CITY OF BEAVERTON COUNCIL AGENDA

FINAL AGENDA

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

REGULAR MEETING
SEPTEMBER 11, 2006
6:30 P.M.

CALL TO ORDER:

ROLL CALL:

PROCLAMATION:

Patriot Day: September 11, 2006

PRESENTATIONS:

06138 Transportation Funding *(Rescheduled from August 14, 2006 meeting)*

VISITOR COMMENT PERIOD:

COUNCIL ITEMS:

STAFF ITEMS:

CONSENT AGENDA:

Minutes of the Regular Meetings of July 17, August 7, and August 14, 2006

06153 Liquor Licenses: New Outlet - Chipotle Mexican Grill, Ruby Tuesday, DéCor International, and King's Restaurant

06154 Authorize the Mayor to Execute a One Year Extension to the Intergovernmental Agreement Amongst Local Government Agencies for the Shared Use of a Public Communication Network

06155 Authorize the Mayor to Sign an Annexation Agreement for 4500 SW 91st Avenue ANX 2006-0002

06156 Compensation Changes

Contract Review Board:

06157	Waiver of Sealed Bidding - Purchase of Mobile Data Terminals from the State of Oregon Contract #4416-PA
06158	Waiver of Sealed Bidding - Purchase Five Vehicles from the State of Oregon Price Agreement
06159	Waiver of Sealed Bidding, Authorization for Rental of Copy Machines from Oregon State University Bid Award
06160	Exemption From Competitive Solicitation - Award Personal Services Contract for the Operation and Maintenance of the Beaverton Central Plant
06161	Exemption From Competitive Solicitation - Award Personal Services Contract for the Construction Management of the Beaverton Central Plant
06162	Authorization for the Mayor to Award a Contract for Construction of Piping and Mechanical Room Connection to Extend the Beaverton Central Plant Services to Building "E" and Submitting to Council for Ratification of the Award at a Later Date
06163	Authorization for the Mayor to Award a Contract for Construction of Piping and Mechanical Room Connection to Extend the Beaverton Central Plant Services to Building "F" and Submitting to Council for Ratification of the Award at a Later Date

WORK SESSION:

06148	CPA 2006-0001 Amending the Comprehensive Plan Chapters 1 and 2 and the Glossary *(Rescheduled from August 14, 2006 meeting)*

ORDINANCES:

First Reading

06115	An Ordinance Amending Comprehensive Plan Chapters 1, 2, and the Glossary (Ordinance No. 4187) Related to CPA 2006-0001(Ordinance No. 4395) *(Rescheduled from June 19, 2006 meeting)*
06164	TA 2006-0005 Facilities Review Text Amendment (Ordinance No. 4404)
06165	TA 2006-0006 (Lot Line Adjustment/Consolidation) (Ordinance No. 4405)
06166	An Ordinance Amending Ordinance No. 4187, Figure III-1, the Comprehensive Plan Land Use Map and Ordinance No. 2050, the Zoning Map for Property Located in South Beaverton; CPA 2006-0004/ZMA 2006-0003 (Ordinance No. 4406)

06167 An Ordinance Amending Ordinance No. 4187, Figure III-1, the Comprehensive Plan Land Use Map and Ordinance No. 2050, the Zoning Map for Two Properties in Northwest Beaverton; CPA 2006-0010/ZMA 2006-0013 (17200 & 17225 NW Corridor Court) (Ordinance No. 4407)

06168 An Ordinance Annexing a Parcel Located at 4500 SW 91st Avenue to the City of Beaverton: Expedited Annexation 2006-0002 (Ordinance No. 4408)

Second Reading

06149 An Ordinance Amending Ordinance No. 4187, Figure III-1, the Comprehensive Plan Land Use Map and Ordinance No. 2050, the Zoning Map for Two Properties in Northwest Beaverton; CPA 2006-0007/ZMA 2006-0010 (11845 and 11915 SW Walker Road) (Ordinance No. 4401)

06150 An Ordinance Amending Ordinance No. 4187, Figure III-1, the Comprehensive Plan Land Use Map and Ordinance No. 2050, the Zoning Map for Two Properties in Northeast Beaverton; CPA 2006-0008/ZMA 2006-0011 (Tax Lots 1S1 10 DA 01800 and 01802) (Ordinance No. 4402)

06151 An Ordinance Amending Section 6.02.390 of the Beaverton Code Relating to the Downtown Permit Parking District (Ordinance No. 4403)

EXECUTIVE SESSION:

In accordance with ORS 192.660 (2) (h) to discuss the legal rights and duties of the governing body with regard to litigation or litigation likely to be filed and in accordance with ORS 192.660 (2) (e) to deliberate with persons designated by the governing body to negotiate real property transactions and in accordance with ORS 192.660 (2) (d) to conduct deliberations with the persons designated by the governing body to carry on labor negotiations. Pursuant to ORS 192.660 (3), it is Council's wish that the items discussed not be disclosed by media representatives or others.

ADJOURNMENT

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

PROCLAMATION

OFFICE OF THE MAYOR
CITY OF BEAVERTON

WHEREAS, by a joint resolution approved December 18, 2001 (Public Law 107-89), the Congress has designated September 11th of each year as "Patriot Day"; and

WHEREAS, five years ago, more than 3,000 innocent people lost their lives when four civilian aircraft were hijacked on September 11, 2001, and crashed in New York City, Pennsylvania and the Pentagon in an unprovoked and senseless act of terrorism; and

WHEREAS, we salute the heroism of public safety and rescue workers, volunteers, local officials, and those who responded to these tragic events with courage, selfless compassion, determination, and skill; and

WHEREAS, we encourage all citizens to honor the victims of September 11th by reaffirming their commitment to sustaining our newfound patriotism through volunteerism, community involvement, and service; and

WHEREAS, we as citizens dedicate our time, talents, and energy to lift one another up and foster a new level of understanding and awareness. Let us honor the memory of all those who died by being of service to one another and by building the "stronger, more perfect union" our founding fathers called for; and

WHEREAS, the City of Beaverton shares in the grief and will commemorate, by proclamation, the five-year anniversary of the September 11th tragedies; and

NOW, THEREFORE, *I*, Rob Drake, Mayor of the City of Beaverton, Oregon, do hereby proclaim September 11, 2006 as:

PATRIOT DAY

in the City of Beaverton and urge all citizens to display flags at half-staff from their homes on that day and to observe a moment of silence beginning at 8:46 a.m. eastern daylight time to honor the innocent victims who lost their lives as a result of the terrorist attacks of September 11, 2001.

Rob Drake
Mayor

08/14/06: Postponed to Meeting of 9/11/06.

AGENDA BILL

Beaverton City Council
Beaverton, Oregon

SUBJECT: Transportation Funding

FOR AGENDA OF: ~~08-14-06~~ 09/11/06 **BILL NO:** 06138

Mayor's Approval:

DEPARTMENT OF ORIGIN: Public Works

DATE SUBMITTED: 08-01-06

CLEARANCES: Transportation

PROCEEDING: Presentation

EXHIBITS:

BUDGET IMPACT

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

HISTORICAL PERSPECTIVE:
The City of Beaverton's Transportation System Plan is a report that identifies what improvements the transportation system will need over the next 20 years in order to accommodate population and employment growth. Identified improvements are included in the City's Comprehensive Plan within its Transportation Element (Chapter Six). Expected 20-year revenues are also projected in the report and included in the Transportation Element.

INFORMATION FOR CONSIDERATION:
The cost of the needed transportation improvements exceed expected revenue. Staff will present a 2006 update of needs and projected revenue to provide more up to date information that can assist the City in determining what improvements should be made with expected funds.

RECOMMENDED ACTION:
Hear the presentation.

DRAFT

BEAVERTON CITY COUNCIL
REGULAR MEETING
JULY 17, 2006

POLICE DEPARTMENT HOLDING FACILITY INSPECTION:

At 6:05 p.m. Police Lieutenant Stevenson conducted the Annual Inspection of the Police Department Holding Facility. Present at the inspection were: Mayor Rob Drake, City Councilors Catherine Arnold, Betty Bode, Bruce Dalrymple, Dennis Doyle, Cathy Stanton and City Recorder Sue Nelson.

CALL TO ORDER:

The Regular Meeting of the Beaverton City Council was called to order by Mayor Rob Drake in the Forrest C. Soth City Council Chamber, 4755 SW Griffith Drive, Beaverton, Oregon, on Monday, July 17, 2006 at 6:35 p.m.

ROLL CALL:

Present were Mayor Drake, Couns. Catherine Arnold, Betty Bode, Bruce Dalrymple, Dennis Doyle, and Cathy Stanton. Also present were City Attorney Alan Rappleyea, Assistant City Attorney Bill Scheiderich, 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.

VISITOR COMMENT PERIOD:

Mayor Drake said Veronica Morgan was present and wished to speak to Council about a photo radar ticket she received. He asked Chief Bishop to review the history on this matter for the Council.

Chief Bishop explained Morgan received a photo radar ticket. He said he reviewed the photograph and it confirmed she ran through a red light. He said on May 30, 2006, Morgan entered a plea of not guilty; that same day Judge Mercer ruled she was guilty. He said since then Morgan has met with many staff members who explained to her the court appeal process in detail. He explained Washington County Court has jurisdiction for these appeals; the City Council and staff have no jurisdiction on this matter. He said the City places a high priority on red light violations because running a red light causes more injury accidents than any other situation.

Mayor Drake asked if someone is convicted of a violation, the Judge has the authority to issue the conviction and neither the Mayor nor the Council can intervene in that process.

Bishop confirmed that was correct; the law is clear that the City cannot intervene.

Morgan said she was protesting because of the high cost of the appeal and the ticket.

Mayor Drake concluded there was nothing further the City could do.

Pavel Goberman, Beaverton, announced his 2008 candidacy for the U.S. Senate. He voiced his frustration with the political process in the city, county and nation. He noted his displeasure with the Republican and Democratic parties, with Coun. Stanton who he said is a member of the Washington County Democratic Committee, with the City, with the media and with national and foreign policy.

COUNCIL ITEMS:

Coun. Stanton said the following events were occurring this month: 1) Picnic in the Park at Hiteon Park on Wednesday, July 19th, at 6:00 p.m.; 2) An Open House on Commuter Rail on Friday, July 21st, at 2:30 p.m., at the Central Court Gazebo at Bridgeport Village; and the Old Town Beaverton Festival on Saturday, July 22nd, on Broadway Street from 10:00 a.m. to 4:00 p.m. She invited all interested people to attend these activities.

Coun. Bode gave an update on City services. She said in June 2006, 176 meetings were held at the Beaverton Community Center, for a total of 678 hours in which the community used the Center. She said also in June, the average daily use of the City's Web site was 2,500 visits, with over 9,000 pages accessed. She said the Solid Waste/ Recycling Program received 949 calls for information in FY 2003-04; in FY 2004-05 there were 1,022 calls; and in FY 2005-06 there were 2,275 calls. She said this showed extensive use of City services.

Coun. Stanton said she was watching a Metro Council public hearing on recycling and in Multnomah County there is a problem with people putting glass and plastic bags in their general recycling materials. She said glass should not be included with regular recycling as it breaks and contaminates the other material. She said a person from one of the recycling companies testified that 30% of their staff time was spent sorting out the plastic and glass. She reminded everyone that plastic bags should be returned to the store that provided them and glass is collected in a separate container. She encouraged Beaverton citizens to separate the two, to keep costs down.

STAFF ITEMS:

There were none.

CONSENT AGENDA:

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

06125 Liquor License: Change of Ownership - Thai Derm Original Thai Cooking

06126 Approval of Land Use Order Denying TA 2004-0012 (TC-MU Commercial Use Restriction Amendment)

06127 Approval of the Intergovernmental Agreement With Washington County Oregon, to Participate in the State Homeland Security Exercise Program Grant Awarded to Washington County for Planning, Conducting and Evaluating a Homeland Security Exercise and Authorize the Mayor to Sign the Agreement (Resolution No. 3866)

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

Coun. Doyle MOVED, SECONDED by Coun. Bode, that Council grant the request for a waiver of building fees for the Edwards Center Project located at 13870 SW Bonnie Brae Street, Beaverton, not to exceed the amount of $1,000, per the memorandum to the Mayor dated July 13, 2006.

Coun. Stanton explained to the public that the City was waiving the building fees for the remodeling of a facility that houses disabled citizens. She said she liked to waive the permit fees when there is a genuine benefit back to the community.

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

First reading of the ordinances was considered at this time.

ORDINANCES:

Coun. Doyle MOVED, SECONDED by Coun. Stanton, that the rules be suspended, and that the ordinances embodied in Agenda Bills 06129 and 06130, 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, Doyle, and Stanton voting AYE, the MOTION CARRIED unanimously. (5:0)

First Reading:

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

06129 An Ordinance Amending Ordinance No. 4187, Figure III-1, the Comprehensive Plan Land Use Map and Ordinance No. 2050, the Zoning Map for Property Located at 8111 SW West Slope; CPA 2006-0002/ZMA 2006-0001 (Ordinance No. 4398)

06130 An Ordinance Amending Ordinance No. 4187, Figure III-1, the Comprehensive Plan Land Use Map and Ordinance No. 2050, the Zoning Map for Four Properties in Northeast Beaverton; CPA 2006-0003/ZMA 2006-0002 (Ordinance No. 4399)

EXECUTIVE SESSION:

Coun. Bode MOVED, SECONDED by Coun. Bode, that Council move into 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 request that per ORS 192.660(3) that items discussed executive session not be disclosed by media representatives or other. Couns. Arnold, Bode, Dalrymple, Doyle, and Stanton voting AYE, the MOTION CARRIED unanimously. (5:0)

The executive session convened at 7:00 p.m.

The executive session adjourned at 8:05 p.m.

The regular meeting reconvened at 8:05 p.m.

PUBLIC HEARINGS:

06128 Biggi Ballot Measure 37 Claim for Compensation

Community Development Director Joe Grillo read a prepared statement defining the process that needed to be followed for this hearing, including the various required disclosure statements (in the record).

Grillo asked if there were any Councilors who wished to abstain from the hearing due to bias or conflict of interest.

No Councilors indicated they wished to abstain from the hearing.

Grillo asked if there were any objections to the jurisdiction or participation by any Councilor that they be raised at this time.

No one came forward to raise objections.

Grillo said the staff report presentation would be waived unless there were questions from the Council.

There were no questions from the Council.

Mayor Drake opened the public hearing.

APPLICANT/CLAIMANT:

Stark Ackerman, Black Helterline LLP, attorney for claimant Biggi Investments Partnerships, submitted a packet of information to Council regarding the Biggi Measure 37 Claim. He said the packet included a letter from him dated July 17, 2006, and a letter from Steve Biggi dated July 17, 2006, and supporting documentation.

Ackerman reviewed the highlights of his July 17 letter (in the record). He said the Biggi's submitted a claim on August 2, 2005 (in the record), for their properties at 3661-3775 SW Hall Boulevard (Hall Street Grill property) and 3720 SW Cedar Hills Boulevard (Best Bet property). He said the materials he just submitted provide more details on the claim; however, the nature of the claim was the same as when it was originally submitted. He said they negotiated with the City and Clean Water Services to settle the claim. He said while progress was made concerning the City claim; they were not successful with Clean Water Services and negotiations had broken down. He said this claim was against additional restrictions that were placed on the property since the Biggi Partnership obtained ownership. He said this property was already developed. He said they were not as concerned with the Hall Street property as there were no current plans for redevelopment of that site.

Ackerman said there were current plans to redevelop the Best Bet property. He said that project was blocked by restrictions imposed by Clean Water Services (CWS) for a 25-foot vegetative corridor and other mitigation requirements on property that is already developed and has parking and asphalt. He said new City standards incorporated into the Code since the Biggi's acquired that property would make this project more difficult to develop. He said that was the reason for the claim. He said the letter from the Biggis gives further details on the costs and impacts of these new standards and on the negotiation process (in the record). He said in regards to Measure 37, the Biggi Partnership is the current owner.

Ackerman said there were two categories of restrictions raised in the claim; the restrictions from the City's Development Code and restrictions from CWS that are incorporated into the City Code. He said the City's Development Code restriction that have been applied since March 11, 1988, involved the Regional Center-Transit Oriented Zone and other requirements dealing with design review and other processes. He said the staff report states that the claimant only requested relief from four standards. He said that was incorrect; the claim states it is for all restrictions imposed since the time the Biggis acquired the property and then examples of some of the restrictions were listed in the claim. He said the staff report only concentrated on the examples they gave, so it did not fully address all the restrictions for which they were making a claim.

Coun. Stanton asked Ackerman if they had given the City staff a full list of all the restrictions concerning the claim.

Ackerman replied they did not list all the Code sections in the claim. He said he thought it was clearly stated that it was against all restrictions imposed since March 11, 1988. He said additional information was provided on specific Code sections and requirements in the packet he submitted at this meeting. He said that the staff report stated that some of the Code sections were not subject to Measure 37 claims, as there were procedures for applying for an exemption from those requirements. He said they disagreed with that. He said the reality was that if the requirements could be waived by going through another process, then they should be waived now; they should not have to go through a two-step process when the outcome would be the same. He said Measure 37 does not require that they go through that two-step process.

Ackerman said on page five of his July 17, 2006 letter, he discussed how the standards restrict the use of the property and reduce its value. He said the restrictions reduce the amount of land available, limit the ability to use the property for higher-value uses, and increase the cost of development; all of these factors reduce the fair market value of the property. He said CWS's restrictions apply to the property through the City Development Code. He said the City Code requires that CWS's standards be met prior to the City saying the application is complete. He said that was why these restrictions are applied by the City. He said these restrictions are incorporated in the floodplain restrictions. He said the City agreed to adopt and enforce CWS standards through an intergovernmental agreement with CWS. He said that was why these are City regulations and subject to a claim for compensation for a reduction in the value of the property.

Ackerman said the City and CWS argued that there might be an exemption for these restrictions due to the many exemptions in Measure 37; in particular the public nuisance restriction. He said they believe that the public nuisance restriction applied, but it should be narrowly construed by the terms of Measure 37 and it only applies to activities commonly and historically recognized as public nuisances. He said developing property adjacent to a stream was not an activity recognized as a public nuisance. He said the exemption in Measure 37 for restrictions for public health and safety purposes does not apply to the CWS restrictions. He said the burden was on the City to show that these exemptions apply, per Code 2.0.035. He said the City had not met that burden. He said all they want is the right to develop to the extent that it has already been developed. He said there was no need for additional regulations or for this exemption.

Ackerman said there was an exemption that relates to Federal law requirements. He said they believe this does not apply to this case. He said CWS refers to the Clean Water Act as the basis for that requirement, but there is nothing in the Clean Water Act or in the NPDES (National Pollutant Discharge Elimination System) Stormwater Discharge Permit, that requires a 25-foot vegetative corridor or buffer. He said the corridor requirement was a CWS creation. He said the City has an obligation to maintain Beaverton Creek due to a 1992 Consent Decree. He said the Biggis have never been asked to grant an easement to the City that would allow the City to maintain the Creek. He said they are obligated to give that easement to the City under the Consent Decree and would have granted it, if it had been requested. He said they would hold the City accountable for any consequences they encounter due to lack of maintenance of the Creek. He said the City promised in a 1982 Local Improvement District (LID) process, that there would be no development restrictions in the floodplain in exchange for the property owners in the Murray Culvert LID to contribute to the LID. He said the City has stated that the Code provides that protection. He said they do not believe that protection has been provided and they do not believe that the agreement with the land owners has been met. He said the City's adoption of an agreement to enforce CWS standards was in contravention of that prior agreement.

Ackerman concluded by stating this was a legitimate Measure 37 Claim. He said while they may not have strictly followed all of the City's procedures, Measure 37 did not require them to do so and states that failure to complete City procedures was not a bar to filing a claim in Circuit Court. He said they believed they were entitled to compensation and, pursuant Measure 37, if the land use regulations continue to apply more than 180 days after their filing of a claim (which has been extended to July 24, 2006), the owner will have a cause of action to file a claim in Circuit Court.

Coun. Arnold said she would not be able to read all the information Ackerman just distributed to the Council. She asked if he had submitted any new information in that packet.

Ackerman said he did not think there was a lot of new information. He said the basic points were made in the August 2, 2005 letter. He said this packet provided additional details on the claim for Council's information. He said the Council had until next Monday to review the material. He said they had a filing deadline that they were trying to meet.

Coun. Arnold asked how maintenance of the creek related to value of the property.

Steve Biggi, Biggi Investment Company, Beaverton, said in its Service Provider Letter, CWS said that all of the creek and channel areas that were previously mitigated by the Biggis and Tri-Met, were degraded and had to be restored. He said that would cost about $40,000 to $50,000.

Coun. Arnold asked if he thought the City needed to do the maintenance.

Biggi said the City should have been doing the maintenance since 1999. He said all the mitigation work done by the Biggi's and TriMet was now gone due to the beavers and nutria. He said it was the City's responsibility to maintain that mitigation work and it failed to do so. He said CWS was now saying they have to restore it and that was part of the claim. He added the total CWS claim was around $700,000. He said the 25-foot buffer is currently concrete and asphalt.

Public Works Director Gary Brentano said the City has done a great deal of work around the areas that border this part of Beaverton Creek. He said staff toured that section of the Creek with a CWS naturalist and identified a variety of the plants that were doing well. He said there are grasses that need to be removed and the trees have been removed by the beaver. He said there is some restoration work to be done but it is not an extensive amount. He said there was a great deal of value there now from the plants. He said this area was not prioritized by CWS for immediate restoration.

Biggi said in the material submitted to Council there was a letter from CWS stating the condition of the channel/creek.

Coun. Stanton asked Biggi if CWS said the work needed to be done or that the Biggi Partnership had to do the work.

Biggi replied said that in the CWS Service Provider Letter it said that the land had to be restored. He said CWS said that the Biggis had to do the work as they were developing the land. He said he did not think CWS was aware of the Consent Decree.

Coun. Stanton said she read about the Consent Decree in the staff report, but she did not remember reading about the addendum to the Decree. She said the Decree was on page nine and it referred to June, 1994. She asked if there was a modification after that date and if this had any bearing on this issue.

Brentano confirmed there was a modification; as the Max lines were moved closer to that area there was a modification to that agreement in which TriMet took responsibility for the care of the mitigation in and around the site for a period of three years.

Coun. Stanton asked if any of the requirements that the City maintain the channel changed with that modification.

Assistant City Attorney Bill Scheiderich said the modification added obligations to the City that had been the responsibility of the property owner. He said the modification was in 1994 and the original Decree was prior to 1986. He said the modification replaced the original Decree.

Coun. Stanton asked if the 1994 modification over-wrote the original.

Scheiderich said that was correct; the 1994 modification was a substitute for the original.

Coun. Doyle said it appeared the real dilemma was the CWS requirements; that was the basis for part of the expense of the claim. He asked if that was correct.

Ackerman said the CWS requirements were part of the claim but not to the exclusion of the restrictions imposed by the City; the claim was $990,000 for the City and $770,000 for CWS.

Coun. Doyle said if the City chose to waive its requirements, then that would no longer be part of the claim, though the CWS restrictions would still apply.

Ackerman said it was not clear to him that the staff was recommending a waiver of the City requirements to the extent that the Biggi's requested. He said if the City waived its requirements, it would still leave the CWS restrictions and that was important. He said they believed the City had some rights to waive the CWS restrictions.

Mayor Drake asked if they had conducted a certified appraisal of the value of the claim.

Ackerman responded they did not. He said they looked at nearby land that was being sold by the County and used that as a basis for the amount of the claim. He said the reality was that the value was probably greater than that. He said they believed it was unlikely that the City would pay compensation and they were making a prima facie case with regard to what the compensation and reduction of value might be.

Mayor Drake said, as an example, he did not see the nexus between the sale price for County property and the value of the sidewalk. He said the staff recommendation was to waive that for which the City feels it is accountable, but he did not see the dollar differential. He said many of the claims coming forward do not have appraisals.

Biggi said he was told by staff that there would be no compensation payment; that the only choice the City had was a waiver. He said a title report would cost $2,000, an appraisal for three parcels would cost $12,000, and attorney's fees would be considerable. He said all of that could cost $20,000 to $40,000; and it seemed a waste of money to do an appraisal when there would be no payment. He said to calculate the sidewalk cost they multiplied the square footage by the cost of concrete.

Mayor Drake said he has known the Biggi family over 25 years and has advocated for them in many situations. He said the Biggis were good business people. He said Measure 37 is the law of the land and while staff often speaks for the Council, this is a policy decision that Council has to make. He said he would guess that the Council would not compensate for this, since this was similar to what they could have developed in 1986. He said the issue for him was that he has not seen proof of a lot of appraisals and when dealing with public monies he wanted to understand how they arrived at the value of the claim. He added that an attractive creek would benefit the Biggis and any potential client.

Coun. Stanton noted Exhibit C of the August 2, 2005, claim letter (page 29 of staff report) listed the Restrictions Reducing the Fair Market Value of the Property. She said City Restrictions included *floodway and floodplain regulations above those required by Federal law.* She asked if these regulations were delineated in the report or in the packet just distributed by the claimant.

Ackerman said he had not specified the regulations in any of the material. He said he identified the Code sections that apply to floodplain regulations in the new material. He said the Council did not need to know the restrictions; that Council could waive the Code requirements to the extent that they meet the standard that they are above those required by Federal law.

Coun. Stanton asked how she would know that the restrictions were above what Federal law required. She said they could not waive the restrictions just on his word.

Ackerman said he thought that could be done in the future.

Coun. Stanton said if the Council approved the claim, the matter would be finished. She said years ago the City had to pay the Biggi's because the City erroneously waived some regulations. She said the City could not waive regulations based on the claimant's word, without staff or the Council looking at the matter.

Ackerman said that the Council could broadly waive the City's requirements by describing the waiver as being for "certain things that meet this criteria." He said the waiver did not have to be for specific sections.

Coun. Stanton said she would never sign a blank permission slip. She said to her that was very important. She asked if he was suggesting that the Council could waive everything up to Federal regulations and let the details be figured out later.

Ackerman said that was what he was suggesting and staff also recommended a generic waiver.

Coun. Stanton said she could not support that.

Ackerman said he thought there were mutual obligations in this case in terms of defining what does and does not apply, and what could be waived. He said this could have been worked out but it was not.

Coun. Bode said she agreed with Coun. Stanton. She said the Council has an obligation as policy makers to be thorough and understand both sides of the issues and the proof. She said the inability of the claimant to exactly present the City's obligation and what waivers are needed, and to ask that the Council make a general waiver, was not sufficient for the Council to make a policy statement. She said if that was what the claimant wanted the Council to do, then they needed to supply additional information so the Council could thoughtfully consider their request. She said handling this claim through a general approach was not good policy for either side. She asked if the claimant could grant the City more time as a matter of good faith business.

Ackerman said they could have requested relief from all of the floodplain regulations; that would have thrown the burden onto the City to determine which regulations were or were not eligible for a claim. He said they chose to characterize this in a way that would allow moving forward without that level of effort. He said that might have been an incorrect choice. He said Measure 37 was unknown territory for everyone. He said since the Council has not considered many Measure 37 hearings, it was difficult to know what the best path was. He said they were trying to use a reasonable path.

Coun. Bode said she understood the obligation of both parties but submitting additional material at the hearing for thoughtful review was not sufficient. She said Council needs time to review the new material. She asked what the rush was on this item and why they did not want to give Council the time needed to review the material.

Ackerman said that was not his preference and he did not control the circumstances. He said they filed claims with the City, Clean Water Services and Washington County regarding the CWS restrictions. He said that was done because they believe there is a Measure 37 claim in there somewhere and all three jurisdictions say it is somebody else. He said they believe that in order to get this resolved they are forced to go to Circuit Court. He said they want to bring all three of the agencies into Circuit Court in the same case so that a judge can have all the relevant parties and facts in front of them to make a legitimate decision as to who is responsible. He said they filed the three claims at the same time and tried to keep everyone on the same timetable. He said the other jurisdictions, particularly Washington County, would not work with them to stay on the same timeframe and unilaterally decided to enter its decision now. He said that decision created the obligation for the claimant to appeal that decision to Circuit Court within 60 days of the County's decision. He said the need to meet that 60-day deadline limits their ability to work with the City and CWS.

Coun. Bode said that was the claimant's strategy for getting the matter to court, however, she was working on the public process. She said she needs to look at making policy and what makes sense as they go through this claim. She said she would not make decisions on a race track.

Ackerman said they were willing to give the City another week, but they were constrained on time. He said they made extra effort in trying to work this out with the City and CWS and they extended the time period an additional five months for those negotiations. He said this was not about getting the City to court; it was about trying to resolve the issues to everyone's benefit. He said it benefited everyone to have all three jurisdictions in court at the same time, if they have to go to court, as it would be a more efficient use of the court system and the agencies' time.

Biggi said they had a sixty-day deadline. He asked what the Council needed if one week was not enough.

Mayor Drake said this was not the appropriate place to discuss the timeframe. He said a week was not sufficient time to review all the new material and next week's meeting was already full. He said this should be discussed with staff.

Coun. Dalrymple said he did not get a good sense of what the claimant was presenting, especially since they said they wanted to get all three agencies into court at the time. He said if they really wanted to develop the property, why not get a development plan together and go through the process so the City can look at the specific requirements and waive what can be waived.

Biggi said he invested a lot of time and money on a development plan and found he could not meet the parking requirements due to CWS restrictions. He said they met the City's minimum parking requirements but that was not enough parking for this project. He said he has owned other property where there is not enough parking and it is a nightmare. He said he would not go through that again; he wants the waivers now.

Coun. Doyle asked if the Council had to take action by next Monday or there would be consequences.

City Attorney Alan Rappleyea said if they did not meet the180-day deadline, they would potentially lose the opportunity to waive regulations. He said if they lost the ability to waive, they would only be left with compensation. He said it was not advisable to risk having to pay the compensation when the waiver could be handled today.

Coun. Stanton asked if the City could waive a CWS Code requirement based on the City's intergovernmental agreement with CWS.

Rappleyea said there was considerable debate over that question and he would hesitate to give a legal opinion about the City's ability to do that in open session.

Coun. Stanton asked if the City could write to the Federal Attorney General for an opinion on this question.

Rappleyea said that would not be appropriate. He said CWS has given their opinion and that is a question that has to be answered by the court.

Mayor Drake said the City adopted the CWS regulations and CWS is compelled to defend its ordinance.

Ackerman said he and the City Attorney discussed continuing this hearing to give Council additional time to look at the materials. He said Rappleyea indicated August 7 and 14 as possible dates. He said though that would squeeze their timeline, they would be willing to continue this matter to August 7, 2006.

Mayor Drake said August 7 was the meeting where Council would make its decision on the Wal-Mart application.

Coun. Bode said Council could devote its full attention to this matter at the August 14th meeting.

Ackerman said August 14th was their deadline date to act on Washington County's decision.

RECESS:

Mayor Drake called for a brief recess at 9:25 p.m.

RECONVENED:

Mayor Drake reconvened the meeting at 9:35 p.m.

PUBLIC TESTIMONY:

Forrest Soth, Beaverton, former City Councilor, reviewed the history of this area. He said the Drainage Improvement Task Force was a group formed by the property owners and various governmental agencies to look at the feasibility of lowering the floodplain in the Beaverton Creek area to allow additional development to occur in this area. He said consultants determined it was feasible to lower the floodplain and a local improvement district (LID) was formed from Canyon Road to 170th Avenue, with two new culverts being installed under Murray Road and under the General Motors spur. He said Tek was not a part of the LID; instead Tek reconfigured its portion of the Creek in accordance with the consultant's recommendation. He said after their study they resubmitted their floodplain delineations to the U. S. Army Corps of Engineers and the Corps approved them several years later. He said as part of the process they lowered the floodplain; the subject Biggi properties were exempted from the cut-and-fill requirements of floodplain regulations and they were allowed to develop up to the floodway on certain parts of that property. He said that was part of the intent of the LID. He said the Biggi's proceeded with their development based on the study. He said the floodplain delineations were confirmed a few years later by another engineering study. He said that was the history of this property.

Coun. Arnold asked if the Biggi's were able to utilize property that they could not have used because of the LID.

Soth replied they were. He said it worked well and when Washington County decided to make Murray Boulevard four lanes at that location, they replaced and enlarged the culverts that were originally installed through the LID.

Coun. Dalrymple asked if there were any additional agreements that would have superseded the LID agreement with the Biggis.

Coun. Soth said he was only aware of the Consent Decree that may have impacted the LID agreement. He noted there were two letters in the information before Council (dated September 16, 1985 and December 5, 1985) that confirm the history he presented.

Mayor Drake asked if anyone wished to testify in support or opposition to the claim.

No one came forward to testify.

Mayor Drake asked if the testimony heard could be rebutted.

Rappleyea said the testimony was neutral so it could not be rebutted.

Mayor Drake closed the public hearing.

Coun. Dalrymple said he did not see a need to defer this to a future date.

Coun. Dalrymple MOVED, SECONDED by Coun. Stanton, that Council accept staff recommendation, Item H. Recommendation and Item I. Exhibits, in the staff report of July 11, 2006 and that the City Attorney revise the final decision for clarity, send a draft to Council for final comment and final adoption by the Mayor.

Coun. Stanton asked if the motion included the denial of the claim for payment, waiver of the development regulations for the affected properties as delineated in the staff report and denial of the claim for other regulations including those of Clean Water Services.

Coun. Dalrymple confirmed that was part of his motion.

Coun. Stanton said to meet the Biggi's timeframe, she was comfortable making this decision. She said in skimming the material the claimant submitted at the hearing, she did not see anything that lead her to believe that staff has not been accurate and clear on each of the points.

Coun. Bode said she would support the motion. She said for the future she would support any attempt that differing parties made to continue discussions, so that policies are not made against a deadline for other multiple government actions. She said hopefully next time they would have more time for thoughtful consideration of evidence presented.

Coun. Doyle said he would support the motion. He said the City restrictions have been waived back to the date of the Partnership obtaining ownership and that should alleviate much of the problems. He said the remaining issues deal with Clean Water Services and that would have to be answered in court.

Coun. Arnold said she would support the motion. She said floodplain regulations were in the Code for insurance coverage to protect property owners. She said regarding Clean Water Services, property owners could make a Measure 37 Claim but the City has to live with other agencies' regulations.

Mayor Drake explained for the public that this motion was to waive regulations adopted after 1988 but those in place in 1988 were still effective and would lead the development of this property. He said this would protect the public's interest and the Biggis have always produced attractive developments.

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

EXECUTIVE SESSION:

Coun. Bode MOVED, SECONDED by Coun. Doyle, that Council move into 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 that pursuant to ORS 192.660(3), it is Council's wish that the items discussed in executive session not be disclosed by media representatives or others. Couns. Arnold, Bode, Dalrymple, Doyle and Stanton voting AYE, the MOTION CARRIED unanimously. (5:0)

The executive session convened at 9:50 p.m.

The executive session adjourned at 11:05 p.m.

The regular meeting reconvened at 11:05 p.m.

OTHER BUSINESS: LEOPOLD STEVENS

Coun. Stanton MOVED, SECONDED by Coun. Bode that Council direct staff to initiate a petition to the Oregon Supreme Court regarding the Wells Case.

Coun. Doyle said he would support the motion to keep options open given the two court cases being considered. He said the Council can always proceed in the way needed for the best interests of the City.

Question called on the motion. Couns. Bode, Doyle and Stanton voting AYE; Coun. Dalrymple voting NAY; Coun. Arnold abstaining, the MOTION CARRIED. (3:1:1)

Rappleyea asked for direction regarding sending a letter to Leopold Stevens.

Coun. Stanton MOVED, SECONDED by Coun. Dalrymple, that the Council direct staff to send a letter to Leopold Stevens and advise them that the City would refrain from taking any action until the Court of Appeals rules on the matter. Couns. Arnold, Bode, Dalrymple, Doyle and Stanton voting AYE, the MOTION CARRIED unanimously. (5:0)

ADJOURNMENT

There being no further business to come before the Council at this time, the meeting was adjourned at 11:10 p.m.

_____
Sue Nelson, City Recorder

APPROVAL:

Approved this day of , 2006.

_____
Rob Drake, Mayor

DRAFT

BEAVERTON CITY COUNCIL
REGULAR MEETING
AUGUST 7, 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 City Council Chamber, 4755 SW Griffith Drive, Beaverton, Oregon, on Monday, August 7, 2006, at 6:35 p.m.

ROLL CALL:

Present were Mayor Drake, Couns. Catherine Arnold, Betty Bode, Bruce Dalrymple, Dennis Doyle, and Cathy Stanton. 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.

VISITOR COMMENT PERIOD:

Francine Kaufman, Portland, said she attended the Picnic In The Park at Schiffler Park where graffiti was discussed. She asked for clarification regarding how the City handles cleaning up graffiti on private property.

Police Chief David Bishop explained the process for cleaning up graffiti which would include taking photographs of the graffiti for investigation purposes. He said property owners are advised they have a certain number of days to cleanup the graffiti. He said if they are unable to do the cleanup, the City Operations Department will assist them. He said if the owner chooses not to do the cleanup, the City would remove the graffiti and charge the owner for that service. He said if the graffiti is on public utilities the Operations Department is responsible for doing the cleanup.

Coun. Bode reviewed in detail the City's policy and process for reporting graffiti and conducting the cleanup.

COUNCIL ITEMS:

Coun. Bode said the Council was hosting the next Picnic in the Park on August 24, 2006, at Camille Park at 6:00 p.m.

STAFF ITEMS:

Chief of Staff Linda Adlard said on July 24, 2006, the Council approved the opening of the bids for the construction component for the Central Plant. She said the amount authorized was $727,950 and Council asked that staff update the Council on the bid at this meeting. She said the bid was awarded to Triad Mechanical in the amount of $425,737. She said there was still capital money available to further extend the project when needed. She said Triad Mechanical was an Oregon business.

Mayor Drake said the Consent Agenda and Ordinances would be considered next, followed by the Action Item.

CONSENT AGENDA:

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

Minutes of the Regular Meetings of June 19 and July 10, 2006

06133 Liquor Licenses: Change of Ownership - Albertson's #559 and #582; New Outlet - Qdoba Mexican Grill

06134 Boards and Commissions – Jason Hitzert, Beaverton Arts Commission

Contract Review Board:

06135 Bid Award - Asphaltic Concrete Requirements Contract

06136 Waiver of Sealed Bidding - Purchase Nextel Cellular Phone Service from the State of Oregon Contract No. 2285

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

ORDINANCES:

Coun. Doyle MOVED, SECONDED by Coun. Bode, that the rules be suspended, and that the ordinance embodied in Agenda Bill 06137, 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, Doyle, and Stanton voting AYE, the MOTION CARRIED unanimously. (5:0)

First Reading:

City Attorney Alan Rappleyea read the following ordinance for the first time by title only:

06137 ZMA 2006-0005 Butler Rezone; An Ordinance Amending Ordinance No. 2050, the Zoning Map, as to a Specific Parcel, from Urban Standard Density Residential (R-7) to Urban Standard Density Residential (R-5) (3600 SW 110th Avenue) (Ordinance No. 4400)

Second Readings:

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

06129 An Ordinance Amending Ordinance No. 4187, Figure III-1, the Comprehensive Plan Land Use Map and Ordinance No. 2050, the Zoning Map for Property Located at 8111 SW West Slope; CPA 2006-0002/ZMA 2006-0001 (Ordinance No. 4398)

06130 An Ordinance Amending Ordinance No. 4187, Figure III-1, the Comprehensive Plan Land Use Map and Ordinance No. 2050, the Zoning Map for Four Properties in Northeast Beaverton; CPA 2006-0003/ZMA 2006-0002 (Ordinance No. 4399)

Coun. Doyle MOVED, SECONDED by Coun. Stanton, that the ordinances embodied in Agenda Bills 06129 and 06130, now pass. Roll call vote. Couns. Arnold, Bode, Dalrymple, Doyle and Stanton voting AYE, the MOTION CARRIED unanimously. (5:0)

ACTION ITEM:

06124 APP 2006-0004: Appeal of Town Square Too - Wal-Mart Approval (DR 2005-0068)
Continued from the July 11, 2006 meeting.

Mayor Drake said the Council would be taking rebuttal comments from the Wal-Mart Applicant and staff would answer any questions. He reminded the Councilors that if any questions they asked the applicant or staff generated new information then surrebuttal for the appellants would be required by law.

Rappleyea confirmed rebuttal testimony should deal with evidence that was already in the record.

Mayor Drake said after rebuttal testimony, Council questions would be taken and directed through City staff. He said after the questions there would be Council deliberation.

APPLICANT REBUTTAL:

Greg Hathaway, Davis Wright Tremaine LLP, Portland, attorney representing Wal-Mart, said this was the end of a long process and a long road to come before the Council. He said Wal-Mart had to meet some difficult tests; these were not normal tests and Wal-Mart was being held to a higher burden. He said the first test was the Peterkort test; they had to ensure that their development met the Peterkort's specifications and was compatible with the Peterkort's current and future development plans. He said Wal-Mart met that test and that included the Peterkorts' transportation planning issues. He said the next key test was the City, County and ODOT's transportation tests. He said all three agencies agreed with Wal-Mart's transportation analysis and they agreed that all of the impacts could be mitigated. He said the third test was to get the approval of the Board of Design Review (BDR), in light of considerable opposition. He said the BDR made its own independent decision that Wal-Mart met all the development criteria.

Hathaway said Wal-Mart was asking that the Council affirm the decision of the BDR. He said the appellants were asking that the Council reverse the BDR's decision and turn

back the clock and reject years of planning that allow this use by right. He said BDR Chair Doukas said it well when she said this was not a popularity contest; it was a question of whether Wal-Mart has met all of the legal tests. He said Wal-Mart has met all legal tests and wants to be part of this business community. He said they were prepared to mitigate every impact that they create. He offered to answer Council questions.

There were no questions from Council.

Mayor Drake said that Hathaway had submitted a written rebuttal to the City about one week ago (in the record). He asked the City Attorney if there was anything in the verbal rebuttal just presented or in the written rebuttal submitted earlier that was new information.

Rappleyea said he had reviewed the written rebuttal submitted by Wal-Mart and did not find any new evidence; it referred to matters that were already in the existing record. He said there was no new evidence in the final rebuttal just presented by Hathaway.

Mayor Drake said that would also be his finding and he confirmed that that was Council's finding. He asked if there were any further questions or thoughts from Council. There were none.

Coun. Stanton asked if staff had any closing comments.

Staff had no closing comments.

Mayor Drake asked the Council for their decision.

Coun. Stanton MOVED, SECONDED by Coun. Bode that the Council grant Appeal APP 2006-0004 (Appeal of Town Square Too - Wal-Mart Approval DR 2005-0068) and deny the Wal-Mart application.

Coun. Bode said the process of building community often feels like tearing down the community to put it together. She said she would support the motion to grant the appeal. She said the County zoned this area transit oriented-retail commercial and the focus in building community is transit oriented. She said transit oriented was designated to encourage pedestrian traffic and transit use. She said when that is considered, this project has no direct access to SW Barnes Road, blank walls face SW Barnes Road and there are no buildings oriented towards SW Cedar Hills Boulevard. She said pedestrian safety when crossing SW Barnes Road would only be supported by a traffic island and that was not enough. She said she did not want to approve this project and then have someone killed trying to cross the road because that traffic island was not sufficient. She said it was an issue of safety and livability. She said she also had concerns regarding access and spacing, but she was most concerned with livability and this development was not designed for pedestrians. She said no decisions were made lightly. She said Wal-Mart woke the residents up in this area and pulled the community together.

Coun. Stanton said she lives in the far southeastern corner of the city and she initially became involved in her neighborhood association because there was a traffic issue in

her neighborhood. She said she has resisted being a "nimby" (not in my back yard) and she has expanded her definition of neighborhood and community to include the entire area of city, county and state. She said the values and standards she holds for a livable community apply to everything and they do not stop at jurisdictional lines. She said there was a comment that she said City leaders have little discretion to reject Wal-Mart as long as the proposals meet zoning and design criteria. She said for the record, having little discretion does not mean having no discretion. She said she remembered saying that both sides were valid and Council's job was to determine which side was more valid. She said one of the definitions of valid from the dictionary was "Containing premises from which a conclusion may logically be derived." She said both the applicant and appellant came to different conclusions based on their interpretations of data and codes, and based on their own premises. She said it is the conclusion that the Council reaches, based on its interpretation of the City and County Codes that has to be valid, justifiable and defensible.

Coun. Stanton said to make her case she went to the Washington County Code. She read from County Code 375-1 "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 stations, within one-quarter mile of existing and planned primary bus routes. The purpose of the transit-oriented district is to limit development to that which has a sufficient density of employees, residents and users to be supportive of the type of transit provided to the area...and is designed to encourage people to walk, ride a bicycle or use transit for a significant percentage of their trips." She said that if it is transit oriented-retail commercial as designated by Washington County, it is incumbent that we keep it transit oriented and transit and pedestrian friendly. She read from County Code 431-1 "All Type 3 applicants for development in transit oriented districts shall demonstrate compliance with applicable principles and or standards in this section." She said she looked at County Code 431-4.1, Principles, and she found Principles A and B were not met. She said she looked at County Code 431-4.1 Standards, and found Standards C and D for blocks were not met.

Coun. Stanton said there was no question that responsible long-range planning was needed. She said more important was the need for responsible long-range development. She said with the amount of housing that will be going in on the north side of SW Barnes Road, as well as all the development coming to SW Cedar Hills Boulevard north of SW Barnes Road, any development that goes in must be transit oriented as defined by the County. She said SW Barnes Road must be safe and easily crossed if it is the intersection of four blocks of transit oriented development. She said SW Cedar Hills Boulevard and SW Barnes Road must support the housing that will be coming. She said it does not appear that the roads can support a Wal-Mart and the housing densities planned because while Wal-Mart is willing to put in additional lanes and other amenities it will keep the situation even; it will not be sufficient for the future development that is coming to this area.

Coun. Stanton said ODOT, the County and City staff have determined that Wal-Mart had met the required criteria by agreeing to the conditions of approval. She said the staff from these three agencies have determined that the improvements that the applicant is willing to undertake on these two roads would keep the roads and the intersection at the current level of service. She said she only saw a little thought given to what would happen to this area with the planned future development. She said what happens next

is more important than what is currently happening. She said the consequences of a development of this size and impact at this intersection was more than she could be comfortable with. She said she is also concerned about the conflicting information Council received regarding overnight parking and the potential for increased levels of crime. She said there were three Council goals that were applicable to this application: To preserve and enhance the sense of community; To ensure a safe and healthy community; and To manage growth and respond to change consistent with maintaining a livable full service city. She said she was aware that this site was not in the middle of Beaverton; but it is now part of Beaverton and the Council goals apply. She said because of this, she would support her motion.

Coun. Doyle said he would support the motion. He said the traffic situation in that area was almost at failure level now. He said the applicant has agreed to do a great deal of mitigation to leave it at the same level of almost failure. He said looking at the different traffic engineers' reports, a small error in either direction would cause that intersection to fail. He said that was the "heart and soul" of this application. He said staff and the applicant bent over backwards in trying to craft a solution. He said this is not the first time the Council has not agreed with the BDR, ODOT or the County. He said this big box use in this location would not work.

Coun. Dalrymple said he would support the motion. He said while there may be examples where retail over parking may work for stand-alone retail uses of this scale, he was not certain that the brand would trump the inconvenience of shoppers to ensure a sustainable future for the use. He said the use appears out of scale with a greater than 150,000 square foot big-box retail use placed on top of a sea of parking. He said the majority of shopping would take place on the second floor. He said this design did not create a pedestrian-friendly environment; and the addition of plazas did not change the auto-dependent use to a more pedestrian friendly environment. He said this proposed use would not generate a relatively high percentage of transit trips. He said the transit station location, and the vertical grades to and from this site from the transit station, make it impractical for shoppers to use transit. He said bus stops cannot be placed close to the site due to the complex design needed to meet the transportation requirements of this development. He said this development is an auto-dependent use and the auto trips it generates would be more regional in nature than local. He said permitting a use that draws regional auto traffic into this area is opposite of the intent of the transit oriented-retail commercial zone. He said adding regional trips to this area would exacerbate the transportation issues associated with this transportation corridor.

He said regional trips would add stress and congestion to the transportation system that supports this area. He said approving this development would add to the long-term transportation problems in this corridor rather than bring solutions; and it is known that more development is planned for this area. He said the size of this development creates a magnitude of transportation impacts that discourage people from walking, riding a bicycle or using transit for a significant percentage of their trips. He said he believed that development of this site might be best served by providing multiple retail service businesses, at a more pedestrian scale, that more closely align with the intent of a pedestrian-oriented development. He said these businesses would serve the surrounding transit station uses, the surrounding neighborhoods and align more closely with helping to resolve the impacts of this transportation corridor.

Coun. Arnold said she would support the motion. She said the Council is the judge in this issue and has to follow the criteria. She said she listened to the tapes of the BDR hearing and the motion to approve the application almost died for lack of a second. She said she sensed the BDR did not think this was a good use of the property but they did not know what to do with the application. She said at the BDR level, they do feel more of an obligation to follow the staff's interpretation of criteria because that is the role of the BDR. She said the Council has more discretion because they are the policy makers; they can chose to follow the policies in place but they have more room for interpretation of the Code. She said she agreed with comments that this development is not pedestrian oriented. She said the City Code has a 50,000 square foot plan for areas like the transit oriented zone. She said that was not part of the County Code. She said she thought the appellant made an interesting argument that when block size is limited, in essence floor size is limited. She said if this development followed the County's Type 2 criteria, there would have been three blocks not one massive structure with a great deal of parking.

She said this was like putting a line backer in a beautiful evening gown for a beauty pageant; it does not have the right shape regardless of how the dress looks. She said she thought that was what the BDR struggled with in making a decision. She said she did not like most of the pedestrian oriented spaces; they were dead spaces and she did not feel they met the requirements of County Code 431-7.3A1, which says "Community open spaces shall be designed to accommodate a variety of activities and users, ranging from active play by children to passive contemplation by adults, but shall generally be able to accommodate a relatively intensive level of use and shall be pedestrian friendly with amenities."

Mayor Drake thanked City planning and transportation staff, and the City Recorder's staff for keeping the record straight, providing an outstanding record and answering many questions. He thanked the Wal-Mart team for extending the maximum time allowed to get to this point. He said this was the best process he has ever seen in terms of the applicant and appellant trying to stay close to issues, and maintaining a professional and civil demeanor. He said he has lived in this area since 1962 and he has always thought of Cedar Mill, Cedar Hills and Raleigh Hills as part of Beaverton. He said he went to Sunset High School and ran many of the roads in those areas. He said there has been a lot of change over the years and it is how the future is managed that matters. He said through this process, the City has tried to look at the big picture. He said this area was annexed as part of a bigger process through an Urban Services Agreement with Washington County.

He said the City has had an interest in this area since December 2004 which preceded this application. He said the City's interest in these areas will continue. He said when he goes to other agencies to represent Beaverton, he is representing all of Washington County. He said this is not about Wal-Mart. He said this is the wrong store for this location. He said this issue is about impact. He said Wal-Mart is a regional facility and it is not transit oriented development. He said he would agree in terms of livability and the sheer mass of this intersection. He said he is looking at the big picture and not at a specific retailer.

Coun. Doyle asked if part of the motion was to direct staff to prepare findings in support of the motion.

Coun. Stanton said that was correct and the motion includes all relevant data presented in the record and in the testimony.

Coun. Arnold said she received a lot of calls on this issue and as soon as she heard "Wal-Mart" she had to delete the messages or end the calls. She said she could not call these people back. She said she wanted them to know she was not ignoring them; it is just part of the process that they cannot discuss this issue with the citizens. She said the Council tries to be responsive to citizens to the extent possible.

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

Rappleyea said he would work with the appellant's attorney to prepare findings and would bring them back for Council approval at the next meeting on Monday (August 14, 2006).

Mayor Drake explained that consideration of the findings on August 14 would not be a public hearing and no comments would be taken.

ADJOURNMENT

There being no further business to come before the Council at this time, the meeting was adjourned at 7:30 p.m.

_____
Sue Nelson, City Recorder

APPROVAL:

Approved this day of , 2006.

_____
Rob Drake, Mayor

DRAFT

BEAVERTON CITY COUNCIL
REGULAR MEETING
AUGUST 14, 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 City Council Chamber, 4755 SW Griffith Drive, Beaverton, Oregon, on Monday, August 14, 2006, at 6:32 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 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 Deputy City Recorder Catherine Jansen.

PROCLAMATIONS:

Mayor Drake proclaimed September 2006 Prostate Cancer Awareness Month

PRESENTATIONS:

06138 PULLED - Transportation Funding.

Mayor Drake said that due to Coun. Stanton's illness and her interest in the Transportation Funding and Comprehensive Plan Amendment (Agenda Bill 06148) issues, these items would be rescheduled to a future Council meeting.

VISITOR COMMENT PERIOD:

Henry Kane, Beaverton, said there are long stretches of sidewalk in the City that need repair. He said many slabs are uneven; they are raised or lowered by an inch or more and cause people to trip. He said he fell when he tripped over one of the raised slabs on Lombard Avenue and was injured. He asked that the City enforce the sidewalk ordinance and check the sidewalks throughout the city.

Mayor Drake said the City does oversee the sidewalks; however, the Code states adjacent property owners are responsible for repair work. He said the City does respond to complaints regarding sidewalk conditions. He asked that Kane speak to the Code Enforcement Division and tell them which sidewalks need work. He said Code Enforcement would be happy to help him.

Barbara Wilson, Beaverton, spoke to Council regarding global warming. She said there were several articles, books and a movie released in the last few months regarding global warming and the serious climate changes occurring that seriously affect the environment. She asked that local officials do what they could to improve the situation. She said on the Web there was a page called US Mayors Climate Protection Agreement. She said this was an agreement to reduce the carbon footprint of cities and it has been signed by 279 cities nationwide, including Ashland, Corvallis, Eugene, Lake Oswego and Portland. She asked that the City investigate this agreement to see if it is an agreement in which the City could participate. She also suggested the City form an ad hoc Citizen's Committee on global warming to investigate the results of the Mayors Climate Protection Agreement and to educate the public on reducing carbon dioxide emissions. She stressed the planet was in trouble and there is much each person could do to improve the environment. She also asked that the City take an official stand for tree protection as trees are important to the health of humans and the planet.

Mayor Drake said he would explore that Web site and he knew the Oregon Mayors who signed the agreement.

Judith Auslander, Beaverton, said she moved here two years ago and the rent was $599 a month. She said this year the lease was not renewed by the manager. She said on July 28 she received a notice that her rent was being raised an exorbitant amount. She said if she signed a lease the rent increase would be $171 per month; if she did not sign the lease the rent increase was $231 per month. She said her rent would go from $599 to $830 per month; that would be over 35%. She said this was not a rent raise; it was a lifestyle change. She said it was incorrigible to raise someone's rent that much and expect them to arbitrarily come up with that kind of money. She said rent increases should be controlled; there should be a limit on the percentage of increase allowed. She said a 60 days notice should be given for 30 days was not sufficient. She said Oregon needs rent control.

Mayor Drake asked if she had talked to the area legislators to discuss this issue. He said it was difficult to comment without knowing the causes for the increase.

Auslander said she spoke to the manager and she said that was the market now and all the apartment complexes were doing this because they can.

Coun. Dalrymple asked if she considered consulting an attorney regarding tenant/ landlord law.

Auslander said she did and there were no laws to protect renters in this case; landlords can raise their rents as much as they want with 30 days notice.

City Attorney Alan Rappleyea said there is a Landlord Tenant Act in the State statutes and there are specific timelines and requirements in the Act, including the 30-days notice requirement. He said rent control is better addressed at the State level. He said there are some affordable housing programs where rent is controlled, but the government owns that housing.

Coun. Doyle was surprised to hear that units were so full that landlords could get away with a one-third rent gauge. He said he was meeting with one of the State senators and would forward Auslander's letter to him. He said he would let her know if anything positive comes from him.

Mayor Drake said under these circumstances, this should be region-wide. He said the City has no authority on the issue. He suggested she write to the State senators and representatives for this area.

Dave James, Beaverton, thanked the Council for work done recently in upholding the City's goals and said he felt the City was in good hands. He said the Beaverton School District would resubmit its application for the Bus Barn in the next couple of months. He said he asked staff how the City would handle this application and was told that after the application is received the City would determine how it is handled. He said his concern was that the citizens would not know the application was submitted until they received notices of the meetings and that would be too late. He recapped the history of this issue. He said this application might come in as a Type 2 Application and there would be no public meeting. He asked that since there is such strong feeling against this project in the community, that this application go through a public meeting; presumably through the Board of Design Review. He said there were hundreds of people who would want to testify against this application and they would like this to go through a public meeting.

Mayor Drake said Council could not respond at this time and the Community Development Director would need to look at the document and see what the Code says. He said he thought a Type 2 application required a neighborhood meeting and was appealable.

Community Development Director Joe Grillo said staff would look at the application when it is submitted to determine what noticing is required. He said for a Type 2 the City does solicit comment from public property owners and a Type 2 application is appealable to the Board of Design Review or Planning Commission. He said if someone was not satisfied with the appeal decision, it would then go to Land Use Board of Appeals (LUBA).

Coun. Arnold asked when citizens would be notified of the application.

Grillo said he would need to check the Code requirements for a Type 2 application. He said he would write a memorandum to Council to answer these questions.

Mayor Drake asked that James be given a copy of that memorandum.

COUNCIL ITEMS:

Coun. Bode said the next Picnic In The Park would be Thursday, August 24, 2006 at Camille Park.

Coun. Dalrymple congratulated Murrayhill Little League for winning the Northwestern Region game last night against Alaska. He said it looked like Beaverton would be

well represented in the Little League World Series this year. He congratulated all the team members and the coaches, saying that was a fantastic accomplishment.

STAFF ITEMS:

There were none.

CONSENT AGENDA:

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

Minutes of the Regular Meeting of July 11, 2006

06139 Liquor License: New Outlet: New Seasons Market - Cedar Hills Crossing; Beaverton Pawn; Original Thai Cuisine

06140 Traffic Commission Issue No.: TC 594 Marked Traffic Islands and Parking Restrictions on SW Village Lane at 150th Avenue Intersection; TC 595 Permit Parking on SW First Street Near Hall Boulevard

06141 Acceptance of Grant Award from the Metropolitan Area Communications Commission and Authorize Appropriations Through a Special Purpose Grant Budget Adjustment Resolution (Resolution No. 3867)

06142 A Resolution Authorizing the Mayor to Sign an Intergovernmental Agreement with the Oregon Department of Transportation (ODOT) for Improvements to Signals and Signing at Rail Crossings on Hall Boulevard and Scholls Ferry Road (Resolution No. 3868)

06143 Transfer Resolution to Provide Appropriation for Programming Support on the New Permit Tracking System and Authorize Staff to Solicit Proposals for the Programming Support (Resolution No. 3869)

06144 A Resolution Adopting Updated Planning Commission By-Laws (Resolution No. 3870)

06145 A Resolution Adopting Updated Board of Design Review By-Laws (Resolution No. 3871)

06146 In the Matter of the Application of: Wal-Mart Stores, Inc., No. DR 2005-0068, Final Decision

Contract Review Board:

06147 Design Contract Award - Windjammer Way - Spinnaker Drive Waterline Replacement - Project No. 4069

06152 Contract Award - Janitorial Services for City Buildings

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

WORK SESSION:

06148 PULLED - CPA 2006-0001 Amending the Comprehensive Plan Chapters 1 and 2 and the Glossary (To be rescheduled to future Council meeting so that Coun. Stanton could be present when this is considered.)

ORDINANCES:

Coun. Arnold MOVED, SECONDED by Coun. Doyle, that the rules be suspended, and that the ordinances embodied in Agenda Bills 06149, 06150 and 06151, 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:

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

06149 An Ordinance Amending Ordinance No. 4187, Figure III-1, the Comprehensive Plan Land Use Map and Ordinance No. 2050, the Zoning Map for Two Properties in Northwest Beaverton CPA 2006-0007/ZMA 2006-0010 (11845 and 11915 SW Walker Road) (Ordinance No. 4401)

06150 An Ordinance Amending Ordinance No. 4187, Figure III-1, the Comprehensive Plan Land Use Map and Ordinance No. 2050, the Zoning Map for Two Properties in Northeast Beaverton CPA 2006-0008/ZMA 2006-0011 (Tax Lots 1S1 10 DA 01800 and 01802) (Ordinance No. 4402)

06151 An Ordinance Amending Section 6.02.390 of the Beaverton Code Relating to the Downtown Permit Parking District (Ordinance No. 4403)

Second Reading:

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

06137 ZMA 2006-0005 Butler Rezone; An Ordinance Amending Ordinance No. 2050, the Zoning Map, as to a Specific Parcel, from Urban Standard Density Residential (R-7) to Urban Standard Density Residential (R-5) (3600 SW 110th Avenue) (Ordinance No. 4400)

Coun. Arnold MOVED, SECONDED by Coun. Doyle, that the ordinance embodied in Agenda Bill 06137 now pass. Roll call vote. 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 7:16 p.m.

_____
Catherine Jansen, Deputy City Recorder

APPROVAL:

Approved this day of , 2006.

_____
Rob Drake, Mayor

AGENDA BILL

Beaverton City Council
Beaverton, Oregon

SUBJECT: LIQUOR LICENSES

FOR AGENDA OF: 09/11/06 **BILL NO:** 06153

MAYOR'S APPROVAL:

DEPARTMENT OF ORIGIN: Police

DATE SUBMITTED: 08/29/06

NEW OUTLET
Chipotle Mexican Grill
9120 SW Hall Blvd., Suite D

Ruby Tuesday
14550 SW Murray Scholls Dr.

DéCor International
14723 SW Teal Blvd.

King's Restaurant
12800 SW Canyon Rd.

PROCEEDING: Consent Agenda

EXHIBITS: None

BUDGET IMPACT

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

HISTORICAL PERSPECTIVE:

Background investigations have been completed and the Chief of Police finds that the applicants meet 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 requests.

INFORMATION FOR CONSIDERATION:

Chipotle Mexican Grill, Inc. has made application for a Full On-Premises Sales License under the trade name of Chipotle Mexican Grill. The establishment will serve Mexican food. It will operate seven days a week from 11:00 a.m. to 10:00 p.m. There will be no entertainment offered. A Full On-Premises Sales License allows the sale of distilled spirits, malt beverages, wine and cider for consumption at the licensed business.

RT Portland Franchise, LLC, has made application for a Full On-Premises Sales License under the trade name of Ruby Tuesday. The establishment will serve American food. It will operate Monday through Thursday from 11:00 a.m. to 11:00 p.m., Friday and Saturday from 11:00 a.m. to 12:00 a.m., and Sunday from 11:00 a.m. to 10:00 p.m. There will be no entertainment offered. A Full On-Premises Sales License allows the sale of distilled spirits, malt beverages, wine and cider for consumption at the licensed business.

DéCor International, LLC has made application for an Off-Premises Sales License under the trade name of DéCor International. The establishment is a retail gift store. It will operate Monday through Friday from 9:30 a.m. to 6:30 p.m., and Saturday from 10:00 a.m. to 4:00 p.m. There will be no entertainment offered. An Off-Premises Sales License allows the sale of malt beverages, wine, and cider to go in sealed containers.

Pich Enterprise, LLC, has made application for a Limited On-Premises Sales License under the trade name of King's Restaurant. The establishment serves Asian food. It operates seven days a week, from 9:00 a.m. to 2:30 a.m. There is no entertainment offered. A Limited On-Premises Sales License allows the sale of malt beverages, wine, and cider for consumption at the licensed business, and the sale of kegs of malt beverages to go.

RECOMMENDED ACTION:
The Chief of Police for the City of Beaverton recommends City Council approval of the OLCC licenses.

AGENDA BILL

Beaverton City Council
Beaverton, Oregon

SUBJECT: Authorize the Mayor to Execute a One Year Extension to the Intergovernmental Agreement Amongst Local Government Agencies for the Shared Use of a Public Communication Network

FOR AGENDA OF: 9/11/06 **BILL NO:** 06154

Mayor's Approval:

DEPARTMENT OF ORIGIN: ISD

DATE SUBMITTED:

City Attorney
Finance

PROCEEDING: Consent Agenda

EXHIBITS: Intergovernmental Agreement

BUDGET IMPACT

EXPENDITURE	AMOUNT	APPROPRIATION
REQUIRED $11,000	BUDGETED $11,000	REQUIRED $-0-

HISTORICAL PERSPECTIVE:

Since 1996, the City has been a participant in the Broadband User Group that established a high speed wide area network between and amongst the various agencies in Washington County. The User Group operates under an IGA (Intergovernmental Agreement) that governs the operations of the wide area network. The current IGA expired on June 30, 2006, and the participants desire to extend the current agreement for an additional one-year period. A list of the participating agencies is attached to the IGA as Appendix A.

During this operating year, the User Group will revise the IGA to incorporate additional needs due to changing technology and the individual needs of the respective participants. The revised IGA will then be presented for approval to the various participants Councils, Boards, or Commissions for the fiscal year beginning June 30, 2007.

INFORMATION FOR CONSIDERATION:

Attached is the proposed IGA to cover the term of July 1, 2006 through June 30, 2007, with the only change from the prior IGA being the new operating term. The amounts referenced in the Expenditure Required and Amount Budgeted sections represent Beaverton's share of the Broadband User Group's operating expenses for FY 2006-07. The wide area network is operated and managed by the City of Hillsboro.

RECOMMENDED ACTION:

Council authorize the City's continued participation in the Broad Band User Group and authorize the Mayor to sign the IGA for the Shared Use of Public Communications Network, Internet Access, Communication Devices and Computer Equipment in a form approved by the City Attorney.

Intergovernmental Agreement

Shared Use of Public Communication Network, Internet Access, Communication Devices and Computer Equipment

This agreement is entered into by and between the units of local government, departments/agencies of local government, and districts listed in Appendix A, which is incorporated into this Agreement by this reference. Each entity listed shall be referred to as "Participant."

WHEREAS ORS 190.010 authorizes each Participant to enter into this Agreement for the performance of any or all functions and activities that each Participant has authority to perform;

WHEREAS, each Participant finds it desirous to enter into this Agreement;

Now, therefore, each Participant agrees as follows:

I. Objectives of the Agreement

1. This Agreement will allow each of the Participants to:

   a Share the usage of advanced technology such as the Internet;

   b. Share all the equipment and services associated with interfacing/accessing the internet;

   c. Share in the cost of the acquired equipment and services to interface/access the Internet;

   d. Develop internal expertise and share this expertise among the participants;

   e Provide security to all participants using the Internet; and

   f. Become a model for units of local government sharing the technology, expertise and the cost to benefit the citizens and taxpayers of Washington County and the participating jurisdictions.

II. General Responsibilities

1. All Participants. Each Participant agrees to:

   a. Maintain secure computer connections to the shared broadband minimum infrastructure configuration in accordance with the Procedures Manual.

   b. Use the shared Wide Area Network in a manner that will not impair other Participants' use of the Wide Area Network and the Internet connections.

   c. Meet on a regular basis, or as required, with all Participants in this Agreement to establish and modify procedures for use of the shared broadband channel and the Internet connection The group shall be called the Broadband User's Group.

   d. Appoint a person to act as a "Liaison" for this Agreement who shall have the authority to Execute the Procedures Manual and any amendments to that document and be the BUG Member.

III. Compensation

1. New Participant(s). Any new party that wishes to become a Participant in this Agreement must be approved by a majority of the existing Participants, by vote of the liaisons, and must pay a fee set by the Participants. The fee is required regardless of the length of time remaining in this Agreement. If approved by the Liaisons, a new party shall become a Participant in this Agreement upon receipt of the fee and authorization for participation in this Agreement.

2. Ongoing Maintenance. All Participants agree to share in the on -going costs of maintenance as well as maintaining a connection to the Internet. The equipment including all hardware and software shall be listed in the procedure manual. The procedure manual shall be updated as new equipment is purchased.

3. Initial Payment Refund. The Initial Payment is nonrefundable regardless of the withdraw of participation by any Participant or termination of this Agreement.

IV. Accounting and Financial Management

1. City of Hillsboro responsibilities. The City of Hillsboro will:

   a. All expenses will be paid by the City of Hillsboro. The City of Hillsboro will invoice the other participants as outlined in IV.2 , including the original invoice.

   b. Follow accounting and financial management procedures as outlined in the Procedures Manual and in accordance with its purchasing rules. Should there be a conflict between The Procedures Manual and its purchasing rules, the purchasing rules shall prevail.

2. Participant responsibilities. All maintenance expenses incurred by the Participants on their own equipment, that is not identified on the Attachment, are the responsibility of the respective Participants. All invoices relating to expenses for hardware/software maintenance or troubleshooting consulting on the equipment identified in the Attachment will be submitted to the City of Hillsboro. Any changes to maintenance rates and Internet connection must be brought to the BUG meeting for prior approval. Any Participant may dispute troubleshooting consulting expenses This dispute may be referred and voted upon at the next BUG meeting.

V. Procedures Manual and BUG Meetings

1. Preparation. A separate document referred to as the "Procedures Manual" will be prepared and used in conjunction with this Agreement by the BUG. The Procedures Manual is intended to provide operational definitions for Participant responsibilities in a format that can be changed as needs are identified over time.

2 Amendment. The Procedures Manual may be amended at any meeting of the BUG by two-thirds vote of those Members present, provided notice of such amendments has been given in writing to all Members at least two weeks prior to this meeting.

3. Review. The Procedures Manual shall be reviewed annually.

4. BUG Members. Each Participant shall have one voting Member of the BUG.

5. Quorum Requirements. Unless otherwise stated in this Agreement, a quorum (on half plus one) of Members is required for any formal action at a BUG meeting.

VI. Equipment

1. Ownership. All equipment and software shall be owned jointly by each Participant in equal proportion.

2. Future Use. The equipment and associated software acquired during the course of this Agreement shall be made available to all Participants that wish to renew this Agreement. If no agreement can be obtained that is mutually satisfactory to all the Participants, it will be agreed that all the equipment and software purchased during the course of this Agreement will be sold. If any Participant indicates an interest in purchasing the equipment/software, a meeting will be called for all the Participants. Each Participant can submit a sealed bid for all the hardware/software purchased. If no sealed bids are obtained, The City of Hillsboro will be asked to sell the hardware/software to a third party and distribute the money received in equal proportion to all Participants. Any funds remaining in the account will be divided equally among the participants.

VII. General Provisions

1. Terms of the Agreement. The term of this Agreement shall be from July 1, 2006 through and including June 30, 2007.

2. Reviewed. This Agreement may be reviewed annually by the Participants.

3. Amendment. This Agreement may be amended by mutual agreement of all Participants.

4. Personnel. All personnel authorized to perform work or any functions under this Agreement shall remain the employee of its original employer regardless of the work or functions performed pursuant to this Agreement.

5. Indemnification. Within the limits of the Oregon Tort Claims Act, each Participant will Indemnify and hold each other harmless from and against any and all claims for bodily injury or property damage arising out of the negligence of its employees or agents.

6. Termination. This Agreement may be terminated by mutual consent of all Participants.

7. Withdrawal. Any Participant may withdraw from participation by providing 60 day written notice to each other Participant. The withdrawing Participant will be responsible for all expenses incurred to the effective date of withdrawal. Any pre-payment for service will be refunded to the withdrawing Participant within 60 days of actual withdrawal.

The Participant hereby accepts the terms and conditions of this Agreement:

City of Beaverton:

_____ _____

Rob Drake, Mayor Date

Approved as to Form:

City Attorney

Appendix A

List of Participants

City of Beaverton

City of Cornelius

City of Forest Grove

City of Hillsboro

City of King City

City of Lake Oswego

City of Tigard

City of Tualatin

Clean Water Services

Metropolitan Area Communications Commission/TVCTV

Tualatin Valley Fire and Rescue

Washington County Consolidated Communications Agency

Washington County for Washington County Cooperative Library Services

Washington County for Support Services

AGENDA BILL

Beaverton City Council
Beaverton, Oregon

SUBJECT: Authorize the Mayor to Sign an Annexation Agreement for 4500 SW 91st Avenue
ANX 2006-0002

FOR AGENDA OF: 09-11-06 **BILL NO:** 06155

Mayor's Approval:

DEPARTMENT OF ORIGIN: CDD

DATE SUBMITTED: xx-xx-xx

CLEARANCES: City Attorney
Planning

PROCEEDING: CONSENT AGENDA

EXHIBITS:
A. Annexation Agreement
B. Vicinity Map

BUDGET IMPACT

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

HISTORICAL PERSPECTIVE:

The owners of the subject property (Tax lot 1S114AB05000) filed a Measure 37 property claim with Washington County so as to exempt the owner from restrictions under the County's current zoning. In filing the claim, the property owner sought the right to subdivide the 0.4 acre parcel into five lots - each capable of supporting one dwelling unit. After receiving approval of the claim from the Board of County Commissioners, the property owner's representative expressed an interest to City staff of annexing the property into the City of Beaverton and rezoning the property to the City's R-2 designation as an alternative strategy to exercising the density increase permitted under the Measure 37 ruling. If approved, the proposed redesignation would permit a maximum density of eight units on the property.

INFORMATION FOR CONSIDERATION:

Staff has drafted an agreement between the property owner and the City whereby the property owner agrees to annex into the City of Beaverton with the contingency that the City will approve an amendment to its zoning map to include the property under its R-2 designation and an amendment to the Comprehensive Plan map to include the property under its NR-MD designation. Under the provisions of the agreement, the City will initiate the annexation, rezone, and land use reclassification processes and extend the effective date of the annexation to allow the time necessary to process the proposed amendments. In the event the zoning and Comprehensive Plan reclassifications are not approved, the annexation will be declared void prior to the effective date established in the ordinance.

RECOMMENDED ACTION:

Authorize the Mayor to sign the Annexation Agreement (Exhibit A).

EXHIBIT A

ANNEXATION AGREEMENT

This Agreement is between and among the City of Beaverton, an Oregon municipal corporation ("City"), and Edna Aanderud ("Owner") as the sole and record owner of real property commonly known as 4500 SW 91st Avenue, Washington County, Oregon, Assessor's Map and Tax Lot Number Map 1S1 14AB 05000 (the "Property"). This agreement shall be effective when signed by all parties.

RECITALS

A. The Property is now separated from City's boundary by public right-of-way along SW 91st Avenue and as such is subject to annexation by the City. Owner desires that the Property be annexed to City and that City rezone the Property to City's R-2 zone. Owner has informed herself of all restrictions on use of the Property that would apply if the Property were annexed to City and rezoned to R-2 and understands and agrees that annexation and rezoning each are discretionary acts reserved to City's governing body.

B. In December of 2004 Beaverton and Washington County agreed to an Interim Urban Services Plan which specifies in section I.B. that "The COUNTY will not oppose annexations by the CITY of unincorporated properties within the area identified on Map 'A'." The Property is within the area identified on Map 'A' of the Interim Urban Services Plan.

C. Pursuant to the Interim Urban Services Plan, annexation of the Property to City will not require consent from Washington County to annex that portion of SW 91st Avenue lying between B-H Highway and the Property.

D. Upon annexation the Property will be withdrawn from the Washington County Service Districts for Enhanced Sheriff's Patrol and Urban Road Maintenance.

E. Designation of the Property as "Neighborhood Residential Medium Density" (NR-MD) on the Beaverton Comprehensive Plan Land Use Map; and rezoning of the Property to the Urban Medium Density (R-2) zoning district must be considered by the City through a separate process from the annexation.

In consideration of those premises as generally recited, it is

AGREED:

1. Petition and Consent to Annexation and Waiver of Claims. Owner by this instrument petitions to the City Council to annex the Property and consents to annexation of the Property to the City and to withdrawal of the Property from the county service districts recited above, subject to the terms of this Agreement. Owner for herself, her heirs, executors, transferees and assigns hereby represents that she has fully informed herself of the restrictions on use of the Property that will result from annexation and from rezoning of the Property to City's R-2 designation and with full knowledge of those restrictions and her rights, Owner **WAIVES** any claim that may otherwise accrue to her for any alleged reduction in value to the Property that may result from such annexation and rezoning.

2. Annexation Contingent on Comprehensive Plan Amendment and Rezone. At City's sole initiative and expense, City may proceed to adopt an ordinance to annex the Property at any time after execution of this Agreement. If the property is annexed, it shall be specified in the adopting ordinance that the effective date of annexation shall be June 30, 2007 with the condition that a separate ordinance to designate the Property NR-MD on the City's Comprehensive Plan Land Use Map and R-2 on the City's Zoning Map shall have been adopted and approved by March 31, 2007. Upon initiation of the annexation, City shall also proceed to recommend to the Planning Commission and City Council that (by separate decision) the Property should be designated NR-MD and zoned R-2. The effective date of an ordinance approving the plan amendment and zone change shall be the effective date of the annexation ordinance.

3.Covenants Running With the Land. The provisions of this Agreement touch and concern the Property, bind the heirs and successors of the parties, and are covenants running with the Property. This Agreement may be recorded in county deed records upon its execution. The Agreement may be assigned.

4. Modification of Agreement. This Agreement may only be modified by a writing signed by all parties.

5. Counterparts. This Agreement may be signed in counterparts.

IN WITNESS WHEREOF, the parties have executed this agreement.

By:_____
EDNA AANDERUD
Property Owner

Date:_____

CITY OF BEAVERTON, OREGON

By:_____
ROB DRAKE
Mayor

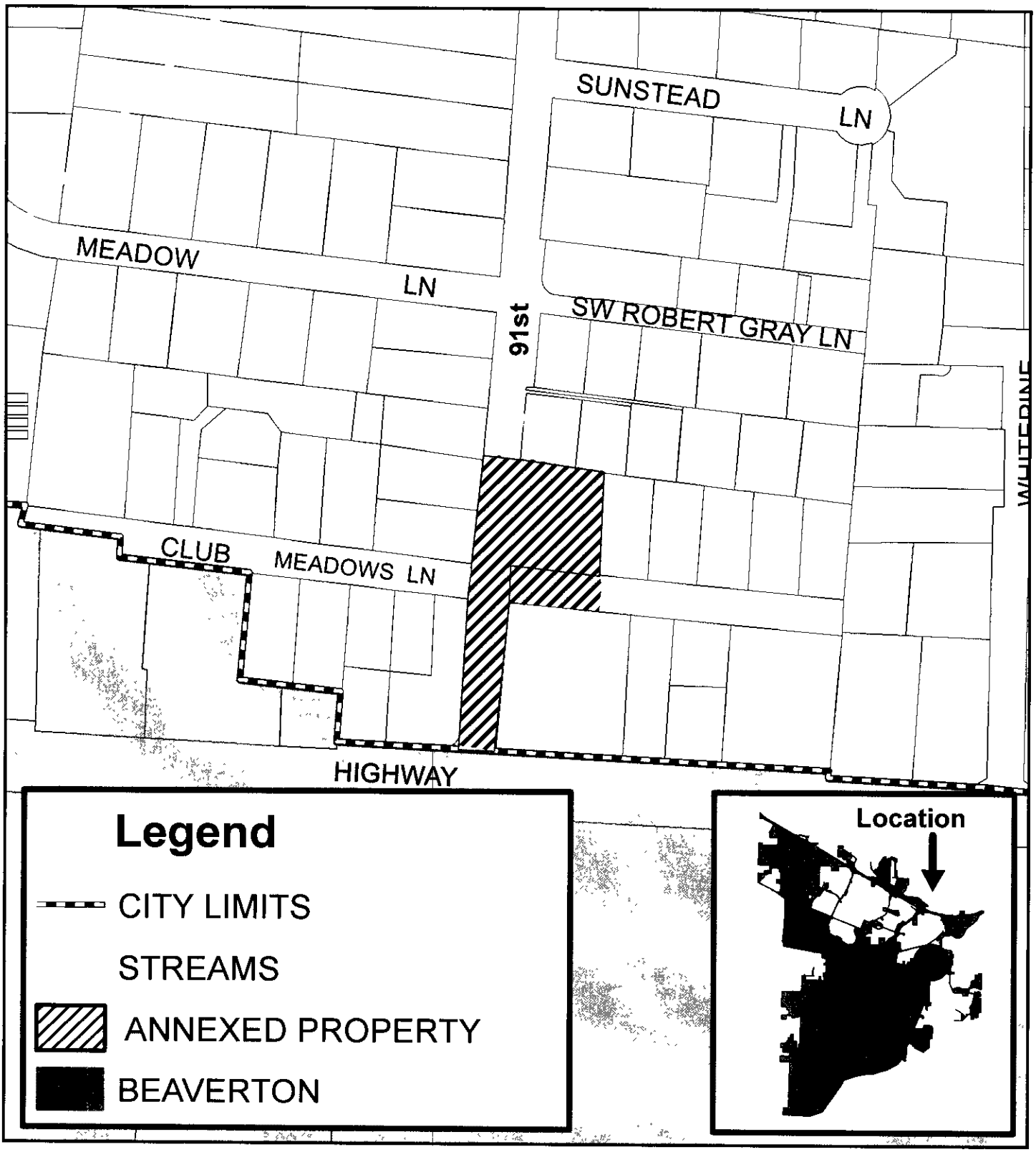
Date:_____

Approved As To Form:

_____
WILLIAM SCHEIDERICH
Assistant City Attorney

VICINITY MAP

EXHIBIT "B"



City of Beaverton

ANX2006-0002

4500 SW 91st Avenue

COMMUNITY DEVELOPMENT DEPARTMENT

Planning Services Division

08/07/06

1S114AB05000

N

Application #

Anx2006-0002

AGENDA BILL
Beaverton City Council
Beaverton, Oregon

SUBJECT: Compensation Changes

FOR AGENDA OF: 09-11-06 **BILL NO:** 06156

Mayor's Approval: Mayor Pro Tem

DEPARTMENT OF ORIGIN: HR

DATE SUBMITTED: 08/31/06

CLEARANCES: Finance
CDD
Police
Library

PROCEEDING: CONSENT AGENDA

EXHIBITS: Exhibit I – Permit Technician Market Data

BUDGET IMPACT

EXPENDITURE		AMOUNT		APPROPRIATION	
REQUIRED	$83,011 Police Technician	BUDGETED	$-0-	REQUIRED	$83,011
	$214,714 Permit Technician		$208,290		$6,424
	$108,053 Supervising Librarian		$108,053		$0

HISTORICAL PERSPECTIVE:

Police Department

Currently deployment and monitoring of investigative equipment such as video and audio surveillance equipment is handled by Police Department detectives, while the maintenance and repair is contracted to outside sources. The number of surveillance requests and the amount of electronic equipment used by the Police Department has significantly increased over the last several years.

Community Development Department

In the Building Division of the Community Development Department there are three positions whose function is to accept, review, process and issue building permits. As a result of the classification study in 1998, these positions were placed into the Support Specialist 2 classification (salary grade 5). Since that time, changes have occurred in the labor market in regards to this type of position and keeping them tied to the Support Specialist 2 classification is no longer equitable. The Community Development Department requested a review of these positions and the creation of a new Permit Technician classification.

Library

In July 2001 Council approved the creation of a Supervising Librarian classification at salary grade 9. This classification supervised employees in a Library section. In 2002 the incumbent of this classification resigned and the position was eliminated as part of the 1.9 FTE (full time equivalent) reduction due to the failure of the library operating levy in November 2002. In 2004 there was a reorganization of the Library resulting in a further 6.6 FTE reduction again due to the failure of the library operating levy in May 2004. As part of the reorganization, a Division Librarian (salary grade 12) was reclassified to a Senior Librarian (Salary Grade 10). This Senior Librarian acted as a lead worker over employees in a section. This reorganization resulted in the previously eliminated Supervising Librarian position having a lower salary grade than a lead position. In August 2006 the incumbent Senior Librarian resigned and the position remains unfilled at this time. The Library recommends re-establishing the Supervising Librarian position and requested Human Resources reevaluate the

Supervising Librarian and the Senior Librarian classifications. The Senior Librarian position will remain as a classification in the City's salary schedule, but will not be budgeted for FY 2006-07.

INFORMATION FOR CONSIDERATION:

Police Department

The Police Department requested the creation of a new classification and position to be responsible for the maintenance, deployment and monitoring of surveillance technologies as well as the maintenance and upkeep of other electronic and computerized equipment used by the police department. This new classification will ultimately save the City money by having an individual take over support duties that are currently conducted by detectives, this addition will allow those detectives to devote more time focusing on more important aspects of their criminal cases.

Human Resources staff conducted an internal point factor evaluation for the new classification titled Police Technician. The results of the evaluation place the classification solidly in salary range 7P. ("P" is used to designate the salary ranges that are used for classifications covered by the Beaverton Police Association contract.) There is an insufficient number of positions with similar responsibilities and duties in our labor market for a meaningful wage analysis. The cost for the creation of this new classification is $83,011 including salary, payroll taxes, and fringe benefits.

Community Development Department

Human Resources conducted a market study on this new classification and found that most organizations have similar Permit Technicians and/or Specialists. The results of the salary survey placed the position in salary grade 6. The internal point factor evaluation also places this classification at salary level 6.

Creation of this classification would not necessitate an additional position. The new Permit Technician positions would be filled by the current incumbents in the Support Specialist 2 positions. The cost for reclassifying three Support Specialist II positions to Permit Technician positions is $6,424, including salary, payroll taxes, and fringe benefits, and would result in an average 6.7% increase for the incumbents.

Library

Human Resources staff evaluated the Senior Librarian and Supervising Librarian classifications and determined that dropping the Senior Librarian from a salary grade 10 to a salary grade 9 and raising the Supervising Librarian from a salary grade 9 to a salary grade 10 is appropriate and would rectify the salary grade inequity between the two classifications. There would be no budgetary impact of this change.

RECOMMENDED ACTION:

Council approve the following:

1. Effective September 11, 2006, creation of the non-exempt, represented Police Technician classification in salary level 7;
2. Effective September 11, 2006, reclassification of three non-exempt, represented employees to Permit Technician classification in salary level 6;
3. Effective September 11, 2006, reallocation of the Supervising Librarian from salary grade 9 to salary grade 10.
4. Effective September 11, 2006, reallocation of the Senior Librarian from salary grade 10 to salary grade 9.
5. Direct the Finance Director to appropriate the required funds of $89,435 in the first supplemental budget of FY 06-07.

Market Data -- Permit Technician

August 15, 2006

Jurisdiction	Title	Min	Max	Comments
Springfield	Building Review Permit Tech	$ 21.57	$ 26.17	
Gresham	Permit Technician 1	$ 18.35	$ 23.41	
Bend	Building Permit Technician	$ 18.62	$ 22.64	
Tualatin	Permit Technician	$ 17.71	$ 22.43	Adjusted for PERS
Tigard	Permit Tech-Building	$ 16.57	$ 22.21	
Hillsboro	Permit Techician	$ 16.54	$ 22.06	Adjusted for PERS
Portland	Deveopment Services Tech 1`	$ 16.40	$ 21.97	
Milwaukie	Permit Technician	$ 17.07	$ 21.78	
Lake Oswego	Permit Coordinator 2	$ 16.94	$ 21.62	
Wilsonville	Permit Technician	$ 17.05	$ 21.31	
Clackamas	Permits Technician	$ 16.64	$ 21.28	
Eugene	Permit Tech 2	$ 16.97	$ 21.14	
Vancouver	Permit Specialist 2	$ 16.21	$ 20.72	Adjusted for PERS
Salem	Permit Specialist	$ 14.68	$ 17.78	
Washington County	Administrative Specialist 2	$ 14.11	$ 17.16	Adjusted for PERS and 37.5 work week
Marion County	Permit Specialist	$ 12.59	$ 16.06	Adjusted for PERS
	Average		$ 21.23	
	50th Percentile		$ 21.70	
	75th Percentile		$ 22.27	
	Beaverton (current)		$ 20.38	
	Grade 6		$ 21.76	
	Grade 7		$ 23.34	

AGENDA BILL

Beaverton City Council
Beaverton, Oregon

SUBJECT: Waiver of Sealed Bidding – Purchase of Mobile Data Terminals from the State of Oregon Contract #4416-PA

FOR AGENDA OF: 09-11-06 **BILL NO:** 06157

Mayor's Approval:

DEPARTMENT OF ORIGIN: Police

DATE SUBMITTED: 08-16-06

CLEARANCES: Purchasing
Finance
City Attorney

PROCEEDING: Consent Agenda
(Contract Review Board)

EXHIBITS: Agenda Bill 05038
Agenda Bill 05153

BUDGET IMPACT

EXPENDITURE REQUIRED	AMOUNT BUDGETED	APPROPRIATION REQUIRED
$91,513.63	$102,000*	$-0-

*Account Number: 001-60-0622-0631 General Fund – Police Department-Field Services Program – Communication Equipment Account

HISTORICAL PERSPECTIVE:

The Beaverton Police Department was required to meet the Criminal Justice Information System (CJIS) authentication and encryption standards by September 2005. Council authorized the purchase of 22 Motorola MDT's off the state contract at the February 14, 2005, Council meeting (see attached copy of Agenda Bill 05038). Council authorized the purchase of 10 additional units off the state contract at the August 15, 2005, Council meeting (see attached copy of Agenda Bill 05153). The FY 2006-07 Adopted Budget includes a $102,000 appropriation to purchase an additional 12 MDT units. This purchase of Motorola MDT computers will complete the patrol fleet MDT hardware upgrade, so that all vehicles will be equipped with the Motorola MW800 MDT. This equipment is also consistent with the existing equipment of the Washington County Sheriff's Office and Tigard Police Department, which also have purchased the Motorola MDT computers.

INFORMATION FOR CONSIDERATION:

The Mobile Data Terminal Computer Model MW800 from Motorola is available under an existing Price Agreement with the State of Oregon. Oregon Law ORS 279A.215 and the City's Purchasing Code BPC 46-0430 provides an exemption from competitive solicitation if a purchase is made from an existing Permissive Cooperative Procurement only if the following conditions are met:

1. The solicitation was let by an open and impartial competitive process;
2. The original contract allows other governmental bodies to use it;
3. The contractor agrees to extend the terms, conditions and prices to other public agencies; and
4. No material change is made in the terms, conditions or prices of the original contract.

Staff finds all of the above conditions have been met.

Using the State of Oregon Contract #4416-PA for Mobile Data Terminal Equipment, the Beaverton Police Department received a quote from Motorola for the MW800 at $7,039.51 each, totaling $91,513.63 for 13 units. Motorola's quote is approximately $549 less per unit than when the FY 2006-07 Budget was prepared. The price reduction will permit the City to purchase one additional MDT that will be used as a spare when another unit is out of service for repair. The amount budgeted for police department field communication equipment this fiscal year is $102,000. The $10,486.37 appropriation balance remaining after purchase of the MDT units is to purchase vehicle mounting equipment to secure the MDT computers inside the police vehicles.

RECOMMENDED ACTION:

Council, acting as Contract Review Board, waive the sealed bidding requirements and authorize the purchase of 13 Motorola MW800 Mobile Data Terminal Computers in the amount of $91,513.63 from the State of Oregon Contract #4416-PA.

AGENDA BILL

Beav rt n City Council
B av rton, Oregon

SUBJECT: Waiver of Sealed Bidding – Purchase of Mobile Data Terminals from the State of Oregon Contract #4416-PA

FOR AGENDA OF: 02-14-05 **BILL NO:** 05038

Mayor's Approval:

DEPARTMENT OF ORIGIN: Police

DATE SUBMITTED: 01-31-05

CLEARANCES: Purchasing
Finance
City Attorney

PROCEEDING: Consent Agenda (Contract Review Board)

EXHIBITS: Cover page of State Contract #4416-PA

BUDGET IMPACT

EXPENDITURE REQUIRED	AMOUNT BUDGETED	APPROPRIATION REQUIRED
$151,490.20	$175,000*	$-0-

*Account Number: 001-60-0622-0631, $70,000 was carried over from last fiscal year (2003/2004) for the purchase of 10 Mobile Data Terminal Computers (MDT's) and an additional $105,000 was budgeted for in this current fiscal year (2004/2005) also for 10 MDT's which provides appropriation for a total of 20 MDT's .

HISTORICAL PERSPECTIVE:

The Beaverton Police Department is required to meet the Criminal Justice Information System authentication and encryption standards by September 2005. In order to meet these requirements the Mobile Data Terminal Computer Systems in the police cars need to have the computer processing unit capacity to handle the mobile client software that will meet the authentication and encryption standards. Near the end of last fiscal year, a state contract was being developed including several vendors of Mobile Data Terminal Computers. The state contract was awarded to several vendors including Motorola. Staff field tested the Motorola unit and found it to meet our needs. The purchase of Motorola MDT's will allow our equipment to be compatible with Washington County Sheriff's Office and Tigard Police Department, which has also purchased the Motorola MDT's.

INFORMATION FOR CONSIDERATION:

The Mobile Data Terminal Computer model MW800 from Motorola is available under an existing Price Agreement with the State of Oregon. Oregon law and the City's Purchasing rules permit an exemption from competitive solicitation if the purchase is made from an existing price agreement with another governmental agency.

Using the State of Oregon Contract #4416-PA for the Mobile Data Terminal Computers, the Beaverton Police Department received a quote from Motorola for the MW800 at $7,574.51 each totaling $166,639.22 for 22 units. Due to a drop in price as a result of the State of Oregon contract awarded to Motorola we are able to purchase 22 units versus the previously budgeted number of 20 units. The remaining appropriation balance of $8,360.78 will be used to purchase vehicle mounting equipment to secure the units inside the patrol vehicles.

Agenda Bill N : 05038

RECOMMENDED ACTION:
Council, acting as Council Review Board, authorize the purchase of 22 Motorola MW800 Mobile Data Terminal Computers in the amount of $166,639.22 from the State of Oregon Contract.

Ag nda Bill No: 05038

Contract Summary

ORPIN
Oregon Procurement Information Network

Mobile Data Computers and Associated Options and Services

Contract Administrator

A State Procurement Office
1225 Ferry Street SE, U140
Salem, Oregon
97301-4285

Contact: Weber, John
Phone: 1 (503) 373-1197
Fax: 1 (503) 373-1626
Email: john.p.weber@state or.us

Final

Contract #
4416-PA
Revision # 3
Revision Date
12/27/2004

Contract Start Date
11/30/2004
Expiration Date
11/15/2005
Supplier Number
2735

All dates are mm/dd/yyyy

☐ Attachments Exist
Secondary Suppliers Do Not Exist

Supplier Address

MOTOROLA, INC.
4900 SW MEADOWS ROAD SUITE 475
Lake Oswego, Oregon
97035

Receiving Address

A Statewide Contract for State Agencies and ORCPP/WSCP members As Specified on the Purchase Order
Any City, Oregon
97000

Purchasing Authority
Oregon Statutory Authority

Exemption/Rule

Contract Filed At
DAS

C ntact: FORMAN, DUANE B
Phone: 1 (503) 524-8363
Fax: 1 (503) 590-7143
Email: Duane.Forman@motorola.com

Contact: Name that appears on Purchase Order
Phone: 1 (111) 111-1111
Fax:
Email:

This Document is a Summary of Price Agreement 4416. There are four (4) Attachments for this Price Agreement. Attachment one (1),contains: GENERAL PROPOSAL INFORMATION, QUALIFICATIONS AND REQUIREMENTS, ORCPP, AND WSPC PARTICIPATION, PRICE AGREEMENT TERMS AND CONDITIONS and STANDARD AND SPECIAL TERMS AND CONDITIONS. Attachments two, three and four (2-4) contains all pricing data applicable to this Price Agreement

Item #	Quantity / Unit	Description	Unit Cost
1	1 EACH	Computers, Parts and Supplies Ruggedized Vehicle Mounted Mobile Data Computers and Ruggedized Mobile Data Computers Mfg/Brand/Make - Motorola Model/Part/Item - see attachment	$0.00

Delivery Required

Days Required for Delivery
60 days after receipt of purchase order

Payment Terms
Net 30

FOB

Current Amendment Value
$0

Previous Contract Value
$1,000,000

Current Amended Value
$1,000,000

AGENDA BILL

Beaverton City Council
Beaverton, Oregon

SUBJECT: Waiver of Sealed Bidding – Purchase of Mobile Data Terminals from the State of Oregon Contract #4416-PA

FOR AGENDA OF: 08-15-05 **BILL NO:** 05153

Mayor's Approval:

DEPARTMENT OF ORIGIN: Police

DATE SUBMITTED: 08-03-05

CLEARANCES: Purchasing
Finance
City Attorney

PROCEEDING: Consent Agenda
(Contract Review Board)

EXHIBITS: Cover page of State Contract #4416-PA
Agenda Bill 05038

BUDGET IMPACT

EXPENDITURE REQUIRED	AMOUNT BUDGETED	APPROPRIATION REQUIRED
$75,745.10	$85,000*	$-0-

*Account Number: 001-60-0622-0631 General Fund – Police Department-Field Services Program – Communication Equipment Account

HISTORICAL PERSPECTIVE:

The Beaverton Police Department is required to meet the Criminal Justice Information System (CJIS) authentication and encryption standards by September 2005. In order to meet these standards, the Mobile Data Terminal Computers (MDT's) in Beaverton police cars need to have their computer processing unit capacity increased so to handle mobile client software that meets CJIS authentication and encryption standards. Near the end of last fiscal year, a state contract was being developed including several MDT vendors. The state contract was awarded to several vendors including Motorola. Staff field tested the Motorola MDT unit and found it met our needs. Council authorized the purchase of 22 Motorola MDT's off the state contract at the February 14, 2005 Council meeting (see attached copy of Agenda Bill 05038). The FY 2005-06 Adopted Budget includes an $85,000 appropriation to purchase an additional 10 MDT units. The continued purchase of Motorola MDT computers will allow our new equipment to remain compatible with our existing equipment and with the existing equipment of the Washington County Sheriff's Office and Tigard Police Department, which also have purchased the Motorola MDT computers.

INFORMATION FOR CONSIDERATION:

The Mobile Data Terminal Computer model MW800 from Motorola is available under an existing Price Agreement with the State of Oregon. Oregon law and the City's purchasing rules provide an exemption from competitive solicitation if a purchase is made from an existing price agreement with another governmental agency.

Using the State of Oregon Contract #4416-PA for Mobile Data Terminal Equipment, the Beaverton Police Department received a quote from Motorola for the MW800 at $7,574.51 each, totaling $75,745.10 for 10 units. The amount budgeted for police department field communication equipment

this fiscal year is $85,000. The $9,254.90 appropriation balance remaining after purchase of the MDT units is to purchase vehicle mounting equipment to secure the MDT computers inside 10 patrol vehicles.

RECOMMENDED ACTION:

Council, acting as Contract Review Board, authorize the purchase of 10 Motorola MW800 Mobile Data Terminal Computers in the amount of $75,745.10 from the State of Oregon Contract #4416-PA.

Contract Summary

MOTOROLA, INC.
Mobile Data Computers and Associated Options and Services

Final

Contract Administrator

A State Procurement Office
1225 Ferry Street SE, U140
Salem, OR 97301-4285

Contact: Weber, John
Phone: 1 (503) 373-1197
Fax: 1 (503) 373-1626
Email: john.p.weber@state or us

Contract #
4416-PA
Revision # [illegible]
Revision Date
02/28/2005
Contract Start Date
11/30/2004
Expiration Date
11/15/2005
Supplier Number
2735

All dates are mm/dd/yyyy

Attachments Exist
Secondary Suppliers Do Not Exist

Supplier Address

MOTOROLA, INC
4900 SW MEADOWS ROAD SUITE 475
Lake Oswego, OR 97035

Contact: FORMAN, DUANE B
Phone: 1 (503) 524-8363
Fax. 1 (503) 590-7143
Email: Duane Forman@motorola com

Receiving Address

A Statewide Contract for State Agencies and
ORCPP/WSCP members
As Specified on the Purchase Order
Any City, OR 97000

Contact: Name that appears on Purchase Order
Phone: 1 (111) 111-1111
Fax:
Email:

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Item #	Quantity / Unit	Description	Unit Cost
1	1 EACH	Computers, Parts and Supplies Ruggedized Vehicle Mounted Mobile Data Computers and Ruggedized Mobile Data Computers NOTE: SEE ATTACHMENTS FOR PRICING SCHEDULES Mfg/Brand/Make - Motorola Model/Part/Item - see attachment	$0.00
2 Added	1 EACH	The HK1115A (Rapid-Ship configuraiton of ML900) will be offered at a promotion price of $3,499. This model includes the basic ML900 and bundles in the following options: 12.1" Transmissive Touch Screen, Full Travel Backlit Keyboard, 512 MB RAM, 40 G HDD, CD/DVD Drive and Integrated 802.11b WLAN. This promotion price is equivalent to approximately 36% discount from list. As an accessory, the ML900 Mid Tier Dock (DDN7502) may be added to each unit ordered at a price of $600 (list price = $799). IMPORTANT NOTES:	$3,499.00

Contract Summary

MOTOROLA, INC.
Mobile Data Computers and Associated Options and Services

Item #	Quantity / Unit	Description	Unit Cost
		The promotion is targeted for sales and shipments in the first half of 2005. It is valid for all orders received before May 31st, 2005 and marked as shippable by June 30th, 2005. Mfg/Brand/Make - Motorola Model/Part/Item - ML900	

Delivery Required **Days Required for Delivery** 60 days after receipt of purchase order **Payment Terms** Net 30 **FOB** FOB Destination	**Current Amendment Value** $0.00 **Previous Contract Value** $1,000,000.00 **Current Amended Value** $1,000,000.00

AGENDA BILL

Beaverton City Council
Beaverton, Oregon

SUBJECT: Waiver of Sealed Bidding – Purchase Five Vehicles From the State of Oregon Price Agreement

FOR AGENDA OF: 9-11-06 **BILL NO:** 06158

Mayor's Approval:

DEPARTMENT OF ORIGIN:
Public Works / Operations

DATE SUBMITTED: 9-01-06

CLEARANCES: Purchasing
Finance
City Attorney

PROCEEDING: Consent Agenda (Contract Review Board)

EXHIBITS:

BUDGET IMPACT

EXPENDITURE REQUIRED $113,080.35	AMOUNT BUDGETED $164,500*	APPROPRIATION REQUIRED $

*Account number 001-60-0622-641 Police Department Capital Outlay Vehicle Account. The account has a total budget appropriation of $190,500 of which $164,500 was designated for seven police vehicles. Two vehicles have been purchased leaving a balance of $116,122 for the remaining five vehicles.

HISTORICAL PERSPECTIVE:

The FY 2006-07 Budget includes funding to replace seven patrol vehicles for the Police Department. The State of Oregon Price Agreement is available to public agencies. The agreement incorporates the low bids from numerous dealerships, which were obtained through the competitive sealed bid process.

INFORMATION FOR CONSIDERATION:

Earlier this fiscal year the Police Department purchased two of the seven vehicles off the State of Oregon Price Agreement 5159. These two vehicles were the Dodge Charger Police Interceptor which the Beaverton Police Department deemed would be better suited for the needs of the Traffic Unit. The remaining five vehicles will be the standard Ford Crown Victoria Police Interceptor.

The five Crown Victorias, at $22,616.07 are currently available for immediate purchase from the State of Oregon Price Agreement 3196 through Gresham Ford in Gresham, Oregon. Oregon law ORS 279A.215 and the City's Purchasing Code BPC 46-0430 provides an exemption from competitive solicitation if a purchase is made from an existing Permissive Cooperative Procurement only if the following conditions are met:

1. The solicitation was let by an open and impartial competitive process;
2. The original contract allows other governmental bodies to use it;
3. The contractor agrees to extend the terms, conditions and prices to other public agencies; and
4. No material change is made in the terms, conditions or prices of the original contract.

Staff finds all of the above conditions have been met.

RECOMMENDED ACTION:

Council, acting as Contract Review Board, waive the competitive sealed bidding requirements and authorize the Finance Department to issue a purchase order to Gresham Ford, of Gresham, Oregon, for purchase of the five vehicles described above in the amount of $113,080.35 from the State of Oregon Price Agreement.

AGENDA BILL

Beaverton City Council
Beaverton, Oregon

SUBJECT: Waiver of Sealed Bidding, Authorization for Rental of Copy Machines from Oregon State University Bid Award

FOR AGENDA OF: 09-11-06 **BILL NO:** 06159

Mayor's Approval:

DEPARTMENT OF ORIGIN: Mayor's Office

DATE SUBMITTED: 09/01/06

CLEARANCES: Purchasing
Finance
City Attorney

PROCEEDING: Consent Agenda
(Contract Review Board)

EXHIBITS:

BUDGET IMPACT

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

* Account Number: 601-25-0721-10-551 Reprographics Fund Rents and Leases Account. No additional appropriation is required for the copier lease upgrade.

HISTORICAL PERSPECTIVE:

The City rents twenty-two copiers off State of Oregon and local government contracts. The lease on the Xerox 5900i copier expires in February 2007.

INFORMATION FOR CONSIDERATION:

Copy machines are available through IKON Office Solutions of Portland, Oregon from an existing bid award with the Oregon State University. The State's public contract law allows a waiver of public bidding requirement if the purchase is made from an existing bid award through another governmental agency.

IKON has proposed new equipment and software that provides substantially improved copier technology and features over current equipment. The 60-month lease for a Canon IR110 production copier has a base cost of $3,518 per month plus a "click-charge" based on the per copy volume.

Both IKON and Canon USA are currently offering promotional incentives for IR110 installations that occur before September 30, 2006. IKON will provide a service credit for $9,000 worth of copy "click charges" (about 1.125 million copies) and Canon USA will provide $46,000 that will payoff the remaining months of the Xerox lease, cover all installation and training of the equipment, and several software packages that increase the functionality of the equipment. The proposed copier in conjuction with $55,000 in promotional credits provide the City with a substantially increased capacity, improved service and automating parts of the document production process.

No additional appropriation is required. Funding for this agreement is included in the appropriation for equipment rents and leases.

RECOMMENDED ACTION:

Council, acting as Contract Review Board, authorize the rental a Canon IR110 copier system from IKON Office Systems according to the Oregon State University price contract at a cost of $36,500 over the current amount encumbered of $145,248 for the remainder of FY 2006-07 and in a form approved by the City Attorney.

AGENDA BILL

Beaverton City Council
Beaverton, Oregon

SUBJECT: Exemption From Competitive Solicitation - Award Personal Services Contract for the Operation and Maintenance of the Beaverton Central Plant

FOR AGENDA OF: 09/11/06 **BILL NO:** 06160

Mayor's Approval:

DEPARTMENT OF ORIGIN: Mayor's Office

DATE SUBMITTED: 09/06/06

CLEARANCES:
Finance
Purchasing
City Attorney
Central Plant

PROCEEDING: Consent (Contract Review Board)

EXHIBITS: 1. Draft Contract

BUDGET IMPACT

EXPENDITURE REQUIRED	AMOUNT BUDGETED	APPROPRIATION REQUIRED
$109,200 Annual Labor Costs $58,932 Annual Management Fee	$168,139*	$-0-

*Account Number 001-13-0006-511 General Fund – Non Departmental – Beaverton Central Plant – Professional Services Account. The Expenditure Required represents the annual amounts associated with the Plant's operating and maintenance costs and is further described in Items 1 and 2 under Information for Consideration

HISTORICAL PERSPECTIVE:

The Beaverton Central Plant, which is owned by the City, provides comprehensive space conditioning, operations and maintenance and domestic hot water services to The Round project. With only half the project complete at 300,000 square feet, The Round is experiencing significant growth with full project build out scheduled for 2008. Development of the central plant system has been phased with The Round and now includes nearly a mile of piping, circulating 20,000 gallons of water in a closed loop system. The heart of the heating and cooling system is the central plant, where water is heated or cooled, then distributed throughout the project to the various buildings. The system is controlled via an integrated operating controls network utilizing specifically designed protocols. The integrated control network is driven by proprietary operating protocols provided by the Hartman Company. These protocols carefully match output with demand which in turn boosts operating efficiencies. To date, operating efficiencies have exceeded expectations which have helped keep operating expenses down. The Hartman design is scalable and lends itself to the type of incremental system expansion that is underway at The Round. As new buildings come on line, the City is contractually obligated to provide space conditioning. Plant expansion is achieved by way of increasing the distribution piping, controls network, pumping capacity, and sometimes equipment, to provide additional heating/cooling capabilities.

While the City owns the central plant system, it currently relies on an outside service provider for operations and maintenance. This same vendor, LINC Facility Services (LFS) managed and operated the facility for the previous owner. At the time the plant was acquired, the City asked LFS to temporarily continue to provide operation and maintenance services. LFS agreed and has operated the facility to the City's full satisfaction. The City has a good working relationship with LFS and found the company reliable.

Local LFS personnel are especially familiar with the Beaverton Central Plant and the proprietary Hartman operating design. Local LFS personnel have supported plant development from inception. In addition, the on-site personnel have more than 14 years of experience with Hartman systems and technologies. There are few local companies with similar experience. No other company is as familiar with the Beaverton Central Plant as is LFS and its on-site personnel.

INFORMATION FOR CONSIDERATION:

The Beaverton Central Plant is experiencing rapid growth in response to the accelerated build out of The Round. This pace is expected to continue for the next few years. The eventual development of the Westgate site will dramatically increase the demand on the plant. Accordingly, it will be important to coordinate expansion of the heating and cooling system and retain competent, knowledgeable operating personnel.

Given the proven track record of LFS in operating and maintaining the Beaverton Central Plant, the City now seeks to enter into a long-term contract with LFS for these same services. To accomplish this, the City has proposed a one-year contract, renewable for up to 19 additional one-year terms. The proposed arrangement provides for the automatic renewal of the annual contract on a long-term basis.

The cost to operate and maintain the plant is separated into four categories:

1. LFS direct labor costs to operate the plant at an average of $9,100 per month.
2. LFS 8% Management fee to operate the plant which includes the review and payment of all operating costs, scheduling and monitoring repairs at an average of $4,911 per month.
3. Reimbursement to LFS for the plant's utility operating costs (electricity and natural gas) at an average of $14,600 per month. `LFS pays the various utility bills upfront and the City reimburses LFS the actual cost. The cost is budgeted and accounted for in Account Number 001-13-0006-351.
4. Reimbursement to LFS for other operating expenses and contracted repair costs at an average of $11,100 per month. LFS pays the various other operating and repair costs upfront and the City reimburses LFS the actual cost. The cost is budgeted and accounted for in Account Number 001-13-0006-431.

The proposed personal services contract will encompass items 1 and 2 above. Items 3 and 4 are direct plant related costs, so are passed through to the City and reimbursed to LFS. There is no LFS mark up on these two latter costs.

In addition to the services already described above, the proposed agreement provides that LFS may enter into separate agreements with the City to include ancillary services. In this context, "ancillary services" means the provision of energy-related services such as providing equipment room cooling (a current service), lighting and additional operating controls, all of which could impact overall heating and cooling loads. LFS and the City will support one another in rolling out these ancillary services as appropriate, but separate agreements will be negotiated to prescribe the terms and conditions under which such ancillary services may be provided in the future.

Normally, the City would follow a formal request for proposals method of procurement to award a personal services contract for operation and maintenance work of the Beaverton Central Plant. After careful consideration, however, the City has determined that it is not in the best interest of the City or the public to follow the traditional procurement process to hire an operation and maintenance service provider for the Beaverton Central Plant. Instead, the City recommends the Contract Review Board approve a "contract-specific special procurement" for the purpose of selecting LFS to provide personal services related to the

operation and maintenance of the Beaverton Central Plant. This alternative contracting method is permitted pursuant to ORS 279B.085 and Beaverton Purchasing Code, section 50-0015.

The alternative contracting method is being proposed because of the knowledge local LFS personnel have about the physical plant and their substantial experience with the related operating systems. In addition, LFS as a company has 25 years of experience as a nationwide provider of on-site integrated facility management services and customized facility solutions. LFS' capabilities include technical operations and maintenance, facility support services, facility subcontract management and site related administrative and office services.

In addition, the alternative contracting method is recommended due to the significant work now underway to construct more buildings at The Round. LFS has dealt with construction challenges satisfactorily and provided consistent and reliable service, which is critical to the successful operation of the plant; this will be especially challenging given the on-going construction at the site. At this time, LFS is best suited to assure that consistent and reliable service is provided at the plant. There is a significant risk if another facility service provider were to replace LFS at this time: that the consistent quality of facility services provided to existing tenants and customers would not continue to be provided.

Approval of the requested alternative contracting method is unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts. There are few companies familiar with the Hartman operating strategies and operating techniques, and no company is as familiar with the heating and cooling and domestic hot water facilities at The Round as is LFS. It is unlikely under these unique circumstances that the City would reasonably choose any other operation and maintenance service provider for the Beaverton Central Plant (other than LFS) if the award of such a contract were made through a more expensive and time-consuming formal competitive process.

Pursuant to ORS 279B.085(4), the Contract Review Board may approve the City's request for a special procurement if the Board finds that the written request for approval of a special procurement demonstrates that the use of the special procurement as described in the request will (a) be unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contacts and either (b) result in substantial cost savings to the City or to the public or (c) otherwise substantially promote the public interest in a manner that could not practicably be realized by complying with regular purchasing requirements.

Accordingly, the City requests that the Contract Review Board find, based on the information supplied in this agenda bill and its attachments, that under the standards of ORS 279B.085(4) the City is justified in using the alternative contracting method described herein for the purpose of selecting LFS to provide personal services related to the operation and maintenance of the Beaverton Central Plant.

Finally, the City has determined that under its local purchasing code, it is required to give substantially greater notice of its intention to seek Contract Review Board authorization of a special procurement than is required under state law. The result is that the City spends more time and money publishing notices related to special procurements than is required under state law. The City experiences further delay in awarding contracts pursuant to an authorized special procurement due to the fact that the City's purchasing code imposes a 14-day period between the City's publication of notice of the Contract Review Board's approval of a special procurement and the award of a contract under that authorization. The State only imposes a 7-day delay. In both instances, the purpose of the delay is to allow any adversely affected person to file a protest against the approval of a special procurement. An amendment to the City's purchasing code will be forthcoming to rectify these anomalies and to have the City's purchasing code conform to state law on these notice-related issues. For purposes of this particular special procurement request, however, the City hereby requests the Contract Review Board (a) to waive its self-imposed requirement that the City provide notice by

special publication of the City's intent to request Contract Review Board approval of this special procurement and (b) to shorten to seven days the period between the City's publication of notice of the Contract Review Board's approval of this requested special procurement and the award of a contract pursuant to that authorization. Notice of this request for a special procurement has been generally given by virtue of Oregon's Public Meeting Law. The City will give notice of the Contract Review Board's approval of this special procurement in the same manner as public notice of competitive sealed bids under ORS 279B.055(4). The public notice will describe the services to be acquired through the special procurement. The City shall give such public notice of the approval of a special procurement at least seven days before award of any special procurement contract.

RECOMMENDED ACTION:
Council, acting as Contract Review Board:

(1) find, based on the information supplied in this agenda bill and its attachments, that under the standards of ORS 279B.085(4) the City is justified in using the alternative contracting method described herein for the purpose of selecting LINC Facility Services, Inc, to provide personal services related to the operation and maintenance of the Beaverton Central Plant;

(2) authorize the Mayor to award a contract to LINC Facility Services, Inc, for an amount not to exceed $168,132 for FY 2006-07 to provide personal services related to the operation and maintenance of the Beaverton Central Plant in a form approved by the City Attorney; and

(3) waive the requirement under BPC 50-0015(B) that the City provide notice by special publication of its intent to request Contract Review Board approval of this special procurement and shorten to seven days the period between publication of the Contract Review Board's approval of this special procurement and the award of any contract hereunder; said publication of notice to be in the same manner as public notice of competitive sealed bids under ORS 279B.055(4).

CITY OF BEAVERTON PERSONAL SERVICES CONTRACT
TO PROVIDE OPERATION AND MAINTENANCE SERVICES AND ANCILLARY SERVICES
AT OR NEAR THE ROUND AT BEAVERTON CENTRAL

THIS CONTRACT FOR PERSONAL SERVICES ("Contract" or "Agreement") is entered into between the City of Beaverton, Oregon, located at 4755 SW Griffith Drive, P.O. Box 4755, Beaverton, Oregon 97076-4755 ("City") and Linc Facility Services, LLC, a Delaware limited liability company, located at 1201 Louisiana Street, Suite 2700, Houston, TX 77002 ("Contractor" or "LFS"). The City's primary supervisor for this Contract ("Contract Administrator") is Lonnie Dicus.

THE PARTIES HEREBY AGREE THAT:

1. EFFECTIVE DATE; DURATION. The effective date and duration of this contract are as follows:

a. This Contract shall be effective from and after the date this Contract has been signed by every party hereto and approved by legal counsel for the City.
b. This Contract shall continue to June 30, 2007. Thereafter, the term of this Contract shall be automatically renewed up to 19 additional one-year terms (each a "1-year Renewal Term"). The Initial Term and all 1-year Renewal Terms are referred to together herein as the "Term."
c. The City may terminate this Contract effective on the day after the expiration of its Initial Term or any of its 1-year Renewal Terms. If the City so chooses to terminate this Contract, it shall give Contractor notice of its intent to terminate not later than 90 days prior to the expiration of the then-current Term. In such instance, Contractor shall cooperate with any subsequent service provider as may be designated by the City so as to enhance a smooth transition between LFS and any subsequent provider of services that are within the Statement of Work of this Contract.
d. If the City exercises the Put or if the Beaverton-The Round Owners' Association exercises its Option to Purchase, as set forth in the Amended and Restated Heating and Cooling Services Agreement among City of Beaverton and DPP Beaverton Commercial Investments LLC and Beaverton-The Round Owners Association Inc (effective as of June 3, 2005) ("HCS Agreement"), this Contract shall terminate on the closing date, as provided in the HCS Agreement. In such instance, Contractor shall cooperate with such subsequent provider as may be designated by the City or the Owners' Association, in order to enhance a smooth transition between LFS and any subsequent provider of services that are within the Statement of Work of this Contract.
e. Notwithstanding the provisions of subsections (a), (b), (c) or (d) of this Section, this Contract may be terminated in writing by either party in accordance with Section 8 hereof.

2. STATEMENT OF WORK. In accordance with the terms and conditions of this Contract, Contractor shall perform the services as scheduled ("Work") and as set forth immediately below:

a. Contractor shall provide the O&M Services set forth in Exhibit 1 hereto in accordance with the Contract Documents identified in Section 3 hereof.
b. Contractor shall provide Ancillary Services set forth in Exhibit 2 hereto in accordance with the Contract Documents identified in Section 3 hereof.

3. CONTRACT DOCUMENTS. The Contract Documents shall include (a) this instrument; (b) the following six exhibits attached hereto: Scope of O&M Services (Exhibit 1), Scope of Ancillary Services (Exhibit 2), Calculation of Monthly Fee (Exhibit 3), General Conditions (Exhibit 4), Specifications (Exhibit 5) and Work Authorization (Exhibit 6); and (c) Article 9 (In-Building Operations and Maintenance, Sections 9.1 to 9.8, inclusive) of HCS Agreement. These items form the Contract Documents and are as fully a part of this instrument as if attached to it or repeated herein. In the event of a conflict between or among the Contract Documents, the following order of precedence shall prevail: This instrument, Scope of O&M Services (Exhibit 1), Scope of Ancillary Services (Exhibit 2), Calculation of Monthly Fee (Exhibit 3), General Conditions (Exhibit 4), Specifications (Exhibit 5), Work Authorization (Exhibit 6), and the HCS Agreement. Nothing herein shall

be considered as an acceptance of any term or condition contained in an Exhibit or the HCS Agreement if the term or condition conflicts with or is otherwise incompatible with the express terms contained in this instrument.

4. CONSIDERATION. In consideration of the performance of the Services by LFS under this Contract, The City of Beaverton shall promptly reimburse Contractor for the costs of all labor, materials, equipment, tools, supplies, pre-approved subcontractors and other out-of-pocket costs incurred in the preceding month in providing the Services (the "Costs") and shall pay Contractor a monthly fee generally consisting of one-twelfth (1/12) of the annual O&M Fee and the Ancillary Fee, if any, (the "Monthly Fee") as specifically set forth in Exhibit 3 hereto in accordance with the payment terms of Section 5 hereof.

5. BILLING AND PAYMENT SCHEDULE. At least thirty (30) days prior to due date of payment, Contractor shall prepare and submit to **THE CITY OF BEAVERTON, ATTENTION: LONNIE DICUS, PO BOX 4755, BEAVERTON, OREGON 97076,** an invoice of services rendered. Payment shall be made upon Contract Administrator's approval and acceptance of Contractor's completed Work described herein, whereupon Contract Administrator shall submit a payment request to City's Finance Department. If this Contract specifies an end product, an amount up to 10 percent of the total sum of money to be paid for the satisfactory accomplishment of the Work may be withheld until all required Work is completed and accepted. If charges are made for services performed and those charges are to be paid from grant funds, the services shall relate directly to the grant from which the funds are expended. Interim payments to Contractor for partial completion of tasks or services may be made only upon prior written authorization of City. If The City of Beaverton disputes an invoice or any item therein submitted by Contractor, The City of Beaverton shall pay the undisputed portion of such invoice, and the parties shall endeavor to resolve the dispute in good faith. When made, interim payment shall release City from any further obligation for payment to Contractor for Work performed or expenses incurred as of the date of the invoice of services rendered.

6. AVAILABILITY OF FUNDS. City has sufficient funds currently available and authorized for expenditure to finance costs of this Contract within City's current fiscal period; provided, however, that continuation or extension of the Contract after the end of the fiscal period in which this Contract is written is contingent upon a new appropriation for each succeeding fiscal period. If sufficient funds are not provided in future City Council-approved budgets of City (or from applicable federal, state, or other sources) to permit City in the exercise of its reasonable administrative discretion to continue this Contract, or if City abolishes the program for which benefit this Contract was executed, City may terminate this Contract without further liability by giving Contractor not less than 30 days' notice. In determining the availability of funds, City may use the annual budget adopted for it by its City Council.

7. ASSIGNMENT AND SUBCONTRACTORS. Contractor shall not assign, sell, subcontract, dispose of or transfer rights or delegate duties hereunder, either in whole or in part, without the City's prior written consent; provided, however, that money due to Contractor may be assigned, if the City is given written notice thereof, but any assignment of money shall be subject to all proper setoffs and withholdings in favor of the City. In no instance shall such consent relieve Contractor of any obligations hereunder. Any assignee, transferee or subcontractor shall be considered the agent of the Contractor and be bound to abide by all provisions of this Contract. Contractor, and its surety, if any, shall remain liable to City for complete performance of this Contract as if no such assignment, sale, subcontracting, disposal, transfer or delegation had occurred, unless City otherwise agrees in writing. The provisions of this Contract shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns, if any.

8. TERMINATION. The parties may effect termination of this Contract in the manners indicated:

a **Parties' Right to Terminate for Convenience**. This Contract may be terminated at any time by mutual written consent of the parties.

b. **City's Right to Terminate for Convenience**. City may, at its sole discretion, terminate this Contract upon at least 90 days' notice to Contractor.

c. **City's Right to Terminate for Cause**. City may terminate this Contract immediately upon notice to Contractor, or at such later date as City may establish in such notice, upon the occurrence of any of the following events:
   (i) City fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient to pay for Contractor's Work;
   (ii) Federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Contract is prohibited or City is prohibited from paying for such work from the planned funding source;
   (iii) Contractor no longer holds any license or certificate that is required to perform the work; or
   (iv) Contractor commits any material breach or default of any covenant, warranty, obligation or agreement under this Contract, becomes bankrupt or insolvent, fails to pay third-parties for materials or services on a timely basis, makes an assignment or arrangement for the benefit of creditors, fails to perform the work under this Contract properly, diligently or within the time specified herein or any extension thereof, or so fails to pursue the work as to endanger Contractor's performance under this Contract in accordance with its terms or otherwise is in default under any of the provision of this Contract, and such breach, default or failure is not cured within three business days after delivery of City's notice, or such longer period as City may specify in such notice.

d. **Contractor's Right to Terminate for Convenience**. Contractor may terminate this Contract by giving written notice to the City 90 days prior to the expiration date of the then-applicable Term.

e. **Contractor's Right to Terminate for Cause**. Contractor may terminate this Contract upon 30 days' notice to City if City fails to pay Contractor pursuant to the terms of this Contract and City fails to cure within 30 business days after receipt of Contractor's notice, or such longer period of cure as Contractor may specify in such notice.

f. **Remedies.** Upon termination under this section the parties shall have the following remedies:
   (i) In the event of termination pursuant to subsections a, b, c(i), c(ii), d or e, of this Section, Contractor's sole remedy shall be a claim for the sum designated for accomplishing the work multiplied by the percentage of work completed and accepted by City, less previous amounts paid and any claim(s) which City has against Contractor. If previous amounts paid to Contractor exceed the amount due to Contractor under this subsection, Contractor shall pay any excess to City upon demand.
   (ii) In the event of termination pursuant to subsection c(iii) or c(iv) of this Section, City shall have any remedy available to it in law or equity and Contractor's right to proceed with all or any part of the Services shall immediately terminate and the City may immediately take possession of all materials, equipment, tools and supplies purchased by The City of Beaverton or Owners' Association for performance of the Services and for which LFS has been paid, and finish such terminated Services by such reasonable means as The City of Beaverton sees fit. Upon such termination of this Agreement, LFS shall assign to The City of Beaverton any existing subcontracts, purchase orders or purchase agreements for goods or services in connection with the Services.
   (iii) If it is determined for any reason that Contractor was not in default under subsection c(iii) or c(iv) of this Section, the rights and obligations of the parties shall be the same as if the Contract was terminated pursuant to subsection b of this Section.
   (iv) Any amounts due Contractor under this Contract shall be pro-rated to the effective date of termination. In the event of termination of this Contract by The City of Beaverton pursuant to subsection (b) of this Section or by Contractor pursuant to subsection (e) of this Section, Contractor shall be entitled to receive from the City, in addition to any other amounts provided in this Section, Contractor's capitalized mobilization fee remaining outstanding on its books at the effective date of termination, and determined in accordance with generally accepted accounting principles, with amortization occurring on a straight line basis over a 3 year period

g. **Contractor's Tender upon Termination**. Upon receiving a notice of termination of this Contract, Contractor shall immediately cease all activities under this Contract, unless City expressly directs

otherwise in such notice of termination. Upon termination of this Contract, Contractor shall deliver to City all documents, information, works-in-progress and other property that are or would be deliverables had the Contract been completed. Upon City's request, Contractor shall promptly surrender to anyone City designates, all documents, research or objects or other tangible things needed to complete the work.

9. FORCE MAJEURE. Neither party shall be held responsible for delay or default caused by war, insurrection, acts of terrorism, strikes, lockouts, labor disputes, riots, terrorist acts or other acts of political sabotage, volcanoes, floods earthquakes, fires, acts of God, acts of the public enemy, epidemic, quarantine restrictions, freight embargoes, lack of transportation, governmental restrictions or priorities, severe weather, or any other uncontrollable or unforeseeable act or circumstance beyond a party's reasonable control and without the fault or negligence of the party. The affected party, however, shall make all reasonable efforts to remove or eliminate such cause of delay or default and shall, upon cessation of the cause, diligently pursue performance of its obligations under this Contract. In the event of such delay, the party delayed shall give written notice of the delay and the reason therefor to the other party within 30 days after the delayed party learns of the delaying event. An extension of time for any such cause shall be for the period of duration of the cause. Delays under this paragraph shall not be the basis for additional compensation payable to the Contractor.

10. MODIFICATION. Any modification of the provisions of this Contract shall not be enforceable unless first reduced to writing and signed by both parties. A modification is a written document, contemporaneously executed by City and Contractor, which increases or decreases the cost to City over the agreed sum or changes or modifies the Statement of Services or Delivery Schedule. Any such modification shall be effective only in the specific instance and for the specific purpose identified in the modification.

Consistent with the foregoing, City specifically may make changes in the Scope of Work described in Exhibit 1 and/or Exhibit 2. In the event of a change in the Scope of Work, The City of Beaverton shall issue a written Change Order Contractor signed by a duly authorized representative of the City (as defined in Section 21, below), setting forth a description of the change and the resulting increase or decreases, if any, to any of the amounts payable to Contractor under this Contract. The Change Order, upon acceptance and execution by the duly authorized representative of the Contractor (as defined in Section 21, below) shall become a binding and effective part of the Exhibits to this Contract.

In the event that Contractor receives any communication of whatsoever nature from City that Contractor contends gives rise to any modification of this Contract, Contractor shall, within 15 calendar days after receipt, make a written request for modification to City. Contractor's failure to submit such written request for modification in a timely manner is a basis upon which City may refuse to treat said communication as a modification. In connection with any modification to the Contract affecting any change in price, Contractor shall submit a complete breakdown of labor, material, equipment and other costs. If Contractor incurs additional costs or devotes additional time on project tasks which were reasonably expected as part of the original Contract or any mutually approved modifications, then City shall be responsible for payment of only those costs for which it has agreed to pay.

11. ACCESS TO RECORDS. Contractor shall maintain all books, documents, papers and records relating to this Contract in accordance with generally accepted accounting principles. Contractor shall maintain and preserve for a period of at least three years from the date to which they apply complete and accurate records of all data and information: (a) reflecting the amount of the Services provided in each year during the Term hereof, and (b) necessary to calculate the payments of the O&M Fee and the Ancillary Fee and Costs as provided in this Agreement. In addition, Contractor shall maintain any other records pertinent to this Contract in such a manner as to clearly document Contractor's performance.

Contractor shall make all such records available for inspection during the normal business hours by The City of Beaverton, Owners' Association, or their respective representatives upon reasonable advance notice. City, state and federal government, and their duly authorized representatives, shall have access to Contractor's books,

documents, papers, plans, writings and records that are directly pertinent to this Contract for the purpose of performing examinations and audits and making excerpts and transcripts. Contractor shall retain and keep accessible all such fiscal records, books, documents, papers, plans, and writings for a minimum of three years from the date of Contract expiration, or such longer period as may be required by applicable law, following final payment and termination of this Contract, or until the conclusion of any audit, controversy or litigation arising out of or related to this Contract, whichever date is later. Contractor is responsible for any audit discrepancies involving deviation from the terms of this Contract and for any commitments or expenditures in excess of amounts authorized by City. The state and federal governments and their duly authorized representatives are intended beneficiaries of the terms of this provision.

12. COMPLIANCE WITH APPLICABLE LAWS. Contractor shall comply with all federal, state and local laws, ordinances, rules, regulations and executive orders applicable to the Work to be performed under this Contract. Failure or neglect on the part of Contractor to comply with any or all such laws, ordinances, rules or regulations shall not relieve Contractor of these obligations or the requirements of this Contract. Without limiting the foregoing, Contractor shall comply with all federal, state and local civil rights and rehabilitation laws prohibiting discrimination because of race, sex, national origin, religion, age or disability, and shall comply with all applicable provisions of ORS 279C.500 through 279C.565. The provisions of ORS 279C.505, ORS 279C.510, ORS 279C.515, ORS 279C.520 and ORS 279C.530 are hereby incorporated herein by this reference and the applicable terms therein shall be binding upon Contractor. The parties shall comply with any state or federal law or regulation specific to the funding source that supports this Contract.

13. INDEPENDENT CONTRACTOR; RESPONSIBILITY FOR TAXES & WITHHOLDING. The Work to be rendered under this Contract is that of an Independent Contractor. Contractor is not to be considered an agent or employee of City for any purpose. Contractor shall be solely and entirely responsible for its acts and for the acts of its agents or employees during the performance of this Contract. As used herein, "Independent Contractor" means that:

a. Contractor is free from direction and control over the means and manner of providing labor or services, subject only to City's right to specify the desired results.
b. Contractor is responsible for obtaining all required business registrations or professional occupational licenses.
c. Contractor furnishes the tools or equipment necessary to perform the contracted labor or services.
d. Contractor has the authority to hire and fire Contractor's employees.
e. For labor and services performed as an Independent Contractor in the previous year, Contractor has either filed federal and state income tax returns in the name of Contractor's business or, in the alternative; Contractor has filed a Schedule C tax form as part of Contractor's personal income tax return.
f. Contractor represents to the public that the labor or services described herein are to be provided by an independently established business.
g. Payment to the Contractor is made upon completion or periodic completion of the performance required herein, or is made based on a periodic retainer.

Neither Contractor nor any of Contractor's agents or employees is entitled to any of the benefits (including, but not limited to, social security, workers' compensation and unemployment insurance benefits) that City provides its employees. Contractor shall be responsible for all federal or state taxes applicable to compensation or payments paid to Contractor under this Contract. Unless Consultant is subject to backup withholding, City will not withhold from such compensation or payments any amount to cover Contractor's federal or state tax obligations.

14. REPRESENTATIONS AND WARRANTIES; STANDARD OF CARE. Contractor represents and warrants to City that:

a. Contractor has the power and authority to enter into and perform this Contract;

b. When executed and delivered, this Contract shall be a valid and binding obligation of Contractor enforceable in accordance with its terms;
c. If Contractor provides personal services under this Contract, the Work under this Contract shall be performed in a good and workmanlike manner;
d. If Contractor provides professional services under this Contract, the Work under this Contract shall be performed in accordance with generally accepted professional practices and principles and in a manner consistent with the level of care, skill and diligence ordinarily exercised by members of the profession currently practicing under similar conditions; and
e. Contractor shall, at all times during the term of this Contract, be duly licensed to perform the Work, and if there is no licensing requirement for the profession or Work, be duly qualified and competent.

The warranties set forth in this Section are in addition to, and not in lieu of, any other warranties provided.

15. [THIS SECTION INTENTIONALLY OMITTED].

16. INDEMNITY. With regard to the Contractor's performance in connection with or incidental to the Work, but excluding its performance of professional services and the indemnification and hold harmless aspects thereto as set forth below in this Section, the Contractor shall defend, indemnify, protect and hold the City, Developer and Owners' Association, their respective affiliates, subsidiaries, and their agents and employees and volunteers harmless from and against any and all claims, suits, actions, losses, costs or judgments of any nature for damages or injuries to any person or property, including injury to the Contractor's or its subcontractors' employees, agents or officers, to the extent they arise from or are connected with or are caused by the negligent, reckless or willful acts or omissions of the Contractor and its subcontractors and their agents, officers or employees, in performing Work herein, and all expenses of investigating and defending against same, including reasonable attorney fees and costs at trial and on appeal in any proceeding; provided, however, that the Contractor's duty to indemnify and hold harmless shall not include any claims or liability arising from the established negligence or willful misconduct of the City, its officials, agents, employees or volunteers.

With regard to the Contractor's performance of professional services, Contractor shall defend, indemnify and hold the City, Developer and Owners' Association, their respective affiliates, subsidiaries, and their agents and employees and volunteers harmless from and against any and all claims, costs, suits, actions, losses, expenses and damages, including reasonable attorney's fees and costs at trial and on appeal in any proceeding, to the extent arising from the willful misconduct or negligent acts, errors or omissions of the Consultant and/or its subconsultants associated with the Work.

The City shall defend, indemnify and hold harmless Contractor, its affiliates, subsidiaries, agents and employees, from and against any and all claims and liabilities of whatsoever kind or nature relating to, arising out of or in connection with its duties and obligations provided in this Agreement, including attorneys' fees at trial or on appeal in any proceeding, to the extent caused by the any negligent or willful act or omission of the City or its employees, except to the extent that any such claim or liability or fee are the result of the negligence, willful misconduct, or material failure to comply with the Agreement by Contractor or its employees, agents or representative.

To the extent permitted by applicable law, City hereby agrees to defend, indemnify and hold harmless LFS, its affiliates, subsidiaries, agents and employees, to the same extent that the City is in fact defended, indemnified and held harmless by Developer and Owners' Association as set forth in Section 14.2 and 14.3 of the HCS Agreement.

Wherever there is a reference to an indemnity obligation of the City in this Agreement, such obligation shall be subject to the conditions and limitations of Article XI, section 10, of the Oregon Constitution and the conditions and limitations of the Oregon Tort Claims Act, ORS 30.260 through 30.300, or such successor provisions as may be enacted.

Promptly after receipt by a party of any claim or notice of the commencement of any action, administrative or legal proceeding, or investigation as to which the indemnity provided may apply, the indemnified party shall notify the indemnifying party in writing of such fact. The indemnifying party shall assume the defense thereof with counsel reasonably satisfactory to the indemnified party; provided, however, that if the defendants in any such action include both the indemnified party and the indemnifying party and the indemnified party shall have reasonably concluded that there may be legal defenses available to it which are different from or additional to, or inconsistent with, those available to the indemnifying party, the indemnified party shall have the right to select separate counsel to participate in the defense of such action on behalf of such indemnified party, at the indemnified party's expense.

17. INSURANCE. The City, at City's own expense, shall procure and maintain in full force and effect for the duration of Contractor's Work under this Contract the types and coverage amounts of insurance as required of it in the HCS Agreement. Contractor, at Contractor's own expense, shall procure and maintain in full force and effect for the duration of Contractor's Work under this Contract the types and coverage amounts of insurance conforming to these minimum requirements:

WORKERS' COMPENSATION INSURANCE
AND EMPLOYER LIABILITY INSURANCE
☒ Required; ☐ Not Required.

Workers' Compensation Insurance in compliance with ORS 656.017, which requires subject employers to provide Oregon workers' compensation coverage for all their subject workers. Out-of-state employers must provide Oregon workers' compensation coverage for their workers who work in Oregon, unless existence of extraterritorial coverage is established pursuant to ORS 656.126(3). All Contractors and subcontractors required to procure and maintain Workers' Compensation Insurance shall also procure and maintain in full force and effect for the duration of Contractor's or subcontractor's Work under this Contract Employer Liability Insurance with a combined single limit, or the equivalent, of not less than $500,000 each employee per accident for bodily injury by accident or disease.

Contractor shall require and ensure that each of its subcontractors who provide labor or services in connection with this Contract operates in compliance with ORS 656.017 by providing Oregon workers' compensation coverage for all their subject workers. Contractor shall require proof of such Workers' Compensation Insurance and Employer Liability Insurance by receiving and keeping on file a certificate of insurance from each subcontractor and anyone else directly employed by either the Contractor or subcontractor.

Workers' Compensation Insurance and Employer's Liability Insurance coverage is required under this Contract of all Contractors who are employers. If Contractor is legally exempt from any requirement to provide Workers' Compensation Insurance coverage for the Work to be performed under this Contract, Contractor hereby represents that Contractor understands and agrees that under ORS 656.006(13), an "employer" is any person who contracts to pay remuneration for and secures the right to direct and control the services of any person. Contractor understands and agrees that if Contractor is exempt from coverage under ORS 656.027 and engages individuals in performance of this Contract who are not exempt from coverage under ORS 656.027, then Contractor shall provide Workers' Compensation Insurance coverage for all such individuals. If the Contractor does not provide that insurance, Contractor may be deemed a non-complying employer for purposes of Oregon law and agrees to hold City harmless from and indemnify City against any and all claims for compensation benefits made against the Contractor as a non-complying employer. If Contractor is declaring Contractor exempt from any requirement to provide workers' compensation coverage, Contractor must initial here: _____; otherwise Contractor shall procure and maintain the required insurance.

