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CITY OF BEAVERTON STAFF REPORT

STAFF REPORT DATE: February 19, 2020

HEARING DATE: February 26, 2020

TO: Planning Commission

STAFF: Cassera Phipps, Senior Planner

PROPOSAL: **TA2020-0001 (Non-Potable Utility Text Amendment)**

SUMMARY: The City proposes to amend the Beaverton Development Code by updating the definition of Critical Facilities to include non-potable water. The proposal will add reference to both potable and non-potable water systems where public water is currently listed in the Development Code. The update affects Chapters 10, 60 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 City of Beaverton initiated the development of the Purple Pipe Program (Non-Potable Utility) to provide irrigation water supply to the rapidly developing South Cooper Mountain (SCM) area, which will bring a future population of roughly 8,000 residents. The non-potable water system is intended to supplement and free up capacity of the City's potable water system. Additional information about the Purple Pipe Program is provided in Exhibit B.

Construction of housing and supporting infrastructure within SCM is proceeding with full build-out anticipated as early as 2023 or 2024. The rapid pace of development has accelerated the need to formalize a non-potable water system utility in SCM. Concurrent with the proposed text amendment, the City has drafted changes to the City Code that describe when non-potable connections are required, identify allowed uses of non-potable water, and establish administrative procedures for billing and enforcement.

Section 2. Summary of Proposed Amendment

The proposal amends the text of the Development Code by:

- Updating the definition of Critical Facilities, which identifies critical infrastructure and services needed to support development, to include non-potable public water; and
- Adding reference to both potable and non-potable water systems where public water is currently listed in Chapters 10 and 60.

The Comprehensive Plan recognizes the city's role in protecting natural resources and promoting sustainable and resilient development practices. The proposed changes to the Development Code will allow the City to require installation of non-potable water infrastructure within the SCM service area by applying conditions of approval during land use review.

Chapter 10

The proposal updates two existing references to "water" by listing both potable and non-potable water systems. The references are found in Sections 10.10.3 (Purpose) and 10.63.1 (Provide Orderly Development). The proposed text clarifies that the City now operates more than one public water system.

Chapter 60

The proposal updates two existing references to "water" by listing both potable and non-potable water systems. The references are found in Sections 60.15.15 (Final Plat Standards) and 60.50.25.8 (Uses Requiring Special Regulation). The proposed text clarifies that the City now operates more than one public water system.

Chapter 90

For the purpose of land use review (Development Code Section 40.03, Facilities Review Committee), Critical Facilities include the following services and infrastructure needed to support development:

- Public water
- Public sanitary sewer
- Storm water drainage, treatment and detention
- Transportation
- Fire protection

The existing definition of Critical Facilities includes public water. The proposed amendment update the definition of Critical Facilities by listing both potable and non-potable public water systems.

Section 3. Public Comment

Public notice was provided consistent with Section 50.50 of the Development Code. No public testimony has been received.

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 TA2020-0001 (Non-Potable Utility Text Amendment):

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. TA2020-0001 proposes to make changes to Chapters 10, 60 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: 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: Approval criterion two is not applicable.

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 3: Water Quality and Flood Management

Findings: The City of Beaverton partnered with Clean Water Services (CWS) to adopt regulations that limit or mitigate impacts of development activities on resources within Water Quality and Flood Management Areas, in compliance with Metro Title 3. The proposed Development Code text amendment does not modify existing City or CWS requirements related to natural resource areas.

Conclusion: The proposed amendment is consistent with Metro Title 3.

Title 8: Compliance Procedures

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

Conclusion: The proposed amendment is consistent with Metro Title 8.

Summary Finding: The proposed text amendment is consistent with the applicable provisions of the UGMFP.

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.

The proposal is informed by feedback from policymakers and the development community, including developers with experience or ownership in South Cooper Mountain. The City hosted a Developers Forum in December to discuss implementation of the Purple Pipe Program. A second Developers Forum is scheduled for late February. Therefore, staff find that the City has provided adequate notice and opportunity for stakeholders to provide feedback.

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

Land Use (Chapter 3)

The Land Use Element describes the City's policies for long-term growth and development. The relevant land use policy is addressed below.

