



## FINAL AGENDA

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

REGULAR MEETING  
JUNE 11, 2007  
6:30 P.M.

CALL TO ORDER:

ROLL CALL:

VISITOR COMMENT PERIOD:

COUNCIL ITEMS:

STAFF ITEMS:

CONSENT AGENDA:

07118 Development Services Fee Schedule Amendment (Resolution No. 3900)

07119 Beaverton Downtown Parking Solutions (Resolution No. 3901)

Contract Review Board:

07120 Bid Award - Pipe and Piping Products Requirements Contract

PUBLIC HEARING:

07121 APP 2007-0006 Appeal of Director's Interpretation DI 2007-0002 (Church 30 Foot Setback)

07114 Appeal of Commuter Rail Project: APP 2007-0009/APP 2007-0010 (Freece)  
APP 2007-0011/APP 2007-0012/APP 2007-0013 (Shadrall) *(Continued from the meeting of June 4, 2007)*

ORDINANCES:

First Reading:

07122 An Ordinance Amending Ordinance No. 2050, the Zoning Map to Apply the City's Office Commercial Zone to Two Properties Located in Northern Beaverton ZMA 2007-0012 (Tax Lots 1S102DC04304 and 1S102DC05300) (Ordinance No. 4442)

Second Reading:

- 07115 An Ordinance Amending Ordinance No. 4187, Figure III-1, the Comprehensive Plan Land Use Map to Apply the City's Station Community Plan Designation to Two Properties Located in Northern Beaverton; CPA2006-0018 (SW Baltic Avenue/SW Barnes Road) (Ordinance No. 4439)
- 07116 An Ordinance Amending Ordinance No. 4187, Figure III-1, the Comprehensive Plan Land Use Map to Apply a City Plan Designation to 315 Properties, Alter Figures 6.4, 6.5, 6.7, 6.12, and Table 6.6 of the Comprehensive Plan to Designate Future Street Alignments, and Amend Ordinance No. 2050, the Zoning Map to Apply City Zoning to 302 Properties Located in the Elmonica / Merlo Light Rail Station Community Area; CPA2007-0007/ZMA 2007-0006 (Ordinance No. 4440)
- 07117 An Ordinance Amending Ordinance No. 2050, the Development Code to Modify Section 60.05.55.4, the Merlo Station Community – Major Pedestrian Route Map to Apply Additional Route Designations and Rename the Code Section; TA2007-0003 (Ordinance No. 4441)

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**

05-25-07 10:42 AM R0VD

**Beaverton City Council  
Beaverton, Oregon**

**SUBJECT:** Development Services Fee Schedule  
Amendment

**FOR AGENDA OF:** 6-11-07 **BILL NO:** 07118

**Mayor's Approval:** *[Signature]*

**DEPARTMENT OF ORIGIN:** CDD *[Signature]*

**DATE SUBMITTED:** 5-29-07

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

**PROCEEDING:** Consent

- EXHIBITS:**
1. Draft Resolution approving the Community Development Department's Development Services Fee Schedule.
  2. Proposed Development Services Fee Schedule.

**BUDGET IMPACT**

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

Since at least June 1994, the City has annually adjusted the Community Development Department's Development Services Fee Schedule according to the United States Department of Labor Consumer Price Index "West-C". The CPI-W for western urban cities with a population between 50,000 and 1,500,00 people has increased 3.2% between April 2006 and April 2007.

**INFORMATION FOR CONSIDERATION:**

Attached to this agenda bill is the proposed resolution for adopting the amended fee schedule. The proposed fee schedule is also attached and reflects a 3.2% increase in the fees. The appeal fee for Type 1 and Type 2 decisions has not been adjusted as that fee is established by State Statute. Other fees not amended are the deposits on the fee schedule.

Staff also propose to reduce two (2) existing fees. Staff proposes to reduce the fee for the staff research from \$139 to \$92. The proposed fee is based on the full hourly cost of an Associate Planner level position with overhead costs. The staff who conduct research varies depending on the research request. The Associate Planner fee represents an average between the job classifications which conduct research for clients. The second fee was established by Resolution 3852 in 2006 to recover costs expended by the City to conduct a Traffic Impact Analysis (TIA) for two parcels brought into the City in 2006. Since the fee was established, Metro partially reimbursed the City for the cost of the TIA by giving the City \$3,750. Staff propose to reduce the cost recovery fee from \$5,000 to \$1,250.

Lastly, staff propose to add a new fee for services provided by the City. The Division receives frequent requests for zoning compliance letters from lending institutions, persons applying for Oregon Liquor Control Commission (OLCC) licenses, and other parties. Typically, the Division has used the staff research fee to pay for completing this type of request. Staff recommend that the staff research fee is too high for the typical time spent on completing the zoning compliance letters. Therefore, staff recommend establishing a new fee of \$46. The proposed fee is based on the full hourly cost of a Planning Technician level position with overhead costs.

**RECOMMENDED ACTION:**

Staff recommend that the City Council approve the attached resolution adopting a new Development Services Fee Schedule.

RESOLUTION NO. 3900

**A RESOLUTION SUPERSEDING RESOLUTION NO. 3890 AND ESTABLISHING FEES FOR PLANNING PERMITS, APPEALS, AND OTHER SERVICES PURSUANT TO SECTION 10.55 OF THE BEAVERTON DEVELOPMENT CODE, ORDINANCE 2050.**

**WHEREAS**, Section 10.55 of the Beaverton Development Code (Ordinance 2050) provides that the City may charge and collect filing and other fees as established by resolution of the Council in order to defray expenses incurred in connection with the processing of applications, preparation of reports, publications of notices, issuance of permits and other matters; and,

**WHEREAS**, it is City policy to annually adjust fees for applications and appeals to reflect inflation and processing expenses; and,

**WHEREAS**, the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) for western urban cities with populations of 50,000 to 1,500,000 people has increased by 3.2% for the time between April 2006 and April 2007; and,

**WHEREAS**, legal public notice of the Beaverton City Council's consideration of the adjustment to the City's Development Services Fee Schedule was published in the May 24, 2007 edition of the *Valley Times*; and,

**WHEREAS**, the Beaverton City Council met at a regularly scheduled meeting on June 11, 2007 to consider, on consent agenda, the amendment to the City's Development Services Fee Schedule; now therefore,

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

Section 1: The Council adopts the amended fee schedule of the Community Development Department Development Services Division actions on land development applications and processes as shown in Exhibit A to this Resolution, attached and incorporated herein by this reference. The fee schedule shall be effective for all applications received on and after July 1, 2007.

Section 2: The Council directs the Mayor annually to adjust the fee schedule adopted by this Resolution effective for land development applications received on and after July 1 of each succeeding calendar year according to the United States Department of Labor Consumer Price Index West published for the interval last preceding that effective date.

Section 3: This Resolution supersedes anything to the contrary in Resolution No. 3890 and in all prior resolutions setting fees for Development Services Division actions on land development approvals.

Section 4: This Resolution shall take effect July 1, 2007.

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

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

Ayes: \_\_\_\_\_

Nays: \_\_\_\_\_

Attest:

Approved:

\_\_\_\_\_  
Sue Nelson, City Recorder

\_\_\_\_\_  
Rob Drake, Mayor

<b>CITY OF BEAVERTON DEVELOPMENT SERVICES FEE SCHEDULE JULY 1, 2007 TO JUNE 30, 2008</b>	
<b>APPLICATION TYPE</b>	<b>Fees</b>
ACCESSORY DWELLING UNIT	\$ 179
ADJUSTMENT	
MINOR	\$ 648
MAJOR	\$ 1,996
APPEALS	
TYPE 1 AND TYPE 2 DECISIONS*	\$ 250
TYPE 3 AND TYPE 4 DECISIONS	\$ 1,356
BALLOT MEASURE 37 CLAIM (Deposit)	\$ 1,000
COMPREHENSIVE PLAN AMENDMENT	\$ 4,943
CONDITIONAL USE	
MINOR MODIFICATION	\$ 646
MAJOR MODIFICATION	\$ 2,708
ADMINISTRATIVE	\$ 1,301
NEW CONDITIONAL USE	\$ 2,708
PRELIMINARY PLANNED UNIT DEVELOPMENT	\$ 2,708
FINAL PLANNED UNIT DEVELOPMENT	\$ 2,708
DESIGN REVIEW	
DESIGN REVIEW COMPLIANCE LETTER	\$ 106
DESIGN REVIEW TWO	\$ 1,707
DESIGN REVIEW THREE	\$ 3,754
DEVELOPMENT COMPLIANCE FEES	
DMV REVIEW (License Renewal)	\$ 43
DMV REVIEW (New Business)	\$ 106
DIRECTOR'S INTERPRETATION	\$ 680
EXTENSION OF PRIOR APPROVAL	\$ 319
FLEXIBLE & ZERO YARD SETBACKS	
INDIVIDUAL LOT (with endorsement)	\$ 106
INDIVIDUAL LOT (without endorsement)	\$ 855
PROPOSED RESIDENTIAL LAND DIVISION	\$ 855
ZERO SETBACK - PROPOSED RESIDENTIAL LAND DIVISION	\$ 855
ZERO SETBACK - PROPOSED NON-RESIDENTIAL LAND DIVISION	\$ 382
HISTORIC REVIEW	
ALTERATION	\$ 644
EMERGENCY DEMOLITION	\$ 644
DEMOLITION	\$ 644
NEW CONSTRUCTION WITHIN HISTORIC DISTRICT	\$ 644
HOME OCCUPATION	
HOME OCCUPATION ONE	N/C
HOME OCCUPATION TWO	\$ 478
LAND DIVISION	
LOT LINE ADJUSTMENT	\$ 430
PRELIMINARY PARTITION or FEE-OWNERSHIP PARTITION	\$ 3,189
PRELIMINARY SUBDIVISION or FEE-OWNERSHIP SUBDIVISION	\$3965 + \$95 / Lot
FINAL PARTITION	\$ 831
FINAL SUBDIVISION	\$ 1,010
EXPEDITED LAND DIVISION	\$ 6,271

APPLICATION TYPE	Fees
LOADING DETERMINATION	\$ 278
PARKING DETERMINATION	
PARKING REQUIREMENT DETERMINATION	\$ 278
SHARED PARKING	\$ 278
USE OF EXCESS PARKING	\$ 139
PRE-APPLICATION CONFERENCE	\$ 227
PROJECT MANAGEMENT DEPOSIT (minimum charge)	\$ 3,000
PUBLIC NOTICE (Ballot Measure 56) (deposit)	\$ 10,000
PUBLIC TRANSPORTATION FACILITY	\$ 854
RE NOTIFICATION	\$ 143
RESEARCH / PER HOUR	\$ 92
SIDEWALK DESIGN MODIFICATION	\$ 106
SIGN	\$ 77
SOLAR ACCESS	\$ 740
STREET NAME CHANGE	\$ 1,594
STREET VACATION	\$ 1,913
TEMPORARY USE	
MOBILE SALES	\$ 179
NON-MOBILE SALES	\$ 179
STRUCTURE	\$ 179
REAL ESTATE OFFICE	\$ 179
NON-PROFIT EVENT	\$ 179
TEXT AMENDMENT	\$ 4,496
TREE PLAN	
TREE PLAN ONE	\$ 597
TREE PLAN TWO	\$ 978
TREE PLAN THREE	\$ 1,356
COMMERCIAL TIMBER HARVEST	\$ 598
VARIANCE	\$ 1,996
WIRELESS FACILITY	
WIRELESS FACILITY ONE	\$ 106
WIRELESS FACILITY TWO	\$ 1,301
WIRELESS FACILITY THREE	\$ 2,708
ZONE CHANGE	
QUASI-JUDICIAL	\$ 2,834
LEGISLATIVE	\$ 2,834
ANNEXATION RELATED - NON DISCRETIONARY	N/C
ANNEXATION RELATED - DISCRETIONARY	N/C
REIMBURSE TRAFFIC IMPACT ANALYSIS COST**	\$ 1,250
ZONING CONFIRMATION LETTER	\$ 46

\* Pursuant to ORS 227.175(10), if a land use decision has not previously been heard in a public hearing format, the fee for an appeal of that decision cannot be greater than \$250.00. This fee is not to be charged to any local government agencies. If the appellant prevails in this appeal, this appeal fee is to be refunded.

\*\* Pursuant to Resolution No. 3852, this fee is applicable only to the development of parcels identified as tax map lot identification nos. 2S1060000101 and 2S1060000102. The fee is a one time fee and will be assessed with the initial development proposal of either or both parcels.

