



## Staff Report

STAFF REPORT DATE: October 16, 2019

HEARING DATE: October 23, 2019

TO: Interested Parties

FROM: Lauren Russell, AICP, Associate Planner

PROPOSAL: **595 SW 150<sup>th</sup> Avenue Comprehensive Plan and Zoning Map Amendments (CPA2019-0004 / ZMA2019-0005)**

SUMMARY: The City of Beaverton proposes to amend the City Comprehensive Plan Land Use Map and the Zoning Map to apply city land use and zoning designations to one parcel that is annexing into the City of Beaverton. The property is currently designated Washington County General Commercial (GC).

The proposed amendment to the Land Use Map (CPA2019-0004) would apply the City's Neighborhood Centers land use designation. The proposed amendment to the Zoning Map (ZMA2019-0005) would apply the City's Neighborhood Service (NS) zone. Uses that could be allowed with the Neighborhood Centers designation and NS zone include Minor Animal Care, Eating and Drinking Establishments, Financial Institutions, Live/Work Uses, Office, Retail Trade, Service Business/Professional Services, Educational Institutions, and Recreational Facilities.

LOCATION: The site is at 595 SW 150<sup>th</sup> Avenue and is identified as tax lot 01100 on Washington County Tax Assessor tax map 1S105AB.

TOTAL AREA: Approximately 0.81 acres

OWNER: TTT Ranch IV, LLC  
Joe Tokatly  
2237 Main Street, Suite 1  
Springfield, OR 97477

APPLICANT: City of Beaverton  
12725 SW Millikan Way  
Beaverton, OR 97005

APPROVAL CRITERIA: Comprehensive Plan Section 1.5.1.B and Development Code Section 40.97.15.4.C

DECISION: **Recommendation of APPROVAL of 595 SW 150<sup>th</sup> Avenue Comprehensive Plan and Zoning Map Amendments CPA2019-0004 / ZMA2019-0005**

Planning Commission approval would be forwarded as a recommendation to City Council to adopt an ordinance applying the Neighborhood Centers land use designation and the Neighborhood Service zoning district to the subject parcel, effective 30 days after adoption of the proposed ordinance or upon the effective date of the related annexation, whichever occurs later.

## BACKGROUND

CPA2019-0004 proposes an amendment of the Land Use Map and ZMA2019-0005 proposes an amendment of the Zoning Map. The amendments are requested to apply a City land use designation and zoning to a parcel being annexed into the City through a separate but concurrent process. The parcel currently carries Washington County's General Commercial designation, as depicted on the County's Sunset West Community Plan Map.

The Washington County-City of Beaverton Urban Planning Area Agreement (UPAA) states in Section V.B that:

*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 upon annexation. In addition, the COUNTY shall advise the CITY of adopted policies that apply to the annexed area.*

Table 1 in Section 1.5.2 of the Comprehensive Plan was adopted pursuant to UPAA Section V, which requires the City to maintain a list of corresponding County-to-City plan and zone designations where the decision to apply a specific Land Use Map designation is made under land use standards that do not require interpretation or the exercise of policy or legal judgment. Comprehensive Plan Section 1.5.2.A states that County land use districts not consistent with Table 1 and associated footnotes shown shall be subject to a Type 3 discretionary process. Table 1 does not contain any County commercial land use districts. Therefore, a discretionary process is required to determine the corresponding City plan and zone designations for the subject parcel zoned County General Commercial.

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### **Exhibits**

#### **Exhibit 1. Materials Submitted by Staff**

Exhibit 1.1 Vicinity Map (page SR-5)

#### **Exhibit 2. Public Comment**

Exhibit 2.1 Email from David West, received September 30, 2019

Exhibit 2.2 Letter from Joe Tokatly, received October 9, 2019



CPA2019-0004  
ANALYSIS AND FINDINGS FOR  
COMPREHENSIVE PLAN MAP AMENDMENT APPROVAL

**Section 1.3 Amendment Procedural Categories**

*Quasi-Judicial Amendments are amendments to a Land Use Map designation as it applies to specific parcels or that applies to a small number of individuals or properties or locations.*

**FINDING:**

The proposed amendment is to apply a City land use designation to a specific parcel that is being annexed into the City through a separate but concurrent process.

