



FINAL AGENDA

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

REGULAR MEETING  
JULY 23, 2007  
6:30 P.M.

CALL TO ORDER:

ROLL CALL:

PRESENTATIONS:

07152 Bicycle Friendly Community Award 2007 Renewal by the League of American Bicyclists

07153 Presentation on *Emerging Trends and Issues, Aging in Our Community*

VISITOR COMMENT PERIOD:

COUNCIL ITEMS:

STAFF ITEMS:

CONSENT AGENDA:

07154 Liquor Licenses: New Outlets – Pastini Pastaria; Gerald's

Contract Review Board:

07155 Procurement Process Relating to the Hiring of Outside Legal Counsel

07156 Bid Award – Allen Boulevard (Hall-Alice) Utility Improvement Project

WORK SESSION:

07157 Ordinance to Adopt Procedures for Reviewing Candidate Statements in City Voter's Pamphlet

PUBLIC HEARING:

07158 Residential Property Maintenance Ordinance

## ORDINANCES:

### First Reading:

07151 An Ordinance Amending Beaverton Code Chapter 6 Relating to Parking Zone Additions (Ordinance No. 4445)

07159 An Ordinance Amending Ord. 4187 Figure III-1 the Comprehensive Plan Land Use Map to Apply the City's Neighborhood Residential Standard Density (NR-SD) Plan Designation to Three Properties and Ord. 2050 the Zoning Map to Apply the City's R-7 Zone to One Property Located in Northeastern Beaverton CPA 2006-0006/ZMA 2006-0009 (Laurel St/Kennedy St/103 Ave) (Ordinance No. 4446)

07160 An Ordinance Amending Ordinance No. 4187, Figure III-1, the Comprehensive Plan Land Use Map to Apply the City's Neighborhood Residential Standard Density (NR-SD) Plan Designation and Ordinance No. 2050, the Zoning Map, to Apply the City's R-5 Zone to Property Located at 4980 SW Laurelwood Avenue; CPA 2007-0014/ZMA 2007-0014 (Ordinance No. 4447)

### Second Reading:

07138 TA 2007-0002 (Operations Center 2007) (Ordinance No. 4443)

## EXECUTIVE SESSION:

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

## ADJOURNMENT:

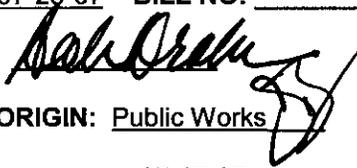
This information is available in large print or audio tape upon request. In addition, assistive listening devices, sign language interpreters, or qualified bilingual interpreters will be made available at any public meeting or program with 72 hours advance notice. To request these services, please call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

**AGENDA BILL**

**Beaverton City Council  
Beaverton, Oregon**

**SUBJECT:** Bicycle Friendly Community Award  
2007 Renewal by the League of  
American Bicyclists

**FOR AGENDA OF:** 07-23-07 **BILL NO:** 07152

**Mayor's Approval:** 

**DEPARTMENT OF ORIGIN:** Public Works

**DATE SUBMITTED:** 07-17-07

**CLEARANCES:**

**PROCEEDING:** Presentation

**EXHIBIT:** Letter of Congratulations

**BUDGET IMPACT**

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

The League of American Bicyclists (LAB) recently designated the 2007 recipients of its Bicycle Friendly Community awards. The award is presented only to communities with remarkable commitments to bicycling. The City of Beaverton was renewed as a Bronze Award recipient for 2007.

Initially the City was one of only fourteen communities nationwide to receive this award in 2003. The City's Bronze Award was renewed in 2005. For both the 2005 and the 2007 renewals, the City provided updated information and was reevaluated on its continued planning, engineering, education, encouragement, enforcement, and overall efforts toward promoting bicycling.

**INFORMATION FOR CONSIDERATION:**

The LAB Bicycle Friendly Community Campaign is a growing national grassroots effort to increase the number of trips made by bicycle, to promote physical fitness, and to help make communities more livable. The Bicycle Friendly Community award recognizes communities that provide safe accommodation and facilities for bicyclists.

**RECOMMENDED ACTION:**

Presentation of Bicycle Friendly Community Bronze Award certificate.



**AGENDA BILL**

**Beaverton City Council  
Beaverton, Oregon**

**SUBJECT:** Presentation on *Emerging Trends and Issues, Aging in Our Community*

**FOR AGENDA OF:** 07/23/07 **BILL NO:** 07153

**Mayor's Approval:** 

**DEPARTMENT OF ORIGIN:** Mayor

**DATE SUBMITTED:** 07/17/07

**CLEARANCES:**

**PROCEEDING:** Presentation

**EXHIBITS:** PowerPoint Presentation

**BUDGET IMPACT**

<b>EXPENDITURE REQUIRED \$0</b>	<b>AMOUNT BUDGETED \$0</b>	<b>APPROPRIATION REQUIRED \$0</b>
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**HISTORICAL PERSPECTIVE:**

Rod Branyan, Acting Director, Health and Human Services Department, will give a presentation to Council on *Washington County Disability, Aging and Veteran Services: Emerging Trends and Issues, Aging in Our Community*.

**RECOMMENDED ACTION:**

Listen to presentation.

Washington County  
Department of Health and Human Services  
Disability, Aging and Veteran Services (DAVS)



# Strategic Planning 2007

Rod Branyan, Acting Director  
Department of Health & Human Services

**Emerging**

**Trends and Issues**

# An Aging Community

In 2005

1 in 8 Oregonians  
was 65 or older

By 2030

1 in 5 Oregonians  
will be 65 or older

In 2005

68,000 Oregonians  
reached age 85

By 2025

More than 95,000  
Oregonians will be  
85 or older

An increase of  
almost 40 percent!

These changes are due, in part, to Oregonians living longer and healthier lives than ever before.



The Aging  
of the  
**Baby Boomers**

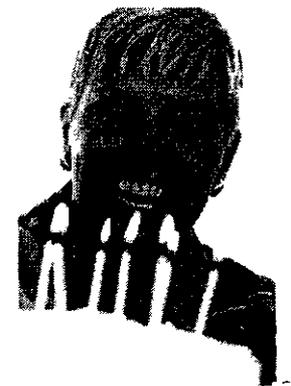
Baby boomers began turning 60 in  
January 2006

Boomers will continue to celebrate  
their 60<sup>th</sup> birthdays at the rate of:

- 10,000 per day
- 4 million each year



Every 8 seconds  
a boomer turns 60!



# STRATEGIC PLANNING CHALLENGES

- Meet the needs of the current senior population
- Plan for the "Age Wave" of baby boomers

# Older Adults

## Healthier and Living Longer than Ever

Focus will be on

- maintaining health and vitality
- decreasing the need for health care and supportive services

### **NEEDED:**

Programs that focus on

- Health Education
- Physical fitness
- Disease Prevention
- Nutrition

# Family Caregivers

- Provide over 75% of the care in the US
- Aging boomers will provide care for their much older parents
  - May also be caring for grandchildren

## NEEDED:

New and better services to help them care for their family members

- Caregiver counseling and support programs
- Tools, training and resources
- Respite Care services

## A New Vision of Retirement

Boomers will work well into their later years and will want

- Job flexibility and retraining opportunities
- Meaningful social involvement
- Lifelong learning and development

### NEEDED:

- Policies and incentives to recruit and retain older workers
- Volunteer opportunities that tap into the skills, talents and experience of older adults

## Aging Population

Between 2005 and 2020, it's estimated that the population of persons age 50 to 64 will increase by 21 percent and the population age 65 and older by 33 percent.

The population under age 50 will increase by 4 percent.

# Community Livability & Successful Aging

A livable community is one that has affordable and appropriate housing, supportive community features and services, and adequate mobility options, which together facilitate personal independence and the engagement of residents in civic and social life.

Successful Aging "...the ability to maintain three key behaviors or characteristics:

- low risk of disease and disease-related disability
- high mental and physical function
- actively engaged with life; strong relationships

# Livable Communities

Livable Communities are established with key components that promote independence among individuals and strengthen the civic and social ties among them.

Key components:

- Transportation
- Walkability
- Safety and Security
- Shopping
- Housing
- Health Services
- Recreation and Cultural Activities
- Caring/Supportive Community

Boomers will change the way we age.

We need to create new images, new models and new approaches to aging.

Transform communities into

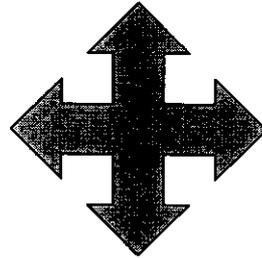
Good places to grow up and to grow old!

**Rethink Aging!**

# A Model of Successful Aging\*

Living with Purpose and Joy

Dealing confidently  
with life's changes  
and challenges



Sustaining positive,  
meaningful, dynamic  
relationships

A Sense of Well-Being

Supported by

*A Community that Nurtures Successful Aging*

*\*From: "A Plan for Successful Aging in Greater Cleveland"*

**Thank you**

**for your help in planning**

**a community that's**

**“A Good Place to Grow Up**

**and to Grow Old!”**

**AGENDA BILL**

**Beaverton City Council  
Beaverton, Oregon**

**SUBJECT:** LIQUOR LICENSES

**FOR AGENDA OF:** 07/23/07 **BILL NO:** 07154

**NEW OUTLETS**

Pastini Pastaria  
3487 SW Cedar Hills Blvd.  
Beaverton, OR

Geraldi's  
6175 SW Lombard Ave  
Beaverton, OR

**MAYOR'S APPROVAL:** 

**DEPARTMENT OF ORIGIN:** Police 

**DATE SUBMITTED:** 07/10/07

**PROCEEDING:** Consent Agenda

**EXHIBITS:** None

**BUDGET IMPACT**

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

Pastini Cedar Hills, LLC has made application for a Full On-premises sales license under the trade name of Pastini Pastaria. The establishment will serve Italian food. It will operate Sunday through Thursday from 11:00 a.m. to 9:00 p.m., and Friday and Saturday 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.

Geraldi's, Inc., has made application for a Limited On-Premises Sales License under the trade name of Geraldi's. The establishment will serve pizza. It will operate Monday through Saturday, from 11:00 a.m. to 8:00 p.m. and Sunday from 12:00 p.m. to 5:00 p.m. There will be 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**

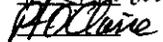
**SUBJECT:** Procurement Process Relating to the Hiring  
of Outside Legal Counsel

**FOR AGENDA OF:** 7/23/07 **BILL NO:** 07155

**Mayor's Approval:** 

**DEPARTMENT OF ORIGIN:** City Attorney 

**DATE SUBMITTED:** 06-29-07

**CLEARANCES:** Purchasing   
Finance 

**PROCEEDING:** Consent Agenda  
Contract Review Board

**EXHIBITS:**

**BUDGET IMPACT**

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

Beaverton Code section 2.11.020.E.2.h. requires that the City Council pre-approve the hiring of outside legal counsel. The Code also requires that the Council must approve of filing legal actions or appeal. The Beaverton Purchasing Code section 50-0140 requires that the City Council approve "any expenditure for legal services .... expected to exceed \$50,000." The Purchasing Code does not require specific Council approval of an expenditure for legal services expected to cost \$50,000 or less. Most every other contract let by the City is subject to this same \$50,000 threshold for Council expenditure approval.

**INFORMATION FOR CONSIDERATION:**

In accordance with the relevant provisions of the Beaverton City Code and the Beaverton Purchasing Code, the City Council must pre-authorize the hiring of all outside legal counsel in all instances. This is true regardless of the expected cost of services. In the future, if the City Attorney recommends hiring outside counsel and it is expected to cost in excess of \$50,000, an agenda bill will be prepared requesting a specific funding authorization. If an outside attorney is recommended to be hired for less than \$50,000 and there are available funds budgeted, the City Attorney will make the request without any specific funding limit as it is required under the Purchasing Code that these contracts will be limited to \$50,000.

**RECOMMENDED ACTION:**

Adopt the procurement process as proposed.

**AGENDA BILL**

**Beaverton City Council  
Beaverton, Oregon**

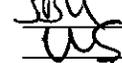
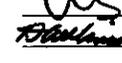
**SUBJECT:** Bid Award - Allen Boulevard (Hall-Alice) Utility Improvement Project

**FOR AGENDA OF:** 07/23/2007 **BILL NO:** 07156

**Mayor's Approval:** 

**DEPARTMENT OF ORIGIN:** Public Works 

**DATE SUBMITTED:** 0712/2007

**CLEARANCES:** Purchasing   
Finance   
City Attorney   
Capital Proj 

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

- EXHIBITS:**
1. CIP Project Data Sheet/Map
  2. Bid Summary
  3. Funding Plan

**BUDGET IMPACT**

EXPENDITURE REQUIRED *	AMOUNT BUDGETED *	APPROPRIATION REQUIRED *
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\*See attached Funding Plan (Exhibit 3). As shown in the Exhibit, the project costs can be absorbed within the various appropriations budgeted for FY 2007-08. However, an additional appropriation of \$59,435 may be needed in Program 3620 (Water Extra Capacity Supply System) as other projects are appropriated and constructed during the year. Staff will monitor this account and, if necessary, submit the additional \$59,435 appropriation in the next available supplemental budget with the additional appropriation funded from the Water Construction Fund's Contingency Account.

**HISTORICAL PERSPECTIVE:**

The SW Allen Boulevard (Hall-Alice) Utility Improvement Project is included in the FY 2007/08 Capital Improvements Plan (CIP) under CIP Project Number 4049 (Exhibit 1).

The project area encompasses approximately 50 businesses, apartments, and homes located on SW Allen Boulevard between SW Hall Boulevard and SW Alice Lane. The public utilities in the area were constructed in the mid to late 1950's and are in need of replacement or rehabilitation.

The SW Allen Boulevard (Hall-Alice) Utility Improvement Project was called out as a high priority project on page 5-6 of the January 2004 Sanitary Sewer Master Plan Update.

The proposed project consists of the rehabilitation of approximately 1,829 lineal feet of 8-inch sanitary sewer pipe and 4,567 lineal feet of 4-inch and 6-inch sewer laterals, upsizing of 1,318 lineal feet of sanitary sewer pipe, and construction of 1360 lineal feet of 16-inch ductile iron waterline and appurtenances. Clean Water Services (CWS) will pay half of the sanitary sewer replacement costs as part of a CWS program to reduce inflow and infiltration (the entry of ground water in to the sanitary sewer pipes) in aging sections of the sanitary sewer system.

The intergovernmental agreement with CWS for the project area was signed on September 28, 2006. The CWS reimbursement will occur after the project is complete.

**INFORMATION FOR CONSIDERATION:**

The invitation for bid was advertised in the *Daily Journal of Commerce* on June 20, 2007. A mandatory pre-bid meeting was held on June 27, 2007. Five contractors attended the pre-bid meeting. Two (2) bids were received and opened on July 10, 2007 at 2:00 p.m. in the Finance Department conference room (Exhibit 2). Landis & Landis Corporation of Marylhurst, Oregon, submitted the lowest responsive bid in the amount of \$1,097,372. The overall bid amount is \$25,113 or 2.3% more than the Engineer's Estimate (Exhibit 3).

Landis & Landis is currently completing the South Central "A" Utility Improvement project (CIP 6038) and has performed in a satisfactory manner. In addition, Landis & Landis completed the SW Cedar Hills Boulevard (Phase 2) Utility Improvement project (CIP 8006B) in 2004. Staff finds Landis & Landis has satisfied the bid requirements to construct utility improvements in a built-up, urban environment.

With City Council approval of the bid award, a Notice to Proceed (NTP) would be issued to the Contractor on or about July 30, 2007. The project contract requires substantial completion, which includes all work other than punch-list corrections and final cleanup, within 101 calendar days of the NTP. This means the project's estimated substantial completion date is November 7, 2007.

**RECOMMENDED ACTION:**

Council, acting as Contract Review Board, award the bid to Landis & Landis Corporation in the amount of \$1,097,372, in a form approved by the City Attorney, as the lowest responsive bid received for the Allen Boulevard (Hall-Alice) Utility Improvement Project and, if necessary, authorize the Finance Director to include an additional appropriation of \$59,435 in Program 3620 (Water Extra Capacity Supply System) the next available supplemental budget.

City of Beaverton  
2007-2008 CIP

**Project Data**

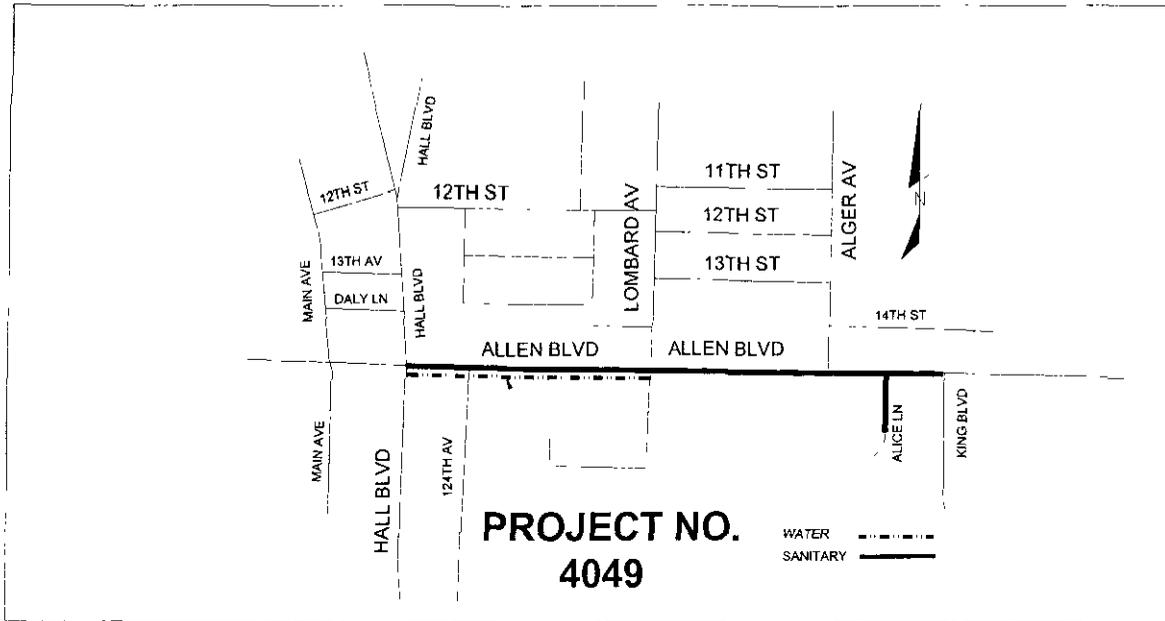
Water

**Project Number:** 4049

**Project Name:** Allen Blvd (Hall- Alice) Utility Improvements

**Project Description:** The proposed project consists of the rehabilitation of approximately 1,829 lineal feet of 8-inch sanitary sewer pipe and 4,567 lineal feet of 4-inch and 6-inch sewer laterals, and upsizing of 1,318 lineal feet of sanitary sewer pipe on Allen Blvd (Hall Blvd to Alice Ln) in accordance with the 2004 Sanitary Sewer Master Plan, and construction of 1360 lineal feet of 16-inch ductile iron waterline and appurtenances on Allen Blvd (Lombard Ave to Hall Blvd) in accordance with the Water System Master Plan.

Map:



**Project Justification:** The sanitary pipes in the project area are 60 to 80 years old and have a very high level of infiltration/inflow. The pipes also have severe root intrusion problems in areas and require a high level of maintenance. The existing cast iron water lines are undersized and have experienced recent and numerous main breaks.

**Project Status:** The project was advertised on 6-20-07, the mandatory pre-bid meeting was held on 6-22-07, and the bids were opened 7-10-07. Landis & Landis was the low bidder. Council is expected to award the project on 7-16-07, work to begin on 7-30-07, and the project to be substantially complete on 11-7-07. Clean Water Services is to pay for half of the sanitary improvements as part of the CWS program to reduce inflow and infiltration.

**Estimated Date of Completion:** 11/30/2007

**Estimated Project Cost:** \$1,250,000

**First Year Budgeted:** FY01/02

**Funding Data:**

<u>Project No.</u>	<u>Fund No.</u>	<u>Fund Name</u>	<u>Amount</u>	<u>FY</u>
4049	3620	Water Extra Capacity Supply	\$275,000	FY2007/08
	3701	Water Improvements	\$115,000	FY2007/08
	3850	Sewer Maint/Replacement	\$645,000	FY2007/08
	CWS	IGA w/ Clean Water Services	(\$322,500)	FY2007/08
<b>Total for FY:</b>			<b>\$712,500</b>	

## BID SUMMARY

## CITY OF BEAVERTON

TO: Mayor &amp; City Council

FROM: Purchasing Division

SUBJECT: Bid Opening

Bids were opened on JULY 10, 2007 at 2:00 PM in the FINANCE DEPARTMENTFor: ALLEN BLVD (HALL-ALICE) UTILITY IMPROVEMENT PROJECT FY 2007-08

Witnessed by: JIM BRINK

VENDOR NAME CITY, STATE	Bid Proposal Bid Bond	Acknow Addenda	Man Pre-Bid	Const. Sch.	Customer Ack.	ODOT Pre-Qual	Bidder Responsibility Form	BID AMOUNT
K & R PLUMBING PORTLAND OR	X	X	X	X	X	X	X	\$1,167,888.40
LANDIS & LANDIS CORP MARYLHURST, OR	X	X	X	X	X	X	X	\$1,097,372.00

The Purchasing process has been confirmed.

Signed: *Tony L. Mualt*  
Purchasing Division-Finance Dept.

The above amounts have been checked: YES NO

Date: 7-10-07

Funding Plan - Allen Blvd (Hall-Alice) Utility Improvement Project					
Project No. 4049					
Fund Number and Name	FY2007-08 Fund Budget	FY2007-08 Project Budget	Engineer's Estimate	Project Cost As Bid	
502-75-3850-682 Sanitary Maintenance & Replacement	\$1,163,720	\$645,000	\$603,429	\$646,860	(1)
501-75-3701-682 Water System Improvements	\$1,095,000	\$115,000	\$93,766	\$116,077	(2)
505-75-3620-682 Water Extra Capacity Supply System	\$1,425,000	\$275,000	\$375,064	\$334,435	(3)
Totals		\$1,035,000	\$1,072,259	\$1,097,372	
(1) CWS will reimburse City 50% of sanitary sewer cost In Program 3850 (Sanitary Maintenance & Replacement), the \$1,860 can be absorbed within the existing \$1,163,720 appropriation for FY 2007-08.					
(2) In Program 3701 (Water System Improvements), the \$1,077 can be absorbed within the existing \$1,095,000 appropriation for FY 2007-08.					
(3) In Program 3620 (Water Extra Capacity Supply System), an additional appropriation of \$59,435 will be required in the next supplemental budget.					

