



**Staff Report**  
**UPAA Plan and Zoning Methodology**  
**Comprehensive Plan Amendment and Development Code Text Amendment**  
**Planning Commission**

<b>Planning Commission Hearing:</b> .....	<b>January 16, 2019</b>
<b>City Council 1<sup>st</sup> Reading:</b> .....	<b>February 12, 2019</b>
<b>City Council 2<sup>nd</sup> Reading:</b> .....	<b>February 19, 2019</b>
<b>Date of Report:</b> .....	<b>January 9, 2019</b>

**Application No.** CPA2018-0007/TA2018-0003

**Project Name:** UPAA Plan and Zoning Methodology — Comprehensive Plan Amendment and Development Code Text Amendment

**Request/Summary:** This proposal would amend Beaverton's Comprehensive Plan and Development Code to enable a method that the city can use to apply city Comprehensive Plan designations and zoning to property that annexes into the city from unincorporated Washington County. The methodology being proposed is pursuant to an intergovernmental agreement between the City of Beaverton and Washington County. A key provision within the agreement states that "[u]pon annexation, the city shall initiate changes to the Comprehensive Plan land use and zoning designations corresponding as closely as possible to designations already adopted by the County."

**Applicant:** City of Beaverton

**Review Criteria:** Comprehensive Plan Section 1.5.1. and Development Code Section 40.85.15.1.C

**Staff Reviewer:** Jeff Salvon, AICP

**RECOMMENDATION:** Staff recommends the Planning Commission conduct a public hearing, review all findings and evidence available in the public record, and convey a recommendation that the City Council to adopt an ordinance implementing the amendments proposed.

## 1. BACKGROUND

### Role of the Urban Planning Area Agreement (UPAA)

Over the past 30 years, the methodology that the city has used to apply its Comprehensive Plan designations and zoning districts to property annexing into the city was a component of the Washington County – Beaverton Urban Planning Area Agreement (UPAA) adopted in 1988. This agreement contained a table of City-County Land Use Designation Equivalents that the city relied upon to apply city plan and zoning designations when annexation occurs.

The agreement called for transition in land use designations to be “orderly, logical and based upon a mutually agreed upon plan.” It further stated, “Upon annexation, the city agrees to convert county plan and zoning designations to city plan and zoning designations which most closely approximate the density, use provisions and standards of the county designations.”

Decisions based upon the 1988 agreement where Exhibit B showed one city Comprehensive Plan designation and one city zoning district corresponding to a County land use designation allowed the city to apply annexation-related plan designations and zoning under a Type 1 nondiscretionary process. All other annexation-related Comprehensive Plan designation and zoning district applications used a Type 3 discretionary process.

Over the 30 years since the UPAA was adopted, Beaverton and Washington County have adopted a variety of plan and zone designations that are not addressed within the 1988 agreement. This has limited the usability and relevance of the agreement over the years.

### UPAA update

In October 2018, the Washington County Board of Commissioners approved an update to the UPAA, and the Beaverton City Council approved a resolution authorizing the Mayor to sign the updated UPAA. The new UPAA will allow the city to maintain a one-to-one list that allows Type 1 nondiscretionary application of Comprehensive Plan designations and zoning districts upon annexation and will allow the city to determine how discretionary decisions are made. The text from the UPAA agreement says:

- A. "The CITY and COUNTY agree that when annexation to the CITY takes place, the transition in land use designation from one jurisdiction to another should be orderly, logical and based upon the process in B, below."
- B. "Upon annexation, the CITY shall initiate changes to the Comprehensive Plan land use and zoning designations corresponding as closely as possible to designations already adopted by the COUNTY. The CITY shall maintain a list of COUNTY land use designations and the corresponding CITY comprehensive plan and zoning designations. If a property is subject to a concept, neighborhood, or community plan adopted by the CITY, the CITY shall apply the applicable CITY comprehensive plan and zoning designations to the property upon annexation. In addition, the COUNTY shall advise the CITY of adopted policies that apply to the annexed areas."

The change of approach allows the city to more easily alter the table without having to renegotiate the UPAA. This helps ensure the relevance and usefulness of the method of applying Comprehensive Plan designations and zoning districts upon annexations.

