strategies under Policy 15 that relate to annexation state:

The County will:

- f. If appropriate in the future, enter into agreements with service providers which address one or more of the following:
 - 3. Service district or city annexation*
- g. Not oppose proposed annexations to a city that are consistent with an urban service agreement or a voter approved annexation plan.*

The City of Beaverton, Washington County and the other urban service providers for the subject area have been working off and on for several years to arrive at an urban service area agreement for the Beaverton area pursuant to ORS 195.065 that would be consistent with Policy 15 and the cited implementing strategies. Unfortunately, although most issues have been resolved, a few issues remain between the County and the City that have prevented completion of the agreement. These issues do not relate to who provides services or whether they can be provided when needed in an efficient and cost effective manner so much as how the transfer of service provision responsibility occurs, particularly the potential transfer of employees and equipment from the County to the City. As previously noted the County and the City have entered into an intergovernmental agreement that sets an interim urban services plan area in which the County commits to not oppose annexations by the City.

Staff has reviewed other elements of the County Comprehensive Plan, particularly the Cedar Hills/Cedar Mill Community Plan that includes the subject property, and was unable to identify any provision relating to this proposed annexation.

Public Facilities Plans: The City's public facilities plan consists of the Public Facilities and Services Element of the Comprehensive Plan, the Transportation Element of the Comprehensive Plan, the City's Capital Improvements Plan, and the most recent versions of master plans adopted by providers of the following facilities and services in the City: storm water drainage, potable water, sewerage conveyance and processing, parks and recreation, schools and transportation. Where a service is provided by a jurisdiction other than the City, by adopting the master plan for that jurisdiction as part of its public facilities plan, the City has essentially agreed to abide by any provisions of that master plan. No relevant urban services as defined by Metro Code Section 3.09.020(m) will change subsequent to this annexation.

Staff could not identify any provisions in the Washington County Public Facilities Plan relevant to this proposed annexation.

- (4) Consistency with specific directly applicable standards or criteria for boundary changes contained in the Regional Framework Plan or any functional plan;

Findings: The Regional Framework Plan (which includes the RUGGOs and the Urban Growth Management Functional Plan) does not contain policies or criteria directly applicable to annexation decisions of this type.

- (5) Whether the proposed change will promote or not interfere with the timely, orderly and economic provisions of public facilities and services;

Findings: The Existing Conditions section of this staff report contains information addressing this criterion in detail. The proposed annexation will not interfere with the provision of public facilities and services. The provision of public facilities and services is prescribed by urban services provider agreements and the City's capital budget.

- (6) The territory lies within the Urban Growth Boundary; and

Findings: The property lies within the Urban Growth Boundary.

- (7) Consistency with other applicable criteria for the boundary change in question under state and local law.

Findings: OAR 660-001-0310 states "A city annexation made in compliance with a comprehensive plan acknowledged pursuant to ORS 197.251(1) shall be considered by Land Conservation and Development Commission to have been made in accordance with the goals...". Compliance with the Comprehensive Plan was addressed in number 3 above. The applicable Comprehensive Plan policy cited under number 3 above was acknowledged pursuant to Department of Land Conservation and Development Order 001581 on December 31, 2003, meaning it became unnecessary for the City to address the Statewide Planning Goals after that date in considering proposed annexations. There are no other criteria applicable to this boundary change in State Law or local ordinances. The City of Beaverton does have Annexation Policies (attached) adopted by resolution and this proposed annexation is consistent with those policies. Staff finds this voluntary annexation with no associated development or land use approvals is consistent with State and local laws for the reasons stated above.

3.09.050 (g) Only territory already within the defined Metro Urban Growth Boundary at the time a petition is complete may be annexed to a city or included in

territory proposed for incorporation into a new city. However, cities may annex individual tax lots partially within and without the Urban Growth Boundary.

Findings: This criterion is not applicable to this application because the territory in question has been inside of the Portland Metro Urban Growth Boundary since the boundary was created.

