



FINAL AGENDA

FORREST C. SOTH CITY COUNCIL CHAMBER
4755 SW GRIFFITH DRIVE
BEAVERTON, OR 97005

REGULAR MEETING
APRIL 18, 2005
6:30 P.M.

CALL TO ORDER:

ROLL CALL:

VISITOR COMMENT PERIOD:

COUNCIL ITEMS:

STAFF ITEMS:

CONSENT AGENDA:

Minutes of the Regular Meeting of April 11, 2005

- 05075 Liquor License Application: New Outlet - Target Store #344; Ringo's Bar & Grill
- 05076 Social Service Funding Committee Recommendations
- 05077 Boards and Commissions Appointment - Bryan Thompson to Bicycle Advisory Committee
- 05078 Ratify Tentative Contract Agreement with Beaverton Police Association

PUBLIC HEARINGS:

- 05079 A Public Hearing to Receive Public Input Regarding the Annexation of Several Parcels Located in the Vicinity of Cornell Oaks Corporate Center to the City of Beaverton: Annexations 2005-0002 and 2005-0003

ORDINANCES:

First Reading:

- 05080 An Ordinance Annexing Nine Parcels Located in the Cornell Oaks Corporate Center to the City of Beaverton: Annexation 2005-0002 (Ordinance No. 4349)

- 05081 An Ordinance Annexing Five Parcels Located in the Vicinity of the Cornell Oaks Corporate Center, Owned by Leupold & Stevens, Inc., to the City of Beaverton: Annexation 2005-0003 (Ordinance No. 4350)
- 05082 An Ordinance Adopting TA 2004-0009 to Amend Development Code Section 50.25.7 (Completeness Processing Amendment) (Ordinance No. 4351)
- 05083 An Ordinance Amending Beaverton Code Chapter 2 by Repealing Sections 2.03.141 to 2.03.148 Providing for a Historic Resource Review Committee (Ordinance No. 4352)

Second Reading:

- 05074 TA 2004-0011 Tree Code Text Amendment (Ordinance No. 4348)

EXECUTIVE SESSION:

In accordance with ORS 192.660 (2) (h) to discuss the legal rights and duties of the governing body with regard to litigation or litigation likely to be filed and in accordance with ORS 192.660 (2) (e) to deliberate with persons designated by the governing body to negotiate real property transactions and in accordance with ORS 192.660 (2) (d) to conduct deliberations with the persons designated by the governing body to carry on labor negotiations. Pursuant to ORS 192.660 (3), it is Council's wish that the items discussed not be disclosed by media representatives or others.

ADJOURNMENT

This information is available in large print or audio tape upon request. In addition, assistive listening devices, sign language interpreters, or qualified bilingual interpreters will be made available at any public meeting or program with 72 hours advance notice. To request these services, please call 503-526-2222/voice TDD.

DRAFT

BEAVERTON CITY COUNCIL
REGULAR MEETING
APRIL 11, 2005

CALL TO ORDER:

The Regular Meeting of the Beaverton City Council was called to order by Mayor Rob Drake in the Forrest C. Soth City Council Chamber, 4755 SW Griffith Drive, Beaverton, Oregon, on Monday, April 11, 2005, at 6:35 p.m.

ROLL CALL:

Present were Mayor Drake, Counc. Catherine Arnold, Betty Bode, Fred Ruby and Cathy Stanton. Coun. Dennis Doyle was excused. Also present were Assistant City Attorney Bill Scheiderich, Chief of Staff Linda Adlard, Finance Director Patrick O'Claire, Community Development Director Joe Grillo, Engineering Director Tom Ramisch, Operations/Maintenance Director Gary Brentano, Library Director Ed House, Human Resources Director Nancy Bates, Police Captain Ed Kirsch, Operations Manager Steve Brennan, Principal Planner Hal Bergsma, Senior Planner Barbara Fryer and City Recorder Sue Nelson.

PROCLAMATIONS:

Mayor Drake proclaimed April 17-23, 2005, Arbor Week.

PRESENTATIONS:

05068 Tree City USA Growth Award

Operations Manager Steve Brennan introduced Lead Arborist Patrick Hoff and Thomas Whittington, Stewardship Forester, Oregon Department of Forestry.

Brennan reviewed the City's 2005 Urban Forestry Master Plan and its goals. He said the Plan's goals centered on preservation of the urban forest. He said this year the City's Forestry Program goals were to increase citizen participation through education and participation, to plant more trees to enhance the urban forest, and to protect the trees through stewardship and preservation. He said staff works closely with developers on tree preservation as new developments come into the City. He said the tools used to involve more citizens in the Forestry Program included educational activities and literature, re-introduction of Beaverton's Favorite Tree Contest, implementation of a Heritage Tree Program and continuing the City's tree planting program. He said the City has continued working with the Friends of Trees, and over the last three years they were able to plant and establish 500 new trees in the older sections of Beaverton, where trees had died or were removed or had never been planted.

Brennan presented a PowerPoint slide presentation explaining the work that had been accomplished under the City's Urban Forestry Program. He showed pictures of Ponderosa Pines, off of SW Denney Road near SW Rollingwood Drive, where the trees were diagnosed with Western Gall Rust, a disease that is becoming prevalent in the pine trees in Beaverton; the Operations Department was watching this closely to protect the groves in the City parks. He said as part of the annual pruning program the City maintains 4,800 trees on City facility sites and 12,000 street trees to keep the streets clear for maintenance vehicles. He showed pictures of the tree replacement program on SW Fifth Street; the trees were replaced due to sidewalk damage. He said they replaced 300 to 500 trees annually under these programs. He showed pictures of an Arbor Day tree planting project and hazardous tree removals due to structural or disease problems, or storm damage. He said where trees were destroyed in vehicle accidents, the City worked with the insurance companies to replace the trees. He said there was tree vandalism in the community which required tree replacement. He said they also assisted property owners with sidewalk repairs preserving trees or to replace the tree with the proper tree for that area. He said they worked with contractors to avoid problems such as root damage, and to ensure the trees were properly placed in the right-of-ways to avoid future damage to the sidewalks or roads.

Brennan reviewed work on SW Hall Boulevard to accommodate existing trees and comply with ADA standards. He said by using impervious sidewalk surface they were able to provide more room for the trees and eliminate tripping hazards. He also reviewed a project on SW Downing Road to preserve the trees and canopies. He said through root pruning and root barriers, they were able to avoid future infrastructure damage. He said this was a win-win project for everyone involved.

Brennan reviewed the standards for *Tree City USA*: 1) A city has to have a Tree Board or Department; in Beaverton the Operations Department is responsible for forestry management. 2) A city must have a Community Tree Ordinance, which Beaverton has in place 3) A city must have a Community Forestry Program with an annual budget of at least \$2 per capita; Beaverton has a dedicated urban forestry program that meets this criteria. 4) A city has an Arbor Day observance and proclamation, which Beaverton does annually. He said the City received the Tree City USA Growth Award for the last seven years.

Coun. Arnold referred to page 16 (in the record) that showed trees in a planter area that had damaged a road. She asked if that happened because the trees were the wrong type or would that happen eventually with all trees in planting strips.

Brennan replied this would not happen with all trees; that was a case of the wrong type of tree for that strip. He said the trees in this area were planted before there were Codes and requirements that dictated the types of trees that were appropriate for planting strips.

Coun. Arnold asked what was the minimum planter width for trees.

Brennan said current planting standards do not allow trees to be planted in planters under three feet in width; four feet was the standard minimum.

Mayor Drake said there was an exception on the four-foot standard when Washington County was improving SW Murray Boulevard. He said the County usually provides a curb-tight sidewalk and does not install trees, which are required by the City Code. He said the planter that was installed was narrow in spots and bushes were planted rather than full trees. He said the City modifies the standards occasionally to make the sidewalk safer or to allow a tree with some other type of buffer.

Coun. Stanton referred to page 15 and asked if the grate inhibited the tree's growth. She referred to the trees in front of the Library and how long they could be there before they would have to be cut down because the diameter of the grate would not be large enough.

Brennan said the tree and grate on page 15 was on SW Hall Boulevard. He said curbing was built into that design sixteen inches deep and the tree's roots were not able to grow out. He said that stunted the tree and caused sidewalk damage from the roots. He said the grates at the Library were different, they were open grates; there was no infrastructure to keep the roots from growing outward and a root barrier was installed to catch the roots prior to causing structural damage to the surrounding pavements. He said the grate could be cut out mechanically to remove the rings and enlarge the diameter to accommodate the trees growth.

Coun. Stanton referred to the Tree City USA standards requirement of a tree board or department. She said she wondered why the City did not use citizens to serve on a tree board.

Thomas Whittington, Stewardship Forester, Oregon Department of Forestry (ODF), said the ODF recognizes the important contributions trees make to communities and the importance of the Urban Forestry Program. He said on behalf of the National Arbor Day Foundation and the ODF, he was pleased to present the 2004 Tree City USA Award to the City of Beaverton. He said this was Beaverton's 11th year as a Tree City USA and the seventh year the City received the Tree City USA Growth Award. He presented the Tree City USA flag to Brennan.

VISITOR COMMENT PERIOD:

Henry Kane, Beaverton, said the Council should amend the Beaverton Development Code to require buses and trucks parked in yards or other facilities, to comply with State and Federal fuel emission standards. He said he was suggesting this because the Beaverton School District was preparing a second application and would hold a neighborhood review meeting on Thursday, April 14, 2005, at 7:00 p.m., at the Five Oaks Middle School, 1600 NW 173rd Avenue. He recalled past actions of the Council and LUBA regarding the District's first application for a bus barn facility. He said the Council had not ruled on the testimony that bus diesel fumes injured children and adults, because the Code did not contain environmental protection standards. He said since then, the Environmental Protection Agency had adopted regulations to reduce this environmental problem and he felt the Code should be amended to state an applicant must comply with State and Federal fuel emission standards as a condition of approval. He said this would reduce much of the first round opposition.

COUNCIL ITEMS:

Coun. Stanton encouraged everyone to attend the Neighborhood Summit on Saturday, April 23, 2005, at City Hall. She said information was available on the City's Web site and would be mailed to residents. She said there would be three sessions with different topics; the event was free but there was a \$5.00 charge for lunch. She said people could register by calling 503-350-4097.

STAFF ITEMS:

There were none.

CONSENT AGENDA:

Coun. Bode MOVED, SECONDED by Coun. Ruby, that the Consent Agenda be approved as follows:

Minutes of the Regular Meeting of April 4, 2005

05069 Development Services Fee Schedule Increase (Resolution No. 3813)

05070 Classification Changes

05071 City Council Appointments to Boards and Commissions - Pulled for Separate Consideration

Contract Review Board:

05072 Bid Award - Cedar Hills Boulevard Utility Improvements Project, Phase 3

Coun. Stanton said she had minor changes to the April 4, 2005, minutes which she gave to the City Recorder.

Question called on the motion. Couns. Arnold, Bode, Ruby and Stanton voting AYE, the MOTION CARRIED unanimously. (4:0)

05071 City Council Appointments to Boards and Commissions

Coun. Bode pulled Agenda Bill 05071 for separate consideration to document for the audience another part of the City Council work that was not publicized. She said each Councilor had expanded duties in addition to City Council meeting responsibilities. She said annually each Councilor was appointed to serve on other commissions within the City. She read the appointments for 2005; confirming with each Councilor present that they accepted their appointments. She noted Coun. Doyle was not present but confirmed with Couns. Ruby, Arnold and Stanton that he would accept his appointments.

Coun. Ruby: Human Rights Advisory Commission

Coun. Doyle: Beaverton Arts Commission; Mayor's Youth Advisory Board; Committee for Citizen Involvement

Coun. Arnold: Disabled Citizens Advisory Committee; Senior Citizens Advisory Committee
Coun. Bode: Social Service Funding Committee; Liaison to Mayor's Office
Coun. Stanton: City Library Board; Metropolitan Area Communications Commission

Coun. Stanton MOVED, SECONDED by Coun. Ruby that Council approve Agenda Bill 05071, City Council Appointments to Boards and Commissions. Couns. Arnold, Bode, Ruby and Stanton voting AYE, the MOTION CARRIED unanimously. (4:0)

WORK SESSION:

05073 TA 2004-0011 Tree Code Text Amendment

Principal Planner Hal Bergsma introduced Senior Planner Barbara Fryer and Associate Planner Leigh Crabtree. He said the City took great pride in the preservation of its trees. He said this work session was to present the culmination of several years of work on amendments to the City Development Code relating to the protection of trees. He said Ms. Fryer was the lead planner who worked on this project; she was assisted by Ms. Crabtree and other planning staff. He said throughout the process, input was received from many citizens, including members of the Development Liaison Committee, the development community, the environmental community, the Portland Audubon Society, the Tualatin Riverkeepers, the staff of the Tualatin Hills Parks and Recreation District and Clean Water Services, along with citizen comments from several public hearings conducted by the Planning Commission. He said Ms. Fryer would review the process used and the details of the proposed amendments to the Code.

Fryer presented a PowerPoint slide presentation of the Tree Code Text Amendment (in the record). She reviewed the history of the development of the City's tree regulations. She said in 1984 the Council adopted the Significant Natural Resource Inventory, which identified and classified wetlands and treed areas. She said the wetland areas were classified *Significant* and treed areas were classified *Important*, with the intention that wetland and treed areas would be saved as allowed through development. She said in 1990 the Council adopted the first Tree Code that protected trees throughout the City. She said the Tree Code directed the Board of Design Review to identify significant trees and groves throughout the City. In 1991 the Significant Trees and Groves Inventory was adopted by the Board of Design Review; this inventory has been used to develop tree plans in the City since 1991. She said in 1999 the tree inventory was updated to include areas annexed into the City. She said the Scenic Tree Project was started shortly after 1999; this project was an effort to look at trees through an aesthetic viewpoint as part of Goal 5. She said in 2002 the Council adopted the current Tree Code that allowed for mitigation on a one-to-one basis for every tree that was removed. She said since 2002, Ballot Measure 37 was adopted which required the City to refocus on how the Scenic Tree Project and tree regulations would be treated in the future.

Fryer reviewed the current tree classifications: Community Trees; Significant Groves; Street Trees; Landscape Trees; Significant Individual Trees; Significant Natural Resources Areas; Historic Trees. She said in the proposed tree classifications, it was recommended that the Street and Landscape Trees be removed, and a new category be added called Mitigation Trees.

Fryer said there were five major objectives considered when the new regulations were developed. She said first, *Clear and Objective Regulations* were required by Goal 5. She said that meant if the standard was met, an applicant could go through the process without having to go through a public hearing. Second, she said, an *Alternate Discretionary Process* was needed if the clear and objective standard could not be met. She said the third objective was to *Limit Potential Measure 37 Claims*. She said the fourth objective was to ensure there was a *Clear Progression of Magnitude* in the impact of the tree regulations. She said in the current regulations it was not clear that in going from Tree Plan 1 to Tree Plan 2 or 3, there was a significant increase in the magnitude of the impact on the resource or that the resource was more important. She said the new regulations show a clear progression in the magnitude of impact. She said the fifth objective was to *Improve Processing and Mitigation Procedures*.

Fryer reviewed the proposed changes to the regulations in detail (in the record). She said Landscape and Street Trees were being removed from the classification as they were covered in other Code sections. She said Community Trees regulations were amended to allow removal of up to four Community Trees or 10% of the number of Community Trees on a site, whichever would be greater. She said this could be done as an exempt action; without a permit or tree plan process.

Coun. Stanton asked at what level this would fall into Tree Plan 3.

Fryer replied Community Trees never would fall into the Tree Plan 3 level. She said anything over 10% to 100% would be a Tree Plan 2 level.

Fryer said for Significant Individual Trees (trees currently on the tree inventory), the City currently regulates pruning, removal and mitigation. She said it was proposed that fewer trees be provided as mitigation. She said if one tree of a certain size was removed, it would be replaced with fewer trees. She said there weren't any changes proposed for the Historic Trees. She said a new Exemptions category was added to Chapter 40 of the Development Code. She said the Exemption section clearly outlined what activities were exempt from having to file a tree plan; this included street and sidewalk improvements, non-mechanized enhancement, non-mechanized invasive species removal, low-impact trails, hazardous trees, and minor pruning.

Fryer reviewed the proposed changes for Tree Plan 1 in detail (in the record). She said a new category was added under Tree Plan 1, titled Commercial Timber Harvest. She said a current annexation to the City involved three parcels that were in active timber harvest management. She said this category was developed for these three tax lots only. She said it was designated as a Type 1 process and the property owner must maintain no less than ten healthy trees per acre, the trees have to be a minimum of ten inches diameter at breast height, and they can be clumped or evenly distributed. She said mitigation was not required for these trees. She reviewed the proposed changes for Tree Plans 2 and 3 in detail (in the record).

Coun. Arnold asked what one-to-one meant in terms of mitigation.

Fryer said it meant if she removed a ten-inch diameter tree, a ten-inch diameter tree or five two-inch diameter trees would have to be planted somewhere else on her property as mitigation.

Coun. Arnold asked what was the definition of "understory preserved."

Fryer said that meant the shrubs and herb layer on the site would have to be preserved. She summarized that the proposed changes would remove redundancy, added new exemptions and applications, and provided flexibility in processing. She said the next step would be to combine the four tree classifications (Significant Natural Resource Area, Significant Groves, Significant Trees and Historic Trees) into a Protected Trees Map. She said the Scenic Tree Project will be used to clarify the health status of the treed areas and to modify the boundaries in those four classifications. She said to limit the Ballot Measure 37 claims the Protected Trees Map would not be expanded to include the entire area inventoried.

Mayor Drake complimented the staff for an excellent presentation and for their work on this project. He said he felt this process was fair; it reasonably protected the trees in the community and it acknowledged trees were a valued asset in the community without being so restrictive that people could not exercise utility of their property.

Coun. Bode said she was impressed with Ms. Fryer's work. She said this document was much clearer for citizens and developers. She complimented the staff on the PowerPoint presentation.

Coun. Ruby referred to applicability (page 3 of staff report) and said he understood the tree plans did not apply to the average homeowner who had a stand-alone dwelling on property one-half acre or less in size.

Fryer said that was correct, with the exception of those who have a listed Significant Tree on their property. She said there were over 100 Significant Trees inventoried in the 1991 inventory. Trees on that inventory would be subject to this proposal, but there were no new regulations being placed on their property.

Coun. Ruby asked if the homeowners were notified that they had a Significant Tree on their property when that inventory was done.

Fryer said they were notified.

Coun. Ruby confirmed this was only about 100 trees in the entire community. He asked if he understood correctly that there were no restrictions on the ability of a homeowner to remove a tree from their property, unless it was a Street or Landscape Tree.

Fryer said Street Trees were regulated under the Code.

Coun. Ruby asked if it was not a Street Tree, there wasn't anything in the Code to prevent owners from removing trees in their backyard without getting permission from the City.

Fryer replied that was correct.

Coun. Stanton referred to property owners who had a Significant Tree on their property, and asked if there was anything added to their property title record which identified the Significant Tree. She said she was asking because homeowners change every few years.

Fryer said there weren't any current requirements for a deed restriction on property. She said in the proposed amendments, if there is a Significant Grove or Area on a property, a deed restriction would be placed on the property and recorded at the County. She said in terms of a Significant or Historic Tree, there weren't any deed restrictions on those properties to require notification about the tree.

Bergsma said the inventory would be updated soon and all the owners would be notified of the resources on their property.

Coun. Stanton thanked staff for working with a citizen, Mr. Russell. She said she knew staff worked hard to make this address Mr. Russell's concerns. She also acknowledged the Planning Commission who had this issue on its agenda for four meetings. She said the Commission did a fabulous job on this issue. She also thanked staff for their work.

Coun. Stanton referred to page 36 of the staff report (January 19, 2005 Planning Commission Minutes) quoting: "*Mr. Sparks explained that hazardous is determined terms of applicability.*" She questioned what that should have said.

Fryer replied she was not sure what it should have said but she referred to page 279 of the staff report explaining there was a new definition for hazardous tree that could be given to citizens to help them determine if the hazardous tree exemption would apply to them.

Mayor Drake said citizens were often concerned with hazardous trees which might fall down. He said the current Code does not require mitigation if a tree fell during a windstorm. He said if the owner was being cautious and removed a tree they thought was a hazard, mitigation was required. He said that was changed in the proposed amendments so hazardous trees could be removed without mitigation.

Coun. Stanton confirmed with Fryer that the Code still required a permit for removal of a street tree.

Bergsma said an exemption was added to the Code to allow immediate removal of a hazardous tree in an emergency situation. He said if the tree was about to fall down, such as in a storm, and there wasn't any time to come in to City Hall and get a permit, the tree could be removed at that time and the owner could come in to the City and justify the removal after the fact. He said that would apply to individual and Street Trees.

Coun. Stanton said she was instrumental in having that language changed as that was not in the last revision of the ordinance.

There were no other questions.

Mayor Drake thanked staff for the presentation.

ORDINANCES:

Suspend Rules:

Coun. Ruby MOVED, SECONDED by Coun. Stanton, that the rules be suspended, and that the ordinance embodied in Agenda Bill 05074, be read for the first time by title only at this meeting, and for the second time by title only at the next regular meeting of the Council. Couns. Arnold, Bode, Ruby and Stanton voting AYE, the MOTION CARRIED unanimously. (4:0)

First Reading:

Assistant City Attorney Bill Scheiderich read the following ordinance for the first time by title only:

05074 TA 2004-0011 Tree Code Text Amendment (Ordinance No. 4348)

ADJOURNMENT

There being no further business to come before the Council at this time, the meeting was adjourned at 7:45 p.m.

Sue Nelson, City Recorder

APPROVAL:

Approved this day of , 2005.

Rob Drake, Mayor

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

SUBJECT: LIQUOR LICENSE APPLICATION: FOR AGENDA OF: 04/18/05 BILL NO: 05075
NEW OUTLET **MAYOR'S APPROVAL:** 
Target Store #344
10775 SW Beaverton-Hillsdale Hwy **DEPARTMENT OF ORIGIN:** Police 
Ringo's Bar & Grill **DATE SUBMITTED:** 04/05/05
12300 SW Broadway

PROCEEDING: Consent Agenda

EXHIBITS: None

BUDGET IMPACT

EXPENDITURE	AMOUNT	APPROPRIATION
REQUIRED \$ 0	BUDGETED \$ 0	REQUIRED \$ 0

HISTORICAL PERSPECTIVE:

Background investigations have been completed, and the Chief of Police has found that the applicants meet the standards and criteria as set forth in B.C. 5.02.240. The City has published in a newspaper of general circulation a notice specifying the liquor license applications.

INFORMATION FOR CONSIDERATION:

Target Corporation has made application for an Off-Premises Sales License under the trade name of Target Store 344. The establishment is a retail store. People are able to purchase items for consumption off premises as there is no seating available. Its hours of operation are Monday through Saturday, 8:00 a.m. to 10:00 p.m., and Sunday, 8:00 a.m. to 9:00 p.m., with extended hours of operation during the holiday shopping season (late November through December). There is no entertainment offered. An Off-Premises Sales License allows the sale of malt beverages, wine, and cider to go in sealed containers.

Oules and Lippincott, Inc. has made application for a Full On-Premises Sales License under the trade name of Ringo's Bar & Grill. The establishment is a tavern that operates Monday through Sunday from 8:00 a.m. to 2:00 a.m. They offer Video Lottery Machines and pool tables as entertainment. A Full On-Premises Sales License allows the sale of distilled spirits, malt beverages, wine and cider for consumption at the licensed business.

RECOMMENDED ACTION:

The Chief of Police for the City of Beaverton recommends the City Council approve the OLCC license applications.

AGENDA BILL

Beaverton City Council
Beaverton, Oregon

SUBJECT: Social Service Funding Committee
Recommendations

FOR AGENDA OF: 04-18-05 **BILL NO:** 05076

Mayor's Approval: 

DEPARTMENT OF ORIGIN: Mayor's Office

DATE SUBMITTED: 04-11-05

PROCEEDING: CONSENT AGENDA

CLEARANCES: None

EXHIBITS: #1 Recommendations
#2 Program Descriptions

BUDGET IMPACT

EXPENDITURE	AMOUNT	APPROPRIATION
REQUIRED \$255,521*	BUDGETED \$255,521*	REQUIRED \$

*From 2005-06 Budget. Funding will come from two sources: \$154,475 State Revenue Sharing, \$101,046 Community Development Block Grant (CDBG) funds. Agencies receiving CDBG funds will enter into a HUD contract administered by the City of Beaverton. Agencies will need to comply with CDBG requirements. City funds are contingent on the adoption of the City of Beaverton 2005-2006 budget.

HISTORICAL PERSPECTIVE:

The Social Services Funding Program was established to assist social service providers in meeting needs of Beaverton residents. Non-profit organizations desiring funds submit an application to the City for consideration. A committee is formed each year that consists of one Council member to serve as the Chair, appointed by consensus of the Council, and five citizen members, appointed individually by the Mayor and each of the City Councilors. This year's committee was chaired by City Council President Betty Bode. This committee is responsible for reviewing applications, conducting interviews, and submitting their recommendations to City Council for approval.

INFORMATION FOR CONSIDERATION:

See Exhibit #1.

RECOMMENDED ACTION:

Approve the Social Services Funding Committee recommendations.

04-18-2005
AGENDA BILL
EXHIBIT #1

AGENCY/PROGRAM NAME	2005-2006 Grants
Beaverton Literacy Council	\$4,000
Beaverton Loaves and Fishes/Minority Community Initiative	\$13,000 *
Beaverton Rotary Foundation/Dental Check	\$5,000
Beaverton Together/After-School Youth Enhancement Program at Five Oaks Middle School	\$12,000
Care to Share	\$11,621
Community Action Organization/Child Care Resource and Referral	\$5,000
Community Action Organization/Transitional Housing	\$10,000
Community Alliance of Tenants/Renter Stability Education Program	\$6,000
Court Appointed Special Advocate (CASA)	\$20,000 *
Domestic Violence Resource Center/Monika's House	\$20,000 *
Ecumenical Ministries of Oregon/Shared Housing	\$1,500
Good Neighbor Center/Homeless Shelter	\$15,000 *
Immigration and Refugee Community Organization/African Refugee & Immigrant Assistance	\$10,000 **
LifeWorks Northwest/The Open Gate	\$10,000 *
LifeWorks Northwest/New Parent Network	\$15,000 *
Open Door Counseling/Comprehensive Housing Counseling Program	\$8,000
Oregon Korean Community Center	\$5,000
Oregon Somali Family Education Center	\$10,000
Rebuilding Together	\$6,000
St. Andrew Legal Clinic	\$7,000
Sexual Assault Resource Center	\$7,000
Store to Door	\$3,000
Tualatin Hills Park Foundation	\$5,400
Tualatin Valley Housing Partners/Resident Services	\$2,000
Westside Service Center	\$15,000
Youth Contact	\$29,000
Total 2005-2006 Grant Funds	\$255,521

*Agencies receiving CDBG funds.

** Agency receiving split CDBG (\$8,046) and Revenue-sharing (\$1,954) funding

04-18-2005
Agenda Bill
Exhibit #2

Program Descriptions of Grant Recipients

Beaverton Literacy Council : Teaches English, reading, math, American culture and other skills necessary to live and work in the community; all taught by volunteers.

Beaverton Loaves and Fishes/Minority Community Initiative: Provides nutritious meals to growing number of low-income Asian and Hispanic seniors living in Beaverton.

Beaverton Rotary Foundation/Dental Check-Dental Aid: Dental screening to children at one elementary school in Beaverton. Qualified children from that school will receive dental treatment at OHSU Dental School or at a local volunteer dentist.

Beaverton Together/After-School Youth Enhancement Program at Five Oaks Middle School: A safe structured after-school program that provides academic support and recreation support for middle school students and additional resources for parent training and/or support.

Care to Share: Provides emergency food, rent and utility assistance to Beaverton residents.

Community Action Organization/Child Care Resource and Referral (CCR&R): Part of a state-wide network that works to ensure that access to child care does not become a barrier to employment. CCR&R provides support for child care centers, family child care providers and prospective child care providers.

Community Action Organization/Transitional Housing: Provides assistance for people at-risk of becoming homeless. Services include case management, tenant educations, landlord outreach and rental assistance.

Community Alliance of Tenants/Renter Stability Education Program: Works to increase the housing stability of low-income renters through education services, community workshops and informational brochures.

Immigrant and Refugee Community Organization (IRCO)/African Refugee and Immigrant Assistance: Project will address the educational, literacy and housing needs of Beaverton's newest ethnic community comprised of 200 Somali and Somali Bantus living in apartment complexes on SW Farmington Road, Allen Boulevard, 6th Avenue, Larch Place, Electric Road and 107th Avenue.

Court Appointed Special Advocates (CASA) for Children: An organization that recruits, trains, and supervised community volunteers to advocate for kids who have found their way into the juvenile court system through no fault of their own. Most cases are children who have been neglected, abused and removed from their homes.

Domestic Violence Resource Center/Monika's House: Provides a safe, confidential shelter and 24-hour crisis information line to victims of domestic violence. This is the only domestic violence for women in Washington County.

Ecumenical Ministries/Shared Housing: Provides an opportunity for low-cost housing and living assistance to Beaverton residents by matching an existing homeowner that has an extra room in their house with a person who is seeking low-cost housing.

Good Neighbor Center/Homeless Shelter: The only homeless shelter in East Washington County. The shelter can house up to nine families at any one time. The Good Neighbor Center provides housing, meals, clothing (which is donated), and case management. They also work with resident on a self-sufficiency program to help them overcome the causes of homelessness.

LifeWorks Northwest/The Open Gate: Program serves people with severe and persistent mental illness through employment assistance, medication management and dual diagnosis program for those with a mental illness and drug/alcohol addiction.

LifeWorks Northwest/New Parent Network: Provides support services for at-risk first time parents, preventing possible child abuse and neglect and increasing the child's readiness to enter school.

Open Door Counseling/Comprehensive Housing Counseling Program: Provide counseling, homeless services, home buying classes and foreclosure prevention for families and individuals who are at-risk for becoming homeless.

Oregon Korean Community Center: Provides assistance to help Korean immigrants, especially seniors, assimilate to life in the United States through translation and interpretation, referral and informational services for government benefits, family counseling, health services, senior lunch program and senior school program.

Oregon Somali Family Education Center: The program supports young Somali school children and their families in areas of tutoring, parent education and support, sports and recreation, skill building and health education.

Rebuilding Together Washington County: Provides home repair and rehabilitation to low-income homeowners in Washington County; particularly the disabled and elderly.