The new UPAA will be effective when it is signed by Beaverton Mayor Denny Doyle, who is expected to sign it the day the Comprehensive Plan and Development Code changes take effect. This date is expected to be March 19.

The intent of the proposed amendments is to implement the terms of the UPAA update.

## **2. COMPREHENSIVE PLAN AMENDMENT (CPA 2018-0007)**

### **Summary of Proposed Comprehensive Plan Text Amendments**

Consistent with an upcoming update to the Washington County – Beaverton Urban Planning Area Agreement (Attachment C), staff is proposing that the City of Beaverton adopt amendments to the city's Comprehensive Plan (Attachment A) and Development Code (Attachment B). The proposed amendments will guide annexation-related Comprehensive Plan map designations and zoning districts for property that annexes into the city.

Proposed amendments to implement the UPAA update affect Chapters 1 and 5 of the Comprehensive Plan. Other minor text amendments not related to the UPAA update are proposed for Chapter 1.

### Nondiscretionary Decisions

The upcoming UPAA update says the city should apply Comprehensive Plan designations and zoning districts “corresponding as closely as possible to designations already adopted by the COUNTY.” To implement the agreement, staff looked for similarities based on the permitted uses, allowed densities, and overall intent of each designation. Where staff determined that a County land use district had only one similar Beaverton Comprehensive Plan designation and only one similar zoning district, a nondiscretionary process was recommended. Table 1 in Section 1.5.2 of the Comprehensive Plan contains a table of annexation-related plan and zone changes not requiring discretion, which means they are Type 1 Comprehensive Plan Amendments and Zoning Map Amendments.

### Discretionary Decisions

Where staff were not able to find that a County land use district had only one similar Beaverton Comprehensive Plan designation and one similar zoning district, applying those designation requires a discretionary process. To establish a method for discretionary review, amendments to the approval criteria contained within both the Comprehensive Plan and the Development Code are proposed.

Some criteria were derived from provisions of the updated UPAA. For example, criteria 1.5.1.E.1 includes a criterion to consider situations in which a community plan, neighborhood plan or concept plan may provide a basis for a decision.

Other criteria are based on staff’s attempt to apply Comprehensive Plan designations and zoning districts “corresponding as closely as possible to designations already adopted by the COUNTY.” The proposed amendments also are based on Planning Commission and City Council input.

For discretionary decisions, the proposed amendments provide the following criteria for the decision-making body to consider:

**Table 1: Summary of decision-making criteria<sup>1</sup>**

<u>Situation</u>	<u>Comprehensive Plan criteria</u>	<u>Zoning district criteria</u>
<u>Subject to city Community, Neighborhood or Concept Plan</u>	<u>Apply Comp. Plan designations in the plan.</u>	<u>Apply zoning districts in the plan.</u>
<u>Washington County institutional Land Use District</u>	<u>Consistent with City Comprehensive Plan policies.</u>	<ul style="list-style-type: none"> <li>• <u>Existing or planned use of the property.</u></li> <li>• <u>Zoning allowed in the Beaverton Comp. Plan designation.</u></li> <li>• <u>Zoning/uses on adjacent properties.</u></li> </ul>
<u>Other situations</u>	<u>Consistent with:</u> <ul style="list-style-type: none"> <li>• <u>City Comprehensive Plan policies.</u></li> <li>• <u>County Land Use Districts.</u></li> </ul>	<ul style="list-style-type: none"> <li>• <u>Zoning allowed in Beaverton Comprehensive Plan designation.</u></li> <li>• <u>Best city zone “matches” to County uses, density and development intensity.</u></li> <li>• <u>Other relevant County and City purpose statements or site development standards.</u></li> </ul>

Other Amendments

The proposal also addresses areas of text containing language that is outdated and no longer applies. This may be due to a name change, change in policy, or recent legal ruling that invalidated the text. These changes are largely custodial in nature and are incorporated to bring the Comprehensive Plan and Development Code up to date.

Changes include:

- Revising Metro and state Department of Land Conservation and Development notice requirements to 35 days prior to the first hearing rather than 45 days to reflect changes to and become consistent with state law and Metro code.

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<sup>1</sup> This table provides a summary. See proposed amendments for the proposed language.

