



## FINAL AGENDA

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

REGULAR MEETING  
AUGUST 20, 2007  
6:30 P.M.

CALL TO ORDER:

ROLL CALL:

PRESENTATIONS:

07177 Presentation of Shields and Swearing In of Newly Appointed Captain, Lieutenant, Sergeants, and Four Officers to the Beaverton Police Department

07178 Stream Enhancement Program Status Update

VISITOR COMMENT PERIOD:

COUNCIL ITEMS:

STAFF ITEMS:

CONSENT AGENDA:

07179 A Resolution Declaring the 2007 Fire Prevention Code of the Tualatin Valley Fire and Rescue District Effective Within the City of Beaverton and Repealing City of Beaverton Resolution 3800 (Resolution No. 3907)

07180 Authorize Additional Funding for a Professional Services Contract with Outside Counsel to Provide Legal Review and Consultation

07183 A Resolution Expressing the City of Beaverton's Opposition to Using Urban Renewal and Tax Increment Financing to Pay for Needed Infrastructure Improvements in North Bethany and Other Urban Expansion Areas (Resolution No. 3906)

Contract Review Board:

07181 Waiver of Sealed Bidding – Purchase Seven Vehicles From the State of Oregon Price Agreement

ACTION ITEMS:

07182 A Resolution Directing the Mayor Regarding Interim Zoning for Beaverton's Part of the Washington Square Regional Center (Resolution No. 3908)

## ORDINANCES:

### First Reading:

07184 An Ordinance Amending Chapter 2 of the Beaverton City Code to Adopt Procedures for Reviewing Candidate Statements in City Voter's Pamphlet (Ordinance No. 4452)

### Second Reading:

07150 An Ordinance Amending Ordinance No. 4187, Figure III-1, the Comprehensive Plan Land Use Map to Apply the City's Neighborhood Residential Standard Density (NR-SD) Plan Designation and Ordinance No. 2050, the Zoning Map, to Apply the City's R-7 Zone to Property Located at 12730 SW Fairfield Street CPA 2007-0013/ZMA 2007-0013 (Ordinance No. 4444)

07173 An Ordinance Adding Chapter 8.07 of the Beaverton Code, Regarding Residential Property Maintenance (Ordinance No. 4448)

07174 An Ordinance Amending Ord. 4187 Figure III-1 the Comprehensive Plan Land Use Map to Apply the City's Neighborhood Residential Medium Density (NR-MD) Plan Designation and Ord. 2050 the Zoning Map to Apply the City's R-2 Zone to One Property Located in Northeastern Beaverton CPA 2006-0009/ZMA 2006-0012, City of Beaverton Applicant (10925 SW Fifth Street) (Ordinance No. 4449)

07175 An Ordinance Amending Ordinance No. 4187, Figure III-1, the Comprehensive Plan Land Use Map and Ordinance No. 2050, the Zoning Map for Property Located on the North and East Side of SW Merlo Drive Between SW 170<sup>th</sup> Avenue and SW Merlo Road, and South of the Westside Light Rail Transit Line; CPA 2007-0012/ZMA 2007-0011 (Ordinance No. 4450)

07176 ZMA 2007-0015 Greenway Park Zoning Map Clean-Up (Ordinance No. 4451)

## 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.

**AGENDA BILL**

**Beaverton City Council  
Beaverton, Oregon**

**SUBJECT:** Presentation of Shields and Swearing In of Newly Appointed Captain, Lieutenant, Sergeants, and Four Officers to the Beaverton Police Department

**FOR AGENDA OF:** 08/20/07 **BILL NO:** 07177

**MAYOR'S APPROVAL:**



**DEPARTMENT OF ORIGIN:**

Police

**DATE SUBMITTED:**

07/31/07

**PRESENTATION:** Presentation

**EXHIBITS:**

**BUDGET IMPACT**

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

The Beaverton Police Department is in the process of filling one captain, one lieutenant, three sergeant, and four officer positions that are vacant as a result of attrition. As part of the hiring process, these individuals are sworn in before the City Council during a brief ceremony.

**INFORMATION FOR CONSIDERATION:**

The department is pleased to swear in Terry Merritt as the newly promoted captain, Adam Spang as a lieutenant, and Mark Groshong, Steven Schaer, and Michael Smith as sergeants. All five officers are being promoted from within the agency.

The department is also pleased to swear in Evin Eustice, David Newland, Viola Valenzuela, and James White.

**RECOMMENDED ACTION:**

City Council offer their support to the new officers through a presentation made during the City Council meeting.

**AGENDA BILL**

**Beaverton City Council  
Beaverton, Oregon**

**SUBJECT:** Stream Enhancement Program Status Update

**FOR AGENDA OF:** 08-20-07 **BILL NO:** 07178

**Mayor's Approval:** *[Signature]*

**DEPARTMENT OF ORIGIN:** Public Works *[Signature]*

**DATE SUBMITTED:** 08-14-07

**CLEARANCES:**

**PROCEEDING:** Presentation

**EXHIBITS:**

**BUDGET IMPACT**

EXPENDITURE REQUIRED \$ N/A	AMOUNT BUDGETED \$ N/A	APPROPRIATION REQUIRED \$ N/A

**HISTORICAL PERSPECTIVE:**

Nearly four years ago, the first stream enhancement projects were initiated to re-establish riparian areas adjacent to creeks and streams that had become overgrown with non-native vegetation and frequently inhabited by neutria. These projects have been managed by city staff and completed with the continuing assistance of a number of volunteer groups, organizations and partners including SOLV, the Tualatin Hills Park and Recreation District, teachers and students from several Beaverton School District elementary and middle schools, local Girl and Boy Scouts and most recently the Soutridge High School Varsity Football Team. The native trees, shrubs and plants that were used to re-create these riparian areas were provided by Clean Water Services.

**INFORMATION FOR CONSIDERATION:**

To date these stream enhancement projects have helped to restore approximately 413,950 square feet or 9.5 acres of stream banks and 47.3 acres of public water quality facilities. 10,230 trees have been planted along with 30,689 native plants and shrubs. To ensure the survival of these new trees and plants, city staff regularly inspects the multiple locations to check for animal damage to trees, to water the areas in the dry summer months and to prevent the return of neutria that could quickly consume many of the important aquatic plants. During the past year, staff has worked to restore the plant materials in many of the city's more than one hundred public water quality facilities. Staff has also worked with neighborhood groups that are responsible for private water quality facilities to remove non-native vegetation and to restore the functions of many of these private water quality facilities. Many of the enhancement sites have now started to become self-sustaining. As the native trees and plants mature they require less watering and they are successfully limiting the spread of weeds and canary grasses. A promising return of a pair of nesting Great Blue Herons to the areas near the Beaverton Transit Center and the large pond at The Round is encouraging.

**RECOMMENDED ACTION:**

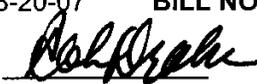
Listen to the presentation.

**AGENDA BILL**

**Beaverton City Council  
Beaverton, Oregon**

**SUBJECT:** A Resolution Declaring the 2007 Fire Prevention Code of the Tualatin Valley Fire and Rescue District Effective Within the City of Beaverton and Repealing City of Beaverton Resolution 3800

**FOR AGENDA OF:** 8-20-07 **BILL NO:** 07179

**Mayor's Approval:** 

**DEPARTMENT OF ORIGIN:** CDD 

**DATE SUBMITTED:** 8-3-07

**CLEARANCES:** City Attorney 

**PROCEEDING:** Consent

**EXHIBITS:** Resolution  
TVF&R Ordinance 07-01

**BUDGET IMPACT**

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

The City of Beaverton is within the territorial jurisdiction of the Tualatin Valley Fire and Rescue District (District). Periodically, the District adopts uniform fire regulations for the jurisdictions it serves. These regulations form the District's Fire Prevention Code (Code). The District uses the Code within the City to provide minimum requirements for the safety of the public and fire fighters from fire, explosion, and other dangerous conditions in new and existing buildings. The District recently enacted a new Fire Prevention Code, which replaces the Fire Prevention Code the District last enacted in 2004. If the District is to continue to enforce its Code within the City limits, it is necessary for the City to approve the new Fire Prevention Code by Resolution. The existing Fire Prevention Code must also be repealed.

**INFORMATION FOR CONSIDERATION:**

The District adopted its new Fire Prevention Code through the enactment of Tualatin Valley Fire and Rescue Ordinance 07-01. ORS 478.924 provides that under these circumstances, the provisions of the new Fire Prevention Code "shall not apply within any city or county within the district unless the governing body of the city or county approves the fire code by resolution." The District Code is authorized by ORS 476.030, 476.060, and 478.910 and OAR 837 Division 39 to adopt rules and regulations for a Fire Prevention Code; however, they cannot be less stringent than the minimum fire code adopted by the State Fire Marshal. The new Code is in conformity with the Code adopted by the State Fire Marshal. The City's Building Official has reviewed the new Code and has no objections to it.

**RECOMMENDED ACTION:**

Council to adopt the attached resolution authorizing the Tualatin Valley Fire and Rescue District's new 2007 Fire Prevention Code to be enforced within the City.

**RESOLUTION NO. 3907**

**A RESOLUTION DECLARING THE 2007 PREVENTION CODE OF THE TUALATIN VALLEY FIRE AND RESCUE DISTRICT EFFECTIVE WITHIN THE CITY OF BEAVERTON AND REPEALING CITY OF BEAVERTON RESOLUTION 3800**

**WHEREAS**, the Tualatin Valley Fire and Rescue District has adopted a new Fire Prevention Code for the jurisdictions it serves; and,

**WHEREAS**, the provisions of the new Fire Prevention Code do not apply within a city until the governing body of the city approves the new code by resolution; and,

**WHEREAS**, the Fire District's new Fire Prevention Code replaces its existing 2004 Fire Prevention Code; and,

**WHEREAS**, the City's Building Official has reviewed the provisions of the Fire District's new Fire Prevention Code and has no objection to it; and,

**WHEREAS**, the City of Beaverton desires to approve the new 2007 Tualatin Valley Fire and Rescue District Fire Prevention Code and repeal its approval of the old 2004 Fire Prevention Code; now therefore,

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

Section 1. The 2007 Tualatin Valley Fire and Rescue District Fire Prevention Code, adopted by the Fire District's enactment of the Tualatin Valley Fire and Rescue District Ordinance 07-01, is hereby approved by the City of Beaverton.

Section 2. City of Beaverton Resolution 3800, approved January 10, 2005, and entitled "A Resolution Declaring 2004 Fire Prevention Code of the Tualatin Valley Fire and Rescue District to be effective within the City of Beaverton" is hereby repealed.

Section 3. The provisions of the 2007 Tualatin Valley Fire and Rescue District Fire Prevention Code shall be effective within the City upon the Mayor's approval of this Resolution.

Section 4. The repeal of an existing Fire Prevention Code provision by a provision of this resolution shall not preclude the accusation, prosecution, conviction, or punishment of a person who violated the provision repealed or amended before the effective date of this resolution.

Adopted by the Council this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

Approved by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

Ayes: \_\_\_\_\_

Nays: \_\_\_\_\_

ATTEST:

APPROVED:

\_\_\_\_\_  
SUE NELSON, CITY RECORDER

\_\_\_\_\_  
ROB DRAKE, MAYOR

# ORDINANCE 07-01

**AN ORDINANCE ADOPTING FIRE CODES AND STANDARDS FOR TUALATIN VALLEY FIRE AND RESCUE A RURAL FIRE PROTECTION DISTRICT, PROVIDING A REASONABLE LEVEL OF LIFE SAFETY AND PROPERTY PROTECTION FROM THE HAZARDS OF FIRE, EXPLOSION OR DANGEROUS CONDITIONS IN NEW AND EXISTING BUILDINGS, STRUCTURES AND PREMISES AND TO PROVIDE SAFETY TO FIRE FIGHTERS AND EMERGENCY RESPONDERS DURING EMERGENCY OPERATIONS, AND REPEALING ORDINANCE 04-01.**

WHEREAS, Tualatin Valley Fire & Rescue A Rural Fire Protection District, has developed uniform fire regulations for the jurisdictions served; and,

WHEREAS, Tualatin Valley Fire and Rescue A Rural Fire Protection District, hereinafter referred to as the District, finds it necessary to adopt regulations that establish a minimum level of fire safety, thus does hereby adopt the following regulations; and now, therefore;

## **IT IS ORDAINED AS FOLLOWS:**

### **TITLE AND FILING:**

This ordinance, including the codes hereby adopted, shall be filed in the record of the District and in the office of Washington, Multnomah, and Clackamas County Clerks and Oregon State Fire Marshal's office as prescribed by ORS 478.940. A copy shall be posted at each fire station within the District. From the date on which this ordinance shall take effect, provisions thereof shall be controlling within the territorial limits of the District and within each city and county within the District approving pursuant to ORS 478.924. The whole of this ordinance shall be known as the Fire Prevention Code and may be referred to as the Fire Code and shall be enforced by the Fire Marshal's Office created by Ordinance 91-02.

### **SCOPE:**

The purpose of this code is to establish the minimum requirements consistent with nationally recognized good practice for providing a reasonable level of life safety and property protection from the hazards of fire, explosion or dangerous conditions in new and existing buildings, structures and premises and to provide safety to fire fighters and emergency responders during emergency operations as authorized by ORS 478.910

### **SECTION I – ADOPTION OF THE 2007 OREGON FIRE CODE:**

The following code is hereby adopted by the District for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion. Those certain codes and standards known as:

- A. The International Fire Code, 2006 Edition, as published and copyrighted by International Fire Code Council and as amended and adopted by the Oregon State Fire Marshal's Office and known as the 2007 Oregon Fire Code.

## **SECTION II – ENFORCEMENT OF CODE**

Notwithstanding provisions in the Oregon Fire Code authorizing or requiring inspections of buildings and premises or testing of fire protection systems and equipment, e.g. Sections 106.2, 901.6 and 907.20.2 or provisions providing for enforcement of the Code, such inspections, testing and enforcement of the Code shall be discretionary by the Chief and other individuals charged by the Chief with such activities. The District recognizes that it has limited financial resources with which to provide fire, rescue and other services and functions and is forced to make public policy decisions as to allocation of District resources. Although the District places a high priority on prevention, inspection and maintenance of fire systems, due to financial limitations, it is the Board's policy to require inspections only so often as necessary to provide a reasonable level of fire and life safety. Accordingly, although the Fire Chief and other individuals charged by the Chief with these activities are encouraged to pursue them, performing such activities, as well as the scope and frequency of such activities, shall be within the discretion of the Fire Chief. It is the intention of the District to make clear that the District's duty to perform the inspections and testing, or to take enforcement actions, as set forth in the Code is limited to providing a reasonable level of fire and life safety. Such actions are discretionary.

## **SECTION III – AMENDMENTS MADE IN THE 2007 OREGON FIRE CODE:**

The 2007 Oregon Fire Code is hereby adopted without amendments.

## **SECTION IV – PENALTIES**

Any person who violates any of the provisions of these regulations hereby adopted or fails to comply therewith, or violates or fails to comply with any order made thereunder, or who builds in violation of any detailed statements, specification or plans submitted and approved thereunder and from which no appeal has been taken, or shall fail to comply with such an order as affirmed or modified by the Board of Appeals or by a court of competent jurisdiction within the time affixed herein, shall severally, for each and every such violation and non-compliance respectively, be guilty of a violation of the Fire Prevention Code as provided in ORS 478.930, punishable upon conviction as prescribed by ORS 478.990. All fines or punishments authorized upon conviction shall include the costs to the District to remedy the violation including costs of towing, storage or removal of the hazard or obstruction if necessary.

The Chief or designated representative may bring a complaint in law or in equity to alleviate a violation of this ordinance as well as in addition to the rights to enforce said ordinance under the provisions of ORS 478.930 and ORS 478.990.

## **SECTION V – FIRE CODE BOARD OF APPEALS**

As authorized by ORS 479.180, the District may establish a board of appeals. Such board of appeals may be implemented through bylaws and other procedures adopted by ordinance of the District. In the event that the fire district Board adopts a board of appeals, the provisions of this ordinance, where appropriate, are subject to the board of appeals procedures.

**SECTION VI – REPEAL OF CONFLICTING ORDINANCES**

The provisions of this ordinance, i.e. the Fire Code, shall be controlling within the territorial limits of the District and within each city and county within the District approving pursuant to ORS 478.924. The existing fire code, Ordinance 04-01, has been approved within each city and county within the District. The District desires that the existing fire code continue in effect until such time as the cities and counties within the District have approved this new Fire Code pursuant to ORS 478.924. Accordingly, Ordinance 04-01, and all former ordinances or parts thereof, which are conflicting or inconsistent with the provisions of this ordinance or of the code or standards hereby adopted, are hereby repealed, effective the effective date of this ordinance; provided, however, that Ordinance 04-01 shall continue in effect in each city or county which has approved it until the city or county approves this Ordinance 07-01. Further, prosecutions or violations under repealed ordinances may continue after the effective date of this ordinance.

**SECTION VII – VALIDITY**

The District hereby declares that should any section, paragraph, sentence, or word of this ordinance or of the Codes or Standards hereby adopted be declared for any reason to be invalid, it is the intent of the District that it would have passed all other portions of this ordinance independent of the elimination of any such portion as may be declared invalid.

**SECTION VIII – DATE OF EFFECT**

The Board of Directors of the Fire District finds and determines that it is necessary and expedient that the provisions of this ordinance become effective 30 days following adoption, as authorized by ORS 198.570.

First reading by Title only this 26<sup>th</sup> day of JUNE, 2007.

Second reading by Title only this 24<sup>th</sup> day of JULY, 2007.

PASSED by the District this 24<sup>th</sup> day of JULY, 2007.

  
\_\_\_\_\_  
PRESIDENT

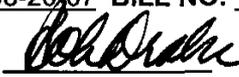
  
\_\_\_\_\_  
SECRETARY-TREASURER

**AGENDA BILL**

**Beaverton City Council  
Beaverton, Oregon**

**SUBJECT:** Authorize Additional Funding for a Professional Services Contract with Outside Counsel to Provide Legal Review and Consultation.

**FOR AGENDA OF:** 08-20-07 **BILL NO:** 07180

**Mayor's Approval:** 

**DEPARTMENT OF ORIGIN:** City Attorney 

**DATE SUBMITTED:** 08-08-07

**CLEARANCES:** Finance  
Police



**PROCEEDING:** Consent Agenda

**EXHIBITS:** Agenda Bill 07038

**BUDGET IMPACT**

EXPENDITURE	AMOUNT	APPROPRIATION
REQUIRED \$2,500	BUDGETED \$35,200*	REQUIRED \$0

\*Account No. 001-60-0622-511. The Expenditure Required represents the additional contract amount necessary for the services provided. Previously, \$7,500 was approved on Agenda Bill 07038 and the additional \$2,500 authorization will bring the total contract value to \$10,000. The FY 2006-2007 budget included \$35,200 for various professional services. To date, \$32,488 has been expended or encumbered leaving a balance of \$2,711 as the appropriation available in this professional services account.