Attachments: Annexation Petitions
Legal Description
City Annexation Policies

ANNEXATION PETITIONS



CITY OF BEAVERTON
 COMMUNITY DEVELOPMENT DEPARTMENT
 PLANNING SERVICES
 4755 S.W. GRIFFITH DRIVE
 P.O. BOX 4755
 BEAVERTON, OR 97076-4755
 PHONE: (503) 350-4039

PETITION FOR A CONSENT ANNEXATION PURSUANT TO ORS 222.125

PLEASE USE ONE PETITION PER TAX LOT

FOR OFFICE	FILE NAME: _____
USE	FILE NUMBERS: _____

MUST BE SIGNED BY ALL OWNERS. IF THE OWNER IS A CORPORATION OR AN ESTATE THE PERSON SIGNING MUST BE AUTHORIZED TO DO SO. MUST ALSO BE SIGNED BY NOT LESS THAN 50 PERCENT OF ELECTORS (REGISTERED VOTERS), IF ANY, RESIDING ON THE PROPERTY.

PROPERTY INFORMATION

MAP & TAX LOT	STREET ADDRESS (IF ASSIGNED)	# OF OWNERS	# OF RESIDENT VOTERS	# OF RESIDENTS
1S110DA-01802	10845 SW WALKER RD BEAVERTON, OR 97005	2	2	2

CONTACT PERSON USE MAILING ADDRESS FOR NOTIFICATION

BRUCE McBRIDE		503 297 7669
PRINT OR TYPE NAME	BUSINESS NAME	PHONE #
10845 SW WALKER RD	BEAVERTON, OR 97005	
ADDRESS		

SIGNATURES OF OWNERS AND ELECTORS CONSENTING TO ANNEXATION (CONTINUED ON BACK)

WALTER BRUCE McBRIDE	Walter Bruce McBride	7-5-05	<input checked="" type="checkbox"/> OWNER <input checked="" type="checkbox"/> ELECTOR
PRINT OR TYPE NAME	SIGNATURE	DATE	
MAILING ADDRESS IF DIFFERENT FROM PROPERTY ADDRESS			

16

Kimberly L. McBeide	Kimberly L. McBeide	7/8/07	<input checked="" type="checkbox"/> OWNER <input checked="" type="checkbox"/> ELECTOR
PRINT OR TYPE NAME	SIGNATURE	DATE	
MAILING ADDRESS IF DIFFERENT FROM PROPERTY ADDRESS			

			<input type="checkbox"/> OWNER <input type="checkbox"/> ELECTOR
PRINT OR TYPE NAME	SIGNATURE	DATE	
MAILING ADDRESS IF DIFFERENT FROM PROPERTY ADDRESS			

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PRINT OR TYPE NAME	SIGNATURE	DATE	
MAILING ADDRESS IF DIFFERENT FROM PROPERTY ADDRESS			



CITY OF BEAVERTON
 COMMUNITY DEVELOPMENT DEPARTMENT
 PLANNING SERVICES
 4755 S.W. GRIFFITH DRIVE
 P.O. BOX 4755
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PETITION FOR A CONSENT ANNEXATION PURSUANT TO ORS 222.125

PLEASE USE ONE PETITION PER TAX LOT

FOR OFFICE	FILE NAME: _____
USE	FILE NUMBERS: _____

MUST BE SIGNED BY ALL OWNERS. IF THE OWNER IS A CORPORATION OR AN ESTATE THE PERSON SIGNING MUST BE AUTHORIZED TO DO SO. MUST ALSO BE SIGNED BY NOT LESS THAN 50 PERCENT OF ELECTORS (REGISTERED VOTERS), IF ANY, RESIDING ON THE PROPERTY.