- Updating the Beaverton Committee for Community Involvement (BCCI) title from its previous title of the Committee for Civic Involvement (CCI).
- Removal of the “Historic Landmark, District and Tree designation removal” category. This section is being deleted because State law does not require removal of the designation upon request. The existing “Historic Landmark, District and Tree designation removal” procedure reflects an understanding of ORS 197.772 that was overturned by an Oregon Supreme Court decision in 2016. Those amendments will now be part of the “Statewide Planning Goal 5 Inventory Document Amendments”

### **Comprehensive Plan Amendment Procedures and Approval Criteria**

Section 1.1.1 establishes procedures for city-initiated amendments of the Comprehensive Plan, stating that amendment requests shall be submitted to the Community Development Director for preparation and analysis for a Planning Commission public hearing or City Council consideration. The Planning Commission and City Council have the right to accept, reject or modify any specific request for amendment in accordance with the City’s policies and procedures.

Section 1.3 identifies legislative amendments to the Comprehensive Plan text or map as those having a generalized nature that are initiated by the City, and which apply to an entire land use map category or a large number of individuals or properties, or that establish or modify policy or procedure. Legislative amendments include additions or deletions of text or land use map categories.

Section 1.4.1 establishes the notice requirements for legislative amendments including: inter-agency notice of the initial hearing to the Department of Land Conservation and the Development (DLCD), to Neighborhood Association Committees (NACs) and Beaverton Committee for Community Involvement (BCCI); publication in a newspaper of general circulation; posting in Beaverton City Hall and the Beaverton City Library; and posting on the city’s website.

Notice of a public hearing was sent to all parties specified in Section 1.4.1 and posted in specified locations on Nov. 29 and Nov. 30, 2018. Notice was also published in the Beaverton Valley Times within the required notice period. On Jan. 16, 2019, the Planning Commission will conduct a public hearing and review the staff proposal. Based on the findings of fact contained with the staff report and testimony offered in the public hearing, the Planning Commission will offer a recommendation to the Beaverton City Council to approve or deny the proposal.

**1.5.1 Criteria for Legislative and Quasi-judicial Comprehensive Plan Amendments**

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

Response: Of the 19 Statewide Planning Goals, staff finds that Goal 1 (Citizen Involvement) and Goal 2 (Land Use Planning) are directly relevant to the proposed amendments.

Goal 1 - Citizen Involvement

Goal 1 calls for "the opportunity for citizens to be involved in all phases of the planning process." It requires each city and county to have a citizen involvement program to monitor and encourage public participation in planning.

The Beaverton Citizen Involvement Program adopted by Resolution 2229 in 1980 established a formalized public participation program for the Beaverton Committee for Community Involvement (BCCI) that provides a method by which the committee and other community members can communicate their opinions and inquiries about city matters, including the planning process. Pursuant to Statewide Goal 1, City staff appeared before the BCCI on Dec. 5, 2018, to brief BCCI members on the proposal. The City also conducted work sessions with the Planning Commission and City Council at which time members of the public had the opportunity to provide comments.

Goal 2 – Land Use Planning

Goal 2 requires each local government in Oregon to have and follow a comprehensive land use plan and implementing regulations. Cities and counties must build their comprehensive plans on a factual base and follow their plan when making decisions on appropriate zoning. City and county plans must be consistent with one another. Special district and state agency plans and programs must be coordinated with comprehensive plans

As required by Goal 2, the Land Conservation and Development Commission (LCDC) reviewed both the City of Beaverton and Washington County comprehensive plans for compliance with the goals, and when LCDC found the plans were consistent with the goals, the commission "acknowledged," or approved, the plans.

This amendment is proposed to implement the Washington County – Beaverton Urban Planning Area Agreement. That agreement was originally established pursuant to Goal 2 as a means of ensuring coordination on the part of both jurisdictions and to promote orderly, coordinated annexation of property into the city. Beaverton and Washington County worked to update the agreement to ensure that outdated policies could be modified to reflect current policies and standards on the part of both jurisdictions.

**Finding: Staff finds that the proposed amendments to the Comprehensive Plan are consistent and compatible with applicable Statewide Planning Goals, thereby satisfying Criterion 1.5.1.A.**

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

Response: Of the Titles of the Metro Urban Growth Management Functional Plan (UGMFP Chapter 3.07) staff finds that Title 8 (Compliance Procedures) is directly relevant to the proposed amendments.

