



CITY OF BEAVERTON
Planning Division
Community Development Department
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STAFF REPORT

Report date: July 24, 2024

Application/project name: LU42024-00403 Code Maintenance Project - Text Amendment

Application Number: TA42024-00402

Proposal: The City of Beaverton proposes to amend the Beaverton Development Code to: correct errors and inconsistencies, improve clarity of code language and update the code to comply with new state rules. Proposed amendments will affect all Chapters of the Development Code: Chapter 20 – Land Uses, Chapter 30 – Nonconforming Uses, Chapter 40 – Applications, Chapter 50 – Procedures, Chapter 60 – Special Requirements, Chapter 70 Downtown Design District, and Chapter 90- Definitions. Previously this type of Text Amendment was known as “omnibus”.

Proposal location: Citywide

Applicant: City of Beaverton

Recommendation: Staff recommend the Planning Commission review the proposal, take public testimony, deliberate on the proposal, and make a recommendation to City Council.

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Background

Previous text amendments to the Beaverton Development Code (BDC) to make technical corrections and clarifications were known as “Omnibus”. The last project like this, was brought forward in 2019. The name of these types of text amendments has now been changed to “Code Maintenance” to be more descriptive of the purpose of the project, and also to emphasize the importance of bringing these proposals forwards on a regular basis.

The purpose of the Code Maintenance Project is to keep the BDC in good working order so that the land use process effectively and efficiently implements city, regional, and state land use policies and requirements. The proposed amendments are technical in nature, meaning they

address how an established policy is implemented rather than setting new policy. The proposed amendments are intended to clarify, correct, and improve the BDC.

As city planners review land use applications and answer questions about the BDC from property owners and developers, errors and problems in the code are encountered. These problems not only absorb a lot of staff time in reviewing land use applications, but they can be confusing for applicants and add costs and delays to the development process. The Planning Division maintains a running list of code issues that need to be addressed. Some of those issues on the list are being addressed with this Code Maintenance Project while others have been postponed to allow for more research and yet others still represent significant policy questions that are best addressed as a stand-alone project. In addition to items identified by staff, this Code Maintenance Project also includes changes in response to recent state law, specifically, House Bill 3395 (HB 3395) and Senate Bill 1537 (SB 1537).

Types of Amendments

The amendments proposed with this Code Maintenance Project fall into three general categories:

- Implementation of Oregon law and administrative rules that are primarily technical and do not represent a significant departure from current Beaverton policy. This includes amendments related to new legislation adopted in the 2024 session that will take effect on January 1, 2025.
- Code amendments to fix things that don't work. This category includes regulations that, despite good intentions, are challenging, impractical, or impossible to implement. Adding uses and definitions that are missing also falls under this category. This also includes follow-ups to major projects such as the Housing Options Project.
- Minor Miscellaneous Changes: removing redundant or obsolete code sections and fixing conflicts within the development code or with other regulatory documents.

Exhibits

Exhibit 1. Indices

- 1.1 Chapter 20 Index
- 1.2 Chapter 30 Index
- 1.3 Chapter 40 Index
- 1.4 Chapter 50 Index
- 1.5 Chapter 60 Index
- 1.6 Chapter 70 Index
- 1.7 Chapter 90 Index

Exhibit 2. Draft Redlines

- 2.1 Chapter 20 Draft Redlines
- 2.2 Chapter 30 Draft Redlines
- 2.3 Chapter 40 Draft Redlines
- 2.4 Chapter 50 Draft Redlines
- 2.5 Chapter 60 Draft Redlines
- 2.6 Chapter 70 Draft Redlines
- 2.7 Chapter 90 Draft Redlines

Exhibit 3. Clean Copies of Draft Amendments

- 3.1 Chapter 20 Clean Copy
- 3.2 Chapter 30 Clean Copy
- 3.3 Chapter 40 Clean Copy
- 3.4 Chapter 50 Clean Copy
- 3.5 Chapter 60 Clean Copy
- 3.6 Chapter 70 Clean Copy
- 3.7 Chapter 90 Clean Copy

Exhibit 4. Public Comment

- 4.1 Ron Vrooman
- 4.2 Brandon Wingerter
- 4.3 Brandon Roberts
- 4.4 Mathew Peckinpah

Staff's Response to Public Comment

(In response to Exhibits 4.1, 4.2 and 4.3)

Staff received public testimony questioning the City's legal right to hold public hearings virtually. Some emailed testimony also requested "proof of oath of office for office for the City Council, City Attorney, Planning Commission; Land Use Board of Appeals and Mayor."

Planning Commission meetings are held virtually in accordance with Oregon public meetings law (ORS 192.610 et seq.) Staff offers and can provide accommodation for persons wishing to testify who do not have the technology to otherwise participate virtually.

Oregon public meetings law (ORS 192.610 to 192.705) allows cities to hold Planning Commission meetings virtually. Specifically, ORS 192.610(7)(a) defines “meeting” as “the convening of a governing body of a public body for which a quorum is required in order to make a decision or to deliberate toward a decision on any matter.” The definition of “convening” under ORS 192.610(1) includes among other things: “using electronic, video or telephonic technology to be able to communicate contemporaneously among participants.”

Regarding the requests for proof of oath of office, the City of Beaverton has a Public Records Portal through which anyone can submit a formal public records request and anyone asking for this information was directed to the portal. Staff also notes that the Land Use Board of Appeals is a board appointed by the Oregon State Senate is not a part of the City of Beaverton.