PROPERTY INFORMATION

MAP & TAX LOT	STREET ADDRESS (IF ASSIGNED)	# OF OWNERS	# OF RESIDENT VOTERS	# OF RESIDENTS
1S/10DA-01800	NONE	1	0	0

CONTACT PERSON USE MAILING ADDRESS FOR NOTIFICATION

BRUCE McBRIDE	10845 SW WALKER Rd	503 297 7469
PRINT OR TYPE NAME	BUSINESS NAME	PHONE #

ADDRESS

SIGNATURES OF OWNERS AND ELECTORS CONSENTING TO ANNEXATION (CONTINUED ON BACK)

WALTER BRUCE McBRIDE	Walter Bruce McBride	7-505	<input checked="" type="checkbox"/> OWNER <input type="checkbox"/> ELECTOR
PRINT OR TYPE NAME	SIGNATURE	DATE	
10845 SW WALKER Rd BEAVERTON ORE 97005			
MAILING ADDRESS IF DIFFERENT FROM PROPERTY ADDRESS			

LEGAL DESCRIPTION

ANNEXATION

City of Beaverton

ANX 2005-0008

A tract of land situated in the northeast quarter of the southeast quarter of Section 10, Township 1 South, Range 1 West, Willamette Meridian, Washington County, Oregon. Said tract of land being more particularly described as follows:

BEGINNING at the southeast corner of Lot 2 of SILVER SPRINGS PARK, said Point of Beginning being located at the intersection of the northerly right of way line of S.W. 108th Avenue and the westerly right of way line of S.W. Walker Road (County Road No. 215); Thence North 30°53' West along the easterly line of said Lot 2 for a distance of 90.00 feet to the northeast corner thereof; Thence, continuing North 30°53' West along the northeasterly line of Lot 1 of said SILVER SPRINGS PARK for a distance of 88.18 feet, more or less, to a point that is 495 feet easterly and perpendicular to the southerly projection of the east line of the A.C. Lassen Donation Land Claim No. 57, said point being on the existing city limits line for the City of Beaverton, Oregon; Thence, North 19°29'40" East along said city limit line for a distance of 77.17 feet , more or less, to a point of intersection with the easterly right of way line of S.W. Walker Road, said point of intersection also being a point on a curve on the southwesterly line of Lot 23 of SILVER SPRINGS PARK; Thence, Northwesterly along said right of way line of S.W. Walker Road 56.99 feet along the arc of a 189.26 foot radius curve to the left through a central angle of 17°15'06" and whose chord bears North 43°55'05" West for a distance of 56.71 feet to the most westerly northwest corner of said Lot 23; Thence, North 16°48' East along the west line of said Lot 23 for a distance of 40.46 feet to the most northerly northwest corner of said Lot 23; Thence, North 88°35' East along the north line of said Lot 23 for a distance of 185.00 feet to the north east corner of said Lot 23, said corner also being on the west right of way line of S.W. 107th Avenue; Thence, South 22°35' East along the east line of said Lot 23 for a distance of 53.96 feet to the southeast corner of said Lot 23, said corner also being the northeast corner of Lot 22 of SILVER SPRINGS PARK; Thence, South 12°07' East along the east line of said Lot 22 for a distance of 119.73 feet to the southeast corner of said Lot 22; Thence, South 59°07' West along the south line of said Lot 22 for a distance of 131.32 feet to the southwest corner of said Lot 22, said corner also being on the easterly right of way line of S.W. Walker Road; Thence, South 30°53' East along said right of way line, also being the westerly line of Lot 21 of SILVER SPRINGS PARK for a distance of 52.16 feet to a point of intersection on the easterly right of way line of S.W. Walker Road and the northeasterly projection of the southerly line of Lot 2 of SILVER SPRINGS PARK; Thence; South 59°07' West along said projection for a distance of 60 feet to the Point of Beginning.

ANNEXATION POLICY

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 1st day of November, 2004.

Approved by the Mayor this 2ND day of NOVEMBER, 2004.

Ayes: 4

Nays: 0

ATTEST:


SUE NELSON, City Recorder

APPROVED:


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;
- 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; and
- 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).