



FINAL AGENDA

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

REGULAR MEETING
DECEMBER 4, 2006
6:30 P.M.

CALL TO ORDER:

ROLL CALL:

PRESENTATIONS:

06222 Presentation by Susan McLain, Metro Councilor

VISITOR COMMENT PERIOD:

COUNCIL ITEMS:

STAFF ITEMS:

CONSENT AGENDA:

Minutes of the Regular Meeting of November 6, and the Special Meeting of November 16, 2006

06223 Liquor License: New Outlet - Blue Iguana Bar and Grill

Contract Review Board:

06224 Ratification of Contract Award for Chiller Procurement for the Beaverton Central Plant

PUBLIC HEARING:

06225 APP 2006-0005 - Appeal of TA 2006-0007 (Code Applicability for Annexed Areas Amendment)

06226 Adopt Resolution and Authorize Implementation of Building, Mechanical, Plumbing and Electrical Permit Fee Increases (Resolution No. 3883)

ORDINANCES:

First Reading:

- 06219 An Ordinance Repealing the 72-Hour Parking Prohibition, Section 6.02.310.F of the Municipal Code (Ordinance No. 4415)
(Rescheduled from 11/13/06 meeting)

Second Reading:

- 06216 An Ordinance Amending Chapters Five and Nine of the Beaverton Code Related to the Tualatin Basin Goal 5 Program (Ordinance No. 4412)
- 06217 An Ordinance Amending Comprehensive Plan Chapters 3, 5, 6, 7, 8, the Glossary and Volume III (Ordinance No. 4187) Related to CPA 2006-0012 (Ordinance No. 4413)
- 06218 An Ordinance Amending Development Code Chapters 60 and 90 (as Amended through Ordinance 4265) Related to TA 2006-0009 (Ordinance No. 4414)

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.

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

SUBJECT: Presentation by Susan McLain, Metro Councilor

FOR AGENDA OF: 12/04/06 **BILL NO:** 06222

Mayor's Approval: 

DEPARTMENT OF ORIGIN: Mayor

DATE SUBMITTED: 11/28/06

CLEARANCES:

PROCEEDING: PRESENTATION

EXHIBITS:

BUDGET IMPACT

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

INFORMATION FOR CONSIDERATION:

Metro Councilor Susan McLain has asked to make a presentation to the Council. This will be Councilor McLain's last presentation to the City as her term expires December 31, 2006.

RECOMMENDED ACTION:

Listen to presentation.

DRAFT

BEAVERTON CITY COUNCIL
REGULAR MEETING
NOVEMBER 6, 2006

CALL TO ORDER:

The Regular Meeting of the Beaverton City Council was called to order by Mayor Rob Drake in the Forrest C. Soth Council Chamber, 4755 SW Griffith Drive, Beaverton, Oregon, on Monday, November 6, 2006, at 6:35 p.m.

ROLL CALL:

Present were Mayor Drake, Couns. Catherine Arnold, Betty Bode, Bruce S. Dalrymple and Dennis Doyle. Coun. 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, Public Works Director Gary Brentano, Library Director Ed House, Human Resources Director Nancy Bates, Police Chief David Bishop and City Recorder Sue Nelson.

06200 Swearing In of Newly Appointed Municipal Judge Pro Tem, Mr. Les Rink

Mayor Drake said a sub-committee of the City Council had recommended the appointment of Mr. Les Rink to the position of Municipal Judge Pro-Tem. He asked the Council for a motion to approve the appointment.

Coun. Bode MOVED, SECONDED by Coun. Arnold, that Council approve the appointment of Mr. Les Rink as Municipal Judge Pro-Tem. Couns. Arnold, Bode, Dalrymple and Doyle voting AYE, the MOTION CARRIED unanimously. (4:0)

City Recorder Sue Nelson swore in Mr. Les Rink as Municipal Judge Pro Tem.

PROCLAMATIONS:

Mayor Drake proclaimed November 2006 Mediation Month. He said Beaverton had an excellent Dispute Resolution Program and this proclamation was to support that program.

Coun. Arnold said she had the privilege of serving as a mediator for the Beaverton Dispute Resolution Center and she was now working with the small claims court mediation program for Multnomah County. She said mediation was an excellent way to resolve conflicts as the parties in the mediation have control over the outcome and become involved in determining the best solution. She said studies have shown that people were more satisfied with the outcome of mediation than with the outcome of litigation. She said mediation was used in many areas and she encouraged people to use the service when needed.

PRESENTATIONS:

06197 Presentation of Shields and Swearing In of Newly Appointed Captain and Lieutenant and Four Officers to the Beaverton Police Department

Mayor Drake said the swearing in of the new and promoted officers at the Council meeting would introduce them to the citizens of Beaverton and welcome them to the City.

Police Chief Dave Bishop swore in newly-promoted Captain Tim Roberts and Lieutenant Dan Gill, and new Police Officers David Bankston, Jeffrey Gill, Amy Colcord and Christopher Crosslin.

Mayor Drake presented the officers with their shields.

Bishop thanked the families and friends of the officers who were in attendance and noted these officers could not do their jobs without their support.

06198 Open Technology Business Center (OTBC) Presentation and Update

Chief of Staff Linda Adlard introduced Steve Morris, Executive Director for the Open Technology Business Center (OTBC), and said he would update Council on the OTBC.

Morris reviewed the history and purpose of the OTBC. He said the OTBC was an incubator that provides entrepreneurs with services to help their new businesses grow successfully. He said the goal was to help the businesses grow to the point where they are large enough to move out of the OTBC and become part of the community. He said nationally, a typical company spends two years in an incubator. He said studies done by the National Business Incubator Association (NBIA) show that each \$1.00 of public investment generates \$30.00 in tax revenue; and 30% of incubator companies stay in the area. He said every job created in an incubator company creates additional jobs that support that position.

Morris said the OTBC provides three main services: office infrastructure; coaching and advising; and networking. He said under office infrastructure, the OTBC provides office/reception/meeting space and services such as internet. He said coaching and advising were the core of the OTBC's services. He said they provide weekly one-on-one meetings between each startup CEO and an entrepreneur in residence (a person who successfully started and ran a company). He said the entrepreneurs provide assistance in developing business plans, validating the market, coaching on presentations, and offer legal and financial advice. He said networking is critical in order to meet other entrepreneurs and investors. He said they hold weekly Lunch & Learn Programs that cover a variety of topics, such as making presentations or validating the market. He said the odds of success were higher for companies that start in an incubator.

Morris said the OTBC's resources were: three entrepreneurs in residence; one market strategist; a small business development company; a technology team expert; an angel investor; attorneys who offer their services pro bono; a software and open source technologist; accounting professionals; and the weekly luncheon programs. He said

currently there were eight resident startup ventures at the OTBC and they added seven new jobs to Beaverton.

Coun. Doyle said he was impressed with the OTBC and with the growth in the incubator in the last year. He said this was a significant resource. He said these tools would help new businesses to grow and move out into the community in the next year or so.

Coun. Dalrymple said he thought it was an extraordinary program and it was amazing to have that level of resource in one place for entrepreneurs. He asked Morris to talk about recruitment.

Morris said the application form is on the OTBC Web site; interested entrepreneurs should fill out the application and send it in. He said when the application is received, he talks to the applicant and if it looks like the company has good growth potential they have the company do a business plan overview in front of the OTBC screening committee. He said if the company has good growth potential and the OTBC can help, then the offer is made to have them join the OTBC. He said the OTBC Web site was www.opentechcenter.com.

Mayor Drake said he read that Microsoft and Open Source were trying to pool resources. He asked Morris to explain the difference in the technologies and what he thought was happening.

Morris said in the past Microsoft's entire business model was based on Closed Source, Microsoft's private intellectual property/source code to its program. He said it would be extremely difficult for a programmer to look at Microsoft's binary code and figure out what it was doing. He said Open Source is an open code that has been developed by people all over the world. He said Open Source works with volunteer groups world-wide, with an informal structure. He said for some projects it is a very good fit. He said Microsoft is realizing that there are places where Open Source fits and there are places where Closed Source (proprietary) fits. He said Microsoft is working on a few internal Open Source projects and is now looking at how to take advantage of Open Source since it does have value.

Coun, Arnold asked what were his toughest challenges.

Morris said the OTBC needs to increase its success matrix, so that over the next few months he can start fund raising from a broader base. He said they have the opportunity to go to service providers (attorneys, accountants, etc.) and say they are developing clients for them. He said they can go to high tech companies and say "We're incubating technologies" or "We're providing you a place to develop new side technologies that have potential." He said this is valuable to high tech companies. He said there were all types of value propositions for different entities and this is an opportunity to spread the load from a funding point of view. He said the OTBC was well on track to doing this.

Coun. Bode thanked Morris for the presentation. She said she remembered when the Council decided to put resources into the incubator. She said this speaks to the City's direction and sensitivity towards economic development within the community. She said this helps develop the business sector and the livability of the entire community.

Mayor Drake thanked Morris for the presentation.

06199 Presentation of Solid Waste and Recycling Program

Program Manager Scott Keller presented a PowerPoint presentation to update the Council on the City's Solid Waste and Recycling Program. He said the State Legislature set a recycling recovery goal of 64% by Year 2009 for the Metro area watershed. He said DEQ would shortly announce that this region's recovery rate was almost 59% in 2005; this region is about 5% away from the State's goal. He said in order to reach the 69% goal in the next three years, recycling efforts would focus on business recycling, construction debris and organics programs for food waste recycling. He said the City was already working on these programs.

Keller said residential roll-cart recycling began March 1, 2006, and recycling had increased with the use of the carts. He said various studies were conducted on volume, participation and contamination to measure the success of the recycling programs. Also, a survey of residential customers was completed this year to gauge residential participation in recycling. He said the Volume Study was being conducted in 2006 and 2007; the results should be available by March, 2007. He said the Participation Study showed that 93% of the customers set out their recycling at least once a week, the average household sets out recycling 2.46 times per month and the glass bins were set out about once every two months. He said the Contamination Study found that contamination in the roll carts was less than 4% (average contamination in the Metro region is 9%). He said in June Beaverton residents were surveyed regarding their recycling practices. He said they received a 10% response rate on the survey and they were now processing all the comments received on the surveys. He said the survey showed that 87% of the customers rated their garbage service Great or Very Good, and 85% rated their recycling service as Great or Very Good. He said 86% of the customers said it was easier to recycle with roll carts, 77% liked the carts more than the bins and 40% said they produced less trash with the carts. He said they also surveyed apartment residents and they will be working with property managers to increase recycling.

Keller said they were continuing to reach out to the commercial sector, focusing on multi-tenant business parks. He said they contact the businesses by phone and through cold call visits, and were concentrating on new businesses and the largest 100 businesses in the area. He said they were monitoring Metro's proposals for minimum business recycling standards. He concluded by stating that the City would continue to maintain high-level and cost-effective service to the customers and staff would continue to work to increase the recycling rate to meet the State's goals.

Coun. Bode said his presentations were always interesting. She asked why glass was the most frequent contaminant in the roll carts.

Keller said glass and motor oil must be kept separate from all other materials. He said the sorting process at the recycling processing center can easily sort out the other contaminants but glass is a problem because it breaks into small pieces. He said it was a matter of further educating the people about the importance of keeping the glass separate. He said a lot of Oregon glass goes to California glass processors. He said they were recently in a meeting with a major glass processor, who told them Oregon

glass was far superior to California glass, as it is clean and separate from other contaminants (paper, plastic).

Coun. Arnold asked what happens when glass is mixed into the paper.

Keller said if there is too much glass mixed in with the paper, the papermills do not want it and it has to go to the landfill. He said that was why it was important to keep glass separate and educate the public. He said there are quality control standards to make sure the glass contamination does not exceed certain set limits.

Coun. Arnold asked about food recycling.

Keller said for residential recycling Metro was encouraging home composting. He said Metro's main focus was commercial food recycling for that is where the volume exists. He said they work with big cafeterias and grocery stores, and they have a composting agreement with Cedar Grove Composting out of Seattle. He said that Cedar Grove Composting has a new high-tech way to compost food and pilot programs are being conducted by Metro. He said Cedar Grove was seeking a location in Portland.

Coun. Arnold asked if this would be available to schools and residents someday.

Keller said initially it would be for businesses. He said there were different State rules for composting food waste and yard debris. He said that may change in the future, but currently they are not combined.

Coun. Doyle said the Port of Portland (for the airport) was working with its food providers to recycle its food waste. He asked if meat containers are recyclable if they are cleaned.

Keller explained that the meat containers are generally not recyclable. He said though the container may have a recyclable mark on it, that is a plastic industry classification to identify the type of plastic. He said the plastic meat trays do not have a strong market in this area so they are not on the recyclable list.

Coun. Doyle said he has seen many people rake their leaves into the street and asked if the City could educate the residents about putting leaves in the yard debris recycling bin. He asked what kind of issue this was for the City.

Keller said the City would continue to educate the public about proper leaf recycling.

Public Works Director Gary Brentano said the City has had good success this year using a leaf vacuum that was purchased last year. He said the vacuum sucks up the leaves and chops them into fine compost. He said they are able to gather a lot of leaves very quickly off the streets and planting strips. He said they will probably use the vacuum more, and possibly purchase a second unit, as they can provide better and faster service with that machine. He said these leaves are clean and can be recycled. He said it was not okay to rake the leaves onto the street because they can clog the catch basins; if they fall into the street, the City will vacuum them up.

Coun. Dalrymple said as a citizen of Beaverton he was very satisfied with the program. He asked if the caps for water bottles were recyclable.

Keller replied they were not recyclable.

VISITOR COMMENT PERIOD:

There were none.

COUNCIL ITEMS:

Dave James, Beaverton, thanked the City for following up on comments he made a few weeks ago regarding the Beaverton School District's forthcoming application for a transportation center. He said he received a letter from Community Development Director Joe Grillo that said if the School District's application met the requirements for a Type 2 application, then it would be heard as a Type 2 application. He read a section of the Development Code dealing with Type 2 and Type 3 applications. He said this application would be to allow the School District to run a transportation center for 190 school buses on 167th Place. He said this is a local street with a 25 mph speed limit; it has no center line and parking is allowed on both sides of the street. He said there is considerable interest in this project. He asked the Council to instruct City staff to make sure this is a Type 3 application. He said in reading the Code, he did not believe this could be a Type 2 application.

Mayor Drake asked the City Attorney to comment on this issue.

City Attorney Alan Rapplelea said the classification of applications as Type 1, 2 or 3, was a general classification. He said the Code section read by James referred to general classifications. He said if an application has a specific use, it is classified as a Type 2. He said it could be an innocuous Type 2 use, and people may be upset about it, but if the Code says it is a Type 2 use, that is what it will be. He said there are appeal rights for Type 2; appeals would go to an appointed board and then to the Land Use Board of Appeals. He said a hearing could not be avoided on such matters.

Mayor Drake said he had not heard that the School District had resubmitted its application.

Community Development Director Joe Grillo said the School District had not resubmitted its application, though he expected it would come sometime in the future. He said the original application (that Council heard on appeal) started as a Type 3 because the District was proposing to construct a building on that site, not because they were proposing a bus facility. He said in the appeal there were a number of points of disagreement; one was the Planning Director's determination on whether or not that was the correct interpretation of the use. He said at the appeal the Council upheld the Planning Director's determination that this was a permitted use. He said whether or not a new building is proposed will not be known until the application is filed. He said another point of contention was whether or not the performance standards (vibration, noise, etc.) were criteria that had to be considered. He said the Council concluded that those standards were operational criteria, not land use approval criteria. He said those will not be used again if and when the applicant files an application from the City. He said they would take the direction from the previous Council's determination as part of evaluating an application, if and when it should be filed.

Mayor Drake noted that one of the issues with the first application was the traffic impact on 167th Place and Cornell Road. He said Washington County has since determined that it will fund the improvements to Cornell Road and the Citizen's Committee is finishing its work in developing a recommendation to the County.

Grillo confirmed that was correct. He said the County was going through the planning process now and he would assume that if the School District files an application, they would incorporate that into their traffic analysis. He said the City's Traffic Engineer would look at that analysis in conjunction with when that road improvement would occur, because that would affect how many buses would come on line prior to and after Cornell Road is improved.

Coun. Dalrymple asked if there was an existing use and the intensity of the use would be increased substantially, would that take an application from a Type 2 to a Type 3.

Grillo said that would not change whether or not this was a permitted use; it may trigger an additional land use review which could be Type 2 or Type 3 depending on the intensity of use. He said the Code creates thresholds that define the intensity scenarios. He gave an example of a threshold scenario.

Mayor Drake said he thought they were having an intellectual discussion without knowing what the District will propose.

Coun. Bode asked Grillo if he thought the City would receive this application within the next 12 months.

Grillo replied yes.

Mayor Drake said James was trying to engage the Council in a debate on a decision that has not yet been seen. He said in all fairness the School District should be present when a debate is held. He said the City did not know what the District would submit.

James said his question was originally about the classification of applications. He said in the letter from Grillo, it says that if the application is like the one that was submitted early in the year then it would be a Type 2 application. He said he wanted to understand how the City interpreted that information and deemed that application to be Type 2.

Coun. Arnold said James was asking if the Code sections he read were description or criteria; and if the Council has the opportunity to decide if this should be a Type 2 or Type 3 application.

Grillo said those sections were general descriptions but if the use is stated in that district, then by default that use is permitted. He said unless that use triggers another threshold, it starts as a Type 1 or Type 2 or the threshold sets it as a Type 3. He said one of the criteria is whether or not square footage is being added. He said by default the School District was currently operating a bus transportation center on that site based on the previous decision that the Planning Director made, that was upheld by the Council. He said the current operation of that facility is not up for debate. He said in his reading of the Development Code, the Council cannot make the determination on the type of application.

Rappleyea said in reading the Code, he agreed that the Planning Director determines per the Code, what classification the usage should be.

Mayor Drake suggested that James submit his points through the City Attorney. He said he was sure the School District would want to weigh in on the issues also. He said he and the Council always walk a fine line of listening to citizens and not coming into a hearing with a bias on an issue. He said he and the Council would need to remain objective.

Coun. Arnold said the problem was that if this was a Type 2, the Council would never see the application. She said the question was if the Council ever had a role in the initial decision on the classification of the application and what she heard was that the Council would not have a role in the determination.

Rappleyea confirmed that was correct and he recommended terminating the discussion at this time.

James asked if the City Attorney was saying this could not be discussed.

Mayor Drake explained that the City Attorney was not saying that James could not discuss the issue. He said this was becoming a complex, detailed discussion and it would be better for James to provide his comments in writing to the City Attorney so that the attorney can provide a thoughtful response.

Coun. Arnold repeated previous comments that the Council would have no role in determining the classification for an application. She said it would be a good idea for James to submit his thoughts to the City Attorney.

COUNCIL ITEMS:

Coun. Arnold said there would be a Disaster Preparedness Seminar on Wednesday, November 8, at 9:00 a.m. at the Library. She said it was sponsored by the Senior Citizens Advisory Committee and it would cover pertinent information for everyone. She encouraged everyone to attend.

Coun. Dalrymple reminded everyone to vote. He said there was an article in the Oregonian last week regarding benzene and he asked if the City staff would want to comment on Senator Wyden's position on this issue.

Mayor Drake said staff would need to obtain information on Wyden's position before determining if the City would respond. He said staff could report back.

STAFF ITEMS:

Finance Director Patrick O'Claire reminded the Council that next Thursday, November 16, the Budget Committee Meeting would be held at 6:30 p.m. to consider the supplemental budget. He said the binders for the meeting were distributed last Friday.

RECESS:

Mayor Drake called for a brief recess at 8:10 p.m.

RECONVENED:

Mayor Drake reconvened the meeting at 8:20 p.m.

CONSENT AGENDA:

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

Minutes of the Regular Meeting of October 16, 2006 - PULLED

06201 Liquor Licenses: New Outlet - El Perico Y Taqueria, Wine Styles, Noodles & Company;
Change of Ownership - King's Restaurant

06202 Classification Changes

06203 Traffic Commission Issues No.:
TC 599 Removal of Two-Hour Parking Limit in Downtown Parking Lots;
TC 600 Crosswalk on SW 6th Street at Westbrook Club House

06204 Authorize the Mayor to Sign an Intergovernmental Agreement with Metro Regional Government for Implementation of the Annual Waste Reduction Plan

06205 Authorize the Mayor to Sign an Intergovernmental Agreement with Metro Regional Government for Recycle At Work Program

Contract Review Board:

06206 Bid Award - Mixed Bulk Concrete Requirements Contract

Coun. Arnold said she had suggested wording revisions to the October 16, 2006 minutes. The minutes were pulled to be brought back to Council at the next meeting.

Coun. Arnold thanked Planner Hal Bergsma and City Attorney Alan Rappleyea for their help in updating the Comprehensive Plan. She also thanked the Traffic Commission and Traffic Engineer Randy Wooley for their work on the issue of downtown parking; she said she thought this work was done very well.

Question called on the motion. Couns. Arnold, Bode, Dalrymple, Doyle and Stanton voting AYE, the MOTION CARRIED unanimously. (5:0)

PUBLIC HEARING:

06207 Public Hearing to Consider Bids Submitted to Purchase the Declared Surplus Property at the Southwest Corner of SW 153rd Avenue and SW Jenkins Road

Rappleyea said the right-of-way in this area was a little narrow and it was not as wide on 153rd Avenue as required in the Transportation Plan. He said staff was recommending that the Council amend the requirements to remove from the property the narrow strip of land for right-of-way from one foot to five feet wide on 153rd Avenue. He said additional right-of-way is required to meet the Transportation Plan requirements for this road. He said the City would provide the survey needed to make this change so the exact right-of-way would be known.

Mayor Drake opened the public hearing.

There was no one present who wished to testify.

Mayor Drake closed the hearing.

Coun. Doyle MOVED, SECONDED by Coun. Dalrymple, that the Council accept the bid from Reser's Food, Inc., for the property located at the southwest corner of SW 153rd Avenue and SW Jenkins Road as outlined in Agenda Bill 06207, and authorize the City Attorney to negotiate a sale agreement that would provide for a City survey and reservation of right-of-way to the plan standard for 153rd Avenue as agreed to by the buyer.

Coun. Bode explained to the audience that the piece of property being considered was approximately 1.25 acres and it was adjacent to the Reser's trailer maintenance area. She said it made sense that they would be the one to purchase that site.

Mayor Drake added that this was a remnant parcel between the Bonneville Power right-of-way and the roadway. He said it was a remnant from when the road was built and the City has owned the property for over 20 years. He said it was fair to say the adjacent property owners would have the most interest in the site and it was in the public's interest to sell this property. He said others were interested but did not submit a bid.

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

ORDINANCES:

Coun. Doyle MOVED, SECONDED by Coun. Bode, that the rules be suspended, and that the ordinances embodied in Agenda Bills 06208, 06209 and 06210, be read for the first time by title only at this meeting, and for the second time by title only at the next regular meeting of the Council. Couns. Arnold, Bode, Dalrymple and Doyle voting AYE, the MOTION CARRIED unanimously. (4:0)

First Reading:

Rappleyea read the following ordinances for the first time by title only:

06208 An Ordinance Amending Comprehensive Plan Chapters 1, 2 and the Glossary
(Ordinance No. 4187) Related to CPA 2006-0001 (Ordinance No. 4395)

06209 TA 2006-0008 (Design Review Threshold Modifications) (Ordinance No. 4410)

06210 ZMA 2006-0006 Momeni Property at Main Avenue and Allen Boulevard Zoning Map
Amendment (Ordinance No. 4411)

ADJOURNMENT:

There being no further business to come before the Council at this time, the meeting
was adjourned at 8:30 p.m.

Sue Nelson, City Recorder

APPROVAL:

Approved this day of , 2006.

Rob Drake, Mayor

DRAFT

BEAVERTON CITY COUNCIL
SPECIAL MEETING
NOVEMBER 16, 2006

CALL TO ORDER:

The Special Meeting of the Beaverton City Council was called to order by Mayor Rob Drake in the Second Floor Conference Room at City Hall, 4755 SW Griffith Drive, Beaverton, Oregon, on Thursday, November 16, 2006, at 7:14 p.m.

ROLL CALL:

Present were Mayor Drake, Couns. Catherine Arnold, Betty Bode, Bruce Dalrymple and Dennis Doyle. Coun. Cathy Stanton was excused. Also present were Chief of Staff Linda Adlard, Finance Director Patrick O'Claire, Assistant Finance Director Shirley Baron Kelly, and Recording Secretary Joanne Harrington.

EXECUTIVE SESSION:

Coun. Bode MOVED, SECONDED by Coun. Doyle, that Council move into executive session in accordance with ORS 192.660(2)(e) to deliberate with persons designated by the governing body to negotiate real property transactions. Couns. Arnold, Bode, Dalrymple and Doyle voting AYE, the MOTION CARRIED unanimously. (4:0)

The executive session convened at 7:16 p.m.

The executive session adjourned at 7:20 p.m.

The regular meeting reconvened at 7:20 p.m.

CONSENT AGENDA:

06221 Authorization to Assist Low Income Housing Agency with Property Purchase

Coun. Bode MOVED, SECONDED by Coun. Doyle that the Council approve Agenda Bill 06221, Authorization to Assist Low Income Housing Agency with Property Purchase. Couns. Arnold, Bode, Dalrymple and Doyle voting AYE, the MOTION CARRIED unanimously. (4:0)

PUBLIC HEARING:

06196 A Resolution Adopting a Supplemental Budget (#S-07-1) for the Fiscal Year Commencing July 1, 2006, and Making Appropriations Therefrom. (Resolution No. 3881)

Mayor Drake noted there had been no change to the Supplemental Budget (#S-07-01) and it was the same budget adopted earlier this evening by the Budget Committee.

Mayor Drake opened the public hearing at 7:22 p.m. and asked for public testimony.

There was no one present who wished to testify.

Mayor Drake closed the public hearing at 7:22 p.m.

Coun. Dalrymple MOVED, SECONDED by Coun. Bode, that Council approve Agenda Bill 06196, A Resolution Adopting a Supplemental Budget (#S-07-1), as amended by the Budget Committee, for the Fiscal Year commencing July 1, 2006, and Making Appropriations Therefrom. Couns. Arnold, Bode, Dalrymple and Doyle 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 7:24 p.m.

Joanne Harrington
Recording Secretary

APPROVAL:

Approved this day of , 2006.

Rob Drake, Mayor

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

SUBJECT: LIQUOR LICENSE

FOR AGENDA OF: 12/04/06 BILL NO: 06223

NEW OUTLET

Blue Iguana Bar and Grill
3800 SW Cedar Hills Blvd. #300

MAYOR'S APPROVAL: 

DEPARTMENT OF ORIGIN: Police 

DATE SUBMITTED: 11/21/06

PROCEEDING: Consent Agenda

EXHIBITS: None

BUDGET IMPACT

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

Blue Iguana, Inc., is opening a new establishment and has made application for a Full On-Premises Sales License under the trade name of Blue Iguana Bar and Grill. The establishment will serve Tex-Mex style food. It will operate Monday through Thursday, from 11:30 a.m. to 9:00 p.m, Friday, from 11:30 a.m. to 2:30 a.m., Saturday, from 12:00 p.m. to 2:30 a.m., and Sunday, from 4:00 p.m. to 2:30 a.m. They will offer live and recorded music and dancing 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: Ratification of Contract Award for Chiller
Procurement for the Beaverton Central Plant

FOR AGENDA OF: 12/04/06 **BILL NO:** 06224

Mayor's Approval: *Debra Drake*

DEPARTMENT OF ORIGIN: Mayor's Office *La*

DATE SUBMITTED: 11/29/2006

CLEARANCES: Finance *AP*
Purchasing *LM*
City Attorney *AK*
Central Plant *La*

PROCEEDING: Consent
(Contract Review Board)

EXHIBITS: Bid Summary
Agenda Bill 06177
Memorandum Recommending Award

BUDGET IMPACT

EXPENDITURE	AMOUNT	APPROPRIATION
REQUIRED \$233,519	BUDGETED \$275,000	REQUIRED \$0-

* Account Number 001-13-0006-682 General Fund – Non-Departmental – Beaverton Central Plant – Construction Account. The \$275,000 Amount Budgeted represents the amount that was designated to procure the chiller and boiler units as part of the total \$1,264,950 appropriation in the Construction Account.

HISTORICAL PERSPECTIVE:

At the Council meeting held September 19, 2006, Council authorized the City to advertise and award a contract to procure a chiller for the Beaverton Central Plant and to return to the Council to ratify the award to the lowest responsive bidder (Agenda Bill 06177 copy attached).

INFORMATION FOR CONSIDERATION:

The Invitation to Bid was advertised in the Portland Daily Journal of Commerce on October 16, 2006, with a bid submission date of November 8, 2006, at 2:00 PM. In addition, a voluntary pre-proposal conference was held on November 1, 2006, at 10:00 AM, for prospective bidders to walk through the Beaverton Central Plant site, discuss the chiller specifications, and answer any questions. Three prospective bidders attended the pre-conference meeting.

Only one bid was received and opened. The single bid received was from Johnson Controls, Incorporated, of Milwaukie, Oregon, in the amount of \$219,424 for the chiller's base unit price. The other two bidders did not have a machine configuration which was compatible with the plant layout.

Attached is a memorandum to the Mayor recommending that the City accept the bid from Johnson Controls, Incorporated. The memorandum further details the bid evaluation by City staff, the plant facility manager, and an independent heating ventilation and cooling engineer. The combined evaluation also recommends adding three optional items to the base unit price as follows: zero tolerance factory testing \$13,120, isolation valves \$500, and a tool kit \$475. The total recommended award price is \$233,519.

RECOMMENDED ACTION:

Council, acting as the Contract Review Board, ratify the chiller procurement contract award to Johnson Controls, Incorporated, in the amount of \$233,519.

BID SUMMARY

CITY OF BEAVERTON

TO: Mayor & City Council

FROM: Purchasing Division

SUBJECT: Bid Opening

Bids received until NOVEMBER 07,2006 at 2:00PM in the **FINANCE DEPARTMENT**

There was **NO Formal Bid Opening**

For: **ONE (1) 1,000 TON VARIABLE SPEED CHILLER**

VENDOR NAME AND CITY, STATE	"A" CHILLER PRICE FOB FACTORY DOCK, INCLUDING STARTUP SERVICE	"B" CHILLER SHIPPING & HAULING COSTS INCLUDING TAXES/DUTIES	ARI TEST PROCEDURES OPTIONAL COST	GRAND TOTAL OF "A" AND "B"
JOHNSON CONTROLS, INC. MILWAUKIE, OR	\$219,424.00	INCLUDED	\$13,120.00	\$219,424.00

The Purchasing process has been confirmed.