(In response to Exhibit 4.4):

Staff also received feedback specific to a proposed change in Section 20.10.20.A, Commercial Land Use Table. The change proposes to remove the requirement that residential uses in the Neighborhood Service (NS) zone obtain a conditional use approval. The testimony provided expresses concerns that without the conditional use process, space for retail uses may be undermined, furthermore, making a recommendation to reduce the residential area to less than 50 percent. Staff acknowledges the concern and desire to preserve space for non-residential uses in the zone and is not proposing to remove the restriction on residential uses, limiting them to 50 percent of the contiguous area, in the NS zone. The proposed change to Section 20.10.20.A in the NS zone is procedural. A conditional use process requires a public hearing and includes discretionary approval criteria (Section 40.15.15.5.C). OAR 660-008-0015(1) requires that local governments adopt and apply only clear and objective standards, conditions, and procedures regulating needed housing. As outlined in the city’s Housing Needs Analysis Report, published in May 2023, the city still needs 9,887 new housing units by 2042, therefore, all housing is needed housing. Removing the conditional use requirement from needed housing is necessary to comply with state law.

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LU42024-00403 (TA42024-00402) ANALYSIS AND FINDINGS FOR TEXT AMENDMENT

Recommendation: Based on the facts and findings presented below, staff recommends the Planning Commission review the proposal, take public testimony, deliberate on the proposal, and make a recommendation to City Council.

Section 40.85.05 Purpose

The purpose of a text amendment application is to provide a mechanism for legislative amendments to the Development Code. It is recognized that such amendments may be necessary from time to time to reflect changing community conditions, needs, and desires, to fulfill regional obligations, and to address changes in the law. This Section is carried out by the approval criteria listed herein.

Section 40.85.15.1.C Approval Criteria:

Section 40.85.15.1.C of the Development Code specifies that in order to approve a text amendment application, the decision-making authority shall make findings of fact, based on evidence provided by the applicant, that all the criteria specified in Section 40.85.15.1.C.1-7 are satisfied. The following are the findings of fact for LU42024-00403 (TA42024-00402) Code Maintenance Project:

Section 40.85.15.1.C.1

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

- A. Threshold. *An Application for Text Amendment shall be required when the following threshold applies:*
1. *Any change to the Development Code, excluding changes to the zoning map.*

FINDING:

Section 40.85.15.1.A specifies that an application for a text amendment shall be required when there is a proposed change to the BDC, excluding changes to the zoning map. LU42024-00403 (TA42024-00402) Code Maintenance Project proposes to make changes to BDC Chapters 20, 30, 40, 50, 60, 70 and 90 but does not propose any changes to the zoning map.

Conclusion: Staff finds that the proposed text amendment meets the approval criterion.

Section 40.85.15.1.C.2

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

FINDING:

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.

Conclusion: Staff finds the criterion is not applicable to the proposed text amendment.

Section 40.85.15.1.C.3

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

FINDING:

Metro's Urban Growth Management Functional Plan (UGMFP) is the document that defines how local governments are to implement the Metro Regional Goals and Objectives. The UGMFP is comprised of 11 titles. The titles are addressed below:

Title 1: Housing Capacity

This title addresses how cities and counties maintain or increase housing capacity. The Code Maintenance Project text amendment does not propose changes to that would decrease housing capacity. Proposed amendments do, however, include changes in response to HB 3395, to allow for Single Room Occupancy (SRO) in all zones that allow for the development of detached single-family dwellings and in zones that allow for the development of residential dwellings with five or more units meaning that all Residential, all Commercial and most Multiple Use zoning districts (excluding zones where residential uses are prohibited) allow an additional housing type. These changes are reflected in the Chapter 20 and a new definition of "Single Room Occupancy" is proposed in Chapter 90.

Additional proposed changes include removing the requirement of a Conditional Use approval for residential developments in the Neighborhood Service (NS) zone (Table 20.10.20.A, Line 2, and footnote 1). Residential developments in the NS zone will still be limited to 50 percent of a contiguous area in the zone but removing the requirement for a higher level of land use review (new conditional use applications are subject to a Type 3

process) will remove a barrier to housing while maintaining the policy of reserving land for non-residential uses in the zone.

In response to SB 1537, proposed changes also include a new land use application, Housing Adjustment, in Chapter 40. This new application, for developments that provide a minimum of 17 net new units per acre, will add another mechanism by which an applicant can request minor flexibility to some site development standards. The intent of this application is not only to comply with SB 1537 but to remove barriers for housing. Therefore, staff finds that the proposed amendments do not decrease housing capacity.

Title 2: Regional Parking Policy

According to the UGMFP, this title is repealed.

Title 3: Water Quality and Flood Management

This title addresses the protection of beneficial water uses and functions and applies to development in Water Quality Resource and Flood Management Areas and to development which may cause temporary or permanent erosion on any property within the Metro Boundary. The proposed changes to the BDC do not include any amendments that would affect Title 3. No changes regarding natural resource areas, water quality, or flood management areas, or review of development within those areas, are proposed with this Code Maintenance Project. Therefore, staff finds that UGMFP Title 3 is not applicable to the proposed text amendment.

Title 4: Industrial and Other Employment Areas

The goal of this title is to provide and protect a supply of sites for employment by limiting types and scale of non-industrial uses in regionally significant industrial areas, industrial and employment areas, and by "clustering" those industries that operate more productively and efficiently in proximity to one another than in dispersed locations. BDC Section 20.15 identifies the Office Industrial (OI), Office Industrial – Nike Campus (OI-NC), and Industrial (IND) zones as Employment/Industrial Land Use Districts. One minor change is proposed to the Employment/Industrial land uses (Table 20.15.20) which adds "Transmission Lines" as a permitted use in all the zones which will have no effect on the type or scale of non-industrial uses permitted in these zones. None of these zones are affected by the proposed amendment. Therefore, the proposed amendment does not impact areas addressed under UGMFP Title 4.