St. Andrew Legal Clinic of Washington County: Provides legal services to low-income people with family law needs.

Sexual Assault Resource Center: Provides free and confidential services to survivors of sexual assault which include support, counseling, and advocacy to inform them of their rights and guide them through the criminal justice system.

Store to Door: Volunteer-based agency that provides shopping and delivery of groceries to seniors and people with disabilities.

Tualatin Hills Park Foundation/Family Assistance Program: Provides fee waivers for low-moderate income residents of the City of both the City of Beaverton and Tualatin Hills Park and Recreation District for recreation and athletic programs.

Tualatin Valley Housing Partners: Provides services to low-income residents of Spencer House and Fircrest Manor Apartment complexes.

Westside Service Center: Provides a clean, safe and sober environment where individuals struggling to free themselves from the addictions can find support in their efforts. Westside Service Center provides support of the 12-step recovery program.

Youth Contact: Provides alcohol and drug treatment, mental health treatment, juvenile delinquency intervention, divorce transition services, community safety net, and outreach and ESL services to Oregon Somali Education Network.

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

SUBJECT: Boards and Commissions Appointment –
Bryan Thompson to Bicycle Advisory
Committee

FOR AGENDA OF: 04-18-05 **BILL NO:** 05077

Mayor's Approval: 

DEPARTMENT OF ORIGIN: Mayor's
Office/Neighborhood Program

DATE SUBMITTED: 04-11-05

CLEARANCES:

PROCEEDING: CONSENT AGENDA

EXHIBITS: Application for new appointment

BUDGET IMPACT

EXPENDITURE REQUIRED\$0	AMOUNT BUDGETED\$0	APPROPRIATION REQUIRED \$0
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HISTORICAL PERSPECTIVE:

There is a vacancy on the Bicycle Advisory Committee (BAC). Mayor Rob Drake is forwarding Bryan Thompson's application with the recommendation that he be appointed to fill the vacancy. Mr. Thompson's term will be effective immediately and expire on December 31, 2005.

RECOMMENDED ACTION:

Confirm recommended appointment to the Bicycle Advisory Committee.

From: Sue Nelson on behalf of Mailbox Citymail
Sent: Thursday, December 23, 2004 11:35 AM
To: Megan Callahan
Subject: FW: Boards and Commissions Application

-----Original Message-----

From: bcaplication@ci.beaverton.or.us [mailto:bcaplication@ci.beaverton.or.us]
Sent: Thursday, December 23, 2004 12:34 AM
To: Mailbox Citymail
Subject: Boards and Commissions Application

Boards and Commissions Application

Board/Commission Applying for:
First Choice: Bicycle Advisory Committee
Second Choice: Planning Commission

Name: Bryan Thompson
Employer:
Position:

Address:
City: Beaverton
Zip Code: 97006

Home Phone:
Business Phone:
Email Address:

How did you hear of the opening? A family member of mine suggested that participating in the city's boards/commissions would be a great way for me to serve my community.

Are you a City resident? yes

If yes, how long have you lived in the City? ten years

May we keep your name on a list if not appointed at this time? yes

Briefly describe your background and experience: Recently graduated from Portland State University with a B.A. in Political Science; worked for the US District Court for the last 5.5 years; graduated from Beaverton-area high school in 2000.

List any special training, skills or experience you may have that are pertinent to the Board/Commission to which you are applying: Studied previously at Waseda University in Tokyo, where I acquired a moderate skill level in the Japanese language; training in political science has embedded a deep knowledge of governing processes and policy implementation; high level of skill with computer

programs and hardware; daily commuter to downtown from residence via bicycle (roughly 15 mi each way).

Discuss your motivation for serving on this Board/Commission: Over the last few years, I have come to realize the great importance of citizen involvement within one's community. I earnestly believe that each of us has a duty to give back to the society in which we live in order to help improve the lives of all citizens, as well as increase the vitality of the community-at-large. There are many methods with which one is able to serve, and being a member on one of the various committees for the City of Beaverton seems the best means by which I can give of myself for my community.

State your goals for the City: I would like to see the City of Beaverton become more bicycle friendly, as well to see a greater emphasis on planning before zoning and construction projects begin, so that Beaverton can continue to be prosperous while bring order to its development process. Such order should include adequate planning for needed services and infrastructural improvements (ie, schools, possible road expansion, ordered layouts to zoning to make city navigation smoother) before construction on new projects is allowed to begin in order to avoid the traffic and service problems that the city currently experiences daily.

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

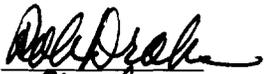
SUBJECT: Ratify Tentative Contract Agreement with
Beaverton Police Association

FOR AGENDA OF: 4-18-05 **BILL NO:** 05078

Mayor's Approval: 

DEPARTMENT OF ORIGIN: Human Resources

DATE SUBMITTED: 4-13-05

CLEARANCES: Police 
Finance 

PROCEEDING: Consent Agenda

EXHIBITS: 1. Tentative Agreement Summary
2. Schedule of Salary and
Fringe Benefits Increases

BUDGET IMPACT

EXPENDITURE	AMOUNT	APPROPRIATION
REQUIRED \$364,421	BUDGETED \$ 0	REQUIRED \$364,421

HISTORICAL PERSPECTIVE:

On December 1, 2004, the City and the Beaverton Police Association (BPA) began negotiations for a collective bargaining agreement to replace the FY 2002-05 agreement. The parties reached tentative agreement in March of 2005, and the BPA membership ratified that tentative agreement April 12, 2005. It is now coming to Council for approval.

INFORMATION FOR CONSIDERATION:

The major terms of this four-year tentative agreement are outlined on Exhibit 1. In the area of economics for FY 2005-07, the tentative agreement provides for:

- A wage increase of 3.0% effective July 1, 2005;
- A wage increase for Sergeants, Police Support Specialists and Senior Police Support Specialists of 3.0% effective January 1, 2006;
- A wage increase for all classifications of 3% effective July 1, 2006;
- Orthodontia coverage increases from \$1,000 to \$1,500;
- Life insurance coverage increases from \$11,000 to \$50,000;
- Accidental Death & Dismemberment increases from \$11,000 to \$81,000;
- A worker's compensation time loss payment to employees to keep them whole for up to the first 180 days after a job-related injury;
- A legal fees reimbursement of up to \$5,000 should a police officer be involved in an incident upon which a grand jury inquest or investigation is initiated;
- A prorating of benefits for part-time employees; and
- A wage and benefit re-opener after two years.

Non-economic changes include:

- Notices for schedule changes;
- Scheduling DPSST-mandated training;
- A new section for a safety release for officers working more than 15 hours in a 24-hour period;

- Allowance for discussion of temporary light duty assignments; and
- A new section on re-bidding a shift when an employee voluntarily leaves a special assignment early.

RECOMMENDED ACTION:

Council approve the terms of the tentative agreement with the BPA and direct the Finance Director to include appropriate funding for the FY '05-'06 wage adjustments in the FY '05-'06 proposed budget.

Tentative Agreement Summary

Economic

- Wages:** 3% increase for all classifications effective July 1, 2005
 3% increase effective January 1, 2006 for:
 Sergeants
 Police Support Specialists
 Senior Police Support Specialists
 3% increase for all classifications effective July 1, 2006
- Health Insurance:** Employee makes same premium contribution as SEIU covered employees for FY 05-06 and FY 06-07.
 Orthodontia coverage increases from \$1,000 to \$1,500 lifetime maximum.
- Other Insurance:** Life insurance increases from \$11,000 to \$50,000.
 Accidental Death and Dismemberment increases from \$11,000 to \$81,000.
- Worker's Compensation:** Time loss payments to employees injured on the job will be subsidized by the City to make the employee whole for up to 180 days.
- Legal Fees:** The City will reimburse an employee's legal fees up to \$5,000 each for a DA-initiated inquest or grand jury investigation/appearance *and/or* for a post-grand jury indictment. Conditions apply before reimbursement will be made.
- Benefits for part-time employees:** Leave accruals and insurance contributions for part-time employees will be pro-rated.

Term of Agreement

The contract is for four years, expiring June 30, 2009. There will be a wage and benefits re-opener for the last two years of the agreement.

Non- economic

- ◆ Notice requirements to probationary employees for changes in schedule will be reduced from seven days to 48 hours.
- ◆ Schedules may be changed three times per year for DPSST mandated training.
- ◆ Employees will be guaranteed nine hours of off-duty time if required to work fifteen hours in a 24 hour period.
- ◆ City agrees to consider and discuss with the association possible temporary limited duty assignments for employees unable to perform the duties of their position due to illness or injury.
- ◆ A new section on re-bidding a shift when an employee voluntarily leaves a special assignment early.

-

City of Beaverton
Schedule of Salary and Fringe Benefits Increases
First Year of New BPA Contract Agreement Beginning July 1, 2005

COLA's	<u>Current Salary</u>	<u>COLA 3.00%</u>	<u>Fringe Benefits 31.23% on COLA</u>	<u>Total</u>
Effective 7/1/05 All BPA Positions Receive a 3% COLA Increase	\$ 7,836,631	\$ 235,099	\$ 73,421	\$ 308,520
Effective 1/1/06 the Following Three Classifications Receive an Additional 3% COLA Increase:				
Sergeants	\$ 1,099,906	\$ 16,499	\$ 5,152	\$ 21,651
Senior Police Records Specialist	\$ 46,416	\$ 696	\$ 217	\$ 913
Police Records Specialist	\$ 596,488	\$ 8,948	\$ 2,794	\$ 11,742
Subtotal		<u>\$ 26,142</u>	<u>\$ 8,163</u>	<u>\$ 34,305</u>
Grand Total All COLA's and Fringe Benefits on COLA's		<u><u>\$ 261,241</u></u>	<u><u>\$ 81,584</u></u>	<u><u>\$ 342,825</u></u>

Life & AD&D Insurance Increase	<u>Current Coverage</u>	<u>Proposed Coverage</u>	<u>Cost Per Employee</u>	<u>Total For 128 Employees</u>
Life Insurance Increase \$0.26 per \$1,000 of Salary	\$ 11,000	\$ 50,000	\$ 121.68	\$ 15,575.04
AD&D Insurance Increase \$.056 per \$1,000 of Salary	\$ 11,000	\$ 81,000	\$ 47.04	\$ 6,021.12

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

SUBJECT: A Public Hearing to Receive Public Input Regarding the Annexation of Several Parcels Located in the Vicinity Of Cornell Oaks Corporate Center to the City of Beaverton: Annexations 2005-0002 and 2005-0003

FOR AGENDA OF: 4/18/05 **BILL NO:** 05079

Mayor's Approval: [Signature]

DEPARTMENT OF ORIGIN: CDD [Signature]

DATE SUBMITTED: 4/1/05

CLEARANCES: City Attorney [Signature]
Planning Services [Signature]

PROCEEDING: Public Hearing

EXHIBITS:

BUDGET IMPACT

EXPENDITURE REQUIRED \$0	AMOUNT BUDGETED \$0	APPROPRIATION REQUIRED \$0
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HISTORICAL PERSPECTIVE:

The City Council in Resolution No. 3806 directed the Mayor to pursue the annexation of several parcels located in the vicinity of the Cornell Oaks Corporate Center to the City of Beaverton. This is to be processed as what is commonly referred to as an island annexation and may proceed without the consent of the property owners or residents after the City Council holds a public hearing. This annexation is being processed under ORS 222.750 and Metro Code Chapter 3.09.

INFORMATION FOR CONSIDERATION:

Oregon Revised Statutes Section 222.120(2) states "When the legislative body of the city elects to dispense with submitting the question of the proposed annexation to the electors of the city, the legislative body of the city shall fix a day for a public hearing before the legislative body at which time the electors of the city may appear and be heard on the question of annexation." Staff has therefore scheduled a public hearing. Because of the small number of properties and limited geographic area involved, staff has determined that this annexation is a quasi judicial land use decision.

Metro Code Section 3.09.030 requires that "necessary parties" be notified at least 45 days prior to the date of decision for proposed boundary changes such as this. Necessary parties are defined by Metro Code as any county, city or district whose jurisdictional boundary or adopted urban service area includes any part of the affected territory or who provides any urban service to any portion of the affected territory. Metro Code Section 3.09.050(c) states that "In order to have standing to appeal a boundary change decision pursuant to Section 3.09.070 a necessary party must appear at the hearing in person or in writing and state reasons why the necessary party believes the boundary change is inconsistent with approval criteria." *

The petition/staff report for this proposed annexation is attached to the Ordinance that would approve it, which is scheduled for first reading on this same agenda.

RECOMMENDED ACTION:

Conduct a public hearing and receive public input from City electors, necessary parties, owners of property in the proposed annexation area or their representatives, and residents of the proposed annexation area as well as other interested parties.

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

SUBJECT: An Ordinance Annexing Nine Parcels
Located in the Cornell Oaks Corporate
Center to the City of Beaverton: Annexation
2005-0002

FOR AGENDA OF: 4/18/05 **BILL NO:** 05080

Mayor's Approval: [Signature]

DEPARTMENT OF ORIGIN: CDD [Signature]

DATE SUBMITTED: 4/1/05

CLEARANCES: City Attorney [Signature]
Planning Services [Signature]

PROCEEDING: First Reading

EXHIBITS: Ordinance
Exhibits A - Map
Exhibit B - Legal Description
Exhibit C - Staff Report Dated 3/15/05

BUDGET IMPACT

EXPENDITURE REQUIRED \$0	AMOUNT BUDGETED \$0	APPROPRIATION REQUIRED \$0
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HISTORICAL PERSPECTIVE:

This request is to annex nine parcels consisting of approximately 23 acres in several islands in the Cornell Oaks Corporate Center to the City of Beaverton. This is what is commonly referred to as an island annexation and may proceed without the consent of the property owners or residents after the City Council holds a public hearing. It is being processed under ORS 222.750 and Metro Code Chapter 3.09.

INFORMATION FOR CONSIDERATION:

This ordinance and the staff report address the criteria for annexation in Metro Code Chapter 3.09.

Beaverton Code Section 9.06.035A provides the City Council the option of adding property to an appropriate Neighborhood Association Committee (NAC) area at the time of annexation. These properties are not currently within a NAC. The Neighborhood Office is recommending that these parcels not be added to a NAC at this time.

Staff recommends that the City Council adopt an ordinance annexing the referenced property, effective 30 days after Council approval and the Mayor's signature on this ordinance or the date the ordinance is filed with the Secretary of State, whichever is later.

RECOMMENDED ACTION:

First Reading

ORDINANCE NO. 4349

**AN ORDINANCE ANNEXING NINE PARCELS LOCATED IN THE
CORNELL OAKS CORPORATE CENTER TO THE CITY OF
BEAVERTON: ANNEXATION 2005-0002**

- WHEREAS,** This annexation was initiated under authority of ORS 222.750, whereby the City may annex territory that is not within the City but that is surrounded by the corporate boundaries of the City, or by the corporate boundaries of the City and a stream, with or without the consent of property owners or residents; and
- WHEREAS,** The properties are in Beaverton's Assumed Urban Services Area and Policy 5.3.1.d of the City's acknowledged Comprehensive Plan states: "The City shall seek to eventually incorporate its entire Urban Services Area."; and
- WHEREAS,** Council Resolution No. 3785 sets forth annexation policies for the City and this action implements those policies; now, therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

- Section 1.** The properties shown on Exhibit A and more particularly described in Exhibit B are hereby annexed to the City of Beaverton, effective 30 days after Council approval and signature by the Mayor or the date the ordinance is filed with the Secretary of State, whichever is later.
- Section 2.** The Council accepts the staff report attached hereto as Exhibit C, and finds that:
- a. This annexation is consistent with provisions in the agreement between the City and the Tualatin Valley Water District adopted pursuant to ORS 195.065 that are directly applicable to this annexation; and
 - b. This annexation is consistent with the City-Agency agreement between the City and Clean Water Services in that partial responsibility for sanitary and storm sewer facilities within the area annexed will transfer to the City subsequent to this annexation.
- Section 3.** The Council finds this annexation will promote and not interfere with the timely, orderly, and economic provision of public facilities and services, in that:
- a. The properties will be withdrawn from the Washington County Urban Road Maintenance District and the Washington County Enhanced Sheriff Patrol District ; and
 - b. The properties that lie within the Washington County Street Lighting District #1, if any, will be withdrawn from the district; and
 - c. The City having annexed into the Tualatin Valley Fire and Rescue District in 1995, the properties to be annexed by this Ordinance shall remain within that district; and
 - d. The territory will remain within boundaries of the Tualatin Valley Water District.

Section 4. The Council finds that this annexation complies with all other applicable criteria set out in Metro Code Chapter 3.09 as demonstrated in the staff report attached as Exhibit C.

Section 5. The City Recorder shall place a certified copy of this Ordinance in the City's permanent records, and the Community Development Department shall forward a certified copy of this Ordinance to Metro and all necessary parties within five working days of adoption.

Section 6. The Community Development Department shall transmit copies of this Ordinance and all other required materials to all public utilities and telecommunications utilities affected by this Ordinance in accordance with ORS 222.005.

First Reading _____
Date

Second Reading and Passed _____
Date

ATTEST:

APPROVED:

SUE NELSON, City Recorder

ROB DRAKE, Mayor

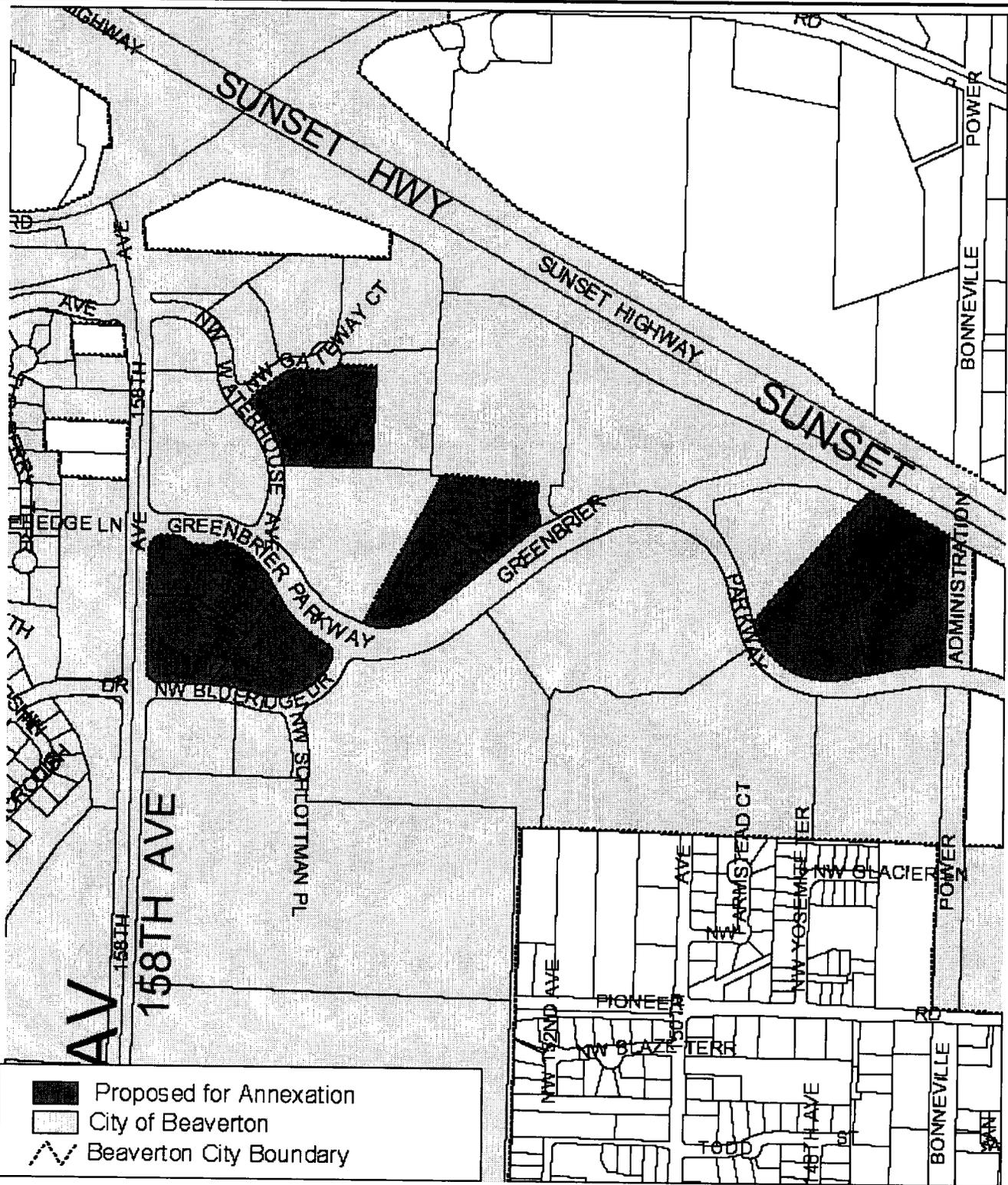
Date

Date

VICINITY MAP

ORDINANCE NO. 4349

EXHIBIT "A"



CITY OF BEAVERTON

Cornell Oaks Area Islands Annexations

COMMUNITY DEVELOPMENT DEPARTMENT

Planning Services Division

01/31/05

Map #
Various

N



Accession #
ANX 2005-0002

**ANX2005-0002
Parcel 1**

That certain parcel of land located in the Southeast $\frac{1}{4}$ Northwest $\frac{1}{4}$, Section 32, Township 1 North, Range 1 West, Willamette Meridian, Washington County, Oregon, more particularly described as follows:

Beginning at a point on the easterly right of way line of NW Waterhouse Avenue, said point being the intersection of the easterly right of way line of NW Waterhouse Avenue and the north line of Lemuel A. Sparks DLC No. 59; thence east, along the north line of Lemuel A. Sparks DLC No. 59, 337.70 feet; thence north, 386.58 feet; thence westerly, to the southerly right of way line of NW Gateway Court; thence westerly, along the southerly right of way line of NW Gateway Court to the easterly right of way line of NW Waterhouse Avenue; thence southerly, along the easterly right of way line of NW Waterhouse Avenue to the point of beginning.

ANX2005-0002
Parcel 2

That certain parcel of land located in the Northeast ¼ Southwest ¼, Section 32, Township 1 North, Range 1 West, Willamette Meridian, Washington County, Oregon, more particularly described as follows:

Lots 18, 19, and 20, Corporate Center at Cornell Oaks, a plat of record in Washington County, Oregon.

ANX2005-0002
Parcel 3

That certain parcel of land located in the Northeast $\frac{1}{4}$ Southwest $\frac{1}{4}$, Section 32, Township 1 North, Range 1 West, Willamette Meridian, Washington County, Oregon, more particularly described as follows:

Lots 3 and 4, Corporate Center at Cornell Oaks, a plat of record in Washington County, Oregon.

ANX2005-0002
Parcel 4

That certain parcel of land located in the Northeast ¼ Southeast ¼, Section 32, Township 1 North, Range 1 West, Willamette Meridian, Washington County, Oregon, more particularly described as follows:

Beginning at the intersection of the northerly right of way line of NW Greenbrier Parkway and the west line of the Bonneville Power Administration, said point also being the southeast corner of Lot 10, Corporate Center at Cornell Oaks, a plat of record; thence along the northerly right of way line of NW Greenbrier Parkway along a 687 foot radius curve to the left, 155.96 feet; thence westerly, 143.99 feet; thence westerly, 66.77 feet; thence along the arc of a 391.68 foot radius curve to the right, 114.89 feet; thence along the arc of a 296 foot radius curve to the right, 347.43 feet; thence leaving the northerly right of way line of NW Greenbrier Parkway north, 41° 14' 05" east, 594.54 feet; thence northeasterly, 65.91 feet to the southerly right of way line of Sunset Highway (US Highway No. 26); thence southeasterly, along said right of way line, 342.48 feet to the west line of the Bonneville Power Administration, said point also being the northeast corner of Lot 10, Corporate Center at Cornell Oaks; thence south, 01° 20' 19" west, 478.46 feet to the point of beginning.



CITY of BEAVERTON

EXHIBIT C

4755 S.W. Griffith Drive, P.O. Box 4755, Beaverton, OR 97076 General Information (503) 526-2222 V/TDD

PETITION AND STAFF REPORT

TO: City Council **REPORT DATE:** March 15, 2005

HEARING

DATE: April 18, 2005

FROM: Community Development Department
 Hal Bergsma, Planning Services Manager #B
 Alan Whitworth, Senior Planner *Alan*

SUBJECT: Cornell Oaks Area Islands Annexation (ANX 2005-0002)

ACTIONS: Annexation to the City of Beaverton of nine parcels located in the Corporate Center at Cornell Oaks Subdivision. The territory is shown on the attached map and more particularly described by the attached legal description. The annexation of the territory is City initiated and is being processed under ORS 222.750 and Metro Code 3.09.050 as a quasi-judicial land use decision.

NAC: These parcels are not currently within a Neighborhood Association Committee (NAC) area and the Neighborhood Office does not recommend adding them to a NAC at this time.

AREA: Approximately 23 acres

TAXABLE BM 50 ASSESSED VALUE: \$ 4,901,440

ASSESSOR'S REAL MARKET BUILDING VALUE: \$ 0

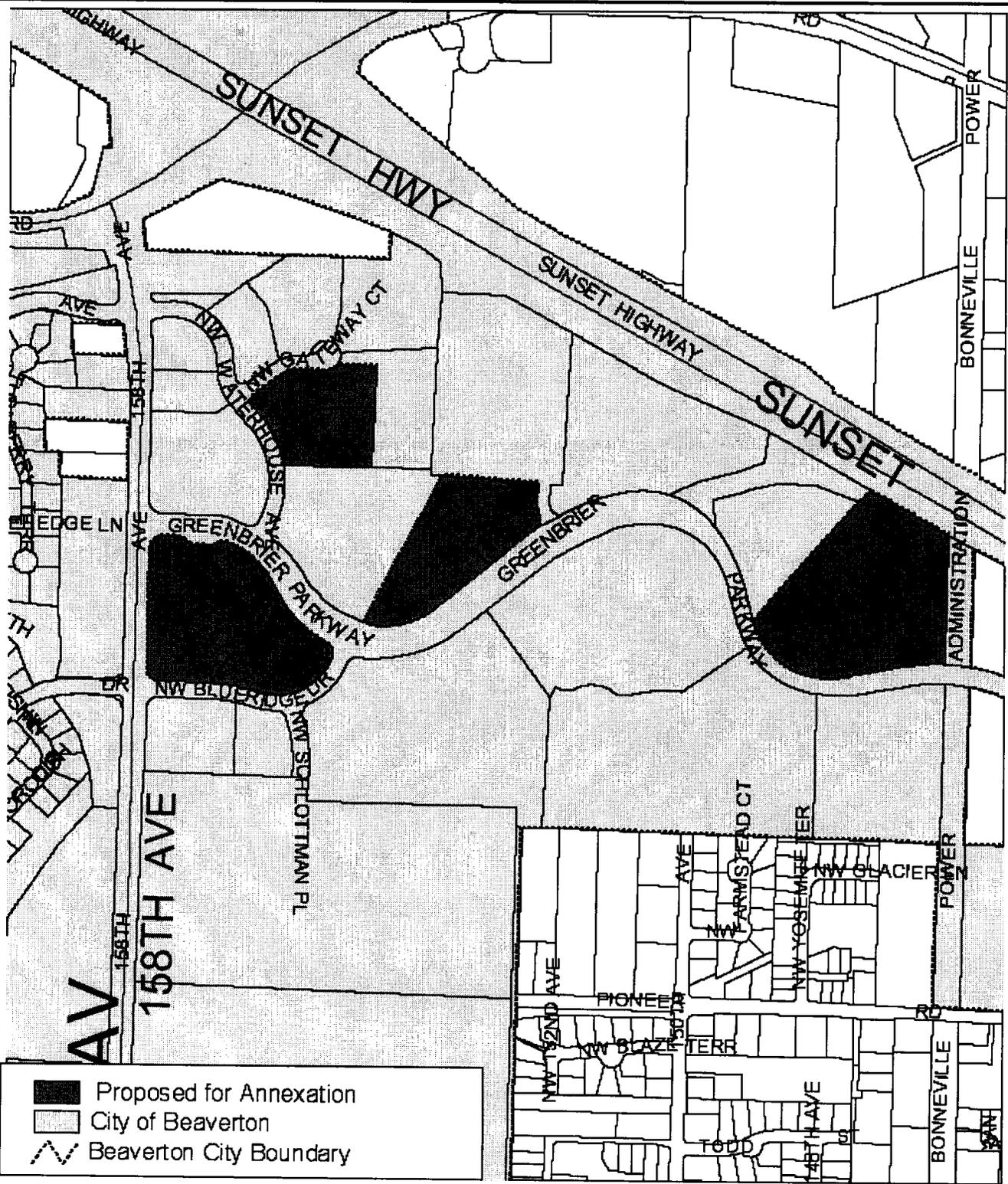
ASSESSOR'S REAL MARKET TOTAL VALUE: \$ 7,753,550

NUMBER OF TAX PARCELS: 9

RECOMMENDATION

Staff recommends the City Council adopt an ordinance annexing the referenced territory effective thirty days after the Mayor's signature or the date the ordinance is filed with the Secretary of State as specified by ORS 222.180, which ever is later.

VICINITY MAP



Cornell Oaks Area Islands Annexations

COMMUNITY DEVELOPMENT DEPARTMENT

Planning Services Division

01/31/05

Map #
Various



Attachment #
ANX 2005-0002

BACKGROUND

This is commonly referred to as an Island Annexation that is being processed under Oregon Revised Statutes Section 222.750 and Metro Code Chapter 3.09.

ORS 222.750 Annexation of unincorporated territory surrounded by city. When territory not within a city is surrounded by the corporate boundaries of the city, or by the corporate boundaries of the city and the ocean shore or a stream, bay, lake or other body of water, it is within the power and authority of that city to annex such territory. However, this section does not apply when the territory not within a city is surrounded entirely by water. Unless otherwise required by its charter, annexation by a city under this section shall be by ordinance or resolution subject to referendum, with or without the consent of any owner of property within the territory or resident in the territory.

The subject properties are within islands defined by the City's corporate limits. The City has chosen to annex the subject properties and not others in the city that are in islands based on guidance provided by the City Council provided through their adoption of Resolution No. 3806 (Exhibit A) on February 14, 2005.

ORS 222.120 requires a public hearing to allow the electors of the City to appear and be heard on the question. It requires notice to be published in a newspaper of general circulation for a period of two weeks and notice to be posted in four public places in the city for a similar period.