**HISTORICAL PERSPECTIVE:**

The Department Head requested, with the concurrence of the Mayor, that outside legal assistance be retained for an arbitration. The City Council on February 26, 2007 authorized the City Attorney to enter into a contract with Victor Calzaretta for a figure not-to-exceed \$7,500 (copy of Agenda Bill 07038 attached).

**INFORMATION FOR CONSIDERATION:**

Mr. Calzaretta expended \$16,077.50 worth of time in representing the City. He has adjusted his fees, reducing it by \$6,077.50 to \$10,000. He is requesting that the City amend the contract for an additional \$2,500. The Department Head and Mayor concur with this request. Funding is available through the above-referenced budget account.

**RECOMMENDED ACTION:**

Authorize the City Attorney to amend the Professional Services Contract with attorney Victor Calzaretta in an amount not to exceed \$10,000.

 **COPY**

**AGENDA BILL**

**Beaverton City Council  
Beaverton, Oregon**

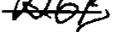
**SUBJECT:** Authorize the City Attorney to Enter into a Professional Services Contract with Outside Counsel to Provide Legal Review and Consultation.

**FOR AGENDA OF:** 02-26-07 **BILL NO:** 07038

**Mayor's Approval:** 

**DEPARTMENT OF ORIGIN:** HR 

**DATE SUBMITTED:** 02-14-17

**CLEARANCES:** City Attorney   
Finance   
Police 

**PROCEEDING:** Consent Agenda  
(Contract Review Board)

**EXHIBITS:** None

**BUDGET IMPACT**

EXPENDITURE	AMOUNT	APPROPRIATION
REQUIRED \$7,500	BUDGETED \$35,200*	REQUIRED \$0

\*Account No. 001-60-0622-511. The FY 2006-2007 budget included \$35,200 for various professional services. To date, \$11,661 has been expended leaving a balance of \$23,539 as the current appropriation available in this professional services account.

**HISTORICAL PERSPECTIVE:**

The City Attorney is responsible for providing legal advice to the Council and City administration on numerous topics, including employee grievances that go to arbitration. The Department Head has requested, with the concurrence of the Mayor, that outside legal assistance be retained for a pending arbitration.

**INFORMATION FOR CONSIDERATION:**

The Department Head would like to retain attorney Victor Calzaretta to review the department's position. The contract will include a not-to-exceed figure of \$7,500. Funding is available through the above-referenced budget account.

**RECOMMENDED ACTION:**

Authorize the City Attorney to enter into a Professional Services Contract with attorney Victor Calzaretta in an amount not to exceed \$7,500.

**AGENDA BILL**

**Beaverton City Council  
Beaverton, Oregon**

**SUBJECT:** A Resolution Expressing the City of Beaverton's Opposition to Using Urban Renewal and Tax Increment Financing to Pay for Needed Infrastructure Improvements in North Bethany and Other Urban Expansion Areas

**FOR AGENDA OF:** 08-20-07 **BILL NO:** 07183

**Mayor's Approval:** 

**DEPARTMENT OF ORIGIN:** Mayor's Office

**DATE SUBMITTED:** 08-14-07

**CLEARANCES:** City Attorney 

**PROCEEDING:** Consent Agenda

**EXHIBITS:** 1. Proposed Resolution

**BUDGET IMPACT**

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

The recitals in the proposed resolution provide background.

**INFORMATION FOR CONSIDERATION:**

The City Council continued this matter from their August 13, 2007 regular meeting. At that meeting, a majority of the Council concluded that forming an urban renewal district and using tax increment financing to fund infrastructure improvements for the North Bethany area is inappropriate if urban renewal is the sole mechanism for funding the infrastructure improvements. As reflected in the attached resolution, staff suggest that the phrase "sole source of funding" be replaced with the phrase "primary source of funding". Staff make this suggestion because the main point of the Council's discussion was the revenue impact to the local service districts that serve the City. Those impacts would be born by the taxpayers in those districts, many of which are residents of the City. It is entirely possible that the County will conclude that urban renewal and tax increment financing should be used with other funding mechanisms such as a local improvement district. Through negotiation and review of all the funding options, it is possible that all parties can agree that some tax increment financing should be used. However, if tax increment financing is the primary source of funding for infrastructure improvements, the financial impact to local service districts will be significant.

**RECOMMENDED ACTION:**

Adopt the proposed resolution.

RESOLUTION NO. 3906

**A RESOLUTION EXPRESSING THE CITY OF BEAVERTON'S  
OPPOSITION TO USING URBAN RENEWAL AND TAX INCREMENT  
FINANCING TO PAY FOR NEEDED INFRASTRUCTURE  
IMPROVEMENTS IN NORTH BETHANY AND OTHER URBAN  
EXPANSION AREAS**

- WHEREAS,** In 2002 approximately 800 acres of land north of NW Springville Road and west of the Multnomah County line, generally known as the North Bethany area, were brought within the Regional Urban Growth Boundary by Metro; and
- WHEREAS,** In the past few years Washington County has been engaged in the process of planning for the North Bethany area as required by Title 11 of the Metro Urban Growth Management Functional Plan; and
- WHEREAS,** The preliminary results of the North Bethany planning process, which aspires to create a "Community of Distinction", indicate that the cost of needed infrastructure improvements (e.g., roads, schools, parks, sewer and water lines, etc.) will range from 275-300 million dollars; and
- WHEREAS,** Washington County has determined that existing available sources of revenue, such as from systems development charges, are inadequate to pay for these needed infrastructure improvements, particularly road improvements; and
- WHEREAS,** Washington County has contracted with consultants to consider the legality and financial feasibility of forming an Urban Renewal District encompassing North Bethany so a Washington County Urban Renewal Agency could derive property tax revenues from the increment between the assessed value of property at the time the district is established and the annual assessed value over time as the area develops, which can be used to finance bonds to pay for need infrastructure improvements; and
- WHEREAS,** Washington County has convened a "Taxing District Advisory Group" including representatives of local districts that would serve the North Bethany area such as the Beaverton School District (BSD), the Tualatin Hills Park and Recreation District (THPRD) and the Tualatin Valley Fire and Rescue District (TVF&R), as well as representatives of the cities of Beaverton and Hillsboro, to consider the consultants' findings; and
- WHEREAS,** The consultants preliminary findings are that North Bethany could be considered a "blighted" area as the term is defined by State Statute, which is a precondition for establishing an urban renewal district, and tax increment revenues from a North Bethany urban renewal district would be sufficient to finance bonds to cover about half the estimated cost of needed infrastructure improvements; and
- WHEREAS,** Representatives for the BSD, THPRD and TVF&R have expressed serious reservations about the fiscal impacts of establishing a North Bethany urban renewal district on their operating revenues, inasmuch as they would be receiving

minimal revenues from the frozen tax base for the area while providing services to an area that is projected to grow over time to a population of approximately 12,000; and

**WHEREAS,** A recent newspaper article suggests the County may use the same funding solutions for infrastructure needs in the Bull Mountain urban expansion areas as are used in North Bethany; and

**WHEREAS,** In anticipation of an August 21, 2007 meeting where the Board of County Commissioners will be asked to accept an Urban Renewal Feasibility Study for North Bethany and direct preparation of an Urban Renewal Plan, representatives of the BSD, THPRD and TVF&R have asked for the City's support of their concerns and/or opposition to establishment of an urban renewal district encompassing North Bethany,

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

The Council hereby directs that the Mayor convey to the Board of County Commissioners our concerns and opposition to formation of an urban renewal district encompassing the north Bethany area or any other urban expansion area as the sole source of funding infrastructure. The Council believes that the use of an urban renewal district as an infrastructure funding source without other funding mechanisms which offset the impact to local service districts such as TVF&R and THPRD is inappropriate and detrimental to the tax payers of the City of Beaverton. The Council believes the north Bethany ~~sueh~~ areas are not truly blighted, and the cost of infrastructure needed to serve their development should be primarily borne by area property owners and developers, not by taxpayers from the larger community.

Furthermore, it is the Council's position that if urban renewal and tax increment financing are to be used in Washington County, it should be in centers designated on the Metro 2040 Growth Concept Map or other areas more appropriate.

Adopted by Council this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

Approved by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

Ayes: \_\_\_\_\_

Nays: \_\_\_\_\_

ATTEST:

APPROVED:

\_\_\_\_\_  
SUE NELSON, City Recorder

\_\_\_\_\_  
ROB DRAKE, Mayor

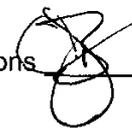
**AGENDA BILL**

**Beaverton City Council  
Beaverton, Oregon**

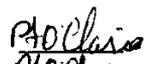
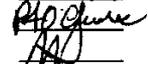
**SUBJECT:** Waiver of Sealed Bidding –  
Purchase Seven Vehicles From the  
State of Oregon Price Agreement

**FOR AGENDA OF:** 8-20-07 **BILL NO:** 07181

**Mayor's Approval:** 

**DEPARTMENT OF ORIGIN:**  
Public Works / Operations 

**DATE SUBMITTED:** 8-13-07

**CLEARANCES:** Purchasing   
Finance   
City Attorney 

**PROCEEDING:** Consent Agenda  
(Contract Review Board)

**EXHIBITS:**

**BUDGET IMPACT**

EXPENDITURE	AMOUNT	APPROPRIATION
REQUIRED \$150,003	BUDGETED \$150,500*	REQUIRED \$-0-

\*Account number 001-60-0622-641 Police Department Capital Outlay Vehicle Account. The account has a total budget appropriation of \$231,500 of which \$150,500 was designated for seven police patrol vehicles (six replacement patrol vehicles and one new vehicle).

**HISTORICAL PERSPECTIVE:**

The FY 2007-08 Budget includes funding to replace six patrol vehicles and purchase one additional patrol vehicle for the Police Department. The State of Oregon Price Agreement is available to public agencies. The agreement incorporates the low bids from numerous dealerships, which were obtained through the competitive sealed bid process.

**INFORMATION FOR CONSIDERATION:**

Seven Crown Victoria patrol vehicles, at \$21,429 are currently available for immediate purchase from the State of Oregon Price Agreement 3196 through Gresham Ford in Gresham, Oregon. The 2008 Ford Crown Victoria is an E85 flex fuel vehicle. These vehicles have the capability to run on regular unleaded fuel or any mixture of unleaded gasoline and up to 85% ethanol. Oregon law ORS 279A.215 and the City's Purchasing Code BPC 46-0430 provides an exemption from competitive solicitation if a purchase is made from an existing Permissive Cooperative Procurement only if the following conditions are met:

1. The solicitation was let by an open and impartial competitive process;
2. The original contract allows other governmental bodies to use it;
3. The contractor agrees to extend the terms, conditions and prices to other public agencies; and
4. No material change is made in the terms, conditions or prices of the original contract.

Staff finds all of the above conditions have been met.

**RECOMMENDED ACTION:**

Council, acting as Contract Review Board, waive the competitive sealed bidding requirements and authorize the Finance Department to issue a purchase order to Gresham Ford, of Gresham, Oregon, for purchase of the seven vehicles described above in the amount of \$150,003 from the State of Oregon Price Agreement.

**AGENDA BILL**

**Beaverton City Council  
Beaverton, Oregon**

**SUBJECT:** A Resolution Directing the Mayor Regarding Interim Zoning for Beaverton's Part of the Washington Square Regional Center

**FOR AGENDA OF:** 08-20-07 **BILL NO:** 07182

**Mayor's Approval:** *Bob Drake*

**DEPARTMENT OF ORIGIN:** CDD *ES*

**DATE SUBMITTED:** 08-02-07

**CLEARANCES:** City Attorney *LLS*  
Planning *AB*

**PROCEEDING:** Action Item

**EXHIBITS:** 1. Proposed Resolution  
2. Washington County Interim Light Rail Station Area Overlay District

**BUDGET IMPACT**

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

On July 9 the Council held a work session and considered options for planning Beaverton's part of the Washington Square Regional Center. Staff noted that the area is designated Regional Center on the Comprehensive Plan Land Use Map but is zoned Campus Industrial and General Commercial. Pursuant to the Comprehensive Plan, the CI and GC zones do not implement the Regional Center land use designation. These zones allow uses and apply development standards that are not consistent with the uses and densities generally appropriate for a Regional Center designation. On the other hand, it was noted that planned improvements to infrastructure in the area needed to accommodate higher density development, particularly transportation system improvements, were not funded. After providing a PowerPoint presentation on the history of planning for the area, staff presented the following optional courses of action for the Council to consider:

1. Pursue the creation of zoning districts that could be applied in Beaverton's part of the Washington Square area to implement the Regional Center designation; or
2. Pursue changing the Regional Center designation to the Employment and Corridor designations, with possible changes to zoning districts that implement those designations.

After discussing these options, the majority of the Council and Mayor Drake indicated that they favored a third course of action – to retain the Regional Center designation as well as existing zoning until such time as there is more certainty about funding for needed infrastructure improvements. The Council and Mayor indicated that the one exception to this course of action might be consideration of upzoning properties designated Regional Center north of Hall Boulevard, where a 2004 study for the City indicated there is good potential for redevelopment to higher density residences and offices in the near to mid-term.

**INFORMATION FOR CONSIDERATION:**

At the July 9 work session, staff said their primary concern with the Council majority's preferred course of action was that there may be legal issues with retaining a disconnect between plan and zone designations. Subsequent to the meeting, and with the Mayor's approval, staff sought the City Attorney's advice on the matter. In a responding memorandum Assistant City Attorney Bill Scheiderich opined "...until the COB resolves the plan and zoning map disconnect as to the properties within the current plan designation of regional center, no development application that relies on the (inconsistent) zoning designations can be approved unless, of course, the use that is sought is consistent with that

plan designation.” This opinion was based on a 1999 decision by the State Land Use Board of Appeals (LUBA) involving the City, *NFL v. City of Beaverton*.

Given the Assistant City Attorney’s opinion, the present situation is that if and when an application is submitted to develop a property that is designated Regional Center but zoned General Commercial or Campus Industrial, staff will need to determine, based on a review of relevant Comprehensive Plan policies, whether the proposed use is consistent with a Regional Center designation. This would require the exercise of discretion on the staff’s part, which might cause all such development applications to be considered through a public hearing process. An option to this situation would be for the City to adopt, through a legislative text amendment process, an interim overlay district that would specify which uses otherwise allowed by the Campus Industrial and General Commercial zones are prohibited because they are not deemed to be consistent with a Regional Center designation. The overlay district could also specify development standards and design provisions that are unique to the subject area and consistent with a Regional Center designation. A precedent for this approach is the Interim Light Rail Station Area Overlay District that was adopted by Washington County in the early 1990s before permanent zoning was applied around light rail stations in the urban unincorporated area (Exhibit 2).

**RECOMMENDED ACTION:**

Adopt the attached resolution (Exhibit 1) directing the Mayor to initiate legislative text and map amendment processes to adopt and apply an interim Washington Square Regional Center overlay district.

RESOLUTION NO. 3908

**A RESOLUTION DIRECTING THE MAYOR TO INITIATE LEGISLATIVE TEXT  
AND MAP AMENDMENT PROCESSES TO ADOPT AND APPLY AN INTERIM  
WASHINGTON SQUARE REGIONAL CENTER OVERLAY DISTRICT**

- WHEREAS,** the City of Beaverton participated in an intergovernmental task force led by the City of Tigard which in 1999 recommended a Washington Square Regional Center Plan; and
- WHEREAS,** in 2002 the City Council adopted a new Land Use Map as part of an update to the Comprehensive Plan, including designation of certain properties west of Highway 217 as Regional Center; and
- WHEREAS,** the City contracted with David Evans and Associates (DEA) to prepare a 2004 report on Beaverton's part of the Washington Square Regional Center that assessed the cost and feasibility of needed infrastructure improvements to accommodate Regional Center densities, the market demand for and property owner interest in redevelopment to higher densities in the area, and the potential for redevelopment of the View Master site given past contamination problems; and
- WHEREAS,** questions raised by the DEA report as well as uncertainty about funding for Commuter Rail and the location of a rail station in the Washington Square area, caused City staff to delay proposing adoption and application of zones to implement the Regional Center designation in Beaverton's part of the Washington Square area; and
- WHEREAS,** with the certainty of funding for Commuter Rail and the location of a Washington Square rail station, staff sought direction from the Council in a work session on July 9, 2007 regarding plan and zoning designations for Beaverton's part of the Washington Regional Center; and
- WHEREAS,** the majority of the City Council and the Mayor favored retaining a Regional Center designation for the area but also retaining present zoning due to concerns about lack of funding for infrastructure improvements needed to support zoning allowing for higher Regional Center densities; and
- WHEREAS,** the Assistant City Attorney has advised that as long the disconnect between zoning and plan designations remains in effect, development applications for uses allowed by existing zoning that are inconsistent with the Regional Center designation should not be approved; and
- WHEREAS,** determining which development proposals are inconsistent with the Regional Center designation would require the exercise of discretion by staff and would be difficult on a case-by-case basis,

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

The Mayor is hereby directed to initiate processes to:

1. Amend the text of the Beaverton Development Code by addition of an interim Washington Square Regional Center Overlay District that would prohibit uses deemed to be inappropriate in a regional center and possibly direct different development and design standards than those prescribed by the base zone;
2. Amend the Zoning Map to apply the Overlay District to properties in Beaverton's part of the Washington Square Area designated Regional Center on the Comprehensive Plan Land Use Map; and
3. Amend the text of the Comprehensive Plan if necessary to provide a policy basis for adoption and application of the Overlay District.

Consideration should also be given to adopting and applying development regulations that would allow for implementation of a mixed use "urban village" concept in the part of the area that is designated Regional Center north of Hall Boulevard, consistent with the recommendations of the DEA report.

Adopted by Council this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

Approved by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

Ayes: \_\_\_\_\_

Nays: \_\_\_\_\_

ATTEST:

APPROVED:

\_\_\_\_\_  
SUE NELSON, City Recorder

\_\_\_\_\_  
ROB DRAKE, Mayor

ARTICLE III: LAND USE DISTRICTS  
381 - INTERIM LIGHT RAIL STATION AREA OVERLAY DISTRICT

III-249

**381 INTERIM LIGHT RAIL STATION AREA OVERLAY DISTRICT**

**381-1 Intent and Purpose**

The intent of the Interim Light Rail Station Area Overlay District is to direct and encourage development that is transit supportive and pedestrian oriented in areas within approximately a one-half mile radius of planned Westside light rail transit station sites pending the development and adoption of site specific station area plans.