Signed: *Laura L. Marshall*
Purchasing Division-Finance Dept.

The above amounts have been checked: YES NO

Date: 11/7/06

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

SUBJECT: Authorize the Mayor to Award a Bid for Chiller and Boiler Equipment Procurement for the Beaverton Central Plant Subject to Council Ratification

FOR AGENDA OF: 09/18/06 **BILL NO:** 06177

Mayor's Approval: *[Signature]*

DEPARTMENT OF ORIGIN: Mayor's Office *[Signature]*

DATE SUBMITTED: 09/13/2006

CLEARANCES: Finance *[Signature]*
Purchasing *[Signature]*
City Attorney *[Signature]*
Central Plant *[Signature]*

PROCEEDING: Consent **EXHIBITS:**
(Contract Review Board)

BUDGET IMPACT

EXPENDITURE	AMOUNT	APPROPRIATION
REQUIRED \$275,000	BUDGETED \$248,428	REQUIRED \$-0-

* Account Number 001-13-0006-682 General Fund – Non-Departmental – Beaverton Central Plant – Construction Account. The Amount Budgeted represents the remaining appropriation in the Construction Account as of August 31, 2006. A \$410,749 adjustment to the Plant's Beginning Working Capital and the Construction Account will be included in Supplemental Budget S-07-01. In addition to this adjustment, the Plant expects to receive an additional \$250,000 in tax credit revenue and this will also be included in Supplemental Budget S-07-01 and a like adjustment to the Plant's Construction Account. With these two supplemental adjustments, and with construction costs to connect to Building E (\$250,000) and Building F (\$150,000) that were approved at the September 11, 2006 Council Meeting, the Construction Account will have an available balance of \$509,177.

HISTORICAL PERSPECTIVE:

The City owns the Beaverton Central Plant and as per signed agreements with DPP Commercial Investments LLC (the developer), the City is committed to serve new buildings at The Round as they come on line. The Round is approximately half built out with another 300,000 square feet scheduled to be built over the next two years.

On December 12, 2005, the City acquired the Westgate property which includes approximately 4.57 acres located adjacent to The Round project. METRO has joined with the City in the ownership of the property and a process is now underway to explore development opportunities. Property owners to the south of The Round are similarly joining together to pursue urban scale development.

INFORMATION FOR CONSIDERATION:

As The Round builds out and more particularly, Buildings "E" and "F" connect to the system, the central plant will be at capacity for heating and cooling services. In order to serve the additional load, which will include Buildings "G" and "H", as well as create important system redundancy, it is necessary to purchase plant equipment. This equipment will include a 1000 ton Chiller and 2 million BTU Boiler. Construction, which will be the subject of a future agenda item, will also take place to connect the Chiller and Boiler as well as the third cooling tower and other minor system upgrades. Taken altogether, the plant capacity will be 1600 tons cooling and 11 million BTU heating serving the entire Round project.

The expansion and upgrade is being planned to ensure the high efficiency of the plant is continued at the lowest possible cost. Accordingly, the major equipment (chiller and boiler) will be procured by the City based on specifications that determine life cycle costs based in part on purchase price and the present value of energy and maintenance costs over the useful life of the unit.

Bid specifications are expected to be complete and advertised in the Portland Daily Journal of Commerce the week of September 25, 2006, with a bid opening on October 17, 2006, at 2:00 pm in the Finance Department Conference Room. Staff requests that the City Council, acting as the Contract Review Board, authorize the Mayor to award the bid to the lowest responsive bidder immediately following the bid opening and evaluation on October 17, 2006.

RECOMMENDED ACTION:

Council, acting as the Contract Review Board, authorize the Mayor to award the bid to procure Chiller and Boiler Equipment for the Beaverton Central Plant to continue to provide services to The Round project to the lowest responsive bidder immediately upon bid opening and evaluation on October 17, 2006 subject to ratification by the Council at its next available meeting.

BEAVERTON CENTRAL PLANT

To: Rob Drake
From: Linda Adlard/Lonnie Dicus
Date: November 17, 2006
Subject: Recommendation to award chiller bid

This is a recommendation to accept a bid and proceed to purchase a 1000 ton chiller for the Beaverton Central Plant. On 9/18/06 the council approved agenda bill no. 06177 which authorized the Mayor to award a bid for chiller and boiler equipment procurement for the Beaverton Central Plant subject to council ratification. The expenditure required was identified as \$275,000.

Attached is the bid from Johnson Controls/York and recommendation from LINC (plant facility manager) and engineer Tom Hartman, who has been involved with the plant from inception. I have reviewed the attached recommendations and discussed them with LINC and Tom Hartman. I concur and support the above recommendations including the purchase of zero tolerance testing, isolation valves and tool kit at a combined added cost of \$14,095. Accordingly, the bid of \$219,424 plus added costs of \$14,095 yields a total expected cost of \$233,519. At this time, I expect the purchase cost of the remaining boiler (which has yet to be bid) when combined with the above bid to not exceed the expenditure required as identified in agenda bill no. 06177.

Please let me know if you have any questions, otherwise I look forward to your concurrence and approval to proceed.



Stan Maier, Facility Manager
12725 SW Millikan Way, Suite 110 • Beaverton, OR. 97005
Phone: 503.626.4040 • Fax: 503.627.0650 • www.lincfs.com

Date: 11/17/06

To: Lonnie Dicus

From: Stan Maier

Subject: Chiller Evaluation and Recommendation

After review of the Johnson Controls/York chiller proposal in conjunction with The Hartman Company's in-depth review and recommendations (see attached), I agree and recommend the City of Beaverton purchase the proposed YORK chiller.

In referencing The Hartman Company memo and bullet points I also would recommend that the following changes, additions and omissions be made to the purchase order:

1. Rather than the week of May 21st as recommended by The Hartman Company I recommend the startup date be advanced to a completion date of April 27th. This adds an additional 4 weeks to the date specified in the RFP but as noted in Hartman's review the factory acceptance test is a critical operational item that should be done and this additional time allows for proper testing.
2. I also recommend the zero tolerance factory testing for an additional price of \$13,120.00 and that it be added to the purchase order.
3. The addition of isolation valves for \$500.00 should also be included on the purchase order. To add these valves now will save much more in operational and service costs in the future.
4. I also recommend adding the tool kit to the purchase order for \$475.00 will aid in the operation and care of the machine in the future.
5. It has been my experience that additional warranties offered in the YORK proposal are an insurance policy. Taking into account the machines size and configuration along with the sites loads, I would NOT recommend adding the additional \$20,077.00 to the purchase order for the additional 4-year warranty. I believe we will be able to operate the machine sufficiently enough within the first year to find any problems.
6. I agree with the Hartman Company and recommend NOT adding any other options to the purchase order for the chiller as listed in the proposal.



Memorandum

To: Stan Maier
Date: Friday, November 17, 2006

Regarding: Evaluation of chiller proposal Project 2020-07

Dear Stan,

I have conducted an in-depth review of the York proposal for the new chiller and find it to be an excellent proposal in nearly every aspect. Accordingly I have graded it an 85.5 rating out of the possible 100 points (see separately attached evaluation sheet). We should not be concerned that this is the only proposal received. It scored well enough to win in nearly any competition when compared to chillers of similar size and capacity in other recent procurements which we have been party to.

The only negative aspect of the proposal is the delivery schedule. The vendor offers an 18 week delivery schedule with the factory witness test (which I do recommend including). However, I have discussed this with my colleague Ron Anderson. We agree that we can easily develop the installation such that there will be no plant down time during the installation and since the start up will still take place before the start of thick of the cooling season, I recommend this York proposal be accepted with the following notes listed in the purchase order

1. The startup date be adjusted to the week of May 21, 2007. All references in the RFP and proposal that refer to the startup date shall be changed to this date.
2. The option for a zero tolerance factory witness test of performance and sound test (\$13,120 add) be accepted. Although this delays the delivery by three weeks, we have found it very useful for two reasons: 1) We have had a chiller not meet the listed performance and the manufacturer was obligated to change the compressor impeller and retest to show it now complied; 2) We have see true operating efficiencies better than those in proposal by more than 15% at certain points. Obtaining these true efficiencies helps to operate the chiller along with other plant equipment more efficiently. Since energy costs over time are the greatest cost associated with this chiller, I find the cost of the factory performance test has a very attractive payback for many projects, and it helps avoid any performance risk.
3. The option for Isolation valves (\$500 add) be accepted. This makes it easier to pump the system down for maintenance or inspection.
4. The recommend tool kit (\$475 add) be accepted if Stan Maier agrees that it will be useful.
5. The cost for a 2nd through 5th year of warranty is not excessive. It is recommended that Stan Maier to decide whether or not to accept it based on his extensive experience with such equipment.
6. Recommend against other proposed extras



**THE
HARTMAN
COMPANY**

An HVAC Engineering and Technology Development Firm

755 County Road 247, Georgetown, Texas 78628

Fax: 254-793-0121

Ph: 254-793-0120

E-mail: thc@hartmanco.com

7. Purchase order shall state that the vendor is required to submit a drawing or sketch within one week of the issuance of the P.O. that locates the proposed chiller on the existing pad such that all manufacturer's recommended clearances and all code clearance requirements are met.

With this recommendation, I am pleased with what I believe has been a very successful procurement process despite having only one proposal. If you have any questions about this recommendation and the items I have listed herein, please do not hesitate to contact me.

Sincerely,

Tom Hartman, P.E.

The Round Chiller Evaluation

November 15 2006

Item 1	Proposal From York		Comments
	Points Possible	Points Awarded	
Proposal Format	5	4.5	Very well developed proposal, but did not respond to all issues (no description of speed and vane control)

Life Cycle Cost Calculation		Discount Rate	7.00%
		Annual Ton-hours/ton	983
		Average chiller efficiency	0.418
		Annual kW use	410,894
		Year	
First Cost		1	
Base Cost	\$219,424	2	
Factory Witness Test	\$13,120	3	
Isolation Valves	\$500	4	
Tool Kit	\$475	5	
Total First Cost	\$233,519	6	
		7	
		8	
		9	
		10	
		11	
		12	
		13	
		14	
		15	
		16	
		17	
		18	
		19	
		20	
		21	
		22	
		23	
		24	
		25	
		26	
		27	
		28	
		29	
		30	
		31	
		32	
		33	
		34	
		35	
		36	
		37	
		38	
		39	
		40	
		41	
		42	
		43	
		44	
		45	
		46	
		47	
		48	
		49	
		50	
		51	
		52	
		53	
		54	
		55	
		56	
		57	
		58	
		59	
		60	
		61	
		62	
		63	
		64	
		65	
		66	
		67	
		68	
		69	
		70	
		71	
		72	
		73	
		74	
		75	
		76	
		77	
		78	
		79	
		80	
		81	
		82	
		83	
		84	
		85	
		86	
		87	
		88	
		89	
		90	
		91	
		92	
		93	
		94	
		95	
		96	
		97	
		98	
		99	
		100	
		101	
		102	
		103	
		104	
		105	
		106	
		107	
		108	
		109	
		110	
		111	
		112	
		113	
		114	
		115	
		116	
		117	
		118	
		119	
		120	
		121	
		122	
		123	
		124	
		125	
		126	
		127	
		128	
		129	
		130	
		131	
		132	
		133	
		134	
		135	
		136	
		137	
		138	
		139	
		140	
		141	
		142	
		143	
		144	
		145	
		146	
		147	
		148	
		149	
		150	
		151	
		152	
		153	
		154	
		155	
		156	
		157	
		158	
		159	
		160	
		161	
		162	
		163	
		164	
		165	
		166	
		167	
		168	
		169	
		170	
		171	
		172	
		173	
		174	
		175	
		176	
		177	
		178	
		179	
		180	
		181	
		182	
		183	
		184	
		185	
		186	
		187	
		188	
		189	
		190	
		191	
		192	
		193	
		194	
		195	
		196	
		197	
		198	
		199	
		200	
		201	
		202	
		203	
		204	
		205	
		206	
		207	
		208	
		209	
		210	
		211	
		212	
		213	
		214	
		215	
		216	
		217	
		218	
		219	
		220	
		221	
		222	
		223	
		224	
		225	
		226	
		227	
		228	
		229	
		230	
		231	
		232	
		233	
		234	
		235	
		236	
		237	
		238	
		239	
		240	
		241	
		242	
		243	
		244	
		245	
		246	
		247	
		248	
		249	
		250	
		251	
		252	
		253	
		254	
		255	
		256	
		257	
		258	
		259	
		260	
		261	
		262	
		263	
		264	
		265	
		266	
		267	
		268	
		269	
		270	
		271	
		272	
		273	
		274	
		275	
		276	
		277	
		278	
		279	
		280	
		281	
		282	
		283	
		284	
		285	
		286	
		287	
		288	
		289	
		290	
		291	
		292	
		293	
		294	
		295	
		296	
		297	
		298	
		299	
		300	
		301	
		302	
		303	
		304	
		305	
		306	
		307	
		308	
		309	
		310	
		311	
		312	
		313	
		314	
		315	
		316	
		317	
		318	
		319	
		320	
		321	
		322	
		323	
		324	
		325	
		326	
		327	
		328	
		329	
		330	
		331	
		332	
		333	
		334	
		335	
		336	
		337	
		338	
		339	
		340	
		341	
		342	
		343	
		344	
		345	
		346	
		347	
		348	
		349	
		350	
		351	
		352	
		353	
		354	
		355	
		356	
		357	
		358	
		359	
		360	
		361	
		362	
		363	
		364	
		365	
		366	
		367	
		368	
		369	
		370	
		371	
		372	
		373	
		374	
		375	
		376	
		377	
		378	
		379	
		380	
		381	
		382	
		383	
		384	
		385	
		386	

11-20-06 PDS: J...

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

SUBJECT: APP 2006-0005 - Appeal of TA 2006-0007
(Code Applicability for Annexed Areas
Amendment)

FOR AGENDA OF: 12-4-06 **BILL NO:** 06225

Mayor's Approval: *[Signature]*

DEPARTMENT OF ORIGIN: CDD *[Signature]*

DATE SUBMITTED: 11-21-06

CLEARANCES: City Attorney *[Signature]*
Devel. Services *[Signature]*

PROCEEDING: Public Hearing

EXHIBITS: **Exhibit A** - Staff Memorandum dated 11-20-06 responding to appeal issues.
Exhibit B - Letter of appeal with exhibit.
Exhibit C - Land Use Order 1913
Exhibit D - Oct 4, 2006 PC Minutes
Exhibits E - Planning Commission staff report.

BUDGET IMPACT

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

HISTORICAL PERSPECTIVE:

In August 2006, the City Council granted an appeal thus reversing the Board of Design Review's decision to approve a large retail building on the southwest corner of Barnes Road and Cedar Hills Boulevard. The applicant for the retail building was Town Square Too. The subject property was annexed into the City in February 2005. Because the property had not yet received a City zoning designation, the development proposal was reviewed by a combination of Washington County and City standards. A key point of discussion was the perception that the combination of review standards was complicated and confusing.

After the City Council decision on the appeal of the Town Square Too application, the City filed a text amendment to Section 10.40.1 of the Development Code which specifies how development proposals are to be reviewed when the proposal is on a parcel which has been annexed but does not have City zoning. The proposed amendment would make all City development regulations apply except for those regulations concerning use, setbacks, building height, floor area ratio, and other lot dimensional requirements which would otherwise be found in Chapter 20 of the Development Code.

The Planning Commission held a public hearing on the proposed text amendment at the October 4, 2006 regular Commission meeting. The appellant, Mr. Lawrence, raised objections that the amendment was not consistent with Metro's Urban Growth Management Functional Plan and the City Comprehensive Plan. After deliberation, the Commission decided to recommend approval of the proposed text amendment. The decision to recommend approval was split 4-1-2 with Commissioner Bobadilla dissenting and Commissioners Kroger and Johansen absent.

INFORMATION FOR CONSIDERATION:

A staff report in response to the appeal and the Planning Commission record on this matter is attached to this Agenda Bill for Council consideration.

RECOMMENDED ACTION:

Staff recommend that the City Council confirm the recommendation of approval made by the Planning Commission at the October 4, 2006 regular Commission meeting as summarized in Land Use Order 1913. Staff further recommend that the City Council direct staff to prepare the necessary ordinance and schedule the Development Code text amendment for first reading at the January 8, 2007 Council meeting.

Appeal No. APP 2006-0005

Appeal of Planning Commission Recommendation to Approve TA 2006-0007 (Code Applicability for Annexed Areas Amendment)

Table of Contents

	Page No.
Exhibit A Staff Memorandum dated November 21, 2006 responding to appeal issues.	1 - 5
Exhibit B Letter of appeal with exhibit	6 - 33
Exhibit C Land Use Order 1913	34 - 36
Exhibit D October 4, 2006 Planning Commission minutes	37 - 42
Exhibit E October 4, 2006 Planning Commission staff report with exhibit.	43 - 49



CITY of BEAVERTON

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

CITY OF BEAVERTON STAFF REPORT AND RECOMMENDATION

TO: City Council

STAFF REPORT DATE: Monday, November 20, 2006

STAFF: Steven A. Sparks, AICP, Development Services Manager 

SUBJECT: **APP 2006-0005 (Appeal of TA 2006-0007 (Code Applicability for Annexed Areas Amendment))**

REQUEST: Text amendment to Section 10.40.1 of the Beaverton Development Code to clarify the applicability of City Development Code standards for areas which have been annexed to the City but have yet to be rezoned to a City zoning designation.

APPELLANT: Lawrence Bates

APPLICANT: City of Beaverton

APPLICABLE CRITERIA: Ordinance 2050, Section 40.85.15.1.C.1-7 (Text Amendment Approval Criteria)

HEARING DATE: Monday, December 4, 2006

RECOMMENDATION: Approve the proposed text amendment consistent with the Planning Commission's recommendation and deny the appeal.

A. PROPOSED AMENDMENT

Since August 1978, the City's Development Code has contained the following text which is currently located in Section 10.40.1:

*Any area annexed to the City shall retain the zoning classification of its former jurisdiction until changed by the City. In the interim period, the City shall enforce the zoning regulations of the former jurisdiction along with any conditions, limitations or restrictions applied by the former jurisdiction as though they were a part of this Code, except that the provisions of Chapters 30 through 80 of this Code shall supersede **comparable provisions** (emphasis added) of the zoning regulations in force in the former jurisdiction at the time of annexation.*

The City has consistently interpreted this text to mean that when a development proposal is made for areas which have been annexed by the City and have yet to receive a City zoning designation, the County's Development Code is applicable only for land uses and site development requirements such as building height and setbacks. All other provisions of the City's Code, with the exception of Chapter 20 (Land Uses) would be applicable to the development proposal.

The use of the phrase "comparable provisions" in the above quoted text has led to some confusion. Using the recent Wal-Mart development applications as an example, the City's interpretation of the text is that if the County Code contained provisions which were not contained in any City Code, then that specific County Code provision would be applicable. During the review of that matter, much was made over the phrase "comparable provisions". For the Wal-Mart proposal, staff took the position that when the City's Code contained a provision which was like a provision in the County Code, the City's Code provision would prevail. Opponents to the Wal-Mart proposal argued that while the City's Code may have contained provisions which were similar to the County's Code, the provisions were not comparable.

Therefore, if an effort to minimize broad discretion and make the Code much more clear, the City proposed and the Planning Commission recommends the following text amendment:

Any area annexed to the City shall retain the zoning classification of its former jurisdiction until changed by the City. In the interim period, the City shall enforce the use and site development requirements of the County's zoning regulations of the former jurisdiction district which would otherwise be found in Chapter 20 (Land Uses) of the City's Development Code. The City shall also enforce along with any conditions, limitations or restrictions applied by the former jurisdiction

as though they were a part of this Code. ~~except that the provisions of Chapters 30 through 80 of this Code shall supersede comparable provisions of the zoning regulations in force in the former jurisdiction at the time of annexation.~~ Any proposal for development shall be subject to the provisions of the City's Development Code as specified in Chapters 10 (General Provisions), 30 (Non-Conforming), 40 (Applications), 50 (Procedures), 60 (Special Requirements), and 90 (Definitions).

The intent of the proposed amendment is to be clear that the City's Code provisions contained in Chapters 10, 30, 40, 50, 60, and 90 are applicable to all development in areas annexed to the City which have not received a City zoning designation. Moreover, the intent is to be clear that the City's Code supersedes all County Code provisions with the exception of the specific use and site development requirements of the County zoning district. The County provisions which would be applicable include allowed, conditional, and prohibited uses. Even though the County Code may specify a procedure for an use, the City's Code will prevail with respect to procedure. If the County Code has standards for a specific use, the City's Code provisions will prevail for that use. The only County Code development standards which will be applicable include residential density, floor area ratio, building height, setbacks, lot area, and lot dimensions.

It is important for the Council to understand that this proposed text does not eliminate the need for a development proposal to meet specific requirements contained in an applicable County Community Plan. For example, the Cedar Mill Cedar Hill Community Plan contains provisions which are applicable to "areas of special concern". Those provisions would continue to be applicable until such time as the City assigned City zoning to those areas. Typically, the provisions relate to design elements, vehicle access locations, protected natural areas, and guiding direction for future development to name a few.

The appellant states that the "amendment is not beneficial or necessary. If the City wants to apply its own land use designations and Code in annexed areas, the City can simply proceed with the existing rezoning process." The City is proceeding with assigning City zoning to most of the lands which have been annexed. The annexed lands which are owned by the Peterkort family have not yet been proposed for zoning map amendment because the City is attempting to discuss the amendments with the Peterkort family.

The appellant's materials is mainly based on the recent Wal-Mart application and appeal. The proposed amendment will apply to all annexed lands, not just those with County transit-oriented zones or just those areas along Barnes Road. This amendment is proposed to address not only the current situation of annexed lands, but for future cases of annexed lands where City zoning has not yet been applied.

With respect to the Wal-Mart case, the City agreed with the property owner of the Wal-Mart site to have Washington County process the Wal-Mart land use application based on County Code. Washington County declined the opportunity to review and process that land use application based on their code. Staff recommend that the City Council adopt the proposed text amendment since annexed lands are in the City's jurisdiction. Therefore, City Code provisions should apply to development proposed in the City.

C. ISSUES OF APPEAL

One (1) appeal of the Planning Commission recommendation to approve TA 2006-0007 has been filed which was done so in accordance with Section 50.75. of the Development Code. The appeal was filed by Lawrence Bates.

The appeal asserts that the Planning Commission erred in its decision to recommend approval of the Code Applicability for Annexed Areas text amendment (TA 2006-0007) because the amendment fails to meet approval criteria numbers 40.85.15.1.C.3 and 4. The following is staff's response to the four (4) issues as stated in the letter of appeal dated October 20, 2006.

1. *Text Amendment approval criterion no. 3*

The subject approval criterion reads as follows: *"The proposed text amendment is consistent with the provisions of the Metro Urban Growth Management Functional Plan."*

The appellants argue that the proposed amendment would "reduce the special status of Station Communities (Transit Oriented zones) to the status of generic quality commercial areas" and that such a reduction in status would not be consistent with the provisions of the Metro Urban Growth Management Functional Plan (UGMFP).

The appellant is incorrect in claiming the amendment is inconsistent with the Metro UGMFP. The proposed amendment would not change any Washington zoning which has been found to be in compliance with the UGMFP. The proposed amendment will not change target housing or employment goals, density targets, allowed uses, maximum parking ratios, water quality, retail in employment and industrial areas, regional accessibility, or affordable housing standards established by the UGMFP. The City's Development Code has been found by Metro to be in compliance with the UGMFP. Applying the City's Development Code to areas which have been annexed would continue to be in compliance with the UGMFP. Lastly, Metro was forwarded a copy of the proposed text and did not provide any comment on the text. Therefore, staff continue to recommend that the proposed amendment would be consistent with the UGMFP.

2. *Text Amendment approval criterion no. 4*

The subject approval criterion reads as follows: *“The proposed text amendment is consistent with the City’s Comprehensive Plan.”*

The appellant quotes the Urban Planning Area Agreement, which is a part of the City’s Comprehensive Plan, stating “the transition in land use designation from one jurisdiction to another should be orderly, logical, and based upon a mutually agreed upon plan.” The proposed text amendment does not propose to amend any land use designation assigned to annexed areas. The proposed amendment much more clearly states that the County zoning designations will continue apply until such time as the annexed lands receive a City zoning designation. Therefore, staff continue to recommend that the proposed amendment is consistent with the Comprehensive Plan.

Based on the findings contained in this report, the findings contained in the staff report prepared for the Planning Commission meeting of October 4, 2006, and the findings contained in Land Use Order 1913, staff recommend that the proposed amendment meets the criteria for a text amendment and that the appellant has not demonstrated how the proposed amendment does not meet the approval criteria for a text amendment.

D. STAFF RECOMMENDATION(S)

Staff offer the following recommendation for the December 4, 2006 public hearing for APP 2006-0005:

1. Receive the applicant’s and appellant’s testimony on the appeal of the Planning Commission’s recommendation to approve the text amendment.
2. Deliberate the proposed text amendment considering all testimony, the facts and findings presented in the staff reports to the City Council and Planning Commission, and issues identified by the Council or the public.
3. Direct the City Attorney to prepare an ordinance adopting the text amendment recommended for approval by the Planning Commission.

APPEAL OF

TA2006-0007 CODE APPLICABILITY FOR ANNEXED AREAS TEXT AMENDMENT

Introduction

We hereby request an appeal of the land use decision TA2006-0007 Code Applicability for Annexed Areas Text Amendment, a matter before the Planning Commission on October 4, 2006. The Planning Commission voted in favor of recommending approval to the Beaverton City Council.

Appellants consist of Save Cedar Mill, Inc., and Jim Johnson. At the Planning Commission hearing, testimony was given by Jeffrey L. Kleinman, Attorney at Law representing Save Cedar Mill, and by Mr. Johnson. The designated contact representative for pre-hearing contact concerning the appeal is Lawrence E. Bates, an elected officer of Save Cedar Mill.

Discussion of Text Amendment

Staff asserts that the text amendment is necessary to clarify existing language in Beaverton Development Code Section 10.40.1 related to “comparable provisions” that exist in both County and City Codes. Staff also asserts a need to minimize “broad discretion” in applying Code to annexed areas. For land use situations where comparable codes exist, the Beaverton Code is supposed to supercede the County Code. The Staff Report cites the recent Wal-Mart development application as a situation where there was confusion over whether Code provisions were “comparable”.

The language of the text amendment would retain the applicability of County zoning, but discard applicability of County Code, except for “use and site development requirements”. According to Staff, “The only County Code development standards which will be applicable include residential density, floor area ratio, building height, setbacks, lot area, and lot dimensions.”

At the Planning Commission hearing, Save Cedar Mill explained certain aspects of the recent Wal-Mart development application (APP2006-0004 Appeal of Town Square Too). Mr. Kleinman entered the City Council’s final Land Use Order and Findings into the record by distributing copies to each of the Commissioners (copy also attached to this statement). In testifying that the proposed text amendment is inconsistent with the City Council findings and decisions, Save Cedar Mill pointed to particular details in Finding No. 15, such as the following:

“The City’s design guidelines do not address transit-oriented design specifically, but are generic and apply throughout the City (*See e.g.* BDC 60.05.40). Such broad design guidelines cannot be deemed to be comparable to design principles and standards unique to transit-oriented districts.”

RECEIVED
OCT 20 2006
City
Develop **06**

“The structure of the County regulations is such that the County’s design principles and standards in CDC Chapter 431 cannot be unlinked or decoupled from the use regulations contained in CDC Chapter 375. To discard any of these principles and standards based upon an argument the City’s more general, less restrictive design criteria are comparable would be the equivalent of discarding the County zoning itself, so closely are the County design principles and standards integrated into the TO:RC zone and essential to achieving the purposes of the zone.”

At the Planning Commission hearing, City Staff stated that the risk of inappropriate development under the changed text would be low. However, appellant Jim Johnson testified that the risk of inappropriate development would be increased. The Council’s final Land Use Order and Findings on the Wal-Mart matter demonstrate the Council’s desire to exercise discretion **broadly** on development in annexed areas. If the Council had wished to exercise its discretion **narrowly**, it could have done so without need for a text amendment. In effect, the City Council already found Staff’s recommendation to “tune out” County Code to be incorrect.

The appellants contend that the text amendment would strip away crucial County requirements for access, pedestrians, building orientation and block size in Transit Oriented zones, making them virtually indistinguishable from generic commercial zones. This text amendment is not beneficial or necessary. If the City wants to apply its own land use designations and Code in annexed areas, the City can simply proceed with the existing rezoning process.

Failure of Text Amendment to Meet Minimum Approval Criteria

Metro’s Urban Growth Management Functional Plan confers special status to Station Communities as one of several “principal centers of urban life in the region” (Title 6: Central City, Regional Centers, Town Centers and Station Communities Section 3.07.610). Therefore, a text amendment that reduces the special status of Station Communities (Transit Oriented zones) to the status of generic quality commercial areas is not consistent with the Urban Growth Management Plan. **Thus, the text amendment fails to meet Criterion #3 of Beaverton Code Section 40.85.15.1.C.**

Beaverton’s Comprehensive Plan embraces Metro’s Station Community concept through Section 3.8 and Goal 3.8.1: “Station Communities that develop in accordance with community vision and consistent with the 2040 Regional Growth Concept Map”. The Comprehensive Plan also adopted the 1989 Washington County Urban Planning Area Agreement (UPAA) which governs how comprehensive planning and development are meant to be coordinated between City and County. Section II.D. states that when annexation occurs, “the transition in land use designation from one jurisdiction to another should be orderly, logical, and based upon a mutually agreed upon plan.” The Staff Report for the text amendment does not indicate any participation by Washington County officials. Discarding County Transit Oriented principles and standards without a more deliberative process does not reflect order, logic, and mutual agreement. **Thus, the text amendment fails to meet Criterion #4 of Beaverton Code Section 40.85.15.1.C.**

Request for Appeal

The Staff Report utilized a trivial parking standard example from the Wal-Mart development application to illustrate the purpose of the text change amendment. The appellants believe the Planning Commission did not have sufficient insight into the complexity of jurisdictional overlap revealed by the Wal-Mart development application to adequately weigh the text amendment.

The appellants are reluctant to engage in a discussion touching upon the recent Wal-Mart development application. However, a text amendment that serves only the convenience of Staff is not in the best interest of the community. We respectfully request the Beaverton City Council to consider this appeal through a *de novo* hearing process.

Enclosures

Final Land Use Order and Findings APP2006-0004 Appeal of Town Square Too, 25 pp.