Adopted by Resolution No. \_\_\_

**AGENDA BILL**

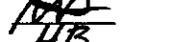
**Beaverton City Council  
Beaverton, Oregon**

**SUBJECT:** Beaverton Downtown Parking Solutions      **FOR AGENDA OF:** 06-11-07      **BILL NO:** 07119

**Mayor's Approval:** 

**DEPARTMENT OF ORIGIN:** Public Works 

**DATE SUBMITTED:** 05-29-07

**CLEARANCES:** Finance   
City Attorney   
Planning 

**PROCEEDING:** CONSENT

**EXHIBITS:** 1. Resolution

**BUDGET IMPACT**

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

The Beaverton Downtown Parking Solutions study analyzed parking in the Old Town zone and developed a comprehensive long-range parking program for Downtown Beaverton. Consultants Parametrix and Rick Williams Consulting worked with business and property owners and representatives of the Chamber of Commerce, Westside Transportation Alliance, Metro, TriMet, ODOT, Beaverton School District, City Council, Planning Commission, and Traffic Commission, who made up the Stakeholders Advisory Committee, to understand parking, document barriers in the study area, and come up with guiding principles, standards, and actions the City can take to manage existing parking better and plan for downtown's parking future, which would include structured parking.

The City wishes to thank Councilor Cathy Stanton, Eric Glassard, Amy Saberiyan, Carrie Schubert, Barbara Vandoorninck, Domonic Biggi, Rhonda Coakley, Jillian Detweiler, Karen Frost, Marc Guichard, Jerry Green, Darla King, Scott Knees, Jeff Laff, Wendy Kroger, Marc San Soucie, and Lidwien Rahman for their hard work and participation in the Stakeholders Advisory Committee.

**INFORMATION FOR CONSIDERATION:**

At its May 14, 2007, meeting, Council reviewed the draft Beaverton Downtown Parking Solutions study. The parking program identified short and long-term actions the City can take toward effective and optimal parking management that includes future parking structures. Exhibit 1 is a resolution accepting the Downtown Parking Solutions report, adopting the SAC's Guiding Principles, and directing staff to initiate the implementing actions identified in Chapter 7 of the program, which include the initial steps of assigning responsibilities for the parking program and appointment by the Mayor of a parking advisory committee.

**RECOMMENDED ACTION:**

Adopt the resolution.

**RESOLUTION NO. 3901**

**A RESOLUTION SUPPORTING INITIAL IMPLEMENTING ACTIONS OF THE CITY OF BEAVERTON DOWNTOWN PARKING SOLUTIONS REPORT**

**WHEREAS**, the City of Beaverton conducted the Beaverton Downtown Parking Solutions study through the State’s Transportation Growth Management grant program; and

**WHEREAS**, the recommendations resulting from the study were formulated with the assistance of and approved by a Stakeholders Advisory Committee (SAC) representing various Downtown interests including property and business owners, local organizations, and government agencies; and

**WHEREAS**, the Draft Beaverton Downtown Parking Solutions final report resulted in a proposed parking program and implementing actions that the City should take to manage parking as the Downtown develops and redevelops over time; and

**WHEREAS**, the draft final report and implementing actions were reviewed by the Traffic Commission, the Planning Commission, and the City Council; and

**WHEREAS**, the report and implementing actions identified in the draft final report were generally supported and staff was directed to move forward to begin implementing some of the initial strategies discussed at the May 14, 2007, Council meeting,

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

The City Council hereby expresses its appreciation and thanks to the members of the SAC for their time and efforts in contributing to the preparation of the Beaverton Downtown Parking Solutions study and asks staff to convey a copy of this resolution to each.

The City Council hereby adopts the SAC’s guiding principles for a parking program in Downtown Beaverton as shown in Exhibit A.

The City Council hereby directs the Mayor to initiate the implementing actions specified in the Chapter 7 of the report under Section II. Amendments and Actions, with the following actions to be taken by the end of this calendar year:

- Assign the responsibilities of a “Parking Manager/Coordinator” to manage the parking program.
- Appointment by the Mayor of a Downtown Development Advisory Committee that will have among its functions providing advice on implementation of a Downtown parking program. (The memorandum in Exhibit B proposing the committee describes its potential membership and possible functions.)

- Schedule and conduct hearings on amendments to the Beaverton Code, the Development Code and, if necessary, the Comprehensive Plan to consider changes recommended by the report to the City's parking policies and regulations.
- Initiate an outreach program to inform business owners and potential users of the City's permit parking program.
- Conduct a parking capacity study in the Old Town area of Downtown during the Saturday Farmers Market.
- Initiate creation of a wayfinding program to provide directional signage for drivers looking for short and long-term parking Downtown as well as for people walking and bicycling Downtown.

Adopted by Council this \_\_\_\_\_ day of \_\_\_\_\_, 2007

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

Ayes: \_\_\_\_\_

Nays: \_\_\_\_\_

ATTEST:

APPROVED:

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

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

## Exhibit A

Resolution No. 3901

### **Guiding Principles:**

**Access:** Make the downtown accessible to all users through multiple modes.  
Provide sufficient and convenient parking.

**Priority Parking:** Recognize that on-street parking is a finite resource and needs to be managed to assure maximum access for customers.

Make the downtown conveniently accessible for the priority user of the public parking system – the customer of downtown.

Provide adequate employee parking and encourage implementation of meaningful public and private sector programs that encourage employee use of other modes.

### **Quality and**

**Understandability:** Make downtown parking user-friendly – easy to access, easy to understand.

**Coordination:** Manage the public parking supply using the 85% Rule<sup>1</sup> to inform and guide decision-making.

Provide clear and strategic direction to new development in downtown to assure that new growth improves the overall system of access.

<sup>1</sup> The 85% Rule is a measure of parking utilization that acts as a benchmark against which parking management decisions are based. Within the parking industry, it is assumed that when an inventory of parking shows more than 85 percent occupancy in the peak hour, the supply becomes constrained and may not provide full and convenient access to its intended user. Once a supply of parking routinely exceeds 85 percent occupancy in the peak hour, the 85% Rule would require that parking management strategies be evaluated and/or implemented to bring peak hour occupancies to a level below 85 percent to assure intended uses are conveniently accommodated.

Exhibit B

Resolution No. 3901



**MEMORANDUM**  
**CITY OF BEAVERTON**  
**COMMUNITY DEVELOPMENT DEPARTMENT**  
**PLANNING SERVICES DIVISION**

**Date:** May 14, 2007  
**To:** Rob Drake, Mayor  
**From:** Hal Bergsma, Planning Services Manager  
**Subject:** **Proposal to form a Downtown Development Advisory Committee**

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**Background:** One of the recommendations of the consultants who prepared the *Beaverton Downtown Parking Solutions* study is to "Establish an advisory role for stakeholders to assist in parking program implementation and review". (Page 7-9) The consultants who prepared the *Beaverton Downtown Regional Center Development Strategy* suggested creation of a "Mayor's Downtown Development Committee" to advise on identification of potential catalyst development sites and a program for outreach to the development community. They said "The City's posture needs to be more proactive with respect to property owners and the development community".

**Function:** A committee to advise on development matters in the Downtown Beaverton could fulfill several functions, including the following:

- Act as a link to Downtown property and business interests;
- Provide a forum for Downtown property and business owners to express concerns and identify issues;
- Suggest needs for business assistance in the Downtown area;
- Guide implementation of a Downtown Parking Program, starting with the Old Town area but possibly expanding to other parts of the Downtown;
- Guide a project to improve wayfinding signage Downtown for pedestrians and bicyclists as well as drivers looking for parking;
- Explore creation and guide establishment of a Downtown arts program (e.g. Lake Oswego);
- Explore the possibility of creating a fast-track process for development review Downtown;
- Guide a project to update the City's vision for Downtown;
- Advise on Capital Improvements Plan elements specific to Downtown;
- Advise on a City program to communicate Downtown development/business opportunities to the development/business community;
- Advise on a program to communicate City initiatives relating to Downtown to area property owners, business owners and residents;
- Advise on a marketing program for Downtown;
- Advise on incentives the City might offer to encourage Downtown development/redevelopment generally and for specific development proposals.

**Membership:** Members would be appointed by the Mayor. The make-up of the committee might include the following:

- A property and business owner from each Downtown zone area (RC-TO, RC-OT and RC-E, or six total)
- A Central Beaverton NAC representative
- A Chamber of Commerce representative
- A member of the City Council
- A member of the Planning Commission
- A member of the Traffic Commission

Additionally, the following could be considered ex-officio (i.e. non-voting) members:

- The Mayor
- Chief of Staff
- Community Development Director
- Public Works Director
- Police Chief
- A Westside Transportation Alliance representative
- A Beaverton School District representative
- An Oregon Department of Transportation representative
- A Tri-Met representative
- A Metro representative

**Staff Support/Logistics:** Staff support would be determined by the issue(s) before the committee. If the issue related to parking management, for example, staff support probably would be provided by Public Works staff. If the issue relates to development processes, Community Development staff would be involved. If the issue relates to marketing Downtown or business concerns, Economic Development staff would have the lead role.

Coordinating of staff roles could occur through an interdepartmental working group focused on Downtown issues.

Planning Services staff could take the lead role in setting agendas, mailing meeting notices and agenda packets, preparing minutes, etc.

**AGENDA BILL**

**Beaverton City Council  
Beaverton, Oregon**

**SUBJECT:** Bid Award – Pipe and Piping Products  
Requirements Contract

**FOR AGENDA OF:** 6-11-07 **BILL NO:** 07120

**Mayor's Approval:** 

**DEPARTMENT OF ORIGIN:**  
**PUBLIC WORKS** 

**DATE SUBMITTED:** 6-1-07

**.CLEARANCES:** Purchasing   
Finance   
City Attorney \_\_\_\_\_

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

**EXHIBITS:** Bid Summary

**BUDGET IMPACT**

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

The FY 2007-08 Budget will include funding for pipe and piping products for the repair and maintenance of water, storm and sewer lines by the Public Works Department. In FY 2006-07 the Public Works Department spent \$275,000 on piping products for a variety of projects and maintenance requirements. Several different piping vendors were used in FY 2006-07 based on availability of the product.

**INFORMATION FOR CONSIDERATION:**

Invitation to bid was advertised on April 26, 2007. Bids were opened on May 29, 2007 at 2:00 p.m. in the Finance Conference Room. H.D. Fowler of Clackamas, Oregon, submitted the low bid. The invitation to bid and specifications called for a one-year contract with an option to renew for two additional one-year periods with the total term not to exceed three years. The contract will allow the Public Works Department to purchase pipe and piping products on an as-needed basis for FY 2007-08, FY 2008-09 & FY 2009-10.

Prices are firm for the first year. Prior to any contract extension, the City may consider pricing revisions proposed by the Contractor. Price increases must be fully documented and justified by the Contractor.

**RECOMMENDED ACTION:**

Council, acting as Contract Review Board, award contract to H.D. Fowler of Clackamas, Oregon, for the purchase of pipe and piping products in the estimated amount of \$285,000 for FY 2007-08, contingent upon the approval of the Proposed FY 2007-08 Budget, and approval for City staff to extend the contract for the two additional years based on Council's approval of the future FY 2008-09 and FY 2009-10 Budgets. The estimated usage for FY 2008-09 is \$295,000 and estimated usage for FY 2009-10 is \$305,000.

**BID SUMMARY**

**CITY OF BEAVERTON**

**TO:** Mayor & City Council

**FROM:** Purchasing Division

**SUBJECT:** Bid Opening

Bids were opened on MAY 29, 2007 at 2:00PM in the **FINANCE DEPARTMENT**

For: PIPING & SUPPLIES, REQUIREMENTS CONTRACT PROJECT #2064-07

Witnessed by: **TROY PIERSON**

<b>VENDOR NAME AND CITY, STATE</b>	<b>Percent Mark-up Over Manufacturer's price</b>	<b>BID AMOUNT</b>
<b>HD SUPPLY WATERWORKS LAKE OSWEGO OR</b>	<b>To be determined by item</b>	<b>\$293,505.60</b>
<b>UNITED PIPE SUPPLY CLACKAMAS OR</b>	<b>12%</b>	<b>\$287,613.59</b>
<b>HD FOWLER CLACKAMAS OR</b>	<b>N/A</b>	<b>\$280,882.94</b>

The Purchasing process has been confirmed.

Signed: *JL Musalt*  
Purchasing Division-Finance Dept.