Metro Code Section 3.09.030 does not require a public hearing but does require waterproof posting of the notice in the general vicinity of the site and publishing notice in a newspaper of general circulation. The required notice to necessary parties and the posting are to be done at least 45 days prior to the date of decision. 3.09.050(b) requires the staff report to be available at least 15 days prior to the date of decision.

The request is to annex nine tax parcels located in islands in the Corporate Center at Cornell Oaks Subdivision. The area proposed for annexation is approximately 23 acres.

The City of Beaverton and the Hartford Underwriters Insurance Company (the owner of the Cornell Oaks Corporate Center) entered into an annexation agreement effective February 1, 1995. The agreement stated that the owner (and owner's transferees or successors) and the City agree to annex individual lots when improvements on the lots were substantially complete. This agreement terminated on February 1, 2005. The City did not proceed on annexing the remainder of the undeveloped parcels in the Cornell Oaks Corporate Center until the annexation

agreement expired. The Beaverton City Council directed the initiation of this annexation by its adoption of Resolution No. 3806 (Exhibit A) on February 14, 2005.

None of these parcels are currently within the Neighborhood Association Committee (NAC) boundaries and the Neighborhood Office does not recommend adding these parcels to a NAC at this time.

MINIMUM REQUIREMENTS FOR PETITIONS

The following is from Metro Code:

3.09.040 Minimum Requirements for Petitions

(a) A petition for a boundary change shall be deemed complete if it includes the following information:

(1) The jurisdiction of the approving entity to act on the petition;

Finding: As defined by section 3.09.020(c) of the Metro Code, "Approving entity" means the governing body of a city, county, city-county or district authorized to make a decision on a boundary change, or its designee. ORS 222.111(2) states:

"A proposal for annexation of territory to a city may be initiated by the legislative body of the city, on its own motion, or by petition to the legislative body of the city by owners of real property in the territory to be annexed."

The Beaverton City Council directed the initiation of this annexation by its adoption of Resolution No. 3806 (Exhibit A) on February 14, 2005. This annexation is allowed by ORS 222.750 without the consent of any owner of property within the territory or resident in the territory through ordinance adoption by the Council, subject to referendum.

(2) A narrative, legal and graphical description of the affected territory in the form prescribed by Metro Chief Operating Officer;

Finding: The Metro Chief Operating Officer has not prescribed a particular form for providing a narrative, legal and graphical description of a territory that would be affected by a proposed annexation. The practice has been to provide such information in a form prescribed by the State Department of Revenue. Consistent with Department of Revenue

requirements, maps of the affected territory are included as page two of this petition/report, a narrative legal is attached to this petition/report (Exhibit B), and marked tax maps are available for inspection upon request. This complies with the requirements of Metro, the Oregon Department of Revenue, and the Oregon Secretary of State's Office.

- (3) For minor boundary changes, the names and mailing addresses of all persons owning property and all electors within the affected territory as shown in the records of the tax assessors and county clerk;

Finding: A list of the names and mailing addresses of all persons owning property within the affected territory as shown in the records of the Washington County Assessment and Taxation Department is attached as Exhibit C. There are no electors residing on the property proposed for annexation.

- (4) A listing of the present providers of urban services to the affected territory;

Finding: According to Metro Code Section 3.09.020(m), " 'Urban services' means sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit." Sanitary sewers lines are presently provided by and maintained by the City of Beaverton. Treatment is provided by Clean Water Services. Potable water is presently provided by the Tualatin Valley Water District. Fire protection and emergency medical service is presently provided by Tualatin Valley Fire and Rescue. Parks, open space, and recreation services are presently provided by Tualatin Hills Park and Recreation District. Public streets and roads are presently maintained by the City of Beaverton. Mass transit is provided by TRI-MET.

- (5) A listing of the proposed providers of urban services to the affected territory following the proposed boundary change;

Finding: Pursuant to a July 1, 2004 intergovernmental agreement between the City of Beaverton and Clean Water Services, as of July 1, 2005 sanitary sewer pipes in the proposed annexation area that are smaller than 24-inches in diameter will be maintained by the City of Beaverton and pipes equal to or greater than 24-inches in diameter will be maintained by Clean Water Services. Clean Water Services will also provide sewage treatment. Potable water will be provided by Tualatin Valley Water District pursuant to an intergovernmental agreement between the City and TVWD. Fire protection and emergency medical service will be provided by Tualatin Valley Fire and Rescue. Parks, open space, and recreation services will be

provided by Tualatin Hills Park and Recreation District. NW Greenbrier Pkwy., NW Waterhouse Avenue, NW Gateway Court and NW Blueridge Drive are City maintained local roads and will remain City maintained after annexation. The City of Beaverton will maintain all public street lights in the areas being annexed. Mass transit will continue to be provided by TRI-MET.

(6) The current tax assessed value of the affected territory; and

Findings: The current Ballot Measure 50 assessed value of the affected territory is \$4,901,440. A spreadsheet listing tax lot identification number, approximate acreage, Ballot Measure 50 value, real market building value and total real market value is attached as Exhibit D. This information is based on information from the Washington County Assessment and Taxation Department.

(7) Any other information required by state or local law.

Findings: No other information is required by state or local law.

(b) A City or county may charge a fee to recover its reasonable costs to carry out its duties and responsibility under this chapter.

Findings: The City of Beaverton has chosen not to charge a fee for annexations.

EXISTING CONDITIONS

SERVICE PROVISION:

The following analysis details the various services available to the properties to be annexed. Cooperative, urban service and intergovernmental agreements affecting provision of service to the subject properties are:

- The City has entered into ORS Chapter 195 cooperative agreements with Washington County, Tualatin Valley Fire and Rescue District, Tualatin Hills Park and Recreation District, Tualatin Valley Water District and Clean Water Services.
- The City has entered into an agreement with Tualatin Valley Water District that has been designated an ORS 195.065 Urban Service Agreement by the parties. (No other ORS Chapter 195 Urban Service Agreements have been executed that would affect this decision.)
- The City has entered into an ORS Chapter 190 intergovernmental agreement with Clean Water Services.

- The City has been a party to a series of ORS Chapter 190 intergovernmental agreements “for Mutual Aid, Mutual Assistance, and Interagency Cooperation Among Law Enforcement Agencies Located in Washington County, Oregon”, the last of which was signed by Beaverton Mayor Rob Drake on August 9, 2004. This agreement specifies the terms under which a law enforcement agency may provide assistance in response to an emergency situation outside its jurisdiction when requested by another law enforcement agency.
- On December 22, 2004 the City entered into an intergovernmental agreement with Washington County defining areas that the City may annex for ten years from the date of the agreement without opposition by the County. The properties proposed for annexation by this application are within those areas.

This action is consistent with those agreements.

POLICE: The property to be annexed currently receives police protection from the Washington County Enhanced Sheriff's Patrol District. Sheriff's protection will be withdrawn and the City will provide police service upon annexation. In practice whichever agency is able to respond first, to an emergency, does so in accordance with the mutual aid agreement described above.

FIRE: Tualatin Valley Fire & Rescue (TVF&R) provides fire and ambulance service to this area. The City annexed its own fire services to TVF&R in 1995. TVF&R is designated as the long-term service provider to this area.

SEWER: The area is adequately served by sanitary sewer at this time. The sanitary sewer pipes were designed to handle development that was authorized by the current zoning but the adequacy of sanitary sewer capacity will be reviewed as part of the development review process. Clean Water Services will continue to provide sewage treatment. Upon annexation the City will be responsible for billing.

WATER: Tualatin Valley Water District (TVWD) will continue to be the provider of water service to the area. ORS 222.520 allows cities to assume water service responsibilities when annexing less than an entire district. However, the City entered into an intergovernmental agreement with TVWD in 2002 that the City would only withdraw property, upon annexation, from the District that has been agreed to. This area will remain in TVWD service area.

STORM WATER DRAINAGE: The area is adequately served by storm sewers and drainage at this time. As the area redevelops at higher density the issue of

storm drainage will be dealt with through the development review process. After annexation maintenance and billing responsibility will transfer to the City.

**STREETS and
ROADS:**

NW Greenbrier Pkwy., NW Waterhouse Avenue, NW Gateway Court and NW Blueridge Drive are City maintained local roads and will remain City maintained after annexation.

**SCHOOLS &
PARKS:**

The proposed annexation is both within the Beaverton School District and the Tualatin Hills Park & Recreation District. Neither services nor district boundaries will be affected by the proposed annexation.

**PLANNING,
ZONING and
BUILDING:**

Washington County currently provides long-range planning, development review and building inspection for the subject properties. Upon annexation, the City will provide those services. Pursuant to the Urban Planning Area Agreement (UPAA) between the City and County, City Comprehensive Plan and Zoning Designations will be applied in a separate action.

PUBLIC INVOLVEMENT

Consistent with Metro Code Section 3.09.030, the City sent notice of the proposed annexation on March 4, 2005 (more than 45 days prior to the hearing date) to all necessary parties including Washington County, Metro, affected special districts and County service districts. Additionally, four weatherproof signs with the notice mailed to the necessary parties attached were posted in the general vicinity of the affected territory. Affidavits of mailing and posting, including information on the locations where the weatherproof signs were posted, are in the case file for this application.

In compliance with ORS 222.120, notice of the hearing will be published once each week for two successive weeks prior to the day of the hearing in the Beaverton Valley Times newspaper; and notices of the proposed annexation will be posted in four public places in the city (at the Beaverton Post Office, the Beaverton City Library, the Beaverton City Hall, and in the lobby of the administrative offices of the Tualatin Hills Park and Recreation District) for a like period. Evidence that this notification was provided will be available at the public hearing.

The City also sent the notice mailed to the necessary parties to the following parties at least 45 days in advance of the April 18, 2005 public hearing:

- the property owners of record of the subject property and property owners

within 100 feet of the subject property as shown on the most recent property tax assessment roll of the Washington County Department of Assessment and Taxation; and

- The Five Oaks Neighborhood Association Committee and the Cedar Hills/Cedar Mill and Sunset West/Rock Creek/Bethany Citizen Participation Organizations; interested parties as set forth in City Code Section 9.06.035.

The mailed notice and a copy of this petition/staff report will be posted on the City's web page.

CRITERIA FOR APPROVAL

REGIONAL ANNEXATION CRITERIA:

In December 1998 the Metro Council adopted Metro Code Section 3.09 (Local Government Boundary Changes). Metro Code Section 3.09.050 includes the following minimum criteria for annexation decisions of this type:

3.09.050 Uniform Hearing and Decision Requirements for Final Decisions Other Than Expedited Decisions

(a) The following minimum requirements for hearings on decisions operate in addition to all procedural requirements for boundary changes provided for under ORS chapters 198, 221 and 222. Nothing in this chapter allows an approving entity to dispense with a public hearing on a proposed boundary change when the public hearing is required by applicable state statutes or is required by the approving entity's charter, ordinances or resolutions.

Findings: A public hearing has been scheduled and noticed for April 18, 2005.

(b) Not later than 15 days prior to the date set for a boundary change decision, the approving entity shall make available to the public a report that addresses the criteria in subsections (d) and (g) below, and that includes at a minimum the following:

- (1) The extent to which urban services presently are available to serve the affected territory including any extra territorial extensions of service;

Findings: Urban Services are defined by Metro Code Section 3.09.020(m) as "...sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit." These areas are currently served by City maintained sanitary sewers and will continue to be served by the City. These areas are served by Tualatin Valley Water and there is adequate

capacity to continue providing potable water to these areas. Fire protection is provided by Tualatin Valley Fire and Rescue which is the provider for the entire City of Beaverton and they have the capacity to serve the area. Parks, open space and recreation are provided by the Tualatin Hills Park and Recreation District which will continue to provide those services. The areas are served by NW Greenbrier Parkway, NW Waterhouse Avenue, NW Gateway Court and NW Blueridge Drive which are City maintained local roads and will remain City maintained after annexation. The road system is adequate to handle current development. The impacts of new development proposals will be addressed in the development review process. TRI-MET provides bus service to the area.

- (2) A description of how the proposed boundary change complies with any urban service provider agreements adopted pursuant to ORS 195.065 between the affected entity and all necessary parties;

Findings: The City has entered into ORS Chapter 195 cooperative agreements with Washington County, Tualatin Valley Fire and Rescue District, Tualatin Hills Parks and Recreation District, Tualatin Valley Water District and Clean Water Services. These agreements follow a standard format, and prescribe coordination of the planning and development activities of the parties through notification to provide each with the opportunity to participate, review and comment on proposed comprehensive plan and land use regulation amendments and development actions requiring individual notice to property owners, as well as other specified activities. Annexations are not listed as actions that require notification of the other parties to the cooperative agreements. In fact, annexations are defined as not being development actions or land use regulation amendments. Therefore, the ORS Chapter 195 cooperative agreements listed above do not appear to be relevant to this proposed annexation.

The City has entered into an agreement with Tualatin Valley Water District that has been designated an ORS 195.065 Urban Service Agreement by the parties. The agreement defines long-term service areas for each party, independent of whether the area is in or outside the City. All of the subject areas are defined as being within TVWD's long-term service area.

As previously noted, On December 22, 2004 the City entered into an intergovernmental agreement with Washington County, titled the "Beaverton-Washington County Intergovernmental Agreement Interim Urban Services Plan" defining areas that the City may annex for ten years from the date of the agreement without opposition by the County, and referencing ORS 195.065(1). The properties proposed for annexation by this

application are within those areas. No other ORS Chapter 195 Urban Service Agreements have been executed that would affect this proposed annexation.

The City has entered into an ORS Chapter 190 intergovernmental agreement with Clean Water Services, which was updated as of July 1, 2004. Exhibit 'A' to the new agreement defines subject areas as being within the "Beaverton Area of Assigned Service Responsibility" where, subsequent to annexation, specified maintenance responsibilities for sanitary sewer lines under 24 inches in diameter and for certain storm drainage facilities and surface water management functions would transfer to the City of July 1 of any year if so requested by the City by January 1 of that year. Sanitary sewers less than 24" in diameter and the storm drainage system in the areas proposed for annexation by this application are currently and will remain, after annexation, the City's maintenance responsibility.

(3) A description of how the proposed boundary change is consistent with the comprehensive land use plans, public facility plans, regional framework and functional plans, regional urban growth goals and objectives, urban planning agreements and similar agreements of the affected entity and of all necessary parties;

Findings:

Comprehensive Plans: *The only relevant policy of the City of Beaverton's Comprehensive Plan is Policy 5.3.1.d, which states "The City shall seek to eventually incorporate its entire Urban Services Area." The subject territory is within Beaverton's Assumed Urban Services Area, which is Figure V-1 of the City of Beaverton's Acknowledged Comprehensive Plan.*

After reviewing the Washington County Comprehensive Framework Plan for the Urban Area on the County's web site (reflecting changes through County Ordinance No. 598) as well as ordinances adopted subsequently up to the date of this staff report that amended the Comprehensive Framework Plan, staff finds that the following provisions may be applicable to this proposed annexation:

- ***A paragraph in the "County-Wide Development Concept" at the beginning of the Comprehensive Framework Plan which states:***

As development occurs in accordance with this development concept, issues of annexation or incorporation may arise. Annexation or incorporation issues will necessarily relate to various other planning issues such as community identity, fiscal impacts of growth and service provision, coordination between service

providers to achieve efficiencies and ensure availability, etc. As such issues arise; the County should evaluate community identity as an issue of equal importance with public service provision issues when developing policy positions on specific annexation or incorporation proposals.

Staff views this statement as direction to the County itself in how to evaluate annexation proposals, and not guidance to the City regarding this specific proposal. As a necessary party, the County has an opportunity to comment on and appeal this proposed boundary change if it appears at the scheduled April 18, 2005 hearing on the proposal and states reasons why they believe the boundary change is inconsistent with the approval criteria (see Metro Code section 3.09.050(c)).

- ***Policy 15 of the Comprehensive Framework Plan, relating to Roles and Responsibilities for Serving Growth, says:***

It is the policy of Washington County to work with service providers, including cities and special service districts, and Metro, to ensure that facilities and services required for growth will be provided when needed by the agency or agencies best able to do so in a cost effective and efficient manner.

Two implementing strategies under Policy 15 that relate to annexation state:

The County will:

- f. If appropriate in the future, enter into agreements with service providers which address one or more of the following:*
 - 3. Service district or city annexation*
- g. Not oppose proposed annexations to a city that are consistent with an urban service agreement or a voter approved annexation plan.*

The City of Beaverton, Washington County and the other urban service providers for the subject area have been working off and on for several years to arrive at an urban service area agreement for the Beaverton area pursuant to ORS 195.065 that would be consistent with Policy 15 and the cited implementing strategies. Unfortunately, although most issues have been resolved, a few issues remain between the County and the City that have prevented completion of the agreement. These issues do not relate to who provides services or whether they can be provided when needed in an efficient and cost effective manner so much as how the transfer of service provision responsibility occurs, particularly the potential transfer of employees and equipment from the County to the City. As previously noted the County and the City have entered into an intergovernmental agreement that sets an interim urban services plan area in which the County commits

to not oppose annexations by the City. Staff has reviewed other elements of the County Comprehensive Plan, particularly the Sunset West Community Plan that includes the subject properties, and was unable to identify any provision relating to this proposed annexation. None of the subject properties are in areas of Special Concern.

Public Facilities Plans: The City's public facilities plan consists of the Public Facilities and Services Element of the Comprehensive Plan, the Transportation Element of the Comprehensive Plan, the City's Capital Improvements Plan, and the most recent versions of master plans adopted by providers of the following facilities and services in the City: storm water drainage, potable water, sewerage conveyance and processing, parks and recreation, schools and transportation. Where a service is provided by a jurisdiction other than the City, by adopting the master plan for that jurisdiction as part of its public facilities plan, the City has essentially agreed to abide by any provisions of that master plan. No relevant urban services defined by Metro Code Section 3.09.020(m) will change subsequent to annexation.

Staff could not identify any provisions in the Washington County Public Facilities Plan relevant to this proposed annexation.

The regional framework plan, functional plan, and regional urban growth goals and objectives: These Metro documents do not specifically address minor boundary changes of this type.

The Washington County – Beaverton Urban Planning Area Agreement: Adopted in 1989, this agreement does not contain provisions relating to annexations, other than (1) calling for execution of a memorandum of understanding outlining the methodology for transferring County records regarding land use activities to the City after annexation; (2) calling for execution of a memorandum of understanding outlining responsibilities for collection of fees, inspections and drainage districts on platted subdivisions annexed to the City; and (3) prescribing that when the City applies plan and zoning designations subsequent to annexation that a table in the agreement be followed in determining which to apply based on existing County designations, or that the most similar designation be applied. The City has drafted a memorandum of understanding on records transfer and submitted it to the County consideration, and the City will also enter into a memorandum of understanding regarding fees collection and inspections if necessary (drainage maintenance districts are no longer used by Washington County). It has been the City's practice in the past to comply with the provision relating to the application of City plan and zone

designations, through a subsequent process that will be done in this case if the area is annexed.

As discussed previously in this report, this annexation is consistent with all other agreements that the City is party to relating to annexations.

(4) Whether the proposed boundary change will result in the withdrawal of the affected territory from the legal boundary of any necessary party; and

Findings: The affected territory will be withdrawn from the Enhanced Sheriff's Patrol District (ESPD) and the Urban Road Maintenance District (URMD). The subject territory will not be withdrawn from the legal boundary of any other necessary party by this action.

(5) The proposed effective date of the decision.

Findings: The effective date for this annexation is thirty (30) days after the Mayor's signature on the ordinance or the date the records of the annexation are filed with the Secretary of State (ORS 222.180), which ever is later.

3.09.050 (c) In order to have standing to appeal a boundary change to Section 3.09.070 a necessary party must appear at the hearing in person or in writing and state reasons why the necessary party believes the boundary change is inconsistent with the approval criteria. A necessary party may not contest a boundary change where the boundary change is explicitly authorized by an urban services agreement adopted pursuant to ORS 195.065. At any public hearing, the persons or entities proposing the boundary change shall have the burden to prove that the petition meets the criteria for a boundary change.

Findings: This section of Metro Code is included in this report for information only. It is not a criterion for decision. The City of Beaverton is the entity proposing this boundary change, and acknowledges that it has the burden to prove that the petition meets relevant criteria. The purpose of this petition/staff report is to prove that the relevant criteria for a boundary change under Metro Code have been met.

3.09.050 (d) An approving entity's final decision on a boundary change shall include findings and conclusions addressing the following criteria:

(1) Consistency with directly applicable provisions in an urban services provider agreement or annexation plan adopted pursuant to ORS 195.065;

Findings: Existing agreements relevant to this annexation are discussed in findings above addressing Section 3.09.050(b)(2) of the Metro Code. The City has not yet entered into an urban services provider agreement under ORS 195.065 that relates to all potential urban service providers in and around the city, although discussions with other urban services providers on the content of an agreement have occurred sporadically over the last several years, and the City has proposed an agreement that is acceptable to most of the parties. Because a comprehensive urban service agreement has not been completed, it is not possible to consider adoption of an annexation plan. The City has entered into two agreements that reference ORS 195.065 with Tualatin Valley Water District and Washington County and this proposed action is consistent with those agreements, as explained in the findings above addressing Metro Code Section 3.09.050(b)(2).

(2) Consistency with directly applicable provisions of urban planning or other agreements, other than agreements adopted pursuant to ORS 195.065, between the affected entity and a necessary party;

Findings: The acknowledged Washington County – Beaverton Urban Planning Area Agreement (UPAA) does not contain provisions directly applicable to City decisions regarding annexation. As explained previously in this report, in findings addressing Metro Code Section 3.09.050(b)(3), the UPAA does address actions to be taken by the City after annexation, including annexation related Comprehensive Plan Land Use Map amendments and rezones. These actions will occur through a separate process. Findings discussing other relevant agreements, and demonstrating that the proposed annexation is consistent with those agreements, are located in the findings of this report addressing Metro Code Section 3.09.050(b)(2).

(3) Consistency with specific directly applicable standards or criteria for boundary changes contained in comprehensive land use plans and public facilities plans;

Findings: The City of Beaverton Comprehensive Plan Policy 5.3.1.d states: “The City shall seek to eventually incorporate its entire Urban Services Area.” The subject property is within Beaverton’s Assumed Urban Services Area and annexing it furthers this policy. There are no other specific directly applicable standards or criteria for boundary changes in Beaverton’s Comprehensive Plan, Washington County’s Comprehensive Plan, or the Public Facilities Plans of either jurisdiction and, therefore, this criterion is met.

(4) Consistency with specific directly applicable standards or criteria for boundary changes contained in the Regional Framework Plan or any functional plan;

Findings: The Regional Framework Plan (which includes the RUGGOs and the Urban Growth Management Functional Plan) does not contain policies or criteria directly applicable to annexation decisions of this type.

(5) Whether the proposed change will promote or not interfere with the timely, orderly and economic provisions of public facilities and services;

Findings: The Existing Conditions section of this petition/staff report contains information addressing how the provision of public facilities and services to the subject area would be affected by this annexation. As noted previously in this report, no legally relevant urban services would change as a result of the proposed annexation. The City would assume primary responsibility for police protection and planning, development review and building permit issuance.

The City has sufficient staff and budgetary resources to accommodate the provision of the public facilities and services, for which it would be responsible, to the subject area. The City's 2004-2005 Fiscal Year (FY) tax rate is approximately \$4.10 per thousand dollars of assessed property value, including the tax rate for bonded debt. The FY 2004-2005 tax rate, excluding bonded debt, is \$3.68 which is less than the City's authorized tax rate of \$4.62 authorized under State Ballot Measure 50 in 1997. This allows the City to generate more property tax revenues if needed to provide public facilities and services in a timely and orderly manner. The Beaverton City Council, however, is careful to balance the need to provide city facilities and services at an adequate level with the need to be good stewards of the taxpayers' money. The City Council has set eight goals for the City. Three of those goals that are relevant to this discussion are:

- ***Use City resources efficiently to ensure long-term financial stability;***
- ***Continue to plan for, improve and maintain the City's infrastructure;***
and
- ***Provide responsive, cost effective service to the community.***

One service that the City is especially concerned about providing at a high level is police protection. As a result of the passage of City Ballot Measure 34-52 in 1996, the City has maintained a ratio of approximately 1.5 police officers per thousand population. This contrasts with a ratio of approximately 1.0 officers per thousand population in the County's Enhanced Sheriff's Patrol District (ESPD), which presently encompasses

the subject areas. Partly because of this higher number of police officers per thousand population, in addition to other factors such as the present location of several high value industrial and commercial properties just outside the city but in the ESPD and the Urban Road Maintenance District (URMD), the City's tax rate is higher than the rate presently paid to those special districts. After annexation, area property owners would pay approximately \$2.72 more per thousand dollars in assessed valuation than they presently do, based on FY 2004-2005 tax rates. A decrease in the differential is possible in future years if higher value properties are annexed to the City and removed from the ESPD and URMD.

Based on the above information, staff concludes that the proposed annexation will not interfere with the timely, orderly and economic provision of public facilities and services, and that the City is financially able to provide the urban services that it will take over from the County. Staff is not aware of any evidence that such a takeover will interfere with County's ability to continue to provide those services to areas remaining within the jurisdiction of the County's Urban Road Maintenance District or Enhanced Sheriff's Patrol District.

(6) The territory lies within the Urban Growth Boundary; and

Findings: The property lies within the Urban Growth Boundary.

(7) Consistency with other applicable criteria for the boundary change in question under state and local law.

Findings: OAR 660-001-0310 states "A city annexation made in compliance with a comprehensive plan acknowledged pursuant to ORS 197.251(1) shall be considered by Land Conservation and Development Commission to have been made in accordance with the goals..." Compliance with the Comprehensive Plan was addressed under criterion number (3) above. The applicable Comprehensive Plan policy cited under criterion number (3) above was acknowledged pursuant to Department of Land Conservation and Development Order 001581 on December 31, 2003, meaning it became unnecessary for the City to address the Statewide Planning Goals after that date in considering proposed annexations. There are no other criteria applicable to this boundary change in State Law or local ordinances. The City of Beaverton does have Annexation Policies (Exhibit E to this Petition/Staff Report) adopted by resolution and this proposed annexation is consistent with those policies. Staff finds this annexation with no associated development or land use approvals is consistent with State and local laws for the reasons stated above.

3.09.050 (e) When there is no urban service agreement adopted pursuant 195.065 that is applicable, and a boundary change decision is contested by a necessary party, the approving entity shall also address and consider, information on the following factors in determining whether the proposed boundary change meets the criteria of Sections 3.09.050(d)and (g). The findings and conclusions adopted by the approving entity shall explain how these factors have been considered.

Findings: There is no permanent comprehensive urban service agreement adopted pursuant to ORS 195.065 that is applicable to this area. At the time this staff report was completed, however, no necessary party had contested the proposed annexation. Nevertheless, staff has chosen to briefly address each of the applicable factors below, reserving the right to supplement the findings for each factor if the boundary change decision is contested by a necessary party.

- (1) The relative financial, operational and managerial capacities of alternative providers of the disputed urban services to the affected area;

Findings: Metro Code [3.09.020(m)] and Oregon Revised Statutes 195.065(4) defines "Urban Services" as meaning sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit. The providers of these urban services are not in dispute for the area proposed for annexation and there is no evidence that their financial, operational and managerial capacities to serve the area are inadequate.

- (2) The quality and quantity of the urban services at issue with alternative providers of the urban services, including differences in cost and allocations of costs of the services and accountability of the alternative providers;

Findings: No providers of legally relevant urban services that will change as a result of this proposed annexation. There is no evidence that the quality or quantity of these services will be reduced as a result of the proposed annexation, or that there will be significant differences in their cost, allocation of costs or the accountability of the alternative providers.

- (3) Physical factors related to the provision of urban services by alternative providers;

Findings: As noted above, no providers of legally relevant urban services will change as a result of this proposed annexation. There is no evidence of physical factors that would adversely affect the City's ability to provide these services.

(4) For proposals to create a new entity the feasibility of creating the new entity.

Findings: No new entity is proposed and this criterion is not applicable.

(5) The elimination or avoidance of unnecessary duplication of facilities;

Findings: The City of Beaverton has previously taken action to eliminate and avoid the unnecessary duplication of facilities. Beaverton has annexed itself to the Tualatin Valley Fire and Rescue District because it was determined that the District could provide services and operate its facilities at a higher economy of scale. For the same reason, virtually all of Beaverton is in the Tualatin Hills Park and Recreation District. Beaverton is part of Washington County Cooperative Library System, allowing use of the City's highly rated library by all county residents, and use of other library facilities in the county by City residents. As previously discussed, pursuant to an intergovernmental agreement the City works cooperatively with Clean Water Services to maintain sanitary sewer pipes less than 24" in diameter within the City limits as well as to maintain certain storm water management facilities. The City of Beaverton is a member of the Joint Water Commission (JWC), an intergovernmental group whose members also include Hillsboro, Forest Grove, and the Tualatin Valley Water District, which has jointly developed and operates water reservoirs and transmission lines. This proposed annexation will not create any duplication of facilities.

(6) Economic, demographic and sociological trends and projections relevant to the provision of the urban services;

Findings: Washington County has placed an Industrial zoning designation on all of these properties. This designation was determined after studying the economic, demographic and sociological trends and the infrastructure capacity. The City has previously cooperated with the County and other affected local governments in planning for this area's projected growth and development. There is no evidence that the City of Beaverton will be unable to provide the urban services as already planned for by the City and County. Washington County's designation will remain on these parcels until the City converts them to the City of Beaverton's Campus Industrial designation, the City's most similar designation as set forth in the Urban Planning Area Agreement.

(7) Matching the recipients of tax supported urban services with the payers of the tax;

Findings: The Beaverton Police Department responds to emergency calls outside of the City limits. Beaverton provides approximately 1.5 police officers per 1,000 population compared to Washington County's Enhanced Sheriff Patrol District which provides approximately 1.0 deputies per 1,000 population. The City is providing police protection to these unincorporated islands and receiving no revenues in return. In addition, the City maintains the streets that provide access, will be the provider of sanitary sewers, when these parcels develop, and provides storm water management for these properties. This annexation will provide tax revenues, fees and service charges to support these services.

(8) The equitable allocation of costs to alternative urban service providers between new development and prior development; and

Findings: As explained above, no relevant urban service providers will change. Since there is no change in service providers, there will be no inequitable allocation of costs to service providers of specified between new development and prior development.

