

STAFF REPORT

Report date: December 1, 2022

Application/project name: CPA2022-0010 ZMA2022-0009 140-170 SW 137th Ave

Application Numbers: CPA2022-0010 / ZMA2022-0009

Proposal: Amend the City Comprehensive Plan Land Use Map and Zoning Map for Two Tax Lots at 140 and 170 SW 137th Avenue and a Portion of the Abutting Right of Way of SW 137th Avenue.

Proposal location: 140 and 170 SW 137th Avenue. Tax lots 7800 and 7700 of Washington County Tax Assessor's Map 1S104BA.

Petitioner (140 and 170 SW 137th Ave):
Ranya Edupuganti, Sriram Edupuganti,
Jalaja Uppili, and Sudarsan Uppili

Applicant: City of Beaverton

Recommendation: APPROVAL of
CPA2022-0010 / ZMA2022-0009 140-
170 SW 137th Avenue

Contact information:

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Property owner: Nedion Properties, LLC
4011 NW Riggs Drive
Portland, OR 97229



Existing Conditions

Zoning: Washington County R-5

Site conditions: Existing uses on the subject properties include a single-detached residence and an accessory structure on each tax lot.

Site Size: 0.44 acres

Location: 140 and 170 137th Avenue and abutting right of way of SW 137th Avenue

Neighborhood Association Committee: Five Oaks/Triple Creek

Table 1: Surrounding Uses

Direction	Zoning	Uses
North	Washington County R-5	Single-Detached Residential
South	Washington County R-5	Single-Detached Residential
East:	City of Beaverton Residential Mixed C (RMC)	Vacant
West:	Washington County R-5	Single-Detached Residential

Application Information

Table 2: Application Summaries

Application	Application Type	Proposal Summary	Approval Criteria Location
CPA2022-0010	Comprehensive Plan Map Amendment	Amend the Comprehensive Plan Map to apply the Lower Density Neighborhoods designation to two parcels being annexed to the city and a portion of abutting right of way.	Table 1 in Section 1.5.2 of the City of Beaverton Comprehensive Plan
ZMA2022-0009	Zoning Map Amendment	Amend the Zoning Map to apply the RMC Residential Mixed C zoning designation to two parcels being annexed to the city and a portion of abutting right of way.	Section 40.97.15.3 of the Beaverton Development Code.

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CPA/ZMA Background and Summary

On June 7, 2022, the owners of 140 and 170 SW 137th Avenue petitioned the city for annexation (ANX2022-0005). In this separate but concurrent process, the city proposes to amend the Comprehensive Plan Land Use Map (CPA2022-0010) and the Beaverton Development Code Zoning Map (ZMA2022-0009). The parcel is currently zoned R-5 pursuant to the Washington County Development Code. CPA2022-0010 proposes to apply the Lower Density Neighborhoods (LDN) designation to the Land Use Map and ZMA2022-0009 proposes to apply RMC Residential Mixed C to the Zoning Map consistent with staff report Exhibit 1.1.

Staff proposes a plan designation and zoning district that most closely correspond to Washington County's land use designation applied to the subject parcel pursuant to the City of Beaverton Comprehensive Plan, Table 1 of Section 1.5.2. The findings and recommendations contained in this staff report find that the Beaverton Low Density Neighborhoods plan designation and the RMC zoning district are consistent with Comprehensive Plan Section 1.5.2 and Development Code Section 40.97.15.3.

ANALYSIS AND FINDINGS FOR COMPREHENSIVE PLAN AMENDMENT

Recommendation: Based on the facts and findings presented below, staff recommends the City Council approve **CPA2022-0010**.

COMPREHENSIVE PLAN SECTION 1.3 Amendment Procedural Categories:

Section 1.3 Approval Criteria:

Non-Discretionary Amendments are amendments to the Comprehensive Plan Land Use Map to add an annexed property, or properties, to the Map with a Land Use Map designation assigned through direct application of Table 1, Section 1.5.2. This section features a table of City Comprehensive Plan land use designations that correspond to zoning designations adopted by Washington County. The table is maintained by the City pursuant to the Washington County-Beaverton Urban Planning Area Agreement (UPAA). The County land use classification(s) remain in effect under provisions of Oregon Revised Statutes (ORS 197.175(1) and ORS 215.130(2)(a)) until the City acts to implement its own Comprehensive Plan Land Use designation(s) for the annexed territory.