The purpose of this District is to limit development during this interim period to that which has a sufficient (1) density of employees, residents or users, (2) number of trips serviceable by transit and (3) pedestrian oriented design so as to be supportive of light rail transit and pedestrian travel and reinforce the substantial public investment in Westside light rail transit.

**381-2 Applicability**

The Interim Light Rail Station Area Overlay District shall apply to lands within approximately one-half mile of light rail station sites, as shown on applicable community plan maps.

In identifying areas subject to this district, consideration was given to parcel size, ownership patterns, the existing transportation network, existing development patterns, development and redevelopment opportunities, the ability of pedestrians to access transit easily, the amount and location of vacant land, and other relevant factors.

The standards of this district shall apply only to development on portions of lots or parcels within the boundaries of the district, and not to development on adjacent lots or parcels under common ownership or portions of lots or parcels located outside the district.

**381-3 Designation of Interim Light Rail Station Area Overlay District**

The Interim Light Rail Station Area Overlay District shall be applied to community plan maps through the legislative (Type IV) planning process. The Overlay District may be removed through a legislative planning process, but not through a quasi-judicial plan map amendment process, unless it is to be replaced by Transit Oriented District listed in Section 375-2.

**381-4 Definitions**

As used in this Section, the words listed below have the following meaning:

381-4.1 Adjacent The location of a building sited on a parcel or lot abutting a street, major pedestrian route, transit station, etc. and not separated by an existing or planned intervening building.

381-4.2 Bulk Retail Use A retail or wholesale to the public use that sells primarily institutional sized or multi-pack products in bulk quantities.

- 381-4.3 Campus Development A development which meets the following criteria:
- (1) Is located on a lot or contiguous lots within the Industrial or Institutional districts that total at least five (5) acres in size; and
  - (2) Includes multiple buildings which are interrelated in a common business or educational activity or process, and share a common infrastructure such as pedestrian ways and spaces, parking and vehicular accessways.
- 381-4.4 Commercial Parking Facility A parking structure or surface parking lot operated for profit that has parking spaces that are not accessory to a primary use. This term does not include a park and ride lot.
- 381-4.5 Drive-through Facilities Facilities allowing transactions for goods or services without leaving a motor vehicle.
- 381-4.6 Floor Area Ratio The amount of enclosed gross floor area in relation to the amount of site area, expressed in square feet. For example, a floor area ratio of 1 to 2 means one square foot of floor area for every two square feet of site area (e.g., 20,000 square feet of floor area for a site area of 40,000 square feet). Total gross floor area is measured from the exterior faces of a building or structure and includes pedestrian spaces. Floor area does not include basement areas used for storage or parking.
- 381-4.7 Frontage Yard The yard between a building and a street or public right-of-way or easement for public travel.
- 381-4.8 Interior Yard The yard between a building and a lot line that does not abut a street or public right-of-way or easement for public travel.
- 381-4.9 Light Rail Station Site The location of land owned or leased or to be owned or leased by Tri-Met upon which is to be sited facilities related to a light rail transit stop (e.g., the station platform, a park and ride lot, entry roads, bus stops, etc.) as determined by the Review Authority after reviewing documents including:
- A. The Final Environmental Impact Statement for the Westside Corridor Project, dated August, 1991 or as subsequently adopted by the Tri-Met Board;
  - B. The Detailed Definition of Alternatives Hillsboro Corridor Alternatives Analysis dated July, 1991, as approved by the Federal Transit Administration or subsequently reflected in the Draft or Final Environmental Impact Statements for the Hillsboro extension of the Westside Corridor Project; and
  - C. The most recent engineering drawings issued by Tri-Met.
- 381-4.10 Major Pedestrian Route Any pedestrian way in a public right-of-way or easement that is or is likely to be used by a significant number of people as a means of accessing public transportation service to an area, including access to light rail transit stations.

- 381-4.11 Park and Ride Lot A parking structure or surface parking lot intended primarily for use by persons riding transit or carpooling and that is owned or operated either by Tri-Met or by another entity with the concurrence of Tri-Met.
- 381-4.12 Parking Structure A parking garage located above or underground consisting of two or more levels.
- 381-4.13 Pedestrian Oriented Development Development which is designed with an emphasis on pedestrian access to the site and building, rather than on auto access and parking areas.
- 381-4.14 Pedestrian Space An area or plaza for use by the public on a controlled basis which may be on public or private property and which includes at least four of the following features:
- A. At least one (1) sitting space for each five-hundred (500) square feet. Seating shall be a minimum of sixteen (16) inches in height and thirty (30) inches in width. Ledge benches shall have a minimum depth of thirty (30) inches.
  - B. Protection from weather such as awnings.
  - C. Outdoor lighting at a pedestrian scale.
  - D. At least one (1) tree of two (2) inches in diameter at four (4) feet above grade per eight-hundred (800) square feet, on average, of pedestrian space.
  - E. Water feature(s), public art or kiosk(s).
  - F. Outdoor eating area(s) and/or food vendor(s).
- 381-4.15 Pedestrian Way Any paved public or private travel route intended for pedestrian use, whether shared with other transportation modes (e.g., a bicycle/pedestrian path) or intended solely for pedestrian use.
- 381-4.16 Transit Street Any street that is an existing public transit route, or any street that is likely to be a public transit route. All public streets with a functional classification of Principal Arterial, Arterial or Collector, as defined in the Washington County Transportation Plan, shall be considered likely to be a public transit route.
- 381-4.17 Warehouse A structure that is primarily used for storing or wholesaling goods, wares or merchandise.

**381-5 Notification**

In addition to the notification requirements of Section 204 of this Code, notice of all Type II and III development applications shall be provided to the Tri-County Metropolitan Transportation District of Oregon (Tri-Met), the Cities of Hillsboro, Beaverton and Portland, and Metro, in the manner provided by Section 204 of this Code.

**381-6 Conflicts**

Notwithstanding Section 401, in the event of a conflict between the standards of this district and the standards of any other provision of this Code, the standards of this district shall control.

**381-7 Permitted Uses**

Except as prohibited by Section 381-8, allowed uses shall be those listed by the underlying district, in accordance with the procedure type specified by the underlying district.

**381-8 Prohibited Uses**

Notwithstanding contrary provisions of an underlying district, the following uses may not be established as new uses within this interim overlay district, nor may existing uses or the use of existing structures be converted to the following uses within this overlay district:

- 381-8.1 Building Materials Sales and Supplies, excluding hardware stores not exceeding five-thousand (5,000) square feet in gross floor area.
- 381-8.2 Bulk Retail Uses.
- 381-8.3 Car Washes.
- 381-8.4 Cemeteries.
- 381-8.5 Cold Storage Plant.
- 381-8.6 Commercial parking facilities within three-hundred (300) feet of a light rail transit station site boundary.
- 381-8.7 Commercial surface parking lots within thirteen hundred (1,300) feet of a light rail transit station site boundary.
- 381-8.8 Detached dwelling units (including manufactured dwellings) except for one dwelling on an existing parcel or lot, or where developed in accordance with the density provisions of Section 381-10.1 A. as part of a residential development with both attached and detached housing.
- 381-8.9 Drive-through facilities within three hundred (300) feet of a light rail station site boundary.
- 381-8.10 Drive-through facilities greater than three hundred (300) feet from a light rail station site boundary where the drive-through component of the operation or service is the primary method of selling or servicing.
- 381-8.11 Fuel Dealerships and storage yards (including card locks).
- 381-8.12 Funeral Homes and Mortuaries.

- 381-8.13 Furniture Stores.
  - 381-8.14 Junk Yards.
  - 381-8.15 Kennels.
  - 381-8.16 Main Post Offices.
  - 381-8.17 Manufactured Home Sales.
  - 381-8.18 Mini-Warehouses.
  - 381-8.19 Motor Vehicle Service Stations (unless included within a parking structure or underground parking garage) and service facilities (including oil and lubrication services, tire and muffler installation and service, or other motor vehicle services) within one-thousand three-hundred (1,300) feet of a light rail transit station site boundary.
  - 381-8.20 Motor Vehicle Maintenance and Repair Facilities within one-thousand three-hundred (1,300) feet of a light rail transit station site boundary.
  - 381-8.21 Motor Vehicle or Boat Sales, Leasing, Rental or Storage, except motor vehicle rental where the rental vehicles are not stored on site.
  - 381-8.22 New Parks except for neighborhood parks not exceeding ten (10) acres in size as defined by the Tualatin Hills Park and Recreation District at the time of adoption of this district, unless it is found by a Review Authority, based on evidence and findings submitted by an applicant, that land proposed for a park other than a neighborhood park is unsuitable for the development of transit supportive land uses due to topography or other physical constraints.
  - 381-8.23 Recreational Vehicle Parks and Campgrounds.
  - 381-8.24 Retail Nursery.
  - 381-8.25 Solid Waste Transfer Stations.
  - 381-8.26 Travel Trailer rental or sales establishment.
  - 381-8.27 Truck Stops.
  - 381-8.28 Warehouses storing materials or products that are not primarily manufactured on site or used in the manufacturing process occurring on site or in the maintenance and operation of manufacturing facilities except for buildings constructed prior to the adoption of this District that were originally designed to be used primarily for warehouse use.
- 381-9 Change or Expansion of Existing Uses or Structures**
- A. Uses identified in Section 381-8 that were lawfully in existence at the time of adoption of Ordinance No. 418 are considered to be approved uses. However, because such uses are not considered to be transit-supportive, future

expansions of a lawfully existing use identified in Section 381-8 shall be limited in total to a maximum of twenty (20) percent of the gross floor area present at the time of the adoption of this District, upon findings that the proposed expansion complies with the development standards in this Code, including this Section, to the extent reasonably practicable. Where the use, design or configuration of an existing development makes it not reasonably practicable to apply a particular development standard or the applicant provides an alternative development proposal which equally or better meets the purpose of the particular development standard, the Review Authority shall waive the application of that standard.

- B. All other uses and structures that were lawfully in existence at the time of adoption of Ordinance 418 may be expanded upon findings that the proposed expansion complies with the development standards in this Section, to the extent reasonably practicable. Where the use, design or configuration of an existing development makes it not reasonably practicable to apply a particular development standard or the applicant provides an alternative development proposal which equally or better meets the purpose of the particular development standard, the Review Authority shall waive the application of that standard. Interior alterations of lawful existing structures shall not be subject to the standards of Sections 381-10 and 11.
- C. The provisions of this subsection do not apply to or authorize any change or expansion of an existing use or structure that is or becomes non-conforming due to regulation of the underlying district.

### **381-10 Minimum Density Requirements**

#### **381-10.1 Residential**

- A. Notwithstanding any contrary density standard in an underlying residential district, including residential districts with a lesser maximum density (i.e., the R-6 and R-9 Districts), the density of residential development within this district shall be the greater of:
  - (1) Seventy-five (75) percent of the allowed maximum density of an underlying residential district; or
  - (2) Twelve (12) dwelling units per acre for that portion of the District located within one-thousand three-hundred (1,300) feet of the proposed site of the light rail transit station boundary, and nine (9) dwelling units per acre for that portion of the District located beyond one-thousand three-hundred (1,300) feet from the proposed site of the light rail station boundary.

If more than fifty (50) percent of property in single or common ownership is located within one-thousand three-hundred (1,300) feet of the proposed station boundary all of the property in common ownership shall be developed at a minimum of twelve (12) dwelling units per acre. If less than fifty (50) percent of such property is located within the one-thousand three-hundred (1,300) foot radius, the minimum required density shall be nine (9) dwelling units per acre, provided however that if the area within the one-thousand three-hundred (1,300) foot radius is one acre or larger in size, that portion of

the property within the one-thousand three-hundred (1,300) foot radius shall develop at a minimum of twelve (12) dwelling units per acre.

- B. Section 381-10.1 A. shall not apply to development of one (1) detached dwelling on an existing parcel or lot as permitted pursuant to Section 381-8.8.
- C. The maximum density specified by Section 381-10.1 A. may be increased pursuant to the provisions of Section 381-11.1 G.

381-10.2 Non-residential

The floor area ratio of non-residential structures developed on lots or parcels in this district shall equal or exceed 1 to 2. For contiguous lots or parcels totaling at least five (5) acres in size that are jointly master planned for development in phases, this floor area ratio shall be achieved by the completion of the final phase of development. Pedestrian spaces shall count as floor area for the purpose of meeting the minimum floor area ratio requirement.

**381-11 Development Standards**

381-11.1 Site and Building Design

- A. If a building is adjacent to a transit street or a major pedestrian route at least one major building entry shall be oriented to the adjacent transit street and/or major pedestrian route. Upon provision of light rail service, this entrance shall remain open to the public during normal business hours.

B. Lot Area

The minimum area for new lots or parcels where the primary district is any residential district shall be twenty-thousand (20,000) square feet. No partitioning or subdividing to less than twenty-thousand (20,000) square feet is permitted except when it is demonstrated that the subdivision or partitioning will occur so as not to preclude complete development of the site at the minimum density specified by Section 381-10.1.

C. Yard Requirements

Except as necessary to comply with Section 418-3, or where the applicant demonstrates and the Review Authority finds that larger yards are needed to mitigate noise and vibration impacts of transit operations, the yard requirements of this district shall be:

- (1) In a residential district:
  - (a) Minimum ten (10) foot frontage yard setback;
  - (b) Maximum fifteen (15) foot frontage yard setback;
  - (c) No minimum interior yard except as necessary to comply with the screening and buffering standards of Section 411 and the standards

ARTICLE III: LAND USE DISTRICTS  
381 - INTERIM LIGHT RAIL STATION AREA OVERLAY DISTRICT

of the Uniform Building Code or the CABO (Conference of American Building Officials) Code, whichever is applicable; and

- (d) Minimum eighteen (18) foot setback yard to garage vehicle entrance.

In residential subdivisions platted at the time of adoption of this district the yard requirements of the underlying district shall apply.

- (2) In a nonresidential district:
- (a) Minimum five (5) foot frontage yard setback on a street if there is less than ten (10) feet between the ultimate street curb location and the lot line;
  - (b) No required frontage yard if there is at least ten (10) feet between the ultimate street curb location and the lot line, or if the frontage is on a public right-of-way or easement for public travel other than a street;
  - (c) In the Office Commercial District and the Community Business District there shall be a maximum ten (10) foot frontage yard setback for at least fifty (50) percent of the frontage of a building adjacent to a public street or major pedestrian route (pedestrian space shall be considered part of the building);
  - (d) No minimum interior yard, except as necessary to comply with the screening and buffering standards of Section 411 and the standards of the Uniform Building Code.
- D. (1) Off-street surface parking shall not be located between an adjacent building and a major pedestrian route, a transit street or a light rail transit station site, except as specified by Section 381-11.1 D. (2) or (3).
- (2) If a building is adjacent to more than one of the facilities described in Section 381-11.1 D. (1), the Review Authority shall approve off-street surface parking between the building and one of the facilities and waive the maximum yard setback provisions of Sections 381-11.1 C. (1) and (2). In determining where off-street surface parking shall be allowed in this situation, the following order of pedestrian access priority shall be given to facilities:
- (a) LRT transit station platforms
  - (b) Major pedestrian routes with direct access to an LRT station
  - (c) Transit streets
- (3) Off-street surface parking for campus development within the Industrial and Institutional districts may be located between an adjacent building and a major pedestrian route, a transit street or a light rail station site upon finding that:

- (a) Identified pedestrian ways are provided to connect each building within the campus area and to directly connect the building complex to the most appropriate transit street(s) and/or major pedestrian route(s); and
  - (b) All pedestrian ways between the building complex and adjacent transit facilities shall:
    - (i) Comply with Section 381-11.3 C.;
    - (ii) Be clearly identifiable to a pedestrian through measures such as signage;
    - (iii) Be lighted; and
    - (iv) Be as short as reasonably practicable.
- E. Exterior building walls facing and adjacent to a major pedestrian route shall contain windows covering at least fifty (50) percent of the length and twenty-five (25) percent of the face area of the ground floor level. Ground level wall areas include all exterior wall areas up to nine (9) feet above the finished grade. This requirement shall apply only to non-residential development within the Office Commercial and Community Business districts.
- F. The permanent outdoor display and storage of materials and equipment by commercial uses shall be prohibited. Signs, outdoor seating for restaurants and pedestrian-oriented accessory uses, such as flower, food or drink stands, are exempt from this requirement.
- G. Notwithstanding Sections 404-4 and 435, residential densities and nonresidential building height may be increased up to twenty-five (25) percent, in exchange for pedestrian space, mixed development within the parameters of the underlying district, or parking in a structure or underground.

#### 381-11.2 Landscape Design

- A. Notwithstanding the minimum landscaping requirements of Section 407 of this Code, the minimum landscaping requirements for development in this district shall be ten (10) percent of the buildable land area for non-residential development and fifteen (15) percent of the buildable land area for residential development. Exterior pedestrian spaces shall be allowed as a substitute for fifty (50) percent of the required landscaping in areas adjacent to major pedestrian routes.
- B. Trees shall be planted along uncovered pedestrian ways connecting building entrances to a transit street or major pedestrian route. The trees shall be planted at appropriate intervals to provide continuous shade when trees reach maturity.

#### 381-11.3 Circulation and Access

- A. Pedestrian ways shall be provided to connect building entrances to the nearest transit street(s) or major pedestrian route(s), or both if practicable.

- B. Driveways shall not intersect with pedestrian ways from a transit street or major pedestrian route to a building, unless no practicable alternative exists.
- C. All pedestrian ways that pass through an automobile parking lot shall be separated from the automobile parking area by grade, different paving material, or landscaping. Walkways on private property shall be at least five (5) feet in paved, unobstructed width.

**381-11.4 Parking**

- A. Off-street parking spaces developed for uses on lots or parcels in this district shall comply with the provisions of Section 413 (Parking and Loading).
- B. Applications for development within this district shall address shared parking opportunities pursuant to Section 413-2.9 of the Community Development Code.

**381-12**

- A. Where the light rail right-of-way divides a campus development in single ownership into two portions, where both a light rail station and a park-and-ride lot are to be located within that campus development in Tri-Met's final land use order, and where that campus development has an industrial land use designation and employs more than three-thousand seven-hundred (3,700) people on-site, the standards in Section 381 shall not apply to development proposed within that portion of the campus development containing the larger proportion of the gross square footage, provided that:
  - (1) The portion of the campus development containing the larger proportion of gross square footage retains an industrial land use designation;
  - (2) The proposed development, including new development, expansion of existing development or conversion of existing development to other uses, is permitted under the provisions of the industrial designation;
  - (3) The proposed development does not involve retail commercial or residential uses; and
  - (4) The number of employees working on-site at the campus development is at or above three-thousand seven-hundred (3,700) people at the time of the proposed development, and the proposed development will not result in a reduction in the number of employees working on-site below three-thousand seven-hundred (3,700) people.
- B. Proposed development within that portion of the divided campus development containing the lesser proportion of gross square footage shall comply with the applicable standards in Section 381.