The above amounts have been checked:  YES  NO

Date: 5/29/07

**AGENDA BILL**

**Beaverton City Council  
Beaverton, Oregon**

**SUBJECT:** APP 2007-0006 Appeal of Director's Interpretation DI 2007-0002 (Church 30 Foot Setback)

**FOR AGENDA OF:** 6-11-07 **BILL NO:** 07121

**Mayor's Approval:** *Bob Pruett*

**DEPARTMENT OF ORIGIN:** CDD *CS*

**DATE SUBMITTED:** 6-1-07

**CLEARANCES:** City Attorney *AAO*

**PROCEEDING:** Public Hearing

- EXHIBITS:**
- 1 - Vicinity Map
  - 2 - Appeal Letter dated April 23, 2007
  - 3 - Memorandum from staff responding to appeal
  - 4 - Director's Interpretation 2007-0002 with exhibit

**BUDGET IMPACT**

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

On April 13, 2007, the City issued a Director's Interpretation for Section 60.50.25.4 of the Development Code. This section of the Code specifies that church buildings are required to provide a 30-foot rear and side yard setback when abutting a residential zoning district. The Code is not clear as to the applicability of the setback requirement with respect to existing development. A site specific example was given for the basis of the interpretation. The specific site is located at 12255 SW Denney Road, which was formerly occupied by the Silver Dollar Pizza restaurant. The subject site has been acquired by the Islamic Center of Portland Inc, which intends to establish a religious center on the site. The property owners have filed a Conditional Use application to establish the use; however, the application is currently incomplete while this Interpretation issue is unresolved.

The conclusion of the Interpretation was that in the specific example of the subject site, the existing building did not need to provide a 30-foot side yard setback to the abutting residential zone. The details for reaching this conclusion are located in the attached Director's Interpretation.

The appellant filed a timely appeal of the Interpretation on April 23, 2007. The basis for the appeal is explained in the appellant's materials.

**INFORMATION FOR CONSIDERATION:**

Staff's response to the claims of the appellant is attached to this Agenda Bill for Council consideration as is the record on this matter.

**RECOMMENDED ACTION:**

Staff recommends that the City Council deny Appeal No. APP 2007-0006 and uphold the Director's Interpretation.

# City of Beaverton - DI2007-0002 30-FOOT SETBACK FOR CHURCH USES

COMMUNITY DEVELOPMENT - Development Services

EXHIBIT 1



Notes: 1S122BC00118  
Printed 19-Mar-07 12:52 PM

**Legend**

Scale 1:1,248  
1 in = 104 ft

1251H

CITY OF BEAVERTON GIS 2006



**CITY OF BEAVERTON**  
Community Development Department  
Development Services Division  
4755 SW Griffith Drive  
PO Box 4755  
Beaverton, OR. 97076  
Tel: (503) 526-2420  
Fax: (503) 526-3720  
www.ci.beaverton.or.us

OFFICE USE ONLY	
FILE #:	APP2007-0006
FILE NAME:	Appeal of DJ2007-0002
TYPE:	Type II appeal
RECEIVED BY:	ES
FEE PAID:	\$250.00
CHECK/CASH:	
SUBMITTED:	4/23/07
NAC:	Vose

**RECEIVED**

APR 23 2007

City of Beaverton  
Development Services

# LAND USE DECISION APPEAL

PLEASE SELECT THE SPECIFIC TYPE OF APPEAL FROM THE FOLLOWING LIST:

- APPEAL OF A TYPE 1 DECISION
- APPEAL OF A TYPE 2 DECISION
- APPEAL OF A TYPE 3 DECISION
- OTHER

**APPELLANT NAME(S):** HENRY KANE      **SIGNATURE(S):** *(Original Signature(s) Required)* [Signature]

EACH APPELLANT MUST HAVE PROVIDED EVIDENCE TO THE DECISION MAKING AUTHORITY THAT WAS CONTRARY TO THE DECISION.

**APPELLANT REPRESENTATIVE:** All pre-hearing contact will be made solely to this person.  
IF MORE THAN ONE APPELLANT, APPELLANT'S MUST DESIGNATE A SINGLE APPELLANT REPRESENTATIVE.

**NAME:** HENRY KANE      **COMPANY:** NONE  
**ADDRESS:** 12077 SW CAMDEN LANE  
 (CITY, STATE, ZIP) BEAVERTON OR 97008  
**PHONE:** (503) 643-4051      **FAX:** NONE  
**SIGNATURE:** [Signature]      *(Original Signature Required)*

### REQUIRED INFORMATION

**SITE ADDRESS:** \_\_\_\_\_ **CASE FILE NO. UNDER APPEAL:** \_\_\_\_\_  
**SPECIFIC APPROVAL CRITERIA / CONDITION BEING APPEALED:** \_\_\_\_\_

**SPECIFIC REASON(S) WHY A FINDING / CONDITION IS IN ERROR AS A MATTER OF FACT, LAW OR BOTH:** See attached

**SPECIFIC EVIDENCE RELIED ON TO ALLEGE ERROR:** see attached *(Attach additional sheets if necessary)*

**HOW DID THE APPELLANT(S) PROVIDE EVIDENCE TO THE DECISION MAKING AUTHORITY? WHERE IN THE OFFICIAL RECORD IS SUCH EVIDENCE?:** \_\_\_\_\_ *(Attach additional sheets if necessary)*

**First Attachment to April 23, 2007 Henry Kane**  
**LAND USE DECISION APPEAL**

**REQUIRED INFORMATION**

**RECEIVED**

**APR 23 2007**

*City of Beaverton  
Development Services*

**SITE ADDRESS:**

12255 SW Denney Road, Beaverton, OR 97008  
Formerly occupied by Silver Dollar Pizza

**CASE FILE NO. UNDER APPEAL:**

DI 2007-0002 (30 FOOT SETBACK FOR CHURCH USES)

Applicant, a Moslem religious organization, proposes to convert the property for use as a Moslem religious center. The building is located as close as eight to ten feet from bordering residential development.

**SPECIFIC REASON(S) WHY A FINDING / CONDITION IS IN ERROR AS A MATTER OF FACT, LAW OR BOTH:**

Page one of the attached Appellant Kane's April 11, 2007 letter of objections addressed to Interim community development department Sparks states in part:

"Mr. Joe Grillo does not cite any legal authority for the challenged interpretation.

"There is none because the setback provisions are plain, clear and unambiguous. Only an ambiguous statute or ordinance is subject to 'interpretation.'"

Page one of the attached Appellant Kane's April 16, 2007 letter to Mayor Drake, Beaverton City Council and City Attorney, with copy to the Beaverton Community Development Department (see stamped receipt dated April 18, 2007) states:

**"The Beaverton Development Code does not authorize the Director to initiate the proposed interpretation and waive the fee that should be paid by the applicant;**

**"BDC 60.50.25.4 is plain, clear and unambiguous, hence the 'interpretation' is contrary to BDC 60.50.25.4.**

**"The rear of the building is as close as eight to ten feet to a residential complex and at its widest, is less than 30 feet.  
(emphasis in April 16, 2007 letter)**

Beaverton Development Code 60.50.25.4, relating to "Churches, Hospitals, or other Religious or Eleemosynary Institutions," mandates:

- "4. \*\*\* All buildings shall be setback a minimum of 30 feet from a side or rear property line abutting a residential district. (ORD 3162; March 1980) (ORD 3739)." (emphasis added)

Beaverton Development Code 60.50.25.4 is absolute in its terms and does not allow the Director to waive its provisions, with or without "conditions."

ORS 174.010, pertaining to general rules for construction of statutes, governs construction (interpretation) of Beaverton Development Code 60.50.25.4:

"In the construction of a statute, the office of the judge is simply to ascertain and declare what is, in terms or in substance, contained therein, not to insert what has been omitted, or to omit what has been inserted \*\*\*." (emphasis added)

RECEIVED  
APR 23 2007  
City of Beaverton  
Development Services

Beaverton Development Code 60.50.25.4. is plain, clear and unambiguous, hence there is nothing for the interim director to construe or interpret.

Accordingly, the interim director lacked authority to make the challenged director's interpretation and the Council must reverse his unlawful decision.

The Application Violates BDC 40.25.1.D, Submission Requirements

BDC 40.25.1.D, relating to submission requirements for a Director's Interpretation, mandates:

"D. \*\*\* An application for a Director's Interpretation shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the director. The Director's Interpretation application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness) \*\*\*." (emphasis added)

Attached is an undated DEVELOPMENT APPLICATION – DIRECTOR'S INTERPRETATION. It states that the City of Beaverton is the applicant and is signed by Joe Grillo, at that time the Director of the Beaverton Community Development Department. Mayor Rob Drake later discharged Mr. Grillo and gave him six months pay as a severance package.

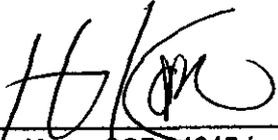
The application requires information concerning the property owner(s) and a signature of the property owner, That part of the application is blank.

The challenged "Director's Interpretation" is void because Mr. Grillo, not the property owner, is the "applicant."

The staff report to the City Council should state whether or not the application is complete.

Interim Director Steve Sparks can withdraw the challenged "Director's Interpretation" pursuant to BDC 50.89.1:

- "1. Before the close of an appeal hearing in front of any appellate decision making authority, any applicant may withdraw his appeal."



Henry Kane, OSB 61045-Inactive  
Appellant

**RECEIVED**  
APR 23 2007  
City of Beaverton  
Development Services



**MEMORANDUM**  
**City of Beaverton**  
**Community Development Department**

*"make it happen"*

**To:** Mayor Drake and City Council  
**From:** Steven A. Sparks, AICP, Interim Community Development Director *SAS*  
**Date:** June 1, 2007  
**Subject:** *Response to Appeal of DI 2007-0002*

---

The purpose of this memorandum is to respond to the claims made by the appellant, Henry Kane, in the matter of DI 2007-0002.

1. The appellant states that the setback requirement is unambiguous.

As stated in the Director's Interpretation, the intent of the required setback is not clear and as a result, the applicability of the required setback is not clear. The subject site is zoned R2 (Urban Medium Density Residential). The site was formerly occupied by a non-conforming commercial use. The side yard setback for the subject site is five feet (5').

The interpretation finds that setbacks are used to do several different things including, but not limited to, providing access to light and air between buildings, separating buildings for better fire safety, and minimizing impacts between dissimilar buildings or uses. In residential zones, churches are dissimilar to residential dwellings because of building mass, the use of the site, and the number of people visiting a site. Typical residential setbacks are 25 feet for rear yard setbacks and five (5) feet for side yard setbacks. The result of the 30 foot setback on a church site plus the required setback on the neighboring property would be a total distance of 35 feet on a side yard and up to 55 feet on a rear yard between the church structure and the residential dwelling. This modest additional distance helps minimize the impact of a church on abutting residential development.

Because the code is not clear if the setback applies to new development, existing structure, or both, the interpretation considered the facts of the existing building and the purposes of setbacks, as summarized above, and concluded that in the case of the subject site, the 30 foot setback would not be applicable.

Furthermore, the Director's Interpretation is supported by section 30.30, Non-Conforming Structures (attached). This section provides:

*“a lawful structure exists at the effective date of adoption or amendment of this ordinance, that could not be built under the terms of this ordinance by reason of restrictions on area, lot coverage, height, yards, location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful”*

The building here is a lawful structure. The only problem with the proposed use is the restriction on “yards”. The use of this structure as a church use is otherwise lawful. Thus, the use of this lawfully placed structure for a lawful use (a church) should be allowed despite the fact that if it was built as a new structure, it would be required to meet a 30 foot setback. This interpretation is consistent with this section of the Code.

2. The Development Code does not authorize the Director to initiate the proposed amendment.

This statement is incorrect. Section 10.20.2 of the Development Code states *“The Director shall have the initial authority and responsibility to interpret all terms, provisions, and requirements of this Code”*. Because an Conditional Use application had been filed on the subject site for a religious use, Section 60.50.25.4 became an issue for the application. Because the intent and applicability of the setback requirement was not clear, the Director decided to prepare a written interpretation of Section 60.50.25.4 to provide an opportunity for public involvement on that interpretation. Since 2000, the City has issued 14 written Director’s Interpretations. 6 of the 14 interpretations were initiated by the Community Development Director.

3. Section 60.50.25.4 of the Development Code is absolute in it’s terms.

Staff disagree for the reasons previously stated herein and for the reasons contained in the Director's Interpretation.

4. The interpretation violates Development Code Section 40.25.1.D, application submission requirements.

As stated in issue number two above, the Director initiated the interpretation. Because a property owner did not request nor was involved in the submittal of a Director’s Interpretation application, this section of the Code quoted by the appellant is not applicable.