COMMERCIAL GENERAL LIABILITY INSURANCE

☒ **Required;** ☐ **Not Required.**

General Liability Insurance with a combined single limit, or the equivalent, of not less than ☐ $500,000; ☐ $1,000,000; ☒ $2,000,000; or ☐ $5,000,000 covering, but not limited to, liability for personal injury and property damage. The policy shall be written on an occurrence basis on ISO Form CG 00 01, or its equivalent, and shall include blanket contractual liability coverage for the assumed liability under this Contract and broad form property damage coverage including completed operations. The City of Beaverton, and its officials, employees and agents shall be named as additional insureds under ISO Form CG 20 10 (Additional Insureds – Owners, Lessees or Consultants), or its equivalent, with respect to the Work to be provided under this Contract. The Commercial General Liability Insurance coverage required by this Contract is with respect only to the Work described in this Contract, and has no relationship to, or bearing upon, other projects of the insured. The insurance coverage is primary to any self-insurance program.

AUTOMOBILE LIABILITY INSURANCE

☒ **Required;** ☐ **Not Required.**

Automobile Liability Insurance with an each accident limit, or the equivalent, of not less than ☐ $500,000, or ☒ $1,000,000 covering, but not limited to, liability for bodily injury and property damage, together with coverage for "any auto," including owned, non-owned and hired autos used in connection with the performance of the Work. The policy shall be written on an occurrence basis on ISO Form CA 00 01, or its equivalent, including an omnibus insurance clause. The City of Beaverton, and its officials, employees and agents shall be named additional insureds under the policy if Contractor's Work entails transporting people for the City. The policy cannot be excess to a self-insurance program; any deductible cannot exceed $5000. If Contractor is declaring Contractor excused from any requirement to provide Automobile Liability Insurance coverage because Contractor does not use an automobile in connection with Work under this Contract, Contractor may initial here: _____; otherwise Contractor shall procure and maintain the required insurance.

PROFESSIONAL LIABILITY INSURANCE

☒ **REQUIRED;** ☐ **NOT REQUIRED.**

Professional Liability Insurance with a combined single limit, or the equivalent, of not less than ☐ $500,000; ☒ $1,000,000; ☐ $2,000,000; or ☐ $5,000,000 per claim with a ☒ $2,000,000 or ☐ $5,000,000 annual aggregate limit, covering, but not limited to, liability for bodily injury, property damage and economic loss. Contractor shall be responsible for any deductible amounts. If Contractor proposes using subcontractors, in addition to any other requirements of this Contract, City may require subcontractors to provide professional liability insurance of similar type and coverage amount. Contractor, at Contractor's own expense, shall maintain the Professional Liability Insurance in full force for not less 24 months following completion of this Contract. The Professional Liability coverage required by this Contract is with respect only to the Work described in this Contract, and has no relationship to, or bearing upon, other projects of the insured. Coverage must be in effect prior to the commencement of the performance of this Contract. Contractor shall furnish proof of continuous "tail" coverage for 24 months after Contract completion.

CONSULTANT POLLUTION LIABILITY

☐ **REQUIRED;** ☒ **NOT REQUIRED.**

Contractor's Professional Liability Insurances shall be endorsed to provide liability coverage in an amount not less than ☐ $1,000,000; ☐ $2,000,000; or ☐ $5,000,000 per claim limit, with a ☐ $2,000,000 or ☐ $5,000,000 annual aggregate limit, covering, but not limited to, liability for bodily injury, property damage and cleanup costs. In lieu of endorsement, the City may accept equivalent coverage under a separate insurance policy.

COMMERCIAL CRIME INSURANCE

☐ **REQUIRED;** ☒ **NOT REQUIRED.**

Commercial Crime Insurance not less than $50,000 including, but not limited to, coverage for theft or loss of client property.

CONTRACTOR POLLUTION LIABILITY INSURANCE

☐ **REQUIRED;** ☒ **NOT REQUIRED.**

Contractor Pollution Liability Insurance in an amount not less than ☐ $1,000,000; ☐ $2,000,000; or ☐ $5,000,000 per claim limit, with a ☐ $2,000,000 or ☐ $5,000,000 annual aggregate limit, covering, but not limited to, liability for bodily injury, property damage and cleanup costs.

WAIVER OF SUBROGATION

☐ **REQUIRED;** ☒ **NOT REQUIRED.**

If Waiver of Subrogation is required, Contractor hereby waives Contractor's right to recover from the City, and its officers, agents, employees and volunteers for any damages arising out of Work performed under this Contract and covered by insurance. Any Commercial General Liability Insurance policy and/or Automobile Liability Insurance policy required under this Contract shall be endorsed to provide for a waiver of underwriter's rights to subrogation as to additional insureds.

18. INSURANCE CERTIFICATION; OTHER INSURANCE REQUIREMENTS. Before Contractor commences Work under this Contract, Contractor shall furnish City, through its Risk Manager, with acceptable certificates evidencing the types, amounts and issuers of insurance coverage meeting the minimum requirements of this Contract. The certificate shall specify all of the parties who are Additional Insureds. If a certificate of insurance coverage is unavailable from a particular insurer, alternative proof of insurance coverage acceptable to City shall be arranged. Renewal certificates of insurance shall be furnished no later than 15 days before the expiration of the policy. Any deductibles or self-insured retentions must be stated on the certificate of insurance, which shall be sent to and approved by City's Risk Manager in advance to commencement of Work under this contract.

In all instances concerning all forms of insurance required by this Contract:

a. The insurance shall be issued by a company authorized to do insurance business in the State of Oregon;
b. Upon request, complete copies of insurance policies, trust agreements, etc. shall be provided to City;
c. Contractor shall be financially responsible for all pertinent deductibles, self-insured retentions and/or self-insurance amounts;
d. Umbrella or Excess Liability Insurance may be used to achieve the above minimum liability limits, so long as policy is endorsed to state it is "As Broad as Primary Policy." If Umbrella or Excess policy is evidenced to comply with minimum limits, a copy of the Underlying Schedule from the Umbrella or Excess Liability Insurance policy may be required;
e. Contractor shall provide City not less than 30 days written notice of Contractor's intent to cancel, terminate or make any material change affecting required insurance coverage;
f. Until such time as the insurance is no longer required by the City, Contractor shall provide the City with renewal or replacement evidence of insurance no less than 30 days before the expiration or replacement of the required insurance. If at any time during the period when insurance is required by the Contract, an insurer shall fail to comply with the requirements of this Contract, as soon as Contractor has knowledge of any such failure, Contractor shall immediately notify the City and immediately replace such insurance with an insurer meeting the requirements
g. Except for Professional Liability Insurance, the insurance shall be provided by a carrier with A.M. Best's Rating of A- or better and Financial Performance Rating of 7 or better. Contractor's Professional Liability Insurance policy shall be written by an insurer satisfactory to City and may be written on a claims made basis, provided Contractor, at Contractor's own expense, maintains the Professional Liability Insurance in full force for not less 24 months following completion of this Contract; and
h. The insurance provided by Contractor and its subcontractors shall apply on a primary basis and be required to respond and pay prior to any other available coverage. Any insurance maintained by the City shall be excess of and shall not contribute with the insurance provided by Contractor and its subcontractors.

City reserves the right to review the types of coverages and limits of insurance required herein from time to time. In the event that City changes its insurance requirements after this Contract has been signed, City will provide notice to Contractor of the new requirements. Contractor shall promptly modify its coverage to comply with the new requirements and provide City with updated evidence of coverage. Contractor will be entitled to an adjustment in the Contract price for any increase in premium resulting from such changes, provided Contractor can establish with reasonable certainty that the increased premium was due to changes required by City. Premium savings from any changes shall be refunded to City.

19. LIMITATION OF LIABILITIES. Neither party shall be liable for (i) any indirect, incidental, consequential or special damages under the Contract or (ii) any damages of any sort arising solely from the termination of this Contract in accordance with its terms; provided, however, this provision does not apply to liability arising under or relating to Section 8(e)(ii)(Termination) or Section 14 (Representations and Warranties; Standard of Care).

The City of Beaverton shall not be liable to LFS under this Agreement or otherwise, whether based upon contract, strict liability, tort (including negligence) or warranty (either express or implied) for loss of use, loss of profits, lost rental, interest expense, finance charges, business interruption, decreased productivity or production, or any other indirect, incidental or consequential damages of any nature whatsoever.

LFS shall not be liable to The City of Beaverton under this Agreement or otherwise, whether based upon contract, strict liability, tort (including negligence) or warranty (either express or implied) for loss of use, lost profits, lost rental, interest expense, finance charges, business interruption, decreased productivity or production, or any other indirect, incidental or consequential damages of any nature whatsoever; provided, however, that The City of Beaverton shall be entitled to recover actual damages arising out of, or resulting from, LFS's failure to comply with the terms of this Agreement.

The parties expressly agree that under no circumstances shall the total aggregate liability of either party under any theory of recovery or liability, whether based in contract, in tort (including negligence or strict liability), under warranty, indemnity, or otherwise, exceed two million dollars ($2,000,000) except the limit shall be ten million dollars ($10,000,000) for matters covered for such amount by the insurance which is required by Article VII. The provisions of this subsection shall take precedence over any conflicting or inconsistent provision set forth elsewhere in this Agreement.

20. NOTICE. Except as otherwise expressly provided in this Contract, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile, or mailing the same, postage prepaid, to Contractor or City at the address or number as identified herein above, or to such other addresses or numbers as either party from time to time may designate in writing. Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing. Any communication or notice delivered by facsimile shall be deemed to be given when receipt of the transmission is generated by the transmitting machine. To be effective against City, such facsimile transmission must be confirmed by telephone notice to the Contract Administrator. Any communication or notice by personal delivery shall be deemed to be given when actually delivered.

21. AUTHORIZED PERSONNEL. The parties shall designate in writing their respective representative who have the power and authority to act for and on their behalf in connection with this Agreement. The City's Contract Administrator is hereby so designated, without limitation to other City representatives being additionally identified at a later time.

22. TAXES AND FEES. The City of Beaverton is responsible for and shall pay all Taxes imposed or levied by any entity on the goods or services furnished by Contractor or any subcontractor or supplier of Contractor under or in connection with this Contract. In the event Contractor is required to remit any Taxes owed by City, Contractor may recover the amount thereof from City. The City of Beaverton shall defend, indemnify and hold Contractor harmless from any claim or demand for payment of such Taxes and any related penalties, interest or legal fees.

As used in this Section, "Taxes" means any and all existing or new taxes including, but not limited to, ad valorem, property, occupation, generation, privilege, sales, use, consumption, excise, franchise, utility, business, energy, transaction and other taxes, governmental and municipal charges, licenses, fees and assessments, but not including taxes based on net income or capital.

Either party, upon the request of the other, shall provide a certificate of exemption or other reasonably satisfactory evidence of exemption if either party or any transaction hereunder is exempt from any Taxes, and each party shall use reasonable efforts to (a) obtain and cooperate in obtaining any exemption or reduction of such Taxes and (b) administer this Contract and implement the provisions in accordance with the intent to minimize such Taxes.

23. NO THIRD PARTY BENEFICIARIES. City and Contractor are the only parties to this Contract and are the only parties entitled to enforce its terms. Nothing in this Contract gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.

24. CONFLICT OF INTEREST. Contractor hereby represents that no employee of the City, or any partnership or corporation in which a City employee has an interest, will or has received any remuneration of any description from Contractor, either directly or indirectly, in connection with the letting or performance of this Contract, except as specifically declared in writing.

25. HAZARD COMMUNICATION. Contractor shall notify City before using products containing hazardous chemicals to which City employees or patrons may be exposed. In accordance with the OR-OSHA Hazard Communication Rules in OAR chapter 437, division 155, Contractor shall provide City with a Material Safety Data Sheet for any goods provided under this Contract that may release, or otherwise result in exposure to a hazardous chemical under normal conditions of use (OAR 437-155-005(2), 437-155-025). In addition, Contractor must label, tag, or mark such goods.

26. DISCLOSURE OF SOCIAL SECURITY NUMBER. Contractor must provide Contractor's Social Security Number unless Contractor provides a federal tax ID number. This number is requested pursuant to BPC 47-0636 of the Beaverton Purchasing Code(Resolution 3809, as amended). Social Security numbers provided pursuant to this authority will be used for the administration of state, federal and local tax laws.

27. DISPUTE RESOLUTION. Any disputes under this Contract not resolved by the parties through direct communication shall be dealt with first by the aggrieved party giving the other party written notice of the dispute and, within 20 days after receipt of said notice, the receiving party submitting to the aggrieved party a written response. The notice and response shall include a statement of each party's position and a summary of the evidence and arguments supporting its position. Any disputes not resolved by this process shall be submitted to mediation before commencement of litigation.

The mediator shall be named by mutual agreement of the parties or by obtaining a list of five qualified persons from the parties and alternatively striking names. The mediator shall have the duty and responsibility to assist the parties in resolving all issues submitted for mediation. The parties shall cooperate and operate to resolve all matters in dispute with the assistance of the mediator. The parties shall share the mediator's fees and expenses equally, unless they agree otherwise. The mediation shall terminate by: (a) written agreement signed by the parties; (b) determination by the mediator that the parties are at an irresolvable impasse; or (c) two unexcused absences by either party from the mediation session. The mediator shall not participate in any claim or controversy arising out of this Contract and may not be called as a witness to testify in any proceeding involving the subject matter of mediation. ORS 36.100 to 36.245 shall apply to the entire process of mediation.

The mediation shall commence at a mutually acceptable time and place within sixty days of the date of the aggrieved party's notice. Mediation may continue as often and as long as thereafter as the mediator and the parties reasonably deem necessary to exchange relevant information and to attempt to resolve the dispute.

Should the mediation fail to settle such dispute within 60 days of the commencement of mediation, or if the party receiving said notice do not meet within sixty days of said notice, either party may terminate mediation. The parties shall share equally the costs of the mediator. Each party shall be responsible for its own costs of mediation.

28. SURVIVAL. Expiration shall not extinguish or prejudice City's right to enforce this Contract with respect to any breach of a Contractor warranty or any default or defect in Contractor performance that has not been cured. All representations, indemnifications, warranties and guarantees made in, required by or given by the Contractor in accordance with this Contract, as well as all continuing obligations indicated in the Contract, will survive final payment to the Contractor, completion of the Work and termination or completion of the Contract.

29. TIME IS OF THE ESSENCE. Time is of the essence under this Contract.

30. GOVERNING LAW. This Contract is entered into and is to be performed in Oregon and shall be governed and construed in accordance with the laws of the State of Oregon, without resort to any jurisdiction's conflict of laws, rules or doctrines. Any claim, action, suit, or proceeding between City and Contractor arising from or relating to this Contract shall be brought and conducted solely and exclusively within the Circuit Court of Washington County, Oregon, or, if the claim must be brought in a federal forum, the United States District Court for the District of Oregon. Contractor hereby consents to *in personam* jurisdiction of said courts.

31. CAPTIONS. The captions or headings in this Contract are for reference purposes only and shall not affect in any way the meaning or interpretation of this Contract.

32. COUNTERPARTS. This Contract may be executed in several counterparts, all of which when taken together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of the Contract so executed shall constitute an original.

33. FURTHER UNDERTAKINGS. From time to time, each party shall execute, acknowledge and deliver any instruments, documents, permits, licenses, applications or reports as reasonably requested by the other party, and take such further action or undertaking reasonably necessary to carry out the purposes of this Agreement and the Services to be performed pursuant hereto.

34. MERGER. This Contract (including, to the extent provided herein, any attached exhibits) constitutes the entire and integrated agreement between the parties and supersedes all prior contracts, negotiations, representations or agreements, either written or oral. There are no understandings, agreements, representations, oral or written, not specified herein regarding this agreement.

35. WAIVER. City's failure to enforce a provision of this Contract shall not constitute a continuing waiver, shall not constitute a relinquishment of City's right to performance in the future and shall not operate as a waiver of City's right to enforce any other provision of this Contract.

36. SEVERABILITY. If any term or provision, or portions thereof, of this Contract is declared by an arbiter or a court of competent jurisdiction to be illegal, invalid, void, or otherwise unenforceable, each such term or provision shall be enforced only to the extent it is not in violation of law or is not otherwise unenforceable; all other provisions and requirements of this Contract shall remain in full force and effect insofar as possible to preserve the lawful anticipated benefits of this Contract to the parties.

37. INTERPRETATION. The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties and no presumption or burden of proof may arise favoring or disfavoring any party by virtue of the authorship or drafting of any of the provisions in this Agreement.

Certification

The individual signing on behalf of Contractor hereby certifies and swears under penalty of perjury (a) the number shown on this form is Contractor's correct taxpayer identification, (b) Contractor is not subject to backup withholding because (i) Contractor is exempt from backup withholding, (ii) Contractor has not been notified by the IRS that Contractor is subject to backup withholding as a result of a failure to report all interest or dividends, or (iii) the IRS has notified Contractor that Contractor is no longer subject to backup withholding, (c) s/he is authorized to act on behalf of Contractor, s/he has authority and knowledge regarding Contractor's payment of taxes, and to the best of her/his knowledge, Contractor is not in violation of any Oregon tax laws, (d) Contractor is an independent Contractor as defined in ORS 670 600, and (e) the Contractor data set forth herein is true and accurate

The parties, by their signature below, acknowledge having read and understood the Contract and agree to be bound by its terms and conditions.

AGREED TO BY THE PARTIES HERETO:

CITY OF BEAVERTON, OREGON	**LINC FACILITY SERVICES, LLC**
BY: _____	BY: _____
TITLE: _____	TITLE: _____
DATE: _____	DATE: _____

APPROVED AS TO LEGAL SUFFICIENCY: _____
City Attorney

☐ Federal Tax ID#: ____-_____; or

☐ SSN: _____-_____-_____

This payment information must be provided for Contract approval. This information will be reported to the Internal Revenue Service (IRS) under the name and taxpayer identification submitted. (See IRS 1099 for more information.) Information not matching IRS records could subject Contractor to backup withholding

AGREEMENT FOR OPERATIONS AND MAINTENANCE SERVICES

EXHIBIT 1

SCOPE OF O&M SERVICES

General

- The "O&M Services" refers to those operation, maintenance, repair, and replacement services for the Central Plant, including the Heating and Cooling Delivery Facilities, the In-Building Systems located downstream of the Meter in each Building, including the Heating and Cooling Distribution Facilities, and the Boiler Plant and the Domestic Hot Water ("DHW") Delivery Facilities used to supply domestic hot water services to Crescent, Promenade and North Housing Complex (collectively, the "Systems").

Components

The O&M Services will be comprised of the following components:

- Regular Operation & Maintenance – work performed on a day-to-day basis to maintain the Systems and equipment in accordance with their respective specifications
- Preventative Maintenance – maintenance performed on a regularly scheduled basis in accordance with manufacturers' specifications
- Repair and Replacement – The repair, alteration or change out of the Systems or equipment when necessary because of wear, obsolescence, or failure

Scope of O&M Services

1. **Systems Build-Out, Acceptance and Development of Procedures** – LFS will provide the following start-up services for the Systems:
    - Monitor and inspect installation of the Systems to assure operability, and conformance to specification
    - Assume responsibility for testing, acceptance, and/or rejection of all equipment and systems from the contractors and vendors and document the process
    - Obtain, and review for completeness, documentation and information from vendors and/or contractors covering all equipment and systems
    - Prepare O&M Manuals for the Systems under The City of Beaverton supervision as provided in Exhibit 5 hereto which detail O&M procedures, based on the information provided by vendors and/or contractors, for review and approval by The City of Beaverton

2 **Equipment Operations and Maintenance Services** – LFS will provide operation, maintenance, repair, and replacement services for the Systems. This will include operation and both preventive and reactive maintenance on the following equipment of the Systems·
    - All heating and cooling distribution equipment, including pumps, valves, piping, piping insulation, terminal units (fan coils or variable air volume ("VAV") boxes), diffusers, and grills
    - All heating and cooling air treatment and distribution equipment, including air handling units, fans, filters, ducts, duct insulation, dampers, exhaust air, and return air systems
    - The system-wide Controls Network, including the direct digital control ("DDC") system for terminal and zone temperature control, actuators, sensors and software
    - The hot water boiler and related equipment in the Boiler Plant and the DHW Delivery Facilities used in the heating and supply of domestic hot water

3 **In-Building Operations and Maintenance Management Services** – LFS will provide the following management services as they pertain to operations and maintenance functions:

- Handle tenant complaints and responses to space conditioning and the domestic hot water services concerns
- Manage all subcontracts pertaining to or affecting the operation and maintenance of the Heating and Cooling Distribution Facilities, including the HVAC, controls and communications elements of tenant improvements, the Central Plant, the Boiler Plant, and DHW Delivery Facilities
- Provide technical support to The City of Beaverton and Owners' Association pertaining to maintenance functions, including:
  - Planning and scheduling
  - Operating and capital budget development
  - Purchasing and accounting
- Manage and administer:
  - Applicable warranties
  - Utilities
  - Fire and life safety system interface
  - Environmental programs specifically related to the O&M Services provided by LFS

4. **Minor Repairs** – LFS will provide the following minor repairs as part of its O&M Services under the direction of the Owners' Association

- Minor electrical repair of all electrical systems, including lighting, wiring, panels, and switches
- Minor plumbing repair of plumbing systems, including domestic hot and cold water pumps and piping up to and including fixtures
- Minor hardware repair

"Minor repair" shall mean repair or replacement services which involve no more than $25 in parts and materials and /or no more than 30 minutes of labor in each instance and no more than $100 in parts and materials and/or no more than 2 hours of labor in the aggregate per month Repairs in excess of these limits will be billed at cost for all parts, materials, equipment, tools, supplies and labor at applicable rates.

AGREEMENT FOR OPERATIONS AND MAINTENANCE SERVICES

EXHIBIT 2

SCOPE OF ANCILLARY SERVICES

Scope of Ancillary Services

- LFS may enter into separate agreement(s) with The City of Beaverton to provide Ancillary Services in addition to the O&M Services. "Ancillary Services" include the provision of energy-related services at the Round besides the heating and cooling of occupied spaces or the provision of domestic hot water. For example, ancillary services may include the heating and cooling of equipment rooms or other unoccupied space and the use of the proprietary Hartman operating system to control lighting that affects heating.

- The City of Beaverton will support LFS's desire to expand the scope of Ancillary Services by negotiating with the Developer and/or the Owners' Association to provide additional services as they become available.

- LFS will coordinate its O&M Services with the delivery of the following ancillary services by others·

    - Tenant improvements and upgrades
    - Elevator maintenance and repair
    - Carpentry
    - Painting
    - General building maintenance
    - Janitorial
    - Fountain, grounds, signage, and parking lot maintenance

AGREEMENT FOR OPERATIONS AND MAINTENANCE SERVICES

EXHIBIT 3

CALCULATION OF MONTHLY FEE

LFS shall provide The City of Beaverton with a monthly invoice of the Costs and the Monthly Fee, with any Adjustments (as described below). The Monthly Fee shall be (i) one-twelfth (1/12) of the annual O&M Fee; (ii) the Ancillary Fee, if any; and (iii) the Costs.

1. **Costs** - The City of Beaverton will be billed for all costs incurred by LFS for all reasonable parts, labor, materials, equipment, tools, supplies, labor by necessary and pre-approved subcontractors and other out-of-pocket costs ("Costs") incurred in providing O&M Services and Ancillary Services, if any. The City of Beaverton may require LFS to submit adequate receipts supporting the Costs with each monthly invoice

2. **O&M Fee** – The O&M Fee will be provided on an "all-inclusive" basis and is a guaranteed maximum annual O&M Fee. For the initial term of this Contract, unless adjusted as provided in Section 4 of this Exhibit 3, the O&M Fee is $58,920. The annual O&M Fee is subject to adjustment for inflation and changes in the Scope of the Project or the Services as provided below. When adding additional staff to the site, LFS will bill an additional fee of 10% on the total costs associated with the additional personnel.

3. **Ancillary Fee** – The monthly Ancillary Fee for the Ancillary Services, if any, shall be agreed upon by the Parties and shall be included in the monthly statements provided to The City of Beaverton.

4. **Annual Adjustments** – The annual O&M Fee and Ancillary Fee, if any, will be increased annually to take account for inflation using the Employment Cost Index (ECI) from the US Department of Labor's Bureau of Labor Statistics for private industry workers. Any adjustments will become effective beginning with that year's April billing.

5. **Modifications of Scope of O&M Services or Ancillary Services** – Agreed-upon changes which increase or decrease the scope of O&M Services or Ancillary Services will subject the fee for such services to an equitable adjustment (to be mutually agreed upon). Should any changes to relevant regulations, laws, or codes substantially affect LFS's services or obligations, the Parties agree to negotiate in good faith for appropriate changes to the scope or the fee, or both, as they affect the O&M Services or the Ancillary Services

AGREEMENT FOR OPERATIONS AND MAINTENANCE SERVICES

EXHIBIT 4

GENERAL CONDITIONS

1. **LFS Work Areas** – LFS shall keep and maintain all of its work areas at the Facility in a neat and orderly fashion and free from obstacles and debris. LFS shall deposit trash into receptacles provided by Owners' Association.

2. **Compliance** – LFS shall comply with all federal, state and local laws, regulations and ordinances.

3. **Access to the Work** – LFS shall be afforded reasonable access to all necessary systems, equipment and areas when required to perform the Services under this Agreement. LFS shall not be responsible for any equipment malfunction, injuries or damages of any nature due to an unreasonable prevention or denial of access to perform the Services

4. **Inspection** – The City of Beaverton and Owners' Association may regularly inspect the performance of LFS, and The City of Beaverton may administer this Agreement through its designated Representative at the Facility, who may communicate with LFS's Representative at the Facility or directly with the Regional Vice President of LFS.

5 **Warranties of Manufacturers, Supplier and Subcontractors** – LFS shall pass on to The City of Beaverton and Owners' Association the benefit of any warranties or guarantees of all manufacturers, suppliers, and subcontractors providing labor and/or materials in connection with the Services.

6 **LFS Facility Personnel** – All LFS employees assigned to the Facility shall maintain a neat and professional appearance at all times while performing the Services All LFS employees shall wear uniforms provided by The City of Beaverton which will display the name and logo of The City of Beaverton. Any LFS employee who violates the terms of this Agreement, including the Exhibits and documents referenced therein, or The Round at Beaverton Central PU Initial Use Restrictions and Rules ("Rules") for PUD Properties (attached hereto as Exhibit 6) shall be appropriately disciplined and removed from the Facility at the request of The City of Beaverton

7. **LFS Facility Office** -- The City of Beaverton or Owners' Association shall provide adequate work space and storage area at the Facility for use by LFS in performing the Services under this Agreement, including all utilities, at no cost to LFS.

8. **Tools and Equipment** – All tools, equipment, testing equipment and ladders normally used in daily maintenance activities carried out by LFS shall be supplied by LFS. All other tools shall be supplied by The City of Beaverton or its vendor or contractor.

9 **Computers** – LFS shall furnish the computer hardware and software necessary for the "LFSOLUTE" maintenance system The City of Beaverton will furnish the computer hardware and software to operate, control and monitor the Central Plant and the In-Building Systems

AGREEMENT FOR OPERATIONS AND MAINTENANCE SERVICES

EXHIBIT 5

SPECIFICATIONS

1. **O&M Manuals** – LFS will develop an Operations and Maintenance Manual for the Central Plant (the "Central Plant O&M Manual") and the In-Building Systems (the "In-Building Systems O&M Manual"), unscheduled maintenance of the Central Plant and the Heating and Cooling Distribution Facilities, respectively, throughout the term of this Agreement. LFS will develop an Operations and Maintenance Manual for the Domestic Hot Water System (the "Domestic Hot Water System O&M Manual"), which will establish standardized procedures for the reliable and cost effective operation and the scheduled and unscheduled maintenance of the Boiler Plant and DHW Delivery Facilities throughout the term of this Agreement.

LFS shall fully maintain the Central Plant and the In-Building Systems in accordance with provisions of the Central Plant O&M Manual and the In-Building Systems O&M Manual, respectively, a copy of each shall be supplied by LFS to The City of Beaverton and Owners' Association. LFS shall fully maintain the Boiler Plant and DHW Delivery Facilities in accordance with provisions of the Domestic Hot Water System O&M Manual, a copy of which shall be supplied by LFS to The City of Beaverton and Owners' Association. In performing its obligations hereunder, LFS shall observe Prudent Operating Practices "Prudent Operating Practices" shall mean those practices, methods, and acts that are commonly used in operations and maintenance of central heating and cooling equipment, boiler plant equipment HVAC and related distribution and delivery systems lawfully and with reasonable safety, dependability, efficiency, and economy, and such other practices as may be specified in this Agreement.

2. **Interruptions** – In the event of scheduled maintenance that may impact the supply of O&M Services or Ancillary Services, LFS shall provide Owners' Association and The City of Beaverton with not less than 10 days' prior written notice, including information about any associated interruption or curtailment of O&M Services or Ancillary Services. If reasonably possible, LFS shall schedule and perform such maintenance and repairs to coincide with low demand periods.

3. **Emergency** – LFS shall be permitted to perform emergency repairs to the In-Building Systems. LFS shall provide notice to The City of Beaverton and Owners' Association no later than two hours after proceeding to make emergency repairs, if such emergency has caused, or is likely to cause a reduction in the scope of O&M Services or Ancillary Services provided. LFS will provide The City of Beaverton and Owners' Association, within five days after the event, a report describing any such stoppage or curtailment of O&M Services or Ancillary Services.

4 **Operating Schedule** – LFS shall provide coverage for the O&M Services and Ancillary Services as follows:

- **Standard**
  Routine tasks are scheduled around a five and a half day week (Monday through Friday plus a half day Saturday) Personnel are scheduled around a forty hour work week, with staggered schedules to expand coverage without incurring overtime. For example, first shift is 6 AM to 3 PM, Monday to Friday Second shift is 12 Noon to 8 PM, Monday to Friday and 8 AM to 2 PM, Saturday.

- **Emergency Service Response**
  Emergency response will be handled 24 hours per day, 365 days per year on an on-call basis.

Exhibit 6 – Work Authorization
City of Beaverton, Central Heating and Cooling Plant

Expenditure Authorization

TO: Linc Facility Services LLC

12725 SW Millikan Way, Suite 110

Beaverton, OR. 97005

Authorization Number _____

Date of Authorization _____

Date of Orig Contract ___

Project Name and Location: Central Heating and Cooling Plant @ the Round at Beaverton Central

1. You are hereby authorized to make the following change(s)/addition(s) to the above-referenced contract and project, it being understood that this change is subject to the terms and conditions of the original contract unless noted otherwise:

To engage in subcontract with "Microgrid" for Consulting Services

2. CONTRACT TERM

Present Budgeted Amount	Amount of This Change	Revised Budget Amount
_____	N/A	$00.00

Executed by:

Linc Facility Services LLC.

_____
Subcontractor

By:_____
(Authorized Signature)

City of Beaverton

By:_____
(Authorized Signature)

AGENDA BILL

Beaverton City Council
Beaverton, Oregon

SUBJECT: Exemption From Competitive Solicitation - Award Personal Services Contract for the Construction Management of the Beaverton Central Plant

FOR AGENDA OF: 09/11/06 **BILL NO:** 06161

Mayor's Approval:

DEPARTMENT OF ORIGIN: Mayor's Office

DATE SUBMITTED: 09/06/06

CLEARANCES: Finance
Purchasing
City Attorney
Central Plant

PROCEEDING: Consent
(Contract Review Board)

EXHIBITS: 1: Draft Contract

BUDGET IMPACT

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

HISTORICAL PERSPECTIVE:

The final development at The Round is expected to consist of a total of eight buildings. Three buildings and a parking structure have been constructed to date. The developer is scheduled to complete the remaining buildings by 2008. At completion, The Round is expected to house 64 condominiums, 80,000 square feet of retail space, 450,000 square feet of office space, and 800 parking spaces in two separate parking structures.

The four buildings remaining to be constructed are designated Buildings "E", "F", "G" and "H". Building "E" is expected to be a three-story, 46,337 square foot building of which 14,587 square feet will be retail space and the remainder (31,750 square feet) will be for office use. Building "F" is planned as a five-story, 88,611 square foot structure of which 16,782 square feet will be retail space and the balance (71,829 square feet) will be committed to office use. Building "G" is expected to be a six-story structure with 118,463 square feet of parking space, 11,161 square feet of retail space and 7,219 square feet of commercial space. Building "H" is expected to be 92,000 square feet.

The Beaverton Central Plant (BCP) provides heating and cooling and other space conditioning at The Round. The BCP is owned by the City, but the City currently relies on an outside service provider, LINC Facility Services (LFS), to operate and maintain the Plant. This same vendor managed and operated the facility for the Plant's previous owner. At the time the Plant was acquired by the City, the City asked LFS to temporarily continue to provide operation and maintenance services. LFS agreed and has operated the facility to the City's full satisfaction. The City has a good working relationship with LFS and found the company reliable.

LFS has 25 years of experience as a nationwide provider of on-site integrated facility management services and customized facility solutions. LFS' capabilities include technical operations and maintenance, facility support services, facility subcontract management and site related administrative and office services.

Local LFS personnel are especially familiar with the Beaverton Central Plant and its proprietary operating system. Local LFS personnel have supported the development of the BCP from inception. In addition, the on-site personnel have more than 14 years of experience with the Plant's proprietary operating systems and technologies. There are few local companies with similar experience. No other company is as familiar with the Beaverton Central Plant as is LFS and its on-site personnel.

INFORMATION FOR CONSIDERATION:

As a result of agreements signed with the developer of The Round, the City is committed to provide space conditioning (i.e., heating and cooling) to all new buildings constructed on site. This commitment will require a substantial amount of construction in the foreseeable future related to the BCP. The construction will include the laying of piping and the expansion of the BCP's physical plant to increase its heating and cooling capacity.

The City seeks to use the services of a construction manager to assist in coordinating the expansion of the BCP. The construction manager will help the City extend space conditioning to the new buildings to be constructed at The Round. The construction manager will advise the City on matters such as scheduling, cost control, product specifications, coordination of contract negotiations and awards, the timely purchase of critical materials and long-lead items. The construction manager will also coordinate construction activities. The construction manager will not be the entity that actually constructs the expansion of the BCP; that work will be let through separate solicitation processes.

Given the expertise and proven track record of LFS in operating and maintaining the heating and cooling and domestic hot water facilities at The Round, the City now seeks to enter into a five-year contract with LFS to have the company provide construction management services at The Round. The proposed arrangement does not require the City to use LFS as a construction manager, but establishes a framework whereby the City may assign work to LFS on a project-by-project basis under a pre-established set of contractual terms and conditions. A five-year term is chosen for this agreement partly to assure that the same construction manager is available to the City throughout the build out of The Round.

Under the proposed agreement, LFS will charge the City 8% of project-related costs to provide construction management services related to the BCP. As presently understood, no project related to the BCP is expected to generate an 8% fee in excess of $50,000. However, it is likely that in the course of a year's time the aggregate fee earned by LFS for construction management services related to the BCP will exceed $50,000.

For example, three BCP-related projects currently underway relate to (1) the construction of piping and vaults to extend the Beaverton Central Plant services to Building "E"; (2) the construction of piping and vaults to extend the Beaverton Central Plant services to Building "F"; and (3) the installation of a new chiller at the Beaverton Central Plant. The City seeks to use the services of LFS as a construction manager in all three of these projects. At present, the anticipated 8% fee for each of the projects is $20,000, $12,000 and $20,000, respectively. No one project has a construction management fee over $50,000, but in the aggregate the fees equal $52,000.

Under its existing purchasing code, the City is allowed to hire a construction manager for a construction project without formal competitive solicitation, provided the fee for service is under $50,000. In this instance, however, the City has determined that it is in the best interest of the City and the public for the City to obtain Contract Review Board approval of a "contract-specific special procurement" for the purpose of selecting LFC to provide construction management services for a series of contracts related to the Beaverton Central Plant. This alternative contracting method is permitted pursuant to ORS 279B.085 and Beaverton Purchasing Code, section 50-0015.

The justification for the alternative contracting method is, in part, based on LFS's familiarity with the physical plant design and operation of the Beaverton Central Plant. In addition, the company has 25 years of experience as a nationwide provider of on-site integrated facility management services and customized facility solutions. LFS' capabilities include technical operations and maintenance, facility support services, facility subcontract management and site related administrative and office services.

Another major reason why an alternative contracting method is proposed in this particular instance is that work is now underway to construct two more buildings at The Round. During construction, it is important that existing tenants and customers continue to receive heating and cooling and domestic hot water services without interruption or variation in quality of service. LFS is best able to assure these objectives will be achieved. If another contract manager were brought on board at this juncture, there is an increased risk that during building construction the quality of utility service provided to existing tenants and customers at The Round would be adversely affected. LFS has dealt with construction challenges at The Round and has handled them satisfactorily.

Approval of the requested alternative contracting method is unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contracts. There are few companies familiar with the proprietary operating strategies and operating techniques used in connection with the BCP. No company is as familiar with the heating and cooling and domestic hot water facilities at The Round as is LFS. It is unlikely under these unique circumstances that the City would reasonably choose any other construction manager for the Beaverton Central Plan but LFS if the award of such a contract were made through an expensive and time-consuming formal competitive process.

Pursuant to ORS 279B.085(4), the Contract Review Board may approve the City's request for a special procurement if the Board finds that the written request for approval of a special procurement demonstrates that the use of the special procurement as described in the request will (a) be unlikely to encourage favoritism in the awarding of public contracts or to substantially diminish competition for public contacts and either (b) result in substantial cost savings to the City or to the public or (c) otherwise substantially promote the public interest in a manner that could not practicably be realized by complying with regular purchasing requirements.

Accordingly, the City requests that the Contract Review Board find, based on the information supplied in this agenda bill and its attachments, that under the standards of ORS 279B.085(4) the City is justified in using the alternative contracting method described herein for the purpose of selecting LFS to provide personal services related to construction management of the various construction projects at the Beaverton Central Plant.

Finally, the City has determined that under its local purchasing code, it is required to give substantially greater notice of its intention to seek Contract Review Board authorization of a special procurement than is required under state law. The result is that the City spends more time and money publishing notices related to special procurements than is required under state law. The City experiences further delay in awarding contracts pursuant to an authorized special procurement due to the fact that the City's purchasing code imposes a 14-day period between the City's publication of notice of the Contract Review Board's approval of a special procurement and the award of a contract under that authorization. The State only imposes a 7-day delay. In both instances, the purpose of the delay is to allow any adversely affected person to file a protest against the approval of a special procurement. An amendment to the City's purchasing code will be forthcoming to rectify these anomalies and to have the City's purchasing code conform to state law on these notice-related issues. For purposes of this particular special procurement request, however, the City hereby requests the Contract Review Board (a) to waive its self-imposed requirement that the City provide notice by special publication of the City's intent to request Contract Review Board approval of this special

procurement and (b) to shorten to seven days the period between the City's publication of notice of the Contract Review Board's approval of this requested special procurement and the award of a contract pursuant to that authorization. Notice of this request for a special procurement has been generally given by virtue of Oregon's Public Meeting Law. The City will give notice of the Contract Review Board's approval of this special procurement in the same manner as public notice of competitive sealed bids under ORS 279B.055(4). The public notice will describe the services to be acquired through the special procurement. The City shall give such public notice of the approval of a special procurement at least seven days before award of any special procurement contract.

RECOMMENDED ACTION:

Council, acting as Contract Review Board:

(1) find, based on the information supplied in this agenda bill and its attachments, that under the standards of ORS 279B.085(4) the city is justified in using the alternative contracting method described herein for the purpose of selecting LINC Facility Services, Inc, to provide construction management services related to the Beaverton Central Plant;

(2) authorize the city to award contracts to LINC Facility Services, Inc, as needed to provide construction management services related to the build out of the Beaverton Central Plant, in a form approved by the City Attorney; and

(3) waive the requirement under BPC 50-0015(B) that the City provide notice by special publication of its intent to request Contract Review Board approval of this special procurement and shorten to seven (7) days the period between publication of the Contract Review Board's approval of this special procurement and the award of any contract hereunder; said publication of notice to be in the same manner as public notice of competitive sealed bids under ORS 279B.055(4).

MASTER CONSTRUCTION MANAGEMENT AGREEMENT

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MASTER CONSTRUCTION MANAGEMENT AGREEMENT

THIS CONTRACT ("Contract" or "Agreement") is entered into between the CITY OF BEAVERTON, an Oregon Municipal Corporation, located at 4755 SW Griffith Drive, P.O. Box 4755, Beaverton, Oregon 97076-4755 ("City") and Linc Facility Services, LLC, a Delaware corporation, located at 1201 Louisiana Street, Suite 2700, Houston, TX 77002 ("CM") relating to construction management services provided during pre-construction and construction phases of construction projects. The City's primary supervisor for this Contract ("Contract Administrator") is Lonnie Dicus.

THE PARTIES HEREBY AGREE THAT:

ARTICLE 1: GENERAL PROVISIONS

1.1 GENERAL TERMS AND CONDITIONS

1.1.1 This Agreement shall become effective on the date it has been signed by every party hereto and, approved by legal counsel for the City. Unless terminated or extended, this Contract shall expire on June 30, 2011 ("Term").

1.1.2 This Agreement is entered into and is to be performed in Oregon and shall be governed and construed in accordance with the laws of the State of Oregon, without resort to any jurisdiction's conflict of laws, rules or doctrines. Any claim, action, suit, or proceeding between City and CM arising from or relating to this Agreement shall be brought and conducted solely and exclusively within the Circuit Court of Washington County, Oregon, or, if the claim must be brought in a federal forum, the United States District Court for the District of Oregon. CM hereby consents to *in personam* jurisdiction of said courts.

1.1.3 In the event of a conflict between the provisions of any exhibit to this Agreement and the Agreement, the provisions of this Agreement shall govern.

1.1.4 City's exercise of any of its rights or remedies prescribed in this Agreement shall not relieve CM from responsibility for damages or other losses incurred or to be incurred by City as a result of CM's breach of its obligations under this Agreement.

1.1.5 Time is of the essence for this Agreement. The CM shall at all times carry on the work diligently, without delay and punctually fulfill all requirements herein.

1.1.6 The Contract (including, to the extent provided herein, any referenced exhibits) represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. No oral agreement or conversation with any officer, agent, employee or personnel of the City, or with a Design Professional, either before or after the execution of

this Contract, shall affect or modify any of the terms or obligations of the contract documents.

1.1.7 In cases of apparent discrepancies or conflicts between the plans and specifications, the CM shall first determine whether the matter can be resolved pursuant to the rule stated herein. If not, the apparent conflict shall be resolved by designating the portion of the Contract Documents that takes precedence of the other. Therefore, CM shall use the following order of precedent to resolve any apparent conflict:

1.1.7.1 Change Orders

1.1.7.2 Addenda

1.1.7.3 Permits from outside agencies required by law

1.1.7.4 This Contract

1.1.7.5 Specifications and Drawings and notes on Drawings

1.1.7.6 The Solicitation Documents

1.1.7.7. The General Contractor's written response to the RFP

1.1.7.8 The standard contract form signed by the General Contractor

1.1.8 If the CM finds discrepancies in, or omissions from the Contract Documents, or if the CM is in doubt as to their meaning, the CM shall at once notify the Design Professional and the Contract Administrator. CM shall not proceed without direction in writing from the Contract Administrator.

1.1.9 Section headings and capitalization of defined terms are intended to assist the reader. Section headings and capitalization of lack thereof, shall not effect the interpretation of the Contract Documents.

1.1.10 If any provision of this Contract is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected: only the particular provision shall be stricken; and the rights and obligations of the parties shall be construed and enforced as if the Contract did not contain the particular provision held to be invalid.

1.1.11 Failure of City to enforce any provision of this Contract shall not constitute a waiver or relinquishment by City of the right to such performance in the future or of the right to enforce any other provision of this Contract.

1.1.12 The provisions of this Contract shall be binding upon and shall accrue to the benefit of the parties to the Contract and their respective successors and assigns.

1.1.13 This Contract may be executed in several counterparts, all of which when taken together shall constitute one agreement binding on all parties, notwithstanding that all parties are not signatories to the same counterpart. Each copy of the Contract so executed shall constitute an original.

1.1.14 Expiration shall not extinguish or prejudice City's right to enforce this Contract with respect to any breach of a warranty or any default or defect in CM's performance that has not been cured. All representations, indemnifications, warranties and guarantees made in, required by or given by the CM in accordance with this Contract, as well as all continuing obligations indicated in the Contract, will survive final payment to the CM, completion of the Project and termination or completion of the Contract.

1.1.15 CM hereby represents that no employee of the City, or any partnership or corporation in which a City employee has an interest, will or has received any remuneration of any description from CM, either directly or indirectly, in connection with the letting or performance of this Contract, except as specifically declared in writing.

1.1.16 CM shall notify City before CM uses products containing hazardous chemicals to which City employees or patrons may be exposed. In accordance with the OR-OSHA Hazard Communication Rules in OAR chapter 437, division 155, CM shall provide City with a Material Safety Data Sheet for any goods CM provided under this Contract that may release, or otherwise result in exposure to a hazardous chemical under normal conditions of use (OAR 437-155-005(2), 437-155-025). In addition, CM must label, tag, or mark such goods.

1.1.17 The service or services to be rendered under this Contract are those of an independent contractor and the CM shall be responsible for any federal, state and local taxes and fees applicable to payments hereunder. The CM, its subcontractors and their employees are not employees of the City and are not eligible for any benefits through the City including, without limitation, federal social security, health benefits, workers' compensation, unemployment compensation and retirement benefits. As used herein, "Independent Contractor" means that:

1.1.17.1 CM is free from direction and control over the means and manner of providing labor or services, subject only to City's right to specify the desired results.

1.1.17.2 CM is responsible for obtaining all required business registrations or professional occupational licenses, provided City will cooperate with CM as CM reasonably requires to obtain and to maintain such registrations or licenses.

1.1.17.3 CM furnishes the tools or equipment necessary to perform the contracted labor or services CM will perform except as provided for by the City.

1.1.17.4 CM has the authority to hire and fire CM's employees.

1.1.17.5 For labor and services performed as an Independent Contractor in the previous year, CM has either filed federal and state income tax returns in the name of CM's business or, in the alternative; CM has filed a Schedule C tax form as part of CM's personal income tax return.

1.1.17.6 CM represents to the public that the labor or services described herein are to be provided by an independently established business.

1.1.17.7 Payment to the CM is made upon completion or periodic completion of the performance required herein, or is made based on a periodic retainer.

1.1.18 CM must provide CM's Social Security Number unless CM provides a federal taxpayer ID number. This number is requested pursuant to BPC 47-0636 of the Beaverton Purchasing Code (Resolution 3809, as amended). Social Security numbers provided pursuant to this authority will be used for the administration of state, federal and local tax laws.

1.2 CONSTRUCTION MANAGER STANDARD OF CARE

1.2.1 CM, its officers, agents, employees, subcontractors, consultants and any persons or entities for whom CM is responsible, shall provide all services pursuant to this Agreement in a manner consistent with the standard of care under Oregon law applicable to those who specialize in providing such services for projects of the type, scope, and complexity of the Project. CM shall employ methods that are generally accepted and used by the industry, in accordance with industry standards unless the means or methods of performing a task are specified otherwise in the Contract Documents.

1.2.2 CM represents and warrants to City that:

1.2.2.1 CM has the power and authority to enter into and perform this Contract;

1.2.2.2 When executed and delivered, this Contract shall be a valid and binding obligation of CM enforceable in accordance with its terms;

1.2.2.3 If CM provides personal services under this Contract, the work under this Contract shall be performed in a good and workmanlike manner;

1.2.2.4 If CM provides professional services under this Contract, the work under this Contract shall be performed in accordance with generally accepted professional practices and principles and in a manner consistent with the level of care, skill and diligence ordinarily exercised by members of the profession currently practicing under similar conditions; and

1.2.2.5 CM shall, at all times during the term of this Contract, be duly licensed to perform the work, and if there is no licensing requirement for the profession or work, be duly qualified and competent.

1.2.3 The warranties set forth in this Section 1.2 are in addition to, and not in lieu of, any other warranties provided in this Contract.

1.3 DEFINITIONS

1.3.1 City.
The term "City" shall mean the City of Beaverton, Oregon.

1.3.2 Construction Budget.
The term "Construction Budget" shall mean the City's written statement of funds available to pay for the cost of construction.

1.3.3 Construction Documents.
The term "Construction Documents" shall mean the drawings and specifications, prepared by the Design Professional, setting forth in detail the requirements for the construction of the Project.

1.3.4 Contract Documents.
The term "Contract Documents" shall mean the Advertisement for Bids, Instruction to Bidders, Supplementary Instructions to Bidders, Bid Form, Agreement, General Conditions, Supplementary Conditions, Affirmative Action Program, Exhibits to the Construction Documents, Specifications, List of Drawings, Drawings, Addenda, Notice to Proceed, Change Orders, Notice of Completion and all other items identified in the Construction Contract Agreement.

1.3.5 Design Professional.
The term "Design Professional" means an architect, registered landscape architect, professional engineer or professional land surveyor. Multiple Design Professionals may work on a single Project.

1.3.6 Estimated Project Construction Cost.
The term "Estimated Project Construction Cost" shall mean CM's written estimate of the total construction cost of the Project at the various stages of the design process.

1.3.7 Project.
The term "Project" shall mean a construction project as the City may from time to time assign to CM for management.

1.3.8 Project Program
The term Project Program (Exhibit "B" to this agreement) is the proposed build out of The Round project as regards the Beaverton Central Plant systems.

1.3.9 Project Schedule.
The term "Project Schedule" shall mean the schedule prepared by CM for City showing Project milestones, funding, design, design review, construction, and other deadlines applicable to the Project.

1.3.10 Record Documents.
The term "Record Documents" shall mean the Design Professional's record drawings and final specifications made from the as-built documents received from the Construction Contractor.

1.3.11 Solicitation Documents.
The term "Solicitation Documents" shall mean those documents prepared and furnished by City for the purpose of obtaining bids or proposals from contractors to construct a Project.

ARTICLE 2: BASIC SERVICES

Basic construction management services to be provided by CM in relation to an assigned Project consist of the services described in this Article 2.

2.1 GENERAL

2.1.1 From time to time, City shall assign a specific Project to CM to manage and otherwise administer consistent with the terms of this Agreement. The City's assignment of a Project to CM shall be documented in written form substantially similar to the form provided at Exhibit "A".

2.1.2 Upon assignment of a project, CM shall designate a principal or a staff member to act as CM's representative. This representative shall remain in charge of all professional services for the Project under this Agreement. The representative shall remain in charge of all professional services for the Project under this Agreement so long as the representative's performance continues to be acceptable to City or until a substitute representative is approved in writing by the City.

2.1.3 If for any reason the person designated as CM representative in this Article 2 becomes unavailable, the City may terminate this Agreement for convenience under Article 16. This right to terminate the Agreement for convenience shall be in addition to, and shall not limit, any other rights or remedies available to the City.

2.1.4 CM shall advise City on the time and cost consequences of design and construction decisions, scheduling, cost control, coordination of contract negotiations and awards, timely purchasing of critical materials and long-lead items, and coordination of construction activities, as more particularly described in this Article 2.

2.1.5 To the extent required by City, CM shall consult with authorized employees, agents, and representatives of City relative to the design and construction of the Project.

2.1.6 CM shall assist City and Design Professionals in fulfilling the requirements of the authorities and funding agencies whose interests bear on the design, cost, and construction of the Project.

2.1.7 CM shall cooperate with City, its designees, and Contractor in furthering the interests of City. CM shall cooperate with Design Professionals and other professionals City may employ for work related to a Project.

2.1.8 CM shall monitor the work of any Design Professional to ensure that the work is performed appropriately and report to City any issues CM identifies. Notwithstanding the foregoing, City acknowledges that CM is not a "Design Professional" as that term is defined herein and the services of a Design Professional are not within the scope of services provided by CM. City agrees that CM provides no warranty for, and shall not be liable to any extent for, any acts, errors or omissions of any Design Professional.

2.1.9 CM shall abide by all regulations imposed by authorities having jurisdiction over the Project and comply with all federal, state and local laws, ordinances, rules, regulations and executive orders applicable to the work to be performed under this Contract. Failure or neglect on the part of CM to comply with any or all such laws, ordinances, rules or regulations shall not relieve CM of these obligations or the requirements of this Contract. Without limiting the foregoing, CM shall comply with all federal, state and local civil rights and rehabilitation laws prohibiting discrimination because of race, sex, national origin, religion, age or disability, and shall comply with all applicable provisions of ORS 279C.500 through 279C.565. The provisions of ORS 279C.505, ORS 279C.510, ORS 279C.515, ORS 279C.520 and ORS 279C.530 are hereby incorporated herein by this reference and the applicable terms therein shall be binding upon CM. The parties shall comply with any state or federal law or regulation specific to the funding source that supports this Contract.

2.1.10 CM shall be responsible for all federal or state taxes applicable to compensation or payments paid to CM under this Contract. Unless CM is subject to backup withholding, City will not withhold from such compensation or payments any amount to cover CM's federal or state tax obligations.

2.2 [THIS SECTION INTENTIONALLY OMITTED]

2.3 DESIGN DEVELOPMENT PHASE

2.3.1 CM shall assist with design development and specifications, scheduling, preparing cost estimates, value engineering, determining constructability, providing different options, and sequencing of the Project.

2.3.2 CM shall consult with City, Design Professional, and others, as approved by City, in order to analyze, evaluate, and make recommendations regarding elements of the Project site, including Contractor access, storage, site offices, Project site limit lines, coordination with existing or proposed utility systems, and the effect construction will likely have on adjacent buildings, walkways, and streets.

2.3.2 CM shall review from a function, quality, schedule, and cost efficiency standpoint Design Professionals submittals of Design Development documents and evaluate the proposed Project design features, systems, availability of materials, and recommend alternatives that would, in the CM's opinion, increase constructability, lessen the construction time, or reduce the Project Budget without deviating from minimum Project Program requirements. CM's written evaluation to City shall include conclusions, alternatives, and recommendations (including energy conservation alternatives). As requested by City, CM shall meet with Design Professional to discuss its review findings.

2.3.3 CM shall prepare and submit to City an updated written Estimated Project Construction Cost based on the documents submitted by Design Professional in this phase. This estimate shall reflect the character of the Project and the character of the selected mechanical and electrical systems in greater detail than the Schematic Design estimate.

2.3.4 CM shall develop a Project Schedule and Schedule Control System in consultation with City and Design Professional which shall be the basis upon which the CM monitors and evaluates the progress of the Project. The Schedule Control System shall be in accordance with the Project Schedule, and shall define design, construction, and occupancy or use phases, delineating the responsibilities of City, Design Professional, CM and Contractor. The Schedule Control System shall be subject to written approval by City. The Schedule Control System shall consist of the following two elements:

2.3.4.1 A detailed time-scaled logic diagram depicting the durations and responsibilities for all activities, including subcontractor start and completion dates and City's procurement of equipment and materials with long lead times prior to selection of the Contractor.

2.3.4.2 A summary diagram showing the major milestones identified in the time-scaled logic diagram.

2.3.5 CM shall develop a Cost Control System, in consultation with City which shall be the basis upon which CM monitors all Project costs. The Cost Control System shall be in keeping with the Project Budget. The Cost Control System shall be used by CM to report the status of the Project Budget and Project costs in a Monthly Cost Report. The Monthly Cost Report shall reflect all encumbrances and expenses and shall provide cost projections through Project completion. Major deviations from the previous month's report shall be annotated and explained in the subsequent Monthly Cost Report. With the exception of Estimated Project Construction Costs, which are provided by CM and Design Professional, all cost information for the Monthly Cost Report will be provided by City. The Cost Control System must be approved in writing by City.

2.3.6 CM shall promptly report to City any non-conformity or potential problems with City's Project objectives of quality construction, timely completion, and economy, with City's Project Program, Construction Budget, and Project Schedule.

2.4 CONSTRUCTION DOCUMENTS PHASE

2.4.1 CM shall review Design Professional's submittals for this phase at 90% to determine whether the documents adequately describe the quality, configuration, size and relationships of all components to be incorporated into the Project, whether the Construction Documents are consistent with the Project Program, the Construction Budget and the Project Schedule.

2.4.2 CM shall work with Design Professionals to tailor City's specific requirements of the Project.

2.4.3 CM shall confirm that the Drawings and Specifications are consistent with applicable design standards for the Project.

2.4.4 CM shall check for coordination of the documents in terms of (a) consistency and conformity of each part with all other parts of the same document and (b) consistency and conformity of each document with all other documents relating to the Project.

2.4.5 CM shall verify or "backcheck" the resubmittal of any 100% documents to ensure that all corrections have been made to the resubmittal.

2.4.6 CM shall develop a recommendation list of cost items that the Contractor should include in its cost breakdown. CM shall use the Construction Specification Institute format, and submit this list to City for inclusion in the Construction Documents.

2.4.7 CM shall prepare a Representative Construction Schedule for inclusion in the Construction Documents.

2.4.8 If required by City, CM shall schedule and conduct a final constructability review on the 100% submitted documents.

2.4.9 CM shall prepare and submit to City, an independent written Estimated Project Construction Cost based on the documents submitted by Design Professional for this phase at both 90% submittals, and at the end of the verification of the corrected 100% submittal. If requested by City, CM shall meet with Design Professional to reconcile discrepancies between its estimate and Design Professionals estimate.

2.5 SOLICITATION PHASE

2.5.1 CM shall provide City with an analysis of market conditions prior to the publication of the advertisement for bids or proposals, recommend release dates of Solicitation Documents and the duration of the solicitation period for the Project, or for portions of the work, as applicable, and advise City of the likelihood of obtaining bids that are within the Construction Budget.

2.5.2 CM shall assist City and Design Professional in developing prequalification criteria, and preparation of prequalification documents, as requested by City.

2.5.3 CM shall actively encourage contractors with known expertise on projects of similar size and scope to bid on the Project.

2.5.4 As requested by City, CM shall assist with preparation and conducting the pre-bid conferences, and assist in the preparation of required Addenda to be issued by City.

2.5.5 If requested by City, CM shall assist City and Design Professional in reviewing or evaluating individual construction bids or proposals submitted for the Project. Upon request, CM shall prepare a report (1) summarizing the bid results, (2) comparing the lowest responsible bid with the current Construction Budget, (3) stating whether the prices submitted are complete, reasonable and consistent, (4) that there is no overlap or omission between trades and (5) where prequalification has not been utilized, evaluating whether the contractor and subcontractors listed in the lowest responsible bid meet the applicable minimum experience requirements set forth in the Construction Documents.

2.5.6 If requested by City, CM shall suggest programmatic or other changes in the Project scope or quality, or both, that would reduce the Project's Construction Cost. Upon request, CM shall assist City in any negotiation with bidders or proposers regarding such changes.

2.5.7 CM shall abide by all applicable public purchasing laws and regulations. All public purchasing shall be conducted in compliance with applicable federal, state and

local law, including ORS chapters 297A, B and C and the Beaverton Purchasing Code (as amended).

2.6.9 The CM shall comply with all applicable provisions of the Americans with Disabilities Act of 1990, 42 USC Section 12101 et. seq. If any proposer requires special assistance or auxiliary aids during the proposal process, please notify the City, at least two workdays prior to the required assistance.

2.6.10 If there is a challenge to a bid award, assist City in defending such challenge.

2.6 CONSTRUCTION PHASE

2.6.1 CM shall prepare or have prepared and shall process all permit applications, retaining copies of permits for City's permanent files.

2.6.2 CM shall maintain a full filing system for managing the documents on site that will be processed during the construction phase.

2.6.3 Provide a schedule and conduct regular site progress meetings, at least weekly. Prepare and distribute minutes of the weekly construction progress meetings.

2.6.4 Provide regular and on-going quality inspection and assistance to the Design Professional to ensure that the work meets all specifications and applicable codes.

2.6.5 Prepare and expedite Proposed Change Orders. Provide a detailed cost analysis of all proposed subcontractor costs. Ensure that all Change Orders receive City's prior approval before the execution of work and that all costs are either on a lump sum basis or a time and materials basis with a not-to-exceed limit. No time and material work shall occur without a not-to-exceed limit. For work performed on a time and material basis, monitor and insure that accurate records are maintained.

2.6.6 In the event that interpretation of the meaning and intent of the Contract Documents becomes necessary, expedite consultation and resolution with the Design Professional and City's Representative.

2.6.7 Monitor progress of the work, provide regular reports to the Design Professional and City's Representative in the form of a bar chart update supplemented as required by verbal and photographic information, and recommend such action as may be necessary to keep the project on schedule and within budget.

2.6.8 Review all payment requests, make physical inspections of the work to assure accuracy and completeness of each payment request, and certify that each payment request is an accurate reflection of the work completed. Make recommendations for the approval of progress payments and final payments.

2.6.9 Assist in monitoring compliance with all safety requirements on the project site.

2.6.10 Review all requests for time extensions. Work with the contractor, subcontractors, Design Professionals, and the City to find solutions, wherever possible, to avoid delaying elements on the Project Schedule.

2.6.11 Keep on site at all times a set of Project and record documents to include one copy of: proposal documents (consisting of Project Manual, Drawings), contract forms, project manual, contract drawings, addenda, construction change authorizations, change orders, reviewed shop drawings, office sample, field test records, building permits, project schedule and monthly reports along with the Architect's Supplemental Instructions.

2.6.11.1 Store documents and samples in CM's field office separate from documents used for construction.

2.6.11.2 Keep current the Record Documents and label "Project Record." Record location of concealed items and utility lines, field changes in dimensions, details and changes in materials on the Project record documents. Record changes from Architect's Supplemental Instructions, change orders, construction change authorizations, and details not on contract drawings.

2.6.11.3 CM will be required to certify, at final submittal, that the Record Documents note all changes made during construction from the initial Contract Documents and that the record drawings show the location of all concealed systems installed during construction.

2.6.11.4 Project Record Documents shall be reviewed monthly as part of the CM application for payment process. The CM shall review the subcontractor's record drawings to confirm that they are updated and all subcontractor's record documents shall be reviewed monthly along with the CM record drawings. Failure to keep project record documents current shall delay the CM's application for payment until the Project record drawings are brought current.

2.6.11.5 Design Professional shall arrange for the CM to obtain reproducibles for transfer of record drawing information. CM shall transfer the information from the marked up documents to the reproducible documents in a neat, readable and draftsman like manner. The CM shall ensure that its and all of its subcontractor's Project Record Documents shall be completed each month and in a neat, readable and draftsman like manner. Cost of reproducibles will be charged to and paid by the Contractor. Final certified "as-built" reproducibles in addition to the Project Manual, bound in three binders including Addenda, Construction Change Authorizations, Change Orders, Architectural Supplemen-

tal Instructions or any other Documentation of Modifications shall be submitted to the Design Professional before final payment is requested.

2.6.11.6. Design Build Record Document: The CM shall provide City the Project record documents for the design build portions of the Project that follow the intent of the other parts of this Section.

2.6.12 Monitor compliance with payment of prevailing wages on all contracts and subcontracts. Provide documentation to the State of Oregon Wage and Hour Division as required by ORS Chapter 279 with duplicates to the Contract Administrator.

2.6.13 Compile a schedule in conjunction with City to permit a coordinated occupancy or use following completion of construction.

2.6.14 CM shall assist City in monitoring written communications between Design Professional and Contractor.

2.6.15 CM shall assist Design Professional, as requested by City and Design Professional, in the resolution of disputes.

2.6.16 CM shall maintain, monitor, and update the Cost Control System. The monthly Cost Report shall compare the original Project Budget with the current Project cost, identify expenditures to date, state the budget required for completion of each major category of work, identify actual and anticipated Change Orders, and predict the current estimated total Project cost. All major changes and cost factors shall be described in a narrative that shall be attached to the Monthly Cost Report. The current month's report narrative shall identify any changes from the estimate in the previous month's report.

2.6.17 CM shall assist City and Design Professional in evaluating Contractor Change Order Requests, and shall make written recommendations regarding such requests.

2.6.18 CM shall assist in City negotiations with Contractor as requested by City.

2.6.19 CM shall assist Design Professional, as requested by City, in obtaining back-up documentation, shop drawings, and materials submittals from Contractor.

2.6.20 CM shall abide by all applicable prevailing wage laws and regulations and assist City in complying with applicable state or federal prevailing wage laws.

2.6.21 CM will see to it that contractor or subcontractors provide necessary insurance and bonding pursuant to contract requirements.

2.6.22 CM will assemble all guarantees, warranties, operating manuals, drawings and other information required by the contract documents and forward them to the city at project completion.

2.6.23 CM will ensure completion of all punch list items.

2.7 RECORD DOCUMENTS

2.7.1 CM shall receive Design Professional's Record Documents, evaluate their completeness and recommend to City in writing whether to accept or reject said documents.

ARTICLE 3: ADDITIONAL SERVICES

3.1.1 CM shall perform such additional services as may be specifically identified in writing signed by City. No additional services shall be compensable unless so authorized.

3.1.2 Unless required to be performed as part of basic services, the additional services shall be paid for by City as provided in Article 5 of this Agreement, in addition to the compensation for Basic Services.

ARTICLE 4: CITY RIGHTS AND RESPONSIBILITIES

4.1 ADMINISTRATION

4.1.1 City shall designate, in writing, a Contract Administrator who will act on behalf of City with respect to this Agreement. CM shall accept directives only from City's named Administrator and not from other City employees. City may replace City's named administrator or name additional Contract Administrators, at its sole option; if either of these changes are made, City shall notify CM in writing.

4.2 PROVISION OF INFORMATION, SURVEYS, AND REPORTS

4.2.1 City shall furnish copies of Drawings, Specifications, and other Project-related documents deemed necessary by City and CM for the performance of CM's services under this Agreement.

4.2.2 Contemporaneous with a Project assignment, City may furnish CM with other Project-related information and reports, which may include, without limitation or obligation, the following:

4.2.2.1 Design Professional Agreement

4.2.2.2 Construction Contractor Agreement

4.2.2.3 Rate Schedule

4.2.2.4 Reimbursement Schedule

4.2.2.5 Certificate of Insurance Form

4.2.2.6 Project Budget

4.2.3 City may make changes to an assigned Project's scope of work. When such changes increase the duties of CM beyond those reasonably and customarily provided in Basic Services, CM shall be compensated for the additional services in accordance with this Agreement.

4.2.4 City may make reasonable changes to its Solicitation Documents and CM shall be bound by such changes. When such changes increase the duties of CM, beyond those reasonably and customarily provided in Basic Services, CM shall be compensated for the additional services in accordance with this Agreement.

4.2.5 City shall furnish information to CM for purposes of updating the Project Schedule as dates and durations applicable to the Project such as funding deadlines, review periods, anticipated periods of Project suspension, and construction deadlines become known.

4.2.6 The services, information, surveys, and reports required to be furnished to CM by City by this Article 4 will be furnished at City's expense.

ARTICLE 5: COMPENSATION

5.1 COMPENSATION FOR BASIC SERVICES

5.1.1 The fee for Basic Services (the "Construction Management Fee") shall be 8% of all Project-related costs.

5.1.2 City reserves the right to withhold monies for services not received as part of Basic Services which extend beyond the duration of this Agreement unless an Amendment is issued by City for extension of services.

5.2 COMPENSATION FOR ADDITIONAL SERVICES

5.2.1 For the Additional Services of CM, as described in Article 3, compensation shall be in accordance with an agreed-to Rate Schedule detailing either an hourly rate or a lump-sum charge for the Additional Services.

5.3 REIMBURSABLE EXPENSES

5.3.1 When requesting reimbursement of Reimbursable Expenses, CM shall submit paid invoices or other proof of payment. City shall only reimburse CM for the actual costs of Reimbursable Expenses.

5.3.2 City shall pay Reimbursable Expenses in addition to the compensation for Basic or Additional Services and are actual expenditures made by CM in the interest of the Project, for the following expenses:

5.3.2.1 Expenses for postage, handling, and delivery for Drawings, Specifications, and other documents, requested by City.

ARTICLE 6: PAYMENTS

6.1 PAYMENTS FOR BASIC SERVICES

6.1.1 The Construction Management Fee for Basic Services, as defined in Article 2, shall be the amount stipulated in Subsection 5.1.1.

6.1.2 At least thirty (30) days prior to due date of payment, CM shall submit a monthly invoice to City setting forth in detail, as a separate line item, the services rendered during the previous month. CM shall prepare and submit to: **THE CITY OF BEAVERTON, ATTENTION: Lonnie Dicus, PO BOX 4755, BEAVERTON, OREGON 97076,** an invoice of services rendered. Payment shall be made upon Contract Administrator's approval and acceptance of CM's completed work described herein, whereupon Contract Administrator shall submit a payment request to City's Finance Department. If charges are made for services performed and those charges are to be paid from grant funds, the services shall relate directly to the grant from which the funds are expended. When interim payments to CM for partial completion of tasks or services is made, interim payment shall release City from any further obligation for payment to CM for work performed or expenses incurred as of the date of the invoice of services rendered.

6.1.3 Services shall be allocated to Basic Services, authorized Additional Services, authorized Reimbursable Expenses, and any adjustments. Upon City's request, the invoice shall be substantiated by CM's payroll and other cost records and shall be submitted with an affidavit that the invoiced services were performed, that the invoiced costs were incurred, and that the cost records from the invoice was prepared are true and correct.

6.1.4 City has sufficient funds currently available and authorized for expenditure to finance costs of this Contract within City's current fiscal period; provided, however, that continuation or extension of the Contract after the end of the fiscal period in which this Contract is entered into is contingent upon a new appropriation for each succeeding fiscal period. If sufficient funds are not provided in future City Council-approved budgets of City (or from applicable federal, state, or other sources) to permit City in the exercise of its reasonable administrative discretion to continue this Contract, City may terminate this Contract without further liability of CM or City by giving CM not less than 30 days' notice. In determining the availability of funds, City may use the annual and supplemental budgets adopted for it by its City Council.

6.2 PAYMENTS FOR ADDITIONAL SERVICES & REIMBURSABLE EXPENSES

6.2.1 Payments for CM's Additional Services, as defined in Article 3, and for Reimbursable Expenses, as defined in Section 5.3, shall be made monthly in the same manner as described in Subsection 6.1.2 and presentation of CM's statement of services rendered, or expenses incurred, with invoices, receipts and other justification thereof.

6.3 PROJECT SUSPENSION

6.3.1 If the Project is suspended or abandoned for more than six consecutive months, and such suspension was not scheduled at the beginning of the Project, CM shall be compensated for all authorized services performed prior to the receipt of written notice from City of such suspension or abandonment, together with Reimbursable Expenses then due. If the Project is resumed after being suspended for more than six consecutive months, CM's compensation shall be adjusted to compensate CM for any additional costs reasonably incurred as the result of the suspension.

ARTICLE 7: RECORDS AND FILES

7.1 CM shall maintain all books, documents, papers and records relating to this Contract in accordance with generally accepted accounting principles. CM's records shall include but not be limited to electronic and hard copy accounting records; contracts; payroll records; vendor agreements; purchase orders; leases; original estimates; estimating work sheets; correspondence; receipts; memoranda; and any other supporting evidence deemed necessary to substantiate charges under this Agreement. In addition, CM shall maintain any other records pertinent to this Contract in such a manner as to clearly document CM's performance. CM shall retain and keep accessible all such fiscal records, books, documents, papers, plans, and writings for a minimum of three years from the date of Contract expiration, or such longer period as may be required by applicable law, following final payment and termination of this Contract, or until the conclusion of any audit, controversy or litigation arising out of or related to this Contract, whichever date is later. CM is responsible for any audit discrepancies involving deviation from the terms of this Contract and for any commitments or expenditures in excess of amounts authorized by City.

7.2 City, state and federal government, and their duly authorized representatives, shall have reasonable access to CM's books, documents, papers, plans, writings and records that are directly pertinent to this Contract for the purpose of performing examinations and audits and making excerpts and transcripts, and shall be allowed to interview CM employees pursuant to the provisions of this Article 7, and be provided adequate and appropriate work space in order to conduct audits in compliance with this Article 7. The provisions of this Article 7 shall also apply to parent, affiliate, and subsidiary companies as necessary to verify costs associated with this

Agreement. The state and federal governments and their duly authorized representatives are intended beneficiaries of the terms of this Subsection.

ARTICLE 8: OWNERSHIP AND USE OF DOCUMENTS AND SYSTEMS

8.1 All systems developed for and with City resources shall become the property of City, whether or not the Project for which they are developed is executed. CM shall be permitted to retain copies for information and reference.

8.2 City will not defend, indemnify or save harmless CM, its officers, agents, or employees from any costs or claims asserted or imposed by any person or entity claiming that City's use of the systems is contrary to or in violation of any copyright, patent, trade secret, trade name, trade mark, or any proprietary, contractual or legal right pertaining to their use.

ARTICLE 9: DISPUTE RESOLUTION

9.1 NEGOTIATION

9.1.1 The parties will attempt in good faith to resolve any controversy or claim arising out of or relating to this Contract by negotiation.

9.2 MEDIATION

9.2.1 Any disputes under this Contract not resolved by the parties through direct negotiation shall be dealt with first by the aggrieved party giving the other party written notice of the dispute and, within 20 days after receipt of said notice, the receiving party submitting to the aggrieved party a written response. The notice and response shall include a statement of each party's position and a summary of the evidence and arguments supporting its position. Any disputes not resolved by this process shall be submitted to mediation before commencement of litigation.

9.2.2 The mediator shall be named by mutual agreement of the parties or by obtaining a list of five qualified persons from the parties and alternatively striking names. The mediator shall have the duty and responsibility to assist the parties in resolving all issues submitted for mediation. The parties shall cooperate and operate to resolve all matters in dispute with the assistance of the mediator. The parties shall share the mediator's fees and expenses equally, unless they agree otherwise. The mediation shall terminate by: (a) written agreement signed by the parties; (b) determination by the mediator that the parties are at an irresolvable impasse; or (c) two unexcused absences by either party from the mediation session. The mediator shall not participate in any claim or controversy arising out of this Contract and may not be called as a witness to testify in any proceeding involving the subject matter of mediation. ORS 36.100 to 36.245 shall apply to the entire process of mediation.

9.2.3 The mediation shall commence at a mutually acceptable time and place within sixty days of the date of the aggrieved party's notice. Mediation may continue as often and as long thereafter as the mediator and the parties reasonably deem necessary to exchange relevant information and to attempt to resolve the dispute. Should the mediation fail to settle such dispute within 60 days of the commencement of mediation, or if the party receiving said notice do not meet within sixty days of said notice, either party may terminate mediation. The parties shall share equally the costs of the mediator. Each party shall be responsible for its own costs of mediation.

9.3 PERSONAL INJURY, WRONGFUL DEATH OR PROPERTY DAMAGE

9.3.1 Claims for personal injury, wrongful death, or property damage (other than property damage to City) shall not be subject to mediation under Subsection 9.2.

ARTICLE 10: INDEMNIFICATION AND INSURANCE

10.1 INDEMNITY

10.1.1 With regard to the CM's performance in connection with or incidental to the Project, but excluding its performance of professional services and the indemnification and hold harmless aspects thereto as set forth below in Section10.1.2, the CM shall defend, indemnify, protect and hold the City, its officials, agents, employees and volunteers harmless from and against any and all claims, suits, actions, losses, costs or judgments of any nature for damages or injuries to any person or property, including injury to the CM's or its subcontractors' employees, agents or officers, to the extent they arise from or are connected with or are caused or claimed to be caused by the negligent, reckless or willful acts or omissions of the CM and its subcontractors and their agents, officers or employees, in performing work herein, and all expenses of investigating and defending against same, including reasonable attorney fees and costs at trial and on appeal; provided, however, that the CM's duty to indemnify and hold harmless shall not include any claims or liability arising from the established sole negligence or willful misconduct of the City, its officials, agents, employees or volunteers.

10.1.2 With regard to the CM's performance of professional services, CM shall defend, indemnify and hold harmless the City, its officials, agents, employees and volunteers from and against any and all claims, costs, suits, actions, losses, expenses and damages, including reasonable attorney's fees and costs at trial and on appeal, to the extent arising from the willful misconduct or negligent acts, errors or omissions of the Consultant and/or its subconsultants associated with the Project.

10.2 INSURANCE

10.2.1 CM, at CM's own expense, shall procure and maintain in full force and effect for the duration of CM's work under this Contract the types and coverage amounts of insurance conforming to these minimum requirements:

WORKERS' COMPENSATION INSURANCE AND EMPLOYER LIABILITY INSURANCE

☒ Required; ☐ Not Required

Workers' Compensation Insurance in compliance with ORS 656.017, which requires subject employers to provide Oregon workers' compensation coverage for all their subject workers. Out-of-state employers must provide Oregon workers' compensation coverage for their workers who work in Oregon, unless existence of extraterritorial coverage is established pursuant to ORS 656.126(3). All employers who are required to procure and maintain Workers' Compensation Insurance shall also procure and maintain in full force and effect for the duration of work under this Contract Employer Liability Insurance with a combined single limit, or the equivalent, of not less than $500,000 each employee per accident for bodily injury by accident or disease.

CM shall require and ensure that each of its subcontractors who provide labor or services in connection with this Contract operates in compliance with ORS 656.017 by providing Oregon workers' compensation coverage for all their subject workers. CM shall require proof of such Workers' Compensation Insurance and Employer Liability Insurance by receiving and keeping on file a certificate of insurance from each subcontractor and anyone else directly employed by either the CM or subcontractor.

Workers' Compensation Insurance and Employer's Liability Insurance coverage is required under this Contract of all employers. If CM is legally exempt from any requirement to provide Workers' Compensation Insurance coverage for the work to be performed under this Contract, CM hereby represents that CM understands and agrees that under ORS 656.006(13), an "employer" is any person who contracts to pay remuneration for and secures the right to direct and control the services of any person. CM understands and agrees that if CM is exempt from coverage under ORS 656.027 and engages individuals in performance of this Contract who are not exempt from coverage under ORS 656.027, then CM shall provide Workers' Compensation Insurance coverage for all such individuals. If the CM does not provide that insurance, CM may be deemed a non-complying employer for purposes of Oregon law and agrees to hold City harmless from and indemnify City against any and all claims for compensation benefits made against the CM as a non-complying employer. If CM is declaring CM exempt from any requirement to provide workers' compensation coverage, CM must initial here: _____; otherwise CM shall procure and maintain the required insurance.

COMMERCIAL GENERAL LIABILITY INSURANCE

☒ Required; ☐ Not Required

General Liability Insurance with a combined single limit, or the equivalent, of not less than ☐ $500,000; ☐ $1,000,000; ☒ $2,000,000; or ☐ $5,000,000 covering, but not limited to, liability for personal injury and property damage. The policy shall be written on an occur-

rence basis on ISO Form CG 00 01, or its equivalent, and shall include blanket contractual liability coverage for the assumed liability under this Contract and broad form property damage coverage including completed operations. The City of Beaverton, and its officials, employees and agents shall be named as additional insureds under ISO Form CG 20 10 (Additional Insureds – Owners, Lessees or Consultants), or its equivalent, with respect to the work to be provided under this Contract. The Commercial General Liability Insurance coverage required by this Contract is with respect only to the work described in this Contract, and has no relationship to, or bearing upon, other projects of the insured. The insurance coverage is primary to any self-insurance program.

AUTOMOBILE LIABILITY INSURANCE

☒ Required; ☐ Not Required

Automobile Liability Insurance with an each accident limit, or the equivalent, of not less than ☐ $500,000, or ☒ $1,000,000 covering, but not limited to, liability for bodily injury and property damage, together with coverage for "any auto," including owned, non-owned and hired autos used in connection with the performance of the work. The policy shall be written on an occurrence basis on ISO Form CA 00 01, or its equivalent, including an omnibus insurance clause. The City of Beaverton, and its officials, employees and agents shall be named additional insureds under the policy if CM's work entails transporting people for the City. The policy cannot be excess to a self-insurance program; any deductible cannot exceed $5000. If CM is declaring CM excused from any requirement to provide Automobile Liability Insurance coverage because CM does not use an automobile in connection with work under this Contract, CM may initial here: _____; otherwise CM shall procure and maintain the required insurance.

PROFESSIONAL LIABILITY INSURANCE

☐ REQUIRED; ☒ NOT REQUIRED

Professional Liability Insurance with a combined single limit, or the equivalent, of not less than ☐ $500,000; ☐ $1,000,000; ☐ $2,000,000; or ☐ $5,000,000 per claim with a ☐ $2,000,000 or ☐ $5,000,000 annual aggregate limit, covering, but not limited to, liability for bodily injury, property damage and economic loss. CM shall be responsible for any deductible amounts. If CM proposes using subcontractors, in addition to any other requirements of this Contract, City may require subcontractors to provide professional liability insurance of similar type and coverage amount. CM, at CM's own expense, shall maintain the Professional Liability Insurance in full force for not less 24 months following completion of this Contract. The Professional Liability coverage required by this Contract is with respect only to the work described in this Contract, and has no relationship to, or bearing upon, other projects of the insured. Coverage must be in effect prior to the commencement of the performance of this Contract. CM shall furnish proof of continuous "tail" coverage for 24 months after Contract completion.

CONSULTANT POLLUTION LIABILITY

☐ REQUIRED; ☒ NOT REQUIRED

CM's Professional Liability Insurances shall be endorsed to provide liability coverage in an amount not less than ☐ $1,000,000; ☐ $2,000,000; or ☐ $5,000,000 per claim limit, with a ☐ $2,000,000 or ☐ $5,000,000 annual aggregate limit, covering, but not limited to, liability

for bodily injury, property damage and cleanup costs. In lieu of endorsement, the City may accept equivalent coverage under a separate insurance policy.

COMMERCIAL CRIME INSURANCE
☐ **REQUIRED;** ☒ **NOT REQUIRED**

Commercial Crime Insurance not less than $50,000 including, but not limited to, coverage for theft or loss of client property.

CONTRACTOR POLLUTION LIABILITY INSURANCE
☐ **REQUIRED;** ☒ **NOT REQUIRED**

Contractor Pollution Liability Insurance in an amount not less than ☐ $1,000,000; ☐ $2,000,000; or ☐ $5,000,000 per claim limit, with a ☐ $2,000,000 or ☐ $5,000,000 annual aggregate limit, covering, but not limited to, liability for bodily injury, property damage and cleanup costs.

WAIVER OF SUBROGATION
☐ **REQUIRED;** ☒ **NOT REQUIRED**

If Waiver of Subrogation is required, CM hereby waives CM's right to recover from the City, and its officers, agents, employees and volunteers for any damages arising out of work performed under this Contract and covered by insurance. Any Commercial General Liability Insurance policy and/or Automobile Liability Insurance policy required under this Contract shall be endorsed to provide for a waiver of underwriter's rights to subrogation as to additional insureds.

10.3 Insurance Certification; Other Insurance Requirements

10.3.1 Before CM commences work under this Contract, CM shall furnish City, through its Risk Manager, with acceptable certificates evidencing the types, amounts and issuers of insurance coverage meeting the minimum requirements of this Contract. The certificate shall specify all of the parties who are Additional Insureds. If a certificate of insurance coverage is unavailable from a particular insurer, alternative proof of insurance coverage acceptable to City shall be arranged. Renewal certificates of insurance shall be furnished no later than 15 days before the expiration of the policy. Any deductibles or self-insured retentions must be stated on the certificate of insurance, which shall be sent to and approved by City's Risk Manager in advance to commencement of work under this contract.

10.3.2 In all instances concerning all forms of insurance required by this Contract:

10.3.2.1 The insurance shall be issued by a company authorized to do insurance business in the State of Oregon;

10.3.2.2 Upon request, complete copies of insurance policies, trust agreements, etc. shall be provided to City;

10.3.2.3 CM shall be financially responsible for all pertinent deductibles, self-insured retentions and/or self-insurance amounts;

10.3.2.4 Umbrella or Excess Liability Insurance may be used to achieve the above minimum liability limits, so long as policy is endorsed to state it is "As Broad as Primary Policy." If Umbrella or Excess policy is evidenced to comply with minimum limits, a copy of the Underlying Schedule from the Umbrella or Excess Liability Insurance policy may be required;

10.3.2.5 CM shall provide City not less than 30 days written notice of CM's intent to cancel, terminate or make any material change affecting required insurance coverage;

10.3.2.6 Until such time as the insurance is no longer required by the City, CM shall provide the City with renewal or replacement evidence of insurance no less than 30 days before the expiration or replacement of the required insurance. If at any time during the period when insurance is required by the Contract, an insurer shall fail to comply with the requirements of this Contract, as soon as CM has knowledge of any such failure, CM shall immediately notify the City and immediately replace such insurance with an insurer meeting the requirements

10.3.2.7 Except for Professional Liability Insurance, the insurance shall be provided by a carrier with A.M. Best's Rating of A- or better and Financial Performance Rating of 7 or better. CM's Professional Liability Insurance policy shall be written by an insurer satisfactory to City and may be written on a claims made basis, provided CM, at CM's own expense, maintains the Professional Liability Insurance in full force for not less 24 months following completion of this Contract; and

10.3.2.8 The insurance provided by CM and its subcontractors shall apply on a primary basis and be required to respond and pay prior to any other available coverage. Any insurance maintained by the City shall be excess of and shall not contribute with the insurance provided by CM and its subcontractors.

10.3.3 City reserves the right to review the types of coverages and limits of insurance required herein from time to time. In the event that City changes its insurance requirements after this Contract has been signed, City will provide notice to CM of the new requirements. CM shall promptly modify its coverage to comply with the new requirements and provide City with updated evidence of coverage. CM will be entitled to an adjustment in the Contract price for any increase in premium resulting from such changes, provided CM can establish with reasonable certainty that the increased premium was due to changes required by City. Premium savings from any changes shall be refunded to City.

10.4 Limitation of Liabilities

10.4.1 Neither party shall be liable for (i) any indirect, incidental, consequential or special damages under the Contract or (ii) any damages of any sort arising solely from the termination of this Contract in accordance with its terms; provided, however, this provision does not apply to liability arising under or relating to subsections 16.3.1.3 or 16.3.1.4 (Termination for Cause) or Section 1.2 (Representations and Warranties).

ARTICLE 11: STATUTORY REQUIREMENTS

Contractor shall comply with all federal, state and local laws, ordinances, rules, regulations and executive orders applicable to the Work to be performed under this Contract. Failure or neglect on the part of Contractor to comply with any or all such laws, ordinances, rules or regulations shall not relieve Contractor of these obligations or the requirements of this Contract. Without limiting the foregoing, Contractor shall comply with all federal, state and local civil rights and rehabilitation laws prohibiting discrimination because of race, sex, national origin, religion, age or disability, and shall comply with all applicable provisions of ORS 279C.500 through 279C.565. The provisions of ORS 279C.505, ORS 279C.510, ORS 279C.515, ORS 279C.520 and ORS 279C.530 are hereby incorporated herein by this reference and the applicable terms therein shall be binding upon Contractor. The parties shall comply with any state or federal law or regulation specific to the funding source that supports this Contract.

ARTICLE 12: EXTENT OF AGREEMENT

12.1 MODIFICATION

12.1.1 Any modification of the provisions of this Contract shall not be enforceable unless first reduced to writing and signed by both parties. A modification is a written document, contemporaneously executed by City and CM, which increases or decreases the cost to City over the agreed sum or changes or modifies the Statement of Services or Delivery Schedule. Any such modification shall be effective only in the specific instance and for the specific purpose identified in the modification.

12.1.2 In the event that CM receives any communication of whatsoever nature from City that CM contends gives rise to any modification of this Contract, CM shall, within 15 calendar days after receipt, make a written request for modification to City. CM's failure to submit such written request for modification in a timely manner is a basis upon which City may refuse to treat said communication as a modification.

12.1.3 In connection with any modification to the Contract affecting any change in price, CM shall submit a complete breakdown of labor, material, equipment and other costs. If CM incurs additional costs or devotes additional time on project tasks which were reasonably expected as part of the original Contract or any mutually approved modifications, then City shall be responsible for payment of only those costs for which it has agreed to pay.

12.2 EXHIBITS

12.2.1 This Agreement includes the following exhibits attached hereto:

12.2.1.1 Exhibit A: Sample Project Assignment

12.2.1.2 Exhibit B: Project Program

12.3 THIRD-PARTY BENEFICIARIES

12.3.1 Nothing in this Contract gives, is intended to give, or shall be construed to give or provide any benefit or right, whether directly, indirectly or otherwise, to third persons unless such third persons are identified by name herein and expressly described as intended beneficiaries of the terms of this Contract.

12.3.2 Nothing contained in this Agreement is intended to make the construction contractor or any construction subcontractor (regardless of tier), any employee or agent of the construction contractor or any subcontractor or any person, including a Design Professional or any consultant of Design Professional (regardless of tier), a third-party beneficiary of any obligations between City and CM.

ARTICLE 13: FEDERAL AND STATE GRANTS

In the event that a federal or state grant or other federal or state financing is used in the funding of this Project, CM shall permit the funding agency or its designee access to, and grant the funding agency the right to examine documents covering the services performed under this Agreement. CM shall comply with applicable federal or state agency requirements including, but not limited to, the requirements regarding hours, overtime compensation, nondiscrimination, and contingent fees.

ARTICLE 14: NOTICES

Except as otherwise expressly provided in this Contract, any communications between the parties hereto or notices to be given hereunder shall be given in writing by personal delivery, facsimile, or mailing the same, postage prepaid, to CM or City at the address or number as identified below, or to such other addresses or numbers as either party from time to time may designate in writing. Any communication or notice so addressed and mailed shall be deemed to be given five (5) days after mailing. Any communication or notice delivered by facsimile shall be deemed to be given when receipt of the transmission is generated by the transmitting machine. To be effective against City, such facsimile transmission must be confirmed by telephone notice to the City's Contract Administrator. Any communication or notice by personal delivery shall be deemed to be given when actually delivered.

For City: **ATTENTION: Lonnie Dicus, PO Box 4755, Beaverton, OR 97076.**

For CM: **ATTENTION:** _____, Linc Facility Services, LLC, 1201 Louisiana Street, Suite 2700, Houston, TX 77002

ARTICLE 15: SUCCESSORS AND ASSIGNS

15.1 ASSIGNMENT AND SUBCONTRACTORS

15.1.1 CM shall not assign, sell, subcontract, dispose of or transfer rights or delegate duties hereunder, either in whole or in part, without the City's prior written consent; provided, however, that money due to CM may be assigned, if the City is given written notice thereof, but any assignment of money shall be subject to all proper setoffs and withholdings in favor of the City. In no instance shall such consent relieve CM of any obligations hereunder.

15.1.2 Any assignee, transferee or subcontractor shall be considered the agent of the CM and be bound to abide by all provisions of this Contract. CM, and its surety, if any, shall remain liable to City for complete performance of this Contract as if no such assignment, sale, subcontracting, disposal, transfer or delegation had occurred, unless City otherwise agrees in writing. The provisions of this Contract shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns, if any.

15.2 CM'S DEATH OR INCAPACITATION

15.2.1 If CM transacts business as an individual, upon CM's death or incapacitation, City may, at its option, terminate this Agreement as of the date of such event. If so terminated, neither CM nor CM's estate shall have any further right to perform hereunder, and City shall pay CM or the estate the compensation payable under Article 5 for any services rendered prior to this termination not theretofore paid. This compensation shall be reduced by the amount of additional costs that will be incurred by City by reason of this termination.

15.2.2 If there is more than one CM, and any one of them dies or becomes incapacitated, and the others continue to render the services covered herein, City will make payments to those continuing as though there had been no such death or incapacitation; City will not be obliged take any account of the person who died or became incapacitated, or to make any payment to this person or this person's estate. These provisions shall apply in the event of progressive or simultaneous occasions of death or incapacitation among any group of persons named as CM herein if death or incapacitation befalls the last member of this group before the services under this Agreement are fully performed, then the rights set forth under Subsection 15.1.1 shall apply.

ARTICLE 16: TERMINATION OF AGREEMENT

16.1 PARTIES' RIGHT TO TERMINATE FOR CONVENIENCE

16.1.1 This Contract may be terminated at any time by mutual written consent of the parties.

16.2 CITY'S RIGHT TO TERMINATE FOR CONVENIENCE

16.2.1 City may, at its sole discretion, terminate this Contract upon at least 30 days' notice to CM.

16.2.2 If for any reason the person designated as CM representative under Article 2 becomes unavailable, City may terminate this Agreement upon notice to CM.

16.3 CITY'S RIGHT TO TERMINATE FOR CAUSE

16.3.1 City may terminate this Contract immediately upon notice to CM, or at such later date as City may establish in such notice, upon the occurrence of any of the following events:

16.3.1.1 City fails to receive funding, or appropriations, limitations or other expenditure authority at levels sufficient to pay for CM's work;

16.3.1.2 Federal or state laws, regulations or guidelines are modified or interpreted in such a way that either the work under this Contract is prohibited or City is prohibited from paying for such work from the planned funding source;

16.3.1.3 CM no longer holds any license or certificate that is required to perform the work; or

16.3.1.4 CM commits any material breach or default of any covenant, warranty, obligation or agreement under this Contract, becomes bankrupt or insolvent, fails to pay third-parties for materials or services on a timely basis, makes an assignment or arrangement for the benefit of creditors, fails to perform the work under this Contract properly, diligently or within the time specified herein or any extension thereof, or so fails to pursue the work as to endanger CM's performance under this Contract in accordance with its terms or otherwise is in default under any of the provision of this Contract, and such breach, default or failure is not cured within ten business days after delivery of City's notice, or such longer period as City may specify in such notice, or CM has not commenced to cure such breach, default or failure within the notice period if cure is not reasonably possible within such period.

16.4 CM'S RIGHT TO TERMINATE FOR CONVENIENCE

16.4.1 CM may terminate this Contract by giving written notice to the City 30 days prior to the expiration date of the then-applicable Term.

16.5 CM'S RIGHT TO TERMINATE FOR CAUSE

16.5.1 CM may terminate this Contract upon 30 days' notice to City if City fails to pay CM pursuant to the terms of this Contract and City fails to cure within 30 business days after receipt of CM's notice, or such longer period of cure as CM may specify in such notice.

16.6 REMEDIES

16.6.1 Upon termination under this Section the parties shall have the following remedies:

16.6.1.1 In the event of termination pursuant to subsections 16.1, 16.2, 16.3.1.1, 16.3.1.2, 16.4 and 16.5 of this Section, CM's sole remedy shall be a claim for the sum designated for accomplishing the work multiplied by the percentage of work completed and accepted by City at the time of termination or thereafter, less previous amounts paid and any claim(s) which City has against CM. If previous amounts paid to CM exceed the amount due to CM under this Subsection, CM shall pay any excess to City upon demand.

16.6.1.2 In the event of termination pursuant to Subsection 16.3.1.3 or 16.3.1.4 of this Section, City shall have any remedy available to it in law or equity and CM's right to proceed with all or any part of the Services shall immediately terminate and the City may immediately take possession of all materials, equipment, tools and supplies purchased by The City of Beaverton or Owners' Association for performance of the Services and for which CM has been paid, and finish such terminated Services by such reasonable means as The City of Beaverton sees fit. Upon such termination of this Agreement, CM shall assign to The City of Beaverton any existing subcontracts, purchase orders or purchase agreements for goods or services in connection with the Services.

16.6.1.3 If it is determined for any reason that CM was not in default under Subsection 16.3.1.3 or 16.3.1.4 of this Section, the rights and obligations of the parties shall be the same as if the Contract was terminated pursuant to Subsection 16.2 of this Section.

16.6.1.4 Any amounts due CM under this Contract shall be pro-rated to the effective date of termination. In the event of termination of this Contract by The City of Beaverton pursuant to Subsection 16.2 of this Section or by CM pursuant to Subsection 16.5 of this Section, CM shall be entitled to receive from the City, in addition to any other amounts provided in this Section, CM's capitalized mobilization fee remaining outstanding on its books at the effective date of termination, and determined in accordance with generally accepted accounting principles, with amortization occurring on a straight line basis over a 3 year period

16.6.1.5 In the event of any litigation regarding the enforcement of this contract all parties are responsible for their own attorney fees.

16.7 CM'S TENDER UPON TERMINATION

16.7.1 Upon receiving a notice of termination of this Contract, CM shall immediately cease all activities under this Contract, unless City expressly directs otherwise in such notice of termination. Upon termination of this Contract, CM shall deliver to City all documents, information, works-in-progress and other property prepared by CM for the Project. Upon City's request, CM shall promptly surrender to anyone City designates all documents, information, works-in-progress and other property in CM's possession or control that was prepared by CM in connection with the Project. In the event of termination, any dispute regarding the amount to be paid under Article 16 shall not derogate from the right of City to receive and use such documents or materials.

16.8 FORCE MAJEURE

16.8.1 Neither party shall be held responsible for delay or default caused by war, insurrection, acts of terrorism, strikes, lockouts, labor disputes, riots, terrorist acts or other acts of political sabotage, volcanoes, floods earthquakes, fires, acts of God, acts of the public enemy, epidemic, quarantine restrictions, freight embargoes, lack of transportation, governmental restrictions or priorities, severe weather, or any other uncontrollable or unforeseeable act or circumstance beyond a party's reasonable control and without the fault or negligence of the party. The affected party, however, shall make all reasonable efforts to remove or eliminate such cause of delay or default and shall, upon cessation of the cause, diligently pursue performance of its obligations under this Contract. In the event of such delay, the party delayed shall give written notice of the delay and the reason therefor to the other party within 30 days after the delayed party learns of the delaying event. An extension of time for any such cause shall be for the period of duration of the cause. Delays under this Section shall not be the basis for additional compensation payable to the CM.

Certification

The individual signing on behalf of CM hereby certifies and swears under penalty of perjury (a) the number shown on this form is CM's correct taxpayer identification, (b) CM is not subject to backup withholding because (i) CM is exempt from backup withholding, (ii) CM has not been notified by the IRS that CM is subject to backup withholding as a result of a failure to report all interest or dividends, or (iii) the IRS has notified CM that CM is no longer subject to backup withholding, (c) s/he is authorized to act on behalf of CM, s/he has authority and knowledge regarding CM's payment of taxes, and to the best of her/his knowledge, CM is not in violation of any Oregon tax laws, (d) CM is an independent Contractor as defined in ORS 670 600, and (e) the CM data set forth herein is true and accurate

The parties, by their signature below, acknowledge having read and understood the Contract and agree to be bound by its terms and conditions.

CITY OF BEAVERTON, OREGON

BY: _____

TITLE: _____

DATE: _____

LINC FACILITY SERVICES, LLC

BY: _____

TITLE: _____

DATE: _____

APPROVED AS TO LEGAL SUFFICIENCY:

_____
City Attorney

☐ Federal Tax ID#: ____-_____;
or
☐ SSN: _____-_____-_____

This payment information must be provided for Contract approval. This information will be reported to the Internal Revenue Service (IRS) under the name and taxpayer identification submitted (See IRS 1099 for more information) Information not matching IRS records could subject CM to backup withholding

EXHIBIT A

SAMPLE PROJECT ASSIGNMENT

Project Title: _____

Date: _____

THIS PROJECT ASSIGNMENT supplements the Master Construction Management Agreement entered into on _____ between the City of Beaverton, Oregon, located at 4755 SW Griffith Drive, P.O. Box 4755, Beaverton, Oregon 97076-4755 ("City") and _____ located at _____ ("CM"). The City's primary supervisor for this Contract ("Contract Administrator") is _____.

THE PARTIES AGREE THAT the above-referenced Master Construction Management Agreement is hereby supplemented as follows:

1. PROJECT ASSIGNMENT. CM shall perform the Construction Management services relating to the Project described below:

☐ The Project described in the Construction Contractor's proposal dated _____, attached hereto as Exhibit "A" and incorporated herein by this reference; or

☐ in the Project description, attached hereto as Exhibit "A" and incorporated herein by this reference; or

☐ in the space immediately below:

a. **Project description** (*Be specific and complete.*):

b. **Delivery Schedule** (*Must be complete*):

2. INSURANCE.

A. If the assigned Project does not require any different insurance coverage than presently required in the Master Construction Management Agreement, Contract Administrator must initial here: _____. Do not complete the remainder of this Section; no change in insurance coverage is required.

B. If assigned Project requires insurance coverage different from the insurance coverage currently provided for in the Master Construction Management Agreement, Contract Administrator must initial here: _____ and complete the remainder of this Section. CM, at CM's own expense, shall then procure and maintain in full force and effect for the duration of the assigned Project the types and coverage amounts of insurance conforming to these minimum requirements:

Workers' Compensation Insurance
and Employer Liability Insurance

☐ Required; ☐ Not Required

Workers' Compensation Insurance in compliance with ORS 656.017, which requires subject employers to provide Oregon workers' compensation coverage for all their subject workers. Out-of-state employers must provide Oregon workers' compensation coverage for their workers who work in Oregon, unless existence of extraterritorial coverage is established pursuant to ORS 656.126(3). All employers who are required to procure and maintain Workers' Compensation Insurance shall also procure and maintain in full force and effect for the duration of any assigned Project Employer Liability Insurance with a combined single limit, or the equivalent, of not less than $500,000 each employee per accident for bodily injury by accident or disease.

CM shall require and ensure that each of its subcontractors who provide labor or services in connection with this Contract operates in compliance with ORS 656.017 by providing Oregon workers' compensation coverage for all their subject workers. CM shall require proof of such Workers' Compensation Insurance and Employer Liability Insurance by receiving and keeping on file a certificate of insurance from each subcontractor and anyone else directly employed by either the CM or subcontractor.

Workers' Compensation Insurance and Employer's Liability Insurance coverage is required under this Contract of all employers. If CM is legally exempt from any requirement to provide Workers' Compensation Insurance coverage for the work to be performed under this Contract, CM hereby represents that CM understands and agrees that under ORS 656.006(13), an "employer" is any person who contracts to pay remuneration for and secures the right to direct and control the services of any person. CM understands and agrees that if CM is exempt from coverage under ORS 656.027 and engages individuals in performance of this Contract who are not exempt from coverage under ORS 656.027, then CM shall provide Workers' Compensation Insurance coverage for all such individuals. If the CM does not provide that insurance, CM may be deemed a non-complying employer for purposes of Oregon law and agrees to hold City harmless from and indemnify City against any and all claims for compensation benefits made against the CM as a non-complying employer. If CM is declaring CM exempt from any requirement to provide workers' compensation coverage, CM must initial here. _____; otherwise CM shall procure and maintain the required insurance.

Commercial General Liability Insurance

☐ Required; ☐ Not Required

General Liability Insurance with a combined single limit, or the equivalent, of not less than ☐ $500,000; ☐ $1,000,000; ☐ $2,000,000; or ☐ $5,000,000 covering, but not limited to, liability for personal injury and property damage. The policy shall be written on an occurrence basis on ISO Form CG 00 01, or its equivalent, and shall include blanket contractual liability coverage for the assumed liability under this Contract and broad form property damage coverage including completed operations. The City of Beaverton, and its officials, employees and agents shall be named as additional insureds under ISO Form CG 20 10 (Additional Insureds – Owners, Lessees or Consultants), or its equivalent, with respect to the work to be provided under this Contract. The Commercial General Liability Insurance coverage required by this Contract is with respect only to work described in this Contract, and has no relationship to, or bearing upon, other projects of the insured The insurance coverage is primary to any self-insurance program.

Automobile Liability Insurance

☐ **Required;** ☐ **Not Required**

Automobile Liability Insurance with an each accident limit, or the equivalent, of not less than ☐ $500,000, or ☐ $1,000,000 covering, but not limited to, liability for bodily injury and property damage, together with coverage for "any auto," including owned, non-owned and hired autos used in connection with the performance of the Project. The policy shall be written on an occurrence basis on ISO Form CA 00 01, or its equivalent, including an omnibus insurance clause. The City of Beaverton, and its officials, employees and agents shall be named additional insureds under the policy if CM's work entails transporting people for the City. The policy cannot be excess to a self-insurance program; any deductible cannot exceed $5000. If CM is declaring CM excused from any requirement to provide Automobile Liability Insurance coverage because CM does not use an automobile in connection with work under this Contract, CM may initial here: _____; otherwise CM shall procure and maintain the required insurance.

Professional Liability Insurance

☐ **Required;** ☐ **Not Required**

Professional Liability Insurance with a combined single limit, or the equivalent, of not less than ☐ $500,000; ☐ $1,000,000; ☐ $2,000,000; or ☐ $5,000,000 per claim with a ☐ $2,000,000 or ☐ $5,000,000 annual aggregate limit, covering, but not limited to, liability for bodily injury, property damage and economic loss. CM shall be responsible for any deductible amounts. If CM proposes using subcontractors, in addition to any other requirements of this Contract, City may require subcontractors to provide professional liability insurance of similar type and coverage amount. CM, at CM's own expense, shall maintain the Professional Liability Insurance in full force for not less 24 months following completion of this Contract. The Professional Liability coverage required by this Contract is with respect only to the work described in this Contract, and has no relationship to, or bearing upon, other projects of the insured Coverage must be in effect prior to the commencement of the performance of this Contract. CM shall furnish proof of continuous "tail" coverage for 24 months after Contract completion.

Consultant Pollution Liability

☐ **Required;** ☐ **Not Required**

CM's Professional Liability Insurances shall be endorsed to provide liability coverage in an amount not less than ☐ $1,000,000; ☐ $2,000,000; or ☐ $5,000,000 per claim limit, with a ☐ $2,000,000 or ☐ $5,000,000 annual aggregate limit, covering, but not limited to, liability for bodily injury, property damage and cleanup costs. In lieu of endorsement, the City may accept equivalent coverage under a separate insurance policy.

Commercial Crime Insurance

☐ **Required;** ☐ **Not Required**

Commercial Crime Insurance not less than $50,000 including, but not limited to, coverage for theft or loss of client property.

Contractor Pollution Liability Insurance

☐ **Required;** ☐ **Not Required**

Contractor Pollution Liability Insurance in an amount not less than ☐ $1,000,000; ☐ $2,000,000; or ☐ $5,000,000 per claim limit, with a ☐ $2,000,000 or ☐ $5,000,000 annual aggregate limit, covering, but not limited to, liability for bodily injury, property damage and cleanup costs.

Waiver of Subrogation

☐ **Required;** ☐ **Not Required**

If Waiver of Subrogation is required, CM hereby waives CM's right to recover from the City, and its officers, agents, employees and volunteers for any damages arising out of work performed under this Contract and covered by insurance. Any Commercial General Liability Insurance policy and/or Automobile Liability Insurance policy required under this Contract shall be endorsed to provide for a waiver of underwriter's rights to subrogation as to additional insureds.

3. INSURANCE CERTIFICATION; OTHER INSURANCE REQUIREMENTS.
Before CM commences work under this Contract, CM shall furnish City, through its Risk Manager, with acceptable certificates evidencing the types, amounts and issuers of insurance coverage meeting the minimum requirements of this Contract. The certificate shall specify all of the parties who are Additional Insureds. If a certificate of insurance coverage is unavailable from a particular insurer, alternative proof of insurance coverage acceptable to City shall be arranged. Renewal certificates of insurance shall be furnished no later than 15 days before the expiration of the policy. Any deductibles or self-insured retentions must be stated on the certificate of insurance, which shall be sent to and approved by City's Risk Manager in advance to commencement of work under this contract.

In all instances concerning all forms of insurance required by this Contract:

1. The insurance shall be issued by a company authorized to do insurance business in the State of Oregon;

2. Upon request, complete copies of insurance policies, trust agreements, etc. shall be provided to City;

3. CM shall be financially responsible for all pertinent deductibles, self-insured retentions and/or self-insurance amounts;

4. Umbrella or Excess Liability Insurance may be used to achieve the above minimum liability limits, so long as policy is endorsed to state it is "As Broad as Primary Policy." If Umbrella or Excess policy is evidenced to comply with minimum limits, a copy of the Underlying Schedule from the Umbrella or Excess Liability Insurance policy may be required;

5. CM shall provide City not less than 30 days written notice of CM's intent to cancel, terminate or make any material change affecting required insurance coverage;

6 Until such time as the insurance is no longer required by the City, CM shall provide the City with renewal or replacement evidence of insurance no less than 30 days before the expiration or replacement of the required insurance. If at any time during the period when insurance is required by the Contract, an insurer shall fail to comply with the requirements of this Contract, as soon as CM has knowledge of any such failure, CM shall immediately notify the City and immediately replace such insurance with an insurer meeting the requirements

7. Except for Professional Liability Insurance, the insurance shall be provided by a carrier with A.M. Best's Rating of A- or better and Financial Performance Rating of 7 or better. CM's Professional Liability Insurance policy shall be written by an insurer satisfactory to City and may be written on a claims made basis, provided CM, at CM's own expense, maintains the Professional Liability Insurance in full force for not less 24 months following completion of this Contract; and

8. The insurance provided by CM and its subcontractors shall apply on a primary basis and be required to respond and pay prior to any other available coverage. Any insurance maintained by the City shall be excess of and shall not contribute with the insurance provided by CM and its subcontractors.

City reserves the right to review the types of coverages and limits of insurance required herein from time to time In the event that City changes its insurance requirements after this Contract has been signed, City will provide notice to CM of the new requirements. CM shall promptly modify its coverage to comply with the new requirements and provide City with updated evidence of coverage. CM will be entitled to an adjustment in the Contract price for any increase in premium resulting from such changes, provided CM can establish with reasonable certainty that the increased premium was due to changes required by City. Premium savings from any changes shall be refunded to City.

4. AVAILABILITY OF FUNDS. City has sufficient funds currently available and authorized for expenditure to finance costs of this Contract within City's current fiscal period; provided, however, that continuation or extension of the Contract after the end of the fiscal period in which this Contract is written is contingent upon a new appropriation for each succeeding fiscal period. If sufficient funds are not provided in future City Council-approved budgets of City (or from applicable federal, state, or other sources) to permit City in the exercise of its reasonable administrative discretion to continue this Contract, or if City abolishes the program for which benefit this Contract was executed, City may terminate this Contract without further liability by giving Contractor not less than 30 days' notice. In determining the availability of funds, City may use the annual budget adopted for it by its City Council.

All other provisions of the Master Construction Management Agreement or any amendments thereto remain in full force and effect.

IN WITNESS HEREOF, the parties have duly executed this Project assignment as of the day and year first above written and hereby acknowledge having read and understood the Contract and agree to be bound by its terms and conditions.

CITY OF BEAVERTON, OREGON	**"CONSTRUCTION MANAGER"**
BY: _____	BY: _____
TITLE: _____	TITLE: _____
DATE: _____	DATE: _____

APPROVED AS TO LEGAL SUFFICIENCY:

_____
City Attorney

☐ Federal Tax ID#: ____-_____;

or

☐ SSN: _____-_____-_____

EXHIBIT B

PROJECT PROGRAM

Proposed build out of The Round project as regards the Beaverton Central Plant systems.

[To be inserted: Capital/Construction Schedule - 1-1-06 Thru 12-31-07.]

Constr-Schedule-06-1207rev1.xls

AGENDA BILL

Beaverton City Council
Beaverton, Oregon

SUBJECT: Authorization for the Mayor to Award a Contract for Construction of Piping and Mechanical Room Connection to Extend the Beaverton Central Plant Services to Building "E" and Submitting to Council for Ratification of the Award at a Later Date.

FOR AGENDA OF: 09/11/06 **BILL NO:** 06162

Mayor's Approval:

DEPARTMENT OF ORIGIN: Mayor's Office

DATE SUBMITTED: 09/5/06

CLEARANCES: Finance
Purchasing
City Attorney
Central Plant

PROCEEDING: Consent

EXHIBITS: 1: Area Map

BUDGET IMPACT

EXPENDITURE REQUIRED $250,000	AMOUNT BUDGETED $ 248,428*	APPROPRIATION 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, the Construction Account will have an available balance of $909,177.

HISTORICAL PERSPECTIVE:

The City owns the BCP (Beaverton Central Plant) which provides space conditioning to all the buildings at The Round. As a result of agreements signed with DPP Commercial Investments LLC (the developer), the City is committed to serve new buildings as they are developed. The Round is approximately half built out with another 300,000 square feet scheduled to be built over the next two years.

As per the DDA (Disposition and Development Agreement), construction of Building "E" was scheduled to begin July of this year and it now appears ground breaking will occur this month. Building development was anticipated in the BCP budget and capital plan. Building "E" will be located on the south side of the Tri-Met tracks and next to the 24 Hour Fitness building.

INFORMATION FOR CONSIDERATION:

Building "E" is expected to include 46,337 square feet of which 14,587 will be retail space and the remaining 31,750 square feet to be office use. Given much of BCP's infrastructure is piping and located ten to fourteen feet below grade, it is customarily less expensive and easiest to coordinate the equipment install early in the project development cycle. In light of the developer's intent to commence construction this month, construction of BCP's service extension must be undertaken as soon as practical to better manage costs and not delay overall building development. In addition, because BCP uses a type of specialty ductile iron pipe, which can take as much as six weeks for delivery, this too drives the need to start early in the project buildout. Service for the building will come by extending the existing lines which presently terminate just north/east of the front of the entrance of the 24 Hour Fitness building to near the south lobby entrance door

to Building "E". BCP has been working with the developer to minimize connection costs and it is expected the pipe run will be approximately 110 feet. Accordingly, total piping for the connection will be approximately 440 feet and include two hot and cold lines.

Building "E" represents a significant load addition to BCP. This, along with Building "F", the subject of a separate agenda item, will trigger the need to add additional cooling (chiller) and heating (boiler) capacity which will also be subjects of separate agenda items. It is anticipated BCP has sufficient capital in place to fund these requests.

An Invitation to Bid is expected to be advertised in the Portland Daily Journal of Commerce within the week and a tentative date for the bid opening is scheduled for September 26, 2006, at 2:00 PM in the Finance Department Conference Room. Staff requests that the City Council authorize the Mayor to award a contract to the lowest responsible bidder submitting the lowest responsive bid immediately following the bid opening and evaluation on September 26, 2006. The reason for the immediate bid awarding is to permit the prospective low bidder the necessary time to order the specialty piping to commence construction to meet the overall building schedule.

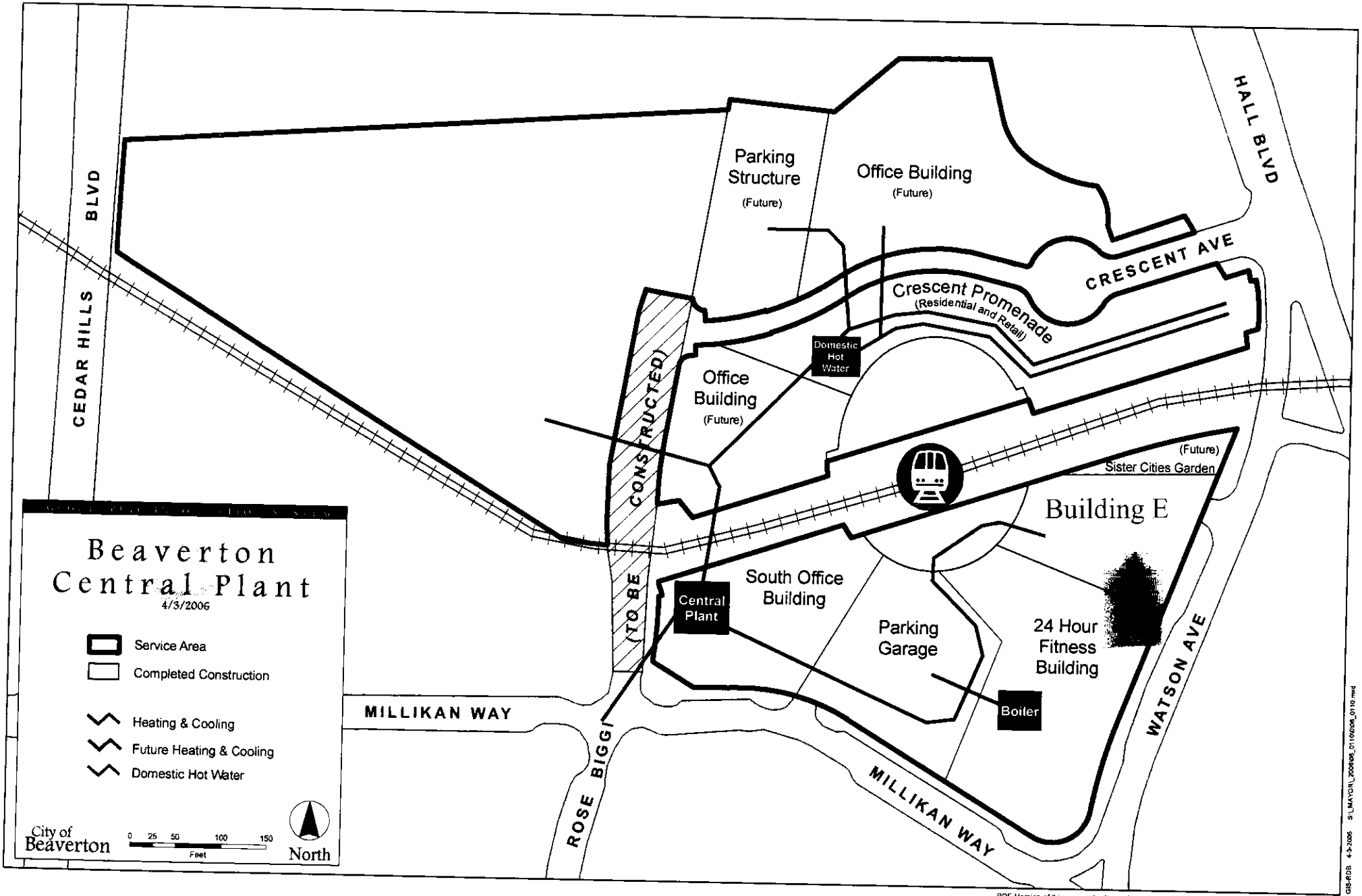
RECOMMENDED ACTION:

Council, acting as the Contract Review Board:

(1) authorize the Mayor to award a contract for the construction of piping and building connections to extend the Beaverton Central Plant services to Building "E" to the lowest responsible bidder submitting the lowest responsive bid immediately upon bid opening and evaluation on September 26, 2006;

(2) direct the Finance Director to include the above mentioned adjustment to the Plant's Beginning Working Capital, additional tax credit revenues and Construction Account appropriation in Supplemental Budget S-07-01; and,

(3) direct staff to return for Council ratification with details of the contract award at a later date.



PDF Version of this map is Available Online @ T:\MAPS\Mayor\06_0110_Rnd_WatGt_11x17_c.pdf

GIS-RDB 4-3-2006 S:_MAYOR_2006\06_0110\06_0110.mxd

AGENDA BILL

Beaverton City Council
Beaverton, Oregon

SUBJECT: Authorization for the Mayor to Award a Contract for Construction of Piping and Mechanical Room Connection to Extend the Beaverton Central Plant Services to Building "F" and Submitting to Council for Ratification of the Award at a Later Date.

FOR AGENDA OF: 09/11/06 **BILL NO:** 06163

Mayor's Approval:

DEPARTMENT OF ORIGIN: Mayor's Office

DATE SUBMITTED: 09/5/06

CLEARANCES: Finance
Purchasing
City Attorney
Central Plant

PROCEEDING: Consent

EXHIBITS: 1: Area Map

BUDGET IMPACT

EXPENDITURE REQUIRED	AMOUNT BUDGETED	APPROPRIATION REQUIRED
$150,000	$248,428*	$-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, the Construction Account will have an available balance of $909,177.

HISTORICAL PERSPECTIVE:

The City owns the BCP (Beaverton Central Plant) which provides space conditioning to all the buildings at The Round. As a result of agreements signed with DPP Commercial Investments LLC (the developer), the City is committed to serve new buildings as they are developed. The Round is approximately half built out with another 300,000 square feet scheduled to be built over the next two years.

As per the DDA (Disposition and Development Agreement), construction of Building "F" was scheduled to begin June of 2007. However, as a result of stronger than expected leasing activity, the developer has advanced the building development schedule by nearly a year with the intent to break ground next month. Building "F" will be located on the north side of the Tri-Met tracks and just across from the existing Coldwell Banker building (see attached map).

INFORMATION FOR CONSIDERATION:

Building "F" is expected to include 88,611 square feet of which 16,782 will be retail space and the balance, 71,829 square feet, will be office use. Given much of BCP's infrastructure is piping and located ten to fourteen feet below grade, it is customarily less expensive and easiest to coordinate the equipment install early in the project development cycle. In light of the developer's accelerated building schedule, construction of BCP's service extension must be undertaken as soon as practical to better manage costs and not delay overall building development. In addition, because BCP uses a type of speciality ductile iron pipe, which can take as much as six weeks for delivery, this too drives the need to start early in the project buildout. Service for the building will come from the BCP north vault which is already in place. BCP has been working with the

developer to minimize connection costs and it is expected the actual pipe run will be less than 45 feet. Accordingly, total piping used for the connection should be approximately 180 feet and include two hot and cold lines. However, despite the relatively close distance to Building "F", the connection is necessarily complicated given the overall building foundation design and use of geopiers.

Building "F" represents a significant load addition to BCP. This, along with Building "E" -- the subject of a separate agenda item, will trigger the need to add additional cooling (chiller) and heating (boiler) capacity which will also be subjects of separate agenda items. It is anticipated BCP has sufficient capital in place to fund these requests.

An Invitation to Bid is expected to be advertised in the Portland Daily Journal of Commerce within the week and a tentative date for the bid opening is scheduled for September 26, 2006, at 2:15 PM in the Finance Department Conference Room. Staff requests that the City Council authorize the Mayor to award a contract to the lowest responsible bidder submitting the lowest responsive bid immediately following the bid opening and evaluation on September 26, 2006. The reason for the immediate bid award is to permit the prospective low bidder the necessary time to order the speciality piping to commence construction to meet the overall building schedule.

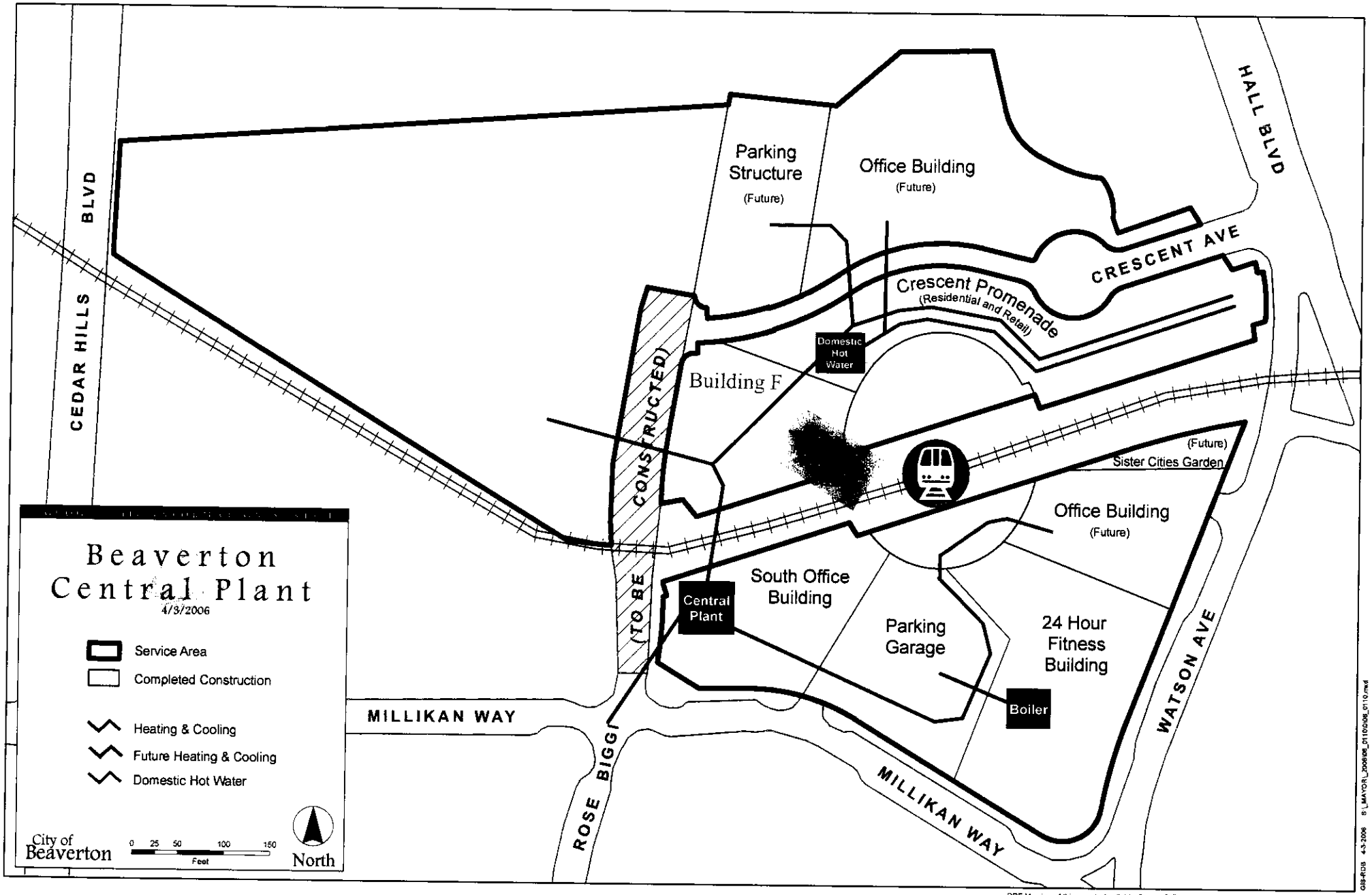
RECOMMENDED ACTION:

Council, acting as the Contract Review Board:

(1) authorize the Mayor to award a contract for the construction of piping and building connections to extend the Beaverton Central Plant services to Building "F" to the lowest responsible bidder submitting the lowest responsive bid immediately upon bid opening and evaluation on September 26, 2006;

(2) direct the Finance Director to include the above mentioned adjustment to the Plant's Beginning Working Capital, additional tax credit revenues and Construction Account appropriation in Supplemental Budget S-07-01; and,

(3) direct staff to return for Council ratification with details of the contract award at a later date.



PDF Version of this map is Available Online @ T:\MAPS\Mayor\06_0110_Rnd_WstGt_11x17_c.pdf

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AGENDA BILL

08/14/06: Postponed to Meeting of 09/11/06.

Beaverton City Council
Beaverton, Oregon

SUBJECT: CPA 2006-0001 Amending the Comprehensive Plan Chapters 1 and 2 and the Glossary

FOR AGENDA OF: ~~08-14-06~~ 09/11/06 **BILL NO:** 06148

Mayor's Approval:

DEPARTMENT OF ORIGIN: CDD

DATE SUBMITTED: 08-01-06

CLEARANCES: Planning HB

PROCEEDING: Work Session

EXHIBITS:
A. Proposed Ordinance and Exhibit A – Proposed Text
B. Planning Commission Final Order No. 1859 and Exhibit A showing recommended amendments
C. PowerPoint Presentation Copy

BUDGET IMPACT

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

HISTORICAL PERSPECTIVE:

The Comprehensive Plan Public Involvement and Procedures chapters were developed in 1995 in response to Periodic Review and Statewide Planning Goal 1. Since then, several amendments to various chapters resulted in amendments to definitions. Additionally, several definitions were changed in the Development Code. These actions resulted in some conflicting and confusing definitions.

In September 2002 and January 2005 procedures in Beaverton Development Code Chapter 50 were amended, specifically Type 3 and Type 4 processing and noticing requirements. These application procedures provide some of the requirements that Comprehensive Plan amendments must follow. The revised procedures resulted in inconsistencies between the procedures in the Comprehensive Plan and those in the Development Code. Additionally, in 1998 the state's voters approved Ballot Measure 56, which set notification timeframes for Comprehensive Plan amendments that differ from those set in the Comprehensive Plan. This proposed amendment eliminates those inconsistencies and updates Chapters 1 and 2 as well as the Glossary.

The Planning Commission held a public hearing on March 15, 2006, heard testimony, and continued the item to April 5, 2006 in order to allow additional time for staff to respond to Commission comments and questions. On April 5, 2006, the Commission decided to continue amendment consideration to April 12. On April 12, 2006, the Commission discussed and decided on various changes to the original proposal and adopted the amendment as revised at the hearing and evidenced in the Staff Reports and Memorandums, and Planning Commission Order No. 1859.

INFORMATION FOR CONSIDERATION:

Staff will provide a presentation on the changes to Chapters 1 and 2 and the Glossary at the work session. The first reading of an ordinance to adopt the proposed changes is scheduled for September 11, 2006. The Council can direct staff to submit the proposed ordinance for first reading on that date, or if the Council does not concur with all the substantive amendments recommended by the Planning Commission, the Council can either (1) remand the matter to the Planning Commission for an additional public hearing addressing the Council's concerns or (2) set a date for a public hearing before the Council. The City Attorney's office has advised that the first option is preferable.

RECOMMENDED ACTION:

Conduct the work session and then advise staff of any concerns and the Council's preferred course of action.

Exhibit A

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

WHEREAS, the purpose of the proposed amendment to the City of Beaverton's Comprehensive Plan Chapters 1, 2, and Glossary is to revise and update public involvement, amendment procedures, and definitions to be consistent with revised state law, Development Code procedures, and Development Code definitions; and

WHEREAS, the Planning Commission held a public hearing on March 15, April 5 and April 12, 2006, to consider CPA 2006-0001, consider comments, and take testimony; and

WHEREAS, on April 12, 2006, the Planning Commission recommended approval of the proposed CPA 2006-0001 application based upon the Staff Report dated February 13, 2006, for the March 15, 2006, Public Hearing, the Supplemental Staff Report dated March 15, 2006, and Staff Memoranda dated March 20, 2006, March 31, 2006, and April 12, 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. Ordinance No. 4187, Comprehensive Plan Chapters 1, 2, and the Glossary as amended and set forth in Exhibit A and incorporated herein by reference, is adopted.

Section 2. All Comprehensive Plan 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 ___ day of _____, 2006.

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

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

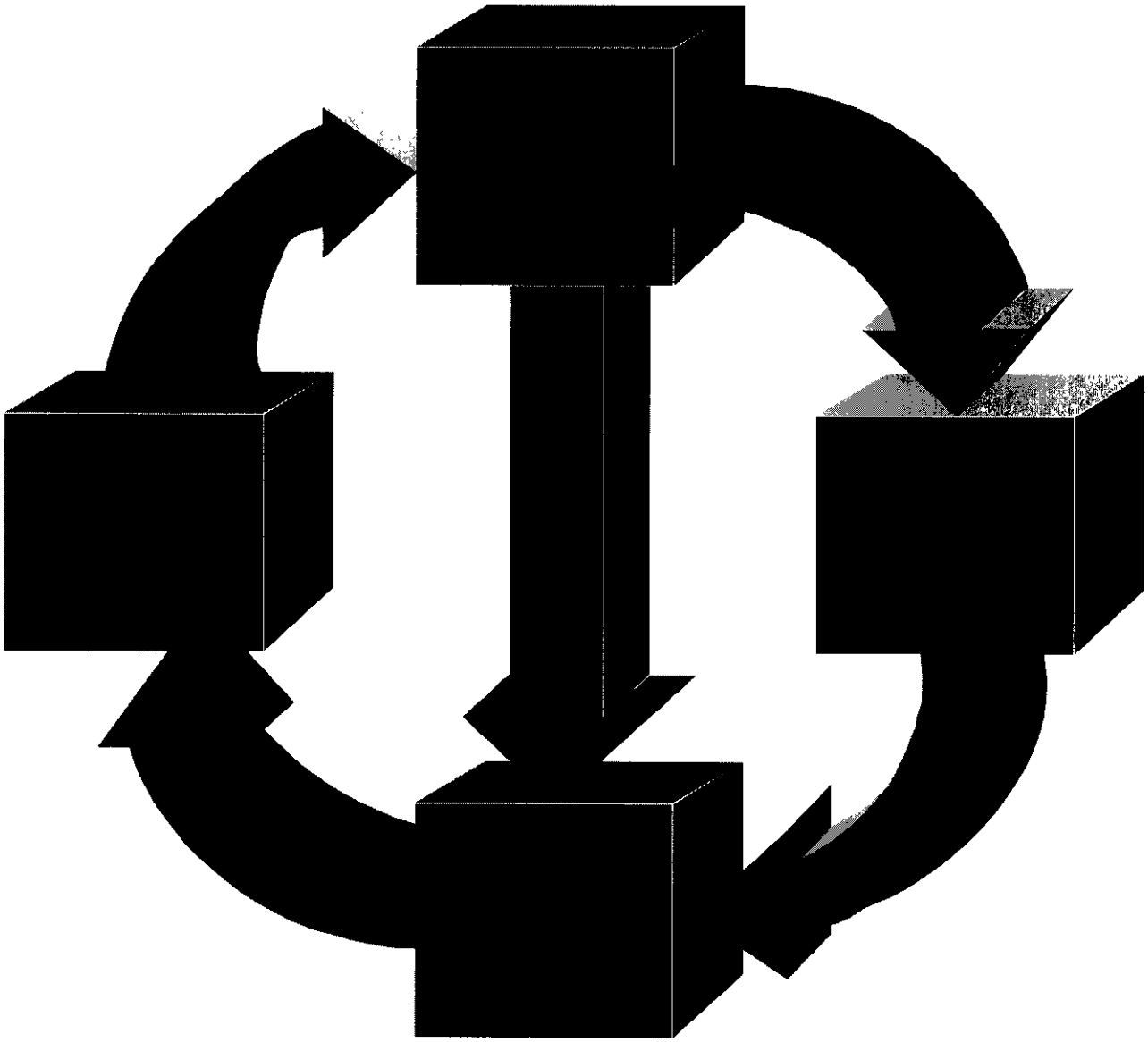
ATTEST:

_____
SUE NELSON, City Recorder

APPROVED:

_____
ROB DRAKE, Mayor

CHAPTER ONE: COMPREHENSIVE PLAN AMENDMENT PROCEDURES ELEMENT



COMPREHENSIVE PLAN AMENDMENT PROCEDURES

1.1 AMENDMENT INITIATION.

Amendments to the Comprehensive Plan may be initiated by City Council, the Planning Commission, the Mayor, the Community Development Director, or the Public Works Director at any time. Landowners may also initiate an amendment to the Land Use Map pertaining only to their property at any time.

1.1.1 City-initiated Amendments

Amendment requests shall be submitted to the Community Development Director for preparation and analysis for a Planning Commission public hearing or City Council consideration. The Planning Commission and City Council have the right to accept, reject or modify any specific request for amendment in accordance with the City's policies and procedures. The Planning Commission or City Council may enlarge or reduce the geographic area of proposed map amendments, investigate alternative land use designations to those requested, or combine the request with other City-initiated amendments for comprehensive study and determination. If the decision to modify a requested amendment is made after public hearing notice has been provided, the notice shall be reissued and, if necessary, the hearing rescheduled.

1.1.2 Property Owner-initiated Amendments

Amendment requests shall be submitted to the Community Development Director for preparation and analysis for a Planning Commission public hearing. The Planning Commission and City Council reserve the right to approve, approve with conditions, or deny any specific request for amendment in accordance with the City's policies and procedures.

1.1.3 Amendment Processing

Proposed amendments shall be processed as expeditiously as possible, subject to the availability of staff and budgetary resources and project priorities set by the Mayor. Amendments shall be processed in compliance with the procedures established by this Plan as well as Oregon Revised Statutes, Oregon Administrative Rules, Metro Code, the City Charter, and City Ordinances. Property owner-initiated amendments should be processed in the order in which they are submitted and accepted as complete, but the City Council may, by resolution, postpone processing proposed amendments to accelerate processing other amendments to which they give a higher priority.

1.2 PERIODIC REVIEW

Periodic Review amendments are subject to a Land Conservation and Development Commission (LCDC) approved work program and follow separate notice procedures outlined in the Oregon Revised Statutes and Oregon Administrative Rules governing Periodic Review.

1.3 AMENDMENT PROCEDURAL CATEGORIES

Comprehensive Plan Amendments fall into five general categories: Legislative, Quasi-Judicial, Historic Landmark, District and Tree designation removal, Non-Discretionary, and Statewide

Planning Goal 5 Inventory Document Amendments.

Legislative Amendments are amendments to the Comprehensive Plan text or map of a generalized nature initiated by the City that applies to an entire land use map category or a large number of individuals or properties or that establishes or modifies policy or procedure. Legislative amendments include additions or deletions of text or land use map categories.

Quasi-Judicial Amendments are amendments to a Land Use Map designation as it applies to specific parcels or that applies to a small number of individuals or properties or locations.

Historic Landmark, District or Tree Designation Removal are amendments, requested from the property owner, to remove said designation pursuant to ORS 197.772. Upon receipt of a letter request to remove said designation, the Community Development Director shall issue a letter removing said designation based on ORS 197.772 and shall cause such letter to be mailed to the property owner and the property owners within an area enclosed by lines parallel to and 500 feet from the exterior boundary of the subject property.

Non-Discretionary Amendments are amendments to the Comprehensive Plan Land Use Map to add an annexed property, or properties, to the Map with a Land Use Map designation assigned through direct application of the Washington County-Beaverton Urban Planning Area Agreement (UPAA). The County land use classification(s) remain in effect under provisions of Oregon Revised Statutes (ORS 197.175(1) and ORS 215.130(2)(a)) until the City acts to implement its own Comprehensive Plan Land Use designation(s) for the annexed territory.

The UPAA requires the City to assign a particular, or most similar, City Comprehensive Plan Land Use designation to the annexed property based on the Washington County designation. Exhibit "B" of the UPAA contains a chart describing a one-to-one relationship between County and City land use designations. The UPAA and the chart referenced as Exhibit "B" is found within Chapter 3 of the Comprehensive Plan in Section 3.15. Where UPAA Exhibit "B" provides a one-to-one relationship and the annexed property is **not** subject to any special policies within the applicable Washington County Community Plan, the decision to apply a specific Land Use Map designation is made under land use standards that do not require interpretation or the exercise of policy or legal judgement. Consequently, the decision is not a land use decision as defined by Oregon Revised Statutes (ORS 197.015(10)(b)(A)).

Statewide Planning Goal 5 Inventory Resource Document Amendments are amendments to Volume III of the Comprehensive Plan. Amendments may be legislative, such as periodic review, or annual updates to maps, or quasi-judicial. Updates to the Significant Natural Resources Map (Local Wetland Inventory Map) incorporating changes approved by the Department of State Lands are non-discretionary map amendments the public notice, decision-making and appeal of the decision occurs when the Division of State Lands approves the wetland delineation and fill or removal permit (OAR 141-086-005 through OAR 141-090-0230, OAR 141-085-0018, OAR 141-085-0025, OAR 141-085-0028, OAR 141-085-0029, OAR 141-085-0031, OAR 141-085-0066, ORS 227.350 (2), and ORS 196.600 to 196.990). As noted under Non-Discretionary Amendments above, when no discretion is exercised, the decision is not a

land use decision under Oregon Revised Statutes (ORS 197.015(10)(b)(A)).

1.4 NOTICE REQUIREMENTS

The claim of a person to have not received notice, who may be entitled to notice as provided in this section, shall not invalidate such proceedings if the City can demonstrate by affidavit that such notice was given.

If the Community Development Director or City Council determine that the proposed amendment substantially changes from the proposal described in the initial notice, then notice is required to be sent again as described in the appropriate subsection with specific notation that the proposal has changed and that a new hearing will be held on the matter.