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

**SUBJECT:** An Ordinance Amending Chapter 2 of the Beaverton City Code to Adopt Procedures for Reviewing Candidate Statements in City Voter's Pamphlet.

**FOR AGENDA OF:** 8-20-07 **BILL NO:** 07184

**Mayor's Approval:** 

**DEPARTMENT OF ORIGIN:** City Attorney 

**DATE SUBMITTED:** 8-07-07

**CLEARANCES:**

**PROCEEDING:** First Reading

**EXHIBITS:** Ordinance  
Minutes dated 4/16/2007 and  
Minutes dated 7/23/07

**BUDGET IMPACT**

<b>EXPENDITURE REQUIRED\$0</b>	<b>AMOUNT BUDGETED\$0</b>	<b>APPROPRIATION REQUIRED \$0</b>
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**HISTORICAL PERSPECTIVE:**

The City Charter, Chapter VI, Section 30, provides that "if there is a material misstatement of fact published in the city voter's pamphlet which was submitted by or in behalf of a person nominated or elected to the council, the nominations or election of that person is nullified." During the last election, questions arose on how to interpret this section and what procedures would the City use to review a claim. The Council directed the City Attorney to draft an ordinance for its review. The Council held work sessions on April 16 and July 23, 2007. The minutes from those work sessions are attached. Councilor Doyle asked about why this provision was added to the Charter. City Recorder and Attorney reviewed the 1986 Charter Review Committee's discussion of this section. The Charter Review Committee was presented with a series of questions. One of which was "should Charter provide for penalty in case of candidates' inadvertent or deliberate misstatements in voter's pamphlet regardless of source?" They answered negatively and proposed the existing language. There was little discussion about this section and no discussion about why this section was added. Former Councilor Forrest Soth stated that the Council needed to "police itself." There was a brief discussion about changing the wording from "significant" to "material" misstatement of fact and the authority of the Council to nullify elections.

**INFORMATION FOR CONSIDERATION:**

At the work sessions, the Council discussed two different versions of the ordinance. Both versions required signed statements as to the truthfulness of the materials and both authorize the City to obtain information from third parties. In both versions, the City can make the final decision as to whether the election or nomination was nullified. The first version provided that the City Council made the determination as to whether there was a "material misstatement of fact." The second version had the circuit court make that factual determination. The circuit court process is the same process that is described in state law and used across the state. Although there were differences of opinion, the majority favored the second version (attached) wherein the circuit court makes the determination as to whether there was a material misstatement of fact. The City will still conduct its own research and citizens can still ask that this be done. It is likely that if the City adopted the first version wherein the Council made the decision, any decision made under this ordinance would be appealed to circuit court. The circuit court could then overturn the City's decision. It is the intent that the attached version should speed up the process and limit the amount of time that an election is in doubt.

**RECOMMENDED ACTION:**

First Reading.

**Agenda Bill No:** 07184

AN ORDINANCE AMENDING CHAPTER 2 OF THE BEAVERTON CITY CODE  
TO ADOPT PROCEDURES FOR  
REVIEWING CANDIDATE STATEMENTS IN  
CITY VOTER'S PAMPHLET.

WHEREAS, a candidate for public office in Oregon may discuss his or her qualifications and background in a public circular known commonly as the voter's pamphlet; and

WHEREAS, the Charter of the City of Beaverton provides that the City shall publish a voter's pamphlet for any primary, general, or special election; and

WHEREAS, Chapter VI, Section 30.B of the Charter also authorizes the Council to verify a claim that a candidate or official stood for election upon a material misstatement in the voter's pamphlet, and further provides that Council shall remove a person from office upon so finding; and

WHEREAS, a voter's pamphlet misstatement submitted by a candidate or on behalf of a candidate being a matter of citywide importance, it is appropriate to create a public process for the consideration of such a misstatement; now, therefore,

BE IT ORDAINED BY THE CITY OF BEAVERTON:

**Section 1.** The Beaverton Code is amended in Chapter 2 by adding the following sections.

2.06.487 Voter's pamphlet submission requirements. To accept a statement for publication in the voter's pamphlet, whether submitted by the candidate or on behalf of a candidate:

1. The candidate shall sign an affidavit that attests to the truthfulness of the voter's pamphlet submission statement.
2. The signed statement in subsection (1) shall also contain a provision that the candidate agrees to provide supporting information if requested by the City, and shall release and authorize third parties to participate in an investigation under this ordinance.

2.06.488 A candidate who makes a material misstatement of fact in a City voter's pamphlet is subject to civil and criminal causes of action as found in ORS 260.532 and ORS 260.715.

2.06.489 If the circuit court enters a judgment finding that a candidate has made a material misstatement of fact published in the City's voter's pamphlet, the City Council may nullify the election or nomination of that person.

**Section 2.** This ordinance is not intended to displace any other civil or criminal remedy allowed under law.

**Section 3. Severability.** If any part of this ordinance should be determined by any tribunal of competent jurisdiction to be unconstitutional, the remaining parts of the ordinance shall remain in full force and effect.

First reading this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

Passed by the Council this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

Approved by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

ATTEST:

APPROVED:

\_\_\_\_\_  
SUE NELSON, City Recorder

\_\_\_\_\_  
ROB DRAKE, Mayor

Mayor Drake closed the public hearing.

Coun. Doyle MOVED, SECONDED by Coun. Bode, that Council deny the claim for compensation and grant the limited waiver of the Development Code as identified in the staff report attached to Agenda Bill 07064, Harmony Investments Ballot Measure 37 Claim for Compensation M37 2006-0003. Couns. Arnold, Bode, Doyle and Stanton voting AYE, the MOTION CARRIED unanimously. (4:0)

RECESS:

Mayor Drake called for a brief recess at 7:16 p.m.

RECONVENED:

Mayor Drake reconvened the meeting at 7:26 p.m.

WORK SESSION:

07076 Ordinance to Adopt Procedures for Reviewing Candidate Statements in City Voters' Pamphlet

Rappleyea explained that last year there was an issue about how to interpret Chapter VI, Section 30.B of the City Charter. He said that Charter section stated that the City shall prepare a voter's pamphlet and if the Council found that there was a material misstatement of fact published in the voter's pamphlet which was submitted by or in behalf of a person nominated or elected to the Council, the nomination or election of that person would be nullified. He said staff had to determine how to apply this section of the Charter.

Rappleyea said he drafted a proposed ordinance that was distributed to Council last month for review (attached to Agenda Bill 07076). He said last Friday he developed a second draft of the ordinance which he distributed to Council (in the record). He reviewed both versions of the ordinance. He said the first draft provided a detailed procedure about how the Council would hear the matter of a misstatement and make a determination; it would follow the Constitutional due process and would ensure that all rights would be protected. He said as he thought more about the issue he realized this could be a difficult matter as it could involve a challenge to an incumbent Councilor and the other Councilors would have to make a decision about a fellow Councilor.

Rappleyea said because of the reasons previously stated he prepared a second draft ordinance whereby a candidate who makes a false statement in the voter's pamphlet would be subject to civil and criminal causes of action found in ORS 260.532 and ORS 260.715 (in the record). He said ORS 260.532 provides that a challenge to a voter's pamphlet statement would be handled in Circuit Court; ORS 260.715 provides the District Attorney a potential criminal cause of action because a false statement was made under oath under the City's election laws. He said this would provide a strong incentive for candidates to be careful in their voter's pamphlet statement. He said the remedy for both ordinances was that the election would be nullified.

Mayor Drake confirmed with Rappleyea that the City Charter currently calls for the removal of a candidate but there was no procedure provided in the City Code. He said that by adopting an ordinance there would be a direct link with State law. He said the second draft would remove the Council from having to take all of the action and the challenger would need to go to Circuit Court and rely on the City Code as the authority to take that action.

Rappleyea said in the second draft ordinance the initial decision would be made by the judge and the final decision to nullify the election would be made by the Council. He said that was also in agreement with the Charter.

Coun. Stanton said on the face of it going to Circuit Court looked fine; however, a citizen would not be able to go to the Council to register their complaint which would be easier and less costly. She said Circuit Court would be costlier and could take more time. She said the Circuit Court makes more sense except that this is a local issue and not of the same magnitude as a Federal or State election law violation. She asked what would be the cost to go through Circuit Court.

Rappleyea said the first ordinance was more hands on; the City handles the investigation and makes the decisions. He said there would be a cost to file the complaint and the cost for staff time to handle the matter would be substantial. He said the cost for going to Circuit Court was a \$360 filing fee and cost for attorneys. He said under the first ordinance where the investigation was handled by the City, the City would end up as the defendant in Circuit Court. He said under the second ordinance, the aggrieved person would file in Circuit Court and would face the candidate; the City would be the final arbitrator of the result of the case.

Coun. Stanton asked if someone challenged her voters' pamphlet statement and took it to Circuit Court would she be covered by the City under CCIS.

Rappleyea replied that he doubted she would be covered for that would not be within the scope of the insurance.

Coun. Stanton said she was concerned about making this a civil matter because she felt the Council could better determine a material misstatement of fact rather than a judge.

Coun. Bode said the ordinance did not preclude a candidate from submitting written proof for the statements in the voter's pamphlet at the time of filing.

Rappleyea said that was correct.

Coun. Arnold said that she thought of this ordinance as a deterrent so that candidates would know they were liable for false statements. She asked if there was a way the City Attorney could screen a complaint to see if it was legitimate. She said she had a false claim filed against her during the election and candidates should not have to be subjected to that.

Mayor Drake said that one concern was that under the City Charter the Council appoints and removes the city attorney and municipal judge. He said if someone accused a sitting City Councilor of a material misstatement, then that would put the city attorney in a difficult spot of having to challenge his employer.

Coun. Arnold said she thought that would be moving in grayer territory. She said she was trying to prevent outrageous claims.

Coun. Stanton said material misstatement of fact was in the Charter and was easy to determine versus a simple mistake such as a wrong date. She said she did not want to send a person to Circuit Court if a fact could be easily verified. She said she was not comfortable with shifting the responsibility from the City Council to the legal system.

Rappleyea said the second ordinance (Circuit Court) was how the counties or State handled such matters; it was not an unusual process. He said there was a provision for recovery of attorney fees in the case of bogus claims.

Coun. Bode said she was leaning toward having it go to Circuit Court; for she did not want to put the city attorney in the position of having to challenge one of the Councilors. She said it was more likely that such claims would deal with a substantial issue and should be handled in Circuit Court.

Coun. Stanton added that nothing being considered under this matter would preclude someone from filing a complaint with the Secretary of State's Office.

Coun. Arnold said she could not see that a city attorney's job would be in jeopardy for something as straight forward as a material misstatement of fact.

Coun. Bode said it would not be possible to predict what would happen in the future. She said it would not be possible to know what future elections would be like; would accuracy be a priority or would it be viewed as micro-management of elections. She said that should be considered.

Coun. Stanton read from Section 2.05.487.2 of the Circuit Court ordinance which provided that *"a signed statement attesting to the truthfulness of the voter's pamphlet submission statement, shall also contain a provision that the candidate agrees to provide supporting information if requested by the City and shall release authorized third parties to participate in an investigation under this ordinance."* She asked if that meant that though this would go to Circuit Court, the City still wanted to make a determination if there was a material misstatement.

Rappleyea replied that was correct; that would still allow the City to obtain the information needed to make a determination.

Coun. Stanton said that relieved her concerns about the Circuit Court, for Council would be able to look at the information available and make a determination if there was a material misstatement separate from the Circuit Court.

Rappleyea said that was possible but it would not preclude the Circuit Court from acting. He said the City would be able to obtain the information and provide it to the parties who requested it.

Mayor Drake said the safest solution politically and from a hands-off position, so the Council would not be investigating one of its own members, was the Circuit Court. He said it was the safest solution for it would take it out of the Council's hand and would not be political. He said the other side was that though it was consistent with the County process, the process could look daunting to a citizen if they could not start locally. He said if someone had done something wrong, a citizen should have the opportunity to address the Council. He added the Council was available almost every Monday evening; a citizen would not have to go far to access the Council and cost would be limited. He said going to the County or the State was a bigger hurdle. He advised the Council could take more time to think about the issue; the ordinance could be brought back later. He said Coun. Dalrymple may have comments to submit. He said the Council's best asset was that it was always available to its citizens and he did not want to lose that.

Coun. Bode said she did not think the Circuit Court ordinance precluded a citizen from going to the City and questioning a statement. She said the City could still check the validity of the statement.

Mayor Drake said he wanted to be sure that it would not be too hard for people to access information and that it would be addressed publicly.

Coun. Bode said regarding the \$360 cost to file in Circuit Court, it currently costs \$350 for candidates to submit a statement into the Washington County Voter's Pamphlet and the City had a separate cost for its own pamphlet.

Coun. Doyle said he needed to reflect further on the ordinance. He agreed that Section 2.05.487.2 of the Circuit Court ordinance would allow citizens to bring this issue to Council and it would allow the City to obtain information to determine if there was a material misstatement. He agreed that it was important that citizens could have access to the Council on such matters. He said unless the issue went to Circuit Court he would not support the ordinance. He said the Council should not be judging its own members or an opposing candidate.

Rappleyea said this could be brought back to Council in a month or so.

Coun. Stanton said she wanted additional time for review. She said per the City Charter it was the Council's responsibility to determine if there was a material misstatement of fact. She said she liked the rebuttal presumption that was in the first draft ordinance (Section 2.06.486), except that the last sentence "*The burden rests with a challenger to the veracity of a fact to overcome this presumption*" negated the signed statement that allowed for supporting information and investigation. She said she was not sure how the two balanced. She said she also liked the section in the first draft ordinance on the verification of facts. She said she wanted the policy without the constraint of saying that the burden rests with the challenger and at the same time the candidate has to provide the proof.

Rappleyea said that was how due process hearings were setup; the presumption of innocence means the challenger has to prove that a statement is false.

Coun. Stanton noted that last year a citizen with specific knowledge challenged a candidate (not Coun. Arnold); there was no way that anyone other than the candidate could obtain the information and the candidate chose not to do so. She asked how she could challenge someone if she could not access the information and the candidate refused to do so. She said that going to Circuit Court would not help in that situation.

Rappleyea said that the language in the submission requires a signed statement authorizing a third party to access information. He said that statement could be submitted to an outside organization for release of information. He said the City did not have that statement when this occurred last year.

Coun. Arnold asked how long it would take to go through the Circuit Court route and if it was found that an incumbent made a material misstatement would they be required to give up their Council seat.

Rappleyea replied that if there was a material misstatement, the Council could then remove the person. He said the Circuit Court might do this on its own, but if it did not then the Council could. He said the City could request an expedited review and the court would probably agree because this was an election matter. He said his experience was that election disputes are handled quickly by the courts.

Coun. Stanton confirmed with Rappleyea that the City Charter section regarding material misstatement applies only to the voter's pamphlet.

Mayor Drake said this would be brought back in about a month.

Coun. Arnold confirmed with Rappleyea that this would only affect current elections.

#### ORDINANCES:

Second Reading:

Rappleyea read the following ordinance for the second time by title only:

07073 An Ordinance Amending Beaverton Code Section 8.02.015(A) and Repealing a Portion of Beaverton Code Section 8.02.015(E) and Declaring an Emergency. (Ordinance No. 4434)

Coun. Doyle MOVED, SECONDED by Coun. Bode, that the ordinance embodied in Agenda Bill 07073 now pass. Roll call vote. Couns. Arnold, Bode, Doyle and Stanton voting AYE, the MOTION CARRIED unanimously. (4:0)

#### ADJOURNMENT:

Coun. Bode said she would support Coun. Stanton and not support the motion. She said transparency in what the Council does was important and she saw no particular need to change the process.

Question called on the motion. Couns. Bode, Dalrymple, Doyle and Stanton voting NAY, the MOTION FAILED unanimously. (0:4)

Coun. Stanton said if the City Attorney wanted to resubmit this issue with a different limit on the funding and an explanation as to why it would be valuable, including data on what a break point would be from the last two years, she would be pleased to review it.

RECESS:

Mayor Drake called for a brief recess at 7:50 p.m.

RECONVENED:

Mayor Drake reconvened the meeting at 8:05 p.m.

WORK SESSION:

07157 Ordinance to Adopt Procedures for Reviewing Candidate Statements in City Voter's Pamphlet

Rappleyea said the proposed ordinance would adopt procedures to enforce City Charter provisions that require that if there was a material misstatement of fact in the Voters' Pamphlet that the City Council would nullify the election. He said the Council previously considered two versions of a proposed ordinance; in the first version the Council would make the determination if there was a material misstatement of fact and in the second version the Circuit Court would make that decision. He said the reasoning behind the second version was that something as important as nullifying an election would go to Circuit Court anyway and the Court would be able to handle the factual determination regarding a misstatement of fact for the Court was familiar with that process and standard, making this a more efficient process. He said the Council would make the final determination on the nullification of the election. He said the County and State used the Circuit Court process for misstatements in their voters' pamphlets.

Coun. Doyle noted that the Charter requires that if someone questions the statements in the Voters' Pamphlet, that the Council has to act upon that concern. He added if the Council did not approve this ordinance, Council would still have to meet the Charter requirement to act on this matter.

Rappleyea confirmed that was correct and said with this ordinance they were trying to avoid an ad hoc decision.

Coun. Doyle asked if the Charter provision to nullify an election was commonplace in all city charters.

Rappleyea said it was an uncommon provision and he had not seen it in any other charter. He said that was why the proposal was to mirror State law and follow this through State statute.

Coun. Doyle asked if there was any historical documentation to show why this was in the Charter, since it was not common place.

Rappleyea said there was some discussion about that but he did not recall the details and the record was not explanatory. He said he read old city council minutes regarding this issue but they had not shed much light on the matter.

Coun. Doyle asked what other cities do in this situation.

Rappleyea said if it was from the County Voters' Pamphlet the State law was followed (ORS 260.532, False Publications Regarding a Candidate Measure and 260.715, Publications Related to Voting a Ballot). He said these State statutes were cited in the proposed ordinance as a remedy. He said there was nothing under the City election laws that states false statements cannot be made; the proposed ordinance provided a remedy in that it requires an affidavit swearing to the truth of the statements.

Coun. Doyle asked if they could remove that section from the City Charter and indicate the City would follow State law.

Rappleyea replied that they could do that, for the Circuit Court has the ability to nullify an election. He said if the City did not have this Charter provision and someone wrote a false statement in the Voters' Pamphlet, a citizen could file a Circuit Court action stating a false statement was made in the pamphlet and requesting that the election be nullified.