(9) Economies of scale.

Findings: The City of Beaverton's current boundaries create an inefficient situation for provision of urban services. The City of Beaverton believes it is the logical provider of services for its assumed urban service area, including the area that is the subject of this proposed annexation. The City is currently the provider of relevant services to these properties and there is no evidence that the City cannot continue to offer these services after annexation at an economy of scale that meets or exceeds that which is made available by present service providers.

(10) Where a proposed decision is inconsistent with an adopted intergovernmental agreement, that the decision better fulfills the criteria of Section 3.09.050(d) considering Factors (1) through (9) above.

Findings: There is no evidence that the proposed annexation of the subject territory is inconsistent with the various intergovernmental agreements relating to annexation that the City of Beaverton is party to.

3.09.050 (f) A final boundary change decision by an approving entity shall state the effective date, which date shall be no earlier than 10 days following the date that the decision is reduced to writing, and mailed to all necessary parties. However, a decision that has not been contested by any necessary party may become effective upon adoption.

Findings: The effective date for this annexation is recommended to be 30 days after the mayor signs an ordinance adopted by the City Council approving the annexation or the date the ordinance is submitted to the Secretary of State, by Metro, as provided in ORS 222.180 and Metro Code 3.09.030(e), which ever is later.

3.09.050 (g) Only territory already within the defined Metro Urban Growth Boundary at the time a petition is complete may be annexed to a city or included in territory proposed for incorporation into a new city. However, cities may annex individual tax lots partially within and without the Urban Growth Boundary.

Findings: This criterion is not applicable to this proposed annexation because the territory in question has been inside of the Portland Metro Urban Growth Boundary since the boundary was created.

CONCLUSION

Based on the information and findings in this petition and staff report, staff concludes that the proposed annexation should be approved by the Council through adoption of a City ordinance.

Exhibits:

- A. Resolution No. 3806
- B. Legal Description
- C. List of Property Owners
- D. A spreadsheet listing tax lot identification numbers, land value, building value, total value, assessed value, and approximate acreage
- E. Resolution No. 3785

EXHIBIT A
RESOLUTION 3806

RESOLUTION NO. 3806

A RESOLUTION DIRECTING CITY INITIATION OF ANNEXATION OF TERRITORY

WHEREAS, the City of Beaverton has adopted Urban Service Area and Corporate Limits Annexation Policies; and

WHEREAS, the City's progress toward annexing its assumed urban services area has been slow; and

WHEREAS, previous incremental annexations have resulted in City limits that are odd and create confusion about their location, with many unincorporated "islands" surrounded by properties within the City; and

WHEREAS, the City desires to create more logical boundaries and create complete incorporated neighborhoods; and

WHEREAS, a more assertive policy toward annexation of certain types of properties could improve the City's ability to provide services to its residents efficiently and at a reasonable cost; and

WHEREAS, a more assertive annexation policy could result in more City control of development in adjacent unincorporated areas that could affect the City; and

WHEREAS, the Washington County 2000 policy is to have all urban unincorporated areas annexed by cities over time; and

WHEREAS, the City of Beaverton and Washington County have entered into an intergovernmental agreement defining an Interim Urban Services Plan and Map specifying the City's future annexation area over the next ten years; and

WHEREAS, the City is now identifying particular areas to implement the adopted Annexation Policies; therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF BEAVERTON, OREGON

Council directs the Mayor to pursue the annexation of territory identified on the map attached hereto as Exhibit A to this resolution.

Adopted by the Council this 14th day of February, 2005.

Approved by the Mayor this 15th day of FEBRUARY, 2005.

Ayes: 5

Nays: 0

ATTEST:
Deputy City Recorder

Catherine L. Jansen for
SUE NELSON, City Recorder

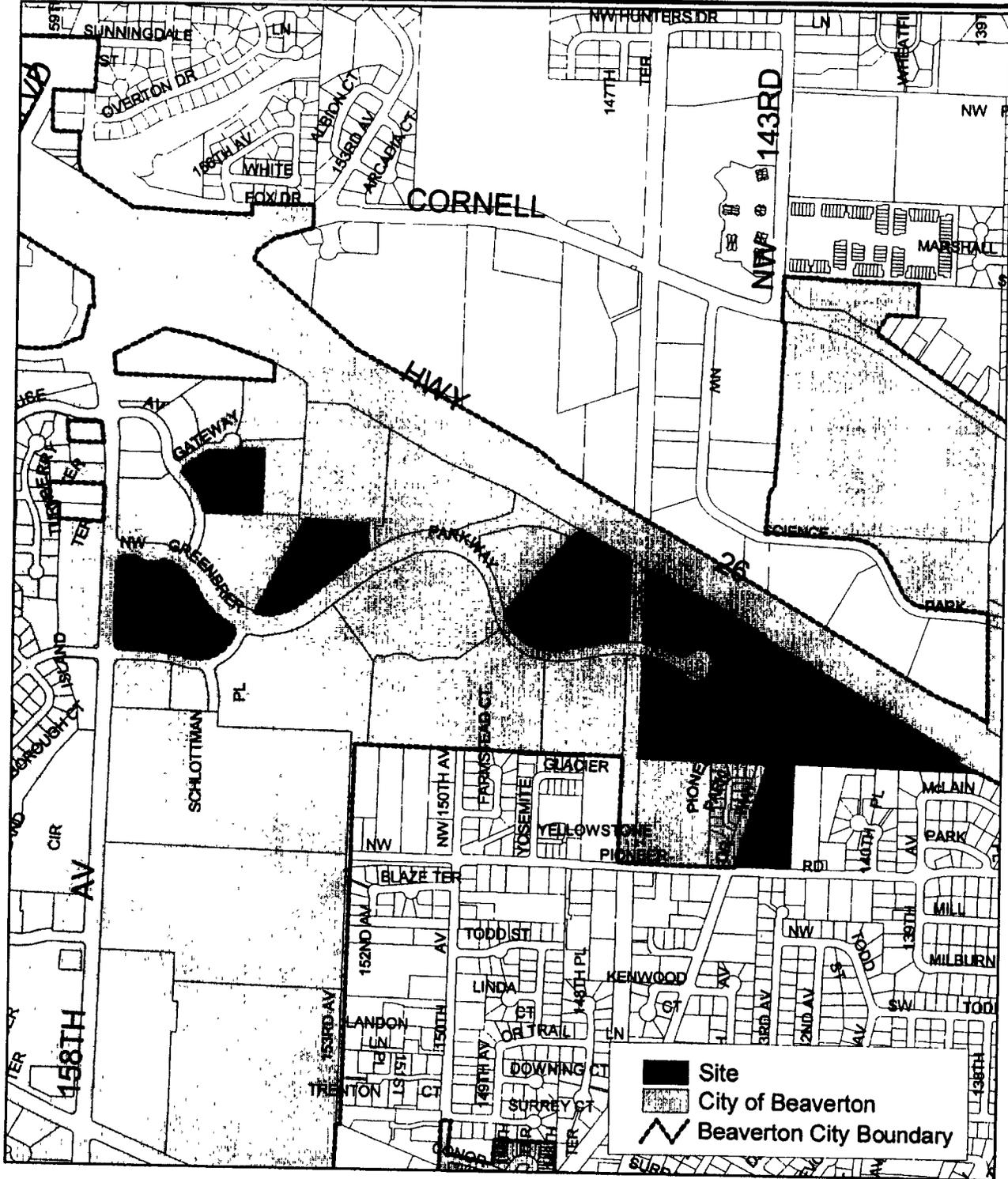
APPROVED:

Rob Drake
ROB DRAKE, Mayor

VICINITY MAP

Resolution
No. 3806

EXHIBIT "A"



CITY OF BEAVERTON

Cornell Oaks Area Islands Annexations

COMMUNITY DEVELOPMENT DEPARTMENT

Planning Services Division

01/31/05

Map #

Various

N



Application #
ANX 2005-0002

EXHIBIT B
LEGAL DESCRIPTION

ANX2005-0002
Parcel 1

That certain parcel of land located in the Southeast $\frac{1}{4}$ Northwest $\frac{1}{4}$, Section 32, Township 1 North, Range 1 West, Willamette Meridian, Washington County, Oregon, more particularly described as follows:

Beginning at a point on the easterly right of way line of NW Waterhouse Avenue, said point being the intersection of the easterly right of way line of NW Waterhouse Avenue and the north line of Lemuel A. Sparks DLC No. 59; thence east, along the north line of Lemuel A. Sparks DLC No. 59, 337.70 feet; thence north, 386.58 feet; thence westerly, to the southerly right of way line of NW Gateway Court; thence westerly, along the southerly right of way line of NW Gateway Court to the easterly right of way line of NW Waterhouse Avenue; thence southerly, along the easterly right of way line of NW Waterhouse Avenue to the point of beginning.

ANX2005-0002
Parcel 2

That certain parcel of land located in the Northeast $\frac{1}{4}$ Southwest $\frac{1}{4}$, Section 32, Township 1 North, Range 1 West, Willamette Meridian, Washington County, Oregon, more particularly described as follows:

Lots 18, 19, and 20, Corporate Center at Cornell Oaks, a plat of record in Washington County, Oregon.

ANX2005-0002
Parcel 3

That certain parcel of land located in the Northeast ¼ Southwest ¼, Section 32, Township 1 North, Range 1 West, Willamette Meridian, Washington County, Oregon, more particularly described as follows:

Lots 3 and 4, Corporate Center at Cornell Oaks, a plat of record in Washington County, Oregon.

ANX2005-0002
Parcel 4

That certain parcel of land located in the Northeast $\frac{1}{4}$ Southeast $\frac{1}{4}$, Section 32, Township 1 North, Range 1 West, Willamette Meridian, Washington County, Oregon, more particularly described as follows:

Beginning at the intersection of the northerly right of way line of NW Greenbrier Parkway and the west line of the Bonneville Power Administration, said point also being the southeast corner of Lot 10, Corporate Center at Cornell Oaks, a plat of record; thence along the northerly right of way line of NW Greenbrier Parkway along a 687 foot radius curve to the left, 155.96 feet; thence westerly, 143.99 feet; thence westerly, 66.77 feet; thence along the arc of a 391.68 foot radius curve to the right, 114.89 feet; thence along the arc of a 296 foot radius curve to the right, 347.43 feet; thence leaving the northerly right of way line of NW Greenbrier Parkway north, $41^{\circ} 14' 05''$ east, 594.54 feet; thence northeasterly, 65.91 feet to the southerly right of way line of Sunset Highway (US Highway No. 26); thence southeasterly, along said right of way line, 342.48 feet to the west line of the Bonneville Power Administration, said point also being the northeast corner of Lot 10, Corporate Center at Cornell Oaks; thence south, $01^{\circ} 20' 19''$ west, 478.46 feet to the point of beginning.

EXHIBIT C
LIST OF PROPERTY OWNERS

**LIST OF OWNERS ANX 2005-0002
CORNELL OAKS ISLANDS ANNEXATION**

	TAX ID	OWNER	OWNER'S ADDRESS			
1	1N132BD01200	PS BUSINESS PARKS LP	15455 NW GREENBRIER PKWY #140	BEAVERTON	OR	97006
2	1N132BD01300	PS BUSINESS PARKS LP	15455 NW GREENBRIER PKWY #140	BEAVERTON	OR	97006
3	1N132CA00700	PS BUSINESS PARKS LP	15455 NW GREENBRIER PKWY #140	BEAVERTON	OR	97006
4	1N132DA01100	PS BUSINESS PARKS LP	15455 NW GREENBRIER PKWY #140	BEAVERTON	OR	97006
5	1N132CA00600	PS BUSINESS PARKS LP	15455 NW GREENBRIER PKWY #140	BEAVERTON	OR	97006
6	1N132DA01000	PS BUSINESS PARKS LP	15455 NW GREENBRIER PKWY #140	BEAVERTON	OR	97006
7	1N132CA01200	PS BUSINESS PARKS LP	15455 NW GREENBRIER PKWY #140	BEAVERTON	OR	97006
8	1N132CA01000	PS BUSINESS PARKS LP	15455 NW GREENBRIER PKWY #140	BEAVERTON	OR	97006
9	1N132CA01100	PS BUSINESS PARKS LP	15455 NW GREENBRIER PKWY #140	BEAVERTON	OR	97006

EXHIBIT D
SPREADSHEET WITH ASSESSOR'S VALUES

CORNELL OAKS AREA ISLANDS ANNEXATION (ANX 2005-0002)

	TAX ID	SITE ADDRESS	LAND VALUE	BUILDING VALUE	TOTAL VALUE	ASSESSED VALUE	ACRES
1	1N132CA01200	NONE ASSIGNED	\$769,300	\$0	\$769,300	\$392,980	2.47
2	1N132CA01100	NONE ASSIGNED	\$694,550	\$0	\$694,550	\$354,800	2.23
3	1N132CA01000	NONE ASSIGNED	\$688,330	\$0	\$688,330	\$351,620	2.21
4	1N132BD01200	NONE ASSIGNED	\$955,910	\$0	\$955,910	\$636,640	1.76
5	1N132BD01300	NONE ASSIGNED	\$915,390	\$0	\$915,390	\$609,650	1.68
6	1N132CA00700	NONE ASSIGNED	\$706,990	\$0	\$706,990	\$350,630	2.27
7	1N132CA00600	NONE ASSIGNED	\$706,990	\$0	\$706,990	\$361,140	2.27
8	1N132DA01000	NONE ASSIGNED	\$942,860	\$0	\$942,860	\$896,290	3.33
9	1N132DA01100	NONE ASSIGNED	\$1,373,230	\$0	\$1,373,230	\$947,690	4.85
			LAND VALUE	BUILDING VALUE	TOTAL VALUE	ASSESSED VALUE	ACRES
TOTALS			\$7,753,550	\$0	\$7,753,550	\$4,901,440	23.07

EXHIBIT E
RESOLUTION 3785

RESOLUTION NO. 3785

A RESOLUTION ESTABLISHING CITY OF BEAVERTON URBAN SERVICE AREA AND CORPORATE LIMITS ANNEXATION POLICIES

WHEREAS, the City of Beaverton presently has no defined policies regarding annexation of adjacent urban unincorporated areas, including unincorporated islands; and

WHEREAS, the City's progress toward annexing its assumed urban services area has been slow; and

WHEREAS, previous incremental annexations have resulted in City limits that are odd and create confusion about their location, with many unincorporated "islands" surrounded by properties within the City; and

WHEREAS, the City desires to create more logical boundaries and create complete incorporated neighborhoods; and

WHEREAS, a more assertive policy toward annexation of certain types of properties could improve the City's ability to provide services to its residents efficiently and at a reasonable cost; and

WHEREAS, a more assertive annexation policy could result in more City control of development in adjacent unincorporated areas that could affect the City; and

WHEREAS, the Washington County 2000 policy is to have all urban unincorporated areas annexed by cities over time; now, therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF BEAVERTON, OREGON

Council directs the Mayor to pursue the annexation of properties in adjacent urban unincorporated areas in accordance with the policies in Attachment A to this resolution.

Adopted by the Council this 1st day of November, 2004.

Approved by the Mayor this 2ND day of NOVEMBER, 2004.

Ayes: 4

Nays: 0

ATTEST:


SUE NELSON, City Recorder

APPROVED:


ROB DRAKE, Mayor

City of Beaverton Urban Service Area and Corporate Limits Annexation Policies

A. City of Beaverton Urban Service Area Policy

The City remains committed to annexing its urban services area over time, but the City will be selective regarding the methods of annexation it chooses to use. The City of Beaverton prefers to avoid use of annexation methods that may force annexation against the will of a majority of voters in larger unincorporated residential neighborhoods. The City is, however, open to annexation of these areas by other means where support for annexation is expressed, pursuant to a process specified by State law, by a majority of area voters and/or property owners. The City is open to pursuing infrastructure/service planning for the purposes of determining the current and future needs of such areas and how such areas might best fit into the City of Beaverton provided such unincorporated residents pursue an interest of annexing into the City.

B. City of Beaverton Corporate Limits Policy

The City of Beaverton is committed to annexing those unincorporated areas that generally exist inside the City's corporate limits. Most of these areas, known as "islands", generally receive either direct or indirect benefit from City services. The Washington County 2000 Policy, adopted in the mid-1980s, recognizes that the County should not be a long-term provider of municipal services and that urban unincorporated areas including unincorporated islands should eventually be annexed to cities. As such, primarily through the use of the 'island annexation method', the City's objectives in annexing such areas are to:

- Minimize the confusion about the location of City boundaries for the provision of services;
- Improve the efficiency of city service provision, particularly police patrols;
- Control the development/redevelopment of properties that will eventually be within the City's boundaries;
- Create complete neighborhoods and thereby eliminate small pockets of unincorporated land; and
- Increase the City's tax base and minimize increasing the City's mill rate.

In order to achieve these stated objectives, the City chooses to generally pursue the following areas for 'island annexation' into the City of Beaverton:

- Undeveloped property zoned for industrial, commercial uses or mixed uses;
- Developed or redevelopable property zoned for industrial, commercial or mixed uses;
- Undeveloped or redevelopable property zoned for residential use;
- Smaller developed property zoned residential (within a neighborhood that is largely incorporated within the City of Beaverton).

AGENDA BILL**Beaverton City Council
Beaverton, Oregon**

SUBJECT: An Ordinance Annexing Five Parcels
Located in the Vicinity of the Cornell Oaks
Corporate Center, owned by Leupold &
Stevens, Inc. to the City of Beaverton:
Annexation 2005-0003

FOR AGENDA OF: 4/18/05 **BILL NO:** 05081

Mayor's Approval: [Signature]

DEPARTMENT OF ORIGIN: CDD [Signature]

DATE SUBMITTED: 4/1/05

CLEARANCES: City Attorney AA

Planning Services HTB

PROCEEDING: First Reading

EXHIBITS: Ordinance
Exhibits A - Map
Exhibit B - Legal Description
Exhibit C - Staff Report Dated 3/29/05

BUDGET IMPACT

EXPENDITURE REQUIRED \$0	AMOUNT BUDGETED \$0	APPROPRIATION REQUIRED \$0
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HISTORICAL PERSPECTIVE:

This request is to annex five parcels consisting of approximately 28 acres in the vicinity of Cornell Oaks Corporate Center to the City of Beaverton. This is what is commonly referred to as an island annexation and may proceed without the consent of the property owners or residents after the City Council holds a public hearing. It is being processed under ORS 222.750 and Metro Code Chapter 3.09.

INFORMATION FOR CONSIDERATION:

This ordinance and the staff report address the criteria for annexation in Metro Code Chapter 3.09.

Beaverton Code Section 9.06.035A provides the City Council the option of adding property to an appropriate Neighborhood Association Committee (NAC) area at the time of annexation. These properties are not currently within a NAC. The Neighborhood Office is recommending that these parcels not be added to a NAC at this time.

Staff recommends that the City Council adopt an ordinance annexing the referenced property, effective June 30, 2006.

RECOMMENDED ACTION:

First Reading

ORDINANCE NO. 4350

AN ORDINANCE ANNEXING FIVE PARCELS LOCATED IN THE VICINITY OF THE CORNELL OAKS CORPORATE CENTER, OWNED BY LEUPOLD & STEVENS, INC. TO THE CITY OF BEAVERTON: ANNEXATION 2005-0003

- WHEREAS,** This annexation was initiated under authority of ORS 222.750, whereby the City may annex territory that is not within the City but that is surrounded by the corporate boundaries of the City, or by the corporate boundaries of the City and a stream, with or without the consent of property owners or residents; and
- WHEREAS,** The properties are in Beaverton's Assumed Urban Services Area and Policy 5.3.1.d of the City's acknowledged Comprehensive Plan states: "The City shall seek to eventually incorporate its entire Urban Services Area."; and
- WHEREAS,** Council Resolution No. 3785 sets forth annexation policies for the City and this action implements those policies; now, therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

- Section 1.** The properties shown on Exhibit A and more particularly described in Exhibit B are hereby annexed to the City of Beaverton, effective June 30, 2006.
- Section 2.** The Council accepts the staff report attached hereto as Exhibit C, and finds that:
- a. This annexation is consistent with provisions in the agreement between the City and the Tualatin Valley Water District adopted pursuant to ORS 195.065 that are directly applicable to this annexation; and
 - b. This annexation is consistent with the City-Agency agreement between the City and Clean Water Services in that partial responsibility for sanitary and storm sewer facilities within the area annexed will transfer to the City subsequent to this annexation.
- Section 3.** The Council finds this annexation will promote and not interfere with the timely, orderly, and economic provision of public facilities and services, in that:
- a. The properties will be withdrawn from the Washington County Urban Road Maintenance District and the Washington County Enhanced Sheriff Patrol District ; and
 - b. The properties that lie within the Washington County Street Lighting District #1, if any, will be withdrawn from the district; and
 - c. The City having annexed into the Tualatin Valley Fire and Rescue District in 1995, the properties to be annexed by this Ordinance shall remain within that district; and
 - d. The territory will remain within the boundaries of the Tualatin Valley Water District.
- Section 4.** The Council finds that this annexation complies with all other applicable criteria set out in Metro Code Chapter 3.09 as demonstrated in the staff report attached as Exhibit C.

Section 5. The City Recorder shall place a certified copy of this Ordinance in the City's permanent records, and the Community Development Department shall forward a certified copy of this Ordinance to Metro and all necessary parties within five working days of adoption.

Section 6. The Community Development Department shall transmit copies of this Ordinance and all other required materials to all public utilities and telecommunications utilities affected by this Ordinance in accordance with ORS 222.005.

First Reading _____
Date

Second Reading and Passed _____
Date

ATTEST:

APPROVED:

SUE NELSON, City Recorder

ROB DRAKE, Mayor

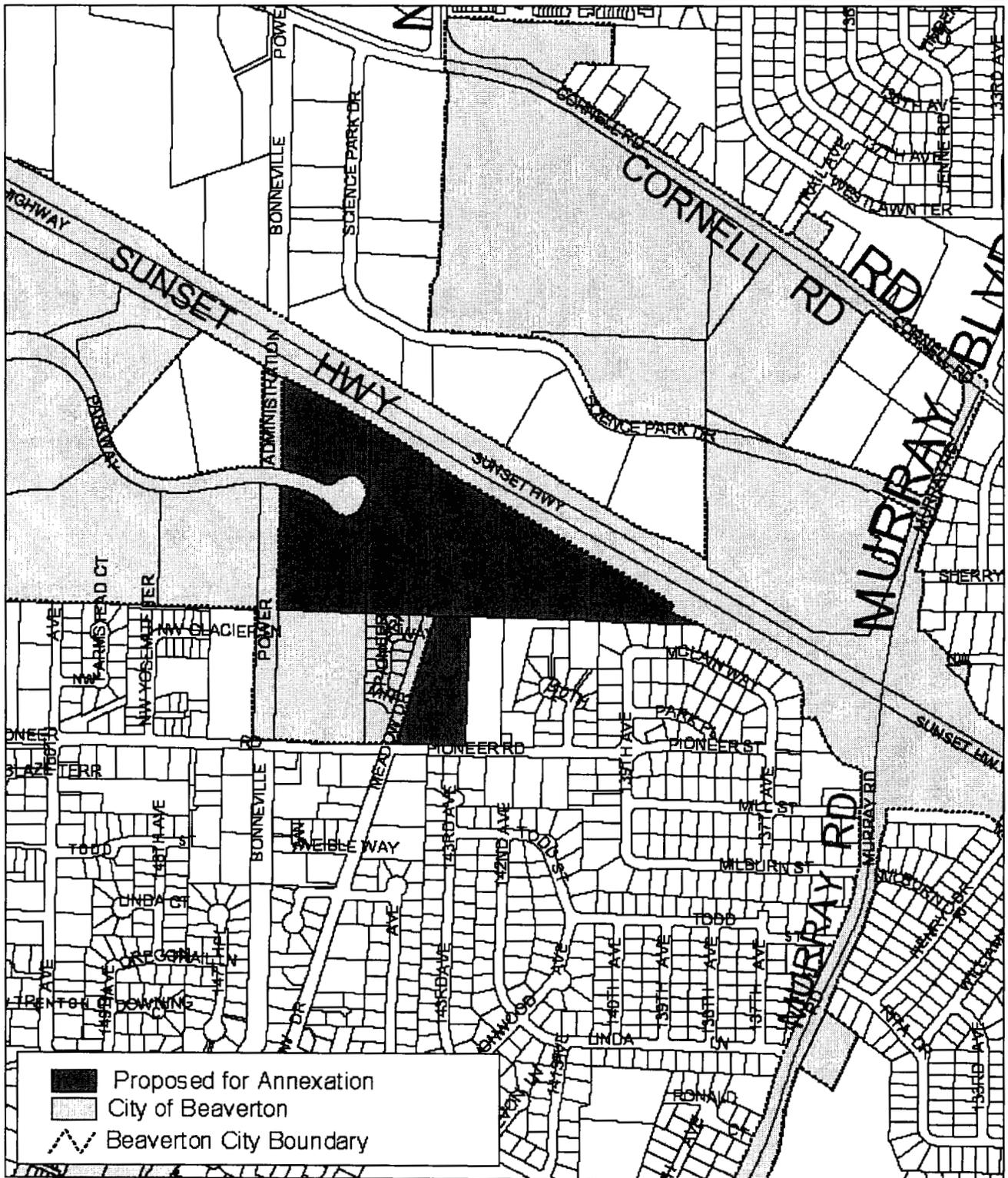
Date

Date

VICINITY MAP

Ordinance No. 4350

EXHIBIT "A"



Leupold & Stevens Island Annexation

COMMUNITY DEVELOPMENT DEPARTMENT

Planning Services Division

01/31/05

Map #
Various

Map # ANX 2005-0003

N



**ANX2005-0003
Parcel 1**

That certain parcel of land located in the Northeast $\frac{1}{4}$ Southeast $\frac{1}{4}$, Section 32, and the Northwest $\frac{1}{4}$ Southwest $\frac{1}{4}$, and the Southwest $\frac{1}{4}$ Southwest $\frac{1}{4}$, Section 33, Township 1 North, Range 1 West, Willamette Meridian, Washington County, Oregon, more particularly described as follows:

Beginning at the intersection of the easterly right of way line of NW Meadow Drive and the north right of way line of NW Pioneer Road; thence running east, along the north right of way line of NW Pioneer Road, 338.07 feet; thence north, 635.50 feet to the south line of George W. Jones DLC No. 54; thence east, along the south line of said DLC No. 54 to the southerly right of way line of Sunset Highway (US Highway No. 26); thence northwesterly, along the southerly right of way line of Sunset Highway to the point of intersection with the east line of Bonneville Power Administration; thence south, along the east line of the Bonneville Power Administration to the north right of way line of NW Greenbrier Parkway; thence easterly, following the right of way line of NW Greenbrier Parkway around the cul-de-sac, and bears west, to the point where the southerly right of way line intersects with the east line of Bonneville Power Administration right of way; thence south, along the east right of way line of Bonneville Power administration to the south line of James S. Scott DLC No. 58; thence east, along the south line of said DLC No. 58, to the SE Corner of James S. Scott DLC No. 58, said point also being the southwest corner of George W. Jones DLC No. 54; thence east, to the point of intersection with the easterly right of way line of NW Meadow Drive; thence southerly, along the easterly right of way line of NW Meadow Drive to the point of beginning.



CITY of BEAVERTON

4755 S.W. Griffith Drive, P.O. Box 4755, Beaverton, OR 97076 General Information (503) 526-2222 V/TDD

PETITION AND STAFF REPORT

TO: City Council **REPORT DATE:** March 29, 2005

HEARING

DATE: April 18, 2005

FROM: Community Development Department
Hal Bergsma, Planning Services Manager
Alan Whitworth, Senior Planner

SUBJECT: Leupold & Stevens Island Annexation (ANX 2005-0003)

ACTIONS: Annexation to the City of Beaverton of five parcels located in the vicinity of Corporate Center at Cornell Oaks. The territory is shown on the attached map and more particularly described by the attached legal description. The annexation of the territory is City initiated and is being processed under ORS 222.750 and Metro Code 3.09.050 as a quasi-judicial land use decision.

NAC: These parcels are not currently within a Neighborhood Association Committee (NAC) area and the Neighborhood Office does not recommend adding them to a NAC at this time.

AREA: Approximately 28 acres

TAXABLE BM 50 ASSESSED VALUE: \$ 32,107,580

ASSESSOR'S REAL MARKET BUILDING VALUE: \$ 27,961,370

ASSESSOR'S REAL MARKET TOTAL VALUE: \$ 34,040,600

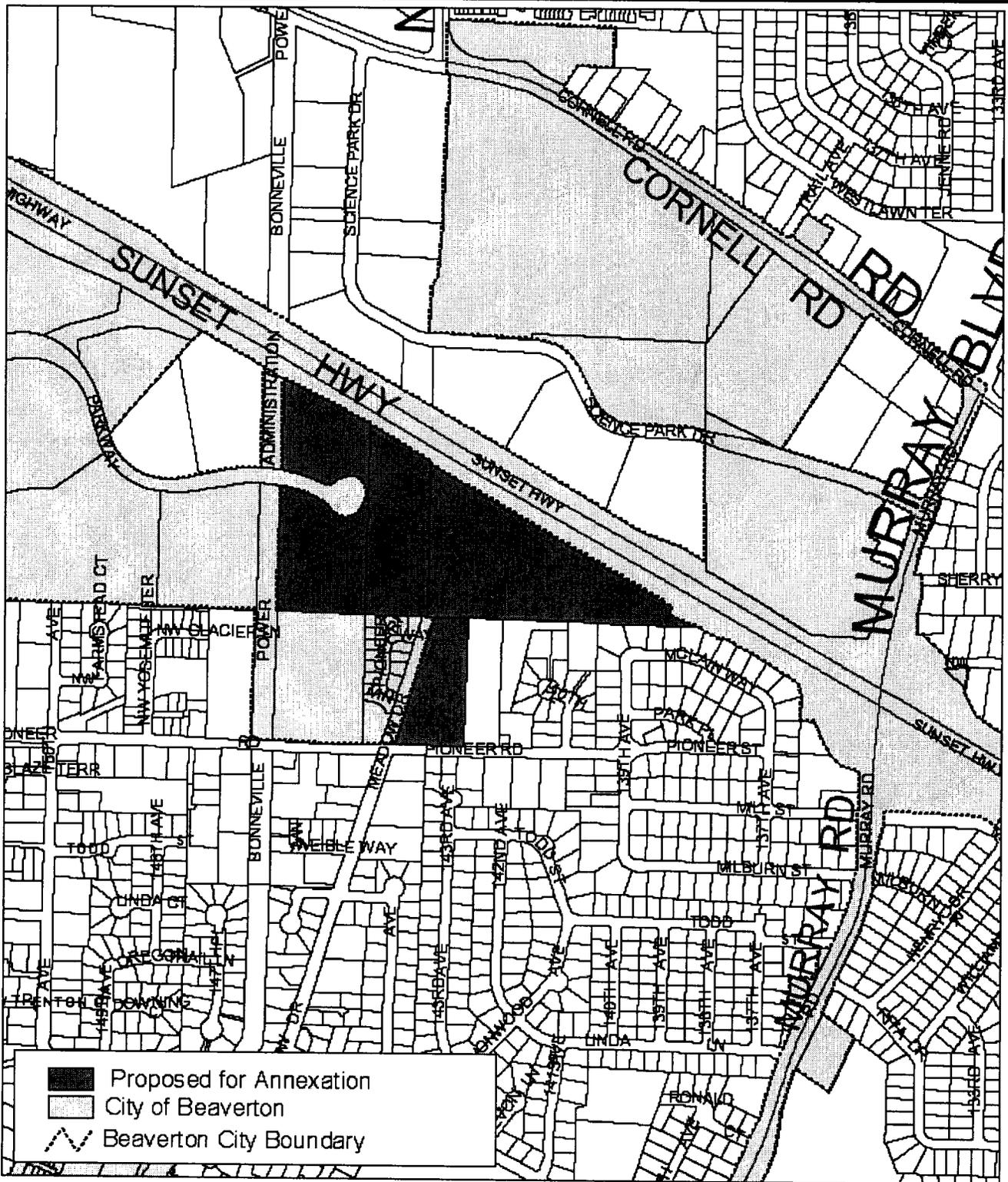
NUMBER OF TAX PARCELS: 5

RECOMMENDATION

Staff recommends the City Council adopt an ordinance annexing the referenced territory, effective June 30, 2006.

