



Community Development Department  
Planning Division  
12725 SW Millikan Way / PO Box 4755  
Beaverton, OR 97076  
General Information: (503) 526-2222 V/TDD  
[www.BeavertonOregon.gov](http://www.BeavertonOregon.gov)

## **CITY OF BEAVERTON STAFF REPORT**

**STAFF REPORT DATE:** April 1, 2020

**HEARING DATE:** April 8, 2020

**TO:** Planning Commission

**STAFF:** Sierra Peterson, Associate Planner

**PROPOSAL:** **TA2019-0004 (Home Testing)**

**SUMMARY:** The applicant proposes to amend the Beaverton Development Code by adding a new definition of "Home Testing of Consumer Electronic Products." The proposal will add reference to "Home Testing of Consumer Electronic Products" as a use in the Development Code. The update affects Chapters 20 and 90 of the Development Code.

**APPLICANT:** City of Beaverton

**APPLICABLE CRITERIA:** Development Code Section 40.85.15.1.C.1-7 (Text Amendment Approval Criteria)

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

## **Section 1. Background**

The text amendment application was initiated by the applicant, Bachrach Law P.C. on behalf of their client Columbia Construction Management. The text amendment is to allow a new use of "Home Testing of Consumer Electronic Products" as a permitted use in single-family residences in the R1, R2, R4, R5, R7 and R10 zoning designations.

The new use as proposed by the applicant involves the testing of pre-released home electronic products for performance in single-family residences before the product is released to the open market. This testing will ultimately determine if the product is ready for release or if changes need to be made to the product before its release. The applicant states that it is critical that this testing occurs in a functional house to account for variables in a home environment which may include power surges, in-home Wi-Fi, interference with wireless communications due to construction materials, furniture, and other appliances.

## **Section 2. Summary of Proposed Amendment**

The proposal amends the text of the Development Code by:

- Adding the new use "Home Testing of Consumer Electronic Products" to the use table and footnotes in Chapter 20; and
- Adding the definition of "Home Testing of Consumer Electronic Products" to Chapter 90.

### Chapter 20

The proposal includes adding the new use "Home Testing of Consumer Electronic Products" to the use table and footnotes in Chapter 20. The new use would be added to Section 20.05.20 as a permitted use all residential districts. Although the new use would be permitted by right, the applicant has proposed the following operational conditions for all "Home Testing of Consumer Electronic Products" uses allowed in single-family residential designations. The conditions will be included as a new footnote to the use table in BDC 20.05.20.

- Hours of operation: Hours of operation in which technicians occupy the residence would be limited to between 7:00 AM and 7:00 PM, Monday through Saturday.
- Parking: The residence must have at least two off-street parking spaces for technicians so no on-street parking would occur with the use.
- Traffic: The use is limited to two vehicles on-site any one time. Testing sites shall not host meetings or house visitors.
- Security: The dwelling unit shall have a 24-hour on-site security system.
- Maintenance: Landscaping and home maintenance shall be contracted to ensure that the home testing properties are well maintained for the neighborhood.
- Concentration and proximity: There shall be no more than three home testing dwelling units within a quarter mile radius at any time.

Staff would like to add a condition that limits the new use to a detached, single-family dwelling unit in all residential zoning designations.

- Dwelling Unit: The use shall be limited to detached, single-family dwelling units.

## Chapter 90

The proposal would add the definition of "Home Testing of Consumer Electronic Products."

The applicant has provided the following definition as amended by staff.

**Home Testing of Consumer Electronic Products.** The use of a ~~residence~~ dwelling unit, ~~designed and built to residential standards~~ for the purpose of ~~setting up and testing~~ a variety of pre-market consumer electronic products to evaluate how they perform in a ~~realistic setting~~ residence. ~~The home is not occupied by residents while used as a testing site and business meetings are not permitted. Generally, two technicians will be on-site monitoring the equipment during normal business hours (Monday – Saturday from 7:00 AM to 7:00 PM).~~

Staff amended the definition for consistency with BDC definitions. The functional characteristics of the use were also struck. Operational limitations of the use are included in Chapter 20, Section 20.25.25 footnotes.

### **Section 3. Public Comment**

Public notice was provided consistent with Section 50.50 of the Development Code. Staff received a letter of support from Bill Berg on behalf of the City of Beaverton Economic Development Department and is included in Exhibit B.

### **Section 4. Development Code Text Amendment Procedures and 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 of the criteria specified in Section 40.85.15.1.C.1-7 are satisfied. The following are the findings of fact for TA2019-0004 (Home Testing of Consumer Electronic Products):

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

**Findings:** 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 Development Code, excluding changes to the zoning map. TA2019-0004 proposes to make changes to Chapters 20 and 90 of the Development Code, as shown in Exhibit A.