Coun. Doyle said he was struggling with the fact that the City was unique in this matter and he did not want to stand out for this reason. He said perhaps the Council should consider coming in line with everyone else.

Coun. Dalrymple said he would support Coun. Doyle's suggestion of coming in line with the State regulations in relationship to what other local cities do. He said he would not support this ordinance for he felt it was the result of an emotionally charged period. He said he thought if it were a different time, the Council would not have discussed this issue. He said he would not support this document; however, he would consider supporting Coun. Doyle's position.

Coun. Bode asked for clarification of Coun. Doyle's position.

Coun. Doyle said his position was to remove that section from the Charter so that the City would follow the normal litigated practice that has been established by the State.

Coun. Bode reviewed the history of how this issue evolved through a citizen's request. She said she was not certain that the Council should make a decision to remove a section from the Charter when this topic was initiated by a citizen and it was not a County-wide concern; it was a City concern.

Coun. Stanton asked how this section was written into the Charter and if Beaverton was the only city in the state that has this provision.

Rappleyea replied that he researched this issue when the matter was first raised and the information available did not shed any light on why this provision was placed in the Charter. He said he checked with his professional network and with the League of Oregon Cities and no one had any experience with this provision.

Coun. Stanton suggested that in the future the Council should discuss establishing a Charter review committee. She reviewed how this matter came before Council and noted this was the second work session the Council has had on the proposed ordinance. She said her position had not changed from when this was first considered in April 2007 and she was still not comfortable with having the matter go to Circuit Court because this was the Council's responsibility. She said this ordinance may be more than what was needed but she liked the idea of a signed statement by the candidate agreeing to provide supporting information if requested.

Coun. Bode asked if the supporting information would be submitted when and if there was a question about a possible misstatement.

Rappleyea confirmed that was correct; staff would request that documentation only if a complaint was received regarding a misstatement in the Voters' Pamphlet.

Mayor Drake said this was an interesting conversation and each Councilor had a unique perspective. He said the City embarked in a different direction in 1980 when the community elected a strong mayor form of government and the Charter was changed. He said Beaverton had always been a unique community. He said Beaverton has Home Rule Authority; the State allows the City to adopt its own rules and ordinances as long as they do not abridge or circumvent State law. He said the Charter provision regarding misstatements in the Voters' Pamphlet dealt with creating a false perception of a candidate and candidates should be held accountable for their statements. He said he was comfortable with that provision because it was a strong statement by the Beaverton voters in 1980; they wanted the elected officials to be honest.

Mayor Drake said he understood everyone's comments, but he questioned what would happen if at some point if State law was watered down and not as strong as the citizens wanted it to be. He said that was why he was comfortable with the Charter provision and why he disagreed with the Councilors. He said that Charter provision was important and it was a strong statement. He said in the first draft of the ordinance, the Council was the judge and jury; that was awkward because the Council hires the City Attorney and it would not work well if the City Attorney had to investigate a sitting Councilor. He said he was comfortable with this provision and the ordinance, for if a statement was false a citizen would have an official means to present their concerns and this was a statement that the citizens want their elected officials to be a "notch above." He said he saw nothing wrong with the citizens making this important statement in the Charter. He said he would not vote unless there was a tie, and if there was a tie he would support this second version to default to State law after making a statement.

Coun. Bode asked Mayor Drake to explain the process for a Charter change.

Mayor Drake said citizens can initiate a Charter change through a petition process or Council can refer a Charter change to the voters. He said Charter provisions can only be considered in General Elections and November 2008 was the next General Election.

Rappleyea confirmed that was correct.

Coun. Bode said as an elected official, to be true to the community she did not feel she could take any other position than to support the requirement that candidates sign the form agreeing to provide proof of accuracy of their candidate's statement.

Coun. Doyle said he felt there was a problem in the current Charter with this provision because the sitting Council would serve as judge and jury, and he felt that was the categorically incorrect way to solve this problem. He said he would consider going forward with the ordinance that would take this to the Circuit Court (second version of the ordinance). He said he felt the Council had to fix this flaw.

Coun. Stanton said that any citizen who had a concern regarding a misstatement, would bring that to Council. She said from previous discussions she thought the Council would not pursue this matter in Circuit Court; that would be done by the person who filed the complaint. She said she thought because of the Charter provision, that Council would consider this first and could make a determination if the statement was true. She asked if the matter would then go to Circuit Court.

Rappleyea said the Council could make a determination as to whether there was a material misstatement of fact, but to nullify an election and remove someone from office, the Circuit Court would have to make a ruling that it was a material misstatement of fact. He said this was required by the ordinance. He said without the ordinance the Charter would stand as is and Council would make the determination of what was a material misstatement of fact, including due process with hearings, notice, etc. He said it was a fairly elaborate process as noted in the first version of the ordinance.

Coun. Stanton said she still felt the Council has to make a determination.

Rappleyea added that the ultimate decision of whether or not a person would be removed from office would have to be made by the Council per the Charter. He said the Circuit Court could make the determination that there was a material misstatement of fact through a court hearing and then the Council would still have to make the determination regarding removing that person from office. He said the Circuit Court could nullify an election under State law.

Coun. Dalrymple said he was leaning toward using the current Charter provision and he was fine with adopting an affidavit for signature. He said he would want honesty and he felt there was nothing wrong in asking candidates to sign a statement saying that they would tell the truth. He said beyond that he was not willing to support this ordinance.

Coun. Doyle said the affidavit was a critical piece in running for office and he was comfortable with that section. He said the rest of the ordinance was procedural in nature and he was not sure what was being discussed in terms of process.

Rappleyea said the process was that a person could file a request for information regarding a material misstatement of fact; the City would obtain that information, give it to the individual filing the complaint and they could take it to Circuit Court. He said that was the intent and that was how it was handled at the County and State level. He said that still gave the City sufficient flexibility if it wished to make its own determination. He repeated that the ultimate decision on a material misstatement of fact was the Circuit Court and the Council would make the decision regarding nullification of an election. Mayor Drake said there could be a time when a Councilor would want to keep distant from this decision; if an incumbent Councilor was defeated by a candidate who made a false statement that Councilor would have a vested interest in proving or disproving that fact. He said the Circuit Court would provide that distance for the Councilor and staff, and would ultimately determine if the statement was truthful; it could also nullify the election if needed. He said the Council could keep the strong statement that it wants integrity but the process provided the person follow through on their complaint so they could take this to court. He said this would keep the Council sanitized and would protect the City Attorney.

Coun. Doyle said Section 1 was the heart of the current discussion; Sections 2 and 3 were legal language. He said he thought the Council was saying that it wished to add a little more tooth to what the City currently has, and not require a Charter amendment.

Rappleyea said he thought Section 1 of the ordinance would be a great deterrent, especially the provision for the affidavit.

Coun. Doyle said he was comfortable with the ordinance before the Council.

Coun. Bode said she agreed with Section 1. She asked for clarification on Sections 2 and 3.

Rappleyea said Section 2 stated this ordinance would not displace any other legal remedy available to a citizen. He said Section 3, the Severability Clause, provided that if any part of the ordinance was found to be unconstitutional, the rest of the ordinance would still be valid.

Coun. Bode said she would support this ordinance.

Coun. Stanton asked if Sections 2.06.488 and 2.06.489 had to be in the ordinance.

Rappleyea explained that Section 2.06.488 was important for it stated that under ORS 260.715 a person may not make a known false statement under oath or affidavit when it was required by election laws. He said if Section 2.60.489 was removed then the Charter provision that the Council makes the ultimate decision would be unstated.

Coun. Stanton noted under Section 1 there were subsections 2.05 and 2.06 and she asked staff to check on the numbering. She asked if Section 260.489 could be removed.

Rappleyea said that would leave *unstated* who would make the determination of material misstatement of fact. He said that meant someone could demand that the Council make that determination since it is required by the Charter. He said the intent was that the next time this issue arose, there would be clear direction on where people would go in

the process. He said if it was removed staff would have to ask Council if it wanted to make the determination or if there was an alternate preference.

Mayor Drake said this would put the Council back in the same loop that occurred last year. He said leaving this out would require going through several hoops to get back to Council, including determining material misstatement.

Coun. Stanton repeated she felt this was her responsibility as an elected official.

Coun. Bode said this could involve an incumbent Councilor and that would create the conflict with the Council and City Attorney. She said having the Circuit Court rule on the material misstatement of fact provided the needed separation. She said she agreed with how the ordinance was written.

Coun. Stanton said when the Charter was revised citizens wanted the Council to make that determination rather than having to pay to go to Circuit Court.

Coun. Bode said that if a citizen brought an issue as serious as this to Council, the Council had the option to take it to Circuit Court. She said that could be preferable.

Coun. Doyle said he was comfortable with that section for it provided neutral judgment with full due process. He said without that provision, the ordinance was flawed.

Coun. Bode MOVED, SECONDED by Coun. Doyle, that the proposed draft ordinance to adopt procedures for reviewing candidate statements in the City's Voters' Pamphlets come back to Council in the form of an ordinance for first reading within a month or so.

Coun. Dalrymple asked what ORS 260.532 referred to.

Rappleyea explained that ORS 260.532 prohibited false publications relating to a candidate or measure and provided for damages. He said that was not limited to the voters' pamphlet but included any advertising media. He said that section also provided the authority for the Circuit Court to make the determination that an election was null and void. He confirmed for Coun. Dalrymple that the Charter does not refer to any of the ORS sections cited in the draft ordinance.

Mayor Drake said the flaw in the Charter was that there was no vehicle for this action.

Coun. Stanton said she would not support the motion and she read from the Beaverton Charter the Section 30.B that stated that if the Council found there was a material misstatement of fact that the nomination or election of that candidate was nullified. She said this was put in the Charter by citizens who wanted the Council to make that determination. She said she saw no compelling reason for moving this from the City into Circuit Court where it would cost a minimum of \$360. She said a person should not have to go to Circuit Court when they have recourse through the City Council.

Question called on the motion: Couns. Bode, Doyle and Mayor Drake voting AYE, Couns. Dalrymple and Stanton voting NAY, the MOTION CARRIED. (3:2)

Mayor Drake noted this was the fourth time he had voted in 15 years as Mayor.

**AGENDA BILL**

**Beaverton City Council  
Beaverton, Oregon**

~~-08/13/07~~ 08/20/07

**SUBJECT:** An Ordinance Amending Ordinance No. 4187, Figure III-1, the Comprehensive Plan Land Use Map to Apply the City's Neighborhood Residential Standard Density (NR-SD) Plan Designation and Ordinance No. 2050, the Zoning Map to Apply the City's R-7 Zone to Property Located at 12730 SW Fairfield Street; CPA2007-0013/ZMA2007-0013

**FOR AGENDA OF:** ~~07/09/07~~ **BILL NO:** 07150

**Mayor's Approval:** [Signature]

**DEPARTMENT OF ORIGIN:** CDD [Signature]

**DATE SUBMITTED:** 07/02/07

**CLEARANCES:** City Attorney AKR  
Planning Services HTB

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

**EXHIBITS:** 1. Proposed Ordinance with Exhibit A  
2. Staff Report

**BUDGET IMPACT**

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

The property located at 12730 SW Fairfield Street shown on Exhibit "A" was annexed under Ordinance No. 4421 in March 2007 and is being redesignated in this ordinance from the County's R-5 land use designation to the closest corresponding City designations under the terms specified in the Washington County - Beaverton Urban Planning Area Agreement (UPAA).

**INFORMATION FOR CONSIDERATION:**

The UPAA is specific as to the appropriate Land Use Map and Zoning Map designations that are to be assigned to the property. Discretion is not necessary in this case under the terms of the agreement. Per the agreement, the appropriate Land Use Map designation for the subject parcel is Neighborhood Residential-Standard Density (NR-SD) and the appropriate Zoning Map designation is Urban Standard Density Residential (R-7). Under the terms of the Comprehensive Plan and the Development Code, these amendments can be processed through a non-discretionary process which does not require a public hearing.

This ordinance makes the appropriate changes to Ordinance No. 4187, Figure III-1, the Comprehensive Plan Land Use Map and Ordinance No. 2050, the Zoning Map.

**RECOMMENDED ACTION:**

~~First Reading~~  
Second Reading and Passage

**ORDINANCE NO. 4444**

AN ORDINANCE AMENDING ORDINANCE NO. 4187, FIGURE III-1, THE COMPREHENSIVE PLAN LAND USE MAP AND ORDINANCE NO. 2050, THE ZONING MAP FOR A PROPERTY LOCATED AT 12730 SW FAIRFIELD STREET; CPA2007-0013 / ZMA2007-0013

- WHEREAS,** The property was annexed to the City of Beaverton under Ordinance 4421 and is being redesignated in this ordinance from the County's land use designation to the closest corresponding City designations in accordance with the Washington County - Beaverton Urban Planning Area Agreement (UPAA); and
- WHEREAS,** Since the UPAA is specific on the appropriate Land Use Map and Zoning Map designations for this parcel, this is not a discretionary land use decision, and no public hearing is required; and
- WHEREAS,** The Council incorporates herein by reference the Community Development Department staff report on CPA2007-0013/ZMA2007-0013 by Associate Planner Jeff Salvon, dated July 2, 2007 ; now, therefore,

**THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:**

- Section 1.** Ordinance No. 4187, (Figure III-1) the Comprehensive Plan Land Use Map is amended to designate the subject property as shown on Exhibit "A", located at 12730 SW Fairfield Street, Neighborhood Residential-Standard Density (NR-SD) in accordance with the Washington County – Beaverton Urban Planning Area Agreement (UPAA).
- Section 2.** Ordinance No. 2050, the Zoning Map, is amended to zone the same property specified in Section 1, as shown on Exhibit "A", Urban Standard Density Residential (R-7) in accordance with the UPAA.

First reading this 13th day of August, 2007.

Passed by the Council this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

Approved by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

ATTEST:

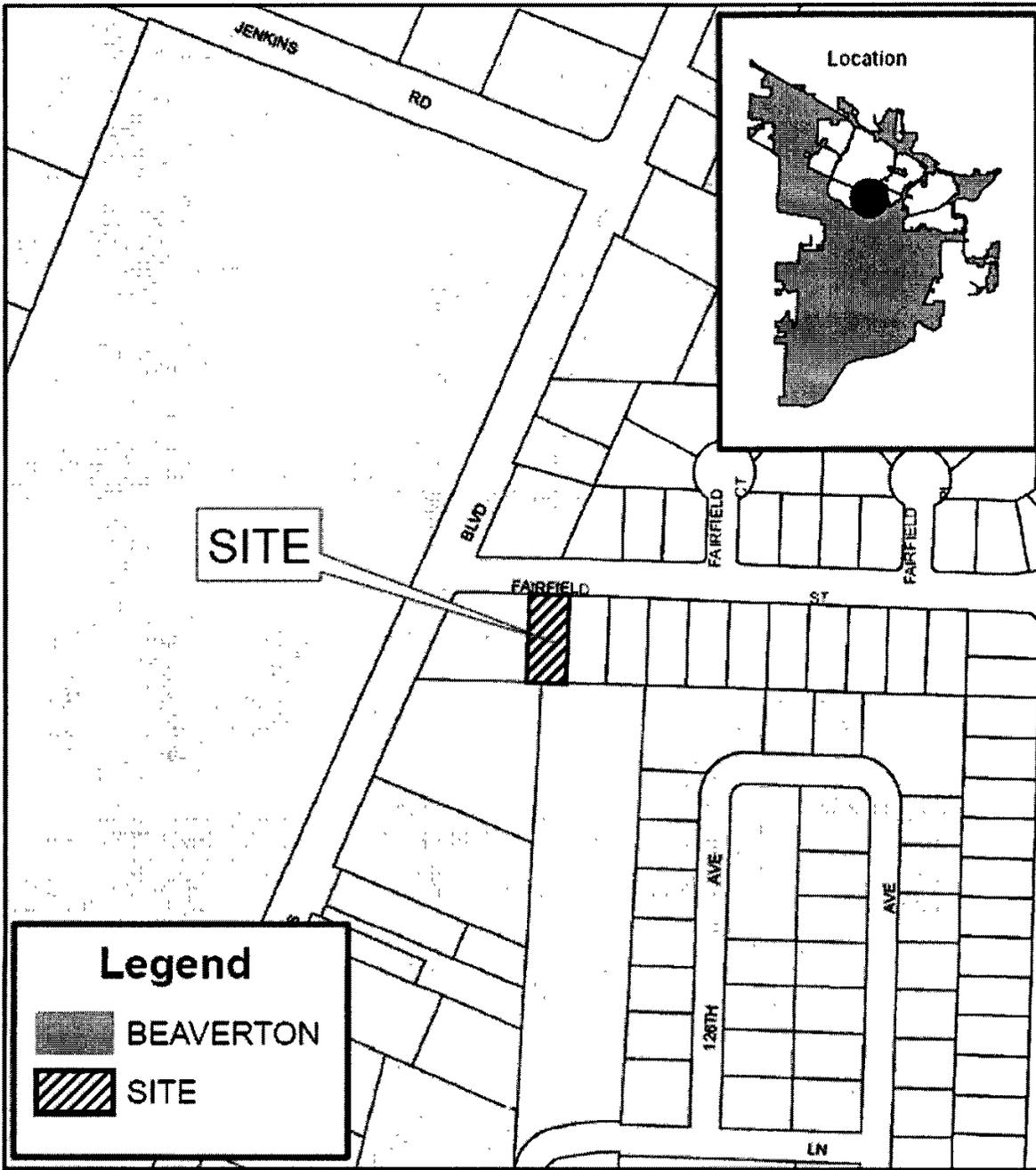
APPROVED:

\_\_\_\_\_  
SUE NELSON, City Recorder

\_\_\_\_\_  
ROB DRAKE, Mayor

# VICINITY MAP

# EXHIBIT "A"



**CPA2007-0013 / ZMA2007-0013**

COMMUNITY DEVELOPMENT DEPARTMENT  
Planning Services Division

5/17/07

Tax Lot #'s  
1S109DA02900



12730 SW  
FAIRFIELD ST

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

08/20/07

**SUBJECT:** An Ordinance Adding Chapter 8.07 of the Beaverton Code, Regarding Residential Property Maintenance

**FOR AGENDA OF:** ~~08-13-07~~ **BILL NO:** 07173

**Mayor's Approval:** 

**DEPARTMENT OF ORIGIN:** Code Services 

**DATE SUBMITTED:** 07-27-07

**CLEARANCES:** City Attorney 

**PROCEEDING:** -First Reading  
Second Reading and Passage

**EXHIBITS:** Ordinance Adding Chapter 8.07 of the Beaverton Code Regarding Residential Property Maintenance

**BUDGET IMPACT**

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

The City receives numerous complaints about inadequate maintenance of residential buildings in neighborhoods throughout the city each year. Residential buildings that are not adequately maintained may adversely affect property values and the quality of life in neighborhoods. Inadequate maintenance of residential buildings may lead to deterioration of the housing stock, increased vacancy rates, and urban blight.