**Therefore, staff finds that the proposal satisfies Comprehensive Plan Section 1.3. for quasi-judicial Comprehensive Plan Amendments.**

**Section 1.4.2 Quasi-Judicial Amendments**

**A. Notice of the initial hearing shall be provided as follows:**

- 1. By mailing the required inter-agency DLCD notice to DLCD, Metro, and Washington County at least thirty-five (35) calendar days prior to the initial hearing;**
- 2. By mailing the required inter-agency DLCD notice to the chair(s) of any City-recognized Neighborhood Association Committee (NAC) or County-recognized Citizen Participation Organization whose boundaries include the property for which the change is contemplated, and the Chair of the Beaverton Committee for Community Involvement at least thirty-five (35) calendar days prior to the initial hearing;**
- 3. By publication of a notice with the information specified in 1.4.2.B.1., 2., 3., and 4. in a newspaper of general circulation within the City;**
- 4. By posting notice with the information specified in 1.4.2.B. at Beaverton City Hall and the Beaverton City Library;**
- 5. By mailing notice with the information specified in 1.4.2.B. to property owners included in the proposed change area, if applicable, and within an area enclosed by lines parallel to and 500 feet from the exterior boundary of the property for which the change is contemplated; and**
- 6. By placing notice with the information specified in 1.4.2.B. on the City's website.**

**Notice required by Oregon Revised Statutes (ORS 227.186, also known as Ballot Measure 56) shall be provided, when applicable. ORS 227.186(6) specifies notice requirements for city-initiated amendments related to Periodic Review.**

**Hearing notices required by numbers 3. through 6. of this subsection shall be given**

***not less than twenty (20) and not more than forty (40) calendar days prior to the date of the initial hearing.***

**FINDING:**

Notice of the initial hearing for the proposed discretionary map amendment was provided to DLCD on September 18, 2019, which was 35 days prior to the initial hearing. A copy of the DLCD notice was mailed that same day to Metro, Washington County, the Chair of the Five Oaks/Triple Creek NAC, the Chair of Community Participation Organization 1, and the Chair of the Beaverton Committee for Community Involvement. Notice was published in the Beaverton Valley Times on September 26, 2019, which was 27 days prior to the initial hearing. Notice was mailed to the required parties, posted at City Hall and the City Library, and placed on the City's website on September 26, 2019, which was 27 days prior to the initial hearing.

**B. *Notice required by subsection 1.4.2.A.4. and 5. shall:***

- 1. State the date, time, and location of the hearing, and the hearings body;***
- 2. Explain the nature of the application and the use or uses, which could be authorized;***
- 3. Include the case file number, title, or both of the proposed ordinance to be considered at the time of the hearing;***
- 4. List the applicable criteria from the Comprehensive Plan by section number that apply to the application at issue;***
- 5. State that a copy of the application, all documents and evidence submitted by or on behalf of the applicant, and applicable criteria are available for inspection at no cost and will be provided at reasonable cost and include the days, times, and location where available for inspection;***
- 6. State that a copy of the staff report will be available for inspection at no cost at least seven (7) calendar days prior to the hearing and will be provided at reasonable cost and include the days, times, and location where available for inspection;***
- 7. Include the name and phone number of the City staff person assigned to the application from whom additional information may be obtained;***
- 8. State that failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the Planning Commission an opportunity to respond to the issue precludes appeal to the City Council and the Land Use Board of Appeals based on that issue;***
- 9. Include a general explanation of the requirements for submission of testimony and procedure for conduct of the hearing; and***
- 10. Set forth the street address or other easily understood geographical reference to the subject property, and include a map, if applicable.***

FINDING:

All notices for the proposed discretionary map amendment contained the information listed in subsection 1.4.2.B, above.

Therefore, staff finds that the proposal satisfies Comprehensive Plan Section 1.4.2 for quasi-judicial Comprehensive Plan Amendments.