**Conclusion:** Approval criterion one is satisfied.

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

**Findings:** The applicant has paid all applicable fees associated with the Text Amendment application.

**Conclusion:** Approval criterion two is satisfied.

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

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 City is required to bring its land use regulations into conformance with the UGMFP. The City's Comprehensive Plan and Development Code have been amended to incorporate several UGMFP policies. The applicable titles of the UGMFP are addressed below.

**Title 1: Housing Capacity**

**Findings:** The Regional Framework Plan calls for a compact urban form and a "fair-share" approach to meeting regional housing needs. It is the purpose of Title 1 to accomplish these policies by requiring each city and county to maintain or increase its housing capacity except as provided in section 3.07.120.

The applicant anticipates that the concentration of this new use in residential designations will be low and would be further limited to three houses within a ¼ mile radius. The dwelling unit will be maintained as a functioning residence, meeting all building, plumbing, electrical, fire and zoning requirements. It is necessary that the residence function as a single-family residence to effectively test consumer products; however, no one will be occupying the residence. At such time the use ceases the house could be made available as a residence again.

**Conclusion:** The proposed text amendment is consistent with Metro Title 1.

**Title 12: Protection of Residential Neighborhoods**

**Findings:** Existing neighborhoods are essential to the success of the 2040 Growth Concept. The intent of Title 12 of the Urban Growth Management Functional Plan is to protect the region's 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 text amendment is for a new use in existing residential dwelling units and will not have exterior or interior activities that would negatively impact the neighborhood.

The home testing use will not generate air, water or noise pollution as all uses are for residential electronic products inside the dwelling or attached to the exterior. The proposed home testing use would not generate the need for additional school

capacity or additional parks. The emergency and police services and other public services required to serve the site would be minimal because no one is living onsite, but will be provided as needed. The operational conditions to be included in BDC 20.05.25, a 24-hour security system will be a requirement of all home testing sites to minimize the potential for property crime.

**Conclusion:** The proposed amendment is consistent with Metro Title 12.

**Summary Finding:** The proposed text amendment is consistent with all applicable titles of the Urban Growth Management Functional Plan. Approval criterion three is satisfied.

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

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 applicable chapters of the Comprehensive Plan are addressed below.

##### **Community Involvement (Chapter 2)**

**Findings:** The proposed amendment was developed through public outreach consistent with the intent of the Community Involvement Element. Following the procedures outlined in the Development Code, notice of the proposed text amendment was sent to all NAC chairs, the Chair of the BCCI, Washington County's Department of Land Use and Transportation, and the Department of Land Conservation and Development. Copies of the hearing notice were posted at City Hall and the City Library, and published in the newspaper, consistent with Type 4 noticing requirements. A notice was also posted on the city's website.

**Conclusion:** The proposed amendment is consistent with the Community Involvement Element.

##### **Land Use (Chapter 3)**

The Land Use Element describes the City's policies guide the type, location, and distribution of land use and integrates how those uses will look and function to contribute to the form of the city. The relevant land use policy is addressed below.

##### **Goal 3.3.1 Promote sustainable development, resilience, and resource protection**

**Policy:** 3.3.1.a Use land effectively in urban areas to relieve development pressure in rural areas and help protect farms, forests and natural resources.

**Finding:** The applicant states that by adding home testing of consumer electronics as an allowed land use promotes sustainable development by using available residences for this unique high-tech service, rather than expending resources to

create simulated residential environments. Beaverton is in a strategic location for emerging software and web-based industries and the proposed text amendment will enable the local tech industry to provide a unique service within the City without looking to other communities for this service.

In addition, because the testing environment is a single-family residence built for residential occupancy, residences where testing occurs can be returned to residential use at such time the use ceases. Due to the highly specialized nature of the proposed use and the limited concentration of dwelling units, the proposed amendment will not limit residential land supply within the city.

### **Goal 3.8.1 Complete and livable Neighborhoods**

**Policy:** 3.8.1.b Regulate minimum residential density to ensure efficient use of residential land and meet regional housing needs.

**Finding:** The testing will occur in existing detached single-family dwelling units built for residential occupancy in accordance within required densities at the time of development. The text amendment will not result in new construction and will utilize existing dwelling units that could be returned to residential occupancy when the home testing use is discontinued. The applicant states that due to the highly specialized nature of the proposed use and the use limitations that will limit the concentration of these uses, the proposed amendment will not limit residential land supply and will allow the continued efficient use of residential land within the City.

**Policy: 3.8.1.h** Use Crime Prevention through Environmental Design (design that provides opportunities for “eyes on the street” through street-facing windows and doors) to reduce graffiti, vandalism and other property crimes and to promote a feeling of safety for pedestrians.

**Finding:** The proposed text amendment includes use restrictions under BDC 20.05.25 that would require that home testing uses include a security system that is monitored 24 hours a day, 7 days a week to ensure that the testing sites are not places for loitering, vandalism or other types of property crime. In addition, the property will be visited by technicians and occupied during the day.