Appeal Fee of \$1314

RECEIVED
OCT 20 2006
City of Beaverton
Development Services

**BEFORE THE CITY COUNCIL OF THE
CITY OF BEAVERTON**

In the Matter of the Application of:) **No. DR2005-0068**
)
WAL-MART STORES, INC.)
) **FINAL DECISION**
Applicant.)

I. INTRODUCTION

This matter came before the City Council on an appeal of the approvals of the applications from the Board of Design Review ("BDR"). The applicant requested review of a Design Review Three application for the use of the property for a Wal-Mart store and associated retail and office uses.

The City Council conducted public hearings on the matter on July 10 and 11, 2006. The City Development Director, Mr. Grillo, read into the record the required statements at the beginning of the hearing. The Council then determined that there were no conflicts of interest. The Council then described the limited amount of ex-parte contacts and site visits. The Councilors described very brief conversations and telephone messages concerning the application. The Councilors generally did not return the calls and informed the other party that they could not talk about the issue. All the Councilors stated that they have been by the site. Mr. Grillo then asked if any member of the audience wished to challenge the right of any Councilor to participate. Mr. Henry Kane stepped forward and suggested that based on the Mayor's previous statements that he should recuse himself from voting in the event of a tie. The Council finds that nothing described in Mr. Kane's statements required the Mayor to recuse himself and as the matter was not a tie, the Mayor did not need to vote and the issue is therefore moot. No one else objected to any Councilor's participation in this matter.

The City then left the record open for one week for the submission of new evidence until July 18, 2006. The City then left the record open for an additional week, until July 24, 2006 to allow a response to the new evidence. The record was then open for one additional week, until August 1, 2006 to allow the applicant to submit its final written rebuttal. On August 7, 2007, the

applicant made its final closing statement. The Council determined that no new evidence was submitted in either the final written or oral statements of the applicant.

The Council considered this appeal *de-novo* from the decision of the BDR. After reviewing the voluminous record in this matter and hearing all the testimony the Council unanimously voted to sustain the appeal and deny the application.

The BDR decision and the applications contain two major areas of concern for the Council. The first relates to traffic, and the mitigation measures to be carried out by the applicant. Save Cedar Mill, Inc. ("SCM") has submitted memoranda from its traffic engineer, Robert Bernstein, explaining in detail how this proposal will not comply with City, County or State requirements, and how the proposed mitigation will make things substantially worse rather than better. Mr. Bernstein has composed a memorandum, explaining these issues in detail. This memorandum, dated July 10, 2006 is incorporated here by reference.

A review of Mr. Bernstein's analysis proves the uncertainty of the underlying assumptions and the failure of compliance by the applicant. While the City appreciates the willingness of the applicant to dedicate funds to make improvements to these road systems, the result would be a dysfunctional intersection that will be difficult to navigate for drivers, pedestrians and bicyclists alike. For the reasons set out by Mr. Bernstein, neither the road improvements nor the resulting intersection meet City or County requirements.

The City Council also appreciates the professional judgement of all the engineers and planners involved in providing opinions on this matter. All are being paid to provide their opinions but the Council relies on their professionalism and does not find extreme bias in any opinion. However, expert's opinions will vary and the Council has to decide which opinion to accept. As this is a critical transportation facility for the City, the Council takes a conservative approach to predicted impacts to this facility.

The second major area of concern lies in the BDR's application of the City and County design review standards. The decision in this case is made more complicated because of the necessity of applying both the City and the County standards and criteria. The City annexed this Peterkort property in December 2004. Shortly after the annexation, this application was filed

under the existing County zoning and before the City could apply its own comprehensive plan and zoning for the property.

The Council also reviewed the work of Tom Armstrong, AICP, of Winterbrook Planning, who evaluated the relevant criteria and provided comments in three memoranda to the Council. Winterbrook Planning is a prominent provider of planning and consulting services to local governments and property owners. The Council finds that Mr. Armstrong's comments are credible and persuasive.

For the reasons identified here by Messrs. Bernstein and Armstrong and the additional reasons set out in these findings, Applicant failed to meet its burden of proof as to several important approval standards and its application is hereby denied. Each conclusion that the application did not meet a criterion is a basis mandating denial of the application and is based on substantial evidence in the findings and the record.

II. FINDINGS REGARDING TRAFFIC AND TRANSPORTATION

The relevant criteria for the findings under this hearing are BDC 40.03.1:

"All critical facilities and services related to the development have, or can be improved to have, adequate capacity to serve the proposal at the time of its completion."

BDC 40.03.4:

The proposal is consistent with all applicable provisions of Chapter 60 (Special Requirements) and that all improvements, dedications, or both required by the applicable provisions of Chapter 60 (Special Requirements) are provided or can be provided in rough proportion to the identified impact(s) of the proposal.

BDC 40.03.7:

The on-site vehicular and pedestrian circulation system connects to the surrounding circulation system in a safe, efficient, and direct manner.

BDC 60.55.10.7

Intersection performance shall be determined using the Highway Capacity Manual 2000 published by the Transportation Research Board. The City Engineer may approve a different intersection analysis method prior to use when the different method can be justified. Terms used in this subsection are defined in the Highway Capacity Manual 2000.

At a minimum, the impacts of development on a signalized intersection shall be mitigated to peak hour average control delay no greater than 65 seconds per vehicle using a signal cycle length not to exceed 120 seconds. The volume-to-capacity ratio for each lane group for each movement shall be identified and considered in the determination of intersection performance. The peak hour volume-to-capacity ratio for each lane group shall be no greater than 0.98. Signal progression shall also be considered.

At a minimum, the impacts of development on a two-way or an all-way stop-controlled intersection shall be mitigated to a peak hour average control delay of no greater than 45 seconds per vehicle.

If the existing control delay or volume-to-capacity ratio of an intersection is greater than the standards of this subsection, the impacts of development shall be mitigated to maintain or reduce the respective control delay or volume-to-capacity ratio.

BDC 60.55.20.4.E.4

Traffic Impacts. The Traffic Impact Analysis shall evaluate access, safety, operation, capacity, circulation, level of service, and performance of the transportation system within the proposed development's Area of Influence and any additional locations previously identified by the City Engineer for both the Buildout Year and any phases thereof, and the Long-Range Forecast Year.

Performance analysis shall be based on the standards of section 60.55.10.7.

4. The analysis shall also identify and evaluate related impacts on bicycle, pedestrian, and transit access, circulation, and facilities.

BDC 60.55.25.1:

All streets shall provide for safe and efficient circulation and access for motor vehicles, bicycles, pedestrians, and transit. Bicycle and pedestrian connections shall provide for safe and efficient circulation and access for bicycles and pedestrians.

In addition, Washington County reviews proposed development and its impact on the transportation system in terms of traffic (including pedestrian) safety. (Washington County Resolution and Order 86-95)

Finding No. 1. Based upon his resume on file herein, Robert Bernstein, P.E., is a fully qualified traffic engineer with broad experience in Oregon, Washington, and other states. We find his oral and written testimony to be both credible and persuasive, and make the following findings based upon that testimony.

Finding No. 2. There are errors and omissions in the TIS LOS analyses, their results, and the applicant's interpretations thereof. These deficiencies result in an understatement of project impacts and mitigation requirements. The Council reviewed and considered applicant's expert's statements, particularly the July 18 and July 25th responses from Transpo. As described in these findings, the Council did not find them persuasive.

Trip distribution could vary significantly from the scenario relied upon in Applicant's analysis. Due to the regional nature of Applicant's market area and the visibility of the site from a busy freeway, site-generated traffic traveling to and from US 26 and points south is likely to be much greater than estimated. The result would be additional, un-accommodated pressure on the intersections at and around the site. There is no other Wal-Mart on the west side and there was testimony that people would drive a long ways to get to this one.

In particular, Applicant's TIS trip generation estimates underestimate the potential development of this site and resulting trip generation. For example, the development of a fast food restaurant in the "miscellaneous retail" space would increase trip generation by over 100 trips in the p.m. peak hour. Applicant's expert states that this concern is unfounded as the building is too large for a fast food restaurant and there is no direct access. The Council finds fast food restaurants, sandwich shops, coffee shops and the like are the predominant use in similar adjacent strip commercial and accepts the testimony of Mr. Bernstein over the conflicting testimony of applicant's expert.

Applicant's LOS analysis worksheets show over saturated traffic flow conditions (in other words, that volume exceeds capacity) for a number of movements at several of the studied intersections. The Highway Capacity Manual requires that demand traffic volumes be used in place of the traffic counts employed by the applicant. This was not done resulting in unrealistically low volume estimates for all scenarios because they are based upon under-reported existing volume.

Applicant also relied upon an excessive saturation flow rate for turning movements of 1900 vehicles per hour, when actual saturation flow rates for turns range between 1200 and 1450 vehicles per hour. Use of more accurate numbers would show longer queues, greater delays, and

a lower level of service than claimed. Mr. Bernstein provides a description of the flow rates for vehicles through an intersection at 1900 vehicles per hour. However, this is different for the turn rate. The turn rate is reduced to 1200-1450 per hour. The applicant's response is that we have always done it that way. July 18, 2006 Transpo Memorandum page 7. This does not answer the question and this is another issue as to which the Council finds that the applicant has not met its burden of proof.

We are not persuaded that the applicant has adequately analyzed existing or expected neighborhood infiltration and short-cutting to avoid congestion in the project area. Traffic data in the TIS already shows such short-cutting on Celeste Lane. Neighborhood streets are not designed or built to accommodate such through traffic, and cut-through traffic negatively affects traffic, bicycle, and pedestrian safety. The applicant's expert states that the intersection improvements have a potential to reduce cut-through traffic. Council is not convinced, as described herein, that the improvements will reduce congestion and therefore this standard has not be adequately considered.

Another issue that Mr. Bernstein addresses is that existing cut-through traffic was not counted in applicant's numbers. Applicant's expert does not refute this statement but opines that with the intersection improvements, cut-through traffic will decline. The Council is not certain of that decline but assuming it is true, applicant's expert agree that this cut-through traffic will be re-routed into the system and the Council finds that applicant has not accounted for it.

The sheer length/width of the pedestrian crossings of Cedar Hills Boulevard and Barnes Road adjacent to the site by themselves preclude pedestrian safety and convenience. (The simple provision in the traffic signal timing of a computed minimum crossing time for pedestrians does not make the crossing safe, and it certainly provides no convenience.) As a result, the intersection improvements proposed as mitigated are in conflict with the requirement for pedestrian safety and convenience, the primary purpose of which is to encourage and facilitate increased pedestrian activity and transit use. Furthermore, the requirement of the three pedestrian "refuge islands" so that pedestrians can cross the expanded intersections in two or

three phases, fails to meet the needs of pedestrian safety and convenience. A two or three phase pedestrian crossing requiring one or two intermediate stops defeats the purpose of pedestrian safety and convenience. Applicant's expert stated a center pedestrian refuge island is not acceptable because "it would be undesirable as it would make the crossing longer." July 18, 2006, Transpo Memo Page 9. The Council similarly agrees as to the proposed islands.

With respect to pedestrian traffic, the TIS states that pedestrian activity "is currently minimal and expected to remain low." This is a self-fulfilling prophecy, failing to account for the additional pedestrian traffic the proposed development would generate but would not adequately accommodate. (As discussed below with respect to Mr. Armstrong's comments, it also contradicts the need stated by staff, Washington County, and ODOT for bicycle and pedestrian facilities along the west side of Cedar Hills Boulevard.) The sheer width of the intersection crossings, 130 feet and 106 feet, with or without the refuge islands, will cause pedestrians to avoid the affected intersections. This will limit or prevent pedestrian access to the site, and hamper and discourage access between residential neighborhoods and the Barnes Road bus stops. Such barriers and obstacles to the pedestrian circulation system are unacceptable to serve pedestrians and transit users. (See e.g., BDC 40.03.07 and 60.55.20.4.E.4). The mitigation proposal, the pedestrian island and countdown signals are inadequate. July 18, 2006, Transpo Memo Page 9.

The street system in the vicinity of the site is a complex network of regional freeway ramps, major urban arterials, local streets, and private driveways already suffering from severe congestion and experiencing significant traffic growth. Many affected intersections on Barnes Road, Cornell Road, Leahy Road, and the US 26 and Highway 217 ramp junctions (merge and diverge areas) and weave sections, have not been analyzed. Capacity/LOS analyses should have been extended to include at least the above-listed intersections, ramp junctions and weave sections.

The applicant failed to analyze the direct and indirect impacts of traffic pattern changes which will result from congestion in the project area. Background traffic volumes should have

been determined using a traffic assignment model taking into account the shifting patterns resulting from rapid growth and congestion in the study area.

Finding No. 3. The Cedar Mill area street system does not adequately support this one project, nor does it adequately support the overall level of development envisioned for the area.

Applicant's TIS analyses show the area street system to be "close to failure" in 2007, with key traffic movements at key intersections at or near capacity and queues extending back to upstream freeway ramp and arterial intersections. When the correct analyses are applied, the traffic system will be flooded and will fail. Any one of the following, reasonable scenarios would result in the area street/highway system, as "mitigated" by Applicant, becoming overloaded and failing: (1) higher trip generation on retail pads, such as a fast food restaurant; (2) a modest increase in pedestrian volumes, creating increased pedestrian calls at signals; (3) rerouting of existing neighborhood cut-through traffic back onto arterials and collectors; (4) a greater number of site-generated trips en route to and from the Sunset Highway and points south; (5) use of a reasonable saturation flow rate for turns; (6) the effects of on-ramp queues; and (7) the actual volume of holiday season (Thanksgiving through Christmas) traffic volumes. With respect to the one-month holiday season, traffic volumes are typically as much as 30 percent higher than normal, resulting in greater delays, longer queues, and a lower Level of Service. Most of these issues have been addressed above. In response to issue #7, the applicant's expert states that holiday traffic is "unstable but recognizes that retail traffic increases. This is a proposed retail use. Council agrees with Mr. Bernstein that traffic volumes generally increase in the holiday season, particularly for retail uses and the dark, wet conditions often exacerbate traffic problems during this time.

As reflected in Mr. Bernstein's reports, the preponderance of the evidence reveals that each of the above scenarios is more likely than not to occur and creates unresolved concerns as to the applicant's experts statement as to these points.

Finding No. 4. The street and traffic control improvements proposed as mitigation measures are inadequate and/or inappropriate.

Even with the proposed mitigation measures the TIS analyses show the street system on the close to failure in the analysis year of 2007, with several traffic movements at several intersections at or near capacity, and intersection queues at several locations backing up to nearby upstream intersections. Because TIS traffic volumes are probably low as discussed above, the proposed mitigation measures cannot ensure adequate operations in 2007 or thereafter.

The TIS analyses show the proposed signal at the intersection of Cedar Hills Boulevard and the Eastbound US 26 ramps will function adequately only under ideal circumstances, with a continuously smooth flow of traffic, no queue blockage on the on-ramp, and no volume beyond that assumed in the TIS analysis. We find those ideal circumstances are unlikely to occur in the real world.

The proposed mitigation measures do not adequately account for impacts on pedestrian and bicycle circulation and safety or transit operations. Pedestrian mobility will be adversely affected by the expansion of the intersections and the two-step crossing process discussed above. The Council finds that the use of the pedestrian islands will discourage pedestrian use as it will take longer to cross the streets and can expose pedestrians to danger as they are islanded with little protection in the stream of traffic. The pedestrian crossings at Cedar Hills Boulevard and Barnes Road in particular are so wide that truly safe and convenient pedestrian circulation is not possible.

Finding No. 5. The proposed project will degrade transit access and circulation in the site vicinity, and the proposed mitigation measures will make transit access and circulation worse, not better.

There are no proposed bus stops adjacent to the proposed development or convenient to the site. The applicant's design thus precludes convenient access by transit, requiring pedestrians to cross eight or ten lanes of traffic *en route* to and from the bus stops that would supposedly serve (but would not functionally serve) the site.

Finding No. 6. The proposed project will degrade pedestrian access, circulation, and safety in the site vicinity, and the proposed mitigation measures will make conditions for pedestrians worse, not better.

Applicant's TIS lacks a comprehensive evaluation of the availability and condition of pedestrian connections between the development site and transit stops and stations, nearby neighborhoods, and areas south of US 26. As such, the TIS does not adequately address impacts of the proposed development on pedestrian and bicycle circulation and safety. Also, for the reasons set out above, the cumbersome and inconvenient pedestrian crossings would further degrade transit access. The applicant's expert state that they only observed one pedestrian in a two hour period by this vacant lot and opine that pedestrian volumes "may increase." July 18, 2006 Memorandum from Transpo Group. The purpose of the TO zone is to increase pedestrian use. As described in WCDC 375-1.4 "the purpose of transit oriented district is to limit development to that which * * * is designed to encourage people to walk, ride a bicycle or use transit for a significant percentage of their trips." Furthermore, the Council does not find a response to the concerns raised by Mr. Bernstien that the use of "an appropriate single timing plan-one that meets pedestrian safety and convenience needs-would result in longer queues, greater delay and lower LOS than the applicant's analysis." The Council finds Mr. Bernstein's position more credible.

Finding No. 7. The proposed project will degrade traffic and pedestrian safety in nearby residential neighborhoods.

Traffic already uses neighborhood streets such as Valeria View and Celeste to avoid existing congestion on arterials. This problem will be increased by the proposed development, but the safety impacts of such cut-through traffic on traffic and pedestrian safety in the affected residential neighborhoods are not adequately considered.

Finding No. 8. *Even assuming their validity*, the applicant's traffic analyses still bring the Barnes Road/Cedar Hills Blvd. intersection very close to failure. For the reasons identified in Finding No. 2, above, those analyses rely upon errors, omissions, and

assumptions which are either unrealistic or unduly optimistic. From this, we find the system will likely fail in 2007.

Finding No. 9. Washington County's duly adopted Cedar Hills-Cedar Mill Community Plan designates access points for the applicant's site which are materially different from the private street access approved by BDR. The Community Plan also shows pre-approved access points for the Peterkort West tract on the north side of Barnes. Those access points are symmetrical with respect to those shown for the Wal-Mart site, namely a full access drive 550 feet from Cedar Hills Blvd. and a right-in/right-out drive at the property line with Choban on the west. The County's planning and zoning designations apply to this application. The approved access violates the County's comprehensive plan. To remedy this, Applicant is required to obtain an access spacing variance from the County.

The County Transportation Review letter dated March 3, 2006, from Phil Healy, Sr. Planner, states at page 5 that in its review of Applicant's Access Spacing Modification Request, the "County reserves the right to require additional conditions for access to SW Barnes Road following the County Traffic Engineer's review of the Modification Request." Obviously, such additional conditions may alter the characteristics of the proposed private street and/or the functioning of its intersection with Barnes. This would potentially undermine the applicant's (and agencies') assumptions regarding the functioning of the Barnes/Cedar Hills Blvd. intersection which form the basis for BDR's approval. This is impermissible.

Applicant argues that the County will apply a Type II land use process to said modification, pursuant to BDC 202-203. (Applicant's Written Closing Statement, May 25, 2006, at 21-22.) This is incorrect. In an exhibit attached to SCM's July 18, 2006, filing of is an e-mail from Loretta Skurdahl of Washington County Counsel, dated May 2, 2006. Ms. Skurdahl states that the procedure for the modification proceeding is not a land use procedure, but a procedure set out elsewhere in the Washington County Code, at Section 15.08.234-250.

Attached as an exhibit to SCM's July 18, 2006, are copies of relevant provisions from the code sections cited by Ms. Skurdahl. The sections in question make no provision for public notice. A written request is submitted to the County Engineer under WCC 15.08.240. The

County Engineer reviews and passes upon the request as set out in WCC 15.08.243. Finally, under WCC 15.08.246, *the only available appeal belongs to the applicant*. As there is no notice and opportunity for a hearing on the access spacing variance, and as this is not a deferral to a state agency with expertise in the area, the City is required to make a finding that it is feasible to obtain this access spacing.

Finding No. 10. Furthermore, WCD 501-8.5B(4)(a) provides that access points connecting to arterials must be more than 600 feet from the nearest intersection. An exception can be sought under WCD 501-8.5C which requires a submittal of an access management plan that address safety and operational concerns. Here, the applicant's proposed access fails the 600-foot requirement by approximately two-thirds. The same procedural flaws identified in Finding No. 9 would taint any request by the applicant to the County for a modification to the standard.

Finding No. 11. The road and intersection improvements proposed in the application are critical facilities as defined by the BDC. BDC 40.03.1 requires critical facilities to have adequate capacity to serve the proposal at the time of its completion.

Finding No. 12. Washington County has reserved the right to require additional conditions for access to SW Barnes Road following the County Traffic Engineer's review of the applicant's Access Spacing Modification Request. Any such additional conditions may alter the characteristics of the proposed private street and/or the functioning of its intersection with Barnes, undermining the assumptions in the record regarding the functioning of the Barnes/Cedar Hills Blvd. intersection. The application cannot be approved on this basis.

Finding No. 13. The proposed private street access occupies a different location from the access points designated by the Cedar Hills-Cedar Mill Community Plan. In the absence of re-designation by the City, the County's planning and zoning designations apply to the applicant's property. The City cannot approve the proposed point of access to Barnes Road.

Finding No. 14. There is not substantial evidence in the record that the County approval of any access spacing modification is feasible. The proposed private street access grossly deviates from the County's standard of 600 feet. The applicant points out that the

neighboring property owners, the Chobans have agreed to the change. Additionally, the applicant states that the County has approved the overall planning for the area. The Council finds that the mere fact that the neighboring property owners will agree to this modification does not demonstrate that it is feasible. Additionally, the Council finds that the County staff approval of the general transportation system is not a specific enough determination for the feasibility for this access spacing permit.

TRAFFIC CONCLUSIONS

Based upon the above findings, we conclude that BDR erred in deciding the proposed application, as conditioned, complies with the criteria related to traffic, transportation, pedestrians and transit as listed below. We further conclude the applicant therefore fails to meet its burden of proof as to each of the listed criteria because:

BDC 40.03, Facilities Review Criterion #1.

The applicant has not shown that all critical facilities and services related to the development have, or can be improved to have, adequate capacity to serve the proposal at the time of its completion. There is no substantial evidence in the record that it is feasible to grant the access spacing variance.

BDC 60.55.20.4.E.4. The applicant has failed to fully identify and analyze the impacts of its proposal upon bicycle and pedestrian circulation and facilities.

BDC 60.55.10.7. At the very least, the impacts of this development at the intersection of Cedar Hills Boulevard and Barnes Road have not been shown to be mitigated to maintain or reduce the current control delay or volume-to-capacity ratio.

BDC 60.55.25.1; 40.03.4 Facilities Review Criterion #4 The applicant has not shown that its proposal will result in streets providing safe and efficient circulation and access for pedestrians, bicycles and transit.

BDC 40.03.07 Facilities Review Criterion #7. The applicant has not shown the on-site vehicular, transit and pedestrian circulation system will connect to the surrounding circulation system in a safe, efficient, and direct manner.

III. FINDINGS UNDER DESIGN CRITERIA

The subject site was annexed to the City of Beaverton on February 11, 2005. At the time this application was filed, the City had not yet changed the Washington County zoning district on the subject property to a City zoning designation. BDC 10.40.1 provides:

“Any area annexed to the City shall retain the zoning classification of its former jurisdiction until changed by the City. In the interim period, the City shall enforce the zoning regulations of the former jurisdiction along with any conditions, limitations or restrictions applied by the former jurisdiction as though they were a part of this Code, except that the provisions of Chapters 30 through 80 of this Code shall supersede comparable provisions of the zoning regulations in force in the former jurisdiction at the time of annexation.”

The subject site is located in a Washington County Transit Oriented Zoning District, and bears Transit Oriented:Retail Commercial (“TO:RC”) zoning. Under BDC 10.40.1, that is the zoning applied to this application. No party contested this on the record. However, a dispute arose under BDC 10.40.1 as to which “zoning regulations of the former jurisdiction along with any conditions, limitations or restrictions applied by the former jurisdiction” should be enforced “as though they were a part of this Code,” and which should not be enforced because “provisions of Chapters 30 through 80 of this Code shall supersede comparable provisions of the zoning regulations in force in the former jurisdiction at the time of annexation.” The crux of this analysis turns on the comparability of certain design-related BDC provisions to Washington County’s regulations governing the TO:RC zone. Where the City’s code provisions are truly comparable, they supersede the County regulations. Where they are not comparable, we enforce the County’s regulations.

Staff provided a “crosswalk” memorandum and other materials analyzing the criteria in question. Save Cedar Mill (“SCM”) provided memoranda from Tom Armstrong, AICP, of Winterbrook Planning on July 10, 18 and 25, 2006, contesting portions of staff’s analysis, arguing that additional, significant County regulations are not superseded by the design criteria of the BDC and must be enforced. The applicant also provided a “matrix” and other materials comparing County and City criteria, and arguing many of the disputed County regulations are in fact superseded and must not be enforced. We begin our own analysis with a discussion of the TO:RC zone and the County’s implementing regulations.

Finding No. 15. Washington County Community Development Code (CDC) 375-1

describes the intent and purpose of Transit Oriented Districts as follows:

“375 TRANSIT ORIENTED DISTRICTS

375-1 Intent and Purpose

The intent of the transit oriented districts is to direct and encourage development that is transit supportive and pedestrian oriented in areas within approximately one-half mile of light rail transit stations, within one-quarter mile of existing and planned primary bus routes and in town centers and regional centers.

The purpose of the transit oriented districts is to limit development to that which (1) has a sufficient density of employees, residents or users to be supportive of the type of transit provided to the area; (2) generates a relatively high percentage of trips serviceable by transit; (3) contains a complementary mix of land uses; (4) is designed to encourage people to walk; ride a bicycle or use transit for a significant percentage of their trips.”

The County’s TO:RC zoning is specifically implemented by design principles and standards contained in CDC Chapter 431. CDC 431-1 provides as follows:

“431 TRANSIT ORIENTED DESIGN PRINCIPLES, STANDARDS AND GUIDELINES

431-1 Intent and Purpose

The following design principles, standards and guidelines shall be applied to the review of all development occurring in transit oriented districts, for those uses listed in Section 375. Principles are the broad, fundamental rules upon which the standards and guidelines are based. All Type III applications for development in transit oriented districts shall demonstrate compliance with applicable principles and/or standards of this section. Standards are specific, usually quantitative, rules which development applications must comply with if processed through a Type I or II procedure. Guidelines are advisory statements that should be considered when designing a development in a transit oriented district, but are not mandatory. Because an application for a development may vary from a standard in this Section when the application demonstrates, through a Type III process, compliance with the related design principle, a variance or hardship variance pursuant to Section 435 shall not be granted from any standard in this Section.”

CDC 431-3 contains the following definitions:

“431-3.7 Pedestrian Route Any accessway or greenway, as defined by Section 408-3, and any pedestrian street.

431-3.8 Pedestrian Street Any public or private street, but not including freeways, alleys, parking lot access drives, and parking lot aisles.”

CDC 431-4 provides in material part as follows with respect to block lengths in Transit Oriented Districts:

"431-4 Circulation System Design

431-4.1 Principles:

*** * ***

- B. Block dimensions and perimeters shall be at an urban rather than a suburban scale; * * ***

431-4.2 Standards:

*** * ***

C. Blocks

- (1) Block perimeters for blocks with more than four sides, as defined by public or private streets, accessways or greenways, shall not exceed sixteen hundred (1,600) feet measured along the nearside curb line of the public or private street or the centerline of the defining accessway or greenway. These standards shall not be used to provide direct connections to collector roads where indirect connections are specifically shown in the community plan.**

Block lengths for streets, accessways and greenways shall not exceed three hundred thirty (330) feet between public or private streets, accessways or greenways, measured along the nearside curb line of the public or private street or the centerline of the accessway or greenway. These standards shall not be used to provide direct connections to collector roads where indirect connections are specifically shown in the community plan."

D. Design

*** * ***

- (2) When streets are utilized to meet the block length and block perimeter standards within the TO:R24-40, TO:R40-80, TO:R80-120, TO:EMP, TO:BUS, and TO:RC Districts, the Special Area Commercial Street standards shall be used, except for existing or planned arterials or collectors or other specific street designations in the Community Plan.**

*** * ***

CDC 431-5 provides in material part as follows:

"431-5 Streetscapes for Pedestrians

431-5.1 Streetscapes - Transit Oriented Districts

These principles and standards apply to the network of pedestrian streets within transit oriented districts.

A. Principles:

- (1) Development along pedestrian routes shall be designed to encourage use by pedestrians by providing a safe, comfortable and interesting walking environment. Examples of pedestrian enhancements that help foster such a**

pedestrian environment can be found in the county's Pedestrian Enhancements Design Guideline Booklet.

B. Standards:

- (1) * * * Where a development site in a TO:BUS District fronts only on a pedestrian street that does not allow on-street parking, buildings shall be built to the sidewalk edge for a minimum of seventy-five (75) percent of the site's pedestrian street frontage (excluding street and accessway intersections). Where a development site in a TO:RC District fronts only on a pedestrian street that does not allow on-street parking, buildings shall be built to the sidewalk edge for a minimum of fifty (50) percent of their site's pedestrian street frontage (excluding street and accessway intersections).

* * *

- (4) Minimum sidewalk widths in Transit Oriented Districts shall be the widest identified by the Washington County Uniform Road Improvement Design Standards for the adjacent Special Area Street (as shown in the 2020 Transportation Plan, Figures 6 through 8), except for Special Area Commercial Streets. Special Area Commercial Streets shall have sidewalks that are a minimum of twelve (12) feet in width. On arterials within or adjacent to Transit Oriented Districts and which are designated as 'Boulevards' on the Regional Street Design Overlay Map in the 2020 Transportation Plan, the minimum sidewalk width shall be twelve (12) feet (see Technical Appendix B-8 of the 2020 Transportation Plan for typical roadway cross-sections).

* * *

CDC 431-5.3 provides in material part:

"431-5.3 Building Facades

A. Principles:

- (1) The dominant feature of a building frontage shall be the habitable area with its accompanying windows and doors. Parking lots, garages, and solid wall facades (e.g., warehouses) shall not dominate a pedestrian street frontage.
- (2) Developments shall be designed to encourage informal surveillance of pedestrian streets and other public spaces by maximizing sight lines between the buildings and the pedestrian street.

* * *

B. Standards:

- (1) Ground floor windows shall be provided on building facades facing a pedestrian route or common open space. Garage door windows shall not count towards compliance with this standard.

* * *

- (3) Except as provided in Section 431-12, ground floor building facades along a pedestrian street in the TO:RC or TO:BUS Districts must contain unobscured windows for at least fifty (50) percent of the wall area and seventy-five (75) percent of the wall length within the first ten (10) feet of wall height. Required windows shall allow views in to lobbies or similar areas of activity, building entrances, or merchandise type displays. Lower window sills shall not be more than three (3) feet above grade except where interior floor levels prohibit such placement, in which case the lower window sill shall not be more than a maximum of four (4) feet above the finished exterior grade.