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

***B. The following criteria apply to all annexation-related quasi-judicial Comprehensive Plan Amendments.***

- 1. In applying the most appropriate Comprehensive Plan designation, the decision-making authority shall use the relevant criteria below.***
  - a. If the property is or properties are subject to a Beaverton-approved Community Plan, Neighborhood Plan, or Concept Plan approved consistent with Section 1.5.1.A. wherein zoning is specified, the decision-making authority shall apply the specified Comprehensive Plan designation or designations; or***
  - b. If the Washington County designation is Institutional, the decision-making authority shall find that the designation is consistent with Beaverton Comprehensive Plan policies in the Land Use Element; or***
  - c. If neither Section 1.5.1.B.1.a. or b. apply, the decision-making authority shall find that the designation is consistent with one or more of the following criteria in applying a Beaverton Comprehensive Plan designation:***
    - i. City Comprehensive Plan policies in the Land Use Element***
    - ii. Consistency with the County Land Use Districts.***

FINDING:

The subject property is not subject to a Beaverton-approved Community Plan, Neighborhood Plan, or Concept Plan approved consistent with Section 1.5.1.A wherein zoning is specified. The subject property does not carry the Washington County Institutional designation. Therefore, the decision-making authority shall find that the designation is consistent with City Comprehensive Plan policies in the Land Use Element or is consistent with the County Land Use Districts.

Section 3.7 of the Comprehensive Plan, Commercial Centers and Corridors, contains three goals that are specific to each type of Commercial Centers and Corridors: Regional Commercial, Community Commercial, and Neighborhood Centers.

Goal 3.7.2, Regional Commercial, is to provide suitable locations for commercial uses that serve the broader region and require large sites, significant access, and visibility. Policy 3.7.2.c states that the Regional Commercial designation may be applied in areas along

highways and major arterials with high visibility and auto accessibility. The subject property is not a large site and it does not have significant access and visibility. It fronts SW 150<sup>th</sup> Avenue, which is classified as a neighborhood route in the Transportation System Plan (TSP). Neighborhood routes provide connectivity to collectors and arterials. The subject site is approximately 140 feet north of SW Walker Road, which is classified as an arterial in the TSP; but because the subject site does not have any frontage on SW Walker Road and the abutting and adjacent corner properties that do have frontage on SW Walker Road are designated Neighborhood Centers, the Regional Commercial designation is not the most consistent with Comprehensive Plan policies for the subject site. Additionally, the subject site is surrounded by properties designated high density residential on three sides and none of the Regional Commercial policies discuss compatibility with nearby residential properties.

Goal 3.7.3, Community Commercial, is to provide for commercial services that serve the surrounding community, with limited auto-oriented uses. Policy 3.7.3.f states that the Community Commercial designation may be applied in areas along arterial roads with relatively high visibility and auto accessibility that also provide pedestrian, bicycle, and/or transit connections to the surrounding community. As stated above, the subject site does not have any frontage on SW Walker Road, an arterial, and the abutting and adjacent corner properties that do have frontage on SW Walker Road are designated Neighborhood Centers, so the Community Commercial designation is not the most consistent with Comprehensive Plan policies for the subject site. Additionally, while Policy 3.7.3.d recognizes the need to address potential issues related to compatibility of commercial uses with adjacent housing, the policies do not use adjacent residential zones as a locational criterion.

Goal 3.7.4, Neighborhood Centers, is to provide opportunities for small-scale commercial development that serves adjacent neighborhoods. Policy 3.7.4.f states that the Neighborhood Centers designation may be applied in areas that include existing small-scale commercial and neighborhood-serving uses, provide a transition between more intensive commercial or mixed use designations and Neighborhood Residential designations, or are along collector or arterial roads adjacent to Medium and/or High Density Neighborhoods that lack commercial services. The subject site is in an area that includes existing small-scale commercial uses. The site abuts a property designated Neighborhood Centers to the south; abuts properties designated Washington County R-15, a multi-dwelling residential zone, to the north and west; and is across SW 150<sup>th</sup> Avenue from properties designated Medium Density Residential, one of the Neighborhood Residential designations.

For these reasons, staff finds that applying the Neighborhood Centers land use designation is consistent with City Comprehensive Plan policies in the Land Use Element.

The Neighborhood Centers land use designation is also consistent with Washington County's General Commercial district because the County General Commercial designation allows a range of commercial uses and the Neighborhood Centers land use designation includes a zoning district, Neighborhood Service, which allows a range of commercial uses. It remains consistent even though the General Commercial designation allows for more intensive commercial uses than are allowable in the commercial zone that is implemented by the Neighborhood Centers land use designation. As described above, the Neighborhood Centers land use designation also is the most appropriate for the site size and context.