### **Goal 3.8.2 Low and Standard Density Neighborhoods: Provide residential neighborhoods that emphasize detached housing and integrate parks, schools, and other community institutions**

**Finding:** The applicant states that the proposed text amendment provides an opportunity to accommodate the local high-tech industry while maintaining the single-family residential character of neighborhoods. The number of dwelling units utilized for home testing will be limited and will not impact the integration of parks, schools and other community institutions into the city’s single-family neighborhoods.

**Conclusion:** The proposed amendment is consistent with the Land Use Element.

**Housing (Chapter 4)**

The Housing Element describes the City's policies to help the city meet the housing needs of current and future residents in a manner consistent with the Comprehensive Plan's major themes – livability, equity, sustainability and resiliency. The relevant land use policy is addressed below.

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

**Policy:** 4.1.1.f Strive to meet the city's future housing demand within city limits, while coordinating with Washington County and Metro to assess future housing needs at a larger geographic scale, especially for detached single family units.

**Finding:** The home testing use would be limited to no more than three testing uses within a quarter mile radius. Staff will be developing a land use compatibility checklist form that each applicant will be required to complete and have the City sign off on to verify that the use will comply with the required distance from other testing sites as well as operational conditions.

Dwelling units that are used for testing will be maintained as functional residences and can revert back to residential occupancy at such time the home testing use ceases. Therefore, the proposed amendment will not significantly impact the single-family residential housing supply.

**Goal 4.5.1: Ensure that Beaverton continues to be one of the most livable communities in the region**

**Policy:** 4.5.1.a Encourage quality design throughout the city that acknowledges neighborhood character, provides safe and direct connections for pedestrians and bicyclists to a variety of destinations, and integrates open space, natural resources and scenic view corridors

**Finding:** Residences occupied by the home testing use will be required to meet the same building and zoning code provisions of other single-family residences in the city and the proposed text amendment would not impact the design of neighborhoods where the use occurs. As a part of the use limitations proposed under BDC 20.05.25, home testing properties will be required to be regularly maintained and kept in as good a condition as the other properties in the general neighborhood. Therefore, the home testing residences would not change the quality of design or neighborhood character.

**Conclusion:** The proposed amendment is consistent with the Housing Element.

**Summary Finding:** The proposed text amendment is consistent with the City's Comprehensive Plan. Approval criterion four is satisfied.

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

**Finding:** The proposal would modify Chapter 90 by adding "Home Testing of Consumer Electronic Products," to the definitions. The text amendment also adds the new use to the residential land use table in Chapter 20, Section 20.05.20. Staff finds that the proposed amendment does not create conflicts with other provisions of the City's Development Code.

**Conclusion:** Approval criterion five is satisfied.

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

**Finding:** Changes to the Development Code include a new definition and new residential use. The proposed Development Code text amendment does not conflict with existing provisions of the City ordinance requirements and regulations.

**Conclusion:** The proposal is consistent with applicable City ordinance requirements and regulations. Approval criterion six is satisfied.

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

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

**Conclusion:** Approval criterion seven is satisfied.

## **Other Applicable Approval Criteria**

### **State Land Use Goal Compliance**

As a post-acknowledgement amendment to the City's Development Code, the proposed text amendment is subject to ORS 197.175(1), which requires that the City demonstrate that the proposed text amendment be consistent with the relevant Statewide Planning Goals. Staff have determined that the following goals apply:

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

**Findings:** Staff finds that the proposal will not significantly impact the number of housing units available. There is a limit to the number of housing units that can be utilized for home testing within a quarter mile radius. In addition, the City is continuously working to evaluate the housing densities allowed and working to expand the allowable housing types in various residential zoning designations.

**Conclusion:** The proposal is consistent with Statewide Planning Goal 10.

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

**Findings:** Staff finds that the proposal does not, by itself, authorize any additional development and therefore will not have a negative effect on the transportation system of the City or surrounding area. The applicant has submitted a traffic memorandum that states that the new use will be equivalent or less than those of an average, occupied, detached, single-family dwelling unit.

**Conclusion:** The proposal is consistent with Statewide Planning Goal 12.

**State Land Use Goal Compliance Summary:** The proposed text amendment complies with all of the applicable State Planning Goals.

**Summary Conclusion for TA2019-0004:** Based on the facts and findings presented, staff concludes that the proposed amendment to the Beaverton Development Code is consistent with all the text amendment approval criteria of Section 40.85.15.1.C.1-7.

### **Section 5. Staff Recommendation**

Staff offers the following recommendation for the conduct of the April 8, 2020 public hearing for TA2019-0004 (Home Testing of Consumer Electronic Products):

- A. Conduct the public hearing and receive all public testimony relating to the proposal.
- B. Considering the public testimony and the facts and findings presented in the staff report, deliberate on policy issues and other issues identified by the Commission or the public.
- C. Recommend **APPROVAL** of text amendment application TA2019-0004 (Home Testing of Consumer Electronic Products) to the City Council.

### **Section 6. Exhibits**

- Exhibit A Applicant's Materials
- Exhibit B Proposed Development Code Text
- Exhibit C Comments