* * *

The City sets out its own planning guidelines in BDC 60.05. ¹ For example, BDC 60.05.040 addresses circulation and parking design guidelines. BDC 60.05.35 addresses building design and orientation guidelines; BDC 60.05.35.1 addresses “building elevation design through articulation and variety.” BDC 60.05.35.6 addresses building location and orientation in multiple use and commercial districts. BDC 60.05.35.8 addresses ground floor elevations on commercial and multiple use buildings. However, for the reasons explained below, the design guidelines set out in BDC 60.05 are not comparable to the County’s design principles and standards governing development in Transit Oriented Districts identified above.

The City’s design guidelines do not address transit-oriented design specifically, but are generic and apply throughout the City (*See e.g.* BDC 60.05.40.) Such broad design guidelines cannot be deemed comparable to design principles and standards unique to transit-oriented

¹We note here that the structure of the City and County design regulations is different. The principles, standards and guidelines in CDC Chapter 431 are applied differently from the Beaverton regulations. In CDC Chapter 431, the principles and standards are the applicable regulations, and guidelines are advisory statements that are only to be “considered” in designing a transit oriented development. CDC 431-1 states:

“All Type III applications for development in transit oriented districts shall demonstrate compliance with applicable principles and/or standards of this section. Standards are specific, usually quantitative, rules which development applications must comply with if processed through a Type I or II procedure. Guidelines are advisory statements that should be considered when designing a development in a transit oriented district, but are not mandatory.”

On the other hand, in the parlance of the City’s Development Code, the mandatory design criteria are referred to as “guidelines.”

districts. The TO:RC zone provides for a wide range of retail uses, all of which must comply with the design principles and standards of CDC 431. The TO:RC zone would be a hollow shell without the availability and applicability of the design principles and standards of CDC 431.

A common zoning practice is to create a gradation of development standards depending upon the size of the building, *e.g.*, up to 50,000 square feet, 50,000-100,000 square feet, and more than 100,000 square feet. However, Washington County has chosen to apply the design principles and standards to all such development, regardless of its size. The TO:RC zone allows retail commercial development in excess of 5,000 square feet. We do not interpret this size limitation as allowing *carte blanche* for retail development within that zone. Rather, the design principles and standards integrated into that zone control the size and scale of what can be built. That is precisely how the objectives of the TO:RC zone are accomplished and how the County has chosen to achieve the intent and purpose of Transit Oriented Districts set out in CDC 375-1:

“ * * * The purpose of the transit oriented districts is to limit development to that which (1) has a sufficient density of employees, residents or users to be supportive of the type of transit provided to the area; (2) generates a relatively high percentage of trips serviceable by transit; (3) contains a complementary mix of land uses; (4) is designed to encourage people to walk; ride a bicycle or use transit for a significant percentage of their trips.”

The structure of the County regulations is such that the County's design principles and standards in CDC Chapter 431 cannot be unlinked or de-coupled from the use regulations contained in CDC Chapter 375. To discard any of these principles and standards based upon an argument the City's more general, less restrictive design criteria are comparable would be the equivalent of discarding the County zoning itself, so closely are the County design principles and standards integrated into the TO:RC zone and essential to achieving the purposes of the zone.

We also note that the TO:RC district is not an exclusively retail commercial district. It allows for offices and a wide range of housing types, including high rise apartments, all so long as the proposed development complies with a 60 foot height limit *and* all the transit-oriented design standards. It is certainly not a district focused on big box development.

For the reasons set forth above, we find the listed County criteria are applicable to this application because the City lacks comparable criteria pursuant to BDC 10.40.1. We now turn our attention to those criteria.

Finding No. 16. The most important County design principles and standards in a Transit Oriented District apply only to pedestrian streets, which are defined as "[a]ny public or private street, but not including freeways, alleys, parking lot access drives, and parking lot aisles." CDC 431-3.8. The two streets contiguous to the subject site, Barnes Road and Cedar Hills Boulevard, are both public streets. It has been argued that because ODOT asserted control over access to the portion of Cedar Hills Boulevard immediately adjacent to the site frontage for the westbound on-ramp to US 26, this frontage should be considered a freeway and therefore exempt from any County design standards that apply to pedestrian streets. This argument fails for several reasons.

First, the definition of "freeway" is not dependent on jurisdictional control; it is dependent on the functionality of the street. Cedar Hills Boulevard is designated as a County arterial on the Functional Classification System Map of the Washington County TSP (Figure 4D at page 4 of July 10 Armstrong memorandum). The approach roads to Highway 26 are designated as "Arterials.". Moreover, in its May 2 letter, ODOT admits it does not have jurisdictional control over Cedar Hills Boulevard (Exhibit 2.23).

Further, access control is not the sole determinant of a roadway classification. There are limited access arterials, just as there are limited access highways. The transit oriented design standards operate independently of access management controls.

Perhaps most importantly, freeways do not have pedestrian facilities. Cedar Hills Boulevard is a major connector from the Cedar Mill community to Downtown Beaverton. It has a sidewalk on the east side of the street. The May 2 staff findings (page SR-15) support the concept that Cedar Hills Boulevard is an important pedestrian connection:

"Originally, County and ODOT transportation plans did not include any pedestrian improvements along the west side of Cedar Hills. Instead, they expected to direct pedestrians and bicycles to a widened sidewalk along the east side of Cedar Hills. During the Wal-Mart review, the two agencies reviewed their plans and concluded that bicycle and pedestrian facilities are needed along both sides of Cedar Hills Boulevard. ***

Wal-Mart is not the primary reason for the undercrossing. The undercrossing is primarily intended to serve existing bike and pedestrian traffic and increased traffic from future residential development in the area."

The condition of an undercrossing improvement conflicts with staff's effort to characterize the street as something other than a pedestrian street.

Finally, we note the photograph attached to Mr. Armstrong's July 25 memorandum, looking northwest across Cedar Hills Boulevard toward the applicant's site. It does not appear to us to show a freeway.

Finding No. 17. In weighing the applicant's proposal against the applicable design principles and standards relating to pedestrian streets, as well as all the other design criteria herein, we have carefully considered all the applicant's submittals, including the design modifications presented to the Board of Design Review. Each member of the City Council has reviewed the contents of the voluminous record before us, and is aware of the commentary of staff and the arguments of the applicant. Only after full consideration of the materials before us do we make the findings set out here.

We find that the applicant's design for the Cedar Hills Boulevard frontage violates CDC 431-5.1.A.1 and B.1 because it does not provide a safe, comfortable, and interesting pedestrian environment, in that the predominant element is a surface parking lot. The proposed design fails to locate buildings along the sidewalk edge for a minimum of 50 percent of the Cedar Hills Boulevard frontage, and has no presence on Cedar Hills Boulevard. The proposed design offers retail space with minimal architectural features attached to what is essentially a strip commercial building, which is then set back a distance from the sidewalk edge.

We also find the suggestion made on behalf of the applicant that the Cedar Hills Boulevard frontage design is appropriate (and by implication held to a lower standard) because Cedar Hills Boulevard "will be less utilized by pedestrians in comparison to Barnes Road" is contradicted by the identified need for pedestrian connections along this alignment discussed above. Furthermore, the applicable design principles and standards do not provide an applicant with a "discount" based on such distinctions; all pedestrian streets are subject to the same design principles and standards.

Finding No. 18. Under CDC 431-5.1.A.1, the Barnes Road frontage of the proposed Wal-Mart does not provide a safe, comfortable, and interesting pedestrian environment because it is not integrated into the major activity centers of the development. The "pedestrian plaza" creates corners and dead space that are unsafe. The small office space, parking garage, and blank walls do not provide any interest or activity along the sidewalk, and the office space is too small

to provide "eyes on the street" to create a safe environment. The tower feature at the corner is not a major entrance, but only secondary retail space that further reduces the pedestrian activity along Barnes Road.

By elevating the Wal-Mart space above the street and sidewalk, the proposed design removes the vitality from the street. Finally, the actual main entrance to the store is set back more than 80 feet from the street, which further shifts the focus of the major activity to the east side of the building and the parking lot, and not the Barnes frontage. For all these reasons, the applicant has failed to prove compliance with CDC 431-5.1.A.

Finding No. 19. The Barnes Road frontage also fails to comply with the building facade principles of CDC 431-5.3.A.1 and 2 and B.3. The parking garage and the solid wall dominate the streetscape, accounting for 56 percent of the building frontage. There is no reason to walk out to Barnes Road because there is no activity along this building frontage. The habitable space, in the form of the minimal amount of office space or the secondary retail space, is not a dominant feature. The attempt to soften the appearance with a pedestrian plaza creates dead spaces with no opportunities for surveillance. The applicant's perspective illustration (Exhibit A-14 of Applicant's May 30 submittal) doesn't show the surrounding two-story, 30-foot building wall that will place the plaza into shadow. There is no reason for anyone to use this space; it is leftover space. The entrance to the parking garage serves no function because the customers are headed to the main entrance on the opposite side of the garage. The office space is too small to generate any significant use of this plaza. The Barnes Road façade fails to provide enough ground floor windows, both in terms of length and area. Further, what windows there are offer views of the parking garage, which does not qualify as space for active uses. In addition, the Barnes Road frontage does not provide adequate ground floor windows that allow views of activity areas. Views of the parking garages do not give rise to compliance with this standard.

Finding No. 20. Taken together, both frontages of the proposed development and the applicant's entire design are far removed from compliance with the above provisions of CDC 431-5.1 and 5.3. The fundamental failure of the proposed design is the applicant's adherence to a basic big box concept. The main entrance, and even the secondary retail spaces, are oriented to

the interior parking areas rather than the streets. The applicant provides only limited architectural features and landscaping in a failed attempt to show an acceptable pedestrian environment. There is nothing alluring, comfortable, or interesting about uninhabitable space, blank walls and locked doors.

Finding No. 21. CDC 431-4 governs Circulation System Design, and applies to the design and location of the circulation system here. BDC 60.05.35.6-60.05.40.9 do not provide comparable design guidelines for the street system and pedestrian circulation; they are not comparable to the County principles and standards. In particular, CDC 431-4.1 requires block dimensions and perimeters to be urban rather than suburban in scale. The applicant's proposed private street is subject to the block perimeter and block length standards of CDC 431-4.2.C. If the County's criteria did not apply, there would be no limit on block perimeter or length and, hence, the size of the proposed building. That would not be a rational outcome.

We find that the length of the private street is in excess of 600 feet from Barnes Road to the loading ramp, and the proposed driveways through the parking garage are not sufficient to meet the maximum length standard of 330 feet. A street or pedestrian accessway through the site is required to break up the superblock and create a block pattern that is at an urban rather than suburban scale, as required by CDC 431-4.1.B. The block dimensions and perimeter are not at an urban scale. The site exceeds the perimeter block standard of 1600 feet and the proposed private street exceeds the block length standard of 330 feet. We thus find the application thus fails under CDC 431-4.

Finding No. 22. CDC 431-4.2.D.2 provides that when streets are utilized in an effort to meet the block length and block perimeter standards in TO:RC districts, the Special Area Commercial Street Standards shall be used. Such standards are set out in CDC 431-5.1.B.4. Special Area Commercial Streets are required to have sidewalks a minimum of 12 feet wide. This has not been provided here. In addition, CDC 409-3.3.B sets the standards for private commercial and industrial streets, and requires sidewalks on both sides of a private commercial street. This too has not been provided here. The City has no comparable regulations regarding private streets.

Finding No. 23. Again, CDC 431-3.8 defines “pedestrian street” as “[a]ny public or private street, but not including freeways, alleys, parking lot access drives, and parking lot aisles.” We find that the applicant’s proposed private street is a pedestrian street because it would provides access and circulation not only to the subject site, but beyond the site to SW Choban Lane, 117th Avenue, and the surrounding area; a “pedestrian street” is also a “pedestrian route” under CDC 431-3.7. The applicant treats the proposed private street as a driveway and the private street facade is dominated by the parking garage. It does not include ground floor habitable space; building entrances; a facade with interest, articulation, and quality design. It completely fails to create a safe, comfortable and interesting walking environment. Again, the City has no comparable regulations of private streets. We thus find the design of the private street frontage violates CDC 431-5.1.A and B.

Finding No. 24. CDC 431-5.2 requires pedestrian streets to have a building entrance or a pathway to the building entrance. The proposed private street offers only a pathway through the applicant’s parking garage. This is not sufficient to meet the requirements of CDC 431-5.2, and the applicant has failed to demonstrate compliance with it.

For each of the above reasons, the applicant has failed to meet its burden of proof in this case. Each of these failures relates to an essential element of the applicant’s burden of proof and mandates denial of the application.

Alternative Design Findings

For the reasons we have explained in detail, we found the City’s design guidelines not to be comparable to the County design principles and standards applied above. However, even were we to apply the City’s own criteria, we would be compelled to deny the application. Based upon the same detailed review of the record discussed above, and in the alternative to our findings under the County design criteria, we make the following alternative findings; each alone reflects an essential element of the applicant’s proof, and mandates denial herein:

Alternative Design Finding No. 1. The application violates BDC 60.05.35.1.E and .F. The proposed building design and orientation do not create a comfortable pedestrian environment. The building orientation along Barnes Road is dominated by blank walls and parking garages. The

Cedar Hills Boulevard frontage does not have any pedestrian orientation. The private street facade does not include any pedestrian facilities or features.

Alternative Design Finding No. 2. The application violates BDC 60.05.35.6.A. The proposed design along Cedar Hills Boulevard is dominated by parking lots and landscaping. The Retail 2 building has only a secondary orientation to the intersection and accounts for only a small fraction of the Cedar Hills Boulevard frontage.

Alternative Design Finding No. 3. The application violates BDC 60.05.35.8.A. The facade of the Wal-Mart building along Barnes Road provides only limited views into retail or office space. The building facade is dominated by blank walls and parking garages.

Alternative Design Finding No. 4. The application violates BDC 60.05.40.7.A. Designing pedestrian connections for a high level of pedestrian activity is different from designating Major Pedestrian Routes. This guideline applies to all street frontages, not just Major Pedestrian Routes. A pedestrian connection is required along the private street, but the proposed pedestrian pathway through the parking garage is not sufficient to encourage high levels of pedestrian activity.

IV. CONCLUSION

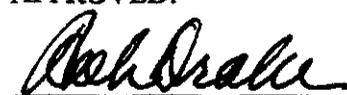
The applicant has failed to carry its burden of proof in each of the ways discussed above. Each of the above findings is supported by substantial evidence in the record and any one of them relating to approval criteria is sufficient to compel a decision to deny the application.

For all the reasons set forth above, applicant's application is hereby denied.

Dated this 17th day of August, 2006.

ATTEST:

Deputy City Recorder
SUE NELSON, City Recorder

APPROVED:

ROB DRAKE, Mayor

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

IN THE MATTER OF A REQUEST TO AMEND) ORDER NO. 1913
BEAVERTON DEVELOPMENT CODE) TA2006-0007 RECOMMENDING APPROVAL
SECTION 10.40.1. CITY OF BEAVERTON,) OF CODE APPLICABILITY FOR ANNEXED
APPLICANT.) AREAS TEXT AMENDMENT.

The matter of TA 2006-0007 (Code Applicability for Annexed Areas Amendment) was initiated by the City of Beaverton, through the submittal of a text amendment application to the Beaverton Community Development Department.

TA 2006-0007 proposes to amend Section 10.40.1 of the Beaverton Development Code to clarify the applicability of City Development Code regulations and standards for areas which have been annexed by the City but have yet to be rezoned to a City zoning designation.

Pursuant to Ordinance 2050 (Development Code), Section 50.50 (Type 4 Application), the Planning Commission conducted a public hearing on October 4, 2006, and considered oral and written testimony and exhibits for the proposed amendment to the Beaverton Development Code.

At the October 4, 2006 hearing, the Commission received testimony from Jeff Kleinman and Jim Johnson who stated that the proposed amendment is inappropriate for the City for the following reasons:

- 1) That because the City Council's Land Use Order and Findings for the Town Center Too application cited in findings the premise that Washington County design standards appropriately addressed and implemented the intent of Washington County zoning. Therefore, the proposed text amendment is inconsistent with the City Council findings and decision.

- 2) Mr. Kleinman asserted that applying City design standards are not comparable to the Washington County design standards and principals and those City standards, unlike Washington County standards, are not intended to work hand in hand with Washington County zoning.
- 3) Mr. Johnson testified that by applying City design standards the risk for inappropriate development is increased.

The Planning Commission considered the testimony and concluded that it understood the importance of the Washington County zoning standards and the importance of not eliminating development standards. The Planning Commission found that the City's existing design standards contained in Chapter 60 of the City Development Code, while not identical to Washington County's development standards, include standards which are comparable with the standards contained in the Washington County code. Therefore, the City's Code does contain appropriate standards to review development proposals for parcels which are located in the City but have not received City zoning designations.

The Planning Commission further concluded that annexed properties are in the City of Beaverton, any future development should be subject to the City's zoning regulations with the exception of those zone specific regulations such as allowed uses, building heights, and setbacks. The result of the amendment would clearly specify the applicability of the City's standards to future development on parcels which have yet to receive City zoning and will provide all interested parties clear understanding of the development standards which must be met by a future development proposal.

The Planning Commission adopts by reference the September 27, 2006, Staff Report, as to criteria contained in Section 40.85.15.1.C.1-7 applicable to this request contained herein; now, therefore:

IT IS HEREBY ORDERED that pursuant to Section 50.50.1 of the Beaverton Development Code, the Planning Commission **RECOMMENDS**

APPROVAL of the proposed amendment to Section 10.40.1 as contained within TA 2006-0007. The Planning Commission finds that evidence has been provided demonstrating that all of the approval criteria specified in Section 40.85.15.1.C.1-7 are satisfied for the modification to Section 10.40.1 of the Development Code.

Motion **CARRIED** by the following vote:

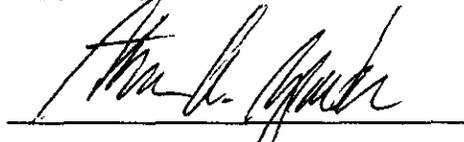
AYES: Stephens, Winter, Maks, and Pogue.
NAYS: Bobadilla.
ABSTAIN: None.
ABSENT: Kroger and Johansen.

Dated this 10th day of October, 2006.

To appeal the decision of the Planning Commission, as articulated in Land Use Order No. 1913 an appeal must be filed on an Appeal form provided by the Director at the City of Beaverton Community Development Department's office by no later than 4:30 p.m. on Friday, October 20, 2006.

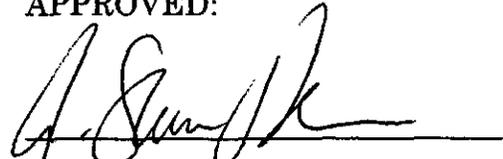
**PLANNING COMMISSION
FOR BEAVERTON, OREGON**

ATTEST:



**STEVEN SPARKS, AICP
Development Services Manager**

APPROVED:



**J. SHANNON POGUE
Vice-Chairman**

PLANNING COMMISSION MINUTES

October 4, 2006

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44

CALL TO ORDER:

Vice-Chairman Shannon Pogue called the meeting to order at 6:30 p.m. in the Beaverton City Hall Council Chambers at 4755 SW Griffith Drive.

ROLL CALL:

Present were Vice-Chairman Shannon Pogue, Planning Commissioners Scott Winter, Ric Stephens, Melissa Bobadilla, and Dan Maks. Chairman Eric Johansen and Planning Commissioner Wendy Kroger were excused.

Associate Planner Sambo Kirkman, Senior Planner Colin Cooper, AICP, Senior Transportation Planner Don Gustafson, Assistant City Attorney Ted Naemura, and Recording Secretary Sheila Martin represented staff.

The meeting was called to order by Vice-Chairman Pogue, who presented the format for the meeting.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44

NEW BUSINESS:

PUBLIC HEARINGS:

II. TA 2006-0007 - ANNEXATION - APPLICABILITY OF STANDARDS

Amendment to Section 10.40.1 of the Beaverton Development Code to clarify the applicability of City Development Code standards for areas which have been annexed to the City but have yet to be rezoned to a City zoning designation.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44

Vice-Chairman Pogue outlined the applicable approval criteria with regard to this application and briefly described the hearing process.

On behalf of Development Services Manager Steven Sparks, Senior Planner Colin Cooper presented the Staff Report and explained that this proposed amendment is intended to provide clarity for applicants, staff, and citizens with regard to which provisions of the Code will be applied those sites that continue to have County zoning following annexation into the City of Beaverton. He pointed out that several recent examples involve the Teufel Planned Unit Development and the proposed Wal Mart. Concluding, he offered to respond to questions.

Commissioner Maks observed that this will not address situations in which a residential area with a county land use approval is annexed into the City and current residents are not happy with this land use approval that involves standards that are not compatible with those in the City of Beaverton. He explained that the City is unable to impose new standards on property that has a previous land use approval.

Mr. Cooper agreed that the proposed text amendment does not resolve this issue.

PUBLIC TESTIMONY:

JEFF KLEINMAN pointed out that this Text Amendment had been proposed following denial of the Town Square Too/Wal Mart application, adding that the problem specifically is that the County's Ordinance involves a completely different approach from that of the City. He explained that the County utilizes the design standards of a zone to actually achieve many of the purposes, objectives, and characteristics of that zone. Referring to copies of the Town Square Too/Wal Mart Final Order that he had distributed, he noted that he had highlighted information on pages 18 and 19 that identify the City Council's specific findings and explained why what he referred to as a "broad brush modification" proposed by staff is not a good idea.

Commissioner Maks requested information with regard to the UPAA update, and Mr. Cooper responded that while the UPAA update is not moving forward very quickly, the City is moving as quickly as possible with the Comprehensive Plan and rezoning of the sites.

HENRY KANE stated that he had been designated by the Beaverton Committee for Citizen Involvement (BCCI) to attend and report on any

1 public hearings with regard to proposed text amendments. Observing
2 that this proposed text amendment involves a major land use
3 proceeding, he requested that the record be kept open for a minimum
4 of seven (7) days. He pointed out that the requirements for either the
5 published notice or mail notification had not been met and expressed
6 his opinion that this proposal involves a major zone change that is
7 designed for the financial benefit of Wal Mart and the property owner,
8 Peterkort. Observing that this proposal is in flagrant disregard for the
9 law, he noted that everybody is entitled to equal protection under the
10 laws. He requested that the record indicate that the record will
11 remain open for seven (7) days after the close of testimony,
12 emphasizing that if there is no announcement indicating so at the close
13 of the hearing, this means that he will have been denied his right to
14 justice and he will have no recourse but to file a preemptory writ of
15 mandamus proceeding against the City of Beaverton.

16
17 **JIM JOHNSON** expressed his opinion that this involves what he
18 referred to as a high-risk situation, adding that staff had been rather
19 wrong with regard to the Wal Mart application should be very careful
20 with regard to this application.

21
22 Commissioner Maks advised Mr. Johnson that he disagrees with his
23 comment with regarding to staff, emphasizing that staff does not have
24 the flexibility that a hearings body has and that they do a great job for
25 the citizens of Beaverton on a daily basis.

26
27 Mr. Cooper responded to Mr. Kane's assertion that the newspaper and
28 mailing notice were not completed properly, emphasizing that he has
29 affidavits documenting that this proposal had been noticed as required
30 through a newspaper notice and mail notice pursuant to the
31 Development Code which exceeds State law.

32
33 Responding to the request to hold the record open, Mr. Naemura noted
34 that this involves a legislative issue and therefore the Planning
35 Commission was not obligated to continue the hearing or hold the
36 record open as they would be if the hearing were a Quasi Judicial
37 hearing.

38
39 The public portion of the Public Hearing was closed.

40
41 Observing that he is likely to support this application, Commissioner
42 Maks noted that he understands Mr. Kleinman's issues, adding that
43 because he would be interested in reviewing the minutes from the Wal
44 Mart hearings, he might need more time.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43

Commissioner Winter noted that while he shares the concerns expressed by Commissioner Maks, it's necessary to realize that we are attempting to create an infrastructure that we can move forward with. He pointed out that although this infrastructure might not be perfect at this time, it is possible to make changes, adding that he is comfortable with granting the request to hold the record open.

Commissioner Maks noted that he is also comfortable with granting the request to hold the record open.

Commissioner Stephens explained that he also appreciates the concerns outlined by Mr. Kleinman, adding that County design should not be relied upon for the purpose of achieving good planning within the City. Pointing out that he supports this proposal, he emphasized that he would be willing to trust staff to close any gaps as quickly as possible. He expressed his opinion that the request to hold the record open for seven days is reasonable, adding that neither staff nor the Commission had made any attempt to avoid any public participation.

Observing that she is not in favor of this proposal at this time, Commissioner Bobadilla explained that she would prefer that this occur at a time closer to when the rezoning has occurred.

Expressing his appreciation of Mr. Kleinman's professional and constructive testimony, Vice-Chairman Pogue noted that he would be in favor of Commissioner Maks' request for additional time.

Agreeing that Mr. Kleinman's testimony is always professional and constructive, Mr. Cooper explained that the Land Use Order is utilized as a tool to support a decision of that decision-making body and that those arguments should not necessarily be used against the proposed text amendment. The proposed text will simply make it clear for future decision-making bodies which standards to apply.

Observing that he would still like to review the minutes from the Wal Mart hearings, Commissioner Maks noted that he may be able to support this application if he still has the ability to create appropriate facts and findings to deny any application that does not meet applicable approval criteria.

Mr. Cooper pointed out that a considerable amount of confusion is created by having to use the County and City Codes, as well as the

1 ongoing question of interpreting what the term "comparable
2 provisions" means.

3
4 Commissioner Stephens **MOVED** to **APPROVE** TA 2006-0007 –
5 Annexation – Applicability of Standards, based upon the facts and
6 findings presented in the Staff Report dated September 27, 2006, and
7 granting the request to hold the record open for a period of 7 days.

8
9 Mr. Naemura explained that the City Attorney's Office would prefer
10 that a final decision be postponed until the record, if held open, has
11 been closed.

12
13 Commissioner Stephens **WITHDREW** that portion of his motion to
14 **APPROVE** the request to hold the record open for seven (7) days.

15
16 Commissioner Winter **SECONDED** the motion to **APPROVE** TA
17 2006-0007 – Annexation – Applicability Standards, based upon the
18 facts and findings presented in the Staff Report dated September 27,
19 2006.

20
21 Motion **CARRIED** 4:1.

22
23 **AYES:** Stephens, Winter, Maks, and Pogue.
24 **NAYS:** Bobadilla.
25 **ABSTAIN:** None.
26 **ABSENT:** Johansen and Kroger.

27
28 8:07 p.m. through 8:12 p.m. – recess.
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44



CITY of BEAVERTON

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

CITY OF BEAVERTON STAFF REPORT AND RECOMMENDATION

TO: Planning Commission

STAFF REPORT DATE: September 27, 2006

STAFF: Steven A. Sparks, AICP, Development Services Manager *cc from SAs*

SUBJECT: TA 2006-0007 (Code Applicability for Annexed Areas Amendment)

REQUEST: Text amendment to Section 10.40.1 of the Beaverton Development Code to clarify the applicability of City Development Code standards for areas which have been annexed to the City but have yet to be rezoned to a City zoning designation.

APPLICANT: City of Beaverton
Development Services Division
4755 SW Griffith Drive
Beaverton, Oregon 97006

APPLICABLE CRITERIA: Ordinance 2050, effective through Ordinance 4397, Section 40.85.15.1.C.1-7 (Text Amendment Approval Criteria)

HEARING DATE: Wednesday, October 4, 2006

RECOMMENDATION: Take public testimony on the proposed text amendment application TA 2006-0007 (Code Applicability for Annexed Areas Amendment) and forward a recommendation of **APPROVAL** to the City Council.

A. Proposed Amendment

In August 1978, the City enacted Ordinance 2050 upon which the current Beaverton Development Code is based. One section of text in the Code which has not changed since 1978 is Section 10.40.1 (located under Section 9.1 of Ordinance 2050). The current text reads as follows:

Any area annexed to the City shall retain the zoning classification of its former jurisdiction until changed by the City. In the interim period, the City shall enforce the zoning regulations of the former jurisdiction along with any conditions, limitations or restrictions applied by the former jurisdiction as though they were a part of this Code, except that the provisions of Chapters 30 through 80 of this Code shall supersede comparable provisions of the zoning regulations in force in the former jurisdiction at the time of annexation.

The City has interpreted this text to mean that when a development proposal is made for areas which have been annexed by the City and have yet to receive a City zoning designation, the County's Development Code is applicable only for land uses and site development requirements such as building height and setbacks. All other provisions of the City's Code, with the exception of Chapter 20 (Land Uses) would be applicable to the development proposal.

The use of the phrase "comparable provisions" in the above quoted text has led to some confusion. Using the recent Wal-Mart development applications as an example, the City's interpretation of the text is that if the County Code contained provisions which were not contained in any City Code, then that specific County Code provision would be applicable. For example, if the County Code contained provisions about parking and the City's Code was silent on that issue, the County's Code for parking would be applicable.

However, it was argued in the Wal-Mart matter that even though the City's Code contained provisions similar to County Code provisions, the City's Code provisions were not "comparable". Using the parking standards as an example, if the City's parking standard is 3 spaces per 1000 square feet for 'x' use and the County's parking standard is 4 spaces per 1000 square feet for 'x' use, is the City's parking standard comparable? The position of the City has been that it is comparable because the City Code has the same provision, parking for 'x' use. Because the standard is not identical does not mean that it is not comparable.

Therefore, if an effort to minimize broad discretion and make the Code much more clear, the City proposes the following amendment:

Any area annexed to the City shall retain the zoning classification of its former jurisdiction until changed by the City. In the interim period, the City shall enforce the use and site development requirements of the County's zoning regulations of the former jurisdiction district which would otherwise be found in Chapter 20 (Land Uses) of the City's Development Code. The City shall also enforce along with any conditions, limitations or restrictions applied by the former jurisdiction as though they were a part of this Code; , except that the provisions of Chapters 30 through 80 of this Code shall supersede comparable provisions of the zoning regulations in force in the former jurisdiction at the time of annexation. Any proposal for development shall be subject to the provisions of the City's Development Code as specified in Chapters 10 (General Provisions), 30 (Non-Conforming), 40 (Applications), 50 (Procedures), 60 (Special Requirements), and 90 (Definitions).