**AGENDA BILL**

**Beaverton City Council  
Beaverton, Oregon**

**SUBJECT:** Ordinance to Adopt Procedures for  
Reviewing Candidate Statements in City  
Voters' Pamphlet.

**FOR AGENDA OF:** 7/23/07 **BILL NO:** 07157

**Mayor's Approval:** 

**DEPARTMENT OF ORIGIN:** City Attorney 

**DATE SUBMITTED:** 6-01-07

**CLEARANCES:** City Attorney 

**PROCEEDING:** Work Session

**EXHIBITS:** Draft Ordinance  
Minutes

**BUDGET IMPACT**

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

The City Charter, Chapter VI, Section 30, provides that "if there is a material misstatement of fact published in the City's voters' pamphlet which was submitted by or in behalf of a person nominated or elected to the Council, the nominations or election of that person is nullified". During the last election, questions arose on how to interpret this section and what procedures would the City use to review a claim. The Council directed the City Attorney to draft an ordinance for its review. The Council had a work session on April 16, 2007. The minutes from that work session are attached.

**INFORMATION FOR CONSIDERATION:**

At the last work session, the City Attorney presented two different versions of the ordinance. Both versions required signed statements as to the truthfulness of the materials and both authorized the City to obtain information from third parties. In both versions, the City made the final decision as to whether the election or nomination was nullified. The first version provided that the City Council made the determination as to whether there was a "material misstatement of fact." The second version had the circuit court make that determination. Although there is a difference of opinion, it appears the majority of the Council favors the second version (attached) where the circuit court makes the decisions. The City can still do its own research and citizens can still ask that this be done. The ultimate conclusion as to whether there was a material misstatement of fact would be done by the circuit court. It is likely that even if the City had made such a decision it would likely end up at circuit court. This would quicken the process and avoid the situation where the Council would have to rule on an issue that could affect a fellow Council member. Under the City process, there would be a filing fee (to be determined) and then a filing fee for circuit court. Under the circuit court process, there is one \$360 filing fee.

**RECOMMENDED ACTION:**

Conduct work session.

 **DRAFT**

ORDINANCE NO.                     

AN ORDINANCE TO ADOPT PROCEDURES FOR  
REVIEWING CANDIDATE STATEMENTS IN  
CITY VOTERS' PAMPHLETS

WHEREAS, a candidate for public office in Oregon may discuss his or her qualifications and background in a public circular known commonly as the voters' pamphlet; and

WHEREAS, the Charter of the City of Beaverton provides that the City shall publish a voters' pamphlet for any primary, general, or special election; and

WHEREAS, the Chapter IV, Section 30.B of the Charter also authorizes the Council to verify a claim that a candidate or official stood for election upon a material misstatement in the voters' pamphlet, and further provides that Council shall remove a person from office upon so finding; and

WHEREAS, a voters' pamphlet misstatement submitted by a candidate or on behalf of a candidate being a matter of citywide importance, it is appropriate to create a public process for the consideration of such a misstatement; now, therefore,

BE IT ORDAINED BY THE CITY OF BEAVERTON:

**Section 1.** The Beaverton Code is amended in Chapter 2 by adding the following sections.

2.05.487 Voters' pamphlet submission requirements. To accept a statement for publication in the voters' pamphlet, whether submitted by the candidate or on behalf of a candidate:

1. The candidate shall sign an affidavit that attests to the truthfulness of the voters' pamphlet submission statement.
2. The signed statement in subsection (1) shall also contain a provision that the candidate agrees to provide supporting information if requested by the City, and shall release and authorize third parties to participate in an investigation under this ordinance.

2.06.488 A candidate who makes a material misstatement of fact in a City voters' pamphlet is subject to civil and criminal causes of action as found in ORS 260.532 and ORS 260.715.

2.06.489 If the circuit court enters a judgment finding that a candidate has made a material misstatement of fact published in the City's voters' pamphlet, the City Council may

 **DRAFT**

nullify the election or nomination of that person.

**Section 2.** This ordinance is not intended to displace any other civil or criminal remedy allowed under law.

**Section 3. Severability.** If any part of this ordinance should be determined by any tribunal of competent jurisdiction to be unconstitutional, the remaining parts of the ordinance shall remain in full force and effect.

First reading this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

Passed by the Council this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

Approved by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

ATTEST:

APPROVED:

\_\_\_\_\_  
SUE NELSON, City Recorder

\_\_\_\_\_  
ROB DRAKE, Mayor

April 16, 2007 Minutes

WORK SESSION:

07076 Ordinance to Adopt Procedures for Reviewing Candidate Statements in City Voters' Pamphlet

Rappleyea explained that last year there was an issue about how to interpret Chapter VI, Section 30.B of the City Charter. He said that Charter section stated that the City shall prepare a voter's pamphlet and if the Council found that there was a material misstatement of fact published in the voter's pamphlet which was submitted by or in behalf of a person nominated or elected to the Council, the nomination or election of that person would be nullified. He said staff had to determine how to apply this section of the Charter.

Rappleyea said he drafted a proposed ordinance that was distributed to Council last month for review (attached to Agenda Bill 07076). He said last Friday he developed a second draft of the ordinance which he distributed to Council (in the record). He reviewed both versions of the ordinance. He said the first draft provided a detailed procedure about how the Council would hear the matter of a misstatement and make a determination; it would follow the Constitutional due process and would ensure that all rights would be protected. He said as he thought more about the issue he realized this could be a difficult matter as it could involve a challenge to an incumbent Councilor and the other Councilors would have to make a decision about a fellow Councilor.

Rappleyea said because of the reasons previously stated he prepared a second draft ordinance whereby a candidate who makes a false statement in the voter's pamphlet would be subject to civil and criminal causes of action found in ORS 260.532 and ORS 260.715 (in the record). He said ORS 260.532 provides that a challenge to a voter's pamphlet statement would be handled in Circuit Court; ORS 260.715 provides the District Attorney a potential criminal cause of action because a false statement was made under oath under the City's election laws. He said this would provide a strong incentive for candidates to be careful in their voter's pamphlet statement. He said the remedy for both ordinances was that the election would be nullified.

Mayor Drake confirmed with Rappleyea that the City Charter currently calls for the removal of a candidate but there was no procedure provided in the City Code. He said that by adopting an ordinance there would be a direct link with State law. He said the second draft would remove the Council from having to take all of the action and the challenger would need to go to Circuit Court and rely on the City Code as the authority to take that action.

Rappleyea said in the second draft ordinance the initial decision would be made by the judge and the final decision to nullify the election would be made by the Council. He said that was also in agreement with the Charter.

Coun. Stanton said on the face of it going to Circuit Court looked fine; however, a citizen would not be able to go to the Council to register their complaint which would be easier and less costly. She said Circuit Court would be costlier and could take more time. She said the Circuit Court makes more sense except that this is a local issue and not of the same magnitude as a Federal or State election law violation. She asked what would be the cost to go through Circuit Court.

Rappleyea said the first ordinance was more hands on; the City handles the investigation and makes the decisions. He said there would be a cost to file the complaint and the cost for staff time to handle the matter would be substantial. He said the cost for going to Circuit Court was a \$360 filing fee and cost for attorneys. He said under the first ordinance where the investigation was handled by the City, the City would end up as the defendant in Circuit Court. He said under the second ordinance, the aggrieved person would file in Circuit Court and would face the candidate; the City would be the final arbitrator of the result of the case.

Coun. Stanton asked if someone challenged her voters' pamphlet statement and took it to Circuit Court would she be covered by the City under CCIS.

Rappleyea replied that he doubted she would be covered for that would not be within the scope of the insurance.

Coun. Stanton said she was concerned about making this a civil matter because she felt the Council could better determine a material misstatement of fact rather than a judge.

Coun. Bode said the ordinance did not preclude a candidate from submitting written proof for the statements in the voter's pamphlet at the time of filing.

Rappleyea said that was correct.

Coun. Arnold said that she thought of this ordinance as a deterrent so that candidates would know they were liable for false statements. She asked if there was a way the City Attorney could screen a complaint to see if it was legitimate. She said she had a false claim filed against her during the election and candidates should not have to be subjected to that.

Mayor Drake said that one concern was that under the City Charter the Council appoints and removes the city attorney and municipal judge. He said if someone accused a sitting City Councilor of a material misstatement, then that would put the city attorney in a difficult spot of having to challenge his employer.

Coun. Arnold said she thought that would be moving in grayer territory. She said she was trying to prevent outrageous claims.

Coun. Stanton said material misstatement of fact was in the Charter and was easy to determine versus a simple mistake such as a wrong date. She said she did not want to

send a person to Circuit Court if a fact could be easily verified. She said she was not comfortable with shifting the responsibility from the City Council to the legal system.

Rappleyea said the second ordinance (Circuit Court) was how the counties or State handled such matters; it was not an unusual process. He said there was a provision for recovery of attorney fees in the case of bogus claims.

Coun. Bode said she was leaning toward having it go to Circuit Court; for she did not want to put the city attorney in the position of having to challenge one of the Councilors. She said it was more likely that such claims would deal with a substantial issue and should be handled in Circuit Court.

Coun. Stanton added that nothing being considered under this matter would preclude someone from filing a complaint with the Secretary of State's Office.

Coun. Arnold said she could not see that a city attorney's job would be in jeopardy for something as straight forward as a material misstatement of fact.

Coun. Bode said it would not be possible to predict what would happen in the future. She said it would not be possible to know what future elections would be like; would accuracy be a priority or would it be viewed as micro-management of elections. She said that should be considered.

Coun. Stanton read from Section 2.05.487.2 of the Circuit Court ordinance which provided that *"a signed statement attesting to the truthfulness of the voter's pamphlet submission statement, shall also contain a provision that the candidate agrees to provide supporting information if requested by the City and shall release authorized third parties to participate in an investigation under this ordinance."* She asked if that meant that though this would go to Circuit Court, the City still wanted to make a determination if there was a material misstatement.

Rappleyea replied that was correct; that would still allow the City to obtain the information needed to make a determination.

Coun. Stanton said that relieved her concerns about the Circuit Court, for Council would be able to look at the information available and make a determination if there was a material misstatement separate from the Circuit Court.

Rappleyea said that was possible but it would not preclude the Circuit Court from acting. He said the City would be able to obtain the information and provide it to the parties who requested it.

Mayor Drake said the safest solution politically and from a hands-off position, so the Council would not be investigating one of its own members, was the Circuit Court. He said it was the safest solution for it would take it out of the Council's hand and would not be political. He said the other side was that though it was consistent with the County

process, the process could look daunting to a citizen if they could not start locally. He said if someone had done something wrong, a citizen should have the opportunity to address the Council. He added the Council was available almost every Monday evening; a citizen would not have to go far to access the Council and cost would be limited. He said going to the County or the State was a bigger hurdle. He advised the Council could take more time to think about the issue; the ordinance could be brought back later. He said Coun. Dalrymple may have comments to submit. He said the Council's best asset was that it was always available to its citizens and he did not want to lose that.

Coun. Bode said she did not think the Circuit Court ordinance precluded a citizen from going to the City and questioning a statement. She said the City could still check the validity of the statement.

Mayor Drake said he wanted to be sure that it would not be too hard for people to access information and that it would be addressed publicly.

Coun. Bode said regarding the \$360 cost to file in Circuit Court, it currently costs \$350 for candidates to submit a statement into the Washington County Voter's Pamphlet and the City had a separate cost for its own pamphlet.

Coun. Doyle said he needed to reflect further on the ordinance. He agreed that Section 2.05.487.2 of the Circuit Court ordinance would allow citizens to bring this issue to Council and it would allow the City to obtain information to determine if there was a material misstatement. He agreed that it was important that citizens could have access to the Council on such matters. He said unless the issue went to Circuit Court he would not support the ordinance. He said the Council should not be judging its own members or an opposing candidate.

Rappleyea said this could be brought back to Council in a month or so.

Coun. Stanton said she wanted additional time for review. She said per the City Charter it was the Council's responsibility to determine if there was a material misstatement of fact. She said she liked the rebuttal presumption that was in the first draft ordinance (Section 2.06.486), except that the last sentence "*The burden rests with a challenger to the veracity of a fact to overcome this presumption*" negated the signed statement that allowed for supporting information and investigation. She said she was not sure how the two balanced. She said she also liked the section in the first draft ordinance on the verification of facts. She said she wanted the policy without the constraint of saying that the burden rests with the challenger and at the same time the candidate has to provide the proof.

Rappleyea said that was how due process hearings were setup; the presumption of innocence means the challenger has to prove that a statement is false.

Coun. Stanton noted that last year a citizen with specific knowledge challenged a candidate (not Coun. Arnold); there was no way that anyone other than the candidate

could obtain the information and the candidate chose not to do so. She asked how she could challenge someone if she could not access the information and the candidate refused to do so. She said that going to Circuit Court would not help in that situation.

Rappleyea said that the language in the submission requires a signed statement authorizing a third party to access information. He said that statement could be submitted to an outside organization for release of information. He said the City did not have that statement when this occurred last year.

Coun. Arnold asked how long it would take to go through the Circuit Court route and if it was found that an incumbent made a material misstatement would they be required to give up their Council seat.

Rappleyea replied that if there was a material misstatement, the Council could then remove the person. He said the Circuit Court might do this on its own, but if it did not then the Council could. He said the City could request an expedited review and the court would probably agree because this was an election matter. He said his experience was that election disputes are handled quickly by the courts.

Coun. Stanton confirmed with Rappleyea that the City Charter section regarding material misstatement applies only to the voter's pamphlet.

Mayor Drake said this would be brought back in about a month.

Coun. Arnold confirmed with Rappleyea that this would only affect current elections

**AGENDA BILL**  
Beaverton City Council  
Beaverton, Oregon

**SUBJECT:** Residential Property Maintenance Ordinance

**FOR AGENDA OF:** 7-23-07 **BILL NO:** 07158

**Mayor's Approval:** 

**DEPARTMENT OF ORIGIN:** Code Services 

**DATE SUBMITTED:** 07-06-07

**CLEARANCES:**

**PROCEEDING:** Public Hearing

- EXHIBITS:**
1. Staff Report - Residential Property Maintenance Code
  2. An Ordinance Adding Chapter 8.07 of the Beaverton Code, Regarding Residential Property Maintenance

**BUDGET IMPACT**

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

**HISTORICAL PERSPECTIVE:**

Code Services presented information about a proposed Residential Property Maintenance Code to the City Council on May 7, 2007. Staff was directed to schedule a public hearing for the Council to receive public input.

**INFORMATION FOR CONSIDERATION:**

The City frequently receives complaints about properties that are not being maintained to meet the standards of the community. These complaints usually focus on overgrown vegetation or the accumulation of rubbish, subjects that are already covered by the Beaverton Code. Occasionally complaints are about buildings that may be overcrowded or falling into disrepair. The Beaverton Code does not adequately address these concerns, so the Mayor directed Code Services to research the subject and draft a proposed ordinance. The draft Residential Property Maintenance Code is attached.

**RECOMMENDED ACTION:**

Council hold a public hearing on the draft Residential Property Maintenance Code.



## City of Beaverton

4755 SW Griffith Drive, P.O. Box 4755, Beaverton, OR 97076  
Code Services Program, (503) 526-2270

DATE: July 6, 2007  
TO: Linda Adlard, Chief of Staff  
FROM: George Fetzer, Code Services Manager  
RE: Staff Report - Residential Property Maintenance Code

At the May 7, 2007 meeting of the City Council, several Councilors requested more information about occupancy standards and overcrowding. This memo is intended to provide more information on the subject of overcrowding.

### THE FAIR HOUSING ACT AND HUD

The federal Fair Housing Act, (42 U.S.C. 3601-3619) makes it unlawful to discriminate against any person based upon race, color, religion, sex, familial status or national origin. Occupancy standards that limit the availability of housing for families could be found to be unlawfully discriminatory. Accordingly, occupancy standards are best crafted around the number of people that can occupy a given amount of space, regardless of the familial relationship of those people.

The federal Department of Housing and Urban Development (HUD) is responsible for Fair Housing Act enforcement. In the December 18, 1998 edition of the Federal Register, HUD published its Occupancy Standards Statement of Policy, "advising the public of the factors that HUD will consider when evaluating a housing provider's occupancy policies to determine whether actions under the provider's policies may constitute discriminatory conduct under the Fair Housing Act on the basis of familial status (the presence of children in a family)."

HUD stated:

1. Nothing in the Fair Housing Act "limits the applicability of any reasonable local, State or Federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling."
2. "If a dwelling is governed by State or local government occupancy requirements, and the housing provider's occupancy policies reflect those requirements, HUD would consider the governmental requirements as a special circumstance tending to indicate that the housing provider's occupancy policies are reasonable.
3. "...the department believes that in appropriate circumstances, owners and managers may develop and implement reasonable occupancy requirements based on factors such as the number and size of sleeping areas or bedrooms and the overall size of the dwelling unit."

4. HUD's current policy is that a limitation of **“two persons in a bedroom, as a general rule, is reasonable under the Fair Housing Act.”** (emphasis added)

**THE INTERNATIONAL PROPERTY MAINTENANCE CODE**

The International Property Maintenance Code is a model code promulgated by the International Code Council. The IMPC contains the following provisions for “Overcrowding”.

**404.5 Overcrowding.** Dwelling units shall not be occupied by more occupants than permitted by the minimum area requirements of Table 404.5.

Table 404.5  
Minimum Area Requirements

Space	Minimum Area in Square Feet		
	1-2 occupants	3-5 occupants	6 or more occupants
Living room	no requirements	120	150
Dining room	no requirements	80	100
Bedrooms	<b>Shall comply with Section 404.4</b>		

**404.4 Bedroom requirements** Every bedroom shall comply with the requirements of Sections 404.4.1 through 404.4.5.

**404.4.1 Area for sleeping purposes.** Every bedroom occupied by one person shall contain at least 70 square feet (6.5 sq. meters) of floor area, and every bedroom occupied by more than one person shall contain at least 50 square feet (4.6 sq. meters) of floor area for each occupant thereof.

**404.4.2 Access from bedrooms.** Bedrooms shall not constitute the only means of access to other bedrooms or habitable spaces and shall not serve as the only means of egress from other habitable spaces.

**Exception:** Units that contain fewer than two bedrooms.

**4.04.4.3 Water closet accessibility.** Every bedroom shall have access to at least one water closet and one lavatory without passing through another bedroom. Every bedroom in a dwelling unit shall have access to at least one water closet and lavatory located in the same story as the bedroom or an adjacent story.

**4.04.4.4 Prohibited occupancy.** Kitchens and nonhabitable spaces shall not be used for sleeping purposes.

**4.04.4.5 Other requirements.** Bedrooms shall comply with the applicable provisions of this code including, but not limited to, the light, ventilation, room area, ceiling height and room width requirements of this chapter; the plumbing facilities and water-heating facilities requirements of Chapter 5; the heating

facilities and electrical requirements of Chapter 6; and the smoke detector and emergency escape requirement of Chapter 7.

In summary, the International Property Maintenance Code requires:

- a minimum of 200 sq. ft. of living room and dining room space if there are more than two people (but less than six), or
- 250 sq. ft. for six or more people.
- a minimum of 70 sq. ft. of bedroom space for one person, and
- a minimum of 100 sq. ft. of bedroom space for two people, plus
- an additional 50 sq. ft. for each additional person in a bedroom.

However, the IMPC does not specify any requirement for kitchen space to be provided.

### **Analysis**

Assume a hypothetical 1,500 sq. ft., three bedroom house with 10' x 15' bedrooms, (or 150 sq. ft. each), the IMPC would allow three people in each bedroom **for a total of nine occupants**. The IMPC would also require 250 sq. ft. of living and dining room space in addition to the bedroom area.

## **OCCUPANCY STANDARDS OF OTHER OREGON CITIES**

In reviewing the occupancy limitations of other Oregon cities, using a hypothetical 1,500 sq. ft., three bedroom home, the following limits would apply:

### **Portland's overcrowding code:**

**29.30.220 Overcrowding.** No dwelling unit shall be permitted to be overcrowded. A dwelling unit shall be considered overcrowded if there are more residents than one plus one additional resident for every 100 square feet of floor area of the habitable rooms in the dwelling unit.

### **Analysis.**

Habitable rooms are the rooms used for living, sleeping, eating or cooking, not including attics, bathrooms, closets, garages, halls, laundry rooms, storage spaces, toilet rooms, or utility rooms. Using a hypothetical 1,500 sq. ft., three bedroom home, with 25% non-habitable space (-375 sq. ft.) leaving 1,125 sq. ft. of habitable space, **13 occupants would be allowed under Portland's code.**

### **Tigard's overcrowding code:**

**14.16.290 Overcrowding.** No dwelling unit shall be permitted to be overcrowded. A dwelling unit shall be considered overcrowded if there are more residents than one plus one additional resident for every 150 square feet of floor area of the habitable rooms in the dwelling unit.

### **Analysis.**

Assume a hypothetical 1,500 sq. ft., three bedroom home, with 25% non-habitable space (-375 sq. ft.) leaving 1,125 sq. ft. of habitable space, **nine occupants would be allowed under Tigard's code.**

### **Salem's overcrowding code:**

**59.165 Occupancy Load** (a) The occupancy load for any Group R-1 or R-3 occupancy shall be determined by dividing the total superficial floor area of the occupancy by 200, and rounding any fraction to the next higher whole number.

### **Analysis.**

Assume a hypothetical 1,500 sq. ft., three bedroom home, the total superficial floor area would be 1,500 sq. ft., and **eight occupants would be allowed under Salem's code.**

### **BEAVERTON RESIDENTIAL PROPERTY MAINTENANCE CODE**

After a detailed review of section 8.07.300 "Overcrowding" of the draft Property Maintenance Code for Beaverton and comparisons with the other cities noted and the IMPC, paragraph C of section 8.07.300 of the draft CODE has been revised as follows:

- The text of paragraph B was modified to change the second number from 330 sq. ft. to 300 sq. ft.
- the text of paragraph C was deleted.
- the table following paragraph C was deleted.

It now reads as follows:

#### **8.07.300 Overcrowding.**

A. No dwelling unit shall be overcrowded. A dwelling unit is overcrowded if there are more occupants than one, plus one additional occupant for every 150 square feet of floor area of the habitable space in the dwelling unit.

B. If a dwelling has three, four or five occupants, the dwelling must have a dining room and living room with a combined area of not less than 200 square feet, plus kitchen space of not less than 50 sq. ft. If a dwelling has six or more occupants, it must have a dining room, and living room with a combined area of not less than 250 square feet, plus kitchen space of not less than 50 sq. ft.

### **Analysis**

Paragraph A of section 8.07.300 reflects Tigard's standard for overcrowding. Having consistency with a neighboring city is desirable because some landlords may own property in both cities and some tenants may move from Tigard to Beaverton. Tigard's standard falls in between Portland's more liberal standard and Salem's more conservative standard.

Paragraph B of section 8.07.300 is modeled after the IMPC provision for overcrowding, with the addition of a requirement for at least 50 sq. ft. for kitchen space for dwellings occupied by three or more people.

Assume a hypothetical 1,500 sq. ft., three bedroom home, with 25% non-habitable space (-375 sq. ft.) leaving 1,125 sq. ft. of habitable space, **nine occupants would be allowed under paragraph A of the draft code.**

Under paragraph B, a minimum of 300 sq. ft. of dining room, kitchen and living room space would be required for six or more occupants.