Section V of the UPAA specifies the following:

- 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 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.

Table 1 in Section 1.5.2 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. Consequently, the decision is not a land use decision as defined by Oregon Revised Statutes (ORS 197.015(10)(b)(A)) [ORD 4759 January 2019].

FINDING:

The proposed amendment is to apply Beaverton's Lower Density Neighborhoods plan designation to two properties that are in the process of annexing into the City which currently carry Washington County's R-5 zoning and the right of way abutting those two properties. Table 1 of Section 1.5.2 of the Beaverton Comprehensive Plan (Exhibit 1.2) is relevant to this proposal and includes the following direction:

Table 1 of Section 1.5.2 identifies the City of Beaverton's Lower Density Neighborhoods Comprehensive Plan designation and RMC Residential Mixed C zoning district as the appropriate designations for the subject property based on its current Washington County R-5 zoning. As this proposal concerns properties that are in the process of annexing into the City of Beaverton and seeks to apply a Comprehensive Plan designation consistent with Table 1 of the Comprehensive Plan, the proposal qualifies as a non-discretionary decision.

Section 1.3 of the Comprehensive Plan states that the County shall advise the City of adopted policies that apply to the annexed area. As of the date of this report, the City has not been advised of any adopted policies that apply to the subject properties.

Conclusion: Therefore, staff finds that the proposal satisfies Comprehensive Plan Section 1.3 for non-discretionary Comprehensive Plan Map Amendments.

COMPREHENSIVE PLAN SECTION 1.4.3 Non-Discretionary Map Amendments

Section 1.4.3.A

Notice for Non-Discretionary Map Amendments shall be provided as follows:

1. By publication of a notice with the information specified in Section 1.4.3.B.1., 2. and 3. In a newspaper of general circulation within the City;
2. By mailing notice with the information specified in Section 1.4.3.B. to the Chair of the Beaverton Committee for Community Involvement (BCCI), Neighborhood Association Committee (NAC), Community Participation Organization (CPO), and owners of record of the subject property on the most recent property tax assessment roll; and
3. By placing notice with information specified in Section 1.4.3.B. on the City's website.
4. For annexation-related plan map amendments, by mailing notice with the information specified in Section 1.4.3.B. to the Planning Director of the Washington County Department of Land Use and Transportation (DLUT). This notice shall be given no less than 35 days prior to the date the item initially appears on the City Council agenda.

All notice required by 1. through 3. of this subsection A. shall be given not less than twenty (20) and not more than forty (40) calendar days prior to the date the item initially appears on the City Council agenda.

FINDING:

Notice of the proposed non-discretionary map amendment was published in the Oregonian on December 9, 2022, which was more than 20 days prior to the date of the item initially appearing on the City Council agenda on January 3, 2023. It was mailed to the BCCI; relevant NAC and CPO representatives; and subject property owners of record (on the most recent property tax assessment roll) on December 8, 2022, which was more than 20 days prior to the date of the item initially appearing on the City Council agenda. Notice also was mailed to the Planning Director of the Washington County Department of Land Use and Transportation on November 29, 2022, 35 days prior to the item initially appearing on the City Council agenda.

Conclusion: Therefore, staff finds that the proposal satisfies Section 1.4.3.A.

Section 1.4.3.B

Notice required by subsection 1.4.3.A. shall:

1. State the time, date, place and purpose of the City Council agenda item;
2. Explain the nature of the application;
3. Include the case file number, title, or both of the proposed ordinance to be considered;
4. List the applicable criteria from the Comprehensive Plan and State Law 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. Include the name and phone number of the City staff person assigned to the application from whom additional information may be obtained; and
7. Set forth the street address or other easily understood geographical reference to the subject property, including a map.

FINDING:

All notices for the proposed non-discretionary map amendment contained the information listed in subsection 1.4.3.B, above.

Conclusion: Therefore, staff finds that the proposal satisfies Section 1.4.3.B.