Title 5: Neighbor Cities

According to the UGMFP, this title is repealed.

Title 6: Centers, Corridors, Station Communities, and Main Streets

This title addresses Centers, Corridors, Main Streets, and Station Communities throughout the region. Title 6 calls for actions and investments by cities and counties, complemented by regional investment, to enhance this role. Proposed amendments include changes that could affect development in areas identified as Centers, Station

Communities, and Corridors. However, the proposed changes will continue to reinforce the purpose and goals of these areas by removing or easing regulatory barriers. For example, one of the proposed changes is to allow up to three Design Review Guidelines to be addressed through a Design Review Two application instead of a Design Review Three, which is currently required when one or more Design Review Guidelines are addressed. Therefore, the proposed amendment does not impact any actions or investments addressed under UGMFP Title 6.

Title 7: Housing Choice

This title addresses the establishment of affordable housing and methods to encourage affordable housing. The proposed amendments include changes to Chapter 50 – Procedures, to comply with ORS 197.311 Final Action on Affordable Housing Application, which outlines a shorter review timeline for affordable housing developments, as defined by ORS 197.311. The BDC already regulates affordable housing the same as market rate housing and furthermore provides adjustment applications, specific for Regulated Affordable Housing which offers additional flexibility for affordable housing. No amendments are proposed that would restrict affordable housing. Therefore, the proposed text amendment does not impact the establishment of affordable housing under UGMFP Title 7.

Title 8: Compliance Procedures

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 notice of the proposed amendment to Metro at least 35 days before the first evidentiary hearing, which is the Planning Commission hearing. The city provided notice to Metro on June 26, 2024, 35 days before the Planning Commission hearing scheduled for July 31, 2024. The city has not received any comments from Metro. The proposed text amendment complies with this title.

Title 9: Performance Measures

According to the UGMFP, this title is repealed.

Title 10: Functional Plan Definitions

This title addresses definitions for terminology contained in the UGMFP. The proposed amendment does not make any changes to the definitions of the terminology listed in Title 10. The proposed text amendment complies with this title.

Title 11: Planning for New Urban Areas

This title addresses long-range planning for areas brought into the UGB. The Code Maintenance project includes amendments to the BDC to correct errors and inconsistencies, improve clarity of code language and update the code to comply with new state rules. The Code Maintenance Project does not include plans or text related to

areas outside the UGB or areas planned to be brought into the UGB. Therefore, staff finds that UGMFP Title 11 is not applicable to the proposed text amendment.

Title 12: Protection of Residential Neighborhoods

The purpose of Title 12 is to help implement the policy of the Regional Framework Plan to protect existing residential neighborhoods from air and water pollution, noise and crime and to provide adequate levels of public services. The proposed amendments to residential neighborhoods are limited to incorporating single room occupancies as, required by HB 3394 (no other changes to the uses permitted in residential zones are proposed), removing a footnote (#18) that requires setbacks to the nearest edge of a shared driveway, and clarifying that non-residential uses and conditional uses are not subject to the maximum floor area standards applicable to single detached dwellings and some middle housing types. These proposed amendments are in Chapter 20 of the BDC, Section 20.05.15 and 20.05.20.A. The proposed amendments do not include changes that would impact air and water pollution, noise and crime in residential neighborhoods. Therefore, the proposed text amendment complies with this title.

Title 13: Nature in Neighborhoods

This title addresses the conservation, protection, and restoration of streamside corridor systems. The proposed amendment does not include changes to any regulations that address the conservation, protection, and restoration of streamside corridor systems. Therefore, staff finds that UGMFP Title 13 is not applicable to the proposed text amendment.

Title 14: Urban Growth Boundary

This title addresses the criteria and procedures for amendments to the urban growth boundary. The proposed amendments do not propose changes to the urban growth boundary. Therefore, staff finds that UGMFP Title 14 is not applicable to the proposed text amendment.

Conclusion: Staff finds that the proposed text amendment is consistent with applicable provisions of the UGMFP. Therefore, staff finds that the proposed text amendment meets the approval criterion.

Section 40.85.15.1.C.4

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

FINDING:

Beaverton's Comprehensive Plan provides policy direction on matters related to future growth and physical development of the city including land use, economy, transportation, housing, natural resources, and other relevant topics. Oregon state law requires all cities and counties to prepare and adopt comprehensive plans that are consistent with Statewide Planning Goals.

The proposed amendment is limited in scope to removing superscript number nine where it was erroneously applied to Table 20.20.20.A at line 15.A, unintentionally imposing maximum building footprint and maximum square footage restrictions to Retail Trade uses in the RC-E, C-WS, TC-MU, and SC-S zoning districts. The erroneously applied standards resulted in new development restrictions without first establishing positive findings to demonstrate how the text amendment is consistent with the Comprehensive Plan. The proposed amendment to remove the erroneously applied superscript therefore realigns the BDC and Comprehensive Plan, implementing greater consistency between the two documents.

The applicable goals of Comprehensive Plan are addressed below. Each goal is followed by staff's findings in response to the goal:

Chapter 2: Community Involvement Element

Goal 1: The Planning Commission, City Council, and other decision-making bodies shall use their best efforts to involve the community in the planning process.