The City Council reviewed an informational presentation on this subject at its May 7, 2007, meeting. Council held a public hearing on July 23, 2007, to receive public input on this ordinance, after which staff was directed to place the ordinance on a future Council agenda for a first reading.

**INFORMATION FOR CONSIDERATION:**

The purpose of this ordinance is to protect the health, safety and welfare of Beaverton residents, to prevent deterioration of existing housing, to preserve and enhance the quality of life in residential neighborhoods, and to prevent or reduce urban blight by establishing minimum residential property maintenance standards. Once enacted, the provisions of this ordinance will apply to all residential property within the City of Beaverton except for an existing dwelling designated as a historic building when such dwelling is judged by the code official to be safe and its continued maintenance in historic condition to be in the public interest.

This ordinance declares that a violation is a public nuisance and may be enjoined or abated:

1. by repair in accordance with the provisions of BC 5.05.200 to 5.05.260, or
2. as provided by the Uniform Code for the Abatement of Dangerous Buildings, or
3. a court of competent jurisdiction may appoint a receiver pursuant to the Oregon Housing Receivership Act, ORS 105.420 to 105.455, to perform an abatement.

This ordinance also provides penalties for violations as follows:

- Except as otherwise provided, violations are a Class 1 civil infraction punishable upon conviction by a fine of not more than \$250 per day.
- Violation of section 8.07.205 or 8.07.380 is a Class 2 civil infraction punishable upon conviction by a fine of not more than \$150 per day.
- Violation of section 8.07.225 is a Class 3 civil infraction punishable upon conviction by a fine of not more than \$50 per day.
- Violation of sections 8.07.110, 8.07.210, 8.07.310, 8.07.360 or 8.07.510 is a Class C misdemeanor, punishable upon conviction by a fine of not more than \$6,250 and/or imprisonment not to exceed 30 days.

In addition to the model code called the "International Property Maintenance Code", many cities have adopted residential property maintenance codes, including:

- Gresham
- Portland
- Salem
- Tigard

All of the foregoing were used in preparing Beaverton's property maintenance ordinance.

There are other related sections in the Beaverton Code, including section 5.05.081 *Vacant Buildings*, and 8.03.010 *Dangerous Buildings*, but neither were designed to address occupied buildings that are not being adequately maintained.

**RECOMMENDED ACTION:**

First reading.

Second Reading and Passage

ORDINANCE NO. 4448

AN ORDINANCE ADDING CHAPTER 8.07 OF THE BEAVERTON CODE,  
REGARDING RESIDENTIAL PROPERTY MAINTENANCE

WHEREAS, the City receives numerous complaints about inadequate maintenance of residential buildings within the city limits; and

WHEREAS residential buildings that are not adequately maintained may lead to deterioration of the housing stock, increased vacancy rates, and urban blight; and

WHEREAS, inadequate maintenance of residential buildings may adversely affect property values and the quality of life in neighborhoods; now, therefore,

BE IT ORDAINED BY THE CITY OF BEAVERTON,

**Section 1.** The Beaverton Code is amended in Chapter 8 by adding the following sections.

**PART 1 – GENERAL**

**8.07.010 Short Title.**

A. BC 8.07.010 - .450 shall be known and may be cited as the "Residential Property Maintenance Code" and may be referred to herein as "this code."

**8.07.020 Purpose.**

This code is enacted to protect the health, safety and welfare of Beaverton residents, to prevent deterioration of existing housing, to preserve and enhance the quality of life in residential neighborhoods, and to prevent or reduce urban blight by establishing minimum residential property maintenance standards.

**8.07.030 Scope, Conflict with State Law.**

A. The provisions of this code shall apply to all residential property within the City of Beaverton.

B. If a provision of this code conflicts with a provision of the building code as adopted by the City of Beaverton, the provision of the building code shall apply to the exclusion of the conflicting provision of this code.

C. Except as provided otherwise by state or federal law, if a provision of this code conflicts with a residential property maintenance law, rule or regulation promulgated by a state or federal authority having jurisdiction over residential property in the City of Beaverton, the provision of the state or federal law, rule or regulation shall apply to the exclusion of the conflicting provision of this code.

**8.07.040 Application of Other Laws.**

Any repair, alteration, or addition to and change of occupancy in an existing building, or any change of use of residential property, shall be made in accordance with all applicable provisions of law, including, but not limited to, the building code, the Beaverton Code and the Beaverton Development Code.

**8.07.050 Definitions; Generally.**

Terms, words, phrases and their derivatives used, but not defined, in this code shall have the meanings defined in the Beaverton Development Code or in Chapters 8 or 9 of the Beaverton Code, or, if not defined therein, shall have their commonly accepted meanings. If a conflict exists between definitions in the Beaverton Code or the Beaverton Development Code and this code, the definition provided in this code shall apply to actions taken pursuant to this code.

**8.07.060 Definitions.**

As used in this code, unless the context requires otherwise, the following mean:

**Approved** - Meets the standards set forth by the Municipal Code, the Community Development Code, the Building Code, or other standards referenced in those codes, or is approved by the code official.

**Bathroom** - A room containing plumbing fixtures including a bathtub or shower.

**Bedroom** - Any room or space used or intended to be used for sleeping purposes.

**Building code** - The combined specialty codes described at ORS 455.010, as adopted and as may be amended by the City.

**Code official** - The Code Enforcement Officer, Chief Building Official or other person authorized by the Mayor to enforce the provisions of this code.

**Courtyard** - An open space bounded on three or more sides by walls of a building.

**Dwelling** - Any structure containing a dwelling unit, including the following dwelling classifications:

**A. Accessory dwelling unit.** An additional dwelling unit within an attached or detached single family dwelling.

**B. Apartment.** Any building or portion of a building containing three or more dwelling units that is intended to be occupied for residential living purposes by renting, leasing, letting, or hiring out, including condos.

**C. Manufactured dwelling.** including manufactured homes, mobile homes, and residential trailers.

**D. Rowhouse.** An attached single-family dwellings unit as defined by the State Building Code.

**E. Single-family dwelling.** A structure containing one dwelling unit, including adult foster care homes.

**F. Single-room occupancy.** A one-room dwelling unit provided for human habitation in which some or all sanitary or cooking facilities are shared with other occupants.

**G. Social care facilities.** Any building or portion of a building that is designed, built, rented, leased, let, hired out or otherwise occupied for group

residential living purposes. Such facilities include, but are not limited to, retirement homes, assisted living facilities, residential care facilities, half-way houses, youth shelters, and homeless shelters.

**H. Townhouse.** An attached single-family dwellings unit as defined by the state building code.

**I. Two-family dwelling.** A structure containing two dwelling units, also known as a duplex.

**Dwelling unit** - A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. Hotels used exclusively for transient occupancy are excluded from this definition of dwelling unit.

**Exit** - A continuous, unobstructed means of egress from a dwelling to the exterior of the building and to a public way.

**Floor area** - The area of clear floor space in a room exclusive of fixed or built-in cabinets or appliances.

**Habitable** - Suitable for human habitation.

**Habitable space** - The area inside a structure available for living, sleeping, eating or cooking, not including attics, bathrooms, closets, garages, halls, laundry rooms, storage spaces, toilet rooms, or utility rooms.

**Hazardous materials** - Materials defined by the current fire code adopted by the Tualatin Valley Fire and Rescue District as hazardous.

**Human habitation** - The use of a structure, portion of the structure, or space, in which any person remains for a continuous period of two or more hours per day, or for periods which will accumulate to four or more hours in a day.

**Occupant** - Any individual living or sleeping in a dwelling, or having possession of a space within a dwelling.

**Residential property** - Real property and all improvements thereon including edifices, structures, buildings, dwelling unit or part thereof used or intended to be used for residential purposes including single-family, duplex, multifamily structures and mixed-use structures which have one or more dwelling units. Hotels used exclusively for transient occupancy are excluded from this definition of residential property. [ORS 105.425/Tigard]

**Structure** - A building constructed for any use.

#### **8.07.070 Severability.**

The sections and subsections of this code are severable. If any part of this code is held unconstitutional or otherwise invalid, the remaining parts shall remain in force unless:

A. The remaining parts are so essentially and inseparably connected with and dependent upon the unconstitutional or invalid part that it is apparent that the remaining parts would not have been enacted without the unconstitutional or invalid part; or

B. The remaining parts, standing alone, are incomplete and incapable of being executed according to the legislative intent.

## PART 2 - STANDARDS

### 8.07.100 Housing Maintenance Requirements; Generally.

A. A dwelling shall be constructed, altered or repaired in accordance with the standards of the applicable building code in effect at the time of construction, alteration or repair.

B. No person shall maintain or permit to be maintained any dwelling or residential property that does not comply with the requirements of this code.

C. An existing dwelling that does not comply with the provisions of this code and that does not comply with the standards of the applicable building code then in effect at the time of construction or subsequent alteration or repair shall be altered or repaired to provide a minimum level of public health, safety and maintenance as required herein.

D. The provisions of this code shall not be mandatory for an existing dwelling designated as a historic building when such dwelling is judged by the code official to be safe and its continued maintenance in historic condition to be in the public interest.

### 8.07.110 Minimum Standards for Human Habitation.

No dwelling shall be habitable unless provided with current service for:

- A. Electricity,
- B. Water,
- C. Sanitary Sewer, and
- D. Weekly removal and disposal of trash.

Temporary interruptions of service for routine maintenance or emergency repairs shall not constitute a violation of this section.

### 8.07.115 Vacant Dwellings.

A. A vacant dwelling shall meet the standards of this code to be habitable.

B. Measures taken to secure a vacant dwelling from unauthorized entry, including boarding of windows and nailing or screwing doors into door frames, shall be removed before a vacant dwelling may be inhabited.

### 8.07.120 Roofs.

A. The roof and flashing of a dwelling shall be structurally sound, tight, and have no defects that admit water.

B. Roof drainage of a dwelling shall channel water into approved receivers and shall be adequate to prevent water buildup or ponding from causing dampness in the walls or interior portion of the building. Roof drains, gutters and down spouts of a dwelling shall be free from obstructions and maintained in good repair, so as not to be plugged, overflowing, or in a state of deterioration. Any building or structure having originally been designed for and fitted with gutters and downspouts shall continuously be maintained with such devices, in sound condition and good repair.

C. In any two year period, tarps, tar paper or other similar materials shall not be exposed to weather on the exterior of a structure for a cumulative period of more than three months.

**8.07.130 Chimneys.**

A. Every chimney, stovepipe and vent pipe of a dwelling shall remain adequately supported, free from obstructions, and shall be maintained in sound condition and good repair, so as to assure there will be no leakage or back-up of noxious gases.

B. Every chimney, stovepipe and vent pipe of a dwelling shall be reasonably plumb.

C. Any loose chimney brick or block shall be rebounded, and any loose or missing mortar shall be replaced.

D. Unused openings in the interior of the structure for chimneys, stovepipes and vent pipes shall be permanently sealed using appropriate, durable materials.

**8.07.140 Foundations and Structural Members.**

A. A foundation shall adequately support its structure and be free of rot, crumbling, or similar deterioration.

B. All supporting structural members of a foundation shall show no significant evidence of deterioration or decay that would substantially impair the ability of a foundation to carry imposed loads.

**8.07.150 Exterior Walls and Exposed Surfaces.**

A. Every exterior wall and weather-exposed exterior surface of a dwelling shall be free of holes, breaks, loose or rotting boards or timbers and any other conditions likely to admit water or dampness to the interior portions of the dwelling.

B. All exterior wood surfaces of a dwelling shall be made substantially impervious to the adverse effects of weather by periodic application of a protective coating of weather-resistant preservative such as paint or stain and be maintained in good condition, substantially free from peeling or flaking.

C. Exterior metal surfaces of a structure shall be protected from rust and corrosion.

D. Every section of exterior brick, stone, masonry, or other veneer of a structure shall be maintained in sound condition and good repair and be adequately supported and tied back to its supporting structure.

E. In any two year period, tarps, tar paper or other similar materials shall not be exposed to weather on the exterior of a structure for a cumulative period of more than three months.

**8.07.160 Stairs and Porches.**

Every stair, porch, and attachment to stairs or porches shall be:

- A. Safe to use and capable of supporting the loads to which it is subjected.
- B. Be kept in sound condition and good repair, including replacement as necessary of flooring, treads, risers, and stringers so there is no excessive wear and no broken, warped, or loose parts.

**8.07.170 Handrails and Guardrails.**

A. Every flight of stairs having more than four risers shall have a handrail on at least one side. Handrails shall be between 30 and 38 inches high, measured from the tread or floor of the landing or walking surface. Handrails shall be continuous the full length of the stairs.

B. Every open portion of a stair, landing, balcony, porch, deck, ramp, or other walking surface, that is more than 30 inches above the floor or grade below, shall have guardrails. Guardrails shall not be less than 36 inches high. Guardrails shall have intermediate rails or ornamental closures which will effectively exclude the passage of an object four inches or more in diameter.

C. Every handrail and guardrail shall be firmly fastened, maintained in sound condition and good repair, and capable of supporting the loads to which it is subjected.

**8.07.180 Windows.**

A. Every habitable space shall have at least one window facing an exterior yard or courtyard or shall be provided with approved artificial light. The minimum total window area for each habitable space shall be eight percent of the floor area of the space, except for a habitable space in a basement, where the minimum shall be five percent of the floor area of the space.

B. Every habitable space shall have at least one operable window or operable skylight for ventilation purposes unless equipped with mechanical ventilation.

C. Every bathroom and toilet compartment shall comply with the light and ventilation requirements for a habitable space except that no window shall be required in a bathroom or toilet compartment if the bathroom or toilet compartment is equipped with artificial lighting and a mechanical ventilation system that discharges to the outdoors.

D. All windows of a dwelling unit that are operable and that are within ten feet of the exterior grade shall be able to be both opened and locked from the inside without the use of a key or any special knowledge or effort.

E. All windows of a dwelling unit that are operable and are accessible from the outside, regardless of height from the exterior grade, such as a balcony window or a fire escape

window, shall be able to be both opened and locked from the inside without the use of a key or any special knowledge or effort.

F. Every window of a dwelling shall be kept in sound condition and good repair, substantially weathertight, and shall comply with the following:

1. Every window sash shall be fully supplied with glass window panes or an approved substitute without open cracks and holes.

2. Every window sash shall be in sound condition and good repair and fit weather-tight within its frame.

3. Every window frame shall be constructed and maintained in relation to the adjacent wall construction so as to substantially exclude wind and rain from entering the dwelling.

#### **8.07.190 Doors.**

A. Every dwelling shall have at least one exit door leading to the exterior, or in the case of a duplex or apartment, to the exterior or to an approved exit. Exit doors shall be able to be opened from the inside without any special knowledge or effort. Screen doors and storm doors must be able to be opened from the inside without any special knowledge or effort.

B. In apartments, duplexes, single-room occupancies and social care facilities, exit doors in common corridors or passageways shall be able to be opened from the inside with one hand in a single motion, such as pressing a bar or turning a knob, without the use of any special knowledge or effort.

C. Every door to the exterior of a dwelling shall be equipped with a lock designed to discourage unwanted entry and to permit opening from the inside without the use of a key or any special knowledge or effort.

D. Every exterior door of a dwelling shall comply with the following:

1. The door hinge, door lock, and strike plate shall be maintained in sound condition and good repair.

2. When closed, the door shall fit reasonably well within its frame and be weather-tight.

3. Every door frame shall be constructed and maintained in relation to the adjacent wall construction so as to substantially exclude wind and rain from entering the dwelling.

E. Every interior door shall fit reasonably well within its frame by being properly and securely attached to jambs, headers or tracks and shall be capable of being opened and closed.

#### **8.07.200 Interior Walls, Floors, and Ceilings.**

A. All interior surfaces of a dwelling shall be maintained in sound condition and good repair, so to permit the interior to be kept in a clean and sanitary condition. Walls, floors, ceilings, windows, cabinets and doors shall be free of holes larger than four inches in diameter and cracks wider than one-half inch.

B. Peeling, chipping, flaking, or abraded paint in a dwelling shall be repaired, removed or covered. Cracked or loose plaster or wall paper, decayed wood and other defective surface conditions shall be repaired or replaced.

C. Every toilet compartment, bathroom, and kitchen floor surface of a dwelling shall be constructed and maintained to be substantially impervious to water and to permit the floor to be kept in a clean and sanitary condition.

**8.07.205 Street Addresses.**

No person shall occupy or allow occupancy of a dwelling unless a street number assigned pursuant to BC 9.02.010-.070 is displayed in accordance with the requirements of BC 9.02.040.

**8.07.210 Cleanliness and Sanitation.**

A. The interior of every dwelling shall be maintained in a clean and sanitary condition free from the accumulation of rubbish, garbage and any material that:

1. Provides a breeding place for insects, rodents or vermin, or
2. Produces dangerous or offensive gases, odors or bacteria, or
3. Blocks exits, hallways or corridors.

B. An occupant of a dwelling shall be responsible for keeping that part of the dwelling he or she occupies or is in control of in a clean and sanitary condition.

C. The owner of any residential property with shared or common areas, including apartments, single-room occupancies, social care facilities, mobile home parks, trailer parks and manufactured home parks, shall be responsible for maintaining the shared or common areas of the property in a clean and sanitary condition at all times.

**8.07.220 Interior Dampness.**

Every dwelling, including its basement and crawl space shall be maintained reasonably free from dampness so as to prevent conditions conducive to decay, mold growth, or deterioration of the structure.

**8.07.225 Standing Water.**

A. No person shall cause or permit water to stand outdoors on property the person owns or controls in containers or objects that have not been emptied within seven days.

B. No person shall allow or cause containers or objects that collect water, including buckets, pots and unmounted tires, to be left outdoors for more than seven days on property the person owns or controls.

**8.07.230 Insect and Rodent Harborage.**

A. Every dwelling shall be kept free from insect and rodent infestation. Infestations of insects or rodents shall be promptly exterminated by methods that will not be injurious to

human health. After extermination, proper precautions shall be taken to prevent reinfestation.

B. The owner of any residential property shall be responsible for extermination within any structure prior to any occupancy thereof.

C. The occupant of a single-family dwelling shall be responsible for extermination within the dwelling during the occupancy thereof.

D. The owner of a structure containing two or more dwelling units shall be responsible for extermination within the structure.

**8.07.240 Bathroom Facilities.**

A. Except as otherwise noted in this code, every dwelling unit shall contain within its walls in safe, clean and sanitary working condition:

1. A toilet located in a room that is separate from the habitable space and that allows privacy;
2. A lavatory basin; and
3. A bathtub or shower located in a room that allows privacy.