VICINITY MAP

EXHIBIT "A"



CITY OF BEAVERTON

Leupold & Stevens Island Annexation

COMMUNITY DEVELOPMENT DEPARTMENT

Planning Services Division

01/31/05

Map #

Various

N



Acquisition #

ANX 2005-0003

BACKGROUND

This is commonly referred to as an Island Annexation that is being processed under Oregon Revised Statutes Section 222.750 and Metro Code Chapter 3.09.

ORS 222.750 Annexation of unincorporated territory surrounded by city. When territory not within a city is surrounded by the corporate boundaries of the city, or by the corporate boundaries of the city and the ocean shore or a stream, bay, lake or other body of water, it is within the power and authority of that city to annex such territory. However, this section does not apply when the territory not within a city is surrounded entirely by water. Unless otherwise required by its charter, annexation by a city under this section shall be by ordinance or resolution subject to referendum, with or without the consent of any owner of property within the territory or resident in the territory.

The subject properties are within an island defined by the City's corporate limits. The City has chosen to annex the subject properties and not others in the city that are in islands based on guidance provided by the City Council provided through their adoption of Resolution No. 3806 (Exhibit A) on February 14, 2005.

ORS 222.120 requires a public hearing to allow the electors of the City to appear and be heard on the question. It requires notice to be published in a newspaper of general circulation for a period of two weeks and notice to be posted in four public places in the city for a similar period.

Metro Code Section 3.09.030 does not require a public hearing but does require waterproof posting of the notice in the general vicinity of the site and publishing notice in a newspaper of general circulation. The required notice to necessary parties and the posting are to be done at least 45 days prior to the date of decision. 3.09.050(b) requires the staff report to be available at least 15 days prior to the date of decision.

The request is to annex five tax parcels located in an island in the vicinity of the Corporate Center at Cornell Oaks. The area proposed for annexation is approximately 28 acres.

The five parcels proposed for annexation are owned by Leupold & Stevens. Two of the parcels proposed for annexation are in the Cornell Oaks Corporate Center. The City of Beaverton and the Hartford Underwriters Insurance Company (the owner of the Cornell Oaks Corporate Center) entered into an annexation agreement effective February 1, 1995. The agreement stated that the owner (and owner's transferees or successors) and the City agree to annex individual lots when improvements on the lots were substantially complete. This agreement terminated on February 1, 2005.

The City did not proceed on annexing the remainder of the undeveloped parcels in the Cornell Oaks Corporate Center until the annexation agreement expired. The Beaverton City Council directed the initiation of this annexation by its adoption of Resolution No. 3806 (Exhibit A) on February 14, 2005. City Council chose to include the remaining three parcels owned by Leupold & Stevens in this island annexation.

None of these parcels are currently within the Neighborhood Association Committee (NAC) boundaries and the Neighborhood Office does not recommend adding these parcels to a NAC at this time.

MINIMUM REQUIREMENTS FOR PETITIONS

The following is from Metro Code:

3.09.040 Minimum Requirements for Petitions

(a) A petition for a boundary change shall be deemed complete if it includes the following information:

(1) The jurisdiction of the approving entity to act on the petition;

Finding: As defined by section 3.09.020(c) of the Metro Code, "Approving entity" means the governing body of a city, county, city-county or district authorized to make a decision on a boundary change, or its designee. ORS 222.111(2) states:

"A proposal for annexation of territory to a city may be initiated by the legislative body of the city, on its own motion, or by petition to the legislative body of the city by owners of real property in the territory to be annexed."

The Beaverton City Council directed the initiation of this annexation by its adoption of Resolution No. 3806 (Exhibit A) on February 14, 2005. This annexation is allowed by ORS 222.750 without the consent of any owner of property within the territory or resident in the territory through ordinance adoption by the Council, subject to referendum.

(2) A narrative, legal and graphical description of the affected territory in the form prescribed by Metro Chief Operating Officer;

Finding: The Metro Chief Operating Officer has not prescribed a particular form for providing a narrative, legal and graphical description of a

territory that would be affected by a proposed annexation. The practice has been to provide such information in a form prescribed by the State Department of Revenue. Consistent with Department of Revenue requirements, maps of the affected territory are included as page two of this petition/report, a narrative legal is attached to this petition/report (Exhibit B), and marked tax maps are available for inspection upon request. This complies with the requirements of Metro, the Oregon Department of Revenue, and the Oregon Secretary of State's Office.

- (3) For minor boundary changes, the names and mailing addresses of all persons owning property and all electors within the affected territory as shown in the records of the tax assessors and county clerk;

Finding: A list of the names and mailing addresses of all persons owning property within the affected territory as shown in the records of the Washington County Assessment and Taxation Department is attached as Exhibit C. There are no electors residing on the property proposed for annexation.

- (4) A listing of the present providers of urban services to the affected territory;

Finding: According to Metro Code Section 3.09.020(m), " 'Urban services' means sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit." Sanitary sewers lines are presently provided by and maintained by Clean Water Services and the City of Beaverton. Treatment is provided by Clean Water Services. Potable water is presently provided by the Tualatin Valley Water District. Fire protection and emergency medical service is presently provided by Tualatin Valley Fire and Rescue. Parks, open space, and recreation services are presently provided by Tualatin Hills Park and Recreation District. Public streets and roads are presently maintained by the City of Beaverton and Washington County's Urban Road Maintenance District. Mass transit is provided by TRI-MET.

- (5) A listing of the proposed providers of urban services to the affected territory following the proposed boundary change;

Finding: Pursuant to a July 1, 2004 intergovernmental agreement between the City of Beaverton and Clean Water Services, as of July 1, 2005 sanitary sewer pipes in the proposed annexation area that are smaller than 24-inches in diameter will be maintained by the City of Beaverton and pipes equal to or greater than 24-inches in diameter will be maintained by Clean

Water Services. Clean Water Services will also provide sewage treatment. Potable water will be provided by Tualatin Valley Water District pursuant to an intergovernmental agreement between the City and TVWD. Fire protection and emergency medical service will be provided by Tualatin Valley Fire and Rescue. Parks, open space, and recreation services will be provided by Tualatin Hills Park and Recreation District. NW Greenbrier Parkway and NW Meadow Drive are City maintained local roads and will remain City maintained after annexation. The City of Beaverton will maintain all public street lights in the area being annexed. Mass transit will continue to be provided by TRI-MET.

(6) The current tax assessed value of the affected territory; and

Findings: The current Ballot Measure 50 assessed value of the affected territory is \$32,107,580. A spreadsheet listing tax lot identification number, approximate acreage, Ballot Measure 50 value, real market building value and total real market value is attached as Exhibit D. This information is based on information from the Washington County Assessment and Taxation Department.

(7) Any other information required by state or local law.

Findings: No other information is required by state or local law.

(b) A City or county may charge a fee to recover its reasonable costs to carry out its duties and responsibility under this chapter.

Findings: The City of Beaverton has chosen not to charge a fee for annexations.

EXISTING CONDITIONS

SERVICE PROVISION:

The following analysis details the various services available to the properties to be annexed. Cooperative, urban service and intergovernmental agreements affecting provision of service to the subject properties are:

- The City has entered into ORS Chapter 195 cooperative agreements with Washington County, Tualatin Valley Fire and Rescue District, Tualatin Hills Park and Recreation District, Tualatin Valley Water District and Clean Water Services.
- The City has entered into an agreement with Tualatin Valley Water District that has been designated an ORS 195.065 Urban Service Agreement by the

parties. (No other ORS Chapter 195 Urban Service Agreements have been executed that would affect this decision.)

- The City has entered into an ORS Chapter 190 intergovernmental agreement with Clean Water Services.
- The City has been a party to a series of ORS Chapter 190 intergovernmental agreements “for Mutual Aid, Mutual Assistance, and Interagency Cooperation Among Law Enforcement Agencies Located in Washington County, Oregon”, the last of which was signed by Beaverton Mayor Rob Drake on August 9, 2004. This agreement specifies the terms under which a law enforcement agency may provide assistance in response to an emergency situation outside its jurisdiction when requested by another law enforcement agency.
- On December 22, 2004 the City entered into an intergovernmental agreement with Washington County defining areas that the City may annex for ten years from the date of the agreement without opposition by the County. The properties proposed for annexation by this application is within one of those areas.

This action is consistent with those agreements.

POLICE: The property to be annexed currently receives police protection from the Washington County Enhanced Sheriff's Patrol District. Sheriff's protection will be withdrawn and the City will provide police service upon annexation. In practice whichever agency is able to respond first, to an emergency, does so in accordance with the mutual aid agreement described above.

FIRE: Tualatin Valley Fire & Rescue (TVF&R) provides fire and ambulance service to this area. The City annexed its own fire services to TVF&R in 1995. TVF&R is designated as the long-term service provider to this area.

SEWER: The area is adequately served by sanitary sewer at this time. The sanitary sewer pipes were designed to handle development that was authorized by the current zoning but the adequacy of sanitary sewer capacity will be reviewed as part of the development review process. Clean Water Services will continue to provide sewage treatment. Upon annexation the City will be responsible for billing.

WATER: Tualatin Valley Water District (TVWD) will continue to be the provider of water service to the area. ORS 222.520 allows cities to assume water service responsibilities when annexing less than an entire district. However, the City entered into an intergovernmental agreement with TVWD in 2002 that the

City would only withdraw property, upon annexation, from the District that has been agreed to. This area will remain in TVWD service area.

STORM WATER DRAINAGE: The area is adequately served by storm sewers and drainage at this time. As the area redevelops at higher density the issue of storm drainage will be dealt with through the development review process. After annexation maintenance and billing responsibility will transfer to the City.

STREETS and ROADS: NW Greenbrier Parkway and NW Meadow Drive are City maintained local roads and will remain City maintained after annexation.

SCHOOLS & PARKS: The proposed annexation is both within the Beaverton School District and the Tualatin Hills Park & Recreation District. Neither services nor district boundaries will be affected by the proposed annexation.

PLANNING, ZONING and BUILDING: Washington County currently provides long-range planning, development review and building inspection for the subject properties. Upon annexation, the City will provide those services. Pursuant to the Urban Planning Area Agreement (UPAA) between the City and County, City Comprehensive Plan and Zoning Designations will be applied in a separate action.

PUBLIC INVOLVEMENT

Consistent with Metro Code Section 3.09.030, the City sent notice of the proposed annexation on March 4, 2005 (more than 45 days prior to the hearing date) to all necessary parties including Washington County, Metro, affected special districts and County service districts. Additionally, four weatherproof signs with the notice mailed to the necessary parties attached were posted in the general vicinity of the affected territory. Affidavits of mailing and posting, including information on the locations where the weatherproof signs were posted, are in the case file for this application.

In compliance with ORS 222.120, notice of the hearing will be published once each week for two successive weeks prior to the day of the hearing in the Beaverton Valley Times newspaper; and notices of the proposed annexation will be posted in four public places in the city (at the Beaverton Post Office, the Beaverton City Library, the Beaverton City Hall, and in the lobby of the administrative offices of

the Tualatin Hills Park and Recreation District) for a like period. Evidence that this notification was provided will be available at the public hearing.

The City also sent the notice mailed to the necessary parties to the following parties at least 45 days in advance of the April 18, 2005 public hearing:

- the property owners of record of the subject property and property owners within 100 feet of the subject property as shown on the most recent property tax assessment roll of the Washington County Department of Assessment and Taxation; and
- The Five Oaks Neighborhood Association Committee and the Cedar Hills/Cedar Mill and Sunset West/Rock Creek/Bethany Citizen Participation Organizations; interested parties as set forth in City Code Section 9.06.035.

The mailed notice and a copy of this petition/staff report will be posted on the City's web page.

CRITERIA FOR APPROVAL

REGIONAL ANNEXATION CRITERIA:

In December 1998 the Metro Council adopted Metro Code Section 3.09 (Local Government Boundary Changes). Metro Code Section 3.09.050 includes the following minimum criteria for annexation decisions of this type:

3.09.050 Uniform Hearing and Decision Requirements for Final Decisions Other Than Expedited Decisions

(a) The following minimum requirements for hearings on decisions operate in addition to all procedural requirements for boundary changes provided for under ORS chapters 198, 221 and 222. Nothing in this chapter allows an approving entity to dispense with a public hearing on a proposed boundary change when the public hearing is required by applicable state statutes or is required by the approving entity's charter, ordinances or resolutions.

Findings: A public hearing has been scheduled and noticed for April 18, 2005.

(b) Not later than 15 days prior to the date set for a boundary change decision, the approving entity shall make available to the public a report that addresses the criteria in subsections (d) and (g) below, and that includes at a minimum the following:

(1) The extent to which urban services presently are available to serve the affected territory including any extra territorial extensions of service;

Findings: Urban Services are defined by Metro Code Section 3.09.020(m) as "...sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit." This area is currently served by both Clean Water Services and City maintained sanitary sewers. After annexation the City will take over maintenance of sanitary sewer pipes under 24-inches in diameter. This area is served by Tualatin Valley Water and there is adequate capacity to continue providing potable water to this area. Fire protection is provided by Tualatin Valley Fire and Rescue which is the provider for the entire City of Beaverton and they have the capacity to serve the area. Parks, open space and recreation are provided by the Tualatin Hills Park and Recreation District which will continue to provide those services. The area is served by NW Greenbrier Parkway and NW Meadow Drive, which are City maintained local roads and will remain City maintained after annexation. The road system is adequate to handle current development. The impacts of new development proposals will be addressed in the development review process. TRI-MET provides bus service to the area.

(2) A description of how the proposed boundary change complies with any urban service provider agreements adopted pursuant to ORS 195.065 between the affected entity and all necessary parties;

Findings: The City has entered into ORS Chapter 195 cooperative agreements with Washington County, Tualatin Valley Fire and Rescue District, Tualatin Hills Parks and Recreation District, Tualatin Valley Water District and Clean Water Services. These agreements follow a standard format, and prescribe coordination of the planning and development activities of the parties through notification to provide each with the opportunity to participate, review and comment on proposed comprehensive plan and land use regulation amendments and development actions requiring individual notice to property owners, as well as other specified activities. Annexations are not listed as actions that require notification of the other parties to the cooperative agreements. In fact, annexations are defined as not being development actions or land use regulation amendments. Therefore, the ORS Chapter 195 cooperative agreements listed above do not appear to be relevant to this proposed annexation.

The City has entered into an agreement with Tualatin Valley Water District that has been designated an ORS 195.065 Urban Service Agreement by the

parties. The agreement defines long-term service areas for each party, independent of whether the area is in or outside the City. All of the subject area is defined as being within TVWD's long-term service area.

As previously noted, On December 22, 2004 the City entered into an intergovernmental agreement with Washington County, titled the "Beaverton-Washington County Intergovernmental Agreement Interim Urban Services Plan" defining areas that the City may annex for ten years from the date of the agreement without opposition by the County, and referencing ORS 195.065(1). The property proposed for annexation by this application is within those areas. No other ORS Chapter 195 Urban Service Agreements have been executed that would affect this proposed annexation.

The City has entered into an ORS Chapter 190 intergovernmental agreement with Clean Water Services, which was updated as of July 1, 2004. Exhibit 'A' to the new agreement defines the subject area as being within the "Beaverton Area of Assigned Service Responsibility" where, subsequent to annexation, specified maintenance responsibilities for sanitary sewer lines under 24 inches in diameter and for certain storm drainage facilities and surface water management functions would transfer to the City of July 1 of any year if so requested by the City by January 1 of that year. Sanitary sewers less than 24" in diameter and the storm drainage system in the area proposed for annexation, by this application, will be the City's maintenance responsibility after annexation.

(3) A description of how the proposed boundary change is consistent with the comprehensive land use plans, public facility plans, regional framework and functional plans, regional urban growth goals and objectives, urban planning agreements and similar agreements of the affected entity and of all necessary parties;

Findings: Comprehensive Plans: The only relevant policy of the City of Beaverton's Comprehensive Plan is Policy 5.3.1.d, which states "The City shall seek to eventually incorporate its entire Urban Services Area." The subject territory is within Beaverton's Assumed Urban Services Area, which is Figure V-1 of the City of Beaverton's Acknowledged Comprehensive Plan.

After reviewing the Washington County Comprehensive Framework Plan for the Urban Area on the County's web site (reflecting changes through County Ordinance No. 598) as well as ordinances adopted subsequently up to the date of this staff report that amended the Comprehensive Framework Plan, staff finds that the following provisions may be applicable to this proposed annexation:

- ***A paragraph in the “County-Wide Development Concept” at the beginning of the Comprehensive Framework Plan which states:***

As development occurs in accordance with this development concept, issues of annexation or incorporation may arise. Annexation or incorporation issues will necessarily relate to various other planning issues such as community identity, fiscal impacts of growth and service provision, coordination between service providers to achieve efficiencies and ensure availability, etc. As such issues arise; the County should evaluate community identity as an issue of equal importance with public service provision issues when developing policy positions on specific annexation or incorporation proposals.

Staff views this statement as direction to the County itself in how to evaluate annexation proposals, and not guidance to the City regarding this specific proposal. As a necessary party, the County has an opportunity to comment on and appeal this proposed boundary change if it appears at the scheduled April 18, 2005 hearing, in person or in writing, on the proposal and states reasons why they believe the boundary change is inconsistent with the approval criteria (see Metro Code section 3.09.050(c)).

- ***Policy 15 of the Comprehensive Framework Plan, relating to Roles and Responsibilities for Serving Growth, says:***

It is the policy of Washington County to work with service providers, including cities and special service districts, and Metro, to ensure that facilities and services required for growth will be provided when needed by the agency or agencies best able to do so in a cost effective and efficient manner.

Two implementing strategies under Policy 15 that relate to annexation state:

The County will:

- f. If appropriate in the future, enter into agreements with service providers which address one or more of the following:*
 - 3. Service district or city annexation*
- g. Not oppose proposed annexations to a city that are consistent with an urban service agreement or a voter approved annexation plan.*

The City of Beaverton, Washington County and the other urban service providers for the subject area have been working off and on for several years to arrive at an urban service area agreement for the Beaverton area pursuant to ORS 195.065 that would be consistent with Policy 15 and the cited implementing strategies. Unfortunately, although most issues have been resolved, a few issues remain between the County and the City that have prevented completion of the agreement. These issues do not relate to

who provides services or whether they can be provided when needed in an efficient and cost effective manner so much as how the transfer of service provision responsibility occurs, particularly the potential transfer of employees and equipment from the County to the City. As previously noted the County and the City have entered into an intergovernmental agreement that sets an interim urban services plan area in which the County commits to not oppose annexations by the City. Staff has reviewed other elements of the County Comprehensive Plan, particularly the Sunset West and Cedar Hills-Cedar Mills Community Plans that includes the subject property, and was unable to identify any provision relating to this proposed annexation. None of the subject property is in an area of Special Concern.

Public Facilities Plans: The City's public facilities plan consists of the Public Facilities and Services Element of the Comprehensive Plan, the Transportation Element of the Comprehensive Plan, the City's Capital Improvements Plan, and the most recent versions of master plans adopted by providers of the following facilities and services in the City: storm water drainage, potable water, sewerage conveyance and processing, parks and recreation, schools and transportation. Where a service is provided by a jurisdiction other than the City, by adopting the master plan for that jurisdiction as part of its public facilities plan, the City has essentially agreed to abide by any provisions of that master plan. The only relevant urban services defined by Metro Code Section 3.09.020(m) that will change subsequent to annexation are the maintenance of sanitary sewer lines under 24" in diameter and the maintenance of roads.

Staff could not identify any provisions in the Washington County Public Facilities Plan relevant to this proposed annexation.

The regional framework plan, functional plan, and regional urban growth goals and objectives: These Metro documents do not specifically address minor boundary changes of this type.

The Washington County - Beaverton Urban Planning Area Agreement: Adopted in 1989, this agreement does not contain provisions relating to annexations, other than (1) calling for execution of a memorandum of understanding outlining the methodology for transferring County records regarding land use activities to the City after annexation; (2) calling for execution of a memorandum of understanding outlining responsibilities for collection of fees, inspections and drainage districts on platted subdivisions annexed to the City; and (3) prescribing that when the City applies plan and zoning designations subsequent to annexation that a table in the agreement be followed in determining which to apply based on existing County designations, or that the most similar designation be

applied. The City has drafted a memorandum of understanding on records transfer and submitted it to the County consideration, and the City will also enter into a memorandum of understanding regarding fees collection and inspections if necessary (drainage maintenance districts are no longer used by Washington County). It has been the City's practice in the past to comply with the provision relating to the application of City plan and zone designations, through a subsequent process that will be done in this case if the area is annexed.

As discussed previously in this report, this annexation is consistent with all other agreements that the City is party to relating to annexations.

- (4) Whether the proposed boundary change will result in the withdrawal of the affected territory from the legal boundary of any necessary party; and

Findings: The affected territory will be withdrawn from the Enhanced Sheriff's Patrol District (ESPD) and the Urban Road Maintenance District (URMD). The subject territory will not be withdrawn from the legal boundary of any other necessary party by this action.

- (5) The proposed effective date of the decision.

Findings: The effective date for this annexation is June 30, 2006.

3.09.050 (c) In order to have standing to appeal a boundary change to Section 3.09.070 a necessary party must appear at the hearing in person or in writing and state reasons why the necessary party believes the boundary change is inconsistent with the approval criteria. A necessary party may not contest a boundary change where the boundary change is explicitly authorized by an urban services agreement adopted pursuant to ORS 195.065. At any public hearing, the persons or entities proposing the boundary change shall have the burden to prove that the petition meets the criteria for a boundary change.

Findings: This section of Metro Code is included in this report for information only. It is not a criterion for decision. The City of Beaverton is the entity proposing this boundary change, and acknowledges that it has the burden to prove that the petition meets relevant criteria. The purpose of this petition/staff report is to prove that the relevant criteria for a boundary change under Metro Code have been met.

3.09.050 (d) An approving entity's final decision on a boundary change shall include findings and conclusions addressing the following criteria:

- (1) Consistency with directly applicable provisions in an urban services provider agreement or annexation plan adopted pursuant to ORS 195.065;

Findings: Existing agreements relevant to this annexation are discussed in findings above addressing Section 3.09.050(b)(2) of the Metro Code. The City has not yet entered into an urban services provider agreement under ORS 195.065 that relates to all potential urban service providers in and around the city, although discussions with other urban services providers on the content of an agreement have occurred sporadically over the last several years, and the City has proposed an agreement that is acceptable to most of the parties. Because a comprehensive urban service agreement has not been completed, it is not possible to consider adoption of an annexation plan. The City has entered into two agreements that reference ORS 195.065 with Tualatin Valley Water District and Washington County and this proposed action is consistent with those agreements, as explained in the findings above addressing Metro Code Section 3.09.050(b)(2).

(2) Consistency with directly applicable provisions of urban planning or other agreements, other than agreements adopted pursuant to ORS 195.065, between the affected entity and a necessary party;

Findings: The acknowledged Washington County – Beaverton Urban Planning Area Agreement (UPAA) does not contain provisions directly applicable to City decisions regarding annexation. As explained previously in this report, in findings addressing Metro Code Section 3.09.050(b)(3), the UPAA does address actions to be taken by the City after annexation, including annexation related Comprehensive Plan Land Use Map amendments and rezones. These actions will occur through a separate process. Findings discussing other relevant agreements, and demonstrating that the proposed annexation is consistent with those agreements, are located in the findings of this report addressing Metro Code Section 3.09.050(b)(2).

(3) Consistency with specific directly applicable standards or criteria for boundary changes contained in comprehensive land use plans and public facilities plans;

Findings: The City of Beaverton Comprehensive Plan Policy 5.3.1.d states: “The City shall seek to eventually incorporate its entire Urban Services Area.” The subject property is within Beaverton’s Assumed Urban Services Area and annexing it furthers this policy. There are no other specific directly applicable standards or criteria for boundary changes in Beaverton’s Comprehensive Plan, Washington County’s Comprehensive Plan, or the Public Facilities Plans of either jurisdiction and, therefore, this criterion is met.

(4) Consistency with specific directly applicable standards or criteria for boundary changes contained in the Regional Framework Plan or any functional plan;

Findings: The Regional Framework Plan (which includes the RUGGOs and the Urban Growth Management Functional Plan) does not contain policies or criteria directly applicable to annexation decisions of this type.

(5) Whether the proposed change will promote or not interfere with the timely, orderly and economic provisions of public facilities and services;

Findings: The Existing Conditions section of this petition/staff report contains information addressing how the provision of public facilities and services to the subject area would be affected by this annexation. As noted previously in this report, only one legally relevant urban services would change as a result of the proposed annexation, the maintenance of sanitary sewer pipes under 24" in diameter. The City would continue to be responsible for the maintenance of access roads to the area. The City would also assume primary responsibility for police protection, maintenance of storm drainage facilities, maintenance of street lights, and planning, development review and building permit issuance.

The City has sufficient staff and budgetary resources to accommodate the provision of the public facilities and services, for which it would be responsible, to the subject area. The City's 2004-2005 Fiscal Year (FY) tax rate is approximately \$4.10 per thousand dollars of assessed property value, including the tax rate for bonded debt. The FY 2004-2005 tax rate, excluding bonded debt, is \$3.68 which is less than the City's authorized tax rate of \$4.62 authorized under State Ballot Measure 50 in 1997. This allows the City to generate more property tax revenues if needed to provide public facilities and services in a timely and orderly manner. The Beaverton City Council, however, is careful to balance the need to provide city facilities and services at an adequate level with the need to be good stewards of the taxpayers' money. The City Council has set eight goals for the City. Three of those goals that are relevant to this discussion are:

- ***Use City resources efficiently to ensure long-term financial stability;***
- ***Continue to plan for, improve and maintain the City's infrastructure;***
and
- ***Provide responsive, cost effective service to the community.***

One service that the City is especially concerned about providing at a high level is police protection. As a result of the passage of City Ballot Measure 34-52 in 1996, the City has maintained a ratio of approximately 1.5 police officers per thousand population. This contrasts with a ratio of

approximately 1.0 officers per thousand population in the County's Enhanced Sheriff's Patrol District (ESPD), which presently encompasses the subject area. Partly because of this higher number of police officers per thousand population, in addition to other factors such as the present location of several high value industrial and commercial properties just outside the city but in the ESPD and the Urban Road Maintenance District (URMD), the City's tax rate is higher than the rate presently paid to those special districts. After annexation, area property owners would pay approximately \$2.72 more per thousand dollars in assessed valuation than they presently do, based on FY 2004-2005 tax rates. A decrease in the differential is possible in future years if higher value properties are annexed to the City and removed from the ESPD and URMD.

Based on the above information, staff concludes that the proposed annexation will not interfere with the timely, orderly and economic provision of public facilities and services, and that the City is financially able to provide the urban services that it will take over from the County. Staff is not aware of any evidence that such a takeover will interfere with County's ability to continue to provide those services to areas remaining within the jurisdiction of the County's Urban Road Maintenance District or Enhanced Sheriff's Patrol District.

(6) The territory lies within the Urban Growth Boundary; and

Findings: The property lies within the Urban Growth Boundary.

(7) Consistency with other applicable criteria for the boundary change in question under state and local law.

Findings: OAR 660-001-0310 states "A city annexation made in compliance with a comprehensive plan acknowledged pursuant to ORS 197.251(1) shall be considered by Land Conservation and Development Commission to have been made in accordance with the goals..." Compliance with the Comprehensive Plan was addressed under criterion number (3) above. The applicable Comprehensive Plan policy cited under criterion number (3) above was acknowledged pursuant to Department of Land Conservation and Development Order 001581 on December 31, 2003, meaning it became unnecessary for the City to address the Statewide Planning Goals after that date in considering proposed annexations. There are no other criteria applicable to this boundary change in State Law or local ordinances. The City of Beaverton does have Annexation Policies (Exhibit E to this Petition/Staff Report) adopted by resolution and this proposed annexation is consistent with those policies. Staff finds this annexation with no associated development or land use approvals is consistent with State and local laws for the reasons stated above.

3.09.050 (e) When there is no urban service agreement adopted pursuant 195.065 that is applicable, and a boundary change decision is contested by a necessary party, the approving entity shall also address and consider, information on the following factors in determining whether the proposed boundary change meets the criteria of Sections 3.09.050(d)and (g). The findings and conclusions adopted by the approving entity shall explain how these factors have been considered.

Findings: There is no permanent comprehensive urban service agreement adopted pursuant to ORS 195.065 that is applicable to this area. At the time this staff report was completed, however, no necessary party had contested the proposed annexation. Nevertheless, staff has chosen to briefly address each of the applicable factors below, reserving the right to supplement the findings for each factor if the boundary change decision is contested by a necessary party.