The Beaverton Development Code establishes the noticing requirements as part of the text amendment process, which are outlined in BDC Section 50.50. City staff provided notice of the proposed amendment 35 days prior to the Planning Commission public hearing to all owners of property within the City of Beaverton. This mailed notice included a link to the Code Maintenance Project website with draft materials available for review. Staff also attending a meeting with the Beaverton Committee for Community Involvement (BCCI) on May 20, 2024. Notice was also provided to all NAC Chairs, all Chairs of Washington County's Community Participation Organizations, the Chair of the BCCI, the Department of Land Conservation and Development, Metro, and the Washington County Department of Land Use and Transportation. Public notice was also published in a local newspaper, and posted at City Hall, the City Library, and on the city's website. The goals of Chapter 2 Community Involvement are met.

Chapter 3: Land Use Element:

Goal 3.1.1 Encourage development and land use patterns that support a variety of transportation options:

Policy a) Emphasize convenience and safety in all developments and transportation facilities.

Policy c) Ensure that new development is designed to provide safe, comfortable and direct pedestrian and bicycle connections for all, regardless of ability or age, to and through the development, including to reach nearby points of interest.

This Code Maintenance Project includes limited amendments related to transportation. The proposed amendments include clarifying procedural requirements for sidewalks within Commercial and Multiple Use zones that are subject to specific Design Review standards, clarifying how to interpret a standard related to minimum sidewalk width on and off site (Section 60.05.20.7.B) and modifying the definition of “driveway” as well as adding a definition of “drive aisle”. The proposed changes continue to reinforce all the policies under Goal 3.1.1.

Goal 3.2.1: Provide for thoughtful and strategic infill and redevelopment

Policy a) Provide a set of residential infill guidelines and standards that encourage compatible infill development, consistent with the following principles:

- i. Provide flexibility on development standards when it can help preserve trees and natural resources.*
- ii. Allow a wider variety of housing choices that can accommodate a range of ages, household sizes and/or income levels while ensuring the new housing responds to the scale and form of the neighborhood.*
- iii. Manage transitions between different uses and housing types.*
- iv. In areas well-served by transit, amenities and services, offer more flexibility for infill housing and innovative housing types that meet city goals for affordability and livability, and provide housing for diverse household sizes, types, and age ranges.*
- v. Encourage site and building design features, including setbacks and sight lines, that minimize impacts to sunlight and privacy for existing adjacent homes.*

Policy e) Maintain an equitable policy to allow food carts and other mobile eateries in strategic locations and provide support for siting at multiple venues citywide.

Policy f) On underutilized property and excess parking areas, provide opportunities for interim uses, such as community gardens and food carts, that are appropriate for each plan designation.

The proposed amendment includes adding single room occupancies as a permitted use in all zones where residential uses are permitted, adding to housing variety. Additionally, a new land use application, Housing Adjustment, is proposed which will allow for some flexibility to Site Development standards for housing developments that provide a minimum of 17 units per acre. The proposed amendments also include clarifying that food cart pod amenities are exempt from site development standards as well as the food cart pods themselves. Therefore, staff finds that the proposed changes are consistent with applicable policies of Goal 3.2.1.

Goal 3.4.1: Provide effective and inclusive planning and development review services

Policy a) Ensure that development regulations are consistent with and implement the Comprehensive Plan.

Policy b) Ensure that land use planning, notification, and public involvement procedures and processes are inclusive and provide meaningful opportunities for engagement by all community members.

Policy c) Expand outreach to under-represented populations and increase participation in community activities by posting event and service notices in multiple venues and providing information in multiple languages, consistent with the city's language access practices.

Policy f) Where a land use approval requires demonstration of consistency with the policies of the Comprehensive Plan, the policies of the adopted Comprehensive Plan designation shall apply, regardless of whether the zone is listed as an implementing zone for the applicable Comprehensive Plan designation.

The proposed amendments are intended to correct and clarify existing language in the BDC to better implement the policies of the Comprehensive Plan. Notice was provided consistent with Section 50.50 Procedures of the BDC, including a mailed notice to all owners of property within the City of Beaverton. Therefore, staff finds the proposed amendments are consistent with all applicable policies of Goal 3.4.1.

Goal 3.6.1: Support pedestrian-oriented mixed use areas

Policy d) Pedestrian-oriented design is a priority within mixed use areas. Pedestrian oriented design generally includes:

- i. Commercial and mixed use buildings located next to the sidewalk with windows, interesting facades, pedestrian-scale design features (e.g. lighting, awnings and signage), and majority of parking located behind, above, or beneath development*
- ii. Residential buildings with windows and doors facing the street, and privacy provided through landscaping, grade changes, and modest setbacks*

- iii. *Complete streets and sidewalks that provide high-quality space for pedestrians and protect pedestrians from fast-moving traffic (by using buffers such as curbside parking, landscaping, trees and street furniture)*

The proposed changes include clarifying existing Design Review Standards and Guidelines. The proposed amendments will continue to encourage pedestrian oriented design, consistent with the applicable policies of Goal 3.6.1.

Goal 3.6.2: Downtown Regional Center: Create and strengthen a vibrant downtown and central area for Beaverton

Policy a) Tailor development regulations to the unique character and aspirations for the distinct areas within the Downtown Regional Center, taking into account form, scale, rhythm, and uses, through specialized zoning, overlay zones, or similar tools while also ensuring strong connections between these areas and throughout the Downtown Regional Center.

Policy l) Use a block-by-block approach to activate the ground floor of buildings and edges of public spaces to enhance street life, connecting pedestrians with activity along the street edge.