1.4.1 Legislative Amendments.

A. Notice of the initial hearing shall be provided as follows:

1. By mailing the required inter-agency Department of Land Conservation and Development (DLCD) notice to DLCD, Metro, the Beaverton Neighborhood Office and the Chair of the Committee for Citizen Involvement (CCI) at least forty-five (45) calendar days prior to the initial hearing. When the legislative amendment is required through Periodic Review, DLCD notice is not required, therefore, it is not provided.
2. Mail notice to owners of property within the City for which the proposed ordinance, if adopted, may in the Director's opinion affect the permissible uses of land

   a) The most recent property tax assessment roll of the Washington County Department of Assessment and Taxation shall be used for determining the property owner of record. The failure of a property owner to receive notice does not invalidate the decision.

   b) If a person owns more than one property that could be affected by the proposed ordinance if adopted, the Director may mail that person only one notice of the hearing.
3. By publication of a notice with the information specified in subsection 1.4.1 (B)(1), (2), and (3) in a newspaper of general circulation within the City,; and
4. By posting a notice with the applicable information specified in subsection 1.4.1 (B) at Beaverton City Hall and the Beaverton City Library; and
5. By placing a notice with the applicable information specified in subsection 1.4.1 (B) on the City's website.

Notice required by Oregon Revised Statutes (ORS 227.186, also known as Ballot Measure 56) shall be provided, when applicable. ORS 227.186(6) specifies notice requirements for city-initiated amendments related to Periodic Review.

Hearing Notices required by numbers 2 through 5 of this subsection, shall be given not less than twenty (20) and not more than forty (40) calendar days prior to the date of the initial hearing.

B. Mailed notice required in subsection 1.4.1 (A) (2), posted notice required in subsection 1.4.1 (A) (4), and web notice required in subsection 1.4.1 (A) 5 shall:

1. State the date, time and location of the hearing, and the hearings body;
2. Explain the nature and purpose of the hearing;
3. Include the case file number, title or both of the proposed ordinance to be considered at the time of hearing;
4. List the applicable approval criteria by Comprehensive Plan by section numbers that apply to the application at issue;
5. State that a copy of the staff report will be available for inspection at no cost at least seven (7) calendar days prior to the hearing and will be provided at reasonable cost and include the days, times and location where available for inspection;
6. Include the name and phone number of the City staff person assigned to the application from whom additional information may be obtained;
7. State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the Planning Commission an opportunity to respond to the issue precludes appeal to the City Council and the Land Use Board of Appeals based on that issue; and
8. Include a general explanation of the requirements for submission of testimony and procedure for conduct of the hearing.

C. If an application is City-initiated and would change the Land Use Plan Map for a property to a designation that would require a rezone, a notice must be sent to the owner pursuant to Oregon Revised Statutes (ORS 227.186(3) also known as Ballot Measure 56).

D. Notice of remand hearings, whether they be the entire legislative amendment or part of the amendment, either from the Land Use Board of Appeals to City Council or from City Council to Planning Commission, shall be given following subsections 1.4.1 (A) and 1.4.1 (B) with the following additional information:

1. The deadline for submitting written testimony and the place it is to be submitted;
2. The applicable criteria if the remand is required by the failure to state the criteria or if the criteria have changed;
3. The scope of the testimony; and
4. Whether the testimony is de novo or limited to the record and whether it must be submitted in writing or whether oral testimony will be allowed.

The notice required in this subsection (D) shall be mailed to persons who previously provided written or oral testimony in the proceedings on the proposal.

1.4.2 Quasi-Judicial Amendments

A. Notice of the initial hearing shall be provided as follows:

1. By mailing the required inter-agency DLCD notice to DLCD, Metro, the Beaverton Neighborhood Office and the CCI Chair at least forty-five (45) calendar days prior to the initial hearing.
2. By publication of a notice with the information specified in 1.4.2 (B) (1), (2), (3) and (4) in a newspaper of general circulation within the City; and
3. By posting notice with the information specified in 1.4.2 (B) at Beaverton City Hall and the Beaverton City Library; and
4. By mailing notice with the information specified in 1.4.2 (B) to property owners

included in the proposed change area, if applicable, and within an area enclosed by lines parallel to and 500 feet from the exterior boundary of the property for which the change is contemplated; and

5. By mailing notice with the information specified in 1.4.2 (B) to any City-recognized Neighborhood Association Committee (NAC) or County-recognized Citizen Participation Organization (CPO) whose boundaries include the property for which the change is contemplated; and
6. By placing notice with the information specified in 1.4.2 (B) on the City's web site.

Notice required by Oregion Revised Statutes (ORS 227.186, also known as Ballot Measure 56) shall be provided, when applicable. ORS 227.186(6) specifies notice requirements for city-initiated amendments related to Periodic Review.

Hearing notices required by numbers 2 through 6 of this subsection shall be given not less than twenty (20) and not more than forty (40) calendar days prior to the date of the initial hearing.

B. Mailed notice required in subsection 1.4.2 (A) (4) and (5) shall:
   1. Explain the nature of the application and the use or uses, which could be authorized;
   2. Set forth the street address or other easily understood geographical reference to the subject property and include a map, if applicable;
   3. State the date, time, and location of the hearing, and the hearings body;
   4. Include the case file number, title or both of the proposed ordinance to be considered at the time of hearing;
   5. List the applicable criteria from the Comprehensive Plan by section number that apply to the application at issue;
   6. State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the Planning Commission an opportunity to respond to the issue precludes appeal to the City Council and the Land Use Board of Appeals based on that issue;
   7. Include the name and phone number of the City staff person assigned to the application from whom additional information may be obtained;
   8. State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant, and applicable criteria are available for inspection at no cost and will be provided at reasonable cost and include the days, times and location where available for inspection;
   9. State that a copy of the staff report will be available for inspection at no cost at least seven (7) calendar days prior to the hearing and will be provided at reasonable cost include the days, times and location where available for inspection; and
   10. Include a general explanation of the requirements for submission of testimony and procedure for conduct of the hearing.

C. If an application is City-initiated and would change the Land Use Plan Map for a property to a designation that would require a rezone, a notice must be sent to the owner pursuant to Oregon Revised Statutes (ORS 227.186(3) also known as Ballot Measure 56).

D. Notice of remand hearings, whether for the entire quasi-judicial amendment or part of the amendment, either from the Land Use Board of Appeals to City Council or from City Council to Planning Commission shall be given following subsection 1.4.2 (A) and 1.4.2

(B) with the following additions:

1. Any deadline for submitting written testimony and the place it is to be submitted;
2. The applicable criteria if the remand is required by the failure to state the criteria or if the criteria have changed;
3. The scope of the testimony; and
4. Whether the testimony is limited to the record or de novo and whether it must be submitted in writing or whether oral testimony will be allowed.
5. The notice required in this subsection (D) shall be mailed to persons who previously provided written or oral testimony in the proceedings on the proposal.

1.4.3 Non-Discretionary Map Amendments

A. Notice for Non-Discretionary Map Amendments shall be provided as follows:

1. By publication of a notice with the information specified in 1.4.3 (B) (1), (2) and (3) in a newspaper of general circulation within the City,; and
2. By mailing notice with the information specified in 1.4.3 (B) to the Beaverton Neighborhood Office, Chair of the Committee for Citizen Involvement (CCI), NAC, CPO and owners of record of the subject property on the most recent property tax assessment roll; and
3. By placing notice with the information specified in 1.4.3 (B) on the City's web site..

All notices required by 1. through 3. of this subsection (A) shall be given not less than twenty (20) and not more than forty (40) calendar days prior to the date the item initially appears on the City Council agenda.

B. Notice required by subsection 1.4.3.(A) shall:

1. Explain the nature of the application;
2. Set forth the street address or other easily understood geographical reference to the subject property, including a map;
3. State the time, date, place, and purpose of the City Council agenda item;
4, Include the case file number, title or both of the proposed ordinance to be considered at the time of hearing;
5. Include the name and phone number of the City staff person assigned to the application from who additional information may be obtained;
6. List the applicable criteria from the Comprehensive Plan and State Law that apply to the application at issue;
7. State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant, and applicable criteria are available for inspection at no cost at least seven (7) calendar days prior to the City Council meeting and will be provided at reasonable cost and include the days, times and location where available for inspection;.

C. Notice of Decision for Non-Discretionary Map Amendments

Within five working days after the City Council decision on a Non-Discretionary Map

Amendment, notice of the decision shall be mailed to the owner of record, DLCD, the Beaverton Neighborhood Office and the Chairperson of the Committee for Citizen Involvement (CCI). The notice of decision shall include the following:

1. A statement that the decision is final but may be appealed in a court of competent jurisidiction, and
2. A statement that the complete case file is available for review. The statement shall list when and where the case file is available and the name and telephone number of the City representative to contact for information about the case.

1.4.4 Statewide Planning Goal 5 Inventory Resource Document (Volume III) Amendments

A. If the proposal is legislative in nature, as in an update to one of the Statewide Planning Goal 5 Inventory Resource Documents or an addition of a new category of Statewide Planning Goal 5 Inventory Resource Documents, then notice shall follow the legislative notice procedure identified under subsection 1.4.1.

B. If the proposal is quasi-judicial in nature, as in a change on one property or a limited group of properties, the notice shall follow the quasi-judicial notice procedure under subsection 1.4.2..

C. If the proposal is to update the Local Wetland Inventory map of the Significant Natural Resource maps based on approvals of wetland delineations or fill or removal permits issued by the Oregon Department of State Lands, the amendment shall be deemed non-discretionary and shall be updated administratively by City Council ordinance adoption, following the Non-Discretionary Map Amendment procedure under 1.4.3.

1.5 CRITERIA FOR AMENDING THE COMPREHENSIVE PLAN

The adoption by the City Council of any amendment to the Plan shall be supported by findings of fact, based on the record, that demonstrate the criteria of this Section have been met. The City Council and Planning Commission may incorporate by reference facts, findings, reasons, and conclusions proposed by the City staff or others into their decision.

1.5.1 Criteria for Legislative and Quasi-judicial Comprehensive Plan Amendments

A. The proposed amendment is consistent and compatible with relevant Statewide Planning Goals and related Oregon Administrative Rules; and

B. The proposed amendment is consistent and compatible with the applicable Titles of the Metro Urban Growth Management Functional Plan and the Regional Transportation Plan; and

C. The proposed amendment is consistent and compatible with the Comprehensive Plan and other applicable local plans; and

D. If the proposed amendment is to the Land Use Map, there is a demonstrated public need, which cannot be satisfied by other properties that now have the same designation as proposed by the amendment.

1.5.2 Criteria for Non-Discretionary Map Amendments

A. Annexation-Related

Discretion occurs when the Washington County-Beaverton Urban Planning Area Agreement (UPAA) is adopted or amended by the County and the City. The UPAA provides specific City-County Land Use Designation Equivalents. Specifically, the UPAA states in Section II (D) "Upon annexation, the city agrees to convert County plan and zoning designations to City plan and zoning designations which most closely approximate the density, use provisions and standards of the County designations. Such conversion shall be made according to the tables shown on Exhibit "B" to this agreement." Consequently, when the conversion from County to City designation is shown on Exhibit B, the City has no discretion.

B. Statewide Planning Goal 5

The Department of State Lands (DSL) and the US Army Corps of Engineers (COE) exercise discretion when these agencies approve wetland delineations and fill/removal permits (OAR 141-085, ORS 227.350, and ORS 196.600 to 196.990). Because the decision is made by another agency, acknowledging the locations of the delineated wetlands and fill/removal activities on the City's Local Wetland Inventory map involves no discretion.

1.5.3 Criteria for Statewide Planning Goal 5 Inventory Resource Document (Volume III) Comprehensive Plan Amendments

A. Local Wetland Inventory Amendments require following the criteria for adoption of a local wetland inventory found within Oregon Revised Statutes and Oregon Administrative Rules (as of November 2004, ORS 196 and OAR 141-086 and OAR 660-023).

B Criteria for Addition of Historic Landmarks and Districts

To qualify as a historic landmark or district, the proposal must meet criterion 1 and at least one factor listed as criteria 2 through 5:

1. Conforms with the purposes of the Beaverton Comprehensive Plan; and
2. The proposed landmark or district is associated with natural history, historic people, or with important events in national, state, or local history; or
3. The proposed landmark or district embodies the distinguishing characteristics of an architecture inherently valuable for a study of a period, style, or method of construction; or
4. The proposed landmark is a notable work of a master builder, designer, or architect; or
5. The proposed landmark or district would serve one or more of the following purposes:
   a) To preserve, enhance, and perpetuate landmarks and districts representing or reflecting elements of the City's cultural, social, economic, political, and architectural history;
   b) To safeguard the City's historic, aesthetic, and cultural heritage as embodied and reflected in said landmarks and districts;

c) To complement any National Register properties or Historic Districts;

d) To stabilize and improve property values in such districts;

e) To foster civic pride in the beauty and accomplishments of the past;

f) To protect and enhance the City's attractions to tourists and visitors and the support and stimulus to business and industry thereby provided;

g) To strengthen the economy of the City; and

h) To promote the use of historic districts and landmarks for the education, pleasure, energy conservation, housing, and public welfare of the City's current and future citizens.

C. Criteria for Adding Historic Trees

The adoption by City Council and Planning Commission of any amendment to add a historic tree to the Historic Tree Inventory shall be based on the following criteria:

1. Conforms with applicable goals and policies of the Beaverton Comprehensive Plan; and
2. The proposed historic tree designation is requested by the property owner as determined by the most recent property tax assessment roll of the Washington County Department of Assessment and Taxation; and
3. The proposed historic tree is associated with historic properties, historic people, or with important events in national, state, or local history, or general growth and development of the city.

1.6 HEARINGS PROCEDURES

Before the City Council may adopt any amendment to the Comprehensive Plan, the procedures within this section shall be followed In the case of Non-Discretionary amendments, no hearing will be held. Consideration of the proposal shall be placed on the City Council Agenda for adoption by ordinance.

1.6.1. After appropriate notice is given, as provided in section 1.4 the Planning Commission or City Council shall hold a public hearing on the amendment, except for Non-Discretionary amendments.

A. At the beginning of the hearing an announcement shall be made to those in attendance that:

1. States the applicable approval criteria by Comprehensive Plan section number.
2. States testimony, arguments and evidence must be directed toward the applicable criteria.
3. States failure to raise an issue accompanied by statements or evidence with sufficient specificity to afford the Planning Commission or City Council and the parties an opportunity to respond to the issue may preclude appeal to the Land Use Board of Appeals on that issue.
4. States failure of the applicant to raise constitutional or other issues relating to the proposed conditions of approval with sufficient specificity to allow the City to

respond to the issue may preclude an action for damages in circuit court.

5. If a quasi-judicial application, states the Planning Commission and City Council must be impartial and that members of the Planning Commission and City Council shall not have any bias or personal or business interest in the outcome of the application.
   a) Prior to the receipt of any testimony, members of the Planning Commission or City Council must announce any ex parte contacts. The Planning Commission or City Council shall afford parties an opportunity to challenge any member thereof based on bias, conflicts of interest or ex parte contacts.
   b) If any member of the Planning Commission or City Council has visited the site (if applicable), they should describe generally what was observed.
6. Summarizes the procedure of the hearing.
7. States that the hearing shall be recorded on audio only or audio and video tape.
8. States any time limits for testimony set by the Planning Commission or City Council at the beginning of the hearing.

B. After the aforementioned announcements, the Chair or Mayor shall call for presentation of the staff report. Staff shall describe the proposal and provide a recommendation.

C. After the presentation of the staff report, the Chair or Mayor shall call for the applicant's testimony, if the City is not the applicant.

D. After the applicant's testimony, the Chair or Mayor shall call for other evidence or testimony in the following sequence unless the Planning Commission or City Council consents to amend the sequence of testimony:
   1. First, evidence or testimony in support of the application.
   2. Second, evidence or testimony in opposition to the application.
   3. Third, evidence or testimony that is neither in support nor in opposition to the application.

E. If the City is not the applicant, the Chair or Mayor shall call for rebuttal by the applicant. Rebuttal testimony shall be limited to the scope of the issues raised by evidence and arguments submitted into the record by persons in opposition to the application. Should the applicant submit new evidence in aid of rebuttal, the Chair or Mayor shall allow any person to respond to such new evidence, and provide for final rebuttal by the applicant.

F. The Chair or Mayor shall offer staff an opportunity to make final comments and answer questions.

G. Provisions for holding a record open or continuing a hearing set forth in Oregon Revised Statutes (ORS 197.763 (6)) shall apply to this Chapter of the Comprehensive Plan, in accordance with the statute.

1.6.2. Following the conclusion of the hearing, the Planning Commission shall take one of the following actions:

A. Continue the hearing to a date, time and location certain, which shall be announced by the Chair. Notice of date, time, and location certain of the continued hearing is not required to be mailed, published or posted, unless the hearing is continued without announcing a date, time, and location certain, in which case notice of the continued hearing shall be given as though it was the initial hearing.

B. Deny the application, approve the application, or approve the application with conditions.
   1. If the Planning Commission proposes to deny, approve, or approve with conditions,

the Planning Commission shall announce a brief summary of the basis for the decision and that an order shall be issued as described in 1.7; provided, the proceedings may be continued for the purpose of considering such order without taking new testimony or evidence.

2. Provisions for holding a record open or continuing a hearing set forth in ORS 197.763(6) shall apply under this Ordinance in a manner consistent with state law.
3. If the Planning Commission proposes to approve, or approve with conditions, an ordinance shall be prepared for City Council consideration, consistent with the City Charter.
4. In conjunction with their adoption of an ordinance approving or approving with conditions a Comprehensive Plan Amendment, the City Council shall adopt written findings which demonstrate that the approval complies with applicable approval criteria.

1.7. FINAL ADOPTION AND APPEALS

1.7.1 Final Order

A. The written decision in the form of a final order shall be prepared regarding the application. The final order shall include:
   1. A listing of the applicable approval criteria by Comprehensive Plan section number.
   2. A statement or summary of the facts upon which the Planning Commission or City Council relies to find the application does or does not comply with each applicable approval criterion and to justify any conditions of approval. The Planning Commission or City Council may adopt or incorporate a staff report or written findings prepared by any party to the proceeding into the final order to satisfy this requirement.
   3. A statement of conclusions based on the facts and findings.
   4. A decision to deny or to approve the application and, if approved, any conditions of approval necessary to ensure compliance with applicable criteria.

B. Within five (5) working days after the Final Decision (City Council Ordinance or Final Order adoption), mail the required DLCD Notice of Adoption to DLCD, pursuant to ORS 197.610 and OAR Chapter 660- Division 18.

C. Within five (5) calendar days from the date that the Planning Commission or City Council adopts a final order, the Community Development Director shall cause the order to be signed, dated, and mailed to the applicant, the property owner, the Neighborhood Association Committee or County Participation Organization in which the subject property is located, and other persons who appeared orally or in writing before the public record closed. The final order shall be accompanied by a written notice which shall include the following information:
   1. In the case of a Planning Commission decision, a statement that the Planning Commission decision can be appealed to the City Council following the procedures listed in 1.7.2. The appeal date and the statement that the appeal must be filed within ten (10) calendar days after the date of the signed notice is dated and mailed shall be placed on the notice, with the appeal closing date shown in boldface type. The statement shall generally describe the requirements for filing an appeal and include the name, address and phone number of the Community Development Director.

2. In the case of a City Council decision, a statement that the decision is final, but may be appealed to the Land Use Board of Appeals as provided in Oregon Revised Statutes (ORS 197.805 through 197.860) or to the Land Conservation and Development Commission as provided in Oregon Revised Statutes (ORS 197.633), in the case of Periodic Review Amendments.
3. A statement indicating the Amendment application number, date, and brief summary of the decision. The statement shall list when and where the case file is available and the name and telephone number of the City representative to contact for information about the proposal.
4. A statement of the name and address of the applicant.
5. If applicable, an easily understood geographic reference to the subject property and a map.

1.7.2 Notice of Intent to Appeal

A. The Planning Commission decision may be appealed to the City Council only by the applicant, a person whose name appears on the application, or any person who appeared before the Planning Commission either orally or in writing. An appeal shall be made by filing a Notice of Intent to Appeal with the Community Development Director andwithin ten (10) calendar days after the signed written order was dated and mailed.

B. A notice of Intent to Appeal shall be in writing and shall contain:
   1. A reference to the application number and date of the Planning Commission order;
   2. A statement that demonstrates the appellant is the applicant or their representative, a person whose name appears on the application, or a person who appeared before the Planning Commission either orally or in writing;
   3 The name, address, and signature of the appellant or the appellant's representative;
   4 An appeal fee, as established by Council resolution; if more than one person files an appeal on a specific decision, the appeals shall be consolidated and the appeal fee shall be divided equally among the multiple appellants; and
   5. A discussion of the specific issues raised for Council's consideration and specific reasons why the appellant contends that the Planning Commission's findings and/or recommendation is incorrect or not in conformance with applicable criteria.

C. The Community Development Director shall reject the appeal if it
   1. is not filed within the ten (10) day appeal period set forth in subsection A of this section,
   2. is not filed in the form required by subsection B of this section, or
   3. does not include the filing fee required by subsection B of this section.

   If the Community Development Director rejects the appeal, the Community Development Director will so notify the appellant by letter. This letter shall include a brief explanation of the reason why the Community Development Director rejects the appeal. A decision of the Community Development Director to reject an appeal pursuant to this section is a final City decision as of the date of the letter and is not subject to appeal to the City Council. The appellant shall be allowed to correct a failure to comply with subsection B of this section if the correction can be made and is made within the 10 day appeal period provided in subsection A of this section.

D. If a Notice of Intent to Appeal is not filed, or is rejected, an ordinance shall be prepared for City Council consideration, consistent with the City Charter.

If the application is denied, the City Council will adopt a final order which sets forth its decision together with any reasons therefor. The Council's final order or the ordinance is the final decision of the City on the application. Notice of the decision shall be given as provided in 1.7.1.

E. Notwithstanding the provisions of this section, City Council on its own motion, may order a public hearing before the City Council at any time prior to adopting a Council final order or ordinance.

1.7.3 Notice of Appeal Hearing

A. Written notice of the appeal hearing before the City Council will be sent
   1. by regular mail,
   2. no later than twenty (20) days prior to the date of the hearing
   3. to the appellant, the property owner, the applicant, if different from the appellant, persons whose names appear on the application, and all persons who previously testified either orally or in writing before the Planning Commission.

B. Notice of the hearing shall:
   1. Reference the CPA file number or numbers and the appeal number;
   2. Set forth the street address or other easily understood geographical reference to the subject property, if applicable;
   3. State the date, time and location of the hearing;
   4. State that an appeal has been filed, set forth the name of the appellant or appellants and contain a brief description of the reasons for appeal;
   5. Include the name and phone number of the City staff person assigned to the application from whom additional information may be obtained;
   6. State that a copy of the Planning Commission's written order, the application, all documents and evidence contained in the record, and the applicable criteria are available for inspection at no cost and can be provided at reasonable cost including the days, times and location where available for inspection; and
   7. Include a general explanation of the requirements for submission of testimony and the procedure for conduct of the hearing.

1.7.4 Preparation of the Record; Staff Report; Transcript

A. Following receipt of a Notice of Intent to Appeal filed in compliance with 1.7.2, the Community Development Department Director shall prepare a record for Council review containing:
   1. All staff reports and memoranda prepared regarding the application that were presented to the Planning Commission;
   2. Minutes of the Planning Commission proceedings at which the application was considered;

3. All written testimony and all exhibits, maps documents or other written materials presented to and or rejected by the Planning Commission during the proceedings on the application; and
4. the Planning Commission's Final written order.
5. The appellant may request, and the City Council may allow, a quasi-judicial comprehensive plan amendment appeal hearing be conducted on the record established at the Planning Commission public hearing. If such a request is made and granted, a transcript of the Planning Commission proceeding is required. The appellant shall remit a fee to cover the cost fo the transcript of the Planning Commission hearing within five (5) calendar days after the Community Development Director estimates the cost of the transcript. Within ten (10) calendar days of notice of completion of the transcript, the appellant shall remit the balance due on the cost of the transcript. In the event that the Council denies the request for an on the record appeal hearing, and holds a de novo hearing, the transcript fee may be refunded. If the transcription fee estimate exceeds the transcription cost, the balance shall be refunded to the appellant.

B. The Community Development Department Director shall prepare a staff report on the appeal explaining the basis for the Planning Commission's decision as relates to the reason for appeal set forth in the Notice of Intent to Appeal, and such other matters relating to the appeal as the Director deems appropriate.

1.7.5 Scope of Review

A. The City Council appeal hearing shall be de novo, which means any new evidence and argument can be introduced in writing, orally, or both. The City Council may allow, at the appellant's request, a quasi-judicial comprehensive plan amendment appeal hearing be conducted on the record established at the Planning Commission hearing.

B. The Council may take official notice of and may consider in determining the matter any material which may be judicially noticed pursuant to the Oregon Rules of Evidence, ORS 40.060 through 40.090, including an ordinance, comprehensive plan, resolution, order, written policy or other enactment of the City.

C. Preliminary Decision.

At the conclusion of deliberations, the Council shall make a preliminary oral decision. The Council may affirm, reverse or modify the Planning Commission's order in whole or in part, or may remand the decision back to the Planning Commission for additional consideration. (Procedures for noticing a remand hearing are found in sections 1.4.1 (D) and 1.4.2 (D).) The preliminary oral decision is not a final decision. At any time prior to adoption of the final order or Ordinance pursuant to subsection D of this section, the Council may modify its decision based upon the record or may reopen the hearing.

D. Final Order or Ordinance

In the case of a denial, the City Council shall direct staff to prepare a final order or in the case of approval, the Council shall cause the preparation of an Ordinance. The Ordinance or final order shall consist of a brief statement explaining the criteria and standards considered relevant, stating the facts relied on in rendering the decision, and explaining

the justification for the decision based upon the criteria and facts set forth. The final order, or Ordinance, is the final decision on the application and the date of the order, or Ordinance, for purposes of appeal is the date on which it is signed by the Mayor.

Procedures for preparation of the Final Order, Ordinance and distribution of the Notice of Decision are found in section 1.7.

The following diagrams, Diagram I-1 through I-4, are intended for illustrative purposes only and are not adopted as procedural requirements within this ordinance. Thus, periodic updates to Diagrams I-1 through I-4 will not require a Comprehensive Plan Amendment.

Diagram I-1
Legislative Comprehensive Plan Amendments

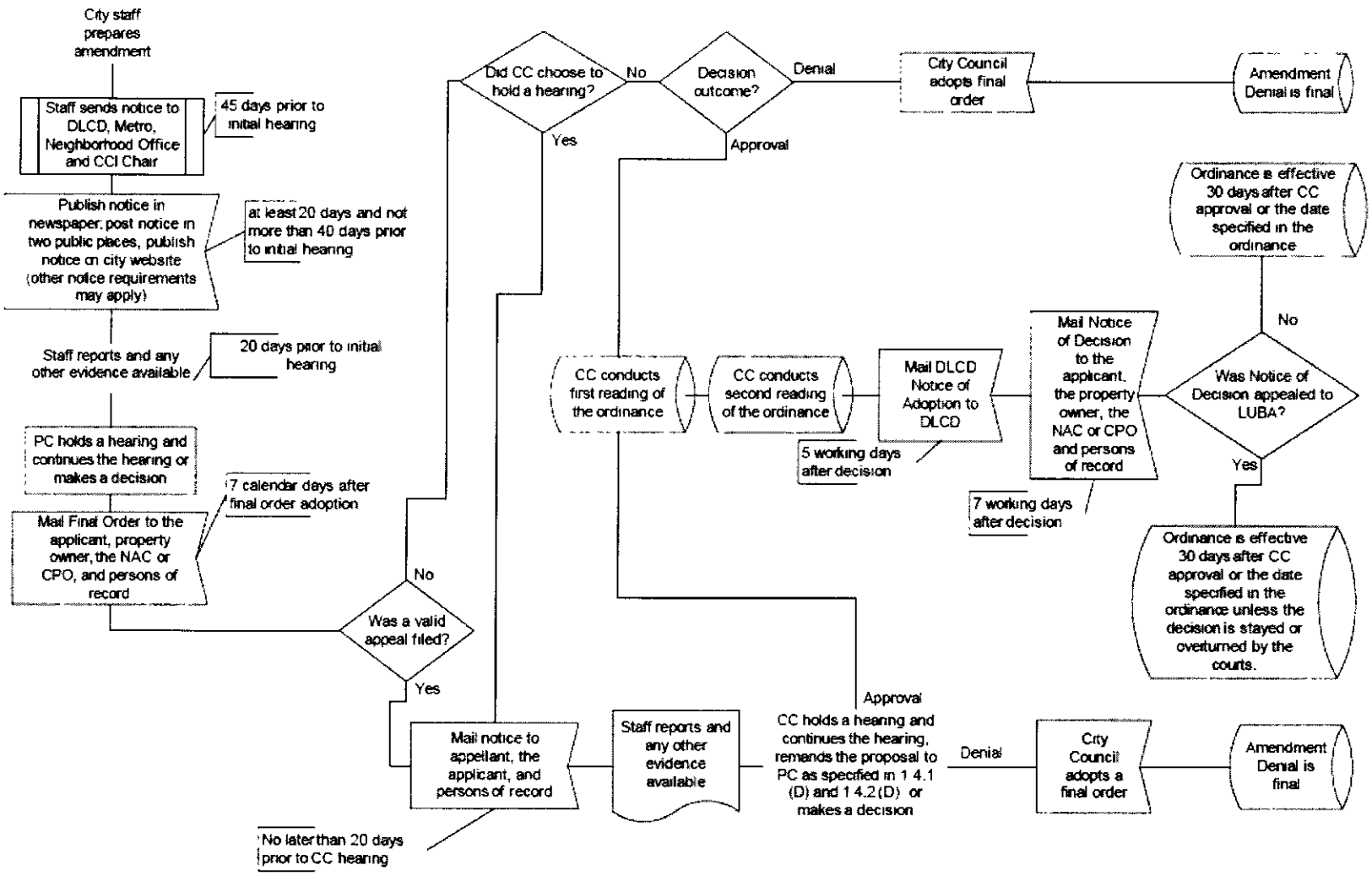


Diagram I-2
Quasi-Judicial Comprehensive Plan Amendments

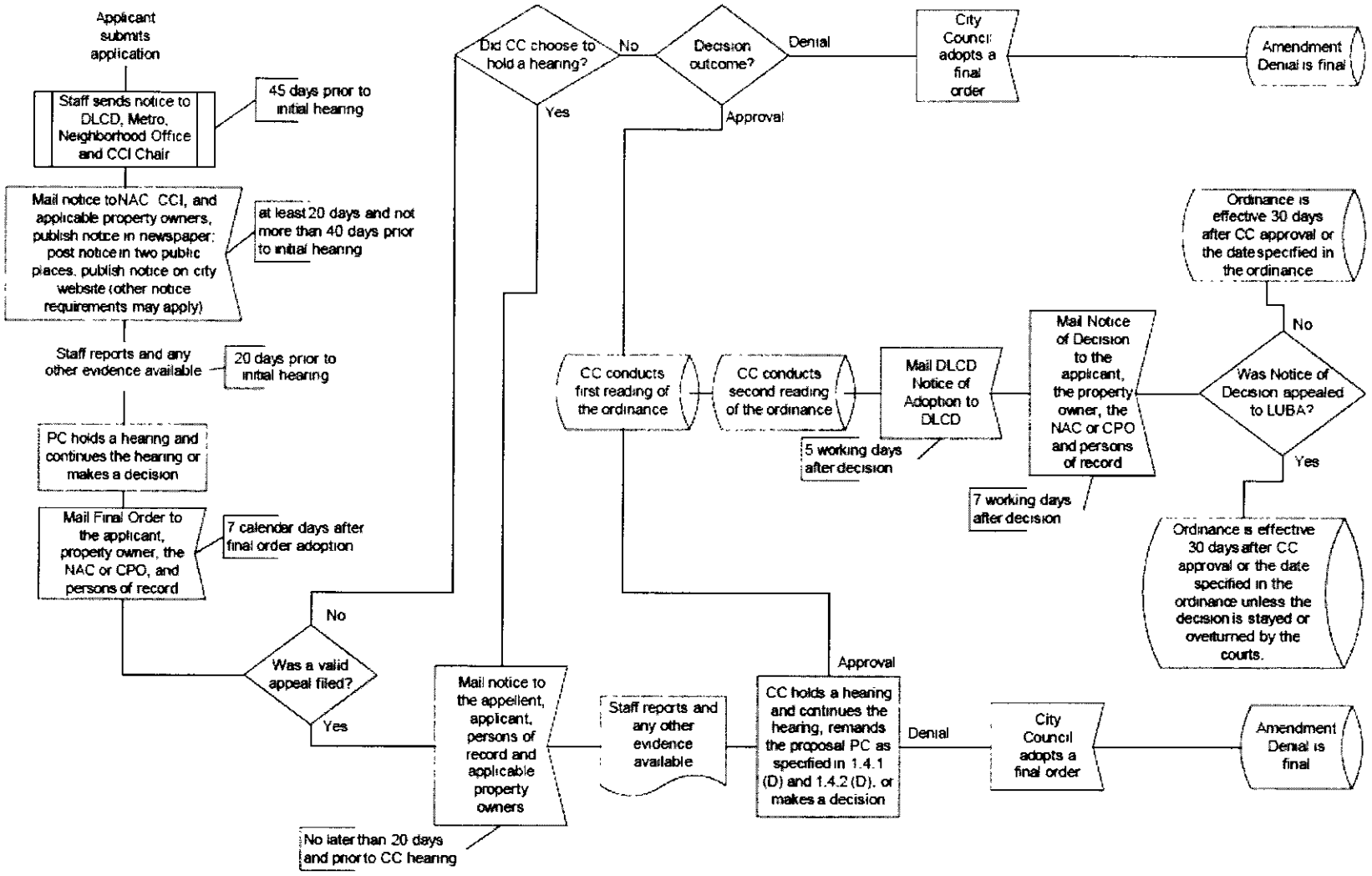


Diagram I-3
Non-Discretionary Map Comprehensive Plan Amendments

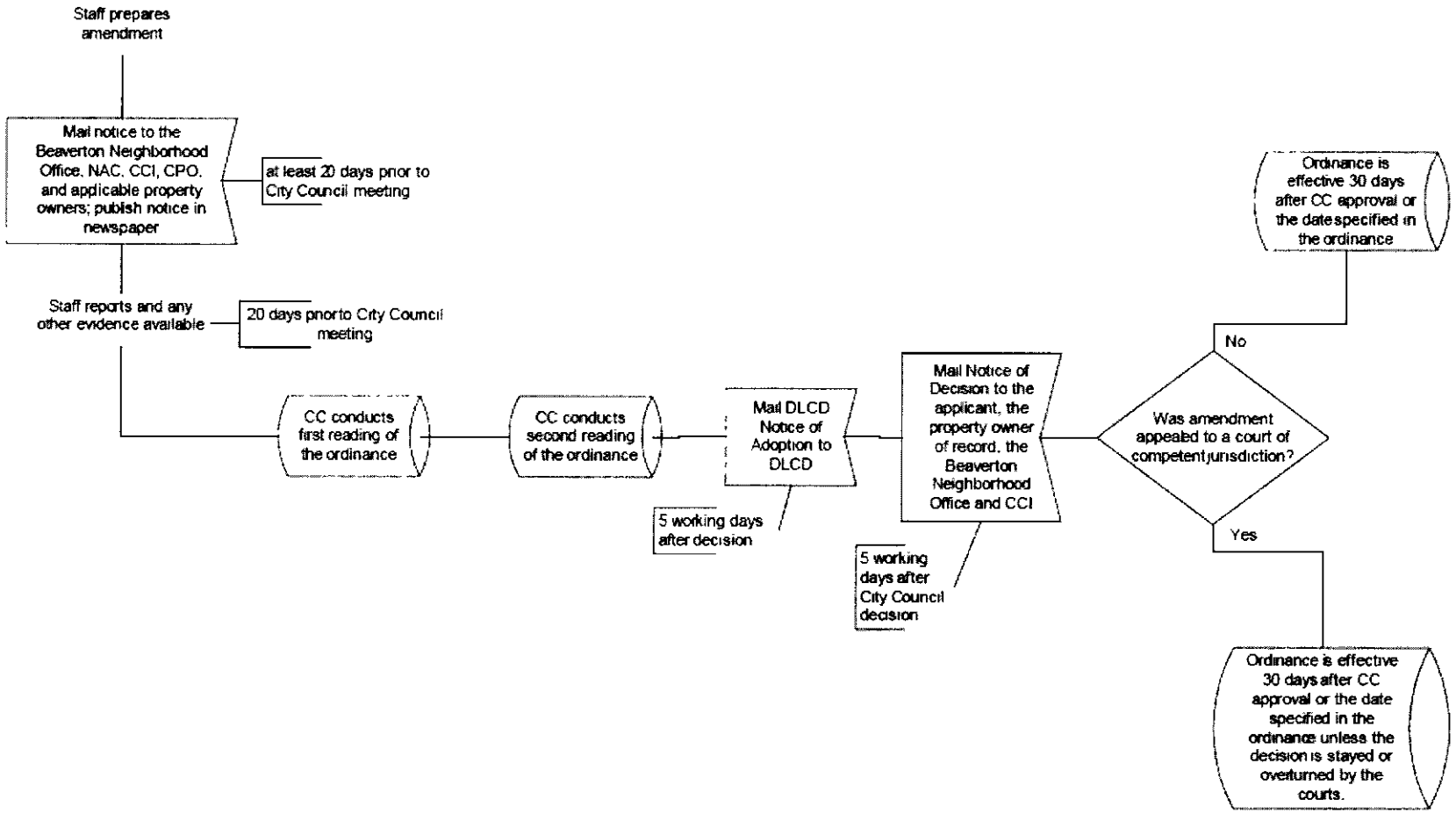
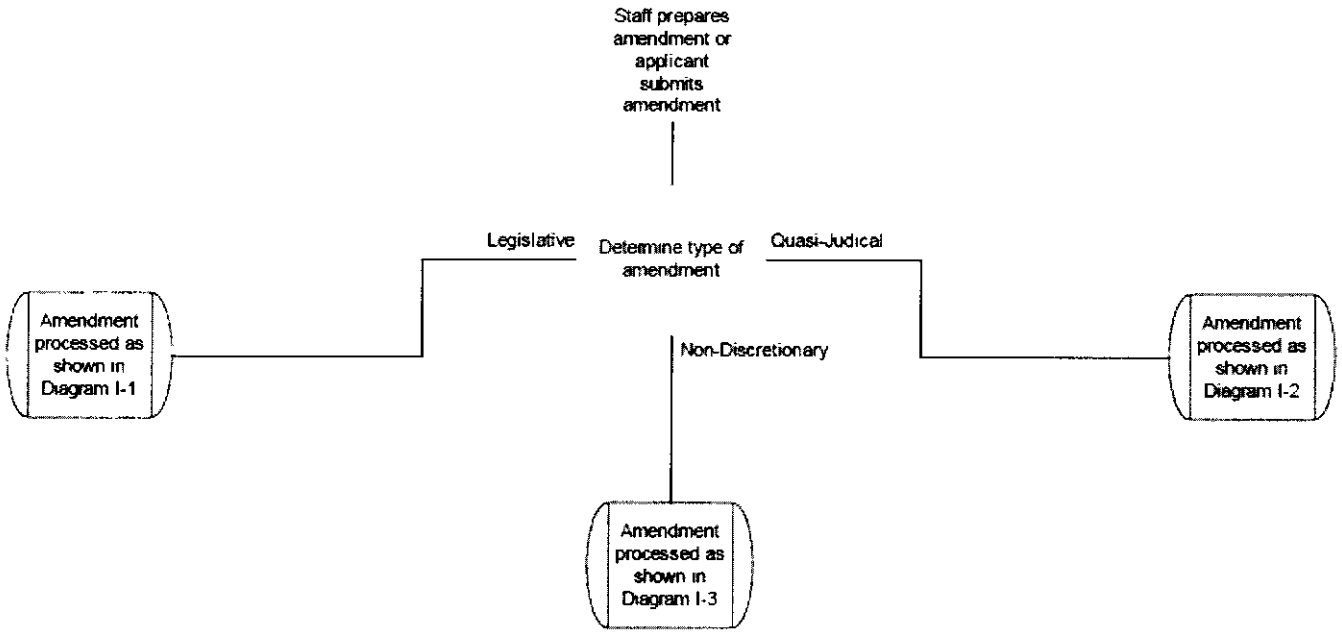


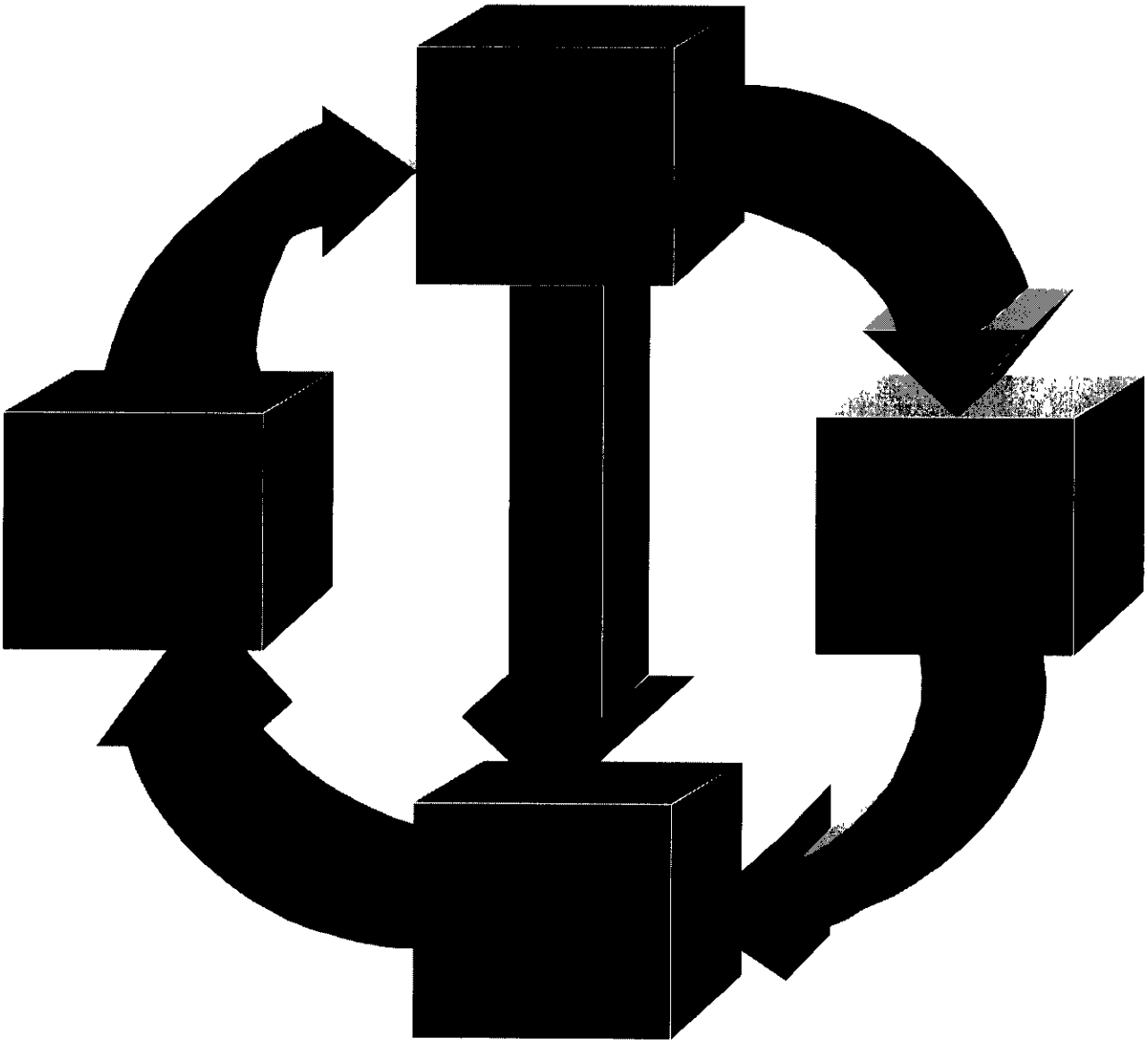
Diagram I-4
Statewide Planning Goal 5 Inventory Resource Document Volume III
Comprehensive Plan Amendments



1.8 Application Fees

In order to defray expenses incurred in connection with the processing of applications, the City has established a reasonable fee to be paid to the City upon the filing of an application for a Plan amendment. Fees for privately initiated Plan amendments requiring extraordinary staff time or expertise beyond the scope of the average process may be subject to an additional project management fee as established by Council Resolution 3285.

CHAPTER ONE:
COMPREHENSIVE PLAN AMENDMENT PROCEDURES ELEMENT



COMPREHENSIVE PLAN AMENDMENT PROCEDURES

1.1 AMENDMENT INITIATION.

Amendments to the Comprehensive Plan may be initiated by City Council, the Planning Commission, the Mayor, the Community Development Director, or the Public Works Director at any time. Landowners may also initiate an amendment to the Land Use Map pertaining only to their property at any time.

1.1.1 City-initiated Amendments

Amendment requests shall be submitted to the Community Development Director for preparation and analysis for a Planning Commission public hearing or City Council consideration. The Planning Commission and City Council have the right to accept, reject or modify any specific request for amendment in accordance with the City's policies and procedures. The Planning Commission or City Council may enlarge or reduce the geographic area of proposed map amendments, investigate alternative land use designations to those requested, or combine the request with other City-initiated amendments for comprehensive study and determination. If the decision to modify a requested amendment is made after public hearing notice has been provided, the notice shall be reissued and, if necessary, the hearing rescheduled.

1.1.2 Property Owner-initiated Amendments

Amendment requests shall be submitted to the Community Development Director for preparation and analysis for a Planning Commission public hearing. The Planning Commission and City Council reserve the right to approve, approve with conditions, or deny any specific request for amendment in accordance with the City's policies and procedures.

1.1.3 Amendment Processing

Proposed amendments shall be processed as expeditiously as possible, subject to the availability of staff and budgetary resources and project priorities set by the Mayor. Amendments shall be processed in compliance with the procedures established by this Plan as well as Oregon Revised Statutes, Oregon Administrative Rules, Metro Code, the City Charter, and City Ordinances. Property owner-initiated amendments should be processed in the order in which they are submitted and accepted as complete, but the City Council may, by resolution, postpone processing proposed amendments to accelerate processing other amendments to which they give a higher priority.

1.2 PERIODIC REVIEW

Periodic Review amendments are subject to a Land Conservation and Development Commission (LCDC) approved work program and follow separate notice procedures outlined in the Oregon Revised Statutes and Oregon Administrative Rules governing Periodic Review.

1.3 AMENDMENT PROCEDURAL CATEGORIES

Comprehensive Plan Amendments fall into five general categories: Legislative, Quasi-Judicial, Historic Landmark, District and Tree designation removal, Non-Discretionary, and Statewide

Planning Goal 5 Inventory Document Amendments.

Legislative Amendments are amendments to the Comprehensive Plan text or map of a generalized nature initiated by the City that applies to an entire land use map category or a large number of individuals or properties or that establishes or modifies policy or procedure. Legislative amendments include additions or deletions of text or land use map categories.

Quasi-Judicial Amendments are amendments to a Land Use Map designation as it applies to specific parcels or that applies to a small number of individuals or properties or locations.

Historic Landmark, District or Tree Designation Removal are amendments, requested from the property owner, to remove said designation pursuant to ORS 197.772. Upon receipt of a letter request to remove said designation, the Community Development Director shall issue a letter removing said designation based on ORS 197.772 and shall cause such letter to be mailed to the property owner and the property owners within an area enclosed by lines parallel to and 500 feet from the exterior boundary of the subject property.

Non-Discretionary Amendments are amendments to the Comprehensive Plan Land Use Map to add an annexed property, or properties, to the Map with a Land Use Map designation assigned through direct application of the Washington County-Beaverton Urban Planning Area Agreement (UPAA). The County land use classification(s) remain in effect under provisions of Oregon Revised Statutes (ORS 197.175(1) and ORS 215.130(2)(a)) until the City acts to implement its own Comprehensive Plan Land Use designation(s) for the annexed territory.

The UPAA requires the City to assign a particular, or most similar, City Comprehensive Plan Land Use designation to the annexed property based on the Washington County designation. Exhibit "B" of the UPAA contains a chart describing a one-to-one relationship between County and City land use designations. The UPAA and the chart referenced as Exhibit "B" is found within Chapter 3 of the Comprehensive Plan in Section 3.15. Where UPAA Exhibit "B" provides a one-to-one relationship and the annexed property is **not** subject to any special policies within the applicable Washington County Community Plan, the decision to apply a specific Land Use Map designation is made under land use standards that do not require interpretation or the exercise of policy or legal judgement. Consequently, the decision is not a land use decision as defined by Oregon Revised Statutes (ORS 197.015(10)(b)(A)).

Statewide Planning Goal 5 Inventory Resource Document Amendments are amendments to Volume III of the Comprehensive Plan. Amendments may be legislative, such as periodic review, or annual updates to maps, or quasi-judicial. Updates to the Significant Natural Resources Map (Local Wetland Inventory Map) incorporating changes approved by the Department of State Lands are non-discretionary map amendments the public notice, decision-making and appeal of the decision occurs when the Division of State Lands approves the wetland delineation and fill or removal permit (OAR 141-086-005 through OAR 141-090-0230, OAR 141-085-0018, OAR 141-085-0025, OAR 141-085-0028, OAR 141-085-0029, OAR 141-085-0031, OAR 141-085-0066, ORS 227.350 (2), and ORS 196.600 to 196.990). As noted under Non-Discretionary Amendments above, when no discretion is exercised, the decision is not a

land use decision under Oregon Revised Statutes (ORS 197.015(10)(b)(A)).

1.4 NOTICE REQUIREMENTS

The claim of a person to have not received notice, who may be entitled to notice as provided in this section, shall not invalidate such proceedings if the City can demonstrate by affidavit that such notice was given.

If the Community Development Director or City Council determine that the proposed amendment substantially changes from the proposal described in the initial notice, then notice is required to be sent again as described in the appropriate subsection with specific notation that the proposal has changed and that a new hearing will be held on the matter.

1.4.1 Legislative Amendments.

A. Notice of the initial hearing shall be provided as follows:

1. By mailing the required inter-agency Department of Land Conservation and Development (DLCD) notice to DLCD, Metro, the Beaverton Neighborhood Office and the Chair of the Committee for Citizen Involvement (CCI) at least forty-five (45) calendar days prior to the initial hearing. When the legislative amendment is required through Periodic Review, DLCD notice is not required, therefore, it is not provided.
2. Mail notice to owners of property within the City for which the proposed ordinance, if adopted, may in the Director's opinion affect the permissible uses of land

   a) The most recent property tax assessment roll of the Washington County Department of Assessment and Taxation shall be used for determining the property owner of record. The failure of a property owner to receive notice does not invalidate the decision.

   b) If a person owns more than one property that could be affected by the proposed ordinance if adopted, the Director may mail that person only one notice of the hearing.
3. By publication of a notice with the information specified in subsection 1.4.1 (B)(1), (2), and (3) in a newspaper of general circulation within the City,; and
4. By posting a notice with the applicable information specified in subsection 1.4.1 (B) at Beaverton City Hall and the Beaverton City Library; and
5. By placing a notice with the applicable information specified in subsection 1.4.1 (B) on the City's website.

Notice required by Oregon Revised Statutes (ORS 227.186, also known as Ballot Measure 56) shall be provided, when applicable. ORS 227.186(6) specifies notice requirements for city-initiated amendments related to Periodic Review.

Hearing Notices required by numbers 2 through 5 of this subsection, shall be given not less than twenty (20) and not more than forty (40) calendar days prior to the date of the initial hearing.

B. Mailed notice required in subsection 1.4.1 (A) (2), posted notice required in subsection 1.4.1 (A) (4), and web notice required in subsection 1.4.1 (A) 5 shall:

1. State the date, time and location of the hearing, and the hearings body;
2. Explain the nature and purpose of the hearing;
3. Include the case file number, title or both of the proposed ordinance to be considered at the time of hearing;
4. List the applicable approval criteria by Comprehensive Plan by section numbers that apply to the application at issue;
5. State that a copy of the staff report will be available for inspection at no cost at least seven (7) calendar days prior to the hearing and will be provided at reasonable cost and include the days, times and location where available for inspection;
6. Include the name and phone number of the City staff person assigned to the application from whom additional information may be obtained;
7. State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the Planning Commission an opportunity to respond to the issue precludes appeal to the City Council and the Land Use Board of Appeals based on that issue; and
8. Include a general explanation of the requirements for submission of testimony and procedure for conduct of the hearing.

C. If an application is City-initiated and would change the Land Use Plan Map for a property to a designation that would require a rezone, a notice must be sent to the owner pursuant to Oregon Revised Statutes (ORS 227.186(3) also known as Ballot Measure 56).

D. Notice of remand hearings, whether they be the entire legislative amendment or part of the amendment, either from the Land Use Board of Appeals to City Council or from City Council to Planning Commission, shall be given following subsections 1.4.1 (A) and 1.4.1 (B) with the following additional information:

1. The deadline for submitting written testimony and the place it is to be submitted;
2. The applicable criteria if the remand is required by the failure to state the criteria or if the criteria have changed;
3. The scope of the testimony; and
4. Whether the testimony is de novo or limited to the record and whether it must be submitted in writing or whether oral testimony will be allowed.

The notice required in this subsection (D) shall be mailed to persons who previously provided written or oral testimony in the proceedings on the proposal.

1.4.2 Quasi-Judicial Amendments

A. Notice of the initial hearing shall be provided as follows:

1. By mailing the required inter-agency DLCD notice to DLCD, Metro, the Beaverton Neighborhood Office and the CCI Chair at least forty-five (45) calendar days prior to the initial hearing.
2. By publication of a notice with the information specified in 1.4.2 (B) (1), (2), (3) and (4) in a newspaper of general circulation within the City; and
3. By posting notice with the information specified in 1.4.2 (B) at Beaverton City Hall and the Beaverton City Library; and
4. By mailing notice with the information specified in 1.4.2 (B) to property owners

included in the proposed change area, if applicable, and within an area enclosed by lines parallel to and 500 feet from the exterior boundary of the property for which the change is contemplated; and

5. By mailing notice with the information specified in 1.4.2 (B) to any City-recognized Neighborhood Association Committee (NAC) or County-recognized Citizen Participation Organization (CPO) whose boundaries include the property for which the change is contemplated; and
6. By placing notice with the information specified in 1.4.2 (B) on the City's web site.

Notice required by Oregion Revised Statutes (ORS 227.186, also known as Ballot Measure 56) shall be provided, when applicable. ORS 227.186(6) specifies notice requirements for city-initiated amendments related to Periodic Review.

Hearing notices required by numbers 2 through 6 of this subsection shall be given not less than twenty (20) and not more than forty (40) calendar days prior to the date of the initial hearing.

B. Mailed notice required in subsection 1.4.2 (A) (4) and (5) shall:
   1. Explain the nature of the application and the use or uses, which could be authorized;
   2. Set forth the street address or other easily understood geographical reference to the subject property and include a map, if applicable;
   3. State the date, time, and location of the hearing, and the hearings body;
   4. Include the case file number, title or both of the proposed ordinance to be considered at the time of hearing;
   5. List the applicable criteria from the Comprehensive Plan by section number that apply to the application at issue;
   6. State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the Planning Commission an opportunity to respond to the issue precludes appeal to the City Council and the Land Use Board of Appeals based on that issue;
   7. Include the name and phone number of the City staff person assigned to the application from whom additional information may be obtained;
   8. State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant, and applicable criteria are available for inspection at no cost and will be provided at reasonable cost and include the days, times and location where available for inspection;
   9. State that a copy of the staff report will be available for inspection at no cost at least seven (7) calendar days prior to the hearing and will be provided at reasonable cost include the days, times and location where available for inspection; and
   10. Include a general explanation of the requirements for submission of testimony and procedure for conduct of the hearing.

C. If an application is City-initiated and would change the Land Use Plan Map for a property to a designation that would require a rezone, a notice must be sent to the owner pursuant to Oregon Revised Statutes (ORS 227.186(3) also known as Ballot Measure 56).

D. Notice of remand hearings, whether for the entire quasi-judicial amendment or part of the amendment, either from the Land Use Board of Appeals to City Council or from City Council to Planning Commission shall be given following subsection 1.4.2 (A) and 1.4.2

(B) with the following additions:

1. Any deadline for submitting written testimony and the place it is to be submitted;
2. The applicable criteria if the remand is required by the failure to state the criteria or if the criteria have changed;
3. The scope of the testimony; and
4. Whether the testimony is limited to the record or de novo and whether it must be submitted in writing or whether oral testimony will be allowed.
5. The notice required in this subsection (D) shall be mailed to persons who previously provided written or oral testimony in the proceedings on the proposal.

1.4.3 Non-Discretionary Map Amendments

A. Notice for Non-Discretionary Map Amendments shall be provided as follows:

1. By publication of a notice with the information specified in 1.4.3 (B) (1), (2) and (3) in a newspaper of general circulation within the City,; and
2. By mailing notice with the information specified in 1.4.3 (B) to the Beaverton Neighborhood Office, Chair of the Committee for Citizen Involvement (CCI), NAC, CPO and owners of record of the subject property on the most recent property tax assessment roll; and
3. By placing notice with the information specified in 1.4.3 (B) on the City's web site..

All notices required by 1. through 3. of this subsection (A) shall be given not less than twenty (20) and not more than forty (40) calendar days prior to the date the item initially appears on the City Council agenda.

B. Notice required by subsection 1.4.3.(A) shall:

1. Explain the nature of the application;
2. Set forth the street address or other easily understood geographical reference to the subject property, including a map;
3. State the time, date, place, and purpose of the City Council agenda item;
4, Include the case file number, title or both of the proposed ordinance to be considered at the time of hearing;
5. Include the name and phone number of the City staff person assigned to the application from who additional information may be obtained;
6. List the applicable criteria from the Comprehensive Plan and State Law that apply to the application at issue;
7. State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant, and applicable criteria are available for inspection at no cost at least seven (7) calendar days prior to the City Council meeting and will be provided at reasonable cost and include the days, times and location where available for inspection~~;~~.

C. Notice of Decision for Non-Discretionary Map Amendments

Within five working days after the City Council decision on a Non-Discretionary Map

Amendment, notice of the decision shall be mailed to the owner of record, DLCD, the Beaverton Neighborhood Office and the Chairperson of the Committee for Citizen Involvement (CCI). The notice of decision shall include the following:

1. A statement that the decision is final but may be appealed in a court of competent jurisidiction, and
2. A statement that the complete case file is available for review. The statement shall list when and where the case file is available and the name and telephone number of the City representative to contact for information about the case.

1.4.4 Statewide Planning Goal 5 Inventory Resource Document (Volume III) Amendments

A. If the proposal is legislative in nature, as in an update to one of the Statewide Planning Goal 5 Inventory Resource Documents or an addition of a new category of Statewide Planning Goal 5 Inventory Resource Documents, then notice shall follow the legislative notice procedure identified under subsection 1.4.1.

B. If the proposal is quasi-judicial in nature, as in a change on one property or a limited group of properties, the notice shall follow the quasi-judicial notice procedure under subsection 1.4.2..

C. If the proposal is to update the Local Wetland Inventory map of the Significant Natural Resource maps based on approvals of wetland delineations or fill or removal permits issued by the Oregon Department of State Lands, the amendment shall be deemed non-discretionary and shall be updated administratively by City Council ordinance adoption, following the Non-Discretionary Map Amendment procedure under 1.4.3.

1.5 CRITERIA FOR AMENDING THE COMPREHENSIVE PLAN

The adoption by the City Council of any amendment to the Plan shall be supported by findings of fact, based on the record, that demonstrate the criteria of this Section have been met. The City Council and Planning Commission may incorporate by reference facts, findings, reasons, and conclusions proposed by the City staff or others into their decision.

1.5.1 Criteria for Legislative and Quasi-judicial Comprehensive Plan Amendments

A. The proposed amendment is consistent and compatible with relevant Statewide Planning Goals and related Oregon Administrative Rules; and

B. The proposed amendment is consistent and compatible with the applicable Titles of the Metro Urban Growth Management Functional Plan and the Regional Transportation Plan; and

C. The proposed amendment is consistent and compatible with the Comprehensive Plan and other applicable local plans; and

D. If the proposed amendment is to the Land Use Map, there is a demonstrated public need, which cannot be satisfied by other properties that now have the same designation as proposed by the amendment.

1.5.2 Criteria for Non-Discretionary Map Amendments

A. Annexation-Related

Discretion occurs when the Washington County-Beaverton Urban Planning Area Agreement (UPAA) is adopted or amended by the County and the City. The UPAA provides specific City-County Land Use Designation Equivalents. Specifically, the UPAA states in Section II (D) "Upon annexation, the city agrees to convert County plan and zoning designations to City plan and zoning designations which most closely approximate the density, use provisions and standards of the County designations. Such conversion shall be made according to the tables shown on Exhibit "B" to this agreement." Consequently, when the conversion from County to City designation is shown on Exhibit B, the City has no discretion.

B. Statewide Planning Goal 5

The Department of State Lands (DSL) and the US Army Corps of Engineers (COE) exercise discretion when these agencies approve wetland delineations and fill/removal permits (OAR 141-085, ORS 227.350, and ORS 196.600 to 196.990). Because the decision is made by another agency, acknowledging the locations of the delineated wetlands and fill/removal activities on the City's Local Wetland Inventory map involves no discretion.

1.5.3 Criteria for Statewide Planning Goal 5 Inventory Resource Document (Volume III) Comprehensive Plan Amendments

A. Local Wetland Inventory Amendments require following the criteria for adoption of a local wetland inventory found within Oregon Revised Statutes and Oregon Administrative Rules (as of November 2004, ORS 196 and OAR 141-086 and OAR 660-023).

B Criteria for Addition of Historic Landmarks and Districts

To qualify as a historic landmark or district, the proposal must meet criterion 1 and at least one factor listed as criteria 2 through 5:

1. Conforms with the purposes of the Beaverton Comprehensive Plan; and
2. The proposed landmark or district is associated with natural history, historic people, or with important events in national, state, or local history; or
3. The proposed landmark or district embodies the distinguishing characteristics of an architecture inherently valuable for a study of a period, style, or method of construction; or
4. The proposed landmark is a notable work of a master builder, designer, or architect; or
5. The proposed landmark or district would serve one or more of the following purposes:
   a) To preserve, enhance, and perpetuate landmarks and districts representing or reflecting elements of the City's cultural, social, economic, political, and architectural history;
   b) To safeguard the City's historic, aesthetic, and cultural heritage as embodied and reflected in said landmarks and districts;

c) To complement any National Register properties or Historic Districts;

d) To stabilize and improve property values in such districts;

e) To foster civic pride in the beauty and accomplishments of the past;

f) To protect and enhance the City's attractions to tourists and visitors and the support and stimulus to business and industry thereby provided;

g) To strengthen the economy of the City; and

h) To promote the use of historic districts and landmarks for the education, pleasure, energy conservation, housing, and public welfare of the City's current and future citizens.

C. Criteria for Adding Historic Trees

The adoption by City Council and Planning Commission of any amendment to add a historic tree to the Historic Tree Inventory shall be based on the following criteria:

1. Conforms with applicable goals and policies of the Beaverton Comprehensive Plan; and
2. The proposed historic tree designation is requested by the property owner as determined by the most recent property tax assessment roll of the Washington County Department of Assessment and Taxation; and
3. The proposed historic tree is associated with historic properties, historic people, or with important events in national, state, or local history, or general growth and development of the city.

1.6 HEARINGS PROCEDURES

Before the City Council may adopt any amendment to the Comprehensive Plan, the procedures within this section shall be followed In the case of Non-Discretionary amendments, no hearing will be held. Consideration of the proposal shall be placed on the City Council Agenda for adoption by ordinance.

1.6.1. After appropriate notice is given, as provided in section 1.4 the Planning Commission or City Council shall hold a public hearing on the amendment, except for Non-Discretionary amendments.

A. At the beginning of the hearing an announcement shall be made to those in attendance that:

1. States the applicable approval criteria by Comprehensive Plan section number.
2. States testimony, arguments and evidence must be directed toward the applicable criteria.
3. States failure to raise an issue accompanied by statements or evidence with sufficient specificity to afford the Planning Commission or City Council and the parties an opportunity to respond to the issue may preclude appeal to the Land Use Board of Appeals on that issue.
4. States failure of the applicant to raise constitutional or other issues relating to the proposed conditions of approval with sufficient specificity to allow the City to

respond to the issue may preclude an action for damages in circuit court.

5. If a quasi-judicial application, states the Planning Commission and City Council must be impartial and that members of the Planning Commission and City Council shall not have any bias or personal or business interest in the outcome of the application.
   a) Prior to the receipt of any testimony, members of the Planning Commission or City Council must announce any ex parte contacts. The Planning Commission or City Council shall afford parties an opportunity to challenge any member thereof based on bias, conflicts of interest or ex parte contacts.
   b) If any member of the Planning Commission or City Council has visited the site (if applicable), they should describe generally what was observed.
6. Summarizes the procedure of the hearing.
7. States that the hearing shall be recorded on audio only or audio and video tape.
8. States any time limits for testimony set by the Planning Commission or City Council at the beginning of the hearing.

B. After the aforementioned announcements, the Chair or Mayor shall call for presentation of the staff report. Staff shall describe the proposal and provide a recommendation.

C. After the presentation of the staff report, the Chair or Mayor shall call for the applicant's testimony, if the City is not the applicant.

D. After the applicant's testimony, the Chair or Mayor shall call for other evidence or testimony in the following sequence unless the Planning Commission or City Council consents to amend the sequence of testimony:
   1. First, evidence or testimony in support of the application.
   2. Second, evidence or testimony in opposition to the application.
   3. Third, evidence or testimony that is neither in support nor in opposition to the application.

E. If the City is not the applicant, the Chair or Mayor shall call for rebuttal by the applicant. Rebuttal testimony shall be limited to the scope of the issues raised by evidence and arguments submitted into the record by persons in opposition to the application. Should the applicant submit new evidence in aid of rebuttal, the Chair or Mayor shall allow any person to respond to such new evidence, and provide for final rebuttal by the applicant.

F. The Chair or Mayor shall offer staff an opportunity to make final comments and answer questions.

G. Provisions for holding a record open or continuing a hearing set forth in Oregon Revised Statutes (ORS 197.763 (6)) shall apply to this Chapter of the Comprehensive Plan, in accordance with the statute.

1.6.2. Following the conclusion of the hearing, the Planning Commission shall take one of the following actions:

A. Continue the hearing to a date, time and location certain, which shall be announced by the Chair. Notice of date, time, and location certain of the continued hearing is not required to be mailed, published or posted, unless the hearing is continued without announcing a date, time, and location certain, in which case notice of the continued hearing shall be given as though it was the initial hearing.

B. Deny the application, approve the application, or approve the application with conditions.
   1. If the Planning Commission proposes to deny, approve, or approve with conditions,

the Planning Commission shall announce a brief summary of the basis for the decision and that an order shall be issued as described in 1.7; provided, the proceedings may be continued for the purpose of considering such order without taking new testimony or evidence.

2. Provisions for holding a record open or continuing a hearing set forth in ORS 197.763(6) shall apply under this Ordinance in a manner consistent with state law.
3. If the Planning Commission proposes to approve, or approve with conditions, an ordinance shall be prepared for City Council consideration, consistent with the City Charter.
4. In conjunction with their adoption of an ordinance approving or approving with conditions a Comprehensive Plan Amendment, the City Council shall adopt written findings which demonstrate that the approval complies with applicable approval criteria.

1.7. FINAL ADOPTION AND APPEALS

1.7.1 Final Order

A. The written decision in the form of a final order shall be prepared regarding the application. The final order shall include:
   1. A listing of the applicable approval criteria by Comprehensive Plan section number.
   2. A statement or summary of the facts upon which the Planning Commission or City Council relies to find the application does or does not comply with each applicable approval criterion and to justify any conditions of approval. The Planning Commission or City Council may adopt or incorporate a staff report or written findings prepared by any party to the proceeding into the final order to satisfy this requirement.
   3. A statement of conclusions based on the facts and findings.
   4. A decision to deny or to approve the application and, if approved, any conditions of approval necessary to ensure compliance with applicable criteria.

B. Within five (5) working days after the Final Decision (City Council Ordinance or Final Order adoption), mail the required DLCD Notice of Adoption to DLCD, pursuant to ORS 197.610 and OAR Chapter 660- Division 18.

C. Within five (5) calendar days from the date that the Planning Commission or City Council adopts a final order, the Community Development Director shall cause the order to be signed, dated, and mailed to the applicant, the property owner, the Neighborhood Association Committee or County Participation Organization in which the subject property is located, and other persons who appeared orally or in writing before the public record closed. The final order shall be accompanied by a written notice which shall include the following information:
   1. In the case of a Planning Commission decision, a statement that the Planning Commission decision can be appealed to the City Council following the procedures listed in 1.7.2. The appeal date and the statement that the appeal must be filed within ten (10) calendar days after the date of the signed notice is dated and mailed shall be placed on the notice, with the appeal closing date shown in boldface type. The statement shall generally describe the requirements for filing an appeal and include the name, address and phone number of the Community Development Director.

2. In the case of a City Council decision, a statement that the decision is final, but may be appealed to the Land Use Board of Appeals as provided in Oregon Revised Statutes (ORS 197.805 through 197.860) or to the Land Conservation and Development Commission as provided in Oregon Revised Statutes (ORS 197.633), in the case of Periodic Review Amendments.
3. A statement indicating the Amendment application number, date, and brief summary of the decision. The statement shall list when and where the case file is available and the name and telephone number of the City representative to contact for information about the proposal.
4. A statement of the name and address of the applicant.
5. If applicable, an easily understood geographic reference to the subject property and a map.

1.7.2 Notice of Intent to Appeal

A. The Planning Commission decision may be appealed to the City Council only by the applicant, a person whose name appears on the application, or any person who appeared before the Planning Commission either orally or in writing. An appeal shall be made by filing a Notice of Intent to Appeal with the Community Development Director andwithin ten (10) calendar days after the signed written order was dated and mailed.

B. A notice of Intent to Appeal shall be in writing and shall contain:
   1. A reference to the application number and date of the Planning Commission order;
   2. A statement that demonstrates the appellant is the applicant or their representative, a person whose name appears on the application, or a person who appeared before the Planning Commission either orally or in writing;
   3 The name, address, and signature of the appellant or the appellant's representative;
   4 An appeal fee, as established by Council resolution; if more than one person files an appeal on a specific decision, the appeals shall be consolidated and the appeal fee shall be divided equally among the multiple appellants; and
   5. A discussion of the specific issues raised for Council's consideration and specific reasons why the appellant contends that the Planning Commission's findings and/or recommendation is incorrect or not in conformance with applicable criteria.

C. The Community Development Director shall reject the appeal if it
   1. is not filed within the ten (10) day appeal period set forth in subsection A of this section,
   2. is not filed in the form required by subsection B of this section, or
   3. does not include the filing fee required by subsection B of this section.

   If the Community Development Director rejects the appeal, the Community Development Director will so notify the appellant by letter. This letter shall include a brief explanation of the reason why the Community Development Director rejects the appeal. A decision of the Community Development Director to reject an appeal pursuant to this section is a final City decision as of the date of the letter and is not subject to appeal to the City Council. The appellant shall be allowed to correct a failure to comply with subsection B of this section if the correction can be made and is made within the 10 day appeal period provided in subsection A of this section.

D. If a Notice of Intent to Appeal is not filed, or is rejected, an ordinance shall be prepared for City Council consideration, consistent with the City Charter.

If the application is denied, the City Council will adopt a final order which sets forth its decision together with any reasons therefor. The Council's final order or the ordinance is the final decision of the City on the application. Notice of the decision shall be given as provided in 1.7.1.

E. Notwithstanding the provisions of this section, City Council on its own motion, may order a public hearing before the City Council at any time prior to adopting a Council final order or ordinance.

1.7.3 Notice of Appeal Hearing

A. Written notice of the appeal hearing before the City Council will be sent
   1. by regular mail,
   2. no later than twenty (20) days prior to the date of the hearing
   3. to the appellant, the property owner, the applicant, if different from the appellant, persons whose names appear on the application, and all persons who previously testified either orally or in writing before the Planning Commission.

B. Notice of the hearing shall:
   1. Reference the CPA file number or numbers and the appeal number;
   2. Set forth the street address or other easily understood geographical reference to the subject property, if applicable;
   3. State the date, time and location of the hearing;
   4. State that an appeal has been filed, set forth the name of the appellant or appellants and contain a brief description of the reasons for appeal;
   5. Include the name and phone number of the City staff person assigned to the application from whom additional information may be obtained;
   6. State that a copy of the Planning Commission's written order, the application, all documents and evidence contained in the record, and the applicable criteria are available for inspection at no cost and can be provided at reasonable cost including the days, times and location where available for inspection; and
   7. Include a general explanation of the requirements for submission of testimony and the procedure for conduct of the hearing.

1.7.4 Preparation of the Record; Staff Report; Transcript

A. Following receipt of a Notice of Intent to Appeal filed in compliance with 1.7.2, the Community Development Department Director shall prepare a record for Council review containing:
   1. All staff reports and memoranda prepared regarding the application that were presented to the Planning Commission;
   2. Minutes of the Planning Commission proceedings at which the application was considered;

3. All written testimony and all exhibits, maps documents or other written materials presented to and or rejected by the Planning Commission during the proceedings on the application; and
4. the Planning Commission's Final written order.
5. The appellant may request, and the City Council may allow, a quasi-judicial comprehensive plan amendment appeal hearing be conducted on the record established at the Planning Commission public hearing. If such a request is made and granted, a transcript of the Planning Commission proceeding is required. The appellant shall remit a fee to cover the cost fo the transcript of the Planning Commission hearing within five (5) calendar days after the Community Development Director estimates the cost of the transcript. Within ten (10) calendar days of notice of completion of the transcript, the appellant shall remit the balance due on the cost of the transcript. In the event that the Council denies the request for an on the record appeal hearing, and holds a de novo hearing, the transcript fee may be refunded. If the transcription fee estimate exceeds the transcription cost, the balance shall be refunded to the appellant.

B. The Community Development Department Director shall prepare a staff report on the appeal explaining the basis for the Planning Commission's decision as relates to the reason for appeal set forth in the Notice of Intent to Appeal, and such other matters relating to the appeal as the Director deems appropriate.

1.7.5 Scope of Review

A. The City Council appeal hearing shall be de novo, which means any new evidence and argument can be introduced in writing, orally, or both. The City Council may allow, at the appellant's request, a quasi-judicial comprehensive plan amendment appeal hearing be conducted on the record established at the Planning Commission hearing.

B. The Council may take official notice of and may consider in determining the matter any material which may be judicially noticed pursuant to the Oregon Rules of Evidence, ORS 40.060 through 40.090, including an ordinance, comprehensive plan, resolution, order, written policy or other enactment of the City.

C. Preliminary Decision.

At the conclusion of deliberations, the Council shall make a preliminary oral decision. The Council may affirm, reverse or modify the Planning Commission's order in whole or in part, or may remand the decision back to the Planning Commission for additional consideration. (Procedures for noticing a remand hearing are found in sections 1.4.1 (D) and 1.4.2 (D).) The preliminary oral decision is not a final decision. At any time prior to adoption of the final order or Ordinance pursuant to subsection D of this section, the Council may modify its decision based upon the record or may reopen the hearing.

D. Final Order or Ordinance

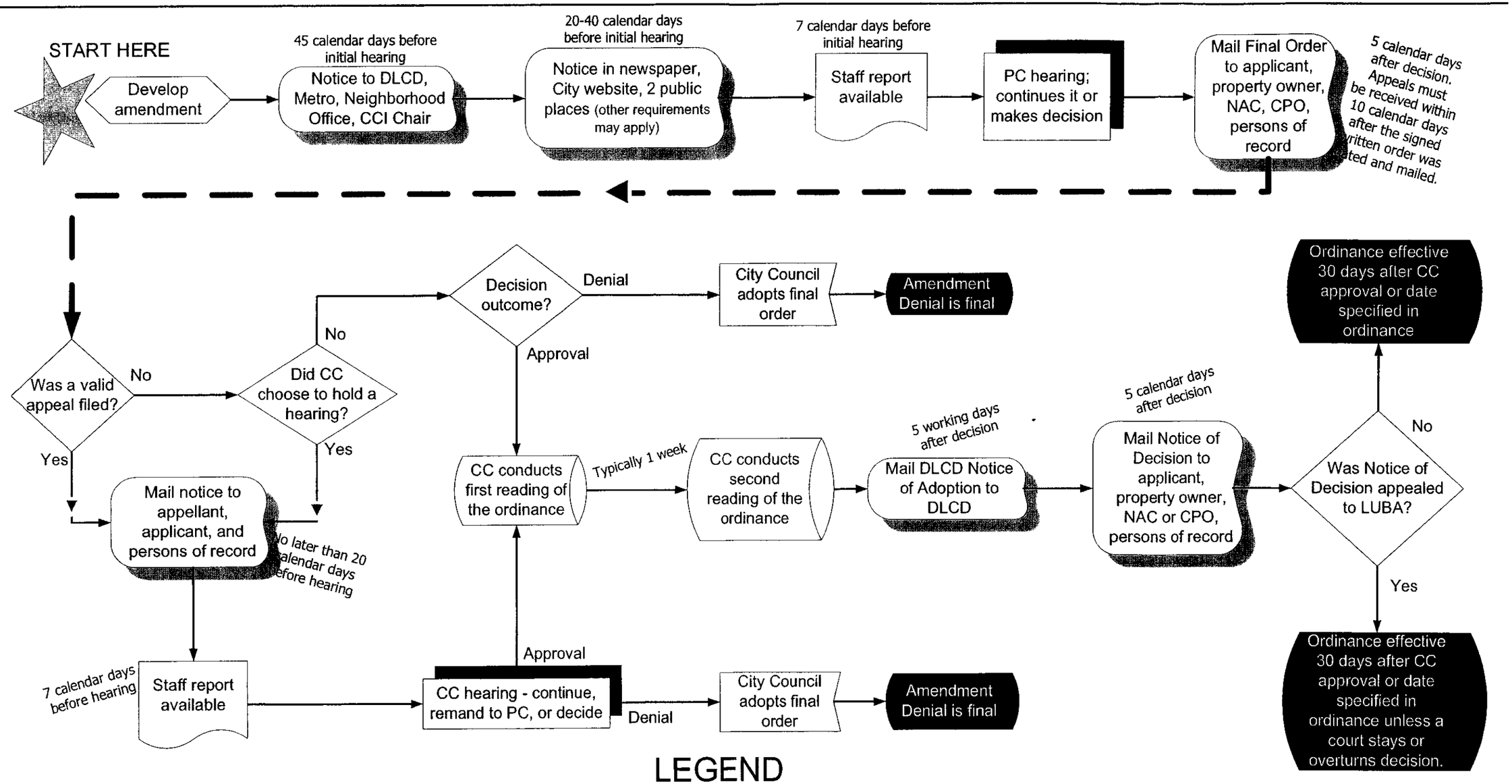
In the case of a denial, the City Council shall direct staff to prepare a final order or in the case of approval, the Council shall cause the preparation of an Ordinance. The Ordinance or final order shall consist of a brief statement explaining the criteria and standards considered relevant, stating the facts relied on in rendering the decision, and explaining

the justification for the decision based upon the criteria and facts set forth. The final order, or Ordinance, is the final decision on the application and the date of the order, or Ordinance, for purposes of appeal is the date on which it is signed by the Mayor.

Procedures for preparation of the Final Order, Ordinance and distribution of the Notice of Decision are found in section 1.7.

The following diagrams, Diagram I-1 through I-4, are intended for illustrative purposes only and are not adopted as procedural requirements within this ordinance. Thus, periodic updates to Diagrams I-1 through I-4 will not require a Comprehensive Plan Amendment.

Diagram I-1
Legislative Process

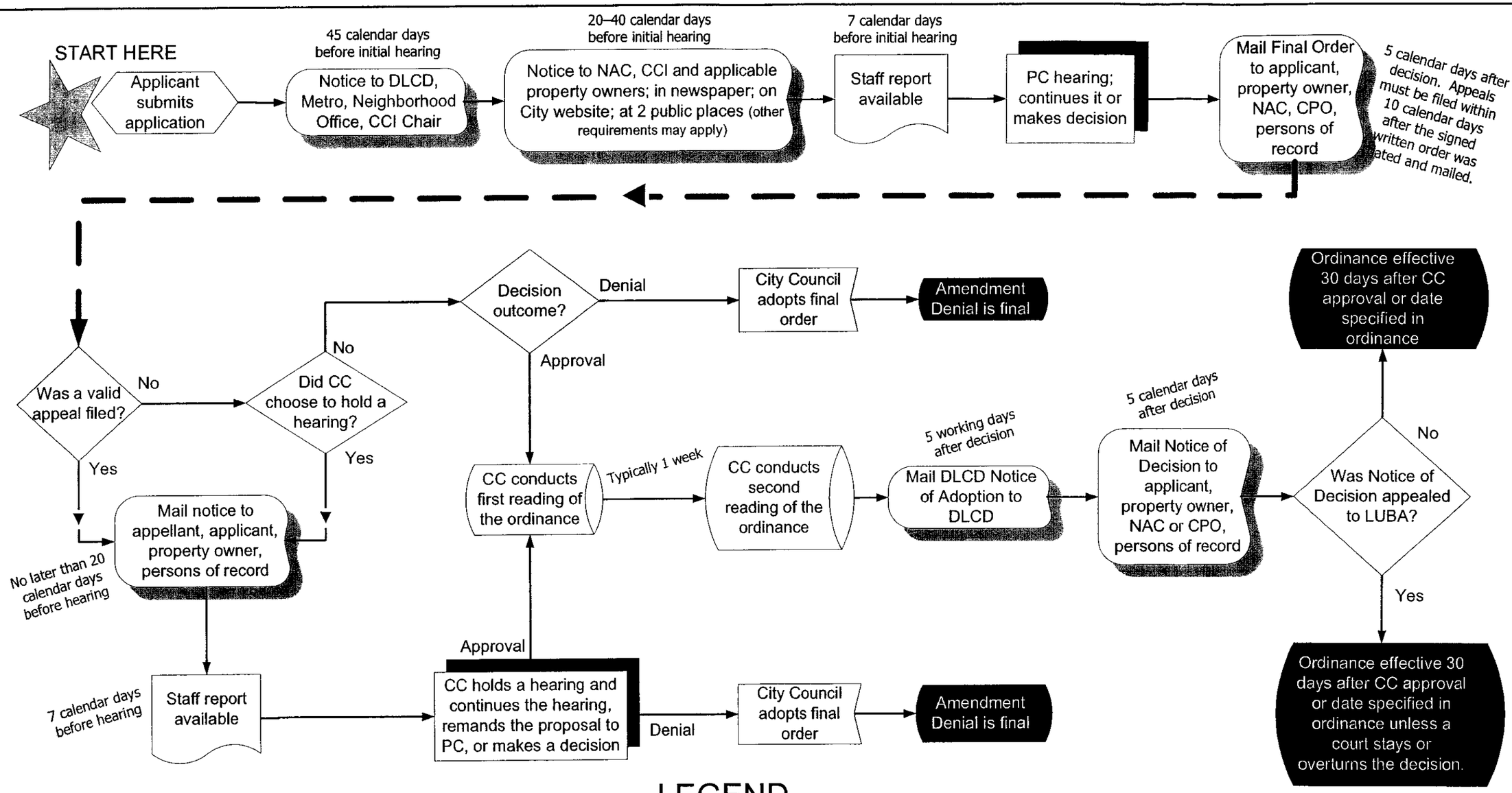


DLCD: DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
CCI: COMMITTEE FOR CITIZEN INVOLVEMENT
PC: PLANNING COMMISSION
NAC: NEIGHBORHOOD ASSOCIATION COMMITTEE
CPO: COMMUNITY PARTICIPATION ORGANIZATION
CC: CITY COUNCIL

3/15/06 Sup SR

Diagrams are intended for illustrative purposes only and do not serve as the procedural requirements within this ordinance.

Diagram I-2
Quasi-Judicial Process



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3/15/06 Sup SR

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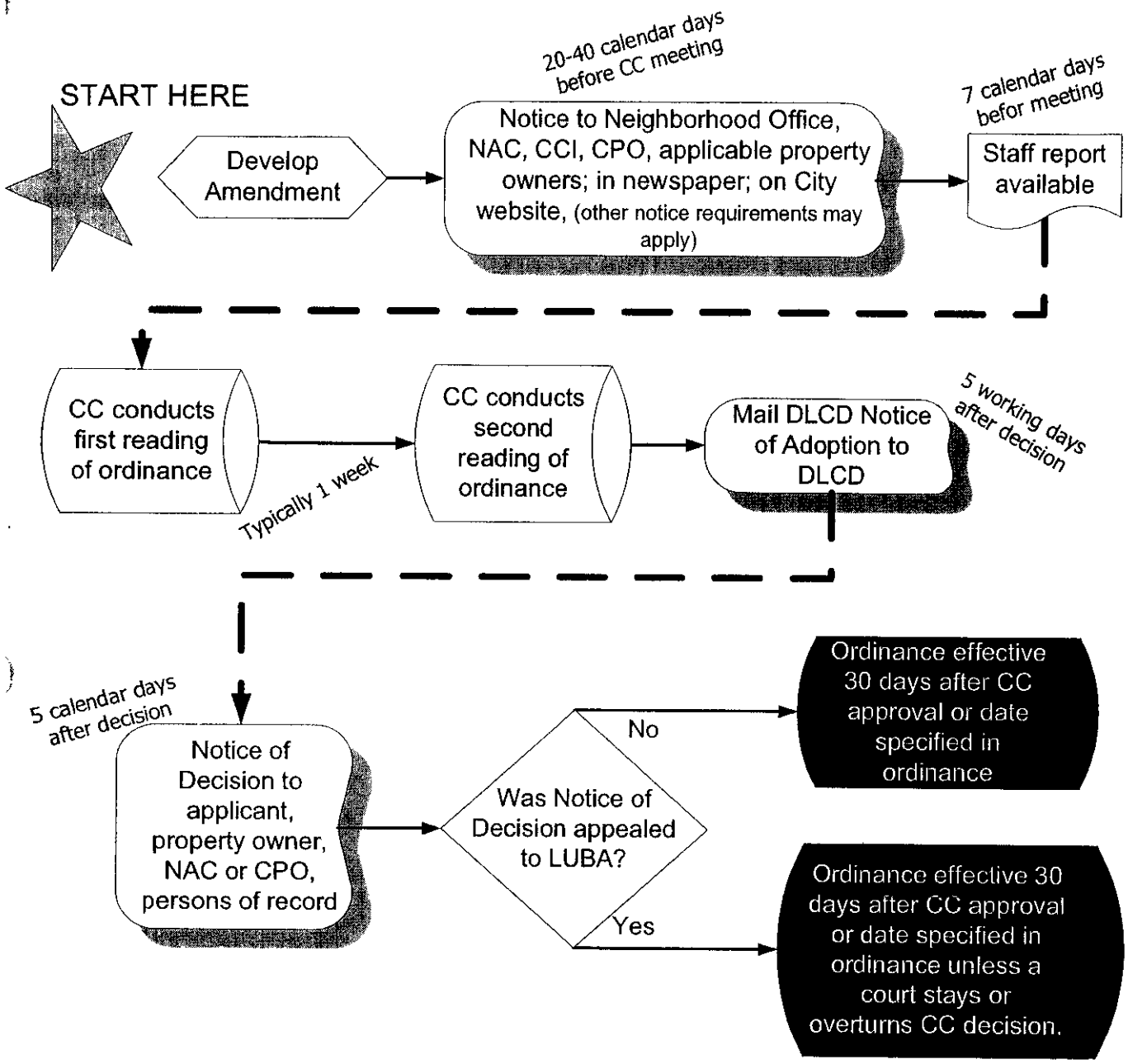
Diagram I-3
Non-Discretionary Process



LEGEND

DLCD: DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
CCI: COMMITTEE FOR CITIZEN INVOLVEMENT
CPO: COMMUNITY PARTICIPATION ORGANIZATION
NAC: NEIGHBORHOOD ASSOCIATION COMMITTEE
PC: PLANNING COMMISSION
CC: CITY COUNCIL

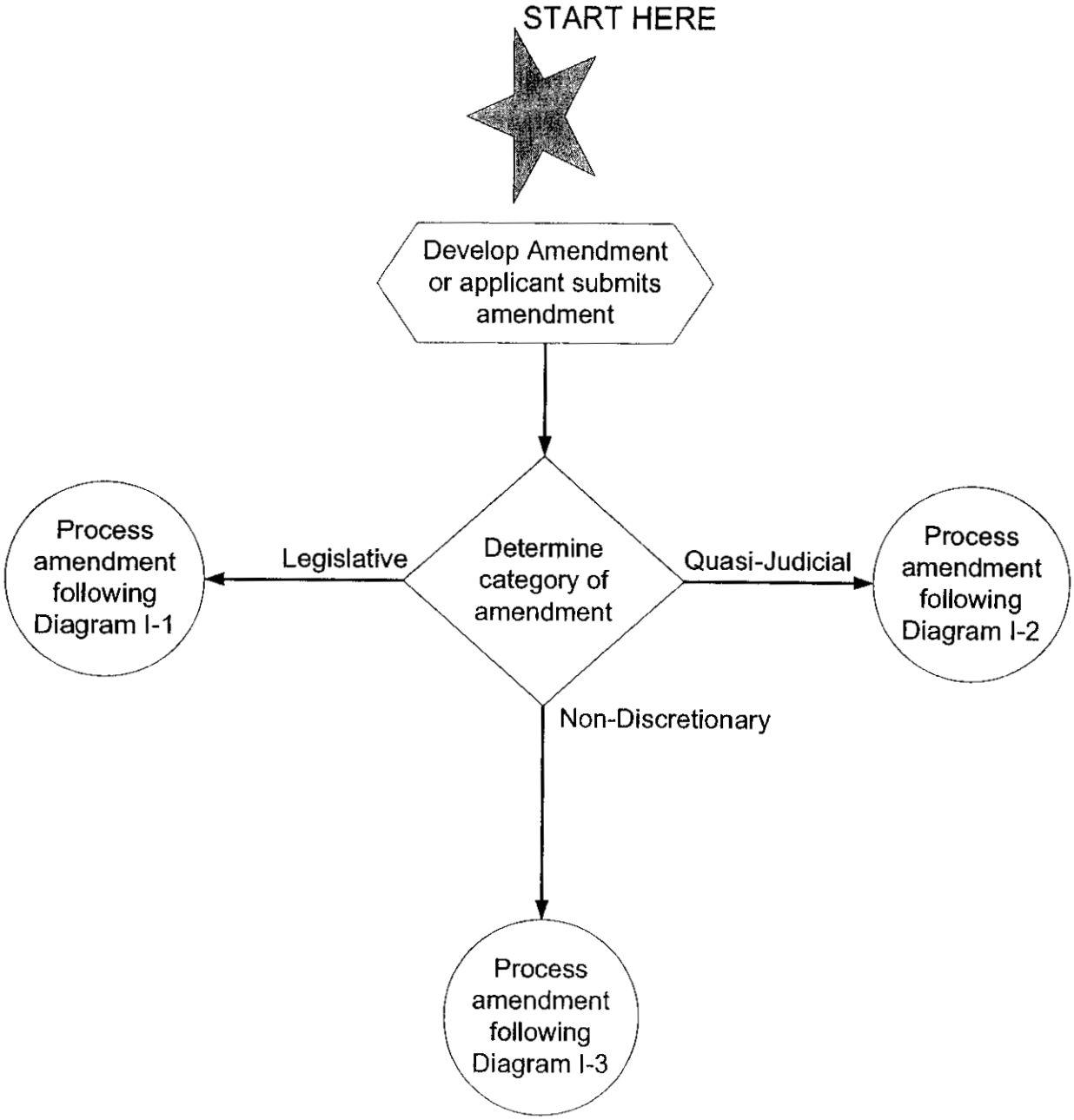
3/15/06 Sup SR

Notices

Final processes

Diagrams are intended for illustrative purposes only and do not serve as the procedural requirements within this ordinance.

Diagram I-4
Statewide Planning Goal 5 Inventory Resource Document Process



3/15/06 Sup SR

Diagrams are intended for illustrative purposes only and do not serve as the procedural requirements within this ordinance.

1.8 Application Fees

In order to defray expenses incurred in connection with the processing of applications, the City has established a reasonable fee to be paid to the City upon the filing of an application for a Plan amendment. Fees for privately initiated Plan amendments requiring extraordinary staff time or expertise beyond the scope of the average process may be subject to an additional project management fee as established by Council Resolution 3285.

CHAPTER TWO:
PUBLIC INVOLVEMENT ELEMENT

PUBLIC INVOLVEMENT ELEMENT

2.1 OVERVIEW

Engaging the public early and often in the decision-making process is critical to the success of any planning effort, especially in relation to land use and transportation issues. In addition, numerous state and federal laws, as well as local policies, require public review and feedback at critical points in public policy development. For example, the federal Intermodal Surface Transportation Efficiency Act of 1991 underscores the need for public involvement, calling on planning agencies to provide the public, affected public and private agencies, and other interested parties "with a reasonable opportunity to comment" on plans and programs.

2.2 PUBLIC INVOLVEMENT GOALS

Oregon's Statewide Planning Goal 1 charges the governing body with preparing and adopting a comprehensive program for public involvement that clearly defines the procedures by which the general public can become involved in the planning process:

Goal 1 Citizen Involvement: To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process. (Department of Land Conservation and Development, adopted 1974, amended 1988)

The City of Beaverton's commitment to ensure an optimum level of public participation is reflected in its public involvement goals:

City Council Goal: Enhance citizen involvement and participation.

Comprehensive Plan Public Involvement Goal: The Planning Commission, Council, and other decision making bodies shall use their best efforts to involve the public in the planning process.

In response to these goals, the City has developed a Public Involvement program aimed at expanding opportunities for public involvement throughout the planning process.

2.2 PUBLIC INVOLVEMENT PROGRAM

In order to encourage public participation it is critical that issues important to different groups be identified and addressed early in the planning process. The need for and desirable level of public participation should be determined in the early stages of any planning activity.

Public participation provides information and assistance to staff and policy makers in dealing with issues of interest to the public. When the community and its decision makers

work from a common base of information, an active, rather than reactive program can evolve. Such a program will provide information more suitable to the public's needs.

2.3 PUBLIC INVOLVEMENT PROGRAM OBJECTIVES

A. To involve a cross section of the community in the community planning process.

B. To ensure effective two-way communication between the City and the public.

C. To provide an opportunity for the public to be involved in all phases of the planning process (e.g., scoping, analysis, plan preparation, adoption, implementation, and monitoring).

D. To ensure that technical information is presented in an understandable form.

E. To ensure that the public will receive a response from policy-makers.

F. To ensure appropriate funding for the public involvement program.

2.4 PROGRAM IMPLEMENTATION

2.4.1 CITY-WIDE PUBLIC INVOLVEMENT OUTREACH MECHANISMS

Several existing mechanisms ensure city-wide public involvement in Beaverton's planning process. The City's primary outreach mechanisms are through:

A. The Committee for Citizen Involvement, an advisory committee to the City Council;

B. The Neighborhood Program Office;

C. The Neighborhood Association Committees;

D. Specific committees and special interest groups;

E. *Your City,* a newsletter published six times per year, subject to continued funding, that is designed to keep the public informed and invite participation;

F. Periodic news releases in area newspapers;

G. Contact with the local media;

H. The City's public internet web site;

I. Public workshops and focus groups; and

J. Public hearings.

Each public involvement opportunity is tailored to meet the needs and conditions of the outreach effort, and techniques are often combined.

2.4.2 PUBLIC INVOLVEMENT IN CITY DECISION MAKING PROCESSES

The City's formal decision making processes include several opportunities for public involvement. The public is invited to present their views at the various City board and committee meetings, including but not limited to City Council, Planning Commission, Traffic Commission and Board of Design Review. Public notices, complete with the hearing date, time, location, and hearing body, are mailed out at least twenty (20) calendar days prior to the date of the public hearing. Notices of public hearings are primarily published in the advertisement section of *The Valley Times.* On occasion, public hearing notices are published in *The Oregonian.* Notices are also posted on the City's web site.

Final agendas are posted at least seven calendar days in advance of the meeting at City Hall, located at 4755 S.W. Griffith Drive and the Beaverton Library at 12375 SW Fifth Street. Agendas and meeting notices are available upon request from the City. Documents containing the proposals to be considered at the public hearings are available at the Public Counter of the Community Development Department at least seven (7) calendar days in advance of the hearing, at least twenty (20) calendar days for Comprehensive Plan Amendments.

The public is encouraged to provide staff with written comments or copies of presentations, particularly if the statement is too long to be orally presented in its entirety at a meeting. Individuals unable to attend meetings can submit concerns and ideas in writing to the Community Development Department office prior to the close of the public comment period. Copies of all materials submitted prior to distribution to the appropriate decision making body are included in documentation provided for the deliberation on the matter.

All meetings are held in locations accessible to persons with disabilities. Listening devices or other auxiliary aids, sign language interpreters for people with hearing impairments, and readers for people with visual impairments are provided if requested at least three working days (72 hours) prior to the meeting.

The City may also conduct public meetings, workshops, and focus groups on particular issues to solicit input and involvement in various planning issues. Adopted plans are also available to the public for review at the Community Development Department and the Beaverton Library, and are posted on the City's internet web site. Copies may be acquired for the cost of duplication at the Community Development Department.

2.4.3 CITY-SPONSORED PUBLIC GROUPS

2.4.3.1. Committee for Citizen Involvement (CCI)

Council Resolution 2058 (1978) established the CCI, defining its responsibilities as an advisory committee to the City Council. The *Beaverton Code* specifies membership of the CCI as five at-large members appointed by the Mayor and confirmed by the Council and one member from each recognized Neighborhood Association Committee. The CCI's role is to assure that the community has a continuous opportunity to exchange ideas and information with the City, and to monitor and evaluate City programs as specified in the *Beaverton Code, 1982,* as amended (BC 2.03.050 through 2.03.054).

The Citizen Involvement Program, adopted by Resolution 2229 (1980), established a formalized public participation program for the CCI and provided a method by which the committee and other members of the community could communicate their opinions, inquiries, or complaints about City departments, committees, or the Council.

The program also provides for a newsletter and calendar of City meetings, information flyers, community meetings, and funding for these activities as well as staff support and public hearing notices. The City is committed to providing financial support for public outreach and public participation processes. Staff and resource needs are determined during work program development for each plan, program, and project. In addition, the City's Neighborhood Program Office staff are available to coordinate outreach and work with City departments to realize the full potential of each public participation effort.

2.4.3.2 Neighborhood Association Committees (NACs)

The *Beaverton Code* identifies the procedures by which residents can form Neighborhood Association Committees, add or delete areas of acknowledged NACs and provides a process for termination of NAC Recognition and NAC Grievances (BC 9.06.010 through 9.06.040) Boundaries of the NACs are shown on maps available at City Hall or on the City's website.

NACs provide a forum to identify, discuss, and offer solutions to neighborhood concerns such as traffic, safety, land use, and economic development. Supported by the Neighborhood Program Office, Beaverton's NACs are organized by volunteers, meet regularly, and participate in the public comment process. Monthly agendas and minutes are mailed to active participants. Neighborhood and city-wide issues are usually the main agenda topics.

2.4.3.3. The *Beaverton Code* (Section 2.03.002 – 2.03.300) identifies other City Boards, Commissions and Committees created by ordinance. Additional committees or review commissions may be established to address special projects, such as the Code Review Advisory Committee. These committees provide input to staff as they develop specific proposals, such as amendments to the Development Code.

2.4.4. Citizen's Participation Organizations (CPOs)

Washington County CPOs bordering the City limits are also involved in City planning issues through their newsletters and processes. Each CPO's newsletter details issues of county, city, and region-wide interest to its readers. Public hearing notices and articles of interest concerning Beaverton issues are often included in the CPO newsletters.

2.4.5 PUBLICATIONS AND MAIL NOTIFICATION

"Your City" newsletter is distributed city-wide. It provides information on current issues to the residents of Beaverton. Published approximately six times per year, subject to available funding, "Your City" includes notification of regularly scheduled Board, Commission, Advisory Committee and Neighborhood Association Committee meetings and hearings, articles of interest to residents, and educational opportunities relating to planning and other community issues. Specific mailings, public notices, flyers, surveys and questionnaires, as well as the City's web site, cable broadcasts and other media, are used by the City to obtain input and provide information.

2.5 OPPORTUNITIES FOR PUBLIC INVOLVEMENT

Many City planning processes incorporate specific public involvement procedures, which are identified in Chapter I of this Plan and in the City of Beaverton Development Code.

In addition to the City's public participation processes, Metro requires transportation plans and programs to conform with its adopted Local Public Involvement Policy. This policy defines procedures and includes a certification process for projects proposed for federal funding through Metro.

Early public participation is critical to identifying needs and issues, evaluating alternatives, and developing, implementing, and evaluating projects. Opportunities for public involvement are available during preparation and review phases of City plans. Comments received during plan preparation and review are also made part of the public record. At public hearings, comments are recorded and responses are noted. Public participation opportunities and public notice requirements for city plan and code revisions and updates are specified in the respective plan or code.

GLOSSARY OF COMPREHENSIVE PLAN TERMS

The terms in this Plan embody the legislative intent of the City Council. Terms of ordinary usage are to be given their usual and reasonable meanings. Key words and concepts used in this Plan are explained below.

When the meaning ascribed to a term in this section conflicts with an identical or nearly identical term appearing in a closely-related state, regional, or federal law, the intent under this ordinance shall prevail unless a superior source of law requires a different result.

Where terms are not defined in this section, and a term conflicts with a provision of statewide, regional, or City of Beaverton law, the more restrictive interpretation will prevail unless it leads to an unlawful result.

A

ACCESS	The place, means or way by which pedestrians, vehicles, or both shall have safe, adequate and usable ingress and egress to a property or use. A private access is an access not in public ownership or control by means of deed, dedication or easement. (Beaverton Development Code)
ACCESSIBILITY	The amount of time required to reach a given location or service by any mode of travel. (Metro Code 3.07.1010(a)) (Also Metro Regional Framework Plan)
ACCESSORY DWELLING UNIT	A dwelling unit incidental or subordinate to the principal use of a building or project and located on the same site.
ACCESSORY STRUCTURE OR USE	A structure or use incidental, appropriate and subordinate to the main structure or use. (Beaverton Development Code)
ACKNOWLEDGEMENT	A Land Conservation and Development Commission order that certifies that a comprehensive plan and land use regulations, land use regulation or plan or regulation amendment complies with the goals or certifies that Metro land use planning goals and objectives, Metro Urban Growth Management Functional Plan, amendments to Metro planning goals and objectives or amendments to the Metro Urban Growth Management Functional Plan comply with the statewide planning goals. (ORS 197.015(1))
ACQUIRE OR ACQUISITION	The acquisition of land by purchase, lease, gift, grant, or devise.
ACTIONS	With regard to implementation actions identified in this Plan: Direct specific City activities or events, consistent with the Comprehensive Plan goals and policies.
ADJACENT	Near or close or next to. For example, an Industrial District across the street from a Residential District shall be considered as "adjacent". (Beaverton Development Code)
ADVERSE IMPACT	A negative consequence, demonstrated through evidence, to the physical, social or economic environment resulting from an action or development.
AFFORDABLE HOUSING	For the purposes of complying with Metro's Title 7 provisions, affordable housing is defined as housing that is affordable to residents earning less than 50% of the Metro area median income whereby no more than 30% of the household's gross income is expended toward housing costs.
ALTERNATIVE MODES	Alternative methods of travel to the automobile, including public transportation (light rail, bus and other forms of public transportation), bicycles and walking.
APARTMENT	(1) One or more rooms of a building used as a place to live, in a building containing at least one other unit used for the same purpose; (2) A separate suite, not owner occupied, which includes kitchen facilities and is designed for and rented as the

home, residence, or sleeping place of one or more persons living as a single housekeeping unit.

APPROPRIATE An act, condition, or state suitable under the circumstances.

AQUIFER An underground, water bearing layer of earth, porous rock, sand, or gravel, through which water can seep or be held in natural storage.

ARCHAEOLOGICAL Relating to the material remains of past human life, culture, or activities.

ARTERIAL STREET Arterial streets serve to interconnect and support the freeway system. These streets link major areas of the city. Arterial streets are typically spaced about one mile apart to assure accessibility and reduce the incidence of traffic using collectors, neighborhood routes, or local streets in lieu of an arterial street.

AWNING A roof like structure of fabric stretched over a rigid frame projecting from the elevation of a building designed to provide continuous overhead weather protection. (Beaverton Development Code)

B

BEAVERTON CODE The Beaverton Code, 1982, as amended.

BEAVERTON DEVELOPMENT CODE Development Code of the City of Beaverton, Ordinance 2050, as amended, is an ordinance establishing the zoning standards, regulations and procedures, providing related development requirements and providing penalties and otherwise implementing this Plan.

BEAVERTON ENGINEERING DESIGN MANUAL AND STANDARD DRAWINGS A compilation of resolutions and ordinances setting forth the technical engineering standards that implement the City's Site Development Ordinance.

BICYCLE LANE (BIKE LANE) Bicycle lane means the area within the street right-of-way designated specifically for use by bicyclists. The same area may also be referred to as a "bike lane." Bicycle lanes are striped and accommodate only one-way travel. (Beaverton Development Code)

BIKEWAY Bikeway means any path or roadway facility that is intended and suitable for bicycle use. (Beaverton Development Code)

BOULEVARD DESIGN A design concept that emphasizes pedestrian travel, bicycling and the use of public transportation, and accommodates motor vehicle travel.

BUFFER ZONE An area of land separating two distinct land uses that acts to soften or mitigate the effects of one land use on the other.

BUILDABLE LANDS Lands in urban and urbanizable areas that are suitable, available and necessary for residential uses. Buildable lands includes both vacant land and developed land likely to be redeveloped. (ORS 197.295(1))

BUS A motor vehicle designed for carrying 15 or more passengers, exclusive of the driver, and used for the transportation of persons. (ORS 184.675(6))

C

CAPITAL IMPROVEMENT Physical assets constructed or purchased to provide, improve or replace a public facility and that are large in scale and high in cost. The cost of a capital improvement is generally nonrecurring and may require multi-year financing.

CAPITAL IMPROVEMENT PROGRAM (CIP)

A multi-year (usually five or six) schedule of capital improvement projects, including cost estimates and priorities, budgeted to fit financial resources. The CIP is administered by a city or county government and reviewed by its planning commission. It schedules permanent improvements needed in the future, taking into consideration the projected fiscal capability of the local jurisdiction. The CIP is generally reviewed annually for conformance to and consistency with the comprehensive plan. In Beaverton, the CIP is called the Capital Improvements Plan.

CLUSTER DEVELOPMENT Development in which a number of dwelling units are placed in closer proximity than usual, or are attached, with the purpose of retaining an open space area.

COLLECTOR STREET Collector streets provide both access and circulation within major areas of the city. Collectors differ from arterials in that they provide more of a citywide circulation function, do not require as extensive access control, and penetrate residential neighborhoods, distributing trips from the neighborhood and local street system.

COMMERCIAL USES Activities within land areas that are predominantly connected with the sale, rental and distribution of products, or performance of services.

COMMUNITY DEVELOPMENT DIRECTOR The Director of Community Development for the City of Beaverton, Oregon, or designee.

COMMUNITY PLAN Volume V of the Comprehensive Plan. These documents describe policies and action statements and map designations specific to a particular geographic location.

COMPATIBLE Capable of existing together without discord or disharmony.

COMPREHENSIVE PLAN	A generalized, coordinated land use map and policy statement of the governing body of a local government that interrelates all functional and natural systems and activities relating to the use of lands, including but not limited to sewer and water systems, transportation systems, educational facilities, recreational facilities, and natural resources and air and water quality management programs. (ORS 197.015(5))
CONDOMINIUM	A structure of two or more units, the interior spaces of which are individually owned; the balance of the property (both land and building) is owned in common by the owners of the individual units.
CONGESTION	Occurs when traffic demand nears or exceeds the available capacity of the system.
CONNECTIVITY	The degree to which the street systems in a given area are interconnected. (Metro Code 3.07.1010(j))
CONSERVATION EASEMENT	An easement specifically written to maintain or protect a natural resource.
CORRIDORS	While some corridors may be continuous, narrow bands of higher-intensity development along arterial roads, others may be more 'nodal,' that is, a series of smaller centers at major intersections or other locations along the arterial that have high-quality pedestrian environments, good connections to adjacent neighborhoods and good transit service. As long as the average target densities and uses are allowed and encouraged along the corridor, many different development patterns--nodal or linear--may meet the corridor objective. (Metro Regional Framework Plan) Along good quality transit lines, corridors feature a high-quality pedestrian environment, convenient access to transit, and somewhat higher than current densities. (Metro Code 3.07.130) An average of 25 persons per acre is recommended. (Metro Code 3.07.170)
CRITICAL PUBLIC FACILITIES	Critical public facilities and services shall include public water, public sanitary sewer, storm water system (including storm water quality and quantity facilities), transportation, and fire protection. (Engineering Design Manual and Standard Drawings Proposed Definition)
CULTURAL RESOURCES	Areas characterized by evidence of an ethnic, religious or social group with distinctive traits, beliefs, and social forms. For example, an archaeological site, such as an Indian burial ground could be an important cultural site.

D

DECISION, DISCRETIONARY An action taken by a governmental agency that calls for the exercise of judgment in deciding whether to approve and/or how to carry out a project. (See *Decision, Quasi-Judicial*)

DECISION, LEGISLATIVE A decision of a local official or entity based upon the decision-maker's perception of the best course of action. The city typically employs legislative decisions in adopting an ordinance or resolution establishing a basic principle or policy. Examples are decisions to adopt a comprehensive plan, apply a plan designation to a large number of properties, or decisions which affect a large geographic area or number of persons.

DECISION, QUASI-JUDICIAL Quasi-judicial decisions bear different aspects than legislative decisions. For example, requests of quasi-judicial decisions usually must actually result in a decision; quasi-judicial decisions are bound to apply pre-existing criteria to concrete facts; and they are customarily directed at a closely-circumscribed factual situation or small number of persons. The more a local government decision bears these emblems, the more it is a quasi-judicial decision.

DEDICATION The turning over by an owner or developer of private land for public use, and the acceptance of land for such use by the governmental agency having jurisdiction over the public function for which it will be used. Dedications for roads, parks, school sites, or other public uses are often made conditions for approval of development.

DENSITY The ratio of dwelling units or employees per unit of area (square feet, acre, square mile, etc.). Density generally refers to residential uses. A measure of the intensity of the development generally expressed in terms of dwelling units (du) per acre (i.e., less than 7.5 du per acre = low density; 7.5 to 15 du per acre = medium density, etc.) It can also be expressed in terms of population density (people per acre). It is useful for establishing a balance between potential local service use and service capacities.

DENSITY BONUS The allocation of development rights that allows a parcel to accommodate additional square footage or additional residential units beyond the maximum for which the parcel is planned or zoned, usually in exchange for the provision or preservation of an amenity at the same site or at another location.

DENSITY CREDIT The transfer of development density rights from one piece of one property to another piece of the same property. A project site that contains environmentally sensitive areas or other lands that should not be developed, as defined in this comprehensive plan, may be entitled to a density credit.

DENSITY, GROSS The number of dwelling units per gross acre. Gross acreage is the total amount of raw land, including all developable and undevelopable portions.

DENSITY, NET — The number of dwelling units allowed on the total acreage of developable portions of the site (net developable acre) within a given land area.

DENSITY, RESIDENTIAL — The number of permanent residential dwelling units per acre of land. Densities specified in the comprehensive plan may be expressed in units per gross acre or per net developable acre (See Gross Acres and Net Acres).

DESIGN PLAN — A plan for a defined geographic area in a single or multiple ownership that is consistent with the Comprehensive Plan and includes, but is not limited to, a land use and circulation plan, development standards, design guidelines, an open space plan, utilities plans and a program of implementation measures and other mechanisms needed to carry out the plan. The plan shall be created through the Design Review process. (Beaverton Development Code)

DESIGN TYPE — The conceptual areas described in the Metro 2040 Growth Concept text and map in Metro's regional goals and objectives, including central city, regional centers, town centers, station communities, corridors, main streets, inner and outer neighborhoods, industrial areas, and employment areas. (Metro Code 3.07.1010(m))

DEVELOPER — An individual who or business that prepares land for the construction of buildings or causes to be built physical space for use primarily by others, and in which the preparation of the land or the creation of the building space is in itself a business and is not incidental to another business or activity.

DEVELOPMENT — Generally, any man-made change to existing or proposed use of real property. Development activities include: land divisions, lot line adjustments, construction or alteration of structures, construction of roads and any other accessway, establishing utilities or other associated facilities, grading, deposit of refuse, debris or fill, and clearing of vegetative cover. Does not include routine acts of repair or maintenance.

DWELLING UNIT — A structure or part of a structure that is used as a home, residence or sleeping place by one person who maintains a household or by two or more persons who maintain a common household. (ORS 90.010(9))

EARTHQUAKE HAZARDS — Ground shaking, landslides, liquefaction and amplification are all earthquake hazards that can cause damage to structures and infrastructure. (Beaverton Natural Hazards Mitigation Plan)

E

EASEMENT — A form of nonpossessory right to use property owned by another for specific purposes or to gain access to some portion of another's property. For example, utility companies often have easements on the private property of individuals in order to install and maintain utility facilities.

EMPLOYMENT AREAS Areas of mixed employment that include various types of manufacturing, distribution and warehousing uses, commercial and retail development as well as some residential development. Retail uses should primarily serve the needs of people working or living in the immediate employment area. Exceptions to this general policy can be made only for certain areas indicated in a functional plan. Commercial uses are to be limited.

ENCROACHMENT AREA Areas in floodplains and floodways where development is restricted due to potential impacts on natural hydrologic characteristics. Development or raising of the ground level (e.g., to avoid flood damage) in encroachment areas will obstruct flood water flows, raising the water surface level. Demand to build structures in the flood plain, regardless of potential flooding dangers, is common in urban areas. Reasons typically include lack of suitable land or lower flat land development costs compared to building on steeper gradients.

ENDANGERED SPECIES A species of animal or plant is considered to be endangered when its prospects for survival and reproduction are in immediate jeopardy from one or more causes. (See Title 50 of the Code of Federal Regulations)

ENHANCE To improve existing conditions by increasing the quantity or quality of beneficial uses.

ESSENTIAL PUBLIC FACILITIES Essential facilities and services shall include schools, transit improvements, police protection, and public pedestrian and bicycle facilities.

ESTABLISHED NEIGHBORHOOD A neighborhood where platted lands are at least eighty percent developed and occupied, and where substantial deterioration since development has either not occurred or been reversed.

FAMILY (1) Two or more persons related by birth, marriage or adoption [U.S. Bureau of the Census]. (2) An individual or a group of persons living together who constitute a *bona fide* single family housekeeping unit in a dwelling unit, not including a fraternity, sorority, club or other group of persons occupying a hotel, lodging house or institution of any kind.

FEASIBLE Capable of being done, executed, or managed successfully from the standpoint of the physical and/or financial abilities of the implementer(s).

F

FLOODPLAIN Land subject to periodic flooding, including the 100-year floodplain as mapped by FEMA Flood Insurance Studies or other substantial evidence of actual flood events. The floodplain includes the land area identified and designated by the United States Army Corps of Engineers, the Oregon Department of State Lands, FEMA, or Washington County that has been or may be covered temporarily by water as a result of a storm event of identified frequency and the area along a watercourse enclosed by the outer limits of land that is subject to inundation in its natural or lower floodway fringe, and equal to the FIRM designation of an area of special hazard.

FLOODWAY The floodway is the channel of a stream plus any adjacent flood plain areas that must be kept free of encroachment in order that the 100-year flood may be carried without substantial increases in flood heights.

FLOOR AREA RATIO (FAR) The amount of gross floor area in relation to the amount of net site area, expressed in square feet. (Beaverton Development Code)

FREEWAY Freeways provide the highest level of connectivity. These roadways generally span several jurisdictions and are often of statewide importance.

FUNCTIONAL CLASSIFICATION OR MAP Street Functional Classification

FUNCTIONAL PLAN in the context of the Comprehensive Plan, Functional Plan means the Metro Urban Growth Management Functional Plan. Metro's Urban Growth Management Functional Plan is one of several Metro Functional Plans.

G

GOAL A general, long term aim or end toward which programs or activities are ultimately directed.

GOALS The mandatory statewide planning standards adopted by the Land Conservation and Development Commission pursuant to ORS chapters 195, 196, and 197. (ORS 197.015(8)) (OAR 660-018-0010(10))

GROSS ACRES The entire acreage of a site, including proposed rights of way, easements, environmental lands, etc. Gross acreage is measured from the centerline of proposed bounding streets and to the edge of the right-of-way of existing or dedicated streets.

GROUNDWATER Water under the earth's surface, often confined *in* aquifers, capable of supplying wells and springs.

GROWTH CONCEPT As defined in the Metro Regional Framework Plan, the Growth Concept is a concept for the long-term growth management of our region stating the preferred form of the regional growth and development, including where and how much the UGB should be expanded, what densities should characterize

different areas, and which areas should be protected as open space.

GROWTH CONCEPT MAP The conceptual map demonstrating the 2040 Growth Concept design types attached to the Urban Growth Management Functional Plan Appendix and adopted as Metro Code 3.07.1010(z).

GROWTH MANAGEMENT A method to guide development in order to minimize adverse environmental and fiscal impacts and maximize the health, safety, and welfare benefits to the residents of the community.

H

HABITAT Any area where there is naturally occurring food and cover for wildlife.

HAZARDOUS MATERIALS Hazardous material or substance includes but is not limited to a substance designated under 33 U.S.C. §1321 (b)(2)(A), any element, compound, mixture, solution or substance designated under 42 U.S.C. §9602, any hazardous waste having characteristics identified under or listed under 42 U.S.C. §6921, any toxic pollutant listed under 33 U.S.C. §1317 (a), any imminently hazardous chemical substance or mixture with respect to which the Administrator of the United States Environmental Protection Agency has taken action under 15 U.S.C. §2606, and any residue classified as hazardous waste pursuant to ORS 466.020(3). (CWS Design and Construction Standards)

HIGH CAPACITY TRANSIT Transit routes that may be either a road designated for frequent bus service or for a light-rail line. (Metro Regional Framework Plan definition)

HIGH OCCUPANCY VEHICLE (HOV) Any vehicle other than a single occupancy vehicle (e.g., a vanpool, a bus, or two or more persons to a car).

HIGHWAY High speed, high capacity, limited access transportation facility serving regional and countywide travel. Highways may cross at a different grade level.

HILLSIDE AREAS Land that has an average percent of slope equal to or exceeding fifteen percent.

HISTORIC An historic building or site is one that is noteworthy for its significance in local, state, or national history or culture, its architecture or design, or its works of art, memorabilia, or artifacts.

HISTORIC BUILDINGS OR STRUCTURES Also known as Historic Resources, these are all areas, districts or sites containing properties listed on the city of Beaverton List of Historic Properties, or the State Historic Preservation Office, or the National Register of Historic Places.

HOUSEHOLD All those persons, related or unrelated, who occupy a single housing unit. (See *Family*)

HOUSING AFFORDABILITY The availability of housing such that no more than 30 percent (an index derived from federal, state and local housing agencies) of the monthly income of the household need be spent on shelter. (Metro Regional Framework Plan definition)

HOUSING UNIT The place of permanent or customary abode of a person or family. A housing unit may be a single family dwelling, multifamily dwelling, condominium, modular home, mobile home, cooperative, or any other residential unit considered real property under State law. A housing unit has, at least, cooking facilities, a bathroom, and a place to sleep.

I

IMPACT The effect of any direct manmade actions or indirect repercussions of manmade actions on existing physical, social, or economic conditions.

IMPACT FEE A fee, also called a development fee, levied on the developer of a project by a city, county, or other public agency as compensation for otherwise unmitigated impacts the project will produce.

INDUSTRIAL Activities generating income from the production, handling or distribution of goods. Industrial uses include, but are not limited to manufacturing, assembly, fabrication, processing, storage, logistics, warehousing, distribution and research and development. Industrial uses may have unique land, infrastructure and transportation requirements. Industrial uses tend to have external impacts on surrounding uses and cluster in traditional or new industrial areas where they are segregated from other non-industrial activities. (OAR 660-009-0005(2))

INDUSTRIAL AREAS An area set aside for industrial activities. Supporting commercial and related uses may be allowed, provided they are intended to serve the primary industrial users. Residential development shall not be considered a supporting use, nor shall retail users whose market area is notably larger than the industrial area be considered supporting uses. (Metro Regional Framework Plan)

INDUSTRIAL PARK See City of Beaverton Development Code

INFILL DEVELOPMENT Development on scattered vacant sites within the urbanized area of a community.

INFLUENT Wastewater coming into a treatment plant.

INFRASTRUCTURE Component of a functioning, orderly urban fabric, such as roads, water systems, sewage systems, systems for storm drainage, telecommunications and energy transmission and

distribution systems, bridges, transportation facilities, parks, schools and public facilities developed to support the functioning of the developed portions of the environment. Areas of the undeveloped portions of the environment such as floodplains, riparian and wetland zones, groundwater recharge and discharge areas and Greenspaces that provide important functions related to maintaining the region's air and water quality, reduce the need for infrastructure expenses and contribute to the region's quality of life. (Metro Regional Framework Plan definition)

INNER NEIGHBORHOODS — Areas in Portland and the older cities that are primarily residential, close to employment and shopping areas, and have slightly smaller lot sizes and higher population densities than in outer neighborhoods. (Metro Regional Framework Plan) Beaverton's Land Use Designation Neighborhood Residential identifies its Inner Neighborhoods.

INSTITUTIONAL — (1) Privately owned and operated activities that are institutional in nature, such as hospitals, museums, and schools; (2) churches and other religious institutions; and (3) other nonprofit activities of an education, youth, welfare, or philanthropic nature that cannot be considered a residential, commercial or industrial activity (4) academic, governmental and community service uses, either publicly owned or operated by nonprofit organizations; and (5) facilities including transportation, sewer, solid waste, drainage, potable water, and parks and recreation systems or facilities.

INTENSITY — A measure of land use activity based on density, use, mass, size, and/or impact.

L

LANDSCAPING — The combination of natural elements such as trees, shrubs, ground covers, vines and other living organic and inorganic material which are installed for purposes such as creating an attractive and pleasing environment and screening unsightly views. Other improvements that promote an attractive and pleasing environment that may be included as landscaping includes features such as fountains, patios, decks, fences, street furniture and ornamental concrete or stonework areas. (Beaverton Development Code)

LANDSCAPE STRIP — The portion of public right-of-way located between the sidewalk and curb. (Metro Code 3.07.1010(ee))

LAND USE — The occupation or use of land or water area for any human activity or any purpose defined in a comprehensive plan.

LAND USE MAP (SERIES) — The graphic aid(s) intended to depict the spatial distribution of various land uses by land use category, subject to the goals,

policies, implementation measures; and the exceptions and provisions of the Land Use Element text and applicable land development regulations.

LAND USE REGULATION Any local government zoning ordinance, land division ordinance adopted under ORS 92.044 or 92.046 or similar general ordinance establishing standards for implementing a comprehensive plan. (ORS 197.015(11))

LEVEL OF SERVICE (LOS) An indicator of the extent or degree of service provided by or proposed to be provided by a facility based on and related to the operational characteristics of the facility. Level of service generally indicates the capacity per unit of demand for a public facility.

LIGHT RAIL TRANSIT (LRT) STATION SITE Land currently or eventually to be owned or leased by Tri-Met, on which facilities will be located related to a light rail transit station. The station site may include station platforms, park and ride lots, bus stops, and other similar facilities. (Beaverton Development Code)

LOCAL STREET Local streets have the primary function of providing access to adjacent land. Service to through-traffic movement on local streets is deliberately discouraged by design. Residential local streets serve a traffic function as well as being important to neighborhood identity.

LOCAL TRIP A trip of 2½ miles or less in length.

LOT OF RECORD A lot that is part of a subdivision, the plat of which has been recorded in the Office of the Washington County Surveyor; or any parcel of land, whether or not part of a subdivision, that has been officially recorded by a deed in the office of the County Surveyor, provided such lot met the minimum dimensions for lots in the zoning district in which it was located at the time of recording, or was recorded prior to the effective date of zoning in the area where the lot is located and met the requirements of any subdivision regulations in effect at the time of the recording.

LOT A single unit of land such as a tract, lot, block or parcel. A continuous area owned or under the lawful control and in the lawful possession of one distinct ownership undivided by a dedicated street, alley, or other ownership. An abutting "platted lot, or property described by metes and bounds, in the same ownership, shall be considered part of such 'lot'."

M

MAJOR PEDESTRIAN ROUTE Any pedestrian way in a public right-of-way or easement which assists access to a light rail station or transit stop, that is presently used or is likely to be to be used by pedestrians to access public transportation service including light rail or transit stations. (Beaverton Development Code)

MAIN STREETS Neighborhood shopping areas along a main street or at an intersection, sometimes having a unique character that draws people from outside the area. Beaverton's main streets generally include two nodes on Allen Boulevard 1) between Hall Boulevard and Murray Road, and 2) at Oleson Road.

MANUFACTURED HOME A structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction. (ORS 446.003(26)(a)(C)(i))

MASS TRANSIT Passenger services provided by public, private or non-profit entities such as the following surface transit modes: commuter rail, rapid rail transit, light rail transit, fixed guideway transit, express bus, and local fixed route bus.

MASTER PLAN A plan for a defined geographic area in single or multiple ownership that is consistent with the Comprehensive Plan and includes a land use and circulation plan, land use regulations, development standards, design guidelines, open space plan, utilities plans, and a program of implementation measures and other mechanisms needed to carry out the plan. The plan shall be created through the land use review process, pursuant to the City of Beaverton Development Code. (Beaverton Development Code)

METRO The Metropolitan Services District of the Portland metropolitan area, a municipal corporation established and existing pursuant to Section 14 of Article XI of the Oregon Constitution, ORS Chapter 268 and the Metro Charter. (Metro Code 1.01.040(e))

METRO PLANNING GOALS AND OBJECTIVES The land use goals and objectives that a metropolitan service district is required to adopt under ORS 268.380(1). The goals and objectives do not constitute a comprehensive plan. (ORS 197.015(15))

METRO REGIONAL FRAMEWORK PLAN The regional framework plan and implementing ordinances required by the 1992 Metro Charter or its separate components. Neither the regional framework plan nor its individual components constitute a comprehensive plan. (ORS 197.015(16))

METRO URBAN GROWTH BOUNDARY The urban growth boundary as adopted and amended by the Metro Council, consistent with state law. Also referred to as "UGB". (Metro Code 3.07.1010(kk))

Means the Urban Growth Boundary for Metro pursuant to ORS 268.390 and 197.005 through 197.430. (Metro Code 1.01.010(v))

METRO URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN The functional plan that implements regional goals and objectives adopted by the Metro Council as the Regional Urban Growth Goals and Objectives (RUGGO), including the Metro 2040 Growth Concept and the Regional Framework Plan. (Metro Code 3.07.010)

METROPOLITAN AREA The area which on October 4, 1997, lies within the boundaries of Clackamas, Multnomah and Washington Counties (ORS 268.020(3))

METROPOLITAN HOUSING RULE A rule (OAR 660, Division 7) adopted by the Land Conservation and Development Commission to assure opportunity for the provision of adequate numbers of needed housing units and the efficient use of land within the Metro UGB. This rule establishes minimum overall net residential densities for all cities and counties within the UGB, and specifies that 50 percent of the land set aside for new residential development be zoned for multi-family housing.

METROPOLITAN SIGNIFICANCE An issue or action with major or significant impact throughout the metropolitan area.

MIXED USE Comprehensive plan or implementing regulations that permit a mixture of commercial and residential development.

Properties on which various uses, such as office, commercial, institutional and residential, are combined in a single building or on a single site in an integrated development project with significant functional interrelationships and a coherent physical design. Land uses, which when combined constitute mixed or multiple uses, exclude parks, golf courses, schools, and public facilities (fire stations, utility substations, etc.).

Mixed- use development is a type of multiple-use in which one or more structures on a lot or contiguous lots in common ownership, accommodate any of the following combinations of uses

(1) Residential Mixed-Use Project with residential units occupying a minimum of 25 percent of the total floor area and the remaining floor area occupied by retail, office, light industrial, community service or other residentially compatible uses or combinations thereof;

(2) Non-Residential Mixed-Use Project consisting of office retail, light industrial, community service or other compatible uses or combination thereof with retail space

or other pedestrian oriented commercial uses occupying a minimum of 60% of the street level building frontage.

A building or groups of buildings under one ownership, to encourage a diversity of compatible land uses, which may include a mixture of residential, office, retail, recreational, light industrial, and other miscellaneous uses.

MOBILE HOME A structure constructed for movement on the public highways, that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed between January 1, 1962 and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction.

MULTI-FAMILY DWELLING UNITS Means attached housing where each dwelling unit is not located on a separate lot. (OAR 660-007-0005(11))

MULTI-MODAL Transportation facilities or programs designed to serve many or all methods of travel, including all forms of motor vehicles, public transportation, bicycles and walking. (Metro Code 3.07.1010(rr))

MULTI-USE OR SHARED-USE PATH
Multi-use or Shared-use path means an off-street path that can be used by several transportation modes including bicycles, pedestrians, and other non-motorized modes. Multi-use paths accommodate two-way travel.

MULTIPLE USE DEVELOPMENTS A building or groups of buildings designed to encourage a diversity of compatible land uses, which include a mixture of two or more of the following uses: residential, office, retail, recreational, light industrial, and other miscellaneous uses. (Beaverton Development Code)

N

NATURAL AREA Any landscape unit substantially without any human development that is substantially in a native and unaffected state and may be composed of plant and animal communities, water bodies, soil and rock and mitigated habitat. Natural areas must be identified in a city, county or special district open space inventory or plan. (Metro Code 3.01.010(h))

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

NEEDED HOUSING Housing types determined to meet the need shown for housing within an urban growth boundary at particular price ranges and rent levels. On and after the beginning of the first periodic review of a local government's acknowledged comprehensive plan, "needed housing" also means:

(a) Housing that includes, but is not limited to, attached and detached single-family housing and multiple housing for both owner and renter occupancy;

(b) Government assisted housing;

(c) Mobile home or manufactured dwelling parks as provided in ORS 197.475 to 197.490; and

(d) Manufactured homes on individual lots planned and zoned for single-family residential use that are in addition to lots within designated dwelling subdivisions. (ORS 197.303(1)) (OAR 660-007-00005(12))

NEIGHBORHOOD ROUTE A street that is usually long relative to local streets and provides connectivity to collectors or arterials. Neighborhood routes generally have more traffic than local streets and are used by residents in the area to get into and out of the neighborhood, but do not serve citywide or large area circulation.

NET DEVELOPABLE ACRE The net developable acreage for a site is defined as the proposal size expressed in acreage minus any unbuildable area. The following areas are deemed undevelopable for the purposes of calculating net developable acreage:

1) Street dedications and those areas used for private streets and common driveways; and

2) Environmentally constrained lands, such as open water areas, floodplains, water quality facilities, wetlands, natural resource areas and tree preservation areas set aside in separate tracts or dedicated to a public entity, and

3) Land set aside in separate tracts or dedicated to a public entity for schools, parks, or open space purposes. (Beaverton Development Code)

NET BUILDABLE LAND See Net Developable Acre.

NET DEVELOPED ACRE Consists of 43,560 square feet of land, after excluding present and future rights-of-way, school lands and other public uses. (Metro Code 3.07.1010(vv))

Consists of 43,560 square feet of residentially designated buildable land, after excluding present and future rights-of-way, restricted hazard areas, public open spaces and restricted resource protection areas. (OAR 660-0007-0005(1))

NEWSPAPER A newspaper of general circulation, published in the English language for the dissemination of local or transmitted news or for the dissemination of legal news, made up of at least four pages of at least five columns each, with type matter of a depth of at least 14 inches, or, if smaller pages, then comprising and equivalent amount of type matter, which has bona fide subscribers representing more than half of the total

distribution of copies circulated, or distribution verified by an independent circulation auditing firm, and which has been established and regularly and uninterruptedly published at least once a week during a period of at least 12 consecutive months immediately preceding the first publication of a public notice. (ORS 193.101(2))

NOTICE Any notice that is required by law to be published. (ORS 193.310(2))

O

OBJECTIVE A specific, measurable, intermediate end that is achievable and marks progress toward a goal. An objective should be achievable and, where possible, should be measurable and time specific.

OFFICE A structure for conducting business, professional, or governmental activities in which the showing or delivery from the premises of retail or wholesale goods to a customer is not the typical or principal activity. Office uses include general business offices, medical and professional offices, administrative or headquarters offices for large wholesaling or manufacturing operations, and research and development.

OPEN SPACE Publicly and privately-owned area of land, including parks, natural areas and areas of very low density development inside the UGB. Open spaces may include active or passive recreation. (Metro Regional Framework Plan)

P

PARCEL A lot, or contiguous group of lots, in single ownership or under single control, usually considered a unit for purposes of development.

PARK Open space land on which the primary purpose is recreation. A public area intended for open space and outdoor recreation use that is owned and managed by a city, county, regional government, or park district.

PARK AND RIDE A parking facility near a transit station or stop for the purpose of parking motor vehicles by transit riders. (Beaverton Development Code)

A mode of travel usually associated with movements between work and home that involves use of a private auto on one portion of the trip and a transit vehicle (i.e., a bus or a light-rail vehicle) on another portion of the trip. A park-and-ride trip could consist of an auto trip from home to a parking lot, and transfer at that point to a bus in order to complete the work trip. (Metro Regional Transportation Plan Definition)

PARKING RATIO The number of parking spaces provided per employee or per 1,000 square feet of floor area (e.g., 2:1 or "two per thousand").

PARKING STRUCTURE A parking garage located above or underground consisting of two (2) or more levels.

PEAK HOUR/PEAK PERIOD For any given roadway, a daily hour or longer period of time during which traffic volume is highest, usually occurring during morning and evening commute times. Where "F" Levels of Service exist, the "peak hour" may stretch into a "peak period" of several hours duration.

PEDESTRIAN ORIENTED DESIGN Site and building design elements that are dimensionally related to pedestrians, such as: small building spaces with individual entrances (e.g., as is typical of downtowns and main street developments); larger buildings which have articulation and detailing to break up large masses; narrower streets with tree canopies; smaller parking areas or parking areas broken up into small components with landscaping; and pedestrian amenities, such as sidewalks, plazas, outdoor seating, lighting, weather protection (e.g., awnings or canopies), and similar features. These features are all generally smaller in scale than those which are primarily intended to accommodate automobile traffic. (Adapted from the Model Development Code and User's Guide for Small Cities, Funded by the Transportation and Growth Management Program of the Oregon Department of Transportation and Oregon Department of Land Conservation and Development)

PEDESTRIAN SCALE Site and building design elements that are dimensionally smaller than those intended to accommodate automobile traffic flow and buffering. Examples include ornamental lighting no higher than twelve feet; bricks, pavers or other paving modules with small dimensions; a variety of planting and landscaping materials; arcades or awnings that reduce the perception of the height of walls; and signage and signpost details designed for viewing from a short distance.

PEDESTRIAN WAY Any paved public or private route intended for pedestrian use, including a multi-use path and esplanade, regardless of use by other transportation modes. A general term used to describe any sidewalk or walkway that is intended and suitable for pedestrian use. (Beaverton Development Code) "Paved" can include any Americans with Disability Act approved surface including pavements and surfaces that are pervious.

PERSON A natural or artificial person, including but not limited to, a human, corporation, partnership, unit of government, an agency, a trust or descendant's estate, or other legal entity whatsoever.

PEOPLE OR PERSONS PER ACRE This is a term expressing the intensity of building development by combining residents per net acre and employees per net acre. (Metro Code 3.07.1010(zz)) (Metro Regional Framework Plan definition)

PLANNING COMMISSION The Planning Commission of the City or any subcommittee thereof. (Beaverton Development Code)

POLICY The way in which programs and activities are conducted to achieve an identified goal. A general direction that a governmental agency sets to follow, in order to meets its goals through implementation measures or action programs.

PRACTICABLE Capable of being accomplished after taking into consideration barriers both existing and reasonably foreseeable.

PRINCIPLE An assumption, fundamental rule, or doctrine that will guide comprehensive plan policies, proposals, standards and implementation measures.

PROGRAMMED A facility that has been officially scheduled for construction in a Capital Improvements Program, Budget, or other local, state, or federal funding document.

PUBLIC FACILITIES A public facility includes water, sewer and transportation facilities.

PUBLIC RIGHT-OF-WAY Land that by deed, conveyance, agreement, easement, dedication, usage or process of law is conveyed, reserved for or dedicated to the use of the general public for street, road or highway purposes, including curbs, gutters, parking strips, pedestrian ways, and sidewalks and bicycle trails. (BC 5.05.015)

PUBLIC ROAD Every public way, road, highway thoroughfare and place including bridges, viaducts and other structures, open, used or intended for use of the general public for vehicles or vehicular traffic as a matter of right. (BC 6.02.030)

PUBLIC WORKS DIRECTOR The director of the Public Works Department of the City of Beaverton, Oregon, or designee.

R

RARE OR ENDANGERED SPECIES A species of animal or plant listed in Title 50, Code of Federal Regulations, Section 17.11 or 17.2, pursuant to the Federal Endangered Species Act designating species as rare, threatened, or endangered.

RECREATION The pursuit of leisure time activities occurring in an indoor or outdoor setting.

RECREATION, ACTIVE A type of recreation or activity that requires the use of organized play areas including, but not limited to, softball, baseball, football and soccer fields, tennis and basketball courts and various forms of children's play equipment.

RECREATION, PASSIVE A type of recreation or activity that does not require the use of organized play areas, and which may function as a view shed (an elevation in the earth's surface from which a view may be seen.), etc. (See *Open Space*)

REDEVELOPABLE LAND Land on which development has already occurred which, due to present or future market forces, there exists the strong likelihood that existing development will be converted to more intensive uses during the planning period. (Metro Code 3.07.1010(ddd))

REDEVELOPMENT Development of land that replaces previous development, usually to achieve a higher return on the owner's investment. Redevelopment may occur due to market forces if the value of land equals or exceeds the value of improvements on that land. A local government may assist in redevelopment by means such as paying for certain on or off-site facilities (e.g. streets or parking structures), assembling small parcels to create a larger site, reducing or deferring up-front development fees, or reducing property taxes over a certain time period. For purposes of the City's commercial and industrial, and residential, buildable lands inventories (Volume II of the Comprehensive Plan) any parcel with a land value to improvement value ratio of 1.25: 1 or greater is assumed to have development or redevelopment potential.

REGIONAL Pertaining to activities or economies at a scale greater than that of a single city, county, or combination thereof, and affecting a broad, related area. (Metro Regional Framework Plan definition)

REGIONAL CENTER Areas of mixed residential and commercial use that serve hundreds of thousands of people and are easily accessible by different types of transit. Examples include traditional centers such as downtown Gresham and new centers such as Clackamas Town Center. (Metro Regional Framework Plan)

Seven regional centers in the Metro region are the focus of compact development, redevelopment and high-quality transit service and multi-modal street networks. (Metro Code 3.07.130, updated) An average of 60 persons per acre is recommended. (Metro Code 3.07.170)

REGIONAL FRAMEWORK PLAN Required of Metro under the Metro Charter, the Regional Framework Plan must address nine specific growth management and land use planning issues (including transportation), with the consultation and advice of the Metropolitan Policy Advisory Committee.