### **SUMMARY AND CONCLUSION**

The revised draft Residential Property Maintenance Code for Beaverton uses a two-tiered approach to prevent overcrowding of a dwelling. The first standard requires at least 150 sq. ft. of habitable space for each additional occupant over the first. This standard is "middle of the road" in comparison to the codes Portland, Salem and Tigard.

The second standard requires a minimum amount of space for the kitchen, dining room, and living room. This standard is modeled after the IMPC provision for overcrowding, with the addition of a requirement for at least 50 sq. ft. for kitchen space for dwellings occupied by three or more people. It is reasonable and necessary to require a minimum amount of kitchen space to ensure that kitchens are not converted into sleeping areas.

The previous language of paragraph C and table with ratios of occupants to bedrooms has been deleted. This will make the code easier to understand and explain to occupants and owners, and reduces the potential for arguments about who is sleeping where and the appropriateness of sleeping arrangements. The overcrowding provisions are intended to limit the maximum occupancy of a dwelling to a reasonable number of people based upon the amount of space available, not regulate how many people choose to sleep in a particular room.

AN ORDINANCE ADDING CHAPTER 8.07 OF THE BEAVERTON CODE,  
REGARDING RESIDENTIAL PROPERTY MAINTENANCE

WHEREAS, the City receives numerous complaints about inadequate maintenance of residential buildings within the city limits, and

WHEREAS residential buildings that are not adequately maintained may lead to deterioration of the housing stock, increased vacancy rates, and urban blight, and

WHEREAS, inadequate maintenance of residential buildings may adversely affect property values and the quality of life in neighborhoods, now, therefore,

BE IT ORDAINED BY THE CITY OF BEAVERTON,

**Section 1.** The Beaverton Code is amended in Chapter 8 by adding the following sections.

**PART 1 – GENERAL**

**8.07.010 Short Title.**

A. BC 8.07.010 - .450 shall be known and may be cited as the "Residential Property Maintenance Code" and may be referred to herein as "this code."

**8.07.020 Purpose.**

This code is enacted to protect the health, safety and welfare of Beaverton residents, to prevent deterioration of existing housing, to preserve and enhance the quality of life in residential neighborhoods, and to prevent or reduce urban blight by establishing minimum residential property maintenance standards.

**8.07.030 Scope, Conflict with State Law.**

A. The provisions of this code shall apply to all residential property within the City of Beaverton.

B. If a provision of this code conflicts with a provision of the building code as adopted by the City of Beaverton, the provision of the building code shall apply to the exclusion of the conflicting provision of this code.

C. Except as provided otherwise by state or federal law, if a provision of this code conflicts with a residential property maintenance law, rule or regulation promulgated by a state or federal authority having jurisdiction over residential property in the City of Beaverton, the provision of the state or federal law, rule or regulation shall apply to the exclusion of the conflicting provision of this code.

**8.07.040 Application of Other Laws.**

Any repair, alteration, or addition to and change of occupancy in an existing building, or any change of use of residential property, shall be made in accordance with all applicable provisions of law, including, but not limited to, the building code, the Beaverton Code and the Beaverton Development Code.

**8.07.050 Definitions; Generally.**

Terms, words, phrases and their derivatives used, but not defined, in this code shall have the meanings defined in the Beaverton Development Code or in Chapters 8 or 9 of the Beaverton Code, or, if not defined therein, shall have their commonly accepted meanings. If a conflict exists between definitions in the Beaverton Code or the Beaverton Development Code and this code, the definition provided in this code shall apply to actions taken pursuant to this code.

**8.07.060 Definitions.**

As used in this code, unless the context requires otherwise, the following mean:

**Approved** - Meets the standards set forth by the Municipal Code, the Community Development Code, the Building Code, or other standards referenced in those codes, or is approved by the code official.

**Bathroom** - A room containing plumbing fixtures including a bathtub or shower.

**Bedroom** - Any room or space used or intended to be used for sleeping purposes.

**Building code** - The combined specialty codes described at ORS 455.010, as adopted and as may be amended by the City.

**Code official** - The Code Enforcement Officer, Chief Building Official or other person authorized by the Mayor to enforce the provisions of this code.

**Courtyard** - An open space bounded on three or more sides by walls of a building.

**Dwelling** - Any structure containing a dwelling unit, including the following dwelling classifications:

**A. Accessory dwelling unit.** An additional dwelling unit within an attached or detached single family dwelling.

**B. Apartment.** Any building or portion of a building containing three or more dwelling units that is intended to be occupied for residential living purposes by renting, leasing, letting, or hiring out, including condos.

**C. Manufactured dwelling.** including manufactured homes, mobile homes, and residential trailers.

**D. Rowhouse.** An attached single-family dwellings units as defined by the State Building Code.

**E. Single-family dwelling.** A structure containing one dwelling unit, including adult foster care homes.

**F. Single-room occupancy.** A one-room dwelling unit provided for human habitation in which some or all sanitary or cooking facilities are shared with other occupants.

**G. Social care facilities.** Any building or portion of a building that is designed, built, rented, leased, let, hired out or otherwise occupied for group

residential living purposes. Such facilities include, but are not limited to, retirement homes, assisted living facilities, residential care facilities, half-way houses, youth shelters, and homeless shelters.

**H. Townhouse.** An attached single-family dwellings units as defined by the state building code.

**I. Two-family dwelling.** A structure containing two dwelling units, also known as a duplex.

**Dwelling unit** - A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. Hotels used exclusively for transient occupancy are excluded from this definition of dwelling unit.

**Exit** - A continuous, unobstructed means of egress from a dwelling to the exterior of the building and to a public way.

**Floor area** - The area of clear floor space in a room exclusive of fixed or built-in cabinets or appliances.

**Habitable** - Suitable for human habitation.

**Habitable space** - The area inside a structure available for living, sleeping, eating or cooking, not including attics, bathrooms, closets, garages, halls, laundry rooms, storage spaces, toilet rooms, or utility rooms.

**Hazardous materials** - Materials defined by the current fire code adopted by the Tualatin Valley Fire and Rescue District as hazardous.

**Human habitation** - The use of a structure, portion of the structure, or space, in which any person remains for a continuous period of two or more hours per day, or for periods which will accumulate to four or more hours in a day.

**Occupant** - Any individual living or sleeping in a dwelling, or having possession of a space within a dwelling.

**Residential property** - Real property and all improvements thereon including edifices, structures, buildings, dwelling unit or part thereof used or intended to be used for residential purposes including single-family, duplex, multifamily structures and mixed-use structures which have one or more dwelling units. Hotels used exclusively for transient occupancy are excluded from this definition of residential property. [ORS 105.425/Tigard]

**Structure** - A building constructed for any use.

#### **8.07.070 Severability.**

The sections and subsections of this code are severable. If any part of this code is held unconstitutional or otherwise invalid, the remaining parts shall remain in force unless:

A. The remaining parts are so essentially and inseparably connected with and dependent upon the unconstitutional or invalid part that it is apparent that the remaining parts would not have been enacted without the unconstitutional or invalid part; or

B. The remaining parts, standing alone, are incomplete and incapable of being executed according to the legislative intent.

## **PART 2 - STANDARDS**

### **8.07.100 Housing Maintenance Requirements; Generally.**

A. A dwelling shall be constructed, altered or repaired in accordance with the standards of the applicable building code in effect at the time of construction, alteration or repair.

B. No person shall maintain or permit to be maintained any dwelling or residential property that does not comply with the requirements of this code.

C. An existing dwelling that does not comply with the provisions of this code and that does not comply with the standards of the applicable building code then in effect at the time of construction or subsequent alteration or repair shall be altered or repaired to provide a minimum level of public health, safety and maintenance as required herein.

D. The provisions of this code shall not be mandatory for an existing dwelling designated as an historic building when such dwelling is judged by the code official to be safe and its continued maintenance in historic condition to be in the public interest.

### **8.07.110 Minimum Standards for Human Habitation.**

No dwelling shall be habitable unless provided with current service for:

- A. Electricity,
- B. Water,
- C. Sanitary Sewer, and
- D. Weekly removal and disposal of trash.

Temporary interruptions of service for routine maintenance or emergency repairs shall not constitute a violation of this section.

### **8.07.115 Vacant Dwellings.**

A. A vacant dwelling shall meet the standards of this code to be habitable.

B. Measures taken to secure a vacant dwelling from unauthorized entry, including boarding of windows and nailing or screwing doors into door frames, shall be removed before a vacant dwelling may be inhabited.

### **8.07.120 Roofs.**

A. The roof and flashing of a dwelling shall be structurally sound, tight, and have no defects that admit water.

B. Roof drainage of a dwelling shall channel water into approved receivers and shall be adequate to prevent water buildup or ponding from causing dampness in the walls or interior portion of the building. Roof drains, gutters and down spouts of a dwelling shall be free from obstructions and maintained in good repair, so as not to be plugged, overflowing, or in a state of deterioration. Any building or structure having originally been designed for and fitted with gutters and downspouts shall continuously be maintained with such devices, in sound condition and good repair.

C. In any two year period, tarps, tar paper or other similar materials shall not be exposed to weather on the exterior of a structure for a cumulative period of more than three months.

**8.07.130 Chimneys.**

A. Every chimney, stovepipe and vent pipe of a dwelling shall remain adequately supported, free from obstructions, and shall be maintained in sound condition and good repair, so as to assure there will be no leakage or back-up of noxious gases.

B. Every chimney, stovepipe and vent pipe of a dwelling shall be reasonably plumb.

C. Any loose chimney brick or block shall be rebounded, and any loose or missing mortar shall be replaced.

D. Unused openings in the interior of the structure for chimneys, stovepipes and vent pipes shall be permanently sealed using appropriate, durable materials.

**8.07.140 Foundations and Structural Members.**

A. A foundation shall adequately support its structure and be free of rot, crumbling, or similar deterioration.

B. All supporting structural members of a foundation shall show no significant evidence of deterioration or decay that would substantially impair the ability of a foundation to carry imposed loads.

**8.07.150 Exterior Walls and Exposed Surfaces.**

A. Every exterior wall and weather-exposed exterior surface of a dwelling shall be free of holes, breaks, loose or rotting boards or timbers and any other conditions likely to admit water or dampness to the interior portions of the dwelling.

B. All exterior wood surfaces of a dwelling shall be made substantially impervious to the adverse effects of weather by periodic application of a protective coating of weather-resistant preservative such as paint or stain and be maintained in good condition, substantially free from peeling or flaking.

C. Exterior metal surfaces of a structure shall be protected from rust and corrosion.

D. Every section of exterior brick, stone, masonry, or other veneer of a structure shall be maintained in sound condition and good repair and be adequately supported and tied back to its supporting structure.

E. In any two year period, tarps, tar paper or other similar materials shall not be exposed to weather on the exterior of a structure for a cumulative period of more than three months.

**8.07.160 Stairs and Porches.**

Every stair, porch, and attachment to stairs or porches shall be:

- A. Safe to use and capable of supporting the loads to which it is subjected.
- B. Be kept in sound condition and good repair, including replacement as necessary of flooring, treads, risers, and stringers so there is no excessive wear and no broken, warped, or loose parts.

**8.07.170 Handrails and Guardrails.**

A. Every flight of stairs having more than four risers shall have a handrail on at least one side. Handrails shall be between 30 and 38 inches high, measured from the tread or floor of the landing or walking surface. Handrails shall be continuous the full length of the stairs.

B. Every open portion of a stair, landing, balcony, porch, deck, ramp, or other walking surface, that is more than 30 inches above the floor or grade below, shall have guardrails. Guardrails shall not be less than 36 inches high. Guardrails shall have intermediate rails or ornamental closures which will effectively exclude the passage of an object 4 inches or more in diameter.

C. Every handrail and guardrail shall be firmly fastened, maintained in sound condition and good repair, and capable of supporting the loads to which it is subjected.

**8.07.180 Windows.**

A. Every habitable space shall have at least one window facing an exterior yard or courtyard or shall be provided with approved artificial light. The minimum total window area for each habitable space shall be 8 percent of the floor area of the space, except for a habitable space in a basement, where the minimum shall be 5 percent of the floor area of the space.

B. Every habitable space shall have at least one openable window or openable skylight for ventilation purposes unless equipped with mechanical ventilation.

C. Every bathroom and toilet compartment shall comply with the light and ventilation requirements for a habitable space except that no window shall be required in a bathroom or toilet compartment if the bathroom or toilet compartment is equipped with artificial lighting and a mechanical ventilation system that discharges to the outdoors.

D. All windows of a dwelling unit that are openable and that are within 10 feet of the exterior grade shall be able to be both opened and locked from the inside without the use of a key or any special knowledge or effort.

E. All windows of a dwelling unit that are openable and are accessible from the outside, regardless of height from the exterior grade, such as a balcony window or a fire escape

window, shall be able to be both opened and locked from the inside without the use of a key or any special knowledge or effort.

F. Every window of a dwelling shall be kept in sound condition and good repair, substantially weathertight, and shall comply with the following:

1. Every window sash shall be fully supplied with glass window panes or an approved substitute without open cracks and holes.

2. Every window sash shall be in sound condition and good repair and fit weather-tight within its frame.

3. Every window frame shall be constructed and maintained in relation to the adjacent wall construction so as to substantially exclude wind and rain from entering the dwelling.

#### **8.07.190 Doors.**

A. Every dwelling shall have at least one exit door leading to the exterior, or in the case of a duplex or apartment, to the exterior or to an approved exit. Exit doors shall be able to be opened from the inside without any special knowledge or effort. Screen doors and storm doors must be able to be opened from the inside without any special knowledge or effort.

B. In apartments, duplexes, single-room occupancies and social care facilities, exit doors in common corridors or passageways shall be able to be opened from the inside with one hand in a single motion, such as pressing a bar or turning a knob, without the use of any special knowledge or effort.

C. Every door to the exterior of a dwelling shall be equipped with a lock designed to discourage unwanted entry and to permit opening from the inside without the use of a key or any special knowledge or effort.

D. Every exterior door of a dwelling shall comply with the following:

1. The door hinge, door lock, and strike plate shall be maintained in sound condition and good repair.

2. When closed, the door shall fit reasonably well within its frame and be weather-tight.

3. Every door frame shall be constructed and maintained in relation to the adjacent wall construction so as to substantially exclude wind and rain from entering the dwelling.

E. Every interior door shall fit reasonably well within its frame by being properly and securely attached to jambs, headers or tracks and shall be capable of being opened and closed.

#### **8.07.200 Interior Walls, Floors, and Ceilings.**

A. All interior surfaces of a dwelling shall be maintained in sound condition and good repair, so to permit the interior to be kept in a clean and sanitary condition. Walls, floors, ceilings, windows, cabinets and doors shall be free of holes larger than four inches in diameter and cracks wider than ½ inch.

B. Peeling, chipping, flaking, or abraded paint in a dwelling shall be repaired, removed or covered. Cracked or loose plaster or wall paper, decayed wood and other defective surface conditions shall be repaired or replaced.

C. Every toilet compartment, bathroom, and kitchen floor surface of a dwelling shall be constructed and maintained to be substantially impervious to water and to permit the floor to be kept in a clean and sanitary condition.

**8.07.205 Street Addresses.**

No person shall occupy or allow occupancy of a dwelling unless a street number assigned pursuant to BC 9.02.010-.070 is displayed in accordance with the requirements of BC 9.02.040.

**8.07.210 Cleanliness and Sanitation.**

A. The interior of every dwelling shall be maintained in a clean and sanitary condition free from the accumulation of rubbish, garbage and any material that:

1. Provides a breeding place for insects, rodents or vermin, or
2. Produces dangerous or offensive gases, odors or bacteria, or
3. Blocks exits, hallways or corridors.

B. An occupant of a dwelling shall be responsible for keeping that part of the dwelling he or she occupies or is in control of in a clean and sanitary condition.

C. The owner of any residential property with shared or common areas, including apartments, single-room occupancies, social care facilities, mobile home parks, trailer parks and manufactured home parks, shall be responsible for maintaining the shared or common areas of the property in a clean and sanitary condition at all times.

**8.07.220 Interior Dampness.**

Every dwelling, including its basement and crawl space shall be maintained reasonably free from dampness so as to prevent conditions conducive to decay, mold growth, or deterioration of the structure.

**8.07.225 Standing Water.**

A. No person shall cause or permit water to stand outdoors on property the person owns or controls in containers or objects that have not been emptied within 7 days.

B. No person shall allow or cause containers or objects that collect water, including buckets, pots and unmounted tires, to be left outdoors for more than 7 days on property the person owns or controls.

**8.07.230 Insect and Rodent Harborage.**

A. Every dwelling shall be kept free from insect and rodent infestation. Infestations of insects or rodents shall be promptly exterminated by methods that will not be injurious to

human health. After extermination, proper precautions shall be taken to prevent reinfestation.

B. The owner of any residential property shall be responsible for extermination within any structure prior to any occupancy thereof.

C. The occupant of a single-family dwelling shall be responsible for extermination within the dwelling during the occupancy thereof.

D. The owner of a structure containing two or more dwelling units shall be responsible for extermination within the structure.

**8.07.240 Bathroom Facilities.**

A. Except as otherwise noted in this code, every dwelling unit shall contain within its walls in safe, clean and sanitary working condition:

1. A toilet located in a room that is separate from the habitable space and that allows privacy;
2. A lavatory basin; and
3. A bathtub or shower located in a room that allows privacy.

B. In single-room occupancies and social care facilities where private toilets, lavatories, or baths are not provided, there shall be at least one toilet, lavatory, and bathtub or shower provided for every twelve residents or less. Toilets, bathtubs, and showers shall be in a room, or rooms, that provide privacy.

**8.07.250 Kitchen Facilities.**

A. Every dwelling shall contain a kitchen sink apart from the lavatory basin required under section 8.07.240, with the exception of single-room occupancy, which shall comply with section 8.07.390 and social care facilities complying with section 8.07.250(C).

B. Except as otherwise provided for in sections 8.07.250(C) and 8.07.390, every dwelling shall have approved service connections and facilities for refrigeration and cooking.

C. A social care facility may be provided with a community kitchen with facilities for cooking, refrigeration, and washing utensils.

**8.07.260 Plumbing Facilities.**

A. Every plumbing fixture or device within a structure shall be properly connected to a public or an approved private water system and to a public or an approved private sanitary sewer system.

B. Sinks, lavatory basins, bathtubs and showers within a dwelling shall be supplied with both hot and cold running water. Every dwelling shall be supplied with water heating facilities for each dwelling unit. Water heating facilities within a dwelling shall be

capable of heating an adequate amount of water to provide water at a temperature of at least 120 degrees Fahrenheit at each hot water outlet for at least ten minutes.

C. In every dwelling, all plumbing or plumbing fixtures shall be:

1. Properly installed, connected, and maintained in good working order;
2. Kept free from significant obstructions, leaks, and defects;
3. Capable of performing the function for which they are designed; and
4. Installed and maintained so as to prevent structural deterioration or health hazards.

**8.07.270 Heating Equipment and Facilities.**

A. Every dwelling shall have a permanently installed heat source capable of maintaining a temperature of 68 degrees Fahrenheit at a point 3 feet from the floor and two feet from any wall in all habitable spaces, bathrooms and toilet rooms.

B. All heating devices or appliances shall be listed, approved, and properly vented. No cooking appliance, inverted flame heaters or open flame heaters may be used as a heating source in a dwelling.

C. All heating equipment in a dwelling, including equipment used for cooking, water heating and clothes drying shall be:

1. Maintained in sound condition and good repair,
2. Free from leaks and obstructions and kept functioning properly so as to be free from fire, health, and accident hazards; and
3. Capable of performing the function for which they are designed.

**8.07.280 Electrical System, Receptacles, and Lighting.**

A. Electric power to any structure shall be from an approved source; receptacles and fixtures shall be safely connected to an approved electrical system. The electrical system within a structure shall not constitute a hazard by reason of inadequate service, deterioration, damage, improper fusing, improper wiring or installation.

B. In addition to other electrical system components that may be used to meet cooking, refrigeration, and heating requirements listed elsewhere in this code, the following receptacles and lighting fixtures are required in a dwelling:

1. Every habitable space shall contain at least two operable electric receptacles or one receptacle and one operable electric light fixture.
2. Every toilet compartment, bathroom, laundry room or other wet location shall contain at least one operable electric light fixture and one grounded electrical receptacle or a receptacle with a ground-fault interrupter.
3. Every furnace room and all similar nonhabitable spaces in a dwelling shall have one operable electric light fixture.
4. Every public hallway, corridor, and stairway in apartments, single-room occupancies and social care facilities shall be adequately lighted at all times with an average intensity of illumination of at least one foot candle at principal points such as angles and intersections of corridors and passageways, stairways, landings of stairways,

landings of stairs and exit doorways, and at least 1/2 foot candle at other points. Measurement of illumination shall be taken at points not more than 4 feet above the floor.

**8.07.290 Bedroom Requirements.**

A. Every bedroom in a dwelling shall be a habitable space.

B. Every bedroom in a dwelling shall have at least one emergency exit for escape or rescue, either an openable window or exterior door.

C. Windows in a dwelling provided to meet emergency exit requirements in bedrooms shall have a sill height of no more than 44 inches above the floor or a permanently installed step. The step must not be more than 12 inches higher than the floor and must be at least 20" wide and at least 12" deep.

D. Windows in a dwelling that are provided to meet emergency exit requirements in bedrooms shall have a minimum net clear opening at least 20 inches wide, at least 22 inches high, and, if constructed after July 1, 1974, at least five square feet in area.

E. Windows in a dwelling provided for emergency exit in bedrooms shall be opened from the inside without the use of a key or any special knowledge or effort and be held open by window hardware.

**8.07.300 Overcrowding.**

A. No dwelling unit shall be overcrowded. A dwelling unit is overcrowded if there are more occupants than one, plus one additional occupant for every 150 square feet of floor area of the habitable space in the dwelling unit.

B. If a dwelling has three, four or five occupants, the dwelling must have a dining room and living room with a combined area of not less than 200 square feet, plus kitchen space of not less than 50 sq. ft. If a dwelling has six or more occupants, it must have a dining room, and living room with a combined area of not less than 250 square feet, plus kitchen space of not less than 50 sq. ft.

**8.07.310 Emergency Exits.**

A. Every habitable space shall have at least one openable window or exterior door approved for emergency escape or rescue. Emergency exit windows must be openable from the inside without special knowledge, effort or tools. Windows used to meet this requirement shall meet the size and sill height requirements described in 8.07.290. All below grade windows used to meet this requirement shall have a window well the full width of the window, constructed of permanent materials with a 3 foot clearance measured perpendicular to the outside wall. The bottom of the well may not be more than 44 inches below grade.

B. Required exit doors and windows in a structure shall be free of encumbrances or obstructions that block access to the exit.

C. All doorways, windows and any device used in connection with exits in a structure shall be kept in sound condition and good repair.

D. In addition to other exit requirements, all fire escapes and stairways, stair platforms, corridors or passageways that may be used as a means of emergency exit from an apartment, single-room occupancy or social care facilities:

1. Shall be kept in sound condition and good repair.
2. Shall be kept free of encumbrances or obstructions of any kind.
3. Shall not be used for storage of flammable or combustible materials.