Proposed changes to Chapter 70 – Downtown Design District are limited. No changes are proposed to the design standards, however, changes to the ground floor use restrictions are necessary to comply with SB1537 which requires that local governments grant adjustments for certain development standards and design standards, including (Section 38(4)(g)(d)):

Prohibitions, for the ground floor of a mixed-use building, against:

(i) Residential uses except for one face of the building that faces the street and is within 20 feet of the street; and

(ii) Nonresidential active uses that support the residential uses of the building, including lobbies, day care, passenger loading, community rooms, exercise facilities, offices, activity spaces or live-work spaces, except for active uses in specifically and clearly defined mixed use areas or commercial corridors designated by local governments.”

The proposed language in Section 70.15.25 is intended to comply with SB1537 by providing some flexibility to ground floor uses along some streets in the Downtown District. Therefore, staff finds the proposed amendments are consistent with applicable policies of Goal 3.6.2.

Goal 3.6.3: Town Centers: Provide for a compact, integrated mix of uses that creates a complete community and supports walking and biking

Policy a) Provide for a mix of housing, open space / recreational features, and shopping / services that allows residents to meet many of their needs within the Town Center.

Policy e) Provide a mix of housing types at different price ranges and sizes to create a more inclusive community.

The proposed amendment includes adding single room occupancies as a permitted use in all zones where residential uses are permitted, including in Town Centers, adding to housing variety. Therefore, staff finds that the proposed changes are consistent with applicable policies of Goal 3.6.3.

Goal 3.6.5: Mixed Use Corridor: Promote a mix of residential and commercial uses that complement and serve adjacent neighborhoods in a pedestrian- friendly environment

Policy b) Allow for and encourage multi-dwelling and middle housing as part of vertical mixed use developments and as stand-alone uses between and behind commercial nodes at intersections.

Policy c) Ensure that new development and redevelopment creates a pedestrian-friendly environment, using pedestrian-oriented design as described in the policies for all mixed use areas.

Within the Neighborhood Service (NS) zoning district, residential development is subject to a Conditional Use and is limited to 50 percent of the contiguous area in the zone. Proposed changes include removing the requirement for a Conditional Use but retaining the restriction which limits how much of the zone can be developed residentially. This change would remove a barrier for housing development while also maintaining space for commercial uses in the zone. Therefore, staff find the proposed amendments are consistent with applicable policies of Goal 3.6.5.

Goal 3.7.1: Enhanced Commercial Centers and Corridors

Policy b) Emphasize commercial and employment uses, and limit ground floor residential uses to preserve land to meet the city's employment needs.

Policy c) Allow for housing as part of an integrated mixed use development, generally behind or above commercial uses, and buffered from high-traffic roadways or uses incompatible with residential use.

Within the Neighborhood Service (NS) zoning district (which implements both the Mixed Use Corridor land use designation and Neighborhood Center), residential development is subject to a Conditional Use and is limited to 50 percent of the contiguous area in the zone. Proposed changes include removing the requirement for a Conditional Use but retaining the restriction on ground floor residential uses. This change would remove a

barrier for housing development while also maintaining space for commercial uses in the zone. Therefore, staff find the proposed amendments are consistent with applicable policies of Goal 3.7.1.

Goal 3.7.4: Neighborhood Center: Provide opportunities for small-scale commercial development that serves adjacent neighborhoods

Policy a) Limit the scale and type of non-residential uses to ensure compatibility with surrounding neighborhoods.

Within the Neighborhood Service (NS) zoning district (which implements both the Mixed Use Corridor land use designation and Neighborhood Center), residential development is subject to a Conditional Use and is limited to 50 percent of the contiguous area in the zone. Proposed changes include removing the requirement for a Conditional Use but retaining the restriction on ground floor residential uses. This change would remove a barrier for housing development while also maintaining space for commercial uses in the zone. Therefore, staff find the proposed amendments are consistent with applicable policies of Goal 3.7.4.

Goal 3.8.1: Complete and livable Neighborhoods

Policy c) Allow flexibility to provide housing variety while maintaining an overall density consistent with the Comprehensive Plan designation and zoning.

Policy d) For development that achieves a public benefit or goal (such as increased housing options, public space or affordable housing) the city may provide code incentives, such as opportunities for additional floor area or housing units.

Policy e) Provide opportunities for a variety of housing types in all residential plan designations while maintaining a scale and character consistent with the intent of each plan designation.

Policy f) Facilitate development of housing that is affordable to a range of incomes, including low-income households.

Proposed amendments include changes in response to HB 3395, to allow for SROs in all zones where housing is already permitted, including those that implement the Lower Density Neighborhood land use designation and High Density Neighborhood land use designation, providing an additional housing type. Additionally, in response to SB 1537, proposed changes also include a new land use application, Housing Adjustment, in Chapter 40. This new application, for developments that provide a minimum of 17 net new units per acre, will add another mechanism by which an applicant can request minor flexibility to some site development standards. The intent of this application is not only to comply with SB 1537 but to remove barriers for a variety of housing types. Therefore, staff find the proposed amendments are consistent with applicable policies of Goal 3.8.1.

Goal 3.8.2: Lower Density Neighborhoods: Provide residential neighborhoods that emphasize housing variety and integrate parks, schools, and other community institutions

Policy a) Allow and encourage a variety of housing types that respond to the scale and form of existing neighborhoods as a way to increase housing options within established neighborhoods while recognizing neighborhood character.

Policy b) Establish zoning regulations that allow housing variety at low-to-medium minimum densities, with the lowest minimum density at 7 units per acre.

Policy c) Provide adequate flexibility on development standards (e.g., setbacks and lot coverage) to make development of single-story housing feasible.