B. In single-room occupancies and social care facilities where private toilets, lavatories, or baths are not provided, there shall be at least one toilet, lavatory, and bathtub or shower provided for every twelve residents or less. Toilets, bathtubs, and showers shall be in a room, or rooms, that provide privacy.

**8.07.250 Kitchen Facilities.**

A. Every dwelling shall contain a kitchen sink apart from the lavatory basin required under section 8.07.240, with the exception of single-room occupancy, which shall comply with section 8.07.390 and social care facilities complying with section 8.07.250(C).

B. Except as otherwise provided for in sections 8.07.250(C) and 8.07.390, every dwelling shall have approved service connections and facilities for refrigeration and cooking.

C. A social care facility may be provided with a community kitchen with facilities for cooking, refrigeration, and washing utensils.

**8.07.260 Plumbing Facilities.**

A. Every plumbing fixture or device within a structure shall be properly connected to a public or an approved private water system and to a public or an approved private sanitary sewer system.

B. Sinks, lavatory basins, bathtubs and showers within a dwelling shall be supplied with both hot and cold running water. Every dwelling shall be supplied with water heating facilities for each dwelling unit. Water heating facilities within a dwelling shall be

capable of heating an adequate amount of water to provide water at a temperature of at least 120 degrees Fahrenheit at each hot water outlet for at least ten minutes.

C. In every dwelling, all plumbing or plumbing fixtures shall be:

1. Properly installed, connected, and maintained in good working order;
2. Kept free from significant obstructions, leaks, and defects;
3. Capable of performing the function for which they are designed; and
4. Installed and maintained so as to prevent structural deterioration or health hazards.

**8.07.270 Heating Equipment and Facilities.**

A. Every dwelling shall have a permanently installed heat source capable of maintaining a temperature of 68 degrees Fahrenheit at a point three feet from the floor and two feet from any wall in all habitable spaces, bathrooms and toilet rooms.

B. All heating devices or appliances shall be listed, approved, and properly vented. No cooking appliance, inverted flame heaters or open flame heaters may be used as a heating source in a dwelling.

C. All heating equipment in a dwelling, including equipment used for cooking, water heating and clothes drying shall be:

1. Maintained in sound condition and good repair,
2. Free from leaks and obstructions and kept functioning properly so as to be free from fire, health, and accident hazards; and
3. Capable of performing the function for which they are designed.

**8.07.280 Electrical System, Receptacles, and Lighting.**

A. Electric power to any structure shall be from an approved source; receptacles and fixtures shall be safely connected to an approved electrical system. The electrical system within a structure shall not constitute a hazard by reason of inadequate service, deterioration, damage, improper fusing, improper wiring or installation.

B. In addition to other electrical system components that may be used to meet cooking, refrigeration, and heating requirements listed elsewhere in this code, the following receptacles and lighting fixtures are required in a dwelling:

1. Every habitable space shall contain at least two operable electric receptacles or one receptacle and one operable electric light fixture.
2. Every toilet compartment, bathroom, laundry room or other wet location shall contain at least one operable electric light fixture and one grounded electrical receptacle or a receptacle with a ground-fault interrupter.
3. Every furnace room and all similar nonhabitable spaces in a dwelling shall have one operable electric light fixture.
4. Every public hallway, corridor, and stairway in apartments, single-room occupancies and social care facilities shall be adequately lighted at all times with an average intensity of illumination of at least one foot candle at principal points such as angles and intersections of corridors and passageways, stairways, landings of stairways,

landings of stairs and exit doorways, and at least one-half foot candle at other points. Measurement of illumination shall be taken at points not more than four feet above the floor.

**8.07.290 Bedroom Requirements.**

- A. Every bedroom in a dwelling shall be a habitable space.
- B. Every bedroom in a dwelling shall have at least one emergency exit for escape or rescue, either an openable window or exterior door.
- C. Windows in a dwelling provided to meet emergency exit requirements in bedrooms shall have a sill height of no more than 44 inches above the floor or a permanently installed step. The step must not be more than 12 inches higher than the floor and must be at least 20 inches wide and at least 12 inches deep.
- D. Windows in a dwelling that are provided to meet emergency exit requirements in bedrooms shall have a minimum net clear opening at least 20 inches wide, at least 22 inches high, and, if constructed after July 1, 1974, at least five square feet in area.
- E. Windows in a dwelling provided for emergency exit in bedrooms shall be opened from the inside without the use of a key or any special knowledge or effort and be held open by window hardware.

**8.07.300 Overcrowding.**

- A. No dwelling unit shall be overcrowded. A dwelling unit is overcrowded if there are more occupants than one, plus one additional occupant for every 150 square feet of floor area of the habitable space in the dwelling unit.
- B. If a dwelling has three, four or five occupants, the dwelling must have a dining room and living room with a combined area of not less than 200 square feet, plus kitchen space of not less than 50 square feet. If a dwelling has six or more occupants, it must have a dining room, and living room with a combined area of not less than 250 square feet, plus kitchen space of not less than 50 square feet.

**8.07.310 Emergency Exits.**

- A. Every habitable space shall have at least one openable window or exterior door approved for emergency escape or rescue. Emergency exit windows must be openable from the inside without special knowledge, effort or tools. Windows used to meet this requirement shall meet the size and sill height requirements described in 8.07.290. All below grade windows used to meet this requirement shall have a window well the full width of the window, constructed of permanent materials with a three-foot clearance measured perpendicular to the outside wall. The bottom of the well may not be more than 44 inches below grade.

B. Required exit doors and windows in a structure shall be free of encumbrances or obstructions that block access to the exit.

C. All doorways, windows and any device used in connection with exits in a structure shall be kept in sound condition and good repair.

D. In addition to other exit requirements, all fire escapes and stairways, stair platforms, corridors or passageways that may be used as a means of emergency exit from an apartment, single-room occupancy or social care facilities:

1. Shall be kept in sound condition and good repair.
2. Shall be kept free of encumbrances or obstructions of any kind.
3. Shall not be used for storage of flammable or combustible materials.

E. Where doors to stair enclosures in a structure are required by a building code or other applicable law to be self-closing, the self-closing device shall be maintained in sound condition and good repair. No person shall wedge or hold open a self-closing door to stair enclosures except by means of an approved magnetic device connected to a functioning fire alarm system.

F. Windows and doors in a structure leading to fire escapes shall be secured against unwanted entry with approved devices that permit opening from the inside without the use of a key or any special knowledge, effort or tool.

G. Apartments, single-room occupancies, and social care facility shall have directional signs visible throughout common passageways to indicate the way to exit doors and fire escapes. Emergency exit doors and windows in apartments, single-room occupancies, and social care facilities shall be clearly labeled for their intended use as emergency exits.

**8.07.320 [Intentionally Omitted]**

**8.07.330 Hazardous Materials.**

A. Residential property shall be free of dangerous levels of hazardous materials, contamination by toxic chemicals, or other materials that would render the property unsafe.

B. No person shall keep in an unreasonably dangerous manner any highly combustible or explosive materials or any materials that may be dangerous or detrimental to life or health. No residential property shall be used for the storage or sale of paints, varnishes or oils used in the making of paints and varnishes, except as reasonably needed to maintain the dwelling in sound condition and good repair.

**8.07.340 Maintenance of Facilities and Equipment.**

A. In addition to other requirements for the maintenance of facilities and equipment described in this code:

1. All required facilities in every dwelling shall be constructed and maintained to properly and safely perform their intended function.

2. All non-required facilities or equipment present in a dwelling shall be maintained to prevent structural damage to the building or hazards of health, sanitation, or fire.

**8.07.350 [Intentionally Omitted]**

**8.07.360 Illegal Residential Occupancy.**

Human habitation of a tent, camper, motor home, recreational vehicle, or other similar structure or space that is not intended for permanent residential use is prohibited, unless

- A. Authorized by a declaration of local emergency; or
- B. Limited in any three month period to a cumulative period of not more than 14 days.

**8.07.370 Fences.**

Fences, whether built as part of a subdivision or added thereafter, shall be maintained in sound condition and good repair. Fence posts shall be kept in a vertical position, and rails shall be kept in a horizontal position. Fence posts and rails with evidence of significant rot or deterioration must be replaced to keep the fence safe and prevent catastrophic failure. Fence posts and rails that lean or sag more than 15 degrees will be considered to be in violation of this section. Missing fence boards must be replaced within 30 days, unless dogs are kept inside a fenced yard, in which case missing boards must be replaced immediately. Fences of weather-resistant wood, such as redwood or cedar, need not be painted or stained, but if paint or stain is applied, it must be maintained free of peeling, bubbling or flaking.

**8.07.380 Swimming Pools.**

A. Swimming pools shall comply with the provision of Sections 8.05.005 through 8.05.100 of the Beaverton Code.

B. Special pools and swimming pools that hold or are capable of holding water exceeding 24 inches in depth at any point must be maintained so that the water does not become green, brown or black.

C. Special pools and swimming pools that hold or are capable of holding water exceeding 24 inches in depth at any point must be maintained so that the water is not stagnant and does not provide a habitat for amphibians, mosquitoes or other insect pests.

**8.07.390 Special Standards for Single-Room Occupancy Housing Units.**

In addition to meeting requirements for dwellings described elsewhere in this code, single-room occupancies shall comply with the following:

1. Either a community kitchen with facilities for cooking, refrigeration, and washing utensils shall be provided on each floor, or each single room occupancy shall have facilities for cooking, refrigeration and washing utensils. In addition, facilities for community garbage storage or disposal shall be provided on each floor.

2. Where cooking units are provided in single-room occupancies, they shall conform to these requirements:

a. The Mechanical Specialty Code shall be used for installation standards for cooking appliances. Cabinets over cooking surfaces shall be 30 inches above the cooking surface, except that this distance may be reduced to 24 inches when a non-combustible heat shield with one inch airspace and extending at least six inches horizontally on either side of the cooking appliance is provided. Cooking appliances shall be located with at least a six inch clear space in all directions from the perimeter of the cooking element or burner;

b. All cooking appliances shall be installed so as to provide a minimum clear space in front of the appliance of 24 inches.

### **PART 3 - ENFORCEMENT**

#### **8.07.500 Penalties.**

A. Except as otherwise provided in this section, violation of a provision of this code is a Class 1 civil infraction to be processed in accordance with the provisions of BC 2.10.010 to 2.10.050 punishable upon conviction by a fine of not more than \$250. Each day of continuing violation shall be considered a separate offense.

B. Violation of BC 8.07.205 or 8.07.380 is a Class 2 civil infraction to be processed in accordance with the provisions of BC 2.10.010 to 2.10.050 punishable upon conviction by a fine of not more than \$150. Each day of violation shall be considered a separate offense.

C. Violation of BC 8.07.225 is a Class 3 civil infraction to be processed in accordance with the provisions of BC 2.10.010 to 2.10.050 and punishable upon conviction by a fine of not more than \$50. Each day of violation shall be considered a separate offense.

D. Violation of BC 8.07.110, 8.07.210, 8.07.310, 8.07.360 or 8.07.510 is a Class C misdemeanor, punishable upon conviction by a fine of not more than \$6,250 and/or imprisonment not to exceed 30 days. Each day of violation shall be considered a separate offense.

#### **8.07.510 Prohibited Habitation.**

A. No person shall inhabit, remain in, or enter a dwelling or structure that has been duly posted with a notice to vacate or with an order forbidding occupancy pursuant to the Uniform Code for the Abatement of Dangerous Buildings as adopted by the City; provided, however, the building official may grant a person express written permission to enter said dwelling or structure for purposes reasonably related to repair or demolition.

B. No person shall remove or deface any notice to vacate or order forbidding occupancy duly posted on a dwelling or structure pursuant to the Uniform Code for the Abatement of Dangerous Buildings as adopted by the City until the required repairs, demolition or removal have been completed and a certificate of occupancy issued pursuant to the provisions of the building code.

#### **8.07.520 Additional Remedies.**

A. Any penalty or remedy imposed pursuant to this code is in addition to, and not in lieu of, any other civil, criminal or administrative penalty, sanction or remedy otherwise authorized by law.

B. A violation of this code is a public nuisance and may be enjoined or abated by repair in accordance with the provisions of BC 5.05.200 to 5.05.260.

C. A violation of this code is a public nuisance and may be enjoined or abated in accordance with the provisions of the Uniform Code for the Abatement of Dangerous Buildings. For purposes of the Uniform Code for the Abatement of Dangerous Buildings, this code shall be deemed a housing code.

D. A court of competent jurisdiction may appoint a receiver pursuant to the Oregon Housing Receivership Act, ORS 105.420 to 105.455, to perform an abatement of residential property found in violation of this code. For purposes of the Oregon Housing Receivership Act, this code shall be deemed a housing code.

E. A citation for a violation of this code shall not relieve the responsible party of the duty to maintain residential property in accordance with this code. The abatement of a violation pursuant to this code does not prejudice the right of any person to recover damages arising out of or related to the violation.

F. If a citation alleging a violation of sections 8.07.110, 8.07.210, 8.07.310 or 8.07.320 is issued, and if the affected dwelling unit is or becomes vacant, no person shall reoccupy or permit re-occupancy of the dwelling unit until all repairs have been made by the responsible party and inspected by the code official.

First Reading this 13th day of August, 2007.

Passed by the Council this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

Approved by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

ATTEST:

APPROVED:

\_\_\_\_\_  
SUE NELSON, CITY RECORDER

\_\_\_\_\_  
ROB DRAKE, MAYOR

**AGENDA BILL**

**Beaverton City Council  
Beaverton, Oregon**

**SUBJECT:** An Ordinance Amending Ord. 4187 Figure III-1 the Comprehensive Plan Land Use Map to Apply the City's Neighborhood Residential Medium Density (NR-MD) Plan Designation and Ord. 2050 the Zoning Map to Apply the City's R-2 Zone to One Property Located in Northeastern Beaverton CPA 2006-0009/ZMA 2006-0012, City of Beaverton Applicant (10925 SW Fifth Street)

**FOR AGENDA OF:** 08/20/07 **BILL NO:** 07174  
~~08/13/07~~

**Mayor's Approval:** [Signature]

**DEPARTMENT OF ORIGIN:** CDD [Signature]

**DATE SUBMITTED:** 08/02/07

**CLEARANCES:** City Attorney US  
Planning Services HB

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

**EXHIBITS:** Ordinance  
Exhibit A - Map  
Exhibit B - Staff Report  
Exhibit C - Planning Commission Order  
Exhibit D - Letter from Metro

**BUDGET IMPACT**

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

This ordinance is before the City Council to amend the City's Comprehensive Plan Land Use Map from Industrial to Neighborhood Residential - Medium Density and to amend the City's Zoning Map from Industrial Park (IP) to R-2 on one property (Map 1S115AC tax lot 05200) located at the northesast corner of Fifth Avenue and Maple Avenue. The property is developed with apartments.

The Planning Commission held a hearing on July 18, 2007. Metro submitted a letter indicating that the proposed action "appears to meet the requirements of the applicable titles of Metro's Urban Growth Management Functional Plan." Additionally, Metro staff will initiate an amendment to Metro's Title 4 Employment and Industrial Areas map following ordinance adoption and expiration of any possible appeals. Planning Commission Order No. 1989 (Exhibit C) along with the Planning Commission Notice of Recommendation was mailed to the property owner. No appeals have been filed.

**INFORMATION FOR CONSIDERATION:**

This ordinance makes the appropriate changes to Ordinance No. 4187, Figure III-1, the Comprehensive Plan Land Use Map and Ordinance No. 2050, the Zoning Map.

**RECOMMENDED ACTION:**

~~First Reading~~  
Second Reading and Passage

ORDINANCE NO. 4449

AN ORDINANCE AMENDING ORD. 4187 FIGURE III-1 THE COMPREHENSIVE PLAN LAND USE MAP TO APPLY THE CITY'S NEIGHBORHOOD RESIDENTIAL MEDIUM DENSITY (NR-MD) PLAN DESIGNATION TO ONE PROPERTY AND ORD. 2050 THE ZONING MAP TO APPLY THE CITY'S R-2 ZONE TO ONE PROPERTY LOCATED IN NORTHEASTERN BEAVERTON CPA 2006-0009/ZMA 2006-0012

- WHEREAS,** the purpose of CPA2006-0009/ZMA2006-0012 is to amend Figure III-1, Ordinance 4187, from Industrial to Neighborhood Residential – Medium Density and the Zoning Map, Ordinance 2050, from Industrial Park (IP) to Residential – 2,000 square feet per dwelling unit (R-2) on Washington County Assessor's Tax Map 1S1 15AC tax lot 05200 (10925 SW Fifth Street); and
- WHEREAS,** pursuant to Ordinance 4187 Section 1.4.2 and Ordinance 2050 Section 50.45, written notice was mailed to the property owners subject to the amendment, the Neighborhood Association Chair, and owners of property within 500 feet of the proposal, notice was published in the Beaverton Valley Times, notice was posted on site, at Beaverton City Hall and Beaverton City Library and on the Beaverton City web site; and
- WHEREAS,** pursuant to Ordinance 4187 Section 1.5.1 and Ordinance 2050 Section 50.45, the Beaverton Planning Services Division, on July 11, 2007 published a written staff report and recommendation a minimum seven (7) calendar days in advance of the scheduled public hearing before the Planning Commission on July 18, 2007; and,
- WHEREAS,** pursuant to Ordinance 4187 Section 1.5.1 and Ordinance 2050 Section 40.97.15.1.C, the Planning Commission conducted a public hearing on July 18, 2007, and considered testimony and exhibits on the subject proposal, and at the conclusion of the hearing, the Planning Commission voted to recommend to the Beaverton City Council to adopt the proposed amendments to the Comprehensive Plan Map (Figure III-1) and Zoning Map based on the criteria, facts and findings set forth in the Community Development Department staff report by Senior Planner Barbara Fryer dated July 11, 2007, and attached hereto as Exhibit "B" and Planning Commission Order No. 1989 attached hereto as Exhibit "C";
- WHEREAS,** no written appeal pursuant to Ordinance 4187 Section 1.7.2 and Ordinance 2050 Section 50.75 was filed by persons of record for CPA2006-0009/ZMA2006-0012, following the issuance of the Planning Commission Order No. 1989; and,
- WHEREAS,** the City Council adopts as to criteria, facts and findings described in Planning Commission Order No. 1989 dated July 26, 2007 and the Planning Commission record, all of which the Council incorporates by this reference and finds to constitute adequate factual basis for this ordinance; now, therefore,

**THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:**

**Section 1.** Ordinance No. 4187, the Comprehensive Plan Land Use Map, is amended to designate the subject properties on Map and Tax Lots 1S1 15 AC 05200 Neighborhood Residential – Medium Density, as shown on Exhibit “A”.