E. Where doors to stair enclosures in a structure are required by a building code or other applicable law to be self-closing, the self-closing device shall be maintained in sound condition and good repair. No person shall wedge or hold open a self-closing door to stair enclosures except by means of an approved magnetic device connected to a functioning fire alarm system.

F. Windows and doors in a structure leading to fire escapes shall be secured against unwanted entry with approved devices that permit opening from the inside without the use of a key or any special knowledge, effort or tool.

G. Apartments, single-room occupancies, and social care facility shall have directional signs visible throughout common passageways to indicate the way to exit doors and fire escapes. Emergency exit doors and windows in apartments, single-room occupancies, and social care facilities shall be clearly labeled for their intended use as emergency exits.

**8.07.320 [Intentionally Omitted]**

**8.07.330 Hazardous Materials.**

A. Residential property shall be free of dangerous levels of hazardous materials, contamination by toxic chemicals, or other materials that would render the property unsafe.

B. No person shall keep in an unreasonably dangerous manner any highly combustible or explosive materials or any materials that may be dangerous or detrimental to life or health. No residential property shall be used for the storage or sale of paints, varnishes or oils used in the making of paints and varnishes, except as reasonably needed to maintain the dwelling in sound condition and good repair.

**8.07.340 Maintenance of Facilities and Equipment.**

A. In addition to other requirements for the maintenance of facilities and equipment described in this code:

1. All required facilities in every dwelling shall be constructed and maintained to properly and safely perform their intended function.
2. All non-required facilities or equipment present in a dwelling shall be maintained to prevent structural damage to the building or hazards of health, sanitation, or fire.

**8.07.350 [Intentionally Omitted]**

**8.07.360 Illegal Residential Occupancy.**

Human habitation of a tent, camper, motor home, recreational vehicle, or other similar structure or space that is not intended for permanent residential use is prohibited, unless

- A. Authorized by a declaration of local emergency; or
- B. Limited in any three month period to a cumulative period of not more than 14 days.

**8.07.370 Fences.**

Fences, whether built as part of a subdivision or added thereafter, shall be maintained in sound condition and good repair. Fence posts shall be kept in a vertical position, and rails shall be kept in a horizontal position. Fence posts and rails with evidence of significant rot or deterioration must be replaced to keep the fence safe and prevent catastrophic failure. Fence posts and rails that lean or sag more than 15 degrees will be considered to be in violation of this section. Missing fence boards must be replaced within 30 days, unless dogs are kept inside a fenced yard, in which case missing boards must be replaced immediately. Fences of weather-resistant wood, such as redwood or cedar, need not be painted or stained, but if paint or stain is applied, it must be maintained free of peeling, bubbling or flaking.

**8.07.380 Swimming Pools.**

A. Swimming pools shall comply with the provision of Sections 8.05.005 through 8.05.100 of the Beaverton Code.

B. Special pools and swimming pools that hold or are capable of holding water exceeding 24 inches in depth at any point must be maintained so that the water does not become green, brown or black.

C. Special pools and swimming pools that hold or are capable of holding water exceeding 24 inches in depth at any point must be maintained so that the water is not stagnant and does not provide a habitat for amphibians, mosquitoes or other insect pests.

**8.07.390 Special Standards for Single-Room Occupancy Housing Units.**

In addition to meeting requirements for dwellings described elsewhere in this code, single-room occupancies shall comply with the following:

1. Either a community kitchen with facilities for cooking, refrigeration, and washing utensils shall be provided on each floor, or each single room occupancy shall have facilities for cooking, refrigeration and washing utensils. In addition, facilities for community garbage storage or disposal shall be provided on each floor.

2. Where cooking units are provided in single-room occupancies, they shall conform to these requirements:

a. The Mechanical Specialty Code shall be used for installation standards for cooking appliances. Cabinets over cooking surfaces shall be 30 inches above the cooking surface, except that this distance may be reduced to 24 inches when a non-combustible heat shield with 1 inch airspace and extending at least 6 inches

horizontally on either side of the cooking appliance is provided. Cooking appliances shall be located with at least a 6-inch clear space in all directions from the perimeter of the cooking element or burner;

b. All cooking appliances shall be installed so as to provide a minimum clear space in front of the appliance of 24 inches.

### **PART 3 - ENFORCEMENT**

#### **8.07.500 Penalties.**

A. Except as otherwise provided in this section, violation of a provision of this code is a Class 1 civil infraction to be processed in accordance with the provisions of BC 2.10.010 to 2.10.050 punishable upon conviction by a fine of not more than \$250. Each day of continuing violation shall be considered a separate offense.

B. Violation of BC 8.07.205 or 8.07.380 is a Class 2 civil infraction to be processed in accordance with the provisions of BC 2.10.010 to 2.10.050 punishable upon conviction by a fine of not more than \$150. Each day of violation shall be considered a separate offense.

C. Violation of BC 8.07.225 is a Class 3 civil infraction to be processed in accordance with the provisions of BC 2.10.010 to 2.10.050 and punishable upon conviction by a fine of not more than \$50. Each day of violation shall be considered a separate offense.

D. Violation of BC 8.07.110, 8.07.210, 8.07.310, 8.07.360 or 8.07.510 is a Class C misdemeanor, punishable upon conviction by a fine of not more than \$6,250 and/or imprisonment not to exceed 30 days. Each day of violation shall be considered a separate offense.

#### **8.07.510 Prohibited Habitation.**

A. No person shall inhabit, remain in, or enter a dwelling or structure that has been duly posted with a notice to vacate or with an order forbidding occupancy pursuant to the Uniform Code for the Abatement of Dangerous Buildings as adopted by the City; provided, however, the building official may grant a person express written permission to enter said dwelling or structure for purposes reasonably related to repair or demolition.

B. No person shall remove or deface any notice to vacate or order forbidding occupancy duly posted on a dwelling or structure pursuant to the Uniform Code for the Abatement of Dangerous Buildings as adopted by the City until the required repairs, demolition or removal have been completed and a certificate of occupancy issued pursuant to the provisions of the building code.

#### **8.07.520 Additional Remedies.**

A. Any penalty or remedy imposed pursuant to this code is in addition to, and not in lieu of, any other civil, criminal or administrative penalty, sanction or remedy otherwise authorized by law.

B. A violation of this code is a public nuisance and may be enjoined or abated by repair in accordance with the provisions of BC 5.05.200 to 5.05.260.

C. A violation of this code is a public nuisance and may be enjoined or abated in accordance with the provisions of the Uniform Code for the Abatement of Dangerous Buildings. For purposes of the Uniform Code for the Abatement of Dangerous Buildings, this code shall be deemed a housing code.

D. A court of competent jurisdiction may appoint a receiver pursuant to the Oregon Housing Receivership Act, ORS 105.420 to 105.455, to perform an abatement of residential property found in violation of this code. For purposes of the Oregon Housing Receivership Act, this code shall be deemed a housing code.

E. A citation for a violation of this code shall not relieve the responsible party of the duty to maintain residential property in accordance with this code. The abatement of a violation pursuant to this code does not prejudice the right of any person to recover damages arising out of or related to the violation.

F. If a citation alleging a violation of sections 8.07.110, 8.07.210, 8.07.310 or 8.07.320 is issued, and if the affected dwelling unit is or becomes vacant, no person shall reoccupy or permit re-occupancy of the dwelling unit all repairs have been made by the responsible party and inspected by the code official.

7/9/07: PULLED

**AGENDA BILL**

**Beaverton City Council  
Beaverton, Oregon**

**SUBJECT:** An Ordinance Amending Beaverton  
Code Chapter 6 Relating to Parking  
Zone Additions

**FOR AGENDA OF:** 7/23/07 **BILL NO:** 07151

**Mayor's Approval:** Linda A. Callahan

**DEPARTMENT OF ORIGIN:** Public Works

**DATE SUBMITTED:** 06-26-07

**CLEARANCES:** City Attorney US

**PROCEEDING:** FIRST READING

**EXHIBIT:** Ordinance

**BUDGET IMPACT**

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

At its June 11, 2007 meeting, the City Council adopted a resolution supporting the initial implementation actions of the Beaverton Downtown Parking Solutions report. These actions include: 1) amending the Beaverton Code to allow for the addition of parking management zones; and, 2) appointing a downtown advisory committee that can provide advice on a downtown parking program.

Beaverton Code Chapter 6, Traffic Issues Process, outlines the appropriate process to acknowledge advisory committee parking, management-related recommendations. It is also the appropriate process to use to add parking management zones in the City. Exhibit 1 details the proposed text amendment to this code.

**INFORMATION FOR CONSIDERATION:**

The proposed Ordinance embodies the changes made to the Beaverton Code. The Ordinance is ready for the required readings.

**RECOMMENDED ACTION:**

First Reading.

**ORDINANCE NO. 4445**

**AN ORDINANCE AMENDING BEAVERTON CODE CHAPTER 6**

**WHEREAS**, the Council finds that parking issues should be initiated or informed by staff or an appointed parking advisory body; and,

**WHEREAS**, the Council finds that parking management zones should be added as appropriate to the Code through the Traffic Issue Process in order to serve patrons, encourage mixed use, and support economic vitality within the zone; now, therefore,

**THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:**

(Strikeouts are deletions; bold underlined text are insertions.)

Section 1: Beaverton Code 6.02.050 is amended to read:

**TRAFFIC ISSUE PROCESS**

6.02.050 Title and Purpose. ~~The purpose of this ordinance is to authorize the City Traffic Engineer and Traffic Commission~~ **each is authorized** to approve and direct the implementation of restrictions and other devices, such as warnings, on public roadway use that are determined necessary and in the public interest. **Issues pertaining to parking and the Permit Parking Areas of this code that are processed through the Traffic Issue Process may have information provided by City staff and persons appointed by the Mayor to advise on such matters.** Such authority is subject to review and approval by the City Council in accordance with procedures established herein. This ordinance shall be known and may be referred to herein as the "Traffic Issue Process".

\*\*\*\*\*

Section 2: Beaverton Code 6.02.085 is added to read:

**6.02.085 Designation of Parking Management Zones**  
**The City Council may adopt parking management zones as recommended and processed through the Traffic Issue Process of this code. Such management zones shall serve patrons, encourage mixed-use development, and support desired economic uses within that zone.**

\*\*\*\*\*

First reading this \_\_\_ day of \_\_\_\_\_, 2007.

Passed by the Council this \_\_\_ day of \_\_\_\_\_, 2007.

Approved by the Mayor this \_\_\_ day of \_\_\_\_\_, 2007.

ATTEST:

APPROVED:

\_\_\_\_\_  
SUE NELSON, City Recorder

\_\_\_\_\_  
ROB DRAKE, Mayor

**AGENDA BILL**

**Beaverton City Council  
Beaverton, Oregon**

**SUBJECT:** An Ordinance Amending Ord 4187 Figure III-1 the Comprehensive Plan Land Use Map to Apply the City's Neighborhood Residential Standard Density (NR-SD) Plan Designation to Three Properties and Ord. 2050 the Zoning Map to Apply the City's R-7 Zone to One Property Located in Northeastern Beaverton CPA 2006-0006/ZMA 2006-0009 (Laurel St/Kennedy St/103<sup>rd</sup> Ave)

**FOR AGENDA OF:** 07/23/07 **BILL NO:** 07159

**Mayor's Approval:** *Debra Drake*

**DEPARTMENT OF ORIGIN:** CDD HB

**DATE SUBMITTED:** 07/17/07

**CLEARANCES:** City Attorney *AR*  
Planning Services HB

**PROCEEDING:** First Reading

**EXHIBITS:** Ordinance  
Exhibit A - Map  
Exhibit B - Staff Report  
Exhibit C - Staff Supplemental Memo  
Exhibit D - Planning Commission Order

**BUDGET IMPACT**

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

This ordinance is before the City Council to amend the City's Comprehensive Plan Land Use Map from Corridor to Neighborhood Residential - Standard Density for all three properties (Map 1S114BC tax lots 00100, 00300, and 00301) and to amend the City's Zoning Map from Community Service (CS) Commercial to R-7 on one property (Map 1S114BC tax lot 00100).

The Planning Commission held a hearing on June 6, 2007. Staff responded to written testimony from S.R. Turner Construction, LLC, owner of tax lot 00301 Map 1S114BC, in the Staff Supplemental Memo dated June 6, 2007 (Exhibit C). Planning Commission Order No. 1976 (Exhibit D) along with the Planning Commission Notice of Recommendation was mailed to people who testified and to the property owners. No appeals have been filed.

**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. 4446**

AN ORDINANCE AMENDING ORD. 4187 FIGURE III-1 THE COMPREHENSIVE PLAN LAND USE MAP TO APPLY THE CITY'S NEIGHBORHOOD RESIDENTIAL STANDARD DENSITY (NR-SD) PLAN DESIGNATION TO THREE PROPERTIES AND ORD. 2050 THE ZONING MAP TO APPLY THE CITY'S R-7 ZONE TO ONE PROPERTY LOCATED IN NORTHEASTERN BEAVERTON CPA 2006-0006/ZMA 2006-0009

- WHEREAS,** the purpose of CPA2006-0006/ZMA2006-0007 is to amend Figure III-1, Ordinance 4187, from Corridor to Neighborhood Residential – Standard Density and the Zoning Map, Ordinance 2050, from Community Service Commercial (CS) to Residential – 7,000 square feet per dwelling unit (R-7) on Washington County Assessor's Tax Map 1S1 14BC tax lot 100 (10200 SW Kennedy Street), and to amend Figure III-1, Ordinance 4187, from Corridor to Neighborhood Residential – Standard Density on Washington County Tax Assessor's Map 1S1 14BC tax lots 00300 (10290 SW Kennedy Street) and 00301 (no site address); and
- WHEREAS,** pursuant to Ordinance 4187 Section 1.4.2 and Ordinance 2050 Section 50.45, written notice was mailed to the property owners subject to the amendment, the Neighborhood Association Chair, and owners of property within 500 feet of the proposal, notice was published in the Beaverton Valley Times, notice was posted on site, at Beaverton City Hall and Beaverton City Library and on the Beaverton City web site; and
- WHEREAS,** pursuant to Ordinance 4187 Section 1.5.1 and Ordinance 2050 Section 50.45, the Beaverton Planning Services Division, on May 30, 2007 published a written staff report and recommendation a minimum seven (7) calendar days in advance of the scheduled public hearing before the Planning Commission on June 6, 2007; and,
- WHEREAS,** pursuant to Ordinance 4187 Section 1.5.1 and Ordinance 2050 Section 40.97.15.1.C, the Planning Commission conducted a public hearing on June 6, 2007, and considered testimony and exhibits on the subject proposal, and at the conclusion of the hearing, the Planning Commission voted to recommend to the Beaverton City Council to adopt the proposed amendments to the Comprehensive Plan Map (Figure III-1) and Zoning Map based on the criteria, facts and findings set forth in the Community Development Department staff report by Senior Planner Barbara Fryer dated May 30, 2007, and attached hereto as Exhibit "B", the supplemental information found in the Community Development Department supplemental staff memo by Senior Planner Barbara Fryer dated June 6, 2007, and attached hereto as Exhibit "C", and Planning Commission Order No. 1976 attached hereto as Exhibit "D";
- WHEREAS,** no written appeal pursuant to Ordinance 4187 Section 1.7.2 and Ordinance 2050 Section 50.75 was filed by persons of record for CPA2006-0006/ZMA2006-0009, following the issuance of the Planning Commission Order No. 1976; and,

**WHEREAS,** the City Council adopts as to criteria, facts and findings described in Planning Commission Order No. 1976 dated June 15, 2007 and the Planning Commission record, all of which the Council incorporates by this reference and finds to constitute adequate factual basis for this ordinance; 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 14 BC 00100, 00300 and 00300 Neighborhood Residential – Standard Density, as shown on Exhibit “A”.

**Section 2.** Ordinance No. 2050, the Zoning Map, is amended to designate the property on Map and Tax Lot 1S1 14 BC 00100 Residential – 7,000 square feet per dwelling unit (R-7), as shown on Exhibit “A”.

First reading this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

Passed by the Council this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

Approved by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

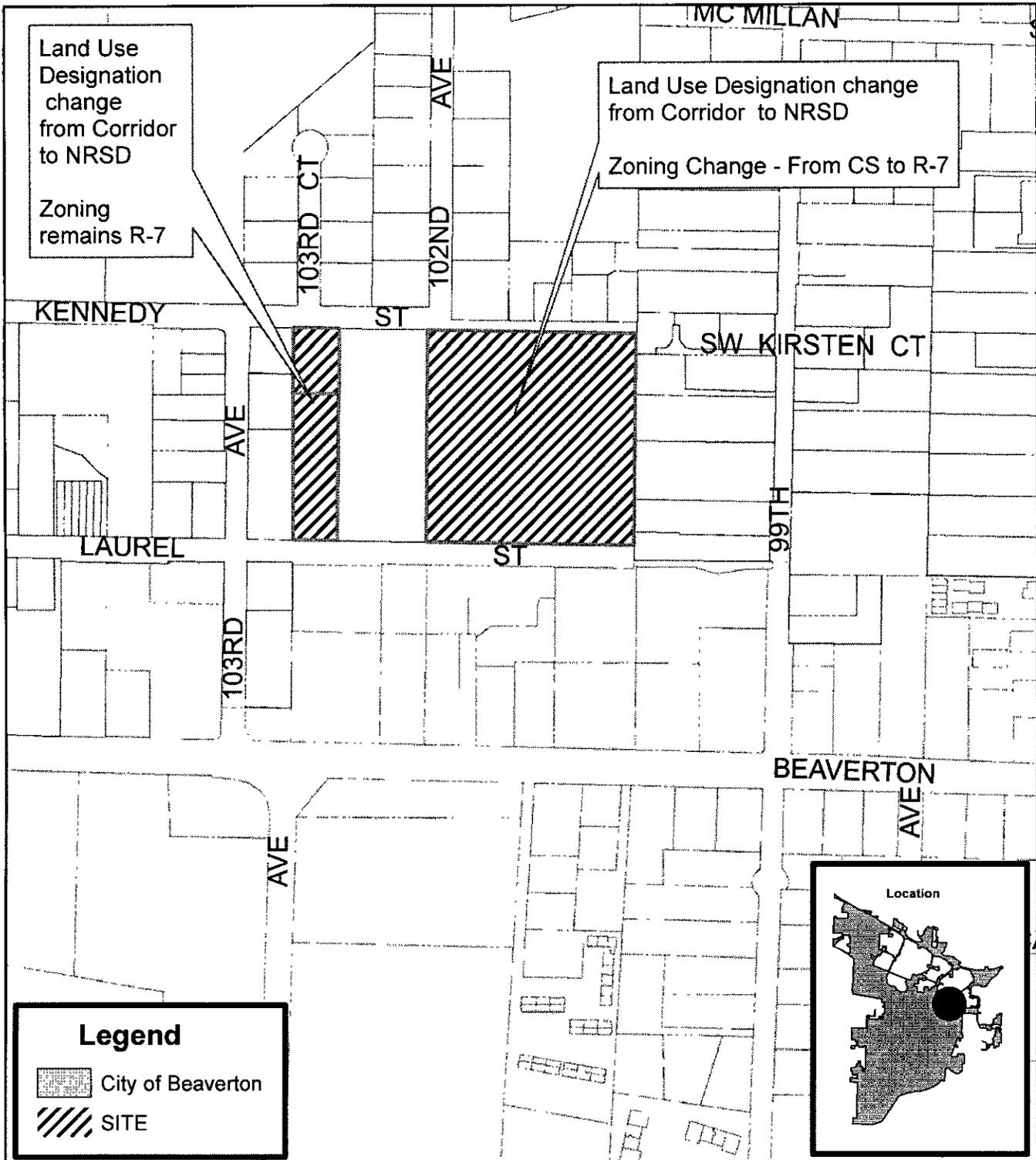
ATTEST:

APPROVED:

\_\_\_\_\_  
SUE NELSON, City Recorder

\_\_\_\_\_  
ROB DRAKE, Mayor

# VICINITY MAP



**CPA2006-0006 ZMA2005-0009**

**COMMUNITY DEVELOPMENT DEPARTMENT**  
**Planning Services division**

6/23/06

1S114BC00300  
 1S114BC00301  
 1S114BC00100



**Laurel  
 Kennedy  
 103rd**

ORDINANCE NO. 4446**STAFF REPORT**

**TO:** Planning Commission

**AGENDA DATE:** June 6, 2007                      **REPORT DATE:** May 30, 2007

**FROM:** Barbara Fryer, AICP, Senior Planner *BF*

**APPLICATION:** CPA2006-0006 (Laurel/Kennedy/103<sup>rd</sup>: Corridor to NR-SD)  
ZMA2006-0009 (Laurel/Kennedy/103<sup>rd</sup>: CS to R-7)

**LOCATION:** The parcels are located north of Laurel, east of 103<sup>rd</sup> and south of Kennedy Street. The parcels are identified on Tax Map 1S114BC as Tax Lots 00100, 00300 and 00301. Two tax lots have addresses: 10290 SW Kennedy Street and 10200 SW Kennedy Street.