COMPREHENSIVE PLAN SECTION 1.5.2

Criteria for Non-Discretionary Map Amendments

Section 1.5.2.A

Annexation-Related:

The Washington County-Beaverton Urban Planning Area Agreement (UPAA) says: “Upon annexation, the city shall apply its 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.” The list in Table 1 of Section 1.5.2. identifies City Comprehensive Plan designations and zoning districts that most closely approximate the density, use provisions, and standards of the County designations. When annexation-related Comprehensive Plan Map amendments are proposed that convert County zoning to a City plan designation that is pursuant to Table 1 in Section 1.5.2., the City has no discretion.

This section describes the method by which City of Beaverton Comprehensive Plan designations and zoning districts shall be applied consistent with the Washington County-Beaverton Urban Planning Area Agreement when a property in unincorporated Washington County is annexed into the City of Beaverton.

Table 1 below shows city plan and zoning designations that correspond closely with the county land use districts. Properties with Washington County land use districts in Table 1 can be processed with a Type 1 application using the City’s non-discretionary process. County land use districts not consistent with Table 1 and associated footnotes shown shall be subject to a Type 3 discretionary process.

FINDING:

As indicated in the findings for Section 1.3 Amendment Procedural Categories above, the proposed plan map amendment complies with Table 1 in Section 1.5.2. of the Comprehensive Plan, which identifies the City of Beaverton’s Lower Density Neighborhoods plan designation and RMC zoning district as the appropriate designations to apply to the subject properties based on its current zoning of Washington County R-5. Therefore, the proposal can be processed with a Type 1 application using the City’s non-discretionary process.

Conclusion: Therefore, staff finds that the proposal satisfies Section 1.5.2.A.

ANALYSIS AND FINDINGS FOR ZONING MAP AMENDMENT

Recommendation: Based on the facts and findings presented below, staff recommends the City Council approve **ZMA2022-0009**.

DEVELOPMENT CODE SECTION 40.97.15.3.C Non-Discretionary Annexation-Related Zoning Map Amendment Approval Criteria:

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:

Section 40.97.15.3.C.1 Approval Criteria:

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

FINDING:

The proposal meets the following thresholds:

1. The change of zoning to a City zoning designation as a result of the annexation of land into city.
2. Table 1 in Section 1.5.2 in the Comprehensive Plan provides a list of corresponding county-city zoning designations and is specific as to the City zoning designation to be applied to the parcel being annexed. In cases where zoning of an annexed parcel is determined by reference to this table, the decision as to which zone shall be applied does not allow for discretion.

This request meets thresholds 1 and 2 for a Non-Discretionary Annexation-Related Zoning Map Amendment identified in Section 40.97.12.3.A.

Conclusion: Therefore, staff finds that the proposal satisfies Section 40.97.15.3.C.1.

Section 40.97.15.3.C.2 Approval Criteria:

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 Non-Discretionary Annexation-Related Zoning Map Amendment application.

Conclusion: Therefore, staff finds that the proposal satisfies Section 40.97.15.3.C.2.

Section 40.97.15.3.C.3 Approval Criteria:

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

FINDING:

Section 50.25.1 states that “Non-Discretionary Annexation Related Zoning Map Amendment and Discretionary Annexation Related 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.” A valid annexation petition has been submitted and is being reviewed under a separate but concurrent process (ANX2022-0005).

Conclusion: Therefore, staff finds that the proposal satisfies Section 40.97.15.3.C.3.

Section 40.97.15.3.C.4 Approval Criteria:

The proposed zoning designation is consistent with the corresponding County zoning as specified within Table 1 in Section 1.5.2. within the City’s Comprehensive Plan.

FINDING:

Table 1 in Beaverton Comprehensive Plan Section 1.5.2 was adopted pursuant to UPAA Section V, which requires the city to maintain a list of corresponding county-to-city plan and zone designations. As indicated in the findings for the Comprehensive Plan Map Amendment, the properties in the process of annexing into the City carry Washington County’s R-5 zoning. Table 1 of Section 1.5.2 identifies the City of Beaverton’s Lower Density Neighborhoods plan designation and RMC zoning district as the appropriate designations to apply to the subject properties.

Conclusion: Therefore, staff finds that the proposal satisfies Section 40.97.15.3.C.4.

Section 40.97.15.3.C.5 Approval Criteria:

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 and separate annexation petition. The request will not require additional applications or documents.

Conclusion: Therefore, staff finds that the proposal satisfies Section 40.97.15.3.C.5.