- (1) The relative financial, operational and managerial capacities of alternative providers of the disputed urban services to the affected area;

Findings: Metro Code [3.09.020(m)] and Oregon Revised Statutes 195.065(4) defines "Urban Services" as meaning sanitary sewers, water, fire protection, parks, open space, recreation and streets, roads and mass transit. The providers of these urban services are not in dispute for the area proposed for annexation and there is no evidence that their financial, operational and managerial capacities to serve the area are inadequate.

- (2) The quality and quantity of the urban services at issue with alternative providers of the urban services, including differences in cost and allocations of costs of the services and accountability of the alternative providers;

Findings: The only providers of legally relevant urban services that will change as a result of this proposed annexation are the providers of maintenance of sanitary sewers. Sanitary sewer maintenance responsibility for pipes smaller than 24 inches in diameter will shift from Clean Water Services to the City's Operations Department. There is no evidence that the quality or quantity of this service will be reduced as a result of the proposed annexation, or that there will be significant differences in cost, allocation of costs or the accountability of the alternative provider.

- (3) Physical factors related to the provision of urban services by alternative providers;

Findings: As noted above, the only provider of legally relevant urban services that will change as a result of this proposed annexation is the

provider of maintenance of sanitary sewers. There is no evidence of physical factors that would adversely affect the City's ability to provide this service as compared to the present provider.

(4) For proposals to create a new entity the feasibility of creating the new entity.

Findings: No new entity is proposed and this criterion is not applicable.

(5) The elimination or avoidance of unnecessary duplication of facilities;

Findings: The City of Beaverton has previously taken action to eliminate and avoid the unnecessary duplication of facilities. Beaverton has annexed itself to the Tualatin Valley Fire and Rescue District because it was determined that the District could provide services and operate its facilities at a higher economy of scale. For the same reason, virtually all of Beaverton is in the Tualatin Hills Park and Recreation District. Beaverton is part of Washington County Cooperative Library System, allowing use of the City's highly rated library by all county residents, and use of other library facilities in the county by City residents. As previously discussed, pursuant to an intergovernmental agreement the City works cooperatively with Clean Water Services to maintain sanitary sewer pipes less than 24" in diameter within the City limits as well as to maintain certain storm water management facilities. The City of Beaverton is a member of the Joint Water Commission (JWC), an intergovernmental group whose members also include Hillsboro, Forest Grove, and the Tualatin Valley Water District, which has jointly developed and operates water reservoirs and transmission lines. This proposed annexation will not create any duplication of facilities.

(6) Economic, demographic and sociological trends and projections relevant to the provision of the urban services;

Findings: Washington County has placed an Industrial zoning designation on all but the southernmost property in this area, which is designated residential 5 units per acre (R-6). These designations were determined after studying the economic, demographic and sociological trends and the infrastructure capacity. The City has previously cooperated with the County and other affected local governments in planning for this area's projected growth and development. There is no evidence that the City of Beaverton will be unable to provide the urban services as already planned for by the City and County. Washington County's designations will remain on these parcels until the City converts them to the City of Beaverton's most similar designations as set forth in the Urban Planning Area Agreement, which would be the Campus Industrial zone and the R7 zone .

(7) Matching the recipients of tax supported urban services with the payers of the tax;

Findings: *The Beaverton Police Department responds to emergency calls outside of the City limits. Beaverton provides approximately 1.5 police officers per 1,000 population compared to Washington County's Enhanced Sheriff Patrol District which provides approximately 1.0 deputies per 1,000 population. The City is providing police protection to this unincorporated island and receiving no revenues in return. In addition, the City maintains the streets that provide access, will be the provider of sanitary sewers, when these parcels develop, and will provide storm water management for this property. This annexation will provide tax revenues, fees and service charges to support these services.*

(8) The equitable allocation of costs to alternative urban service providers between new development and prior development; and

Findings: *As explained above, as a result of the proposed annexation the City will take over maintenance of sanitary sewer pipes under 24-inches in diameter. No other relevant urban service providers will change. There is no evidence that the changes in service provision that would result from the proposed annexation will result in an inequitable allocation of costs to the previous service provider of the specified service and the City between new development and prior development.*

(9) Economies of scale.

Findings: *The City of Beaverton's current boundaries create an inefficient situation for provision of urban services. The City of Beaverton believes it is the logical provider of services for its assumed urban service area, including the area that is the subject of this proposed annexation. The City is currently the provider of relevant services to this property and there is no evidence that the City cannot continue to offer these services after annexation at an economy of scale that meets or exceeds that which is made available by present service providers.*

(10) Where a proposed decision is inconsistent with an adopted intergovernmental agreement, that the decision better fulfills the criteria of Section 3.09.050(d) considering Factors (1) through (9) above.

Findings: *There is no evidence that the proposed annexation of the subject territory is inconsistent with the various intergovernmental agreements relating to annexation that the City of Beaverton is party to.*

3.09.050 (f) A final boundary change decision by an approving entity shall state the effective date, which date shall be no earlier than 10 days following the date that the decision is reduced to writing, and mailed to all necessary parties. However, a decision that has not been contested by any necessary party may become effective upon adoption.

Findings: The effective date for this annexation is recommended to be June 30, 2006.

3.09.050 (g) Only territory already within the defined Metro Urban Growth Boundary at the time a petition is complete may be annexed to a city or included in territory proposed for incorporation into a new city. However, cities may annex individual tax lots partially within and without the Urban Growth Boundary.

Findings: This criterion is not applicable to this proposed annexation because the territory in question has been inside of the Portland Metro Urban Growth Boundary since the boundary was created.

CONCLUSION

Based on the information and findings in this petition and staff report, staff concludes that the proposed annexation should be approved by the Council through adoption of a City ordinance.

Exhibits:

- A. Resolution No. 3806
- B. Legal Description
- C. List of Property Owners
- D. A spreadsheet listing tax lot identification numbers, land value, building value, total value, assessed value, and approximate acreage
- E. Resolution No. 3785

EXHIBIT A
RESOLUTION 3806

RESOLUTION NO. 3806

**A RESOLUTION DIRECTING CITY INITIATION OF
ANNEXATION OF TERRITORY**

WHEREAS, the City of Beaverton has adopted Urban Service Area and Corporate Limits Annexation Policies; and

WHEREAS, the City's progress toward annexing its assumed urban services area has been slow; and

WHEREAS, previous incremental annexations have resulted in City limits that are odd and create confusion about their location, with many unincorporated "islands" surrounded by properties within the City; and

WHEREAS, the City desires to create more logical boundaries and create complete incorporated neighborhoods; and

WHEREAS, a more assertive policy toward annexation of certain types of properties could improve the City's ability to provide services to its residents efficiently and at a reasonable cost; and

WHEREAS, a more assertive annexation policy could result in more City control of development in adjacent unincorporated areas that could affect the City; and

WHEREAS, the Washington County 2000 policy is to have all urban unincorporated areas annexed by cities over time; and

WHEREAS, the City of Beaverton and Washington County have entered into an intergovernmental agreement defining an Interim Urban Services Plan and Map specifying the City's future annexation area over the next ten years; and

WHEREAS, the City is now identifying particular areas to implement the adopted Annexation Policies; therefore,

**BE IT RESOLVED BY THE COUNCIL OF THE CITY OF
BEAVERTON, OREGON**

Council directs the Mayor to pursue the annexation of territory identified on the map attached hereto as Exhibit A to this resolution.

Adopted by the Council this 14th day of February, 2005.

Approved by the Mayor this 15th day of FEBRUARY, 2005.

Ayes: 5

Nays: 0

ATTEST:
Deputy City Recorder


SUE NELSON, City Recorder

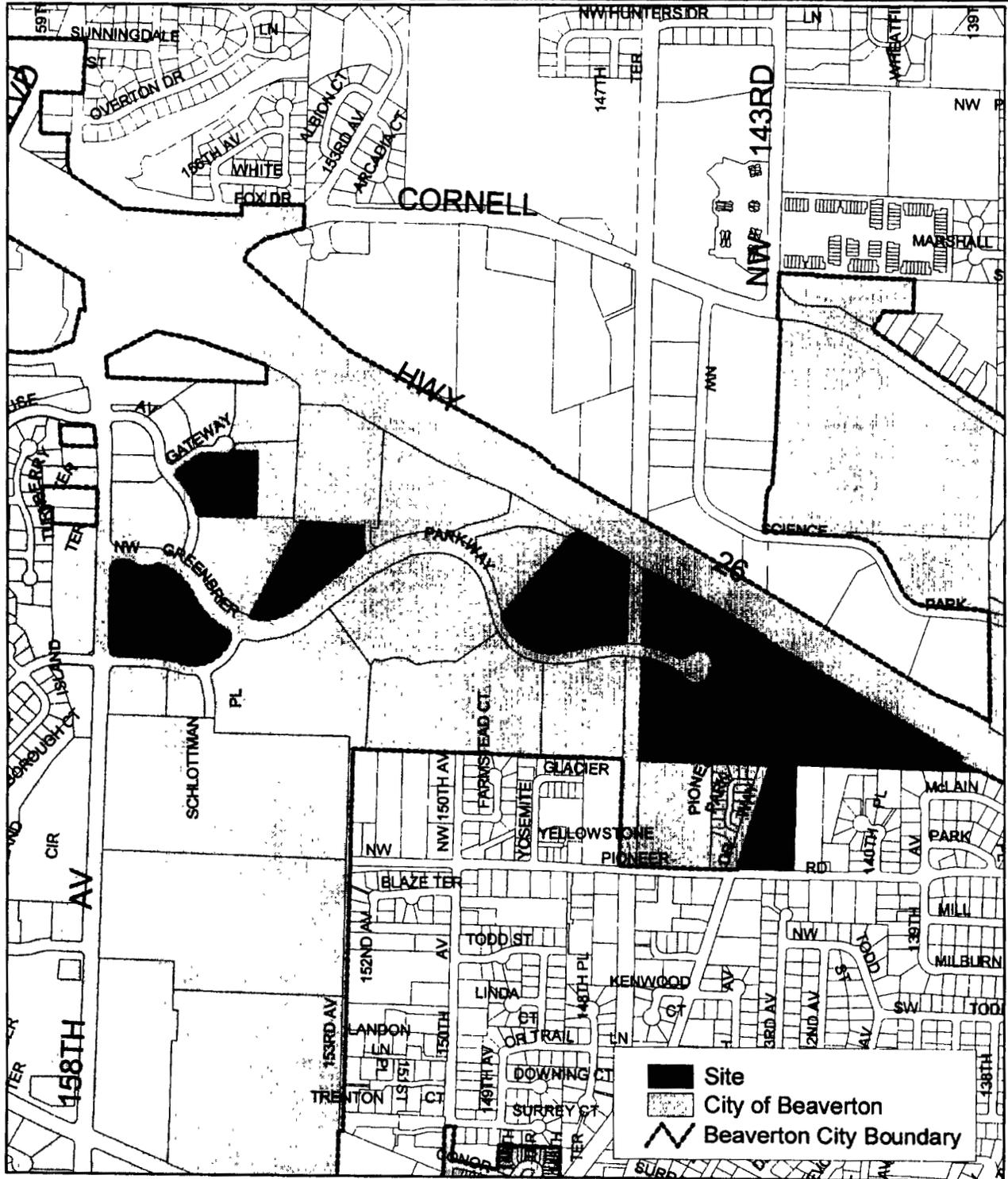
APPROVED:


ROB DRAKE, Mayor

VICINITY MAP

Resolution
No. 3806

EXHIBIT "A"



CITY OF BEAVERTON

Cornell Oaks Area Islands Annexations

COMMUNITY DEVELOPMENT DEPARTMENT

Planning Services Division

01/31/05

Map #

Various

N



Application #
ANX 2005-0002

EXHIBIT B
LEGAL DESCRIPTION

ANX2005-0003
Parcel 1

That certain parcel of land located in the Northeast $\frac{1}{4}$ Southeast $\frac{1}{4}$, Section 32, and the Northwest $\frac{1}{4}$ Southwest $\frac{1}{4}$, and the Southwest $\frac{1}{4}$ Southwest $\frac{1}{4}$, Section 33, Township 1 North, Range 1 West, Willamette Meridian, Washington County, Oregon, more particularly described as follows:

Beginning at the intersection of the easterly right of way line of NW Meadow Drive and the north right of way line of NW Pioneer Road; thence running east, along the north right of way line of NW Pioneer Road, 338.07 feet; thence north, 635.50 feet to the south line of George W. Jones DLC No. 54; thence east, along the south line of said DLC No. 54 to the southerly right of way line of Sunset Highway (US Highway No. 26); thence northwesterly, along the southerly right of way line of Sunset Highway to the point of intersection with the east line of Bonneville Power Administration; thence south, along the east line of the Bonneville Power Administration to the north right of way line of NW Greenbrier Parkway; thence easterly, following the right of way line of NW Greenbrier Parkway around the cul-de-sac, and bears west, to the point where the southerly right of way line intersects with the east line of Bonneville Power Administration right of way; thence south, along the east right of way line of Bonneville Power administration to the south line of James S. Scott DLC No. 58; thence east, along the south line of said DLC No. 58, to the SE Corner of James S. Scott DLC No. 58, said point also being the southwest corner of George W. Jones DLC No. 54; thence east, to the point of intersection with the easterly right of way line of NW Meadow Drive; thence southerly, along the easterly right of way line of NW Meadow Drive to the point of beginning.

EXHIBIT C
LIST OF PROPERTY OWNERS

LEUPOLD STEVENS ISLAND ANNEXATION (ANX 2005-0003)

	TAX ID	OWNER	OWNER'S ADDRESS			
1	1N133CC00400	LEUPOLD & STEVENS INC	14400 NW GREENBRIER PKWY	BEAVERTON	OR	97006
2	1N132DA01200	LEUPOLD & STEVENS, INC	PO BOX 688	BEAVERTON	OR	97075
3	1N133CB00600	LEUPOLD AND STEVENS, INC	PO BOX 688	BEAVERTON	OR	97075
4	1N133CB00700	LEUPOLD AND STEVENS, INC	PO BOX 688	BEAVERTON	OR	97075
5	1N132DA01300	LEUPOLD & STEVENS, INC	PO BOX 688	BEAVERTON	OR	97075

EXHIBIT D
SPREADSHEET WITH ASSESSOR'S VALUES

LEUPOLD STEVENS ISLAND ANNEXATION (2005-0003)

	TAX ID	SITE ADDRESS	LAND VALUE	BUILDING VALUE	TOTAL VALUE	ASSESSED VALUE	ACRES
1	1N133CC00400	NONE ASSIGNED	\$312,450	\$0	\$312,450	\$177,310	3.61
2	1N132DA01200	NONE ASSIGNED	\$1,090,090	\$0	\$1,090,090	\$556,860	3.5
3	1N133CB00600	600 NW MEADOW DR	\$1,181,700	\$0	\$1,181,700	\$604,020	5.38
4	1N133CB00700	600 NW MEADOW DR	\$2,090,600	\$27,961,370	\$30,051,970	\$30,051,970	10.52
5	1N132DA01300	NONE ASSIGNED	\$1,404,390	\$0	\$1,404,390	\$717,420	4.96
TOTALS			\$6,079,230	\$27,961,370	\$34,040,600	\$32,107,580	27.97

EXHIBIT E
RESOLUTION 3785

RESOLUTION NO. 3785

A RESOLUTION ESTABLISHING CITY OF BEAVERTON URBAN SERVICE AREA AND CORPORATE LIMITS ANNEXATION POLICIES

WHEREAS, the City of Beaverton presently has no defined policies regarding annexation of adjacent urban unincorporated areas, including unincorporated islands; and

WHEREAS, the City's progress toward annexing its assumed urban services area has been slow; and

WHEREAS, previous incremental annexations have resulted in City limits that are odd and create confusion about their location, with many unincorporated "islands" surrounded by properties within the City; and

WHEREAS, the City desires to create more logical boundaries and create complete incorporated neighborhoods; and

WHEREAS, a more assertive policy toward annexation of certain types of properties could improve the City's ability to provide services to its residents efficiently and at a reasonable cost; and

WHEREAS, a more assertive annexation policy could result in more City control of development in adjacent unincorporated areas that could affect the City; and

WHEREAS, the Washington County 2000 policy is to have all urban unincorporated areas annexed by cities over time; now, therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF BEAVERTON, OREGON

Council directs the Mayor to pursue the annexation of properties in adjacent urban unincorporated areas in accordance with the policies in Attachment A to this resolution.

Adopted by the Council this 1st day of November, 2004.

Approved by the Mayor this 2ND day of NOVEMBER 2004.

Ayes: 4

Nays: 0

ATTEST:


SUE NELSON, City Recorder

APPROVED:


ROB DRAKE, Mayor

City of Beaverton Urban Service Area and Corporate Limits Annexation Policies

A. City of Beaverton Urban Service Area Policy

The City remains committed to annexing its urban services area over time, but the City will be selective regarding the methods of annexation it chooses to use. The City of Beaverton prefers to avoid use of annexation methods that may force annexation against the will of a majority of voters in larger unincorporated residential neighborhoods. The City is, however, open to annexation of these areas by other means where support for annexation is expressed, pursuant to a process specified by State law, by a majority of area voters and/or property owners. The City is open to pursuing infrastructure/service planning for the purposes of determining the current and future needs of such areas and how such areas might best fit into the City of Beaverton provided such unincorporated residents pursue an interest of annexing into the City.

B. City of Beaverton Corporate Limits Policy

The City of Beaverton is committed to annexing those unincorporated areas that generally exist inside the City's corporate limits. Most of these areas, known as "islands", generally receive either direct or indirect benefit from City services. The Washington County 2000 Policy, adopted in the mid-1980s, recognizes that the County should not be a long-term provider of municipal services and that urban unincorporated areas including unincorporated islands should eventually be annexed to cities. As such, primarily through the use of the 'island annexation method', the City's objectives in annexing such areas are to:

- Minimize the confusion about the location of City boundaries for the provision of services;
- Improve the efficiency of city service provision, particularly police patrols;
- Control the development/redevelopment of properties that will eventually be within the City's boundaries;
- Create complete neighborhoods and thereby eliminate small pockets of unincorporated land; and
- Increase the City's tax base and minimize increasing the City's mill rate.

In order to achieve these stated objectives, the City chooses to generally pursue the following areas for 'island annexation' into the City of Beaverton:

- Undeveloped property zoned for industrial, commercial uses or mixed uses;
- Developed or redevelopable property zoned for industrial, commercial or mixed uses;
- Undeveloped or redevelopable property zoned for residential use;
- Smaller developed property zoned residential (within a neighborhood that is largely incorporated within the City of Beaverton).

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

SUBJECT: An Ordinance Adopting TA 2004-0009 to Amend Development Code Section 50.25.7 (Completeness Processing Amendment)

FOR AGENDA OF: 04-18-05 **BILL NO:** 05082

Mayor's Approval: *[Signature]*

DEPARTMENT OF ORIGIN: CDD *[Signature]*

DATE SUBMITTED: 04-05-05

CLEARANCES: City Attorney *[Signature]*
Dev. Serv. *[Signature]*

PROCEEDING: First Reading

- EXHIBITS:**
1. Ordinance
 2. Land Use Order No. 1789
 3. Draft PC Minutes
 4. Proposed Text Amendment
 5. Staff Report dated 03-09-05

BUDGET IMPACT

EXPENDITURE REQUIRED \$0	AMOUNT BUDGETED \$0	APPROPRIATION REQUIRED \$0
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HISTORICAL PERSPECTIVE:

On March 16, 2005, the Planning Commission held a public hearing to consider TA 2004-0009 to update Development Code Section 50.25.7 (Completeness Processing Amendment) to prevent land use applicants or their representatives from providing written refusal to provide information identified as required by the Planning Director or the Development Code to process a land use application in order to avoid the normal completeness process simply to then submit the required information in an untimely manner.

Following the close of the Public Hearing on March 16, 2005, the Planning Commission voted 5-1 (Pouge absent) to recommend approval of the proposed text amendment to Section 50.25.7, as memorialized in Land Use Order No. 1789

INFORMATION FOR CONSIDERATION:

Attached to this Agenda Bill are Land Use Order No. 1789, the recommended text, the draft Planning Commission meeting minutes, and the staff report.

RECOMMENDED ACTION:

Staff recommend the City Council approve the recommendation of the Planning Commission for TA 2004-0009 (Completeness Processing Amendment) as set forth in Land Use Order No. 1789. Staff further recommends the Council conduct a First Reading of the attached Ordinance.

ORDINANCE NO. 4351

AN ORDINANCE AMENDING ORDINANCE NO. 2050,
THE DEVELOPMENT CODE, CHAPTER 50;
TA 2004-0009 (Completeness Processing Amendment)

WHEREAS, the Beaverton Community Development Department has proposed a text amendment application to: Amend Development Code 50.25.7 (Completeness Processing Amendment) to prevent land use applicant's or their representatives from providing written refusal to provide information identified as required by the Planning Director or the Development Code to process a land use application in order to avoid the normal completeness process simply to then submit the required information in an untimely manner; and,

WHEREAS, pursuant to Section 50.50.2-4 of the Development Code, the Beaverton Development Services Division conducted public noticing for the Text Amendment application; and,

WHEREAS, pursuant to Section 50.50.5 of the Development Code, the Beaverton Development Services Division, on March 9, 2005, published a written staff report and recommendation a minimum of seven (7) calendar days in advance of the scheduled public hearing before the Planning Commission on March 16, 2005; and,

WHEREAS, on March 16, 2005, the Planning Commission conducted a public hearing for TA 2004-0009 (Completeness Processing Amendment) at the conclusion of which the Planning Commission voted to recommend to the Beaverton City Council to adopt the proposed amendments to the Development Code as summarized in Planning Commission Land Use Order No. 1789; and,

WHEREAS, no written appeal pursuant to Section 50.75 of the Development Code was filed by persons of record for TA 2004-0009 (Completeness Processing Amendment) following the issuance of the Planning Commission Land Use Order No. 1789; and,

WHEREAS, in accordance with City Council Rules of Procedure, the Council conducted a first reading of the Ordinance on April 18, 2005; and,

WHEREAS, specific to the proposed amendments to Section 50.25.7 (Completeness Processing Amendment) of the Development Code as summarized in Planning Commission Land Use Order No. 1789, the Council consents to and adopts as to facts and findings for this Ordinance the materials described in Land Use Order No. 1789 dated March 16, 2005, all of which the Council incorporates by their reference herein and finds constitute an adequate factual basis for this Ordinance; now, therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

Section 1. Ordinance No. 2050, effective through Ordinance No. 4332, the Development Code, Chapter 50, Section 50.25.7, is amended as set out in Exhibit "A" to this Ordinance attached to and incorporated herein by this reference.

Section 2. Severance Clause.

The invalidity or lack of enforceability of any terms or provisions of this Ordinance or any appendix or part thereof shall not impair or otherwise affect in any manner the validity, enforceability or effect of the remaining terms of this Ordinance and appendices and said remaining terms and provisions shall be construed and enforced in such a manner as to effect the evident intent and purposes taken as a whole insofar as reasonably possible under all of the relevant circumstances and facts.

First reading this ___ day of _____, 2005.

Passed by the Council this ___ day of _____, 2005.

Approved by the Mayor this ___ day of _____, 2005.

ATTEST:

APPROVED:

SUE NELSON, City Recorder

ROB DRAKE, Mayor

Exhibit "A"

Proposed Text is Underlined

50.25. Application Completeness

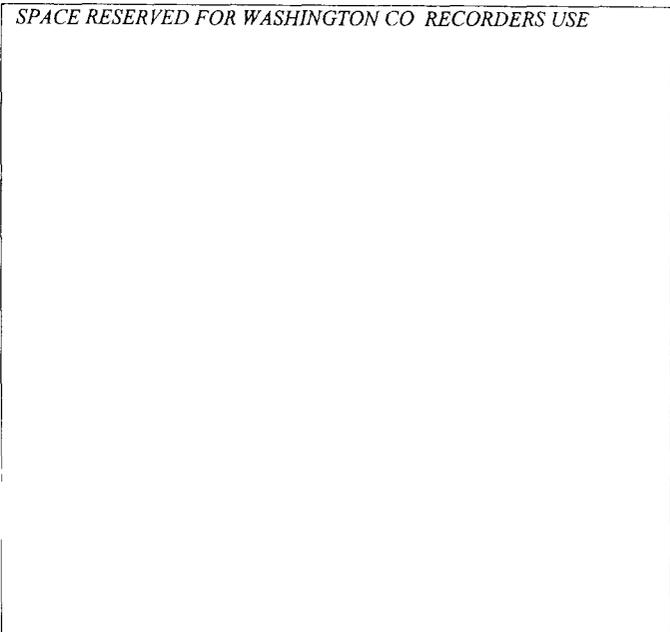
50.25.7

7. The application will be deemed complete for the purpose of this section upon receipt by the Community Development Department of:
 - a. All the missing information;
 - b. Some of the missing information and written notice from the applicant that no other information will be provided; or
 - c. Written notice from the applicant that none of the missing information will be provided.
8. If an applicant has chosen to refuse to submit missing information as specified in Section 50.25.7, the information identified as missing may only be submitted if the applicant agrees to a new 30 day timeline to determine completeness of the application and a new 120-day timeline pursuant to ORS 227.178 to render a final decision. An applicant may not invoke Section 50.25.11. when written refusal to submit information identified through the completeness process has been submitted in order to deem an application complete.
89. Pursuant to ORS 227.178, the City will reach a final decision on an application within 120 calendar days from the date that the application is determined to be or deemed complete unless the applicant agrees to extend the 120 calendar day time line pursuant to subsection 9 or unless State law provides otherwise. [ORD 4282; January 2004]
910. The 120 calendar day time line specified in Section 50.25.8 may be extended at the written request of the applicant. The total of all extensions may not to exceed 240 calendar days from the date the application was deemed complete. [ORD 4282; January 2004]

- ~~10~~11. The applicant may amend the application up to and including fourteen (14) calendar days after the application has been deemed complete. Amendments to an application submitted more than fourteen (14) calendar days after the application is deemed complete may be determined by the Director to be so substantial that the application should be treated as having been refiled. In such a case, the Director shall provide the applicant with the following options: provide the City with a waiver of the 120-day timeframe set forth in ORS 227.178 of a minimum of fourteen (14) calendar days from the date the amendment was submitted; treat the application as having been refiled as of the date the amendment was submitted; or, decide the application on the basis of the applicant's materials without the amendment.
- ~~11~~12 .Pursuant to Section 50.25.3, an application will not be complete until the required fee has been received by the City. For any application which has been on file with the City for more than 180 calendar days and the applicant has not paid the required fee, the application will be deemed withdrawn.

**BEFORE THE PLANNING
COMMISSION FOR THE CITY OF
BEAVERTON, OREGON**

After recording return to:
City of Beaverton, City Recorder:
4755 SW Griffith Drive
P.O. Box 4755
Beaverton, OR 97076



IN THE MATTER OF A REQUEST TO) ORDER NO.1789
AMEND BEAVERTON DEVELOPMENT) TA2004-0009 RECOMMENDING APPROVAL
CODE (SECTION 50.25) OF COMPLETENESS TEXT AMENDMENT.
COMPLETENESS PROCESSING), CITY)
OF BEAVERTON, APPLICANT.)
)

The matter of TA2004-0009 (Beaverton Development Code Section 50.25) was initiated by the City of Beaverton, through the submittal of a text amendment application to the Beaverton Community Development Department.

Pursuant to Ordinance 2050 (Development Code), effective through Ordinance 4332, Section 50.50 (Type 4 Application), the Planning Commission conducted a public hearing on March 16, 2005, and considered oral and written testimony and exhibits for the proposed amendment to the Beaverton Development Code.

TA2004-0009 proposes to clarify that if an applicant chooses not to submit additional materials as specified in the City's completeness letter, the applicant will proceed at their own risk and that without a written agreement for an additional 30 days, any new information submitted into the record will not be considered by staff.

The Planning Commission adopts by reference the March 16, 2005, report as to criteria contained in Section 40.85.15.1.C.1-7 applicable to this request and the supplemental findings contained herein; now, therefore:

IT IS HEREBY ORDERED that pursuant to Section 50.50.1 of the Beaverton Development Code, the Planning Commission **RECOMMENDS APPROVAL** TA2004-0009 (Section 50.25 Completeness Processing Amendment). The Planning Commission finds that evidence has been provided demonstrating that all of the approval criteria specified in Section 40.85.15.1.C.1-7 are satisfied.

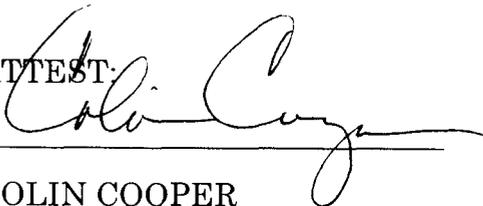
Motion **CARRIED** by the following vote:

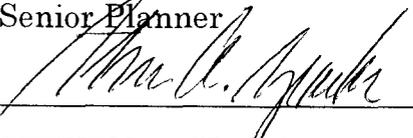
AYES: Barnard, Winter, Bliss, Maks, and Johansen.
NAYS: DeHarpport.
ABSTAIN: None.
ABSENT: Pogue.

Dated this 17th day of March, 2005.

To appeal the decision of the Planning Commission, as articulated in Land Use Order No. 1789, an appeal must be filed with the City of Beaverton Recorder's Office by no later than 5:00 p.m. on Monday, March 28, 2005.

ATTEST:


COLIN COOPER
Senior Planner


STEVEN A. SPARKS, AICP
Development Services Manager

PLANNING COMMISSION
FOR BEAVERTON, OREGON

APPROVED:


ERIC H. JOHANSEN
Chairman

1 Commissioner Bliss noted that he supports staff recommendations
2 throughout the document.

3
4 Commissioner Maks **MOVED** and Commissioner Winter **SECONDED**
5 a motion to **CONTINUE** TA 2004-0011 – Tree Code Text Amendments
6 to a date certain of March 30, 2005 or the sole purpose of obtaining
7 additional information from staff and the public addressing only the
8 forest practices issues pertaining to those parcels.

9
10 Motion **CARRIED**, unanimously.

11
12 Assistant City Attorney Naemura clarified that it is the intent of the
13 motion to close public testimony for the remainder of the hearing.

14
15 **NEW BUSINESS:**

16
17 **PUBLIC HEARING:**

18
19 **A. TA 2004-0009 – COMPLETENESS TEXT AMENDMENTS**

20 Amendment to Section 50.25.7 (Application Completeness) to
21 require a new application in cases where an application seeks to
22 submit new information that was originally required during the
23 completeness process but the applicant refused to provide prior to
24 the application being deemed complete.