**NEIGHBORHOOD ASSOCIATION:** Raleigh West, CPO # 3

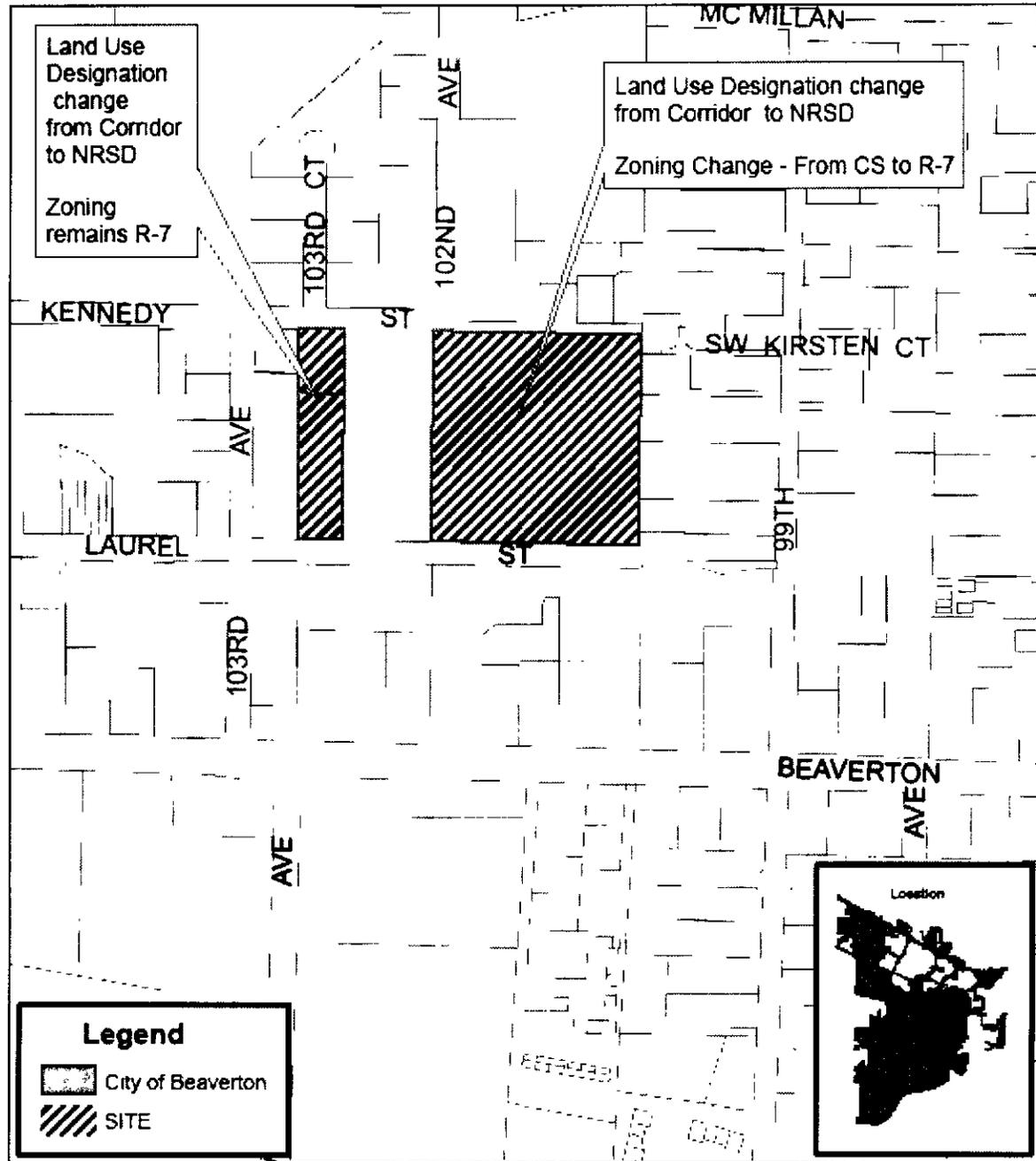
**REQUEST:** Amend the City's Comprehensive Plan Land Use Map to show Neighborhood Residential - Standard Density for all three properties and to amend the City's Zoning Map from CS to R-7 on tax lot 100 (10200 SW Kennedy Street).

**APPLICANT:** City of Beaverton Community Development Director

**APPROVAL CRITERIA:** Comprehensive Plan Section 1.3.1 and Development Code Sections 40.97.15.1.C.

**RECOMMENDATION:** **Adopt a final order recommending that City Council adopt an ordinance applying the Neighborhood Residential – Standard Density (NRSD) land use designation (CPA2006-0006) to the three properties (1S1 14BC tax lots 00100, 00300, and 00301) and applying the R-7 zoning district (ZMA2006-0009) to one property (1S1 14BC tax lot 00100).**

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 Planning Services division

**6/23/06** N

1S114BCD0300  
 1S114BCD0301  
 1S114BCD0100

Laurel  
 Kennedy  
 103rd

## BACKGROUND

All three properties have a land use map designation of Corridor. The proposal is to convert the properties to Neighborhood Residential – Standard Density. Property 1S114BC0100 currently has a Corridor land use map designation and a zoning district of Community Service. The proposal, for this property (1S114BC0100), is an additional zoning map amendment to R-7. Properties 1S114BC00300 and 00301 currently have a zoning district of R-7. One lot (00300) has a single family dwelling while the other lot (00301) is vacant. Property 1S1 14 BC 00100 is A.M. Kennedy Park, owned by the Tualatin Hills Park and Recreation District.

Staff determined that Ordinance 3299 amended the Comprehensive Plan designation for A.M. Kennedy Park to Community Service in 1982.

Implementing the Metro 2040 Growth Concept in 2001 resulted in these three properties receiving the Corridor land use designation. Due to their proximity to and location in an established residential neighborhood, it appears that this designation is not appropriate. Laurel Street serves as a natural break between the commercial uses to the south and the residential uses to the north. Keeping this block of properties from 103<sup>rd</sup> to 99<sup>th</sup> north of Laurel as residential provides a buffer between the commercial uses fronting on Beaverton Hillsdale Highway and the established neighborhood to the north.

## EXISTING CONDITIONS

**Uses.** The existing use of the property is a vacant lot, single family dwelling and public park.

The following table includes addresses, existing uses, and lot sizes for each parcel:

**Table 1 Existing Uses**

MAP/TAX LOT	ADDRESS EXISTING LAND USES	ACREAGE
1S114BC00100	10200 SW Kennedy A.M. Kennedy Park	5.33
1S114BC00300	10290 SW Kennedy Single Family Dwelling	0.33
1S114BC00301	No site address Vacant	0.75
<b>TOTAL ACRES</b>		<b>6.41</b>

**Character.** Properties surrounding the site to the north, east and west are either vacant or single family residential. The character of the area is predominantly larger lot single family homes. The properties to the south of the westerly parcels include an apartment building and a commercial office building. Immediately to the south of the park site is a

contractor office and an assisted living facility. Further to the south of the site are generally commercial uses abutting Beaverton Hillsdale Highway.

**Natural Resources.** A.M. Kennedy Park is generally a mowed natural area park with a play structure, basketball court and small mowed grass field. Vegetation includes Douglas fir, ash, alder, bitter cherry, willow, hawthorn, cottonwood, beaked hazelnut, and big leaf maple. Himalayan blackberry and English Ivy are the predominant invasive species. Although beautiful, *Iris pseudacorus*, or yellow flag, is an invasive species pervading the stream corridor. Significant Tree Grove G-16 covers this park and appears along the southern edge of 1S1 14BC 00301. According to the Beaverton Tree Inventory, the grove contains over 200 Douglas fir trees with an average DBH of 30 inches. The Beaverton Tree Inventory Grove Rating Sheet provides the highest rating in the four analysis areas: 1) Grove is relatively mature and evenly aged, 2) Grove has purity of species composition or is of a rare and unusual nature, 3) Grove is in a healthy growing condition, 4) Grove has a crucial function and/or aesthetic relationship to a natural resource.

The City of Beaverton Local Wetland Inventory shows a tributary to Hall Creek flowing from the southeastern edge of the park (1S1 14BC 00100) to the southwestern edge of the vacant tax lot (1S1 14 BC 00301). Total acreage of the wetland, designated in the inventory as HA-3, is 6.6 acres. It is identified as a Locally Significant Wetland. Predominant trees along the wetland are Oregon ash (*Fraxinus latifolia*), beaked hazelnut (*Corylus cornuta*), non-native hawthorn (*Crataegus monogyna*) and willow species (*Salix sp.*). This area contains both ivy (*Hedera helix*) and Himalayan blackberry (*Rubus discolor*) as invasive species.

Both tax lots affected by the Local Wetland Inventory (1S1 14 BC 00100 and 00301) show Regionally Significant Riparian Habitat in classes I, II and III on mostly the southern half of the properties when viewed on the Metro Regionally Significant Fish and Wildlife Habitat Map. A.M. Kennedy Park also shows Wildlife Habitat Class C on the northern portion of the two aforementioned properties.

## PROCESS

### THRESHOLD

The subject properties are designated as Corridor on the City's Comprehensive Plan Land Use Map and are proposed for amendment to Neighborhood Residential – Standard Density. Two properties are currently zoned R-7 while the third is proposed for a zoning map amendment from CS to R-7.

**Comprehensive Plan Process.** Quasi-judicial amendments amend a Land Use Map designation as it applies to specific parcels or that applies to a small number of individuals or properties or locations. This proposal, as noted above, proposes to amend the Land Use designation on three properties. Consequently, this amendment is a quasi-judicial amendment per *Comprehensive Plan* Section 1.3.

**Development Code Process.**

Zoning Map The threshold to apply a quasi-judicial zoning map amendment to property is as follows:

- “1. The change of zoning for a specific property or limited number of specific properties.”

The zoning map amendment proposal applies to one property (Tax lot #100 on Tax Map 1S114BC), thus qualifying as a limited number of specific properties.

**PROCEDURE TYPE**

The Type 3 procedure and process applies to Quasi-Judicial Map Amendment applications as described in Section 1.3 of the Comprehensive Plan and Quasi-Judicial Zoning Map Amendment applications per Section 40.97.15.1.B of the Development Code.

**SUBMISSION REQUIREMENTS**

According to Development Code Section 40.97.15.1.D. an application for a Quasi-Judicial Zoning Map Amendment shall be made by the owner of the subject property, or the owner’s authorized agent, the City Council, Mayor or their designee on a form provided by the Director. All Quasi-Judicial Zoning Map Amendment applications shall be filed with the Director and 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.

However, Section 50.20.1 states:

“With the exception of an application filed by the City, a pre-application conference shall be required for all proposals which require Type 2, Type 3, or Type 4 applications.”

This city-initiated application for a Quasi-Judicial Comprehensive Plan Amendment on three properties and a Quasi-Judicial Zoning Map Amendment on one property contains all necessary application information.

**PUBLIC NOTICE**

Section 1.4.2 of the Comprehensive Plan prescribes the notice requirements for Comprehensive Plan Quasi-Judicial Map Amendment applications. Notice must be mailed to the State Department of Land Conservation and Development (DLCD), Metro, Washington County, the Chair of the applicable Neighborhood Association Committee or Citizen Participation Organization, and the Chair of the Beaverton Committee for Citizen Involvement at least 45 days prior to the initial hearing. At least 20 and not greater than 40 days from the hearing, notice must be mailed to the affected property owners and surrounding property owners within 500 feet, posted at the Beaverton City Library and Beaverton City Hall, published in a newspaper of general circulation, and posted on the City’s web site.

Notice required by Oregon Revised Statutes (ORS 227.186) shall be mailed to property owners whose property is rezoned by a local government. This latter type of notice shall be mailed to the three property owners in question.

Additionally, the City Charter and Development Code Section 50.45.5.A requires mailing notice of the public hearing by certified mail to all owners of record of the subject parcels at least 30 days in advance for a Zoning Map Amendment.

Development Code Section 50.45.8 requires at least one signboard be posted in a conspicuous place not less than 20 calendar days before the hearing.

In response to these requirements:

1. On April 24, 2007 notice was mailed to DLCD, Metro, Washington County Land Use and Transportation, the Chair of the Raleigh West Neighborhood Association Committee and the Chair of the Beaverton Committee for Citizen Involvement (CCI).
2. On May 7, 2007 notice was mailed to the owners of the subject properties with the notation required by ORS 227.186. This notice was sent by certified mail to the property owner of the subject properties as required by the City Charter.
3. On May 17, 2007 notice was mailed to owners of surrounding properties within 500 feet of the subject parcels, posted at the Beaverton City Library and Beaverton City Hall, posted on the City's web site. One signboard was posted on SW Laurel Street at A.M. Kennedy Park and a second sign was placed on Kennedy Street at A.M. Kennedy Park on May 17, 2007.
4. On May 17, 2007 legal notice was published in the Beaverton Valley Times.

The notice requirements for this CPA/ZMA have been met.

## CRITERIA FOR APPROVAL

### COMPREHENSIVE PLAN AMENDMENT CRITERIA

Section 1.5.1 of the Comprehensive Plan outlines the minimum criteria for quasi-judicial and legislative amendment decisions, as follows:

***1.5.1.A. The proposed amendment is consistent and compatible with relevant Statewide Planning Goals and related Oregon Administrative Rules;***

Of the 19 Statewide Planning Goals, One, Two, Five, Six, Seven, Eight and Twelve are applicable to the proposed map amendment.

**GOAL ONE: PUBLIC INVOLVEMENT**

*To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.*

This proposed amendment is subject to the public notice requirements of the City Charter, Comprehensive Plan, and Zoning Code as described in the previous section of this report on process.

At the hearing, the Planning Commission considers written comments and oral testimony before they make a decision. The amendment procedures outlined in Comprehensive Plan Section 1.4, and Development Code Sections 50.45 (Type 3 Procedures) allow for proper notice and public comment opportunities on the proposed Comprehensive Plan and Zoning Map amendments as required by this Statewide Planning Goal. As noted above, these procedures have been followed.

**Finding: Staff finds that the City, through its Charter, Comprehensive Plan, Development Code and adherence to State statutes, has created proper procedures to insure citizens the opportunity to provide input into the proposed Comprehensive Plan Land Use Map and Zoning Map amendments and that the City has complied with those procedures.**

**GOAL TWO: LAND USE PLANNING**

*To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.*

The City of Beaverton adopted a Comprehensive Plan, which includes text and maps in a three-part report (Ordinance 1800) along with implementation measures, including implementation of the Development Code (Ordinance 2050) in the late 1980's. The City adopted a new Comprehensive Plan (Ordinance 4187) in January of 2002 that was prepared pursuant to a periodic review work program approved by the State Department of Land Conservation and Development (DLCD). The proposed Plan, including a new Land Use Map, was the subject of numerous public hearings and

considerable analysis before adoption. The adopted Plan and findings supporting adoption were deemed acknowledged pursuant to a series of Approval Orders from the Department of Land Conservation and Development, the last of which was issued on December 31, 2003. The land use planning processes and policy framework described in the Development Code and Comprehensive Plan form the basis for decisions and actions, such as the subject amendments.

**Finding: Staff finds that in applying the state acknowledged Comprehensive Plan provisions and the Development Code processes to this proposal, the requirements of Goal 2 have been met.**

GOAL FIVE: NATURAL RESOURCES, SCENIC AND HISTORIC AREAS, AND OPEN SPACES

*to protect natural resources and conserve scenic and historic areas and open spaces.*

As noted earlier in this report, a Locally Significant Wetland traverses the southern boundary of two of the subject properties. Regardless of the designation, the City of Beaverton tree regulations, Clean Water Services Design and Construction Standards and the Beaverton City Code must be followed and provide adequate protection for wetlands.

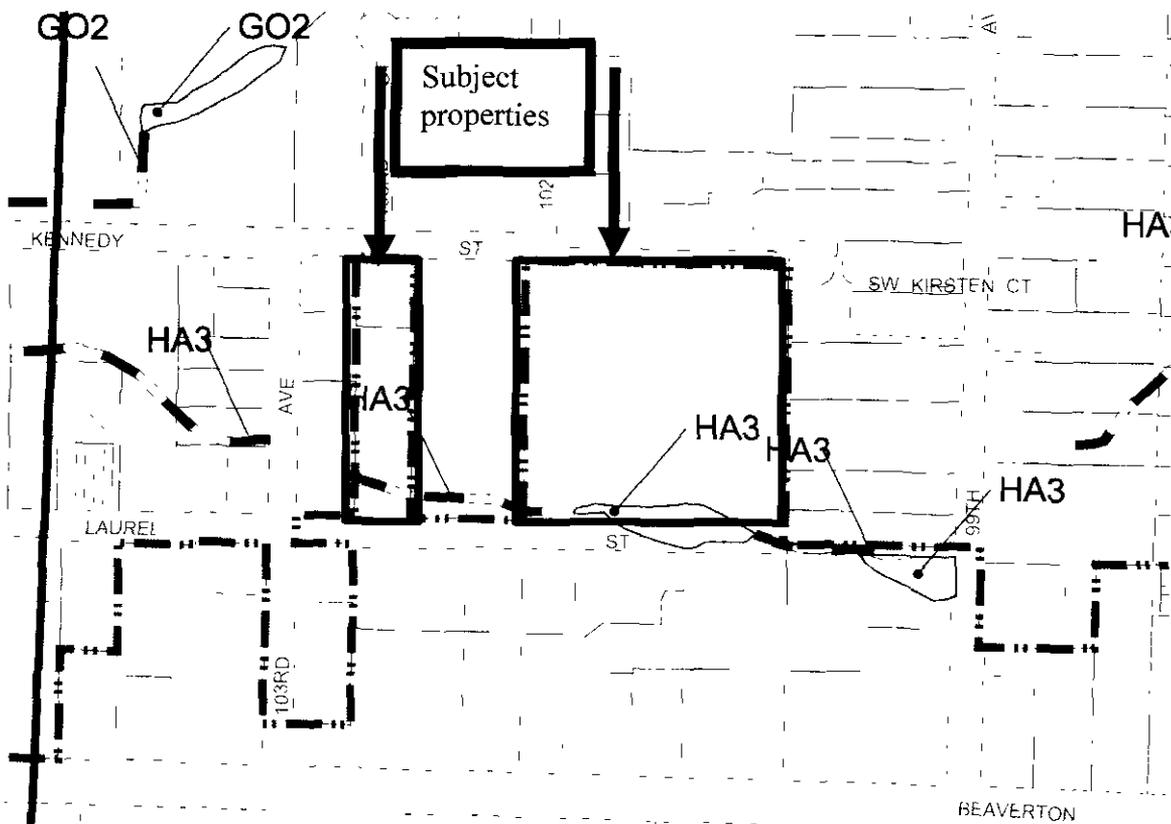
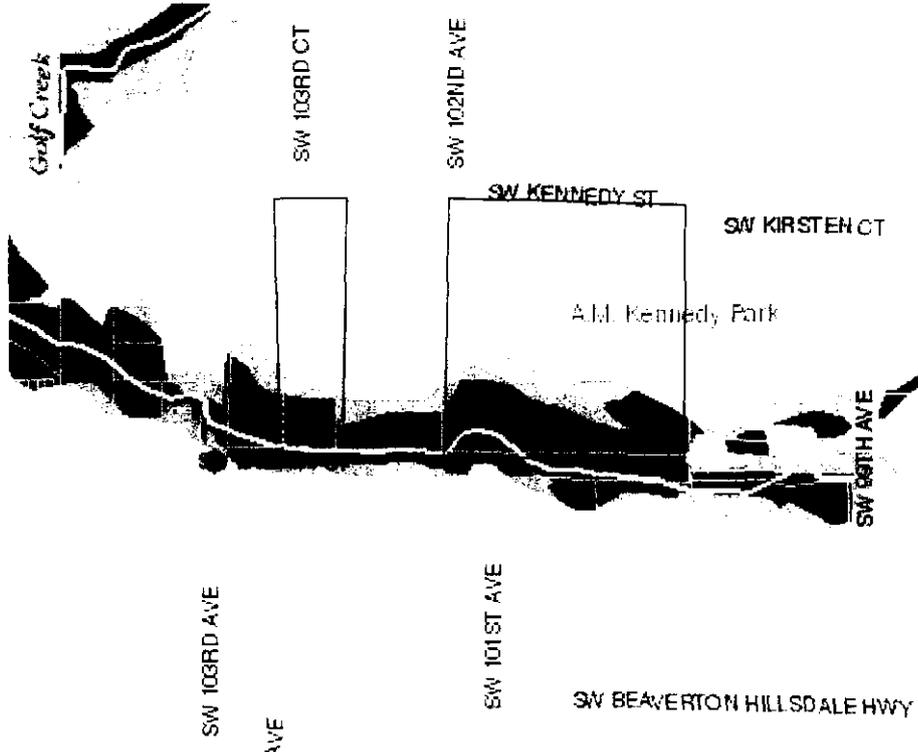


Figure 1 Local Wetland Inventory Excerpt

Metro's Nature in the Neighborhoods Program became effective in May 2006. The Metro program requires local governments to implement a program to:

- Conserve, protect, and resource a continuous ecologically viable streamside corridor system, from the stream's headwaters to their confluence with other streams and rivers, and with their floodplains in a manner that is integrated with upland wildlife habitat and with the surrounding urban landscape; and
- Control and prevent water pollution for the protection of the public health and safety, and to maintain and improve water quality throughout the region.

Metro inventoried resources in the region and developed six categories of resources. Four categories are found on two of the subject properties. Riparian Habitat Class I includes rivers, streams, wetlands, undeveloped floodplains, forested areas within 100 feet of streams or within 200 feet of streams in steep areas and unique, rare or at-risk streamside habitats known as habitats of concern. Riparian Habitat Class II includes rivers, streams, areas within 50 feet of developed streams, areas with trees and other vegetation within 200 feet of streams and portions of undeveloped floodplains. Riparian Class III are developed floodplains, grassy areas within 300 feet of streams, and small forested areas that are further away from streams but still influence them. Wildlife Habitat Class C includes smaller forested areas, plus smaller non-forested areas somewhat near, but no more than 300 feet from, streams and rivers that allow wildlife to move from one area to another.



**Figure 2 Metro Regionally Significant Fish and Wildlife Habitat**  
 Dark Blue: Riparian I, Medium Blue: Riparian II, Pink: Riparian III, Yellow: Wildlife Habitat Class A, Brown: Buffer area (not relevant to the program), Red outline: properties subject to amendment.

The local governments in the Tualatin River Basin collaborated to develop a voluntary, incentive-based program to achieve the goals of the Metro Program. In January 2007, City implementing ordinances became effective providing voluntary incentive-based tools for complying with the City's water quality, water quantity and landscape standards.

Existing regulations within the *City of Beaverton Code, Beaverton Development Code and Clean Water Services Design and Construction Standards for Sanitary Sewer and Surface Water Management (CWS D&C Standards)* will apply to development proposals on the subject properties. The *City of Beaverton Code* requires that development elevate at least 1 foot above the floodplain and retain the flood storage of the floodplain.

Incentives are provided for development that preserves habitat benefit areas or uses low impact development techniques. There is an opportunity on this site to take advantage of those incentives.



Figure 3 FEMA Floodplain

**Finding:** Staff finds that the regionally significant natural resources in the area will be adequately protected through CWS, City, and State regulations.

GOAL SIX: AIR, LAND, AND WATER QUALITY

*To maintain and improve the quality of air, water and land resources of the state.*

While the proposed amendment does not physically alter the landscape, there is a tributary to Beaverton Creek that flows through the property. As noted under Goal 5, any future development of the property will need to comply with the *Beaverton Development Code*, the *Beaverton Engineering Design Manual and Standard Drawings*, the *Beaverton Municipal Code*, and the *Clean Water Services Design and Construction Standards* regarding development within floodplains and adjacent to stream corridors. Thus, this Statewide Planning Goal is implemented through the City's development processes.

**Finding:** Staff finds that the proposed amendment does not change the landscape or the mechanisms to implement this goal, thus compliance with this goal is unaffected by the proposal.

GOAL SEVEN: AREAS SUBJECT TO NATURAL DISASTERS AND HAZARDS

*To protect people and property from natural disasters and hazards.*

The proposed amendment does not physically affect the landscape. The City, as noted in the discussion under Goal 5, has appropriate floodplain requirements in place through Comprehensive Plan Chapter 8 (Environmental Quality and Safety), the *Beaverton Development Code*, the *Beaverton City Code*, and the *Beaverton Engineering Design Manual and Standard Drawings*. The proposed amendment will not affect any of the measures cited above.

**Finding: Staff finds that the proposed amendment does not change the landscape or any implementation measure for this goal, thus compliance with this goal is unaffected by the proposal.**

GOAL EIGHT: RECREATION NEEDS

*To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.*

The largest of the subject parcels is owned by the Tualatin Hills Park and Recreation District which, generally, provides for the recreational needs of the citizens of Beaverton. The proposed amendment will not interfere with the ability to provide for those recreational needs.