Policy 3.3.1.c *Encourage and incentivize sustainable building and site design approaches that minimize environmental impacts of the built environment while creating healthy, safe places for people to live, work and play, through:*

- i. Energy conservation and renewable energy*
- ii. Reducing resource consumption and waste*
- iii. Reducing water consumption and wastewater generation, including use of non-potable water systems where appropriate*
- iv. Integration of storm water and natural systems*
- v. Protecting and supporting human health*
- vi. Designing for adaptability over time*

Finding: The proposed changes acknowledge that the City will soon operate two public water systems: potable and non-potable. Generally, non-potable water systems reduce demand and consumption of potable water. Therefore, staff find that the text amendment is consistent with Policy 3.3.1.c.

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

Public Facilities and Services (Chapter 5)

Policy 5.5.1.a *Ensure all new land development (residential subdivisions, multiple family dwelling development, and industrial and commercial developments) is connected to a public water system.*

Finding: The proposal does not change existing connection requirements for the City's potable water system. Within the service area (South Cooper Mountain), new developments will be required to connect to the non-potable water system in addition to the potable water system. Therefore, staff find that the proposed text amendment is consistent with Policy 5.5.1.a.

Policy 5.5.1.b *Ensure all new development served by the Beaverton Water Division is reviewed by the City to determine that the pressure of water available to serve the proposed development meets City standards.*

Finding: The proposed Development Code text amendment does not affect existing standards for water pressure. Therefore, staff find that the proposal meets Policy 5.5.1.b.

Policy 5.5.1.c *Encourage water conservation consistent with current intergovernmental agreements, to prolong existing supplies and help postpone water system capacity improvements needed to supply expected future demands as a result of projected population increases.*

Finding: The City's Purple Pipe Program is intended to offset demand for potable water, potentially delaying capacity improvements to the potable water system. With future development and population growth anticipated in Cooper Mountain, the City is considering how to expand the non-potable water system. Therefore, staff find that the proposal is consistent with Policy 5.1.1.c.

Conclusion: The proposed amendment is consistent with the Public Facilities and Services Element.

Comprehensive Plan Compliance Summary: The proposed amendment is consistent with the City's Comprehensive Plan.

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 non-potable water as a Critical Facility for the purpose of land use review (Facilities Review Committee, Section 40.03). In addition, the proposal would add both non-potable and potable water systems where public water is currently referenced in Development Code Chapters 10 and 60. Staff find 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 City Code are being processed concurrently with the proposed Development Code text amendment, which include a new chapter on Non-Potable Water Service Regulations. The proposed update to the "Utilities and Sanitation" section of the City Code would define the non-potable utility service area and establish policies and procedures related to:

- Connection to the non-potable water system
- Allowable uses of the non-potable water system
- Billing, payment and collection
- Charges to fund construction, operation and maintenance of the non-potable water system.

The proposed Development Code text amendment supports the City Code changes by adding reference to the non-potable water system and updating the definition of Critical Facilities. The proposed Development Code text amendment does not conflict with existing provisions of the City Code.

Conclusion: The proposal is consistent with applicable City ordinance requirements and regulations.

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 has been met.

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

Findings: The Beaverton Citizen Involvement Program adopted by Resolution 2229 in 1980 established a formalized public participation program for the BCCI that provides a method by which the committee and other community members can communicate their opinions and inquiries about city matters, including the planning process. As previously noted, notice of the proposal was sent to the BCCI Chair and all Neighborhood Association Committee Chairs.

Conclusion: The proposal is consistent with Statewide Planning Goal 1.

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

Findings: Changes to the Development Code require a Type 4 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 the 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 find that the proposed text amendments fits within the established process and framework for legislative amendments. Furthermore, the findings contained in this report establish an adequate factual basis for the proposal.

Conclusion: The proposal is consistent with Statewide Planning Goal 2.

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

Findings: The City's Purple Pipe Program is intended to provide a safe, non-potable water source for irrigation within the service area. The non-potable water system will offset demand for potable water, freeing up capacity of the potable water system. The proposed text amendment acknowledges this new urban service and associated public infrastructure provided by the City in the non-potable utility service area.

Conclusion: The proposal is consistent with Statewide Planning Goal 11.

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

Summary Conclusion for TA2020-0001: Based on the facts and findings presented, staff conclude 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 February 26, 2020 public hearing for TA2020-0001 (Non-Potable Utility Text Amendment):

- 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 TA2020-0001 (Non-Potable Utility Text Amendment) to the City Council.

Section 6. Exhibits

Exhibit A Proposed Development Code Text

Exhibit B Beaverton Purple Pipe Public Communications Packet