Proposed amendments include changes in response to HB 3395, to allow for SROs in all zones where housing is permitted, including zones that implement the Lower Density Neighborhood land use designation, providing an additional housing type. Additionally, in response to SB 1537, proposed changes also include a new land use application, Housing Adjustment, in Chapter 40. This new application, for developments that provide a minimum of 17 net new units per acre, will add another mechanism by which an applicant can request minor flexibility to some site development standards. The intent of this application is not only to comply with SB 1537 but to remove barriers for a variety of housing types. Therefore, staff find the proposed amendments are consistent with applicable policies of Goal 3.8.2.

Goal 3.8.3: High Density Neighborhoods: Provide for a variety of housing types and higher residential densities in areas with more amenities and transit service

Policy a) Provide for a variety of housing types while emphasizing multi-dwelling and middle housing.

Policy b) Establish zoning regulations that allow housing that is consistent with one unit per 1,000 square feet of residential land area while allowing for flexibility as described under Goal 3.8.1.

Policy f) Allow for innovative housing types and designs that are consistent with the other policies for these neighborhoods to accommodate projected growth and meet the diverse housing needs of the community.

Proposed amendments include changes in response to HB 3395, to allow for SROs in all zones, including Multi-Unit Residential (MR) which implements the High Density Neighborhood land use designation, providing an additional housing type. Additionally, in response to SB 1537, proposed changes also include a new land use application, Housing Adjustment, in Chapter 40. This new application, for developments that provide a minimum of 17 net new units per acre, will add another mechanism by which an

applicant can request minor flexibility to some site development standards. Additionally, proposed changes to the Design Review Two application include allowing up to three Design Review Guidelines to be addressed rather than requiring a Design Review Three application, which adds cost and time to the development of housing. These proposed changes add a new housing type, provide some flexibility to site development standards and design standards. Therefore, staff find the proposed amendments are consistent with applicable policies of Goal 3.8.3.

Goal 3.9.1.

Policy a) Emphasize and prioritize employment and industrial uses – ensure that other uses allowed within these plan designations support and do not detract from the desirability of these areas for employment and industrial uses.

The proposed amendments include adding “Transmission Lines” as a permitted use to Employment and Industrial areas. Transmission lines are a basic necessity of development and will not detract from the desirability of these areas. Therefore, staff find the proposed amendments are consistent with the applicable policy of Goal 3.9.1.

Chapter 4: Housing Element:

Goal 4.1.1: Provide an adequate supply of housing to meet future needs

Policy a) Use available land within the city efficiently, encouraging new residential development to take advantage of allowed maximum densities where appropriate.

Policy b) Support higher density infill development that capitalizes on existing infrastructure and where impacts can be mitigated.

Policy h) Provide an efficient, consistent, and reliable development review process.

In response to SB 1537, proposed changes also include a new land use application, Housing Adjustment, in Chapter 40. This new application, for developments that provide a minimum of 17 net new units per acre, will add another mechanism by which an applicant can request minor flexibility to some site development standards, including density. Additionally, proposed changes to the Design Review Two application include allowing up to three Design Review Guidelines through the Type 2 process, intended to provide a more efficient development review process. Therefore, staff find the proposed amendments are consistent with applicable policies of Goal 4.1.1.

Chapter 6: Transportation Element

Goal 6.2.2: A balanced multimodal transportation system that provides mobility and accessibility for users.

Policy d) Design sidewalks and the pedestrian access systems to City standards to enhance walkability: complete the accessible pedestrian network, provide safe direct access to transit and activity centers, and provide safe crossings at intersections with pedestrian friendly design.

This Code Maintenance Project includes limited amendments related to transportation. The proposed amendments include clarifying procedural requirements for sidewalks within Commercial and Multiple Use zones that are subject to specific Design Review standards and clarifying how to interpret a standard related to minimum sidewalk width on and off site (Section 60.05.20.7.B). Sidewalk designs are not proposed to be amended and will continue to provide an enhanced pedestrian space and provide safe, direct access to transit and other destinations throughout the city. Therefore, staff find the proposed amendments are consistent with the applicable policy of Goal 6.2.2.

Chapter 7: Natural, Cultural, Historic, Scenic, Energy, and Groundwater Resources Element

Goal 7.2.1: Preserve, manage and encourage restoration of historic sites, structures, and objects designated as Significant Historic Landmarks, and protect the character of the Downtown Historic District as listed on the National Register of Historic Places.

Policy a) With the cooperation of property owners, protect enhance and perpetuate Significant Historic Landmarks and the Downtown Historic District representing or reflecting elements of the City's cultural, social, economic, political and architectural history.

The proposed amendments include exempting inventoried historic landmarks from Downtown Design Review. Downtown Design Review standards can be at odds with the historical architectural features this goal is trying to protect. The proposed change would make it clear that alterations to historic landmarks are subject only to Section 40.35.15.1 Alteration of a Landmark application, which is focused on preserving the historic character and architecture of the landmark. Therefore, staff find the proposed amendments are consistent with the applicable policy of Goal 7.2.1.

Conclusion: Staff finds that the proposed text amendment is consistent with the applicable goals of the Comprehensive Plan. Therefore, staff finds that the proposed text amendment meets the approval criterion.

Section 40.85.15.1.C.5

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

FINDING:

The Code Maintenance Project text amendment is intended to make periodic corrections, clarifications, and updates to the BDC that eliminate or reduce conflicts between Code provisions. The proposed changes do not create conflicts with other provisions of the Code.

Conclusion: Staff finds that the proposed text amendment meets the approval criterion.