The intent of the proposed amendment is to be clear that the City's Code provisions contained in Chapters 10, 30, 40, 50, 60, and 90 are applicable to all development in areas annexed to the City which have not received a City zoning designation. Moreover, the intent is to be clear that the City's Code supersedes all County Code provisions with the exception of the specific use and site development requirements of the County zoning district. The County provisions which would be applicable include allowed, conditional, and prohibited uses. Even though the County Code may specify a procedure for an use, the City's Code will prevail with respect to procedure. If the County Code has standards for a specific use, the City's Code provisions will prevail for that use. The only County Code development standards which will be applicable include residential density, floor area ratio, building height, setbacks, lot area, and lot dimensions.

B. Conformity to Text Amendment Approval Criteria

Section 40.85.15.1.C of the Development Code specifies that in order to approve a Text Amendment application, the decision-making authority shall make findings of fact, based on evidence provided by the applicant, that all of the criteria specified in Section 40.85.15.1.C.1-7 are satisfied. The following are the findings of fact for TA 2006-0007 (Code Applicability for Annexed Areas Amendment):

1. The proposal satisfies the threshold requirements for a Text Amendment application.

Section 40.85.15.1.A specifies that an application for a text amendment shall be required when there is proposed any change to the Development Code, excluding changes to the zoning map. TA 2006-0007 (Code Applicability for Annexed Areas Amendment) proposes a text amendment to Section 10.40.1 of the Beaverton

Development Code to clarify the applicability of City Development Code standards for areas which have been annexed to the City but have yet to be rezoned to a City zoning designation. Therefore, staff find that approval criterion one has been met.

2. All City application fees related to the application under consideration by the decision-making authority have been submitted.

Policy Number 470.001 of the City's Administrative Policies and Procedures manual states that fees for a City initiated application are not required where the application fee would be paid from the City's General Fund. The Development Services Division, which is a General Fund program, initiated the application. Therefore, the payment of an application fee is not required. Staff find that approval criterion two is not applicable.

3. The proposed text amendment is consistent with the provisions of the Metro Urban Growth Management Functional Plan.

Metro's Urban Growth Management Functional Plan (UGMFP) consists of the following titles:

- Title 1: Requirements for Housing and Employment Accommodations
- Title 2: Regional Parking Policy
- Title 3: Water Quality and Flood Management Conservation
- Title 4: Retail in Employment and Industrial Areas
- Title 5: Neighbor Cities and Rural Reserves
- Title 6: Regional Accessibility
- Title 7: Affordable Housing
- Title 8: Compliance Procedures and
- Title 9: Performance Measures

TA 2006-0007 proposes to amend Section 10.40.1 of the Beaverton Development Code to clarify the applicability of City Development Code standards for areas which have been annexed to the City but have yet to be rezoned to a City zoning designation. Both the City Code and County Code have been determined to be in substantial conformance with the Metro UGMFP. The proposed amendment will clarify the applicability of those codes to development proposed in areas which have been annexed by the City but have not yet received City zoning. No changes to the Code are proposed which would affect the City's ability to continue to demonstrate conformance with the Metro UGMFP. Therefore, staff find approval criterion three has been met.

4. *The proposed text amendment is consistent with the City's Comprehensive Plan.*

Policy 3.4.2.c) The City shall apply appropriate City land use designations to annexed areas.

Policy 5.3.1.d) The City shall seek to eventually incorporate its entire Urban Services Area.

The proposed amendment will not prevent or delay the City from applying appropriate land use designations to annexed areas nor incorporating its entire Urban Services Area. Therefore, staff find that approval criterion four has been met.

5. *The proposed text amendment is consistent with other provisions within the City's Development Code.*

The proposed amendment does not create impacts or conflicts with other provisions within the Development Code. Staff find that proposed amendment is consistent with the other provisions of the Development Code. Therefore, staff find approval criterion five has been met.

6. *The proposed amendment is consistent with all applicable City ordinance requirements and regulations.*

The current Development Code and Ordinance No. 4187, which adopted the current Comprehensive Plan, are applicable to the proposed text amendment and are addressed in the findings of fact for approval criterion four and five. Staff did not identify any other applicable City ordinance requirements and regulations that would be affected by the proposed text amendments. Therefore, staff find that approval criterion six has been met.

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

Staff have determined that there are no other applications and documents related to the request that will require further City approval. Therefore, staff find that approval criterion seven has been met.

C. Conclusions

Based on the facts and findings presented, staff conclude that the proposed amendments to the Development Code are consistent with all the text amendment approval criteria of Section 40.85.15.1.C.1-7.

D. Staff Recommendation

Staff offer the following recommendation for the conduct of the October 4, 2006 public hearing for TA 2006-0007 (Code Applicability for Annexed Areas Amendment):

1. Considering the public testimony and the facts and findings presented in the staff report, deliberate on policy issues and other issues identified by the Commission or the public.
2. Recommend **APPROVAL** of text amendment application TA 2006-0007 (Code Applicability for Annexed Areas Amendment) to the City Council.

Exhibit 1. Proposed Text Amendment

10.40. Annexation.

1. Any area annexed to the City shall retain the zoning classification of its former jurisdiction until changed by the City. In the interim period, the City shall enforce the use and site development requirements of the County's zoning regulations of the former jurisdiction district which would otherwise be found in Chapter 20 (Land Uses) of the City's Development Code. The City shall also enforce along with any conditions, limitations or restrictions applied by the former jurisdiction as though they were a part of this Code, except that the provisions of Chapters 30 through 80 of this Code shall supersede comparable provisions of the zoning regulations in force in the former jurisdiction at the time of annexation. Any proposal for development shall be subject to the provisions of the City's Development Code as specified in Chapters 10 (General Provisions), 30 (Non-Conforming), 40 (Applications), 50 (Procedures), 60 (Special Requirements), and 90 (Definitions).

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

SUBJECT: Adopt Resolution and Authorize
Implementation of Building, Mechanical,
Plumbing, and Electrical Permit Fee
Increases

FOR AGENDA OF: 12-04-06 **BILL NO:** 06226

Mayor's Approval: *[Signature]*

DEPARTMENT OF ORIGIN: CDD *[Signature]*

DATE SUBMITTED: 10-02-06

CLEARANCES: Finance *[Signature]*
City Attorney *[Signature]*

PROCEEDING: Public Hearing

EXHIBITS: Resolution with Exhibit A
Revenue and Expense Data
Current and Proposed Fee Tables

BUDGET IMPACT

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

HISTORICAL PERSPECTIVE:

Each budget year, revenues and expenditures for the Building Operating Fund (Fund) are evaluated to determine if adjustments are needed. Revenue has risen at a slower pace than the costs associated with the operation of the Building Services Division (Division). The Division's Fund is intended to be wholly permit-fee supported while maintaining a reasonable contingency fund. There are programs within the Fund with expenses exceeding revenues to the point they are diminishing the contingency fund.

INFORMATION FOR CONSIDERATION:

Since the last fee adjustment, costs associated with the Mechanical and Electrical permit programs have continued to exceed revenues and will continue to diminish the Division's contingency fund unless the fees are adjusted. In addition, costs for the Building Permit Program continue to rise. As a method to more closely cover the costs associated with the Building, Mechanical, and Electrical permit programs, staff proposes a 5-percent increase in building permit fees, a 5-percent increase in mechanical permit fees, and a 10-percent increase in electrical permit fees. Staff also proposes an incremental increase in the plumbing hourly and reinspection fee rates so they will eventually equal the Building and Mechanical fee rates. The fee adjustments are proposed to take effect January 1, 2007.

Details of the proposed fee adjustments were reviewed by the City's Development Liaison Committee and found to be necessary. Information providing greater detail for the basis of the proposed fee adjustments is included in the attached exhibits. The information provides the programs' revenues, expenditures, and contingency balances including estimates through FY 2007-08.

RECOMMENDED ACTION:

Council to hold a public hearing and adopt attached resolutions authorizing increases in Building, Mechanical, Plumbing, and Electrical permit fees.

A RESOLUTION TO INCREASE BUILDING, MECHANICAL, PLUMBING AND ELECTRICAL PERMIT FEES

WHEREAS, the Building Operating Fund is entirely dependent upon revenue generated by the sale of permits for the construction of buildings and their support systems; and,

WHEREAS, the current building permit fee levels do not generate sufficient revenue to sustain a reasonable contingency fund for FY 2006-07; and,

WHEREAS, the current mechanical permit fee levels do not generate sufficient revenue to offset operating costs for FY 2006-07; and,

WHEREAS, some current plumbing permit fees need adjusting to more closely match other similar permit fees; and,

WHEREAS, the current electrical permit fee levels do not generate sufficient revenue to offset operating costs for FY 2006-07; and,

WHEREAS, Beaverton Code Section 8.02.040 allows the Council by resolution to set certain fees for permits relating to site development; and,

WHEREAS, the Council has previously adopted schedules of fees for those services and now desires to adopt a new schedule that will supercede those formerly adopted; therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF BEAVERTON, OREGON:

Section 1. The Council adopts the Building, Mechanical, Plumbing, and Electrical Permit Fee Tables attached as Exhibit A to this Resolution effective on January 1, 2007 as to all applications for Building, Mechanical, Plumbing, and Electrical permits that are completed on or after that date.

Section 2. This resolution shall take effect on January 1, 2007.

Adopted by the Council this _____ day of _____, 2006.

Approved by the Mayor this _____ day of _____, 2006.

Ayes: _____

Nays: _____

ATTEST:

APPROVED:

SUE NELSON, CITY RECORDER

ROB DRAKE, MAYOR

CITY OF BEAVERTON

NEW ONE AND TWO FAMILY DWELLING BUILDING PERMIT FEE TABLE

(See below for determining valuation.)

\$0.00 to \$500.00 valuation	\$49.45
\$501.00 to \$2,000.00 valuation	\$49.45 for the first \$500.00 and \$2.20 for each additional \$100.00 or fraction thereof
\$2,001.00 to \$25,000.00 valuation	\$82.45 for the first \$2,000.00 and \$7.50 for each additional \$1,000.00 or fraction thereof
\$25,001.00 to \$50,000.00 valuation	\$254.95 for the first \$25,000.00 and \$6.60 for each additional \$1,000.00 or fraction thereof
\$50,001.00 to \$100,000.00 valuation	\$419.95 for the first \$50,000.00 and \$5.30 for each additional \$1,000.00 or fraction thereof
\$100,001.00 to \$500,000.00 valuation	\$684.95 for the first \$100,000.00 and \$3.15 for each additional \$1,000.00 or fraction thereof
\$500,001.00 to \$1,000,000.00 valuation	\$1,944.95 for the first \$500,000.00 and \$2.20 for each additional \$1,000.00 or fraction thereof
\$1,000,001.00 and over valuation	\$3,044.95 for the first \$1,000,000.00 and \$1.50 for each additional \$1,000.00 or fraction thereof

Other Inspections and Fees:

1. Inspections outside of normal business hours (minimum charge – two hours).....\$80.00 per hour*
2. Reinspection fees assessed under provisions of Building Division Administrative Rules Section 309.10.....\$80.00
3. Inspections for which no fee is specifically indicated (minimum charge – one-half hour)\$80.00 per hour*
4. Additional plans review required by changes, additions, or revisions to proposed or approved plans (minimum charge – one-half hour).....\$80.00 per hour*

*Or total hourly cost to the jurisdiction, whichever is the greatest. This cost shall include supervision, overhead, equipment, hourly wages, and fringe benefits of the employees involved.

Structural Plans Review Fee	65 percent of building permit fee
State Surcharge	8 percent of building permit fee
Development Code Review Fee.....	\$75.00
Sidewalk/Driveway/Approach Fee.....	\$25.00
Utility Locate Fee	\$25.00
Engineering Division Review Fee.....	\$40.00

Erosion Control Fee – Value:	\$0 to \$25,000.00.....	\$50.00
	\$25,001.00 to 50,000.00.....	\$75.00
	\$50,001.00 to \$100,000.00	\$100.00
	\$100,001.00 and over.....	\$100.00 plus \$75.00 per \$100,000.00 of valuation or fraction thereof over \$100,000.00

Valuation is determined by multiplying the square footage of the dwelling and garage by the “per square foot cost factor” identified in the Building Valuation Data Table.

(New one and two family dwelling building permit fee table, continued.)

Building Permit Fee Schedule For Stand-Alone Residential Fire Sprinkler Systems

Square Footage of Dwelling (including garage)	Permit/Plans Review Fee
0-2,000 square feet.....	\$147.20
2,001-3,600 square feet	\$187.40
3,601-7,200 square feet	\$254.25
Greater than 7,200 square feet	\$321.20

CITY OF BEAVERTON

COMMERCIAL, MULTI-FAMILY, AND INDUSTRIAL BUILDING PERMIT FEE TABLE FOR NEW BUILDINGS

(See below for determining valuation.)

\$0.00 to \$500.00 valuation	\$75.30
\$501.00 to \$2,000.00 valuation	\$75.30 for the first \$500.00 and \$2.95 for each additional \$100.00 or fraction thereof
\$2,001.00 to \$25,000.00 valuation.....	\$119.55 for the first \$2,000.00 and \$12.00 for each additional \$1,000.00 or fraction thereof
\$25,001.00 to \$50,000.00 valuation.....	\$395.55 for the first \$25,000.00 and \$9.00 for each additional \$1,000.00 or fraction thereof
\$50,001.00 to \$100,000.00 valuation.....	\$620.55 for the first \$50,000.00 and \$6.40 for each additional \$1,000.00 or fraction thereof
\$100,001.00 to \$500,000.00 valuation.....	\$940.55 for the first \$100,000.00 and \$4.75 for each additional \$1,000.00 or fraction thereof
\$500,001.00 to \$1,000,000.00 valuation.....	\$2,840.55 for the first \$500,000.00 and \$4.15 for each additional \$1,000.00 or fraction thereof
\$1,000,001.00 to \$10,000,000.00 valuation.....	\$4,915.55 for the first \$1,000,000.00 and \$2.75 for each additional \$1,000.00 or fraction thereof
\$10,000,001.00 and over valuation.....	\$29,665.55 for the first \$10,000,000.00 and \$2.65 for each additional \$1,000.00 or fraction thereof

Other Inspections and Fees:

1. Inspections outside of normal business hours
(minimum charge – two hours).....\$80.00 per hour*
2. Reinspection fees assessed under provisions of
Building Division Administrative Rules Section 309.10.....\$80.00
3. Inspections for which no fee is specifically indicated
(minimum charge – one-half hour)\$80.00 per hour*
4. Additional plans review required by changes, additions,
or revisions to proposed or approved plans
(minimum charge – one-half hour)\$80.00 per hour*

*Or total hourly cost to the jurisdiction, whichever is the greatest. This cost shall include supervision, overhead, equipment, hourly wages, and fringe benefits of the employees involved.

Structural Plans Review Fee	65 percent of building permit fee
Fire and Life Safety Plans Review Fee	40 percent of building permit fee
State Surcharge	8 percent of building permit fee
Development Code Review Fee.....	\$75.00
Sidewalk/Driveway/Approach Fee.....	\$25.00
Engineering Division Review Fee.....	\$40.00

Erosion Control Fee – Value:	\$0 to \$25,000.00.....	\$50.00
	\$25,001.00 to 50,000.00.....	\$75.00
	\$50,001.00 to \$100,000.00	\$100.00
	\$100,001.00 and over.....	\$100.00 plus \$75.00 per
	\$100,000.00 of valuation or fraction thereof over \$100,000.00	

(Commercial, multi-family, and industrial building permit fee table for new buildings, continued.)

Valuation is determined by multiplying the square footage of the building (based on use and construction type) by the "per square foot cost factor" identified in the Building Valuation Data Table.

Phased Projects: There shall be a minimum plans review phasing fee of \$165.40 for each separate phased portion of the project. In addition, a plans review phasing fee shall be charged in an amount equal to ten percent of the total project building permit fee calculated in accordance with OAR 918-050-100 through 110 not to exceed an additional \$1,500 for each phase.

Deferred Submittals: The plans review fee for processing deferred plan submittals shall be an amount equal to 65 percent of the building permit fee calculated in accordance with OAR 918-050-110(2) and (3) using the value of the particular deferred portion of the project with a minimum fee of \$123.70. This fee is in addition to the project plans review fee based on total project value.

CITY OF BEAVERTON

SINGLE FAMILY, MULTI-FAMILY, COMMERCIAL, AND INDUSTRIAL BUILDING PERMIT FEE TABLE FOR ALTERATIONS, ADDITIONS, AND DEMOLITIONS

\$0.00 to \$500.00 valuation	\$47.35
\$501.00 to \$2,000.00 valuation	\$47.35 for the first \$500.00 and \$3.00 for each additional \$100.00 or fraction thereof
\$2,001.00 to \$25,000.00 valuation	\$92.35 for the first \$2,000.00 and \$13.55 for each additional \$1,000.00 or fraction thereof
\$25,001.00 to \$50,000.00 valuation	\$404.00 for the first \$25,000.00 and \$9.80 for each additional \$1,000.00 or fraction thereof
\$50,001.00 to \$100,000.00 valuation	\$649.00 for the first \$50,000.00 and \$6.70 for each additional \$1,000.00 or fraction thereof
\$100,001.00 to \$500,000.00 valuation	\$984.00 for the first \$100,000.00 and \$5.35 for each additional \$1,000.00 or fraction thereof
\$500,001.00 to \$1,000,000.00 valuation	\$3,124.00 for the first \$500,000.00 and \$4.50 for each additional \$1,000.00 or fraction thereof
\$1,000,001.00 and over valuation	\$5,374.00 for the first \$1,000,000.00 and \$3.00 for each additional \$1,000.00 or fraction thereof

Other Inspections and Fees:

1. Inspections outside of normal business hours (minimum charge – two hours).....\$80.00 per hour*
2. Reinspection fees assessed under provisions of Building Division Administrative Rules Section 309.10.....\$80.00
3. Inspections for which no fee is specifically indicated (minimum charge – one-half hour).....\$80.00 per hour*
4. Additional plans review required by changes, additions, or revisions to proposed or approved plans (minimum charge – one-half hour).....\$80.00 per hour*

*Or total hourly cost to the jurisdiction, whichever is the greatest. This cost shall include supervision, overhead, equipment, hourly wages, and fringe benefits of the employees involved.

Structural Plans Review Fee	65 percent of building permit fee
Fire and Life Safety Plans Review Fee	40 percent of building permit fee
State Surcharge	8 percent of building permit fee
Development Code Review Fee.....	\$75.00
Sidewalk/Driveway/Approach Fee.....	\$25.00
Engineering Division Review Fee.....	\$40.00

Erosion Control Fee – Value:	\$0 to \$25,000.00.....	\$50.00
	\$25,001.00 to 50,000.00.....	\$75.00
	\$50,001.00 to \$100,000.00	\$100.00
	\$100,001.00 and over.....	\$100.00 plus \$75.00 per \$100,000.00 of valuation or fraction thereof over \$100,000.00

(Single family, multi-family, commercial, and industrial building permit fee table for alterations, additions, and demolitions, continued.)

Building Permit Fee Schedule For Stand-Alone Residential Fire Sprinkler Systems

Square Footage of Dwelling (including garage)	Permit/Plans Review Fee
0-2,000 square feet.....	\$147.20
2,001-3,600 square feet	\$187.40
3,601-7,200 square feet	\$254.25
Greater than 7,200 square feet	\$321.20

Phased Projects: There shall be a minimum plans review phasing fee of \$165.40 for each separate phased portion of the project. In addition, a plans review phasing fee shall be charged in an amount equal to ten percent of the total project building permit fee calculated in accordance with OAR 918-050-100 through 110 not to exceed an additional \$1,500 for each phase.

Deferred Submittals: The plans review fee for processing deferred plan submittals shall be an amount equal to 65 percent of the building permit fee calculated in accordance with OAR 918-050-110(2) and (3) using the value of the particular deferred portion of the project with a minimum fee of \$123.70. This fee is in addition to the project plans review fee based on total project value.

CITY OF BEAVERTON

MECHANICAL FEE SCHEDULE FOR NEW AND ADDITIONS OR ALTERATIONS TO ONE AND TWO FAMILY DWELLINGS

Air Handling Units	\$31.50 per appliance
Air Conditioning	\$44.10 per appliance
Alteration of Existing HVAC System	\$31.50 per appliance
Heat Pump	\$57.60 per appliance
Install/Replace Furnace	
Up to 100,000 btu	\$44.10 per appliance
Over 100,000 btu	\$51.80 per appliance
Install/Replace/Relocate Heaters	
Suspended, Wall, or Floor Mounted	\$44.10 per appliance
Vent for Appliance other than Furnace	\$31.50 per appliance
Appliance Vent	\$22.00 per appliance
Dryer Exhaust	\$31.50 per appliance
Hood	\$31.50 per appliance
Exhaust Fan Connected to a Single Duct	\$22.00 per appliance
Gas Piping: 1 to 4 Outlets	\$13.35
Each Additional Outlet	\$3.80
Fireplace	\$31.50 per appliance
Wood Stove	\$31.50 per appliance
Other	\$22.00 per appliance
Minimum Fee	\$92.10
State Surcharge .....	.8 percent of mechanical permit fee

Other Inspections and Fees:

1. Inspections outside of normal business hours
(minimum charge – two hours).....\$80.00 per hour*
2. Reinspection fees assessed under provisions of
Building Division Administrative Rules Section 309.10.....\$80.00
3. Inspections for which no fee is specifically indicated
(minimum charge – one-half hour).....\$80.00 per hour*
4. Additional plans review required by changes, additions,
or revisions to proposed or approved plans
(minimum charge – one-half hour).....\$80.00 per hour*

*Or total hourly cost to the jurisdiction, whichever is the greatest. This cost shall include supervision, overhead, equipment, hourly wages, and fringe benefits of the employees involved.

CITY OF BEAVERTON

MECHANICAL FEE SCHEDULE FOR NEW AND ADDITIONS OR ALTERATIONS TO COMMERCIAL, MULTI-FAMILY, AND INDUSTRIAL PROJECTS

(See Mechanical Valuation Table to determine valuation.)

\$0.00 to \$500.00 valuation	\$65.15
\$501.00 to \$5,000.00 valuation	\$65.15 for the first \$500.00 and \$2.90 for each additional \$100.00 or fraction thereof
\$5,001.00 to \$10,000.00 valuation	\$195.65 for the first \$5,000.00 and \$2.65 for each additional \$100.00 or fraction thereof
\$10,001.00 to \$50,000.00 valuation	\$328.15 for the first \$10,000.00 and \$2.40 for each additional \$100.00 or fraction thereof
\$50,001.00 to \$100,000.00 valuation	\$1,288.15 for the first \$50,000.00 and \$2.35 for each additional \$100.00 or fraction thereof
\$100,001.00 and over valuation	\$2,463.15 for the first \$100,000.00 and \$2.75 for each additional \$100.00 or fraction thereof
Minimum Fee	\$92.10

Plans review equals 25 percent of the mechanical permit fee.
 State surcharge equals 8 percent of the mechanical permit fee.

Other Inspections and Fees:

1. Inspections outside of normal business hours (minimum charge – two hours).....\$80.00 per hour*
2. Reinspection fees assessed under provisions of Building Division Administrative Rules Section 309.10.....\$80.00
3. Inspections for which no fee is specifically indicated (minimum charge – one-half hour).....\$80.00 per hour*
4. Additional plans review required by changes, additions, or revisions to proposed or approved plans (minimum charge – one-half hour).....\$80.00 per hour*

*Or total hourly cost to the jurisdiction, whichever is the greatest. This cost shall include supervision, overhead, equipment, hourly wages, and fringe benefits of the employees involved.

CITY OF BEAVERTON

PLUMBING PERMIT FEE SCHEDULE FOR NEW ONE AND TWO FAMILY DWELLINGS.

1 Bathroom	\$200.00
2 Bathroom	\$230.00
3 Bathroom	\$260.00
Each Additional Kitchen and/or Bath	\$24.00

PLUMBING PERMIT FEE SCHEDULE FOR ONE AND TWO FAMILY DWELLING ALTERATION OR ADDITIONS AND ALL MULTI-FAMILY, COMMERCIAL, AND INDUSTRIAL PROJECTS.

Catch Basin/Area Drain	\$10.40 per fixture
Drywells/Leach Line/Trench Drain	\$10.40 per fixture
Footing Drain	\$10.40 per fixture
Manufactured Home Utilities	\$10.40 per fixture
Manholes	\$10.40 per fixture
Rain Drain Connector	\$10.40 per fixture
Sanitary Sewer (1st 100 ft).....	\$27.20
Each Additional 100 ft.....	\$22.40
Storm Sewer (1st 100 ft).....	\$27.20
Each Additional 100 ft.....	\$13.60
Water Service (1st 100 ft).....	\$27.20
Each Additional 100 ft.....	\$22.40
Back Flow Preventer	\$22.40 per fixture
Absorption Valve.....	\$10.40 per fixture*
Backwater Valve	\$10.40 per fixture*
Clothes Washer	\$10.40 per fixture*
Dishwasher	\$10.40 per fixture*
Drinking Fountain(s)	\$10.40 per fixture*
Ejectors/Sump	\$10.40 per fixture*
Expansion Tank.....	\$10.40 per fixture*
Fixture/Sewer Cap.....	\$10.40 per fixture*
Floor Drains/Floor Sinks/Hub Drains.....	\$10.40 per fixture*
Garbage Disposal	\$10.40 per fixture*
Hose Bib	\$10.40 per fixture*
Ice Maker	\$10.40 per fixture*
Interceptor/Grease Trap	\$10.40 per fixture*
Primer(s)	\$10.40 per fixture*
Roof Drain (commercial).....	\$10.40 per fixture*
Sink(s), Basin(s), Lavatory(s)	\$10.40 per fixture*
Sump.....	\$10.40 per fixture*
Tubs/Shower/Shower Pan.....	\$10.40 per fixture*
Urinal.....	\$10.40 per fixture*
Water Closet	\$10.40 per fixture*
Water Heater.....	\$10.40 per fixture*
Other	\$10.40 per fixture*
Medical Gas Piping.....	See Fee Schedule

(Plumbing permit fee schedule for one and two family dwelling alteration or additions and all multi-family, commercial, and industrial projects, continued.)

Inspection of Existing Plumbing	\$40.00 per hour
Specially Requested Inspections	\$40.00 per hour
Re-inspection Fee.....	\$40.00
Minimum Fee	\$40.00
*Where Fixtures Total 100 or More	\$8.00 per fixture

Plans review equals 25 percent of the plumbing permit fee.
 State surcharge equals 8 percent of the plumbing permit fee.

PLUMBING PERMIT FEE SCHEDULE FOR MULTI-PURPOSE RESIDENTIAL FIRE SPRINKLER SYSTEMS.

Square Footage of Dwelling (including garage)	Permit/Plans Review Fee
0-2,000 square feet	\$82.50
2,001-3,600 square feet	\$112.50
3,601-7,200 square feet	\$127.50
Greater than 7,200 square feet	\$172.50

PLUMBING PERMIT FEE SCHEDULE FOR MEDICAL GAS PIPING SYSTEMS.

\$0.00 to \$500.00 valuation	\$42.50
\$501.00 to \$5,000.00 valuation	\$42.50 for the first \$500.00 and \$1.88 for each additional \$100.00 or fraction thereof.
\$5,001.00 to \$10,000 valuation	\$126.88 for the first \$5,000.00 and \$1.75 for each additional \$100.00 or fraction thereof.
\$10,001.00 to \$50,000.00 valuation	\$214.38 for the first \$10,000.00 and \$1.63 for each additional \$100.00 or fraction thereof.
\$50,001.00 to \$100,000.00 valuation	\$864.38 for the first \$50,000.00 and \$1.56 for each additional \$100.00 or fraction thereof.
\$100,001.00 and over valuation	\$1,645.63 for the first \$100,000.00 and \$1.81 for each additional \$100.00 or fraction thereof.
Minimum Fee	\$60.00

Plans review equals 25 percent of the plumbing permit fee.

CITY OF BEAVERTON

ELECTRICAL FEE SCHEDULE FOR NEW AND ADDITIONS OR ALTERATIONS TO MULTI-FAMILY, COMMERCIAL, INDUSTRIAL PROJECTS, AND ONE AND TWO FAMILY DWELLINGS

New residential – single or multi-family per dwelling unit (includes attached garage)

Service Included:

1000 square feet or less	\$119.20
Each Additional 500 square feet or portion thereof	\$21.25
Limited Energy, residential	\$28.40
Limited Energy, non-residential.....	\$56.15
Each manufactured home or modular dwelling service and/or feeder.....	\$56.15

Services or feeders – installation, alteration or relocation:

200 amps or less	\$70.90
201 amps to 400 amps.....	\$84.40
401 amps to 600 amps.....	\$140.40
601 amps to 1000 amps.....	\$183.60
Over 1000 amps or volt.....	\$422.60
Reconnect Only	\$56.15

Temporary services or feeders – Installation, alteration, or relocation:

200 amps or less	\$56.15
201 amps to 400 amps.....	\$78.00
401 amps to 600 amps.....	\$112.70

Branch circuits – new, alteration, or extension per panel:

A. Fee for branch circuits with purchase of service or feeder fee, each branch circuit.....	\$2.60
B. Fee for branch circuits without purchase of service or feeder fee, first branch circuit.....	\$49.70
Each additional branch circuit	\$2.60

Miscellaneous (Service or feeder not included):

Each Pump or Irrigation Circle	\$56.15
Each Sign or Outline Lighting.....	\$56.15
Signal Circuit(s) or a Limited Energy Panel, Alteration, or Extension	\$56.15

Plans review equals 25 percent of the electrical permit fee.
State Surcharge equals 8 percent of the electrical permit fee.

1. Inspections outside of normal business hours
 (minimum charge – two hours)..... \$70.90 per hour*
2. Each additional inspection over the allowable for
 the permitted work
3. Inspections for which no fee is specifically indicated
 (minimum charge – one-half hour)..... \$70.90 per hour*
4. Additional plans review required by changes, additions,
 or revisions to proposed or approved plans
 (minimum charge – one-half hour)..... \$70.90 per hour*

*Or total hourly cost to the jurisdiction, whichever is the greatest. This cost shall include supervision, overhead, equipment, hourly wages, and fringe benefits of the employees involved.

CITY OF BEAVERTON
BUILDING SERVICES DIVISION
Building Operating Fund

Building Operating Fund History

In FY 1992-93, the Beaverton City Council established the Building Operating Fund (Fund) to account for the Building Services Division's (Division) revenues and expenditures. The Fund is intended to have each individual program (building/mechanical, plumbing, and electrical) generate permit revenue sufficient to cover operating costs and maintain a reasonable contingency fund. As personnel and material costs have risen, incremental fee adjustments have been implemented in previous fiscal years to stabilize the contingency level. The revenue and expenditures for the Fund are evaluated on an annual basis to determine if further fee adjustments are necessary.