**Section 2.** Ordinance No. 2050, the Zoning Map, is amended to designate the property on Map and Tax Lot 1S1 15 AC 05200 Residential – 2,000 square feet per dwelling unit (R-2), as shown on Exhibit “A”.

First reading this 13th day of August, 2007.

Passed by the Council this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

Approved by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

ATTEST:

APPROVED:

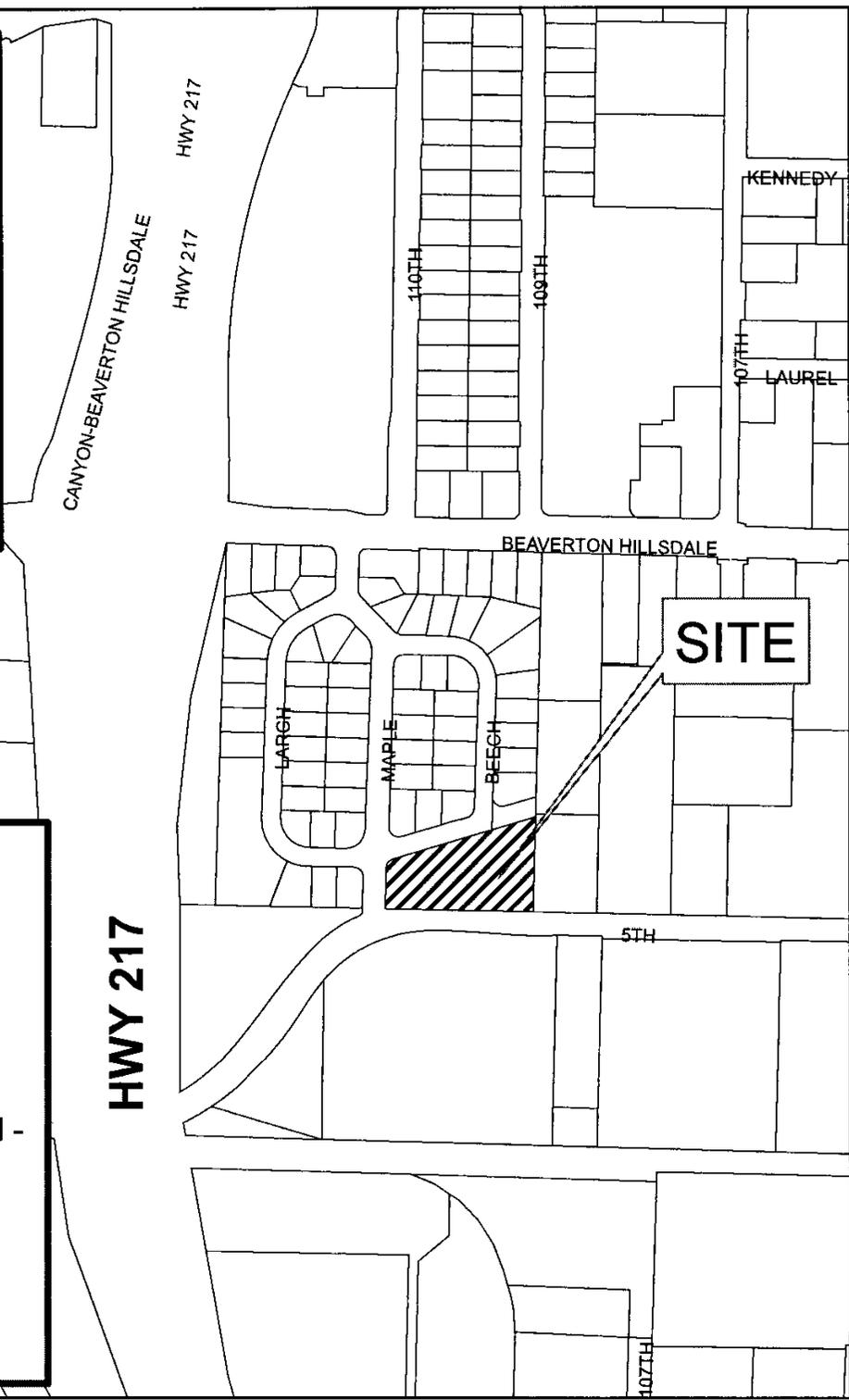
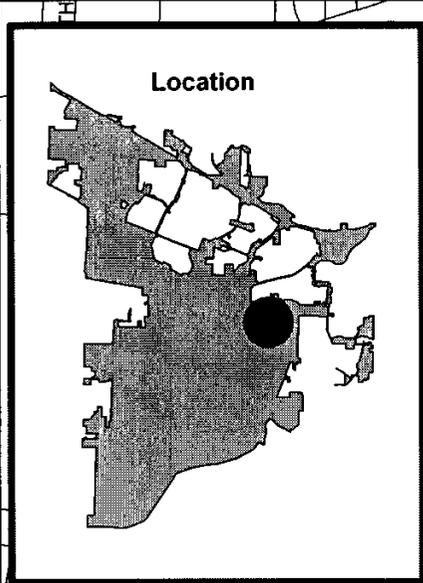
\_\_\_\_\_  
SUE NELSON, City Recorder

\_\_\_\_\_  
ROB DRAKE, Mayor

# VICINITY MAP

ORDINANCE  
NO. 4449

# EXHIBIT "A"



## Legend

 **SITE**

Land Use Map Change  
From Industrial to  
Neighborhood Residential -  
Medium Density

Zoning Map Change  
From Industrial Park to  
Residential - 2,000 sq. ft.  
per dwelling unit



CPA2006-0009/ZMA2006-0012  
10925 SW Fifth Street  
**COMMUNITY DEVELOPMENT DEPARTMENT**  
Planning Services Division

06/01/07 N  
Tax Lot #'s  
1S115AC05200  
10925 SW  
Fifth Street

**AGENDA BILL**

**Beaverton City Council  
Beaverton, Oregon**

08/20/07

**SUBJECT:** An Ordinance Amending Ordinance No. 4187, Figure III-1, the Comprehensive Plan Land Use Map and Ordinance No. 2050, the Zoning Map for Property Located on the North and East Side of SW Merlo Drive Between SW 170<sup>th</sup> Avenue and SW Merlo Road, and South of the Westside Light Rail Transit Line; CPA2007-0012 / ZMA2007-0011.

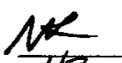
**FOR AGENDA OF:** ~~08/13/07~~ **BILL NO:** 07175

**Mayor's Approval:** 

**DEPARTMENT OF ORIGIN:** CDD 

**DATE SUBMITTED:** 07/23/07

**CLEARANCES:**

City Attorney   
Planning 

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

**EXHIBITS:** Ordinance  
Exhibit A – Vicinity Map  
Exhibit B – Land Use Order No. 1983  
Exhibit C – Land Use Order No. 1984  
Exhibit D – Staff Report

**BUDGET IMPACT**

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

The eight properties as depicted on Exhibit A were annexed through Ordinance No. 4338 in March 2005. They retain a County Transit Oriented Employment (TO:EMP) land use designation. Pursuant to the 1989 Washington County – Beaverton Urban Planning Area Agreement (UPAA), in applying its land use and zoning designations to the subject properties, the City must apply those designations that are most similar to the County's designation.

**INFORMATION FOR CONSIDERATION:**

The proposed ordinance will replace the County land use designation with City land use and zoning designations. The UPAA does not specify which City land use and zoning designations to apply in this situation; discretion is necessary in determining the most similar City land use and zoning designations. The Planning Commission recommends the City Council adopt an ordinance applying the Station Community (SC) land use designation and the Station Community – Employment (SC-E) Sub Area 1 zoning district. The adoption of this ordinance will make the appropriate changes to Ordinance No. 4187, Figure III-1, the Comprehensive Plan Land Use Map and Ordinance No. 2050, the Zoning Map.

**RECOMMENDED ACTION:**

~~First Reading~~  
Second Reading and Passage

**ORDINANCE NO.** 4450

AN ORDINANCE AMENDING ORDINANCE NO. 4187, FIGURE III-1, THE COMPREHENSIVE PLAN LAND USE MAP, AND ORDINANCE NO. 2050, THE ZONING MAP, FOR PROPERTIES LOCATED ON THE NORTH AND EAST SIDE OF SW MERLO DRIVE BETWEEN SW 170<sup>TH</sup> AVENUE AND SW MERLO ROAD, SOUTH OF THE WESTSIDE LIGHT RAIL LINE; CPA2007-0012 / ZMA2007-0011

**WHEREAS**, the subject properties were annexed under Ordinance 4338 in March 2005 and are being changed in this ordinance from a Washington County land use designation to City land use and zoning designations; and

**WHEREAS**, the Washington County – City of Beaverton Urban Planning Agreement (UPAA) requires application of City land use and zoning designations to annexed properties that are most similar to the land use designation(s) applied by the County, but does not specify which City designations to apply in this situation requiring discretion in their application; and

**WHEREAS**, on June 13, 2007, the Planning Commission conducted a public hearing to consider the application on the subject properties to amend Ordinance No. 4187, the Comprehensive Plan Figure III-1 to a Station Community designation and Ordinance No. 2050, the Zoning Map, to the Station Community – Employment Sub Area 1, 2 or 3 zoning designations; and

**WHEREAS**, the Planning Commission received testimony and considered exhibits at the June 13, 2007 hearing and then recommended approval of the proposed comprehensive plan amendment and a change to the Station Community – Employment Sub Area 1 zoning designation; and

**WHEREAS**, no appeals were filed with the City; and

**WHEREAS**, the Council incorporates by reference the Community Development Department staff report of CPA2007-0012 / ZMA2007-0011 by Associate Planner Tyler Ryerson, dated June 6, 2007, attached hereto as Exhibit D” and Planning Commission Order Nos. 1983 and 1984, attached hereto as Exhibits “B” and “C” as to facts and findings supporting the adoption of this ordinance; now, therefore,

**THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:**

**Section 1.** Ordinance No. 4187, the Comprehensive Plan Land Use Map, is amended to designate the subject properties located on the north and east side of SW Merlo Drive between SW 170<sup>th</sup> Avenue and SW Merlo Road, south of the Westside Light Rail Line, as depicted on Exhibit “A”, Station Community on the Comprehensive Plan Land Use Map.

**Section 2.** Ordinance No. 2050, the Zoning Map, is amended to designate the subject properties located as described in Section 1 and as depicted on Exhibit “A”, Station Community – Employment Sub Area 1 on the Zoning Map.

First reading this 13<sup>th</sup> day of August, 2007.

Passed by the Council this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

Approved by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

ATTEST:

APPROVED:

\_\_\_\_\_  
SUE NELSON, City Recorder

\_\_\_\_\_  
ROB DRAKE, Mayor



**AGENDA BILL**

**Beaverton City Council  
Beaverton, Oregon**

08/20/07

**SUBJECT:** ZMA 2007-0015 Greenway Park Zoning Map  
Clean-Up

**FOR AGENDA OF:** ~~8-13-07~~ **BILL NO:** 07176

**Mayor's Approval:** *Bob Adams*

**DEPARTMENT OF ORIGIN:** CDD *SB*

**DATE SUBMITTED:** 7-31-07

**CLEARANCES:** City Attorney *AR*

**PROCEEDING:** Ordinance (~~First Reading~~)  
Second Reading and Passage

**EXHIBITS:** 1 - Ordinance  
2 - Land Use Order 2007  
3 - Planning Commission staff report

**BUDGET IMPACT**

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

**HISTORICAL PERSPECTIVE:**

On July 25, 2007, the Planning Commission recommended approval of ZMA 2007-0015 to the Beaverton City Council.

**INFORMATION FOR CONSIDERATION:**

The Planning Commission staff report is attached to this Agenda Bill for Council consideration on this matter.

**RECOMMENDED ACTION:**

Staff recommends that the City Council approve ZMA 2007-0015.

ORDINANCE NO. 4451

AN ORDINANCE AMENDING ORDINANCE NO. 2050, THE ZONING MAP,  
ZMA 2007-0015, GREENWAY PARK ZONING MAP AMENDMENT

**WHEREAS**, on July 25, 2007, the Planning Commission conducted a public hearing to consider a City initiated application to amend Ordinance No. 2050, the Zoning Map, redesignating certain parcels within the area of Greenway Park so that zoning will become consistent with the Comprehensive Plan land use designation for the subject parcels; and

**WHEREAS**, the zoning map amendment will change the zoning of the subject parcels from CI (Campus Industrial) to R7 (Urban Standard Residential Density); and

**WHEREAS**, the Planning Commission received and considered the submitted staff report, exhibits, and staff recommended approval of this zoning map amendment; and

**WHEREAS**, no appeals were filed with the City; and

**WHEREAS**, the Council adopts as to criteria applicable to this request and findings thereon the Development Services Division Staff Report dated July 18, 2007 and Planning Commission Land Use Order No. 2007. Now, therefore,

**THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:**

**Section 1.** Ordinance No. 2050, the Zoning Map, is amended to redesignate the parcels identified in Section 2 to the zoning designation R7 (Urban Standard Residential Density).

**Section 2.** The properties affected by this ordinance are depicted in the attached map, marked Exhibit "A" and incorporated herein. The properties are more specifically described on the records of the Washington County Department of Assessment and Taxation as 1S12700400, 1S12700500, and 1S127DB01200, Beaverton, Washington County, Oregon.

First reading this 13th day of August, 2007.

Passed by the Council this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

Approved by the Mayor this \_\_\_\_\_ day of \_\_\_\_\_, 2007.

ATTEST:

APPROVED:

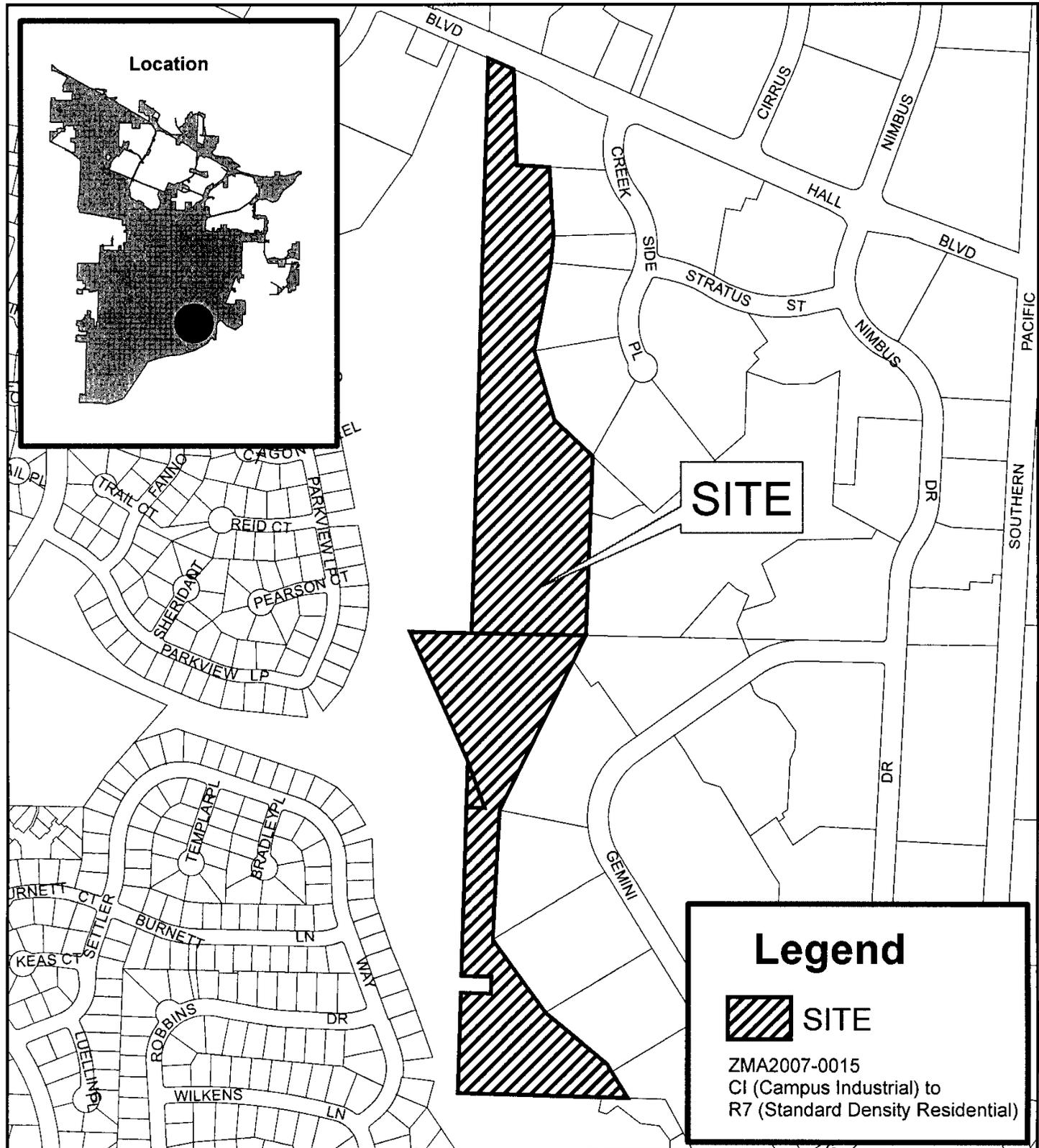
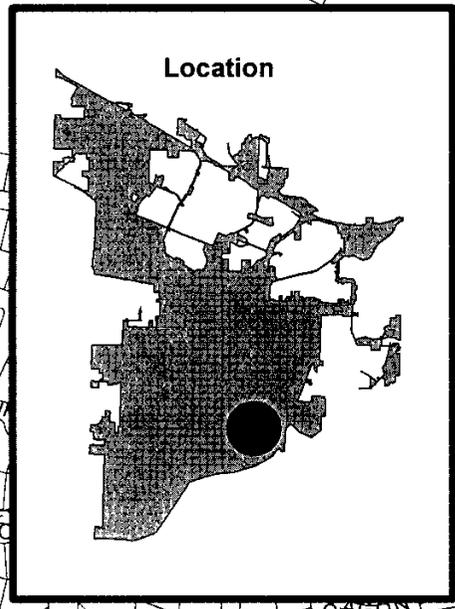
\_\_\_\_\_  
SUE NELSON, City Recorder

\_\_\_\_\_  
ROB DRAKE, Mayor

# VICINITY MAP

EXHIBIT A

ORDINANCE  
NO. 4451



### Legend

 SITE

ZMA2007-0015  
CI (Campus Industrial) to  
R7 (Standard Density Residential)



CITY OF BEAVERTON

# ZMA2007-0015

COMMUNITY DEVELOPMENT DEPARTMENT  
Planning Services Division

7/27/07

Tax Lot #'s  
1S1270000400  
1S127DB01200  
1S1270000500