REGIONAL TRANSPORTATION PLAN The official intermodal transportation plan that is developed and adopted through the metropolitan transportation planning process for the metropolitan planning area. (Metro Framework Plan definition)

REGIONAL URBAN GROWTH GOALS AND OBJECTIVES The land use goals and objectives that Metro is required to adopt under ORS 268.380(1). (Metro Code 3.07.1010(eee))

An urban growth policy framework that represents the starting point for the agency's long-range planning program. (Metro Regional Framework Plan definition)

REGULATION A rule or order prescribed for management of government.

RESIDENTIAL USE Activities within land areas used predominantly for housing.

RESIDENTIAL, MULTIPLE FAMILY See Multi Family Dwelling Unit

RESIDENTIAL, SINGLE FAMILY A single dwelling unit on a building site.

RETAIL Activities which include the sale, lease or rent of new or used products to the general public or the provisions of product repair or services for consumer and business goods.

RIGHT-OF-WAY Land in which the state, a county, or a municipality owns the fee simple title or holds an easement or dedication dedicated or required for a transportation or utility use. A strip of land over which transportation and public use facilities are built, such as roadways, railroads, and utility lines.

RIPARIAN A zone of transition from an aquatic ecosystem to a terrestrial ecosystem as defined in ORS 541.351(10). (OAR 141-085-0010(188))

RIPARIAN AREA A zone of transition from an aquatic ecosystem to a terrestrial ecosystem, dependent upon surface or subsurface water, that reveals through the zone's existing or potential soil-vegetation complex the influence of such surface or subsurface water. A riparian area may be located adjacent to a lake, reservoir, estuary, pothole, spring, bog, wet meadow, muskeg or ephemeral, intermittent or perennial stream. (ORS 541.351(10)) (OAR 690-300-0010(44))

RIPARIAN CORRIDOR The water influences area adjacent to a river, lake or stream consisting of the area of transition from an aquatic ecosystem to a terrestrial ecosystem where the presence of water directly influences the soil-vegetation complex and the soil-vegetation complex directly influences the water body. It can be identified primarily by a combination of geomorphologic and ecologic characteristics. (Metro Code 3.07.1010(iii)) A Goal 5 resource that includes the water areas, fish habitat, adjacent riparian areas, and wetlands within the riparian area boundary (OAR 660-023-090(1)(c))

RISK The danger or degree of hazard or potential loss.

ROAD The entire right -of- way of any public or private way that provides ingress to or egress from property by means of vehicles or other means or that provides travel between places by means of vehicles. "Road" includes, but is not limited to:

(a) Ways described as streets, highways, throughways or alleys;

(b) Road-related structures that are in the right-of-way such as tunnels, culverts or similar structures; and

(c) Structures that provide for continuity of the right of way such as bridges. (ORS 368.001(6))

RUNOFF That portion of precipitation that does not percolate into the ground and is instead discharged into streams.

S

SCALE Generally refers to relative size or extent.

SCENIC VIEWS AND SITES Lands that are valued for their aesthetic appearance. (OAR 660-023-230(1))

SEISMIC Caused by or subject to earthquakes or earth vibrations.

SETBACK The distance between the property line and any structure.

The minimum allowable horizontal distance from a given point or line of reference to the nearest vertical wall or other element of a principal building or structure as defined herein. The point of line of reference will be the lot line following any required dedication, or a special or reservation line if one is required pursuant to this ordinance. (Beaverton Development Code)

SHALL, MUST OR MAY "Shall and must" are mandatory and "may" is permissive. (BC)

SHALL (WILL), V. A directive verb signifying the action is obligatory or necessary.

SHARED ROADWAY A shared roadway is a street that is recommended for bicycle use but does not have a specific area designated within the right-of-way. (Beaverton Development Code)

SHARED-USE OR MULTI-USE PATH Shared-use or Multi-use path means an off-street path that can be used by several transportation modes including bicycles, pedestrians, and other non-motorized modes. Shared-use paths accommodate two-way travel. (Beaverton Development Code)

SHOULD, V. A directive verb signifying the action is to be carried out unless circumstances make it impracticable .

SIGNIFICANT NATURAL RESOURCES Areas identified on the City's Statewide Planning Goal 5 Inventories, Volume III of the Comprehensive Plan. (Beaverton Development Code)

SINGLE FAMILY ATTACHED DWELLINGS A structure containing two or more single family dwelling units with both side walls (except end units of building) attached from ground to roof.

SINGLE FAMILY DETACHED DWELLING A dwelling unit that is free standing and separate from other dwelling units. (OAR 660-007-0005(4))

SINGLE FAMILY DWELLING A structure containing one or more single family units with each unit occupying the building from ground to roof.

SINGLE OCCUPANT VEHICLE (SOV) Private passenger vehicle carrying one occupant. (Metro Code 3.07.1010(ooo)) (Metro Regional Framework Plan definition)

SITE Any tract, lot or parcel of land or combination of tracts, lots or parcels of land that are in one ownership, or are contiguous and in diverse ownership where development is to be performed as part of a unit, subdivision, or project. **SLOPE** Land gradient described as the vertical rise divided by the horizontal run, and expressed in percent.

SLOPE Land gradient described as the vertical rise divided by the horizontal run, and expressed in percent.

SOIL The unconsolidated material on the immediate surface of the earth created by natural forces that serves as natural medium for growing land plants.

SOLID WASTE "Solid Waste" shall have the same meaning as given that term under Beaverton Code section 4.08.030.

SPECIAL DISTRICT Any unit of local government, other than a city, county, metropolitan service district formed under ORS Chapter 268 or an association of local governments performing land use planning functions under ORS 195.025 authorized and regulated by statute and includes but is not limited to: Water control districts, domestic water associations and water cooperatives, irrigation districts, port districts, regional air quality control authorities, fire districts, school districts, hospital districts, mass transit districts and sanitary districts. (ORS 197.015(19))

Any "district" formed under ORS 198.

STANDARDS A rule or measure establishing a level of quality or quantity that must be complied with or satisfied.

STATE IMPLEMENTATION PLAN A plan for ensuring that all parts of Oregon remain in compliance with federal air quality standards.

STATEWIDE PLANNING GOALS The mandatory state-wide planning standards adopted by the Land Conservation and Development Commission pursuant to ORS Chapters 195, 196 and 197. (ORS 197.015(8))

STATION COMMUNITIES That area generally within a ¼ - to ½ - mile radius of light-rail stations or other high-capacity transit that is planned as a multi-modal community of mixed uses and substantial pedestrian accessibility improvements. (Metro Regional Framework Plan)

Nodes of development centered approximately one-half mile around a light rail or high capacity transit station that feature

a high-quality pedestrian environment. (Metro Code 3.01.130) An average of 45 persons per acre is recommended. (Metro Code 3.01.170)

STORM WATER The water that runs off only from impervious surfaces during rain events. (CWS Design and Construction Standards)

STREAM Means a body of running water moving over the earth's surface in a channel or bed, such as a creek, rivulet or river. It flows at least part of the year, including perennial and intermittent streams. Streams are dynamic in nature and their structure is maintained through build-up and loss of sediment. (Metro Code 3.01.1010(qqq)).

STREAM CHANNEL A natural (perennial or intermittent stream) or human made (e.g. drainage ditch) waterway of perceptible extent that periodically or continuously contains moving water and has a definite bed and banks that serve to confine the water. (OAR 141-085-0010(22))

STREET (1) means a public way, road, highway, thoroughfare or place, including bridges, viaducts and other structures used or intended for use of the general public for pedestrian, bicycle, and vehicular travel as a matter of right, or

(2) when used with the word "private" as a modifier, means a non-public way, road, highway, thoroughfare or place, including bridges, viaducts and other structures, exclusively used or intended for the exclusive use of the underlying property owner or, other persons, for pedestrian, bicycle, and vehicular travel. (Proposed Engineering Design Manual and Standard Drawings Definition)

STREET FUNCTIONAL CLASSIFICATION The assignment of streets into categories according to the character of service they provide in relation to the total street network. Basic functional categories in Beaverton include freeways, arterials, collectors, neighborhood routes, and local streets. Functional classification reflects mobility, access needs, and connectivity. Where appropriate, the levels may be further grouped into urban and rural categories.

STREET FURNITURE Those features associated with a street that are intended to enhance its physical character and use by pedestrians, such as benches, trash receptacles, kiosks, lights, newspaper racks.

STEWARDSHIP A planning and management approach that considers environmental impacts and public benefits of actions as well as public and private dollar costs.

SUBDIVISION The division of a tract of land into defined lots, parcels, tracts, or other divisions of land as defined in applicable State statues and local land development regulations, subdivided lots can be separately conveyed by sale or lease, and altered, or developed.

SUBURBAN Generally, development on the periphery of urban areas, which is predominantly residential in nature and has most urban services available. The intensity of suburban development is usually lower than in urban areas.

SURFACE WATER Water that drains from the landscape via overland flow or ground water resurgence. Surface water flows can and often do include storm water runoff. (CWS Design and Construction Standards)

SYSTEM DEVELOPMENT CHARGE Means a reimbursement fee, an improvement fee or a combination thereof assessed or collected at the time of increased usage of a capital improvement or issuance of a development permit, building permit or connection to the capital improvement. "System development charge" includes that portion of a sewer or water system connection charge that is greater than the amount necessary to reimburse the local government for its average cost of inspecting and installing connections with water and sewer facilities. (ORS 223.299(4)(a))

T

TARGET DENSITIES The average combined household and employment densities established for each design type in the Regional Urban Growth Goals and Objectives 2040 Growth Concept. (Metro Code 3.07.1010(ttt))

TOWN CENTERS Areas of mixed residential and commercial use that serve tens of thousands of people. Examples include the downtowns of Forest Grove and Lake Oswego. (Metro Regional Framework Plan) Town centers provide local shopping, employment and cultural and recreational opportunities within a local market area. They are designed to provide local retail and services, at a minimum. They would also vary greatly in character.

Compact development and transit service should be provided in town centers. An average of 40 persons per acre is recommended. (Metro Code 3.07.170)

TOWNHOUSES Two or more attached single family dwelling units within a structure having common side walls, front and rear yards, and individual entryways. (See Single Family Attached Dwellings)

TRAFFIC CALMING A traffic management program usually designed to address safety and aesthetic issues related to automobile use in residential areas, and which reduces the operating speed of motor vehicles. Features include, landscaping, walkways, speed swales, roadway narrowing and/or increasing the width of bicycle lanes and sidewalks.

TRAFFIC INTENSIVE USES A land use that attracts or generates a relatively high level of traffic activity. A non exhaustive list of such uses would include drive through facilities, supermarkets, and most retail shopping centers. The ITE Trip Generation manual shall be the city's primary reference source for determining whether a particular proposed use is traffic intensive or not.

TRANSIT For the purposes of the Comprehensive Plan, this term refers to publicly funded and managed transportation services and programs within the urban area, including light-rail, regional rapid bus, frequent bus, primary bus, secondary bus, minibus, paratransit and park-and-ride. (Metro Regional Transportation Plan definition)

TRANSPORTATION OR TRAVEL DEMAND MANAGEMENT (TDM) A strategy or action for reducing demand on the road system by reducing the number of vehicles using streets and roads, and/or increasing the number of persons per vehicle. Typically, TDM attempts to reduce the number of persons who drive alone during peak commute periods and to increase the number of people commuting via carpools, vanpools, buses and trains, walking, and biking.

TRANSPORTATION PLANNING RULE The implementing rule of statewide land use planning Goal #12 dealing with transportation, as adopted by the State Land Conservation and Development Commission. (Metro Framework Plan definition)

TRANSPORTATION SYSTEM PLAN A plan for one or more transportation facilities that are planned, developed, operated and maintained in a coordinated manner to supply continuity of movement between modes, and within and between geographic and jurisdictional areas. (Metro Regional Framework Plan definition) (OAR 660-012-0005(32))

TREES, STREET Any tree located within public or private right of way or an easement for vehicular access, or associated public utility easements. (Beaverton Development Code)

TRIP GENERATION The dynamics that account for people making trips in automobiles or by means of public transportation. Trip generation is the basis for estimating the level of use for a transportation system and the impact of additional development or transportation facilities on an existing, local transportation system.

TURBIDITY A measure of water agitation.

U

URBAN Generally, an area having the characteristics of a city, with intensive development and a full or extensive range of public facilities and services.

URBAN FORM The net result of efforts to preserve environmental quality, coordinate the development of jobs, housing and public services and facilities, and interrelate the benefits and consequences of growth in one part of the region with the benefits and consequences of growth in another.

URBAN GROWTH BOUNDARY An acknowledged urban growth boundary contained in a city or county comprehensive plan or an acknowledged urban growth boundary that has been adopted by a metropolitan service district council under ORS 268.390(3). (ORS 195.060(2))

URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN See Metro Urban Growth Management Functional Plan.

URBAN PLANNING AREA A geographical area within an urban growth boundary. (OAR 660-003-0005(6))

URBAN SERVICES The term includes the following services and facilities: a public sanitary and storm sewer system, a public water supply, a street system, police and fire protection, public schools, public parks and library services. (Beaverton Development Code)

URBAN SERVICE AREA The area for which the City is the appropriate and agreed-upon long-term provider of municipal services except for those services that are to be provided by a special or county service district. (Beaverton – Washington County Intergovernmental Agreement Interim Urban Services Plan)

URBAN SERVICE BOUNDARY The boundary establishing the extent of the City's direct interest and involvement in planning for and coordination of public facilities and services and the extent of the City's annexation interest.

USE The main or primary purpose of which land or a structure is designed, arranged or intended or for which it is occupied or maintained. (Beaverton Development Code)

USE PERMIT The discretionary and conditional review of an activity or function or operation on a site or in a building or facility.

V

VACANT Lands or buildings that are not actively used for any purpose.

VACANT LAND Land identified in the Metro or local government inventory as undeveloped land. (Metro Code 3.07.1010(zzz))

VARIANCE A discretionary decision to permit modification of the terms of an implementing ordinance based on a demonstration of unusual hardship or exceptional circumstance unique to a specific property. (Metro Code 3.07.1010(aaaa))

VEGETATIVE CORRIDOR A corridor adjacent to a water quality sensitive area that is preserved and maintained to protect the water quality functions of the water quality sensitive area. (CWS Design and Construction Standards)

VIEW CORRIDOR The line of sight, identified as to height, width and distance, of an observer looking toward an object of significance to the community (e.g., ridgeline, river, historic building, etc.); the route that directs the viewers' attention.

VOLUME-TO-CAPACITY RATIO A measure of the operating capacity of a roadway or intersection, in terms of the number of vehicles passing through, divided by the number of vehicles that theoretically could pass through when the roadway or intersection is operating at its designed capacity. Abbreviated as "v/c". At a v/c ratio of 1.0, the roadway or intersection is operating at capacity. If the ratio is less than 1.0, the traffic facility has additional capacity. Although ratios slightly greater than 1.0 are possible, it is more likely that the peak hour will elongate into a "peak period." (See *Peak Hour* and *Level of Service*)

WAREHOUSE A structure that is primarily used for storage and distribution facilities.

WATER QUALITY SENSITIVE AREA or "sensitive area"

A) shall include the following:

1. Existing or created wetlands;
2. Rivers, streams, and springs, whether flow is perennial or intermittent;
3. Natural lakes, ponds and instream impoundments

B) Sensitive areas shall not include:

1. Stormwater infrastructure
2. A vegetated corridor (a buffer) adjacent to the sensitive area;
3. An off-stream recreational lake, lagoon, fire pond or reservoir; or
4. Drainage ditches.

(CWS Design and Construction Standards)

WATERSHED The entire land area drained by a stream or system of connected streams such that all stream flow originating in the area is discharged through a single outlet. (ORS 541.351(14))

WETLANDS Those areas that are inundated or saturated by surface or ground water at a frequency and duration that are sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Categories of wetlands include:

a) Created Wetlands: those wetlands developed in an area previously identified as non-wetland to replace, or mitigate

W

wetland destruction or displacement. A created wetland shall be regulated and managed the same as an existing wetland.

b) Constructed Wetlands: those wetlands developed as a storm water facility, subject to change and maintenance as such. These areas must be clearly defined or separated from existing or created wetlands. Constructed wetlands shall be regulated as created wetlands only if they serve as wetland mitigation.

c) Existing Jurisdictional Wetlands: jurisdictional wetlands as determined by the Department of State Lands (DSL) or the US Army Corps of Engineers (COE).

(CWS Design and Construction Standards)

Z

ZONE, TRAFFIC — In a mathematical traffic model the area to be studied is divided into zones, with each zone treated as producing and attracting trips. The production of trips by a zone is based on the number of trips to or from work or shopping, or other trips produced per dwelling unit.

ZONING — In general, the demarcation of an area by ordinance (text and map) into zones and the establishment of regulations to govern the uses within those zones (commercial, industrial, residential, type of residential) and the location, bulk, height, shape, use, and coverage of structures within each zone.

ZONING, INCLUSIONARY — Regulations that increase housing choice by requiring construction of more diverse and economical housing to meet the needs of low income families. Such regulations often require a minimum percentage of housing for low and/or moderate income households in new housing developments.

MEMORANDUM

City of Beaverton

Office of the City Recorder

To: Mayor Drake and Councilors

From: Sue Nelson, City Recorder

Date: September 5, 2006

Subject: **Agenda Bill 06148: CPA 2006-0001: Amending the Comprehensive Plan Chapters 1 and 2 and the Glossary**

The complete agenda bill and all attachments for Agenda Bill 06148 are available for review in the City Recorder's Office on the third floor of Beaverton City Hall, 4755 SW Griffith Drive, Beaverton, OR. The office is open weekdays between 8:00 a.m. and 5:00 p.m. Due to the large volume of the attachments, they were not included with the agenda bill and staff report on the Web site.

If you have any questions regarding this item, please call (503) 526-2650.

AGENDA BILL

06/19/03: Postponed to Future Council Meeting - No Date Set (Rescheduled to 09/11/06 meeting)

Beaverton City Council
Beaverton, Oregon

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

FOR AGENDA OF: ~~06/19/06~~ 09/11/06 **BILL NO:** 06115

Mayor's Approval:

DEPARTMENT OF ORIGIN: CDD

DATE SUBMITTED: 06/05/06

CLEARANCES: City Attorney
Planning

PROCEEDING: First Reading

EXHIBITS:
A. Proposed Ordinance and Exhibit A – Proposed Text
B. Planning Commission Final Order No. 1859 and Exhibit A showing recommended amendments

BUDGET IMPACT

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

HISTORICAL PERSPECTIVE:

The Comprehensive Plan Public Involvement and Procedures chapters were developed in 1995 in response to Periodic Review and Statewide Planning Goal 1. Since then, several amendments to various chapters resulted in amendments to definitions. Additionally, several definitions were changed in the Development Code. These actions resulted in some conflicting and confusing definitions.

In September 2002 and January 2005, Beaverton Development Code Chapter 50 Procedures were amended, specifically Type 3 and Type 4 processing and noticing requirements. These application procedures provide some of the requirements that Comprehensive Plan amendments must follow. The revised procedures resulted in inconsistencies between the procedures in the Comprehensive Plan and those in the Development Code. Additionally, in 1998 the state's voters approved Ballot Measure 56, which set notification timeframes for Comprehensive Plan amendments that differ from those set in the Comprehensive Plan. This proposed amendment eliminates those inconsistencies and updates Chapters 1, 2, and the Glossary.

The Planning Commission held a public hearing on March 15, 2006, heard testimony, and continued the item to April 5, 2006, in order to allow additional time for staff to respond to Commission comments and questions. On April 5, 2006, the Commission decided to continue amendment consideration to April 12. On April 12, 2006, the Commission discussed and decided on various changes to the original proposal and adopted the amendment as revised at the hearing and evidenced in the Staff Reports and Memorandums, and Commission's Order No. 1859 (Exhibit 2). Exhibit 1 contains the ordinance that embodies the Planning Commission Order. The ordinance is ready for the required readings.

INFORMATION FOR CONSIDERATION:

CPA 2006-0001 is proposed as an ordinance.

RECOMMENDED ACTION:

First Reading.

Exhibit A

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

WHEREAS, the purpose of the proposed amendment to the City of Beaverton's Comprehensive Plan Chapters 1, 2, and Glossary is to revise and update public involvement, amendment procedures, and definitions to be consistent with revised state law, Development Code procedures, and Development Code definitions; and

WHEREAS, the Planning Commission held a public hearing on March 15, April 5 and April 12, 2006, to consider CPA 2006-0001, consider comments, and take testimony; and

WHEREAS, on April 12, 2006, the Planning Commission recommended approval of the proposed CPA 2006-0001 application based upon the Staff Report dated February 13, 2006, for the March 15, 2006, Public Hearing, the Supplemental Staff Report dated March 15, 2006, and Staff Memoranda dated March 20, 2006, March 31, 2006, and April 12, 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. Ordinance No. 4187, Comprehensive Plan Chapters 1, 2, and the Glossary as amended and set forth in Exhibit A and incorporated herein by reference, is adopted.

Section 2. All Comprehensive Plan 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 ___ day of _____, 2006.

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

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

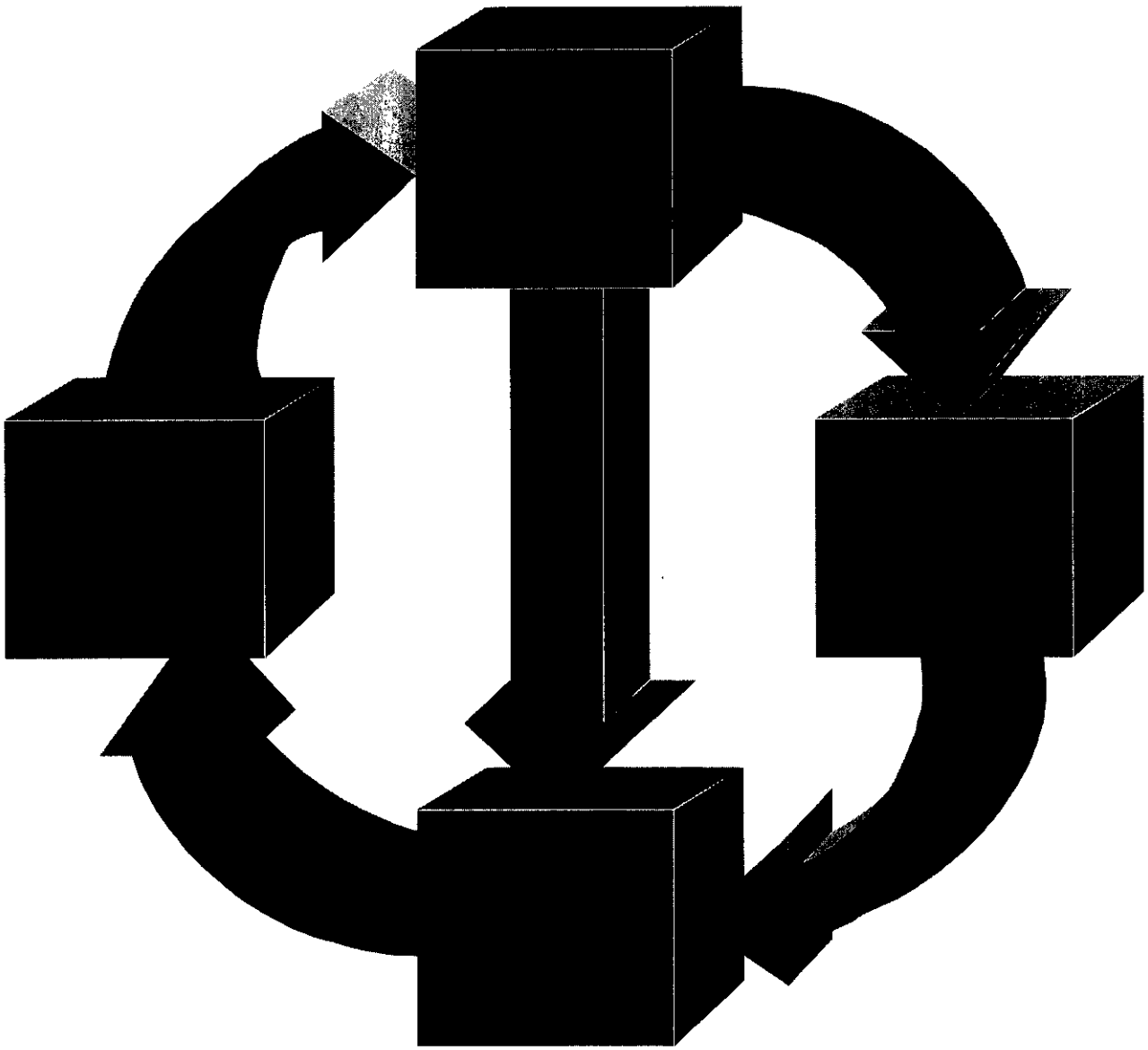
ATTEST:

_____
SUE NELSON, City Recorder

APPROVED:

_____
ROB DRAKE, Mayor

CHAPTER ONE: COMPREHENSIVE PLAN AMENDMENT PROCEDURES ELEMENT



COMPREHENSIVE PLAN AMENDMENT PROCEDURES

1.1 AMENDMENT INITIATION.

Amendments to the Comprehensive Plan may be initiated by City Council, the Planning Commission, the Mayor, the Community Development Director, or the Public Works Director at any time. Landowners may also initiate an amendment to the Land Use Map pertaining only to their property at any time.

1.1.1 City-initiated Amendments

Amendment requests shall be submitted to the Community Development Director for preparation and analysis for a Planning Commission public hearing or City Council consideration. The Planning Commission and City Council have the right to accept, reject or modify any specific request for amendment in accordance with the City's policies and procedures. The Planning Commission or City Council may enlarge or reduce the geographic area of proposed map amendments, investigate alternative land use designations to those requested, or combine the request with other City-initiated amendments for comprehensive study and determination. If the decision to modify a requested amendment is made after public hearing notice has been provided, the notice shall be reissued and, if necessary, the hearing rescheduled.

1.1.2 Property Owner-initiated Amendments

Amendment requests shall be submitted to the Community Development Director for preparation and analysis for a Planning Commission public hearing. The Planning Commission and City Council reserve the right to approve, approve with conditions, or deny any specific request for amendment in accordance with the City's policies and procedures.

1.1.3 Amendment Processing

Proposed amendments shall be processed as expeditiously as possible, subject to the availability of staff and budgetary resources and project priorities set by the Mayor. Amendments shall be processed in compliance with the procedures established by this Plan as well as Oregon Revised Statutes, Oregon Administrative Rules, Metro Code, the City Charter, and City Ordinances. Property owner-initiated amendments should be processed in the order in which they are submitted and accepted as complete, but the City Council may, by resolution, postpone processing proposed amendments to accelerate processing other amendments to which they give a higher priority.

1.2 PERIODIC REVIEW

Periodic Review amendments are subject to a Land Conservation and Development Commission (LCDC) approved work program and follow separate notice procedures outlined in the Oregon Revised Statutes and Oregon Administrative Rules governing Periodic Review.

1.3 AMENDMENT PROCEDURAL CATEGORIES

Comprehensive Plan Amendments fall into five general categories: Legislative, Quasi-Judicial, Historic Landmark, District and Tree designation removal, Non-Discretionary, and Statewide

Planning Goal 5 Inventory Document Amendments.

Legislative Amendments are amendments to the Comprehensive Plan text or map of a generalized nature initiated by the City that applies to an entire land use map category or a large number of individuals or properties or that establishes or modifies policy or procedure. Legislative amendments include additions or deletions of text or land use map categories.

Quasi-Judicial Amendments are amendments to a Land Use Map designation as it applies to specific parcels or that applies to a small number of individuals or properties or locations.

Historic Landmark, District or Tree Designation Removal are amendments, requested from the property owner, to remove said designation pursuant to ORS 197.772. Upon receipt of a letter request to remove said designation, the Community Development Director shall issue a letter removing said designation based on ORS 197.772 and shall cause such letter to be mailed to the property owner and the property owners within an area enclosed by lines parallel to and 500 feet from the exterior boundary of the subject property.

Non-Discretionary Amendments are amendments to the Comprehensive Plan Land Use Map to add an annexed property, or properties, to the Map with a Land Use Map designation assigned through direct application of the Washington County-Beaverton Urban Planning Area Agreement (UPAA). The County land use classification(s) remain in effect under provisions of Oregon Revised Statutes (ORS 197.175(1) and ORS 215.130(2)(a)) until the City acts to implement its own Comprehensive Plan Land Use designation(s) for the annexed territory.

The UPAA requires the City to assign a particular, or most similar, City Comprehensive Plan Land Use designation to the annexed property based on the Washington County designation. Exhibit "B" of the UPAA contains a chart describing a one-to-one relationship between County and City land use designations. The UPAA and the chart referenced as Exhibit "B" is found within Chapter 3 of the Comprehensive Plan in Section 3.15. Where UPAA Exhibit "B" provides a one-to-one relationship and the annexed property is **not** subject to any special policies within the applicable Washington County Community Plan, the decision to apply a specific Land Use Map designation is made under land use standards that do not require interpretation or the exercise of policy or legal judgement. Consequently, the decision is not a land use decision as defined by Oregon Revised Statutes (ORS 197.015(10)(b)(A)).

Statewide Planning Goal 5 Inventory Resource Document Amendments are amendments to Volume III of the Comprehensive Plan. Amendments may be legislative, such as periodic review, or annual updates to maps, or quasi-judicial. Updates to the Significant Natural Resources Map (Local Wetland Inventory Map) incorporating changes approved by the Department of State Lands are non-discretionary map amendments the public notice, decision-making and appeal of the decision occurs when the Division of State Lands approves the wetland delineation and fill or removal permit (OAR 141-086-005 through OAR 141-090-0230, OAR 141-085-0018, OAR 141-085-0025, OAR 141-085-0028, OAR 141-085-0029, OAR 141-085-0031, OAR 141-085-0066, ORS 227.350 (2), and ORS 196.600 to 196.990). As noted under Non-Discretionary Amendments above, when no discretion is exercised, the decision is not a

land use decision under Oregon Revised Statutes (ORS 197.015(10)(b)(A)).

1.4 NOTICE REQUIREMENTS

The claim of a person to have not received notice, who may be entitled to notice as provided in this section, shall not invalidate such proceedings if the City can demonstrate by affidavit that such notice was given.

If the Community Development Director or City Council determine that the proposed amendment substantially changes from the proposal described in the initial notice, then notice is required to be sent again as described in the appropriate subsection with specific notation that the proposal has changed and that a new hearing will be held on the matter.

1.4.1 Legislative Amendments.

A. Notice of the initial hearing shall be provided as follows:

1. By mailing the required inter-agency Department of Land Conservation and Development (DLCD) notice to DLCD, Metro, the Beaverton Neighborhood Office and the Chair of the Committee for Citizen Involvement (CCI) at least forty-five (45) calendar days prior to the initial hearing. When the legislative amendment is required through Periodic Review, DLCD notice is not required, therefore, it is not provided.
2. Mail notice to owners of property within the City for which the proposed ordinance, if adopted, may in the Director's opinion affect the permissible uses of land

   a) The most recent property tax assessment roll of the Washington County Department of Assessment and Taxation shall be used for determining the property owner of record. The failure of a property owner to receive notice does not invalidate the decision.

   b) If a person owns more than one property that could be affected by the proposed ordinance if adopted, the Director may mail that person only one notice of the hearing.
3. By publication of a notice with the information specified in subsection 1.4.1 (B)(1), (2), and (3) in a newspaper of general circulation within the City,; and
4. By posting a notice with the applicable information specified in subsection 1.4.1 (B) at Beaverton City Hall and the Beaverton City Library; and
5. By placing a notice with the applicable information specified in subsection 1.4.1 (B) on the City's website.

Notice required by Oregon Revised Statutes (ORS 227.186, also known as Ballot Measure 56) shall be provided, when applicable. ORS 227.186(6) specifies notice requirements for city-initiated amendments related to Periodic Review.

Hearing Notices required by numbers 2 through 5 of this subsection, shall be given not less than twenty (20) and not more than forty (40) calendar days prior to the date of the initial hearing.

B. Mailed notice required in subsection 1.4.1 (A) (2), posted notice required in subsection 1.4.1 (A) (4), and web notice required in subsection 1.4.1 (A) 5 shall:

1. State the date, time and location of the hearing, and the hearings body;
2. Explain the nature and purpose of the hearing;
3. Include the case file number, title or both of the proposed ordinance to be considered at the time of hearing;
4. List the applicable approval criteria by Comprehensive Plan by section numbers that apply to the application at issue;
5. State that a copy of the staff report will be available for inspection at no cost at least seven (7) calendar days prior to the hearing and will be provided at reasonable cost and include the days, times and location where available for inspection;
6. Include the name and phone number of the City staff person assigned to the application from whom additional information may be obtained;
7. State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the Planning Commission an opportunity to respond to the issue precludes appeal to the City Council and the Land Use Board of Appeals based on that issue; and
8. Include a general explanation of the requirements for submission of testimony and procedure for conduct of the hearing.

C. If an application is City-initiated and would change the Land Use Plan Map for a property to a designation that would require a rezone, a notice must be sent to the owner pursuant to Oregon Revised Statutes (ORS 227.186(3) also known as Ballot Measure 56).

D. Notice of remand hearings, whether they be the entire legislative amendment or part of the amendment, either from the Land Use Board of Appeals to City Council or from City Council to Planning Commission, shall be given following subsections 1.4.1 (A) and 1.4.1 (B) with the following additional information:

1. The deadline for submitting written testimony and the place it is to be submitted;
2. The applicable criteria if the remand is required by the failure to state the criteria or if the criteria have changed;
3. The scope of the testimony; and
4. Whether the testimony is de novo or limited to the record and whether it must be submitted in writing or whether oral testimony will be allowed.

The notice required in this subsection (D) shall be mailed to persons who previously provided written or oral testimony in the proceedings on the proposal.

1.4.2 Quasi-Judicial Amendments

A. Notice of the initial hearing shall be provided as follows:

1. By mailing the required inter-agency DLCD notice to DLCD, Metro, the Beaverton Neighborhood Office and the CCI Chair at least forty-five (45) calendar days prior to the initial hearing.
2. By publication of a notice with the information specified in 1.4.2 (B) (1), (2), (3) and (4) in a newspaper of general circulation within the City; and
3. By posting notice with the information specified in 1.4.2 (B) at Beaverton City Hall and the Beaverton City Library; and
4. By mailing notice with the information specified in 1.4.2 (B) to property owners

included in the proposed change area, if applicable, and within an area enclosed by lines parallel to and 500 feet from the exterior boundary of the property for which the change is contemplated; and

5. By mailing notice with the information specified in 1.4.2 (B) to any City-recognized Neighborhood Association Committee (NAC) or County-recognized Citizen Participation Organization (CPO) whose boundaries include the property for which the change is contemplated; and
6. By placing notice with the information specified in 1.4.2 (B) on the City's web site.

Notice required by Oregion Revised Statutes (ORS 227.186, also known as Ballot Measure 56) shall be provided, when applicable. ORS 227.186(6) specifies notice requirements for city-initiated amendments related to Periodic Review.

Hearing notices required by numbers 2 through 6 of this subsection shall be given not less than twenty (20) and not more than forty (40) calendar days prior to the date of the initial hearing.

B. Mailed notice required in subsection 1.4.2 (A) (4) and (5) shall:
   1. Explain the nature of the application and the use or uses, which could be authorized;
   2. Set forth the street address or other easily understood geographical reference to the subject property and include a map, if applicable;
   3. State the date, time, and location of the hearing, and the hearings body;
   4. Include the case file number, title or both of the proposed ordinance to be considered at the time of hearing;
   5. List the applicable criteria from the Comprehensive Plan by section number that apply to the application at issue;
   6. State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the Planning Commission an opportunity to respond to the issue precludes appeal to the City Council and the Land Use Board of Appeals based on that issue;
   7. Include the name and phone number of the City staff person assigned to the application from whom additional information may be obtained;
   8. State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant, and applicable criteria are available for inspection at no cost and will be provided at reasonable cost and include the days, times and location where available for inspection;
   9. State that a copy of the staff report will be available for inspection at no cost at least seven (7) calendar days prior to the hearing and will be provided at reasonable cost include the days, times and location where available for inspection; and
   10. Include a general explanation of the requirements for submission of testimony and procedure for conduct of the hearing.

C. If an application is City-initiated and would change the Land Use Plan Map for a property to a designation that would require a rezone, a notice must be sent to the owner pursuant to Oregon Revised Statutes (ORS 227.186(3) also known as Ballot Measure 56).

D. Notice of remand hearings, whether for the entire quasi-judicial amendment or part of the amendment, either from the Land Use Board of Appeals to City Council or from City Council to Planning Commission shall be given following subsection 1.4.2 (A) and 1.4.2

(B) with the following additions:

1. Any deadline for submitting written testimony and the place it is to be submitted;
2. The applicable criteria if the remand is required by the failure to state the criteria or if the criteria have changed;
3. The scope of the testimony; and
4. Whether the testimony is limited to the record or de novo and whether it must be submitted in writing or whether oral testimony will be allowed.
5. The notice required in this subsection (D) shall be mailed to persons who previously provided written or oral testimony in the proceedings on the proposal.

1.4.3 Non-Discretionary Map Amendments

A. Notice for Non-Discretionary Map Amendments shall be provided as follows:

1. By publication of a notice with the information specified in 1.4.3 (B) (1), (2) and (3) in a newspaper of general circulation within the City,; and
2. By mailing notice with the information specified in 1.4.3 (B) to the Beaverton Neighborhood Office, Chair of the Committee for Citizen Involvement (CCI), NAC, CPO and owners of record of the subject property on the most recent property tax assessment roll; and
3. By placing notice with the information specified in 1.4.3 (B) on the City's web site..

All notices required by 1. through 3. of this subsection (A) shall be given not less than twenty (20) and not more than forty (40) calendar days prior to the date the item initially appears on the City Council agenda.

B. Notice required by subsection 1.4.3.(A) shall:

1. Explain the nature of the application;
2. Set forth the street address or other easily understood geographical reference to the subject property, including a map;
3. State the time, date, place, and purpose of the City Council agenda item;
4, Include the case file number, title or both of the proposed ordinance to be considered at the time of hearing;
5. Include the name and phone number of the City staff person assigned to the application from who additional information may be obtained;
6. List the applicable criteria from the Comprehensive Plan and State Law that apply to the application at issue;
7. State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant, and applicable criteria are available for inspection at no cost at least seven (7) calendar days prior to the City Council meeting and will be provided at reasonable cost and include the days, times and location where available for inspection~~;~~.

C. Notice of Decision for Non-Discretionary Map Amendments

Within five working days after the City Council decision on a Non-Discretionary Map

Amendment, notice of the decision shall be mailed to the owner of record, DLCD, the Beaverton Neighborhood Office and the Chairperson of the Committee for Citizen Involvement (CCI). The notice of decision shall include the following:

1. A statement that the decision is final but may be appealed in a court of competent jurisidiction, and
2. A statement that the complete case file is available for review. The statement shall list when and where the case file is available and the name and telephone number of the City representative to contact for information about the case.

1.4.4 Statewide Planning Goal 5 Inventory Resource Document (Volume III) Amendments

A. If the proposal is legislative in nature, as in an update to one of the Statewide Planning Goal 5 Inventory Resource Documents or an addition of a new category of Statewide Planning Goal 5 Inventory Resource Documents, then notice shall follow the legislative notice procedure identified under subsection 1.4.1.

B. If the proposal is quasi-judicial in nature, as in a change on one property or a limited group of properties, the notice shall follow the quasi-judicial notice procedure under subsection 1.4.2..

C. If the proposal is to update the Local Wetland Inventory map of the Significant Natural Resource maps based on approvals of wetland delineations or fill or removal permits issued by the Oregon Department of State Lands, the amendment shall be deemed non-discretionary and shall be updated administratively by City Council ordinance adoption, following the Non-Discretionary Map Amendment procedure under 1.4.3.

1.5 CRITERIA FOR AMENDING THE COMPREHENSIVE PLAN

The adoption by the City Council of any amendment to the Plan shall be supported by findings of fact, based on the record, that demonstrate the criteria of this Section have been met. The City Council and Planning Commission may incorporate by reference facts, findings, reasons, and conclusions proposed by the City staff or others into their decision.

1.5.1 Criteria for Legislative and Quasi-judicial Comprehensive Plan Amendments

A. The proposed amendment is consistent and compatible with relevant Statewide Planning Goals and related Oregon Administrative Rules; and

B. The proposed amendment is consistent and compatible with the applicable Titles of the Metro Urban Growth Management Functional Plan and the Regional Transportation Plan; and

C. The proposed amendment is consistent and compatible with the Comprehensive Plan and other applicable local plans; and

D. If the proposed amendment is to the Land Use Map, there is a demonstrated public need, which cannot be satisfied by other properties that now have the same designation as proposed by the amendment.

1.5.2 Criteria for Non-Discretionary Map Amendments

A. Annexation-Related

Discretion occurs when the Washington County-Beaverton Urban Planning Area Agreement (UPAA) is adopted or amended by the County and the City. The UPAA provides specific City-County Land Use Designation Equivalents. Specifically, the UPAA states in Section II (D) "Upon annexation, the city agrees to convert County plan and zoning designations to City plan and zoning designations which most closely approximate the density, use provisions and standards of the County designations. Such conversion shall be made according to the tables shown on Exhibit "B" to this agreement." Consequently, when the conversion from County to City designation is shown on Exhibit B, the City has no discretion.

B. Statewide Planning Goal 5

The Department of State Lands (DSL) and the US Army Corps of Engineers (COE) exercise discretion when these agencies approve wetland delineations and fill/removal permits (OAR 141-085, ORS 227.350, and ORS 196.600 to 196.990). Because the decision is made by another agency, acknowledging the locations of the delineated wetlands and fill/removal activities on the City's Local Wetland Inventory map involves no discretion.

1.5.3 Criteria for Statewide Planning Goal 5 Inventory Resource Document (Volume III) Comprehensive Plan Amendments

A. Local Wetland Inventory Amendments require following the criteria for adoption of a local wetland inventory found within Oregon Revised Statutes and Oregon Administrative Rules (as of November 2004, ORS 196 and OAR 141-086 and OAR 660-023).

B Criteria for Addition of Historic Landmarks and Districts

To qualify as a historic landmark or district, the proposal must meet criterion 1 and at least one factor listed as criteria 2 through 5:

1. Conforms with the purposes of the Beaverton Comprehensive Plan; and
2. The proposed landmark or district is associated with natural history, historic people, or with important events in national, state, or local history; or
3. The proposed landmark or district embodies the distinguishing characteristics of an architecture inherently valuable for a study of a period, style, or method of construction; or
4. The proposed landmark is a notable work of a master builder, designer, or architect; or
5. The proposed landmark or district would serve one or more of the following purposes:
   a) To preserve, enhance, and perpetuate landmarks and districts representing or reflecting elements of the City's cultural, social, economic, political, and architectural history;
   b) To safeguard the City's historic, aesthetic, and cultural heritage as embodied and reflected in said landmarks and districts;

c) To complement any National Register properties or Historic Districts;

d) To stabilize and improve property values in such districts;

e) To foster civic pride in the beauty and accomplishments of the past;

f) To protect and enhance the City's attractions to tourists and visitors and the support and stimulus to business and industry thereby provided;

g) To strengthen the economy of the City; and

h) To promote the use of historic districts and landmarks for the education, pleasure, energy conservation, housing, and public welfare of the City's current and future citizens.

C. Criteria for Adding Historic Trees

The adoption by City Council and Planning Commission of any amendment to add a historic tree to the Historic Tree Inventory shall be based on the following criteria:

1. Conforms with applicable goals and policies of the Beaverton Comprehensive Plan; and
2. The proposed historic tree designation is requested by the property owner as determined by the most recent property tax assessment roll of the Washington County Department of Assessment and Taxation; and
3. The proposed historic tree is associated with historic properties, historic people, or with important events in national, state, or local history, or general growth and development of the city.

1.6 HEARINGS PROCEDURES

Before the City Council may adopt any amendment to the Comprehensive Plan, the procedures within this section shall be followed In the case of Non-Discretionary amendments, no hearing will be held. Consideration of the proposal shall be placed on the City Council Agenda for adoption by ordinance.

1.6.1. After appropriate notice is given, as provided in section 1.4 the Planning Commission or City Council shall hold a public hearing on the amendment, except for Non-Discretionary amendments.

A. At the beginning of the hearing an announcement shall be made to those in attendance that:

1. States the applicable approval criteria by Comprehensive Plan section number.
2. States testimony, arguments and evidence must be directed toward the applicable criteria.
3. States failure to raise an issue accompanied by statements or evidence with sufficient specificity to afford the Planning Commission or City Council and the parties an opportunity to respond to the issue may preclude appeal to the Land Use Board of Appeals on that issue.
4. States failure of the applicant to raise constitutional or other issues relating to the proposed conditions of approval with sufficient specificity to allow the City to

respond to the issue may preclude an action for damages in circuit court.

5. If a quasi-judicial application, states the Planning Commission and City Council must be impartial and that members of the Planning Commission and City Council shall not have any bias or personal or business interest in the outcome of the application.
   a) Prior to the receipt of any testimony, members of the Planning Commission or City Council must announce any ex parte contacts. The Planning Commission or City Council shall afford parties an opportunity to challenge any member thereof based on bias, conflicts of interest or ex parte contacts.
   b) If any member of the Planning Commission or City Council has visited the site (if applicable), they should describe generally what was observed.
6. Summarizes the procedure of the hearing.
7. States that the hearing shall be recorded on audio only or audio and video tape.
8. States any time limits for testimony set by the Planning Commission or City Council at the beginning of the hearing.

B. After the aforementioned announcements, the Chair or Mayor shall call for presentation of the staff report. Staff shall describe the proposal and provide a recommendation.

C. After the presentation of the staff report, the Chair or Mayor shall call for the applicant's testimony, if the City is not the applicant.

D. After the applicant's testimony, the Chair or Mayor shall call for other evidence or testimony in the following sequence unless the Planning Commission or City Council consents to amend the sequence of testimony:
   1. First, evidence or testimony in support of the application.
   2. Second, evidence or testimony in opposition to the application.
   3. Third, evidence or testimony that is neither in support nor in opposition to the application.

E. If the City is not the applicant, the Chair or Mayor shall call for rebuttal by the applicant. Rebuttal testimony shall be limited to the scope of the issues raised by evidence and arguments submitted into the record by persons in opposition to the application. Should the applicant submit new evidence in aid of rebuttal, the Chair or Mayor shall allow any person to respond to such new evidence, and provide for final rebuttal by the applicant.

F. The Chair or Mayor shall offer staff an opportunity to make final comments and answer questions.

G. Provisions for holding a record open or continuing a hearing set forth in Oregon Revised Statutes (ORS 197.763 (6)) shall apply to this Chapter of the Comprehensive Plan, in accordance with the statute.

1.6.2. Following the conclusion of the hearing, the Planning Commission shall take one of the following actions:

A. Continue the hearing to a date, time and location certain, which shall be announced by the Chair. Notice of date, time, and location certain of the continued hearing is not required to be mailed, published or posted, unless the hearing is continued without announcing a date, time, and location certain, in which case notice of the continued hearing shall be given as though it was the initial hearing.

B. Deny the application, approve the application, or approve the application with conditions.
   1. If the Planning Commission proposes to deny, approve, or approve with conditions,

the Planning Commission shall announce a brief summary of the basis for the decision and that an order shall be issued as described in 1.7; provided, the proceedings may be continued for the purpose of considering such order without taking new testimony or evidence.

2. Provisions for holding a record open or continuing a hearing set forth in ORS 197.763(6) shall apply under this Ordinance in a manner consistent with state law.
3. If the Planning Commission proposes to approve, or approve with conditions, an ordinance shall be prepared for City Council consideration, consistent with the City Charter.
4. In conjunction with their adoption of an ordinance approving or approving with conditions a Comprehensive Plan Amendment, the City Council shall adopt written findings which demonstrate that the approval complies with applicable approval criteria.

1.7. FINAL ADOPTION AND APPEALS

1.7.1 Final Order

A. The written decision in the form of a final order shall be prepared regarding the application. The final order shall include:
   1. A listing of the applicable approval criteria by Comprehensive Plan section number.
   2. A statement or summary of the facts upon which the Planning Commission or City Council relies to find the application does or does not comply with each applicable approval criterion and to justify any conditions of approval. The Planning Commission or City Council may adopt or incorporate a staff report or written findings prepared by any party to the proceeding into the final order to satisfy this requirement.
   3. A statement of conclusions based on the facts and findings.
   4. A decision to deny or to approve the application and, if approved, any conditions of approval necessary to ensure compliance with applicable criteria.

B. Within five (5) working days after the Final Decision (City Council Ordinance or Final Order adoption), mail the required DLCD Notice of Adoption to DLCD, pursuant to ORS 197.610 and OAR Chapter 660- Division 18.

C. Within five (5) calendar days from the date that the Planning Commission or City Council adopts a final order, the Community Development Director shall cause the order to be signed, dated, and mailed to the applicant, the property owner, the Neighborhood Association Committee or County Participation Organization in which the subject property is located, and other persons who appeared orally or in writing before the public record closed. The final order shall be accompanied by a written notice which shall include the following information:
   1. In the case of a Planning Commission decision, a statement that the Planning Commission decision can be appealed to the City Council following the procedures listed in 1.7.2. The appeal date and the statement that the appeal must be filed within ten (10) calendar days after the date of the signed notice is dated and mailed shall be placed on the notice, with the appeal closing date shown in boldface type. The statement shall generally describe the requirements for filing an appeal and include the name, address and phone number of the Community Development Director.

2. In the case of a City Council decision, a statement that the decision is final, but may be appealed to the Land Use Board of Appeals as provided in Oregon Revised Statutes (ORS 197.805 through 197.860) or to the Land Conservation and Development Commission as provided in Oregon Revised Statutes (ORS 197.633), in the case of Periodic Review Amendments.
3. A statement indicating the Amendment application number, date, and brief summary of the decision. The statement shall list when and where the case file is available and the name and telephone number of the City representative to contact for information about the proposal.
4. A statement of the name and address of the applicant.
5. If applicable, an easily understood geographic reference to the subject property and a map.

1.7.2 Notice of Intent to Appeal

A. The Planning Commission decision may be appealed to the City Council only by the applicant, a person whose name appears on the application, or any person who appeared before the Planning Commission either orally or in writing. An appeal shall be made by filing a Notice of Intent to Appeal with the Community Development Director andwithin ten (10) calendar days after the signed written order was dated and mailed.

B. A notice of Intent to Appeal shall be in writing and shall contain:
   1. A reference to the application number and date of the Planning Commission order;
   2. A statement that demonstrates the appellant is the applicant or their representative, a person whose name appears on the application, or a person who appeared before the Planning Commission either orally or in writing;
   3 The name, address, and signature of the appellant or the appellant's representative;
   4 An appeal fee, as established by Council resolution; if more than one person files an appeal on a specific decision, the appeals shall be consolidated and the appeal fee shall be divided equally among the multiple appellants; and
   5. A discussion of the specific issues raised for Council's consideration and specific reasons why the appellant contends that the Planning Commission's findings and/or recommendation is incorrect or not in conformance with applicable criteria.

C. The Community Development Director shall reject the appeal if it
   1. is not filed within the ten (10) day appeal period set forth in subsection A of this section,
   2. is not filed in the form required by subsection B of this section, or
   3. does not include the filing fee required by subsection B of this section.

   If the Community Development Director rejects the appeal, the Community Development Director will so notify the appellant by letter. This letter shall include a brief explanation of the reason why the Community Development Director rejects the appeal. A decision of the Community Development Director to reject an appeal pursuant to this section is a final City decision as of the date of the letter and is not subject to appeal to the City Council. The appellant shall be allowed to correct a failure to comply with subsection B of this section if the correction can be made and is made within the 10 day appeal period provided in subsection A of this section.

D. If a Notice of Intent to Appeal is not filed, or is rejected, an ordinance shall be prepared for City Council consideration, consistent with the City Charter.

If the application is denied, the City Council will adopt a final order which sets forth its decision together with any reasons therefor. The Council's final order or the ordinance is the final decision of the City on the application. Notice of the decision shall be given as provided in 1.7.1.

E. Notwithstanding the provisions of this section, City Council on its own motion, may order a public hearing before the City Council at any time prior to adopting a Council final order or ordinance.

1.7.3 Notice of Appeal Hearing

A. Written notice of the appeal hearing before the City Council will be sent
   1. by regular mail,
   2. no later than twenty (20) days prior to the date of the hearing
   3. to the appellant, the property owner, the applicant, if different from the appellant, persons whose names appear on the application, and all persons who previously testified either orally or in writing before the Planning Commission.

B. Notice of the hearing shall:
   1. Reference the CPA file number or numbers and the appeal number;
   2. Set forth the street address or other easily understood geographical reference to the subject property, if applicable;
   3. State the date, time and location of the hearing;
   4. State that an appeal has been filed, set forth the name of the appellant or appellants and contain a brief description of the reasons for appeal;
   5. Include the name and phone number of the City staff person assigned to the application from whom additional information may be obtained;
   6. State that a copy of the Planning Commission's written order, the application, all documents and evidence contained in the record, and the applicable criteria are available for inspection at no cost and can be provided at reasonable cost including the days, times and location where available for inspection; and
   7. Include a general explanation of the requirements for submission of testimony and the procedure for conduct of the hearing.

1.7.4 Preparation of the Record; Staff Report; Transcript

A. Following receipt of a Notice of Intent to Appeal filed in compliance with 1.7.2, the Community Development Department Director shall prepare a record for Council review containing:
   1. All staff reports and memoranda prepared regarding the application that were presented to the Planning Commission;
   2. Minutes of the Planning Commission proceedings at which the application was considered;

3. All written testimony and all exhibits, maps documents or other written materials presented to and or rejected by the Planning Commission during the proceedings on the application; and
4. the Planning Commission's Final written order.
5. The appellant may request, and the City Council may allow, a quasi-judicial comprehensive plan amendment appeal hearing be conducted on the record established at the Planning Commission public hearing. If such a request is made and granted, a transcript of the Planning Commission proceeding is required. The appellant shall remit a fee to cover the cost fo the transcript of the Planning Commission hearing within five (5) calendar days after the Community Development Director estimates the cost of the transcript. Within ten (10) calendar days of notice of completion of the transcript, the appellant shall remit the balance due on the cost of the transcript. In the event that the Council denies the request for an on the record appeal hearing, and holds a de novo hearing, the transcript fee may be refunded. If the transcription fee estimate exceeds the transcription cost, the balance shall be refunded to the appellant.

B. The Community Development Department Director shall prepare a staff report on the appeal explaining the basis for the Planning Commission's decision as relates to the reason for appeal set forth in the Notice of Intent to Appeal, and such other matters relating to the appeal as the Director deems appropriate.

1.7.5 Scope of Review

A. The City Council appeal hearing shall be de novo, which means any new evidence and argument can be introduced in writing, orally, or both. The City Council may allow, at the appellant's request, a quasi-judicial comprehensive plan amendment appeal hearing be conducted on the record established at the Planning Commission hearing.

B. The Council may take official notice of and may consider in determining the matter any material which may be judicially noticed pursuant to the Oregon Rules of Evidence, ORS 40.060 through 40.090, including an ordinance, comprehensive plan, resolution, order, written policy or other enactment of the City.

C. Preliminary Decision.

At the conclusion of deliberations, the Council shall make a preliminary oral decision. The Council may affirm, reverse or modify the Planning Commission's order in whole or in part, or may remand the decision back to the Planning Commission for additional consideration. (Procedures for noticing a remand hearing are found in sections 1.4.1 (D) and 1.4.2 (D).) The preliminary oral decision is not a final decision. At any time prior to adoption of the final order or Ordinance pursuant to subsection D of this section, the Council may modify its decision based upon the record or may reopen the hearing.

D. Final Order or Ordinance

In the case of a denial, the City Council shall direct staff to prepare a final order or in the case of approval, the Council shall cause the preparation of an Ordinance. The Ordinance or final order shall consist of a brief statement explaining the criteria and standards considered relevant, stating the facts relied on in rendering the decision, and explaining

the justification for the decision based upon the criteria and facts set forth. The final order, or Ordinance, is the final decision on the application and the date of the order, or Ordinance, for purposes of appeal is the date on which it is signed by the Mayor.

Procedures for preparation of the Final Order, Ordinance and distribution of the Notice of Decision are found in section 1.7.

The following diagrams, Diagram I-1 through I-4, are intended for illustrative purposes only and are not adopted as procedural requirements within this ordinance. Thus, periodic updates to Diagrams I-1 through I-4 will not require a Comprehensive Plan Amendment.

Diagram I-1
Legislative Comprehensive Plan Amendments

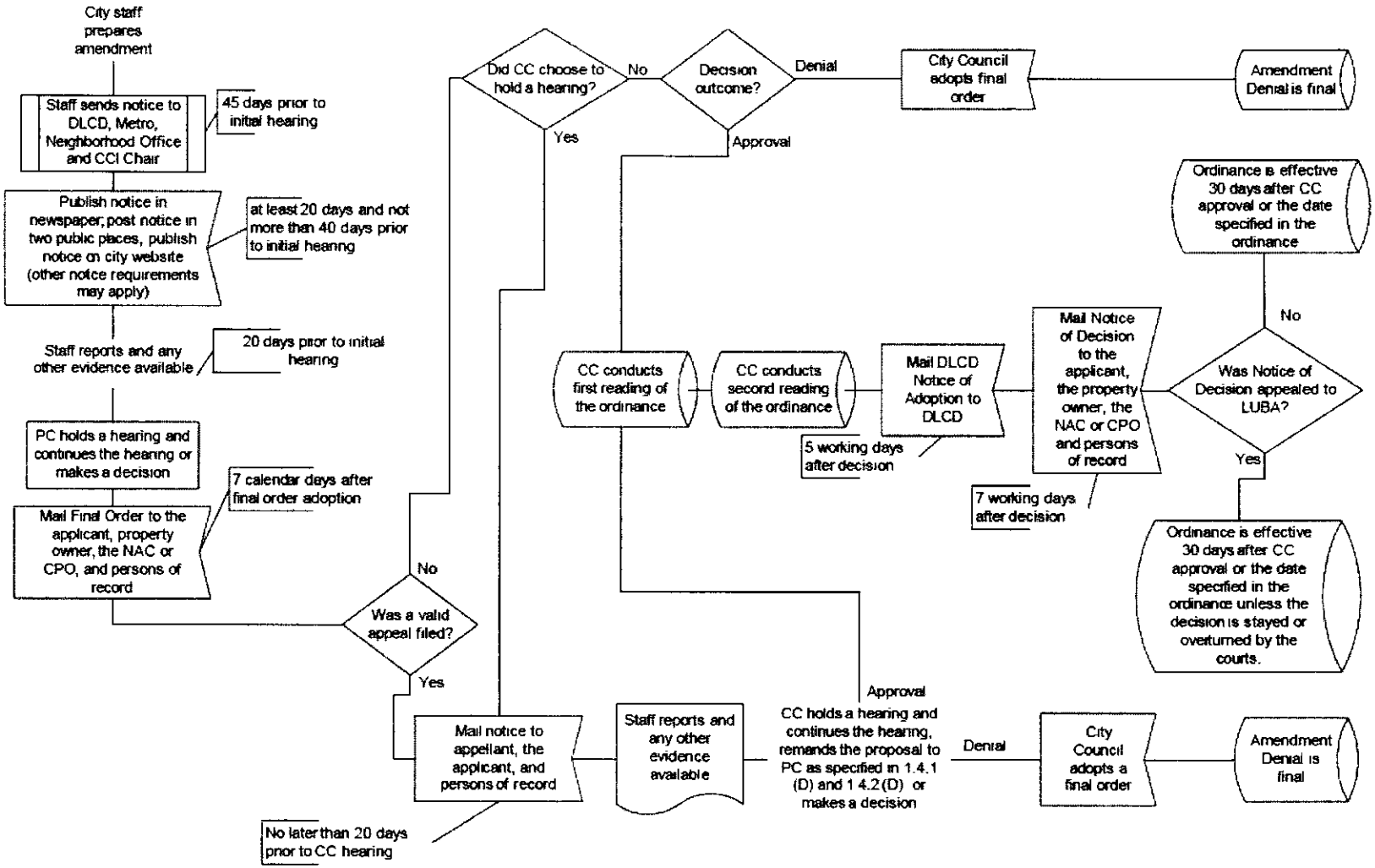


Diagram I-2
Quasi-Judicial Comprehensive Plan Amendments

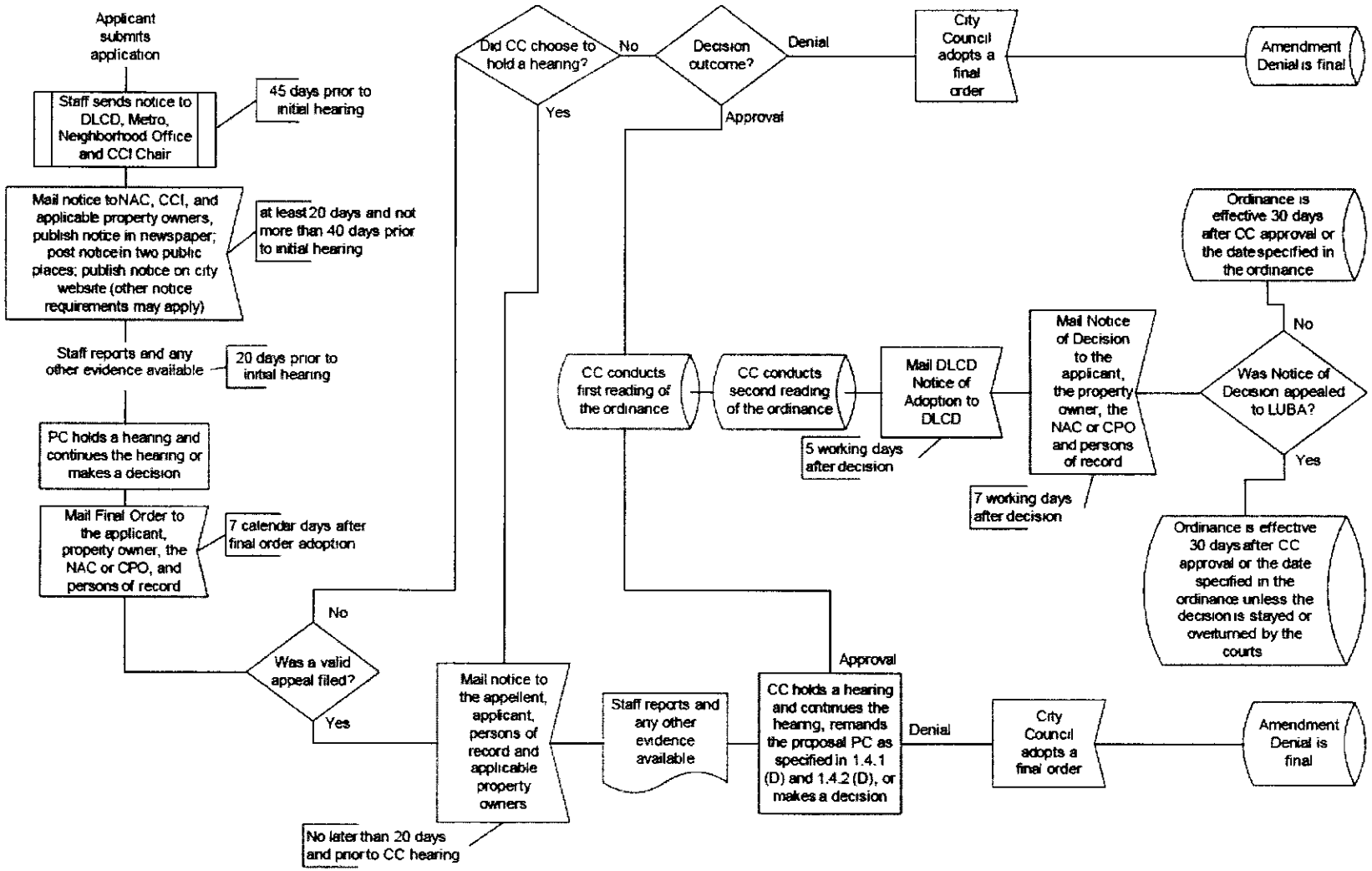


Diagram I-3
Non-Discretionary Map Comprehensive Plan Amendments

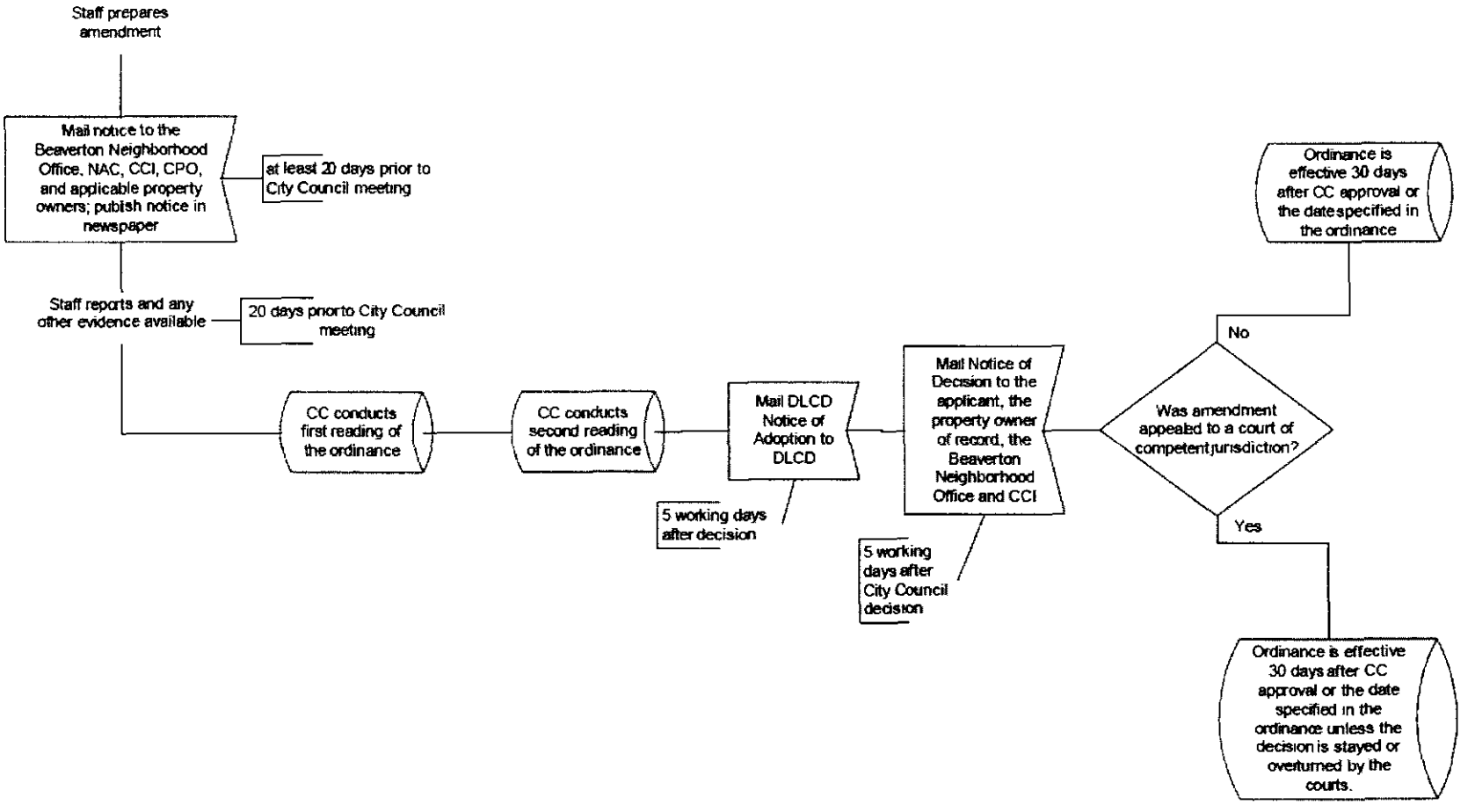
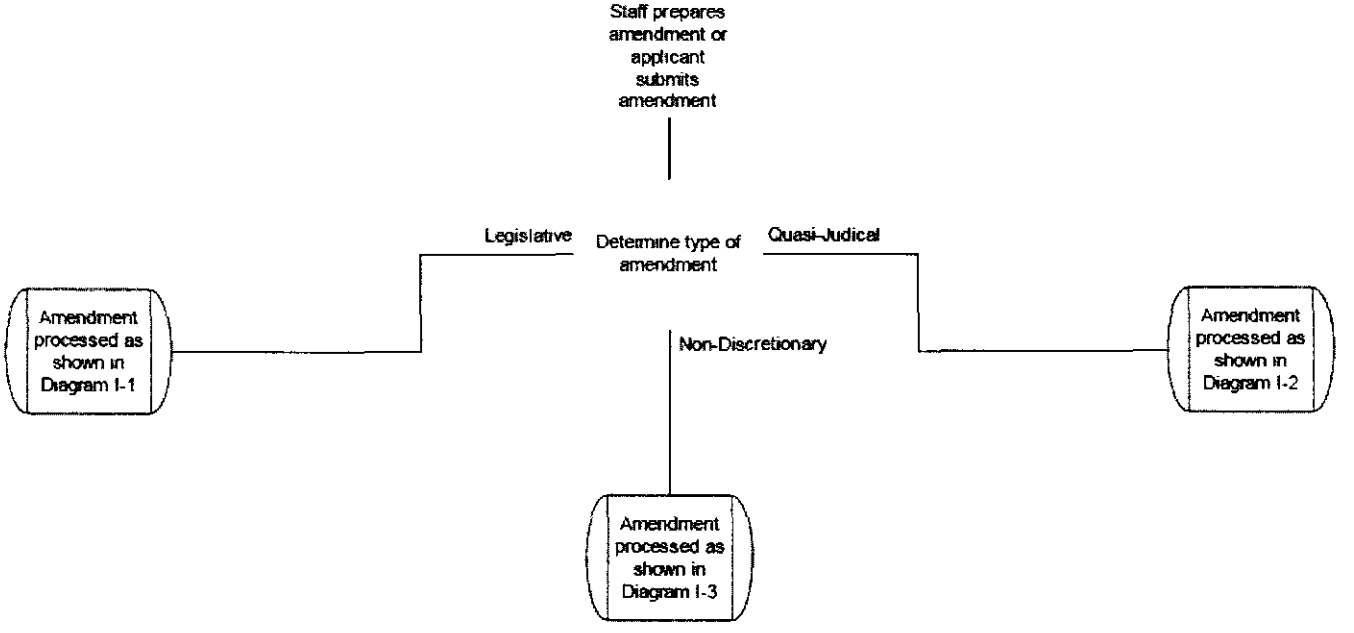


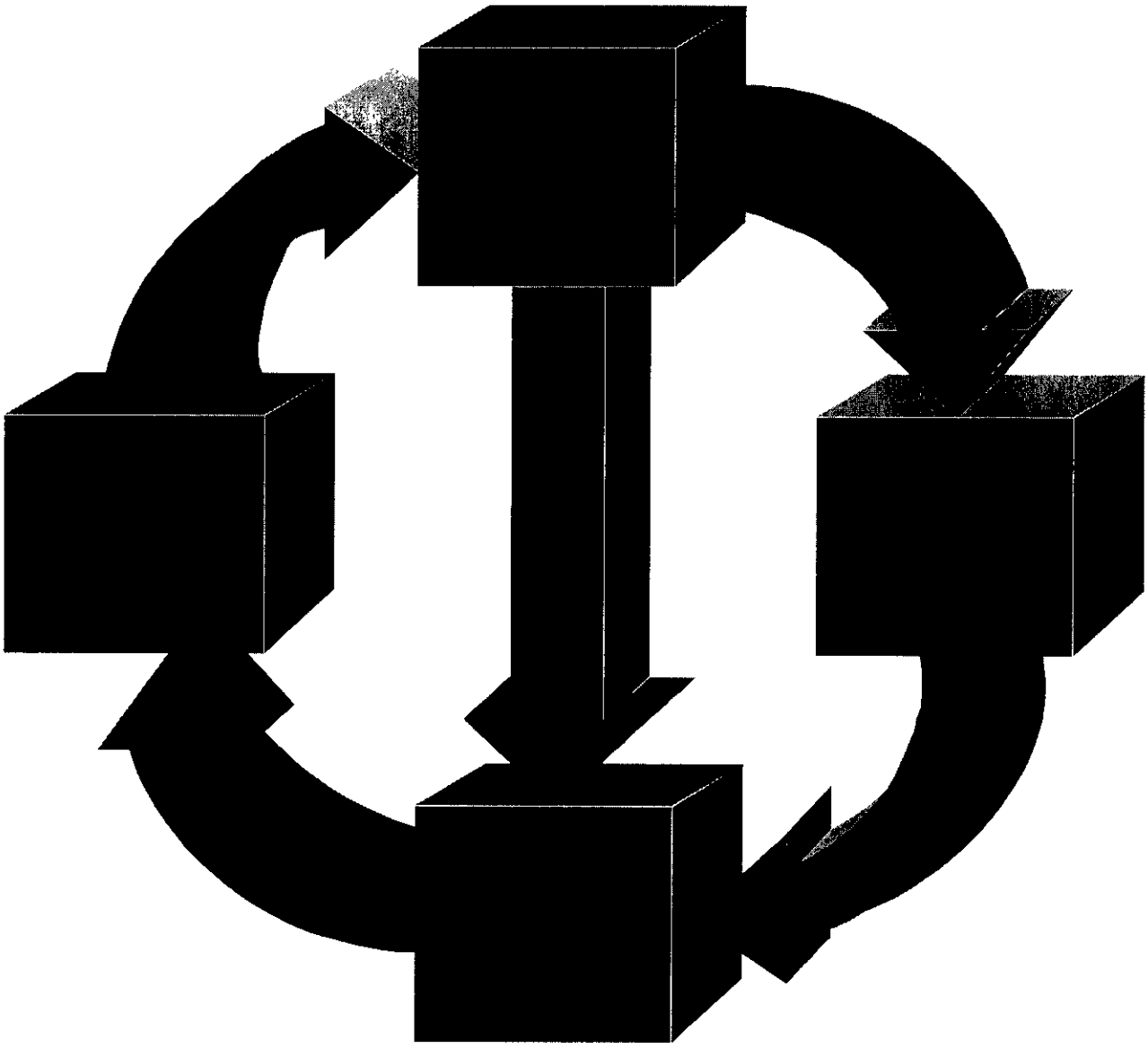
Diagram I-4
Statewide Planning Goal 5 Inventory Resource Document Volume III
Comprehensive Plan Amendments



1.8 Application Fees

In order to defray expenses incurred in connection with the processing of applications, the City has established a reasonable fee to be paid to the City upon the filing of an application for a Plan amendment. Fees for privately initiated Plan amendments requiring extraordinary staff time or expertise beyond the scope of the average process may be subject to an additional project management fee as established by Council Resolution 3285.

CHAPTER ONE:
COMPREHENSIVE PLAN AMENDMENT PROCEDURES ELEMENT



COMPREHENSIVE PLAN AMENDMENT PROCEDURES

1.1 AMENDMENT INITIATION.

Amendments to the Comprehensive Plan may be initiated by City Council, the Planning Commission, the Mayor, the Community Development Director, or the Public Works Director at any time. Landowners may also initiate an amendment to the Land Use Map pertaining only to their property at any time.

1.1.1 City-initiated Amendments

Amendment requests shall be submitted to the Community Development Director for preparation and analysis for a Planning Commission public hearing or City Council consideration. The Planning Commission and City Council have the right to accept, reject or modify any specific request for amendment in accordance with the City's policies and procedures. The Planning Commission or City Council may enlarge or reduce the geographic area of proposed map amendments, investigate alternative land use designations to those requested, or combine the request with other City-initiated amendments for comprehensive study and determination. If the decision to modify a requested amendment is made after public hearing notice has been provided, the notice shall be reissued and, if necessary, the hearing rescheduled.

1.1.2 Property Owner-initiated Amendments

Amendment requests shall be submitted to the Community Development Director for preparation and analysis for a Planning Commission public hearing. The Planning Commission and City Council reserve the right to approve, approve with conditions, or deny any specific request for amendment in accordance with the City's policies and procedures.

1.1.3 Amendment Processing

Proposed amendments shall be processed as expeditiously as possible, subject to the availability of staff and budgetary resources and project priorities set by the Mayor. Amendments shall be processed in compliance with the procedures established by this Plan as well as Oregon Revised Statutes, Oregon Administrative Rules, Metro Code, the City Charter, and City Ordinances. Property owner-initiated amendments should be processed in the order in which they are submitted and accepted as complete, but the City Council may, by resolution, postpone processing proposed amendments to accelerate processing other amendments to which they give a higher priority.

1.2 PERIODIC REVIEW

Periodic Review amendments are subject to a Land Conservation and Development Commission (LCDC) approved work program and follow separate notice procedures outlined in the Oregon Revised Statutes and Oregon Administrative Rules governing Periodic Review.

1.3 AMENDMENT PROCEDURAL CATEGORIES

Comprehensive Plan Amendments fall into five general categories: Legislative, Quasi-Judicial, Historic Landmark, District and Tree designation removal, Non-Discretionary, and Statewide

Planning Goal 5 Inventory Document Amendments.

Legislative Amendments are amendments to the Comprehensive Plan text or map of a generalized nature initiated by the City that applies to an entire land use map category or a large number of individuals or properties or that establishes or modifies policy or procedure. Legislative amendments include additions or deletions of text or land use map categories.

Quasi-Judicial Amendments are amendments to a Land Use Map designation as it applies to specific parcels or that applies to a small number of individuals or properties or locations.

Historic Landmark, District or Tree Designation Removal are amendments, requested from the property owner, to remove said designation pursuant to ORS 197.772. Upon receipt of a letter request to remove said designation, the Community Development Director shall issue a letter removing said designation based on ORS 197.772 and shall cause such letter to be mailed to the property owner and the property owners within an area enclosed by lines parallel to and 500 feet from the exterior boundary of the subject property.

Non-Discretionary Amendments are amendments to the Comprehensive Plan Land Use Map to add an annexed property, or properties, to the Map with a Land Use Map designation assigned through direct application of the Washington County-Beaverton Urban Planning Area Agreement (UPAA). The County land use classification(s) remain in effect under provisions of Oregon Revised Statutes (ORS 197.175(1) and ORS 215.130(2)(a)) until the City acts to implement its own Comprehensive Plan Land Use designation(s) for the annexed territory.

The UPAA requires the City to assign a particular, or most similar, City Comprehensive Plan Land Use designation to the annexed property based on the Washington County designation. Exhibit "B" of the UPAA contains a chart describing a one-to-one relationship between County and City land use designations. The UPAA and the chart referenced as Exhibit "B" is found within Chapter 3 of the Comprehensive Plan in Section 3.15. Where UPAA Exhibit "B" provides a one-to-one relationship and the annexed property is **not** subject to any special policies within the applicable Washington County Community Plan, the decision to apply a specific Land Use Map designation is made under land use standards that do not require interpretation or the exercise of policy or legal judgement. Consequently, the decision is not a land use decision as defined by Oregon Revised Statutes (ORS 197.015(10)(b)(A)).

Statewide Planning Goal 5 Inventory Resource Document Amendments are amendments to Volume III of the Comprehensive Plan. Amendments may be legislative, such as periodic review, or annual updates to maps, or quasi-judicial. Updates to the Significant Natural Resources Map (Local Wetland Inventory Map) incorporating changes approved by the Department of State Lands are non-discretionary map amendments the public notice, decision-making and appeal of the decision occurs when the Division of State Lands approves the wetland delineation and fill or removal permit (OAR 141-086-005 through OAR 141-090-0230, OAR 141-085-0018, OAR 141-085-0025, OAR 141-085-0028, OAR 141-085-0029, OAR 141-085-0031, OAR 141-085-0066, ORS 227.350 (2), and ORS 196.600 to 196.990). As noted under Non-Discretionary Amendments above, when no discretion is exercised, the decision is not a

land use decision under Oregon Revised Statutes (ORS 197.015(10)(b)(A)).

1.4 NOTICE REQUIREMENTS

The claim of a person to have not received notice, who may be entitled to notice as provided in this section, shall not invalidate such proceedings if the City can demonstrate by affidavit that such notice was given.

If the Community Development Director or City Council determine that the proposed amendment substantially changes from the proposal described in the initial notice, then notice is required to be sent again as described in the appropriate subsection with specific notation that the proposal has changed and that a new hearing will be held on the matter.

1.4.1 Legislative Amendments.

A. Notice of the initial hearing shall be provided as follows:

1. By mailing the required inter-agency Department of Land Conservation and Development (DLCD) notice to DLCD, Metro, the Beaverton Neighborhood Office and the Chair of the Committee for Citizen Involvement (CCI) at least forty-five (45) calendar days prior to the initial hearing. When the legislative amendment is required through Periodic Review, DLCD notice is not required, therefore, it is not provided.
2. Mail notice to owners of property within the City for which the proposed ordinance, if adopted, may in the Director's opinion affect the permissible uses of land

   a) The most recent property tax assessment roll of the Washington County Department of Assessment and Taxation shall be used for determining the property owner of record. The failure of a property owner to receive notice does not invalidate the decision.

   b) If a person owns more than one property that could be affected by the proposed ordinance if adopted, the Director may mail that person only one notice of the hearing.
3. By publication of a notice with the information specified in subsection 1.4.1 (B)(1), (2), and (3) in a newspaper of general circulation within the City,; and
4. By posting a notice with the applicable information specified in subsection 1.4.1 (B) at Beaverton City Hall and the Beaverton City Library; and
5. By placing a notice with the applicable information specified in subsection 1.4.1 (B) on the City's website.

Notice required by Oregon Revised Statutes (ORS 227.186, also known as Ballot Measure 56) shall be provided, when applicable. ORS 227.186(6) specifies notice requirements for city-initiated amendments related to Periodic Review.

Hearing Notices required by numbers 2 through 5 of this subsection, shall be given not less than twenty (20) and not more than forty (40) calendar days prior to the date of the initial hearing.

B. Mailed notice required in subsection 1.4.1 (A) (2), posted notice required in subsection 1.4.1 (A) (4), and web notice required in subsection 1.4.1 (A) 5 shall:

1. State the date, time and location of the hearing, and the hearings body;
2. Explain the nature and purpose of the hearing;
3. Include the case file number, title or both of the proposed ordinance to be considered at the time of hearing;
4. List the applicable approval criteria by Comprehensive Plan by section numbers that apply to the application at issue;
5. State that a copy of the staff report will be available for inspection at no cost at least seven (7) calendar days prior to the hearing and will be provided at reasonable cost and include the days, times and location where available for inspection;
6. Include the name and phone number of the City staff person assigned to the application from whom additional information may be obtained;
7. State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the Planning Commission an opportunity to respond to the issue precludes appeal to the City Council and the Land Use Board of Appeals based on that issue; and
8. Include a general explanation of the requirements for submission of testimony and procedure for conduct of the hearing.

C. If an application is City-initiated and would change the Land Use Plan Map for a property to a designation that would require a rezone, a notice must be sent to the owner pursuant to Oregon Revised Statutes (ORS 227.186(3) also known as Ballot Measure 56).

D. Notice of remand hearings, whether they be the entire legislative amendment or part of the amendment, either from the Land Use Board of Appeals to City Council or from City Council to Planning Commission, shall be given following subsections 1.4.1 (A) and 1.4.1 (B) with the following additional information:

1. The deadline for submitting written testimony and the place it is to be submitted;
2. The applicable criteria if the remand is required by the failure to state the criteria or if the criteria have changed;
3. The scope of the testimony; and
4. Whether the testimony is de novo or limited to the record and whether it must be submitted in writing or whether oral testimony will be allowed.

The notice required in this subsection (D) shall be mailed to persons who previously provided written or oral testimony in the proceedings on the proposal.

1.4.2 Quasi-Judicial Amendments

A. Notice of the initial hearing shall be provided as follows:

1. By mailing the required inter-agency DLCD notice to DLCD, Metro, the Beaverton Neighborhood Office and the CCI Chair at least forty-five (45) calendar days prior to the initial hearing.
2. By publication of a notice with the information specified in 1.4.2 (B) (1), (2), (3) and (4) in a newspaper of general circulation within the City; and
3. By posting notice with the information specified in 1.4.2 (B) at Beaverton City Hall and the Beaverton City Library; and
4. By mailing notice with the information specified in 1.4.2 (B) to property owners

included in the proposed change area, if applicable, and within an area enclosed by lines parallel to and 500 feet from the exterior boundary of the property for which the change is contemplated; and

5. By mailing notice with the information specified in 1.4.2 (B) to any City-recognized Neighborhood Association Committee (NAC) or County-recognized Citizen Participation Organization (CPO) whose boundaries include the property for which the change is contemplated; and
6. By placing notice with the information specified in 1.4.2 (B) on the City's web site.

Notice required by Oregion Revised Statutes (ORS 227.186, also known as Ballot Measure 56) shall be provided, when applicable. ORS 227.186(6) specifies notice requirements for city-initiated amendments related to Periodic Review.

Hearing notices required by numbers 2 through 6 of this subsection shall be given not less than twenty (20) and not more than forty (40) calendar days prior to the date of the initial hearing.

B. Mailed notice required in subsection 1.4.2 (A) (4) and (5) shall:
   1. Explain the nature of the application and the use or uses, which could be authorized;
   2. Set forth the street address or other easily understood geographical reference to the subject property and include a map, if applicable;
   3. State the date, time, and location of the hearing, and the hearings body;
   4. Include the case file number, title or both of the proposed ordinance to be considered at the time of hearing;
   5. List the applicable criteria from the Comprehensive Plan by section number that apply to the application at issue;
   6. State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the Planning Commission an opportunity to respond to the issue precludes appeal to the City Council and the Land Use Board of Appeals based on that issue;
   7. Include the name and phone number of the City staff person assigned to the application from whom additional information may be obtained;
   8. State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant, and applicable criteria are available for inspection at no cost and will be provided at reasonable cost and include the days, times and location where available for inspection;
   9. State that a copy of the staff report will be available for inspection at no cost at least seven (7) calendar days prior to the hearing and will be provided at reasonable cost include the days, times and location where available for inspection; and
   10. Include a general explanation of the requirements for submission of testimony and procedure for conduct of the hearing.

C. If an application is City-initiated and would change the Land Use Plan Map for a property to a designation that would require a rezone, a notice must be sent to the owner pursuant to Oregon Revised Statutes (ORS 227.186(3) also known as Ballot Measure 56).

D. Notice of remand hearings, whether for the entire quasi-judicial amendment or part of the amendment, either from the Land Use Board of Appeals to City Council or from City Council to Planning Commission shall be given following subsection 1.4.2 (A) and 1.4.2

(B) with the following additions:

1. Any deadline for submitting written testimony and the place it is to be submitted;
2. The applicable criteria if the remand is required by the failure to state the criteria or if the criteria have changed;
3. The scope of the testimony; and
4. Whether the testimony is limited to the record or de novo and whether it must be submitted in writing or whether oral testimony will be allowed.
5. The notice required in this subsection (D) shall be mailed to persons who previously provided written or oral testimony in the proceedings on the proposal.

1.4.3 Non-Discretionary Map Amendments

A. Notice for Non-Discretionary Map Amendments shall be provided as follows:

1. By publication of a notice with the information specified in 1.4.3 (B) (1), (2) and (3) in a newspaper of general circulation within the City,; and
2. By mailing notice with the information specified in 1.4.3 (B) to the Beaverton Neighborhood Office, Chair of the Committee for Citizen Involvement (CCI), NAC, CPO and owners of record of the subject property on the most recent property tax assessment roll; and
3. By placing notice with the information specified in 1.4.3 (B) on the City's web site..

All notices required by 1. through 3. of this subsection (A) shall be given not less than twenty (20) and not more than forty (40) calendar days prior to the date the item initially appears on the City Council agenda.

B. Notice required by subsection 1.4.3.(A) shall:

1. Explain the nature of the application;
2. Set forth the street address or other easily understood geographical reference to the subject property, including a map;
3. State the time, date, place, and purpose of the City Council agenda item;
4, Include the case file number, title or both of the proposed ordinance to be considered at the time of hearing;
5. Include the name and phone number of the City staff person assigned to the application from who additional information may be obtained;
6. List the applicable criteria from the Comprehensive Plan and State Law that apply to the application at issue;
7. State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant, and applicable criteria are available for inspection at no cost at least seven (7) calendar days prior to the City Council meeting and will be provided at reasonable cost and include the days, times and location where available for inspection;.

C. Notice of Decision for Non-Discretionary Map Amendments

Within five working days after the City Council decision on a Non-Discretionary Map

Amendment, notice of the decision shall be mailed to the owner of record, DLCD, the Beaverton Neighborhood Office and the Chairperson of the Committee for Citizen Involvement (CCI). The notice of decision shall include the following:

1. A statement that the decision is final but may be appealed in a court of competent jurisidiction, and
2. A statement that the complete case file is available for review. The statement shall list when and where the case file is available and the name and telephone number of the City representative to contact for information about the case.

1.4.4 Statewide Planning Goal 5 Inventory Resource Document (Volume III) Amendments

A. If the proposal is legislative in nature, as in an update to one of the Statewide Planning Goal 5 Inventory Resource Documents or an addition of a new category of Statewide Planning Goal 5 Inventory Resource Documents, then notice shall follow the legislative notice procedure identified under subsection 1.4.1.

B. If the proposal is quasi-judicial in nature, as in a change on one property or a limited group of properties, the notice shall follow the quasi-judicial notice procedure under subsection 1.4.2..

C. If the proposal is to update the Local Wetland Inventory map of the Significant Natural Resource maps based on approvals of wetland delineations or fill or removal permits issued by the Oregon Department of State Lands, the amendment shall be deemed non-discretionary and shall be updated administratively by City Council ordinance adoption, following the Non-Discretionary Map Amendment procedure under 1.4.3.

1.5 CRITERIA FOR AMENDING THE COMPREHENSIVE PLAN

The adoption by the City Council of any amendment to the Plan shall be supported by findings of fact, based on the record, that demonstrate the criteria of this Section have been met. The City Council and Planning Commission may incorporate by reference facts, findings, reasons, and conclusions proposed by the City staff or others into their decision.

1.5.1 Criteria for Legislative and Quasi-judicial Comprehensive Plan Amendments

A. The proposed amendment is consistent and compatible with relevant Statewide Planning Goals and related Oregon Administrative Rules; and

B. The proposed amendment is consistent and compatible with the applicable Titles of the Metro Urban Growth Management Functional Plan and the Regional Transportation Plan; and

C. The proposed amendment is consistent and compatible with the Comprehensive Plan and other applicable local plans; and

D. If the proposed amendment is to the Land Use Map, there is a demonstrated public need, which cannot be satisfied by other properties that now have the same designation as proposed by the amendment.

1.5.2 Criteria for Non-Discretionary Map Amendments

A. Annexation-Related

Discretion occurs when the Washington County-Beaverton Urban Planning Area Agreement (UPAA) is adopted or amended by the County and the City. The UPAA provides specific City-County Land Use Designation Equivalents. Specifically, the UPAA states in Section II (D) "Upon annexation, the city agrees to convert County plan and zoning designations to City plan and zoning designations which most closely approximate the density, use provisions and standards of the County designations. Such conversion shall be made according to the tables shown on Exhibit "B" to this agreement." Consequently, when the conversion from County to City designation is shown on Exhibit B, the City has no discretion.

B. Statewide Planning Goal 5

The Department of State Lands (DSL) and the US Army Corps of Engineers (COE) exercise discretion when these agencies approve wetland delineations and fill/removal permits (OAR 141-085, ORS 227.350, and ORS 196.600 to 196.990). Because the decision is made by another agency, acknowledging the locations of the delineated wetlands and fill/removal activities on the City's Local Wetland Inventory map involves no discretion.

1.5.3 Criteria for Statewide Planning Goal 5 Inventory Resource Document (Volume III) Comprehensive Plan Amendments

A. Local Wetland Inventory Amendments require following the criteria for adoption of a local wetland inventory found within Oregon Revised Statutes and Oregon Administrative Rules (as of November 2004, ORS 196 and OAR 141-086 and OAR 660-023).

B Criteria for Addition of Historic Landmarks and Districts

To qualify as a historic landmark or district, the proposal must meet criterion 1 and at least one factor listed as criteria 2 through 5:

1. Conforms with the purposes of the Beaverton Comprehensive Plan; and
2. The proposed landmark or district is associated with natural history, historic people, or with important events in national, state, or local history; or
3. The proposed landmark or district embodies the distinguishing characteristics of an architecture inherently valuable for a study of a period, style, or method of construction; or
4. The proposed landmark is a notable work of a master builder, designer, or architect; or
5. The proposed landmark or district would serve one or more of the following purposes:
   a) To preserve, enhance, and perpetuate landmarks and districts representing or reflecting elements of the City's cultural, social, economic, political, and architectural history;
   b) To safeguard the City's historic, aesthetic, and cultural heritage as embodied and reflected in said landmarks and districts;

c) To complement any National Register properties or Historic Districts;

d) To stabilize and improve property values in such districts;

e) To foster civic pride in the beauty and accomplishments of the past;

f) To protect and enhance the City's attractions to tourists and visitors and the support and stimulus to business and industry thereby provided;

g) To strengthen the economy of the City; and

h) To promote the use of historic districts and landmarks for the education, pleasure, energy conservation, housing, and public welfare of the City's current and future citizens.

C. Criteria for Adding Historic Trees

The adoption by City Council and Planning Commission of any amendment to add a historic tree to the Historic Tree Inventory shall be based on the following criteria:

1. Conforms with applicable goals and policies of the Beaverton Comprehensive Plan; and
2. The proposed historic tree designation is requested by the property owner as determined by the most recent property tax assessment roll of the Washington County Department of Assessment and Taxation; and
3. The proposed historic tree is associated with historic properties, historic people, or with important events in national, state, or local history, or general growth and development of the city.

1.6 HEARINGS PROCEDURES

Before the City Council may adopt any amendment to the Comprehensive Plan, the procedures within this section shall be followed In the case of Non-Discretionary amendments, no hearing will be held. Consideration of the proposal shall be placed on the City Council Agenda for adoption by ordinance.

1.6.1. After appropriate notice is given, as provided in section 1.4 the Planning Commission or City Council shall hold a public hearing on the amendment, except for Non-Discretionary amendments.

A. At the beginning of the hearing an announcement shall be made to those in attendance that:

1. States the applicable approval criteria by Comprehensive Plan section number.
2. States testimony, arguments and evidence must be directed toward the applicable criteria.
3. States failure to raise an issue accompanied by statements or evidence with sufficient specificity to afford the Planning Commission or City Council and the parties an opportunity to respond to the issue may preclude appeal to the Land Use Board of Appeals on that issue.
4. States failure of the applicant to raise constitutional or other issues relating to the proposed conditions of approval with sufficient specificity to allow the City to

respond to the issue may preclude an action for damages in circuit court.

5. If a quasi-judicial application, states the Planning Commission and City Council must be impartial and that members of the Planning Commission and City Council shall not have any bias or personal or business interest in the outcome of the application.
   a) Prior to the receipt of any testimony, members of the Planning Commission or City Council must announce any ex parte contacts. The Planning Commission or City Council shall afford parties an opportunity to challenge any member thereof based on bias, conflicts of interest or ex parte contacts.
   b) If any member of the Planning Commission or City Council has visited the site (if applicable), they should describe generally what was observed.
6. Summarizes the procedure of the hearing.
7. States that the hearing shall be recorded on audio only or audio and video tape.
8. States any time limits for testimony set by the Planning Commission or City Council at the beginning of the hearing.

B. After the aforementioned announcements, the Chair or Mayor shall call for presentation of the staff report. Staff shall describe the proposal and provide a recommendation.

C. After the presentation of the staff report, the Chair or Mayor shall call for the applicant's testimony, if the City is not the applicant.

D. After the applicant's testimony, the Chair or Mayor shall call for other evidence or testimony in the following sequence unless the Planning Commission or City Council consents to amend the sequence of testimony:
   1. First, evidence or testimony in support of the application.
   2. Second, evidence or testimony in opposition to the application.
   3. Third, evidence or testimony that is neither in support nor in opposition to the application.

E. If the City is not the applicant, the Chair or Mayor shall call for rebuttal by the applicant. Rebuttal testimony shall be limited to the scope of the issues raised by evidence and arguments submitted into the record by persons in opposition to the application. Should the applicant submit new evidence in aid of rebuttal, the Chair or Mayor shall allow any person to respond to such new evidence, and provide for final rebuttal by the applicant.

F. The Chair or Mayor shall offer staff an opportunity to make final comments and answer questions.

G. Provisions for holding a record open or continuing a hearing set forth in Oregon Revised Statutes (ORS 197.763 (6)) shall apply to this Chapter of the Comprehensive Plan, in accordance with the statute.

1.6.2. Following the conclusion of the hearing, the Planning Commission shall take one of the following actions:

A. Continue the hearing to a date, time and location certain, which shall be announced by the Chair. Notice of date, time, and location certain of the continued hearing is not required to be mailed, published or posted, unless the hearing is continued without announcing a date, time, and location certain, in which case notice of the continued hearing shall be given as though it was the initial hearing.

B. Deny the application, approve the application, or approve the application with conditions.
   1. If the Planning Commission proposes to deny, approve, or approve with conditions,

the Planning Commission shall announce a brief summary of the basis for the decision and that an order shall be issued as described in 1.7; provided, the proceedings may be continued for the purpose of considering such order without taking new testimony or evidence.

2. Provisions for holding a record open or continuing a hearing set forth in ORS 197.763(6) shall apply under this Ordinance in a manner consistent with state law.
3. If the Planning Commission proposes to approve, or approve with conditions, an ordinance shall be prepared for City Council consideration, consistent with the City Charter.
4. In conjunction with their adoption of an ordinance approving or approving with conditions a Comprehensive Plan Amendment, the City Council shall adopt written findings which demonstrate that the approval complies with applicable approval criteria.

1.7. FINAL ADOPTION AND APPEALS

1.7.1 Final Order

A. The written decision in the form of a final order shall be prepared regarding the application. The final order shall include:
   1. A listing of the applicable approval criteria by Comprehensive Plan section number.
   2. A statement or summary of the facts upon which the Planning Commission or City Council relies to find the application does or does not comply with each applicable approval criterion and to justify any conditions of approval. The Planning Commission or City Council may adopt or incorporate a staff report or written findings prepared by any party to the proceeding into the final order to satisfy this requirement.
   3. A statement of conclusions based on the facts and findings.
   4. A decision to deny or to approve the application and, if approved, any conditions of approval necessary to ensure compliance with applicable criteria.

B. Within five (5) working days after the Final Decision (City Council Ordinance or Final Order adoption), mail the required DLCD Notice of Adoption to DLCD, pursuant to ORS 197.610 and OAR Chapter 660- Division 18.

C. Within five (5) calendar days from the date that the Planning Commission or City Council adopts a final order, the Community Development Director shall cause the order to be signed, dated, and mailed to the applicant, the property owner, the Neighborhood Association Committee or County Participation Organization in which the subject property is located, and other persons who appeared orally or in writing before the public record closed. The final order shall be accompanied by a written notice which shall include the following information:
   1. In the case of a Planning Commission decision, a statement that the Planning Commission decision can be appealed to the City Council following the procedures listed in 1.7.2. The appeal date and the statement that the appeal must be filed within ten (10) calendar days after the date of the signed notice is dated and mailed shall be placed on the notice, with the appeal closing date shown in boldface type. The statement shall generally describe the requirements for filing an appeal and include the name, address and phone number of the Community Development Director.

2. In the case of a City Council decision, a statement that the decision is final, but may be appealed to the Land Use Board of Appeals as provided in Oregon Revised Statutes (ORS 197.805 through 197.860) or to the Land Conservation and Development Commission as provided in Oregon Revised Statutes (ORS 197.633), in the case of Periodic Review Amendments.
3. A statement indicating the Amendment application number, date, and brief summary of the decision. The statement shall list when and where the case file is available and the name and telephone number of the City representative to contact for information about the proposal.
4. A statement of the name and address of the applicant.
5. If applicable, an easily understood geographic reference to the subject property and a map.

1.7.2 Notice of Intent to Appeal

A. The Planning Commission decision may be appealed to the City Council only by the applicant, a person whose name appears on the application, or any person who appeared before the Planning Commission either orally or in writing. An appeal shall be made by filing a Notice of Intent to Appeal with the Community Development Director andwithin ten (10) calendar days after the signed written order was dated and mailed.

B. A notice of Intent to Appeal shall be in writing and shall contain:
   1. A reference to the application number and date of the Planning Commission order;
   2. A statement that demonstrates the appellant is the applicant or their representative, a person whose name appears on the application, or a person who appeared before the Planning Commission either orally or in writing;
   3 The name, address, and signature of the appellant or the appellant's representative;
   4 An appeal fee, as established by Council resolution; if more than one person files an appeal on a specific decision, the appeals shall be consolidated and the appeal fee shall be divided equally among the multiple appellants; and
   5. A discussion of the specific issues raised for Council's consideration and specific reasons why the appellant contends that the Planning Commission's findings and/or recommendation is incorrect or not in conformance with applicable criteria.

C. The Community Development Director shall reject the appeal if it
   1. is not filed within the ten (10) day appeal period set forth in subsection A of this section,
   2. is not filed in the form required by subsection B of this section, or
   3. does not include the filing fee required by subsection B of this section.

   If the Community Development Director rejects the appeal, the Community Development Director will so notify the appellant by letter. This letter shall include a brief explanation of the reason why the Community Development Director rejects the appeal. A decision of the Community Development Director to reject an appeal pursuant to this section is a final City decision as of the date of the letter and is not subject to appeal to the City Council. The appellant shall be allowed to correct a failure to comply with subsection B of this section if the correction can be made and is made within the 10 day appeal period provided in subsection A of this section.

D. If a Notice of Intent to Appeal is not filed, or is rejected, an ordinance shall be prepared for City Council consideration, consistent with the City Charter.

If the application is denied, the City Council will adopt a final order which sets forth its decision together with any reasons therefor. The Council's final order or the ordinance is the final decision of the City on the application. Notice of the decision shall be given as provided in 1.7.1.

E. Notwithstanding the provisions of this section, City Council on its own motion, may order a public hearing before the City Council at any time prior to adopting a Council final order or ordinance.

1.7.3 Notice of Appeal Hearing

A. Written notice of the appeal hearing before the City Council will be sent
   1. by regular mail,
   2. no later than twenty (20) days prior to the date of the hearing
   3. to the appellant, the property owner, the applicant, if different from the appellant, persons whose names appear on the application, and all persons who previously testified either orally or in writing before the Planning Commission.

B. Notice of the hearing shall:
   1. Reference the CPA file number or numbers and the appeal number;
   2. Set forth the street address or other easily understood geographical reference to the subject property, if applicable;
   3. State the date, time and location of the hearing;
   4. State that an appeal has been filed, set forth the name of the appellant or appellants and contain a brief description of the reasons for appeal;
   5. Include the name and phone number of the City staff person assigned to the application from whom additional information may be obtained;
   6. State that a copy of the Planning Commission's written order, the application, all documents and evidence contained in the record, and the applicable criteria are available for inspection at no cost and can be provided at reasonable cost including the days, times and location where available for inspection; and
   7. Include a general explanation of the requirements for submission of testimony and the procedure for conduct of the hearing.

1.7.4 Preparation of the Record; Staff Report; Transcript

A. Following receipt of a Notice of Intent to Appeal filed in compliance with 1.7.2, the Community Development Department Director shall prepare a record for Council review containing:
   1. All staff reports and memoranda prepared regarding the application that were presented to the Planning Commission;
   2. Minutes of the Planning Commission proceedings at which the application was considered;

3. All written testimony and all exhibits, maps documents or other written materials presented to and or rejected by the Planning Commission during the proceedings on the application; and
4. the Planning Commission's Final written order.
5. The appellant may request, and the City Council may allow, a quasi-judicial comprehensive plan amendment appeal hearing be conducted on the record established at the Planning Commission public hearing. If such a request is made and granted, a transcript of the Planning Commission proceeding is required. The appellant shall remit a fee to cover the cost fo the transcript of the Planning Commission hearing within five (5) calendar days after the Community Development Director estimates the cost of the transcript. Within ten (10) calendar days of notice of completion of the transcript, the appellant shall remit the balance due on the cost of the transcript. In the event that the Council denies the request for an on the record appeal hearing, and holds a de novo hearing, the transcript fee may be refunded. If the transcription fee estimate exceeds the transcription cost, the balance shall be refunded to the appellant.

B. The Community Development Department Director shall prepare a staff report on the appeal explaining the basis for the Planning Commission's decision as relates to the reason for appeal set forth in the Notice of Intent to Appeal, and such other matters relating to the appeal as the Director deems appropriate.

1.7.5 Scope of Review

A. The City Council appeal hearing shall be de novo, which means any new evidence and argument can be introduced in writing, orally, or both. The City Council may allow, at the appellant's request, a quasi-judicial comprehensive plan amendment appeal hearing be conducted on the record established at the Planning Commission hearing.

B. The Council may take official notice of and may consider in determining the matter any material which may be judicially noticed pursuant to the Oregon Rules of Evidence, ORS 40.060 through 40.090, including an ordinance, comprehensive plan, resolution, order, written policy or other enactment of the City.

C. Preliminary Decision.

At the conclusion of deliberations, the Council shall make a preliminary oral decision. The Council may affirm, reverse or modify the Planning Commission's order in whole or in part, or may remand the decision back to the Planning Commission for additional consideration. (Procedures for noticing a remand hearing are found in sections 1.4.1 (D) and 1.4.2 (D).) The preliminary oral decision is not a final decision. At any time prior to adoption of the final order or Ordinance pursuant to subsection D of this section, the Council may modify its decision based upon the record or may reopen the hearing.

D. Final Order or Ordinance

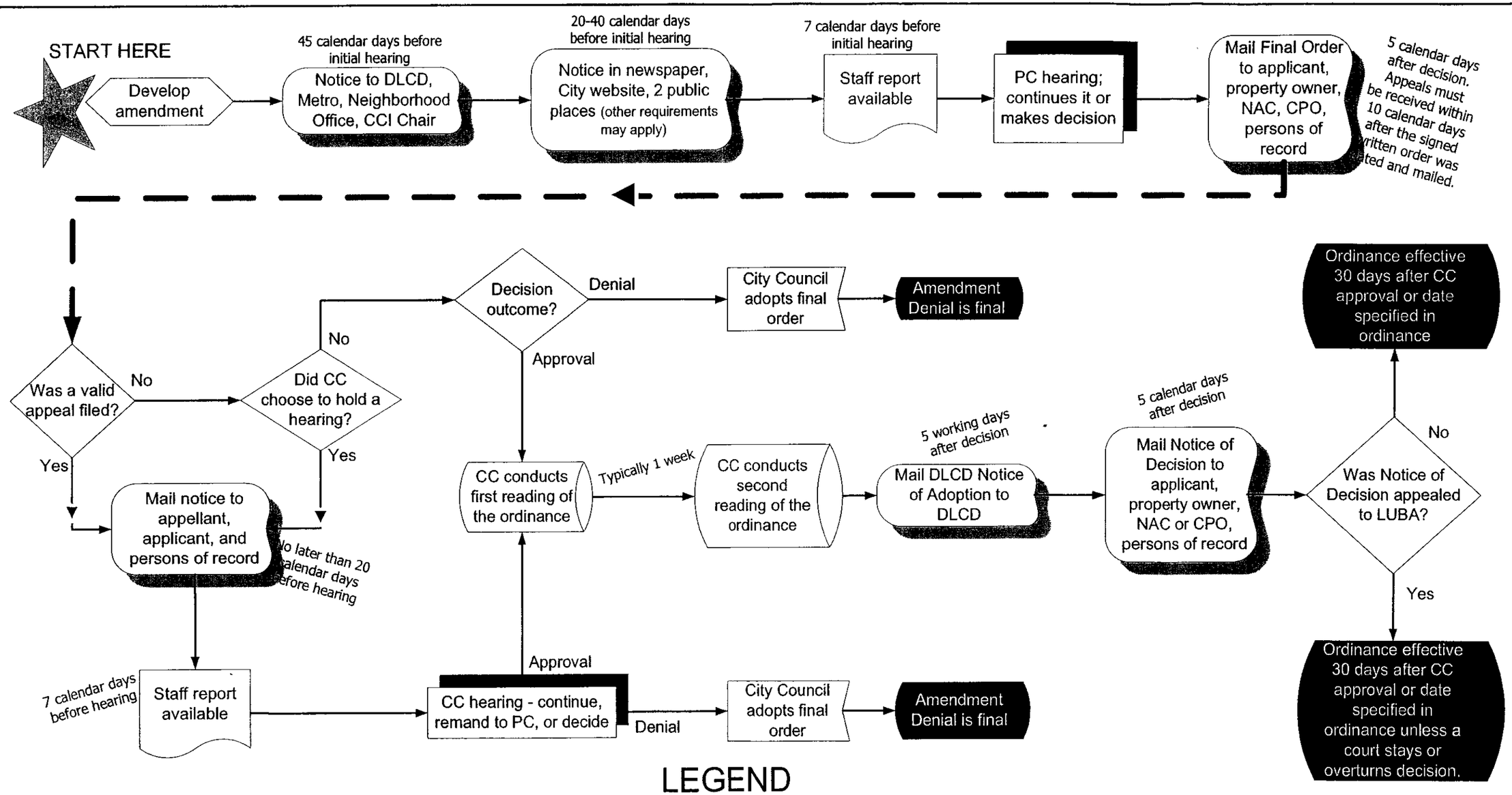
In the case of a denial, the City Council shall direct staff to prepare a final order or in the case of approval, the Council shall cause the preparation of an Ordinance. The Ordinance or final order shall consist of a brief statement explaining the criteria and standards considered relevant, stating the facts relied on in rendering the decision, and explaining

the justification for the decision based upon the criteria and facts set forth. The final order, or Ordinance, is the final decision on the application and the date of the order, or Ordinance, for purposes of appeal is the date on which it is signed by the Mayor.

Procedures for preparation of the Final Order, Ordinance and distribution of the Notice of Decision are found in section 1.7.

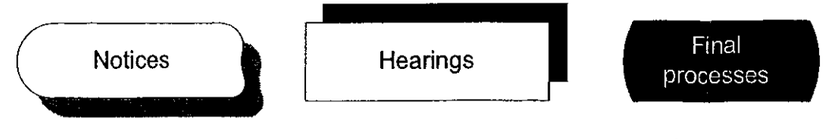
The following diagrams, Diagram I-1 through I-4, are intended for illustrative purposes only and are not adopted as procedural requirements within this ordinance. Thus, periodic updates to Diagrams I-1 through I-4 will not require a Comprehensive Plan Amendment.

Diagram I-1
Legislative Process



LEGEND

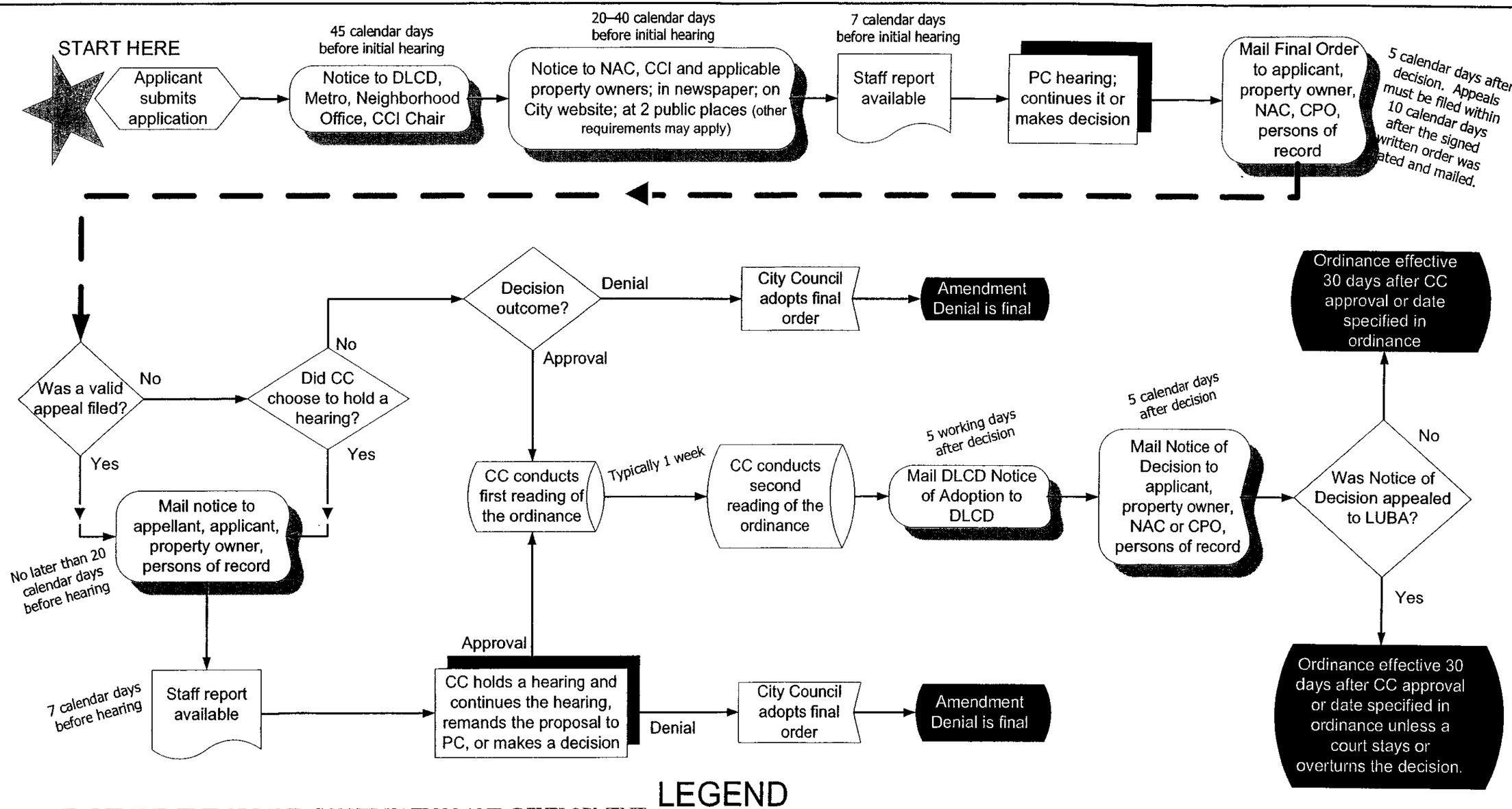
DLCD: DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
CCI: COMMITTEE FOR CITIZEN INVOLVEMENT
PC: PLANNING COMMISSION
NAC: NEIGHBORHOOD ASSOCIATION COMMITTEE
CPO: COMMUNITY PARTICIPATION ORGANIZATION
CC: CITY COUNCIL



3/15/06 Sup SR

Diagrams are intended for illustrative purposes only and do not serve as the procedural requirements within this ordinance.

Diagram I-2
Quasi-Judicial Process



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3/15/06 Sup SR

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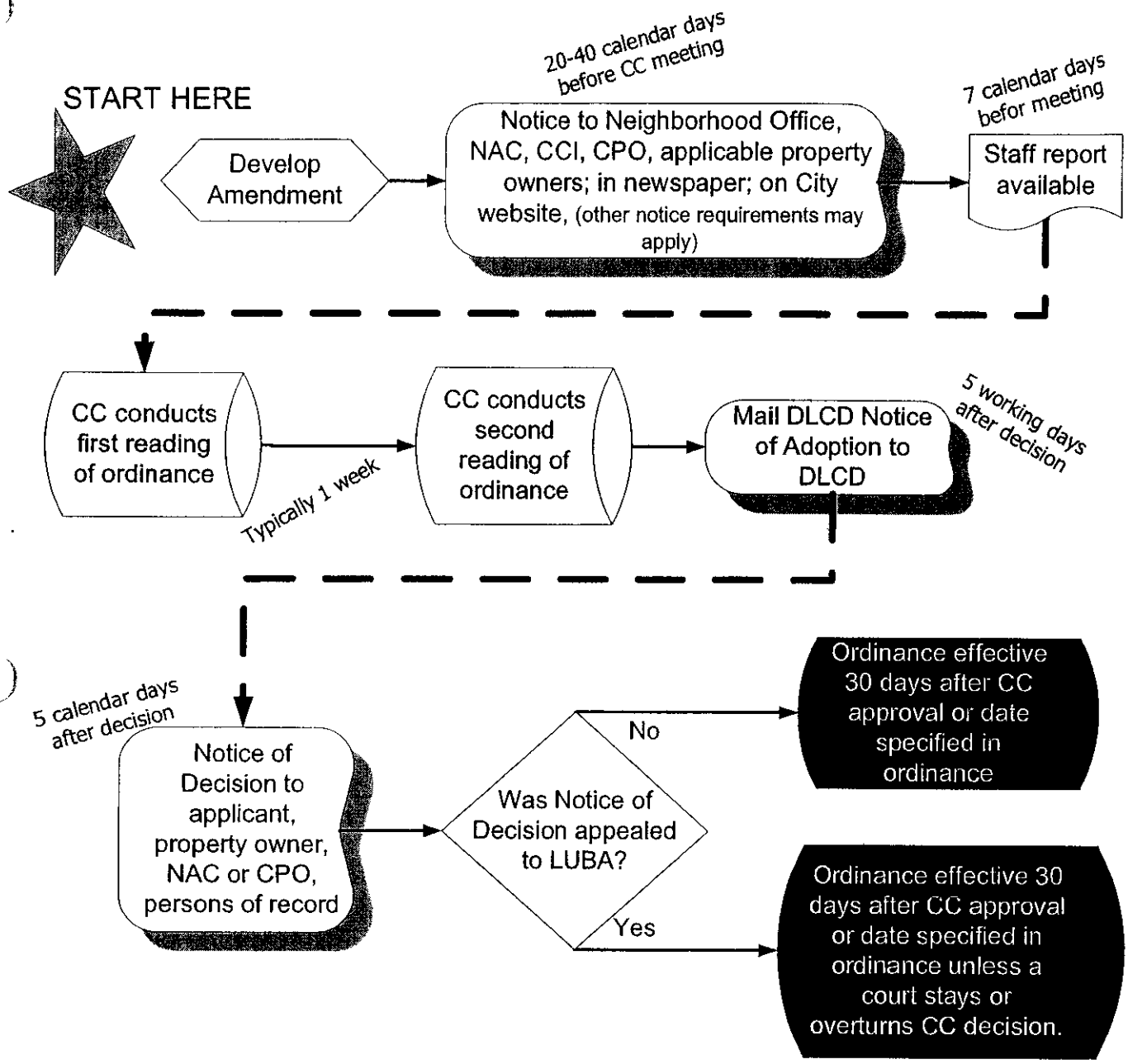
Diagram I-3
Non-Discretionary Process



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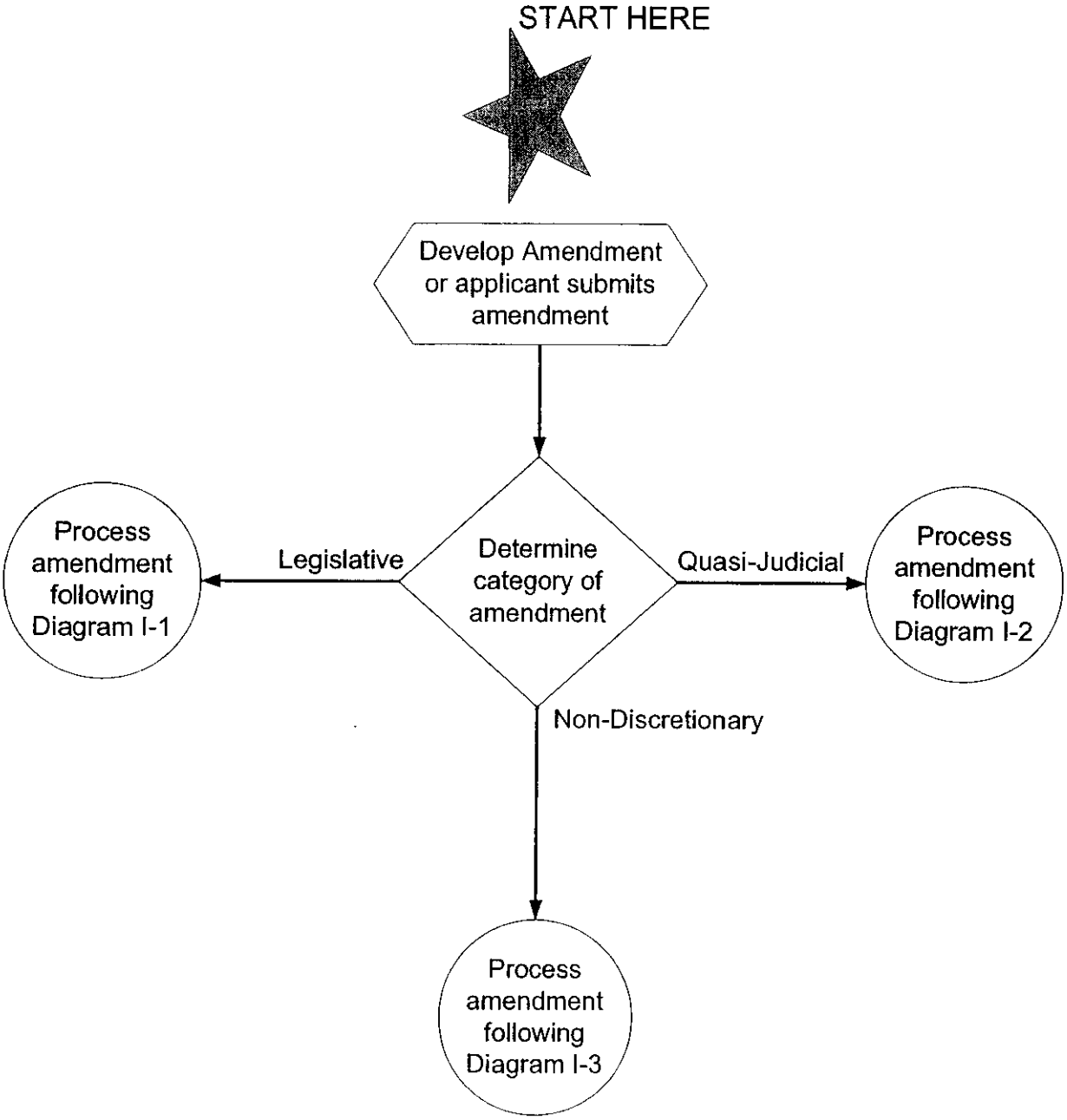
3/15/06 Sup SR

Notices

Final processes

Diagrams are intended for illustrative purposes only and do not serve as the procedural requirements within this ordinance.

Diagram I-4
Statewide Planning Goal 5 Inventory Resource Document Process



3/15/06 Sup SR

Diagrams are intended for illustrative purposes only and do not serve as the procedural requirements within this ordinance.

1.8 Application Fees

In order to defray expenses incurred in connection with the processing of applications, the City has established a reasonable fee to be paid to the City upon the filing of an application for a Plan amendment. Fees for privately initiated Plan amendments requiring extraordinary staff time or expertise beyond the scope of the average process may be subject to an additional project management fee as established by Council Resolution 3285.

CHAPTER TWO:
PUBLIC INVOLVEMENT ELEMENT

PUBLIC INVOLVEMENT ELEMENT

2.1 OVERVIEW

Engaging the public early and often in the decision-making process is critical to the success of any planning effort, especially in relation to land use and transportation issues. In addition, numerous state and federal laws, as well as local policies, require public review and feedback at critical points in public policy development. For example, the federal Intermodal Surface Transportation Efficiency Act of 1991 underscores the need for public involvement, calling on planning agencies to provide the public, affected public and private agencies, and other interested parties "with a reasonable opportunity to comment" on plans and programs.

2.2 PUBLIC INVOLVEMENT GOALS

Oregon's Statewide Planning Goal 1 charges the governing body with preparing and adopting a comprehensive program for public involvement that clearly defines the procedures by which the general public can become involved in the planning process:

Goal 1 Citizen Involvement: To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process. (Department of Land Conservation and Development, adopted 1974, amended 1988)

The City of Beaverton's commitment to ensure an optimum level of public participation is reflected in its public involvement goals:

City Council Goal: Enhance citizen involvement and participation.

Comprehensive Plan Public Involvement Goal: The Planning Commission, Council, and other decision making bodies shall use their best efforts to involve the public in the planning process.

In response to these goals, the City has developed a Public Involvement program aimed at expanding opportunities for public involvement throughout the planning process.

2.2 PUBLIC INVOLVEMENT PROGRAM

In order to encourage public participation it is critical that issues important to different groups be identified and addressed early in the planning process. The need for and desirable level of public participation should be determined in the early stages of any planning activity.

Public participation provides information and assistance to staff and policy makers in dealing with issues of interest to the public. When the community and its decision makers

work from a common base of information, an active, rather than reactive program can evolve. Such a program will provide information more suitable to the public's needs.

2.3 PUBLIC INVOLVEMENT PROGRAM OBJECTIVES

A. To involve a cross section of the community in the community planning process.

B. To ensure effective two-way communication between the City and the public.

C. To provide an opportunity for the public to be involved in all phases of the planning process (e.g., scoping, analysis, plan preparation, adoption, implementation, and monitoring).

D. To ensure that technical information is presented in an understandable form.

E. To ensure that the public will receive a response from policy-makers.

F. To ensure appropriate funding for the public involvement program.

2.4 PROGRAM IMPLEMENTATION

2.4.1 CITY-WIDE PUBLIC INVOLVEMENT OUTREACH MECHANISMS

Several existing mechanisms ensure city-wide public involvement in Beaverton's planning process. The City's primary outreach mechanisms are through:

A. The Committee for Citizen Involvement, an advisory committee to the City Council;

B. The Neighborhood Program Office;

C. The Neighborhood Association Committees;

D. Specific committees and special interest groups;

E. *Your City,* a newsletter published six times per year, subject to continued funding, that is designed to keep the public informed and invite participation;

F. Periodic news releases in area newspapers;

G. Contact with the local media;

H. The City's public internet web site;

I. Public workshops and focus groups; and

J. Public hearings.

Each public involvement opportunity is tailored to meet the needs and conditions of the outreach effort, and techniques are often combined.

2.4.2 PUBLIC INVOLVEMENT IN CITY DECISION MAKING PROCESSES

The City's formal decision making processes include several opportunities for public involvement. The public is invited to present their views at the various City board and committee meetings, including but not limited to City Council, Planning Commission, Traffic Commission and Board of Design Review. Public notices, complete with the hearing date, time, location, and hearing body, are mailed out at least twenty (20) calendar days prior to the date of the public hearing. Notices of public hearings are primarily published in the advertisement section of *The Valley Times*. On occasion, public hearing notices are published in *The Oregonian*. Notices are also posted on the City's web site.

Final agendas are posted at least seven calendar days in advance of the meeting at City Hall, located at 4755 S.W. Griffith Drive and the Beaverton Library at 12375 SW Fifth Street. Agendas and meeting notices are available upon request from the City. Documents containing the proposals to be considered at the public hearings are available at the Public Counter of the Community Development Department at least seven (7) calendar days in advance of the hearing, at least twenty (20) calendar days for Comprehensive Plan Amendments.

The public is encouraged to provide staff with written comments or copies of presentations, particularly if the statement is too long to be orally presented in its entirety at a meeting. Individuals unable to attend meetings can submit concerns and ideas in writing to the Community Development Department office prior to the close of the public comment period. Copies of all materials submitted prior to distribution to the appropriate decision making body are included in documentation provided for the deliberation on the matter.

All meetings are held in locations accessible to persons with disabilities. Listening devices or other auxiliary aids, sign language interpreters for people with hearing impairments, and readers for people with visual impairments are provided if requested at least three working days (72 hours) prior to the meeting.

The City may also conduct public meetings, workshops, and focus groups on particular issues to solicit input and involvement in various planning issues. Adopted plans are also available to the public for review at the Community Development Department and the Beaverton Library, and are posted on the City's internet web site. Copies may be acquired for the cost of duplication at the Community Development Department.

2.4.3 CITY-SPONSORED PUBLIC GROUPS

2.4.3.1. Committee for Citizen Involvement (CCI)

Council Resolution 2058 (1978) established the CCI, defining its responsibilities as an advisory committee to the City Council. The *Beaverton Code* specifies membership of the CCI as five at-large members appointed by the Mayor and confirmed by the Council and one member from each recognized Neighborhood Association Committee. The CCI's role is to assure that the community has a continuous opportunity to exchange ideas and information with the City, and to monitor and evaluate City programs as specified in the *Beaverton Code, 1982,* as amended (BC 2.03.050 through 2.03.054).

The Citizen Involvement Program, adopted by Resolution 2229 (1980), established a formalized public participation program for the CCI and provided a method by which the committee and other members of the community could communicate their opinions, inquiries, or complaints about City departments, committees, or the Council.

The program also provides for a newsletter and calendar of City meetings, information flyers, community meetings, and funding for these activities as well as staff support and public hearing notices. The City is committed to providing financial support for public outreach and public participation processes. Staff and resource needs are determined during work program development for each plan, program, and project. In addition, the City's Neighborhood Program Office staff are available to coordinate outreach and work with City departments to realize the full potential of each public participation effort.

2.4.3.2 Neighborhood Association Committees (NACs)

The *Beaverton Code* identifies the procedures by which residents can form Neighborhood Association Committees, add or delete areas of acknowledged NACs and provides a process for termination of NAC Recognition and NAC Grievances (BC 9.06.010 through 9.06.040) Boundaries of the NACs are shown on maps available at City Hall or on the City's website.

NACs provide a forum to identify, discuss, and offer solutions to neighborhood concerns such as traffic, safety, land use, and economic development. Supported by the Neighborhood Program Office, Beaverton's NACs are organized by volunteers, meet regularly, and participate in the public comment process. Monthly agendas and minutes are mailed to active participants. Neighborhood and city-wide issues are usually the main agenda topics.

2.4.3.3. The *Beaverton Code* (Section 2.03.002 – 2.03.300) identifies other City Boards, Commissions and Committees created by ordinance. Additional committees or review commissions may be established to address special projects, such as the Code Review Advisory Committee. These committees provide input to staff as they develop specific proposals, such as amendments to the Development Code.

2.4.4. Citizen's Participation Organizations (CPOs)

Washington County CPOs bordering the City limits are also involved in City planning issues through their newsletters and processes. Each CPO's newsletter details issues of county, city, and region-wide interest to its readers. Public hearing notices and articles of interest concerning Beaverton issues are often included in the CPO newsletters.

2.4.5 Publications and Mail Notification

"Your City" newsletter is distributed city-wide. It provides information on current issues to the residents of Beaverton. Published approximately six times per year, subject to available funding, "Your City" includes notification of regularly scheduled Board, Commission, Advisory Committee and Neighborhood Association Committee meetings and hearings, articles of interest to residents, and educational opportunities relating to planning and other community issues. Specific mailings, public notices, flyers, surveys and questionnaires, as well as the City's web site, cable broadcasts and other media, are used by the City to obtain input and provide information.

2.5 Opportunities for Public Involvement

Many City planning processes incorporate specific public involvement procedures, which are identified in Chapter I of this Plan and in the City of Beaverton Development Code.

In addition to the City's public participation processes, Metro requires transportation plans and programs to conform with its adopted Local Public Involvement Policy. This policy defines procedures and includes a certification process for projects proposed for federal funding through Metro.

Early public participation is critical to identifying needs and issues, evaluating alternatives, and developing, implementing, and evaluating projects. Opportunities for public involvement are available during preparation and review phases of City plans. Comments received during plan preparation and review are also made part of the public record. At public hearings, comments are recorded and responses are noted. Public participation opportunities and public notice requirements for city plan and code revisions and updates are specified in the respective plan or code.

GLOSSARY OF COMPREHENSIVE PLAN TERMS

The terms in this Plan embody the legislative intent of the City Council. Terms of ordinary usage are to be given their usual and reasonable meanings. Key words and concepts used in this Plan are explained below.

When the meaning ascribed to a term in this section conflicts with an identical or nearly identical term appearing in a closely-related state, regional, or federal law, the intent under this ordinance shall prevail unless a superior source of law requires a different result.

Where terms are not defined in this section, and a term conflicts with a provision of statewide, regional, or City of Beaverton law, the more restrictive interpretation will prevail unless it leads to an unlawful result.

A

ACCESS	The place, means or way by which pedestrians, vehicles, or both shall have safe, adequate and usable ingress and egress to a property or use. A private access is an access not in public ownership or control by means of deed, dedication or easement. (Beaverton Development Code)
ACCESSIBILITY	The amount of time required to reach a given location or service by any mode of travel. (Metro Code 3.07.1010(a)) (Also Metro Regional Framework Plan)
ACCESSORY DWELLING UNIT	A dwelling unit incidental or subordinate to the principal use of a building or project and located on the same site.
ACCESSORY STRUCTURE OR USE	A structure or use incidental, appropriate and subordinate to the main structure or use. (Beaverton Development Code)
ACKNOWLEDGEMENT	A Land Conservation and Development Commission order that certifies that a comprehensive plan and land use regulations, land use regulation or plan or regulation amendment complies with the goals or certifies that Metro land use planning goals and objectives, Metro Urban Growth Management Functional Plan, amendments to Metro planning goals and objectives or amendments to the Metro Urban Growth Management Functional Plan comply with the statewide planning goals. (ORS 197.015(1))
ACQUIRE OR ACQUISITION	The acquisition of land by purchase, lease, gift, grant, or devise.
ACTIONS	With regard to implementation actions identified in this Plan: Direct specific City activities or events, consistent with the Comprehensive Plan goals and policies.
ADJACENT	Near or close or next to. For example, an Industrial District across the street from a Residential District shall be considered as "adjacent". (Beaverton Development Code)
ADVERSE IMPACT	A negative consequence, demonstrated through evidence, to the physical, social or economic environment resulting from an action or development.
AFFORDABLE HOUSING	For the purposes of complying with Metro's Title 7 provisions, affordable housing is defined as housing that is affordable to residents earning less than 50% of the Metro area median income whereby no more than 30% of the household's gross income is expended toward housing costs.
ALTERNATIVE MODES	Alternative methods of travel to the automobile, including public transportation (light rail, bus and other forms of public transportation), bicycles and walking.
APARTMENT	(1) One or more rooms of a building used as a place to live, in a building containing at least one other unit used for the same purpose; (2) A separate suite, not owner occupied, which includes kitchen facilities and is designed for and rented as the

home, residence, or sleeping place of one or more persons living as a single housekeeping unit.

APPROPRIATE An act, condition, or state suitable under the circumstances.

AQUIFER An underground, water bearing layer of earth, porous rock, sand, or gravel, through which water can seep or be held in natural storage.

ARCHAEOLOGICAL Relating to the material remains of past human life, culture, or activities.

ARTERIAL STREET Arterial streets serve to interconnect and support the freeway system. These streets link major areas of the city. Arterial streets are typically spaced about one mile apart to assure accessibility and reduce the incidence of traffic using collectors, neighborhood routes, or local streets in lieu of an arterial street.

AWNING A roof like structure of fabric stretched over a rigid frame projecting from the elevation of a building designed to provide continuous overhead weather protection. (Beaverton Development Code)

B

BEAVERTON CODE The Beaverton Code, 1982, as amended.

BEAVERTON DEVELOPMENT CODE Development Code of the City of Beaverton, Ordinance 2050, as amended, is an ordinance establishing the zoning standards, regulations and procedures, providing related development requirements and providing penalties and otherwise implementing this Plan.

BEAVERTON ENGINEERING DESIGN MANUAL AND STANDARD DRAWINGS A compilation of resolutions and ordinances setting forth the technical engineering standards that implement the City's Site Development Ordinance.

BICYCLE LANE (BIKE LANE) Bicycle lane means the area within the street right-of-way designated specifically for use by bicyclists. The same area may also be referred to as a "bike lane." Bicycle lanes are striped and accommodate only one-way travel. (Beaverton Development Code)

BIKEWAY Bikeway means any path or roadway facility that is intended and suitable for bicycle use. (Beaverton Development Code)

BOULEVARD DESIGN A design concept that emphasizes pedestrian travel, bicycling and the use of public transportation, and accommodates motor vehicle travel.

BUFFER ZONE An area of land separating two distinct land uses that acts to soften or mitigate the effects of one land use on the other.

BUILDABLE LANDS Lands in urban and urbanizable areas that are suitable, available and necessary for residential uses. Buildable lands includes both vacant land and developed land likely to be redeveloped. (ORS 197.295(1))

BUS A motor vehicle designed for carrying 15 or more passengers, exclusive of the driver, and used for the transportation of persons. (ORS 184.675(6))

C

CAPITAL IMPROVEMENT Physical assets constructed or purchased to provide, improve or replace a public facility and that are large in scale and high in cost. The cost of a capital improvement is generally nonrecurring and may require multi-year financing.

CAPITAL IMPROVEMENT PROGRAM (CIP)

A multi-year (usually five or six) schedule of capital improvement projects, including cost estimates and priorities, budgeted to fit financial resources. The CIP is administered by a city or county government and reviewed by its planning commission. It schedules permanent improvements needed in the future, taking into consideration the projected fiscal capability of the local jurisdiction. The CIP is generally reviewed annually for conformance to and consistency with the comprehensive plan. In Beaverton, the CIP is called the *Capital Improvements Plan.*

CLUSTER DEVELOPMENT Development in which a number of dwelling units are placed in closer proximity than usual, or are attached, with the purpose of retaining an open space area.

COLLECTOR STREET Collector streets provide both access and circulation within major areas of the city. Collectors differ from arterials in that they provide more of a citywide circulation function, do not require as extensive access control, and penetrate residential neighborhoods, distributing trips from the neighborhood and local street system.

COMMERCIAL USES Activities within land areas that are predominantly connected with the sale, rental and distribution of products, or performance of services.

COMMUNITY DEVELOPMENT DIRECTOR The Director of Community Development for the City of Beaverton, Oregon, or designee.

COMMUNITY PLAN Volume V of the Comprehensive Plan. These documents describe policies and action statements and map designations specific to a particular geographic location.

COMPATIBLE Capable of existing together without discord or disharmony.

COMPREHENSIVE PLAN	A generalized, coordinated land use map and policy statement of the governing body of a local government that interrelates all functional and natural systems and activities relating to the use of lands, including but not limited to sewer and water systems, transportation systems, educational facilities, recreational facilities, and natural resources and air and water quality management programs. (ORS 197.015(5))
CONDOMINIUM	A structure of two or more units, the interior spaces of which are individually owned; the balance of the property (both land and building) is owned in common by the owners of the individual units.
CONGESTION	Occurs when traffic demand nears or exceeds the available capacity of the system.
CONNECTIVITY	The degree to which the street systems in a given area are interconnected. (Metro Code 3.07.1010(j))
CONSERVATION EASEMENT	An easement specifically written to maintain or protect a natural resource.
CORRIDORS	While some corridors may be continuous, narrow bands of higher-intensity development along arterial roads, others may be more 'nodal,' that is, a series of smaller centers at major intersections or other locations along the arterial that have high-quality pedestrian environments, good connections to adjacent neighborhoods and good transit service. As long as the average target densities and uses are allowed and encouraged along the corridor, many different development patterns--nodal or linear--may meet the corridor objective. (Metro Regional Framework Plan) Along good quality transit lines, corridors feature a high-quality pedestrian environment, convenient access to transit, and somewhat higher than current densities. (Metro Code 3.07.130) An average of 25 persons per acre is recommended. (Metro Code 3.07.170)
CRITICAL PUBLIC FACILITIES	Critical public facilities and services shall include public water, public sanitary sewer, storm water system (including storm water quality and quantity facilities), transportation, and fire protection. (Engineering Design Manual and Standard Drawings Proposed Definition)
CULTURAL RESOURCES	Areas characterized by evidence of an ethnic, religious or social group with distinctive traits, beliefs, and social forms. For example, an archaeological site, such as an Indian burial ground could be an important cultural site.