**30.30. Nonconforming Structures.**

1. Except as provided in Section 30.10 where a lawful structure exists at the effective date of adoption or amendment of this ordinance, that could not be built under the terms of this ordinance by reason of restrictions on area, lot coverage, height, yards, location on the lot, or other requirements concerning the structure, such structure may be continued so long as it remains otherwise lawful, subject to the following provisions:
  - A. No such nonconforming structure may be enlarged or altered in a way which increases its nonconformity, but any structure or portion thereof may be altered in a way that will not change or will decrease its nonconformity;
  - B. Should such nonconforming structure or nonconforming portion of structure be damaged by any means to an extent of more than 50% of its replacement cost at time of destruction, it shall not be reconstructed except in conformity with the provisions of this ordinance;
  - C. Should such structure be moved for any reason for any distance whatever, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
2. Notwithstanding the provisions of subsection 1., above, any lawful nonconforming structure which would be destroyed as a result of an action by a governmental agency where the agency takes property through the exercise of its power of eminent domain or requires dedication of property for public purposes, may be moved or reconstructed on the same lot, and if necessary, may be extended to an abutting lot in the same ownership provided that the resulting placement of the structure does not increase the nonconformity of the structure. Such modification shall be subject to review by the Facilities Review Committee and, if within its established jurisdiction, the Board of Design Review. The request for such reviews shall be made prior to the destruction of the structure and if not made by such time the rights granted by this subsection shall be terminated. (ORD 3121; July, 1979)



# CITY of BEAVERTON

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

## NOTICE OF DECISION

### DIRECTOR'S INTERPRETATION

#### SUMMARY OF DECISION:

Section 60.50.25.4 of the Development Code requires church buildings to be setback 30 feet from a side or rear property line abutting a residential zoning district. The Code is not clear as to the applicability of the setback with respect to existing development. Pursuant to this Director's Interpretation, the 30 foot setback from a side or rear property line will not apply to the subject existing structure located at 12255 SW Denney Road.

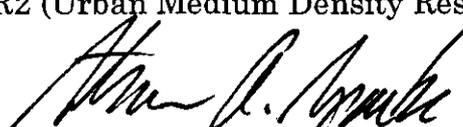
**DATE:** April 13, 2007

**CASE FILE:** DI 2007-0002 (Church 30 foot setback requirement)

**APPLICANT:** City of Beaverton  
Steven A. Sparks, AICP  
PO Box 4755  
Beaverton, OR 97076

**LOCATION:** 12255 SW Denney Road

**ZONING:** R2 (Urban Medium Density Residential)

**AUTHORIZATION:**   
Steven A. Sparks, AICP  
Interim Community Development Director

#### I. BACKGROUND INFORMATION

Churches or places of worship are located throughout the City of Beaverton and are allowed or conditionally allowed in most of the City's zoning districts. Many churches are located within or abutting residential zoning districts. Section 60.50.25.4 reads:

4. Churches, Hospitals, or other Religious or Eleemosynary Institutions. *In any residentially zoned property such uses shall be located on a street with a collector or higher designation as established by the Comprehensive Plan. All buildings shall be set back a minimum of 30 feet from a side or rear property line abutting a residential district.*

This text first appears in the 1978 Development Code adopted in Ordinance 2050 and amended in 1979 by specifying the 30 foot setback is from the side or rear property line abutting a residential district. Researching the legislative history for Ordinance 2050 and the subsequent amending ordinances, staff is unable to clearly document the intent of the 30 foot setback.

Setbacks are used to do several different things including, but not limited to, providing access to light and air between buildings, separating buildings for better fire safety, and minimizing impacts between dissimilar buildings or uses. In residential zones, churches are dissimilar to residential dwellings because of building mass, the use of the site, and the number of people visiting a site. Typical residential setbacks are 25 feet for rear yard setbacks and five (5) feet for side yard setbacks. The result of the 30 foot setback on a church site plus the required setback on the neighboring property would be a total distance of 35 feet on a side yard and up to 55 feet on a rear yard between the church structure and the residential dwelling. This modest additional distance helps minimize the impact of a church on abutting residential development. It is the Director's interpretation that this is why an increased setback was identified and placed in the Code.

What is not clear in the Code and the legislative history of the Code is in which situation does the regulation apply. With a scarcity of vacant land in the City, many churches today are locating in existing buildings which were not initially designed for and occupied by church uses. Many of these existing structures conform with the setbacks of the subject zoning district. However, these existing structures are sometimes not setback 30 feet from abutting residentially zoned property.

Historically, the City has applied this regulation equally to new construction and conversion of existing structures to a church use. The subject example of a church use occupying an existing building is located at 12255 SW Denney Road. The structure was formerly occupied by a legal nonconforming eating and drinking use and the site is zoned R2. The subject site is proposed to be used as a religious center. Along the eastern property line, the subject site abuts a residential district; the R2 zoning district. The subject structure is setback from the eastern property line approximately 10 feet at the closest and approximately 30 feet at the most distant. The area between the building and the property line is paved and used as the garbage area for the former restaurant. There appears to be a single access

door on the eastern elevation of the existing building and a set of double doors for deliveries and access to the garbage collection point. The building contains restrooms, storage areas, and classrooms along the eastern elevation of the building within the area of the 30 foot setback.

The purpose of this Director's Interpretation application is to clarify and formalize the Code requirement as it applies to the conversion of the specific existing structure located at 12255 SW Denney Road which was not initially designed for and occupied by a church use.

## II. PROPOSED INTERPRETATION

The Director proposes to allow the proposed religious center to occupy an existing structure which abuts a residential zone and is located closer than 30 feet from an existing side yard or rear yard property line where the following conditions are met:

1. The minimum setback required by the subject zoning district is provided.
2. There is no new active outdoor use introduced to the area between the existing building and the side or rear property line where the 30 foot setback is not met.
3. The existing structure has no more than one access door for incidental access such as emergency egress in the area between the building and the side or rear property line where the 30 foot setback is not met.
4. The existing structure has no more than one point of access to a refuse area in the area between the building and the side or rear property line where the 30 foot setback is not met .
5. The use of the existing structure that is within the 30 feet of the side or rear property line is used for office space, storage, restrooms, or other similar less intensive use of the interior space.

The interpretation would not eliminate the need to obtain appropriate land use authorization to operate a church use in the existing structure.

## III. PUBLIC COMMENT

Pursuant to Section 50.40.3.I of the Development Code, the comment closing date for written comments was April 11, 2007. One letter was received from Henry Kane, 12077 SW Camden Lane, objecting to the proposed interpretation.

## IV. ANALYSIS AND FINDINGS

(The following citations are from Ordinance 2050, the Development Code of the City of Beaverton, effective through Ordinance 4414.)

## **Section 40.25 – Director’s Interpretation**

Section 40.25.1.C contains the Director’s Interpretation approval criteria. This section identifies that in order to approve a Director's Interpretation application the decision-making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all of the criteria specified in Section 40.25.1.C.1-6 are satisfied. The following are the Director’s findings of fact addressing the approval criteria:

1. *The proposal satisfies the threshold requirements for a Director's Interpretation application.*

The Director is issuing a formal written interpretation of Section 60.50.25.4 of the Development Code and the application of the 30 foot setback to conversion of an existing structure to a church use. This application is consistent with threshold number one of Section 40.25.15.1.A. Therefore, approval criterion one has been met.

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

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

3. *That the interpretation is consistent with the City’s Comprehensive Plan and other provisions within this Code.*

The following findings address how this interpretation is consistent with the City’s Comprehensive Plan and other applicable provisions of the Development Code:

### **Consistency with the Comprehensive Plan**

#### **Chapter Two (Public Involvement)**

Goal 2.4.2, Public Involvement in City Decision Making, of the Comprehensive Plan specifies the need for involving citizens in the planning process. Development Code Section 50.40.2-5, sets forth precise requirements for providing notice to citizens of Beaverton in conformance with the intent of this goal. Notice to inform citizens of the proposed Director’s Interpretation has been published in the Beaverton Valley Times pursuant to Development Code Section 50.40.4 and in conformance with

Comprehensive Plan Goal 2.4.2. A written notice for this interpretation was provided to all property owners within 300 feet of the subject property (12255 SW Denney Road) informing the owners of those properties of the proposed Director's Interpretation. The City also provided written notice to the Vose NAC Chair and the Beaverton CCI Chair.

### **Chapter Three (Land Use Element)**

*Policy 3.4.1.h - Private, semi-private, and public uses such as churches, non-commercial schools, and parks that contribute to the livability of Beaverton shall be permitted or conditionally allowed in most City zoning districts.*

Churches are permitted or conditionally permitted in 25 of the City's 30 zoning districts. The zones in which churches are not allowed are primarily for employment or industrial uses and are the Office Commercial (OC), Campus Industrial (CI), Light Industrial (LI), Industrial Park (IP), and Station Community - Employment Area 3 (SC-E3). The provisions of the Development Code are consistent with the Comprehensive Plan by allowing church uses.

The purpose of this Director's Interpretation application is to clarify the Code requirement as it applies to the conversion of an existing structure located at 12255 SW Denney Road which was not initially designed for and occupied by a church use. The proposed interpretation will not change the ability of any church from locating in any of the zones in which a church use may currently locate. Therefore, the proposed interpretation will not alter the existing implementation of this policy by continuing to permit or conditionally permit church uses as specified by the Development Code.

### **Chapters Four through Nine**

There are no applicable policies in Chapters Four through Nine of the Comprehensive Plan to this Director's Interpretation. The Director finds that the requested interpretation does not directly impact Chapter Four, Housing; Chapter Five, Public Facilities and Services; Chapter Six, Transportation; Chapter Seven, Natural, Cultural, Historic, Scenic, Energy, and Groundwater Resources; Chapter Eight, Environmental Quality and Safety; and Chapter Nine, Economy.

### **Consistency with the Development Code**

#### **Consistency with Chapter 10 (General Provisions)**

Development Code Section 10.20.2, states that the Director shall have initial authority for review of the provisions and requirements of the Development Code and that the City Council shall have final authority. Requests may be made for an interpretation in writing in accordance with Section 40.25, Director's Interpretation.

## Consistency with Chapter 20 (Land Uses)

Churches are permitted or conditionally permitted in most zoning districts of the City. The proposed interpretation will not alter these permissions. Therefore, the proposed interpretation is consistent with Chapter 20.

## Chapter 60 (Special Regulations)

The proposed interpretation is to clarify the applicability of Section 60.50.25.4. of the Development Code. No other provisions of Chapter 60 relate to this section. Therefore, the proposed interpretation is consistent with other provisions of Chapter 60.

The Director finds that the requested Director's Interpretation is consistent with the Comprehensive Plan and the Development Code. Therefore, the Director finds that approval criterion three has been met.

4. *When interpreting that a use not identified in the Development Code is a permitted, a conditional, or prohibited use, that use must be substantially similar to a use currently identified in the subject zoning district or elsewhere in the Development Code.*

The requested Director's Interpretation is not for a use that is not identified in the Development Code. Churches are an identified use. The Director's Interpretation is to clarify and formalize the Code requirement as it applies to new construction and the conversion of an existing structure which was not initially designed for and occupied by a church use. Therefore, the Director finds that approval criterion four is not applicable.

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

The application was deemed complete by the applicant, which is the City, with an "as-is" application pursuant to 50.25.7. of the Development Code.

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

The Director's Interpretation is not development specific. Therefore, no additional applications will be required to implement the Director's Interpretation. In the next Omnibus Text Amendment proposal, the ruling of the Director's Interpretation will be added to the Development Code by adding a definition to the Code. The Director finds that approval criterion six has been met.

## V. CONCLUSION (S)

The Director recognizes that churches or places of worship are locating in structures which were not originally designed for church uses. By locating in existing development, churches have had the potential to conflict with Section 60.50.25.4 of the Development Code. The Director concludes that the 30 foot setback required by Section 60.50.25.4 is necessary to mitigate potential size and use impacts created by a church use. If a church does not introduce a potential impact such as noise within an existing structure located within the area of the 30 foot setback, the need for the setback becomes moot. In the specific case of the proposed religious center occupying an existing structure located as 12255 SW Denney Road, the Director concludes that the proposed use may occupy an existing structure that is closer than 30 feet from an abutting side or rear property line if the following conditions are met:

1. The minimum setback required by the subject zoning district is provided.
2. There is no new active outdoor use introduced to the area between the existing building and the side or rear property line where the 30 foot setback is not met.
3. The existing structure has no more than one access door for incidental access such as emergency egress in the area between the building and the side or rear property line where the 30 foot setback is not met.
4. The existing structure has no more than one point of access to a refuse area in the area between the building and the side or rear property line where the 30 foot setback is not met .
5. The use of the existing structure that is within the 30 feet of the side or rear property line is used for office space, storage, restrooms, or other similar less intensive use of the interior space. .

This interpretation solely recognizes that the proposed religious center may have the potential to locate in an existing structure abutting a residential zone. Prior to occupying any existing structure abutting a residential zone, a church or religious center must be authorized through the appropriate land use process. The Director has reached this conclusion based on the findings contained within this document.