ANALYSIS AND FINDINGS GOAL 10

FINDING:

Beaverton’s Housing Needs Analysis (HNA) was published in October 2015. It demonstrated a need for all housing types in the 20-year period ending in 2035. This was true both for the current Beaverton city limits as well as the city limits plus the assumed urban service area, which is an area where it is assumed Beaverton will provide governance in the future. The state Department of Land Conservation and Development (DLCD) found it to be consistent with the requirements of Statewide Planning Goal 10. See Table 1 for the number of housing units projected to be needed.

	SF detached	SF attached	Duplex	3 or 4 units	5+ units
Current city limits (2015)	5,767	1,542	295	718	3,866
City limits plus assumed urban service boundary	14,001	2,626	958	2,107	7,999

Table 1: Projected Future Need for New Housing Units (2035)

Source: Beaverton Housing Needs Analysis (part of the city’s Housing Strategies Report) Figure 5.3 and Figure 10.3. <https://www.beavertonoregon.gov/DocumentCenter/View/10322>. Accessed April 14, 2020.

Based on the findings in Beaverton’s Housing Strategies Report in Volume II of the Comprehensive Plan, which includes the city’s Buildable Lands Inventory and Housing Needs Analysis, Beaverton updated its Comprehensive Plan’s Housing Element and Land Use Element to address the identified housing needs. DLCD also found these Comprehensive Plan changes consistent with the Statewide Planning Goals. The subject properties are currently developed with one single-detached residence per tax lot and were not assumed to contribute new housing units. If the properties were to redevelop after annexation, the new units would likely contribute to the SF detached, duplex, and 3 or 4 unit categories because single-detached dwellings, duplexes, triplexes, quadplexes, townhouse and cottage clusters are permitted by right in the RMC zone to be applied to the properties. The subject properties are each approximately 9,000 square feet in area. The minimum lot size in RMC is 5,000 square feet for triplexes and quadplexes and 1,500 square feet for townhouses. That means the total site area of both tax lots combined could accommodate up to eight units if the lots were to be developed as two quadplexes (one quadplex per lot) or up to 12 townhome units (subdivided into six townhome lots on each tax lot). Beaverton’s Development Code is similar to but generally allows smaller lot sizes than the Washington County middle housing code which took effect on July 28, 2022. However, for the entire RMC district,

the city acknowledges that state law limits the assumed density increase to 3 percent for middle housing in residential areas.

Conclusion: Therefore, the proposal to apply the Lower Density Neighborhoods (LDN) land use designation to the subject properties upon annexation is consistent with Goal 10 Housing because residential development opportunities likely will increase on the properties if redevelopment were to occur, and the change will not reduce the available buildable land identified in the City's Housing Strategies Report, which is the City's state-mandated Housing Needs Analysis.

ANALYSIS AND FINDINGS GOAL 12

FINDING:

Oregon Administrative Rules (OAR) 660-012-000 through 660-012-0920, referred to as the Transportation Planning Rule (TPR), provide guidance on compliance with Statewide Planning Goal 12. A Transportation System Plan (TSP), adopted pursuant to OAR Division 12, fulfills the requirements for public facilities planning required under Oregon Revised Statutes (ORS) 197.712(2)(e), Goal 11 and OAR Chapter 660, Division 12 as they relate to transportation facilities. Volume IV of the Comprehensive Plan contains the City's adopted TSP, effective October 21, 2010. Specifically, OAR 660-012-0060 regulates the City's responsibilities for ensuring compliance with Goal 12 when there is a proposed amendment to a local functional plan, an acknowledged comprehensive plan, and/or a land use regulation (including a zoning map).

Significant Effects

The TPR requires a two-step analysis for proposed amendments to the City's Comprehensive Plan and/or land use regulations. (1) The first step is to determine whether or not the proposed amendment significantly affects an existing or planned transportation facility. If the proposed amendment does not significantly affect the transportation network, then no further analysis is needed and compliance with Goal 12 is satisfied. If a proposed amendment does significantly affect the surrounding transportation network, then the City must (2) determine what mitigation is required to off-set the impacts to the transportation network brought on by the proposed amendments or demonstrate that the expected impact resulting from the proposed amendment meets the approval criteria for one of several exceptions allowed under OAR 660-012-0060.