**Therefore, staff finds that the proposal satisfies Comprehensive Plan Section 1.5.1.B. for annexation-related quasi-judicial Comprehensive Plan Amendments.**

### **Other Applicable Approval Criteria**

As a post-acknowledgement plan amendment to the City's Comprehensive Plan Land Use Map, the proposed comprehensive plan map amendment is subject to ORS 197.175(1), which requires the City to demonstrate that the proposal is consistent with the relevant Statewide Planning Goals. Staff has determined that Goal 2 is applicable.

***Goal 2: Land Use Planning – To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.***

Beaverton's Comprehensive Plan contains procedures for applying Comprehensive Plan land use designations and policies regarding use of land in the Plan's Land Use Element. The Comprehensive Plan has been found to be consistent with the Metro Urban Growth Management Functional Plan and Oregon's Statewide Planning Goals and it has been acknowledged by the Land Conservation and Development Commission.

Changes to the Comprehensive Plan Land Use Map require a Type 3 process, which includes noticing and a comment period prior to an initial public hearing before the Planning Commission. The hearing is open to the public and testimony, if any, will be received. At the conclusion of the hearing, the Planning Commission can continue the hearing to a later date, keep the record open for more information, or make a recommendation to the City Council, which is the ultimate decision-making authority for annexation-related discretionary Comprehensive Plan amendments.

Consistent with procedures outlined in the Beaverton Comprehensive Plan, notice of the initial hearing for the proposed discretionary map amendment was provided to DLCD on September 18, 2019, which was 35 days prior to the initial hearing. A copy of the DLCD notice was mailed that same day to Metro, Washington County, the Chair of the Five Oaks/Triple Creek NAC, the Chair of Community Participation Organization 1, and the Chair of the Beaverton Committee for Community Involvement. Notice was published in the Beaverton Valley Times on September 26, 2019, which was 27 days prior to the initial hearing. Notice was mailed to the required parties, posted at City Hall and the City Library, and placed on the City's website on September 26, 2019, which was 27 days prior to the initial hearing. Staff finds that the City has provided adequate notice and opportunity for public involvement for the proposed comprehensive plan amendment and public hearing.

Copies of the staff report and exhibits are made available to the public at least seven days prior to the Planning Commission hearing for review. Prior to the adoption of the

Comprehensive Plan amendment, the City Council will consider all the evidence in the record, including any public testimony provided at the Planning Commission hearing and any recommended changes to the proposal. Staff finds that the proposed Comprehensive Plan amendment has followed the established process and framework. Furthermore, staff finds that the findings contained within Attachment A of this report establish an adequate factual base for any decision on this proposal.

**For these reasons, staff finds that the proposal is consistent with all relevant Statewide Planning Goals.**

**ZMA2019-0005  
ANALYSIS AND FINDINGS FOR  
ZONING MAP AMENDMENT APPROVAL**

**Section 40.97.15.4.C Discretionary Annexation-Related Zoning Map Amendment Approval Criteria**

*In order to approve a 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 the following criteria are satisfied:*

- 1. The proposal satisfies the threshold requirements for a Discretionary Annexation-Related Zoning Map Amendment application.**

FINDING:

The proposal meets threshold:

1. *The change of zoning to a City zoning designation as a result of annexation of land into the City consistent with 10.40.3.B.*

**Therefore, staff finds that the proposal meets the approval criterion.**

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

FINDING:

There is no fee associated with a Discretionary Annexation-Related Zoning Map Amendment application.

**Therefore, staff finds that the proposal meets the approval criterion.**

- 3. In applying the most appropriate zoning, the decision-making authority shall use the relevant criteria below.**
  - a. If the property is or properties are subject to a Beaverton-approved Community Plan, Neighborhood Plan, or Concept Plan wherein the zoning is specified, the decision-making authority shall apply the specified zoning district or districts.**
  - b. If the Washington County designation is Institutional, the decision-making authority shall at its discretion consider one or more of the following criteria in applying a Beaverton zoning district:**
    - i. Existing or planned use of the property.**
    - ii. Zoning allowed in the most appropriate Beaverton Comprehensive Plan designation.**
    - iii. Zoning on adjacent properties.**
    - iv. Uses on adjacent properties.**
  - c. If neither Section 40.97.15.C.3.a. nor b. apply, the decision-making authority shall consider the following criteria:**
    - i. City zoning districts allowed by the City Comprehensive Plan designation**

- to be applied to the property or properties.*
- ii. How closely the proposed City zone corresponds to the County designation in allowed uses, minimum and/or maximum density, and/or floor area ratio minimum and/or maximum.*
- iii. Other relevant County and City zone/designation purpose statements or site development standards as determined by the decision-making body.*

**FINDING:**

The subject property is not subject to a Beaverton-approved Community Plan, Neighborhood Plan, or Concept Plan wherein zoning is specified. The subject property does not carry the Washington County Institutional designation. Therefore, the decision-making authority shall consider the criteria in Section 40.97.15.C.3.c.