Title 8 – Compliance Procedures

Section 3.07.810.A of Metro Title 8 establishes a process for determining whether city or county comprehensive plans and land use regulations substantially comply with requirements of the UGMFP and requires cities to submit proposed comprehensive plan amendments to Metro for their review. Metro requires the city to submit the proposed amendment to Metro at least 35 days before the first evidentiary hearing, which is the Planning Commission hearing. The city provided the notice more than 35 days before the hearing. The city has not received any comments from Metro.

**Finding: Staff finds that the proposed amendments to the Comprehensive Plan are consistent and compatible with applicable Titles of the Metro Urban Growth Management Functional Plan and Regional Transportation Plan , thereby satisfying Criterion 1.5.1.B.**

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



Response: The proposed amendment involves changes to Comprehensive Plan text required to implement an update to the Washington County – Beaverton Urban Planning Area Agreement as described above. As such, it touches upon a variety of issues related to how the city approaches assigning Comprehensive Plan designations and zoning districts for property that annexes into city. Staff finds that the following elements are relevant to the proposal.

#### Amendment Procedures (Chapter 1)

The proposal complies with the procedures and requirements for legislative Comprehensive Plan amendments found in Chapter 1. Pursuant to the notice requirements specified in Section 1.4.1, notice of the initial hearing before the Planning Commission was provided as follows:

- Notice of proposed amendment was mailed to DLCD, Metro, Washington County, CPO 4M, NAC Chairs and the BCCI Chair on November 29, 2018 (at least 45 days before the hearing);
- Notice was posted in the Beaverton Building, the City Library, and on the city website on December 21, 2018, (between 20 and 40 days prior to the hearing); and
- Notice was published in the Beaverton Valley Times on December 27, 2018, (between 20 and 40 days prior to the hearing).

Therefore, the proposal meets the notice requirements for legislative amendments to the Comprehensive Plan.

#### Community Involvement (Chapter 2)

To inform and engage the community, public notices were mailed and posted in high visibility locations, posted on the city's website, and published in the Beaverton Valley Times. In each instance, accessibility opportunities catering to visually impaired, hearing impaired, and persons requiring English translation were offered. In addition to the public notices previously noted, staff conducted various presentations seeking input. They include the following:

- On Dec. 5, 2018, staff arranged for a special meeting with the BCCI.
- On Nov. 13, 2018, staff met with the City Council in a work session.
- On Nov. 28, 2018, staff met with the Planning Commission in a work session

In each meeting staff provided a presentation highlighting the issue and approach that was intended to address the issue. The proposed

amendments were revised as necessary to address public comments. As such, the proposed amendment is consistent with Chapter 2.

**Finding: Staff finds that the proposed amendments to the Comprehensive Plan are consistent and compatible with the Comprehensive Plan and other applicable local plans, thereby satisfying Criterion 1.5.1.C.**

**Criterion: D. If the proposed amendment is to the Land Use Map, there is a demonstrated public need, which cannot be satisfied by other properties that now have the same designation as proposed by the amendment.**

**Response:** The proposal (CPA2018-0007) does not include any changes to the city's Land Use Map.

**Finding: Staff finds that approval criterion 1.5.1.D. is not applicable to this application.**

## **5. Conclusion:**

Based on the facts and findings presented, staff conclude that the proposed text amendments to the Comprehensive Plan text are consistent with all Legislative Comprehensive Plan amendment approval criteria in Section 1.5.1.A. through D.

## **3. DEVELOPMENT CODE AMENDMENT (TA 2018-0003)**

### **Summary of Proposed Development Code Text Amendments**

As noted earlier in this report, amendments to the Development Code are proposed as a means of implementing an update to the UPAA that the city recently negotiated with Washington County. A discussion of what is being proposed is offered in section 1 of this report. In summary, the Development Code changes provide methods by which zoning districts can be applied upon annexation of properties into the city. Criteria are provided for different situations where discretion is involved in the decision. The proposed amendments and associated commentary that explains the amendments are provided in Attachments A and B. The amendments proposed are relevant to Development Code Chapters 10, 40, 50, and 60.