Non-Discretionary Annexation-Related Zoning Map Amendments

The City's adopted and acknowledged Comprehensive Plan was amended in February 2019 (Ordinance No. 4759) to reflect a revised Urban Planning Area Agreement with Washington County. This agreement codified which City of Beaverton Comprehensive Plan land use designations and zoning map designations would apply to a parcel at the time of annexation. Per Section 1.5.2 of the Comprehensive Plan, Table 1 of this section, "identifies City Comprehensive Plan designations and zoning districts that most closely approximate the density, use provisions and standards of the County designations", and that these land use and zoning map designations, "shall be applied consistent with the Washington County-Beaverton Urban Planning Area Agreement when a property in unincorporated Washington County is annexed into the City of Beaverton."

As demonstrated in the language above, Chapter 1 of the Comprehensive Plan explicitly requires the non-discretionary zoning designations to be applied with the language

“shall”. Table 1, which dictates what land use designation and which zoning district must be applied to newly annexed parcels, underwent analysis and scrutiny as adopted by City Council and as acknowledged by the state to demonstrate that the allowed uses and allowed maximum densities for both the existing and the new zones are comparable. As such, staff find that all non-discretionary annexation-related zoning map amendments do not create a significant impact to existing and planned transportation facilities as defined in OAR 660-012-0060.

Conclusion: Staff find that the required process for designating Comprehensive Plan land use designations and zoning districts as required under Comprehensive Plan Section 1.5.2 for non-discretionary annexation-related map amendments do not cause a significant effect to the planned and future transportation network. Staff find that compliance with Goal 12 and the Transportation Planning Rule are satisfied.