D

DECISION, DISCRETIONARY An action taken by a governmental agency that calls for the exercise of judgment in deciding whether to approve and/or how to carry out a project. (See *Decision, Quasi-Judicial*)

DECISION, LEGISLATIVE A decision of a local official or entity based upon the decision-maker's perception of the best course of action. The city typically employs legislative decisions in adopting an ordinance or resolution establishing a basic principle or policy. Examples are decisions to adopt a comprehensive plan, apply a plan designation to a large number of properties, or decisions which affect a large geographic area or number of persons.

DECISION, QUASI-JUDICIAL Quasi-judicial decisions bear different aspects than legislative decisions. For example, requests of quasi-judicial decisions usually must actually result in a decision; quasi-judicial decisions are bound to apply pre-existing criteria to concrete facts; and they are customarily directed at a closely-circumscribed factual situation or small number of persons. The more a local government decision bears these emblems, the more it is a quasi-judicial decision.

DEDICATION The turning over by an owner or developer of private land for public use, and the acceptance of land for such use by the governmental agency having jurisdiction over the public function for which it will be used. Dedications for roads, parks, school sites, or other public uses are often made conditions for approval of development.

DENSITY The ratio of dwelling units or employees per unit of area (square feet, acre, square mile, etc.). Density generally refers to residential uses. A measure of the intensity of the development generally expressed in terms of dwelling units (du) per acre (i.e., less than 7.5 du per acre = low density; 7.5 to 15 du per acre = medium density, etc.) It can also be expressed in terms of population density (people per acre). It is useful for establishing a balance between potential local service use and service capacities.

DENSITY BONUS The allocation of development rights that allows a parcel to accommodate additional square footage or additional residential units beyond the maximum for which the parcel is planned or zoned, usually in exchange for the provision or preservation of an amenity at the same site or at another location.

DENSITY CREDIT The transfer of development density rights from one piece of one property to another piece of the same property. A project site that contains environmentally sensitive areas or other lands that should not be developed, as defined in this comprehensive plan, may be entitled to a density credit.

DENSITY, GROSS The number of dwelling units per gross acre. Gross acreage is the total amount of raw land, including all developable and undevelopable portions.

DENSITY, NET — The number of dwelling units allowed on the total acreage of developable portions of the site (net developable acre) within a given land area.

DENSITY, RESIDENTIAL — The number of permanent residential dwelling units per acre of land. Densities specified in the comprehensive plan may be expressed in units per gross acre or per net developable acre (See Gross Acres and Net Acres).

DESIGN PLAN — A plan for a defined geographic area in a single or multiple ownership that is consistent with the Comprehensive Plan and includes, but is not limited to, a land use and circulation plan, development standards, design guidelines, an open space plan, utilities plans and a program of implementation measures and other mechanisms needed to carry out the plan. The plan shall be created through the Design Review process. (Beaverton Development Code)

DESIGN TYPE — The conceptual areas described in the Metro 2040 Growth Concept text and map in Metro's regional goals and objectives, including central city, regional centers, town centers, station communities, corridors, main streets, inner and outer neighborhoods, industrial areas, and employment areas. (Metro Code 3.07.1010(m))

DEVELOPER — An individual who or business that prepares land for the construction of buildings or causes to be built physical space for use primarily by others, and in which the preparation of the land or the creation of the building space is in itself a business and is not incidental to another business or activity.

DEVELOPMENT — Generally, any man-made change to existing or proposed use of real property. Development activities include: land divisions, lot line adjustments, construction or alteration of structures, construction of roads and any other accessway, establishing utilities or other associated facilities, grading, deposit of refuse, debris or fill, and clearing of vegetative cover. Does not include routine acts of repair or maintenance.

DWELLING UNIT — A structure or part of a structure that is used as a home, residence or sleeping place by one person who maintains a household or by two or more persons who maintain a common household. (ORS 90.010(9))

EARTHQUAKE HAZARDS — Ground shaking, landslides, liquefaction and amplification are all earthquake hazards that can cause damage to structures and infrastructure. (Beaverton Natural Hazards Mitigation Plan)

EASEMENT — A form of nonpossessory right to use property owned by another for specific purposes or to gain access to some portion of another's property. For example, utility companies often have easements on the private property of individuals in order to install and maintain utility facilities.

E

EMPLOYMENT AREAS Areas of mixed employment that include various types of *manufacturing, distribution and warehousing uses, commercial* and retail development as well as some residential development. Retail uses should primarily serve the needs of people working or living in the immediate employment area. Exceptions to this general policy can be made only for certain areas indicated in a functional plan. Commercial uses are to be limited.

ENCROACHMENT AREA Areas in floodplains and floodways where development is restricted due to potential impacts on natural hydrologic characteristics. Development or raising of the ground level (e.g., to avoid flood damage) in encroachment areas will obstruct flood water flows, raising the water surface level. Demand to build structures in the flood plain, regardless of potential flooding dangers, is common in urban areas. Reasons typically include lack of suitable land or lower flat land development costs compared to building on steeper gradients.

ENDANGERED SPECIES A species of animal or plant is considered to be endangered when its prospects for survival and reproduction are in immediate jeopardy from one or more causes. (See Title 50 of the Code of Federal Regulations)

ENHANCE To improve existing conditions by increasing the quantity or quality of beneficial uses.

ESSENTIAL PUBLIC FACILITIES Essential facilities and services shall include schools, transit improvements, police protection, and public pedestrian and bicycle facilities.

ESTABLISHED NEIGHBORHOOD A neighborhood where platted lands are at least eighty percent developed and occupied, and where substantial deterioration since development has either not occurred or been reversed.

FAMILY (1) Two or more persons related by birth, marriage or adoption [U.S. Bureau of the Census]. (2) An individual or a group of persons living together who constitute a *bona fide* single family housekeeping unit in a dwelling unit, not including a fraternity, sorority, club or other group of persons occupying a hotel, lodging house or institution of any kind.

FEASIBLE Capable of being done, executed, or managed successfully from the standpoint of the physical and/or financial abilities of the implementer(s).

F

FLOODPLAIN	Land subject to periodic flooding, including the 100-year floodplain as mapped by FEMA Flood Insurance Studies or other substantial evidence of actual flood events. The floodplain includes the land area identified and designated by the United States Army Corps of Engineers, the Oregon Department of State Lands, FEMA, or Washington County that has been or may be covered temporarily by water as a result of a storm event of identified frequency and the area along a watercourse enclosed by the outer limits of land that is subject to inundation in its natural or lower floodway fringe, and equal to the FIRM designation of an area of special hazard.
FLOODWAY	The floodway is the channel of a stream plus any adjacent flood plain areas that must be kept free of encroachment in order that the 100-year flood may be carried without substantial increases in flood heights.
FLOOR AREA RATIO (FAR)	The amount of gross floor area in relation to the amount of net site area, expressed in square feet. (Beaverton Development Code)
FREEWAY	Freeways provide the highest level of connectivity. These roadways generally span several jurisdictions and are often of statewide importance.
FUNCTIONAL CLASSIFICATION OR MAP	Street Functional Classification
FUNCTIONAL PLAN	in the context of the Comprehensive Plan, Functional Plan means the Metro Urban Growth Management Functional Plan. Metro's Urban Growth Management Functional Plan is one of several Metro Functional Plans.
GOAL	A general, long term aim or end toward which programs or activities are ultimately directed.
GOALS	The mandatory statewide planning standards adopted by the Land Conservation and Development Commission pursuant to ORS chapters 195, 196, and 197. (ORS 197.015(8)) (OAR 660-018-0010(10))
GROSS ACRES	The entire acreage of a site, including proposed rights of way, easements, environmental lands, etc. Gross acreage is measured from the centerline of proposed bounding streets and to the edge of the right-of-way of existing or dedicated streets.
GROUNDWATER	Water under the earth's surface, often confined *in* aquifers, capable of supplying wells and springs.
GROWTH CONCEPT	As defined in the Metro Regional Framework Plan, the Growth Concept is a concept for the long-term growth management of our region stating the preferred form of the regional growth and development, including where and how much the UGB should be expanded, what densities should characterize

G

different areas, and which areas should be protected as open space.

GROWTH CONCEPT MAP The conceptual map demonstrating the 2040 Growth Concept design types attached to the Urban Growth Management Functional Plan Appendix and adopted as Metro Code 3.07.1010(z).

GROWTH MANAGEMENT A method to guide development in order to minimize adverse environmental and fiscal impacts and maximize the health, safety, and welfare benefits to the residents of the community.

H

HABITAT Any area where there is naturally occurring food and cover for wildlife.

HAZARDOUS MATERIALS Hazardous material or substance includes but is not limited to a substance designated under 33 U.S.C. §1321 (b)(2)(A), any element, compound, mixture, solution or substance designated under 42 U.S.C. §9602, any hazardous waste having characteristics identified under or listed under 42 U.S.C. §6921, any toxic pollutant listed under 33 U.S.C. §1317 (a), any imminently hazardous chemical substance or mixture with respect to which the Administrator of the United States Environmental Protection Agency has taken action under 15 U.S.C. §2606, and any residue classified as hazardous waste pursuant to ORS 466.020(3). (CWS Design and Construction Standards)

HIGH CAPACITY TRANSIT Transit routes that may be either a road designated for frequent bus service or for a light-rail line. (Metro Regional Framework Plan definition)

HIGH OCCUPANCY VEHICLE (HOV) Any vehicle other than a single occupancy vehicle (e.g., a vanpool, a bus, or two or more persons to a car).

HIGHWAY High speed, high capacity, limited access transportation facility serving regional and countywide travel. Highways may cross at a different grade level.

HILLSIDE AREAS Land that has an average percent of slope equal to or exceeding fifteen percent.

HISTORIC An historic building or site is one that is noteworthy for its significance in local, state, or national history or culture, its architecture or design, or its works of art, memorabilia, or artifacts.

HISTORIC BUILDINGS OR STRUCTURES Also known as Historic Resources, these are all areas, districts or sites containing properties listed on the city of Beaverton List of Historic Properties, or the State Historic Preservation Office, or the National Register of Historic Places.

HOUSEHOLD All those persons, related or unrelated, who occupy a single housing unit. (See *Family*)

HOUSING AFFORDABILITY The availability of housing such that no more than 30 percent (an index derived from federal, state and local housing agencies) of the monthly income of the household need be spent on shelter. (*Metro Regional Framework Plan definition*)

HOUSING UNIT The place of permanent or customary abode of a person or family. A housing unit may be a single family dwelling, multifamily dwelling, condominium, modular home, mobile home, cooperative, or any other residential unit considered real property under State law. A housing unit has, at least, cooking facilities, a bathroom, and a place to sleep.

I

IMPACT The effect of any direct manmade actions or indirect repercussions of manmade actions on existing physical, social, or economic conditions.

IMPACT FEE A fee, also called a development fee, levied on the developer of a project by a city, county, or other public agency as compensation for otherwise unmitigated impacts the project will produce.

INDUSTRIAL Activities generating income from the production, handling or distribution of goods. Industrial uses include, but are not limited to manufacturing, assembly, fabrication, processing, storage, logistics, warehousing, distribution and research and development. Industrial uses may have unique land, infrastructure and transportation requirements. Industrial uses tend to have external impacts on surrounding uses and cluster in traditional or new industrial areas where they are segregated from other non-industrial activities. (OAR 660-009-0005(2))

INDUSTRIAL AREAS An area set aside for industrial activities. Supporting commercial and related uses may be allowed, provided they are intended to serve the primary industrial users. Residential development shall not be considered a supporting use, nor shall retail users whose market area is notably larger than the industrial area be considered supporting uses. (*Metro Regional* Framework Plan)

INDUSTRIAL PARK See City of Beaverton Development Code

INFILL DEVELOPMENT Development on scattered vacant sites within the urbanized area of a community.

INFLUENT Wastewater coming into a treatment plant.

INFRASTRUCTURE Component of a functioning, orderly urban fabric, such as roads, water systems, sewage systems, systems for storm drainage, telecommunications and energy transmission and

distribution systems, bridges, transportation facilities, parks, schools and public facilities developed to support the functioning of the developed portions of the environment. Areas of the undeveloped portions of the environment such as floodplains, riparian and wetland zones, groundwater recharge and discharge areas and Greenspaces that provide important functions related to maintaining the region's air and water quality, reduce the need for infrastructure expenses and contribute to the region's quality of life. (Metro Regional Framework Plan definition)

INNER NEIGHBORHOODS Areas in Portland and the older cities that are primarily residential, close to employment and shopping areas, and have slightly smaller lot sizes and higher population densities than in outer neighborhoods. (Metro Regional Framework Plan) Beaverton's Land Use Designation Neighborhood Residential identifies its Inner Neighborhoods.

INSTITUTIONAL (1) Privately owned and operated activities that are institutional in nature, such as hospitals, museums, and schools; (2) churches and other religious institutions; and (3) other nonprofit activities of an education, youth, welfare, or philanthropic nature that cannot be considered a residential, commercial or industrial activity (4) academic, governmental and community service uses, either publicly owned or operated by nonprofit organizations; and (5) facilities including transportation, sewer, solid waste, drainage, potable water, and parks and recreation systems or facilities.

INTENSITY A measure of land use activity based on density, use, mass, size, and/or impact.

L

LANDSCAPING The combination of natural elements such as trees, shrubs, ground covers, vines and other living organic and inorganic material which are installed for purposes such as creating an attractive and pleasing environment and screening unsightly views. Other improvements that promote an attractive and pleasing environment that may be included as landscaping includes features such as fountains, patios, decks, fences, street furniture and ornamental concrete or stonework areas. (Beaverton Development Code)

LANDSCAPE STRIP The portion of public right-of-way located between the sidewalk and curb. (Metro Code 3.07.1010(ee))

LAND USE The occupation or use of land or water area for any human activity or any purpose defined in a comprehensive plan.

LAND USE MAP (SERIES) The graphic aid(s) intended to depict the spatial distribution of various land uses by land use category, subject to the goals,

policies, implementation measures; and the exceptions and provisions of the Land Use Element text and applicable land development regulations.

LAND USE REGULATION Any local government zoning ordinance, land division ordinance adopted under ORS 92.044 or 92.046 or similar general ordinance establishing standards for implementing a comprehensive plan. (ORS 197.015(11))

LEVEL OF SERVICE (LOS) An indicator of the extent or degree of service provided by or proposed to be provided by a facility based on and related to the operational characteristics of the facility. Level of service generally indicates the capacity per unit of demand for a public facility.

LIGHT RAIL TRANSIT (LRT) STATION SITE Land currently or eventually to be owned or leased by Tri-Met, on which facilities will be located related to a light rail transit station. The station site may include station platforms, park and ride lots, bus stops, and other similar facilities. (Beaverton Development Code)

LOCAL STREET Local streets have the primary function of providing access to adjacent land. Service to through-traffic movement on local streets is deliberately discouraged by design. Residential local streets serve a traffic function as well as being important to neighborhood identity.

LOCAL TRIP A trip of 2½ miles or less in length.

LOT OF RECORD A lot that is part of a subdivision, the plat of which has been recorded in the Office of the Washington County Surveyor; or any parcel of land, whether or not part of a subdivision, that has been officially recorded by a deed in the office of the County Surveyor, provided such lot met the minimum dimensions for lots in the zoning district in which it was located at the time of recording, or was recorded prior to the effective date of zoning in the area where the lot is located and met the requirements of any subdivision regulations in effect at the time of the recording.

LOT A single unit of land such as a tract, lot, block or parcel. A continuous area owned or under the lawful control and in the lawful possession of one distinct ownership undivided by a dedicated street, alley, or other ownership. An abutting "platted lot, or property described by metes and bounds, in the same ownership, shall be considered part of such 'lot'."

M

MAJOR PEDESTRIAN ROUTE Any pedestrian way in a public right-of-way or easement which assists access to a light rail station or transit stop, that is presently used or is likely to be to be used by pedestrians to access public transportation service including light rail or transit stations. (Beaverton Development Code)

MAIN STREETS Neighborhood shopping areas along a main street or at an intersection, sometimes having a unique character that draws people from outside the area. Beaverton's main streets generally include two nodes on Allen Boulevard 1) between Hall Boulevard and Murray Road, and 2) at Oleson Road.

MANUFACTURED HOME A structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction. (ORS 446.003(26)(a)(C)(i))

MASS TRANSIT Passenger services provided by public, private or non-profit entities such as the following surface transit modes: commuter rail, rapid rail transit, light rail transit, fixed guideway transit, express bus, and local fixed route bus.

MASTER PLAN A plan for a defined geographic area in single or multiple ownership that is consistent with the Comprehensive Plan and includes a land use and circulation plan, land use regulations, development standards, design guidelines, open space plan, utilities plans, and a program of implementation measures and other mechanisms needed to carry out the plan. The plan shall be created through the land use review process, pursuant to the City of Beaverton Development Code. (Beaverton Development Code)

METRO The Metropolitan Services District of the Portland metropolitan area, a municipal corporation established and existing pursuant to Section 14 of Article XI of the Oregon Constitution, ORS Chapter 268 and the Metro Charter. (Metro Code 1.01.040(e))

METRO PLANNING GOALS AND OBJECTIVES The land use goals and objectives that a metropolitan service district is required to adopt under ORS 268.380(1). The goals and objectives do not constitute a comprehensive plan. (ORS 197.015(15))

METRO REGIONAL FRAMEWORK PLAN The regional framework plan and implementing ordinances required by the 1992 Metro Charter or its separate components. Neither the regional framework plan nor its individual components constitute a comprehensive plan. (ORS 197.015(16))

METRO URBAN GROWTH BOUNDARY The urban growth boundary as adopted and amended by the Metro Council, consistent with state law. Also referred to as "UGB". (Metro Code 3.07.1010(kk))

Means the Urban Growth Boundary for Metro pursuant to ORS 268.390 and 197.005 through 197.430. (Metro Code 1.01.010(v))

METRO URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN The functional plan that implements regional goals and objectives adopted by the Metro Council as the Regional Urban Growth Goals and Objectives (RUGGO), including the Metro 2040 Growth Concept and the Regional Framework Plan. (Metro Code 3.07.010)

METROPOLITAN AREA The area which on October 4, 1997, lies within the boundaries of Clackamas, Multnomah and Washington Counties (ORS 268.020(3))

METROPOLITAN HOUSING RULE A rule (OAR 660, Division 7) adopted by the Land Conservation and Development Commission to assure opportunity for the provision of adequate numbers of needed housing units and the efficient use of land within the Metro UGB. This rule establishes minimum overall net residential densities for all cities and counties within the UGB, and specifies that 50 percent of the land set aside for new residential development be zoned for multi-family housing.

METROPOLITAN SIGNIFICANCE An issue or action with major or significant impact throughout the metropolitan area.

MIXED USE Comprehensive plan or implementing regulations that permit a mixture of commercial and residential development.

Properties on which various uses, such as office, commercial, institutional and residential, are combined in a single building or on a single site in an integrated development project with significant functional interrelationships and a coherent physical design. Land uses, which when combined constitute mixed or multiple uses, exclude parks, golf courses, schools, and public facilities (fire stations, utility substations, etc.).

Mixed- use development is a type of multiple-use in which one or more structures on a lot or contiguous lots in common ownership, accommodate any of the following combinations of uses

(1) Residential Mixed-Use Project with residential units occupying a minimum of 25 percent of the total floor area and the remaining floor area occupied by retail, office, light industrial, community service or other residentially compatible uses or combinations thereof;

(2) Non-Residential Mixed-Use Project consisting of office retail, light industrial, community service or other compatible uses or combination thereof with retail space

or other pedestrian oriented commercial uses occupying a minimum of 60% of the street level building frontage.

A building or groups of buildings under one ownership, to encourage a diversity of compatible land uses, which may include a mixture of residential, office, retail, recreational, light industrial, and other miscellaneous uses.

MOBILE HOME A structure constructed for movement on the public highways, that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed between January 1, 1962 and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction.

MULTI-FAMILY DWELLING UNITS Means attached housing where each dwelling unit is not *located on a separate lot. (OAR 660-007-0005(11))*

MULTI-MODAL Transportation facilities or programs designed to serve many or all methods of travel, including all forms of motor vehicles, public transportation, bicycles and walking. (Metro Code 3.07.1010(rr))

MULTI-USE OR SHARED-USE PATH
Multi-use or Shared-use path means an off-street path that can be used by several transportation modes including bicycles, pedestrians, and other non-motorized modes. Multi-use paths accommodate two-way travel.

MULTIPLE USE DEVELOPMENTS A building or groups of buildings designed to encourage a diversity of compatible land uses, which include a mixture of two or more of the following uses: residential, office, retail, recreational, light industrial, and other miscellaneous uses. (Beaverton Development Code)

NATURAL AREA Any landscape unit substantially without any human development that is substantially in a native and unaffected state and may be composed of plant and animal communities, water bodies, soil and rock and mitigated habitat. Natural areas must be identified in a city, county or special district open space inventory or plan. (Metro Code 3.01.010(h))

Natural areas may include, but are not limited to, wetlands, riparian areas, Significant Natural Resource Areas, and significant groves of trees. *(Beaverton Development Code)*

NEEDED HOUSING Housing types determined to meet the need shown for housing within an urban growth boundary at particular price ranges and rent levels. On and after the beginning of the first periodic review of a local government's acknowledged comprehensive plan, "needed housing" also means:

(a) Housing that includes, but is not limited to, attached and detached single-family housing and multiple housing for both owner and renter occupancy;

(b) Government assisted housing;

(c) Mobile home or manufactured dwelling parks as provided in ORS 197.475 to 197.490; and

(d) Manufactured homes on individual lots planned and zoned for single-family residential use that are in addition to lots within designated dwelling subdivisions. (ORS 197.303(1)) (OAR 660-007-00005(12))

NEIGHBORHOOD ROUTE A street that is usually long relative to local streets and provides connectivity to collectors or arterials. Neighborhood routes generally have more traffic than local streets and are used by residents in the area to get into and out of the neighborhood, but do not serve citywide or large area circulation.

NET DEVELOPABLE ACRE The net developable acreage for a site is defined as the proposal size expressed in acreage minus any unbuildable area. The following areas are deemed undevelopable for the purposes of calculating net developable acreage:

1) Street dedications and those areas used for private streets and common driveways; and

2) Environmentally constrained lands, such as open water areas, floodplains, water quality facilities, wetlands, natural resource areas and tree preservation areas set aside in separate tracts or dedicated to a public entity, and

3) Land set aside in separate tracts or dedicated to a public entity for schools, parks, or open space purposes. (Beaverton Development Code)

NET BUILDABLE LAND See Net Developable Acre.

NET DEVELOPED ACRE Consists of 43,560 square feet of land, after excluding present and future rights-of-way, school lands and other public uses. (Metro Code 3.07.1010(vv))

Consists of 43,560 square feet of residentially designated buildable land, after excluding present and future rights-of-way, restricted hazard areas, public open spaces and restricted resource protection areas. (OAR 660-0007-0005(1))

NEWSPAPER A newspaper of general circulation, published in the English language for the dissemination of local or transmitted news or for the dissemination of legal news, made up of at least four pages of at least five columns each, with type matter of a depth of at least 14 inches, or, if smaller pages, then comprising and equivalent amount of type matter, which has bona fide subscribers representing more than half of the total

distribution of copies circulated, or distribution verified by an independent circulation auditing firm, and which has been established and regularly and uninterruptedly published at least once a week during a period of at least 12 consecutive months immediately preceding the first publication of a public notice. (ORS 193.101(2))

NOTICE Any notice that is required by law to be published. (ORS 193.310(2))

O

OBJECTIVE A specific, measurable, intermediate end that is achievable and marks progress toward a goal. An objective should be achievable and, where possible, should be measurable and time specific.

OFFICE A structure for conducting business, professional, or governmental activities in which the showing or delivery from the premises of retail or wholesale goods to a customer is not the typical or principal activity. Office uses include general business offices, medical and professional offices, administrative or headquarters offices for large wholesaling or manufacturing operations, and research and development.

OPEN SPACE Publicly and privately-owned area of land, including parks, natural areas and areas of very low density development inside the UGB. Open spaces may include active or passive recreation. (Metro Regional Framework Plan)

P

PARCEL A lot, or contiguous group of lots, in single ownership or under single control, usually considered a unit for purposes of development.

PARK Open space land on which the primary purpose is recreation. A public area intended for open space and outdoor recreation use that is owned and managed by a city, county, regional government, or park district.

PARK AND RIDE A parking facility near a transit station or stop for the purpose of parking motor vehicles by transit riders. (Beaverton Development Code)

A mode of travel usually associated with movements between work and home that involves use of a private auto on one portion of the trip and a transit vehicle (i.e., a bus or a light-rail vehicle) on another portion of the trip. A park-and-ride trip could consist of an auto trip from home to a parking lot, and transfer at that point to a bus in order to complete the work trip. (Metro Regional Transportation Plan Definition)

PARKING RATIO The number of parking spaces provided per employee or per 1,000 square feet of floor area (e.g., 2:1 or "two per thousand").

PARKING STRUCTURE A parking garage located above or underground consisting of two (2) or more levels.

PEAK HOUR/PEAK PERIOD For any given roadway, a daily hour or longer period of time during which traffic volume is highest, usually occurring during morning and evening commute times. Where "F" Levels of Service exist, the "peak hour" may stretch into a "peak period" of several hours duration.

PEDESTRIAN ORIENTED DESIGN Site and building design elements that are dimensionally related to pedestrians, such as: small building spaces with individual entrances (e.g., as is typical of downtowns and main street developments); larger buildings which have articulation and detailing to break up large masses; narrower streets with tree canopies; smaller parking areas or parking areas broken up into small components with landscaping; and pedestrian amenities, such as sidewalks, plazas, outdoor seating, lighting, weather protection (e.g., awnings or canopies), and similar features. These features are all generally smaller in scale than those which are primarily intended to accommodate automobile traffic. (Adapted from the Model Development Code and User's Guide for Small Cities, Funded by the Transportation and Growth Management Program of the Oregon Department of Transportation and Oregon Department of Land Conservation and Development)

PEDESTRIAN SCALE Site and building design elements that are dimensionally smaller than those intended to accommodate automobile traffic flow and buffering. Examples include ornamental lighting no higher than twelve feet; bricks, pavers or other paving modules with small dimensions; a variety of planting and landscaping materials; arcades or awnings that reduce the perception of the height of walls; and signage and signpost details designed for viewing from a short distance.

PEDESTRIAN WAY Any paved public or private route intended for pedestrian use, including a multi-use path and esplanade, regardless of use by other transportation modes. A general term used to describe any sidewalk or walkway that is intended and suitable for pedestrian use. (Beaverton Development Code) "Paved" can include any Americans with Disability Act approved surface including pavements and surfaces that are pervious.

PERSON A natural or artificial person, including but not limited to, a human, corporation, partnership, unit of government, an agency, a trust or descendant's estate, or other legal entity whatsoever.

PEOPLE OR PERSONS PER ACRE This is a term expressing the intensity of building development by combining residents per net acre and employees per net acre. (Metro Code 3.07.1010(zz)) (Metro Regional Framework Plan definition)

PLANNING COMMISSION The Planning Commission of the City or any subcommittee thereof. (Beaverton Development Code)

POLICY The way in which programs and activities are conducted to achieve an identified goal. A general direction that a governmental agency sets to follow, in order to meets its goals through implementation measures or action programs.

PRACTICABLE Capable of being accomplished after taking into consideration barriers both existing and reasonably foreseeable.

PRINCIPLE An assumption, fundamental rule, or doctrine that will guide comprehensive plan policies, proposals, standards and implementation measures.

PROGRAMMED A facility that has been officially scheduled for construction in a Capital Improvements Program, Budget, or other local, state, or federal funding document.

PUBLIC FACILITIES A public facility includes water, sewer and transportation facilities.

PUBLIC RIGHT-OF-WAY Land that by deed, conveyance, agreement, easement, dedication, usage or process of law is conveyed, reserved for or dedicated to the use of the general public for street, road or highway purposes, including curbs, gutters, parking strips, pedestrian ways, and sidewalks and bicycle trails. (BC 5.05.015)

PUBLIC ROAD Every public way, road, highway thoroughfare and place including bridges, viaducts and other structures, open, used or intended for use of the general public for vehicles or vehicular traffic as a matter of right. (BC 6.02.030)

PUBLIC WORKS DIRECTOR The director of the Public Works Department of the City of Beaverton, Oregon, or designee.

R

RARE OR ENDANGERED SPECIES A species of animal or plant listed in Title 50, Code of Federal Regulations, Section 17.11 or 17.2, pursuant to the Federal Endangered Species Act designating species as rare, threatened, or endangered.

RECREATION The pursuit of leisure time activities occurring in an indoor or outdoor setting.

RECREATION, ACTIVE A type of recreation or activity that requires the use of organized play areas including, but not limited to, softball, baseball, football and soccer fields, tennis and basketball courts and various forms of children's play equipment.

RECREATION, PASSIVE A type of recreation or activity that does not require the use of organized play areas, and which may function as a view shed (an elevation in the earth's surface from which a view may be seen.), etc. (See *Open Space*)

REDEVELOPABLE LAND Land on which development has already occurred which, due to present or future market forces, there exists the strong likelihood that existing development will be converted to more intensive uses during the planning period. (Metro Code 3.07.1010(ddd))

REDEVELOPMENT Development of land that replaces previous development, usually to achieve a higher return on the owner's investment. Redevelopment may occur due to market forces if the value of land equals or exceeds the value of improvements on that land. A local government may assist in redevelopment by means such as paying for certain on or off-site facilities (e.g. streets or parking structures), assembling small parcels to create a larger site, reducing or deferring up-front development fees, or reducing property taxes over a certain time period. For purposes of the City's commercial and industrial, and residential, buildable lands inventories (Volume II of the Comprehensive Plan) any parcel with a land value to improvement value ratio of 1.25: 1 or greater is assumed to have development or redevelopment potential.

REGIONAL Pertaining to activities or economies at a scale greater than that of a single city, county, or combination thereof, and affecting a broad, related area. (Metro Regional Framework Plan definition)

REGIONAL CENTER Areas of mixed residential and commercial use that serve hundreds of thousands of people and are easily accessible by different types of transit. Examples include traditional centers such as downtown Gresham and new centers such as Clackamas Town Center. (Metro Regional Framework Plan)

Seven regional centers in the Metro region are the focus of compact development, redevelopment and high-quality transit service and multi-modal street networks. (Metro Code 3.07.130, updated) An average of 60 persons per acre is recommended. (Metro Code 3.07.170)

REGIONAL FRAMEWORK PLAN Required of Metro under the Metro Charter, the Regional Framework Plan must address nine specific growth management and land use planning issues (including transportation), with the consultation and advice of the Metropolitan Policy Advisory Committee.

REGIONAL TRANSPORTATION PLAN The official intermodal transportation plan that is developed and adopted through the metropolitan transportation planning process for the metropolitan planning area. (Metro Framework Plan definition)

REGIONAL URBAN GROWTH GOALS AND OBJECTIVES The land use goals and objectives that Metro is required to adopt under ORS 268.380(1). (Metro Code 3.07.1010(eee))

An urban growth policy framework that represents the starting point for the agency's long-range planning program. (Metro Regional Framework Plan definition)

REGULATION A rule or order prescribed for management of government.

RESIDENTIAL USE Activities within land areas used predominantly for housing.

RESIDENTIAL, MULTIPLE FAMILY See Multi Family Dwelling Unit

RESIDENTIAL, SINGLE FAMILY A single dwelling unit on a building site.

RETAIL Activities which include the sale, lease or rent of new or used products to the general public or the provisions of product repair or services for consumer and business goods.

RIGHT-OF-WAY Land in which the state, a county, or a municipality owns the fee simple title or holds an easement or dedication dedicated or required for a transportation or utility use. A strip of land over which transportation and public use facilities are built, such as roadways, railroads, and utility lines.

RIPARIAN A zone of transition from an aquatic ecosystem to a terrestrial ecosystem as defined in ORS 541.351(10). (OAR 141-085-0010(188))

RIPARIAN AREA A zone of transition from an aquatic ecosystem to a terrestrial ecosystem, dependent upon surface or subsurface water, that reveals through the zone's existing or potential soil-vegetation complex the influence of such surface or subsurface water. A riparian area may be located adjacent to a lake, reservoir, estuary, pothole, spring, bog, wet meadow, muskeg or ephemeral, intermittent or perennial stream. (ORS 541.351(10)) (OAR 690-300-0010(44))

RIPARIAN CORRIDOR The water influences area adjacent to a river, lake or stream consisting of the area of transition from an aquatic ecosystem to a terrestrial ecosystem where the presence of water directly influences the soil-vegetation complex and the soil-vegetation complex directly influences the water body. It can be identified primarily by a combination of geomorphologic and ecologic characteristics. (Metro Code 3.07.1010(iii)) A Goal 5 resource that includes the water areas, fish habitat, adjacent riparian areas, and wetlands within the riparian area boundary (OAR 660-023-090(1)(c))

RISK The danger or degree of hazard or potential loss.

ROAD The entire right -of- way of any public or private way that provides ingress to or egress from property by means of vehicles or other means or that provides travel between places by means of vehicles. "Road" includes, but is not limited to:

(a) Ways described as streets, highways, throughways or alleys;

(b) Road-related structures that are in the right-of-way such as tunnels, culverts or similar structures; and

(c) Structures that provide for continuity of the right of way such as bridges. (ORS 368.001(6))

RUNOFF That portion of precipitation that does not percolate into the ground and is instead discharged into streams.

S

SCALE Generally refers to relative size or extent.

SCENIC VIEWS AND SITES Lands that are valued for their aesthetic appearance. (OAR 660-023-230(1))

SEISMIC Caused by or subject to earthquakes or earth vibrations.

SETBACK The distance between the property line and any structure.

The minimum allowable horizontal distance from a given point or line of reference to the nearest vertical wall or other element of a principal building or structure as defined herein. The point of line of reference will be the lot line following any required dedication, or a special or reservation line if one is required pursuant to this ordinance. (Beaverton Development Code)

SHALL, MUST OR MAY "Shall and must" are mandatory and "may" is permissive. (BC)

SHALL (WILL), V. A directive verb signifying the action is obligatory or necessary.

SHARED ROADWAY A shared roadway is a street that is recommended for bicycle use but does not have a specific area designated within the right-of-way. (Beaverton Development Code)

SHARED-USE OR MULTI-USE PATH Shared-use or Multi-use path means an off-street path that can be used by several transportation modes including bicycles, pedestrians, and other non-motorized modes. Shared-use paths accommodate two-way travel. (Beaverton Development Code)

SHOULD, V. A directive verb signifying the action is to be carried out unless circumstances make it impracticable .

SIGNIFICANT NATURAL RESOURCES Areas identified on the City's Statewide Planning Goal 5 Inventories, Volume III of the Comprehensive Plan. (Beaverton Development Code)

SINGLE FAMILY ATTACHED DWELLINGS A structure containing two or more single family dwelling units with both side walls (except end units of building) attached from ground to roof.

SINGLE FAMILY DETACHED DWELLING A dwelling unit that is free standing and separate from other dwelling units. (OAR 660-007-0005(4))

SINGLE FAMILY DWELLING A structure containing one or more single family units with each unit occupying the building from ground to roof.

SINGLE OCCUPANT VEHICLE (SOV) Private passenger vehicle carrying one occupant. (Metro Code 3.07.1010(ooo)) (Metro Regional Framework Plan definition)

SITE Any tract, lot or parcel of land or combination of tracts, lots or parcels of land that are in one ownership, or are contiguous and in diverse ownership where development is to be performed as part of a unit, subdivision, or project. **SLOPE** Land gradient described as the vertical rise divided by the horizontal run, and expressed in percent.

SLOPE Land gradient described as the vertical rise divided by the horizontal run, and expressed in percent.

SOIL The unconsolidated material on the immediate surface of the earth created by natural forces that serves as natural medium for growing land plants.

SOLID WASTE "Solid Waste" shall have the same meaning as given that term under Beaverton Code section 4.08.030.

SPECIAL DISTRICT Any unit of local government, other than a city, county, metropolitan service district formed under ORS Chapter 268 or an association of local governments performing land use planning functions under ORS 195.025 authorized and regulated by statute and includes but is not limited to: Water control districts, domestic water associations and water cooperatives, irrigation districts, port districts, regional air quality control authorities, fire districts, school districts, hospital districts, mass transit districts and sanitary districts. (ORS 197.015(19))

Any "district" formed under ORS 198.

STANDARDS A rule or measure establishing a level of quality or quantity that must be complied with or satisfied.

STATE IMPLEMENTATION PLAN A plan for ensuring that all parts of Oregon remain in compliance with federal air quality standards.

STATEWIDE PLANNING GOALS The mandatory state-wide planning standards adopted by the Land Conservation and Development Commission pursuant to ORS Chapters 195, 196 and 197. (ORS 197.015(8))

STATION COMMUNITIES That area generally within a ¼ - to ½ - mile radius of light-rail stations or other high-capacity transit that is planned as a multi-modal community of mixed uses and substantial pedestrian accessibility improvements. (Metro Regional Framework Plan)

Nodes of development centered approximately one-half mile around a light rail or high capacity transit station that feature

a high-quality pedestrian environment. (Metro Code 3.01.130) An average of 45 persons per acre is recommended. (Metro Code 3.01.170)

STORM WATER The water that runs off only from impervious surfaces during rain events. (CWS Design and Construction Standards)

STREAM Means a body of running water moving over the earth's surface in a channel or bed, such as a creek, rivulet or river. It flows at least part of the year, including perennial and intermittent streams. Streams are dynamic in nature and their structure is maintained through build-up and loss of sediment. (Metro Code 3.01.1010(qqq)).

STREAM CHANNEL A natural (perennial or intermittent stream) or human made (e.g. drainage ditch) waterway of perceptible extent that periodically or continuously contains moving water and has a definite bed and banks that serve to confine the water. (OAR 141-085-0010(22))

STREET (1) means a public way, road, highway, thoroughfare or place, including bridges, viaducts and other structures used or intended for use of the general public for pedestrian, bicycle, and vehicular travel as a matter of right, or

(2) when used with the word "private" as a modifier, means a non-public way, road, highway, thoroughfare or place, including bridges, viaducts and other structures, exclusively used or intended for the exclusive use of the underlying property owner or, other persons, for pedestrian, bicycle, and vehicular travel. (Proposed Engineering Design Manual and Standard Drawings Definition)

STREET FUNCTIONAL CLASSIFICATION The assignment of streets into categories according to the character of service they provide in relation to the total street network. Basic functional categories in Beaverton include freeways, arterials, collectors, neighborhood routes, and local streets. Functional classification reflects mobility, access needs, and connectivity. Where appropriate, the levels may be further grouped into urban and rural categories.

STREET FURNITURE Those features associated with a street that are intended to enhance its physical character and use by pedestrians, such as benches, trash receptacles, kiosks, lights, newspaper racks.

STEWARDSHIP A planning and management approach that considers environmental impacts and public benefits of actions as well as public and private dollar costs.

SUBDIVISION The division of a tract of land into defined lots, parcels, tracts, or other divisions of land as defined in applicable State statues and local land development regulations, subdivided lots can be separately conveyed by sale or lease, and altered, or developed.

SUBURBAN Generally, development on the periphery of urban areas, which is predominantly residential in nature and has most urban services available. The intensity of suburban development is usually lower than in urban areas.

SURFACE WATER Water that drains from the landscape via overland flow or ground water resurgence. Surface water flows can and often do include storm water runoff. (CWS Design and Construction Standards)

SYSTEM DEVELOPMENT CHARGE Means a reimbursement fee, an improvement fee or a combination thereof assessed or collected at the time of increased usage of a capital improvement or issuance of a development permit, building permit or connection to the capital improvement. "System development charge" includes that portion of a sewer or water system connection charge that is greater than the amount necessary to reimburse the local government for its average cost of inspecting and installing connections with water and sewer facilities. (ORS 223.299(4)(a))

T

TARGET DENSITIES The average combined household and employment densities established for each design type in the Regional Urban Growth Goals and Objectives 2040 Growth Concept. (Metro Code 3.07.1010(ttt))

TOWN CENTERS Areas of mixed residential and commercial use that serve tens of thousands of people. Examples include the downtowns of Forest Grove and Lake Oswego. (Metro Regional Framework Plan) Town centers provide local shopping, employment and cultural and recreational opportunities within a local market area. They are designed to provide local retail and services, at a minimum. They would also vary greatly in character.

Compact development and transit service should be provided in town centers. An average of 40 persons per acre is recommended. (Metro Code 3.07.170)

TOWNHOUSES Two or more attached single family dwelling units within a structure having common side walls, front and rear yards, and individual entryways. (See Single Family Attached Dwellings)

TRAFFIC CALMING A traffic management program usually designed to address safety and aesthetic issues related to automobile use in residential areas, and which reduces the operating speed of motor vehicles. Features include, landscaping, walkways, speed swales, roadway narrowing and/or increasing the width of bicycle lanes and sidewalks.

TRAFFIC INTENSIVE USES A land use that attracts or generates a relatively high level of traffic activity. A non exhaustive list of such uses would include drive through facilities, supermarkets, and most retail shopping centers. The ITE Trip Generation manual shall be the city's primary reference source for determining whether a particular proposed use is traffic intensive or not.

TRANSIT For the purposes of the Comprehensive Plan, this term refers to publicly funded and managed transportation services and programs within the urban area, including light-rail, regional rapid bus, frequent bus, primary bus, secondary bus, minibus, paratransit and park-and-ride. (Metro Regional Transportation Plan definition)

TRANSPORTATION OR TRAVEL DEMAND MANAGEMENT (TDM) A strategy or action for reducing demand on the road system by reducing the number of vehicles using streets and roads, and/or increasing the number of persons per vehicle. Typically, TDM attempts to reduce the number of persons who drive alone during peak commute periods and to increase the number of people commuting via carpools, vanpools, buses and trains, walking, and biking.

TRANSPORTATION PLANNING RULE The implementing rule of statewide land use planning Goal #12 dealing with transportation, as adopted by the State Land Conservation and Development Commission. (Metro Framework Plan definition)

TRANSPORTATION SYSTEM PLAN A plan for one or more transportation facilities that are planned, developed, operated and maintained in a coordinated manner to supply continuity of movement between modes, and within and between geographic and jurisdictional areas. (Metro Regional Framework Plan definition) (OAR 660-012-0005(32))

TREES, STREET Any tree located within public or private right of way or an easement for vehicular access, or associated public utility easements. (Beaverton Development Code)

TRIP GENERATION The dynamics that account for people making trips in automobiles or by means of public transportation. Trip generation is the basis for estimating the level of use for a transportation system and the impact of additional development or transportation facilities on an existing, local transportation system.

TURBIDITY A measure of water agitation.

U

URBAN Generally, an area having the characteristics of a city, with intensive development and a full or extensive range of public facilities and services.

URBAN FORM The net result of efforts to preserve environmental quality, coordinate the development of jobs, housing and public services and facilities, and interrelate the benefits and consequences of growth in one part of the region with the benefits and consequences of growth in another.

URBAN GROWTH BOUNDARY An acknowledged urban growth boundary contained in a city or county comprehensive plan or an acknowledged urban growth boundary that has been adopted by a metropolitan service district council under ORS 268.390(3). (ORS 195.060(2))

URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN See Metro Urban Growth Management Functional Plan.

URBAN PLANNING AREA A geographical area within an urban growth boundary. (OAR 660-003-0005(6))

URBAN SERVICES The term includes the following services and facilities: a public sanitary and storm sewer system, a public water supply, a street system, police and fire protection, public schools, public parks and library services. (Beaverton Development Code)

URBAN SERVICE AREA The area for which the City is the appropriate and agreed-upon long-term provider of municipal services except for those services that are to be provided by a special or county service district. (Beaverton – Washington County Intergovernmental Agreement Interim Urban Services Plan)

URBAN SERVICE BOUNDARY The boundary establishing the extent of the City's direct interest and involvement in planning for and coordination of public facilities and services and the extent of the City's annexation interest.

USE The main or primary purpose of which land or a structure is designed, arranged or intended or for which it is occupied or maintained. (Beaverton Development Code)

USE PERMIT The discretionary and conditional review of an activity or function or operation on a site or in a building or facility.

V

VACANT Lands or buildings that are not actively used for any purpose.

VACANT LAND Land identified in the Metro or local government inventory as undeveloped land. (Metro Code 3.07.1010(zzz))

VARIANCE A discretionary decision to permit modification of the terms of an implementing ordinance based on a demonstration of unusual hardship or exceptional circumstance unique to a specific property. (Metro Code 3.07.1010(aaaa))

VEGETATIVE CORRIDOR A corridor adjacent to a water quality sensitive area that is preserved and maintained to protect the water quality functions of the water quality sensitive area. (CWS Design and Construction Standards)

VIEW CORRIDOR The line of sight, identified as to height, width and distance, of an observer looking toward an object of significance to the community (e.g., ridgeline, river, historic building, etc.); the route that directs the viewers' attention.

VOLUME-TO-CAPACITY RATIO A measure of the operating capacity of a roadway or intersection, in terms of the number of vehicles passing through, divided by the number of vehicles that theoretically could pass through when the roadway or intersection is operating at its designed capacity. Abbreviated as "$^{v}/_{c}$". At a $^{v}/_{c}$ ratio of 1.0, the roadway or intersection is operating at capacity. If the ratio is less than 1.0, the traffic facility has additional capacity. Although ratios slightly greater than 1.0 are possible, it is more likely that the peak hour will elongate into a "peak period." (See *Peak Hour* and *Level of Service*)

WAREHOUSE A structure that is primarily used for storage and distribution facilities.

WATER QUALITY SENSITIVE AREA or "sensitive area"

A) shall include the following:

1. Existing or created wetlands;
2. Rivers, streams, and springs, whether flow is perennial or intermittent;
3. Natural lakes, ponds and instream impoundments

B) Sensitive areas shall not include:

1. Stormwater infrastructure
2. A vegetated corridor (a buffer) adjacent to the sensitive area;
3. An off-stream recreational lake, lagoon, fire pond or reservoir; or
4. Drainage ditches.

(CWS Design and Construction Standards)

WATERSHED The entire land area drained by a stream or system of connected streams such that all stream flow originating in the area is discharged through a single outlet. (ORS 541.351(14))

WETLANDS Those areas that are inundated or saturated by surface or ground water at a frequency and duration that are sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Categories of wetlands include:

a) Created Wetlands: those wetlands developed in an area previously identified as non-wetland to replace, or mitigate

W

wetland destruction or displacement. A created wetland shall be regulated and managed the same as an existing wetland.

b) Constructed Wetlands: those wetlands developed as a storm water facility, subject to change and maintenance as such. These areas must be clearly defined or separated from existing or created wetlands. Constructed wetlands shall be regulated as created wetlands only if they serve as wetland mitigation.

c) Existing Jurisdictional Wetlands: jurisdictional wetlands as determined by the Department of State Lands (DSL) or the US Army Corps of Engineers (COE).

(CWS Design and Construction Standards)

Z

ZONE, TRAFFIC — In a mathematical traffic model the area to be studied is divided into zones, with each zone treated as producing and attracting trips. The production of trips by a zone is based on the number of trips to or from work or shopping, or other trips produced per dwelling unit.

ZONING — In general, the demarcation of an area by ordinance (text and map) into zones and the establishment of regulations to govern the uses within those zones (commercial, industrial, residential, type of residential) and the location, bulk, height, shape, use, and coverage of structures within each zone.

ZONING, INCLUSIONARY — Regulations that increase housing choice by requiring construction of more diverse and economical housing to meet the needs of low income families. Such regulations often require a minimum percentage of housing for low and/or moderate income households in new housing developments.

Exhibit B

BEFORE THE PLANNING COMMISSION FOR THE CITY OF BEAVERTON, OREGON

IN THE MATTER OF CPA2006-0001, A REQUEST TO AMEND COMPREHESIVE PLAN CHAPTERS 1 AND 2 AND THE GLOSSARY. CITY OF BEAVERTON, APPLICANT.	)))))	ORDER NO. 1859 APPROVING REQUEST.

The matter of CPA2006-0001 was initiated by the City of Beaverton, through the submittal of a legislative amendment application to the Comprehensive Plan.

Pursuant to the amendment procedures as described in Chapter 1 Section 1.3 of Ordinance 4187, the Comprehensive Plan, effective through Ordinance 4375, the Planning Commission conducted a public hearing on March 15, April 5, and April 12, 2006, and considered oral and written testimony and exhibits for a proposed legislative amendment to the Comprehensive Plan.

CPA2006-0001 proposes to amend the Comprehensive Plan Chapters 1 and 2 and Glossary definitions to address deficiencies and inconsistencies with the Development Code and State law. More specifically, the proposed amendment includes all pertinent information and steps regarding amendment categories, amendment procedures, noticing requirements and remand procedures, thereby updating work completed in 1996 as a result of Periodic Review. Flowcharts at the end of Chapter 1 are updated to reflect

the proposed amendment procedures. Defined terms in the Glossary generally include only those necessary to lend clarity to the text or that may be used in future Planning Commission deliberations.

The Planning Commission adopts by reference the staff reports and memoranda prepared for CPA2006-0001 dated March 15, 2006, April 5, 2006, and April 12, 2006, and finds they provide evidence and findings demonstrating the application satisfies all the approval criteria for a Legislative Comprehensive Plan Amendment, as contained in Section 1.3.1 of the Comprehensive Plan.

The Planning Commission concurs with the staff recommendation in the memorandum from Planning Services Manager Hal Bergsma to the Planning Commission dated April 12, 2006, except that the definitions for the terms "adverse impact" and "town center" shall be amended as shown in Exhibit A to this order, and therefore:

IT IS HEREBY ORDERED that pursuant to Section 1.3, of the Beaverton Comprehensive Plan, the Planning Commission RECOMMENDS APPROVAL of CPA2006-0001, by the City Council, and adoption of the text modifications as shown in Exhibit A to this order.

Motion **CARRIED** by the following vote:

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

Dated this 24th day of April, 2006.

To appeal the decision of the Planning Commission, as articulated in Land Use Order No. 1859, an appeal must be filed on an Appeal form provided by the direct at the City of Beaverton Recorder's Office by no later than 5:00 p.m. on May 4th, 2006.

PLANNING COMMISSION
FOR BEAVERTON, OREGON

ATTEST:

Hal Bergsma

HAL BERGSMA
Planning Services Manager

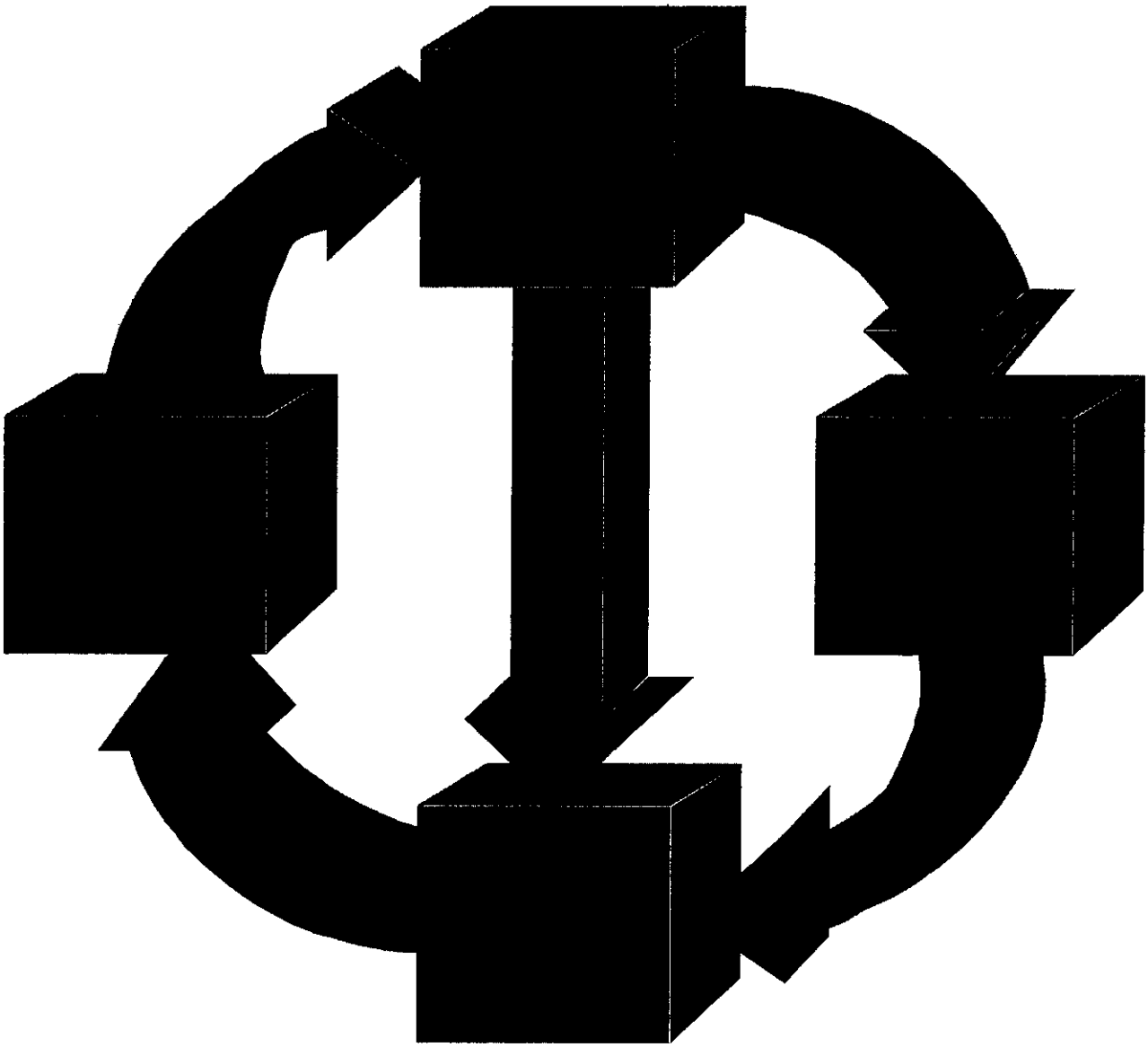
APPROVED:

E. H. Johansen

ERIC JOHANSEN
Chairman

EXHIBIT A

CHAPTER ONE:
COMPREHENSIVE PLAN AMENDMENT PROCEDURES ELEMENT



COMPREHENSIVE PLAN AMENDMENT PROCEDURES

1.1 ~~QUARTERLY REVIEW~~AMENDMENT INITIATION.

Amendments to the Comprehensive Plan may be initiated by City Council, the Planning Commission, the Mayor, the Community Development Director, or the Engineering Director at any time. Landowners may also initiate an amendment to the Land Use Map pertaining only to their property at any time. ~~or any other person or groups of persons. Amendment requests may be submitted to the Commission by the Planning Director at any time. Amendment requests will be processed as a package of amendments on a quarterly basis.~~

1.1.1 City-initiated Amendments

Amendment requests shall be submitted to the Community Development Director for preparation and analysis for a Planning Commission public hearing or City Council consideration. The Planning Commission and City Council ~~reserve~~ have the right to accept, reject~~, alter~~ or modify any specific request for amendment in accordance with the City's policies and procedures. ~~, and in such a manner as will be most beneficial to the citizens of Beaverton. Only those requests for comprehensive plan amendments accepted by the Planning Commission prior to the fifteenth day of January, April, July and October will be processed during the quarter year which begins with that month.~~

The Planning Commission or City Council may enlarge or reduce the geographic area of proposed map amendments, investigate alternative land use designations to those requested, or combine the request with other ~~similar requests~~City-initiated amendments for comprehensive study and determination. If the decision to modify a requested amendment is made after public hearing notice has been provided, the notice shall be reissued and, if necessary, the hearing rescheduled. ~~The Planning Commission, may establish subcommittees, or in response to direction from the Mayor or City Council, create citizen committees or task forces to aid and assist them in arriving at recommendations on plan amendments.~~

~~The Council may allow an amendment to proceed under an accelerated amendment process and order a suspension of the quarterly cycle when the quarterly cycle will inhibit the timely consideration of City initiated amendments which would have the effect of:~~

~~1. protecting the public health, safety or welfare, or~~

~~2. complying with federal or state judicial or legislative actions or mandates, or the requirements of other regional or local units of government, which have jurisdiction on a matter affecting the Plan, or~~

~~3. providing substantial public benefits, which could otherwise be lost under the adopted quarterly review procedure due to special conditions or circumstances.~~

~~Staff and/or the Planning Commission may recommend to the Council a suspension of the quarterly policy and procedure when it can be found the proposed amendment falls within at least one of the above three criteria. In no circumstances can mandatory procedures established by statute or ordinance be suspended. The Planning Director may recommend that the Commission or Council postpone other plan amendment studies to process other amendments in an accelerated process.~~

1.1.2 Property Owner-initiated Amendments
Amendment requests shall be submitted to the Community Development Director for preparation and analysis for a Planning Commission public hearing. The Planning Commission and City Council reserve the right to approve, approve with conditions, or deny any specific request for amendment in accordance with the City's policies and procedures.

1.1.3 Amendment Processing
Proposed amendments shall be processed as expeditiously as possible, subject to the availability of staff and budgetary resources and project priorities set by the Mayor. Amendments shall be processed in compliance with the procedures established by this Plan as well as Oregon Revised Statutes, Oregon Administrative Rules, Metro Code, the City Charter, and City Ordinances. Property owner-initiated amendments should be processed in the order in which they are submitted and accepted as complete, but the City Council may, by resolution, postpone processing proposed amendments to accelerate processing other amendments to which they give a higher priority.

1.2 PERIODIC REVIEW

Periodic Review amendments are subject to a Land Conservation and Development Commission (LCDC) approved work program and follow separate notice procedures outlined in the Oregon Revised Statutes and Oregon Administrative Rules governing Periodic Review.~~The Council, from time to time, may amend the Plan during periodic review update, or when public need or changed circumstances or conditions warrant an amendment. Proposed amendments to the Plan may be initiated by the Council, Commission, Mayor or other interested persons according to the adopted policy and procedure established in Section 1.3 Amendment Procedures.~~

~~Periodic Review amendments are subject to a Land Conservation and Development Commission (LCDC) approved work program and are processed outside the quarterly review procedure established under Section 1.1.~~

1.3 AMENDMENT ~~PROCEDURES~~PROCEDURAL CATEGORIES

Comprehensive Plan Amendments fall into ~~four~~ five general categories: Legislative, Quasi-Judicial, Historic Landmark, District and Tree designation removal, ~~Annexation Related~~Non-Discretionary, and ~~Historic Landmark and District Designations~~Statewide Planning Goal 5 Inventory Document Amendments.

Legislative Amendments are amendments to the ~~comprehensive~~ Comprehensive ~~plan~~ Plan text or map of a generalized nature initiated ~~either~~ by the City that applies to an entire land use map

category or a large number of individuals or properties or that establishes or modifies policy or procedure.~~ or by an applicant.~~ Legislative amendments include additions or deletions of text or land use map categories.

Quasi-Judicial Amendments are amendments to a Land Use Map designation as it applies to specific parcels or that applies to a small number of individuals or properties~~, interests or situations~~ or locations.~~ This type of amendment is typically a privately initiated amendment coupled with a corresponding zone change.~~

Historic Landmark, District or Tree Designation Removal are amendments, requested from the property owner, to remove said designation pursuant to ORS 197.772. Upon receipt of a letter request to remove said designation, the Community Development Director shall issue a letter removing said designation based on ORS 197.772 and shall cause such letter to be mailed to the property owner and the property owners within an area enclosed by lines parallel to and 500 feet from the exterior boundary of the subject property.

~~**Annexation Related Map Amendments.**~~**Non-Discretionary Amendments** are amendments to the Comprehensive Plan Land Use Map to add an annexed property, or properties, to the Map with a Land Use Map designation assigned through direct application of the~~ The acknowledged~~ Washington County-Beaverton Urban Planning Area Agreement (UPAA).~~ governs the assignment of Comprehensive Plan and zoning designations to land annexed into the City. The UPAA requires the City to assign particular City Comprehensive Plan and zoning designations or the most similar Plan and zoning designations to the annexed property based upon the Washington County designation.~~ The County land use classification(s)~~Comprehensive Plan and zoning designation~~ ~~remains~~ remain in effect under provisions of Oregon Revised~~State~~ Statutes (ORS 197.175(1) and ORS 215.130(2)(a)) until the City acts to implement its own Comprehensive Plan Land Use~~ and zoning map~~ designation(s) ~~in~~ for the annexed territory. ~~For that reason the act of annexation itself is deemed a political or governance decision separate and distinct from the decision to implement this plan (and the Development Code) as to those properties that have been annexed.~~

The UPAA requires the City to assign a particular, or most similar, City Comprehensive Plan Land Use designation to the annexed property based on the Washington County designation. Exhibit "B" of the UPAA contains a chart describing a one-to-one relationship between County and City land use designations. The UPAA and the chart referenced as Exhibit "B" is found within Chapter 3 of the Comprehensive Plan in Section 3.15. Where UPAA Exhibit "B" provides a one-to-one relationship and the annexed property is **not** subject to any special policies within the applicable Washington County Community Plan, the decision to apply a specific Land Use Map designation is made under land use standards that do not require interpretation or the exercise of policy or legal judgement. Consequently, the decision is not a land use decision as defined by Oregon Revised Statutes (ORS 197.015(10)(b)(A)).~~The following describes the various processes for review of annexation related Comprehensive Plan map amendments. Annexation related zone map amendments will be considered concurrently with Comprehensive Plan map amendments, but are subject to procedures described in the Development Code (Ord. 2050).~~

- ~~NON-DISCRETIONARY ANNEXATION-RELATED MAP AMENDMENTS: In most cases the UPAA is specific and leaves no discretion about which City Comprehensive Plan designation and zoning district to assign. The chart contained in Exhibit "B" of the UPAA describes a one-to-one relationship between County and City designations and the parcel(s) is not subject to any special policies contained in the Washington County Community Plan. In these cases where no discretion is involved the Comprehensive Plan designation and zoning district will be assigned by the City Council with no public hearing being required in accordance with the notice procedures in 1.3.4.3.(e). These decisions are made under land use standards that do not require interpretation or the exercise of policy or legal judgement and, therefore, are not land use decisions as defined by Oregon Statutes. Sinces these are not land use decisions the criteria in section 1.3.1 do not apply.~~

~~EXPLANATORY NOTE: The above are not land use decisions under Oregon Law because they are simply assigning a designation required by the acknowledged UPAA. ORS 197.015(10)(b) states that a Land Use Decision... "Does not include a decision of a local government: Which is made under land use standards which do not require interpretation or the exercise of policy or legal judgement".~~

~~EXPLANATORY NOTE: ORS 197.175(1) states that cities..."shall exercise their planning and zoning responsibilities...in accordance with ORS Chapters 195, 196, and 197 and the goals approved under ORS Chapters 195, 196, and 197." With regard to applying Comprehensive Plan and zoning designations when the UPAA is specific and leaves no discretion, the State Planning Goals were addressed at the time that the County adopted the land use designation for a property and again when the City and County adopted the UPAA.~~

- ~~A public hearing will be required in those cases where the UPAA is not specific and requires discretion about which City Comprehensive Plan designation and zoning district to assign or when the County's Community Plan has special policy applicable to the parcel. The Planning Commission will hold the public hearing unless State law requires that the related annexation is subject to a public hearing before City Council. In that case the Comprehensive Plan Map amendment hearing will be conducted by the City Council concurrently with the annexation hearing and the Planning Commission hearing is dispensed with. The most similar designation will be applied as required by the UPAA.~~

- ~~DISCRETIONARY QUASI-JUDICIAL MAP AMENDMENT: Most discretionary annexation related amendments will follow the quasi-judicial procedures specified in 1.3.4.3(a).~~

- ~~DISCRETIONARY LEGISLATIVE MAP AMENDMENTS: Map amendments affecting a large area, a substantial number of ownerships or the application of several different plan designations may be processed legislatively as specified in 1.3.4.3(b). The Community Development Director or his or her designee will determine on a case-by-case basis whether to use the quasi-judicial or legislative process.~~

~~No neighborhood review meeting is required for annexation related amendments because these amendments merely assign the City Comprehensive Plan and zoning district designation that is most similar to the existing Washington County designation in compliance with the UPAA.~~

Statewide Planning Goal 5 Inventory Resource Document Amendments are amendments to Volume III of the Comprehensive Plan. Amendments may be legislative, such as periodic review, or annual updates to maps, or quasi-judicial. Updates to the Significant Natural Resources Map (Local Wetland Inventory Map) incorporating changes approved by the Department of State Lands are non-discretionary map amendments the public notice, decision-making and appeal of the decision occurs when the Division of State Lands approves the wetland delineation and fill or removal permit (OAR 141-086-005 through OAR 141-090-0230, OAR 141-085-0018, OAR 141-085-0025, OAR 141-085-0028, OAR 141-085-0029, OAR 141-085-0031, OAR 141-085-0066, ORS 227.350 (2), and ORS 196.600 to 196.990). As noted under Non-Discretionary Amendments above, when no discretion is exercised, the decision is not a land use decision under Oregon Revised Statutes (ORS 197.015(10)(b)(A)).

~~Historic Landmark and District Designation Amendments are Comprehensive Plan Amendments that are evaluated based upon the criteria for amendment identified in 1.3.2 below. Comprehensive Plan Amendments within this category may be staff initiated through Periodic Review or may be initiated by the property owner or by the Historic Resources Review Committee. Historic Landmark and District Designations shall be recommended to the Planning Commission following a public hearing by the Historic Resource Review Committee (HRCC). Historic Landmark designation will satisfy the Notice Requirements for Quasi-Judicial Comprehensive Plan Amendments under 1.3.3.2. Historic District Designation will satisfy the Notice Requirements for Legislative Comprehensive Plan Amendments under 1.3.3.1. Where conflicts may exist between this element and Section 243 of Ordinance 2050 this Element shall control.~~

~~1.3.1 AMENDMENT CRITERIA.~~

~~The adoption by the City Council and Planning Commission of any amendment to the Plan, except non-discretionary annexation related map amendments, shall be supported by findings of fact, based on the record, that demonstrate the criteria of this Section, or Section 1.3.2, if applicable, have been met. The City Council and Planning Commission may adopt by reference facts, findings, reasons, and conclusions proposed by the City staff or others. Affirmative findings relative to all of the following criteria are the minimum required for a Plan amendment (non-discretionary annexation related map amendments need not comply with Plan criteria because they are not land use decisions under Oregon Statutes and are those stipulated by Exhibit "B" of the Urban Planning Area Agreement):~~

~~1.3.1.1 The proposed amendment is consistent and compatible with the Statewide Planning Goals; and~~

~~1.3.1.2 The proposed amendment is consistent and compatible with Metro Regional Urban Growth Goals and Objectives and the Metro Regional Framework Plan; and~~

~~1.3.1.3 The proposed amendment is consistent and compatible with the Comprehensive Plan and other applicable local plans; and~~

~~1.3.1.4 Potential effects of the proposed amendment have been evaluated and will not be detrimental to quality of life, including the economy, environment, public health, safety or welfare; and~~

~~1.3.1.5 The benefits of the proposed amendment will offset potential adverse impacts on surrounding areas, public facilities and services; and~~

~~1.3.1.6 There is a demonstrated public need, which will be satisfied by the amendment as compared with other properties with the same designation as the proposed amendment.~~

~~**1.3.2 HISTORIC LANDMARK AND DISTRICT DESIGNATION CRITERIA.**~~

~~The adoption by the City Council and Planning Commission of any amendment to the Plan relating to designation of historic resources shall be supported by findings of fact, based on the record, that demonstrate the criteria of this Section have been met. The City Council and Planning Commission may adopt by reference facts, findings, reasons, and conclusions proposed by the City staff or others. The HRRC, Planning Commission and City Council shall consider the following criteria and find that the proposal meets at least one factor in addition to 1.3.2.1:~~

~~1.3.2.1 Conforms with the purposes of the Beaverton Comprehensive Plan; and~~

~~1.3.2.2 The proposed landmark or district is associated with natural history, historic people, or with important events in national, state or local history; or~~

~~1.3.2.3 The proposed landmark or district embodies the distinguishing characteristics of an architecture inherently valuable for a study of a period, style, or method of construction; or~~

~~1.3.2.4 The proposed landmark is a notable work of a master builder, designer or architect; or~~

~~1.3.2.5 The proposed Landmark or District would serve one or more of the following purposes:~~

~~A. To preserve, enhance and perpetuate landmarks and districts which represent or reflect elements of the City's cultural, social, economic, political and architectural history;~~

~~B. To safeguard the City's historic, aesthetic and cultural heritage as embodied and reflected in said landmarks and districts;~~

~~C. To complement any National Register properties or Historic Districts;~~

~~D. To stabilize and improve property values in such districts;~~

~~E. To foster civic pride in the beauty and accomplishments of the past;~~

~~F. To protect and enhance the City's attractions to tourists and visitors and the support and stimulus to business and industry thereby provided;~~

~~G. To strengthen the economy of the City; and~~

~~H. To promote the use of historic districts and landmarks for the education, pleasure, energy conservation, housing and public welfare of the City's current and future citizens.~~

~~**1.3.3 QUASI-JUDICIAL COMPREHENSIVE PLAN AMENDMENT NEIGHBORHOOD REVIEW MEETING**~~

~~1.3.3.1 Staff will advise the applicant to arrange a neighborhood information meeting. Staff will provide guidance documents relating to the Comprehensive Plan Amendment to the NAC and the applicant for distribution at the meeting. The application will be deemed incomplete until such time as the provisions of this section have been met.~~

~~1.3.3.2 The applicant will provide notice to the NAC and property owners within 500 feet, and post a sign on the property indicating the date, time and location of the meeting. Notice will be postmarked not less than 20 calendar days prior to the meeting.~~

~~1.3.3.3 The applicant will conduct the Neighborhood Review Meeting to introduce the proposal and to document neighborhood comments.~~

~~1.3.3.4 The applicant will send a copy of the meeting notes to the NAC chair by certified mail.~~

~~1.3.3.5 The applicant will demonstrate compliance with this section by submitting the following information with the application:~~

~~A. A copy of the notice sent to the NAC and surrounding property owners;~~

~~B. A copy of the mailing list including the property owners and the NAC representatives;~~

~~C. A copy of the information contained on the posted sign;~~

~~D. Notes of the meeting which include the meeting date and time, the name~~

~~and address of attendees, and the oral and written comments received; and~~

~~E. A certified mail receipt indicating mailing of the meeting notes to the NAC Chair.~~

~~1.3.4~~1.4 NOTICE REQUIREMENTS

The ~~failure~~ claim of a person to have not received notice, who may be entitled to notice as provided in this section, ~~to receive notice~~ shall not invalidate such proceedings if the City can demonstrate by affidavit that such notice was given.

If the Community Development Director or City Council determine that the proposed amendment substantially changes from the proposal described in the initial notice, then notice is required to be sent again as described in the appropriate subsection with specific notation that the proposal has changed and that a new hearing will be held on the matter.

~~1.3.4.1~~1.4.1 Legislative Amendments.

A. Notice ~~for Legislative Amendments~~ of the initial hearing shall be provided as follows:

~~A~~1. By mailing the required inter-agency Department of Land Conservation and Development (DLCD) notice to DLCD, Metro, the Beaverton Neighborhood Office and the Chair of the Committee for Citizen Involvement (CCI) at least forty-five (45) calendar days prior to the ~~Planning Commission~~initial hearing. When the legislative amendment is required through Periodic Review, DLCD notice is not required, therefore, it is not provided.

2. Mail notice to owners of property within the City for which the proposed ordinance, if adopted, may in the Director's opinion affect the permissible uses of land

a) The most recent property tax assessment roll of the Washington County Department of Assessment and Taxation shall be used for determining the property owner of record. The failure of a property owner to receive notice does not invalidate the decision.

b) If a person owns more than one property that could be affected by the proposed ordinance if adopted, the Director may mail that person only one notice of the hearing.

~~B~~3. By publication of a notice with the information specified in subsection 1.4.1 (B-)(1), (2), and (3) in a newspaper of general circulation within the City, ~~giving the time, date, place, and purpose of the hearing~~; and

~~C~~4. By posting a notice with the applicable information specified in subsection 1.4.1 (B) ~~in three conspicuous public places in the City~~at Beaverton City Hall and the Beaverton City Library; and

~~D~~5. ~~By such other notice as the Planning Commission or City Council may deem in the public interest.~~By placing a notice with the applicable information specified in subsection 1.4.1 (B) on the City's website.

~~E.~~ Notice required by Oregon Revised Statutes (ORS 227.186, also known as Ballot Measure 56) shall be provided, when applicable. ORS 227.186(6) specifies notice requirements for city-initiated amendments related to Periodic Review.

Hearing Notices required by numbers 2 through 5 of this subsection, shall be given not less than twenty (20) and not more than forty (40) ~~All hearing notices required by this section shall be given not less than thirty (30)~~ calendar days prior to the date of the initial hearing.

B. Mailed notice required in subsection 1.4.1 (A) (2), posted notice required in subsection 1.4.1 (A) (4), and web notice required in subsection 1.4.1 (A) 5 shall:
   1. State the date, time and location of the hearing, and the hearings body;
   2. Explain the nature and purpose of the hearing;
   3. Include the case file number, title or both of the proposed ordinance to be considered at the time of hearing;
   4. List the applicable approval criteria by Comprehensive Plan by section numbers that apply to the application at issue;
   5. State that a copy of the staff report will be available for inspection at no cost at least seven (7) calendar days prior to the hearing and will be provided at reasonable cost and include the days, times and location where available for inspection;
   6. Include the name and phone number of the City staff person assigned to the application from whom additional information may be obtained;
   7. State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the Planning Commission an opportunity to respond to the issue precludes appeal to the City Council and the Land Use Board of Appeals based on that issue; and
   8. Include a general explanation of the requirements for submission of testimony and procedure for conduct of the hearing.

C. If an application is City-initiated and would change the Land Use Plan Map for a property to a designation that would require a rezone, a notice must be sent to the owner pursuant to Oregon Revised Statutes (ORS 227.186(3) also known as Ballot Measure 56).

D. Notice of remand hearings, whether they be the entire legislative amendment or part of the amendment, either from the Land Use Board of Appeals to City Council or from City Council to Planning Commission, shall be given following subsections 1.4.1 (A) and 1.4.1 (B) with the following additional information:
   1. The deadline for submitting written testimony and the place it is to be submitted;
   2. The applicable criteria if the remand is required by the failure to state the criteria or if the criteria have changed;
   3. The scope of the testimony; and
   4. Whether the testimony is de novo or limited to the record and whether it must be submitted in writing or whether oral testimony will be allowed.

   The notice required in this subsection (D) shall be mailed to persons who previously provided written or oral testimony in the proceedings on the proposal.

~~1.3.4.2~~1.4.2 Quasi-Judicial Amendments

A. Notice of the initial hearing ~~for Quasi-Judicial Amendments~~ shall be provided as follows:
   ~~A~~1. By mailing the required inter-agency DLCD notice to DLCD, Metro, the Beaverton Neighborhood Office and the CCI Chair at least forty-five (45) calendar ~~days~~

~~prior~~days prior to the ~~Planning Commission~~ initial hearing.

~~B~~2. By publication of a notice with the information specified in 1.4.2 (B) (1), (2), (3) and (4) in a newspaper of general circulation within the City~~, giving time, date, place and purpose of the hearing~~; and

~~C~~3. By posting notice with the information specified in 1.4.2 (B) ~~in three (3) conspicuous public places in the City, stating the property is subject to an application for a Plan amendment and the telephone number of the City department to call for further information~~at Beaverton City Hall and the Beaverton City Library; and

~~D~~4. By mailing notice with the information specified in 1.4.2 (B) to property owners included in the proposed change area, if applicable, and within an area enclosed by lines parallel to and 500 feet from the exterior boundary of the property for which the change is contemplated; and

~~E~~5. ~~By posting the property, stating a land use decision will be made about the property and giving the Community Development Department phone number. Signs shall be of sufficient number, size and location so as to be visible to a passing motorist; and~~By mailing notice with the information specified in 1.4.2 (B) to any City-recognized Neighborhood Association Committee (NAC) or County-recognized Citizen Participation Organization (CPO) whose boundaries include the property for which the change is contemplated; and

~~F~~6. ~~By such other notice as the Planning Commission or City Council may deem in the public interest.~~ By placing notice with the information specified in 1.4.2 (B) on the City's web site.

Notice required by Oregion Revised Statutes (ORS 227.186, also known as Ballot Measure 56) shall be provided, when applicable. ORS 227.186(6) specifies notice requirements for city-initiated amendments related to Periodic Review.

Hearing notices required by numbers 2 through 6 of this subsection shall be given not less than ~~thirty (30~~twenty (20) and not more than forty (40) calendar days prior to the date of the initial hearing.

B. Mailed notice required in subsection 1.4.2 (A) (4) and (5) shall:

1. Explain the nature of the application and the use or uses, which could be authorized;
2. Set forth the street address or other easily understood geographical reference to the subject property and include a map, if applicable;
3. State the date, time, and location of the hearing, and the hearings body;
4. Include the case file number, title or both of the proposed ordinance to be considered at the time of hearing;
5. List the applicable criteria from the Comprehensive Plan by section number that apply to the application at issue;
6. State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the Planning Commission an opportunity to respond to the issue precludes appeal to the City Council and the Land Use Board of Appeals based on that issue;
7. Include the name and phone number of the City staff person assigned to the application from whom additional information may be obtained;

8. State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant, and applicable criteria are available for inspection at no cost and will be provided at reasonable cost and include the days, times and location where available for inspection;
9. State that a copy of the staff report will be available for inspection at no cost at least seven (7) calendar days prior to the hearing and will be provided at reasonable cost include the days, times and location where available for inspection; and
10. Include a general explanation of the requirements for submission of testimony and procedure for conduct of the hearing.

C. If an application is City-initiated and would change the Land Use Plan Map for a property to a designation that would require a rezone, a notice must be sent to the owner pursuant to Oregon Revised Statutes (ORS 227.186(3) also known as Ballot Measure 56).

D. Notice of remand hearings, whether for the entire quasi-judicial amendment or part of the amendment, either from the Land Use Board of Appeals to City Council or from City Council to Planning Commission shall be given following subsection 1.4.2 (A) and 1.4.2 (B) with the following additions:

1. Any deadline for submitting written testimony and the place it is to be submitted;
2. The applicable criteria if the remand is required by the failure to state the criteria or if the criteria have changed;
3. The scope of the testimony; and
4. Whether the testimony is limited to the record or de novo and whether it must be submitted in writing or whether oral testimony will be allowed.
5. The notice required in this subsection (D) shall be mailed to persons who previously provided written or oral testimony in the proceedings on the proposal.

~~1.3.4.3~~1.4.3 ~~Annexation Related~~ Non-Discretionary Map Amendments

~~a) Notice for hearings on discretionary Quasi-Judicial Annexation Related Map Amendments shall be as follows:~~

~~A. By mailing the required inter-agency DLCD notice to DLCD, Metro, the Beaverton Neighborhood Office and the Chair of the Committee for Citizen Involvement (CCI) at least forty-five (45) calendar days prior to the initial hearing; and~~

~~B. By publication of a notice in a newspaper of general circulation within the City, giving the time, date, place, and purpose of the hearing; and~~

~~C. By posting notice in three conspicuous public places in the City, stating the property is subject to an application for a Plan amendment and the telephone number of the City department to call for further information; and~~

~~D. By mailing notice to the NAC, the CPO, property owners and residents included in the proposed change and within an area enclosed by lines parallel to and 500 feet from the exterior boundary of the property for which the change is contemplated; and~~

~~E. By such other notice as the Planning Commission or City Council may deem in the public interest; and~~

~~F. All hearing notices required by B. through D. of this subsection (a) shall be given not less than twenty (20) calendar days prior to the date of the hearing and staff reports shall be available in this time frame.~~

~~b) Notice for hearing on discretionary Legislative Annexation Related Map Amendments shall be as follows:~~

~~A. By mailing the required inter-agency DLCD notice to DLCD, Metro, the Beaverton Neighborhood Office and the Chair of the Committee for Citizen Involvement (CCI) at least forty-five (45) calendar days prior to the hearing; and~~

~~B. By publication of a notice in a newspaper of general circulation within the City, giving the time, date, place, and purpose of the hearing; and~~

~~C. By mailing notice to the NAC, the CPO and owners of record of the subject property on the most recent property tax assessment roll; and~~

~~D. By posting notice in three conspicuous public places in the City, stating the property is subject to an application for a Plan amendment and the telephone number of the City department to call for further information; and~~

~~E. By such other notice as the Planning Commission or City Council may deem in the public interest; and~~

~~F. All hearing notices required by B. through D. of this subsection (b) shall be given not less than twenty (20) calendar days prior to the date of the hearing and staff reports shall be available in this time frame.~~

A~~e)~~ Notice for Non-Discretionary ~~Annexation Related~~ Map Amendments shall be provided as follows:

~~A~~1. By publication of a notice with the information specified in 1.4.3 (B) (1), (2) and (3) in a newspaper of general circulation within the City, ~~giving the time, date, place, and purpose of the City Council agenda item~~; and

2~~B~~. By mailing notice with the information specified in 1.4.3 (B) to the Beaverton Neighborhood Office, Chair of the Committee for Citizen Involvement (CCI), NAC, CPO and owners of record of the subject property on the most recent property tax assessment roll; and

~~C~~3. ~~By such other notice as the City Council may deem in the public interest~~ By placing notice with the information specified in 1.4.3 (B) on the City's web site..

All notices required by ~~A~~1. through ~~C~~3. of this subsection (~~e~~A) shall be given not less than twenty (20) and not more than forty (40) calendar days prior to the date the item initially appears on the City Council agenda. ~~Staff reports must be available at the time notice is provided.~~

B. Notice required by subsection 1.4.3.(A) shall:

1. Explain the nature of the application;
2. Set forth the street address or other easily understood geographical reference to the subject property, including a map;
3. State the time, date, place, and purpose of the City Council agenda item;
4. Include the case file number, title or both of the proposed ordinance to be considered

at the time of hearing;

5. Include the name and phone number of the City staff person assigned to the application from who additional information may be obtained;
6. List the applicable criteria from the Comprehensive Plan and State Law that apply to the application at issue;
7. State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant, and applicable criteria are available for inspection at no cost at least seven (7) calendar days prior to the City Council meeting and will be provided at reasonable cost and include the days, times and location where available for inspection~~;~~.

~~E~~C. Notice of Decision for Non-Discretionary Map Amendments

Within five working days after the ~~final~~ City Council decision on a Non-Discretionary ~~Annexation Related~~ Map Amendment, notice of the decision shall be mailed to the owner of record, DLCD, ~~Metro,~~ the Beaverton Neighborhood Office and the Chairperson of the Committee for Citizen Involvement (CCI). The notice of decision shall include the following:

1. A statement that the decision is final but may be appealed in a court of competent jurisidiction, and
2. A statement that the complete case file is available for review. The statement shall list when and where the case file is available and the name and telephone number of the City representative to contact for information about the case.

1.4.4 **Statewide Planning Goal 5 Inventory Resource Document (Volume III) Amendments**

A. If the proposal is legislative in nature, as in an update to one of the Statewide Planning Goal 5 Inventory Resource Documents or an addition of a new category of Statewide Planning Goal 5 Inventory Resource Documents, then notice shall follow the legislative notice procedure identified under subsection 1.4.1.

B. If the proposal is quasi-judicial in nature, as in a change on one property or a limited group of properties, the notice shall follow the quasi-judicial notice procedure under subsection 1.4.2..

C. If the proposal is to update the Local Wetland Inventory map of the Significant Natural Resource maps based on approvals of wetland delineations or fill [redacted] permits issued by the Oregon Department of State Lands, the amendment shall be deemed non-discretionary and shall be updated administratively by City Council ordinance adoption, following the Non-Discretionary Map Amendment procedure under 1.4.3.

1.5 CRITERIA FOR AMENDING THE COMPREHENSIVE PLAN

The adoption by the City Council of any amendment to the Plan shall be supported by findings of fact, based on the record, that demonstrate the criteria of this Section have been met. The City Council and Planning Commission may incorporate by reference facts, findings, reasons, and conclusions proposed by the City staff or others into their decision.

1.5.1 Criteria for Legislative and Quasi-judicial Comprehensive Plan Amendments

A. The proposed amendment is consistent and compatible with relevant Statewide Planning Goals and related Oregon Administrative Rules; and

B. The proposed amendment is consistent and compatible with the applicable Titles of the Metro Urban Growth Management Functional Plan and the Regional Transportation Plan; and

C. The proposed amendment is consistent and compatible with the Comprehensive Plan and other applicable local plans; and

D. If the proposed amendment is to the Land Use Map, there is a demonstrated public need, which cannot be satisfied by other properties that now have the same designation as proposed by the amendment.

1.5.2 Criteria for Non-Discretionary Map Amendments

A. Annexation-Related

Discretion occurs when the Washington County-Beaverton Urban Planning Area Agreement (UPAA) is adopted or amended by the County and the City. The UPAA provides specific City-County Land Use Designation Equivalents. Specifically, the UPAA states in Section II (D) "Upon annexation, the city agrees to convert County plan and zoning designations to City plan and zoning designations which most closely approximate the density, use provisions and standards of the County designations. Such conversion shall be made according to the tables shown on Exhibit "B" to this agreement." Consequently, when the conversion from County to City designation is shown on Exhibit B, the City has no discretion.

B. Statewide Planning Goal 5

The Department of State Lands (DSL) and the US Army Corps of Engineers (COE) exercise discretion when these agencies approve wetland delineations and fill/removal permits (OAR 141-085, ORS 227.350, and ORS 196.600 to 196.990). Because the decision is made by another agency, acknowledging the locations of the delineated wetlands and fill/removal activities on the City's Local Wetland Inventory map involves no discretion.

1.5.3 Criteria for Statewide Planning Goal 5 Inventory Resource Document (Volume III) Comprehensive Plan Amendments

A. Local Wetland Inventory Amendments require following the criteria for adoption of a local wetland inventory found within Oregon Revised Statutes and Oregon Administrative Rules (as of November 2004, ORS 196 and OAR 141-086 and OAR 660-023).

B Criteria for Addition of Historic Landmarks and Districts

To qualify as a historic landmark or district, the proposal must meet criterion 1 and at least one factor listed as criteria 2 through 5:

1. Conforms with the purposes of the Beaverton Comprehensive Plan; and

2. The proposed landmark or district is associated with natural history, historic people, or with important events in national, state, or local history, ; or

3. The proposed landmark or district embodies the distinguishing characteristics of an architecture inherently valuable for a study of a period, style, or method of construction; or

4. The proposed landmark is a notable work of a master builder, designer, or architect; or

5. The proposed landmark or district would serve one or more of the following purposes:

   a) To preserve, enhance, and perpetuate landmarks and districts representing or reflecting elements of the City's cultural, social, economic, political, and architectural history;

   b) To safeguard the City's historic, aesthetic, and cultural heritage as embodied and reflected in said landmarks and districts;

   c) To complement any National Register properties or Historic Districts;

   d) To stabilize and improve property values in such districts;

   e) To foster civic pride in the beauty and accomplishments of the past;

   f) To protect and enhance the City's attractions to tourists and visitors and the support and stimulus to business and industry thereby provided;

   g) To strengthen the economy of the City; and

   h) To promote the use of historic districts and landmarks for the education, pleasure, energy conservation, housing, and public welfare of the City's current and future citizens.

C. Criteria for Adding Historic Trees

The adoption by City Council and Planning Commission of any amendment to add a historic tree to the Historic Tree Inventory shall be based on the following criteria:

1. Conforms with applicable goals and policies of the Beaverton Comprehensive Plan; and

2. The proposed historic tree designation is requested by the property owner as determined by the most recent property tax assessment roll of the Washington County Department of Assessment and Taxation; and

3. The proposed historic tree is associated with historic properties, historic people, or with important events in national, state, or local history, or general growth and development of the city.

~~**EXPLANATORY NOTE: When feasible the notice for annexations and the related map changes shall be combined.**~~

~~1.3.4.4 The mailed Notice required by this section shall:~~

~~A. Explain the nature of the application and the use or uses which could be~~

~~authorized;~~

~~B. List the applicable criteria from the Comprehensive Plan and State Law that apply to the application at issue;~~

~~C. Set forth the street address or other easily understood geographical reference to the subject property;~~

~~D. State the date, time and location of the hearing;~~

~~E. State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the Planning Commission an opportunity to respond to the issue precludes appeal to the City Council and Oregon State Land Use Board of Appeals on that issue;~~

~~F. Include the name and phone number of the City staff person assigned to the application from whom additional information may be obtained;~~

~~G. State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at no cost and will be provided at reasonable cost;~~

~~H. State that a copy of the staff report will be available for inspection at no cost at least thirty days prior to the hearing and will be provided at reasonable cost; and~~

~~I. Include a general explanation of the requirements for submission of testimony and procedure for conduct of the hearing.~~

~~1.3.5 STAFF REPORTS~~

~~Comprehensive Plan Amendment staff reports will be available thirty (30) calendar days prior to the Planning Commission public hearing. Similarly, Comprehensive Plan Amendment staff reports prepared for CPA public hearings scheduled by City Council will be available to the public thirty (30) calendar days prior to the hearing. Comprehensive Plan Amendment staff reports for annexation related map amendments will be available at least twenty (20) clendar days prior to their first public hearing or agenda date.~~

~~1.3.6~~1.6 HEARINGS PROCEDURES~~FINAL ADOPTION AND APPEALS~~

Before the City Council may adopt any amendment to the Comprehensive Plan, the ~~following~~ procedures within this section shall be followed~~:~~. In the case of Non-Discretionary amendments, no hearing will be held. Consideration of the proposal shall be placed on the City Council Agenda for adoption by ordinance.

~~1.3.6.1~~1.6.1. After appropriate notice is given, as provided in section 1.4 ~~as provided in section 1.3.4~~ the Planning Commission or City Council shall hold a public hearing on the amendment, except for Non-Discretionary amendments.

A. At the beginning of the hearing an announcement shall be made to those in attendance that:

1. States the applicable approval criteria by Comprehensive Plan section number.
2. States testimony, arguments and evidence must be directed toward the applicable criteria.
3. States failure to raise an issue accompanied by statements or evidence with sufficient specificity to afford the Planning Commission or City Council and the parties an

opportunity to respond to the issue may preclude appeal to the Land Use Board of Appeals on that issue.

4. States failure of the applicant to raise constitutional or other issues relating to the proposed conditions of approval with sufficient specificity to allow the City to respond to the issue may preclude an action for damages in circuit court.
5. If a quasi-judicial application, states the Planning Commission and City Council must be impartial and that members of the Planning Commission and City Council shall not have any bias or personal or business interest in the outcome of the application.
   a) Prior to the receipt of any testimony, members of the Planning Commission or City Council must announce any ex parte contacts. The Planning Commission or City Council shall afford parties an opportunity to challenge any member thereof based on bias, conflicts of interest or ex parte contacts.
   b) If any member of the Planning Commission or City Council has visited the site (if applicable), they should describe generally what was observed.
6. Summarizes the procedure of the hearing.
7. States that the hearing shall be recorded on audio only or audio and video tape.
8. States any time limits for testimony set by the Planning Commission or City Council at the beginning of the hearing.

B. After the aforementioned announcements, the Chair or Mayor shall call for presentation of the staff report. Staff shall describe the proposal and provide a recommendation.

C. After the presentation of the staff report, the Chair or Mayor shall call for the applicant's testimony, if the City is not the applicant.

D. After the applicant's testimony, the Chair or Mayor shall call for other evidence or testimony in the following sequence unless the Planning Commission or City Council consents to amend the sequence of testimony:
   1. First, evidence or testimony in support of the application.
   2. Second, evidence or testimony in opposition to the application.
   3. Third, evidence or testimony that is neither in support nor in opposition to the application.

E. If the City is not the applicant, the Chair or Mayor shall call for rebuttal by the applicant. Rebuttal testimony shall be limited to the scope of the issues raised by evidence and arguments submitted into the record by persons in opposition to the application. Should the applicant submit new evidence in aid of rebuttal, the Chair or Mayor shall allow any person to respond to such new evidence, and provide for final rebuttal by the applicant.

F. The Chair or Mayor shall offer staff an opportunity to make final comments and answer questions.

G. Provisions for holding a record open or continuing a hearing set forth in Oregon Revised Statutes (ORS 197.763 (6)) shall apply to this Chapter of the Comprehensive Plan, in accordance with the statute.

~~1.3.6.2~~1.6.2. Following the conclusion of the hearing, the Planning Commission shall take one of the following actions:

A. Continue the hearing to a date, time and location certain, which shall be announced by the Chair. Notice of date, time, and location certain of the continued hearing is not required to be mailed, published or posted, unless the hearing is continued without announcing a

date, time, and location certain, in which case notice of the continued hearing shall be given as though it was the initial hearing.

B. Deny the application, approve the application, or approve the application with conditions.
   1. If the Planning Commission proposes to deny, approve, or approve with conditions, the Planning Commission shall announce a brief summary of the basis for the decision and that an order shall be issued as described in 1.7; provided, the proceedings may be continued for the purpose of considering such order without taking new testimony or evidence.
   2. Provisions for holding a record open or continuing a hearing set forth in ORS 197.763(6) shall apply under this Ordinance in a manner consistent with state law.
   3. If the Planning Commission proposes to approve, or approve with conditions, an ordinance shall be prepared for City Council consideration, consistent with the City Charter.
   4. In conjunction with their adoption of an ordinance approving or approving with conditions a Comprehensive Plan Amendment, the City Council shall adopt written findings which demonstrate that the approval complies with applicable approval criteria.

1.7. FINAL ADOPTION AND APPEALS

1.7.1 Final Order

A. The written decision in the form of a final order shall be prepared regarding the application. The final order shall include:
   1. A listing of the applicable approval criteria by Comprehensive Plan section number.
   2. A statement or summary of the facts upon which the Planning Commission or City Council relies to find the application does or does not comply with each applicable approval criterion and to justify any conditions of approval. The Planning Commission or City Council may adopt or incorporate a staff report or written findings prepared by any party to the proceeding into the final order to satisfy this requirement.
   3. A statement of conclusions based on the facts and findings.
   4. A decision to deny or to approve the application and, if approved, any conditions of approval necessary to ensure compliance with applicable criteria.

B. Within five (5) working days after the Final Decision (City Council Ordinance or Final Order adoption), mail the required DLCD Notice of Adoption to DLCD, pursuant to ORS 197.610 and OAR Chapter 660- Division 18.

C. Within five (5) calendar days from the date that the Planning Commission or City Council adopts a final order, the Community Development Director shall cause the order to be signed, dated, and mailed to the applicant, the property owner, the Neighborhood Association Committee or County Participation Organization in which the subject property is located, and other persons who appeared orally or in writing before the public record closed. The final order shall be accompanied by a written notice which shall include the following information:
   1. In the case of a Planning Commission decision, a statement that the Planning Commission decision can be appealed to the City Council following the procedures listed in 1.7.2. The appeal date and the statement that the appeal must be filed within

ten (10) calendar days after the date of the signed notice is dated and mailed shall be placed on the notice, with the appeal closing date shown in boldface type. The statement shall generally describe the requirements for filing an appeal and include the name, address and phone number of the Community Development Director.

2. In the case of a City Council decision, a statement that the decision is final, but may be appealed to the Land Use Board of Appeals as provided in Oregon Revised Statutes (ORS 197.805 through 197.860) or to the Land Conservation and Development Commission as provided in Oregon Revised Statutes (ORS 197.633), in the case of Periodic Review Amendments.
3. A statement indicating the Amendment application number, date, and brief summary of the decision. The statement shall list when and where the case file is available and the name and telephone number of the City representative to contact for information about the proposal.
4. A statement of the name and address of the applicant.
5. If applicable, an easily understood geographic reference to the subject property and a map. ~~deliberations the Planning Commission shall forward a recommendation to City Council to approve, approve with modifications or deny the amendment request based on the plan amendment criteria and the evidence and testimony in the record. The Planning Commission shall adopt a final order, either immediately after making its recommendation or at a public meeting within a reasonable time after making the recommendation.~~

~~The final order will consist of a brief statement explaining the criteria and standards considered relevant, stating the facts relied upon in rendering the recommendation, and explaining the justification for the recommendation based on the criteria and facts set forth. The Planning Commission's final order is a recommendation, which is forwarded to the City Council for final action.~~

~~1.3.6.3 Notice of the Planning Commission's recommendation shall be sent to the applicant, other persons whose names appear on the application, and to all persons who testified either orally or in writing before the Planning Commission, as applicable. The notice of decision shall:~~

~~A. Include the CPA Application number, date, and brief summary of the final decision;~~

~~B. Include the name and address of the applicant;~~

~~C. Include, if applicable, an easily understood geographic reference to the subject property and map;~~

~~D. State that a copy of the final order is available for review, and that a copy can be obtained at cost; and~~

~~E. State that the decision is a recommendation, which will be forwarded to the Council for final decision, and that, unless appealed by filing a written Notice of Intent to Appeal with the City Recorder within ten (10) calendar days of the date of the Planning Commission's final order, that the Council will make a~~

~~final decision based on the record and recommendation of the Planning Commission.~~

~~F. The notice shall include the requirements for filing a Notice of Intent to Appeal contained in 1.3.6.4.B, together with the name, address and phone number of the City Recorder.~~

~~1.3.6.4.~~1.7.2 Notice of Intent to Appeal

A. The Planning Commission decision may be appealed to the City Council only by the applicant, a person whose name appears on the application, or any person who appeared before the Planning Commission either orally or in writing. An appeal shall be made by filing a Notice of Intent to Appeal with the Community Development Director and~~City Recorder~~ within ten (10) calendar days after the signed written order was dated and mailed.~~of the date of the Planning Commission's final written order.~~

B. A notice of Intent to Appeal shall be in writing and shall contain:

1.~~i)~~ A reference to the ~~CPA~~ application number and date of the Planning Commission ~~decision~~order;

2.~~ii)~~ A statement that demonstrates the appellant is the applicant or their representative, a person whose name appears on the application, or a person who appeared before the Planning Commission either orally or in writing;

3~~iii)~~ The name, address, and signature of the appellant or the appellant's representative;

4~~iv)~~ An appeal fee, as established by Council resolution; if more than one person files an appeal on a specific decision, the appeals shall be consolidated and the appeal fee shall be divided equally among the multiple appellants; and

5.~~v)~~ A discussion of the specific issues raised for Council's consideration and specific reasons why the appellant contends that the Planning Commission's findings and/or recommendation is incorrect or not in conformance with applicable criteria.

C. The ~~City Recorder~~Community Development Director shall reject the appeal if it

1.~~i)~~ is not filed within the ten (10) day appeal period set forth in subsection A of this section,

2.~~ii)~~ is not filed in the form required by subsection B of this section, or

3.~~iii)~~ does not include the filing fee required by subsection B of this section.

If the ~~City Recorder~~Community Development Director rejects the appeal, the ~~City Recorder~~Community Development Director will so notify the appellant by letter. This letter shall include a brief explanation of the reason why the ~~City Recorder~~Community Development Director rejects the appeal. A decision of the ~~City Recorder~~Community Development Director to reject an appeal pursuant to this section is a final City decision as of the date of the letter and is not subject to appeal to the City Council. The appellant shall be allowed to correct a failure to comply with subsection B of this section if the correction can be made and is made within the 10 day appeal period provided in subsection A of this section.

D. If a Notice of Intent to Appeal is not filed, or is rejected, ~~the~~ an ordinance shall be prepared for City Council consideration, consistent with the City Charter. ~~Planning Commission's final order will be submitted for approval as a consent item at a subsequent public meeting of the City Council.~~

~~Following approval by the City Council of the Planning Commission's order the Council will, if the application is approved, adopt an ordinance as provided by the Charter for the City of Beaverton.~~

If the application is denied, the City Council will adopt a final order which sets forth its decision together with any reasons therefor. The Council's final order or the ordinance is the final decision of the City on the application. Notice of the decision shall be given as provided in ~~1.3.6.8~~1.7.1.

E. Notwithstanding the provisions of this section, ~~and in the absence of a properly and timely filed Notice of Intent to Appeal the Planning Commission decision, the~~ City Council on its own motion, may order a public hearing ~~at the~~ before the City Council ~~level~~ at any time prior to adopting a Council final order or ordinance. ~~This Council hearing may be on the record or de novo at the discretion of the Council.~~

~~1.3.6.5~~1.7.3 Notice of Appeal Hearing

A. Written notice of the appeal hearing before the City Council will be sent

1. by regular mail,
2. no later than ~~thirty~~ twenty (~~3~~20) days prior to the date of the hearing
3. to the appellant, the property owner, the applicant, if different from the appellant, persons whose names appear on the application, and all persons who previously testified either orally or in writing before the Planning Commission.

B. Notice of the hearing shall:

~~i)~~1. Reference the CPA file number or numbers and the appeal number;

~~ii)~~2. Set forth the street address or other easily understood geographical reference to the subject property, if applicable;

~~iii)~~3. State the date, time and location of the hearing;

~~iv)~~4. State that an appeal has been filed, set forth the name of the appellant or appellants and contain a brief description of the reasons for appeal;

~~v)~~ ~~State that Council review is confined to the issues raised by the appellant with sufficient specificity to enable the Council to respond. This portion of the notice will be deleted if the City Council on its own motion calls for a public hearing on the matter and directs that such hearing will be de novo.~~

~~vi)~~5. Include the name and phone number of the City staff person assigned to the application from whom additional information may be obtained;

~~vii)~~6. State that a copy of the Planning Commission's written order, the application, all documents and evidence contained in the record, and the applicable criteria are

available for inspection at no cost and can be provided at reasonable cost including the days, times and location where available for inspection; and

~~viii)~~7. Include a general explanation of the requirements for submission of testimony and the procedure for conduct of the hearing.

~~1.3.6.6~~1.7.4 Preparation of the Record; Staff Report; Transcript

A. Following receipt of a Notice of Intent to Appeal filed in compliance with ~~1.3.6.4~~1.7.2, the Community Development Department Director shall prepare a record for Council review containing:

~~i)~~1. All staff reports and memoranda prepared regarding the application that were presented to the Planning Commission;

~~ii)~~2. Minutes of the Planning Commission proceedings at which the application was considered;

~~iii)~~3. All written testimony and all exhibits, maps documents or other written materials presented to and or rejected by the Planning Commission during the proceedings on the application; and

~~iv)~~4. the Planning Commission's Final written order.

5. The appellant may request, and the City Council may allow, a quasi-judicial comprehensive plan amendment appeal hearing be conducted on the record established at the Planning Commission public hearing. If such a request is made and granted, a transcript of the Planning Commission proceeding is required. The appellant shall remit a fee to cover the cost fo the transcript of the Planning Commission hearing within five (5) calendar days after the Community Development Director estimates the cost of the transcript. Within ten (10) calendar days of notice of completion of the transcript, the appellant shall remit the balance due on the cost of the transcript. In the event that the Council denies the request for an on the record appeal hearing, and holds a de novo hearing, the transcript fee may be refunded. If the transcription fee estimate exceeds the transcription cost, the balance shall be refunded to the appellant.

B. The Community Development Department Director shall prepare a staff report on the appeal explaining the basis for the Planning Commission's decision as relates to the reason for appeal set forth in the Notice of Intent to Appeal, and such other matters relating to the appeal as the Director deems appropriate.

~~C. Transcript. A verbatim transcript of the Planning Commission proceedings is not required. Any person who appeared before the hearing body on the application may prepare a certified verbatim transcript of all or part of the Planning Commission's proceedings at that person's own expense. The Community Development Department Director may prepare a certified verbatim transcript of all or part of the Planning Commission's proceedings at the City's expense.~~

~~D. A certified transcript prepared pursuant to this subsection shall be considered to be part of the record of the Planning Commission's proceedings, and, if offered, shall be accepted into evidence and considered by the City Council.~~

~~1.3.6.7~~1.7.5 Scope of Review

A. ~~Except as provided in subsection B of this section,~~

~~i)~~1. The City Council ~~review~~ appeal hearing shall be de novo, which means any new evidence and argument can be introduced in writing, orally, or both. The City Council may allow, at the appellant's request, a quasi-judicial comprehensive plan amendment appeal hearing be conducted on the record established at the Planning Commission hearing. ~~limited to the evidence in the record before the Planning Commission. Evidence means facts, documents, data or other information offered to demonstrate compliance or noncompliance with the standards believed by the proponent to be relevant to the decision. No new evidence may be presented at the hearing before the Council and no person may testify before the Council unless that person appeared either orally or in writing before the Planning Commission. No issue may be raised on appeal to the Council that was not raised before the Planning Commission with sufficient specificity to enable the Planning Commission and the parties to respond.~~

~~ii)~~ B. The Council may take official notice of and may consider in determining the matter any material which may be judicially noticed pursuant to the Oregon Rules of Evidence, ORS 40.060 throughto 40.090, including an ordinance, comprehensive plan, resolution, order, written policy or other enactment of the City.

~~iii) The Council may reopen the record and consider new evidence if such a request is made prior to or at the Council hearing by the appellant or any person who testified before the Planning Commission, and the requesting party demonstrates:~~

~~1) That the hearing body committed a procedural error that prejudiced the requesting party's substantial rights and that reopening the record is the only alternative to remanding the application to the Planning Commission to correct the error; or~~

~~2) That new evidence material to the decision on appeal exists and could not have been presented to the Planning Commission. A requesting party may only qualify for this exception if he or she demonstrates that the new evidence concerns an unanticipated event which occurred after the close of the hearing before the Planning Commission. This exception shall be strictly construed by the Council in order to ensure that all relevant evidence and testimony is submitted to the Planning Commission.~~

~~In the event that no appeal is properly and timely filed and the City Council by motion decides to consider the Comprehensive Plan Amendment, the Council may conduct a de novo public hearing or it may review the matter on the record as described in subsection A of this section. A transcript is not required, however, if all or part of a transcript is offered, then it shall be allowed at the de novo hearing.~~

C. Preliminary Decision.

At the conclusion of deliberations, the Council shall make a preliminary oral decision. The Council may affirm, reverse or modify the Planning Commission's ~~recommendation~~

order in whole or in part, or may remand the decision back to the Planning Commission for additional consideration. (Procedures for noticing a remand hearing are found in sections 1.4.1 (D) and 1.4.2 (D).) The preliminary oral decision is not a final decision. At any time prior to adoption of the final order or Ordinance pursuant to ~~subsection D~~subsection D of this section, the Council may modify its decision based upon the record or may reopen the hearing.

D. Final Order ~~.~~or Ordinance

In the case of a denial, the City Council shall direct staff to prepare a final order or in the case of approval, t~~T~~he Council shall cause the preparation of an Ordinance. The Ordinance or final order ~~adopt a final order either immediately after making its preliminary oral decision or at a public meeting within a reasonable time after making the preliminary oral decision. The final written order~~ shall consist of a brief statement explaining the criteria and standards considered relevant, stating the facts relied on in rendering the decision, and explaining the justification for the decision based upon the criteria and facts set forth ~~and, if the plan amendment is approved, an ordinance which adopts the proposed amendment~~. The ~~written~~ final order, or Ordinance, is the final decision on the application and the date of the order, or Ordinance, for purposes of appeal is the date on which it is ~~adopted by the Council~~signed by the Mayor.

Procedures for preparation of the Final Order, Ordinance and distribution of the Notice of Decision are found in section 1.7.

~~1.3.6.8 Notice of Decision.~~

~~A notice of decision shall be prepared not later than five (5) working days after the final decision. The Plan amendment, findings and notice of decision shall be mailed to the DLCD not later than five (5) working days after the final decision.~~

~~A. In addition, the notice of decision shall be sent by regular mail to:~~

~~i) persons who participated in the proceedings leading to adoption of the amendment; and~~

~~ii) persons who requested, in writing, to receive the notice of decision.~~

~~B. The notice of decision shall:~~

~~i) include the CPA and appeal number, date and brief summary of the final decision;~~

~~ii) include the name and address of the applicant;~~

~~iii) include an easily understood geographical reference to the subject property and a map, if applicable;~~

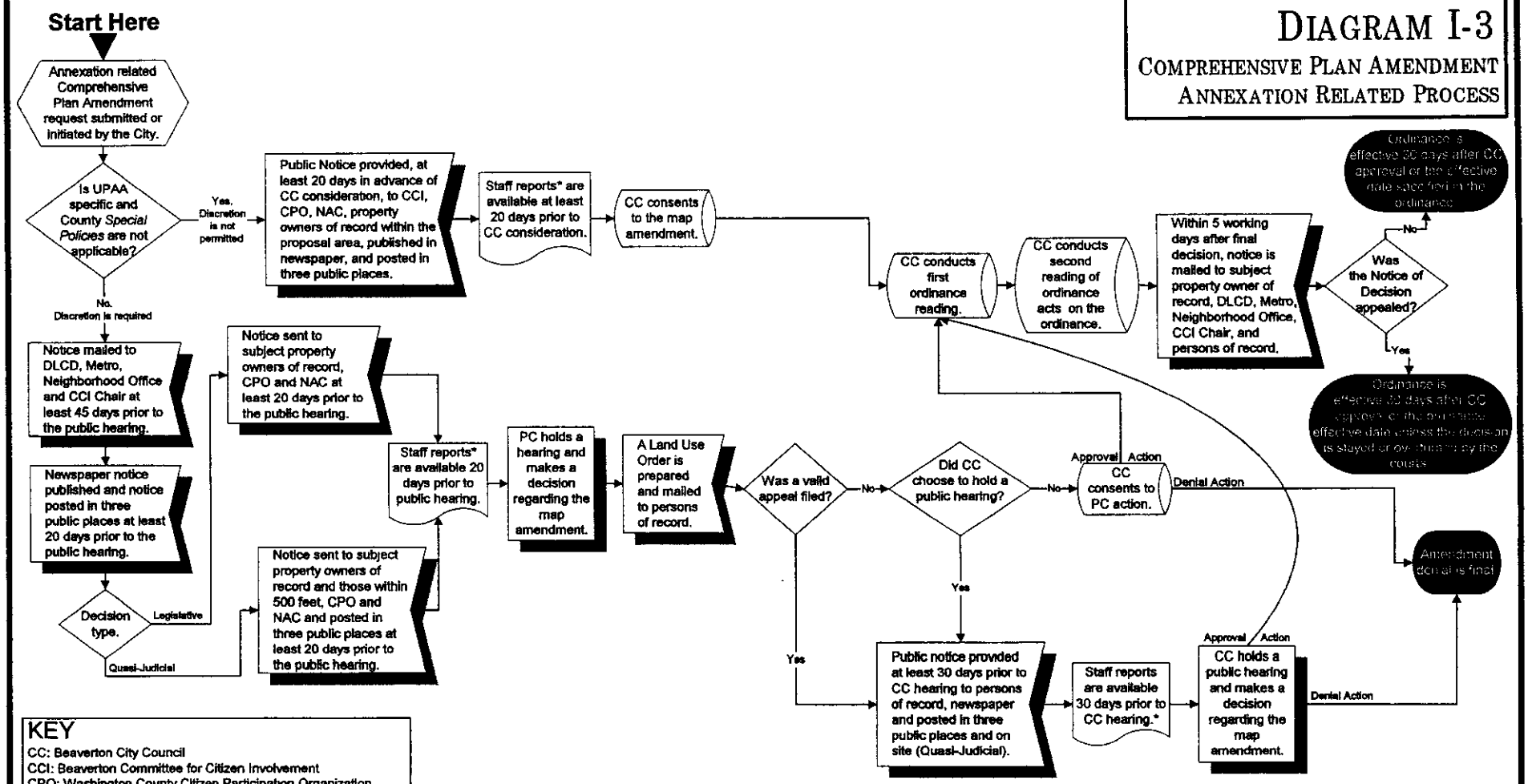
~~iv) State that the decision is available for review, and that a copy can be obtained at cost; and~~

~~v) State that the decision may be appealed by filing a written Notice of Intent to Appeal with the Oregon State Land Use Board of Appeals (LUBA) within 21 days of the date of the final decision in accordance with ORS 197.830(8).~~

The following diagrams, Diagram ~~IA—through~~I-1 through I-4~~C~~, are intended for illustrative purposes only and are not adopted as procedural requirements within this ordinance. Thus, periodic updates to Diagrams I-1~~A~~ through I-4~~C~~ will not require a Comprehensive Plan Amendment.

DIAGRAM I-3

COMPREHENSIVE PLAN AMENDMENT ANNEXATION RELATED PROCESS



Diagrams are intended for illustrative purposes only and do not serve as the procedural requirements within this ordinance.

Diagram I-1
Legislative Comprehensive Plan Amendments

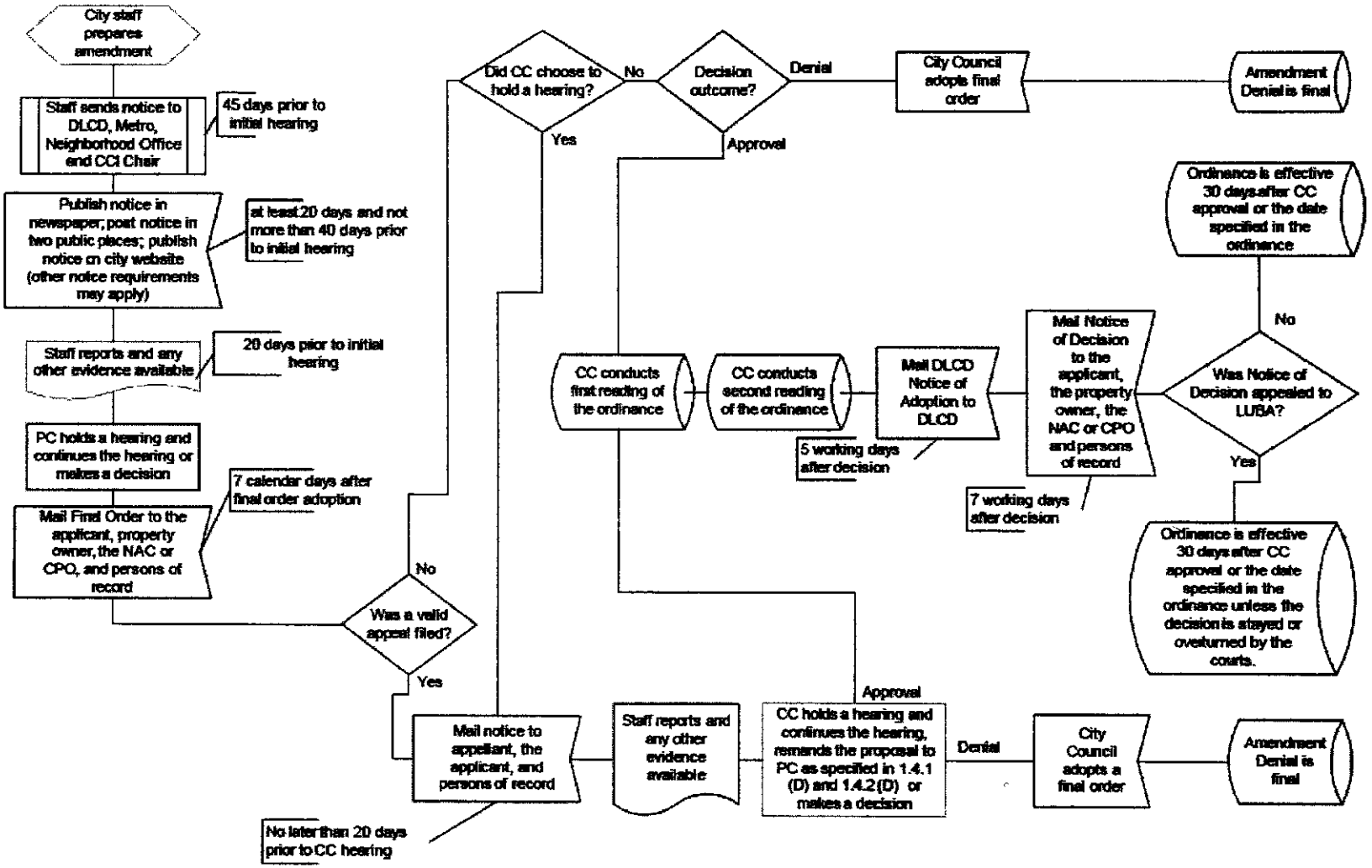


Diagram I-2
Quasi-Judicial Comprehensive Plan Amendments

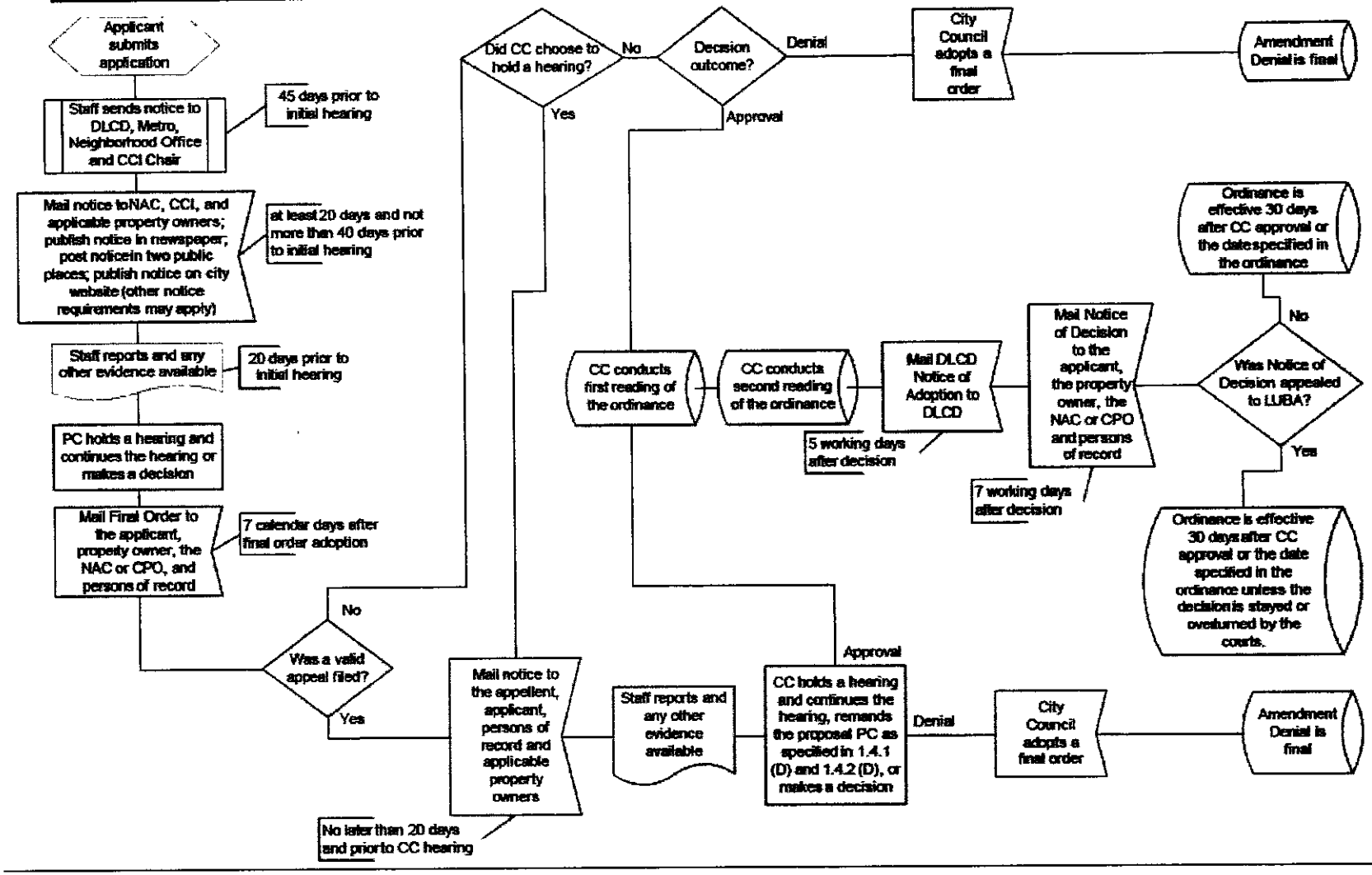


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Diagram I-3
Non-Discretionary Map Comprehensive Plan Amendments

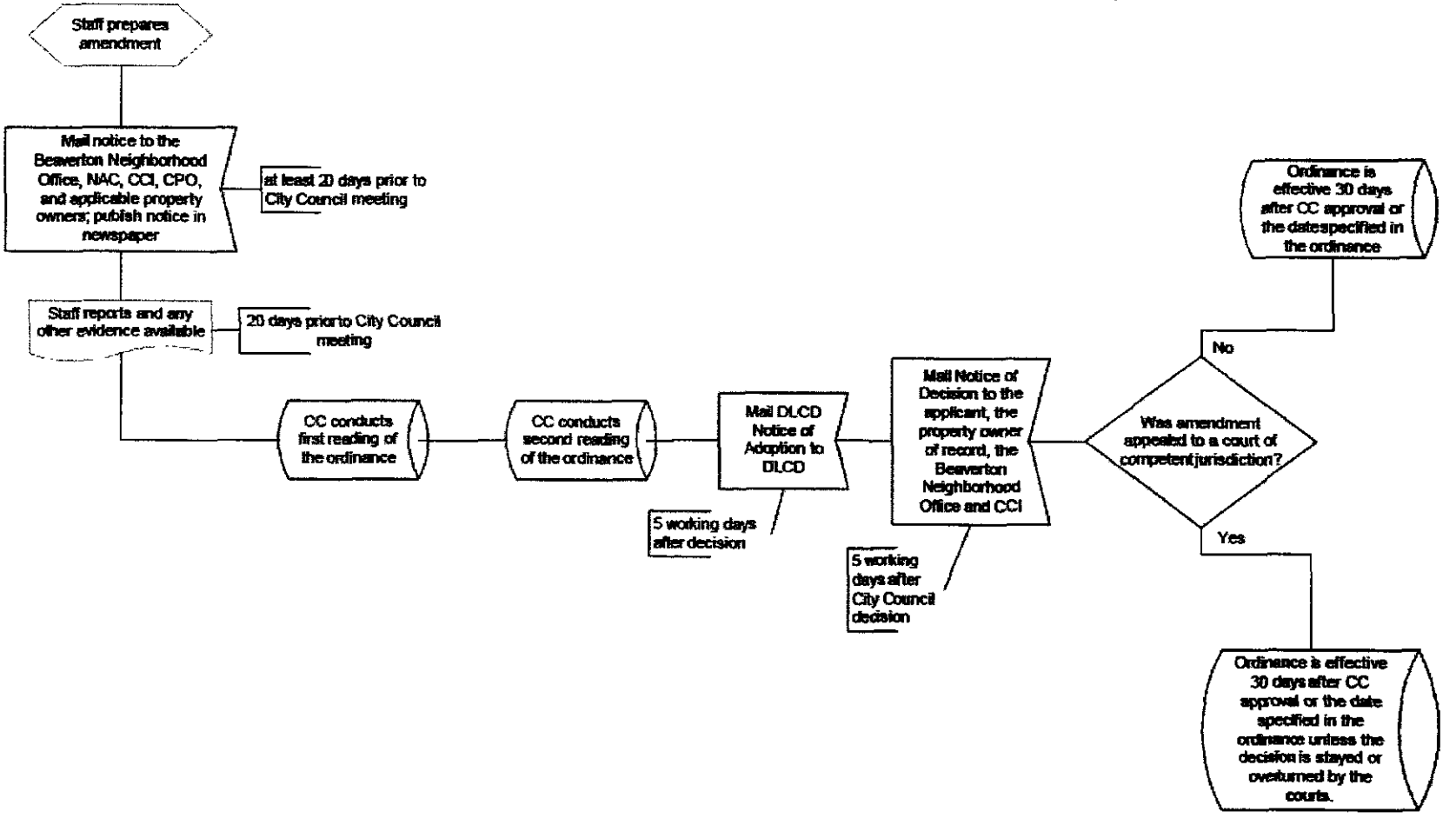
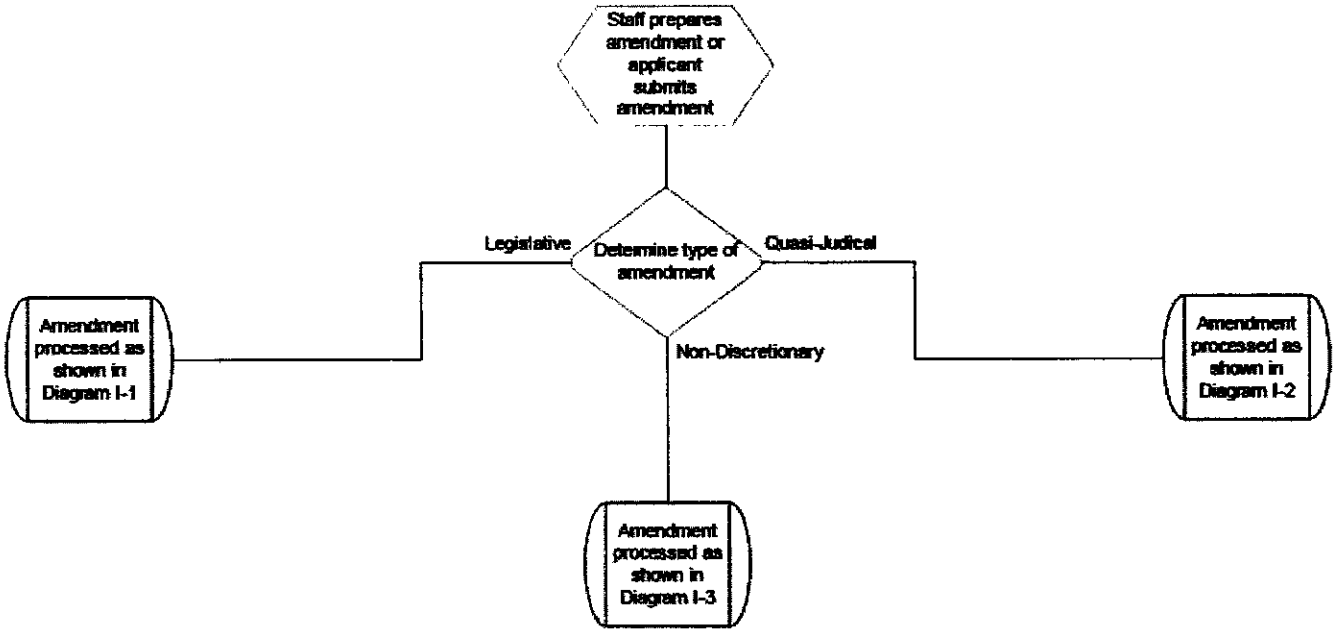


Diagram I-4
Statewide Planning Goal 5 Inventory Resource Document Volume III
Comprehensive Plan Amendments



1.8 APPLICATION FEES

In order to defray expenses incurred in connection with the processing of applications, the City has established a reasonable fee to be paid to the City upon the filing of an application for a Plan amendment. Fees for privately initiated Plan amendments requiring extraordinary staff time or expertise beyond the scope of the average process may be subject to an additional project management fee as established by Council Resolution 3285.

CHAPTER TWO:
PUBLIC INVOLVEMENT ELEMENT

PUBLIC INVOLVEMENT ELEMENT

2.1 OVERVIEW

Engaging the public early and often in the decision-making process is critical to the success of any planning effort, especially in relation to land use and transportation issues. In addition, numerous state and federal laws, as well as local policies, require public review and feedback at critical points in public policy development. For example, the federal Intermodal Surface Transportation Efficiency Act of 1991 underscores the need for public involvement, calling on planning agencies to provide the public, affected public and private agencies, and other interested parties "with a reasonable opportunity to comment" on plans and programs.

2.2 PUBLIC INVOLVEMENT GOALS

Oregon's Statewide Planning Goal 1 charges the governing body with preparing and adopting a comprehensive program for public involvement that clearly defines the procedures by which the general public can become involved in the planning process:

Goal 1 Citizen Involvement: To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process. (Department of Land Conservation and Development, adopted 1974, amended 1988)

The City of Beaverton's commitment to ensure~~ing~~ an optimum level of public participation is reflected in its public involvement goals:

City Council Goal: Enhance citizen involvement and participation.

Comprehensive Plan Public Involvement Goal: The Planning Commission, Council, and other decision making bodies shall use their best efforts to involve the public in the planning process.

In response to these goals, the City has developed a Public Involvement program aimed at expanding opportunities for public involvement throughout the planning process.

2.2 PUBLIC INVOLVEMENT PROGRAM

In order to encourage public participation it is critical that issues important to different groups be identified and addressed early in the planning process. The need for and ~~desired~~ desirable level ~~for~~of public participation should be determined in the early stages of any planning activity.

Public participation provides information and assistance to staff and policy makers_in dealing with issues of interest to the public. When the community and its decision-makers

work from a common base of information, an active, rather than reactive program can evolve. Such a program will provide information more suitable to the public's needs.

2.3 PUBLIC INVOLVEMENT PROGRAM OBJECTIVES

A. To involve a cross section of the community in the community planning process.

B. To ensure effective two-way communication between the City and the public.

C. To provide an opportunity for the public to be involved in all phases of the planning process (e.g., scoping, analysis, plan preparation, adoption, implementation, and monitoring).

D. To ensure that technical information is presented in an understandable form.

E. To ensure that the public will receive a response from policy-makers.

F. To ensure appropriate funding for the public involvement program.

2.4 PROGRAM IMPLEMENTATION

2.4.1 CITY-WIDE PUBLIC INVOLVEMENT OUTREACH MECHANISMS

Several existing mechanisms ensure city-wide public involvement in Beaverton's planning process. The City's primary outreach mechanisms are through:

A. The Committee for Citizen Involvement, an advisory committee to the City Council;

B. The Neighborhood Program Office;

C. The Neighborhood Association Committees;

D. Specific committees and special interest groups;

E. *Your City,* a newsletter published six times per year, subject to continued funding, that is designed to keep the public informed and invite participation;

F. Periodic news releases in area newspapers;

G. Contact with the local media;

H. The City's public internet web site;

I. Public workshops and focus groups; and

J. Public hearings.

Each public involvement opportunity is tailored to meet the needs and conditions of the outreach effort, and techniques are often combined.

2.4.2 PUBLIC INVOLVEMENT IN CITY DECISION MAKING PROCESSES

The City's formal decision making processes include several opportunities for public involvement. The public is invited to present their views at the various City board and committee meetings, including but not limited to City Council, Planning Commission, Traffic Commission, and Board of Design Review~~, and Historic Resources Review Committee and Facilities Review Committee~~. Public notices, complete with the hearing date, time, location, and hearing body, are mailed out at least twenty (20) calendar days prior to the date of the public hearing~~, with thirty (30) calendar days notice given for Comprehensive Plan Amendments~~. Notices of public hearings are primarily published in the advertisement section of *The Valley Times.* On occasion, public hearing notices are published in *The Oregonian.* Notices are also posted on the City's web site.

Final agendas are posted at least seven calendar days in advance of the meeting at City Hall, located at 4755 S.W. Griffith Drive~~, the Beaverton post office on SW Betts and Farmington Road,~~ and the Beaverton Library at ~~Allen and Hall Boulevards~~12375 SW Fifth Street. Agendas and meeting notices are available upon request from the City. Documents containing the proposals to be considered at the public hearings are available at the ~~Planning~~ Public Counter of the Community Development Department at least seven (7) calendar days in advance of the hearing, at least twenty (20) calendar days for Comprehensive Plan Amendments.~~ When the plan amendment affects a specific parcel or group of parcels, the site in question is also posted with a notice of a pending land use public hearing and a telephone number to call for further information~~.

The public is encouraged to provide staff with written comments or copies of presentations, particularly if the statement is too long to be orally presented in its entirety at a meeting. Individuals unable to attend meetings can submit concerns and ideas in writing to the Community Development Department office prior to the close of the public comment period. Copies of all materials submitted prior to distribution to the appropriate decision making body are included in documentation provided for the ~~hearing~~ deliberation on the matter.

All meetings are held in locations accessible to persons with disabilities. Listening devices or other auxiliary aids, sign language interpreters for people with hearing impairments, and readers for people with visual impairments are provided if requested at least three working days (72 hours) prior to the meeting.

The City may also conducts public meetings, workshops, and focus groups on particular issues to solicit input and involvement in various planning issues. Adopted plans are also available to the public for review at the Community Development Department and the

Beaverton Library, and are posted on the City's internet web site. Copies may be acquired for the cost of duplication at the Community Development Department.

2.4.3 CITY-SPONSORED PUBLIC GROUPS

2.4.3.1. Committee for Citizen Involvement (CCI)

Council Resolution 2058 (1978) established the CCI, defining its responsibilities as an advisory committee to the City Council. ~~Ordinance 3557 established~~ The *Beaverton Code* specifies membership of CCI as five at-large members appointed by the Mayor and confirmed by the Council and one member from each recognized ~~n~~Neighborhood ~~a~~Association Committee. The CCI's role is to assure that the community has a continuous opportunity to exchange ideas and information with the City, and to monitor and evaluate City programs as specified in the *Beaverton Code, 1982,* as amended (BC 2.03.050 through 2.03.054).

The Citizen Involvement Program, adopted by Resolution 2229 (1980), established a formalized public participation program for the CCI and provided a method by which the committee and other members of the community could communicate their opinions, inquiries, or complaints about City departments, committees, or the Council.

The program also provides for a newsletter ~~(the *CCI Herald*)~~ and calendar of City meetings, information flyers, community meetings, and funding for these activities as well as staff support and public hearing notices. The City is committed to providing financial support for public outreach and public participation processes. Staff and resource needs are determined during work program development for each plan, program, and project. In addition, the City's Neighborhood Program Office staff are available to coordinate outreach and work with City departments to realize the full potential of each public participation effort.

2.4.3.2 Neighborhood Association Committees (NACs)

The *Beaverton Code* identifies the p~~P~~rocedures by which residents can form Neighborhood Association Committees, add or delete areas of acknowledged NACs and provides a process for termination of NAC Recognition and NAC Grievances (BC 9.06.010 through 9.06.040) ~~(Ordinance 3120) have been adopted by the City. Additions or deletions of Neighborhood Associations do not require a Comprehensive Plan Amendment. As the City expands, new NACs will be formed in accordance with the provisions of Ordinance 3120. Figure II-1 shows a graphic representation of the general boundaries for the existing NACs.~~Boundaries of the ~~Neighborhood Association Committees~~NACs are shown on maps available at City Hall or on the City's website ~~(www.ci.beaverton.or.us)~~.

~~Currently there are thirteen neighborhood association committees in Beaverton:~~

~~South Beaverton~~	~~Greenway~~	~~Triple Creek~~	~~Vose~~
~~West Beaverton~~	~~Five Oaks~~	~~Denney Whitford~~	~~Raleigh West~~
~~Central Beaverton~~	~~Highland~~	~~Sexton Mountain~~	~~Raleigh Park~~

~~Neighbors Southwest~~

NACs provide a forum to identify, discuss, and offer solutions to neighborhood concerns such as traffic, safety, land use, and economic development. Supported by the Neighborhood Program Office, Beaverton's NACs are organized by volunteers, meet regularly, and participate in the public comment process. Monthly agendas and minutes are mailed to active participants. Neighborhood and city-wide issues are usually the main agenda topics.

~~*Figure II-1 Beaverton Neighborhood Associations*~~

2.4.3.3. The *Beaverton Code* (Section 2.03.002 – 2.03.300) identifies other City Boards, Commissions and Committees created by ordinance. Additional committees or review commissions may be established to address special projects, such as the Code Review Advisory Committee. These committees provide input to staff as they develop specific proposals, such as amendments to the Development Code.

2.4.~~3.3~~4. **Citizen's Participation Organizations (CPOs)**
Washington County CPOs bordering the City limits are also involved in City planning issues through their newsletters and processes. Each CPO's newsletter details issues of county, city, and region-wide interest to its readers. ~~Often, p~~Public hearing notices and articles of interest concerning Beaverton issues are often included in the CPO newsletters.

~~2.4.3.4. Other Public Boards and Commissions~~
~~The public may also attend and serve on City boards, commissions, and task forces. Appointments are usually made by the Mayor, the term is usually one year, and special experience is not necessary. Such boards currently include:~~

~~B.I.K.E. Task Force~~
~~Citizens with Disabilities Advisory Committee~~
~~Development Liaison Committee~~
~~Planning Commission~~
~~Traffic Commission~~
~~Historic Resources Review Committee~~
~~Board of Design Review~~
~~Code Review Advisory Committee~~

2.4.4~~5~~ PUBLICATIONS AND MAIL NOTIFICATION
"Your City" newsletter is ~~published and~~ distributed ~~-~~city-wide~~,~~. It provides information on current issues to the residents of Beaverton. Published approximately six times per year, subject to available funding, "Your City" includes notification of regularly scheduled Board, Commission, Advisory Committee and Neighborhood Association Committee meetings and hearings, articles of interest to residents, and educational opportunities relating to planning and other community issues. Specific mailings, public notices, flyers, surveys and questionnaires, as well as the City's web site, cable broadcasts and other media, are used by the City to obtain input and provide information.

~~In addition, if information relates to a specific development proposal, such as for a Design Review Type I, II, III, Administrative or Quasi-Judicial decision, formal notice is provided in accordance with the Beaverton Development Code (ORD 2050).~~

2.5 OPPORTUNITIES FOR PUBLIC INVOLVEMENT

Many City planning processes incorporate specific public involvement procedures, which are identified in Chapter I of this Plan and in the City of Beaverton Development Code~~, Ordinance 2050~~.

In addition to the City's public participation processes, Metro requires transportation plans and programs to conform with its adopted Local Public Involvement Policy. This policy defines procedures and includes a certification process for projects proposed for federal funding through Metro.

Early public participation is critical to identifying needs and issues, evaluating alternatives, and developing, implementing, and evaluating projects. Opportunities for public involvement are available during ~~the following development~~ preparation and review phases of City plans~~:~~

~~2.5.1 Comments and Response to Comments~~

Comments received ~~while plans are developed, adopted, implemented, and monitored are~~ during plan preparation and review are also made part of the public record. At public hearings, comments are recorded and responses are noted. Public participation opportunities and public notice requirements for city plan and code revisions and updates are specified in the respective plan or code.