**Finding: Staff finds that the proposed amendment does not change the ability to implement this goal, thus compliance with this goal is unaffected by the proposal.**

GOAL 12: TRANSPORTATION

*To provide and encourage a safe, convenient and economic transportation system.*

Oregon Administrative Rules (OAR) 660-012-000 through 660-012-0070, referred to as the Transportation Planning Rule (TPR), provide guidance on compliance with Statewide Planning Goal Twelve. The City's Transportation System Plan (TSP), adopted pursuant to OAR Division 12, fulfills the requirements for public facilities planning required under Oregon Revised Statutes (ORS 197.712(2)(e)), Goal 11 and OAR Chapter 660, Division 12 as they relate to transportation facilities. Volume 4 of the Comprehensive Plan contains the City's adopted TSP, effective June 6, 2003. OAR 660-012-0060 requires local governments to review Comprehensive Plan and land use regulation amendments with regard to the affect of the amendment on existing or planned transportation facilities. This section is cited as follows:

"A plan or land use regulation amendment significantly affects a transportation facility if it would:

- (a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);
- (b) Change standards implementing a functional classification system; or
- (c) As measured at the end of the planning period identified in the adopted transportation system plan:
  - (A) Allow land uses or levels of development that would result in types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;
  - (B) Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP or comprehensive plan; or
  - (C) Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.”

The City of Beaverton adopted a Comprehensive Plan, which includes text and maps, in five volumes. The first volume includes a Chapter on transportation planning in the City.

The proposal is to change the land use designation on the three properties from Corridor to Neighborhood Residential – Standard Density in line with the current development of the area. A.M. Kennedy Park is also proposed for a rezone from Community Service Commercial to R-7. R-7 zoning abuts the property on three sides with Commercial zoning to the south. Because the land use designation change on two of the properties is to acknowledge the existing zoning, no new traffic will be generated from the land use change. Changing A.M. Kennedy Park from a commercial designation to a relatively low density, 6 units to the acre, residential zoning district will reduce the potential traffic to and from the property. Thus, the amendments will not allow uses or levels of development that are not currently allowed or that are inconsistent with the functional classification of a transportation facility, will not reduce the performance standard identified in the TSP or comprehensive plan, or worsen the performance of an existing or planned transportation facility.

**Finding: Staff finds that the proposed amendment reduces the allowed density on the A.M. Kennedy Park site and doesn't change the allowed density or uses on the other two properties, thus this proposal does not trigger the Transportation Planning Rule threshold.**

## Remaining Goals

### *GOAL 3: AGRICULTURAL LANDS*

### *GOAL 4: FOREST LANDS*

These goals apply to rural unincorporated areas. The property is urban and within the incorporated city limits of the City of Beaverton, therefore, the goals are not applicable.

### *GOAL 9: ECONOMIC DEVELOPMENT*

### *GOAL 10: HOUSING*

The proposed amendment does not affect the City's ability to provide for economic development, industrial facilities, or employment centers or to comply with the Metropolitan Housing Rule. The goals are, therefore, inapplicable to the proposed amendment.

### *GOAL 11: PUBLIC FACILITIES AND SERVICES*

The property in question has been within the urban growth boundary since the establishment of the boundary. The properties are served by the Tualatin Hills Park and Recreation District, have water from the West Slope Water District, sewer service from Clean Water Services and are within the Beaverton City Limits so they receive all other services from the City of Beaverton.

### *GOAL 13: ENERGY CONSERVATION*

This goal encourages energy conservation. The City has solar access provisions in the Development Code that protect solar access for new and remodeled single family homes.

### *GOAL 14: URBANIZATION*

The proposal does not include a request to establish or change the Urban Growth Boundary. Therefore, this goal is not applicable.

### *GOAL 15: WILLAMETTE GREENWAY*

This goal applies to lands along the Willamette River. The Willamette River is not within, or adjacent to, the City of Beaverton, thus, this goal is not applicable to the proposal.

### *GOAL 16: ESTUARINE RESOURCES,*

### *GOAL 17: COASTAL SHORELANDS,*

### *GOAL 18: BEACHES AND DUNES,*

### *GOAL 19: OCEAN RESOURCES*

Goals 16 through 19 apply to oceanic or coastal resources. The City of Beaverton is over 80 miles from coastal resources; therefore, these goals do not apply in the City of Beaverton.

**Finding: Staff finds that Goals Three, Four, Nine, Ten, Eleven, and Thirteen through Nineteen are not applicable to this application.**

**Summary Finding:**

Staff finds that the proposed amendment is consistent and compatible with Goals One, Two, Five, Six, Seven, Eight, and Twelve, as required in Criterion 1.5.1.A.

**1.5.1.B. The proposed amendment is consistent and compatible with the applicable Titles of the Metro Urban Growth Management Functional Plan and Regional Transportation Plan;**



Figure 4 Metro 2040 Growth Concept Map

Title 1: Requirements of Housing and Employment Accommodation

Section 3.07.830 of the UGMFP requires that any Comprehensive Plan change must be consistent with the requirements of the Functional Plan. Section 3.07.130 of the UGMFP states:

“For each of the following 2040 Growth Concept design types, city and county comprehensive plans shall be amended to include the boundaries of each area, determined by the city or county consistent with the general locations shown on the 2040 Growth Concept Map...” The *2040 Growth Concept Plan* map designates the parcels included in this proposal under the Inner Neighborhood and Park design types. Section 3.07.130 identifies Inner Neighborhoods as residential areas accessible to jobs and neighborhood businesses with smaller lot sizes. Parks include any park identified by the local government or park district.

Title 2: Regional Parking Policy

The City has an established minimum and maximum parking ratio related to zones A and B. The subject property is within Parking Zone A. The subject property is within one-quarter mile walking distance of Beaverton – Hillsdale Highway, which has 20 minute bus service. Consequently, the Maximum Permitted Parking Spaces per Zone A applies to the subject properties.

Title 3: Water Quality and Flood Management Conservation

In concert with other local governments in Washington County, the City partnered with Clean Water Services to enact legislation acknowledged to comply with Title 3.

Title 4: Industrial and Other Employment Areas

The subject parcel is not designated as Employment or Industrial Land on the Title 4 Industrial and Employment Land Map. The proposal will not affect the City's ability to provide for industrial or other employment areas.

Title 5: Neighbor Cities and Rural Reserves

Title 5 concerns Neighbor Cities and Rural Reserves. The proposal is within the City of Beaverton; therefore, this Title does not apply.

Title 6: Central City, Regional Centers, Town Centers and Station Communities

Title 6 predominantly focuses on local government strategies to improve implementation of Centers. The proposal is not within a Center.

Title 7: Affordable Housing

The intent of Title 7 is to enact a "fair share" housing strategy for each jurisdiction which includes a diverse range of housing types, specific goals for low- and moderate-income housing, housing densities consistent with the regional transportation system, and a balance of jobs and housing. The City adopted Comprehensive Plan Chapter Four to comply with this Metro Title.

Title 8: Compliance Procedures

Information about the proposal was sent to the Chief Operating Officer on 4/24/07 , 45 days prior to the first evidentiary hearing as required by Metro Code Section 3.07.820.

Title 9: Performance Measures

Title 9 directs Metro to measure the progress of the region in implementing the Urban Growth Management Functional Plan.

Title 10: Functional Plan Definitions

Title 10 provides definitions for use in the UGMFP and is, therefore, irrelevant to the compliance of this proposal to the UGMFP.

Title 11: Planning for New Urban Areas

Title 11 concerns planning for new urban areas. This proposal is within the Urban Growth Boundary and is within the corporate limits of the City of Beaverton. This Title does not apply to the amendment.

## Title 12: Protection of Residential Neighborhoods

Protection of residential neighborhoods is a key to success of the 2040 Growth Concept. The proposed amendment would preserve the existing residential neighborhood to the west, north and east of the subject properties.

## Title 13

As noted under the Goal 5 discussion of this report, the City, as a participant in the Tualatin Basin program, complies with Title 13.

## Regional Transportation Plan

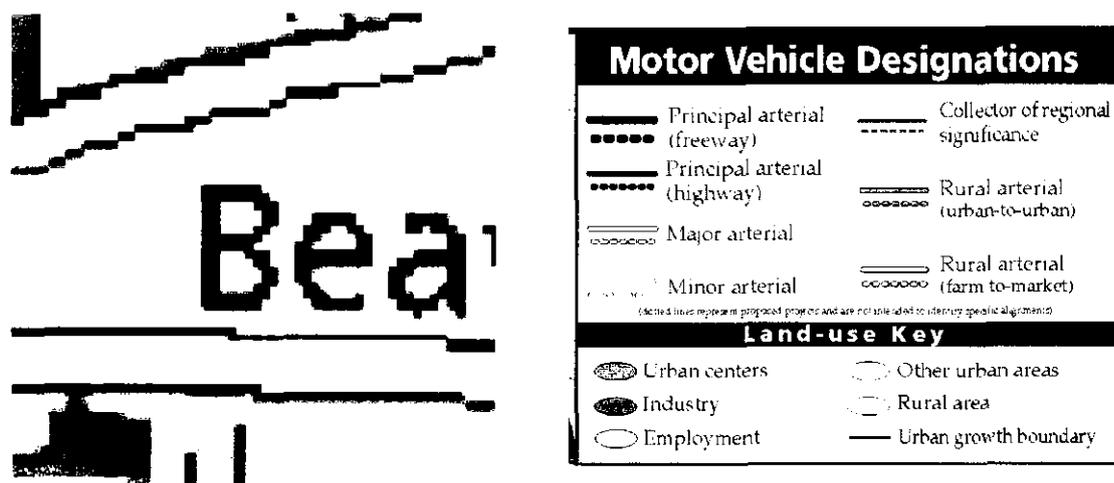


Figure 5 Regional Transportation Plan Regional Motor Vehicle System

Section 6.4.4, Transportation System Analysis Required for Local Plan Amendments, states:

“This section applies to city and county comprehensive plan amendments or to any local studies that would recommend or require an amendment to the Regional Transportation Plan to add significant single occupancy vehicle (SOV) capacity to the regional motor vehicle system, as defined by Figure 1.12. This section does not apply to projects in local TSPs that are included in the 2000 RTP. For the purpose of this section, significant SOV capacity is defined as any increase in general vehicle capacity designed to serve 700 or more additional vehicle trips in one direction in one hour over a length of more than one mile. This section does not apply to plans that incorporate the policies and projects contained in the RTP.”

The proposed amendments are to acknowledge the zoning applied to two properties and to designate a park property as residential instead of commercial. The proposal will, if redevelopment occurs, reduce the number of trips to and from the site as Neighborhood Residential – Standard Density (R-7) development generates fewer cars than Corridor (CS) Commercial development.

**Finding: The Neighborhood Residential – Standard Density land use map designation is compatible with the UGMFP Titles and the RTP. Criterion 1.5.1.B is**

satisfied.

**1.5.1.C. The proposed amendment is consistent and compatible with the Comprehensive Plan and other applicable local plans;**

Chapters One and Two - Procedures and Public Involvement Elements, respectively  
As noted under the Process section of this report, the proposal complies with the Comprehensive Plan Amendment Procedures of Chapter One. In complying with the procedures, the amendment provides the opportunity for public involvement as noted in Chapter Two.

Chapter Three – Land Use Element

**3.4.1 Goal: Provide a policy framework for a community designed to establish a positive identity while enhancing livability.**

**Policies:**

- i) *Subsequent to their development in another zoning district, quasi-public and public uses should be converted to the Public/Quasi-Public zoning district on a regular basis through a City-initiated process. This will assist the general public in being aware of the location of such developments in their community and respond to the community's investment in public resources. Modifying only the zoning district and not the land use designation provides for future redevelopment opportunities through the zoning process.*

Amending the Land Use Designation for A.M. Kennedy Park from Corridor to Neighborhood Residential – Standard Density continues a common land use designation for park properties throughout the city. Upon adoption of a new Public/Quasi-Public zoning district A.M. Kennedy Park would undergo a zoning map amendment to apply the new zoning district. Until the new zoning district is developed, the property, most logically, should be designated with a residential designation – not a commercial one.

**3.13.1 Goal: Provide for the establishment and maintenance of safe, convenient, attractive and healthful places to live.**

**Policies:**

- d) *Apply Residential Neighborhood designations (Low Density, Standard Density, Medium Density and High Density) consistent with the metro 2040 Growth Concept Map and the City's housing target implementing strategy.*
- e) *Apply zoning districts as shown in subsection 3.14 Comprehensive Plan and Zoning District Matrix.*

**3.13.3 Goal: Establish Standard Density Residential areas to provide**

***moderate sized lots for typical single family residences  
with private open space.***

**Policies:**

- a) *Apply zoning districts as shown in subsection 3.14 Comprehensive Plan and Zoning District Matrix to allow a variety of housing choices.*

Generally, development to the east, west and north of the property is established single family residential dwellings. The majority of the area is zoned Washington County R-5, 5 units to the acre, or the City equivalent of R-7. Three properties abutting the southwestern corner of A.M. Kennedy Park are zoned Washington County R-9, 9 units to the acre, or the City equivalent of R-5. In any case, this area is predominantly residential in character and separated from the commercial and higher density residential uses to the south by both Hall Creek and SW Laurel Street. By designating these properties as Neighborhood Residential – Standard Density the character of the area can remain residential. The two westerly properties subject to this amendment are already zoned as R-7, making the designation of Neighborhood Residential – Standard Density the appropriate choice in compliance with subsection 3.14 Comprehensive Plan and Zoning District Matrix. Additionally, designating the park property as Neighborhood Residential – Standard Density allows application of the R-7 zoning district under the associated zoning map amendment (ZMA2006-0009) in compliance with subsection 3.14 Comprehensive Plan and Zoning District Matrix and consistent with the County zoning on adjacent properties.

**Chapter Four - Housing**

*Goal 4.2.1.1 "Maximize use of buildable residential land in the City."*

*Goal 4.2.2.1 "Provide an adequate variety of quality housing types to serve Beaverton's citizenry."*

*Goal 4.2.3.1 "Promote the retention of existing affordable housing stock in the City."*

*Goal 4.2.3.2 "Promote the production of new affordable housing units in the City."*

The proposal is to amend the Comprehensive Plan designation from Corridor to Neighborhood Residential – Standard Density to promote retention of this area as a residential neighborhood. Should redevelopment occur, opportunity would exist for establishing affordable housing on this buildable residential land. While development plans do not currently exist, are not proposed, or suggested by this amendment, it is likely that this area, with the exception of the park property, will redevelop at some point in the future. Lot sizes in this residential area are typically around .25 acre. Consolidation of lots will be necessary to redevelop at higher densities, as 7,000 square feet is the minimum lot size.

**Chapter Five – Public Facilities and Services Element**

*Goal 5.3.1 "Ensure long-term provision of adequate urban services within existing City limits and areas to be annexed in the future."*

*Goal 5.4.1 "Ensure long-term provision of adequate storm water management within existing city limits and areas to be annexed in the future."*

*Goal 5.7.1 "Cooperate with the Beaverton School District in its efforts to provide the*

best possible educational facilities and services to Beaverton residents.”

The proposed amendment will not affect the ability for the City to provide public facilities and services to the site, as noted in the Goal 11 discussion.

#### Chapter Six – Transportation Element

Discussion under Goal 12 assists in the understanding of the applicability of the Transportation Element and the policies and actions found therein to this amendment. The amendment does not affect any of the text found in Chapter 6 or implement a change to the physical landscape of any property. Proposed and existing transportation facilities in the TSP, and the tables and figures within Chapter 6 of the Comprehensive Plan remain unaffected by this amendment.

#### Chapter Seven

*Goal 7.1.1 “Balance development rights with natural resource protection.”*

*Goal 7.3.1.1 “Conserve, protect, enhance or restore the functions and values of inventoried Significant Natural Resources.”*

*Goal 7.3.2.1 “Promote a healthy environment and natural landscape in riparian corridors, and manage conflicting uses through education, and adoption and enforcement of regulations.”*

*Goal 7.3.3.1 “Protect or enhance wetlands adopted as Significant Wetlands in the Local Wetland Inventory.”*

*Goal 7.3.4.1 “Protect wildlife habitat in the city in association with protecting significant natural resources.”*

Regardless of the designation, natural resource protection and habitat friendly development practices would apply to development of the two properties abutting Hall Creek. Any development of these properties would need to comply with the City's *Development Code, Engineering Design Manual and Standard Drawings, the City of Beaverton Code, and Clean Water Services Design and Construction Standards.*

#### Chapter Eight

*Goal 8.2.1 “Maintain and improve water quality, and protect the beneficial uses, functions and values of water resources.”*

Regardless of the designation, natural resource protection and habitat friendly development practices would apply to the two properties abutting Hall Creek. Any development of the property would need to comply with the City's *Development Code, Engineering Design Manual and Standard Drawings, the City of Beaverton Code, and Clean Water Services Design and Construction Standards.*

#### Applicability with other local plans

The proposed amendment is not within a City of Beaverton Community Plan area.

**Finding: This amendment is consistent with the policies of Chapters 1 through 8 of the Comprehensive Plan and is not subject to any other local plan;**

therefore, Criterion 1.5.1.C is met.

**1.5.1.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.*

Designating this property Neighborhood Residential – Standard Density corrects an error in the Land Use Map with regard to application of the Corridor Land Use Designation. As shown on the Metro 2040 Growth Concept Map, the Corridor designation is not anticipated to extend to A.M. Kennedy Park and the residential neighborhood abutting it to the north, east and west. The property should, more appropriately, be designated as Neighborhood Residential – Standard Density in compliance with Title 12 Protection of Established Residential Neighborhoods. Correcting this error cannot be met by other properties that now have the same designation.

**Finding:** Due to the need to correct an error in applying the Corridor Land Use Designation, Criterion D has been met.

## CONCLUSION

Based on the facts and findings presented, staff conclude that the proposed amendment to the Comprehensive Plan Land Use Map is consistent with all the Quasi-Judicial Comprehensive Plan amendment approval criteria of Section 1.5.1.A through D. Therefore, staff recommend the Planning Commission **APPROVE** CPA 2006-0006 to depict the City's Neighborhood Residential – Standard Density land use designation at the June 6, 2007 regular Commission hearing.

## ZONING MAP AMENDMENT CRITERIA

Development Code Section 40.97.15.1.C., which contains Quasi-Judicial Zoning Map Amendment Approval Criteria, states:

“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.***

Section 40.97.15.1.A. Threshold, states, “The change in zoning designation for a specific property or limited number of specific properties.” The proposed change in zone is limited to one specific property, Tax Map 1S1 14 BC Lot 100.

**Finding: Staff finds that the request 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.***

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.

**Finding: Staff finds that this criterion is not applicable.**

**3. *The proposal conforms with applicable policies of the City’s Comprehensive Plan.***

See the responses to Comprehensive Plan Amendment Criterion 1.5.1.C.

**Finding: Staff finds that the proposal conforms to applicable policies of the City’s Comprehensive Plan.**

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

Companion amendments to the Comprehensive Plan have been bundled with this application. No other applications are necessary at this time.

**Finding: Applications have been submitted in the proper sequence.**

**5. 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.**

Chapter 90 of the Development Code defines “critical facilities” to be services that include public water, public sanitary sewer, storm water drainage and retention, transportation, and fire protection.

Water Service can be provided to the site through an existing West Slope Water District water line located in SW Kennedy Street and SW Laurel Road right-of-way.

An 8 inch CWS sanitary line is located within the Kennedy Street right-of way and a 21 inch CWS sanitary line is located within the Laurel Road right-of-way.

Storm water in this area flows into Hall Creek. A 10 inch CWS storm line exists at the corner of Kennedy and 103rd. Additionally, a number of connections to a 6 inch or 12 inch CWS storm line are possible at the intersection of 103rd and Laurel Road.

Specific connection to the storm, sanitary and water systems and provision of stormwater detention and water quality facilities would be provided at the time of future development on the subject property.

Fire protection will be provided to the site by Tualatin Valley Fire and Rescue Department (TVF&R). Station 65 – West Slope serves this area. TVF&R is required to review final engineering plans prior to the issuance of the site development permit assuring the Department’s satisfaction with any development proposal.

A traffic analysis was not required of this application. The trip generation of the proposed zone is not great enough to meet the threshold requirement for a traffic analysis (Development Code Section 60.55.20.2 Traffic Analysis). SW Kennedy Street, SW Laurel Road and SW 103rd Avenue are all classified as a *Local Street*. Future development may require improvements to meet the City’s standards.

**Finding: Staff find that this criterion is met.**

**6. Essential facilities and services are available or can be made available to serve the site and uses allowed by the proposed zoning designation.**

Chapter 90 of the Development Code defines “essential facilities” to be services that include schools, transit improvements, police protection, and on-site pedestrian and bicycle facilities in the public right-of-way.

The City of Beaverton is served by the Tualatin Hills Park and Recreation (THPRD). A.M. Kennedy Park, the subject of this proposal, is a THPRD park.

The City of Beaverton Police serves the subject property.

The Beaverton School District serves the subject property.

The subject property is within ¼ mile of high capacity transit along Beaverton-Hillsdale Highway.

The subject property is bordered on the north by Kennedy Street and to the south by Laurel Road.

**Finding: Staff find that this criterion is met.**

**7. *The proposal is or can be made to be consistent with all applicable provisions of Chapter 20 (Land Uses).***

Development Code Section 20.05.15 .1 states the purpose of the R-7 zoning district is “to allow one dwelling per lot of record. (ORD 3293; November, 1982) The R-7 is intended to establish standard urban density residential home sites where a minimum land area of 7,000 square feet is available for each dwelling unit, and where full urban services are provided.”

Tax Lot 1S1 14BC 00100 is proposed to be rezoned from Community Service Commercial to R-7. The current use of the 5.33 acre property is a community park. Public parks, parkways, playgrounds and related facilities are conditional uses in the R-7 zoning district (20.05.10.2.B.6). The lot width is 470 feet wide by 497 feet in depth, meeting the minimum width of 70 feet and depth of 100 feet for interior lots. Since there are no buildings located on the site, the minimum yard setbacks and maximum building height are inapplicable to the current use on the site.

**Finding: Staff find that this criterion is met.**

**8. *In addition to the criteria stated in Section 40.97.15.1.C.1 through 4, 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.***

The proposal to R-7 does not apply to this criterion.

**Finding: Staff find that this criterion is inapplicable to this proposal.**

**9. *The proposal shall include a Traffic Impact Analysis that meets the requirements of 60.55.20. The analysis shall demonstrate that the 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.***

The proposal is to modify the zoning from Community Service Commercial to Residential – 7,000 square feet per dwelling unit. Approximately 33 dwelling units could be constructed under the R-7 zoning district. Approximately 151,000 square feet of commercial could be built along with 52,580 square feet of parking and 1,800 square feet of landscaping. Assuming the highest traffic generator for Community Service Commercial is retail commercial, a free standing discount superstore could generate 584 pm peak trips, a shopping center could generate 566 pm peak trips, or a supermarket could generate 1577 pm peak trips. Single family residential development generates 1.01 pm peak trips per dwelling unit. Single family residential development generates 559 fewer vehicles per pm peak than Community Service Commercial in the form of a free standing discount superstore. Therefore, the proposal does not meet the analysis threshold established in 60.55.20.2.A.