## VI. APPEAL

Pursuant to Section 50.65.1, the decision-making authority's decision on this Director's Interpretation shall become final if no appeal is filed within twelve (12) calendar days after written notice of the decision was dated and mailed.

Pursuant to Section 50.65.2, within seven (7) calendar days after an appeal has been filed, the Director shall determine whether an appeal contains at least the following information:

- A. The case file number designated by the City.
- B. The name and signature of each appellant.
- C. Reference to the written evidence provided to the decision-making authority by the appellant that is contrary to the decision.
- D. If multiple people sign and file a single appeal, the appeal shall include verifiable evidence that each appellant provided written testimony to the decision-making authority and that the decision being appealed was contrary to such testimony. The appeal shall designate one person as the contact representative for all pre-appeal hearing contact with the City. All contact with the City regarding the appeal, including notice, shall be through this contact representative.
- E. The specific approval criteria, condition, or both being appealed, the reasons why a finding, condition, or both is in error as a matter of fact, law or both, and the evidence relied on to allege the error.
- F. The appeal fee, as established by resolution of the City Council<sup>1</sup>.

Pursuant to Section 50.65.3, failure to comply with the requirements of Sections 50.65.1 and 50.65.2 is jurisdictional and deprives the appellant of an opportunity for the appellate decision making authority to hear an appeal.

Pursuant to Section 50.65.5, the appellate decision making authority for Director's Interpretation (Section 40.25) shall be the City Council. The appeal hearing for the Director's Interpretation shall be de novo, which means new evidence and argument can be introduced in writing, orally, or both. The hearing of the appeal shall be conducted in accordance with Section 50.85 through 50.88 of the Development Code, except as otherwise required by statute.

Pursuant to Section 50.65.7, not less than seven (7) calendar days before the date of the appeal hearing, the Director shall prepare and make available to the public for review and inspection, a copy of the staff report and shall provide a copy of the staff report to the appellate decision making authority and to the appellant. The Director shall provide a copy of the staff report to members of the public at reasonable cost upon request.

Pursuant to Section 50.65.13, only one appeal of a Type 2 decision is permitted before the City. Therefore, the notice of a Type 2 decision on appeal shall indicate the decision may be appealed to the Land Use Board of Appeals as provided in ORS 197.805 through ORS 197.860.

The complete case file and all materials are available for public review at no cost or purchase at the Development Services Division Front County, Community Development Department, Second Floor, Beaverton City Hall. For more information, contact Steven Sparks, AICP, Interim Community Development Director, (503) 526-2429 or [ssparks@ci.beaverton.or.us](mailto:ssparks@ci.beaverton.or.us).

---

<sup>1</sup> A fee of \$250.00 (Oregon State Law 227.175(10)(b) must accompany the request (appeal).

**Henry Kane**  
12077 SW Camden Lane  
Beaverton, OR 97008  
503.643-4054  
April 11, 2007

APR 11 2007 4:27 P  
COMMUNITY DEVELOP DEPT.

Steven Sparks  
Beaverton Community Development Dept.  
PO Box 4755  
Beaverton, OR 97076

C: Mayor Drake and Councilors  
City Attorney Alan Rappleyea  
media

Re: 30-foot setback for church uses  
DI 2007-0002

Mr. Sparks:

The undersigned Beaverton resident and vice-chair of the Vose Neighborhood Association Committee (NAC) makes this timely objection to the "director's interpretation" that BDC section 60.50.25.4 "does not apply to an existing structure located at 12255 SW Denney Road, which is proposed to be converted to a [Moslem] religious center."

The March 16, 2007 NOTICE OF DECISION summary of decision states:

"Pursuant to this Director's Interpretation, the 30-foot setback from a side or rear property line will not apply to the subject existing structure located at 12255 SW Denney Road."  
(emphasis added)

Mr. Joe Grillo does not cite any legal authority for the challenged interpretation.

There is none because the setback provisions are plain, clear and unambiguous. Only an ambiguous statute or ordinance is subject to "interpretation."

Page 7 of the NOTICE OF DECISION claims:

" \* \* \* If the church does not introduce a potential impact such as noise within an existing structure located within an existing structure, the need for the setback becomes moot." (emphasis added)

I state as a fact that the above attempted "becomes moot" justification does not authorize Mr. Grillo's "interpretation" of the setback requirements of the Beaverton Development Code.

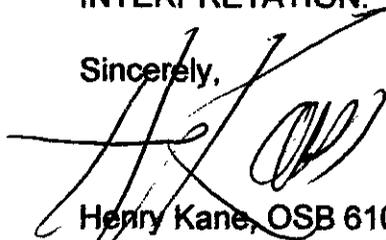
I state as a fact that church song and organ music ("noise") often can be heard for a considerable distance from the church property line.

To the immediate east of the structure is a two-story residential complex. Motor vehicle noise from nearby vehicles close to the apartment complex during evening services is unacceptable "noise."

The undersigned, a member of the Oregon State Bar since 1961 with extensive land use law experience before the Beaverton Planning Commission, Board of Design Review and City Council and the Land Use Board of Appeals has found no legal authority for Mr. Grillo's ipse dixit ("It is so because I say it so.")

The acting director should rely on the advice of the City Attorney. I submit that the City Attorney would recommend withdrawal of Mr. Grillo's "DIRECTOR'S INTERPRETATION."

Sincerely,



Henry Kane, OSB 61045-Inactive  
Vice Chair, Vose NAC

**AGENDA BILL**

06/04/07: Continued Public Hearing to 06/11/07

**Beaverton City Council  
Beaverton, Oregon**

06/11/07

**SUBJECT:** Appeal of Commuter Rail Project  
APP2007-0009 / APP2007-0010 (Freece)  
APP2007-0011 / APP2007-0012 /  
APP2007-0013 (Shadrall)

**FOR AGENDA OF:** ~~6-04-07~~ **BILL NO:** 07114

**Mayor's Approval:** 

**DEPARTMENT OF ORIGIN:** CDD 

**DATE SUBMITTED:** 5-25-07

**CLEARANCES:** City Attorney   
Devel. Services 

**PROCEEDING:** Public Hearing

**EXHIBITS:** 1. Vicinity Map  
2. Table of Contents and Exhibit List

**BUDGET IMPACT**

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

A total of five appeals have been submitted representing two properties along the proposed Commuter Rail corridor: (1) The Freece Family Partnership representing Napa Auto, and (2) Mark Whitlow of Perkins Coie representing the tenant Bed, Bath, and Beyond (BBB) and Shadrall Associates for the appeal of the Commuter Rail Project. The appellants are appealing the Planning Commission's approval of the Commuter Rail project.

The Freece Appeal is specifically appealing Condition of Approval Nos. 26 and 27 of Land Use Order Nos. 1960 and 1962, which address the matter of the requirement for a physical barrier between parking stalls and public right-of-way. The appellant also raises the matter of traffic safety and the obstructing of vehicular turning movements, which will preclude vehicular connections from certain properties to the surrounding circulation system.

The Shadrall Appeal is specifically appealing Condition of Approval No. 35 of Land Use Order Nos. 1960 and 1962, which address site improvements at the BBB property. The appellant also cites the lack of reference in the site plan and related findings to the removal of existing trees. The appellant seeks clarification that the existing trees to be removed on the BBB site are not subject to a Tree Plan.

The applicant has received Conditional Use – Major Modification approval through a separate land use application for the addition of a station platform to accommodate the commuter rail at the existing Beaverton Transit Center.

**INFORMATION FOR CONSIDERATION:**

The appellant asserts that the Planning Commission erred in its decision to approve DR2006-0157, PTF2006-0003, and TP2006-0022 pursuant to the appellant's letters dated May 13, 2007 and May 14, 2007. Staff's response to the issues raised by the appellants will be provided under separate cover. The Commission's Land Use Order on this matter, Nos. 1960, 1962, and 1963, the Staff Report, draft minutes, and all exhibits, including letters and materials presented prior to and at the hearings, are attached for the Council's consideration. The final written decision date by the City is due no later than June 30, 2007. This appeal hearing is a *de novo* hearing.

**RECOMMENDED ACTION:**

**Agenda Bill No:** 07114

Conduct the public hearing and deny the appeals (APP2007-0009, APP2007-0010, APP2007-0011, APP2007-0012, APP2007-0013) thereby upholding the decision of the Planning Commission to approve DR2006-0157, PTF2006-0003, and TP2006-0022 with the conditions as stated in the Land Use Order Nos. 1960, 1962, and 1963. Direct staff to prepare findings and a final order that embodies the Council's decision.

# MEMORANDUM

**City of Beaverton**  
**Office of the City Recorder**

**To:** Mayor Drake and Councilors  
**From:** Sue Nelson, City Recorder  
**Date:** June 5, 2007  
**Subject:** **Agenda Bill 07114: Appeal of Commuter  
Rail Project: APP 2007-0009/APP 2007-0010  
(Freece); APP 2007-0011/APP 2007-0012/  
APP 2007-0013 (Shadrall)**

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The complete agenda bill and all attachments for Agenda Bill 07114 are available for review in the City Recorder's Office on the third floor of Beaverton City Hall, 4755 SW Griffith Drive, Beaverton, OR. The office is open weekdays between 8:00 a.m. and 5:00 p.m. Due to the large volume of the attachments, they were not included with the agenda bill and staff report on the Web site.

If you have any questions regarding this item, please call (503) 526-2650.

**AGENDA BILL**

**Beaverton City Council  
Beaverton, Oregon**

**SUBJECT:** An Ordinance Amending Ordinance No. 2050, the Zoning Map to Apply the City's Office Commercial Zone to Two Properties Located in Northern Beaverton; ZMA2007-0012 (Tax Lots 1S102DC04304 and 1S102DC05300)

**FOR AGENDA OF:** 06/11/07 **BILL NO:** 07122

**Mayor's Approval:** *[Signature]*

**DEPARTMENT OF ORIGIN:** CDD *[Signature]*

**DATE SUBMITTED:** 06/04/07

**CLEARANCES:** City Attorney US  
Planning Services HP

**PROCEEDING:** First Reading

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

**BUDGET IMPACT**

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

The site of the properties, located near the junction of SW Baltic Avenue and SW Barnes Road as shown on Exhibit "A", was annexed into the City in 1998 under Oregon Boundary Commission Ordinance No. 3978. The properties are being redesignated in this ordinance from the County's Office Commercial land use designation to the closest corresponding City designation 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 City Zoning Map designation that is to be assigned to the properties. Per the agreement, the appropriate Zoning Map designation for the subject parcels is Office Commercial (OC). Under the terms of the Development Code, this amendment can be processed through a non-discretionary process which does not require a public hearing.

This ordinance makes the appropriate changes to Ordinance No. 2050, the Zoning Map.