~~2.5.2 FINANCIAL SUPPORT~~

~~The City is committed to providing financial support for public outreach and public participation processes. Staff and resource needs are determined during work program development for each plan, program, and project. In addition, the City's Neighborhood Program Office staff are available to coordinate outreach and work with City departments to realize the full potential of each public participation effort.~~

~~2.5.3 EVALUATION OF THE PUBLIC INVOLVEMENT PROGRAM~~

~~At regular intervals, the City's Public Involvement Program is evaluated to ensure its continued effectiveness. Revisions may be made in portions of the program related to long range planning through the Comprehensive Plan Amendment process outlined in this Plan.~~

~~2.6 PUBLIC INVOLVEMENT IN COMPREHENSIVE PLAN AMENDMENT PROCESSES~~

~~Comprehensive Plan Amendments fall into four general categories: (1) Legislative Amendments to the Comprehensive Plan text, Map or both; (2) Quasi-Judicial Amendments (i.e., parcel specific amendments to the Comprehensive Plan Map resulting from privately initiated actions); (3) Annexation Related Map Amendments; and (4) Historic Landmark or District Designation. Diagrams IA through IC, which appear in Chapter One, illustrate the steps in these amendment processes.~~

~~Public participation in Comprehensive Plan Amendments occurs in conformance with the processes described in Chapter One: Comprehensive Plan Amendment Procedures. Site-specific map amendments also include posted notification of the action pending on the subject property.~~

~~In addition to statutorily required notice and hearing procedures, and where formally recognized neighborhood association committees (NACs) exist, copies of proposed amendments affecting a neighborhood will be sent to association representatives. At the NAC's request, public information presentations on legislative amendments will be given to these groups prior to public hearings. The Planning Commission and City Council will employ a variety of means to provide information and will seek public participation. In addition, the Planning Commission or City Council may request public agencies and other organizations for recommendations on proposed amendments.~~

~~At times, amendments are accompanied by other development applications such as zone changes, conditional use permits, or land divisions. Public involvement opportunities for comprehensive plan amendments are shown graphically in Diagrams IA through IC in Chapter One and summarized below:~~

~~2.6.1 LEGISLATIVE AMENDMENTS~~

~~2.6.1.1 Comprehensive Plan Text Amendment~~

~~Comprehensive Plan Text Amendments (CPTAs) alter the language in the Comprehensive Plan but do not alter the Comprehensive Plan Map. CPTAs may be accompanied by Development Code text amendments.~~

~~CPTAs follow the process described in Chapter One of the Comprehensive Plan (Ordinance 1800, as amended). Diagram IA in Chapter One illustrates specific procedures and opportunities for public involvement.~~

~~Public involvement is accomplished in the CPTA process through the following means:~~

> ~~CPTAs are typically City initiated and include public involvement through advisory committees, Neighborhood Association Committees and public meetings.~~
>
> ~~CPTAs may be placed on the Facilities Review Committee agenda. If scheduled for the Facilities Review Committee agenda, notice will be provided to NAC chairs at least 15 calendar days in advance of the community input Facilities Review meeting.~~
>
> ~~A copy of the required inter-agency DLCD notice will be mailed to DLCD, the neighborhood office and the CCI chair 45 days prior to the Planning Commission hearing.~~

~~All NAC chairs or their designees are sent notice of the Planning Commission hearing at least 30 calendar days prior to the hearing. The staff report is available at least 30 calendar days prior to the hearing. Public comments at the Planning Commission hearing are entered into the public record. Comments are noted and included in the minutes of the meeting.~~

~~At the conclusion of the Planning Commission hearing, the Planning Commission makes a recommendation on the amendment to the City Council. The recommendation may be approval, denial or modification of the request.~~

~~The Planning Commission recommendation is acted on by the City Council on the consent agenda usually without a second public hearing. The City Council may choose to hold a public hearing or, if an appeal is filed, a public hearing is scheduled.~~

~~The public may provide testimony, both written and oral, at the City Council meeting, if the City Council holds a public hearing on the amendment.~~

~~2.6.1.2 Comprehensive Plan Map Amendment~~

~~Legislative Comprehensive Plan Map Amendments are those actions that produce a general rule or policy which is applicable to all parcels within a particular designation. An example of this type of comprehensive plan map amendment would be to change certain industrial lands to a different designation with policies applicable to all parcels with that particular designation.~~

~~CPMAs follow the process in Chapter One of the Comprehensive Plan (Ordinance 1800, as amended). Diagram IA illustrates specific procedures for these amendments and is shown in Chapter One.~~

~~Public involvement is accomplished in this same way as Comprehensive Plan Text Amendments except in the initial stage of staff report development. Prior to Department of Land Conservation and Development notification, staff initiates public meeting(s) with affected parties, takes comments, and, if appropriate, amends the application.~~

~~2.6.2 QUASI JUDICIAL AMENDMENTS~~

~~Quasi Judicial Comprehensive Plan Amendments are amendments to the map that are limited to specific parcels, interests or situations. This type of~~

~~amendment is typically coupled with a corresponding zone change.~~

~~Quasi-judicial development review applications requiring a public hearing may be processed concurrently with the Quasi-Judicial Comprehensive Plan Amendment. If a public hearing is required before the Board of Design Review, then the Planning Commission hearing on the comprehensive plan amendment will precede the Board of Design Review hearing. Specific development review procedures are contained in the City of Beaverton Development Code (Ordinance 2050). Diagram 1B illustrates specific procedures for these amendments and is shown in Chapter 1.~~

~~Public involvement is accomplished in this process through the following means:~~

~~A neighborhood meeting will be held in accordance with the provisions in Chapter One, Section 1.3.3.~~

~~A copy of the required inter-agency DLCD notice will be mailed to DLCD, the neighborhood office and the CCI chair 45 days prior to the Planning Commission hearing.~~

~~Property owners and NACs are mailed notice of the community involvement meeting with the Facilities Review Committee at least 15 calendar days prior to the meeting. Comments provided at that meeting, either written or oral will be included in the Comment section of the staff report to the Planning Commission.~~

~~Property owners and NAC chairs are mailed notice of the Planning Commission hearing 30 calendar days prior to the hearing. Board of Design Review hearing notice for related applications is mailed pursuant to Ordinance 2050. Public comments at the Planning Commission hearing are entered into the public record. Comments are noted and included in the minutes of the meeting.~~

~~At the conclusion of the Planning Commission hearing, the Planning Commission makes a recommendation on the amendment to the City Council. The recommendation may be approval, denial or modification of the request.~~

~~The Planning Commission recommendation is acted on by the City Council on the consent agenda usually without a second public hearing. The City Council may choose to hold a public hearing or, if an appeal is filed, a public hearing is scheduled.~~

~~The public may provide testimony, both written and oral, at the City Council meeting, if the City Council holds a public hearing.~~

~~2.6.3 ANNEXATION RELATED MAP AMENDMENTS~~

~~Comprehensive Plan Map amendments are required for adoption of appropriate Comprehensive Plan designations for lands annexed into the City of Beaverton. The City has adopted an Urban Planning Area Agreement (UPAA) with Washington County, which identifies City Comprehensive Plan and zoning designation equivalents to those found in the Washington County Comprehensive Plan and Community Development Code. Annexation related map amendments follow the procedures set forth in Chapter One.~~

~~2.6.4 HISTORIC LANDMARK AND DISTRICT DESIGNATION AMENDMENTS~~

~~Some comprehensive plan amendments are required to designate Historic Landmarks and Historic Districts on the Historic Resources Inventory. The Historic Resources Review Committee (HRRC) shall hold a public hearing on the proposed landmark or district designation. The Planning Commission then holds a hearing on the matter and forwards the recommendation to the City Council. See Chapter One for further processing requirements.~~

GLOSSARY OF COMPREHENSIVE PLAN TERMS

The terms in this Plan embody the legislative intent of the City Council. Terms of ordinary usage are to be given their usual and reasonable meanings. Key words and concepts used in this Plan are explained below.

When the meaning ascribed to a term in this section conflicts with an identical or nearly identical term appearing in a closely-related state, regional, or federal law, the intent under this ordinance shall prevail unless a superior source of law requires a different result.

Where terms are not defined in this section, and a term conflicts with a provision of statewide, regional, or City of Beaverton law, the more restrictive interpretation will prevail unless it leads to an unlawful result.

~~Definitions of terms used throughout this comprehensive plan rely on applicable statutory definitions when they appear in Oregon law, and are implicit to~~ in ~~the comprehensive plan. Definitions appearing~~ in ~~the City of Beaverton Municipal Code *Beaverton Code, 1982* are also incorporated by reference when they are not otherwise defined in this section. In cases where terms are not defined in this section, and the city's~~Beaverton ~~Municipal Code and state statute law conflict, the more restrictive of the two shall be considered to govern. When defined in this section, the comprehensive plan definition will prevail, unless it explicitly conflicts with definitions appearing in applicable state or federal laws.~~

~~Key words necessary to understand the various comprehensive plan elements, which may not be defined by federal, state or local laws, are defined below for the reader's convenience:~~

ACCESS — The place, ~~or~~ means or way by which pedestrians, vehicles, or both shall have safe, adequate and usable ingress and egress to a property or use. A private access is an access not in public ownership or control by means of deed, dedication or easement. (Beaverton Development Code) ~~to safely enter a site from a roadway and exit a site onto a roadway by pedestrians, bicycles or motorized vehicles.~~

A

ACCESSIBILITY — The amount of time required to reach a given location or service by any mode of travel. (Metro Code 3.07.1010(a)) (Also Metro Regional Framework Plan)

ACCESSORY ~~STRUCTURE OR USE~~DWELLING UNIT — A ~~use or structure~~dwelling unit incidental or subordinate to the principal use of a building or project and located on the same site.

ACCESSORY STRUCTURE OR USE — A structure or use incidental, appropriate and subordinate to the main structure or use. (Beaverton Development Code)

ACKNOWLEDGEMENT — ~~An~~ Land Conservation and Development Commission order that certifies that a comprehensive plan and land use regulations, land use regulation or plan or regulation amendment complies with the goals or certifies that Metro land use planning goals and objectives, Metro Urban Growth Management Functional Plan, amendments to Metro planning goals and objectives or amendments to the Metro Urban Growth Management Functional Plan comply with the statewide planning goals. (ORS 197.015(1))

ACQUIRE OR ACQUISITION — The acquisition of land~~,~~ by purchase, lease, gift, grant, or devise.~~, construction, installation, reconstruction, repair and alteration, and the equipment, improvement and extension of mass transit facilities. ORS 391.510~~

~~**ACRE FOOT** — The quantity of water required to cover one acre one foot deep. One acre foot equals 325,850 gallons.~~

~~**ACRES, GROSS** — The entire acreage of a site, including proposed rights of way, easements, environmental lands, etc. Gross acreage is measured from the centerline of proposed bounding streets and to the edge of the right-of-way of existing or dedicated streets.~~

~~ACRES, NET~~	~~The acreage of a site, not including public or private road rights-of-way, other easements, public open space, environmental lands, and floodways.~~
ACTIONS	With regard to implementation actions identified in this Plan: Direct specific City activities or events, consistent with the Comprehensive Plan goals and policies.
ADJACENT	~~Near or close. To have property lines or portions thereof in common or facing each other across a right-of-way, street, or alley.~~ Near or close [redacted]. For example, an Industrial District across the street froma Residential District shall be considered as "adjacent". (Beaverton Development Code)
ADVERSE IMPACT	A negative consequence, demonstrated through evidence, ~~for~~ to the physical, social~~,~~ or economic environment resulting from an action or ~~a~~ development ~~project~~.
AFFORDABLE HOUSING	For the purposes of complying with Metro's Title 7 provisions, affordable housing is defined as housing that is affordable to residents earning less than 50% of the Metro area median income whereby no more than 30% of the household's gross income is expended toward housing costs.
~~AGRICULTURE~~	~~Use of land for the production of food and fiber, including the growing of crops and/or the grazing of animals on prime or improved pasture land.~~
~~AGRICULTURAL LAND~~	~~Lands with commercially productive soils and/or in viable agricultural production. All agriculturally zoned land within the city of Beaverton is considered a short-term zone.~~
~~AIRPORT CLEAR ZONE~~	~~A designated area of land that is subject to peak aircraft noise and on which there is the highest potential of danger from airport operations.~~
~~ALLUVIAL~~	~~Soils deposited by stream action.~~
ALTERNATIVE MODES	Alternative methods of travel to the automobile, including public transportation (light rail, bus and other forms of public transportation), bicycles and walking.
~~AMBIENT~~	~~Surrounding on all sides; this term is used to describe measurements of existing conditions with respect to traffic, noise, air and other environments.~~
APARTMENT	(1) One or more rooms of a building used as a place to live, in a building containing at least one other unit used for the same purpose; (2) A separate suite, not owner occupied, which includes kitchen facilities and is designed for and rented as the home, residence, or sleeping place of one or more persons living as a single housekeeping unit.
~~APPROACH ROAD~~	~~Includes a private road that crosses a state highway or a county road. ORS 374.305~~

APPROPRIATE An act, condition, or state [redacted] suitable [redacted].

AQUIFER An underground, water bearing layer of earth, porous rock, sand, or gravel, through which water can seep or be held in natural storage.

~~**AQUIFER RECHARGE** The replenishment of ground water in an aquifer.~~

~~**ARCADE** A continuously covered area which functions as a weather-protected extension adjacent to a public pedestrian way or sidewalk, with a minimum height of eight (8) feet above finished grade.~~

ARCHAEOLOGICAL Relating to the material remains of past human life, culture, or activities.

~~**ARCHITECTURAL REVIEW** Regulations and procedures requiring the exterior design of structures to be suitable, harmonious, and in keeping with the general appearance, historical character, and/or style of surrounding areas. A process used to exercise control over the design of buildings and their settings.~~

~~**AREAS AND ACTIVITIES OF METROPOLITAN CONCERN**~~

~~A program, area or activity, having significant impact upon the orderly and responsible development of the metropolitan area that can benefit from a coordinated multi-jurisdictional response.~~

ARTERIAL STREET Arterial streets serve to interconnect and support the freeway system. These streets link major areas of the city. Arterial streets are typically spaced about one mile apart to assure accessibility and reduce the incidence of traffic using collectors, neighborhood routes, or local streets in lieu of an arterial street.

~~**AUTO MALL** A single location that provides sales space and centralized services for a number of automobile dealers, which may include related services.~~

AWNING A roof like structure of fabric stretched over a rigid frame projecting from the elevation of a building designed to provide continuous overhead weather protection. (Beaverton Development Code)

~~**BALANCED CUT AND FILL** No net increase in fill within the floodplain.~~

~~**BASE WASTEWATER FLOW (BWF)**~~

~~Refers to the amount of sewage incoming for treatment.~~

B

BEAVERTON CODE The Beaverton Code, 1982, as amended.

BEAVERTON DEVELOPMENT CODEDevelopment Code of the City of Beaverton, Ordinance 2050, as amended, is an ordinance establishing the zoning standards, regulations and procedures, providing related development requirements and providing penalties and otherwise implementing this Plan.

BEAVERTON ENGINEERING DESIGN MANUAL AND STANDARD DRAWINGS A compilation of resolutions and ordinances setting forth the technical engineering standards that implement the City's Site Development Ordinance.

~~BELOW MARKET RATE (BMR) HOUSING~~

~~Any housing unit specifically priced to be sold or rented to very low, low or moderate income households for an amount less than the fair market value of the unit.~~

~~BENEFICIAL USE STANDARDS Under Oregon law, specific uses of water within a drainage basin deemed to be important to the ecology of that basin as well as to the needs of local communities are designated as "beneficial uses." Hence, "beneficial use standards" are adopted to preserve water quality or quantity necessary to sustain the identified beneficial uses.~~

BICYCLE LANE (BIKE LANE) Bicycle lane means the area within the street right-of-way designated specifically for use by bicyclists. The same area may also be referred to as a "bike lane." Bicycle lanes are striped and accommodate only one-way travel. (Beaverton Development Code)

BIKEWAY Bikeway means any path or roadway facility that is intended ~~for~~ and suitable for bicycle use. (Beaverton Development Code)

~~BLIGHTED AREA An area where there are a substantial number of slum, deteriorated, or deteriorating structures and conditions that endanger life or property by fire or other causes or one or more of the following factors that substantially impairs or arrests the sound growth of a county or municipality and is a menace to the public health, safety, morals, or welfare in its present condition and use: predominance of defective or inadequate street layout; faulty lot layout in relation to size, adequacy, accessibility, or usefulness; unsanitary or unsafe conditions; deterioration of the site or other improvements; tax or special assessment delinquency exceeding the fair value of the land; and/or diversity of ownership or defective or unusual conditions of title that prevent the free alienability of land within the deteriorated or hazardous area.~~

~~BOD_5 (5-DAY BIOCHEMICAL OXYGEN DEMAND)~~ ~~is a measure of the "strength" of sewage. It refers to the amount of oxygen required to stabilize the organic waste in 5 days.~~

BOULEVARD DESIGN A design concept that emphasizes pedestrian travel, bicycling and the use of public transportation, and accommodates motor vehicle travel.

BUFFER ZONE An area of land separating two distinct land uses that acts to soften or mitigate the effects of one land use on the other.

BUILDABLE LANDS Lands in urban and urbanizable areas that are suitable, available and necessary for residential uses. Buildable lands includes both vacant land and developed land likely to be redeveloped. (ORS 197.295(1))

~~**BUILDING, MAXIMUM HEIGHT** The vertical distance from the average elevation of the finished grade to the highest point of the structure.~~

~~**BUILDING; BUILD OUT** Development of land to its full potential or theoretical capacity as permitted under current or proposed planning or zoning designations.~~

~~**BULK ELECTRIC TRANSMISSION CORRIDORS** Rights-of-way and associated easements used for the placement of an interconnected group of electric lines and associated equipment for the movement or transfer of electricity in bulk between points of supply and points of delivery, where the transmission voltage is 230 KV or above.~~

~~**BULK RETAIL USE** A retail or wholesale to the public use that sells primarily institutional sized or multi-pack products in bulk quantities.~~

BUS A motor vehicle designed for carrying 15 or more passengers, exclusive of the driver, and used for the transportation of persons. (ORS 184.~~674~~675(6))

C

~~**CALCULATED CAPACITY** The number of dwelling units and jobs that can be contained in an area based on the calculation required by the Metro Functional Plan.~~

~~**CAMPUS DEVELOPMENT** A development which meets the following criteria:~~

~~(1) is located on a lot or contiguous lots within the Industrial or Institutional districts that total at least five acres in size; and~~

~~(2) includes multiple buildings, which are interrelated in a common business or educational activity or process, and share a common infrastructure such as pedestrian ways and spaces, parking and vehicular accessways.~~

~~CAPITAL BUDGET — A portion of each local government's budget that reflects capital improvements scheduled for a funded fiscal year.~~

CAPITAL IMPROVEMENT — Physical assets constructed or purchased to provide, improve or replace a public facility and that are large in scale and high in cost. The cost of a capital improvement is generally nonrecurring and may require multi-year financing.

CAPITAL IMPROVEMENTS PROGRAM (CIP)

A multi-year (usually five or six) schedule of capital improvement projects, including cost estimates and priorities, budgeted to fit financial resources. The CIP~~,~~ is administered by a city or county government and reviewed by its planning commission. It~~,~~ schedules permanent improvements needed in the future, taking into consideration the projected fiscal capability of the local jurisdiction. The CIP is generally reviewed annually for conformance to and consistency with the comprehensive plan. In Beaverton, the CIP is called the Capital Improvements Plan.

~~CAPACITY EXPANSION — Constructed or operational improvements to the regional motor vehicle system that increase the capacity of the system.~~

~~CARBON DIOXIDE — A colorless, odorless, non-poison gas that is a normal part of the atmosphere.~~

~~CARBON MONOXIDE — A colorless, odorless, highly poisonous gas produced by automobiles and other machines with internal combustion engines that imperfectly burn fossil fuels such as oil and gas.~~

~~CENTRAL BUSINESS DISTRICT (CBD)~~

~~The major commercial downtown center of a community.~~

~~CENTRAL CITY — The downtown and adjacent portions of the city of Portland. See the Growth Concept map and text.~~

~~Downtown Portland is the Central city, which serves as the major regional center, an employment and cultural center for the metropolitan area. An average of 250 persons per acre are recommended.~~

~~CITY STREET — Any street located within the city or city and county, except a freeway, state highway, or county highway. ORS 376.705~~

CLUSTER DEVELOPMENT Development in which a number of dwelling units are placed in closer proximity than usual, or are attached, with the purpose of retaining an open space area.

~~**CLUSTERING** The practice of grouping permitted types of residential uses close together rather than distributing them evenly throughout a site while remaining at/or below the permitted density.~~

COLLECTOR STREET Collector streets provide both access and circulation within major areas of the city. Collectors differ from arterials in that they provide more of a citywide circulation function, do not require as extensive access control, and penetrate residential neighborhoods, distributing trips from the neighborhood and local street system.

~~**COMMERCIAL PARKING FACILITY** A parking structure or surface parking lot operated for profit that has parking spaces that are not accessory to a primary use. This term does not include a park and ride lot.~~

COMMERCIAL USES Activities within land areas that are predominantly connected with the sale, rental and distribution of products, or performance of services.

COMMUNITY DEVELOPMENT DIRECTOR The Director of Community Development for the City of Beaverton, Oregon, or designee.

COMMUNITY PLAN Volume V of the Comprehensive Plan. These documents describe policies and action statements and map designations specific to a particular geographic location.

~~**COMMUNITY NOISE EQUIVALENT LEVEL (CNEL)**~~

~~A 24-hour energy equivalent level derived from a variety of single noise events, with weighting factors of 5 and 10 dBA applied to the evening (7:00 to 10:00 p.m.) and nighttime (10:00 p.m. to 7:00 am) periods, respectively, to allow for the greater sensitivity to noise during these hours.~~

COMPATIBLE Capable of existing together without ~~conflict or ill effects~~discord or disharmony.

~~**COMPREHENSIVE** All inclusive, both in terms of geographic area covered and functional and natural activities and systems occurring in the area covered by the plan. ORS 197.015~~

COMPREHENSIVE PLAN A generalized, coordinated land use map and policy statement of the governing body of a local government that interrelates all functional and natural systems and activities relating to the use of lands, including but not limited to sewer and water systems, transportation systems, educational facilities, recreational facilities, and natural resources and air and water quality management programs. (ORS 197.015(5))

~~CONCURRENCY~~	~~A regulation specifying that before a development permit can be issued, what public facilities must be provided to the proposed development, when these facilities will be provided, and who will pay for them.~~
CONDOMINIUM	A structure of two or more units, the interior spaces of which are individually owned; the balance of the property (both land and building) is owned in common by the owners of the individual units.
CONGESTION	Occurs when traffic demand nears or exceeds the available capacity of the system.
~~CONGREGATE LIVING FACILITY~~	~~Any building(s), section of a building, residence, private home, boarding house, home for the aged or other place, whether operated for profit or not, which undertakes through its ownership or management to provide, for a period exceeding twenty-four hours, housing, food services and one or more personal care services to persons not related to the owner or operator by blood, marriage, or adoption. Such facilities shall contain congregate kitchen, dining and living areas only, with separate sleeping rooms. For purposes of this comprehensive plan, congregate living facilities shall not be deemed to include boarding/rooming houses; fraternities/sororities; monasteries; convents; hotels/motels; professional residential facilities; or nursing convalescent and extended care facilities.~~
CONNECTIVITY	The degree to which the ~~local and regional~~ street systems in a given area are interconnected. (Metro Code 3.07.1010(j))
CONSERVATION EASEMENT	~~The management of natural resources to prevent waste, destruction or neglect.~~An easement specifically written to maintain or protect a natural resource.
~~CONSERVATION USES~~	~~Activities within land areas designated for the purpose of conserving or protecting natural resources or environmental quality, including areas designated for such purposes as flood control, protection of quality or quantity of groundwater or surface water, floodplain management, fisheries management, or protection of vegetative communities and wildlife habitats.~~
~~CONVENIENCE GOODS~~	~~Retail items generally necessary or desirable for everyday living, usually purchased at a convenient nearby location. Because these goods cost relatively little compared to income, they are often purchased without comparison shopping.~~

~~COORDINATED PLAN~~	~~When the needs of all levels of governments, semipublic and private agencies and the citizens of Oregon have been considered and accommodated as much as possible. ORS 197.015~~
CORRIDORS	While some corridors may be continuous, narrow bands of higher-intensity development along arterial roads, others may be more 'nodal,' that is, a series of smaller centers at major intersections or other locations along the arterial that have high-quality pedestrian environments, good connections to adjacent neighborhoods and good transit service. As long as the average target densities and uses are allowed and encouraged along the corridor, many different development patterns--nodal or linear--may meet the corridor objective. (Metro Regional Framework Plan) Along good quality transit lines, corridors feature a high-quality pedestrian environment, convenient access to transit, and somewhat higher than current densities. (Metro Code 3.07.130) An average of 25 persons per acre is recommended. (Metro Code 3.07.170)
CRITICAL PUBLIC FACILITIES	Critical public facilities and services shall include public water, public sanitary sewer, storm water system (including storm water quality and quantity facilities), transportation, and fire protection. (Engineering Design Manual and Standard Drawings Proposed Definition)
CULTURAL RESOURCES	Areas characterized by evidence of an ethnic, religious or social group with distinctive traits, beliefs, and social forms. For example, an archaeological site, such as an Indian burial ground could be an important cultural site.
~~dB~~	~~Decibel; a unit used to express the relative intensity of a sound as it is heard by the human ear.~~
~~dBA~~	~~The "A-weighted" scale for measuring sound in decibels; weighs or reduces the effects of low and high frequencies in order to simulate human hearing. Every increase of 10 dBA doubles the perceived loudness, though the noise is actually ten times more intense.~~
~~DBH~~	~~The diameter of a tree measured at breast height (4 feet).~~
DECISION, DISCRETIONARY	An action taken by a governmental agency that calls for the exercise of judgment in deciding whether to approve and/or how to carry out a project. (See *Decision, Quasi-Judicial*)
DECISION, LEGISLATIVE	A decision of a local official or entity based upon the decision-maker's perception of the best course of action. The city typically employs legislative decisions in adopting an ordinance or resolution establishing a basic principle or policy. Examples are decisions to adopt a comprehensive plan, apply a plan designation to a large number of properties, or decisions which affect a large geographic area or number of persons.~~A decision~~

D

~~made by elected officials of a local, state, or federal government based on their perception of the best course of action. No evidence must be present in the record to support the decision, and findings of fact based on the record are therefore not required. Legislative decisions typically occur when the city is adopting an ordinance or resolution, or establishing a basic principle or policies, such as during adoption of a comprehensive plan~~

DECISION, QUASI-JUDICIAL ~~Refers to "judicial" acts by agencies and authorities that are not really constituted as courts of law, and which must make findings of fact based on the record and substantial evidence as part of their decision making process. For example, a ruling by the Planning Commission is a quasi-judicial decision, which must be based on findings of fact~~Quasi-judicial decisions bear different aspects than legislative decisions. For example, requests of quasi-judicial decisions usually must actually result in a decision; quasi-judicial decisions are bound to apply pre-existing criteria to concrete facts; and they are customarily directed at a closely-circumscribed factual situation or small number of persons. The more a local government decision bears these emblems, the more it is a quasi-judicial decision.

DEDICATION The turning over by an owner or developer of private land for public use, and the acceptance of land for such use by the governmental agency having jurisdiction over the public function for which it will be used. Dedications for roads, parks, school sites, or other public uses are often made conditions for approval of development.

DENSITY The ratio of dwelling units or employees per unit of area (square feet, acre, square mile, etc.). Density generally refers to residential uses. A measure of the intensity of the development generally expressed in terms of dwelling units (du) per acre (i.e., less than 7.5 du per acre = low density; 7.5 to 15 du per acre = medium density, etc.) It can also be expressed in terms of population density (people per acre). It is useful for establishing a balance between potential local service use and service capacities.

DENSITY BONUS The allocation of development rights that allows a parcel to accommodate additional square footage or additional residential units beyond the maximum for which the parcel is planned or zoned, usually in exchange for the provision or preservation of an amenity at the same site or at another location. ~~(See *Development Rights, Transfer of*)~~

DENSITY CREDIT The transfer of development density rights from one piece of one property to another piece of the same property. A project site that contains environmentally sensitive areas or other

lands that should not be developed, as defined in this comprehensive plan, may be entitled to a density credit.

DENSITY, GROSS — The number of dwelling units per gross acre. Gross acreage is the total amount of raw land, including all developable and undevelopable portions.

DENSITY, NET — The number of dwelling units allowed on~~per net developable acre (~~ the total acreage of developable portions of the site~~)~~ (net developable acre) within a given land area.

DENSITY, RESIDENTIAL — The number of permanent residential dwelling units per acre of land. Densities specified in the comprehensive plan may be expressed in units per gross acre or per net developable acre (See Gross Acres and Net Acres~~Acres, Gross and Acres, Net~~).

~~**DENSITY TRANSFER**~~ — ~~A way of retaining open space by concentrating densities, usually in compact areas adjacent to existing urbanization and utilities, while leaving unchanged historic, sensitive, or hazardous areas. In some jurisdictions, for example, developers can buy development rights of properties targeted for public open space and transfer the additional density to the base number of units permitted in the zone in which they propose to develop.~~

DESIGN PLAN — A plan for a defined geographic area in a single or multiple ownership that is consistent with the Comprehensive Plan and includes, but is not limited to, a land use and circulation plan, development standards, design guidelines, an open space plan, utilities plans and a program of implementation measures and other mechanisms needed to carry out the plan. The plan shall be created through the Design Review process. (Beaverton Development Code)

~~**DESIGNATED BENEFICIAL WATER USES**~~ —

~~The same as the term as defined by the Oregon Department of Water Resources, which is: an instream public use of water for the benefit of an appropriator for a purpose consistent with the laws and the economic and general welfare of the people of the state and includes, but is not limited to, domestic, fish life, industrial, irrigation, mining, municipal, pollution abatement, power development, recreation, stockwater and wildlife uses.~~

DESIGN TYPE — The conceptual areas described in the Metro 2040 Growth Concept text and map in Metro's regional goals and objectives, including central city, regional centers, town centers, station communities, corridors, main streets, inner and outer neighborhoods, industrial areas, and employment areas. (Metro Code 3.07.1010(m))

~~**DEVELOPABLE LAND**~~ — ~~Land that is suitable as a location for structures and that can be developed free of hazards to, and without disruption of, or significant impact on, natural resource areas.~~

DEVELOPER An individual who or business that prepares [redacted] land for the construction of buildings or causes to be built physical space for use primarily by others, and in which the preparation of the land or the creation of the building space is in itself a business and is not incidental to another business or activity.

DEVELOPMENT ~~Any manmade change defined as buildings or other structures, mining, dredging, paving, filling, or grading in amounts greater than ten (10) cubic yards on any lot or excavation. In addition, any other activity that results in removal of more than 10% of the existing vegetated area on the lot is defined as development, for the purposes of Title 3 (of the Regional Functional Plan)~~

~~Exceptions:~~

~~a. Stream enhancement or restoration projects approved by cities or counties.~~

~~b. Agricultural activity.~~

~~c. Replacement, additions, alternations and accessory uses for existing structures and development that do not encroach into the Water Quality and Flood Management Area more than the existing structure or development.~~

~~The physical extension and/or construction of urban land uses. Development activities include: subdivision of land; construction or alteration of structures, roads, utilities, and other facilities; installation of septic systems; grading; deposit of refuse, debris, or fill materials; and clearing of natural vegetation cover (with the exception of agricultural activities). The making of any material change in the use of any building or other land is development, while routine repair and maintenance activities are not.~~Generally, any man-made change to existing or proposed use of real property. Development activities include: land divisions, lot line adjustments, construction or alteration of structures, construction of roads and any other accessway, establishing utilities or other associated facilities, grading, deposit of refuse, debris or fill, and clearing of vegetative cover. Does not include routine acts of repair or maintenance.

~~**DEVELOPMENT APPLICATION** An application for a land use decision, limited land use decisions including expedited land divisions, but excluding partitions as defined in ORS 92.010(7) and ministerial decisions such as a building permit.~~

~~**DEVELOPMENT PHASING** The process by which a large scale project is built in stages over a period of time, concurrent with market conditions or the provision of public facilities.~~

~~DEVELOPMENT RIGHTS, TRANSFER OF (TDR)~~

~~Also known as "Transfer of Development Credits," a program that can relocate potential development from areas where proposed land use or environmental impacts are considered undesirable (the "donor" site) to another ("receiver") site chosen on the basis of its ability to accommodate additional units of development beyond that for which it was zoned, with minimal environmental, social, and aesthetic impacts.~~

~~DISABLED (HANDICAPPED)~~ ~~A person determined to have a physical impairment or mental disorder expected to be of long or indefinite duration. Many such impairments or disorders are of such a nature that a person's ability to live independently can be improved by appropriate housing conditions.~~

~~DRIVE-THROUGH FACILITIES~~ ~~A building or use where the primary method of selling or servicing of goods or services is designed to allow drivers to remain in their vehicles before and during an activity on the site.~~

DWELLING UNIT ~~A room or group of rooms (including sleeping, eating, cooking, and sanitation facilities, but not more than one kitchen), which constitutes an independent housekeeping unit, occupied or intended for occupancy by one household on a long-term basis.~~

A structure or part of a structure that is used as a home, residence, or sleeping place by one person who maintains a household or by two or more persons who maintain a common household. (ORS 90.010(9))

EARTHQUAKE HAZARDS Ground shaking, landslides, liquefaction and amplification are all earthquake hazards that can cause damage to structures and infrastructure. (Beaverton Natural Hazards Mitigation Plan)

E

EASEMENT A form of nonpossessory~~Usually the~~ **right to use property owned by another for specific purposes or to gain access to** some portion of **another's property. For example, utility companies often have easements on the private property of individuals in order to install and maintain utility facilities.**

~~ECONOMIC OPPORTUNITIES ANALYSIS~~

~~An "economic opportunities analysis" is a strategic assessment of the likely trends for growth of local economies in the state consistent with OAR 660-09-015. Such an analysis is critical for economic planning and for ensuring that the land supply in an urban area will meet long-term employment needs.~~

~~EDUCATIONAL USES~~ ~~Activities and facilities of public or private primary or secondary schools, vocational and technical schools, and colleges and universities, including the areas of buildings, campus open space, dormitories, recreational facilities and parking.~~

~~EFFLUENT~~ ~~Wastewater leaving a treatment plant.~~

~~ELDERLY HOUSING~~ ~~Typically one and two bedroom apartments designed to meet the needs of persons 62 years of age or older or, if more than 150 units, persons 55 years of age and older, and restricted to occupancy by them (See *Congregate Living Facility*)~~

EMPLOYMENT AREAS Areas of mixed employment that include various types of manufacturing, distribution and warehousing uses, commercial and retail development as well as some residential development. Retail uses should primarily serve the needs of people working or living in the immediate employment area. Exceptions to this general policy can be made only for certain areas indicated in a functional plan. Commercial uses are to be limited.

~~Various types of employment and some residential development are encouraged in employment areas with limited commercial uses. ecommended density is 20 persons per acre.~~

~~ENCLAVE~~ ~~A geographical area that is surrounded partially or totally by land managed by another jurisdiction, and for which the management of that area by the governing jurisdiction is impeded because of its inaccessibility.~~

ENCROACHMENT AREA Areas in floodplains and floodways where development is restricted due to potential impacts on natural hydrologic characteristics. Development or raising of the ground level (e.g., to avoid flood damage) in encroachment areas will obstruct flood water flows, raising the water surface level. Demand to build structures in the flood plain, regardless of potential flooding dangers, is common in urban areas. Reasons typically include lack of suitable land or lower flat land development costs compared to building on steeper gradients.

ENDANGERED SPECIES A species of animal or plant is considered to be endangered when its prospects for survival and reproduction are in immediate jeopardy from one or more causes. (See Title 50 of the Code of Federal Regulations)

ENGINEERING DIRECTOR The director of the Engineering Department of the City of Beaverton, Oregon, or designee.

ENHANCE To improve existing conditions by increasing the quantity or quality of beneficial uses.

ESSENTIAL PUBLIC FACILITIES Essential facilities and services shall include schools, transit improvements, police protection, and public pedestrian and bicycle facilities.

ESTABLISHED NEIGHBORHOOD

A neighborhood where platted lands are at least eighty percent developed and occupied, and where substantial deterioration since development has either not occurred or been reversed.

~~EQUIVALENT DWELLING UNITS (EDU'S)~~

~~The standard unit of measurement for determining wastewater system capacity, which indexes all wastewater system generation and use to the amount used by an average dwelling unit.~~

~~EXCEPTION~~ ~~An exception is taken for land when either commitments for use, current uses or other reasons make it impossible to meet the requirements of one or a number of the statewide planning goals.~~

~~EXPANSIVE SOILS~~ ~~Soils that swell when they absorb water and shrink as they dry.~~

~~EXPRESSWAY~~ ~~A divided multi-lane arterial highway for through traffic with full or partial access control and (generally) grade separations at major intersections.~~

~~FAIR SHARE~~ ~~A proportionate amount by local jurisdiction. Used in the context of affordable housing in this document. "Fair share" means that each city and county within the region working with Metro to establish local and regional policies that will provide the opportunity within each jurisdiction for accommodating a portion of the region's need for affordable housing.~~

F

FAMILY (1) Two or more persons related by birth, marriage or adoption [U.S. Bureau of the Census]. (2) An individual or a group of persons living together who constitute a *bona fide* single family housekeeping unit in a dwelling unit, not including a fraternity, sorority, club or other group of persons occupying a hotel, lodging house or institution of any kind.

~~FAMILY WAGE JOB~~ ~~A permanent job with an annual income greater than or equal to the average annual covered wage in the region. The most current average annual covered wage information from the Oregon Employment Division shall be used to determine the family wage job rate for the region or for counties within the region.~~

FEASIBLE Capable of being done, executed, or managed successfully from the standpoint of the physical and/or financial abilities of the implementer(s).

~~FINANCE OF FINANCING~~ ~~The issuance of revenue bonds pursuant to ORS 391.570 by the authority for the purpose of providing financial assistance to districts. ORS 391.510~~

~~FINANCIAL ASSISTANCE~~ ~~Providing of methods of financing of costs of mass transit facilities under ORS 267.227 and 391.500 to 391.660. ORS 391.510~~

~~FIRE HAZARD ZONE~~ ~~An area where, due to slope, fuel, weather, or other fire-related conditions, the potential loss of life and property from a fire~~

~~necessitates special fire protection measures and planning before development occurs.~~

~~**FIRM YIELD**~~ ~~The amount of water a supply source can provide on a continuous basis, without deficit, under a full range of hydrological conditions (may be based on records of previous 40 or 50 years.) Since that is a worse-case scenario, supply is sometimes measured by a percentage of time a particular yield can be supplied.~~

~~**FISCAL TAX EQUITY**~~ ~~The process by which interjurisdictional fiscal disparities can be addressed through a partial redistribution of the revenue gained from economic wealth, particularly the increment gained through economic growth.~~

~~**FISH AND WILDLIFE HABITAT CONSERVATION AREA**~~

~~The area defined on the Metro Water Quality and Flood Management Area Map to be completed and attached to the Urban Growth Management Functional Plan. These include all Water Quality and Flood Management Areas that require regulation in order to protect fish and wildlife habitat. This area has been mapped to generally include the area 200 feet from top of bank of streams in undeveloped areas with less than 25% slope, and 100 feet from edge of mapped wetland on undeveloped land.~~

~~**FLOOD PLAIN**~~**FLOODPLAIN** Land subject to periodic flooding, including the 100-year floodplain as mapped by FEMA Flood Insurance Studies or other substantial evidence of actual flood events. The floodplain includes the land area identified and designated by the United States Army Corps of Engineers, the Oregon Department of State Lands, FEMA, or Washington County that has been or may be covered temporarily by water as a result of a storm event of identified frequency and the area along a watercourse enclosed by the outer limits of land that is subject to inundation in its natural or lower floodway fringe, and equal to the FIRM designation of an area of special hazard.

~~**FLOODWAY FRINGE**~~ ~~Areas inundated during a 100-year flood event or identified by the National Flood Insurance Program as an "A" Zone or "V" Zone on Flood Insurance Rate Maps or Flood Hazard Boundary Maps. The area of the flood plain, lying outside the floodway, which does not contribute appreciably to the passage of flood water, but serves as a retention area.~~

FLOODWAY The floodway is the channel of a stream plus any adjacent flood plain areas that must be kept free of encroachment in order that the 100-year flood may be carried without substantial increases in flood heights.

FLOOR AREA RATIO (FAR) The amount of gross floor area in relation to the amount of net site area, expressed in square feet. (Beaverton Development Code)

~~FLOOR AREA RATIO (FAR) CREDIT~~ — ~~The transfer of development intensity rights from one piece of one property to another piece of the same property. A project site that contains environmentally sensitive areas or other areas that should remain undeveloped, may be entitled to an intensity credit.~~

FREEWAY Freeways provide the highest level of connectivity. These roadways generally span several jurisdictions and are often of statewide importance.

~~FREIGHT MOBILITY~~ — ~~The efficient movement of goods from point of origin to destination.~~

~~FRONTAGE YARD~~ — ~~The yard between a building and a street or public right-of-way or easement for public travel.~~

FUNCTIONAL CLASSIFICATION OR MAP — Street Functional Classification

FUNCTIONAL PLAN ~~A limited-purpose multi-jurisdictional plan for an area or activity having significant district-wide impact upon the orderly and responsible development of the metropolitan area that serves as a guideline for local comprehensive plans consistent with ORS 268.390.~~ in the context of the Comprehensive Plan, Functional Plan means the Metro Urban Growth Management Functional Plan. Metro's Urban Growth Management Functional Plan is one of several Metro Functional Plans.

~~FUNCTIONS AND VALUES OF STREAM CORRIDORS~~ — ~~Stream corridors have the following functions and values: water quality retention and enhancement, flood attenuation, fish and wildlife habitat, recreation, erosion control, education, aesthetic, open space and wildlife corridor.~~

~~GATEWAY~~ — ~~A point along a roadway entering the city at which a motorist gains a sense of having left the environs and of having entered the city.~~

~~GENERAL NATURE~~ — ~~A summary of policies and proposals in broad categories and does not necessarily indicate specific locations of any area, activity or use. ORS 197.015~~

~~GEOLOGIC REVIEW~~ — ~~The analysis of geologic hazards, including all potential seismic hazards, surface ruptures, liquefaction, landsliding, mudsliding, and the potential for erosion and sedimentation.~~

GOAL ~~The mandatory state-wide planning standards adopted by LCDC pursuant to ORS Chapters 195, 196 and 197. ORS 197.015~~ A general, long term aim or end toward which programs or activities are ultimately directed.

G

GOALS	The mandatory statewide planning standards adopted by the Land Conservation and Development Commission pursuant to ORS chapters 195, 196, and 197. (ORS 197.015(8)) (OAR 660-018-0010(10))
~~GREENBELT~~	~~An open space area surrounding an urbanized community; sometimes defined as an open space buffer separating one community from another. A greenbelt is generally composed of different types of open space: parks, agricultural land, land with other important natural resource values, and land that is left open to protect the public health and safety.~~
GROSS ACRES	The entire acreage of a site, including proposed rights of way, easements, environmental lands, etc. Gross acreage is measured from the centerline of proposed bounding streets and to the edge of the right-of-way of existing or dedicated streets.
GROUNDWATER	**Water under the earth's surface, often confined ~~[redacted]~~ *in* aquifers, capable of supplying wells and springs.**
~~GROUNDWATER RECHARGE~~	~~The natural process of infiltration and percolation of rainwater from land areas or streams through permeable soils into water holding rocks that provide underground storage (See *Aquifer*).~~
GROWTH CONCEPT	As defined in the Metro Regional Framework Plan, the Growth Concept is A**a concept for the long-term growth management of our region stating the preferred form of the regional growth and development, including where and how much the UGB should be expanded, what densities should characterize different areas, and which areas should be protected as open space.**
GROWTH CONCEPT MAP	**The conceptual map demonstrating the 2040 Growth Concept design types attached to the Urban Growth Management Functional Plan Appendix** and adopted as ~~.~~ Metro Code 3.07.1010(z).
GROWTH MANAGEMENT	**A method to guide development in order to minimize adverse environmental and fiscal impacts and maximize the health, safety, and welfare benefits to the residents of the community.**
~~GUIDELINES~~	~~Suggested approaches designed to aid cities and counties in preparation, adoption and implementation of comprehensive plans in compliance with goals and to aid state agencies and special districts in the preparation, adoption and implementation of plans, programs and regulations in compliance with goals. Guidelines shall be advisory and shall not limit state agencies, cities, counties and special districts to a single approach. ORS 197.015~~

H

H

HABITAT Any area where there is naturally occurring food and cover for wildlife.

~~**HARD SURFACED HIGHWAYS** Any state road or highway constructed and surfaced or to be constructed and surfaced with such materials or combinations of materials as to produce what is commonly known or styled "pavement", and not such construction or surfacing as is commonly known as "macadam". ORS 366.015~~

HAZARDOUS MATERIALS ~~Materials described as hazardous by Oregon Department of Environmental Quality.~~

~~Any material that, because of its quantity, concentration, or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released into the workplace or the environment. The term includes, but is not limited to, hazardous substances and hazardous wastes.~~

Hazardous material or substance includes but is not limited to a substance designated under 33 U.S.C. §1321 (b)(2)(A), any element, compound, mixture, solution or substance designated under 42 U.S.C. §9602, any hazardous waste having characteristics identified under or listed under 42 U.S.C. §6921, any toxic pollutant listed under 33 U.S.C. §1317 (a), any imminently hazardous chemical substance or mixture with respect to which the Administrator of the United States Environmental Protection Agency has taken action under 15 U.S.C. §2606, and any residue classified as hazardous waste pursuant to ORS 466.020(3). (CWS Design and Construction Standards)

HIGH CAPACITY TRANSIT Transit routes that may be either a road designated for frequent bus service or for a light-rail line. (Metro Regional Framework Plan definition)

HIGH OCCUPANCY VEHICLE (HOV)

Any vehicle other than a ~~driver- only automobile~~single occupancy vehicle (e.g., a vanpool, a bus, or two or more persons to a car).

HIGHWAY High speed, high capacity, limited access transportation facility serving regional and countywide travel. Highways may cross at a different grade level.

HILLSIDE AREAS Land that has an average percent of slope equal to or exceeding fifteen percent.

HISTORIC An historic building or site is one that is noteworthy for its significance in local, state, or national history or culture, its architecture or design, or its works of art, memorabilia, or artifacts.

~~**HISTORIC PRESERVATION** The preservation of historically significant structures and neighborhoods in order to facilitate restoration and rehabilitation of the building(s) to a former condition.~~

HISTORIC BUILDINGS OR STRUCTURES~~RESOURCES~~ Also known as Historic Resources, these are a~~A~~ll areas, districts or sites containing properties listed on the city of Beaverton List of Historic Properties, or the State Historic Preservation Office, or the National Register of Historic Places.

HOUSEHOLD All those persons, related or unrelated, who occupy a single housing unit. (See *Family*)

HOUSING AFFORDABILITY The availability of housing such that no more than 30 percent (an index derived from federal, state and local housing agencies) of the monthly income of the household need be spent on shelter. (Metro Regional Framework Plan definition)

HOUSING UNIT The place of permanent or customary abode of a person or family. A housing unit may be a single family dwelling, multifamily dwelling, condominium, modular home, mobile home, cooperative, or any other residential unit considered real property under State law. A housing unit has, at least, cooking facilities, a bathroom, and a place to sleep. ~~(See Dwelling Unit, Family, and Household)~~

I

IMPACT The effect of any direct manmade actions or indirect repercussions of manmade actions on existing physical, social, or economic conditions.

IMPACT FEE A fee, also called a development fee, levied on the developer of a project by a city, county, or other public agency as compensation for otherwise unmitigated impacts the project will produce.

~~**IMPLEMENTING REGULATIONS**~~

~~Any city or county land use regulation as defined by ORS 197.015(11) which includes zoning, land division or other~~

~~ordinances which establishes standards for implementing a comprehensive plan.~~

INDUSTRIAL

~~The manufacture, production, assembly, processing, or storage of consumer goods. Industrial is often divided into "heavy industrial" uses, such as construction yards, quarrying, and factories; and "light industrial" uses, such as research and development and less intensive warehousing and manufacturing.~~ Activities generating income from the production, handling or distribution of goods. Industrial uses include, but are not limited to manufacturing, assembly, fabrication, processing, storage, logistics, warehousing, distribution and research and development. Industrial uses may have unique land, infrastructure and transportation requirements. Industrial uses tend to have external impacts on surrounding uses and cluster in traditional or new industrial areas where they are segregated from other non-industrial activities. (OAR 660-009-0005(2))

INDUSTRIAL AREAS

An area set aside for industrial activities. Supporting commercial and related uses may be allowed, provided they are intended to serve the primary industrial users. Residential development shall not be considered a supporting use, nor shall retail users whose market area is ~~substantially~~ notably larger than the industrial area be considered supporting uses. (Metro Regional Framework Plan)

~~Industrial areas would be set aside primarily for industrial activities. Other supporting uses, including some retail uses, may be allowed if limited to sizes and locations intended to serve the primary industrial uses. They include land-intensive employers, such as those around the Portland International Airport, the Hillsboro Airport and some areas along Highway 212/224. Areas of high agglomerative economic potential, such as the Sunset Corridor for electronic products and the Northwest Industrial sanctuary for metal products, shall be supported with transportation planning and infrastructure development designed to meet their needs. Industrial areas are expected to accommodate 10 percent of regional employment and no households. Retail uses whose market area is substantially larger than the employment area shall not be considered supporting uses.~~

~~The siting and development of new industrial areas would consider the proximity of housing for all income ranges provided by employment in the projected industrial center, as well as accessibility to convenient and inexpensive non-auto transportation. The continued development of existing industrial areas would include attention to theses two issues as well.~~

~~Industrial area are set aside primarily for industrial activities with limited supporting uses. Average recommended density is 9 employees per acre. Retail uses larger than 60,000 square feet of gross leasable area per building or business are prohibited in Industrial Areas designated on the Metro Employment and Industrial Areas Map.~~

INDUSTRIAL PARK

See City of Beaverton Development Code

~~INFILL~~ ~~New development on a parcel or parcels of less than one contiguous acre located within the Urban Growth Boundary.~~

INFILL DEVELOPMENT Development on scattered vacant sites within the urbanized area of a community.

INFLUENT Wastewater coming into a treatment plant.

INFRASTRUCTURE ~~R~~Component of a functioning, orderly urban fabric, such as oads, water systems, sewage systems, systems for storm drainage, telecommunications and energy transmission and distribution systems, bridges, transportation facilities, parks, schools and public facilities developed to support the functioning of the developed portions of the environment. Areas of the undeveloped portions of the environment such as floodplains, riparian and wetland zones, groundwater recharge and discharge areas and Greenspaces that provide important functions related to maintaining the region's air and water quality, reduce the need for infrastructure expenses and contribute to the region's quality of life. (Metro Regional Framework Plan definition)

~~Those manmade structures serving the common needs of the population, such as: sewage disposal systems; potable water systems; potable water wells serving a system; solid waste disposal sites or retention areas; stormwater systems; utilities; piers; docks; wharves; breakwaters; bulkheads; seawalls; revetments; causeways; marinas; navigation channels; bridges; roadways; and streets.~~

INNER NEIGHBORHOODS Areas in Portland and the older cities that are primarily residential, close to employment and shopping areas, and have slightly smaller lot sizes and higher population densities than in outer neighborhoods. (Metro Regional Framework Plan) Beaverton's Land Use Designation Neighborhood Residential identifies its Inner Neighborhoods.

~~Inner neighborhoods include areas such as Portland, Beaverton, Milwaukee and Lake Oswego, and would include primarily residential areas that are accessible to employment. lot sizes would be smaller to accommodate densities increasing from 1990 levels of about 11 people per acre to about 14 people per acre. Innerneighborhood would trade smaller lot sizes for better access to jobs and shopping. They would accommodate about 28 percent of new households and 15 percent of new employment. (Some of the employment would be home occupations and the balance would be neighborhood-based employment such as schools, daycare and some neighborhood businesses).~~

~~Residential areas accessible to jobs and neighborhood businesses with smaller lot sizes are inner neighborhoods. Average recommended density is 14 persons per acre.~~

~~INTERMODAL~~	~~The connection of one type of transportation mode with another.~~
~~INTERMODAL FACILITY~~	~~A transportation element that accommodates and interconnects different modes of transportation and serves the statewide, interstate and international movement of people and goods.~~
INSTITUTIONAL	(1) Privately owned and operated activities that are institutional in nature, such as hospitals, museums, and schools; (2) churches and other religious institutions; and (3) other nonprofit activities of an education, youth, welfare, or philanthropic nature that cannot be considered a residential, commercial or industrial activity (4) academic, governmental and community service uses, either publicly owned or operated by nonprofit organizations; and (5) facilities including transportation, sewer, solid waste, drainage, potable water, and parks and recreation systems or facilities.
INTENSITY	A measure of land use activity based on density, use, mass, size, and/or impact.
~~INTERCHANGE~~	~~A system of interconnecting roadways in conjunction with one or more grade separations, providing for the interchange of traffic between two or more roadways on different levels.~~
~~INTERIOR YARD~~	~~The yard between a building and a lot line that does not abut a street or public right-of-way or easement for public travel.~~
~~INTERIM USE~~	~~Any use permitted conditionally for a fixed period of time not to exceed five years, at which time the interim use shall be eliminated unless extended through the conditional use permit process for a specified time not to exceed three years.~~
~~INTERSECTING STREET~~	~~Any street which meets or crosses a pedestrian mall at a mall intersection but includes only those portions thereof on either side of a mall intersection which lie between the mall intersection and the first intersection of the intersecting street with a public street or highway open to vehicular traffic. ORS 376.705~~
~~JOBS/HOUSING BALANCE~~	~~The relationship between the number, type, mix and wages of existing and anticipated jobs balanced with housing costs and availability so that non-auto trips are optimized in every part of the region.~~
~~JOBS/HOUSING RATIO~~	~~Numerical ratio of number of employment positions to dwelling units, where 1 is a balanced community ≥1 is a job rich community and ≤1 is a job poor community.~~

~~J~~

~~K~~

~~KEY OR CRITICAL PUBLIC FACILITIES AND SERVICES~~

~~Basic facilities that are primarily planned for by local government but which also may be provided by private enterprise and are essential to the support of more intensive development, including transportation, water supply, sewage, parks, schools and solid waste disposal.~~

L

L

LANDSCAPING

~~Planting, including trees, shrubs, and ground covers, suitably designed, selected, installed, and maintained so as to enhance a site, street, or roadway permanently.~~

The combination of natural elements such as trees, shrubs, ground covers, vines and other living organic and inorganic material which are installed for purposes such as creating an attractive and pleasing environment and screening unsightly views. Other improvements that promote an attractive and pleasing environment that may be included as landscaping includes features such as fountains, patios, decks, fences, street furniture and ornamental concrete or stonework areas. (Beaverton Development Code)

LANDSCAPE STRIP

The portion of public right-of-way located between the sidewalk and curb. (Metro Code 3.07.1010(ee))

LAND USE

The occupation or use of land or water area for any human activity or any purpose defined in ~~the~~ a comprehensive plan.

~~LAND USE CATEGORY~~

~~A classification used to designate, geographically on a map and/or in text form, what activities are permitted within the area designated.~~

~~LAND USE DECISION~~ ~~(a) Includes:~~

~~(A) A final decision or determination made by a local government or special district that concerns the adoption, amendment or application of:~~

~~(i) The goals;~~

~~(ii) A comprehensive plan provision;~~

~~(iii) A land use regulation; or~~

~~(iv) A new land use regulation; or~~

~~(B) A final decision or determination of a state agency other than LCDC [redacted] is required to apply the goals; and~~

~~(b) Does not include a decision of a local government:~~

~~(A) Which is made under land use standards which do not require interpretation or the exercise of policy or legal judgment;~~

~~(B) Which approves or denies a building permit issued under clear and objective land use standards;~~

~~(C) Which is a limited land use decision; or~~

~~(D) Which determines final engineering design, construction, operation, maintenance, repair or preservation of a transportation facility which is otherwise authorized by and consistent with the comprehensive plan and land use regulations; and~~

~~(c) Does not include a decision by a school district to close a school. ORS 197.015~~

~~LAND USE ELEMENT~~ ~~A long-range development guide in a comprehensive plan to coordinate the various functional plans related to the physical development of the community, which also guide future growth and development.~~

LAND USE MAP (SERIES) The graphic aid(s) intended to depict the spatial distribution of various land uses by land use category, subject to the goals, policies, implementation measures; and the exceptions and provisions of the Land Use Element text and applicable land development regulations.

LAND USE REGULATION Any local government zoning ordinance, land division ordinance adopted under ORS 92.044 or 92.046 or similar general ordinance establishing standards for implementing a comprehensive plan. (ORD 197.015(11))

~~LAND DEVELOPMENT REGULATIONS~~

~~Ordinances enacted by local governing bodies for the regulation of any aspect of development, including any local government zoning, rezoning, subdivision, building construction or sign regulations or any other regulations controlling the development of land.~~

~~LATERALS~~ ~~The sewer lines that connect users to sewer mains.~~

~~L_{dn} (Day-Night Average Sound Level)~~

~~The A-weighted average sound level for a given area (measured in decibels) during a 24 hour period with a 10 dB weighting applied to nighttime sound levels. The L_{dn} is approximately~~

~~numerically equal to the CNEL for most environmental settings.~~

LEVEL OF SERVICE (LOS) An indicator of the extent or degree of service provided by or proposed to be provided by a facility based on and related to the operational characteristics of the facility. Level of service generally indicates the capacity per unit of demand for a public facility.

~~**LIGHT INDUSTRIAL LAND USE DISTRICT (LI)**~~

~~See City of Beaverton Development Code.~~

LIGHT RAIL TRANSIT (LRT) STATION SITE

Land currently or eventually to be owned or leased by Tri-Met, on which facilities will be located related to a light rail transit station. The station site may include station platforms, park and ride lots, bus stops, and other similar facilities. (Beaverton Development Code)

~~**LIMITED ACCESS FACILITY**~~ ~~A roadway especially designed for through traffic, and over, from, or to which owners or occupants of abutting land or other persons have no greater than a limited right or easement of access.~~

~~**LIMITED LAND USE DECISION**~~ ~~A final decision or determination made by a local government pertaining to a site within an urban growth boundary which concerns:~~

~~(a) The approval or denial of a subdivision or partition, as described in ORS Chapter 92.~~

~~(b) The approval or denial of an application based on discretionary standards designed to regulate the physical characteristics of a use permitted outright, including but not limited to site review and design review. ORS 197.015~~

~~**LINEAR RETAIL**~~ ~~Areas characterized by free standing retail and office uses lining high volume roads, which experience decreased operating speeds as a result of the multiple curbcuts, signage and other site design factors associated with such uses. This type of development pattern is also referred to as strip commercial.~~

~~**LIQUEFACTION**~~ ~~The transformation of loose water saturated granular materials (such as sand or silt) from a solid into a liquid state. A type of ground failure that can occur during an earthquake.~~

~~**LIVE/WORK FACILITIES**~~ ~~Facilities combining Residential use types with Commercial or Limited Light Industrial use types.~~

~~**LOCAL ACCESS ROAD**~~ ~~A public road that is not a county road, state highway or federal road. ORS 368.001~~

LOCAL STREET Local streets have the primary function of providing access to adjacent land. Service to through-traffic movement on local streets is deliberately discouraged by design. Residential local streets serve a traffic function as well as being important to neighborhood identity.

LOCAL TRIP A trip of 2½ miles or less in length.

LOT OF RECORD A lot that is part of a subdivision, the plat of which has been recorded in the Office of the Washington County Surveyor; or any parcel of land, whether or not part of a subdivision, that has been officially recorded by a deed in the office of the County Surveyor, provided such lot met the minimum dimensions for lots in the zoning district in which it was located at the time of recording, or was recorded prior to the effective date of zoning in the area where the lot is located and met the requirements of any subdivision regulations in effect at the time of the recording.

LOT A single unit of land such as a tract, lot, block or parcel. A continuous area owned or under the lawful control and in the lawful possession of one distinct ownership undivided by a dedicated street, alley, or other ownership. An abutting "platted lot, or property described by metes and bounds, in the same ownership, shall be considered part of such 'lot'."

~~**LOW INCOME HOUSEHOLD (FAMILY)**~~

~~A household with an annual income usually no greater than 80% of the area median family income adjusted by household size, as determined by a survey of incomes conducted by a city or a county, or in the absence of such a survey, based on the latest available eligibility limits established by the U.S. Department of Housing and Urban Development (HUD) for the Section 8 housing program.~~

~~**MAJOR AMENDMENT**~~ ~~A proposal made to the Metro Council for expansion of the Urban Growth Boundary of 20 acres or more, consistent with the provisions of the Metro Code.~~

M

MAJOR PEDESTRIAN ROUTE Any pedestrian way in a public right-of-way or easement which assists access to a light rail station or transit stop~~leading to a light rail station or transit stop~~, that is presently used or is likely to be to be used by pedestrians to access public transportation service including light rail or transit stations. (Beaverton Development Code)

MAIN STREETS Neighborhood shopping areas along a main street or at an intersection, sometimes having a unique character that draws people from outside the area. ~~Northwest 23rd Avenue and Southeast Hawthorne Boulevard are current examples of main streets.~~Beaverton's main streets generally include two nodes on Allen Boulevard 1) between Hall Boulevard and Murray Road, and 2) at Oleson Road.

~~Main streets typically will serve neighborhoods and may develop a regional specialization -- such as antiques, fine dining, entertainment or specialty clothing -- that draws people from other parts of the region. Main S~~

~~Neighborhoods will be served by main streets with retail and service developments served by transit. An average of 39 persons per acre is recommended~~

~~MAJOR TRANSIT STREET~~ ~~A street whose functions include providing vehicular access to a LRT station, other transit stops, or transit serving parking or serves as a major route for transit vehicles. All such routes are designated in the Beaverton Comprehensive Plan.~~

~~MAIN TRAVELED WAY~~ ~~The through traffic lanes, exclusive of frontage roads, auxiliary lanes and ramps. ORS 377.605~~

~~MAINTAIN, V.~~ ~~To keep in an existing state. (See *Preserve, v.*)~~

~~MALL INTERSECTION~~ ~~Any intersection of a city street constituting a part of a pedestrian mall with any street, which intersection is itself part of the pedestrian mall. ORS 376.705~~

~~MAN MADE WATER BODIES~~ ~~For the purposes of determining permitted density, these shall be defined as those water covered lands, either existing or to be created as part of a proposed development including land excavation and lake creation as defined in applicable development regulations, which do not satisfy the definition of "Water Bodies" as defined in this section.~~

MANUFACTURED HOME A structure constructed for movement on the public highways that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed in accordance with federal manufactured housing construction and safety standards and regulations in effect at the time of construction. (ORS 446.003(26)(a)(C)(i))

MASS TRANSIT **Passenger services provided by public, private or non-profit entities such as the following surface transit modes: commuter rail, rapid rail transit, light rail transit, fixed guideway transit, express bus, and local fixed route bus.**

~~MASS TRANSIT FACILITY OR FACILITIES~~

~~Any or all property constituting a mass transit system, or any portion thereof, in any manner owned, used, leased or operated by a district and which is located wherever a district is authorized to operate. ORS 391.510~~

~~MASS TRANSIT SYSTEM~~ ~~The property, equipment and improvements of whatever nature owned, used, constructed, maintained, controlled or operated to provide for the movement of people, including park-and-ride stations, transfer stations, parking lots, malls, and skyways,~~

~~provided that nothing contained herein shall limit the power of a city to exercise its general powers over or provide such stations, lots, malls, or skyways. ORS 267.010~~

MASTER PLAN

A plan for a defined geographic area in single or multiple ownership that is consistent with the Comprehensive Plan and includes a land use and circulation plan, land use regulations, development standards, design guidelines, open space plan, utilities plans, and a program of implementation measures and other mechanisms needed to carry out the plan. The plan shall be created through the land use review process, pursuant to the Ceity of Beaverton Development Code. (Beaverton Development Code)

~~**MEDIAN**~~

~~The center portion of public right-of-way, located between opposing directions of motor vehicle travel lanes. A median is usually raised and may be landscaped, and usually incorporates left turn lanes for motor vehicles at intersections and major access points.~~

~~**METRO**~~

~~The Metropolitan Service District for the Portland Metropolitan Area regional governmental agency, responsible for coordinating the provision of transportation services and developing the region's priorities for expenditure of State and Federal transportation funding, responsible for regional planning and regional service provision. (ORS 195)~~

METRO

~~The regional government of the metropolitan area, the elected Metro Council as the policy setting body of government.~~The Metropolitan Services District of the Portland metropolitan area, a municipal corporation established and existing pursuant to Section 14 of Article XI of the Oregon Constitution, ORS Chapter 268 and the Metro Charter. (Metro Code 1.01.040(e))

~~**METRO BOUNDARY**~~

~~The jurisdictional boundary of Metro, the elected regional government of the metropolitan area.~~

METRO PLANNING GOALS AND OBJECTIVES

The land use goals and objectives that a metropolitan service district is required to adopt under ORS 268.380. (1). The goals and objectives do not constitute a comprehensive plan. (ORS 197.015(15))

METRO REGIONAL FRAMEWORK PLAN

The regional framework plan and implementing ordinances required by the 1992 Metro Charter or its separate components. Neither the regional framework plan nor its individual components constitute a comprehensive plan. (ORS 197.015(16))

METRO URBAN GROWTH BOUNDARY

The urban growth boundary as adopted and amended by the Metro Council, consistent with state law. Also referred to as "UGB". (Metro Code 3.07.1010(kk))

Means the Urban Growth Boundary for Metro pursuant to ORS 268.390 and 197.005 through 197.430. (Metro Code 1.01.010(v))

METRO URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN

The functional plan that implements regional goals and objectives adopted by the Metro Council as the Regional Urban Growth Goals and Objectives (RUGGO), including the Metro 2040 Growth Concept and the Regional Framework Plan. (Metro Code 3.07.010)

METROPOLITAN AREA — The area which on October 4, 1997, lies within the boundaries of Clackamas, Multnomah and Washington Counties (ORS 268.020(3))

~~The regional framework plan required by the 1992 Metro Charter or its separate components. Neither the regional framework plan nor its individual components constitute a comprehensive plan. ORS 197.015~~

METROPOLITAN HOUSING RULE

A rule (OAR 660, Division 7) adopted by the Land Conservation and Development Commission to assure opportunity for the provision of adequate numbers of needed housing units and the efficient use of land within the Metro UGB. This rule establishes minimum overall net residential densities for all cities and counties within the UGB, and specifies that 50 percent of the land set aside for new residential development be zoned for multi-family housing.

~~SERVICE DISTRICT (METRO) — The Portland Metropolitan Area regional governmental agency, responsible for coordinating the provision of transportation services and developing the region's priorities for expenditure of State and Federal transportation funding, responsible for regional planning and regional service provision. (ORS 195)~~

~~METROPOLITAN SIGNIFICANCE~~METROPOLITAN SIGNIFICANCE

~~Having major or significant district-wide impact. ORS 268.020~~An issue or action with major or significant impact throughout the metropolitan area.

~~MINERAL RESOURCE — Land on which known deposits of commercially viable mineral or aggregate deposits exist. This designation is applied to sites determined by the State Division of Geology and Mines as being a resource of regional significance, and is intended to help maintain quarrying operations and protect them from encroachment of incompatible land uses.~~

~~MINIMIZE, V. — To reduce or lessen, but not necessarily to eliminate.~~

~~(e)MITIGATE, V.~~ ~~To ameliorate, alleviate, or avoid to the extent reasonably feasible.~~

MIXED USE Comprehensive plan or implementing regulations that permit a mixture of commercial and residential development.

Properties on which various uses, such as office, commercial, institutional and residential, are combined in a single building or on a single site in an integrated development project with significant functional interrelationships and a coherent physical design. Land uses, which when combined constitute mixed or multiple uses, exclude parks, golf courses, schools, and public facilities (fire stations, utility substations, etc.).

Mixed- use development is a type of multiple-use in which one or more structures on a lot or contiguous lots in common ownership, accommodate any of the following combinations of uses

(1) Residential Mixed-Use Project with residential units occupying a minimum of 25 percent of the total floor area and the remaining floor area occupied by retail, office, light industrial, community service or other residentially compatible uses or combinations thereof;

(2) Non-Residential Mixed-Use Project consisting of office retail, light industrial, community service or other compatible uses or combination thereof with retail space or other pedestrian oriented commercial uses occupying a minimum of 60% of the street level building frontage.

A building or groups of buildings under one ownership, to encourage a diversity of compatible land uses, which may include a mixture of residential, office, retail, recreational, light industrial, and other miscellaneous uses.

~~MOBILITY~~ ~~The speed at which a given mode of travel operates in a specific location.~~

MOBILE HOME ~~A structure, transportable in one or more sections, built on a permanent chassis and designed for use as a single family dwelling unit and that (1) has a minimum of 400 square feet of living space; (2) has a minimum width in excess of 102 inches; (3) is connected to all available permanent utilities; and (4) is tied down (a) to a permanent foundation on a lot either owned or leased by the homeowner or (b) is set on piers, with wheels removed and skirted, in a mobile home park under a lease with a minimum period of one year. If fabricated after June 15, 1976, each section bears a U.S. Department of Housing and Urban Development label certifying that it is built in compliance with the federal Manufactured Home Construction and Safety Standards.~~ A structure constructed for movement on the public highways, that has sleeping, cooking and plumbing facilities, that is intended for human occupancy, that is being used for residential purposes and that was constructed between January 1, 1962 and June 15, 1976, and met the construction requirements of Oregon mobile home law in effect at the time of construction.

~~**MODERATE INCOME HOUSEHOLD (FAMILY)**~~

~~A household with an annual income between the lower income eligibility limits and 120 percent of the area median family income adjusted by household size, usually as established by the U.S. Department of Housing and Urban Development (HUD) for the Section 8 housing program. (See *Low Income Household*)~~

~~**MODE SPLIT TARGET**~~ ~~The individual percentage of public transportation, pedestrian, bicycle and shared ride trips expressed as a share of total person-trips.~~

~~**MOTOR VEHICLE**~~ ~~Automobiles, vans, public and private buses, trucks and semi-trucks, motorcycles and mopeds.~~

MULTI-FAMILY DWELLING UNITS

~~Three or more attached dwelling units either stacked vertically above one another and/or attached by both side and rear walls.~~

Means attached housing where each dwelling unit is not located on a separate lot. (OAR 660-007-0005(11))

MULTI-MODAL Transportation facilities or programs designed to serve many or all methods of travel, including all forms of motor vehicles, public transportation, bicycles and walking. (Metro Code 3.07.1010(rr))

~~**MULTI-MODAL ARTERIALS**~~ ~~These represent most of the region's arterials. they include a variety of design styles and speeds, and are the backbone for a system of multi-modal travel options. Older sections of the regional are better designed for multi-modal travel than new areas. Although these streets are often smaller than suburban arterials, they carry a great deal of traffic (up to 30,000 vehicles~~

~~a day), experiences heavy bus ridership along their routes and are constructed in dense networks that encourage bicycle and pedestrian travel. The RTP shall identify these multi-modal streets and develop a plan to further encourage alternative travel modes within these corridors.~~

~~Many new streets, however, are designed to accommodate heavy auto and freight traffic at the expense of other travel modes. Multiple, wide lanes, dedicated turning lands, narrow sidewalks exposed to moving traffic, and widely spaced intersections and street crossings create an environment that is difficult and dangerous to negotiate without a car. The RTP shall identify these potential multi-modal corridors and establish design standards that encourage other modes of travel along these routes.~~

~~Some multi-modal arterials also carry significant volumes of freight. The RTP will ensure that freight mobility on these routes is adequately protected by considering freight needs when identifying multi-modal routes, and in establishing design standards intended to encourage alternative modes of passenger travel.~~

~~**MULTI-PURPOSE PROJECT** A structure(s) that contains more than one use, but that lacks either part or all of the integration, scale, and diversity of mixed-use developments.~~

MULTI-USE OR SHARED-USE **PATH**
Multi-use or Shared-use path means an off-street path that can be used by several transportation modes including bicycles, pedestrians, and other non-motorized modes. Multi-use paths accommodate two-way travel.

MULTIPLE USE DEVELOPMENTS A building or groups of buildings ~~under one ownership~~ designed to encourage a diversity of compatible land uses, which include a mixture of two or more of the following uses: residential, office, retail, recreational, light industrial, and other miscellaneous uses. (Beaverton Development Code)

N

NATURAL AREA Any landscape unit substantially without any human development that is substantially in a native and unaffected state and may be composed of plant and animal communities, water bodies, soil and rock and mitigated

habitat. Natural areas must be identified in a city, county or special district open space inventory or plan. (Metro Code 3.01.010(h))

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

~~NATURAL AQUIFER RECHARGE~~ ~~The replenishment of ground water in an aquifer.~~

~~NARROW STREET DESIGN~~ ~~Streets with less than 46 feet of total right-of-way and no more than 28 feet of pavement width between curbs.~~

NEEDED HOUSING Housing types determined to meet the need shown for housing within an urban growth boundary at particular price ranges and rent levels. On and after the beginning of the first periodic review of a local government's acknowledged comprehensive plan, "needed housing" also means:

(a) Housing that includes, but is not limited to, attached and detached single-family housing and multiple housing for both owner and renter occupancy;

(b) Government assisted housing;

(c) Mobile home or manufactured dwelling parks as provided in ORS 197.475 to 197.490; and

(d) Manufactured homes on individual lots planned and zoned for single-family residential use that are in addition to lots within designated dwelling subdivisions. (ORS 197.303(1))~~015~~ (OAR 660-007-00005(12))

~~NEIGHBORHOOD CENTER~~ ~~Retail and service development that surrounds major MAX stations and other major intersections, extending out for one-quarter to one-half mile.~~

~~NEIGHBORHOOD CITIES~~ ~~Cities such as Sandy, Canby and Newberg that are outside Metro's jurisdiction but will be affected by the growth policies adopted by the Metro Council or other jurisdictions, such as North Plains, Estacada or Scappoose, which may be affected by Metro actions.~~

NEIGHBORHOOD ROUTE A street that is usually long relative to local streets and provides connectivity to collectors or arterials. Neighborhood routes generally have more traffic than local streets and are used by residents in the area to get into and out of the neighborhood, but do not serve citywide or large area circulation.

NET DEVELOPABLE ACRE ~~An area measuring 43,560 square feet which excludes:~~

~~1) any developed road rights-of-way through or on the edge of the land; and~~

~~2) environmentally constrained areas, including any open water areas, floodplains, natural resource areas protected under~~

~~statewide planning Goal 5 in the comprehensive plans of cities and counties in the region, slopes in excess of 25 percent and wetlands requiring a Federal fill and removal permit under Section 404 of the Federal Clean Water Act, as amended. These excluded areas do not include land for which the local zoning code provides a density bonus or other mechanism which allows the transfer of the allowable density or use to another area or to development elsewhere on the same site; and~~

~~3) all publicly-owned land designated for park and open space uses.~~ The net developable acreage for a site is defined as the proposal size expressed in acreage minus any unbuildable area. The following areas are deemed undevelopable for the purposes of calculating net developable acreage:

1) Street dedications and those areas used for private streets and common driveways; and

2) Environmentally constrained lands, such as open water areas, floodplains, water quality facilities, wetlands, natural resource areas and tree preservation areas set aside in separate tracts or dedicated to a public entity, and

3) Land set aside in separate tracts or dedicated to a public entity for schools, parks, or open space purposes. (Beaverton Development Code)

NET BUILDABLE LAND — See Net Developable Acre.

NET DEVELOPED ACRE — Consists of 43,560 square feet of land, after excluding present and future rights-of-way, school lands and other public uses. (Metro Code 3.07.1010(vv))

Consists of 43,560 square feet of residentially designated buildable land, after excluding present and future rights-of-way, restricted hazard areas, public open spaces and restricted resource protection areas. (OAR 660-0007-0005(1))

~~**NEW LAND USE REGULATION** — A land use regulation other than an amendment to an acknowledged land use regulation adopted by a local government that already has a comprehensive plan and land use regulations acknowledged under ORS 197.251. ORS 197.015~~

NEWSPAPER — A newspaper of general circulation, published in the English language for the dissemination of local or transmitted news or for the dissemination of legal news, made up of at least four pages of at least five columns each, with type matter of a depth of at least 14 inches, or, if smaller pages, then comprising and equivalent amount of type matter, which has bona fide subscribers representing more than half of the total distribution of copies circulated, or distribution verified by an independent circulation auditing firm, and which has been established and regularly and uninterruptedly published at least once a week during a period of at least 12 consecutive

months immediately preceding the first publication of a public notice. (ORS 193.~~020~~101(2))

~~NEXUS~~ — ~~A "connection" or "linkage." Generally referred to in regards to Assembly Bill 1600 that requires jurisdictions show a reasonable nexus between the fees charged new development and the cost of providing new services to the development.~~

~~NITROGEN OXIDE(S)~~ — ~~A reddish brown gas that is a byproduct of combustion and ozone formation processes. Often referred to as NOX, this gas gives smog its "dirty air" appearance.~~

~~NODE~~ — ~~A focal point within the context of a larger, contiguous area surrounding it. A node is an area of concentrated activity that attracts people from outside its boundaries for purposes of interaction within that area.~~

~~NOISE CONTOUR~~ — ~~A line connecting points of equal noise level as measured on the same scale. Noise levels greater than the 60 L_{dn} contour (measured in dBA) require noise attenuation in residential development.~~

NOTICE — Any notice that is required by law to be published. (ORS 193.310(2))

O

OBJECTIVE — A specific, measurable, intermediate end that is achievable and marks progress toward a goal. An objective should be achievable and, where possible, should be measurable and time specific.

OFFICE — A structure for conducting business, professional, or governmental activities in which the showing or delivery from the premises of retail or wholesale goods to a customer is not the typical or principal activity. Office uses include general business offices, medical and professional offices, administrative or headquarters offices for large wholesaling or manufacturing operations, and research and development.

OPEN SPACE — Publicly and privately-owned area of land, including parks, natural areas and areas of very low density development inside the UGB. Open spaces may include active or passive recreation. (Metro Regional Framework Plan)

~~Any parcel or area of land or water that is unimproved and suitable for purposes of (1) preservation of natural resources,~~

~~(2) managed production of resources, (3) outdoor recreation, and/or (4) public health and safety.~~

~~OPERATING AGREEMENT~~ ~~An agreement for the operation or maintenance on behalf of the Department of Transportation of all or part of a public transportation system, but does not include agreements by which the department provides only financial or technical assistance or transportation facilities or equipment and which do not control routes, rates or levels of service, or agreements under which such control is exercised by the Federal Government through the Department. ORS 184.675~~

~~OUTER NEIGHBORHOOD~~ ~~Areas in the outlying cities that are primarily residential, farther from employment and shopping areas, and have larger lot sizes and lower population densities than inner neighborhoods.~~

~~Residential neighborhoods farther away from large employment centers with larger lot sizes and lower densities are outer neighborhoods. Average recommended density is 13 persons per acre.~~

~~OUTFALL~~ ~~The natural or manmade stormwater conveyance system that drains the land.~~

~~OVERLAY~~ ~~A land use designation on a land use map, or a zoning designation on a zoning map, which modifies the basic underlying designation in some specific manner.~~

~~OZONE~~ ~~A tri atomic form of oxygen (O_3) created naturally in the upper atmosphere by a photochemical reaction with solar ultraviolet radiation. In the lower atmosphere, ozone is a recognized air pollutant that is not emitted directly into the environment, but is formed by complex chemical reactions between oxides of nitrogen and reactive organic compounds in the presence of sunlight, becoming a major agent in the formation of smog.~~

~~PARATRANSIT~~ ~~Transportation services that operate vehicles (e.g., buses, jitneys, taxis, and vans) in a curb to curb, demand/response mode.~~

P

PARCEL A lot, or contiguous group of lots, in single ownership or under single control, usually considered a unit for purposes of development.

PARK Open space land on which the primary purpose is recreation. A public area intended for open space and outdoor recreation use that is owned and managed by a city, county, regional government, or park district .

~~PARK-AND-RIDE LOT~~ ~~Parking lots or structures located along public transit routes designed to encourage transfer from private automobile to mass transit or to encourage car pooling for purposes of commuting that is owned or operated either by Tri-Met or by another entity with the concurrence of Tri-Met.~~

PARK AND RIDE	A parking facility near a transit station or stop for the purpose of parking motor vehciles by transit riders. (Beaverton Development Code)
	A mode of travel usually associated with movements between work and home that involves use of a private auto on one portion of the trip and a transit vehicle (i.e., a bus or a light-rail vehicle) on another portion of the trip. A park-and-ride trip could consist of an auto trip from hoem to a parking lot, and transfer at that point to a bus in order to complete the work trip. (Metro Regional Transportation Plan Definition)
PARKING RATIO	**The number of parking spaces provided per employee or per 1,000 square feet of floor area (e.g., 2:1 or "two per thousand").**
PARKING STRUCTURE	**A parking garage located above or underground consisting of two (2) or more levels.**
~~PARKWAY~~	~~An expressway or arterial designed for noncommercial traffic only, usually located within a strip of landscaped park or natural vegetation.~~
PEAK HOUR/PEAK PERIOD	**For any given roadway, a daily hour/ or longer perod of time~~period~~ during which traffic volume is highest, usually occurring during morning and evening commute times. Where "F" Levels of Service exist, the "peak hour" may stretch into a "peak period" of several hours duration.**
~~PEAK SENSITIVE LANDS~~	~~Outfalls with inadequate flow.~~
~~PEDESTRIAN MALL~~	~~One or more city streets, or portions thereof, on which vehicular traffic is or is to be restricted in whole or in part and which is or is to be used exclusively or primarily for pedestrian travel. ORS 376.705~~
PEDESTRIAN ORIENTED DESIGN	Site and building design elements that are dimensionally related to pedestrians, such as: small building spaces with individual entrances (e.g., as is typical of downtowns and main street developments); larger buildings which have articulation and detailing to break up large masses; narrower streets with tree canopies; smaller parking areas or parking areas broken up into small components with landscaping; and pedestrian amenities, such as sidewalks, plazas, outdoor seating, lighting, weather protection (e.g., awnings or canopies), and similar features. These features are all generally smaller in scale than those which are primarily intended to accommodate automobile traffic. (Adapted from the Model Development Code and User's Guide for Small Cities, Funded by the Transportation and Growth Management Program of theOregon Department of Transportation and Oregon Department of Land Conservation and Development)
~~PEDESTRIAN ORIENTED DEVELOPMENT~~	

~~Development which is designed with an emphasis primarily on the street sidewalk and on pedestrian access to the site and building, rather than on auto access and parking areas.~~

~~**PEDESTRIAN ORIENTED FRONTAGE**~~

~~Building Frontage devoted to uses which stimulate pedestrian activity. Uses are typically sidewalk-oriented and physically or visually accessible by pedestrians from the sidewalk. Uses which compose pedestrian-oriented frontage include, but are not limited to, specialty retail stores, groceries, drugstores, shoe repair shops, cleaning establishments, floral shops, beauty shops, barber shops, department stores, hardware stores. apparel shops, travel agencies and other services, restaurants, and theaters. Banks and financial institutions are not pedestrian-oriented uses.~~

PEDESTRIAN SCALE

~~An urban development pattern where walking is a safe, convenient and interesting travel mode. it is an area where walking is at least as attractive as any other mode to all destinations within the area. The following elements are not cited as requirements, but illustrate examples of pedestrian scale: continuous, smooth and wide walking surfaces; easily visible from streets and buildings and safe for walking; minimal points where high-speed automobile traffic and pedestrians mix; frequent crossing; storefronts, trees. bollards, on-street parking, awnings, outdoor seating, signs, doorways and lighting designed to serve those on foot; well integrated into the transit system and having uses that cater to people on foot.~~ Site and building design elements that are dimensionally smaller than those intended to accommodate automobile traffic flow and buffering. Examples include ornamental lighting no higher than twelve feet; bricks, pavers or other paving modules with small dimensions; a variety of planting and landscaping materials; arcades or awnings that reduce the perception of the height of walls; and signage and signpost details designed for viewing from a short distance.

~~**PEDESTRIAN SENSITIVE DEVELOPMENT**~~

~~Development which is designed with an emphasis on pedestrian access to the site and building, rather than on auto access and parking areas.~~

~~**PEDESTRIAN SPACE**~~

~~An area or plaza on public or private property which is directly accessible to the public. Features which compose pedestrian spaces include, but are not limited to, seating areas, awnings or other overhead weather protection designs, pedestrian-scale outdoor lighting, landscaped areas (an outdoor area providing visually or physically accessible space for tenants of the development of which it is part), water features (a fountain, cascade, stream, water sculpture, or reflection pond), public art, kiosks, and outdoor eating areas and/or food vendors.~~

PEDESTRIAN WAY Any paved public or private route intended for pedestrian use, including a multi-use path and esplanade, regardless of use by other transportation modes. A general term used to describe any sidewalk or walkway that is intended and suitable for pedestrian use. (Beaverton Development Code) " Paved" can include any Americans with Disability Act approved surface including pavements and surfaces that are pervious.

~~PERENNIAL STREAMS~~ ~~All primary and secondary perennial water ways as mapped by the U.S. Geological Survey.~~

~~PERFORMANCE MEASURE~~ ~~A measurement derived from technical analysis aimed at determining whether a planning policy is achieving the expected outcome or intent associated with the policy.~~

PERSON A natural or artificial person, including but not limited to, a human, corporation, partnership, unit of government, an agency, a trust or descendant's estate, or other legal entity whatsoever.~~The United States or any state or any department or agency of any of the above, or any nonprofit corporation or entity or any other individual, corporation or entity, either public or private. ORS 184.674~~

~~Any individual, partnership, corporation, association, governmental subdivision or agency or public or private organization of any kind. ORS 197.015~~

~~The state or a public or private corporation, local government unit, public agency, individual, partnership, association, firm, trust, estate or any other legal entity. ORS 268.020~~

~~PERSONS TO DWELLING UNIT CONVERSION FACTOR~~

~~The impacts of certain groups of people (e.g., the elderly) on land and supporting infrastructure vary widely from the average. A person-to-dwelling unit conversion factor is a method that assigns weights to these groups of people so that their impacts can be objectively assessed in comparison to groups of people whose impacts approximate the average.~~

PEOPLE OR PERSONS PER ACRE This is a term expressing the intensity of building development by combining residents per net acre and employees per net acre. (Metro Code 3.07.1010(zz)) (Metro Regional Framework Plan definition)

~~PERSON TRIPS~~ ~~The total number of discrete trips by individuals using any mode of travel.~~

PLANNING COMMISSION The Planning Commission of the City or any subcommittee thereof. (Beaverton Development Code)

~~PLANNED~~ ~~A future project, event, or land area use that has been anticipated and prepared for, usually with a site plan, a land use plan and/or the Capital Improvement Program and Budget.~~

~~PLANNING ACTIVITIES~~ ~~Planning Activities cited in the RUGGOs are not regulatory by contain implementation ideas for future study in various stages of development that may or may not lead to RUGGO amendments, new functional plans, functional plan amendments, or regional framework plan elements. Planning activities for any given year will be subject to Metro Executive Officer budget recommendations and Metro Council budget adoption.~~

~~PLAZA~~ ~~A continuous open space which is readily accessible to the public at all times, predominately open above and designed specifically for use by people as opposed to serving as a setting for a building.~~

POLICY The way in which programs and activities are conducted to achieve an identified goal. A general direction that a governmental agency sets to follow, in order to meets its goals through implementation measures or action programs. ~~(See *Program*)~~

~~POUNDS PER SQUARE INCH (PSI)~~

~~A unit of pressure, usually employed in measurements of water system capacity.~~

PRACTICABLE ~~Available and capable of being done after taking into consideration cost, existing technology, and logistics in light of overall project purpose.~~ Capable of being accomplished after taking into consideration barriers both existing and reasonably foreseeable.

~~PRESERVE, V.~~ ~~To keep safe from destruction or decay; to maintain or keep intact. (See *Maintain*)~~

~~PRIMARY TRANSIT SUPPORTIVE SYSTEM~~

~~Those facilities upon which or adjacent to which the mass transit and transportation district physically operates. ORS 267.300~~

~~PRIMARILY DEVELOPED~~ ~~Areas where less than 10% of parcels are either vacant or underdeveloped.~~

~~PRIVATE ROAD CROSSING~~ ~~A privately owned road designed for use by trucks which are prohibited by law from using state highways, county roads or other public highways. ORS 374.305~~

PRINCIPLE An assumption, fundamental rule, or doctrine that will guide comprehensive plan policies, proposals, standards and implementation measures.

PROGRAMMED A facility that has been officially scheduled for construction in ~~the~~ a Capital Improvements Program, ~~and/or~~ Budget, or other local, state, or federal funding document.

~~PROTECT, V.~~ ~~To maintain and preserve beneficial uses in their present condition as nearly as possible. (See *Enhance*)~~

~~PUBLIC BUILDINGS AND GROUNDS~~

~~Structures or lands that are owned, leased, or operated by a government entity, such as civic and community centers, hospitals, libraries, police stations, fire stations, and government administration buildings.~~

~~PUBLIC NOTICE AUTHORITY~~ ~~Any legal publication which requires an affidavit of publication as required in ORS 193.070, or is required by law to be published. ORS 193.010~~

PUBLIC FACILITIES A public facility includes water, sewer and transportation facilities.

PUBLIC RIGHT-OF-WAY Land that by deed, conveyance, agreement, easement, dedication, usage or process of law is conveyed, reserved for or dedicated to the use of the general public for street, road or highway purposes, including curbs, gutters, parking strips, pedestrian ways, and sidewalks and bicycle trails. (BC 5.05.015)

~~PUBLIC AND QUASI-PUBLIC FACILITIES~~

~~(1) Institutional, academic, governmental and community service uses, either publicly owned or operated by nonprofit organizations; or (2) Facilities including transportation, sewer, solid waste, drainage, potable water, and parks and recreation systems or facilities.~~

PUBLIC ROAD ~~The entire right of way of any road over which the public has the right of use or any right of way held by the state or a political subdivision of the state for road purposes that is not open for public use. ORS 376.150~~

~~A road over which the public has a right of use that is a matter of public record. ORS 368.001~~Every public way, road, highway thoroughfare and place including bridges, viaducts and other structures, open, used or intended for use of the general public for vehicles or vehicular traffic as a matter of right. (BC 6.02.030)

~~PUBLIC TRANSPORTATION ENTITY~~

~~Includes a city, county, transportation district, mass transit district, metropolitan service district or private nonprofit corporation operating a public transportation system. ORS 184.674~~

~~PUBLIC TRANSPORTATION SYSTEM~~

~~Any form of passenger transportation system, whether or not for hire, including but not limited to air, rail, other fixed guideway, bus, jitney, taxi and dial-a-ride passenger transportation systems within, between and outside of urban and urbanized areas, and including related passenger terminal facilities and motor vehicle parking facilities. ORS 184.674~~

R

RARE OR ENDANGERED SPECIES A species of animal or plant listed in Title 50, Code of Federal Regulations, Section 17.11 or 17.2, pursuant to the Federal Endangered Species Act designating species as rare, threatened, or endangered.

RECREATION The pursuit of leisure time activities occurring in an indoor or outdoor setting.

RECREATION, ACTIVE A type of recreation or activity that requires the use of organized play areas including, but not limited to, softball, baseball, football and soccer fields, tennis and basketball courts and various forms of children's play equipment.

RECREATION, PASSIVE A type of recreation or activity that does not require the use of organized play areas, and which may function as a view shed (an elevation in the earth's surface from which a view may be seen.), etc. (See *Open Space*)

~~**RECYCLE** The process of extraction and reuse of materials from waste products.~~

REDEVELOPABLE LAND Land on which development has already occurred which, due to present or ~~expected~~ future market forces, there exists the strong likelihood that existing development will be converted to more intensive uses during the planning period. (Metro Code 3.07.1010(ddd))

REDEVELOPMENT Development of land that replaces previous development, usually to achieve a higher return on the owner's investment. Redevelopment may occur due to market forces if the value of land equals or exceeds the value of improvements on that land. A local government may assist in redevelopment by means such as paying for certain on or off-site facilities (e.g. streets or parking structures), assembling small parcels to create a larger site, reducing or deferring up-front development fees, or reducing property taxes over a certain time period. For purposes of the City's commercial and industrial, and residential, buildable lands inventories (Volume II of the Comprehensive Plan) any parcel with a land value to improvement value ratio of 1.25: 1 or greater is assumed to have development or redevelopment potential.
~~A process used in developed areas to rehabilitate and infill underused areas more efficiently and/or replace blighted areas by changing the types of uses, intensities or densities of the land uses, usually to achieve an economically higher and better use of the land.~~

REGIONAL Pertaining to activities or economies at a scale greater than that of a single city, county, or combination thereof, and affecting a broad, related area. (Metro Regional Framework Plan definition)

REGIONAL CENTER Areas of mixed residential and commercial use that serve hundreds of thousands of people and are easily accessible by different types of transit. Examples include traditional centers such as downtown Gresham and new centers such as Clackamas Town Center. (Metro Regional Framework Plan)

~~Nine~~ Seven regional centers ~~will become~~in the Metro region are the focus of compact development, redevelopment and high-quality transit service and multi-modal street networks. (Metro Code 3.07.130, updated) An average of 60 persons per acre is recommended. (Metro Code 3.07.170)

REGIONAL FRAMEWORK PLAN Required of Metro under the Metro Charter, the Regional Framework Plan must address nine specific growth management and land use planning issues (including transportation), with the consultation and advice of the Metropolitan Policy Advisory Committee.

REGIONAL TRANSPORTATION PLAN The official intermodal transportation plan that is developed and adopted through the metropolitan transportation planning process for the metropolitan planning area. (Metro Framework Plan definition)

REGIONAL URBAN GROWTH GOALS AND OBJECTIVES The land use goals and objectives that Metro is required to adopt under ORS 268.380(1). (Metro Code 3.07.1010(eee))

An urban growth policy framework that represents the starting point for the agency's long-range planning program. (Metro Regional Framework Plan definition)

~~**REGIONAL THROUGH ROUTES** These are routes that move people and goods through and around the region, connect regional centers to each other and to the Central City, and connect the region to the statewide and interstate transportation system. They include freeways, limited access highways and heavily traveled arterials, and usually function as through routes. As such, they are important not only because of the movement of people, but as one of the region's major freight systems. Since much of our regional economy depends on the movement of goods and services, it is essential to keep congestion on these roads at manageable levels. These major routes frequently serve as transit corridors but are seldom conducive to bicycles or pedestrians because of the volume of auto and freight traffic that they carry.~~

~~With their heavy traffic and high visibility, these routes are attractive to business. However, when they serve as a location for auto-oriented businesses, the primary function of these routes, to move regional and statewide traffic, can be eroded. While they serve as an appropriate location for auto-oriented businesses, they are poor locations for businesses that are designed to serve neighborhoods or sub-regions. These are better located on multi-modal arterials. They need the highest levels of access control. In addition, it is important that they~~

~~not become barriers to movements across them by other forms of travel, auto, pedestrian, transit or bicycle. They shall focus on providing access to centers and neighbor cities, rather than access to the lands that front them.~~

REGULATION A rule or order prescribed for management of government.

RESIDENTIAL USE Activities within land areas used predominantly for housing.

RESIDENTIAL, MULTIPLE FAMILY

~~Usually three or more dwelling units on a single site, that may be in the same or separate buildings.~~See Multi Family Dwelling Unit

RESIDENTIAL, SINGLE FAMILY A single dwelling unit on a building site.

RETAIL Activities which include the sale, lease or rent of new or used products to the general public or the provisions of product repair or services for consumer and business goods. ~~Hotels or motels, restaurants or firms involved in the provisions of personal services or office space are not considered retail uses.~~

~~**RIDGELINE** A line connecting the highest points along a ridge and separating drainage basins or small scale drainage systems from one another.~~

RIGHT-OF-WAY Land in which the state, a county, or a municipality owns the fee simple title or ~~has~~ holds an easement or dedication dedicated or required for a transportation or utility use. A strip of land over which transportation and public use facilities are built, such as roadways, railroads, and utility lines.

RIPARIAN A zone of transition from an aquatice ecosystem to a terrestrial ecosystem as defined in ORS 541.351(10). (OAR 141-085-0010(188))

RIPARIAN AREA A zone of transition from an aquatic ecosystem to a terrestrial ecosystem, dependent upon surface or subsurface water, that reveals through the zone's existing or potential soil-vegetation complex the influence of such surface or subsurface water. A riparian area may be located adjacent to a lake, reservoir, estuary, pothole, spring, bog, wet meadow, muskeg or ephemeral, intermittent or perrenial stream. (ORS 541.351(10)) (OAR 690-300-0010(44))

RIPARIAN CORRIDOR The water influences area adjacent to a river, lake or stream consisting of the area of transition from an ~~hydric~~ aquatic ecosystem to a terrestrial ecosystem where the presence of water directly influences the soil-vegetation complex and the soil-vegetation complex directly influences the water body. It can be identified primarily by a combination of geomorphologic and ecologic characteristics. (Metro Code 3.07.1010(in))

A Goal 5 resource that includes the water areas, fish habitat, adjacent riparian areas, and wetlands within the riparian area boundary (OAR 660-023-090(1)(c))

~~RIPARIAN LANDS~~ ~~Lands comprised of vegetative and wildlife areas adjacent to perennial and intermittent streams. Riparian areas are delineated by the existence of plant species normally found near fresh water.~~

RISK The danger or degree of hazard or potential loss.

ROAD The entire right -of- way of any public or private way that provides ingress to or egress from property by means of vehicles or other means or that provides travel between places by means of vehicles. "Road" includes, but is not limited to:

(a) Ways described as streets, highways, throughways or alleys;

(b) Road-related structures that are in the right-of-way such as tunnels, culverts or similar structures; and

(c) Structures that provide for continuity of the right of way such as bridges. (ORS 368.001(6))

~~Includes necessary bridges and culverts, and city streets, subject to such restriction and limitations as are provided. ORS 366.010~~

RUNOFF That portion of ~~rain or snow~~ precipitation that does not percolate into the ground and is instead discharged into streams.

S

~~SANITARY SEWER FACILITIES (SEWERAGE)~~

~~The structure or systems designed for the collection, transmission, treatment, or disposal of sewage, and this includes trunk mains, interceptors, treatment plants and disposal systems.~~

SCALE Generally refers to relative size or extent.

SCENIC VIEWS AND SITES Lands that are valued for their aesthetic appearance. (OAR 660-023-230(1))

~~SECOND UNIT~~ ~~A self-contained living unit, either attached to or detached from, and in addition to, the primary residential unit on a single lot. Sometimes called a "Granny Flat."~~

~~SECONDARY TRANSIT SUPPORTIVE SYSTEM~~ ~~The remainder of those facilities, beyond primary facilities, that constitute the surface transportation system, but over which the mass transit and transportation district's operation or facilities are not physically present. ORS 267.300~~

SEISMIC Caused by or subject to earthquakes or earth vibrations.

~~SENIOR HOUSING~~ ~~See *Elderly Housing*.~~

~~SENIORS~~ ~~Persons age 62 or older.~~

SETBACK The distance between the property line and any structure.

The minimum allowable horizontal distance from a given point or line of reference to the nearest vertical wall or other element of a principal building or structure as defined herein. The point of line of reference will be the lot line followng any required dedication, or a special or reservation line if one is required pusuant to this ordinance. (Beaverton Development Code)

SHALL, MUST OR MAY "Shall and must" are mandatory and "may" is permissive. (BC)

SHALL (WILL), V. A directive verb signifying the action is obligatory or necessary.

~~SHARED-RIDE~~ ~~Private passenger vehicles carrying more than one occupant.~~

SHARED ROADWAY A shared roadway is a street that is recommended for bicycle use but does not have a specific area designated within the right-of-way. (Beaverton Development Code)

~~SHOPPING CENTER~~ ~~A group of commercial establishments, planned, developed, owned or managed as a unit, with off street parking provided on site.~~

SHARED-USE OR MULTI-USE PATH

Shared-use or Multi-use path means an off-street path that can be used by several transportation modes including bicycles, pedestrians, and other non-motorized modes. Shared-use paths accommodate two-way travel. (Beaverton Development Code)

SHOULD, V. A directive verb signifying the action is to be carried out unless circumstances make it impracticable ~~impossible~~.

SIGNIFICANT NATURAL RESOURCES Areas identified on the City's Statewide Planning Goal 5 Inventories, Volume III of the Comprehensive Plan. (Beaverton Development Code)

SSINGLE FAMILY ATTACHED DWELLINGS

A structure containing two or more single family dwelling units with both side walls (except end units of building) attached from ground to roof. ~~This type of dwelling is sometimes referred to as a *duplex* when no more than two units are joined (See *Townhouses*).~~

SINGLE FAMILY DETACHED DWELLING

~~A single family dwelling with open space on all sides.~~

A dwelling unit that is free standing and separate from other dwelling units. (OAR 660-007-0005(4))

SINGLE FAMILY DWELLING A structure containing one or more single family units with each unit occupying the building from ground to roof.

~~**SINGLE FAMILY SEMI-DETACHED DWELLING**~~

~~A structure containing two single family dwellings attached by a common side or rear wall.~~

SINGLE OCCUPANT VEHICLE (SOV)

Private passenger vehicles carrying one occupant. (Metro Code 3.07.1010(ooo)) (Metro Regional Framework Plan definition)

SITE Any tract, lot or parcel of land or combination of tracts, lots or parcels of land that are in one ownership, or are contiguous and in diverse ownership where development is to be performed as part of a unit, subdivision, or project.

~~**SITE AREA** The total square footage or acreage of a lot or contiguous lots proposed for a development, excluding existing or required rights of way.~~

SLOPE Land gradient described as the vertical rise divided by the horizontal run, and expressed in percent.

SOIL The unconsolidated material on the immediate surface of the earth created by natural forces that serves as natural medium for growing land plants.

SOLID WASTE ~~A general category that includes organic wastes, paper products, metals, glass, plastics, cloth, brick, rock, soil, leather, rubber, yard wastes and wood. Organic wastes and paper products comprise about 75 percent of the typical urban solid waste stream.~~ "Solid Waste" sahll have the same meaning as given that term under Beaverton Code section 4.08.030.

SPECIAL DISTRICT Any unit of local government, other than a city, county, metropolitan service district formed under ORS Chapter 268 or an association of local governments performing land use planning functions under ORS 195.025 authorized and regulated by statute and includes but is not limited to: Water control districts, domestic water associations and water cooperatives, irrigation districts, port districts, regional air quality control authorities, fire districts, school districts, hospital districts, mass transit districts and sanitary districts. (ORS 197.015(19))

Any "district" formed under ORS 198.

~~SPECIFIC PLAN~~ ~~A legal tool for detailed design and implementation of a defined portion of the area covered by a general plan. A specific plan may include detailed regulations, conditions, programs and/or proposed legislation that may be necessary or convenient for the systematic implementation of a general plan element(s).~~

STANDARDS (1) A rule or measure establishing a level of quality or quantity that must be complied with or satisfied.

~~STANDARD METROPOLITAN STATISTICAL AREA~~

~~An area designated and published by the United States Bureau of the Budget as a standard metropolitan statistical area. ORS 227.010~~

STATE IMPLEMENTATION PLAN

A plan for ensuring that all parts of Oregon remain in compliance with federal air quality standards.

STATEWIDE PLANNING GOALS The mandatory state-wide planning standards adopted by the Land Conservation and Development Commission pursuant to ORS Chapters 195, 196 and 197. (ORS 197.015(8))

STATION COMMUNITIES That area generally within a ¼ - to ½ - mile radius of light-rail stations or other high-capacity transit that is planned as a multi-modal community of mixed uses and substantial pedestrian accessibility improvements. (Metro Regional Framework Plan)

~~Nodes of development centered around a light rail or high-capacity transit station that feature a high-quality pedestrian environment. They provide for the highest density outside centers. The Station communities would encompass an area approximately one-half mile from a station stop. The densities of new development would average about 45 persons per acre.~~

Nodes of development centered approximately one-half mile around a light rail or high capacity transit station that feature a high-quality pedestrian environment. (Metro Code 3.01.130) An average of 45 persons per acre is recommended. (Metro Code 3.01.170)

STORM WATER The water that runs off only from impervious surfaces during rain events. (CWS Design and Construction Standards)

~~STRAIGHT LINE DISTANCE~~ ~~The shortest distance between two points.~~

STREAM Means a body of running water moving over the earth's surface in a channel or bed, such as a creek, rivulet or river. It flows at least part of the year, including perennial and intermittent streams. Streams are dynamic in nature and their structure is maintained through build-up and loss of sediment. (Metro Code 3.01.1010(qqq)).

STREAM CHANNEL ~~The area continuously covered with flowing. The width of the stream channel is the distance between the tops of the stream bank. The location of each stream bank top is determined by defining the exact location that is the division point between the relatively steep gradient of a channel side and the relatively flat gradient of the land surface adjacent to that channel side.~~

A natural (perennial or intermittent stream) or human made (e.g. drainage ditch) waterway of perceptible extent that periodically or continuously contains moving water and has a definite bed and banks that serve to confine the water. (OAR 141-085-0010(22))

STREET (1) means a public way, road, highway, thoroughfare or place, including bridges, viaducts and other structures used or intended for use of the general public for pedestrian, bicycle, and vehicular travel as a matter of right, or

(2)when used with the word "private" as a modifier, means a non-public way, road, highway, thoroughfare or place, including bridges, viaducts and other structures, exclusively used or intended for the exclusive use of the underlying property owner or, other persons, for pedestrian, bicycle, and vehicular travel. (Proposed Engineering Design Manual and Standard Drawings Definition)

STREET FUNCTIONAL CLASSIFICATION

The assignment of streets into categories according to the character of service they provide in relation to the total street network. Basic functional categories in Beaverton include freeways, arterials, collectors, neighborhood routes, and local streets. Functional classification reflects mobility, access needs, and connectivity. Where appropriate, the levels may be further grouped into urban and rural categories.

STREET FURNITURE Those features associated with a street that are intended to enhance its physical character and use by pedestrians, such as benches, trash receptacles, kiosks, lights, newspaper racks.

STEWARDSHIP A planning and management approach that considers environmental impacts and public benefits of actions as well as public and private dollar costs.

SUBDIVISION The division of a tract of land into defined lots, parcels, tracts, or other divisions of land as defined in applicable State statues and local land development regulations, subdivided lots ~~which~~ can be separately conveyed by sale or lease, and ~~which can be~~ altered, or developed.

~~**SUBREGION** An area of analysis used by Metro centered on each regional center and used for analyzing jobs/housing balance.~~

SUBURBAN Generally, development on the periphery of urban areas, which is predominantly residential in nature and has most urban services available. The intensity of suburban development is usually lower than in urban areas.

SURFACE WATER ~~Water that comes from lakes, reservoirs, and rivers, as opposed wells that draw water out of the ground.~~

Water that drains from the landscape via overland flow or ground water resurgence. Surface water flows can and often do include storm water runoff. (CWS Design and Construction Standards)

SYSTEM DEVELOPMENT CHARGE Means a reimbursement fee, an improvement fee or a combination thereof assessed or collected at the time of increased usage of a capital improvement or issuance of a development permit, building permit or connection to the capital improvement. "System development charge" includes that portion of a sewer or water system connection charge that is greater than the amount necessary to reimburse the local government for its average cost of inspecting and installing connections with water and sewer facilities. (ORS 223.299(4)(a))

~~**TARGET CAPACITIES** The capacities in Table I (Metro Urban Growth Management Functional Plan) required to be demonstrated by cities and counties for compliance with Title I, Section 2.~~

T

TARGET DENSITIES The average combined household and employment densities established for each design type in the Regional Urban Growth Goals and Objectives 2040 Growth Concept. (Metro Code 3.07.1010(ttt))

~~**THROUGHWAY** A highway or street especially designed for through traffic, over from or to which owners or occupants of abutting land or other persons have no easement of access or only a limited easement of access, light, air or view, by reason of the fact that their property abuts upon the throughway or for any other reason. ORS 374.010~~

~~**TOP OF BANK** Means the same as "bankfull stage" defined in OAR 141-85-010(2).~~

TOWN CENTERS Areas of mixed residential and commercial use that serve tens of thousands of people. Examples include the downtowns of Forest Grove and Lake Oswego. (Metro Regional Framework Plan)

Town centers provide local shopping, employment and cultural and recreational opportunities within a local market area. They are designed to provide local retail and services, at a minimum. They would also vary greatly in character.

~~Local retail and services will be provided in town centers with compact~~ Compact development and transit service. ~~(Metro~~

~~Code 3.01.130)~~ should be provided in town centers. An average of 40 persons per acre is recommended. (Metro Code 3.07.170)

TOWNHOUSES — Two or more attached single family dwelling units within a structure having common side walls, front and rear yards, and individual entryways. (See Single Family Attached Dwellings)

TRAFFIC CALMING — ~~Street design or operational features intended to maintain a given motor vehicle travel speed.~~

A traffic management program usually designed to address safety and aesthetic issues related to automobile use in residential areas, and which reduces the operating speed of motor vehicles. Features includes ~~through~~, landscaping, walkways, speed swales, roadway narrowing and/or increasing the width of bicycle lanes and sidewalks.

TRAFFIC INTENSIVE USES — A land use that attracts or generates a relatively high level of traffic activity. A non exhaustive list of such uses would include drive through facilities, supermarkets, and most retail shopping centers. The ITE Trip Generation manual shall be the city's primary reference source for determining whether a particular proposed use is traffic intensive or not.

~~**TRANSIT**~~ — ~~The conveyance of persons or goods from one place to another by means of a local, public transportation system.~~

~~**TRANSIT-ORIENTED DEVELOPMENT**~~

~~Development which has a mix of residential, retail and office uses and a supporting network of roads, bicycle and pedestrian ways focused on a major transit stop designed to support a high level of transit use. The key features of transit-oriented development shall include: (a) a mixed use center at the transit stop, oriented principally to transit riders and pedestrian and bicycle travel from the surrounding area; (b) high density of residential development proximate to the transit stop sufficient to support transit operation and neighborhood commercial uses within the TOD; (c) a network of roads, and bicycle and pedestrian paths to support high levels of pedestrian access within the TOD and high levels of transit use.~~

TRANSIT~~, PUBLIC~~ — ~~A system of regularly scheduled buses and/or trains available to the public on a fee per ride basis. Also called "Mass Transit."~~For the purposes of the Comprehensive Plan, this term refers to publicly funded and managed transportation services and programs within the urban area, including light-rail, regional rapid bus, frequent bus, primary bus, secondary bus, minibus, paratransit and park-and-ride. (Metro Regional Transportation Plan definition)

~~**TRANSIT STOP**~~ — ~~Improvements and facilities at selected points along transit routes for passenger pickup, drop off, and waiting. Facilities and improvements may include shelters, benches, sign structures,~~

~~and other improvements to provide security, protection from the weather and access to nearby services.~~

~~TRANSIT STREET~~ ~~Any street that is an existing public transit route, or any street that is likely to be a public transit route.~~

~~TRANSIT SUPPORTIVE SYSTEM~~ ~~Those facilities in any county in which a district operates that constitute the surface transportation system in the county, including highways, roads, streets, roadside rest areas, park-and-ride stations, transfer stations, parking lots, malls and skyways. ORS 267.300~~

~~TRANSIT SUPPORTIVE USES~~ ~~Uses which reinforce the transit system and support ridership growth and, by their nature and location, promote pedestrian traffic to and from the use and transit facilities.~~

TRANSPORTATION OR TRAVEL DEMAND MANAGEMENT (TDM)

A strategy or action for reducing demand on the road system by reducing the number of vehicles using streets and roads, and/or increasing the number of persons per vehicle. Typically, TDM attempts to reduce the number of persons who drive alone during peak commute periods and to increase the number of people commuting via carpools, vanpools, buses and trains, walking, and biking.

TRANSPORTATION PLANNING RULE The implementing rule of statewide land use planning Goal #12 dealing with transportation, as adopted by the State Land Conservation and Development Commission. (Metro Framework Plan definition)

TRANSPORTATION SYSTEM PLAN A plan for one or more transportation facilities that are planned, developed, operated and maintained in a coordinated manner to supply continuity of movement between modes, and within and between geographic and jurisdictional areas. (Metro Regional Framework Plan definition) (OAR 660-012-0005(32))

~~TREES, LANDMARK~~ ~~Trees whose size, visual impact, or association with a historically significant structure or event have led the city to designate them as landmarks.~~

TREES, STREET ~~Trees strategically planted, usually in parkway strips, medians, or along streets, to enhance the visual quality of a street.~~

Any tree located within public or private right of way or an easement for vehicular access, or associated public utility easements. (Beaverton Development Code)

TRIP GENERATION The dynamics that account for people making trips in automobiles or by means of public transportation. Trip generation is the basis for estimating the level of use for a transportation system and the impact of additional development or transportation facilities on an existing, local

transportation system. ~~Trip generations of households are correlated with destinations that attract household members for specific purposes.~~

~~TRUCK ROUTE~~ ~~A path of circulation required for all vehicles exceeding set weight or axle limits. A truck route usually follows arterials through commercial or industrial areas, avoiding residential areas.~~

~~TRUCK STOP~~ ~~Any building, premises, or land in which or upon which a business, service, or industry involving the maintenance, servicing, storage, or repair of commercial vehicles is conducted or rendered, which includes as a primary function the dispensing of motor fuel or other petroleum products directly into motor vehicles and which may include the sale of accessories or equipment for trucks and similar commercial vehicles. A truck stop also may include overnight accommodations and restaurant facilities for the use of truck crews.~~

TURBIDITY A measure of water agitation. ~~The higher the turbidity of water, the more difficult it is to process for potable water purposes.~~

~~UNDERDEVELOPED PARCELS~~ ~~Those parcels of land with less than 10% of the net acreage developed with permanent structures.~~

U

URBAN Generally, an area having the characteristics of a city, with intensive development and a full or extensive range of public facilities and services.

URBAN FORM The net result of efforts to preserve environmental quality, coordinate the development of jobs, housing and public services and facilities, and interrelate the benefits and consequences of growth in one part of the region with the benefits and consequences of growth in another. ~~Urban form, therefore, describes an overall framework within which regional urban growth management can occur. Clearly stating objectives for urban form and pursuing them comprehensively provides the focal strategy for rising to the challenges posed by the growth trends present in the region today.~~

URBAN GROWTH BOUNDARY An acknowledged urban growth boundary contained in a city or county comprehensive plan or an acknowledged urban growth boundary that has been adopted by a metropolitan service district council under ORS 268.390 (3). (ORS 195.060(2))

URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN See Metro Urban Growth Management Functional Plan.

URBAN PLANNING AREA A geographical area within an urban growth boundary. (OAR 660-003-0005(6))

URBAN SERVICES The term includes the following services and facilities: a public sanitary and storm sewer system, a public water supply, a

street system, police and fire protection, public schools, public parks and library services. (Beaverton Development Code)

URBAN SERVICE AREA — The area for which the City is the appropriate and agreed-upon long-term provider of municipal services except for those services that are to be provided by a special or county service district. (Beaverton – Washington County Intergovernmental Agreement Interim Urban Services Plan)

URBAN SERVICE BOUNDARY — The boundary establishing the extent of the City's direct interest and involvement in planning for and coordination of public facilities and services and the extent of the City's annexation interest.

~~**URBAN RESERVE AREA**~~ — ~~An area adjacent to the present UGB defined to be a priority location for any future UGB amendments when needed. Urban reserves are intended to provide cities, counties, other service providers, and both urban and rural landowners with a greater degree of certainty regarding future regional urban form. Whereas the UGB describes an area needed to accommodate the urban growth forecasted over a 20-year period, the urban reserves plus the area inside the UGB estimate the area capable of accommodating the growth expected for 50 years.~~

~~**URBAN SPRAWL**~~ — ~~Uncontrolled and untimely expansion and/or dispersal of an urban community into outlying rural areas. Urban sprawl is also sometimes referred to as *suburbanization*.~~

~~**UNDEVELOPABLE**~~ — ~~Specific areas where topographic, geologic, and/or surficial soil conditions indicate a significant danger to future occupants, and a potential liability to the city, which justify their designation as undevelopable.~~

~~**UNIFORM BUILDING CODE (UBC)**~~

~~A national, standard building code that sets forth minimum standards for construction.~~

USE — ~~The purpose for which a lot or structure is or may be leased, occupied, maintained, arranged, designed, intended, constructed, erected, moved, altered, and/or enlarged as per the city's land development regulations and general plan.~~

The main or primary purpose of which land or a structure is designed, arranged or intended or for which it is occupied or maintained. (Beaverton Development Code)

USE PERMIT — The discretionary and conditional review of an activity or function or operation on a site or in a building or facility.

~~**UTILITY RIGHTS-OF-WAY**~~ — ~~Land dedicated to a public authority for community services, including but not limited to, electricity, telephone, water supply, gas, and wastewater disposal.~~

V

VACANT — Lands or buildings that are not actively used for any purpose.

VACANT LAND — Land identified in the Metro or local government inventory as undeveloped land. (Metro Code 3.07.1010(zzz))

VARIANCE — A discretionary decision to permit modification of the terms of an implementing ordinance based on a demonstration of unusual hardship or exceptional circumstance unique to a specific property. (Metro Code 3.07.1010(aaaa))

VEGETATIVE CORRIDOR — A corridor adjacent to a water quality sensitive area that is preserved and maintained to protect the water quality functions of the water quality sensitive area. (CWS Design and Construction Standards)

~~**VEHICLE RELATED SERVICES**~~ — ~~A building or use primarily engaged in the service or repair of automobiles, trucks, and motorcycles, including gas service stations, tire sales and installation, drive-up oil service, automobile or similar light vehicle washing, body and fender shops, wheel and brake shops, vehicle dismantling and salvage, vehicle storage, and commercial parking facilities.~~

~~**VEHICLE SALES AND RENTALS**~~ — ~~A building or use for the sale or rental of automobiles, motorcycles, trucks, and similar equipment, including storage and incidental maintenance.~~

~~**VERY LOW INCOME HOUSEHOLD (FAMILY)**~~ — ~~A household with an annual income usually no greater than fifty percent of the area median family income adjusted by household size, as determined by a survey of incomes conducted by a city or a county, or in the absence of such a survey, based on the latest available eligibility limits established by the U.S. Department of Housing and Urban Development (HUD) for the Section 8 housing program.~~

~~**VIABLE**~~ — ~~Capable of surviving and/or growing; workable.~~

VIEW CORRIDOR — The line of sight, identified as to height, width and distance, of an observer looking toward an object of significance to the community (e.g., ridgeline, river, historic building, etc.); the route that directs the viewers' attention.

VOLUME-TO-CAPACITY RATIO — A measure of the operating capacity of a roadway or intersection, in terms of the number of vehicles passing through, divided by the number of vehicles that theoretically could pass through when the roadway or intersection is operating at its designed capacity. Abbreviated as "v/c". At a v/c ratio of 1.0, the roadway or intersection is operating at capacity. If the ratio is less than 1.0, the traffic facility has additional capacity. Although ratios slightly greater than 1.0 are possible, it is more likely that the peak hour will elongate into a "peak period." (See *Peak Hour* and *Level of Service*)

~~VOLUME SENSITIVE LANDS~~ — ~~Lands that drain into areas without a positive outfall. Positive outfall is the condition when the natural or manmade stormwater conveyance system that drains the land is functioning adequately. This includes manmade swales, waterways or other means of conveyance systems, but does not include sheet flow.~~

~~WATER QUALITY AND FLOOD MANAGEMENT AREA~~ —

W

~~An area defined on the Metro Water Quality and Flood Management Area Map, to be attached to the Metro Urban Growth Management Functional Plan. These are areas that require regulation in order to mitigate flood hazards and to preserve and enhance water quality. This area has been mapped to generally include the following: stream or river channels, known and mapped wetlands, areas with floodprone soils adjacent to the stream, floodplains, and sensitive water areas. The sensitive areas are generally defined as 50 feet from top of bank of streams for areas of less than 25% slope, and 200 feet from top of bank on either side of the streams of areas greater than 25% slope, and 50 feet from the edge of a mapped wetland.~~

~~WAREHOUSING USE~~ — ~~A use engaged in storage, wholesale, and distribution of manufactured products, supplies, and equipment, excluding bulk storage of materials that are inflammable or explosive or that present hazards or conditions commonly recognized as offensive.~~

WAREHOUSE — A structure that is primarily used for storage and distribution facilities.

~~WATER BODIES~~ — ~~For the purpose of determining density credits on sites, these are defined to include river, stream, lake, or pond beds and any other permanently or historically water covered land that occurs naturally at the site up to the mean high water level.~~

WATER QUALITY SENSITIVE AREA

or "sensitive area" A) shall include the following:

1. Existing or created wetlands;
2. Rivers, streams, and springs, whether flow is perennial ~~with year round~~ or intermittent ~~flow~~;
3. Natural lakes, ponds and instream ~~I~~impoundments ~~(including natural lakes and ponds) with average water in the summer of one acre-foot or more, or with an average depth of three feet or more;~~

B) Sensitive areas shall not include:

1. Stormwater infrastructure
   ~~1. treatment ponds or swales;~~
   ~~2.Stormwater treatment wetlands;~~
   ~~3.Detention ponds;~~
2. A vegetated corridor (a buffer) adjacent to the sensitive area;
3. An off-stream recreational lake, lagoon, fire pond or reservoir; ~~and~~or

4. Drainage ditches ~~constructed in uplands solely for the purpose of draining roads, lots, and outfalls of storm drains~~. (CWS Design and Construction Standards)

WATERSHED

~~The total area above a given point on a watercourse that contributes water to its flow; the entire region drained by a waterway or watercourse that drains into a lake, or reservoir.~~

The entire land area drained by a stream or system of connected streams such that all stream flow originating in the area is discharged through a single outlet. (ORS 541.351(14))

~~**WAY OF NECESSITY**~~

~~(a) A road established under ORS 376.150 to 376.200 to provide motor vehicle access from a public road to land that would otherwise have no motor vehicle access; or~~

~~(b) A route established under ORS 376.150 to 376.200 to provide utility service access from an existing service location to a service point that would otherwise have no utility service access. ORS 376.150~~

WETLANDS

~~Transitional areas between terrestrial and aquatic systems where the water table is usually at or near the surface, or the land is covered by shallow water. Wetlands are statutorily defined in Presidential Executive Order 11990 as; those areas that are inundated by surface or ground water with a frequency sufficient to support, and under normal circumstances does, or would support a prevalence of vegetative or aquatic life that requires saturated or seasonally saturated soil conditions for growth and reproduction. Wetlands generally include swamps, marshes, bogs, and similar areas such as sloughs, potholes, wet meadows, river overflows, mud flats and natural ponds.~~

~~Those areas that are inundated or saturated by surface or ground water at a frequency and duration that are sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. ORS 197.015~~Those areas that are inundated or saturated by surface or ground water at a frequency and duration that are sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Categories of wetlands include:

a) Created Wetlands: those wetlands developed in an area previously identified as non-wetland to replace, or mitigate wetland destruction or displacement. A created wetland shall be regulated and managed the same as an existing wetland.

b) Constructed Wetlands: those wetlands developed as a storm water facility, subject to change and maintenance as such. These areas must be clearly defined or separated from existing or created wetlands. Constructed wetlands shall be regulated as created wetlands only if they serve as wetland mitigation.

c) Existing Jurisdictional Wetlands: jurisdictional wetlands as determined by the Department of State Lands (DSL) or the US Army Corps of Engineers (COE). (CWS Design and Construction Standards)

Z

~~WILDLIFE REFUGE~~ ~~An area maintained in a natural state for the preservation of both animal and plant life.~~

ZONE, TRAFFIC In a mathematical traffic model the area to be studied is divided into zones, with each zone treated as producing and attracting trips. The production of trips by a zone is based on the number of trips to or from work or shopping, or other trips produced per dwelling unit.

~~ZONED CAPACITY~~ ~~The highest number of dwelling units or jobs that are allowed to be contained in an area by zoning or other city or county jurisdiction regulations.~~

ZONING In general, the demarcation of an area by ordinance (text and map) into zones and the establishment of regulations to govern the uses within those zones (commercial, industrial, residential, type of residential) and the location, bulk, height, shape, use, and coverage of structures within each zone.

~~ZONING CONFORMANCE~~ ~~The process by which zoning in areas is maintained or changed to carry out the specific intent of the land use plan categories as defined by the Land Use Element and adopted zoning conformance matrix illustrating where specific zoning classifications are allowed. State law requires that in general law cities all land development regulations must be in conformance with the specified and implied intent of the comprehensive general plan.~~

ZONING, INCLUSIONARY Regulations that increase housing choice by requiring construction of more diverse and economical housing to meet the needs of low income families. Such regulations often require a minimum percentage of housing for low and/or moderate income households in new housing developments.

AGENDA BILL

Beaverton City Council
Beaverton, Oregon

SUBJECT: TA 2006-0005 Facilities Review Text Amendment

FOR AGENDA OF: 9-11-06 **BILL NO:** 06164

Mayor's Approval:

DEPARTMENT OF ORIGIN: CDD

DATE SUBMITTED: 8-8-06

CLEARANCES: City Attorney
Devel. Serv.

PROCEEDING: Ordinance First Reading

EXHIBITS:
1. Proposed Ordinance and Text
2. Land Use Order 1895
3. Draft Planning Commission minutes
4. July 19, 2006 Planning Commission staff report

BUDGET IMPACT

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

HISTORICAL PERSPECTIVE:

The Planning Commission held a public hearing on July 26, 2006 and approved TA 2006-0005, the Facilities Review Text Amendment. TA 2006-0005 amends selected sections of the Beaverton Development Code (BDC) to clarify the Facilities Review Committee process and relocate certain Facilities Review Committee approval criteria to selected applications. Affected chapters of the BDC include Chapter 10 (General Provisions), Chapter 40 (Applications), and Chapter 50 (Procedures).

INFORMATION FOR CONSIDERATION:

The Planning Commission record on this matter is attached to this Agenda Bill for Council consideration.

RECOMMENDED ACTION:

First Reading.

ORDINANCE NO. 4404

AN ORDINANCE AMENDING ORDINANCE NO. 2050, THE DEVELOPMENT CODE.

WHEREAS, the purpose of the Facilities Review Text Amendment is to make changes to selected sections of the Beaverton Development Code (BDC) to clarify the Facilities Review Committee process and relocate certain Facilities Review Committee approval criteria to selected applications; and,

WHEREAS, the affected chapters of the BDC include Chapter 10 (General Provisions), Chapter 40 (Applications), and Chapter 50 (Procedures); and,

WHEREAS, the Planning Commission held a public hearing on July 26, 2006 and approved the proposed Facilities Review Text Amendment, based upon the criteria, facts and findings set forth in the staff report dated July 19, 2006; and

WHEREAS, the Planning Commission has issued Land Use Order #1895 memorializing its recommendation; and

WHEREAS, pursuant to Section 50.50.11 of the Development Code, the City Council considered the Planning Commission recommendation of approval as summarized in Land Use Order #1895; and

WHEREAS, the City Council adopts as to criteria, facts and findings, described in Land Use Order #1895 dated July 28, 2006 and the Planning Commission record, all of which the Council incorporates by this reference and finds to constitute an adequate factual basis for this ordinance; and now, therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

Section 1. Ordinance No. 2050, the Development Code, is amended to read as set out in Appendix "A" to this Ordinance attached hereto and incorporated herein by this reference.

Section 2. All Development Code provisions adopted prior to this Ordinance which are not expressly amended or replaced herein shall remain in full force and effect.

Section 3. It shall be considered the legislative intent that if any part of this ordinance, including exhibits, shall be held invalid or unconstitutional or not in compliance with statewide planning goals, the remaining parts of this ordinance shall remain in force and acknowledged, and any revisions of a prior ordinance amended or repealed by the stricken portion of this ordinance shall again be considered in full force and effect.

First reading this ___ day of _____, 2006.

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

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

ATTEST:

_____
SUE NELSON, City Recorder

APPROVED:

_____
ROB DRAKE, Mayor

Section 1: The Development Code, Ordinance No. 2050, Chapter 10 - General Provisions, Section 10.95.4, will be amended to read as follows:

10.95. Development Review Participants.

*****

1. City Council

*****

2. Planning Commission

*****

3. Board of Design Review

*****

4. Facilities Review Committee.

*****

B. Powers and Duties. The Facilities Review Committee shall review ~~all Type 2, Type 3, and Type 4 proposals~~ and shall make the necessary recommendations to the Director concerning technical aspects of the proposals based upon the technical criteria listed in Section 40.03 of this Code for the following Type 2 and Type 3 land use applications: all Conditional Use, Design Review Two, Design Review Three, all Land Division, Public Transportation Facility, and Street Vacation. The Facilities Review Committee shall review and shall make recommendations to the Director based on the applicable approval criteria for all other Type 2 land use applications. The Facilities Review Committee may review and may make recommendations to the Director based on the applicable approval criteria for all other Type 3 and Type 4 land use applications.

*****

D. Committee Recommendations. The conditions recommended by the Facilities Review Committee shall represent a consensus of the Committee. Moreover, the conditions recommended by the Facilities Review Committee are for the purpose of ensuring compliance with the technical criteria listed in Section 40.03 of this Code for the following Type 2 and Type 3 land use applications: all Conditional Use, Design Review Two, Design Review Three, all Land Division, Public Transportation Facility, and Street Vacation. The ~~Director,~~ Planning Commission, Board of Design Review, or City Council acting as the decision making authority on an application(s) may change the conditions recommended by the Committee only after requesting and receiving a written report from the Facilities Review Committee detailing the technical aspects concerning the purpose and need for the recommended condition(s).

Section 2: The Development Code, Ordinance No. 2050, Chapter 40 - Applications, Section 40.03., will be amended to read as follows:

40.03. FACILITIES REVIEW COMMITTEE

Consistent with Section 10.95.4 (Facilities Review Committee) of this Code, the Facilities Review Committee shall review the following Type 2 and Type 3 land use applications: all Conditional Use, Design Review Two, Design Review Three, all Land Division, Public Transportation Facility, and Street Vacation. ~~all Type 2, Type 3, and Type 4 applications listed in Chapter 40 (Applications). In the case of Non-Discretionary Annexation Related Zoning Map Amendments and Discretionary Annexation Zoning Map Amendments processed by the City, review by the Facilities Review Committee shall not be required. The purpose of the Facilities Review Committee is to review the technical aspects of Type 2, Type 3, and Type 4 applications. The Facilities Review Committee shall provide the necessary recommendations concerning technical aspects of the proposal to the Director.~~ In making a recommendation on a proposal, the Facilities Review Committee shall base its recommendation on all the following technical criteria. All of these criteria shall be addressed at time of application by an applicant for development for conformity to Section 50.25.1.B. [ORD 4265; September 2003]

*****

Section 3: The Development Code, Ordinance No. 2050, Chapter 40 - Applications, Section 40.10., will be amended to read as follows:

40.10. ADJUSTMENT

*****

40.10.15. Application.

*****

1. Minor Adjustment.

*****

C. Approval Criteria. In order to approve a Minor Adjustment application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

1. The proposal satisfies the threshold requirements for a Minor Adjustment application.

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

3. Special conditions exist which are unique to the land, structure, or building involved.

4. Granting the adjustment will result in a project that equally or better meets the regulation to be modified.

5. Granting the adjustment as part of the overall project will not obstruct pedestrian or vehicular movement.

6. The adjustment will allow City designated scenic resources, natural areas, and/or historic resources, if present, to be preserved.

7. If more than one (1) ~~Minor A~~adjustment is being requested, the cumulative effect of the adjustments will result in a project which is still consistent with the overall purpose of the applicable zone.

8. Any ~~Minor A~~ adjustment granted shall be the minimum that will make possible a reasonable use of land, building, and structures.

9. The proposal incorporates building, structure, or site design features or some combination thereof which compensate for adjusting the Site Development Requirement.

10. The proposal is consistent with all applicable provisions of Chapter 20 (Land Uses) unless the applicable provisions are subject to an Adjustment, Planned Unit Development, or Variance which shall be already approved or considered concurrently with the subject proposal.

11. 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.

12. Adequate means are provided or can be provided to ensure continued periodic maintenance and necessary normal replacement of the following private common facilities and areas: drainage ditches, roads and other improved rights-of-way, structures, recreation facilities, landscaping, fill and excavation areas, screening and fencing, ground cover, garbage and recycling storage areas and other facilities, not subject to periodic maintenance by the City or other public agency.

13. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code. [ORD 4265; September 2003]

~~10~~4. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

*****

2. Major Adjustment.

*****

C. Approval Criteria. In order to approve a Major Adjustment application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

1. The proposal satisfies the threshold requirements for a Major Adjustment application.

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

3. Special conditions exist which are unique to the land, structure, or building involved.

4. Granting the Major Adjustment will result in a project that equally or better meets the regulation to be modified.

5. Granting the adjustment will not obstruct pedestrian or vehicular movement.

6. The ~~Major A~~adjustment will allow City designated scenic resources, natural areas, and/or historic resources, if present, to be preserved.

7. If more than one (1) ~~Major A~~adjustment is being requested, the cumulative effect of the adjustments will result in a project which is still consistent with the overall purpose of the applicable zone.

8. Any ~~Major A~~ adjustment granted shall be the minimum adjustment that will make possible a reasonable use of land, building, and structures.

9. The proposal incorporates building, structure, or site design features which compensate for adjusting the Site Development Requirement.

10. The proposal is consistent with all applicable provisions of Chapter 20 (Land Uses) unless the applicable provisions are subject to an Adjustment, Planned Unit Development, or Variance which shall be already approved or considered concurrently with the subject proposal.

11. 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.

12. Adequate means are provided or can be provided to ensure continued periodic maintenance and necessary normal replacement of the following private common facilities and areas: drainage ditches, roads and other improved rights-of-way, structures, recreation facilities, landscaping, fill and excavation areas, screening and fencing, ground cover, garbage and recycling storage areas and other facilities, not subject to periodic maintenance by the City or other public agency.

13. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code.

~~10~~4. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

*****

<u>Section 4:</u> The Development Code, Ordinance No. 2050, Chapter 40 - Applications, Section 40.25.15.1.C, will be amended to read as follows:

40.25. DIRECTOR'S INTERPRETATION

40.25.05. Purpose.

*****

40.25.10. Applicability.

*****

40.25.15. Application.

*****

1. Director's Interpretation.

*****

C. Approval Criteria. In order to approve a Director's Interpretation application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

1. The proposal satisfies the threshold requirements for a Director's Interpretation application.

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

3. That the interpretation is consistent with the City's Comprehensive Plan and other provisions within this Code.

4. When interpreting that a use not identified in the Development Code is a permitted, a conditional, or prohibited use, that use must be substantially similar to a use currently identified in the subject zoning district or elsewhere in the Development Code.

5. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code.

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

*****

<u>Section 5:</u> The Development Code, Ordinance No. 2050, Chapter 40 - Applications, Section 40.20., will be amended to read as follows:

40.20. DESIGN REVIEW [ORD 4332; November 2004]

40.20.05. Purpose.

*****

40.20.10. Applicability.

*****

40.20.15. Application.

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

1. Design Review Compliance Letter.

*****

C. <u>Approval Criteria.</u>

*****

5. The proposal, which is not an addition to an existing building, is consistent with all applicable provisions of Sections 60.05.15 through 60.05.30 (Design Standards).

6. If applicable, the proposed addition to an existing building, and only that portion of the building containing the proposed addition, complies with the applicable provisions of Sections 60.05.15 through 60.05.30 (Design Standards) as they apply to the following:

a. Building articulation and variety (Section 60.05.15.1).
b. Roof forms (Section 60.05.15.2).
c. Primary building entrances (Section 60.05.15.3).
d. Building materials (Section 60.05.15.4).
e. ~~Perimeter/f~~ Foundation landscaping requirements (Section 60.05.25.3.D.).
f. Screening roof-mounted equipment requirements (Section 60.05.15.5).

g. Screening loading areas, solid waste facilities and similar improvements (Section 60.05.20.2).
h. Lighting requirements (Section 60.05.30).

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

8. Except for conditions requiring compliance with approved plans, the proposal does not modify any conditions of approval of a previously approved Type 2 or Type 3 application.

*****

2. Design Review Two.

A. Threshold.

*****

8. [ORD 4365; September 2005] Removal of more than five (5) ~~and up to and including ten (10)~~ Landscape Trees ~~on a site within a one calendar year period~~.

*****

3. Design Review Three.

*****

C. Approval Criteria.

*****

4. For proposals meeting Design Review Three application thresholds numbers 1 through 6, the proposal is consistent with all applicable provisions of Sections 60.05.35 through 60.05.50 (Design Guidelines).

*****

7. For proposals meeting Design Review Three application Threshold numbers 7 or 8, the proposal is consistent with all applicable provisions of Sections 60.05.15 through 60.05.30 (Design Standards) except for the Design Standard(s) where the proposal is applying to instead meet the applicable Design Guideline(s).

8. For proposals meeting Design Review Three application Threshold numbers 7 or 8, the proposal is consistent with the applicable provisions of Sections 60.05.35 through 60.05.50 (Design Guidelines) where the proposal does not meet the related provisions of Sections 60.05.15 through 60.05.30 (Design Standards).

9 ~~7~~. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

*****

<u>Section 6:</u> **The Development Code, Ordinance No. 2050, Chapter 40 - Applications, Section 40.30., will be amended to read as follows:**

40.30. FLEXIBLE AND ZERO YARD SETBACKS

40.30.05. Purpose.

*****

40.30.10. Applicability.

*****

40.30.15. Application Types.

*****

1. Flexible Setback for Individual Lot With Endorsement.

*****

2. Flexible Setback for Individual Lot Without Endorsement.

*****

C. <u>Approval Criteria.</u> In order to approve a Flexible Setback on Individual Lot Without Endorsement application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

1. The proposal satisfies the threshold requirements for a Flexible Setback on Individual Lot Without Endorsement application.

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

3. The proposal does not violate any recorded Solar Access Permit requirements.

4. The proposal meets the minimum standards specified in Section 20.05.50.3.D of this Code.

5. The proposal is compatible with the surrounding area regarding topography, vegetation, building character, and site design. In determining compatibility, consideration shall be given to harmony in: scale, bulk, coverage, density, rooflines, and materials.

6. 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.

7. The proposal is consistent with all applicable provisions of Chapter 20 (Land Uses) unless the applicable provisions are subject to an Adjustment, Planned Unit Development, or Variance which shall be already approved or considered concurrently with the subject proposal.

8. 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.

9. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code.

~~6~~ 10. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

*****

3. Flexible Setback for a Proposed Residential Land Division.

*****

C. Approval Criteria. In order to approve a Flexible Setback for a Proposed Residential Land Division application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

1. The proposal satisfies the threshold requirements for a Flexible Setback for a Proposed Residential Land Division application.

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

3. The proposal is compatible with the surrounding area, which is defined as abutting properties and properties directly across the street from the proposal site. Properties directly across the street from the development shall be those properties perpendicular from any property line of the proposal. Findings for compatibility must be made with regard to topography, vegetation, building character, and site design. In determining compatibility, consideration shall be given to harmony in: scale, bulk, coverage, density, rooflines, and materials.

4. The proposal is consistent with all applicable provisions of Chapter 20 (Land Uses) unless the applicable provisions are subject to an Adjustment, Planned Unit Development, or Variance which shall be already approved or considered concurrently with the subject proposal.

5. 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.

6. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code.