**Finding: Staff find that this criterion is met.**

- 10. *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.***

The proposed zoning district of R-7 generates 559 fewer vehicles per pm peak than a free standing discount superstore in the existing Community Service Commercial zoning district.

**Finding: Staff find that the proposed zoning district of R-7 generates less traffic than the existing Community Service Commercial zoning district.**

- 11. *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 subject to Quasi-Judicial Zoning Map Amendment consideration.***

There are no District Requirements identified for the two Neighborhood Residential – Standard Density implementing zones: R-7 and R-5.

**Finding: Staff find that this criterion is inapplicable to the proposed amendment.**

- 12. *The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code.***

Development Code Section 50.25.1 specifies the information to be provided for an application to be accepted as “complete”. This application is a city-initiated application, so completeness doesn’t apply.

**Finding: Staff find that this criterion is inapplicable to the proposed amendment.**

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

The proposal has been submitted with a corresponding amendment to the Comprehensive Plan.

**Finding: Staff find that this criterion is met.**

## **CONCLUSION**

Based on the facts and findings presented, staff conclude that the proposed amendment to the Zoning Map is consistent with all the zoning map amendment approval criteria of Section 40.9715.1.C.1-13. Therefore, staff recommend the Planning Commission **APPROVE** ZMA2006-0009 to depict the City’s R-7 zoning district on the subject property at the June 6, 2007 regular Commission hearing.

ORDINANCE NO. 4446**STAFF SUPPLEMENTAL MEMO**

TO: Planning Commission

AGENDA DATE: June 6, 2007 MEMO DATE: June 6, 2007

FROM: Barbara Fryer, AICP, Senior Planner *BF*

APPLICATION: CPA2006-0006 (Laurel/Kennedy/103<sup>rd</sup>: Corridor to NR-SD)  
ZMA2006-0009 (Laurel/Kennedy/103<sup>rd</sup>: CS to R-7)

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To date, two letters have been received by staff from S.R. Turner Construction, LLC. The second letter, dated June 5, 2007, warrants response regarding the following issues:

1. Accuracy of Natural Resource Mapping

The letter references an environmental report prepared by Fishman Environmental. While this report may have information pertinent to a development proposal, it is irrelevant to a Comprehensive Plan and Zoning Map amendment. The maps referenced in the staff report are from reputable sources and are the type of maps depicting planning level environmental analysis. The maps referenced include Significant Tree Grove G-16, the City of Beaverton Local Wetland Inventory, Metro Regionally Significant Fish and Wildlife Habitat Map, and the FEMA floodplain map. Specific environmental determinations, such as the Fishman Environmental Report, would be appropriate upon development to more clearly identify the boundaries of natural resource areas for development applications.

2. Zoning of Surrounding Properties

As noted in the attached map depicting County Zoning, the properties in the block to the west are zoned R-15 and R-9, not R-5 as the properties directly abutting the properties subject to this amendment. The x's on the map depict apartment complexes in the vicinity of the proposed amendment.

3. Adequacy of Posting Public Hearing Notice Signs

Contrary to the description in the letter regarding the sign placement, the signs were located on tax lots 100 and 301 as depicted in the pictures attached to this memorandum and the affidavit of posting. The legal requirement in the Beaverton Development Code (50.45.8) is that the sign must be posted on or in the vicinity of the subject properties. The sign posting is required by the Development Code for Zoning Map Amendments and is not required for the Comprehensive Plan Amendment. Thus, the site posting was required only for A.M. Kennedy Park.

#### 4. Need for Map Amendment

Zoning for the properties must be consistent with the Comprehensive Plan and vice versa. This is one reason the proposal is before the Planning Commission at this time. The Planning Commission can approve the staff request to apply the Neighborhood Residential – Standard Density land use designation on the property (1S1 14BC 00301) or can choose not to apply the designation. If the latter action is taken, the property owner needs to initiate a rezone application to bring the zoning and map designation into compliance at the cost of the property owner.

#### 5. Transportation Access and Impacts

The staff report does not address transportation impacts as the proposal is to acknowledge the existing zoning on site. The fact that the property in question (tax lot 1S1 14BC 00301) may or may not get access from SW Laurel Street is irrelevant to the question of whether the proposed amendment triggers the Transportation Planning Rule.

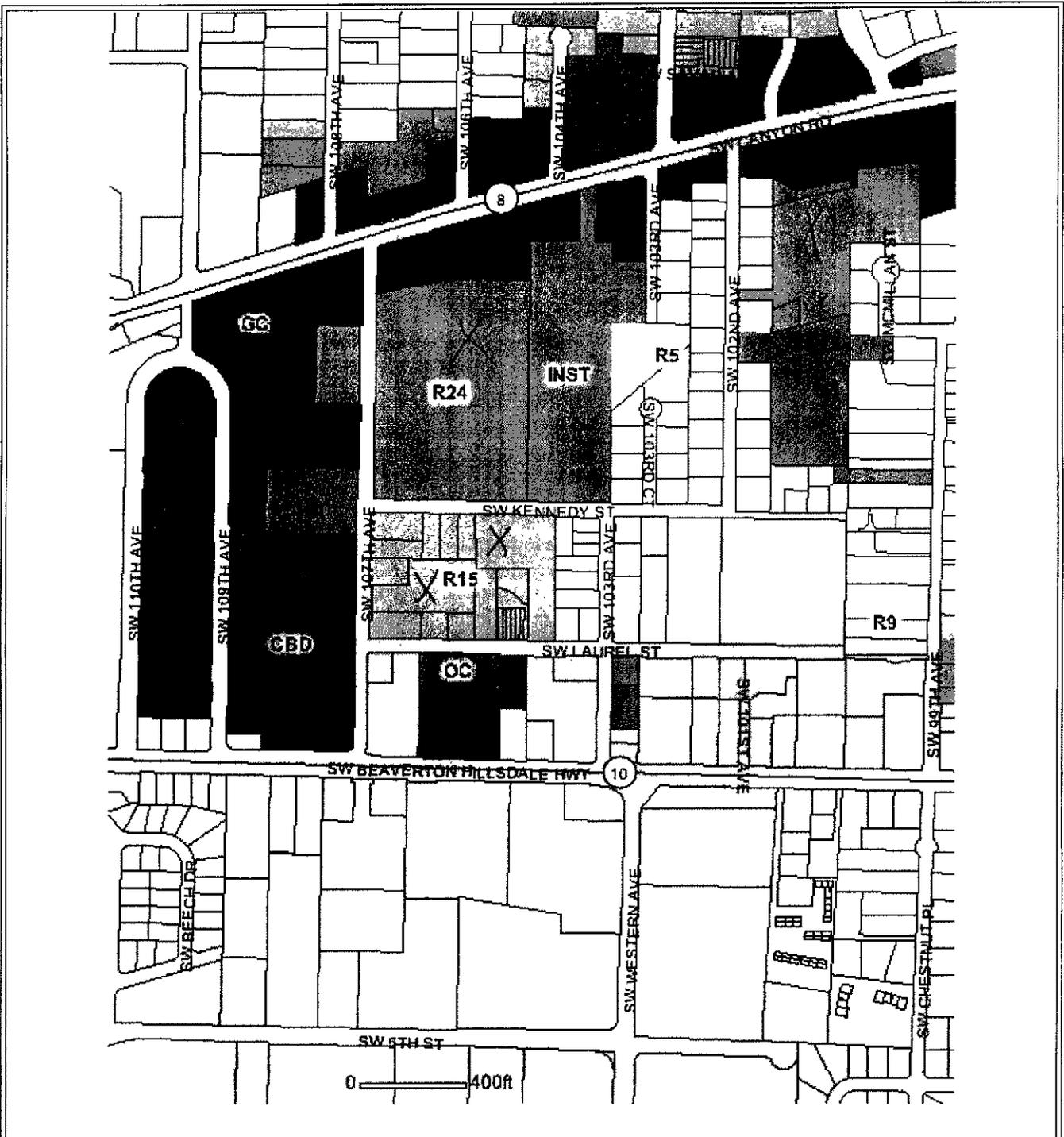
#### 6. Adequacy of Statewide Planning Goal 10 Findings

Goal 10 was not addressed with regard to the proposed Comprehensive Plan Amendment as it was deemed irrelevant. Under the R-7 zoning district applied to the tax lot (1S1 14BC 00301) today, the property owner could develop a maximum of 5 units based on gross acreage. The Corridor land use designation allows a number of zoning districts including: General Commercial, Convenience Service Center, Office Commercial, Community Service, Neighborhood Service, R-1, R-2, and R-4. Should the property retain the Corridor land use designation and achieve a successful rezone to a commercial zone, no dwelling units would be provided. If a successful rezone to R-1 were achieved, approximately 32 units, R-2: 16 DU and R-4: 8 DU. Thus, retaining the existing land use designation could result in a range of zero to 32 dwelling units on the property. Amending the land use designation to apply the Neighborhood Residential – Standard Density designation, consistent with the R-7 zoning district on the property, could yield 5 units.

But to be clear, the proposal is not to change the zoning, but rather to change the land use designation consistent with the existing zoning on the property.

#### 7. Consistency with the Metro 2040 Growth Concept Design Type Description for the Subject Properties

When the Metro Code Section 3.07.130 defines Inner Neighborhoods as “residential areas accessible to jobs and neighborhood businesses with smaller lot sizes”, it is not referring to lot sizes smaller than 7,000 square feet. Inner Neighborhoods are to develop at 14 persons per acre (3.07.170 Design Type Density Recommendations). The 2000 Census cites an average household as having 2.44 persons. Therefore, Inner Neighborhoods are to develop at approximately 5.7 units to the acre, or with a minimum lot size of 7,642 square feet. This is consistent with the staff proposal to designate the property with a land use designation of Neighborhood Residential – Standard Density. In fact, most of Beaverton is designated as Inner Neighborhood and Neighborhood Residential – Standard Density.



This map was derived from several databases  
 The County cannot accept responsibility for any errors,  
 omissions, or positional accuracy and therefore there are  
 no warranties for this product. However, notification of errors  
 would be appreciated

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# CITY of BEAVERTON

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

PROJECT NAME: Laurel/Kennedy/103rd  
FILE NUMBER: CPA 2006-0006 E/M/A 2006-0007  
POST ON SITE NO LATER THAN: May 17, 2007

## AFFIDAVIT OF POSTING NOTICE

\*\*\*\*\*

I, Barbara Freyer, being first duly sworn; say that I am (represent) the party submitting an application to the City of Beaverton for a proposed comprehensive plan amendment and rezone affecting land located at 151 14 BC, 00100, 00300, 00301, and that pursuant to Ordinance 2050, Section 50.40.5 (Type 2 Applications) or Section 50.45.6-8 (Type 3 Applications), and the guidelines set out by the Community Development Director, did on the 17<sup>th</sup> day of May, 2007, personally post public notice(s). The notice(s) was (were) posted on or before the deadline date determined by City staff for this application.

**Sign and Date in the presence of a Notary Public. Certain City staff are Notary Publics and are available for witnessing.**

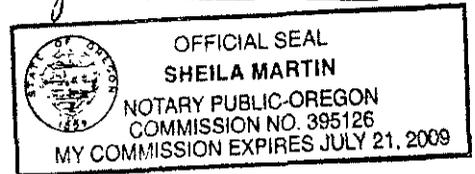
Signature: Barbara A. Freyer

Dated this 17<sup>th</sup> day of May, 2007.

Subscribed and sworn to before me this 17<sup>th</sup> day of May, 2007.

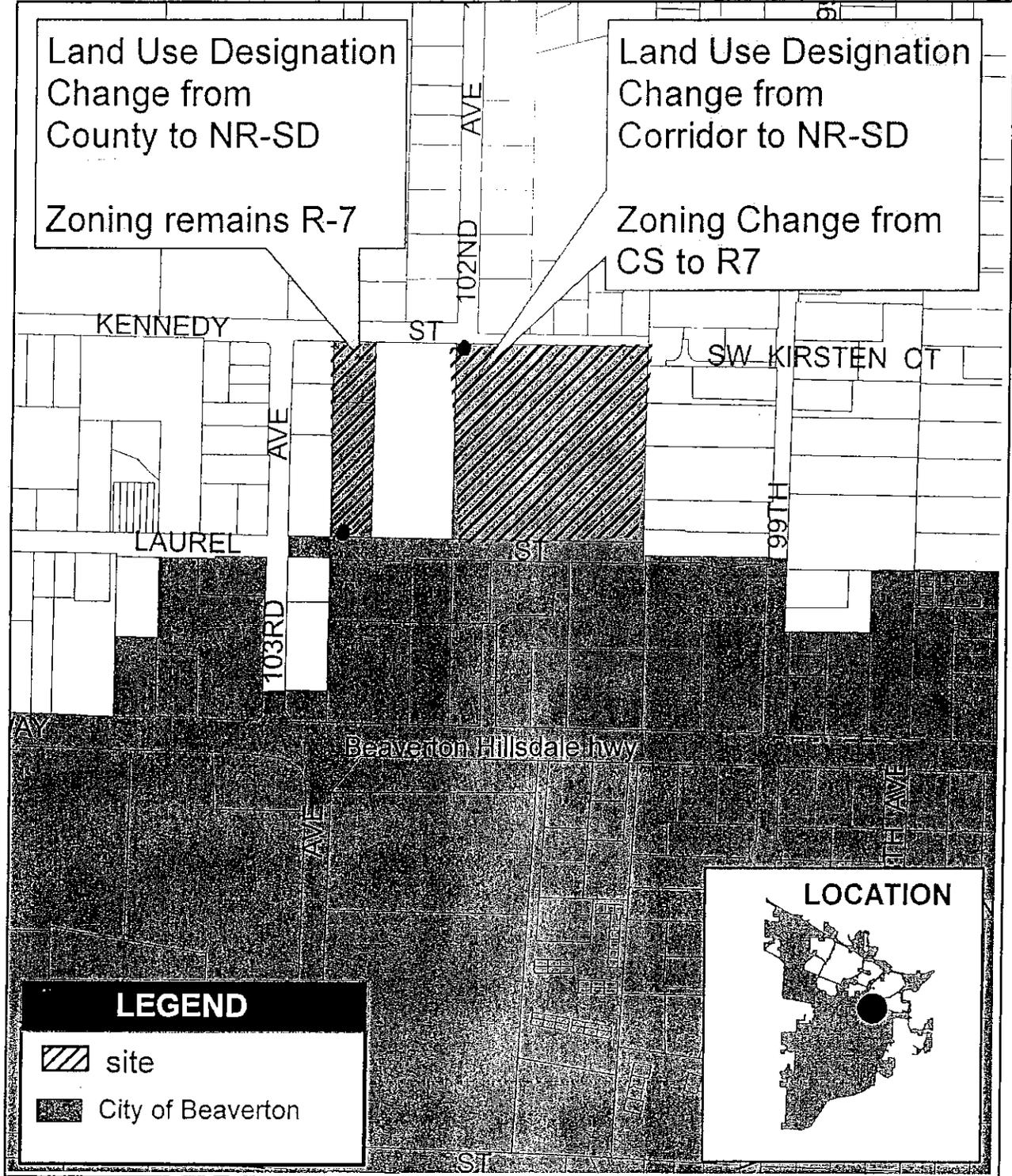
Sheila Martin  
Notary Public for the State of Oregon

My Commission expires: 07-21-09



TURN PAGE OVER FOR POSTING INSTRUCTIONS

# VICINITY MAP



City of Beaverton

**CPA 2006-0006 ZMA 2006-0009**

COMMUNITY DEVELOPMENT DEPARTMENT  
Planning Services Division

6/23/06  
1S114BC00300  
1S114BC00301  
1S114BC00100



Application #  
Laurel St  
Kennedy St

107  
SW KENNEDY



**NOTICE**  
Local Use Action  
Affecting This  
Property

NO OTHER INFORMATION  
TO BE POSTED  
HERE. THIS SIGN  
IS THE PROPERTY OF  
THE CITY OF SEASIDE







For Sale  
JEFF HOPPER  
303-493-0492  
REARVIEW 245-8400

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

IN THE MATTER OF A REQUEST TO AMEND THE CITY'S ) ORDER NO. 1976  
 COMPREHENSIVE PLAN LAND USE MAP FROM CORRIDOR ) APPROVING REQUEST  
 TO NEIGHBORHOOD RESIDENTIAL - STANDARD DENSITY )  
 FOR THREE PROPERTIES AND TO AMEND THE CITY'S )  
 ZONING MAP FROM CS TO R-7 ON ONE PROPERTY )  
 (LAUREL/KENNEDY/103<sup>RD</sup>). CITY OF BEAVERTON, )  
 APPLICANT. CPA2006-0006/ZMA2006-0009 )

The matter came before the Planning Commission on June 6, 2007, on a request for an amendment to the City Comprehensive Plan Land Use Map from Corridor to Neighborhood Residential - Standard Density and the Zoning Map from CS to R-7 on Washington County Assessor's Tax Map 1S1 14BC tax lot 100 (10200 SW Kennedy Street), and for an amendment to the City Comprehensive Plan Land Use Map from Corridor to Neighborhood Residential - Standard Density on Washington County Tax Assessor's Map 1S1 14 BC tax lots 00300 (10290 SW Kennedy Street) and 00301 (no site address).

Pursuant to Ordinance 4187 (Comprehensive Plan) Section 1.5.1 and Ordinance 2050 (Development Code) Section 40.97.15.1.C, the Planning Commission conducted a public hearing and considered testimony and exhibits on the subject proposal.

The Planning Commission adopts the Staff Report dated May 30, 2007, and staff's Supplemental Staff Memo dated June 6, 2007, as to applicable criteria contained in Section 1.5.1 of the Comprehensive Plan and Section 40.97.15.1.C of the Development Code.

**IT IS HEREBY ORDERED** that CPA2006-0006 is **APPROVED**, based on the facts, findings, and conclusions found in the Staff Report dated May 30, 2007, and by staff's Supplemental Staff Memo dated June 6, 2007.

Motion CARRIED, by the following vote:

AYES: Winter, San Soucie, Johansen, and Maks.  
NAYS: None.  
ABSTAIN: None.  
ABSENT: Bobadilla, Platten, and Stephens.

IT IS HEREBY ORDERED that ZMA2006-0009 is APPROVED, based on the facts, findings, and conclusions found in the Staff Report dated May 30, 2007, and by staff's Supplemental Staff Memo dated June 6, 2007.

Motion CARRIED, by the following vote:

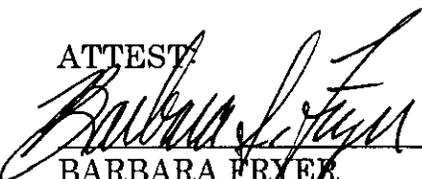
AYES: Winter, San Soucie, Johansen, and Maks.  
NAYS: None.  
ABSTAIN: None.  
ABSENT: Bobadilla, Platten, and Stephens.

Dated this 15<sup>th</sup> day of June, 2007.

To appeal the decision of the Planning Commission, as articulated in this Order No. 1976, an appeal must be filed on an Appeal form provided by the Director at the City of Beaverton Community Development Department's office by no later than 5:00 p.m. on June 28, 2007.

PLANNING COMMISSION  
FOR BEAVERTON, OREGON

ATTEST

  
\_\_\_\_\_  
BARBARA FRYER  
Senior Planner

APPROVED:

  
\_\_\_\_\_  
DAN MAKS  
Chairman

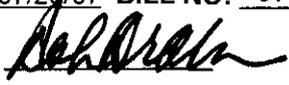
  
\_\_\_\_\_  
HAL BERGSMA  
Planning Services Manager

**AGENDA BILL**

**Beaverton City Council  
Beaverton, Oregon**

**SUBJECT:** An Ordinance Amending Ordinance No. 4187, Figure III-1, the Comprehensive Plan Land Use Map to Apply the City's Neighborhood Residential Standard Density (NR-SD) Plan Designation and Ordinance No. 2050, the Zoning Map to Apply the City's R-5 Zone to Property Located at 4980 SW Laurelwood Avenue, CPA2007-0014/ZMA2007-0014

**FOR AGENDA OF:** 07/23/07 **BILL NO:** 07160

**Mayor's Approval:** 

**DEPARTMENT OF ORIGIN:** CDD HB

**DATE SUBMITTED:** 07/16/07

**CLEARANCES:** City Attorney AR  
Planning Services HB

**PROCEEDING:** First Reading

**EXHIBITS:** 1. Proposed Ordinance with Exhibit A  
2. Staff Report

**BUDGET IMPACT**

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

**HISTORICAL PERSPECTIVE:**

The property located at 4980 SW Laurelwood Avenue shown on Exhibit "A" was annexed under Ordinance No. 4437 in July, 2007 and is being redesignated in this ordinance from the County's R-9 land use designation to the closest corresponding City designations under the terms specified in the Washington County – Beaverton Urban Planning Area Agreement (UPAA).

**INFORMATION FOR CONSIDERATION:**

The UPAA is specific as to the appropriate Land Use Map and Zoning Map designations that are to be assigned to the property. Discretion is not necessary in this case under the terms of the agreement. Per the agreement, the appropriate Land Use Map designation for the subject parcel is Neighborhood Residential-Standard Density (NR-SD) and the appropriate Zoning Map designation is Urban Standard Density (R-5). Under the terms of the Comprehensive Plan and the Development Code, these amendments can be processed through a non-discretionary process which does not require a public hearing.

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. 4447**

AN ORDINANCE AMENDING ORDINANCE NO. 4187, FIGURE III-1, THE COMPREHENSIVE PLAN LAND USE MAP AND ORDINANCE NO. 2050, THE ZONING MAP FOR A PROPERTY LOCATED AT 4980 SW LAURELWOOD AVENUE; CPA2007-0014 / ZMA2007-0014

- WHEREAS,** The property was annexed to the City of Beaverton under Ordinance 4437 and is being redesignated in this ordinance from the County's land use designation to the closest corresponding City designations in accordance with the Washington County - Beaverton Urban Planning Area Agreement (UPAA); and
- WHEREAS,** Since the UPAA is specific on the appropriate Land Use Map and Zoning Map designations for this parcel, this is not a discretionary land use decision, and no public hearing is required; and
- WHEREAS,** The Council incorporates herein by reference the Community Development Department staff report on CPA2007-0014/ZMA2007-0014 by Associate Planner Jeff Salvon, dated July 16, 2007 ; now, therefore,

**THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:**

- Section 1.** Ordinance No. 4187, (Figure III-1) the Comprehensive Plan Land Use Map is amended to designate the subject property as shown on Exhibit "A", located at 4980 SW Laurelwood Avenue, Neighborhood Residential-Standard Density (NR-SD) in accordance with the Washington County - Beaverton Urban Planning Area Agreement (UPAA).
- Section 2.** Ordinance No. 2050, the Zoning Map, is amended to zone the same property specified in Section 1, as shown on Exhibit "A", Urban Standard Density (R-5) in accordance with the UPAA.