Revenues and Expenditures

The Division is made up of five programs:

1. Administration
2. Plans Review and Permit Processing
3. Building and Mechanical Field Inspection
4. Plumbing Plans Review and Field Inspection
5. Electrical Plans Review and Field Inspection

The Division operates through a dedicated fund. Fees collected by the Division in connection with the above programs are to be used only for the administration and enforcement of those programs. Each program has revenue and expenditures accounted for individually. The fees collected by the Division are established in Beaverton Code (BC) 8.02.040 to provide funding of each program. Each program is budgeted out of the Building Operating Fund with revenue and expenditures not exceeding the reasonable and necessary costs of administration and enforcement of these programs (including establishing and maintaining a reasonable contingency fund).

Direct expenditures are charged to the applicable program fund account. Administration, general supplies, training, overhead, accounting, reprographic, and Information Systems Department (ISD) costs are charged to the Division Administration Fund. These administrative costs are divided (based on the number of employees) into two programs (Plan Review and Permits, and Building Inspection). Revenues collected in excess of expenditures are placed in the Building Services Division's contingency fund for the purpose of maintaining services during short duration reductions in development activity. The amount of funds to be maintained in the contingency is determined by the City Administration with the consultation of the development community through the City Development Liaison Committee (DLC).

Revenues

- Revenue from building and mechanical permit fees fund the Building and Mechanical Field Inspection Program.
- Revenue from plans review fees funds the Plans Review and Permit Processing Program.
- Revenue from plumbing permit fees funds the Plumbing Plans Review and Field Inspection Program.
- Revenue from electrical permit fees funds the Electrical Plans Review and Field Inspection Program.
- Revenue from miscellaneous fees is divided into the Building and Mechanical Field Inspection Program, the Plans Review and Permit Processing Program, the Plumbing Plans Review and Field Inspection Program, and the Electrical Plans Review and Field Inspection Program based on the number of employees in each program.
- Revenue from investment income is divided into two programs (Plans Review and Permit Processing, and Building and Mechanical Field Inspection) based on the amount of contingency in each fund.

Expenditures

Each program has a separate fund to account for expenditures directly related to that program. This includes personnel costs, materials, and supplies (furniture, equipment, code books, cellular telephones, etc.). The Division's budget has transfers to several accounts to pay for services provided by those sections of the City.

- Overhead: This pays a portion of Mayor/City Administration, City Council, City Attorney, Records Management, Human Resources, light, heat, water, power, and building space.
- Reprographics: Permit and inspection printing, copier/fax maintenance and replacement, and paper supplies.
- ISD: Computer system repair, maintenance, and technical support.
- Finance: Daily deposit; Division's accounting, payroll, and accounts payable.
- Mapping and Technical Services: Mapping and address database.
- Garage: Inspection vehicle operation, repair, maintenance, and replacement.

None of the figures provided below reflect the Division's share (\$58,800) of the cost for the programming of an in-house permit tracking system. The cost was added during FY 2006-07. The contingency for each of the programs will need to share in that cost.

BUILDING PERMIT ACTIVITY

The information below provides a brief history of workload statistics. In addition, a forecast for future indicators is also provided.

Permit Activity

	FY 2003-04 Actual	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07*	FY 2007-08*
Single Family New/Alterations	517	464	520	375	375
Commercial Tenant Improvement	695	648	694	650	650
New Commercial, Multi-Family	51	109	53	115	90

Inspections

	FY 2003-04 Actual	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07*	FY 2007-08*
Building, Mechanical, Plumbing, and Electrical Inspections	34,399	39,417	36,587	42,000	40,000

BUILDING PERMIT FEE INCREASE

A 5-percent building permit and plans review fee increase is proposed. The proposed increase would generate an estimated \$39,275 of additional revenue for FY 2006-07.

The Plans Review and Permit Processing Program includes fees for building plans review and inspections. Previous fee increases have stabilized the program's contingency fund; however, the overall fund will continue to experience increases in operating costs. The proposed fee increase is intended to maintain the fund's revenues and expenditures at an even level. Industry support of previous fee increases has allowed the City some flexibility in incremental fee adjustments.

The proposal includes only a small adjustment to the hourly fee rate and re-inspection fee from \$78.70 to an even \$80 for both fees with the intention to freeze these rates until the plumbing and electrical re-inspection and hourly rates can be incrementally increased to the same amount (the plumbing and electrical fees reductions that took place in 2002 caused the Building/Mechanical, Plumbing and Electrical rates to differ significantly). Having a common hourly rate and re-inspection fee for all permit types will make it easier for both our customers and staff to administer.

Staff recommends implementation of the proposed increase with further evaluations in 12 months. The information below provides a brief history of workload, revenue, and expenditure statistics. In addition, a forecast for future indicators is also provided. The proposed increase is based on the anticipated revenues and expenditures through FY 2007-08.

Permits Issued

	FY 2003-04 Actual	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07*	FY 2007-08*
Building Permits	1,301	1,452	1,466	1,500	1,400

Inspections

	FY 2003-04 Actual	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07*	FY 2007-08*
Building Inspections	12,508	15,807	14,522	17,500	16,200

Program Revenues

	FY 2003-04 Actual	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07* Without Increase/With Increase	FY 2007-08* Without Increase/With Increase
Permit Fees:					
Building Inspection	\$645,179	\$853,328	\$909,320	\$936,000/ \$959,400	\$875,000/ \$918,750
Plans Review	\$682,820	\$721,975	\$925,787	\$635,000/ \$650,875	\$650,000/ \$682,500
Interest Income:					
Building Inspection	\$24,966	\$39,331	\$61,091	\$55,250	\$40,000
Plans Review	\$0	\$0	\$0	\$0	\$0
Miscellaneous Fees:					
Building Inspection	\$14,022	\$19,557	\$14,379	\$11,412	\$10,000
Plans Review	\$23,515	\$39,393	\$26,628	\$21,134	\$20,000
Totals					
Building Inspection	\$684,167	\$912,216	\$984,790	\$1,002,662/ \$1,026,062	\$925,000/ \$968,750
Plans Review	\$706,335	\$761,368	\$952,415	\$656,134/ \$672,009	\$670,000/ \$702,500

Expenditures

	FY 2003-04 Actual	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07*	FY 2007-08*
Building Inspection	\$462,075	\$591,809	\$634,430	\$697,692	\$730,000
Plans Review	\$697,268	\$859,268	\$952,127	\$1,038,079	\$1,100,000

FY Income/Loss

	FY 2003-04 Actual	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07* Without Increase/With Increase	FY 2007-08* Without Increase/With Increase
+/(-) Building Inspection	\$222,092	\$320,407	\$350,360	\$304,970/ \$328,370	\$195,000/ \$238,750
Plans Review	\$9,067	(\$97,900)	\$288	(\$381,945)/ (\$366,070)	(\$430,000)/ (\$397,500)

Contingency

	FY 2003-04 Actual	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07* Without Increase/With Increase	FY 2007-08* Without Increase/With Increase
+/(-) Building Inspection	\$2,240,159	\$2,560,566	\$2,910,926	\$3,215,896/ \$3,239,296	\$3,410,896/ \$3,478,046
Plans Review	(\$685,421)	(\$783,321)	(\$783,033)	(\$1,164,978)/ (\$1,149,103)	(\$1,594,978)/ (\$1,546,603)
Total Contingency	\$1,554,738	\$1,777,245	\$2,127,893	\$2,050,918/ \$2,090,193	\$1,815,918/ \$1,931,443

*Estimated

MECHANICAL PERMIT FEE INCREASE

A 5-percent permit fee increase is proposed. The mechanical permits are a part of the Plans Review and Permit Processing Program. The same staff conducts plan reviews and inspections. Revenues and expenditures for these programs have historically been included in the Plans Review and Permit Processing Program and Building and Mechanical Field Inspection Program.

Previous fee increases have significantly reduced the rate of expenditures exceeding revenues; however, mechanical permit fees continue to under fund the program. The proposed increase would generate an estimated \$6,600 of additional revenue for FY 2006-07. The program would, however, see an operating loss of \$23,520 for FY 2006-07.

For the same reasons outlined with the Building Permit fee increase, the proposal includes only a small adjustment to the hourly fee rate and re-inspection fee.

Staff recommends implementation of the proposed increase, with further evaluations in 12-month increments, until the program is self-supporting. The information below provides a brief history of

workload, revenue, and expenditure statistics. In addition, a forecast for future indicators is also provided. The proposed increase is based on the anticipated revenues and expenditures through FY 2007-08.

Permits Issued

	FY 2003-04 Actual	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07*	FY 2007-08*
Mechanical Permits	1,355	1,466	1,488	1,300	1,250

Inspections

	FY 2003-04 Actual	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07*	FY 2007-08*
Mechanical Inspections	4,587	6,064	5,977	6,000	5,900

Program Revenues

	FY 2003-04 Actual	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07* Without Increase/With Increase	FY 2007-08* Without Increase/With Increase
Mechanical Permit Fees	\$169,459	\$237,097	\$256,474	\$264,000/ \$270,600	\$250,000/ \$262,500
Miscellaneous Fees	\$8,563	\$10,831	\$6,162	\$4,891	\$4,000
Interest Income	\$0	\$0	\$0	\$0	\$0
Total	\$178,022	\$247,928	\$262,636	\$268,891/ \$275,491	\$254,000/ \$266,500

Expenditures

	FY 2003-04 Actual	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07*	FY 2007-08*
Mechanical Inspection	\$198,032	\$253,632	\$268,233	\$299,011	\$325,000

FY Income/Loss

	FY 2003-04 Actual	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07* Without Increase/With Increase	FY 2007-08* Without Increase/With Increase
+ / (-)	(\$20,010)	(\$5,704)	(\$5,597)	(\$30,120)/ (\$23,520)	(\$71,000)/ (\$58,500)

Contingency

	FY 2003-04 Actual	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07* Without Increase/With Increase	FY 2007-08* Without Increase/With Increase
+ / (-)	(\$586,922)	(\$592,626)	(\$598,223)	(\$628,343)/ (\$621,743)	(\$699,343)/ (\$680,243)

*Estimated

PLUMBING REINSPECTION FEE AND HOURLY RATE INCREASE

The plumbing contingency fund has been reduced (through a fee reduction in 2002); however, it remains at a one-year operating level so no fee adjustment is necessary for FY 2006-07. An increase in the hourly and re-inspection fee rates (currently \$32 per hour and \$32 per re-inspection) to \$40 each is proposed. This adjustment is proposed to begin incrementally adjusting these fees so they will eventually be equal to the Building/Mechanical fees. These fees do not account for a significant amount of the program's revenue; however, eventually having a common hourly rate and re-inspection fee for all permit types will make it easier for both our customers and staff to administer.

Staff recommends implementation of the proposed increase with further evaluations in 12 months. The information below provides a brief history of workload, revenue, and expenditure statistics. In addition, a forecast for future indicators is also provided. The proposed increase is based on the anticipated revenues and expenditures through FY 2007-08.

Permits Issued

	FY 2003-04 Actual	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07*	FY 2007-08*
Plumbing Permits	1,270	1,216	1,233	1,250	1,200

Inspections

	FY 2003-04 Actual	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07*	FY 2007-08*
Plumbing Inspections	9,200	8,183	7,422	9,350	8,900

Program Revenues

	FY 2003-04 Actual	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07*	FY 2007-08*
Plumbing Permit Fees	\$235,055	\$307,395	\$219,124	\$300,000	\$300,000
Miscellaneous Fees	\$31,971	\$25,771	\$24,242	\$21,246	\$20,000
Interest Income	\$7,199	\$12,785	\$19,156	\$17,850	\$15,000
Total	\$274,225	\$345,951	\$262,522	\$339,096	\$335,000

Expenditures

	FY 2003-04 Actual	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07*	FY 2007-08*
Plumbing Inspection	\$307,889	\$334,106	\$374,686	\$406,294	\$430,000

FY Income/Loss

	FY 2003-04 Actual	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07*	FY 2007-08*
+ / (-)	(\$33,664)	\$11,845	(\$112,164)	(\$67,198)	(\$95,000)

Contingency

	FY 2003-04 Actual	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07*	FY 2007-08*
+ / (-)	\$466,929	\$478,774	\$366,610	\$299,412	\$204,412

*Estimated

ELECTRICAL PERMIT FEE INCREASE

A 10-percent increase is proposed. Previous fee increases have reduced the rate of expenditures exceeding revenues; however, electrical permit fees continue to under fund the program. The proposed increase would generate an estimated \$14,500 of additional revenue for FY 2006-07. The program would, however, see an operating loss of \$122,725 for FY 2006-07.

Staff recommends implementation of the proposed increase with further evaluations in 12 months. The information below provides a brief history of workload, revenue, and expenditure statistics. In addition, a forecast for future indicators is also provided. The proposed increase is based on the anticipated revenues and expenditures through FY 2007-08.

Permits Issued

	FY 2003-04 Actual	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07*	FY 2007-08*
Electrical Permits	2,144	2,321	2,203	2,250	2,200

Inspections

	FY 2003-04 Actual	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07*	FY 2007-08*
Electrical Inspections	9,682	9,718	8,545	9,150	9,000

Program Revenues

	FY 2003-04 Actual	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07* Without Increase/With Increase	FY 2007-08* Without Increase/With Increase
Electrical Permit Fees	\$173,886	\$226,342	\$233,995	\$290,000/ \$304,500	\$290,000/ \$319,000
Miscellaneous Fees	\$15,482	\$8,445	\$9,129	\$7,246	\$8,000
Interest Income	\$4,445	\$13,506	\$12,653	\$11,900	\$0
Total	\$193,813	\$248,293	\$255,777	\$309,146/ \$323,646	\$298,000/ \$327,000

Expenditures

	FY 2003-04 Actual	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07*	FY 2007-08*
Electrical Inspection	\$259,510	\$385,902	\$394,776	\$446,371	\$450,000

FY Income/Loss

	FY 2003-04 Actual	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07* Without Increase/With Increase	FY 2007-08* Without Increase/With Increase
+ / (-)	(\$65,697)	(\$137,609)	(\$138,999)	(\$137,225) / (\$122,725)	(\$152,000) / (\$123,000)

Contingency

	FY 2003-04 Actual	FY 2004-05 Actual	FY 2005-06 Actual	FY 2006-07* Without Increase/With Increase	FY 2007-08* Without Increase/With Increase
+ / (-)	\$225,258	\$87,649	(\$51,350)	(\$188,575) / (\$174,075)	(\$340,575) / (\$297,075)

*Estimated

Proposed Fee Schedule

CITY OF BEAVERTON

NEW ONE AND TWO FAMILY DWELLING BUILDING PERMIT FEE TABLE

(See below for determining valuation.)

\$0.00 to \$500.00 valuation	\$49.45
\$501.00 to \$2,000.00 valuation	\$49.45 for the first \$500.00 and \$2.20 for each additional \$100.00 or fraction thereof
\$2,001.00 to \$25,000.00 valuation	\$82.45 for the first \$2,000.00 and \$7.50 for each additional \$1,000.00 or fraction thereof
\$25,001.00 to \$50,000.00 valuation	\$254.95 for the first \$25,000.00 and \$6.60 for each additional \$1,000.00 or fraction thereof
\$50,001.00 to \$100,000.00 valuation	\$419.95 for the first \$50,000.00 and \$5.30 for each additional \$1,000.00 or fraction thereof
\$100,001.00 to \$500,000.00 valuation	\$684.95 for the first \$100,000.00 and \$3.15 for each additional \$1,000.00 or fraction thereof
\$500,001.00 to \$1,000,000.00 valuation	\$1,944.95 for the first \$500,000.00 and \$2.20 for each additional \$1,000.00 or fraction thereof
\$1,000,001.00 and over valuation	\$3,044.95 for the first \$1,000,000.00 and \$1.50 for each additional \$1,000.00 or fraction thereof

Other Inspections and Fees:

1. Inspections outside of normal business hours
(minimum charge – two hours).....\$80.00 per hour*
2. Reinspection fees assessed under provisions of
Building Division Administrative Rules Section 309.10.....\$80.00
3. Inspections for which no fee is specifically indicated
(minimum charge – one-half hour).....\$80.00 per hour*
4. Additional plans review required by changes, additions,
or revisions to proposed or approved plans
(minimum charge – one-half hour).....\$80.00 per hour*

*Or total hourly cost to the jurisdiction, whichever is the greatest. This cost shall include supervision, overhead, equipment, hourly wages, and fringe benefits of the employees involved.

Structural Plans Review Fee	65 percent of building permit fee
State Surcharge	8 percent of building permit fee
Development Code Review Fee.....	\$75.00
Sidewalk/Driveway/Approach Fee.....	\$25.00
Utility Locate Fee	\$25.00
Engineering Division Review Fee.....	\$40.00

Erosion Control Fee – Value:	\$0 to \$25,000.00	\$50.00
	\$25,001.00 to 50,000.00.....	\$75.00
	\$50,001.00 to \$100,000.00	\$100.00
	\$100,001.00 and over.....	\$100.00 plus \$75.00 per
		\$100,000.00 of valuation or fraction thereof over \$100,000.00

Valuation is determined by multiplying the square footage of the dwelling and garage by the “per square foot cost factor” identified in the Building Valuation Data Table.

(New one and two family dwelling building permit fee table, continued.)

Building Permit Fee Schedule For Stand-Alone Residential Fire Sprinkler Systems

Square Footage of Dwelling (including garage)	Permit/Plans Review Fee
0-2,000 square feet.....	\$147.20
2,001-3,600 square feet.....	\$187.40
3,601-7,200 square feet.....	\$254.25
Greater than 7,200 square feet.....	\$321.20

Proposed Fee Schedule

CITY OF BEAVERTON

COMMERCIAL, MULTI-FAMILY, AND INDUSTRIAL BUILDING PERMIT FEE TABLE FOR NEW BUILDINGS

(See below for determining valuation.)

\$0.00 to \$500.00 valuation	\$75.30
\$501.00 to \$2,000.00 valuation	\$75.30 for the first \$500.00 and \$2.95 for each additional \$100.00 or fraction thereof
\$2,001.00 to \$25,000.00 valuation	\$119.55 for the first \$2,000.00 and \$12.00 for each additional \$1,000.00 or fraction thereof
\$25,001.00 to \$50,000.00 valuation	\$395.55 for the first \$25,000.00 and \$9.00 for each additional \$1,000.00 or fraction thereof
\$50,001.00 to \$100,000.00 valuation	\$620.55 for the first \$50,000.00 and \$6.40 for each additional \$1,000.00 or fraction thereof
\$100,001.00 to \$500,000.00 valuation	\$940.55 for the first \$100,000.00 and \$4.75 for each additional \$1,000.00 or fraction thereof
\$500,001.00 to \$1,000,000.00 valuation	\$2,840.55 for the first \$500,000.00 and \$4.15 for each additional \$1,000.00 or fraction thereof
\$1,000,001.00 to \$10,000,000.00 valuation	\$4,915.55 for the first \$1,000,000.00 and \$2.75 for each additional \$1,000.00 or fraction thereof
\$10,000,001.00 and over valuation	\$29,665.55 for the first \$10,000,000.00 and \$2.65 for each additional \$1,000.00 or fraction thereof

Other Inspections and Fees:

1. Inspections outside of normal business hours (minimum charge – two hours).....\$80.00 per hour*
2. Reinspection fees assessed under provisions of Building Division Administrative Rules Section 309.10.....\$80.00
3. Inspections for which no fee is specifically indicated (minimum charge – one-half hour).....\$80.00 per hour*
4. Additional plans review required by changes, additions, or revisions to proposed or approved plans (minimum charge – one-half hour).....\$80.00 per hour*

*Or total hourly cost to the jurisdiction, whichever is the greatest. This cost shall include supervision, overhead, equipment, hourly wages, and fringe benefits of the employees involved.

Structural Plans Review Fee	65 percent of building permit fee
Fire and Life Safety Plans Review Fee	40 percent of building permit fee
State Surcharge	8 percent of building permit fee
Development Code Review Fee.....	\$75.00
Sidewalk/Driveway/Approach Fee.....	\$25.00
Engineering Division Review Fee.....	\$40.00

Erosion Control Fee – Value:	\$0 to \$25,000.00.....	\$50.00
	\$25,001.00 to 50,000.00.....	\$75.00
	\$50,001.00 to \$100,000.00	\$100.00
	\$100,001.00 and over.....	\$100.00 plus \$75.00 per
	\$100,000.00 of valuation or fraction thereof over \$100,000.00	

(Commercial, multi-family, and industrial building permit fee table for new buildings, continued.)

Valuation is determined by multiplying the square footage of the building (based on use and construction type) by the "per square foot cost factor" identified in the Building Valuation Data Table.

Phased Projects: There shall be a minimum plans review phasing fee of \$165.40 for each separate phased portion of the project. In addition, a plans review phasing fee shall be charged in an amount equal to ten percent of the total project building permit fee calculated in accordance with OAR 918-050-100 through 110 not to exceed an additional \$1,500 for each phase.

Deferred Submittals: The plans review fee for processing deferred plan submittals shall be an amount equal to 65 percent of the building permit fee calculated in accordance with OAR 918-050-110(2) and (3) using the value of the particular deferred portion of the project with a minimum fee of \$123.70. This fee is in addition to the project plans review fee based on total project value.

Proposed Fee Schedule

CITY OF BEAVERTON

SINGLE FAMILY, MULTI-FAMILY, COMMERCIAL, AND INDUSTRIAL BUILDING PERMIT FEE TABLE FOR ALTERATIONS, ADDITIONS, AND DEMOLITIONS

\$0.00 to \$500.00 valuation	\$47.35
\$501.00 to \$2,000.00 valuation	\$47.35 for the first \$500.00 and \$3.00 for each additional \$100.00 or fraction thereof
\$2,001.00 to \$25,000.00 valuation	\$92.35 for the first \$2,000.00 and \$13.55 for each additional \$1,000.00 or fraction thereof
\$25,001.00 to \$50,000.00 valuation	\$404.00 for the first \$25,000.00 and \$9.80 for each additional \$1,000.00 or fraction thereof
\$50,001.00 to \$100,000.00 valuation	\$649.00 for the first \$50,000.00 and \$6.70 for each additional \$1,000.00 or fraction thereof
\$100,001.00 to \$500,000.00 valuation	\$984.00 for the first \$100,000.00 and \$5.35 for each additional \$1,000.00 or fraction thereof
\$500,001.00 to \$1,000,000.00 valuation	\$3,124.00 for the first \$500,000.00 and \$4.50 for each additional \$1,000.00 or fraction thereof
\$1,000,001.00 and over valuation	\$5,374.00 for the first \$1,000,000.00 and \$3.00 for each additional \$1,000.00 or fraction thereof

Other Inspections and Fees:

1. Inspections outside of normal business hours (minimum charge – two hours).....\$80.00 per hour*
2. Reinspection fees assessed under provisions of Building Division Administrative Rules Section 309.10.....\$80.00
3. Inspections for which no fee is specifically indicated (minimum charge – one-half hour).....\$80.00 per hour*
4. Additional plans review required by changes, additions, or revisions to proposed or approved plans (minimum charge – one-half hour).....\$80.00 per hour*

*Or total hourly cost to the jurisdiction, whichever is the greatest. This cost shall include supervision, overhead, equipment, hourly wages, and fringe benefits of the employees involved.

Structural Plans Review Fee .....	.65 percent of building permit fee
Fire and Life Safety Plans Review Fee .....	.40 percent of building permit fee
State Surcharge .....	.8 percent of building permit fee
Development Code Review Fee.....	\$75.00
Sidewalk/Driveway/Approach Fee.....	\$25.00
Engineering Division Review Fee.....	\$40.00

Erosion Control Fee – Value:	\$0 to \$25,000.00.....	\$50.00
	\$25,001.00 to 50,000.00.....	\$75.00
	\$50,001.00 to \$100,000.00	\$100.00
	\$100,001.00 and over.....	\$100.00 plus \$75.00 per \$100,000.00 of valuation or fraction thereof over \$100,000.00

(Single family, multi-family, commercial, and industrial building permit fee table for alterations, additions, and demolitions, continued.)

Building Permit Fee Schedule For Stand-Alone Residential Fire Sprinkler Systems

Square Footage of Dwelling (including garage)	Permit/Plans Review Fee
0-2,000 square feet.....	\$147.20
2,001-3,600 square feet	\$187.40
3,601-7,200 square feet	\$254.25
Greater than 7,200 square feet.....	\$321.20

Phased Projects: There shall be a minimum plans review phasing fee of \$165.40 for each separate phased portion of the project. In addition, a plans review phasing fee shall be charged in an amount equal to ten percent of the total project building permit fee calculated in accordance with OAR 918-050-100 through 110 not to exceed an additional \$1,500 for each phase.

Deferred Submittals: The plans review fee for processing deferred plan submittals shall be an amount equal to 65 percent of the building permit fee calculated in accordance with OAR 918-050-110(2) and (3) using the value of the particular deferred portion of the project with a minimum fee of \$123.70. This fee is in addition to the project plans review fee based on total project value.

Proposed Fee Schedule

CITY OF BEAVERTON

MECHANICAL FEE SCHEDULE FOR NEW AND ADDITIONS OR ALTERATIONS TO ONE AND TWO FAMILY DWELLINGS

Air Handling Units	\$31.50 per appliance
Air Conditioning	\$44.10 per appliance
Alteration of Existing HVAC System	\$31.50 per appliance
Heat Pump	\$57.60 per appliance
Install/Replace Furnace	
Up to 100,000 btu	\$44.10 per appliance
Over 100,000 btu	\$51.80 per appliance
Install/Replace/Relocate Heaters	
Suspended, Wall, or Floor Mounted.....	\$44.10 per appliance
Vent for Appliance other than Furnace	\$31.50 per appliance
Appliance Vent.....	\$22.00 per appliance
Dryer Exhaust	\$31.50 per appliance
Hood.....	\$31.50 per appliance
Exhaust Fan Connected to a Single Duct.....	\$22.00 per appliance
Gas Piping: 1 to 4 Outlets.....	\$13.35
Each Additional Outlet.....	\$3.80
Fireplace	\$31.50 per appliance
Wood Stove	\$31.50 per appliance
Other	\$22.00 per appliance
Minimum Fee	\$92.10
State Surcharge.....	.8 percent of mechanical permit fee

Other Inspections and Fees:

1. Inspections outside of normal business hours
(minimum charge – two hours).....\$80.00 per hour*
2. Reinspection fees assessed under provisions of
Building Division Administrative Rules Section 309.10.....\$80.00
3. Inspections for which no fee is specifically indicated
(minimum charge – one-half hour).....\$80.00 per hour*
4. Additional plans review required by changes, additions,
or revisions to proposed or approved plans
(minimum charge – one-half hour).....\$80.00 per hour*

*Or total hourly cost to the jurisdiction, whichever is the greatest. This cost shall include supervision, overhead, equipment, hourly wages, and fringe benefits of the employees involved.

Prop sed Fee Schedule

CITY OF BEAVERTON

MECHANICAL FEE SCHEDULE FOR NEW AND ADDITIONS OR ALTERATIONS TO COMMERCIAL, MULTI-FAMILY, AND INDUSTRIAL PROJECTS

(See Mechanical Valuation Table to determine valuation.)

\$0.00 to \$500.00 valuation	\$65.15
\$501.00 to \$5,000.00 valuation	\$65.15 for the first \$500.00 and \$2.90 for each additional \$100.00 or fraction thereof
\$5,001.00 to \$10,000.00 valuation	\$195.65 for the first \$5,000.00 and \$2.65 for each additional \$100.00 or fraction thereof
\$10,001.00 to \$50,000.00 valuation	\$328.15 for the first \$10,000.00 and \$2.40 for each additional \$100.00 or fraction thereof
\$50,001.00 to \$100,000.00 valuation	\$1,288.15 for the first \$50,000.00 and \$2.35 for each additional \$100.00 or fraction thereof
\$100,001.00 and over valuation	\$2,463.15 for the first \$100,000.00 and \$2.75 for each additional \$100.00 or fraction thereof
Minimum Fee	\$92.10

Plans review equals 25 percent of the mechanical permit fee.
State surcharge equals 8 percent of the mechanical permit fee.

Other Inspections and Fees:

1. Inspections outside of normal business hours (minimum charge – two hours).....\$80.00 per hour*
2. Reinspection fees assessed under provisions of Building Division Administrative Rules Section 309.10.....\$80.00
3. Inspections for which no fee is specifically indicated (minimum charge – one-half hour).....\$80.00 per hour*
4. Additional plans review required by changes, additions, or revisions to proposed or approved plans (minimum charge – one-half hour).....\$80.00 per hour*

*Or total hourly cost to the jurisdiction, whichever is the greatest. This cost shall include supervision, overhead, equipment, hourly wages, and fringe benefits of the employees involved.

Proposed Fee Schedule

CITY OF BEAVERTON

PLUMBING PERMIT FEE SCHEDULE FOR NEW ONE AND TWO FAMILY DWELLINGS.

1 Bathroom	\$200.00
2 Bathroom	\$230.00
3 Bathroom	\$260.00
Each Additional Kitchen and/or Bath	\$24.00

PLUMBING PERMIT FEE SCHEDULE FOR ONE AND TWO FAMILY DWELLING ALTERATION OR ADDITIONS AND ALL MULTI-FAMILY, COMMERCIAL, AND INDUSTRIAL PROJECTS.

Catch Basin/Area Drain	\$10.40 per fixture
Drywells/Leach Line/Trench Drain	\$10.40 per fixture
Footing Drain	\$10.40 per fixture
Manufactured Home Utilities	\$10.40 per fixture
Manholes	\$10.40 per fixture
Rain Drain Connector	\$10.40 per fixture
Sanitary Sewer (1st 100 ft).....	\$27.20
Each Additional 100 ft.....	\$22.40
Storm Sewer (1st 100 ft).....	\$27.20
Each Additional 100 ft.....	\$13.60
Water Service (1st 100 ft).....	\$27.20
Each Additional 100 ft.....	\$22.40
Back Flow Preventer	\$22.40 per fixture
Absorption Valve.....	\$10.40 per fixture*
Backwater Valve	\$10.40 per fixture*
Clothes Washer	\$10.40 per fixture*
Dishwasher	\$10.40 per fixture*
Drinking Fountain(s)	\$10.40 per fixture*
Ejectors/Sump	\$10.40 per fixture*
Expansion Tank	\$10.40 per fixture*
Fixture/Sewer Cap.....	\$10.40 per fixture*
Floor Drains/Floor Sinks/Hub Drains.....	\$10.40 per fixture*
Garbage Disposal.....	\$10.40 per fixture*
Hose Bib	\$10.40 per fixture*
Ice Maker	\$10.40 per fixture*
Interceptor/Grease Trap	\$10.40 per fixture*
Primer(s)	\$10.40 per fixture*
Roof Drain (commercial).....	\$10.40 per fixture*
Sink(s), Basin(s), Lavatory(s)	\$10.40 per fixture*
Sump.....	\$10.40 per fixture*
Tubs/Shower/Shower Pan.....	\$10.40 per fixture*
Urinal.....	\$10.40 per fixture*
Water Closet.....	\$10.40 per fixture*
Water Heater.....	\$10.40 per fixture*
Other	\$10.40 per fixture*
Medical Gas Piping.....	See Fee Schedule

(Plumbing permit fee schedule for one and two family dwelling alteration or additions and all multi-family, commercial, and industrial projects, continued.)