~~4~~ 7. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

*****

~~**4. Flexible Setback for a Proposed Annexation.**~~

~~A. Threshold. An application for Flexible Setback for a Proposed Annexation shall be required when the following threshold applies:~~

~~1. The property is located within a residential zoning district which is the subject of a petition for annexation into the City.~~

~~B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for Flexible Setback for a Proposed Annexation and shall be considered concurrently with any Comprehensive Plan and Zoning Map amendments. The decision making authority is the Planning Commission.~~

~~C. Approval Criteria. In order to approve a Flexible Setback for a Proposed Annexation application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:~~

~~1. The proposal satisfies the threshold requirements for a Flexible Setback for a Proposed Annexation application.~~

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

~~3. The proposal is consistent with previous applicable land use decisions regarding the subject property rendered by the former jurisdiction.~~

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

~~D. Submission Requirements. An application for a Flexible Setback for a Proposed Annexation shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Flexible Setback for a Proposed Annexation application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.~~

~~E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Flexible Setback for a Proposed Annexation application to ensure compliance with the approval criteria.~~

~~F. Appeal of a Decision. Refer to Section 50.70.~~

~~G. Expiration of a Decision. Refer to Section 50.90.~~

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

~~5~~ 4. Zero Side or Zero Rear Yard Setback for a Proposed Residential Land Division.

*****

C. Approval Criteria. In order to approve a Zero Side Yard or Zero Rear Yard Setback for a Proposed Residential Land Division application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

1. The proposal satisfies the threshold requirements for a Zero Side Yard or Zero Rear Yard Setback for a Proposed Residential Land Division application.

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

3. The side or rear yard setback on all adjacent lots which abut the proposed zero side or rear setback are either zero feet (0') or ten feet (10') or more.

4. The zero side or zero rear yard is not abutting a public right-of-way or any access easement.

5. No portion of a structure or architectural feature shall project over a property line related to the zero side or rear yard setback unless a permanent easement allowing such projection has been granted.

6. A four foot (4') non-exclusive maintenance easement appears on the plat within the adjacent side or rear yard setback of the adjacent lot where it abuts the zero setback.

7. Satisfactory deed restrictions are submitted with the preliminary land division which address maintenance requirements for the zero setback wall.

8. Five foot utility easements are provided along all side and rear property lines except where the zero setback is designated.

9. The proposal is compatible with the surrounding area regarding topography, vegetation, building character, and site design. In determining compatibility, consideration shall be given to harmony in: scale, bulk, coverage, density, rooflines, and materials.

10. The proposal is consistent with all applicable provisions of Chapter 20 (Land Uses) unless the applicable provisions are subject to an Adjustment, Planned Unit Development, or Variance which shall be already approved or considered concurrently with the subject proposal.

11. 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.

12. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code.

~~10~~13. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

*****

6. Zero Side Yard Setback for a Proposed Non-Residential Land Division.

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C. Approval Criteria. In order to approve a Zero Side Yard Setback for a Proposed Non-Residential Land Division in the Commercial, Industrial, or Multiple Use zoning districts application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

1. The proposal satisfies the threshold requirements for a Zero Side Yard Setback for a Proposed Non-Residential Land Division application in the Commercial, Industrial, or Multiple Use zoning districts.

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

3. The minimum adjacent side yard setback on all adjacent lots which abut the proposed zero setback parcel are either zero feet (0') as well or twenty feet (20') or more.

4. The zero side yard is not abutting a public right-of-way or any access easement.

5. The zero side yard does not abut any residential district.

6. The proposal is consistent with all applicable provisions of Chapter 20 (Land Uses) unless the applicable provisions are subject to an Adjustment, Planned Unit Development, or Variance which shall be already approved or considered concurrently with the subject proposal.

7. 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.

8. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code.

~~6~~ 9. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

*****

<u>Section 7:</u> **The Development Code, Ordinance No. 2050, Chapter 40 - Applications, Section 40.35, will be amended to read as follows:**

40.35. HISTORIC REVIEW

40.35.05. Purpose.

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40.35.10. Applicability

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40.35.15. Application.

*****

1. Alteration of a Landmark.

*****

C. <u>Approval Criteria.</u> In order to approve an Alteration of a Landmark application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

1. The proposal satisfies the threshold requirements for an Alteration of a Landmark application.

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

3. The distinguishing original historic or architectural qualities or character of a building, structure, or site and its environment are being preserved.

4. Any alteration to buildings, structures, and sites are in keeping with the time period of the original construction.

5. Any distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure, or site have been preserved unless said features are a threat to public health and safety or are in violation of building, fire, or access regulations.

6. Deteriorating architectural features will be repaired rather than replaced, wherever possible.

7. New material used for replacement will match the material being replaced in terms of composition, design, color, texture, and other visual qualities.

8. The repair or replacement of missing architectural features is based on accurate duplications of features, substantiated by historic, physical, or pictorial evidence.

9. The design of the proposed addition or alteration does not destroy significant historical, architectural, or cultural material, and such design is compatible with the size, scale, material, and character of the property, neighborhood, or environment.

10. The proposal is consistent with all applicable provisions of Chapter 20 (Land Uses) unless the applicable provisions are subject to an adjustment, planned unit development, or variance which shall be already approved or considered concurrently with the subject proposal.

11. 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.

12. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code.

~~10~~13. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

*****

<u>Section 8:</u> **The Development Code, Ordinance No. 2050, Chapter 40 - Applications, Section 40.40, will be amended to read as follows:**

40.40. HOME OCCUPATION

40.40.05. Purpose.

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40.40.10. Applicability.

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40.40.15. Application.

*****

1. Home Occupation One

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C. <u>Approval Criteria.</u> In order to approve a Home Occupation One application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

1. The proposal satisfies the threshold requirements for a Home Occupation One application.

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

3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code. [ORD 4265; September 2003]

4. The home occupation is being undertaken only by an occupant of the residence.

5. The proposed home occupation is participating in and is consistent with the City's Business License Program and other agency licenses as appropriate to the proposed use.

6. The on-site operation of the proposed home occupation shall be conducted ~~operated~~ entirely within the dwelling, a conforming accessory structure, or both. No exterior storage of materials or equipment shall occur on the premises.

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2. Home Occupation Two

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C. Approval Criteria. In order to approve a Home Occupation Two application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

1. The proposal satisfies the threshold requirements for a Home Occupation Two application.

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

3. The proposed home occupation is being undertaken by an occupant of the residence.

4. The proposed home occupation is participating in and is consistent with the City's Business License Program and other agency licenses as appropriate to the proposed use.

5. The on-site operation of the proposed home occupation shall be conducted ~~operated~~ entirely within the dwelling, a conforming accessory structure, or both. No exterior storage of materials or equipment shall occur on the premises.

6. The proposed home occupation will not change the use classification of the dwelling unit or accessory structures as determined by the City Building Official applying the State Building Code.

7. The proposed home occupation and associated storage of materials and products shall not occupy more than 700 gross square feet of floor area.

8. The subject property will continue to be used and maintained as a residence and will conform to all requirements of this and other City Codes as they pertain to residential property.

9. The home occupation, including deliveries from other businesses, shall not include the use of tractor trailers, fork lifts, or similar heavy equipment.

10. There shall be no noise, vibration, smoke, dust, odors, heat or glare at or beyond the property line resulting from the operation of the home occupation.

11. There shall be no exterior storage of vehicles of any kind used for the business except that one (1) commercially licensed vehicle, which is not larger than a 3/4 ton pick-up, passenger van, or other vehicle of similar size, may be parked outside on the subject property, provided such parking complies with applicable parking restrictions.

12. The proposal will not involve storage or distribution of toxic or flammable materials, spray painting or spray finishing operations, or similar activities that involve toxic or flammable materials which in the judgment of the Fire Marshall pose a health or safety risk to the residence, its occupants or surrounding properties.

13. There is no signage associated with the proposed home occupation aside from a name plate as allowed by Section 60.40.15 of this Code.

14. Exterior remodeling will not alter the residential character of the building.

15. Excluding required residential parking, adequate off-street parking exists to accommodate vehicular traffic for any employee, customer, or both.

16. The proposal is consistent with all applicable provisions of Chapter 20 (Land Uses) unless the applicable provisions are subject to an adjustment, planned unit development, or variance which shall be already approved or considered concurrently with the subject proposal.

17. 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.

18. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code.

~~15~~19. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

*****

Section 9: The Development Code, Ordinance No. 2050, Chapter 40 - Applications, Section 40.45, will be amended to read as follows:

40.45. LAND DIVISION

40.45.05. Purpose.

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40.45.10. Applicability.

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40.45.15. Application.

*****

1. Lot Line Adjustment.

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C. Approval Criteria. In order to approve a Lot Line Adjustment application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

1. The proposal satisfies the threshold requirements for a Lot Line Adjustment application.

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

3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code. [ORD 4265; September 2003]

4. An additional lot is not created.

5. The proposal is consistent with all applicable provisions of Chapter 20 (Land Uses) unless the applicable provisions are subject to an Adjustment, Planned Unit Development, or Variance application which shall be considered concurrently with the subject proposal.

6. The proposal is consistent with all applicable provisions of Chapter 60 (Special Regulations).

7. 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.

8. There are safe and efficient vehicular and pedestrian circulation patterns within the boundaries of the site and in connecting with the surrounding circulation system.

9. The proposal does not create a parcel which will have more than one (1) zoning designation.

10. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code.

~~7~~ 11. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

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<u>Section 10:</u> The Development Code, Ordinance No. 2050, Chapter 40 - Applications, Section 40.50.15.1.C, will be amended to read as follows:

40.50. LOADING DETERMINATION

40.50.05. Purpose.

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40.50.10. Applicability.

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40.50.15. Application.

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1. Loading Determination.

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C. Approval Criteria. In order to approve a Loading Determination application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

1. The proposal satisfies the threshold requirements for a Loading Determination application.

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

3. The determination will not create adverse impacts, taking into account the total gross floor area and the hours of operation of the use.

4. ~~The proposal will not interfere with pedestrian or vehicular traffic on a street.~~ There are safe and efficient vehicular and pedestrian circulation patterns within the boundaries of the site and in connecting with the surrounding circulation system.

5. The proposal will be able to reasonably accommodate the off street loading needs of the structure.

6. 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.

7. Adequate means are provided or can be provided to ensure continued periodic maintenance and necessary normal replacement of the following private common facilities and areas: drainage ditches, roads and other improved rights-of-way, structures, recreation facilities, landscaping, fill and excavation areas, screening and fencing, ground cover, garbage and recycling storage areas and other facilities, not subject to periodic maintenance by the City or other public agency.

8. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code.

9 ~~8~~. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

<u>Section 11:</u> The Development Code, Ordinance No. 2050, Chapter 40 - Applications, Section 40.55, will be amended to read as follows:

40.55. PARKING DETERMINATION

40.55.05. Purpose.

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40.55.10. Applicability.

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40.55.15. Application.

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1. Parking Requirement Determination.

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C. <u>Approval Criteria.</u> In order to approve a Parking Requirement Determination application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

1. The proposal satisfies the threshold requirements for a Parking Requirement Determination application.

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

3. The determination is consistent with Title 2 of Metro's Urban Growth Management Functional Plan.

4. The determination will not create adverse impacts, taking into account the total gross floor area, number of employees, potential customer volume, and the hours of operation of the use.

5. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code.

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

*****

2. Shared Parking.

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C. Approval Criteria. In order to approve a Shared Parking application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

1. The proposal satisfies the threshold requirements for a Shared Parking application.

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

3. The location of the shared off street parking is on an abutting property and is within 200 feet of the subject use in which the shared parking is intended to serve, except in Multiple Use zoning districts where the location may be at any distance.

4. If multiple properties are involved, the owners of each of the properties has agreed to the shared parking by entering into a shared parking agreement.

5. The time of peak parking demand for the various uses located on the subject properties occur at different times of the day.

6. Adequate parking will be available at all times when the various uses are in operation.

7. 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.

8. There are safe and efficient vehicular and pedestrian circulation patterns within the boundaries of the site.

9. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code.

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

<u>Section 12:</u> The Development Code, Ordinance No. 2050, Chapter 40 - Applications, Section 40.90., will be amended to read as follows:

40.90 Tree Plan

40.90.05. Purpose.

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40.90.10. Applicability.

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40.90.15. Application.

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1. Tree Plan One.

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2. Tree Plan Two.

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C. Approval Criteria. In order to approve a Tree Plan Two application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

1. The proposal satisfies the threshold requirements for a Tree Plan Two application.

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

3. If applicable, removal of a Community Tree(s) is necessary to enhance the health of the tree, grove, group of trees, or an adjacent tree or to eliminate conflicts with structures or vehicles.

4. If applicable, removal of any tree is necessary to observe good forestry practices according to recognized American National Standards Institute (ANSI) A300-1995 standards and International Society of Arborists (ISA) standards on the subject.

5. If applicable, removal of any tree is necessary to accommodate physical development where no reasonable alternative exists.

6. If applicable, removal of any tree is necessary because it has become a nuisance by virtue of damage to property or improvements, either public or private, on the subject site or adjacent sites.

7. If applicable, removal is necessary to accomplish public purposes, such as installation of public utilities, street widening, and similar needs, where no reasonable alternative exists without significantly increasing public costs or reducing safety.

8. If applicable, removal of any tree is necessary to enhance the health of the tree, grove, SNRA, or adjacent trees to eliminate conflicts with structures or vehicles.

9. If applicable, removal of a tree(s) within a SNRA or Significant Grove will not result in a reversal of the original determination that the SNRA or Significant Grove is significant based on criteria used in making the original significance determination.

10. If applicable, removal of a tree(s) within a SNRA or Significant Grove will not result in the remaining trees posing a safety hazard due to the effects of windthrow.

11. The proposal is consistent with all applicable provisions of Section 60.60 Trees and Vegetation and Section 60.67 Significant Natural Resources.

12. Grading and contouring of the site is designed to accommodate the proposed use and to mitigate adverse effect(s) on neighboring properties, public right-of-way, surface drainage, water storage facilities, and the public storm drainage system.

13. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code.

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

*****

3. Tree Plan Three.

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C. Approval Criteria. In order to approve a Tree Plan Three application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

1. The proposal satisfies the threshold requirements for a Tree Plan Three application.

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

3. If applicable, removal of a diseased tree or a tree is necessary because the tree has been weakened by age, storm, fire, or other condition.

4. If applicable, removal is necessary to enhance the health of the grove or adjacent tree(s) to reduce maintenance, or to eliminate conflicts with structures or vehicles.

5. If applicable, removal is necessary to observe good forestry practices according to recognized American National Standards Institute (ANSI) A300-1995 standards and International Society of Arborists (ISA) standards on the subject.

6. If applicable, removal is the minimum necessary to accommodate physical development because no reasonable alternative exists for the development at another location on the site and variances to setback provisions of the Development Code will not allow the tree(s) to be saved or will cause other undesirable circumstances on the site or adjacent properties.

7. If applicable, removal is necessary because a tree has become a nuisance by virtue of damage to personal property or improvements, either public or private, on the subject site or on an adjacent site.

8. If applicable, removal is necessary to accomplish a public purpose, such as installation of public utilities, street widening, and similar needs where no reasonable alternative exists without significantly increasing public costs or reducing safety.

9. If applicable, removal of a tree(s) within a SNRA or Significant Grove will not result in the remaining trees posing a safety hazard due to the effects of windthrow.

10. If applicable, removal of tree or trees within a Significant Grove will not reduce the size of the grove to a point where the remaining trees may pose a safety hazard due to the effects of windthrow.

11. If applicable, removal of a tree within a Historic Grove will not substantially reduce the significance of the grove in terms of its original designation on the list of Historic Groves.

12. The proposal is consistent with all applicable provisions of Section 60.60 Trees and Vegetation and Section 60.67 Significant Natural Resources.

13. Grading and contouring of the site is designed to accommodate the proposed use and to mitigate adverse effect(s) on neighboring properties, public right-of-way, surface drainage, water storage facilities, and the public storm drainage system.

14. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code.

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

<u>Section 13:</u> The Development Code, Ordinance No. 2050, Chapter 40 - Applications, Section 40.95.15.1.C, will be amended to read as follows:

40.95 Variance

40.95.05. Purpose.

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40.95.10. Applicability.

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40.95.15. Application.

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1. Variance.

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C. Approval Criteria. In order to approve a Variance application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

1. The proposal satisfies the threshold requirements for a Variance application.

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

3. Special conditions exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, buildings, or structures in the same zoning district.

4. Strict interpretation of the provisions of this ordinance would deprive the applicant of the rights commonly enjoyed by other properties in the same zoning district under the terms of this Code.

5. The special conditions and circumstances do not result from the actions of the applicant and such conditions and circumstances do not merely constitute financial hardship or inconvenience.

6. If more than one (1) variance is being requested, the cumulative effect of the variances result in a project which is still consistent with the overall purpose of the applicable zone.

7. Any variance granted shall be the minimum variance that will make possible a reasonable use of land, building, and structures.

8. For a proposal for a variance from sign regulations, no variance shall be granted unless it can be shown that there are special circumstances involving size, shape, topography, location or surroundings attached to the property referred to in the application, which do not apply generally to other properties in the same zoning district, and that the granting of the variance will not result in material damage or prejudice to other property in the vicinity and not be detrimental to the public safety and welfare. Variances shall not be granted merely for the convenience of the applicant or for the convenience of regional or national businesses which wish to use a standard sign.

9. The proposal is consistent with all applicable provisions of Chapter 20 (Land Uses) unless the applicable provisions are subject to an Adjustment, Planned Unit Development, or Variance which shall be already approved or considered concurrently with the subject proposal.

10. 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.

11. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code.

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

Section 14: The Development Code, Ordinance No. 2050, Chapter 40 - Applications, Section 40.96, will be amended to read as follows:

40.96 Wireless Facility

40.96.05. Purpose.

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40.96.10. Applicability.

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40.96.15. Application.

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1. Wireless Facility One.

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2. Wireless Facility Two.

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

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

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

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

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

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

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

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

8. 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.

9. The proposal is consistent with all applicable Site Development Requirements of Sections 20.05.50, 20.10.50, 20.15.50, and 20.20.50 of this Code unless the applicable provisions are subject to an Adjustment, Planned Unit Development, or Variance which shall be already approved or considered concurrently with the subject proposal.

10. 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.

11. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code.

12. ~~8~~ Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

3. Wireless Facility Three.

*****

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

1. The proposal satisfies the threshold requirements for a Wireless Facility Three application.

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

3. In relationship to the existing surroundings and future allowed uses, the location, size, shape, height, spatial and visual arrangement of the use and structure is compatible.

4. The size, dimensions, configuration, and topography of the site and natural and man-made features on the site can reasonably accommodate the proposal.

5. The proposal will not obstruct any existing or approved vehicular, pedestrian, or bicycle connection identified in the Comprehensive Plan.

6. That the development has been designed to, where possible, incorporate and preserve existing trees and vegetation of significant size and species.

7. That grading of the site shall take place with particular attention to minimizing the possible adverse effect of grading on the natural vegetation and physical appearance of the site.

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

9. 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.

10. The proposal is consistent with all applicable Site Development Requirements of Sections 20.05.50, 20.10.50, 20.15.50, and 20.20.50 of this Code unless the applicable provisions are subject to an Adjustment, Planned Unit Development, or Variance which shall be already approved or considered concurrently with the subject proposal.

11. 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.

12. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code.

13. ~~9~~ Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

<u>Section 15:</u> The Development Code, Ordinance No. 2050, Chapter 40 - Applications, Section 40.97, will be amended to read as follows:

40.97 Zoning Map Amendment

40.97.05. Purpose.

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40.97.10. Applicability.

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40.97.15. Application.

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1. Quasi-Judicial Zoning Map Amendment.

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C. Approval Criteria. In order to approve a Quasi-Judicial Zoning Map Amendment application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

1. The proposal satisfies the threshold requirements for a Quasi-Judicial Zoning Map Amendment application.

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

3. The proposal conforms with applicable policies of the City's Comprehensive Plan.

4. All critical facilities and services are available or can be made available to an adequate capacity to serve the site and uses allowed by the proposed zoning designation.

5. Essential facilities and services are available or can be made available to serve the site and uses allowed by the proposed zoning designation.

6. The proposal is or can be made to be consistent with all applicable provisions of Chapter 20 (Land Uses).

7. ~~5.~~ In addition to the criteria stated in Section 40.97.15.1.C.1 through 6, above, the following criteria shall apply to Quasi-Judicial Zoning Map Amendment which would change the zone designation to the Convenience Service (C-V) zoning district.

   a. There is a public need for the proposal and that this need will be served by changing the zoning district classification of the property in question as compared with other available property.

   b. The public interest is best carried out by approving the proposal at this time.

8. ~~6.~~ The proposal shall include a Traffic Impact Analysis that meets the requirements of 60.55.20. The analysis shall demonstrate that development allowed under the proposed zoning can meet the requirements of 60.55.10.1, 60.55.10.2, 60.55.10.3, and 60.55.10.7. The analysis shall identify the traffic impacts from the range of uses allowed under the proposed zoning and demonstrate that these impacts can be reasonably mitigated at the time of development. [ORD 4302; May 2004]

9. ~~7.~~ As an alternative to 40.97.15.1.C.6, the applicant may provide evidence that the potential traffic impacts from development under the proposed zoning are no greater than potential impacts from development under existing zoning. [ORD 4302; May 2004]

10. ~~8~~ In cases where the Comprehensive Plan identifies more than one zone to implement the applicable Land Use map designation, the applicant is to demonstrate how the proposal conforms with applicable District Requirements of the zone(s) subject to Quasi-Judicial Zoning Map Amendment consideration. (ORD 4382; April 2006)

11. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code.

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

*****

2. Legislative Zoning Map Amendment.

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C. Approval Criteria. In order to approve a Legislative Zoning Map Amendment application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

1. The proposal satisfies the threshold requirements for a Legislative Zoning Map Amendment application.

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

3. The proposal conforms with applicable policies of the City's Comprehensive Plan.

4. All critical facilities and services are available or can be made available to an adequate capacity to serve the site and uses allowed by the proposed zoning designation.

5. Essential facilities and services are available or can be made available to serve the site and uses allowed by the proposed zoning designation.

6. The proposal is or can be made to be consistent with all applicable provisions of Chapter 20 (Land Uses).

7. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code.

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

~~5~~ 9. In addition to the criteria stated in Section 40.97.15.2.C.1 through 4 8, above, the following criteria shall apply to Legislative Zoning Map Amendment which would change the zone designation to the Convenience Service (C-V) zoning district.

a. There is a public need for the proposal and that this need will be served by changing the zoning district classification of the property in question as compared with other available property.

b. The public interest is best carried out by approving the proposal at this time.

*****

<u>Section 16:</u> The Development Code, Ordinance No. 2050, Chapter 50 - Procedures, Section 50.25.1.B, will be amended to read as follows:

50.25. Application Completeness

1. A complete application is one which contains the information required by the Director to address the relevant criteria, development requirements, and procedures of this Code. Non-Discretionary Annexation Related Zoning Map Amendment and Discretionary Annexation Zoning Map Amendment applications processed by the City shall be determined to be complete upon submittal of a valid annexation petition or executed annexation agreement. All other complete application shall consist of the requisite number of copies of the following: [ORD 4265; September 2003]

*****

B. A written statement, supported by substantial evidence, that identifies the criteria and development regulations considered relevant to the application, states the facts alleged to show that the application complies with applicable criteria and development regulations, and explains why the application should be approved based on the criteria and development regulations and facts set forth in the application. In addition to addressing applicable criteria and development regulations relevant to the application type, the written statement shall address all the technical criteria specified in Section 40.03 (Facilities Review Committee) of the Code for the following Type 2 and Type 3 land use applications: all Conditional Use, Design Review Two, Design Review Three, all Land Division, Public Transportation Facility, and Street Vacation. [ORD 4265; September 2003]

*****

Section 17: The Development Code, Ordinance No. 2050, Chapter 50 - Procedures, Section 50.40, will be amended to read as follows:

50.40. Type 2

*****

4. Within approximately seven (7) calendar days after the application has been determined to be or deemed complete and in no case less than twenty (20) calendar days before the decision making authority's decision, the Director shall publish in a newspaper of general circulation in the City of Beaverton a summary of the application, the comment closing date on the application, the date of the Facilities Review Committee ~~technical~~ meeting with the applicant, and the date on which a decision will be made on the application.

*****

7. Approximately twenty eight (28) calendar days after the application has been determined to be or deemed complete, the Director shall convene the Facilities Review Committee to review ~~technical aspects of~~ the application with the applicant.

*****

9. Within approximately seven (7) calendar days after the Facilities Review Committee ~~technical~~ meeting, the Facilities Review Committee shall forward a written report to the Director.

10. Within approximately fourteen (14) calendar days after the Facilities Review Committee ~~technical~~ meeting, the Director shall issue a written decision on the application to the applicant, the property owner, the NAC in which the subject property is located, and interested parties that submitted written comments prior to or on the comment closing date; provided, [ORD 4265; September 2003]

*****

<u>Section 18:</u> The Development Code, Ordinance No. 2050, Chapter 50 - Procedures, Section 50.45, will be amended to read as follows:

50.45. Type 3

*****

4. Within approximately seven (7) calendar days after the application has been determined to be or deemed complete and in no case less than twenty (20) calendar days before the decision making authority's initial hearing, the Director shall publish in a newspaper of general circulation in the City of Beaverton a summary of the application, a date by which public comment on the application should be submitted to the Director, if applicable, the date of the Facilities Review Committee ~~technical~~ meeting with the applicant, and the place, date, and time of the decision making authority's hearing on the application under review.

*****

10. Within approximately twenty eight (28) calendar days after the application has been determined to be or deemed complete, the Director shall convene the Facilities Review Committee to review applicable technical aspects of the application with the applicant, if the application is subject to Facilities Review Committee review.

*****

12. Within approximately seven (7) calendar days after the Facilities Review Committee ~~technical~~ meeting, the Facilities Review Committee shall forward a written report to the Director.

13. Approximately twenty-one (21) calendar days after the Facilities Review Committee ~~technical~~ meeting, the decision making authority's initial hearing on the application shall take place.

*****

BEFORE THE PLANNING COMMISSION FOR

THE CITY OF BEAVERTON, OREGON

IN THE MATTER OF A REQUEST TO AMEND BEAVERTON DEVELOPMENT CODE CHAPTER 10 (GENERAL PROVISIONS), CHAPTER 40 (APPLICATIONS) AND CHAPTER 50 (PROCEDURES) (BEAVERTON DEVELOPMENT CODE FACILITIES REVIEW AMENDMENTS). CITY OF BEAVERTON, APPLICANT.	ORDER NO. 1895 TA2006-0005 RECOMMENDING APPROVAL OF FACILITIES REVIEW TEXT AMENDMENT.

The matter of TA2006-0005 (Facilities Review Amendment) was initiated by the City of Beaverton, through the submittal of a text amendment application to the Beaverton Community Development Department.

Pursuant to Ordinance 2050 (Development Code), effective through Ordinance 4382, Section 50.50 (Type 4 Application), the Planning Commission conducted a public hearing on July 26, 2006, and considered oral and written testimony and exhibits for the proposed amendment to the Beaverton Development Code.

TA2006-0005 (Facilities Review Amendment) proposes to amend selected sections of the Beaverton Development Code (BDC) to clarify the Facilities Review Committee process and relocate certain Facilities Review Committee approval criteria to selected applications. Affected chapters of the BDC include Chapter 10 (General Provisions), Chapter 40 (Applications), and Chapter 50 (Procedures).

The Planning Commission adopts by reference the July 19, 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 amendments to Chapter 10 (General Provisions),

Chapter 40 (Applications), and Chapter 50 (Procedures) as contained within TA2006-0005. 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 Chapter 10 (General Provisions), Chapter 40 (Applications), and Chapter 50 (Procedures) of the Development Code.

Motion **CARRIED** by the following vote:

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

Dated this 28th day of July, 2006.

To appeal the decision of the Planning Commission, as articulated in Land Use Order No. 1895, an appeal must be filed on an Appeal form provided by the Director at the City of Beaverton Recorder's Office by no later than 5:00 p.m. on Monday, August 7, 2006.

PLANNING COMMISSION
FOR BEAVERTON, OREGON

ATTEST:

STEVEN SPARKS, AICP
Development Services Manager

APPROVED:

ERIC H. JOHANSEN
Chairman

DRAFT

PLANNING COMMISSION MINUTES

July 26, 2006

CALL TO ORDER: Chairman Eric Johansen 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 Chairman Eric Johansen, Planning Commissioners Melissa Bobadilla, Dan Maks, Richard Stephens, and Scott Winter. Planning Commissioners Wendy Kroger and Shannon Pogue were excused.

Senior Planner Colin Cooper, AICP, represented staff.

The meeting was called to order by Chairman Johansen, who presented the format for the meeting.

VISITORS:

Chairman Johansen asked if there were any visitors in the audience wishing to address the Commission on any non-agenda issue or item. There were none.

STAFF COMMUNICATION:

Senior Planner Colin Cooper indicated that there were no communications at this time.

NEW BUSINESS:

PUBLIC HEARINGS:

I. **TA 2006-0005 – FACILITIES REVIEW AMENDMENTS**
Amendment to various sections of the Beaverton Development Code (BDC) to clarify the Facilities Review Committee process and relocate certain Facilities Review Committee approval criteria to selected applications. Affected chapters of the BDC include Chapter 10 (General Provisions), Chapter 40 (Applications), and Chapter 50 (Procedures).

Chairman Johansen briefly described the applicable approval criteria and outlined the hearing procedure.

Mr. Cooper summarized the purpose of this text amendment and why these revisions had been developed in order to simplify and improve the existing process. Concluding, he offered to respond to questions.

PUBLIC TESTIMONY:

No member of the public testified with regard to this proposal.

The Commissioners agreed that this proposal meets applicable approval criteria and would improve the existing process.

Commissioner Winter **MOVED** and Commissioner Bobadilla **SECONDED** a motion to **APPROVE** TA 2006-0005 – Facilities Review Amendments, based upon the facts and findings within the Staff Report dated July 19, 2006.

Motion **CARRIED** 5:0.

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

MISCELLANEOUS BUSINESS:

The meeting adjourned at 8:00 p.m.

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:	Wednesday, July 19, 2006
STAFF:	Steven A. Sparks, AICP, Development Services Manager
SUBJECT:	**TA 2006-0005 (Facilities Review Amendment)**
REQUEST:	Text amendments to selected sections of the Beaverton Development Code (BDC) to clarify the Facilities Review Committee process and relocate certain Facilities Review Committee approval criteria to selected applications. Affected chapters of the BDC include Chapter 10 (General Provisions), Chapter 40 (Applications), and Chapter 50 (Procedures).
APPLICANT:	City of Beaverton Development Services Division 4755 SW Griffith Drive Beaverton, Oregon 97006
APPLICABLE CRITERIA:	Ordinance 2050, effective through Ordinance 4248, Section 40.85.15.1.C.1-7 (Text Amendment Approval Criteria)
HEARING DATE:	Wednesday, July 26, 2006
RECOMMENDATION:	Take public testimony on the proposed text amendment application **TA 2006-0005** (Facilities Review Amendment) and forward a recommendation of **APPROVAL** to the City Council.

A. Application Processing

The text amendment application for TA 2006-0005 was submitted on May 15, 2006. The applicant for the text amendment application is the City of Beaverton, represented by the Development Services Division. Development Services Division staff determined the application to be complete upon submittal. The proposed text amendment is being considered under the text amendment provisions of Section 40.85 (Text Amendments) of the Development Code.

Pursuant to Section 40.85.15.1.B, a text amendment is a Type 4 procedure, and the decision-making authority is the Planning Commission. Public notice for the Planning Commission's public hearing was conducted in accordance with Section 50.50.2-4 of the Development Code.

B. Legislative Text Amendment

In September 2002, the City enacted a comprehensive update of the Beaverton Development Code. One of the many changes in that Code was the clear articulation of approval criteria for each land use application. A key component of the clarification of approval criteria was the establishment of technical approval criteria which were placed in a new section of the Code, Section 40.03, Facilities Review Criteria. The way land use applications are processed today, all Type 2, Type 3, and Type 4 applications are required to address the eleven (11) Facilities Review Committee technical approval criteria in addition to the application approval criteria.

For the past couple of years, the Community Development Department has been interviewing applicants and other Department stakeholders to better understand how to address their issues and concerns with the development review process. One issue resulting from these discussions was the amount of writing required of applicants addressing seemingly irrelevant approval criteria. Taking these comments, the Development Services Division staff reviewed each application in Chapter 40 and the Facilities Review criteria. The purpose of the review was to determine which applications would propose activity or development that would require review under all, some, or none of the Facilities Review criteria.

The results of staff's review of the applications showed that the majority of Type 2, Type 3, and Type 4 applications do not propose activities or development that would require demonstration of compliance with all of the Facilities Review approval criteria. Staff have identified six (6) development application types (listed below) where all of the Facilities Review approval criteria would be applicable. Based on these results, staff propose to simplify the development review process by moving selected Facilities Review approval criteria to the specific application approval criteria sections. For example, the Shared Parking application (text is located on

page 26 of 44 of the proposed amendment) is proposed to be amended by adding three (3) criteria which are currently located in Section 40.03 (Facilities Review Committee). By making this amendment, an applicant, the staff, and other interested parties will only have to review the section applicable to Shared Parking (40.55.15.2) to understand the applicable requirements for processing a Shared Parking request. This change and changes to other applications will simplify review for those applications.

The proposed amendments to the Development Code text, as reflected in Exhibit 1, are largely self explanatory. Nevertheless, staff offer additional information on the following proposed amendments. For reference purposes, the following section numbers are the sequential section numbers used in Exhibit 1.

Section 1 This amendment clearly lists which applications will be subject to the current Facilities Review process. Those applications being, all Conditional Use, Design Review Two, Design Review Three, all Land Division, Public Transportation Facility, and Street Vacation applications.

The amendment also states that all Type 2 applications <u>will</u> be reviewed by the Facilities Review Committee and forward a recommendation to the Director. The Committee will be reviewing the all of the approval criteria of the subject Type 2 application to base its recommendation.

Lastly, the amendment proposes that all Type 3 and Type 4 applications <u>may</u> be reviewed by the Facilities Review Committee. The intent is to continue to have the Committee review the technical aspects and approval criteria for these types of applications. However, the decision to have the Committee conduct such a review will be up to the Director. This change will provide some flexibility and allow applications to get to a public hearing body (Planning Commission or Board of Design Review) more quickly than is possible under current code provisions.

Section 5 The proposed changes to the Design Review section are both related to clarifying the facilities review criteria and clarifying the scope of review for some design review proposals. One proposed change relates to the Design Review Two application and Landscape Trees. Review of the existing text lead staff to conclude that a land owner is not able to remove more than 10 Landscape Trees in a calendar year. Landscape Tree regulations were moved from the Tree Plan to the Design Review section of the Development Code in the 2005 Omnibus Text Amendment. The Landscape Tree regulations were moved based on

conversations with local property and business owners to provide additional flexibility for the removal of Landscape Trees that are not a Goal 5 resource. In the 2005 Omnibus Text Amendment staff created two thresholds for Landscape Trees: 1) Removal of 1 to 5 trees as a Design Review Compliance Letter; and, 2) Removal of 5-10 Landscape Trees as a Design Review Two. However, staff did create a threshold for removal of more than 10 trees in a single calendar year. Staff is proposing to remedy this situation with the proposed text by deleting the cap of landscape trees which could be removed through a Design Review Two application. Based on the fact that trees which are removed and replaced would have to meet the applicable design standards, staff recommend the appropriate application in the Design Review 2 application. If applicable design standards are not met, then a Design Review Three application would be required.

Section 6 Staff proposed to delete the Flexible Setback for a proposed Annexation application since the application has never been submitted in the six years it has existed. Moreover, the application is not necessary since prior land use approvals that take place in Washington County will continue to be acknowledged and the setbacks would not be viewed as non-conforming.

C. 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 2006-0005 (Facilities Review 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 2006-0005 (Facilities Review Amendment) proposes a text amendment to selected sections of the Beaverton Development Code to clarify the Facilities Review Committee process and relocate certain Facilities Review Committee approval criteria to selected applications. Affected chapters of the Development Code include Chapter 10 (General Provisions), Chapter 40 (Applications), and Chapter 50 (Procedures). 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 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 2006-0005 proposes procedural amendments to selected sections of the Beaverton Development Code to clarify the Facilities Review Committee process and relocate certain Facilities Review Committee approval criteria to selected applications. Affected chapters of the Development Code include Chapter 10 (General Provisions), Chapter 40 (Applications), and Chapter 50 (Procedures). The proposed amendments have no applicability to these Metro titles.

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

There are no specific Comprehensive Plan policies that address facilities review amendments. The proposed text amendments will not change the intent of the existing Development Code regulations, such that goals and policies of the Comprehensive Plan will be impacted.

Because the proposed amendments are procedural in nature and do not represent a shift in land use policy, staff find that the proposed text amendments are consistent with the specified provisions of the Beaverton Comprehensive Plan. 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 amendments do not create impacts or conflicts with other provisions within the Development Code. Staff find that proposed amendments are consistent with the other provisions of the Development Code. Staff find, therefore, 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.

D. 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.

E. Staff Recommendation

Staff offer the following recommendation for the conduct of the July 26, 2006 public hearing for TA 2006-0005 (Facilities Review 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 2006-0005 (Facilities Review Amendment) to the City Council.

Exhibit 1. Proposed Text Amendment

AGENDA BILL

Beaverton City Council
Beaverton, Oregon

SUBJECT: TA 2006-0006
(Lot Line Adjustment/Consolidation)

FOR AGENDA OF: 09-11-06 **BILL NO:** 06165

Mayor's Approval:

DEPARTMENT OF ORIGIN: CDD

DATE SUBMITTED: 8-22-06

CLEARANCES: City Attorney
Dev. Serv.

PROCEEDING: First Reading

EXHIBITS:
1. Ordinance
2. Land Use Order No. 1894
3. Draft PC Minutes 7/26/06
4. Staff Report dated 07-19-06

BUDGET IMPACT

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

HISTORICAL PERSPECTIVE:

On July 26, 2006, the Planning Commission held a public hearing to consider TA 2006-0006 (Lot Line Adjustment/Consolidation) that proposes to amend Section 40.45.15.1 of the Beaverton Development Code currently effective through Ordinance 4389 (November 2006). The proposed text amendment will add a new threshold for a Lot Line Adjustment that requires a landowner to apply for a Lot Line Adjustment application when consolidating two or more lots of record into one lot of record. Currently, there is no City process for reviewing the consolidation of lots of record. Without a review process, development and building permits are delayed to address the easements and lot lines that were not properly vacated prior to the commencement of development. Following the close of the public hearing on July 26, 2006, the Planning Commission voted 5-0 (Pouge and Kroger absent) to recommend approval of the proposed Lot Line Adjustment/Consolidation text amendment as memorialized in Land Use Order No. 1894.

INFORMATION FOR CONSIDERATION:

Attached to this Agenda Bill is an Ordinance including the proposed text, Land Use Order No. 1894, the draft Planning Commission meeting minutes, and staff report.

RECOMMENDED ACTION:

Staff recommend the City Council adopt the recommendation of approval forwarded by the Planning Commission for TA 2006-0006 (Lot Line Adjustment/Consolidation) as set forth in Land Use Order No.1894. Staff further recommend the Council conduct a First Reading of the attached ordinance.

ORDINANCE NO. 4405

AN ORDINANCE AMENDING ORDINANCE NO. 2050,
THE DEVELOPMENT CODE,
CHAPTERS 40 and 90;
TA 2006-0006 (Lot Line Adjustment/Consolidation).

WHEREAS, the purpose of the Lot Line Adjustment/Consolidation Text Amendment is to amend Chapter 40, Section 40.45.15.1, Lot Line Adjustments of the Beaverton Development Code currently effective through Ordinance 4389 (April 2006), and create a new Lot Line Adjustment application threshold. The intent of the new threshold is to require landowners consolidating two or more lots of record into one lot of record to be reviewed in order to ensure public easements and lot lines are addressed in advance of development. Affected chapters of the Development Code include Chapter 40 (Applications) and Chapter 90 (Definitions); and

WHEREAS, pursuant to Section 50.50.5 of the Development Code, the Beaverton Development Services Division on July 19, 2006 published a written staff report and recommendation a minimum of seven (7) calendar days in advance of the scheduled public hearing before the Planning Commission on July 26, 2006; and

WHEREAS, the Planning Commission held a public hearing on July 26, 2006 and approved the proposed Lot Line Adjustment/Consolidation Text Amendment based upon the criteria, facts, and findings set forth in the staff report dated July 19, 2006; and

WHEREAS, on July 26, 2006 the Planning Commission voted to recommend to the Beaverton City Council to adopt the proposed amendments to the Development Code as summarized in Planning Commission Land Use Order No. 1894; and

WHEREAS, no written appeal pursuant to Section 50.75 of the Development Code was filed by persons of record for TA 2006-0006 (Lot Line Adjustment/Consolidation) following the issuance of the Planning Commission Land Use Order No. 1894; and,

WHEREAS, the City Council adopts as to criteria, facts, and findings described in Land Use Order No. 1894 dated August 7, 2006 and the Planning Commission record, all of which the Council incorporates by this reference and finds to constitute an adequate factual basis for this ordinance; and now therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

Section 1. Ordinance No. 2050, effective through Ordinance No. 4389, the Development Code, is amended to read as set out in Exhibit "A" of this Ordinance attached hereto and incorporated herein by this reference.

Section 2. All Development Code provisions adopted prior to this Ordinance, which are not expressly amended or replaced herein, shall remain in full force and effect.

Section 3. Severance Clause. The invalidity or lack of enforceability of any terms or provisions of this Ordinance or any appendix or part thereof shall not impair of otherwise affect in any manner the validity, enforceability, or effect of the remaining terms of this Ordinance and appendices and said remaining terms and provisions shall be construed and enforced in such a manner as to effect the evident intent and purposes taken as a whole insofar as reasonably possible under all of the relevant circumstances and facts.

First reading this ____ day of _____, 2006.

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

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

ATTEST:

_____
SUE NELSON, City Recorder

APPROVED:

_____
ROB DRAKE, Mayor

Section 1: The Development Code, Ordinance No. 2050, Ordinance 4248, Chapter 40, Applications, Section 40.45.15.1, Lot Line Adjustments, will be amended to read as follows:

40.45.15. Application.

There are seven (7) Land Division applications which are as follows: Lot Line Adjustment, Preliminary Partition, Preliminary Subdivision, Preliminary Fee Ownership Partition, Preliminary Fee Ownership Subdivision, Final Land Division, and Expedited Land Division.

1. Lot Line Adjustment

A. Threshold. An application for Lot Line Adjustment shall be required when one or more of the following threshold ~~applies~~ apply:

1. The changing of the common boundary of at least two (2) lots of record and does not create an additional lot.

2. The elimination of a common boundary between two (2) or more lots of record that result in the creation of a single lot of record (Lot Consolidation).

B. Procedure Type. The Type 1 procedure, as described in Section 50.35 of this Code, shall apply to an application for Lot Line Adjustment. The decision making authority is the Director.

C. Approval Criteria. In order to approve a Lot Line Adjustment application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

1. The proposal satisfies the threshold requirements for a Lot Line Adjustment application.

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

3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code. [ORD 4265; September 2003]

4. An additional lot is not created.

5. The proposal is consistent with all applicable provisions of Chapter 20 (Land Uses) unless the applicable provisions are subject to an Adjustment, Planned Unit Development, or Variance application which shall be considered concurrently with the subject proposal.

6. The proposal is consistent with all applicable provisions of Chapter 60 (Special Regulations).

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

D. Submission Requirements. An application for a Lot Line Adjustment shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Lot Line Adjustment application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.

E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Lot Line Adjustment application to ensure compliance with the approval criteria.

1. The applicant of a lot line adjustment shall record a record of survey or replat with Washington County as required by Oregon Revised Statues Chapter 92. The record of survey or replat shall be subject to review by the City as part of the Lot Line Adjustment application, and shall not be subject further review under Section 40.45.15.6, Final Land Division.

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

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

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

Section 2: The Development Code, Ordinance No. 2050, Ordinance 4248, Chapter 90 – Definitions, will be amended to read as follows:

*****

Lot line adjustment. The adjustment of a lot line of a ~~recorded~~ lot of record by the relocation of a common boundary where an additional lot is not created and where an existing ~~parcel~~ lot is not reduced below the minimum requirements established by the zoning ordinance.

Lot Consolidation The process of reducing the number of lots of record by means of a Lot Line Adjustment or Replat.

Replat The act of platting the lots, parcels, tracts, and easements in a recorded subdivision or partition plat to achieve a reconfiguration of the existing subdivision or partition plat or to increase or decrease the number of lots in the subdivision.

*****

BEFORE THE PLANNING COMMISSION FOR

THE CITY OF BEAVERTON, OREGON

IN THE MATTER OF A REQUEST TO AMEND BEAVERTON DEVELOPMENT CODE CHAPTER 40 (APPLICATIONS) SECTION 40.45 (LAND DIVISION), AND CHAPTER 90 (DEFINITIONS) (BEAVERTON DEVELOPMENT CODE LOT LINE ADJUSTMENT/CONSOLIDATION AMENDMENTS). CITY OF BEAVERTON, APPLICANT.	ORDER NO. 1894 TA2006-0006 RECOMMENDING APPROVAL OF LOT LINE ADJUSTMENT/CONSOLIDATION TEXT AMENDMENT.

The matter of TA2006-0006 (2006 Lot Line Adjustment/Consolidation) was initiated by the City of Beaverton, through the submittal of a text amendment application to the Beaverton Community Development Department.

Pursuant to Ordinance 2050 (Development Code), effective through Ordinance 4382, Section 50.50 (Type 4 Application), the Planning Commission conducted a public hearing on July 26, 2006, and considered oral and written testimony and exhibits for the proposed amendment to the Beaverton Development Code.

TA2006-0006 (Lot Line Adjustment/Consolidation) proposes to amend Development Code Chapter 40 (Applications) Section 40.45 (Land Division), and Chapter 90 (Definitions).

The Planning Commission adopts by reference the July 19, 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** Chapter 40 (Applications) Section 40.45 (Land Division), and Chapter 90 (Definitions) contained within TA2006-0006. 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 Chapter 40 (Applications), Section 40.45 (Land Division), and Chapter 90 (Definitions) of the Development Code.

Motion **CARRIED** by the following vote:

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

Dated this 28th day of July, 2006.

To appeal the decision of the Planning Commission, as articulated in Land Use Order No. 1894, an appeal must be filed on an Appeal form provided by the Director at the City of Beaverton Recorder's Office by no later than 5:00 p.m. on Monday, August 7, 2006.

PLANNING COMMISSION
FOR BEAVERTON, OREGON

ATTEST:

COLIN COOPER, AICP
Senior Planner

STEVEN A. SPARKS, AICP
Development Services Manager

APPROVED:

ERIC H. JOHANSEN
Chairman

DRAFT

PLANNING COMMISSION MINUTES

July 26, 2006

CALL TO ORDER: Chairman Eric Johansen 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 Chairman Eric Johansen, Planning Commissioners Melissa Bobadilla, Dan Maks, Richard Stephens, and Scott Winter. Planning Commissioners Wendy Kroger and Shannon Pogue were excused.

Senior Planner Colin Cooper, AICP, represented staff.

The meeting was called to order by Chairman Johansen, who presented the format for the meeting.

II. TA 2006-0006 – LOT LINE ADJUSTMENT/CONSOLIDATION

(Continued from July 19, 2006)

The proposed text amendment to the Development Code would add a new Lot Line Adjustment Application Threshold to Section 40.45.15, Lot Line Adjustment that requires that when two or more tax lots are proposed to be consolidated into fewer tax lots a Lot Line Adjustment/Consolidation application is required.

Chairman Johansen briefly described the applicable approval criteria and outlined the hearing procedure.

Mr. Cooper summarized the purpose of this text amendment and why these revisions had been developed in order to simplify and improve the existing process. Concluding, he offered to respond to questions.

PUBLIC TESTIMONY:

No member of the public testified with regard to this proposal.

The Commissioners agreed that this proposal meets applicable approval criteria and would improve the existing process.

Commissioner Winter **MOVED** and Commissioner Bobadilla **SECONDED** a motion to **APPROVE** TA 2006-0006 – Lot Line Adjustment/Consolidation, based upon the facts and findings within the Staff Report dated July 26, 2006.

Motion **CARRIED** 5:0.

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

Commissioner Maks **MOVED** and Commissioner Winter **SECONDED** a motion to **RECONSIDER** the previous motion.

Motion **CARRIED** 5:0.

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

Commissioner Winter **MOVED** and Commissioner Bobadilla **SECONDED** a motion to **APPROVE** TA 2006-0006 – Lot Line Adjustment/Consolidation, based upon the facts and findings within the Staff Report dated July 19, 2006.

Motion **CARRIED** 5:0.

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

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:	Wednesday, July 19, 2006
STAFF:	Colin Cooper, AICP, Senior Planner CC
SUBJECT:	TA 2006-0006 (Lot Line Adjustment/Consolidation)
REQUEST:	Text Amendment to the Beaverton Development Code Chapter 40, Applications, Section 40.45, Land Divisions, and Chapter 90, Definitions. The text amendment proposes add a new threshold for the Lot Line Adjustment application that requires a land owner to apply for a Lot Line Adjustment application when consolidating two (2) or more lots of record in to one lot of record.
APPLICANT:	City of Beaverton - Development Services Division
AUTHORIZATION:	Ordinance 2050 (Development Code), effective through Ordinance 4302)
APPLICABLE CRITERIA:	Section 40.85.15.1.C.1-7 (Text Amendment Approval Criteria)
HEARING DATE:	Wednesday, July 26, 2006
RECOMMENDATION:	Staff recommend APPROVAL of text amendment application TA 2006-0006 (Lot Line Adjustment/Consolidation)

I. Proposed Legislative Text Amendment

The purpose of the proposed Text Amendment is to create a City process for the review of a "lot consolidation" by adding a new Lot Line threshold within the Land Division section of the Development Code. A "lot consolidation" is the process of eliminating a common lot line boundary between two or more lots of record (Inclusive of tracts and parcels). The need to create a City process for a lot consolidation is to ensure that all public utilities and property lines have been properly reviewed and eliminated or vacated as necessary prior to the recordation with Washington County of a lot consolidation.

Currently if a Beaverton property owner wishes to consolidate two or more lots of record they are directed by City staff to Washington County Department of Assessment and Taxation, Cartography and Records Division because the City does not have a process for a lot consolidation.

It is important to understand that Washington County processes two types of "lot" consolidation". The first is a "tax lot" consolidation where two or more tax lots are consolidated for the administrative purpose of consolidating tax statements. The term "tax lot" is a term of art used to describe an area measure for the collection of taxes. The second is the consolidation of "lots of record." A Lot of Record as defined by the City Development Code and Oregon Revised Statue is a lot that was created legally meeting all applicable regulations in effect at the time of creation. The most common consolidation that Washington County processes is a consolidation of "tax lots" rather than a consolidation of the "lots of record." The Washington County Tax Lot Consolidation Request Form clearly states that a "tax lot" consolidation does not extinguish the underlying property lines until the owner records a new legal description; however, most land owners use this quick and easy process to consolidate their lots. Only later during the sale and/or redevelopment of the property is the land owner reminded of the existence of the original underlying lots of record. This often creates significant timing problems in the sale and development of the property. The more significant problem that arises from "tax lot" consolidations that are not subject to City review is the lack of conformity with the requirements and standards of the underlying zone including, setback, and density provisions.

Because there is no recognized City process for the review of a "lot consolidation" several unintended consequences can and have occurred. The most significant consequence is when a structure is built over existing public utility easement or across a property line that has not been properly vacated through the County process. Additional unintended consequences can occur when the lot consolidation allows for an applicant to circumvent Development Code standards or conditions of approval from an earlier land use decision. Examples include the reduction of lots in a subdivision below the required minimum density, alteration of lot access that is

not consistent with City standards, elimination of a parcel that was being used for other purposes such as pedestrian access. In addition, it is important for the City to review any previous land use approval that may be associated with the property to ensure that the proposed lot consolidation is consistent with the land use approval.

By requiring land owners to process a Type 1 Lot Line Adjustment application the issues described above can be adequately addressed to ensure that any proposed consolidation of lots of records continue to meet all City Codes.

Proposed Text:

Section 1: The Development Code, Ordinance No. 2050, Ordinance 4248, Chapter 40, Applications, Section 40.45.15.1, Lot Line Adjustments, will be amended to read as follows:

40.45.15. Application.

There are seven (7) Land Division applications which are as follows: Lot Line Adjustment, Preliminary Partition, Preliminary Subdivision, Preliminary Fee Ownership Partition, Preliminary Fee Ownership Subdivision, Final Land Division, and Expedited Land Division.

1. Lot Line Adjustment

A. Threshold. An application for Lot Line Adjustment shall be required when one or more of the following threshold ~~applies~~ apply:

1. The changing of the common boundary of at least two (2) lots of record and does not create an additional lot.

2. The elimination of a common boundary between two (2) or more lots of record that result in the creation of a single lot of record (Lot Consolidation).

B. Procedure Type. The Type 1 procedure, as described in Section 50.35 of this Code, shall apply to an application for Lot Line Adjustment. The decision making authority is the Director.

C. Approval Criteria. In order to approve a Lot Line Adjustment application, the decision making authority shall make findings

1. The proposal satisfies the threshold requirements for a Lot Line Adjustment application.

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

3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code. [ORD 4265; September 2003]

4. An additional lot is not created.

5. The proposal is consistent with all applicable provisions of Chapter 20 (Land Uses) unless the applicable provisions are subject to an Adjustment, Planned Unit Development, or Variance application which shall be considered concurrently with the subject proposal.

6. The proposal is consistent with all applicable provisions of Chapter 60 (Special Regulations).

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

D. Submission Requirements. An application for a Lot Line Adjustment shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Lot Line Adjustment application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.

E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Lot Line Adjustment application to ensure compliance with the approval criteria.

1. The applicant of a lot line adjustment shall record a record of survey or replat with Washington County as required by Oregon Revised Statues Chapter 92. The record of survey or replat shall be subject to review by the

City as part of the Lot Line Adjustment application, and shall not be subject further review under Section 40.45.15.6, Final Land Division.

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

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

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

Section 2: The Development Code, Ordinance No. 2050, Ordinance 4248, Chapter 90 – Definitions, will be amended to read as follows:

*****

Lot line adjustment. The adjustment of a lot line of a ~~recorded~~ lot of record by the relocation of a common boundary where an additional lot is not created and where an existing ~~parcel~~ lot is not reduced below the minimum requirements established by the zoning ordinance.

Lot Consolidation The process of reducing the number of lots of record by means of a Lot Line Adjustment or Replat.

Replat The act of platting the lots, parcels, tracts, and easements in a recorded subdivision or partition plat to achieve a reconfiguration of the existing subdivision or partion plat or to increase or decrease the number of lots in the subdivision.

*****

The proposed amendments to the Development Code text as shown above are attached in Exhibit 1.1.

II. Facts and Findings

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 2006-0006 (Lot Line/Consolidation Text 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 2006-0006 (Lot Line/Consolidation Text Amendment) proposes to amend Chapter 20 and Chapter 90 of the Beaverton Development Code currently effective through Ordinance 4365 (November 2005).

Therefore, staff find that approval criterion 1 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 Community Development Department, 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.

Therefore, staff find that approval criterion 2 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 is comprised 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 2006-0006 proposes to amend Development Code Chapter 40 and 90 to add a threshold requiring a lot line adjustment in cases where a land owner wishes to reduce the number of lots of record, also know as a lot consolidation. Unregulated lot consolidations have the ability to impact density targets below those required by the Urban Growth Management Functional Plan. By requiring formal process that requires the review of existing land use approvals land owners will not have the ability to circumvent the approved density of any land division.

Therefore, staff finds that the proposed text amendment is consistent with approval criteria 3.

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

The proposed amendment adds a new process for which the City does not currently have a process and will in turn ensure that the City has the opportunity to ensure that the consolidation of two or more lots of record will be consistent with the City's Development Code and thus is consistent with the City's Comprehensive Plan.

Therefore, staff finds that the proposed text amendment is consistent with this approval criterion.

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

The proposed amendments do not create impacts or conflicts with other provisions within the Development Code. The text amendment proposes to add a new threshold to the Lot Line Adjustment application which is a Type 1 land use application. Any lot consolidation will require either a record of survey or replat depending on the unique circumstances of a proposed lot consolidation. It is the intent of this text amendment to require only one Type 1 land use application, Lot Line Adjustment, when processing a lot consolidation, and not to require a Final Land Division application, or second Type 1 application. The text amendment includes a standard condition that will require the recordation of the survey or replat as necessary with Washington County after review by City staff.

Therefore, staff finds that approval criterion 5 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 or would conflict with the proposed text amendments.

Therefore, staff finds that approval criterion 6 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 finds that approval criterion 7 has been met.

III. Conformance with Statewide Planning Goals

Because the proposal is for a text amendment to the Development Code, a demonstration of compliance with the Statewide Planning Goals is not required. ORS 197.225 requires that Statewide Planning Goals only be addressed for Comprehensive Plan Amendments. Nevertheless, the Statewide Planning Goals are useful to support the City's position on the proposed amendments. The proposed text amendment's conformance to relevant Statewide Planning Goals is briefly discussed below:

GOAL ONE - CITIZEN INVOLVEMENT

To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

The City is in compliance with this Statewide Planning Goal through the establishment of a Committee for Citizen Involvement (CCI). The City has gone even further by establishing Neighborhood Association Committees (NACs) for the purpose of providing widespread citizen involvement, and distribution of information. The proposed text amendments to the Development Code will not change the City of Beaverton's commitment to providing opportunity for citizen involvement, or place the City out of compliance with Statewide Planning Goal One.

GOAL TWO - LAND USE PLANNING

To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.

The City of Beaverton has adopted a Comprehensive Plan that includes text and maps (Ordinance 1800, and most recently amended by Ordinance 4187) along with implementation measures such as the Development Code (Ordinance 2050, effective through Ordinance No. 4365). These land use planning processes and policy framework form the basis for decisions and actions, such as the subject text amendment proposal. The proposed Development Code amendment has been processed in accordance with Section 40.85 (Text Amendment) and Section 50.50 (Type 4 Application) of the Development Code. Section 40.85 contains specific approval criteria for the decision-making authority to apply during its consideration of the text amendment application. Section 50.50 (Type 4 Application) specifies the minimum required public notice procedures to insure public input into the decision-making process. The City of Beaverton's Comprehensive Plan is consistent with Statewide Planning Goal 2.

IV. Conclusion and Staff Recommendation

Based on the facts and findings presented, staff conclude that the proposed amendment to the Development Code is consistent with all the text amendment approval criteria of Section 40.85.15.1.C.1-7. Therefore, staff recommend the Planning Commission **APPROVE** TA 2006-0006 (Lot Line/Consolidation Text Amendment) at the July 26, 2006 regular Commission hearing.

V. Exhibits

Exhibit 1.1 Proposed Text Amendment

Exhibit 1.1

Section 1: The Development Code, Ordinance No. 2050, Ordinance 4248, Chapter 40, Applications, Section 40.45.15.1, Lot Line Adjustments, will be amended to read as follows:

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B. Procedure Type. The Type 1 procedure, as described in Section 50.35 of this Code, shall apply to an application for Lot Line Adjustment. The decision making authority is the Director.

C. Approval Criteria. In order to approve a Lot Line Adjustment application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

1. The proposal satisfies the threshold requirements for a Lot Line Adjustment application.

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

3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code. [ORD 4265; September 2003]

4. An additional lot is not created.

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E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Lot Line Adjustment application to ensure compliance with the approval criteria.

1. The applicant of a lot line adjustment shall record a record of survey or replat with Washington County as required by Oregon Revised Statues Chapter 92. The record of survey or replat shall be subject to review by the City as part of the Lot Line Adjustment application, and shall not be subject further review under Section 40.45.15.6, Final Land Division.

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

Section 2: The Development Code, Ordinance No. 2050, Ordinance 4248, Chapter 90 – Definitions, will be amended to read as follows:

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Replat The act of platting the lots, parcels, tracts, and easements in a recorded subdivision or partition plat to achieve a reconfiguration of the existing subdivision or partition plat or to increase or decrease the number of lots in the subdivision.

*****

AGENDA BILL

Beaverton City Council
Beaverton, Oregon

SUBJECT: An Ordinance Amending Ordinance No. 4187, Figure III-1, the Comprehensive Plan Land Use Map and Ordinance No. 2050, the Zoning Map for Property Located in South Beaverton; CPA 2006-0004/ZMA 2006-0003

FOR AGENDA OF: 09/11/06 **BILL NO:** 06166

Mayor's Approval:

DEPARTMENT OF ORIGIN: CDD

DATE SUBMITTED: 08/22/06

CLEARANCES: City Attorney US
Planning Services HB

PROCEEDING: First Reading

EXHIBITS: Ordinance
Exhibit A – Map Exhibits A1 through A7
Exhibit B – Staff Report

BUDGET IMPACT

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

HISTORICAL PERSPECTIVE:

This ordinance is before the City Council to assign City Comprehensive Plan Land Use Map and Zoning designations for 107 properties, replacing the Washington County land use designations.

The Urban Planning Area Agreement (UPAA) is specific on the appropriate Land Use Map and Zoning Map designations for these parcels, thus no public hearing is required. Seven parcels are designated County R-6 (Residential – 6 units to the acre) and are proposed for City Neighborhood Residential – Standard Density land use and R-7 (Residential – minimum 7,000 square feet of land area per dwelling unit) zoning. One parcel is designated County R-5 and Institutional (Residential – 5 units to the acre) and is proposed for City Neighborhood Residential – Standard Density land use and R-7 (Residential – minimum 7,000 square feet of land area per dwelling unit) zoning. Fifty-three parcels are designated County R-5 (Residential – 5 units to the acre) and are proposed for City Neighborhood Residential – Standard Density land use and R-7 (Residential – minimum 7,000 square feet of land area per dwelling unit) zoning. Forty-one parcels are designated County R-9 (Residential – 9 units to the acre) and are proposed for City Neighborhood Residential – Standard Density land use and R-5 (Residential – minimum 5,000 square feet of land area per dwelling unit) zoning. Five parcels are designated County R-15 (Residential – 15 units to the acre) and are proposed for City Neighborhood Residential – Medium Density land use and R-2 (Residential – minimum 2,000 square feet of land area per dwelling unit) zoning. The City land use designations will take effect 30 days after Council approval and the Mayor's signature on this ordinance.

INFORMATION FOR CONSIDERATION:

This ordinance makes the appropriate changes to Ordinance No. 4187, Figure III-1, the Comprehensive Plan Land Use Map and Ordinance No. 2050, the Zoning Map.

RECOMMENDED ACTION:

First Reading

ORDINANCE NO. 4406

AN ORDINANCE AMENDING ORDINANCE NO. 4187, FIGURE III-1, THE COMPREHENSIVE PLAN LAND USE MAP AND ORDINANCE NO. 2050, THE ZONING MAP FOR PROPERTIES LOCATED IN SOUTH BEAVERTON; CPA2006-0004/ZMA2006-0003

WHEREAS, These properties annexed to the City of Beaverton through Ordinance 4342 in April 2005, Ordinance 4355 in July 2005, Ordinance 4378 in February 2006, and Ordinance 4391 in June 2006; and

WHEREAS, The properties are being redesignated in this ordinance from the County's land use designations to the closest corresponding City designations as specified by the Urban Planning Area Agreement (UPAA); and

WHEREAS, Since the UPAA is specific on the appropriate designations for these properties, this is not a discretionary land use decision and, therefore, no public hearing is required; and

WHEREAS, The Council adopts as to criteria applicable to this request and findings thereon the Community Development Department staff report by Senior Planner Barbara Fryer, dated August 22, 2006, attached hereto as Exhibit B; now, therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

Section 1. Ordinance No. 4187, the Comprehensive Plan Land Use Map, is amended to apply land use designations to properties, as listed in the staff report, on the City of Beaverton Comprehensive Plan Land Use Map, as shown on Exhibits "A1" through "A7" and in accordance with the UPAA.

Section 2. Ordinance No. 2050, the Zoning Map, is amended to apply zoning districts to the same properties in Section 1 on the City of Beaverton Zoning Map, as shown on Exhibits "A1" through "A7" and in accordance with the UPAA.

First reading this _____ day of _____, 2006.

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

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

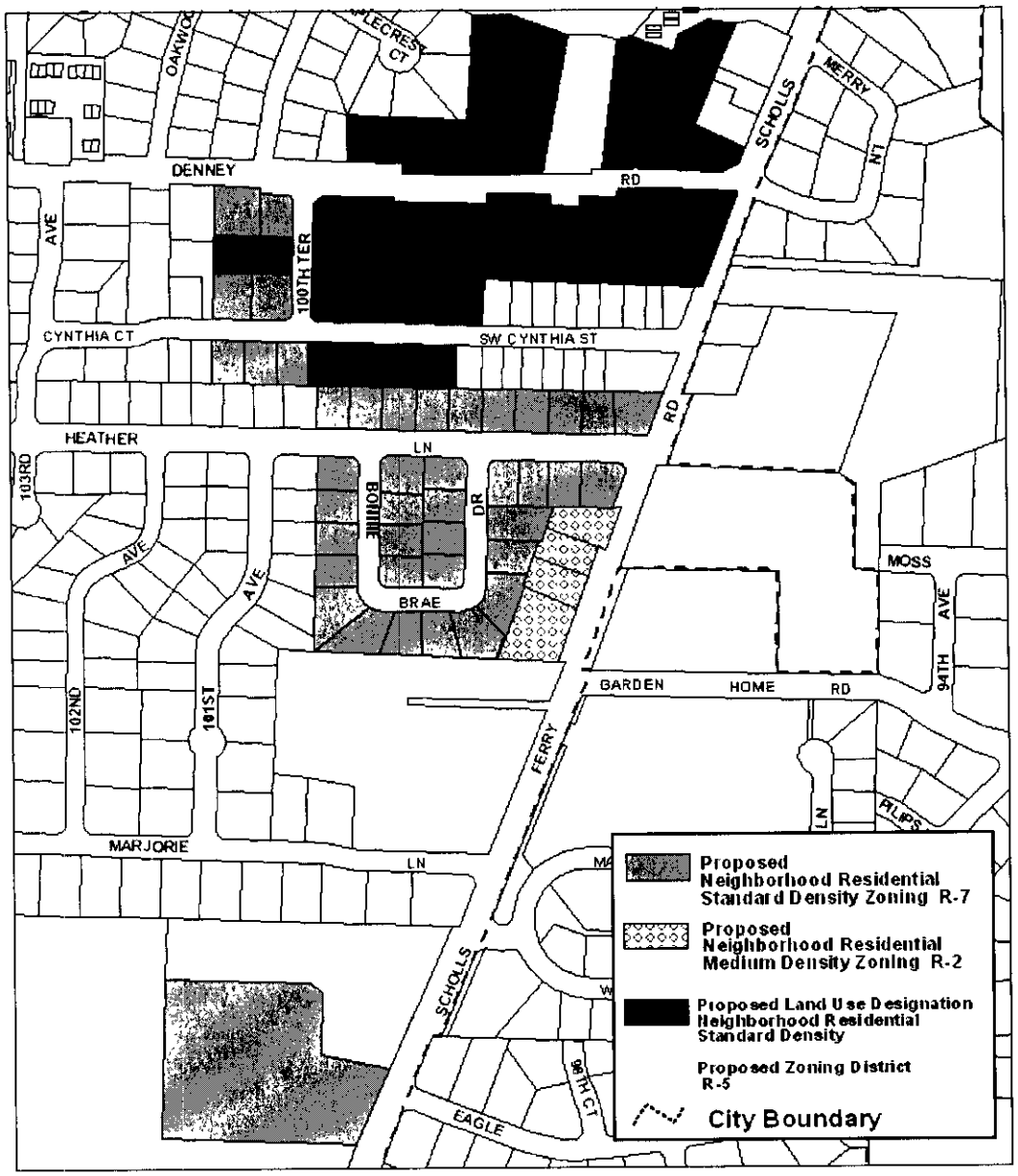
ATTEST: APPROVED:

_____ _____

SUE NELSON, City Recorder ROB DRAKE, Mayor

ORDINANCE NO. 4406

CPA / ZMA VICINITY MAP EXHIBIT "A1"



CITY OF BEAVERTON

SOUTH BEAVERTON COMPREHENSIVE PLAN
LAND USE MAP AMENDMENT AND ZONING MAP AMENDMENT

COMMUNITY DEVELOPMENT DEPARTMENT

Planning Services Division

2/8/06

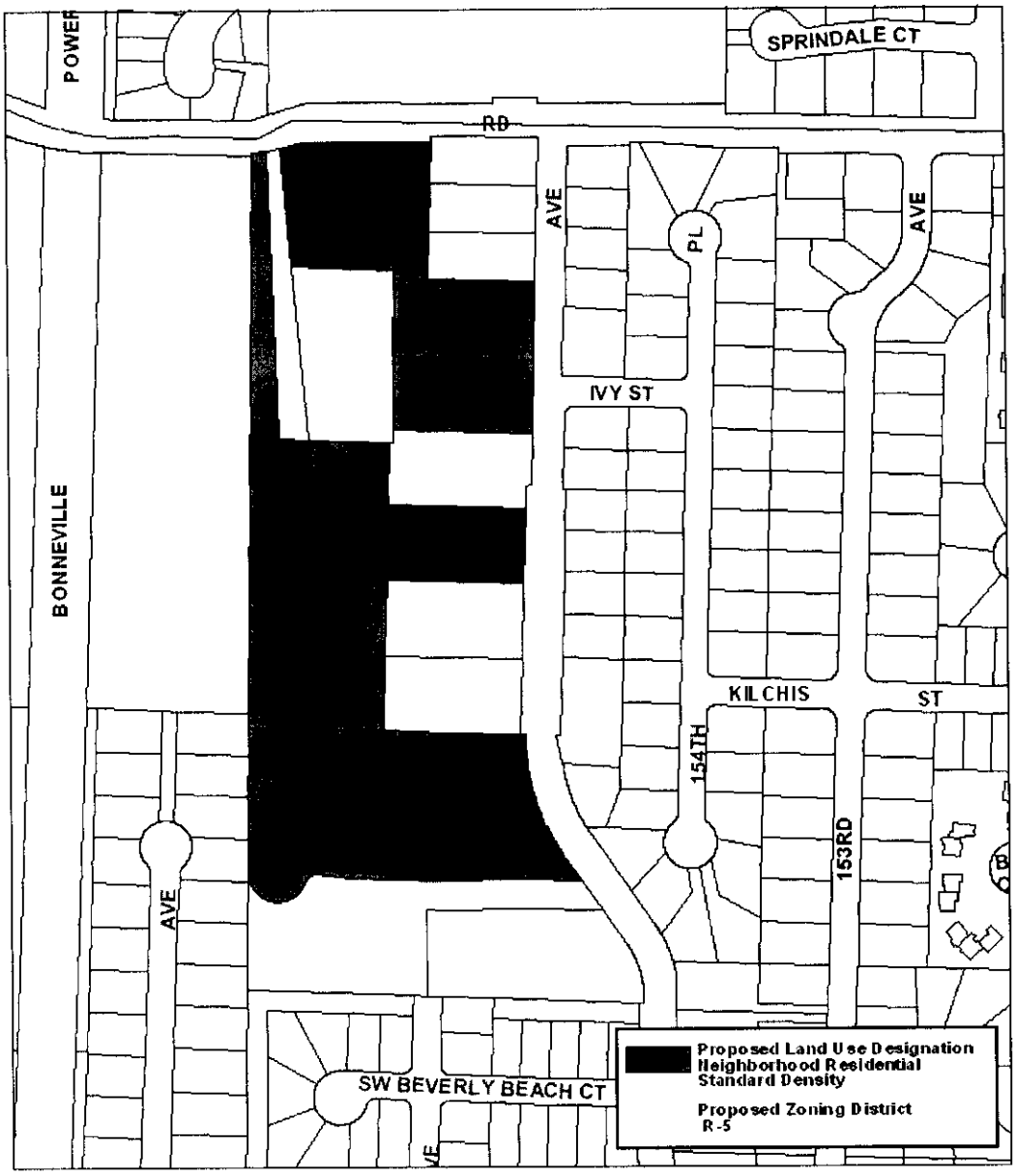
VARIOUS

N

CPA2006-0004
ZMA2006-0003

ORDINANCE NO. 4406

CPA / ZMA VICINITY MAP EXHIBIT "A2"



CITY OF BEAVERTON

SOUTH BEAVERTON COMPREHENSIVE PLAN
LAND USE MAP AMENDMENT AND ZONING MAP AMENDMENT

COMMUNITY DEVELOPMENT DEPARTMENT

Planning Services Division

2/8/06

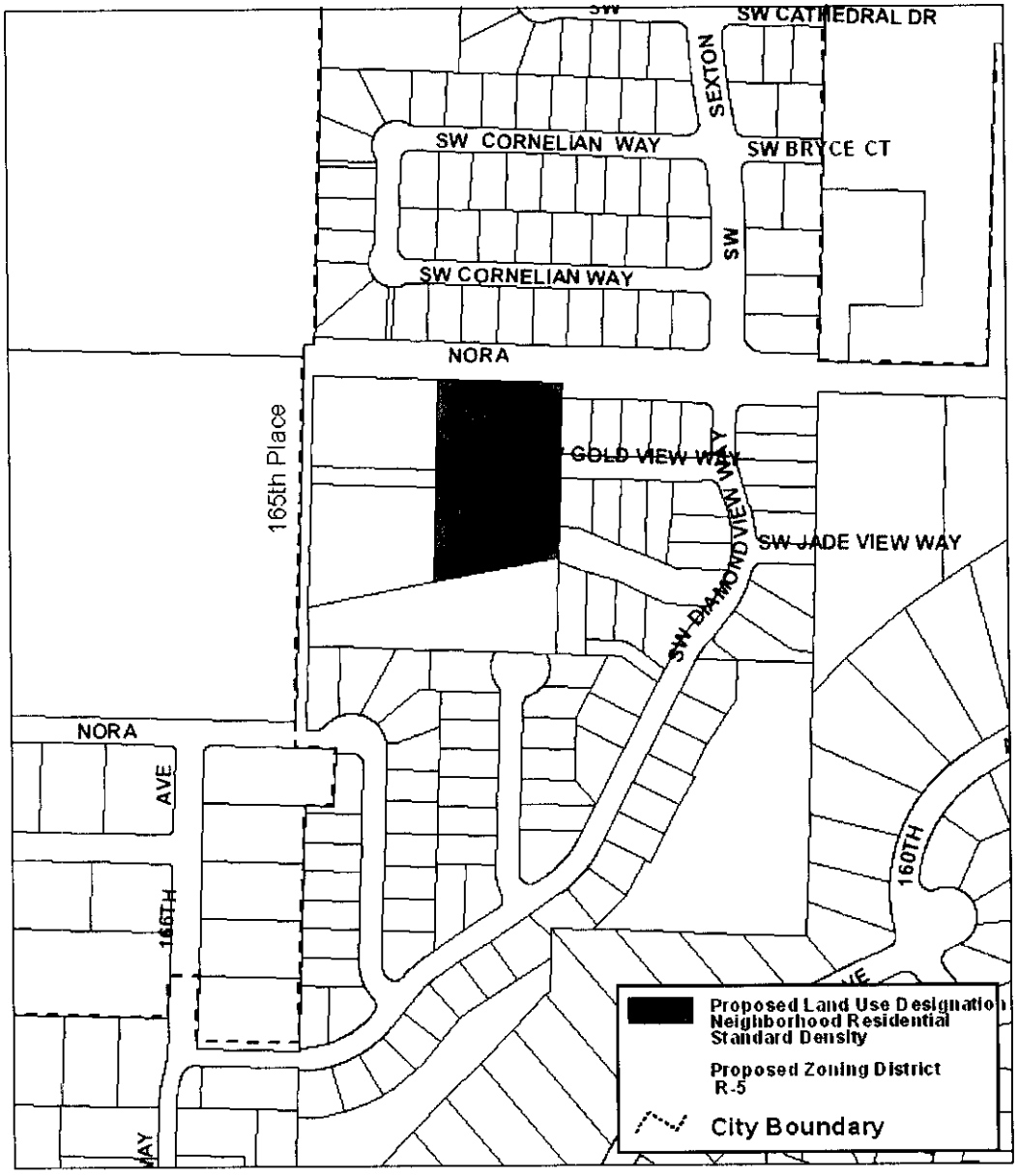
VARIOUS

N

CPA2006-0004
ZMA2006-0003

ORDINANCE NO. 4406

CPA / ZMA VICINITY MAP EXHIBIT "A 3"



CITY OF BEAVERTON

SOUTH BEAVERTON COMPREHENSIVE PLAN
LAND USE MAP AMENDMENT AND ZONING MAP AMENDMENT

COMMUNITY DEVELOPMENT DEPARTMENT

Planning Services Division

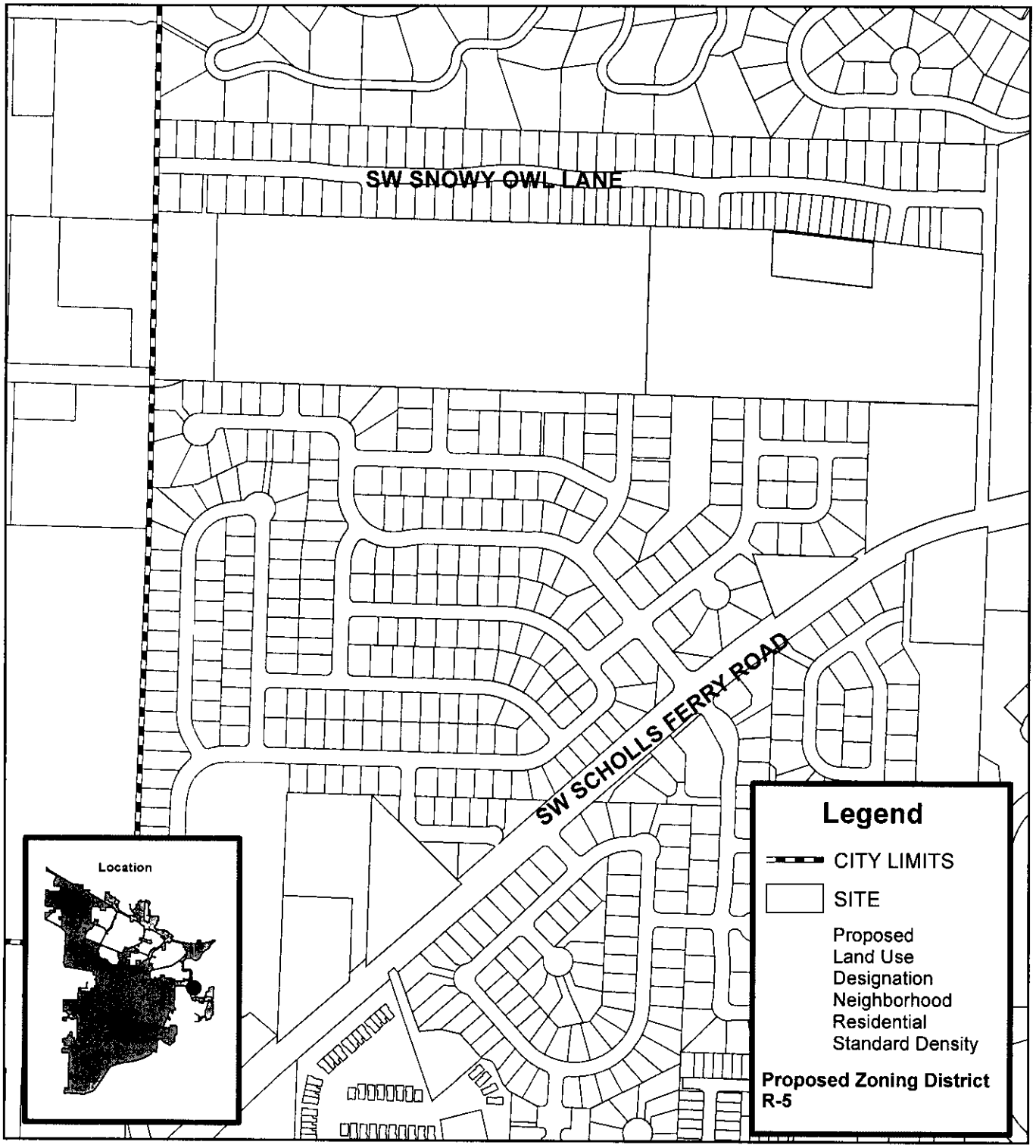
2/8/06

VARIOUS

N

CPA2006-0004
ZMA2006-0003

CPA / ZMA VICINITY MAP EXHIBIT "A 4"



CITY OF BEAVERTON

SOUTH BEAVERTON COMPREHENSIVE PLAN
LAND USE MAP AMENDMENT AND ZONING MAP AMENDMENT

COMMUNITY DEVELOPMENT DEPARTMENT
Planning Services division

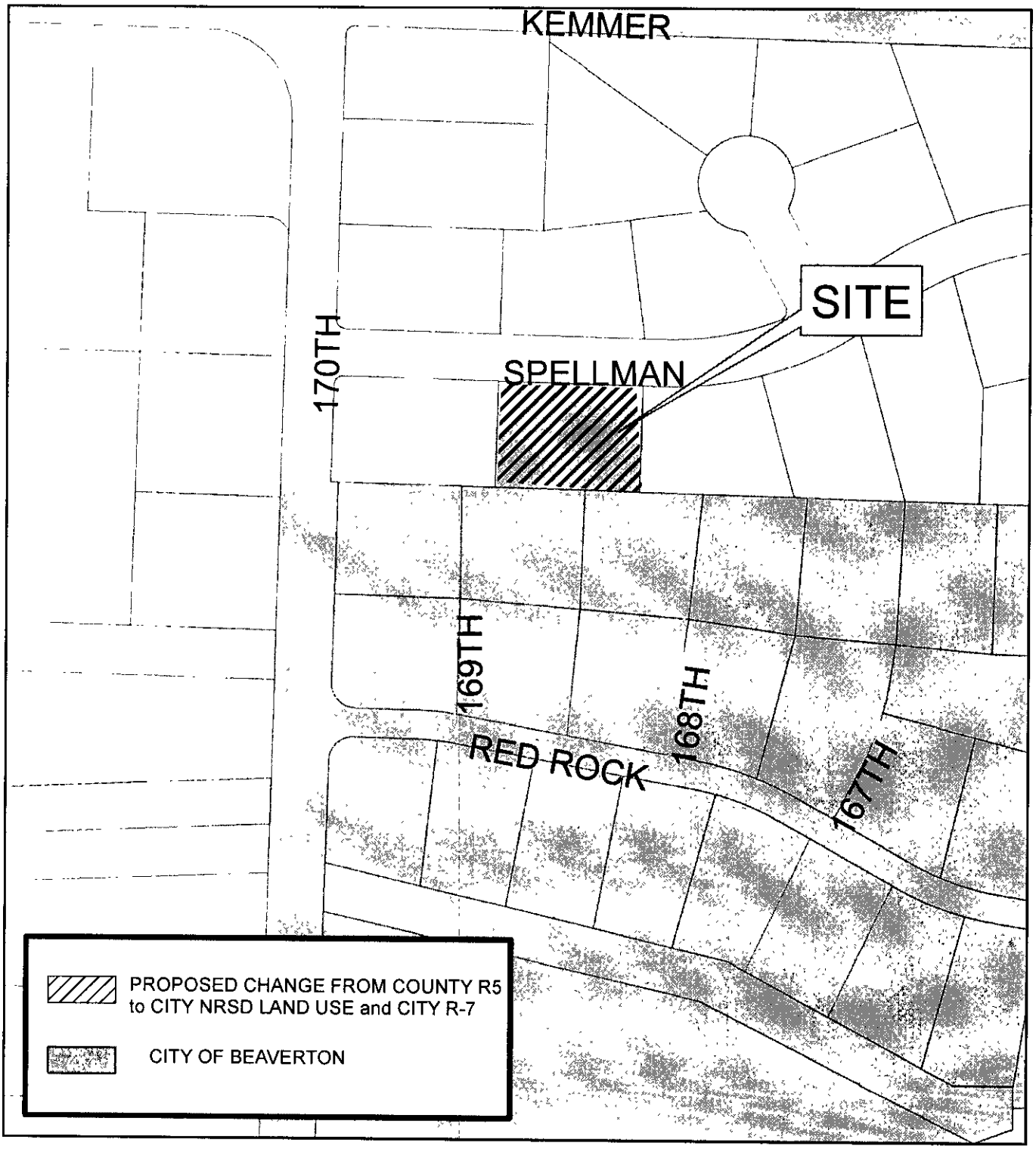
2/8/06

MAP NUMBER
VARIOUS

N

Application #
CPA2006-0004
ZMA2006-0003

CPA/ZMA Vicinity EXHIBIT "A 5"



City of Beaverton

SOUTH BEAVERTTON COMPREHEHENSIVE PLAN
LAND USE MAP AMENDMENT AND ZONING MAP AMENDMENT

COMMUNITY DEVELOPMENT DEPARTMENT
Planning Services Division

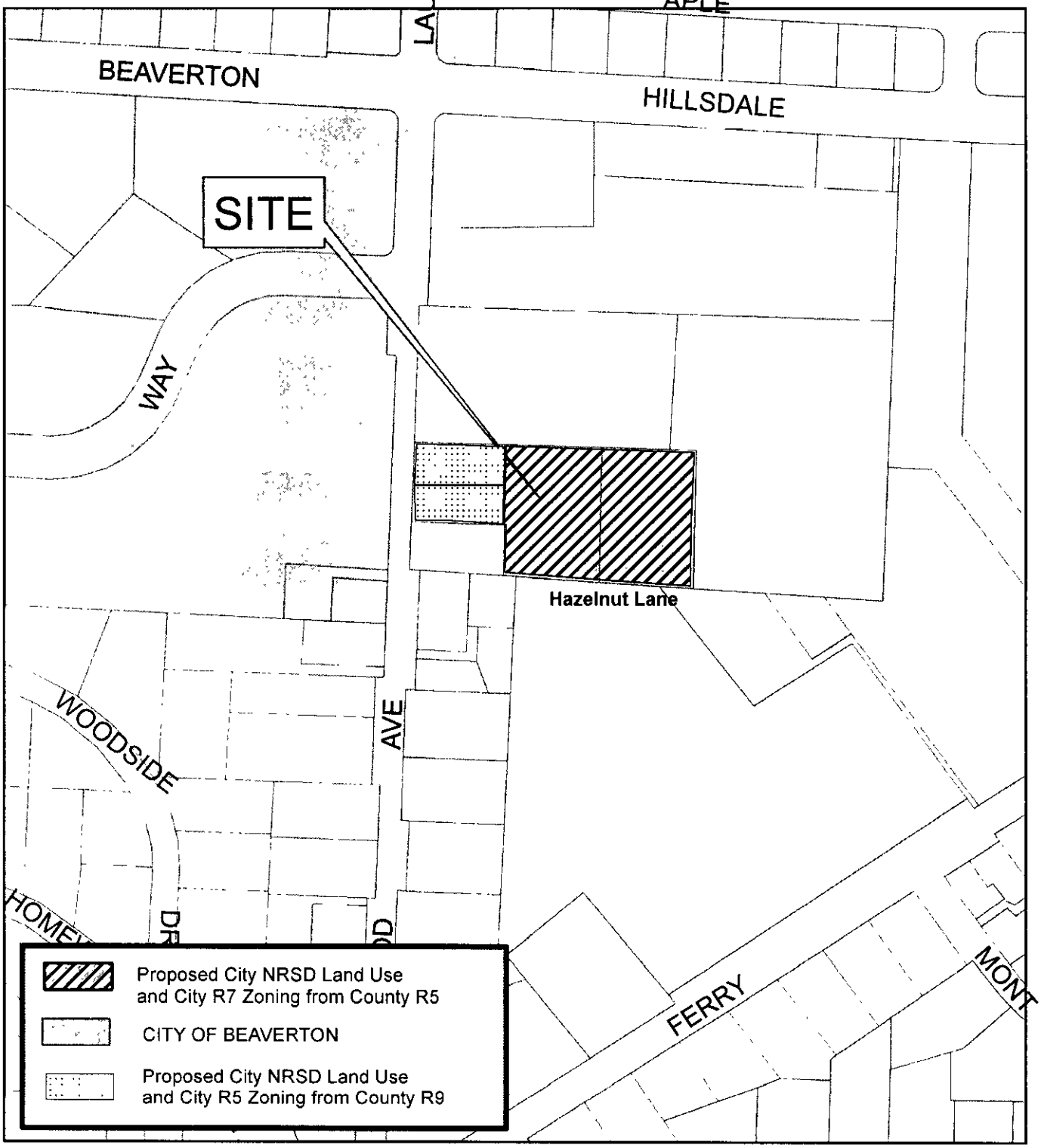
7/20/06

1S130DD01600

N

CPA2006-0004
ZMA2006-0003

CPA/ZMA Vicinity EXHIBIT "A 6"



City of Beaverton

SOUTH BEAVERTTON COMPREHEHENSIVE PLAN
LAND USE MAP AMENDMENT AND ZONING MAP AMENDMENT

7/20/06

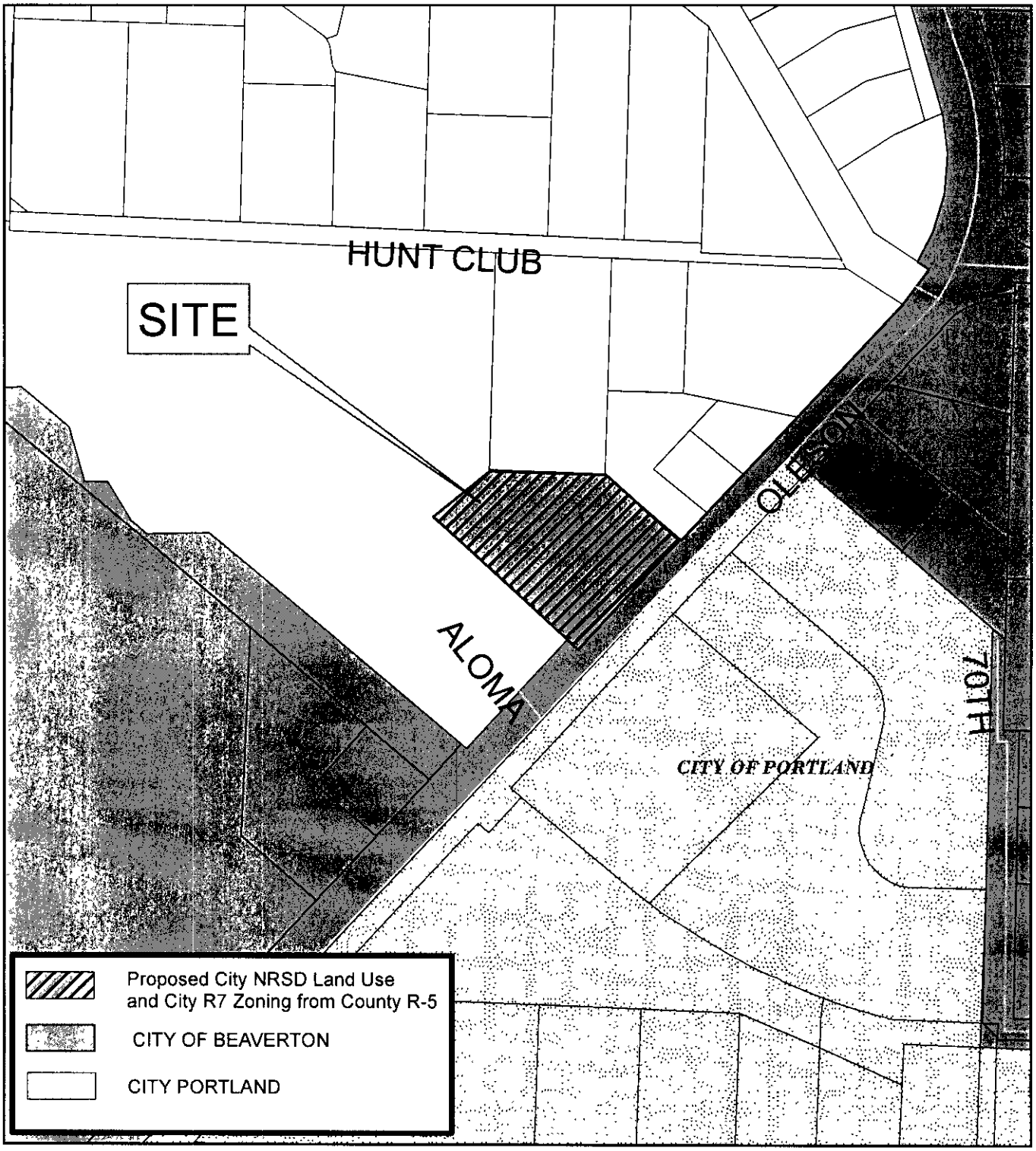
1S130DD01600

N

COMMUNITY DEVELOPMENT DEPARTMENT
Planning Services Division

CPA2006-0004
ZMA2006-0003

CPA/ZMA Vicinity Map EXHIBIT "A 7"



City of Beaverton

SOUTH BEAVERTTON COMPREHEHENSIVE PLAN
LAND USE MAP AMENDMENT AND ZONING MAP AMENDMENT

COMMUNITY DEVELOPMENT DEPARTMENT
Planning Services Division

7/20/06

1S130DD01600

N

CPA2006-0004
ZMA2006-0003

STAFF REPORT

TO: City Council

AGENDA DATE: **September 11, 2006** **REPORT DATE:** August 22, 2006

FROM: Barbara Fryer, AICP, Senior Planner
Community Development Department

SUBJECT: To assign City Land Use (CPA2006-0004) and zoning (ZMA2006-0003) designations for 107 parcels located in south Beaverton. One hundred and one annexed into the City through Ordinance 4342, effective on April 28, 2005. Four properties annexed through Ordinance 4391, effective on June 8, 2006. Ordinance 4355 annexed one property, effective on July 14, 2005. One property annexed through Ordinance 4378, effective on February 23, 2006. The property is described on the Detail Spreadsheet and map series (Maps 1 – 9). The spreadsheet map parcel number corresponds to the numbers on parcels on the maps.

ACTIONS: Amend the City's Comprehensive Plan Land Use Map to show Neighborhood Residential - Standard Density and Neighborhood Residential – Medium Density and the Zoning Map to show Residential – 7,000 square feet minimum land area per dwelling unit (R-7), Residential – 5,000 square feet minimum land area per dwelling unit (R-5), and Residential – 2,000 square feet minimum land area per dwelling unit (R-2), as specified in the Detail Spreadsheet and depicted on Exhibits A1 – A7.

APPLICANT: City of Beaverton

APPROVAL CRITERIA: Comprehensive Plan Section 1.3.1 and the Development Code Section 40.97.15.3.C

SUMMARY AND RECOMMENDATION

The property is designated Residential – 15 units to the acre (R-15), Residential – 9 units to the acre (R-9), Residential – 6 units to the acre (R-6), Residential – 5 units to the acre (R-5), and Institutional by Washington County. The City assigns Comprehensive Plan and Zoning designations to property being annexed into the City as prescribed by the Washington County – Beaverton Urban Planning Area Agreement (UPAA). The UPAA is specific about the appropriate City Land Use Map designation and zoning district as follows:

County	City Land Use Map Designation	City Zoning
R-15	Neighborhood Residential – Medium Density	Residential (R-2)
R-9	Neighborhood Residential – Standard Density	Residential (R-5)
R-6	Neighborhood Residential – Standard Density	Residential (R-5)
R-5	Neighborhood Residential – Standard Density	Residential (R-7)
Institutional	Shown on Plan	Most restrictive abutting zone

Pursuant to Section 1.3 of the Comprehensive Plan and Section 40.97.15.3.B. of the Development Code, no public hearing is required because the UPAA is specific as to the Comprehensive Plan Land Use Map and Zoning Map designations. This decision does not qualify as a land use decision under ORS 197.015(10)(b)(A) because it is made under land use standards, which do not require interpretation or the exercise of policy or legal judgment.

Staff recommends the City Council adopt an ordinance applying the Land Use Map and Zoning designations with the land use map designations and zoning as specified on the Detail Spreadsheet by individual tax map and lots and depicted on Exhibits A1 through A7 to the 107 properties, effective 30 days after the Mayor's signature.

AMENDMENT SUMMARY

County Designation	City Land Use Map Designation	City Zoning District	Number of Properties	Acreage Total
Residential 5 units per acre & Institutional	Neighborhood Residential Standard Density	Residential 7,000 ft² per dwelling unit	1	3.70
Residential 5 units per acre	Neighborhood Residential Standard Density	Residential 7,000 ft² per dwelling unit	46	11.93
Residential 6 units per acre	Neighborhood Residential Standard Density	Residential 7,000 ft² per dwelling unit	7	9.76
Residential 9 units per acre	Neighborhood Residential Standard Density	Residential 5,000 ft² per dwelling unit	49	49.74
Residential 15 units per acre	Neighborhood Residential Medium Density	Residential 2,000 ft² per dwelling unit	4	1.31
TOTAL			107	76.44

DETAIL SPREADSHEET

Map Parcel #	TAX ID	SITE ADDRESS	County	City Land Use Map Designation	City Zoning	Existing Use	ACRES
1	1S123BD01200	9845 SW DENNEY RD	R-9	NRSD	R-5	SFR	1.91
2	1S123BD03000	0	R-9	NRSD	R-5	VACANT	0.34
3	1S123BD01000	9745 SW DENNEY RD	R-9	NRSD	R-5	SFR	0.83
4	1S123BD02900	9727 SW DENNEY RD	R-9	NRSD	R-5	APTS	0.25
5	1S123BC00200	9975 SW DENNEY RD	R-9	NRSD	R-5	SFR	0.37
6	1S123BC00100	0	R-9	NRSD	R-5	SFR	0.48
7	1S123BD02800	9721 SW DENNEY RD	R-9	NRSD	R-5	APTS	0.20
8	1S123BD00800	9645 SW DENNEY RD	R-9	NRSD	R-5	SFR	0.25
9	1S123CB00101	10070 SW DENNEY RD	R-5	NRSD	R-7	SFR	0.29
10	1S123CA00104	9720 SW DENNEY RD	R-9	NRSD	R-5	SFR	0.25
11	1S123CA00100	9760 SW DENNEY RD	R-9	NRSD	R-5	SFR	0.40
12	1S123CA00101	9640 SW DENNEY RD	R-9	NRSD	R-5	APTS	0.57
13	1S123CB06700	7035 SW 100TH TERRACE	R-5	NRSD	R-7	SFR	0 17
14	1S123CA00301	9850 SW DENNEY RD	R-9	NRSD	R-5	SFR	0 36
15	1S123CA00300	9800 SW DENNEY RD	R-9	NRSD	R-5	SFR	0 32
16	1S123CA05800	9990 SW DENNEY RD	R-9	NRSD	R-5	SFR	0 24
17	1S123CA05700	7040 SW 100TH TE	R-9	NRSD	R-5	SFR	0.28
18	1S123CA06600	7051 SW 99TH PL	R-9	NRSD	R-5	SFR	0.17
19	1S123CA06700	7033 SW 99TH PL	R-9	NRSD	R-5	SFR	0.14
20	1S123CA06800	7030 SW 99TH PL	R-9	NRSD	R-5	SFR	0 24
21	1S123CA07300	9780 SW DENNEY RD	R-9	NRSD	R-5	SFR	0 11
22	1S123CA07400	9776 SW DENNEY RD	R-9	NRSD	R-5	SFR	0 17

Map Parcel #	TAX ID	SITE ADDRESS	County	City Land Use Map Designation	City Zoning	Existing Use	ACRES
23	1S123CB06800	7075 SW 100TH TERRACE	R-9	NRSD	R-5	DUPLEX	0.38
24	1S123CA05600	7078 SW 100TH TERRACE	R-9	NRSD	R-5	APTS	0 37
25	1S123CA07200	0	R-9	NRSD	R-5	Street ROW	0.00
26	1S123CA00102	7085 SW SCHOLLS FERRY	R-9	NRSD	R-5	SFR	0.37
27	1S123CA06500	7069 SW 99TH PL	R-9	NRSD	R-5	SFR	0 13
28	1S123CA06900	7062 SW 99TH PL	R-9	NRSD	R-5	SFR	0 13
29	1S123CB07000	10117 SW CYNTHIA ST	R-5	NRSD	R-7	DUPLEX	0 23
30	1S123CB06900	7115 SW 100TH TERRACE	R-5	NRSD	R-7	DUPLEX	0.23
31	1S123CA06400	7095 SW 99TH PL	R-9	NRSD	R-5	SFR	0.11
32	1S123CA07000	7084 SW 99TH PL	R-9	NRSD	R-5	SFR	0 12
33	1S123CA05500	7114 SW 100TH TERRACE	R-9	NRSD	R-5	DUPLEX	0 18
34	1S123CA05400	9973 SW CYNTHIA ST	R-9	NRSD	R-5	DUPLEX	0.18
35	1S123CA06300	7103 SW 99TH PL	R-9	NRSD	R-5	SFR	0.12
36	1S123CA07100	7108 SW 99TH PL	R-9	NRSD	R-5	SFR	0.13
37	1S123CB07100	10120 SW CYNTHIA ST	R-5	NRSD	R-7	SFR	0.17
38	1S123CB07200	10100 SW CYNTHIA ST	R-5	NRSD	R-7	SFR	0 17
39	1S123CB07300	10080 SW CYNTHIA ST	R-5	NRSD	R-7	SFR	0.17
40	1S123CA05200	9992 SW CYNTHIA ST	R-9	NRSD	R-5	SFR	0.28
41	1S123CA05300	9970 SW CYNTHIA ST	R-9	NRSD	R-5	SFR	0.19
42	1S123CA06200	9940 SW CYNTHIA ST	R-9	NRSD	R-5	SFR	0.14
43	1S123CA06100	9910 SW CYNTHIA ST	R-9	NRSD	R-5	SFR	0.14
44	1S123CA06000	9880 SW CYNTHIA ST	R-9	NRSD	R-5	SFR	0.13
45	1S123CA05900	9860 SW CYNTHIA ST	R-9	NRSD	R-5	SFR	0.13
46	1S123CA01500	10045 SW HEATHER LN	R-5	NRSD	R-7	SFR	0 18
47	1S123CA01400	10015 SW HEATHER LN	R-5	NRSD	R-7	SFR	0 18
48	1S123CA01300	9985 SW HEATHER LN	R-5	NRSD	R-7	SFR	0 18
49	1S123CA01200	9955 SW HEATHER LN	R-5	NRSD	R-7	SFR	0.18
50	1S123CA01100	9925 SW HEATHER LN	R-5	NRSD	R-7	SFR	0.18
51	1S123CA01090	9895 SW HEATHER LN	R-5	NRSD	R-7	SFR	0.18
52	1S123CA01080	9865 SW HEATHER LN	R-5	NRSD	R-7	SFR	0 17
53	1S123CA01000	9835 SW HEATHER LN	R-5	NRSD	R-7	SFR	0.17
54	1S123CA00900	9805 SW HEATHER LN	R-5	NRSD	R-7	SFR	0.17
55	1S123CA00800	7201 SW SCHOLLS FERRY	R-5	NRSD	R-7	SFR	0 21
56	1S123CA01800	10040 SW HEATHER LN	R-5	NRSD	R-7	SFR	0 18
57	1S123CA01900	9980 SW HEATHER LN	R-5	NRSD	R-7	SFR	0.18
58	1S123CA02000	9940 SW HEATHER LN	R-5	NRSD	R-7	SFR	0 18

Map Parcel #	TAX ID	SITE ADDRESS	County	City Land Use Map Designation	City Zoning	Existing Use	ACRES
59	1S123CA02900	9850 SW BONNIE BRAE	R-5	NRSD	R-7	SFR	0.19
60	1S123CA02901	9860 SW HEATHER LN	R-5	NRSD	R-7	SFR	0.19
61	1S123CA03000	9840 SW HEATHER LN	R-5	NRSD	R-7	SFR	0.19
62	1S123CA03100	9770 SW HEATHER LN	R-5	NRSD	R-7	SFR	0.19
63	1S123CB04600	10020 SW BONNIE BRAE	R-5	NRSD	R-7	SFR	0.17
64	1S123CA02100	9865 SW BONNIE BRAE	R-5	NRSD	R-7	SFR	0.17
65	1S123CB05200	10015 SW BONNIE BRAE	R-5	NRSD	R-7	SFR	0.17
66	1S123CA02800	9870 SW BONNIE BRAE	R-5	NRSD	R-7	SFR	0 28
67	1S123CA03200	7325 SW SCHOLLS FERRY	R-15	NRMD	R-2	SFR	0 20
68	1S123CB04700	10010 SW BONNIE BRAE	R-5	NRSD	R-7	SFR	0.17
69	1S123CA02200	9885 SW BONNIE BRAE	R-5	NRSD	R-7	SFR	0.17
70	1S123CB05300	10005 SW BONNIE BRAE	R-5	NRSD	R-7	SFR	0.17
71	1S123CA03300	7315 SW SCHOLLS FERRY	R-15	NRMD	R-2	APTS	0.43
72	1S123CA02700	9890 SW BONNIE BRAE	R-5	NRSD	R-7	SFR	0.21
73	1S123CB04800	10000 SW BONNIE BRAE	R-5	NRSD	R-7	SFR	0.19
74	1S123CA02300	9955 SW BONNIE BRAE	R-5	NRSD	R-7	SFR	0.18
75	1S123CB05400	9985 SW BONNIE BRAE	R-5	NRSD	R-7	SFR	0.17
76	1S123CA02600	9910 SW BONNIE BRAE	R-5	NRSD	R-7	SFR	0 23
77	1S123CB04900	9990 SW BONNIE BRAE	R-5	NRSD	R-7	SFR	0.33
78	1S123CA03501	7375 SW SCHOLLS FERRY	R-15	NRMD	R-2	APTS	0.45
79	1S123CA02500	9930 SW BONNIE BRAE	R-5	NRSD	R-7	SFR	0 19
80	1S123CB05000	9980 SW BONNIE BRAE	R-5	NRSD	R-7	SFR	0.30
81	1S123CB05100	9970 SW BONNIE BRAE	R-5	NRSD	R-7	SFR	0 20
82	1S123CA02400	9950 SW BONNIE BRAE	R-5	NRSD	R-7	SFR	0 21
83	1S123CC02900	7799 SW SCHOLLS FERRY	R-5 / INST	NRSD	R-7	SENIOR HOUSING	3.70
84	1S123CA03302	7345 SW SCHOLLS FERRY	R-15	NRMD	R-2	APTS	0.23

Map Parcel #	TAX ID	SITE ADDRESS	County	City Land Use Map Designation	City Zoning	Existing Use	ACRES
85	1S120BA01000	15760 SW DAVIS RD	R-6	NRSD	R-5	SFR	1.31
86	1S120BA01200	15790 SW DAVIS RD	R-6	NRSD	R-5	SFR	3.22
87	1S120BA01400	6325 SW 155TH AVE	R-6	NRSD	R-5	SFR	0 75
88	1S120BA01500	6385 SW 155TH AVE	R-6	NRSD	R-5	SFR	0 69
89	1S120BA01700	6475 SW 155TH AVE	R-6	NRSD	R-5	SFR	0.70
90	1S120BD00200	6615 SW 155TH AVE	R-6	NRSD	R-5	SFR	2 31
91	1S120BD00100	6601 SW 155TH AVE	R-6	NRSD	R-5	SFR	0 78
92	1S129CB00700	16340 SW NORA RD	R-9	NRSD	R-5	SFR	1 60
93	1S132CD08800	11555 SW 155TH TERRACE	R-9	NRSD	R-5	SFR	0.50
94	1S132CC11300	11680 SW EIDER AVE	R-9	NRSD	R-5	SFR	16.66
95	1S132CD09000	0	R-9	NRSD	R-5	VACANT	11.44
96	1S132CD08900	15740 SW DEERCREST LN	R-9	NRSD	R-5	SFR	1.02
97	1S132CD09100	0	R-9	NRSD	R-5	VACANT	3.08
98	2S105BA00500	15717 SCHOLLS FERRY	R-9	NRSD	R-5	SFR	0 78
99	2S105BB00200	16165 SW OLD SCHOLLS	R-9	NRSD	R-5	SFR	1.84
100	2S105BB03500	16283 SW OLD SCHOLLS	R-9	NRSD	R-5	SFR	1.71
101	1S123CA02600	0	R-5	NRSD	R-7	VACANT	0 01
102	1S130DD01600	16930 SW SPELLMAN	R-5	NRSD	R-7	SFR	0 4
103	1S124DB01900	7185 SW OLESON ROAD	R-5	NRSD	R-7	VACANT	0.95
104	1S113BC00600	8003 SW HAZELNUT LANE	R-5	NRSD	R-7	SFR	0.99
105	1S113BC00500	8011 SW HAZELNUT LANE	R-5	NRSD	R-7	SFR	1.0
106	1S113BC00402	4978 SW LAURELWOOD AVENUE	R-9	NRSD	R-5	SFR	0 27
107	1S113BC00400	4975 SW LAURELWOOD AVENUE	R-9	NRSD	R-5	SFR	0.27
	TOTAL						**76.44**

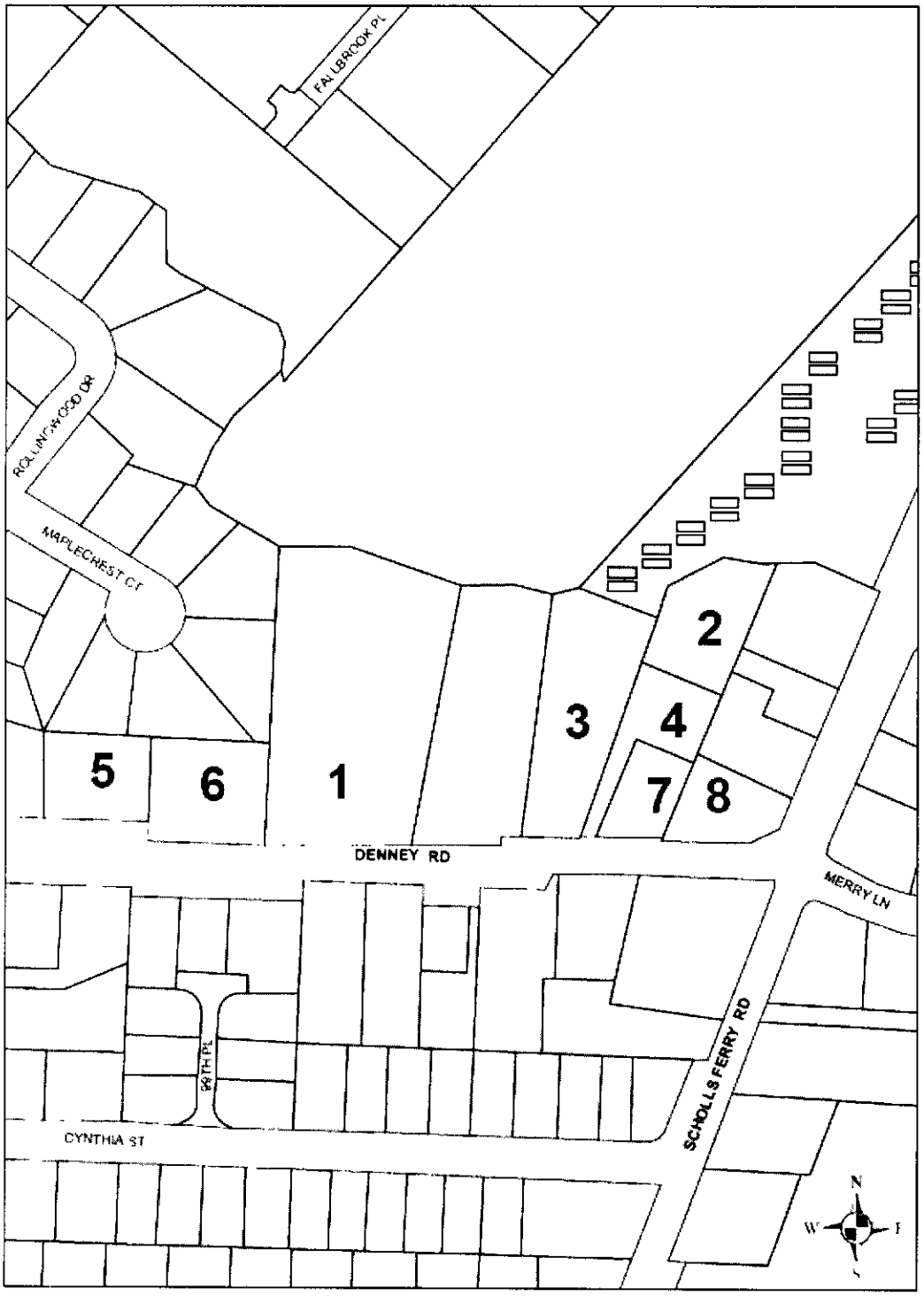
Map Parcel # corresponds to the number on the tax lot on the following six maps. Map parcels numbers 1 through 8 are on Map 1, numbers 9 through 82, 84 and 101 are on Map 2, map parcel number 83 is on Map 3, map parcel numbers 85 through 91 are on Map 4, map parcel number 92 is on Map 5, map parcel numbers 93 through 100 are on Map 6, map parcel number 102 is on Map 7, map parcel number 103 is on Map 8, and map parcel numbers 104 -107 are on Map 9.

EXISTING CONDITIONS

The 107 parcels total approximately 76.44 acres and are addressed as shown on the Detail Spreadsheet. Existing uses on the properties are shown on the Detail Spreadsheet.

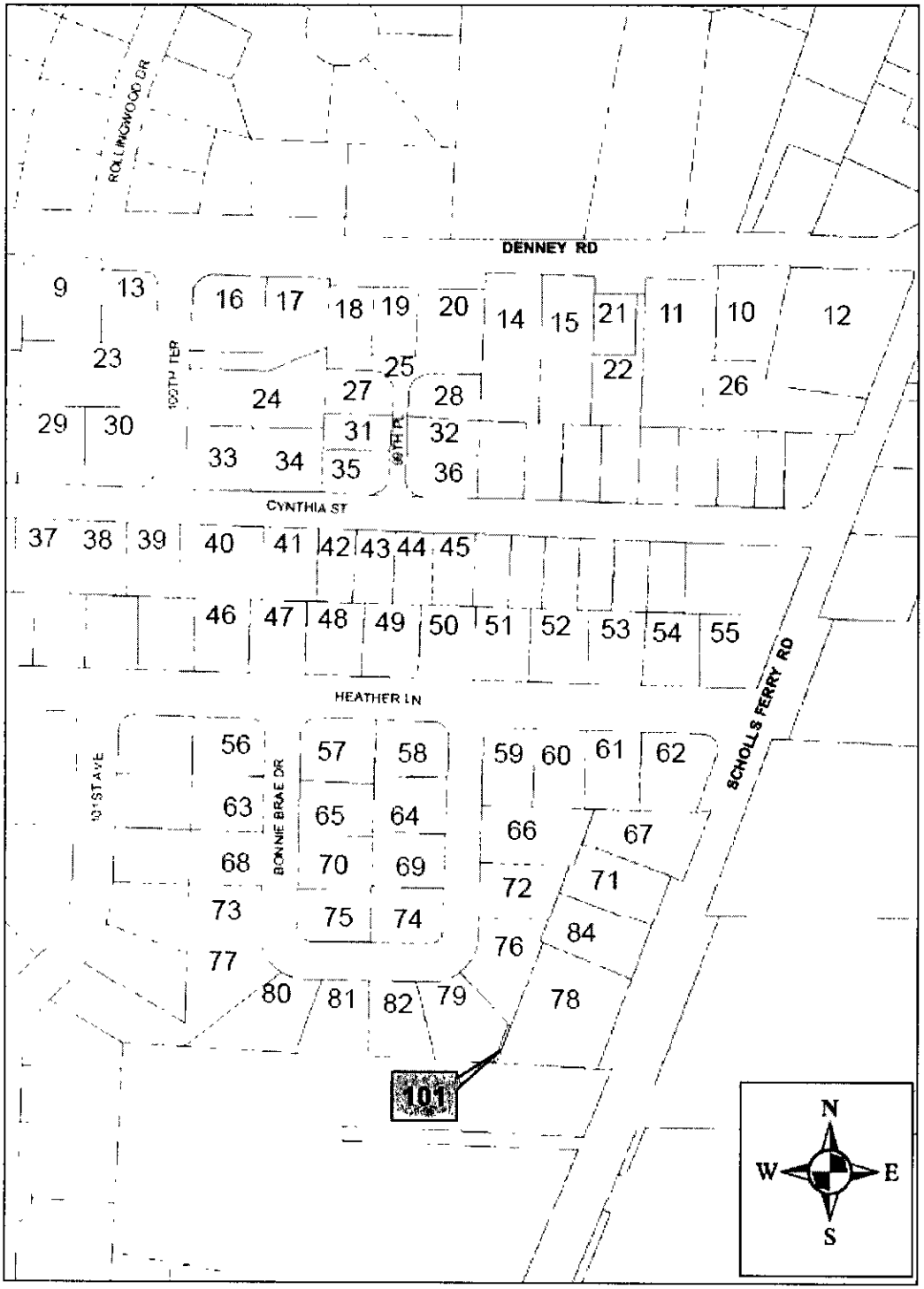
CPA2006-0004/ZMA2006-0003

MAP 1 OF 9



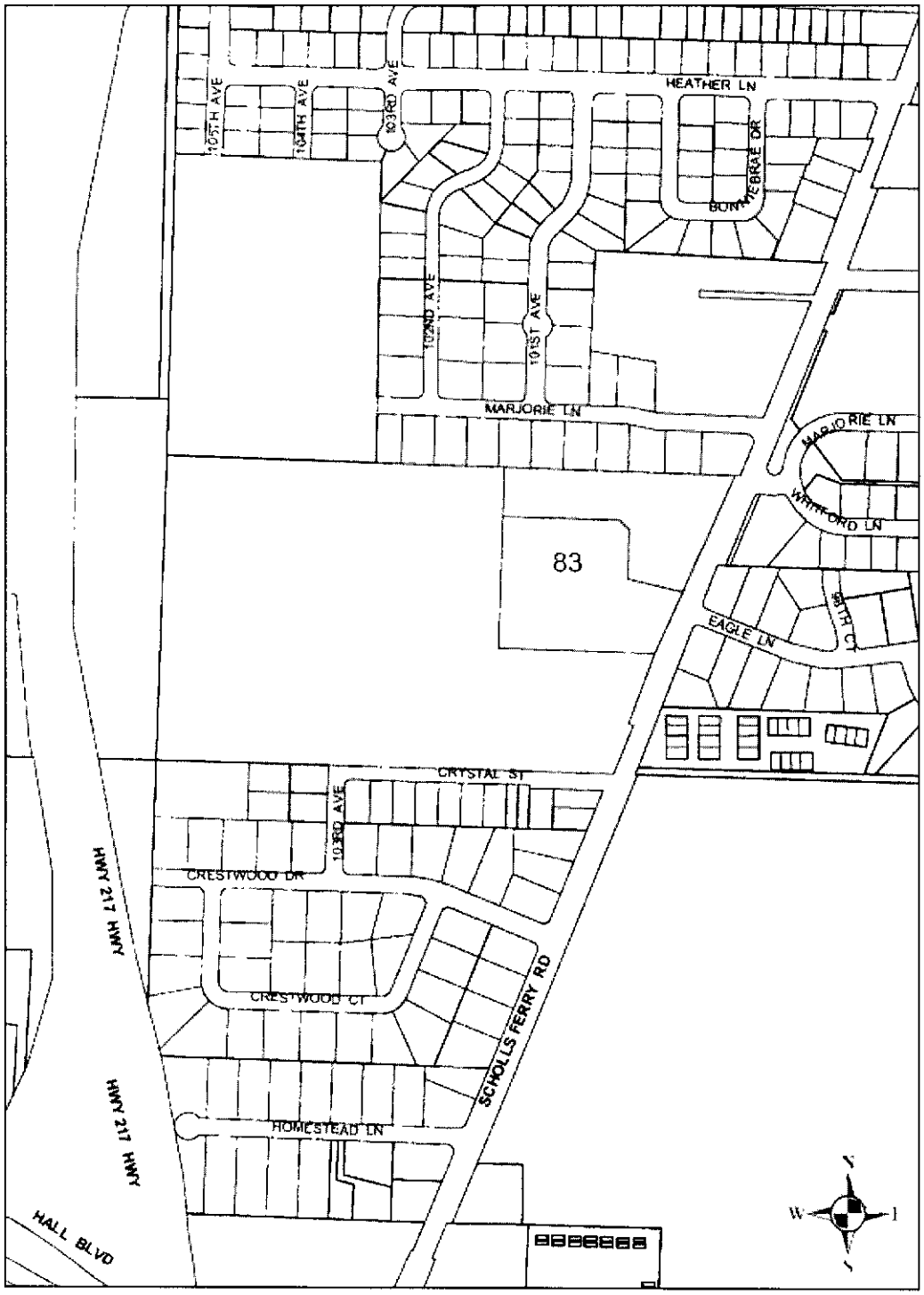
CPA2006-0004/ZMA2006-0003

MAP 2 OF 9



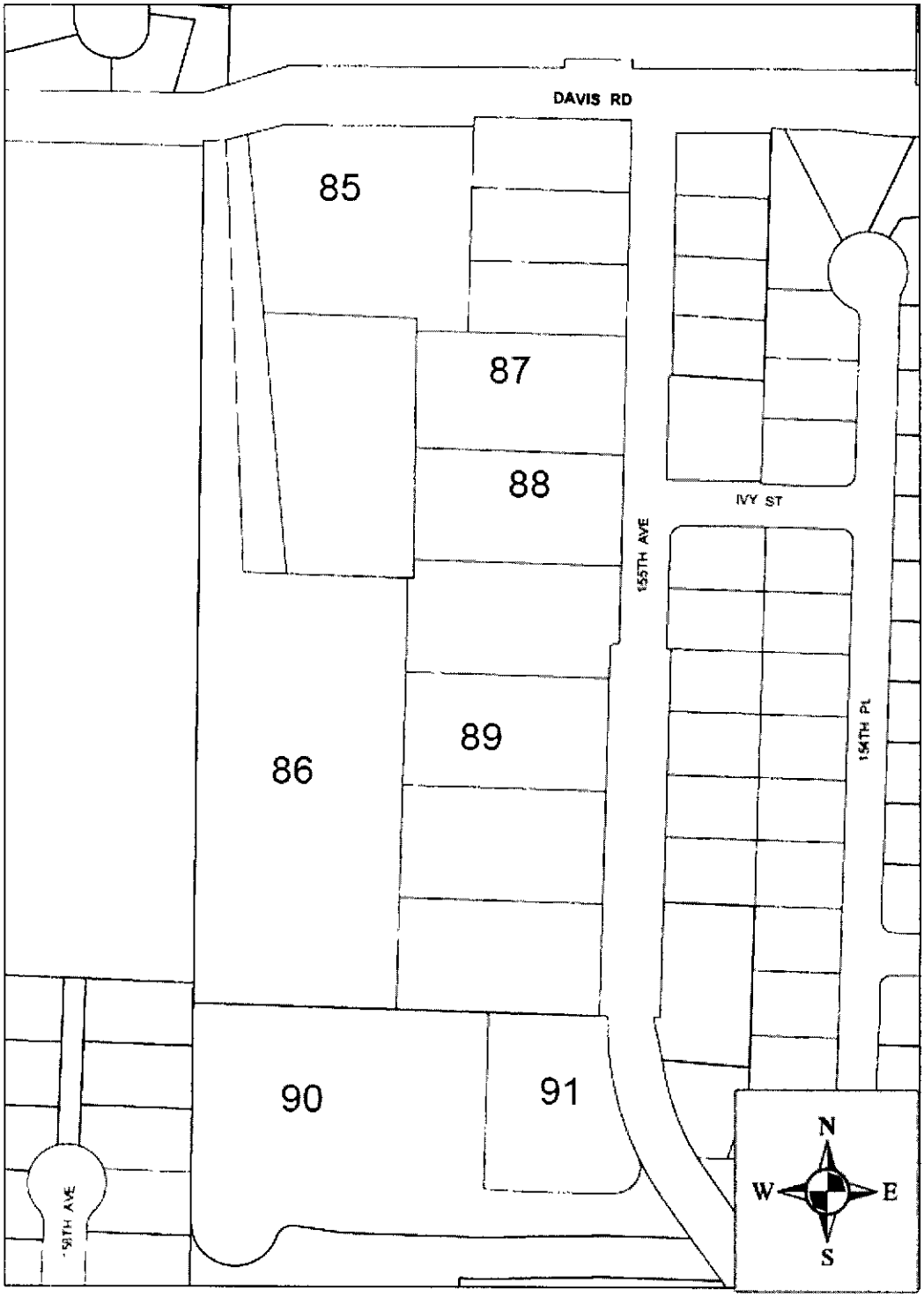
CPA2006-0004/ZMA2006-0003

MAP 3 OF 9



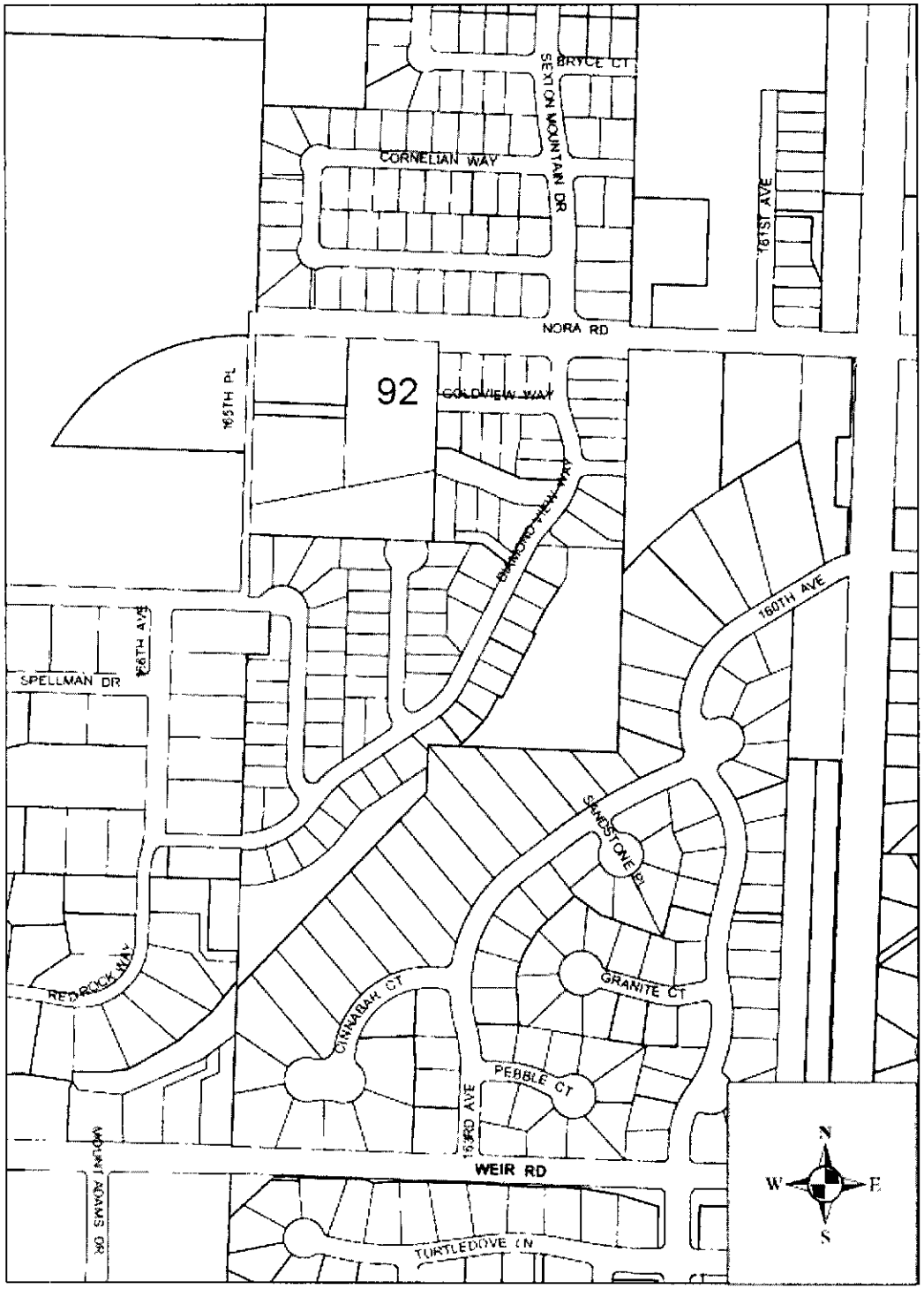
CPA2006-0004/ZMA2006-0003

MAP 4 OF 9



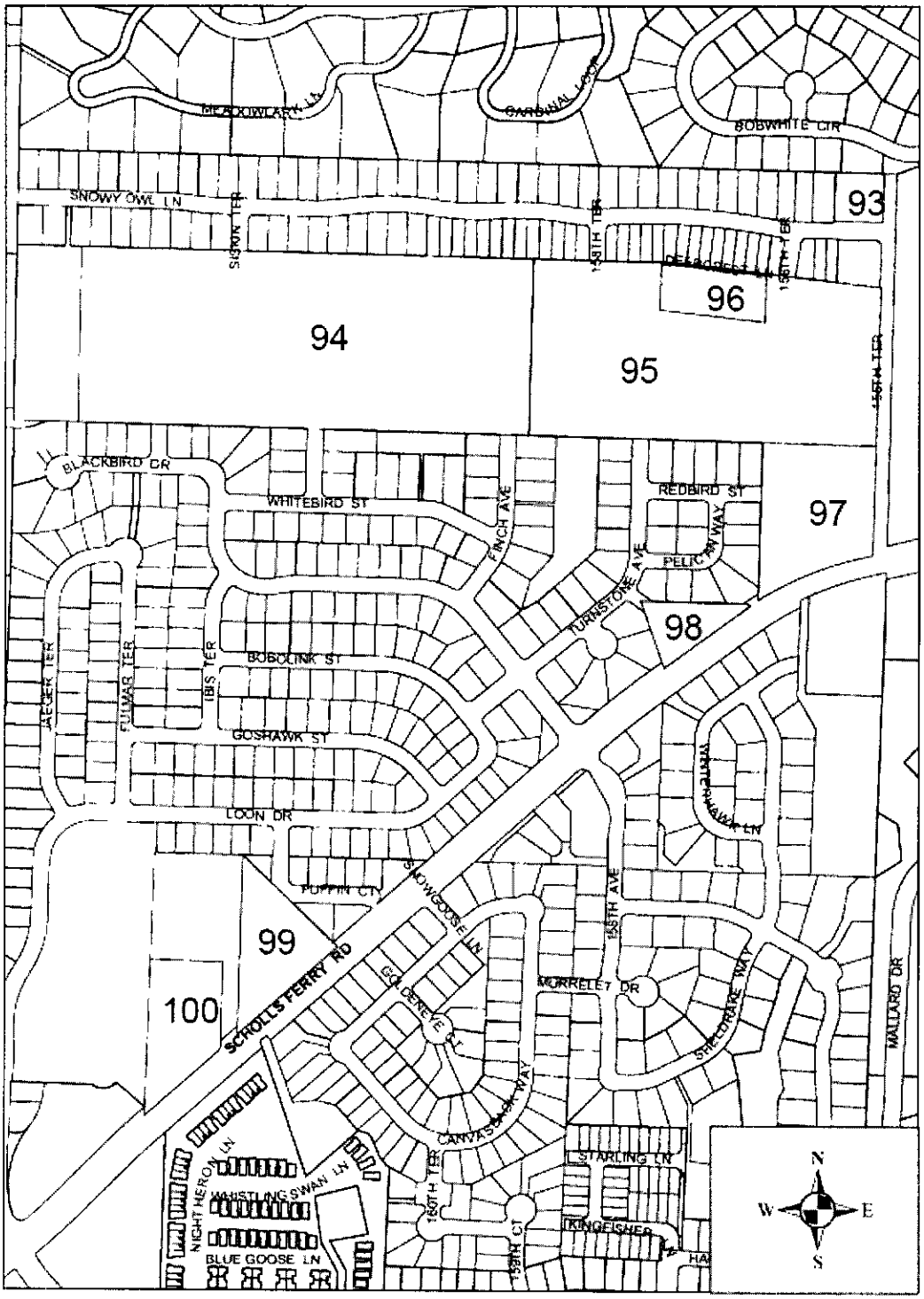
CPA2006-0004/ZMA2006-0003

MAP 5 OF 9



CPA2006-0004/ZMA2006-0003

MAP 6 OF 9

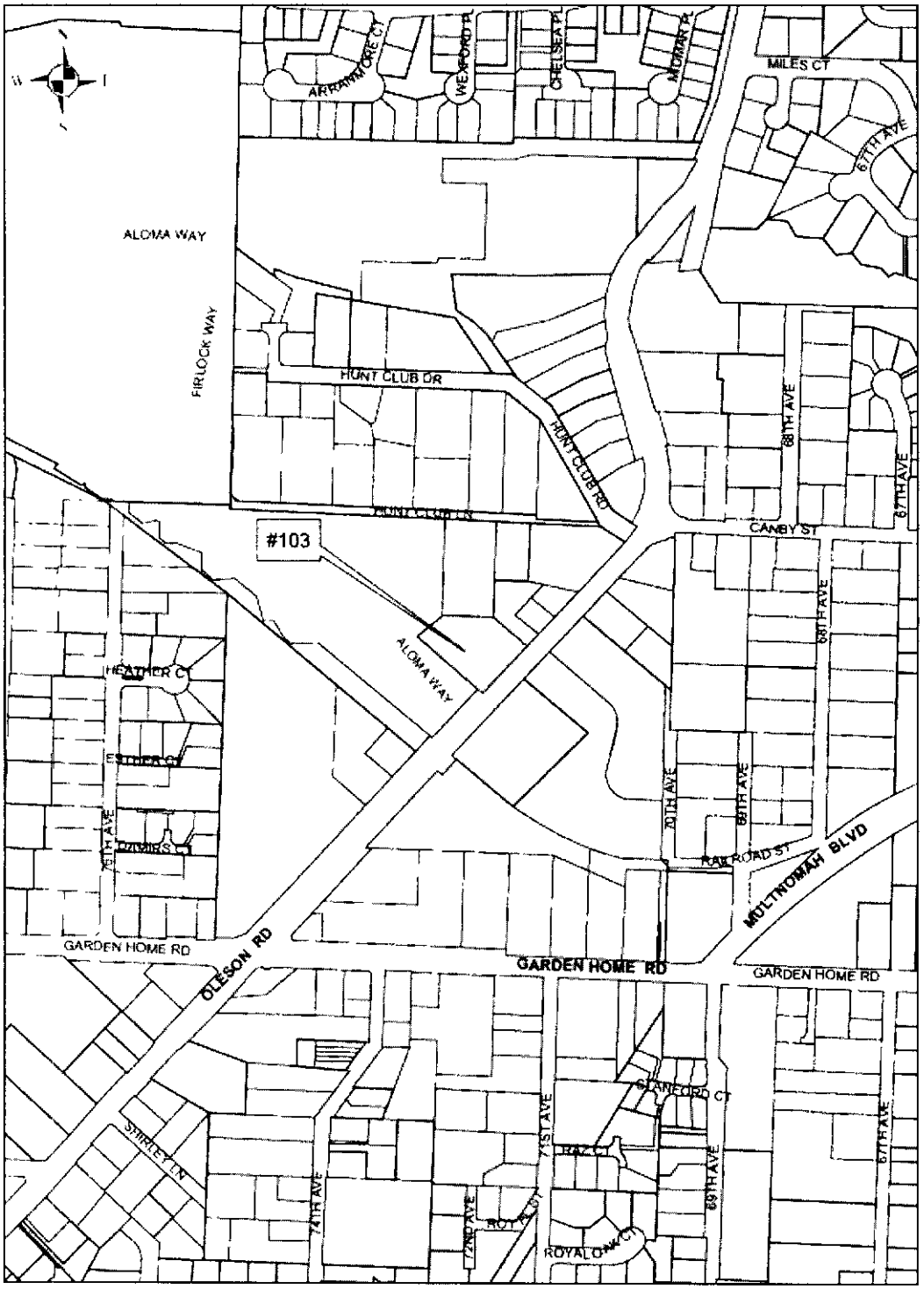


CPA2006-0004/ZMA2006-0003

MAP 7 of 9

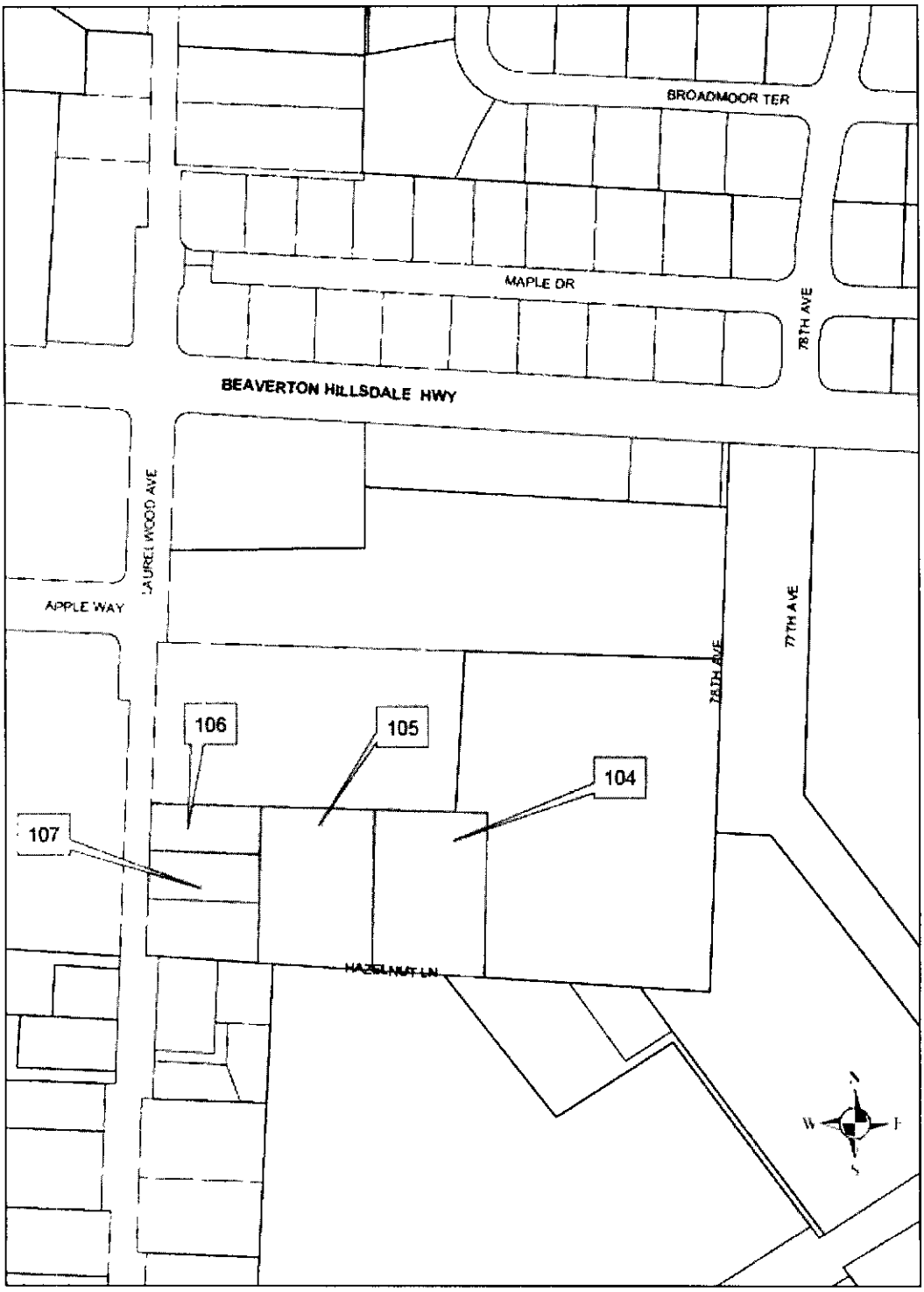
CPA2006-0004/ZMA2006-0003

MAP 8 OF 9



CPA2006-0004/ZMA2006-0003

MAP 9 OF 9



COMPREHENSIVE PLANNING AND ZONING

Raleigh Hills – Garden Home Community Plan

Properties depicted on Maps 1, 2, 3, 8, and 9 are located in Washington County's Raleigh Hills-Garden Home Community Plan Area.