25
26 Chairman Johansen provided a brief explanation of the criteria and
27 procedure involved in this issue.

28
29 Senior Planner Colin Cooper submitted the Staff Report and briefly
30 described what he referred to as a very simple text amendment in an
31 effort to discourage applicants from taking advantage of the system,
32 emphasizing that this is not intended to prevent those applicants
33 making a simple mistake from having their applications deemed
34 complete. Concluding, he offered to respond to questions.

35
36 Expressing his appreciation of this proposal, Commissioner Maks
37 questioned whether this action is actually legal

38
39 Mr. Naemura explained that this fits within the boundaries and
40 process of the 120-day rule.

41
42 Emphasizing that additional documentation would not actually be
43 refused, Mr. Cooper pointed out that the applicant would be advised
44 that without a 30-day continuance of the 120-day rule, staff would

1 move forward without continuing additional material that has been
2 submitted. He noted that this would not allow an applicant to
3 circumvent the 30 days by submitting the refusal.
4

5 Commissioner Maks mentioned that an applicant could potentially
6 produce the Traffic Study on the day of the hearing without being
7 required to agree to a continuance, adding that while a continuance
8 could still occur, the 120-day clock would continue to tick.
9

10 Mr. Cooper expressed his opinion that it would be reasonable to expect
11 that the Commission would deny such an application based upon the
12 untimely submittal of the information.
13

14 **PUBLIC TESTIMONY:**

15
16 No member of the public testified with regard to this proposal.
17

18 The public portion of the Public Hearing was closed.
19

20 Commissioner Winter expressed support of the application.
21

22 Expressing his opinion that this action is not necessary and would
23 create more complications, Commissioner DeHarpport stated that he
24 does not support this application.
25

26 Observing that this proposal would provide clarity, Chairman
27 Johansen noted that he cautiously supports this application.
28

29 Commissioner Maks explained that while he supports this proposal, he
30 has several concerns, adding that the result of this process affects the
31 less qualified developers, rather than the quality developers that come
32 before the Commission. He emphasized that providing all of the
33 information in a timely manner serves the interests of the public, the
34 Commission, and the development community and results in more
35 informed and better decisions.
36

37 Pointing out that it is extremely difficult to make an appropriate
38 decision based upon information that has been submitted just prior to
39 the hearing, Commissioner Bliss expressed his support of the proposal.
40

41 Commissioner Barnard **MOVED** and Commissioner Winter
42 **SECONDED** a motion to **APPROVE** TA 2004-0009 – Completeness
43 Processing Amendment based upon the testimony, reports and
44 exhibits, and new evidence presented during the Public Hearings on

1 the matter, and upon the background facts, findings and conclusions
 2 found in the Staff Report dated March 9, 2005.

3
 4 Motion **CARRIED**, by the following vote:

- 5
- 6 **AYES:** Barnard, Winter, Bliss, Maks, and Johansen.
- 7 **NAYS:** DeHarpport.
- 8 **ABSTAIN:** None.
- 9 **ABSENT:** Pogue.

10
 11 Motion **CARRIED** (5:1)

12
 13 **B. TA 2005-0002 – BEAVERTON CREEK HOUSING TEXT**
 14 **AMENDMENTS**

15 (Request for Continuance to June 15, 2005)
 16 Amendment to Section 50.25.7 (Application Completeness) to
 17 require a new application in cases where an application seeks to
 18 submit new information that was originally required during the
 19 completeness process but the applicant refused to provide prior to
 20 the application being deemed complete.

21
 22 Commissioner Barnard **MOVED** and Commissioner Winter
 23 **SECONDED** a motion to **CONTINUE** TA 2005-0002 – Beaverton
 24 Creek Housing Amendments, to a date certain of June 15, 2005.

25
 26 Motion **CARRIED**, unanimously.

27
 28 **APPROVAL OF MINUTES:**

29
 30 Minutes of the meeting February 9, 2005, were submitted.
 31 Commissioner Maks **MOVED** and Commissioner Barnard
 32 **SECONDED** a motion that the minutes be approved as amended.
 33 Commissioner Bliss abstained.

34
 35 Motion **CARRIED**, unanimously.

36
 37 Minutes of the meeting February 16, 2005, were submitted.
 38 Commissioner Bliss **MOVED** and Commissioner Winter **SECONDED**
 39 a motion that the minutes be approved as amended.

40
 41 Motion **CARRIED**, unanimously.

42
 43 Minutes of the meeting February 23, 2005, were submitted.
 44 Commissioner Barnard **MOVED** and Commissioner Bliss

Proposed Text

50.25. Application Completeness

50.25.7

7. The application will be deemed complete for the purpose of this section upon receipt by the Community Development Department of:
 - a. All the missing information;
 - b. Some of the missing information and written notice from the applicant that no other information will be provided; or
 - c. Written notice from the applicant that none of the missing information will be provided.
8. If an applicant has chosen to refuse to submit missing information as specified in Section 50.25.7, the information identified as missing may only be submitted if the applicant agrees to a new 30 day timeline to determine completeness of the application and a new 120-day timeline pursuant to ORS 227.178 to render a final decision. An applicant may not invoke Section 50.25.11. when written refusal to submit information identified through the completeness process has been submitted in order to deem an application complete.
89. Pursuant to ORS 227.178, the City will reach a final decision on an application within 120 calendar days from the date that the application is determined to be or deemed complete unless the applicant agrees to extend the 120 calendar day time line pursuant to subsection 9 or unless State law provides otherwise. [ORD 4282; January 2004]
910. The 120 calendar day time line specified in Section 50.25.8 may be extended at the written request of the applicant. The total of all extensions may not to exceed 240 calendar days from the date the application was deemed complete. [ORD 4282; January 2004]

~~10~~11. The applicant may amend the application up to and including fourteen (14) calendar days after the application has been deemed complete. Amendments to an application submitted more than fourteen (14) calendar days after the application is deemed complete may be determined by the Director to be so substantial that the application should be treated as having been refiled. In such a case, the Director shall provide the applicant with the following options: provide the City with a waiver of the 120-day timeframe set forth in ORS 227.178 of a minimum of fourteen (14) calendar days from the date the amendment was submitted; treat the application as having been refiled as of the date the amendment was submitted; or, decide the application on the basis of the applicant's materials without the amendment.

~~11~~12 .Pursuant to Section 50.25.3, an application will not be complete until the required fee has been received by the City. For any application which has been on file with the City for more than 180 calendar days and the applicant has not paid the required fee, the application will be deemed withdrawn.



CITY of BEAVERTON

4755 S.W. Griffith Drive, P.O. Box 4755, Beaverton, OR 97076 General Information (503) 526-2222 V/TDD

CITY OF BEAVERTON STAFF REPORT AND RECOMMENDATION

TO: Planning Commission

STAFF REPORT DATE: Wednesday, March 9, 2005

STAFF: Colin Cooper, AICP, Senior Planner *CC*

SUBJECT: TA 2004-0009 (Completeness Processing Amendment)

REQUEST: Amendment to Section 50.25 (Application Completeness) to prevent land use applicant's or their representative's from refusing to submit required information to avoid the normal completeness review and then submit information at a later date.

APPLICANT: City of Beaverton - Development Services Division

AUTHORIZATION: Ordinance 2050 (Development Code), effective through Ordinance 4332)

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

HEARING DATE: Wednesday, March 16, 2005

RECOMMENDATION: Staff recommend APPROVAL of text amendment application TA 2004-0009 (Completeness Processing Amendment).

I. Proposed Legislative Text Amendment

Section 50.25.7.c of the Development Code states that a land use application shall be deemed complete upon written notice from an applicant that they refuse to submit information that is either required by the Development Code or has been identified during the application process as necessary for review of the application. With increasing regularity, the Development Services staff witness applicants or their representatives “gaming” the system by submitting written refusal to submit information as required by the Development Code, land use application form, or as identified by the Planning Director during a pre-application conference in order to shorten the completeness process. Section 50.25.7 states that once an application is deemed complete, an applicant has 14 days in which an applicant may amend the completed application. What staff has been witnessing is an applicant amending the completed application after the 14 days prior to the Facilities Review Committee meeting or public hearing in order to avoid a potential negative recommendation or decision due to a lack of information in the record. Therefore, staff is proposing a text amendment that would not allow the submission of information that is required by the Development Code, application form, or the pre-application once an applicant has provided written refusal to submit the information as part of the completeness process without returning to the application completeness stage of review. This prohibition would supersede the general 14 day allowance to amend the application with information that was not identified as necessary through the completeness process because the applicant has directed the City to process their application “as is”. When the applicant or their representatives provide the information later in the process, the resulting effect is to reduce the effectiveness of citizen participation and quality staff review. Staff witness “information dumps” well within the process that have created considerable hardships for all parties involved in the review process. The following proposed amendment to Section 50.25 (Application Completeness) of the Development Code seek to minimize this practice and provide a fair and balanced land use review process.

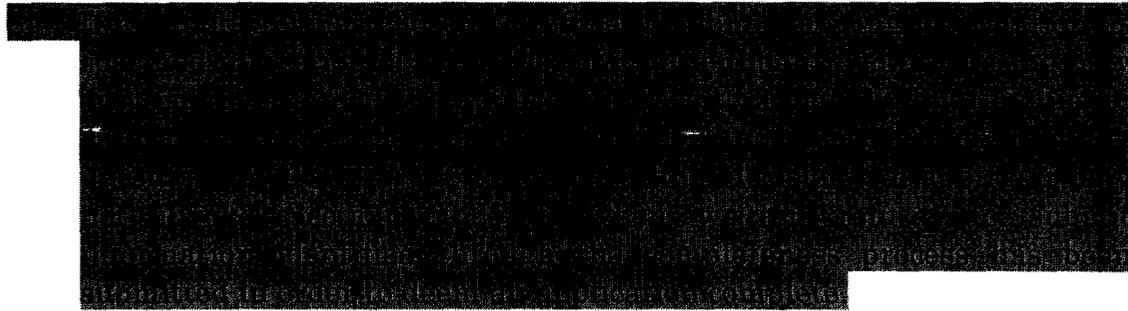
Proposed Text:

50.25. Application Completeness

50.25.7

7. The application will be deemed complete for the purpose of this section upon receipt by the Community Development Department of:
 - a. All the missing information;
 - b. Some of the missing information and written notice from the applicant that no other information will be provided; or

- c. Written notice from the applicant that none of the missing information will be provided.



89. Pursuant to ORS 227.178, the City will reach a final decision on an application within 120 calendar days from the date that the application is determined to be or deemed complete unless the applicant agrees to extend the 120 calendar day time line pursuant to subsection 9 or unless State law provides otherwise. [ORD 4282; January 2004]
910. The 120 calendar day time line specified in Section 50.25.8 may be extended at the written request of the applicant. The total of all extensions may not to exceed 240 calendar days from the date the application was deemed complete. [ORD 4282; January 2004]
1011. The applicant may amend the application up to and including fourteen (14) calendar days after the application has been deemed complete. Amendments to an application submitted more than fourteen (14) calendar days after the application is deemed complete may be determined by the Director to be so substantial that the application should be treated as having been refiled. In such a case, the Director shall provide the applicant with the following options: provide the City with a waiver of the 120-day timeframe set forth in ORS 227.178 of a minimum of fourteen (14) calendar days from the date the amendment was submitted; treat the application as having been refiled as of the date the amendment was submitted; or, decide the application on the basis of the applicant's materials without the amendment.
1112. Pursuant to Section 50.25.3, an application will not be complete until the required fee has been received by the City. For any application which has been on file with the City for more than 180 calendar days and the applicant has not paid the required fee, the application will be deemed withdrawn.

By current City procedure, staff inform an applicant of an application's completeness within approximately 20 days of submittal. In the event that an application is found to be lacking information, staff inform the applicant of what

information is missing and request a written response as to whether the applicant will submit the requested information. This requirement reflects the existing standard of ORS 227.178(2).

This proposed amendment clarifies that if an applicant chooses not to submit additional materials as specified in the City's completeness letter, the applicant will proceed at their own risk and that without a written agreement for an additional 30 days any new information submitted to the record will not be considered by staff

II. Facts and Findings

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 TA 2004-0009 (Completeness Process Amendment):

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

Section 40.85.15.1.A specifies that an application for a text amendment shall be required when there is proposed any change to the Development Code, excluding changes to the zoning map. TA 2004-0009 (Completeness Processing Amendment) proposes to amend Section 50.25. of the Beaverton Development Code currently effective through Ordinance 4332 (January 2005). Therefore, staff find that approval criterion one has been met.

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

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 Development Services Division, which is a General Fund program, initiated the application. Therefore, the payment of an application fee is not required. Staff find that 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 is comprised of the following titles:

Title 1: Requirements for Housing and Employment Accommodations

Title 2: Regional Parking Policy

TA 2004-0009 (Completeness Text Amendment)

- Title 3: Water Quality and Flood Management Conservation
- Title 4: Retail in Employment and Industrial Areas
- Title 5: Neighbor Cities and Rural Reserves
- Title 6: Regional Accessibility
- Title 7: Affordable Housing
- Title 8: Compliance Procedures and
- Title 9: Performance Measures

TA 2004-0009 proposes to clarify procedures dealing with application completeness. The proposed amendments have no applicability to the Metro titles. Staff find that approval criterion three is not applicable.

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

There are no specific Comprehensive Plan policies that address the proposed amendments to Section 50.25. (Application Completeness). The proposed text amendments will not change the intent of the existing Development Code regulations, such that goals and policies of the Comprehensive Plan will be impacted. The following policies are addressed generally:

Chapter 2 – Public Involvement Element

Staff suggests that Chapter 2 of the Comprehensive Plan (Public Involvement Element) is relevant to the proposed amendments. Although Chapter 2 of the Comprehensive Plan does not contain discrete policies to which the proposed amendments are applicable, staff suggests that the intent of Chapter 2 is met by the proposed text amendments, the required public noticing for the proposed amendments, and the requirement for a public hearing process before the Planning Commission as the initial decision-making authority followed by subsequent City Council consideration of the Planning Commission's recommendation. Staff find that the proposed text amendments are consistent with the provisions of the Beaverton Comprehensive Plan. Therefore, staff find that approval criterion four has been met.

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

The proposed amendments do not create impacts or conflicts with other provisions within the Development Code. Staff find that proposed amendments are consistent with the other provisions of the Development Code. Staff find, therefore, approval criterion five has been met.

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

The current Development Code and Comprehensive Plan, are applicable to the proposed text amendment and are addressed in the findings of fact for approval criterion four and five. Staff did not identify any other applicable City ordinance requirements and regulations that would be affected by the proposed text amendments. Therefore, staff find that approval criterion six has been met.

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

Staff have determined that there are no other applications and documents related to the request that will require further City approval. Therefore, staff find that approval criterion seven has been met.

III. Conformance with Statewide Planning Goals

Because the proposal is for a text amendment to the Development Code, a demonstration of compliance with the Statewide Planning Goals is not required. ORS 197.225 requires that Statewide Planning Goals only be addressed for Comprehensive Plan Amendments. Nevertheless, the Statewide Planning Goals are useful to support the City's position on the proposed amendments. The proposed text amendment's conformance to relevant Statewide Planning Goals is briefly discussed below:

GOAL ONE - CITIZEN INVOLVEMENT

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

The City is in compliance with this Statewide Planning Goal through the establishment of a Committee for Citizen Involvement (CCI). The City has gone even further by establishing Neighborhood Association Committees (NACs) for the purpose of providing widespread citizen involvement, and distribution of information. The proposed text amendments to the Development Code will not change the City of Beaverton's commitment to providing opportunity for citizen involvement, or place the City out of compliance with Statewide Planning Goal One.

GOAL TWO - LAND USE PLANNING

To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.

The City of Beaverton has adopted a Comprehensive Plan that includes text and maps (Ordinance 1800, and most recently amended by Ordinance 4187) along with implementation measures such as the Development Code (Ordinance 2050, effective through Ordinance No. 4332). These land use planning processes and policy framework form the basis for decisions and actions, such as the subject text amendment proposal. The proposed Development Code amendment has been processed in accordance with Section 40.85 (Text Amendment) and Section 50.50 (Type 4 Application) of the Development Code. Section 40.85 contains specific approval criteria for the decision-making authority to apply during its consideration of the text amendment application. Section 50.50 (Type 4 Application) specifies the minimum required public notice procedures to insure public input into the decision-making process. The City of Beaverton's Comprehensive Plan is consistent with Statewide Planning Goal 2.

IV. Conclusion and Staff Recommendation

Based on the facts and findings presented, staff conclude that the proposed amendment to the Development Code is consistent with all the text amendment approval criteria of Section 40.85.15.1.C.1-7. Therefore, staff recommend the Planning Commission **APPROVE** TA 2004-0009 (Completeness Processing Amendment) at the March 16, 2005 regular Commission hearing.

AGENDA BILL

**Beaverton City Council
Beaverton, Oregon**

SUBJECT: An Ordinance Amending Beaverton Code Chapter 2 by Repealing Sections 2.03.141 to 2.03.148 Providing for a Historic Resource Review Committee.

FOR AGENDA OF: 04-18-05 **BILL NO:** 05083

Mayor's Approval: 

DEPARTMENT OF ORIGIN: City Attorney's 

DATE SUBMITTED: 04-04-05

CLEARANCES: CDD/Planning Svcs 

PROCEEDING: First Reading.

EXHIBITS: Ordinance

BUDGET IMPACT

EXPENDITURE REQUIRED \$0	AMOUNT BUDGETED \$0	APPROPRIATION REQUIRED \$0
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HISTORICAL PERSPECTIVE:

The Historic Resource Review Committee was established in 1987. The Committee has now completed its inventory of historic resources and has implemented goals and policies for their preservation and protection as indicated in the Comprehensive Plan.

INFORMATION FOR CONSIDERATION:

The Historic Resource Review Committee may now be abolished. Any follow up will now be assumed by Planning staff and the Planning Commission.

RECOMMENDED ACTION:

First Reading.

ORDINANCE NO. 4352

AN ORDINANCE AMENDING BEAVERTON CODE CHAPTER 2
BY REPEALING SECTIONS 2.03.141 TO 2.03.148
PROVIDING FOR A HISTORIC RESOURCE REVIEW COMMITTEE.

WHEREAS, the Historic Resource Review Committee completed its task of inventorying historic resources and assisting the City in protecting these resources as identified in its Comprehensive Plan; and

WHEREAS, the Historic Resource Review Committee has not met for many months; and

WHEREAS, to increase efficiency in the City the duties of the Historic Resource Review Committee can easily be assumed by staff and the Planning Commission; and

Now, therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

Section 1. The Historic Resource Review Committee is hereby abolished.

Section 2. Sections 2.03.141 to 2.03.148 of the Beaverton City Code are hereby repealed.

First reading this ___ day of _____, 2005.

Passed by the Council this ___ day of _____, 2005.

Approved by the Mayor this ___ day of _____, 2005.

ATTEST:

APPROVED:

SUE NELSON, City Recorder

ROB DRAKE, Mayor

AGENDA BILL

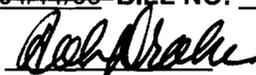
REVISED ORDINANCE*

**Beaverton City Council
Beaverton, Oregon**

Exhibit C Revised From First
Reading as Noted Below.

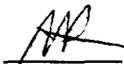
SUBJECT: TA 2004-0011 Tree Code Text
Amendment

04/18/05
FOR AGENDA OF: ~~04/14/05~~ **BILL NO:** 05074

Mayor's Approval: 

DEPARTMENT OF ORIGIN: CDD 

DATE SUBMITTED: 03/29/05

CLEARANCES: City Attorney 
Planning Services 

PROCEEDING: ~~First Reading~~
Second Reading and Passage

- EXHIBITS:**
1. Ordinance
 2. Planning Commission Order No. 1790
 3. Planning Commission Minutes
(01/19/05, 02/02/05, 02/23/05,
03/16/05, draft 03/30/05)
 4. Staff Reports (dated 01/14/05, 01/26/05,
02/02/05, 02/16/05, 03/02/05,
03/23/05, and memorandum dated
03/25/05)
 5. Written Testimony

***EXHIBIT C REVISED:** Pages 24 through
26 replaced with Revised Pages 24
through 27 to reflect the correct
strikeouts and additions.

BUDGET IMPACT

EXPENDITURE REQUIRED \$0	AMOUNT BUDGETED \$0	APPROPRIATION REQUIRED \$0
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HISTORICAL PERSPECTIVE:

On February 2, 2005, February 23, 2005, March 16, 2005, and March 30, 2005, the Planning Commission held a public hearing to consider TA 2004-0011 (Tree Code Text Amendment) that proposes to amend Sections 40.90 and 60.60 and Chapter 90 to modify and clarify regulations related to removal and mitigation thereof of trees and vegetation, and related definitions, found in the Beaverton Development Code. Following the close of the public hearing on March 30, 2005, the Planning Commission voted to recommend approval of the proposed Tree Code Text Amendment, as memorialized in Planning Commission Order No. 1790.

INFORMATION FOR CONSIDERATION:

Attached to this Agenda Bill is an Ordinance including the proposed text, Planning Commission Order No. 1790, the Planning Commission meeting minutes, staff reports, and written testimony comprising the record for this proposal.

RECOMMENDED ACTION:

Staff recommend the City Council approve the recommendation of the Planning Commission for TA 2004-0011 (Tree Code Text Amendment) as set forth in Planning Commission Order No. 1790. Staff further recommend the Council conduct a First Reading of the attached ordinance.

ORDINANCE NO. 4348

AN ORDINANCE AMENDING ORDINANCE NO. 2050, THE DEVELOPMENT CODE, SECTIONS 40.90 AND 60.60 AND CHAPTER 90; TA 2004-0011 (TREE CODE TEXT AMENDMENT)

- WHEREAS,** the purpose of the Tree Code Text Amendment is to amend three sections of the Beaverton Development Code currently effective through Ordinance 4332 to modify and clarify regulations related to removal and mitigation thereof of trees and vegetation, and related definitions; and
- WHEREAS,** pursuant to 50.50.1 of the Development Code, the Beaverton Planning Services Division on January 26, 2005, published a written staff report and recommendation a minimum of seven (7) calendar days in advance of the scheduled public hearing before the Planning Commission on February 2, 2005; and
- WHEREAS,** on February 2, 2005, February 23, 2005, March 16, 2005, and March 30, 2005, the Planning Commission conducted a public hearing for TA 2004-0011 (Tree Code Text Amendment); and
- WHEREAS,** at the conclusion of the March 30, 2005 hearing, the Planning Commission voted to recommend to the Beaverton City Council to adopt the proposed amendment to the Development Code as summarized in Planning Commission Order No. 1790; and
- WHEREAS,** no written appeal pursuant to Section 50.75 of the Development Code was filed by persons of record for TA 2004-0011 (Tree Code Text Amendment) following the issuance of Planning Commission Order No. 1790; and
- WHEREAS,** the City Council adopts as to criteria, facts, and findings, described in Planning Commission Order No. 1790 dated April 1, 2005, the Planning Commission record, and the Council's Agenda Bill dated March 29, 2005, all of which the Council incorporates by this reference and finds to constitute an adequate factual basis for this ordinance; and now, therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

- Section 1.** Ordinance No. 2050, effective through Ordinance No. 4332, the Development Code, is amended to read as set out in Exhibit "A", Exhibit "B" and Exhibit "C" of this Ordinance attached hereto and incorporated herein by this reference.
- Section 2.** All Development Code provisions adopted prior to this Ordinance which are not expressly amended or replaced herein shall remain in full force and effect.
- Section 3.** Severance Clause. The invalidity or lack of enforceability of any terms or provisions of this Ordinance or any appendix or part thereof shall not impair or otherwise affect in any manner the validity, enforceability or effect of the

remaining terms of this Ordinance and appendices and said remaining terms and provisions shall be construed and enforced in such a manner as to affect the evident intent and purposes taken as a whole insofar as reasonably possible under all of the relevant circumstances and facts.

First reading this 11th day of April, 2005.
Passed by the Council this _____ day of _____, 2005.
Approved by the Mayor this _____ day of _____, 2005.

ATTEST:

APPROVED:

SUE NELSON, City Recorder

ROB DRAKE, Mayor

40.90. TREE PLAN

40.90.05. Purpose

Healthy trees and urban forests provide a variety of natural resource and community benefits for the City of Beaverton. Primary among those benefits is the aesthetic contribution to the increasingly urban landscape. Tree resource protection focuses on the aesthetic benefits of the resource. The purpose of a Tree Plan application is to provide a mechanism to regulate pruning, removal, replacement, and mitigation for removal of Protected Trees (Significant Individual Trees, Historic Trees, trees within Significant Groves and Significant Natural Resource Areas (SNRAs)), and Community Trees thus helping to preserve and enhance the sustainability of the City's urban forest. This Section is carried out by the approval criteria listed herein and implements the SNRA, Significant Grove, Significant Individual Tree, and Historic Tree designations as noted or mapped in Comprehensive Plan Volume III.

40.90.10. Applicability.

Different types of resources require different levels of protection. No Tree Plan is required for the following actions:

1. Removal of up to four (4) Community Trees, or up to 10% of the number of Community Trees on the site, whichever is greater, within a one (1) calendar year period. Properties one-half acre or less in size developed with a detached dwelling may remove any number of Community Trees.
2. Removal and pruning of any hazardous, dead, or diseased tree when the tree is identified as such by a certified arborist or by the City Arborist and the removal is required by the City.
3. In the event of an emergency requiring tree removal or pruning prior to the City Arborist's determination, if evidence justifies the emergency removal after the fact, then no tree plan is required for removal.
4. Minor pruning, as defined in Chapter 90.
5. Pruning of trees consistent with the Vision Clearance requirements of Section 60.55.50.
6. Pruning of trees by the utility provider for above ground utility power lines following acceptable arboricultural standards and practices.

7. Pruning of trees to maintain the minimum 8 foot clearance above a sidewalk.
8. Removal or pruning of the following nuisance tree species anywhere in the city: Lombardy Poplar (*Populus nigra*), and birch (*Betula* sp.).
9. Removal and pruning of the following nuisance tree species in Significant Groves and SNRAs: Norway maple (*Acer platanoides*), Tree-of-Heaven (*Ailanthus altissima*), Golden Chain Tree (*Laburnum watereri*), and English or Common Hawthorne (*Crataegus monogyna*).
10. Removal of a tree or nonnative vegetation listed as a Nuisance or Prohibited Plant on Metro's Native Plant List or in Clean Water Services' Design and Construction Standards.
11. Within SNRAs and Significant Groves, planting of native vegetation listed on the Metro's Native Plant List or in Clean Water Services' Design and Construction Standards when planted with non-mechanized hand held equipment.
12. Public street and sidewalk improvements within SNRAs or Significant Groves that meet i. or ii. and iii.:
 - i. Improvements within an existing public vehicular right-of-way; or
 - ii. Improvements to a public vehicular right-of-way in order to meet functional classification standards, such as widening or half-street improvements; and
 - iii. The proposed improvements do not exceed the minimum width standards of the Engineering Design Manual.
13. Trails within SNRAs and Significant Groves meeting all of the following:
 - i. Construction must take place between May 1 and October 30 with hand held equipment;
 - ii. Trail widths must not exceed 30 inches and trail grade must not exceed 20 percent;
 - iii. Trail construction must leave no scars greater than three inches in diameter on live parts of native plants; and
 - iv. Trails must be placed outside the top of bank of any stream, river, or pond, and
 - v. Trails must be 100% pervious.
14. Street Trees are covered by the Beaverton Municipal Code and Section 60.15.15.3.G.

15. Landscape Trees are covered by Section 40.20 Design Review and Section 60.60 Trees and Vegetation.
16. Enhancement activities conducted by a public agency for the sole purpose of improving the ecological health of forest and water resources.

40.90.15. Application.

There are four (4) Tree Plan applications which are as follows: Tree Plan One, Tree Plan Two, Tree Plan Three, and Commercial Timber Harvest.

1. Tree Plan One.

- A. Threshold. An application for Tree Plan One shall be required when none of the actions listed in Section 40.90.10 apply and one or more of the following thresholds apply:
 1. Major pruning of Protected Trees once within a one year period.
 2. Mechanized removal of non-native or invasive vegetation and clearing and grubbing of vegetation within SNRAs, Significant Groves, or Sensitive Areas as defined by Clean Water Services.
 3. Mechanized re-planting of trees and shrubs, or both, or restoration planting within SNRAs, Significant Groves, or Sensitive Areas as defined by Clean Water Services.
 4. Trails greater than 30 inches in width, or trail grade exceeding 20 percent, trail surfaces less than 100% pervious surface, or any combination thereof within SNRAs, Significant Groves, or Sensitive Areas as defined by Clean Water Services that do not result in tree removal.
- B. Procedure Type. The Type 1 procedure, as described in Section 50.35 of this Code, shall apply to an application for Tree Plan One. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Tree Plan One application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

1. The proposal satisfies the threshold requirements for a Tree Plan One application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code. [ORD 4265; September 2003]
 4. If applicable, pruning is necessary to improve tree health or to eliminate conflicts with vehicles or structures which includes, but is not limited to, underground utilities and street improvements.
 5. If applicable, the removal of vegetation or clearing and grubbing is necessary to accommodate physical development in the area in which the removal is proposed.
 6. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Tree Plan One shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Tree Plan One application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Tree Plan One application to ensure compliance with the approval criteria. In addition to the approval criteria, the decision making authority may also impose other conditions of approval to ensure that the proposed tree work meets all requirements listed in Section 60.60 (Trees and Vegetation).
- F. Appeal of a Decision. Refer to Section 50.60.
- G. Expiration of a Decision. Refer to Section 50.90.

- H. Extension of a Decision. Previous approval of Tree Plan One proposal shall not be extended.

2. Tree Plan Two

- A. Threshold. An application for Tree Plan Two shall be required when none of the actions listed in Section 40.90.10 apply, none of the thresholds listed in Section 40.90.15.1 apply, and one or more of the following thresholds apply:
1. Removal of five (5) or more Community Trees, or more than 10% of the number of Community Trees on the site, whichever is greater, within a one (1) calendar year period, except as allowed in 40.90.10.1.
 2. Multiple Use Zoning District: Removal of up to and including 85% of the total DBH of non-exempt surveyed tree(s) within a SNRA or Significant Grove area that is found on the project site.
 3. Commercial, Residential, or Industrial Zoning District: Removal of up to and including 75% of the total DBH of non-exempt surveyed tree(s) within a SNRA or Significant Grove area that is found on the project site.
 4. Removal of a Significant Individual Tree(s).
- B. Procedure Type. The Type 2 procedure, as described in Section 50.40 of this Code, shall apply to an application for Tree Plan Two. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Tree Plan Two application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Tree Plan Two application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.