Inspection of Existing Plumbing	\$40.00 per hour
Specially Requested Inspections	\$40.00 per hour
Re-inspection Fee.....	\$40.00
Minimum Fee	\$40.00
*Where Fixtures Total 100 or More	\$8.00 per fixture

Plans review equals 25 percent of the plumbing permit fee.
 State surcharge equals 8 percent of the plumbing permit fee.

PLUMBING PERMIT FEE SCHEDULE FOR MULTI-PURPOSE RESIDENTIAL FIRE SPRINKLER SYSTEMS.

Square Footage of Dwelling (including garage)	Permit/Plans Review Fee
0-2,000 square feet	\$82.50
2,001-3,600 square feet	\$112.50
3,601-7,200 square feet	\$127.50
Greater than 7,200 square feet	\$172.50

PLUMBING PERMIT FEE SCHEDULE FOR MEDICAL GAS PIPING SYSTEMS.

\$0.00 to \$500.00 valuation	\$42.50
\$501.00 to \$5,000.00 valuation	\$42.50 for the first \$500.00 and \$1.88 for each additional \$100.00 or fraction thereof.
\$5,001.00 to \$10,000 valuation	\$126.88 for the first \$5,000.00 and \$1.75 for each additional \$100.00 or fraction thereof.
\$10,001.00 to \$50,000.00 valuation.....	\$214.38 for the first \$10,000.00 and \$1.63 for each additional \$100.00 or fraction thereof.
\$50,001.00 to \$100,000.00 valuation.....	\$864.38 for the first \$50,000.00 and \$1.56 for each additional \$100.00 or fraction thereof.
\$100,001.00 and over valuation.....	\$1,645.63 for the first \$100,000.00 and \$1.81 for each additional \$100.00 or fraction thereof.
Minimum Fee	\$60.00

Plans review equals 25 percent of the plumbing permit fee.

Proposed Fee Schedule

CITY OF BEAVERTON

ELECTRICAL FEE SCHEDULE FOR NEW AND ADDITIONS OR ALTERATIONS TO MULTI-FAMILY, COMMERCIAL, INDUSTRIAL PROJECTS, AND ONE AND TWO FAMILY DWELLINGS

New residential – single or multi-family per dwelling unit (includes attached garage)

Service Included:

1000 square feet or less	\$119.20
Each Additional 500 square feet or portion thereof	\$21.25
Limited Energy, residential	\$28.40
Limited Energy, non-residential.....	\$56.15
Each manufactured home or modular dwelling service and/or feeder.....	\$56.15

Services or feeders – installation, alteration or relocation:

200 amps or less	\$70.90
201 amps to 400 amps	\$84.40
401 amps to 600 amps	\$140.40
601 amps to 1000 amps	\$183.60
Over 1000 amps or volt	\$422.60
Reconnect Only	\$56.15

Temporary services or feeders – Installation, alteration, or relocation:

200 amps or less	\$56.15
201 amps to 400 amps	\$78.00
401 amps to 600 amps	\$112.70

Branch circuits – new, alteration, or extension per panel:

A. Fee for branch circuits with purchase of service or feeder fee, each branch circuit	\$2.60
B. Fee for branch circuits without purchase of service or feeder fee, first branch circuit	\$49.70
Each additional branch circuit	\$2.60

Miscellaneous (Service or feeder not included):

Each Pump or Irrigation Circle	\$56.15
Each Sign or Outline Lighting.....	\$56.15
Signal Circuit(s) or a Limited Energy Panel, Alteration, or Extension	\$56.15

Plans review equals 25 percent of the electrical permit fee.
State Surcharge equals 8 percent of the electrical permit fee.

1. Inspections outside of normal business hours
(minimum charge – two hours).....\$70.90 per hour*
2. Each additional inspection over the allowable for
the permitted work
3. Inspections for which no fee is specifically indicated
(minimum charge – one-half hour)
4. Additional plans review required by changes, additions,
or revisions to proposed or approved plans
(minimum charge – one-half hour)

*Or total hourly cost to the jurisdiction, whichever is the greatest. This cost shall include supervision, overhead, equipment, hourly wages, and fringe benefits of the employees involved.

Current Fee Schedule

CITY OF BEAVERTON

NEW ONE AND TWO FAMILY DWELLING BUILDING PERMIT FEE TABLE

(See below for determining valuation.)

\$0.00 to \$500.00 valuation	\$47.10
\$501.00 to \$2,000.00 valuation	\$47.10 for the first \$500.00 and \$2.10 for each additional \$100.00 or fraction thereof
\$2,001.00 to \$25,000.00 valuation	\$78.60 for the first \$2,000.00 and \$7.15 for each additional \$1,000.00 or fraction thereof
\$25,001.00 to \$50,000.00 valuation	\$243.05 for the first \$25,000.00 and \$6.30 for each additional \$1,000.00 or fraction thereof
\$50,001.00 to \$100,000.00 valuation	\$400.55 for the first \$50,000.00 and \$5.05 for each additional \$1,000.00 or fraction thereof
\$100,001.00 to \$500,000.00 valuation	\$653.05 for the first \$100,000.00 and \$3.00 for each additional \$1,000.00 or fraction thereof
\$500,001.00 to \$1,000,000.00 valuation	\$1,853.05 for the first \$500,000.00 and \$2.10 for each additional \$1,000.00 or fraction thereof
\$1,000,001.00 and over valuation	\$2,903.05 for the first \$1,000,000.00 and \$1.45 for each additional \$1,000.00 or fraction thereof

Other Inspections and Fees:

1. Inspections outside of normal business hours (minimum charge – two hours).....\$78.70 per hour*
2. Reinspection fees assessed under provisions of Building Division Administrative Rules Section 309.10.....\$78.70
3. Inspections for which no fee is specifically indicated (minimum charge – one-half hour).....\$78.70 per hour*
4. Additional plans review required by changes, additions, or revisions to proposed or approved plans (minimum charge – one-half hour).....\$78.70 per hour*

*Or total hourly cost to the jurisdiction, whichever is the greatest. This cost shall include supervision, overhead, equipment, hourly wages, and fringe benefits of the employees involved.

Structural Plans Review Fee .....	.65 percent of building permit fee
State Surcharge .....	.8 percent of building permit fee
Development Code Review Fee.....	\$75.00
Sidewalk/Driveway/Approach Fee.....	\$25.00
Utility Locate Fee	\$25.00
Engineering Division Review Fee.....	\$40.00

Erosion Control Fee – Value:	\$0 to \$25,000.00.....	\$50.00
	\$25,001.00 to 50,000.00.....	\$75.00
	\$50,001.00 to \$100,000.00	\$100.00
	\$100,001.00 and over.....	\$100.00 plus \$75.00 per
	\$100,000.00 of valuation or fraction thereof over \$100,000.00	

Valuation is determined by multiplying the square footage of the dwelling and garage by the “per square foot cost factor” identified in the Building Valuation Data Table.

(New one and two family dwelling building permit fee table, continued.)

Building Permit Fee Schedule For Stand-Alone Residential Fire Sprinkler Systems

Square Footage of Dwelling (including garage)	Permit/Plans Review Fee
0-2,000 square feet.....	\$140.20
2,001-3,600 square feet	\$178.45
3,601-7,200 square feet	\$242.15
Greater than 7,200 square feet	\$305.90

Current Fee Schedule

CITY OF BEAVERTON

COMMERCIAL, MULTI-FAMILY, AND INDUSTRIAL BUILDING PERMIT FEE TABLE FOR NEW BUILDINGS

(See below for determining valuation.)

\$0.00 to \$500.00 valuation	\$71.70
\$501.00 to \$2,000.00 valuation	\$71.70 for the first \$500.00 and \$2.80 for each additional \$100.00 or fraction thereof
\$2,001.00 to \$25,000.00 valuation.....	\$113.70 for the first \$2,000.00 and \$11.40 for each additional \$1,000.00 or fraction thereof
\$25,001.00 to \$50,000.00 valuation.....	\$375.90 for the first \$25,000.00 and \$8.60 for each additional \$1,000.00 or fraction thereof
\$50,001.00 to \$100,000.00 valuation.....	\$590.90 for the first \$50,000.00 and \$6.10 for each additional \$1,000.00 or fraction thereof
\$100,001.00 to \$500,000.00 valuation.....	\$895.90 for the first \$100,000.00 and \$4.50 for each additional \$1,000.00 or fraction thereof
\$500,001.00 to \$1,000,000.00 valuation.....	\$2,695.90 for the first \$500,000.00 and \$3.95 for each additional \$1,000.00 or fraction thereof
\$1,000,001.00 to \$10,000,000.00 valuation.....	\$4,670.90 for the first \$1,000,000.00 and \$2.60 for each additional \$1,000.00 or fraction thereof
\$10,000,001.00 and over valuation.....	\$28,070.90 for the first \$10,000,000.00 and \$2.50 for each additional \$1,000.00 or fraction thereof

Other Inspections and Fees:

1. Inspections outside of normal business hours (minimum charge – two hours).....\$78.70 per hour*
2. Reinspection fees assessed under provisions of Building Division Administrative Rules Section 309.10.....\$78.70
3. Inspections for which no fee is specifically indicated (minimum charge – one-half hour).....\$78.70 per hour*
4. Additional plans review required by changes, additions, or revisions to proposed or approved plans (minimum charge – one-half hour).....\$78.70 per hour*

*Or total hourly cost to the jurisdiction, whichever is the greatest. This cost shall include supervision, overhead, equipment, hourly wages, and fringe benefits of the employees involved.

Structural Plans Review Fee .....	.65 percent of building permit fee
Fire and Life Safety Plans Review Fee .....	.40 percent of building permit fee
State Surcharge.....	.8 percent of building permit fee
Development Code Review Fee.....	\$75.00
Sidewalk/Driveway/Approach Fee.....	\$25.00
Engineering Division Review Fee.....	\$40.00

Erosion Control Fee – Value:	\$0 to \$25,000.00.....	\$50.00
	\$25,001.00 to 50,000.00.....	\$75.00
	\$50,001.00 to \$100,000.00	\$100.00
	\$100,001.00 and over.....	\$100.00 plus \$75.00 per
	\$100,000.00 of valuation or fraction thereof over \$100,000.00	

(Commercial, multi-family, and industrial building permit fee table for new buildings, continued.)

Valuation is determined by multiplying the square footage of the building (based on use and construction type) by the "per square foot cost factor" identified in the Building Valuation Data Table.

Phased Projects: There shall be a minimum plans review phasing fee of \$157.50 for each separate phased portion of the project. In addition, a plans review phasing fee shall be charged in an amount equal to ten percent of the total project building permit fee calculated in accordance with OAR 918-050-100 through 110 not to exceed an additional \$1,500 for each phase.

Deferred Submittals: The plans review fee for processing deferred plan submittals shall be an amount equal to 65 percent of the building permit fee calculated in accordance with OAR 918-050-110(2) and (3) using the value of the particular deferred portion of the project with a minimum fee of \$117.80. This fee is in addition to the project plans review fee based on total project value.

Current Fee Schedule

CITY OF BEAVERTON

SINGLE FAMILY, MULTI-FAMILY, COMMERCIAL, AND INDUSTRIAL BUILDING PERMIT FEE TABLE FOR ALTERATIONS, ADDITIONS, AND DEMOLITIONS

\$0.00 to \$500.00 valuation	\$45.10
\$501.00 to \$2,000.00 valuation	\$45.10 for the first \$500.00 and \$2.85 for each additional \$100.00 or fraction thereof
\$2,001.00 to \$25,000.00 valuation	\$87.85 for the first \$2,000.00 and \$12.90 for each additional \$1,000.00 or fraction thereof
\$25,001.00 to \$50,000.00 valuation	\$384.55 for the first \$25,000.00 and \$9.30 for each additional \$1,000.00 or fraction thereof
\$50,001.00 to \$100,000.00 valuation	\$617.05 for the first \$50,000.00 and \$6.35 for each additional \$1,000.00 or fraction thereof
\$100,001.00 to \$500,000.00 valuation	\$934.55 for the first \$100,000.00 and \$5.10 for each additional \$1,000.00 or fraction thereof
\$500,001.00 to \$1,000,000.00 valuation	\$2,974.55 for the first \$500,000.00 and \$4.30 for each additional \$1,000.00 or fraction thereof
\$1,000,001.00 and over valuation	\$5,124.55 for the first \$1,000,000.00 and \$2.85 for each additional \$1,000.00 or fraction thereof

Other Inspections and Fees:

1. Inspections outside of normal business hours (minimum charge – two hours).....\$78.70 per hour*
2. Reinspection fees assessed under provisions of Building Division Administrative Rules Section 309.10.....\$78.70
3. Inspections for which no fee is specifically indicated (minimum charge – one-half hour)\$78.70 per hour*
4. Additional plans review required by changes, additions, or revisions to proposed or approved plans (minimum charge – one-half hour)\$78.70 per hour*

*Or total hourly cost to the jurisdiction, whichever is the greatest. This cost shall include supervision, overhead, equipment, hourly wages, and fringe benefits of the employees involved.

Structural Plans Review Fee .....	.65 percent of building permit fee
Fire and Life Safety Plans Review Fee .....	.40 percent of building permit fee
State Surcharge .....	.8 percent of building permit fee
Development Code Review Fee.....	\$75.00
Sidewalk/Driveway/Approach Fee.....	\$25.00
Engineering Division Review Fee.....	\$40.00

Erosion Control Fee – Value:	\$0 to \$25,000.00.....	\$50.00
	\$25,001.00 to 50,000.00.....	\$75.00
	\$50,001.00 to \$100,000.00	\$100.00
	\$100,001.00 and over.....	\$100.00 plus \$75.00 per \$100,000.00 of valuation or fraction thereof over \$100,000.00

(Single family, multi-family, commercial, and industrial building permit fee table for alterations, additions, and demolitions, continued.)

Building Permit Fee Schedule For Stand-Alone Residential Fire Sprinkler Systems

Square Footage of Dwelling (including garage)	Permit/Plans Review Fee
0-2,000 square feet.....	\$140.20
2,001-3,600 square feet	\$178.45
3,601-7,200 square feet	\$242.15
Greater than 7,200 square feet	\$305.90

Phased Projects: There shall be a minimum plans review phasing fee of \$157.50 for each separate phased portion of the project. In addition, a plans review phasing fee shall be charged in an amount equal to ten percent of the total project building permit fee calculated in accordance with OAR 918-050-100 through 110 not to exceed an additional \$1,500 for each phase.

Deferred Submittals: The plans review fee for processing deferred plan submittals shall be an amount equal to 65 percent of the building permit fee calculated in accordance with OAR 918-050-110(2) and (3) using the value of the particular deferred portion of the project with a minimum fee of \$117.80. This fee is in addition to the project plans review fee based on total project value.

Current Fee Schedule

CITY OF BEAVERTON

MECHANICAL FEE SCHEDULE FOR NEW AND ADDITIONS OR ALTERATIONS TO ONE AND TWO FAMILY DWELLINGS

Air Handling Units	\$30.00 per appliance
Air Conditioning	\$42.00 per appliance
Alteration of Existing HVAC System	\$30.00 per appliance
Heat Pump	\$54.85 per appliance
Install/Replace Furnace	
Up to 100,000 btu	\$42.00 per appliance
Over 100,000 btu	\$49.30 per appliance
Install/Replace/Relocate Heaters	
Suspended, Wall, or Floor Mounted.....	\$42.00 per appliance
Vent for Appliance other than Furnace	\$30.00 per appliance
Appliance Vent.....	\$20.95 per appliance
Dryer Exhaust	\$30.00 per appliance
Hood.....	\$30.00 per appliance
Exhaust Fan Connected to a Single Duct	\$20.95 per appliance
Gas Piping: 1 to 4 Outlets.....	\$12.70
Each Additional Outlet	\$3.60
Fireplace	\$30.00 per appliance
Wood Stove	\$30.00 per appliance
Other	\$20.95 per appliance
Minimum Fee	\$87.70
State Surcharge.....	.8 percent of mechanical permit fee

Other Inspections and Fees:

1. Inspections outside of normal business hours
(minimum charge – two hours).....\$78.70 per hour*
2. Reinspection fees assessed under provisions of
Building Division Administrative Rules Section 309.10.....\$78.70
3. Inspections for which no fee is specifically indicated
(minimum charge – one-half hour).....\$78.70 per hour*
4. Additional plans review required by changes, additions,
or revisions to proposed or approved plans
(minimum charge – one-half hour).....\$78.70 per hour*

*Or total hourly cost to the jurisdiction, whichever is the greatest. This cost shall include supervision, overhead, equipment, hourly wages, and fringe benefits of the employees involved.

Current Fee Schedule

CITY OF BEAVERTON

MECHANICAL FEE SCHEDULE FOR NEW AND ADDITIONS OR ALTERATIONS TO COMMERCIAL, MULTI-FAMILY, AND INDUSTRIAL PROJECTS

(See Mechanical Valuation Table to determine valuation.)

\$0.00 to \$500.00 valuation	\$62.05
\$501.00 to \$5,000.00 valuation	\$62.05 for the first \$500.00 and \$2.75 for each additional \$100.00 or fraction thereof
\$5,001.00 to \$10,000.00 valuation.....	\$185.80 for the first \$5,000.00 and \$2.50 for each additional \$100.00 or fraction thereof
\$10,001.00 to \$50,000.00 valuation.....	\$310.80 for the first \$10,000.00 and \$2.30 for each additional \$100.00 or fraction thereof
\$50,001.00 to \$100,000.00 valuation.....	\$1,230.80 for the first \$50,000.00 and \$2.25 for each additional \$100.00 or fraction thereof
\$100,001.00 and over valuation	\$2,355.80 for the first \$100,000.00 and \$2.60 for each additional \$100.00 or fraction thereof
Minimum Fee	\$87.70

Plans review equals 25 percent of the mechanical permit fee.
State surcharge equals 8 percent of the mechanical permit fee.

Other Inspections and Fees:

1. Inspections outside of normal business hours (minimum charge – two hours).....\$78.70 per hour*
2. Reinspection fees assessed under provisions of Building Division Administrative Rules Section 309.10.....\$78.70
3. Inspections for which no fee is specifically indicated (minimum charge – one-half hour)\$78.70per hour*
4. Additional plans review required by changes, additions, or revisions to proposed or approved plans (minimum charge – one-half hour)\$78.70 per hour*

*Or total hourly cost to the jurisdiction, whichever is the greatest. This cost shall include supervision, overhead, equipment, hourly wages, and fringe benefits of the employees involved.

Current Fee Schedule

CITY OF BEAVERTON

PLUMBING PERMIT FEE SCHEDULE FOR NEW ONE AND TWO FAMILY DWELLINGS.

1 Bathroom	\$200.00
2 Bathroom	\$230.00
3 Bathroom	\$260.00
Each Additional Kitchen and/or Bath	\$24.00

PLUMBING PERMIT FEE SCHEDULE FOR ONE AND TWO FAMILY DWELLING ALTERATION OR ADDITIONS AND ALL MULTI-FAMILY, COMMERCIAL, AND INDUSTRIAL PROJECTS.

Catch Basin/Area Drain	\$10.40 per fixture
Drywells/Leach Line/Trench Drain	\$10.40 per fixture
Footing Drain	\$10.40 per fixture
Manufactured Home Utilities	\$10.40 per fixture
Manholes	\$10.40 per fixture
Rain Drain Connector	\$10.40 per fixture
Sanitary Sewer (1st 100 ft).....	\$27.20
Each Additional 100 ft.....	\$22.40
Storm Sewer (1st 100 ft).....	\$27.20
Each Additional 100 ft.....	\$13.60
Water Service (1st 100 ft).....	\$27.20
Each Additional 100 ft.....	\$22.40
Back Flow Preventer	\$22.40 per fixture
Absorption Valve.....	\$10.40 per fixture*
Backwater Valve	\$10.40 per fixture*
Clothes Washer	\$10.40 per fixture*
Dishwasher	\$10.40 per fixture*
Drinking Fountain(s)	\$10.40 per fixture*
Ejectors/Sump	\$10.40 per fixture*
Expansion Tank.....	\$10.40 per fixture*
Fixture/Sewer Cap.....	\$10.40 per fixture*
Floor Drains/Floor Sinks/Hub Drains.....	\$10.40 per fixture*
Garbage Disposal.....	\$10.40 per fixture*
Hose Bib	\$10.40 per fixture*
Ice Maker	\$10.40 per fixture*
Interceptor/Grease Trap	\$10.40 per fixture*
Primer(s)	\$10.40 per fixture*
Roof Drain (commercial).....	\$10.40 per fixture*
Sink(s), Basin(s), Lavatory(s).....	\$10.40 per fixture*
Sump.....	\$10.40 per fixture*
Tubs/Shower/Shower Pan.....	\$10.40 per fixture*
Urinal.....	\$10.40 per fixture*
Water Closet.....	\$10.40 per fixture*
Water Heater.....	\$10.40 per fixture*
Other	\$10.40 per fixture*
Medical Gas Piping.....	See Fee Schedule

(Plumbing permit fee schedule for one and two family dwelling alteration or additions and all multi-family, commercial, and industrial projects, continued.)

Inspection of Existing Plumbing	\$32.00 per hour
Specially Requested Inspections	\$32.00 per hour
Re-inspection Fee.....	\$32.00
Minimum Fee	\$40.00
*Where Fixtures Total 100 or More	\$8.00 per fixture

Plans review equals 25 percent of the plumbing permit fee.
 State surcharge equals 8 percent of the plumbing permit fee.

PLUMBING PERMIT FEE SCHEDULE FOR MULTI-PURPOSE RESIDENTIAL FIRE SPRINKLER SYSTEMS.

Square Footage of Dwelling (including garage)	Permit/Plans Review Fee
0-2,000 square feet	\$82.50
2,001-3,600 square feet	\$112.50
3,601-7,200 square feet	\$127.50
Greater than 7,200 square feet	\$172.50

PLUMBING PERMIT FEE SCHEDULE FOR MEDICAL GAS PIPING SYSTEMS.

\$0.00 to \$500.00 valuation	\$42.50
\$501.00 to \$5,000.00 valuation	\$42.50 for the first \$500.00 and \$1.88 for each additional \$100.00 or fraction thereof.
\$5,001.00 to \$10,000 valuation	\$126.88 for the first \$5,000.00 and \$1.75 for each additional \$100.00 or fraction thereof.
\$10,001.00 to \$50,000.00 valuation.....	\$214.38 for the first \$10,000.00 and \$1.63 for each additional \$100.00 or fraction thereof.
\$50,001.00 to \$100,000.00 valuation.....	\$864.38 for the first \$50,000.00 and \$1.56 for each additional \$100.00 or fraction thereof.
\$100,001.00 and over valuation	\$1,645.63 for the first \$100,000.00 and \$1.81 for each additional \$100.00 or fraction thereof.
Minimum Fee	\$60.00

Plans review equals 25 percent of the plumbing permit fee.

Current Fee Schedule

CITY OF BEAVERTON

ELECTRICAL FEE SCHEDULE FOR NEW AND ADDITIONS OR ALTERATIONS TO MULTI-FAMILY, COMMERCIAL, INDUSTRIAL PROJECTS, AND ONE AND TWO FAMILY DWELLINGS

New residential – single or multi-family per dwelling unit (includes attached garage)

Service Included:

1000 square feet or less	\$108.35
Each Additional 500 square feet or portion thereof	\$19.30
Limited Energy, residential	\$25.80
Limited Energy, non-residential.....	\$51.05
Each manufactured home or modular dwelling service and/or feeder	\$51.05

Services or feeders – installation, alteration or relocation:

200 amps or less	\$64.45
201 amps to 400 amps	\$76.70
401 amps to 600 amps	\$127.65
601 amps to 1000 amps	\$166.90
Over 1000 amps or volt	\$384.20
Reconnect Only	\$51.05

Temporary services or feeders – installation, alteration, or relocation:

200 amps or less	\$51.05
201 amps to 400 amps	\$70.90
401 amps to 600 amps	\$102.45

Branch circuits – new, alteration, or extension per panel:

A. Fee for branch circuits with purchase of service or feeder fee, each branch circuit	\$2.35
B. Fee for branch circuits without purchase of service or feeder fee, first branch circuit	\$45.15
Each additional branch circuit	\$2.35

Miscellaneous (Service or feeder not included):

Each Pump or Irrigation Circle	\$51.05
Each Sign or Outline Lighting.....	\$51.05
Signal Circuit(s) or a Limited Energy Panel, Alteration, or Extension	\$51.05

Plan review equals 25 percent of the electrical permit fee.
State Surcharge equals 8 percent of the electrical permit fee.

1. Inspections outside of normal business hours
 (minimum charge – two hours).....\$64.45 per hour*
2. Each additional inspection over the allowable for
 the permitted work
3. Inspections for which no fee is specifically indicated
 (minimum charge – one-half hour).....\$64.45 per hour*
4. Additional plans review required by changes, additions,
 or revisions to proposed or approved plans
 (minimum charge – one-half hour).....\$64.45 per hour*

*Or total hourly cost to the jurisdiction, whichever is the greatest. This cost shall include supervision, overhead, equipment, hourly wages, and fringe benefits of the employees involved.

AGENDA BILL
Beaverton City Council
Beaverton, Oregon

SUBJECT: An Ordinance Repealing the 72-Hour
Parking Prohibition, Section 6.02.310.F
of the Municipal Code

FOR AGENDA OF: 12-04-06 **BILL NO:** 06219

Mayor's Approval: 

DEPARTMENT OF ORIGIN: Mayor's Office 

DATE SUBMITTED: 11-16-06

CLEARANCES: City Attorney 
Code Services 

PROCEEDING: First reading

EXHIBITS: 1. An Ordinance Repealing the
72-Hour Parking Prohibition
2. Ordinance 3427
3. Ordinance 4223

BUDGET IMPACT

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

HISTORICAL PERSPECTIVE:

In 1985, the City Council adopted Ordinance 3427 dealing with vehicle parking and abandoned vehicles. Ordinance 3427 defined an abandoned vehicle as

"A vehicle that has not been moved a distance of at least one tenth of a mile within 72 hours."

Ordinance 3427 also prohibited the parking or standing of

"A vehicle that has not been moved a distance of at least one tenth of a mile within 72 hours."

Since 1985, the abandoned vehicle sections of the code have been revised several times. Most recently, in August 2002, the City Council adopted Ordinance No. 4223 dealing with abandoned vehicles. An abandoned vehicle is now described as a vehicle that appears to be inoperable, or has expired plates, or is parked at other than the registration address, for more than 48 hours.

The 1985 prohibition against "A vehicle that has not been moved a distance of at least one tenth mile within 72 hours" was not repealed when Ordinance 4223 was adopted.

INFORMATION FOR CONSIDERATION:

The 72-hour parking prohibition was put into place in 1985 to address the nuisance of abandoned vehicles. But times have changed since 1985, and the 72-hour parking prohibition is no longer appropriate. Today, public policy encourages alternative forms of transportation such as walking, biking, car pools and busses. The 72-hour parking prohibition has the effect of punishing anyone who fails to drive his or her car every three days.

Under the current abandoned vehicle code provisions, Code Services informs citizens that if their vehicle:

- 1) is operable,
- 2) has current plates, and
- 3) is parked at the registration address,

then it is not in violation of the code. Nevertheless, because the 72-hour parking prohibition is still on the books, vehicles that are not moved every three days can be (and sometimes are) issued a \$10.00 parking ticket by the Police Department. From a public policy perspective, an operable vehicle, with current registration, parked at the registration address, should not be ticketed just because it has not been moved one-tenth of a mile within 72 hours.

RECOMMENDED ACTION:

First reading.

ORDINANCE NO. 4415

AN ORDINANCE REPEALING THE 72-HOUR PARKING PROHIBITION, SECTION 6.02.310.F OF THE MUNICIPAL CODE

WHEREAS, different sections of the Municipal Code are amended at different times and for varying purposes; and

WHEREAS, public policy changes over time as communities change; and

WHEREAS, it is desirable that the Municipal Code be revised periodically to best support current public policy; now, therefore,

BE IT ORDAINED BY THE CITY OF BEAVERTON,

Section 1. The Beaverton Code is amended in Chapter 6, Section 6.02.310 Prohibited Parking or Standing, by deleting the following sections;

- F. A vehicle that has not been moved a distance of at least one-tenth of a mile within 72 hours.
1. Unless the court finds that a vehicle is parked such that interferes with or obstructs the free movement of traffic in or onto the street, it shall be an affirmative defense to a violation of subsection (F) that the owner or operator of the vehicle had the abutting property owner's or occupant's permission to park the vehicle on that portion of the street which abuts the owner's or occupant's property if the vehicle bears a license plate with a valid, unexpired registration sticker and is not a discarded vehicle.

Section 2. This ordinance may be cited by the short title of "Repeal of the 72-Hour Parking Prohibition."

First reading this ____ day of _____, 2006.

Passed by the Council this ____ day of _____, 2006.

Approved by the Mayor this ____ day of _____, 2006.

ATTEST:

APPROVED:

SUE NELSON, City Recorder

ROB DRAKE, Mayor

ORDINANCE NO. 3427

AN ORDINANCE AMENDING BC 6.02.310 F, PROHIBITED PARKING OR STANDING; BC 6.05.010, VEHICLE IMPOUNDMENT, DEFINITIONS; BC 6.05.020, ABANDONED VEHICLES PROHIBITED.

WHEREAS, the City of Beaverton regulates the parking of vehicles in order to protect the health, safety and welfare of the public and to protect the aesthetics of the City; and

WHEREAS, it has been determined that certain abandoned vehicles are able to avoid the intent of the Code due to a drafting oversight; and

WHEREAS, it is possible to amend the Code to avoid its circumvention and to avoid unnecessary regulation of legitimate vehicle uses; now, therefore,

THE CITY OF BEAVERTON DOES ORDAIN AS FOLLOWS:

Section 1. BC 6.02.310, Prohibit Parking or Standing, subsection F 1, is hereby amended to read as follows:

"6.02.310 Prohibited Parking or Standing.