Section 40.85.15.1.C.6

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

FINDING:

In relation to the proposed amendments to the lighting standards in the BDC (Table 60.05-1), staff notes that the City Code's nuisance provisions in Section 5.05.133 contain provisions regarding exterior nuisance lighting. Staff has reviewed the provisions in 5.05.133 which includes guidance on determining when exterior lighting can be considered a public nuisance. The intent of the City Code language, to avoid lighting which could be considered a nuisance, is consistent with the provisions proposed to be modified by this text amendment. The City Code language identifies that lighting less than a certain level (0.5 footcandles at the property line) cannot be considered a nuisance under Section 5.05.133 of the City Code but does not state that all lighting in excess of that standard is necessarily a nuisance. Staff's proposed amendments clarify how to apply the existing standards regarding when certain maximum illumination standards apply during development review. As such, staff finds that the proposed changes to the Development Code regarding lighting do not conflict with City Code Section 5.05.133. Staff has not identified any other provisions in potential conflict. As discussed in this staff report, the proposed amendment is consistent with all applicable City ordinance requirements and regulations.

Conclusion: Staff finds that the proposed text amendment meets the approval criterion.

Section 40.85.15.1.C.7

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

FINDING:

This application is for a Type 4 Text Amendment. Staff finds that no other applications or documents related to this request are required.

Conclusion: Staff finds that the proposed text amendment meets the approval criterion.

Other applicable approval criteria

As a post-acknowledgement amendment to the City's 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 the following goals apply.

Goal 1 Citizen Involvement: *To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.*

FINDING: This application is for a Type 4 Text Amendment, and staff followed the required public noticing procedures in BDC Section 50.50. City staff provided notice of the proposed amendment 35 days prior to the public hearing before Planning Commission to all NAC Chairs, all Chairs of Washington County's Community Participation Organizations, the Chair of BCCI, the Department of Land Conservation and Development, Metro, and the Washington County Department of Land Use and Transportation. A notice was also mailed to all owners of property within the City of Beaverton. Additionally, public notices were published in a local newspaper, and posted at City Hall, the City Library, and on the city's website. Staff finds that the city has provided adequate notice and opportunity for public involvement.

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 actual basis for such decisions and actions.*

FINDING: Changes to the BDC require a Type 4 review process, which includes noticing and a public comment period, prior to a hearing before the Planning Commission. The hearing is open to the public and includes an opportunity to receive public testimony. 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, the ultimate decision-making authority. Prior to adoption of any text amendments, the City Council will consider all the evidence in the record, including any

testimony provided at the Planning Commission hearing and any recommended changes to the proposal.

Staff finds that the proposed text amendment fits within the established process and framework. Furthermore, the findings contained within this report establish an adequate factual basis for the proposal.

Goal 5 Natural Resources, Scenic and Historic Areas, and Open Spaces: *To protect natural resources and conserve scenic and historic areas and open spaces.*

FINDING: The proposed amendments do not include changes to Goal 5 natural resources, scenic and historic areas or open spaces. Proposed changes do include clarifying how minimum landscape requirements in Section 60.05.25 of the BDC are applied to development sites, but the “open space” referred to in this section is not the same “open space” referenced in Goal 5, as it is not open space that is required to be inventoried and protected, but rather set aside as a percentage of the site for landscaping, active use and passive natural areas. Therefore, staff finds the proposal does not alter or negatively affect protections of natural resources or conservation of scenic and historic areas and open spaces, as described by Goal 5 nor do the proposed amendments include any changes to natural resource inventories.

Goal 6 Air, Water and Land Resources Quality: *To maintain and improve the quality of the air, water and land resources of the state.*

FINDING: The proposal does not include any changes to regulations that address air, water and land resources. As applicable, development proposals will continue to be required to submit a Service Provided Letter or Pre-Screen Letter from Clean Water Services and engineering plans and stormwater reports are subject to review and approval by City of Beaverton Site Development staff. Furthermore, no changes are proposed that would affect the location of where facilities that treat and process these resources can be located. Therefore, staff find that the proposal does not affect Goal 6.

Goal 7 Areas Subject to Natural Hazards: *To protect people and property from natural hazards.*

FINDING: The proposed amendments do not include any changes to regulations that address natural hazards or natural hazard areas, therefore staff finds that the proposal does not affect Goal 7.

Goal 8 Recreational Needs: *To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.*

FINDING: No changes to the siting of recreational facilities and parks is proposed. Proposed amendments do include adding the language “Private and public...” to the

definition of Recreational Facilities in Chapter 90, simply to clarify that these types of facilities can be publicly or privately owned. Staff find that the proposal will not negatively impact recreational facilities or destination resorts.

Goal 9 Economic Development: *To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon’s citizens.*

FINDING: The purpose of Goal 9 is to make sure cities and counties have enough land available for economic growth and development opportunities. The proposed amendments do not include any changes to zone boundaries, therefore the areas where commercial uses are permitted are not proposed to change. One minor change is proposed to Commercial Land Use Table 20.10.20, in Chapter 20 of the BDC, which removes the requirement that housing in the Neighborhood Service (NS) zone obtain conditional use approval. However, an existing restriction on how much residential use is permitted within the zone is proposed to remain, maintaining the same land area in the NS zoning district designated for commercial uses.

Goal 10 Housing: *To provide for the housing needs of the citizens of the state.*

FINDING: Beaverton’s Housing Needs Analysis (HNA) was added to the Volume II of the city’s Comprehensive Plan on Oct. 5, 2023. It demonstrates a need for all housing types in the 20-year period ending in 2042, as shown in Table 1 herein. The state Department of Land Conservation and Development (DLCD) found it to be consistent with the requirements of Statewide Planning Goal 10.