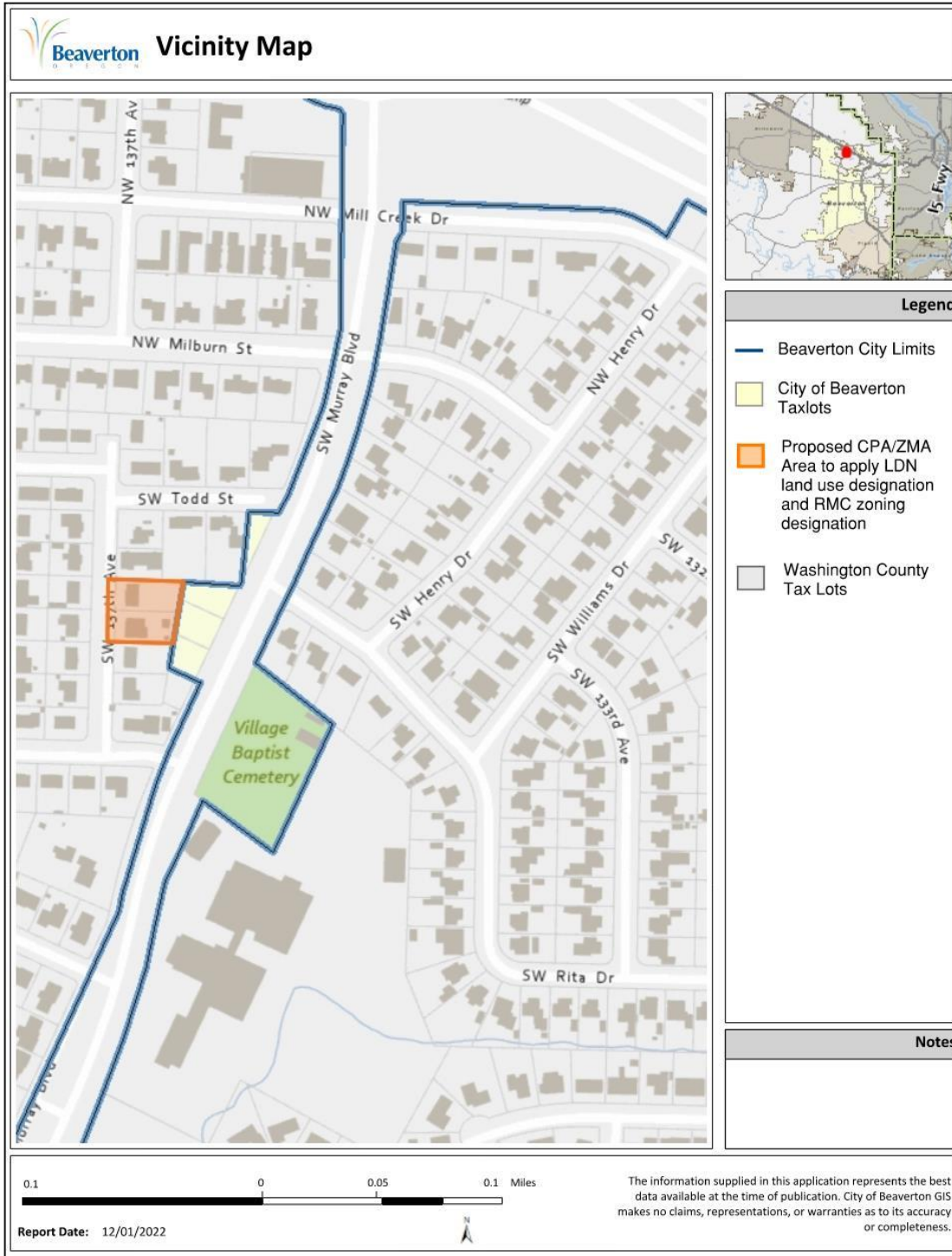
CONCLUSION & RECOMMENDATION

Based on the facts and findings presented, staff concludes that amending the Comprehensive Plan Land Use Map to apply the Lower Density Neighborhoods land use designation and amending the Zoning Map to apply the RMC zoning district is appropriate for the subject properties and the adjacent right of way. Staff also concludes that the proposal can be processed as a Non-Discretionary Comprehensive Plan Map Amendment and a Non-Discretionary Annexation Related Zoning Map Amendment per the terms specified within Table 1 in Section 1.5.2 of the City's Comprehensive Plan and Section 40.97.15.3 of the Development Code.

Therefore, staff recommends that City Council adopt an ordinance applying the Lower Density Neighborhoods land use designation and the RMC Residential Mixed C zoning district to the subject parcels and abutting right of way effective 30 days after adoption of the proposed ordinance or upon the effective date of the related annexation, whichever occurs later.

Exhibits

1.1 Vicinity Map



1.2 Table 1 of Section 1.5.2 of the Beaverton Comprehensive Plan

Table 1, 1.5.2: Annexation-related plan and zone changes not requiring discretion (Type I CPA/ZMA Applications)

County Land Use District	City Comprehensive Plan Designation	City Zoning District
R-5, Residential 5 units/acre	Lower Density Neighborhoods (LDN)	RMC
R-6, Residential 6 units/acre; R-6 NB, North Bethany District	Lower Density Neighborhoods (LDN)	RMC
R-9, Residential 9 units/acre; R-9 NB, North Bethany District	Lower Density Neighborhoods (LDN)	RMC
R-15, Residential 15 units/acre; R-15 NB, North Bethany District	Lower Density Neighborhoods (LDN)	RMB
R-24, Residential 24 units/acre	Lower Density Neighborhoods (LDN)	RMA
TO: R9-12, Transit Oriented Residential District 9-12 units/acre	Lower Density Neighborhoods (LDN)	RMB
TO: R12-18, Transit Oriented Residential District 12-18 units/acre	Lower Density Neighborhoods (LDN)	RMA
TO:R24-40, Transit Oriented Residential ¹	Station Community (SC)	SC-HDR
TO:R24-40, Transit Oriented Residential ²	Town Center (TC)	TC-HDR
TO:R40-80, Transit Oriented Residential ¹	Station Community (SC)	SC-HDR
TO:R80-120, Transit Oriented Residential ¹	Station Community (SC)	SC-HDR
TO:RC, Transit Oriented Retail Commercial ^{1,3}	Station Community (SC)	SC-MU
TO:BUS, Transit Oriented Business ²	Town Center (TC)	TC-MU
TO:BUS, Transit Oriented Business ¹	Station Community (SC)	SC-MU
TO:EMP, Transit Oriented Employment ¹	Station Community (SC)	SC-EI

- 1 Applies to property located within a Metro designated Station Community Area
- 2 Applies to property located within a Metro designated Town Center Area
- 3 Unincorporated property zoned TO:RC located within a Metro designated Station Community Area which is entirely within 2,600 linear feet from a light rail transit platform.