"*****

"F. 1. A vehicle that has not been moved a distance of at least one tenth of a mile within 72 hours."

Section 2. BC 6.05.010, VEHICLE IMPOUNDMENT, Definitions, is hereby amended to read:

"Abandoned vehicle - A vehicle that has not been moved a distance of at least one tenth of a mile within 72 hours.

Section 3. BC 6.05.020, Abandoned Vehicles Prohibited, sub-

ORDINANCE NO. 3427

sections A and B, are hereby amended to read as follows:

"6.05.020 Abandoned Vehicles Prohibited.

"A. No vehicle that a law enforcement officer has reason to believe is abandoned shall be parked or left standing:

"1. on a street as defined in BC 6.02.030;

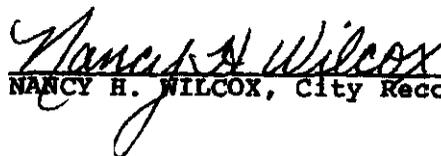
"2. on public property without the consent of the owner or occupant.

"B. Unless the court finds that the vehicle is parked so that it interferes with or obstructs the free movement of traffic in or onto the street, it shall be a defense to a violation of subsection A1 of this section that the owner or operator of the vehicle had the abutting property owner's or occupant's permission to park the vehicle on that portion of the street which abuts the owner's or occupant's property if the vehicle bears a license plate with a valid, unexpired registration sticker and is not a discarded vehicle.

"*****"

First reading this ^{14th} day of January, 1985.
Passed by the Council this ^{21st} day of January, 1985.
Approved by the Mayor this ^{22nd} day of January, 1985.

ATTEST:



NANCY H. WILCOX, City Recorder

APPROVED:



LARRY D. COLE, Mayor

ORDINANCE NO. 3427 - page

ORDINANCE NO. 4223

**AN ORDINANCE RELATING TO ABANDONED VEHICLES AND
AMENDING CHAPTER SIX OF THE BEAVERTON CODE**

Whereas, ORS 819.100 through 819.270 provides for the orderly and expeditious removal and disposition of abandoned vehicles in Oregon; and

Whereas, the Beaverton Code presently affords a more complex, less efficient process to remove and dispose of abandoned vehicles compared to existing state law; and

Whereas, amending the City's procedures for removing and disposing of abandoned vehicles so that the City's process is more like the State's process is likely to result in faster removal of abandoned vehicles and a cost saving to taxpayers;

Now, therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

Section 1. BC 6.02.030, Definitions, is amended in part by striking the present definitions of the terms "Abandoned vehicle" and "Motor vehicle" and inserting new definitions of the terms to read as follows:

Abandoned vehicle - A vehicle left in circumstances demonstrating its owner never intends to return.

A. A motor vehicle shall be deemed an abandoned vehicle under this definition if it remains stationary upon any street or public property for a period in excess of 48 hours and the motor vehicle:

1. Reasonably appears incapable of self-propulsion; or
2. Does not display a current registration plate or a current trip permit; or
3. Is on a street and is not registered to a person at the address of property on the same side of the street that abuts the part of the street upon which the motor vehicle is located; or
4. Is on public property other than a street without the consent of the owner, occupant and any other person in lawful possession of the public property.

B. A trailer shall be deemed an abandoned vehicle under this definition if it remains stationary upon any street or public property for a period in excess of 24 hours and:

1. The trailer does not display a current registration plate or a current trip permit, unless exempt from registration under provision of Oregon law; or
2. Is on a street and no right of control over the trailer exists in a person or relative of a person who owns property or resides at property that is on the same side of the street that abuts the part of the street upon which the trailer is located; or

3. Is on public property other than a street without the consent of the owner, occupant and any other person in lawful possession of the public property.

Motor vehicle – A vehicle that is self-propelled or designed for self-propulsion.

Section 2. BC 6.05.010, Definitions, is amended in part by striking the present definitions of the terms “Abandoned vehicle” and “Vehicle” and inserting new definitions of the two terms and adding a definition of the term “Motor vehicle” to read as follows:

Abandoned vehicle – A vehicle left in circumstances demonstrating its owner never intends to return.

A. A motor vehicle shall be deemed an abandoned vehicle under this definition if it remains stationary upon any street for a period in excess of 48 hours and the motor vehicle:

1. Reasonably appears incapable of self-propulsion; or
2. Does not display a current registration plate or a current trip permit; or
3. Is on a street and is not registered to a person at the address of property on the same side of the street that abuts the part of the street upon which the motor vehicle is located; or
4. Is on public property other than a street without the consent of the owner, occupant and any other person in lawful possession of the public property.

B. A trailer shall be deemed an abandoned vehicle under this definition if it remains stationary upon any street for a period in excess of 24 hours and the trailer:

1. Does not display a current registration plate or a current trip permit, unless exempt from registration under provision of Oregon law; or
2. Is on a street and no right of control over the trailer exists in a person or relative of a person who owns property or resides at property that is on the same side of the street that abuts the part of the street upon which the trailer is located; or
3. Is on public property other than a street without the consent of the owner, occupant and any other person in lawful possession of the public property.

Motor vehicle – A vehicle that is self-propelled or designed for self-propulsion.

Vehicle – Any device in, upon or by which any person or property is or may be transported or drawn upon a street and includes vehicles that are propelled or powered by any means.

Section 3. BC 6.05.020, Abandoned Vehicles Prohibited, is amended by striking the entire text of the present section and inserting new text to read as follows:

6.05.020 Abandoned Vehicles Prohibited.

- A. No abandoned vehicle shall be left upon:
 1. A street, as defined in BC 6.02.030, or

2. Public property, as defined by BC 6.05.010, without the consent of the owner, occupant and any other person in lawful possession of the public property.

B. The owner of a vehicle as shown by records of the Oregon Department of Transportation or records of a similar agency of another state or governmental jurisdiction, shall be considered responsible for the abandonment of a vehicle in the manner prohibited by this section and shall be liable for the cost of removal and disposition of the vehicle.

C. A vehicle abandoned in violation of this section is subject to the provisions for removal of abandoned vehicles under BC 6.05.025 or 6.05.030 and to being sold as provided under BC 2.05.030 or applicable state law, including ORS 819.210 or 819.220.

D. The City may use its personnel, equipment and facilities for removal and storage of the vehicle or may hire other personnel, equipment and facilities for that purpose.

Section 4. BC 6.05.025 is added to the Beaverton Code to read:

6.05.025 Custody, Removal and Sale of Abandoned Vehicle.

A. After providing notice required under BC 6.05.060 and, if requested, a hearing under BC 6.05.120 to 6.05.150, the City may take an abandoned vehicle into custody and remove the vehicle from the location where it has been left.

B. The authority to remove and take abandoned vehicles into custody provided by this section is in addition to any authority to remove and take vehicles into custody under BC 6.05.030.

C. Subject to BC 6.05.037, vehicles and the contents of vehicles removed and taken into custody under this section, BC 6.05.030 are subject to a lien as provided under BC 6.05.040.

D. Vehicles removed and taken into custody under this section are subject to sale under BC 2.05.030, ORS 819.210 or 819.220 if the vehicle is not reclaimed as provided under BC 6.05.037 or returned to the owner or person entitled to possession under BC 6.05.110.

Section 5. BC 6.05.037 is added to the Beaverton Code to read:

6.05.037 Rights and Liabilities of Owners.

The owner, a person entitled to possession or any person with an interest recorded on the title of a vehicle taken into custody under BC 6.05.020 or 6.05.030:

A. Is liable for all costs and expenses incurred in the removal, preservation and custody of the vehicle and its contents except that:

1. The owner, a person entitled to the vehicle or any person with an interest recorded on the title is not liable for nor shall be required to pay storage charges for a period in excess of 20 days unless the person has received a written notice under as required under applicable state law, including ORS 819.160. In no case shall a person be required to pay storage charges for a storage period in excess of 60 days.

2. A security interest holder is not liable under this subsection unless the security interest holder reclaims the vehicle.

B. May reclaim the vehicle at any time after it is taken into custody and before the vehicle is sold or disposed of under BC 2.05.030, ORS 819.210 or 819.220 upon presentation to the authority holding the vehicle of satisfactory proof of ownership or right to possession and upon payment of costs and expenses for which the person is liable under this section.

C. If the vehicle is taken into custody under BC 6.05.020 or 6.05.030, has a right to request and have a hearing under BC 6.05.120 to 6.05.150.

D. If the vehicle is sold or disposed of under BC 2.05.030, ORS 819.210, 819.215 or 819.220, has no further right, title or claim to or interest in the vehicle or the contents of the vehicle.

E. If the vehicle is sold or disposed of under ORS 819.210, has a right to claim the balance of the proceeds from the sale or disposition as provided under ORS 819.260.

F. Has no right to a hearing if the vehicle is disposed of under ORS 819.215.

Section 6. BC 6.05.060, Pretow Investigation and Notice, is amended by striking the entire text of the present section and inserting new text to read as follows:

6.05.060 Notice Prior to Removal.

A. If the City proposes to take custody of a vehicle that an officer reasonably suspects is abandoned in violation of BC 6.05.020, the City shall affix a notice to the vehicle with the information required by subsection B of this section. The notice shall be affixed to the vehicle at least 24 hours before taking the vehicle into custody. The 24-hour period under this section includes holidays, Saturdays and Sundays.

B. Notices affixed to a vehicle shall state all of the following:

1. That the vehicle will be subject to being taken into custody and removed by the City if the vehicle is not removed before the time set by City.

2. The statute, ordinance or rule violated by the vehicle and under which the vehicle will be removed.

3. The place where the vehicle will be held in custody or the telephone number and address of the City official or department that will provide such information.

4. That the vehicle, if taken into custody and removed by the City, will be subject to towing and storage charges and that a lien will attach to the vehicle and its contents.

5. That the vehicle will be sold to satisfy the costs of towing and storage if the charges are not paid.

6. That the owner, possessor or person having an interest in the vehicle is entitled to a hearing, before the vehicle is impounded, to contest the proposed custody and removal if a hearing is timely requested.

7. That the owner, possessor or person having an interest in the vehicle may also challenge the reasonableness of any towing and storage charges at the hearing.

8. The time within which a hearing must be requested and the method for requesting a hearing.
- C. This section does not apply to vehicles listed in BC 6.05.030.

Section 7. BC 6.05.070, Pretow Notice – Contents, is amended by striking the entire text of the present section and inserting new text to read as follows:

6.05.070 Hearing to Contest Validity of Removal and Custody.

A person provided notice under BC 6.05.060 or BC 6.05.080 or BC 6.05.090 or any other person who reasonably appears to have an interest in the vehicle may request a hearing under this section to contest the validity of the removal and custody under BC 6.05.030 or proposed removal and custody of a vehicle under BC 6.05.020 by submitting a request for hearing with the City not more than five days from the mailing date of the notice. The five-day period in this section does not include holidays, Saturdays or Sundays. A hearing under this section shall comply with all of the following:

A. If the City proposes to remove a vehicle and receives a request for hearing before the vehicle is taken into custody and removed, the vehicle shall not be removed unless the vehicle constitutes a hazard.

B. A request for hearing shall be in writing and shall state grounds upon which the person requesting the hearing believes that the custody and removal of the vehicle is not justified.

C. Upon receipt of a request for a hearing under this section, the City shall set a time for the hearing and conduct a hearing pursuant to BC 6.05.120 to BC 6.05.150.

Section 8. BC 6.05.090, Post-Tow Notice – Hazardous Vehicles, is amended by striking the entire text of the present section and inserting new text to read as follows:

6.05.090 Notice After Removal.

A. If the City takes custody of a vehicle under BC 6.05.030, the City shall provide, by certified mail within 48 hours of the removal, written notice with an explanation of procedures available for obtaining a hearing under BC 6.05.120 to 6.05.150 to the owners of the vehicle and any lessors or security interest holders as shown in the records of the Department of Transportation. The notice shall state that the vehicle has been taken into custody and shall give the location of the vehicle and describe procedures for the release of the vehicle and for obtaining a hearing under BC 6.05.120 to 6.05.150. The 48-hour period under this subsection does not include holidays, Saturdays or Sundays.

B. Any notice given under this section after a vehicle is taken into custody and removed shall state all of the following:

1. That the vehicle has been taken into custody and removed, the identity of the appropriate authority that took the vehicle into custody and removed the vehicle and the statute, ordinance or rule under which the vehicle has been taken into custody and removed.

2. The location of the vehicle or the telephone number and address of the appropriate authority that will provide the information.

3. That the vehicle is subject to towing and storage charges, the amount of charges that have accrued to the date of the notice and the daily storage charges.

4. That the vehicle and its contents are subject to a lien for payment of the towing and storage charges and that the vehicle and its contents will be sold to cover the charges if the charges are not paid by a date specified by the appropriate authority.

5. That the owner, possessor or person having an interest in the vehicle and its contents is entitled to a prompt hearing to contest the validity of taking the vehicle into custody and removing it and to contest the reasonableness of the charges for towing and storage if a hearing is timely requested.

6. The time within which a hearing must be requested and the method for requesting a hearing.

7. That the vehicle and its contents may be immediately reclaimed by presentation to the appropriate authority of satisfactory proof of ownership or right to possession and either payment of the towing and storage charges or the deposit of cash security or a bond equal to the charges with the appropriate authority.

Section 9. BC 6.05.100, Additional Identifying Information, is amended by striking the entire text of the present section and inserting new text to read as follows:

6.05.100 Exemption From Notice and Hearing For Vehicle Held in Criminal Investigation. A vehicle that is being held as part of any criminal investigation is not subject to any requirements under BC 6.05.060 to 6.05.090 or 6.05.120 to 6.05.150.

Section 10. BC 6.05.110, Return of Vehicle to Owner, is amended in part by striking the present subsections A and E and inserting only a new subsection A to read as follows:

A. An owner whose vehicle has been towed pursuant to BC 6.05.020 or BC 6.05.030 and who has requested a hearing in accordance with this ordinance may recover immediate possession of the vehicle before the hearing by:

1. Presenting proof of ownership or right to possession; and
2. Either paying the towing and storage charges or posting a security deposit in the form of a bond or cash with the City for towing and storage charges that have accumulated as of the date of the request for the hearing.

Section 11. BC 6.05.120, Hearing, is amended in part by striking the present subsection A and inserting a new subsection A to read as follows:

A. When a person requests a hearing pursuant to BC 6.06.037, the hearing shall be held before a judge of the Beaverton Municipal Court.

Section 12. BC 6.05.205, Definitions, is amended in part by striking the present definition of the term "Impounded vehicle" and inserting a new definition of the term to read as follows:

Impounded Vehicle - A vehicle seized from its owner or operator by or at the direction of the City or one of its employees for a substantial period of time under circumstances in which the City either must consent to the release of the vehicle or otherwise bears some responsibility for the protection, preservation or disposition of the vehicle.

For purposes of this ordinance, a vehicle shall not be considered an impounded vehicle if:

- A. The vehicle is an abandoned vehicle as defined in BC 6.05.010; or
- B. The City or one of its employees or agents facilitates the towing of a vehicle under the following circumstances:
 - 1. The vehicle is towed by a person independent of the City to a place not under the authority or control of the City;
 - 2. The vehicle may be returned to its operator or an owner of the vehicle without City authorization; and
 - 3. The vehicle is towed either:
 - a. With the consent of its operator or an owner of the vehicle; or
 - b. At the direction of a person who:
 - (i) is not an owner or an operator of the vehicle; and
 - (ii) is not an employee or agent of the City; and
 - (iii) is an owner, tenant, occupant or person otherwise in lawful control of the property upon which the vehicle is located immediately prior to towing.

Section 13. The sections and subsections of this ordinance are severable. If any part of this ordinance is held unconstitutional or otherwise invalid, the remaining parts shall remain in force unless:

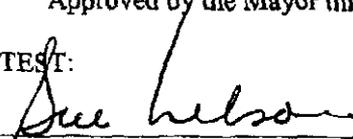
- A. The remaining parts are so essentially and inseparably connected with and dependent upon the unconstitutional or invalid part that it is apparent that the remaining parts would not have been enacted without the unconstitutional or invalid part; or
- B. The remaining parts, standing alone, are incomplete and incapable of being executed according to the legislative intent.

First reading this 12th day of August, 2002.

Passed by the Council this 19th day of August, 2002.

Approved by the Mayor this 20th day of AUGUST, 2002.

ATTEST:


SUE NELSON, City Recorder

APPROVED:


ROB DRAKE, Mayor

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

SUBJECT: An Ordinance Amending Chapters Five and Nine of the Beaverton Code related to the Tualatin Basin Goal 5 Program

12-04-06

FOR AGENDA OF: ~~11/13/06~~ **BILL NO:** 06216

Mayor's Approval: 

DEPARTMENT OF ORIGIN: CDD 

DATE SUBMITTED: 10/31/06

CLEARANCES: City Attorney JAR
Planning HB

PROCEEDING: ~~First Reading~~
Second Reading
and Passage

EXHIBITS: A. Proposed Ordinance

BUDGET IMPACT

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

HISTORICAL PERSPECTIVE:

The Tualatin Basin Goal 5 Program began in response to Metro's Fish and Wildlife Habitat Goal 5 Inventory. Local governments in the Tualatin Basin collaborated on a joint Environmental, Social, Economic and Energy consequences analysis and a voluntary program to facilitate and encourage Habitat Friendly Development Practices. Staff propose minor changes to the City Code (*The Beaverton Code, 1982*) to implement that program. The changes are as follows:

Modify Section 5.05.090.7 to delete "noxious" as it is no longer defined in the Development Code. Nuisance is defined.

Modify 5.05.110.A to clarify the type of flow referred to in this section. Concentrated flow is a term of art.

Modify 5.05.110.B to clarify that water is not to be carried across the sidewalk.

Modify 5.05.133 to clarify the meaning of light glare.

Add maintenance clauses to 9.05.135.A to ensure that the new low impact development practices are maintained.

INFORMATION FOR CONSIDERATION:

Internal staff met and agreed to the changes recommended in the proposal.

RECOMMENDED ACTION:

~~First Reading~~
Second Reading and Passage

Ordinance No. 4412
An Ordinance Amending
Provisions of Chapters Five and Nine of the Beaverton
City Code Related to the Tualatin Basin Goal 5
Program

WHEREAS, the City of Beaverton collaborated with local governments in the Tualatin River Basin to form the Tualatin Basin Partners for Natural Places; and

WHEREAS, the Tualatin Basin Partners for Natural Places, through an intergovernmental agreement with Metro, developed a program that facilitates and encourages habitat friendly development practices and low impact development techniques throughout the Tualatin River Basin; and

WHEREAS, the proposed Beaverton City Code amendments are minor changes that further the goal of facilitating and encouraging these practices and techniques; and

WHEREAS, Chapter 5 concerns public protection in the form of nuisances affecting public safety and surface waters and drainage; and

WHEREAS, Chapter 9 concerns community development and associated drainage requirements; and

WHEREAS, the purpose of the recommended changes are to comply with the intergovernmental agreement with Metro and the Tualatin Basin Partner's program; now, therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

Section 1. Chapter 5, of the Beaverton Code Public Protection is amended to read as follows:

BC5.05.090.B.7. the types of vegetation as defined in Chapter 90 of the Development Code as *nuisance*, ~~noxious~~ as applicable ~~of~~ to significant natural resource areas. [BC 5.05.090B amended by Ordinance No. 4224, 8/19/02]

5.05.110.A. No owner or person in charge of any building or structure shall cause, suffer or permit rain water, ice or snow to fall from the building or structure onto a street or public sidewalk or to *allow concentrated* water flow across the sidewalk.

5.05.110.B. The owner or person in charge of property shall install and maintain in a proper state of repair adequate drainpipes or a drainage system so that any overflow water accumulating on the roof or about the building ~~does is not flow carried across or upon the sidewalk.~~

5.05.133 No person shall knowingly allow *or direct* an exterior lighting fixture to shine ~~glaring~~ light that unreasonably interferes with another person's use or enjoyment of property *or shine direct rays of light into a significant natural resource area, vegetated corridor, water quality sensitive area, or preserved habitat benefit area. Lighting fixtures must be a full cut-off design that is shielded, hooded and oriented towards the ground so that direct rays of the lighting source are not visible past the property boundaries and do not shine into the night sky.* [BC 5.05.133, added by Ordinance No. 3889, 3/28/94]

Section 2 Chapter 9, Community Development of the Beaverton Code is amended to read as follows:

9.05.135.A. Drainage generally. All graded sites shall be developed *and maintained* to provide control of storm and surface waters. Adequate provisions shall be made to prevent storm or surface waters from damaging the face of an excavation or the sloping face of a fill, and to prevent grading or other construction activity from causing significant concentration or acceleration of drainage entering adjacent property without an easement from the owner of the adjacent property, which shall be in a form approved by the city attorney and recorded at the Washington County Department of Assessment and Taxation. All drainage provisions shall be subject to the approval of the city engineer and shall be designed to *maintain all storm and surface water draining on site or to carry all or part of* storm and surface waters to the nearest practical street, storm drain, or natural water course, approved by the city engineer as a safe place to deposit and receive such waters.

First reading this 13th day of November, 2006.

Passed by the Council this day of _____, 2006.

Approved by the Mayor this day of _____, 2006.

ATTEST:

APPROVED:

SUE NELSON, City Recorder

ROB DRAKE, Mayor

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

12-04-06

SUBJECT: An Ordinance Amending Comprehensive Plan Chapters 3, 5, 6, 7, 8, the Glossary and Volume III (Ordinance No. 4187) Related to CPA 2006-0012

FOR AGENDA OF: 11/19/06 **BILL NO:** 06217

Mayor's Approval: *[Signature]*

DEPARTMENT OF ORIGIN: CDD *[Signature]*

DATE SUBMITTED: 10/31/06

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

PROCEEDING: First Reading
Second Reading and Passage

- EXHIBITS:**
1. Proposed Ordinance and Exhibit A – Proposed Text Amendment to Chapters 3, 5, 6, 7, 8, and the Glossary
Exhibit B – Proposed Text Amendment to Volume III
Exhibit C – Proposed Habitat Benefit Areas Map
 2. Planning Commission Final Order No. 1915 and Exhibit A showing recommended amendments
 3. Staff proposed changes to the text approved by Planning Commission

BUDGET IMPACT

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

HISTORICAL PERSPECTIVE:

The Tualatin Basin Goal 5 Program began in response to Metro's Fish and Wildlife Habitat Goal 5 Inventory. Local governments in the Tualatin Basin collaborated on a joint Environmental, Social, Economic and Energy consequences analysis and a voluntary program to facilitate and encourage Habitat Friendly Development Practices. Staff propose Comprehensive Plan Amendments to Chapters 3, 5, 6, 7, 8, the Glossary and Volume III of the Comprehensive Plan.

INFORMATION FOR CONSIDERATION:

Staff presented the proposal to the Committee for Citizen Involvement, Development Liaison Committee, Board of Design Review and internal staff. The Planning Commission held a work session on September 6, opened the initial hearing on the proposed amendments to the Comprehensive Plan on October 11 and unanimously approved the proposal on October 18, 2006.

Following Planning Commission approval of the recommendation, staff modified Exhibit "B" Proposed Text Amendment to Volume III. Changes from the Exhibit A to the Planning Commission Order on page 069 resulted in the final draft found on page 031. The changes included clarifications resulting in division of the first paragraph of the section into three (3) paragraphs with additional text inserted and deleted the second paragraph relating to the Tualatin Basin Partnership. Staff also added a statement incorporating the Tualatin Basin Environmental, Social, Economic, and Energy consequences analysis by reference. Content, with the exception of adding the Metro ordinance number and the incorporation by reference, did not change.

RECOMMENDED ACTION:

First Reading:
Second Reading and Passage

**Ordinance No. 4413
An Ordinance Amending
Comprehensive Plan Volume I
Chapters 3, 4, 5, 6, 7, 8 and the Glossary and
Volume III Statewide Planning Goal 5 Resource
Inventory Documents
(Ordinance No. 4187 as amended),
Related to CPA 2006-0012**

WHEREAS, Metro conducted an inventory of fish and wildlife habitat pursuant to Statewide Planning Goal 5;

WHEREAS, Metro determined that Classes I and II riparian habitat and Class A upland wildlife habitat are regionally significant resources; and

WHEREAS, the City of Beaverton collaborated with local governments in the Tualatin River Basin to form the Tualatin Basin Partners for Natural Places; and

WHEREAS, the Tualatin Basin Partners for Natural Places, through an intergovernmental agreement with Metro, agreed to use the Metro Inventory and to conduct an Environmental, Social, Economic, and Energy consequences analysis and develop a program pursuant to Statewide Planning Goal 5 regulations; and

WHEREAS, the Tualatin Basin Partners for Natural Places developed a voluntary program that facilitates and encourages habitat friendly development practices and low impact development techniques; and

WHEREAS, on October 18, 2006, the Planning Commission unanimously recommended approval of the proposed CPA 2006-0012 application based upon the Staff Report dated September 11, 2006 for the October 11, 2006 Public Hearing, the Supplemental Staff Report dated October 6, 2006 and Staff Memoranda dated October 13, 2006 and October 18, 2006 that presented the final draft amendment, addressed approval criteria and made findings that demonstrated that adoption of the proposed ordinance would comply with applicable approval criteria; and

WHEREAS, the final order was prepared memorializing the Planning Commission's decision and no appeal therefrom has been taken; now, therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

Section 1. Chapters 3, 4, 5, 6, 7, 8 and the Glossary of Volume I of the Comprehensive Plan (Ordinance No. 4187 as amended) are hereby amended as set forth in Exhibit A of this Ordinance attached hereto and incorporated herein by reference.

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

SUBJECT: An Ordinance Amending Development Code Chapters 60 and 90 (as amended through Ordinance 4265) Related to TA2006-0009

12-04-06
FOR AGENDA OF: ~~11/13/06~~ **BILL NO:** 06218

Mayor's Approval: *[Signature]*

DEPARTMENT OF ORIGIN: CDD *[Signature]*

DATE SUBMITTED: 10/31/06

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

PROCEEDING: ~~First Reading~~
Second Reading and Passage

- EXHIBITS:**
1. Proposed Ordinance and Exhibit A – Proposed Text
 2. Planning Commission Final Order No. 1916 and Exhibit A showing recommended amendments
 3. Staff proposed changes to the text approved by Planning Commission

BUDGET IMPACT

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

HISTORICAL PERSPECTIVE:

The Tualatin Basin Goal 5 Program began in response to Metro's Fish and Wildlife Habitat Goal 5 Inventory. Local governments in the Tualatin Basin collaborated on a joint Environmental, Social, Economic and Energy consequences analysis and a voluntary program to facilitate and encourage Habitat Friendly Development Practices. The bulk of the amendments propose to add a new section, 60.12. to the Development Code and associated new definitions in Chapter 90.

INFORMATION FOR CONSIDERATION:

Staff presented the proposal to the Committee for Citizen Involvement, Development Liaison Committee, Board of Design Review and internal staff. The Planning Commission held a work session on September 6, opened the initial hearing on the proposed amendments to the Development Code on October 11 and unanimously approved the proposal, with some minor modifications, on October 18, 2006.

Following Planning Commission approval of the recommendation, staff identified three changes, as follows:

1. Inclusion of the Residential Agricultural (RA) zoning district in sections of the text that restrict use of credits within or abutting the R4, R5, R7, and R10 zoning districts.
2. Addition of two standards to Section 60.12.35.1.C clarifying that Habitat Benefit Area preservation does not overlap with areas under existing regulations and restrictions. They are now Sections 60.12.35.1.C.2 and 60.12.35.1.C.3.
3. Removal of definition for Green Roof and associated edits to the definition of Eco-roof. This change has been done in coordination with TA2006-0003 (PUD Text Amendment), which includes a proposed definition for Green Roof.

RECOMMENDED ACTION:

First Reading:
Second Reading and Passage

Ordinance No. 4414
**An Ordinance Amending
the Development Code Chapters 60 and 90
(Ordinance No. 2050 as amended through Ordinance
4265)
Related to TA2006-0009**

WHEREAS, Metro conducted an inventory of fish and wildlife habitat pursuant to Statewide Planning Goal 5;

WHEREAS, Metro determined that Classes I and II riparian habitat and Class A upland wildlife habitat are regionally significant resources; and

WHEREAS, the City of Beaverton collaborated with local governments in the Tualatin River Basin to form the Tualatin Basin Partners for Natural Places; and

WHEREAS, the Tualatin Basin Partners for Natural Places, through an intergovernmental agreement with Metro, agreed to use the Metro Inventory and to conduct an Environmental, Social, Economic, and Energy consequences analysis and develop a program pursuant to Statewide Planning Goal 5 regulations; and

WHEREAS, the Tualatin Basin Partners for Natural Places developed a voluntary program that facilitates and encourages habitat friendly development practices and low impact development techniques; and

WHEREAS, on October 18, 2006, the Planning Commission unanimously recommended approval of the proposed CPA 2006-0012 application based upon the Staff Report dated September 11, 2006, for the October 11, 2006, Public Hearing, the Supplemental Staff Report dated October 6, 2006, and Staff Memoranda dated October 13, 2006, and October 18, 2006, that presented the final draft amendment, addressed approval criteria, and made findings that demonstrated that adoption of the proposed ordinance would comply with applicable approval criteria; and

WHEREAS, the final order was prepared memorializing the Planning Commission's decision and no appeal therefrom has been taken; now, therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

Section 1. Chapters 60 and 90 of the Development Code (Ordinance No. 2050 as amended through Ordinance No. 4265) are hereby amended and set forth in Exhibit A and incorporated herein by reference.

Section 2. All Development Code provisions adopted prior to this Ordinance which are not expressly amended herein shall remain in full force and effect.

Section 3. Severability. It shall be considered that it is the legislative intent, in the adoption of this Ordinance, that if any part of the ordinance should be determined by

any tribunal of competent jurisdiction, i.e., the Land Use Board of Appeals or the Land Conservation and Development Commission to be unconstitutional, contrary to other provision of law, or not acknowledged as in compliance with applicable statewide planning goals, the remaining parts of the ordinance shall remain in force and acknowledged unless: (1) the tribunal determines that the remaining parts are so essential and inseparably connected with and dependent upon the unconstitutional or unacknowledged part that it is apparent the remaining parts would not have been enacted without the unconstitutional or unacknowledged part; or (2) the remaining parts, standing alone, are incomplete and incapable of being executed in accordance with legislative intent.

First reading this 13th day of November, 2006.

Passed by the Council this day of _____, 2006.

Approved by the Mayor this day of _____, 2006.

ATTEST:

APPROVED:

SUE NELSON, City Recorder

ROB DRAKE, Mayor