First reading this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

Passed by the Council this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

Approved by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

ATTEST:

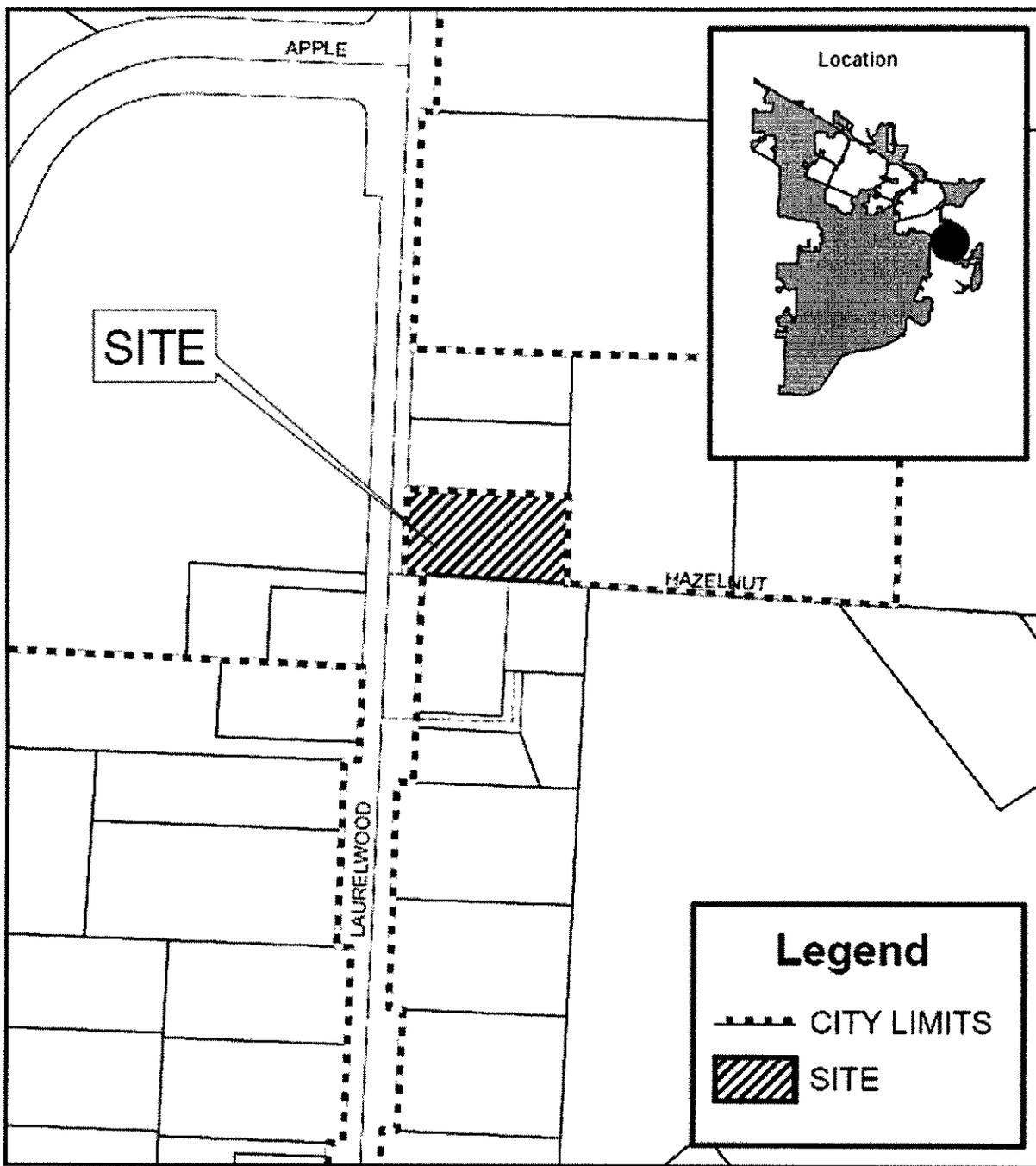
APPROVED:

\_\_\_\_\_  
SUE NELSON, City Recorder

\_\_\_\_\_  
ROB DRAKE, Mayor

# VICINITY MAP

# EXHIBIT "A"



CITY OF BEAVERTON

## CPA2007-0014 / ZMA2007-0014

COMMUNITY DEVELOPMENT DEPARTMENT  
Planning Services Division

6/6/07

Tax Lot #'s  
1S138C00401

N



4980 SW  
LAURELWOOD AV



# CITY of BEAVERTON

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

## STAFF REPORT

**TO:** City Council

**AGENDA DATE:** July 23, 2007      **REPORT DATE:** July 16, 2007

**FROM:** Jeff Salvon, Associate Planner

**APPLICATION:** CPA2007-0014  
(4980 SW Laurelwood Avenue Land Use Map  
Amendment)  
ZMA2007-0014  
(4980 SW Laurelwood Avenue Zoning Map Amendment)

**LOCATION:** SW Laurelwood Avenue approximately 800 feet south of SW  
Beaverton Hillsdale Highway in east Beaverton. The parcel is  
identified as 1S113BC00401.

**NEIGHBORHOOD  
ASSOCIATION:** Raleigh West Neighborhood Association Committee

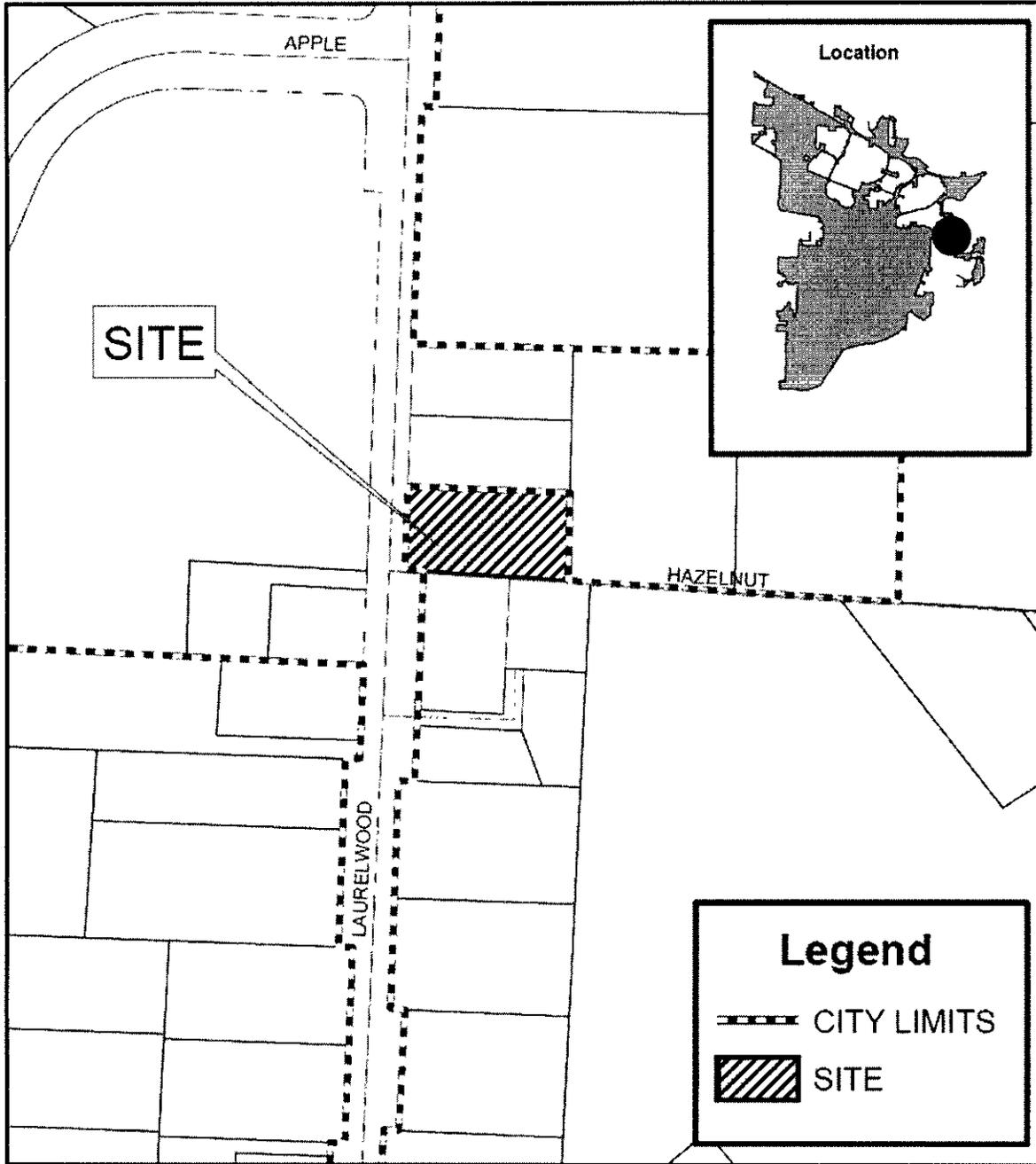
**REQUEST:** Apply the City's Neighborhood Residential-Standard Density  
(NR-SD) land use designation and the City's Urban Standard  
Density (R-5) zoning designation to the subject parcel.

**APPLICANT:** City of Beaverton Community Development Director

**APPROVAL  
CRITERIA:** Comprehensive Plan Section 1.5.2 and the Development  
Code Section 40.97.15.3.C

**RECOMMENDATION:** **Staff recommends the City Council adopt an ordinance  
applying the Neighborhood Residential-Standard Density  
(NR-SD) land use designation and the Urban Standard  
Density (R-5) zoning designation to the subject parcel  
effective thirty days after the Mayor's signature.**

# VICINITY MAP



**CPA2007-0014 / ZMA2007-0014**

**COMMUNITY DEVELOPMENT DEPARTMENT  
Planning Services Division**

6/6/07  
Tax Lot #'s  
1S1138C00401  
4980 SW  
LAURELWOOD AV



## BACKGROUND

CPA2007-0014 proposes amendment of the Land Use Map and ZMA2007-0014 proposes amendment of the Zoning Map. Both amendments are requested in order to apply City land use and zoning to the subject parcel annexed in July, 2007. The parcel currently carries the Washington County R-9 (Residential 9 Units per Acre) designation, as depicted on the County's Raleigh Hills – Garden Home Community Plan Map.

### EXISTING CONDITIONS

**Uses.** Staff performed a field survey and observed the parcel to have a single dwelling unit on the site.

**Character.** The subject parcel is located in a residential area and is within 500 feet of a retail center. Redevelopment is occurring on adjacent parcels to the north, the east, and across the street to the west of the property. The subject parcel is located on a busy street designated neighborhood route on the City's Functional Classification Map. This street connects to a major arterial approximately 800 feet to the north of the parcel.

**Natural Resources.** Washington County's *Raleigh Hills – Garden Home Community Plan* map does not depict any significant natural resources in the area of the subject parcel.

## ANALYSIS

### COMPATIBILITY OF DESIGNATIONS

**City of Beaverton Neighborhood Residential - Standard Density land use designation.** Section 3.13 of the Land Use Element of the *Comprehensive Plan for the City of Beaverton* details the City's residential land use designations. One goal is identified for the Standard Density Residential designation, as follows:

“3.13.3 Goal: Establish Standard Density Residential areas to provide moderate sized lots for typical single family residences with private open space.”

The policies of Section 3.13.3 include a directive that the City “[a]pply zoning districts as shown in subsection 3.14 Comprehensive Plan and Zoning District Matrix to allow a variety of housing choices.” The proposal is to apply the City's Neighborhood Residential – Standard Density plan designation and to apply the appropriate zone for the property consistent with the Zoning District Matrix.

**APPLICABLE ZONING DISTRICTS**

The implementing zoning districts for the City’s Neighborhood Residential-Standard Density (NR-SD) Comprehensive Plan designation are R-5 and R-7. The zoning of properties around the subject parcel include the City’s R-5, R-7, R-2 and CS zones and the Washington County R-5 and Institutional zones. Determination as to which zone designation is most suitable for the parcel will be dictated by the Urban Planning Area Agreement between the City and Washington County.

**Washington County R-9 District designation.** The subject parcels are designated R-9 on the County’s Raleigh Hills – Garden Home Community Plan. Section 304-1 of the *Washington County Community Development Code* states that,

“The R-9 District is intended to implement the policies of the Comprehensive Plan for areas designated for residential development at no more than nine (9) units per acre and no less than seven (7) units per acre, except as otherwise specified by Section 300-2 or Section 300-5. The purpose of the R-9 District is to provide areas for detached and attached houses on small lots as well as areas for manufactured homes on individual lots and manufactured dwelling subdivisions and parks.

The UPAA excerpt, below, specifies that the County’s R-9 designation is equivalent to the City’s R-5 zoning designation.

<p><i>WASHINGTON COUNTY – BEAVERTON URBAN PLANNING AREA AGREEMENT</i></p>		
<p><i>EXHIBIT “B” CITY – COUNTY LAND USE DESIGNATION EQUIVALENTS</i></p>		
<p><i>COUNTY</i></p>	<p><i>BEAVERTON</i></p>	
<p><u><i>Plan/Zoning</i></u> <i>R-9</i></p>	<p><u><i>Plan</i></u> <i>NR-SD</i></p>	<p><u><i>Zoning</i></u> <i>R-5</i></p>

**Summary.** The UPAA specifies a City NR-SD Plan designation and R-5 Zone for the subject parcel. The designations specified in the UPAA are consistent with the City’s Planning goals and policies and conform with specifications in the Comprehensive Plan and Zoning District Matrix.

**COUNTY RESPONSIBILITY TO NOTIFY**

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.

## PROCESS

### THRESHOLD

The subject property is designated on the County's *Raleigh Hills – Garden Home Community Plan Map* as R-9, which, in a non-discretionary process, requires application of the City's NR-SD plan and R-5 zoning designations under the *Urban Planning Area Agreement (UPAA)*.

**Comprehensive Plan Process.** Due to annexation of the subject parcel and the non-discretionary nature of the proposal, review and approval of this proposed Comprehensive Plan Map Amendment qualifies as a Non-Discretionary Amendment per *Comprehensive Plan* Section 1.3.

**Development Code Process.** Due to annexation of the subject parcel and the non-discretionary nature of the proposal, review and approval of this proposed Zoning Map Amendment qualifies as a Non-Discretionary Annexation Related Zoning Map Amendment per Development Code Section 40.97.15.3.A, which states that, "An application for Non-Discretionary Annexation Related Zoning Map Amendment shall be required when the following thresholds apply:

1. "The change of zoning to a City zoning designation as a result of annexation of land into the City."
2. "The Urban Planning Area Agreement (UPAA) is specific as to the City zoning designation to be applied to the parcel being annexed and does not allow for discretion."

### SUBMISSION REQUIREMENTS

According to Development Code Section 40.97.15.3.D. "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". The annexation of the subject property was owner initiated with consent of the property owner and elector under ORS 222.125, and an annexation petition for annexation was submitted. This annexation was approved under Ordinance No. 4437.

### PUBLIC NOTICE

Section 1.4.3.A of the Comprehensive Plan prescribes the notice to be provided for these types of applications.

Notice for Non-Discretionary Annexation Related Comprehensive Plan Map Amendments must be provided, as indicated below, not less than twenty (20) and not more than forty (40) calendar days prior to when the item first appears on the City Council's agenda.

1. Legal notice was published in the Beaverton Valley Times on June 28, 2007.
2. Notice was mailed to the Raleigh West Neighborhood Association Committee, West Slope / Raleigh Hills / Garden Home Citizen Participation Organization (CPO 3), Chair of the Committee for Citizen Involvement (CCI), the Washington County Department of Land Use and Transportation (DLUT), and to the subject property owner on June 28, 2007.
3. Notice was posted on the City's website on June 28, 2007.

The City Council has not directed staff to provide additional notice for this amendment beyond the notices described above. The notice requirements for this CPA/ZMA have been met.

## CRITERIA FOR APPROVAL

### COMPREHENSIVE PLAN AMENDMENT CRITERIA

Comprehensive Plan Section 1.5.2.A specifies that 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 to address Comprehensive Plan sections which address Statewide Planning Goals and Metro Urban Growth Regional Framework Plan criteria are therefore regarded as not applicable to this proposal.

### ZONING MAP AMENDMENT CRITERIA

Development Code Section 40.97.15.3.C., which contains Non-Discretionary Annexation Related Zoning Map Amendment Approval Criteria, states:

"In order to approve a Non-Discretionary Annexation Related 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 Non Discretionary Annexation Related Zoning Map Amendment application.**

Section 40.97.15.3.A. Threshold, states:

"An application for Annexation Related Zoning Map Amendment shall be required when one or more of the following thresholds apply:

1. The change of zoning to a City zoning designation as a result of annexation of land into the City.
2. The Urban Planning Area Agreement (UPAA) is specific as to the City zoning designation to be applied to the parcel being annexed and does not allow for

discretion.”

The zone change is requested in order to apply City land use and zoning to the subject parcel annexed in July, 2007. The parcel carries the Washington County R-9 (Residential 9 Units per Acre) designation, as depicted on the County’s Raleigh Hills – Garden Home Community Plan Map.

As noted in the Process section of this report, the UPAA specifies a City R-5 zoning designation for the County R-9 designation. Therefore, no discretion is required in determining the appropriate zoning designation.

**Finding: Staff finds that the request satisfies the threshold requirements for a Non-Discretionary Annexation Related Zoning Map Amendment application.**

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

The City is assuming the role of the applicant in this proposed zoning map amendment. Fees have not been submitted for review of the application as the City does not require collection of fees from itself.

**Finding: Staff finds that this criterion is not applicable.**

**3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code.**

Development Code Section 50.25.1 states, “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.” The subject property was petitioned with the owners’ consent under ORS 222.125. This owner-initiated annexation was approved under Ordinance 4437.

**Finding: Staff finds that the request satisfies the application submittal requirements for a Non-Discretionary Annexation Related Zoning Map Amendment application.**

**4. The proposed zoning designation is consistent with the Washington County - Beaverton UPAA.**

The UPAA is specific for the proposed amendment:

- Washington County Residential – 9 units per acre, goes to R-5, Residential – 5,000 square feet per principal dwelling unit.

No discretion is being exercised in assigning the zoning designation.

The UPAA requires the City to review the appropriate Community Plan which in this case is the Raleigh Hills – Garden Home Community Plan. The subject property is not in an Area of Special Concern, and has no specific design elements applicable to it.

**Finding: The R-5 designation is specified by, and is therefore consistent with, the Washington County - Beaverton UPAA.**

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

No further applications and documents are required of this request.

**Finding: Staff find that this criterion is not applicable.**

## **CONCLUSION**

**Based on the facts and findings in this report, staff concludes that amending the Comprehensive Plan Land Use Map to depict the City's Neighborhood Residential-Standard Density (NR-SD) land use designation and amending the City's Zoning Map to depict the City's Urban Standard Density (R-5) zoning district is appropriate for the subject parcel.**

**AGENDA BILL**

Carried Over From Meeting  
of 06/18/07.

**Beaverton City Council  
Beaverton, Oregon**

**SUBJECT:** TA 2007-0002  
(Operations Center 2007)

7/23/07  
**FOR AGENDA OF:** ~~07-09-07~~ **BILL NO:** 07138

**Mayor's Approval:** 

**DEPARTMENT OF ORIGIN:** CDD 

**DATE SUBMITTED:** 06-28-07

**CLEARANCES:** City Attorney   
Dev. Serv. 

**PROCEEDING:** -First Reading-  
Second Reading and Passage

- EXHIBITS:**
1. Ordinance
  2. Land Use Order No. 1975
  3. Draft PC Minutes 05-16-07
  4. Draft PC Minutes 05-30-07
  5. Staff Report dated 05-09-07  
and revised 5-23-07

**BUDGET IMPACT**

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

The Planning Commission held a public hearing on May 16<sup>th</sup> and May 30<sup>th</sup> to consider TA 2007-0002 (Operations Center 2007) that proposes to amend Section 20.15.10.2.A, Industrial Park (IP) zoning district, 20.15.15.2.A, Light Industrial (LI) zoning district, and Chapter 90, Definitions, of the Beaverton Development Code currently effective through Ordinance 4432 (April 2007). The purpose of the amendment introduced by Park Plaza LLC, a Beaverton property owner, is to introduce Operations Center as a permitted use in both the IP and LI zoning districts. The Operations Center use will clarify the grouping of existing permitted uses in the IP and LI zone.

Following the close of the public hearing on May 30, 2007, the Planning Commission voted 6-0 to recommend approval of the proposed Operations Center amendment as memorialized in Land Use Order No. 1975.

**INFORMATION FOR CONSIDERATION:**

Attached to this Agenda Bill is an Ordinance including the proposed text, Land Use Order No. 1975, the draft Planning Commission meeting minutes, and staff report. For the purpose of eliminating the potential need for future interpretations staff has slightly amended the proposed text to make it clear that the amendment only applies to any Operations Center established after the adoption of TA 2007-0002 and does not affect existing facilities that have been lawfully established. If existing facilities were to expand or otherwise be modified in the future, the proposed text would be applicable.

**RECOMMENDED ACTION:**

Staff recommend the City Council adopt the recommendation of approval forwarded by the Planning Commission for TA 2007-0002 (Operations Center 2007). Staff further recommend the Council conduct a First Reading of the attached ordinance.

-Second Reading and Passage

ORDINANCE NO. 4443

AN ORDINANCE AMENDING ORDINANCE NO. 2050,  
THE DEVELOPMENT CODE,  
CHAPTERS 20, and 90;  
TA 2007-0002 (Operations Center 2007).

**WHEREAS**, the purpose of the Operations Center 2007 Text Amendment is to amend Chapter 20 and 90 of the Beaverton Development Code currently effective through Ordinance 4432 (April 2007) to introduce a new permitted use, Operations Center, in the Industrial Park and Light Industrial zoning districts and provide definitions related to Operations Center. Affected chapters of the Development Code include, Chapter 20 (Land Uses) and Chapter 90 (Definitions),

**WHEREAS**, pursuant to Section 50.50.5 of the Development Code, the Beaverton Development Services Division, on May 9, 2007 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 May 16, 2007; and,

**WHEREAS**, the Planning Commission held a public hearings on May 16, and May 30, 2007 and approved the proposed Operations Center 2007 Text Amendment based upon the criteria, facts, and findings set forth in the staff report dated May 9, 2007, revised and republished on May 23, 2007, and as amended at the hearing; and

**WHEREAS**, on May 30, 2007 the Planning Commission conducted a second hearing for TA 2007-0002 (Operations Center 2007) at the conclusion of which 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. 1975; and,

**WHEREAS**, no written appeal pursuant to Section 50.75 of the Development Code was filed by persons of record for TA 2007-0002 (Operations Center 2007) following the issuance of the Planning Commission Land Use Order No. 1975; and,

**WHEREAS**, the City Council adopts as to criteria, facts, and findings, described in Land Use Order No. 1975 dated June 7, 2007 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. 4432, 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 or 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 \_\_\_\_\_, 2007.

Passed by the Council this \_\_\_ day of \_\_\_\_\_, 2007.

Approved by the Mayor this \_\_\_ day of \_\_\_\_\_, 2007.

ATTEST:

APPROVED:

\_\_\_\_\_  
SUE NELSON, City Recorder

\_\_\_\_\_  
ROB DRAKE, Mayor