**RECOMMENDED ACTION:**

First Reading

**ORDINANCE NO. 4442**

AN ORDINANCE AMENDING ORDINANCE NO. 2050, THE ZONING MAP FOR TWO PROPERTIES LOCATED IN NORTHERN BEAVERTON; ZMA2007-0012

- WHEREAS,** The site containing the subject properties was annexed to the City of Beaverton through Boundary Commission Ordinance 3978 in 1998, and is being redesignated in this ordinance from Washington County's land use designation to the closest corresponding City designation in accordance with the Washington County – Beaverton Urban Planning Area Agreement (UPAA); and
- WHEREAS,** Since the UPAA is specific on the appropriate City Zoning Map designation for the parcels, 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 ZMA2007-0012 by Associate Planner Jeff Salvon dated June 4, 2007; now, therefore

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

**Section 1.** Ordinance No. 2050, the Zoning Map, is amended to rezone the subject properties located north of Highway 26, south of SW Barnes Road, and east of SW Baltic Avenue Office Commercial (OC) as shown on Exhibit "A" in accordance with the Washington County – Beaverton Urban Planning Area Agreement (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:

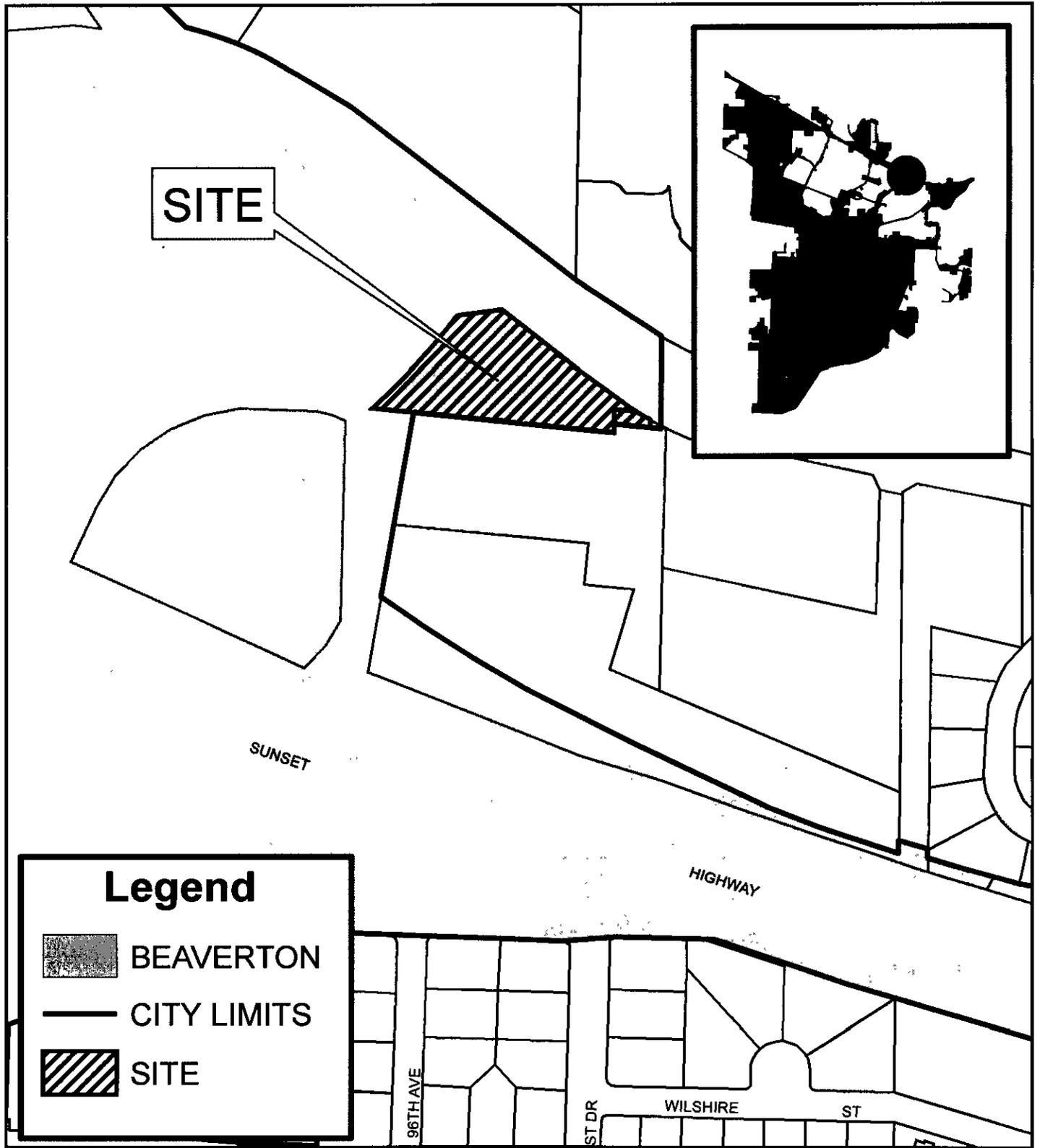
\_\_\_\_\_  
SUE NELSON, City Recorder

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

# VICINITY MAP

ORDINANCE NO. 4442

Exhibit A



## Legend



BEAVERTON



CITY LIMITS



SITE



CITY OF BEAVERTON

## ZMA2007-0012

COMMUNITY DEVELOPMENT DEPARTMENT  
Planning Services Division

5/17/07

Tax Lot #'s  
1S102DC04304  
1S102DC05300

N



SW BALTIC  
SW BARNES



# 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:** June 11, 2007      **REPORT DATE:** June 4, 2007

**FROM:** Jeff Salvon, Associate Planner

**APPLICATION:** ZMA2007-0012  
(SW Baltic Avenue and SW Barnes Road Zoning Map Amendment)

**LOCATION:** North of Highway 26 and south of SW Barnes Road near St. Vincent Hospital. The parcels are identified as 1S102DC05300 and 1S102DC04304.

**NEIGHBORHOOD ASSOCIATION/ CPO:** No Beaverton Neighborhood Association Committee / Cedar Hills – Cedar Mill Citizen Participation Organization (CPO#1)

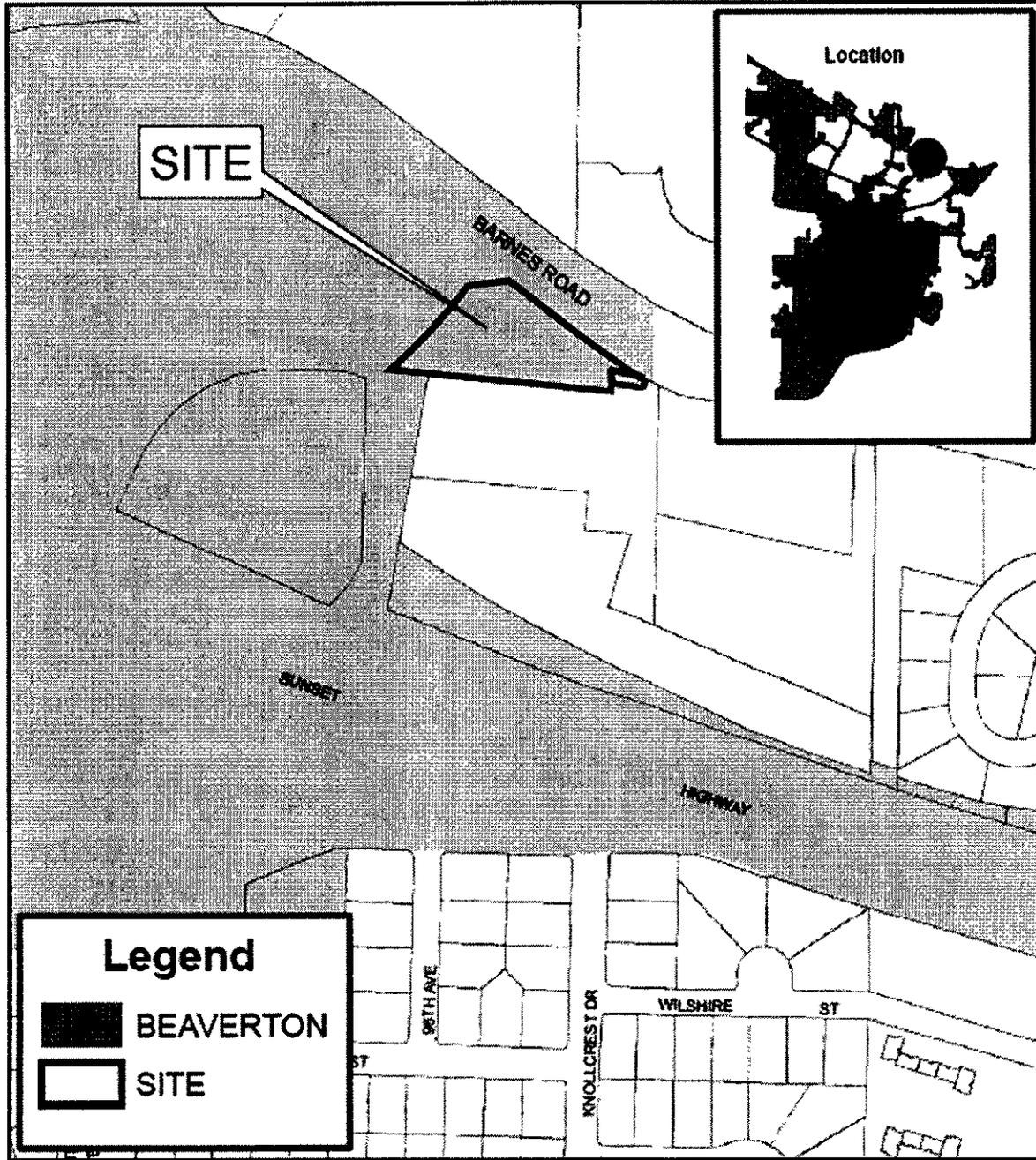
**REQUEST:** Apply the City's Office Commercial (OC) zoning designation to two (2) parcels.

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

**APPROVAL CRITERIA:** Development Code Section 40.97.15.3.C

**RECOMMENDATION:** **Staff recommends the City Council adopt an ordinance applying the Office Commercial (OC) zoning designation to the two (2) parcels effective thirty days after the Mayor's signature.**

# VICINITY MAP



CITY OF BEAVERTON

## ZMA2007-0012

COMMUNITY DEVELOPMENT DEPARTMENT  
Planning Services Division

5/16/07

N

Tax Lot #'s  
15102DC05300



SW BALTIC  
SW BARNES

## BACKGROUND

ZMA2007-0012 proposes amendment of the City's Zoning Map. The amendment is requested in order to apply City zoning for two (2) parcels. The parcels were created in 2002 and encompass a site annexed in 1998. At the time the subject area was annexed, the site was within the Barnes Road right-of-way, and did not appear on either City or County maps of the area. In 1997 Washington County adopted Ordinance No. 484 which amended the Cedar Hills-Cedar Mill Community Plan and assigned transit oriented plan designations to properties in the vicinity. However, because the parcels were not indicated on County maps at the time, no zoning was assigned. In 2002 the Oregon Department of Transportation (ODOT) declared that the site was excess property, established two parcels, and sold them to the owner of the abutting property.

The properties subsequently appeared on the City's maps without land use designations. Without an apparent pre-existing County plan designation, the City could not refer to the Beaverton-Washington County Urban Planning Area Agreement (UPAA) to determine the appropriate Plan and Zoning Map designations for the properties. This in turn required that the City exercise discretion in selecting the appropriate designations and involved a hearings process. In Spring of 2007 the Planning Commission considered a staff proposal that the Station Community (SC) plan designation and Station Community – Multiple Use (SC-MU) zone be assigned to the parcels in order to reflect of the County's Station Community planning for the area.

Planning Commission elected to continue the hearing in order to provide Washington County staff with additional time to clarify whether the parcels had in fact been zoned at some point in the past. Subsequently, County staff made a definitive determination that the site had been assigned Washington County's Office Commercial (OC) designation in 1983, before it was acquired by ODOT. Additionally, staff had concluded that that this zoning continues to be in effect.

This zoning determination provided City staff with the opportunity to recommend the current proposal of applying the City's OC zone to the properties in a non-discretionary annexation related process. However, because the City no longer carries the appropriate Office Commercial plan designation specified in the UPAA, staff opted to proceed with the Plan amendment segment of the original proposal to apply the City's SC plan designation to the property. The proposal to apply zoning to the property was subsequently withdrawn and Comprehensive Plan amendment was recommended by the Planning Commission and is currently being considered by the City Council as a separate proposal.

This proposal is to assign the City's UPAA specified OC zone to the subject parcels to approximate the County's OC zoning that was placed upon the site in 1983.

## EXISTING CONDITIONS

**Uses.** Staff performed a field survey of uses that occupy the subject parcels. The identified uses are noted in the following table.

MAP/TAX LOT	ADDRESS EXISTING LAND USES	ACREAGE
1S102DC05300	Vacant	1.12
1S102DC04304	Vacant	0.3

**Character.** The subject parcels are situated between major thoroughfares and are vacant with well maintained bushes, grass, and shrubs as landscaping features. The immediate area around the subject properties includes several office buildings and institutional uses. Beyond a quarter mile of the sites, both residential uses and areas of open space predominate. Generally, the area's role as a regional transportation hub is what distinguishes it from other areas of the County. Features of the area include:

- *Public Transportation Hub:* Proximity of the Sunset Transit Center is a key feature of the area. This facility provides numerous transportation links (two light rail lines and five bus routes) for individuals coming into and exiting the area. Additionally, the facility supports 530 park-and-ride spaces offering commuters an inter-modal alternative to driving their cars and offers parking to alleviate congestion in Portland's Downtown Business District. Finally, as an inter-modal public transportation hub for the community, close proximity of high density housing and employment encourages use of public transportation.
- *Traffic Interchange:* A combination of street arteries supports high volumes of traffic through the area. The area is situated at the junction of Highway 26 and Highway 217 (both classified as freeways), SW Barnes Road (classified as a major arterial), and SW Baltic Avenue (classified as a collector). These arteries converge within a small area and constitute a transportation hub of regional significance.
- *An Employment Center:* Aside from various office complexes, the area supports the Providence Health Center, which employs approximately 4,000 people. Additionally, the Cedar Mill Town Center (which comprises a variety of commercial uses) is located approximately one mile to the west, and the Beaverton Downtown Regional Center is within one and one-half miles to the south. Together, these centers generate a significant amount of traffic in the area.