Staff has proposed that the Neighborhood Centers land use designation be applied to the subject site. According to the Comprehensive Plan and Zoning District Matrix found in Chapter 3 of the Comprehensive Plan, the Neighborhood Centers comprehensive plan designation has three implementing zoning districts:

- Neighborhood Service,
- R2 Residential Urban Medium Density, and
- R4 Residential Urban Medium Density.

Of the three implementing zoning districts, the Neighborhood Service zone most closely corresponds to the Washington County General Commercial designation. The Neighborhood Service zone is the only implementing zone that allows commercial uses also allowed in the County’s General Commercial designation. The following table summarizes the commercial uses that are Permitted (P), allowed with a Conditional Use (C), or Prohibited (N) in the Neighborhood Service zone compared to the commercial uses permitted through Type I or II procedures (P) or prohibited (N) in the General Commercial designation.

<b>Use</b>	<b>Neighborhood Service zone</b>	<b>General Commercial designation</b>
Animal Care, Major	C	P
Animal Care, Minor	P	P
Hospitals	C	C
Childcare Facilities	C	N
Eating and Drinking Establishments	P	P
Financial Institutions	P	N
Live/Work Uses	P	N
Office	P	N
Parking as a Principal Use	N	P
Retail Trade	P	P
Marijuana Dispensary	N	P
Service Business / Professional Services	P	P
Self-Storage Facilities	N	P
Storage Yards	N	P

Use	Neighborhood Service zone	General Commercial designation
Temporary Living Quarters	N	P
Automotive Service, Major	C	P
Automotive Service, Minor	C	P
Bulk Fuel Dealerships	C	P
Vehicle Sales or Lease	N	P
Vehicle Rental	N	P
Drive-Up Window Facilities	P	P
Food Cart Pods	P	P

Where the allowed uses differ between the Neighborhood Service zone and General Commercial designation, the uses allowed in the Neighborhood Service zone are more consistent with the size and location of the subject property.

The Neighborhood Service zone does not have a minimum or maximum density or floor area ratio. The General Commercial designation also does not have density or floor area ratio minimums or maximums.

The maximum building height in the General Commercial designation is 65 feet while the maximum building height in the Neighborhood Service zone is 35 feet. It is important to note that the maximum height of the other three Beaverton commercial zones is usually 60 feet, except that the maximum building height of any building within 100 feet of a residentially zoned property is 35 feet, which matches the height standard of the Neighborhood Service zone. The vast majority of the subject site is within 100 feet of a residentially zoned property, so it would be difficult to construct a building on the subject site that would not be limited to 35 feet high.

The purpose statement of the Neighborhood Service zone is to provide minimal areas of service and convenience uses to meet the frequent needs of nearby residents. The purpose statement of the General Commercial designation is to provide for commercial land to serve the traveling public and to provide for commercial uses which require large sites and a high degree of visibility. While the purpose statement of the General Commercial designation is more intensive than that of the Neighborhood Service zone, both emphasize commercial uses, which are only allowed in Neighborhood Service zones and not the R2 or R4 zones that also implement the Neighborhood Centers land use.

For these reasons, staff finds that the most appropriate zone for the subject site is Neighborhood Service.

**Therefore, staff finds that the proposal meets the approval criterion.**

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

**FINDING:**

The Zoning Map Amendment application is being reviewed concurrently with the Comprehensive Plan Map Amendment application and separate annexation petition. The

request will not require additional applications or documents.

**Therefore, staff finds that the proposal meets the approval criterion.**

**CONCLUSION**

Based on the facts and findings presented, staff concludes that amending the Comprehensive Plan Land Use Map to apply the Neighborhood Centers land use designation and amending the Zoning Map to apply the Neighborhood Service zoning district is appropriate for the subject property. Therefore, staff recommends that Planning Commission approve the proposed Comprehensive Plan and Zoning Map Amendments.