Table 1: Projected Future Need for New Housing Units (2042)

	Single detached	Townhome	Duplex	3- or 4-plex	5+ units	Manuf. home
Current city limits (2022)	2,692	1,609	727	1,214	3,215	429

The amendments proposed with this Code Maintenance Project include adding another permitted housing type, SROs, to all zones where housing is permitted, which would allow more units on individual lots in Residential zones and more variety in Commercial and Multiple Use zones. The proposed amendments also remove a requirement to obtain a conditional use approval for housing in the NS commercial zone, making it procedurally easier to develop duplexes, triplexes, quadplexes, townhomes and multi-dwelling structures. Although not a needed housing type identified in Table 1, the amendments also propose allowing existing single-detached dwellings, located in the Downtown

zoning districts, to add Accessory Dwelling Units, further adding more housing options. Additionally, the code amendments propose a new land use application, Housing Adjustment to Section 40.10 of the BDC. The new application is in response to Senate Bill 1537 (SB1537), which requires cities to grant adjustments to siting and design standards for housing developments that result in a minimum of 17 dwelling units per acre. The procedure type prescribed to these adjustments in SB1537 is “limited land use decisions” which is a Type 2 process. The new proposed Housing Adjustment application will address the site development standards outlined in SB1537, including setbacks and height, for which cities must grant an adjustment to. Although the BDC already includes four other adjustment applications (Section 40.10.15) that also provide a way to adjust site development standards, the approval criteria in those adjustment applications require that the applicant demonstrate a site-specific hardship or that the housing development is for regulated affordable housing only. SB1537 expands the eligibility of the adjustments beyond these parameters therefore the new proposed Housing Adjustment application does not include site-specific hardship criteria or limit the adjustments to regulated affordable housing only. Additionally, the proposed application procedure is a Type 1, as no discretion is required in determining compliance with the approval criteria. The proposed Housing Adjustment will provide some minor flexibility for development of housing. Therefore, the proposal does not negatively alter the potential for any property to be developed with housing, nor does it negatively alter regulations governing design and construction of housing.

Staff finds the proposal will not have a negative impact to housing as it does not affect development opportunities for housing. Additionally, the proposal will not negatively impact the opportunity for needed housing to be developed in the city.

Goal 11 Public Facilities and Services: *To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.*

FINDING: Proposed amendments do not include changes that would impair existing regulations pertaining to public facilities and services. Existing procedures and requirements for determining the capacity of public facilities and services will remain in place. Development proposals are required to obtain relevant service provider letters for water, stormwater, fire protection and public schools. Development proposal that include connections to public systems are subject to applicable reviews and permits, such as Site Development permits and Building permits to ensure compliance with applicable regulations and standards. Therefore, the proposed amendments will have no impact on Goal 11.

Goal 12 Transportation: *To provide and encourage a safe, convenient and economic transportation system.*

FINDING: The proposed amendments include clarifying existing Design Review standards and Sidewalk Design Modification (SDM) application applicability related to sidewalks but do not propose to change the required minimum width of the sidewalk designs. Sidewalks in Commercial and Multiple Use zones are subject to Section 60.05.20.7 which states that sidewalks along street and primary building elevations in Commercial and Multiple Use zones shall be a minimum of ten (10) feet wide and provide an unobstructed path of at least five (5) feet wide, unless approved otherwise through an SDM application (Section 40.58). However, this conflicts with the thresholds for an SDM which refer to the standards specified in the Engineering Design Manual (EDM) and are different than those identified in Section 60.05.20.7. Therefore, the proposed change clarifies that if the sidewalk design standards identified in Section 60.05.20.7 are met, then no SDM application is required. The standard street drawings in the EDM, do also acknowledge that there may be "...special district design parameters..." and to contact the Planning Division for more information (EDM Minimum Collector Street Widths – Drawing 200-2, Note 5) referring to this Design Review section which has specific sidewalk design parameters in specific zones. To address the current circular issue, the proposed changes include removing the requirement for an SDM application from Section 60.05.20.7 and clarifying in Section 40.58 those sidewalks subject to the design standard outlined in Section 60.05.20.7 do not need to apply for an SDM, if the sidewalk design meets to the design standard. Another proposed change to Section 60.05.20.7.B clarifies how the standard is applied in cases where buildings are proposed in zero setback zones and buildings can be built at the property line or street frontage. The current language in Section 60.05.20.7.B can create a situation where there are two 10-foot-wide sidewalks (one onsite and one in the right-of-way) right next to each other. The proposed language is intended to clarify that in these kinds of situations, the standard is not intended to be cumulative. Other transportation related changes include updating the definition of "Driveway" and adding a new definition of "Drive Aisle" to Chapter 90 intended to provide clarity and distinction between these areas. Staff find the proposed amendments have no significant impact or negative affect on existing transportation facilities and systems.

State Land Use Goal Compliance Summary: Staff finds that the proposed text amendment complies with all the applicable Statewide Planning Goals.

Conclusion: Staff finds that the proposed text amendment meets the approval criterion.

Conclusion and Recommendation

Based on the facts and findings presented, staff offers the following recommendation for the conduct of the July 31, 2024, public hearing for LU42024-00403/TA42024-00402 Code Maintenance Project – 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 the proposed amendments and other issues identified by the Commission or the public.
- C. Recommend **APPROVAL** of text amendment application LU42024-00403 Code Maintenance Project – Text Amendment (TA42024-00402), to City Council.