## ANALYSIS

### COMPATIBILITY OF DESIGNATIONS

**Washington County OC District designation.** The subject parcels are designated OC on the County's Sunset West Community Plan. Section 312-1 of the *Washington County Community Development Code* states that:

"The intent of this District is to encourage office complex development of institutional, professional, medical/dental, governmental and other office business uses. The purpose is to accommodate the increasing office needs in complexes

ranging in size from small to large-scale development. Office uses are the primary use of this District. To serve the employees of the office complex, some accessory commercial and high density residential uses may be permitted through the Planned Development process.”

The UPAA excerpt, below, specifies that the County’s OC designation is equivalent to the City’s OC zoning designation.

<p><b>WASHINGTON COUNTY – BEAVERTON URBAN PLANNING AREA AGREEMENT</b></p> <p><b>EXHIBIT “B”</b></p> <p><b>CITY – COUNTY LAND USE DESIGNATION EQUIVALENTS</b></p>		
<b>COUNTY</b>	<b>BEAVERTON</b>	
<u>Plan/Zoning</u>	<u>Plan</u>	<u>Zoning</u>
Office Commercial	Office Commercial	OC

**Summary.** The UPAA specifies a City OC zoning designation for the two subject parcels.

**APPLICABLE ZONING DISTRICTS**

This proposal is to apply the City’ OC zone to the subject parcels and does not involve a corresponding application for a plan designation. As noted above, the proposal follows a previous action that assigned the SC plan designation to the parcels in a separate process. This action was proposed independently of the rezone because, while the City still has an OC zone, it no longer carries the Office Commercial plan designation indicated as the appropriate substitute for County OC in the UPAA which was adopted back in 1989. As an alternative, staff proposed that the City adopt a plan designation that approximates the County’s current planning for the area. That action is currently under City Council review.

It should be noted that although the City’s OC zone complies with the UPAA, it is not an implementing zone for the City’s SC plan designation. Development Code Section 3.14 (the Comprehensive Plan and Zoning Matrix), specifies that implementing zones for the SC designation include the SC-HDR, SC-MU, SA-MDR, SA-MU, and SC-E zones. Although staff’s current charge in proposing the OC zone is to conform with UPAA provisions, staff acknowledges the inconsistency and anticipates a future proposal to rezone the property again with one of the implementing zones above to conform with the Comprehensive Plan and Zoning District Matrix contained in Section 3.14 of the Comprehensive Plan.

## 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 properties are designated as OC as indicated in the Washington County staff correspondence dated April 3, 2007 (Attachment 1) which, in a non-discretionary process, requires implementation of the City's OC zoning designation under the *Urban Planning Area Agreement* (UPAA).

**Development Code Process.** Due to annexation of the subject parcels 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 that states, "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 initiated with the consent of the property owner and electors under ORS 222.125, and a petition for annexation was submitted. This annexation was approved under Boundary Commission Ordinance No. 3978.

### PUBLIC NOTICE

Section 50.35 of the Development Code prescribes the notice to be provided for these types of applications. However, this section does not specifically address notice recipient requirements for annexation related non-discretionary applications. Staff has therefore applied the notice recipient provisions for general type 1 applications which requires that the applicant receive notice of the proposal. Since the City is the applicant in this case no notice was required.

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.1 Threshold, states, "The change of zoning to a City zoning designation as a result of annexation of land into the City." The zone change is requested in order to apply City land use and zoning for the subject parcels annexed in 1998. Both of the parcels have continued to carry the Washington County OC (Office Commercial) designation, as indicated in the Washington County staff correspondence dated April 3, 2007 (Attachment 1), since the time of annexation.

Section 40.97.15.3.A.2 Threshold, states, "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." As noted in the Process section of this report, the UPAA specifies a City OC designation for the County OC 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 annexation of the subject property was initiated with the consent of the property owner and electors under ORS 222.125, and a petition for annexation was submitted. This annexation was approved under Boundary Commission Ordinance No. 3978.

**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 Office Commercial goes to City OC, Office Commercial.

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 *Cedar Hills – Cedar Mill Community Plan*. The subject properties are not in an Area of Special Concern, and have no specific design elements applicable to them.

**Finding: The OC 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 City's Zoning Map to depict the City's Office Commercial (OC) zoning district is appropriate for the subject parcels.**

**WASHINGTON COUNTY  
OREGON**

April 3, 2007

**TO:** City of Beaverton Staff

**FROM:** Gregg Leion, Senior Planning

**RE:** **BARNES/BALTIC ANNEXATION & PLAN AMENDMENT – TAX LOT 5300  
MAP 1S1 02DC**

This correspondence is intended to clarify previous questions regarding the above referenced property. The facts below support the conclusion which staff has previously expressed regarding the county's plan designation for this site.

- At the time of the adoption of the Cedar Hills/Cedar Mill in 1983, the subject property was part of a larger parcel that was located north of the (then) existing NW Barnes Road alignment. At that time, the subject land was in the OC Land Use District.
- When NW Barnes Road was realigned in the mid-1980's, the subject parcel was segregated as right-of-way (ROW) from its parent parcel. This remnant was located between the previous north right-of-way line for the old Barnes Road and the new south right-of-way line for the newly realigned Barnes Road. When the county subsequently updated the Cedar Hills/Cedar Mill Plan Map, no plan designations were shown on the subject land because it had become part of the Barnes Road ROW. Not showing ROW with land use districts is a mapping practice. No ordinance actually amended the previously imposed OC designation on the site. Again, while mapped as right-of-way, no plan designation was shown but no action ever repealed the originally adopted OC designation from the 1983 CH/CM Plan.
- In 1989, the old right-of-way, from the south line of the old Barnes Road alignment to the south line of the new Barnes Road alignment was vacated, creating the subject tax lot. The parcel is a remnant from the larger original parcel that it was previously part of prior to the Barnes realignment. The site is not flagged as an illegally created parcel but this memorandum does not explore that issue. Research regarding the creation of the subject property as a discrete parcel is not part of this informational memorandum.
- In 1997, the county adopted A-Engrossed Ordinance No. 484; this ordinance amended much of the surrounding area to Transit-Oriented (TO) plan designations. However, the limit of the TO District was drawn at the south right-of-way line for the original (old) Barnes Road alignment. This is also the south property line of Tax Lot 5300. The map for Ordinance 484 clearly shows this. Language in the ordinance provides that plan designations were amended "by removing existing and applying new plan designations". Ordinance 484 did not apply a new plan designation to the subject site. Based on that, and the language in the ordinance that is quoted, it is reasonable to conclude that Ordinance 484 did not amend the previous plan designation of the subject property to a TO designation. Also, as explained, there were no other actions that modified the plan designation on the subject site; the OC Plan Designation was not shown only because the land had become part of the Barnes Road ROW.

- As previously explained in e-mails to City of Beaverton staff, the CH/CM Plan Maps did not reflect the ROW vacation that occurred in 1989 and the subject site continued to be depicted on the amended CH/CM Plan maps as ROW; this was not consistent with the vacation and subsequent creation of a discrete parcel. However, the map by itself does not have the affect of amending adopted plan designations; it is a graphic representation; in order for the plan designation to be removed, it would have to be specifically part of an ordinance. Staff research can find no evidence that the plan designation on the subject site was ever specifically amended. It appears to have been a mapping oversight that resulted in the subject site being shown as ROW after the realignment of Barnes Road; this is reflected on all the maps that were adopted subsequent to the realignment.
- The conclusion, based on the above facts, is that the OC designation on the subject site was never specifically removed and the TO designations were not extended far enough north to encompass the property either. It is therefore reasonable to conclude the site remains in the OC District as provided for in the 1983 CH/CM Plan.

If you have further questions, please feel free to contact me.

Gregg Leion, Senior Planner

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**AGENDA BILL**

**Beaverton City Council  
Beaverton, Oregon**

06/11/07

**SUBJECT:** An Ordinance Amending Ordinance No. 4187, Figure III-1, the Comprehensive Plan Land Use Map to Apply the City's Station Community Plan Designation to Two Properties Located in Northern Beaverton; CPA2006-0018  
(SW Baltic Avenue/SW Barnes Road)

**FOR AGENDA OF:** 06/04/07 **BILL NO:** 07115

**Mayor's Approval:** *L. DeBodder*

**DEPARTMENT OF ORIGIN:** CDD *SB*

**DATE SUBMITTED:** 05/25/07

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

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

- EXHIBITS:**
1. Proposed Ordinance with Exhibit A: Pages 1-2
  2. Staff Reports: Pages 3-36
  3. Letter from Washington County Senior Planner Greg Leion: Pages 37-38
  4. Planning Commission Final Order No. 1964: Page 39-41

**BUDGET IMPACT**

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

This proposal is to apply the City's Station Community (SC) Comprehensive Plan designation to two parcels annexed to the City in 1998.

At the time the subject site was annexed, it was within the Barnes Road right-of-way, and as a result did not appear on the City or County parcel maps. In 1997 Washington County adopted Ordinance No. 484 which amended the Cedar Hills-Cedar Mill Community Plan and assigned transit oriented plan designations to properties throughout the vicinity. However, because the site was not shown as property at the time, no zoning was assigned. The area was annexed in 1998. In 2002 the Oregon Department of Transportation (ODOT) declared that the site was excess property, established two parcels, and sold them to the owner of the abutting property. The properties subsequently appeared on the City's maps without land use designations. Without an apparent pre-existing County plan designation, the City needed to exercise discretion in interpreting the Beaverton-Washington County Urban Planning Area Agreement (UPAA) to determine the appropriate plan and zoning map designations for the properties. Staff, therefore, proposed that the City apply a land use designation reflective of the County's Station Community planning for the area.

County staff recently made a determination that the site had been assigned Washington County's Office Commercial (OC) designation in 1983, before it was acquired by ODOT, and that this zoning is still in effect. This determination makes it possible for staff to use a non-discretionary annexation related process in applying appropriate zoning to the properties. Staff, therefore, withdrew the zoning segment of the initial proposal since the UPAA specifies that the City must apply its Office Commercial Zoning Map designation to properties designated OC by the County. However, because the City no longer has the Comprehensive Plan Land Use Map designation specified in the UPAA corresponding to the County's OC designation, staff is proceeding with this proposal to apply the City's Station Community plan designation to the properties.

**INFORMATION FOR CONSIDERATION:**

This ordinance makes the appropriate changes to Ordinance No. 4187, Figure III-1, the Comprehensive Plan Land Use Map to implement CPA2007-0007. The Planning Commission unanimously approved the proposal at their May 2, 2007 meeting.

**RECOMMENDED ACTION:**

~~First Reading~~

Second Reading and Passage

ORDINANCE NO. 4439

AN ORDINANCE AMENDING ORDINANCE NO. 4187, FIGURE III-1, THE COMPREHENSIVE PLAN LAND USE MAP FOR TWO PROPERTIES LOCATED IN NORTHERN BEAVERTON; CPA2006-0018

**WHEREAS,** the site of the properties was annexed to the City of Beaverton through Boundary Commission Ordinance 3978, in 1998, granting the City authority to apply Beaverton's Comprehensive Land Use and Zoning Map designations and related Development Code standards to the properties after they were created from excess property by the Oregon Department of Transportation in 2002; and

**WHEREAS,** the Planning Commission held a public hearing on May 2, 2007, to consider CPA2006-0018, consider comments, and take testimony; and

**WHEREAS,** on May 2, 2007, the Planning Commission recommended approval of the application based upon the Staff Report dated February 25, 2007 and Supplemental Staff Report dated May 2, 2007, incorporated herein by reference; and

**WHEREAS,** Final Order No. 1964, was prepared memorializing the Planning Commission's decision, and no appeal therefrom was submitted; now, therefore

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

**Section 1.** Ordinance No. 4187, the Comprehensive Plan Land Use Map (Figure III-1) is amended to designate the subject properties Station Community (SC) as shown on Exhibit "A".

First reading this 4th day of June, 2007.