Map 1

Properties identified on Map 1 (#s 1 – 8) are designated as County Residential – 9 units to the acre (R-9). The UPAA is specific that the appropriate City Comprehensive Plan Land Use designation is Neighborhood Residential - Standard Density and the appropriate Zoning District is Urban Standard Density Residential (R-5), which requires 5,000 square feet of parcel area per dwelling unit.

Map 2

Properties designated as numbers 10-12, 14-28, 31-36, and 40-45 on Map 2 are assigned County Residential – 9 units to the acre (R-9). The Urban Planning Land Use designation is Neighborhood Residential - Standard Density and the appropriate Zoning District is Urban Standard Density Residential (R-5), which requires 5,000 square feet of parcel area per dwelling unit.

Map 2

Properties designated as numbers 9, 13, 29, 30, 37-39, 46-66, 68-70, 72-77, 79-82, and 101 on Map 2 are designated as County Residential – 5 units to the acre (R-5). The UPAA is specific that the appropriate City Comprehensive Plan Land Use designation is Neighborhood Residential - Standard Density and the appropriate Zoning District is Urban Standard Density Residential (R-7), which requires 7,000 square feet of parcel area per dwelling unit.

Map 2

Properties designated as numbers 67, 71, 78, and 84 on Map 2 are designated as County Residential – 15 units to the acre (R-15). The UPAA is specific that the appropriate City Comprehensive Plan Land Use designation is Neighborhood Residential - Medium Density and the appropriate Zoning District is Urban Medium Density Residential (R-2), which requires 2,000 square feet of parcel area per dwelling unit.

Map 3

Property designated as number 83 on Map 3 is designated as County Institutional and County Residential – 5 units to the acre (R-5). The UPAA is specific that the appropriate City Comprehensive Plan Land Use designation for Institutional is the most restrictive abutting designation, which is Neighborhood Residential - Standard Density, and zoning, Urban Standard Density Residential (R-7), which requires 7,000 square feet of parcel area per dwelling unit. The UPAA is specific that the appropriate City Comprehensive Plan Land Use designation for Residential – 5 units to the acre (R-5) is Neighborhood Residential – Standard Density and the appropriate Zoning District is Urban Standard Density Residential (R-7), which requires 7,000 square feet of parcel area per dwelling unit.

Map 8

Property designated as number 103 on Map 8 is designated as County Residential – 5 units to the acre (R-5). The UPAA is specific that the appropriate City Comprehensive Plan Land Use designation for Residential – 5 units to the acre (R-5) is Neighborhood Residential – Standard

Density and the appropriate Zoning District is Urban Standard Density Residential (R-7), which requires 7,000 square feet of parcel area per dwelling unit.

Map 9
Property designated as numbers 104 and 105 on Map 9 are designated as County Residential – 5 units to the acre (R-5). The UPAA is specific that the appropriate City Comprehensive Plan Land Use designation for Residential – 5 units to the acre (R-5) is Neighborhood Residential – Standard Density and the appropriate Zoning District is Urban Standard Density Residential (R-7), which requires 7,000 square feet of parcel area per dwelling unit.

Map 9
Property designated as numbers 106 and 107 on Map 9 are designated as County Residential – 9 units to the acre (R-9). The UPAA is specific that the appropriate City Comprehensive Plan Land Use designation for Residential – 9 units to the acre (R-9) is Neighborhood Residential – Standard Density and the appropriate Zoning District is Urban Standard Density Residential (R-5), which requires 5,000 square feet of parcel area per dwelling unit.

Special Policy II.A. of the UPAA states in part "...the COUNTY will advise the CITY of adopted policies which apply to the annexed areas and the CITY shall determine whether CITY adoption is appropriate and act accordingly." The County has not advised the City of adopted policies, which may apply to the annexed area. Staff identified policies, which may apply to the areas. The following includes the applicable policies and a staff recommendation on applicability to the particular properties.

Raleigh Hills-Garden Home Design Elements applicable to all sub areas are as follows:

1. *In the design of new development, floodplains, drainage hazard areas, streams and their tributaries, riparian zones and wooded areas, steep slopes, scenic features, and power line easements and rights-of-way shall be:*
    a. *Used to accent, define, or separate areas of differing or similar residential densities and differing planned land uses;*
    b. *Preserved and protected, consistent with the provisions of the Community Development Code, to enhance the economic, social, wildlife, open space, scenic, recreation qualities of the community; and*
    c. *Where appropriate, interconnected as part of a park and open space system.*
2. *Master Planning – Primary Use or Planned Development procedures and standards specified in the Community Development Code shall be required for development on land which includes a Significant Natural Resource, as a means of protecting the resource while accommodating new development. An exception to this requirement shall be allowed if all of the Significant Natural Resource site is retained as open space. Public dedication of this open space is not required, but is encouraged. A density transfer from the resource area to the buildable portion shall be allowed for any Significant Natural Resource site as specified in the Community Development Code.*
3. *Open space shall be used for a variety of recreational activities, the protection of wildlife habitats, education, scientific research, or aesthetic purposes, such as scenic views.*
4. *Trees located within a Significant Natural Resource site shall not be removed without a development permit for tree removal having first been obtained as provided for within the Community Development Code.*

5. *Fanno Creek flood plain and tributary drainage hazard areas, as well as Golf and Hall creeks, and tributaries, shall be left substantially in their natural condition. Individual property maintenance of privately owned stream channels shall be enforced. Alterations to stream channels shall be prohibited except as provided by the Community Development Code. Filling of a flood plain which results in a net decrease in water holding capacity shall be prohibited. Access shall be dedicated or public easement granted along waterways where appropriate.*

The cited Community Plan general design elements predominantly apply to the properties shown on Maps 1 and 2 of 9. Map 3 depicts a property fully developed without any of the characteristics of cited Design Elements 1 through 5.

Fanno Creek flows adjacent to the properties and the flood plain extends a considerable distance into many properties as shown in Exhibit A. The City and the County use the same FEMA floodplain and have similar cut and fill regulations. The notations in General Design Element 1 are predominantly goal statements guiding development in this area. The Beaverton Development Code contains similar aspirational statements.

Land within Significant Natural Resource Areas, as noted in General Design Element 2, are required to go through a County Primary Use or Planned Unit Development to transfer density to the non-resource part of the site. Similarly in the City, to decrease or average lot sizes or decrease the density on a site containing a resource, including an area required to be set aside under Clean Water Services (CWS) Design and Construction Standards (Standards), the developer must go through the Planned Unit Development Process. Alternately, the developer may apply for a flexible or zero setback, a minor or major adjustment or a variance to relieve some of the site development requirements. Applicants have the discretion to calculate minimum density based on gross or net acreage.

General Design Element 3 is an aspirational statement regarding open space, which is similar to those found in the Beaverton Development Code. The CWS Standards apply to the City of Beaverton and this area of Washington County. Vegetation, including trees, within the wetland area and up to 50 feet from the wetland is regulated through CWS Standards, notably similar to General Design Element 4. The City's floodplain regulations and CWS Standards regulate cut and fill in the floodplain, comparable to County General Design Element 5. CWS Standards and existing City standards provide comparable protection of these resources along Fanno Creek as the general design elements cited above. Thus, the general design elements are addressed through existing regulations.

Two properties adjacent to Fanno Creek are identified on the City's existing Local Wetland Inventory & Riparian Assessment as a Significant Wetland (Exhibit B). Development in the corridor will be subject to the same CWS Standards as would have been applied in the County. Therefore, no loss of protection would occur for the wetlands or trees in the riparian area.

The Community Plan indicates that the properties on Maps 1, 2, and 3 are in Sub area Design Element 11. Sub area 11 states:

1. *Development proposals in this sub area shall be reviewed especially for their effect on the separation of road functions in and around the sub area. In order to keep through traffic off of local streets, no additional roads shall be constructed connecting Denney Road and Heather Lane.*

City of Beaverton Comprehensive Plan Chapter 6 covers transportation issues for the City. A potential pedestrian connection is identified on the City's Transportation System Plan Connectivity Map (Figure 6.18); however, the notation indicates there are feasibility constraints. No additional roads are planned in the area described above on the City's Transportation System Plan.

Aloha – Reedville – Cooper Mountain Community Plan

Properties located on Maps 4, 5, 6, and 7 are located in Washington County's Aloha – Reedville – Cooper Mountain Community Plan Area.

Map 4

Properties identified on Map 4 (85 - 91) are designated as County Residential – 6 units to the acre (R-6). The UPAA is specific that the appropriate City Comprehensive Plan Land Use designation is Neighborhood Residential - Standard Density and the appropriate Zoning District is Urban Standard Density Residential (R-5), which requires 5,000 square feet of parcel area per dwelling unit.

Map 5

Property identified on Map 5 (92) is designated as County Residential – 9 units to the acre (R-9). The UPAA is specific that the appropriate City Comprehensive Plan Land Use designation is Neighborhood Residential - Standard Density and the appropriate Zoning District is Urban Standard Density Residential (R-5), which requires 5,000 square feet of parcel area per dwelling unit.

Map 6

Properties identified on Map 6 (93 - 100) are designated as County Residential – 9 units to the acre (R-9). The UPAA is specific that the appropriate City Comprehensive Plan Land Use designation is Neighborhood Residential - Standard Density and the appropriate Zoning District is Urban Standard Density Residential (R-5), which requires 5,000 square feet of parcel area per dwelling unit.

Map 7

One property designated as 102 on Map 7 is designated as County Residential – 5 units to the acre (R-5). The UPAA is specific that the appropriate City Comprehensive Plan Land Use designation for Residential – 5 units to the acre (R-5) is Neighborhood Residential – Standard Density and the appropriate Zoning District is Urban Standard Density Residential (R-7), which requires 7,000 square feet of parcel area per dwelling unit.

Special Policy II.A. of the UPAA states in part "...the COUNTY will advise the CITY of adopted policies which apply to the annexed areas and the CITY shall determine whether CITY adoption is appropriate and act accordingly." The County has not advised the City of adopted policies, which may apply to the annexed area. Staff identified policies, which may apply to the areas. The following includes the applicable policies and a staff recommendation on applicability to the particular properties.

Aloha-Reedville-Cooper Mountain Community Plan design elements pertinent to the proposed amendment areas include:

1. *In the design of new development, flood plains, drainage hazard areas, streams and their tributaries, riparian and wooded areas, steep slopes, scenic features, and power line easements and rights-of-way shall be:*
    a. *Used to accent, define, or separate areas of differing residential densities and differing planning land uses;*

b. *Preserved and protected to enhance the economic, social, wildlife, open space, scenic, recreation qualities of the community; and*

2. *Master Planning – Primary Use or Planned Development procedures and standards shall be required for development on land which includes a Significant Natural Resource as a means of protecting the resource while accommodating new development. A density transfer from the resource area to the buildable portion shall be allowed for any Significant Natural Resource site as specified in the Community Development Code.*
3. *Open space shall be utilized for park and recreation facilities or passive recreation and dedicated to the appropriate recreation service provider whenever feasible.*
6. *Trees located within a Significant Natural Resource area shall not be removed without a development permit for tree removal having first been obtained, as provided for within the Community Development Code. A permit shall not, however, be required for tree removal from power line rights-of-way, public parks and playgrounds, or mineral and aggregate sites.*

Properties 85, 86, and 90 are included in the County's Significant Natural and Cultural Resources map as Scenic features (Exhibit C). Property 92 is on the eastern edge of a Wildlife Habitat area on the County's Significant Natural and Cultural Resources map (Exhibit D). Properties 93 through 100 are in the Mineral/Aggregate District B on the County's Significant Natural and Cultural Resources map (Exhibit E).

Properties 85 through 100, and 102 on Maps 4 through 7 are within the Cooper Mountain Area of the Aloha-Reedville-Cooper Mountain Community Plan. Design element #3 for the Cooper Mountain Area applies to properties 85, 86, 87, and 90 on Map 4. Design Element #3 is as follows:

3. *The forested hill south of Davis Road between 170th and 155th Avenues is an outstanding scenic feature, as viewed from the surrounding area, and also offers outstanding views of the surrounding area from the power line right-of-way which traverses the top of the hill. To preserve the scenic attributes, the following shall apply to the area:*
   a. *Development of the area shall occur in a manner which preserves the forested appearance of the hill while allowing judicious cutting of trees and development where this appearance will not be significantly affected.*
   b. *Open space created in the forested area through the Master Planning Process should be contiguous; ...*

The following discussion (up to the last paragraph in this section) relates to properties 85, 86, 87, and 90 on the County's Significant Natural and Cultural Resources map and property 92 within the Wildlife Habitat area of the Significant Natural and Cultural Resources Map.

Land within Significant Natural Resource Areas, as noted in General Design Element 2, are required to go through a County Primary Use or Planned Unit Development to transfer density to the non-resource part of the site. Similarly in the City, to decrease or average lot sizes or decrease the density on a site, the developer must go through the Planned Unit Development Process. Alternately, the developer may apply for a flexible or zero setback, a minor or major adjustment or a variance to relieve some of the site development requirements. Applicants have the discretion to calculate minimum density based on gross or net acreage.

The City's tree protection regulations are in the Development Code. The degree of tree protection provided by the City's regulations depends on whether a property is identified on the City's

inventories of Significant Natural Resource Areas or Significant Groves. The City could amend one of these inventories to include the subject property, but to do so would require a public hearing for a quasi-judicial plan amendment, since discretion would be exercised in determining whether such a listing is appropriate. The property owners have not requested such a listing. Staff has examined the differences between County and City tree protection regulations and finds that the County's regulations for upland wildlife habitat areas and for the cited scenic area are similar to the City's regulations for "Community Trees." A community tree is defined in the Beaverton Development Code as:

> "*A healthy tree of at least ten inches (10") DBH located on developed, partially developed, or undeveloped land. Community Trees are not those trees identified as Significant, Historic, Landscape or Mitigation Trees, trees within a Grove or a Significant Natural Resource Area, or trees that bear edible fruits or nuts grown for human consumption.*"

Neither the County's Plan nor the City's Development Code has specific standards for mitigation of the removal of trees within a significant natural resource area. The City does not require mitigation for the removal of Community Trees. The County's Plan and Development Code have no minimum requirement for the percentage of trees in a wildlife habitat area that must be protected. The City does not require a minimum preservation of Community Trees. However, the City only allows the removal of Community Trees, which is necessitated by development or disease. The County does require that consideration be given to the protection of trees within a wildlife habitat area when the area is proposed for development, and the City requires that any development that would result in the removal of over four Community Trees must submit a Tree Plan Two application.

The County applies the following general criterion when determining whether to approve development in significant natural resource areas:

> "*For any proposed use in a Significant Natural Resource Area, there shall be a finding that the proposed use will not seriously interfere with the preservation of fish and wildlife areas and habitat identified in the Washington County Comprehensive Plan, or how the interference can be mitigated.*" (County Community Development Code Section 422-3.6)

In practice, the County usually requires protection of habitat areas near streams but allows development and tree removal in upland areas. City approval criteria for Tree Plan Two applications include the following criterion:

> "*If applicable, removal of any tree is necessary to accommodate physical development where no reasonable alternative exists.*" (Beaverton Development Code Section 40.90.15.2.C.5)

Based on the above comparisons, staff conclude that the County regulates the removal of trees in its designated wildlife habitat areas and the cited scenic feature area much the same as the City regulates removal of Community Trees, and that it would therefore be most appropriate to protect the trees on subject properties as Community Trees, which would not require amendment of the Comprehensive Plan to list them on the City's inventories of Significant Natural Resource Areas or Significant Groves.

Design elements for the Scholls Ferry Road Area include properties 93 through 100, the properties within the Mineral/Aggregate District B. The design elements identified for this area pertain to Progress Quarry as a mineral/aggregate extraction operation and the minimization of conflicts between that use and potential new uses within ½ mile of the quarry site. Since the quarry no longer extracts minerals/aggregate, the design elements of this area are inapplicable to the area proposed for amendment.

CRITERIA FOR APPROVAL

COMPREHENSIVE PLAN AMENDMENT CRITERIA

Comprehensive Plan Section 1.3.1 states: "Affirmative findings relative to all of the following criteria are the minimum required for a Plan Amendment." However, non-discretionary annexation related map amendments need not comply with Plan criteria because they are not land use decisions under Oregon Statutes and are those stipulated by Exhibit "B" of the UPAA.

Findings related to the Comprehensive Plan Amendment criteria are not necessary because this map amendment is a non-discretionary annexation-related map amendment that is not a land use decision.

ZONING MAP AMENDMENT CRITERIA

Adoption by the City Council of an amendment to the Zoning Map must be supported by findings of fact based on the evidence provided by the applicant demonstrating the criteria of the Development Code Section 40.97.15.3.C (Non-Discretionary Annexation Related Zoning Map Amendment - Approval Criteria) have been met. The City Council may adopt by reference facts, findings, reasons, and conclusions proposed by the City staff or others. Affirmative findings to the following criteria are the minimum requirements for Zone Map amendments.

40.97.15.3.C.1. ***The proposal satisfies the threshold requirements for a Non-Discretionary Annexation Related Zoning Map Amendment application.***

There are two threshold requirements with the first requiring that "The change of zoning to a city zoning designation be the result of annexation of land to the City."

Ordinance 4342 annexed 101 properties, Ordinance 4391 annexed four properties and Ordinances 4355 and 4378 annexed one property each. These properties are the subject of this zoning map amendment. Thus, the first threshold requirement has been met.

The second threshold requires that the UPAA be specific as to the City zoning designations to be applied and does not allow for discretion. The UPAA is specific for the proposed amendment:

- Washington County Residential – 5 units per acre (R-5) goes to City R-7, 7,000 square foot minimum land area per dwelling unit;
- Washington County Residential – 6 units to the acre (R-6) goes to City R-5, 5,000 square foot minimum of land area per dwelling unit (R-5);
- Washington County Residential – 9 units per acre (R-9) goes to City R-5, 5,000 square foot minimum land area per dwelling unit;

- Washington County Residential – 15 units per acre (R-15) goes to City R-2, 2,000 square foot minimum land area per dwelling unit.
- Washington County Institutional goes to the most restrictive abutting zone, in this case, City R-7, 7,000 square foot minimum land area per dwelling unit.

No discretion is required; therefore, this proposal meets the second threshold.

FINDING: Staff finds that the proposed request satisfies the threshold requirements for a Non-Discretionary Annexation Related Zoning Map Amendment application.

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

The City Council elected not to establish a fee for a Non-Discretionary Annexation Related Zoning Map Amendment application. No fee has been collected.

FINDING: Staff finds that this criterion is not applicable.

40.97.15.3.C.3. ***The proposed zoning designation is consistent with the Washington County - Beaverton UPAA.***

The UPAA is specific for the proposed amendment:

- Washington County Residential – 5 units per acre (R-5) goes to City R-7, 7,000 square foot minimum land area per dwelling unit;
- Washington County Residential – 6 units to the acre (R-6) goes to City R-5, 5,000 square foot minimum of land area per dwelling unit (R-5);
- Washington County Residential – 9 units per acre (R-9) goes to City R-5, 5,000 square foot minimum land area per dwelling unit;
- Washington County Residential – 15 units per acre (R-15) goes to City R-2, 2,000 square foot minimum land area per dwelling unit.
- Washington County Institutional goes to the most restrictive abutting zone, in this case, City R-7, 7,000 square foot minimum land area per dwelling unit.

No discretion is being exercised in assigning a zoning designation.

The UPAA requires the City to review the appropriate Community Plan and in this case it is the Raleigh Hills – Garden Home Community Plan and the Aloha-Reedville-Cooper Mountain Community Plan. The subject property is not in an Area of Special Concern in either Community Plan. The Raleigh Hills – Garden Home Community Plan identifies properties 1- 9, 13, 16 - 20, 24, 25, and 28 within the Fanno Creek floodplain. The Aloha – Reedville – Cooper Mountain Community Plan identifies properties 85 - 87 and 90 on the County's Significant Natural and Cultural Resources map as Scenic features due to tree cover. Property 92 is on the eastern edge of a wildlife habitat area. Properties 93 through 100 are in the Mineral/Aggregate district B. As noted earlier in this report, floodplain protection and mapping are equivalent in the City and County. Tree protection is addressed in the Development Code through the Community Trees section. Protection of these natural features will be addressed in the development review process. Properties 93 through 100 are regulated to minimize conflicts with the Progress Quarry. Since the quarry is no longer in operation, the need to minimize conflicts with mineral/aggregate extraction ceases to exist.

FINDING: ***Staff finds that the approval criterion is met since the proposed zoning designation is specified by the UPAA and is, therefore, consistent with the UPAA.***

40.97.15.3.C.4. ***Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.***

The City processes Land Use Map and Zoning Map Amendments (CPA/ZMA) for property being annexed into the City and there are no further City approvals related to this request other than City Council and Mayor's approvals of this CPA/ZMA. The property owners may, in the future, submit a request to the City for development of the properties, but that is not related to this request.

FINDING: ***Staff finds that there are no proposals related to this request that will require further City approvals and, therefore, no additional applications or documents are required.***

PROCESS

Submission Requirements: An application for a Non-Discretionary Annexation Related Comprehensive Plan Land Use Map and Zoning Map Amendment shall be made by the submittal of a valid annexation petition or an executed annexation agreement. A valid annexation has been approved under Ordinance 4342.

Public Notice: Section 1.3.4.3(c) of the Comprehensive Plan and Development Code Section 50.35.6 prescribes the notice to be provided for these types of applications.

Notice on non-discretionary annexation related CPA's must be provided not less than 20 calendar days prior to when the item first appears on the City Council's agenda.

1. Legal notice will be published in the Oregonian on August 17, 2006.
2. Notice will be mailed to the Sexton Mountain Neighborhood Association Committee, Reedville/Cooper Mountain/Aloha Citizen Participation Organization, Beaverton Neighborhood Office, and Chair of the Committee for Citizen Involvement (CCI) on or before August 23, 2006.
3. Notice will be mailed to the property owners by certified mail on or before August 23, 2006.

The City Council has not directed staff to provide additional notice for this amendment beyond the notices described above; however, notice and this staff report will be posted on the City of Beaverton's public Web site. The notice requirements for this CPA will be met.

Notice requirements for Non-Discretionary Annexation Related Zoning Map Amendment applications include three statements that must be cited in the Notice of Decision. They are as follows:

A. A statement that no discretion was exercised in the assignment of the zoning district designation and that the assigned zoning district designation is consistent with the Washington County – Beaverton Urban Planning Area Agreement.
B. A statement that the decision is final but may be appealed to a court of competent jurisdiction.

C. A statement that the complete case file is available for review. The statement shall list when and where the case file is available and the name and telephone number of the City representative to contract for further information about the case.

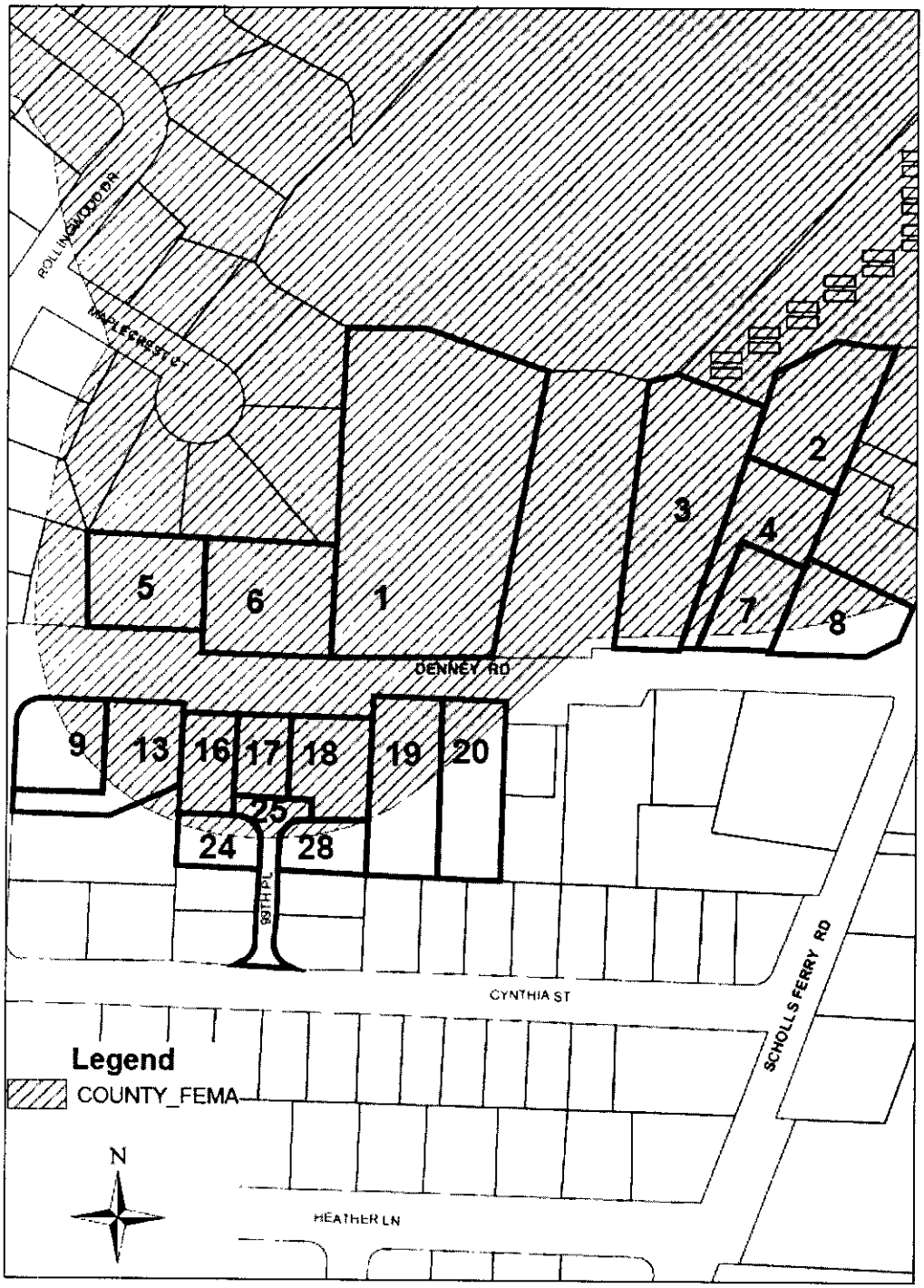
These requirements will be met upon adoption of an ordinance amending the Comprehensive Plan Land Use Map and the Zoning Map.

CONCLUSION

Based on the findings in this report, staff concludes amending the Land Use Map to show the City Land Use Designations and the Zoning Districts as specified in the Detail Spreadsheet on pages 2 through 6 of this staff report and on Exhibits A1 through A7, is appropriate.

Exhibit A:	Floodplain for Fanno Creek related to Maps 1 and 2 properties.
Exhibit B:	Local Wetland Inventory for Fanno Creek related to Map 1 properties.
Exhibit C:	Scenic resource designation for properties 85, 86, 87, and 90.
Exhibit D:	Wildlife habitat designation for property 92.
Exhibit E:	Mineral/Aggregate District B for properties 93 through 100.
Exhibit A1:	Maps 1, 2, and 3 composite Proposed Land Use Designation and Zoning District
Exhibit A2:	Map 4 Proposed Land Use Designation and Zoning District
Exhibit A3:	Map 5 Proposed Land Use Designation and Zoning District
Exhibit A4:	Map 6 Proposed Land Use Designation and Zoning District
Exhibit A5:	Map 7 Proposed Land Use Designation and Zoning District
Exhibit A6:	Map 8 Proposed Land Use Designation and Zoning District
Exhibit A7:	Map 9 Proposed Land Use Designation and Zoning District

CPA2006-0004/ZMA2006-0003 EXHIBIT A



CPA2006-0004/ZMA2006-0003

EXHIBIT B

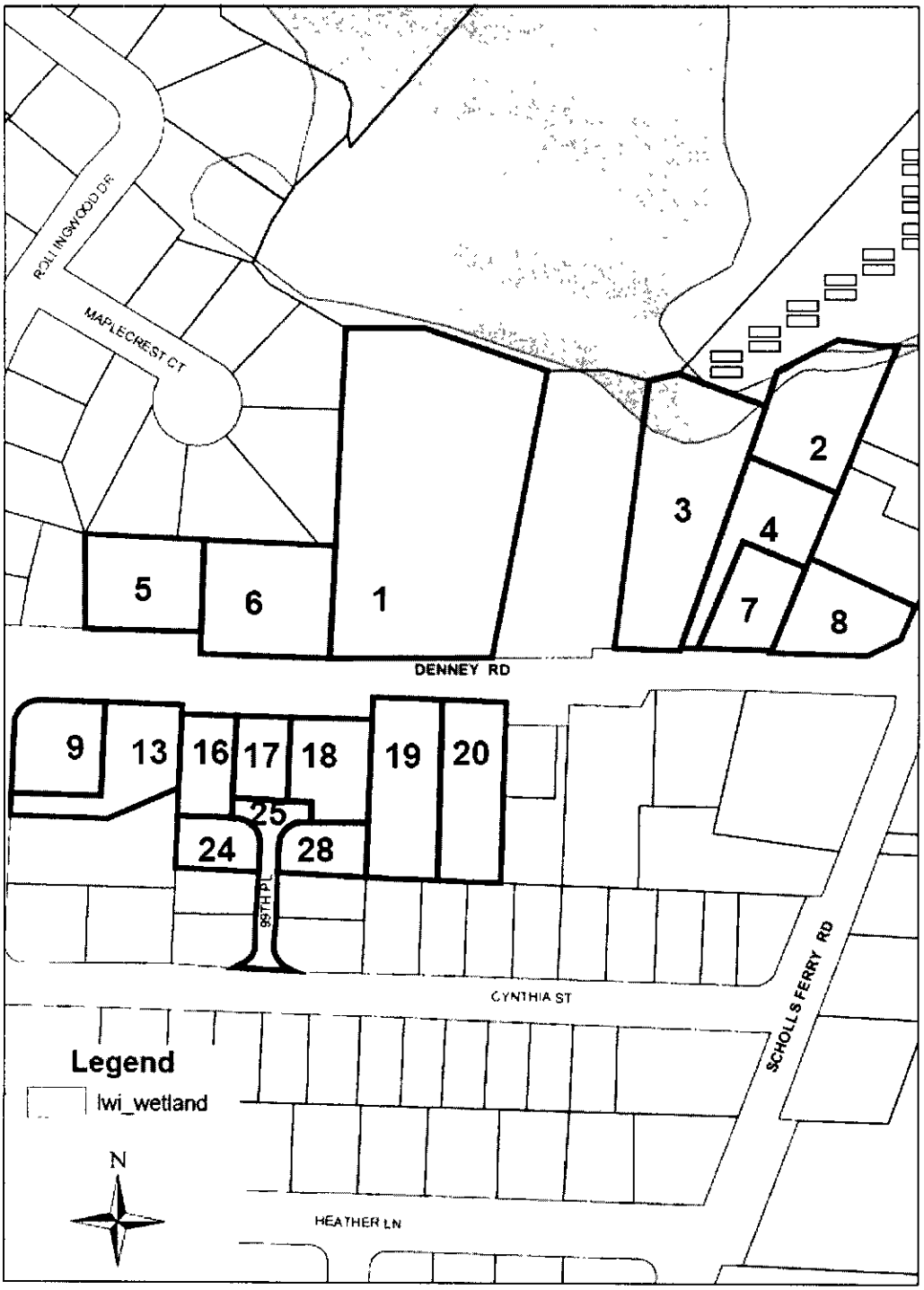
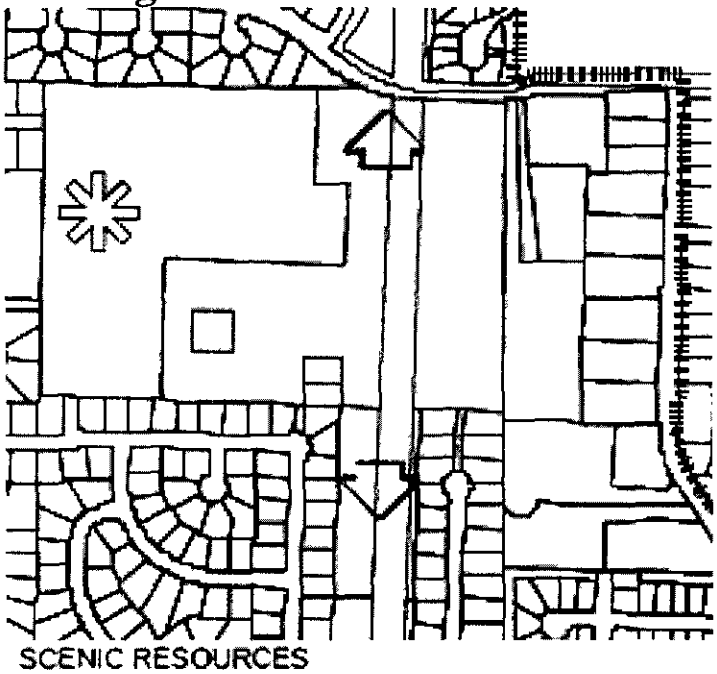


EXHIBIT C

Washington County
Aloha – Reedville – Cooper Mountain
Community Plan
Significant Natural and Cultural Resources Map



SCENIC RESOURCES

Scenic Routes

Roads identified as excellent scenic roads and those sections of good scenic roads which offer a vista of the Tualatin Valley or the Cascade Mountains. Scenic Routes also include those stretches of streams which are identified as candidate routes for inclusion in the National Wild and Scenic River system

Scenic Views

Viewpoints providing a vista of the Tualatin Valley, the Cascade Mountains, or other scenic feature

Scenic Features

Land forms, vegetation or water courses with aesthetic value to the surrounding area

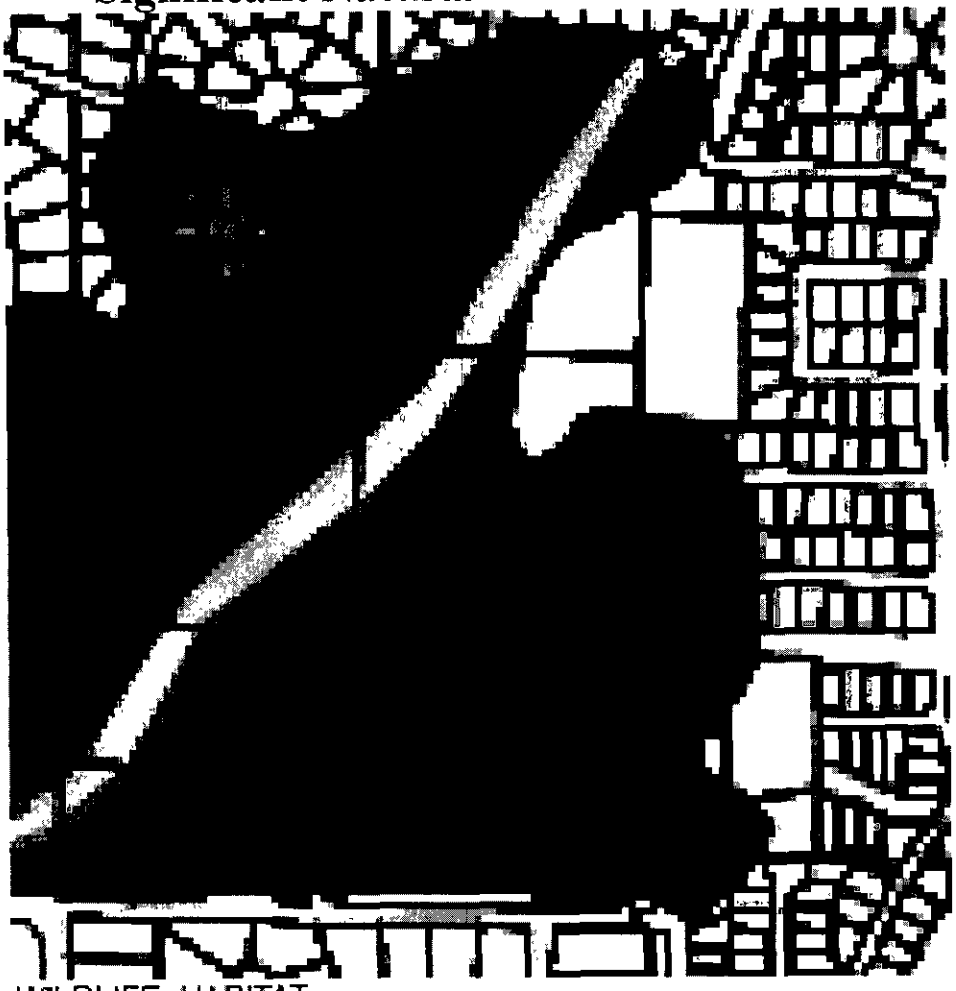
OPEN SPACE/BICYCLE PATHWAYS

Existing parks, recreation sites, golf courses, cemeteries, school play-grounds, powerline rights-of-ways, and future park sites owned by the Tualatin Hills Park and Recreation District.

Existing bicycle pathways

EXHIBIT D

Washington County
Aloha – Reedville – Cooper Mountain
Community Plan
Significant Natural and Cultural Resources Map

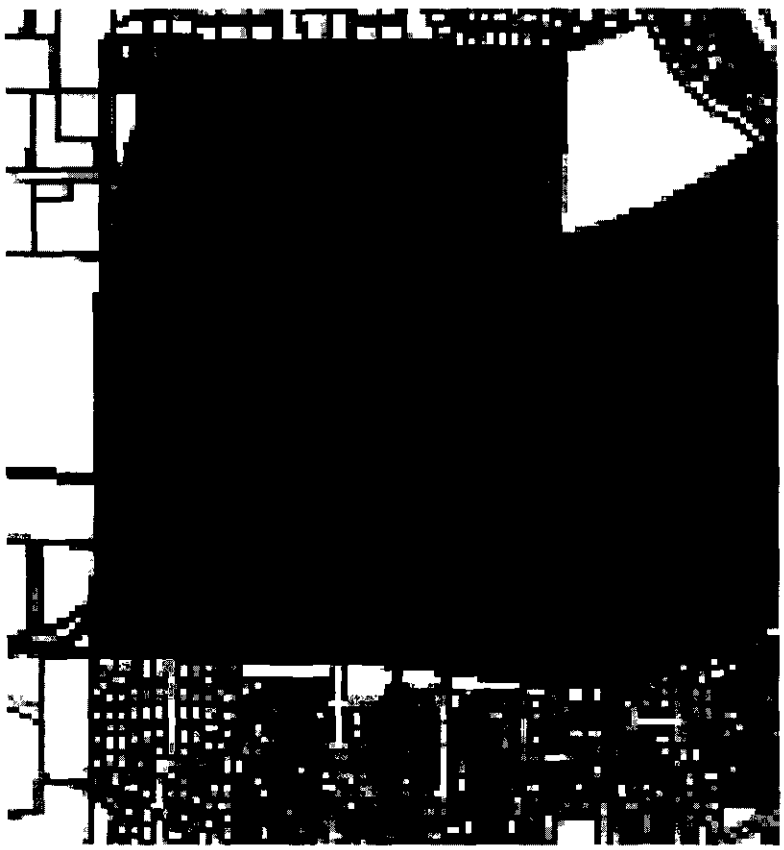


WILDLIFE HABITAT

Sensitive habitats identified by the Oregon Department of Fish and Wildlife, the Audubon Society Urban Wildlife Habitat Map, and forested areas coin-cidental with water areas and wetlands.

EXHIBIT E

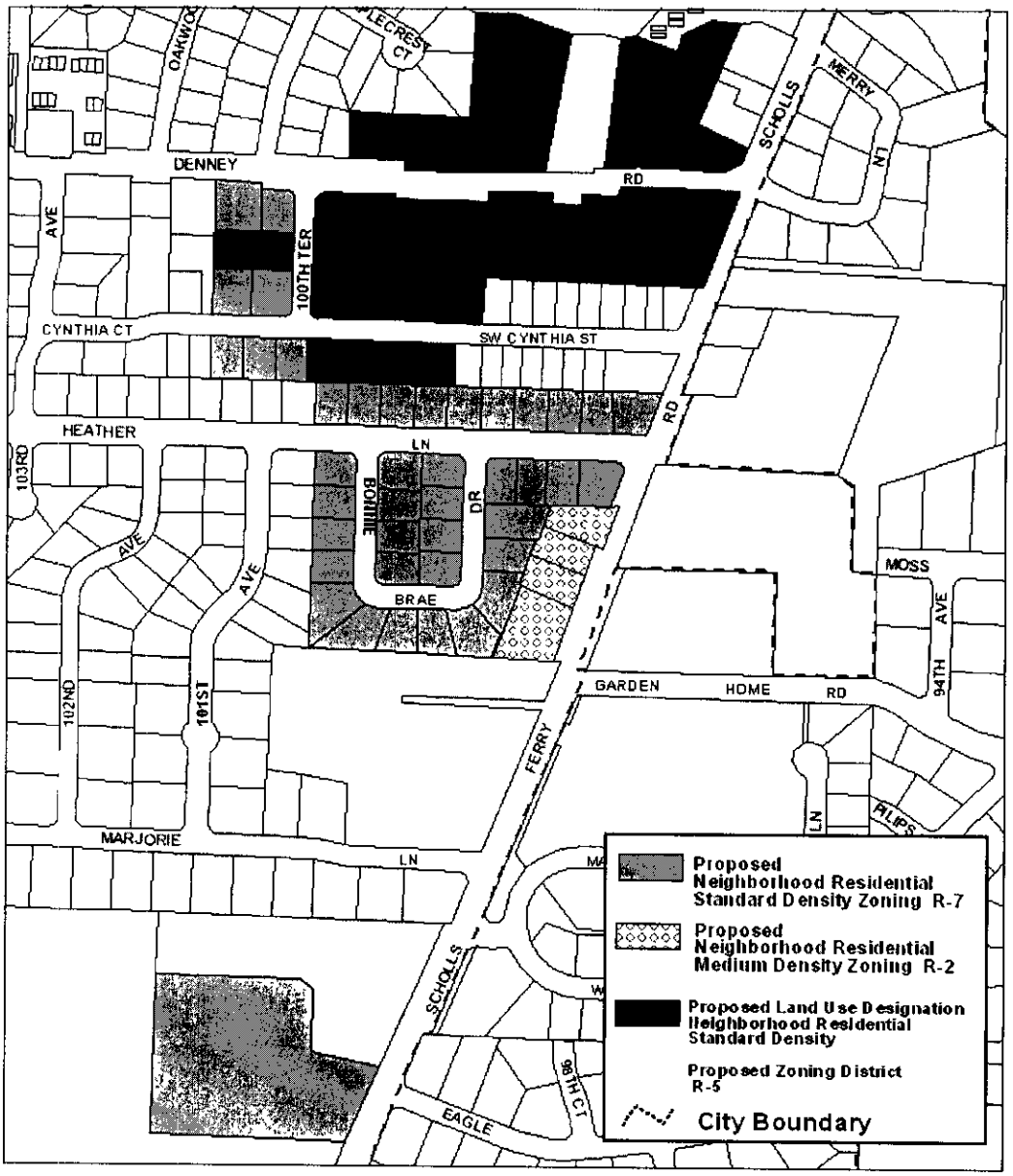
Washington County
Aloha – Reedville – Cooper Mountain
Community Plan
Significant Natural and Cultural Resources Map



MINERAL / AGGREGATE DISTRICT B

Existing or potential mineral / aggregate impact area.

CPA / ZMA VICINITY MAP EXHIBIT "A1"



CITY OF BEAVERTON

SOUTH BEAVERTON COMPREHENSIVE PLAN
LAND USE MAP AMENDMENT AND ZONING MAP AMENDMENT

COMMUNITY DEVELOPMENT DEPARTMENT

Planning Services Division

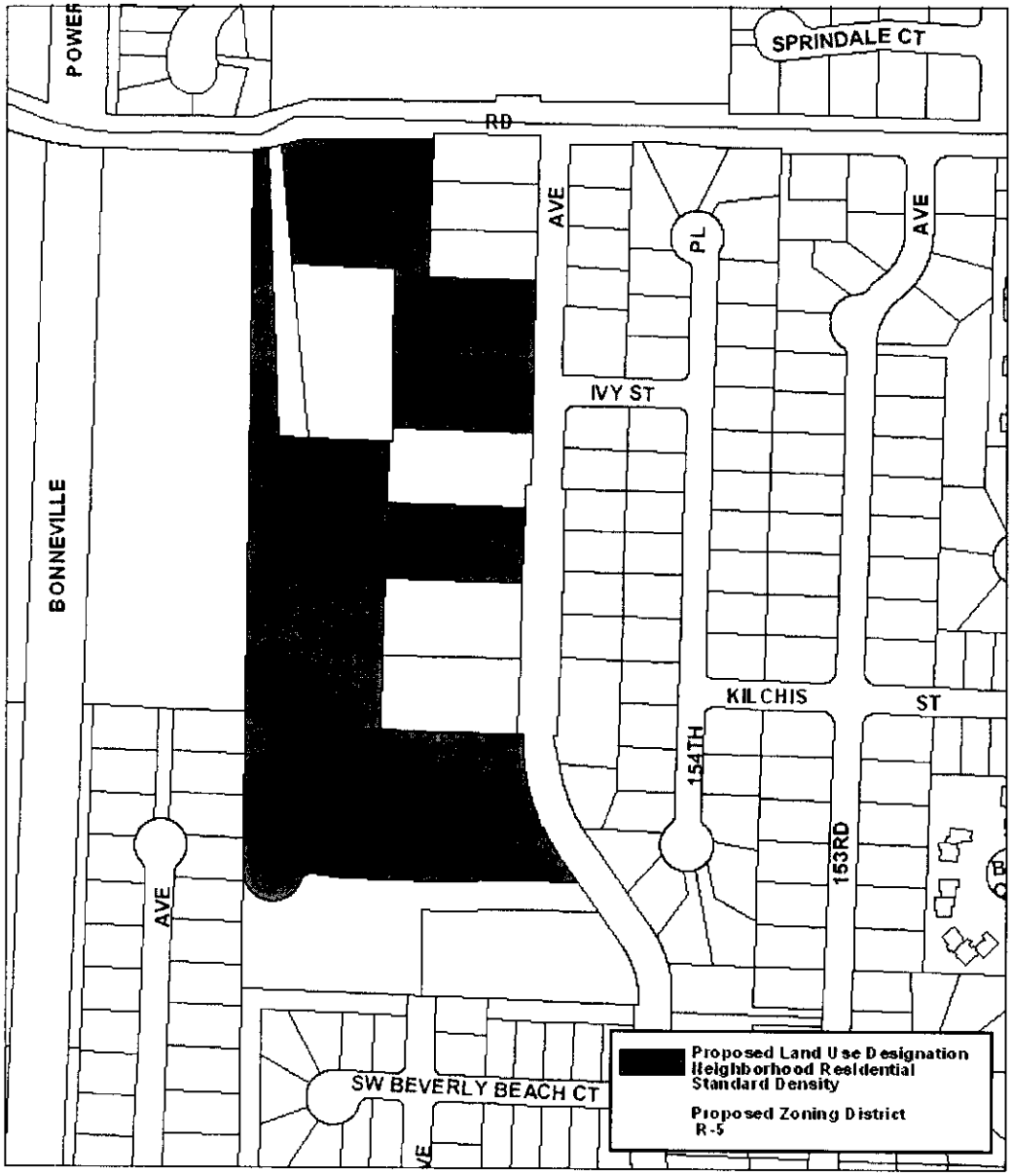
2/8/06

VARIOUS

N

CPA2006-0004
ZMA2006-0003

CPA / ZMA VICINITY MAP EXHIBIT "A2"



CITY OF BEAVERTON

SOUTH BEAVERTON COMPREHENSIVE PLAN
LAND USE MAP AMENDMENT AND ZONING MAP AMENDMENT

COMMUNITY DEVELOPMENT DEPARTMENT

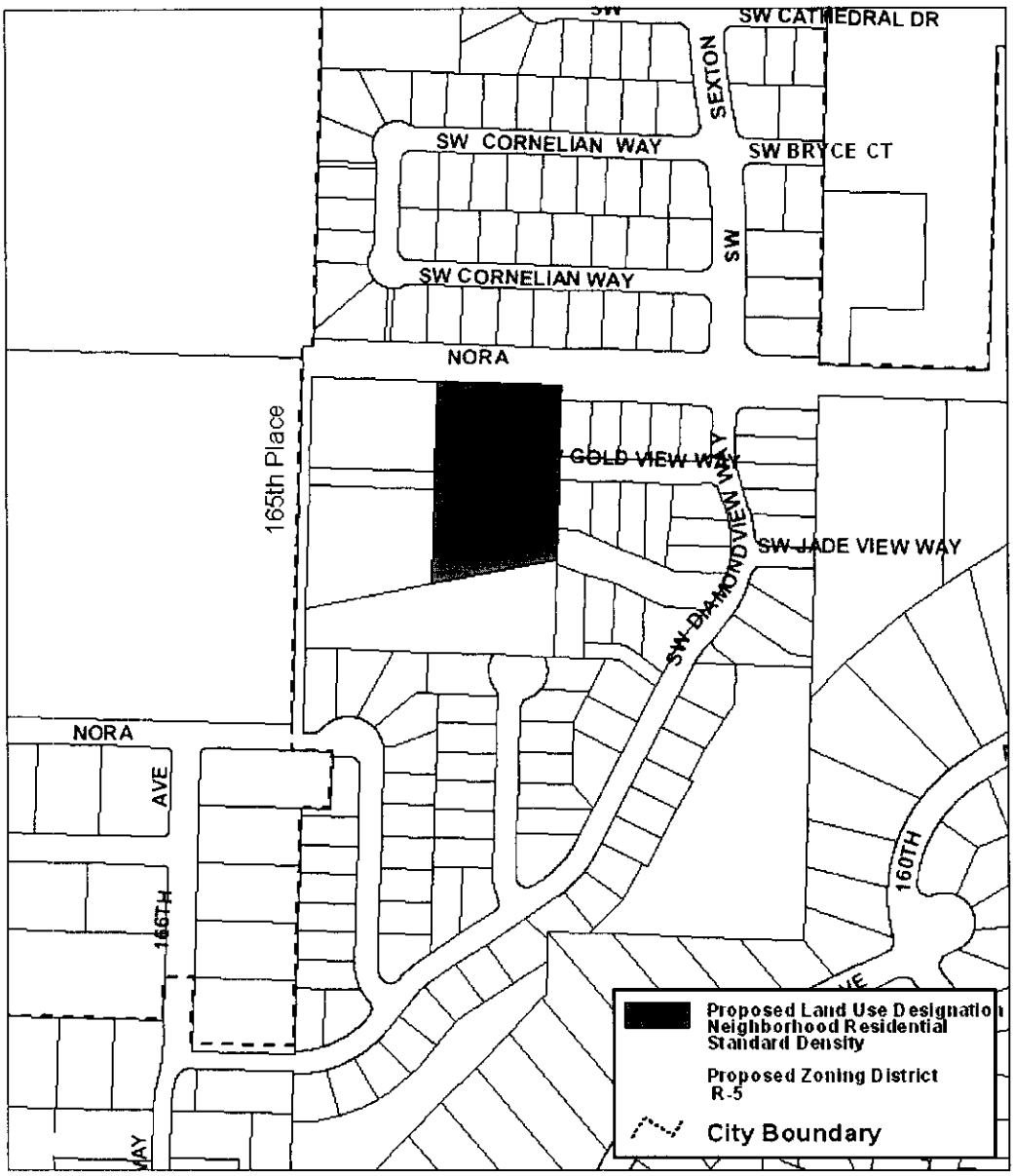
Planning Services Division

2/8/06

N

CPA2006-0004
ZMA2006-0003

CPA / ZMA VICINITY MAP EXHIBIT "A 3"



CITY OF BEAVERTON

SOUTH BEAVERTON COMPREHENSIVE PLAN
LAND USE MAP AMENDMENT AND ZONING MAP AMENDMENT

COMMUNITY DEVELOPMENT DEPARTMENT

Planning Services Division

2/8/06

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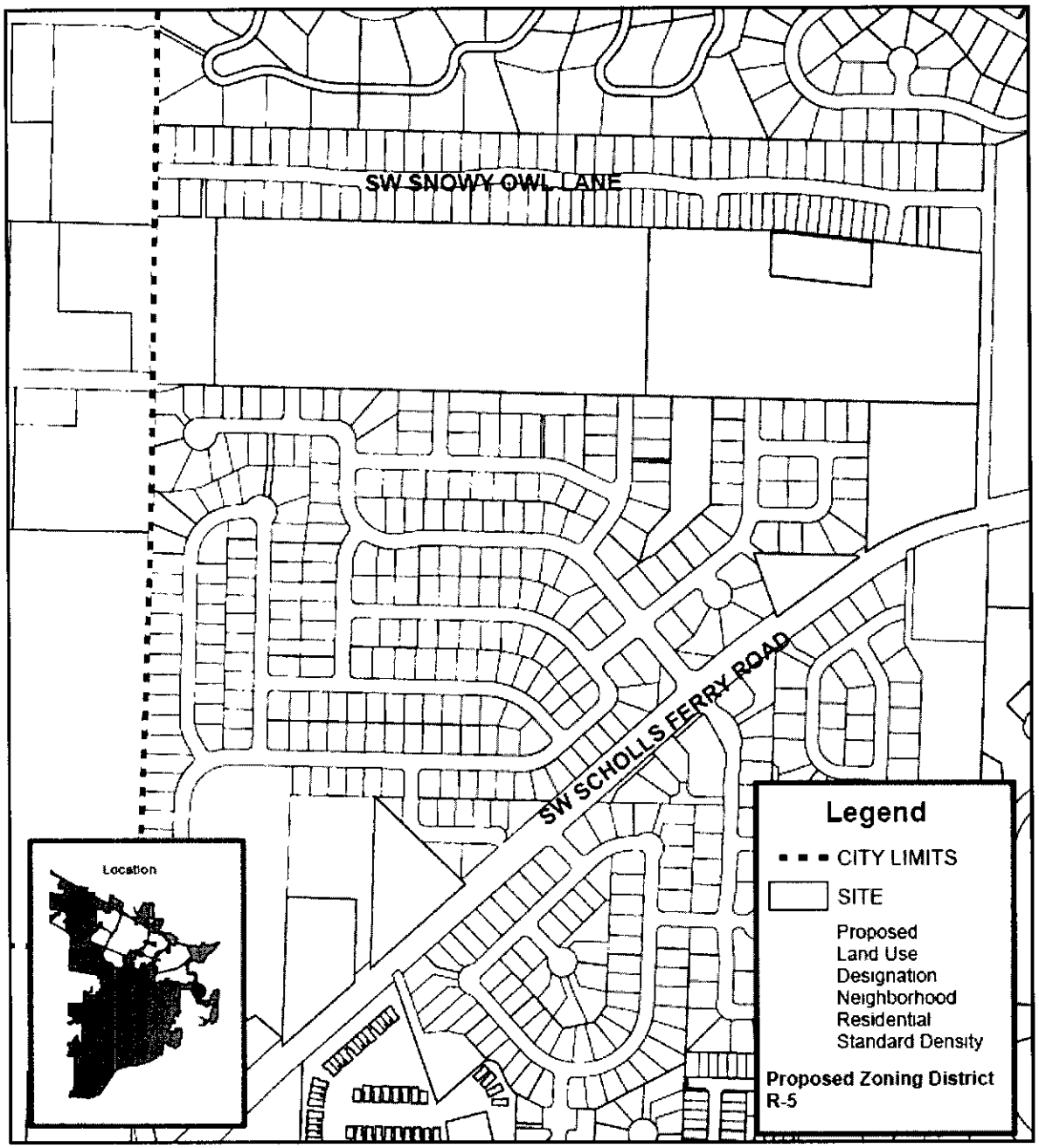
CPA2006-0004
ZMA2006-0003

CPA / ZMA VICINITY MAP EXHIBIT "A 4"



CITY OF BEAVERTON

SOUTH BEAVERTON COMPREHENSIVE PLAN
LAND USE MAP AMENDMENT AND ZONING MAP AMENDMENT

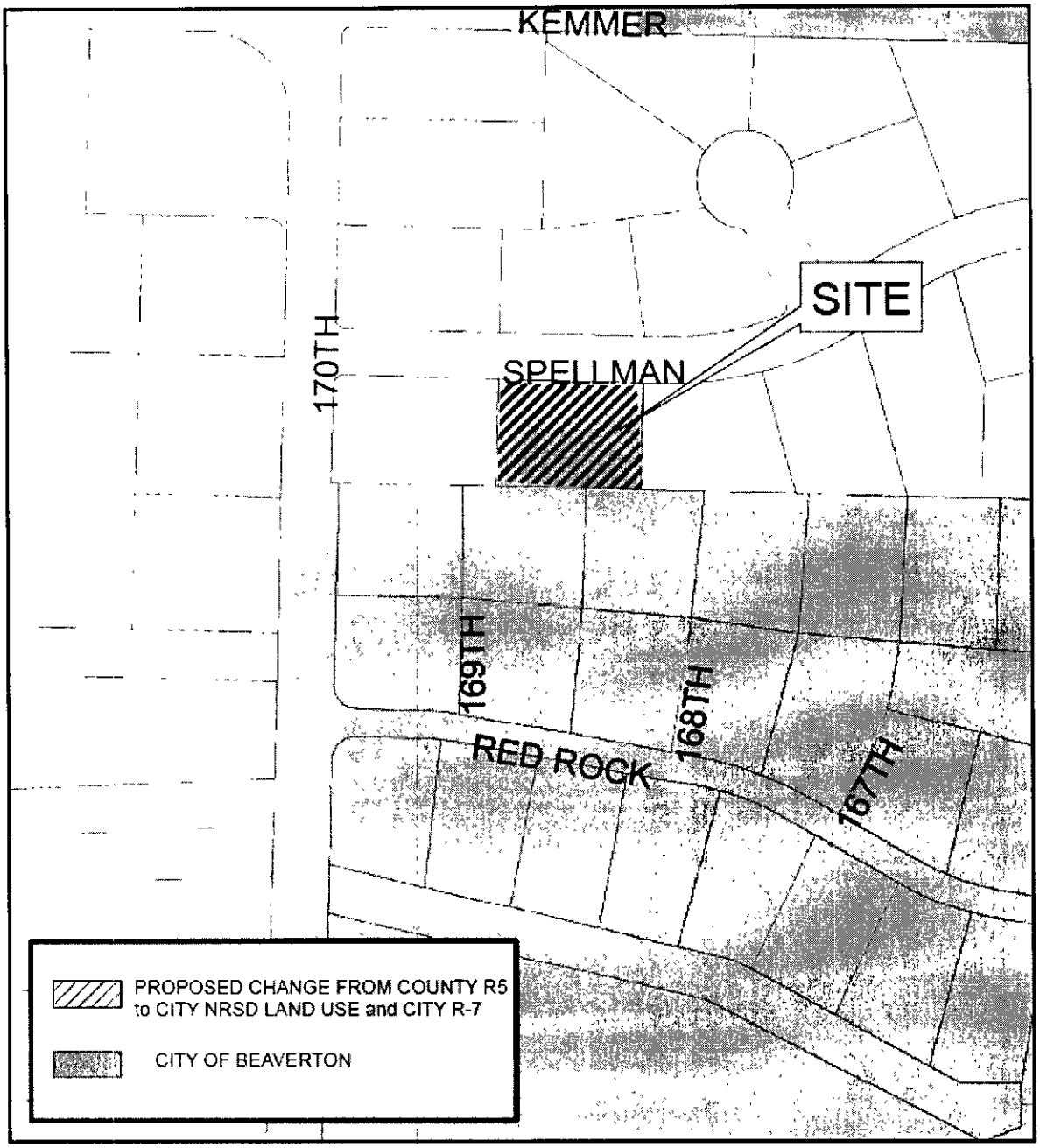
COMMUNITY DEVELOPMENT DEPARTMENT
Planning Services division

2/8/06 N

MAP NUMBER
VARIOUS

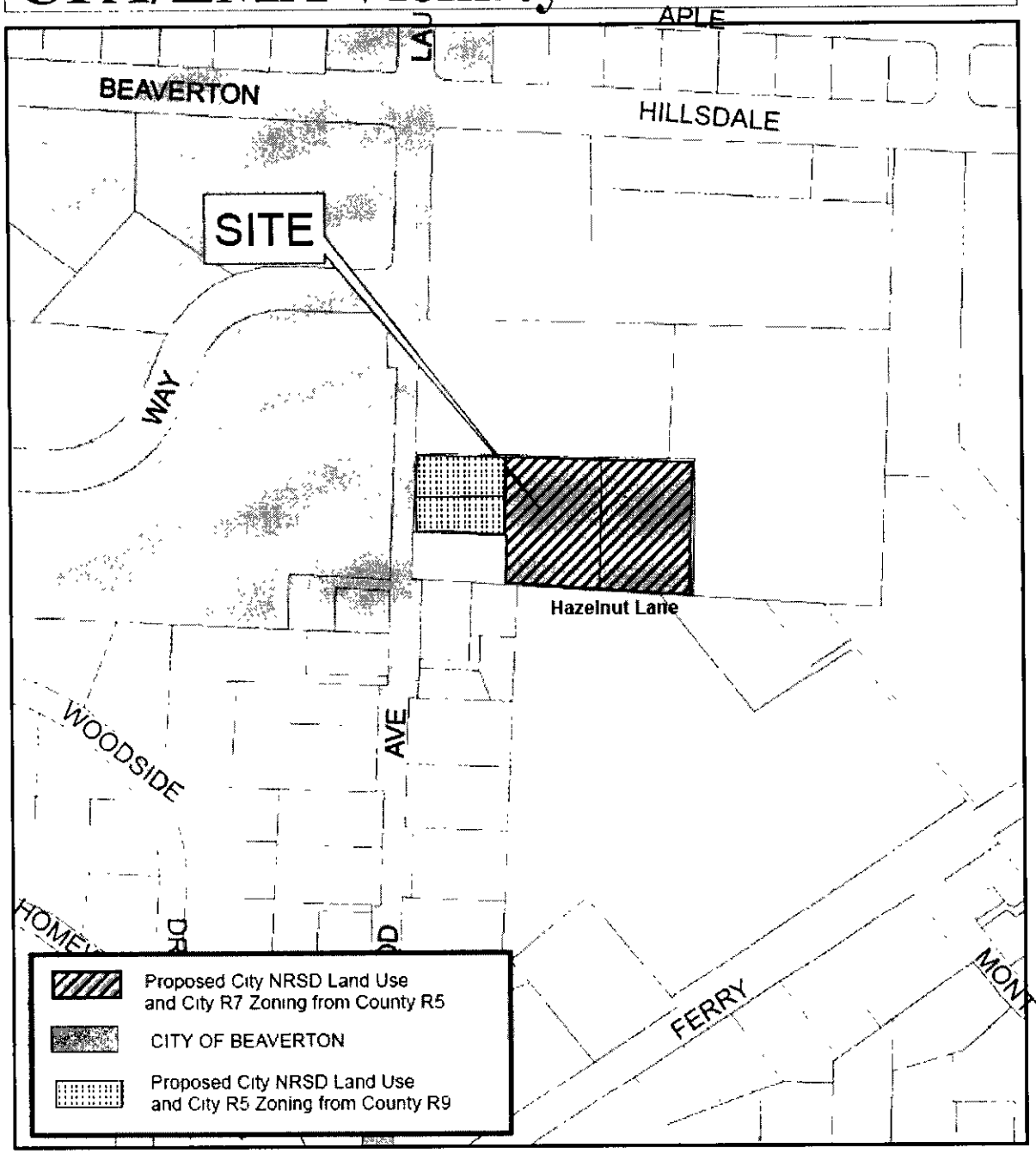
Application #
CPA2006-0004
ZMA2006-0003

CPA/ZMA Vicinity EXHIBIT "A 5"



City of Beaverton	SOUTH BEAVERTTON COMPREHEHENSIVE PLAN LAND USE MAP AMENDMENT AND ZONING MAP AMENDMENT	7/20/06 1S130DD01600 N
	COMMUNITY DEVELOPMENT DEPARTMENT Planning Services Division	CPA2006-0004 ZMA2006-0003

CPA/ZMA Vicinity EXHIBIT "A 6"



City of Beaverton

SOUTH BEAVERTTON COMPREHEHENSIVE PLAN
LAND USE MAP AMENDMENT AND ZONING MAP AMENDMENT

7/20/06

1S130DD01600

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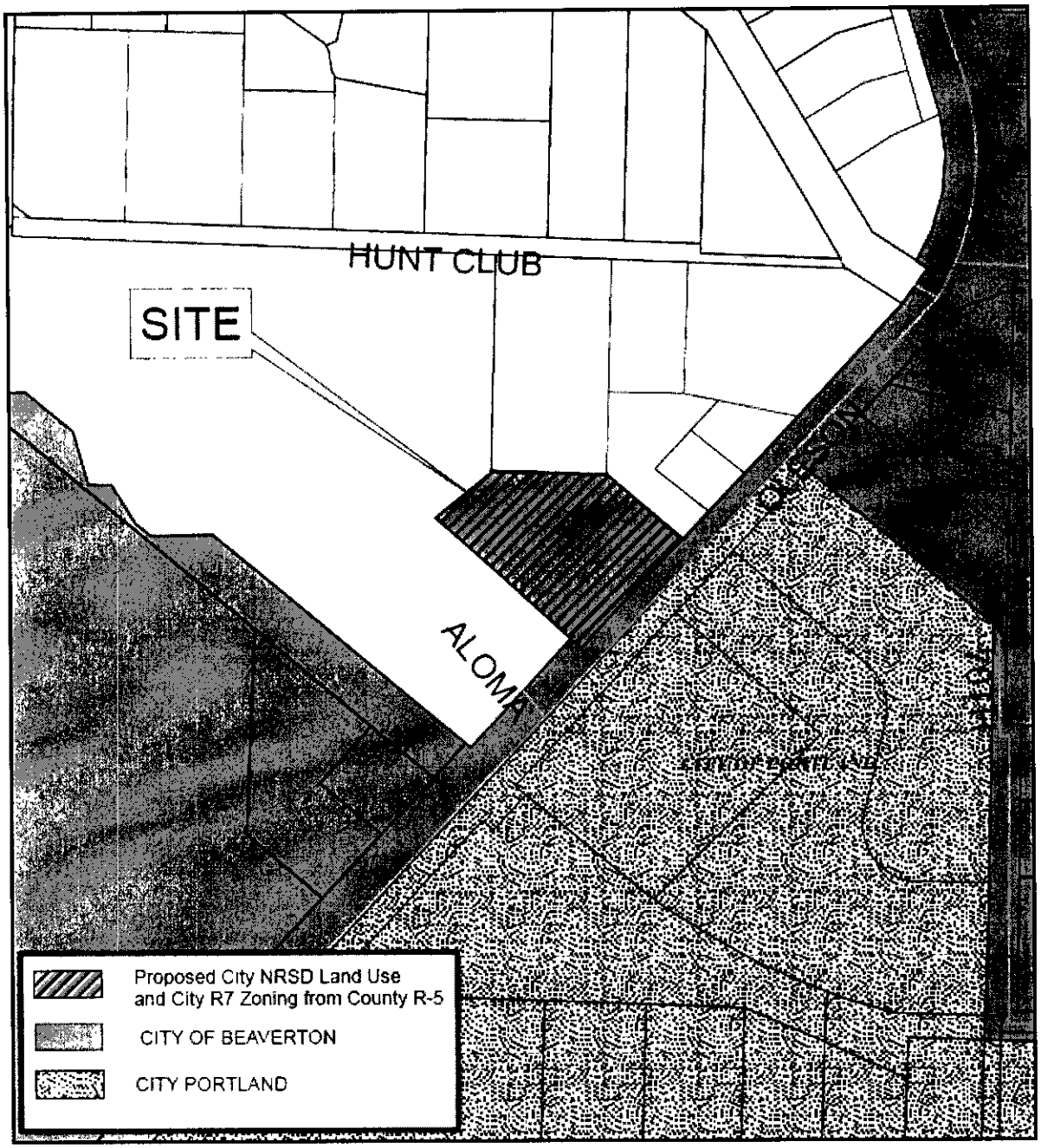
COMMUNITY DEVELOPMENT DEPARTMENT
Planning Services Division

CPA2006-0004
ZMA2006-0003

CPA/ZMA Vicinity Map EXHIBIT "A 7"



City of Beaverton

SOUTH BEAVERTTON COMPREHEHENSIVE PLAN
LAND USE MAP AMENDMENT AND ZONING MAP AMENDMENT

7/20/06

1S130DD01600

N

COMMUNITY DEVELOPMENT DEPARTMENT
Planning Services Division

CPA2006-0004
ZMA2006-0003

AGENDA BILL

Beaverton City Council
Beaverton, Oregon

SUBJECT: An Ordinance Amending Ordinance No. 4187, Figure III-1, the Comprehensive Plan Land Use Map and Ordinance No 2050, the Zoning Map for Two Properties in Northwest Beaverton; CPA2006-0010/ZMA 2006-0013
(17200 & 17225 NW Corridor Court)

FOR AGENDA OF: 09/11/06 **BILL NO:** 06167

Mayor's Approval:

DEPARTMENT OF ORIGIN: CDD

DATE SUBMITTED: 08/23/06

CLEARANCES: City Attorney US
Planning Services HB

PROCEEDING: First Reading

EXHIBITS: Ordinance
Exhibit A - Map
Exhibit B – Staff Report

BUDGET IMPACT

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

HISTORICAL PERSPECTIVE:

This ordinance is before the City Council to assign City Comprehensive Plan Land Use Map and Zoning Map designations for the subject property, replacing the Washington County land use designation

The Urban Planning Area Agreement (UPAA) is specific on the appropriate Land Use Map and Zoning Map designations for the two parcels, thus no public hearing is required. The appropriate Land Use Map designation for properties 1N1 30 DC 01001 and 1N1 30 DC 01100 is Corridor, and the appropriate Zoning Map designation is Office Commercial. The City land use designation and zoning district will take effect 30 days after Council approval and the Mayor's signature on this ordinance.

INFORMATION FOR CONSIDERATION:

This ordinance makes the appropriate changes to Ordinance No. 4187, Figure III-1, the Comprehensive Plan Land Use Map and Ordinance No. 2050, the Zoning Map.

RECOMMENDED ACTION:

First Reading

ORDINANCE NO. 4407

AN ORDINANCE AMENDING ORDINANCE NO. 4187, FIGURE III-1, THE COMPREHENSIVE PLAN LAND USE MAP AND ORDINANCE NO. 2050, THE ZONING MAP FOR TWO PARCELS LOCATED IN NORTHWEST BEAVERTON; CPA2006-0010/ZMA2006-0013

WHEREAS, The two properties were annexed under Ordinance 4339 in March 2005 and are being redesignated in this ordinance from the County's land use designation to the closest corresponding City designations as specified by the Urban Planning Area Agreement (UPAA); and

WHEREAS, Since the UPAA is specific on the appropriate designations for these parcels, this is not a discretionary land use decision and, therefore, no public hearing is required, and

WHEREAS, The Council adopts as to criteria applicable to this request and findings thereon the Community Development Department staff report by Senior Planner Barbara Fryer dated August 22, 2006 and attached hereto as Exhibit "B"; now, therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

Section 1. Ordinance No. 4187, the Comprehensive Plan Land Use Map, is amended to designate the subject properties on Map and Tax Lots 1N1 30 DC 01001 and 1N1 30 DC 01100 Corridor, as shown on Exhibit "A" and in accordance with the UPAA.

Section 2. Ordinance No. 2050, the Zoning Map, is amended to designate properties on Map and Tax Lots 1N1 30 DC 01001 and 1N1 30 DC 01100 Office Commercial, as shown on Exhibit "A" and in accordance with the UPAA.

First reading this _____ day of _____, 2006.

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

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

ATTEST: APPROVED:

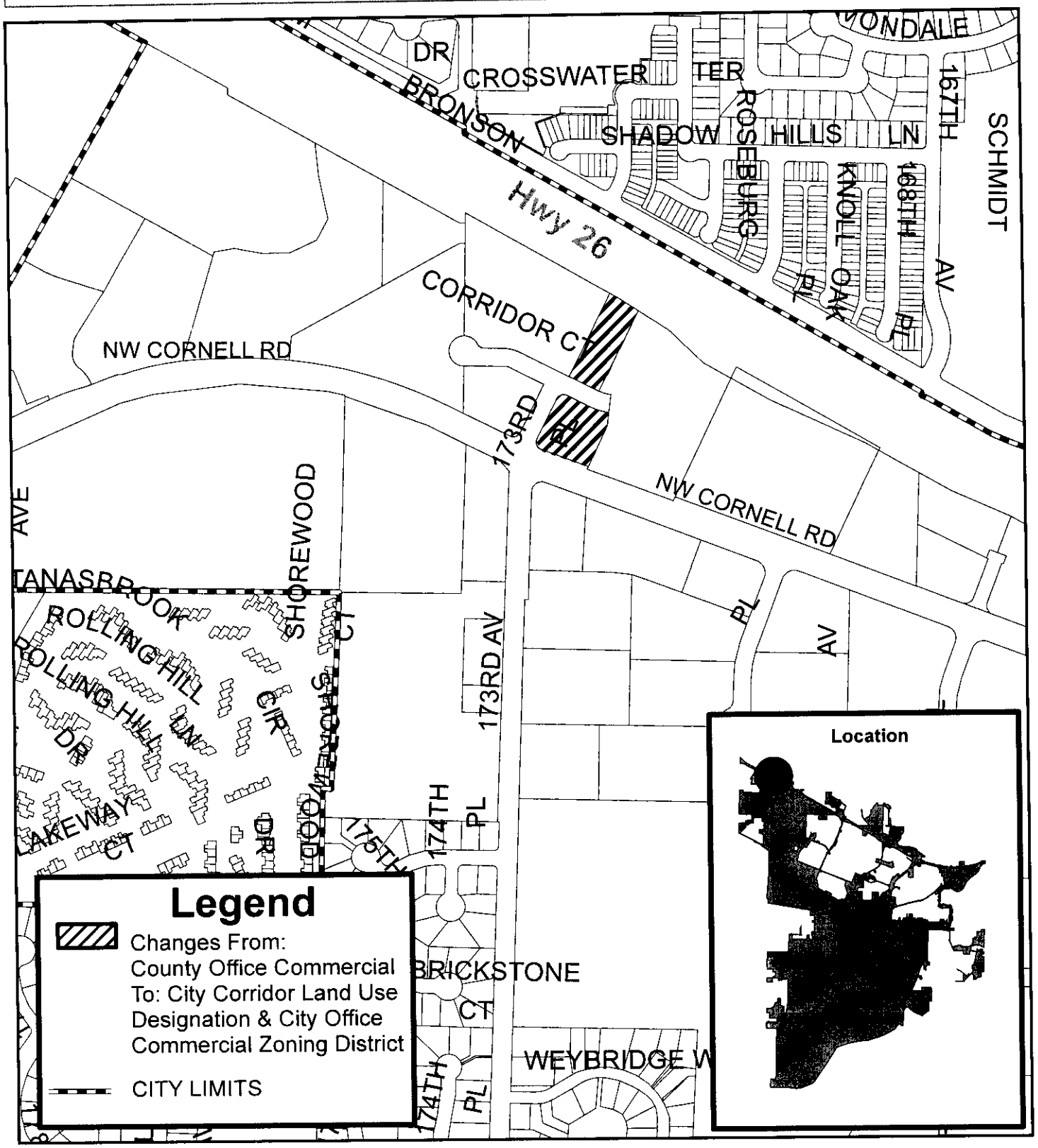
_____ _____

SUE NELSON, City Recorder ROB DRAKE, Mayor

VICINITY MAP

ORDINANCE NO. 4407

EXHIBIT "A"



CITY OF BEAVERTON

17200 & 17225 NW Corridor Court
CPA2006-0010 / ZMA2006-0013

COMMUNITY DEVELOPMENT DEPARTMENT
Planning Services division

8/14/06

1N150DC01001
1N130DC01100

N

CPA2006-0010
ZMA2006-0013

ORDINANCE NO. 4407

Exhibit B

STAFF REPORT

TO:	City Council
AGENDA DATE:	September 11, 2006 **REPORT DATE:** August 22, 2006
FROM:	Barbara Fryer, AICP, Senior Planner Community Development Department
SUBJECT:	To assign City Land Use (CPA2006-0010) and zoning (ZMA2006-0013) designations for two properties (1N1 30 DC 01100 and 1N1 30 DC 01001) located in northwest Beaverton annexed into the City by separate action. The annexation became effective March 31, 2005.
ACTIONS:	Amend the City's Comprehensive Plan Land Use Map to show Corridor and the Zoning Map to show Office Commercial.
APPLICANT:	City of Beaverton
APPROVAL CRITERIA:	Comprehensive Plan Section 1.3.1 and the Development Code Section 40.97.15.3.C

SUMMARY AND RECOMMENDATION

The properties are designated County Office Commercial. The City assigns Comprehensive Plan and Zoning designations to property being annexed into the City as prescribed by the Washington County – Beaverton Urban Planning Area Agreement (UPAA). The UPAA is specific about the appropriate City Land Use Map designation and zoning district as Corridor and Office Commercial for the property designated OC by the County.

Pursuant to Section 1.3 of the Comprehensive Plan and Section 40.97.15.3.B. of the Development Code, no public hearing is required because the UPAA is specific as to the Comprehensive Plan Land Use Map and Zoning Map designations. This decision does not qualify as a land use decision under ORS 197.015(10)(b)(A) because it is made under land use standards, which do not require interpretation or the exercise of policy or legal judgment.

Staff recommends the City Council adopt an ordinance applying the Corridor land use designation and Office Commercial zoning district to two parcels, effective 30 days after the Mayor's signature.

EXISTING CONDITIONS

The parcels total 1.61 acres with the existing use of a day care center, retail and office.

COMPREHENSIVE PLANNING AND ZONING

Sunset West Community Plan

The two properties are located in Washington County's Sunset West Community Plan Area. Both properties are designated on the Community Plan map as Office Commercial. The UPAA is specific that the appropriate City Comprehensive Plan Land Use Map designation for OC is Corridor (formerly Commercial).

Special Policy II.A. of the UPAA states in part "...the COUNTY will advise the CITY of adopted policies, which apply to the annexed areas and the CITY shall determine whether CITY adoption is appropriate and act accordingly." The County has not advised the City of adopted policies which may apply to the annexed area. Staff has reviewed the text of the Sunset West Community Plan and has determined there are no general design elements in the Plan and no design elements for the Tanasbourne Subarea of the Plan that are applicable to this property.

CRITERIA FOR APPROVAL

COMPREHENSIVE PLAN AMENDMENT CRITERIA

Comprehensive Plan Section 1.3.1 states: "Affirmative findings relative to all of the following criteria are the minimum required for a Plan Amendment (non-discretionary annexation related map amendments need not comply with Plan criteria because they are not land use decisions under Oregon Statutes and are those stipulated by Exhibit "B" of the Urban Planning Area Agreement.)"

Findings related to the Comprehensive Plan Amendment criteria are not necessary because this map amendment is a non-discretionary annexation related map amendment that is not a land use decision.

ZONING MAP AMENDMENT CRITERIA

Adoption by the City Council of an amendment to the Zoning Map must be supported by findings of fact based on the evidence provided by the applicant demonstrating the criteria of the Development Code Section 40.97.15.3.C (Non-Discretionary Annexation Related Zoning Map Amendment - Approval Criteria) have been met. The City Council may adopt by reference facts, findings, reasons, and conclusions proposed by City staff or others. Affirmative findings to the following criteria are the minimum requirements for Zone Map amendments.

40.97.15.3.C.1. ***The proposal satisfies the threshold requirements for a Non-Discretionary Annexation Related Zoning Map Amendment application.***

There are two threshold requirements with the first requiring that "The change of zoning to a city zoning designation be the result of annexation of land to the City." Ordinance 4339 annexed the subject property to the City, effective on March 31, 2005. Thus, the first threshold requirement has been met.

The second threshold requires that the UPAA be specific as to the City zoning designations to be applied and does not allow for discretion. The UPAA is specific for the proposed amendment:

- Washington County Office Commercial is equivalent to City Office Commercial.

No discretion is required; therefore, this proposal meets the second threshold.

FINDING: Staff finds that the proposed request satisfies the threshold requirements for a Non-Discretionary Annexation Related Zoning Map Amendment application.

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

The City Council elected to not establish a fee for a Non-Discretionary Annexation Related Zoning Map Amendment application. No fee has been collected.

FINDING: Staff finds that this criterion is not applicable.

40.97.15.3.C.3. ***The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code.***

50.25.1 "....Non-Discretionary Annexation Related Zoning Map Amendment and Discretionary Zoning Map Amendment applications processed by the City shall be determined to be complete upon submittal of a valid annexation petition or executed annexation agreement." The properties annexed in 2005 under the island annexation provisions in state law (ORS 222.750). Annexation petitions or executed annexation agreements are not required. However, the City Council authorized initiation of the annexation by adoption of Resolution No. 3785. Therefore, this criterion is not applicable.

FINDING: Staff finds that this criterion is not applicable.

40.97.15.3.C.4. ***The proposed zoning designation most closely approximates the density, use provisions, and development standards of the Washington County designation which applied to the subject property prior to annexation***

The UPAA is specific for the proposed amendment:

- Washington County Office Commercial goes to City Office Commercial zoning.

No discretion is being exercised in assigning a zoning designation.

The UPAA requires the City to review the appropriate Community Plan and, in this case, it is the Sunset West Community Plan. The subject properties are not in an Area of Special Concern, do not have general or specific design elements applicable to them, and are not identified on the County's Significant Natural and Cultural Resources Map as containing significant resources.

FINDING: Staff finds that the approval criterion is met since the proposed zoning designation is specified by the UPAA and is, therefore, consistent with the UPAA.

40.97.15.3.C.5. ***Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.***

The City processes Land Use Map and Zoning Map Amendments (CPA/ZMA) for property being annexed into the City, and there are no further City approvals related to this request other than City Council and Mayor's approvals of this CPA/ZMA. The property owners may, in the future, submit a request to the City for development of the properties, but that is not related to this request.

FINDING: Staff finds there are no proposals related to this request that will require further City approvals and, therefore, no additional applications or documents are required.

PROCESS

Submission Requirements: An application for a Non-Discretionary Annexation Related Zoning Map Amendment shall be made by the submittal of a valid annexation petition or an executed annexation agreement. Initiation of annexation of the subject properties under ORS 222.750 was authorized by City Council Resolution No. 3785 and the annexation was approved under Ordinance 4339.

Public Notice: Section 1.3.4.3(c) of the Comprehensive Plan prescribes the notice to be provided for these types of applications.

Notice of non-discretionary annexation-related CPAs must be provided not less than 20 calendar days prior to when the item first appears on the City Council's agenda.

1. Legal notice will be published in the Beaverton Valley Times on August 24, 2006
2. Notice will be mailed to the Five Oaks Neighborhood Association Committee, Sunset West Citizen Participation Organization, Beaverton Neighborhood Office, and the Chair of the Committee for Citizen Involvement (CCI) on or before August 23, 2006.
3. Notice will be mailed to the property owners on or before August 23, 2006.

The City Council has not directed staff to provide additional notice for this amendment beyond the notices described above, but notice and this staff report will be posted on the City of Beaverton's public Web site. The notice requirements for this CPA/ZMA will be met.

CONCLUSION

Based on the findings in this report, staff concludes amending the Land Use Map to show the City Corridor Land Use Designation and the Zoning Map to show the Office Commercial Zoning District for 1N1 30 DC 01001 and 1N1 30 DC 01100 is appropriate.

AGENDA BILL

Beaverton City Council
Beaverton, Oregon

SUBJECT: An Ordinance Annexing a Parcel Located at 4500 SW 91st Avenue to the City of Beaverton: Expedited Annexation 2006-0002

FOR AGENDA OF: 09/11/06 **BILL NO:** 06168

Mayor's Approval:

DEPARTMENT OF ORIGIN: CDD

DATE SUBMITTED: 08/28/06

CLEARANCES: City Attorney
Planning Services HB

PROCEEDING: First Reading

EXHIBITS: Ordinance
Exhibit A – Vicinity Map
Exhibit B - Legal Description
Exhibit C – Staff Report
Exhibit D – Annexation Agreement

BUDGET IMPACT

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

HISTORICAL PERSPECTIVE:
The owner of the subject property filed a Measure 37 property claim with Washington County so as to exempt the owner from restrictions under the County's current R-5 zoning. In filing the claim, the property owner sought the right to subdivide the 0.4 acre parcel into five lots - each capable of supporting one dwelling unit. After receiving approval of the claim from the Board of County Commissioners, the property owner's representative expressed an interest to City staff in annexing the property into the City of Beaverton and rezoning the property to the City's R-2 designation as an alternative to employing the density increase permitted under the Measure 37 ruling. If approved by the City, the proposed zone redesignation would allow a maximum density of eight units on the property.

INFORMATION FOR CONSIDERATION:
The property owner has agreed to enter into an annexation agreement with the City, which is the subject of another bill on the agenda for this meeting. The annexation agreement specifies that the City must approve a rezone of the property to R-2 (minimum lot size of 2,000 square feet per dwelling unit) by March 31, 2007 for the annexation ordinance to become effective. If this occurs, the effective date of the annexation will be June 30, 2007. The effective date of the annexation ordinance will be the same date as the effective date of the ordinance changing the plan designation and zoning of the property. This ordinance and the staff report address the approval criteria for annexation in Metro Code Chapter 3.09.

RECOMMENDED ACTION:
First Reading

ORDINANCE NO. 4408

AN ORDINANCE ANNEXING ONE PARCEL LOCATED AT 4500 SW 91ST AVENUE AND ADJACENT RIGHT-OF-WAY TO THE CITY OF BEAVERTON: EXPEDITED ANNEXATION 2006-0002

WHEREAS, ORS 222.125 grants the City authority to initiate an expedited annexation process with the consent of all land owners and at least 50 percent of the electors of the territory to be annexed; and

WHEREAS, The owner of 4500 SW 91st Avenue has voluntarily entered into an agreement with the City to annex the property contingent on City approval of a land use designation change from Washington County's R5 designation to the City's R-2 (Urban Medium Density) zoning district and the City's NR-MD (Neighborhood Residential Medium Density) Comprehensive Land Use designation; and

WHEREAS, No electors reside on the property; and

WHEREAS, This property is in Beaverton's Assumed Urban Services Area, and Policy 5.3.1.d of the City's acknowledged Comprehensive Plan states: "The City shall seek to eventually incorporate its entire Urban Services Area."; and

WHEREAS, This property is in area "A" as set forth in the "Beaverton-Washington County Intergovernmental Agreement Interim Urban Service Plan" and, as prescribed by the agreement, the Washington County Board of Commissioners has agreed not to oppose annexations in area "A"; and

WHEREAS, Council Resolution No. 3785 sets forth annexation policies for the City, and this action implements those policies; now, therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

Section 1. The property shown on Exhibit A, and more particularly described in Exhibit B, is hereby annexed to the City of Beaverton, effective June 30, 2007 provided that a separate ordinance to designate the Property NR-MD on the City's Comprehensive Plan Land Use Map and R-2 on the City's Zoning Map has been adopted and approved by the City Council by March 31, 2007.

Section 2. This ordinance shall become effective on the same date that an ordinance approving the Comprehensive Plan Land Use Map and Zoning Map amendments described in Section 1 becomes effective.

Section 3. If the plan amendment and zone change described in Section 1 fails to receive City approval by ordinance by March 31, 2007 as specified in Section 1, this ordinance shall not become effective, and the subject annexation shall not be completed.

Section 4. The Council accepts the findings in the staff report attached hereto as Exhibit C as adequate demonstration of compliance with all applicable approval criteria.

Section 5. The City Recorder shall place a certified copy of this Ordinance in the City's permanent records, and the Community Development Department shall forward a certified copy of this Ordinance to Metro and all necessary parties within five working days of adoption.

Section 6. The Community Development Department shall transmit copies of this Ordinance and all other required materials to all public utilities and telecommunications utilities affected by this Ordinance in accordance with ORS 222.005.

First Reading _____
Date

Second Reading and Passed _____
Date

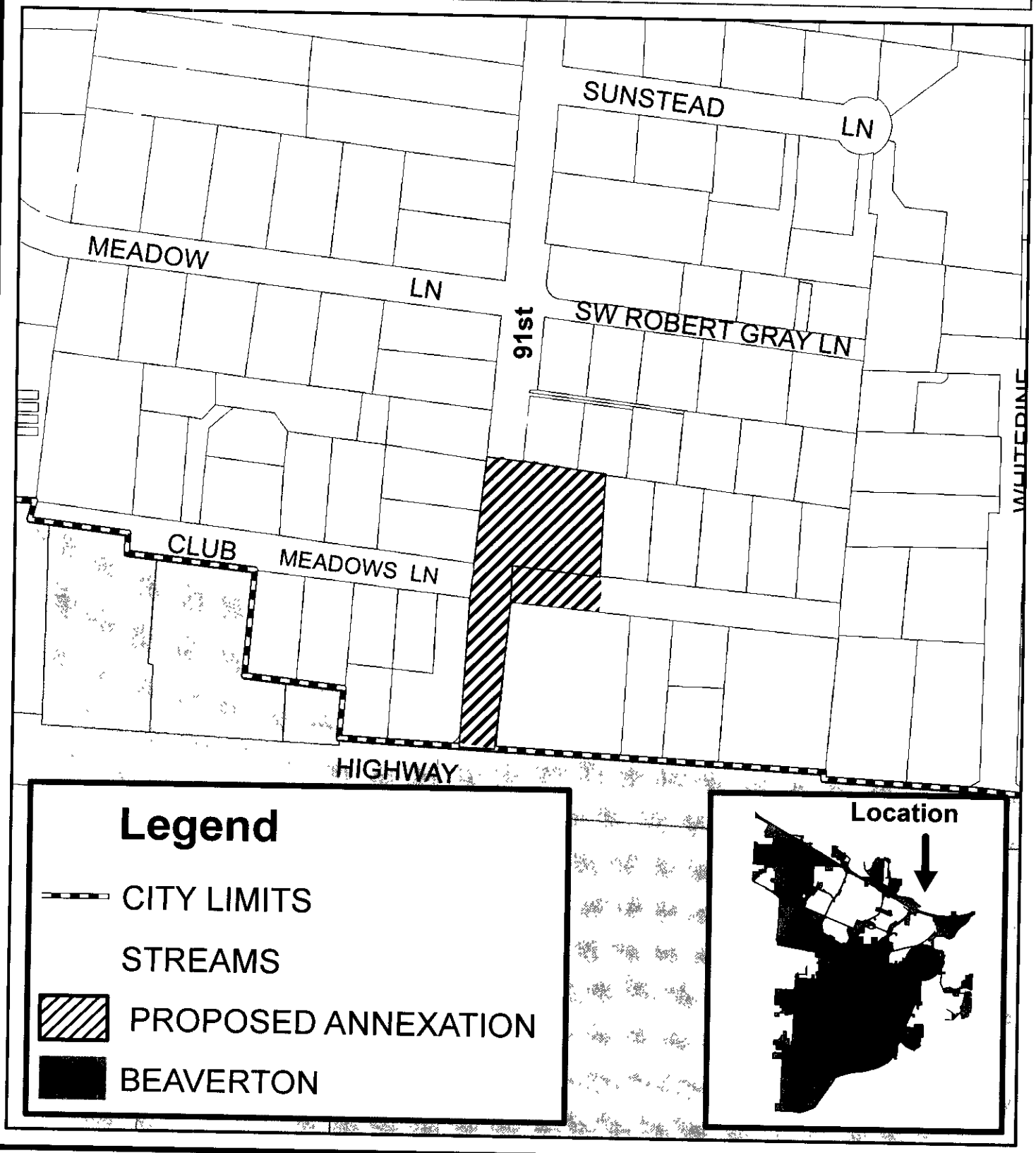
Approved by the Mayor _____
Date

ATTEST:	APPROVED:
_____	_____
SUE NELSON, City Recorder	ROB DRAKE, Mayor

VICINITY MAP

ORDINANCE NO. 4408

EXHIBIT "A"



City of Beaverton

ANX2006-0002

4500 SW 91st Avenue

COMMUNITY DEVELOPMENT DEPARTMENT
Planning Services Division

08/07/06

1S114AB05000

N

Application #
Anx2006-0002

ORDINANCE NO. 4408

ANX 2006-0002

A parcel of land being situated in the northwest quarter of the northeast quarter of Section 14, Township 1 South, Range 1 West, Willamette Meridian, Washington County, State of Oregon. Said parcel of land being more particularly described as follows:

Lot 22 and Lot 23 of CLUB MEADOW, a duly recorded subdivision in the County of Washington, State of Oregon.

ALSO TOGETHER WITH the following described lands: BEGINNING at the northwest corner of the aforementioned Lot 22 of CLUB MEADOW;

Thence, North 85°00′ West for a distance of 50.1 feet to the northeast corner of Lot 25 of said Club Meadow;

Thence, Southerly along the east lines of Lot 25 and Lot 24 of said CLUB MEADOW, and the projection thereof for a distance of 200 feet, more or less, to the northeast corner of Lot 9 of said CLUB MEADOW;

Thence, North 84°54′15″ West along the north line of said Lot 9 for a distance 5.01 feet to a point that is the northwest corner of that tract of land dedicated to the public in Document Number 86002235 of Washington County Records, said point being 30.00 feet westerly and perpendicular to the centerline of S.W. 91st. Avenue;

Thence, South 01°58′00″ West along the west line of said dedication and parallel with the aforementioned centerline for a distance of 189.97 to a point of curvature;

Thence, 39.07 feet along the arc of a 25.00 foot radius curve to the right through a central angle of 89°32′30″ and whose chord bears South 46°44′15″ West for a distance of 35.21 feet to a point on the north right-of-way line of S.W. Beaverton Hillsdale Highway, said right-of-way line also being the south line of said Lot 9;

Thence, South 88°29′30″ East along said right-of-way line for a distance of 29.90 feet to the southeast corner of said Lot 9;

Thence, continuing South 88°29′30″ East for a distance 50 feet to the southwest corner of Lot 8 of CLUB MEADOW;

Thence, North 01°58′00″ East along the east right-of-way line of S.W. 91st Avenue for a distance of 213.55 feet to the northwest corner of said Lot 8;

Thence, South 84°54′15″ East along the north lines of Lot 8, 7, and 6 CLUB MEADOW for a distance of 120 feet, more or less, to a point of intersection with the north line of said Lot 6 and the southerly projection with the east line of the aforementioned Lot 23;

Thence, North 01°58'00" East for a distance of 50 feet to the southeast corner of said Lot 23;

Thence, North 84°54'15" West along the south line of said Lot 23 for a distance of 120 feet to the southwest corner of said Lot 23;

Thence, North 01°58'00" East along the west lines of the aforementioned Lots 23 and 22 for a distance of 148.38 feet to the Point of Beginning.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 14, 1972
GEORGE B. CATHEY
979

RENEWAL DATE: 12/31/07

August 17, 2006

EXHIBIT C

CITY of BEAVERTON

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

STAFF REPORT

TO: City Council **REPORT DATE:** August 28, 2006

AGENDA DATE: September 11, 2006

FROM: Community Development Department
Jeff Salvon, Senior Planner

SUBJECT: Annexation (ANX 2006-0002)

ACTIONS: Annexation to the City of Beaverton of one parcel located at 4500 SW 91st Avenue and an adjacent segments of right-of-way on 91st Avenue between the northern edge property and Beaverton Hillsdale Highway and on Club Meadow Lane between 91st Avenue and the eastern edge of the property. The parcel is shown on the attached map, identified on tax map 1S114AB as lot 05000 and more particularly described by the attached legal description. The annexation of the property is owner initiated (annexation agreement attached) and is being processed as an expedited annexation under ORS 222.125 and Metro Code 3.09.045.

NAC: This property is not currently within a Neighborhood Association Committee (NAC). The Neighborhood Office recommends not adding these parcels to a NAC.

AREA: The parcel totals approximately 0.4 acres

TAXABLE BM 50 ASSESSED VALUE: $ 123,060

ASSESSOR'S REAL MARKET VALUE: $ 304,810

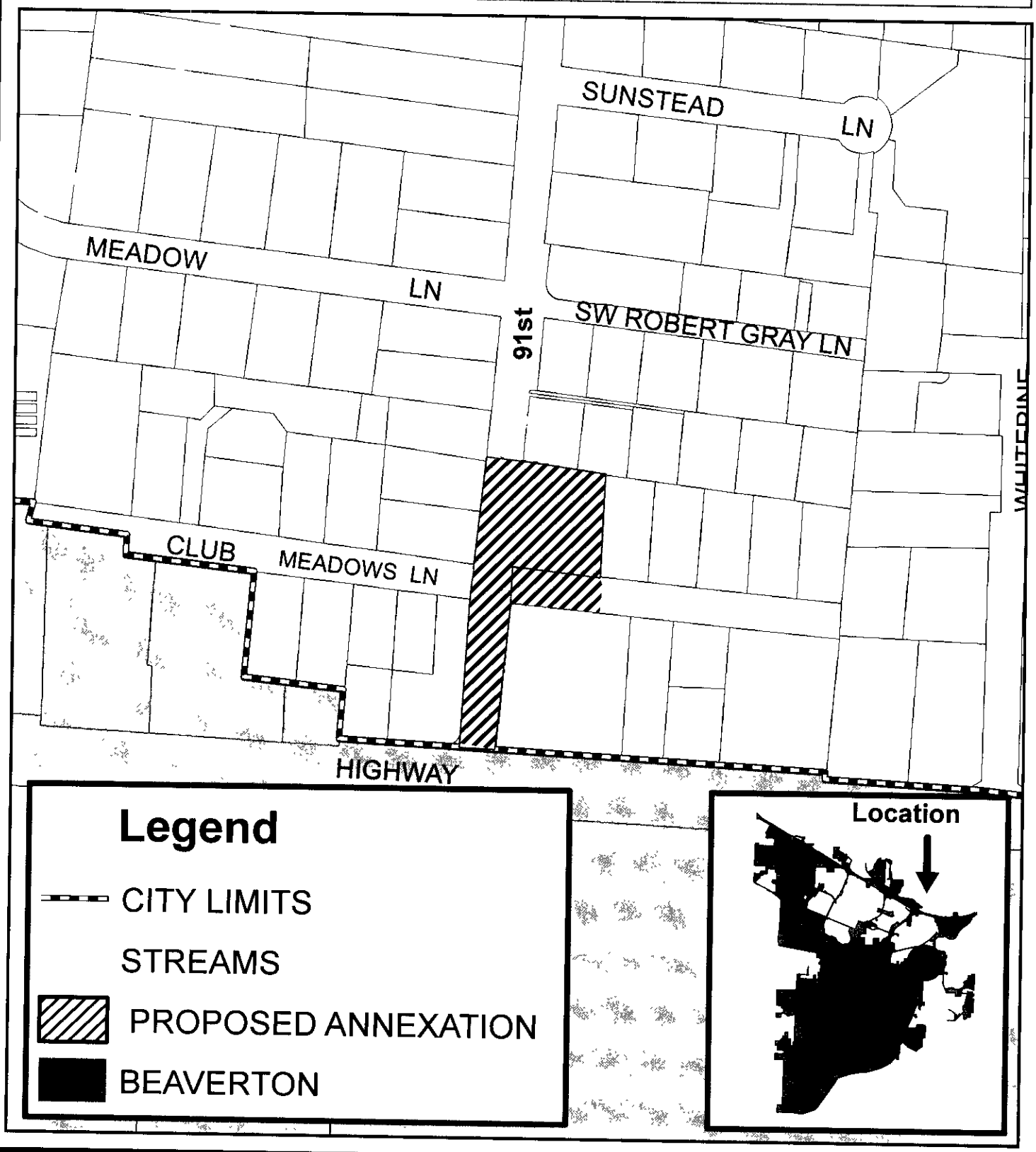
NUMBER OF LOTS: 1

EXISTING COUNTY ZONE: The subject parcel is designated Residential – 5 units to the acre by Washington County. The property owner has successfully requested and secured from the County a Measure 37 waiver from the zoning rules with an allowance to subdivide the property into 5 parcels. The owner intends to build townhouses on the property.

RECOMMENDATION

Staff recommends the City Council adopt an ordinance annexing the referenced property, with the annexation effective June 30, 2007 under a contingency that an ordinance designating the property NR-MD (Neighborhood Residential Medium Density) on the Comprehensive Plan Land Use Map and rezoning the property to the City's R-2 (Urban Medium Density 2000 Square Feet Per Dwelling) District is adopted and approved by March 31, 2007.. The effective date of the annexation ordinance would be the effective date of the ordinance redesignating and rezoning the property.

VICINITY MAP



City of Beaverton

ANX2006-0002

4500 SW 91st Avenue

COMMUNITY DEVELOPMENT DEPARTMENT
Planning Services Division

08/07/06

1S114AB05000

N

Application #
Anx2006-0002

BACKGROUND

The request is to annex a tax parcel located at 4500 SW 91st Avenue and adjacent right-of-way. The owner of the subject property filed a Measure 37 property claim with Washington County so as to exempt the owner from restrictions under the County's current R-5 zoning. In filing the claim, the property owner sought the right to subdivide the 0.4 acre parcel into five lots - each capable of supporting one dwelling unit. After receiving approval of the claim from the Board of County Commissioners, the property owner's representative expressed an interest to City staff of annexing the property into the City of Beaverton and rezoning the property to the City's R-2 designation as an alternative to employing the density increase permitted under the Measure 37 ruling. If approved by the City, the proposed zone redesignation would allow a maximum density of 8 units on the property.

As part of the annexation proposal, the property owner has agreed to enter into an annexation agreement with the City (Attachment A) which specifies terms and expectations that must be met for the annexation to be finalized. Foremost among them, the property owner will consent to the annexation with the condition that the City approves a rezone of the property to R-2 (minimum lot size of 2,000 square feet per dwelling unit) by March 31, 2007 and the City will allow for the effective date of the annexation to be postponed to June 31, 2007. The effective date of the annexation ordinance will be the same date as the effective date of the ordinance changing the designation and zoning of the property so that if the ordinance is not adopted and approved, the annexation will not become effective.

Consent on the part of both parties allows this proposal to be processed as an expedited annexation under ORS 222.125 and Metro Code 3.09.045 so no public hearing is required. In addition, in December 2004, the City and Washington County entered into an Intergovernmental Agreement for an Interim Urban Services Plan that established an area "A", in which the City could proceed with annexations without County opposition, and an area "B", in which the City would need to obtain County consent to proceed with annexation. This proposed annexation is in area "A" thus allowing the proposal to proceed without further approval on the County's part. Finally, it is understood that changing the property County to City plan and zoning designations will occur through a quasi-judicial process requiring a public hearing before the Planning Commission because the Urban Planning Area Agreement between the City and the County does not envision a change from a County designation subject to a Measure 37 waiver to a City designation and zone.

The property is not currently in a Neighborhood Association Committee (NAC). The Neighborhood Office recommends not adding this property to a NAC at the current time.

EXISTING CONDITIONS

SERVICE PROVISION:

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

- The City has entered into ORS Chapter 195 cooperative agreements with Washington County, Tualatin Valley Fire and Rescue District, Tualatin Hills Parks and Recreation District, and Clean Water Services.
- The City has entered into an ORS Chapter 190 intergovernmental agreement with Clean Water Services.
- The City has been a party to a series of ORS Chapter 190 intergovernmental agreements "for Mutual Aid, Mutual Assistance, and Interagency Cooperation Among Law Enforcement Agencies Located in Washington County, Oregon", the last of which was signed by Beaverton Mayor Rob Drake on August 9, 2004. This agreement specifies the terms under which a law enforcement agency may provide assistance in response to an emergency situation outside its jurisdiction when requested by another law enforcement agency.
- On December 22, 2004 the City entered into an intergovernmental agreement with Washington County defining areas that the City may annex for ten years from the date of the agreement without opposition by the County. The property proposed for annexation by this application is included in the areas the City may annex without County opposition.

This action is consistent with those agreements.

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

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

SEWER: The property is served with a lateral connection on the southern portion of the property that runs to an 8 inch east/west sanitary sewer line within the SW Club Meadow Lane right-of-way. In addition, because the parcel is a corner

lot, it is also situated adjacent to another 8" north/south line within the SW 91st Avenue right-of-way on the western edge of the property. A manhole access is located within the intersection of the two streets. Upon annexation the City will be responsible for billing.

WATER: West Slope Water District provides water service to the area. ORS 222.520 allows cities to assume water service responsibilities when annexing less than an entire district. The City of Beaverton is not in a situation to provide water to these lots at this time. West Slope Water District will continue to provide service, maintenance and perform billing. The City does not have an agreement with West Slope Water District.

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

STREETS and ROADS: Access to this property is from SW 91st Avenue (a County maintained Neighborhood Route) and SW Club Meadow Lane (a County maintained local road). Maintenance responsibilities will be negotiated between the City and the County at a future date.

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

PLANNING, ZONING and BUILDING: Washington County currently provides long-range planning, development review and building inspection for the property. Upon annexation, the City will provide those services. City Comprehensive Plan and Zoning Designations will be applied to this parcel in a separate hearings process.

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PUBLIC INVOLVEMENT

Consistent with Metro Code Section 3.09.045, the City sent notice of the proposed annexation on or before August 22, 2006 (20 days prior to the agenda date) to all necessary parties including Washington County, Metro, affected special districts and County service districts. Additionally, the City sent notice to the following parties:

- Edna Aanderud, 533 NE Geraldine Drive, Hillsboro, OR 97124, the property

owner;

- John Rosenberger, 533 NE Geraldine Drive, Hillsboro, OR 97124, an interested party; and
- The Raleigh West Neighborhood Association Committee (NAC) and the West Slope/Raleigh Hills/Garden Home Citizen Participation Organization (CPO 3); interested parties as set forth in City Code Section 9.06.035.

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

CRITERIA FOR APPROVAL

REGIONAL ANNEXATION CRITERIA:
In December 1998 the Metro Council adopted Metro Code Chapter 3.09 (Local Government Boundary Changes). Pursuant to Metro Code Section 3.09.045, Metro Code Sections 3.09.050(d) and (g) include the following minimum criteria for expedited annexation decisions:

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

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

Findings: This staff report addresses the provision of services in detail and the provision of these services is consistent with cooperative agreements between Beaverton and the service providers. The City has not yet entered into an urban services provider agreement under ORS 195.065 that relates to all potential urban service providers in and around the city, although discussion with other urban services providers on the content of an agreement have occurred sporadically over the last several years, and the City has proposed an agreement that is acceptable to most of the parties. Because a comprehensive urban service agreement has not been completed, it is not possible to consider adoption of an annexation plan.

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

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

Findings: ***The City has entered into an ORS Chapter 190 intergovernmental agreement with Clean Water Services, which was updated as of July 1, 2004. Exhibit 'A' to the new agreement defines areas within the "Beaverton Area of Assigned Service Responsibility" where, subsequent to annexation, specified maintenance responsibilities for sanitary sewer lines under 24 inches in diameter and for certain storm drainage facilities and surface water management functions would transfer to the City as of July 1 of any year if so requested by the City by January 1 of that year.***

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

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

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

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

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

  As development occurs in accordance with this development concept, issues of annexation or incorporation may arise. Annexation or incorporation issues will necessarily relate to various other planning issues such as community identity, fiscal impacts of growth and service provision, coordination between service

providers to achieve efficiencies and ensure availability, etc. As such issues arise; the County should evaluate community identity as an issue of equal importance with public service provision issues when developing policy positions on specific annexation or incorporation proposals.

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

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

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

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

  The County will:

  f. If appropriate in the future, enter into agreements with service providers which address one or more of the following:
  3. Service district or city annexation

  g. Not oppose proposed annexations to a city that are consistent with an urban service agreement or a voter approved annexation plan.

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

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

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

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

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

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

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

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

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

Findings: The property lies within the Urban Growth Boundary.

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

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

3.09.050 (g) Only territory already within the defined Metro Urban Growth Boundary at the time a petition is complete may be annexed to a city or included in territory proposed for incorporation into a new city. However, cities may annex individual tax lots partially within and without the Urban Growth Boundary.

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

Attachments: A) Annexation Agreement
B) Legal Description
C) City Annexation Policies

ANNEXATION AGREEMENT

ANNEXATION AGREEMENT

This Agreement is between and among the City of Beaverton, an Oregon municipal corporation ("City"), and Edna Aanderud ("Owner") as the sole and record owner of real property commonly known as 4500 SW 91st Avenue, Washington County, Oregon, Assessor's Map and Tax Lot Number Map 1S1 14AB 05000 (the "Property"). This agreement shall be effective when signed by all parties.

RECITALS

A. The Property is now separated from City's boundary by public right-of-way along SW 91st Avenue and as such is subject to annexation by the City. Owner desires that the Property be annexed to City and that City rezone the Property to City's R-2 zone. Owner has informed herself of all restrictions on use of the Property that would apply if the Property were annexed to City and rezoned to R-2 and understands and agrees that annexation and rezoning each are discretionary acts reserved to City's governing body.

B. In December of 2004 Beaverton and Washington County agreed to an Interim Urban Services Plan which specifies in section I.B. that "The COUNTY will not oppose annexations by the CITY of unincorporated properties within the area identified on Map 'A'." The Property is within the area identified on Map 'A' of the Interim Urban Services Plan.

C. Pursuant to the Interim Urban Services Plan, annexation of the Property to City will not require consent from Washington County to annex that portion of SW 91st Avenue lying between B-H Highway and the Property.

D. Upon annexation the Property will be withdrawn from the Washington County Service Districts for Enhanced Sheriff's Patrol and Urban Road Maintenance.

E. Designation of the Property as "Neighborhood Residential Medium Density" (NR-MD) on the Beaverton Comprehensive Plan Land Use Map; and rezoning of the Property to the Urban Medium Density (R-2) zoning district must be considered by the City through a separate process from the annexation.

In consideration of those premises as generally recited, it is

AGREED:

1. Petition and Consent to Annexation and Waiver of Claims. Owner by this instrument petitions to the City Council to annex the Property and consents to annexation of the Property to the City and to withdrawal of the Property from the county service districts recited above, subject to the terms of this Agreement. Owner for herself, her heirs, executors, transferees and assigns hereby represents that she has fully informed herself of the restrictions on use of the Property that will result from annexation and from rezoning of the Property to City's R-2 designation and with full knowledge of those restrictions and her rights, Owner **WAIVES** any claim that may otherwise accrue to her for any alleged reduction in value to the Property that may result from such annexation and rezoning.

2. Annexation Contingent on Comprehensive Plan Amendment and Rezone. At City's sole initiative and expense, City may proceed to adopt an ordinance to annex the Property at any time after execution of this Agreement. If the property is annexed, it shall be specified in the adopting ordinance that the effective date of annexation shall be June 30, 2007 with the condition that a separate ordinance to designate the Property NR-MD on the City's Comprehensive Plan Land Use Map and R-2 on the City's Zoning Map shall have been adopted and approved by March 31, 2007. Upon initiation of the annexation, City shall also proceed to recommend to the Planning Commission and City Council that (by separate decision) the Property should be designated NR-MD and zoned R-2. The effective date of an ordinance approving the plan amendment and zone change shall be the effective date of the annexation ordinance.

3. Covenants Running With the Land. The provisions of this Agreement touch and concern the Property, bind the heirs and successors of the parties, and are covenants running with the Property. This Agreement may be recorded in county deed records upon its execution. The Agreement may be assigned.

4. Modification of Agreement. This Agreement may only be modified by a writing signed by all parties.

5. Counterparts. This Agreement may be signed in counterparts.

IN WITNESS WHEREOF, the parties have executed this agreement.

By:_____
EDNA AANDERUD
Property Owner

Date:_____

CITY OF BEAVERTON, OREGON

By:_____
ROB DRAKE
Mayor

Date:_____

Approved As To Form:

_____
WILLIAM SCHEIDERICH
Assistant City Attorney

LEGAL DESCRIPTION

ANX 2006-0002

A parcel of land being situated in the northwest quarter of the northeast quarter of Section 14, Township 1 South, Range 1 West, Willamette Meridian, Washington County, State of Oregon. Said parcel of land being more particularly described as follows:

Lot 22 and Lot 23 of CLUB MEADOW, a duly recorded subdivision in the County of Washington, State of Oregon.

ALSO TOGETHER WITH the following described lands: BEGINNING at the northwest corner of the aforementioned Lot 22 of CLUB MEADOW;

Thence, North 85°00' West for a distance of 50.1 feet to the northeast corner of Lot 25 of said Club Meadow;

Thence, Southerly along the east lines of Lot 25 and Lot 24 of said CLUB MEADOW, and the projection thereof for a distance of 200 feet, more or less, to the northeast corner of Lot 9 of said CLUB MEADOW;

Thence, North 84°54'15" West along the north line of said Lot 9 for a distance 5.01 feet to a point that is the northwest corner of that tract of land dedicated to the public in Document Number 86002235 of Washington County Records, said point being 30.00 feet westerly and perpendicular to the centerline of S.W. 91st. Avenue;

Thence, South 01°58'00" West along the west line of said dedication and parallel with the aforementioned centerline for a distance of 189.97 to a point of curvature;

Thence, 39.07 feet along the arc of a 25.00 foot radius curve to the right through a central angle of 89°32'30" and whose chord bears South 46°44'15" West for a distance of 35.21 feet to a point on the north right-of-way line of S.W. Beaverton Hillsdale Highway, said right-of-way line also being the south line of said Lot 9;

Thence, South 88°29'30" East along said right-of-way line for a distance of 29.90 feet to the southeast corner of said Lot 9;

Thence, continuing South 88°29'30" East for a distance 50 feet to the southwest corner of Lot 8 of CLUB MEADOW;

Thence, North 01°58'00" East along the east right-of-way line of S.W. 91st Avenue for a distance of 213.55 feet to the northwest corner of said Lot 8;

Thence, South 84°54'15" East along the north lines of Lot 8, 7, and 6 CLUB MEADOW for a distance of 120 feet, more or less, to a point of intersection with the north line of said Lot 6 and the southerly projection with the east line of the aforementioned Lot 23;

Thence, North 01°58'00" East for a distance of 50 feet to the southeast corner of said Lot 23;

Thence, North 84°54'15" West along the south line of said Lot 23 for a distance of 120 feet to the southwest corner of said Lot 23;

Thence, North 01°58'00" East along the west lines of the aforementioned Lots 23 and 22 for a distance of 148.38 feet to the Point of Beginning.

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 14, 1972
GEORGE B. CATHEY
979

RENEWAL DATE: 12/31/07

August 17, 2006

ANNEXATION POLICY

City of Beaverton Urban Service Area and Corporate Limits Annexation Policies

A. City of Beaverton Urban Service Area Policy

The City remains committed to annexing its urban services area over time, but the City will be selective regarding the methods of annexation it chooses to use. The City of Beaverton prefers to avoid use of annexation methods that may force annexation against the will of a majority of voters in larger unincorporated residential neighborhoods. The City is, however, open to annexation of these areas by other means where support for annexation is expressed, pursuant to a process specified by State law, by a majority of area voters and/or property owners. The City is open to pursuing infrastructure/service planning for the purposes of determining the current and future needs of such areas and how such areas might best fit into the City of Beaverton provided such unincorporated residents pursue an interest of annexing into the City.

B. City of Beaverton Corporate Limits Policy

The City of Beaverton is committed to annexing those unincorporated areas that generally exist inside the City's corporate limits. Most of these areas, known as "islands", generally receive either direct or indirect benefit from City services. The Washington County 2000 Policy, adopted in the mid-1980s, recognizes that the County should not be a long-term provider of municipal services and that urban unincorporated areas including unincorporated islands should eventually be annexed to cities. As such, primarily through the use of the 'island annexation method', the City's objectives in annexing such areas are to:

- Minimize the confusion about the location of City boundaries for the provision of services;
- Improve the efficiency of city service provision, particularly police patrols;
- Control the development/redevelopment of properties that will eventually be within the City's boundaries;
- Create complete neighborhoods and thereby eliminate small pockets of unincorporated land; and
- Increase the City's tax base and minimize increasing the City's mill rate.

In order to achieve these stated objectives, the City chooses to generally pursue the following areas for 'island annexation' into the City of Beaverton:

- Undeveloped property zoned for industrial, commercial uses or mixed uses;
- Developed or redevelopable property zoned for industrial, commercial or mixed uses;
- Undeveloped or redevelopable property zoned for residential use;
- Smaller developed property zoned residential (within a neighborhood that is largely incorporated within the City of Beaverton).

ANNEXATION AGREEMENT

This Agreement is between and among the City of Beaverton, an Oregon municipal corporation ("City"), and Edna Aanderud ("Owner") as the sole and record owner of real property commonly known as 4500 SW 91st Avenue, Washington County, Oregon, Assessor's Map and Tax Lot Number Map 1S1 14AB 05000 (the "Property"). This agreement shall be effective when signed by all parties.

RECITALS

A. The Property is now separated from City's boundary by public right-of-way along SW 91st Avenue and as such is subject to annexation by the City. Owner desires that the Property be annexed to City and that City rezone the Property to City's R-2 zone. Owner has informed herself of all restrictions on use of the Property that would apply if the Property were annexed to City and rezoned to R-2 and understands and agrees that annexation and rezoning each are discretionary acts reserved to City's governing body.

B. In December of 2004 Beaverton and Washington County agreed to an Interim Urban Services Plan which specifies in section I.B. that "The COUNTY will not oppose annexations by the CITY of unincorporated properties within the area identified on Map 'A'." The Property is within the area identified on Map 'A' of the Interim Urban Services Plan.

C. Pursuant to the Interim Urban Services Plan, annexation of the Property to City will not require consent from Washington County to annex that portion of SW 91st Avenue lying between B-H Highway and the Property.

D. Upon annexation the Property will be withdrawn from the Washington County Service Districts for Enhanced Sheriff's Patrol and Urban Road Maintenance.

E. Designation of the Property as "Neighborhood Residential Medium Density" (NR-MD) on the Beaverton Comprehensive Plan Land Use Map; and rezoning of the Property to the Urban Medium Density (R-2) zoning district must be considered by the City through a separate process from the annexation.

In consideration of those premises as generally recited, it is

AGREED:

1. Petition and Consent to Annexation and Waiver of Claims. Owner by this instrument petitions to the City Council to annex the Property and consents to annexation of the Property to the City and to withdrawal of the Property from the county service districts recited above, subject to the terms of this Agreement. Owner for herself, her heirs, executors, transferees and assigns hereby represents that she has fully informed herself of the restrictions on use of the Property that will result from annexation and from rezoning of the Property to City's R-2 designation and with full knowledge of those restrictions and her rights, Owner **WAIVES** any claim that may otherwise accrue to her for any alleged reduction in value to the Property that may result from such annexation and rezoning.

2. Annexation Contingent on Comprehensive Plan Amendment and Rezone. At City's sole initiative and expense, City may proceed to adopt an ordinance to annex the Property at any time after execution of this Agreement. If the property is annexed, it shall be specified in the adopting ordinance that the effective date of annexation shall be June 30, 2007 with the condition that a separate ordinance to designate the Property NR-MD on the City's Comprehensive Plan Land Use Map and R-2 on the City's Zoning Map shall have been adopted and approved by March 31, 2007. Upon initiation of the annexation, City shall also proceed to recommend to the Planning Commission and City Council that (by separate decision) the Property should be designated NR-MD and zoned R-2. The effective date of an ordinance approving the plan amendment and zone change shall be the effective date of the annexation ordinance.

3. Covenants Running With the Land. The provisions of this Agreement touch and concern the Property, bind the heirs and successors of the parties, and are covenants running with the Property. This Agreement may be recorded in county deed records upon its execution. The Agreement may be assigned.

4. Modification of Agreement. This Agreement may only be modified by a writing signed by all parties.

5. Counterparts. This Agreement may be signed in counterparts.

IN WITNESS WHEREOF, the parties have executed this agreement.

By:_____
EDNA AANDERUD
Property Owner

Date:_____

CITY OF BEAVERTON, OREGON

By:_____
ROB DRAKE
Mayor

Date:_____

Approved As To Form:

_____
WILLIAM SCHEIDERICH
Assistant City Attorney

AGENDA BILL

Beaverton City Council
Beaverton, Oregon

09/11/2006

SUBJECT: An Ordinance Amending Ordinance No. 4187, Figure III-1, the Comprehensive Plan Land Use Map and Ordinance No. 2050, the Zoning Map for Two Properties in Northwest Beaverton; CPA2006-0007/ZMA 2006-0010 (11845 and 11915 SW Walker Road)

FOR AGENDA OF: ~~08/14/2006~~ **BILL NO:** 06149

Mayor's Approval:

DEPARTMENT OF ORIGIN: CDD

DATE SUBMITTED: 07/19/2006

CLEARANCES: City Attorney
Planning Services

PROCEEDING: ~~First Reading~~
Second reading and Passage

EXHIBITS: Ordinance
Exhibit A - Map
Exhibit B – Staff Report

BUDGET IMPACT

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

HISTORICAL PERSPECTIVE:
This ordinance is before the City Council to assign City Comprehensive Plan Land Use Map and Zoning designations for the subject properties, replacing the Washington County land use designations.

The Urban Planning Area Agreement (UPAA) is specific on the appropriate Land Use Map and Zoning Map designations for the parcels thus no public hearing is required. The appropriate Land Use Map designation for properties 1S1 10 BD 11700 and 1S1 10 BD 11600 is Neighborhood Residential – Standard Density (NR-SD) and the appropriate Zoning Map designation is Residential – 7,000 square foot minimum land area per dwelling unit (R-7). The City land use designations will take effect 30 days after Council approval and the Mayor's signature on this ordinance.

INFORMATION FOR CONSIDERATION:
This ordinance makes the appropriate changes to Ordinance No. 4187, Figure III-1, the Comprehensive Plan Land Use Map and Ordinance No. 2050, the Zoning Map.

RECOMMENDED ACTION:
~~First Reading~~
Second Reading and Passage

ORDINANCE NO. 4401

AN ORDINANCE AMENDING ORDINANCE NO. 4187, FIGURE III-1, THE COMPREHENSIVE PLAN LAND USE MAP AND ORDINANCE NO. 2050, THE ZONING MAP FOR TWO PROPERTIES LOCATED IN NORTHWEST BEAVERTON; CPA2006-0007/ZMA2006-0010

WHEREAS, The two properties were annexed under Ordinance 4358 and 4367, effective in August 2005, and October 2005, respectively, thus the property is being redesignated in this ordinance from the County's land use designation to the closest corresponding City plan and zoning designations as specified by the Urban Planning Area Agreement (UPAA); and

WHEREAS, Since the UPAA is specific on the appropriate designations for this parcel, this is not a discretionary land use decision and, therefore, no public hearing is required; and

WHEREAS, The Council adopts as to criteria applicable to this request and findings thereon the Community Development Department staff report by Senior Planner Barbara Fryer, dated July 19, 2006, attached hereto as Exhibit B; now, therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

Section 1. Ordinance No. 4187, the Comprehensive Plan Land Use Map, is amended to designate the subject properties on Map and Tax Lots 1S1 10 BD 11600 and 1S1 10 BD 11700 Neighborhood Residential - Standard Density on the City of Beaverton Comprehensive Plan Land Use Map, as shown on Exhibit "A" and in accordance with the UPAA.

Section 2. Ordinance No. 2050, the Zoning Map, is amended to designate properties on Map and Tax Lots 1S1 10 BD 11600 and 1S1 BD 11700 Residential - 7,000 square foot per dwelling unit on the City of Beaverton Zoning Map, as shown on Exhibit "A" and in accordance with the UPAA.

First reading this 14th day of August, 2006.

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

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

ATTEST:

_____
SUE NELSON, City Recorder

APPROVED:

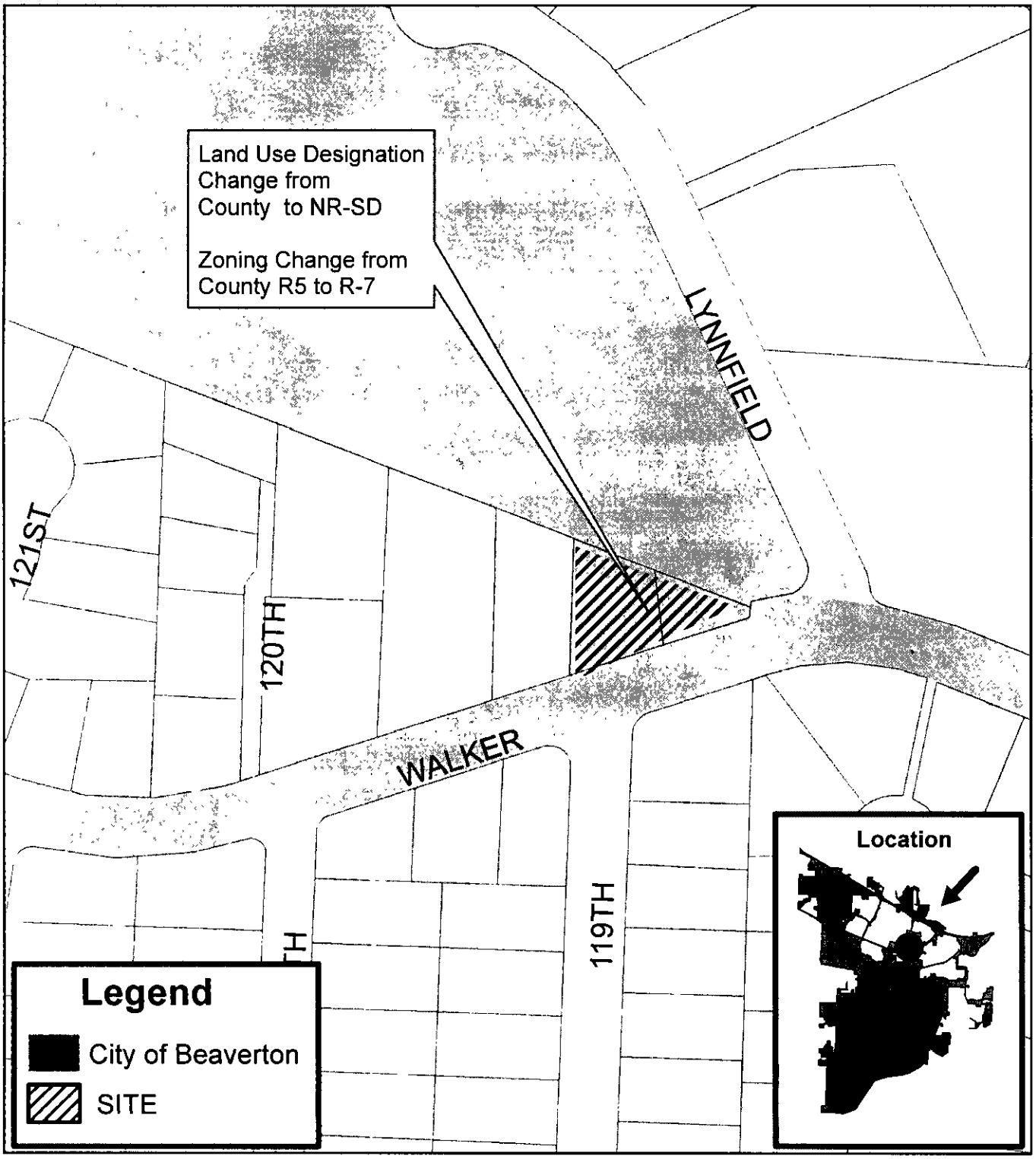
_____
ROB DRAKE, Mayor

Agenda Bill: 06149

VICINITY MAP

ORDINANCE NO. 4401

EXHIBIT "A"



CITY OF BEAVERTON

CPA 2006-0007 ZMA 2006-0010

6/23/06

1S110BD11600
1S110BD11700

N

COMMUNITY DEVELOPMENT DEPARTMENT
Planning Services division

11915, 11845
SW Walker Rd

AGENDA BILL

Beaverton City Council
Beaverton, Oregon

09/11/2006

SUBJECT: An Ordinance Amending Ordinance No. 4187, Figure III-1, the Comprehensive Plan Land Use Map and Ordinance No 2050, the Zoning Map for Two Properties in Northeast Beaverton; CPA2006-0008/ZMA 2006-0011
(Tax Lots 1S1 10 DA 01800 and 01802)

FOR AGENDA OF: ~~08/14/06~~ **BILL NO:** 06150

Mayor's Approval:

DEPARTMENT OF ORIGIN: CDD

DATE SUBMITTED: 07/20/2006

CLEARANCES: City Attorney
Planning Services

PROCEEDING: ~~First Reading~~
Second Reading and Passage

EXHIBITS: Ordinance
Exhibit A - Map
Exhibit B – Staff Report

BUDGET IMPACT

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

HISTORICAL PERSPECTIVE:

This ordinance is before the City Council to assign City Comprehensive Plan Land Use Map and Zoning designations for the subject property, replacing the Washington County land use designations.

The Urban Planning Area Agreement (UPAA) is specific on the appropriate Land Use Map and Zoning Map designations for the parcels thus no public hearing is required. The appropriate Land Use Map designation for properties 1S1 10 DA 01800 and 1S1 10 DA 01802 is Neighborhood Residential – Medium Standard Density (NR-SD) and the appropriate Zoning Map designation is Residential – 7,000 square foot minimum land area per dwelling unit (R-7). The City land use designation and zoning district will take effect 30 days after Council approval and the Mayor's signature on this ordinance.

INFORMATION FOR CONSIDERATION:

This ordinance makes the appropriate changes to Ordinance No. 4187, Figure III-1, the Comprehensive Plan Land Use Map and Ordinance No. 2050, the Zoning Map.

RECOMMENDED ACTION:

~~First Reading~~
Second reading and Passage

ORDINANCE NO. 4402

AN ORDINANCE AMENDING ORDINANCE NO. 4187, FIGURE III-1, THE COMPREHENSIVE PLAN LAND USE MAP AND ORDINANCE NO. 2050, THE ZONING MAP FOR TWO PROPERTIES LOCATED IN NORTHEAST BEAVERTON; CPA2006-0008/ZMA2006-0011

WHEREAS, The two properties were annexed under Ordinance 4370 in November 2005, and are being redesignated in this ordinance from the County's land use designation to the closest corresponding City designations as specified by the Urban Planning Area Agreement (UPAA); and

WHEREAS, Since the UPAA is specific on the appropriate designations for these parcels, this is not a discretionary land use decision and, therefore, no public hearing is required; and

WHEREAS, The Council adopts as to criteria applicable to this request and findings thereon the Community Development Department staff report by Senior Planner Barbara Fryer, dated July 19, 2006 attached hereto as Exhibit B; now, therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

Section 1. Ordinance No. 4187, the Comprehensive Plan Land Use Map, is amended to designate the subject properties on Map and Tax Lots 1S1 10 DA 01800 and 1S1 10 DA 01802 Neighborhood Residential – Standard Density, as shown on Exhibit "A" and in accordance with the UPAA.

Section 2. Ordinance No. 2050, the Zoning Map, is amended to designate properties on Map and Tax Lots 1S1 10 DA 01800 and 1S1 10 DA 01802 Residential – 7,000 square foot per dwelling, as shown on Exhibit "A" and in accordance with the UPAA..

First reading this 14th day of August, 2006.

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

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

ATTEST:

_____
SUE NELSON, City Recorder

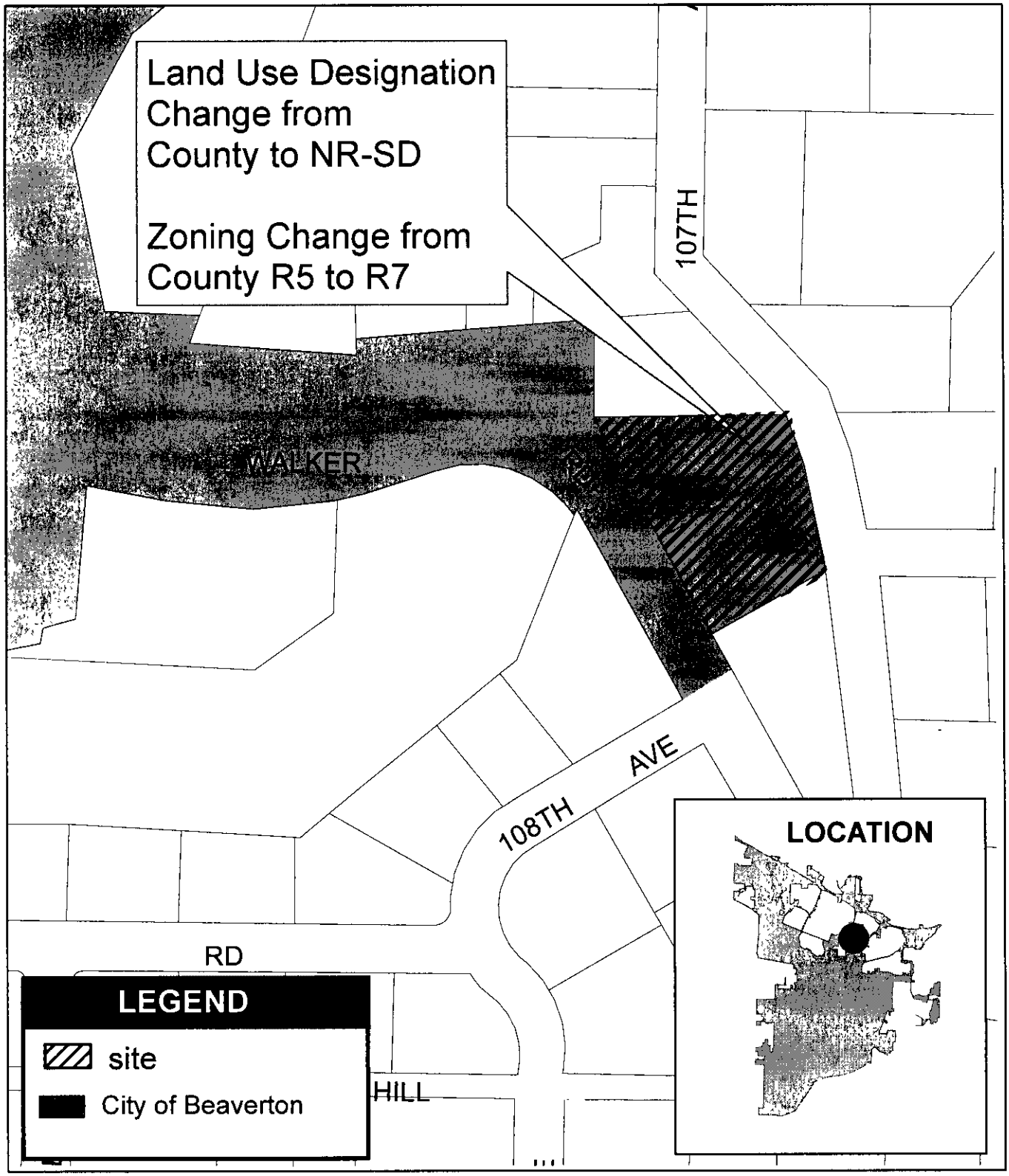
APPROVED:

_____
ROB DRAKE, Mayor

VICINITY MAP

ORDINANCE NO. 4402

EXHIBIT A



City of Beaverton

CPA 2006-0008 ZMA 2006-0011

COMMUNITY DEVELOPMENT DEPARTMENT
Planning Services Division

7/18/06

Application #
CPA 2006-0008
ZMA 2006-0011

002

AGENDA BILL

Beaverton City Council
Beaverton, Oregon

09/11/2006

SUBJECT: An Ordinance Amending Section 6.02.390 of the Beaverton Code Relating to the Downtown Permit Parking District

FOR AGENDA OF: ~~8-14-06~~ **BILL NO:** 06151

Mayor's Approval:

DEPARTMENT OF ORIGIN: Public Works

DATE SUBMITTED: 8-1-06

CLEARANCES: Transportation
City Attorney

PROCEEDING: ~~First Reading~~
Second Reading and Passage

EXHIBITS: 1. Proposed Ordinance

BUDGET IMPACT

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

HISTORICAL PERSPECTIVE:
Under Issue TC 595,the Traffic Commission has recommended a revision to the locations where permit parking is allowed in the Downtown Permit Parking District. A Code revision is required to implement the recommendation. Information on TC 595 is presented under a separate Council agenda item.

INFORMATION FOR CONSIDERATION:
The attached ordinance will implement theTraffic Commission recommendation.

RECOMMENDED ACTION:
~~First reading.~~

Second Reading and Passage

Agenda Bill No: 06151

EXHIBIT 1

ORDINANCE NO. 4403

AN ORDINANCE AMENDING SECTION 6.02.390 OF THE BEAVERTON CODE RELATING TO THE DOWNTOWN PERMIT PARKING DISTRICT.

Whereas, on August 14, 2006, the City Council approved a Traffic Commission recommendation to allow parking permits to be used on portions of SW 1st Street, and to implement that recommendation requires an amendment to Beaverton Code provisions that describe the Downtown Permit Parking District, now, therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

BC 6.02.390B is hereby amended to read as follows:

"B. A vehicle parking permit for a specified residential permit parking district allows parking of a permitted vehicle in excess of the posted parking time limit in the specified residential permit parking districts authorized by BC 6.02.080. In the Beaverton Downtown Permit Parking District, a vehicle parking permit allows parking of a permitted vehicle in excess of the posted parking time limit along the following City streets and in the following city-owned parking lots:

1. S.W. Broadway between S.W. Watson Avenue and S.W. Cedar Hills Boulevard,
2. S.W. 2nd Street between S.W. Hall Boulevard and S.W. Lombard Avenue,
3. S.W. 2nd Street between S.W. Watson Avenue and S. W. Angel Avenue,
4. The west side of S.W. Main Avenue between S.W. 1st Street and a point 125 feet south of S.W. 1st Street,
5. The south side of S .W. 1st Street between S .W. Stott Avenue and S.W. Main Avenue,
6. The west side of S.W. Rose Biggi Avenue between S.W. Beaverdam Road and S.W. Millikan Way,
7. **The south side of SW 1st Street between Tucker Avenue and Hall Boulevard,**
8. City-owned parking lots:
   a. Angel Avenue and Farmington Road
   b. Betts Avenue and Farmington Road
   c. At the corner of Broadway and Canyon Road, east of Tax lot 1S115BA00900
   d. Chapman Street between 1st Street and 2nd Street
   e. Beaverton-Hillsdale Highway between Broadway and Lombard Avenue.

First reading this 14th day of August, 2006.
Passed by the Council this _____ day of _____, 2006.
Approved by the Mayor this _____ day of _____, 2006.

ATTEST:

SUE NELSON, City Recorder

ROB DRAKE, Mayor