### **Public Comment**

Public notice was provided consistent with Section 50.50 of the Development Code as detailed earlier in this report. As of the date of issuance of this staff report

and recommendation, there were no written comments from the public submitted to the record. Staff have also not received any written comments from Metro, Washington County, or the Oregon Department of Land Conservation and Development (DLCDD) staff.

**Development Code Amendment Procedures and Approval Criteria**

Section 40.85.15.1.C of the Development Code specifies that to approve a Text Amendment application, the decision-making authority shall make findings of fact, based on evidence provided by the applicant, that all of the criteria specified in Section 40.85.15.1.C.1-7 are satisfied. The following are the findings of fact for TA2018-0003:

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

Response: Section 40.85.15.1.A specifies that an application for a text amendment shall be required when there is any proposed change to the Development Code, excluding changes to the zoning map. TA2018-0003 proposes to make changes to Chapters 10, 40, 50, and 60 of the Development Code, as shown in Attachment B.

**FINDING:** Staff finds that approval criterion 40.85.15.1.A has been met.

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

Response: 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 Planning Division, which is a General Fund program, initiated the application. Therefore, the payment of an application fee is not required.

**FINDING:** Staff finds that approval criterion two is not applicable.

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

Response: As noted in earlier in this report Metro Urban Growth Management Functional Plan (UGMFP Chapter 3.07) Title 8 (Compliance Procedures) is directly relevant to the proposed amendments. This criterion was addressed previously in

Section three of this report and noted that the city provided the required notice to Metro more than 35 days in advance of the hearing.

***FINDING: Staff finds that the proposed amendments to the Development Code are consistent and compatible with applicable Titles of the Metro Urban Growth Management Functional Plan.***

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

Response: The Development Code is an implementing mechanism for policies contained within the Comprehensive Plan. The UPAA is included and adopted by reference in the Comprehensive Plan. Because the UPAA update makes changes to how Comprehensive Plan designations and zoning districts should be applied upon annexation, Development Code amendments are necessary to implement the Comprehensive Plan and the UPAA. The proposed amendments are proposed to enhance consistency with the Comprehensive Plan and are consistent with the Comprehensive Plan.

***FINDING: Staff finds that the proposed amendments to the Development Code are consistent with the City's Comprehensive Plan***

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

Response: Staff cannot identify any occurrences in which the proposed amendment is not consistent with the Development Code. The proposed amendments do not create conflicts with other provisions of the Development Code.

***FINDING: Staff finds that the proposed amendments do not create conflicts with other provisions of the Development Code.***

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

Response: Staff has not identified any other applicable City ordinance requirements and regulations that would be affected by the proposed text amendment. Staff also has not identified any City ordinance requirements or regulations that the proposed amendments are inconsistent with. Therefore, staff finds that approval criterion six has been met.

**FINDING:** Staff finds that the proposed amendments are consistent with all applicable City ordinance requirements and regulations.

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

**Response:** Staff have determined that there are no other applications and documents related to the request that will require further City approval.

**FINDING:** Staff finds that approval criterion seven has been met.

### ***Other applicable approval criteria***

As a post-acknowledgement amendment to the City's Development Code, the proposed text amendment is subject to ORS 197.175(1), which requires that the City demonstrate that the proposed text amendment be consistent with the relevant Statewide Planning Goals. Staff have determined that Goals 1 and 2 apply. These criteria was addressed within a previous section of this report.

**FINDING:** Staff finds that this approval criterion has been met.

### **Conclusions:**

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

## **4. Staff Recommendation**

Staff offers the following recommendation for the conduct of the Jan. 16, 2019, public hearing for CPA2018-0007/TA2018-0003 (UPAA Plan and Zoning Methodology Text Amendment):

- A. Conduct the public hearing and receive all public testimony relating to the proposal.

- B. Consider the public testimony and the facts and findings presented in the staff report, deliberate on policy issues and other issues identified by the Commission or the public.
- C. Recommend **APPROVAL** of Comprehensive Plan text amendment and Development Code text amendment applications CPA2018-0007/TA2018-0003 (UPAA Plan and Zoning Methodology Text Amendment) to the City Council.

**Exhibits**

- Attachment A Text of Proposed Changes for CPA2018-0007
- Attachment B Text of Proposed Changes for TA2018-0003
- Attachment C Update to the Washington County – Beaverton Urban Planning Area Agreement