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

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

ATTEST:

APPROVED:

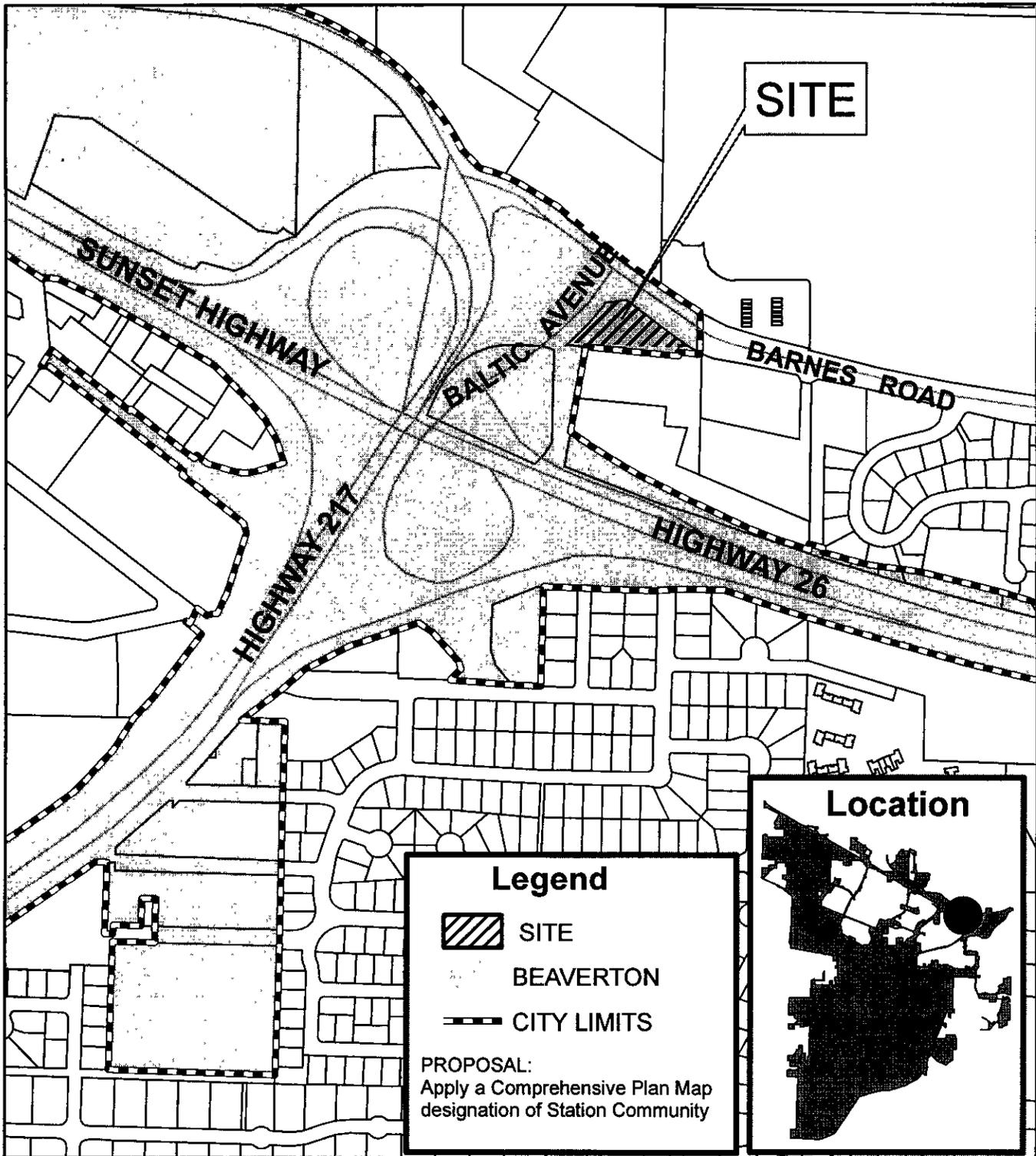
\_\_\_\_\_  
SUE NELSON, City Recorder

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

# VICINITY MAP

ORDINANCE NO.  
4439

EXHIBIT A



City of Beaverton

## Baltic Ave / Barnes Rd

COMMUNITY DEVELOPMENT DEPARTMENT  
Planning Services Division

12/15/06

1S102DC05300  
1S102DC04304



CPA2006-0018

**AGENDA BILL**

**Beaverton City Council  
Beaverton, Oregon**

06/11/07

**SUBJECT:** An Ordinance Amending Ordinance No. 4187, Figure III-1, the Comprehensive Plan Land Use Map to Apply a City Plan Designation to 315 Properties, Alter Figures 6.4, 6.5, 6.7, 6.12, and Table 6.6 of the Comprehensive Plan to Designate Future street alignments, and amend Ordinance No. 2050, the Zoning Map to Apply City Zoning to 302 Properties Located in the Elmonica / Merlo Light Rail Station Community Area; CPA2007-0007/ZMA 2007-0006

**FOR AGENDA OF:** ~~06/11/07~~ **BILL NO:** 07116

**Mayor's Approval:** *[Signature]*

**DEPARTMENT OF ORIGIN:** CDD *[Signature]*

**DATE SUBMITTED:** 05/25/07

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

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

- EXHIBITS:**
1. Proposed Ordinance and Exhibits A-F: Pages 1-7
  2. Staff Reports: Pages 8-146
  3. Planning Commission Final Order No. 1954: Pages 147-150

**BUDGET IMPACT**

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

The proposal is to apply the City's Station Community (SC) Comprehensive Plan Land Use Map designation to 315 parcels and apply the City's Station Area – Medium Density Residential (SA-MDR) and Station Community – High Density Residential (SC-HDR) zones to 302 parcels annexed to the City through Ordinance No. 4338 in 2005. Additionally, the proposal is to adopt Washington County planning for existing and future street alignments in the area by amending Figures 6.4 (Functional Classification Map), 6.5 (Street Improvement Master Plan Map), 6.7 (Transportation System Plan Local Connectivity Map – Index), 6.12 (Transportation System Plan Local Connectivity Map), and Table 6.6 (Local Connectivity Map Recommendations on Potential Connections) in Volume One, Chapter Six of the City's Comprehensive Plan. Staff recommended partial denial of the proposal involving the rezone of 11 properties after a finding that possible traffic impacts associated with the rezone could not be assessed without conducting a comprehensive traffic impact analysis for the area. Staff recommended instead that the decision to rezone these properties be postponed until the City is able to consider amendments to the City's multiple use zoning districts through the upcoming update of Chapter 20 of the Development Code.

The Planning Commission unanimously supported the staff recommendation at their April 25, 2007 meeting. Written testimony was received from an attorney representing the Costco Corporation recommending denial of the proposed amendments citing unresolved annexation issues. Staff discussed the objections with the Costco representative to address concerns, and subsequent to the Planning Commission decision, no appeal was filed.

**INFORMATION FOR CONSIDERATION:**

This ordinance makes the appropriate changes to Ordinance No. 4187, Figure III-1, the Comprehensive Plan Land Use Map, Chapter Six of the Comprehensive Plan and Ordinance No. 2050, the Zoning Map to implement Planning Commission Final Order No. 1954.

**RECOMMENDED ACTION:**

~~First Reading~~ Second Reading and Passage

**ORDINANCE NO. 4440**

AN ORDINANCE AMENDING ORDINANCE NO. 4187, FIGURE III-1, THE COMPREHENSIVE PLAN LAND USE MAP FOR 315 PROPERTIES, AMENDING CHAPTER SIX OF THE COMPREHENSIVE PLAN TO ADOPT COUNTY PLANNED STREET ALIGNMENTS, AND AMENDING ORDINANCE NO. 2050 THE ZONING MAP FOR 302 PROPERTIES LOCATED IN THE ELMONICA / MERLO LIGHT RAIL STATION COMMUNITY AREA; CPA2007-0007/ZMA2007-0006

**WHEREAS,** the properties were annexed to the City of Beaverton through Ordinance No. 4338, in 2005, granting the City authority to apply Beaverton's Comprehensive Land Use and Zoning Map designations and related Development Code standards to the properties; and

**WHEREAS,** the Planning Commission held a public hearing on April 25, 2007 to take testimony and deliberate on CPA2007-0007/ZMA2007-0006; and

**WHEREAS,** on April 25, 2007, the Planning Commission recommended approval of CPA2007-0007 and partial approval and partial denial of ZMA2007-0006 based upon the Staff Report dated April 16, 2007 and Supplemental Staff Report dated April 25 2007, incorporated herein by reference; and

**WHEREAS,** Final Order #1954, was prepared memorializing the Planning Commission's decision, and no appeal therefrom was submitted; now, therefore

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

- Section 1.** Ordinance No. 4187, the Comprehensive Plan Land Use Map (Figure III-1) is amended to designate the subject properties Station Community (SC) as shown on Exhibit "A".
- Section 2.** Ordinance No. 2050, the Zoning Map, is amended to designate the subject properties Station Area – Medium Density Residential (SA-MDR) and Station Community – High Density Residential (SC-HDR) as shown on Exhibit "A"
- Section 3.** Ordinance No. 4187, the Comprehensive Plan is amended to replace Figures 6.4, 6.5, 6.7, 6.12, and Table 6.6 with revisions as shown on Exhibits "B, C, D, E, and F."

First reading this 4th day of June, 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



Location

## LEGEND

### PROPOSED AMENDMENTS TO BEAVERTON'S COMPREHENSIVE LAND USE MAP AND ZONING MAP

CITY LIMITS

From WASHINGTON COUNTY TO: R18-24

To CITY STATION COMMUNITY (SC) LAND USE DESIGNATION and SA-MDR ZONING

From WASHINGTON COUNTY TO: R24-40

To CITY STATION COMMUNITY (SC) LAND USE DESIGNATION and SC-HDR ZONING

From WASHINGTON COUNTY TO: RC

To CITY STATION COMMUNITY (SC) LAND USE DESIGNATION. NO ZONE CHANGE

From WASHINGTON COUNTY TO: BUS

To CITY STATION COMMUNITY (SC) LAND USE DESIGNATION. NO ZONE CHANGE



CITY OF BEAVERTON

**CPA2007-0007/ ZMA2007-0006**

**COMMUNITY DEVELOPMENT DEPARTMENT  
Planning Services Division**

1/2/07

Tax Lot #  
**MULTIPLE**

N



SW BASELINE AVE/  
SW JENKINS RD

**AGENDA BILL**

**Beaverton City Council  
Beaverton, Oregon**

06/11/07

**SUBJECT:** An Ordinance Amending Ordinance No. 2050, the Development Code to Modify Section 60.05.55.4, the Merlo Station Community – Major Pedestrian Route Map to Apply Additional Route Designations and Rename the Code Section; TA2007-0003

**FOR AGENDA OF:** ~~06/04/07~~ **BILL NO:** 07117

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

**DEPARTMENT OF ORIGIN:** CDD *CS*

**DATE SUBMITTED:** 05/25/07

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

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

- EXHIBITS:**
1. Proposed Ordinance and Exhibit A: Pages 1-2
  2. Staff Reports: Pages 3-141
  3. Planning Commission Final Order No. 1954: Pages 142-145

**BUDGET IMPACT**

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

The proposal is to replace Section 60.05.55.4 of the Development Code, the Major Pedestrian Route Map for the Merlo Station Community, with a map that modifies an existing major pedestrian route designation, applies new major pedestrian routes to the adjacent area, and renames the Section from "Merlo Station Community" to "Elmonica / Merlo Station Community" to more accurately reflect that area.

The Planning Commission unanimously recommended approval of the proposal at their April 25, 2007 meeting. Written testimony was received from an attorney representing the Costco Corporation recommending denial of the proposed amendments citing unresolved issues related to annexation of the area. Staff discussed the objections with the Costco representative to address concerns, and subsequent to Planning Commission approval, no appeal was filed.

**INFORMATION FOR CONSIDERATION:**

This ordinance makes the appropriate changes to Ordinance No. 2050, the Beaverton Development Code to implement TA2007-0003.

**RECOMMENDED ACTION:**

~~First Reading~~

Second Reading and Passage

ORDINANCE NO. 4441

AN ORDINANCE AMENDING ORDINANCE NO. 2050, SECTION 60.05.55.4, MERLO STATION COMMUNITY – MAJOR PEDESTRIAN ROUTE MAP TO REPLACE THE EXISTING MAP WITH A REVISED MAP, AND RENAME THE SECTION FROM “MERLO STATION COMMUNITY” TO “ELMONICA / MERLO STATION COMMUNITY”; TA2007-0003

**WHEREAS,** the area was annexed to the City of Beaverton through Ordinance No. 4338, in 2005, granting the City authority to apply Beaverton’s Development Code design standards to the properties in the area; and

**WHEREAS,** the Planning Commission held a public hearing on April 25, 2007, to consider TA2007-0003, consider comments, and take testimony; and

**WHEREAS,** on April 25, 2007 , the Planning Commission recommended approval of the application based upon the Staff Report dated April 16, 2007 and Supplemental Staff Report dated April 25, 2007, incorporated herein by reference; and

**WHEREAS,** Final Order No. 1954 was prepared memorializing the Planning Commission’s decision, and no appeal therefrom was submitted; now, therefore

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

**Section 1.** Ordinance No. 2050, the Beaverton Development Code, is amended to replace the existing map with the modified map shown on Exhibit “A”.

First reading this 4th day of June, 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