3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code. [ORD 4265; September 2003]
4. If applicable, removal of a Community Tree(s) is necessary to enhance the health of the tree, grove, group of trees, or an adjacent tree or to eliminate conflicts with structures or vehicles.
 5. If applicable, removal of any tree is necessary to observe good forestry practices according to recognized American National Standards Institute (ANSI) A300-1995 standards and International Society of Arborists (ISA) standards on the subject.
6. If applicable, removal of any tree is necessary to accommodate physical development where no reasonable alternative exists.
7. If applicable, removal of any tree is necessary because it has become a nuisance by virtue of damage to property or improvements, either public or private, on the subject site or adjacent sites.
8. If applicable, removal is necessary to accomplish public purposes, such as installation of public utilities, street widening, and similar needs, where no reasonable alternative exists without significantly increasing public costs or reducing safety.
9. If applicable, removal of any tree is necessary to enhance the health of the tree, grove, SNRA, or adjacent trees to eliminate conflicts with structures or vehicles.
10. If applicable, removal of a tree(s) within a SNRA or Significant Grove will not result in a reversal of the original determination that the SNRA or Significant Grove is significant based on criteria used in making the original significance determination.
11. If applicable, removal of a tree(s) within a SNRA or Significant Grove will not result in the remaining trees posing a safety hazard due to the effects of windthrow.

12. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Tree Plan Two shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Tree Plan Two application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
 - E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Tree Plan Two application to ensure compliance with the approval criteria. In addition to the approval criteria, the decision making authority may also impose other conditions of approval to ensure that the proposed tree work meets all requirements listed in Section 60.60 (Trees and Vegetation).
 - F. Appeal of a Decision. Refer to Section 50.65.
 - G. Expiration of a Decision. Refer to Section 50.90.
 - H. Extension of a Decision. Previous approval of Tree Plan Two proposal shall not be extended.
3. **Tree Plan Three**
- A. Threshold. An application for Tree Plan Three shall be required when none of the actions listed in Section 40.90.10 or none of the thresholds listed in Section 40.90.15.1 or Section 40.90.15.2 apply and one or more of the following thresholds apply:
 1. . Multiple Use Zoning Districts: Removal of greater than 85% of the total DBH of non-exempt surveyed trees within a SNRA or Significant Grove area that is found on the project site.
 2. Residential, Commercial, and Industrial Zoning Districts: Removal of greater than 75% of the total DBH of non-exempt surveyed trees within a SNRA or Significant Grove area that is found on the project site.

3. Removal of individual Historic Trees.
 4. Commercial timber harvest of trees which fail to meet the approval criterion specified in Section 40.90.15.4.C.4.
- B. Procedure Type. The Type 3 procedure, as described in Section 50.45 of this Code, shall apply to an application for Tree Plan Three. Upon determination by the Director, the decision making authority shall be either the Planning Commission or the Board of Design Review. The determination will be based upon the proposal.
- C. Approval Criteria. In order to approve a Tree Plan Three application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:
1. The proposal satisfies the threshold requirements for a Tree Plan Three application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code. [ORD 4265; September 2003]
 4. If applicable, removal of a diseased tree or a tree is necessary because the tree has been weakened by age, storm, fire, or other condition.
 5. If applicable, removal is necessary to enhance the health of the grove or adjacent tree(s) to reduce maintenance, or to eliminate conflicts with structures or vehicles.
 6. If applicable, removal is necessary to observe good forestry practices according to recognized American National Standards Institute (ANSI) A300-1995 standards and International Society of Arborists (ISA) standards on the subject.

7. If applicable, removal is the minimum necessary to accommodate physical development because no reasonable alternative exists for the development at another location on the site and variances to setback provisions of the Development Code will not allow the tree(s) to be saved or will cause other undesirable circumstances on the site or adjacent properties.
8. If applicable, removal is necessary because a tree has become a nuisance by virtue of damage to personal property or improvements, either public or private, on the subject site or on an adjacent site..
9. If applicable, removal is necessary to accomplish a public purpose, such as installation of public utilities, street widening, and similar needs where no reasonable alternative exists without significantly increasing public costs or reducing safety.
10. If applicable, removal of a tree(s) within a SNRA or Significant Grove will not result in the remaining trees posing a safety hazard due to the effects of windthrow.
11. If applicable, removal of tree or trees within a Significant Grove will not reduce the size of the grove to a point where the remaining trees may pose a safety hazard due to the effects of windthrow.
12. If applicable, removal of a tree within a Historic Grove will not substantially reduce the significance of the grove in terms of its original designation on the list of Historic Groves.
13. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.

D. Submission Requirements. An application for a Tree Plan Three shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Tree Plan Three application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), any other information identified through a Pre-

Application Conference, and by a report from a qualified professional.

- E. Conditions of Approval. The decision making authority may impose conditions on the approval of a Tree Plan Three application to ensure compliance with the approval criteria. In addition to the approval criteria, the decision making authority may also impose other conditions of approval to ensure that the proposed tree work meets all requirements listed in Section 60.60 (Trees and Vegetation).
- F. Compliance with Approval. All conditions imposed on an approved Tree Plan Three shall be implemented prior to the removal, pruning, or planting of tree unless otherwise noted in the approval. Compliance with the conditions of approval shall be met as long as the tree exist unless otherwise specified or until modified through a City approval process.
- G. Appeal of a Decision. Refer to Section 50.70.
- H. Expiration of a Decision. Refer to Section 50.90.
- I. Extension of a Decision. Previous approval of Tree Plan Three proposal shall not be extended.

4. **Commercial Timber Harvest.**

- A. Threshold. An application for Commercial Timber Harvest shall be required when none of the actions listed in Section 40.90.10 apply and following threshold applies:
 - 1. Commercial harvest of timber on Tax Lot Identification Nos. 1S132CC11300, 1S132CD09000, and 1S132CD09100.
- B. Procedure Type. The Type 1 procedure, as described in Section 50.35 of this Code, shall apply to an application for Commercial Timber Harvest. The decision making authority is the Director.
- C. Approval Criteria. In order to approve a Commercial Timber Harvest application, the decision making authority shall make findings of fact based on evidence provided by the applicant demonstrating that all the following criteria are satisfied:

APPLICATIONS

Tree Plan

1. The proposal satisfies the threshold requirement for a Commercial Timber Harvest application.
 2. All City application fees related to the application under consideration by the decision making authority have been submitted.
 3. The proposal contains all applicable application submittal requirements as specified in Section 50.25.1 of the Development Code.
 4. The harvest of timber will leave no less than ten (10) living, healthy, and upright trees per acre each of which measure at least ten (10) inches in diameter at four (4) feet above grade.
 5. Applications and documents related to the request, which will require further City approval, shall be submitted to the City in the proper sequence.
- D. Submission Requirements. An application for a Commercial Timber Harvest shall be made by the owner of the subject property, or the owner's authorized agent, on a form provided by the Director and shall be filed with the Director. The Commercial Timber Harvest application shall be accompanied by the information required by the application form, and by Section 50.25 (Application Completeness), and any other information identified through a Pre-Application Conference.
- E. Appeal of a Decision. Refer to Section 50.60.
- F. Expiration of a Decision. Refer to Section 50.90.
- G. Extension of a Decision. Previous approval of Commercial Timber Harvest proposal shall not be extended.

60.60. TREES AND VEGETATION. [ORD 4224; August 2002]

60.60.05. Purpose

Healthy trees and urban forests provide a variety of natural resource and community benefits for the City of Beaverton. Primary among those benefits is the aesthetic contribution to the increasingly urban landscape. Tree resource protection focuses on the aesthetic benefits of the resource. In conjunction with processes set forth in Section 40.90 of this Code, this section is intended to help manage changes to the City's urban forest by establishing regulations and standards for the protection, pruning, removal, replacement, and mitigation for removal of Protected Trees (Significant Individual Trees, Historic Trees, and trees within a Significant Natural Resource Area (SNRA) or Significant Grove), Landscape Trees, and Community Trees.

60.60.10. Enforcement

A person found responsible for causing the removal or pruning of a protected tree in violation of the standards set forth in Section 60.60, unless exempt, shall be subject to monetary penalties. In cases of unlawful removal the person must also mitigate the removal as set forth in the mitigation requirements of section 60.60.25.

1. Fine for a violation

Monetary penalties imposed by a court of competent jurisdiction upon conviction for violating any provision of Chapter 60 section 60 of this Ordinance, shall be deposited into the City's Tree Mitigation Fund.

60.60.10. Types of Trees and Vegetation Regulated

Actions regarding trees and vegetation addressed by this section shall be performed in accordance with the regulations established herein and in Section 40.90 of this Code. The City finds that the following types of trees and vegetation are worthy of special protection:

- 1. Significant Individual Trees.**
- 2. Historic Tree.**
- 3. Trees within Significant Natural Resource Areas.**
- 4. Trees within Significant Groves.**
- 5. Landscape Trees.**

6. Community Trees.

7. Mitigation Trees.

60.60.15 Pruning, Removal, and Preservation Standards

1. Pruning Standards

- A. It shall be unlawful for any person to remove or prune to remove a tree's canopy or disturb the root zone of any Protected Tree , except in accordance with the provisions of this Code.
- B. All pruning of Protected Trees shall be done in accordance with the standards set forth in this section and the City's adopted Tree Planting and Maintenance Policy, also known as Resolution 3391.

2. Removal and Preservation Standards

- A. All removal of Protected Trees shall be done in accordance with the standards set forth in this section.
- B. Removal of Landscape Trees and Protected Trees shall be mitigated, as set forth in section 60.60.25.
- C. For SNRAs and Significant Groves, the following additional standards shall apply:
 - 1. The minimum DBH of non-exempt surveyed trees that must be preserved on a site is as follows:
 - a) Multiple Use Zoning Districts: Fifteen percent (15%) of the DBH of non-exempt surveyed trees found on a project site.
 - b) Residential, Commercial, or Industrial Zoning District: Twenty five percent (25%) of the DBH of non-exempt surveyed trees found on a project site
 - 2. DBH to be retained shall be preserved in cohesive areas, termed Preservation Areas, when development is proposed in SNRAs or Significant Groves.

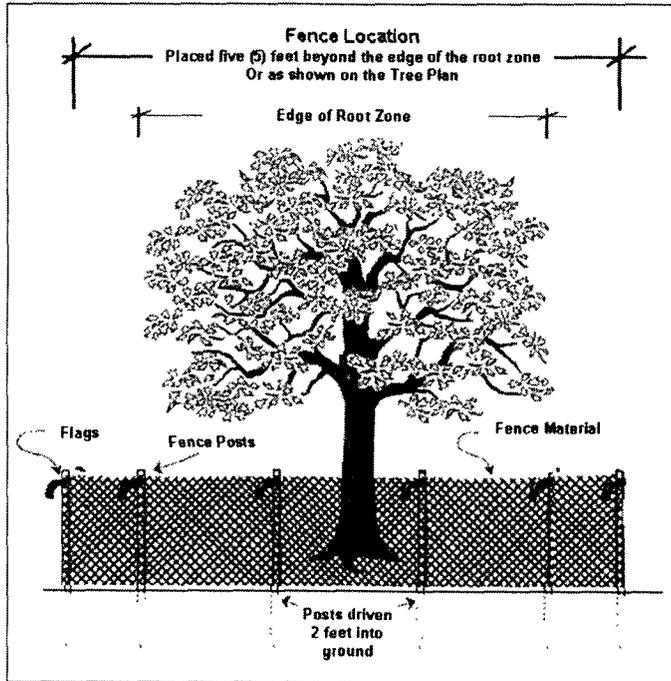
3. Native understory vegetation and trees shall be preserved in Preservation Areas.
4. Preservation Areas, conditioned for protection through the Development Review process, shall be preserved in clusters that are natural in appearance rather than in linear strips. Preservation Areas should connect with adjoining portions of the Significant Grove or SNRA on other sites.
5. Preservation Areas, conditioned for protection through the Design Review process, shall be set aside in conservation easements and recorded with a deed restriction with Washington County, unless otherwise approved by the City. The deed restriction shall prohibit future development and specify the conditions for maintenance if the property is not dedicated to a public agency.
6. Preservation Areas, conditioned for protection through the Land Division process, shall be set aside in tracts and recorded with a deed restriction with Washington County, unless otherwise approved by the City. The deed restriction shall prohibit future development and specify the conditions for maintenance if the property is not dedicated to a public agency.
7. Within the development review process, where a person is presented with a particular decision whether to retain a native or non-native tree, the native species shall be retained provided all other considerations between the two categories of trees remain equal.

Non-native tree species may also be retained for aesthetic, unique condition, size, and wildlife habitat purposes.

8. Hazardous and dead trees within Significant Groves and SNRAs should be fallen only for safety and left at the resource site to serve as habitat for wildlife, unless the tree has been diagnosed with a disease and must be removed from the area to protect the remaining trees.

60.60.20. Tree Protection Standards During Development

1. Trees classified as Protected Trees under this Code shall be protected during development in compliance with the following:
 - A. A construction fence must be placed around a tree or grove beyond the edge of the root zone. The fence shall be placed before physical development starts and remain in place until physical development is complete. The fence shall meet the following:
 1. The fence shall be a four foot (4') tall orange plastic or snow fence, secured to six foot (6') tall metal posts, driven two feet (2') into the ground. Heavy 12 gauge wire shall be strung between each post and attached to the top and midpoint of each post. Colored tree flagging indicating that this area is a tree protection zone is to be placed every five (5) linear feet on the fence to alert construction crews of the sensitive nature of the area.



2. Other City approved protection measures that provide equal or greater protection may be permitted, and may be required as a condition of approval.

- B. Within the protected root zone of each tree, the following development shall not be permitted:
 - 1. Construction or placement of new buildings.
 - 2. Grade change or cut and fill, except where hand excavation is approved with the submittal of an arborist's report, as part of application approval.
 - 3. New impervious surfaces.
 - 4. Trenching for utilities, irrigation, or drainage.
 - 5. Staging or storage of any kind.
 - 6. Vehicle maneuvering or parking

60.60.25. Mitigation Requirements

- 1. The following standards shall apply to mitigation for the removal of Significant Individual Trees or trees within Significant Groves or SNRAs.
 - A. All mitigation tree planting shall take place in conformance with accepted arboricultural practices and shall be spaced a minimum of ten (10) feet apart.
 - B. As of [fill in effective date of ordinance], all trees planted for the purpose of tree removal mitigation shall be maintained in accordance with the approved mitigation plan. Monitoring of mitigation planting shall be the ongoing responsibility of the property owner where mitigation trees are located, unless otherwise approved through Development Review. Monitoring shall take place for a period of two (2) years. Trees that die shall be replaced in accordance with the tree replacement standards of this section.
 - C. As of [fill in effective date of ordinance], all trees planted for the purpose of tree removal mitigation shall be set aside in a conservation easement or a separate tract and shall be designated as "Mitigation Trees" and recorded with a deed restriction identifying the trees as "Mitigation Trees".
 - D. Each Mitigation Tree planted shall be insured through a performance security, equal to 110 percent of the cost of the

landscaping, filed with the City for a period of two (2) years to ensure establishment of the mitigation planting.

- E. Street trees shall not be counted as providing mitigation of a SNRA or Significant Grove.
 - F. Transplanting trees within the project site is not subject to mitigation. However, a performance security is required for transplanted tree(s) to insure that the tree(s) will be replaced if the tree(s) is dead or dying at the end of two (2) years.
2. Mitigation for the removal of trees from Significant Groves or SNRAs shall be required as follows:
- A. Calculate the total DBH of the trees to be removed. Denote both deciduous and coniferous trees in separate tables; however, both tables will result in the sum total of the DBH to be removed.
 - B. If the total DBH of trees to be removed is less than or equal to 50% of the total DBH of surveyed trees on the site, then no mitigation is required for the trees to be removed.
 - C. If the total DBH of trees to be removed is greater than 50% of the total DBH of surveyed trees on site, then mitigation is required for the amount of DBH to be removed that exceeds 50% of the total DBH of surveyed trees on site.

For example, if 75 inches is the total amount of DBH to be removed from a site and 60 inches of DBH represents 50% of the total surveyed DBH, then 15 inches of DBH is the total required amount of mitigation.

3. In addition to the requirements listed in Section 60.60.25.1 Mitigation Requirements, the following mitigation requirements shall apply for the removal of trees from Significant Groves or SNRAs.
- A. Dead or dying trees within a Significant Grove or SNRA shall be fallen when required for safety. Such tree falling shall not require mitigation. However, the fallen log should remain in the Significant Grove or SNRA, to serve as habitat for wildlife, unless the tree has been diagnosed with a disease and the log must be removed from the area to protect the remaining trees.
 - B. All trees planted for mitigation must meet the following minimum requirements:

- i. Deciduous trees shall be replaced with native deciduous trees that are no less than two caliper inches (2") in diameter
- ii. Coniferous trees shall be replaced with native coniferous trees that are no less than three feet (3') in height and no more than four feet (4') in height. A three foot (3') mitigation tree shall equate to 2" DBH and four foot (4') mitigation tree will equate to 3" DBH.
- iii. The total linear DBH measurement of the trees to be removed shall be mitigated with the necessary number of trees at least two caliper inches (2") in diameter.

4. Significant Grove or SNRA On-Site Mitigation, 2:1 Planting Ratio.

- A. Residential, Commercial, or Industrial Zoning Districts: For tree removal proposals which remove more than 50% and up to and including 75% of the surveyed non-exempt DBH, if all mitigation tree planting is to occur on-site, the ratio for planting shall be on a 2:1 basis.

For example, if 20 inches of DBH is the total amount of required mitigation, if all the mitigation planting occurs on the site where the removal is to occur, then only 10 inches of DBH is required to be planted.

- B. Multiple Use Zoning Districts: For tree removal proposals which remove more than 50% and up to and including 85% of the surveyed non-exempt DBH, if all mitigation tree planting is to occur on-site, the ratio for planting shall be on a 2:1 basis.

For example, if 20 inches DBH is the total amount of required mitigation, if all the mitigation planting occurs on the site where the removal is to occur, then only 10 inches of DBH is required to be planted.

5. Significant Grove or SNRA Off-Site Mitigation, 1:1 Planting Ratio.

- A. Residential, Commercial, or Industrial Zoning Districts: For tree removal proposals which remove more than 50% and up to and including 75% of the surveyed non-exempt DBH, if mitigation tree planting is to occur off-site, the ratio for planting shall be on a 1:1 basis.

- B. Multiple Use Zoning Districts: For tree removal proposals which remove more than 50% and up to and including 85% of

the surveyed non-exempt DBH in Multiple Use zones, if mitigation tree planting is to occur off-site, the ratio for planting shall be on a 1:1 basis.

6. Significant Grove or SNRA Tree Plan 3 Mitigation, 1:1 Planting Ratio.

- A. Residential, Commercial, or Industrial Zoning Districts: For tree removal proposals which remove more than 75% and up to and including 100% of the surveyed non-exempt DBH, all of the required mitigation tree planting shall be on a 1:1 basis whether planted on-site or off-site.
- B. Multiple Use Zoning Districts: For tree removal proposals which remove more than 85% and up to and including 100% of the surveyed non-exempt DBH, all of the required mitigation tree planting shall be on a 1:1 basis whether planted on-site or off-site.

7. In-Lieu Fee

If the total caliper inch on-site- or off-site tree planting mitigation does not equal the DBH inch removal or if no tree planting mitigation is proposed, the remaining or total caliper inch tree planting mitigation shall be provided as a fee in-lieu payment. The in-lieu fee shall be specified in the Community Development In-Lieu Fee schedule. Fee revenues shall be deposited in the City’s Tree Mitigation Fund.

The following two tables illustrate how required mitigation will be calculated:

Mitigation Example for Mixed Use Zones – SAMPLE SITE*	
DBH of Surveyed Trees	1318.00
DBH Proposed for Removal (MAXIMUM removal allowed is 85% Surveyed Tree DBH)	1120.00
Mitigation Threshold (50% Surveyed Tree DBH)	659.00
DBH to be Mitigated (85% DBH Removal – 50% DBH Threshold = 25% Surveyed DBH)	461.00
On Site Mitigation (50% of the DBH to be mitigated)	230.50
Off Site OR Partial Off Site Mitigation (100% of the DBH to be mitigated)	461.00

**Please note: This “Sample Site” is fictional and is only meant to be a representation of how the regulations of Section 60.60 Trees and Vegetation could be applied to a site.*

Mitigation Example for All Other Zones – SITE SAMPLE*	
DBH of Surveyed Trees	1318.00
DBH Proposed for Removal (MAXIMUM removal allowed is 75% Surveyed Tree DBH)	988.00
Mitigation Threshold (50% Surveyed Tree DBH)	659.00
DBH to be Mitigated (75% DBH Removal – 50% DBH Threshold = 25% Surveyed DBH)	329.00
On Site Mitigation (50% of the DBH to be mitigated)	164.50
Off Site OR Partial Off Site Mitigation (100% of the DBH to be mitigated)	329.00

**Please note: This “Sample Site” is fictional and is only meant to be a representation of how the regulations of Section 60.60 Trees and Vegetation could be applied to a site.*

8. In addition to the standards in Mitigation Standards 1, the following standards shall apply to mitigation for the removal of a Significant Individual Tree:

- A. A replacement tree shall be a substantially similar species or a tree approved by the City considering site characteristics.
- B. Mitigation for the removal of a Significant Individual Tree shall be the required replacement of each tree on based on the total linear DBH measurement. Replacement of trees shall be as follows:

**Replacement Table for
Significant Deciduous Trees**

Caliper-inches removed	Minimum total caliper-inches of replacement trees
6-12"	4"
13-18"	6"
19-24"	8"
Over 25"	9"

*Minimum replacement tree size is 2 caliper-inches for deciduous trees.

**Replacement Table for
Significant Coniferous Trees**

Caliper-inches removed	Minimum number of replacement Trees
6-12"	1
13-24"	2
Over 25"	3

Minimum replacement tree size is 3-feet minimum to 4-feet maximum height for coniferous trees.

9. The following standards apply to the replacement of a Landscape Tree:

- A. A replacement tree shall be a substantially similar species or a tree approved by the City considering site characteristics.
- B. If a replacement tree of the species of the tree removed or damaged is not reasonably available, the City may allow replacement with a different species.
- C. Replacement of a Landscape Tree shall be based on total linear DBH calculations at a one-to-one ratio depending upon the capacity of the site to accommodate replacement tree or unless

otherwise specified through development review. Replacement of tree on a one-to-one basis shall be as follows:

1. Calculate the sum of the total linear DBH measurement of the tree to be removed.
2. The total linear DBH measurement of the tree to be removed shall be replaced with tree at least 1.5 caliper inches in diameter. The total caliper inches of the replacement tree shall be at least equal to the sum total of the linear DBH measurement of the removed tree.

CHAPTER 90 - DEFINITIONS

The following definitions are proposed for addition, deletion, or modification. Where italicized, additions are proposed, where stricken, deletions are proposed. All other definitions in the Development Code are not proposed for alteration through this amendment.

***Certified Arborist.** An individual who has demonstrated knowledge and competency through obtainment of the current International Society of Arboriculture arborist certification, or who is a member of the American Society of Consulting Arborists.*

***City Arborist.** The person designated as such by the Director of Operations.*

***Community Tree.** [ORD 4224; August 2002] A healthy tree of at least ten inches (10") DBH located on developed, partially developed, or undeveloped land. ~~Community trees~~ Trees are not those trees identified as ~~significant~~ Significant, ~~historic~~ Historic, ~~street~~ Landscape, or ~~conditioned~~ Mitigation trees Trees, or trees within a Grove or a Significant Natural Resource Area, or trees that bear edible fruits or nuts grown for human consumption.*

***Dying Tree.** A tree with greater than 20% dead limbs during the growing season.*

***Enhancement Activities.** Activities implemented for the sole purpose of improving or protecting, or both, the ecological functions and values of streams, wetlands and forest resources. Enhancement Activities do not include any excavation, fill, grading, or other form of earth moving of up to and including fifty (5) cubic yards of earth, the disturbance of up to and including 500 gross square feet of surface area, or both.*

***Hazardous Tree.** A tree that possesses a structural defect which poses an imminent risk if the tree, or part of the tree, were to fall on someone or something of value (target).*

- *Structural Defect.* Any structural weakness or deformity of a tree or its parts. A tree with a structural defect can be verified to be hazardous by a certified arborist and confirmed as such by the City Arborist.
- *Target.* People, vehicles, structures or property, such as other trees or landscape improvements. A tree may not be a hazard if a 'target' is absent within the falling distance of the tree or its parts (e.g., a substandard tree in a non-populated area away from pedestrian pathways may not be considered a hazard).

***Invasive.** A type of plant that is not local to an area, but rather originates from another place. Also called "exotic," "non-native," or "alien" species.*

Mitigation Tree. A tree planted in an effort to alleviate the impact of the removal of another tree(s). A mitigation tree takes on the designation of the tree(s) removed (i.e. tree(s) planted to mitigate for a tree(s) removed from a grove or SNRA becomes a tree(s) protected as if it were part of a grove or SNRA).

Native Understory. Foliage layer located between the floor and the canopy of a forest, wood, or grove containing plant materials that have origins in the Tualatin Valley Region of the state of Oregon. Limited to plant species identified on Metro's Native Plant List or in Clean Water Services' Design and Construction Standards.

Native Vegetation. Plant materials that have origins the Tualatin Valley Region of the state of Oregon, as listed on Metro's Native Plant List or in Clean Water Services' Design and Construction Standards.

Non-Exempt Surveyed Tree. Trees that fit within the definition of Surveyed Tree, with the exception of Nuisance Trees.

Non-Native. A type of plant that is not local to an area, but rather originates from another place.

Noxious Vegetation. ~~[ORD 4224, August 2002] As applied to Significant Natural Resource Areas (SNRA), lands designated as significant on the Local Wetland Inventory, and Clean Water Services designated sensitive areas, the following plants, bushes, and trees are deemed to be noxious vegetation: Scot's Broom, French Broom, Kudzu, English Ivy, Purple Loosestrife, Reed Canary Grass, Himalayan Blackberry, Evergreen Blackberry, Norway Maple, Tree-of-Heaven, Garlic Mustard, Lesser Celandine, Canada Thistle, Common Thistle, Western Clematis, Traveler's Joy, Field Morning Glory, Lady's Nightcap, Pampas Grass, Hawthorne (except native species), Queen Anne's Lace, South American Waterweed, Common Horsetail, Giant Horsetail, Crane's Bill, Robert Geranium, Common Bladderwort, St. John's Wort, English Holly, Yellow Flag, Duckweed, Water Lentil, Eurasiona Watermilfoil, Annual Bluegrass, Water Smartweed, Giant Knotweed, English Laurel, Portuguese Laurel, Tansy Ragwort, Blue Bindweed, Climbing Bindweed, Hairy Nightshade, Bamboo, Periwinkle (large and small leaf), and Spiny Cockleb.~~

Nuisance Vegetation. Plant species that invade natural areas eventually resulting in their domination of native plant species. Includes those nuisance and prohibited species listed on Metro's Native Plant List or in Clean Water Services' Design and Construction Standards. Also see invasive and non-native.

~~**Noxious Vegetation.** [ORD 4224; August 2002] As applied to Significant Natural Resource Areas (SNRA), lands designated as significant on the Local Wetland Inventory, and Clean Water Services designated sensitive areas, the following plants, bushes, and trees are deemed to be noxious vegetation: Scot's Broom, French Broom, Kudzu, English Ivy, Purple Loosestrife, Reed Canary Grass, Himalayan Blackberry, Evergreen Blackberry, Norway Maple, Tree of Heaven, Garlic Mustard, Lesser Celandine, Canada Thistle, Common Thistle, Western Clematis, Traveler's Joy, Field Morning Glory, Lady's Nightcap, Pampas Grass, Hawthorne (except native species), Queen Anne's Lace, South American Waterweed, Common Horsetail, Giant Horsetail, Crane's Bill, Robert Geranium, Common Bladderwort, St. John's Wort, English Holly, Yellow Flag, Duckweed, Water Lentil, Eurasian Watermilfoil, Annual Bluegrass, Water Smartweed, Giant Knotweed, English Laurel, Portuguese Laurel, Tansy Ragwort, Blue Bindweed, Climbing Bindweed, Hairy Nightshade, Bamboo, Periwinkle (large and small leaf), and Spiny Cockleb.~~

***Protected Tree.** Includes Significant Individual Trees, Historic Trees, Trees within a Significant Natural Resource Area or Significant Grove, and Mitigation Trees.*

~~**Pruning, Minor.** [ORD 4224; August 2002] Removal of between 5% and up to and including 20% less than 10% of the a tree's canopy or disturbance of less than 10% or less of a tree's the root system.~~

~~**Pruning, Major.** [ORD 4224; August 2002] Removal of greater than 2010% of the tree's canopy or disturbance of over 10% of the root system.~~

***Reasonably Available.** As applied to mitigation tree planting, a plant species shall be considered reasonably available if the plant is found to be available for purchase at up to three separate retail or wholesale nurseries, known to stock native plants, of separate ownership within Washington, Multnomah, or Clackamas counties or a combination thereof. A plant species shall be considered to be reasonably unavailable if the species cannot be readily found at three (3) separate retail or wholesale nurseries, known to stock native plants, of separate ownership within Washington, Multnomah, or Clackamas counties or a combination thereof.*

***Significant Grove.** Groves that are mapped on the City's Inventory of Significant Trees and Groves, that have a unique identification code and include all species within the grove boundary as listed in the inventory documents for that grove code.*

***Significant Tree.** A tree or grouping of trees that is mapped on the City's Inventory of Significant Trees and Groves, which has a unique identification code as listed in the inventory documents for that individual tree code.*

Surveyed Tree. Trees on a proposed development site that are required to be identified in a Tree Plan application. Trees required to be surveyed include all trees greater than or equal to ten (10) inches DBH (including nuisance trees) and the following trees greater than or equal to six (6) inches DBH: western hemlock (*Tsuga heterophylla*) or mountain hemlock (*Tsuga mertensiana*) trees, Pacific madrone (*Arbutus andrachne*) trees, and big-leaf maple (*Acer macrophyllum*) trees.